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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–031–1]

Pink Bollworm Regulated Areas; Removal of Oklahoma

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the pink bollworm regulations by removing the State of Oklahoma from the lists of quarantined States and regulated areas. Statewide trapping surveys conducted over the last 2 years have shown Oklahoma to be free of pink bollworm. This action will relieve restrictions on the interstate movement of regulated articles from Oklahoma that are no longer necessary.

DATES: This interim rule is effective May 16, 2002. We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–031–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–031–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02–031–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Grefenstette, Assistant Director, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 138, Riverdale, MD 20737–1231; (301) 734–8676.

SUPPLEMENTARY INFORMATION:

Background

The pink bollworm (*Pectinophora gossypiella* (Saunders)) is a destructive cotton pest found throughout many of the cotton-growing regions of the world. The larvae of the pink bollworm feed inside growing cotton bolls, destroying the cotton.

The regulations in Subpart—Pink Bollworm (7 CFR 301.52 through 301.52–10, referred to below as the regulations) contain quarantine restrictions aimed at preventing the spread of the pink bollworm. Section 301.52 contains, among other things, lists of quarantined States and regulated articles. These regulated articles include cotton, cotton seed, lint and linters, cotton waste, and other articles associated with cotton, as well as other commodities, such as kenaf and okra, on which the pink bollworm also feeds. These articles must meet specific certification, permitting or safeguarding requirements when moving between States or areas. Section 301.52–2a lists regulated areas, which are divided into two types, suppressive areas and generally infested areas. Section 301.52–3 outlines conditions governing the interstate movement of regulated articles from quarantined States.

The State of Oklahoma has been listed in § 301.52 as a quarantined State and, in the list of regulated areas in § 301.52–2a, the entire State has been designated as a generally infested area. However, Statewide trapping surveys conducted over the last 2 years have shown Oklahoma to be free of pink bollworm. Areas found to be free of pink bollworm infestation for at least 2 years meet our standards for removal from lists of quarantined States and regulated areas. Because Oklahoma has been free of pink bollworm for at least 2 years, we are amending the regulations by removing Oklahoma from the lists of quarantined States in § 301.52 and regulated areas in § 301.52–2a.

Miscellaneous

In addition to the provisions of this interim rule discussed above, we are also making two nonsubstantive editorial changes to § 301.52–1 in this document. First, we are removing the paragraph designations from the definitions in that section for the sake of consistency with our other regulations in title 7, where the definitions are set out in alphabetical order without paragraph designations. Second, we are revising the footnote that appears in the definition of *Treatment manual* so that the footnote accurately describes the Plant Protection and Quarantine Treatment Manual's incorporation by reference.

Immediate Action

Immediate action is warranted to relieve restrictions on the interstate movement of regulated articles from Oklahoma that are no longer necessary. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action,

the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are amending the pink bollworm regulations by removing the State of Oklahoma from the lists of quarantined States in § 301.52 and regulated areas in § 301.52–2a. Statewide trapping surveys conducted over the last 2 years have shown that Oklahoma has been free of pink bollworm during that entire period and has, therefore, met our standards for removal from the lists cited above. This action will relieve restrictions on the interstate movement of regulated articles from Oklahoma that are no longer necessary.

The entities most likely to be affected by this action are Oklahoma cotton producers. In 1997, there were 849 cotton farms in Oklahoma, which produced $50.89 million worth of cotton. [1] On average then, each farm produced approximately $60,000 worth of cotton. Under the guidelines of the Small Business Administration, a small cotton farm is described as having $750,000 or less in annual revenue. Approximately 99 percent of all cotton farms in Oklahoma in 1997 could be classified as small entities.

The largest quarantine-related expenses for small cotton growers in Oklahoma would have resulted from the treatment requirements that apply to used cotton harvesting, ginning, and oil mill equipment, cotton seed, and raw (non-ginned) cotton being moved interstate. These requirements appear to have had little economic effect; their removal should also have little effect.

Cotton producers in Oklahoma have been required to clean their used cotton harvesting, ginning, or oil mill equipment if moving it interstate to a non-quarantined area. APHIS personnel in Oklahoma estimate that the average cost to have that equipment cleaned and cleared for interstate movement varies from $300 to $700 per machine. While no data are currently available, it is believed that very few cotton producers in Oklahoma incur these costs because very few move machinery out of the State.

Cotton seed and raw cotton produced in a regulated area must be fumigated before being moved interstate to non-quarantined areas. Current costs to Oklahoma cotton producers for this fumigation are not available, due to the lack of interstate movement of cotton seed and raw cotton from Oklahoma over the last several years. The presence of more-than-adequate facilities within the State for processing cotton seed and ginning raw cotton means that producers do not need to move cotton seed or raw cotton across State lines for these purposes.

In summary, removing Oklahoma from the lists of quarantined States and regulated areas for pink bollworm is expected to have little or no economic impact on small entities. Any effects that do occur will likely be positive.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.52 [Amended]

2. In § 301.52, paragraph (a) is amended by removing the word "Oklahoma,".

3. In § 301.52–1, the paragraph designations are removed, and footnote 2 is revised to read as follows:

§ 301.52–1 Definitions.

* * * * *

[2]The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

§ 301.52–2a [Amended]

4. Section 301.52–2a is amended by removing the entry for Oklahoma.

Done in Washington, DC, this 10th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12250 Filed 5–15–02; 8:45 am]

BILLING CODE 3410–34–P

[1] 1997 Census of Agriculture.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–198–AD; Amendment 39–12747; AD 2002–10–01]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 airplanes, that requires modification of the main battery ground stud and installation of a nameplate which indicates torque requirements for the ground stud nut. The actions specified by this AD are intended to prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane.

DATES: Effective June 20, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 542). That action proposed to require modification of the main battery ground stud and installation of a nameplate which indicates torque requirements for the ground stud nut.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request for Clarification of Compliance Time in Paragraph (b)

Two commenters request clarification regarding the compliance time to accomplish paragraph (b) of this AD, if the modification required by paragraph (a) of this AD has been accomplished in accordance with McDonnell Douglas Service Bulletin MD90–24–004, original issue, dated February 26, 1996, prior to the effective date of the AD.

The FAA concurs with the need for such clarification and accordingly has changed the language of this AD to specify that, if paragraph (a) of this AD has been accomplished prior to the effective date of this AD, then paragraph (b) of this AD must be accomplished within 6 months after the effective date of this AD.

Explanation of Change to Applicability in Proposed AD

The FAA has changed the applicability of this final rule to clarify model designations as published in the most recent type certificate data sheet for the affected airplanes. Specifically, the proposed AD referred to "McDonnell Douglas Model MD–90–30 series airplanes," but this final rule refers to "McDonnell Douglas Model MD–90–30 airplanes."

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 18 Model MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the actions required by paragraphs (a) and (b) of this AD, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–01 McDonnell Douglas: Amendment 39–12747. Docket 2000–NM–198–AD.

Applicability: Model MD–90–30 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing

between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane, accomplish the following:

Modification

(a) Within 6 months after the effective date of this AD: Reverse the main battery ground stud and install a nameplate which indicates torque requirements for the ground stud nut, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000.

Note 2: Accomplishment of the reversal of the ground stud installation and installation of the nameplate prior to the effective date of this AD, in accordance with McDonnell Douglas Service Bulletin MD90–24–004, dated February 26, 1996, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Inspection

(b) Conduct a visual inspection of the electrical bonding of the ground stud at the time specified in paragraph (b)(1) or (b)(2) of this AD, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000.

(1) If paragraph (a) of this AD was accomplished prior to the effective date of this AD, accomplish paragraph (b) of this AD within 6 months after the effective date of this AD.

(2) If paragraph (a) of this AD was not accomplished prior to the effective date of this AD, accomplish paragraph (b) of this AD after accomplishing paragraph (a) of this AD and prior to further flight.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on June 20, 2002.

Issued in Renton, Washington, on May 7, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12066 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–414–AD; Amendment 39–12748; AD 2002–10–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that requires installation of an extender bracket for the compensator of the Simmonds fuel quantity indication system (FQIS) in the main fuel tanks. This action is necessary to prevent contact between the compensator for the Simmonds FQIS system and a flapper check valve on a baffle rib in the main fuel tanks, which—in conjunction with another wiring failure outside the fuel tank—could result in an electrical arc and a consequent potential source of ignition in the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Effective June 20, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Vann, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1024; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757 series airplanes was published in the **Federal Register** on October 24, 2001 (66 FR 53743). That action proposed to require installation of an extender bracket for the compensator of the Simmonds fuel quantity indication system (FQIS) in the main fuel tanks.

Explanation of New Relevant Service Information

Since the issuance of the proposed AD, the FAA has reviewed and approved Boeing Service Bulletins 757–28–0057 and 757–28–0059, both Revision 1, both dated February 28, 2002. (The proposed AD refers to Boeing Special Attention Service Bulletins 757–28–0057 and 757–28–0059, both dated September 14, 2000, as the appropriate sources of service information for the proposed actions.) We find that the changes incorporated in Revision 1 of the service bulletins are not substantive, meaning that airplanes modified per the original issue of the service bulletins are not subject to any additional work under Revision 1 of the service bulletins. Therefore, the FAA has revised paragraph (a) of this final rule to refer to Revision 1 of the service bulletins as the appropriate sources of service information for the actions in that paragraph. In addition, we have added a new Note 2 (and reordered subsequent notes accordingly) to give credit for installations accomplished before the effective date of this AD according to the original issue of the service bulletins. Also, because no additional airplanes were included in the effectivity listing of the revised service bulletins, and for the convenience of operators, we have revised the applicability statement of this final rule to refer to airplanes listed in Revision 1 of the service bulletins.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Extend the Compliance Time

One commenter, an operator, asks us to extend the compliance time for the proposed AD from 24 to 48 months. The commenter notes that the proposed actions necessitate defueling, purging, and opening the wing fuel tanks. Such actions are classified as heavy maintenance and, thus, would normally only be performed during a heavy maintenance visit (*e.g.*, a heavy "C"-check). The commenter notes that the interval for such a check for its fleet is approximately 48 months. This commenter believes that allowing the proposed actions to be accomplished at a normal heavy maintenance visit would not significantly decrease the level of safety, and notes that allowing such a schedule would enable operators to avoid significant out-of-service time and labor costs.

The FAA concurs with the commenter's request. We note that extending the compliance time to 48 months results in a longer compliance time than allowed in other ADs related to possible ignition in the fuel tank. However, our decision is based on the fact that a condition in which the compensator of the Simmonds FQIS is exposed to fuel vapors, the flapper valve is in contact with the compensator, and a wiring failure occurs outside the fuel tank, is expected to be rare. The compensator is only exposed to flammable vapors when the quantity of fuel is low, and the flapper valve would have to be lifted open significantly to come into contact with the compensator. Furthermore, we recognize that there are safety benefits to limiting the number of entries into the fuel tank, and the longer compliance time may allow operators to combine the required modification with other fuel tank maintenance. Therefore, we find that increasing the compliance time for this AD from 24 months to 48 months does not significantly decrease the level of safety. We have revised paragraph (a) of this final rule accordingly.

Request To Reduce Compliance Time

One commenter asks us to reduce the compliance time for the requirements of the proposed AD from 24 months to 12 months or less. The commenter notes that the proposed AD identifies an electrical arc associated with an external wiring fault as the only potential source of ignition. However, the commenter would like it to be noted that a lightning-induced transient on the fuel compensator wiring may represent another source of ignition. The commenter states that current data show the probability of a lightning strike on an aircraft as one strike per aircraft per year. The commenter's suggestion to reduce the compliance time for the proposed AD is based on this probability.

We do not concur to reduce the compliance time. While we agree that lightning strikes can induce a transient on the fuel compensator wiring, a lightning strike on its own is unlikely to be a potential source of ignition in the fuel tank. For a lightning strike to be a threat, two additional conditions must be present. First, as noted previously, the compensator for the Simmonds FQIS, which is normally covered by fuel, would have to be exposed to fuel vapor; this could only occur at a low-fuel state. Second, there would have to be electrical contact between the Simmonds FQIS and the flapper valve referred to in the referenced service bulletins. We find that the possibility of a lightning strike as a potential source of ignition is not a significant possibility, due to the other conditions that would have to be present along with the lightning strike. Therefore, we find no change to the final rule is necessary in this regard.

Request To Increase Minimum Clearance

One commenter asks us to increase the minimum clearance between the compensator for the Simmonds FQIS and fuel tank structure from 0.10 inch, as specified in the referenced service bulletins, to 0.25 inch. The commenter states that clearance of 0.25 inch would account for the "sloshing" of fuel in the tank. The commenter notes that its findings indicate that, should the compensator be moved 0.25 inch due to such "sloshing," and if the flapper check valve is fully extended, contact between these two components could occur. The commenter also notes that it has inspected three airplanes in its fleet for such contact between the compensator and flapper check valve and has found no evidence of such contact.

We do not concur to increase the minimum clearance. We find that 0.10 inch of clearance, as specified in the referenced service bulletins, is adequate to avoid contact between the compensator and flapper check valve, even accounting for the "sloshing" of fuel in the fuel tank. We note that any "sloshing" of fuel that would push the compensator in the direction of the flapper check valve would drive the flapper check valve to the closed position. No change to the final rule is necessary in this regard.

Request To Require Inspection for Damage of Compensator and Valve

One commenter asks us to add a requirement to the proposed AD to inspect the compensator and flapper check valve for damage. The commenter advises that the added requirements should include damage limits and provide a technical source for accomplishment of any necessary corrective action.

We do not concur. The commenter provides no technical data to support its request. We find that accomplishment of the actions required by this AD will prevent contact between the compensator and the flapper check valve and remove the potential arcing path inside the left and right main fuel tanks. We note that normal maintenance practices include removing the compensator and flapper check valve and replacing them with new parts if any damage is found. No change to the final rule is necessary in this regard.

Request To Increase Cost Impact

One commenter asks us to increase the estimated cost impact stated in the proposed AD. Whereas, in the proposed AD, the FAA estimates that the proposed actions will take 5 work hours, the commenter indicates that the proposed actions will take 12 work hours. The commenter notes that a second person is required for safety reasons any time work is accomplished in the fuel tank.

We do not concur to increase the estimated cost impact. The estimate that 5 work hours will be needed to complete the required actions is based on the best data available to date, as provided to the FAA by the airplane manufacturer. We note that this cost estimate is consistent with the manpower estimate in the referenced service bulletin, which states that 1.25 work hours per person (4 persons total) is necessary to do the bracket installation. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will

neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 938 Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 607 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required installation (not including time for gaining access and closing up), and that the average labor rate is $60 per work hour. Required parts will cost approximately $404 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $427,328, or $704 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–02 Boeing: Amendment 39–12748. Docket 2000–NM–414–AD.

Applicability: Model 757 series airplanes listed in Boeing Service Bulletin 757–28–0057 or 757–28–0059, both Revision 1, both dated February 28, 2002, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the compensator for the Simmonds fuel quantity indication system (FQIS) and a flapper check valve on a baffle rib in the main fuel tanks, which—in conjunction with another wiring failure outside the fuel tank—could result in an electrical arc and a consequent potential source of ignition in the fuel tank, accomplish the following:

Installation of Brackets

(a) Within 48 months after the effective date of this AD, install an extender bracket for the compensator of the Simmonds FQIS in the left and right main fuel tanks (including ensuring minimum clearance between the compensators, wiring, and components, and the fuel tank structure, and testing the electrical bond in the fuel tank), according to the Accomplishment Instructions of Boeing Service Bulletin 757–28–0057 or 757–28–0059, both Revision 1, both dated February 28, 2002, as applicable.

Note 2: Installations of extender brackets accomplished before the effective date of this AD according to Boeing Special Attention Service Bulletin 757–28–0057 or 757–28–0059, both dated September 14, 2000, as applicable, are acceptable for compliance with paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 757–28–0057, Revision 1, dated February 28, 2002; or Boeing Service Bulletin 757–28–0059, Revision 1, dated February 28, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on June 20, 2002.

Issued in Renton, Washington, on May 8, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12065 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–197–AD; Amendment 39–12749; AD 2002–10–03]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 airplanes. This AD requires replacement of certain main landing gear (MLG) shock strut piston assemblies with new or serviceable, improved assemblies, which constitutes terminating action for the requirements of certain other ADs. This action is necessary to prevent fatigue cracking of the MLG shock strut pistons, which could result in failure of the MLG shock strut pistons during landing or jacking of the airplane, and consequent damage to the airplane structure and injury to the passengers, flightcrew, or ground personnel. This action is intended to address the identified unsafe condition.

DATES: Effective June 20, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5323; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and Model MD–90–30 series airplanes; was published in the **Federal Register** on August 29, 2001 (66 FR 45657). That action proposed to require replacement of certain main landing gear (MLG) shock strut piston assemblies with new or serviceable, improved assemblies, which would constitute terminating action for the requirements of certain other ADs.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Clarify Compliance Threshold

One commenter requests that the FAA clarify the compliance threshold stated in paragraph (a) of the proposed AD. The commenter states that the compliance time stated in the proposed AD, "Before the accumulation of 30,000 total landings, or within 5,000 landings after the effective date of this AD, whichever occurs later," should be revised to "(Before) the accumulation of 30,000 total landings . . . on an MLG shock strut piston, or within 5,000 landings after the effective date of this AD, whichever occurs later." The commenter states that it has airplanes in its fleet with more than 40,000 total landings that are equipped with affected MLG shock strut pistons that have accumulated fewer than 1,000 landings. The commenter points out that, as written, the proposed AD would require discarding a piston with significantly fewer than 30,000 landings (i.e., the compliance threshold for the proposed replacement) because the piston is installed on an airplane with more than 30,000 total landings. The commenter requests that the compliance threshold be stated in terms of total landings on the MLG shock strut piston.

The FAA concurs that the compliance time stated in paragraph (a) of this AD needs to be clarified. As the commenter notes, the compliance threshold should be stated in terms of total accumulated landings on the MLG shock strut piston assembly, not in terms of total landings of the airplane. Paragraph (a) of this AD has been revised accordingly. Also, as a result of this change, we find it necessary to clarify what compliance time must be used if an operator cannot determine the number of landings on an MLG shock strut piston assembly. Thus, we have added the following statement to paragraph (a) of this AD: "If the MLG shock strut piston is not serialized or the number of landings on the piston cannot be conclusively determined, consider the total number of landings on the piston assembly to be equal to the total number of landings accumulated by the airplane with the highest total number of landings in the operator's fleet."

Request To Make Proposed AD Consistent With Other Related Rulemaking

Three commenters request that we revise the proposed AD to make the AD consistent with AD 2001–09–18, amendment 39–12225 (66 FR 23840, May 10, 2001), which is one of the related rulemaking actions identified in the proposed AD. The commenters note that the compliance time in the proposed AD, the later of 30,000 total landings or 5,000 landings after the effective date, conflicts with a provision in AD 2001–09–18 that allows a 60,000-total-landing threshold for replacement of the MLG shock strut pistons, as long as repetitive inspections are performed. The commenters ask us to add the same provisions for continuing repetitive inspections into the proposed AD. One commenter suggests this could be accomplished by making the proposed AD a supersedure of AD 2001–09–18. Two commenters remark that AD 2001–09–18 gives operators more flexibility, in that it allows deferral of the replacement of the MLG shock strut piston assembly. One of these commenters also notes that allowing repetitive inspections to continue for a longer time reduces the cost impact on operators by allowing them to use spares already in their inventory. Also with regard to the cost impact, two commenters stress that the compliance times in the proposed AD would be economically burdensome for operators. The commenters state that the requirements of AD 2001–09–18 provide a level of safety that is equal to the level that would be provided by the proposed AD.

We do not concur. We note that AD 2001–09–18 addresses fatigue cracking only in the area of the torque link lugs of the MLG pistons. This AD addresses fatigue cracking not only in the area of the torque link lugs but also in the small radius on the base of the jackball of the MLG shock strut piston assembly. Therefore, we find that the requirements

of AD 2001–09–18 are not equivalent to those of this AD. No change to the final rule is necessary in this regard.

Request To Reduce Grace Period for Compliance Time

One commenter, the airplane manufacturer, requests that we revise the proposed AD to reduce the compliance time from the later of 30,000 total landings or 5,000 landings after the effective date of this AD, to the later of 30,000 total landings or 2,500 landings after the effective date of this AD. The commenter states that it did not anticipate that operators would have the option to continue using affected MLG pistons beyond the compliance time recommended in the service bulletins referenced in the proposed AD, 30,000 total landings or 5,000 landings after January 31, 2000 (the date of the original issue of the service bulletin), whichever is later. The commenter notes that the proposed grace period of 5,000 landings after the effective date of this AD will apply to many airplanes, because operators with insufficient tracking information must assume that all MLG pistons in the affected fleet have accumulated landings equivalent to the airplane in their fleet with the most landings, and many of these "fleet leader" airplanes have already accumulated more than 30,000 total landings. The commenter asserts that its analysis suggests that the probability of cracking of the jackball of the piston increases with continued usage of the piston beyond 30,000 total landings. Consistent with this analysis, the commenter notes that certain relevant service bulletins that describe procedures for inspections of the jackball of the MLG piston currently specify reduced inspection intervals for MLG pistons with more than 35,000 total landings. The commenter states that the FAA's proposed compliance time for the replacement that would be required by the proposed AD will make it necessary for the airplane manufacturer to revise these relevant inspection service bulletins to specify significantly shorter repetitive inspection intervals for pistons with even more than 35,000 total landings, to ensure the continued safety of these airplanes until the replacement in this AD is accomplished.

We do not concur with the commenter's request to reduce the grace period for the replacement required by this AD. In developing an appropriate compliance time for the replacement required by this AD, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but also the average utilization of the affected fleet and the availability of required parts. At the average usage rate for the affected airplanes, the grace period of 2,500 landings recommended by the commenter would allow about 500 days for the airplane to be modified according to the requirements of this AD. We find that this may not allow operators sufficient time to get required parts and accomplish this AD on all affected airplanes in their fleets. We have determined that the grace period of 5,000 landings, as proposed, represents an appropriate interval of time wherein an ample number of required parts will be available and affected operators may comply with this AD. Considering the nature of the MLG piston failures at the jackball that have been reported, the FAA finds that such a compliance time will not adversely affect the safety of the affected airplanes. No change to the final rule is necessary in this regard.

Request To Specify Affected Part Numbers in Applicability Statement

One commenter requests that we revise the applicability statement of the proposed AD to identify the specific part numbers for the MLG shock strut piston assemblies affected by this AD. While the commenter provides no specific reason for its request, we infer that the commenter is requesting this change for clarity. We do not concur that such a change is necessary. The applicability statement of this AD refers to the McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 airplanes listed in the two service bulletins referenced in this AD. Because no more affected airplanes will be produced, these service bulletins clearly identify all affected airplanes and all affected part numbers for the MLG shock strut piston assembly. No change to the final rule is necessary in this regard.

Comments on Cost Impact

Three commenters request that we revise the Cost Impact section of the proposed AD to more accurately state the costs associated with the proposed AD. The Cost Impact section of the proposed AD states, "The manufacturer has committed previously to its customers that it will bear the cost of replacement parts, subject to the conditions in the warranty. As a result, the cost of those parts is not attributable to this proposed AD." All three commenters disagree with this statement and ask the FAA to revise the proposed AD to include the potential cost of replacement parts. The commenters point out that, while Model MD–90–30 airplanes are covered for the cost of replacement parts associated with Boeing Service Bulletin MD–90–32–031, Revision 01, dated April 25, 2001, the other airplane models subject to the proposed AD will be covered for the full cost of replacement parts associated with Boeing Service Bulletin MD–80–32–309, Revision 01, dated April 25, 2001, only if the airplane was in warranty as of June 1991. The commenters explain that, for airplanes not covered by the warranty provisions, the cost of the replacement MLG pistons will be up to $255,438, plus, according to one commenter, $8,000 for necessary replacement bearings, seals, etc., for a total cost of up to $263,438. One of the commenters states that a review of the records of U.S.-registered airplanes subject to the proposed AD shows that approximately 320 airplanes are not covered by warranty, and the operators of these airplanes will have to purchase the replacement parts at this price.

We partially concur with the request to include the cost of replacement parts. As we stated in the proposed AD, the provision of required parts is "subject to the conditions in the warranty." We do not have access to, and it is not feasible to consider, the individual warranty contracts between the airplane manufacturer and the operators of affected airplanes.

For the benefit of affected operators, however, we will acknowledge the cost of replacement parts for airplanes that are not fully covered by warranty provisions in this AD. Also, based on the current price of replacement parts, we have also revised our cost impact estimate for the approximately 320 U.S.-registered airplanes not covered by warranty provisions.

In addition to the comments on the cost of parts, one of the commenters also contends that its experience shows that the proposed replacement will take 56 work hours, rather than the 28 estimated in the proposed AD. The commenter provides no data to substantiate its estimate. We are not revising the work-hour estimate in this AD. The estimate that 28 work hours will be needed for the required replacement is based on the best information currently available from the airplane manufacturer. We note that this figure is consistent with the estimate provided in the service bulletin. No change to the final rule is necessary in this regard.

Also, another commenter takes issue with the boilerplate statement, "The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted." The commenter asserts that this statement "has the potential to mislead operators to the true cost of the proposed rule." The commenter states that it has already done the intent of the proposed AD on many airplanes in its fleet.

We infer that the commenter is requesting that we remove this statement from the AD. We do not concur. The statement to which the commenter refers is included in nearly all ADs and declares what assumptions we have made in estimating the cost of the requirements of the AD on the U.S.-registered fleet of airplanes. We use these assumptions because it is not feasible for the FAA to determine how many airplanes are already in compliance with a particular service bulletin, or whether an operator would accomplish a particular service bulletin if we didn't issue an AD to require it. Therefore, we calculate the cost impact estimate based on the assumption that the action has not been done on any U.S.-registered airplanes before the effective date of the AD, and that no operator would do the action if the FAA did not issue an AD to require it. We recognize that, in nearly all cases, some operators will have already done the AD requirements before the effective date of the AD, so the future economic impact of that AD on U.S. operators may be less than the estimated cost stated in the AD. No change to the final rule is necessary in this regard.

Explanation of Change to Applicability

The FAA has revised the applicability statement in this final rule to identify model designations as published in the most recent type certificate data sheet for the affected models. We have also revised related model designations in the preamble.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,380 Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 820 airplanes of U.S. registry will be affected by this AD, that it will take approximately 28 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour.

The manufacturer has committed previously to its customers that it may bear the cost of replacement parts, subject to the conditions in the warranty. For the approximately 500 U.S.-registered airplanes covered by the manufacturer's warranty provisions, the cost of required parts is not attributable to this AD. Therefore, based on the figures stated above, the cost impact of the AD on U.S. operators of these airplanes is estimated to be $840,000, or $1,680 per airplane.

Based on information received from the airplane manufacturer, up to 320 U.S.-registered airplanes subject to this AD may NOT be covered by the manufacturer's warranty provisions. For these airplanes, required parts will cost approximately $263,438 per airplane. Based on these figures, the cost impact of the AD on U.S. operators of these airplanes is estimated to be $84,837,760, or $265,118 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–03 Mcdonnell Douglas: Amendment 39–12749. Docket 2001–NM–197–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes, as listed in Boeing Service Bulletin MD80–32–309, Revision 01, dated April 25, 2001; and Model MD–90–30 airplanes, as listed in Boeing Service Bulletin MD90–32–031, Revision 01, dated April 25, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the main landing gear (MLG) shock strut pistons, which could result in failure of the MLG shock strut pistons during landing or jacking of the airplane, and consequent damage to the airplane structure and injury to the passengers, flightcrew, or ground personnel, accomplish the following:

Replacement

(a) Before the accumulation of 30,000 total landings on the MLG shock strut piston

assemblies, or within 5,000 landings after the effective date of this AD, whichever occurs later: Replace the MLG shock strut piston assemblies, left and right-hand sides, with new or serviceable, improved assemblies, per the Accomplishment Instructions of Boeing Service Bulletin MD80–32–309, Revision 01, dated April 25, 2001 (for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes); or Boeing Service Bulletin MD90–32–031, Revision 01, dated April 25, 2001 (for Model MD–90–30 airplanes); as applicable. If the MLG shock strut piston is not serialized or the number of landings on the piston cannot be conclusively determined, consider the total number of landings on the piston assembly to be equal to the total number of landings accumulated by the airplane with the highest total number of landings in the operator's fleet.

Note 2: Accomplishment of the replacement specified in Boeing Service Bulletin MD80–32–309, dated January 31, 2000 (for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes); or Boeing Service Bulletin MD90–32–031, dated January 31, 2000 (for Model MD–90–30 airplanes); as applicable; before the effective date of this AD, is considered acceptable for compliance with the requirement of paragraph (a) of this AD.

Compliance With Requirements of Other ADs

(b) Accomplishment of the replacement required by paragraph (a) of this AD constitutes terminating action for the requirements of AD 99–13–07, amendment 39–11201, AD 2000–03–08, amendment 39–11567, and AD 2001–09–18, amendment 39–12225.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Service Bulletin MD80–32–309, Revision 01, dated April 25, 2001; or Boeing Service Bulletin MD90–32–031, Revision 01, dated April 25, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on June 20, 2002.

Issued in Renton, Washington, on May 8, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12064 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–06–AD; Amendment 39–12750; AD 2002–10–04]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80E1A2 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80E1A2 turbofan engines. This action requires replacing a certain low pressure turbine rotor (LPTR) shaft at or before reaching a new reduced life cycle limit. This amendment is prompted by an updated low cycle fatigue (LCF) analysis of the LPTR shaft. The actions specified in this AD are intended to prevent LCF cracking and failure of the LPTR shaft due to exceeding the life limit, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective June 20, 2002.

Comments for inclusion in the Rules Docket must be received on or before July 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–06–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *"9-ane-adcomment@faa.gov"*. Comments sent via the Internet must contain the docket number in the subject line.

This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Office Park, Burlington, MA 01803; telephone (781) 238–7192; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: GE has completed an updated low cycle fatigue (LCF) analysis for the CF6–80E1A2 LPTR shaft, part number (P/N) 1778M39P01, and has established a new reduced life cycle limit of 17,900 cycles-since-new (CSN) for this shaft. In January 2001, the FAA became aware of GE's in-process analysis and material testing of LPTR shaft, P/N 1778M39P01. The FAA approved temporary revisions (TR's) to Chapter 5, Life Limits, of the engine manual, to incorporate revised life limits for this shaft based on initial analytical results. The original life limit of 20,000 CSN for this part was last published in the engine manual revision dated February 15, 2001. TR 05–0019, dated March 7, 2001, revised this life limit from 20,000 CSN to 11,300 CSN. Subsequent issues of the engine manual, published August 15, 2001 and February 15, 2002, carried forward this revised lower life limit. The FAA chose to wait for the final analytical results and the updated material test data before taking action to mandate a lower life limit. This wait was made possible due to the young age of the affected parts. The high time shaft has accumulated less than 7,000 CSN at this time, which is well below the interim limit of 11,300 CSN and final approved life limit. The FAA now approves GE's final analytical results and the reduced life limit of 17,900 CSN. GE issued TR 05–0030 on February 28, 2002 to revise the life limits section of the engine manual for CF6–80E1A2 LPTR shaft, P/N 1778M39P01, to 17,900 CSN. Although interim publications of the engine manual showed lower life limits for this part, those limits were not mandated by an AD. Therefore, an AD is now required to mandate the approved 17,900 CSN life limit.

FAA's Determination of an Unsafe Condition and Required Actions

Although this affected engine model is not used on any airplanes that are registered in the United States, the possibility exists this engine model could be used on airplanes that are registered in the United States in the future. This AD is being issued to prevent LCF cracking and failure of the LPTR shaft due to exceeding the life limit, which could result in an uncontained engine failure and damage to the airplane. This AD requires replacing CF6–80E1A2 LPTR shafts, P/N 1778M39P01, at or before reaching the new reduced life cycle limit of 17,900 CSN.

Immediate Adoption of This AD

Since there are currently no domestic operators of this engine model, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NE–06–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–04 General Electric Company: Amendment 39–12750. Docket No. 2002–NE–06–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company CF6–80E1A2 turbofan engines. These engines are installed on, but not limited to, Airbus Industrie A330 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent low cycle fatigue (LCF) cracking and failure of the low pressure turbine rotor (LPTR) shaft, due to exceeding the life limit, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) Replace LPTR shafts, part number (P/N) 1778M39P01, at or before the shaft accumulates 17,900 cycles-since-new (CSN).

(b) After the effective date of this AD, do not install any LPTR shaft, P/N 1778M39P01, that exceeds 17,900 CSN.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Effective Date

(e) This amendment becomes effective on June 20, 2002.

Issued in Burlington, Massachusetts, on May 8, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–12050 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30310; Amdt. No. 3006]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC) /Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May 10, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35–1 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
03/27/02	NJ	Newark	Newark Intl	2/2526	ILS Rwy 22, Amdt 11...
03/28/02	NJ	Newark	Newark Intl	2/2549	ILS Rwy 4R, Amdt 12...
04/23/02	KY	Owensboro	Owensboro-Davies County	2/3378	ILS Rwy 36, Amdt 8...
04/24/02	IL	Morris	Morris Muni-James R. Washburn Field	2/3418	VOR–A, Orig...
04/24/02	GA	Brunswick	Malcolm McKinnon	2/3428	GPS Rwy 4, Orig...
04/24/02	GA	Brunswick	Malcolm McKinnon	2/3430	VOR Rwy 4, Amdt 15...
04/24/02	GA	Brunswick	Malcolm McKinnon	2/3431	NDB Rwy 22, Orig...
04/24/02	GA	Brunswick	Malcolm McKinnon	2/3432	NDB Rwy 4, Orig–A...
04/24/02	GA	Brunswick	Malcolm McKinnon	2/3434	GPS Rwy 22, Orig...
04/25/02	VA	Richmond/Ashland	Hanover County Muni	2/3466	Loc Rwy 16, Amdt 2...
04/25/02	VA	Richmond/Ashland	Hanover County Muni	2/3476	GPS Rwy 16, Amdt 1A. This replaces FDC 2/3383 in TL02–11...
04/26/02	OR	Salem	McNary Field	2/3493	LOC BC Rwy 13, Amdt 6B...
04/26/02	MT	Butte	Bert Mooney	2/3510	ILS Rwy 15, Amdt 5A...
04/26/02	MT	Butte	Bert Mooney	2/3521	RNAV (GPS) Rwy 15, Orig...
04/30/02	OR	Pendleton	Eastern Oregon Regional at Pendleton	2/3602	ILS Rwy 25, Amdt 23...
04/30/02	TN	Sevierville	Gatlinburg-Pigeon Forge	2/3609	VOR/DME or GPS Rwy 10, Amdt 5...
04/30/02	OR	Corvallis	Corvallis Muni	2/3628	ILS Rwy 17, Amdt 3...
05/01/02	TX	Cleveland	Cleveland Muni	2/3661	GPS Rwy 16, Orig–A...
05/01/02	TX	Mineral Wells	Mineral Wells	2/3662	NDB Rwy 31, Amdt 2...
05/01/02	TX	Mineral Wells	Mineral Wells	2/3663	VOR Rwy 31, Amdt 10...
05/01/02	TX	Mineral Wells	Mineral Wells	2/3664	GPS Rwy 31, Orig...
05/02/02	GA	Tifton	Henry Tift-Myers	2/3679	VOR or GPS Rwy 27, Amdt 9B...
05/02/02	AK	Middleton Island	Middleton Island	2/3684	NDB–A, Orig...
05/03/02	MN	Cook	Cook Muni	2/3702	NDB or GPS Rwy 31, Amdt 1A...
05/08/02	CO	Monte Vista	Monte Vista Muni	2/3835	NDB Rwy 20, Orig...
05/08/02	AK	Emmonak	Emmonak	2/3891	VOR Rwy 16, Orig...
05/08/02	AK	Emmonak	Emmonak	2/3892	VOR Rwy 34, Orig...
05/08/02	AK	Anchorage	Ted Stevens Anchorage Intl	2/3903	OR Rwy 6R, Amdt 12C...

[FR Doc. 02–12287 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Diclazuril

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The NADA provides for use of approved single-ingredient diclazuril, bacitracin methylene disalicylate, and roxarsone Type A medicated articles to make three-way combination drug Type C medicated feeds for broiler chickens.

DATES: This rule is effective May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600, e-mail: candres@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 3182, Union, NJ 07083, filed NADA 141–190 that provides for use of CLINACOX (0.2 percent diclazuril), BMD (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) bacitracin methylene disalicylate), and 3–NITRO (45.4, 90, 227, or 360 g/lb roxarsone) Type A medicated articles to make combination drug Type C medicated feeds for broiler chickens. The Type C feeds contain 0.91 g/ton diclazuril, 50 or 100 to 200 g/ton bacitracin methylene disalicylate, and 22.7 to 45.4 g/ton roxarsone and are used for the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mitis (mivati)*, and *E. maxima*; as an aid in the prevention (at 50 g/ton bacitracin) or control (at 100 to 200 g/ton bacitracin) of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin; and for increased rate of weight gain, improved feed efficiency, and improved pigmentation. The NADA is approved as of December 14, 2001, and the regulations are amended in 21 CFR 558.198 to reflect the approval.

The regulations in 21 CFR 558.76 and 558.530 are also being amended to cross-reference approved combinations. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of

safety and effectiveness data and information submitted to support approval of each application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by redesignating paragraphs (d)(3)(v) through (d)(3)(xvii) as paragraphs (d)(3)(vi) through (d)(3)(xviii), respectively, and by adding new paragraph (d)(3)(v) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

Diclazuril grams/ton	Combination grams/ton	Indications for use	Limitations	Sponsor
•	•	•	•	•
(iii) 0.91 (1 ppm).	Bacitracin methylene disalicylate 50 plus roxarsone 22.7 to 45.4	Broiler chickens: As in item (i) of this table; as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin; for increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as the sole ration throughout growing period. Use as sole source of organic arsenic; drug overdose or lack of water may result in leg weakness. Not for use in hens producing eggs for human consumption. Withdraw 5 days before slaughter. Bacitracin methylene disalicylate and roxarsone provided by No. 046573 in § 510.600(c) of this chapter.	000061
(iv) 0.91 (1 ppm).	Bacitracin methylene disalicylate 100 to 200 plus roxarsone 22.7 to 45.4	Broiler chickens: As in item (i) of this table; as an aid in the control of necrotic enteritis caused or complicated by Clostridium spp. or other organisms susceptible to bacitracin; for increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as the sole ration throughout growing period. Start at first clinical signs of disease; vary dosage of bacitracin based on severity of infection; administer continuously for 5 to 7 days or as long as clinical signs persist, then reduce bacitracin to prevention level (50 grams per ton (g/ton). Use as sole source of organic arsenic; drug overdose or lack of water may result in leg weakness. Not for use in hens producing eggs for human consumption. Withdraw 5 days before slaughter. Bacitracin methylene disalicylate and roxarsone provided by No. 046573 in § 510.600(c) of this chapter.	000061

(v) Diclazuril alone and with roxarsone as in § 558.198.

* * * * *

3. Section 558.198 is amended by:

a. Revising paragraph (a);

b. Redesignating paragraph (b) as paragraph (c);

c. Adding new paragraph (b);

d. Redesignating paragraphs (d)(1)(iii) through (d)(1)(v) as paragraphs (d)(1)(v) through (d)(1)(vii), respectively; and

e. Adding new paragraphs (d)(1)(iii) and (d)(1)(iv).

The revisions and additions are to read as follows:

§ 558.198 Diclazuril.

(a) *Specifications.* Type A medicated article containing 0.2 percent diclazuril.

(b) *Approvals.* See No. 000061 in § 510.600(c) of this chapter.

* * * * *

(d) * * *

(1) * * *

* * * * *

4. Section 558.530 is amended by revising paragraph (d)(5)(x) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(d) * * *

(5) * * *

(x) Diclazuril alone or in combination as in § 558.198.

* * * * *

Dated: March 15, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–10963 Filed 5–15–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Parts 22 and 51

[Public Notice 4016]

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule adopts as final the Department's proposed rule to revise the Schedule of Fees for Consular Services. No comments were received during the period for public comment. The proposed rule is therefore adopted as final. The rule also made appropriate implementing and other related changes in affected portions set forth in these regulations. Specifically, the proposed rule made changes in the Schedule of Fees for Consular Services ("Schedule of Fees" or "Schedule") and made technical changes concerning passport fees. The primary objective of the adjustments to the Schedule of Fees is to ensure that the costs of consular services are recovered through user fees to the maximum extent appropriate and permitted by law. As a result of new data on the cost of services, most fees are being increased. The proposed Schedule lowers the notarial fee by shifting some of the costs of this service to appropriations. In addition, the Schedule of Fees is being restructured and streamlined, making the Schedule easier to read and understand. Some services have been removed from the Schedule; in most cases, this is because services have been consolidated. Certain consular services performed for no fee are included in the Schedule so that members of the public will be aware of significant consular services provided by the Department that they may request and for which they will not be charged. Codes are being added to the Schedule to facilitate consular officers' use of the Department's consular accounting codes when the fees are actually collected.

EFFECTIVE DATE: June 1, 2002.

ADDRESSES: Office of the Executive Director, Bureau of Consular Affairs, Department of State, Suite H1004, 2401 E Street NW., Washington, DC 20520. 20520.

FOR FURTHER INFORMATION CONTACT: Susan Abeyta, Office of the Executive Director, Bureau of Consular Affairs, phone (202) 663–2505, telefax: (202) 663–2499; e-mail: *fees@state.gov*.

SUPPLEMENTARY INFORMATION:

Background

The majority of the Department of State's consular fees are established pursuant to the general user charges statute, 31 U.S.C. 9701, and/or U.S.C. 4219, which, as implemented through Executive Order 10718 of June 27, 1957, authorizes the Secretary of State to establish fees to be charged for official services provided by embassies and consulates. Fees established under these authorities include fees for immigrant and nonimmigrant visa processing, for fingerprints, and for overseas citizens services. In addition, a number of statutes address specific fees: Passport application fees (including the cost of passport issuance and use) are authorized by 22 U.S.C. 214, as are fees for the execution of passport applications. (This provision was amended on November 29, 1999, by Public Law 106–113, to permit collection of a nonrefundable application fee subject to promulgation of implementing regulations, which are at 22 CFR parts 51 and 53.) Section 636 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, 110 Stat. 3009–703–704 (Sept. 30, 1996), authorizes establishment of a diversity visa application fee to recover the full costs of the visa lottery conducted pursuant to Sections 203 and 222 of the Immigration and Nationality Act ("INA"), 8 U.S.C. 1153, 1202. Nonimmigrant visa reciprocity fees are authorized and, in fact, generally required, pursuant to Section 281 of the INA, 8 U.S.C. 1351. Notwithstanding the general rule of reciprocity, however, a cost-based, nonimmigrant visa processing fee for the machine readable visa (MRV) and for a combined border crossing and nonimmigrant visa card (BCC) (22 CFR 41.32) is authorized by Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236 (April 30, 1994). Certain persons are exempted by law or regulation from payment of specific fees. These exemptions are noted in the fee schedule and include the nonimmigrant visa fee exemptions set forth in 22 CFR 41.107 for certain individuals who engage in charitable activities or who qualify for diplomatic visas. In addition, aliens under age 15 are in certain circumstances entitled to a combined MRV/BCC for a statutorily established fee of $13, which is below the full cost of service, pursuant to Section 410 of Title III of the Commerce, Justice, State Appropriations Act enacted as part of the Omnibus FY 1999 Appropriations Act, Public Law 105–277 (Oct. 21, 1998). Various statutes also permit the Department to retain some of the consular fees it collects. These are, at present, the MRV and BCC fees, the passport expedite fee, the fingerprint fee, the J Visa Waiver fee, and the Diversity Visa Lottery fee. Authority to retain the Affidavit of Support fee has existed in the past and may be renewed.

With the exception of nonimmigrant visa reciprocity fees, which are established based on the practices of other countries, all consular fees are established on a basis of cost and in a manner consistent with general user charges principles, regardless of the specific statutory authority under which they are promulgated. As set forth in OMB Circular A–25, the general policy underlying user charges is that a reasonable charge should be made to each identifiable recipient for a measurable unit or amount of government service or property from which the user derives a special benefit. The OMB guidance covers all Federal Government activities that convey special benefits to recipients beyond those that accrue to the general public. The Department of State is required to review consular fees periodically to determine the appropriateness of each fee in light of applicable provisions of OMB Circular A–25. While services of direct benefit to individuals, organizations or groups should be paid for by the users rather than by taxpayers in general, the guidelines state that services performed for the primary benefit of the general public or the U.S. Government should be supported by tax revenues. The changes set forth in the proposed Schedule of Fees reflect these guidelines.

The last major revision of the Schedule of Fees was in 1998. Consistent with OMB Circular A–25, from September 1999 to October 2001, the Department conducted a cost-of-service study to determine the current direct and indirect costs associated with each consular service the Department provides, so that the Schedule could be

updated. The study was supervised by the Bureau of Consular Affairs and performed with the assistance of an independent contractor. The contractor and Department staff surveyed and visited domestic and overseas consular sites handling a representative sample of all consular services worldwide in FY 2000. This review attempted to identify the fully allocated costs of consular services (direct and indirect). The results of the review indicated that a fee established on the basis of the average cost of a consular officer's time should be $235 per hour. This hourly rate is used in the proposed schedule to recover the cost of services that are infrequently provided and that may require very different expenditures of time depending on the unique circumstances of the service, such as providing a certificate of American ownership for a yacht, a service that directly benefits an individual. In situations where services are provided often enough to develop a reliable estimate of the average time involved, however, the schedule generally sets a flat service fee. In either case, the fee is designed to recover some or all—but not more than—actual fully allocated costs the Department expects to incur over the period that the Schedule will be in effect. When the fee is set below costs, the remaining cost is either recovered through allocation to related services for which are fees charged, or will be covered by taxpayers through appropriations. (Detailed information concerning the methodology of the study is available from the Bureau of Consular Affairs.) Based on this effort and subsequent analysis, the Department is now proposing adjustments to the Schedule of Fees. Major changes to the schedule are discussed below.

Passport Execution and Processing Fees (Implementation August 19, 2002)

Passport fees for execution and application services ("execution" and "issuance" fees, under the current Schedule) have been raised. The $30 (currently $15) execution fee for first-time applicants and others who must apply in person covers all costs associated with providing this service, both domestically and abroad. It is retained by non-Department acceptance agencies when such agencies are used. One passport application fee will be charged for each first-time and each renewal application: $55 for applicants age 16 or over and $40 for applicants under 16. Although the processing and issuance of a child's passport is more labor-intensive and therefore more costly, the shorter, five-year validity of a child's passport is the basis for charging the lower, $40 fee. A revision of 22 CFR 51.61 is included in this rule to reflect the elimination of different passport application fees for first-time and renewal applications and the requirement that the execution fee be paid at the time of application rather than issuance.

The new passport fees will fully recover the cost of domestic and overseas passport application processing. In addition, consistent with long-standing Department practice, the fee will recover the cost of all emergency citizens services performed abroad, including assistance to U.S. citizens in cases of arrest, detention, death, serious illness or accident abroad. Also covered are the costs of certain non-emergency citizens services such as passport amendments and the voluntary registration of U.S. citizens at posts abroad.

Passport Expedite Fee (Implementation August 19, 2002)

The Schedule increases the passport expedite fee from $35 to $60. This fee pays for all of the additional costs associated with expediting the processing and issuance of an applicant's passport at a U.S. Passport Agency, so that the applicant can receive a passport in three days or less, instead of a domestic timeframe of approximately five weeks for mail-in applications that are not expedited. No overseas costs have been included in the fee for this service as the fee is not charged abroad, where the smaller volume of passport applications and other factors allow the Department's posts generally to act on all passport applications in three days or less, eliminating the need to differentiate between standards of service.

File Search and Verification of U.S. Citizenship (Implementation August 19, 2002)

The $45 fee for this service has been held below cost because it is almost always associated with a passport application. Remaining costs have been allocated to the passport application, both adult and minor.

Adjudication of Citizenship for Undocumented Passport Applicants Born Abroad

This item has been eliminated from the Schedule because the fee was reduced from $100 to 0, effective March 30, 2001, by Public Notice 3625, **Federal Register**, March 30, 2001 (66 FR 17360), for the reasons explained therein.

Report of Birth

The Schedule increases the application fee for a Report of Birth of a U.S. Citizen Abroad from $40 to $65. The actual cost of performing the service is considerably higher, especially when the parents have lived abroad for long periods of time and their prior residency in the United States must be confirmed if their ability to transmit citizenship to their children is subject to a residency transmission requirement. It is in the U.S. Government's interest, however, to have U.S. citizens documented as early as possible. Keeping the fee below cost is intended to ensure that the fee itself does not serve as a disincentive to having young children documented as U.S. citizens. Remaining costs have been allocated to the passport application, both adult and minor. Fees for duplicate copies of Reports of Birth will be charged as presented in the Schedule under Documentary Services.

Overseas Citizens Services

The primary responsibility of U.S. consular officers abroad is the protection and welfare of U.S. citizens. No-fee services performed in instances of arrests, missing persons, child custody inquiries and destitution (requiring repatriation and/or emergency dietary assistance loans) are listed on the Schedule for the information of the U.S. citizen traveler. As noted in the discussion of the passport fee, the costs for these services will continue to be allocated to the passport fee, consistent with long-standing Department practice. This ensures that any U.S. citizen traveling abroad may obtain emergency consular services without regard to ability to pay for the actual services rendered.

Death and Estate Services

No-fee services provided to the next-of-kin after the death of a U.S. citizen abroad have been consolidated under one item. The costs of these services are allocated to the passport fee.

The $235 hourly rate for consular time plus costs incurred will be charged for making arrangements for a deceased non-U.S. citizen family member. It replaces the current $700 flat fee for assistance in arranging transshipment of a foreign national's remains and in providing related documentary services. Assistance in the case of a non-U.S. citizen's death is provided only under special circumstances, e.g., when a U.S. citizen relative requires assistance or no representative of the deceased's country of nationality is present to render assistance. The Schedule sets a $60 fee for the issuance of a Consular Mortuary Certificate on behalf of a non-U.S. citizen, based on the average time required to prepare the document.

The Schedule combines all estate services for U.S. citizens under a single item. Consular officers have authority to take possession of and inventory estates and to oversee the final disposition of estates of U.S. citizens who die abroad. This authority is generally exercised, often on an interim basis, in the absence of a legal representative or in emergency situations. Expenses incurred in settling estates are generally paid from estate proceeds or must be paid by the estate representative. The costs of consular time and incidental expenses attributable to estate work are generally allocated to the passport fee because of the circumstances in which these services are provided and because the amount of consular time required usually is small. An additional reason for this approach is that most estates abroad are small and the net proceeds from disposition of the assets would not be sufficient to pay for even the minimal consular time usually involved. Thus, the Schedule has no separate fee for most estate work. In those few estate cases that do require significant consular time or expenditures, however, the Department has determined it is appropriate to charge for consular time and/or to require reimbursement of expenses. (In such cases, overseeing the sale and final disposition of the estate—disbursing funds and carrying out other legally related estate business—is often more appropriately handled by a private attorney or executor.)

Nonimmigrant Visa Services

The Schedule raises to $65 the nonimmigrant Machine Readable Visa (MRV) application processing and Border Crossing Card fees. These fees pay for all costs associated with the processing and issuance of either an MRV or a machine-readable combined border crossing card and nonimmigrant visa (BCC). The five-year border crossing card fee for qualified Mexican children under the age of 15 remains $13, in accordance with Public Law 105–277 (see discussion under BACKGROUND above). Costs not recovered through the $13 fee have been reallocated to the fee for the 10-year MRV/BCC, as authorized by Public Law 105–277.

An exemption from the MRV fee has been added for U.S. government employees traveling on official business. A parallel exemption has been added under the nonimmigrant visa issuance fee, which is reciprocal, and varies according to the fees charged U.S. citizens by the applicant's country of origin. The U.S. government is deemed the primary beneficiary of this exemption because it applies to non-U.S. citizen U.S. government employees who travel to the United States on U.S. government orders to carry out their duties as employees.

Immigrant Visa Services

The Schedule sets one immigrant visa application processing fee of $335 to replace the current Schedule's two separate fees for immigrant visa application processing ($260) and immigrant visa issuance ($65). The Department determined that charging one fee would simplify fee collection and enhance both administrative efficiency and convenience to the applicant. Some of the costs of related services (e.g., Affidavit of Support review, returning resident status determinations) have also been allocated to the immigrant visa application fee to keep the fees for those services at lower levels. Because a single processing fee will be charged, the Department has also reviewed and is changing its regulation regarding the circumstances in which a refund will be allowed (22 CFR 42.71). Since there will be no issuance fee, refunds will no longer be related to whether or not an immigrant visa is issued. Given that the actual work involved in processing an immigrant visa application has already commenced by the time the application fee is paid, the fee will be non-refundable unless the application is not or cannot be adjudicated as a result of action by the U.S. Government.

The current $75 Diversity Visa (DV) Lottery surcharge for the immigrant visa application will increase to $100. The Department has legal authority to establish the surcharge, which is paid only by persons who "win" the lottery and apply for a DV visa, at a level sufficient to cover the entire cost of running the lottery. The full exercise of this authority would lead to a much higher surcharge because the number of winning applicants (roughly 55,000) is much smaller than the total number of lottery entrants (recently about 10 million). The surcharge has been kept below the legally authorized amount. The Department notes that DV applicants must also pay the immigrant visa application processing fee; that the $100 surcharge will represent an increase in this surcharge of 33 percent; and that the $100 surcharge will cover the Department's direct (but not indirect) costs of running the lottery. The Department believes that a $100 surcharge is therefore reasonable. Costs not recovered by the surcharge have been allocated to appropriations.

The Schedule raises to $65 the Affidavit of Support Review Fee, currently $50. This fee is charged domestically for all Affidavits of Support reviewed at the National Visa Center to ensure that they are properly completed before they are forwarded to a consular post for adjudication. The fee has been held below the cost of service; costs not recovered through the fee have been allocated to the immigrant visa application.

Special Visa Services

While higher than current fees, the fees for determining returning resident status ($360, currently $50), and for a transportation letter for legal permanent residents of the U.S. ($300, currently $100) will represent only approximately 50% of the Department's full costs of providing these services. Costs not covered by the fees for these special visa services have been allocated to the immigrant visa application-processing fee. This allocation allows the special visa service fees to be lower and is appropriate given that the users of the special visa services generally are persons who have previously been issued immigrant visas, and that someone issued an immigrant visa may reasonably expect to use such services at some point in the future in an unforeseen situation.

The fee charged for a waiver of the two-year residency requirement for J-visa holders has increased to $230. This fee has been set to recover all of the costs associated with providing this service.

The current $25 fee for fingerprinting, when required in connection with a visa application, will increase to $85 to cover all costs incurred in providing this service abroad, including FBI costs billed to the Department of State for fingerprint processing.

Documentary Services

For documentary services, the Schedule establishes a new fee structure that the Department expects will be easy to administer and that will lower the direct cost to customers. It establishes a consistent per-item fee for all documentary services. Customers requiring a service multiple times as part of a single transaction (e.g., notarization of a bill of sale and five copies, or notarization of three documents required for a single real estate transaction) will be charged one fee for the initial seal and a reduced fee for each subsequent seal. The current fees for documentary services are $55 for notarials, $20 for certifications, $10

for additional certified copies, and $32 for authentications. The Schedule sets a fee of $30 for the first seal for a notarial, certified copy, copy or certified document from the Department's Vital Records Section, and $20 for each additional seal. A fee of $30 is charged for each authentication of a U.S. or foreign official seal or signature. Costs not covered by the fees will be offset by appropriations. The Department notes that there is a long-standing, statutory requirement that consular officers perform notarial services abroad. Such services are available for minimal fees in the United States, and public concern over the Department's notarial fees when they were set in 1998 to ensure that the actual users pay the full cost of service has demonstrated a widespread expectation that notarial and similar services will be available from the U.S. Government to overseas users for fees that are not significantly higher than domestic fees, even if the overseas fee is well below the actual cost of service. Thus, the Department has concluded that allocating part of the cost of notarials to the general taxpayer is appropriate.

Under the Schedule, documentary fee exemptions for U.S. federal, state and local government agencies are combined under one item. One new exemption has been added: No fee will be charged for notarial services performed with respect to endorsing U.S. Savings Bonds Certificates. The U.S. Government is a beneficiary of the U.S. Savings Bond program, and imposing a fee on the individual bondholders for this service in the past has at times adversely affected persons of limited resources, thereby potentially discouraging use of this investment vehicle.

Judicial Assistance Services

The Schedule separates judicial assistance services from documentary services. A fee of $650 is charged for processing letters rogatory, judicial assistance cases under the Foreign Sovereign Immunities Act, and certificates for return of letters rogatory executed by foreign officials. The $650 fee covers the estimated costs incurred in a routine case. A flat rate of $475 is charged for making arrangements for taking one or more depositions that will run continuously in a single location on a single day so that only one set of reservations for facilities, reporting, and other services need be made. This fee also reflects the estimated cost of a normal case. It will be charged again if a deposition for which the fee has been paid is cancelled and rescheduled. When a consular official must also attend or take the deposition or execute a commission to take testimony, the Department proposes to charge, in addition, the hourly rate for the time spent performing this service and for expenses actually incurred. A flat fee of $235 is charged for swearing in witnesses for telephone depositions, reflecting that a consular officer will generally have to reserve an hour of time for this service. If the consular officer must remain on the line while the deposition proceeds, an hourly rate of $235 will be charged for each hour or part thereof over the first hour. The $60 fee for providing seal and certification of depositions is based on an estimate of the average time needed to perform this service.

The Schedule includes two exemptions from fees for judicial assistance services:

—The first applies to U.S. Federal, state, and local government agencies. The Department has determined that it is normally in the interest of the U.S. Government to perform services for other government agencies without assessing fees to those agencies. It streamlines administrative procedures for both agencies and facilitates performance of the task. In some cases, however, the effort required of the consular officer abroad can be extreme, in terms of time and cost. In those cases, the Department reserves the right to recover those costs by charging other agencies for consular time and expenses incurred. The cost of normal services for government agencies will otherwise be recovered through appropriations.

—Under the second exemption, no fee will be charged to execute commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of federal court on behalf of an indigent party. The Department has determined that it is in the U.S. Government's interest to perform these services without assessing fees. It streamlines administrative procedures, facilitates performance of the task without imposing bureaucratic obstacles, and is consistent with the government's broad interest in ensuring that criminal defendants get a fair trial.

Services Relating to Vessels and Seamen

The Schedule will recover all costs associated with the processing and issuance of shipping and seamen services by charging the proposed $235 hourly rate for consular time plus any expenses incurred. These services include, but are not limited to, recording a bill of sale of a vessel purchased abroad, renewal of a marine radio license, and issuance of a certificate of American ownership. As these services are not performed on any routine basis, an average fee could not be determined. In paying the hourly rate for consular time, the beneficiary of the service will bear the full cost.

Administrative Services

The fee for setting up and maintaining a trust account increases from $25 to $30. It is Department policy to keep this fee below the cost of service because it is generally provided to individuals who have limited resources or who face unusual obstacles in transferring funds abroad. The remaining costs have been allocated to the passport application fee.

Consular time charges increase to $235 per hour and reflect the actual direct and indirect cost of service as determined by the Cost of Service Study conducted by the Bureau of Consular Affairs. The Department notes that this rate is high in part because maintaining consular officers and facilities abroad, including secure work and living environments, is costly.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule after it was published as a proposed rule on March 28, 2002 (67 FR 14895), Public Notice 3950.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order. In addition, OMB has been provided with an information copy of the proposed regulation.

Executive Order 13132

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements.

Implementation Date

The effective date of this regulation is June 1, 2002. The implementation date for Passport Services fees, Item Numbers 1, 2, 3 and 6, is August 19, 2002, following the peak travel season, and is intended to accommodate the U.S. traveling public.

List of Subjects

22 CFR Part 22

Consular services, Fees, Schedule of fees for consular services, Passports and visas.

22 CFR Part 51

Fees, Passports and visas.

Accordingly, 22 CFR parts 22 and 51 are amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1153 note, 1351, 1351 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 U.S.C. 9701; Pub. L. 105–277, 112 Stat. 2681 *et seq.*; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

2. Section 22.1 is revised to read as follows:

§ 22.1 Schedule of fees.

The following table sets forth the U.S. Department of State's schedule of fees for consular services:

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Passport and Citizenship Services	
1. Passport Execution: Required for first-time applicants and others who must apply in person (implementation 8/19/02) [01—Passport Execution].	$30.
2. Passport Application Services (implementation 8/19/02) for:	
(a) Applicants age 16 or over (including renewals) [02—Adult Passport]	$55.
(b) Applicants under age 16 [03—Minor Passport]	$40.
(c) Passport amendments (extension of validity, name change, etc.) [04—Amendment]	No fee.
3. Expedited service: Guaranteed 3-day processing and/or in-person service at a U.S. Passport Agency (implementation 8/19/02; not applicable abroad) [Expedited Service].	$60.
4. Exemptions: The following applicants are exempted from passport fees:	
(a) Officers or employees of the United States and their immediate family members (22 U.S.C. 214) and Peace Corps Volunteers and Leaders (22 U.S.C. 2504(a)) proceeding abroad or returning to the United States in the discharge of their official duties [05—Passport Exempt].	No fee.
(b) U.S. citizen seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214) [05— Passport Exempt].	No fee.
(c) Widows, children, parents, or siblings of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214) [05—Passport Exempt].	No fee.
(d) Employees of the American National Red Cross proceeding abroad as members of the Armed Forces of the United States (10 U.S.C. 2603) [05—Passport Exempt].	No fee.
5. Travel Letter: Provided as an emergency accommodation to a U.S. citizen returning to the United States when the consular officer is unable to issue a passport book (consular time charges, item 75, may apply) [06—U.S.C. Travel Letter].	No fee.
6. File search and verification of U.S. citizenship (implementation 8/19/02): When applicant has not presented evidence of citizenship and previous records must be searched (except for an applicant abroad whose passport was stolen or lost abroad or when one of the exemptions is applicable) [07—PPT File Search].	$45.
7. Application for Report of Birth Abroad of a Citizen of the United States: [08—Report Birth Abroad]	$65.
(Items nos. 8 through 10 vacant)	
Overseas Citizens Services	
Arrests, Welfare and Whereabouts, and Related Services:	
11. Arrest and prison visits	No fee.
12. Assistance regarding the welfare and whereabouts of a U.S. Citizen, including child custody inquiries.	No fee.
13. Loan processing:	
(a) Repatriation loans	No fee.
(b) Emergency dietary assistance loans	No fee.

SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
Death and Estate Services	
14. Assistance to next-of-kin:	
(a) After the death of a U.S. citizen abroad (providing assistance in disposition of remains, making arrangements for shipping remains, issuing Consular Mortuary Certificate, and providing up to 20 original Consular Reports of Death).	No fee.
(b) Making arrangements for a deceased non-U.S. citizen family member (providing assistance in shipping or other disposition of remains of a non-U.S. Citizen) [11—Non U.S.C. Death].	Consular time (item 75) plus expenses.
15. Issuance of Consular Mortuary Certificate on behalf of a non-U.S. Citizen [12—Non-U.S.C. Mort Cert].	$60.
16. Acting as a provisional conservator of estates of U.S. Citizens:	
(a) Taking possession of personal effects; making an inventory under an official seal (unless significant time and/or expenses incurred).	No fee.
(b) Overseeing the appraisal, sale, and final disposition of the estate, including disbursing funds, forwarding securities, etc. (unless significant time and/or expenses incurred).	No fee.
(c) For services listed in 16(a) or (b) when significant time and/or expenses are incurred [13—Estate Costs].	Consular time (item 75) and/or expenses.
(Items nos. 17 through 20 vacant)	
Nonimmigrant Visa Services	
21. Nonimmigrant visa application and border crossing card processing fees (per person):	
(a) Nonimmigrant visa [21—MRV Processing]	$65.
(b) Border crossing card—10 year (age 15 and over) [22—BCC 10 Year]	$65.
(c) Border crossing card—5 year (under age 15)	
(d) For Mexican citizen if parent or guardian has or is applying for a border crossing card [23—BCC 5 Year].	$13.
22. Exemptions from nonimmigrant visa application processing fee:	
(a) Applicants for A, G, C—3, NATO and diplomatic visas as defined in 22 CFR 41.26 [24—MRV Exempt].	No fee.
(b) Applicants for J visas participating in official U.S. Government sponsored educational and cultural exchanges [24—MRV Exempt].	No fee.
(c) Replacement machine-readable visa when the original visa was not properly affixed or needs to be reissued through no fault of the applicant [24—MRV Exempt].	No fee.
(d) Applicants exempted by international agreement as determined by the Department, including members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly, and their immediate families [24—MRV Exempt].	No fee.
(e) Applicants travelling to provide charitable services as determined by the Department [24—MRV Exempt].	No fee.
(f) U.S. Government employees travelling on official business [24—MRV Exempt]	No fee.
23. Nonimmigrant visa issuance fee, including border-crossing cards. [25—NIV Issuance Reciprocal] Reciprocal	
24. Exemptions from nonimmigrant visa issuance fee:	
(a) An official representative of a foreign government or an international or regional organization of which the U.S. is a member; members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly; and applicants for diplomatic visas as defined under item 22(a); and their immediate families [26—NIV Issuance Exempt].	No fee.
(b) An applicant transiting to and from the United Nations Headquarters [26—NIV Issuance Exempt].	No fee.
(c) An applicant participating in a U.S. Government sponsored program [26—NIV Issuance Exempt]	No fee.
(d) An applicant travelling to provide charitable services as determined by the Department [26—NIV Issuance Exempt].	No fee.
(Items Nos. 25 through 30 vacant)	
Immigrant and Special Visa Services	
31. Filing immigrant visa petition (Collected for INS and subject to change):	
(a) Petition to classify status of alien relative for issuance of immigrant Visa [81—INS I—130 Petition].	$130.
(b) Petition to classify orphan as an immediate relative [82—INS I–600 Petition]	$460.
32. Immigrant visa application processing fee (per person) [31—IV Application]	$335.
33. Diversity Visa Lottery surcharge for immigrant visa application (per person applying as a result of the lottery program) [32—DV Processing].	$100.
34. Affidavit of Support Review (only when AOS is reviewed domestically)	$65.
35. Special visa services:	
(a) Determining Returning Resident Status [33—Returning Resident]	$360.
(b) Transportation letter for Legal Permanent Residents of U.S. [34—LPR Transportation Letter]	$300.
(c) Waiver of 2 year residency requirement [J Waiver]	$230.
(d) Waiver of immigrant visa ineligibility (collected for INS and subject to change) [83—IV Waiver]	$195.
(e) Refugee or significant public benefit parole case processing [35—Refugee/Parole]	No fee.
(f) U.S. Visa fingerprinting [36—Fingerprints]	$85.
(Item Nos. 36 through 40 vacant)	
Documentary Services	
41. Providing notarial service:	
(a) First service (seal) [41—Notarial]	$30.

SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
(b) Each additional seal provided at the same time in connection with the same transaction [42—Additional Notar].	$20.
42. Certification of a true copy or that no record of an official file can be located (by a post abroad):	
(a) First Copy [43—Certified Copy]	$30.
(b) Each additional copy provided at the same time [44—Additional Copy]	$20.
43. Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic):	
(a) Documents relating to births, marriages, and deaths of U.S. citizens abroad originally issued by a U.S. Embassy or Consulate.	$30.
(b) Issuance of Replacement Report of Birth Abroad	$30.
(c) Certified copies of documents relating to births and deaths within the former Canal Zone of Panama from records maintained by the Canal Zone Government from 1904 to September 30, 1979.	$30.
(d) Certifying a copy of a document or extract from an official passport record	$30.
(e) Certifying that no record of an official file can be located [45—Brth/Mar/Death/No Record]	$30.
(f) Each additional copy provided at same time [46—Additional Cert]	$20.
44. Authentications (by posts abroad):	
(a) Authenticating a foreign notary or other foreign official seal or signature	$30.
(b) Authenticating a U.S. Federal, State, or territorial seal	$30.
(c) Certifying to the official status of an officer of the United States Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the United States Government.	$30.
(d) Each authentication [47—Authentication]	$30.
45. Exemptions: Notarial, certification, and authentication fees (items 35, 36, and 37) or passport file search fees (item 4) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any State or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant costs would be incurred) [48—Documents Exempt].	No fee.
(b) With respect to documents to be presented by claimants, beneficiaries, or their witnesses in connection with obtaining Federal, State, or municipal benefits [48—Documents Exempt].	No fee.
(c) For U.S. citizens outside the United States preparing ballots for any public election in the United States or any of its territories [48—Documents Exempt].	No fee.
(d) At the direct request of a foreign government or an international agency of which the United States is a member if the documents are for official noncommercial use [48—Documents Exempt].	No fee.
(e) At the direct request of a foreign government official when appropriate or as a reciprocal courtesy [48—Documents Exempt].	No fee.
(f) At the request of direct hire U.S. Government personnel, Peace Corps volunteers, or their dependents stationed or traveling officially in a foreign country [48—Documents Exempt].	No fee.
(g) With respect to documents whose production is ordered by a court of competent jurisdiction [48—Documents Exempt].	No fee.
(h) With respect to affidavits of support for immigrant visa applications [48—Documents Exempt]	No fee.
(i) With respect to endorsing U.S. Savings Bonds Certificates [48—Documents Exempt]	No fee.
(Item nos. 46 through 50 vacant)	
Judicial Assistance Services	
51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases, including providing seal and certificate for return of letters rogatory executed by foreign officials:	
[51—Letters Rogatory]	$650.
[52—FSIA]	$650.
52. Taking depositions or executing commissions to take testimony:	
(a) Scheduling/arranging appointments for depositions, including depositions by video teleconference (per daily appointment) [53—Arrange Depo].	$475.
(b) Attending or taking depositions, or executing commissions to take testimony (per hour or part thereof) [54—Depose/Hourly].	$235 per hour plus expenses.
(c) Swearing in witnesses for telephone depositions [55—Telephone Oath]	$235.00.
(d) Supervising telephone depositions (per hour or part thereof over the first hour) [56—Supervise Tel Depo].	$235 per hour plus expenses.
(e) Providing seal and certification of depositions [57—Deposition Cert]	$60.00.
53. Exemptions: Deposition or executing commissions to take testimony. Fees (item 42) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any State or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant time required and/or expenses would be incurred) [58—Judicial Exempt].	No fee.
(b) Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behalf of an indigent party [59—Indigent Test].	No fee.
(Items no. 54 through 60 vacant)	
Services Relating to Vessels and Seamen	
61. Shipping and Seaman's services: Including but not limited to, recording a bill of sale of a vessel purchased abroad, renewal of a marine radio license, and issuance of certificate of American ownership:	

SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
[61—Shipping Bill of Sale]	Consular time (item 75) plus expenses.
[62—Shipping Radio Lic]	Consular time (item 75) plus expenses.
[63—Shipping Cert AM Own]	Consular time (item 75) plus expenses.
[64—Shipping Misc]	Consular time (item 75) plus expenses.
(Item nos. 62 through 70 vacant)	
Administrative Services	
71. Non-emergency telephone calls [70—Toll Call Cost] [71—Toll Cost Surcharge]	Long distance charge plus $10.
72. Setting up and maintaining a trust account: For 1 year or less to transfer funds to or for the benefit of a U.S. citizen in need in a foreign country [72—OCS Trust].	$30.
73. Transportation charges incurred in the performance of fee and no-fee services when appropriate and necessary [73—Transportation].	Expenses incurred.
74. Return check processing fee [74—Return Check]	$25.
75. Consular time charges: As required by this schedule and for fee services performed away from the office or during after-duty hours (per hour or part thereof/per consular employee) [75—Consular Time].	$235.
76. Photocopies (per page) [76—Photocopy]	$1.
(Items nos. 77 through 80 vacant)	

PART 51—[AMENDED]

3. The authority citations for part 51 continues to read as follows:

Authority: 22 U.S.C. 211a; 213, 2651a; 2671(d)(3), 2714 and3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p. 570; sec. 236, Pub. L. 106–113, 113 Stat. 1501A–430; 18 U.S.C.1621(a)(2).

4. Section 51.61 is revised to read as follows:

§ 51.61 Passport fees.

Fees, including execution fees, shall be collected for the following passport services in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

(a) A fee for each passport application filed, which fee shall vary depending on the age of the applicant. The passport application fee shall be paid by all applicants at the time of application, except as provided in § 51.62(a), and is not refundable, except as provided in § 51.63. A person who is denied a passport may request that the application be reconsidered without payment of an additional fee upon the submission, within 90 days after the date of the denial, of documentation not previously presented that is sufficient to establish citizenship or entitlement to a passport.

(b) A fee for execution of the passport application, except as provided in § 51.62 (b), when the applicant is required to execute the application in person before a person authorized to administer oaths for passport purposes. This fee shall be collected as part of the passport application fee at the time of application and is not refundable (see § 51.65). When execution services are provided by an official of a state or local government or of the United States Postal Service, the fee may be retained by that entity to cover the costs of service pursuant to an appropriate agreement with the Department of State.

(c) A fee for expedited services, if any, provided pursuant to § 51.66.

Dated: May 3, 2002.

Grant S. Green,

Under Secretary of State for Management, Department of State.

[FR Doc. 02–12048 Filed 5–15–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110 and 165

[CGD 09–02–013]

RIN 2115–AA98 and 2115–AA97

Safety Zone and Anchorage Regulations; Chicago Harbor, Chicago, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone and suspending a portion of an anchorage area encompassed by the safety zone for the WXRT fireworks display in Chicago Harbor over Memorial Day weekend. The safety zone is necessary for the protection and safety of passengers and vessels during the fireworks display. The safety zone is intended to restrict vessel traffic from a portion of the Chicago Harbor, in particular, the Monroe Street Harbor area. During this event, vessels will be unable to enter or exit the Monroe Street Harbor.

DATES: This temporary final rule is effective from 9 p.m. (local) on May 25, 2002 through 10 p.m. (local) on May 26, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD–09–02–013) and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, IL 60527 between 9:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Al Echols, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986–2125.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with firework displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize any risks.

Discussion of Rule

The safety zone will encompass a portion of the Monroe Street Harbor including a portion of two of the Grant Park anchorage areas (33 CFR 110.83(a) and (d)), the entrance to the Monroe Street Harbor, as well as a portion outside the breakwall for Monroe Street Harbor.

In order to avoid effectively suspending anchorage areas 110.83(a) and 110.83(d) in their entirety, this rule creates temporary anchorage areas 110.83(e) and 110.83(f) which omit from the areas described in (a) and (d) only those portions of the suspended anchorage areas impacted by the safety zone. For the duration of this rule, any vessel anchored or moored in those portions of the suspended anchorage areas that overlap the safety zone must comply with lighting requirements for vessels at anchor.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port Chicago's designated on scene representative will be the Patrol Commander. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This temporary rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The temporary zone is only in effect for a few hours on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the event. Traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of the Port of Chicago by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This temporary rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This temporary rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive

Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this temporary rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 110 and 165 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

[§ 110.83 Suspended]

2. From 9 p.m. (local time) on May 25, 2002 until 10 p.m. (local time) on May 26, 2002, § 110.83(a) and § 110.83(d) are suspended and new temporary paragraphs (e) and (f) are added to read as follows:

§ 110.83 Chicago Harbor, Ill.

* * * * *

(e) *Grant Park North.* Starting at 41°52′32″ N, 087°36′57.4″ W; then north to 41°52′49′ N, 087°36′57.4 W; then east to 41°52′49″ N, 087°36′55.2″ W; then north to 41°52′53.2″ N, 087°36′55.2″ W; then northeast to 41°52′57″ N, 087°36′45.1″ W; then southeast to 41°52′52.8″ N, 087°36′38.5″ W; then south to 41°52′43″ N, 087°36′38″ W; then west to 41°52′43″ N, 087°36′43″ W; then south to 41°52′32″ N, 087°36′41″ W; then west back to the starting point.

(f) *Grant Park South.* Starting at 41°52′31.1″ N, 087°36′57.1″ W; then east to 41°52′31.5″ N, 087°36′43″ W; then south to 41°52′28″, 087°36′43″ W; then east to 41°52′28″ N, 087°36′39″ W; then southwest to 41°52′7.8″ N, 087°36′55.2″ W; then northwest to 41°52′8.6″ N, 087°36′57.4″ W; then north back to the starting point.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

4. From 9 p.m. (local time) on May 25, 2002 until 10 p.m. May 26, 2002, a new temporary § 165.T09–005 is added to read as follows:

§ 165.T09–005 Safety Zone; Chicago Harbor, Chicago, Illinois.

(a) *Location.* The following is a safety zone: all waters of Lake Michigan encompassed by a line starting at 41° 52′43″ N, 087°36′43″ W; then east to 41°52′43″ N, 087°36′16″ W; then south to 41° 52′28″ N, 087°36′16″ W; then west to 41°52′28″ N, 087°36′43″ W; then north back to the beginning (NAD 83). This area includes a portion of the Monroe Street Harbor and the Grant Park anchorage areas (33 CFR 110.83(a) and (d)), the entrance to the Monroe Street Harbor, as well as a portion outside the breakwall for Monroe Street Harbor.

(b) *Effective time and date.* This section is effective from 9 p.m. (local time) until 10 p.m. (local time) on May 25, 2002. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on May 26, 2002.

(c) *Regulations.* In accordance with § 165.23, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago, or his designated on scene representative. Section 165.23 also contains other general requirements.

Dated: April 30, 2002.

James D. Hull,

Rear Admiral, U.S. Coast Guard, District Commander, Ninth Coast Guard District.

[FR Doc. 02–12314 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02–010]

RIN 2115–AA97

Safety Zone; Oceanside Harbor, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the navigable waters of the Pacific Ocean in Oceanside Harbor, California for Ralph's Half Ironman California. This temporary safety zone is necessary to provide for the safety of the participants and spectators of the race, to protect the participating vessels, and to protect other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 6:30 a.m. (PST) on May 19, 2002 until 9:30 a.m. (PST) on May 19, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 02–010] and are available for inspection or copying

at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai at (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. The precise location of the event necessitating promulgation of this safety zone and other logistical details surrounding the event were not finalized until a date fewer than 30 days prior to the event. Delaying the effective date of this rule would be contrary to the public interest because doing such would prevent the Coast Guard from maintaining the safety of the participants of the event and users of the waterway.

Background and Purpose

This safety zone is necessary for Ralph's Half Ironman California, which will take place on May 19, 2002 starting at 6:30 a.m. (PST) and ending at 9:30 a.m. (PST). The event involves participant swimmers and the staff members of the race. This safety zone is defined as the waters of Oceanside Harbor, CA, including the entrance channel. This temporary safety zone is necessary to provide for the safety of the participants (swimmers), spectators, and sponsor vessels of the Ralph's Half Ironman California and to protect other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Due to the temporary safety zone's short duration of three hours for just one day, the Coast Guard expects the economic impact of this rule to be so minimal that full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of size.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Ensign Adam Birst, U.S. Coast Guard Marine Safety Office San Diego at (619) 683–6495.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888—REG—FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule and have determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because we are establishing a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From 6:30 a.m. May 19, 2002 through 9:30 a.m. May 19, 2002 add new § 165.T11–042 to read as follows:

§ 165.T11–042 Safety Zone; Oceanside Harbor, CA.

(a) *Location.* The following area is a safety zone: all waters of Oceanside Harbor, CA encompassed by an area starting at 33°12′21″ N, 117°23′27″ W; east to 33°12′18″ N, 117°23′31″ W; northeast to 33°12′26″ N, 117°23′38″ W; northeast to 33°12′27″ N, 117°23′44″ W; east to 33°12′24″ N, 117°23′55″ W; north to 33°12′33″ N, 117°24′00″ W; west to 33°12′36″ N, 117°23′51″ W; south to 33°12′31″ N, 117°23′47″ W; southwest to 33°12′31″ N, 117°23′41″ W; southwest to 33°12′30″ N, 117°23′36″ W; south to the original point.

(b) *Effective Dates.* This safety zone will be enforced from 6:30 a.m. (PST) to 9:30 a.m. (PST) on May 19, 2002. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander, who will be Don Hadley of the Oceanside Harbor Police. He may be contacted by telephone at (760) 435–4007 or by VHF–FM Channel 16.

Dated: April 29, 2002.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego.

[FR Doc. 02–12313 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–02–002]

RIN 2115–AA97

Security Zone; Portland Rose Festival on Willamette River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone surrounding the City of Portland's Waterfront Park to include all waters of the Willamette River, from surface to bottom, between the Hawthorne and Steel bridges and underneath these bridges. Recent terrorist attacks against the United States necessitate this action to properly safeguard all vessels participating in the 2002 Portland Rose Festival from terrorism, sabotage, or other subversive acts. We anticipate the security zone will have limited effects on commercial traffic and significant effects on recreational boaters; ensuring timely escorts through this security zone is a high priority of the Captain of the Port.

DATES: This rule is effective from Wednesday, June 5, 2002, through Monday, June 10, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD13–02–002 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office / Group Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Jeff Pile, c/o Captain of the Port, Portland Oregon at (503) 240–2585.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 18, 2002, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Portland Rose Festival on Willamette River in the **Federal Register** (67 FR 11961). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The comment period for this rule ended just 2 business days before May 6, 2002—the date 30 days before the effective date of the rule. While this miscalculation prevented us from having the rule published by May 6, we are still able to provide several weeks notice of the effective date of the rule. The dates of the Rose Festival are fixed, and cannot be modified, therefore it would be contrary to public interest for us not to make the rule effective starting June 5, 2002. This security zone is necessary to provide for the safety and security of vessels participating in the 2002 Portland Rose Festival in the navigable waters of the United States.

Discussion of Comments and Rule

The Coast Guard did not receive any comments on the NPRM for this rule. This rule, for safety and security concerns, will control vessel movements in a regulated area surrounding vessels participating in the 2002 Portland Rose Festival. U.S. Naval Vessels are covered under 33 CFR 165 Subpart G—Protection of Naval Vessels; however, the Portland Rose Festival is a major maritime event that draws many different vessels including Navy, Coast Guard, Army Corps of Engineers, and Canadian Maritime Forces. It is crucial that the same level of security be provided to all participating vessels. Entry into this zone is prohibited unless authorized by the Captain of the Port, Portland or his designated representatives.

Commercial vessels that typically transit this section of the Willamette River are pre-designated and will suffer only minor inconveniences. Recreational vessels may suffer from extended delays and can anticipate a vessel inspection. Recreational vessels are encouraged to avoid this area. Recreational vessels will be allowed into the zone on a case-by-case basis following extensive security measures, and as operations permit.

Coast Guard personnel will enforce this security zone and the Captain of the Port may be assisted by other federal, state, or local agencies. The Coast Guard intends to enforce this security zone during its effective period starting with arrival of the first vessel participating in the 2002 Portland Rose Festival to the City of Portland's Waterfront Park and extending until the last such participating vessel departs the Waterfront Park.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This expectation is based on adequate resources allowing vessel approvals from the Captain of the Port or his designated representatives to transit through the regulated area. For the above reasons, the Coast Guard only anticipates minor economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Willamette River. The likely impacts to small entities include minor time delays, potential inspections, and possibly non-entrance if the Captain of the Port or his designated representatives sense the vessels participating in the Rose Festival are threatened. The security zone will not have a significant economic impact because adequate resources will allow vessels timely approval from the Captain of the Port or his designated representatives to transit through the regulated area.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and will either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because the temporary security zone will not last longer than one week in duration. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.T13–002 to read as follows:

§ 165.T13–002 Security Zone; Portland Rose Festival on Willamette River.

(a) *Location.* The following area is a security zone: All waters of the Willamette River, from surface to bottom, between the Hawthorne and Steel bridges and underneath these bridges.

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Portland or his designated representatives. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port on VHF channel 16 (156.8 MHz) or VHF channel 22A (157.1 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective period.* This section is effective from Wednesday, June 5, 2002, through Monday, June 10, 2002.

Dated: May 7, 2002.

J.D. Spitzer,

Captain, U.S. Coast Guard, Captain of the Port, Portland.

[FR Doc. 02–12312 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[IN004a; FRL–7212–6]

Clean Air Act Final Approval of Operating Permit Program Revisions; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve revisions to the operating permit program of the State of Indiana. Indiana submitted its operating permit program in response to the directive in the 1990 Clean Air Act Amendments that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction. EPA granted full approval to Indiana's operating permit program effective November 30, 2001. At that time, EPA also issued a notice of program deficiency (NOD) in which EPA identified problems with Indiana's program and a timeframe within which Indiana had to correct the problems. Indiana submitted revisions to its operating permit program on February 7, 2002. These program revisions include regulatory changes which resolve deficiencies that EPA identified in the NOD. This action also includes other changes to the state's title V regulations. One of the deficiencies EPA identified in the NOD is not included in this submittal because it is part of a separate State Implementation Plan (SIP) submittal. EPA will take action on that submittal in a separate **Federal Register** document.

DATES: This direct final rule is effective July 15, 2002, without further notice unless EPA receives adverse comments in writing by June 17, 2002. If adverse comment is received, EPA will publish a timely notice in the **Federal Register** and inform the public that the rule will not take effect. EPA will address the public comments in a subsequent final rule based on the proposed rule published in this **Federal Register.**

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the proposed approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Sam Portanova at (312) 886–3189 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number: (312) 886–3189, E-Mail Address: portanova.sam@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is being addressed in this document?
What are the program changes that EPA is approving?
What is involved in this final action?

What Is Being Addressed in This Document?

As required under Subchapter V of the Clean Air Act ("the Act"), as amended (1990), EPA has promulgated regulations which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 CFR part 70. Pursuant to subchapter V, generally known as title V, states developed, and submitted to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Indiana Department of Environmental Management (IDEM) submitted its title V operating permits program (title V program) for approval on August 10, 1994. EPA promulgated interim approval of the Indiana title V program on November 14, 1995 (60 FR 57188), and the program became effective on December 14, 1995. Subsequently, EPA promulgated full approval of the Indiana title V program effective November 30, 2001. EPA published this action in the **Federal Register** on December 4, 2001 (66 FR 62969).

Pursuant to its authority at 40 CFR 70.10(b), EPA published a NOD for Indiana's title V operating permit program on December 11, 2001 (66 FR 64039). The NOD was based upon EPA's finding that several state requirements do not meet the minimum federal requirements of 40 CFR part 70 and the Act for program approval. Indiana has adopted rule revisions to resolve all of the deficiencies identified in the December 11, 2001 NOD. These rule revisions became effective, as a matter of state law, on January 19, 2002. Indiana submitted some of these rule changes as a revision to its title V operating permit program on February 7, 2002. Indiana also included, in the February 7, 2002 submittal, other regulatory revisions that strengthen Indiana's program. EPA is approving the Indiana rule revisions included in the February 7, 2002 submittal in today's action. On March 5, 2002, Indiana submitted a rule revision addressing one of the deficiencies identified in the NOD for approval into the State Implementation Plan (SIP). EPA will take action on this rule revision in a separate **Federal Register** document. The public will have an opportunity to comment on this rule revision when EPA publishes the **Federal Register** document taking action on the March 5, 2002 SIP submittal.

What Are the Program Changes That EPA Is Approving?

A. Insignificant Activity Definition

(i) Emission Thresholds

Indiana has revised 326 IAC 2–7–1(21)(A) to establish insignificant activity emission thresholds for nitrogen oxides (NO_X) and volatile organic compounds (VOC). Previously, the definition of insignificant activity in the Indiana rule did not include specific insignificant activity threshold levels for NO_X and VOC. The rule referred to the limits in 326 IAC 2–1.1–3(d)(1) to establish the insignificant activity threshold levels for these two pollutants. The threshold levels in this provision was 10 tons per year for both NO_X and VOC. EPA considers this an unacceptably high threshold for insignificant activities and, as a result, identified this issue as a deficiency in the December 11, 2001 NOD for the Indiana title V program. The revised 326 IAC 2–7–1(21)(A) language establishes a VOC insignificant activity threshold of 3 pounds per hour or 15 pounds per day and a NO_X insignificant activity threshold of 5 pounds per hour or 25 pounds per day. These threshold levels are equivalent to the VOC and NO_X thresholds that EPA originally approved as part of the November 14, 1995, interim approval of Indiana's title V program. In today's action, EPA is approving this rule language as a revision to the Indiana title V program. This revision satisfies Indiana's requirement to correct an identified program deficiency and resolves the issue published in the NOD.

(ii) Permit modification requirements

In order to remedy a problematic regulation that impacted Indiana's program but was not identified by EPA in the NOD, Indiana has revised 326 IAC 2–7–1(21)(K) to clarify the applicability of the permit modification process described in 326 IAC 2–7–12 which applies to a modification of an existing insignificant activity or the addition of an insignificant activity to a title V source. Under the previous version of this rule, all modifications that qualified as an insignificant activity were exempted from the 326 IAC 2–7–12 modification requirements. This revised provision allows insignificant activities to avoid the permit modification requirements only if the existing permit includes all requirements and associated monitoring applicable to the activity and if the activity is not a modification under any provisions of title I of the Act. EPA considers this provision to be consistent with 40 CFR 70.5(c), which does not require insignificant activities to be included in permit applications unless information on the activity is necessary to determine applicability of, or to impose, any applicable requirement or to determine fees. In today's action, EPA is approving this revision to IAC 2–7–1(21)(K) as a revision to the Indiana title V program.

B. Trivial Activities

In order to remedy a problematic regulation that impacted Indiana's program but was not identified by EPA in the NOD, Indiana revised its definition of trivial activity in 326 IAC 2–7–1(40). This definition was established pursuant to the July 10, 1995, EPA memorandum titled "White Paper for Streamlined Development of Part 70 Permit Applications", which states that "there is flexibility inherent in § 70.5 to tailor the level of information required in the application to be commensurate with the need to determine applicable requirements. The EPA believes this inherent flexibility encompasses the idea that certain activities are clearly trivial (i.e., emissions units and activities with specific applicable requirements and with extremely small emissions) and can be omitted from the application."

Indiana's trivial activity definition includes an emission threshold of one pound per day of potential uncontrolled emissions of any criteria pollutant for an activity to be considered trivial. 326 IAC 2–7–1(40)(B) through (Q) lists activities which shall be considered trivial for title V permit application purposes. The July 10, 1995, white paper includes examples of activities which EPA believes should normally qualify as trivial. This list is intended only as a starting point for states and is not a comprehensive list of what EPA accepts as trivial activities. Many of the activities listed in 2–7–1(40) are listed in the July 10, 1995, white paper as examples of trivial activities. EPA agrees that the remaining 2–7–1(40) activities are inherently trivial. The exclusion of trivial activities from title V permit applications will allow sources and the state to direct their resources towards permitting activities that have significant environmental impacts.

Under the previous version of this rule, all activities listed in 326 IAC 2–7–1(40) qualified as trivial and were exempted from inclusion in the source's title V permit application without regard to information needed to document applicable requirements and compliance status. Indiana's revised trivial activity definition states, in 326 IAC 2–7–1(40)(R), that trivial activities are excluded from the permit modification requirements of 326 IAC 2–7–12 only if the existing permit includes all requirements and associated monitoring applicable to the activity and if the activity is not a modification under any provisions of title I of the Act. In addition, the revision to 326 IAC 2–7–1(40) states that trivial activities need not be included in title V permit applications provided that the applicant documents applicable requirements and compliance status as required by the permit application provisions of the state title V rule. These provisions provide assurance that title V permits include all applicable requirements and associated monitoring for units and activities that may qualify as trivial under the 326 IAC 2–7–1(40) definition. In today's action, EPA is approving Indiana's definition of trivial activity in 326 IAC 2–7–1(40) as a revision to the Indiana title V program.

C. Proposed Exemptions From Applicable Requirements

In order to remedy a problematic regulation that impacted Indiana's program but was not identified by EPA in the NOD, Indiana has revised 326 IAC 2–7–4(c) to remove rule language which allowed sources to include in their permit application an explanation of any proposed exemptions from otherwise applicable requirements. Since title V does not provide for exemptions from applicable requirements, this language was not consistent with the requirements of title V and 40 CFR part 70. In today's action, EPA is approving the removal of this rule language as a revision to the Indiana title V program.

D. Compliance Certification

Indiana revised 326 IAC 2–7–4(c)(10) and (11) to remove rule language that allows sources to certify compliance with alternative or streamlined requirements instead of the underlying applicable requirements. This issue is identified and discussed in more detail in the December 11, 2001 NOD for the Indiana title V program. In addition, Indiana revised 326 IAC 2–7–5(3) to remove rule language that refers to alterative or streamlined requirements with respect to monitoring, recordkeeping, and reporting. In today's action, EPA is approving the removal of this language as a revision to the Indiana title V program. This revision satisfies Indiana's requirement to correct an identified program deficiency and resolves the issue published in the NOD.

E. Operating Parameter Exceedances

Indiana revised 326 IAC 2–7–5(1) to remove rule language stating that an exceedance of a permit limit and the corresponding operating parameter shall constitute a single violation. This rule provision restricted the state's enforcement authority to restrain or enjoin and to assess a civil penalty for the violation of any permit condition as required by 40 CFR 70.11. EPA identified this provision as a title V deficiency in the December 11, 2001 NOD for the Indiana title V program. In today's action, EPA is approving the removal of this language as a revision to the Indiana title V program. This revision satisfies Indiana's requirement to correct an identified program deficiency and resolves the issue published in the NOD.

F. Startup, Shutdown, and Malfunction Exceedances

Indiana revised 326 IAC 2–7–5(1) to remove rule language which allowed exceedances of emission limits during startups, shutdowns, and malfunctions on a case-by-case basis. This would have allowed the permitting authority to establish, through the title V permitting process, limits which exceeded applicable requirements. EPA identified this provision as a title V deficiency in the December 11, 2001 NOD for the Indiana title V program. In today's action, EPA is approving this rule revision as a revision to the Indiana title V program. This revision satisfies Indiana's requirement to correct an identified program deficiency and resolves the issue published in the NOD.

G. Administrative Permit Amendments

In order to remedy a problematic regulation that impacted Indiana's program but was not identified by EPA in the NOD, Indiana has revised 326 IAC 2–7–11(a)(7) to remove language that allowed changes to monitoring, maintenance, or recordkeeping requirements to be processed as an administrative permit amendment if the changes were "not environmentally significant" and not required by an applicable requirement. This rule revision will prevent relaxations in monitoring, maintenance, or recordkeeping requirements from being processed as an administrative permit amendment. In today's action, EPA is approving the removal of this language as a revision to the Indiana title V program.

H. Minor Permit Modification Procedures

Indiana has added new rule language in 326 IAC 2–7–12(b)(4) which requires minor modifications to be subject to the public notice provisions of 326 IAC 2–7–17. This revision restores the minor permit modification requirements that were in effect when EPA granted interim approval to the Indiana title V program and is necessary because minor permit modifications qualify for a permit shield under the Indiana regulations. During EPA's original review of Indiana's title V program, which resulted in granting interim approval on November 14, 1995, the Indiana regulations required minor modifications to be subject to public review equivalent to that required by 40 CFR 70.6, 70.7 and 70.8, and allowed such modifications to qualify for a permit shield. In reviewing that original regulation, EPA determined that the permit shield was acceptable in this situation because of the availability of public review. Subsequent to the November 14, 1995, interim approval, Indiana modified its regulations to remove the public notice requirement from the minor modification provision. However, the state did not remove the permit shield provision. Therefore, EPA identified this provision as a title V deficiency in the December 11, 2001 NOD for the Indiana title V program. In today's action, EPA is approving Indiana's new rule language in 326 IAC 2–7–12(b)(4) as a revision to the Indiana title V program. This revision satisfies Indiana's requirement to correct an identified program deficiency and resolves the issue published in the NOD.

I. Emergency Provision

In order to remedy a problematic regulation that impacted Indiana's program but was not identified by EPA in the NOD, Indiana has revised 326 IAC 2–7–16 to remove language which states that an emergency constitutes an affirmative defense to an action brought for noncompliance with a health-based emission limitation. This rule revision is consistent with the requirements in 40 CFR 70.6(g), which restricts the emergency provision to noncompliance with technology-based emission limitations. In today's action, EPA is approving the removal of this language as a revision to the Indiana title V program.

J. Streamlined Requirements

326 IAC 2–7–24 of Indiana's title V rule allows for the establishment of streamlined requirements for units subject to multiple requirements. This section of the state rule was established subsequent to the November 14, 1995 EPA action granting interim approval to the Indiana title V program. EPA has not previously approved this section of the rule as a revision to the Indiana title V program. The March 5, 1996, EPA memorandum titled "White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program" explains how permitting authorities may streamline multiple, overlapping requirements into one permit condition that will assure compliance with all requirements. Indiana's rule requires streamlined limits to be at least as stringent as all subsumed requirements and to be enforceable as a practical matter. Permits issued with streamlined limits must include citations to all subsumed requirements and must include any additional terms and conditions necessary to assure compliance with the streamlined limit and all subsumed requirements. Permits containing streamlined limits must be issued pursuant to the permit issuance, renewal, or significant modification requirements of Indiana's title V rule. EPA finds this rule provision to be consistent with 40 CFR part 70 and, in today's action, is approving 326 IAC 2–7–24 as a revision to the Indiana title V program.

K. Other NOD Issues

Indiana had two additional NOD issues listed in the December 11, 2001, **Federal Register** notice. Resolution of these two issues required revisions to portions of the Indiana rules that are not part of the state's title V regulations. Indiana has adopted these required revisions to their state rules and the revisions became effective, as a matter of state law, on January 19, 2002. Since these rule revisions are not part of the state's title V regulations, they were not included in the February 7, 2002, submittal and they will not be included in this action as revisions to the Indiana title V program. As explained in further detail below, the revision addressing one of these NOD issues will require no further action by EPA. Indiana has submitted, as a SIP revision, the other NOD issue and EPA will address that submittal in a separate **Federal Register** document.

(i) Sulfur Dioxide, Nitrogen Oxides, Carbon Monoxide, Volatile Organic Compounds, and Lead Exemption Levels

Indiana rule 326 IAC 2–1.1–3(d) allowed the state to exempt from the title V minor or significant modification requirements sulfur dioxide, NO_x, and VOC emission increases of up to 10 tons per year and carbon monoxide emission increases of up to 25 tons per year. In addition, 326 IAC 2–1.1–3(g) allows the state to exempt from the title V minor or significant modification requirements lead emissions increases of up to 5 tons per year. Because 40 CFR 70.6(e) does not allow the permitting authority to create exemptions from the permit modification requirements, Indiana's program did not meet the program approval requirements of title V and 40 CFR part 70. Indiana has corrected this deficiency by removing language from 326 IAC 2–1.1–3(d) and 326 IAC 2–1.1–3(g) which apply these provisions to title V sources and title V modifications. This rule revision became effective on January 19, 2002.

This rule provision is intended for minor sources and is not part of Indiana's title V regulations. Therefore, it will not be included as a change to the Indiana title V program. Since this rule provision was never approved into the Indiana State Implementation Plan (SIP), no SIP revision is required to accommodate this correction. EPA considers this program deficiency, which was identified in the NOD, to be resolved.

(ii) Supersession

Indiana's construction permits expire upon issuance of a valid title V permit; therefore, the construction permit conditions do not exist independently of title V permits. Applicable requirements must exist independently of title V permits. Allowing the underlying applicable requirements to expire could cause Indiana to lose the authority to include such conditions in renewed title V permits. Because Indiana's rules did not assure that construction permit conditions exist independently of title V permits, this issue was identified in the December 11, 2001 NOD as not meeting the program approval requirements of title V and 40 CFR part 70.

Indiana subsequently revised the state regulations in 326 IAC 2–1.1–9.5 to say that "any condition established in a permit issued pursuant to a permitting program approved into the state implementation plan shall remain in effect until: (1) The condition is modified in a subsequent permit action; or (2) the emission unit to which the condition pertains permanently ceases operation." "Subsequent permit action" in this rule refers to a permit action taken pursuant to Indiana's construction permit authority. Since title V authority cannot modify existing applicable requirements, including construction permit conditions, "subsequent permit action" does not include permit actions taken pursuant to Indiana's title V program. This rule provision is not part of Indiana's title V regulations and, therefore, will not be included as a change to the Indiana title V program. Indiana submitted this rule provision for approval into the Indiana SIP on March 5, 2002, and EPA will take action on this submittal in a separate **Federal Register** document. The public will have an opportunity to comment on this provision when EPA publishes a **Federal Register** notice taking action on the March 5, 2002, SIP submittal.

What Is Involved in This Final Action?

The EPA is granting approval to the Indiana title V operating permits program revisions submitted by IDEM on February 7, 2002. These revisions meet the minimum program requirements of 40 CFR part 70, resolve issues raised in EPA's December 11, 2001 NOD of the Indiana title V program, and strengthen Indiana's program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the Act.

This final approval is also not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing state operating permit programs submitted pursuant to title V of the Act, EPA will approve state programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a state operating permit program for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a state program that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

List of Subjects in Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 3, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. sections 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (c) in the entry for Indiana to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Indiana

(a) * * *

(b) * * *

(c) The Indiana Department of Environmental Management: program revisions submitted on February 7, 2002. These revisions are hereby granted final approval effective June 17, 2002.

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[FR Doc. 02–12281 Filed 5–15–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 90

[WT Docket No. 99–87; FCC 02–82]

Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission addresses petitions for reconsideration and related pleadings regarding certain decisions in this proceeding. It affirms its earlier decisions, and revises certain rules concerning its statutory auction authority and the licensing of private land mobile channels in the 800 MHz band for use in commercial systems. This action by the Commission implements the Communication Act of 1934 as amended by Congress.

DATES: Effective July 15, 2002.

FOR FURTHER INFORMATION: Karen Franklin of the Public Safety and Private Wireless Division at (202) 418–0680, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Memorandum Opinion and Order, FCC 02–82, adopted on March 14, 2002, and released on April 18, 2002. The full text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

1. In the *Report and Order and Further Notice of Proposed Rule Making* ("*R&O*" and "*FNPRM*"), 66 FR 86, January 2, 2001, in this proceeding, the Commission adopted rules and policies to implement Sections 309(j) and 337 of the Communications Act of 1934, as amended by the Balanced Budget Act of 1997. This *Memorandum Opinion and Order* ("*MO&O*") addresses petitions for reconsideration and related pleadings regarding certain of our decisions in the *R&O*.

2. The major decisions in this *MO&O* are as follows:

- The Commission affirms that the Balanced Budget Act amendments to Section 309(j) do not preclude the Commission from using licensing mechanisms for private services that permit the filing of mutually exclusive license applications if the Commission determines that it is in the public interest to do so.
- Commission reiterates that the public safety radio services exemption in Section 309(j) applies to services, rather than specific users. Moreover, we affirm the dominant use test set forth in the *R&O* as the means to determine whether the particular service qualifies for the public safety radio services exemption. We also retain and clarify the definition for "private internal radio service" set forth in the *R&O*.
- The Commission retains the five-year holding period as a requirement for modification of an 800 MHz PLMRS authorization to permit commercial use.
- The Commission affirms the decision in the *R&O* that an applicant must demonstrate that there is no public safety spectrum available to satisfy the public safety service use before it can be granted a waiver pursuant to Section 337.
- The Commission reiterates whether a Section 337 application is in the public interest will be determined on a case-by-case examination of various factors, including the stage of the competitive bidding process with respect to the requested frequencies.

3. The *MO&O* also updates § 1.227 of the Commission's Rules, regarding mutually exclusive applications, to reflect that the Commission no longer utilizes random selection processes to resolve such conflicts, and has indicated that it will rely on existing regulatory tools to resolve rare instances of mutually exclusive applications in services that are not subject to competitive bidding. Finally, it revises § 90.621 permitting modification, assignment or transfer of private land mobile radio licenses for commercial use, to require such applications to be filed in accordance with the rules and procedures for commercial stations, and to clarify that a licensee that has modified its authorization for use in a commercial operation, or a commercial operator that acquired PLMR channels via assignment or transfer, may at anytime submit a modification application to indicate that the subject frequencies will be used in a PLMR system, provided that the licensee meets the applicable eligibility requirements.

I. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

4. As required by the Regulatory Flexibility Act (RFA), see 5 U.S.C. 604, the Commission has prepared a Supplemental Regulatory Flexibility Analysis of the possible impact of the rule changes contained in this *Memorandum Opinion and Order* on small entities. The Supplemental Regulatory Flexibility Analysis is set forth in paragraph six. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this *Memorandum Opinion and Order*, including the Supplemental Final Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Act of 1995 Analysis

5. This *Memorandum Opinion and Order* does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and the Commission has not performed one.

C. Further Information

6. For further information concerning this *Memorandum Opinion and Order*, contact Karen Franklin of the Public Safety and Private Wireless Division at (202) 418–0680, TTY (202) 418–7233, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Jenifer Simpson at (202) 418–0008, TTY (202) 418–2555. This *Memorandum Opinion and Order* can be downloaded at *http://www.fcc.gov/Wireless/Orders/2001*.

II. Supplemental Final Regualatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA), Initial Regulatory Flexibility Analyses (IRFA) were incorporated in the Notice of Proposed Rule Making (NPRM) and Report and Order and Further Notice of Proposed Rule Making (R&O and FNPRM) in WT Docket 99–87. The Commission sought written public comment on the proposals in the Notice and R&O and FNPRM. This Supplemental Final Regulatory Flexibility Analysis (SFRFA) contained in this Memorandum Opinion and Order (MO&O) is limited to matters raised on reconsideration or clarification with regard to the R&O and FNPRM and addressed in this MO&O. This SFRFA conforms to the RFA.

I. Reason for, and Objectives of, the Memorandum Opinion and Order

8. This proceeding was initiated to secure public comment on proposals to implement Sections 309(j) and 337 of the Communications Act of 1934 ("Communications Act"), as amended by the Balanced Budget Act of 1997 ("Balanced Budget Act"). The Balanced Budget Act significantly revised Section 309(j) of the Communications Act, which is the principal statutory provision that governs the Commission's auction authority for the licensing of radio services.

III. Summary of Significant Issues Raised by Public Comments in Response to the Previous Final Regulatory Flexibility Analysis

9. No reconsideration petitions/comments were filed in direct response to the previous Final Regulatory Flexibility Analysis (FRFA). However, the Commission has reviewed general comments that may impact small businesses. The *Report and Order* in this proceeding determined that the statutory changes in Section 309(j)(1) and exemptions in Section 309(j)(2) are considered in light of the Commission's continuing obligation under Section 309(j)(6)(E) to avoid mutual exclusivity and to fulfill the public interest objectives enumerated in Section 309(j)(3). The Commission also concluded that in non-exempt services, the Commission's authority under the Balanced Budget Act continues to permit it to adopt licensing processes that result in the filing of mutually exclusive applications where the Commission determines that such an approach would serve the public interest. The Commission concluded that in addition to other licensing mechanisms we have used previously, we should consider the use of band manager licensing as a future option for private as well as commercial services. In the *Report and Order*, the Commission determined that the public safety exemption applies only to services in which these public safety uses, *i.e.*, protection of safety of life, health, and property within the meaning of Section 309(j)(2)(A), comprise the dominant use of the spectrum. Further, the Commission decided that subject to certain safeguards, 800 MHz Business and Industrial/Land Transportation licensees should be allowed to modify their licenses to permit commercial use, or to assign or transfer their licenses to Commercial Mobile Radio Service (CMRS) operators for commercial use. The *Report and Order* provided that Section 337 relief should only be available if the applicant demonstrates that there is no available public safety spectrum in any band in the geographic area where the public safety use is proposed. Moreover, the Commission concluded that it would consider the state of the competitive bidding process when the Section 337 application is received as relevant to our determination of whether grant of the waiver request and the associated application(s) is in the public interest.

10. In this *Memorandum Opinion and Order*, we affirm the Commission's determinations. Moreover, we modify the Commission's Rules to require Section 337 applicants to enter the service code applicable to the type of service they intend to provide. We also note that despite the type of service code used, the Section 337 applicant will be required to meet the interference protection standards in our rules that are applicable to the subject spectrum in order to satisfy Section 337(c)(1)(B). Additionally, we modify our rules to require that applications filed to modify 800 MHz Private Land Mobile Radio (PLMR) channels for use in CMRS systems be processed in accordance with CMRS rules and procedures instead of PLMR rules and procedures. In that connection, we clarify that a licensee that has modified its authorization for use in a CMRS operation, or a CMRS operator that acquired PLMR channels via assignment or transfer, may at any time submit a modification application to indicate that the subject frequencies will be used in a PLMR system, provided that the licensee meets the applicable eligibility requirements.

IV. Description and Estimate of the Number of Small Entities to Which the Rules Apply

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the

Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Nationwide, as of 1992, there were approximately 275,801 small organizations.

12. The rule changes effectuated by this *Memorandum Opinion and Order* apply to licensees who provide public safety services pursuant to Section 337 of the Communications Act of 1934, as amended (the Act), and private land mobile radio licensees in the 800 MHz band that are regulated under Part 90 of the Commission's Rules.

Estimates for PLMR Licensees

13. Private land mobile radio systems serve an essential role in a vast range of industrial business, land transportation and public service activities. These radios are used by companies of all sizes that operate in all U.S. business categories. Because of the vast array of PLMR users, the Commission had not developed, nor would it be possible to develop, a definition of small entities specifically applicable to PLMR users. For the purpose of determining whether a licensee is a small business as defined by the Small Business Administration (SBA), each licensee would need to be evaluated within its own business area. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,087,276 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Further, because any entity engaged in a commercial activity is eligible to hold a PLMR license, these rules could potentially impact every small business in the U.S.

Estimates for Public Safety Radio Services and Governmental Entities

14. Public Safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for small radiotelephone (wireless) companies, which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 81,600 (91 percent) are small entities.

V. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

15. This *MO&O* makes two minor revisions to the compliance requirements in Parts 1 and 90 of the Commission's Rules to conform the application and licensing procedures in the private land mobile and public safety radio services with the policies described in the *MO&O*. One of the amendments requires processing of modification applications submitted to convert the use of 800 MHz PLMR channels to use in a CMRS operation in accordance with our CMRS rules and procedures. The other amendment to our rules requires a Section 337 applicant to enter the service code applicable to the type of service the applicant intends to provide.

VI. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

16. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

17. The Part 1 rule adopted in this *MO&O* clarifies our policies with respect to the processing of applications for licenses in the public safety radio services under Section 337 of the Act. The revision to Part 1 of the Commission's Rules provides guidance toward accurate completion of FCC Form 601. This form requires the applicant to provide a service code. Although we did consider allowing a Section 337 applicant to enter a service code commensurate with the frequency allocation, other applicants, frequency coordinators or other licensees would not know the type of service provided on the subject frequency. Moreover, we observe that selection of a service code is not a unique requirement for small business, Section 337 applicants; nor does selection of one service code instead of another service code impose an additional economic burden.

18. The Part 90 regulation amended by this *MO&O* designates the rules governing CMRS operations as the rules by which applications submitted to convert the use of PLMR channels to use in CMRS operations will be processed rather than the rules governing Industrial/Land Transportation and Business channels. While a small business, 800 MHz PLMR licensee who chooses to convert use of its frequencies and operate a CMRS system may have to familiarize itself with the CMRS rules, it is incumbent upon this agency, *inter alia*, to make such regulations as it may deem necessary to prevent interference between stations. For instance, use of PLMR channels in CMRS operations must comply with the interference and technical requirements that govern CMRS operations to ensure harmful interference to existing licensees is avoided. Similarly, use of PLMR channels in CMRS operations must comply with the power limitations and other operational requirements imposed upon other CMRS operators to protect licensees from harmful interference.

Report to Congress: The Commission will send a copy of this *Memorandum Opinion and Order*, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Memorandum Opinion and Order*, including Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Memorandum Opinion and Order* and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

VII. Ordering Clauses

19. Pursuant to sections 1, 2, 4(i), 5(c), 7(a), 11(b), 301, 302, 303, 307, 308, 309(j) , 310, 312a, 316, 319, 323, 324, 332, 333, 336, 337, and 351 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157(a), 161(b), 301, 302, 303, 307, 308, 309(j), 310, 312a, 316, 319, 323, 324, 332, 333, 336, 337, and 351, the Balanced Budget Act of 1997, Public Law 105–33, Title III, 111 Stat. 251 (1997), and §§ 1.421 and 1.425 of the Commission's Rules, 47 CFR 1.421 and 1.425, that the *Memorandum Opinion and Order* is hereby ADOPTED.

20. Parts 1 and 90 of the Commission's Rules ARE AMENDED as set forth in Rule Changes, and that these Rules shall be effective July 15, 2002.

21. The Petitions for Reconsideration submitted by the following parties are DENIED: AllCom, LLC; American Automobile Association; Association of Public-Safety Communications Officials-International; Central Station Alarm Association; Cinergy Corporation; Commonwealth Edison Company; Consolidated Edison Company of New York; Entergy Corporation; Kansas City Power & Light Company; Omaha Public Power District; SCANA; Union Electric Company and Central Illinois Public Service Company and Ameren Energy Generating Company; United Telecom Council; and Xcel Energy, Inc.

22. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Memorandum Opinion and Order*, including the Supplemental Regulatory Flexibility Analysis and Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

23. The Motion to Accept Supplemental Comments submitted by Industrial Telecommunications Association, Inc. is GRANTED.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Radio.

47 CFR Part 90

Communications equipment, Radio, Reporting, Recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 90 as follows:

PART 1—PRACTICE AND PROCEDURE

The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

1. Section 1.227 is amended by revising paragraphs (b)(3)(ii) and (b)(4) to read as follows:

§ 1.227 Consolidations.

* * * * *

(b) * * *

(3) * * *

(ii) *Domestic public fixed and public mobile.* See Rule § 21.31 of this chapter for the requirements as to mutually exclusive applications. See also Rule § 21.23 of this chapter for the requirements as to amendments of applications.

* * * * *

(4) This paragraph applies when mutually exclusive applications subject to section 309(b) of the Communications Act and not subject to competitive bidding procedures pursuant to § 1.2102 of this chapter are filed in the Private Radio Services, or when there are more such applications for initial licenses than can be accommodated on available frequencies. Except for applications filed under part 101, subparts H and O, Private Operational Fixed Microwave Service, and applications for high seas public coast stations (*see* §§ 80.122(b)(1) (first sentence), 80.357, 80.361, 80.363(a)(2), 80.371(a), (b), and (d), and 80.374 of this chapter), mutual exclusivity will occur if the later application or applications are received by the Commission's offices in Gettysburg, PA (or Pittsburgh, PA for applications requiring the fees set forth at part 1, subpart G of the rules) in a condition acceptable for filing within 30 days after the release date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing or within such other period as specified by the Commission. For applications in the Private Operational Fixed Microwave Service, mutual exclusivity will occur if two or more acceptable applications that are in conflict are filed on the same day. Applications for high seas public coast stations will be processed on a first come, first served basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applications. Applications for high seas public coast stations received on the same day will be treated as simultaneously filed and, if granting more than one would result in harmful interference, must be resolved through settlement or technical amendment.

* * * * *

2. Section 1.913 is amended by revising paragraph (g) to read as follows:

§ 1.913 Application forms; electronic and manual filing.

* * * * *

(g) *Section 337 Requests.* Applications to provide public safety services submitted pursuant to 47 U.S.C. 337 must be filed on the same form and in the same manner as other applications for the requested frequency(ies), except that applicants must select the service code reflective of the type of service the applicant intends to provide.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

3. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

4. Section 90.621 is amended by revising paragraph (e)(2) introductory text and adding paragraph (e)(3) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(e) * * *

(2) Notwithstanding paragraph (e)(5) of this section, licensees of channels in the Industrial/Land Transportation and Business categories may request a modification of the license, *see* § 1.947 of this part, to authorize use of the channels for commercial operation. The licensee may also, at the same time or thereafter, seek authorization to transfer or assign the license, *see* § 1.948 of this part, to any person eligible for licensing in the General or SMR categories. Applications submitted pursuant to this paragraph must be filed in accordance with the rules governing other applications for commercial channels, and will be processed in accordance with those rules. Grant of requests submitted pursuant to this paragraph is subject to the following conditions:

* * * * *

(3) Licensees granted authorizations pursuant to paragraph (e)(2) of this section may at any time request modification of the license to authorize use of the channels consistent with the rules governing the category to which they are allocated, provided that the licensee meets the applicable eligibility requirements.

* * * * *

[FR Doc. 02–12253 Filed 5–15–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 98–153; FCC 02–48]

Ultra-Wideband Transmission Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's rules to permit the marketing and operation of certain types of new products incorporating ultra-wideband (UWB) technology. UWB devices operate by employing very narrow or short duration pulses that result in very large or wideband transmission bandwidths. UWB technology holds great promise for a vast array of new applications that we believe will provide significant benefits for public safety, businesses and consumers. With appropriate technical standards, UWB devices can operate using spectrum occupied by existing radio services without causing interference, thereby permitting scarce spectrum resources to be used more efficiently.

DATES: Effective July 15, 2002.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 418–2455.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report and Order* in ET Docket No. 98–153, adopted February 14, 2002, and released April 22, 2002. The complete text of this *First Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, (202) 863–2893, 445 12th Street, SW, Room CY–B402, Washington, DC 20554.

Summary of the First Report and Order

1. In the *First Report and Order* (*"Order"*), the Commission amends part 15 of the rules to permit the marketing and operation of products incorporating ultra-wideband (UWB) technology. This *Order* includes standards designed to ensure that existing and planned radio services, particularly safety services, are adequately protected. We are proceeding cautiously in authorizing UWB technology, based in large measure on standards that the National Telecommunications and Information Administration (NTIA) found to be necessary to protect against interference to vital federal government operations. We are concerned, however, that the standards we are adopting may be overprotective and could unnecessarily constrain the development of UWB technology. Accordingly, within the next six to twelve months we intend to review the standards for UWB devices and issue a further rule making to explore more flexible technical standards and to address the operation of additional type of UWB operations and technology.

2. This has been an unusually controversial proceeding involving a variety of UWB advocates and opponents. These parties have been unable to agree on the emission levels necessary to protect Government-operated, safety-of-life and commercial radio systems from harmful interference. It is our belief that the standards contained in this *Order* are extremely conservative. These standards may change in the future as we continue to collect data regarding UWB operations. The analyses and technical standards contained in this *Order* are unique to this proceeding and will not be considered as a basis for determining or revising standards for other radio frequency devices, including other part 15 devices.

3. To ensure that UWB devices do not cause harmful interference, this *Order* establishes different technical standards and operating restrictions for three types of UWB devices based on their potential to cause interference. These three types of UWB devices are: (1) Imaging systems including Ground Penetrating Radars (GPRs) and wall, through-wall, surveillance, and medical imaging devices, (2) vehicular radar systems, and (3) communications and measurement systems. Generally, we are adopting unwanted emission limits for UWB devices that are significantly more stringent than those imposed on other part 15 devices; limiting outdoor use of UWB devices to imaging systems, vehicular radar systems and portable devices; and, limiting the frequency band within which certain UWB products will be permitted to operate. The operation of UWB devices is not permitted onboard aircraft, ships or satellites nor may UWB devices be used for the operation of toys. The frequency band of operation is based on the −10 dB bandwidth of the UWB emission. This combination of technical standards and operational restrictions will ensure that UWB devices coexist with the authorized radio services without the risk of harmful interference while we gain experience with this new technology. Specifically, the *Order* takes the following actions:

• Imaging Systems: Provides for the operation of GPRs and other imaging devices under part 15 of the Commission's rules subject to certain frequency and power limitations. All imaging systems are subject to coordination with NTIA through the FCC. Coordination of routine UWB operations shall not take longer than 15 business days from the receipt of the coordination request by NTIA. Operation in emergency situations involving the safety of life or property may occur without coordination provided a notification similar to that contained in 47 CFR 2.405(a)–(e) is followed by the operator. The manufacturers of the UWB devices will be required to inform the users of the coordination requirements. The operators of imaging devices must be eligible for licensing under part 90 of our rules, except that medical imaging devices may be operated by a licensed health care practitioner. Imaging systems include:

• Ground Penetrating Radar Systems: GPRs must be operated below 960 MHz or in the frequency band 3.1–10.6 GHz. GPRs operate only when in contact with, or within one meter of, the ground for the purpose of detecting or obtaining the images of buried objects. The energy from the GPR is intentionally directed down into the ground for this purpose. Operation is restricted to law enforcement, fire and emergency rescue organizations, to scientific research institutions, to commercial mining companies, and to construction companies.

• Wall Imaging Systems: Wall imaging systems must be operated below 960 MHz or in the frequency band 3.1–10.6 GHz. Wall-imaging systems are designed to detect the location of objects contained within a "wall," such as a concrete structure, the side of a bridge, or the wall of a mine. Operation is restricted to law enforcement, fire and emergency rescue organizations, to scientific research institutions, to commercial mining companies, and to construction companies.

• Through-wall Imaging Systems: These systems must be operated below 960 MHz or in the frequency band 1.99–10.6 GHz. Through-wall imaging systems detect the location or movement of persons or objects that are located on the other side of a structure such as a wall. Operation is limited to law enforcement, fire and emergency rescue organizations.

• Surveillance Systems: Although technically these devices are not imaging systems, for regulatory purposes they will be treated in the same way as through-wall imaging systems used by police, fire and rescue organizations and will be permitted to operate in the frequency band 1.99–10.6 GHz. Surveillance systems operate as "security fences" by establishing a stationary RF perimeter field and detecting the intrusion of persons or objects in that field. Operation is limited to law enforcement, fire and emergency rescue organizations, to public utilities and to industrial entities.

• Medical Systems: These devices must be operated in the frequency band 3.1–10.6 GHz. A medical imaging system may be used for a variety of health applications to "see" inside the body of a person or animal. Operation must be at the direction of, or under the supervision of, a licensed health care practitioner.

• Vehicular Radar Systems: These are radar devices employing directional antennas and mounted on terrestrial transportation vehicles, and they must operate in the frequency band 22–29 GHz. The center frequency of the emission and the frequency at which the highest radiated emission occurs must be greater than 24.075 GHz. These devices are able to detect the location and movement of objects near a vehicle, enabling features such as near collision avoidance, improved airbag activation, and suspension systems that better respond to road conditions. Directional antennas or other methods must be used to attenuate the emissions above the horizontal plane in the 23.6–24.0 GHz band to protect passive space borne sensors.

• Communications and Measurement Systems: This category consists of a wide variety of other UWB devices, such as high-speed home and business networking devices as well as storage tank measurement devices under part 15 of the Commission's rules subject to certain frequency and power limitations. The devices must operate in the frequency band 3.1–10.6 GHz. The equipment must be designed to ensure that operation can only occur indoors or it must consist of hand held devices that may be employed for such activities as peer-to-peer operation. The term "hand held" refers to portable devices, such as a lap top computer or a PDA, that are primarily hand held while being operated and that do not employ a fixed infrastructure.

4. The attached regulations contain the specifications for the various operating parameters and technical standards being applied to UWB devices. In general, we have adopted the emission limits requested by NTIA. These limits consist of quasi-peak limits below 960 MHz, RMS average limits above 960 MHz, peak emission limits, and limits on the amount of energy conducted onto the AC power line. Specific measurement procedures also have been established to demonstrate compliance with these limits. For example, there are provisions to permit UWB devices to be tested with the use of anechoic shielding in place of a ground plane provided a suitable adjustment is made to the measured results. There also are provisions for testing ground penetrating radars and wall imaging systems with the antennas pointed at a 20 inch thick bed of dry sand. In addition, provisions have been made to permit peak emission levels to be measured using a resolution bandwidth ranging from 1 MHz to 50 MHz with the peak limit adjusted to a peak EIRP limit, in dBm, of 20 log (RBW/50) where RBW is the resolution bandwidth of the measuring instrument in megahertz. The average limits are based on measurements employing a 1 MHz resolution bandwidth, an RMS detector, and a one millisecond or less averaging time. In addition, special narrowband limits are applied to emissions falling within the 1164–1240 MHz and 1559–1610 MHz bands employed for the Global Positioning System.

5. There were a few other provisions addressed or implemented in this *Order:*

• Existing Part 15 Operation. We specified that transmitters operating under the provisions of 47 CFR 15.217–15.255 must contain their 20 dB bandwidth within the specified band of operation. This includes the effects of frequency sweeping, frequency hopping and other modulation techniques that may be employed as well as the frequency stability of the transmitter over variations in temperature and supply voltage.

• Existing Waivers. We extended the waivers issued to U.S. Radar, Time Domain, Zircon, and Kohler. Originally, these waivers were scheduled to expire upon effective date of this *Order*. Kohler requested a one year extension citing the time necessary to redesign its product, to test the redesigned product, and to modify its tooling. We sympathize with these concerns and believe that these problems also would affect other companies operating under a waiver. Accordingly, we extended all of the waivers until one year from the effective date of this *Order*.

• U.S. Government Operation of UWB Devices. When the part 15 regulations were amended in 1989, the Commission opened several frequency bands for unlicensed operation even though those bands were allocated for exclusive operation by the U.S. Government. The Commission took this action following an informal agreement with NTIA that similarly permitted it to operate equipment in exclusive non-government bands under the same part 15 standards. We will continue this policy, permitting the U.S. Government to operate in non-government frequency bands and in shared frequency bands under the part 15 standards. Accordingly, as a condition of their use of these bands U.S. Government specifications for UWB devices operated by the U.S. Government agencies in non-government or in shared frequency bands must conform to the standards and operating conditions that are being adopted in this *Order*. The operation in non-government band of UWB devices that are not in compliance with the technical and administrative provisions contained in this *Order* is not permitted without the concurrence of the FCC. We believe that this will result in a greater number of UWB devices operating under the same parameters, facilitating our studies to readdress the appropriateness of the UWB standards within the next six to twelve months.

• Exemption of Unlicensed PCS Transmitters from the Restricted Bands. Under the current rules, unlicensed PCS transmitters operating in the 1910–1930 MHz and the 2390–2400 MHz bands under Subpart D of part 15 are not subject to the restricted band provisions in 47 CFR 15.205.

However, this provision is not readily apparent due to the lack of a reference to Subpart C of part 15 in the cross-reference statement contained in 47 CFR 15.309. We are taking the opportunity provided by this *Report and Order* to clarify this current provision through an amendment to 47 CFR 15.205. As this amendment to the rules only clarifies an existing regulation, prior notice and comment are unnecessary.

Measurement Procedures

6. The Commission adopted the following general guidance for compliance measurements of UWB devices. The procedures herein are based on the Commissions current understanding of UWB technology. Modifications may be necessary as measurement experience is gained. Except as otherwise described herein, measurements shall be made in accordance with the procedures specified in § 15.31(a)(6).

(1) Ground penetrating radars (GPRs) and wall imaging systems shall be tested under conditions that are representative of actual operating conditions. UWB devices intended for these types of application shall be compliance tested with the transducer at an operationally

representative height above a twenty-inch thick bed of dry sand. The use of this medium, particularly for larger GPRs (e.g., those that are towed behind vehicles), will likely preclude the use of a turntable in the measurement procedure. For these cases, directionality gradients shall be analyzed and measurements shall be performed at a sufficient number of radials around the equipment under test to determine the radial at which the field strength values of the radiated emissions are maximized.

(2) Field strength measurements of through-wall imaging systems may be made with a ½" thick gypsum or drywall board placed between the UWB device antenna and the measurement system antenna.

(3) RMS average field strength measurements, required for all frequencies above 960 MHz, shall be made using techniques to obtain true RMS average. This can be accomplished by using a spectrum analyzer that incorporates a RMS detector. The resolution bandwidth of the analyzer shall be set to 1 MHz, the RMS detector selected, and a video integration time of 1 ms or less is to be used. If the transmitter employs pulse gating, in which the transmitter is quiescent for intervals that are long compared to the nominal pulse repetition interval, all measurements shall be made while the pulse train is gated on. Alternatively, a true RMS level can be measured using a spectrum analyzer that does not incorporate a RMS detector. This approach requires a multiple step technique beginning with a peak detection scan of the UWB spectrum with a RBW of 1 MHz and a VBW of no less than 1 MHz. The resulting trace is to be used to identify the frequency and bandwidth of the five highest peaks in the spectrum. The analyzer is then to be placed in a "zero span" mode, with a RBW of 1 MHz, a video bandwidth equal to or greater than 1 MHz, and a detector selected that does not distort or smooth the instantaneous signal levels (e.g., a "sample" detector). With these settings, a minimum of ten independent instantaneous points, representing the highest amplitude readings, are to be obtained during the time that a pulse is present, in each 1 MHz frequency bin across the bandwidth of each of the five highest peaks identified in the previous step. Note that when the PRF of the device under test is less than the measurement bandwidth of 1 MHz, a significant number of samples may be required to ensure that a minimum of 10 samples with the pulse present are obtained. The data obtained from these measurements must then be post-processed to determine true RMS average power levels. The post-processing of the data can be performed manually or with the aid of appropriate software.

(4) On any frequency or frequencies below or equal to 960 MHz, the field strength shall be measured with equipment employing a CISPR quasi-peak detector function and related measurement bandwidths, unless otherwise specified.

(5) In the frequency bands 1164–1240 MHz and 1559–1610 MHz, average radiated field strength measurements shall be made with a resolution bandwidth of no less than 1 kHz, using techniques as described previously for determining true RMS average power levels.

(6) Peak radiated emission measurements shall be made using a spectrum analyzer with a 3 MHz resolution bandwidth and no less than a 3 MHz video bandwidth. The analyzer should be used in a maximum-hold trace mode. The peak power level expressed in a 3 MHz bandwidth and the frequency at which this level was measured shall be reported in the application for certification. A different resolution bandwidth between 1 MHz and 50 MHz may be employed with appropriate changes to the standard. If a resolution bandwidth greater than 3 MHz is employed, a detailed description of the test procedure, calibration of the test setup, and the instrumentation employed in the testing must be submitted to the Commission. It is recommended that measurements using a resolution bandwidth greater than 3 MHz be coordinated with the Commission's laboratory staff in advance of the submission for certification.

(7) Field strength measurements may be performed without the use of a ground plane; however, a factor of 4.7 dB must be added to the measurement results thus obtained.

(8) To the extent practicable, the device under test should be measured at the distance specified in the appropriate rule section. However, in order to obtain an adequate signal-to-noise ratio in the measurement system, radiated measurements may have to be made at distances less than specified. In these cases, measurements may be performed at a distance other than what is specified, provided: measurements are not made in the near field of the measurement or device under test antenna, except where it can be shown that near field measurements are appropriate due to the characteristics of the device; and, it can be demonstrated that the signal levels necessitated a measurement at the distance employed in order to be accurately detected by the measurement equipment.

(9) To the maximum extent possible, field strength measurements should be performed with the equipment under test positioned as it is intended to be used in actual operating conditions.

(10) Radiated field strength measurements must be made using the antenna to be employed with the UWB device under test. The measurement antenna must be sufficiently broad band to cover the frequency range of the measurements, and the use of multiple measurement antennas may be required. All measurement antennas used must be accurately calibrated and must demonstrate low phase dispersion over the frequency range of measurement. The orientation of the measurement antenna shall be varied to determine the polarization that maximizes the measured field strength.

(11) The spectrum to be investigated should include at least the fundamental emission and the secondary lobe regardless of the center frequency. In order to accomplish this, the frequency spectrum shall be investigated from the lowest frequency generated within the device, without going below 9 kHz, up to the frequency range shown in § 15.33(a) of the FCC rules or up to an upper frequency defined by adding three divided by the pulse width in seconds to the center frequency in Hz, whichever is greater. The frequency range in § 15.33(a) is based on the center frequency unless a higher frequency, *e.g.*, a carrier frequency, is generated within the device. There is no requirement to measure emissions beyond 40 GHz provided the center frequency is less than 10 GHz; beyond 100 GHz if the center frequency is at or above 10 GHz and below 30 GHz; or beyond 200 GHz if the center frequency is at or above 30 GHz.

Final Regulatory Flexibility Certification

7. The Regulatory Flexibility Act of 1980, as amended (RFA)[1] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."[2] The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[3] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[4] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

[1] The RFA, see 5 U.S.C. S 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. 605(b).

[3] 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. S 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

[5] Small Business Act, 15 U.S.C. S 632.

8. In this *First Report and Order*, we are amending part 15 of our rules to permit the marketing and operation of new products incorporating ultra-wideband ("UWB") technology. UWB devices operate by employing very narrow or short duration pulses that result in very large or wideband transmission bandwidths. UWB devices have the capability to provide for significant benefits for public safety, businesses and consumers. With appropriate technical standards, UWB devices can operate on spectrum occupied by existing radio services without causing interference, thereby permitting scarce spectrum resources to be used more efficiently.

9. We note that the Aircraft Owners and Pilots Association (AOPA) along with the National Business Aviation Association (NBAA) commented that the impact on small entities could not be estimated at this time. They added that their constituency substantially consists of small entities, comprising individuals and small businesses that are aircraft owners and operators. AOPA and NBAA expressed concern that there would be a severe and lengthy impact to aeronautical operations should the UWB standards prove to be inadequate to protect aeronautical communications, navigation and surveillance functions. However, as demonstrated in our analyses of the interference studies on GPS there should be no impact to aeronautical radio operations from UWB devices operating under the technical limits and operational requirements we are adopting. Therefore, we find that our action will have no negative impact on this industry and in fact will have a positive impact. Further, as noted in the text we currently are limiting the expansion of UWB, out of an abundance of caution, until such time as we gain additional experience. Thus, we expect that our actions do not amount to a significant economic impact at this time. Accordingly, we certify that the rules being adopted in this *First Report and Order* will not have a significant economic impact on a substantial number of small entities.

10. We will send a copy of the *First Report and Order*, including a copy of this final certification, in a report to Congress pursuant to the Congressional Review Act.[6] In addition, the *First Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration.[7]

Ordering Clauses

11. Authority for issuance of this *First Report and Order* is taken pursuant to Sections 4(i), 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 302, 303(e), 303(f), 303(r), 304 and 307. Part 15 of the Commission's rules are amended and is effective July 15, 2002.

12. The waivers issued on June 25, 1999, to Time Domain Corporation, to U.S. Radar Inc., and to Zircon Corp. and the waiver issued on August 6, 2001, to Kohler Co. to permit the manufacture and marketing of their UWB devices remain in effect until one year from July 15, 2002.

13. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *Shall Send* a copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 15

Communications equipment, Radio, Reporting and recordkeeping requirements, Security measures.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends part 15 of 47 CFR as follows:

[6] See 5 U.S.C. 801(a)(1)(A).

[7] See 5 U.S.C. 605(b).

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307, 336, and 544A.

2. Section 15.35 is amended by revising paragraph (b) to read as follows:

§ 15.35 Measurement detector functions and bandwidths.

* * * * *

(b) Unless otherwise stated, on any frequency or frequencies above 1000 MHz the radiated limits shown are based upon the use of measurement instrumentation employing an average detector function. When average radiated emission measurements are specified in this part, including emission measurements below 1000 MHz, there also is a limit on the radio frequency emissions, as measured using instrumentation with a peak detector function, corresponding to 20 dB above the maximum permitted average limit for the frequency being investigated unless a different peak emission limit is otherwise specified in the rules, e.g., see §§ 15.255, 15.509 and 15.511. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. Measurements of AC power line conducted emissions are performed using a CISPR quasi-peak detector, even for devices for which average radiated emission measurements are specified.

* * * * *

3. Section 15.205 is amended by adding paragraph (d)(6) to read as follows:

§ 15.205 Restricted bands of operation.

* * * * *

(d) * * *

(6) Transmitters operating under the provisions of subparts D or F of this part.

* * * * *

4. Section 15.215 is amended by revising paragraph (c) and by removing paragraph (d) to read as follows:

§ 15.215 Additional provisions to the general radiated emission limitations.

* * * * *

(c) Intentional radiators operating under the alternative provisions to the general emission limits, as contained in §§ 15.217 through 15.255 and in subpart E of this part, must be designed to ensure that the 20 dB bandwidth of the emission is contained within the frequency band designated in the rule section under which the equipment is operated. The requirement to contain the 20 dB bandwidth of the emission within the specified frequency band includes the effects from frequency sweeping, frequency hopping and other modulation techniques that may be

employed as well as the frequency stability of the transmitter over expected variations in temperature and supply voltage. If a frequency stability is not specified in the regulations, it is recommended that the fundamental emission be kept within at least the central 80% of the permitted band in order to minimize the possibility of out-of-band operation.

5. Part 15 is amended by adding a new subpart F to read as follows:

Subpart F—Ultra-Wideband Operation

Sec.
15.501 Scope.
15.503 Definitions.
15.505 Cross reference.
15.507 Marketing of UWB equipment.
15.509 Technical requirements for low frequency imaging systems.
15.511 Technical requirements for mid-frequency imaging systems.
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15.515 Technical requirements for vehicular radar systems.
15.517 Technical requirements for indoor UWB systems.
15.519 Technical requirements for hand held UWB systems.
15.521 Technical requirements applicable to all UWB devices.
15.523 Measurement procedures.
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§ 15.501 Scope.

This subpart sets out the regulations for unlicensed ultra-wideband transmission systems.

§ 15.503 Definitions.

(a) *UWB bandwidth.* For the purpose of this subpart, the UWB bandwidth is the frequency band bounded by the points that are 10 dB below the highest radiated emission, as based on the complete transmission system including the antenna. The upper boundary is designated f_H and the lower boundary is designated f_L. The frequency at which the highest radiated emission occurs is designated f_M.

(b) *Center frequency.* The center frequency, f_C, equals $(f_H + f_L)/2$.

(c) *Fractional bandwidth.* The fractional bandwidth equals $2(f_H - f_L)/(f_H + f_L)$.

(d) *Ultra-wideband (UWB) transmitter.* An intentional radiator that, at any point in time, has a fractional bandwidth equal to or greater than 0.20 or has a UWB bandwidth equal to or greater than 500 MHz, regardless of the fractional bandwidth.

(e) *Imaging system.* A general category consisting of ground penetrating radar systems, medical imaging systems, wall imaging systems through-wall imaging systems and surveillance systems. As used in this subpart, imaging systems do not include systems designed to detect the location of tags or systems used to transfer voice or data information.

(f) *Ground penetrating radar (GPR) system.* A field disturbance sensor that is designed to operate only when in contact with, or within one meter of, the ground for the purpose of detecting or obtaining the images of buried objects or determining the physical properties within the ground. The energy from the GPR is intentionally directed down into the ground for this purpose.

(g) *Medical imaging system.* A field disturbance sensor that is designed to detect the location or movement of objects within the body of a person or animal.

(h) *Wall imaging system.* A field disturbance sensor that is designed to detect the location of objects contained within a "wall" or to determine the physical properties within the "wall." The "wall" is a concrete structure, the side of a bridge, the wall of a mine or another physical structure that is dense enough and thick enough to absorb the majority of the signal transmitted by the imaging system. This category of equipment does not include products such as "stud locators" that are designed to locate objects behind gypsum, plaster or similar walls that are not capable of absorbing the transmitted signal.

(i) *Through-wall imaging system.* A field disturbance sensor that is designed to detect the location or movement of persons or objects that are located on the other side of an opaque structure such as a wall or a ceiling. This category of equipment may include products such as "stud locators" that are designed to locate objects behind gypsum, plaster or similar walls that are not thick enough or dense enough to absorb the transmitted signal.

(j) *Surveillance system.* A field disturbance sensor used to establish a stationary RF perimeter field that is used for security purposes to detect the intrusion of persons or objects.

(k) *EIRP.* Equivalent isotropically radiated power, i.e., the product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna. The EIRP, in terms of dBm, can be converted to a field strength, in dBuV/m at 3 meters, by adding 95.2. As used in this subpart, EIRP refers to the highest signal strength measured in any direction and at any frequency from the UWB device, as tested in accordance with the procedures specified in § 15.31(a) and 15.523 of this chapter.

(l) *Law enforcement, fire and emergency rescue organizations.* As used in this subpart, this refers to those parties eligible to obtain a license from the FCC under the eligibility requirements specified in § 90.20(a)(1) of this chapter.

(m) *Hand held.* As used in this subpart, a hand held device is a portable device, such as a lap top computer or a PDA, that is primarily hand held while being operated and that does not employ a fixed infrastructure.

§ 15.505 Cross reference.

(a) Except where specifically stated otherwise within this subpart, the provisions of subparts A and B and of §§ 15.201 through 15.204 and 15.207 of subpart C of this part apply to unlicensed UWB intentional radiators. The provisions of § 15.35(c) and 15.205 do not apply to devices operated under this subpart. The provisions of Footnote US 246 to the Table of Frequency Allocations contained in § 2.106 of this chapter does not apply to devices operated under this subpart.

(b) The requirements of this subpart apply only to the radio transmitter, i.e., the intentional radiator, contained in the UWB device. Other aspects of the operation of a UWB device may be subject to requirements contained elsewhere in this chapter. In particular, a UWB device that contains digital circuitry not directly associated with the operation of the transmitter also is subject to the requirements for unintentional radiators in subpart B of this part. Similarly, an associated receiver that operates (tunes) within the frequency range 30 MHz to 960 MHz is subject to the requirements in subpart B of this part.

§ 15.507 Marketing of UWB equipment.

In some cases, the operation of UWB devices is limited to specific parties, e.g., law enforcement, fire and rescue organizations operating under the auspices of a state or local government. The marketing of UWB devices must be directed solely to parties eligible to operate the equipment. The responsible party, as defined in § 2.909 of this chapter, is responsible for ensuring that the equipment is marketed only to eligible parties. Marketing of the equipment in any other manner may be considered grounds for revocation of the grant of certification issued for the equipment.

§ 15.509 Technical requirements for low frequency imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be below 960 MHz.

(b) Operation under the provisions of this section is limited to the following:

(1) GPRs and wall imaging systems operated by law enforcement, fire and emergency rescue organizations, by scientific research institutes, by commercial mining companies, or by construction companies.

(2) Through-wall imaging systems operated by law enforcement, fire or emergency rescue organizations.

(3) Parties operating this equipment must be eligible for licensing under the provisions of part 90 of this chapter.

(4) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) An imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In addition, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

Frequency in MHz	EIRP in dBm
960–1610	−65.3
1610–1990	−53.3
Above 1990	−51.3

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−75.3
1559–1610	−75.3

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(g) Imaging systems operating under the provisions of this section shall bear the following or similar statement, as adjusted for the specific provisions in paragraph (b) of this section, in a conspicuous location on the device:

"Operation of this device is restricted to law enforcement, fire and rescue officials, scientific research institutes, commercial mining companies, and construction companies. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

§ 15.511 Technical requirements for mid-frequency imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be contained between 1990 MHz and 10,600 MHz.

(b) Operation under the provisions of this section is limited to the following:

(1) Through-wall imaging systems operated by law enforcement, fire or emergency rescue organizations.

(2) Fixed surveillance systems operated by law enforcement, fire or emergency rescue organizations or by manufacturers licensees, petroleum licensees or power licensees as defined in § 90.7 of this chapter.

(3) Parties operating under the provisions of this section must be eligible for licensing under the provisions of part 90 of this chapter.

(4) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) A through-wall imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In addition, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

Frequency in MHz	EIRP in dBm
960–1610	−53.3
1610–1990	−51.3
1990–10600	−41.3
Above 10600	−51.3

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−63.3
1559–1610	−63.3

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(g) Imaging systems operating under the provisions of this section shall bear the following or similar statement, as adjusted for the specific provisions in paragraph (b) of this section, in a conspicuous location on the device:

"Operation of this device is restricted to law enforcement, fire and rescue officials, public utilities, and industrial entities. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

§ 15.513 Technical requirements for high frequency imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(b) Operation under the provisions of this section is limited to the following:

(1) GPRs and wall imaging systems operated by law enforcement, fire or emergency rescue organizations, by scientific research institutes, by commercial mining companies, or by construction companies.

(2) Medical imaging systems used at the direction of, or under the supervision of, a licensed health care practitioner.

(3) Parties operating GPRs or wall imaging systems must be eligible for licensing under the provisions of part 90 of this chapter.

(4) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) An imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In addition, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not

exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

Frequency in MHz	EIRP in dBm
960–1610	−65.3
1610–1990	−53.3
1990–3100	−51.3
3100–10600	−41.3
Above 10600	−51.3

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−75.3
1559–1610	−75.3

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(g) Imaging systems, other than medical imaging systems, operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device:

"Operation of this device is restricted to law enforcement, fire and rescue officials, scientific research institutes, commercial mining companies, and construction companies. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

§ 15.515 Technical requirements for vehicular radar systems.

(a) Operation under the provisions of this section is limited to UWB field disturbance sensors mounted in terrestrial transportation vehicles. These devices shall operate only when the vehicle is operating, e.g., the engine is running. Operation shall occur only upon specific activation, such as upon starting the vehicle, changing gears, or engaging a turn signal.

(b) The UWB bandwidth of a vehicular radar system operating under the provisions of this section shall be contained between 22 GHz and 29 GHz. In addition, the center frequency, f_C, and the frequency at which the highest level emission occurs, f_M, must be greater than 24.075 GHz.

(c) Following proper installation, vehicular radar systems shall attenuate any emissions within the 23.6–24.0 GHz band that appear 38 degrees or greater above the horizontal plane by 25 dB below the limit specified in paragraph (d) of this section. For equipment authorized, manufactured or imported on or after January 1, 2005, this level of attenuation shall be 25 dB for any emissions within the 23.6–24.0 GHz band that appear 30 degrees or greater above the horizontal plane. For equipment authorized, manufactured or imported on or after January 1, 2010, this level of attenuation shall be 30 dB for any emissions within the 23.6–24.0 GHz band that appear 30 degrees or greater above the horizontal plane. For equipment authorized, manufactured or imported on or after January 1, 2014, this level of attenuation shall be 35 dB for any emissions within the 23.6–24.0 GHz band that appear 30 degrees or greater above the horizontal plane. This level of attenuation can be achieved through the antenna directivity, through a reduction in output power or any other means.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

Frequency in MHz	EIRP in dBm
960–1610	−75.3
1610–22,000	−61.3
22,000–29,000	−41.3
29,000–31,000	−51.3
Above 31,000	−61.3

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−85.3
1559–1610	−85.3

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

§ 15.517 Technical requirements for indoor UWB systems.

(a) Operation under the provisions of this section is limited to UWB transmitters employed solely for indoor operation.

(1) Indoor UWB devices, by the nature of their design, must be capable of operation only indoors. The necessity to operate with a fixed indoor infrastructure, e.g., a transmitter that must be connected to the AC power lines, may be considered sufficient to demonstrate this.

(2) The emissions from equipment operated under this section shall not be intentionally directed outside of the building in which the equipment is located, such as through a window or a doorway, to perform an outside function, such as the detection of persons about to enter a building.

(3) The use of outdoor mounted antennas, e.g., antennas mounted on the outside of a building or on a telephone pole, or any other outdoors infrastructure is prohibited.

(4) Field disturbance sensors installed inside of metal or underground storage tanks are considered to operate indoors provided the emissions are directed towards the ground.

(5) A communications system shall transmit only when the intentional radiator is sending information to an associated receiver.

(b) The UWB bandwidth of a UWB system operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

Frequency in MHz	EIRP in dBm
960–1610	−75.3
1610–1990	−53.3
1990–3100	−51.3
3100–10600	−41.3
Above 10600	−51.3

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−85.3
1559–1610	−85.3

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(g) UWB systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device or in the instruction manual supplied with the device:

"This equipment may only be operated indoors. Operation outdoors is in violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

§ 15.519 Technical requirements for hand held UWB systems.

(a) UWB devices operating under the provisions of this section must be hand held, i.e., they are relatively small devices that are primarily hand held while being operated and do not employ a fixed infrastructure.

(1) A UWB device operating under the provisions of this section shall transmit only when it is sending information to an associated receiver. The UWB intentional radiator shall cease transmission within 10 seconds unless it receives an acknowledgement from the associated receiver that its transmission is being received. An acknowledgment of reception must continue to be received by the UWB intentional radiator at least every 10 seconds or the UWB device must cease transmitting.

(2) The use of antennas mounted on outdoor structures, e.g., antennas mounted on the outside of a building or on a telephone pole, or any fixed outdoors infrastructure is prohibited. Antennas may be mounted only on the hand held UWB device.

(3) UWB devices operating under the provisions of this section may operate indoors or outdoors.

(b) The UWB bandwidth of a device operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−85.3
1559–1610	−85.3

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(g) UWB systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device or in the instruction manual supplied with the device:

"This equipment may only be operated indoors. Operation outdoors is in violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

§ 15.519 Technical requirements for hand held UWB systems.

(a) UWB devices operating under the provisions of this section must be hand held, i.e., they are relatively small devices that are primarily hand held while being operated and do not employ a fixed infrastructure.

(1) A UWB device operating under the provisions of this section shall transmit only when it is sending information to an associated receiver. The UWB intentional radiator shall cease transmission within 10 seconds unless it receives an acknowledgement from the associated receiver that its transmission is being received. An acknowledgment of reception must continue to be received by the UWB intentional radiator at least every 10 seconds or the UWB device must cease transmitting.

(2) The use of antennas mounted on outdoor structures, e.g., antennas mounted on the outside of a building or on a telephone pole, or any fixed outdoors infrastructure is prohibited. Antennas may be mounted only on the hand held UWB device.

(3) UWB devices operating under the provisions of this section may operate indoors or outdoors.

(b) The UWB bandwidth of a device operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

Frequency in MHz	EIRP in dBm
960–1610	−75.3
1610–1900	−63.3
1900–3100	−61.3
3100–10600	−41.3
Above 10600	−61.3

(d) In addition to the radiated emission limits specified in the table in paragraph (c) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−85.3
1559–1610	−85.3

(e) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, f_M. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

§ 15.521 Technical requirements applicable to all UWB devices.

(a) UWB devices may not be employed for the operation of toys. Operation onboard an aircraft, a ship or a satellite is prohibited.

(b) Manufacturers and users are reminded of the provisions of §§ 15.203 and 15.204.

(c) As noted in § 15.3(k) digital circuitry that is used only to enable the operation of a transmitter and that does not control additional functions or capabilities is not classified as a digital device. Instead, the emissions from that digital circuitry are subject to the same limits as those applicable to the transmitter. If it can be clearly demonstrated that an emission from a UWB transmitter is due solely to emissions from digital circuitry contained within the transmitter and that the emission is not intended to be radiated from the transmitter's antenna, the limits shown in § 15.209 shall apply to that emission rather than the limits specified in this section.

(d) Within the tables in § § 15.509, 15.511, 15.513, 15.515, 15.517, and 15.519, the tighter emission limit applies at the band edges. Radiated emission levels at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector. Radiated emission levels above 960 MHz are based on RMS average measurements over a 1 MHz resolution bandwidth. The RMS average measurement is based on the use of a spectrum analyzer with a resolution bandwidth of 1 MHz, an RMS detector, and a 1 millisecond or less averaging time. If pulse gating is employed where the transmitter is quiescent for intervals that are long compared to the nominal pulse repetition interval, measurements shall be made with the pulse train gated on. Alternative measurement procedures may be considered by the Commission.

(e) The frequency at which the highest radiated emission occurs, f_M, must be contained within the UWB bandwidth.

(f) Imaging systems may be employed only for the type of information exchange described in their specific definitions contained in § 15.503. The detection of tags or the transfer or data or voice information is not permitted under the standards for imaging systems.

(g) When a peak measurement is required, it is acceptable to use a resolution bandwidth other than the 50 MHz specified in this subpart. This resolution bandwidth shall not be lower than 1 MHz or greater than 50 MHz, and the measurement shall be centered on the frequency at which the highest radiated emission occurs, f_M. If a resolution bandwidth other than 50 MHz is employed, the peak EIRP limit shall be 20 log (RBW/50) dBm where RBW is the resolution bandwidth in megahertz that is employed. This may be converted to a peak field strength level at 3 meters using E(dBuV/m) = P(dBm EIRP) + 95.2. If RBW is greater than 3 MHz, the application for certification filed with the Commission must contain a detailed description of the test procedure, calibration of the test setup, and the instrumentation employed in the testing.

(h) The highest frequency employed in § 15.33 to determine the frequency range over which radiated measurements are made shall be based on the center frequency, f_C, unless a higher frequency is generated within the UWB device. For measuring emission levels, the spectrum shall be investigated from the lowest frequency generated in the UWB transmitter, without going below 9 kHz, up to the frequency range shown in § 15.33(a) or up to f_C + 3/(pulse width in seconds), whichever is higher. There is no requirement to measure emissions

beyond 40 GHz provided f_C is less than 10 GHz; beyond 100 GHz if f_C is at or above 10 GHz and below 30 GHz; or beyond 200 GHz if f_C is at or above 30 GHz.

(i) The prohibition in § 2.201(f) and 15.5(d) of this chapter against Class B (damped wave) emissions does not apply to UWB devices operating under this subpart.

(j) Responsible parties are reminded of the other standards and requirements cross referenced in § 15.505, such as a limit on emissions conducted onto the AC power lines.

§ 15.523 Measurement procedures.

Measurements shall be made in accordance with the procedures specified by the Commission.

§ 15.525 Coordination requirements.

(a) UWB imaging systems require coordination through the FCC before the equipment may be used. The operator shall comply with any constraints on equipment usage resulting from this coordination.

(b) The users of UWB imaging devices shall supply detailed operational areas to the FCC Office of Engineering and Technology who shall coordinate this information with the Federal Government through the National Telecommunications and Information Administration. The information provided by the UWB operator shall include the name, address and other pertinent contact information of the user, the desired geographical area of operation, and the FCC ID number and other nomenclature of the UWB device. This material shall be submitted to the following address: Frequency Coordination Branch, Office of Engineering and Technology, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: UWB Coordination.

(c) The manufacturers, or their authorized sales agents, must inform purchasers and users of their systems of the requirement to undertake detailed coordination of operational areas with the FCC prior to the equipment being operated.

(d) Users of authorized, coordinated UWB systems may transfer them to other qualified users and to different locations upon coordination of change of ownership or location to the FCC and coordination with existing authorized operations.

(e) The NTIA/FCC coordination report shall include any needed constraints that apply to day-to-day operations. Such constraints could specify prohibited areas of operations or areas located near authorized radio stations for which additional coordination is required before operation of the UWB equipment. If additional local coordination is required, a local coordination contact will be provided.

(f) The coordination of routine UWB operations shall not take longer than 15 business days from the receipt of the coordination request by NTIA. Special temporary operations may be handled with an expedited turn-around time when circumstances warrant. The operation of UWB systems in emergency situations involving the safety of life or property may occur without coordination provided a notification procedure, similar to that contained in § 2.405(a) through (e) of this chapter, is followed by the UWB equipment user.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 121701A]

RIN 0648-AQ02

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of emergency interim rule; request for comments.

SUMMARY: On January 8, 2002, NMFS published an emergency interim rule, effective through July 8, 2002, that implemented Steller sea lion protection measures to avoid the likelihood that the groundfish fisheries off Alaska will jeopardize the continued existence of the western distinct population segment of Steller sea lions, or adversely modify its critical habitat. The emergency interim rule also implemented 2002 harvest specifications for the groundfish fisheries off Alaska. This action extends the emergency interim rule through December 31, 2002. This emergency action is necessary to continue to implement Steller sea lion protection measures until completion of notice and comment rulemaking and to continue implementation of 2002 harvest specifications for the remainder of the 2002 fishing year.

DATES: The expiration date of the emergency interim rule published January 8, 2002 (67 FR 956), and amended and corrected May 1, 2002 (67 FR 21600) is extended through December 31, 2002. Comments must be received by June 14, 2002.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel-Durall, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Supplemental Environmental Impact Statement on Steller Sea Lion Protection Measures in the Federal groundfish fisheries off Alaska (SEIS), including the 2001 biological opinion (BiOp), and the Environmental Assessment (EA) for the Total Allowable Catch for the Year 2002 Alaska Groundfish Fisheries may be obtained from the same address. The SEIS and EA are also available on the NMFS Alaska Region home page at http://www.fakr.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228 or melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: Under Section 7 of the Endangered Species Act, NMFS issued a biological opinion (BiOp) dated October 19, 2001, on the pollock, Atka mackerel, and Pacific cod fisheries of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) (see **ADDRESSES**). The BiOp concluded that the BSAI and GOA pollock, Atka mackerel, and Pacific cod fisheries, as prosecuted with the Steller sea lion protection measures, were not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions, nor adversely modify its critical habitat. The Steller sea lion protection measures accomplish three basic principles: (1) temporal dispersion of fishing effort, (2) spatial dispersion of fishing effort, and (3) groundfish fishing restrictions around Steller sea lion rookeries and haulouts.

NMFS published an emergency interim rule implementing the Steller sea lion protection measures and 2002 harvest specifications in the Federal Register on January 8, 2002 (67 FR 956), amended on May 1, 2002 (67 FR 21600), and this rule is effective through July 8, 2002.

At its April 2002 meeting, the North Pacific Fishery Management Council (Council) voted to recommend

extension of the emergency interim rule. The preamble to the original emergency interim rule provides a detailed description of the purpose and need for the action and the 2002 harvest specifications. This action extends the expiration date of the emergency interim rule establishing Steller sea lion protection measures and 2002 harvest specifications (67 FR 956, January 8, 2002 and amended 67 FR 21600, May 1, 2002) from July 8, 2002, through December 31, 2002.

NMFS intends to complete proposed and final rulemaking later in 2002 to permanently implement Steller sea lion protection measures, as recommended by the Council at its October 2001 meeting. This extension of an emergency interim rule is necessary to prosecute the remainder of the 2002 groundfish fisheries with Steller sea lion protection measures after July 8, 2002.

Details concerning the basis for this action and the classification of the rulemaking are contained in the initial emergency rule and are not repeated here. Comments received regarding the January 8, 2002, emergency interim rule will be responded to in the proposed rulemaking for Steller sea lion protection measures.

The reasons justifying promulgation of the emergency interim rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment on, or to delay for 30 days, the effective date of this emergency interim rule extension, under the applicable provisions of the Administrative Procedure Act, 5 U.S.C. 553(b) and (d).

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq*

Dated: May 10, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service

[FR Doc. 02–12278 Filed 5–15–02; 8:45 am]

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Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[INS No. 2185–02]

RIN 1115–AG55

Retention and Reporting of Information for F, J, and M Nonimmigrants; Student and Exchange Visitor Information System (SEVIS)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations governing the retention and reporting of information regarding F, J, and M nonimmigrants. This rule will implement the Student and Exchange Visitor Information System (SEVIS), and establish a process for electronic reporting by designated school officials (DSO) of information required to be reported to the Service. This is necessary to improve and streamline the reporting and record keeping of F, J, and M nonimmigrants. This rule also proposes to amend the existing regulations relating to F and M students to improve accountability and to implement reasonable and clear standards governing the maintenance, extension and reinstatement of student status.

DATES: Written comments must be submitted on or before June 17, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2185–02 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov*. When submitting comments electronically, please include INS No. 2185–02 in the subject heading. Comments may be inspected at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Maura Deadrick, Assistant Director, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3040, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

Who Are F, J, and M Nonimmigrants?

The Immigration and Nationality Act (Act) provides for the admission of various classification of nonimmigrants, who are foreign nationals having a residence in a foreign country which they have no intention of abandoning, and who are seeking temporary admission to the United States. The purpose of the nonimmigrant's intended stay in the United State determines his or her proper nonimmigrant classification.

F–1 nonimmigrants, as defined in section 101(a)(15)(F) of the Act, are foreign students pursuing a full course of study in a college, university, seminary, conservatory, academic high school, private elementary school, other academic institution, or language training program in the United States that has been approved by the Service to enroll foreign students. For the purposes of this rule, the term "school" refers to all of these types of Service-approved institutions. An F–2 nonimmigrant is a foreign national who is the spouse or qualifying child (under the age of 21) of an F–1 nonimmigrant.

J–1 nonimmigrants, as defined in section 101(a)(15)(J) of the Act, are foreign nationals who have been selected by a sponsor designated by the United States Department of State (DOS) (formerly the United States Information Agency (USIA)) to participate in an exchange visitor program in the United States. The J–1 classification includes, among others, aliens participating in programs under which they will receive graduate medical education or training. For purposes of this rule, "exchange visitor program" refers to all organizations or institutions designated by the Department of State to conduct an exchange program. A J–2 nonimmigrant is a foreign national who is the spouse or qualifying child (under the age of 21) of a J–1 nonimmigrant.

M–1 nonimmigrants, as defined in section 101(a)(15)(M) of the Act, are foreign nationals pursuing a full course of study at a Service-approved vocational school or other recognized nonacademic institution (other than in language training programs) in the United States. The term "school" for the purposes of this proposed rule also encompasses all institutions approved for attendance by M–1 students. An M–2 nonimmigrant is a foreign national who is the spouse or qualifying child (under the age of 21) of an M–1 nonimmigrant.

(Among the kinds of schools approved for attendance by M–1 students are flight training schools. The Service notes that section 113 of the Aviation and Transportation Security Act, Public Law 107–71 (Nov. 19, 2001), imposes new restrictions on providing flight training to aliens and requires a prior notification to the Attorney General before such training can begin. The requirements of that law are separate from, and in addition to, the law and regulations governing M–1 students. The Department of Justice has already published public notices pertaining to section 113 at 67 FR 2238 (Jan. 16, 2002) and 67 FR 6051 (Feb. 8, 2002), and the Department will be promulgating implementing rules in a separate proceeding.)

I. Description of the New Process

What Is the Student and Exchange Visitor Information System (SEVIS)?

Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, Div. C (Sept. 30, 1996), directs the Attorney General to develop and conduct a program to collect current information, on an ongoing basis, from schools and exchange programs relating to nonimmigrant foreign students and exchange aliens during the course of their stay in the United States, using electronic reporting technology to the fullest extent practicable.

SEVIS implements this requirement. SEVIS is an internet-based system that provides users with access to accurate and current information on nonimmigrant foreign students, exchange aliens, and their dependents. SEVIS will enable schools and exchange programs to transmit electronic information and event notifications, via the Internet, to the Service and the Department of State throughout a

student's or exchange alien's stay in the United States.

Currently, for F–1 and M–1 students, schools are required to maintain local records on each nonimmigrant student, and to produce such information upon request by the Service. In order to enroll a nonimmigrant student, a school, at the time of offering acceptance, must complete and send a multi-copy paper Form I–20A–B, Certificate of Eligibility for Nonimmigrant (F–1) Student Status for Academic and Language Students, or Form I–20M–N, Certificate of Eligibility for Nonimmigrant (M–1) Student Status For Vocational Students. A copy of the Form I–20 is maintained by the school, a copy is provided to the nonimmigrant, and a copy is routed to the Service for data-entry into a mainframe database, processed, and then returned to the school for inclusion in its local record. Other than entry into a mainframe database, which is not accessible for use by the school, the current process is entirely manual and paper-based.

SEVIS creates a means for information collection and reporting via the Internet and a reduction in data latency and paper record maintenance and routing. In order to create a Form I–20, the school will now access SEVIS and enter the information electronically, thus instantly collecting the data in a central database before the form is ever printed. There will no longer be a need for multiple copies of the forms, since the Service will not need a copy to be routed for data-entry. Likewise, the school will no longer be required to maintain its own paper copy of the record, since it will be accessible to the school through SEVIS. Once it is fully operational and all affected schools are mandated to utilize the system, SEVIS will completely replace and aggregate the Service's existing mainframe database, the Student/School system (STSC).

Similarly, at present, an exchange visitor program admitting J–1 exchange aliens currently must complete a Form DS–2019 (previously Form IAP–66). Under SEVIS, exchange programs will use SEVIS to enter information electronically and generate a Form DS–2019 for their participating exchange aliens. For clarification purposes, sections of this text that refer specifically to a Form I–20 or DS–2019 issued from SEVIS will refer to the forms as a SEVIS Form I–20 or SEVIS Form DS–2019.

Must All Schools and Exchange Visitor Programs Participate in SEVIS?

Currently, SEVIS is anticipated to begin implementation for participation on a voluntary basis on July 1, 2002. Participation in SEVIS at first will be voluntary, but will become required on January 30, 2003. The Department of State will issue separate regulations establishing a compliance date for all exchange visitor programs.

Once use of SEVIS is mandatory, all schools approved by the Service must be using SEVIS in order to continue accepting foreign students and all exchange visitor programs must be using SEVIS to enroll exchange aliens. Thereafter, only SEVIS Forms I–20 for F–1 or M–1 students or SEVIS Form DS–2019 for J–1 exchange aliens can be used for entry into the United States, change of nonimmigrant classification, reinstatement, transfer, extension, or any other immigration benefit.

The Service recognizes that the compulsory date of January 30, 2003, may pose challenges for schools as there may be changes to existing systems and processes required of schools in order to be in compliance. Therefore, the Service is soliciting comments from the schools regarding the amount of time the schools believe will be necessary to convert to the SEVIS system. Commenters should state specifically the steps that must be taken before being able to fully convert to SEVIS and indicate particular problems or obstacles that may be faced in trying to meet the proposed deadline. The Service will consider the information provided in the comments in the drafting of the final rule.

In the meantime, there will be schools and exchange visitor programs that continue to use the existing paper-based processes and others that begin to use SEVIS, as they choose. This phased-in approach will allow schools and exchange visitor programs sufficient time to conform their internal processes to a system that will successfully interface with SEVIS.

Accordingly, this proposed rule amends § 214.2(f) and (m) of the Service's regulations to allow for different reporting processes for schools prior to the final SEVIS implementation date, depending upon whether or not they have been enrolled in SEVIS. These alternative processes are clearly distinguished in the text of this proposed rule. The Service will publish a rule when SEVIS becomes mandatory to remove all references in the regulations to paper-based processes.

The Department of State's separate rule will provide the appropriate processes for exchange visitor programs to follow with respect to J nonimmigrants, depending on whether or not those programs have been enrolled in SEVIS during the time before use of SEVIS becomes mandatory.

Although IIRIRA section 641 mandates the development of a new information collection program, the Service is also pursuing this system as a result of its recognition that the current reporting process for foreign student and exchange aliens is not an effective means to maintain timely information on F, J, and M nonimmigrants. Under the current paper-based system, the Service is unable to provide expedient responses to benefit requests, such as for employment authorizations and reinstatements. By reengineering the information reporting program from a paper-based process to one that is automated, the Service anticipates an improved system for the Service and DOS, for the schools and exchange visitor programs subject to their authority, and for the foreign students and exchange aliens coming to the United States to attend them.

What Is the Monetary Impact That SEVIS Will Have on Schools?

The Service believes that SEVIS will have a positive impact on schools and will make the oversight of foreign students on their campuses and administration of international student programs easier for most DSOs. Schools using SEVIS will no longer have to print out, file, and mail as many paper forms. However, each institution is different and will have processes and systems that are unique. For schools that do not require or desire the use of batch capability, there should be little to no additional cost, and in fact, some savings may result from the efficiencies that SEVIS will provide. These schools will access SEVIS through the Internet and in all likelihood will have to make no changes or upgrades to their existing systems. As long as the school has an Internet browser, MS Internet Explorer 5.0 or better, or Netscape 4.7 or better, they can access SEVIS.

The monetary impact on schools that desire to use batch capability may be greater. These schools may need to pay the cost of whatever modifications are necessary to make their existing systems compatible with that of SEVIS. However, that one-time start-up cost might be highly cost-effective in the long run because, once the electronic interface is complete, the process of maintaining student records for purpose of SEVIS will be highly automated, thereby reducing the future personnel costs. Moreover, these decisions as to cost/benefit tradeoffs will be made by each school in light of their own circumstances. The use of the batch

mode will be entirely optional. Even if schools use only the Internet mode, the process should be considerably more efficient than it is at present.

In order for the Service to better gauge what monetary impact, if any, there will be on schools, the Service is soliciting comments specifically related to this issue. Schools are requested to comment on what they believe will be the cost to bring their existing equipment and systems into compliance with SEVIS and or any increases or decreases necessary for staff.

Will a School Need To Be Recertified Prior To Enrolling in SEVIS?

In order to maintain the integrity of the data that is initially being entered into SEVIS, all schools will need to be recertified by the Service. The Service will be publishing a separate notice in the **Federal Register** to allow schools that meet a specific criteria to be eligible for preliminary enrollment in SEVIS. In addition, the Service will promulgate a separate rule that will require each school authorized to accept F–1 or M–1 students who did not apply for or qualify for preliminary enrollment to be reviewed and re-approved. Such preliminary enrollment or re-approval must be completed before a school will be granted authorization to use SEVIS.

How Does a School or Exchange Program That Is Not Currently Approved by the Service or by the Department of State Enroll in SEVIS?

This rule proposes a process by which a school may use SEVIS to maintain its authorization for attendance at that school by F–1 and M–1 nonimmigrant students. To gain access to SEVIS, the school must first contact the SEVIS system administrator to receive a temporary User ID and password by logging onto the SEVIS Web site. The temporary ID and password will be valid for 30 days from issuance by the system administrator.

After receiving the temporary ID and password, the school will complete the Form I–17 petition in SEVIS and print it for submission by mail to the appropriate Service office with supporting documentation. Upon making a decision, the Service will update SEVIS to show the status of the application as approved or denied and an email notification will be sent to the school. Every school using SEVIS must immediately update SEVIS to reflect any material modification to its name, address or curriculum for a determination of continued eligibility for approval.

As stated earlier, the Service will be promulgating a separate rule to implement the recertification process that a school needs to complete prior to being given authorization to use SEVIS. With these future rulemakings it is the Service's intention to move toward a paperless process for institutions to submit petitions for approval to the Service. In drafting these subsequent rules, the Service will consider streamlined electronic processes in use at other agencies. Where possible, the Service will make efforts to share information electronically with the Department of Education to refine the approval criteria and supporting documentation to allow for this paperless submission process.

The Department of State's separate rule will describe the process for exchange visitor programs to enroll in SEVIS.

When a School or Exchange Program Enrolls in SEVIS Prior to the Final SEVIS Implementation Date, Must All Current Students or Exchange Aliens Be Enrolled Into SEVIS at That Time?

This rule proposes that schools that enroll in SEVIS prior to the final SEVIS compliance date may utilize SEVIS initially only for newly-enrolled students; they will not be required to enter all data for their current students into the SEVIS system at the same time, but may do so. However, if a current student needs a new Form I–20, the school must enter the student into SEVIS at that time in order to issue a SEVIS Form I–20 to the alien. The current student is entered into SEVIS as a "continuing" student to transition from a paper to a SEVIS record and is thereafter under SEVIS processes. Such a "continuing" indicator will eventually be deactivated in SEVIS since all students will be included in SEVIS within the next academic cycle after the compliance date and there will not be any non-SEVIS students that would require a "continuing" functionality for the DSO to convert. Moreover, once a school is utilizing SEVIS, the school will be required to report the enrollment of any F–1 or M–1 nonimmigrant every semester, term or session thereafter. In addition, the school will be required to report, in SEVIS, the current students that fail to enroll, maintain status, or complete his or her program.

The substantive regulations governing the approval of exchange visitor programs and the granting of J nonimmigrant visas are promulgated by the Department of State, and will be addressed in a separate rule. Accordingly, much of the following discussion in this preamble focuses specifically on the F and M nonimmigrants who are subject to the Service's authority, and the Service-approved schools authorized to enroll them.

II. Issues Relating to F and M Nonimmigrants

What Does 8 CFR 214.3 Currently Require a School to Report?

Section 214.3(g) requires that the school maintain records of the student's name, date and place of birth, country of citizenship, address, status, date of commencement of studies, degree program and field of study, practical training, termination date and reason, documents related to the student's admission, the number of credits completed per semester, and a photocopy of the student's Form I–20. A school is responsible for maintaining this information on every student to whom it has issued a Form I–20 while the student is attending the school and until the Designated School Official (DSO) notifies the Service that the student is no longer attending the school. Schools are also required to furnish the information to the Service upon request. Under the current process, a DSO is only required to notify the Service if a student is no longer attending the school when the Service sends a list of all F–1 and M–1 students who, according to Service records, and attending the school.

SEVIS, as implemented by this rule, will alleviate some of the problems faced by the DSO by facilitating the process of notifying the Service of a change in information in a timely way. It will also assist the Service by providing access to current data. All of the information that the DSO is currently required to maintain will still be required. However, the information will now also reside in SEVIS rather than at each individual school.

The maintenance of the information in SEVIS begins with the creation of the student's SEVIS Form I–20. Any subsequent updates to the SEVIS Form I–20, or other changes of information pertaining to the student, will also be captured in SEVIS. This will reduce the DSO's workload and the need for a Service officer to contact the school for access to these records.

What Are the New Reporting Requirements for Schools?

The Service has incorporated the requirements of Section 641 of IIRIRA, which mandates collecting the current address and current academic status of the student, as well as any disciplinary action taken by the school against the student as a result of the student being convicted of a crime. Schools will use SEVIS for issuance of SEVIS Form I–20, and tracking extensions, transfers, authorized employment, and reduced course loads. In addition, schools will not be specifically required to update the Service through SEVIS of the occurrence of the following events:

- A student's enrollment at the school;
- The start date of the student's next term or session;
- A student's failure to enroll;
- A student dropping below a full course of study without prior authorization by the DSO;
- Any other failure to maintain status or complete the program;
- A change of the student's or dependent's legal name or address;
- Any disciplinary action taken by the school against the student as a result of the student being convicted of a crime; and
- A student's graduation prior to the program end date listed on the Form I–20.

Additionally, within 21 days of a change in the name, address, or curriculum of a school, this rule requires that a DSO update SEVIS with the current information. In certain instances SEVIS will send a "tickler" to a DSO when a student's record has not received any action for an extended length of time. When a DSO receives such a notification request by SEVIS with regard to the current status of the student, the DSO must review the student's record and update SEVIS to indicate that the student is enrolled or take other appropriate action.

The Service also notes that legislation currently pending before the Congress, section 501 of H.R. 1885 (as passed by the House of Representatives on March 12, 2002), would impose a requirement for schools and exchange visitor programs to report additional items of information with respect to students and exchange aliens, namely:

- Within a thirty-day period, the failure of the student or exchange visitor to enroll or commence participation;
- Date of entry and port-of-entry;
- The date of the alien's enrollment in an approved institution or exchange program;
- Degree program and field of study; and
- The date of the termination of enrollment and the reason for termination.

Although not identical, all of these data elements are reflected in the current SEVIS requirements. If this legislation is enacted, the Service will review it to determine what, if any new statutory reporting requirements are created. If necessary, the Service will impose any such additional requirements after this proposed rule is published by incorporating those statutory requirements (without further rulemaking notice) into any interim or final rule implementing SEVIS.

What Changes Would This Rule Make With Respect to Designated School Officials?

Currently, 8 CFR 214.3 allows a school (or each campus of the school) to have up to five Designated School Officials. This rule proposes to create a new category of Designated School Official, the Principal Designated School Official (PDSO), and a new support position, the Administrative School Official (ASO). Each school may have five DSOs, one of which is the PDSO, and up to five ASOs. In a multi-campus school, each campus may have up to five designated officials at any one time, one of which is the PDSO, and up to five ASOs. In an elementary or secondary school system, however, the entire school system is limited to five designated officials at any one time, one of which is the PDSO, and up to five ASOs.

Another alternative that the Service is considering is to correlate the number of DSOs allowed to the size of the school's F–1 and M–1 student population. Comment is invited on the general feasibility of such an approach, particularly with respect to the proportion of DSOs to international students currently existing and the proportion that would be optimal for schools.

In SEVIS, the PDSO will be the contact person for the original submission of the Form I–17. The PDSO will also be the responsible party for any updates to the PDSO, DSO or ASO information. In all other respects, the PDSO will have the same responsibilities as the other DSOs.

The functions of the ASO will be limited to clerical duties and data entry. The ASO may not sign or issue either a current or SEVIS Form I–20, authorize curricular practical training, or provide any update to SEVIS. The access of the ASO will be limited in SEVIS to purely data entry of SEVIS Form I–20 information which must then be reviewed and submitted to SEVIS by a PDSO or DSO.

This rule also proposes a new requirement that any DSO, including the PDSO, must be a United States citizen or Lawful Permanent Resident (LPR) of the United States.

This rule proposes to require that an approved school update SEVIS for any changes in PDSO, DSO or ASO within 21 days of such change. The update of the new official must include the name and title of the new official, as well as the official's certification of compliance with the regulations. This update can be made only by the PDSO.

This rule also proposes to clarify that, as part of the Service's authority over a school's ability to enroll foreign students, the Service has authority to reject the submission of a particular individual as a DSO, PDSO, or ASO as well as to withdraw an individual's designation as a DSO, PDSO, or ASO. Examples of when the Service would exercise this authority include situations in which a DSO is not a U.S. citizen or LPR, or in which a PDSO, DSO or ASO is not complying with the relevant regulations and program requirements as attested to on Form I–17A, Designated School Officials.

Finally, although the Service is not making a specific proposal at this time, the Service is seeking public suggestions and input on how a program for educating and certifying DSOs might be structured, and whether such certification should be a requirement for all PDSOs, DSOs, and/or ASOs. DSOs are the link between the Service and the nonimmigrant student population for which the Service is responsible. It is not practical or feasible for the Service to have a presence at all schools. These factors, along with the Service's desire to preserve the integrity of data submitted through the SEVIS system, have highlighted the need for a process that can certify DSOs.

Will the Form I–20 Continue To Be Used?

This proposed rule discusses the differences in the Form I–20ID, Form I–20A–B, and Form I–20M–N that are currently in use and the Form I–20 that will be issued by SEVIS. The current Form I–20 has two copies, one for the student, and one for the school. Currently, the entire Form I–20A–B/I–20ID or Form I–20M–N/I–20ID is referred to as the Form I–20A–B or Form I–20M–N, and the student copy is referred to as the Form I–20ID.

The SEVIS Form I–20 will eliminate the need for the school copy, as the information will be retained in SEVIS and easily accessible by the school or by the Service for updating and record keeping purposes. The student will retain his or her copy in the same manner as the process currently in use for travel and employment purposes. The SEVIS Form I–20 will also maintain the distinction between the Form I–20A–B that is issued to F–1 students and the Form I–20M–N that is issued to M–1 students. The SEVIS Form I–20 can be further identified by the word SEVIS

located in the upper right hand corner of the document and by a two-dimensional barcode on the right hand side of the document.

What Is the SEVIS ID Number?

Each SEVIS Form I–20 that is issued by a school to a student will contain a system-generated identification number. This number is referred to as the SEVIS ID number. The SEVIS ID number will remain the same as long as the student maintains his or her valid, original nonimmigrant status. This number will remain the same regardless of any changes or updates made by the DSO to the student's record.

When a student is inspected for admission, he or she will show the SEVIS Form I–20 to the inspecting officer. Once SEVIS is fully operational, the inspecting officer will record the number for transition to SEVIS. The inspector will then return the student's copy to the student with the appropriate entry stamp. The officer will have not to forward a copy on to the Service's data processing center for data entry, as the information will already be transmitted to SEVIS.

How Will SEVIS Track the Issuance of Multiple Forms I–20 and Deter Misuse of Form I–20?

SEVIS will decrease the potential for the fraudulent misuse of the SEVIS Form I–20. Prior to issuance of a student visa to a prospective student, it is not uncommon for an alien to have been accepted at more than one school, and therefore to have been issued a Form I–20 from each of those schools offering acceptance. However, a student can obtain an F–1 or M–1 student visa, and be admitted to the United States, under only one Form I–20. The alien must present one Form I–20 to the consular officer, reflecting the student's decision as to which school to attend.

To help avoid the risk of having the remaining Forms I–20 fall into the hands of someone who might use them fraudulently, SEVIS will be able to track the issuance of multiple SEVIS Forms I–20 based upon numerous data elements in order to link the multiple forms to the same individual. SEVIS will then cancel the other SEVIS Forms I–20 issued by other schools with respect to the same individual once the student uses one of the forms to obtain student status.

As an additional deterrent to misuse, once a Form I–20 is used to a prospective student for initial eligibility, the DSO may not modify the Form I–20 until the DSO updates SEVIS to verify that the student's registration has been completed. However, a DSO may cancel or terminate a Form I–20 at any time. Furthermore, the Form I–20 is issued for a specific program start date. SEVIS will automatically terminate any Form I–20 that has not been used as the basis for issuance of a student visa, or for change of status to F or M status, by the program start date.

How Does This Rule Address Distance Education or On-Line Programs?

While on-line and distance education programs can be highly innovative means to augment or even conduct an educational program, the entry of a foreign student into the United States becomes unnecessary if the bulk of the program does not require the student's physical presence. Therefore, this rule proposes to limit the enrollment of F–1 and M–1 students in courses that are on-line or through distance education programs and do not require the student's actual presence. The rule also provides a definition of on-line courses and distance education programs that is similar to the definition provided by the Department of Education for telecommunications courses.

Under proposed § 214.2(f)(6)(i)(F), those students for whom on-line or distance education credits can be counted toward the obligation to maintain a full course of study will be limited to counting one class or three credits per semester toward the obligation, provided that the class is accepted for credit at the school that the student is currently attending. No on-line or distance education classes taken by an M–1 student, or by an F–1 student in a language program or elementary or secondary school program, can be counted as being part of the student's full course of study, given the limited duration or focus of those programs.

What Other Changes Are Being Made Regarding a Full Course of Study?

This rule proposes to limit the amount of time during which an F–1 or M–1 student who is authorized to drop below a full course of study because of illness or medical condition, the current requirement is only that the student resume a full course of study when he or she recovers. Such an open-ended standard can invite abuse.

Therefore, this proposed rule allows a DSO to authorize an F–1 student, who is currently in status, to drop below a full course of study only for the periods of time set forth in proposed § 214.2(f)(6)(iii) and (M)(6)(vi). Except for students experiencing illness or other medical condition, the DSO cannot authorize an F–1 student to drop below a full course of study for more than one semester or term (excluding a summer session). A DSO may not authorize a reduced course load for an M–1 student for more than 5 months. In any event, a DSO may not authorize a student, other than one experiencing illness or other medical condition, to completely withdraw from all classes; the student's reduced course load must include at least some classes in order for the DSO to grant authorization.

A student who is unable to resume a full course of study within the allowable time period will not be able to continue that status and will either have to leave the United States or apply for a change of nonimmigrant status to a more appropriate category.

What Are the Reporting Requirements When the DSO Authorizes a Student To Drop Below a Full Course of Study?

This rule will create an interim reporting requirement for non-SEVIS schools to report to the Service for cases in which the DSO has authorized an F–1 or M–1 student to drop below a full course of study. Within 21 days of the authorization, the DSO must send to the STSC a photocopy of the student's Form I–20 with Form I–538, indicating the reason for the drop to STSC. DSOs are further required to report to the STSC not more than 21 days after the student has resumed his or her full course of study with Form I–20, reflecting the new program completion date, if applicable, and Form I–538 certifying that the student has resumed a full course of study.

For schools enrolled in SEVIS, this rule requires the electronic updating of SEVIS whenever a student is authorized to drop below a full course of study or has resumed a full course of study. A DSO must immediately update SEVIS when a student has been authorized to drop below a full course of study with the current date, the start date of the next term or session, and the reason for the authorization. The DSO must also update SEVIS within 21 days of the student's re-commencement of a full course of study in accordance with the new registration reporting requirement of 8 CFR 214.3(g)(3). If an extension is necessary, the DSO must also use SEVIS to update the SEVIS Form I–20 with the new completion date.

How Are F–1 Student Transfers Handled Using SEVIS?

This rule makes clear that, prior to issuance of any Form I–20, the DSO at the school to which the student is transferring is responsible for determining that the student has been maintaining status at his or her previous school and is eligible for transfer to the new school. This includes cases in which the student graduates from one

educational level (e.g., bachelors to masters or masters to doctorate) at the same school, as well as transfers to a different school.

The student must notify his or her current school of the intent to transfer and indicate the school to which he or she intends to transfer. Upon notification by the student, the current school's DSO will update the student as a "transfer out" to the intended new school in SEVIS. The DSO will indicate in SEVIS a release date, which would usually be the current semester or session completion date, or the date of expected transfer if earlier than the established academic cycle. The current school will retain access to and will remain responsible for the student in SEVIS until the release date. The student must then notify the school to which the student intends to transfer of the student's intent to enroll in the transfer school. Upon reaching the release date, the new school will be granted full access to the student's SEVIS record and may then issue a new SEVIS Form I–20, becoming responsible for that student's record. The current school conveys authority and responsibility over that student to the new school, and will no longer have full SEVIS access to that student's record. The new school may not issue a new SEVIS Form I–20 until after the release date, thus managing the issuance of multiple SEVIS Form I–20 within the United States. The student is then required to report his or her presence to the new school within 15 days of the program start date indicated on SEVIS Form I–20, so that the DSO at the transfer school can acknowledge the student's attendance, obtain the student's current address, and confirm that the student has completed the transfer process. The transfer is effected when the transfer school notifies SEVIS, within 30 days, in accordance with 8 CFR 214.3(g)(3)(iii), that the student has enrolled in classes.

What Are the Changes for M–1 Student Transfer?

This rule proposes to amend the current regulations in several ways:

- An M–1 student must be currently in status in order to apply for a transfer;
- The M–1 student must file Form I–539, Application to Change/Extend Nonimmigrant Status, with the Service Center having jurisdiction over the school he or she is currently authorized to attend;
- The date of approval of an M–1 transfer will be determined as of the program start date listed on the Form I–20, rather than the date of filing the application; and
- An M–1 transfer student will be allowed to enroll in classes at the transfer school at the next available term or session.

This rule proposes a process for the electronic update of SEVIS for the transfer of an M–1 student that is generally similar to the process for F–1 student transfer. The process differs, however, because the Service must approve all M–1 student transfers, based on the recommendation of the DSO.

After the transfer school issues a SEVIS Form I–20 to the student, the M–1 student must then submit Form I–539 to the Service Center with jurisdiction over the school which the student is currently authorized to attend. Upon submission to the Service of the application for transfer, the student may enroll in the transfer school at the next available term or session, but must notify the transfer school within 15 days of beginning attendance so that the school can obtain the necessary information for its records. The transfer school will then update SEVIS to indicate that the student has enrolled in classes in accordance with the new reporting requirement.

Once SEVIS is fully operational and interfaced with INS' CLAIMS 3 benefit processing system, the Service officer will transmit to SEVIS the approval of the transfer and endorse the name of the school to which transfer is authorized on the student's SEVIS Form I–20 and return it to the student. As a transitional process until that time, the student is required to notify the DSO at the transfer school of Service's decision within 15 days of the receipt of the adjudication by the Service. Upon notification by the student, the DSO must immediately update the student's record in SEVIS to reflect the proper decision of the Service Center. If approved, the DSO will update SEVIS to indicate the approval and print an updated SEVIS Form I–20 for the student indicating that the transfer has been completed. If denied, the DSO shall terminate the student's status in SEVIS indicating the transfer denial as the termination reason.

Finally, the Service notes that current § 214.2(m)(6), (7), and (8) relate to students who converted form F–1 status to M–1 status, prior to June 1, 1982, and are therefore no longer applicable to any current M–1 student. Accordingly, this rule proposes to remove these provisions as well as the reference to the school code suffix in § 214.2(m).

What Changes Does This Rule Make With Regard to Practical Training?

This rule proposes to clarify several issues with regard to practical training. First, this rule clarifies that practical training is available to F–1 students who were involved in a study abroad program during their course of study at an approved school. Although part of the alien's study in such a case was conducted outside the United States, these students remain enrolled at their school and have earned credits toward their degree. The Service believes that the time spent abroad, after the student has begun attendance at the school, should count towards the 9 consecutive months required to apply for practical training under 8 CFR 214.2(f)(10).

The rule also proposes to amend § 214.2(f)(10) to clarify that an F–1 student may be authorized for up to 12 months of practical training for each program level that he or she undertakes. For example, a student who has engaged in 12 months of practical training during study for an undergraduate degree becomes eligible for another 12 months of practical training when he or she changes to a higher educational level, such as a master's degree.

Curricular practical training. This rule requires that schools using SEVIS update SEVIS any time that DSO authorizes a student's request for curricular practical training (CPT), that is, a work/study program, internship or practicum that is an integral part of an established curriculum. The DSO must verify that the student meets the eligibility requirements and must also update SEVIS to show whether the work is full- or part-time, the start and end date of the employment, and the name and location of the employer. The DSO will then print SEVIS Form I–20 that indicates that curricular practical training authorization has been granted, and sign, date and return the SEVIS Form I–20 to the student prior to the student's commencement of employment. A student is not eligible to begin work until the DSO has updated SEVIS to show that curricular practical training is authorized and has printed the SEVIS Form I–20 for the student to provide to the employer. Schools using SEVIS will no longer need to send Form I–538 to STSC when authorizing an F–1 for curricular practical training.

Optional practical training. This rule proposes to require a SEVIS update for an F–1 student who requests optional practical training, that is, temporary employment for practical training directly related to the student's major area of study. Unlike curricular practical training, which is approved by the DSO, optional practical training is approved by the Service, based on the recommendation of the DSO, and the student must also file Form I–765,

Application for Employment Authorization.

Under this rule, the DSO will recommend the student for optional practical training in SEVIS and print the SEVIS Form I–20 with the recommendation to be sent to the appropriate Service Center in conjunction with a completed Form I–765. A DSO using SEVIS will no longer need to submit a copy of Form I–538 to STSC in cases where optional practical training is recommended, since the SEVIS update will accomplish the necessary notification.

This rule also proposes to amend the period of time in which an F–1 may apply for optional practical training. Under the current rules, an F–1 student must apply for post-completion optional practical training no later than 60 days after completion of their full course of study, with the training to be completed within 14 months following completion of study. The requirement that the training be completed in a 14-month period often is problematic for students who wait to apply for optional practical training until close to the end of the 60-day period, since they must then wait for receipt of the Form I–766, Employment Authorization Document (EAD), before they can begin work. This process often results in the student not being able to receive the full 12 months of training.

The current rules also provide, in some cases, that an F–1 student may receive an extra 60 days of authorized stay in the United States. For example, a student can wait to apply for optional practical training until the 60th day after completion of studies, and, at the end of the training period, the student is entitled to a second period of 60 days to prepare to depart the United States. This rule proposes to amend § 214.2(f)(10)(ii) to require that F–1 students must apply for optional practical training prior to completion of all course requirements or completion of studies, thereby allowing only one 60-day period for departure. The students have only a limited period of time after the program end date in which to complete their training, and cannot begin the training until they have received an EAD from the Service Center. The student must apply before the program end date to ensure that the student will have received his or her EAD in time to commence optional practical training immediately after completion of study. This requirement will ensure that the students can continue to pursue the purpose for which they were admitted, without a gap, for the entire amount of time for which they are eligible.

Similarly, this rule will require that an M–1 student must apply for practical training prior to the completion date of his or her program. However, the request cannot be made more than 90 days prior to the program completion date shown on the Form I–20.

Finally, this rule provides that authorization to engage in practical training is terminated when the student changes to another educational level. The current regulations provide for automatic termination of such authorization for an F–1 or M–1 student only when the student transfers schools.

What Change Does This Rule Make With Respect to Internships With International Organizations?

This rule proposes to amend § 214.2(f)(9)(iii) to specify that an F–1 student who has been offered employment by a recognized international organization submit must apply for employment authorization to the Service Center having jurisdiction over his or her place of residence, rather than applying in person at a local Service office. Also, to make this provision consistent with the other practical training processes, the requirement for DSO endorsement of the Form I–20 ID within the last 30 days is being removed.

This rule also deletes obsolete references in § 214.2(f)(9)(ii) for filing a wage-and-labor attestation with the Department of Labor for off-campus employment, since the pilot program sunset on September 30, 1996. Under the current rules, F–1 students seeking off-campus employment (other than an internship with an international organization as discussed above) must satisfy the requirements for demonstrating severe economic hardship caused by unforeseen circumstsances beyond the student's control.

What Changes Does This Rule Make With Respect To Extension of Student Status?

This proposed rule amends the existing regulations to state explicitly the requirement that an F–1 or M–1 student must currently be in lawful status at an approved school in order to apply for an extension of status. A student who is no longer in current status—for example, a student who has dropped out of the school during a current term without authorization, or who remains in the United States after completion of his or her educational program—would not be eligible for an extension of status (although, in some limited circumstances, the student may be eligible for reinstatemennt of status, as discussed below).

Implementation of SEVIS. Under current procedures, to apply for an extension, an F–1 student must obtain a new Form I–20 from the authorized school and submit Form I–538 for certification by the DSO. The DSO must then submit Form I–538 to STSC. If the extension is accomplished by the student's reentry into the United States, the DSO does not need to send Form I–538 to STSC as the inspector will submit the Form I–20 to STSC when the student enters the country.

Under SEVIS, the DSO will update SEVIS any time the DSO grants an extension for an F–1 nonimmigrant, and will then enter the new program end date. The DSO will then print the new SEVIS Form I–20 for the F–1 nonimmigrant reflecting the new program end date. SEVIS will eliminate the need for the DSO to submit Form I–538 to STSC.

Unlike extensions of status for F–1 students of status for M–1 students are adjudicated by the Service based on the recommendation of the DSO. This rule also provides for the electronic updating of SEVIS in the event of an M–1 program extension request and requires the DSO to update SEVIS to recommend that a student be approved for extensions. The SEVIS Form I–20 must be printed with the recommendation and new program end date for submission by mail to the Service Center, with Forms I–94 and I–539. Once the Service grants an extension the DSO will print out a new Form I–20 for the student.

Other changes with respect to F–1 students. This rule also proposes several changes to the rules for extension of status for F–1 students.

First, the rule would eliminate the existing limitation that the student must file for an extension of status during the 30-day period prior to the program end date. Instead, an F–1 student would be allowed to apply for a program extension at any point prior to the program end date listed on the Form I–20.

Second, this rule would eliminate the provision in § 214.2(f)(7)(ii) which allows a DSO to add up to a one-year grace period in addition to the period of time the DSO estimates will be needed for each F–1 student to complete his or her program of study. Instead, the DSO will issue a Form I–20 to each F–1 student for the period of time reasonably necessary to complete the particular program of study. If additional time is needed, then the DSO will be able to authorize an extension of status through the regular process, which does not require any adjudication by the Service. This regulatory change is particularly appropriate with the use of SEVIS, which will reduce the paperwork burdens on DSOs at the time they authorize extensions of status.

Third, the rule will make clear that an F–1 student attending a public high school cannot apply for an extension with his or her DSO for continued attendance at his or her current school or to transfer to another public high school. Section 214(m) of the Act prohibits an F–1 student from attending a public high school for more than 12 months in the aggregate, and requires that the alien, prior to being issued the F–1 visa, demonstrate that he or she has reimbursed the local school district for the full, unsubsidized per capita cost of providing the education for the period of the alien's attendance. Because of the statutory limitation, an F–1 student at a public high school can only be admitted for an aggregate of 12 months of study and is not admitted for duration of status, as is the case for other F–1 students.

Fourth, the rule provides that such a public high school student *is* eligible to apply to the Service for an extension of status if he or she is accepted for attendance at a private high school or at a post-secondary school. The student must use Form I–539 and apply to the Service Center with jurisdiction over the school the student is currently attending.

Other changes with respect to M–1 students. The rule proposes to add the requirement that an M–1 student show a compelling academic or medical reason which resulted in a delay to his or her course of study in order to be eligible for extension of status. Additionally, the rule will propose to amend the language of the current regulations to indicate that an M–1 student requesting an extension should file a Form I–539 at the Service Center with jurisdiction over the school the student is currently attending.

Finally, the Service proposes to place a limit on the extensions that may be granted to an M–1 student. There is currently no limit on the number of extensions for which an M–1 is eligible, nor a limit on the cumulative amount of time that can be granted under extensions.

This rule proposes to limit the cumulative time that extensions can be granted to an M–1 student to a period of 3 years from the Social Security student's original start date, plus 30 days. Thus, no extension could be granted to an M–1 student if he or she is unable to complete the course of study within 3 years of the original program start date, plus 30 days. This limit includes extensions that have been granted due to a drop below full course of study, a transfer of schools, or reinstatement.

What Are the Changes to Eligibility for Reinstatement of Student Status?

Under the current rules, § 214.2(f)(15) and (m)(16), upon demonstrating eligibility for attendance at an approved school, and F–1 or M–1 student who is out of status may apply to the Service for reinstatement, with no specified limit on the length of time the student has remained in the United States out of status. A student can lose current student status in several ways, for example, by remaining in the United States beyond the authorized period after completion of his or her course of study, engaging in employment without authorization, or dropping out of school.

It is important that nonimmigrant students in the United States remain cognizant of their obligations to maintain their status. Past rules, designed to maintain flexibility for the academic community and to make allowance for the youth of some of the individuals in question, appear to have resulted in an atmosphere that could have led some to believe that they could violate their status with impunity. In fact, such violations can and do have serious consequences.

Accordingly, this rule proposes to amend the regulations to provide that an F–1 or M–1 student will not be eligible to apply for reinstatement unless he or she applies for reinstatement within five months of being out of status.

Moreover, the rule also proposes to limit the circumstances under which reinstatement is available. Unless the violation of status relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and the student can demonstrate that failure to receive reinstatement would result in extreme hardship, the student must establish that the need for reinstatement resulted from circumstances beyond the student's control. Such circumstances may include circumstances such as serious injury or illness, closure of the institution, or a natural disaster. Circumstances beyond the student's control would NOT include cases where inadvertence, oversight, neglect, or a willful failure on the part of the student or the DSO resulted in the need for reinstatement.

The Service has drawn the general timeframe from § 214.2(f)(4), which allows an F–1 student who has been temporarily absent from the United States for no more than five months to be readmitted in F–1 status to continue his or her course of study. Of course, the situation of an alien who has violated his or her student status and remains in the United States is not the same as a student in lawful F–1 status who is temporarily absent from the United States. On the other hand, the Service recognizes that there may be reasons why a student may violate nonimmigrant student status without necessarily abandoning his or her educational plans.

Reinstatement of student status is distinct from processes for a current student to transfer from one school to another, or for an F–1 student to temporarily maintain a reduced course load, while remaining in status. Since transfers or reduced course loads will only be available for students who obtain approval from their school's DSO, the reinstatement rule will cover those students who have recently lost their student status but desire to continue their education (either at their prior school or another school) in the immediate future.

An F–1 or M–1 student who is ineligible for reinstatement cannot remain in the United States unless he or she has some other lawful immigration status. Such an alien would be free, if eligible to do so, to apply for a new nonimmigrant student visa at a consular office abroad to resume his or her studies in the United States. The Service wishes to emphasize the importance of complying with academic requirements and wishes to emphasize that reasons for reinstatement will be closely scrutinized. Reinstatement is intended to be a rare benefit for exceptional cases and is not intended to remedy situations within the student's control.

In the case of a student seeking reinstatement at a SEVIS school, the school that the student most recently attended will update the student's record in SEVIS and print out a new SEVIS Form I–20 which indicates that the student is requesting to be reinstated. The student should then submit the new SEVIS Form I–20 and Form I–539, by mail, to the district director. Once the request has been adjudicated, the student will receive his or her SEVIS Form I–20 with the decision of the district director. The district office will also update SEVIS to indicate the decision on the request for reinstatement. SEVIS will provide notification to the school of the reinstatement decision.

This rule also makes technical corrections in the regulations governing F–1 and M–1 reinstatement to reflect the redesignation of section 241 of the Act as section 237 of the Act.

What Other Provisions of IIRIRA Have Been Incorporated Into This Rule?

Section 214(m) of the Act, as amended by sections 625 and 107(e)(2) of IIRIRA, Public Law 106–386, Div. C (Sept. 30, 1996), states that a nonimmigrant may not be accorded status as an F–1 student to pursue a course of study at a public elementary school or a publicly funded adult education program.

Accordingly, 8 CFR 214.3 is proposed to be amended to clarify that in no case will a public elementary school, a publicly funded adult education program, or a home school be approved for attendance by a nonimmigrant student. The proposed rule would also amend 8 CFR 214.2(f)(6) to make clear that an alien may not be admitted as an F–1 student to enroll in a course of study at a school or program that is not approved by the Service as provided in § 214.3.

Section 214(m) of the Act does not define "a publicly funded adult education program." The proposed rule adopts a definition based on section 203(f) of the Adult Education and Family Literacy Act, Public Law 105–220, 20 U.S.C. 9202(l) Section 203(l) of Public Law 105–200 defines an adult education program as:

"services or instruction below the postsecondary level for individuals—

"(A) who have attained 16 years of age;

"(B) who are not enrolled or required to be enrolled in secondary school under State law; and

"(C) who—

"(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

"(ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

"(iii) are unable to speak, read, or write the English language."

Under the proposed rule, an F–1 nonimmigrant may not enroll in such a program if the program is funded in whole or in part by a grant under the Adult Education and Family Literacy Act, or by any other Federal, State, county or municipal funding.

Why Will the Service Remove the $70 Fee Associated With the Form I–538?

This rule proposes to remove the fee for the Form I–538, Certification by Designated School Official, from 8 CFR 103.7(b)(1). the Form I–538 is currently used by DSOs to notify the Service of updates to the student's record in the case of approved curricular practical training or extensions for F–1 students. The Form I–538 is also used in conjunction with applications for Form I–765, Employment Authorization Document (EAD). As the form is used simply for the purpose of certification by the DSO as to the current record of the student, a fee should not be required to accompany the form. Form I–538 will continue to be used until all schools enrolling foreign students are enrolled in SEVIS.

III. Issues Relating to All F–1, J–1 and M–1 Nonimmigrants

What Are the Requirements for Reporting Changes of Address by F–1 and M–1 Students and J–1 Exchange Aliens?

IIRIRA mandates collection of the current name and address of the students in the United States. Moreover, section 265(a) of the Act requires that all aliens who are subject to registration requirements (including all students and exchange aliens and their dependents who remain in the United States for 30 days or more) are required to provide a current name and address to the Attorney General within 10 days. The obligation to notify the Service of each change of address applies to all F, M or J nonimmigrants (indeed, all nonimmigrants other than those in A or G status) who remain in the United States for more than 30 days, regardless of whether their continue stay is pursuant to their initial admission or as a result of change or extension of status.

Although the change of address requirements are already set forth in 8 CFR 265.1, the Service is amending the rules relating to F, J, and M nonimmigrants regarding the relationship with SEVIS. This rule requires that each student must inform the Service and the DSO of any legal changes to his or her name or of any change of address, within 10 days of the change. The address provided by the student or dependent must be the actual physical location where the student or dependent resides. In no case may the address of the DSO at the school be used as the address of the student. Similar rules are provided for exchange alien to provide notice to the Service and the responsible officer at the exchange visitor program.

A student enrolled at a SEVIS school will satisfy the requirement of section 265(a) of the Act by providing a notice of a change of address within 10 days to the DSO. As with other changes the DSO is required to report under § 214.3(g)(3), the DSO must then update SEVIS to reflect the change in the student's or dependent's address within 21 days of notification by the student. For schools enrolled in SEVIS, the students will not need to provide a separate notice of change of address to the Service. Similarly, a J–1 exchange alien can satisfy the legal requirements by providing a change of address within 10 days to the responsible officer at an exchange visitor program that is enrolled in SEVIS.

An F, M, or J nonimmigrant enrolled at a non-SEVIS institution must submit Form AR–11, Alien's Change of Address Card, to the Service within 10 days of the change. Moreover, any nonimmigrant student or exchange alien, or a dependent, who fails to report a change of address within 10 days to the DSO or to the responsible officer, in the case of a J–1 nonimmigrant, is obligated to file Form AR–11 with the Service within 10 days.

What Are the Limits on Advance Admission of F, J or M Nonimmigrants Prior to the Beginning of Their Attendance at an Approved School or Exchange Visitor Program?

The present Service regulations, § 214.2(f)(3) and (m)(3), suggest that an F–1 or M–1 student with a valid Form I–20, and his or her F–2 or M–2 dependents, may be admitted to the United States up to 60 days prior to the beginning of the course of study, as noted on the Form I–20. The rules governing J nonimmigrants do not specify a maximum period of advance admission.

The Service believes that a long period of admission, prior to the beginning of the approved course of studies or program for an F, J, or M nonimmigrant, and his or her dependents, is not consistent with the national interest, is not necessary to meet the needs of such aliens in coming to the United States, and is subject to abuse. However, some advance period is necessary so that the student or exchange alien has time to find a place to live and prepare for the studies or program ahead. Accordingly, this rule proposes to limit the period of advance admission to an "advance grace period" of 30 days.

When Are "Grace Periods" Available to F–1, M–1, and J–1 Nonimmigrants at the Conclusion of Their Course of Studies?

This rule will clarify that an F–1 student's duration of status only includes an additional 60 days to depart the country when the F–1 student has completed his or her course of study or after completion of authorized practical training after completion of studies. The 60–day "grace period" does not apply to an F–1 student who does not complete his or her program, who fails to maintain a full course of study, or who falls out of status for any other reason.

Similarly, the authorization for an M–1 or a J–1 to remain in the United States only includes an additional 30 days to depart the country when the M–1 or J–1 student has successfully completed his or her course of study or authorized practical training following completion of studies. The 30-day "grace period" does not apply to an M–1 student or J–1 exchange alien who does not complete his or her program, who fails to maintain a full course of study, or who falls out of status for any other reason.

Note that allowing a 60-day grace period for F–1 students, but only 30 days for M–1 students, is consistent with the current regulations at 8 CFR 214.2(f)(5)(i) and 214.2(m)(5). Allowing a longer grace period for F–1 students recognizes the fact that, in most cases, F–1 students remain in the United States longer than most M–1 students. A longer sojourn makes it reasonable to assume that F–1 students, generally, would need a longer period at the conclusion of their program to wind up their affairs and leave the United States in an orderly manner.

What Continuing Obligations do all F, M, and J Nonimmigrants Have During the Time They Remain in the United States?

The Service notes that an existing law, section 222(g) of the Act, provides for the automatic voidance of a nonimmigrant visa at the conclusion of an authorized period of stay if the alien remains in the United States longer than the period of authorized admission. All F, J and M nonimmigrants should be aware of this provision of the law and are responsible for remaining in lawful nonimmigrant status while within the United States.

Any nonimmigrant admitted to the United States bears the burden of maintaining legal status during the period of admission that has been granted by the inspecting Service officer. The Service cannot emphasize enough the importance of maintaining lawful status while in the United States. See section 212(a)(9)(B) of the Act for more information on the important and far-reaching implications of unlawful presence and the impact that unlawful presence may have on an alien's future ability to reapply for a nonimmigrant visa, for admission to the United States, or for adjustment of status to that of a lawful permanent resident.

IV. Issues Relating to F–2, J–2 and M–2 Dependents

How Will Information Regarding Dependents Be Included in SEVIS?

Under SEVIS, the DSO will enter all required dependent information in a record that is linked to the principal alien's. A dependent record can be created at the same time that the principal record is initially created, or as an update to an active principal's record.

Each dependent of an F–1 or M–1 nonimmigrant will receive his or her own SEVIS Form I–20, with a unique identification number, that specifies that they are a dependent. The information on the SEVIS Form I–20 relating to the dependent will be: the first and last name of the dependent, date and country of birth, and relationship to the student. The dependent SEVIS Form I–20 will also contain all of the information contained on the principal's SEVIS Form I–20 with the exception of the principal's unique SEVIS identification number. Additional information that will also be collected in SEVIS as part of the dependent record includes: the dependent's country of citizenship, gender and physical address, since this information can differ from the principal's. All active dependent records can be updated by the DSO to reflect changes in address or other dependent information.

Are There new Restrictions on the F–2 Spouse or Child?

Currently, there is no restriction on the classes or course of study that can be undertaken by the F–2 spouse and child. As such, an F–2 alien can take a full course of study at any school without the school having to meet any of the reporting requirements that are required for an F–1 nonimmigrant.

This rule proposes to prohibit full-time study by F–2 and M–2 spouses and to restrict such study by F–2 and M–2 children. The restriction is necessary to prevent an alien who should be properly classified as an F–1 student, and so subject to IIRIRA section 641 and other F–1 laws and regulations, from coming to the United States as an F–2 and, yet, attending school full time.

Under the proposed rule, an F–2 or M–2 spouse or child can enroll in avocational or recreational courses. If an F–2 or M–2 spouse, however, wants to enroll in a full course of study, the proposed rule would require the spouse to apply for and obtain a change of his or her nonimmigrant classification to that of an F–1, J–1, or M–1. Which classification is appropriate will depend upon the program the alien seeks to enroll in.

A similar rule would apply to F–2 or M–2 children. As noted, however, section 214(m) of the Act prohibits the enrollment of F–1 students in public elementary schools, and sets strict requirements on the enrollment of an F–1 student in a public high school.

The Service notes that section 101(a)(15)(f)(ii) of the Act permits an F–1 student to bring his or her children to the United States, and education is one of the chief tasks of childhood. It would be unreasonable to assume that Congress would intend that a bona fide F–1 student could bring his or her children to the United States, but not be able to provide for their education. Section 214(m) of the Act, moreover, only applies to F–1 status, and does not preclude an F–2 nonimmigrant's enrollment.

The proposed rule will, for this reason, allow the F–2 and M–2 child to be enrolled full-time in an elementary or secondary school (kindergarten through twelfth grade). An F–2 or M–2 child who wants to enroll in a full course of study, other than an elementary or secondary school, must change status to that of an F–1, J–1, or M–1 nonimmigrant, as appropriate based upon the child's educational program.

Regulatory Flexibility Act

The Commissioner, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although some schools may be considered small entities, the use of SEVIS as a means for record keeping and reporting will streamline the processes currently in existence.

SEVIS uses technology already in place at most schools, and has been designed for use over the INTERNET. Institutions need only have access to a web-browser to gain access to the INTERNET and will not require any software to download. The Service will not charge a subscriber or user fee in order to use SEVIS. However, while there is no charge for access to SEVIS, there might be undetermined, individual, organizational costs to upgrade vendor software or campus information technology systems to use the batch-method interface with SEVIS.

The Service has taken this cost into account and has developed SEVIS to utilize common standards. As discussed above in the supplementary information, schools using SEVIS will no longer have to print out, file, and

mail as many paper forms. Indeed, there should be little to no additional cost for schools that do not choose to use the optional batch processing capability. In fact, these schools may experience some savings as a result of the efficiencies that SEVIS will provide. Moreover, while the initial monetary impact on schools that choose to use batch capability may be greater, those schools might experience long-term savings because the automated process of maintaining student records for purpose of SEVIS likely would reduce future personnel costs. These decisions as to cost/benefit tradeoffs will be up to the discretion of each school. Accordingly, this rule will not have a significant impact on a number of small entities as that term is defined in 5 U.S.C. 601(6).

The Service, however, welcomes comments related to the monetary impact of this electronic reporting process. In particular, schools are requested to comment on the costs they will incur to bring their existing equipment and systems into compliance with SEVIS and any resulting changes in personnel.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, or $100 million or more in any one year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs of prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

The information required by this rule is considered an information collection and subject to review and clearance under the Paperwork Reduction Act procedures. The Service is adding new electronic reporting requirements using SEVIS which is a new collection. Accordingly, the information collection requirements contained in this rule will be submitted to the Office of Management and Budget under the Paperwork Reduction Act for review and approval.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Reporting and recordkeeping requirements, Students.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS: AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

§ 103.7 [Amended]

2. Section 103.7(b)(1) is amended by removing the entry for "Form I–538" from the listing of fees.

PART 214—NONIMMIGRANT CLASSES

3. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; sect. 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931 note, respectively; 8 CFR part 2.

4. Section 214.2 is amended by:

a. Removing "and" at the end of paragraph (f)(1)(i)(B), and by removing the period at the end of paragraph (f)(1)(i)(C) and adding in its place "; and", and by adding a new paragraph (f)(1)(i)(D);

b. Adding new paragraphs (f)(1)(iii) and (iv);

c. Revising the term "sixty days," in paragraph (f)(3) to read "30 days,";

d. Revising paragraph (f)(5)(i);

e. Removing and reserving paragraph (f)(5)(iv).

f. Revising paragraph (f)(6)(i) introductory text and paragraph (f)(6)(i)(E);

g. Adding new paragraphs (f)(6)(i)(G) and (H);

h. Revising paragraph (f)(6)(iii), and by adding a new paragraph (f)(6)(iv);

i. Revising paragraphs (f)(7) and (f)(8)(ii);

j. Removing and reserving paragraphs (f)(9)(ii)(B) and (E), and;

k. Revising paragraphs (f)(9)(ii)(D)(*4*), (f)(9)(ii)(F)(*1*), and (f)(9)(iii);

l. Revising paragraph (f)(10) introductory text;

m. Revising the last two sentences of paragraph (f)(10)(i) introductory text, and by revising paragraphs (f)(10)(i)(A) and (B);

n. Revising paragraph (f)(10)(ii)(A) introductory text, and paragraph (f)(10)(ii)(A)(*1*) and (*2*);

o. Removing paragraph (f)(10)(ii)(A)(*3*) and (*4*);

p. Revising the heading for paragraph (f)(10)(ii)(B);

q. Revising the heading for paragraph (f)(10)(ii)(D)

r. Adding a new paragraph (f)(10)(ii)(E);

s. Revising paragraph (f)(11)(ii);

t. Revising paragraphs (f)(15) and (f)(16); and by

u. Adding a new paragraph (f)(17).

The additions and revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(1) * * *

(i) * * *

(D) In the case of a student who intends to study at a public secondary school, the student has demonstrated that he or she has reimbursed the local educational agency that administers the school for the full, unsubsidized per capita cost of providing education at the school for the period of the student's attendance.

* * * * *

(iii) *Uses of SEVIS.* On January 30, 2003, the use of the Student and Exchange Visitor Information System (SEVIS) will become mandatory. As of that date, the student must present a Form I–20 issued through SEVIS in order to be admitted under this paragraph (f).

(iv) *Disposition of SEVIS Form I–20.* SEVIS will generate a Form I–20. When an F–1 student applies for admission with a complete SEVIS Form I–20, *the inspecting officer shall transcribe the alien's admission number from Form I–94 onto his or her SEVIS Form I–20* (for students seeking initial admission only); endorse the SEVIS Form I–20; and return the SEVIS Form I–20 to the alien.

* * * * *

(5) * * *

(i) *General.* Duration of status is defined as the time during which an F–1 student is pursuing a full course of study at an educational school approved by the Service for attendance by foreign students, or engaging in authorized practical training following completion of studies, except that an F–1 student who is admitted to attend a public high school is restricted to an aggregate of twelve months of study at any public high school(s). An F–1 student may be admitted for a period up to 30 days before the start of the course of study. An F–1 student who has completed a course of study will be allowed an additional 60-day period to prepare for departure from the United States, but an F–1 student who fails to maintain a full course of study or otherwise fails to maintain status is not eligible for this additional 60 days. The student is considered to be maintaining status if he or she is making normal progress toward completing a course of studies. Duration of status also includes the period designated by the Commissioner as provided in paragraph (f)(5)(vi) of this section.

* * * * *

(iv) [Reserved]

* * * * *

(6) * * *

(i) *General.* Successful completion of the full course of study must lead to the attainment of a specific educational or professional objective. A course of study at an institution not approved for attendance by foreign students as provided in § 214.3(a)(3) does not satisfy this requirement. A "full course of study" means:

* * * * *

(E) Study in a curriculum at an approved elementary school or academic high school which is certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation.

* * * * *

(G) For F–1 students enrolled in classes for credit or classroom hours, no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted if taken on-line or through distance education in a course that does not require the student's physical attendance for classes, examination or other purposes integral to completion of the class. An on-line or distance education course is a course that is offered principally through the use of television audio, or computer transmission including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing or computer conferencing. If the F–1 student's course of study is in a language study program, or elementary or secondary school, no on-line or distance education classes may be considered to count toward classroom hours or credit.

(H) On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study.

* * * * *

(iii) *Reduced course load.* The designated school official may allow an F–1 student to engage in less than a full course of study as provided in this paragraph (f)(6)(iii). A reduced course load must still consist of some course of study, unless the reduction is for reasons of illness or medical condition. A student who drops below a full course of study without the prior approval of the DSO will be considered out of status.

(A) *Academic difficulties.* The DSO may authorize a reduced course load on account of a student's initial difficulty with the English language or reading requirements, unfamiliarity with American teaching methods, or improper course level placement. The student must resume a full course of study at the next available term, session, or semester, excluding a summer session, in order to maintain student status

(B) *Medical conditions.* The DSO may authorize a reduced course load due to a student's illness or medical condition. If the student has provided medical documentation from a licensed doctor to the DSO to substantiate the authorization. The DSO is required to reauthorize the drop below full time for each new term, session, or semester. However, in no case may the authorization exceed one year. The student must resume a full course of study within one year from the date of the original authorization in order to maintain student status.

(C) *Completion of course of study.* The DOS may authorize a reduced course load in the student's final term, semester, or session needed to complete the course of study, if the student is not required to take additional courses to satisfy the requirements for competition.

(D) *Reporting requirements for non-SEVIS schools.* A DSO must report to the Service any student who is authorized to reduce his or her course load. Within 21 days of the authorization, the DSO must send a photocopy of the student's current Form I–20ID along with Form I–538 to STSC indicating the date and reason that the student was authorized to drop below full time status. Similarly, the DSO will report to the Service no more than 21 days after the student has resumed a full course of study by submitting a current copy of the students' Form I–20ID to STSC indicating the date full course of study was resumed and the new program end date was form I–538, if applicable.

(E) *SEVIS reporting requirements.* In order for a student to be authorized to drop below a full course of study, the DSO must update SEVIS prior to the student reducing his or her course load. The DSO must update SEVIS with the date, reason for authorization, and the start date of the next term or session. The DSO must also notify SEVIS within 21 days of the student's commencement of a full course of study. If an extension of the program end date is required due to the drop below a full course of study, the DSO must update SEVIS by completing a new SEVIS Form I–20 with the new program end date in accordance with paragraph (f)(7) of this section.

(iv) *Concurrent enrollment.* An F–1 student may be enrolled in two different Service approved schools at one time as long as the enrollment to both schools amounts to a full time course of study. In cases where a student is concurrently enrolled, the school from which the student will earn his or her degree or certification should issue the Form I–20, and conduct subsequent certifications and updates to the Form I–20. This DSO is also responsible for all of the reporting requirements to the Service.

(7) *Extension of stay.*—

(i) *General.* An F–1 student who is admitted for duration of status is not required to apply for extension of stay

as long as the student is maintaining status and making normal progress toward completing his or her educational objective. An F–1 student who is currently maintaining status but is unable to complete a full course of study in a timely manner must apply prior to the program end date on the Form I–20 to the DSO for a program extension pursuant to paragraph (f)(7)(iii) of this section.

(ii) *Completion date of Form I–20.* When determining the program completion date on Form I–20, the DSO should make a reasonable estimate based upon the time an average student would need to complete a similar program in the same discipline.

(iii) *Program extension for students in lawful status.* An F–1 student who is unable to meet the program completion date on the Form I–20 may be granted an extension by the DSO if the DSO certifies that the student has continually maintained status and that the delays are caused by compelling academic or medical reasons, such as changes of major or research topics, unexpected research problems, or medically documented illnesses. Delays caused by academic probation or suspension are not acceptable reasons for program extensions. A DSO may not grant an extension if the student did not apply for an extension until after the program end date noted on the Form I–20. An F–1 student who is unable to complete the educational program within the time listed on Form I–20 and who is ineligible for program extension pursuant to this paragraph (f)(7) is considered out of status. If eligible, the student may apply for reinstatement under the provisions of paragraph (f)(16) of this section.

(iv) *Notification.* Upon granting a program extension, a DSO at a non-SEVIS school must immediately submit notification to STSC using Form I–538 and the top page of Form I–20A–B showing the new program completion date. For a school enrolled in SEVIS, a DSO may grant a program extension only by updating SEVIS and issuing a new Form I–20 reflecting the current program end date. A DSO may grant an extension any time prior to the program end date listed on the student's original Form I–20.

(8) ***

(ii) *Transfer procedure.*

(A) *Non—SEVIS School to Non—SEVIS school.* To transfer schools, a F–1 student must first notify the school he or she is attending of the intent to transfer, then obtain a Form I–20 issued in accordance with the provisions of 8 CFR 214.3(k) from the school to which he or she intends to transfer. Prior to issuance of any Form I–20, the DSO at the school the student is transferring to is responsible for determining that the student has been maintaining status at his or her previous school and is eligible for transfer to the new school. The transfer will be effected only if the F–1 student completes the Student Certification portion of the I–20 and returns the Form to a designated school official on campus within 15 days of the program start date listed on Form I–20, Upon receipt of the student's Form I–20 the DSO must note "transfer completed on (date)" in the space provided for in DSO's remarks, thereby acknowledging the student's attendance; return the Form I–20 to the student; submit the School copy of the Form I–20 to STSC within 21 days of receipt from the student; and forward a photocopy of the School copy to the school from which the student transferred.

(B) *Non-SEVIS school to SEVIS school.* To transfer schools, an F–1 student must first notify the school he or she is attending of the intent to transfer, then obtain a SEVIS Form I–20 issued in accordance with the provision of 8 CFR 214.3(k) from the school to which he or she intends to transfer. Prior to issuance of any Form I–20, the DSO at the school to which the student is transferring is responsible for determining that the student has been maintaining status at his or her previous school and is eligible for transfer to the new school. Once the transfer school has issued the SEVIS Form I–20 to the student indicating a transfer, the transfer school becomes responsible for updating and maintaining the student's record in SEVIS. The student is then required to notify the DSO at the new school within 15 days of the program start date listed on SEVIS Form I–20. Upon notification that the student is enrolled in classes, the DSO of the transfer school must print and return an updated SEVIS Form I–20 to the student acknowledging the student's attendance and indicating the current address and that the student has completed the transfer process. The transfer is effected when the transfer school notifies SEVIS that the student has enrolled in classes in accordance within the 30 days required by 214.3(g)(3)(iii).

(C) *SEVIS school to SEVIS school.* The student must notify his or her current school of the intent to transfer and must indicate the school to which he or she intends to transfer. Upon notification by the student, the current school will update the student's record in SEVIS as "a transfer out" and indicate the school to which the student intends to transfer, and a release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the established academic cycle. The current school will retain control over the student's record in SEVIS until the student completes the current term or reaches the release date. At transfer date specified by the current DSO, the new school will be granted full access to the student's SEVIS record and becomes responsible for that student. The current school conveys authority and responsibility over that student to the new school, and will no longer have full SEVIS access to that student's record. At the point of conveyance at the end of the current semester or the expected transfer date, the new school may issue a SEVIS Form I–20. The student is then required to notify the DSO at the new school within 15 days of the program start date listed on the SEVIS Form I–20. Upon notification that the student is enrolled in classes, the DSO of the transfer school must print and return an updated SEVIS Form I–20 to the student acknowledging the student's attendance and indicating the current address and that the student has completed the transfer process. The transfer is effected when the transfer school notifies SEVIS that the student has enrolled in classes in accordance within the 30 days required by § 214.3(g)(3)(iii).

(D) *SEVIS school to non-SEVIS school.* The student must notify his or her current school of the intent to transfer and must indicate the school to which he or she intends to transfer. Upon notification by the student, the current school will update the student in SEVIS as "a transfer out", enter a "release" or expected transfer date, and update the transfer school as "non-SEVIS". The student must then notify the school to which the student intends to transfer of the student's intent to enroll. After the student has completed his or her current term or session, or has reached the expected transfer date, the DSO at the SEVIS school will no longer have full access to the student's SEVIS record. At this point, if the student has notified the transfer school of his or her intent to transfer, and the transfer school has determined that the student has been maintaining status at his or her previous school, the transfer school may issue the student a Form I–20, and has notified the transfer school of his or her intent to transfer, the transfer school may issue the student a Form I–20 after determining that the student has been maintaining status at his or her previous school. The transfer will be effected only if the F–1 student completes the Student Certification portion of the I–20 and returns the Form to a designated school official on campus within 15 days of the program start date listed on Form I–20. Upon receipt of the student's Form I–20, the DSO must note "transfer completed on (date)" in the space provided for in DSO's remarks, thereby acknowledging the student's attendance; return the Form I–20 to the student; submit the School copy of the Form I–20 to STSC within 21 days of receipt from the student; and forward a photocopy of the School copy to the school from which the student transferred.

* * * * *

(9) * * *

(ii) * * *

(B) [Reserved]

* * * * *

(D) * * *

(*4*) The student has demonstrated that the employment is necessary to avoid severe economic hardship due to unforeseen circumstances beyond the student's control pursuant to paragraph (f)(9)(ii)(C) of this section and has demonstrated that employment under paragraph (f)(9)(i) of this section is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

* * * * *

(E) [Reserved]

(F) * * *

(*1*) The applicant should submit the application for employment authorization on Form I–765, with the fee required by 8 CFR 103.7(b)(1), to the Service Center having jurisdiction over his or her place of residence. along with Form I–20, Form I–538, and any other supporting materials such as affidavits which further detail the unforeseen circumstances that require the student to seek employment authorization and the unavailability or insufficiency of employment under paragraph (f)(9)(i) of this section.

* * * * *

(iii) *Internship with an international organization.* A bona fide F–1 student who has been offered employment by a recognized international organization within the meaning of the International Organization Immunities Act (59 Stat. 669) must apply for employment authorization to the Service Center having jurisdiction over his or her place of residence. A student seeking employment authorization under this provision is required to present a written certification from the international organization that the proposed employment is within the scope of the organization's sponsorship, Form I–20 certifying eligibility for employment, and a completed Form I–765, with required fee as contained in § 103.7(b)(1) of this title.

(10) *Practical training.* Practical training may be authorized to an F–1 student who, at the time of filing his or her application, has been lawfully enrolled on a full time basis, in a Service-approved college, university, conservatory, or seminary for at least 9 consecutive months. This provision includes students who, during their course of study, were enrolled in a study abroad program. A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when he or she changes to a higher educational level. Students in English language training programs are ineligible for practical training. An eligible F–1 student may request employment authorization for practical training in a position which is directly related to his or her major area of study. There are two types of practical training available:

(i) * * * A request for authorization for curricular practical training must be made to the DSO. A student may begin curricular practical training only after receiving his or her I–20 ID with the DSO endorsement.

(A) *Paper process.* A student must request authorization for curricular practical training using Form I–538. Upon approving the request for authorization, the DSO shall: Certify Form I–538 and send the form to the Service's data processing center; endorse the student's I–20 ID with "full-time (or part-time) curricular practical training authorized for (employer) at (location) from (date) to (date)"; and sign and date the I–20 ID before returning it to the student.

(B) *SEVIS process.* To grant authorization for a student to engage in curricular practical training a DSO at a SEVIS school will update the student's record in SEVIS as being authorized for curricular practical training that is directly related to the student's major area of study. The DSO will indicate whether the training is full-time or part-time, the employer and location, and the employment start and end date. The DSO will then print a copy of the student's SEVIS Form I–20 indicating that curricular practical training has been approved and the DSO must sign, date and return the SEVIS Form I–20 to the student prior to the student's commencement of employment.

(ii) * * *

(A) *General.* An F–1 student may apply to the Service for authorization for temporary employment for practical training directly related to the student's major area of study. Optional practical training must be requested prior to completion of all course requirements for the degree (excluding thesis or equivalent) or prior to completion of the course of study. Temporary employment for optional practical training may be authorized:

(*1*) During the student's annual vacation and at other times when school is not in session, if the student is currently enrolled, and is eligible for registration and intends to register for the next term or session; or

(*2*) While school is in session, provided that practical training does not exceed 20 hours a week while school is in session.

(*3*) [Reserved]

(*4*) [Reserved]

(B) *Termination of practical training.* Authorization to engage in optional practical training employment is automatically terminated when the student transfers to another school or begins study at another educational level.

* * * * *

(D) *Action of the DSO-Non SEVIS schools.* * * *

* * * * *

(E) *SEVIS process.* In making a recommendation for optional practical training under SEVIS, the DSO will update the student's record in SEVIS as having been recommended for optional practical training. The DSO will indicate in SEVIS whether the employment is to be full-time or part-time, and note in SEVIS the start and end date of employment. The DSO will then print the employment page of the student's SEVIS Form I–20, and sign and date the form to indicate that optional practical training has been recommended. The F–1 student must apply to the INS Service Center for an Employment Authorization Document, on Form I–765, with the SEVIS Form I–20 employment page indicating that optional practical training has been recommended by the DSO.

(11) * * *

(ii) A DSO's recommendation for optional practical training on Form I–20 ID, or, for a SEVIS school, on an updated SEVIS Form I–20.

* * * * *

(15) *Spouse and Children of F–1 student.*

(i) *Employment.* The F–2 spouse and children of an F student may not accept employment.

(ii) *Study.* (A) The F–2 spouse of an F–1 student may not engage in full time study, and the F–2 child may only engage in full time study if the study is in an elementary or secondary school (kindergarten through twelfth grade). The F–2 spouse and child may engage in study that is avocational or recreational in nature.

(B) An F–2 spouse or F–2 child desiring to engage in full time study, other than that allowed for a child in paragraph (f)(15)(ii)(A) of this section, must apply for and obtain a change of nonimmigrant classification to F–1, J–1, or M–1 status.

(C) An F–2 spouse or F–2 child violates his or her nonimmigrant status by engaging in full time study except as provided in paragraph (f)(15)(ii)(A) or (B) of this section.

(16) *Reinstatement to student status.*—

(i) *General.* The district director may consider reinstating an F–1 student who makes a request for reinstatement on Form I–539, Application to Extend/Change Nonimmigrant Status, accompanied by a properly completed Form I–20A–B from the school the student is attending or intends to attend (or a properly completed SEVIS Form I–20 from a SEVIS school and indicating the DSO's recommendation for reinstatement). The district director may consider the request if the student:

(A) Has not been out of status for more than 5 months;

(B) Establishes to the satisfaction of the Service, by a detailed showing, either that:

(*1*) The violation of status resulted from circumstances beyond the student's control. Such circumstances might include serious injury or illness, closure of the institution, or a natural disaster. Circumstances beyond the student's control do not occur where inadvertence, oversight, neglect, or a willful failure on the part of the student or the DSO resulted in the need for reinstatement; or

(*2*) the violation relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and that failure to approve reinstatement would result in extreme hardship to the student;

(C) Is currently pursuing, or intending to pursue, a full course of study in the immediate future at the school which issued the Form I–20 A–B;

(D) Has not engaged in unauthorized employment; and

(E) Is not deportable on any ground other than section 237(a)(1)(B) or (C)(i) of the Act.

(ii) *Decision.* If the Service reinstates the student, the Service shall endorse the student's copy of Form I–20 to indicate the student has been reinstated and return the form to the student. If the Form I–20 is from a non-SEVIS school, the school copy will be forwarded to the Service's processing center for data entry. If the Form I–20 is from a SEVIS school, the adjudicating officer will update SEVIS to reflect the Service's decision. In either case, if the Service does not reinstate the student, the student may not appeal that decision.

(17) *Current name and address.* A student must inform the DSO and the Service of any legal changes to his or her name or of any change of address, within 10 days of the change. An F–1 nonimmigrant enrolled at a SEVIS school can satisfy the requirement of notifying the Service by providing a notice of a change of address within 10 days to the DSO, who in turn shall enter the information in SEVIS within 21 days of notification by the student. An F–1 nonimmigrant student enrolled at a non-SEVIS school must submit a notice of change of address to the Service, as provided in 8 CFR 265.1, within 10 days of the change. The address provided by the student must be the actual physical location where the student resides, not a P.O. Box or an office address. In no case may the address of the DSO be used as the address of the student.

* * * * *

5. Section 214.2 is further amended by revising paragraph (j)(1)(ii), and adding new paragraphs (j)(1)(vii), (j)(1)(viii), and (j)(1)(ix) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(j) * * *

(1) * * *

(ii) *Duration of status.* Duration of status for a J–1 exchange alien, and his or her J–2 spouse and children, is defined as the time during which a J–1 exchange alien is actively participating in a program approved by the Department of State, or engaging in authorized academic training following completion of studies. An exchange alien, and J–2 spouse and children, may be admitted for a period up to 30 days before the start of the approved program. An exchange alien who has successfully completed his or her program will be allowed an additional 30-day period to depart the United States, but an exchange alien who fails to maintain a valid program status is not eligible for this additional 30-day period. Duration of status also includes the period designated by the Commissioner as provided in paragraph (j)(1)(vi) of this section.

* * * * *

(vii) *Use of SEVIS.* At a date in the future to be established by the Department of State, the use of the Student and Exchange Visitor Information System (SEVIS) will become mandatory. After that date, which will be announced by publication in the **Federal Register**, the exchange alien must present a SEVIS Form DS–2019 in order to be admitted under this paragraph (j).

(viii) *Disposition of SEVIS Form DS–2019.* SEVIS will generate a SEVIS Form DS–2019. When an J–1 student applies for admission with a completed SEVIS Form DS–2019, the inspecting officer shall transcribe the alien's admission number from Form I–94 onto his or her SEVIS Form DS–2019 (for students seeking initial admission only); endorse the SEVIS Form DS–2019, and return the SEVIS Form DS–2019 to the alien.

(ix) *Current name and address.* A J–1 exchange alien must inform the Service and the responsible officer of the exchange visitor program of any legal changes to his or her name or of any change of address, within 10 days of the change. A J–1 exchange alien enrolled in a SEVIS program can satisfy the requirement of notifying the Service by providing a notice of a change of address within 10 days to the responsible officer, who in turn shall enter the information in SEVIS within 21 days of notification by the student. A J–1 exchange alien enrolled at a non-SEVIS institution must submit a change of address to the Service, as provided in 8 CFR 265.1, within 10 days of the change. The address provided by the exchange alien must be the actual physical location where the exchange alien resides, not a P.O. Box or an office address. In no case may the address of the responsible officer be used as the address of the exchange alien.

* * * * *

6. Section 214.2 is further amended by:

a. Adding new paragraphs (m)(l)(iii) and (m)(l)(iv);

b. Revising the term "sixty days," in paragraph (m)(3) to read "30 days,"

c. Revising paragraph (m)(5);

d. Removing and reserving paragraphs (m)(6), (m)(7), and (m)(8);

e. Adding new paragraphs (m)(9)(v) and (vi);

f. Revising paragraphs (m)(10), (m)(11)(ii), and (m)(14)(ii) introductory text;

g. Adding a new paragraph (m)(14)(vi);

h. Revising paragraphs (m)(16) and (m)(17); and by

i. Adding new paragraph (m)(18).

The additions and revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(m) * * *

(l) * * *

(iii) *Use of SEVIS.* On January 30, 2003, the use of the Student and Exchange Visitor Information System (SEVIS) will become mandatory. As of that date, the student must present a SEVIS Form I–20 in order to be admitted under this paragraph (m).

(iv) *Disposition of SEVIS Form I–20.* SEVIS will generate a Form I–20. When an M-l student applies for admission with a completed SEVIS Form I–20, the inspecting officer shall transcribe the alien's admission number from Form I–94 onto his or her SEVIS Form I–20 (for students seeking initial admission only); endorse the SEVIS Form I–20; and return the SEVIS Form I–20 to the alien.

* * * * *

(5) *Period of stay.* An alien in M–1 nonimmigrant status is admitted for a fixed time period, which is the shorter of a total period of one year or the period necessary to complete the course of study indicated on the Form I–20, plus practical training following completion of the course of study, plus an additional 30 days to depart the United States, not to exceed one year. An M–1 student may be admitted for a period up to 30 days before the start of the course of study. An M–1 student who fails to maintain a full course of study or otherwise fails to maintain status is not eligible for the additional 30-day period of stay.

(6) [Reserved]

(7) [Reserved]

(8) [Reserved]

(9) * * *

(v) *On-Line Courses/Distance Education Programs.* Classes taken by an M–1 student that are on-line or through distance education, and that do not require the student's physical attendance for classes, examination or other purposes integral to completion of the class, are not considered as being part of the student's full course of study. An on-line or distance education course is a course that is offered principally through the sue of television audio, or computer transmission including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, or computer conferencing.

(vi) *Reduced course load.* The designated school official may advise an M–1 student to engage in less than a full course of study only where the student has been compelled by illness or a medical condition that has been documented by a licensed physician to interrupt or reduce his or her course of study. A DSO may not authorize a reduced course load for more than 5 months. An M–1 student must resume a full course of study within 5 months of the authorization by the DSO in order to maintain his or her status.

(10) *Extension of stay.*

(i) *Eligibility.* The cumulative time of extensions that can be granted to an M–1 student is limited to a period of 3 years from the M–1 student's original start date, plus 30 days. No extension can be granted to an M–1 student if the M–1 student is unable to complete the course of study within 3 years of the original program start date. This limit includes extensions that have been granted due to a drop below full course of study, a transfer of schools, or reinstatement. An M–1 student may be granted an extension of stay if it is established that:

(A) He or she is a bona fide nonimmigrant currently maintaining student status;

(B) Compelling educational or medical reasons have resulted in a delay to his or her course of study. Delays caused by academic probation or suspension are not acceptable reasons for program extension; and

(C) He or she is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(ii) *Application.* An M–1 student must apply to the Service for an extension on Form I–539, Application to Extend/Change Nonimmigrant Status. A student's M–2 spouse and children seeking an extension of stay must be included in the application. The student must submit the application to the Service Center having jurisdiction over the school the student is currently authorized to attend, at least 15 days but not more than 60 days before the program end date on the student's Form I–20. The application must also be accompanied by the student's Form I–20 and the Forms I–94 of the student's spouse and children, if applicable.

(iii) *Period of stay.* If an application for extension is granted, the student and the student's spouse and children, if applicable, are to be given an extension of stay for the period of time necessary to complete the course of study, plus 30 days within which to depart from the United States, or for a total period of one year, whichever is less. A student's M–2 spouse and children are not eligible for an extension unless the M–1 student is granted an extension of stay, or for a longer period than is granted to the M–1 student.

(iv) *SEVIS update.* A DSO must update SEVIS to recommend that a student be approved for an extension of stay. The SEVIS Form I–20 must be printed with the recommendation and new program end date for submission by mail to the Service Center, with Form I–539, and Forms I–94 if applicable.

(11) * * *

(ii) *Procedure.* An M–1 student must apply to the Service on Form I–539 for permission to transfer between schools. Upon application for school transfer, an M–1 student may effect the transfer subject to approval of the application. An M–1 student who transfers without complying with this requirement or whose application is denied after transfer pursuant to this regulation is considered to be out of status. If the application is approved, the approval of the transfer will be determined to be the program start date listed on the Form I–20, and the student will be granted an extension of stay for the period of time necessary to complete the new course of study plus thirty days, or for a total period of one year, whichever is less.

(A) *Paper process-Non SEVIS school.* The application must be accompanied by the Form I–20ID copy and the Form I–94 of the student's spouse and children, if applicable. The Form I–539 must also be accompanied by Form I–20M–N properly and completely filled out by the student and by the designated official of the school which the student wishes to attend. The student must submit the application for school transfer to the Service Center having jurisdiction over the school the student is currently authorized to attend. Upon approval, the adjudicating officer will endorse the name of the school to which the transfer is authorized on the student's Form I–20ID copy and return it to the student. The officer will also endorse Form I–20M–N to indicate that a school transfer has been authorized and forward it to the Service's

processing center for updating. The processing center will forward Form I–20M–N to the school to which the transfer has been authorized to notify the school of the action taken.

(B) *SEVIS process.* The student must first notify his or her current school of the intent to transfer and indicate the school to which the student intends to transfer. Upon notification by the student, the current school must update the student as a "transfer out" in SEVIS. The student must then notify the school to which the student intends to transfer of the student's intent to enroll. After the student completes his or her current term or session and has notified the transfer school of his or her intent to enroll, the transfer school may issue SEVIS Form I–20 to the student. Upon receipt of the SEVIS Form I–20 from the transfer school, the M–1 student must submit Form I–539 in accordance with § 214.2(m)(11) to the Service Center with jurisdiction over the school the student was last authorized to attend. Upon submission of the application for transfer, the student may enroll in the transfer school at the next available term or session and is required to notify the transfer school immediately upon beginning attendance. The transfer school must update SEVIS to indicate that the student has enrolled in classes in accordance with § 214.3. Upon approval of the transfer application, the Service officer will endorse the name of the school to which the transfer is authorized on the student's SEVIS Form I–20 and return it to the student.

(C) Once SEVIS is fully operational and interfaced with INS' CLAIMS 3 benefit processing system, the Service officer will transmit the approval of the transfer of SEVIS and endorse the name of the school to which transfer is authorized on the student's SEVIS Form I–20 and return it to the student. As part of the transitional process until that time, the student is required to notify the DSO at the transfer school of the decision of the Service within 15 days of the receipt of the adjudication by the Service. Upon notification by the student of the approval of the Service, the DSO must immediately update SEVIS to show that approval of the transfer has been granted. The DSO must then print an updated SEVIS From I–20 for the student indicating that the transfer has been completed. If the application for transfer is denied, the student is out of status and the DSO must terminate the student's record in SEVIS.

* * * * *

(14) * * *

(ii) *Application.* An M–1 student must apply for permission to accept employment for practical training on Form I–765, with fee, accompanied by a Form I–20 that has been endorsed for practical training by the designated school official. The application must be submitted prior to the program end date listed on the student's Form I–20 but not more than 90 days before the program end date. The designated school official must certify on Form I–538 that—

* * * * *

(vi) *SEVIS process.* The DSO must update the student's record in SEVIS to recommend that the Service approve the student for practical training, and print SEVIS Form I–20 with the recommendation, for the student to submit to the Service with Form I–765 and Form I–538 has provided in this paragraph (m)(11).

* * * * *

(16) *Reinstatement to student status.*

(i) *General.* A district director may consider reinstating an M–1 student who makes a request for reinstatement on Form I–539, Application to Extend Time of Temporary Stay, accompanied by a properly completed Form I–20A–B or SEVIS Form I–20, from the school the students is attending or intends to attend, only if the student:

(A) Has not been out of status for more than 5 months;

(B) Establishes to the satisfaction of the Service, by a detailed showing, either that:

(*1*) The violation of status resulted from circumstances beyond the student's control. Such circumstances might include serious injury or illness, closure of the institution, or a natural disaster. Circumstances beyond the student's control do not occur where inadvertence, oversight, neglect, or a willful failure on the part of the student or the DSO resulted in the need for reinstatement; or

(*2*) The violation relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and that failure to approve reinstatement would result in extreme hardship to the student;

(C) Is currently pursuing or intends to pursue, a full course of study at the school which issued the Form I–20A–B or SEVIS Form I–20;

(D) Has not engaged in unlawful employment; and

(E) Is not deportable on any ground other than section 237(a)(1)(B), (C)(i) of the Act.

(ii) *Decision.* If the district director does not reinstate the student, the student may not appeal the decision. If the district director reinstates the student, he or she shall endorse the student's Form I–20ID copy or SEVIS Form 1–20 to indicate that the student has been reinstated and return the form to the student. The district director will send notification to the school of the decision.

(17) *Study by spouse and children of M–1 student.*

(i) The M–2 spouse of an M–1 student may not engage in full time study, and the M–2 child may only engage in full time study if the study is in an elementary or secondary school (kindergarten through twelfth grade). The spouse and child may engage in study that is avocational or recreational in nature.

(ii) An M–2 spouse or M–2 child desiring to engage in full time study, other than that allowed for a child in paragraph (m)(17)(i) of this section, must apply for and obtain a change of nonimmigrant classification to F–1, J–1, or M–1 status.

(iii) An M–2 spouse or M–2 child violates his or her nonimmigrant status by engaging in full time study except as provided in paragraph (m)(17)(i) and (ii) of this section.

(18) *Current name and address.* A student must inform the Service and the DSO of any legal changes to his or her name or of any change of address, within 10 days of the change. An M–1 nonimmigrant enrolled at a SEVIS school can satisfy the requirement of notifying the Service by providing a notice of a change of address within 10 days to the DSO, and the DSO in turn shall enter the information in SEVIS within 21 days of notification by the student. An M–1 nonimmigrant student enrolled at a non-SEVIS institution must submit a notice of change of address to the Service, as provided in 8 CFR 265.1, within 10 days of the change. The address provided by the student must be the actual physical location where the student resides, not a P.O. Box or an office address. In no case may the address of the DSO be sued as the address of the student.

* * * * *

7. Section 214.3 is amended by:

a. Redesignating paragraph (a)(2) as paragraph (a)(3);

b. Adding a new paragraph (a)(2);

c. Revising newly redesignated paragraph (a)(3)(i)(F);

d. Adding in newly redesignated paragraph (a)(3), a new paragraph (a)(3)(v);

e. Adding a new paragraph (e)(3);

f. Revising paragraphs (g)(1)(iv) and (g)(1)(v);

g. Adding a new paragraph (g)(3);

h. Revising paragraph (*l*)(1);

i. Adding three sentences to the end of paragraph (*l*)(2);

j. Revising the heading in paragraph (*l*)(3), and by revising the first sentence in paragraph (*l*)(3); and by

k. Adding a new paragraph (*l*)(4).

The additions and revisions read as follows:

§ 214.3 Petitions for approval of schools

(a) * * *

(2) *SEVIS filing.* A school or school system filing a petition using SEVIS must submit all of the information required by paragraph (a)(1) of this section, To apply for certification in SEVIS, a school or school system must first contact the SEVIS system administrator via the SEVIS website to receive a temporary user identifications and password. This temporary identification and password will be valid for 30 days from issuance. After receiving the temporary identification and password the school must complete Form I–17 online in the SEVIS application. The form I–17 must then be printed and submitted by mail to the appropriate district office with supporting documentation in accordance with the regulations of this section.

(3) * * *

(i) * * *

(F) A private elementary school.

* * * * *

(v) The following may not be approved for attendance by foreign students:

(A) A home school,

(B) A public elementary school, or

(C) An adult education program, as defined by section 203(l) of the Adult Education and Family Literacy Act, Public Law 105–220, as amended, 20 U.S.C. 9202(l), if the adult education program is funded in whole or in part by a grant under the Adult Education and Family Literacy Act, or by any other Federal, State, county or municipal funding.

* * * * *

(e) * * *

(3) *SEVIS reporting.* Upon approval of a petition, the district director shall update SEVIS to reflect approval of the petition. An email notification will be sent to the principal DSO by SEVIS. An approved school that has been enrolled in SEVIS must immediately update SEVIS to reflect any material changes to its name, address or curriculum for a determination of continued eligibility for approval.

* * * * *

(g) * * *

(1) * * *

(iv) Current address where the student and any dependents physically reside (not a P.O. Box or an office address).

(v) The student's current academic status.

* * * * *

(3) *SEVIS reporting requirements.*

(i) Within 21 days of a change in any of the information contained in paragraph (e)(3) of this section, schools using the SEVIS system must update SEVIS with the current information.

(ii) Schools are also required to report within 21 days of the occurrence the following events:

(A) Any student who has failed to maintain status or complete his or her program;

(B) A change of the student or dependent's legal name or U.S. address;

(C) Any student who has graduated early or prior to the program end date listed on SEVIS Form I–20;

(D) Any disciplinary action taken by the school against the student as a result of the student being convicted of a crime; and

(E) Any other notification request made by SEVIS to the DSO with regard to the current status of the student.

(iii) Each term or session and no later than 30 days after the deadline for registering for classes, schools are required to report the following registration information:

(A) Whether the student has enrolled at the school, dropped below a full course of study without prior authorization by the DSO, or failed to enroll;

(B) The current address of each enrolled student; and

(C) The start date of the student's next session, term, semester, trimester, or quarter.

* * * * *

(l) * * *

(1) Meaning of term *Designated Official.* As used in §§ 214.1(b), 214.2(b), 214.2(f), 214.2(m), and 214.4, a *Designated Official, Designated School Official, Principal Designated School Official,* or *Administrative School Official* means a regularly employed member of the school administration whose office is located at the school and who is a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official.

(i) *Principal Designated School Official (PDSO) and Designated School Official (DSO).* A PDSO and DSO must be a United States citizen or Lawful Permanent Resident of the United States. The PDSO and any other DSO must be named by the president, owner, or head of a school or school system. The PDSO and DSO may not delegate this designation to any other person. Each school must have a designated PDSO. The Service will use the PDSO as the point of contact on any issues that relate to the school's compliance with the regulations as well as any system alerts generated by SEVIS. In all other respects the PDSO and DSO will share the same responsibilities. Each school may have up to five designated officials at any one time, including the PDSO. In a multi-campus school, each campus may have up to five designated officials at any one time including the PDSO. In a private elementary or public or private secondary school system, however, the entire school system is limited to five designated officials at any one time including the PDSO.

(ii) *Administrative School Official* (ASO). The president, owner, or head of a school or school system must name any ASO. The ASO may not delegate this designation to any other person. Each school may have up to five ASOs at any one time. The function of the ASO is limited to clerical or administrative tasks. An ASO may not sign any Form I–20, update any event in SEVIS, or perform any other duty that requires authorization of the PDSO or DSO in the regulations. A DSO or PDSO must review and approve any data entered by an ASO.

(2) * * * An approved school must update SEVIS upon any changes to the persons who are principal or designated officials, and furnish the name and title of the new official within 21 days of the change. Any changes to the PDSO, DSO or ASO must be made by the PDSO. In its discretion the Service may reject the submission of any individual as a DSO or withdraw a previous submission by a school of an individual.

(3) *Statement of principal and designated officials.* A petition for school approval must include a statement by the principal and each designated official certifying that the official is familiar with the Service regulations relating to nonimmigrant students. * * *

(4) *SEVIS update.* At the time the new official is updated in SEVIS in accordance with paragraph (*l*)(2) of this section, the official must also certify that he or she has read Service regulations and intends to comply with the regulations.

Dated: May 9, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–12022 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–55–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS332C, L, L1, and L2; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2, and N; AS–365N2; AS 365 N3; SA330F, G, and J; SA–360C; SA–365C, C1, and C2; SA.316B and C; and SA.319B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (ECF) Model AS332C, L, L1, and L2; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2, and N; AS–365N2; AS 365 N3; SA330F, G, and J; SA–360C; SA–365C, C1, and C2; SA.316B and C; and SA.319B helicopters. This proposal would require a one-time measurement of the electrical resistance between the ferry fuel tank (tank) electrostatic ground connector and the tank filler neck before the next refueling of an installed tank or before the first fueling after installing a tank. If the electrical resistance has a value more than 1.5 milliohms, this proposal would prohibit refueling the tank. This proposal is prompted by reports of an inadequate electrical bond between the electrostatic ground connector and its support on several tank installations. The actions specified by the proposed AD are intended to prevent refueling a tank that is not adequately electrically bonded, which could generate an electric arc between the refueling nozzle and the tank, causing an explosion.

DATES: Comments must be received on or before July 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–55–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000–SW–55–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–55–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model AS332C, L, L1, and L2; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2, and N; AS–365N2; AS 365 N3; SA330F, G, and J; SA–360C; SA–365C, C1, and C2; SA.316B and C; and SA.319B helicopters. The DGAC advises of the absence on several tanks of an electric bond between the electrostatic ground connector and its support. During refueling of a tank, the inadequate electrical bonding could generate an electric arc between the refueling nozzle of the tanker and the tank and could cause the tank to explode.

ECF has issued Telex No. 000112 dated June 6, 2000, which specifies a one-time measurement of the electrical resistance between the tank electrostatic ground connector and the tank filler neck to determine if the value is more than 1.5 milliohms. If the value of the electrical resistance of the electrical bonding is more than 1.5 milliohms, the service telex specifies a secondary procedure for measuring the electrical resistance. If the value of the electrical resistance is more than 1.5 milliohms after the secondary measurement, the tank is unusable and the telex specifies a repair. The DGAC classified this telex as mandatory and issued AD 2000–302(A), dated July 12, 2000, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

The FAA has identified an unsafe condition that is likely to exist or develop on other ECF Model AS332C, L, L1, and L2; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2, and N; AS–365N2; AS 365 N3; SA330F, G, and J; SA–360C; SA–365C, C1, and C2 helicopters with a metal tank, part number (P/N) 330A 871310.00, .01, .02, .03, or .04 installed; and Model SA.316B, C; and SA.319B helicopters with a metal tank, P/N 3160S 7375020 or 3160S 7375020–1, installed, of these same type designs registered in the United States. The proposed AD would require, before the next refueling of an installed tank or before the first fueling after installing a tank, a one-time measurement of the electrical resistance between the tank electrostatic ground connector and the tank filler neck to determine if the electrical resistance has a value more than 1.5 milliohms. If the value of the electrical resistance is more than 1.5 milliohms, this proposal would prohibit refueling the tank.

We estimate that a total of 736 U.S. helicopters of U.S. registry would be affected by this proposed AD. Measuring the electrical resistance between the tank electrostatic ground connector and the tank filler neck would take approximately ½ work hour per helicopter to accomplish, and the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $22,080 for the first refueling of all installed tanks.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 2000–SW–55–AD.

Applicability: AS332C, L, L1, and L2; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2, and N; AS–365N2; AS 365 N3; SA330F, G, and J; SA–360C; SA–365C, C1, and C2 helicopters with a metal ferry fuel tank (tank), part number (P/N) 330A 871310.00, .01, .02, .03, or .04, installed; and Model SA.316B and C; and SA.319B helicopters with a metal tank, P/N 3160S 7375020, or 3160S 7375020–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required before the next refueling of an installed tank or before the first fueling after installing a tank, unless accomplished previously.

To prevent refueling a tank that is not adequately electrically bonded, which could generate an electric arc between the refueling nozzle and the tank, causing a fuel tank explosion, accomplish the following:

(a) Measure the electrical resistance between the tank electrostatic ground connector (item C) and the tank filler neck (item G) as shown in Figure 1 of this AD. If the value of the electrical resistance is more than 1.5 milliohms, refueling the tank is prohibited. See Figure 1 as follows:

BILLING CODE 4910–13–P

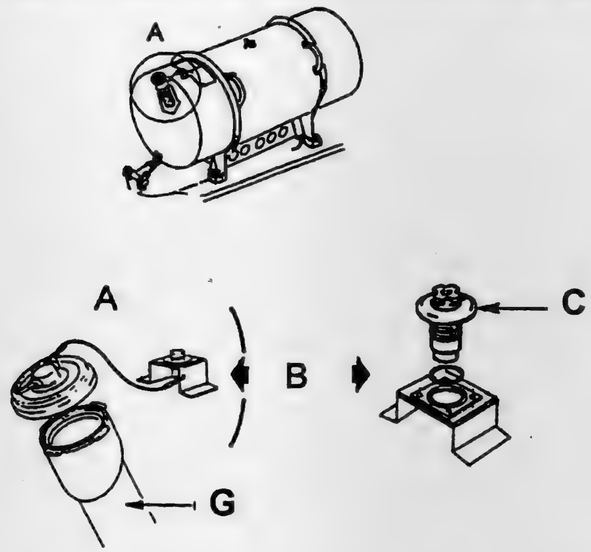

FIGURE 1 FERRY FUEL TANK

Note 2: Eurocopter Telex No. 000112 dated June 6, 2000, pertains to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits will not be issued.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2000–302(A), dated July 12, 2000.

Issued in Fort Worth, Texas, on May 8, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–12052 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[REG–106457–00]

RIN 1545–AX97

Diesel Fuel; Blended Taxable Fuel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax on diesel fuel and the tax on blended taxable fuel. These regulations affect persons that remove, enter, or sell diesel fuel or remove or sell blended taxable fuel.

DATES: Written and electronic comments and requests for a public hearing must be received by August 14, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–106457–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–106457–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *www.irs.gov/regs*.

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Sonya Cruse, (202) 622–7180; concerning the regulations, Frank Boland, (202) 622–3130 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Definition of Diesel Fuel

Section 4081(a) of the Internal Revenue Code (Code) imposes a tax on certain removals, entries, and sales of taxable fuel. Taxable fuel means gasoline, diesel fuel, and kerosene. Section 4083 defines diesel fuel as any liquid (other than gasoline) that is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train. Existing regulations follow the Code provisions by providing that (with certain exceptions) diesel fuel is any liquid that, without further processing or blending, is suitable for such use. However, the existing regulations do not define the term *suitable for use*. The proposed regulations add to existing regulations by providing that a liquid is suitable for use as diesel fuel if the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train.

Liability for Tax on Sale or Removal of Blended Taxable Fuel

Blended taxable fuel is taxable fuel that is created by mixing a liquid that has not been taxed under section 4081 with previously taxed taxable fuel. Typically, this mixing occurs outside of the bulk transfer/terminal system. Under section 4081(b), tax is imposed on the removal or sale of the mixture (blended taxable fuel) by the blender thereof. Existing regulations provide that the blender is liable for this tax. Generally, the blender is the person that owns the mixture immediately after it is created. If the mixture is not taxable fuel because it is not suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train, tax is imposed only if the mixture is delivered into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train. See section 4041(a).

The IRS has found that abusive situations exist with regard to the blending of diesel fuel. For example, untaxed liquids are sold as taxed diesel fuel to a retailer and delivered into the retailer's bulk storage tank that contains taxed diesel fuel. Under existing regulations, the retailer would be a blender and liable for tax on its removal or sale of the resulting mixture.

When the Congress enacted the present fuel tax regime, it noted that the Treasury Department is permitted "to prescribe rules and administrative procedures for determining liability for payment of tax." H.R. Conf. Rep. No. 101–964, at 1052 (1990). Thus, the Treasury Department may impose liability on persons other than the blender if that is necessary to prevent abuses and assure that the tax is, in fact, paid to the government.

Under these proposed regulations, a person would be jointly and severally liable for the section 4081(b) tax if the person sells a previously untaxed liquid as a taxed taxable fuel and that liquid becomes a part of a mixture that is blended taxable fuel.

Definition of Refinery

The proposed regulations clarify that the term *refinery* generally includes any facility that produces taxable fuel.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Frank Boland, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 48 is proposed to be amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 48.4081–1 is amended as follows:

1. Paragraph (b) is amended by removing the language "from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons" in the first sentence of the definition of *Refinery*.

2. Paragraph (c)(2)(i) is amended by adding a sentence to the end.

The addition reads as follows:

§ 48.4081–1 Taxable fuel; definitions.

* * * * *

(c) * * *

(2) * * * (i) * * * A liquid is suitable for this use if the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train.

* * * * * *

Par. 3. Section 48.4081–3 is amended by revising paragraphs (g)(2) and (g)(3) to read as follows:

§ 48.4081–3 Taxable fuel; taxable events other than removal at the terminal rack.

* * * * * *

(g) * * *

(2) *Liability for tax*—(i) *Liability of the blender.* The blender is liable for the tax imposed under paragraph (g)(1) of this section.

(ii) *Liability of seller of untaxed liquid.* On and after the date of publication of these regulations as final regulations in the **Federal Register**, a person that sells any liquid that is used to produce blended taxable fuel is jointly and severally liable for the tax imposed under paragraph (g)(1) of this section on the removal or sale of that blended taxable fuel if the liquid—

(A) Is described in § 48.4081–1(c)(1)(i)(B) (relating to liquids on which tax has not been imposed under section 4081); and

(B) Is sold by that person as gasoline, diesel fuel, or kerosene that has been taxed under section 4081.

(3) *Examples.* The following examples illustrate the provisions of this paragraph (g) and the definitions of *blended taxable fuel* and *diesel fuel* in § 48.4081–1(c):

Example 1. (i) *Facts.* W is a wholesale distributor of petroleum products and R is a retailer of petroleum products. W sold to R 1,000 gallons of an untaxed liquid (a liquid described in § 48.4081–1(c)(1)(i)(B)) and delivered the liquid into a storage tank (tank) at R's retail facility. However, W's invoice to R stated that the liquid is undyed diesel fuel. At the time of the delivery, the tank contained 4,000 gallons of undyed diesel fuel, a taxable fuel that has been taxed under section 4081. The resulting 5,000 gallon mixture is suitable for use as a fuel in a diesel-powered highway vehicle because it has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. The mixture does not satisfy the dyeing requirements of § 48.4082–1. R sold the mixture from the tank to a construction company for off-highway business use.

(ii) *Analysis*—(A) *Production of blended taxable fuel.* R is a blender within the meaning of § 48.4081–1 because R has produced blended taxable fuel, as defined in

§ 48.4081–1, by mixing 4,000 gallons of diesel fuel that has been taxed under section 4081 with 1,000 gallons of a liquid that has not been taxed under section 4081. The mixing occurred outside of the bulk transfer/terminal system and the resulting product is diesel fuel because it is suitable for use as a fuel in a diesel-powered highway vehicle.

(B) *Imposition of tax.* Under paragraph (g)(1) of this section, tax is imposed on R's sale of the 5,000 gallons of blended taxable fuel to the construction company. Even though the blended taxable fuel is sold for off-highway business use, which is a nontaxable use as defined in section 4082(b), the sale is not exempt from tax because the blended taxable fuel does not satisfy the dyeing requirements of § 48.4082–1. Tax is computed on 1,000 gallons, which is the difference between the number of gallons of blended taxable fuel sold by R (5,000) and the number of gallons of previously taxed taxable fuel used to produce the blended taxable fuel (4,000).

(C) *Liability for tax.* R, as the blender, is liable for this tax under paragraph (g)(2)(i) of this section. W is jointly and severally liable for this tax under paragraph (g)(2)(ii) of this section because the blended taxable fuel was produced using an untaxed liquid that W sold as undyed diesel fuel (that is, as diesel fuel that was taxed under section 4081).

Example 2. (i) *Facts.* W, a wholesale distributor of petroleum products, bought 7,000 gallons of diesel fuel at a terminal rack. The diesel fuel was delivered into a tank trailer. Tax was imposed on the diesel fuel under § 48.4081–2 when the diesel fuel was removed at the rack. W then went to another location where X, the operator of a chemical plant, sold W 1,000 gallons of an untaxed liquid (a liquid described in § 48.4081–1(c)(1)(i)(B)). However, X's invoice to W stated that the liquid is undyed diesel fuel. This liquid was delivered into the tank trailer already containing the 7,000 gallons of diesel fuel. The resulting 8,000 gallon mixture is suitable for use as a fuel in a diesel-powered highway vehicle because it has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. The mixture does not satisfy the dyeing requirements of § 48.4082–1. W sold the mixture to R, a retailer of petroleum products, and delivered the mixture into a storage tank at R's retail facility. R sold the mixture to its customers.

(ii) *Analysis*—(A) *Production of blended taxable fuel.* W is a blender within the meaning of § 48.4081–1 because W produced blended taxable fuel, as defined in § 48.4081–1, by mixing 7,000 gallons of diesel fuel that was taxed under section 4081 with 1,000 gallons of a liquid that was not taxed under section 4081. The mixing occurred outside of the bulk transfer/terminal system and the resulting product is diesel fuel because it is suitable for use as a fuel in a diesel-powered highway vehicle. Thus, R bought blended taxable fuel.

(B) *Imposition of tax.* Under paragraph (g)(1) of this section, tax is imposed on W's sale of the 8,000 gallons of blended taxable fuel to R. Tax is computed on 1,000 gallons, which is the difference between the number of gallons of blended taxable fuel sold by W (8,000) and the number of gallons of previously taxed taxable fuel used to produce the blended taxable fuel (7,000). No tax is imposed on R's subsequent sale of the blended taxable fuel because tax is imposed only with respect to a removal or sale by the blender.

(C) *Liability for tax.* W, as the blender, is liable for this tax under paragraph (g)(2)(i) of this section. X is jointly and severally liable for this tax under paragraph (g)(2)(ii) of this section because the blended taxable fuel sold by W was produced using a previously untaxed liquid X sold to W as undyed diesel fuel, a taxed taxable fuel. R has no liability for tax because R is not a blender and did not sell any untaxed liquid as a taxed taxable fuel. R only sells previously taxed taxable fuel, the blended taxable fuel bought from W.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–12308 Filed 5–15–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AI95

Eligibility for Burial of Adult Children; Eligibility for Burial of Minor Children; Eligibility for Burial of Certain Filipino Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: We propose to amend our regulations to provide a list of those individuals who are eligible for burial in a national cemetery. Under the Department of Veterans Affairs (VA) statutory authority to determine which unmarried adult children of eligible persons may be buried in national cemeteries with available space, we propose to limit such burials to the remains of those adult children of any age who became permanently incapable of self-support because of a physical or mental disability incurred before their reaching the age of 21 years. We also propose to specify that the burial of minor children of eligible persons is limited to those under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution. Additionally, this proposed amendment recognizes the eligibility for burial of certain Philippine Commonwealth Army veterans in national cemeteries.

DATES: Comments must be received on or before July 15, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov*. Comments should indicate that they are submitted in response to "RIN 2900–AI95." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Karen Barber, Program Analyst, Communications and Regulatory Division (402B1), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; Telephone: (202) 273–5183 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The provisions of 38 U.S.C. 2402 set forth eligibility requirements for burying the remains of persons in any national cemetery with available space under the jurisdiction of the National Cemetery Administration. We propose to amend 38 CFR 1.620 to state in the regulation a list of those individuals who are eligible for burial in a national cemetery pursuant to VA's statutory authority.

VA has discretion under 38 U.S.C. 2402(5) to determine which unmarried adult children of persons listed in paragraphs (1) through (4) and (7) are eligible to be buried in such cemeteries. The provisions of 38 CFR 1.620(c) currently specify only that an unmarried adult child of an eligible person must have been physically or mentally disabled and incapable of self-support to be eligible for burial. We propose to amend § 1.620 to specify that, to be eligible, an unmarried adult child of any age must have become permanently incapable of self-support because of a physical or mental disability that the child incurred before reaching the age of 21 years. We believe that eligibility for burial of unmarried adult children under 38 U.S.C. 2402(5) should be limited to persons likely to have been continuously dependent on the person upon whom their eligibility is based.

We also propose to amend § 1.620 to clarify that, to be eligible, a minor child of an eligible person must be under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution.

Additionally, we propose to amend § 1.620 by adding a new paragraph to recognize the eligibility for burial of certain Philippine Commonwealth Army veterans in national cemeteries. To be eligible, a person must have served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States. At time of death, the veteran must have been a citizen of the United States or an alien lawfully admitted for permanent residence in the United States and have resided in the United States.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Only individual VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number for this document is 64.201.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Claims, Privacy, Security measures, Veterans.

Approved: March 12, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes amending 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 1.620 is revised to read as follows:

§ 1.620 Eligibility for burial.

The following is a list of those individuals who are eligible for burial in a national cemetery:

(a) Any veteran (which for purposes of this section includes a person who died in the active military, naval, or air service).

(b) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(c) Any Member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(1) Attending an authorized training camp or on an authorized practice cruise;

(2) Performing authorized travel to or from that camp or cruise; or

(3) Hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) Attending that camp or on that cruise;

(ii) Performing that travel; or

(iii) Undergoing that hospitalization or treatment at the expense of the United States.

(d) Any person who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, whose last such service terminated honorably, and who was a citizen of the United States at the time of entry on such service and at the time of his or her death.

(e) The spouse, surviving spouse (which for purposes of this section includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce), minor child (which for purposes of this section is limited to a child under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution), and unmarried adult child (which for purposes of this section is limited to a child who became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age) of a person eligible under paragraph (a), (b), (c), (d), or (g) of this section.

(f) Such other persons or classes of persons as may be designated by the Secretary.

(g) Any person who at the time of death was entitled to retired pay under chapter 1223 of title 10, United States Code, or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(h) Any person with service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, if such person at the time of death—

(1) Was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and

(2) Resided in the United States.

(Authority: 38 U.S.C. 501, 2402)

[FR Doc. 02–12210 Filed 5–15–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[IN004b; FRL–7212–5]

Clean Air Act Final Approval of Operating Permit Program Revisions; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve a revision to the Indiana title V operating permit program. EPA granted full approval to Indiana's operating permit program effective November 30, 2001. At that time, EPA also issued a notice of program deficiency pursuant to 40 CFR 70.10 in which EPA identified problems with Indiana's program and a timeframe within which Indiana had to correct the problems. Pursuant to 40 CFR 70.4(i)(2), Indiana submitted revisions to its operating permit program on February 7, 2002.

In a separate action in the "Rules and Regulations" section of this **Federal Register**, EPA is approving the Indiana title V operating permit program revisions as a direct final rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. The EPA has explained reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comments, EPA will take no further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by June 17, 2002.

ADDRESSES: Written comments should be addressed to Ms. Pamela Blakley, Chief, Permits and Grants Section (IL/IN/OH), Attention: Mr. Sam Portanova, at the EPA Region 5 office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following location: Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, telephone (312) 886–3189.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Rule which is published in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 3, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 02–12282 Filed 5–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7212–2]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Compass Industries Landfill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Compass Industries Landfill Superfund Site (Site), located in the Chandler Park area west of Tulsa, Tulsa County, Oklahoma, from the National Priorities List (NPL) and requests public comment on this action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA, with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: Comments concerning this intent to delete may be submitted on or before June 17, 2002.

ADDRESSES: Comments may be mailed to: Beverly Negri, Community Involvement Coordinator, U.S. EPA Region 6 (6SF–LP), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–8157 or 1–800–533–3508 (*negri.beverly@epa.gov*).

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas 75202–2733, (214) 665–6427, Monday through Friday 7:30 a.m. to 4:30 p.m.; Tulsa City-County Library, 400 Civic Center, Tulsa, Oklahoma 74103, (918) 596–7977, Monday through Friday 9 a.m. to 9 p.m.; Friday and Saturday 9 a.m. to 5 p.m.; Sunday, September through mid-May 1 p.m. to 5 p.m.; Oklahoma Department of Environmental Quality, Contact: Eileen Hroch, 5th floor file room, 707 N. Robinson, P.O. Box 1677, Oklahoma City, Oklahoma, 73101, (405) 702–5100, Monday through Friday 8:30 a.m. to 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Katrina Coltrain, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF–LP), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–8143 or 1–800–533–3508 (*coltrain.katrina@epa.gov*).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

The EPA Region 6 office announces its intent to delete the Compass Industries Landfill Superfund Site from the NPL and requests public comments.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

The EPA will accept comments on the intent to delete this Site for thirty (30) days after publication of this documents in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Compass Industries Landfill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or,

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with ODEQ on the deletion of the Site from the NPL prior to developing this notice of intent to delete.

(2) ODEQ concurred with deletion of the Site from the NPL in a letter dated October 9, 2001.

(3) All appropriate responses under CERCLA have been implemented as documented in the Site Close-out Report dated June 25, 1992.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) A notice has been published in the local newspaper and has been distributed to appropriate Federal, State, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations, nor does it in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist Agency management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Compass Industries Landfill Site is an abandoned landfill located in a former limestone quarry west of Tulsa, Oklahoma. The Site is situated directly west of the Chandler Park softball facility, which is owned by Tulsa County. Physically, the Site is situated on a bluff approximately one-quarter mile south and 200 feet above the Arkansas River. The Site's topography slopes downward to the west and north. The majority of runoff flows through water gaps in the east-west ridge above Avery Drive. Runoff from precipitation, springs and seeps flows into the Arkansas River through a simple network of small streams.

Site History

The Site operated as a municipal landfill between 1972 and 1976, as a facility permitted by the Oklahoma State Department of Health (OSDH), now called ODEQ. The Site's permit conditions did not allow the disposal of industrial waste at the Site; however, disposal of industrial waste was done counter to regulations and permit conditions. During the Site's operation as a limestone quarry, the operators of Compass Industries Landfill kept few records concerning the wastes which were disposed of in the landfill. The Site data indicated that disposal of waste was done in an irregular manner, making it difficult to ascertain where the wastes of concern were located.

During the 1970's several fires were reported at the landfill. The most recent fire burned out in late 1984. It had burned underground for several years, breaking through the top soil cover on occasion. In early 1983, citizen complaints of odors prompted air monitoring in the vicinity of the landfill by the EPA and the OSDH. The results obtained from this monitoring revealed the presence of some organics, but at levels that were considered non-hazardous.

In September 1983, the Compass Site was proposed for the NPL and was listed in September 1984.

Remedial Investigation and Feasibility Study (RI/FS)

During the RI of the Compass Industries Landfill Site, samples were collected from soil, water, and air to determine if significant pollutant concentrations were present. Routes of offsite migration include surface runoff, ground water (by way of recharge to seeps and surface runoff), transported sediments, and air.

Analytical results of the samples collected from the Site identified 12 inorganic and 33 organic priority pollutants. The most common priority pollutants were base-neutral compounds. The concentrations were greatest in samples of waste collected from surface and test trench soils.

Ground water samples were collected from 19 monitoring wells during the RI. These included 18 samples collected from 14 shallow wells completed in the perched water table aquifer, and 8 samples collected from 5 deep wells completed in the Layton Sandstone. Surface water runoff and sediment samples from drainage ways were collected around the perimeter of the landfill to determine if contaminated runoff and sediments were leaving the Site.

Ten seep samples were collected to determine if contaminants were being leached out of the landfill wastes and transported. Seepage occurs along the perimeter of the landfill near the contact between the Hogshooter Formation and Coffeyville Formation.

Air samples were collected by the EPA technical assistance team during trench excavation and waste sampling. These samples were collected immediately upwind, downwind, and within the test pit. In addition, air monitoring using an organic vapor

analyzer (OVA) was performed at each trench during excavation.

Results

• Migration of contaminants in the ground water was being mitigated by attenuating mechanisms since much greater concentrations were measured in soil/sediment samples.

• Offsite migration of contaminants was limited to surface runoff and seeps. However, concentrations were greatly diminished at discharge points in comparison to onsite waste concentrations. Soil samples collected in the drainage ways were contaminated with inorganic priority pollutants. These contaminants did not pose a significant hazard, as they were expected to stay adsorbed on the soil.

• The shallow perched aquifer (Hogshooter Formation) containing water that had percolated through the waste was contaminated. The deeper aquifer (Layton Sandstone) was also contaminated, but to a lesser extent. This was due to its relative isolation from the shallow aquifer by a low permeability shale.

• Wastes sampled on the ground surface showed significant concentrations of both inorganic and organic priority pollutants. The surface waste samples were similar in composition to wastes sampled from trenches.

• The large spatial variation in compound concentration and types of compounds detected suggested that the location of disposal and the type of wastes disposed may have varied widely across the Site.

• Random soil samples from the Site showed significantly higher concentrations of priority pollutants than the background soil samples. However, this was not the case for all surficial soil samples, i.e., not all soils samples were polluted in the landfill.

Characterization of Risk

John Mathes and Associates completed an Endangerment Assessment study for the Site in August 1988, for OSDH. The Endangerment Assessment was the precursor of the current Risk Assessment, and prior to 1989 was prepared using the Endangerment Assessment Handbook (1985). Thus, the methodology of the Compass Endangerment Assessment is different from the current Risk Assessment which is based on Risk Assessment Guidance for Superfund (1989).

The Endangerment Assessment study picked 15 chemicals as indicator chemicals from among the numerous chemicals detected at the Site. Selection of the final list of indicator chemicals was determined by the magnitude of the indicator scores and an evaluation of the chemicals' environmental fate and transport characteristics.

The results of the Endangerment Assessment for the 15 indicator chemicals were as follows: (1) Ingestion of ground water was not considered a potential exposure pathway, because it was considered incomplete since nearby residents use city water; (2) ingestion or dermal absorption of surface water was determined not to pose a health hazard; and, (3) Site soil represented the only contaminated environmental medium for which the exposure pathways were complete.

Record of Decision Findings

On September 29, 1987, EPA signed a Record of Decision (ROD) for the Site. The remedy was chosen in accordance with CERCLA and the NCP. The decision was based on the administrative record for this Site, and the State of Oklahoma concurred on the selected remedy. The selected alternative was protective of public health and the environment and cost-effective, attained applicable or relevant and appropriate Federal and State standards, and utilized permanent solutions and treatment technologies to the maximum extent practicable.

The Site was addressed as one operable unit. The principal concerns addressed at the Site were from surface soils contaminated with inorganic and organic priority pollutants. The major components of the selected remedy included:

• Resource Conservation and Recovery Act (RCRA) cap involving Site grading, cap placement, diversion of surface water, and air emissions monitoring.

• Ground water will be treated at a later date if found to be necessary.

• Installation of security fences and signs to restrict access to the Site.

• Monitoring of the Site for 30 years to ensure no significant offsite migration.

• Additional Remedial Action if significant migration of contaminants occurs.

Response Actions

In late March 1988, EPA issued a Unilateral Administrative Order (UAO) to seven potentially responsible parties (PRPs) to assume responsibility for Remedial Action (RA) at the Site.

The essential elements of the RA included subcontract award and mobilization, clearing and grubbing, grading, construction of the clay cap, placement of the liner, permanent vegetative cover, final inspection, and demobilization. Other work needed to meet the results called for in the ROD, but not explicitly stated, were included in the Statement of Work (SOW) as follows: (1) Installation of a gas vent system to relieve any gas buildup under the cap; (2) construction of a surface drainage system consisting of a swale, which collects sheet flow from the cap and carries water to a point beyond the hazardous waste area to drain into natural runoff channels at the western end of the Site. Runoff was to be slowed by natural ponding areas west of the Site and released through natural existing channels, ultimately flowing into the Arkansas River; and, (3) construction of a berm to close openings in the bluffs along the northern end of the Site to prevent runoff from the cap from following existing drainage washouts, which threaten the road and rail right-of-way below the Site.

The United States Army Corps of Engineers (USACE) provided oversight for EPA through an Interagency Agreement. The USACE maintained full-time oversight of the construction activities and assured quality by independent testing and ensured compliance with specifications and design drawings.

Cleanup Standards

During the Remedial Construction, samples were taken and analyzed to ascertain that construction requirements established by the ROD and set forth in the Remedial Design (RD) were met. The results of the construction quality, ambient air monitoring, and personnel safety are found in the Quality Assurance Final Report. The report notes that the requirements of the ROD as defined in the RD were always equaled or exceeded. Some of the important results are summarized below:

• Specifications required that the clay be compacted to a minimum of 98% of maximum dry density and 1% above optimum moisture. Passing tests showed compaction to average 100.9% density and 2.6% above optimum moisture. All fill represented by failing tests were reworked to meet the specification requirements.

• The high density polyethylene (HDPE) used for the multiplayer cap was sampled for peel strength and seam strength. The average peel strength (extrusion) was 68.8 pounds per inch (ppi) against a design criteria of 38 ppi. The average seam strength (extrusion) was 84.1 ppi against a design requirement of 64 ppi.

• The average tensile strength at break for the HDPE liner was 4740 pounds per square inch (psi) against the design criteria of 4000 psi.

• A perimeter air monitoring system installed between the Site and Chandler Park baseball park noted no noxious vapors leaving the Site during the construction.

Operation and Maintenance

A post-closure Operation and Maintenance (O&M) plan was developed to ensure integrity, provide a performance demonstration, and verify long-term success of the remedial action. The O&M plan specified the actions to be carried out during the post-closure period.

Environmental Monitoring: The scope of this program will include sampling and analysis of ground water, surface water, and sediment for parameters which could potentially pose a threat to human health and environment.

Seeps located on the bluffs on the northeast will be sampled to check for the presence of chemical contaminants from the perched aquifers. Post closure sampling of the seeps will be conducted to show that the RCRA cap has achieved the ROD requirements. There will be a minimum of five seep locations sampled, five surface water/sediment samples, and two background seep samples. The analytical results will be evaluated and compared to risk based requirements and background sampling data. Compliance will be based on analytical results not exceeding the monitoring concentrations listed in the O&M plan and based on risk of less than 10^{-6} (1 in 1,000,000).

Monitoring will be conducted every year on a quarterly basis. The analytical data will be evaluated semiannually and an annual report provided to EPA and OSDH. After five years of quarterly monitoring the program will be reviewed and modified if necessary, based on the results of the annual reports. The monitoring program is planned for a period of 30 years with 5-year periodic reviews. If any five-year review indicates that the Site poses a threat to human health or the environment, then an onsite water treatment facility will be installed. The program can be discontinued after any five-year review, provided EPA and the parties conducting the program agree, in writing, that the data from the ground water indicate that the Site does not pose a human health or environmental threat.

Performance Monitoring: This monitoring will verify that the main engineered elements are performing as designed. The main objective of the performance monitoring system is the early detection of trends that could indicate weaknesses developing in the containment system, so that corrective action can be taken before the integrity of the structure is compromised. The monitoring will consist of visual inspection during walkovers, topographic surveys based on predetermined grid lines and aerial surveys. Repairs will be performed as required.

Five-Year Review

Consistent with section 121(c) of CERCLA and requirements of the OSWER Directive 9355.7–03B–P ("Comprehensive Five-Year Review Guidance," June 2001), a five-year review is required at the Compass Site. The Directive requires EPA to conduct statutory five-year reviews at sites where, upon attainment of ROD cleanup levels, hazardous substances remaining within restricted areas onsite will not allow unlimited use of the entire site.

Since hazardous substances remain onsite, this Site is subject to five-year reviews to ensure the continued protectiveness of the remedy. Based on the five-year results, EPA will determine whether public health and the environment continues to be adequately protected by the implemented remedy.

First Five-Year Review—2000

The first five-year review was scheduled for completion in 1996; however, it was not completed until September 26, 2000. The review was held up due to the lack of a clear definition of the capped area. In the spring of 1997, the cap was surveyed and defined by the legal metes and bound definition. The five-year review denoted no deficiencies; however, potential deficiencies were identified and included (1) continued mowing of the native grasses could result in a buildup of thatch; therefore, if mowing continued the Site should be raked approximately every four years; (2) as the area returns to native vegetation, woody plants with strong root systems could damage the liner system; therefore, woody vegetation should be removed at least annually; (3) burrowing animals including mice, rats and snakes could also damage the liner system; therefore, continued periodic checks on the Site should be maintained; and, (4) erosion of the RCRA cap continues to be a concern; and the Site should be periodically inspected to ensure that the full 24 inches of the RCRA cap remains intact.

The remedy for the Site is expected to be protective of public health and the environment. Based upon the Site inspections, sampling results, and survey results, the remedial actions were performing well. The RCRA cap system had been well maintained and was performing its function with minimal maintenance and movement. The ground water leaving the Site, when present, had been substantially below the monitoring concentration, never having exceeded 10% of any level. The Site appurtenant structures, including the fencing, the signs, and the vent pipes, were in sound condition with no signs of physical deterioration. All contaminants of concern appeared to be fully controlled by the RCRA cap.

Second Five-Year Review–2001

The second five-year review was finalized on December 26, 2001. At that time, no major deficiencies were noted. Several minor and potential deficiencies were identified during the inspection and include: (1) On an area along the northen slope, woody shrubs were clearly evident and required removal; (2) riprap placed at the lower end of the swale during recent repairs did not completely cover all of the geotextile and additional rock was needed; and, (3) the settlement monuments which were scheduled to be surveyed during the 10th year needed to be surveyed.

The remedy for the Site is expected to be protective of public health and the environment. Based upon the Site inspections, the sampling results, and the survey results, the remedial actions are performing well. The RCRA Cap system has been well maintained and now is performing its function with minimal maintenance and movement. The ground water leaving the Site, when present, has been substantially below the monitoring concentrations, never having exceeded 10% of any level. The Site structures, including the fencing, the signs, and the vent pipes, are in sound condition with no signs of physical deterioration. All contaminants of concern appear to be fully controlled by the RCRA Cap.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

Previous Deletion Activities

On November 28, 2001, the EPA published a Direct Final Notice of Deletion (66 FR 59363). During the comment period, an adverse comment was received and the Agency began work on the withdrawal of the direct

final notice of deletion which was not published within thirty days following the public comment period. Because the date was missed, the direct final notice of deletion became effective and the Agency issued a Removal of the direct final notice of deletion amendment on March 19, 2002 (67 FR 12478). Now that the Site is listed on the NPL once more, the deletion process will begin again with the publication of this Notice of Intent to Delete and another public comment period.

V. Deletion Action

The EPA, with concurrence of the State of Oklahoma, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is issuing a Notice of Intent to Delete the Site from the NPL. Documents supporting this action are available from the docket.

Dated: May 1, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 02–12145 Filed 5–15–02; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–173

RIN 3090–AH41

Internet GOV Domain

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is adding coverage on the Internet GOV Domain to the Federal Management Regulation (FMR). The purpose of this proposed rule is to provide a new policy for registration of domain names. This proposed rule solicits comments to be used in the formulation of a final rule. The FMR is written in plain language to provide updated regulatory material that is easy to read and understand.

DATES: *Comment Date:* Comments must be submitted on or before July 15, 2002, to be considered in the formulation of a final rule.

ADDRESSES: Written comments should be submitted to: Rodney Lantier, Regulatory Secretariat (MVP), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 20405.

Address e-mail comments to: *RIN.3090–AH41@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Marion Royal, Office of Governmentwide Policy (ME), 202–208–4643, *marion.royal@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The purpose of this proposed rule is to provide a new policy for the Internet GOV Domain that will be included in the Federal Management Regulation (FMR). The proposed rule is written in a plain language question and answer format. This style uses an active voice, shorter sentences, and pronouns. Unless otherwise indicated in the text, the pronoun "we" refers to the General Services Administration. A question and its answer combine to establish a rule. You must follow the language contained in both the question and its answer.

This proposed rule establishes Federal Management Regulation (FMR) part 102–173, Internet GOV Domain, and provides policy for registration of domain names. An earlier regulation was previously located in the Federal Property Management Regulation (FPMR) (41 CFR part 101–35, subpart 101–35.7, Network Address Registration) and expired on August 8, 2001.

Jurisdiction of the Internet GOV (dot-gov) domain was delegated to the General Services Administration (GSA) in 1997 by the Federal Networking Council with guidance in the form of Internet Engineering Task Force (IETF) Informational RFC 2146. Since then, the U.S. Government use of the Internet has evolved and is rapidly emerging as an electronic government without boundaries. Federal organizations are choosing dot-gov domain names to reflect the type of service being rendered and are collaborating to form portals that cross boundaries of agencies, departments, and other U.S. government entities.

In addition, there is increasing interest from non-Federal U.S. government entities, such as State and local governments, and Federally recognized Indian tribes, known in this rule as Native Sovereign Nations (NSNs), to provide service within the dot-gov domain. Many such governmental entities believe that their citizens are likely to associate their government at all levels with the dot-gov domain, and therefore, want the additional option of positioning their governmental portal to the public within this space. GSA has entered into an agreement with the Department of Interior's Bureau of Indian Affairs to facilitate the registration of NSNs in the dot-gov domain. GSA is now seeking public comment on the new policy to make the dot-gov domain available to State and local governments and Native Sovereign Nations.

Questions for the Proposed Rule

The public is invited to comment on any aspect of the proposed rule, including, but not limited to, the specific questions set forth below. When responding to specific questions, responses should cite the number(s) of the questions addressed and the "section" of the proposed rule to which your response corresponds. Please provide any references to support the responses submitted.

Question 1

This proposed rule sets forth the policy under which GSA will make the dot-gov domain available to non-Federal government entities. Should the dot-gov domain be expanded to include non-Federal government entities? What are the benefits to the American public of including all levels of government (Federal, State, local and NSNs) within one top-level domain? Would there be any disadvantages to such an approach?

Question 2

Section 102–173.35 of this proposed rule provides that second-level domain registrations in the dot-gov domain must be authorized by a high-ranking official within the Federal, State, and local governments. A second-level domain is that part of the Internet address before the ".com", ".net", ".gov". The NSN registrations must be authorized by the Bureau of Indian Affairs. Section 102–173.40 provides guidance on the type of official within each level of government whose authorization GSA will recognize. Are the listed officials the appropriate officials within these governmental entities to provide the authorization for registration? If not, please provide your alternative suggestions for authorizing officials. What kind of information should authorizing officials be required to provide GSA to authenticate the requested second-level domain registration in dot-gov? Would it be helpful to provide additional guidance in the final rule with respect to the kind of information authorizing officials will be expected to provide GSA?

Question 3

GSA has, in the past, reserved the right to charge fees for registration services in or to recover the cost of operating the dot-gov domain. See GSA's final rule, "User Fees; Network Registration Services" (64 FR 32196, June 16, 1999). In section 102-173.45 of this proposed rule, GSA proposes to employ a system of collection that will include a one-time set fee for new registrations which will be in a range from $250 to $1000, depending on the level of assistance that may be provided by GSA and a recurring annual charge in the range of $100 to $500 for all dot-gov domains. The fees are based on anticipated costs for operating the registration service and are consistent with industry charges. Please provide any comments on whether a one-time set-up fee and an annual recurring charge is the appropriate mechanism for recovering GSA's costs and the proposed range of fees.

Question 4

Sections 102–173.50, 102–173.55, and 102–173.60 of this proposed rule provide mandatory naming conventions for States, Cities and Townships, and Counties or Parishes, respectively. These naming conventions are intended to ensure that the American public can readily identify the governmental entity associated with the second-level domain and to minimize potential conflicts between the various levels of government and between local governments with the same name. States are encouraged to make third-level domain names available to State departments and programs and local governments. In turn, local governments (cities, townships, and counties) are encouraged to register under a State's second-level domain to the extent such an option is available.

Is the requirement that States must include either the full State name or its postal code the appropriate naming convention for a State? Are there alternative naming conventions for States that would achieve the twin goals of easy public identification and reduced conflicts? Are there other naming conventions for Cities or Townships with the same name as each other or a County or Parish within their State than the ones proposed that would minimize conflicts?

Question 5

In section 102–173.65 of this proposed rule, GSA provides a mandatory naming convention for NSNs that would require the second-level domain be in the form of the registering NSN name followed by a suffix of "-NSN.gov". Inclusion of "NSN" within the second-level domain is consistent with the current naming convention for NSNs with the .us domain and is readily recognized by the public. Is this an appropriate naming convention for NSNs or is there an alternative naming convention that would better meet the needs of the NSNs?

Question 6

In section 102–173.35 of this proposed rule, GSA makes it clear that in most cases it will not make determinations on the appropriateness of selected names, but will reserve the right not to assign names on a case-by-case basis. Is this sufficient to allow GSA to resolve any disputes that may arise between registrants? Do the proposed mandatory naming conventions eliminate the need for any additional dispute resolution mechanism?

If not, what kind of dispute resolution mechanism should be implemented?

Question 7

Sections 102–173.70 through 102–173.85 of this proposed rule provide information about the system by which registrations will be processed. Are there ways in which the process can be improved or streamlined? Is 60 days sufficient time for most governmental entities to obtain authorization from the appropriate officials?

Question 8

Section 102–173.30 authorizes registration of dot-gov domains to local governments. How should a local government be defined? Should it only include cities, towns, counties, and parishes, or should it extend to organizations such as water districts, etc.? What should GSA use as a reference for local governments?

B. Executive Order 12866

This is a significant rule and was subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

C. Regulatory Flexibility Act

We certify that the proposed amendments will not have a significant economic impact on a substantial number of small entities, because the registration and renewal fees, and paperwork collection burden will be small.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Congressional Review Act

This proposed rule is not a major rule under 5 U.S.C. 804.

F. Unfunded Mandates Reform Act of 1995

This proposed rule does not significantly or uniquely affect small governments or tribal governments. It does not result in expenditures by State, local, or tribal governments, or to the private sector, of $100 million or more in any one year.

G. Executive Order 13132 on Federalism

This proposed rule does not have Federalism implications. There are no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 41 CFR Part 102–173

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, Telecommunications.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapter 102 as follows:

CHAPTER 102—[AMENDED]

Part 102–173 is added to subchapter F of chapter 102 to read as follows:

PART 102–173—INTERNET GOV DOMAIN

Subpart A—General

Sec.

102–173.5 What is Internet GOV Domain?
102–173.10 What is the authority or jurisdiction of the Internet GOV Domain?
102–173.15 What is the scope of this part?
102–173.20 To whom does this part apply?
102–173.25 What definitions apply to this part?

Subpart B—Registration

102–173.30 Who may register in the dot-gov domain?
102–173.35 Who authorizes domain names?
102–173.40 Who is my Chief Information Officer (CIO)?
102–173.45 Is there a registration charge for domain names?
102–173.50 What is the naming convention for States?
102–173.55 What is the naming convention for Cities and Townships?
102–173.60 What is the naming convention for Counties or Parishes?
102–173.65 What is the naming convention for Native Sovereign Nations?
102–173.70 Where do I register my dot-gov domain name?
102–173.75 How long does the process take?

102–173.80 How will I know if my request is approved?
102–173.85 How long will my application be held, waiting for my CIO approval?

Authority: 40 U.S.C. 486(c).

Subpart A—General

§ 102–173.5 What is Internet GOV Domain?

Internet GOV Domain refers to the Internet top-level domain "dot-gov" operated by the General Services Administration (GSA) for the registration of U.S. government-related domain names. In general, these names reflect the organization names in the Federal Government and non-Federal government entities in the United States. These names are now being used to promote government services and increase the ease of finding these services.

§ 102–173.10 What is the authority or jurisdiction of the Internet GOV Domain?

Jurisdiction of the Internet GOV (dot-gov) domain was delegated to GSA in 1997 by the Federal Networking Council with guidance in the form of Internet Engineering Task Force (IETF) Informational RFC 2146, which can be obtained on the Internet at: *http://www.ietf.org/rfc/rfc2146.txt?number=2146*.

§ 102–173.15 What is the scope of this part?

This part addresses the registration of second-level domain names used in the Internet GOV Domain. This registration process assures that the assigned domain names are unique worldwide.

§ 102–173.20 To whom does this part apply?

This part applies to Federal, State, and local governments, and Native Sovereign Nations. You do not need to register domain names with us if you will be using some other top-level domain registration, such as dot-us, dot-org, or dot-net.

§ 102–173.25 What definitions apply to this part?

The following definitions apply to this part:

Domain is a region of jurisdiction on the Internet for naming assignment. GSA is responsible for registrations in the dot-gov domain.

Domain name is a name assigned to an Internet server. This is the name that you request from GSA. Typically, you would apply this name to a domain name server.

Domain name server is the computer that provides pointers from the domain name to the actual computers.

Dot-gov refers to domain names ending with a ".gov" suffix. The Internet GOV domain is another way of expressing the collection of dot-gov domain names.

Native Sovereign Nations (NSN) are federally recognized tribes.

Subpart B—Registration

§ 102–173.30 Who may register in the dot-gov domain?

Registration in the dot-gov domain is available to official governmental organizations in the United States including Federal, State, and local governments, and Native Sovereign Nations.

§ 102–173.35 Who authorizes domain names?

Domain names must be authorized by the Chief Information Officer (CIO) of the requesting or sponsoring governmental organization. For Federal departments and agencies, GSA will accept authorization from the CIO of the department or agency. For independent Federal government agencies, boards, and commissions, GSA will accept authorization from the highest-ranking Information Technology Official. For State and local governments, GSA will accept authorization from appropriate State or local officials, see § 102–173.40. For Native Sovereign Nations, GSA will only accept authorization from the Bureau of Indian Affairs, Department of the Interior. In most cases, GSA will not make determinations on the appropriateness of the selected domain names, but reserves the right to not assign domain names on a case-by-case basis. Non-Federal government domain names must follow the naming conventions described in §§ 102–173.50 through 102–173.65.

§ 102–173.40 Who is my Chief Information Officer (CIO)?

Your Chief Information Officer (CIO) may vary according to the branch of government. For the Federal Government, GSA recognizes the cabinet level CIOs listed at *http://www.cio.gov*. For States, GSA will accept authorization from the Office of the Governor or highest-ranking Information Technology (IT) official. Other officials include the Mayor (for city or town), County Commissioner (for counties) or highest ranking IT official. Native Sovereign Nations (NSN) must receive authorization from the Bureau of Indian Affairs. CIOs may delegate this authority by notification to GSA.

§ 102–173.45 Is there a registration charge for domain names?

GSA reserves the right to charge for domain names in order to recover cost of operations. For current registration charges, please visit *http://nic.gov*. GSA proposes to employ a system of collection that includes a one-time setup fee for new registrations, which will be in the range of $250 to $1000, depending on the level of assistance that may be provided by GSA, and a recurring annual charge in the range of $100 to $500 for all dot-gov domains. The fees are based on anticipated costs for operating the registration service and are consistent with industry charges.

§ 102–173.50 What is the naming convention for States?

(a) To register any second-level domain within dot-gov, State government entities must register the full State name or clearly indicate the State postal code within the name. Examples of acceptable names include: virginia.gov, tennesseeanytime.gov, wa.gov, nmparks.gov, mysc.gov, emaryland.gov, and ne-taxes.gov. However:

(1) Use of the State postal code should not be embedded within a single word in a way that obscures the postal code. For example, Indiana (IN) should not register for win.gov, or independence.gov; and

(2) Where potential conflicts arise between postal codes and existing domain names ("va" for the Commonwealth of Virginia and the United States Department of Veterans Affairs), States are encouraged to register URL's that contain the full State name.

(b) There is no limit to the number of domain names for which a State may register.

(c) States are encouraged to make second-level domains available for third-level registration by local governments and State Government departments and programs. For example, the State of North Carolina could register NC.GOV as a second-level domain and develop a system of registration for their local governments. The State would be free to develop policy on how the local government should be registered under NC.GOV. One possibility might be to spell out the city, thus Raleigh.NC.gov could be a resulting domain name.

§ 102–173.55 What is the naming convention for Cities and Townships?

(a) To register any second-level domain within dot-gov, City (town) governments must register the domain name with the city (town) name or abbreviation, and clear reference to the State in which the city (town) is located. However:

(1) Use of the State postal code should not be embedded within a single word in a way that obscures the postal code; and

(2) Inclusion of the word "city" or "town" within the domain name is optional and may be used at the discretion of the local government.

(b) The preferred format for city governments is to denote the State postal code after the city name, optionally separated by a dash. Examples of preferred domain names include:

(1) chicago-il.gov;
(2) cityofcharleston-sc.gov;
(3) charleston-wv.gov; and
(4) townofdumfries-va.gov.

(c) If third-level domain naming is available from the State government, cities and towns are encouraged to register for a domain name under a State's registered second-level (e.g., chicago.il.gov) in accordance with the policies established by the State government.

§ 102–173.60 What is the naming convention for Counties or Parishes?

(a) To register any second-level domain within dot-gov, County or Parish governments must register the County's or Parish's name or abbreviation, the word "county" or "parish" (because many counties have the same name as cities within the same State), and a reference to the State in which the county or parish is located. However, the use of the State postal code should not be embedded within a single word in a way that obscures the postal code.

(b) The preferred format for county or parish governments is to denote the State postal code after the county or parish, optionally separated by a dash. Examples of preferred domain names include:

(1) richmondcounty-ga.gov;
(2) pwc-county-va.gov; and
(3) countyofdorchestor-sc.gov.

(c) If third-level domain naming is available from the State government, counties or parishes are encouraged to register for a domain name under a State's registered second-level (e.g., richmondcounty.ga.gov).

§ 102–173.65 What is the naming convention for Native Sovereign Nations?

To register any second-level domain in dot-gov, Native Sovereign Nations may register any second-level domain name provided that it contains the registering NSN name followed by a suffix of "-NSN.gov" (case insensitive).

§ 102–173.70 Where do I register my dot-gov domain name?

Registration is an online process at *http://nic.gov*. At the Network Information Site (NIC), you will find the instructions and online registration forms for registering your domain name. To register your domain name you will need to provide information such as your desired domain name, sponsoring organization, points of contact, and at least two name server addresses.

§ 102–173.75 How long does the process take?

The process can be completed within 48 hours if all information received is complete and accurate. Most requests take up to thirty (30) days because the registrar is waiting for CIO approval.

§ 102–173.80 How will I know if my request is approved?

A registration confirmation notice is sent within one business day after you register your domain name, informing you that your registration information was received. If all of your information is accurate and complete, a second notice will be sent to you within one business day, informing you that all of your information is in order. If you are ineligible, or if the information provided is incorrect or incomplete, your registration will be rejected and a notice will be sent to you stating the reason for rejection. Registration requests will be activated within two business days after receiving valid authorization from the appropriate CIO. Once your domain name has been activated, a notice will be sent to you.

§ 102–173.85 How long will my application be held, waiting for my CIO approval?

Registrations will be held in reserve status for sixty (60) days pending CIO authorization from your sponsoring organization.

Dated: May 9, 2002.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 02–12127 Filed 5–15–02; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH33

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for the Appalachian Elktoe

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings, availability of draft economic analysis, and reopening of comment period for the proposed designation of critical habitat for the Appalachian elktoe.

SUMMARY: We, the Fish and Wildlife Service, announce that we will hold two public hearings on the proposed determination of critical habitat for the Appalachian elktoe (*Alasmidonta raveneliana*) and that the comment period on this proposal is reopened. We also announce the availability of the draft economic analysis of this proposed designation of critical habitat. We are reopening the comment period for the proposal to designate critical habitat for this species to hold the public hearings and to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted and will be fully considered in the final determination of the proposal.

DATES: *Comments:* The comment period is hereby reopened until July 1, 2002. We must receive comments on the proposal and draft economic analysis from all interested parties by the closing date. Any comments that we receive after the closing date will not be considered in the final decision on this proposal.

Public Hearings: The first public hearing on the proposal will be held June 4, 2002, from 6 p.m. to 9 p.m. in Erwin, TN, and the second, on June 6, 2002, from 6 p.m. to 9 p.m. in Bryson City, NC.

ADDRESSES: The first public hearing will be held in the auditorium of the Unicoi County High School, 700 Mohawk Drive, Erwin, TN. The second public hearing will be held in the Swain County Administration Building, Superior Court Room, 101 Mitchell Street, Bryson City, NC.

Copies of the draft economic analysis are available on the Internet at *http://southeast.fws.gov/hotissues* or by writing to or calling the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, NC 28801; telephone 828/258–3939.

If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, NC 28801.

2. You may hand-deliver written comments to our Asheville Field Office, at the above address or fax your comments to 828/258–5330.

3. You may send comments by electronic mail (e-mail) to

john_fridell@fws.gov. For directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section.

4. You may provide oral and/or written comments at either of the public hearings.

Comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John A. Fridell, Fish and Wildlife Biologist, Asheville Field Office (*see* **ADDRESSES** section) (telephone 828/258–3939, extension 225).

SUPPLEMENTARY INFORMATION:

Background

The Appalachian elktoe is endemic to the upper Tennessee River drainage in western North Carolina and eastern Tennessee. Historic and recent records indicate that the species was once fairly widely distributed throughout the upper Tennessee River system in western North Carolina, with the possible exceptions of the Hiwassee and Watauga River systems. In Tennessee, the species is known only from a short reach of the Nolichucky River above the town of Erwin in Unicoi County, TN. Presently, the Appalachian elktoe survives only in scattered pockets of suitable habitat in portions of the Little Tennessee River system, Little River, and Pigeon River system in North Carolina; and, in portions of the Nolichucky River system in North Carolina and Tennessee. Numerous factors have been implicated as having contributed to decline and loss of populations of the Appalachian elktoe including pollutants in wastewater discharges; the runoff of sediment and other pollutants in poorly controlled runoff from land disturbance activities, and habitat destruction or alteration from impoundments, channelization, and in-stream dredging activities.

We listed the Appalachian elktoe as an endangered species under the Endangered Species Act of 1973, as amended (Act), on November 23, 1994 (59 FR 60324). On February 8, 2001, we published in the **Federal Register** a proposal to designate critical habitat for this species (66 FR 9540). The proposed designation includes 38.5 kilometers (km) (24.0 river miles (rm)) of the Little Tennessee River in Swain and Macon Counties, NC; 41.6 km (26.0 rm) of the Tuckasegee River in Jackson and Swain Counties, NC; 14.6 km (9.1 rm) of the Cheoah River in Graham County, NC; 7.5 km (4.7 rm) of the Little River in Transylvania County, NC; 17.8 km (11.1 rm) of the West Fork Pigeon River and the Pigeon River in Haywood County, NC; 22.6 km (14.1 rm) of the South Toe River and 26.4 km (16.5 rm) of the Cane River in Yancey County, NC; 5.9 km (3.7 rm) of the North Toe River and 34.6 km (21.6 rm) of the Toe River in Yancey and Mitchell Counties, NC; and 21.6 km (13.5 rm) of the Nolichucky River in Yancey and Mitchell Counties, NC, and Unicoi County, TN. The initial comment period on the proposal closed on April 9, 2001.

Section 4(b)(5)(E) of the Act requires that a public hearing be held if requested within 45 days of the proposal's publication in the **Federal Register**. Two groups requested public hearings within the specified timeframe of the initial comment period. One group requested hearings in every county where critical habitat is proposed; the other group requested hearings in every watershed where critical habitat is proposed. We will hold one public hearing in each State where we have proposed critical habitat to accommodate both requests (see **DATES** and **ADDRESSES** sections).

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. Consequently, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (*see* **ADDRESSES** section).

Public Comments Solicited

We solicit comments on the draft economic analysis described in this notice, as well as any other aspect of the proposed designation of critical habitat for the Appalachian elktoe. Anyone wishing to make an oral statement for the record at the public hearings is encouraged to provide a written copy of their statement to us at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to us. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received by the date specified above. All previous comments and information submitted during the comment period need not be resubmitted. Written comments may be submitted to the State Supervisor (*see* **ADDRESSES** section).

Please submit electronic comments as an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018–AH33" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact us directly by calling our Asheville Field Office (*see* **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Author

The primary author of this document is John A. Fridell (*see* **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 26, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–12175 Filed 5–15–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 67, No. 95
Thursday, May 16, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–027–1]

Notice of Request for Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to initiate a new information collection activity to support the National Animal Health Monitoring System's national Dairy 2002 study.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–027–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–027–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02–027–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: For information on the national Dairy 2002 study, contact Ms. Marj Swanson, Administrative Officer, Centers for Epidemiology and Animal Health, VS, APHIS, 555 S. Howes, Fort Collins, CO 80521; (970) 490–7978. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: National Animal Health Monitoring System, Dairy 2002.

OMB Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The United States Department of Agriculture is responsible for protecting the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of contagious, infectious, or communicable diseases of livestock and poultry and for eradicating such diseases from the United States when feasible. In connection with this mission, the Animal and Plant Health Inspection Service (APHIS) operates the National Animal Health Monitoring System (NAHMS), which collects, on a national basis, statistically valid and scientifically sound data on the prevalence and economic importance of livestock and poultry diseases. Information from the studies conducted by NAHMS is disseminated to and used by livestock and poultry producers, consumers, animal health officials, private veterinary practitioners, animal industry groups, policymakers, public health officials, media, educational institutions, and others to improve the productivity and competitiveness of U.S. agriculture.

NAHMS' national studies have evolved into a collaborative industry and government initiative to help improve product quality and to determine the most effective means of producing animal and poultry products. APHIS is the only agency responsible for collecting national data on animal and poultry health. Participation in any NAHMS study is voluntary, and all data are confidential.

NAHMS will initiate a national study titled Dairy 2002. NAHMS personnel completed a needs assessment, which was a collaborative effort with producers, industry, extension specialists, Federal and State personnel, and university researchers. The information gathered through the collaborative needs assessment was used to determine the objectives of the study, *i.e.*: (1) Evaluating education efforts to explain changes in dairy producers' knowledge of Johne's disease since the Dairy '96 study, to assess management strategies used to prevent Johne's disease, including their associated costs, and to determine the level of producer participation in Johne's disease control or herd certification programs; (2) determining the change in prevalence of fecal shedding in food safety pathogens from Dairy '96 to Dairy 2002, evaluating management factors influencing bulk tank milk pathogens, and estimating the prevalence of *Mycoplasma* spp. in bulk tank milk; (3) describing dairy producers' knowledge of foreign animal diseases, reporting procedures, and expected responses in the event of a foot-and-mouth disease outbreak in the United States (data collected will be used to address industry concerns about foreign animal disease detection and control in the United States); (4) describing biosecurity operating procedures or plans implemented on U.S. dairy operations, as well as the producers' sources of biosecurity information; (5) describing animal waste handling systems used on U.S. dairy operations; and (6) describing animal identification types and frequency of use on U.S. dairy operations and incentives required by producers to increase or improve use of animal identification.

We are asking the Office of Management and Budget (OMB) to approve the information collection activity for the national Dairy 2002 study.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our

information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.79476502 hours per response.

Respondents: Corporate and independent producers, private veterinary practitioners, and State veterinary medical officers.

Estimated annual number of respondents: 8,405.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 8,405.

Estimated total annual burden on respondents: 6,680 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 10th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12249 Filed 5–15–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–096–2]

Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the control of *Melaleuca quinquenervia* in Florida. The environmental assessment considers the effects of, and alternatives to, the release of two nonindigenous organisms, *Boreioglycaspis melaleucae* and *Lophyrotoma zonalis*, into the environment for use as biological control agents to reduce the severity of melaleuca infestations. The environmental assessment provides a basis for our conclusion that the issuance of a permit for the field release of *Boreioglycaspis melaleucae* into the environment will not have a significant impact on the quality of the human environment. A decision has been made not to issue a permit for the field release *Lophyrotoma zonalis* at this time until more data is obtained on the potential for adverse effects to humans or domestic animals. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Tracy Horner, Entomologist, Permits and Risk Assessment, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1228; (301) 734–5213.

SUPPLEMENTARY INFORMATION: As part of an integrated control project to reduce the severity of *Melaleuca quinquenervia* (Cav.) S.T. Blake (Myrtales: Myrtaceae) infestations in Florida, the Animal and Plant Health Inspection Service (APHIS) has evaluated the release of two nonindigenous organisms, *Boreioglycaspis melaleucae* Moore (Hemiptera: Psyllidae) and *Lophyrotoma zonalis* Rohwer (Hymenoptera: Pergidae), in areas affected by melaleuca.

Melaleuca, a broad-leaf paper bark tree native to Australia, was originally introduced in Florida during the early 1900's as an ornamental and was later planted along dikes and levees for erosion control and to convert wetlands into productive forest lands. Over the last four decades, it has spread throughout southern Florida, displacing native plant and animal species, and threatening the stability of the Florida Everglades ecosystem. The purpose of the control project is to reduce the severity of the infestations of melaleuca throughout the affected areas.

APHIS' current melaleuca control project encompasses the areas known to be infested in central and south Florida and involves an integrated control approach sensitive to site-specific conditions, which may include a combination of physical, biological, and/or chemical controls.

In response to permit applications the Agency received for the release of *B. melaleucae*, a psyllid native to Australia, and *L. zonalis*, a sawfly also native to Australia, APHIS investigated the use of these biological control agents to control melaleuca in the affected areas. Presently, there is only one biological control agent, a nonindigenous weevil (*Oxyops vitiosa*), used to suppress melaleuca.

On December 14, 2001, we published in the **Federal Register** (66 FR 64797–64798, Docket No. 01–096–1) a notice in which we announced the availability, for public review and comment, of an environmental assessment entitled "Field Release of Two Biological Control Agents *Boreioglycaspis melaleucae* Moore (Hemiptera: Psyllidae) and Lophyrotoma zonalis Rohwer (Hymenoptera: Pergidae) for the Control of *Melaleuca quinquenervia* (Cav.) S.T. Blake (Myrtales: Myrtaceae) in south Florida" (September 2001). This environmental assessment considers the effects of, and alternatives to, releasing *B. melaleucae* and *L. zonalis* into the environment as biological control agents to reduce the severity of melaleuca infestations in Florida. We solicited comments on the environmental assessment for 30 days ending on January 14, 2002. We received no comments by that date.

In this document, we are advising the public of APHIS' record of decision and finding of no significant impact regarding the issuance of a permit for the field release of *B. Melaleucaeq*, without conditions, for use as a biological control agent to reduce the severity of melaleuca infestations. A decision has been made not to issue a permit for the field release of *L. zonalis* at this time until more data is obtained on the potential for adverse effects to humans or domestic animals. When more data clarifying the potential of *L. zonalis* becomes available, we will reevaluate our decision regarding *L. zonalis* with the appropriate environmental documentation.

The environmental assessment and finding of no significant impact may be viewed on the Internet at *http://www.aphis.usda.gov/ppq/* by accessing "Document/Forms Retrieval System," then "Permits-Pests," and then document number 0030. Copies of the documents may also be obtained by calling the Plant Protection and Quarantine Automated Fax System at (301) 734–4327 or (301) 734–3560; please enter document number 0030 when prompted. You may also obtain copies of the environmental assessment and finding of no significant impact by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment and finding of no significant impact when requesting copies. The environmental assessment and finding of no significant impact are also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 10th day of May, 2002 .

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12248 Filed 5–15–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to Discuss projects to fund this fiscal year. Agenda topics will include Project evaluation And selection, and a public forum (question and answer session). The meeting is being Held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) And under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393). The meeting is open to the public.

DATES: The meeting will be held on May 28, 2002, 6:30 p.m.

ADDRESSES: The meeting will be held at the Ravalli County Administration Building, 215 S. 4th Street, Hamilton, Montana. Send written comments to Jeanne Higgins, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by Facsimile (406) 777–7423, or electronically to *jmhiggins@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Jeanne Higgins, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: May 9, 2002.

Lesley W. Thompson,

Acting Forest Supervisor.

[FR Doc. 02–12233 Filed 5–15–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for 7 CFR part 3575–A.

DATES: Comments on this notice must be received by July 15, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Mel Padgett, Loan Specialist, Rural Housing Service, STOP 0788, 1400 Independence Avenue, SW., Washington, DC 20250–0788 (202) 720–1495, or by email: *mpadgett@rdmail.rural.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 3575, subpart A, Community Programs Guaranteed Loans.

OMB Number: 0575–0137.

Expiration Date of Approval: September 30, 2002.

Type of Request: Extension of a currently approved information collection and recordkeeping requirements.

Abstract: Private lenders make the loans to public bodies and nonprofit corporations for the purposes of improving rural living standards and for other purposes that create employment opportunities in rural areas. Eligibility for this program includes community facilities located in cities, towns, or unincorporated areas of up to 20,000 population.

The information collected is used by the agency to manage, plan, evaluate, an account for government resources. The reports are required to ensure the proper and judicious use of public funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Nonprofit corporations and public bodies.

Estimated Number of Respondents: 58,811.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 58,819.

Estimated Total Annual Burden on Respondents: 65,033 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 8, 2002.

Arthur A. Garcia,

Administrator, Rural Housing Service.

[FR Doc. 02–12252 Filed 5–15–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: John Drury or Helen Kramer, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–0405, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR part 351 (April 2001).

Background

On April 17, 2002, the Department determined that folding metal tables and chairs from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China*, 67 FR 20090 (April 24, 2002). The Department released disclosure materials to interested parties on April 19, 2002.

On April 23, 2002, the petitioner informed the Department that some disclosure materials, specifically copies of the pages of the *Monthly Statistics of the Foreign Trade of India* used by the Department to calculate surrogate values, were not included in the disclosure package. The petitioner requested copies of these pages. The petitioner contacted the Department again on April 25, 2002, and was informed how to obtain copies of the necessary pages. Petitioner obtained these pages on the same day.

On April 24, 2002, respondent Feili Group submitted a letter to the Department alleging ministerial errors. On April 26, 2002, petitioner also submitted a letter to the Department alleging ministerial errors. Neither party submitted any further comments.

Scope of the Investigation

The merchandise subject to this investigation consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

Lawn furniture;

Trays commonly referred to as "TV trays;

Side tables;

Child-sized tables;

Portable counter sets consisting of rectangular tables 3″ high and matching stools; and

Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

Folding metal chairs with a wooden back or seat, or both;

Lawn furniture;

Stools;

Chairs with arms; and

Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

Amended Final Determination

In accordance with section 735(e) of the Act, we have determined that ministerial errors in the calculations of Feili Group's surrogate values for packing cartons, scrap steel, plastic links, and plastic bags were made in our final margin calculations. For plastic links and packing cartons, we made errors in addition and subtraction when using the *Monthly Statistics of the Foreign Trade of India* to calculate the surrogate values. Concerning scrap steel, we did not apply the proper SAS calculations for our stated methodology. As to plastic bags, we did not correct the placement of the decimal point for the reported factor of production. For a detailed discussion of the above-cited ministerial error allegations and the Department's analysis, see Memorandum to Richard O. Weible, "Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of Folding Metal Tables and Chairs from the People's Republic of China" dated May 10, 2002, which is on file in room B–099 of the main Commerce building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of folding metal tables and chairs from the PRC to correct these ministerial errors. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin average percentage
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd	23.48	13.72
Dongguan Shichang Metals Factory Co. Ltd	23.48	13.72
New-Tec Integration Co., Ltd	23.48	13.72
Shin Crest Pte. Ltd	00.00	00.00
All Others	70.71	70.71

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of folding metal tables and chairs from the PRC, except for subject merchandise produced by Shin Crest (which has a weighted-average margin of zero). Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 10, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12296 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Timothy Finn, Zev Primor, or Howard Smith at (202) 482–0065, (202) 482–4114, and (202) 482–5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations are to 19 CFR part 351 (April 2001).

Final Determination

We determine that polyethylene terephthalate film, sheet, and strip (PET film) from India are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

Case History

On December 21, 2001, the Department published the preliminary determination of the antidumping duty investigation of PET film from India. *See Polyethylene Terephthalate Film, Sheet, and Strip from India; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 66 FR 65893 (December 21, 2001) *(Preliminary Determination)*. For the respondent, Polyplex Corporation Limited (Polyplex) we issued and received an additional supplemental questionnaire pertaining to further manufacturing in January. We conducted a verification of the questionnaire responses of the respondent, Ester Industries Limited (Ester) during the weeks of January 7, 2002 and January 14, 2002, and Polyplex during the weeks of February 11, 2002, and February 18, 2002. Further, we conducted a verification of the questionnaire responses of Ester's U.S. affiliate, Ester International (USA) Limited (EIUL), during the week of February 25, 2002, and Polyplex's U.S. affiliates, Spectrum Marketing Company Incorporated (Spectrum) and Company A during the week of March 4, 2002. *See* Affiliation of Parties below. We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On April 10, 2002, both respondents, and on April 11, 2002, the petitioners,[1] submitted case briefs. On April 15, 2002, all parties submitted rebuttal briefs. The Department received requests for a public hearing from both petitioners and respondents; and a public hearing was held on April 17, 2002.

In addition, on December 28, 2001, respondents and two other Indian producers, Flex Industries Limited (Flex) and Jindal Polyester Ltd. (Jindal), submitted a proposal for a suspension agreement in this investigation. Subsequently, on January 22, 2002, we met with counsel for Ester, Flex, Jindal, and Polyplex to discuss this proposal, but no agreement resulted from this meeting. For further details, *see* Memorandum to the File dated May 6, 2002 on proposed suspension agreement.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

[1] The petitioners in this investigation are Dupont Teijin Films of Mitsubishi Polyester Film of America and Toray Plastics (America) (collectively the petitioners).

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001.

Affiliation of Parties

Pursuant to section 771(33)(F) of the Act, the Department preliminarily determined that two customers to whom Polyplex sold PET film during the POI and whom Polyplex identified as unaffiliated parties are, in fact, affiliated with Polyplex. Specifically, the Department has determined that one U.S. customer and one home market customer (hereinafter referred to as Company A and Company B, respectively) are part of a corporate grouping which, together with Polyplex, controls another person. According to section 771(33)(F) of the Act, two or more persons directly or indirectly controlling any other person shall be considered affiliated. Thus, we preliminarily found the corporate grouping, including companies A and B, to be affiliated with Polyplex. The parties did not contest this determination and we have continued to treat Company A and Company B as affiliated parties for purposes of the final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the "Issues and Decision Memorandum" *(Decision Memorandum)*, dated May 6, 2002, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 (B–099) of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination calculation methodologies in calculating the final dumping margins in this proceeding. These adjustments are discussed in detail in the *Decision Memorandum* and are listed below:

Ester

(1) We recalculated imputed credit expenses for constructed export price (CEP) sales using short-term borrowing costs Ester experienced during the POI. *See* Calculation Memorandum of the Final Determination of the Investigation of Ester Industries Ltd., dated May 6, 2002 (Ester Calculation Memorandum) and the *Decision Memorandum* at comment 8.

(2) We recalculated U.S. inventory carrying costs for CEP sales using short-term borrowing costs Ester experienced during the POI. Additionally, during the POI, Ester's wholly owned U.S. sales affiliate, EIUL incurred interest expenses on factored receivables in the currency of the EP transactions. Consequently, for the final determination, we have used EIUL's interest rate to calculate credit expenses on Ester's EP sales. *See* Ester Calculation Memorandum and the *Decision Memorandum* at comment 8.

(3) We adjusted Ester's reported raw material cost to allow only the amount of export incentive benefits used to offset import duties on purchased inputs. *See* Ester Calculation Memorandum and *Decision Memorandum* at comment 3.

(4) In the model match methodology, we modified our selection of certain most similar products. *See* Ester Calculation Memorandum.

(5) We made minor corrections pursuant to the verification. *See* Ester Calculation Memorandum.

(6) Consistent with our practice, we adjusted the antidumping duty cash deposits for the export subsidies found in the companion countervailing investigation rather than adjusting net U.S. price. *See Decision Memorandum* at comment 2.

Polyplex

(1) We recalculated U.S. inventory carrying costs and U.S. imputed credit expenses for CEP sales using the average short-term interest rate, as published by the Federal Reserve. *See* Calculation Memorandum of the Final Determination of the Investigation of Polyplex Corporation Limited dated May 6, 2002 (Polyplex Calculation Memorandum) and *Decision Memorandum* at comment 16.

(2) We recalculated U.S. warehousing costs and U.S. indirect selling expenses for CEP sales in order to reflect arm's-length costs.

(3) We adjusted Polyplex's reported raw material cost to allow only the amount of export incentive benefits used to offset import duties on purchased inputs. *See* Polyplex Calculation Memorandum and *Decision Memorandum* at comment 3.

(4) We revised several U.S. selling expenses to reflect findings from verification. *See* Polyplex Calculation Memorandum.

(5) We modified the calculation of imputed credit in the home market and U.S. market to include the variables for recovered interest payments and interest revenue earned. *See* Polyplex Calculation Memorandum.

(6) In the model match methodology, we modified our selection of certain most similar products. *See* Polyplex Calculation Memorandum.

(7) We made minor corrections pursuant to the verification. *See* Polyplex Calculation Memorandum.

(8) Consistent with our practice, we adjusted the antidumping duty cash deposits for the export subsidies found in the companion countervailing investigation rather than adjusting net U.S. price. *See Decision Memorandum* at comment 2.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs Service) to continue to suspend liquidation of all entries of PET Film from India that are entered, or withdrawn from warehouse, for consumption on or after December 21, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**) for Ester, and those companies which received the "all others" rate.

In the companion countervailing duty investigation we have found the existence of export subsidies with respect to both Polyplex and Ester. Section 772(c)(1)(C) of the Act directs the Department to increase EP or CEP by the amount of the countervailing duty "imposed" on the subject merchandise "to offset an export subsidy" in an administrative review. The basic economic theory underlying this provision is that in parallel antidumping and countervailing duty investigations, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market by the amount of any such export subsidy. Thus, the subsidy and dumping are presumed to be related, and the assessment of duties against both would in effect be "double-application" or imposing two duties against the same situation. Therefore, Congress, through section 772(c)(1)(C) of the Act, indicated that the Department should factor the subsidy into the antidumping calculations to prevent this "double-application" of duties.

We believe the economic theory implicit in section 772(c)(1)(C) of the Act should also generally apply to our cash deposit calculations in an investigation. The calculations underlying cash deposit rates resulting from an initial investigation are essentially equivalent to those determined in administrative reviews leading to the assessment of antidumping duties. Congress has indicated, in effect, that no dumping exists if the export subsidies calculated in a countervailing duty proceeding are equal to or greater than the calculated dumping margin. The Department believes that this is true regardless if such a result appears in an administrative review or in an investigation. Therefore, an affirmative dumping determination accompanied by Customs instructions which call for the suspension of liquidation and the collection of zero cash deposit rates would be inconsistent with the logic and intent of the law. If the Department's calculations in an investigation result in a zero cash deposit rate, then in reality, there exists no dumping upon which an affirmative determination could be based as to that particular respondent.

The Department has determined in its *Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip from India* (issued concurrently) that the product under investigation benefitted from export subsidies. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount of the countervailing duty determined to offset an export subsidy. *See, e.g., Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy*, 63 FR 49327 (September 15, 1998). Accordingly, for cash deposit purposes we are subtracting from Ester's and Polyplex's cash deposit rates that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination for both respondents (*i.e.*, 18.43 percent and 18.66 percent, respectively). After the adjustment for the cash deposit rate attributed to export subsidies, the resulting cash deposit rate for Polyplex is zero while the rate for Ester is 5.68 percent.

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise (except for merchandise produced and exported by Polyplex) entered, or withdrawn from warehouse, for consumption on or after December 21, 2001, the date of publication of the preliminary determination in the **Federal Register**. We will instruct the Customs Service to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price, adjusted for the export subsidy rate, as indicated below, except for Polyplex. Because the estimated cash deposit rate for Polyplex is zero, we are directing the Customs Service not to suspend liquidation of entries of this merchandise produced and exported by this company. These suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted-average dumping margins exist for the period April 1, 2000 through March 31, 2001:

Manufacturer/exporter	Margin (percent)
Ester Industries Limited	24.11
Polyplex Corporation Limited	[2]
All Others	24.11

[2] The Department calculated a weighted-average dumping margin of 10.34 percent for Polyplex before adjusting the margin for export subsidies for which the Department determined to impose countervailing duties, if a CVD order is issued. However, as discussed above, because the rate for Polyplex is zero after adjusting the dumping margin for the export subsidies in the companion affirmative countervailing duty investigation, Polyplex will be excluded from the antidumping duty order, if an order is issued in this proceeding.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 6, 2002.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Common Issues

1. Adjustment to U.S. Price for Countervailing Duties
2. Antidumping Duty Order with No Cash Deposit, Bond or Security
3. Adjustment to Cost of Production (COP) for Duty Entitlement Passbook Scheme (DEPB) Benefits
4. Negative Dumping Margins
5. Model Matching Similar Films

Company-Specific

Ester Industries Limited

6. Failure to Provide Product-Specific Costs
7. General and Administrative Expense and Interest Expense
8. Interest Rates Used to Calculate Imputed Credit Expenses for Constructed Export Price (CEP) Transactions
9. Interest Rates used to Calculate Imputed Credit Expenses for Export Price (EP) Transactions
10. Unreconciled Quantities Classified As Slitting Loss
11. Verification Corrections

Polyplex Corporation Limited

12. Whether to Apply Adverse Facts Available (AFA) for Polyplex's Sales to US1/US2
13. Application of the Special Rule
14. Whether to Apply AFA for CEP Expenses and Sales
15. Failure to Provide Product Specific Costs
16. Credit Expenses and Inventory Carrying Costs for CEP Sales

17. Verification Corrections

[FR Doc. 02–12295 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Department of Health and Human Services, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–008. *Applicant:* Department of Health and Human Services, Atlanta, GA 30333. *Instrument:* Electron Microscope, Model Tecnai 12 TWIN. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 67 FR 17407, April 10, 2002. *Order Date:* July 12, 2001.

Docket Number: 02–010. *Applicant:* University of New Mexico, Albuquerque, NM 87131–5226. *Instrument:* Electron Microscope, Model H–7500–1. *Manufacturer:* Hitachi Ltd., Japan. *Intended Use:* See notice at 67 FR 18863, April 17, 2002. *Order Date:* August 13, 2001.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–12300 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

National Institutes of Health—Bethesda, MD; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–007. *Applicant:* National Institutes of Health, Bethesda, MD 20892–2717. *Instrument:* Electron Microscope, Model Tecnai 30 He. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 67 FR 15794, April 3, 2002. *Order Date:* June 28, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–12299 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Wisconsin—Milwaukee; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–011. *Applicant:* University of Wisconsin, Milwaukee, WI 53211. *Instrument:* IR Image Furnace, Model SCI–MDH–11020. *Manufacturer:* NEC Machinery Corporation, Japan. *Intended Use:* See notice at 67 FR 18862, April 17, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a dual mirror image furnace with a homogeneous temperature gradient around the horizontal plane with a simultaneous steeper temperature gradient along the vertical portion for growth of various oxide single crystals. The National Aeronautics and Space Administration advised May 8, 2002 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–12301 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–0012.

Applicant: University of Vermont, College of Medicine, Molecular Physiology and Biophysics, HSRF, Room 116, 149 Beaumont Avenue, Burlington, VT 05405.

Instrument: Slow Scan CCD Camera System, Model TemCam-0124.

Manufacturer: Tietz Video and Image Processing Systems GmbH, Germany.

Intended Use: The instrument is intended to be used to study how the structure of the proteins that make muscle contract relate to their contractile performance. Experiments will involve isolating individual protein molecules and then plunging them in ice water to freeze their structures, which will then be studied in the electron microscope and visualized with the CCD camera.

Application accepted by Commissioner of Customs: March 29, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–12302 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–063]

Certain Iron-metal Castings from India: Amended Final Results of Countervailing Duty Administrative Review Pursuant to Settlement

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of countervailing duty administrative review.

SUMMARY: On December 6, 1996, the Department of Commerce ("the Department") published in the Federal Register its final results of administrative review of the countervailing duty order on certain iron-metal castings from India for the period 1992 (61 FR 64687). Pursuant to a settlement agreement, the Department has recalculated the countervailing duty rates. The final countervailing duty rates for this review period are listed below in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: On December 6, 1996, the Department published the final results of its administrative review of the countervailing duty order on certain iron-metal castings from India for the period January 1, 1992 through December 31, 1992. *See Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 61 FR 64687 (*1992 Iron-metal Castings*). Subsequently, respondents challenged the final results before the Court of International Trade (CIT). The primary complaint of their challenge involved the calculation of the program rates for the subsidies provided under section 80 HHC of India's Income Tax Act.

Under section 80HHC of India's Income Tax Act, exporters of iron-metal castings are eligible to claim tax exemptions based on their export profits. In 1992 Iron-Metal Castings, the Department calculated these subsidies without adjusting for other subsidies received under India's International Price Reimbursement Scheme (IPRS). As section 80HHC was also the subject of litigation for the review period 1991 in *Kajaria Iron Casting Pvt. v. United States*, Consolidated Court No. 95–09–01240 (*Kajaria*), litigation for the review period 1992 was stayed pending finalization of *Kajaria*. After the CIT affirmed the Department's remand determination for the 1991 administrative review (*see Kajaria*, slip op. 2001–5 (CIT Jan. 24, 2001)), the Department published a notice of amended final results in accordance with that opinion. *See Certain Iron-metal Castings from India: Amended Final Results of Countervailing Duty Administrative Review In Accordance With Decision Upon Remand* (66 FR 24115, May 11, 2001). In lieu of pursuing further litigation with respect to the administrative review of the review period 1992, the parties have entered into a settlement agreement. The parties agreed to countervailing duty rates that were calculated based on the methodology approved by the CIT in *Kajaria*. On March 8, 2002, the CIT approved the settlement agreement and dismissed the lawsuit. See Calcutta Ferrous v. United States, Consol. Ct. No., 97–01–00004 (CIT Mar. 8, 2002) (Order of Dismissal).

Final Results of Review

Pursuant to the settlement agreement, we recalculated the company-specific and all-other subsidy rates for the period January 1, 1992, through December 31, 1992. The amended final countervailing duty rates are:

Manufacturer/Exporter	Revised Rates
Carnation Enterprises Pvt. Ltd.	*de minimis*
Dinesh	*de minimis*
Kajaria Iron Castings	12.36%
All Others	4.18%

The Department will instruct the U.S. Customs Service (Customs) to assess countervailing duties on all appropriate entries. The Department will issue liquidation instructions directly to Customs.

This amendment to the final results of countervailing duty administrative review notice is in accordance with sections 751(a)(1) and 777(i) of the Tariff Act, as amended, (19 U.S.C. 1675(a)(1) and 1677f(i)), and 19 CFR 351.221(b)(5).

Dated: May 7, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12291 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–063]

Certain Iron-metal Castings from India: Amended Final Results of Countervailing Duty Administrative Review Pursuant to Settlement

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of countervailing duty administrative review.

SUMMARY: On December 6, 1996, the Department of Commerce ("the Department") published in the Federal Register its final results of administrative review of the countervailing duty order on certain iron-metal castings from India for the period 1993 (61 FR 64676). Pursuant to a settlement agreement, the Department has recalculated the countervailing duty rates. The final countervailing duty rates for this review period are listed below in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: On December 6, 1996, the Department published the final results of its administrative review of the countervailing duty order on certain iron-metal castings from India for the period January 1, 1993 through December 31, 1993. *See Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 61 FR 64687 (*1993 Iron-metal Castings*). Subsequently, respondents challenged the final results before the Court of International Trade (CIT). The primary complaint of their challenge involved the calculation of the program rates for the subsidies provided under section 80 HHC of India's Income Tax Act.

Under section 80HHC of India's Income Tax Act, exporters of iron-metal castings are eligible to claim tax exemptions based on their export profits. In *1993 Iron-Metal Castings*, the Department calculated these subsidies without adjusting for other subsidies received under India's International Price Reimbursement Scheme (IPRS). As section 80HHC was also the subject of litigation for the review period 1991 in *Kajaria Iron Casting Pvt. v. United States*, Consolidated Court No. 95–09–01240 (*Kajaria*), litigation for the review period 1993 was stayed pending finalization of *Kajaria*. After the CIT affirmed the Department's remand determination for the 1991 administrative review (*see Kajaria*, slip op. 2001–5 (CIT Jan. 24, 2001)), the Department published a notice of amended final results in accordance with that opinion. *See Certain Iron-metal Castings from India: Amended Final Results of Countervailing Duty Administrative Review In Accordance With Decision Upon Remand* (66 FR 24115, May 11, 2001). In lieu of pursuing further litigation with respect to the administrative review of the review period 1993, the parties have entered into a settlement agreement. The parties agreed to countervailing duty rates that were calculated based on the methodology approved by the CIT in *Kajaria*. On March 8, 2002, the CIT approved the settlement agreement and dismissed the lawsuit. *See Siko Exports v. United States*, Consol. Ct. No., 97–01–00005 (CIT Mar. 8, 2002) (Order of Dismissal).

Final Results of Review

Pursuant to the settlement agreement, we recalculated the company-specific and all-other subsidy rates for the period January 1, 1993, through December 31, 1993. The amended final countervailing duty rates are:

Manufacturer/Exporter	Revised Rates
Delta	0.00%
Super Iron Foundry	*de minimis*
All Others	4.60%

The Department will instruct the U.S. Customs Service (Customs) to assess countervailing duties on all appropriate entries. The Department will issue liquidation instructions directly to Customs.

This amendment to the final results of countervailing duty administrative review notice is in accordance with sections 751(a)(1) and 777(i) of the Tariff Act, as amended, (19 U.S.C. 1675(a)(1) and 1677f(i)), and 19 CFR 351.221(b)(5).

Dated: May 7, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12292 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–063]

Certain Iron-metal Castings from India: Amended Final Results of Countervailing Duty Administrative Review Pursuant to Settlement

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of countervailing duty administrative review.

SUMMARY: On June 13, 1997, the Department of Commerce ("the Department") published in the Federal Register its final results of administrative review of the countervailing duty order on certain iron-metal castings from India for the period 1994 (62 FR 32297). Pursuant to a settlement agreement, the Department has recalculated the countervailing duty rates. The final countervailing duty rates for this review period are listed below in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: On June 13, 1997, the Department published the final results of its administrative review of the countervailing duty order on certain iron-metal castings from India for the period January 1, 1994 through December 31, 1994. *See Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 62 FR 32297 (*1994 Iron-metal Castings*). Subsequently, respondents challenged the final results before the Court of International Trade (CIT). The primary complaint of their challenge involved the calculation of the program rates for the subsidies provided under section 80 HHC of India's Income Tax Act.

Under section 80HHC of India's Income Tax Act, exporters of iron-metal castings are eligible to claim tax exemptions based on their export profits. In *1994 Iron-Metal Castings*, the Department calculated these subsidies without adjusting for other subsidies received under India's International Price Reimbursement Scheme (IPRS). As section 80HHC was also the subject of litigation for the review period 1991 in *Kajaria Iron Casting Pvt. v. United States*, Consolidated Court No. 95–09–01240 (*Kajaria*), litigation for the review period 1994 was stayed pending finalization of *Kajaria*. After the CIT affirmed the Department's remand determination for the 1991 administrative review (*see Kajaria*, slip op. 2001–5 (CIT Jan. 24, 2001), the Department published a notice of amended final results in accordance with that opinion. *See Certain Iron-metal Castings from India: Amended Final Results of Countervailing Duty Administrative Review In Accordance With Decision Upon Remand* (66 FR 24115 May 11, 2001). In lieu of pursuing further litigation with respect to the administrative review of the review period 1994, the parties have entered into a settlement agreement. The parties agreed to countervailing duty rates that were calculated based on the methodology approved by the CIT in *Kajaria*. On March 7, 2002, the CIT approved the settlement agreement and dismissed the lawsuit. *See Shree Rama v. United States*, Consol. Ct. No., 97–07–01099 (CIT Mar. 7, 2002)(Order of Dismissal).

Final Results of Review

Pursuant to the settlement agreement, we recalculated the company-specific and all-other subsidy rates for the period January 1, 1994, through December 31, 1994. The amended final countervailing duty rates are:

Manufacturer/Exporter	Revised Rates
Calcutta Ferrous	3.21%

Manufacturer/Exporter	Revised Rates
Carnation Enterprises Pvt. Ltd.	de minimis
Commex Corporation	1.42%
Crescent Enterprise Pvt. Ltd.	7.22%
Dinesh	5.85%
Kajaria	12.82%
Kejriwal Iron & Steel Works	10.20%
Nandikeshwari	3.12%
R.B. Agarwalla	1.47%
RSI	3.95%
Serampore	7.37%
Shree Rama Enterprise	8.75%
Siko Exports	4.20%
Super Iron Foundry	de minimis
Victory Castings Ltd.	2.10%

The Department will instruct the U.S. Customs Service (Customs) to assess countervailing duties on all appropriate entries. The Department will issue liquidation instructions directly to Customs.

This amendment to the final results of countervailing duty administrative review notice is in accordance with sections 751(a)(1) and 777(i) of the Tariff Act, as amended, (19 U.S.C. 1675(a)(1) and 1677f(i)), and 19 CFR 351.221(b)(5).

Dated: May 7, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12293 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers and exporters of PET film from India. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Karine Gziryan, (202) 482–5253 and (202) 482–4081, respectively, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Case History

Since the publication of the preliminary determination in the **Federal Register** (*see Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India*, 66 FR 53389 (October 22, 2001) (*Preliminary Determination*)), the following events have occurred:

From October 30, 2001 to November 9, 2001, we conducted a verification of the questionnaire responses submitted by the Government of India (GOI),[1] Ester Industries Ltd. (Ester), Garware Polyester Ltd. (Garware), Garware's affiliated input supplier, Garware Chemicals Ltd. (Garware Chemicals), and Polyplex Corporation Ltd. (Polyplex). On December 12, 2001, we published a notice postponing the final determination in the companion antidumping duty investigation until May 6, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India*, 66 FR 65893 (December 12, 2001). Because of the alignment of this countervailing duty investigation with the companion antidumping duty investigation, the final determination in this countervailing duty investigation was also postponed until May 6, 2002.

On February 25 and 26, 2002, we received case briefs from the petitioners, DuPont Teijin Films, Mitsubishi Polyester Film, and Toray Plastics (America) Inc. (collectively, the petitioners), the GOI, Ester, and Garware and Garware Chemicals. On March 7, 2002, we received rebuttal briefs from all parties that had submitted case briefs. On March 20, 2002, a public hearing was held at the Department of Commerce.

In addition, on October 22, 2001, six producers and exporters of PET film from India, Ester, Flex Industries Limited (Flex), Garware, Jindal Polyester Ltd. (Jindal), MTZ Polyfilms Ltd., and Polyplex, submitted a proposal for a suspension agreement in this investigation. Subsequently, on January 22, 2002, we met with counsel for the GOI, Ester, Flex, Jindal, and Polyplex to discuss this proposal, but no agreement resulted from this meeting. For further details, see Memorandum to the file dated May 6, 2002 on proposed suspension agreement.

Scope of the Investigation

For purposes of this investigation, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Injury Test

Because India is a "Subsidy Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure or threaten material injury to a U.S. industry. On July 11, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from India of subject merchandise. *See Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan*, 66 FR 36292 (July 11, 2001).

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2000, through March 31, 2001, which corresponds to the period for the

[1] We conducted a verification of the responses submitted by the GOI at the GOI, the Government of the State of Uttaranchal, and the Government of the State of Maharashtra.

respondents' most recently completed fiscal year.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) dated May 6, 2002, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://www.ia.ita.doc.gov, under the heading "**Federal Register** Notices." The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in our determination. Specifically, we have made changes or new determinations concerning the following issues:

1. Calculation of Garware's short-term benchmark interest rate for post-shipment export financing;
2. Calculation of Garware's long-term benchmark interest rate;
3. Calculation of subsidy rate for EPCGS licenses with an export commitment of PET chips or an export commitment of PET chips and PET film;
4. Calculation of subsidy rate for pre-shipment export financing;
5. Calculation of Polyplex's subsidy rate for the Post-export Duty Entitlement Passbook Scheme (DEPS);
6. Calculation of subsidy rate for, and countervailability of, Special Import Licenses (SILs);
7. Calculation of subsidy rate for Export Promotion Capital Goods Scheme (EPCGS);
8. Calculation of subsidy rate for State of Maharashtra (SOM) sales tax incentives;
9. Countervailability of Octroi Refund Scheme;
10. Countervailability of SOM Capital Incentive Scheme;
11. Countervailability of Interest Waived by SICOM Limited;
12. Countervailability of State of Uttar Pradesh (UP) sales tax incentives for exports under Section 4–B of the UP Trade Tax Act;
13. Program-wide changes in the SIL Scheme and the Post-export DEPS;

We have also corrected certain programming and clerical errors in our preliminary calculations, where applicable. These changes are discussed in the relevant section of the Decision Memorandum and the calculation memoranda for Ester, Garware, and Polyplex, dated May 6, 2002.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual net subsidy rates for the companies under investigation (Ester, Garware, and Polyplex). To calculate the "all others" rate, we weight-averaged the individual rates of these companies by each company's respective sales of subject merchandise made to the United States during the POI. We determine the net subsidy rates to be as follows:

Producer/exporter	Net subsidy rate
Ester Industries Ltd ...	19.42% *ad valorem.*
arware Polyester Ltd	25.47% *ad valorem.*
Polyplex Corporation Ltd.	20.12% *ad valorem.*
All Others	21.59% *ad valorem.*

Under section 351.526 of the Department's regulations, the Department can adjust cash deposit rates to account for program-wide changes. During this investigation, the Department verified that one program, the Special Import License Scheme, was terminated subsequent to the POI, and that a program-wide change occurred subsequent to the POI in the rate of the post-export Duty Entitlement Passbook Scheme (DEPS). Therefore, we have adjusted the following cash deposit rates to take into account these program-wide changes:

Producer/exporter	Cash deposit rate
Ester Industries Ltd ...	18.43% *ad valorem.*
Garware Polyester Ltd	24.48% *ad valorem.*
Polyplex Corporation Ltd.	18.66% *ad valorem.*
All Others	20.40% *ad valorem.*

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of PET film from India, which were entered or withdrawn from warehouse, for consumption on or after October 22, 2001, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after February 22, 2002, but to continue the suspension of liquidation of entries made between October 22, 2001 and February 21, 2002. We will issue a countervailing duty order and reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 6, 2002.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

General Issues

1. Countervailability of the DEPS
2. Calculation of the Benefit for the DEPS
3. Financial Contribution in the Pre- and Post-Shipment Export Financing Programs
4. Calculation of the Benefit for the Pre- and Post-Shipment Export Financing Programs
5. Calculation of the Benefit for EPCGS
6. Termination of the Pre-Export DEPS and the Special Import License Scheme
7. Program-Wide Change in the Post-Export DEPS
8. Deemed Exports in Calculation of Export Subsidies
9. State of Maharashtra's Package Scheme of Incentives
10. Benefit of Sales Tax Incentives for Exports Under Section 4–B of the Uttar Pradesh Trade Tax Act
11. Specificity of Sales Tax Incentives Under Section 4–A of the Uttar Pradesh Trade Tax Act

Company-Specific Issues

12. Calculation of EPCGS Benefit for Ester
13. Calculation of Pre- and Post-Shipment Financing for Ester
14. Correction of Ester's Clerical Errors
15. Application of Input Supplier Rule to Garware and Garware Chemicals
16. Ministerial Error in the Calculation of Garware's EPCGS Benefits
17. Benchmarks for Garware's Pre- and Post-Shipment Export Financing Loans

[FR Doc. 02–12294 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050702B]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for public comment on NMFS' evaluation and pending determination of a Tribal Resource Management Plan (Tribal Plan).

SUMMARY: Notice is hereby given that NMFS, by delegated authority from the Secretary of Commerce (Secretary), has evaluated and prepared its pending determination of a Tribal Plan submitted by the Northwest Indian Fisheries Commission, in cooperation with the Puget Sound Indian Tribes, pursuant to the protective regulations promulgated for threatened Hood Canal summer-run chum salmon under the Endangered Species Act (ESA). This document also includes a summary of the underlying biological analysis used in the pending determination.

DATES: Written comments on the pending determination must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Daylight Time on June 17, 2002.

ADDRESSES: Written comments and requests for copies of the evaluation and pending determination should be sent to Leslie Schaeffer, Protected Resources Division, National Marine Fisheries Service, 525 NE Oregon Street, Portland, OR 97232–2737. The full text of the evaluation and pending determination is also available at *http://www.nwr.noaa.gov/*. Comments may also be faxed to 503–230–5435. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Leslie Schaeffer at phone number 503–230–5433 or e-mail: *leslie.schaeffer@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Hood Canal summer-run chum salmon (*Oncorhynchus keta*) Evolutionarily Significant Unit (ESU).

Background

The Northwest Indian Fisheries Commission submitted a Tribal Plan in cooperation with the Puget Sound Indian Tribes for scientific research and assessment activities within the range of the Hood Canal summer-run chum salmon ESU in the state of Washington. The Puget Sound Indian Tribes conduct, independently and in cooperation with Federal and state agencies, a variety of research and assessment projects that provide the technical basis for their fishery management, and for the conservation and restoration of salmon stocks and their habitat. The need for improved and more quantitative information regarding freshwater and early marine survival needs of salmon is the purpose of the current research activities. The Tribal Plan includes implementation, monitoring, and evaluation procedures designed to ensure that the research activities are consistent with these objectives. The research activities described in the Tribal Plan span a 5 year period beginning on January 1, 2002.

Authority

Under section 4(d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) rule (65 FR 42481, July 10, 2000) states that the ESA section 9 take prohibitions will not apply to Tribal Plans provided the Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival and recovery of the listed salmonids.

Dated: May 10, 2002.

Wanda L. Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12276 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050702A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act. The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2002 in the Imnaha River basin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of Snake River salmon and steelhead.

DATES: Written comments on the Secretary's pending determination must be received no later than 5 p.m. Pacific Standard Time on June 17, 2002.

ADDRESSES: Written comments and requests for copies of the pending determination should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to 208/378–5699. The document is also available on the Internet at http://www.nwr.noaa.gov/. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Herb Pollard at phone number: 208/378–5614, or e-mail: *herbert.pollard@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Imnaha River

basin population of the Snake River Spring/Summer Chinook salmon (*Oncorhynchus tshawytscha*) and Snake River steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Units (ESU).

Background

The Nez Perce Tribe has submitted to NMFS a Tribal Plan for recreational, ceremonial, and subsistence fisheries in 2002 potentially affecting threatened Snake River spring/summer chinook salmon in the Imnaha River basin. The Tribal Plan includes recreational fisheries specified by the Oregon Department of Fish and Wildlife that take place in the same waters and in the same time frame as the tribal ceremonial and subsistence fisheries. The Nez Perce Tribe and the State of Oregon have co-manager responsibilities for spring chinook salmon within the Imnaha River sub-basin and manage this salmon population under cooperative agreements. The objective of the Tribal Plan is to harvest spring chinook in a manner that does not appreciably reduce the likelihood of survival and recovery of the ESU. Impact levels to the listed spring chinook populations in the ESU are specified in the Tribal Plan. Analysis of the predicted return of naturally and hatchery-produced spring chinook salmon to the Imnaha River basin in 2002 and the proposed harvest levels indicate that all hatchery brood stock and supplemental spawning and natural spawning escapement needs will be met after the proposed fisheries. A variety of monitoring and evaluation tasks to be conducted by the co-managers is specified in the Tribal Plan to assess the abundance of spring chinook and to determine fishery effort and catch of spring chinook. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and listed spring chinook populations are performing as expected will be done within and at the end of the proposed 2002 season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for Imnaha River chinook salmon would appreciably reduce the likelihood of survival and recovery of the threatened Snake River spring/summer chinook salmon ESU.

Under section 4(d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. NMFS has issued a final ESA 4(d) Rule for Tribal Plans adopting regulations necessary and advisable to harmonize statutory conservation requirements with tribal rights and the Federal trust responsibility to tribes (65 FR 42481, July 10, 2000). This 4(d) Rule for Tribal Plans applies the prohibitions enumerated in section 9(a)(1) of the ESA. NMFS did not find it necessary and advisable to apply the take prohibitions described in sections 9(a)(1)(B) and 9(a)(1)(C) to fishery harvest activities if the fisheries are managed in accordance with a Tribal Plan that has been approved by NMFS. As specified in the 4(d) Rule, before the Secretary makes a decision on the Tribal Plan, the public must have an opportunity to review and comment on the pending determination.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: May 10, 2002.

Wanda L. Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12277 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002F]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Mackerel Stock Assessment Panel (MSAP).

DATES: This meeting will begin at 1:30 p.m. on Tuesday, May 28, 2002 and will conclude by 3 p.m. on Thursday, May 30, 2002.

ADDRESSES: The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The MSAP will convene to review a new stock assessment for Gulf group king mackerel and stock assessment updates for Gulf group Spanish mackerel and Atlantic group king and Spanish mackerel. The MSAP will consider available information, including but not limited to, commercial and recreational catches, natural and fishing mortality estimates, recruitment, fishery-dependent and fishery-independent data, bycatch and bycatch mortality, and data needs. These analyses will be used to determine the condition of the stocks and possibly the levels of acceptable biological catch (ABC) for the 2002–2003 fishing year. The MSAP may also review estimates/proxies for maximum sustainable yield (MSY), optimum yield (OY), as well as overfishing and overfished definitions for Gulf bluefish, cero, and little tunny.

Although non-emergency issues not contained in the agenda may come before the MSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), those issues may not be the subject of formal MSAP action during this meeting. MSAP action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the MSFCMA, provided the public has been notified of the Council's intent to take final action to address the emergency. A copy of the MSAP agenda can be obtained by calling (813) 228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by May 21, 2002.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12279 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050802B]

Marine Mammals; Permit No. 848–1335–09

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that The Honolulu Laboratory, Southwest Fisheries Science Center, 2570 Dole Street, Honolulu, Hawaii 96822–2396 (Dr. R. Michael Laurs, Director; Principal Investigator), has been issued an amendment to scientific research Permit No. 848–1335–08 to extend the expiration date through December 31, 2002.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018; and

Protected Species Coordinator, Pacific Area Office, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Amy Sloan, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the provisions of § 222.306 of the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of this amendment, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 10, 2002.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12280 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040802A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of 39 research permits, six research permit modifications, eight research permit amendments, and withdrawal of two research permit applications.

SUMMARY: NMFS has issued 39 scientific research permits, six research permit modifications, eight research permit amendments and withdrew two research permit applications. NMFS withdrew the scientific research permit applications from the City of Kent Public Works in Kent, WA and the Northwest Fisheries Science Center (NWFSC) in Seattle, WA.

ADDRESSES: The applications and related documents are available for review in the following office, by appointment: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (phone: 503–230–5400, fax: 503–230–5435).

FOR FURTHER INFORMATION CONTACT: Steve Stone, Portland, OR (phone: 503–231–2317, fax: 503–230–5435, e-mail: steve.stone@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Scientific research and/or enhancement permits are issued under Section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 *et seq.*). Issuance of permits and permit modifications, as required by the ESA, is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species that are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits, modifications, and amendments are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR Parts 222–226).

Species Covered in This Notice

The following ESA-listed species and evolutionarily significant units (ESUs) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Puget Sound (PS); threatened Lower Columbia River (LCR); threatened Snake River (SnR) spring/summer and fall; endangered Upper Columbia River (UCR); threatened Upper Willamette River (UWR).

Sockeye salmon (*O. nerka*): Endangered SnR.

Chum salmon (*O. keta*): Threatened Hood Canal summer-run (HCS); threatened Columbia River (CR).

Steelhead (*O. mykiss*): Threatened LCR; threatened Middle Columbia River (MCR); threatened SnR; threatened UWR; endangered UCR.

Permits Issued

Permit 1175

Notice was published on August 27, 1998 (63 FR 45799), and June 7, 2001 (66 FR 30704), that the U.S. Forest Service (USFS) in Vancouver, WA applied for a scientific research permit. NMFS issued permit 1175 on February 27, 2002, to the USFS authorizing annual takes of threatened LCR chinook salmon, threatened PS chinook salmon, threatened LCR steelhead, and threatened CR chum salmon. Permit 1175 expires on December 31, 2006.

Permit 1229

Notice was published on January 14, 2000 (65 FR 2381), that the Northern Wasco County Peoples' Utility District in The Dalles, OR (NWCPUD) applied for a scientific research permit. NMFS issued permit 1229 on March 8, 2002, to the NWCPUD authorizing annual direct takes of threatened SnR fall chinook salmon; threatened SnR spring/summer chinook salmon; endangered UCR spring chinook salmon; endangered SnR sockeye salmon; threatened MCR steelhead; threatened SnR steelhead; and endangered UCR steelhead. Permit 1229 expires on December 31, 2006.

Permit 1246

Notice was published on March 22, 2000 (65 FR 15312), that Douglas County Public Utility District No. 1 (PUD) in East Wenatchee, WA applied for a scientific research permit. NMFS

issued permit 1246 on February 21, 2002, to the PUD authorizing annual direct takes of endangered UCR spring chinook salmon and endangered UCR steelhead. Permit 1246 expires on December 31, 2006.

Permit 1252

Notice was published on May 16, 2000 (65 FR 31147), that the Washington Department of Transportation (WDOT) in Olympia, WA applied for a scientific research permit. NMFS issued permit 1252 on February 23, 2002, to WDOT authorizing annual direct takes of endangered UCR chinook salmon, threatened PS chinook salmon, threatened LCR chinook salmon, threatened HCS chum salmon, threatened CR chum salmon, endangered UCR steelhead, and threatened LCR steelhead. Permit 1252 expires on December 31, 2006.

Permit 1290

Notice was published on February 21, 2001 (66 FR 11002), that the NWFSC applied for a scientific research permit. NMFS issued permit 1290 on March 08, 2002, to the NWFSC authorizing annual direct takes of endangered UCR spring chinook salmon, threatened UWR chinook salmon, threatened LCR chinook salmon, threatened SnR spring/summer chinook salmon, threatened SnR fall chinook salmon, endangered UCR steelhead, threatened MCR steelhead, threatened UWR steelhead, threatened LCR steelhead, threatened SnR steelhead, and threatened CR chum salmon. Permit 1290 expires on December 31, 2006.

Permit 1293

Notice was published on March 3, 2001 (66 FR 1305), that Northern Resource Consulting (NRC) in Longview, WA applied for a scientific research permit. NMFS issued permit 1293 on March 11, 2002, to the NRC authorizing annual direct takes of endangered, UCR spring chinook salmon, endangered UCR steelhead, threatened MCR steelhead, threatened, LCR chinook salmon, threatened LCR steelhead, and threatened CR chum salmon. Permit 1293 expires on December 31, 2006.

Permits 1309, 1310, 1311, 1312, 1313, 1314, 1315

Notice was published on May 16, 2001 (66 FR 27076), that the following entities applied for scientific research permits: King County Department of Natural Resources in Seattle, WA (1309); King County Department of Transportation in Seattle, WA (1310); NWFSC (1311); Olympic Resource Management in Aberdeen, WA (1312); Pentec Environmental in Edmonds, WA (1313); Port of Seattle (1314); and the U.S. Army Corps of Engineers in Seattle, WA (1315). NMFS issued these permits on February 22–23, 2002, authorizing annual direct takes of threatened PS chinook salmon (all permits) and HCS chum salmon (1312). All seven permits expire on December 31, 2006.

Permits 1317, 1318, 1319, 1320, 1321

Notice was published on June 7, 2001 (66 FR 30704), that the following entities applied for scientific research permits: U.S. Geological Survey (USGS) in Cook, WA (1317); Oregon Department of Fish and Wildlife (ODFW) in Portland, OR (1318); Georgia Pacific West Inc., in Bellingham, WA (1319); the City of Marysville, WA (1320); and Mr. Kenneth Witty of S.P. Cramer and Associates in Enterprise, OR (1321). NMFS issued permits on February 14 (1321) February 21 (1317), February 23 (1319 and 1320), and March 8 (1318), 2002. These permits authorize annual direct takes of threatened UWR chinook salmon (1318), threatened LCR chinook salmon (1318), threatened UWR steelhead (1318), threatened LCR steelhead (1318), threatened MCR steelhead (1317, 1318, 1321), and threatened PS chinook salmon (1319, 1320). All five permits expire on December 31, 2006.

Permits 1256, 1326, 1327, 1328, 1330, 1331, 1332, 1333, 1334, 1336, 1337, 1338

Notice was published on July 20, 2001 (66 FR 37947), that the following entities applied for scientific research permits: Bureau of Land Management in Eugene, OR (1256); Cascade General, Inc. in Portland, OR (1326); Western Washington University in Bellingham, WA (1327); Lower Willamette Group in Portland, OR (1328); Weyerhaeuser in Federal Way, WA (1330); King County Department of Transportation in Renton, WA (1331); City of Bellingham, WA (1332); Oregon State University (OSU) in Corvallis, OR (1333, 1337); Oregon Metallurgical Corporation in Portland, OR (1334); Port Blakely Farms in Tenino, WA (1336); and United States Fish and Wildlife Service in Vancouver, WA (1338). NMFS issued permits on February 21 (1333, 1334, 1336, 1337, 1338), February 22 (1256, 1326, 1327, 1328, 1330), February 23 (1331), and February 27 (1332), 2002. These permits authorize annual direct takes of threatened UWR chinook salmon (1256, 1326, 1327, 1328, 1333, 1334, 1336, 1337), threatened LCR chinook salmon (1326, 1328, 1333, 1336, 1338), threatened PS chinook salmon (1331, 1332), threatened CR chum salmon (1338), threatened UWR steelhead (1326, 1327, 1328, 1333, 1334, 1336, 1337), and threatened LCR steelhead (1326, 1328, 1330, 1333, 1336, 1338). All 13 permits expire on December 31, 2006.

Permit 1335

Notice was published on July 20, 2001 (66 FR 37947), and November 9, 2001 (66 FR 56658), that the USFS in Corvallis, OR applied for a scientific research permit. NMFS issued permit 1335 on February 23, 2002, to the USFS authorizing annual direct takes of threatened PS chinook salmon, threatened CR chum salmon, threatened HCS chum salmon, threatened MCR steelhead, and threatened LCR steelhead. Permit 1335 expires on December 31, 2006.

Permits 1339, 1340, 1341, 1342, 1343

Notice was published on July 20, 2001 (66 FR 37949), that the following entities applied for scientific research permits: the Columbia River Inter-Tribal Fish Commission (CRITFC) in Portland, OR (1339); OSU (1340), the Shoshone-Bannock Tribes in Fort Hall, ID (1341); the Washington State University in Pullman, WA (1342); and Thompson Creek Mining Company in Challis, ID (1343). NMFS issued permits on February 19 (1342), February 20 (1339), and February 21 (1340, 1341, 1343), 2002. These permits authorize annual direct takes of SnR sockeye salmon (1339, 1341, 1342, 1343), endangered UCR spring chinook salmon (1339, 1342, 1343), threatened SnR spring/summer chinook salmon (1339, 1340, 1341, 1342, 1343), threatened SnR fall chinook salmon (1339, 1342, 1343), threatened LCR chinook salmon (1339, 1342, 1343), endangered UCR steelhead (1339, 1342, 1343), threatened SnR steelhead (1339, 1340, 1342, 1343), threatened MCR steelhead (1339, 1340, 1342, 1343), and threatened LCR steelhead (1339, 1342, 1343). Permit 1342 expires on December 31, 2004; the remaining four permits expire on December 31, 2006.

Permits 1322, 1344, 1345

Notice was published on July 25, 2001 (66 FR 38640), that the following entities applied for scientific research permits: NWFSC (1322), the Hecla Mining Company in Challis, ID (1344); and the Washington Department of Fish and Wildlife in Olympia, WA (1345). NMFS issued permits on February 21 (1322, 1344) and February 23 (1345), 2002. These permits authorize annual direct takes of endangered SnR sockeye salmon (1344), endangered UCR spring chinook salmon (1344), threatened PS chinook salmon (1345), threatened SnR fall-run chinook salmon (1322, 1344), threatened SnR spring/summer chinook salmon (1322, 1344, 1345), threatened LCR chinook salmon (1322, 1344), threatened UWR chinook salmon (1322), threatened CR chum salmon (1322), endangered UCR steelhead (1344), threatened SnR steelhead (1322, 1344, 1345), threatened UWR steelhead (1322), and threatened MCR steelhead (1322, 1344, 1345), and threatened LCR steelhead (1322, 1344). All three permits expire on December 31, 2006.

Permit Modifications

Permit 1056

Notice was published on March 24, 1998 (63 FR 14069), and March 22, 2000 (65 FR 15312), that NWFSC applied for a modification to scientific research permit 1056. NMFS issued modification 3 to permit 1056 on February 21, 2002, to the NWFSC. Permit 1056 allows take of threatened SnR spring/summer chinook salmon, threatened SnR steelhead, and threatened MCR steelhead. Modification 3 is valid for the duration of the permit which has been extended to expire on December 31, 2002.

Permit 1116

Notice was published on April 7, 2000 (65 FR 18310), that the Douglas County PUD No. 1 applied for a modification to scientific research permit 1116. NMFS issued modification 3 to permit 1116 to Douglas County PUD No. 1 on February 21, 2002. Modification 3 allows take of endangered UCR chinook salmon and is valid for the duration of the permit, which expires on December 31, 2002.

Permit 1140

Notice was published on March 22, 2000 (65 FR 15312), and May 16, 2001 (66 FR 27076), that the NWFSC applied for a modification to scientific research permit 1140. The modification allows take of threatened PS chinook salmon, threatened LCR chinook salmon, threatened UWR chinook salmon, threatened CR chum salmon, threatened SnR steelhead, threatened LCR steelhead, and threatened MCR steelhead. NMFS issued modification 2 to permit 1140 on February 28, 2002; the permit expires on December 31, 2006.

Permit 1152

Notice was published on April 7, 2000 (65 FR 18310), that the ODFW in La Grande, OR applied for a modification to scientific research permit 1152. NMFS issued modification 1 to permit 1152 on February 20, 2002, to ODFW. In addition to an increase in annual takes of threatened artificially propagated SnR spring/summer chinook salmon, the permit modification authorizes ODFW annual take of SnR spring/summer chinook salmon adults and juveniles associated with potential salvage/rescue operations within the state of Oregon. Modification 1 is valid for the duration of the permit which expires on December 31, 2002.

Permit 1156

Notice was published on April 7, 2000 (65 FR 56658), April 19, 2000 (65 FR 20954), and November 9, 2001 (66 FR 56658), that the Environmental Protection Agency in Olympia, WA, and Dynamic Corporation applied for a modification to scientific research permit 1156. NMFS issued modification 2 to permit 1156 on February 28, 2002, authorizing annual direct takes of threatened LCR steelhead, threatened MCR steelhead, endangered UCR steelhead, threatened SnR steelhead, threatened UWR steelhead, threatened LCR chinook salmon, threatened UWR chinook salmon, endangered UCR spring chinook salmon, and threatened PS chinook salmon. Permit 1156, modification 2 expires on December 31, 2002.

Permit 1205

Notice was published on July 20, 2001 (66 FR 37949), that the Oregon Department of Environmental Quality in Portland, OR (ODEQ) applied for a modification to scientific research permit 1205. NMFS issued modification 1 to permit 1205 to ODEQ on February 21, 2002. Modification 1 allows take of threatened SnR spring/summer chinook salmon, threatened SnR fall chinook salmon, and threatened SnR steelhead and is valid for the duration of the permit, which expires on December 31, 2002.

Amendments Issued

Permit 1102

Notices were published on October 31, 1997 (62 FR 58942), February 25, 1998 (63 FR 9505), and April 26, 1999 (64 FR 20266) that the Washington Department of Fish and Wildlife (WDFW) in Vancouver, WA applied for annual takes of threatened SnR steelhead and threatened LCR steelhead under WDFW's scientific research permit 1102. On February 20, 2002, NMFS issued an amendment to permit 1102 that authorizes WDFW annual takes of these species. The amendment is valid for the duration of the permit which expires on January 31, 2003.

Permit 1124

Notice was published on November 18, 1998 (63 FR 64063), that the Idaho Department of Fish and Game (IDFG) applied for annual takes of endangered SnR sockeye salmon, threatened SnR spring/summer chinook salmon, and threatened SnR fall chinook salmon under IDFG's scientific research permit 1124. NMFS issued an amendment to the IDFG scientific research permit 1124 on February 21, 2002. The amendment authorizes IDFG take of these species associated with potential salvage/rescue operations within the state of Idaho. The permit amendment is valid for the duration of the permit which expires on December 31, 2002.

Permit 1126

NMFS issued an amendment to WDFW's scientific permit 1126 on February 21, 2002. The amendment authorizes WDFW annual takes of ESA-listed SnR spring/summer and fall chinook salmon adults and juveniles associated with potential salvage/rescue operations within the state of Washington. The permit amendment is valid for the duration of the permit which expires on December 31, 2002.

Permit 1127

Notice was published on February 19, 1998 (63 FR 8435), that the Shoshone-Bannock Tribes applied for annual takes of threatened SnR steelhead under the Tribes' scientific research permit 1127. NMFS issued an amendment to permit 1127 that authorizes the Shoshone-Bannock Tribes take of this species on February 21, 2002. The amendment is valid for the duration of the permit which expires on December 31, 2002.

Permit 1134

Notice was published on March 2, 1998 (63 FR 10198), that CRITFC applied for take of threatened SnR steelhead. Further notice was published on September 27, 1999 (64 FR 51959), that CRITFC applied for take of threatened LCR chinook salmon under CRITFC's scientific research permit 1134. On February 21, 2002, NMFS issued an amendment to permit 1134 that authorizes CRITFC annual takes of these species. The permit amendment also allows CRITFC to obtain gametes from pre-spawned and partially-spawned adult, threatened SnR spring/summer chinook salmon and steelhead males associated with CRITFC's cryopreservation of sperm research project. The acquisition of gametes from pre-spawned and partially-spawned

adult, threatened SnR spring/summer chinook salmon and steelhead males is subject to annual approval by NMFS. The permit amendment is valid for the duration of the permit, which expires on December 31, 2002.

Permit 1135

On March 8, 2002, NMFS issued an amendment to USGS' scientific research permit 1135 authorizing direct takes of threatened LCD steelhead. Permit 1135 and the amendment expires on December 31, 2006.

Permit 1291

Notice was published on February 21, 2001 (66 FR 11002), and January 2, 2002 (67 FR 62), authorizing the USGS' Columbia River Research Laboratory annual direct takes of endangered UCR spring chinook salmon, threatened SnR spring/summer chinook salmon, threatened SnR fall chinook salmon, threatened LCR chinook salmon, endangered UCR steelhead, threatened LCR steelhead, threatened SnR steelhead, and endangered SnR sockeye salmon. Notice was published on January 2, 2002 (67 FR 62), that USGS applied for an annual take of threatened MCR steelhead under their scientific research permit. NMFS issued an amendment to 1291 on February 21, 2002, to the USGS. Permit 1291 expires on December 31, 2006.

Permit 1292

Notice was published on February 21, 2001 (66 FR 11002), that the USFS in La Grande, OR applied for an annual take of threatened MCR steelhead under their existing permit 1292. On February 21, 2002, NMFS issued an amendment of permit 1292 that authorizes USFS an annual take of this species. The amendment expires on December 31, 2006.

Withdrawn Permit Applications

Permit 1308

Notice was published on May 16, 2001 (66 FR 27076), that the City of Kent Public Works in Kent, WA applied for a scientific research permit. The application for the proposed permit 1308 was withdrawn by the applicant on February 14, 2002.

Permit 1329

Notice was published on July 20, 2000 (66 FR 37947), that the NWFSC applied for scientific research permit 1329. NMFS combined the analysis of the proposed permit 1329 with those in permit 1322 issued to the NWFSC on February 21, 2002, thereby withdrawing permit 1329.

Dated: May 10, 2002.

Margaret Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12275 Filed 5–15–02; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation") has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Marcia Scott, at (202) 606–5000, extension 100. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (800) 833–3722 between the hours of 9 a.m. and 5 p.m. Eastern Standard Time, Monday through Friday.

Comments should be sent to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), Attn: Ms. Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Records Management Center, Room 10102, 725 17th Street, NW., Washington, DC 20503, (202) 395–6929, within 30 days from the date of publication in this **Federal Register**. Due to security measures at OMB, comments sent by mail may be delayed and might not reach Ms. Aguilar within the comment period. Therefore, comments may be faxed to Ms. Aguilar at (202) 395–6974, or sent to her by e-mail at *Brenda—Aguilar@omb.eop.gov*.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION:

Background

The Corporation has the responsibility to evaluate the effectiveness of its program. The Corporation's major initiative is AmeriCorps, the national service program funded at $360 million annually. While the primary emphasis of AmeriCorps is on providing services to communities and other beneficiaries, of key importance is participant development. AmeriCorps includes the State and National program and the National Civilian Community Corps (NCCC) program. The objectives of this study are to describe the changes in those outcomes over time; to identify factors explaining variation in outcomes at different stages of time; and to identify relationships between selected program features and member outcomes. Outcome domains will include civic engagement, educational skill aspiration and achievements, employment skill aspiration and achievements, and life skills.

The Longitudinal Study of AmeriCorps Member Outcomes is designed to assess the effectiveness of AmeriCorps programs in meeting these objectives—member development outcomes. Previously, the Corporation received OMB approval (OMB #3045–0060, expires September 30, 2002 and #3045–0070, expires September 31, 2003) to launch three rounds of surveys of AmeriCorps members and their counterparts in comparison groups.

Current Action

The Corporation seeks OMB approval to continue to study the impact of AmeriCorps*State and National and AmeriCorps*NCCC. This is a request to add another round of data collection to the study. The purpose of this additional round of data collection is to supplement data collected at baseline and post-program and collect additional information about participation in service prior to AmeriCorps, and the decision-making process concerning enrolling or not enrolling in AmeriCorps. In addition, the survey will collect details about the AmeriCorps experience of members, and employment and educational experiences of individuals in the comparison group in the year after they considered joining, but did not actually join AmeriCorps. Analysis of baseline data collected in the initial round of surveys raised questions about participants' motivations about, and previous involvement in, community service. Data collected in the supplemental survey will allow us to address those concerns.

Type of Review: Revision of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: The Longitudinal Research on Member Outcomes.

OMB Number: #3045–0070.

Agency Number: None.

Affected Public: AmeriCorps members, comparison group individuals.

Total Respondents: 3,337 (1,786 AmeriCorps members; 1,551 Comparison group members).

Frequency: One time.

Average Time Per Response: 45 minutes.

Estimated Total Burden Hours: 2,392 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: May 10, 2002.

David A. Reingold,

Director, Department of Research and Policy Development.

[FR Doc. 02–12311 Filed 5–15–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Western Hemisphere Institute for Security Cooperation Board of Visitors; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the inaugural meeting of the Western Hemisphere Institute for Security Cooperation (WHINSEC) Board of Visitors (BoV). Notice Of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). This board was chartered on February 1, 2002 in compliance with the requirements set forth in 10 U.S.C. 2166.

DATES: June 3–4, 2002.

TIME: 9 a.m. to 12:30 p.m. and 2 p.m. to 5:15 p.m. (June 3, 2002). 9 a.m. to 2 p.m. (June 4, 2002).

LOCATION: Pratt Hall, Building 35, 7011 Morrison Ave., Fort Benning, GA 31905.

PROPOSED AGENDA: The WHINSEC BoV will elect internal leadership, approve its rules or by-laws, establish its annual schedule and review the WHINSEC operations, activities and curriculum for compliance with the authorizing legislation.

FOR FURTHER INFORMATION CONTACT: Ken LaPlante, Core Processes, Inc., Army G–3 (Room 2D337), 400 Army Pentagon, Washington, DC 20310, telephone (703) 692–7419 or LTC Andres Toro at (703) 692–7421.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. There will be time, specified, for public comments by individuals and organizations at the end of the meeting on June 4. Public comment and presentations will be limited to two minutes each and must be provided in writing and received before Friday, May 24, 2002. Mail written presentations and requests to register to attend the public sessions to: LTC Andres Toro, DAMO–SSR (Rm 2D337), 400 Army Pentagon, Washington, DC 20310–0400. Public seating is limited, and is available on a first come, first served basis.

John C. Speedy, III,

SES, Designated Federal Officer, WHINSEC BoV.

[FR Doc. 02–12178 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Assay for the Proteolytic Activity of Serotype A Neurotoxin From Clostridium Botulinum

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent No. 5,965,699 entitled "Assay for the Proteolytic Activity of Serotype A Neurotoxin from Clostridium Botulinum" issued October 12, 1999. The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: A label-based assay is described , through modifications of substrate structure and derivatization of serum albumin, which can be used to determine type A proteolytic activity without separation of products.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12181 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Compositions Having Neuroprotective and Analgesic Activity

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent No. 6,046,200 entitled "Compositions Having Neuroprotective and Analgesic Activity," issued April 4, 2000. The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION:

Compounds of the formula:

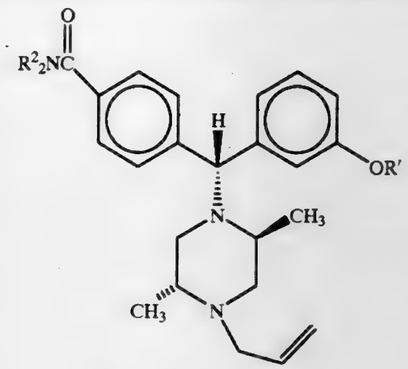

wherein R1 and R2 are alkyl of 1–8 carbons have been shown to have both neuroprotective and analgesic activities. The compounds of the invention may be used in treatment of conditions that would normally result in neuronal damage, including those arising on account of cerebral ischemia/hypoxia or increase in intracranial pressure such as neoplasms, stroke, meningitis or trauma. Compositions of the invention can also be useful for treatment of toxin-related damaged such as drug over-dose or exposure to toxins in the environment.

Luz Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12180 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Applications Concerning Electronic/Automated Information Systems and Methods Which Support the Practice of Medicine

AGENCY: Department of the Arm, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the following, related U.S. patent applications which all relate to electronic/automated information systems and methods which support the practice of medicine:

U.S. Patent Application No.: 10/038,472.

Filed: January 3, 2002.

Title: Providing for Automated Note Completion.

U.S. Patent Application No.: 10/037,631.

Filed: January 3, 2002.

Title: Providing a Suggested Course of Treatment.

U.S. Patent Application No.: 10/038,567.

Filed: January 3, 2002.

Title: Standardized Inpatient—Outpatient Nomenclatures and Accepting Both Outpatient and Inpatient Data to Commonly Accessible Storage.

U.S. Patent Application No.: 10/037,627.

Filed: January 3, 2002.

Title: Collecting counter signatures.

U.S. Patent Application No.: 10/037,628.

Filed: January 3, 2002.

Title: Providing Outpatient and Inpatient Data Across Outpatient and Inpatient Facilities and Providing Automated Discharge Summary Narration.

The United States Government, as represented by the Secretary of the Army, has rights in these inventions.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The above-identified patent applications all claim the benefit of U.S. Provisional Patent Application No. 60/261,151, filed January 16, 2001, entitled "Standard Obstetric Record Charting System (STORC); Electronic Obstetric Record."

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12185 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent and Related U.S. Patent Application Concerning Protein Biomarker for Mustard Chemical Injury

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent No. 6,124,108, entitled "Protein Biomarker for Mustard Chemical Injury," filed May 13, 1997, and related U.S. Patent Application Serial No. 09/482,604, filed January 14, 2000 and having the same title. The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates to the discovery that toxicity to mustard may be evaluated by diagnostic test means disclosed. Upon electrophoretic separation (sodium dodocyl sulfate polyacrylamide gel electrophoresis (SDS–PAGE)) of buffered extract of human skin cells (normal human epidermal keratinocytes (NHEK)) which had been exposed to mustard-type chemical compounds a band at approximately 50,000 to 80,000 daltons molecular weight was found. The protein band constitutes a biomarker. The marker protein can be used either to raise protective antibodies to protect against the protease or may be used in a kit for identifying presence or absence of the marker in study of tissues taken from individuals who may have been exposed to mustard poisoning.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12182 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of Invention Concerning System and Method for Providing Access to Forms and Maintaining the Data Used To Complete the Forms

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of PCT Application No. PCT/US01/15666 entitled "System and Method for Providing Access to Forms and Maintaining the Data Used to Complete the Forms" filed May 16, 2001. The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: An apparatus and method for providing a forms system that preferably allows easy access to an infinite number of forms, an user to electronically sign a form, authentication of the data has not changed after the form has been electronically signed, data conversion, and external data importation into a data file. A further embodiment of the invention includes a method to incorporate signature capabilities into a form. Another aspect of the invention is consistent handling of data entered into forms by users.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12183 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the C–111 Spreader Canal Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), intends to prepare an integrated Project Implementation Report (PIR) and Draft Environmental Impact Statement (DEIS) for the C–111 Spreader Canal Project study. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperative agency for this DEIS. C–111 is the southernmost canal of the Central and Southern Florida (C&SF) Project and is located in southern Miami-Dade County. The canal functions primarily to provide flood protection and drainage for the agricultural areas to the west and south of Homestead, as well as providing a means to deliver water to Taylor Slough in Everglades National Park. Environmentally detrimental effects have resulted from the construction of the canal, including large scale releases of freshwater to Manatee Bay, disruption and redirection of the natural sheet flow pattern over the marsh, and declining fish catches and productivity in northeastern Florida Bay and Barnes Sound, due to highly variable salinities. The final report of the C&SF Comprehensive Review Study (RESTUDY) recommended implementing the C–111 North Spreader Canal Project, now called simply the C–111 Spreader Canal Project. This project will evaluate alternatives to construct, modify, or remove levees, canals, pumps and water control structures, in order to reestablish a more natural water sheet flow pattern through the Model Lands and Southern Glades to Florida Bay, and may include a storm water treatment area.

FOR FURTHER INFORMATION CONTACT: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, Florida, 32232–0019; Attn: Ms. Barbara Cintron or by telephone at 904–232–1692.

SUPPLEMENTARY INFORMATION:

a. *Authorization:* Section 601(c)(x) of the Water Resources Development Act of 2000 (Pub. L. 106–541) authorized the implementation of the C–111 N Spreader Canal Project.

b. *Study Area:* The study area is in sections of the Model Lands and the Southern Glades, in southern Miami-Dade County.

c. *Project Scope:* The scope is to provide water deliveries to the project lands that will enhance connectivity between the natural areas of the Southern Glades and Model Lands, provide natural sheet flow to Florida Bay by eliminating point sources of freshwater discharges through the C–111 Canal to Manatee Bay and Barnes Sound. Pumps and spreader canal features have been proposed to connect the Southern Glades and Model Lands hydrologically. The evaluation of alternatives and selection of a recommended plan will be documented in the Project Implementation Report and EIS.

d. *Preliminary Alternatives:* Backfilling C–110 and a portion of the C–111 Canal and removing water control structures S–18C and S–197 would re-establish the sheet flow pattern of water distribution. Further plan formulation will determine the location and design of the spreader canal, storm water treatment area and pump stations, and will explore other ways of addressing project objectives.

e. *Issues:* The EIS will address the following issues: the relation between this project and the Modified Water Deliveries and C–111 projects; impacts to South Miami-Dade County agricultural and urban lands, impacts to aquatic and wetland habitats; water flows; hazardous and toxic wastes; water quality; flood protection; the impacts of land acquisition on the tax base; aesthetics and recreation; fish and wildlife resources, including protected species; cultural resources; and other impacts identified through scoping, public involvement and interagency coordination.

f. *Scoping:* A scoping letter and public workshops will be used to invite

comments on alternatives and issues from Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals. The next public workshop is scheduled for May 22, 2002, at the Miami-Dade Extension Office, located at 18710 SW 288th Street, Homestead, Florida. The meeting will begin at 6:30 p.m. and continue to 10 p.m.

g. *DEIS Preparation:* The integrated draft PIR, including a DEIS, is currently scheduled for publication in June 2004.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12187 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Cancellation of the Notice of Intent To Prepare a Draft Environmental Impact Statement for the Dade County Beach Erosion Control and Hurricane Protection Project, for a Test Beach Fill Using a Domestic Upland Sand Source Based on a Generic Sand Specification

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; cancellation.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers hereby cancels its notice of intent to prepare a Draft Environmental Impact Statement (DEIS) for the Dade County Beach Erosion Control and Hurricane Protection Project, as published in 64 FR 24373, May 6, 1999.

The notice is cancelled because, after scoping for the proposed DEIS was completed, no new new issues were raised; no request was received for public meetings, and comments were received only from environmental and resource agencies.

An Environmental Assessment will be prepared and coordinated for the proposed action. This document is expected to be available in May 2002.

FOR FURTHER INFORMATION CONTACT: Questions can be forwarded to Mr. Mike Dupes, Environmental Branch, Planning Division, Jacksonville District, Corps of Engineers, Post Office Box 4970, Jacksonville, Florida 32232–0019, Phone: 904–232–1689.

Dated: May 1, 2002.

James C. Duck,

Chief, Planning Division.

[FR Doc. 02–12179 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Shrewsbury River Basin, Monmouth County, NJ, Flood Control and Ecosystem Restoration Study: Feasibility Phase;Correction

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; date correction.

SUMMARY: The public scoping meetings scheduled for June 13, 2002 from 2 pm to 5 pm and from 7 pm to 9 pm published in the **Federal Register** on Friday, May 3, 2002 (67 FR 22414) have been rescheduled. The public scoping meetings will now be held on June 14, 2002 from 2 pm to 5 pm and from 7 pm to 9 pm. The meetings will be held in Monmouth County at the Sea Bright Borough Hall gymnasium.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Alvarez, Project Biologist, Planning Division, U.S. Army Corps of Engineers, New York District, 26 Federal Plaza, Room 2142, New York, New York, 10278–0090, at (212) 264–2008 or at *melissa.d.alvarez@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The information for the point of contact for the original notice has also changed, the physical street address has been modified and the email address has been added (*see* above).

Luz D. Oritz,

Army Federal Register Liaison Officer.

[FR Doc. 02–12186 Filed 5–15–02; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 17, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 13, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for Grants under the Ronald E. McNair Postbacalaureate Achievement Program (84.217).

Frequency: Once every four years.

Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 300

Burden Hours: 1,500

Abstract: The application form is needed to conduct a national competition for the Ronald E. McNair Postbaccalaureate Achievement Program for program year 2002–03. The program provides Federal financial assistance in the form of grants to institutions of higher education and combinations of institutions of higher education. The program provides Federal financial assistance in the form of discretionary grants to institutions of higher education for the purpose of providing academic and other support services to prepare low-income, first-generation college students, and students from groups underrepresented in graduate education for doctoral study.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 1991. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address vivivan.reese@ed.gov. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address at Joe.Schubart@ed.gov. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–12243 Filed 5–15–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Kangley-Echo Lake Transmission Line Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare a Supplemental Draft Environmental Impact Statement (EIS) and notice of floodplain and wetlands involvement.

SUMMARY: This notice announces BPA's intention to prepare a Supplemental Draft EIS on the construction, operation, and maintenance of a 500-kilovolt (kV) transmission line in King and Kittitas Counties, State of Washington. Cooperating agencies are Mt. Baker-Snoqualmie and Wenatchee National Forests, U.S. Department of Agriculture. The Supplemental Draft EIS will include analysis of additional alternatives recommended in comments received on the Draft EIS. A floodplain and wetlands assessment will be performed and a floodplain statement of findings will be included in the Supplemental Draft EIS, in accordance with the National Environmental Policy Act (NEPA).

DATES: Written comments on the NEPA scoping process are due to the address below no later than June 19, 2002. Comments may also be made at public meetings to be held on June 5, 6, 8, and 13, 2002, at the times and addresses below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Supplemental Draft EIS to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon, 97212. You may also give your comments by calling (360) 418–8445, or toll-free 1–800–282–3713. Comments may also be sent to the BPA Internet address: *comment@bpa.gov.* To be placed on the project mail list, call 1–800–622–4520. In all communications, please specify the Kangley-Echo Lake Project.

Comments may also be made at public meetings to be held on Wednesday, June 5, 2002, 4–8 p.m., at Seattle Center, 305 Harrison Street, Seattle, Washington; Thursday, June 6, 2002, 4–8 p.m., at Mt. Si Senior Center, 411 Main Avenue South, North Bend, Washington; Saturday, June 8, 2002, 11 a.m.–3 p.m., at Black Diamond Community Center, 31605 3rd Avenue (State Route 169), Black Diamond, Washington; and Thursday, June 13, 2002, 4–8 p.m., at Maple Valley Community Center, 22010 SE 248th Street, Maple Valley, Washington. The weekday meetings will have an open house format from 4–6 p.m. with opportunities to provide more formal comments from 6–8 p.m. The Saturday meeting will have the same format, with an open house from 11 a.m.–1 p.m. and a more formal comment period from 1–3 p.m.

FOR FURTHER INFORMATION, CONTACT: Lou Driessen, Project Manager, Bonneville Power Administration—TNP/TPP–3, P.O. Box 3621, Portland, Oregon, 97208–3621; direct telephone (360) 619–6327; toll-free telephone 1–800–282–3713; or e-mail *lcdriessen@bpa.gov.* You may also contact Gene Lynard, Environmental Project Manager, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; direct telephone (503) 230–3790; toll-free telephone 1–800–282–3713; fax number (503) 230–5699; or e-mail: *gplynard@bpa.gov.*

SUPPLEMENTARY INFORMATION: The construction, operation, and maintenance of a 500-kV transmission line in King and Kittitas Counties, Washington, is necessary to maintain reliable electrical service during severe winter conditions in the growing northwest Washington area. The intended effect on the public is to maintain a reliable high-voltage transmission system for Seattle area utilities and avoid an increasing risk of partial blackouts in the Puget Sound area during winter weather events that create a high demand for energy. The action would also enhance BPA's ability to provide firm energy to Canada to meet the requirements of the Columbia River Treaty of 1961. BPA proposes to construct the 500-kV transmission line in 2003–04 to meet these purposes.

This action may involve floodplain and wetlands. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment and a floodplain statement of findings will be included in the Supplemental Draft EIS and Final EIS being prepared for the proposed project in accordance with NEPA.

Alternatives Proposed for Consideration

In response to comments received on the Draft EIS, BPA identified four additional alternatives for location and configuration of a transmission line outside the Cedar River Municipal Watershed that would meet the intended purpose of the transmission line. Two of the alternatives to be considered cross land managed by the U. S. Forest Service north and east of the Cedar River Municipal Watershed, a large natural area in the Cascade Mountains used by the City of Seattle to collect drinking water for about 1.3 million people in King and Snohomish Counties. The added alternatives are described below.

Alternative A

Rebuild BPA's existing Covington to Maple Valley 230-kV transmission line to a double-circuit 500-kV line. New transmission towers would be about 175 feet tall. The new 500-kV line would be constructed on existing right-of-way. Each end of the new line would be connected to existing unused 500-kV circuits such that the new line would be connected to BPA's Raver and Echo Lake substations. The northern vacant circuit would need to be connected to Echo Lake Substation with a short line on BPA property.

Alternative B

Rebuild 30 miles of BPA's existing Rocky Reach to Maple Valley 345-kV transmission line to a double-circuit 500-kV line. The new towers would be about 175 feet tall. The new 500-kV line would be connected to the existing Schultz-Raver No. 2 500-kV transmission line just east of Stampede Pass and to Echo Lake Substation at the west end. The line would cross Interstate 90 (I–90) twice. Almost all of this route would be on existing right-of-way.

Alternative C

Construct a new single-circuit 500-kV line from near the community of Kangley, Washington, or from BPA's Raver Substation on mostly new 150-foot-wide right-of-way. New towers would be about 135 feet tall. The new line could pass through the Ravensdale and Hobart areas and would be connected to an existing vacant (unused) Echo Lake to Maple Valley 500-kV circuit. The vacant circuit would then need to be connected to a new bay in the Echo Lake Substation. This option would require the purchase of new right-of-way.

Alternative D

Construct a new single-circuit 500-kV transmission line from east of Stampede Pass to Echo Lake Substation. The new line would be adjacent to the existing Rocky Reach to Maple Valley 345-kV line. New towers would be about 135 feet tall. The line would cross I–90 twice. A new 150-foot-wide right-of-way would need to be acquired.

Public Participation and Identification of Environmental Issues

BPA has established a 30-day scoping period. Potentially affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed Supplemental Draft EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the Supplemental Draft EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. When completed, the Supplemental Draft EIS will be circulated for review and comment, and BPA will hold public comment meetings for the Supplemental Draft EIS. BPA will consider and respond in the Final EIS to comments received on the Draft EIS and Supplemental Draft EIS.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on May 7, 2002.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 02–12251 Filed 5–15–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–34–000]

Eastern Shore Natural Gas Company; Notice of Informal Settlement Conference

May 10, 2002.

Take notice that an informal settlement conference in this proceeding will be convened on Thursday, May 23, 2002 at 10 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Carmen Gastilo at 202–208–2182 or Anja M. Clark at 202–208–2034.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12194 Filed 5–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–204–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

May 10, 2002.

Take notice that on May 6, 2002, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251–1396, filed in Docket No. CP02–204–000, an application pursuant to wection 7(c) of the Natural Gas Act (NGA) for certificates of public convenience and necessity, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Transco states that the requested certificates of public convenience and necessity are for: (1) Authorizing Transco to construct and operate pipeline looping facilities on its existing Trenton Woodbury Line which will enable Transco to add, under existing firm transportation service agreements, certain points of delivery located on the Trenton Woodbury Line for two existing firm transportation customers (Trenton Woodbury Expansion); (2) approving an initial reservation rate surcharge for the costs associated with the Trenton Woodbury Expansion, and (3) authorizing Transco to construct and operate a new delivery lateral (including a meter station) from a point of interconnection with the Trenton Woodbury Line to a power generation plant being constructed on behalf of Fairless Energy in Bucks County, Pennsylvania (Fairless Delivery Lateral).

Transco states that the Trenton Woodbury Expansion will involve the construction and operation of new pipeline looping facilities on Transco's existing Trenton Woodbury Line thus enabling Transco to provide delivery flexibility for two shippers, PECO Energy Company (PECO) and Virginia Power Energy Marketing, Inc. (VAPEM), under existing Rate Schedule FT contracts to delivery points located on the Trenton Woodbury Line. Transco states that the Fairless Delivery Lateral will involve the construction and operation of a new delivery lateral (including a new meter station and appurtenant facilities) from Transco's Trenton Woodbury Line to a new power plant being constructed on behalf of Fairless Energy in Bucks County, Pennsylvania.

Transco states that in order to recover the costs of the Trenton Woodbury Expansion facilities, Transco requests approval of an initial reservation rate surcharge applicable to the transportation contract quantities under existing Rate Schedule FT Service Agreements with PECO and VAPEM. According to Transco, the costs to construct the Fairless Delivery Lateral will be funded entirely by the developers of the Fairless Energy power plant through advance reimbursement to Transco. The proposed in-service dates of the Trenton Woodbury Expansion and Fairless Delivery Lateral are November 1, 2003 and August 1, 2003, respectively.

Transco states that the Trenton Woodbury Expansion will include approximately 7.17 miles of 36-inch diameter pipeline loop and appurtenant facilities from milepost 8.23 to milepost 15.40 on Transco's existing Trenton Woodbury Line in Mercer and Burlington Counties, New Jersey. Transco estimates that the proposed Trenton Woodbury Expansion facilities will cost approximately $19.6 million and will place these facilities into service on November 1, 2003.

Transco states that the Fairless Delivery Lateral will include approximately 2.48 miles of 24-inch diameter pipeline from a tap located near milepost 17.46 on Transco's Trenton Woodbury Line in Burlington County, New Jersey, to a point of interconnection with the Fairless Energy power generation plant in Bucks County, Pennsylvania, including a meter station and appurtenant facilities. Transco estimates that the proposed Fairless Delivery Lateral will cost approximately $13 million and will place these facilities into service on August 1, 2003.

Transco states that it conducted an open season for the Trenton Woodbury Expansion in February 2001 and, as a result, Transco executed precedent agreements with PECO and VAPEM for the incremental firm transportation capacity to be created on Transco's Trenton Woodbury Line under the expansion.

Any questions concerning this application may be directed to Gina L. Johnson, Transcontinental Gas Pipe Line Corporation, P. O. Box 1396, Houston, Texas 77251–1396, call (713) 215–4243 or fax (713) 215–2229. Transco has also established a toll-free telephone number (1–866–857–7094) for parties to call with questions.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12191 Filed 5–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of License and Solicitation of Comments, Motions To Intervene, and Protests

May 10, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of License.

b. *Project No.:* 2069–007.

c. *Date Filed:* April 30, 2002.

d. *Applicant:* Arizona Public Service Company.

e. *Name of Project:* Childs-Irving Hydroelectric Project.

f. *Location:* On Fossil Creek, a tributary of the Verde River, in Yavapai and Gila Counties, Arizona. The project is located on 326.8 acres of the Coconino National Forest and 17.2 acres of the Tonto National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Nick Svor, Arizona Public Service Company, P.O. Box 53933, Mail Station 3190, Phoenix, AZ 85072, (602)250–1253.

i. *FERC Contact:* Dianne Rodman, (202)219–2830, e-mail at *dianne.rodman@ferc.gov*.

j. *Cooperating agencies:* We are asking federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing documents described in item k below.

k. *Deadline for filing comments, motions to intervene, protests, and requests for cooperating agency status:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene, protests, and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

l. Arizona Public Service Company (APS) filed an application to surrender its major license for the Childs-Irving Project. APS requests that the Commission approve the following: (1) The surrender of the project license effective as of the date APS completes decommissioning activities; (2) the continuance of power generation at the project until December 31, 2004; and (3) the decommissioning proposal established in the September 15, 2000, Settlement Agreement. APS also requests incorporation into the record for the subject surrender proceeding 13 documents filed with the Commission as part of the earlier relicensing proceeding. The application includes a schedule for filing additional information with the Commission to support the surrender application.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12192 Filed 5–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Solicitation of Motions To Intervene, Protests, and Comments

May 10, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12140–000.

c. *Date filed:* December 3, 2001.

d. *Applicant:* Love Bear Lake, Inc.

e. *Name of Project:* Love Bear Lake Project.

f. *Location:* On Bear River, in Bear Lake County, Idaho. The project would not use any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)—825(r).

h. *Applicant Contact:* Mr. William Russ Waite, 485 N. 3rd Street, Montpelier, ID 83254, Phone (208) 847–3152.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. Please include the project number (P–12140–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed 2,700-foot-long, 90-foot-long rolled earth or rocked filled dam, (2) a proposed impoundment with a surface area of xxx acres having a storage capacity of 300,000 acre-feet and a normal water surface elevation of 5,820 feet msl, (3) a proposed powerhouse containing four generating units having a total installed capacity of, (4) four proposed 5-mile-long, 12.5 kV transmission line, and (5) appurtenant facilities.

The project would have an annual generation of 6.2 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12193 Filed 5–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Unlicensed Project Review and Solicitation of Comments, Protests and Motions To Intervene

May 10, 2002.

Take notice that the following review has been initiated by the Commission:

a. *Review Type:* Unlicensed Project.

b. *Docket No.:* UL01–3–000.

c. *Owner:* PacifiCorp.

d. *Name of Project:* Naches Hydroelectric Project.

e. *Location:* The project is located on the Naches River in Yakima County, Washington. (T. 14 N., R. 17 E., secs. 2, 3, 11, 12 and 13; T. 15 N., R. 16 E., sec. 36; and T. 15 N., R. 17 E., secs. 31, 32, and 33, Willamette Meridian, Washington). This project does not occupy Federal or Tribal lands.

f. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton (202) 219–2678, or e-mail address: *henry.ecton@ferc.gov.*

g. *Deadline for filing comments, protests, and/or motions to intervene:* June 13, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov.*

Please include the docket number (UL01–3–000) on any comments, protests, or motions to intervene filed.

h. *Description of Project:* The existing Naches Hydroelectric Project, a run-of-river project, consists of: (1) A 6-foot-high concrete diversion dam; (2) a concrete intake gate structure; (3) an 8.2-mile-long concrete-lined power canal; (4) the Drop Plant, located 4.8 miles from the intake structure, with a 340-foot-long penstock and containing a turbine-generator rated at 1,400 kW; (5) the Naches Plant, located along the canal 3.4 miles from the Drop Plant, fed by two 545-foot-long penstocks from a small forebay, and containing two hydroelectric generating units with rated capacities of 3,000 kW and 3,370 kW; (6) a 12-kV, 3-mile-long transmission line connecting the two plants; and (7) appurtenant facilities.

Pursuant to Section 23(b)(1) of the Federal Power Act (FPA), 16 U.S.C. 817(1), a non-federal hydroelectric project must (unless it has a still-valid pre-1920 federal permit) be licensed if it is located on a navigable water of the United States; occupies lands of the United States; utilizes surplus water or water power from a government dam; or is located on a body of water over which Congress has Commerce Clause jurisdiction, project construction occurred on or after August 26, 1935, and the project affects the interests of interstate or foreign commerce. The purpose of this notice is to gather information to determine whether the existing project meets any or all of the above criteria, as required by the FPA. Copies of "Navigation Status Report: Yakima River, Washington, and Naches River, Washington" is available on RIMS on the Web under UL01–3–000 (May 2002).

i. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

j. Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified comment date for the particular application.

k. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Docket Number of the particular review.

1. Agency Comments—Federal, state, and local agencies are invited to file comments on the described review. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12195 Filed 5–15–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7212–7]

EPA Board of Scientific Counselors, Office of Research and Development, Board of Scientific Counselors Notice of Charter Renewal

AGENCY: Environmental Protection Agency.

ACTION: Notice of charter renewal.

SUMMARY: The Charter for the Environmental Protection Agency's (EPA) Board of Scientific Counselors (BOSC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2 section 9(c). The purpose of BOSC is to counsel the Assistant Administrator for Research and Development (AA/ORD), on the operation of ORD's research program. It is determined that BOSC is in the public interest in connection with the performance of duties imposed on the Agency by law.

FOR FURTHER INFORMATION CONTACT: Inquiries may be directed to Ms. Shirley Hamilton, Designated Federal Officer, BOSC, U.S. EPA, Office of Research and Development (mail code 8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Telephone (202) 564–6853 or *hamilton.shirley@epa.gov*.

Dated: April 2, 2002.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 02–12284 Filed 5–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7211–3]

Notice of Disclosure of Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation and Liability Act to EPA Contractor ASRC Aerospace Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, request for comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) hereby complies with the requirements of 40 CFR 2.310 (h) for authorization to disclose to the ASRC Aerospace Corp. of Greenbelt, Maryland Superfund confidential business information (CBI) submitted to EPA Region 9.

DATES: Comments concerning CBI access will be accepted through June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Peggy De La Torre, Contracting Officer, Environmental Protection Agency Mail Code: PMD8, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 972–3717.

SUPPLEMENTARY INFORMATION: Under EPA contract number: 68–R9–0101, ASRC Aerospace Corp. provides EPA Region 9 San Francisco information management support services to the Environmental Protection Agency for the operation of dockets, records manage-ment support programs, and records center. In performing these tasks, ASRC Aerospace employees have access to agency documents for purposes of document processing, filing, abstracting, analyzing, inventorying, retrieving, tracking, etc. The documents to which ASRC Aerospace has access potentially includes documents submitted under the Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation, and Liability Act. Some of these documents may contain information claimed as CBI. EPA has determined that disclosure of CBI to ASRC Aerospace is necessary in order that ASRC Aerospace may carry out the work required by the contract with EPA. The information EPA intends to disclose includes submissions from all parties related to Superfund sites. The information would be disclosed to ASRC for any of the following reasons: To assist with the operation of dockets, records management support programs, document handling, inventory of records, and indexing. The contract complies with all requirements of 40 CFR 2.301(h)(2)(ii), incorporated by reference into 40 CFR 2.310(h)(2). EPA Region 9 requires that each ASRC employee sign a written agreement that he or she: (1) Will use the information only for the purpose of carrying out the work required by the contract, (2) shall refrain from disclosing the information to anyone other than EPA without prior written approval of each affected business or of an EPA legal office, and (3) shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information is no longer required by ASRC for performance of the work required by the contract or upon completion of the contract.

Dated: March 22, 2002.

Jane Diamond,

Acting Director, Superfund Division, Region IX.

[FR Doc. 02–12146 Filed 5–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0015; FRL–7176–4]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from April 1, 2002 to April 17, 2002, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPT–2002–0015 and the specific PMN number, must be received on or before June 17, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT–2002–0015 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at *http://www.epa.gov/*. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*.

2. *In person.* The Agency has established an official record for this action under docket control number OPPT–2002–0015. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B– 607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT–2002–0015 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* You may submit your comments electronically by e-mail to: *oppt.ncic@epa.gov*, or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPT–2002–0015 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from April 1, 2002 to April 17, 2002, consists of the PMNs

pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 70 PREMANUFACTURE NOTICES RECEIVED FROM: 04/01/02 TO 04/17/02

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0511	04/01/02	06/30/02	Reichhold, Inc.	(G) Polyurethane adhesive	(G) Liquid polyurethane adhesive
P–02–0512	04/02/02	07/01/02	CBI	(G) Raw material used to manufacture processing aid	(S) Amides, from ammonia-ethanolamine reaction by-products and branched and linear C_{16-18} and C_{18}-unsaturated fatty acids
P–02–0513	04/02/02	07/01/02	CBI	(G) Raw material used to manufacture processing aid	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated, branched and linear, reaction products with polyethylenepolyamines
P–02–0514	04/03/02	07/02/02	CBI	(G) Dyestuff in printing ink	(G) Diethoxybenzenamine derivative, diazotized, coupled with aminonaphthalenesulfonic acid derivative, ammonium salt
P–02–0515	04/02/02	07/01/02	CBI	(G) Open, non-dispersive use	(G) Silated urethane resin
P–02–0516	04/03/02	07/02/02	CBI	(G) Additive for lubricating oil	(G) Alkyl methacrylate copolymer
P–02–0517	04/03/02	07/02/02	CBI	(G) Binder of pigment	(G) Rosin modified phenolic resin
P–02–0518	04/03/02	07/02/02	CBI	(G) Non-dispersive use	(G) Blocked aromatic isocyanate
P–02–0519	04/03/02	07/02/02	CBI	(S) Aqueous dispersion of polyurethane for leather finishing	(G) (substituted) dicarboxylic acid, polymer with dioic acid, (substituted) diol, hydrazine, (substituted) propanoic acid and (substituted) cylcohexane, compound with (substituted) amine
P–02–0520	04/03/02	07/02/02	CBI	(G) Filling material	(G) Urethane prepolymer
P–02–0521	04/03/02	07/02/02	CBI	(G) Coating material	(G) Substituted butadiene-styrene polymer
P–02–0522	04/04/02	07/03/02	CIBA Specialty Chemicals Corp., Textile Effects	(S) Exhaust dyeing of polyester fibers	(G) Substituted acridine naphtha substituted benzamide
P–02–0523	04/04/02	07/03/02	CBI	(S) Reactant in manufacture of polyester resins	(G) Oxyalkylated aralkylated phenolic
P–02–0524	04/04/02	07/03/02	Aoc L.L.C.	(S) Polyester component for filament winding of fiberglass reinforced plastic parts; polyester component for relining/rehabilitation of sewer pipe	(S) 1,4-benzenedicarboxylic acid, polymer with 2,5-furandione, 2-methyl-1,3-propanediol and 2,2'-oxybis[ethanol]
P–02–0525	04/05/02	07/04/02	Houghton International Inc.	(S) Lubricant Additive/emulsifier	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated, branched and linear, ethoxylated
P–02–0526	04/05/02	07/04/02	Houghton International Inc.	(S) Lubricant Additive/emulsifier	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated, branched and linear, esters with polyethylene glycol mono(4-nonylphenyl) ether
P–02–0527	04/05/02	07/04/02	Houghton International Inc.	(S) Lubricant Additive/emulsifier	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated, branched and linear, esters with polyethylene glycol mono-C_{12-14}-sec alkyl ethers
P–02–0528	04/04/02	07/03/02	CBI	(G) Catalyst	(G) Morpholine derivative
P–02–0529	04/04/02	07/03/02	BASF Corporation	(S) Processing aid for leather tanning	(G) Diglyceride fatty acid, acetylated
P–02–0530	04/05/02	07/04/02	CIBA Specialty Chemicals Corporation	(S) Photoinitiator for coatings and inks	(G) Alpha-amino ketone
P–02–0531	04/05/02	07/04/02	CBI	(S) Primary lubricant in steel industry; hydraulic fluids; rolling oils	(S) Fatty acids, C_{16-18} C_{18}-unsaturated, branched and linear, esters with trimethylolpropane
P–02–0532	04/05/02	07/04/02	CBI	(G) Acrylic pressure sensitive adhesive	(G) Acrylic solution polymer

I. 70 PREMANUFACTURE NOTICES RECEIVED FROM: 04/01/02 TO 04/17/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0533	04/08/02	07/07/02	Eastman Chemical Company	(S) Chemical intermediate	(G) Sulfophenyl substituted alkyl acid, sodium salt
P–02–0534	04/08/02	07/07/02	CBI	(G) Superplasticizer	(G) Substituted vinylether, ethoxylated
P–02–0535	04/09/02	07/08/02	Solutia Inc.	(S) Drying agent for industrial paints	(G) Acrylic copolymer
P–02–0536	04/09/02	07/08/02	The Dow Chemical Company	(G) Monomer for high performance polymers	(G) Cyclic diol
P–02–0537	04/09/02	07/08/02	CBI	(S) Chemical intermediate	(S) Cyclohexane, 4-methyl-1-(1-methylethyl)-2-[(2-methyl-2-propenyl)oxy]-, (1s,2r,4r)-
P–02–0538	04/09/02	07/08/02	CBI	(G) Lubricating grease	(G) Sulfonate salt
P–02–0539	04/09/02	07/08/02	Custochem, Inc.	(S) Fiber lubricant	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated, branched and linear, ethoxylated
P–02–0540	04/10/02	07/09/02	Estron Chemical Inc.	(G) Additive and intermediate for additives for coatings industry	(G) Aromatic acrylic
P–02–0541	04/10/02	07/09/02	CBI	(G) Emulsifier or surfactant	(G) Alkylamidoalkylsulfonic acid salt
P–02–0542	04/10/02	07/09/02	CBI	(G) Emulsifier or surfactant	(G) Alkylamidoalkylsulfonic acid salt
P–02–0543	04/10/02	07/09/02	Custochem, Inc.	(S) Fiber lubricant	(S) Fatty acids, C_{16-18} and C_{18}-unsaturatedd, branched and linear, diesters with polyethylene glycol
P–02–0544	04/10/02	07/09/02	Liquid Plastics Inc.	(S) Polyurethane prepolymer for moisture curing paint system	(S) Oxirane, methyl-, polymer with alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and oxirane
P–02–0545	04/10/02	07/09/02	CBI	(G) Additive for electroplating chemistry.	(G) Low molecular heterocyclic organic compound
P–02–0546	04/10/02	07/09/02	CBI	(G) Multi-purpose adhesive; open, non-dispersive use; laminating adhesive; open, non-dispersive use	(G) Polyurethane prepolymer; polyurethane hot melt adhesive
P–02–0547	04/11/02	07/10/02	Dow Corning Corporation	(G) Siloxane resin Additive	(G) Dimethyl, hydridomethyl, methylalkylsiloxane
P–02–0548	04/08/02	07/07/02	Eastman chemical Company	(S) Chemical intermediate	(G) Substituted pyrazole ester
P–02–0549	04/10/02	07/09/02	Polyfuel, Inc.	(G) Contained use	(G) Substituted polyether
P–02–0550	04/11/02	07/10/02	Hercules Incorporated	(G) Papermaking chemical	(G) Imidazolium salt
P–02–0551	04/11/02	07/10/02	CBI	(G) Textile colorant	(G) 1,5(naphthalenedisulfonic acid, substituted sulfopheny)azo)-1-naphthalenyl) amino)-substituted-piperazinyl) substituted naphthalenyl)azo)-, sodium salt
P–02–0552	04/10/02	07/09/02	CBI	(G) Open, non-dispersive (resin)	(G) Aliphatic diisocyanate prepolymer
P–02–0553	04/12/02	07/11/02	Ferro Electronic Material Systems	(G) Intermediate chemical	(S) Titanate (2-), bis[ethanediato (2-)-kappa 01, kappa 02]oxo-, barium (1:1), (sp-5-21)-
P–02–0554	04/15/02	07/14/02	CBI	(S) Coating in textile industry	(G) Polyurethane dispersion
P–02–0555	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Amides, from branched and linear C_{16-18} and C_{18}-unsaturated fatty acids and piperazineethanamine
P–02–0556	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated, branched and linear, reaction products with 2-[(2-aminoethyl) amino]ethanol
P–02–0557	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Amides, from branched and linear C_{16-18} and C_{18}-unsaturated fatty acids and triethylenetetramine
P–02–0558	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Amides, from branched and linear C_{16-18} and C_{18}-unsaturated fatty acids and pentaethylenehexamine
P–02–0559	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Amides, from branched and linear C_{16-18} and C_{18}-unsaturated fatty acids and polyethylenepolyamines
P–02–0560	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Amides, from branched and linear C_{16-18} and C_{18}-unsaturated fatty acids and tetraethylenepentamine
P–02–0561	04/10/02	07/09/02	Process Chemicals, LLC	(S) Asphalt Additive; ore flotation	(S) Fatty acids, C_{16-18} and C_{18}-unsaturated branched and linear, reaction products with piperazineethanol

I. 70 PREMANUFACTURE NOTICES RECEIVED FROM: 04/01/02 TO 04/17/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0562	04/15/02	07/14/02	CBI	(G) Resin coating	(G) Urethane acrylate
P–02–0563	04/16/02	07/15/02	NOF America Corp.	(G) Polymer alloy ingredient	(S) 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethenylbenzene
P–02–0564	04/16/02	07/15/02	CBI	(G) Fiberglass film former	(G) Isophorone diisocyanate, polymer with polyethylene- propyleneoxide bisphenol a epichlorohydrin copolymer
P–02–0565	04/16/02	07/15/02	CBI	(G) Catalyst for manufacture of polymers	(G) Organic transition metal complex
P–02–0566	04/16/02	07/15/02	Gateway Additive Company	(S) Metalworking fluids, soluble oil lubricants	(G) Polymer ester of mono and dibasic acids
P–02–0567	04/17/02	07/16/02	CBI	(G) Open, non-diepersive use	(G) Modified acrylic polymer
P–02–0568	04/17/02	07/16/02	CBI	(G) Component of coating with open use	(G) Phosphatized aromatic epoxy polymer
P–02–0569	04/17/02	07/16/02	Cognis Corporation	(G) Synthetic fiber lubricant	(S) Nonanoic acid, reaction products with acetic acid, diethylenetriamine-ethylenimine polymer and urea
P–02–0578	04/17/02	07/16/02	H.B. Fuller Company	(S) Wood laminating adhesive	(G) Polyester isocyanate
P–02–0579	04/17/02	07/16/02	H.B. Fuller Company	(S) Wood laminating adhesive	(G) Polyester isocyanate
P–02–0580	04/17/02	07/16/02	H.B. Fuller Company	(S) Wood laminating adhesive	(G) Polyester isocyanate
P–02–0581	04/17/02	07/16/02	H.B. Fuller Company	(S) Wood laminating adhesive	(G) Polyester isocyanate

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 29 NOTICES OF COMMENCEMENT FROM: 04/01/02 TO 04/17/02

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0179	04/16/02	03/20/02	(S) 1,3-benzenedicarboxylic acid, polymer with 1,4-cyclohexanedimethanol and dimethyl 1,4-benzenedicarboxylate
P–00–0363	04/01/02	03/13/02	(G) Asphatic ester
P–00–0554	04/04/02	07/18/00	(G) Diphenylmethane diisocyanate (mix of 4,4′ and 2,4′ isomeers) terminated polyester polyol
P–00–1047	04/05/02	03/19/02	(G) Alkyl metal silicate
P–00–1053	04/04/02	03/21/02	(G) Naphthalene sulfonic acid derivative
P–01–0076	04/16/02	03/20/02	(G) Dimethyl terephthalate, polymer with cyclohexanedimethanol and disubstituted benzenedicarboxylic acid
P–01–0154	04/05/02	03/21/02	(G) Organic transition metal complex
P–01–0279	04/16/02	12/22/01	(G) Silicone salt
P–01–0765	04/10/02	03/19/02	(G) Polyester of alkane polycarboxylic acid, alkene polycarboxylic acid, aromatic polycarboxylic acid and cycloalkane diols, neutralized with aminoalkanol
P–01–0931	04/17/02	04/03/02	(G) Neodymium ziegler-natta catalyst
P–01–0946	04/01/02	01/18/02	(G) Alkoxylated fatty amine
P–01–0947	04/01/02	03/11/02	(G) Meko blocked aromatic polyisocyanate based on toluenedii Socyanate
P–01–0948	04/12/02	03/23/02	(G) Spiro arylamine derivative
P–02–0072	04/16/02	03/18/02	(G) Acrylate ester
P–02–0086	04/16/02	03/18/02	(G) Polyester polyol
P–02–0107	04/12/02	03/29/02	(G) Alkyl methacrylates, alkyl acrylates copolymer
P–02–0128	04/12/02	04/08/02	(G) Polyester type polyurethane resin
P–02–0129	04/12/02	04/08/02	(G) Organopolysiloxane containing carboxylic acid
P–02–0130	04/09/02	03/28/02	(S) 4-formylphenylboronic acid*
P–02–0131	04/12/02	04/08/02	(G) Methacrylate ahd maleimide copolymer
P–02–0132	04/11/02	04/09/02	(G) Benzenediacetic acid derivative
P–02–0146	04/17/02	03/22/02	(G) Modified polyester
P–02–0182	04/10/02	04/06/02	(G) Polyolefin carboxylate alcohol
P–96–0172	04/03/02	03/14/02	(G) Mono and di-amine salt carboxylate
P–98–0875	04/11/02	03/29/02	(G) Substituted bicyclic olefin
P–99–0007	04/08/02	04/01/02	(G) Organosilane derivatives
P–99–0460	04/16/02	09/25/01	(G) Phtalic anhydride, polymer with diethyleneglycol aliphatic alcohol esters
P–99–0651	04/08/02	03/12/02	(G) Polymer of acrylamide and substituted acrylates
P–99–0804	04/10/02	03/25/02	(G) Modified polyester isocyanate prepolymer

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: May 7, 2002.

Mary Louise Hewlett,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02–12285 Filed 5–15–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:05 p.m. on Monday, May 13, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director James Gilleran (Director, Office of Thrift Supervision), seconded by Director John M. Reich (Appointive), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: May 14, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary

[FR Doc. 02–12435 Filed 5–14–02; 2:11 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

Previously announced date and time: Tuesday, May 14, 2002, 10 a.m., Meeting closed to the public; This Meeting was Canceled.

DATE AND TIME: Tuesday, May 21, 2002 at 10:00a.m.

PLACE: 999 E. Street, NW., Washington, DC

STATUS: This meeting will be closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to U.S.C. 437g

Audits conducted pursuant to 2 U.S.C. 437g 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday May 23, 2002 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Brokerage Loans and Lines of Credit Final Rules.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202)694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–12493 Filed 5–14–02; 3:46 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 10, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Synovus Financial Corp., Columbus, Georgia; to merge with Community Financial Group, Inc., Nashville, Tennessee, and thereby indirectly acquire Bank of Nashville, Nashville, Tennessee.

Board of Governors of the Federal Reserve System, May 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–12197 Filed 5–15–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Allfirst Financial Inc., Baltimore, Maryland, and Allied Irish Banks, P.L.C., Dublin 4, Ireland; to acquire up to 14 percent of the voting shares of Clarity Incentive Systems, Inc., New York, New York, and thereby engage in data processing and management consulting activities, pursuant to §§ 225.28(b)(9)(i)(A), (b)(14)(i), and (b)(14)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–12196 Filed 5–15–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission ("FTC").

ACTION: Notice.

SUMMARY: The FTC has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in its Children's Online Privacy Protection Act Rule ("COPPA Rule" or "Rule"). The FTC is seeking public comments on its proposal to extend through June 30, 2005 the current PRA clearance for information collection requirements contained in the Rule.

DATES: Comments must be submitted on or before June 17, 2002.

ADDRESSES: Send written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN.: Desk Officer of the Federal Trade Commission (comments in electronic form should be sent to *oira_docket@omb.eop.gov*), and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580 (comments in electronic form should be sent to *COPPApaperwork@ftc.gov*). All comments should be captioned "COPPA Rule: Paperwork comment," as prescribed below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Elizabeth Delaney, Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Room S–4002, 601 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–2903.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On March 6, 2002, the FTC sought comment on the information collection requirements associated with the COPPA Rule, 16 CFR Part 312 (OMB Control Number: 3084–0117). See 67 FR 10211 (March 6, 2002). No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *COPPApaperwork@ftc.gov* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii).

The COPPA Rule prohibits unfair and deceptive acts and practices in connection with the collection and use of personally identifiable information from and about children on the Internet. Under the terms of the Act, the Commission's rules must:

(1) Require each website and online service operator directed to children, and any website or online service operator with actual knowledge that it is collecting personal information from children, to provide notice of how it collects, uses and discloses such information and, with exceptions, to obtain the prior consent of the child's parent in order to engage in such collection, use and disclosure;

(2) Require the operator to provide the parent with notice of the specific types of personal information being collected from the child, to give the parent the opportunity to forbid the operator at any time from further collecting, using, or maintaining such information, and to provide reasonable means for the parent to obtain the information;

(3) Prohibit a child's participation in a game, a prize offer, or other activity from being conditioned on the child's disclosure of more personal information than is "reasonably necessary" for the child to participate in that activity; and

(4) Require web site and online service operators to establish procedures that protect the confidentiality, security and integrity of personal information collected from children.[1]

The above-described "notice" requirements do not mandate the maintenance or reporting of any records or other information for or on behalf of the government. Nonetheless, the FTC seeks OMB approval because the aforementioned provisions constitute "collection(s) of information" under the PRA.[2] Likewise, the FTC seeks OMB clearance regarding the information collected under the Rule's safe harbor provisions because, while the submission by operators of such requests to the agency is voluntary, the Rule includes specific information requirements that all such requesters must provide to receive Commission approval.[3] Thus, the safe harbor provisions include a "collection of information" under the PRA and implementing OMB regulations. *See* 44 U.S.C. 3502(3)(A), 5 CFR 1320.3(c).

Estimated annual hours burden: 2,065 hours.

FTC staff projects an estimated 30 new web entrants each year will fall within the Rule's coverage and that each will require, on average, 60 hours per year to craft a privacy policy, design a mechanism to provide the required notice, and post it online.[4] Accordingly, staff estimates that newly affected entities will require approximately 1,800 hours to comply with these requirements of the Rule.[5] Consistent with staff's prior estimated apportionment (5:1) of legal (lawyers or similar professionals) and technical (computer programmers) time spent on compliance,[6] staff estimates that 1,500 hours of this total would be time spent by lawyers (developing the notice policy) and 300 hours would be attributable to computer programmers' efforts (posting the policy on the website).

With regard to the Rule's safe harbor provisions, staff estimates, based on industry input, that it would require, on average, 265 hours per new safe harbor program applicant to prepare and submit their safe harbor proposal in accordance with section 310.12(c) of the Rule. Industry sources have also advised staff that all of this time would be attributable to lawyers' time and costs. Based on past experience and industry input, staff believes that no more than one applicant per year will submit a request. Staff believes, however, that most of the records listed in the Rule's safe harbor provisions consist of records that marketing and online industry representatives have kept in the ordinary course of business preceding the Rule. PRA "burden" does not include effort expended in the ordinary course of business independent of a regulatory requirement. 5 CFR 1320.3(b)(2). Any incremental burden, such as that for maintaining the results of independent assessments under section 312.10(d)(3), would be, in staff's view, *de minimis*. Accordingly, staff estimates that total hours per year for start-up efforts and for safe harbor applications would be approximately 2,065 hours (1,800 + 265).

Labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff conservatively assumes hourly rates of $75 and $25, respectively, for lawyers and computer programmers.[7] Based on these inputs, staff further estimates that the associated annual labor costs for new entrants would be $120,000 [(1,500 hours × $75/hour for legal) + (300 hours × $25/hour for technical)] and $19,875 for safe harbor applicants [265 hours × $75/hour for legal × one application per year] for a total labor cost of $140,000, rounded to the nearest thousand.

Non-labor costs: Since websites will already be equipped with the computer equipment and software necessary to comply with the Rule's notice requirements, the sole costs incurred by the websites are the aforementioned estimated labor costs. Similarly, retention of the records the Rule's safe harbor recordkeeping provisions specify should entail de minimis costs beyond what operators incur independent of the Rule in the ordinary course of business.

William E. Kovacic,

General Counsel.

[FR Doc. 02–12264 Filed 5–15–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission ("FTC").

ACTION: Notice.

SUMMARY: The FTC has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in its Gramm-Leach-Bliley Act Privacy Rule ("GLBA Rule" or "Rule"). The FTC is seeking public comments on its proposal to extend through June 30, 2005 the current PRA clearance for information collection requirements contained in the Rule.

DATES: Comments must be submitted on or before June 17, 2002.

ADDRESSES: Send written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission (comments in electronic form should be sent to *oira_docket@omb.eop.gov*), and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580 (comments in electronic form should be sent to *GLBpaperwork@ftc.gov*). All comments should be captioned "GLBA Rule: Paperwork Comment," as prescribed below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Loretta Garrison, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Room S–4429, 601 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3043.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On March 4, 2002, the FTC sought comments on the information collection requirements associated with the Rule, 16 CFR part 313 (OMB Control Number: 3084–0121). See 67 FR 9737 (March 4, 2002); 67 FR 11745 (March 15, 2002) (correction notice). No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *GLBpaperwork@ftc.gov*. Such

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[1] 15 U.S.C. 6502(b)(1)(A)–(D).

[2] 44 U.S.C. 3502(3), (13); 5 CFR 1320.3(c) (identical questions or reporting requirements directed to ten or more persons). The Commission does not seek OMB approval for the COPPA requirement that state attorneys general notify the Commission when filing a civil action under the Commission's Rule, since the Rule does not incorporate that statutory requirements. *See* 15 U.S.C. 654(2)(A). Likewise, the Commission does not seek OMB approval for the portion of section 312.5 of the Rule that requires operators to ensure they have parental consent before collecting information from children, since the Rule does not require that operators report or maintain any records of such consent on behalf of the government. *See* 5 CFR 1320.3(c),(m).

[3] *See* section 312.10(c). Under section 312.10, operators will be deemed to be in compliance with the Rule if they meet the terms of industry self-regulatory guidelines approved by the Commission after notice and comment.

[4] The hours estimate per new entrant is the same that staff projected in its initial PRA analysis published in the notice of proposed rulemaking. *See* 64 FR 22750, 22761 (April 27, 1999). Staff also retains its prior projection that roughly 30 new children's sites subject to the Rule would be posted each year. Although staff cannot determine with any degree of certainty the number of new entrants potentially subject to the Rule, it believes its empirical estimate is reasonable. Moreover, the Commission received no prior comments challenging staff's prior PRA analysis notwithstanding its receipt of numerous comments on the Rule itself. Accordingly, staff retains those estimates for the instant PRA analysis.

[5] Website operators that have previously created or adjusted their sites to comply with the Rule will incur no further burden associated with the Rule, unless they opt to change their policies and information collection in ways that will further invoke the Rule's provisions. Moreover, staff believes that existing COPPA-complaint operators who introduce additional sites beyond those they already have created will incur minimal, if any, incremental PRA burden. This is because such operators already have been through the start-up phase, and can carry over the results of that work to the new sites they create.

[6] See *http://www.ftc.gov/os/1999/9906/childprivsup.htm* (text of the PRA supporting statement sent to OMB contemporaneous with publication of the proposed rule).

[7] Previously, staff's stated estimates for such labor, were $65.33/hour for legal and $23.18 for computer programmers, based on adding ten percent to 1996 statistics found in "Occupational Compensation Survey: National Summary, 1996," U. S. Department of Labor, Bureau of Labor Statistics. In September 2001, however, the Department of Labor published its "National Compensation Survey: Occupational Wages in the United States, 2000," which integrates data from the Occupational Compensation Survey, the Employment Cost Index, and the Employee Benefits Survey. According to this more recent compilation, the mean hourly earnings of lawyers and computer programmers, based on a survey of all 50 states from June 1999 to April 2001, was $38.70 and $23.33, respectively. More generally, regarding most other Commission information collection activities that invoke the PRA, Commission staff has estimated lawyer's national average hourly rates to be $75, which staff will also apply here. The $25 estimate for computer programmers is merely a rough rounding based on the above-noted data.

comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR section 4.9(b)(6)(ii).

The GLBA Rule is designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the financial institutions with which they conduct business. As mandated by the GLBA, 15 U.S.C. 6801–6809, the Rule requires financial institutions to disclose to consumers: (1) Initial notice of the financial institution's privacy policy when establishing a customer relationship with a consumer and/or before sharing a consumer's non-public personal information with certain nonaffiliated third parties; (2) notice of the consumer's right to opt out of information sharing with such parties; (3) annual notice of the institution's privacy policy to any continuing customer; and (4) notice of changes in the institution's practices on information sharing. These requirements are subject to the PRA.

The Rule does not require recordkeeping.

Estimated annual hours burden: Estimating the paperwork burden of the GLBA Rule's disclosure requirements is very difficult because of the highly diverse group of affected entities, consisting of financial institutions not regulated by a federal financial regulatory agency. Under section 505(a)(7) of the GLBA, the Commission has jurisdiction over the entities that are not specifically subject to another agency's jurisdiction (*see* sections 505(a)(1)–(6) of the GLBA). Because of the types of disclosures at issue and the requirements of the regulations, the frequency of responses and the volume of respondents cannot be determined with certainty.

The burden estimates represent the FTC staff's best assessment, based on its knowledge and expertise relating to the financial institutions subject to the Commission's jurisdiction under this law. To derive these estimates, staff considered the wide variations in covered entities. In some instances, covered entities may make the required disclosures in the ordinary course of business, apart from the GLBA Rule. In addition, some entities may use highly automated means of providing the required disclosures, while others may rely on methods requiring more manual effort. The burden estimates shown below include the time necessary to train staff to comply with the regulations. These figures are averages based on staff's best estimate of the burden incurred over the broad spectrum of covered entities.

Start-Up Hours and Labor Costs for New Entities

Staff estimates that, on average, no more than approximately 5,000 new entities each year will address the GLBA rule for the first time. These entities are accounted for in the table immediately below. At the time of the Rule's inception, staff's estimate of the number of entities newly subject to the Rule included not just start-up entities but also the many existing business entities that would be subject to it for the first time. The estimates regarding established entities are reflected in the second table below.

Event	Number of hours/costs per event and labor category* (per respondent)	Approx. number of respondents	Approx. annual hours (millions)	Approx. total costs (millions)
Reviewing internal policies and developing GLBA-implementing instructions**.	Managerial/professional time: 20 hrs/$1,000.	5,000	0.1	$5
Creating actual disclosure document or electronic disclosure (including initial, annual, and opt out disclosures).	Clerical: 5 hrs/$50 ..... Skilled labor: 10 hrs/$200	5,000	.075	1.25
Disseminating initial disclosure (including opt out notices) ..	Clerical: 15 hrs/$150 ..... Skilled labor: 10 hrs/$200	5,000	.125	1.75
Total	.....	.....	.300	8.00

* Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were $50 for managerial/professional time (e.g., compliance evaluation and/or planning), $20 for skilled technical time (e.g., designing and producing notices, reviewing and updating information systems), and $10 for clerical time (e.g., reproduction tasks, filing, and, where applicable to the given event, typing or mailing). Labor costs totals reflect solely that of the commercial entities affected. Staff assumes that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

** Reviewing instructions includes all efforts performed by or for the respondent to: determine whether and to what extent the respondent is covered by an agency collection of information, understand the nature of the request, and determine the appropriate response (including the creation and dissemination of document and/or electronic disclosures).

Burden Hours and Costs for Established Entities

Burden [1] for established entities already familiar with the Rule would predictably be less than for start-up entities since start-up costs, such as crafting a privacy plicy, are generally one-time costs and have already been incurred. Staff's best estimate of the average burden for these entities is as follows:

Event	Number of hours/costs per event and labor category* (per respondent)	Approx. number of respondents**	Approx. annual hours (millions)	Approx. total costs (millions)
Reviewing GLBA-implementing policies and practices	Managerial/professional time: 4 hrs/$200.	70,000	.28	$14.0
Disseminating annual disclosure	Clerical: 15 hrs/$150 ..... skilled labor: 5 hrs/$100	70,000	1.40	17.5
Changes to privacy policies and related disclosures	Clerical: 15 hrs/$150 ..... skilled: 5 hrs/$100	1,000	.02	.25

[1] While the existing population affected would increase with the inflow of new entrants, staff will retain its estimate of overall population affected (100,000, but subject to further apportionment as detailed in the table below), allowing, in part, for businesses that will close in any given year, and the difficulty of establishing a more precise estimate.

Event	Number of hours/costs per event and labor category* (per respondent)	Approx. number of respondents**	Approx. annual hours (millions)	Approx. total costs (millions)
Total	.....	.....	1.70	31.75

* Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were $50 for managerial/professional time (e.g., compliance evaluation and/or planning), $20 for skilled technical time (e.g., designing and producing notices, reviewing and updating information systems), and $10 for clerical time (e.g., reproduction tasks, filing, and, where applicable to the given event, typing or mailing). Consumers have a continuing right to opt-out, as well as a right to revoke their opt-out at any time. When a respondent changes its information sharing practices, consumers are again given the opportunity to opt-out. Again, staff assumes that the time required of consumer to respond affirmatively to respondent's opt-out program (be it manually or electronically) would be minimal.

** The estimate of respondents is based on the following assumptions: (1) 100,000 respondents, approximately 70% of whom maintain customer relationships exceeding one year (2) no more than 1% (1,000) of whom make additional changes to privacy policies at any time other than the occasion of the annual notice; and (3) such changes will occur no more often than once per year.

As calculated above, the average PRA burden for all affected entities in a given year would be 1,000,000 hours and $19,875,000.

Estimated Capital/Other Non-Labor Costs Burden: Staff estimates that the capital or other non-labor costs associated with the document requests are minimal. Covered entities will already be equipped to provide written notices (e.g., computers with word processing programs, typewriters, copying machines, mailing capabilities.) Most likely, only entities that already have on-line capabilities will offer consumers the choice to receive notices via electronic format. As such, these entities will already be equipped with the computer equipment and software necessary to disseminate the required disclosures via electronic means.

William E. Kovacic,

General Counsel.

[FR Doc. 02–12265 Filed 5–15–02; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality; Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

The Health Care Policy and Research Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and quality (AHRQ), and agree to be available, to conduct, or an as needed basis, scientific review or applications for AHRQ support. Individual members of the Panel do not meet regularly and do not serve for fixed terms or long periods of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for Cooperative Agreement Awards are to be reviewed and discussed at this meeting. These discussions are likely to include personal information concerning individuals associated with these applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: Centers for Education and Research on Therapeutic (Limited Competitive Continuation Projects).

Date: June 10, 2002 (Open on June 10, from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Georgia Room, 3rd Floor, Bethesda, MD 20814.

Contact Person: Anyone wishing to obtain a roster of members or minutes of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1846.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: May 10, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–12310 Filed 5–15–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Oak Ridge Reservation Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 12 p.m.–8 p.m., June 18, 2002.

Place: YWCA of Oak Ridge, 1660 Oak Ridge Turnpike, Oak Ridge, Tennessee, 37830. Telephone: (865) 482–2008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Background: A Memorandum of Understanding (MOU) signed in October 1990 and renewed in September 2000 between ATSDR and DOE, delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, pertaining to CDC's and ATSDR's public health activities and research at this DOE site. Activities shall focus on providing the public with a vehicle to express concerns and provide advice and recommendations to CDC and ATSDR. The purpose of this meeting is to receive updates from ATSDR and CDC, and to address other issues and topics, as necessary.

Matters to be Discussed: The agenda includes a discussion of the public health assessment, updates from the Public Health Assessment, Health Needs Assessment, Agenda, and Outreach and Communications Workgroups. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: La Freta Dalton, Designated Federal Official, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE, M/S E–54, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR(28737), fax 404/498–1744.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 9, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12237 Filed 5–15–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02074]

Interventional Epidemiologic Research Studies to Reduce Mother-to-Child HIV–1 Transmission and Improve Infant Survival in Resource-Limited Countries of High HIV–1 Seroprevalence; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program to support interventional epidemiologic research studies to reduce the burden of HIV/AIDS by preventing mother-to-child HIV–1 transmission peripartum and during breastfeeding in international settings of high HIV–1 seroprevalence. This cooperative agreement will receive cofunding by the National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH) during FY 2003. This program addresses the goals of CDC's HIV Prevention Strategic Plan through 2005.

The purpose of this program is to conduct studies which include clinical trials in resource-limited countries that aim to reduce the risk of perinatal HIV–1 transmission near the time of delivery and during the breastfeeding period among HIV–1 infected women who reside in resource-limited settings and who choose to breastfeed. Also, within the context of these trials, nested research studies will assess mechanisms of transmission during lactation and/or issues related to the effectiveness of, or successful implementation of these interventions.

Background

Worldwide over 600,000 infants each year become HIV–1 infected through mother-to-child transmission. Recent international perinatal trials demonstrated that short course antiretrovirals including zidovudine (AZT), zidovudine/lamivudine (AZT/3TC) and nevirapine (NVP) can reduce the risk of early HIV–1 transmission by about 40 percent in the first 6–14 weeks following delivery. The Joint United Nations Programme on HIV/AIDS (UNAIDS) has recommended that each of these drug regimens can now be considered as possible options for reducing the risk of mother-to-child transmission in resource-limited settings.

However, the global health goal of maximally reducing mother-to-child HIV–1 transmission in resource-limited settings to the low rates (*i.e.*, 5 percent or less) achieved within the U.S. and Europe is yet to be accomplished. Ongoing breast milk transmission results in a near doubling of transmission by 24 months or about 9 percent absolute transmission attributed to breastfeeding between 2–24 months. Two recent studies, a randomized trial of breast milk versus formula in Nairobi and the South African Intrapartum Nevirapine Trial (SAINT) Trial in South Africa compared transmission rates between breastfed and non breastfed infants. Both studies suggest that the first 6–8 weeks may pose the highest risk period of breast milk transmission with about 5–6 percent higher transmission risk for breastfed compared to formula fed infants in the first two months of life. After these first 6–8 weeks, based on observational data from Malawi, ongoing transmission from exposure to breast milk is about 0.6 percent–0.7 percent per month in the first year; and about 0.2–0.3 percent per month in the second year of life.

Currently most HIV–1 infected women in resource-limited settings breastfeed, often into the second year of life. This decision may be related to a number of factors: lack of awareness of their HIV–1 status, cultural norms and strong social reinforcement of breastfeeding, fear or stigma, concerns regarding optimal infant nutrition and also water safety, or cost of breast milk substitutes. Given the high rates of breastfeeding among HIV–1 infected women in resource-limited areas, prevention of HIV–1 transmission during lactation remains a pressing perinatal research challenge.

Examples of Research Areas

I. Clinical Trials Addressing Prevention of HIV–1 Transmission During the Breastfeeding Period

The primary aim of this Program Announcement is to support international clinical trials designed to reduce both peripartum and breastfeeding HIV–1 transmission in rural or urban settings in resource-limited countries.

Critical research areas in preventing mother-to-child HIV–1 transmission that applicants may address, include but are not limited to, clinical trials directed at one of the following areas:

Trials of short course combination antiretrovirals in the last several weeks before delivery designed to reduce viral load to a nondetectable level, followed by maternal or infant antiretroviral prophylaxis during the first several months of lactation;

Trials of short course antenatal or peripartum antiretrovirals paired with infant immune prophylaxis (*e.g.*, HIV–1 vaccine) aimed at protecting the infant throughout the breastfeeding period;

Trials assessing the efficacy of infant combination antiretroviral prophylaxis given to breastfed babies whose mothers were only identified as HIV–1 infected at labor and delivery; and/or

Combinations of above.

II. Nested Research Studies Within Proposed Trials

Investigators should also propose 1–2 nested research questions within the trials addressing mechanisms of transmission during lactation; and/or issues related to effectiveness of, or successful implementation of the intervention. Such studies might include but are not limited to: lab studies addressing mechanisms of transmission during lactation; lab studies assessing the development and waning of drug resistance for antiretrovirals used for perinatal HIV–1 prevention; strategies that enhance uptake of voluntary counseling and testing using rapid HIV testing to support enrollment into the proposed trial; strategies to enhance adherence to antiretrovirals or immune trial interventions antenatally and during lactation; assessment of factors affecting mode of feeding or weaning decisions;

evaluation of toxicity and other complications of antiretrovirals interventions among HIV–1 infected women during pregnancy and post partum, and their infants; and testing of simplified tools for monitoring drug toxicities in community-based health care facilities.

B. Eligible Applicants

Applications may be submitted by indigenous universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, operating in settings with high antenatal HIV–1 seroprevalence (*i.e.*, 5 percent or greater) in resource-limited countries. For the purposes of this announcement, HIV–1 seroprevalence rates, circa 2000, as compiled by the U.S. Census will be used to determine eligibility. These rates can be accessed at: *http://www.census.gov/ipc/www/hivtable.html.*

C. Availability of Funds

Approximately $1,000,000 million is available in FY 2002 and an additional $500,000 in FY 2003 to fund two awards to develop and carry out interventions aimed at maximally reducing perinatal HIV–1 transmission near the time of delivery and during the breastfeeding period; and within the context of these trials, nested studies to assess mechanisms of transmission during lactation; and/or issues related to effectiveness of, or successful implementation of the intervention.

It is expected that the average award will be $750,000 a year. All awards will begin on or about September 30, 2002 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

1. Use of Funds

Applicants may contract with other organizations under this cooperative agreement; however, applicants must perform a substantial portion of the activities (including program management and operations) for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exception:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

Needle Exchange

No funds appropriated under this Act shall be used to carry out any program distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

2. Funding Preference

Preference will be given to achieve geographical diversity.

D. Program Requirements

In conducting activities to achieve the purpose of these programs, the recipient will be responsible for the activities listed under 1. (Recipient Activities), and CDC/NIH will be responsible for conducting activities listed under 2. (CDC/NIH Activities).

1. Recipient Activities

a. Develop research study protocols; and obtain local IRB approval.

b. Develop and manage standardized data collection forms.

c. Identify, recruit, obtain and carefully document informed consent; and enroll an adequate number of study participants as determined by the study protocol(s) and the program requirements described in the Program Announcement.

d. Follow up and assume appropriate clinical care of study participants during the trial as described by the study protocol.

e. Establish and monitor procedures to ensure the rights and confidentiality of all study participants.

f. Perform laboratory tests (when appropriate) and data analysis as determined in the study protocol.

g. Collaborate and share data and specimens (when appropriate) with other collaborators to answer specific cross cutting research questions.

h. Contribute blood specimens (at least every 6–12 months depending on the protocol requirements) for shipment and storage at a centralized repository system.

i. Conduct or help with coordination of data analysis; as well as present and publish research findings.

j. Facilitate the establishment of, or engage an existing Community Advisory Board (CAB) to give ongoing community input related to the proposed research from the study inception through completion and eventual dissemination of study results to the community.

k. Develop or enhance linkages and strong collaboration with CDC Global AIDS Program (GAP), ministries of health, nongovernmental organizations (NGO's) and other groups relevant to carrying out the research; and to implementing research findings following completion of the trial.

Note: Recipients addressing the same or similar research issue(s) should state their willingness to participate in collaborative studies with other CDC- or NIH-sponsored researchers, including using common data collection instruments, specimen collection protocols, and data management procedures, as determined in post-award planning conferences.

2. CDC/NIH Activities

a. Provide technical assistance in study design in order to facilitate the overall research project.

b. Facilitate and assist in the development of research protocols for IRB (institutional review board) review by the cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

c. Assist in designing a data management system.

d. Assist in performance of selected laboratory tests.

e. Work collaboratively with investigators to help coordinate research activities across sites involved in similar research projects such as nested laboratory studies.

f. Assist in the analyses of research information and the presentation and publication of research findings.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to address them in laying out the proposals for your application.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm*

Please obtain this program announcement and all attachments which are necessary for completing your application, at the Internet address referenced above. Program Announcements published on the **Federal Register** do not include attachments which are sometimes crucial to the development of your application.

On or before July 15, 2002, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if hard copies of the applications are either:

A. Received on or before the deadline date; or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in A. and B. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Demonstrated Access to Relevant Study Populations, and Demonstrated Capability To Recruit and Retain Study Participants Into a Clinical Trial (Total of 25 points)

a. Evidence of ability to successfully recruit and follow mothers and their infants in longitudinal research studies. Applicants should include relevant information from previous studies documenting annual recruitment and retention rates including loss to follow up in these studies.

b. For the proposal responding to research or program area, evidence of approximately 5 percent or greater HIV–1 seroprevalence among pregnant women in the catchment area described in the application; and/or ability to recruit and retain at least 500 HIV–1 infected pregnant women and their HIV–1 exposed infants annually in settings where many HIV–1 infected women breastfeed.

C. Demonstrated access to and laboratory capability to carry out HIV–1 serologic testing for mothers and PCR testing of infants, monitor responses to antiretroviral therapy including possible toxicities (e.g. hematology, blood chemistries).

2. Description and Justification of Research Plans (Total of 40 points)

a. Understanding of the research objectives as evidenced by the high quality and scientific rigor of the proposed plans for research and a study design appropriate to answer research questions.

b. Demonstration of a well designed innovative clinical trial which investigates and addresses:

Maximal reduction of mother-to-child HIV–1 transmission during both the peripartum period and during lactation using antiretrovirals and/or immune-based interventions; nested studies within these trials which assess related research questions related to the trials such as mechanisms of transmission during lactation; development and waning of antiretroviral resistance; and/or issues related to effectiveness of, or successful implementation of the intervention strategies; strategies to enhance adherence to antiretrovirals or immune trial interventions antenatally and during the breastfeeding period; evaluation of potential toxicities of interventions; and testings of simplified tools for monitoring drug toxicities in community-based health care facilities.

c. Originality and quality of the proposed clinical trial research, and direct relevance of the research to maximally reduce mother-to-child transmission in high prevalence resource-limited settings with particular emphasis on reducing viral load in the last trimester and assessing prophylaxis strategies during lactation. The extent to which the proposal builds on current knowledge, extends or creates new knowledge and does not replicate past or present research efforts.

d. Demonstrated willingness of the applicant to work with CDC/NIH staff on development of the research protocol and willingness to collaborate on related studies with other investigators funded under this Program Announcement.

e. Feasibility of plans to recruit, follow and retain study participants in a longitudinal research protocol within the framework of the project period. This includes demonstration of the experience of the investigator in following mothers and infants in either longitudinal epidemiologic studies and/or in clinical trials, and the comprehensiveness of the plan to protect the rights and confidentiality of all participants.

f. Adequacy of sample size to address research questions, and demonstration of available statistical expertise to carry out subsequent analyses of trial results. Thoroughness of plans for data management, data analysis, and laboratory analysis; reasonableness of data collected; and statistical rigor.

g. Extent to which proposal demonstrates feasible plans for coordinating research activities of multiple local clinical sites, statement of potential willingness to work collaboratively with other grant recipients in other settings if similar or multi-site protocols were developed, and with CDC/NIH. Letters of support from cooperating organizations that demonstrate the nature and extent of such cooperation should be included, as well as GAP in-country directors and ministries of health.

h. Extent to which proposal delineates plans for setting up or engaging an existing Community Advisory Board to give ongoing community input into the research study from its inception, through completion and eventual dissemination of study results to the community.

i. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic and racial groups in the proposed research.

This includes:

(i) The proposed plan for the inclusion of racial and ethnic minority populations for appropriate representation;

(ii) The proposed justification when representation is limited or absent;

(iii) A statement as to whether the design of the study is adequate to measure differences when warranted.

(iv) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

3. Research and Intervention Capability (Total of 25 points)

a. Availability of qualified and experienced senior Principal Investigators (PI) and Co-PI's. Extent of familiarity and quality of Principal Investigator and other senior Co-Investigators' experience and expertise pertinent to proposed research or programmatic activities, including experience in perinatal and pediatric HIV–1 infection epidemiologic or clinical trial research; or other epidemiologic and clinical trial research. Evidence of sufficient time dedicated to the proposed project.

b. Applicant group's ability to carry out the proposed research as demonstrated by the training and experience of the proposed research team and organizational setting, including demonstration of ability to collect, manage, and analyze accurate data in a timely manner.

c. Clarity of the described duties and responsibilities of project personnel.

d. Demonstrated research infrastructure as evidenced by presence of current funding for ongoing research, program implementation and training (examples of other funding for infrastructure might include funding from National Institutes of Health, Medical Research Council, Agence Nationale de Recherche sur le SIDA (ANRS), Emory AIDS International Training Research Program (AITRP), Fogarty International Center (FIC), Wellcome Trust, Elizabeth Glaser Pediatric AIDS Foundation, and other private foundations, etc.

e. Experience and evidence of ability to provide voluntary counseling and testing (VCT) in antenatal clinics, and to offer VCT at labor and delivery for women who are not tested antenatally.

f. Adequacy of plans for project oversight to assure quality of data and specimen collection.

(1) Evidence of ability to collect complete data including interviews of mothers in the immediate postpartum period, and to obtain blood samples from HIV–1 infected mothers enrolled around the time of delivery.

(2) Evidence of ability to collect complete and accurate data, and to obtain regular blood samples from HIV–1 exposed infants, with at least one blood sample during the first 48 hours after birth, and at follow up pediatric health maintenance visits.

(3) Ability to oversee specimen collection for the timely processing, storage, and retrieval of laboratory specimens as needed. This includes transfer of certain specimens to a central repository (e.g., at CDC) and transfer of other specimens to designated laboratories for specific laboratory studies.

g. Evidence of capability to address informed consent issues, enhance social support and foster adherence to the antiretroviral prophylaxis regimen, with special attention directed at adherence to the neonatal component of the regimen.

h. Documentation of appropriately constituted local IRB in place to review the protocol.

i. Adequacy of facilities, equipment, data management resources, and systems for ensuring data security and patient confidentiality.

j. Demonstration of working relationships with any proposed collaborators and extent to which services to be provided by external experts or consultants are documented by memoranda of agreement.

k. Demonstration of research staff with epidemiologic, behavioral, clinical, administrative, laboratory, data management and statistical analysis expertise needed to conduct the proposed research.

l. Adequacy of time line for completion of project activities.

4. Linkages and Planned Approaches to Translate Successful Research Findings Into Practice (10 points)

a. Demonstration of linkages to the following groups are required: CDC Global AIDS Program (GAP) staff in currently funded CDC GAP countries or to relevant CDC staff in non GAP countries working on HIV–1 related activities, Ministry of Public Health, Community Advocacy Groups; and linkages are strongly recommended with nongovernmental organizations (NGO's), international agencies such as UNICEF, UNAIDS, and WHO.

b. Demonstration of a plan of action to translate and transition research findings to appropriate responsible groups that would result in upscaling and implementation in local or national communities. Linkages with other area hospitals, local ministry of health and a local Community Advisory Board are strongly encouraged.

5. Demonstration of Sound Fiscal Policies, and Fiscal Oversight by the Institution Which Would Receive the Funding Under this Application.

6. Budget (not scored)

The extent to which it is reasonable, clearly justified, consistent with the intended use of funds, and allowable. All budget categories should be itemized.

7. Human Subjects (not scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. annual progress report;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial status and performance reports, no more than 90 days after the end of the project period.

4. Applicants are required to provide measures of effectiveness to evaluate the accomplishment of the various identified objectives of the cooperative agreement. These measures must be objective and quantitative and must measure the intended outcome. The submission of these measures shall be a data element to be submitted with, or incorporated into the annual progress reports.

5. Awardee is required to obtain an annual audit of these CDC/NIH funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by CDC.

6. A fiscal Recipient Capability Assessment may be required with the potential awardee, pre or post award, in order to review their business management and fiscal capabilities regarding the handling of U.S. Federal funds.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see attachment I of this announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–6 Patient Care
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 307 of the Public Health Service Act (42 U.S.C. sections 241(a) and 242l). The Catalog of Federal Domestic Assistance number is 93.943.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements." NIH funding annoucements can be found on the NIH home page internet address— *http://www.nih.gov* Click on "Grants" then "NIH Guide for Grants and Contracts".

To obtain business management technical assistance, contact:

Dorimar Rosado, Grants Management Specialist, Grants Management

Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Colgate Building, Room 3000, 2920 Brandywine Road, Mailstop K–69, Atlanta, GA 30341, Telephone: (770) 488–2738, Email address: drosado@cdc.gov

For program technical assistance, contact:

Mary Glen Fowler, MD, Chief, Mother-Child Transmission & Pediatric and Adolescent Studies Section, Epidemiology Branch, Division of HIV/AIDS Prevention Surveillance & Epidemiology, National Center for HIV, STD, TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–45, Atlanta, Georgia 30333, Telephone: (404) 639–5190, E-mail: MFowler@cdc.gov

Dated: April 30, 2002.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–12254 Filed 5–15–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Healthcare Infection Control Practices Advisory Committee.

Times and Dates: 8:30 a.m.–5 p.m., June 17, 2002; 8:30 a.m.–4 p.m., June 18, 2002.

Place: Swissotel, 3391 Peachtree Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, the Director, CDC, and the Director, National Center for Infectious Diseases (NCID), regarding (1) the practice of hospital infection control; (2) strategies for surveillance, prevention, and control of infections (e.g., nosocomial infections), antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of guidelines and other policy statements regarding prevention of healthcare associated infections and healthcare-related conditions.

Matters to be Discussed: Agenda items will include a review of the Draft Guideline for Preventing Transmission of Infectious Agents in Healthcare Settings (formerly Guideline for Isolation Precautions in Hospitals); the Draft Guideline for Disinfection and Sterilization in Healthcare Settings; the Draft Guideline for Prevention of Healthcare-associated Pneumonia; and updates on CDC activities of interest to the committee.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Michele L. Pearson, M.D., Executive Secretary, HICPAC, Division of Healthcare Quality Promotion, NCID, CDC, 1600 Clifton Road, NE, M/S A–07, Atlanta, Georgia 30333, telephone 404/498–1182.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 9, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12238 Filed 5–15–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Announcement of Meeting and Request for Comments on Formulating Recommendations for the Use of Vaccinia (Smallpox) Vaccine

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–5:30 p.m., June 19, 2002.

8 a.m.–3 p.m., June 20, 2002.

Place: Atlanta Marriott Century Center, 2000 Century Boulevard, NE., Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters To Be Discussed: The Committee will discuss, among other items, the administration of vaccinia (smallpox) vaccine. Because of the considerable interest in the use of vaccinia (smallpox) vaccine, there will be a public comment period on the morning of June 19, not to exceed four hours, during which members of the public will be able to address the ACIP members on making recommendations for the use of vaccinia (smallpox) vaccine. Other topics to be discussed at the meeting include: a summary of the May 8–9 Smallpox Working Group meeting; update on CDC preparedness activities; public participation in formulating vaccine policy; update from the National Immunization Program, Food and Drug Administration, Vaccine Injury Compensation Program, National Institutes of Health, National Vaccine Program, and the National Center for Infectious Diseases; ACIP recommendations and influenza surveillance; Vaccines for Children vote on influenza vaccination of children 6–23 months; recommendations for mishandled vaccines; 2003 recommended childhood immunization schedule; recommended adult immunization schedule; update of vaccine supply; Institute of Medicine update on hepatitis B vaccine and neurological disorders; and combination DTaP-HepB-IPV vaccine.

Agenda items are subject to change as priorities dictate.

Anyone wishing to make an oral presentation should submit their request in writing, to the contact person by close of business June 7, 2002. The request should include the name, address, and telephone number of the participant; the approximate time needed, and a copy of the presentation or a brief summary of the topic to be presented. Depending on the number of requests, up to 10 minutes will be allowed for each oral presentation. Anyone wishing to submit for consideration written comments regarding the use of vaccinia (smallpox) vaccine should submit the written comments to the contact person by June 14, 2002.

Contact Person for More Information: Gloria A. Kovach, Program Analyst, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, m/s E61, Atlanta, Georgia 30333. Telephone 404/639–8096.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 9, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12231 Filed 5–15–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee, Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and Subcommittee on Vaccine Safety and Communication Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

Name: National Vaccine Advisory Committee (NVAC).

Times and Dates: 9 a.m.–2 p.m., June 4, 2002. 8:30 a.m.–3 p.m., June 5, 2002.

Place: Hubert H. Humphrey Building, Room 505A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 a.m. and 8:30 a.m. or 12:30 p.m. and 1 p.m. Entrance to the meeting at other times during the day cannot be assured.

Purpose: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters to be Discussed: Agenda items will include: a report from the National Vaccine Program Office (NVPO) and the Interagency Vaccine Workgroup; a report from the Assistant Secretary for Health; discussions on compensation for vaccine administration by the Center for Medicare and Medical Services, the American Academy of Pediatrics, and American College of Physicians; a discussion of current issues involving the supply of vaccines and a report on the Vaccine Supply Workshop; a discussion on the global supply of pandemic influenza vaccine; a discussion on the future of rotavirus vaccine; reports from the NVAC Subcommittees; a presentation on increasing public participation in dialogue and deliberation about vaccines; a discussion of issues and NVAC role regarding travelers' vaccines; a report on the Workshop on Implementing Immunization Recommendations; reports from the Advisory Committee on Immunization Practices/NVAC Smallpox Working Group, the Advisory Commission on Childhood Vaccines/Division of Vaccine Injury Compensation, the Vaccine and Related Biological Products Advisory Committee/Food and Drug Administration, and the Advisory Committee on Immunization Practices/National Immunization Program, Centers for Disease Control and Prevention.

Name: Subcommittee on Future Vaccines.

Time and Date: 2 p.m.–5 p.m., June 4, 2002.

Place: Hubert H. Humphrey Building, Room 305A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee develops policy options and guides national activities that lead to accelerated development, licensure, and the best use of new vaccines in the simplest possible immunization schedules.

Matters to be Discussed: Agenda items will include Pneumococcal Disease Prevention in Adults-Workshop planning; and, discussion topics for future Subcommittee meetings.

Name: Subcommittee on Immunization Coverage.

Time and Date: 2 p.m.–5 p.m., June 4, 2002.

Place: Hubert H. Humphrey Building, Room 505A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will identify and propose solutions that provide a multifaceted and holistic approach to reducing barriers that result in low immunization coverage for children.

Matters to be Discussed: Agenda items will include an update on the publication of the newly revised Adult and Pediatric Standards; an update on the Workshop on Implementing Immunization Recommendations; discussion on the impact of vaccine shortages on coverage and the assessment of coverage; an update on the IOM Study on Financing Vaccines; and a discussion of pertinent areas for Unmet Needs funding.

Name: Subcommittee on Vaccine Safety and Communication.

Time and Date: 2 p.m.–5 p.m., June 4, 2002.

Place: Hubert H. Humphrey Building, Room 325A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee reviews issues relevant to vaccine safety and adverse reactions to vaccines.

Matters to be Discussed: A report on the Clinical Immunization Safety Assessment Centers; a report and discussion of the IOM Vaccine Safety Committee Report on Hepatitis B Vaccine and Neurological Disorders; and a discussion of future focus areas for the IOM Vaccine Safety Committee.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria Sagar, Committee Management Specialist, NVPO, CDC, 4700 Buford Highway M/S K–77, Chamblee, Georgia 30341, telephone 770/488–2040.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 9, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12236 Filed 5–15–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Time and Date: 8:30 a.m.–5 p.m., June 6, 2002.

Place: Marriott Wardman Park Hotel, 266 Woodley Road, NW., Washington, DC 20008. Telephone: 202/328–2000.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis(TB). Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating TB.

Matters To Be Discussed: Agenda items include issues pertaining to improving TB control efforts in the Southeast, update on TB Treatment of Persons in INS Custody, and other TB-related topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE., M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 9, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12232 Filed 5–15–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–282]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Blood Bank Inspection Checklist and Report and Supporting Regulations in 42 CFR 493.1269–493.1285.

Form No.: CMS–282 (OMB # 0938–0170).

Use: The Clinical Laboratory Improvement Amendments (CLIA) of 1988 requires the Department of Health and Human Services (HHS) to establish certification requirements for any laboratory that performs tests on human specimens, and to certify through the issuance of a certificate that those laboratories meet the requirements established by HHS. The law provides for inspections on an announced or unannounced basis during regular hours of operation. All records and information having a bearing on whether the laboratory is being operated in accordance with the law can be requested by the surveyor. The CMS–282 is the Blood Bank Inspection Checklist and Report which is outlined in the CLIA of 1988.

Frequency: Biennially.

Affected Public: Not-for-profit institutions, Business or other for-profit, Federal Government, and State, Local, and Tribal Government.

Number of Respondents: 1,363.

Total Annual Responses: 1,363.

Total Annual Hours: 682.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie brown, CMS–282, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 2, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12240 Filed 5–15–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–2786]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Fire Safety Survey Report Forms and Supporting Regulations in 42 CFR 416.44, 418.100, 482.41, 483.70, 483.470.

Form No.: CMS–2786 A–D, F, G, H, J, K, L, M, P and Q (OMB# 0938–0242).

Use: The information from these forms will be used to make Medicare/Medicaid certification decisions. We request information in accordance with the Life Safety Code of the National Fire Protection Association. CMS then surveys all facilities based upon prior compliance history; that is, the "good" facilities will be surveyed less frequently. Either the short or long fire safety form will be utilized each time a health survey is performed, depending on the circumstances.

Frequency: Annually.

Affected Public: State, Local, or Tribal Government.

Number of Respondents: 53.

Total Annual Responses: 27,900.

Total Annual Hours: 23,437.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, Medicare Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 23, 2002.

John P. Burke III,

CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12239 Filed 5–15–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–8003]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Home and Community-Based Services Waiver Requests and Supporting Regulations in 42 CFR 440.180–.185, and 441.301–441.310; *Form No.:* CMS–8003 (OMB# 0938–0449); *Use:* Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost & utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements. The purpose of this request is to provide authority for the State to furnish such individuals with services in the home and community-based setting; *Frequency:* When a State requests a waiver or amendment to a waiver; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 132; *Total Annual Hours:* 7,930.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 2, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12241 Filed 5–15–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4578]

Agency Information Collection Activities; Announcement of OMB Approval; Requirements for States as Certification Agencies

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Requirements for States as Certification Agencies" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 2002 (67 FR 5446), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0486. The approval expires on April 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 8, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12172 Filed 5–15–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0007]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; CGMP Regulations for Finished Pharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 17, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance:

CGMP Regulations for Finished Pharmaceuticals—21 CFR Parts 210 and 211 (OMB Control Number 0910–0139)—Extension

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or

the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practices (CGMPs) to ensure that such drug meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

FDA has the authority under section 701(a) of the act (21 U.S.C. 371(a)) to issue regulations for the efficient enforcement of the act regarding CGMP procedures for manufacturing, processing, and holding drugs and drug products. The CGMP regulations help ensure that drug products meet the statutory requirements for safety and have their purported or represented identity, strength, quality, and purity characteristics. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to protect public health and safety. CGMP requirements establish accountability in the manufacturing and processing of drug products, provide for meaningful FDA inspections, and enable manufacturers to improve the quality of drug products over time. The CGMP recordkeeping requirements also serve preventive and remedial purposes and provide crucial information if it is necessary to recall a drug product.

The general requirements for recordkeeping under part 211 (21 CFR part 211) are set forth in § 211.180. Any production, control, or distribution record associated with a batch and required to be maintained in compliance with part 211 must be retained for at least 1 year after the expiration date of the batch and, for certain over-the-counter (OTC) drugs, 3 years after distribution of the batch (§ 211.180(a)). Records for all components, drug product containers, closures, and labeling are required to be maintained for at least 1 year after the expiration date and 3 years for certain OTC products (§ 211.180(b)).

All part 211 records must be readily available for authorized inspections during the retention period (§ 211.180(c)), and such records may be retained either as original records or as true copies (§ 211.180(d)). In addition, 21 CFR 11.2(a) provides that "for records required to be maintained but not submitted to the agency, persons may use electronic records in lieu of paper records or electronic signatures in lieu of traditional signatures, in whole or in part, provided that the requirements of this part are met." To the extent this electronic option is used, the burden of maintaining paper records should be substantially reduced, as should any review of such records.

In order to facilitate improvements and corrective actions, records must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures (§ 211.180(e)). Written procedures for these evaluations are to be established and include provisions for a review of a representative number of batches and, where applicable, records associated with the batch, and provisions for a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

The specific recordkeeping requirements provided in table 1 of this document are as follows:

Section 211.34—Consultants advising on the manufacture, processing, packing, or holding of drug products must have sufficient education, training, and experience to advise on the subject for which they are retained. Records must be maintained stating the name, address, and qualifications of any consultants and the type of service they provide.

Section 211.67(c)—Records must be kept of maintenance, cleaning, sanitizing, and inspection as specified in §§ 211.180 and 211.182.

Section 211.68—Appropriate controls must be exercised over computer or related systems to assure that changes in master production and control records or other records are instituted only by authorized personnel.

Section 211.68(a)—Records must be maintained of calibration checks, inspections, and computer or related system programs for automatic, mechanical, and electronic equipment.

Section 211.68(b)—All appropriate controls must be exercised over all computers or related systems and control data systems to assure that changes in master production and controls records or other records are instituted only by authorized persons.

Section 211.72—Filters for liquid filtration used in the manufacture, processing, or packing of injectable drug products intended for human use must not release fibers into such products.

Section 211.80(d)—Each container or grouping of containers for components or drug product containers or closures must be identified with a distinctive code for each lot in each shipment received. This code must be used in recording the disposition of each lot. Each lot must be appropriately identified as to its status.

Section 211.100(b)—Written production and process control procedures must be followed in the execution of the various production and process control functions and must be documented at the time of performance. Any deviation from the written procedures must be recorded and justified.

Section 211.105(b)—Major equipment must be identified by a distinctive identification number or code that must be recorded in the batch production record to show the specific equipment used in the manufacture of each batch of a drug product. In cases where only one of a particular type of equipment exists in a manufacturing facility, the name of the equipment may be used in lieu of a distinctive identification number or code.

Section 211.122(c)—Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, or testing.

Section 211.130(e)—Inspection of packaging and labeling facilities must be made immediately before use to assure that all drug products have been removed from previous operations. Inspection must also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection must be documented in the batch production records.

Section 211.132(c)—Certain retail packages of OTC drug products must bear a statement that is prominently placed so consumers are alerted to the specific tamper-evident feature of the package. The labeling statement is required to be so placed that it will be unaffected if the tamper-resistant feature of the package is breached or missing. If the tamper-evident feature chosen is one that uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement.

Section 211.132(d)—A request for an exemption from packaging and labeling requirements by a manufacturer or packer is required to be submitted in the form of a citizen petition under 21 CFR 10.30.

Section 211.137—Requirements regarding product expiration dating and compliance with 21 CFR 201.17.

Section 211.160(a)—The establishment of any specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms, including any change in such specifications, standards, sampling plans, test procedures, or other laboratory control mechanism, must be drafted by the appropriate organizational unit and reviewed and approved by the quality control unit. These requirements must be followed and documented at the time of performance. Any deviation from the written specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms must be recorded and justified.

Section 211.165(e)—The accuracy, sensitivity, specificity, and reproducibility of test methods employed by a firm must be established and documented. Such validation and documentation may be accomplished in accordance with § 211.194(a)(2).

Section 211.166(c)—Specifies homeopathic drug product requirements.

Section 211.173—Animals used in testing components, in-process materials, or drug products for compliance with established specifications must be maintained and controlled in a manner that assures their suitability for their intended use. They must be identified, and adequate records must be maintained showing the history of their use.

Section 211.180(e)—Written records required by this part must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures. Written procedures must be established and followed for such evaluations and must include provisions for a representative number of batches, whether approved or unapproved or rejected, and a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

Section 211.180(f)—Procedures must be established to assure that the responsible officials of the firm, if they are not personally involved in or immediately aware of such actions, are notified in writing of any investigations, conducted under § 211.198, § 211.204, or § 211.208, any recalls, reports of inspectional observations issued, or any regulatory actions relating to good manufacturing practices brought by FDA.

Section 211.182—Specifically explains equipment cleaning and the use log.

Section 211.184—Specifies component, drug product container, closure, and labeling records.

Section 211.186—Specifies master production and control records.

Section 211.188—Specifies batch production and control records.

Section 211.192—Specifies the information that must be maintained on the investigation of discrepancies found in the review of all drug product production and control records by the quality control staff.

Section 211.194—Explanation and description of laboratory records that must be retained.

Section 211.196—Specifies the information that must be included in records on the distribution of the drug.

Section 211.198—Specifies and describes the handling of all complaint files received by the applicant.

Section 211.204—Specifies that records be maintained of returned and salvaged drug product and describes the procedures involved.

Written procedures, referred to here as standard operating procedures (SOPs), are required for many part 211 records. The current SOP requirements were initially provided in a final rule published in the **Federal Register** of September 29, 1978 (43 FR 45014), and are now an integral and familiar part of the drug manufacturing process. The major information collection impact of SOPs results from their creation. Thereafter, SOPs need to be periodically updated. A combined estimate is provided in table 1 of this document for routine maintenance of SOPs. The 25 SOP provisions under part 211 in the combined maintenance estimate include:

(1) Section 211.22(d)—Responsibilities and procedures of the quality control unit;

(2) Section 211.56(b)—Sanitation procedures;

(3) Section 211.56(c)—Use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents;

(4) Section 211.67(b)—Cleaning and maintenance of equipment;

(5) Section 211.68(a)—Proper performance of automatic, mechanical, and electronic equipment;

(6) Section 211.80(a)—Receipt, identification, storage, handling, sampling, testing, approval, or rejection of components and drug product containers or closures;

(7) Section 211.94(d)—Standards or specifications, methods of testing, and methods of cleaning, sterilizing, and processing to remove pyrogenic properties for drug product containers and closures;

(8) Section 211.100(a)—Production and process control;

(9) Section 211.110(a)—Sampling and testing of in-process materials and drug products;

(10) Section 211.113(a)—Prevention of objectionable microorganisms in drug products not required to be sterile;

(11) Section 211.113(b)—Prevention of microbiological contamination of drug products purporting to be sterile, including validation of any sterilization process;

(12) Section 211.115(a)—System for reprocessing batches that do not conform to standards or specifications, to insure that reprocessed batches conform with all established standards, specifications, and characteristics;

(13) Section 211.122(a)—Receipt, identification, storage, handling, sampling, examination and/or testing of labeling and packaging materials;

(14) Section 211.125(f)—Control procedures for the issuance of labeling;

(15) Section 211.130—Packaging and label operations, prevention of mix-up and cross contamination, identification and handling of filed drug product containers that are set aside and held in unlabeled condition, identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch;

(16) Section 211.142—Warehousing;

(17) Section 211.150—Distribution of drug products;

(18) Section 211.160—Laboratory controls;

(19) Section 211.165(c)—Testing and release for distribution;

(20) Section 211.166(a)—Stability testing;

(21) Section 211.167—Special testing requirements;

(22) Section 211.180(f)—Notification of responsible officials of investigations, recalls, reports of inspectional observations, and any regulatory actions relating to good manufacturing practice;

(23) Section 211.198(a)—Written and oral complaint procedures, including quality control unit review of any complaint involving specifications failures, and serious and unexpected adverse drug experiences;

(24) Section 211.204—Holding, testing, and reprocessing of returned drug products; and

(25) Section 211.208—Drug product salvaging.

Although most of the CGMP provisions covered in this document were created many years ago, there will be some existing firms expanding into new manufacturing areas and startup firms that will need to create SOPs. As provided in table 1 of this document, FDA is assuming that approximately 100 firms will have to create up to 25 SOPs for a total of 2,500 records, and the agency estimates that it will take 20 hours per recordkeeper to create 25 new SOPs for a total of 50,000 hours.

The burden estimates for the recordkeeping requirements in table 1 of this document are based on FDA's institutional experience regarding creation and review of such procedures and similar recordkeeping requirements, and data provided to FDA to prepare an economic analysis of the potential economic impact of the May 3, 1996, proposed rule entitled "Current Good Manufacturing Practice: Proposed Amendment of Certain Requirements for Finished Pharmaceuticals" (61 FR 20104). Annual SOP maintenance is estimated to involve 1 hour annually per SOP, totaling 25 hours annually per recordkeeper.

The May 3, 1996, proposed rule revising part 211 CGMP requirements would require additional SOPs. Cost estimates for those additional SOPs were included in the proposed rule, but are not included here. Any comments on those estimates will be evaluated in any final rule based on that proposal.

In the **Federal Register** of February 7, 2002 (67 FR 5825), the agency requested comments on the proposed collection of information. There were no comments received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
SOP Maintenance (See previous list of 25 SOPs)	4,184	1	4,184	25	104,600
New startup SOPs	100	25	2,500	20	50,000
211.34	4,184	.25	1,046	.5	523
211.67(c)	4,184	50	209,200	.25	52,300
211.68	4,184	2	8,368	1	8,368
211.68(a)	4,184	10	41,840	.5	20,920
211.68(b)	4,184	5	20,920	.25	5,230
211.72	4,184	.25	1,046	1	1,046
211.80(d)	4,184	.25	1,046	.1	105
211.100(b)	4,184	3	12,552	2	25,104
211.105(b)	4,184	.25	1,046	.25	262
211.122(c)	4,184	50	209,200	.25	52,300
211.130(e)	4,184	50	209,200	.25	52,300
211.132(c)	1,698	20	33,960	.5	16,980
211.132(d)	1,698	.2	340	.5	170
211.137	4,184	5	20,920	.5	10,460
211.160(a)	4,184	2	8,368	1	8,368
211.165(e)	4,184	1	4,184	1	4,184
211.166(c)	4,184	2	8,368	.5	4,184
211.173	1,077	1	1,077	.25	269
211.180(e)	4,184	.2	837	.25	209
211.180(f)	4,184	.2	837	1	837
211.182	4,184	2	8,368	.25	2,092
211.184	4,184	3	12,552	.5	6,276
211.186	4,184	10	41,840	2	83,680
211.188	4,184	25	104,600	2	209,200
211.192	4,184	2	8,368	1	8,368
211.194	4,184	25	104,600	.5	52,300
211.196	4,184	25	104,600	.25	26,150
211.198	4,184	5	20,920	1	20,920
211.204	4,184	10	41,840	.5	20,920
Total					848,625

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 8, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12263 Filed 5–15–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0209]

Request for Comment on First Amendment Issues

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is seeking public comment to ensure that its regulations, guidances, policies, and practices continue to comply with the governing First Amendment case law. Recent case law has emphasized the need for not imposing unnecessary restrictions on speech. FDA believes this action will help the agency continue to protect the public health, while giving full recognition to evolving judicial decisions.

DATES: Submit written or electronic comments on this notice by July 30, 2002. Responses to those comments must be submitted by September 13, 2002.

ADDRESSES: Submit written comments to the Dockets Management Branch, Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Catherine Lorraine, Office of Policy, Planning, and Legislation (HF–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3360.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is committed to protecting the public health as well as to free and open communication. Recent years have witnessed increased attention by consumers to their own medical care. The public's interest in, and access to, useful and truthful information about medical products have skyrocketed. This generally positive development presents unique challenges to the FDA, which regulates a wide range of both products and words.

FDA has historically employed its authority to ensure, to the extent possible, that health care professionals and consumers receive accurate and complete information. The manner and substantive content of FDA's regulation of speech has important implications for public health. False or misleading claims concerning foods, drugs, biologics, medical devices, cosmetics, or veterinary medicines may harm individuals who rely on those claims. Truthful claims, by contrast, may improve public health. At the same time, advertising may have indirect effects on public health. If advertising of prescription drugs, for instance, leads to better informed consumers or to more physician visits to treat under-diagnosed illnesses, more people will be better off. On the other hand, if advertising of prescription drugs results in the inappropriate prescription of pharmaceuticals, the effect on public health will be negative.

The Supreme Court has increasingly recognized the value of speech proposing a commercial transaction, which it calls "commercial speech" and which is entitled to First Amendment protection so long as it is truthful and not misleading. This case law presents a challenge to FDA. FDA must balance the need and right of Americans to speak and hear information vital to their every day lives against the need to ensure that people are not misled. The importance of FDA vigilance is heightened given the nature of many of the products FDA regulates, some of which are extremely complex and which have the potential to harm as well as help.

There may be tension between some aspects of FDA's authority and judicial developments. Some statutory provisions that FDA enforces explicitly limit speech. Indeed, much of the operation of the Federal Food, Drug, and Cosmetic Act (the act) depends on the use of words, such as whether a product is marketed along with claims that it can affect the structure or function of the body of man, or treat disease.

As recently as April 2002, however, the Supreme Court struck down as violative of the First Amendment legislative authority for the FDA to restrict advertising of particular compounded drugs. (*Thompson* v. *Western States Medical Center* , 535 U.S. _, No. 01–344 (April 29, 2002)). In that decision, the Court said that even assuming that the restriction on speech directly advanced the Government's important interest in maintaining the integrity of FDA's new drug approval process, that interest could have been attained without imposing such restrictions. Lower courts have also held that the FDA must adhere to the First Amendment's guarantee of free speech. Not only have some of these decisions thwarted actions FDA has wished to pursue, however beneficial as matters of public policy, but they may threaten to diminish the overall legal credibility necessary for FDA to sustain its authority to accomplish its important public health duties.

FDA must continue to pursue regulation of products for purposes of protecting the public with a full recognition of the evolving judicial landscape in areas that directly affect its ability to regulate words. To be sure, FDA will continue to regulate commercial speech as part of its mandate. In particular, FDA intends to defend the act against any constitutional challenges, as it did in the *Western States* case. FDA seeks to ensure, however, that its regulations, guidances, policies, and practices comply with the First Amendment. FDA also wishes to learn what empirical evidence exists concerning the effect of commercial speech on the public health, and whether its regulations in this field in fact advance public health.

To that end, FDA seeks comment on these and other issues related to the FDA's regulation of commercial speech. To facilitate this discussion, FDA sets forth some questions below. These questions are not meant to be exhaustive. Rather, they are meant to spur the public to provide FDA with comments that will help FDA safeguard the public health while fulfilling all its legal obligations. The public is encouraged to address these and/or other related questions.

1. Are there arguments for regulating speech about drugs more comprehensively than, for example, about dietary supplements? What must an administrative record contain to sustain such a position? In particular, could FDA sustain a position that certain promotional speech about drugs is inherently misleading, unless it complies with FDA requirements? Does anything turn on whether the speech is made to learned intermediaries or to consumers? What is the evidentiary basis of such a distinction?

2. Is FDA's current position regarding direct-to-consumer and other advertisements consistent with empirical research on the effects of those advertisements, as well as with relevant legal authority? What are the positive and negative effects, if any, of industry's promotion of prescription drugs, biologics, and/or devices? Does the current regulatory approach and its implementation by industry lead to over-prescription of drugs? Do they increase physician visits or patient compliance with medication regimes? Do they cause patient visits that lead to treatment for under-diagnosed diseases? Does FDA's current approach and its implementation by industry lead to adequate treatment for under-diagnosed diseases? Do they lead to adequate patient understanding of the potential risks associated with use of drugs? Does FDA's current approach and its implementation by industry create any impediments to the ability of doctors to give optimal medical advice or prescribe optimal treatment?

3. May FDA distinguish claims concerning conventional foods from those relating to dietary supplements, taking into account limits on claims that can be made about foods in the Nutrition Labeling and Education Act, 21 U.S.C. 301, 321, 337, 343, 371? What must an administrative record contain to sustain or deny claims on food labels? How can information best be presented in a succinct but non-misleading fashion? To what extent do assertions in claims need qualifications or disclaimers added to the label to avoid any misconceptions that consumers may draw? Is there a basis to believe that consumers approach claims about conventional foods and dietary supplements differently?

4. Should disclaimers be required to be in the same (or smaller or larger) size of type and given equal prominence with claims? Is there any relevant

authority or social science research on this issue?

5. How can warnings be made most effective in preventing harm while minimizing the chances of consumer confusion or inattention? Is there any evidence as to which types of warnings consumers follow or disregard?

6. What arguments or social science evidence, if any, can be used to support distinguishing between claims made in advertisements and those made on labels? Does the First Amendment and the relevant social science evidence afford the Government greater latitude over labels?

7. Would permitting speech by manufacturer, distributor, and marketer about off-label uses undermine the act's requirement that new uses must be approved by the FDA? If so, how? If not, why not? What is the extent of FDA's ability to regulate speech concerning off-label uses?

8. Do FDA's speech-related regulations advance the public health concerns they are designed to address? Are there other alternative approaches that FDA could pursue to accomplish those objectives with fewer restrictions on speech?

9. Are there any regulations, guidance, policies, and practices FDA should change, in light of governing First Amendment authority?

FDA is requesting comments within 75 days. Parties will then be given 45 days to reply to the comments of others. Parties are encouraged to share comments among themselves.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this notice by July 30, 2002. Responses to those comments must be submitted by September 13, 2002. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Submit one electronic copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 13, 2002.

William Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 02–12325 Filed 5–13–02; 4:53 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Application for Certification and Recertification as a Federally Qualified Health Center (FQHC) Look-Alike (OMB No. 0915–0142): Revision

The Health Resources and Services Administration (HRSA) revised the application guide used by organizations applying for certification or recertificaion as a Federally Qualified Health Center (FQHC) Look-Alike for purposes of cost-based reimbursement under the Medicaid and Medicare programs. The guide's revision will reflect legislative, policy, and technical changes since October 1999, the issuance date of the last guidance. The revisions include reference to the Medicare, Medicaid and State Children's Health Insurance Program Benefits Improvement and Protection Act (BIPA) of 2000, section 702, the Medicaid prospective payment system for FQHCs, the elimination of waiver allowances under the Medicaid FQHC benefit and the interpretation and implementation of policy documents issued by HRSA.

The estimated burden is as follows:

Type of report	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Application	25	1	100	2,500
Recertification	75	1	20	1,500
Total	100			4,000

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 8, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–12258 Filed 5–15–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Non-Mammalian Organisms as Models for Anticancer Drug Discovery.

Date: June 13–14, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lalita D Palekar, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–7405, (301) 496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12227 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Clinical Research Review Committee, June 5, 2002, 8 a.m. to June 6, 2002, 6 p.m., Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815 which was published in the **Federal Register** on April 18, 2002, 67 FR 19195.

Meeting has been changed to a one day meeting—June 6, 2002. The location and time remains the same. The meeting is partially closed to the public.

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12224 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel.

Date: June 17–18, 2002.

Time: June 17, 2002, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Time: June 18, 2002, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jeanette M Hosseini, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, (301) 451–2020.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12220 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: June 26, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To discuss sleep research and education priorities and programs.

Place: National Institutes of Health, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Carl E. Hunt, MD, Director, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 10138, Bethesda, MD 20892, 301/435–0199, *huntc@nhlbi.nih.gov*.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program, Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12221 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: June 3–4, 2002.

Time: June 3, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.

Time: June 4, 2002, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.

Contact Person: Nancy B. Saunders, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *ns120v@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12214 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Mucosal Immune Barrier in Infection and Inflammation

Date: June 3, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priti Mehrotra, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 6700–B Rockledge Drive, Room 2100, Bethesda, MD 20892–7616, 301–496–2550, *pm158b@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12215 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Statistical and Clinical Coordinating Center for Autoimmune Disease Clinical Trials

Date: May 31, 2002.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alec Ritchie, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12216 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Int'l Clinical, Operational, and Health Services Research Training for AIDS/TB.

Date: June 24–25, 2002.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave., NW., Washington, DC 2007.

Contact Person: Gerald L. McLaughlin, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *gm145a@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12217 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Rapid Response Grant Program on Bioterrorism-Related Research (Meeting 1)

Date: June 5–7, 2002.

Time: June 5, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Time: June 6, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Time: June 7, 2002, 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Gregory P. Jarosik, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–2550, *gjarosik@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Rapid Response Grant Program on Bioterrorism-Related Research (Meeting 2)

Date: June 10–22, 2002.

Time: June 10, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Time: June 11, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Time: June 12, 2002, 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Adriana Costero, PhD, Scientific Review Administrator, Scientific Review Program, DEA, National Inst. of Allergy & Infectious Diseases, National Institutes of Health, 6700 B Rockledge Drive, Room 2148F, MSC 7616, Bethesda, MD 20892, 301–496–2550, *acostero@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Rapid Response Grant Program on Bioterrorism-Related Research (Meeting 3)

Date: June 12–14, 2002.

Time: June 12, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Time: June 13, 2002, 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Time: June 14, 2002, 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Gregory P. Jarosik, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–2550, *gjarosik@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12218 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Initial Review Group Treatment Research Subcommittee.

Date: June 19–20, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Swissotel Washington, The Watergate, 2650 Virginia Ave., NW., Washington, DC 20037.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

Name of Committee: National Institute on Drug Abuse Initial Review Group Health Services Research Subcommittee.

Date: June 19–20, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Swissotel Washington, The Watergate, 2650 Virginia Ave., NW., Washington, DC 20037.

Contact Person: Marina L. Volkov, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Treatment Research.

Date: June 19, 2002.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Swissotel Washington, The Watergate, 2650 Virginia Ave., NW., Washington, DC 20037.

Contact Person: Mark R. Green, PhD, Chief, CEASRB, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Room 3158, MSC 9547, 6001 Executive Boulevard, Bethesda, MD 20892–9547, (301) 435–1431.

Name of Committee: National Institute on Drug Abuse Initial Review Group Training and Career Development Subcommittee.

Date: June 25–26, 2002.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

Name of Committee: National Institute on Drug Abuse Initial Review Group Medication Development Research Subcommittee Medications Development Research Subcommittee.

Date: July 15, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt at Fisherman's Wharf, 555 North Point Street, San Francisco, CA 94133.

Contact Person: Khursheed Asghar, PhD, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12219 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Mental Health Council, May 9, 2002, 10:30 a.m. to May 10, 2002, 2 p.m., National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, MD, 20892 which was published in the **Federal Register** on April 5, 2002, 67 FR 16413.

The open Policy session day on May 10, 2002, will be held at the National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, from 8:30 a.m. until adjournment. The meeting is partially Closed to the public.

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12222 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Interventions Research Review.

Date: June 4–5, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12223 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, R21 Application Review.

Date: May 30, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Boulevard, Suite 409, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, PhD, Chief, Extramural Project Review Branch, OSA, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, MSC 7003, Bethesda, MD 20892–7003, 301–443–2860, ehayunga@mail.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical and Treatment Subcommittee.

Date: June 27–28, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 750 Kearny Street, San Francisco Financial District, San Francisco, CA 94108.

Contact Person: Elsie Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12225 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Alzheimer's Disease Neuroimaging Initiative

The National Institute on Aging (NIA) is announcing a meeting for the development of a neuroimaging initiative for Alzheimer's disease (AD) that will take place June 17–18, 2002 at the Hyatt Hotel, One Bethesda Metro Center, Bethesda, MD. The goal of this initiative is to foster a public-private collaboration for the development of longitudinal studies that will identify the neuroimaging modalities and techniques most appropriate for following elderly people as they develop mild cognitive impairment (MCI) and AD. In addition to providing natural history information, neuroimaging markers may allow early identification of individuals who may benefit from emerging preventive and treatment medications, provide a way of monitoring treatment efficacy and mechanism, and serve as surrogate endpoints in clinical trials.

Meeting participants will include representatives from academia, the Food and Drug Administration, pharmaceutical companies, imaging device companies, NIH staff, and advocacy groups. Presentations at the meeting will evaluate currently existing resources and knowledge regarding neuroimaging in MCI and AD by examining available clinical, neuropsychological, laboratory, and imaging data from prior natural history and epidemiology studies and clinical trials. The participants will prioritize research opportunities and needs and recommend an initial plan to develop and utilize resources. They will identify longitudinal study design options, assess the strengths and weaknesses of various imaging modalities, and discuss which brain areas are critical to measure. This meeting will also discuss subject selection, multi-side data collection and analysis, surrogate marker criteria, and administrative and data-sharing issues.

All interested parties are invited to attend this meeting. A block of hotel rooms is being held at the Bethesda Wyatt until May 21, 2002.

For further information about the AD neuroimaging initiative contact: Dr. Neil Burkholtz at 301–496–9350, e-mail <*buckholn@exmur.nia.nih.gov*> or Dr. Susan Molchan at 301–496–3909, e-mail <*molchans@mail.nih.gov*>. Hotel and travel arrangements are being handled by Courtesy Associates (Ms. Vicki Hill, 703–960–3178; Ms. Susan Dolibois, 202–367–2352); e-mail <*sdolibois@courtesyassoc.com*>).

Dated: May 9, 2002.

Richard Hodes,

Director, NIA.

[FR Doc. 02–12228 Filed 5–15–02; 8:45 am]

BILLING CODE 4141–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended 95 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bacteriology and Mycology—1 (04).

Date: May 10, 2002.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular, Cellular and Developmental Neuroscience-5 (03).

Date: May 13, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Syed Husain, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892, (301) 435–1224, husains@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Experimental Therapeutics—2 (04).

Date: May 22, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: May 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12226 Filed 5–15–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4723–C–02]

FY 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grants Programs for Fiscal Year 2002; Technical Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Super notice of funding availability (SuperNOFA) for HUD's discretionary grant programs; technical correction.

SUMMARY: On March 26, 2002, HUD published its Fiscal Year (FY) 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's discretionary grant programs. This document extends the application due date for the Resident Management and Business Development, Capacity Building, and Public Housing Service Coordinator components of the ROSS program to June 25, 2002.

DATES: The application due date for the Resident Management and Business Development, Capacity Building, and Public Housing Service Coordinator components of the ROSS program has been extended to June 25, 2002. All other application due dates remain as published in the **Federal Register** of March 26, 2002.

FOR FURTHER INFORMATION CONTACT: For the ROSS program, please contact the office or individual listed under the "For Further Information" heading in the individual program section of the SuperNOFA, published on March 26, 2002.

SUPPLEMENTARY INFORMATION: On March 26, 2002 (67 FR 13826), HUD published its Fiscal Year (FY) 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's discretionary grant programs. The FY 2002 SuperNOFA announced the availability of approximately $2.2 billion in HUD program funds covering 41 grant categories within programs operated and administered by HUD offices. This notice published in today's **Federal Register** extends the application due date for the Resident Management and Business Development, Capacity Building, and Public Housing Service Coordinator components of the ROSS program to June 25, 2002. Applicants that have already submitted an application for the Resident Management and Business Development, Capacity Building or Public Housing and Service Coordinator components of the program have the option of submitting a new application by the new application due date. The deadlines for applications for the Resident Service Deliver Models, Homeownership Supportive Services, and Neighborhood Networks Centers components of the ROSS program have not been changed and remain as published in the March 26, 2002 SuperNOFA.

Accordingly, in the Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs for

Fiscal Year 2002 [Docket No.FR–4723–N–01], beginning at 67 FR 13826, in the issue of Tuesday, March 26, 2002, the following correction is made:

Resident Opportunities and Self-Sufficiency (ROSS), Beginning at 67 FR 14207

On page 14207, HUD amends the paragraph entitled "Application Deadline for ROSS Funding Categories" in the Program Overview Section to read as follows:

June 25, 2002 for Resident Management and Business Development;

June 25, 2002 for Capacity Building;

June 25, 2002 for Public Housing and Service Coordinator.

Dated: May 10, 2002.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 02–12190 Filed 5–13–02; 1:13 pm]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Great Lakes Panel Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force Great Lakes Panel. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Great Lakes Panel will meet from 11:00 am to 4:30 pm on Wednesday, May 29, 2002, and 8:00 am to 4:00 pm on Thursday, May 30, 2002.

ADDRESSES: The Great Lakes Panel meeting will be held at the Stone Laboratory of the Ohio State University Field Station located on Gibraltar Island of Lake Erie at 878 Bayview Avenue, Put-in-Bay, Ohio 43456. Phone (419) 285–2341.

FOR FURTHER INFORMATION CONTACT: Kathe Glassner-Shwayder, Project Manager, Great Lakes Commission, at 734–665–9135 or Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force at 703–358–2308 or by e-mail at: *sharon_gross@fws.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force Great Lakes Panel. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

The Great Lakes Panel, comprised of representatives from Federal, State, and local agencies and from private environmental and commercial interests, performs the following activities:

(a) Identifies priorities for the Great Lakes Region with respect to aquatic nuisance species;

(b) makes recommendations to the Task Force regarding programs to carry out zebra mussel programs;

(c) assists the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes region;

(d) coordinates, where possible, aquatic nuisance species program activities in the Great Lakes region that are not conducted pursuant to the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (as amended, 1996);

(e) provides advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and

(f) submits an annual report describing activities within the Great Lakes region related to aquatic nuisance species prevention, research, and control.

Topics to be addressed at this meeting include: a review of the Great Lakes Panel accomplishments on ANS prevention and control in the Great Lakes/St. Lawrence Region over the past decade; a review of the status of Federal (U.S. and Canadian) Legislation and Policies; a discussion on Great Lakes Panel's Rapid Response Model Plan; an update on the International Association of Great Lakes Research white paper on Ballast Water; an update on the International Joint Commission Great Lakes/St. Lawrence Research Inventory; and an update on NISA reauthorization and the Panel's role in advancing NISA recommendations.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 810, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: April 30, 2002.

Cathleen I. Short,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. 02–12176 Filed 5–15–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Region; Environmental Assessment for the Proposed Construction of Permanent Security Improvements at the Washington Monument in Washington, DC

ACTION: Notice of availability of an Environmental Assessment.

SUMMARY: Pursuant to the Council of Environmental Quality regulations and National Park Service policy, this notice announces the availability of an environmental assessment (EA) for the proposed construction of permanent security improvements that include a visitor access/screening facility, vehicle barrier system, and general improvements of the grounds at the Washington Monument in Washington, D.C.

DATES: There will be a 30-day public review period for comment on this document. Comments on the EA should be received no later than May 23, 2002.

ADDRESSES: Comments on the EA should be submitted to: Mr. Arnold Goldstein, Superintendent, National Capital Parks-Central, National Capital Region, National Park Service. It is recommended, due to delays in mail delivery, that comments be provided by telefax at (202) 426–1835 or by email at NACC—Superintendent@nps.gov. Comments may also be delivered by messenger to 900 Ohio Drive, SW., Washington, DC 20242. Public reading copies of the EA will be available for review on the National Park Service website at *http://www.nps.gov/wamo,* at the National Capital Region, National Park Service, 1100 Ohio Drive, SW., First Floor Lobby, Washington, DC, 20242, and at the National Capital Planning Commission, 401 9th Street, NW., North Lobby, Suite 500, Washington, DC 20576. For further information contact: Ms. Sally Blumenthal, Deputy Associate Regional Director, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, Telephone: (202) 619–7025. A limited number of copies of the EA are available on request.

SUPPLEMENTARY INFORMATION: The EA will help National Park Service decisionmakers meet the objectives for the design and construction of a new permanent screening facility and vehicle barrier system. The objectives include improvement of security, improvement of visitor flow, provision of outdoor recreation opportunities, preservation of cultural landscape quality, improvement of accessibility, and preservation of the Monument structure and the Monument Lodge.

The existing concrete jersey barriers and the interim visitor security facility obstruct important vistas to and from the Monument and Grounds, intrude on the setting of this important national icon, and disrupt pedestrian circulation patterns. In addition, the current system requires heavy personnel staffing by the U.S. Park Police.

This EA addresses the environmental consequences of two build alternatives, as well as the impacts associated with maintaining the status quo. Alternative A (Below-Grade Alternative); Alternative B (Above Grade Alternative), and Alternative C (No Action Alternative). The two build alternatives are intended to fulfill the security goals and objectives for the Monument through three types of physical improvements: (1) Visitor screening facility, (2) vehicle barrier system, and (3) Grounds improvements.

Alternative A includes an underground screening facility and passageway to the Monument and a landscaped vehicle barrier system of walled terraces, a screening berm and pathways. The Monument Lodge would be rehabilitated as the portal to the new underground facility. A graded system of walled terraces would replace the concrete jersey vehicle barriers. Alternative B includes a visitor screening facility located above-ground near the Sylvan Theater, away from the primary views and vistas. Visitors would travel from the Theater in an above-ground, double-fenced security pathway to the Monument. Security bollards would be placed at the 1-1/4-mile perimeter of the Grounds to provide a barrier system that would stop moving vehicles, replacing the existing concrete jersey vehicle barriers. The parking lot at 16th Street would be removed in both Alternatives A and B, which would allow the German-American Friendship Garden to be completed. Alternative C would retain the existing structures and elements of the Washington Monument Grounds in their existing use and condition. There would be no new development or reconfiguration of facilities, and the parking lot on the northern portion of the Grounds at 16th Street would remain.

This EA seeks to determine the potential impacts and recommended mitigation measures related to the proposed action or to no action. The EA addresses short-term construction-related impacts and long-term operational effects, as well as the cumulative impacts that would result from this and other projects within the study area. The National Park Service has prepared this EA in compliance with the National Environmental Policy Act, the Council on Environmental Quality regulations implementing that Act, the National Historic Preservation Act, and the National Park Service Director's Order–12. This EPA was prepared in cooperation with the National Capital Planning Commission.

Dated: April 24, 2002.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 02–12273 Filed 5–15–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the National Park System Advisory Board will conduct a public meeting by teleconference on May 29, 2002, from 3 p.m. to 4 p.m., Eastern Standard Time, inclusive. Members of the public may attend the meeting in person at two locations: (1) In Washington, DC, at the Jury's Hotel, Burlington Ballroom, 1500 New Hampshire Avenue, NW., Washington, DC 20036; and in Homestead, Florida, at Biscayne National Park, the Headquarters Building, 9700 SW 328th Street, Homestead, Florida 33090. The meeting is open to the public. During this teleconference, the National Park System Advisory Board will receive and discuss the final report of its Stiltsville Committee concerning the proposed disposition of seven structures known collectively as "Stiltsville" and located within the waters of Biscayne National Park. Information about Stiltsville can be found on Biscayne National Park's website at *www.nps.gov/bisc.* For copies of the committee report, please contact Shirley Sears Smith, Office of Policy, National Park Service, at 202–208–7456.

Opportunities for oral comment will be limited to no more than 3 minutes per speaker and no more than 15 minutes total. The Board's chairman will determine how time for oral comments will be allocated. Anyone who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Mr. Loran Fraser (202–208–7456), Office of Policy, National Park Service, 1849 C Street, NW., Washington, DC 20240.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 2414, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: May 10, 2002.

P. Daniel Smith,

Special Assistant to the Director.

[FR Doc. 02–12315 Filed 5–15–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 27, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St., NW, Suite 400, Washington, DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by May 31, 2002.

Beth M. Boland,

Acting Keeper of the National Register.

Arkansas

Conway County

Menifee High School Gymnasium
(Public Schools in the Ozarks MPS),
Jct. of N. Park St. and E. Mustang St.,
Menifee, 02000601

Wood, W.L., House,
709 N. Morrill St.,
Morrilton, 02000604

Scott County

Parks School,
AR 28,
Parks, 02000602

St. Francis County

Bond, Scott, Family Plot
(Ethnic and Racial Minority Settlement of the Arkansas Delta MPS),
0.3 W of 5th St. on AR 70W,
Madison, 02000603

Florida

Indian River County

Hallstrom House,

1723 SW Old Dixie Highway,
Vero Beach, 02000605

Leon County

Bannerman Plantation
(Rural Resources of Leon County MPS),
13426 Meridian Rd. N,
Tallahassee, 02000606

Kansas

Dickinson County

Abilene City Park Historic District
(New Deal-Era Resources of Kansas MPS),
4th St. at Poplar St. and Pine St.,
Abilene, 02000608

Marion County

Marion County Park and Lake,
1.0 mi. W of US 256 and US 77, 2 mi. S on Upland Rd.,
Marion, 02000607

Thomas County

Colby Municipal Swimming Pool and Bath House
(New Deal-Era Resources of Kansas MPS),
200 E. 5th St.,
Colby, 02000609

Minnesota

Hennepin County

Minneapolis Pioneers and Soldiers Memorial Cemetery,
2925 Cedar Ave. S,
Minneapolis, 02000612

Wirth, Theodore, House—Administration Building,
3954 Bryant Ave. S,
Minneapolis, 02000611

Wright County

Waverly Village Hall
(Federal Relief Commission in Minnesota MPS),
4th St: N bet. Atlantic and Elm Ave.,
Waverly, 02000613

Missouri

St. Louis Independent City

City Club Building,
1012–1024 Locust St.,
St. Louis (Independent City), 02000610

New Jersey

Sussex County

Black Creek Site—28SX297,
Maple Grange Rd.,
Vernon Township, 02000626

New York

Columbia County

Pine View Farm,
567 Collins St.,
Hillsdale, 020006014

Ontario County

Washington Street Cemetery,
Washington St.,
Geneva, 02000616

Suffolk County

AN/FPS–35 Radar Tower and Antenna,
Montauk Point State Parkway,
Montauk, 02000615

Oregon

Washington County

Clark Historic District,
Roughly bounded by 18th Ave., 16th Ave., "A" St., and Elm St.,
Forest Grove, 02000617

Virginia

Franklin County

Burwell—Holland House,
600 Jacks Mountain Rd.,
Glade Hill, 02000624

Lynchburg Independent City

Lower Basin Historic District (Boundary Increase),
1307 Main St., 103–109 Sixth St.,
Lynchburg (Independent City), 02000620

Mecklenburg County

Clarksville Historic District,
Roughly along Virginia Ave, from Rose Hill Ave., Ferry St., East St. and Second St.,
Clarksville, 02000625

Newport News Independent City

Fields, James A., House,
617 27th St.,
Newport News (Independent City), 02000623

Smith's Pharmacy

3114 Chestnut Ave.,
Newport News, 02000618

Portsmouth Independent City

St. Paul's Catholic Church,
518 High St.,
Portsmouth (Independent City), 02000619

Roanoke Independent City

Roanoke City Market Historic District (Boundary Increase),
302 Campbell Ave., SE; 9 Church Ave, SE,
Roanoke (Independent City), 02000622

Rockingham County

Taylor Springs,
3712 Taylor Spring Ln.,
Harrisonburg, 02000621

A Request for Removal has been made for the following resources:

Minnesota

Hennepin County

Excelsior Fruit Growers Association Building,
450 3rd St.,
Excelsior, 82002959

Lake of the Woods County

Spooner Public School,
1st St., N. and 8th St., E.,
Baudette, 83000913

Rice County

Dump Road Bridge
(Iron and Steel Bridges in Minnesota MPS),
Twp. Rd. 45 over Straight River,
Fairbault vicinity, 89001835

[FR Doc. 02–12271 Filed 5–15–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 4, 2002. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St., NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St., NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by May 31, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

Alaska

Prince of Wales-Outer K.Borough-Census Area, Chief Son-I-Hat's Whale House and Totems Historic District, Totem Park Trail, Kasaan, 02000627

Colorado

Pueblo County

Minnequa Steel Works Office Building and Dispensary, Colorado Fuel and Iron Company, 215 and 225 Canal St., Pueblo, 02000628

Georgia

Wilkes County

Gartrell Family House, 854 Boyd Rd., Tignall, 02000629

Iowa

Johnson County

Walker Park and Memorial Building, 6078 Otter Creek Rd. SE, River Junction, 02000630

Massachusetts

Bristol County

New Bedford Gas and Edison Light Complex, 180 MacAuthur Dr., New Bedford, 02000633

Essex County

Flint Public Library, 2 N. Main St., Middleton, 02000631

Hampden County

Mechanic Street Cemetery, Mechanic St., Westfield, 02000632

Middlesex County

East Holliston Historic District, Washington, Baker, Curve, Woodland St., Quail Run, Holliston, 02000636

Howe School, 390 Boston Rd., Billerica, 02000634

Worcester County

Hopedale Village Historic District, Roughly bounded by Milford Town Line, Malquin Dr., Mendon Town Line and Upton Town Line, Hopedale, 02000635

Minnesota

Crow Wing County

Ironton City Hall, 309 3rd St., Ironton, 02000637

New Hampshire

Cheshire County

East Jaffrey Historic District, Roughly along NH 124 through Jaffrey, Jaffrey, 02000642

Grafton County

Spring Hill Farm, 263 Meriden Rd., Lebanon, 02000639

Merrimack County

Hall, Charles S., House, 1740 Dover Rd., Epsom, 02000640

Page Belting Company Mills, 26 Commercial St., Concord, 02000641

Strafford County

Plummer Homestead, 1273 White Mountain Hwy., Milton, 02000638

New York

Westchester County

Wickers Creek Site, Address Restricted, Dobbs Ferry, 02000652

North Carolina

Davidson County

Spach, Adam, Rock House Site, Address Restricted, Winston-Salem, 02000643

Texas

Smith County

Blackstone Building, (Tyler, Texas MPS) 315 N. Building, Tyler, 02000645

Crescent Laundry, (Tyler, Texas MPS) 312–320 E. Ferguson St., Tyler, 02000644

Donnybrook Duplex Residential Historic District, (Tyler, Texas MPS) Roughly bounded by E. 6th St., Donnybrook Ave., E. 8th St., and S. Wall, Tyler, 02000649

East Ferguson Residential Historic District, (Tyler, Texas MPS) 423–513 E. Ferguson St., Tyler, 02000647

Elks Club Building, (Tyler, Texas MPS) 202 S. Broadway, Tyler, 02000648

Jenkins—Harvey Super Service Station and Garage, (Tyler, Texas MPS) 124 S. College, Tyler, 02000646

Virginia

Rockingham County

Rife's Mill, Jct. of Silver Lake Rd. and Linhoss Rd., Dayton, 02000651

Wisconsin

Milwaukee County

Whitefish Bay National Guard Armory, 1225 E. Henry Clay St., Whitefish Bay, 02000650

[FR Doc. 02–12272 Filed 5–15–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7 notice is hereby given that on April 26, 2002, a proposed Consent Decree in *United States, et al.*, v. *Mayor and City Council of Baltimore, Maryland*, Civil Action No. 02–1524 JFM, was lodged with the United States District Court for the District of Maryland.

In this action the United States sought injunctive relief and civil penalties pursuant to section 301, 309, and 402 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1311, 1319, and 1342, against The Mayor and City Council of Baltimore, Maryland for unpermitted discharges of sewage from its sanitary sewer system. Under the terms of the proposed Consent Decree, Baltimore will implement and complete a comprehensive program of injunctive relief to meet specified milestone dates and subject to stipulated venalities. Pursuant to the terms of the Consent Decree, Baltimore will undertake construction projects that will help ensure that its collection system has adequate capacity to handle wastewater flows. In addition, the Consent Decree requires Baltimore to undertake a comprehensive investigation of its collection system to identify and correct deficiencies. The estimate of the cost of the injunctive relief program is $940 million. In addition, under the terms of the proposed Consent Decree, Baltimore will pay a civil penalty of $600,000 and perform a supplemental environmental project of $2.7 million. Under the terms of the Consent Decree, Baltimore will complete the design for a biological nutrient treatment unit(s) at its Patapsco wastewater treatment plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.*, v. *Mayor and City Council of Baltimore, Maryland*, Civil Action No. 02–1524 JFM, D.J. Ref. 90–5–1–1–4402/1.

The Consent Decree may be examined at the Office of the United States Attorney, District of Maryland, 6625 U.S. Courthouse, 101 W. Lombard St., Baltimore, MD 21201, and at U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19107. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $25.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 02–12202 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA")

In accordance with 28 CFR 50.7, notice is hereby given that on May 1, 2002, a proposed Consent Decree ("Decree") in *United States* v. *Interstate Power and Light Company, Kansas City Power and Light Company, and City of Mason City, Iowa*, Civil Action No. CO2–3030–MWB, was lodged with the United States District Court for the Northern District of Iowa.

The Complaint filed in the above-referenced matter alleges that Interstate Power and Light Company, Kansas City Power and Light Company, and the City of Mason City, Iowa ("Defendants") are liable under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. 9607(a), for costs incurred and to be incurred by the Environmental Protection Agency ("EPA") as a result of the release or threatened release of hazardous substances at or in connection with the Mason City Coal Gasification Superfund Site (the "Site") located in Mason City, Iowa. The Complaint, which was filed simultaneously on May 1, 2002, with the Decree, sought response costs incurred and to be incurred by the United States in connection with the Site. Under the proposed Decree, the Defendants shall implement the remedy selected by EPA for the Site, pay $23,678 in reimbursement of response costs, and pay EPA future oversight costs at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Decree. Comments should be addressed to the Assistant Attorney General for the

Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Interstate Power and Light Company, Kansas City and Light Company, and City of Mason City, Iowa*, DOJ Ref. #90–11–3–07398.

The proposed Decree may be examined at the office of the United States Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101. A copy of the proposed Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the proposed Decree, please refer to the referenced case number and enclose a check in the amount of $51.75 (25 cents per page reproduction cost), payable to the U.S. Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 02–12200 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7, notice is hereby given that on May 3, 2002, a proposed consent decree in *United States* v. *Key Investment Company et al.*, Civil Action No. 98–CV–5162, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States is seeking response costs pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). 42 U.S.C. 9601 *et seq.*, in connection with the North Penn Area Six Superfund Site ("Site"), which consists of a number of separate parcels of property within and adjacent to the Borough of Lansdale, Montgomery County, Pennsylvania. The proposed consent decree will resolve the United States' claims against Key Investment Company, Hancock Partnership, High Maples Inc., HGH Inc., and Philadelphia Toboggan Company ("Settling Defendants") in connection with the Settling Defendants' property at the Site. Under the terms of the proposed consent decree, Settling Defendants will reimburse the United States a total of $20,000 in past response costs incurred by the United States at Settling Defendants' property. Each Settling Defendant will receive a covenant not to sue by the United States for past costs under Section 107 of CERCLA.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and transmitted by one of the following methods: (1) Via U.S. Mail to PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611; (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, c/o Chief, Environmental Enforcement Section, 1425 New York Avenue, NW., 13th Floor, Washington DC 20005. Each communication should reference *United States* v. *Key Investment Company et al.*, DJ # 90–11–2–06024/2.

The proposed consent decree may be examined at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed consent decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax number 202–616–6584 (telephone confirmation number 202–514–1547). Upon requesting a copy, please mail a check payable to "U.S. Treasury" in the amount of $6.00 (25 cents per page reproduction cost) to Consent Decree Library, U.S. Department of Justice, PO Box 7611, Washington, DC 20044–7611. The check should reference *United States* v. *Key Investment Company et al.*, DJ # 90–11–06024/2.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–12201 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with 28 CFR 50.7, 38 Fed. Reg. 19029, notice is hereby given that on April 30, 2002, a Consent Decree was lodged with the United States District Court for the District of Massachusetts in *United States* v. *Town of Winchendon, Massachusetts*, Civil Action No. 02–10777. A compliant in the action was also filed simultaneously with the lodging of the Consent Decree. In the complaint the United States, on behalf of the U.S. Environmental Protection Agency (EPA), alleges that the defendant Town of Winchendon (the Town) violated the Clean Water Act, 33 U.S.C. 1251, *et seq.*, in the operation of its publicly-owned system to collect and treat sanitary sewage and industrial waste water. The violations involve EPA requirements for control of waste water discharges and discharges of pollutants; requirements of the Town's federal and state pollutant discharge permits; and discharge of untreated waste water into navigable waters. The consent decree requires the Town of pay a civil penalty of $45,000 ($30,000 to the federal government and $15,000 to the Commonwealth of Massachusetts), and to comply with relevant environmental laws by upgrading and repairing its publicly-owned treatment works and sewer system.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Washington, DC 20044, and should refer to *United States* v. *Town of Winchendon, Massachusetts*, DOJ #90–5–1–1–07490.

The proposed consent decree may be examined at the office of the United States Attorney, Suite 9200, 1 Courthouse Way, Boston, Massachusetts 02110, and at the Region I office of the Environmental Protection Agency, One Congress Street, Suite 1100, Boston, Massachusetts 02114. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $9.50 payable to the "U.S. Treasury."

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 02–12199 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 267–2002]

Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice proposes to establish a new system of records entitled "Reasonable Accommodations for the Department of Justice (DOJ)," Justice/DOJ–007. The purpose of publishing this Department-wide notice is to begin to record requests made by applicants and employees for reasonable accommodation on the basis of a disability, the disposition of the requests, and reasonable accommodations provided.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by June 17, 2002. The public, OMB, and the Congress are invited to submit any comments to Mary E. Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: May 8, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

JUSTICE/DOJ–007

SYSTEM NAME:

Reasonable Accommodations for the Department of Justice (DOJ), JUSTICE/DOJ–007.

SYSTEM LOCATIONS:

Records are maintained by designated Component Accommodation Coordinators in Department of Justice offices throughout the country. Records may be accessed by contacting the System Manager at the following address: U.S. Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC 20530. (See Record Access Procedures below.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Justice employees and applicants who make requests for reasonable accommodation on the basis of a disability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include identifying information regarding persons requesting reasonable accommodations (e.g., requestor's name, title/series/grade, telephone number, date of request, e-mail address, office, description of accommodation requested, and reason for request) and the status of the response within the Department. Records in this system may include: The original written request; the Department's response; the name, title and telephone number of office or staff members deciding or referring the matter; related letters/memoranda; copies of any enclosures/attachments, including medical records; the date an accommodation request was approved or denied; the reason a request was denied; the date an accommodation was provided; whether the recommended time frames were met as outlined in the Reasonable Accommodation Procedures; the reason the reasonable accommodation was needed; the type(s) of reasonable accommodation requested; the type(s) of accommodation provided; the source of technical assistance; whether medical or other appropriate supporting information was required to process the request, and if so, an explanation of why it was required; and other request-related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; Executive Order 13164; Equal Employment Opportunity Commission's Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Directives Transmittal Number 915.003, October 20, 2000.

PURPOSE OF THE SYSTEM:

The system documents and tracks requests made to the Department for reasonable accommodation, and action taken by the Department in response to the requests. It also serves as a reference source for inquiries and responses thereto on a "need to know" basis only. The Accommodation Coordinator(s) in each component of the Department will use these records to develop cumulative records, without individual identifiers, to track performance in regard to the provision of reasonable accommodation by the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Pursuant to subsection (b)(3) of the Privacy Act, information may be disclosed from this system as follows:

A. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

B. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of an individual who is the subject of the record.

C. To the General Services Administration and National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

D. Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, to any civil or criminal law enforcement authority or other appropriate agency, whether federal, state, local, foreign, or tribal, charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing a statute, rule, regulation, or order.

E. In an appropriate proceeding before a court, grand jury, or administrative or regulatory body when records are determined by DOJ to be arguably relevant to the proceeding.

F. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in informal discovery proceedings.

G. To a federal agency or entity that requires information relevant to a decision concerning the hiring, appointment, or retention of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation, or pursuit of other appropriate personnel matter.

H. To a federal, state, local, or tribal agency or entity that requires information relevant to a decision concerning the letting of a license or permit, the issuance of a grant or benefit, or other need for the information in performance of official duties.

I. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

J. To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating

communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

K. To the White House (the President, Vice President, their staffs, and other entities of the Executive Office of the President (EOP)) for Executive Branch coordination of activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.

L. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper files and may be entered into an electronic database in the future.

RETRIEVABILITY:

Information can be retrieved by name of the individual making a request for reasonable accommodation; in the case of electronic databases, information may possibly be retrieved by other identifying search terms employed.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable rules and policies, including the Department's automated systems security and access policies. In general, records and technical equipment are maintained in buildings with restricted access. The required use of password protection identification features and other system protection methods also restricts access to electronic information. Access is limited to those who have an official need for access to perform their official duties.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the Equal Employment Opportunity Commission's Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Directives Transmittal Number 915.003, October 20, 2000. Records prepared by Accommodation Coordinators will be kept for a minimum of three years in accordance with General Records Schedule 1, Item 25g, as approved by the National Archives and Records Administration. Records related to a particular individual's accommodation request will be kept for the duration of the individual's employment. Applicant information that does not result in an appointment is kept in accordance with General Records Schedule 1, Item 15. The records in this system are confidential and will be kept separate and apart from the individual's personnel file.

SYSTEM MANAGER AND ADDRESS:

Director, Equal Employment Opportunity Staff, Justice Management Division, 950 Pennsylvania Ave., NW., Washington, DC 20530–0001.

NOTIFICATION PROCEDURES:

Address inquiries to System Manager named above.

RECORD ACCESS PROCEDURES:

Requests for access must be in writing and should be addressed to the System Manager named above. The envelope and letter should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought, including the component where the records reside, if known (generally the employing component), and must include the requestor's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Record Source Categories: Sources of information include individuals who make written requests for reasonable accommodation, and supporting documentation from, for instance, rehabilitation counselors and Department decision makers (i.e., usually first line supervisors).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–12260 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; The Student and Exchange Visitor Information Systems (SEVIS)

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 15, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technical collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: New Information Collection.*

(2) *Title of the Form/Collection:* The Student and Exchange Visitor Information System (SEVIS).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB–30). Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This system will be used by institutions and sponsors to provide notification, reports, updates and data required by regulations on the institutions and program, as well as on student and exchange visitors. Additionally, the Service and the Department of State will use SEVIS to adjudicate benefits and services, track student and exchange visitor data, and to monitor institution and program sponsor compliance with current regulations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 625,135 applicants and 5 responses at 20 minutes (.333 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,040,850 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: March 9, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–12245 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Request for hearing on a decision in naturalization proceedings under Section 336; Form N–336.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 1, 2002 at 67 FR 9468, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 17, 2002. This process is conducted in accordance with 5 CFR 1320.10

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Request for Hearing on a Decision in Naturalization Proceedings under Section 336.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–336, Adjudications Division. Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by applicants for naturalization to pursue the only venue available to them in the appeal process.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 7,669 responses at 165 minutes (2.75 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 21,090 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: May 3, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–12246 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Request OMB Emergency Approval; Application for NEXUS Dedicated Commuter Lane Program; Form I–823N.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request (ICR)

utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. INS is requesting emergency review from OMB of this information collection to ensure compliance with the United States/Canada "Shared Border Accord," signed in 1999 and the Ridge/Manley Agreement, the thirty-point northern border agreement signed in December 2001.

The application will be used by the Immigration and Naturalization Serve and the United States Customs officials to determine eligibility for admission into the NEXUS program. NEXUS is an automated dedicated commuter lane (DCL) program for low-risk travelers who frequently cross the land border between the United States and Canada. This high profile program arose from the U.S./Canada Shared Border Accord and was incorporated into the Ridge/Manley Agreement. The Administration has directed that the NEXUS lanes at two ports-of-entry between the state of Washington and British Columbia, Canada must open in June 2002, which requires that the enrollment process begin by Late May 2002 in order to permit sufficient time for background checks and pre-screening interviews.

For the aforementioned reasons, the INS is requesting emergency OMB review and approval of this information collection request by May 15, 2002. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, N.W., Suite 10102, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until July 15, 2002. During the 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Application for NEXUS Dedicated Commuter Lane Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–823N. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collected will be used by the INS and U.S. Customs officials to determine eligibility for admission into the NEXUS program under U.S. law. Canadian immigration and customs officials will use the information on the application to determine the individual's eligibility under Canadian law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 1.166 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 116,600 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, N.W., Washington, DC 20530.

Dated: May 10, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–12247 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Amendment to a Solicitation for a Cooperative Agreement—Strategic Planning and Response

AGENCY: National Institute of Corrections, DOJ.

ACTION: Amendment to Solicitation for a Cooperative Agreement—Strategic Planning and Response—NIC Application Number 02P09.

SUMMARY: A solicitation for a cooperative agreement called Strategic Planning and Response—NIC Application Number 02P09—was published in the **Federal Register** on April 26, 2002 (Volume 67, Number 81). On page 20832, Item 6 under Specific Requirements, the following sentence is deleted: "Additional credit will be given during the evaluation process to applicants who can demonstrate their ability to work collaboratively from their previous work."

There are no other changes.

Dated: May 10, 2002.

Larry Solomon,

Deputy Director, National Institute of Corrections.

[FR Doc. 02–12213 Filed 5–15–02; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before July 1, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov*. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: *records.mgt@nara.gov*.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Air Force, Agency-wide (N1–AFU–02–2, 2 items, 2 temporary items). Records relating to medical treatment of patients in ambulatory care facilities, including electronic copies of documents created using electronic mail and word processing.

2. Department of the Air Force, Agency-wide (N1–AFU–02–8, 3 items, 3 temporary items). Records pertaining to use of government purchase cards. Included are records relating to authorization and training of cardholders and to transactions under investigation or in dispute. Also included are electronic copies of documents created using electronic mail and word processing.

3. Department of the Air Force, Agency-wide (N1–AFU–02–13, 117 items, 117 temporary items). Electronic versions of temporary records relating to civil engineering. Included are electronic copies of documents created using electronic mail and word processing as well as electronic records that supplement or replace paper records already approved for disposal. Records relate to such matters as environmental planning, land use, civil engineering resources, real property management, housing, utility services, sanitation and custodial services, airfield pavement marking, snow removal, roof management, pest management, refrigeration, fire protection, disaster preparedness, and engineer readiness.

4. Department of the Army, Agency-wide (N1–AU–99–10, 3 items, 2 temporary items). Records relating to museum program management including such files as historical property catalog cards, property jackets, artifact bibliographies, field and working notes, exhibit information, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of museum histories and correspondence are proposed for permanent retention. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of the Army, Agency-wide (N1–AU–00–40, 2 items, 2 temporary items). Master file and outputs of the Central Site Artifact Management System, an electronic information system used to maintain accountability for all Army historical museum property. Records include such data as description of item, condition, donor, and location.

6. Department of the Army, Agency-wide (N1–AU–01–3, 2 items, 1 temporary item). Master file and outputs of the Environmental Compliance Assessment System, an electronic information system used to facilitate the tracking and reporting of Army environmental compliance. The system includes such data as installation identification, assessor information, assessment date, assessment type, protocol manuals used, suggested corrective action, and status of corrective action. Proposed for permanent retention are recordkeeping copies of final audit reports and annual assessment reports. This schedule also authorizes the agency to apply the

proposed disposition instructions to any recordkeeping medium.

7. Department of the Army, Agency-wide (N1–AU–02–15, 4 items, 4 temporary items). Records relating to demilitarization and trade security controls of equipment and materiel. Included are demilitarization certificates for small arms and other surplus property, end user certificates, and trade security control files. Also included are electronic copies of documents created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of the Army, Agency-wide (N1–AU–02–16, 4 items, 4 temporary items). Records relating to utilities engineering activities. Included are reports and other records relating to the operation and maintenance of plants and systems as well as records relating to the management of solid wastes, water, and wastewater. Also included are electronic copies of documents created using electronic mail and word processing. This schedule increases the retention period of utilities operating manuals and logbooks relating to plants and systems, which were previously approved for disposal, and authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

9. Department of the Army, Agency-wide (N1–AU–02–17, 2 items, 2 temporary items). Records relating to appointments of certifying accountable officials, including acceptance memorandums and related forms. Also included are electronic copies of documents created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

10. Department of the Army, Agency-wide (N1–AU–02–18, 3 items, 3 temporary items). Records relating to officer separation proceedings, including individual discharge cases, discharge board proceedings, and notifications of administrative board waivers. Also included are electronic copies of documents created using electronic mail and word processing. This schedule increases the retention period of officer separation proceedings on individuals confined by foreign civil authorities, which were previously approved for disposal, and authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

11. Department of the Army, Agency-wide (N1–AU–02–19, 3 items, 3 temporary items). Records relating to intrusions into classified and unclassified automated information systems, including security incident reports and audit trail and event logs. Also included are electronic copies of documents created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

12. Department of Justice, Environment and Natural Resources Division (N1–60–02–3, 4 items, 3 temporary items). Subject, reference, and working files of Special Assistants to Assistant Attorneys General and Deputy Assistant Attorneys General. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject, project, and correspondence files of the Deputy Assistant Attorneys General.

13. Department of Veterans Affairs, Office of the Inspector General (N1–15–01–6, 4 items, 4 temporary items). Routine investigative case files, which include reports, correspondence, and electronic copies of documents created using electronic mail and word processing. Files relating to investigations that attract national media or congressional attention or result in significant changes in agency policies or procedures will be appraised by the National Archives and Records Administration on a case-by-case basis.

14. Environmental Protection Agency, Office of Environmental Information (N1–412–02–7, 5 items, 5 temporary items). Records relating to an electronic system that that is used to create, route, track, and process agency-specific forms as well as Government-wide standard forms. Included are software programs, electronic data, a tracking database, and system documentation.

Dated: May 9, 2002.

Michael J. Kurtz,

Assistant Archivist for Record Services, Washington, DC.

[FR Doc. 02–12244 Filed 5–15–02; 8:45 am]

BILLING CODE 7515–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Annual Board of Directors Meeting

TIME AND DATE: 2 p.m., Monday, May 20, 2002.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202–220–2372; *jbryson@nw.org.*

Agenda

I. Call to Order
II. Approval of Minutes:
  February 28, 2002, Regular Meeting
III. Committee Appointments
IV. Election of Officers
V. Board Appointments
VI. Treasurer's Report
VII. Executive Director's Quarterly Management Report
VIII. NHSA Presentation
IX. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 02–12340 Filed 5–13–02; 4:33 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 AND 50–339]

Virginia Electric and Power Co.; North Anna Power Station, Units 1 and 2; Notice of Availability of the Draft Supplement 7 to the Generic Environmental Impact Statement and Public Meeting for the License Renewal of North Anna Units 1 and 2

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has published a draft plant-specific supplement to the Generic Environmental Impact Statement (GEIS), NUREG–1437, regarding the renewal of operating licenses NPF–4 and NPF–7 for an additional 20 years of operation at North Anna Power Station, Units 1 and 2. North Anna Power Station is located in Louisa County, Virginia. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

The draft supplement to the GEIS is available electronically for public inspection in the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to pdr@nrc.gov. In addition, the Alderman Library at the University of Virginia in Charlottesville, Virginia, and the Louisa County Public Library in Mineral, Virginia, have agreed to make the draft supplement to the GEIS available for public inspection.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be certain of consideration, comments on the draft supplement to the GEIS and the proposed action must be received by August 1, 2002. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by the Internet at *NorthAnnaEIS@nrc.gov.* All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available electronically at the Commission's Public Document Room in Rockville, Maryland and from the Publicly Available Records (PARS) component of NRC's document system (ADAMS).

The NRC staff will hold a public meeting to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meeting will be held at the Public Room in the Louisa County Office Building, 1 Woolfolk Avenue, Louisa, Virginia, on June 25, 2002. There will be two sessions to accommodate interested parties. The first session will commence at 1:30 p.m. and will continue until 4:30 p.m. The second session will commence at 7:00 p.m. and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) a presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the Louisa County Office Building. No comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings, or in writing as discussed above. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Andrew J. Kugler by telephone at 1–800–368–5642, extension 2828, or by Internet to the NRC at *NorthAnnaEIS@nrc.gov* no later than June 18, 2002. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Kugler's attention no later than June 18, 2002, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION, CONTACT: Mr. Andrew J. Kugler, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Mr. Kugler may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 23rd day of April, 2002.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–12255 Filed 5–15–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on June 6–8, 2002, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

Thursday, June 6, 2002

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: CRDM Cracking of Vessel Head Penetrations and Vessel Head Degradation (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding issues related to the investigation of circumferential cracks in PWR control rod drive mechanism (CRDM) penetration nozzles and weldments, and reactor pressure vessel head degradation at the Davis-Besse Nuclear Power Plant.

10:45 a.m.–12:15 p.m.: Technical Assessment Generic Safety Issue (GSI)–189, "Susceptibility of Ice Condenser and Mark III Containments to Early Failure from Hydrogen Combustion During a Severe Accident" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding its technical basis and proposed recommendations for resolving GSI–189.

1:15 p.m.—2:15 p.m.: Technical Assessment of GSI–168, Environmental Qualification of Low-Voltage Instrumentation and Control Cables (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding its technical basis and proposed recommendations for resolving GSI–168.

2:15 p.m.–3:30 p.m.: Development of Reliability/Availability Performance Indicators and Industry Trends (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's initiatives to integrate the NRC programs for risk-based analysis of reactor operating experience into the reactor oversight process, specifically the development of reliability/availability performance indicators and industry trends.

3:45 p.m.–4:45 p.m.: Technical and Policy Issues Related to Advanced Reactors (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding technical and policy issues related to advanced reactors.

5:00 p.m.–7:15 p.m.: Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee may discuss a proposed report regarding confirmatory research program on high burnup fuel.

Friday, June 7, 2002

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35–10 a.m.: Proposed Rulemaking to Endorse National Fire Protection

Association (NFPA) 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute regarding the proposed rulemaking to endorse NFPA 805 fire protection standard, and related matters.

10:15 a.m.–11:15 a.m.: Generic Resolution of Voids in the Concrete Containment (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the generic resolution of the issue of voids in the concrete containment walls.

11:15 a.m.–12 Noon: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

12–12:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

1:15 p.m.–7:15 p.m.: Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, June 8, 2002

8:30 a.m.–10 a.m.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

10:15 a.m.–11:30 a.m.: Discussion of Topics for Meeting with the NRC Commissioners (Open)—The Committee will discuss topics for meeting with the NRC Commissioners, which is scheduled for July 10, 2002.

12:45 p.m.–1:45 p.m.: Format and Content of the 2003 ACRS Report on the NRC Safety Research Program (Open)—The Committee will discuss the format, content, schedule, and assignments for the 2003 ACRS report to the Commission on the NRC Safety Research Program.

1:45 p.m.–2:45 p.m.: Proposed papers for the Quadripartite Meeting (Open)—The Committee will discuss proposed technical papers on specific topics that will be discussed at the Quadripartite meeting scheduled to be held on October 23–25, 2002, in Berlin, Germany.

2:45 p.m.–3:00 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 3, 2001 (66 FR 50462). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Sher Bahadur, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Dr. Sher Bahadur prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Dr. Sher Bahadur if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur (telephone 301–415–0138), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html*.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: May 10, 2002.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 02–12256 Filed 5–15–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Fire Protection; Notice of Meeting

The ACRS Subcommittee on Fire Protection will hold a meeting on June 4, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

Tuesday, June 4, 2002—8:30 A.M. Until the Conclusion of Business

The Subcommittee will review (1) the proposed revision to 10 CFR 50.48 to endorse the National Fire Protection Association (NFPA) standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," and (2) the Nuclear Energy Institute (NEI) guidance document NEI 00–01, "Guidance for Post-Fire Safe-Shutdown Circuit Analysis". The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, NEI, and other interested persons regarding this review.

Further information regarding the Chairman's ruling on requests for the opportunity to present oral statements and the time for topics to be discussed, whether the meeting has been canceled or rescheduled, and allotted therefor, can be obtained by contacting the Designated Federal Official, Mr. Sam Duraiswamy (telephone 301/415–7364) or Mr. Robert B. Elliott, Senior Staff Engineer (Telephone 301–415–6927) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact one of the above named individuals one or two working days prior to the meeting to be advised of any potential changes to the agenda that may have occurred.

Dated: May 10, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–12257 Filed 5–15–02; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

May 3, 2002.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report two deferrals of budget authority, totaling $2 billion.

The proposed deferrals affect the Department of State and International Assistance Programs.

George W. Bush.
The White House.

Deferral of Budget Authority

Report Pursuant to Section 1013 of Public Law 93–344

Agency: Department of State.
Bureau: Other.
Account: United States Emergency Refugee and Migration Assistance Fund [1] (11X0400).

New budget authority	$15,000,000
Other budget authority	90,024,603
Total budgetary resources	105,024,603
Amount deferred for entire year	68,276,659

Justification: This deferral withholds funds for emergency refugee and migration assistance for which no determination has been made by the President to provide assistance as required by Executive Order No. 11922. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Section 501(a) of the Foreign Relations Authorization Act of 1976 (Pub. L. 94–141) and section 414(b)(1) of the Refugee Act of 1980 (Pub. L. 96–212) amended section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for emergency refugee and migration assistance to the Secretary of State, but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

Estimated programmatic effect: None.

[1] This account was the subject of a similar deferral in FY 2001 (D01–1).

Deferral of Budget Authority

Report Pursuant to Section 1013 of Public Law 93–344

Agency: International Assistance Programs
Bureau: International Security Assistance
Account: Economic Support Fund [1] (72X1037, 720/21037, 721/21037, 722/31037)

New budget authority	$2,224,000,000
Other budget authority	674,528,036
Total budgetary resources	2,898,528,036
Amount deferred for entire year	1,925,276,752
The amounts deferred by account are	
72X1037	12,424,958
720/21037	168,370,000
721/21037	277,631,794
722/31037	1,466,850,000
Total	1,925,276,752

Justification: This deferral withholds funds for international assistance programs pending the development of country-specific plans that assure that aid is provided in an efficient manner. Funds also are reserved for unanticipated program needs. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

The President is authorized by the Foreign Assistance Act of 1961, as amended, to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. Section 531(b) of the Act makes the Secretary of State, in cooperation with the Administrator of the Agency for International Development, responsible for policy decisions and justifications for economic support programs, including whether there will be an economic support program for a country and the amount of the program for each country. This deferral of funds for the Economic Support Fund includes funds for the International Fund for Ireland.

Estimated programmatic effect: None.

[1] This account was the subject of a similar deferral in FY 2001 (D01–2).

[FR Doc. 02–12270 Filed 5–15–02; 8:45 am]

BILLING CODE 3110–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application for Employee Annuity Under the Railroad Retirement Act.

(2) *Form(s) submitted:* AA–1, AA–1cert, AA–1d, G–204.

(3) *OMB Number:* 3220–0002.

(4) *Expiration date of current OMB clearance:* 4/30/2004.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 13,400.

(8) *Total annual responses:* 19,100.

(9) *Total annual reporting hours:* 11,634.

(10) *Collection description:* The Railroad Retirement Act provides for payment of age, disability and supplemental annuities to qualified employees. The application and related forms obtain information about the applicant's family work history, military service, disability benefits from other government agencies and public or private pensions. The information is

used to determine entitlement to and the amount of the annuity applied for.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–12234 Filed 5–15–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application for Spouse Annuity Under the Railroad Retirement Act.

(2) *Form(s) submitted:* AA–3, AA–3cert.

(3) *OMB Number:* 3220–0042.

(4) *Expiration date of current OMB clearance:* 6/30/2003.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 8,500.

(8) *Total annual responses:* 4,717.

(9) *Total annual reporting hours:* 4,717.

(10) *Collection description.* The Railroad Retirement Act provides for the payment of annuities to spouses of railroad retirement annuitant's who meet the requirements under the Act. The application obtains information supporting the claim for benefits based on being a spouse of an annuitant. The information is used for determining entitlement to and the amount of the annuity applied for.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312) 751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–12235 Filed 5–15–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45904; File No. SR–CBOE–2002–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Fees for Telecommunications, Screen-Based Trading, and Market Data Products

May 9, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on April 19, 2002, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE is proposing to make a change to its Fee Schedule to: (1) Reduce its telecommunication fees; (2) modify its connectivity fee schedule for the CBOE*direct* screen-based trading system; and (3) reflect charges for additional market data (regarding the New York Stock Exchange's OpenBook) now available through trading floor terminals rented by CBOE members. The text of the proposed rule change is available at the Exchange's Office of the Secretary at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Reduction of Telecommunication Fees

CBOE increased its telecommunications fees this year to help fund the installation of a new trading floor phone system.[3] Because the installation of the phone system will take place later than previously anticipated, CBOE has decided that certain of the fees should be reduced. CBOE proposes to implement these reductions through the changes to Section 7G of the Exchange Fee Schedule.

Modification of Connectivity Fees for CBOE*direct*

In a previous rule filing, CBOE provided a detailed technical explanation of the connectivity fees imposed by the Exchange in connection with the CBOE*direct* screen-based trading platform.[4] CBOE now proposes certain modifications to the connectivity fees that would reduce the costs of certain connectivity alternatives while also more fairly distributing the overall costs associated with CBOE*direct* connectivity. CBOE proposes to implement these modifications through the changes to Section 15 of the Exchange Fee Schedule.

Fees Relating to New NYSE Open Book Service

The New York Stock Exchange ("NYSE") has launched a new market data product called OpenBook, which will display the NYSE book through all prices for an individual stock. OpenBook is accessible through quote vendors that supply the information as an add-on service. CBOE members who rent trading floor terminals will be able to access the OpenBook data for an additional fee, set forth in the proposed amendments to Section 7(G)(10) of the Exchange Fee Schedule. Although CBOE will collect the fee for OpenBook access, all of the fee will be passed on to the quote vendor.[5]

[3] *See* Securities Exchange Act Release No. 45269 (January 11, 2002), 67 FR 2710 (January 18, 2002) (SR-CBOE–2001–72).

[4] *See* Securities Exchange Act Release No. 45009 (October 31, 2001), 66 FR 56365 (November 7, 2001) (SR-CBOE–2001–55).

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement of Burden on Competition

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE has asserted that, because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–17 and should be submitted by June 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12205 Filed 5–15–02; 8:45 am]

BILLING CODE 8010–01–P

[5] Telephone conversation between Christopher Hill, Legal Division, CBOE, and Michael Gaw, Division of Market Regulation, Commission, on May 9, 2002.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45906; File No. SR–NASD–2002–44]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Members' Fees for the Nasdaq National Market Execution System (SuperMontage)

May 10, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 28, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed Amendment No. 1 on April 8, 2002.[1] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This is a proposed rule change to establish prices for the future Nasdaq National Market Execution System (the "NNMS"), commonly referred to as "SuperMontage."[2] Pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization, and therefore the proposed rule change is effective immediately upon filing. Nasdaq will implement the rule change within 30 days after successful completion of SuperMontage user acceptance testing. Because Nasdaq anticipates that the transition from the current SuperSOES, SOES, and SelectNet environment to SuperMontage will occur over the course of several weeks, with stocks moving from one system to the other in stages, Nasdaq will continue to charge its filed prices for SuperSOES, SOES, SelectNet, and quotation updates for stocks that have not transitioned, while charging the new SuperMontage prices for stocks that have transitioned.

The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

7010. System Services

(a)–(h) No change.

[(i) Transaction Execution Services]

[(1) SelectNet Service]

[The following charges shall apply to the use of SelectNet:]

[Transaction Charge for Execution Resulting from Broadcast Message]. [$2.50/side]

[1] The terms on Amendment No. 1 are incorporated in this notice. The Commission deems the abrogation period to expire 60 days after the amendment was filed.

[2] In current NASD rules, the term "Nasdaq National Market Execution System" refers to the transaction execution system commonly known as "SuperSOES," but in the rules approved for SuperMontage, the same term refers to SuperMontage. As the SuperMontage system is introduced, the SuperMontage rules will replace current rules governing SuperSOES, SOES, and SelectNet.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[Order Entry Charge]	[$0.10 per order entry (entering party only)]
[Directed Non-Liability Order Execution Charge].	[$0.90 per order execution (entering party only)]
[Directed Liability Order Execution Charge].	[$0.90 per order execution for the first 25,000 orders executed monthly (entering party only)]
	[$0.60 per order execution for the next 25,000 orders executed monthly (entering party only)]
	[$0.10 per order execution for the next 200,000 orders executed monthly (entering party only)]
	[$0.00 per order execution for all remaining orders executed monthly]
[Cancellation Fee]	[$.25/ per order cancelled (canceling party only)]

[(2) Nasdaq National Market Execution System (SuperSOES)]
[The following charges shall apply to the use of the Nasdaq National Market Execution System:]

[Order Entry Charge]	[$0.10 per order entry (entering party only)]
[Per Share Charge]	[$0.001 per share executed for all fully or partially executed orders (entering party only)]
[Cancellation Fee]	[$0.25 per order cancelled (canceling party only)]

[For a pilot period commencing on November 1, 2001 and lasting until October 31, 2002, the per share charge will be $0.002 per share executed for all fully or partially executed orders (entering party only).]
[(3) Small Order Execution System (SOES)]
[The following charges shall apply to the use of the Small Order Execution System:]

[Order Execution Charge]	[$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)]
	[$0.30 per order execution for all remaining orders executed monthly (entering party only)]
[Cancellation Fee]	[$0.25 per order cancelled (canceling party only)]

[(4) Liquidity provider rebate]

[For a pilot period commencing on November 1, 2001 and lasting until October 31, 2002:]
[(A) NASD members that do not charge an access fee to market participants accessing their quotations through the Nasdaq National Market Execution System will receive a rebate of $0.001 per share when their quotation is executed against by a Nasdaq National Market Execution System order.]
[(B) NASD members will receive a rebate of $0.001 per share when they send a Nasdaq National Market Execution System order that executes against the quotation of a market participant that charges an access fee to market participants accessing its quotations through the Nasdaq National Market Execution System.]

[(5) Quotation Updates]

[(A) Except as provided in subparagraph (B), for a pilot period commencing on February 1, 2002 and lasting until October 31, 2002, a fee of $0.01 per quotation update will be charged to NASD members that post quotations in the Nasdaq quotation montage. A "quotation update" includes any change to the price or size of a displayed quotation or reserve size.]
[B) A quotation update fee will not be charged for a change in the displayed quotation or reserve size that is performed automatically by the Nasdaq National Market Execution System ("NNMS") when an execution against the quotation occurs (other than a change performed by the "Autoquote Refresh" functionality of the NNMS, for which a fee will be assessed).]
(i) Nasdaq National Market Execution System (SuperMontage)

The following charges shall apply to the use of the Nasdaq National Market Execution System (commonly known as SuperMontage) by members:

Order Entry	
Non-Directed Orders (excluding Preferenced Orders)	*No charge*
Preferenced Orders:	
Preferenced Orders that access a Quote/Order of the member that entered the Preferenced Order)	*No charge*
Other Preferenced Orders	*$0.02 per order entry*
Directed Orders	*$0.10 per order entry*
Order Execution	
Non-Directed or Preferenced Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the NNMS:	
Charge to member entering order	*$0.002 per share executed*
Credit to member providing liquidity	*$0.001 per share executed*
Non-Directed or Preferenced Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/Orders through the NNMS.	*$0.001 per share executed*
Directed Order	*$0.0025 per share executed*
Non-Directed or Preferenced Order entered by a member that accesses a Quote/Order of such member	*No charge*
Order Cancellation	
Non-Directed Orders (excluding Preferenced Orders)	*$0.01 per order cancelled*
Preferenced Orders	*$0.01 per order cancelled*
Directed Orders	*$0.10 per order cancelled*
Entry and Maintenance of Quotes/Orders by NASDAQ Quoting Market Participants	
Initial entry of Quote/Order	*No charge*
Change of Quote/Order due to order execution through SuperMontage	*No charge*
Cancel/replace of Quote/Order to increase size	*No charge*
Cancel/replace of Quote/Order to change price	*$0.01*
Cancel/replace of Quote/Order to decrease size manually	*$0.01*
Cancellation of Quote/Order	*$0.01*
Cancellation of Quote/Order due to order purge or timeout	*$0.0075*

(j)–(q) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth below in Sections A, B, and C, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 19, 2001, the Commission issued an order to approve a proposed rule change to establish SuperMontage, Nasdaq's new proprietary system for quote display and transaction execution.[5] Nasdaq plans to commence operation of SuperMontage during the third quarter of 2002. In this filing, Nasdaq is establishing the prices to be charged to members for the use of SuperMontage.

Nasdaq represents that it has designed the pricing structure for SuperMontage with the goal of ensuring that the system offers market participants a deep pool of liquidity and rapid order execution. Accordingly, the entry of Non-Directed Orders (excluding Preferenced Orders), the initial entry of a Quote/Order at a given price level, the cancel/replace of a Quote/Order to increase its size, and the change of a Quote/Order due to an execution through SuperMontage will all be free. Members will be charged $0.02 per order entry for Preferenced Orders and $0.10 per order entry for Directed Orders. A fee of $0.01 will be charged for each Non-Directed or Preferenced Order that is cancelled, and a charge of $0.10 will be assessed for the cancellation of a Directed Order.

As is the case in SuperSOES, order execution charges are assessed on a per share basis, with a credit being provided to members that provide liquidity and do not charge an access fee. Specifically, Nasdaq will charge $0.002 per share for the execution (in full or in part) of a Non-Directed or Preferenced Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through SuperMontage, and will provide a $0.001 per share credit to a member that provides the liquidity for an execution and does not charge an access fee. Nasdaq represents that the purpose of the credit is to enhance competition between electronic communications networks ("ECNs"), which are permitted to charge fees for accessing their quotations, and market makers, which generally are prohibited from doing so.[6] According to Nasdaq, the credit is not available to members that charge access fees for accessing their quotes through SuperMontage, because such market participants are already compensated for providing liquidity if their quote is executed against and an access fee is paid. Moreover, Nasdaq will charge only $0.001 per share for the execution (in full or in part) of a Non-Directed or Preferenced Order that accesses the Quote/Order of a market participant that charges an access fee, in order to offset, at least to some extent, the access fee.

The execution charge for a Directed Order is $0.0025 per share. Finally, there will be no order entry or order execution charge for a Non-Directed or Preferenced Order that is executed against a Quote/Order of the member that entered the Non-Directed or Preferenced Order (*i.e.*, there will be no order entry or order execution charge for orders that are "internalized" through SuperMontage).

The current quotation update charge will be replaced by charges for the cancel/replace and cancellation of Quotes/Orders. Specifically, a fee of $0.01 will be assessed for a cancel/replace of a Quote/Order to change its price or to decrease its size manually. As noted above, a change to a Quote/Order that results from an order execution through SuperMontage, as well as a cancel/replace that increases the size of a Quote/Order, are free. A fee of $0.01 will also be charged for the cancellation of a Quote/Order, unless the cancellation occurs automatically as the result of an order purge or timeout performed by SuperMontage, in which case the fee will only be $0.0075.

Nasdaq believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,[7] which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and Section 15A(b)(6) of the Act,[8] which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that the fees to be implemented by this filing are generally similar in structure and magnitude to Nasdaq's fees for its current quotation and execution systems. Moreover, in several instances, prices in SuperMontage are significantly lower than comparable prices in the current Nasdaq market. For example, the basic charge for order entry is eliminated in most cases, the charge for order cancellation is reduced from $0.25 to $0.01 for Non-Directed and Preferenced Orders and to $0.10 for Directed Orders, and the current quotation update charge is eliminated for Quotes/Orders that add liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[5] See Securities Exchange Act Release No. 43863 (Jan. 19, 2001), 66 FR 8020 (Jan. 26, 2001) (SR-NASD–99–53).

[6] *Compare* Letter from Richard R. Lindsay, Director, Division of Market Regulation ("Division"), Commission, to Charles R. Hood, Senior Vice President and General Counsel, Instinet Corporation (Jan. 17, 1997) (acknowledging ECN access fee of up to $0.015 per share) *with* Letter from Robert L.D. Colby, Deputy Director, Division, Commission, to M. Joseph Messina, Vice President, M.H. Meyerson & Co., Inc. (May 5, 1998) (interpreting SEC Rule 11Ac1–1 to prohibit market makers from charging fees for access to their public quotes).

[7] 15 U.S.C. 78o–3(b)(5).

[8] 15 U.S.C. 78o–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change contained in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f) of Rule 19b–4,[10] thereunder because it establishes or changes a due, fee or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD–2002–44 and should be submitted by June 6, 2002.

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12206 Filed 5–15–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45906; File No. SR–NASD–2002–21; SR–NYSE–2002–09]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the National Association of Securities Dealers, Inc. and the New York Stock Exchange, Inc. and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. and Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Research Analyst Conflicts of Interest

May 10, 2002.

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] on February 13, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASDR"), and on February 27, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("SEC" or "Commission") proposed rule changes relating to research analyst conflicts of interest. On March 7, 2002, NASDR submitted Amendment No. 1 ("NASD Amendment No. 1") to its proposed rule change.[3] The proposed rule changes, as amended, were published for comment in the **Federal Register** on March 14, 2002.[4]

On April 2, 2002, the Commission extended the comment period until April 18, 2002.[5] The Commission received 55 comment letters on the proposed rule changes from 52 different commenters.[6] On April 30, 2002, the NYSE submitted Amendment No. 1 ("NYSE Amendment No. 1") to its proposed rule change.[7] On May 2, 2002, the NASDR submitted Amendment No. 2 ("NASD Amendment No. 2") to its proposed rule change.[8] On May 2, 2002, the NASD submitted a letter responding to comments.[9] On May 3, 2002, the NYSE also submitted a letter responding to comments.[10]

This order approves the proposed rule changes, as amended. The Commission also seeks comment from interested persons on NYSE Amendment No. 1 and NASD Amendment No. 2.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Thomas M. Selman, Senior Vice President, Investment Companies, Corporate Financing, NASDR, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission (March 7, 2002) ("NASDR Amendment No. 1"). In Amendment No. 1, NASDR revised its response to Items 1(b) and 1(c) of the Form 19b–4 to indicate the impact that proposed NASD Rule 2711 would have on NASD Rule 2210. Additionally, NASDR inserted language in its Purpose section to clarify how the current disclosure requirements regarding securities recommendations in NASD Rule 2210 would apply if proposed NASD Rule 2711 was approved by the SEC. Finally, NASDR revised the provisions requiring disclosure of actual material conflicts of interest to conform its provisions to those of the NYSE.

[4] Release No. 34–45526 (March 8, 2002), 67 FR 11526 (March 14, 2002).

[5] Release No. 34–45679 (April 2, 2002), 67 FR 11526 (April 4, 2002). In response to the solicitation of comments, the Commission received two requests to extend the comment period. *See* Letters to Jonathan G. Katz, Secretary, Commission, from: Securities Industry Association, dated March 15, 2002; Pickard and Djinis LLP, dated March 28, 2002. In response to these requests, the Commission extended the comment period from April 4, 2002 until April 18, 2002.

[6] *See* Letters to Jonathan G. Katz, Secretary, Commission, as of the time that this order was prepared, from: The Alliance in Support of Independent Research, dated May 1, 2002 ("Alliance letter"); A.G. Edwards & Sons, Inc., dated April 17, 2002 ("A.G. Edwards letter"); American Bankers Association, ABA Securities Association, dated April 18, 2002 ("ABASA letter"); American Society of Corporate Secretaries, dated April 17, 2002 ("ASCS letter"); Association for Investment Management and Research, dated April 18, 2002 ("AIMR letter"); Ramesh Bodapati, dated March 4, 2002 ("Bodapati letter"); BBVA Securities Inc., dated March 22, 2002 ("BBVA letter"); Biotech Monthly, dated April 26, 2002 ("Biotech Monthly letter"); Charles Schwab & Co., Inc., dated April 18, 2002 ("Charles Schwab letter"); Cleary, Gottlieb, Steen & Hamilton, dated April 4, 2002 ("Cleary letter"); Credit Suisse First Boston, dated April 19, 2002 ("CSFB letter"); Davenport & Company LLC, dated April 17, 2002 ("Davenport letter"); Dorsey & Whitney LLP, dated April 18, 2002 ("Dorsey letter"); Edward Jones & Co., dated April 3, 2002 ("Edward Jones letter"); First Analysis Securities Corp., dated March 20, 2002 and First Analysis Securities Corp., dated April 17, 2002 (First Analysis letter"); Fried Frank Harris Shriver & Jacobson, dated April 18, 2002 ("Fried Frank letter"); Goldman Sachs, dated April 18, 2002 ("Goldman Sachs letter"); David Hauck, dated May 5, 2002 ("Hauck letter"); HSBC Securities (USA) Inc., dated April 4, 2002 ("HSBC letter"); Investment Company Institute, dated April 18, 2002 ("ICI letter"); Investment Counsel Association of America, dated April 23, 2002 ("ICAA letter"); Dan Jamieson, dated May 6, 2002 ("Jamieson letter"); Janney Montgomery Scott LLC, dated April 17, 2002 ("Janney Montgomery Scott letter"); Jefferies & Company, Inc., dated April 17, 2002 ("Jefferies & Co. letter"); Jovus, Inc., dated April 18, 2002 ("Jovus letter"); Legg Mason, Inc., dated April 17, 2002 ("Legg Mason letter"); Bruce Locke, dated February 8, 2002 ("Locke letter"); Congressman Edward J. Markey, dated May 7, 2002 ("Congressman Markey letter"); Merrill Lynch, Pierce, Fenner & Smith Incorporated, dated April 18, 2002 ("Merrill Lynch letter"); David Miller, dated April 26, 2002 ("Miller letter"); Morgan Lewis, dated April 18, 2002 ("Morgan Lewis letter"); Morgan Stanley, dated April 22, 2002 ("Morgan Stanley letter"); National Investor Relations Institute, dated April 15, 2002 ("NIRI letter"); New York State Bar Association Committee on Securities Regulation, dated April 17, 2002 ("NYSBA letter"); Nomura Securities International, Inc., dated March 19, 2002 ("Nomura letter"); North American Securities Administrators Association, Inc., dated April 18, 2002 ("NASAA letter"); Thomas Olsen, dated April 25, 2002 ("Olsen letter"); Pacific Growth Equities, Inc., dated April 18, 2002 ("Pacific Growth letter"); Pickard and Djinis LLP, dated March 28, 2002 and Pickard and Djinis LLP, dated April 15, 2002 ("Pickard and Djinis letter"); Prudential Securities Incorporated, dated April 22, 2002 ("PSI letter"); RBC Capital Markets, dated May 3, 2002 ("RBC letter"); Charles Rothschild, dated March 8, 2002 ("Rothschild letter"); Ryan Beck & Co., LLC, dated April 3, 2002 ("Ryan Beck letter"); Salomon Smith Barney Inc., dated April 18, 2002 ("SSB letter"); Securities Industry Association, dated March 15, 2002 and Securities Industry Association, dated April 11, 2002 ("SIA letter"); Kevin Silverman, dated February 26, 2002 ("Silverman letter"); StarMine Corporation, dated April 18, 2002 ("StarMine letter"); Sullivan & Cromwell, dated April 18, 2002 ("Sullivan & Cromwell letter"); Sun Trust Capital Markets, Inc., dated April 18, 2002 ("Sun Trust letter"); UBS Warburg LLC, dated April 25, 2002 ("UBS letter"); Wachovia Securities, Inc., dated April 18, 2002 ("Wachovia letter"); and Wells Fargo Securities, dated March 15, 2002 ("Wells Fargo letter").

[7] *See* Letter from Richard P. Bernard, Assistant Corporate Secretary, NYSE, to James A. Brigagliano, Assistant Director, Division, Commission (April 30, 2002).

[8] *See* Letter from Philip Shaikun, Assistant General Counsel, NASDR, to James A. Brigagliano, Assistant Director, Division, Commission (May 2, 2002).

[9] *See* Letter from Philip Shaikun, Assistant General Counsel, NASDR, to James A. Brigagliano, Assistant Director, Division, Commission (May 2, 2002).

[10] *See* Letter from Darla Stuckey, Corporate Secretary, NYSE, to James A. Brigagliano, Assistant Director, Division, Commission (May 3, 2002).

II. Description of the Proposed Rule Changes

The NYSE and the NASD ("SROs") proposed to amend their rules to address conflicts of interest that are raised when research analysts recommend securities in public communications. These conflicts can arise when analysts work for firms that have investment banking or other business relationships with issuers of the recommended securities, or when the analyst or firm owns securities of the recommended issuer. The approved rules implement structural reforms designed to increase analysts' independence and further manage conflicts of interest, and require increased disclosure of conflicts in research reports and public appearances.

A. Current Rules Governing Disclosure of Conflicts of Interest

NYSE Rule 472 and NASD Rule 2210 currently require member firms to disclose certain conflicts of interest whenever a firm (or one of its analysts) recommends the purchase or sale of a specific security. Under existing rules, a firm must disclose if it makes a market in the recommended security and if it was manager or co-manager of a public offering of the issuer within the last three years. In addition, a firm generally must divulge if it has a financial interest in the recommended security.

The NYSE and NASD disclosure requirements are similar, but contain some significant differences, which have led to gaps and inconsistencies between the two rules. For instance, NASD Rule 2210 requires a firm and/or its officers or partners affirmatively to disclose ownership of options, rights or warrants to purchase any of the securities of the issuer whose securities are recommended (unless such ownership is nominal), but it does not mandate they disclose ownership of common shares of a recommended issuer. Nor does NASD Rule 2210 require that the analyst who prepared a research report disclose ownership of any financial interest in a recommended issuer. NYSE Rule 472, on the other hand, requires disclosure of all financial positions (including common shares) held by a firm and its analysts, but permits the use of conditional disclosure language such as, "* * * the firm or employees may own options of a recommended issuer."

Although the conflict disclosure obligations are triggered by the making of a recommendation, neither rule has historically been applied by the SROs to oral recommendations by analysts appearing on television. In addition, these rules are not designed to mitigate the various pressures to which analysts are subject. For instance, reporting structures at firms where analysts are under the supervision or control of investment banking personnel, and where compensation arrangements tie analyst pay to specific investment banking deals, may exert such pressures.

B. Proposed Changes to NYSE and NASD Rules

The proposed rule changes address analyst conflicts of interest in connection with the preparation and publication of research reports for equity securities.[11] We provide here a general overview of the proposed rule changes.[12]

First, the proposals limit the relationships and communications between a firm's investment banking department and its research department. Specifically, no research analyst may be supervised or controlled by a firm's investment banking department. In addition, the investment banking personnel may not discuss pending research reports with research analysts prior to distribution, unless the communication was intermediated by staff from the legal/compliance department. Similarly, the research report may not be reviewed by the company that is the subject of the report, except for checking factual sections for accuracy.

Second, the proposed changes to SRO rules place various restrictions on, and impose certain disclosure requirements with respect to, analyst and firm compensation arrangements. An analyst's compensation may not be tied to specific investment banking transactions. If an analyst received compensation that was based on the firm's general investment banking revenues, that fact must be disclosed in the firm's research reports. The firm also would have to disclose in a company's research report if it or its affiliates have managed or co-managed a public offering of equity securities for or received investment banking compensation from the subject company in the past 12 months, and if it expects to receive or intends to seek compensation for investment banking services in the next three months. Finally, if an analyst recommends a security in a public appearance, and the issuer was a client of his or her firm, the analyst must disclose that fact.

Third, the proposed rule changes would take certain measures to prevent promises of favorable research. A firm may not offer a favorable research rating or specific price target to a company as consideration or inducement for the receipt of business or compensation. The proposal also would require "quiet periods" during which a firm acting as manager or co-manager of a securities offering could not issue a report on a company: within 40 days after an initial public offering ("IPO") or within 10 days after a secondary offering of an inactively traded security.

[11] The SRO rules apply only to research reports on equity securities. Therefore, research reports on debt securities are not within the scope of these rules. Telephone conversation between NYSE, NASD, and Division Staff, on May 3, 2002.

[12] The NASD and NYSE rules, as amended, are substantially identical and are intended to operate identically. The text of the proposed rules as originally filed, and all amendments, are available at *http://www.nasdr.com/filings/rf02_21.asp* and *http://www.nyse.com/regulation/regulation.html*.

Fourth, the proposals place various restrictions on an analyst's personal trading. In general, no analyst (or household member) may purchase or receive an issuer's securities prior to its IPO, if the company engages in a type of business covered by the analyst. In addition, no analyst may trade securities issued by companies the analyst follows for the period beginning 30 days prior to the issuance of the research report and ending five days after the date of the report. The analyst also may not engage in trading contrary to the analyst's most recent recommendations.

Fifth, the proposed rule changes require certain disclosures about the ownership of securities by the firm and the analyst. An analyst must disclose in public appearances, and a firm must disclose in research reports, if the analyst or a member of his or her household has a financial interest in the securities of a recommended company. If, as of the previous month end, the firm owns one percent or more of any equity class of the company, that fact also must be disclosed during the analyst's public appearance or in the research report.

Finally, the proposal requires specific additional disclosures in research reports to provide investors with better information to make assessments of a firm's research. Firms must define in research reports the meaning of all ratings used in the ratings system and the definition of each rating must be consistent with its plain meaning (*e.g.*, "hold" must mean hold and not "sell"). In addition, regardless of the ratings system employed, firms must provide the percentage of all ratings assigned to buy/hold/sell categories. The proposal also requires a price chart that maps the historical price movements of the recommended security and indicates those points at which ratings or price targets were assigned or changed.

III. Summary of Comments

The Commission received 55 comments from 52 commenters on the proposed rule changes. Although the vast majority of commenters supported the fundamental goals and objectives behind the proposed rule changes, many commenters also believed the initial proposal needed to be revised and suggested substantive changes.[13] In response to various concerns and suggestions raised by commenters, the NYSE and the NASD filed amendments to their proposals. The NYSE and NASD responded to the comments in separate letters.[14]

[13] *See, e.g.*, SIA letter; Morgan Stanley letter.

[14] *See* notes 9 and 10 above.

IV. Discussion

After careful review, the Commission finds, as discussed more fully below, that the proposed rule changes, as amended, are consistent with the requirements of the Exchange Act and the regulations thereunder applicable to the NYSE and NASD.[15] In particular, the Commission believes that the changes are consistent with Sections 6(b)(5) and 6(b)(8) of the Exchange Act,[16] and also Sections 15A(b)(6) and 15A(b)(9) of the Exchange Act.[17]

Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of free trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Exchange Act prohibits the rules of an exchange from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the statute.

Section 15A(b)(6) requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 15A(b)(9) requires that the rules of an association not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Section 3(f) directs the Commission to consider, in addition to the protection of investors, whether approval of the rule change will promote efficiency, competition, and capital formation. [18] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition, and capital formation.

The Commission believes the rule changes, as amended, represent an important step towards helping to rebuild investors' confidence in the integrity of research and in the equities markets as a whole.

A. Definition of the Term "Research Reports"

There was substantial concern among commenters regarding inconsistencies between the NASD's and NYSE's definitions of research reports, and requests that the SROs harmonize their language.[19] Many commenters also argued that the scope of the proposed definitions of research report was overbroad and would impede the flow of information to investors. They asserted that the definitions may be read to include quantitative technical analysis, other general market commentary, company updates not containing a change in rating or target, other reports concerning indexes, baskets, or market sectors, and sales literature.[20] They also requested exceptions for reports distributed solely to institutions and for commentaries not including a recommendation.[21] The commenters argued that those sorts of communications were either subject to other rules or that the disclosures mandated for research reports were not warranted or suitable for such communications because, for example, they were directed at registered representatives or institutional investors or did not include an analysis and a recommendation.

In response to these comments, the NASD and NYSE amended their proposal to harmonize the definitions of "research report" under both rules. "Research report" is now defined as "a written or electronic communication which includes an analysis of equity securities of individual companies or industries, and which provides information reasonably sufficient upon which to base an investment decision and includes a recommendation." [22] In addition, the types of communications covered by the new requirements have been narrowed because the NYSE eliminated the phrase "but not limited to" in its definition. Further, the SROs stated their intentions to address, through written interpretation, in a manner consistent with the rules, practical issues raised by commenters. In particular, they will examine various communications, such as abstracts, updates, weekly and monthly summaries, industry/market sector reports, portfolio strategy pieces, quantitative research and technical analysis, and general market commentary and trading strategies, to determine whether they meet the definition of research reports.

[15] *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5) and (8).

[17] 15 U.S.C. 78o-3(b)(6) and (9).

[18] 15 U.S.C. 78c(f).

[19] *See, e.g.*, Charles Schwab letter.

[20] *See, e.g.*, SIA letter; NYSBA letter.

[21] *See, e.g.*, SIA letter; Pickard and Djinis letter.

[22] This definition of research reports is narrower in scope than the reports covered by the Commission's Rules 137, 138 and 139 under the Securities Act of 1933 ("Securities Act") and should not be construed as relating to those rules.

Commenters also raised concerns regarding their ability to meet all disclosure requirements under the proposed rules when issuing compendium reports on numerous issuers.[23] They argued that the disclosures required for all of the issuers in such reports would be voluminous and would be difficult to include in the reports. Specifically, including a price chart for each security in a research report that discusses multiple securities could add considerable length to such communications. Commenters noted that technological limitations would make it impossible to transmit electronically the required disclosures for each subject company through many systems.[24]

The NASD and NYSE responded to these concerns by providing that, instead of including the required disclosures in compendiums, research reports covering six or more subject companies may use prominent disclosure that advises the reader as to where the required disclosures can be accessed. The SROs stated their intention to issue additional guidance on the mechanics of satisfying the disclosure requirements for compendium reports, whether they are issued electronically or in paper format.

Commenters' concerns also included whether the research report definition would capture reports by investment advisers not principally responsible for preparation of research, and reports distributed by third party research vendors. One commenter stated that "a significant portion of this research provided by broker-dealers to institutional money managers consists of independent and disinterested research (sometimes referred to as "third party research")," which is produced by third parties that are "independent and unaffiliated" with the broker-dealer providing the research.[25] This commenter urged that the NASD's definition of "research report" be modified to mean a report that the broker-dealer has "authored, prepared or over which he has editorial control," rather than one that the "member has distributed."[26]

[23] *See, e.g.*, CSFB letter.

[24] *See, e.g.*, PSI letter.

[25] Alliance letter.

[26] *Id.*

Many commenters also inquired as to whether the proposals' disclosure requirements would apply to research reports that are distributed by SRO member firms to their customers, but have been prepared by non-member organizations affiliated with or not affiliated with the member, including investment advisers or foreign broker-dealers.

The SROs have acknowledged that the distribution of research reports prepared by non-member firms raises complex issues that will vary depending on the type of report, the entity that created the report, and the member's participation in the production or distribution of the report. The SROs intend to review the application of the rules to research reports not produced by the member firm on a case-by-case basis; however, generally where a member firm is distributing in the United States research of its affiliate, the member firm should disclose applicable conflicts that must include the disclosures required by the rules regarding the member. These rules do not require the member firm to include disclosures about the non-member affiliate or its employees.[27] The disclosure requirements will not apply to independently produced research such as that distributed pursuant to the provisions of Exchange Act Section 28(e).[28]

The Commission finds that the rules defining the term "research report," as amended, are consistent with the Exchange Act, and specifically, Exchange Sections 6(b)(5) and 15A(b)(6) in that the rules should help prevent fraudulent and manipulative practices, help perfect the mechanism of a free and open market, and protect investors and the public interest. Further, consistent with Exchange Act Sections 6(b)(8) and 15A(b)(9), the Commission believes that the definition of research report, as amended, does not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. We note that the SROs have tailored the definition to capture the communications that are most likely to benefit from the coverage of the rules, while at the same time tailoring the definition and the rules' application in response to concerns expressed by commenters. This amendment preserves for readers of research reports the availability of important disclosures while allowing compendium reports to remain succinct and manageable. We believe that the SROs' expressed intent to provide interpretive guidance should help refine the rules' application to achieve the SROs' intended goals.

[27] Some firms may choose to disclose that the non-member affiliates and their employees are not subject to the SROs' disclosure rules, which apply to members and associated persons. We note, however, that other provisions, including antifraud provisions such as Exchange Act Section 10(b) and Rule 10b-5, apply to non-member affiliates and their employees.

[28] 15 U.S.C. 78bb(e). Telephone conversation between NYSE, NASD, and Division Staff, on May 3, 2002.

B. Relationships and Communications between Research, Investment Banking, and Subject Companies

The proposed rules prohibit research analysts from being subject to the supervision or control of a firm's investment banking department, and require legal and compliance personnel to act as intermediaries between research and investment banking with regard to the contents of research reports. The proposals also limit the extent to which subject companies can review research reports prior to distribution, and require legal or compliance personnel to receive copies of the portions of reports that are submitted to subject companies and approve any resultant changes to ratings or price targets.

Commenters opposing these provisions primarily argued that compliance personnel are not suited for the gatekeeper role called for in the proposal.[29] For example, one commenter asserted the proposal would require legal/compliance departments to have a direct role in the preparation of research and act, in essence, as supervisory analysts.[30] Unlike senior research management, they argued, legal/compliance staff would be unable to independently assess the credibility of a claim by a research analyst that a recommendation was changed as a result of information given by the subject company.[31] Commenters also argued that the proposed compliance structure would impose inordinate cost burdens, especially on smaller firms that may be driven out the research business as a result.[32] One commenter argued that this might ultimately reduce research coverage, especially of smaller companies.[33] On the other hand, one commenter stated that analysts are expected to be experts in fact gathering, and that there was therefore no reason to allow a draft research report to be shown to the investment banking unit or

[29] *See, e.g.*, SIA letter; Morgan Lewis letter; PSI letter; NASAA letter. NASAA argued that analysts should be prohibited from showing draft research reports to investment banking or issuer personnel

[30] *See, e.g.*, ABA letter.

[31] SIA letter.

[32] *See, e.g.*, Ryan Beck letter; Janney Montgomery Scott letter; Pacific Growth letter.

[33] SIA letter.

the issuer.[34] At least one commenter supported the "gatekeeper" provisions for legal/compliance personnel and suggested only minor clarifying changes, noting these provisions "go to the heart of the public perception issues with respect to analyst independence issues."[35]

The NYSE and NASD considered commenters' concerns, but retained the limits on relationships and communications in the proposed rules. The SROs stated their belief that increased involvement by legal/compliance personnel is necessary to bolster their traditional role of monitoring for potential conflicts of interest between a firm's research department and investment banking department, which is already codified in the SROs' rules. Moreover, their participation would further the purpose of this regulatory initiative by reducing the possibility of any undue influence or pressure by investment banking or subject companies on the integrity and objectivity of a research report.

The NYSE stated its belief that the benefits of the "gatekeeper" function far outweigh the unavoidable costs and administrative burdens to member organizations, and are necessary to restore integrity to the research process and the marketplace as a whole. The NYSE stated these are common concerns to the SROs and member organizations, both large and small. The NASD considered possible exemptions for small firms, but believes that some smaller firms' environments may present similar conflicts of interest as large firms. The NASD intends to review this issue again in the future to determine what accommodations may be made consistent with investor protection.

The Commission considers this provision to be a significant improvement over current SRO rules. The Commission believes the prohibition on research department personnel being subject to the supervision or control of the investment banking department helps protect analysts from undue influences.[36] The Commission also believes the communication restrictions between analysts and investment banking and between analysts and subject companies are appropriate. These new requirements are designed to foster an environment where research analysts, and the research reports they write, remain independent of the inappropriate influences of investment banking departments and covered companies. The Commission notes that the prohibition is limited to communications regarding pending research reports and does not apply to interdepartmental communications that are not about reports. Therefore, the rules only prohibit the type of communications that raise the core concern of investment banking pressuring the research department personnel into issuing a particular report or rating. Communications intermediated by legal/compliance personnel should allow for the issuance of factually accurate research reports while shielding analysts from improper pressures and influences.[37]

The SROs have represented that legal/compliance personnel are not expected to become as knowledgeable as analysts about the content of research reports or ratings.[38] Rather, as "gatekeepers," they are expected to verify that only appropriate communications about the content of research reports take place between analysts and personnel in investment banking or at issuers, and that any changes that are made to reports after such communications appear to have a substantial basis. The Commission also notes that the SROs intend to review the application of this provision to determine possible accommodations for small firms.

The Commission finds that the rules addressing the relationships between research, investment banking and companies that are the subject of research analyst reports should further the purposes of the Exchange Act. Specifically, the rules address the potential pressures on research analysts by adopting measures designed to reduce the possibility of undue influence or pressure by investment banking departments or the subjects of the research report. We believe these rules should help prevent fraudulent and manipulative practices, help perfect the mechanism of a free and open market, and protect investors and the public interest. Further, we believe that the rules will not impose any burden on competition that is not necessary or appropriate to achieve the goals of the Exchange Act.

[34] NASAA letter.

[35] *See, e.g.*, Goldman Sachs letter.

[36] This prohibition codifies one of the guidelines recommended by the SIA in its "Best Practices for Research," published in June 2001.

[37] As noted by the SROs, this is not an entirely new role for member compliance departments. For example, member compliance departments presently are expected to perform substantive supervision of interdepartmental communications. *See* "NASD/NYSE Joint Memo on Chinese Wall Policies and Procedures" (July 1991).

[38] Telephone conversation between NYSE, NASD, and Division Staff, on May 3, 2002.

C. Disclosure of Firm Compensation From Covered Companies

In the initial filing of the proposed rule changes, firms would have been required to disclose in research reports and public appearances if the member organization or its affiliates received compensation from the subject company within the past twelve months, or reasonably expected to receive compensation from the subject company within three months following the publication of the research report.

Industry commenters raised three primary concerns. First, commenters expressed concerns about the potential for "signaling" or "tipping" about non-public transactions.[39] One commenter noted "the required disclosures could serve to alert investors and public side employees of the member firm, such as research analysts and traders, to the existence of a confidential investment banking transaction or assignment."[40] Second, commenters argued that the provision's scope was overly broad in that it required disclosure of all forms of compensation from the issuer, including compensation received or reasonably expected by affiliates of the member firm, which would result in a large volume of meaningless disclosures to investors.[41] Third, commenters noted that it would be extremely expensive for firms to implement compensation tracking systems for members and their affiliates.[42] However, one commenter stated that the disclosure periods should be expanded to three years before and one year after publication of the research report.[43]

In response to these concerns, the SROs modified their proposals to require disclosure if the member or its affiliates (1) managed or co-managed a public offering of securities for the subject company in the past twelve months; (2) received compensation for investment banking services from the subject company in the past twelve months; or (3) expects to receive or intends to seek compensation for investment banking services from the subject company in the next three months.

The amended proposals continue to require disclosure of member and affiliate compensation. However, the scope is focused on the core concern, compensation from investment banking services, as some commenters suggested.[44] Investment banking services are defined for purposes of these rules as including: acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transaction) or similar investments; or serving as placement agent for the issuer. Therefore, the amended proposals are now targeted to the potential for conflicts of interest arising from the receipt of investment banking revenue. Limiting reporting of compensation to investment banking services should also significantly reduce the costs and difficulties associated with tracking the relevant information compared with the original proposal.

[39] *See, e.g.*, CSFB letter; ASCS letter; Sullivan & Cromwell letter.

[40] Morgan Stanley letter.

[41] *See, e.g.*, SIA letter; Legg Mason letter; Wachovia letter.

[42] *See, e.g.*, SIA letter.

[43] NASAA letter.

The development of this disclosure requirement reflects the tension between disclosure that (1) is specific enough to provide meaningful information to investors about a firm's interest in obtaining revenue from providing services to an issuer covered by its research, but also may reveal (*i.e.*, "tip") information about confidential transactions; and (2) is so general that it will not reveal significant information about non-public transactions, but also will not alert investors to the nature of the firm's conflict of interest. The tipping concern is addressed by the amendments. First, "investment banking services" is broadly defined so that the existence of the compensation is clear, but the type of transaction(s) involved is not. It is not limited to public transactions as some commenters urged[45] because, as the NASD has noted, the receipt of investment banking revenue for non-public transactions can provide an equally strong incentive to publish favorable research.[46] Second, the forward-looking disclosure provision now requires disclosure of compensation for investment banking services that the firm "expects to receive or intends to seek" from the issuer in the next three months. This addresses the concern of commenters that the prior formulation requiring disclosure if the firm "reasonably expects to receive" compensation from the issuer had substantial interpretive uncertainty.[47]

Various scenarios are set forth by commenters where the proposed disclosures could tip the research department or investors that an undisclosed investment banking transaction was in the offing. The SROs believe that the present form of disclosure reduces these concerns by including compensation the firm "intends to seek." Thus, it represents a reasonable balance between broad, meaningless disclosure, and disclosure that would reveal confidential information. In some rare cases a firm may have to choose between making the disclosure and refraining from issuing research, in order to preserve client confidences in connection with an investment banking transaction.

Some commenters predict that the forward-looking disclosure will become boilerplate and not meaningful for investors because all firms will state that they intend to seek investment banking business from every issuer. However, this disclosure does have meaningful content. First, if the securities firm does not in fact plan to seek investment banking business in three months, including the language in disclosures would constitute a false statement. Even if firms regularly state that they intend to seek compensation, the inclusion of this disclosure can put investors on notice of potential conflicts concerning any recommendations that the firm may make about the issuer's securities. Finally, for firms that produce research but do not provide investment banking services, the absence of the disclosures (because the firm does not have the types of conflicts covered by the SRO rules) can be meaningful to investors.

Finally, we believe it is appropriate for the SROs to require that the firm disclose if it was the manager or co-manager of a public offering for the subject company within the past twelve months, given that this is a more limited statement of an existing requirement.[48]

In conclusion, as discussed in detail above, we find that the SROs rules relating to disclosures of broker-dealer compensation from companies covered by the broker-dealers in research analyst reports meet the requirements of the Exchange Act, including Sections 6(b)(5), 6(b)(8), 15A(b)(6) and 15A(b)(9).

D. Research Analyst Compensation Arrangements

The proposed rules provide that SRO members may not pay any bonus, salary, or other form of compensation to a research analyst that is based upon a specific investment banking services transaction. In addition, analysts must disclose if their compensation is based upon (among other factors) the member's investment banking revenues. Generally, commenters agreed that analyst compensation should not be based on specific investment banking services transactions. Some commenters believed that if investment banking services transactions factored into analyst compensation in any way, there would be a competing incentive creating a conflict of interest.[49] Other commenters believed that analyst compensation should be tied to the merit and success of recommendations, which would align analysts' compensation interest with research performance.[50] Other commenters noted that research analysts provide valuable services to investment banking business and they should therefore be able to receive some form of compensation for their expertise and contributions.[51] One commenter argued that the prohibition on compensation for specific investment banking transactions should be limited to transactions for public company clients.[52]

The NYSE and NASD believe that the proposed restrictions on analyst compensation are appropriate. By prohibiting compensation from specific investment banking transactions, the proposals would significantly curtail a potentially major influence on a research analyst's objectivity, without preventing a research analyst from sharing generally in the overall success of the firm, which may derive in part from investment banking transactions for subject companies. The SROs believe that investors can consider disclosure in research reports of whether the research analyst has been compensated based in part upon the member's investment banking revenues, in evaluating the objectivity of a research report.

The Commission believes that the proposed amendments are a significant improvement on the existing SRO rules, which neither prohibit tying analyst compensation to specific investment banking activities nor require disclosure of analyst compensation arrangements. Moreover, the proposed disclosure requirements provide investors with material information regarding possible conflicts that an analyst may have, allowing them to better determine the value of the research in making investment decisions. Therefore, we find that the amendments relating to analyst compensation are consistent with the Exchange Act, including Sections 6(b)(5), 6(b)(8), 15A(b)(6) and 15A(b)(9).

[44] *See, e.g.*, SIA letter. The SIA, however, recommended limiting the disclosure to publicly announced transactions.

[45] *See, e.g.*, SIA letter.

[46] Release No. 34–45526 (March 8, 2002), 67 FR 11526, 11534.

[47] *See, e.g.*, SIA letter.

[48] NYSE Rule 472; NASD Rule 2210. Retention of this disclosure requirement was also suggested by some commenters. *See, e.g.*, SIA letter.

[49] *See, e.g.*, Pacific Growth letter.

[50] *See, e.g.*, AIMR letter.

[51] *See, e.g.*, Wachovia letter; NYSBA letter.

[52] SunTrust letter.

E. Price Charts

The proposed rules require disclosure of the percentage of all securities rated by the member to which the member would assign a "buy," "hold/neutral," or "sell" rating, and the percentage of subject companies within each of these three categories for whom the member has provided investment banking services within the previous twelve months. The proposed rules also require members to present a line graph/chart of the security's daily closing prices for certain periods when the member has assigned a rating on that security for at least one year. The line graph/chart must indicate the dates on which the member assigned or changed each rating or price target and each rating and price target assigned or changed on those dates. In addition, the rules require members to provide the meanings of all ratings used by the member.

Generally, commenters agreed with the goal of providing investors with information about the distribution of a firm's recommendations and price information about rated securities. However, some commenters argued that this information would be costly to broker-dealers while providing little actual benefit to investors.[53] Other commenters expressed concern that certain electronically transmitted reports will not technologically support a price chart format, and that tables should therefore be permitted in those instances.[54]

The SROs did not amend these provisions. We understand the SROs intend to provide guidance on a case-by-case basis that tables will be acceptable in situations where charts are not feasible so long as the table contains the information required by the rule.[55]

The Commission believes that these disclosures, including ratings distributions and price charts, are consistent with the Exchange Act. These provisions should help to address public concerns regarding the fact that analysts have issued very few sell ratings, and that firms often did not change recommendations even when a security's price was falling precipitously.[56] The rule will assist investors in evaluating what value to place on the ratings assigned to securities.

As a result, the Commission finds that the disclosures relating to ratings distributions and price charts should help perfect the mechanism of a free and open market, and protect investors and the public interest, consistent with the Exchange Act, particularly Sections 6(b)(5) and 15A(b)(6). Further, the Commission finds that such disclosure imposes no burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act, consistent with the requirements of Exchange Act Sections 6(b)(8) and 15A(b)(9).

F. Prominence of Disclosures

The proposed SRO rules require that the front page of a research report either must include the disclosures required under the rules, or must refer the reader to the page or pages in the report on which each such disclosure is found. Disclosures, and references to disclosures, are required to be clear, comprehensive and prominent. No commenters disagreed with these requirements. However, some commenters argued that the provisions requiring that disclosures be prominent may present difficulties in the context of electronic reports.[57]

The Commission believes that these proposals are essential to alert investors to analysts' conflicts. With respect to compendium reports, the SROs' response to provide alternative access where the required disclosures would be voluminous is reasonable. Importantly, a compendium must contain clear and prominent information about where investors may obtain disclosures about securities discussed in the compendium. Therefore, the Commission finds that these provisions are consistent with the Exchange Act, specifically Sections 6(b)(5), 6(b)(8), 15A(b)(6) and 15A(b)(9).

G. Quiet Periods Following the Issuance of Research Reports

Commenters heavily criticized the SROs' proposal to bar firms that acted as manager or co-manager of the subject company's offering from publishing research about the issuer for forty days following an IPO and for ten days following a secondary (*i.e.*, non-IPO) offering. Commenters argued that these prohibitions were inconsistent with the spirit of Rules 138, 139, and 174 of the Securities Act[58] as well as Regulation M,[59] and that the rules would impede the flow of information at a time when information is most useful.[60] Commenters also argued that the provisions should not apply to secondary offerings for seasoned issuers, because underwriter research would not have as great an influence on these securities.[61] Commenters further argued that the rules would unfairly discriminate against managers and co-managers as compared to other syndicate members that are not subject to the quiet periods.[62] Many commenters also asserted that the provisions would disadvantage domestic firms that would be subject to these restrictions as compared to foreign competitors who would not need to comply with the rules when distributing research to institutions under Exchange Act Rule 15a–6.[63] These commenters noted that, therefore, the restrictions would harm retail investors who, unlike institutional investors, would not have access to research from the manager or co-manager during this period.[64] One commenter, however, supported the proposals and argued that there should be no exceptions for seasoned issuers.[65]

With regard to commenters' concerns, the NYSE and NASD noted that the rules are not intended to prevent a managing or co-managing underwriter from issuing a positive research report. Rather, the quiet period will reinforce the prohibition against a member offering to reward a subject company for its securities underwriting business by publishing favorable research right after the completion of the distribution. The SROs also stated their belief that the quiet period for an IPO will permit market forces to determine the price of the security in the aftermarket unaffected by research reports issued by firms with the most substantial interest in the offering. Finally, the SROs noted that while the rules will prohibit the managers and co-managers from publishing research reports during the quiet period, other broker-dealers will be able to initiate and maintain research coverage on the subject company.

The NASD and NYSE filed amendments to respond to commenters' concerns about the proposed quiet period for secondary offerings. The amendments provide an exception for research reports that are issued under Rule 139 under the Securities Act as to those issuers whose securities are actively traded as defined in Rule 101(c)(1) of Regulation M.[66] The SROs noted the proposed amendments would support market efficiency by permitting the dissemination of research reports for certain actively traded securities.

We believe that the determination of the SROs to impose a quiet period for IPOs, while different from the requirements under Commission rules under the Securities Act, is consistent with the Exchange Act. Some commenters stated that the forty-day quiet period was inconsistent with Securities Act Rule 174.[67] We do not agree. Under Section 4(3) of the Securities Act[68] and Rule 174 thereunder, a dealer (including an underwriter no longer acting as an underwriter) may not distribute a prospectus (including a research report) unless accompanied or preceded by a prospectus satisfying the requirements of Section 10 of the Securities Act[69] during the twenty-five days following an IPO for a security listed on a national securities exchange or on Nasdaq. For most IPOs of other securities, the prospectus delivery period is ninety days. In practice, dealers (including the underwriters) do not issue research during this period (and it also has been called a quiet period).

The NASD and NYSE rules apply only to the manager and co-manager(s) of an IPO. With respect to these firms, the rules in effect extend the quiet period in many cases by fifteen days. The quiet period should act to reinforce the prohibition on the use of research reports as an inducement for investment banking business. A promise of favorable research as an inducement to an issuer to use a particular firm's investment banking services will likely not be as attractive if the research potentially will follow research issued by other analysts. During this period, investors will not be bereft of information, as they will be able to consider the reports of independent analysts as well as other syndicate members for fifteen days until the lead underwriters may again publish research. In our view, the quiet period is an acceptable means to mitigate the pressures to solicit business on the basis of favorable research.

We agree with the conclusion of the SROs that the argument that institutions will have greater access to research (such as from foreign firms) than will U.S. retail investors during the forty-day quiet period is not determinative of the value of these rules. If the security is followed by others than the manager or co-manager, this research may be available to institutions and retail investors alike. The fact that institutions may have greater access to research from sources not subject to these rules does not diminish the salutary effect of the quiet period with respect to research issued by managers or co-managers of offerings.

The SROs have a valid rationale for imposing the forty-day quiet period for IPOs and there is no conflict with Securities Act Rule 174. Thus, we view the rules as consistent with the Exchange Act.

The SROs' determination to except from the ten-day quiet period research in connection with secondary offerings for seasoned issuers whose securities are actively traded appears consistent both with the spirit of the proposals and the securities laws. As many commenters have pointed out, Rules 139 of the Securities Act and Regulation M recognize that research on large seasoned issuers will have a relatively lower market impact.[70] Because there is likely to be substantial information regarding these issuers in the marketplace, investors are less likely to be influenced by any one research report, even one issued by a managing underwriter, and there is a lower likelihood that investment banking business will be tied to a favorable research report.

As discussed above, the Commission believes that the SROs' rules relating to quiet periods should permit market forces to determine the price of the security in the aftermarket unaffected by research reports issued by firms with the most substantial interest in the offering. The Commission finds that, as a result, these rules are consistent with the Exchange Act, particularly Sections 6(b)(5), 6(b)(8), 15A(b)(6) and 15A(b)(9), in that they should help prevent fraudulent and manipulative practices, help perfect the mechanism of a free and open market, and protect investors and the public interest. Further, we believe that the rules will not impose any burden on competition that is not necessary or appropriate to achieve the goals of the Exchange Act.

H. Disclosure of Firm Ownership of Securities

The SROs' original proposals would have required disclosure in reports or appearances if, as of five business days before the publication of the research report or a public appearance, the firm or its affiliates beneficially owned 1% or more of any class of common equity securities of the subject company.

Commenters almost uniformly opposed this provision.[71] Most commenters argued the ownership threshold and rolling look-back component were impractical, because they imposed a lower ownership disclosure and more onerous timing than Sections 13(d) and 13(g) of the Exchange Act.[72] Several commenters noted that concerns would be mitigated if firms were permitted instead to disclose 5% beneficial ownership on a quarterly basis, as required under Section 13.[73] Otherwise, commenters argued, member firms would incur costly systems changes to track beneficial ownership at the proposed 1% threshold on a rolling five-day look back basis.[74]

In response to these concerns, the SROs filed amendments with a more flexible approach that does not undermine the effectiveness of the proposals. The amended provisions require disclosure of the 1% ownership as of the month-end prior to issuance of the research report or public appearance, determined within ten calendar days after the month-end. In the event that the research report or public appearance is made less than ten calendar days from the end of the previous month, the 1% disclosure may be as of the end of the second most recent month.

The Commission believes that this disclosure will provide investors with useful information to better evaluate the nature and extent of a firm's financial interest in a recommended company. The Commission believes the disclosure requirements under the proposals represent a significant improvement over the current ownership disclosure rules of the NASD and NYSE, which are inconsistent with one another and allow for conditional disclosure of financial interests. The amendments to the original proposal respond to commenters' concerns by reducing the burden of the frequency of calculations, while continuing to provide readers of research reports with reasonably timely disclosure of ownership. The snapshot approach of a monthly calculation is much less onerous than the original rolling requirement. The Commission

[53] *See, e.g.*, Morgan Stanley letter.

[54] *See, e.g.*, CSFB letter.

[55] Telephone conversation between NYSE, NASD, and Division Staff, on May 3, 2002.

[56] *See, e.g.*, Keenan, "Bad Advice: How Wall Street Analysts Burn Investors," Bloomberg, July 2000, page 24; Oppel, Jr., "Wall Street Analysts Faulted on Enron," New York Times, February 28, 2002; Smith & Lucchetti, "Analysts" Picks of Enron Stock Face Scrutiny," Wall Street Journal, February 26, 2002.

[57] *See, e.g.*, Wachovia letter; PSI letter.

[58] 17 CFR 230.138, 230.139, and 230.174.

[59] 17 CFR 242.101–105.

[60] *See, e.g.*, Sullivan & Cromwell letter; Merrill Lynch letter; SSB letter.

[61] *See, e.g.*, SIA letter; Goldman Sachs letter.

[62] *See, e.g.*, Cleary letter; A.G. Edwards letter; Morgan Lewis letter.

[63] 17 CFR 240.15a–6. *See, e.g.*, Dorsey letter; HSBC letter; Fried Frank letter.

[64] *See, e.g.*, Morgan Stanley letter.

[65] AIMR letter.

[66] 17 CFR 242.101(c)(1).

[67] 17 CFR 230.174. *See, e.g.*, ABA letter.

[68] 15 U.S.C. 77(d)(3).

[69] 15 U.S.C. 77j.

[70] The SROs have not included a reference to Securities Act Rule 138 in their rule amendments, as some commenters suggested, because the quiet period applies only to offerings of equity securities. Telephone conversation between NYSE, NASD, and Division Staff, on May 3, 2002.

[71] *See, e.g.*, Goldman Sachs letter; Morgan Stanley letter; UBS letter; SIA letter.

[72] 15 U.S.C 78m(d), (g).

[73] *See, e.g.*, UBS letter.

[74] *See, e.g.*, Morgan Stanley letter.

also notes that although the 1% ownership threshold is lower than that tracked for Section 13 purposes, it is actually less burdensome than the current requirement under NASD Rule 2210, which has no minimum threshold. Therefore, the Commission finds that the rules relating to disclosure of firm ownership of securities is consistent with the Exchange Act, particularly Sections 6(b)(5), 6(b)(8), 15A(b)(6) and 15A(b)(9).

I. Restrictions on Personal Trading by Research Analysts

The proposal prohibits analysts and their household members from: (1) purchasing or receiving pre-IPO shares in companies/industries that are the subject of their research reports; (2) trading in recommended securities thirty days prior and five days after issuance of a research report or a change in rating or price target; and (3) trading in a manner contrary to the analyst's recommendations.

Some commenters believed that research analysts should not be singled-out for special restrictions.[75] Others argued that research analysts should only be required to obtain pre-approval of trades.[76] One commenter said that analysts should be banned from any trading in securities that they cover.[77] There was general agreement among commenters that an analyst should not trade in a manner contrary to his or her recommendations.

The NYSE and NASD believe that disclosure alone is not sufficient to mitigate the conflicts of interest that can arise when a research analyst invests in securities of companies he covers, particularly with respect to the purchase or receipt of pre-IPO shares. Accordingly, the SROs included personal trading restrictions in addition to requiring associated persons to disclose any financial interest they or a household member may have in a subject company. Pre-IPO shares often are acquired at low cost, but are likely to generate substantial profits when a public offering is made of the issuer's equity. The desire to liquefy holdings of these securities can create a strong incentive for an analyst to publish favorable research. Commenters also expressed concern that the thirty and five-day trading restrictions could significantly interfere with the production of research. The effect of this provision is to prevent the analyst from issuing research if she has traded in securities of the subject company within the preceding thirty days. The firm could still publish research on the company if it is prepared by another analyst.

We think the trading restrictions, while stringent, have been justified by the SROs as needed to remove an incentive to trade around the time of issuing a research report that could affect the value of the acquired security, thereby increasing the reliability of published research. Moreover, the trading prohibitions are not absolute. They limit trading only close in time to the issuance of a research report. Changing holdings outside of these time frames is still permitted. The rules also contain an exception for significant changes in the analyst's financial circumstances if the analyst receives approval for a transaction from the legal/compliance department. In addition, the SRO rules provide that an analyst can dispose of an existing position in a security when the analyst initiates coverage of the issuer, to avoid being constrained from changing its holdings.

Finally, the proposed rules, as amended, also contain exceptions to the prohibitions on analyst personal trading for the purchase or sale of the securities of a registered diversified investment company as defined under Section (5)(b)(1) of the Investment Company Act of 1940, or any other investment fund that neither the analyst nor a member of the research analyst's household has any investment discretion or control, provided that: the research analyst accounts collectively own interests representing no more than 1% of the assets of the fund; the fund invests no more than 20% of its assets in securities of issuers principally engaged in the same types of business as companies that the research analyst follows; and, if the investment fund distributes securities in kind to the research analyst or household member before the issuer's initial public offering, the research analyst or household member must either divest those securities immediately or refrain from participating in the preparation of research reports regarding that issuer.

Some commenters suggested changes to these exceptions. [78] Commenters raised issues regarding the treatment of bank collective funds as compared to the treatment of diversified investment companies, as defined by the Investment Company Act of 1940; [79] potential difficulty in monitoring the 1% and 20% thresholds after the initial investment was made; [80] and interpretive questions regarding the 20% threshold.[81] The SROs did not make any changes to this exception other than to conform the text of their rules. We believe that these provisions are consistent with the Act and that these matters raised by commenters can be addressed through an interpretive process.

A number of commenters questioned whether the term "household member" would include roommates and other unrelated persons who occupy the same residence as an associated person.[82] These commenters argued "household member" should be limited to family members and others who are financially dependent on the associated person. While it seems appropriate that dependents be covered, it is not clear that the term should be limited to these relationships. The NYSE and NASD agree that interpretations may be necessary to address specific applications of the term.[83]

The NASD and NYSE rules relating to trading by analysts and their household members should help mitigate conflicts of interest that can arise when a research analyst invests in the securities of companies the analyst covers, particularly when that investment is in pre-IPO shares. The Commission finds that these rules are consistent with the Exchange Act, particularly Sections 6(b)(5) and 15A(b)(6). By reducing the likelihood that analysts will face conflicts of interest, these rules should help prevent fraudulent and manipulative acts and practices, help perfect the mechanism of a free and open market, and protect investors and the public interest.[84] In addition, consistent with Sections 6(b)(8) and 15A(b)(9) of the Exchange Act, burdens on competition not necessary or appropriate in the furtherance of the purposes of the Exchange Act.

J. Implementation

Several commenters requested that the rule changes be phased in over a staggered period, if adopted, because some of the proposals require the development of new disclosure systems and procedures that will require time to create, test, and implement.[85] At least one commenter suggested up to a twelve-month implementation period for certain disclosure provisions.[86] Commenters also noted that amendments to certain disclosures could significantly shorten the timeframe and reduce the costs for implementation.[87]

In response to the comments, the SROs decided upon the following implementation schedule for the proposed amendments (all time periods run from the date that the Commission approves the filings) in order to provide reasonable time periods for members and member organizations to develop and implement policies, procedures and systems to comply with the new requirements:

- Disclosure of 1% firm ownership positions—180 calendar days.
- Legal/compliance department intermediation—120 calendar days.
- Charts of ratings distribution—120 calendar days.
- Price charts—120 calendar days.
- All other provisions—60 calendar days.

The Commission believes that the above implementation schedule suggested by the SROs is reasonable, especially given that the NYSE and NASD made a number of substantive amendments to their original proposal to reduce burdens in response to concerns raised by commenters.

Some commenters asserted that the proposed rules would aggravate the competitive imbalance between research practices within the United States ("U.S.") and those outside the U.S., and provide an incentive for issuers and institutional investors to turn to other capital markets and obtain research that is subject to less stringent regulation. [88] Maintaining the preeminent role of the U.S. capital markets and guarding against unfair competition are substantial concerns for the Commission. In today's dynamic environment, we believe that the proposed rule changes likely will increase confidence in the integrity of our markets, which may further attract issuers to the U.S. for their capital raising needs.[89] We also note that the SROs intend to further consider the issue of research prepared by affiliates, including foreign affiliates, distributed by members within the U.S.

Some aspects of the rules incorporate novel approaches to dealing with conflicts problems. In addition, the quiet periods and the "gatekeeper" requirements attracted substantial negative comment about their potential impact on firms and the markets.[90] The rules may have effects that cannot be foreseen at this time. Therefore, we believe that the NASD and the NYSE should assess the operation and effectiveness of the rule amendments approved today after they have been in effect for a suitable period. Accordingly, we request that the SROs prepare a report on the operation and effectiveness of these provisions and submit it, together with any recommendations for changes or additions to the rules, on or before November 1, 2003 or sooner if the SROs determine it is warranted. Moreover, on April 25, 2002, the Commission announced that it had commenced a formal inquiry into market practices concerning research analysts and the conflicts that can arise from the relationship between research and investment banking. It is possible that this inquiry will indicate the need for further SRO rulemaking or additional Commission action.[91]

V. Accelerated Approval of Amendments; Solicitation of Comments

The Commission finds good cause to approve NYSE Amendment No. 1 and NASD Amendment No. 2 to the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing of the amendments in the **Federal Register**. The original proposed rule changes and NASD Amendment No. 1 were published in the **Federal Register**.[92] The Commission believes that NYSE Amendment No. 1 and NASD Amendment No. 2 clarify the obligations of SRO members under the rules, refine the rules and make the NASD and NYSE proposals consistent with each other.[93] The amendments do not contain major modifications from the scope and purpose of the rules as originally proposed, and were developed from the original proposal. Further, the majority of the modifications contained in the amendments submitted by the NASD and NYSE were made in response to comments received on the proposed rule changes. The Commission believes, moreover, that approving NYSE Amendment No. 1 and NASD Amendment No. 2 will provide greater clarity, thus furthering the public interest and the investor protection goals of the Exchange Act. Finally, the Commission also finds that it is in the public interest to approve the rules as soon as possible to expedite the implementation of the new and amended rules.

Accordingly, the Commission believes good cause exists, consistent with Sections 6(b)(5), 15A(b)(6) and 19(b) of the Exchange Act,[94] to approve NYSE Amendment No. 1 and NASD Amendment No. 2 to the proposed rule changes on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning NYSE Amendment No. 1 and NASD Amendment No. 2, including whether the amendments are consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendments that are filed with the Commission, and all written communications relating to the amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the SROs.

All submissions should refer to File No. SR–NASD–2002–21 and SR–NYSE–

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[75] *See, e.g.*, AIMR letter.

[76] *See, e.g.*, AIMR letter; A.G. Edwards letter.

[77] NASAA letter.

[78] *See, e.g.*, NYSBA letter.

[79] ABASA letter.

[80] *See, e.g.*, Goldman Sachs letter; Nomura letter.

[81] *See, e.g.*, Moran Lewis letter; NASAA letter.

[82] *See, e.g.*, SunTrust letter.

[83] In this context and others where interpretations of terms may be required, we expect that the NYSE and NASD will consult with each other.

[84] The proposed rules require that a senior officer submit an annual attestation that the member organization has established and implemented procedures reasonably designed to comply with the new rules. One commenter thought that these rules should not be singled out for attestation. *See* A.G. Edwards letter. Another commenter thought that an attestation requirement should extend to individual analysts. *See* AIMR letter. The SROs determined to retain the attestation requirement. We find that this requirement is consistent with the Exchange Act.

[85] *See, e.g.*, SIA letter; CSFB letter; SSB letter.

[86] *See, e.g.*, SIA letter.

[87] *See, e.g.*, Morgan Stanley letter.

[88] *See, e.g.*, ABA letter.

[89] For example, the International Organization of Securities Commissions currently has a task force considering research dissemination.

[90] *See, e.g.*, SIA letter.

[91] The Commission notes that when an analyst or her firm issues a recommendation that is knowingly false, or made without a reasonable basis in fact, it may operate as a fraud and deceit on investors in violation of the federal securities laws, including Securities Act Section 17(a) and Exchange Act Sections 10(b) and 15(c) and Rules 10b–5 and 15c1–2 thereunder. *See, e.g., Heft, Kahn & Infante, Inc.*, 41 SEC 379, 386–390 (1963); *See also Hanly* v. *SEC*, 415 F.2d 589 (2d Cir. 1969); *Mac Robbins & Co.*, 41 SEC 116, 119 (1962), aff'd sub nom. *Berko* v. *SEC*, 316 F.2d 137 (2d Cir. 1963) ("the making of recommendations to prospective purchasers without a reasonable basis, couched in terms of either opinion or fact designed to induce purchases, is contrary to the basic obligation of fair dealing borne by those who engage in the sale of securities to the public"). *Cf. Virginia Bankshares, Inc.* v. *Sandberg*, 501 U.S. 1083 (1991) (discussing when false statements of opinion can give rise to anti-fraud liability under Exchange Act Section 14(a) and Rule 14a–9).

[92] Release No. 34–45526 (March 8, 2002), 67 FR 11526 (March 14, 2002).

[93] The text of the amendments are available at *http://www.nasdr.com/filings/rf02—21.asp* and *http://www.nyse.com/regulation/regulation.html*

[94] 15 U.S.C. 78f(b)(5), 78o–3(b)(6), and 78s(b).

2002–09 and should be submitted by [June 17, 2002].

VI. Conclusions

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[95] that the proposed rule changes (SR–NASD–2002–21; SR–NYSE–2002–09), as amended, are approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12207 Filed 5–15–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45905; File No. SR–Phlx–2002–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Amend Rules Relating to the Administration of Order, Decorum, Health, Safety and Welfare on the Exchange

May 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, notice is hereby given that on February 1, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 7, 2002, the Phlx amended the proposal.[3] Amendment No. 1 completely replaces and supersedes the original filing. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the following:

—Phlx Rule 60, Assessments for Breach of Regulations ("Rule 60");

—Regulation 4, Order ("Regulation 4");

—Phlx Article VIII, section 8–1 of the By-laws, Presiding Floor Officials of the Exchange ("Article VIII section 8–1"); and

—Phlx Article X, section 10–11 ("Article X, section 10–11"), Business Conduct Committee ("BCC").

The text of the proposed rule change is available at the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to add procedures to govern actions by Floor Officials and Exchange staff to summarily remove a member from the floor for breaches of regulations that relate to the administration of order, decorum, health, safety and welfare on the Exchange ("order and decorum" regulations), increase fine amounts for order and decorum violations as specified in proposed Regulation 4, reorganize current Regulation 4 for clarity, and amend Article VIII, section 8–1 and Article X, section 10–11 of the Exchange's By-Laws to eliminate inconsistencies with Exchange rules.

Rule 60. Rule 60 addresses order and decorum on the Exchange floor. Currently, Rule 60 provides that a Floor Official or Exchange Official may impose assessments not to exceed $1,000.00 per occurrence for breaches by members or their employees of regulations that relate to order and decorum. Two Floor Officials or an Exchange Official may refer a matter to the Exchange's BCC where higher fines or other sanctions may be imposed pursuant to Phlx Rules 960.1 through 960.12.[4] The Commentary to Rule 60 establishes the procedures to be followed when a pre-set fine of up to $1,000.00 is summarily assessed. The Commentary specifically addresses the notice of assessment, time and place of the hearing, records to be kept, procedures, findings, no right of appeal, and reports to be filed with the SEC.[5]

The proposed amendments to Rule 60 add language that explicitly states that Exchange staff, in addition to Floor Officials, may directly refer a matter to the BCC. The proposed language is added to clarify that Exchange staff has such authority. Additionally, the Exchange proposes to amend Commentary (a) to Rule 60 to increase the maximum amount of a pre-set fine for order and decorum violations. The Exchange believes that the proposed increase from a maximum of $1,000.00 to a maximum of $5,000.00 is appropriate and warranted considering the types of violations that may arise from violations of order and decorum.

The proposed amendments to Commentary (a) also make several clarifying changes to the procedures to be followed in cases where pre-set fines are assessed. For example, since Commentary (a) .02 currently fails to state that a hearing is held only when a written citation is contested, such clarifying language is added. Moreover, Commentary (a) .03 is expanded to propose that certain record keeping costs be borne equally by the cited party and the Exchange when a fine has been contested.

In addition to providing authority for the issuance of fines for order and decorum violations, Article VIII, section 8–1 of the By-Laws currently provides that Floor Officials may exclude members from the trading floor for breaches of order and decorum. However, because there are no specific procedures in the Exchange By-Laws or rules to govern such removal, the proposed amendments to Rule 60 add procedures to govern the summary removal of a member from the trading floor and/or premises immediately adjacent to the trading floor for a breach of Rule 60.[6] The Phlx believes this should improve the Exchange's disciplinary controls by adding specificity.[7]

Under the proposal, two Floor Officials and an officer of the Exchange[8] may remove a member for a breach of Rule 60, specifically, if the member poses an immediate threat to the safety of persons or property, is seriously disrupting Exchange operations, or possesses a firearm. When a member is removed under any of these circumstances, the member is removed for the remainder of the trading day. Because removal for the remainder of the trading day could result in significant loss of business for the member, the proposal requires the concurrence of two Floor Officials, as well as an officer of the Exchange, before a member is removed. Removal will be ordered only for the serious types of breaches specified in the proposed rule change.

Further, removal from the floor would not be the exclusive sanction for breaches of this proposed rule and the regulations thereunder. In addition to removal, a member could also be subject to a fine or the matter could also be referred to the BCC where it would proceed in accordance with Rules 960.1 through 960.12.

Proposed new Commentary (b) to Rule 60 establishes the following procedures to be used when a member is removed from the trading floor. First, once two Floor Officials and an officer of the Exchange determine a member shall be removed, a member of the Phlx security staff will escort the member off the trading floor. Second, Exchange staff shall memorialize the removal in the form of a written citation. This provision will permit the staff to keep records of the violations and have the requisite documentation available to address repeat violators. Third, the removed member shall have no right of appeal. The ruling of the Floor Officials and Exchange officer shall be final. Removal for the remainder of the day will not be ordered except under the most serious circumstances and an appeal process under such circumstances is impracticable. Finally, the proposed procedures specify that a report shall be filed with the Commission; however, no report shall be issued if a clerical employee is removed for a breach of order and decorum regulations.[9]

Regulation 4. The proposed amendments to Regulation 4 increase the applicable fine schedules for order and decorum violations. Certain fines, including those for repeat incidents involving threatening, abusive, harassing or intimidating speech or conduct or involving the possession of a firearm, are over $1,000.00 and therefore are reportable to the SEC pursuant to Rule 19d–1(c) under the Act.[10] This requirement is explicitly noted in proposed section (d) of Regulation 4 so that members understand that the Exchange is required to report such citations to the Commission.

The proposed amendments also clarify and reorganize the Regulation. Since abuses of the paging system are uncommon, the separate fine for this type of misconduct is eliminated. Further, separate fines for inciting incidents of physical abuse, minor acts of physical abuse, and major acts of physical abuse are deleted, as the misconduct is adequately covered by the revised Regulation. Finally, the proposed revisions to Regulation 4 state in section (c) that firearms are prohibited on the trading floor and premises immediately adjacent to the trading floor, and members, participants and their associated persons who violate the regulation may not only be fined under the regulation, but they may also be removed from the trading floor, pursuant to Rule 60.

Article X, section 10–11 and Article VIII, Section 8–1. Currently, Article X, section 10–11 of the By-Laws states that the BCC shall not have jurisdiction over matters relating to order and decorum. However, Rule 60 currently states that two Floor Officials may refer an order and decorum violation to the BCC. To clarify this inconsistency, the proposed amendment adds language to Article X, section 10–11 stating that the BCC shall not have jurisdiction over matters related to order and decorum, except as consistent with Rule 60 and the regulations promulgated thereunder.

Currently, Article VIII, section 8–1 of the By-Laws outlines the authority of Floor Officials, but is silent as to Exchange staff's authority to impose fines for order and decorum violations. Under the proposal, language is added to the By-Law that expressly addresses the issue and states that Exchange staff shall have the authority to issue fines for order and decorum violations, and that Exchange officers as well as Floor Officials shall participate in the removal of members and associated persons.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6 of the Act[11] in general, and in particular, with section 6(b)(5),[12] in that it is designed to promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest because the proposal should facilitate prompt, appropriate, and effective discipline for violations of Rule 60 and the regulations thereunder designed to maintain order on the Exchange. In addition, the Exchange believes that the proposed rule is consistent with section 6(b)(6) of the Act[13] which requires the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder, by imposing increased fine amounts for breaches of order and decorum to better reflect the severity of the violation and provide an appropriate form of deterrence for violation of Rule 60 and the regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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[95] 15 U.S.C. 78s(b)(2).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* May 6, 2002 letter from Linda S. Christie, Counsel, Phlx, to Katherine England, Assistant Director, Division of Market Regulation, SEC and attachments ("Amendment No. 1").

[4] These rules provide the jurisdiction, procedures and process by which an Exchange member, member organization, or any partner, officer, director or person employed by or associated with any member or member organization may be charged with a violation within the disciplinary jurisdiction of the Exchange.

[5] Reports to the SEC are made pursuant to Rule 19d–1(c) under the Act. 17 CFR 240.19d–1(c).

[6] For purposes of this proposed Rule, the premises immediately adjacent to the trading floor shall include the following: (1) All premises other than the trading floor that are under Exchange control; and (2) premises in the building where the Exchange maintains its principal office and place of business, namely 1900 Market Street, Philadelphia, Pennsylvania.

[7] The Exchange proposes to remove members pursuant to Rule 60(b) when the misconduct occurs on the trading floor or on the premises other than the trading floor immediately adjacent to the trading floor, as defined in footnote 6 above. The proposed rule change does not impose on the Exchange, nor does the Exchange assume, any new obligation to increase or expand its current surveillance activity to include the premises immediately adjacent to the trading floor.

[8] For purposes of this proposed Rule, an officer of the Exchange is an officer who is a vice president or higher.

[9] The exception for clerical employees conforms to Rule 19d–1(c) under the Act. 17 CFR 240.19d–1(c).

[10] 17 CFR 240.19d–1(c).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exhange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2002–09 and should be submitted by June 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12203 Filed 5–15–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45899; File No. SR–Phlx–2002–33]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Eliminate Position and Exercise Limits for Certain Qualified Hedge Strategies

May 9, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 30, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Commentary .07 to Phlx Rule 1001 to eliminate position and exercise limits for certain qualified hedge strategies relating to stock and Exchange-Traded Fund ("ETF") Share options and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option contract. The current reporting procedures that serve to identify and document hedged positions will continue to apply. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option contract. Current Commentary .05 to Phlx Rule 1001 provides position and exercise limits for stock and ETF Share options of 13,500, 22,500, 31,500, 60,000 and 75,000 options contracts on the same side of the market depending on the level of underlying trading volume over a six-month period.[3] The existing hedge exemption found in Commentary .07 to Phlx Rule 1001 provides an exemption to position and exercise limits of up to three (3) times the standard limit for certain qualified hedge strategies as follows: (i) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.[4]

Since the inception of the equity hedge exemption in 1988,[5] the types of hedge strategies employed by market participants have become increasingly more diversified. The Exchange believes that, through its experience in administering and processing equity hedge exemption information, it has learned that market participants no longer rely strictly on a stock-option hedge. Additionally, while traditional hedge strategies such as a covered call or reverse conversion strategy continue to be utilized, the Phlx believes that listed options contracts are now employed to hedge a wider spectrum of securities.

In response to the Commission's liberalization in granting position limit relief for market neutral strategies, and to more fully accommodate the hedging needs of investors, the Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity options position. Accordingly, the Phlx proposes to expand the definition of a "qualified" hedged position found in Commentary .07 to Phlx Rule 1001. The proposed qualified hedged strategies are as follows:

1. Where each option contract is "hedged" by the number of shares underlying the option contract or securities convertible into the underlying security or, in the case of an adjusted option, the same number of shares represented by the adjusted contract: (a) long call and short stock; (b) short call and long stock; (c) long put and long stock; or (d) short put and short stock.

2. Reverse Conversions—A long call position accompanied by a short put position, where the long call expires with the short put and the strike price of the long call and short put is the same, and where each long call and short put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.[6]

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 48075 (December 31, 1998), 64 FR 1842 (January 12, 1999).

[4] *See* Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (June 2, 1988).

[5] *See supra* note 8.

[6] For these strategies one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account. Hedge transactions and positions established pursuant to these strategies are subject to a position limit equal to five times the standards limit established under Commentary .05 to Phlx Rule 1001. For purposes of this rule filing, an OTC option contract is defined as an option that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

3. Conversions—A short call position accompanied by a long put position, where the short call expires with the long put and the strike price of the short call and long put is the same, and where each short call and long put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.[7]

4. Collars—A short call position accompanied by a long put position, where the short call expires at the same time as the long put and the strike price of the short call equals or exceeds the strike price of the long put position and where each short call and long put position, is hedged with 100 shares of the underlying security (or other adjusted number of shares).[8] Neither side of the short call/long put position can be in-the-money at the time the position is established.

5. Box Spreads—A long call position accompanied by a short put position, where both the long call and short put have the same strike price, and a short call position accompanied by a long put position, where the short call and long put have the same strike price as each other, but a different strike price than the long call/short put position.

6. Back-to-Back Options—A listed option position hedged on a one-for-one basis with an over-the-counter ("OTC") option position on the same underlying security. The strike price of the listed option position and corresponding OTC option position must be within one strike price interval of each other and no more than one expiration month apart.

For reverse conversion, conversion and collar strategies, one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

Within the list of proposed hedge strategies eligible for the Equity Hedge Exemption, the Exchange proposes that the option component of a reversal, a conversion or a collar position can be treated as one contract rather than as two (2) contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous[9] purchase/sale of both a call and put component, against the appropriate number of shares underlying the option (generally 100 shares) the Exchange believes that the position should be treated as one contract for hedging purposes.

With the exception of covered stock positions, the Phlx believes that all other proposed qualified strategies are market neutral,[10] that none of the proposed strategies lend themselves to market manipulation and, they therefore, should qualify for the Equity Hedge Exemption. In addition, the Exchange believes that the current reporting requirements under Phlx Rule 1003 and internal surveillance procedures for hedged positions will enable the Exchange to closely monitor sizeable option positions and corresponding hedges.

Under the proposed rule change, the standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as a qualified hedge strategy will be exempted from position limit calculations. The exemption will be automatic (*i.e.*, does not require pre-approval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempt positions remain intact and the Exchange is provided with any required supporting documentation. Procedures to demonstrate that the option position remains qualified are similar to those currently in place. Exchange procedures currently require a qualified account to report hedge information each time the option position changes. Hedge information for member firm and customer accounts are electronically reported via the Large Options Positions Report. The existing requirement imposed on a member firm to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will continue to apply.

The Phlx believes that, with the exception of covered stock positions, all of the proposed qualified hedge strategies are market neutral. Therefore, none of the proposed strategies lend themselves to market manipulation and should be exempt from position limits. In addition, the Exchange believes that the current reporting requirements under Phlx Rule 1003 and the surveillance procedures for hedged positions will enable the Exchange to closely monitor sizable option positions and corresponding hedges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[11] in general and furthers the objectives of Section 6(b)(5)[12] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)[14] thereunder because the proposal:

(i) Does not significantly affect the protection of investors or the public interest;

(ii) does not impose any significant burden on competition; and

(iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five

[7] *Id.*

[8] *Id.*

[9] At or about the same time.

[10] Where covered stock transactions are not market neutral (*i.e.*, long stock/short call; short stock/short put); the market exposure on such activity resides with the stock position where no limit is imposed. The Phlx believes that, as the short option premium serves to mitigate the stock exposure, no limit should be imposed on this strategy.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–(f)(6).

business days prior to the date of filing of the proposed rule change, or such short time as designated by the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

The Commission believes that the proposed rule change is consistent with the protection of investors and the public interest and therefore finds good cause to waive the five-day pre-filing notice requirement and to designate the proposal as immediately operative upon filing. The Commission notes that the proposal is substantially identical to proposed rule changes submitted by three other options exchanges, which the Commission has approved.[15] The Commission also notes that these proposals were noticed for public comment and no comment was received. The Commission does not believe that the proposed rule change raises novel regulatory issues that were not already addressed in the approval orders to these proposed rule changes.[16] For these reasons, the Commission finds good cause to waive the five-day pre-filing notice requirement and to designate that the proposal become operative immediately upon filing.[17]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–2002–33 and should be submitted by June 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12204 Filed 5–15–02; 8:45 am]

BILLING CODE 8010–01–P

[15] *See* Securities Exchange Act Release No. 45737 (April 11, 2002), 67 FR 18975 (April 17, 2002) (SR–PCX–00–45); Securities Exchange Act Release No. 45650 (March 26, 2002), 67 FR 15638 (April 2, 2002) (SR–Amex–2001–72); Securities Exchange Act Release No. 44503 (March 20, 2002), 67 FR 14751 (March 27, 2002) (SR–CBOE–00–12).

[16] *Id.*

[17] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3416]

State of Michigan

Gogebic County and the contiguous counties of Iron and Ontonagon in the State of Michigan; and Iron and Vilas Counties in the State of Wisconsin constitute a disaster area due to damages caused by flooding that occurred on April 15–21, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 9, 2002 and for economic injury until the close of business on February 11, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341606 for Michigan and 341706 for Wisconsin.

The number assigned to this disaster for economic injury is 9P6100 for Michigan and 9P6200 for Wisconsin.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 10, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–12262 Filed 5–15–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3413]

State of Missouri; Disaster Loan Area

As a result of the President's major disaster declaration for Public Assistance on May 6, 2002, and Amendment 1 adding Individual Assistance on May 8, 2002, I find that Bollinger, Butler, Cape Girardeau, Carter, Douglas, Dunklin, Howell, Iron, Madison, Oregon, Ozark, Perry, Reynolds, Ripley, Shannon, St. Francois, Stoddard, Texas and Wayne Counties in the State of Missouri constitute a disaster area due to damages caused by severe storms and tornadoes occurring on April 24—28, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 7, 2002 and for economic injury until the close of business on February 10, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Christian, Crawford, Dent, Jefferson, Laclede, New Madrid, Pemiscot, Phelps, Pulaski, Scott, Ste. Genevieve, Taney, Washington, Webster and Wright in the State of Missouri; Baxter, Clay, Craighead, Fulton, Greene, Marion, Mississippi, Randolph and Sharp Counties in the State of Arkansas; and Alexander, Jackson, Randolph and Union Counties in the State of Illinois.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.750
Homeowners without credit available elsewhere	3.375
Businesses with credit available elsewhere	7.000

	Percent
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341311. For economic injury the number is 9P5600 for Missouri; 9P5700 for Arkansas; and 9P6300 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 9, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–12261 Filed 5–15–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4021]

Office of Overseas Schools; 30-Day Notice of Proposed Information Collection: Overseas Schools—Grant Request Automated Submissions Program (GRASP); OMB #1405–0036; Forms DS–573, DS–574, DS–575, and DS–576 (Formerly Forms FS–573, FS–573A, FS–573B, and FS–574)

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement.

Originating Office: Bureau of Administration, A/OPR/OS.

Title of Information Collection: Overseas Schools—Grant Request Automated Submissions Program (GRASP).

Frequency: Annual.

Form Number: OMB No. 1405–0036.

Respondents: Recipients of grants.

Estimated Number of Respondents: 189.

Average Hours Per Response: 1.5 hours.

Total Estimated Burden: 283.5 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Washington, DC 20520. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: April 11, 2002.

Jerome F. Tolson, Jr.,

Executive Director, Acting, Bureau of Administration, Department of State.

[FR Doc. 02–12305 Filed 5–15–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 4020]

Bureau of Nonproliferation; Imposition of Nonproliferation Measures Against Armenian, Chinese, and Moldovan Entities, Including Ban on U.S. Government Procurement

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that two Armenian entities, eight Chinese entities, and two Moldovan entities have engaged in activities that require the imposition of measures pursuant to Section 3 of the Iran Nonproliferation Act of 2000, which provides for penalties on entities for the transfer to Iran of equipment and technology controlled under multilateral export control lists.

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: On general issues: Pamela K. Roe, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State, (202–647–1142). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State, (703–516–1691).

SUPPLEMENTARY INFORMATION: Pursuant to sections 2 and 3 of the Iran Nonproliferation Act of 2000 (Pub. L. 106–178), the U.S. Government determined on May 6, 2002, that the measures authorized in section 3 of the Act shall apply to the following foreign entities identified in the report submitted pursuant to section 2(a) of the Act:

Lizen Open Joint Stock Company (Armenia) and any successor, sub-unit, or subsidiary thereof;

Armen Sargsian (Armenia);

Liyang Yunlong, aka Liyang Chemical Equipment Company (China), and any successor, sub-unit, or subsidiary thereof;

Zibo Chemical Equipment Plant, aka Chemet Global Ltd. (China), and any successor, sub-unit, or subsidiary thereof;

China National Machinery and Electric Equipment Import and Export Company (China) and any successor, sub-unit, or subsidiary thereof;

Wha Cheong Tai Company (China) and any successor, sub-unit, or subsidiary thereof;

China Shipbuilding Trading Company (China) and any successor, sub-unit, or subsidiary thereof;

The China Precision Machinery Import/Export Corporation (China) and any successor, sub-unit, or subsidiary thereof;

The China National Aero-Technology Import And Export Corporation (China) and any successor, sub-unit, or subsidiary thereof;

Q.C. Chen (China);

Cuanta, SA (Moldova) and any successor, sub-unit, or subsidiary thereof;

Mikhail Pavlovich Vladov (Moldova).

Accordingly, pursuant to the provisions of the Act, the following measures are imposed on these entities:

1. No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods, technology, or services from these foreign persons;

2. No department or agency of the United States Government may provide any assistance to the foreign persons, and these persons shall not be eligible to participate in any assistance program of the United States Government;

3. No United States Government sales to the foreign persons of any item on the United States Munitions List (as in effect on August 8, 1995) are permitted,

and all sales to these persons of any defense articles, defense services, or design and construction services under the Arms Export Control Act are terminated; and,

4. No new individual licenses shall be granted for the transfer to these foreign persons of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations, and any existing such licenses are suspended.

These measures shall be implemented by the responsible departments and agencies of the United States Government and will remain in place for two years, except to the extent that the Secretary of State or Deputy Secretary of State may subsequently determine otherwise. A new determination will be made in the event that circumstances change in such a manner as to warrant a change in the duration of sanctions.

Dated: May 9, 2002.

John S. Wolf,

Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 02–12304 Filed 5–15–02; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the McGregor Executive Airport, McGregor, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the McGregor Executive Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before June 17, 2002.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Mike Nicely, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Texas Airports Development Office, ASW–650, Fort Worth, Texas 76193–0650.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dennis McDuffie, City Manager, at the following address: City of McGregor, P.O. Box 192, McGregor, Texas 76657.

FOR FURTHER INFORMATION CONTACT: Ms. Kimchi Hoang, Program Manager, Federal Aviation Administration, Texas Airports Development Office, ASW–650, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0650. Telephone: (817) 222–5681. Fax: (817) 222–5989.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the McGregor Executive Airport under the provisions of the AIR 21.

On April 23, 2002, the FAA determined that the request to release property at McGregor Executive Airport, submitted by the City, met the procedural requirements of the Federal Aviation Regulations, Part 155. The FAA may approve the request, in whole or in part, no later than July 31, 2002.

The following is a brief overview of the request: The City of McGregor requests the release of 101.846 acres of non-aeronautical airport property. The land is part of a War Assets Administration deed of airport property to the City in 1948. The fair market value of the sale is appraised at $815,000 to be used for upgrading, maintenance, operation and development of the airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the City Hall of McGregor, telephone number (254) 840–2806 or at the Texas Department of Transportation, Aviation Division, 125 E. 11th Street, Austin, TX 78701–2483, Ms. Sandra Gaither, telephone number (512) 416–4544.

Issued in Fort Worth, Texas on April 23, 2002.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 02–12289 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance Palwaukee Municipal Airport, Wheeling/Prospect Heights, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is giving notice that a portion of the airport (0.010 acres, a portion of Parcel 19, located along the west side of Milwaukee Avenue and north of westbound Palatine Frontage Road, presently used as open land for control of FAR Part 77 surfaces and compatible land use) is not needed for aeronautical use, as shown on the Airport Layout Plan. There are no impacts to the airport by allowing the airport to dispose of the property. The proposed use of the parcel is additional right-of-way for vehicles turning from Milwaukee Avenue to westbound Palatine Frontage Road. Parcel 19 was acquired on December 26, 1986, under FAA Project Numbers 3–17–0018–01, 3–17–0018–02, 3–17–0018–03 and 3–17–0018–04 (90% Federal participation). In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose. The release of this portion of Parcel 19 will provide additional right-of-way to allow easier turns onto westbound Palatine Frontage Road. The improvements will benefit the Palwaukee Municipal Airport by improving access to the airport.

DATES: Comments must be received on or before June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Chad Oliver, Program Manager, 2300 East Devon Avenue, Des Plaines, IL, 60018. Telephone Number 847–294–7199/FAX Number 847–294–7046. Documents reflecting this FAA action may be reviewed at this same location or at Palwaukee Municipal Airport, Wheeling/Prospect Heights, Illinois.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA intends to authorize the disposal of the subject airport property at Palwaukee Municipal Airport, Wheeling/Prospect Heights, Illinois.

Approval does not constitute a commitment by the FAA to financially assist in disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Issued in Des Plaines, Illinois on March 8, 2002.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 02–12288 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–37]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 5, 2002.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–12228 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Jan Thor (425–227–2127), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98055–4056; or Vanessa Wilkins (202–267–8029), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 13, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–12228.

Petitioner: J2 Engineering, Inc. on behalf of Instone Air Services.

Section of 14 CFR Affected: 14 CFR 25.855(a), 25.857(e), and 25.1447(c)(1).

Description of Relief Sought:

To allow the carriage of up to 28 livestock handlers on the main deck of a DC–8 freighter, to allow portable oxygen units to be worn/carried by the animal attendants while they are away from the seat installed oxygen, to allow for an acceptable level of safety that would consider 28 portable oxygen units and 28 seat mounted oxygen units for seated attachments as meeting the requirement that the number of oxygen masks exceed the number of seats by ten percent. By extension, exemption from 25.855(a) is also requested, as this regulation requires any cargo compartment to comply with the designated classification of 25.857.

[FR Doc. 02–12290 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 32607 (Sub–No. 3)]

Kiamichi Railroad L.L.C.—Trackage Rights Exemption—WFEC Railroad Company

WFEC Railroad Company (WFECR) has agreed to grant overhead trackage rights to Kiamichi Railroad L.L.C. (KRR) over its entire 14-mile rail line in Choctaw and McCurtain Counties, OK.[1]

The transaction is scheduled to be consummated on or after the May 8, 2002 effective date of the exemption. The purpose of the trackage rights is to permit KRR to provide rail service to the Western Farmers Electric Cooperative, Inc. (Western Farmers) Hugo electric generating station under new commercial arrangements among KRR, WFECR and Western Farmers.[2]

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32607 (Sub-No. 3) must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John H. LeSeur, Slover & Loftus, 1224 Seventeenth Street, NW, Washington, DC 20036.

Board decision and notices are available on our website at *"WWW.STB.DOT.GOV."*

Decided: May 9, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12274 Filed 5–15–02; 8:45 am]

BILLING CODE 4915–00–P

[1] WFECR previously granted bridge trackage rights to two other carriers to use its line. *See DeQueen & Eastern Railroad Company and Texas, Oklahoma & Eastern Railroad Company—Trackage Rights Exemption—WFEC Railroad Company*, STB Finance Docket No. 32607 (Sub-No. 2) (STB served Apr. 17, 1997).

[2] KRR will have overhead rights to provide service to Western Farmers and will have no authority to serve any other shippers that might locate on the line. WFECR will retain the authority and responsibility for serving any such shippers.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the

submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 17, 2002 to be assured of consideration.

Financial Crimes Enforcement Network

OMB Number: 1506–0012.
Form Number: TD F 90–22.53.
Type of Review: Extension.
Title: Designation of Exempt Person Form.
Description: This form is used by depository institutions when designating their eligible customers as exempt from the requirement to report transactions in currency in excess of $10,000.
Respondents: Business or other for-profit.
Estimated Number of Respondent/Recordkeepers: 5,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 10 minutes.
Frequency of Response: Biennially, Other (once per initial exemption).
Estimated Total Reporting/Recordkeeping Burden: 30,000 hours.
Clearance Officer: Steve Rudzinski, Financial Crime Enforcement Network (FinCEN), P.O. Box 39, Vienna, VA 22183, 767–2825.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 02–12208 Filed 5–15–02; 8:45 am]
BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 17, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–0987.
Regulation Project Number: IAA–62–91 Final and Temporary.
Type of Review: Extension.
Title: Capitalization and Inclusion in Inventory of Certain Costs.
Description: The paperwork requirements are necessary to determine whether taxpayers comply with the cost allocation rules of section 263A and with the requirements for changing their methods of accounting. The information will be used to verify taxpayers' changes in methods of accounting.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 20,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 5 hours.
Frequency of Response: Other (in the year of change).
Estimated Total Reporting/Recordkeeping Burden: 100,000 hours.
OMB Number: 1545–1772.
Form Number: IRS Form 8717.
Type of Review: Extension.
Title: User Fee for Employee Plan Determination Letter Request.
Description: The Omnibus Reconciliation Act of 1990 requires payment of a "user fee" with each application for a determination letter. Because of this requirement, the Form 8717 was created to provide filers the means to make payment and indicate the type of request.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 100,000.
Estimated Burden Hours Per Respondent: 5 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 8,333 hours.
Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 02–12209 Filed 5–15–02; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209837–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209837–96, (TD 8742), Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections (§§ 301.9100–2 and 301.9100–3).

DATES: Written comments should be received on or before July 15, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack (202) 622–3179, or through the internet (Larnice.Mack@irs.gov), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections.
OMB Number: 1545–1488.
Regulation Project Number: REG–209837–96.
Abstract: This final regulation provides the procedures for requesting an extension of time to make certain elections, including changes in accounting method and accounting period. In addition, the regulation provides the standards that the IRS will use in determining whether to grant taxpayers extensions of time to make these elections.
Current Actions: There is no change to this existing regulation.
Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, and farms.
Estimated Number of Respondents: 500.
Estimated Time Per Respondent: 10 hours.
Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 9, 2002.

Carol Savage,
Program Analyst.
[FR Doc. 02–12309 Filed 5–15–02; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Extension of Submission Period for CCCAC Membership Applications

SUMMARY: This notice extends to May 31, 2002, the previous deadline of May 16, 2002, to submit applications for membership to the Citizens Commemorative Coin Advisory Committee (CCCAC). The CCCAC was established in 1993 under Public Law 102–390 to:

- Designate annually the events, persons, or places the committee recommends be commemorated by the issuance of commemorative coins,
- Make recommendations with respect to the mintage level for any commemorative coin recommended,
- Submit a report to the Congress containing a description of the recommendations and the Committee's reasons for such recommendation, and
- Review and comment on proposed designs for commemorative coins and the 50 State Quarters® Program.

Membership consists of seven voting members appointed to 4-year terms by the Secretary of the Treasury:

- Three members shall be appointed from among individuals specially qualified to serve by reason of their education, training or experience in art, art history, museum or numismatic collection curation, or numismatics,
- Three members shall be appointed from among individuals who will represent the interest of the general public, and
- One member shall be appointed from officers or employees of the United States Mint to represent the interests of the United States Mint.

The Committee is subject to the direction of the Secretary of the Treasury. The United States Mint is responsible for providing the necessary support services for the Committee. Committee members are not paid for their time or services, but, consistent with Federal Travel Regulations, members are reimbursed for their travel and lodging expenses to attend approximately two meetings each year. Members may be subject to the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2653).

The United States Mint will review all submissions and will forward its recommendations to the Secretary of the Treasury for appointment consideration. Candidates who believe that they are specially qualified to serve by reason of their education, training, or experience in the fields of art, art history, museum or numismatic collection curation, or numismatics should include specific skills, abilities, talents, and credentials to support their applications. All candidates should submit any relevant information that demonstrates their qualifications to represent the interests of the public, including demonstrated experience with history, education, youth or American heritage and culture. The United States Mint is also interested in candidates who have demonstrated leadership skills, who have received recognition by their peers in their field of interest, who have a record of participation in public service or activities, and who are willing to commit the time and effort to participate in the Committee meetings and related activities.

Application Deadline: May 31, 2002.
Receipt of Applications: Any member of the public wishing to be considered for participation on the committee should submit a resume, or letter describing qualifications for membership, by e-mail to *cccacmembership@usmint.treas.gov* or by mail to the United States Mint, 801 9th Street, NW., Washington, DC 20001, Attn: CCCAC Membership. Submissions must be postmarked no later than May 31, 2002.

Dated: May 13, 2002.

Henrietta Holsman Fore,
Director, United States Mint.
[FR Doc. 02–12306 Filed 5–15–02; 8:45 am]
BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0405]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0405."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human

Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0405" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: REPS Annual Eligibility Report, (Under the Provisions of Section 156, Public Law 97–377), VA Form 21–8941.

OMB Control Number: 2900–0405.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to confirm the continued entitlement of a beneficiary under the REPS program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 19, 2002, at page 7456.

Affected Public: Individuals or households.

Estimated Annual Burden: 550 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 2,200.

Dated: May 1, 2002.

By direction of the Secretary:

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–12173 Filed 5–15–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0055]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0055." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0055" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses, VA Form 26–1817.

OMB Control Number: 2900–0055.

Type of Review: Extension of a currently approved collection.

Abstract: Title 38, U.S.C. 3701(b)(2) authorizes VA to extend home loan benefits to unmarried surviving spouses of veterans whose deaths (1) occurred either while serving on active duty or (2) were a direct result of service-connected disabilities. The unmarried surviving spouse of a veteran completes VA Form 26–1817 as a formal request for a certificate of eligibility for home loan benefits. The information is used to determine the applicant's basic eligibility for the benefit.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 6, 2002, at page 10257.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 15 minutes

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 1,000.

Dated: May 3, 2002.

By direction of the Secretary:

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–12174 Filed 5–15–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0492]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0492."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0492" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: VA MATIC Authorization, VA Form 29–0532–1.

OMB Control Number: 2900–0492.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–0532–1 is used by veteran policyholders to authorize deductions from their bank accounts to pay Government Life Insurance premiums.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 19, 2002, at pages 7455–7456.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,500.

Dated: May 7, 2002.

By direction of the Secretary:

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–12211 Filed 5–15–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0068]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0068."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0068" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Service Disabled Insurance, VA Form 29–0151 and VA Form 29–4364.

OMB Control Number: 2900–0068.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used by the policyholder to apply for new issue, reinstatement or change of plan on Government Life Insurance.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 28, 2002, at page 9360.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,833 hours.

Estimated Average Burden Per Respondent: 40 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,250.

Dated: May 7, 2002.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 02–12212 Filed 5–15–02; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 67, No. 95
Thursday, May 16, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 908

[No. 2002-03]

RIN 3069-AB03

Rules of Practice and Procedure

Correction

In rule document 02–5094 beginning on page 9897 in the issue of March 5, 2002, make the following correction:

§ 908.61 [Corrected]

On page 9915, in the third column, in § 908.61, paragraph (c)(2), in the seventh line, "institution's" should read "institutions".

[FR Doc. C2–5094 Filed 5–15–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

[AAG/A Order No. 264–2002]

Privacy Act of 1974; System of Records

Correction

In notice document 02–10398 beginning on page 20996 in the issue of Monday April 29, 2002, make the following correction:

On page 20996, in the third column, after the fourth full paragraph, the heading is corrected to read as follows:"**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**".

[FR Doc. C2–10398 Filed 5–15–02 ; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–11]

Modification of Class E Airspace; Manistee, MI

Correction

In rule document 02–11498 beginning on page 30782 in the issue of Wednesday, May 8, 2002, make the following corrections:

§ 71.1 [Corrected]

1. On page 30783, in the second column, in § 71.1, under the heading **AGL MI E5 Manistee, MI [Revised]**, in the second line, "(Lat. 44°16′21″N., long. 86°14′15″W.)" should be removed.

2. On the same page, in the same column, in the same section, under the heading **AGL MI E5 Manistee, MI [Revised]**, in the 10th line, "385°" should read, "285°".

[FR Doc. C2–11498 Filed 5–15–02; 8:45 am]

BILLING CODE 1505–01–D

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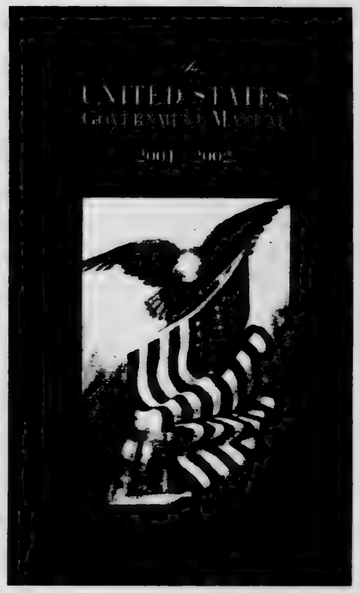

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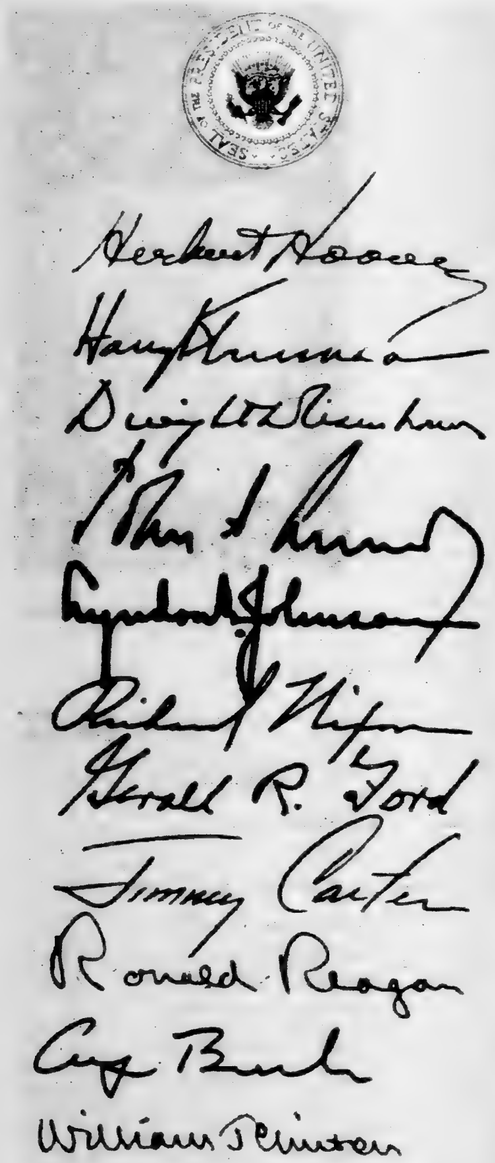

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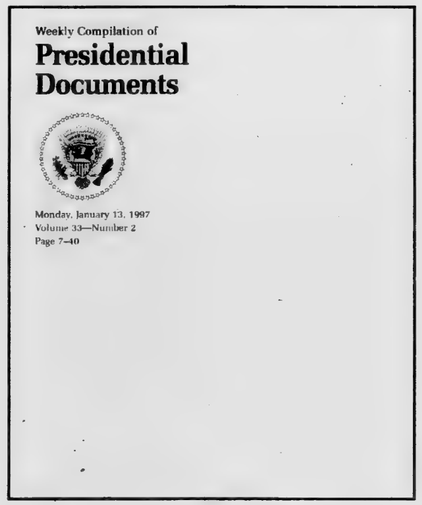

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 02–04]

RIN 1557–AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–1085]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AC17

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[No. 2002–5]

RIN 1550–AB11

Risk-Based Capital Standards: Claims on Securities Firms

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury (OTS).

ACTION: Final rule; correction.

SUMMARY: On April 9, 2002, the OCC, Board, FDIC, and OTS (collectively, the Agencies) published a final rule in the **Federal Register**. The final rule amended the Agencies' risk-based capital standards for banks, bank holding companies, and savings associations (collectively, institutions or banking organizations) with regard to the risk weighting of claims on, and claims guaranteed by, qualifying securities firms. This document clarifies the effective date of the rule, corrects errors made in the Supplementary Information section and in the Board's Regulation Y, and makes technical changes to the footnote numbers in the instructions to and text of the FDIC's Part 325.

DATES: The corrections made in this document are effective July 1, 2002 (*i.e.*, the effective date of the final rule), but institutions may elect to apply the final rule before that date consistent with the discussion in the Supplementary Information section below.

FOR FURTHER INFORMATION CONTACT: *OCC:* Margot Schwadron, Risk Expert (202/874–5070), Capital Policy Division; or Ron Shimabukuro, Counsel (202/874–5090), Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Norah Barger, Deputy Associate Director (202/452–2402), Barbara Bouchard, Assistant Director (202/452–3072), or John F. Connolly, Supervisory Financial Analyst (202/452–3621), Division of Banking Supervision and Regulation; or Mark E. Van Der Weide, Counsel (202/452–2263), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. For users of Telecommunications Device for the Deaf ("TDD") only, contact 202/263–4869.

FDIC: For supervisory issues, Stephen G. Pfeifer, Examination Specialist (202/898–8904), Accounting Section, Division of Supervision; for legal issues, Leslie Sallberg, Counsel, (202/898–8876), Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: David W. Riley, Project Manager, (202/906–6669), Supervision Policy; Teresa A. Scott, Counsel, Banking and Finance (202/906–6478), Regulations and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION: This document clarifies the effective date of the rule and corrects errors in the joint final rule published in the **Federal Register** by the Agencies on April 9, 2002 (67 FR 16971). The language regarding voluntary early application of the final rule is clarified in the **DATES** section. In addition, the phrase "or guaranteed by" is removed from one sentence in the Supplementary Information section. This same deletion is made from one sentence in the Board's Regulation Y amendment (12 CFR 225, Appendix A, III.C.2.d.) and a conforming edit is made in the same sentence. These deletions eliminate an inconsistency in the Supplementary Information section and in the Agencies' final rules. Additionally, a paragraph inadvertently duplicated in the Board's Regulation Y (12 CFR part 225, Appendix A, Attachment III, *Category 2: 20 Percent*) is removed. This document also revises references to certain footnote numbers in the **Federal Register** instructions to and text of the Federal Deposit Insurance Corporation's revisions to its regulatory capital rules (12 CFR part 325, Appendix A).

In the final rule FR Doc. 02–8142, published on April 9, 2002, (67 FR 16971) make the following corrections:

1. In the **DATES** section on page 16971, in the third column, revise the second sentence to read "The Agencies will not object if an institution wishes to apply the provisions of this final rule beginning with its March or June 2002 regulatory reports to the Agencies."

2. In the **SUPPLEMENTARY INFORMATION** section on page 16975, in the third complete sentence in the second column, remove the phrase ", or guaranteed by," after the phrase "a collateralized claim on".

Appendix A to Part 225 [Corrected]

3. On page 16978, in the first column, correct the third sentence of Section III.C.2.d. by removing the phrase "collateralized claims" and substituting the phrase "a collateralized claim" and by removing the phrase ", or guaranteed by," after the phrase "collateralized claims on".

4. On page 16978, at the top of the third column, remove paragraph 4.

Appendix A to Part 325—Statement of Policy on Risk-Based Capital [Corrected]

5. On page 16978, in the third column, correct amendatory instruction 2.b. by removing "Redesignate footnotes 27 through 47 as footnotes 30 through 50" and substituting "Redesignate footnotes 31 through 47 as footnotes 34 through 50."

6. On page 16978, in the third column, correct amendatory instruction 2.c. by removing "Add new footnotes 27 through 29" and substituting "Add new footnotes 31 through 33."

7. On page 16979, in the first column, under Category 2—20 Percent Risk Weight, remove the references to footnotes 27 and 28 in the rule text and footnotes and replace them with references to footnotes 31 and 32, respectively.

8. On page 16979, in the second column, under Category 2—20 Percent Risk Weight, remove the references to footnote 29 in the rule text and footnotes and replace them with references to footnote 33.

Dated: May 3, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, May 3, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 1st day of May, 2002.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: May 8, 2002.

By the Office of Thrift Supervision

Richard M. Riccobono,

Deputy Director.

[FR Doc. 02–12363 Filed 5–16–02; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 7

[Docket No. 02–07]

RIN 1557–AB76

Electronic Activities

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations in order to facilitate national banks' ability to conduct business using electronic technologies, consistent with safety and soundness. This final rule groups together new and revised regulations addressing: national banks' exercise of their Federally authorized powers through electronic means; the location, for purposes of the Federal banking laws, of a national bank that engages in activities through electronic means; and the disclosures required when a national bank provides its customers with access to other service providers through hyperlinks in the bank's website or other shared electronic "space."

EFFECTIVE DATE: Section 7.5010 shall take effect on July 1, 2002. All other sections of this final rule shall take effect on June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities, (202) 874–5090; James Gillespie, Assistant Chief Counsel, (202) 874–5200; or Clifford Wilke, Director, Bank Technology, (202) 874–5920.

SUPPLEMENTARY INFORMATION: On July 2, 2001, the OCC published a notice of proposed rulemaking (NPRM) in the **Federal Register** requesting comments on a proposal to update our regulations to reflect national banks' use of new technologies and to provide simpler, clearer guidance to national banks engaging in electronic activities.[1] The proposal codified several positions that the OCC has taken previously in published interpretive letters to national banks. The proposal also created a new subpart E to part 7 of the OCC's regulations to house these and other OCC provisions related to the conduct of national bank activities through electronic means.[2]

Our proposal was the result of a focused review of our regulations with the goal of revising them in ways that would facilitate national banks' use of technology, consistent with safety and soundness. We initiated this review by publishing an advance notice of proposed rulemaking (ANPR).[3] We developed the proposed rule, in large part, on the comments received on this ANPR.

Description of Proposal, Comments Received, and Final Rule

The OCC received 22 comment letters on the proposal.[4] These comments include 10 from national banks, bank subsidiaries, and bank holding companies; 5 from financial services trade associations; 4 from credit card banks or lenders; 1 from a State regulatory group; and 2 from other interested parties. The majority of commenters supported adoption of an electronic banking regulation in the form we proposed.

Some commenters, however, suggested modifications or articulated concerns with certain aspects of this proposal. In light of these comments, we have modified certain provisions of the proposed rule. The most significant comments, and our responses, are discussed in the following section-by-section analysis. As in the preamble to the proposal, this section-by-section description is divided into three categories: national bank powers; "location" with respect to the conduct of electronic activities; and, safety and soundness requirements for shared electronic "space."

A. National Bank Powers

1. National Bank Finder Authority (Revised § 7.1002)

As we described in the proposal, the OCC has long permitted a national bank to act as a finder to bring together buyers and sellers of financial and non-financial products and services. Under our current rules, a national bank acting as a finder may identify potential parties, make inquiries as to interest, introduce or arrange meetings of interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate.[5] Recently, national banks have used the finder authority to engage in new activities made possible by technological developments, especially the Internet.[6]

[1] 66 FR 34855 (July 2, 2001).

[2] The OCC notes that it has established a website that contains information relating to electronic banking activities. *See http://www.occ.treas.gov/netbank/netbank.htm.* This site includes a listing of opinions, approval letters, supervisory guidance, and other issuances on this subject and provides links to many of the documents listed in this preamble.

[3] 65 FR 4895 (Feb. 2, 2000).

[4] The OCC received four other letters commenting on a study of banking regulations regarding the online delivery of financial services conducted by the Federal banking agencies pursuant to section 729 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, 113 Stat. 1338, 1476 (Nov. 12, 1999) ("GLBA"), *codified at* 12 U.S.C. 4801.

[5] *See* 12 CFR 7.1002.

[6] *See* OCC Conditional Approval No. 369 (Feb. 25, 2000) (national bank may host a virtual mall consisting of a web page with links to third-party merchants arranged according to product or service offered; OCC Interpretive Letter No. 875, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–369 (Oct. 31, 1999) (the components of Internet services package that involve hosting of commercial web sites, registering merchants with search engines and obtaining URLs, and electronic storage and retrieval of the data set for a merchant's on-line catalog are permissible finders activities authorized for national banks pursuant to 12 U.S.C. 24(Seventh)); OCC Conditional Approval No. 221 (Dec. 4, 1996) (national banks, in the exercise of their finder authority, may establish hyperlinks between their home pages and the Internet pages of third-party providers so that bank customers will be able to access those non-bank web sites from the bank site); Letter from Julie L. Williams, Chief Counsel (Oct. 2, 1996) (unpublished) (national bank as finder may use electronic means to facilitate contacts between third-party providers and potential buyers); OCC Interpretive Letter No. 611, *reprinted* in [1992–1993 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,449 (Nov. 23, 1992) (national bank linking non-bank service providers to its communications platform of smart phone banking services is within its authority as a finder "in bringing together a buyer and seller;" national banks may act as finders by providing to their customers links to non-banking, third-party vendors' Internet web sites); OCC Interpretive Letter No. 516, *reprinted* in [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,220 (July 12, 1990) (national banks as finder may provide electronic communications channels for persons participating in securities transactions).

Section 7.1002 of the OCC's rules addresses national banks' finder authority. The proposal sought comment on several changes to that provision. First, the proposal stated that it is part of the business of banking for a national bank to engage in finder activities, codifying the position the OCC has taken in various interpretive letters.[7]

Second, the proposal added a number of specific examples illustrating the range of finder activities the OCC has authorized to date. The preamble to the proposal made clear that this list was illustrative and not exclusive, and that the OCC may find new activities to be authorized under the finder authority that are not specifically enumerated in the regulation.

Finally, the proposed rule modified the statement in the current rule that the authority to act as a finder does not enable a national bank to engage in activities that would characterize the bank as a broker under Federal law that are not otherwise permissible for national banks.[8] We proposed this modification because the concept of what constitutes acting as a broker is changing in response to technology and is expanding for purposes of some regulatory requirements that are unrelated to the authority of national banks to conduct the activity.[9] As we said in the proposal, however, this modification does not affect whether activities regulated as brokerage under State law are permissible for a national bank.

We received a number of comments on proposed § 7.1002. Some of these comments urged the OCC to include additional activities in the illustrative list of those permissible for a national bank acting as finder. For example, one commenter requested that the OCC authorize national banks, acting as finders, to participate in negotiations, negotiate on behalf of parties to a transaction, and bind parties to a transaction so long as the bank itself is not a party and obligated as a principal. Another commenter requested that the OCC endorse a broad role of banks as electronic agents.

After carefully reviewing these comments, we have declined to make changes to the extent suggested.[10] Rather, we will consider these, and similar expanded types of finder activities, on a case-by-case basis for the time being.

We have, however, modified the proposal to clarify certain other aspects of the finder authority that do not cause a national bank to be a participant in the transaction. Thus, the final rule provides that a national bank may act as an intermediary between interested parties and establish rules of general applicability governing the use and operation of the finder service.

In response to a commenter's suggestion, we have also changed the reference "buyers and sellers" in § 7.1002 to "interested parties to a transaction" so that the rule recognizes that national banks can bring together different types of parties to a transaction in addition to buyers and sellers. This commenter noted in particular that in the Internet environment, there may be many parties to a transaction beyond the buyer and seller, such as service providers, consultants, software developers, and regulatory authorities. We agree with this observation. We also note that the definition of buyers and sellers includes analogous parties, such as lessors and lessees. In addition, as the scope of permissible finder activities is not dependent on the nature of goods or services sold, national banks can act as finder with respect to non-financial products and services.[11] We also have removed the word "service" in § 7.1002 to clarify that national banks acting as a finder may make communications concerning a third party's provision of both products and services.

The preamble to the proposed rule stated that the examples of permissible national bank finder activities were illustrative and not exclusive, and that the OCC may find new activities to be authorized under the finder authority that are not included in the examples. A number of commenters requested that we amend the regulatory text itself to state that these examples are not exhaustive. We agree that making this statement in the text of the regulation itself will remove any ambiguity on this point. Therefore, the final rule includes language indicating that permissible finder activities are not limited to those listed as examples in the regulation.

2. Electronic Banking B—Scope (new Subpart E and § 7.5000)

The proposal created a new Subpart E of part 7, so that regulations pertaining to electronic activities would appear in one place. Proposed § 7.5000 described the purpose of Subpart E, which addresses national banks' use of electronic technology to deliver products and services, consistent with safety and soundness. To more accurately reflect the content of this section, we have changed the title of § 7.5000 in the final rule from "Scope" to "Purpose of subpart E."

The majority of commenters supported the creation of a new, separate subpart for electronic banking-related provisions. Although one commenter suggested a regrouping of the provisions in new subpart E, we believe that the organization of the subpart as proposed presents the subject

[7] *See, e.g.*, OCC Interpretive Letter No. 824, *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,273 (Feb. 27, 1998) (determining, in the context of insurance activities, that the "finder function is an activity authorized for national banks under 12 U.S.C. 24(Seventh) as part of the business of banking."). The OCC makes this determination pursuant to its authority under section 24(Seventh) to authorize activities as part of the business of banking. *NationsBank of North Carolina* v. *Variable Annuity Life Insurance Co.*, 513 U.S. 251, 258 n.2 (1995) (VALIC) ("We expressly hold that the "business of banking" is not limited to the enumerated powers in [section] 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated."). In VALIC, the Court noted that the Comptroller's exercise of discretion is subject to a reasonableness standard. *Id.* It is clear that our determination that finder activities are part of the business of banking satisfies this standard. *See Norwest Bank Minnesota, N.A.* v. *Sween Corp.*, 118 F.3d 1255, 1260 (8th Cir. 1997) (determining that finder activities were authorized for a national bank because "allowing banks to use their expertise as an intermediary effectuating transactions between parties facilitates the flow of money and credit through the economy."). The *Sween* court did not distinguish between activities that are "part of" the business of banking and those that are "incidental to" that business, relying, instead, on the pre-VALIC formulation of the analysis as whether an activity is "closely related to an express power and is useful in carrying out the business of banking." *Id.* at 1260 (quoting *First Nat. Bank of Eastern Arkansas* v. *Taylor*, 907 F.2d 775, 778 (8th Cir. 1990)). The court's conclusions are nonetheless clear that finder activities are authorized pursuant to 12 U.S.C. 24(Seventh) and that the Comptroller's determination to that effect, embodied in the OCC's regulations, was a reasonable construction of the statute.

[8] The prior rule contained the express statement that acting as a finder does not include activities that would characterize the bank as a broker under applicable Federal law.

[9] *See, e.g.*, "SEC Redefines What Triggers B/D Registration," VII *Compliance Rep.* 1 (Apr. 10, 2000); and "On-line Brokerage: Keeping Apace of Cyberspace," Report of Laura S. Unger, Commissioner, U.S. Securities and Exchange Commission 98–106 (Nov. 1999).

[10] We note, however, a bank may accept an offer without first communicating the offer to the actual party to the transaction if that party has given direction to the bank to accept offers that meet pre-determined criteria. In that case, the bank is communicating offers and acceptances because it has been directed to make an acceptance by its client.

[11] *See* OCC Corporate Decision No. 97–60 (July 1, 1997).

matter clearly and concisely. Therefore, we have not altered the arrangement of new Subpart E in the final rule.

3. Electronic Banking Activities That Are Part of, or Incidental to, the Business of Banking (§ 7.5001)

In response to new technologies and evolving financial markets, national banks are continually developing new electronically-based activities and products. Proposed § 7.5001 was designed to assist banks that are contemplating these new electronic activities and products by identifying the factors the OCC uses to determine whether such an activity or product is part of, or incidental to, the business of banking, pursuant to 12 U.S.C. 24(Seventh).

In general, commenters supported the approach taken by this section. However, a few commenters noted specific issues with the section as drafted. These issues are discussed below.

Purpose. Proposed § 7.5001(a) provided the purpose of the new section and described the general parameters of national banks' ability to engage in electronic activities.[12] It expressly set out the OCC's authority to impose conditions on the exercise of newly authorized activities if necessary to ensure that the activities are conducted safely and soundly and in accordance with applicable law and supervisory policies. We received no comments on this portion of proposed § 7.5001(a), and therefore have adopted it, with changes to improve clarity.

Proposed § 7.5001(a) also stated that State law applies to a national bank's conduct of electronic activities to the extent such law would apply if the activity were conducted by the bank through traditional means. A few commenters suggested modifications to this statement. However, because § 7.5002 of the proposed rule contains the same applicability of State law provision, we have deleted this provision in § 7.5001 as redundant and unnecessary. These comments, therefore, are described in the discussion of § 7.5002, below.

Activities that are part of the business of banking. Proposed § 7.5001(b) provided that an electronic activity is authorized for national banks as part of the business of banking if the activity is permitted under 12 U.S.C. 24(Seventh) or other statutory authority applicable to national banks, or otherwise constitutes part of the business of banking. The proposal set forth four factors the OCC considers in determining whether an electronic activity is part of the business of banking.[13]

The first factor is whether the electronic activity is functionally equivalent to, or a logical outgrowth of, a recognized banking activity. As indicated in the preamble to the proposed rule, this factor is based on judicial precedents approving activities that traditionally have been performed by banks, that are functionally similar to recognized banking activities, or that represent advances in recognized banking practices.[14] We received no comments objecting to, or requesting modifications of, this factor. Therefore, we are adopting this factor as proposed.

The second factor in proposed § 7.5001(b) is whether the proposed activity strengthens the bank by benefiting its customers or its business. Courts have long recognized that national banks' ability to serve the needs of their customers by offering appropriate products and services is crucial to their capability to compete successfully. Courts have also approved many activities on the basis that they benefit a bank's customers or the bank's business itself.[15] Examples of the types of activities the OCC would look to include those where the activity increases service, convenience, or options for bank customers or lowers the cost to banks of providing a product or service. We also received no comments objecting to, or requesting modifications of, this factor. The final rule therefore adopts this factor as proposed.

The third factor in proposed § 7.5001(b) is whether the activity presents the types of risk that banks are experienced in managing. One commenter requested that the OCC change this factor instead to whether the activity "involves risk that can be sufficiently assessed and managed by the bank." This suggested modification appears substantially identical to the proposal in practical effect. Since we have utilized the proposed factor—whether the activity presents the types of risks that banks are experienced in managing—in interpretive letters issued prior to this proposal,[16] we have decided to adopt the third factor as proposed.

Finally, the fourth proposed factor recognized the relevance of State law in the analysis the OCC conducts when it receives requests regarding the permissibility of new electronic activities for national banks. Since the statutory reference to the "business of banking" does not imply that there are two distinct businesses of banking—one for Federally-chartered and another for State-chartered banks—activities that are recognized as permissible for State banks are at least a relevant factor in determining whether an electronic activity is part of the business of banking.[17] We received no comments or requests for modification on this factor. The final rule clarifies that the activities encompassed by this factor include activities authorized for a State-chartered bank expressly by State law or otherwise.

The preamble to the proposed rule stated that a proposed activity does not necessarily have to satisfy all of these four factors in order to be permissible. One or more of these factors may be sufficient, depending on the specific facts and circumstances presented. One commenter requested that, in addition to the preamble, the regulatory text include the statement that an activity does not need to meet all of the listed factors to be permissible. In response,

[12] Paragraph (a) of § 7.5001 of the proposed rule has been recodified as paragraphs (a) and (b) of § 7.5001 in the final rule.

[13] The final rule recodifies these factors as § 7.5001(c)(1).

[14] *See, e.g., M & M Leasing Corp.* v. *Seattle First Nat'l Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978) (national bank leasing of personal property permissible because it was functionally interchangeable with loaning money on personal security and therefore incidental to the express power of loaning money on personal security); and *VALIC*, 513 U.S. at 259–60 (national bank annuity sales are permissible because they are functionally similar to other financial investment products banks have long been authorized to sell).

[15] *See Merchants' Bank* v. *State Bank*, 77 U.S. (10 Wall.) 604, 648 (1870) ("The practice of certifying checks has grown out of the business needs of the country."). *See also Clement National Bank* v. *Vermont*, 231 U.S. 120, 140 (1913) ("the bank should be free to make * * * reasonable [depositors'] agreements, and thus promote the convenience of its business. * * *").

[16] *See Merchants' Bank*, 77 U.S. at 648 ("A bank incurs no greater risk in certifying a check than in giving a certificate of deposit."); *M & M Leasing*, 563 F.2d at 1383 (leasing personal property functionally equivalent to secured lending because the risks to the bank of such leasing were essentially the same as if the bank had made secured loans to buyers of the same property). *See also* Decision of the Comptroller of the Currency on the Operating Subsidiary Application by Zions First National Bank, Salt Lake City, Utah, OCC Conditional Approval No. 267, *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,256 (Jan. 12, 1998) at 13 (acting as a certification authority involves core competencies of national banks and thus entails risks similar to those that banks are already expert in handling).

[17] The U.S. Supreme Court has relied upon the permissibility of an activity for State banks as a factor in the analysis of permissible national bank powers. *See Colorado Nat'l Bank* v. *Bedford*, 310 U.S. 41 (1940), in which the Court, concluding that national banks had the authority to conduct a safe-deposit business, stated that "State banks, quite usually, are given the power to conduct a safe-deposit business. We agree with the appellant bank that such a generally adopted method of safeguarding valuables must be considered a banking function authorized by Congress." *Id.* at 49–50.

we have added a statement explaining that the weight given a particular factor depends on the facts and circumstances.

Finally, we have modified the first sentence of proposed § 7.5001(b) by deleting the phrase "or is otherwise part of the business of banking." That phrase is unnecessary in light of the statement elsewhere in this subsection that an activity is authorized for national banks as part of the business of banking if the activity is described in section 24 (Seventh).

Electronic activities that are incidental to the business of banking. Consistent with judicial precedent,[18] proposed § 7.5001(c) provided that an activity is incidental to the business of banking if it is convenient or useful to an activity that is specifically authorized for national banks or to an activity that is otherwise part of the business of banking. Relying on these same precedents, proposed § 7.5001(c) distilled and set forth in two factors the elements the OCC considers in determining whether an activity is convenient or useful to the business of banking.[19]

The first factor is whether the activity facilitates the production or delivery of a bank's products or services, enhances the bank's ability to sell or market its products or services, or improves the effectiveness or efficiency of the bank's operations in light of risks presented, innovations, strategies, techniques, and new technologies for producing financial products and services. In applying this factor, the OCC has determined that the provision of certain electronic products and services is permissible, as incidental to the business of banking, when needed to package successfully or promote other banking services.[20] We also have recognized a category of incidental activities based on the operation of the bank itself as a business concern. Banking activities that fall in this category may include hiring employees, issuing stock to raise capital, owning or renting equipment, borrowing money for operations, purchasing the assets and assuming the liabilities of other financial institutions, and operating through optimal corporate structures, such as subsidiary corporations or joint ventures. Various Federal statutes have implicitly recognized national banks' authority to perform the activities necessary to conduct their business.[21] In each case, the statutes presume the existence of corporate power to conduct the bank's business under 12 U.S.C. 24(Seventh).

We noted in the preamble to the proposed rule that the authority of banks to deliver and sell products and services or improve the effectiveness of their operations must be viewed in light of innovations, strategies, techniques and new technologies for marketing financial products and services. These grants of power must be given a broad and flexible interpretation to allow national banks to utilize modern methods and meet modern needs.[22] The proposal noted that market and technological changes that will affect the banking industry will shape the OCC's future determinations of whether an activity is incidental to the business of banking.

The second factor listed in proposed § 7.5001(c) is whether the activity enables the bank to profitably use capacity acquired for its banking operations or otherwise avoid economic waste or loss. For example, it is well settled that a nonbanking activity can be incidental when it enables a bank to realize gain or avoid loss from activities that are part of, or necessary to, its banking business. Federal statutes and case law also recognize national banks' need to optimize the value of bank property by authorizing banks to sell excess space or capacity in that property.[23] Section 7.5004, which pertains to excess capacity, is a specific application of this general principle in the electronic context.

We received no specific comments on these factors and have therefore retained them both in the final rule. We have, however, modified the second factor by removing the word "profitably" to conform this factor to the excess capacity doctrine set forth in § 7.5004.

As with determinations regarding whether an activity is part of the business of banking, specific facts may implicate one or both of these factors, and the activity need not satisfy each factor to be permissible as incidental to that business. At the request of a commenter, the OCC has added a clarification of this point, in § 7.5001(d)(2) of the final rule.

Two commenters discussed the effect of this new § 7.5001 on the application process the OCC uses to determine whether national banks and their operating subsidiaries may engage in new activities, set forth in 12 CFR part 5. One commenter requested more specificity on the use of the factors relevant to determining whether an activity is incidental to banking and asked that the OCC clarify whether it expects banks to include these factors in applications to offer new electronic services. This commenter also asked whether the OCC intends to alter or streamline this application process in light of the factors listed in § 7.5001.

We do not believe that substantive changes to the application process in part 5 are necessary at this time based on this codification of the factors the OCC examines when determining whether an activity is authorized pursuant to 12 U.S.C. 24(Seventh). These factors are derived from OCC opinion letters, which explain them in sufficient detail that additional guidance is not needed in the rule. A bank that wishes us to consider whether a proposed activity is permissible pursuant to 12 U.S.C. 24(Seventh) should describe in its filing how its proposed activity meets one or more of these factors. If it subsequently appears that technical changes to the application

[18] *See Arnold Tours, Inc.* v. *Camp*, 472 F.2d 427, 432 (1st Cir. 1972), which held that a national bank's activity is authorized as an incidental power if "it is convenient or useful in connection with the performance of one of the bank's established activities pursuant to [the five] express powers" enumerated in 12 U.S.C. 24(Seventh); *Franklin Nat. Bank* v. *New York*, 347 U.S. 373 (1954); *Wyman* v. *Wallace*, 201 U.S. 230 (1906); and *First Nat'l Bank of Charlotte* v. *National Exch. Bank of Baltimore*, 92 U.S. 122 (1875).

[19] The final rule recodifies these factors as § 7.5001(d)(1).

[20] *See* OCC Interpretive Letter No. 754, *reprinted in* [1996–97 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–118 (Nov. 6, 1996) (national bank operating subsidiary may sell general purpose computer hardware to other financial institutions as part of larger product or service when necessary, convenient, or useful to bank permissible activities).

[21] For example, Federal laws refer to limits on persons who can serve as bank employees, to the permissible disposition of bank stock, and to the existence of bank subsidiaries. *See, e.g.*, 12 U.S.C. 78 (defining persons ineligible to be bank employees); 12 U.S.C. 83 (limiting national bank's purchase of its own stock); 12 U.S.C. 24(Seventh) (limiting presupposed authority of national bank to own a subsidiary engaged in the safe deposit business; 12 U.S.C. 371d (1994) (defining "affiliates" to include subsidiaries owned by national banks); GLBA section 121 (defining "financial subsidiary" as a subsidiary "other than" a subsidiary that conducts bank-permissible activities under the same terms and conditions that apply to the parent bank or a subsidiary expressly authorized by Federal statute).

[22] In *VALIC*, the Supreme Court recognized that the concepts of the "business of banking" and of activities "incidental" to that business must be sufficiently flexible to accommodate the constant evolution of banking services. *See VALIC*, 513 U.S. at 259–260. *See also M & M Leasing*, 563 F.2d at 1382 (noting that "commentators uniformly have recognized that the National Bank Act did not freeze the practices of national banks in their nineteenth century forms. * * * [W]e believe the powers of national banks must be construed so as to permit the use of new ways of conducting the very old business of banking.").

[23] *See* 12 U.S.C. 24 (Seventh) and 29; *Perth Amboy National Bank* v. *Brodsky*, 207 F. Supp. 785, 788 (S.D.N.Y. 1962) ("It is clear beyond cavil that the statute [12 U.S.C. 29] permits a national bank to lease or construct a building, in good faith, for banking purposes, even though it intends to occupy only a part thereof and to rent out a large part of the building to others.").

or notice process are desirable, we will initiate a separate rulemaking proposing those changes.

Another commenter suggested that the OCC establish an "optional, expedited notice procedure for new activities as a way of enabling banks to bring products to market quickly within the umbrella of OCC deference." We believe, however, that the OCC's current processes are sufficiently flexible to allow national banks to offer new electronic products and services expeditiously, consistent with safety and soundness considerations. In general, national banks are not required to notify or obtain OCC approval to engage in permissible activities within the bank. In addition, national banks may already offer many permissible electronic products or services through an operating or financial subsidiary without filing a notice or application with the OCC. (For new activities to be performed in an operating or financial subsidiary, the after-the-fact notice or application provisions of 12 CFR part 5 apply.) As indicated in the discussion above, the factors set forth in §7.5001 will assist banks in their determination as to whether a new activity is permissible. A bank that is uncertain about the permissibility of a new activity may request an interpretive opinion from the OCC.

4. Furnishing of Products or Services by Electronic Means and Facilities (§ 7.5002)

The OCC's rules currently provide that a national bank may perform, provide, or deliver through electronic means and facilities any function, product, or service that it is otherwise authorized to perform, provide or deliver.[24] This so-called "transparency doctrine" is a key provision for national banks engaging in electronic activities because it calls for the OCC to look through the means by which the product is delivered and focus instead on the authority of the national bank to offer the underlying product or service.

We have relied on this transparency doctrine to approve a number of technology-based activities, such as web site hosting and the operation of a "virtual mall," that are otherwise permissible under a national bank's finder authority. Similarly, we have approved electronic bill presentment activities because billing and collecting services are permissible for national banks.[25]

The proposal moved the transparency rule to § 7.5002 of new subpart E and expanded it to include examples of activities the OCC has found to be permissible. These changes were proposed in order to provide clearer guidance to national banks that wish to engage in new electronic activities.

One commenter requested that we clarify that these examples in § 7.5001 are not exclusive, and that we would consider the authorization of new activities under the transparency doctrine that may not be illustrated through the examples provided. The commenter's suggestion is consistent with the purpose of the provision, and the final rule clarifies that these examples are illustrative, not exclusive.

Other commenters requested that we expand the list of examples in the text of § 7.5002 to include other specific activities. One suggested that this list include the provision of communications services relating to all aspects of transactions between buyers and sellers. This facilitation of communication between interested parties is an inherent part of a bank's finder activities, and therefore may be conducted electronically.[26] We have therefore amended the regulatory text to include this activity in the list of examples of permissible electronic activities based on the transparency doctrine.

Other commenters suggested adding a number of specific activities that the OCC has not yet approved as permissible for national banks. We have not adopted these suggestions. Our experience is that decisions about the permissibility of new electronic activities are best made in the context of specific tests and circumstances that enable us to consider the practical and supervisory effects of, as well as the legal basis for, the determination. We will accordingly continue our practice of case-by-case review, followed by codification of key precedents, as appropriate, from time to time. As noted previously, this codification does not serve to limit the activities that may be found to be permissible, and we will continue to review new activities on a case-by-case basis.

Consistent with the principle that it is the substance of an activity—and not its electronic form—that is key to the determination of whether it is permissible, the final rule provides that when a national bank engages in an electronic activity based on the transparency doctrine, the electronic activity will not be exempt from the regulatory requirements and supervisory guidance, including those prescribed by OCC regulations or contained in other OCC issuances, that would apply if the activity were conducted by non-electronic means or facilities. This new provision clarifies that national bank activities will continue to be governed by OCC regulatory requirements and supervisory guidance regardless of whether that activity is conducted electronically or by traditional means.

A few commenters suggested modifications in the provision addressing the applicability of State law that appeared at proposed § 7.5002(b), as well as at proposed § 7.5001(a), both provisions being very similar in substance and in wording. One commenter asked that the OCC expressly preempt State laws that purport to regulate activities conducted by electronic means. Another stated that the OCC should require a national bank to comply only with the laws of the jurisdiction from which its electronic products or services are offered. A third commenter asked that we specifically clarify that other preemption rules in Federal law also apply to the electronic banking activities of national banks, such as the preemption rules set forth in the Electronic Signatures in Global and National Commerce Act (E-Sign).[27]

The final rule contains only one provision on the applicability of State law, now located at § 7.5002(c). This provision has been modified to address certain of the concerns the commenters have raised by clarifying the scope of preemption described in the rule, and to reflect developments in the law pertaining to electronic commerce.

In general, the application of State law to activities conducted by national banks through electronic means presents issues of preemption that are determined under traditional principles of Federal preemption derived from the Supremacy Clause of the United States Constitution[28] and applicable judicial precedent. The OCC's rules—currently and as amended by this final rule—

[24] *See* 12 CFR 7.1019.

[25] *See* OCC Conditional Approval No. 369 (Feb. 25, 2000) (national bank may host a virtual mall consisting of a web page with links to third-party merchants arranged according to product or service offered); OCC Conditional Approval No. 304 (Mar. 5, 1999) (electronic bill presentment is part of the business of banking). *See also* OCC Conditional Approval No. 220 (Dec. 2, 1996) (the creation, sale, and redemption of electronic stored value in exchange for dollars is part of the business of banking because it is the electronic equivalent of issuing circulating notes or other paper-based payment devices like travelers checks); OCC Conditional Approval No. 267, *supra* note 16 (a national bank may store electronic encryption keys as an expression of the established safekeeping function of banks).

[26] *See* Letter from Elizabeth H. Corey, Attorney (May 18, 1989) (unpublished); Letter from John M. Miller, Acting Deputy Chief Counsel (July 26, 1977) (unpublished).

[27] Pub. L. 106–229, 114 Stat. 464 (June 30, 2000).

[28] U.S. Const. art. VI, cl. 2.

provide that a national bank may conduct by electronic means any function or activity that it is otherwise authorized to conduct. The resolution of any issue about the applicability of State law to an activity that a national bank conducts electronically is, accordingly, governed by the preemption principles that would apply to activities conducted by traditional means.

However, when the activity is being conducted by electronic means, and thus is potentially geographically boundless, a consideration unique to the purpose and characteristics of the national bank charter becomes an element of this preemption analysis. Through the national bank charter, Congress established a banking system intended to be nationwide in scope, and authorized the creation of national banks, whose powers were intended to be uniform, as established by Federal law, regardless of where in the nation they conducted their business. As the Supreme Court has said:

> National banks are instrumentalities of the federal government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt by a state to define their duties, or control the conduct of their affairs is absolutely void, wherever such attempted exercise of authority expressly conflicts with the laws of the United States, and either frustrates the purpose of the national legislation, or impairs the efficiency of these agencies of the federal government to discharge the duties for the performance of which they were created.[29]

This freedom from State control over a national bank's powers protects national banks from conflicting local laws unrelated to the purpose of providing the uniform, nationwide banking system that Congress intended. And, as the Supreme Court also recognized, Congress was concerned not just with the application of certain States' laws to individual national banks, but also with the application of *multiple* States' standards which would undermine the uniform, national character of the powers of national banks throughout the system. This point was made clearly by the Supreme Court in *Easton* v. *Iowa*, 188 U.S. 220 (1903):

> That legislation [*i.e.*, legislation creating and regulating national banks] has in view the erection of a system extending throughout the country, and independent, so far as the powers conferred are concerned, of state legislation which, if permitted to be applicable, might impose limitations and restrictions as various and as numerous as the states. * * * [W]e are unable to perceive that Congress intended to leave the field open for the states to attempt to promote the welfare and stability of national banks by direct legislation. If they had such power it would have to be exercised and limited by their own discretion, *and confusion would necessarily result from control possessed and exercised by two independent authorities.*[30]

Thus, in analyzing the potential for State laws to be applicable to activities conducted by national banks via electronic means, it is also necessary to recognize in the preemption analysis that application of a multiplicity of State requirements in itself is an important factor in the analysis. Particularly where an activity is conducted via electronic means and is potentially accessible to a customer without any necessary connection to where the customer is physically located, application of multiple State law standards to that particular activity conflicts with the uniformity of standards under which national banks were designed to operate. The final rule's provision on the applicability of State law accordingly provides that the applicability of State law to a national bank's conduct of its authorized activities through electronic means and facilities is governed by traditional principles of Federal preemption derived from the Supremacy Clause, and that, therefore, a State law would not be applicable to such activities if the State law stands as an obstacle to the achievement of a Federal objective, namely, the ability of national banks to exercise uniformly their Federally authorized powers—in this case, through electronic means or facilities.[31]

The phrase "stands as an obstacle" was used by the Supreme Court in *Barnett Bank of Marion County* v. *Nelson*[32] as one of several formulations reflecting the standard for determining whether a State law is preempted, and we intend the use of this phrase to reflect the full dimensions of the Court's reasoning in that case. Notably, in *Barnett*, the Supreme Court cited *National Bank* v. *Commonwealth*,[33] a case decided very shortly after the establishment of the national banking system. In that decision, the Court held that the State law in question was not preempted because it did *not* "interfere with, or impair [national banks'] efficiency in performing the functions for which they are designed * * *."[34] This language was echoed 26 years later in the Court's decision in *Davis* v. *Elmira Savings Bank*, where the Court expressly recognized that State law may not "frustrate the purpose" of the "national legislation" creating the national banking system or "impair the efficiency" with which national banks function as the components of a uniform, nationwide banking system.[35] Clearly, the application of a multiplicity of State-based standards, each potentially altering—in different ways—the extent and manner in which a national bank may exercise any particular Federally authorized power through electronic means, would stand as an obstacle to achievement of the Federal objective, namely, a uniform, nationwide banking system,[36] and "interfere with" and "impair" the efficiency with which national banks are able to perform activities authorized under Federal law[37] through electronic means and facilities. The final rule contains revisions to appropriately reflect these considerations in determining the applicability of State law.

5. Composite Authority to Engage in Electronic Banking Activities (§ 7.5003)

We noted in the preamble to proposed § 7.5003 that some electronic banking activities that appear novel may actually be merely a collection of interrelated activities, each of which is permissible under well-settled authority. Thus, to clarify national banks' authority to conduct this type of composite activity, we proposed to adopt a new § 7.5003, which provides that an electronic

[29] *Davis* v. *Elmira Savings Bank*, 161 U.S. 275, 283 (1896). *See also Marquette Nat. Bank of Minneapolis* v. *First of Omaha Serv. Corp.*, 439 U.S. 299, 314–315 (1978); *First Nat. Bank of San Jose* v. *California*, 262 U.S. 366, 369 (1923) ("[A]ny attempt by a state to define (national banks') duties or control the conduct of their affairs is void, whenever it conflicts with the laws of the United States or frustrates the purposes of the national legislation, or impairs the efficiency of the bank to discharge the duties for which it was created.").

[30] *Easton*, 188 U.S. at 229, 231–232 (emphasis added).

[31] Of course, in some instances, Federal law will specify that national banks are to look to State law standards to determine the extent of their power to conduct certain activities (*e.g.*, establishment of intrastate branches, scope of fiduciary powers) or the manner in which a particular power may be exercised (*e.g.*, insurance).

[32] 517 U.S. 25 (1996).

[33] 76 U.S. (9 Wall.) 353 (1870).

[34] *Id.* at 362.

[35] *Davis*, 161 U.S. at 283, 284. In *Davis*, the Court held that a New York law purporting to require the receiver of an insolvent national bank to make preferential payment of receivership assets to "any savings bank" that had funds on deposit at the failed bank was preempted by the Federal statute requiring pro rata payment of such assets to any creditors who could prove their claims. The Court reasoned that one of the purposes of the "national legislation" creating the national banking system was "to secure . . . a just and equal distribution of the assets of national banks among all unsecured creditors, and to prevent such banks from creating preferences in contemplation of insolvency. This public aim in favor of all the citizens of every state of the Union is manifested by the entire context of the national bank act." *Id.* at 284.

[36] Easton, 188 U.S. at 229, 231–32; *Davis*, 161 U.S. at 283–85.

[37] *National Bank*, 76 U.S. (9 Wall.) at 362; *Davis*, 161 U.S. at 283.

product or service comprised of several elements or activities is authorized if each of the constituent elements or activities is authorized.

Commenters supported this proposal because it addresses the reality that electronic products and services rarely fit into one specific category of authority. Thus, we are adopting this rule as proposed.

6. Excess Electronic Capacity (§ 7.5004)

The proposed rule in § 7.5004 recognized that the OCC has long applied the "excess capacity" doctrine to the technology resources of national banks to enable them to avoid waste and deploy those resources efficiently. [38] While the doctrine originated to allow banks to use excess real property efficiently, it has taken on particular significance as banks conduct more business through developing technologies such as Internet access, software production and distribution, long line telecommunications and data processing equipment, electronic security systems, and call centers.[39] Accordingly, we proposed to relocate the excess electronic capacity rule from current § 7.1019 to new subpart E and to add specific examples. The final rule adopts this approach, but amends the proposal in response to comments received.

The proposed rule stated that a national bank may acquire or develop excess capacity "in good faith for banking purposes." In applying this test, the OCC and the courts consistently have reviewed a bank's objective business reasons for obtaining the excess capacity. To clarify the appropriate focus of the excess capacity test, and to avoid creating any misperception that the focus is on the subjective intent or mental state of bank management, the final rule states that a national bank may market and sell electronic capacities "legitimately acquired or developed by the bank for its banking business." The "legitimate" standard incorporates the requirement that the excess capacity must be acquired in "good faith" for banking purposes.[40] This test recognizes the broad policy of optimization of resources and avoidance of loss or waste. To further clarify how the excess capacity doctrine is to be applied, we have provided specific and non-exclusive examples in the regulation to illustrate when legitimate excess electronic capacity may be acquired.

The final rule also adopts the proposed examples of excess capacity in equipment or facilities of national banks that have been found to have been acquired legitimately for banking purposes. The examples in the final rule are not exclusive, but merely illustrate uses of excess electronic capacity that we have approved. As our approvals to date demonstrate, the determination that a particular acquisition of excess electronic capacity is permissible is fact-specific. Accordingly, we encourage banks with questions regarding appropriate uses of excess electronic capacity to consult with the OCC.

In the preamble to the proposed rule, the OCC asked whether the final rule should codify a doctrine closely related to excess capacity: the so-called "by-product doctrine." Under this authority, a national bank may sell by-products, such as software, legitimately developed by the bank for or during the performance of its permissible data processing functions. A number of commenters urged the OCC to explicitly codify the by-product doctrine. They noted that as part of their electronic banking products or internal operations, national banks often internally design and create software or other products that may have broader application. The by-product doctrine enables national banks to sell such products into the general market and, thus, gain revenue to offset internal development costs.

We have determined that it would be helpful to recodify the by-product doctrine in the final rule. Until 1984, the OCC's data processing rule specifically recognized the by-product doctrine.[41] Although this language was deleted from the rule in 1984,[42] it was not done with the intention to change the OCC's position regarding this theory. The 1984 revision was merely a non-substantive format change in the rule done largely to avoid potential confusion. The OCC believes that it has now developed a considerable body of precedent on the by-product doctrine that will help provide adequate guidance on these issues and reduce the risk of confusion.[43]

7. National Bank Acting as a Digital Certification Authority (§ 7.5005)

The OCC has permitted a national bank to act as a certification authority [44] that issues certificates verifying the *identity* of the certificate holder to support digital signatures.[45] Proposed § 7.5005 would codify this position. Comments supported this proposal and it is adopted without significant change in paragraph (a) of § 7.5005.

The preamble to the proposed rule requested comments on whether the final rule should also authorize national banks to issue digital certificates that verify attributes beyond mere identity, *i.e.*, the authority or financial capacity of the certificate holder. We invited comment on the extent to which national banks propose to engage in these activities, how they will be structured, and whether permitting national banks to issue certificates to verify additional attributes beyond identity presents unique risks.

Generally, commenters strongly supported extending the certification authority to attributes beyond identity. Commenters said that verification of certificate holder transaction authority and financial capacities are necessary for banks to be able to effectively market electronic banking services. These commenters noted that national banks have long had experience in certifying the financial capacity of their

[38] The excess capacity doctrine holds that a bank properly acquiring an asset to conduct its banking business is permitted, under its incidental powers, to make full economic use of the property if using the property solely for banking purposes would leave the property underutilized. *See* OCC Conditional Approval No. 361 (Mar. 3, 2000).

[39] *See* OCC Interpretive Letter No. 742, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–106 (Aug. 19, 1996); OCC Interpretive Letter No. 677, *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,625 (June 28, 1985); Letter from William Glidden (June 6, 1986) (unpublished); Letter from Stephen Brown (Dec. 20, 1989) (unpublished); and OCC Conditional Approval No. 361 (Mar. 3, 2000).

[40] *See* OCC Interpretive Letter No. 888, *reprinted in* [2000–2001 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,407 (Mar. 14, 2000). *See also Brown v. Schleier*, 118 F. 981 (8th Cir. 1902), *aff'd.* 194 U.S. 18 (1904).

[41] *See* 12 CFR 7.3500 (1983).

[42] *See* 49 FR 11157 (Mar. 26, 1984).

[43] *See, e.g.*, OCC Interpretive Letter No. 284, *reprinted in* [1983–1984 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,448 (Mar. 26, 1984); OCC Interpretive Letter No. 449, *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,673 (Aug. 23, 1988); and OCC Interpretive Letter No. 677, *supra* note 53.

[44] *See* OCC Conditional Approval No. 267, *supra* note 16.

[45] Digital signatures are a form of electronic authentication that permit the recipient of an electronic message to verify the sender's identity. In order for a digital signature system to operate successfully, the message recipient must have assurance that the public key used to decode a message is uniquely associated with the sender. One method of providing that assurance is for a trusted third-party (called a "certification authority") to issue a digital certificate attesting to this association. The certification authority generates and signs digital certificates to verify the identity of the person transmitting a message electronically. The mathematical function the sender uses to encode a message is called the sender's private key. The related function that the recipient of the message uses to decode the message is called the sender's public key. In public key infrastructure ("PKI") systems based on asymmetric encryption, each private key is uniquely associated with a particular counterparty public key. Thus, if one has assurance that a specific private key is associated with a person and under his or her sole control, any message that can be decoded using that person's public key may be assumed to have been sent by that person.

customers. For example, banks issue letters of credit or loan approval letters to give comfort to third parties that the bank customer has the financial capacity to consummate contemplated transactions. Banks also manage and verify account numbers, account balances, and transactions charged to those account numbers. Some commenters requested that the final rule not be limited to a particular list of functions. They noted that the methods and usefulness of certification authority services will continue to evolve. Thus, they urged that the final rule should enhance flexibility so that a certificate can be issued for any purpose where the underlying verification is part of the business of banking. They requested that the final rule list particular attributes, such as financial capacity, as examples of this extended certification authority activity.

However, other commenters urged the OCC to consider the risks that may arise when the new certification activities either are combined with or approximate in function the existing authority for independent undertakings. [46] The commenters were particularly concerned that any new authority to issue extended certificates relating to financial capacity might raise risks similar to those assumed by banks issuing letters of credit and other independent undertakings.

The final rule provides that national banks may issue digital certificates to verify any attribute for which verification is part of or incidental to the business of banking and lists several types of financial capacity as examples of such attributes. This list is intended to be non-exclusive. We will consider what other attributes might be verified in an electronic certificate on a case-by-case basis so that the potential risks can be better assessed.

We recognize that the extended authority to issue non-identity digital certificates presents supervisory issues. We have existing guidance on digital certificates (OCC Bulletin 99–20), and intend to update that guidance to address issues arising under the extended authority codified in § 7.5005(b). These issues arise in part because the party issuing the certificate is verifying an attribute—such as financial capacity—that can and does change over time.

If a bank were to verify that funds will be available on a certain date in its certificates, the bank would, in effect, be engaging in an electronic independent undertaking. However, the extended certificate authority codified in § 7.5005(b) is distinct from independent undertakings, both analytically and operationally. To facilitate this distinction, the final rule clarifies by examples the types of financial verifications that the OCC intends to authorize in extended certifications. Specifically, the final rule lists examples of permissible financial certifications that involve verification of the following existing facts: (1) Account balance as of a particular date; (2) lines of credit as of a particular date; (3) past performance of customer (like a credit report); and (4) verification of customer relationship as of a particular date. Each of these verifications represents a statement of fact as of a particular current or previous date with respect to the certificate subscriber. Thus, financial certificates do not represent a promise by the certificate authority bank to the relying party that particular funds will be available or advanced for a particular transaction. For this reason, a financial certification is distinguished from an independent undertaking, which is a promise by a bank to make available funds for a particular transaction upon presentation of specified documents. An independent undertaking exposes the issuing bank to credit risk; a properly formulated and limited financial certification does not.

We expect banks issuing financial capacity certificates to take steps appropriate to address the risk that a party receiving a financial certification (the relying party, usually a seller) would assert that the certification is really an implied promise or representation by the issuing bank that funds will be available or advanced to pay for a particular transaction. We expect issuing banks to take appropriate precautions against having their financial certificates construed as implied promises to lend. While other risk controls will be appropriate in particular cases,[47] the final rule provides that financial capacity certificates must include express disclaimers stating that the bank does not thereby promise or represent that funds will be available or advanced for a particular transaction.

If banks take necessary precautions and issue appropriately designed financial certifications, the requirements of § 7.1016 (which are designed predominantly to control credit risk) should not be required as a risk mitigation device. However, if a purported financial capacity certificate did guarantee or promise funds availability, the requirements of § 7.1016 should and will apply. Under the transparency rule in § 7.5002 of the final rule, electronic letters of credit are clearly permissible. However, in contrast to the financial certifications authorized under § 7.5005 of this final rule, electronic letters of credit are subject to § 7.1016 because they are independent undertakings.[48]

Finally, the proposed rule contemplated that verification will be provided as part of a digital certificate, *i.e.*, the certificate *itself* would contain the verified information on authority or financial capacity. However, some commenters requested that the final rule also enable banks to issue certificates that interoperate with the bank's internal systems so that the certificate is associated automatically with information in those systems related to the certificate holder. In other words, the verified information would reside not in the certificate, but in bank systems linked to the certificate. The benefit of this approach is that a system-linked certificate can provide access to information that is updated whenever the bank's systems are updated, whereas information resident on the certificate can become rapidly outdated. Thus, some comments urged that the final rule expressly authorize banks to engage in electronic authentication activities regardless of the particular technology employed.

We agree that there are significant advantages to system-linked certificates. However, such certificates also present very different risks than the certificate-based PKI systems for which the OCC has issued guidance. [49] For this reason, the final rule does not contain a general authorization for system-linked certificates. However, we are prepared to consider on a case-by-case basis how national banks may use new technologies and models, beyond PKI-based digital certificates, to provide permissible electronic verification services.

8. Data Processing (§ 7.5006)

Proposed § 7.5006(a) codified OCC interpretations confirming that a national bank may collect, process,

[46] *See* 12 CFR 7.1016.

[47] For example, the risk of confusion may be particularly great in situations where the bank is issuing a financial certification on the existence of a line of credit. Relying parties might try to assert that this certificate constitutes an implied promise that the verified credit line would be available to fund their specific transaction. Thus, in connection with such certifications, the issuing bank might not only include the disclaimer discussed above but also make available with the digital certificate the terms of the line of credit so that the relying parties may directly assess its availability for their transaction.

[48] *See* 12 CFR 7.5005(c).

[49] *See* OCC Bulletin 99–20.

transcribe, analyze, and store banking, financial, and economic data for itself and its customers as part of the business of banking.[50] Commenters were generally supportive of this aspect of the proposed rule and we are adopting it with some changes. Specifically, the final rule provides additional guidance on the scope and range of permissible banking, financial or economic data processing in two ways. First, the final rule clarifies that permissible "processing" of eligible data includes provision of data processing services, data transmission services, facilities (including equipment, technology, and personnel), databases and advice. It also includes providing access to such services, facilities, databases and advice. Second, the rule specifies that for purposes of this section, "economic data" includes anything of value in banking and financial decisions.[51]

In addition to processing of banking, financial or economic data, national banks, under their authority to conduct activities incidental to the business of banking, may also provide limited amounts of non-financial information processing to their customers to enhance marketability or use of a banking service.[52] In determining the permissible scope of this incidental processing, we typically inquire whether the processing of non-financial data is convenient or useful to the specific processing of financial data or other business of banking activities in a specific contract or relationship.

Thus, in the preamble discussing proposed § 7.5006, we requested comment on whether to codify this authority to conduct incidental non-financial data processing and specifically whether to provide that a national bank may generally derive a certain specified percentage of its total annual data processing revenue from processing non-financial data. Anecdotal evidence suggested that national banks attempting to market financial data processing services are frequently confronted with customer demands that the bank also process some non-financial data so that the customer can avoid the inconvenience of having to use two different processors for financial data and for non-financial data. Moreover, banks' competitors in the marketplace are providing these fully integrated data processing services. Thus, we asked for comments and evidence on the extent of this type of customer demand in order to determine whether it is so pervasive as to warrant authorizing the processing of non-financial data in connection with financial data processing in lieu of our current case-by-case approach.

The comments filed in response to this request supported codification of the authority to engage in incidental non-financial data processing. These comments establish that such a rule is warranted to accommodate pervasive realities of the financial data processing marketplace. Accordingly, we have decided to adopt a more flexible approach to non-financial data processing rather than a safe harbor with a specific percentage (*e.g.*, 30% or 49%). We believe that, in light of the rapidly evolving nature of bank data processing and the data processing markets in which banks compete, a fixed percentage could be inappropriately rigid.

The final rule therefore provides that, in addition to its authority to process banking, financial, and economic data, a national bank may also process additional types of data to the extent convenient or useful to the bank's ability to provide the banking, financial, and economic data processing services. This approach to permissible incidental data processing would be satisfied where providing non-financial data processing is reasonably necessary to conduct the financial data processing services on a competitive basis. The bank's total revenue from providing data processing services under this section must, however, be derived *predominantly by* from processing banking, financial, or economic data. Thus, under the final rule, a bank offering financial data processing services will also be able to offer additional processing of incidental non-financial data if it determines that, in the market it is attempting to serve, processing of some non-financial data is reasonably necessary to operate on a competitive basis and if the aggregate revenue from such incidental non-financial processing is not the predominant source of its total revenue from data processing services under this section.

We believe this approach, which is fully consistent with judicial and OCC precedent, [53] is preferable to a specific percentage-based safe harbor because it adheres to concepts that allow a component of the bank's data processing to include non-financial data processing and provides more flexibility to accommodate the evolving role in data processing in the business of banking. Banks that engage in financial or non-financial data processing will be expected to comply with all applicable supervisory requirements and guidance.[54] The OCC will develop additional guidance for examiners and bankers on data processing activity, as needed.

In addition to the authority to provide data processing under this section, national banks also have other authorities to process data that is non-financial. For example, banks may process data (regardless of the type) under the excess capacity doctrine and under their correspondent authority. These additional authorities are codified in other sections of the new Subpart E;[55] their rationale and concomitant limitations are independent and distinct from the authority to process banking, financial, and economic data and incidental non-financial data under § 7.5006 of the final rule. Thus, the revenue derived from non-financial data processing that may occur under these other authorities and activities is not included as non-banking, financial, or economic data processing revenue in computing the total revenue from § 7.5006 data processing services used to determine compliance with the predominantly proviso in new § 7.5006(b).

9. Correspondent Services (§ 7.5007) [56]

The proposed rule codified the OCC's longstanding interpretation that national banks may perform for other entities an array of activities called "correspondent services" as part of the business of banking.[57] These activities include any corporate or banking service that a national bank may perform for itself.[58] A national bank may perform these activities for any of its affiliates or for other financial institutions.[59]

This proposal also codified a number of OCC interpretations that approve certain electronic- and technology-related activities as permissible correspondent services for national banks and included these activities in the text of the regulation as examples of electronic activities that banks may offer as correspondent services. These examples included: (1) Providing computer networking packages and related hardware that meet the banking needs of financial institution customers; [60] (2) processing bank, accounting, and financial data, such as check data, other bookkeeping tasks, and general assistance of correspondents' internal operating, bookkeeping, and data processing; [61] (3) selling data processing software; [62] (4) developing, operating, managing, and marketing products and processing services for transactions conducted at electronic terminal devices including, but not limited to, ATMs, POS terminals, scrip terminals, and similar devices; [63] (5) item processing services and related software development; [64] (6) document control and record keeping through the use of electronic imaging technology; [65] (7) Internet merchant hosting services for resale to merchant customers; [66] and (8) communication support services through electronic means, such as: (i) The provision of electronic "gateways" in order to communicate and receive financial information and to conduct transactions; (ii) creating, leasing, and licensing communications systems, computers, analytic software, and related equipment and services for sharing information concerning financial instruments and economic information and news; and (iii) the provision of electronic information and transaction services and linkage for financial settlement services.[67]

Two commenters requested that the OCC add digital certification authority services to these examples of permissible correspondent activities. We agree that it is appropriate to add this activity to § 7.5007 because we have previously approved it in interpretive letters.[68] Accordingly, the final rule includes this activity as an additional example.

Two other commenters expressed concern that, as proposed, § 7.5007 may give the impression that the OCC considers the list of permissible correspondent activities in the regulation to be exhaustive. As indicated above, this list is a codification of existing OCC interpretations and is not intended to be restrictive. To clarify this point, we have amended § 7.5002 to specifically provide that these examples are only illustrative. We will continue to consider, on a case-by-case basis, the authorization of new electronic- and technology-related activities as correspondent services offered by national banks that may not be included in the examples provided in the regulation.

B. Location

1. Location of a National Bank Conducting Electronic Activities (§ 7.5008)

As the OCC noted in the preamble to the proposed rule, the effect of several statutes affecting national banks turns in part on where the bank in question is "located." In addition, the scope of this term (or closely related statutory terms, such as "situated")—whether it refers only to the bank's main office, includes branches as well, or means something different—varies from statute to statute. [69] Moreover, national banks often conduct a significant portion of their operations in locations that are distinct from their main office and branches.

To remove any ambiguity on the scope of this term, the proposed rule provided that a national bank will not be considered located in a State solely because it physically maintains equipment or facilities that are necessary for the use of electronic technologies, such as a server or automated loan center, in that State, or because the bank's products or services are accessed through electronic means by customers located in the State. This interpretation of "located" is consistent with evolving case authority.[70] Thus, for example, these factors would not result in a bank being considered to be

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[50] *See, e.g.*, OCC Conditional Approval No. 289 (Oct. 2, 1998); OCC Interpretive Letter No. 805, *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,252 (Oct. 9, 1997). A prior OCC interpretive ruling on electronic banking specifically stated that "as part of the business of banking and incidental thereto, a national bank may collect, transcribe, process, analyze and store for itself and others, banking, financial, or related economic data." 39 FR 14192, 14195 (Apr. 22, 1974). This language was deleted from former 12 CFR 7.3500 because the OCC was concerned that the specific examples of permissible activities in the ruling, such as the marketing of excess time, by-products, and the processing of "banking, financial, or related economic data," had led to confusion and misinterpretation. *See* 47 FR at 46526, 46529 (Oct. 19, 1982). However, the preamble to the proposal to simplify the rule stated that "the Office wishes to make clear that it does not intend to indicate any change in its position regarding the permissibility of data processing services." *Id.* Since 1982, the risk of confusion and misinterpretation of a regulation has significantly diminished due to, among other reasons, the substantial number of interpretive letters the OCC has issued on permissible data processing that can provide a context for understanding the rule.

[51] *See, e.g., Association of Data Processing Service Organizations, Inc.* v. *Board of Governors*, 745 F.2d 677, 691 (D.C. Cir. 1984).

[52] *See, e.g.*, OCC Conditional Approval No. 369 (Feb. 25, 2000).

[53] *See generally* § 7.5001(c)(2). OCC has long held that a national bank, under its incidental powers, may sell non-banking products and services when reasonably necessary to provide banking products on a competitive basis by creating a package of related services needed to satisfy consumer demand, meet market competition, and enable the bank to successfully market its banking services. Thus, for example, in OCC Interpretive Letter No. 742, *supra* note 53, OCC found offering of Internet access service was needed to successfully provide and market the bank's Internet banking service. We found limiting the bank's Internet access services, to block non-banking use, would not meet customer needs or the competing products in the marketplace. *See also* OCC Interpretive Letter No. 611, *supra* note 6 (bank selling home banking service can also provide customer access to non-banking services "to increase the customer base and service the usage of the program"); OCC Interpretive Letter No. 653, *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,601 (Dec. 22, 1994) (national banks may offer non-banking products as part of larger product or service when necessary, convenient, and useful to bank permissible activities); *cf. National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1240 (D.C. Cir. 1975) (incidental powers of holding companies include providing specialized courier services when service is necessary to obtain full benefit of data processing services). *Compare National Retailers Corp.* v. *Valley Nat'l Bank*, 411 F. Supp. 308 (D. Ariz. 1976), *aff'd*, 604 F. 2d 32 (9th Cir. 1979). In light of subsequent developments, however, for the reasons stated in OCC Interpretive Letter 928 (Dec. 24, 2001) and Interpretive Letter No. 856 (Mar. 5, 1999), the OCC does not believe that courts today would accord significant weight to the *National Retailers* case.

[54] *See, e.g.*, OCC Alert No. 2001–4 (Network Security Vulnerabilities); OCC Advisory Letter No. 2001–12 (Risk Management of Outsourcing Technology); and OCC Bulletin No. 2000–14 (Infrastructure Threats-Intrusion Risks—Message to Bankers and Examiners).

[55] *See, e.g.*, §§ 7.5001(d), 7.5004, and 7.5007.

[56] We have modified the title of this section from "correspondent banking" to "correspondent services" to more accurately reflect the activity authorized by this section.

[57] *See, e.g.*, OCC Interpretive Letter No. 875, *supra* note 6; OCC Interpretive Letter No. 811, *reprinted* in [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–259 (Dec. 18, 1997); OCC Corporate Decision No. 97–79 (July 11, 1997).

[58] See OCC Interpretive Letter No. 467, reprinted in [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,691 (Jan. 24, 1989) (national bank may offer wide range of correspondent services); Letter from Wallace S. Nathan, Regional Counsel (Dec. 3, 1982) (unpublished) (microfiche services); Letter from John E. Shockey, Chief Counsel (July 31, 1978) (unpublished) (advertising services).

[59] *See, e.g.*, OCC Interpretive Letter No. 875, *supra* note 6; OCC Interpretive Letter No. 513, *reprinted* in [1990–1991 Transfer Binder] Fed. Banking L. Rep. ¶ 83,215 (June 18, 1990).

[60] *See* OCC Interpretive Letter No. 754, *supra* note 20.

[61] *See, e.g.*, Letter from Vernon E. Fasbender, Director for Analysis, Southeastern District (Dec. 6, 1990); OCC Interpretive Letter No. 345, *reprinted in* [1985–1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,515 (July 9, 1985); Letter from Joe H. Selby, Deputy Comptroller (Nov. 22, 1978).

[62] *See, e.g.*, OCC Interpretive Letter No. 868, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–362 (Aug. 16, 1999).

[63] *See, e.g.*, OCC Interpretive Letter No. 890, *reprinted in* [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–409 (May 15, 2000).

[64] *See, e.g.*, Letter from Vernon E. Fasbender, Director for Analysis, Southeastern District (Dec. 6, 1990); and Letter from J.T. Watson, Deputy Comptroller of the Currency (Mar. 22, 1973).

[65] *See* OCC Interpretive Letter No. 805, *supra* note 64.

[66] *See* Corporate Decision No. 2000–08 (June 1, 2000); and OCC Interpretive Letter No. 875, supra note 6.

[67] *See* OCC Interpretive Letter No. 611, *supra* note 6; OCC Interpretive Letter No. 516, supra note 6; and OCC Interpretive Letter No. 346, *reprinted* in [1985–1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,516 (July 31, 1985).

[68] *See* OCC Conditional Approval No. 339 (Nov. 6, 1999).

[69] *See, e.g.*, 12 U.S.C. 24 (Eighth) (charitable contributions); 12 U.S.C. 29 (authority to hold real estate); 12 U.S.C. 36 (branching); 12 U.S.C. 72 (director qualifications); 12 U.S.C. 92 (authority to act as insurance agent or broker); 12 U.S.C. 92a (trust powers); 12 U.S.C. 94 (venue); 12 U.S.C. 215 and 215a (bank consolidations and mergers); and 12 U.S.C. 548 (State taxation).

[70] *See, e.g., Amberson Holdings LLC* v. *Westside Story Newspaper*, 110 F. Supp. 2d 332 (D.N.J. 2000).

"located" in a particular State for purposes of 12 U.S.C. 85.

Most of those who commented on this issue supported our proposal. One commenter asked that we amend this provision to state specifically that a product or service provided through electronic means shall be deemed to be offered and delivered from a single location. This suggestion raises broader issues that require additional analysis, which at this time we believe is best undertaken on a case-by-case basis rather than through this rulemaking.

Another commenter requested that we delete the word "solely" from the proposed provision in order to eliminate any inference that the location of a bank's technological equipment or customers may ever be considered in the determination of a bank's "location." It is not our intent to remove these factors altogether from the determination of where a bank is located since the equipment may be connected to other relevant activities of the bank. Instead, the purpose of this provision is simply to make clear that these factors alone will not determine the bank's location in a State.

Accordingly, the OCC has adopted § 7.5008 as proposed.

2. Location Under 12 U.S.C. 85 of National Banks Operating Exclusively Through the Internet (§ 7.5009)

Twelve U.S.C. 85 authorizes a national bank to charge interest in accordance with the laws of the State in which it is located. In interpreting section 85, the Supreme Court has held that a national bank is "located" in the State where it has its main office (its home State).[71] Thus, a national bank may charge the interest rates permitted by its home State no matter where the borrower resides or what contacts with the bank occur in another State.

The OCC has chartered several national banks without physical branches that make loans or extend credit exclusively through the Internet. The proposal provided that, for purposes of 12 U.S.C. 85, the main office of a national bank that operates exclusively through the Internet is the office identified by the bank under 12 U.S.C. 22 (Second) or as relocated pursuant to 12 U.S.C. 30 or other appropriate authority.

Many commenters supported this section as proposed. We therefore are adopting this section in the final rule, with one minor technical change. Because the OCC does not always use the term "Internet-only" in its guidance and interpretations, we have removed that term from the title of § 7.5009.

C. Safety and Soundness

Shared Electronic Space (§ 7.5010)

In light of the increased ability of national banks to enter into joint marketing relationships with third-parties through the Internet, we proposed to extend the same general principles as set forth in 12 CFR 7.3001[72] on shared physical space to situations where banks share co-branded web sites or other electronic space with subsidiaries, affiliates, or other third-parties. The proposed rule was in part based upon our recent guidance on weblinking arrangements,[73] and was designed to reduce risk of customer confusion. To that end, the proposed rule would have required national banks to take reasonable steps to enable customers to distinguish between products and services offered by the bank and those offered by the third-party. The bank also would have been required to disclose its limited role with respect to the third-party product or service and to call attention to the fact that the bank does not provide, endorse, or guarantee any of the products or services available from the third-party.

However, many commenters expressed concern that the proposed rule was excessively prescriptive and would unduly limit industry flexibility in responding to the risks of customer confusion regarding shared electronic space. These commenters suggested that a prescriptive rule was unnecessary at this time in light of the OCC Weblinking Bulletin and that the OCC should delay action on a rule until the agency has had more opportunity to evaluate the effectiveness and impact of the Bulletin.

We have decided to adopt a shared electronic space rule, but with significant changes to the proposed rule that are responsive to comments received. In our view, a general rule on shared electronic space is needed to address broader forms of shared electronic space that are becoming increasingly prevalent, but are not covered by the OCC Weblinking Bulletin. These forms include shared web sites and bank web pages that are embedded in third-party sites. The final rule on electronic shared space will provide guidance to the industry, promote greater awareness of relevant issues, and facilitate examiner efforts to supervise this activity.

However, we have decided not to promulgate at the present time the more specific portions of the proposed rule that would have required a national bank with shared electronic space to make specific disclosures of its limited role with respect to third-party products and to advise that the bank does not provide, endorse, or guarantee any of the products or services available through the shared electronic space. In light of concerns expressed by many commenters, we believe that it would be appropriate to gain more experience in this area before codifying detailed requirements.

The final rule requires that national banks sharing electronic space with a third-party must take reasonable steps to clearly, conspicuously, and understandably distinguish between products and services offered by the bank and those offered by the third-party. In determining whether a bank has taken reasonable steps to distinguish third-party products and services available through shared electronic space, we will consider a number of factors. Among other things, we will look at web page formatting (including visual cues to the consumer), text-based or audio narrative, and compliance with other product-specific regulatory disclosure requirements. Additionally, what constitutes "reasonable steps" will depend upon the specific product and context; some products and contexts may require more information to be disclosed than others. Finally, the OCC Weblinking Bulletin will provide helpful guidance regarding both linking arrangements and other non-linking forms of shared electronic space.

A number of holding company commenters were concerned about how the proposed rule would apply to holding company web sites that share a common name with the bank and have web pages for a subsidiary national bank embedded in the holding company site. These commenters suggested that the final rule should not cover situations where a subsidiary bank shares its holding company's web site. However, we have consistently applied § 7.3001 to physical space shared with affiliates. Moreover, in the physical non-electronic context, we have found that serious customer confusion potentially can arise when national banks sell holding company products and obligations, including commercial paper, on bank premises. Likewise, we are concerned that, if banks do not provide adequate disclosures in electronic space shared with affiliates, bank customers will become confused over the bank's responsibility for an affiliate's products and obligations sold through that shared space. For this reason, we have decided not to exclude affiliates from coverage by the final rule. However, the elimination of the more specific provisions of the proposed rule should largely ameliorate the concerns of the commenting holding companies.

[71] *See Marquette Nat. Bank* v. *First of Omaha Serv. Corp.*, 439 U.S. 299 (1978). The OCC also has determined that for purposes of section 85, under certain circumstances, an interstate national bank may be considered to be "located" in a state where it has a branch. In this situation, the bank may be required to impose interest rates in accordance with the law of the branch state. *See* OCC Interpretive Letter No. 822 (Feb. 17, 1998). A national bank that operates exclusively through the Internet and thus has no branches would not be affected by this interpretive letter.

[72] Under 12 CFR 7.3001, a national bank may lease space on bank premises to other businesses and share space jointly with other businesses subject to certain conditions. The conditions set forth in § 7.3001(c) are intended to minimize customer confusion about the nature of the products offered and promote the safe and sound operation of the bank.

[73] *See* OCC Bulletin 2001–31 ("OCC Weblinking Bulletin").

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), the regulatory flexibility analysis described in section 603 of the RFA, 5 U.S.C. 603, is not required if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes such a certification and a statement explaining the factual basis for such certification in the **Federal Register** along with its final rule.

On the basis of the information currently available, the Comptroller of the Currency certifies that this final rule will not have a significant impact on a substantial number of small entities within the meaning of those terms as used in the RFA. The final regulation requires a national bank that shares a co-branded website or other electronic space with a bank subsidiary or a third-party to make certain disclosures designed to enable its customers to distinguish its products and services from those of the subsidiary or third-party. We believe it will be relatively inexpensive for a bank, either internally or through a servicer, to create and display the disclosures required by this regulation. Updating a website is a fixed cost for a bank, and is a practice that is done periodically. In addition, national banks are currently required to provide similar disclosures for leased space on bank premises and when sharing space jointly with other businesses. Therefore, the OCC does not believe that this requirement will have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.

The OCC has determined that the final rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Executive Order 12866

The Comptroller of the Currency has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866. Under the most conservative cost scenarios that the OCC can develop on the basis of available information, the annual effect on the economy of the final rule falls well short of the $100 million threshold established by the Executive Order.

Paperwork Reduction Act of 1995

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in this rulemaking have been approved under OMB control number 1557–0225. The OCC sought comment on all aspects of the burden estimates for the information collection contained in the proposed rule (66 FR 34855, July 2, 2002). The OCC received no comments.

The information collection requirements are contained in § 7.5010. This section requires a national bank that shares a co-branded website or other electronic space with a bank subsidiary or a third-party to make certain disclosures designed to enable its customers to distinguish its products and services from those of the subsidiary or third-party.

Estimated number of respondents: 1,609.

Estimated number of responses: 1,609.

Estimated burden hours per response: 1 hour.

Estimated total burden hours: 1,609 hours.

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments to Jessie Dunaway, OCC Clearance Officer, 250 E Street, SW, Attention: 1557–0225, Mailstop 8–4, Washington, DC 20219. Due to the temporary delay in mail delivery, you may prefer to send your comments by electronic mail to *jessie.dunaway@occ.treas.gov*, or by fax to (202) 874–4889.

Effective Date

The Riegle Community Development and Regulatory Improvement Act of 1994 requires that any new regulation that imposes "additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form," less certain exceptions apply.[74] This rulemaking contains one section that imposes additional disclosure requirements on national banks. Section 7.5010 requires national banks that share electronic space, including a co-branded web site, with a bank subsidiary, affiliate, or another third-party to take reasonable steps to clearly, conspicuously, and understandably distinguish between products and services offered by the bank and those offered by the bank's subsidiary, affiliate, or the third-party. Accordingly, the requirement to delay the effective date until the first day of the next calendar quarter applies to § 7.5010. The remaining sections of this final rule do not impose additional reporting, disclosure, or other requirements on insured depository institutions and therefore will become effective 30 days after publication, in accordance with 5 U.S.C. 553(d).

List of Subjects in 12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

Authority and Issuance

For reasons set forth in the preamble, the OCC amends part 7 of chapter I of

[74] Pub. L. 103–325, section 302(b) (Sept. 23, 1994).

title 12 of the Code of Federal Regulations as follows:

PART 7—BANK ACTIVITIES AND OPERATIONS

1. The authority citation for part 7 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 92, 92a, 93, 93a, 481, 484, 1818.

2. Section 7.1002 is revised to read as follows:

§ 7.1002 National bank acting as finder.

(a) *General.* It is part of the business of banking under 12 U.S.C. 24(Seventh) for a national bank to act as a finder, bringing together interested parties to a transaction..

(b) *Permissible finder activities.* A national bank that acts as a finder may identify potential parties, make inquiries as to interest, introduce or arrange contacts or meetings of interested parties, act as an intermediary between interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate. The following list provides examples of permissible finder activities. This list is illustrative and not exclusive; the OCC may determine that other activities are permissible pursuant to a national bank's authority to act as a finder.

(1) Communicating information about providers of products and services, and proposed offering prices and terms to potential markets for these products and services;

(2) Communicating to the seller an offer to purchase or a request for information, including forwarding completed applications, application fees, and requests for information to third-party providers;

(3) Arranging for third-party providers to offer reduced rates to those customers referred by the bank;

(4) Providing administrative, clerical, and record keeping functions related to the bank's finder activity, including retaining copies of documents, instructing and assisting individuals in the completion of documents, scheduling sales calls on behalf of sellers, and conducting market research to identify potential new customers for retailers;

(5) Conveying between interested parties expressions of interest, bids, offers, orders, and confirmations relating to a transaction;

(6) Conveying other types of information between potential buyers, sellers, and other interested parties; and

(7) Establishing rules of general applicability governing the use and operation of the finder service, including rules that:

(i) Govern the submission of bids and offers by buyers, sellers, and other interested parties that use the finder service and the circumstances under which the finder service will pair bids and offers submitted by buyers, sellers, and other interested parties; and

(ii) Govern the manner in which buyers, sellers, and other interested parties may bind themselves to the terms of a specific transaction.

(c) *Limitation.* The authority to act as a finder does not enable a national bank to engage in brokerage activities that have not been found to be permissible for national banks.

(d) *Advertisement and fee.* Unless otherwise prohibited by Federal law, a national bank may advertise the availability of, and accept a fee for, the services provided pursuant to this section.

3. Section 7.1019 is removed.

4. New subpart E is added to read as follows:

Subpart E—Electronic Activities

Sec.

7.5000 Scope.
7.5001 Electronic activities that are part of, or incidental to, the business of banking.
7.5002 Furnishing of products and services by electronic means and facilities.
7.5003 Composite authority to engage in electronic activities.
7.5004 Sale of excess electronic capacity and by-products.
7.5005 National bank acting as digital certification authority.
7.5006 Data processing.
7.5007 Correspondent services.
7.5008 Location of national bank conducting electronic activities.
7.5009 Location under 12 U.S.C. 85 of national banks operating exclusively through the Internet.
7.5010 Shared electronic space.

Subpart E—Electronic Activities

§ 7.5000 Scope.

This subpart applies to a national bank's use of technology to deliver services and products consistent with safety and soundness.

§ 7.5001 Electronic activities that are part of, or incidental to, the business of banking.

(a) *Purpose.* This section identifies the criteria that the OCC uses to determine whether an electronic activity is authorized as part of, or incidental to, the business of banking under 12 U.S.C. 24 (Seventh) or other statutory authority.

(b) *Restrictions and conditions on electronic activities.* The OCC may determine that activities are permissible under 12 U.S.C. 24 (Seventh) or other statutory authority only if they are subject to standards or conditions designed to provide that the activities function as intended and are conducted safely and soundly, in accordance with other applicable statutes, regulations, or supervisory policies.

(c) *Activities that are part of the business of banking.* (1) An activity is authorized for national banks as part of the business of banking if the activity is described in 12 U.S.C. 24 (Seventh) or other statutory authority. In determining whether an electronic activity is part of the business of banking, the OCC considers the following factors:

(i) Whether the activity is the functional equivalent to, or a logical outgrowth of, a recognized banking activity;

(ii) Whether the activity strengthens the bank by benefiting its customers or its business;

(iii) Whether the activity involves risks similar in nature to those already assumed by banks; and

(iv) Whether the activity is authorized for state-chartered banks.

(2) The weight accorded each factor set out in paragraph (c)(1) of this section depends on the facts and circumstances of each case.

(d) *Activities that are incidental to the business of banking.* (1) An electronic banking activity is authorized for a national bank as incidental to the business of banking if it is convenient or useful to an activity that is specifically authorized for national banks or to an activity that is otherwise part of the business of banking. In determining whether an activity is convenient or useful to such activities, the OCC considers the following factors:

(i) Whether the activity facilitates the production or delivery of a bank's products or services, enhances the bank's ability to sell or market its products or services, or improves the effectiveness or efficiency of the bank's operations, in light of risks presented, innovations, strategies, techniques and new technologies for producing and delivering financial products and services; and

(ii) Whether the activity enables the bank to use capacity acquired for its banking operations or otherwise avoid economic loss or waste.

(2) The weight accorded each factor set out in paragraph (d)(1) of this section depends on the facts and circumstances of each case.

§ 7.5002 Furnishing of products and services by electronic means and facilities.

(a) *Use of electronic means and facilities.* A national bank may perform, provide, or deliver through electronic means and facilities any activity, function, product, or service that it is otherwise authorized to perform, provide, or deliver, subject to § 7.5001(b) and applicable OCC guidance. The following list provides examples of permissible activities under this authority. This list is illustrative and not exclusive; the OCC may determine that other activities are permissible pursuant to this authority.

(1) Acting as an electronic finder by:

(i) Establishing, registering, and hosting commercially enabled web sites in the name of sellers;

(ii) Establishing hyperlinks between the bank's site and a third-party site, including acting as a "virtual mall" by providing a collection of links to web sites of third-party vendors, organized by-product type and made available to bank customers;

(iii) Hosting an electronic marketplace on the bank's Internet web site by providing links to the web sites of third-party buyers or sellers through the use of hypertext or other similar means;

(iv) Hosting on the bank's servers the Internet web site of:

(A) A buyer or seller that provides information concerning the hosted party and the products or services offered or sought and allows the submission of interest, bids, offers, orders and confirmations relating to such products or services; or

(B) A governmental entity that provides information concerning the services or benefits made available by the governmental entity, assists persons in completing applications to receive such services or benefits and permits persons to transmit their applications for such services or benefits;

(v) Operating an Internet web site that permits numerous buyers and sellers to exchange information concerning the products and services that they are willing to purchase or sell, locate potential counter-parties for transactions, aggregate orders for goods or services with those made by other parties, and enter into transactions between themselves;

(vi) Operating a telephone call center that provides permissible finder services; and

(vii) Providing electronic communications services relating to all aspects of transactions between buyers and sellers;

(2) Providing electronic bill presentment services;

(3) Offering electronic stored value systems; and

(4) Safekeeping for personal information or valuable confidential trade or business information, such as encryption keys.

(b) *Applicability of guidance and requirements not affected.* When a national bank performs, provides, or delivers through electronic means and facilities an activity, function, product, or service that it is otherwise authorized to perform, provide, or deliver, the electronic activity is not exempt from the regulatory requirements and supervisory guidance that the OCC would apply if the activity were conducted by non-electronic means or facilities.

(c) *State laws.* As a general rule, and except as provided by Federal law, State law is not applicable to a national bank's conduct of an authorized activity through electronic means or facilities if the State law, as applied to the activity, would be preempted pursuant to traditional principles of Federal preemption derived from the Supremacy Clause of the U.S. Constitution and applicable judicial precedent. Accordingly, State laws that stand as an obstacle to the ability of national banks to exercise uniformly their Federally authorized powers through electronic means or facilities, are not applicable to national banks.

§ 7.5003 Composite authority to engage in electronic activities.

Unless otherwise prohibited by Federal law, a national bank may engage in an electronic activity that is comprised of several component activities if each of the component activities is itself part of or incidental to the business of banking or is otherwise permissible under Federal law.

§ 7.5004 Sale of excess electronic capacity and by-products.

(a) A national bank may, in order to optimize the use of the bank's resources or avoid economic loss or waste, market and sell to third parties electronic capacities legitimately acquired or developed by the bank for its banking business.

(b) With respect to acquired equipment or facilities, legitimate excess electronic capacity that may be sold to others can arise in a variety of situations, including the following:

(1) Due to the characteristics of the desired equipment or facilities available in the market, the capacity of the most practical optimal equipment or facilities available to meet the bank's requirements exceeds its present needs;

(2) The acquisition and retention of additional capacity, beyond present needs, reasonably may be necessary for planned future expansion or to meet the expected future banking needs during the useful life of the equipment;

(3) Requirements for capacity fluctuate because a bank engages in batch processing of banking transactions or because a bank must have capacity to meet peak period demand with the result that the bank has periods when its capacity is underutilized; and

(4) After the initial acquisition of capacity thought to be fully needed for banking operations, the bank experiences either a decline in level of the banking operations or an increase in the efficiency of the banking operations using that capacity.

(c) Types of electronic capacity in equipment or facilities that banks may have legitimately acquired and that may be sold to third parties if excess to the bank's needs for banking purposes include:

(1) Data processing services;

(2) Production and distribution of non-financial software;

(3) Providing periodic back-up call answering services;

(4) Providing full Internet access;

(5) Providing electronic security system support services;

(6) Providing long line communications services; and

(7) Electronic imaging and storage.

(d) A national bank may sell to third parties electronic by-products legitimately acquired or developed by the bank for its banking business. Examples of electronic by-products that banks may have legitimately acquired that may be sold to third parties if excess to the bank's needs include:

(1) Software acquired (not merely licensed) or developed by the bank for banking purposes or to support its banking business; and

(2) Electronic databases, records, or media (such as electronic images) developed by the bank for or during the performance of its permissible data processing activities.

§ 7.5005 National bank acting as digital certification authority.

(a) It is part of the business of banking under 12 U.S.C. 24(Seventh) for a national bank to act as a certificate authority and to issue digital certificates verifying the identity of persons associated with a particular public/private key pair. As part of this service, the bank may also maintain a listing or repository of public keys.

(b) A national bank may issue digital certificates verifying attributes in addition to identity of persons associated with a particular public/private key pair where the attribute is one for which verification is part of or incidental to the business of banking. For example, national banks may issue digital certificates verifying certain

financial attributes of a customer as of the current or a previous date, such as account balance as of a particular date, lines of credit as of a particular date, past financial performance of the customer, and verification of customer relationship with the bank as of a particular date.

(c) When a national bank issues a digital certificate relating to financial capacity under this section, the bank shall include in that certificate an express disclaimer stating that the bank does not thereby promise or represent that funds will be available or will be advanced for any particular transaction.

§ 7.5006 Data processing.

(a) *Eligible activities.* It is part of the business of banking under 12 U.S.C. 24(Seventh) for a national bank to provide data processing, and data transmission services, facilities (including equipment, technology, and personnel), data bases, advice and access to such services, facilities, data bases and advice, for itself and for others, where the data is banking, financial, or economic data, and other types of data if the derivative or resultant product is banking, financial, or economic data. For this purpose, economic data includes anything of value in banking and financial decisions.

(b) *Other data.* A national bank also may perform the activities described in paragraph (a) of this section for itself and others with respect to additional types of data to the extent convenient or useful to provide the data processing services described in paragraph (a), including where reasonably necessary to conduct those activities on a competitive basis. The total revenue attributable to the bank's data processing activities under this section must be derived predominantly from processing the activities described in paragraph (a) of this section.

§ 7.5007 Correspondent services.

It is part of the business of banking for a national bank to offer as a correspondent service to any of its affiliates or to other financial institutions any service it may perform for itself. The following list provides examples of electronic activities that banks may offer correspondents under this authority. This list is illustrative and not exclusive; the OCC may determine that other activities are permissible pursuant to this authority.

(a) The provision of computer networking packages and related hardware;

(b) Data processing services;

(c) The sale of software that performs data processing functions;

(d) The development, operation, management, and marketing of products and processing services for transactions conducted at electronic terminal devices;

(e) Item processing services and related software;

(f) Document control and record keeping through the use of electronic imaging technology;

(g) The provision of Internet merchant hosting services for resale to merchant customers; (h) The provision of communication support services through electronic means; and

(i) Digital certification authority services.

§ 7.5008 Location of a national bank conducting electronic activities.

A national bank shall not be considered located in a State solely because it physically maintains technology, such as a server or automated loan center, in that state, or because the bank's products or services are accessed through electronic means by customers located in the state.

§ 7.5009 Location under 12 U.S.C. 85 of national banks operating exclusively through the Internet.

For purposes of 12 U.S.C. 85, the main office of a national bank that operates exclusively through the Internet is the office identified by the bank under 12 U.S.C. 22(Second) or as relocated under 12 U.S.C. 30 or other appropriate authority.

§ 7.5010 Shared electronic space.

National banks that share electronic space, including a co-branded web site, with a bank subsidiary, affiliate, or another third-party must take reasonable steps to clearly, conspicuously, and understandably distinguish between products and services offered by the bank and those offered by the bank's subsidiary, affiliate, or the third-party.

Dated: May 8, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 02–12333 Filed 5–16–02; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") is amending the Appliance Labeling Rule to require dishwasher manufacturers to submit their annual energy data for dishwashers this year on June 17 (rather than June 1 as currently required) to ensure that the data reflects the results of a new Department of Energy ("DOE") test procedure, which will become effective on June 17, 2002 (*see* 66 FR 65094 (December 18, 2001)). In addition, the Commission is amending the Rule to require a 60-day effective date for any new ranges of comparability for standard size dishwashers published this year. The Commission is also providing manufacturers with information about their responsibilities for re-labeling these products this year.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC. 20580 (202–326–2889); *hnewsome@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Commission issued the Appliance Labeling Rule in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 ("EPCA").[1] The Rule covers, among other things, eight categories of major household appliances: refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, furnaces, and central air conditioners.

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. The Rule requires

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

manufacturers to include, on labels, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models similar to the labeled model.

The Rule requires manufacturers, after filing an initial report, to report annually (the due date for dishwashers is June 1) the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. 16 CFR 305.8(b). Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. Under § 305.10 of the Rule, to keep the required information on labels consistent with these changes, the Commission publishes new ranges (but not more often than annually) if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement that the prior ranges remain in effect for the next year.

Recent DOE Test Procedure for Dishwashers

On December 18, 2001 (66 FR 65094), DOE published amendments to the test procedure that manufacturers must use to determine the energy use of their dishwashers. This new test will become effective June 17, 2002. Among other things, the amended DOE test procedure will reduce the number of annual cycles manufacturers must use in calculating their dishwashers' energy consumption. This change uniformly will decrease the disclosed energy consumption for dishwashers.

Under EPCA, all energy use representations (including information on the EnergyGuide labels) must reflect the amended test procedure beginning 180 days after the change in the procedure is prescribed.[2] Consistent with this requirement, all energy use representations for dishwashers should reflect the amended test beginning on June 17, 2002. The timing of this restriction, however, creates several issues. First, the Commission's June 1 annual submission date for dishwashers required in the Rule predates the effective date of the new test procedure. If the June 1 submission date is followed, manufacturers would submit data based on the old version of the test procedure because that version would continue to be applicable at that time. As a result, the staff would not have data to develop ranges based on the new test procedure.[3] Second, if the data submitted this year (whether it is based on the old or new test procedure) yields new ranges of comparability, manufacturers would be required to create new labels for all of their dishwasher products twice within a short period—once to meet the June 17 statutory deadline (section 6293(c)) for making representations based on the new test procedure and again shortly afterward to reflect new ranges of comparability published by the Commission (such ranges would not be effective until sometime after the June 17 deadline). Finally, new labels for units produced after June 17 (but before the new ranges are published) would have energy use disclosures based on the amended test procedure—to comply with section 6293(c)—but ranges of comparability based on the old test procedure.

To address these issues, the Commission is amending the Rule to require manufacturers to submit their annual dishwasher data for this year on June 17, 2002 instead of June 1, 2002 as currently required by the Rule. Because the amended DOE test procedure will not be effective until June 17, this change to the submission date will ensure that the new data reflects compliance with the amended DOE test procedure. In addition, the Commission is amending the Rule to set a 60-day effective date for any new standard size dishwasher ranges published this year.[4]

The Commission also is announcing that it does not expect manufacturers to change their labels this year to reflect the amended test procedure until after the Commission has published these new ranges (or published a statement that there will be no new ranges). In other words, the Commission intends to exercise discretion to not take law enforcement action pursuant to § 6293(c) against manufacturers that wait to account for the new test procedure on their labels until the Commission has provided notice about new ranges for dishwashers. The Commission plans to publish a notice announcing any changes to the ranges shortly after June 17. Assuming new ranges are published this year, the Commission expects that manufacturers would begin labeling their products with the results of the amended test procedure and the revised ranges on labels at that time. As indicated above, any new ranges for standard-size models would be effective 60 days after publication.[5]

Although the Commission's decision to allow an enforcement grace period for compliance with section 6293(c) here will cause a minor delay in the dissemination of labels reflecting the amended test procedure, it will ensure that both the energy use representations and ranges of comparability reflect data derived from the new test procedure. Thus, the approach discussed in this notice will avoid the problems and potential confusion for both consumers and manufacturers that could result from strict adherence to the current deadlines. For consumers, a blending of new test data with ranges based on prior data could affect their ability to make meaningful comparisons among competing models. For manufacturers, this approach allows them to change the labels on their dishwasher products only once instead of twice in a short period of time.

Administrative Procedure Act

The amendments published in this notice involve minor, procedural changes to the submission date for data already required by the Rule and to the effective date for new dishwasher ranges this year. These technical amendments merely alter the dates on which compliance is required and do not affect the requirements of the Rule nor do the amendments alter the frequency with which regulated entities must comply with these requirements. These changes will help to ensure that information on new EnergyGuide labels for dishwashers will reflect both energy use representations and any resulting new ranges of comparability based on the amended test. In addition, these minor amendments must take effect in a timely fashion to avoid the problems discussed in this notice. Accordingly, the Commission finds for good cause that public comment and a 30-day effective date for these technical, procedural amendments are impractical and

[2] 42 U.S.C. 6293(c).

[3] If the data submitted on June 1 does not yield new ranges, the current ranges which are based on the old test procedure would remain in effect until the next annual submission date (June 1, 2003).

[4] Because a new range for compact models became effective on March 22, 2002, any amendments published this year to the range for compact models cannot become effective until March 22, 2003. Compact models constitute only a small fraction of the basic dishwasher models on the market.

[5] The Commission notes that § 305.11(a)(5)(i)(H)(2) of the Rule currently requires manufacturers to print language near the bottom of their dishwasher labels indicating that the label information is based "on six washloads a week." As a result of the new test procedure, this will have to change to "five washloads a week." The Commission will formally publish this amendment in its notice regarding dishwasher ranges this summer.

unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. The amendments merely alter the dates on which compliance is required and do not affect the requirements of the rule nor do the amendments alter the frequency with which regulated entities must comply with these requirements. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In the 1988 NPR, the Commission stated that the Rule contains disclosure and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act ("PRA").[6] The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget ("OMB") and assigned OMB Control No. 3084–0068. OMB has again reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. Section 305.8(b) is revised to read as follows:

§ 305.8 Submission of Data.

* * * * *

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	August 1.
Refrigerator-freezers	August 1.
Freezers	August 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	*June 1.
Water heaters	May 1.
Room air conditioners	May 1.
Furnaces	May 1.
Pool heaters	May 1.
Clothes washers	March 1.
Fluorescent lamp ballasts	March 1.
Showerheads	March 1.
Faucets	March 1.
Water closets	March 1.
Urinals	March 1.
Fluorescent lamps	March 1 [Stayed].
Medium Base Compact Fluorescent Lamps	March 1 [Stayed].
Incandescent Lamps, incl. Reflector Lamps	March 1 [Stayed].

*Except the submission deadline for Year 2002 is June 17.

(2) All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report period.

3. Section 305.10(a) is revised to read as follows:

§ 305.10 Ranges of estimated annual energy consumption and energy efficiency ratings.

(a) The range of estimated annual energy consumption or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, showerheads, faucets, water closets or urinals) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges annually in the **Federal Register**, if appropriate, or a statement that the specific prior ranges are still applicable for the new year.

Ranges will be changed if the estimated annual energy consumption or energy efficiency ratings of the products within the range change in a way that would alter the upper or lower estimated annual energy consumption or energy efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised range subject to the following exception. For any standard size dishwasher range revised in 2002, all information disseminated after 60 days following the publication of the revision shall conform to the revised range. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–12431 Filed 5–16–02; 8:45 am]

BILLING CODE 6750–01–P

[6] 44 U.S.C. 3501–3520.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5c, 5f, 18, and 602

[TD 8996]

RIN 1545–AX15

Changes in Accounting Periods

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to certain adoptions, changes, and retentions of annual accounting periods. The final regulations are necessary to update, clarify, and reorganize the rules and procedures for adopting, changing, and retaining a taxpayer's annual accounting period. The final regulations primarily affect taxpayers that want to adopt an annual accounting period under section 441 or that must receive approval from the Commissioner to adopt, change, or retain their annual accounting periods under section 442.

DATES: *Effective Date:* These regulations are effective May 17, 2002.

Applicability Date: These regulations are applicable for taxable years ending on or after May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Schmit or Roy Hirschhorn at (202) 622–4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1748. Responses to these collections of information are required for certain taxpayers to adopt, change, or retain an annual accounting period.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

The estimated annual burden per respondent varies from 20 minutes to one hour, depending on individual circumstances, with an estimated average of 30 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On June 12, 2001, the IRS and Treasury Department published in the **Federal Register** proposed amendments to regulations under section 441 (period for computing taxable income), and sections 442, 706, 898, and 1378 (regarding the requirement to obtain the approval of the Commissioner to adopt, change, or retain an annual accounting period) [REG–106917–99 (66 FR 31850)]. Written and electronic comments were solicited, and a public hearing was scheduled for October 2, 2001. Several comments were received, and are discussed below. Because no requests to speak were received, the public hearing was cancelled. After consideration of all comments, the proposed regulations under sections 441, 442, 706, and 1378 are adopted as revised by this Treasury decision.

Summary of Comments and Explanation of Revisions

1. Comments and Changes Relating to § 1.441 of the Proposed Regulations

A. Definition of 52–53-Week Taxable Year

The proposed regulations both define the term *taxable year consisting of 52–53-weeks* and provide an *Example* illustrating a 52–53-week taxable year that ends on a particular day of the week that last occurs in a calendar month or that is nearest to the last day of that calendar month. A commentator observed that many taxpayers have difficulty correctly applying the rules for 52–53-week taxable years, and suggested that certain explanatory text contained in the *Example* be moved to the regulations text itself where it would be more apparent and helpful. This suggestion has been adopted in the final regulations.

B. Changes to or From a 52–53-Week Taxable Year

The proposed regulations generally provide that changes to or from a 52–53-week taxable year are treated as changes in annual accounting periods that require the approval of the Commissioner, and describe some specific instances in which such approval may be obtained automatically under administrative procedures to be published by the Commissioner. Consistent with the general framework of the regulations, the descriptions of these specific changes have been removed from the final regulations. Taxpayers should see Rev. Proc. 2002–37 and Rev. Proc. 2002–38, 2002–22 I.R.B., for situations in which automatic approval for changes to or from a 52–53-week taxable year will be granted. The final regulations clarify that a taxpayer will not be granted automatic approval for a change from one 52–53-week taxable year to another 52–53-week taxable year, even if both years reference the same calendar month.

C. Short Periods of 6 Days or Less

The proposed regulations provide special rules for certain short periods required to effect a change in annual accounting period to (or from) a 52–53-week taxable year. The proposed regulations provide that if the short period is 6 days or less, such short period is not a separate taxable year but is instead added to and deemed a part of the following taxable year.

One commentator suggested that taxpayers be permitted the option of adding such a short period to either: (1) the following taxable year (as the proposed regulations would require); or (2) the prior taxable year, whichever convention is used by the taxpayer for financial accounting purposes.

The IRS and Treasury Department believe that adopting the commentator's suggestion in this case would present certain administrative difficulties, complicate tax administration, and possibly encourage the use of hindsight in tax reporting. After careful consideration, the IRS and Treasury have concluded that it is in the best interests of sound tax administration to have a uniform and certain rule applicable in all such situations. Thus, the final regulations do not adopt this suggestion.

D. Application of Effective Date Rules to 52–53-Week-Taxable Years

The proposed regulations provide a general rule concerning the application of certain effective dates as they apply to taxpayers employing 52–53-week taxable years. In response to comments, the final regulations clarify that this rule also applies to administrative guidance published by the Commissioner.

A comment was received suggesting that additional *Examples* be provided

illustrating how particular terms other than those "expressed in terms of taxable years beginning, including, or ending with reference to the first or last day of a specified calendar month," apply to 52–53-week fiscal-year taxpayers. In response to this comment, clarifying language and an additional *Example* have been provided in the final regulations.

E. Definitions of "Pass-Through Entity" and "Owner of a Pass-Through Entity"

The proposed regulations provide rules for certain pass-through entities and owners of pass-through entities relating to the treatment of certain taxable years ending with reference to the same calendar month. These rules are designed to prevent substantial deferral and distortion of income reporting.

The IRS and Treasury have become aware of a potentially abusive situation involving the deferral of income reporting in the case of closely-held Real Estate Investment Trusts (REITs) (within the meaning of section 6655(e)(5)(B)) and certain owners of interests in closely-held REITs (within the meaning of section 6655(e)(5)(A)).

For estimated tax purposes, certain owners of interests in closely-held REITs are required to recognize income from the REIT in a manner similar to partners in a partnership. Unlike a partnership, however, REITs are not required to use a taxable year that conforms to the taxable year of their owners but rather are required to use a taxable year ending December 31 pursuant to section 859. Thus, the potential for deferral of estimated taxes exists with respect to certain owners of interests in closely-held REITs, including owners with 52–53-week taxable years that reference December 31, as well as fiscal-year owners.

In an attempt to reduce the potential for deferral of estimated taxes in the case of certain owners of interests in closely-held REITs, the final regulations have been modified to add: (1) a closely-held REIT (within the meaning of section 6655(e)(5)(B)) to the definition of a *pass-through entity*; and (2) an owner of an interest (within the meaning of section 6655(e)(5)(A)) in a closely-held REIT to the definition of an *owner of a pass-through entity*. Thus, these owners of interests in a closely-held REIT with 52–53-week taxable years that reference December 31 will be required under the final regulations to recognize income from the closely-held REIT as if their taxable year ends on December 31.

F. Accrual of Foreign Taxes

The IRS recognizes that changes to the taxable year of a taxpayer may shift the taxable year in which foreign taxes are treated as accruing for U.S. purposes. The IRS also recognizes that similar results may occur in the case of taxpayers that use a 52–53-week taxable year, which will not always include the last day of the taxpayer's taxable year in a foreign jurisdiction. The IRS is working on guidance that it expects will be issued this year to ensure that changes in U.S. taxable years, or the use of a 52–53-week taxable year, do not result in unintended and inappropriate consequences for foreign tax credit purposes. Comments are requested on the changes necessary and appropriate to address the accrual of foreign taxes in these situations.

2. Comments and Changes Relating to § 1.442 of the Proposed Regulations

A. Time and Manner for Filing an Application

The proposed regulations provide specific rules for the time and manner of filing an application to adopt, change, or retain an annual accounting period. Consistent with the general framework of the regulations, the IRS and Treasury have concluded that it is more appropriate to remove the specific time and manner requirements for filing applications for adoptions, changes, and retentions in annual accounting period from the final regulations, and provide them instead in administrative procedures published by the Commissioner. See Rev. Proc. 2002–37, Rev. Proc. 2002–38, and Rev. Proc. 2002–39. The IRS and Treasury believe that providing these rules in administrative guidance, rather than in regulations, allows the IRS more flexibility to respond in the future to the changing needs of taxpayers and the IRS.

The proposed regulations provide that an application for non-automatic approval of an annual accounting period change may be filed no earlier than the day following the close of the first effective year and no later than the 15th day of the third calendar month following the close of the first effective year. One commentator suggested that such applications be permitted to be filed no earlier than the later of: (1) The first day of the short period resulting from the proposed tax year change; or (2) 60 days prior to the end of the short period.

The IRS currently allows taxpayers to file applications with the national office within the referenced 60-day period and believes that many taxpayers take advantage of early filing, even knowing that their applications lack adequate information, in an effort to obtain priority over other applications processed by the national office. However, the lack of adequate financial and other required information common to such early applications requires that the IRS devote additional resources to properly develop and process the applications. Ultimately, this causes a delay in processing both the early applications, and other applications as well. For this reason, the administrative guidance issued concurrently with these final regulations do not adopt this suggestion. However, the IRS and Treasury Department intend to study filing patterns under the new rules, and will consider expanding or modifying the time frame for filing applications with the national office if circumstances warrant.

One commentator recommended that instead of requiring all taxpayers to file the application by the 15th day of the third calendar month following the close of the first taxable year in which the taxpayer wants the adoption, change, or retention to be effective (the first effective year), as the proposed regulations provide, the due date for the application should be the due date of the taxpayer's return for the short period, without extensions. The IRS and Treasury believe that such a rule will be simpler for taxpayers (such as individuals and partnerships) and the IRS. Accordingly, this change is adopted in the administrative guidance issued concurrently with these final regulations.

B. Changes to Required Taxable Years by Pass-Through Entities

One commentator suggested that the proposed regulations be modified to waive the Form 1128, "Application to Adopt, Change, or Retain a Tax Year," filing requirement in the case of partnerships, S corporations, and personal service corporations (PSCs) changing to a "required taxable year" for the first taxable year for which such change is required. Alternatively, the commentator recommended use of an "automatic consent" procedure similar to the procedure outlined in the proposed regulations for subsidiaries changing tax years to conform to the periods of their affiliated groups. The commentator reasoned that changes to statutorily required taxable years should not require the Commissioner's prior approval through any filing or application process.

Except in very limited circumstances (*e.g.*, adoptions of required years, certain section 444 terminations, and certain section 859 changes) applications historically have been required for changes to a required taxable year by a pass-through entity. The IRS and Treasury Department believe that the statutes that require such entities to use or change to a particular taxable year must be read in conjunction with the general requirement under section 442 to obtain the prior approval of the Commissioner to change an existing taxable year. Moreover, the applications serve to provide the IRS with necessary information about the entity's annual accounting period. Accordingly, this comment was not adopted in the final regulations or the administrative guidance issued concurrently with these regulations.

C. Book Conformity Requirements

The proposed regulations conform the record keeping requirement for taxpayers using a fiscal year to that of § 1.446–1(a)(4), which allows for a reconciliation between the taxpayer's books and return. However, the preamble to the proposed regulations noted that, as a term and condition of obtaining approval to adopt, change to, or retain an annual accounting period under section 442, certain taxpayers nevertheless may be required, under administrative procedures published by the Commissioner, to compute income and keep their books (including financial statements and reports to creditors) on the basis of the requested annual accounting period. In fact, strict book conformity is a general requirement in the administrative procedures for approval to make many changes. See, *e.g.*, Rev. Proc. 2002–37.

One commentator objected to the proposed elimination of procedures contained in the existing regulations under section 442 under which certain corporations are granted automatic approval to change their taxable year without a strict book conformity requirement (*i.e.*, by satisfying the general book conformity rules of section 446). The commentator recommended that either the final regulations retain these automatic consent rules or, alternatively, that the administrative procedures eliminate the strict book conformity requirement.

The IRS and Treasury Department believe it is appropriate to apply the more lenient book conformity rule of section 446 in the case of a taxpayer adopting, changing to, or retaining a required or ownership taxable year and in the case of a foreign corporation that is required by foreign law to use a particular year for financial accounting purposes. See, *e.g.*, Rev. Proc. 2002–39. However, for all other changes under the administrative procedures, the IRS and Treasury Department continue to believe that strict book conformity is an appropriate term and condition of a voluntary change in annual accounting period, as it provides assurance that the change is motivated by business, as opposed to tax, considerations. In addition, the IRS and Treasury believe, for reasons stated in the preamble to the proposed regulations, that tax administration and taxpayers are better served by providing the specific rules for adoptions, changes, and retentions of annual accounting periods in administrative pronouncements, rather than regulations. Accordingly, the comment has not been adopted.

3. Comments and Changes Relating to Partnerships, S Corporations, and Personal Service Corporations (PSCs)

A comment was received recommending that the limitation on additional required taxable year changes in the proposed regulations for partnerships using a majority-interest taxable years, be extended to partnerships using other required taxable years (e.g., to principal partners' taxable years and to least-aggregate-deferral taxable years). The limitation for changes to a majority interest taxable year is specifically provided in section 706(b)(4)(B). No such statutory authority exists for providing similar limitations in the case of other required taxable year changes by partnerships. Accordingly, this comment was not adopted in the final regulations. However, the Treasury Department is considering this comment in connection with a legislative simplification study.

The proposed regulations (consistent with the existing temporary regulations) generally provide for a 1-year testing period for determining whether a taxpayer is a PSC. In the preamble to the proposed regulations, the IRS and Treasury Department responded to a comment received in connection with the original notice of proposed rulemaking cross-referenced by the temporary regulations. The original commentator suggested that the testing period be expanded to the three preceding taxable years in order to minimize instances in which taxpayers become PSCs due to temporary or aberrational conditions. In response, the IRS and Treasury Department indicated that they would consider alternatives to the current 1-year period if similar requests were received in comments to the proposed regulations now that taxpayers have significantly more experience with the 1-year rule.

Although some comments were received recommending a general 3-year testing period for both PSCs and S corporations, the suggestions were not directed to particular taxpayer burdens stemming from the 1-year testing period for a PSC or the original concern about taxpayers becoming a PSC because of temporary or aberrational conditions. Rather, commentators suggested that a general 3-year testing period rule would reduce repetitive "required tax year" changes, and promote tax-year certainty.

The IRS and Treasury Department believe that these reasons do not warrant extending the 1-year testing period for PSCs and S corporations because the current required taxable year framework for PSCs and S corporations should not result in repetitive required taxable year changes. Once a PSC or S corporation has changed to its required taxable year (i.e., a calendar year), any further changes would be voluntary rather than required. Accordingly, this suggestion has not been adopted in the final regulations.

Effect on Other Documents

Rev. Rul. 57–589 is obsolete.

Rev. Rul. 65–316 (1965–2 C.B. 149) is obsolete.

Rev. Rul. 68–125 (1968–1 C.B. 189) is obsolete.

Rev. Rul. 69–563 is obsolete.

Rev. Rul. 74–326 (1974–2 C.B. 142) is obsolete.

Rev. Rul. 78–179 (1978–1 C.B. 132) is obsolete.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collections of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that few small entities are expected to adopt a 52–53-week taxable year, triggering the collection of information, and that for those who do, the burden imposed under § 1.441–2(b)(1)(ii) will be minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for

Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Roy A. Hirschhorn and Michael F. Schmit of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Parts 1, 5f, and 18

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 5c

Accounting, Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 5c, 5f, 18, and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In the list below, for each section indicated in the left column, remove the old language in the middle column and add the new language in the right column.

Affected section	Remove	Add
1.46–1(p)(2)(iv)	paragraph (b)(1) of § 1.441–2	§ 1.441–2
1.48–3(d)(1)(iii)	paragraph (b)(1) of § 1.441–2	§ 1.441–2
1.280H–1T(a), last sentence	§ 1.441–4T(d)	§ 1.441–3(c)
1.443–1(b)(1)(ii)	and paragraph (c)(5) of § 1.441–2	and § 1.441–2(b)(2)(ii)
1.444–1T(a)(1), first sentence	§ 1.441–4T(d)	§ 1.441–3(c)
1.444–2T(a), last sentence	§ 1.441–4T(d)	§ 1.441–3(c)
1.448–1(h)(2)(ii)(B)(*1*)	§ 1.441–2T(b)(1)	§ 1.441–2(c)
1.469–1(h)(4)(ii)(D)	§ 1.441–4T(f)	§ 1.441–3(e)
1.469–1T(g)(2)(i)	§ 1.441–4T(d)	§ 1.441–3(c)
1.1561–1(c)(2)	See paragraph (b)(1) of § 1.441–2	See § 1.441–2
1.6654–2(a), concluding text	paragraph (b) of § 1.441–2	§ 1.441–2(c)
1.6655–2(a)(4), first sentence	paragraph (b) of § 1.441–2	§ 1.441–2(c)
301.7701(b)–6(a), third sentence	§ 1.441–1(e)	§ 1.441–1(b)

Par. 3. Sections 1.441–0, 1.441–1, 1.441–2, 1.441–3, and 1.441–4 are added to read as follows:

§ 1.441–0 Table of contents.

This section lists the captions contained in §§ 1.441–1 through 1.441–4 as follows:

§ 1.441–1 Period for computation of taxable income.

(a) Computation of taxable income.
(1) In general.
(2) Length of taxable year.
(b) General rules and definitions.
(1) Taxable year.
(1) Required taxable year.
(i) In general.
(ii) Exceptions.
(A) 52–53-week taxable years.
(B) Partnerships, S corporations, and PSCs.
(C) Specified foreign corporations.
(3) Annual accounting period.
(4) Calendar year.
(5) Fiscal year.
(i) Definition.
(ii) Recognition.
(6) Grandfathered fiscal year.
(7) Books.
(8) Taxpayer.
(c) Adoption of taxable year.
(1) In general.
(2) Approval required.
(i) Taxpayers with required taxable years.
(ii) Taxpayers without books.
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§ 1.441–4 Effective date

§ 1.441–1 Period for computation of taxable income.

(a) *Computation of taxable income*—(1) *In general.* Taxable income must be computed and a return must be made for a period known as the taxable year. For rules relating to methods of accounting, the taxable year for which items of gross income are included and deductions are taken, inventories, and adjustments, see parts II and III (section 446 and following), subchapter E, chapter 1 of the Internal Revenue Code, and the regulations thereunder.

(2) *Length of taxable year.* Except as otherwise provided in the Internal Revenue Code and the regulations thereunder (e.g., § 1.441–2 regarding 52–53-week taxable years), a taxable year may not cover a period of more than 12 calendar months.

(b) *General rules and definitions.* The general rules and definitions in this paragraph (b) apply for purposes of sections 441 and 442 and the regulations thereunder.

(1) *Taxable year. Taxable year* means—

(i) The period for which a return is made, if a return is made for a period of less than 12 months (short period). See section 443 and the regulations thereunder;

(ii) Except as provided in paragraph (b)(1)(i) of this section, the taxpayer's required taxable year (as defined in paragraph (b)(2) of this section), if applicable;

(iii) Except as provided in paragraphs (b)(1)(i) and (ii) of this section, the taxpayer's annual accounting period (as defined in paragraph (b)(3) of this section), if it is a calendar year or a fiscal year; or

(iv) Except as provided in paragraphs (b)(1)(i) and (ii) of this section, the calendar year, if the taxpayer keeps no books, does not have an annual accounting period, or has an annual accounting period that does not qualify as a fiscal year.

(2) *Required taxable year*—(i) *In general.* Certain taxpayers must use the particular taxable year that is required under the Internal Revenue Code and the regulations thereunder (the required taxable year). For example, the required taxable year is—

(A) In the case of a foreign sales corporation or domestic international sales corporation, the taxable year determined under section 441(h) and § 1.921–1T(a)(11), (b)(4), and (b)(6);

(B) In the case of a personal service corporation (PSC), the taxable year determined under section 441(i) and § 1.441–3;

(C) In the case of a nuclear decommissioning fund, the taxable year determined under § 1.468A–4(c)(1);

(D) In the case of a designated settlement fund or a qualified settlement fund, the taxable year determined under § 1.468B–2(j);

(E) In the case of a common trust fund, the taxable year determined under section 584(i);

(F) In the case of certain trusts, the taxable year determined under section 644;

(G) In the case of a partnership, the taxable year determined under section 706 and § 1.706–1;

(H) In the case of an insurance company, the taxable year determined under section 843 and § 1.1502–76(a)(2);

(I) In the case of a real estate investment trust, the taxable year determined under section 859;

(J) In the case of a real estate mortgage investment conduit, the taxable year determined under section 860D(a)(5) and § 1.860D–1(b)(6);

(K) In the case of a specified foreign corporation, the taxable year determined under section 898(c)(1)(A);

(L) In the case of an S corporation, the taxable year determined under section 1378 and § 1.1378–1; or

(M) In the case of a member of an affiliated group that makes a consolidated return, the taxable year determined under § 1.1502–76.

(ii) *Exceptions.* Notwithstanding paragraph (b)(2)(i) of this section, the following taxpayers may have a taxable year other than their required taxable year:

(A) *52–53-week taxable years.* Certain taxpayers may elect to use a 52–53-week taxable year that ends with reference to their required taxable year. See, for example, §§ 1.441–3 (PSCs), 1.706–1 (partnerships), 1.1378–1 (S corporations), and 1.1502–76(a)(1) (members of a consolidated group).

(B) *Partnerships, S corporations, and PSCs.* A partnership, S corporation, or PSC may use a taxable year other than its required taxable year if the taxpayer elects to use a taxable year other than its required taxable year under section 444, elects a 52–53-week taxable year that ends with reference to its required taxable year as provided in paragraph (b)(2)(ii)(A) of this section or to a taxable year elected under section 444, or establishes a business purpose to the satisfaction of the Commissioner under section 442 (such as a grandfathered fiscal year).

(C) *Specified foreign corporations.* A specified foreign corporation (as defined in section 898(b)) may use a taxable year other than its required taxable year if it elects a 52–53-week taxable year that ends with reference to its required taxable year as provided in paragraph (b)(2)(ii)(A) of this section or makes a one-month deferral election under section 898(c)(1)(B).

(3) *Annual accounting period. Annual accounting period* means the annual period (calendar year or fiscal year) on the basis of which the taxpayer regularly computes its income in keeping its books.

(4) *Calendar year. Calendar year* means a period of 12 consecutive months ending on December 31. A taxpayer who has not established a fiscal year must make its return on the basis of a calendar year.

(5) *Fiscal year*—(i) *Definition. Fiscal year* means—

(A) A period of 12 consecutive months ending on the last day of any month other than December; or

(B) A 52–53-week taxable year, if such period has been elected by the taxpayer. See § 1.441–2.

(ii) *Recognition.* A fiscal year will be recognized only if the books of the taxpayer are kept in accordance with such fiscal year.

(6) *Grandfathered fiscal year. Grandfathered fiscal year* means a fiscal year (other than a year that resulted in a three month or less deferral of income) that a partnership or an S corporation received permission to use on or after July 1, 1974, by a letter ruling (i.e., not by automatic approval).

(7) *Books. Books* include the taxpayer's regular books of account and such other records and data as may be necessary to support the entries on the taxpayer's books and on the taxpayer's return, as for example, a reconciliation of any difference between such books and the taxpayer's return. Records that are sufficient to reflect income adequately and clearly on the basis of an annual accounting period will be regarded as the keeping of books. See section 6001 and the regulations thereunder for rules relating to the keeping of books and records.

(8) *Taxpayer. Taxpayer* has the same meaning as the term *person* as defined in section 7701(a)(1) (*e.g.*, an individual, trust, estate, partnership, association, or corporation) rather than the meaning of the term taxpayer as defined in section 7701(a)(14) (any person subject to tax).

(c) *Adoption of taxable year*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, a new taxpayer may adopt any taxable year that satisfies the requirements of section 441 and the regulations thereunder without the approval of the Commissioner. A taxable year of a new taxpayer is adopted by filing its first Federal income tax return using that taxable year. The filing of an application for automatic extension of time to file a Federal income tax return (*e.g.*, Form 7004, "Application for Automatic Extension of Time to File Corporation Income Tax Return"), the filing of an application for an employer identification number (*i.e.*, Form SS–4, "Application for Employer Identification Number"), or the payment of estimated taxes, for a particular taxable year do not constitute an adoption of that taxable year.

(2) *Approval required*—(i) *Taxpayers with required taxable years.* A newly-formed partnership, S corporation, or PSC that wants to adopt a taxable year other than its required taxable year, a taxable year elected under section 444, or a 52–53-week taxable year that ends with reference to its required taxable year or a taxable year elected under section 444 must establish a business purpose and obtain the approval of the Commissioner under section 442.

(ii) *Taxpayers without books.* A taxpayer that must use a calendar year under section 441(g) and paragraph (f) of this section may not adopt a fiscal year without obtaining the approval of the Commissioner.

(d) *Retention of taxable year.* In certain cases, a partnership, S corporation, electing S corporation, or PSC will be required to change its taxable year unless it obtains the approval of the Commissioner under section 442, or makes an election under section 444, to retain its current taxable year. For example, a corporation using a June 30 fiscal year that either becomes a PSC or elects to be an S corporation and, as a result, is required to use the calendar year under section 441(i) or 1378, respectively, must obtain the approval of the Commissioner to retain its current fiscal year. Similarly, a partnership using a taxable year that corresponds to its required taxable year must obtain the approval of the Commissioner to retain such taxable year if its required taxable year changes as a result of a change in ownership. However, a partnership that previously established a business purpose to the satisfaction of the Commissioner to use a taxable year is not required to obtain the approval of the Commissioner if its required taxable year changes as a result of a change in ownership.

(e) *Change of taxable year.* Once a taxpayer has adopted a taxable year, such taxable year must be used in computing taxable income and making returns for all subsequent years unless the taxpayer obtains approval from the Commissioner to make a change or the taxpayer is otherwise authorized to change without the approval of the Commissioner under the Internal Revenue Code (e.g., section 444 or 859) or the regulations thereunder.

(f) *Obtaining approval of the Commissioner or making a section 444 election.* See § 1.442–1(b) for procedures for obtaining approval of the Commissioner (automatically or otherwise) to adopt, change, or retain an annual accounting period. See §§ 1.444–1T and 1.444–2T for qualifications, and 1.444–3T for procedures, for making an election under section 444.

§ 1.441–2 Election of taxable year consisting of 52–53 weeks.

(a) *In general*—(1) *Election.* An eligible taxpayer may elect to compute its taxable income on the basis of a fiscal year that—

(i) Varies from 52 to 53 weeks;

(ii) Ends always on the same day of the week; and

(iii) Ends always on—

(A) Whatever date this same day of the week last occurs in a calendar month; or

(B) Whatever date this same day of the week falls that is the nearest to the last day of the calendar month.

(2) *Effect.* In the case of a taxable year described in paragraph (a)(1)(iii)(A) of this section, the year will always end within the month and may end on the last day of the month, or as many as six days before the end of the month. In the case of a taxable year described in paragraph (a)(1)(iii)(B) of this section, the year may end on the last day of the month, or as many as three days before or three days after the last day of the month.

(3) *Eligible taxpayer.* A taxpayer is eligible to elect a 52–53-week taxable year if such fiscal year would otherwise satisfy the requirements of section 441 and the regulations thereunder. For example, a taxpayer that is required to use a calendar year under § 1.441–1(b)(2)(i)(D) is not an eligible taxpayer.

(4) *Example.* The provisions of this paragraph (a) are illustrated by the following example:

Example. If the taxpayer elects a taxable year ending always on the last Saturday in November, then for the year 2001, the taxable year would end on November 24, 2001. On the other hand, if the taxpayer had elected a taxable year ending always on the Saturday nearest to the end of November, then for the year 2001, the taxable year would end on December 1, 2001.

(b) *Procedures to elect a 52–53-week taxable year*—(1) *Adoption of a 52–53-week taxable year*—(i) *In general.* A new eligible taxpayer elects a 52–53-week taxable year by adopting such year in accordance with § 1.441–1(c). A newly-formed partnership, S corporation or personal service corporation (PSC) may adopt a 52–53-week taxable year without the approval of the Commissioner if such year ends with reference to either the taxpayer's required taxable year (as defined in § 1.441–1(b)(2)) or the taxable year elected under section 444. See §§ 1.441–3, 1.706–1, and 1.1378–1. Similarly, a newly-formed specified foreign corporation (as defined in section 898(b)) may adopt a 52–53-week taxable year if such year ends with reference to the taxpayer's required taxable year, or, if the one-month deferral election under section 898(c)(1)(B) is made, with reference to the month immediately preceding the required taxable year. See § 1.1502–76(a)(1) for special rules regarding subsidiaries adopting 52–53-week taxable years.

(ii) *Filing requirement.* A taxpayer adopting a 52–53-week taxable year must file with its Federal income tax return for its first taxable year a statement containing the following information—

(A) The calendar month with reference to which the 52–53-week taxable year ends;

(B) The day of the week on which the 52–53-week taxable year always will end; and

(C) Whether the 52–53-week taxable year will always end on the date on which that day of the week last occurs in the calendar month, or on the date on which that day of the week falls that is nearest to the last day of that calendar month.

(2) *Change to (or from) a 52–53-week taxable year*—(i) *In general.* An election of a 52–53-week taxable year by an existing eligible taxpayer with an established taxable year is treated as a change in annual accounting period that requires the approval of the Commissioner in accordance with § 1.442–1. Thus, a taxpayer must obtain approval to change from its current taxable year to a 52–53-week taxable year, even if such 52–53-week taxable year ends with reference to the same calendar month. Similarly, a taxpayer must obtain approval to change from a 52–53-week taxable year, or to change from one 52–53-week taxable year to another 52–53-week taxable year. However, a taxpayer may obtain approval for 52–53-week taxable year changes automatically to the extent provided in administrative procedures published by the Commissioner. See § 1.442–1(b) for procedures for obtaining such approval.

(ii) *Special rules for the short period required to effect the change.* If a change to or from a 52–53-week taxable year results in a short period (within the meaning of § 1.443–1(a)) of 359 days or more, or six days or less, the tax computation under § 1.443–1(b) does not apply. If the short period is 359 days or more, it is treated as a full taxable year. If the short period is six days or less, such short period is not a separate taxable year but instead is added to and deemed a part of the following taxable year. (In the case of a change to or from a 52–53-week taxable year not involving a change of the month with reference to which the taxable year ends, the tax computation under § 1.443–1(b) does not apply because the short period will always be 359 days or more, or six days or less.) In the case of a short period which is more than six days and less than 359 days, taxable income for the short period is placed on an annual basis for purposes of § 1.443–1(b) by multiplying such income by 365 and dividing the result by the number of days in the short period. In such case, the tax for the short period is the same part of the tax computed on such income placed on an annual basis as the number of days in the short period is of 365 days (unless § 1.443–1(b)(2), relating to the alternative tax computation, applies). For an adjustment in deduction for personal exemption, see § 1.443–1(b)(1)(v).

(3) *Examples.* The following examples illustrate paragraph (b)(2)(ii) of this section:

Example 1. A taxpayer having a fiscal year ending April 30, obtains approval to change to a 52–53-week taxable year ending the last Saturday in April for taxable years beginning after April 30, 2001. This change involves a short period of 362 days, from May 1, 2001, to April 27, 2002, inclusive. Because the change results in a short period of 359 days or more, it is not placed on an annual basis and is treated as a full taxable year.

Example 2. Assume the same conditions as *Example 1*, except that the taxpayer changes for taxable years beginning after April 30, 2002, to a taxable year ending on the Thursday nearest to April 30. This change results in a short period of two days, May 1 to May 2, 2002. Because the short period is less than seven days, tax is not separately computed. This short period is added to and deemed part of the following 52–53-week taxable year, which would otherwise begin on May 3, 2002, and end on May 1, 2003.

(c) *Application of effective dates*—(1) *In general.* Except as provided in paragraph (c)(3) of this section, for purposes of determining the effective date (*e.g.*, of legislative, regulatory, or administrative changes) or the applicability of any provision of the internal revenue laws that is expressed in terms of taxable years beginning, including, or ending with reference to the first or last day of a specified calendar month, a 52–53-week taxable year is deemed to begin on the first day of the calendar month nearest to the first day of the 52–53-week taxable year, and is deemed to end or close on the last day of the calendar month nearest to the last day of the 52–53-week taxable year, as the case may be. Examples of provisions of this title, the applicability of which is expressed in terms referred to in the preceding sentence, include the provisions relating to the time for filing returns and other documents, paying tax, or performing other acts, and the provisions of part II, subchapter B, chapter 6 (section 1561 and following) relating to surtax exemptions of certain controlled corporations.

(2) *Examples.* The provisions of paragraph (c)(1) of this section may be illustrated by the following examples:

Example 1. Assume that an income tax provision is applicable to taxable years beginning on or after January 1, 2001. For that purpose, a 52–53-week taxable year beginning on any day within the period December 26, 2000, to January 4, 2001, inclusive, is treated as beginning on January 1, 2001.

Example 2. Assume that an income tax provision requires that a return must be filed on or before the 15th day of the third month following the close of the taxable year. For that purpose, a 52–53-week taxable year ending on any day during the period May 25 to June 3, inclusive, is treated as ending on May 31, the last day of the month ending nearest to the last day of the taxable year, and the return, therefore, must be made on or before August 15.

Example 3. Assume that a revenue procedure requires the performance of an act by the taxpayer within "the first 90 days of the taxable year," by "the 75th day of the taxable year," or, alternately, by "the last day of the taxable year." The taxpayer employs a 52–53-week taxable year that ends always on the Saturday closest to the last day of December. These requirements are not expressed in terms of taxable years beginning, including, or ending with reference to the first or last day of a specified calendar month, and are accordingly outside the scope of the rule stated in § 1.441–2(c)(1). Accordingly, the taxpayer must perform the required act by the 90th, 75th, or last day, respectively, of its taxable year.

Example 4. X, a corporation created on January 1, 2001, elects a 52–53-week taxable year ending on the Friday nearest the end of December. Thus, X's first taxable year begins on Monday, January 1, 2001, and ends on Friday, December 28, 2001; its next taxable year begins on Saturday, December 29, 2001, and ends on Friday, January 3, 2003; and its next taxable year begins on Saturday, January 4, 2003, and ends on Friday, January 2, 2004. For purposes of applying the provisions of Part II, subchapter B, chapter 6 of the Internal Revenue Code, X's first taxable year is deemed to end on December 31, 2001; its next taxable year is deemed to begin on January 1, 2002, and end on December 31, 2002, and its next taxable year is deemed to begin on January 1, 2003, and end on December 31, 2003. Accordingly, each such taxable year is treated as including one and only one December 31st.

(3) *Changes in tax rates.* If a change in the rate of tax is effective during a 52–53-week taxable year (other than on the first day of such year as determined under paragraph (c)(1) of this section), the tax for the 52–53-week taxable year must be computed in accordance with section 15, relating to effect of changes, and the regulations thereunder. For the purpose of the computation under section 15, the determination of the number of days in the period before the change, and in the period on and after the change, is to be made without regard to the provisions of paragraph (b)(1) of this paragraph.

(4) *Examples.* The provisions of paragraph (c)(3) of this section may be illustrated by the following examples:

Example 1. Assume a change in the rate of tax is effective for taxable years beginning after June 30, 2002. For a 52–53-week taxable year beginning on Friday, November 2, 2001, the tax must be computed on the basis of the old rates for the actual number of days from November 2, 2001, to June 30, 2002, inclusive, and on the basis of the new rates for the actual number of days from July 1, 2002, to Thursday, October 31, 2002, inclusive.

Example 2. Assume a change in the rate of tax is effective for taxable years beginning after June 30, 2001. For this purpose, a 52–53-week taxable year beginning on any of the days from June 25 to July 4, inclusive, is treated as beginning on July 1. Therefore, no computation under section 15 will be required for such year because of the change in rate.

(d) *Computation of taxable income.* The principles of section 451, relating to the taxable year for inclusion of items of gross income, and section 461, relating to the taxable year for taking deductions, generally are applicable to 52–53-week taxable years. Thus, except as otherwise provided, all items of income and deduction must be

determined on the basis of a 52–53-week taxable year. However, a taxpayer may determine particular items as though the 52–53-week taxable year were a taxable year consisting of 12 calendar months, provided that practice is consistently followed by the taxpayer and clearly reflects income. For example, an allowance for depreciation or amortization may be determined on the basis of a 52–53-week taxable year, or as though the 52–53-week taxable year is a taxable year consisting of 12 calendar months, provided the taxpayer consistently follows that practice with respect to all depreciable or amortizable items.

(e) *Treatment of taxable years ending with reference to the same calendar month*—(1) *Pass-through entities.* If a pass-through entity (as defined in paragraph (e)(3)(i) of this section) or an owner of a pass-through entity (as defined in paragraph (e)(3)(ii) of this section), or both, use a 52–53-week taxable year and the taxable year of the pass-through entity and the owner end with reference to the same calendar month, then, for purposes of determining the taxable year in which items of income, gain, loss, deductions, or credits from the pass-through entity are taken into account by the owner of the pass-through, the owner's taxable year will be deemed to end on the last day of the pass-through's taxable year. Thus, if the taxable year of a partnership and a partner end with reference to the same calendar month, then for purposes of determining the taxable year in which that partner takes into account items described in section 702 and items that are deductible by the partnership (including items described in section 707(c)) and includible in the income of that partner, that partner's taxable year will be deemed to end on the last day of the partnership's taxable year. Similarly, if the taxable year of an S corporation and a shareholder end with reference to the same calendar month, then for purposes of determining the taxable year in which that shareholder takes into account items described in section 1366(a) and items that are deductible by the S corporation and includible in the income of that shareholder, that shareholder's taxable year will be deemed to end on the last day of the S corporation's taxable year.

(2) *Personal service corporations and employee-owners.* If the taxable year of a PSC (within the meaning of § 1.441–3(c)) and an employee-owner (within the meaning of § 1.441–3(g)) end with reference to the same calendar month, then for purposes of determining the taxable year in which an employee-owner takes into account items that are deductible by the PSC and includible in the income of the employee-owner, the employee-owner's taxable year will be deemed to end on the last day of the PSC's taxable year.

(3) *Definitions*—(i) *Pass-through entity.* For purposes of this section, a pass-through entity means a partnership, S corporation, trust, estate, closely-held real estate investment trust (within the meaning of section 6655(e)(5)(B)), common trust fund (within the meaning of section 584(i)), controlled foreign corporation (within the meaning of section 957), foreign personal holding company (within the meaning of section 552), or passive foreign investment company that is a qualified electing fund (within the meaning of section 1295).

(ii) *Owner of a pass-through entity.* For purposes of this section, an owner of a pass-through entity generally means a taxpayer that owns an interest in, or stock of, a pass-through entity. For example, an owner of a pass-through entity includes a partner in a partnership, a shareholder of an S corporation, a beneficiary of a trust or an estate, an owner of a closely-held real estate investment trust (within the meaning of section 6655(e)(5)(A)), a participant in a common trust fund, a U.S. shareholder (as defined in section 951(b)) of a controlled foreign corporation, a U.S. shareholder (as defined in section 551(a)) of a foreign personal holding company, or a U.S. person that holds stock in a passive foreign investment company that is a qualified electing fund with respect to that shareholder.

(4) *Examples.* The provisions of paragraph (e)(2) of this section may be illustrated by the following examples:

Example 1. ABC Partnership uses a 52–53-week taxable year that ends on the Wednesday nearest to December 31, and its partners, A, B, and C, are individual calendar year taxpayers. Assume that, for ABC's taxable year ending January 3, 2001, each partner's distributive share of ABC's taxable income is $10,000. Under section 706(a) and paragraph (e)(1) of this section, for the taxable year ending December 31, 2000, A, B, and C each must include $10,000 in income with respect to the ABC year ending January 3, 2001. Similarly, if ABC makes a guaranteed payment to A on January 2, 2001, A must include the payment in income for A's taxable year ending December 31, 2000.

Example 2. X, a PSC, uses a 52–53-week taxable year that ends on the Wednesday nearest to December 31, and all of the employee-owners of X are individual calendar year taxpayers. Assume that, for its taxable year ending January 3, 2001, X pays a bonus of $10,000 to each employee-owner on January 2, 2001. Under paragraph (e)(2) of this section, each employee-owner must include its bonus in income for the taxable year ending December 31, 2000.

(5) *Transition rule.* In the case of an owner of a pass-through entity (other than the owner of a partnership or S corporation) that is required by this paragraph (e) to include in income for its first taxable year ending on or after May 17, 2002 amounts attributable to two taxable years of a pass-through entity, the amount that otherwise would be required to be included in income for such first taxable year by reason of this paragraph (e) should be included in income ratably over the four-taxable-year period beginning with such first taxable year under principles similar to § 1.702–3T, unless the owner of the pass-through entity elects to include all such income in its first taxable year ending on or after May 17, 2002.

§ 1.441–3 Taxable year of a personal service corporation.

(a) *Taxable year*—(1) *Required taxable year.* Except as provided in paragraph (a)(2) of this section, the taxable year of a personal service corporation (PSC) (as defined in paragraph (c) of this section) must be the calendar year.

(2) *Exceptions.* A PSC may have a taxable year other than its required taxable year (i.e., a fiscal year) if it makes an election under section 444, elects to use a 52–53-week taxable year that ends with reference to the calendar year or a taxable year elected under section 444, or establishes a business purpose for such fiscal year and obtains the approval of the Commissioner under section 442.

(b) *Adoption, change, or retention of taxable year*—(1) *Adoption of taxable year.* A PSC may adopt, in accordance with § 1.441–1(c), the calendar year, a taxable year elected under section 444, or a 52–53-week taxable year ending with reference to the calendar year or a taxable year elected under section 444 without the approval of the Commissioner. *See* § 1.441–1. A PSC that wants to adopt any other taxable year must establish a business purpose and obtain the approval of the Commissioner under section 442.

(2) *Change in taxable year.* A PSC that wants to change its taxable year must obtain the approval of the Commissioner under section 442 or make an election under section 444. However, a PSC may obtain automatic approval for certain changes, including a change to the calendar year or to a 52–53-week taxable year ending with reference to the calendar year, pursuant to administrative procedures published by the Commissioner.

(3) *Retention of taxable year.* In certain cases, a PSC will be required to change its taxable year unless it obtains the approval of the Commissioner under section 442, or makes an election under section 444, to retain its current taxable year. For example, a corporation using a June 30 fiscal year that becomes a PSC and, as a result, is required to use the calendar year must obtain the approval of the Commissioner to retain its current fiscal year.

(4) *Procedures for obtaining approval or making a section 444 election.* See § 1.442–1(b) for procedures to obtain the approval of the Commissioner (automatically or otherwise) to adopt, change, or retain a taxable year. See §§ 1.444–1T and 1.444–2T for qualifications, and 1.444–3T for procedures, for making an election under section 444.

(5) *Examples.* The provisions of paragraph (b)(4) of this section may be illustrated by the following examples:

Example 1. X, whose taxable year ends on January 31, 2001, becomes a PSC for its taxable year beginning February 1, 2001, and does not obtain the approval of the Commissioner for using a fiscal year. Thus, for taxable years ending before February 1, 2001, this section does not apply with respect to X. For its taxable year beginning on February 1, 2001, however, X will be required to comply with paragraph (a) of this section. Thus, unless X obtains approval of the Commissioner to use a January 31 taxable year, or makes a section 444 election, X will be required to change its taxable year to the calendar year under paragraph (b) of this section by using a short taxable year that begins on February 1, 2001, and ends on December 31, 2001. Under paragraph (b)(1) of this section, X may obtain automatic approval to change its taxable year to a calendar year. See § 1.442–1(b).

Example 2. Assume the same facts as in *Example 1*, except that X desires to change to a 52–53-week taxable year ending with reference to the month of December. Under paragraph (b)(1) of this section X may obtain automatic approval to make the change. See § 1.442–1(b).

(c) *Personal service corporation defined*—(1) *In general.* For purposes of this section and section 442, a taxpayer is a PSC for a taxable year only if—

(i) The taxpayer is a C corporation (as defined in section 1361(a)(2)) for the taxable year;

(ii) The principal activity of the taxpayer during the testing period is the performance of personal services;

(iii) During the testing period, those services are substantially performed by employee-owners (as defined in paragraph (g) of this section); and

(iv) Employee-owners own (as determined under the attribution rules of section 318, except that the language "any" applies instead of "50 percent" in section 318(a)(2)(C)) more than 10 percent of the fair market value of the outstanding stock in the taxpayer on the last day of the testing period.

(2) *Testing period*—(i) *In general.* Except as otherwise provided in paragraph (c)(2)(ii) of this section, the testing period for any taxable year is the immediately preceding taxable year.

(ii) *New corporations.* The testing period for a taxpayer's first taxable year is the period beginning on the first day of that taxable year and ending on the earlier of—

(A) The last day of that taxable year; or

(B) The last day of the calendar year in which that taxable year begins.

(3) *Examples.* The provisions of paragraph (c)(2)(ii) of this section may be illustrated by the following examples:

Example 1. Corporation A's first taxable year begins on June 1, 2001, and A desires to use a September 30 taxable year. However, if A is a personal service corporation, it must obtain the Commissioner's approval to use a September 30 taxable year. Pursuant to paragraph (c)(2)(ii) of this section, A's testing period for its first taxable year beginning June 1, 2001, is the period June 1, 2001 through September 30, 2001. Thus, if, based upon such testing period, A is a personal service corporation, A must obtain the Commissioner's permission to use a September 30 taxable year.

Example 2. The facts are the same as in *Example 1*, except that A desires to use a March 31 taxable year. Pursuant to paragraph (c)(2)(ii) of this section, A's testing period for its first taxable year beginning June 1, 2001, is the period June 1, 2001, through December 31, 2001. Thus, if, based upon such testing period, A is a personal service corporation, A must obtain the Commissioner's permission to use a March 31 taxable year.

(d) *Performance of personal services*—(1) *Activities described in section 448(d)(2)(A).* For purposes of this section, any activity of the taxpayer described in section 448(d)(2)(A) or the regulations thereunder will be treated as the performance of personal services. Therefore, any activity of the taxpayer that involves the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting (as such fields are defined in § 1.448–1T) will be treated as the performance of personal services for purposes of this section.

(2) *Activities not described in section 448(d)(2)(A).* For purposes of this section, any activity of the taxpayer not described in section 448(d)(2)(A) or the regulations thereunder will not be treated as the performance of personal services.

(e) *Principal activity*—(1) *General rule.* For purposes of this section, the principal activity of a corporation for any testing period will be the performance of personal services if the cost of the corporation's compensation (the compensation cost) for such testing period that is attributable to its activities that are treated as the performance of personal services within the meaning of paragraph (d) of this section (i.e., the total compensation for personal service activities) exceeds 50 percent of the corporation's total compensation cost for such testing period.

(2) *Compensation cost*—(i) *Amounts included.* For purposes of this section, the compensation cost of a corporation for a taxable year is equal to the sum of the following amounts allowable as a deduction, allocated to a long-term contract, or otherwise chargeable to a capital account by the corporation during such taxable year—

(A) Wages and salaries; and

(B) Any other amounts, attributable to services performed for or on behalf of the corporation by a person who is an employee of the corporation (including an owner of the corporation who is treated as an employee under paragraph (g)(2) of this section) during the testing period. Such amounts include, but are not limited to, amounts attributable to deferred compensation, commissions, bonuses, compensation includible in income under section 83, compensation for services based on a percentage of profits, and the cost of providing fringe benefits that are includible in income.

(ii) *Amounts excluded.* Notwithstanding paragraph (e)(2)(i) of this section, compensation cost does not include amounts attributable to a plan qualified under section 401(a) or 403(a), or to a simplified employee pension plan defined in section 408(k).

(3) *Attribution of compensation cost to personal service activity*—(i) *Employees involved only in the performance of personal services.* The compensation cost for employees involved only in the performance of activities that are treated as personal services under paragraph (d) of this section, or employees involved only in supporting the work of such employees, are considered to be attributable to the corporation's personal service activity.

(ii) *Employees involved only in activities that are not treated as the performance of personal services.* The compensation cost for employees involved only in the performance of activities that are not treated as personal services under paragraph (d) of this section, or for employees involved only in supporting the work of such employees, are not considered to be attributable to the corporation's personal service activity.

(iii) *Other employees.* The compensation cost for any employee who is not described in either paragraph (e)(3)(i) or (ii) of this section (a mixed-activity employee) is allocated as follows—

(A) *Compensation cost attributable to personal service activity.* That portion of the compensation cost for a mixed activity employee that is attributable to the corporation's personal service activity equals the compensation cost for that employee multiplied by the percentage of the total time worked for the corporation by that employee during the year that is attributable to activities of the corporation that are treated as the performance of personal services under paragraph (d) of this section. That percentage is to be determined by the taxpayer in any reasonable and consistent manner. Time logs are not required unless maintained for other purposes;

(B) *Compensation cost not attributable to personal service activity.* That portion of the compensation cost for a mixed activity employee that is not considered to be attributable to the corporation's personal service activity is the compensation cost for that employee less the amount determined in paragraph (e)(3)(iii)(A) of this section.

(f) *Services substantially performed by employee-owners*—(1) *General rule.* Personal services are substantially performed during the testing period by employee-owners of the corporation if more than 20 percent of the corporation's compensation cost for that period attributable to its activities that are treated as the performance of personal services within the meaning of paragraph (d) of this section (*i.e.*, the total compensation for personal service activities) is attributable to personal services performed by employee-owners.

(2) *Compensation cost attributable to personal services.* For purposes of paragraph (f)(1) of this section—

(i) The corporation's compensation cost attributable to its activities that are treated as the performance of personal services is determined under paragraph (e)(3) of this section; and

(ii) The portion of the amount determined under paragraph (f)(2)(i) of this section that is attributable to personal services performed by employee-owners is to be determined by the taxpayer in any reasonable and consistent manner.

(3) *Examples.* The provisions of this paragraph (f) may be illustrated by the following examples:

Example 1. For its taxable year beginning February 1, 2001, Corp A's testing period is the taxable year ending January 31, 2000. During that testing period, A's only activity was the performance of personal services. The total compensation cost of A (including compensation cost attributable to employee-owners) for the testing period was $1,000,000. The total compensation cost attributable to employee-owners of A for the testing period was $210,000. Pursuant to paragraph (f)(1) of this section, the employee-owners of A substantially performed the personal services of A during the testing period because the compensation cost of A's employee-owners was more than 20 percent of the total compensation cost for all of A's employees (including employee-owners).

Example 2. Corp B has the same facts as corporation A in *Example 1*, except that during the taxable year ending January 31, 2001, B also participated in an activity that would not be characterized as the performance of personal services under this section. The total compensation cost of B (including compensation cost attributable to employee-owners) for the testing period was $1,500,000 ($1,000,000 attributable to B's personal service activity and $500,000 attributable to B's other activity). The total compensation cost attributable to employee-owners of B for the testing period was $250,000 ($210,000 attributable to B's personal service activity and $40,000 attributable to B's other activity). Pursuant to paragraph (f)(1) of this section, the employee-owners of B substantially performed the personal services of B during the testing period because more than 20 percent of B's compensation cost during the testing period attributable to its personal service activities was attributable to personal services performed by employee-owners ($210,000).

(g) *Employee-owner defined*—(1) *General rule.* For purposes of this section, a person is an employee-owner of a corporation for a testing period if—

(i) The person is an employee of the corporation on any day of the testing period; and

(ii) The person owns any outstanding stock of the corporation on any day of the testing period.

(2) *Special rule for independent contractors who are owners.* Any person who is an owner of the corporation within the meaning of paragraph (g)(1)(ii) of this section and who performs personal services for, or on behalf of, the corporation is treated as an employee for purposes of this section, even if the legal form of that person's relationship to the corporation is such that the person would be considered an independent contractor for other purposes.

(h) *Special rules for affiliated groups filing consolidated returns*—(1) *In general.* For purposes of applying this section to the members of an affiliated group of corporations filing a consolidated return for the taxable year—

(i) The members of the affiliated group are treated as a single corporation;

(ii) The employees of the members of the affiliated group are treated as employees of such single corporation; and

(iii) All of the stock of the members of the affiliated group that is not owned by any other member of the affiliated group is treated as the outstanding stock of that corporation.

(2) *Examples.* The provisions of this paragraph (h) may be illustrated by the following examples:

Example 1. The affiliated group AB, consisting of corporation A and its wholly owned subsidiary B, filed a consolidated Federal income tax return for the taxable year ending January 31, 2001, and AB is attempting to determine whether it is affected by this section for its taxable year beginning February 1, 2001. During the testing period (i.e., the taxable year ending January 31, 2001), A did not perform personal services. However, B's only activity was the performance of personal services. On the last day of the testing period, employees of A did not own any stock in A. However, some of B's employees own stock in A. In the aggregate, B's employees own 9 percent of A's stock on the last day of the testing period. Pursuant to paragraph (h)(1) of this section, this section is effectively applied on a consolidated basis to members of an affiliated group filing a consolidated Federal income tax return. Because the only employee-owners of AB are the employees of B, and because B's employees do not own more than 10 percent of AB on the last day of the testing period, AB is not a PSC subject to the provisions of this section. Thus, AB is not required to determine on a consolidated basis whether, during the testing period, its principal activity is the providing of personal services, or the personal services are substantially performed by employee-owners.

Example 2. The facts are the same as in Example 1, except that on the last day of the testing period A owns only 80 percent of B. The remaining 20 percent of B is owned by employees of B. The fair market value of A, including its 80 percent interest in B, as of the last day of the testing period, is $1,000,000. In addition, the fair market value of the 20 percent interest in B owned by B's employees is $50,000 as of the last day of the testing period. Pursuant to paragraphs (c)(1)(iv) and (h)(1) of this section, AB must determine whether the employee-owners of A and B (i.e., B's employees) own more than 10 percent of the fair market value of A and B as of the last day of the testing period. Because the $140,000 [($1,000,000 x .09) + $50,000] fair market value of the stock held by B's employees is greater than 10 percent of the aggregate fair market value of A and B as of the last day of the testing period, or $105,000 [$1,000,000 + $50,000 x .10], AB may be subject to this section if, on a consolidated basis during the testing period, the principal activity of AB is the performance of personal services and the personal services are substantially performed by employee-owners.

§ 1.441–4 Effective date.

Sections 1.441–0 through 1.441–3 are applicable for taxable years ending on or after May 17, 2002.

§§ 1.441–1T, 1.441–2T, 1.441–3T and 1.441–4T [Removed]

Par. 4. Sections 1.441–1T, 1.441–2T, 1.441–3T and 1.441–4T are removed.

Par 5. Section 1.442–1 is revised to read as follows:

§ 1.442–1 Change of annual accounting period.

(a) *Approval of the Commissioner.* A taxpayer that has adopted an annual accounting period (as defined in § 1.441–1(b)(3)) as its taxable year generally must continue to use that annual accounting period in computing its taxable income and for making its Federal income tax returns. If the taxpayer wants to change its annual accounting period and use a new taxable year, it must obtain the approval of the Commissioner, unless it is otherwise authorized to change without the approval of the Commissioner under either the Internal Revenue Code (*e.g.*, section 444 and section 859) or the regulations thereunder (*e.g.*, paragraph (c) of this section). In addition, as described in § 1.441–1(c) and (d), a partnership, S corporation, electing S corporation, or personal service corporation (PSC) generally is required to secure the approval of the Commissioner to adopt or retain an annual accounting period other than its required taxable year. The manner of obtaining approval from the Commissioner to adopt, change, or retain an annual accounting period is provided in paragraph (b) of this section. However, special rules for obtaining approval may be provided in other sections.

(b) *Obtaining approval*—(1) *Time and manner for requesting approval.* In order to secure the approval of the Commissioner to adopt, change, or retain an annual accounting period, a taxpayer must file an application, generally on Form 1128, "Application To Adopt, Change, or Retain a Tax Year," with the Commissioner within such time and in such manner as is provided in administrative procedures published by the Commissioner.

(2) *General requirements for approval.* An adoption, change, or retention in annual accounting period will be approved where the taxpayer establishes a business purpose for the requested annual accounting period and agrees to the Commissioner's prescribed terms, conditions, and adjustments for effecting the adoption, change, or retention. In determining whether a taxpayer has established a business purpose and which terms, conditions, and adjustments will be required, consideration will be given to all the facts and circumstances relating to the adoption, change, or retention, including the tax consequences resulting therefrom. Generally, the requirement of a business purpose will be satisfied, and adjustments to neutralize any tax consequences will not be required, if the requested annual accounting period coincides with the taxpayer's required taxable year (as defined in § 1.441–1(b)(2)), ownership taxable year, or natural business year. In the case of a partnership, S corporation, electing S corporation, or PSC, deferral of income to partners, shareholders, or employee-owners will not be treated as a business purpose.

(3) *Administrative procedures.* The Commissioner will prescribe administrative procedures under which a taxpayer may be permitted to adopt, change, or retain an annual accounting period. These administrative procedures will describe the business purpose requirements (including an ownership taxable year and a natural business year) and the terms, conditions, and adjustments necessary to obtain approval. Such terms, conditions, and adjustments may include adjustments necessary to neutralize the tax effects of a substantial distortion of income that would otherwise result from the requested annual accounting period including: a deferral of a substantial portion of the taxpayer's income, or shifting of a substantial portion of deductions, from one taxable year to another; a similar deferral or shifting in the case of any other person, such as a beneficiary in an estate; the creation of a short period in which there is a substantial net operating loss, capital loss, or credit (including a general business credit); or the creation of a short period in which there is a substantial amount of income to offset an expiring net operating loss, capital loss, or credit. See, for example, Rev. Proc. 2002–39, 2002–22 I.R.B., procedures for obtaining the Commissioner's prior approval of an adoption, change, or retention in annual accounting period through application to the national office; Rev. Proc. 2002–37, 2002–22 I.R.B., automatic approval procedures for certain corporations; Rev. Proc. 2002–38, 2002–22 I.R.B., automatic approval procedures for partnerships, S corporations, electing S corporations, and PSCs; and Rev. Proc. 66–50, 1966–2 C.B. 1260, automatic approval procedures for individuals. For availability of Revenue Procedures and Notices, see § 601.601(d)(2) of this chapter.

(4) *Taxpayers to whom section 441(g) applies.* If section 441(g) and § 1.441–1(b)(1)(iv) apply to a taxpayer, the adoption of a fiscal year is treated as a change in the taxpayer's annual accounting period under section 442. Therefore, that fiscal year can become the taxpayer's taxable year only with the approval of the Commissioner. In addition to any other terms and conditions that may apply to such a change, the taxpayer must establish and maintain books that adequately and clearly reflect income for the short period involved in the change and for the fiscal year proposed.

(c) *Special rule for change of annual accounting period by subsidiary corporation.* A subsidiary corporation that is required to change its annual accounting period under § 1.1502–76, relating to the taxable year of members of an affiliated group that file a consolidated return, does not need to obtain the approval of the Commissioner or file an application on Form 1128 with respect to that change.

(d) *Special rule for newly married couples.* (1) A newly married husband or wife may obtain automatic approval under this paragraph (d) to change his or her annual accounting period in order to use the annual accounting period of the other spouse so that a joint return may be filed for the first or second taxable year of that spouse ending after the date of marriage. Such automatic approval will be granted only if the newly married husband or wife adopting the annual accounting period of the other spouse files a Federal income tax return for the short period required by that change on or before the 15th day of the 4th month following the close of the short period. See section 443 and the regulations thereunder. If the due date for any such short-period return occurs before the date of marriage, the first taxable year of the other spouse ending after the date of marriage cannot be adopted under this paragraph (d). The short-period return must contain a statement at the top of page one of the return that it is filed under the authority of this paragraph (d). The newly married husband or wife need not file Form 1128 with respect to a change described in this paragraph (d). For a change of annual accounting period by a husband or wife that does not qualify under this paragraph (d), see paragraph (b) of this section.

(2) The provisions of this paragraph (d) may be illustrated by the following example:

Example. H & W marry on September 25, 2001. H is on a fiscal year ending June 30, and W is on a calendar year. H wishes to change to a calendar year in order to file joint returns with W. W's first taxable year after marriage ends on December 31, 2001. H may not change to a calendar year for 2001 since, under this paragraph (d), he would have had to file a return for the short period from July 1 to December 31, 2000, by April 16, 2001. Since the date of marriage occurred subsequent to this due date, the return could not be filed under this paragraph (d). Therefore, H cannot change to a calendar year for 2001. However, H may change to a calendar year for 2002 by filing a return under this paragraph (d) by April 15, 2002, for the short period from July 1 to December 31, 2001. If H files such a return, H and W may file a joint return for calendar year 2002 (which is W's second taxable year ending after the date of marriage).

(e) *Effective date.* The rules of this section are applicable for taxable years ending on or after May 17, 2002.

§§ 1.442–2T and 1.442–3T [Removed]

Par. 6. Sections 1.442–2T and 1.442–3T are removed.

Par. 7. Section 1.706–1 is amended by revising paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 1.706–1 Taxable years of partner and partnership.

(a) *Year in which partnership income is includible.* (1) In computing taxable income for a taxable year, a partner is required to include the partner's distributive share of partnership items set forth in section 702 and the regulations thereunder for any partnership taxable year ending within or with the partner's taxable year. A partner must also include in taxable income for a taxable year guaranteed payments under section 707(c) that are deductible by the partnership under its method of accounting in the partnership taxable year ending within or with the partner's taxable year.

(2) The rules of this paragraph (a)(1) may be illustrated by the following example:

Example. Partner A reports income using a calendar year, while the partnership of which A is a member reports its income using a fiscal year ending May 31. The partnership reports its income and deductions under the cash method of accounting. During the partnership taxable year ending May 31, 2002, the partnership makes guaranteed payments of $120,000 to A for services and for the use of capital. Of this amount, $70,000 was paid to A between June 1 and December 31, 2001, and the remaining $50,000 was paid to A between January 1 and May 31, 2002. The entire $120,000 paid to A is includible in A's taxable income for the calendar year 2002 (together with A's distributive share of partnership items set forth in section 702 for the partnership taxable year ending May 31, 2002).

(3) If a partner receives distributions under section 731 or sells or exchanges all or part of a partnership interest, any gain or loss arising therefrom does not constitute partnership income.

(b) *Taxable year*—(1) *Partnership treated as a taxpayer.* The taxable year of a partnership must be determined as though the partnership were a taxpayer.

(2) *Partnership's taxable year*—(i) *Required taxable year.* Except as provided in paragraph (b)(2)(ii) of this section, the taxable year of a partnership must be—

(A) The majority interest taxable year, as defined in section 706(b)(4);

(B) If there is no majority interest taxable year, the taxable year of all of the principal partners of the partnership, as defined in 706(b)(3) (the principal partners' taxable year); or

(C) If there is no majority interest taxable year or principal partners' taxable year, the taxable year that produces the least aggregate deferral of income as determined under paragraph (b)(3) of this section.

(ii) *Exceptions.* A partnership may have a taxable year other than its required taxable year if it makes an election under section 444, elects to use a 52–53-week taxable year that ends with reference to its required taxable year or a taxable year elected under section 444, or establishes a business purpose for such taxable year and obtains approval of the Commissioner under section 442.

(3) *Least aggregate deferral*—(i) *Taxable year that results in the least aggregate deferral of income.* The taxable year that results in the least aggregate deferral of income will be the taxable year of one or more of the partners in the partnership which will result in the least aggregate deferral of income to the partners. The aggregate deferral for a particular year is equal to the sum of the products determined by multiplying the month(s) of deferral for each partner that would be generated by that year and each partner's interest in partnership profits for that year. The partner's taxable year that produces the lowest sum when compared to the other partner's taxable years is the taxable year that results in the least aggregate deferral of income to the partners. If the calculation results in more than one taxable year qualifying as the taxable year with the least aggregate deferral, the partnership may select any one of those taxable years as its taxable year. However, if one of the qualifying taxable years is also the partnership's existing taxable year, the partnership must maintain its existing taxable year. The determination of the taxable year that results in the least aggregate deferral of income generally must be made as of the beginning of the partnership's current taxable year. The director, however, may determine that the first day of the current taxable year is not the appropriate testing day and require the use of some other day or period that will more accurately reflect the ownership of the partnership and thereby the actual aggregate deferral to the partners where the partners engage in a transaction that has as its principal purpose the avoidance of the principles of this section. Thus, for example the preceding sentence would apply where there is a transfer of an interest in the partnership that results in a temporary transfer of that interest principally for purposes of qualifying for a specific taxable year under the principles of this section. For purposes of this section, deferral to each partner is measured in terms of months from the end of the partnership's taxable year forward to the end of the partner's taxable year.

(ii) *Determination of the taxable year of a partner or partnership that uses a 52–53-week taxable year.* For purposes of the calculation described in paragraph (b)(3)(i) of this section, the taxable year of a partner or partnership that uses a 52–53-week taxable year must be the same year determined under the rules of section 441(f) and the regulations thereunder with respect to the inclusion of income by the partner or partnership.

(iii) *Special de minimis rule.* If the taxable year that results in the least aggregate deferral produces an aggregate deferral that is less than .5 when compared to the aggregate deferral of the current taxable year, the partnership's current taxable year will be treated as the taxable year with the least aggregate deferral. Thus, the partnership will not be permitted to change its taxable year.

(iv) *Examples.* The principles of this section may be illustrated by the following examples:

Example 1. Partnership P is on a fiscal year ending June 30. Partner A reports income on the fiscal year ending June 30 and Partner B reports income on the fiscal year ending July 31. A and B each have a 50 percent interest in partnership profits. For its taxable year beginning July 1, 1987, the partnership will be required to retain its taxable year since the fiscal year ending June 30 results in the least aggregate deferral of income to the partners. This determination is made as follows:

Test 6/30	Year end	Interest in partnership profits	Months of deferral for 6/30 year end	Interest × deferral
Partner A	6/30	.5	0	0
Partner B	7/31	.5	1	.5
Aggregate deferral				.5

Test 7/31	Year end	Interest in partnership profits	Months of deferral for 7/31 year end	Interest × deferral
Partner A	6/30	.5	11	5.5
Partner B	7/31	.5	0	0
Aggregate deferral				5.5

Example 2. The facts are the same as in *Example 1* except that A reports income on the calendar year and B reports on the fiscal year ending November 30. For the partnership's taxable year beginning July 1, 1987, the partnership is required to change its taxable year to a fiscal year ending November 30 because such year results in the least aggregate deferral of income to the partners. This determination is made as follows:

Test 12/31	Year end	Interest in partnership profits	Months of deferral for 12/31 year end	Interest × deferral
Partner A	12/31	.5	0	0
Partner B	11/30	.5	11	5.5
Aggregate deferral				5.5

Test 11/30	Year end	Interest in partnership profits	Months of deferral for 11/30 year end	Interest × deferral
Partner A	12/31	.5	1	.5
Partner B	11/30	.5	0	0
Aggregate deferral				.5

Example 3. The facts are the same as in *Example 2* except that B reports income on the fiscal year ending June 30. For the partnership's taxable year beginning July 1, 1987, each partner's taxable year will result in identical aggregate deferral of income. If the partnership's current taxable year was neither a fiscal year ending June 30 nor the calendar year, the partnership would select either the fiscal year ending June 30 or the calendar year as its taxable year. However, since the partnership's current taxable year ends June 30, it must retain its current taxable year. The determination is made as follows:

Test 12/31	Year end	Interest in partnership profits	Months of deferral for 12/31 year end	Interest × deferral
Partner A	12/31	.5	0	0
Partner B	6/30	.5	6	3.0
Aggregate deferral				3.0

Test 6/30	Year end	Interest in partnership profits	Months of deferral for 6/30 year end	Interest × deferral
Partner A	12/31	.5	6	3.0
Partner B	6/30	.5	0	0
Aggregate deferral				3.0

Example 4. The facts are the same as in Example 1 except that on December 31, 1987, partner A sells a 4 percent interest in the partnership to Partner C, who reports income on the fiscal year ending June 30, and a 40 percent interest in the partnership to Partner D, who also reports income on the fiscal year ending June 30. The taxable year beginning July 1, 1987, is unaffected by the sale. However, for the taxable year beginning July 31, 1988, the partnership must determine the taxable year resulting in the least aggregate deferral as of July 1, 1988. In this case, the partnership will be required to retain its taxable year since the fiscal year ending June

30 continues to be the taxable year that results in the least aggregate deferral of income to the partners.

Example 5. The facts are the same as in Example 4 except that Partner D reports income on the fiscal year ending April 30. As in Example 4, the taxable year during which the sale took place is unaffected by the shifts in interests. However, for its taxable year beginning July 1, 1988, the partnership will be required to change its taxable year to the fiscal year ending April 30. This determination is made as follows:

Test 7/31	Year end	Interest in partnership profits	Months of deferral for 7/31 year end	Interest × deferral
Partner A	6/30	.06	11	.66
Partner B	7/31	.5	0	0
Partner C	6/30	.04	11	.44
Partner D	4/30	.4	9	3.60
Aggregate deferral				4.70

Test 6/30	Year end	Interest in partnership profits	Months of deferral for 6/30 year end	Interest × deferral
Partner A	6/30	.06	0	0
Partner B	7/31	.5	1	.5
Partner C	6/30	.04	0	0
Partner D	4/30	.4	10	4.0
Aggregate deferral				4.5

Test 4/30	Year end	Interest in partnership profits	Months of deferral for 4/30 year end	Interest × deferral
Partner A	6/30	.06	2	.12
Partner B	7/31	.5	3	1.50
Partner C	6/30	.04	2	.08
Partner D	4/30	.4	0	0
Aggregate deferral				1.70

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Current taxable year (June 30)	4.5
Less: Taxable year producing the least aggregate deferral (April 30)	1.7
Additional aggregate deferral (greater than .5)	2.8

Example 6. (i) Partnership P has two partners, A who reports income on the fiscal year ending March 31, and B who reports income on the fiscal year ending July 31. A and B share profits equally. P has determined its taxable year under paragraph (b)(3) of this section to be the fiscal year ending March 31 as follows:

Test 3/31	Year end	Interest in partnership profits	Deferral for 3/31 year end	Interest × deferral
Partner A	3/31	.5	0	0
Partner B	7/31	.5	4	2
Aggregate deferral				2

Test 7/31	Year end	Interest in partnership profits	Deferral for 7/31 year end	Interest × deferral
Partner A	3/31	.5	8	4
Partner B	7/31	.5	0	0
Aggregate deferral				4

(ii) In May 1988, Partner A sells a 45 percent interest in the partnership to C, who reports income on the fiscal year ending April 30. For the taxable period beginning April 1, 1989, the fiscal year ending April 30 is the taxable year that produces the least aggregate deferral of income to the partners. However, under paragraph (b)(3)(iii) of this section the partnership is required to retain its fiscal year ending March 31. This determination is made as follows:

Test 3/31	Year end	Interest in partnership profits	Deferral for 3/31 year end	Interest × deferral
Partner A	3/31	.05	0	0
Partner B	7/31	.5	4	2.0
Partner C	4/30	.45	1	.45
Aggregate deferral				2.45

Test 7/31	Year end	Interest in partnership profits	Deferral for 7/31 year end	Interest × deferral
Partner A	3/31	.05	8	.40
Partner B	7/31	.5	0	0
Partner C	4/30	.45	9	4.05
Aggregate deferral				4.45

Test 4/30	Year end	Interest in partnership profits	Deferral for 4/30 year end	Interest × deferral
Partner A	3/31	.05	11	.55
Partner B	7/31	.5	3	1.50
Partner C	4/30	.45	0	0
Aggregate deferral				2.05

§ 1.706–1(B)(3) TEST

Current taxable year (3/31)	2.45
Less: Taxable year producing the least aggregate deferral (4/30)	2.05
Additional aggregate deferral (less than .5)	.40

(4) *Measurement of partner's profits and capital interest—*

(i) *In general.* The rules of this paragraph (b)(4) apply in determining the majority interest taxable year, the principal partners' taxable year, and the least aggregate deferral taxable year.

(ii) *Profits interest*—(A) *In general.* For purposes of section 706(b), a partner's interest in partnership profits is generally the partner's percentage share of partnership profits for the current partnership taxable year. If the partnership does not expect to have net income for the current partnership taxable year, then a partner's interest in partnership profits instead must be the partner's percentage share of partnership net income for the first taxable year in which the partnership expects to have net income.

(B) *Percentage share of partnership net income.* The partner's percentage share of partnership net income for a partnership taxable year is the ratio of: the partner's distributive share of partnership net income for the taxable year, to the partnership's net income for the year. If a partner's percentage share of partnership net income for the taxable year depends on the amount or nature of partnership income for that year (due to, for example, preferred returns or special allocations of specific partnership items), then the partnership must make a reasonable estimate of the amount and nature of its income for the taxable year. This estimate must be based on all facts and circumstances known to the partnership as of the first day of the current partnership taxable year. The partnership must then use this estimate in determining the partners' interests in partnership profits for the taxable year.

(C) *Distributive share.* For purposes of this paragraph (b)(4)(ii), a partner's distributive share of partnership net income is determined by taking into account all rules and regulations affecting that determination, including, without limitation, sections 704(b), (c), and (e), 736, and 743.

(iii) *Capital interest.* Generally, a partner's interest in partnership capital is determined by reference to the assets of the partnership that the partner would be entitled to upon withdrawal from the partnership or upon liquidation of the partnership. If the partnership maintains capital accounts in accordance with § 1.704–1(b)(2)(iv), then for purposes of section 706(b), the partnership may assume that a partner's interest in partnership capital is the ratio of the partner's capital account to all partners' capital accounts as of the first day of the partnership taxable year.

(5) *Certain tax-exempt partners disregarded.* [Reserved]

(6) *Foreign partners.* [Reserved]

(7) *Adoption of taxable year.* A newly-formed partnership may adopt, in accordance with § 1.441–1(c), its required taxable year, a taxable year elected under section 444, or a 52–53-week taxable year ending with reference to its required taxable year or a taxable year elected under section 444 without securing the approval of the Commissioner. If a newly-formed partnership wants to adopt any other taxable year, it must establish a business purpose and secure the approval of the Commissioner under section 442.

(8) *Change in taxable year*—(i) *Partnerships*-(A) *Approval required.* An existing partnership may change its taxable year only by securing the approval of the Commissioner under section 442 or making an election under section 444. However, a partnership may obtain automatic approval for certain changes, including a change to its required taxable year, pursuant to

administrative procedures published by the Commissioner.

(B) *Short period tax return.* A partnership that changes its taxable year must make its return for a short period in accordance with section 443, but must not annualize the partnership taxable income.

(C) *Change in required taxable year.* If a partnership is required to change to its majority interest taxable year, then no further change in the partnership's required taxable year is required for either of the two years following the year of the change. This limitation against a second change within a three-year period applies only if the first change was to the majority interest taxable year and does not apply following a change in the partnership's taxable year to the principal partners' taxable year or the least aggregate deferral taxable year.

(ii) *Partners.* Except as otherwise provided in the Internal Revenue Code or the regulations thereunder (e.g., section 859 regarding real estate investment trusts or § 1.442–2(c) regarding a subsidiary changing to its consolidated parent's taxable year), a partner may not change its taxable year without securing the approval of the Commissioner under section 442. However, certain partners may be eligible to obtain automatic approval to change their taxable years pursuant to the regulations or administrative procedures published by the Commissioner. A partner that changes its taxable year must make its return for a short period in accordance with section 443.

(9) *Retention of taxable year.* In certain cases, a partnership will be required to change its taxable year unless it obtains the approval of the Commissioner under section 442, or makes an election under section 444, to retain its current taxable year. For example, a partnership using a taxable year that corresponds to its required taxable year must obtain the approval of the Commissioner to retain such taxable year if its required taxable year changes as a result of a change in ownership, unless the partnership previously obtained approval for its current taxable year or, if appropriate, makes an election under section 444.

(10) *Procedures for obtaining approval or making a section 444 election.* See § 1.442–1(b) for procedures to obtain the approval of the Commissioner (automatically or otherwise) to adopt, change, or retain a taxable year. See §§ 1.444–1T and 1.444–2T for qualifications, and § 1.444–3T for procedures, for making an election under section 444.

* * * * *

(d) *Effective date.* The rules of this section are applicable for taxable years ending on or after May 17, 2002, except for paragraph (c), which applies for taxable years beginning after December 31, 1953.

§ 1.706–1T [Removed]

Par. 8. Section 1.706–1T is removed.

Par. 9. Section 1.1378–1 is added under the undesignated centerheading "Small Business Corporations and Their Shareholders" to read as follows:

§ 1.1378–1 Taxable year of S corporation.

(a) *In general.* The taxable year of an S corporation must be a permitted year. A permitted year is the required taxable year (*i.e.*, a taxable year ending on December 31), a taxable year elected under section 444, a 52–53-week taxable year ending with reference to the required taxable year or a taxable year elected under section 444, or any other taxable year for which the corporation establishes a business purpose to the satisfaction of the Commissioner under section 442.

(b) *Adoption of taxable year.* An electing S corporation may adopt, in accordance with § 1.441–1(c), its required taxable year, a taxable year elected under section 444, or a 52–53-week taxable year ending with reference to its required taxable year or a taxable year elected under section 444 without the approval of the Commissioner. See § 1.441–1. An electing S corporation that wants to adopt any other taxable year, must establish a business purpose and obtain the approval of the Commissioner under section 442.

(c) *Change in taxable year*—(1) *Approval required.* An S corporation or electing S corporation that wants to change its taxable year must obtain the approval of the Commissioner under section 442 or make an election under section 444. However, an S corporation or electing S corporation may obtain automatic approval for certain changes, including a change to its required taxable year, pursuant to administrative procedures published by the Commissioner.

(2) *Short period tax return.* An S corporation or electing S corporation that changes its taxable year must make its return for a short period in accordance with section 443, but must not annualize the corporation's taxable income.

(d) *Retention of taxable year.* In certain cases, an S corporation or electing S corporation will be required to change its taxable year unless it obtains the approval of the Commissioner under section 442, or makes an election under section 444, to retain its current taxable year. For example, a corporation using a June 30 fiscal year that elects to be an S corporation and, as a result, is required to use the calendar year must obtain the approval of the Commissioner to retain its current fiscal year.

(e) *Procedures for obtaining approval or making a section 444 election*—(1) *In general.* See § 1.442–1(b) for procedures to obtain the approval of the Commissioner (automatically or otherwise) to adopt, change, or retain a taxable year. See §§ 1.444–1T and 1.444–2T for qualifications, and 1.444–3T for procedures, for making an election under section 444.

(2) *Special rules for electing S corporations.* An electing S corporation that wants to adopt, change to, or retain a taxable year other than its required taxable year must request approval of the Commissioner on Form 2553, "Election by a Small Business Corporation," when the election to be an S corporation is filed pursuant to section 1362(b) and § 1.1362–6. See § 1.1362–6(a)(2)(i) for the manner of making an election to be an S corporation. If such corporation receives permission to adopt, change to, or retain a taxable year other than its required taxable year, the election to be an S corporation will be effective. Denial of the request renders the election ineffective unless the corporation agrees that, in the event the request to adopt, change to, or retain a taxable year other than its required taxable year is denied, it will adopt, change to, or retain its required taxable year or, if applicable, make an election under section 444.

(f) *Effective date.* The rules of this section are applicable for taxable years ending on or after May 17, 2002.

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Par. 10. The authority citation for part 5c continues to read as follows:

Authority: 26 U.S.C. 168(f)(8)(G) and 7805.

§ 5c.442–1 [Removed]

Par. 11. Section 5c.442–1 is removed.

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Par. 12. The authority citation for part 5f continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 5f.442–1 [Removed]

Par. 13. Section 5f.442–1 is removed.

PART 18—TEMPORARY INCOME TAX REGULATIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Par. 14. The authority citation for part 18 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 18.1378–1T [Removed]

Par. 15. Section 18.1378–1 is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 16. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 17. In § 602.101, paragraph (b) is amended by adding an entry for "1.441–2", removing the entries for "1.441–3T", "1.442–2T", and "1.442–3T", revising the entry for "1.442–1", and adding an entry for "1.1378–1" in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
. . . . .	
1.441–2	1545–1748
. . . . .	
1.442–1	1545–0074 1545–0123 1545–0134 1545–0152 1545–1748
. . . . .	
1.1378–1	1545–1748
. . . . .	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: May 3, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 02–12169 Filed 5–16–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[AR–036–FOR]

Arkansas Abandoned Mine Land Reclamation Plan and Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Arkansas abandoned mine land (AML) reclamation plan (Arkansas plan) and the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Arkansas proposed revisions to its AML reclamation plan regulations concerning eligible lands and water, reclamation objectives and priorities, and reclamation project evaluation. Arkansas proposed to revise its regulatory program regulations concerning procedures for assessment conference and to add revegetation success standards for grazingland and prime farmland. Arkansas revised its plan and program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581–6430, Internet: *mwolfrom@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Plan and Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Arkansas Plan and Program

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On May 2, 1983, the Secretary of the Interior approved the Arkansas plan. You can find background information on the Arkansas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the May 2, 1983, **Federal Register** (48 FR 19710). You can find later actions on the Arkansas plan at 30 CFR 904.25 and 904.26.

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Arkansas program on November 21, 1980. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

II. Submission of the Amendment

By letter dated August 13, 2001 (Administrative Record No. AR–568), Arkansas sent us an amendment to its plan and program under SMCRA (30 U.S.C. 1201 *et seq.*). Arkansas sent the amendment in response to our letters dated November 26, 1985, and October 14, 1997 (Administrative Record Nos. AR–332 and AR–559.02, respectively), that we sent to Arkansas under 30 CFR 732.17(c). Arkansas also sent the amendment in response to our letter dated May 5, 1999 (Administrative Record No. AAML–30) that we sent Arkansas under 30 CFR 884.15(d). The amendment also includes a change made at Arkansas' own initiative. Arkansas proposes to amend the Arkansas Surface Coal Mining and Reclamation Code.

We announced receipt of the proposed amendment in the October 5, 2001, **Federal Register** (66 FR 50952). In the same document, we opened the public comment period and provided an

opportunity for a public hearing or meeting on the amendments adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on November 5, 2001. We received comments from two Federal agencies.

During our review of the amendment, we identified concerns about the Phase III revegetation success standards for grazingland and the Phase II and Phase III revegetation success standards for prime farmland. We notified Arkansas of these concerns by letter dated December 10, 2001 (Administrative Record No. AR–586.05).

By letter dated February 25, 2002 (Administrative Record No. AR–586.07), Arkansas sent us additional explanatory information and revisions to its proposed program amendment. Because the additional information and revisions merely clarified certain provisions of Arkansas' amendment, we did not reopen the public comment period.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15, 732.17, 884.14, and 884.15. We are approving the amendment.

A. Revisions to Arkansas' AML Reclamation Plan

1. Section 874.12, Eligible Lands and Water

Arkansas revised paragraph (b)(4) by replacing the reference to "30 CFR 872.11(b)(2) and (3)" with a reference to "Section 402(g)(1) and (5) of Public Law 95–97."

The reference change in section 874.12 merely corrects an incorrect citation reference and does not change the meaning of this previously approved section. Therefore, we find that the revision does not alter the substance of the Arkansas plan.

2. Section 874.13, Reclamation Objectives and Priorities

Arkansas deleted paragraph (d) of this section regarding research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques. By deleting this paragraph, the above projects will no longer have priority as AML reclamation projects.

Section 874.13 of Arkansas' regulations provides the specific criteria for ranking and identifying AML reclamation projects. The provisions of 30 CFR 884.13(c)(2) of the Federal regulations requires the specific criteria used by a State to be consistent with section 403 of the Act. The Energy Policy Act of 1992 removed the funding of coal research and demonstration projects from section 403 of the Act. Therefore, we find that, with the deletion of paragraph (d), section 874.13 of Arkansas' regulations is consistent with the requirements of 30 CFR 884.13(c)(2).

3. Section 874.14, Reclamation Project Evaluation

Arkansas revised paragraph (a)(2) of this section by deleting the last sentence concerning research and demonstration projects.

Section 874.14 of Arkansas' regulations provides the factors for evaluating proposed reclamation projects and completed reclamation work. The last sentence of paragraph (a)(2) concerned the evaluation of research and demonstration projects. As stated above, the Energy Policy Act of 1992 removed the funding of coal research and demonstration projects from section 403 of the Act. Further, Arkansas has removed coal research and demonstration projects from its specific criteria for ranking and identifying AML reclamation projects. Therefore, we find that the deletion of the last sentence in section 874.14(a)(2) is consistent with the requirements of 30 CFR 884.13.

B. Revisions to Arkansas' Regulatory Program

1. Section 845.18, Procedures for Assessment Conference

In paragraph (a) of this section, Arkansas removed the department's old name of "Arkansas Department of Pollution Control and Ecology" and replaced it with the department's new name of "Arkansas Department of Environmental Quality."

We find that the name change in section 845.18 does not change the meaning of this previously approved section, and therefore does not render the provision less effective than the corresponding Federal regulation at 30 CFR 845.18.

2. Revegetation Success Standards for Grazingland and Prime Farmland

The Federal regulations at 30 CFR 816.116(a)(1) require that each regulatory authority select revegetation success standards and statistically valid sampling techniques for measuring revegetation success and include them in its approved regulatory program. Arkansas developed its revegetation success guidelines to satisfy this requirement. The guidelines include revegetation success standards and statistically valid sampling techniques for measuring revegetation success of reclaimed grazingland in accordance with Arkansas' counterparts to the Federal regulations at 30 CFR 816.116. The guidelines also include revegetation success standards and statistically valid sampling techniques for restoring soil productivity of prime farmland soils in accordance with Arkansas' counterparts to the Federal regulations at 30 CFR 823.15. Arkansas' standards, criteria, and parameters for revegetation success reflect the extent of cover, species composition, and soil stabilization required in the Federal regulations at 30 CFR 816.111. As required by the Federal regulations at 30 CFR 816.116(a)(2) and 823.15, Arkansas' revegetation success standards include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking suitable to the approved postmining land uses. Arkansas' guidelines specify the procedures and techniques to be used for sampling, measuring, and analyzing vegetation parameters. Ground cover, production, and stocking suitable to grazinglands are considered equal to the approved success standard when they are not less than 90 percent of the success standard. The average production of crops for prime farmland soils must equal or exceed the average production of the same crops for the same or similar unmined prime farmland soils. Sampling techniques for measuring success use a 90-percent statistical confidence interval for all land uses. We find that use of these procedures and techniques will ensure consistent, objective collection of vegetation data.

For the above reasons, we find that the revegetation success standards and statistically valid sampling techniques for measuring revegetation success contained in Arkansas' revegetation success guidelines satisfy the requirements of 30 CFR 816.116(a)(1) and 823.15.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), 884.14(a)(2), and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Arkansas program (Administrative Record No. AR–568.01).

The U.S. Fish and Wildlife Service (FWS) responded on October 17, 2001 (Administrative Record No. AR–568.04), that there are numerous endangered and threatened species that occur throughout the state where potential reclamation sites could be located, but it finds that the standards established by Arkansas would not adversely affect any listed species. The FWS further stated that the standards established by Arkansas would probably serve as a benefit to listed species as well as wildlife as a whole. Finally, the FWS provided several specific comments on Arkansas' proposed revegatation success standards for grazingland and prime farmland. These comments are discussed below.

A. Comments Concerning Arkansas' Revegetation Success Standards for Grazingland

1. The FWS stated that at III.C.1 concerning reference area requirements, the guidelines should stipulate that reference plots using crops should not be used for grazingland reclamation sites. Only like plant species should be used as reference plots.

Response: The word "crop" in this section is a generic term used to refer to the product of a reference area. It does not specifically refer to row crops. In the case of grazinglands, reference areas would consist of similar plant species, and the crop yields of these reference areas must be at a level that is reasonably comparable to the county average for grazinglands on the same or similar soils.

2. The FWS stated that at IV.B concerning sampling techniques, the guidelines should stipulate that the same transects are used each year.

Response: We disagree with this comment. Using the same transects each year would negate the "randomness" of the selection of transect locations. The "randomness" of transect site selection is necessary to ensure that sample sites are impartial and that the results of the sampling represent an average for the reclaimed or reference areas.

3. The FWS stated that at IV.B concerning sampling techniques, the guidelines should clarify what criteria is used to determine whether sampling frames or whole harvesting is chosen to calculate productivity.

Response: We disagree with this comment. The operator has discretion to select the method of sampling, subject to regulatory authority approval.

4. The FWS recommended that whole area harvesting should not be conducted during ground bird nesting season.

Response: This comment is a matter of wildlife management, and therefore outside the scope of SMCRA and the Federal regulations. However, we have forwarded this comment on to the State for their consideration.

5. The FWS recommended that the operator should record the date on the sampling data sheets. The FWS pointed out that this is important since samples will be weighed both before and after drying, and the time of year that the samples were harvested needs to be taken into consideration. Also, since comparisons of the reference plots with the reclamation plots will be made, these samples should be collected at the same time.

Response: We agree that the operator should record the date the sample was taken on the sampling data sheets. We further agree that the operator must collect the samples from the reference area and reclamation plots at the same time. The data forms in Appendices B and C have a place to record the date of sampling. Further, section III.D concerning reference areas provides that reference area crops and crops in the reclaimed prime farmland area must have the same harvest dates. Therefore, we determined that Arkansas did not need to make any changes to these data forms.

However, Appendix D did not have a place to record the date of sampling. By letter dated December 10, 2001 (Administrative Record No. AR–568.05), we notified Arkansas that the data form in Appendix D must provide an area for recording the date of sampling. By letter dated February 25, 2002 (Administrative Record No. AR–568.07), Arkansas revised Appendix D to include a place to record the date of sampling. We find that Arkansas' revision to Appendix D is acceptable and resolves the FWS's concern.

6. The FWS recommended that only native species be replanted on reclamation sites.

Response: We disagree with this comment. Section 816.111(a) of the Federal regulations allows a permittee to establish a vegetative cover on regraded areas that is comprised of introduced species where desirable and necessary to achieve the approved postmining land use and approved by the regulatory authority. Thus, introduced species are acceptable when approved by the regulatory authority.

B. Comments Concerning Arkansas' Revegetation Success Standards for Prime Farmland

1. The FWS wondered when the predicted average yield per acre for each county was calculated. The FWS stated that if it was calculated an extended period from the present, the results might not be comparable to the results of the reference plots due to improved farming practices of today. The FWS stated that the operator should be encouraged to use reference plots if this is the situation.

Response: We do not share the FWS's concern that operators will use outdated predicted average yields as standards for success. The regulatory authority has discretion over the selection of the success standard. Section 780.18(b)(5) of Arkansas' regulations requires a permittee to submit a plan for revegetation that includes, among other things, the measures the permittee will use to determine the success of revegetation. Section II.C.5 of Arkansas' revegetation success guidelines for prime farmland states that the Natural Resources Conservation Service will be notified at the time of permit submittal of the area to be mined. If updated soil productivity values are available, they will be used for the standard of success. The regulatory authority has discretion to disapprove the use of predicted average yield if it is so outdated that it would not serve as an adequate measure of soil productivity. Furthermore, even if an operator uses predicted average yields that are outdated, section II.C.5.b provides that the yield data may be adjusted to compensate for differences in specific management practices. Therefore, if the yield data is outdated, they can be adjusted to take into account improved farming practices.

2. The FWS recommended that the operator record the date the sample was taken on the sampling data sheets. The FWS pointed out that this is important since samples will be weighed both before and after drying, and the time of year that the samples were harvested needs to be taken into consideration. Also, since comparisons of the reference plots with the reclamation plots will be made, these samples should be collected at the same time.

Response: We agree that the operator should record the date the sample was taken on the sampling data sheets. We further agree that the operator must collect the samples from the reference area and reclamation plots at the same time. The data forms in Appendices B and C have a place to record the date of sampling. Further, section III.D concerning reference areas provides that reference area crops and crops in the reclaimed prime farmland area must have the same harvest dates. Therefore, we determined that Arkansas did not need to make any changes to these data forms.

However, Appendix G did not have a place to record the date of sampling. By letter dated December 10, 2001

(Administrative Record No. AR–568.05), we notified Arkansas that the data form in Appendix G must provide an area for recording the date of sampling. By letter dated February 25, 2002 (Administrative Record No. AR–568.07), Arkansas revised Appendix G to include a place to record the date of sampling. We find that Arkansas' revision to Appendix G is acceptable and resolves the FWS's concern.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Arkansas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i) and 884.15(a)(2), we requested comments on the amendment from the EPA (Administrative Record No. AR–568.01). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4) and 884.14(a)(6), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On September 6, 2001, we requested comments on Arkansas's amendment (Administrative Record No. AR–568.01). The Arkansas Historic Preservation Office responded on September 6, 2001 (Administrative Record No. AR–568.02), that because no known historic properties would be affected, it has no comment on the proposed program amendment.

V. OSM's Decision

Based on the above findings, we approve the amendment as submitted by Arkansas on August 13, 2001, and as revised on February 25, 2002.

We approve the regulations proposed by Arkansas with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 904, which codify decisions concerning the Arkansas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Section 405(d) of SMCRA requires that the state have a program that is in compliance with the procedures, guidelines, and requirements established under the Act. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and AML reclamation plans, and program and plan amendments, because each program and plan is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met. Decisions on proposed AML reclamation plans and revisions submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR part 884 of the Federal regulations.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA. Section 405(d) of SMCRA requires State abandoned mine reclamation programs to be in compliance with the procedures, guidelines, and requirements of SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). Also, this rule does not require an environmental impact statement since agency decisions on proposed State and Tribal AML reclamation plans and revisions are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 5, 2002.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 904 is amended as set forth below:

PART 904—ARKANSAS

1. The authority citation for Part 904 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 904.12 is amended by revising the section heading to read as follows:

§ 904.12 State program provisions and amendments not approved.

* * * * *

3. Section 904.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 904.15 Approval of Arkansas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
August 13, 2001	May 17, 2002	ASCMRC 845.18(a); Phase II and III Revegetation Success Standards for Grazingland; and Phase III Revegetation Success Standards for Prime Farmland.

4. Section 904.25 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 904.25 Approval of Arkansas abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
August 13, 2001	May 17, 2002	ASCMRC 874.12(b)(4); 874.13(d); and 874.14(a)(2).

[FR Doc. 02–12460 Filed 5–16–02; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[IL–101–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Illinois Department of Natural Resources, Office of Mines and Minerals (Illinois or Department) proposed revisions to its regulations about regulatory coordination with requirements under other laws, permit processing requirements, permit fees, right of entry, performance bonds, revegetation timing, standards for measuring revegetation success of herbaceous wildlife vegetation, affected acreage, use of explosives, high capability lands, suspension or revocation of permits, and public and administrative hearings. Illinois also proposed to correct or remove outdated references in several regulations. Illinois revised its program to be consistent with the corresponding Federal regulations, to clarify ambiguities, and to improve operational efficiency.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone:

(317) 226–6700. Internet: *IFOMAIL@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Illinois Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ". . . a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Illinois program on June 1, 1982. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the June 1, 1982, **Federal Register** (47 FR 23858). You can also find later actions concerning the Illinois program and program amendments at 30 CFR 913.15, 913.16, and 913.17.

II. Submission of the Amendment

By letter dated October 15, 2001 (Administrative Record No. IL–5073), Illinois sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Illinois sent the amendment at its own initiative. Illinois proposed to amend its surface coal mining and reclamation regulations at Title 62 of the Illinois Administrative Code (IAC).

We announced receipt of the amendment in the November 27, 2001, **Federal Register** (66 FR 59201). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on December 27, 2001. We received comments from one Federal agency.

During our review of the amendment, we identified some editorial problems. We notified Illinois of these concerns by letter dated January 7, 2002 (Administrative Record No. IL–5075).

By letter dated March 6, 2002 (Administrative Record No. IL–5076), Illinois sent us revisions to its proposed program amendment. Because the revisions merely clarified certain provisions of Illinois' amendment, we did not reopen the public comment period.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

Any revisions that we do not discuss below concern nonsubstantive wording or editorial changes or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Minor Revisions to Illinois' Regulations

1. Illinois removed its current office address and added a reference to the "Department's Springfield office" at 62 IAC 1700.12(a), Petitions to Initiate Rulemaking; 62 IAC 1780.21(a) and 1784.14(a), Hydrologic Information; 62 IAC 1816.116(a)(2)(C), (5)(A) and 1817.116(a)(2)(C), (5)(A), Standards for Success of Revegetation; and 62 IAC 1846.17(b)(1), Procedure for Assessment of Individual Civil Penalty. Illinois made these changes so the regulations would not have to be corrected because of future address changes.

The proposed changes do not alter the requirements of these previously approved provisions in the Illinois regulations. Therefore, we find that they will not make Illinois' regulations less effective than the corresponding Federal regulations.

2. Illinois made minor wording changes, corrected citation references, and simplified its use of numbers in 62 IAC 1700.11, Applicability; 62 IAC 1700.12, Petitions to Initiate Rulemaking; 62 IAC 1773.12, Regulatory Coordination with Requirements under Other Laws; 62 IAC 1773.13, Public Participation in Permit Processing; 62 IAC 1777.17, Permit Fees; 62 IAC 1780.21, Hydrologic Information; 62 IAC 1785.23, Minor Underground Mine Facilities; 62 IAC 1800.11, Requirement to File a Bond; 62 IAC 1816.41, Hydrologic Balance Protection; 62 IAC 1816.113, Revegetation Timing; 62 IAC 1816.116, Revegetation Standards for Success; 62 IAC 1816.117, Revegetation—Tree, Shrub, and Herbaceous Wildlife Vegetation; 62 IAC 1817.66, Use of Explosives—Blasting Signs, Warnings, and Access Control; 62 IAC 1817.116, Revegetation Standards for Success; 62 IAC 1817.117, Revegetation—Tree, Shrub, and Herbaceous Vegetation; 62 IAC 1825.14, Soil Replacement on High Capability Lands; 62 IAC 1843.13, Suspension or Revocation of Permits; 62 IAC 1846.17, Procedure for Assessment of Individual Civil Penalty; 62 IAC 1847.3, Permit and Related Administrative Hearings; and 62 IAC 1847.9, Bond Release Public Hearings.

Because these revisions do not change the meaning of Illinois' previously approved regulations, we find that they will not make Illinois' regulations less effective than the corresponding Federal regulations.

B. Illinois Interagency Committee on Surface Mining Control and Reclamation (Interagency Committee)

1. Illinois removed the language from 62 IAC 1773.12 that required the Interagency Committee to review permit applications and provide the Department with comments and recommendations for coordination with requirements under other specified laws and regulations. Illinois added language that requires the Department to provide for the coordination of review and issuance of permits with requirements under other specified laws and regulations. Illinois made these revisions because Illinois Public Act 90–0490 abolished the Interagency Committee through an amendment to 225 Illinois Compiled Statutes (ILCS) 720/1.05 in 1997. The amendment to 225 ILCS 720/1.05 also delegated all programmatic functions formerly performed by the Interagency Committee to the Department. The Interagency Committee was originally created to review permit applications and provide comments to the Department on protection of the hydrologic system, water pollution control, the reclamation plan, soil handling techniques, dams and impoundments, and postmining land use.

On November 21, 2001, we approved the amendment to 225 ILCS 720/1.05 because the Department had increased its technical expertise in all areas needed to perform the programmatic functions formerly performed by the Interagency Committee (66 FR 58371). Also, the Department has the authority under 225 ILCS 720/9.04 to delegate responsibilities, other than final action on permits, to other State agencies with the authority and technical expertise to carry out such responsibilities. For the same reasons, we find that Illinois' revised regulation at 62 IAC 1773.12 meets the requirements of and is no less effective than the counterpart Federal regulation at 30 CFR 773.5.

2. Illinois also deleted references to the "Interagency Committee" from 62 IAC 1700.11(b), Applicability; 62 IAC 1780.21(f)(3)(D)(v), Hydrologic Information (Surface Mining Operations); and 1784.14(e)(3)(C)(v), Hydrologic Information (Underground Mining Operations). These regulations required the Department to send copies of permit applications and exemption requests to the Interagency Committee for review and comment. Illinois removed the references because Illinois Public Act 90–0490 abolished the Interagency Committee in the amendment to 225 ILCS 720/1.05. As discussed above in finding B.1, the Department performs the programmatic functions formerly performed by the Interagency Committee. This includes technical reviews of applications and exemption requests. Therefore, we find that the proposed deletions will not make Illinois' regulations less effective than the counterpart Federal regulations.

C. 62 IAC 1773.13 Public Participation in Permit Processing

1. Illinois revised 62 IAC 1773.13(a)(1)(B) to require that the map or description of the proposed permit area published as part of the public notice advertising a permit, revision, or renewal application include the shadow area for underground mines. If the application includes a shadow area, the applicant must differentiate between the permit area and shadow area on the map or in the description. Illinois defines "shadow area" to mean "any area beyond the limits of the permit area in which underground mine workings are located."

The counterpart Federal regulation at 30 CFR 773.6(a)(1)(ii) does not specifically require the applicant to include the area over underground workings on the map or in the description. However, by specifying only the minimum contents of the advertisement, the Federal regulation at 30 CFR 773.6(a)(1) allows regulatory authorities to require applicants to include in the advertisement any additional information that they consider necessary. Therefore, we find that Illinois' revision will not make 62 IAC 1773.13(a)(1)(B) less effective than the counterpart Federal regulation at 30 CFR 773.6(a)(1)(ii).

2. Illinois revised 62 IAC 1773.13(a)(2) to require the applicant to file an additional copy of any changes to the permit application with the Department. The Department will then forward the additional copy to the county clerk at the courthouse where the permit application is filed. The corresponding Federal regulation at 30 CFR 773.6(a)(2) requires the applicant to file any changes to the application with the public office at the same time the change is submitted to the regulatory authority. Accessibility to local residents is the intent behind this local filing requirement. We find that Illinois' revised regulation is no less effective than the Federal regulation in meeting this intent. Therefore, we are approving the revision to 62 IAC 1773.13(a)(2).

D. 62 IAC 1773.15 Review of Permit Applications

Illinois revised 62 IAC 1773.15(a)(1) by restructuring its existing requirements and adding a new provision at paragraph (a)(1)(B)(i) that requires the applicant to submit modifications to the Department within one year of being notified of the need for them. If the applicant does not submit the required modifications to the Department within one year, the Department will issue a written finding denying the application. The Department may issue an extension to this time limit if the applicant can demonstrate just cause for doing so. Examples of just cause include extended periods of illness, extreme inclement weather, acts of civil unrest, or other emergency situations.

Although there is no exact Federal counterpart to the new provision, the corresponding Federal regulation at 30 CFR 773.7(a) allows the regulatory authority discretion to establish a reasonable time for processing permits. Thus, we find that Illinois' revisions will not make 62 IAC 1773.15(a)(1) less effective that the corresponding Federal regulation.

E. 62 IAC 1777.17 Permit Fees

Illinois restructured and redesignated the existing provisions at subsections (a) through (c) as new subsections (b) through (d). Illinois revised and redesignated existing subsection (d) as new subsection (e). Illinois then added a new provision at subsection (a). The new provision at subsection (a) and the revised provision at subsection (e) read as follows:

> (a) After a permit application under 62 Ill. Adm. Code 1772 through 1785 has been deemed approvable, but before a permit is issued in accordance with 62 Ill. Adm. Code 1773.19, the Department shall notify the applicant in writing of the amount of fee required for the permit.
>
> (e) Failure to submit permit fees within 1 year after notification of the required fee amount shall result in the application being deemed null and void. The Department may issue an extension to this time limit if the applicant can demonstrate just cause (*e.g.*, extended periods of illness, extreme inclement weather, acts of civil unrest, or other emergency situations) for doing so.

The Federal regulation at 30 CFR 777.17 requires a permit application to be accompanied by a fee determined by the regulatory authority. It also allows the regulatory authority to develop procedures for the method of payment. We find that the new provision at 62 IAC 1777.17(a) and the revised provision at 62 IAC 1777.17(e) are consistent with these Federal requirements.

F. 62 IAC 1778.15 Right of Entry Information

Illinois removed a reference to planned subsidence operations from subsection (e). As revised, this subsection requires applicants, claiming to have valid existing rights to conduct surface coal mining operations within an area where mining is prohibited or limited, to submit specified information in their permit applications.

There is no Federal counterpart to Illinois regulation at 62 IAC 1778.15(e). However, we find that removal of the reference to planned subsidence operations from 62 IAC 1778.15(e) does not adversely affect other aspects of the Illinois program and is not inconsistent with the right of entry provisions of the Federal regulations at 30 CFR 778.15.

G. 62 IAC 1785.23 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

Illinois proposes to revise 62 IAC 1785.23(d)(4) by removing a reference to the "Interagency Committee" and adding a reference to "other state agencies." The revised paragraph reads as follows:

> Other state agencies deemed appropriate by the Department shall be given copies of the application and provided 30 days from the date of receipt to submit comments.

Illinois originally adopted 62 IAC 1785.23 to take into account the distinct differences, between surface and underground mining. This category of facilities, which includes air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, and other small structures, would be subject to an abbreviated permit application and review period on the basis that these types of structures have a very minimal impact on the land and the environment. There is no Federal counterpart to these previously approved provisions.

Illinois removed the reference to the "Interagency Committee" because Illinois Public Act 90–0490 abolished the Interagency Committee in an amendment to 225 ILCS 720/1.05. As discussed above in finding B.1, the

Department has the authority under 225 ILCS 720/9.04 to delegate responsibilities, other than final action on permits, to other State agencies with the authority and technical expertise to carry out such responsibilities. This includes the review of permit applications. While there is no direct Federal counterpart to 62 IAC 1785.23, we find that the revision to paragraph (d)(4) is not inconsistent with the permit application review provisions of 30 CFR 773.6.

H. 62 IAC 1800.11 Requirement to File a Bond

Illinois is revising 62 IAC 1800.11(a) to require the Department to notify a permit applicant in writing of the amount of bond required to ensure reclamation of the permit area. The permit applicant then has one year to submit a performance bond. The Department will consider the permit application null and void if the applicant does not submit the bond within the time specified. The Department may issue an extension of the time limit if the applicant can demonstrate just cause for doing so. Examples of just cause include extended periods of illness, extreme inclement weather, acts of civil unrest, or other emergency situations.

Although the Federal regulation at 30 CFR 800.11(a) does not include these provisions, we find that they are not inconsistent with the Federal requirements for filing a performance bond.

I. 62 IAC 1800.40 Requirement to Release Performance Bonds

At 62 IAC 1800.40, Illinois reversed the order of the provisions in existing subsections (d) and (e) and revised them as discussed below.

1. Redesignated subsection (d) concerns the right that specified persons have to file objections to a proposed bond release. Illinois is revising this subsection by adding language to specify that these persons also have the right to file "a written request for hearing." Illinois added this language to clarify that a public hearing must be requested.

Although the counterpart Federal regulation at 30 CFR 800.40(f) does not contain the proposed language, it does indicate that a hearing must be requested. Thus, we find that 62 IAC 1800.40(d) is no less effective than the counterpart Federal regulation.

2. Redesignated subsection (e) concerns the right that the permittee, the surety, and any person with an interest in collateral posted as a bond have to request a hearing if the Department disapproves an application for release of bond. Illinois revised this subsection to provide these persons with an opportunity to request an administrative hearing in accordance with the procedures of 62 IAC 1847.3. Currently, Illinois provides an opportunity for a public hearing.

The counterpart Federal regulation at 30 CFR 800.40(d) also provides these persons with an opportunity for a public hearing. However, Illinois' allowance for a formal administrative hearing will provide an increased level of due process for those persons most affected by a final decision to disapprove a bond release application. Therefore, we find that Illinois' regulation at 62 IAC 1800.40(e) is no less effective than the counterpart Federal regulation.

J. 62 IAC 1816.113 (Surface Mining) and 62 IAC 1817.113 (Underground Mining) Revegetation Timing

Illinois is adding a new provision at subsection (b) to establish a time frame for the planting of trees and shrubs. Illinois is requiring trees and shrubs to be planted within two years after replacement of the plant-growth medium. Illinois' regulations at 62 IAC 1816.117 and 1817.117 require that vegetation for areas to be developed for fish and wildlife habitat (including shelter belts), recreation, and forest products include tree and shrub populations and vegetative ground cover.

The counterpart Federal regulations at 30 CFR 816.113 and 817.113 concerning revegetation timing do not contain a specific time frame for the planting of trees and shrubs. However, Illinois' proposal would allow sufficient time for vegetative ground cover to become well established before the trees and shrubs are planted. By requiring that trees and shrubs be planted within two years, the provision ensures contemporaneous reclamation for areas to be developed for fish and wildlife habitat (including shelter belts), recreation, and forest products. Therefore, we find that a two-year time frame is reasonable for the planting of trees and shrubs. Thus the proposed provision at 62 IAC 1816.116 (b) and 1817.113(b) will not make Illinois' regulations less effective than the counterpart Federal regulations.

K. 62 IAC 1816.117 (Surface Mining) and 62 IAC 1817.117 (Underground Mining) Revegetation-Tree, Shrub, and Herbaceous Wildlife Vegetation

Illinois added new subsection (e) to its regulations at 62 IAC 1816.117 and 1817.117 to provide a standard for measuring revegetation success for areas reclaimed to herbaceous vegetation.

1. The first provision in new subsection (e) specifies that vegetative ground cover of approved species must not be less than required to achieve the approved postmining land use for areas where herbaceous vegetation plants are used for fish and wildlife habitat (including shelter belts) or recreation land uses. The herbaceous vegetation must also be adequate to control erosion, and must not be less than 70 percent during the last year of the responsibility period.

Although the Federal regulations at 30 CFR 816.116(b)(3)(iii) and 817.116(b)(3)(iii) do not contain specific standards for measuring the revegetation success of herbaceous vegetation, they do specify that vegetative ground cover must not be less than that required to achieve the approved postmining land use. In the preamble for the Federal regulations (48 FR 40152, September 2, 1983), we noted that the regulations were written in a general form because of the variation in natural ground cover conditions throughout the States. We further indicated that each State would either need to require the use of reference areas, to specify minimum levels of ground cover as a percentage of surface area, or to adopt some other acceptable standard. The additional standards proposed by Illinois are acceptable for determining revegetation success of herbaceous vegetative ground cover for fish and wildlife habitat (including shelter belts) and recreation land uses. Therefore, we find that this provision at 62 IAC 1816.117(e) and 1817.117(e) is no less effective than the counterpart Federal requirements for ground cover success.

2. Illinois also added a provision to subsection (e) that allows the Department to approve planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas, which increase diversity within wildlife areas, on a case-by-case basis before these areas are planted.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) require minimum stocking and planting arrangements to be specified by the regulatory authority on the basis of local and regional conditions. Therefore, we find that the proposed provision will not make Illinois' regulations at 62 IAC 1816.117(e) and 1817.117(e) less effective than the Federal regulations.

L. 62 IAC 1816.190 Affected Acreage Map

Illinois revised 62 IAC 1816.190(b) to require that areas affected by auger mining must be shown on the annual affected acreage reports and maps.

Currently, Illinois requires only that the reports and maps show affected surface areas.

There are no direct counterpart Federal regulations that require permittees to submit affected acreage reports and maps. However section 517(b)(1) of SMCRA provides that "the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, * * * and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary." Therefore, we find the proposed revision to 62 IAC 1816.190(b) would not make the Illinois regulations inconsistent with SMCRA or the Federal regulations.

M. 62 IAC 1817.64 Use of Explosives-General Performance Standards

Illinois revised 62 IAC 1817.64(c) by replacing the existing language with the following language:

(c) All blasting shall be conducted between sunrise and sunset unless nighttime blasting is approved by the Department based upon a showing by the operator that the public will be protected from adverse noise and other impacts. Protection from adverse noise may include alternatives to the audible warning requirement specified in Section 1817.66(b). The Department may specify more restrictive time periods for blasting.

As revised, 62 IAC 1817.64(c) contains substantively the same standards for the use of explosives as the counterpart Federal regulation at 30 CFR 817.64(c). Therefore, we find that Illinois' regulation is no less effective than the counterpart Federal regulation.

N. 62 IAC 1817.66 Use of Explosives-Blasting Signs, Warnings, and Access Control

Illinois revised 62 IAC 1817.66(b) by removing the following sentence: "The requirement to supply daily notice may be fulfilled by the audible warning signals."

As revised, 62 IAC 1817.66(b) is substantively identical to the counterpart Federal regulation at 30 CFR 817.66(b). Therefore, we find that Illinois' regulation is no less effective than the counterpart Federal regulation.

O. 62 IAC 1825.14 High Capability Lands

Illinois revised 62 IAC 1825.14(e)(2) to require permittees to do soil compaction alleviation on lands reclaimed to high capability standards unless it can be shown that the productivity standards of 62 IAC 1816.116(a)(3)(C) have been, or could be, met without compaction alleviation on areas reclaimed in a similar manner. Illinois' regulation at 62 IAC 1816.116(a)(3)(C) provides the productivity standards for revegetation success of cropland areas.

There are no direct Federal counterparts to Illinois' regulations for high capability lands. However, we find that the revisions proposed at 62 IAC 1825.14(e)(2) concerning soil compaction alleviation do not adversely affect other aspects of the Illinois program and are not inconsistent with the topsoil and subsoil provisions of the Federal regulations at 30 CFR 816.22 and 817.22.

P. 62 IAC 1843.13 Suspension or Revocation of Permits

Illinois revised 62 IAC 1843.13(c) by adding a new paragraph at (c)(3) that requires the Department to notify the surety or other bond holder in writing when it issues a show cause order to the permittee.

The counterpart Federal regulation at 30 CFR 843.13 does not contain this requirement. However, we find that notifying the surety or other bond holder of a show cause order is not inconsistent with any of the requirements of the counterpart Federal regulation.

Q. 62 IAC 1847.3 Permit and Related Administrative Hearings

Illinois revised 62 IAC 1847.3(a) to clarify that the procedures outlined in this section also apply to review of bond release decisions under 62 IAC 1847.9(i). Illinois also added a provision that provides that a request for hearing is deemed filed the day it is received by the Department. Illinois' regulation at 62 IAC 1847.3 consolidates the procedures for most of the formal reviews provided for in the Illinois program. Illinois' regulation at 62 IAC 1847.9 provides for a public hearing on applications for bond release. It allows persons who either filed written objections to the bond release or were a party to the public hearing to request an administrative hearing on the Department's final decision on the bond release application in accordance with the procedures of 62 IAC 1847.3.

The Federal regulations at 30 CFR 800.40 do not specifically provide for administrative hearings for decisions pertaining to bond release. However, the Federal regulations at 43 CFR 4.1280–4.1286 do allow appeals from Federal decisions that are not required by SMCRA to be determined by formal adjudication. Therefore, we find that allowing formal administrative hearings for decisions pertaining to bond release is not inconsistent with the Federal regulations. We also find that Illinois' provision concerning the filing date of a hearing request is consistent with the Federal filing requirements for documents initiating hearing proceedings at 43 CFR 4.1107(f).

R. 62 IAC 1847.9 Bond Release Public Hearings

Illinois revised 62 IAC 1847.9 to provide a public hearing for bond releases. Currently Illinois only provides an administrative hearing for bond releases in this section. The Department will use the provisions in this revised section for public hearings on proposed bond releases. The Department will serve each party who participated in the public hearing with the Department's final bond release decision. Then the participants may request an administrative hearing on the Department's final decision in accordance with the procedures in 62 IAC 1847.3.

The Federal regulation at 30 CFR 800.40 also provides for public hearings on proposed bond releases. The Federal regulations specify general provisions that States must include in their public hearing procedures, but allow the States discretion in how to implement these provisions. We find that Illinois' provisions for public hearing at 62 IAC 1847.9 are consistent with the Federal requirements at 30 CFR 800.40(f) and (g) for public hearings on proposed bond releases.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Illinois program (Administrative Record No. IL–5073A). The Natural Resources Conservation Service responded on November 8, 2001 (Administrative Record No. IL–5074), that it had no exception to any of the amendments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Illinois proposed to make

in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IL–5073A). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On October 25, 2001, we requested comments on Illinois' amendment (Administrative Record No. IL–5073A), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment as submitted by Illinois on October 15, 2001, and as revised on March 6, 2002.

We approve the regulations proposed by Illinois with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 913, which codify decisions concerning the Illinois program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 11, 2002.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

913.15 Approval of Illinois regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
October 15, 2001	May 17, 2002	62 IAC 1700.11(a), (b); 1700.12(a), (d); 1773.12; 1773.13; 1773.15(a), (b), (c); 1777.17; 1778.15(e); 1780.21(a), (b), (e), (f), (g), (i), (j); 1784.14(a), (e); 1785.23(d), (e); 1800.11(a); 1800.40(a), (c), (d), (e); 1816.41(c), (d), (e); 1816.113(b); 1816.116(a); 1816.117(a), (c), (d), (e); 1816.190(b); 1817.64; 1817.66(b); 1817.113(b); 1817.116(a); 1817.117(a), (c), (d), (e); 1825.14(a), (b), (e); 1843.13(a), (c), (d); 1846.17(b); 1847.3(a), (b), (e), (f), (i), (j); 1847.9.

3. Section 913.17 is amended by revising the section heading to read as follows:

913.17 State regulatory program provisions and amendments not approved.

* * * * *

[FR Doc. 02–12461 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–188]

RIN 2115–AA97

Safety and Security Zones; High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is extending the effective period of the safety and security zones published on December 12, 2001. This change will extend the effective date of the temporary final rule from June 15, 2002, until September 15, 2002, allowing adequate time for the Coast Guard to develop a permanent rule. This rule will continue to prohibit vessels from entering into these prohibited zones unless authorized by the Captain of the Port, Providence, Rhode Island, or an authorized representative.

DATES: The amendment to § 165. T01–188 is effective May 17, 2002. Section 165.T01–188, added at 66 FR 64144, December 12, 2001, effective October 6, 2001 until June 15, 2002, is extended in effect until September 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David C. Barata, at Marine Safety Office Providence, at (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 12, 2001, we published a temporary final rule (TFR) entitled "Safety And Security Zones: High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, Rhode Island" in the **Federal Register** (66 FR 64144). The effective period for this rule was from October 6, 2001, through June 15, 2002.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. The original TFR was urgently required to prevent possible terrorist strikes against high interest vessels within and adjacent to Rhode Island Sound, Narragansett Bay, and the Providence and Taunton Rivers. It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined the need for continued security regulations exists. The Coast Guard will utilize the extended effective period of this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment within the Captain of the Port (COTP) Providence Zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the rule were intended to facilitate ongoing response efforts and prevent future terrorist attack. The Coast Guard will be publishing a NPRM to establish permanent safety and security zones that are temporarily effective under this rule. This revision preserves the status quo within the Port while permanent rules are developed. Since the start of the effective date of this regulation in October, 2001, approximately six high interest vessel transits have occurred under these temporary regulations. Disruptions to waterway users have been minimal and no complaints have been received.

Background and Purpose

Terrorist attacks against the World Trade Center in Manhattan, New York on September 11, 2001 inflicted catastrophic human casualties and property damage. The threat of terrorism remains high. We believe that high interest vessels continue to require a higher degree of security than was

provided by Federal regulations prior to September 11, 2001. The temporary rule is only effective until June 15, 2002. The Coast Guard is extending the effective date of this rule until September 15, 2002, to allow the establishment of permanent safety and security zones by notice and comment rulemaking.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for high interest vessels and their crews, other vessels operating in the vicinity of high interest vessels and their crews, adjoining areas, and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route the upper Providence River and Taunton River and pleasure craft engaged in recreational activities and sightseeing. The safety and security zones will prohibit any commercial vessels from meeting or overtaking a high interest vessel in the main ship channel, effectively prohibiting use of the channel. However, the zones will only be effective during the vessel transits, which will last for approximately three hours, and vessels may transit ahead or astern of the zones. In addition, vessels are able to safely transit around the zones while a vessel is moored or at anchor in Rhode Island Sound. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting high interest vessels, their crews, and the public. Approximately six high interest vessels have transited under these temporary regulations since October 6, 2001. In each case, commercial and recreational vessels have been able to safely transit around the zones with minimal disruption.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the main ship channel in Narragansett Bay, Providence River, and the Taunton River at the same time as high interest vessels. The safety and security zones will not have a significant economic impact on a substantial number of small entities for several reasons. Small vessel traffic can pass safely around the area and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. When a high interest vessel is at anchor, vessel traffic will have ample room to maneuver around the safety and security zones. Although this regulation prohibits simultaneous use of the channel, the outbound or inbound transit of a high interest vessel will last a maximum of three hours and marine advisories will be issued prior to transit of a high interest vessel. In addition, vessels may transit ahead or astern of the safety and security zones. While a high interest vessel is moored, commercial traffic and small recreational traffic may request to move through the safety and security zones with the patrol commander. Before the effective period, maritime advisories will be issued to users of the area.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call LT David C. Barata, at (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this action under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard has considered the environmental impact of implementing this rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping, Security Measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 160.5; 49 CFR 1.46.

2. Revise temporary § 165.T01–188(b) to read as follows:

§ 165.T01–188 Safety and Security Zones: High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, Rhode Island.

* * * * *

(b) *Effective date.* This rule is effective from October 6, 2001, through September 15, 2002.

* * * * *

Dated: April 24, 2002.

Mark G. VanHaverbeke,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 02–12422 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK32

Medical Benefits Package; Copayments for Extended Care Services

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends VA's medical regulations by adding the following extended care services to the medical benefits package: noninstitutional adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. Also, this document amends VA's medical regulations to establish provisions regarding copayments for extended care services. These actions implement provisions of the Veterans Millennium Health Care and Benefits Act.

DATES: Effective Date: June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Daniel Schoeps, Geriatrics and Extended Care (114), at (202) 273–8540 for issues regarding the medical benefits package, and Nancy Howard, Revenue Office (174), at (202) 273–8198 for issues regarding copayments for extended care services. Both are officials in the Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 4, 2001 (66 FR 50594), we proposed to amend VA's medical regulations at 38 CFR 17.38 by adding the following extended care services to the medical benefits package for veterans enrolled in the VA healthcare system: noninstitutional adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. In the same document we also proposed to amend VA's medical regulations at 38 CFR 17.111 to establish provisions regarding copayments for extended care services.

We provided a 60-day comment period that ended December 3, 2001. We received five comments. The issues raised by the commenters are discussed below. Based on the rationale set forth in the proposed rule and this document, we are adopting the provisions of the proposed rule subject to clarifying changes and other changes discussed below.

Medical Benefits Package

One commenter indicated that the provisions regarding noninstitutional adult day health care and noninstitutional respite care should indicate that VA will pay for enrolled veterans through contract where services in VA facilities are not available. No changes are made based on this comment. VA's decisions whether to provide noninstitutional adult day health care and noninstitutional respite care by contract depend on many factors such as the availability of VA and contract services, the veteran's needs, and limitations in VA's statutory authority (38 U.S.C. 1703, 1720B, and 8153). Within these limitations, VA will attempt to provide this care by contract where it is not available in VA facilities.

Copayments for Extended Care Services

The Veterans Millennium Health Care and Benefits Act (Pub.L. 106–117) established provisions regarding copayments for extended care services provided to veterans by VA. These provisions are set forth at 38 U.S.C. 1710B.

The final rule states that, with certain exceptions, as a condition of receiving extended care services, a veteran must agree to pay VA a copayment. This restates statutory provisions at 38 U.S.C. 1710B. The final rule provides that the following extended care services are subject to the corresponding copayment amount per day:

(i) Adult day health care—$15.
(ii) Domiciliary care—$5.
(iii) Institutional respite care—$97.
(iv) Institutional geriatric evaluation—$97.
(v) Non-institutional geriatric evaluation—$15.
(vi) Non-institutional respite care—$15.
(vii) Nursing home care—$97.

One commenter asserted that the copayment for adult day health care should be $5 to $7 per day based on her conclusion that the $15 amount would be more than some would be able to pay. One commenter noted that domiciliary care "is restricted to veterans with very low incomes" and asserted that the proposal to charge $5 per day is too high. Three commenters expressed concern about whether low-income veterans would forgo nursing home care because of the $97 copayment amount per day. No changes are made based on these comments. Statutory provisions at 38 U.S.C. 1710B require that VA establish copayment amounts for extended care services. Under the final rule a veteran has no copayment obligation for the first 21 days of extended care services in any 12-month period from the date extended care services began. Further, for each

day that extended care services are provided beyond the first 21 days, the veteran may not have to pay any copayment or may be required to pay only a portion of the copayment. As indicated in the regulatory text portion of this document, some veterans, including all veterans whose income is below $9,556, are exempt from the copayment requirements altogether. Those not exempted are obligated to pay a copayment for each day that extended care services are provided to the extent the veteran has "available resources". We revised the regulatory text to clarify that "available resources" are calculated on a monthly basis.

If a veteran has been receiving extended care services for 180 days or less, "available resources" means the sum of the income of both the veteran and the veteran's spouse minus the sum of the veterans allowance and the spousal allowance. If the veteran has been receiving extended care services for 181 days or more, liquid assets and fixed assets would be included in "available resources". Expenses are included in the veterans allowance if the veteran has been receiving extended care services for 180 days or less, the veteran is receiving only adult day health care or other noninstitutional care, or the veteran has a spouse or dependents residing in the community (not institutionalized).

This formula is designed to ensure that veterans institutionalized for 180 days or less will have the means to return home and that their resources are not depleted due to the requirement to make copayments.

One commenter particularly had concerns about veterans in nursing homes with incomes between $9,556 and $24,000. The commenter suggested that VA establish a sliding scale that would require full copayments for only those with income above $24,000. No changes are made based on these comments. VA statistics indicate that the average daily copayment for those receiving nursing home care provided by VA would be approximately $14. The average daily copayment for those in the income range mentioned by the commenter would be less than $14.

One commenter requested that we provide examples of copayment calculations for a single veteran and a veteran with a spouse. Accordingly, we offer the following examples:

A Veteran in a Nursing Home With no Spouse

There would be no copayment for the first 21 days of care. For the next 169 days the available resources used in determining the copayment would be the income of the veteran minus the veterans allowance. During this time period, the veterans allowance includes living expenses.

After 180 days of nursing home care, the available resources used in determining the copayment would be the sum of the veteran's income and liquid and fixed assets minus the veterans allowance. During this time period, the veterans allowance does not include living expenses. The veteran's fixed and liquid assets would be reduced each month by the amount of the copayment amount that is not covered by the veteran's income after the veterans allowance is subtracted.

A Veteran in a Nursing Home With a Spouse or Dependent Residing in the Community

There would be no copayment for the first 21 days of care. For the next 169 days the available resources used in determining the copayment would be the income of the veteran and spouse minus the veteran's and spouse's deductible expenses minus the veterans and spousal allowance. On the 181st day of nursing home care, the available resources used in determining the copayment would be the sum of the veteran and spousal income and the liquid and fixed assets (excluding the primary residence of the spouse and one vehicle) minus the veteran's and spouse's deductible expenses minus the veterans and spousal allowance. Thereafter, the fixed and liquid assets would be reduced each month by the copayment amount that is not covered by the veteran and spousal income after the allowances (which include expenses) are subtracted.

The final rule provides that veterans are not subject to the copayment requirements if their annual income (determined under 38 U.S.C. 1503) is less than the amount in effect under 38 U.S.C. 1521(b). One commenter asserted that this exemption should be changed to provide a different formula with an increased amount. No changes are made based on this comment. We have no authority to change the statutory formula.

As noted above, a veteran would be obligated to pay the copayment only to the extent the veteran and the veteran's spouse have "available resources." As proposed, "available resources" include IRA's and 401K's. One commenter asserted that IRA's and 401K's should not be included if they are subject to penalty if withdrawn early. No changes are made based on this comment. We see no reason for treating IRA's and 401K's differently from other available assets of the veteran. In addition, just because VA considers these investments does not require veterans to withdraw the money and incur the penalty. Exempting assets that are subject to a penalty for early withdrawal would encourage veterans to shelter their assets in these investments. Further, treating IRA's and 401K's differently from other assets would create an undue administrative burden.

The final rule provides that "[a]dult day health care is a therapeutic outpatient care program that provides medical services, rehabilitation, therapeutic activities, socialization, nutrition and transportation services to disabled veterans in a congregate setting." One commenter asserted that the word "provides" should be changed to "provides or makes available" to ensure that the reader would understand that VA may obtain such care by contract. No changes are made based on this comment. The final rule at § 17.111(a) already covers this matter by stating that the extended care services are to be provided to veterans by VA "either directly by VA or paid for by VA." The commenter also asserted that the term "medical services" should be defined. No changes are made based on this comment. The definition of adult day health care was included merely to distinguish it from other types of extended care services and not to establish the parameters of medical services provided. The overall parameters of medical services provided by VA are specified in the Medical benefits package which is set forth at 38 CFR 17.38. The commenter further questioned whether transportation and rehabilitation services are included in VA contracts for adult day health care services. In response, we note that they are included.

The proposed rule provided that a veteran receiving extended care services must submit to VA, among other things, a report of a change in income within 10 days of the change. One commenter asserted that the 10-day period should be extended to 30 to 45 days based on the further assertion that the veteran would not know how much to report until the "increase shows in a check." We intended that the 10-day period begin when the veteran received the income. Accordingly, we have clarified the final rule to reflect this concept.

One commenter expressed concern regarding whether VA would provide assistance to those needing help in preparing forms and documentation under the final rule. No changes are made based on this comment. VA has individuals available at VA medical facilities to help veterans prepare such forms and documentation.

One commenter questioned whether VA has appeal procedures that would apply if a veteran were denied services. No changes are made based on this comment. We have established voluntary reconsideration procedures at 38 CFR 17.133. Further, veterans may appeal VA decisions regarding the provision of extended care services to the Board of Veterans' Appeals and the U.S. Court of Appeals for Veterans Claims.

Paperwork Reduction Act

The collection of information contained in the notice of the proposed rulemaking was submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Under the provisions of § 17.111(e), a veteran who wishes to receive extended care services must apply by submitting a completed VA Form 10–10EC and documentation requested by the Form to a VA medical facility. VA Form 10–10EC is set forth in full at § 17.111(g). Except for those exempted under § 17.111(f), this information is needed to determine whether the veteran's financial circumstances require a copayment, and, if so, the amount of that copayment obligation. Moreover, a veteran must submit certain updated information to a VA medical facility at specified times following the initial request for an episode of extended care services, such as after a break in provision of extended care services for more than 30 days or when changes in the veteran's financial circumstances might change the copayment obligation.

Interested parties were invited to submit comments on the collection of information. However, no comments were received. Nevertheless, changes to the VA Form 10–10EC published in the **Federal Register** on October 4, 2001 (66 FR 50594) are made in this document.

The portion of the form concerning fixed assets, liquid assets, expenses, and other income are changed for purposes of clarification. Also, the consent portion of the form has deleted the authorization language to release substance abuse/sickle cell anemia/HIV medical records because, under 38 U.S.C. 4132, another specific consent form is necessary to authorize release of such records.

OMB has approved this information collection under control number 2900–0629. VA is not authorized to impose a penalty on persons for failure to comply with information collection requirements which do not display a current OMB control number, if required.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866. The projected cost estimate for this final rule is $25,425,282 for nursing home care, $3,397,862 for adult day health care, and $6,679,916 for home respite care, for a total annual cost of $35,503,060.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64,009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: March 14, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.36 [Amended]

2. Section 17.36 is amended by:

A. In paragraph (a)(1), removing "VA hospital and outpatient care" and adding, in its place, "the 'medical benefits package' set forth in § 17.38".

B. In paragraphs (a)(2) and (a)(3), removing "hospital and outpatient".

C. In paragraph (b)(3), removing "hospital and outpatient" and adding, in its place, "that".

§ 17.37 [Amended]

3. Section 17.37 is amended by:

A. In paragraphs (a), (b), (c), (e), (g), (h), and (i), removing "hospital and outpatient".

B. In paragraph (f), removing "VA hospital and outpatient care" and adding, in its place, "care provided for in the 'medical benefits package'.

4. Section 17.38 is amended by:

A. Revising paragraph (a) introductory text.

B. Revising paragraph (a)(1)(xi).

C. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 17.38 Medical benefits package.

(a) Subject to paragraphs (b) and (c) of this section, the following hospital, outpatient, and extended care services constitute the "medical benefits package" (basic care and preventive care):

(1) * * *

(xi)(A) Hospice care, palliative care, and institutional respite care; and

(B) Noninstitutional geriatric evaluation, noninstitutional adult day health care, and noninstitutional respite care.

* * * * *

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1710A, 1721, 1722)

5. Sections 17.112 through 17.115 including the undesignated center heading "REIMBURSEMENT FOR LOSS BY NATURAL DISASTER OF PERSONAL EFFECTS OF HOSPITALIZED OR NURSING HOME PATIENTS" are redesignated as §§ 17.113 through 17.116, respectively.

6. Section 17.111 is redesignated as § 17.112.

7. A new § 17.111 is added preceding the undesignated center heading "CEREMONIES" to read as follows:

§ 17.111 Copayments for Extended care services.

(a) *General.* This section sets forth requirements regarding copayments for extended care services provided to veterans by VA (either directly by VA or paid for by VA).

(b) *Copayments.* (1) Unless exempted under paragraph (f) of this section, as a condition of receiving extended care services from VA, a veteran must agree to pay VA and is obligated to pay VA a copayment as specified by this section. A veteran has no obligation to pay a copayment for the first 21 days of extended care services that VA provided the veteran in any 12-month period (the 12-month period begins on the date that VA first provided extended care services to the veteran). However, for each day that extended care services are provided beyond the first 21 days, a veteran is obligated to pay VA the copayment amount set forth below to the extent the veteran has available resources. Available resources are based on monthly calculations, as determined under paragraph (d) of this section. The following sets forth the extended care services provided by VA and the corresponding copayment amount per day:

(i) Adult day health care—$15.

(ii) Domiciliary care—$5.

(iii) Institutional respite care—$97.

(iv) Institutional geriatric evaluation—$97.

(v) Non-institutional geriatric evaluation—$15.

(vi) Non-institutional respite care—$15.

(vii) Nursing home care—$97.

(2) For purposes of counting the number of days for which a veteran is obligated to make a copayment under this section, VA will count each day that adult day health care, non-institutional geriatric evaluation, and non-institutional respite care are provided and will count each full day and partial day for each inpatient stay except for the day of discharge.

(c) *Definitions.* For purposes of this section:

(1) *Adult day health care* is a therapeutic outpatient care program that provides medical services, rehabilitation, therapeutic activities, socialization, nutrition and transportation services to disabled veterans in a congregate setting.

(2) *Domiciliary care* is defined in § 17.30(b).

(3) *Extended care services* means adult day health care, domiciliary care, institutional geriatric evaluation, noninstitutional geriatric evaluation, nursing home care, institutional respite care, and noninstitutional respite care.

(4) *Geriatric evaluation* is a specialized, diagnostic/consultative service provided by an interdisciplinary team that is for the purpose of providing a comprehensive assessment, care plan, and extended care service recommendations.

(5) *Institutional* means a setting in a hospital, domiciliary, or nursing home of overnight stays of one or more days.

(6) *Noninstitutional* means a service that does not include an overnight stay.

(7) *Nursing home care* means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care (nursing services must be provided 24 hours a day). Such term includes services furnished in skilled nursing care facilities. Such term excludes hospice care.

(8) *Respite care* means care which is of limited duration, is furnished on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home, and is furnished for the purpose of helping the veteran to continue residing primarily at home. (Respite providers temporarily replace the caregivers to provide services ranging from supervision to skilled care needs.)

(d) *Effect of the veteran's financial resources on obligation to pay copayment.* (1) A veteran is obligated to pay the copayment to the extent the veteran and the veteran's spouse have available resources. For purposes of this section, available resources means the sum of the value of the liquid assets, the fixed assets, and the income of the veteran and the veteran's spouse, minus the sum of the veterans allowance, and the spousal allowance. Liquid assets and fixed assets are included in available resources if the veteran has been receiving extended care services for 181 days or more.

(2) For purposes of determining available resources under this section:

(i) *Income* means current income (including, but not limited to, wages and income from a business (minus business expenses), bonuses, tips, severance pay, accrued benefits, cash gifts, inheritance amounts, interest income, standard dividend income from non tax deferred annuities, retirement income, pension income, unemployment payments, worker's compensation payments, black lung payments, tort settlement payments, social security payments, court mandated payments, payments from VA or any other Federal programs, and any other income). The amount of current income will be stated in frequency of receipt, e.g., per week, per month.

(ii) *Expenses* means basic subsistence expenses, including current expenses for the following: rent/mortgage for primary residence; vehicle payment for one vehicle; food for veteran, veteran's spouse, and veteran's dependents; education for veteran, veteran's spouse, and veteran's dependents; court-ordered payments of veteran or veteran's spouse (*e.g.*, alimony, child-support); and including the average monthly expenses during the past year for the following: utilities and insurance for the primary residence; out-of-pocket medical care costs not otherwise covered by insurance and medical insurance for the veteran, veteran's spouse, and veteran's dependents; and taxes paid on income.

(iii) *Fixed Assets* means:

(A) Real property and other non-liquid assets; except that this does not include—

(*1*) Burial plots,

(*2*) A residence if the residence is:

(*i*) The primary residence of the veteran and the veteran is receiving only noninstitutional extended care service, or

(*ii*) The primary residence of the veteran's spouse or the veteran's dependents (if the veteran does not have a spouse) if the veteran is receiving institutional extended care service.

(*3*) A vehicle if the vehicle is:

(*i*) The vehicle of the veteran and the veteran is receiving only noninstitutional extended care service, or

(*ii*) The vehicle of the veteran's spouse or the veteran's dependents (if the veteran does not have a spouse) if the veteran is receiving institutional extended care service.

(iv) *Liquid assets* means cash, stocks, dividends received from IRA, 401K's and other tax deferred annuities, bonds, mutual funds, and retirement accounts (e.g., IRA, 401Ks, annuities), household furniture, household goods, clothing, jewelry, personal items.

(v) *Spousal allowance* is an allowance of $20 per day that is included only if the spouse resides in the community (not institutionalized).

(vi) *Veterans allowance* is an allowance of $20 per day and includes expenses if the veteran has been receiving extended care services for 180 days or less, the veteran is receiving only adult day health care or other noninstitutional care, or the veteran has a spouse or dependents residing in the community (not institutionalized).

(3) The maximum amount of a copayment for any month equals the copayment amount specified in paragraph (b)(1) of this section multiplied by the number of days in the month. The copayment for any month may be less than the amount specified in paragraph (b)(1) of this section if the veteran provides information in accordance with this section to establish that the copayment should be reduced or eliminated.

(e) *Requirement to submit information.* (1) Unless exempted under paragraph (f) of this section, a veteran must submit to a VA medical facility a completed VA Form 10–10EC and documentation requested by the Form at the following times:

(i) At the time of initial request for an episode of extended care services,

(ii) At the time of request for extended care services after a break in provision of extended care services for more than 30 days, and

(iii) Each year at the time of submission to VA of VA Form 10–10EZ.

(2) When there are changes that might change the copayment obligation (i.e., changes regarding fixed assets, liquid assets, expenses, income (when received), or whether the veteran has a spouse or dependents residing in the community), the veteran must report those changes to a VA medical facility within 10 days of the change.

(f) *Veterans and care that are not subject to the copayment requirements.* The following veterans and care are not subject to the copayment requirements of this section:

(1) A veteran with a compensable service-connected disability,

(2) A veteran whose annual income (determined under 38 U.S.C. 1503) is less than the amount in effect under 38 U.S.C. 1521(b),

(3) Care for a veteran's noncompensable zero percent service-connected disability,

(4) An episode of extended care services that began on or before November 30, 1999,

(5) Care authorized under 38 U.S.C. 1710(e) for Vietnam-era herbicide-exposed veterans, radiation-exposed veterans, Persian Gulf War veterans, or post-Persian Gulf War combat-exposed veterans,

(6) Care for treatment of sexual trauma as authorized under 38 U.S.C. 1720D, or

(7) Care or services authorized under 38 U.S.C. 1720E for certain veterans regarding cancer of the head or neck.

(Authority: 38 U.S.C. 101(28), 501, 1701(7), 1710, 1720B, 1720D, 1722A)

(g) VA *Form 10–10EC.*

BILLING CODE 8320–01–P

OMB Number: 2900-0629
Estimated Burden: 90 min.

Department of Veterans Affairs

APPLICATION FOR EXTENDED CARE SERVICES

Section I - General Information

1. VETERAN'S NAME *(Last, First, MI)*	2. SOCIAL SECURITY NUMBER

ANSWER YES OR NO WHERE APPLICABLE (OTHERWISE PROVIDE THE REQUESTED INFORMATION)

3. ARE YOU ELIGIBLE FOR MEDICAID? ☐ YES ☐ NO	3A. ARE YOU ENROLLED IN MEDICARE PART A *(Hospital Insurance)* ☐ YES ☐ NO	3B. EFFECTIVE DATE *(If "Yes")*
4. ARE YOU ENROLLED IN MEDICARE PART B *(Medical Insurance)* ☐ YES ☐ NO	4A. EFFECTIVE DATE *(If "Yes")*	4B. MEDICARE CLAIM NUMBER *(If applicable)*

Section II - INSURANCE INFORMATION

5. ARE YOU COVERED BY HEALTH INSURANCE *(including coverage through a spouse)? (If "YES", provide the following information for all insurance company(s) providing coverage to you.)* ☐ YES ☐ NO

6. NAME OF INSURANCE COMPANY	6A. ADDRESS OF INSURANCE COMPANY	6B. PHONE NUMBER OF INSURANCE COMPANY
6C. NAME OF POLICY HOLDER	6D. RELATIONSHIP OF POLICY HOLDER	6E. POLICY NUMBER / 6F. GROUP NAME AND/OR NUMBER
7. NAME OF INSURANCE COMPANY	7A. ADDRESS OF INSURANCE COMPANY	7B. PHONE NUMBER OF INSURANCE COMPANY
7C. NAME OF POLICY HOLDER	7D. RELATIONSHIP OF POLICY HOLDER	7E. POLICY NUMBER / 7F. GROUP NAME AND/OR NUMBER
8. NAME OF INSURANCE COMPANY	8A. ADDRESS OF INSURANCE COMPANY	8B. PHONE NUMBER OF INSURANCE COMPANY
8C. NAME OF POLICY HOLDER	8D. RELATIONSHIP OF POLICY HOLDER	8E. POLICY NUMBER / 8F. GROUP NAME AND/OR NUMBER

SECTION III - SPOUSE/DEPENDENT INFORMATION

9. SPOUSE'S NAME *(Last, First, MI)*

9A. SPOUSE RESIDING IN THE COMMUNITY? *(Provide address and phone number if different from veteran)* ☐ YES ☐ NO *(If "No", explain)* — 9B. SPOUSE'S SOCIAL SECURITY NUMBER

10. DEPENDENT'S NAME *(Last, First, MI)*	10A. DEPENDENT'S DATE OF BIRTH	10B. DEPENDENT'S SOCIAL SECURITY NUMBER

10C. DEPENDENT RESIDING IN THE COMMUNITY? *(Provide address and phone number if different from veteran)* ☐ YES ☐ NO *(If "No", explain)*

11. DEPENDENT'S NAME *(Last, First, MI)*	11A. DEPENDENT'S DATE OF BIRTH	11B. DEPENDENT'S SOCIAL SECURITY

11C. DEPENDENT RESIDING IN THE COMMUNITY? *(Provide address and phone number if different from veteran)* ☐ YES ☐ NO *(If "No", explain)*

We need to collect information regarding income, assets and expenses for you and your spouse. If you do not wish to provide this information you must sign agreeing to make copayments and will be charged the maximum copayment amount for all services. See the top of page 2, read, sign and date.

VA FORM DEC 2000 **10-10EC**

APPLICATION FOR EXTENDED CARE SERVICES, Continued	VETERAN'S NAME	SOCIAL SECURITY NUMBER

I do not wish to provide my detailed financial information. I understand that I will be assessed the maximum copayment amount for extended care services and agree to pay the applicable VA copayment as required by law.

SIGNATURE	DATE

Section IV - Fixed Assets *(Veteran and Spouse)*	VALUE
1. Residence *(Market value minus any outstanding mortgage or lien - exclude if veteran receiving only non-institutional services or spouse or dependent residing in community).*	$
2. Other Residences/Land/Farm or Ranch *(Market value minus any outstanding mortgage or lien)*	$
3. Vehicle(s) *(Value minus any outstanding lien - exclude if veteran receiving only non-institutional services or spouse or dependent residing in community).*	$
SUBTOTAL (Sum of lines 1 through 3)	$

SECTION V - LIQUID ASSETS (VETERAN AND SPOUSE)	VALUE
1. Cash, e.g., interest, dividends from IRA, 401K's and other tax deferred annuities *(including checking, savings, money market,etc.).*	$
2. Stocks, bonds, mutual funds, SEP's, and other retirement accounts *(e.g., IRA, 401K, annuities, self-employed person).*	$
3. Other Liquid Assets *(Includes such items as stamp or coin collections, art work, collectibles, household furniture and other household goods, clothing, jewelry and personal items minus amount owed.).*	$
SUBTOTAL (Sum of lines 1 through 3)	$
SUM OF ALL LINES FIXED AND LIQUID ASSETS — **TOTAL ASSETS**	$

CATEGORY	VETERAN		SPOUSE	
	HOW MUCH	HOW OFTEN	HOW MUCH	HOW OFTEN
Current income, e.g. gross income *(including, but not limited to, wages and income from a business, bonuses, tips, severance pay, accrued benefits, cash gifts).*	$		$	
Social Security Retirement/Disability	$		$	
Interest/Dividends *(i.e., interest income, standard dividend income from non tax deferred annuities).*	$		$	
Retirement and Pension income	$		$	
Civil Service Retirement	$		$	
U.S. Railroad Retirement	$		$	
VA Pension	$		$	
Spouse VA disability/compensation	$		$	
Unemployment Benefits/Compensation	$		$	
Other compensation, e.g. Workers Compensation and Black Lung	$		$	
Military Retirement	$		$	
Other Retirement	$		$	
Court Mandated *(e.g. alimony, child support) (Veteran and spouse)*	$		$	
Other Income *(i.e.; inheritance amounts, tort settlement payments).*	$		$	
TOTALS	$		$	

VA FORM DEC 2000 **10-10EC**

APPLICATION FOR EXTENDED CARE SERVICES, Continued	VETERANS NAME	SOCIAL SECURITY NUMBER

Section VI - Expenses

ITEMS	AMOUNT
1. Education *(veteran, spouse or dependent)*	$
2. Funeral and Burial *(spouse or child)*	$
3. Rent/Mortgage *(Monthly)*	$
4. Utilities *(Average monthly in the past 12 months)*	$
5. Car Payment Only *(excludes gas, insurance, parking fees)*	$
6. Food	$
7. Non-reimbursed medical expenses	$
8. Court-ordered payments	$
9. Insurance *(exclude life insurance)*	$
10. Taxes *(on any amount include in gross income, property, personal)*	$
TOTALS	$

Section VII - Consent for Assignment of Benefits

I hereby authorize the Department of Veterans Affairs to disclose any such history, diagnostic and treatment information from my medical records to the contractor of any health plan contract under which I am apparently eligible for medical care or payment of the expense of care or to any other party against whom liability is asserted. I understand that I may revoke this authorization at any time, except to the extent that action has already been taken in reliance on it. Without my express revocation, this consent will automatically expire when all action arising from VA's claim for reimbursement for my medical care has been completed. I authorize payment of medical benefits to VA for any services for which payment is accepted.

SIGNATURE	DATE

Section VIII - Consent and Agreement To Make Copayments

Completion of this form with signature of the Veteran or veteran's representative is certification that the veteran/representative has received a copy of the Privacy Act Statement and agrees to make appropriate copayments.

I certify the foregoing statement(s) are true and correct to the best of my knowledge and belief and agree to make the applicable copayment for extended care services as required by law.

Section IX - Paperwork and Privacy Act Information

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 90 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form. If you have comments regarding this burden estimate or any other aspect of this collection, call 202.273.8247 for mailing information on where to send your comments.

Privacy Act Information: The VA is asking you to provide the information on this form under Title 38, United States Code, sections 1710, 1712 and 1722 in order for VA to determine your eligibility for extended care benefits and to establish financial liability, if applicable, when placed in extended care services. The information collected will become a part of the consolidated Health Record, which complies with the Privacy Act of 1974. These forms are part of the systems of records identified as 24VA136 "Patient Medical Record-VA". Financial information gathered on VA Form 10-10EC will be maintained in the system identified as 89VA161 "Health Eligibility Records-VA". The information you supply may be verified through a computer-matching program. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure for civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration. You do not have to provide the information to VA, but if you don't, VA will be unable to process your request and serve your medical needs. Failure to furnish the information will not have any affect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law.

SIGNATURE	DATE

ADDITIONAL COMMENTS

VA FORM DEC 2000 **10-10EC**

BILLING CODE 8320-01-C

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0629.)

(Authority: 38 U.S.C. 501, 1710B)

[FR Doc. 02–12133 Filed 5–16–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002 –0037; FRL–6835–7]

RIN 2070–AB78

Pesticides; Removal of Duplicative or Expired Time-limited Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending 40 CFR part 180 to remove time-limited tolerances for several pesticides that were originally established to support emergency exemptions issued under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These time-limited tolerances are being removed from 40 CFR part 180 because they have since expired or because permanent tolerances have been established for the pesticide and commodity covered by the time-limited tolerance. The expired time-limited tolerance is obsolete, while the unexpired time-limited tolerance covered by a permanent tolerance is duplicative. In either case, the time-limited tolerance is unnecessary and is being removed with this final rule to ensure that the regulatory listings of tolerances is properly updated.

DATES: This rule is effective May 17, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0037, must be received by EPA on or before July 16, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit I.C. of the "SUPPLEMENTARY INFORMATION" section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0037 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Robert Forrest, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9376; and e-mail address: forrest.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0037. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How Can I Submit an Objection or Request a Hearing Under FFDCA?

Although section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA), allows any person to file an objection or request a hearing when the Agency issues a final tolerance action under section 408, EPA does not expect that anyone will file an objection or request a hearing for this particular rule because the tolerances being revoked here are unnecessary duplicates of a permanent tolerance that remains in place or are obsolete by their own terms. If, for some reason, anyone wishes to file an objection or request for a hearing under section 408(g), please follow the EPA procedural regulations which govern the submission of objections and requests for hearings that appear in 40 CFR part 178. Note that the period for filing objections is now 60 days, rather than 30 days.

II. Authority

A. What is EPA's Authority for Revoking these Tolerances?

This final rule is issued pursuant to section 408(e) of FFDCA, as amended by the FQPA (21 U.S.C. 346a(e)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be

distributed in interstate commerce (21 U.S.C. 331(a) and 342(a)).

B. Why is EPA Issuing this as a Final Rule?

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the actions taken in this final rule represent technical corrections to the regulations and do not involve substantive Agency action.

The removal of an expired time-limited tolerance from 40 CFR part 180 represents a simple correction of the regulations, and does not involve any substantive Agency action. The expiration date for the time-limited tolerance is set when the Agency issues the final rule that originally establishes, or a subsequent final rule that amends, the specific time-limited tolerance. Once that time-limited tolerance expires, the associated listing in 40 CFR part 180 is obsolete and must be removed to reflect that expiration.

The revocation of an unexpired time-limited tolerance from 40 CFR part 180, however, represents a substantive Agency action. In this case, that action is appropriate because the Agency's subsequent establishment of a permanent tolerance for the same pesticide chemical and commodity that was covered by the time-limited tolerance, causes the time-limited tolerance to become obsolete. Although the time-limited tolerance would expire by its own terms and become obsolete, the Agency is removing these tolerances today to eliminate an unnecessary duplication in the regulations.

For these reasons, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

III. Overview of Today's Action

A. What Action is EPA Taking?

For each pesticide chemical and commodity combination listed below, EPA previously established a time-limited tolerance, under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996 (Public Law 104–170). EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. These time-limited tolerances are being removed from 40 CFR part 180 today because they have since expired or because permanent tolerances have since been established making these time-limited tolerances obsolete or unnecessary.

B. Which Time-Limited Tolerances are Obsolete?

The time-limited tolerances for the following pesticide chemicals on specific commodities are being removed from 40 CFR part 180 because the time-limited tolerances have expired, or are duplicative of a permanent tolerance that the Agency subsequently established for the pesticide and commodity covered by the time-limited tolerance. In either case, the time-limited tolerance is obsolete and no longer necessary:

1. *Avermectin.* The time-limited tolerance for celeriac is being removed from 40 CFR 180.449 because a permanent tolerance for the same pesticide chemical and commodity has been established.

2. *Azoxystrobin.* Time-limited tolerances for aspirated soybean grain fractions; cucurbits; eggs; kidney of cattle; kidney of goats, hogs, and sheep grazed on sugar beets; leaf and head lettuce; liver of cattle, goat, horse, sheep, hog, and poultry; meat and fat of cattle, goat, horse, sheep, poultry and swine; milk; dried and fresh parsley; rice grain; rice hulls; rice straw; soybean meal; soybean oil; soybean silage; spinach; sugar beet roots; sugar beet tops; sugar beet molasses; dried sugar beet pulp; refined sugar of sugar beet; and strawberries; are being removed from 40 CFR 180.507 because they expired on or before December 30, 2001. The time-limited tolerance for watercress is being removed from 40 CFR part 180 because a permanent tolerance for the same pesticide chemical and commodity has been established.

3. *Bentazon.* The time-limited tolerance for succulent peas is being removed from 40 CFR 180.355 because it expired on December 31, 2000.

4. *Bifenthrin.* Time-limited tolerances for broccoli; cabbage; canola seed; cauliflower; grapes; raspberries; and cucurbit vegetables are being removed from 40 CFR 180.442 because they expired on or before December 31, 2001.

5. *Carfentrazone-ethyl.* Time-limited tolerances for rice grain and rice straw are being removed from 40 CFR 180.515 because they expired on December 31, 2000.

6. *Chlorfenapyr.* Time-limited tolerances for fat; meat byproducts and meat of cattle, goats, hogs, horses and sheep; cottonseed; cotton gin byproducts; milk; and milk fat are being removed from 40 CFR 180.513 because they expired on January 31, 2001.

7. *Clomazone.* Time-limited tolerances for rice grain, rice straw, sugarcane and watermelons are being removed from 40 CFR 180.425 because permanent tolerances for the same pesticide chemical and commodities have been established.

8. *Cymoxanil.* The time-limited tolerance for tomatoes is being removed from 40 CFR 180.503 because it expired on May 15, 1999.

9. *Cyprodinil.* The time-limited tolerance for strawberries is being removed from 40 CFR 180.532 because it expired on May 31, 2001.

10. *Dicloran.* Time-limited tolerances for peanut oil and peanuts are being removed from 40 CFR 180.200 because they expired on October 31, 2001.

11. *Diflubenzuron.* The time-limited tolerance for pears is being removed from 40 CFR 180.377 because it expired on March 31, 2001.

12. *Dimethomorph.* Time-limited tolerances for potatoes, tomatoes, tomato paste, and tomato puree are being removed from 40 CFR 180.493 because they expired on or before September 15, 2000.

13. *Endothall.* The time-limited tolerance for canola seed is being removed from 40 CFR 180.293 because it expired on February 29, 2000.

14. *Ethametsulfuron-methyl.* The time-limited tolerance for canola is being removed from 40 CFR 180.563 because a permanent tolerance for the same pesticide chemical and commodity has been established.

15. *Fenarimol.* Time-limited tolerances for filberts and hops are being removed from 40 CFR 180.421 because they expired on December 31, 1998.

16. *Fenoxycarb.* The time-limited tolerance for pears is being removed from 40 CFR 180.504 because it expired on April 30, 1998.

17. *Fenpropathrin.* Time-limited tolerances for soybean forage, soybean hay, soybean hulls, soybean meal, refined soybean oil, and soybean seed are being removed from 40 CFR 180.466 because they expired on December 31, 2001.

18. *Fludioxonil.* The time-limited tolerance for strawberry is being removed from 40 CFR 180.516 because it expired on May 31, 2001.

19. *Glyphosate.* Time-limited tolerances for kidney of cattle, goats, horses, and sheep; chickpeas; lentils; pea hay; pea vines; dry peas and silage hay are being removed from 40 CFR 180.364 because they expired on February 29, 2000.

20. *Imidacloprid.* Time-limited tolerances for citrus fruits crop group; dried citrus pulp; field corn forage; field corn stover (fodder); field corn grain; sweet corn fodder; sweet corn forage; sweet corn grain and cucurbits vegetable are being removed from 40 CFR 180.472 because permanent tolerances for the same pesticide chemical and commodities have been established.

21. *Lambda-cyhalothrin.* Time-limited tolerances for canola seed and flax seed are being removed from 40 CFR 180.438 because they expired on December 31, 2000.

22. *Maleic hydrazide.* Time-limited tolerances for fat, liver, kidney, and meat of cattle, goats, hogs, horses, poultry, and sheep; eggs; milk; rice bran; rice grain; rice hulls; and rice straw are being removed from 40 CFR 180.175 because they expired on September 30, 2000.

23. *Mefenoxam.* The time-limited tolerance for canola is being removed from 40 CFR 180.546 because it expired on December 31, 2001.

24. *Myclobutanil.* Time-limited tolerances for asparagus; caneberries; cucurbit vegetables; peppermint; spearmint; strawberries; tomato fruit; tomato paste; and tomato puree are being removed from 40 CFR 180.443 because they expired on or before December 31, 2000.

25. *Oxyfluorfen.* The time-limited tolerance for strawberries is being removed from 40 CFR 180.381 because it expired on April 15, 2001.

26. *Paraquat.* The time-limited tolerance for artichokes is being removed from 40 CFR 180.205 because a permanent tolerance for the same pesticide chemical and commodity has been established. Time-limited tolerances for mustard seed; poultry meat by-products; aspirated grain fractions of sorghum; sorghum forage; sorghum grain; and sorghum stover are being removed from 40 CFR 180.205 because they expired on or before November 15, 1998.

27. *Primisulfuron-methyl.* The time-limited tolerance for bluegrass hay is being removed from 40 CFR 180.452 because it expired on April 30, 2000.

28. *Propamocarb hydrochloride.* Time-limited tolerances for potatoes; fat, meat, meat by-product of cattle, goats, hogs, horse and sheep; milk are being removed from 40 CFR 180.499 because they expired on September 15, 2000.

29. *Propiconazole.* Time-limited tolerances for almond hull and almond nut meat are being removed from 40 CFR 180.434 because they expired on July 31, 2000.

30. *Propyzamide.* Time-limited tolerances for grass forage and grass hay are being removed from 40 CFR 180.317 because they expired on December 31, 2001.

31. *Pyridate.* Time-limited tolerances for peppermint tops (leaves and stems) and spearmint tops (leaves and stems) are being removed from 40 CFR 180.462 because they expired on December 31, 2001.

32. *Pyriproxyfen.* Time-limited tolerances for almond hulls, almond nutmeats, citrus fruit, citrus juice, citrus oil, dried citrus pulp, pears, and tomatoes are being removed from 40 CFR 180.510 because permanent tolerances for the same pesticide chemical and commodities have been established.

33. *Quinclorac.* Time-limited tolerances for fat and meat byproducts of cattle, goats, hogs, horses, and sheep; poultry fat; sorghum grain fodder (stover); sorghum grain forage; sorghum grain; aspirated grain fractions of wheat; wheat forage; wheat grain; milled wheat fractions; and wheat straw are being removed from 40 CFR 180.463 because they expired on May 30, 2000.

34. *Sethoxydim.* Time-limited tolerances for buckwheat and horseradish are being removed from 40 CFR 180.412 because they expired on or before December 31, 2001.

35. *Sodium Salt of Acifluorfen.* Time-limited tolerances for cowpeas, lima beans, and Southern peas are being removed from 40 CFR 180.383 because they expired on December 31, 1998.

36. *Sodium Salt of Fomesafen.* Time-limited tolerances for snap beans and dry beans are being removed from 40 CFR 180.433 because they expired on or before October 31, 1998.

37. *Tebuconazole.* Time-limited tolerances for pistachios; milk and meat byproducts of cattle, goats, hogs, horses, poultry and sheep are being removed from 40 CFR 180.474 because they expired on December 30, 2000.

38. *Tebufenozide.* Time-limited tolerances for apple pomace; apples; fat, kidney, liver, meat byproducts and meat of cattle, goats, hogs, and sheep; horse meat; cotton gin byproducts; cottonseed hulls; cottonseed meal; cottonseed oil; undelinted cottonseed; cranberries; leafy vegetable (Cole-brassica); leafy vegetables (non-brassica); milk; pears; pecans; peppers; rice bran; rice grain; rice hulls; rice straw; soybeans; sugar beet tops; sugar beet roots; dried sugar beet pulp; sugar beet molasses; sugar beet refined sugar; sugarcane; sugarcane molasses; and turnip tops are being removed from 40 CFR 180.482 because they expired on or before December 31, 2001.

39. *Thiamethoxam.* Time-limited tolerances for meat and meat byproducts of cattle, goat, horse, and sheep; undelinted cotton seed; cotton gin byproducts; and milk are being removed from 40 CFR 180.565 because permanent tolerances for the same pesticide chemical and commodities have been established.

40. *Triadimefon.* Time-limited tolerances for artichokes, asparagus, and chili peppers are being removed from 40 CFR 180.410 because they expired on or before September 1, 1999.

41. *Triclopyr.* Time-limited tolerances for fish and shellfish are being removed from 40 CFR 180.417 because they expired on or before June 30, 2000.

IV. Regulatory Assessment Requirements

This final rule removes obsolete or unnecessary time-limited tolerances that were previously established under FFDCA section 408.

The Office of Management and Budget (OMB) has exempted tolerance actions like this revocation from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), or Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see discussion in Unit II.B. of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA)(Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). This action will not have substantial direct effects

on State or tribal governments, on the relationship between the Federal government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal government and States or Indian tribes. As a result, this action does not require any action under Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000).

Nor does it require special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 et seq.).

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated in Unit II.B. of this preamble, EPA has made such a good cause finding for this rule, including the reasons therefor, and established an effective date of May 17, 2002. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 26, 2002.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

§ 180.175 [Amended]

2. In § 180.175, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.200 [Amended]

3. In § 180.200, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.205 [Amended]

4. In § 180.205, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.293 [Amended]

5. In § 180.293, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.317 [Amended]

6. In § 180.317, in the table in paragraph (b), remove the entries grass, forage and grass, hay.

§ 180.355 [Amended]

7. In § 180.355, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.364 [Amended]

8. In § 180.364, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.377 [Amended]

9. In § 180.377, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.381 [Amended]

10. In § 180.381, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.383 [Amended]

11. In § 180.383, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.410 [Amended]

12. In § 180.410, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.412 [Amended]

13. In § 180.412, in the table in paragraph (b), remove the entries buckwheat and horseradish.

§ 180.417 [Amended]

14. In § 180.417, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.421 [Amended]

15. In § 180.421, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.425 [Amended]

16. In § 180.425, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.433 [Amended]

17. In § 180.433, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.434 [Amended]

18. In § 180.434, in the table in paragraph (b), remove the entries for "Almond hull" and "Almond nut meat".

§ 180.438 [Amended]

19. In § 180.438, in the table in paragraph (b), remove the entries for "Canola, seed" and "Flax, seed".

20. In § 180.442, the table in paragraph (b) is revised to read as follows:

§ 180.442 Bifenthrin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Citrus	0.05	12/31/02
Citrus, dried pulp	0.3	12/31/02
Citrus, oil	0.3	12/31/02
Peanut	0.05	12/31/03
Potato	0.05	12/31/02

* * * * *

21. In § 180.443, the table in paragraph (b) is revised to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Artichoke, globe	1.0	6/30/03
Beet, sugar, dried pulp	1.0	12/31/02
Beet, sugar, molasses	1.0	12/31/02
Beet, sugar, refined sugar	0.70	12/31/02
Beet, sugar, roots	0.05	12/31/02
Beet, sugar, tops	1.0	12/31/02
Hop, dried cones	5.0	12/31/03
Pepper	1.0	6/30/03

* * * * *

§ 180.449 [Amended]

22. In § 180.449, in the table in paragraph (b), remove the entry for "Celeriac".

§ 180.452 [Amended]

23. In § 180.452, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.462 [Amended]

24. In § 180.462, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.463 [Amended]

25. In § 180.463, the text of paragraph (b) following the paragraph heading is removed and reserved.

26. In § 180.466, the table in paragraph (b) is revised to read as follows:

§ 180.466 Fenpropathrin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Currant	15	12/31/03

* * * * *

27. In § 180.472, the table in paragraph (b) is revised to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Almond	0.05	12/31/03
Almond, hulls	4.0	12/31/03
Blueberry	1.0	12/31/03
Cranberry	0.5	12/31/03
Plum, prune	10.0	12/31/03
Stone fruit	3.0	12/31/03
Strawberry	0.1	6/30/02
Vegetable, legume	1.0	6/30/02

* * * * *

§ 180.474 [Amended]

28. In § 180.474, in the table in paragraph (b)(1), remove the entry for "Pistachios", remove paragraph (b)(1) paragraph heading, redesignate paragraph (b)(1) as paragraph (b), and remove paragraph (b)(2).

29. In § 180.482, the table in paragraph (b) is revised to read as follows:

§ 180.482 Tebufenozide; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Beet, garden, roots	0.3	12/31/02
Beet, garden, tops	9.0	12/31/02
Egg	0.01	6/30/03
Grape	3.0	12/31/03
Grass, forage	5	6/30/03
Grass, hay	18	6/30/03
Longan	1.0	12/31/03
Lychee	1.0	12/31/03
Peanut	0.05	6/30/03
Peanut, hay	5	6/30/03
Peanut, meal	0.15	6/30/03
Peanut, refined oil	0.15	6/30/03
Poultry, fat	0.1	6/30/03
Poultry, meat	0.01	6/30/03
Poultry, meat byproducts	0.05	6/30/03
Sunflower, seed	1.5	12/31/02
Sweet potato, roots	0.25	12/31/02
Vegetable, foliage of legume, group	7.0	12/31/02
Vegetable, legume, group	2.0	12/31/02

* * * * *

§ 180.493 [Amended]

30. In § 180.493, in the table to paragraph (b), remove the entries for "Potatoes", "Tomatoes", "Tomato paste", and "Tomato puree".

31. In § 180.499, the table in paragraph (b) is revised to read as follows:

§ 180.499 Propamocarb hydrochloride; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Tomato	2.0	12/31/03
Tomato, paste	5.0	12/31/03

* * * * *

§ 180.503 [Amended]

32. In § 180.503, in the table in paragraph (b), remove the entry for "Tomatoes."

§ 180.504 [Removed and Reserved]

33. Section 180.504, is removed and reserved.

34. In § 180.507, the table in paragraph (b) is revised to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Brassica, head and Stem, subgroup	30	12/31/03
Chickpea, seed	0.5	12/31/03
Lychee	3.0	12/31/03
Pepper	2.0	12/31/03

* * * * *

35. In § 180.510, the table in paragraph (b) is revised to read as follows:

§ 180.510 Pyriproxyfen; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/revocation date
Bean, succulent	0.10	6/30/03
Stone fruits (Crop Group 12)	0.1	12/31/02

* * * * *

§ 180.513 [Removed and Reserved]

36. Section 180.513, is removed and reserved.

§ 180.515 [Amended]

37. In § 180.515, in the table in paragraph (b), remove the entries for "Rice, grain" and "Rice, straw".

§ 180.516 [Amended]

38. In § 180.516, in the table in paragraph (b), remove the entry "Strawberry".

§ 180.532 [Amended]

39. In § 180.532, in the table to paragraph (b), remove the entry "Strawberries".

§ 180.546 [Amended]

40. In § 180.546, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.563 [Amended]

41. In § 180.563, the text of paragraph (b) following the paragraph heading is removed and reserved.

§ 180.565 [Amended]

42. In § 180.565, the text of paragraph (b) following the paragraph heading is removed and reserved.

[FR Doc. 02–11742 Filed 5–16–02; 8:45 am]
BILLING CODE 6560–50–S

Proposed Rules

Federal Register
Vol. 67, No. 96
Friday, May 17, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1605, 1620, 1651, and 1655

Correction of Administrative Errors; Expanded and Continuing Eligibility; Death Benefits; Loan Program

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to revise the Board's Uniformed Services Employment and Reemployment Rights (USERRA) regulations regarding Thrift Savings Plan (TSP) contributions and loan payments, and to update the definitions used in those regulations. The Executive Director also proposes to amend the Board's death benefit regulations to allow the spouse of a deceased participant to transfer a TSP death benefit payment to an eligible retirement plan or to the spouse's existing TSP account. Finally, the Executive Director proposes to amend the Board's loan regulations to explain that the Soldier's and Sailors' Civil Relief Act of 1940 allows a participant returning to civilian service from active duty military service to reduce to 6 percent the interest rate owed on a TSP loan for the period of missed TSP loan payments due to military leave.

DATES: Comments must be received on or before June 17, 2002.

ADDRESSES: Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005. The Board's Fax number is (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest on (202) 942–1661.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Contributions

Section 4(a)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), codified at 5 U.S.C. 8351(b)(8) and 8432b, describes the rights to TSP benefits afforded to civilian TSP participants who are reemployed in civilian service or restored from a nonpay status to pay status following a release from military service, discharge from hospitalization related to that service, or other similar event. On June 9, 1999, the Board published a final rule in the **Federal Register** (64 FR 31052) to explain how TSP participants can obtain the benefits of USERRA. The rule is codified at 5 CFR part 1620, subpart E; this proposed rule amends the final rule.

Current § 1620.42 explains that a participant can make up TSP contributions missed due to military service if he or she is reemployed or restored to pay status in the civilian service under USERRA. It provides that a participant can file a contribution election immediately when he or she returns to civilian service under USERRA, and does not have to wait for an Open Season to begin making current TSP contributions. Section 1620.42 does not place a time limit on making an immediate contribution election under USERRA. Under 5 CFR 1600.12(a)(1) and 1604.3(b), new civilian employees and service members can file a TSP contribution election any time within the first 60 days of their hiring or appointment, without waiting for a TSP Open Season. Experience has shown this to be an adequate time for making a contribution election. Therefore, the Executive Director proposes to amend § 1620.42 to adopt a 60-day time limit for the filing of contribution elections under USERRA.

The regulation at 5 CFR 1605.31, published by the Board in the **Federal Register** on August 22, 2001 (66 FR 44276), explains how to compute USERRA makeup contributions. It does not explain how a participant's right to make up contributions under USERRA is affected by contributions the participant made to a uniformed services TSP account under 5 U.S.C. 8440e during his or her period of military service. The Executive Director proposes to revise § 1605.31(c) to explain that the amount of employee makeup contributions must be reduced by the amount the participant contributed to his or her uniformed services TSP account. In addition, proposed § 1605.31(c) explains that a FERS participant who made contributions from basic pay to a uniformed services account during a period of military service will immediately upon return to civilian service or pay status receive agency matching makeup contributions to his or her civilian account for those uniformed services contributions. Finally, proposed § 1605.31(c) explains that a participant who makes up missed employee contributions will receive attributable agency matching contributions to the extent he or she did not receive matching contributions on employee contributions made to a uniformed services account.

Loans and Withdrawals

The repayment of a TSP loan is governed by FERSA, the Internal Revenue Code, and by the regulations issued by the Internal Revenue Service (IRS) and the Board. Section 414(u) of the Internal Revenue Code (26 U.S.C. 414(u)) establishes the Federal income tax rules relating to USERRA. Under section 414(u)(4) and the IRS regulations interpreting that provision (26 CFR 1.72(p)–1, Q&A–9), a retirement plan may suspend a participant's obligation to make loan payments during a period of military service.

Under the Board's current regulations, the TSP will declare a loan to be a taxable distribution if a participant separates from service without repaying the loan or is in nonpay status for more than one year. 5 CFR 1655.13(a)(1), (a)(2). A participant may be eligible to have the taxable distribution reversed if he or she is reemployed or restored to pay status under USERRA. 5 CFR 1620.45(b). If the participant is eligible to have the distribution reversed, the TSP will reinstate the loan so that the participant can resume loan payments, subject to limitations on the term of a

TSP loan, or give the participant an opportunity to repay the loan in full. If reinstated, a general purpose TSP loan must be repaid within five years of disbursement; a residential TSP loan must be repaid within 18 years of disbursement.

The Executive Director proposes to amend § 1620.45 to provide for the suspension of loan payments for a participant who enters nonpay status to perform military service beyond one year, thereby avoiding a taxable distribution. Interest will accrue on the loan during the period that payments are suspended. When the participant returns to pay status, the loan payments will resume and the period of military service will be added to the loan repayment period. Therefore, the participant or the employing agency must notify the TSP record keeper of the beginning and ending dates of military service.

Under the proposed amendment, the TSP will continue to close a loan account and declare a taxable distribution if a participant separates from government employment and does not repay the loan, or if the participant is in nonpay status for more than one year and the TSP does not receive documentation that the nonpay status is due to military service. However, if the participant in fact separated or entered nonpay status to perform military service, he or she can later request that the loan be reinstated when the participant is reemployed or returns to pay status under USERRA.

Current § 1620.45(c) allows a participant who is reemployed pursuant to USERRA one year to decide whether to reinstate a loan or to return a mandatory withdrawal that was paid out when the participant separated from civilian service. In analogous situations, where participants are separated from Federal service and later reinstated, TSP regulations give participants 90 days to decide whether to reinstate a loan or return a withdrawal. *See* 5 CFR 1605.13(d) and (e). In the interest of conformity, the Executive Director proposes to amend § 1620.45 to provide a 90-day period for the same decisions by members of the uniformed services.

The Executive Director also proposes an amendment to the Board's loan regulations which is unrelated to USERRA. The TSP's loan regulations were first published in the **Federal Register** on January 10, 1990, and amended on November 18, 1996, and August 26, 1998 (55 FR 978, 61 FR 58754, 63 FR 45391, respectively). Those regulations are codified at 5 CFR part 1655. Current § 1655.7 states that the interest rate for a TSP loan is established at the time the loan is approved and remains constant for the life of the loan. However, under the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. app. 526, when a person enters active duty military service, no obligation or liability incurred before entry into active duty military service may continue to bear an interest rate in excess of 6 percent per annum. The Board interprets the term "obligation" to apply to a TSP loan because a participant is required by statute and regulation to repay a TSP loan with interest, even though the repayment is to his or her own account. Therefore, the Executive Director is proposing to amend § 1655.7 to provide that a participant who returns to civilian service from active duty military service may request that the interest rate on his or her TSP loan be reduced to 6 percent for the period the participant was in active duty military service. The proposed amendment also explains the process for requesting this benefit.

USERRA Definitions

The Executive Director also proposes to revise the definition section of the USERRA regulation, 5 CFR 1620.41. Specifically, the definitions "basic pay" and "leave without pay" are deleted because they are not used in the regulatory text. In addition, the definitions "current contributions" and "reemployed or reemployment" are simplified; the definition "separation or separated" is rewritten as "separate from civilian service" to conform to the usage in the proposed rule; and the definitions "retroactive period," "retroactive period beginning date," and "retroactive period ending date" are updated and condensed into one definition to reflect a recent amendment to FERSA allowing employees who are reemployed or returned to pay status immediately to begin making TSP contributions.

Death Benefits

FERSA provides that a deceased participant's TSP account will be paid to his or her beneficiary or beneficiaries. 5 U.S.C. 8433(e) and 8424(d). The Board's regulations governing the payment of a TSP death benefit were published in the **Federal Register** on June 13, 1997 (62 FR 32426) and are codified at 5 CFR part 1651.

Current § 1651.14(c) states that a deceased participant's spouse may transfer a TSP death benefit payment to an individual retirement account (IRA), but not to another eligible retirement plan. That provision is based on section 402(c)(9) of the Internal Revenue Code (26 U.S.C. 402(c)(9)), in effect before January 1, 2002. However, the Internal Revenue Code was amended effective January 1, 2002, to provide that a death benefit may be transferred to any eligible retirement plan described at 26 U.S.C. 402(c)(8). *See* The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001, Public Law 107–16, sec. 641(d), 115 Stat. 38, at 120. The Executive Director is proposing to adopt this policy for the TSP by amending § 1651.14(c).

Since the TSP itself is an eligible retirement plan, the Executive Director also proposes to permit the spouse of a deceased TSP participant to transfer a TSP death benefit payment from the deceased participant's account to the spouse's TSP account (if he or she has one). Proposed § 1651.14(c) explains how such a transfer can be requested.

Finally, the proposed rule amends §§ 1651.2, 1651.5, and 1651.14 to substitute the word "spouse" for the words "widow" and "widower." This change conforms the terms used in the death benefit regulations to those used in TSP publications.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

List of Subjects

5 CFR Part 1605

Claims, Employment benefit plans, Government employees, Military personnel, Pensions, Retirement.

5 CFR Part 1620

District of Columbia, Employment benefit plans, Government employees, Military personnel, Pensions, Retirement.

5 CFR Part 1651

Employment benefit plans, Government employees, Pensions, Retirement.

5 CFR Part 1655

Employment benefit plans, Government employees, Military personnel, Pensions, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, the Board proposes to amend 5 CFR chapter VI as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

1. The authority citation for part 1605 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8432a, and 8474(b)(5) and (c)(1).

Section 1605.14 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

Subpart D also issued under 5 U.S.C. 8432b(b)(4) and (i); Div. A, Title VI, sec. 661(b), Pub. L. 106–65, 114 Stat. 1654.

Subpart D—Miscellaneous Provisions

2. Section 1605.31 is revised to read as follows:

§ 1605.31 Contributions missed as a result of military service.

(a) *Applicability.* This section applies to employees who meet the conditions specified at 5 CFR 1620.40 and who are eligible to make up employee contributions or to receive employing agency contributions missed as a result of military service.

(b) *Missed employee contributions.* An employee who separates or enters nonpay status to perform military service may be eligible to make up TSP contributions when he or she is reemployed or restored to pay status in the civilian service. Eligibility for making up missed employee contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E. Missed employee contributions must be made up in accordance with the rules set out in § 1605.11(c) and the following procedures:

(1) The employing agency will use the contribution election on file for the employee at the time he or she separated or was placed in nonpay status. If an employee terminated TSP contributions within two months before entry into military service, he or she may make a retroactive election to resume contributions for the first open season following the termination. The employee may also make retroactive contribution elections for any open season that occurred during the period of military service, as described at 5 CFR 1620.42.

(2) The pay used to determine the amount of contributions eligible for makeup is the pay the employee would have earned had he or she remained continuously employed in the position held immediately before the separation or placement in nonpay status.

(3) If the employee contributed to a uniformed services TSP account during the period of military service, the amount of employee contributions available for makeup will be reduced by the total amount of employee contributions made to the uniformed services TSP account. (This includes contributions from basic pay, incentive pay, and special pay, including bonus pay.)

(c) *Missed agency contributions.* A FERS employee who separates or enters nonpay status to perform military service is eligible to receive agency makeup contributions when he or she is reemployed or restored to pay status in the civilian service, as follows:

(1) The employee is entitled to receive the agency automatic (1%) contributions that he or she would have received had the employee remained in civilian service or pay status. Within 60 days of the employee's reemployment or restoration to pay status, the employing agency must calculate the agency automatic (1%) makeup contributions and report those contributions to the record keeper. After the contribution has been reported, the agency must submit lost earnings records for the contribution.

(2) An employee who contributed to a uniformed services TSP account during the period of military service is also immediately entitled to receive agency matching makeup contributions to his or her civilian account for the employee contributions to the uniformed services account that were deducted from his or her basic pay, subject to any reduction in matching contributions required by paragraph (c)(4) of this section. However, an employee is not entitled to receive agency matching makeup contributions on contributions that were deducted from his or her incentive pay or special pay, including bonus pay, while performing military service.

(3) An employee who makes up missed contributions is entitled to receive attributable agency matching makeup contributions (unless the employee has already received the maximum amount of matching contributions, as described in paragraphs (c)(2) and (c)(4) of this section).

(4) If the employee received uniformed services matching contributions, the agency matching makeup contributions will be reduced by the amount of the uniformed services matching contributions.

(d) *Lost earnings.* The employing agency will submit lost earnings records pursuant to 5 CFR part 1606 for missed agency contributions received by the employee under paragraph (c) of this section. The employee will elect to have the lost earnings calculated using either the rates of return based on the contributions allocation(s) on file for the participant during the period of military service or using the rates of return for the G Fund; the participant must make this election at the same time his or her makeup schedule is established pursuant to § 1606.11(c).

PART 1620—EXPANDED AND CONTINUING ELIGIBILITY

3. The authority citation for part 1620 continues to read as follows:

Authority: 5 U.S.C. 8474(b)(5) and (c)(1).

Subpart C also issued under 5 U.S.C. 8440a(b)(7), 8440b(b)(8), and 8440c(b)(8).

Subpart D also issued under Pub. L. 104–106, sec. 1043(b), 110 Stat. 186, 434–5; and Pub. L. 101–508, sec. 7202(m)(2), 104 Stat. 1388.

Subpart E also issued under 5 U.S.C. 8432b(i) and Div. A, Title VI, sec. 661(b), Pub. L. 106–65, 114 Stat. 1654.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

4. Section 1620.41 is revised to read as follows:

§ 1620.41 Definitions.

As used in this subpart:

Current contributions means contributions that must be made for the current pay date which is reported on the journal voucher that accompanies the payroll submission.

Nonpay status means an employer-approved temporary absence from duty.

Reemployed or returned to pay status means reemployed in or returned to a pay status, pursuant to 38 U.S.C. chapter 43, to a position that is subject to 5 U.S.C. 8351 or chapter 84.

Retroactive period means the period for which an employee can make up missed employee contributions and receive retroactive agency contributions. It begins the day after the employee separates or enters nonpay status to perform military service and ends when the employee is reemployed or returned to pay status.

Separate from civilian service means to cease employment with the Federal Government, the U.S. Postal Service, or with any other employer from a position that is deemed to be civilian Government employment for purposes of participating in the TSP, for 31 or more full calendar days.

5. Section 1620.42 is revised to read as follows:

§ 1620.42 Processing TSP contribution elections.

(a) *Time for filing election.* Upon reemployment or return to pay status, an employee has 60 days to submit contribution elections to make current contributions and to make up missed contributions. An employee's right to make a retroactive TSP contribution election will expire if the election is not made within 60 days of the participant's reemployment or return to pay status. After the 60-day contribution election period expires, the employee must wait for an open season to submit a contribution election to make current contributions.

(b) *Current contributions.* An election to make current contributions will be effective as soon as administratively feasible, but no later than the first day of the first full pay period after it is received by the employing agency.

(c) *Makeup contributions.* An election to make up contributions will be processed as follows:

(1) If the employee had a valid contribution election on file when he or she separated or entered nonpay status to perform military service, that election form will be reinstated for purposes of makeup contributions, unless the employee submits new contribution elections effective for any missed open season.

(2) An employee who terminated contributions within two months of entering military service will be eligible to make a retroactive contribution election for the first open season that occurs after the effective date that the contributions were terminated. This election may be made even if the termination was made outside an open season.

6. Section 1620.44 is amended by revising the last sentence to read as follows:

§ 1620.44 Restoring forfeited agency automatic (1%) contributions.

* * * The employing agency will follow the procedure described in § 1620.46(e) to have those funds restored.

7. Section 1620.45 is revised to read as follows:

§ 1620.45 Suspending TSP loans, restoring post-employment withdrawals, and reversing taxable distributions.

(a) *Suspending TSP loans during nonpay status.* If the TSP is notified that an employee entered into a nonpay status to perform military service, any outstanding TSP loan from a civilian TSP account will be suspended, that is, it will not be declared a taxable distribution while the employee is performing military service.

(1) Interest will accrue on the loan balance during the period of suspension. When the employee returns to civilian pay status, the employing agency will resume the deduction of loan payments from the participant's basic pay and the TSP will reamortize the loan (which will include interest accrued during the period of military service). The loan repayment term will be extended by the employee's period of military service. Consequently, when the employee returns to pay status, the TSP record keeper must receive documentation to show the beginning and ending dates of military service.

(2) If the TSP does not receive documentation that the employee entered into nonpay status to perform military service and the period of missed loan repayments extends beyond one year, the loan will be closed and the outstanding loan balance (including accrued interest) will be declared a taxable distribution. However, the taxable distribution can be reversed in accordance with paragraph (c) of this section.

(b) *Restoring post-employment withdrawals.* An employee who separates from civilian service to perform military service and who receives an automatic cashout of his or her account may return to the TSP an amount equal to the amount of the payment. The employee must notify the TSP record keeper of his or her intent to return the withdrawn funds within 90 days of the date the employee returns to civilian service or pay status; if the employee is eligible to return a withdrawal, the TSP record keeper will then inform the employee of the actions that must be taken to return the funds.

(c) *Reversing taxable distributions.* An employee may request that a taxable loan distribution be reversed if the taxable distribution resulted from the employee's separation or placement in nonpay status to perform military service. The TSP will reverse the taxable distribution under the process described as follows:

(1) An employee who received a post-employment withdrawal when he or she separated to perform military service can have a taxable distribution reversed only if the withdrawn amount is returned as described in paragraph (b) of this section;

(2) A taxable loan distribution can be reversed either by reinstating the loan or by repaying it in full. The TSP loan can be reinstated only if the employee agrees to repay the loan within the original loan repayment term plus the length of military service, and if, after reinstatement of the loan, the employee will have no more than two outstanding loans, only one of which is a residential loan; and

(3) The employee must notify the TSP record keeper of his or her intent to reverse a taxable loan distribution within 90 days of the date the employee returns to civilian service or pay status; if the employee is eligible to reverse a taxable loan distribution, the TSP record keeper will then inform the employee of the actions that must be taken to reverse the distribution.

(d) *Earnings.* Employees will not receive retroactive earnings on amounts returned to their accounts under this section.

PART 1651—DEATH BENEFITS

8. The authority citation for part 1651 is revised to read as follows:

Authority: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

9. Section 1651.1 is amended by adding a new definition, in alphabetical order, to read as follows:

§ 1651.1 Definitions.

* * * * *

Eligible retirement plan means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)); an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract); a qualified trust; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

* * * * *

10. Section 1651.2 is amended by revising paragraph (a)(2) to read as follows:

§ 1651.2 Entitlement to benefits.

(a) * * *

(2) If there is no designated beneficiary, to the spouse of the participant in accordance with § 1651.5;

* * * * *

11. Section 1651.5 is amended by revising the section heading and the first sentence to read as follows:

§ 1651.5 Spouse of the participant.

For purposes of payment under § 1651.2(a)(2), the spouse of the participant is the person to whom the participant was married on the date of death. * * *

12. Section 1651.14 is amended by revising paragraph (c) to read as follows:

§ 1651.14 How payment is made.

* * * * *

(c) *Payment to the participant's spouse.* The spouse of the participant may request that the TSP transfer all or a portion of the payment to an eligible retirement plan (including the spouse's TSP account, if he or she already has one). A transfer to a spouse's TSP account is permitted only if the spouse is not receiving monthly payments from the account. In order to request such a transfer, a spouse must file Form TSP–13–S, Spouse's Election to Transfer to IRA or Other Eligible Retirement Plan, with the TSP record keeper.

* * * * *

PART 1655—LOAN PROGRAM

13. The authority citation for part 1655 is revised to read as follows:

Authority: 5 U.S.C. 8433(g) and 8474; 50 U.S.C. App. 526.

14. Section 1655.7 is amended by revising paragraph (c) to read as follows:

§ 1655.7 Interest rate.

* * * * *

(c) The interest rate calculated under this section remains fixed until the loan is repaid, unless the participant informs the TSP record keeper that he or she entered into active duty military service and requests that the interest rate on a loan issued before entry into active duty military service be reduced to an annual rate of 6 percent for the period of such service. The participant must provide the record keeper with the beginning and ending dates of active duty military service.

[FR Doc. 02–12344 Filed 5–16–02; 8:45 am]
BILLING CODE 6760–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245–AE88

Small Business Investment Companies

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would allow a Small Business Investment Company (SBIC) to assume control over a small business concern, without notice to the SBA and to retain such control for a period of up to five years, or longer with SBA's approval. The proposed rule would also allow an SBIC to sell equity securities in a portfolio concern to a competitor of that portfolio concern.

DATES: Comments must be received on or before June 17, 2002.

ADDRESSES: Written comments should be sent to Leonard W. Fagan, Investment Division, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Harry Haskins, Deputy Associate Administrator, Investment Division, 202–205–6734.

SUPPLEMENTARY INFORMATION: The Small Business Investment Corrections Act of 2000, Public Law 106–554, Title IV, section 402, amended section 103(5)(A)(i) of the Small Business Investment Act (Act) to clarify that a small business concern controlled by venture capital firms, including licensed small business investment companies (SBICs), does not for that reason cease to qualify as independently owned and operated. The statute reads, "regardless of the allocation of control during the investment period under any investment agreement between the business concern and the entity making the investment." (15 U.S.C. 662(5)(A)(i)).

This proposed rule simplifies SBA's present regulation governing control of a small business and brings it into conformity with the Act, as amended in 2000. It also removes a regulatory restriction on the right of an SBIC to sell securities of a small business to a competitor of that business.

The intent of the rule is to implement a statutory change designed to allow SBICs the freedom to operate in the fashion of modern venture capital investors. SBA intends through this rule to permit the type of control that a modern venture fund would exercise while developing an investment, yet avoid the control typical of a holding company operating a firm as a subsidiary and deriving profits through earnings and cash flow.

The legislative history indicates that Congress envisioned only the kind of control that a modern venture capital fund focusing on capital gains would exercise. The legislative history (H.Rpt. 106–520) states that Congress did not intend for SBICs to exercise the control typical of a holding company or a continuing business operation conducted through a subsidiary for the purpose of accruing earnings on an annualized or cash flow basis.

Proposed § 107.865(a) is a statement of general policy. It differs from the present regulation by broadly permitting SBICs to exercise control over a portfolio concern through ownership of voting securities, management agreements, voting trusts, majority representation on the board of directors, or any other means. The proposed rule also changes the definition of the "Investor Group", those entities whose ownership interests are aggregated for the purpose of determining whether control exists. Under the current regulation, the Investor Group consists of all SBICs that invest in a portfolio company, even if there is no affiliation among them, and all of the SBICs' Associates as defined in § 107.50. The proposed rule defines the Investor Group as an SBIC and its Associates, but does not aggregate the interests of two or more unrelated SBICs. SBA believes that unrelated SBICs should have as much freedom to co-invest with one another as they do to co-invest with venture funds that are not SBICs.

The only restriction in proposed § 107.865(a) is a five-year limit on SBIC control. This will be measured from the initial assumption of control, regardless of interruptions in control. SBA considers five years sufficient time for a viable seed stage company to become an operating business, or to generally develop the investment in a portfolio concern prior to divestiture for gain. It should also suffice for the reversal of the declining fortunes of an operating business. Moreover, the vast majority of SBICs are organized as limited partnerships with a life span not much in excess of ten years.

The proposed rule retains § 107.865(b) with one clarification in the introductory text. Section 107.865(b) outlines the circumstances under which SBA will presume control over a small business for the purpose of determining when control begins or ends. The proposed language clarifies that this paragraph relates only to control based on ownership of voting securities. Control through other means, as specified in § 107.865(a), may still exist even if the conditions in paragraph (b) are not met.

The proposed rule retains § 107.865 (c), which sets forth rebuttals to the presumption of control based on ownership of voting securities.

Proposed § 107.865(d) allows extension of control over portfolio

concerns if an SBIC has made reasonable efforts to divest itself of control within the five-year period, but is unable to complete the divestiture in time. It also allows for SBA, in its discretion, to extend the period of control if necessary to protect the financial stability of the portfolio concern.

SBA believes that an investment for venture capital purposes is based primarily on an expectation of capital gains resulting from the divestiture of equity investments or conversion of warrants. SBA does not believe that conducting the ongoing operations of a portfolio concern for the purpose of receiving regular income is consistent with venture capital investing.

As stated above, SBA believes five years is generally sufficient time for profitable and effective venture capital investing. Consequently, SBA will not allow control beyond five years, except in limited circumstances.

Proposed § 107.865(d) makes clear that an SBIC may provide additional financing to a concern it controls regardless of the provisions of § 107.730(a)(1).

The rule would remove § 107.865 (e) and (f) as unnecessary and would redesignate § 107.865(g) as § 107.865(e).

Section 107.885(b) requires an SBIC that controls a small business to obtain SBA's prior approval before selling the small business's equity securities to a competitor of the small business. SBA anticipates that SBICs may exit from an investment by a sale to a strategic investor. SBA believes control of such situations is best left to negotiations between the SBIC and the small business. Consequently, SBA proposes to remove § 107.885(b).

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act, and the Paperwork Reduction Act

The Office of Management and Budget (OMB) did not review this proposed rule as a "significant" regulatory action under Executive Order 12866. The proposed rule implements technical corrections to the SBIC program. This proposed rule will not have an annual effect on the economy of $100 million or more, adversely affect the economy in a material way, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of loan programs or other government programs, or raise novel legal or policy issues arising out of legal mandates or the President's priorities.

For purposes of Executive Order 12988, the SBA has determined that this proposed rule was drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that order.

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, the SBA determines that this proposed rule does not have sufficient federalism implications warranting the preparation of a Federalism Assessment.

This proposed rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. Ch.35.

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" which will "describe the impact of the proposed rule on small entities." (5 U.S.C. § 603(a)) Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule directly affects all SBICs, of which there are currently 432. SBA estimates that approximately 75 percent of these SBICs are small entities. Therefore, SBA has determined that this proposed rule will have an impact on a substantial number of small entities.

However, SBA has determined that the impact on entities affected by the proposed rule will not be significant. The effect of the proposed rule will be to allow SBICs the flexibility to choose the optimal structure for their investments without having to notify or seek approval from SBA. SBA expects the impact of the proposed rule will be a reduction in the paperwork burden for SBICs. SBA asserts that the economic impact of the reduction in paperwork, if any, will be minimal and entirely beneficial to small SBICs. Accordingly, the Administrator of the SBA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. SBA invites comment from members of the public who believe there will be a significant impact either on SBICs, or on companies that receive funding from SBICs.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Small Business Administration proposes to amend 13 CFR part 107 as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: 15 USC 681 et seq., 683, 687(c), 687b, 687d, 687g, and 687m.

2. In § 107.865, revise the section heading and paragraphs (a), (b) and (d) to read as follows:

§ 107.865 Control of a Small Business by a Licensee.

(a) *In General.* You, or you and your Associates, (in the latter case, the "Investor Group") may exercise Control over a Small Business for purposes connected to your investment, through ownership of voting securities, management agreements, voting trusts, majority representation on the board of directors, or otherwise. The period of such Control will be limited to the fifth anniversary of the date on which such Control was initially acquired or, any earlier date specified by the terms of any investment agreement.

(b) *Presumption of Control.* Control over a Small Business based on ownership of voting securities will be presumed to exist whenever you or the Investor Group own or control, directly or indirectly:

(1) At least 50 percent of the outstanding voting securities, if there are fewer than 50 shareholders; or

(2) More than 25 percent of the outstanding voting securities, if there are 50 or more shareholders; or

(3) A block of at least 20 percent of the outstanding voting securities, if there are 50 or more shareholders and no other party holds a larger block.

* * * * *

(d) *Extension of Control.* With SBA's prior written approval you, or the Investor Group, may retain Control for such additional period as may be reasonably necessary to complete divestiture of Control, or to ensure the financial stability of the portfolio company.

* * * * *

§ 107.865 [Removed and Redesignated]

3. Remove the existing § 107.865(e) and (f) and redesignate § 107.865(g) as § 107.865(e).

§ 107.885 [Amended]

4. Amend 107.885 by removing paragraph (b) and removing the paragraph designation "(a)".

Dated: May 13, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–12466 Filed 5–16–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–12–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, –500, –600, –700, –700C, –800, –900; 747–400; 757; 767; and 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, –500, –600, –700, –700C, –800, –900; 747–400; 757; 767; and 777 series airplanes. This proposal would require modifying the static inverter by relocating resistor R170 of the static inverter bridge assembly. This action is necessary to prevent a standby static inverter from overheating, which could result in smoke in the flight deck and cabin and loss of the electrical standby power system. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–12–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2002–NM–12–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Binh V. Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2890; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 2002–NM–12–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2002–NM–12–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports that static inverters had overheated on several Boeing airplanes. In one incident, smoke entered the flight deck and the cabin, and the captain declared an emergency. The smoke was traced to the static inverter unit, a critical piece of equipment that converts battery power during a standby condition. The type of static inverter involved in this incident is used on the affected Boeing airplane models. Analysis conducted by the manufacturer indicates that the proximity of resistor R170 to capacitors C50 and C51 in the static inverter could lead to overheating and consequent damage or failure of those capacitors. The results of the analysis suggest that the combination of obstructed convection cooling and localized heat dissipation from resistor R170 resulted in sufficient energy to damage the adjacent capacitors. These conditions, if not corrected, could result in smoke in the flight deck and cabin and loss of the electrical standby power system.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Letters 737–SL–24–165, 747–SL–24–058, 757–SL–24–069, 767–SL–24–047, and 777–SL–24–028; dated October 3, 2000. The service letters describe procedures for modifying the static inverter by relocating resistor R170 of the static inverter bridge assembly and reidentifying the static inverter to indicate the new modification level. Accomplishment of the actions specified in the service letters is intended to adequately address the identified unsafe condition.

The service letters refer to Avionic Instruments Inc. Service Bulletin 1–002–0102–1000–24–24, dated July 19, 1999, as an additional source of service information for relocating R170 and reidentifying the static inverter.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service letters.

Cost Impact

There are approximately 3,832 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,882 airplanes of U.S. registry would be affected by this proposed AD.

The cost impact discussed in ADs is based on assumptions that no operator has yet accomplished any of the proposed requirements, and that no operator would accomplish those actions in the future if the proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for the cost of modified replacement parts and labor associated with accomplishing the actions specified by this proposed AD. Therefore, the economic cost impact of this proposed AD on U.S. operators may be minimal. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2002NM–12AD.

Applicability: The following airplanes, certificated in any category:

TABLE 1.—APPLICABILITY

Model/series	Equipped with Avionic Instruments Inc. static inverters having any of the following part numbers (P/Ns)—	Which correspond to Boeing P/Ns—
737–300, –400, –500, –600, –700, –800, –900	1–002–0102–0265	S282T004–5
747–400	1–002–0102–0714	S282T004–7
757	1–111–0102–0714	S282T004–8
767	1–002–0102–1000	S282T004–10
777.		

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a standby static inverter from overheating, which could result in smoke in the flight deck and cabin and loss of the electrical standby power system, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD: Modify the static inverter by relocating resistor R170 of the static inverter bridge assembly and reidentifying the static inverter to indicate the new modification level, in accordance with Boeing Service Letters 737–SL–24–165, 747–SL–24–058, 757–SL–24–069, 767–SL–24–047, and 777–SL–24–028; dated October 3, 2000.

Note 2: The Boeing service letters refer to Avionic Instruments Inc. Service Bulletin 1–002–0102–1000–24–24, dated July 19, 1999, as an additional source of service information for the modification required by paragraph (a) of this AD.

Spare Parts

(b) As of the effective date of this AD, no person may install, on any airplane, a static inverter having a part number listed in the applicability section of this AD, unless the static inverter has been modified in accordance with the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 10, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12323 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–179–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600); A310; A319; A320; A321; A330; and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Airbus Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; and certain Airbus Model A319; A320; A321; A330; and A340 series airplanes. That proposal would have required repetitive visual inspections of the striker and guide valve of the passenger door actuators and certain emergency door actuators for corrosion, and corrective action, if necessary. That proposal was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This new action revises the proposed rule by adding a requirement to modify the striker mechanism of the emergency and passenger door actuators, which would terminate the repetitive inspections. The actions specified by this new proposed AD are intended to prevent corrosion of the emergency actuator mechanism, which could cause failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation.

DATES: Comments must be received by June 11, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 96–NM–179–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, FAA, Transport Airplane Directorate, International Branch, ANM–116, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–179–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Airbus Model A300, A300–600, and A310 series airplanes; and certain Airbus Model A319, A320, A321, A330, and A340 series airplanes; was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 27, 1998 (63 FR 14857). That NPRM would have required repetitive visual inspections of the striker and guide valve of the passenger door actuators and certain emergency door actuators for corrosion, and corrective action, if necessary. That NPRM was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. Such conditions, if not detected and corrected, could result in failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation.

Actions Since Issuance of Previous Proposal

Since the issuance of that NPRM, a production and retrofit modification has been developed for all models affected by the unsafe condition in the NPRM. Therefore, the applicability in this supplemental NPRM has been changed to exclude airplanes that have accomplished this modification.

New Service Information

Airbus has issued new service bulletins that provide procedures for modification of the striker mechanism of the passenger and emergency door actuators, which would eliminate the need for the repetitive inspections specified in the NPRM. Additionally, certain service bulletins referenced in the NPRM for doing the repetitive inspections and corrective action have been revised and are included in this supplemental NPRM as additional acceptable sources of service information for doing those actions.

These revisions contain only minor procedural changes.

Airbus has issued Service Bulletins A300–52–0173, Revision 01 (for Model A300 B2 and B4 series airplanes), A300–52–6061, Revision 01 (for Model A300 B4–600, B4–600R, and F4–600R series airplanes) (collectively called A300–600 series airplanes), and A310–52–2065, Revision 01 (for Model A310 series airplanes), all dated September 7, 2000; A330–52–3048, Revision 01 (for Model A330 series airplanes), and A340–52–4059, Revision 01 (for Model A340 series airplanes), both dated December 2, 1998; and A320–52–1094, Revision 02, dated April 7, 1999 (for Model A319, A320, and A321 series airplanes). The service bulletins describe procedures for modification of the striker mechanism of the passenger and emergency door actuators. The modification includes replacement of the existing copper diaphragm with a corrosion-resistant aluminum diaphragm and re-identification of the actuators. The service bulletins also describe procedures for a visual inspection and adjustment/test of the forward, mid, and aft dampers and the emergency operation cylinders, if necessary, after doing the replacement.

Revised Service Information

Airbus has revised Service Bulletins A300–52–0168, Revision 02, (for Model A300 B2 and B4 series airplanes), A300–52–6052, Revision 02 (for Model A300–600 series airplanes), and A310–52–2058, Revision 02 (for Model A310 series airplanes), all dated October 25, 1999. The service bulletins describe procedures for visually inspecting the striker and guide valve of the passenger door actuators for corrosion, cleaning and reinstalling the emergency actuator striker mechanism, and replacing the emergency actuator striker mechanism with a serviceable part.

French Airworthiness Directives

The DGAC classified the service information described previously as mandatory and issued French airworthiness directives 1998–482–122(B) R1, dated April 21, 1999; 1999–410–294(B) R1, dated November 17, 1999; and 98–507–085(B), and 98–508–106(B), both dated December 16, 1998; in order to assure the continued airworthiness of these airplanes in France.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Maintenance Planning Document (MPD)

One commenter asks that the FAA give credit for inspections done per the procedures in the MPD. The commenter states that the NPRM limits accomplishment of the tasks to the procedures outlined in the Airbus All Operators Telex (AOT) 52–12, Revision 1, dated May 9, 1996, which was referenced in the NPRM as the appropriate source of service information for the accomplishment of the inspections and corrective action for Model A319, A320, and A321 series airplanes. The commenter notes that the procedure in the AOT was added to the Airbus A320 Airplane Maintenance Manual in 1997, and became part of the approved Airbus MPD for the A320s. The commenter adds that the MPD task number is 521000–13–1, and it specifies a repetitive inspection interval of 36 months, which is the same inspection interval specified in the NPRM. The commenter asks that the NPRM reference the MPD and adds that airplanes that have already been inspected per the procedures in the MPD should be exempt from the initial 500-flight-hour inspection.

The FAA agrees with the commenter and will add a note to this supplemental NPRM as follows: "Inspections and corrective action accomplished prior to the effective date of this AD per Airbus A320 MPD, task number 521000–13–1, are considered acceptable for compliance with paragraphs (a) and (b) of this AD." Subsequent notes have been renumbered accordingly.

Applicability/Terminating Action

Two commenters question the effectivity in the NPRM and note that the NPRM does not include terminating action for the repetitive inspections.

One commenter states that the part numbers for the units specified in the NPRM are interchangeable with earlier units having the same part numbers, as defined in the Airbus A319/A320 Illustrated Parts Catalog. The commenter notes that there is the possibility that affected units could be installed on airplanes that, according to the NPRM, operators would not have to do the proposed inspections. The commenter asks that the effectivity specified in the NPRM be changed to include all A319 and A320 series airplanes with an exemption for door bottle assembly part numbers at or beyond Modification 26015. The commenter adds that Airbus Service Bulletin A320–52–1094, dated March 11, 1997, provides a terminating action for the repetitive inspections, and recommends that it be included in the NPRM.

The second commenter notes similar concerns and adds that operators who do the inspections in the NPRM and subsequently do Airbus Modification 26015 per Airbus Service Bulletin A320–52–1094 and Ratier-Figeac Service Bulletin FE174–52–3, dated December 16, 1996, are not allowed to stop doing the repetitive inspections in the NPRM.

Per the first commenter's request for an exemption for door bottle assembly part numbers at or beyond Modification 26015, we have added a new paragraph (a) to this supplemental NPRM to clarify that airplanes on which the applicable modifications have been done are exempt from the requirements specified in this supplemental NPRM. We have also changed the applicability specified in the NPRM (as the modifications were moved to paragraph (a) of the supplemental NPRM), to specify all Airbus Model A300–600; A310; A319; A320; A321; A330; and A340 series airplanes. In regard to the statement that part numbers for the units specified in the NPRM are interchangeable with earlier units having the same part numbers, that is addressed in paragraph (e), "Spares," of this supplemental NPRM.

In response to both commenters' recommendation to add terminating action, the FAA has changed this supplemental NPRM to require accomplishment of terminating action per the revised service information. This terminating action addresses both of the commenters' concerns.

Change in Model Designations

Since the issuance of the NPRM, the FAA has changed the manner in which it identifies the airplane models commonly referred to as "Airbus Model A300 and A300–600 series airplanes" to reflect the model designation specified on the type certificate data sheet. This supplemental NPRM has been revised to reflect the appropriate model designations for those airplanes.

Additionally, since issuance of the NPRM, Airbus Model A330 series airplanes have been added to the U.S. registry. This change is reflected in the Cost Impact section of this supplemental NPRM.

Definition of Inspection

The FAA has clarified the proposed inspection requirement contained in the NPRM. Whereas the NPRM specified a visual inspection, the FAA has revised this supplemental NPRM to clarify that its intent is to require a detailed inspection. Additionally, a note has been added to the supplemental NPRM to define that inspection. Subsequent notes have been renumbered accordingly.

Conclusion

Since these changes expand the scope of the original NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 127 Model A300 B2 and B4 and A300–600 series airplanes of U.S. registry would be affected by this proposed AD.

For these airplanes, it would take approximately 9 work hours per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $68,580, or $540 per airplane, per inspection cycle.

It would take approximately 60 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Parts cost per airplane would be minimal. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $457,200, or $3,600 per airplane.

The FAA estimates that 47 Model A310 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $16,920, or $360 per airplane, per inspection cycle.

For these airplanes, it would take approximately 20 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Parts cost per airplane would be minimal. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $56,400, or $1,200 per airplane.

The FAA estimates that 887 Model A319, A320, and A330 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators of these airplanes is estimated to be $212,880, or $240 per airplane, per inspection cycle.

For these airplanes, it would take approximately 80 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Parts cost per airplane would be minimal. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $4,257,600, or $4,800 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

There are currently no affected Model A321 or A340 series airplanes on the U.S. Register. All of these airplanes included in the applicability of this proposed rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers it necessary to include these airplanes in the applicability of this proposed rule in order to ensure that the unsafe condition is addressed in the event that any of the subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected Model A321 series airplane be imported and placed on the U.S. Register in the future, it would take approximately 8 work hours per airplane to accomplish the proposed inspections. Based on an average labor rate of $60 per work hour, the cost impact of the proposed inspections would be $480 per airplane, per inspection cycle.

It would take approximately 20 work hours per airplane to accomplish the proposed modification on a Model A321 series airplane. Parts cost per airplane would be minimal. Based on an average labor rate of $60 per work hour, the cost impact of the modification would be $1,200 per airplane.

Should an affected Model A340 series airplane be imported and placed on the U.S. Register in the future, it would take approximately 32 work hours per airplane to accomplish the proposed inspections. Based on an average labor rate of $60 per work hour, the cost impact of the proposed inspections would be $1,920 per airplane, per inspection cycle.

It would take approximately 80 work hours per airplane to accomplish the proposed modification on a Model A340 series airplane. Parts cost per airplane would be minimal. Based on an average labor rate of $60 per work hour, the cost impact of the modification would be $4,800 per airplane.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus: Docket 96–NM–179–AD.

Applicability: All Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; A319; A320; A321; A330; and A340 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the emergency actuator mechanism, which could cause failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation, accomplish the following:

Repetitive Inspections

(a) Within 500 flight hours after the effective date of this AD, or within 36 months after the airplane's date of manufacture, whichever occurs later: Determine if Airbus Modification(s) 45090, 45155, 45197, 45904, 45905, 26015, 26211, 11549, or 12024, as applicable, has been done. If the applicable modification(s) has been done, no further action is required by this AD. If the applicable modification(s) has not been done, before further flight, do the inspections required by paragraph (b) of this AD.

(b) Perform the inspections required by paragraphs (b)(1) and/or (b)(2) of this AD, as applicable, in accordance with Airbus Service Bulletin A300–52–0168, Revision 02 (for Model A300 B2 and B4 series airplanes), A300–52–6052, Revision 02 (for Model A300–600 series airplanes), or A310–52–2058, Revision 02 (for Model A310 series airplanes), all dated October 25, 1999; A330–52–3038, Revision 01, dated December 2, 1996 (for Model A330 series airplanes); A340–52–4048, Revision 03, dated June 10, 1997 (for Model A340 series airplanes); or Airbus All Operator Telex (AOT) 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); as applicable. Repeat the inspections thereafter at intervals not to exceed 3 years:

(1) For Model A321, A330, and A340 series airplanes: Do a detailed inspection of the striker and guide valve of the emergency door actuators for corrosion.

(2) For all airplanes: Do a detailed inspection of the striker and guide valve of the passenger door actuators for corrosion.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: Additional service information regarding the required inspections on Airbus Model A300 B2 and B4, A300–600, and A310 series airplanes is provided in RATIER-FIGEAC Service Bulletin 701–5000–52–9, Revision 1, dated October 10, 1996.

Corrective Action

(c) If any corrosion is found during any inspection required by paragraph (b) of this AD, before further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with Airbus Service Bulletin A300–52–0168, Revision 02 (for Model A300 B2 and B4 series airplanes), A300–52–6052, Revision 02 (for Model A300–600 series airplanes), or A310–52–2058, Revision 02 (for Model A310 series airplanes), all dated October 25, 1999; A330–52–3038, Revision 01, dated December 2, 1996 (for Model A330 series airplanes); A340–52–4048, Revision 03, dated June 10, 1997 (for Model A340 series airplanes); or Airbus AOT 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); as applicable.

(1) Clean the corroded areas of the emergency actuator striker mechanism to restore proper function, and re-install the mechanism; and, within 18 months after the corrosion is found, replace the mechanism with a serviceable part; or

(2) Replace the emergency actuator striker mechanism with a serviceable part.

Note 4: Inspections and corrective action done before the effective date of this AD in accordance with Airbus Service Bulletin A300–52–0168, dated December 4, 1996, or Revision 01, dated March 26, 1998; A300–52–6052, dated December 4, 1996, or Revision 01, dated March 26, 1998; or A310–52–2058, dated December 4, 1996, or Revision 01, dated March 26, 1998; are considered acceptable for compliance with the applicable actions specified in this amendment.

Note 5: Inspections and corrective action accomplished prior to the effective date of this AD in accordance with Airbus A320 Maintenance Planning Document, task number 521000–13–1, are considered acceptable for compliance with paragraphs (b) and (c) of this AD.

Terminating Action

(d) Within 36 months after the effective date of this AD: Modify the striker mechanism of the emergency and passenger door actuators (includes replacement of the existing copper diaphragm in the striker mechanism with an aluminum diaphragm and re-identification of the actuators) in accordance with Airbus Service Bulletin A300–52–0173, Revision 01, dated September 7, 2000 (for Model A300 B2 and B4 series airplanes); A300–52–6061, Revision 01, dated September 7, 2000 (for Model A300–600 series airplanes); A310–52–2065, Revision 01, dated September 7, 2000 (for Model A310 series airplanes); A330–52–3048, Revision 01, dated December 2, 1998 (for Model A330 series airplanes); A340–52–4059, Revision 01, dated December 2, 1998 (for Model A340 series airplanes); or A320–52–1094, Revision 02, dated April 7, 1999 (for Model A319, A320, and A321 series airplanes); as applicable.

Spares

(e) As of the effective date of this AD, no person shall install a passenger door or emergency door actuator on any airplane without first inspecting that actuator in accordance with paragraph (b) of this AD; and repairing, if necessary, in accordance with paragraph (c) of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 7: The subject of this AD is addressed in French airworthiness directives 1998–482–122(B) R1, dated April 21, 1999; 1999–410–294(B) R1, dated November 17, 1999; and 98–507–085(B) and 98–508–106(B), both dated December 16, 1998.

Issued in Renton, Washington, on May 10, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12322 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 37, 161, 250, 284, and 358

[Docket No. RM01–10–000]

Standards of Conduct for Transmission Providers; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice organizing technical conference.

SUMMARY: In Docket No. RM01–10–000, the Federal Energy Regulatory Commission proposed to promulgate new standards of conduct regulations that apply uniformly to natural gas pipelines and transmitting public utilities (jointly referred to as transmission providers) that are currently subject to the gas standards of conduct, 18 CFR part 161 (2001), and the electric standards of conduct, 18 CFR part 37 (2001), 66 FR 50919 (Oct. 5, 2001). The Commission proposed to adopt one set of standards of conduct to govern the relationships between regulated transmission providers and their energy affiliates, broadening the definition of an affiliate covered by the standards of conduct. The Commission proposed to codify the standards of conduct in a new Subchapter S, Part 358, delete the current standards of conduct at Part 161 and § 37.4, and make conforming changes to other regulations as necessary. On May 21, 2002, the Federal Energy Regulatory Commission staff will hold a public conference to discuss the proposed revisions to the gas and electric standards of conduct. The conference will focus on: the definition of energy affiliate; application of the rules to the bundled sales function for retail native load; the independent functioning requirement; information disclosure rules; the posting of specified information, e.g., discount information.

DATES: The conference will take place on May 21, 2002, starting at 9:30 a.m. Persons wishing to submit further comments following the conclusion of the conference must submit them by June 14, 2002.

ADDRESSES: The conference will be held at the Commission's offices at 888 First Street, NE., Washington, DC in the Commission's meeting room. File written comments on the proposed rulemaking with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments should reference Docket No. RM01–10–000. Comments may be filed electronically or by paper (an original and 16 copies, with an accompanying computer diskette in the prescribed format requested).

FOR FURTHER INFORMATION CONTACT: Demetra E. Anas, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0178, email: Demetra.Anas@ferc.gov.

SUPPLEMENTARY INFORMATION:

Notice Organizing Technical Conference

May 8, 2002.

This notice provides additional information concerning the May 21, 2002 technical conference to be held in this docket to discuss the proposed revisions to the gas and electric standards of conduct governing transmission providers and their energy affiliates. *See* April 25, 2002 Notice of Technical Conference and Staff Analysis of the Major Issues Raised in the Comments. The conference will begin at 9:30 a.m. at the Commission's offices, 888 First Street NE., Washington, DC in the Commission's Meeting Room. All interested persons are invited to attend. Participants must use the First Street entrance to the building because of nearby construction.

The order of the discussion at the conference will follow the organization of the Staff Paper that was attached to the April 25th Notice: (1) The definition of energy affiliate; (2) application of the rules to the bundled sales function for retail native load; (3) the independent functioning requirement; (4) information disclosure rules; and (5) the posting of specified information, e.g., discount information. Each topic will be discussed for approximately one to one and one-half hour.

Those interested in participating in the discussion of particular topics should indicate their interest by May 15, 2002 by calling Demetra Anas at (202) 208–0178 or via e-mail to: *demetra.anas@ferc.gov*. This is to ensure that adequate seating is available in the Commission Meeting Room for those who want to participate in the discussion. We intend to accommodate as many speakers as time permits to participate in a give-and-take discussion of each of the five topics noted in the prior paragraph, in turn. Observers will be accommodated in the Commission Meeting Room on a space available basis, but there will be seating available in an overflow room which will have a broadcast of the discussion. Each request to participate must include a contact person, telephone number and e-mail address. In addition, each request should identify the specific issues the requestor is interested in discussing.

Attendees who want to propose alternatives to the regulatory text from the April 25, 2002 Staff Paper or to the Commission's Notice of Proposed Rulemaking should come prepared to share specific proposed language. Also, the participation of people familiar with the business operations of the transmission providers and their energy affiliates is particularly invited. Participants are encouraged to offer assessments of the quantitative impacts of the proposed rule and the benefits to be obtained by the proposed rule.

Procedures to file additional comments:

Interested persons may file additional comments on the issues discussed at the conference, or other matters relevant to this proceeding, including alternative proposals by June 14, 2002. Comments should include a one-page single spaced position summary. Comments may be filed either in paper format or electronically. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426 and should refer to Docket No. RM01–10–000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website (*www.ferc.gov*) and clock on "Make an e-filing," and then follow the instructions for each screen. First-time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of the comments.

User assistance for electronic filing is available at 202–208–0258 or by E-mail to *efiling@ferc.gov*. Comments should not be submitted to the e-mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426 during regular business hours. Additionally, all comments may be viewed, printed or downloaded remotely via Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by E-mail to *rimsmaster@ferc.gov*.

Remote access to the conference:

The Capitol Connection patrons in the Washington, DC area will receive notices regarding the broadcast of the conference. It also will be available, for a fee, live over the Internet, via C-Band Satellite, and via telephone conferencing. Persons interested in receiving the broadcast, or who need further information, should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection web site at *http://www.capitolconnection.gmu.edu* and click on "FERC."

In addition, National Narrowcast Network's Hearing-On-The-Line service covers all FERC meetings live by telephone so that interested persons can listen at their desks, from their homes, or from any phone, without special

equipment. Billing is based on time online. Call (202) 966–2211 for further details.

Questions about participating at the conference should be directed to: Demetra Anas, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–208–0178. *Demetra.Anas@ferc.gov*

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11995 Filed 5–16–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–126024–01]

RIN 1545–AW72

Reporting of Gross Proceeds Payments to Attorneys

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the reporting of payments of gross proceeds to attorneys. The regulations reflect changes to the law made by the Taxpayer Relief Act of 1997 (1997 Act). The regulations will affect attorneys who receive payments of gross proceeds on behalf of their clients and certain payors (for example, defendants in lawsuits and their insurance companies and agents) that, in the course of their trades or businesses, make payments to these attorneys. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by August 15, 2002. Requests to speak (with outlines of topics to be discussed) at the public hearing scheduled for September 30, 2002, at 10 a.m., must be received by September 9, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–126024–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–126024–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically by submitting comments directly to the IRS Internet site at *www.irs.gov/regs*. The public hearing will be held in the Auditorium on the Seventh Floor of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Nancy Rose (202) 622–4910; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Treena Garrett at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1644.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 6041 and 6045 of the Internal Revenue Code (Code). These proposed amendments to the Income Tax Regulations would (a) revise existing §§ 1.6041–1 and 1.6041–3 and (b) add a new § 1.6045–5.

A new reporting requirement, section 6045(f), was added to the Code by section 1021 of the Taxpayer Relief Act of 1997 (1997–4 (Vol. 1) C.B. 1, 136). Section 6045(f) generally requires information reporting for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services (whether or not the services are performed for the payor). No information return is required under section 6045(f) for the portion of any payment that is required to be reported under section 6041(a) (or that would be required to be reported under section 6041 but for the $600 limitation) or under section 6051. The 1997 Act also provides that the general exception in § 1.6041–3(q)(1) for reporting payments made to corporations does not apply to payments of attorneys' fees.

Proposed regulations under sections 6041 and 6045(f) were previously published in the **Federal Register** on May 21, 1999 (64 FR 27730)(the 1999 proposed regulations). Many individuals and organizations provided written comments on the 1999 proposed regulations. Several individuals spoke at a public hearing held on September 22, 1999.

After considering all of the comments, the IRS and the Treasury Department have decided to amend and repropose the regulations under sections 6041 and 6045(f), incorporating the guidance in the 1999 proposed regulations with some modifications. All comments received in connection with the 1999 proposed regulations will continue to be considered in finalizing these reproposed regulations (the proposed regulations). The IRS and the Treasury Department welcome any additional comments from taxpayers on the issues discussed below or on other issues relating to section 6045(f).

Explanation of Revisions

Delivery Rule

Section 1.6045–5(b)(1) of the 1999 proposed regulations (the delivery rule) elicited numerous comments. The delivery rule required information reporting of payments delivered to a nonpayee attorney, if under the circumstances, it was reasonable for the payor to believe that the attorney received the check in connection with legal services. Most of the comments urged the IRS and the Treasury Department to eliminate the delivery rule for a variety of reasons.

First, commentators suggested that the benefits the IRS would derive from receiving information regarding payments of gross proceeds to nonpayee attorneys would be outweighed by the burdens payors would encounter in collecting and reporting that information. Several commentators stated that their automated information collection and processing systems cannot prepare returns for nonpayee recipients. Consequently, they would incur substantial costs to accommodate reporting to nonpayee attorneys, either by modifying those systems or by manually preparing information returns for nonpayee attorneys.

Second, commentators stated that the delivery rule creates the potential for unintentional noncompliance because the department of a payor's business that delivers checks to nonpayee attorneys is separate from, and may be in a different location from, the department that prepares the information returns. Due to this business structure, the reporting department may not receive the required information from the delivery department.

Other commentators stated that the delivery rule unnecessarily complicates the requirement to backup withhold on payments made to an attorney who does not provide a taxpayer identification number (TIN). Many commentators also argued that delivering a check to a nonpayee does not constitute "making a payment" to that person under section 6045(f) or other information reporting provisions of the Code.

Due to the substantial burdens that the delivery rule would impose on payors, the IRS and the Treasury Department have adopted the suggestion to eliminate it. Thus, the proposed regulations provide that a payment to an attorney, in the case of a payment by check, means a check on which the attorney is named as a sole, joint, or alternative payee.

Identity of the Payor

Several commentators suggested that the proposed regulations define the term "payor" under section 6045(f). Specifically, these commentators suggested that the section 6041(a) payor standard should also be used under section 6045(f), principally for three reasons. First, the language in both Code sections regarding who is required to report is virtually identical, that is, a person engaged in a trade or business and making payments in the course of that trade or business. Second, using different standards could lead to confusion. Third, commentators from the banking and mortgage lending industry were concerned that they would incur substantial costs of reporting payments made to lawyer-owned title insurance companies and settlement attorneys unless the regulations under section 6045(f) adopted the section 6041(a) payor standard.

The IRS and the Treasury Department agree that defining the term payor would be helpful. The proposed regulations define a payor as a person who makes a payment if that person is an obligor on the payment, or the obligor's insurer or guarantor. For example, a payor includes (a) a person who pays a settlement amount to an attorney of a client who has asserted a tort, contract, violation of law, or workers' compensation claim against that person; and (b) the person's insurer if the insurer pays the settlement amount to the attorney.

The IRS and the Treasury Department believe that the payor standards under sections 6041 and 6045(f) should not be identical because the nature and the purpose of the reporting requirements under each Code section are different. The legislative history of the 1997 Act, describing the law regarding information reporting of payments to attorneys before enactment of section 6045(f), states that if "the payment [to the attorney] is a gross amount and it is not known what portion is the attorney's fee, no reporting is required on any portion of the payment." H.R. Rep. No. 148, 105th Cong., 1st Sess. 474 (1997). The Committee Report then states that section 6045(f) "will have a positive impact on compliance with the tax laws by requiring additional information reporting." H.R. Rep. No. 148, at 474 (1997). A specific concern was that there was no reporting by payors (and underreporting by recipients) of payments of judgments and settlements made by insurance companies to attorneys that yielded large legal fees. See Department of the Treasury, *General Explanations of the Administration's Revenue Proposals* 86 (February 1997).

The additional reporting that Congress contemplated, and about which the Treasury Department was concerned, will not occur if the section 6041 payor standard is used under section 6045(f). Generally under section 6041, a person who makes a payment on behalf of a third person reports the payment only if the first person exercises management or oversight in connection with, or has a significant economic interest in, the payment. *See* Rev. Rul. 93–70 (1993–2 C.B. 294). Under the proposed section 6041 middleman regulations published in the **Federal Register** on October 17, 2000 (65 FR 61292), a defendant or its insurer that pays tort damages to a claimant's attorney generally does not exercise management or oversight in connection with, or have a significant economic interest in, the payment to the attorney. The preamble to those proposed regulations explains that neither the defendant nor the insurer is required to file an information return under section 6041(a) for the payment made to the attorney. 65 FR 61293–61294. If the section 6041 middleman rules were used under section 6045(f), the defendant and the insurer would not be required to report the payments to the attorney under section 6045(f) either. The large payments by insurers to attorneys in judgments and settlements would go unreported by any payor, as was the case prior to the enactment of section 6045(f). The IRS and the Treasury Department believe that Congress did not intend this result. Thus, the suggestion to use the section 6041 payor standard for section 6045(f) has not been adopted.

Scope of the Section 6045(f)(2)(B) Exception

Section 6045(f)(2)(B) states that section 6045(f) "shall not apply to the portion of any payment that is required to be reported under section 6041(a) (or would be so required but for the $600 limitation contained therein) or section 6051." The use of different standards under sections 6041 and 6045(f) for determining who is required to file and furnish an information return affects the scope of the exception to reporting in section 6045(f)(2)(B). For example, assume that a defendant's insurer, to settle a claimant's lawsuit for taxable damages, wrote a check for $100,000 jointly to the claimant and the claimant's attorney and that the insurer knew that the attorney's fees were $40,000. Under section 6045(f), the insurer is required to report the $100,000 payment to the attorney. The exception in section 6045(f)(2)(B) does not apply because the insurer has no information reporting obligation under section 6041 with respect to the payment to the attorney.

Some commentators suggested a very broad reading of the exception to reporting contained in section 6045(f)(2)(B). Under the approach suggested by these commentators, this exception would apply if the payment to the attorney is subject to reporting under section 6041 or section 6051 by any person. For example, under this view, if a claimant in a lawsuit is required to report under section 6041 the portion of a damage award that his attorney retained as a contingent fee, then the defendant's insurance company, which paid those damages to the claimant's attorney, would not report the payment under section 6045(f). The IRS and the Treasury Department believe, however, that Congress intended the exception in section 6045(f)(2)(B) to provide relief only to the person who is required (or would be so required but for the dollar limitation) to report the payment to the attorney under section 6041 or section 6051. First, a payor is best able to determine whether it is required to report a payment based on its relationship to the payment rather than that of an unrelated (and possibly adversarial) third party. Second, requiring a payor to determine whether

a third party is required to report a payment could introduce inconsistency into the reporting process if the payor and the third party disagree on whether the third party is required to report a payment under section 6041 or section 6051.

On a related matter, one commentator noted that some practitioners believe that if a payment (or portion of a payment) is reportable under section 6045(f), then under § 1.6041–1(a)(1)(ii) it is not subject to reporting under section 6041 with respect to another payee. This view contradicts Congress' purpose in enacting section 6045(f), which is to "have a positive impact on compliance with tax laws by requiring additional information reporting." H.R. Rep. No. 148, at 474 (1997). Therefore, § 1.6041–1(a)(1)(ii) has been clarified to provide explicitly that the exception applies to a payment with respect to which information returns are required under section 6041(a) and another Code section (*e.g.*, section 6045) for the same payee. For example, a person who pays $600 of taxable damages to a claimant and the claimant's attorney may be required to file an information return under section 6041 with respect to the claimant and another information return under section 6045(f) with respect to the claimant's attorney.

De Minimis Payments

Many commentators suggested that the statutory $600 annual threshold for reporting payments under section 6041 should also apply under section 6045(f). Many payors who are required to report payments under section 6045(f) also are required to report payments under section 6041. In many cases, payments under both Code sections are reported on Forms 1099–MISC. Commentators stressed that payors would incur substantial costs to report payments that aggregated less than $600 annually, because they would have to either modify their automated processing systems or manually prepare returns reporting these payments. They argued that this burden far outweighs any benefit to be derived from collecting information for the relatively few payments made to attorneys that do not aggregate at least $600 during a calendar year. In light of these circumstances, the proposed regulations adopt a $600 annual reporting threshold because such a threshold strikes a reasonable balance between the objectives of section 6045(f) and the potential burden of compliance.

Form 1099–MISC and Payee Statement

Most commentators approved of using Form 1099–MISC to report payments under section 6045(f) because their existing automated information processing systems are programmed to complete this form. However, a few commentators suggested that, because Form 1099–MISC is used to report income payments, it should not be used to report payments of gross proceeds. Some of these commentators also noted that some payors had improperly reported gross proceeds payments in an income box on Form 1099–MISC.

Beginning in 2001, the Form 1099–MISC was revised to add a separate and distinctly labeled box for reporting gross proceeds payments made to attorneys. Therefore, payments under section 6045(f) will continue to be reported on Form 1099–MISC. However, so that the IRS can easily change to another form if the need arises, the proposed regulations do not specify the form to be used.

Separate or Aggregate Reporting

Some commentators believed that, for each reportable payment under section 6045(f), payors should be required to file and furnish a separate Form 1099 listing the name of the attorney's client. These commentators were concerned that attorneys would have difficulty reconciling payee statements containing aggregate annual payments with their other records, an exercise that might be necessary if their income tax returns were examined by the IRS. However, other commentators asserted that requiring such detailed payee statements would impose an enormous burden on payors. These commentators urged that providing such detailed information should be voluntary, and noted that many payors provide such information to payees upon request. On balance, the IRS and the Treasury Department believe that the potential burden on payors that would result if separate payee statements were made mandatory outweighs the potential benefit of such statements to payees. Accordingly, under the proposed regulations, payors may file either one Form 1099–MISC that aggregates annual payments or separate Forms 1099–MISC for each payment. However, further comments on this question are welcome.

Joint or Multiple Payees

Section 1.6045–5(b)(2)(i) of the 1999 proposed regulations provided that if more than one attorney is listed as a payee on a check, the information return is required to be filed with respect to the attorney who received the check (the payee-recipient rule). For some of the same reasons that the delivery rule was criticized, several commentators suggested that if more than one attorney's name is listed on a check, the payor should be required to issue an information return with respect to the first-listed attorney (the first-listed rule). In addition, one commentator suggested that where joint or multiple payees are listed on a check, the payor should be required to report with respect to each attorney listed as a payee on the check (the all-payee rule).

The IRS and the Treasury Department carefully considered whether the payee-recipient rule raises the same problems as the delivery rule and believe that it does not. Commentators' principal objection to the delivery rule was that their automated information reporting systems are designed to capture information about check payees, not mere addressees or deliverees. The payee-recipient rule, however, requires that the recipient of the check also be named as a payee and thus does not raise the same concerns as the delivery rule. The IRS and the Treasury Department considered and rejected the first-listed payee rule because it would result in no information reporting with respect to an attorney who receives the check and is not the first-listed payee attorney. Finally, the IRS and the Treasury Department considered and rejected the all-payee rule because, as between the two, the payee-recipient rule appears to be less burdensome for most payors. Therefore, the proposed regulations retain the payee-recipient rule. The IRS and the Treasury Department, however, request comments on the effectiveness of, and the relative burdens imposed by, each of these three approaches.

Exceptions for Certain Types of Payments

Many commentators suggested that the definition of the term legal services in § 1.6045–5(d)(2) of the 1999 proposed regulations was too broad. These commentators requested an exception to the section 6045(f) information reporting requirement in certain circumstances where they believed the specific payment bears little or no correlation to the taxable income of the attorney or the attorney's client. Specifically, they suggested exceptions to reporting for payments to payee attorneys who were acting as (i) settlement attorneys or title insurers in real estate transactions, (ii) executors or administrators of estates (for example, those receiving payments of life insurance proceeds), (iii) trustees of trusts (such as pension plans and bankruptcy estates), and (iv) administrators of qualified settlement funds described in § 1.468B–1.

Consistent with the language and purpose of section 6045(f), the IRS and the Treasury Department continue to believe that a broad definition of legal services is appropriate. However, it should be noted that other features of the proposed regulations, such as the elimination of the delivery rule, may provide a result equivalent to an exception in many cases. For example, the IRS and the Treasury Department understand that it is unusual for an attorney who is the executor or administrator of an estate to be named as the payee on a check. Similarly, in many bankruptcy situations the estate of the bankrupt, rather than the trustee, is the named payee. Further, under these proposed regulations, many payors will be able to avoid reporting under section 6045(f) simply by naming the attorney's client as payee on the check even if the check is delivered to the attorney's office. Finally, the proposed regulations provide that payments made to an attorney acting in the capacity as a settlement agent in connection with the closing of a real estate transaction are not subject to reporting under section 6045(f). The IRS and the Treasury Department believe that the flexibility provided by these rules should reduce the need for many of the requested exceptions from the term legal services. However, comments on additional exceptions where such flexibility is not practical are welcome.

The proposed regulations also provide a clearer and more objective standard for determining whether a payment made to a foreign attorney is subject to reporting under section 6045(f). Under the proposed regulations, a return of information is not required under section 6045(f) with respect to payments made to a nonresident alien individual, foreign partnership, or foreign corporation that does not engage in a trade or business in the United States and does not perform any labor or personal services in the United States. The proposed regulations provide that the rules provided in § 1.6041–4(a)(1) are used to determine whether a payment is subject to this exception. Thus, the payor makes this determination by obtaining from the payee a Form W–8, a Form W–9, or other documentation conforming in substance to those forms, or by relying on the presumptions provided under § 1.1441–1(b)(3).

Other commentators asked for exceptions for situations in which attorneys who, after collecting their fees for legal services rendered, continue to serve as mere clearinghouses or delivery conduits to their clients. For example, attorneys sometimes collect and disburse payments intact for: (1) A transient or homeless client; (2) a client whose address is intentionally not disclosed to the payee; or (3) a client who is entitled to recurring payments in satisfaction of the client's workers' compensation claim. In addition, sometimes a payor is required to make payments to third-party service providers through an attorney to monitor payor compliance, even though the attorney does not charge a separate fee for this service. The IRS and the Treasury Department have not adopted this suggested exception to the section 6045(f) reporting requirement, because it is too burdensome to require a payor to determine whether any portion of a specific payment is being retained by the attorney as a fee.

Therefore, the proposed regulations adopt, with a minor clarification, the definition of the term legal services used in the 1999 proposed regulations. Under the proposed regulations, the term legal services means all services related to, or supportive of, the practice of law performed by, or under the supervision of, an attorney. Including services that are related to, or supportive of, the practice of law in the definition of legal services continues the broad definition in the 1999 proposed regulations. It also clarifies that payments to an attorney for services that are clearly unrelated to the practice of law are not subject to reporting under section 6045(f). For example, a payment to an individual for refurbishing an antique automobile is not subject to reporting under section 6045(f) merely because that individual is a tax lawyer.

Backup Withholding

Some commentators suggested either eliminating the requirement for a payor to backup withhold on a payment made to an attorney who does not furnish a TIN or, if such withholding is required, permitting the withheld amounts to be credited to the account of the attorney's client. The IRS and the Treasury Department believe that payments to attorneys for legal services are reportable payments under section 3406(b)(3)(C), and thus are subject to the backup withholding requirements. Further, the following statement in the legislative history of section 6045(f) shows that Congress specifically intended payments to attorneys that are reportable under section 6045(f) to be subject to backup withholding:

> Third, attorneys are required to promptly supply their TINs to persons required to file these information reports, pursuant to section 6109. Failure to do so could result in the attorney being subject to penalty under section 6723 and the payments being subject to backup withholding under section 3406.

H.R. Conf. Rep. No. 220, at 546 (1997). Accordingly, this suggestion has not been adopted in the proposed regulations. However, eliminating the delivery rule may alleviate many concerns regarding backup withholding on payments to attorneys who do not supply their TINs.

Revision of Examples

Several comments were received regarding the examples in § 1.6045–5(f) of the 1999 proposed regulations. Commentators suggested that *Example 1* be revised to clarify that the defendant in the lawsuit was the claimant's employer and that the amount disbursed by the defendant to the claimant's attorneys should be reduced to reflect payments of income and Federal Insurance Contributions Act tax withholdings. These revisions have been adopted.

Some commentators expressed concern that the examples imply that all damages in a lawsuit against an employer are back wages reportable under Forms W–2. *Example 1* has been clarified to explain that, under its particular facts, the damages received are taxable wages under existing legal principles. Further, the examples are not intended to state or imply any substantive conclusion on the tax treatment of any particular type of damage award.

Some commentators stated that the examples did not provide sufficient guidance on the reporting of damages under sections 6041 and 6051. The IRS and the Treasury Department understand taxpayers' interest in additional guidance in this area, due in part to significant changes in the law under section 104(a)(2). However, regulations under section 6045(f) are not the appropriate place to address legal issues involving concerns under sections 6041 and 6051. Thus, these proposed regulations address issues under sections 6041 and 6051 only to the extent they are integral or closely related to providing guidance regarding section 6045(f).

Finally, in response to numerous requests, the 1999 proposed regulations have been expanded to provide additional examples of required reporting.

Amendment to § 1.6041–3(q)

Section 1.6041–3(q) of the 1999 proposed regulations provided that payments to a corporation engaged in providing legal services did not qualify for the exception for reporting payments to corporations. These proposed

regulations conform the language of section 1.6041–3(q) to that of section 1021(b) of the 1997 Act by providing that payments of attorneys' fees made to a corporation do not qualify for the exception for reporting payments to corporations under section 6041.

Effective Date of Proposed Regulations Under Section 6045(f)

In response to several comments received concerning the amount of time needed to implement automated processing systems changes, the effective date of the regulations has been delayed. The regulations will apply to payments made during the first calendar year that begins at least two months after the date of publication of the final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply to these regulations.

It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the facts that: (1) The time required to prepare and file a 2002 Form 1099–MISC is minimal (currently estimated at 16 minutes per form); and (2) it is not anticipated that, as a result of these regulations, small entities will have to prepare and file more than a few, at most, forms per year. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely (in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. Written comments on the proposed regulations are due by August 15, 2002.

A public hearing has been scheduled for September 30, 2002, beginning at 10 a.m. in the Auditorium on the Seventh Floor of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by September 9, 2002. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for reviewing outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is A. Katharine Jacob Kiss, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.6041–1(a)(1)(ii), the first sentence is removed and three sentences are added in its place to read as follows:

§ 1.6041–1 Return of information as to payments of $600 or more.

(a) * * *

(1) * * *

(ii) The payments described in paragraphs (a)(1)(i)(A) and (B) of this section shall not include any payments of amounts with respect to which an information return is required by, or may be required under authority of, section 6042(a) (relating to dividends), section 6043(a)(2) (relating to distributions in liquidation), section 6044(a) (relating to patronage dividends), section 6045(relating to brokers' transactions with customers), sections 6049(a) (1) and (2) (relating to interest), section 6050N(a) (relating to royalties), or section 6050P (a) or (b) (relating to cancellation of indebtedness) with respect to the same payee. For example, a person who pays $600 of taxable damages to a claimant and the claimant's attorney may be required to file an information return under section 6041 with respect to the claimant and another information return under section 6045(f) with respect to the claimant's attorney. In addition, notwithstanding anything in the preceding two sentences, payments to an attorney that are described in paragraph (a)(1)(i) of this section are reported under this section and not section 6045(f). For provisions relating to information reporting on payments to attorneys, *see* § 1.6045–5. * * *

* * * * * *

Par. 3. Section 1.6041–3 is amended by revising the first sentence of paragraph (q)(1) to read as follows:

§ 1.6041–3 Payments for which no return of information is required under section 6041.

* * * * * *

(q) * * *

(1) A corporation described in § 1.6049–4(c)(1)(ii)(A), except to a corporation for payments of attorneys' fees made after December 31, 1997, and except to a corporation engaged in providing medical and health care services or engaged in the billing and collecting of payments in respect to the providing of medical and health care services. * * *

* * * * * *

Par. 4. Section 1.6045–5 is added to read as follows:

§ 1.6045–5 Information reporting on payments to attorneys.

(a) *Requirement of reporting*—(1) *In general.* Except as provided in paragraph (c) of this section, every payor engaged in a trade or business who, in the course of that trade or business, makes payments aggregating $600 or more during a calendar year to an attorney in connection with legal services (whether or not the services are performed for the payor) must file an information return for such payments. The information return must be filed on the form and in the manner required by the Commissioner. For the time and place of filing the form, *see* § 1.6041–6. For definitions of the terms under this section, *see* paragraph (d) of this section. The requirements of this paragraph (a)(1) apply whether or not—

(i) A portion of a payment is kept by the attorney as compensation for legal services rendered; or

(ii) Other information returns are required with respect to some or all of a payment under other provisions of the Internal Revenue Code and the regulations thereunder.

(2) *Information required.* The information return required under paragraph (a)(1) of this section must include the following information—

(i) The name, address, and taxpayer identification number (TIN) (as defined in section 7701(a)) of the payor;

(ii) The name, address, and TIN of the payee attorney;

(iii) The amount of the payment or payments (as defined in paragraph (d)(5) of this section); and

(iv) Any other information required by the Commissioner.

(3) *Requirement to furnish statement.* A person required to file an information return under paragraph (a)(1) of this section must furnish to the attorney a written statement of the information required to be shown on the return. This requirement may be met by furnishing a copy of the return to the attorney. The written statement must be furnished to the attorney on or before January 31 of the year following the calendar year in which the payment was made.

(b) *Special rules—(1) Joint or multiple payees*—(i) *Check delivered to payee attorney.* If more than one attorney is listed as a payee on a check, an information return must be filed under paragraph (a)(1) of this section with respect to the payee attorney, if any, who received the check.

(ii) *Check delivered to nonpayee or to payee nonattorney.* If one or more than one attorney is listed as a payee on a check and the check is delivered to a person who is not a payee on the check, or to a payee who is not an attorney, an information return must be filed under paragraph (a)(1) of this section with respect to the first-listed payee attorney on the check.

(2) *Attorney required to report payments made to other attorneys.* If, due to the payment of a check, an information return is required to be filed under paragraph (b)(1) of this section, the attorney with respect to whom the information return is required to be filed (tier-one attorney) must file an information return, as required under this section, for any payment that the tier-one attorney makes to other attorneys with respect to that check, regardless of whether the tier-one attorney is a payor under paragraph (d)(3) of this section.

(c) *Exceptions.* Notwithstanding paragraphs (a) and (b) of this section, a return of information is not required under section 6045(f) with respect to the following payments—

(1) Payments of wages or other compensation paid to an attorney by the attorney's employer.

(2) Payments of compensation or profits paid or distributed to its partners by a partnership engaged in providing legal services.

(3) Payments of dividends or corporate earnings and profits paid to its shareholders by a corporation engaged in providing legal services.

(4) Payments made by a person to the extent that the person is required to report with respect to the same payee the payments or portions thereof under section 6041(a) and § 1.6041–1(a) (or would be required to so report the payments or portions thereof but for the dollar amount limitation contained in section 6041(a) and § 1.6041–1(a)).

(5) Payments made to a nonresident alien individual, foreign partnership, or foreign corporation that does not engage in a trade or business in the United States and does not perform any labor or personal services in the United States. For how a payor determines whether a payment is subject to this exception, see § 1.6041–4(a)(1).

(6) Payments made to an attorney in the attorney's capacity as the person responsible for closing a transaction within the meaning of § 1.6045–4(e)(3) for the sale or exchange of any present or future ownership interest in real estate described in § 1.6045–4(b)(2)(i) through (iv).

(d) *Definitions.* The following definitions apply for purposes of this section:

(1) *Attorney* means a person engaged in the practice of law, whether as a sole proprietor, partnership, corporation, or joint venture.

(2) *Legal services* means all services related to, or supportive of, the practice of law performed by, or under the supervision of, an attorney.

(3) *Payor* means a person who makes a payment if that person is an obligor on the payment, or the obligor's insurer or guarantor. For example, a payor includes a person who pays a settlement amount to an attorney of a client who has asserted a tort, contract, violation of law, or workers' compensation claim against that person; and the person's insurer if the insurer pays the settlement amount to the attorney.

(4) *Payments to an attorney* in the case of a payment by check means a check on which the attorney is named as a sole, joint, or alternative payee.

(5) *Amount of the payment* in the case of a check means the amount of the check plus the amount required to be withheld from the payment under section 3406(a)(1), because a condition for withholding exists with respect to the attorney for whom an information return is required to be filed under paragraph (a)(1) of this section.

(e) *Attorney to furnish TIN.* A payor that is required to file an information return under this section must solicit a TIN from the attorney at or before the time the payor makes a payment to the attorney. Any attorney must furnish the TIN to the payor, but is not required to certify that the TIN is correct. See, however, paragraph (c)(5) of this section regarding payments to certain foreign attorneys. A payment for which a return of information is required under this section is subject to backup withholding under section 3406 and the regulations thereunder.

(f) *Examples.* The provisions of this section are illustrated by the following examples. The examples assume that P is not a payor with respect to A, the attorney, under section 6041. See section 6041 and the regulations thereunder for rules regarding whether P is required under section 6041 to file information returns with respect to C.

Example 1. One check—joint payees—taxable to claimant. Employee C, who sues employer P for back wages, is represented by attorney A. P settles the suit for $300,000 that represents taxable wages under existing legal principles and writes a settlement check payable jointly to C and A in the amount of $200,000, net of income and FICA tax withholding. P delivers the check to A. A retains $100,000 of the payment and disburses the remaining $100,000 to C. P must file an information return with respect to A for $200,000 under paragraph (a)(1) of this section. P must also furnish an information return to C under section 6051 in the amount of $300,000.

Example 2. One check—joint payees—excludable to claimant. C, who sues corporation P for damages on account of personal physical injuries, is represented by attorney A. P settles the suit for a $600,000 damage payment that is excludable from C's gross income under section 104(a)(2). P writes the $600,000 settlement check payable jointly to C and A and delivers the check to A. A retains $240,000 of the payment as A's attorney's fees and remits the remaining $360,000 to C. P must file an information return with respect to A for $600,000 under paragraph (a)(1) of this section.

Example 3. Separate checks—taxable to claimant. C, a plaintiff in a suit for lost profits against corporation P, is represented by attorney A. P settles the suit for $300,000. A requests P to write two checks, one payable

to A in the amount of $100,000 for A's attorney's fees and the other payable to C in the amount of $200,000. P writes the checks in accordance with A's instructions and delivers both checks to A. P must file an information return with respect to A for $100,000 under paragraph (a)(1) of this section.

Example 4. Check made payable to claimant, but delivered to nonpayee attorney. Corporation P, a defendant in a suit for damages knows that C, the plaintiff, has been represented by attorney A throughout the proceeding. P settles the suit for $500,000. Pursuant to a request by A, P writes the $500,000 settlement check payable solely to C and delivers it to A at A's office. P is not required to file an information return under paragraph (a)(1) of this section with respect to A, because there is no payment to an attorney within the meaning of paragraph (d)(4) of this section.

Example 5. Multiple attorneys listed as payees. Corporation P, a defendant, settles a lost profits suit brought by C, for $1,000,000 by paying a check naming C's attorneys, Y, A, and Z, as payees in that order. Y, A, and Z are not related parties. P delivers the payment to A's office. A deposits the check proceeds into a trust account and makes payments by separate checks to Y of $100,000 and to Z of $50,000, for their attorneys' fees. A also makes a payment by check of $550,000 to C. P must file an information return for $1,000,000 with respect to A under paragraphs (a)(1) and (b)(1)(i) of this section. A, in turn, must file information returns with respect to Y of $100,000 and to Z of $50,000 under paragraphs (a)(1) and (b)(2) of this section if A is not required to file information returns under section 6041 with respect to A's payments to Y and to Z.

Example 6. Amount of the payment—attorney does not provide TIN. Corporation P, a defendant, settles a suit brought by C for $1,000,000 of damages. C's attorney, A, did not furnish P with A's TIN. P is required to deduct and withhold tax from the $1,000,000 under section 3406(a)(1)(A) and paragraph (e) of this section. Therefore, P makes the payment by a $720,000 check naming C and C's attorney, A, as joint payees. P must also file an information return with respect to A under paragraph (a)(1) of this section in the amount of $1,000,000, as prescribed in paragraph (d)(5) of this section.

Example 7. Home mortgage lending transaction. (i) Individual P agrees to purchase a house that P will use solely as a residence. P obtains a loan from lender L to finance a portion of the cost of acquiring the house. L disburses loan proceeds of $325,000 to attorney A, who is the settlement agent, by a check naming A as the sole payee. A, in turn, writes checks from the loan proceeds and from other funds provided by P to the persons involved in the purchase of the house, including a check for $800 to attorney B, whom P hired to provide P with legal services relating to the closing.

(ii) P, not L, is the payor of the payment to A under paragraph (d)(3) of this section. P, however, is not required to file an information return with respect to A under paragraph (a)(1) of this section because the payment was not made in the course of P's trade or business. Even if P made the payment in the course of P's trade or business, P would not be required to file an information return under section 6045(f) with respect to A because P is excepted under paragraph (c)(6) of this section.

(iii) A is not required to file an information return under paragraph (a)(1) of this section with respect to the payment to B because A is not the payor as that term is defined under paragraph (d)(3) of this section. Also A is not required to file an information return under paragraph (b)(2) with respect to the payment to B because A was listed as sole payee on the check it received from P. See section 6041 and its regulations for whether A or L must file information returns under that section. See section 6045(e) and § 1.6045–4 for whether A is required to file an information return under that section.

Example 8. Business mortgage lending transaction. The facts are the same as in *Example 7* except that P buys real property that P will use in a trade or business. P, not L, is the payor of the payment to A under paragraph (d)(3) of this section. P, however, is not required to file an information return under section 6045(f) with respect to A because P is excepted under paragraph (c)(6) of this section. A is not required to file an information return under paragraphs (a) or (b)(2) of this section with respect to the payment to B. See section 6041 and its regulations for whether P or L must file information returns under that section. See sections 6041 and 6045(e) for rules regarding whether A is required to file information returns under those sections.

Example 9. Qualified settlement fund. Corporation P agrees to settle for $100,000,000 a class action lawsuit brought by attorney A on behalf of a claimant class. Pursuant to the settlement agreement and a preliminary order of approval by a court, A establishes a bank account in the name of Q Settlement Fund, which is a qualified settlement fund (QSF) under § 1.468B–1. A is also designated by the court as the administrator of the QSF. Corporation P writes a $100,000,000 check in 2003 to A, who deposits the check proceeds into the Q Settlement Fund. In 2004, the court approves an award of attorneys' fees of $35,000,000 for A. In 2004, Q Settlement Fund delivers a $35,000,000 check payable to A. P is required to file an information return under paragraph (a) of this section with respect to A for the year 2003 for the $100,000,000 payment it made to A. The Q Settlement Fund is required to file an information return under section 6041(a) and § 1.468B–2(l)(2) with respect to A for the year 2004 for the $35,000,000 payment it made to A.

Example 10. Bankruptcy trustee—wage garnishment. Individual C files for bankruptcy under Chapter XIII of the Bankruptcy Code, 11 U.S.C. sections 1301–1330. Pursuant to a wage garnishment order, C's employer, P, withholds $800 from C's earnings. P remits a check for $800 payable to A, an attorney who was appointed by the United States Bankruptcy Court to act as the trustee of C's bankruptcy estate. P is required to file an information return under section 6045(f) with respect to the $800 payment it made to A.

(g) *Cross reference to penalties.* See the following sections regarding penalties for failure to comply with the requirements of section 6045(f) and this section:

(1) Section 6721 for failure to file a correct information return.

(2) Section 6722 for failure to furnish a correct payee statement.

(3) Section 6723 for failure to comply with other information reporting requirements (including the requirement to furnish a TIN).

(4) Section 7203 for willful failure to supply information (including a taxpayer identification number).

(h) *Effective date.* The rules in this section apply to payments made during the first calendar year that begins at least two months after the date of publication of these regulations as final regulations in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–12464 Filed 5–16–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 773, 780, 784 and 800

RIN 1029–AC05

Bonding and Other Financial Assurance Mechanisms for Treatment of Long-Term Pollutional Discharges and Acid/Toxic Mine Drainage (AMD) Related Issues

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are seeking comments on what types of financial guarantees will best ensure adequate funding for the treatment of unanticipated long-term pollutional discharges, including acid or toxic mine drainage (collectively referred to as AMD), that develop as a result of surface coal mining operations. Specifically, we are interested in views from all parties on how we can best address the proper level of treatment and number of years to use in calculating financial assurance amounts for AMD, appropriate financial mechanisms to cover treatment costs, and suggestions on appropriate enforcement in cases where financial assurance is not fully adequate for the long term, but AMD is still being treated. We also invite comment on whether codification of our AMD policy statement would be helpful.

DATES: To ensure consideration, we must receive your comments on or before July 16, 2002.

ADDRESSES: You may mail or hand carry comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW., Washington, DC 20240. You may also e-mail comments to *osmrules@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: Ruth Stokes, Program Support Directorate, Office of Surface Mining Reclamation and Enforcement, on 202–208–2611.

SUPPLEMENTARY INFORMATION:

I. Background

What Do the Law and Related Regulations Require?

Section 509(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), requires that each applicant for a permit to conduct surface coal mining operations file a performance bond to guarantee compliance with all requirements of the Act and the permit. The Act specifies that the bond amount must reflect the probable difficulty of reclamation, considering a number of factors, one of which is hydrology. It also requires that the bond be sufficient to assure completion of the reclamation plan if the work had to be performed by the regulatory authority.

Paragraphs (b) through (d) of section 509 of the Act specifically recognize surety bonds, self-bonds, cash, negotiable Federal or State bonds, and negotiable certificates of deposit as acceptable forms of bond. Section 509(e) of the Act requires that the regulatory authority adjust the bond terms and amount from time to time as affected acreage increases or decreases or when the cost of future reclamation changes. Our regulations implementing the requirements of the Act may be found in the Code of Federal Regulations at 30 CFR part 800.

When a regulatory authority issues a permit, the regulatory authority envisions that the permittee will conduct mining in accordance with the approved permit and the operation will meet all requirements of the Act and the regulatory program. In practice we have found that events occur during mining and reclamation that were not anticipated during development of the reclamation plan. Some of those events result in violations of the Act or regulatory program and corrective actions can be taken to eliminate the violation. Other unanticipated events, such as the formation of acid or toxic mine drainage, require long-term treatment and are not easily addressed. For purposes of this Advance Notice, the acronym "AMD" includes both acid and toxic drainage from surface coal mining and reclamation operations, consistent with our AMD Policy Statement.

We have been involved in litigation in recent years pertaining to, among other things, the requirement for financial assurance for the long-term treatment of AMD, and the evaluation of the adequacy of the financial guarantee for long-term treatment. Our current regulations recognize certain acceptable forms of bond. We did not envision the complexity of the issues associated with financial assurances for long-term treatment of AMD. Those complexities suggest the need for financial mechanisms more appropriate to address a long-term commitment to treat AMD.

We are issuing this Advance Notice of Proposed Rulemaking to seek comment on whether we should codify the following requirements: (1) That only permits where the operation is designed to prevent off-site material damage to the hydrologic balance and minimize both on- and off-site disturbances to the hydrologic balance will be approved, and (2) that financial responsibility associated with AMD should be fully addressed. We are also requesting input from all parties on how we can best address the proper level of treatment and number of years to use in calculating financial assurance amounts for AMD, appropriate financial mechanisms to cover costs, and suggestions on appropriate enforcement in cases where financial assurance is absent or not fully adequate for the long-term, but AMD is still being treated.

How Does This Notice Relate to our AMD Policy Statement?

The prevention of future AMD from coal mining operations into surface and ground waters and the remediation of mining-related pollutional discharges are high priorities of the Office of Surface Mining Reclamation and Enforcement. To advance these priorities, we developed policy goals; objectives, and strategies to protect the hydrologic balance in coal mining areas from the effects of AMD. This was done after extensive input from primacy States, other Federal agencies, the environmental community, industry representatives and coalfield citizens concerned about AMD. The policy statement adopted in March 1997 can be found in its entirety on our home page at *http://www.osmre.gov/amdpol.txt*, or a copy may be obtained from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Our policy statement identified goals for environmental restoration and environmental protection. Under each goal were objectives. The policy principles that we are considering codifying under this effort pertain to Objectives 1 and 2 under the goal "Environmental Protection" as follows.

Objective 1: Only approve permits where the operation is designed to prevent off-site material damage to the hydrologic balance and minimize both on- and off-site disturbances to the hydrologic balance. In no case should a permit be approved if the determination of probable hydrologic consequences or other reliable hydrologic analysis predicts the formation of a postmining pollutional discharge that would require continuing long-term treatment without a defined endpoint.

Strategy 1.1—Predictive techniques should be used to identify and characterize the site-specific acid-or toxic-forming conditions posing a risk of AMD formation.

Strategy 1.2—Each mining and reclamation plan should specifically address identified acid- and toxic-forming conditions and demonstrate how off-site material damage will be prevented and on- and off-site disturbances minimized without the use of techniques that require long-term discharge treatment without a defined endpoint.

Strategy 1.3—Each permit should include adequate measures, such as prevention and mitigation technologies, to control and manage identified acid- or toxic-forming AMD conditions and to protect the quality and quantity of surface and ground water systems during mining and reclamation.

Strategy 1.4—Regulatory authorities should establish criteria to measure and assess material damage. Material damage guidelines, to be applied on a case-by-case basis, are necessary to effectively assess the adequacy of mining and reclamation plans in addressing AMD prevention.

Strategy 1.5—Approved permits should include a monitoring plan for determining whether the operation and reclamation plans are being effectively implemented.

Objective 2: Financial responsibility associated with AMD should be fully addressed.

Strategy 2.1—Prior to permit issuance, adequate financial assurance should be provided to ensure completion of the hydrologic reclamation plan.

Strategy 2.2—If, subsequent to permit issuance, monitoring identifies acid- or toxic-forming conditions which were not anticipated in the mining and operation plan, the regulatory authority should require the operator to adjust the financial assurance.

Strategy 2.3—Where inspections conducted in response to bond release requests identify surface or subsurface water pollution, bond in an amount adequate to abate the pollution should be held as long as water treatment is required, unless a financial guarantee or some other enforceable contract or mechanism to ensure continued treatment exists.

This is our long-standing policy, which we believe correctly interprets the law. We invite comment on whether codification of these principles would be helpful to the public.

II. Level of Treatment To Use in Calculating Financial Assurance Amounts for AMD

Both section 509(a) of SMCRA and the implementing regulations at 30 CFR 800.14(b) require that the amount of bond posted for a permit be sufficient to assure completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of forfeiture. If post-mining pollutional discharges develop, the permittee's reclamation liability extends to the abatement or long-term treatment of the discharge and continues as long as treatment is needed. Before treatment costs can be calculated, the appropriate treatment standard must be established.

Under section 702(a) of SMCRA and court decisions interpreting that provision, we have no authority to deviate from effluent limits and other water quality standards established under the Clean Water Act. In our experience, National Pollutant Discharge Elimination System (NPDES) permitting authorities generally establish effluent limits for bond forfeiture sites on a case-by-case basis after forfeiture has occurred. The SMCRA regulatory authority will not know what those limits are at the time that treatment costs must be determined to establish the appropriate amount of the bond or other financial assurance. However, the SMCRA regulatory authority does have an independent responsibility under sections 510(b)(3) and 515(b)(10) of SMCRA to protect the hydrologic balance. Accordingly, we are seeking input on the appropriate level of treatment upon which financial assurance amounts should be calculated.

Specifically:

(1) What standards should be used to determine water treatment, such as effluent limits or other water quality standards, in the calculation of financial assurance amounts?

(2) What role should we, States, and permittees have in calculating treatment costs?

III. Number of Years To Use in Calculating Financial Assurance Amounts for AMD

Another major factor in the calculation of financial assurance amounts for AMD is the length of time. In rare cases, technical analysis of a given discharge may be able to define (predict) the time over which pollution loading will cease so that treatment will no longer be needed. Absent that determination, the discharge is an indefinite or "perpetual" liability for the permittee.

Over the past several years, we have been discussing this issue with state regulatory authorities. The application of bonding to treatment of discharges requires that the length of time be specified in calculating overall long-term treatment costs. This is necessary in order to establish revenue needs based upon the present value of future annual treatment costs. We, in Tennessee, and several state regulatory authorities have been working with bond adjustment requirements to address the cost of long-term treatment of pollutional discharges, including interest-bearing options such as trust funds. At this time, we are seeking input on the appropriate number of years upon which financial assurance amounts should be calculated.

Specifically:

(1) What timeframe should be used to calculate long-term treatment costs for those sites without a defined endpoint? Please provide a detailed rationale for your suggested timeframe.

(2) What role should we, States, and permittees have in determining the timeframe for calculating treatment costs?

IV. Financial Mechanisms Available To Assure Funding for Long-Term Treatment of AMD

The bond forms prescribed in 30 CFR 800.12 (collateral bond, surety bond, and self-bond) do not necessarily lend themselves well to bonds for water treatment costs because of the lengthy timeframes involved and uncertainties associated with the AMD treatment obligations. In addition, surety and collateral bonds may involve high up-front costs or collateral requirements.

We discussed the acceptance of other types of financial mechanisms when we stated in the preamble to 30 CFR 700.11(d) that jurisdiction over a mine site with a pollutional discharge may be terminated only if "a contract or other mechanism enforceable under other provisions of law" provides for treatment and all other performance standards are met. *See* 53 FR 44361–62; November 2, 1988. We also recognized this principle in our March 31, 1997, AMD Policy Statement.

We are seeking input on what types of financial instruments or combinations of instruments are both appropriate and available for financial assurance of long-term treatment of AMD. We encourage commenters to address the following questions:

(1) What types of financial instruments are available to cover long-term AMD treatment costs? How do they work? What are the optimal terms for each? What is the estimated annual cost to the permittee?

(2) Is insurance coverage an option to cover unanticipated AMD costs? If so, please provide the details, estimated cost, and the timing of when a policy should be obtained.

(3) If available, should an insurance policy be considered as a backup to other forms of financial assurance?

(4) What types of contracts and other enforceable mechanisms would provide adequate assurance of continuing treatment?

(5) Please describe any changes in, or new, regulations and/or statutory provisions that you believe would be necessary to implement your suggestions.

V. Enforcement

At present, when a postmining pollutional discharge requiring long-term treatment develops, our AMD Policy and regulations (30 CFR 800.15) provide that the regulatory authority must order the permittee to adjust the bond to reflect the increased reclamation costs. However, this approach may not be the most effective or environmentally beneficial strategy. First, there may no longer be any active mining within the permit area when the discharge develops. Under those conditions, the regulatory authority has less leverage to obtain the increased bond amount because the prohibition in 30 CFR 800.11(c) against disturbance of areas before posting the required performance bond has no impact. Second, insisting on immediate posting of the increased bond amount may provide permittees who are treating the discharge but cannot afford the increased bond an incentive to cease operations and abandon the site rather than continue the treatment of the discharge.

We are seeking comments on appropriate enforcement of the financial assurance requirement for treatment of discharges that occur after mining begins. Specifically:

(1) What enforcement action should be taken in situations where a pollutional discharge develops while mining is still occurring and the permittee is treating the discharge but the bond or other financial assurance is inadequate to ensure treatment of the discharge in the event of forfeiture?

(2) What enforcement action should be taken in situations where a pollutional discharge develops after mining is completed and the permittee is treating the discharge but the bond or other financial assurance is inadequate to ensure treatment in the event of forfeiture?

(3) Should we develop timeframes for bond adjustment (and sanctions for non-adjustment) similar to those of the bond replacement regulations at 30 CFR 800.16?

We welcome your comments on these and other relevant issues on the costs of AMD treatment and forms of financial assurance.

Dated: May 10, 2002.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 02–12462 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[IL–099–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Illinois Department of Natural Resources, Office of Mines and Minerals (Department or Illinois) is proposing revisions to and additions of regulations about definitions, areas designated by Act of Congress, criteria for designating areas as unsuitable for surface coal mining operations, requirements for permits and permit processing, coal exploration, and performance bond release. Illinois also proposes to correct or remove outdated references in several regulations. Illinois intends to revise its program to be consistent with the corresponding Federal regulations and to clarify ambiguities.

This document gives the times and locations that the Illinois program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., e.s.t., June 17, 2002. If requested, we will hold a public hearing on the amendment on June 11, 2002. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on June 3, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Illinois program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204. Telephone: (317) 226–6700.

Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division, 300 W. Jefferson Street, Suite 300, Springfield, Illinois 62701. Telephone: (217) 782–4970.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226–6700. Internet: *IFOMAIL@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Illinois Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Illinois program on June 1, 1982. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Illinois program in the June 1, 1982, **Federal Register** (47 FR 23858). You can also find later actions concerning the Illinois program and program amendments at 30 CFR 913.10, 913.15, 913.16, and 913.17.

II. Description of the Proposed Amendment

By letter dated April 8, 2002 (Administrative Record No. IL–5077), Illinois sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Illinois sent the amendment in response to a letter dated August 23, 2000 (Administrative Record No. IL–5060), that we sent to Illinois in accordance with 30 CFR 732.17(c). Illinois also included some changes at its own initiative. Illinois proposes to amend its surface coal mining and reclamation regulations at Title 62 of the Illinois Administrative Code (IAC). Below is a summary of the changes proposed by Illinois. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

A. 62 IAC 1701 Appendix A Definitions

1. Illinois proposes to delete its definition of "Interagency Committee." Illinois is removing this definition because Illinois Public Act 90–0490 abolished the Interagency Committee in 1997.

2. Illinois proposes to remove the existing language from its definition of "valid existing rights" and to add a reference to the new definition of "valid existing rights" at 62 IAC 1761.5.

B. 62 IAC Part 1761 Areas Designated by Act of Congress

1. 62 IAC 1761.5 Definition of Valid Existing Rights

Illinois proposes to add a new definition of valid existing rights. At 62 IAC 1761.5(a), the definition requires a person claiming valid existing rights to make a property rights demonstration. The person must demonstrate that a legally binding conveyance, lease, deed, contract, or other document vests that person with the right to conduct surface coal mining operations on lands where mining is normally prohibited or limited. At 62 IAC 1761.5(b), the definition requires a person claiming valid existing rights to demonstrate compliance with either a good faith/all permits standard or a needed for and adjacent standard for lands where mining is normally prohibited or limited. At 62 IAC 1761.5(c), the definition contains requirements for demonstrating the right to use or construct a road across the surface of lands where mining is normally prohibited or limited.

2. 62 IAC 1761.11 Areas Where Mining Is Prohibited or Limited

Illinois proposes to delete existing paragraph (b), which prohibited surface coal mining on specified Federal lands unless called for by Acts of Congress. Illinois also proposes to redesignate paragraphs (a)(1) through (7) as paragraphs (a) through (g), correct citation references, and simplify its use of numbers.

3. 62 IAC 1761.12 Exceptions to Existing Operations

Illinois proposes to remove its existing procedures section and add provisions that address exceptions for existing operations from the prohibitions and limitations of mining on lands where mining is normally prohibited or limited. It describes which operations qualify for these exceptions.

4. 62 IAC 1761.14 Procedures for Relocation or Closing of a Public Road or Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of a Public Road

Illinois proposes to add this section to address procedures for relocating or closing a public road or waiving the prohibition of mining operations within the buffer zone of a public road.

5. 62 IAC 1761.15 Procedures for Waiving the Prohibition on Surface Coal Mining Operations within the Buffer Zone of an Occupied Dwelling

Illinois proposes to add this section to address procedures for waiving the prohibition of mining operations within the buffer zone of an occupied dwelling.

6. 62 IAC 1761.16 Submission and Processing of Requests for Valid Existing Rights Determinations

Illinois proposes to add this section to address the submission and processing of requests for valid existing rights determinations. It describes the procedures applicants for surface coal mining operation permits must follow when requesting a valid existing rights determination. It also describes the evaluation procedures and decision-making criteria the regulatory authority will follow when making a valid existing rights determination.

7. 62 IAC 1761.17 Department Obligations at Time of Permit Application Review

Illinois proposes to add this section to address the actions it must take upon receipt of an application for a permit for surface coal mining operations. It requires the Department to review the application to determine whether the proposed surface coal mining operation would be located on any lands protected under 62 IAC 1761.11. It includes procedures that the Department must follow when it determines that a proposed surface coal mining operation will adversely affect a publicly owned park or a place listed on the National Register of Historic Places.

C. 62 IAC Part 1762 Criteria for Designating Areas As Unsuitable for Surface Coal Mining Operations

Illinois proposes to redesignate existing section 1762.14 as new section 1762.15 without any changes. Illinois proposes to add the following provision at new section 1762.14:

> If the Department determines that the proposed surface coal mining operation is not prohibited under Section 7.01 of the State Act and this Part, it may nevertheless, pursuant to appropriate petitions, designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to 62 Ill. Adm. Code 1762 or 1764.

D. 62 IAC 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

1. Illinois proposes to add a new provision at section 1772.12(b)(14) for coal exploration on lands where mining is prohibited or limited under 62 IAC 1761.11. It requires a demonstration that the proposed exploration activities have been designed to minimize interference with the activities for which the areas were designated unsuitable for mining.

2. Illinois proposes to add a new provision at section 1772.12(d)(2)(D) to address a finding the Department must make in approving coal exploration on lands where mining is prohibited or limited under 62 IAC 1761.11. The Department must find that the applicant has demonstrated that the exploration and reclamation activities will minimize interference, to the extent technologically and economically feasible, with the values for which the lands were designated as unsuitable for surface coal mining operations. The Department must provide for comment by the landowner or agency with jurisdiction over the protected feature.

E. 62 IAC 1800.40 Requirement To Release Performance Bonds

Illinois proposes to revise section 1800.40(b)(2) to allow the Department, when no public hearing is held, to make its final administrative decision to release or not to release all or part of the performance bond either 60 days after filing or 5 days after the close of the comment period, whichever is later.

F. Miscellaneous Revisions

Illinois proposes to correct citation references and simplify its use of numbers in 62 IAC 1773.13(a)(1)(E), 1773.15(c)(3)(B), 1778.15(e), 1778.16(c), 1780.31(a)(2), 1780.33, 1784.17(a)(2), 1784.18, 1816.116(a)(2)(C), and 1847.9(a).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Indianapolis Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: [IL–099–FOR]" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Indianapolis Field Office at (317) 226–6700.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on June 3, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

In this rule, the State is proposing valid existing rights standards that are similar to the standards in the Federal definition at 30 CFR 761.5. Therefore, this rule has the same takings implications as the Federal valid existing rights rule. The takings implications assessment for the Federal valid existing rights rule appears in Part XXIX.E of the preamble to that rule. *See* 64 FR 70766, 70822–27, December 17, 1999.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 12, 2002.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 02–12463 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–247–FOR]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of withdrawal of proposed amendment.

SUMMARY: We, the Office of Surface Mining (OSM), are announcing the withdrawal of proposed rule changes to the Ohio regulatory program (the "Ohio program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Ohio proposed to revise its program by amending the definition of "inactive coal mining and reclamation operation" with respect to prime farmland.

DATES: This withdrawal is made on May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. George Rieger, Telephone: (412) 937–2153, Internet address: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Submission of the Proposed Amendment

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval in the August 10, 1982 **Federal Register** (47 FR 34717). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.10, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated September 13, 2001, Ohio sent us an amendment to its program (Administrative Record Number OH–2181–00) under SMCRA (30 U.S.C. 1201 *et seq.*). Ohio sent the amendment to include the changes made at its own initiative.

The provision of the Ohio Administrative Code (O.A.C.) that Ohio proposed to revise is: O.A.C. 1501:13–14–01, Inspections. Specifically, Ohio proposed to revise the definition of "inactive coal mining and reclamation operation" with respect to prime farmland. Under the State's current rule, "inactive coal mining and reclamation operation" means an operation:

(a) For which the chief has secured from the permittee the written notice required under paragraph (A) of rule 1501:13–9–16 of the Administrative Code;

(b) Conducted under a D-permit, for which reclamation phase II as defined in (B)(1)(b)(I, II, AND IV) of rule 1501:13–7–05 of the Administrative Code has been completed.

The State proposed to add the following language to the end of part (b) of the current rule:

With respect to prime farmland, soil replacement has been carried out in accordance with the requirements of Rule 1501:13–13–03 of the Administrative Code and Division (A)(7) of Section 1513.16 of the Revised Code and sufficient ground cover has been established to prevent erosion or, where row crops are the approved reference crop, the initial planting has occurred.

The effect of the proposed change would have been to reduce the frequency of inspections required for reclaimed areas of prime farmland by classifying such areas as inactive before Phase II reclamation has been completed.

We announced receipt of the proposed amendment in the November 7, 2001 **Federal Register** (66 FR 56263). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record Number OH–2181–03). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on December 7, 2001. We received one comment from the Natural Resources Conservation Service.

In a letter dated February 15, 2002, Ohio notified us that it was withdrawing the proposed amendment from consideration. Because the proposed amendment is not necessary to make the State's program consistent with SMCRA, OSM accepted the withdrawal.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 25, 2002.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02–12458 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[UT–041–FOR]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Utah proposes revisions to and additions of rules pertaining to water replacement, blaster certification, standards for surety companies, and inspection and enforcement. Utah intends to revise its program to be consistent with the corresponding Federal regulations, provide additional safeguards, and improve operational efficiency.

This document gives the times and locations that the Utah program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., mountain daylight time on June 17, 2002. If requested, we will hold a public hearing on the amendment on June 11, 2002. We will accept requests to speak until 4 p.m., mountain daylight time on June 3, 2002.

ADDRESSES: You should mail or hand-deliver written comments and requests to speak at the hearing to James F. Fulton, Chief, Denver Field Division, at the address listed below.

You may review copies of the Utah program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Denver Field Division.

Mr. James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733. (303) 844–1400, extension 1424. Internet: *jfulton@osmre.gov.*

Mr. Lowell P. Braxton, Director, Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, P.O. Box 145801, Salt Lake City, Utah 84114–5801.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Chief, Denver Field Division, telephone: (303) 844–1400, extension 1424; Internet: *jfulton@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Utah Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You can also find later actions concerning Utah's program and program amendments at 30 CFR 944.15 and 944.30.

II. Description of the Proposed Amendment

By letter dated March 28, 2002, Utah sent us a proposed amendment to its program (UT–041–FOR, Admin. Record No. UT–1160) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah's submittal originally included two separate proposed amendments. In a phone conversation on April 2, 2002 (Admin. Record No. UT–1161), Utah agreed with our proposal to combine the two amendments into one amendment designated UT–041–FOR. Utah sent the amendment at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Utah proposes the following changes to the Utah Administrative Rule (Utah Admin. R.). The changes are: (1) In its definitions at Utah Admin. R. 645–100–200, Utah proposes to remove the definition of "State-Appropriated Water Supply" and replace it with a new combined definition of the terms "Water Supply," "State-appropriated Water," and "State-appropriated Water Supply," all of which it intends to be synonymous and to mean "state appropriated water rights which are recognized by the Utah Constitution or Utah Code;" (2) at Utah Admin. R. 645–105–314, Utah proposes to add a new blaster certification rule that would require candidates for certification to be twenty-one years of age or older; (3) at Utah Admin. R. 645–301–525.130, Utah proposes to add a new provision requiring a permit applicant to give a copy of the pre-subsidence survey and any technical assessment or engineering evaluation to the water conservancy district, if any, where the mine is located; (4) at Utah Admin. R. 645–301–525.700, the State proposes to add a new requirement that the underground mine operator mail a notification of proposed mining to the water conservancy district, if any, in which the mine is located; (5) at Utah Admin. R. 645–301–728.350, the State proposes to revise its rule to require that determinations of probable hydrologic consequences include findings on whether underground coal mining and reclamation activities conducted after October 24, 1992, may result in contamination, diminution, or interruption of State-appropriated Water in existence within the proposed permit or adjacent areas at the time the application is submitted, and to delete the existing phrase "and used for legitimate purposes within the permit or adjacent areas * * *" at the end of that sentence; (6) at Utah Admin. R. 645–301–860.110 through—860.112, Utah proposes to add new requirements for companies that issue surety bonds to meet to provide the State with standards by which to judge their financial stability; (7) at Utah Admin. R. 645–400–162 and 645–400–381, the State proposes to change its existing references to section 40–10–22 of the Utah Code Annotated (UCA) to reference UCA 40–10–19 so on-site compliance conferences will not be considered inspections in the context of that statutory provision; (8) in the enforcement rule at Utah Admin. R. 645–400–319, Utah proposes to change the existing reference to Utah Admin. R. 645–300–147 to cite Utah Admin. R. 645–300–148 instead, which requires permittees to submit ownership and control information to the Division of

Oil, Gas and Mining; and (9) at Utah Admin. R. 645–400–322, the State proposes to add the phrase " * * * which does not create an imminent danger or harm for which a * * *" to complete the sentence and characterize situations in which it will issue notices of violation rather than cessation orders.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Utah program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Denver Field Division might not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. UT–041–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Denver Field Division at (303) 844–1400, extension 1424.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., mountain daylight time on June 3, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak, and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied on the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 9, 2002.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 02–12459 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–055]

RIN 2115–AA97

Safety Zone; 4th of July Parade—Singing Beach—Manchester, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the 4th of July Parade Fireworks on July 3, 2002 in Manchester, MA. The safety zone would temporarily close all waters of Manchester Bay within a 400-yard radius of the fireworks barge. The safety zone will prohibit entry into or movement within this portion of Manchester Bay during this event.

DATES: Comments and related material must reach the Coast Guard on or before June 17, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office Boston, 455 Commercial Street, Boston, MA. Marine Safety Office Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of the docket and will be available for inspection or copying at Marine Safety Office Boston between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Dave Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Request for Information

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–055), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your comments reached us, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

This regulation proposes to establish a temporary safety zone in Manchester Bay within a 400-yard radius of the fireworks barge located at position 42°34.054′ N, 070°45.52′ W. The safety zone will be in effect from 9 p.m. until 10:30 p.m. on July 3, 2002.

The zone would restrict movement within this portion of Manchester Bay and is needed to protect the maritime public from the potential dangers posed by the fireworks display. Marine traffic may transit safely outside of the safety zone during the effective periods. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this proposed regulation would prevent traffic from transiting a portion of Manchester Bay during the event, the effects of this rule would not be significant for several reasons: the minimal time that vessels would be restricted from the area, vessels would be able to safely transit outside of the proposed safety zone, and advance notifications would be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Manchester Bay on July 3, 2002. This proposed safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: vessel traffic could safely pass outside of the safety zone during the event, the event would be limited in duration, and advance notifications would be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Dave Sherry at the address listed under **ADDRESSES.**

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this proposed rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–055 to read as follows:

§ 165.T01–055 Safety Zone; 4th of July Parade—Manchester, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of Manchester Bay within a 400-yard radius of the fireworks barge located at position 42°34.054′ N, 070°45.52′ W.

(b) *Effective date.* This section is effective from 9 p.m. until 10:30 p.m. on July 3, 2002.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port (COTP) Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 10, 2002.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–12421 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 2

RIN 0651–AB52

Processing Fee for Use of Paper Forms for Submission of Applications for Registration and Other Documents

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (USPTO) proposes to amend its rules to require payment of a $50.00 paper-processing fee when a party submits a paper instead of an electronically transmittable form available through the Trademark Electronic Application System (TEAS). If a party submits a paper document to the USPTO, and the TEAS system includes a form for preparing that document and transmitting it to the USPTO electronically, the fee for submitting the paper document will be fifty dollars more than the fee for submitting the equivalent electronic document via TEAS.

DATES: Comments must be received by June 17, 2002, to ensure consideration.

ADDRESSES: Mail comments to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513, attention Craig Morris; fax comments to (703) 872–9279, attention Craig Morris; or e-mail comments to *tmefiling@uspto.gov*. Copies of all comments will be available for public inspection in Suite 10B10, South Tower Building, 10th floor, 2900 Crystal Drive, Arlington, Virginia 22202–3513, from 8:30 a.m. until 5:00 p.m., Monday through Friday, as well as on the USPTO web site: *www.uspto.gov*.

FOR FURTHER INFORMATION CONTACT: Craig Morris, Office of the Commissioner for Trademarks, (703) 308–8910, extension 136; or e-mail to *tmefiling@uspto.gov*.

SUPPLEMENTARY INFORMATION: The USPTO proposes to amend 37 CFR 2.6(a), § 2.6(a) of the Rules of Practice in Trademark Cases, (rules), to provide that if a party submits a document using paper, and a form for preparing and electronically submitting that document is available in the Trademark Electronic Application System (TEAS), the fee for submitting the paper document will be $50.00 more than the fee for submitting the equivalent TEAS document.

TEAS is a collection of electronic trademark-document forms. The documents for which TEAS forms are currently available are: (1) Applications for registration of marks under Sections 1 and 44, Trademark Act of 1946, as Amended, (Trademark Act), 15 U.S.C. 1051 and 1026; (2) amendments to allege use under section 1(c) of the Trademark Act, 15 U.S.C. 1051(c); (3) statements of use under section 1051(d) of the Trademark Act, 15 U.S.C. 1051(d); (4) requests for extensions of time to file a statement of use under section 1(d) of the Trademark Act, 15 U.S.C. 1051(d); (5) affidavits of continued use or excusable nonuse under section 8 of the Trademark Act, 15 U.S.C. 1058; (6) applications for renewal under section 9, 15 U.S.C. 1059; (7) affidavits of incontestability under section 15 of the Trademark Act, 15 U.S.C. 1065; (8) combined affidavits under sections 8 and 15 of the Trademark Act, 15 U.S.C. 1058 and 1065; and (9) combined filings under sections 8 and 9 of the Trademark Act, 15 U.S.C. 1058 and 1059.

As additional TEAS forms are created, the USPTO may, after appropriate notice, require that parties who submit paper documents in place of these new TEAS forms pay a $50.00 processing fee for each document submitted on paper.

The amount of the processing fee was calculated using the Activity-Based Costing method employed by the USPTO in its budgeting process. The $50.00 paper-processing fee reflects the additional average cost of processing a paper document rather than an electronic document within the Trademark Operation.

Each TEAS form can be completed by the trademark applicant or attorney and filed with the USPTO at the click of a button. The system is available at *www.uspto.gov* 24 hours a day, seven days a week, and can be used by anyone with NETSCAPE NAVIGATOR® (version 3.0 or higher) or MICROSOFT INTERNET EXPLORER® (Version 4.0 or higher).

To file an initial TEAS application for a stylized or design mark, or to include a specimen with a TEAS submission, the filer must attach a black-and-white GIF or JPG image file. Additionally, although TEAS is available at all times, during the hours between 11 p.m. EST, Saturday, and 6 a.m. EST, Sunday, credit card payments cannot be processed. Therefore, during those hours, any fees associated with a TEAS submission cannot be paid using a credit card. However, fees may be paid at all times using either electronic funds transfers or a USPTO deposit account.

Benefits of a Processing fee for Paper Filings

When a customer elects to use TEAS rather than paper, substantial benefits accrue both to the customer and to the USPTO.

Processing paper documents is more costly, labor-intensive, and results in additional errors, misfilings and losses as contrasted to electronic filing. A new application must undergo multiple steps before it is ready for examination, including fee processing, review for minimum filing requirements, capture of data into automated databases, and paper file jacket assembly. In addition to processing new applications, the USPTO must sort through several thousand other documents that are received on a daily basis. These documents must be delivered to the appropriate work unit, matched with the paper file, and entered into the file jacket and the automated systems.

Processing electronically submitted TEAS documents, in contrast, is substantially less costly and less labor intensive, and is subject to fewer errors. As a result, the data in the USPTO's databases from an electronically submitted document tends to be of higher quality than the same data from a paper document and is moved into the USPTO's databases at substantially less cost than the data captured from paper documents. The data provided in electronic submissions is tagged to permit transfer into the USPTO's databases with a minimum of human intervention. Additionally, electronically submitted documents are less likely to be misdirected.

Electronic filing benefits the public as well. TEAS is available for filing trademark documents 24 hours a day, seven days a week at *http://www.uspto.gov*. During the hours between 11 p.m. EST, Saturday, and 6 a.m. EST, Sunday, TEAS is available but credit card payments cannot be processed. When a document is filed electronically, the USPTO receives the document within seconds after filing,

and immediately issues a confirmation of filing via e-mail. This confirmation is evidence of filing should any question arise as to the filing date of the document. Under § 1.6(a)(4) of the rules, trademark-related correspondence filed via TEAS is considered to have been filed on the date the USPTO receives a complete transmission of the correspondence, regardless of whether that date is a Saturday, Sunday, or a Federal holiday within the District of Columbia. Thus by using TEAS, applicants, registrants and their attorneys can ensure a "date certain" for any filing made using TEAS.

Electronically filed applications are processed faster than their paper counterparts. Filing receipts for TEAS applications are sent via e-mail the same day the document is filed, while filing receipts for paper applications are mailed about 14 days after filing; critical data concerning TEAS applications (*e.g.*, mark, goods and services, owner, etc.) are entered into the automated systems (and therefore made available to anyone searching USPTO records for conflicting marks) within 10 days, while data concerning paper applications are entered and made available to the public approximately 14–15 days after filing; and TEAS applications are received in the e-Commerce law offices and available for review in 20 days, whereas it takes about 70 days to assemble and deliver paper application files to the Law Offices.

Electronic filing and communication allow the USPTO to provide more customers with better quality, using fewer resources. Electronic filing improves the quality and accuracy of the information that is submitted to and processed by the USPTO. Customers have greater assurance that the content of the electronic application is complete, because the information provided by the customer is loaded directly into the USPTO's automated systems.

A processing fee for filing paper when a TEAS form is available, will offset the additional costs that the USPTO incurs when it processes paper.

As the relative costs of processing paper and electronic submissions become more apparent, the USPTO may, after appropriate notice, revise the rules to lower the fees for TEAS submissions.

Discussion of Specific Rules Changed or Added

The USPTO proposes to revise paragraph (a) of 37 CFR 2.6 to provide that a party who files a paper document that is available in TEAS must pay a paper processing fee of fifty dollars.

Rulemaking Requirements

The USPTO has determined that the proposed rule changes have no federalism implications affecting the relationship between the National Government and the State as outlined in Executive Order 12612.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration, that the proposed rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The rule will not significantly impact any businesses. As a result, an initial regulatory flexibility analysis was not prepared.

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). The proposed changes have been determined not to be significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. This rule contains collections of information requirements that have been approved by OMB under OMB Control Number 0651–0009. The public reporting burden for this collection of information is estimated to average as follows: seventeen minutes for applications to obtain registrations based on an intent to use the mark under 15 U.S.C. 1051(b), if completed using paper forms; fifteen minutes for applications based on 15 U.S.C. 1051(b), if completed using electronic forms; twenty-three minutes for applications to obtain registrations based on use of the mark in commerce under 15 U.S.C. 1051(a), if completed using paper forms; twenty-one minutes for applications to obtain registrations based on 15 U.S.C. 1051(a), if completed using electronic forms; twenty minutes for applications to obtain registrations based on an earlier-filed foreign application under 15 U.S.C. 1126(d), if completed using paper forms; nineteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(d), if completed using electronic forms; twenty minutes for applications to obtain registrations based on registration of a mark in a foreign applicant's country of origin under 15 U.S.C. 1126(e), if completed using paper forms; eighteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(e), if completed using electronic forms; thirteen minutes for allegations of use of the mark under sections 2.76 and 2.88 if completed using paper forms; twelve minutes for allegations of use under sections 2.76 and 2.88 if completed using electronic forms; ten minutes for requests for extensions of time to file statements of use under section 2.89 if completed using paper forms; nine minutes for requests for extensions of time to file statements of use if completed using electronic forms; eleven minutes for Section 8 affidavits if completed using paper forms; ten minutes for Section 8 affidavits if completed using electronic forms; fourteen minutes for combined Sections 8 and 9 filings if completed using paper forms; thirteen minutes for combined Section 8 and 9 filings if completed using electronic forms; fourteen minutes for combined Sections 8 and 15 affidavits if completed using paper forms; thirteen minutes for combined Sections 8 and 15 affidavits if completed using electronic forms; eleven minutes for Section 15 affidavits if completed using paper forms; and ten minutes for Section 15 affidavits if completed using electronic forms. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202–3513 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: PTO Desk Officer).

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 41, as amended, the USPTO proposes to amend part 2 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for part 2 continues to read as follows:

Authority: 35 U.S.C. 2.

2. Revise § 2.6(s) to read as follows:

§ 2.6 Trademark fees.

* * * * *

(a) * * *

Rule	Description of trademark processing fee	Electronic filing TEAS fee amount	Paper filing fee amount
(1)	Application for registration, per class	$325	$375
(2)	Filing an Amendment to Allege Use under § 1(c), per class	100	150
(3)	Filing a Statement of Use under § 1(d)(1), per class	100	150
(4)	Filing a request for a six-month Extension of Time to file a Statement of Use under § 1(d)(1), per class.	150	200
(5)	Application for renewal, per class	400	450
(6)	Additional fee for filing a renewal application during grace period, per class	100	150
(7)	Publication of mark under § 12(c), per class		100
(8)	Issuing a New Certificate of Registration		100
(9)	Certificate of Correction, per registration		100
(10)	Filing Disclaimer to Registration, per registration		100
(11)	Filing an Amendment to Registration, per registration		100
(12)	Filing a Section 8 Affidavit, per class	100	150
(13)	Filing a Section 15 Affidavit, per class	200	250
(14)	Additional fee for filing under § 8 during the six-month grace period, per class	100	150
(15)	Petition to Commissioner		100
(16)	Petition for Cancellation, per class		300
(17)	Notice of Opposition, per class		300
(18)	Ex Parte Appeal, per class		100
(19)	Request to Divide an Application, per new application file created		100
(20)	Correcting a deficiency in a § 8 affidavit, per registration		100
(21)	Correcting a deficiency in a renewal application, per registration		100
(22)	Filing a combined § 8 affidavit and renewal application, per class	500	550

* * * * *

Dated: May 10, 2002.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc: 02–12156 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–16–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 74

[WT Docket No. 02–68; RM–9718; FCC 02–101]

Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS")

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has before it an amended petition for rulemaking filed by PetroCom License Corporation ("Petitioner"), requesting that the Commission amend its rules to permit licensing of the MDS and ITFS spectrum in the Gulf of Mexico. The Commission proposes to establish a Basic Trading Area ("BTA")-like area in the Gulf of Mexico. The Commission's goal in instituting this proceeding is to encourage the most efficient utilization of spectrum.

DATES: Comments due June 17, 2002. Reply comments are due August 15, 2002.

FOR FURTHER INFORMATION CONTACT: Shellie Blakeney, (202) 418–1784, Public Safety Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico*, WT Docket No. 02–68; RM–9718; FCC 02–101, adopted March 27, 2002 and released May 3, 2002. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 16, 2002. Reply comments are due August 15, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address> ." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service

mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE ., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. The full text of this *Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY–A257, Portals II, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Vistronix, Inc.

Synopsis of Notice of Proposed Rulemaking

The Commission rejects arguments by the Wireless Communications Association ("WCA") against the creation of the Gulf Service Area based on the possibility that higher prices were paid for BTAs bordering the Gulf because of a guaranteed lack of interference on that side of those BTAs. Rather, in light of the Commission's actions over the last several years to encourage the most efficient use of spectrum by private users, WCA and other interested parties had no reason to expect that, absent substantial and compelling public interest reasons, we would leave a portion of the spectrum under our jurisdiction permanently fallow. The Commission proposes to exclude all ITFS channels from the proposed Gulf auction. ITFS licensees have not expressed interest in obtaining licenses in the Gulf, the area most likely has little need for educational service, and the requested commercial use does not require the full bandwidth available in the 2500–2690 MHz band.

Because of the potential for interference to land-based MDS and ITFS systems in the Gulf coast area, the Commission proposes that an offshore frequency allocation should be limited in size to no more than is absolutely essential for successful deployment and growth of the proposed service. Given the type of communications circuits deployed in Petitioner's previously existing developmental system, and the circuits likely to be deployed if we authorize regular service in the Gulf, the Commission proposes to auction two blocks of spectrum, each consisting of two 6 MHz MDS channels.

The Commission proposes to conduct the auction for MDS licenses in the Gulf in conformity with the general competitive bidding rules set forth in Part 1, subpart Q of the Commission's rules, and substantially consistent with the bidding procedures that have been employed in previous Commission auctions. Specifically, the Commission proposes to employ the Part 1 rules governing designated entities, application issues, payment issues, competitive bidding design, procedure and timing issues, and anti-collusion.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),[1] this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking ("NPRM"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as set forth in paragraph 47 of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**. *Id.*

I. Need for, and Objectives of, the Proposed Rules

Section 309(j) of the Communications Act directs the Commission to disseminate licenses among a wide variety of applicants, including small businesses and other designated entities.[2] Section 309(j) also requires that the Commission ensure the development and rapid deployment of new technologies, products, and services for the benefit of the public, and recover for the public a portion of the value of the public spectrum resource made available for commercial use.[3] On November 23, 1998, PetroCom License Corporation ("Petitioner") filed an amended petition for rulemaking requesting that the Commission amend its rules to permit licensing of the Multipoint Distribution Service ("MDS") and Instructional Television Fixed Services ("ITFS") spectrum in the Gulf of Mexico. Petitioner asks that the Commission establish a Basic Trading Area like-service area in the Gulf similar to the 1995 MDS Report and Order.[4]

Upon consideration of these numerous requests, the Commission has tentatively concluded that it is in the public interest to ~~permit~~ licensing of the MDS spectrum in the Gulf of Mexico. The Commission believes that this NPRM will provide the Commission with an opportunity to develop a record on the specific proposals to open eligibility for this spectrum in the Gulf of Mexico and otherwise revise the MDS rules for the benefit of consumers and the economy. In addition, the Commission believes that the tentative conclusions and proposals set forth in this NPRM help meet the goals and objectives of section 309(j), and promote competition while maintaining the fair and efficient implementation of the auctions program. Accordingly, the Commission seeks comment on all proposals, alternatives, tentative conclusions, and other issues described in the NPRM; and the impact that such proposals, alternatives, tentative conclusions, and other issues may have on small entities.

II. Legal Basis

This action is authorized under Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j).

III. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. [5] The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" under section 3 of the Small Business Act.[6] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[7]

A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[8] Nationwide, as of 1992, there were approximately 275,801 small organizations.[9] The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000.[10] There are 85,006 governmental jurisdictions in the nation.[11] This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or 96 percent, have populations of fewer than 50,000.[12] The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or about 81,600, are small entities that may be affected by our rules. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.[13] The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[14] According to the Bureau of the Census, only 12 radiotelephone firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees;[15] therefore, at least 1,166 radiotelephone firms in 1992 had 1,500 or fewer employees. We are unable at this time to quantify the specific impact of our proposals on these firms, but invite comment on this issue.

MDS historically provided primarily point-to-multipoint, one-way video services to subscribers.[16] The Commission later amended its rules to allow MDS licensees to provide a wide range of high-speed, two-way services to a variety of users.[17] In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million.[18] The Commission established this small business definition in the context of this particular service and with the approval of the SBA.[19] The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).[20] Of the 67 auction winners, 61 met the definition of a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that are considered small entities.[21] After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA or the Commission's rules. Some of those 440 small business licensees may be affected by the proposals in this Order.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

At this time, the Commission does not anticipate the imposition of new reporting, recordkeeping, or other compliance requirements as a result of this NPRM. We seek comment on this tentative conclusion.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any party thereof, for small entities.

In this action, we tentatively reject Petitioner's suggestion that we set aside one or more licenses for small businesses. Because we are only proposing to auction two blocks of spectrum, each consisting of two 6 MHz MDS channels, we believe that a set-aside would prevent the timely and efficient use of such spectrum. We seek comment on our rejection of Petitioner's request to set aside one or more licenses for small businesses. In lieu of setting aside a license in the Gulf, we note that Section 309(j)(4)(A) of the Communications Act provides that to promote small businesses, we shall consider alternative payment schedules, including lump sums or guaranteed installment payments.[22] However we note that previous Commission actions, the Commission has upheld its prior determination that installment payments should not be used in the immediate future as a means of financing small business participation in our auction program. Moreover, in recent legislation, Congress dictated that certain future auctions effectively be conducted without installment payments.[23]

The Commission expects that the creation of a Gulf Service Area will have

[1] *See* 5 U.S.C. 603.The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement ACt of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 47 U.S.C. 309(j)(3)(B).

[3] *Id.* 309(j)(3)(A), (C).

[4] Report and Order on Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 10 FCC Rcd 9589, 9619 (1995) ("MDS Report and Order").

[5] 5 U.S.C. 603(b)(3).

[6] Id. 601(3).

[7] Id. 632.

[8] Id. 601(4).

[9] Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[10] 5 U.S.C. 601(5).

[11] 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

[12] Id.

[13] See 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[14] 14 CFR 121.201, NAICS codes 513321, 513322, and 513330.

[15] 1992 Census, Series UC92–S–1, at Table 5, NAICS codes 513321, 513322, and 513330.

[16] For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) includes Local Multipoint Distribution Service (LMDS), and the Multichannel Multipoint Distribution Service (MMDS).

[17] Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, 13 FCC Rcd 19112 (1998), recon., 14 FCC Rcd 12764 (1999), further recon., 15 FCC Rcd 14566 (2000).

[18] 47 CFR 21.961 and 1.2110.

[19] Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 10 FCC Rcd 9589, 9670 (1995), 60 FR 36524 (July 17, 1995).

[20] Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. See Id. at 9608.

[21] 47 U.S.C. 309(j). (Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. Section 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard for "other telecommunications" (annual receipts of $11 million or less). See 13 CFR 121.201, NAICS code 513220.

[22] 47 U.S.C. 309(j)(4)(A).

[23] See Section 3001 of the Omnibus Consolidated Appropriations Act for 1997, Public Law 104–208, 110 Stat. 3009 (1996). See also the Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251 (1997).

a minimal impact on small entities. Moreover, the NPRM does not propose any reporting requirements applicable to small entities. We tentatively conclude that our proposals in the NPRM would impose minimum burdens on small entities. We encourage comment on this tentative conclusion.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules

None.

Ordering Clauses

56. Pursuant to the authority contained in sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j), this Notice of Proposed Rulemaking is hereby *Adopted*.

57. The Commission's Office of Consumer and Governmental Affairs, Reference Information Center, *Shall send* a copy of this Notice of Proposed Rulemaking including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Parts 21 and 74

Communications common carriers, Education.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12429 Filed 5–16–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[WT Docket No. 00–48; FCC 02–102; RM–9499]

Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission solicits comment on the Commission's Rules regarding Maritime Communications. These comments will aid the Commission in establishing rules to further the implementation of the Global Maritime Distress and Safety System (GMDSS) and continue the process of streamlining, consolidating and revising domestic maritime radio regulations. In addition, the comments will aid the Commission in understanding the impact the proposed changes may have on the maritime community, including vessel operators, manufacturers of marine radio equipment, and commercial radio operator licensees. The comments will provide the Commission with feedback that will allow it to better craft rules that will enhance safety while at the same time avoiding the imposition of unnecessary or unwarranted burdens on regulated entities.

DATES: Written comments are due on or before August 15, 2002 and reply comments are due on or before September 16, 2002.

ADDRESSES: Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the US Postal Service, by an overnight courier or hand and messenger-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, *jtobias@FCC.gov*, or Ghassan Khalek, *gkhalek@fcc.gov*, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Further Notice of Proposed Rule Making, FCC 02–102, adopted on March 27, 2002, and released on April 9, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov*.

1. In this *Further Notice of Proposed Rule Making*, we solicit comment on whether we should: (1) Establish a voluntary restricted GMDSS license or take other measures to address the needs of recreational vessel operators; (2) clarify or change the safety watch obligations of public coast stations; (3) permit unattended operation of non-DSC equipment; (4) prohibit ship stations from including any device capable of transmitting on a distress frequency without regulatory authorization; (5) delete any existing emission classes; (6) permit the use of Channels 75 and 76 for navigation-related port operations, subject to specified power limits, and also require that transmitters operating on such channels be limited to the specified power limits, with no manual override capability; (7) codify in the Rules the RTCM's Recommended Practices for DSC equipment; (8) revise our radiotelephone and radiotelegraph distress call and message transmission procedures to incorporate DSC and GMDSS procedures; (9) authorize the use of INMARSAT–E EPIRBs by U.S. vessels operating solely within the INMARSAT coverage footprint; (10) require that small passenger vessels be outfitted with DSC equipment; (11) mandate that, on passenger ships, at least one qualified person be assigned to perform only radio communications duties during distress situations; and (12) incorporate additional SOLAS requirements for equipment in Subpart W. We also seek comment on issues pertaining to e-mail requests, Part 80 tables of frequencies, GMDSS radio operator examination requirements, and Part 80 cross-references to Part 2 of the Rules.

I. Procedural Matters

A. Ex Parte Rules—Permit-But-Disclose Proceeding

2. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.

B. Comment Dates

3. Pursuant to §§ 1.415 and 1.419 of our Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before August 15, 2002 and reply comments on or before September 16, 2002. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

4. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the U.S. Postal Service, by an overnight courier or hand and message-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

5. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Jeffrey Tobias, Esq., Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th St., SW., Room 2–C828, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, WT Docket No. 00–48), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters should send diskette copies to the Commission's copy contractor, Qualex International, Inc., 445 12th Street, SW., Room CY–B402, Washington, D.C. 20054.

C. Paperwork Reduction Act

6. This *Further Notice of Proposed Rule Making* does not contain any new or modified information collection.

II. Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the *Further Notice of Proposed Rule Making* in WT Docket No. 00–48 (*FNPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *FNPRM* as provided in paragraph 142 of the item. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules:

8. The proposed rules in the *FNPRM* are intended to further streamline, consolidate and clarify the Commission's Part 80 Rules; remove unnecessary or duplicative requirements; address new international maritime requirements; and promote flexibility and efficiency in the use of marine radio equipment in a manner that will further maritime safety. In the *FNPRM*, we request comment specifically on whether we should: (1) Establish a voluntary restricted GMDSS license or take other measures to address the needs of recreational vessel operators; (2) clarify or change the safety watch obligations of public coast stations; (3) permit unattended operation of non-DSC equipment; (4) prohibit ship stations from including any device capable of transmitting on a distress frequency without regulatory authorization; (5) delete any existing emission classes; (6) permit the use of Channels 75 and 76 for navigation-related port operations, subject to specified power limits, and also require that transmitters operating on such channels be limited to the specified power limits, with no manual override capability; (7) codify in the Rules the RTCM's Recommended Practices for DSC equipment; (8) revise our radiotelephone and radiotelegraph distress call and message transmission procedures to incorporate DSC and GMDSS procedures; (9) authorize the use of INMARSAT-E EPIRBs by U.S. vessels operating solely within the INMARSAT coverage footprint; (10) require that small passenger vessels be outfitted with DSC equipment; (11) mandate that, on passenger ships, at least one qualified person be assigned to perform only radio communications duties during distress situations; and (12) incorporate additional SOLAS requirements for equipment in Subpart W. We also seek comment on issues pertaining to e-mail requests, Part 80 tables of frequencies, GMDSS radio operator examination requirements, and Part 80 cross-references to Part 2 of the Rules.

B. Legal Basis

9. Authority for issuance of this item is contained in Sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

10. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions, or entities. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA, and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

11. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically

applicable to these small businesses. For purposes of this IRFA, therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) communications. This definition is that a "small entity" for purposes of public coast station licensees, a subgroup of marine radio users, is any entity employing 1,500 of fewer persons. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812 (now NAICS Code 513322). Since the size data provided by the Small Business Administration do not enable us to make a meaningful estimate of the number of marine radio service providers and users that are small businesses, we have used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. This document shows that 12 radiotelephone firms out of a total of 1,178 such firms which operated in 1992 had at least 1,000 employees. Thus, we estimate that as many as 1,166 small entities will be affected. We invite comment on whether this is the correct definition to use in this context.

12. The proposed amendments may also affect small businesses that manufacture marine radio equipment. The Commission has not developed a definition of small entities applicable to Radio Frequency Equipment Manufacturers (RF Manufacturers). Therefore, the applicable definition of small entity is the definition under the SBA *rules* applicable to manufacturers of "Radio and Television Broadcasting and Communications Equipment." According to the SBA regulations, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business. Census Bureau data indicate that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. Some of the companies that manufacture RF equipment may qualify as small entities. We invite comment on whether this is the correct definition to use in this context.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

13. The *FNPRM* seeks comment on a number of possible rule changes that may affect reporting, recordkeeping and other compliance requirements.

14. The *FNPRM* seeks comment on a proposal by the USCG to require any coast station operating on Channel 70 to answer a distress call on Channel 70 if a USCG station does not or cannot answer such a call within the required time. We ask that commenters provide information on the economic impact of such a requirement on public coast stations.

15. The *Further* Notice seeks comment on a proposal by the USCG to amend 47 CFR 80.203 to bar ship stations from including any device capable of transmitting on a distress frequency without regulatory authorization. We invite comment specifically on the impact such a rule change may have on manufacturers.

16. The *FNPRM* seeks comment on USCG proposals to make Channels 75 and 76 available for navigation-related port operations, including a proposal to amend 47 CFR 80.215(g)(3) to require that transmitters reduce the carrier power to one watt or less when tuned to Channel 75 or 76, with no manual override capability. We ask commenters to address the impact such a rule change would have on manufacturers. We ask specifically whether all new radios should be required to have the two new channels, and request suggestions on appropriate grandfathering clauses, should the new transmitter power and channel addition proposals be implemented.

17. The *FNPRM* seeks comment on a USCG proposal to incorporate in 47 CFR 80.225 the RTCM Special Committee's Recommended Practices for Digital Selective Calling Equipment Design and Implementation. We note that this change would affect manufacturers of basic selective calling equipment as well as digital selective calling equipment, and ask commenters to address whether and, if so, to what extent existing equipment should be grandfathered if this proposal is adopted.

18. The *FNPRM* seeks comment on a proposal to amend 47 CFR 80.905(a) to require that the VHF and MF radios mandated by that rule be DSC-equipped. We observe that this is a major change that would affect numerous passenger ships, and express concern over the propriety of such a rule change given that DSC is GMDSS equipment, and small passenger vessels are not covered by our GMDSS rules.

19. The *FNPRM* seeks comment on a USCG proposal to further amend 47 CFR 80.905(a) to mandate that newly fitted SSB radios required of ships operating over one hundred nautical miles from shore be DSC-equipped in accordance with ITU–R Rec. (series) M.493. It also seeks comment on a related Task Force recommendation to prohibit vessels operating over two hundred nautical miles from shore from using an SSB radio in lieu of the HF–DSC channels prescribed for GMDSS. We seek further comment on these changes for the same reasons applicable to our § 80.905(a) proposal discussed in the preceding paragraph.

20. The *FNPRM* seeks comment on a proposal to further amend 47 CFR 80.905(a) to specify that the INMARSAT ship earth stations that may be carried by ships operating more than one hundred nautical miles from shore in lieu of an SSB radio be limited to ship earth stations authorized under this section to INMARSAT A (existing units only), B, C or M. It also seeks comment on a USCG proposal to amend 47 CFR 80.905(a) to revise the requirements regarding testing of battery chargers and updating of position information applicable to vessels required to carry SSB radios. We seek public comment on these proposals, particularly with respect to their potential impact on small passenger vessels.

21. The *FNPRM* seeks comment on proposals to amend 47 CFR 80.1073, 80.1083, and 80.1085 to incorporate additional GMDSS requirements for passenger ships. These proposed rule changes pertain to the availability of GMDSS radio operators in cases of distress, the installation and operation of distress panels, and equipment that can be used for two-way search and rescue purposes on the aeronautical frequencies 121.5 MHz and 123.1 MHz. Comment is invited on all aspects of these proposals, including the economic impact, if any, on small entities.

22. Finally, commenters are asked to identify any other proposed or discussed rule changes in the *FNPRM* that may have a significant economic impact on a substantial number of small entities.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

23. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

24. The *FNPRM* solicits comment on a variety of alternatives set forth herein that fit into one or more of the above categories. For example, we ask commenters to consider whether we should provide grandfathering protection if we adopt certain of the proposed requirements, and thereby relieve either all affected entities or affected small entities of the burdens that would attend immediate implementation of the requirements with no transitional period. We ask if existing transmitters should be grandfathered from requirements, if adopted, that transmitters be capable of operating on Channels 75 and 76 and that transmitters reduce the carrier power to one watt or less when tuned to those channels, with no manual override capability. We also ask if existing digital selective calling equipment should be grandfathered with respect to a requirement, if adopted, to incorporate the RTCM , Special Committee's Recommended Practices for Digital Selective Calling Equipment Design and Implementation.

25. In addition, we hereby invite commenters to address the possibility of exempting certain entities, particularly small entities, from some of the proposed requirements. For example, we seek comment on whether the proposed amendment of 47 CFR 80.225 should apply to manufacturers of basic selective calling equipment as well as manufacturers of digital selective calling equipment. We also question whether small passenger vessels should be exempt from the DSC requirements that would otherwise apply to them by virtue of the proposed amendment of 47 CFR 80.905(a). More broadly, commenters may suggest, with respect to any entities, including small entities, exemptions from any of the requirements proposed or discussed in the *FNPRM*.

26. Further, the proposed requirements for new equipment generally take the form of performance standards rather than design standards, and therefore confer on smaller entities the flexibility to select the most economical design that can achieve the required performance. For example, the RTCM standards for digital selective calling equipment that we propose to incorporate in 47 CFR 80.225 mandate certain functionality for digital selective calling equipment but do not mandate that manufacturers design their equipment in any particular way in order to achieve that functionality. In a similar vein, the proposed requirements for INMARSAT–E EPIRBs are framed strictly in terms of performance standards.

27. We hereby invite interested parties to address any or all of these regulatory alternatives and to suggest additional alternatives to minimize any significant economic impact on small entities. Any significant alternative presented in the comments will be considered.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

28. None.

III. Ordering Clauses

29. Pursuant to Sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 403, this *Further Notice of Proposed Rule Making is hereby adopted*, and *Notice is hereby given* of the proposed regulatory changes described in the *Further Notice of Proposed Rule Making* and contained in Rule Changes.

30. The Commission will send a copy of this *Further Notice of Proposed Rule Making*, including a copy of the Final Regulatory Flexibility Certification and a copy of this Initial Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, this *Further Notice of Proposed Rule Making*, Final Regulatory Flexibility Certification and Initial Regulatory Flexibility Analysis will be sent to, the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

31. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Further Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 80

Communications equipment, Marine safety, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 80 as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.225 is amended by revising paragraph (a) to read as follows:

§ 80.225 Requirements for selective calling equipment.

* * * * *

(a) DSC equipment voluntarily installed in coast or ship stations must meet either the requirements of ITU-R Recommendation 493–10 (including only equipment classes A, B, D, and E) or RTCM Paper 56–95/SC101-STD. DSC equipment must not be used with the sensors referred to in § 80.179(e)(2). DSC equipment used on compulsorily fitted ships must meet the requirements contained in subpart W for GMDSS. All DSC equipment must:

(1) Allow the operator to disable any automatic radiotelephone channel switching function;

(2) Allow the operator the option of manually acknowledging any call;

(3) Not allow the automatic composition of a distress relay alert whose acknowledgment had already been received;

(4) Automatically erase any position information not updated for more than 23 ½ hours;

(5) Explicitly prohibit the offering of wrong identities in relay messages;

(6) Ensure that default selections in a displayed menu requesting input, when allowed, should at a minimum follow ITU-R Recommendation M.541–8. A default selection shall never cause an improper or illegal operation.

* * * * *

3. Section 80.373 is amended by revising paragraph (f) to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(f) *Frequencies in the 156–162 MHz band.* The following tables describe the carrier frequencies available in the 156–162 MHz band for radiotelephone communications between ship and private coast stations. (Note: the letter "A" following the channel designator indicates simplex operation on a channel designated internationally as a duplex channel.)

FREQUENCIES IN THE 156–162 MHz BAND

Channel designator	Carrier frequency (MHz) Ship transmit	Carrier frequency (MHz) Coast transmit	Points of communication (Intership and between Coast and ship unless otherwise indicated)
Port Operations			
01A[1]	156.050	156.050	
63A[1]	156.175	156.175	
05A[2]	156.250	156.250	
65A	156.275	156.275	
66A	156.325	156.325	
12[3]	156.600	156.600	
73	156.675	156.675	
14[3]	156.700	156.700	
74	156.725	156.725	
75[18]	156.775	156.775	
76[18]	156.825	156.825	
77[4]	156.875	Intership only.	
20A[12]	157.000		Intership only.
Navigational (Bridge-to-Bridge)[5]			
13[6]	156.650	156.650	
677	156.375	156.375	
Commercial			
01A[1]	156.050	156.050	
63A[1]	156.175	156.175	
07A	156.350	156.350	
67[7]	156.375		Intership only.
08	156.400		Intership only.
09	156.450	156.450	
10	156.500	156.500	
11[3]	156.550	156.550	
18A	156.900	156.900	
19A	156.950	156.950	
79A	156.975	156.975	
80A	157.025	157.025	
88A[8]	157.425		Intership only.
72[14]	156.625		Intership only.
Digital Selective Calling			
70[15]	156.525	156.525	
Noncommercial			
68[17]	156.425	156.425	
09[16]	156.450	156.450	
69	156.475	156.475	
71	156.575	156.575	
72	156.625		Intership only.
78A	156.925	156.925	
79A	156.975	156.975	Great Lakes only.
80A	157.025	157.025	Great Lakes only.
67[14]	156.375		Intership only.
Distress, Safety and Calling			
16	156.800	156.800	
Intership Safety			
06	156.300		Intership, or b. For SAR: Ship and aircraft for the U.S. Coast Guard.
Environmental			
15[13]		156.750	Coast to ship only.
Maritime Control			
17[9,10]	156.850	156.850	
Liaison and Safety Broadcasts, U.S. Coast Guard			
22A[11]	157.100	157.100	Ship, aircraft, and coast stations of the U.S. Coast Guard and at Lake Mead, Nev., ship and coast stations of the National Park Service, U.S. Department of the Interior.

[1] 156.050 MHz and 156.175 MHz are available for port operations and commercial communications purposes when used only within the U.S. Coast Guard designated Vessel Traffic Services (VTS) area of New Orleans, on the lower Mississippi River from the various pass entrances in the Gulf of Mexico to Devil's Swamp Light at River Mile 242.4 above head of passes near Baton Rouge.

[2] 156.250 MHz is available for port operations communications use only within the U.S. Coast Guard designated VTS radio protection areas of New Orleans and Houston described in § 80.383.

[3] 156.550 MHz, 156.600 MHz and 156.700 MHz are available in the U.S. Coast Guard designated port areas only for VTS communications and in the Great Lakes available primarily for communications relating to the movement of ships in sectors designated by the St. Lawrence Seaway Development Corporation or the U.S. Coast Guard. The use of these frequencies outside VTS and ship movement sector protected areas is permitted provided they cause no interference to VTS and ship movement communications in their respective designated sectors.

[4] Use of 156.875 MHz is limited to communications with pilots regarding the movement and docking of ships. Normal output power must not exceed 1 watt.

[5] 156.375 MHz and 156.650 MHz are available primarily for intership navigational communications. These frequencies are available between coast and ship on a secondary basis when used on or in the vicinity of locks or drawbridges. Normal output power must not exceed 1 watt. Maximum output power must not exceed 10 watts for coast stations or 25 watts for ship stations.

[6] On the Great Lakes, in addition to bridge-to-bridge communications, 156.650 MHz is available for vessel control purposes in established vessel traffic systems. 156.650 MHz is not available for use in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass entrance Mid-channel Lighted Whistle Buoy to mile 242.4 above Head of Passes near Baton Rouge. Additionally it is not available for use in the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal, except to aid the transition from these areas.

[7] Use of 156.375 MHz is available for navigational communications only in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass entrance Mid-channel Lighted Whistle Buoy to mile 242.4 above Head of Passes near Baton Rouge, and in addition over the full length of the Mississippi River-Gulf Outlet Canal from entrance to its junction with the Inner Harbor Navigational Canal, and over the full length of the Inner Harbor Navigational Canal from its junction with the Mississippi River to its entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

[8] Within 120 km (75 miles) of the United States/Canada border, in the area of the Puget Sound and the Strait of Juan de Fuca and its approaches, 157.425 MHz is half of the duplex pair designated as Channel 88. In this area, Channel 88 is available to ship stations for communications with public coast stations only. More than 120 km (75 miles) from the United States/Canada border, in the area of the Puget Sound and the Strait of Juan de Fuca, its approaches, the Great Lakes, and the St. Lawrence Seaway, 157.425 MHz is available for intership and commercial communications. Outside Puget Sound area and its approaches and the Great Lakes, 157.425 MHz is also available for communications between commercial fishing vessels and associated aircraft while engaged in commercial fishing activities.

[9] When the frequency 156.850 MHz is authorized, it may be used additionally for search and rescue training exercises conducted by state or local governments.

[10] The frequency 156.850 MHz is additionally available to coast stations on the Great Lakes for transmission of scheduled Coded Marine Weather Forecasts (MAFOR), Great Lakes Weather Broadcast (LAWEB) and unscheduled Notices to Mariners or Bulletins. F3C and J3C emissions are permitted. Coast stations on the Great Lakes must cease weather broadcasts which cause interference to stations operating on 156.800 MHz until the interference problem is resolved.

[11] The frequency 157.100 MHz is authorized for search and rescue training exercises by state or local government in conjunction with U.S. Coast Guard stations. Prior U.S. Coast Guard approval is required. Use must cease immediately on U.S. Coast Guard request.

[12] The duplex pair for channel 20 (157.000/161.600 MHz) may be used for ship to coast station communications.

[13] Available for assignment to coast stations, the use of which is in accord with an agreed program, for the broadcast of information to ship stations concerning the environmental conditions in which vessels operate, i.e., weather; sea conditions; time signals; notices to manners; and hazards to navigation.

[14] Available only in the Puget Sound and the Strait of Juan de Fuca.

[15] The frequency 156.525 MHz is to be used exclusively for distress, safety and calling using digital selective calling techniques. No other uses are permitted.

[16] The frequency 156.450 MHz is available for intership, ship and coast general purpose calling by noncommercial vessels, such as recreational boats and private coast stations.

[17] The frequency 156.425 MHz is assigned by rule to private coast stations in Alaska for facsimile transmissions as well as voice communications.

[18] The frequencies 156.775 and 156.825 MHz are available for navigation-related port operations or ship movement only, and all precautions must be taken to avoid harmful interference to channel 16. Transmitter output power is limited to 1 watt for ship stations, and 10 watts for coast stations.

* * * * *

4. Section 80.1083 is amended by adding a new paragraph (d) to read as follows:

§ 80.1083 Ship radio installations.

* * * * *

(d) In passenger ships,

(1) A distress panel must be installed at the conning position. This panel shall contain either one single button which, when pressed, initiates a distress alert using all radiocommunications installations required on board for that purpose or one button for each individual installation. The panel must clearly and visually indicate whenever any button or buttons have been pressed. Means must be provided to prevent inadvertent activation of the button or buttons. If the satellite EPIRB is used as the secondary means of distress alerting and is not remotely activated, it shall be acceptable to have an additional EPIRB installed in the wheelhouse near the conning position;

(2) Information on the ship's position must be continuously and automatically provided to all relevant radiocommunications equipment to be included in the initial distress alert when the button or buttons on the distress panel is pressed; and

(3) A distress alarm panel must be installed at the conning position. The distress alarm panel must provide visual and aural indication of any distress alert or alerts received on board and shall also indicate through which radiocommunication service the distress alerts have been received.

5. Section 80.1085 is amended by adding new paragraph (e) to read as follows:

§ 80.1085 Ship radio equipment-General.

* * * * *

(e) Every passenger ship shall be provided with means for two-way on-scene radiocommunications for search and rescue purposes using the aeronautical frequencies 121.5 and 123.1 MHz from the position from which the ship is normally navigated.

[FR Doc. 02–12430 Filed 5–16–02; 8:45 am]
BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 67, No. 96
Friday, May 17, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Friday, May 31, 2002. The meeting will be held in Room M–09 at the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC, beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Report of the Executive Committee
  A. Revision Council Mission Statement
  B. Preservation Executive Order
III. Report of the Preservation Initiatives Committee
  A. Preserve America Initiative
  B. Heritage Tourism Initiatives
  C. Preservation Funding Sources
IV. Report of the Federal Agency Programs Committee
  A. Federal Program Improvement Priorities and Initiatives
  B. Section 106b Cases
V. Report of the Communications, Education, and Outreach Committee
  A. Development of the Council Communications Plan
  B. Historic Preservation Awards
  C. Communications Coordinator
VI. Report of the Historic Preservation and Security Task Force
  A. Pennsylvania Avenue Security Improvements
VII. Chairman's Report
VIII. Executive Director's Report
  A. Technical Amendments to Section 106 Regulations
  B. FY 2003 Appropriations Process
IX. New Business
X. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC, 202–606–8503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: May 13, 2002.

Don L. Klima,

Acting Executive Director.

[FR Doc. 02–12345 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–028–1]

National Wildlife Services Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Wildlife Services Advisory Committee.

DATES: The meeting will be held on June 4 and 5, 2002, from 8 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the USDA Center at Riverside, 4700 River Road, Riverdale, MD.

FOR FURTHER INFORMATION CONTACT: Mr. Monte Chandler, Acting Director, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; (301) 734–7921.

SUPPLEMENTARY INFORMATION: The National Wildlife Services Advisory Committee (Committee) advises the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Wildlife Services (WS) program. The Committee also serves as a public forum enabling those affected by the WS program to have a voice in the program's policies.

The meeting will focus on operational and research activities and will be open to the public. Due to time constraints, the public will not be able to participate in the Committee's discussions. However, written statements concerning meeting topics may be filed with the Committee before or after the meeting by sending them to Mr. Monte Chandler at the address listed under **FOR FURTHER INFORMATION CONTACT**, or may be filed at the meeting. Please refer to Docket No. 02–028–1 when submitting your statements.

This notice of meeting is given pursuant to 5 U.S.C. app. 10.

Done in Washington, DC, this 13th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12372 Filed 5–16–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Reconstruction of Meadows Road #205 and Issuance of a Road Easement for Access to Private Land

AGENCY: Forest Service, Agriculture.

ACTION: Notice of availability of a Draft Environmental Impact Statement for proposal to issue a road easement to a private landowner and to permit the landowner to reconstruct the Meadows Road #205 to acces their private land inholding.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and implementing regulations and other applicable statutes, the U.S. Forest Service announces the availability of a Draft Environmental Impact Statement (DEIS) for an applicants proposal to acquire a road easement and reconstruct an access road to their private land inholding on the San Juan National Forest. The DEIS analyzes the impacts of issuing the road easement and reconstructing Forest Development Road (FDR) #205 to a standard that would allow reasonable access to the landowners private land in holding. The EIS document was prepared by a third party contractor chosen by the Forest Service.

DATES: Written comments on the FEIS will be accepted for 45 days following the date that the Environmental Protection Agency (EPA) publishes their notice of availability of the DEIS in the **Federal Register**. The U.S. Forest Service will notify all parties on this project's mailing list of the dates when comments will be accepted.

ADDRESSES: Please address questions, comments or requests for copies of the FEIS to the San Juan Public Lands Center, Attn: Jim Powers, 15 Burnett Court, Durango, Colorado 81301; or phone (970) 247–4874.

FOR FURTHER INFORMATION CONTACT: Tom Rennick at (970) 882–6823 or Jim Powers at (970) 247–4874.

SUPPLEMENTARY INFORMATION: The responsible official for issuance of the road easement is Rick Cables, Rocky Mountain Regional Forester at PO Box 25127, Lakewood, Colorado 80225–0127. The EIS addresses road reconstruction and issuance of an easement across such road in an inventoried roadless area for the purpose of providing the applicant access to non-federally owned lands within the boundaries of the San Juan National Forest. The private landowner has proposed use of the existing road across the inventoried roadless area to meet their access needs. The Forest Service is seeking information, comments, and assistance from individuals, organizations, tribal governments, and federal, state and local agencies that are interested in or may be affected by the proposed action. The range of alternatives considered on the EIS is based upon public issues raised during scoping in this project, management concerns, and resource management opportunities.

Comments, including names and street addresses of respondents, will be available for public review at the San Juan Public Lands Center, during regular business hours (8 a.m. to 4:30 p.m.), Monday through Friday, except holidays, and may be published as part of the final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: April 30, 2002.

Calvin N. Joyner,

Forest Supervisor, San Juan National Forest.

[FR Doc. 02–12439 Filed 5–16–02; 8:45 am]

BILLING CODE 3410–BS–M

DEPARTMENT OF AGRICULTURE

Forest Service

Grand Mesa, Uncompahgre and Gunnison National Forest, Colorado, Kennicott Slough Reservoir Peat Removal Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Surface Creek Ditch and Reservoir Company has asked to be allowed to remove all of the peat from Kennicott Slough Reservoir by mechanical means over the next five to ten years. This is in response to advice from the Colorado State Engineer's office that peat in the reservoir poses a serious risk to the integrity of the reservoir, and that failure of the dam could result in the loss of life and property down stream.

DATES: Comments concerning the scope of the analysis must be received by June 1, 2002. The draft environmental impact statement is expected August of 2002 and the final environmental impact statement is expected December of 2002.

ADDRESSES: Send written comments to Kennicott Slough Analysis, Grand Mesa, Uncompahgre and Gunnison National Forests, 2250 Hwy 50, Delta, Colorado 81416.

FOR FURTHER INFORMATION CONTACT: Jeff Burch, Environmental Coordinator, Grand Mesa, Uncompahgre and Gunnison National Forests, 2250 Hwy 50, Delta, Colorado 81416.

SUPPLEMENTARY INFORMATION: Kennicott Slough Reservoir capacity is approximately 1,034 acre-feet. The drainage basin area above the dam including the reservoir is about 283 acres. Before a dam was built at Kennicott Slough there existed a natural lake. Associated with this lake were extensive shallows which gradually filled in with peat deposits. These peat deposits are the accumulation of organic materials from wetland vegetation growth over long periods of time. They are thought to be as much as 10,000 years old in some parts of the reservoir. Given enough time they will completely fill shallow lakes and reservoirs. With the construction of the first dam at Kennicott in about 1900 to 1910, the water line of the bankfull pool expanded over existing peat and created more shallows conducive to the formation of peat and the "peat body" began to expand. With the construction of an even higher second dam in 1947 and 1948, fluctuating water levels caused additional detachment of peat from its original location, and peat producing vegetation and the peat body itself continued to expand.

The Forest Service estimates there to be approximately 317,000 cubic yards, or using a conversion of 50 to 70 pounds per cubic foot, 214,300 to 300,000 tons of peat proposed for removal from Kennicott Slough. Approximately 80% of the reservoir's surface area is occupied by either floating or submerged peat. As water levels fluctuate, and especially during spring snow/ice melt and runoff, pieces of peat detach from the main peat body and float freely. As water passes through the reservoir, these pieces of peat tend to migrate toward the outlet and spillway of the reservoir. Some pieces are small; others are large (as much as 40 feet across).

The Colorado State Division of Water Resources has advised that these floating pieces of peat pose a real threat to the safety of the dam. These detached pieces of peat have the potential of blocking either the outlet works or the spillway, causing overfilling of the reservoir, spillage and cutting of the earthen dam, and possible catastrophic failure. Kennicott is a Class I dam, which means that failure poses threat to human safety down stream. The nearest habitation is 3½ miles down stream and 2000 feet lower in elevation, with additional homes along the Kiser Creek channel about 6 miles downstream from the reservoir. The town of Cedaredge is some 12 to 15 miles below the reservoir on Surface Creek and could be affected by the sudden release of water from a dam failure. According to the reservoir company, this peat accumulation has been a problem for 50 or more years. At one point in time the reservoir was drained for a two-year period to allow for removal of the peat. The peat was to

be removed, and sold, but the venture apparently proved unsuccessful from an economical approach.

More recently, the Surface Creek Ditch and Reservoir Company has been authorized each year to remove detached pieces of peat which pose the greatest threat, using mechanical means of removal. In fall, after the reservoir is drained and dried somewhat, a track-mounted backhoe, a front end loader, and dump truck operation remove identified peat. In 2000, approximately 200 tons were removed. This amounted to less than one tenth of one percent of the entire peat body at Kennicott. The same has been done in the fall of 2001, removing designated portions of the peat as part of routine reservoir maintenance. This annual practice of selective removal of peat does not address the broader and more long term problem.

Purpose and Need for Action

The purpose and need for action is dam safety. The detached pieces of peat directly threaten the safety of the dam with risk of blocking the spillway and outlet works intake. This poses a threat to the integrity of the dam.

Proposed Action

The proposed action is to remove the entire peat mass from Kennicott Slough Reservoir (approximately 30 acres) with heavy equipment (excavator, loader, dump truck) over a period of several years, during the months of August through October, in order to prevent additional detachment of the pieces from the main peat mass and subsequent movement of the detached pieces into the reservoir spillway or outlet structure.

Possible Alternatives

Alternative 1

Under this alternative no additional peat removal would be authorized from Kennicott Slough Reservoir. This alternative is required by NEPA to be presented as a baseline to consider the environmental effects of action alternatives. In the event the action alternatives were found to be unacceptable, this alternative could be selected. However we are aware that this could (likely would over time) lead to expansion of the peat body, further detachment of peat and threat to the safety and function of the dam. This could lead to the requirement to remove the dam structure and abandon the reservoir.

Alternative 2

Under this alternative the current practice of identifying specific areas (typically detached, semi-detached or those with extensive "fractures") of peat for removal on an annual basis would continue. Only detached pieces could be removed as operations and maintenance (O&M). There would be no systematic removal of the larger peat body. Operations would take place in the fall and would be below the high water line for the reservoir to prevent surface disturbance outside the footprint of the bank-full reservoir.

Alternative 3

This is the proposed action, and will not be repeated in detail here. See above.

Alternative 4

This alternative compresses the time within which the proposed peat removal would take place. Instead of extending the removal operation over several years, the company would be required to not fill the reservoir until all peat was removed. This would likely still take two to three years. The files on Kennicott have reference to one other occasion when this was attempted but not accomplished due to the cost involved. This would compress all effects into one short time period and would immediately and completely address the dam safety issue.

Alternative 5

Under this alternative, an engineering solution would be employed to armor or block the outlet works and the spillway against the deposits of loose peat. This alternative addresses a way to leave most of the peat in place and still maintain the dam in a safe condition as required by the State. In general a strong marine netting would be installed across the reservoir using concrete caisson piles to support the net panels. Prior to installation, peat would have to be removed between the netting location and the high water line toward the direction of the outlet works. The reservoir would be drained and left to dry out to the extent possible in one season to allow collection of the peat, drilling of the caissons, and installation of the net panels. The location of the netting would be about 25 feet from the outlet pipe and about 100 feet from the edge of the dam crest. The netting would have to be about 40 feet high in the deepest section and 1200 feet long.

Alternative 6

Under this alternative the leading edge of the existing peat which now represents a risk of detachment would be trimmed over the next 2 years. The edge of the peat would then be anchored using mechanical means. The remainder, 80 to 90%, of the peat/wetland/fen would be left intact.

Responsible Official

The responsible official is Robert L. Storch, Forest Supervisor, 2250 Hwy. 50, Delta, Colorado 81416.

Nature of Decision To Be Made

The decision to be made is whether or not to allow the entire peat body, or some portion of it, to be removed, and on what schedule; and what mitigation measures or operating restrictions (these may include timing, methods, and other measures to prevent environmental harm or unacceptable conflict in the use of the National Forest).

Scoping Process

Initial scoping was conducted for this proposal during August and early September of 2000. Letters inviting comments on the proposal were sent to parties known to be interested. A news release was issued and published in the Grand Junction Daily Sentinel. Also, a legal notice was run in that same newspaper (see project record). Seven letters were received in response, and a number of phone conversations were documented. From the response to scoping, as well as from correspondence with the Surface Creek Ditch Company, and the State of Colorado Division of Water Resources, over a number of years dealing with the peat problem at Kennicott, an initial set of issues were identified. The agency ID Team met and discussed the project and identified additional issues to be addressed. This list of preliminary issues will be supplemented following comment in response to this NOI.

Preliminary Issues

The following issues have been identified as preliminary issues to be carried through the analysis: effects on the wetland/fen (including Threatened Endangered or Sensitive species of plants), dam safety, effects on water quality and water quantity, effects on aquatic and terrestrial wildlife (including Threatened, Endangered or Sensitive species), effects on the recreation setting and use of the area, effects on potential paleontological resources, road use/maintenance and access to Kennicott Slough Reservoir, and economics/cost of project.

Permits or Licenses Required

Activities regarding management of this reservoir are governed in part by a special use authorizations held by the Surface Creek Ditch and Reservoir Company, and administered by the U.S. Forest Service. There are no additional permits or licenses required.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: April 23, 2002.

Robert L. Storch,

Forest Supervisor.

[FR Doc. 02–12328 Filed 5–16–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

North Mt. Baker-Snoqualmie Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Mt. Baker-Snoqualmie Resource Advisory Committee (RAC) will meet on Thursday, June 6, 2002, at the Mt. Baker Ranger Station at 810 State Route 20, Sedro-Woolley, Washington 98284 (phone: 360–856–5700). The meeting will begin at 9 a.m. and last until approximately 3 p.m.

The purpose of the meeting will be to review projects under consideration for FY 2003 Title II funding under the Secure Rural Schools and Community Self-Determination Act. All North Mt. Baker-Snoqualmie Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

The North Mt. Baker-Snoqualmie Resource Advisory Committee advises Whatcom and Skagit Counties on projects, reviews project proposals, and makes recommendations to the appropriate USDA official for projects to be funded by Title II dollars. The North Mt. Baker-Snoqualmie Resource Advisory Committee was established to carry out the requirements of the Secure Rural Schools and Community Self-Determination Act.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Jon Vanderheyden, Designated Federal Official, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, 810 State Route 20, Sedro Woolley, Washington 98284 (360–856–5700, Extension 201).

Dated: May 13, 2002.

Terry Degrow,

Acting Designated Federal Official.

[FR Doc. 02–12352 Filed 5–16–02; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments must be received on or before: June 16, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C.46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Pad, Message, "While You Were Out"/7530–00–NIB–0547.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0002.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0003.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0004.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0005.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0006.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0007.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0008.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0009.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0010.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0011.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0012.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0013.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0014.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Product/NSN: Uniforms, Shirts and Pants/8405–00–NSH–0015.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, GA.
Contract Activity: Immigration and Naturalization Service, DOJ.

Services

Service Type/Location: Administrative Support Services/Federal Bureau of Prisons, Butner, NC.
NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC.
Contract Activity: Federal Bureau of Prisons LSCI, Butner, NC.
Service Type/Location: Administrative Support Services.
GSA Tampa Property Management Office, Tampa, FL.
NPA: Tampa Lighthouse for the Blind, Tampa, FL.
Contract Activity: GSA Property Management Division, Atlanta, GA.
Service Type/Location: Base Supply Center.
Headquarters U.S. Army Infantry Center, Fort Benning, GA.
NPA: L.C. Industries For The Blind, Inc., Durham, NC.
Contract Activity: Headquarters U.S. Army Infantry Center, Fort Benning, GA.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

The following products have been proposed for deletion from the Procurement List:

Products

Product/NSN: Impulse Merchandising Program (IMP) Shippers/M.R. 11522.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contract Activity: Defense Commissary Agency, Fort Lee, VA.

Product/NSN: Impulse Merchandising Program (IMP) Shippers/M.R. 11577.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contract Activity: Defense Commissary Agency, Fort Lee, VA.

Product/NSN: Impulse Merchandising Program (IMP) Shippers/M.R. 11602.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contract Activity: Defense Commissary Agency, Fort Lee, VA.

Product/NSN: Impulse Merchandising Program (IMP) Shippers/M.R. 11618.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contract Activity: Defense Commissary Agency, Fort Lee, VA.

Product/NSN: Impulse Merchandising Program (IMP) Shippers/M.R. 11695.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contract Activity: Defense Commissary Agency, Fort Lee, VA.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–12433 Filed 5–16–02; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 16, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 12, and December 21, 2001, and January 25, March 8, and March 22, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (66 FR 52094 and 65876, and 67 FR 3683, 10663, and 13309) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List.

Accordingly, the following product and services are added to the Procurement List:

Product

Product/NSN: Battery, Nonrechargeable/6135–01–333–6737
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC.
Contract Activity: Defense Supply Center—Richmond, Richmond, VA.

Services

Service Type/Location: Administrative Service Milwaukee Federal Building and U.S. Courthouse, Milwaukee, WI.
NPA: Milwaukee Center for Independence, Inc., Milwaukee, WI.
Contract Activity: GSA, Public Buildings Service.

Service Type/Location: Base Supply Center/Peterson AFB, CO.
NPA: Envision, Inc., Wichita, KS.
Contract Activity: Peterson AFB CO.

Service Type/Location: BSC, IEE & HAZMAT, Eglin AFB, FL.
NPA: L.C. Industries For The Blind, Inc., Durham, NC.
Contract Activity: Department of the Air Force.

Service Type/Location: Janitorial/Custodial, Naval and Marine Corps Reserve Centers, Alameda, CA.
NPA: The Independent Way, Oakland, CA.
Contract Activity: Naval Facilities Engineering Command-Concord, Concord, CA.

Service Type/Location: Janitorial/Custodial, Environmental Protection Agency (Western Ecology Division), Corvallis, OR.
NPA: Williamette Valley Rehabilitation Center, Inc., Lebanon, OR.
Contract Activity: Environmental Protection Agency.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–12434 Filed 5–16–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 051402A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Logbook Family of Forms.

Form Number(s): None.

OMB Approval Number: 0648–0213.

Type of Request: Regular submission.

Burden Hours: 32,329.

Number of Respondents: 1,033.

Average Hours Per Response: 35 minutes for Weekly Cumulative Mothership ADF&G Fish Tickets; 14 minutes for U.S. Vessel Activity Report; 18 minutes for Catcher Vessel trawl gear daily fishing logbook (DFL); 28 minutes for Catcher Vessel longline and pot gear DFL; 30 minutes for Catcher/processor trawl gear daily cumulative production logbook (DCPL); 41 minutes for Catcher/processor longline and pot gear DCPL; 31 minutes for Shoreside processor DCPL; 31 minutes for Mothership DCPL; 8 minutes for Shoreside Processor Check-in/Check-out Report; 7 minutes for Mothership or Catcher/processor Check-in/Check-out Report; 11 minutes for Product transfer report; 17 minutes for Weekly Production Report; 11 minutes for Daily Production Report; estimated time to electronically submit the weekly production report (5 min./report); 5 minutes to electronically submit the check-in/check-out report; 23 minutes for buying station report.

Needs and Uses: NMFS manages the U.S. groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). The North Pacific Fishery Management Council prepared the FMPs pursuant to the Magnuson-Stevens Act. Regulations implementing the FMPs are at 50 CFR part 679. The recordkeeping and reporting requirements at 50 CFR part 679.5 form the basis for this collection-of-information. NMFS Alaska Region requests information from participating groundfish fishermen which, upon receipt, results in an increasingly more efficient and accurate database. The collection is necessary for management and monitoring of the groundfish fisheries of the EEZ off Alaska for purposes of conservation of the fisheries.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion, weekly, monthly, recordkeeping.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 10, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–12475 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–805]

Certain Cut-to-Length Carbon Steel Plate from Belgium; Notice of Amended Final Results of Administrative Review in Accordance With Final Court Decision Affirming Redetermination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 4, 2001, the United States Court of International Trade (CIT) affirmed the Department of Commerce's final remand results of the antidumping duty administrative review of certain cut-to-length carbon steel plate from Belgium. As there is now a final and conclusive court decision in this action, we are amending our final results, and we will instruct the Customs Service to liquidate entries subject to the review.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley at (202) 482–0666, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Background

On January 20, 1998, the Department of Commerce (the Department) published its final results for the administrative review of certain cut-to-length carbon steel plate from Belgium for the period of review (POR) August 1, 1995 through July 31, 1996. *See Final Results of Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from Belgium*, 63 FR 2959 (January 20, 1998) (*Final Results*). Fabrique de Fer de Charleroi S.A. (FAFER) appealed the *Final Results* to the Court of International Trade (CIT), challenging the Department's calculation of FAFER's U.S. selling expenses.

During the administrative review, the Department issued its standard and supplemental questionnaires to FAFER instructing FAFER to report expenses, including indirect selling expenses related to its U.S. sales. In its response to the questionnaire, FAFER did not identify these expenses in the manner, and with the specificity, requested by the Department.

FAFER first reported that there were no U.S. indirect selling expenses applicable to its one U.S. sale made during the POR: FAFER's questionnaire stated that "There were no cost of indirect selling expenses for the products under investigation that FAFER have incurred in the United States, either directly or indirectly." FAFER's November 18, 1996 Questionnaire Response, Section C, at 35. In response to a supplemental questionnaire, FAFER added that indirect selling expenses had been allocated based on information in its Section D response. *See* FAFER's January 17, 1997 Questionnaire Response, at 5. The Department determined that the application of facts available was warranted for both U.S. and home market indirect selling expenses. *See Cut-to-Length Carbon Steel Plate From Belgium: Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 48213, 48215 (September 15, 1997) (*Preliminary Results*) (applying facts available to U.S. indirect selling expenses) and *Final Results*, 63 FR at 2963 (January 20, 1998) (applying facts available to home market indirect selling expenses).

Because FAFER's U.S. sale was made through an affiliate, the Department classified the sale as a constructed export price (CEP) sale, and the price for the sale had to be adjusted pursuant to section 772(d)(1) of the Act (19 U.S.C. § 1677a(d)(1)) to account for FAFER's direct and indirect selling expenses. FAFER had not reported these expenses needed to calculate CEP, and therefore the Department had to resort to facts available to fill in the missing information. In the *Final Results*, the Department used the commission rate FAFER normally paid its U.S. affiliate as a facts available proxy for FAFER's U.S. indirect selling expenses. *Final Results*, 63 FR at 2962 (January 20, 1998). In its opinion, the Court affirmed the Department's use of facts available in determining the appropriate deduction to FAFER's U.S. sales price. The Court, however, ordered the Department to choose another facts available substitute for these expenses, because the record indicated that the Department had determined that no commission was actually paid on the U.S. sale in question. The Court reasoned that, "{c}onsidering that there is no dispute about the inapplicability of FAFER's actual general commission to the sale at issue, Commerce's use of such commission as a proxy for FAFER's indirect selling expenses is unreasonable." *See FAFER v. U.S.*, Slip. Op. 01–82, at 17 (CIT July 3, 2001). The Court also noted that "{t}he mere possibility that FAFER's indirect selling expenses could be an amount near the amount to which Commerce arrived on the basis of facts available cannot serve as a valid argument in view of Commerce's admitted obligation to arrive to . . . the estimate most rational under the circumstances rather than the most similar." *Id.* at 17–18, note 4.

Pursuant to its receipt of the CIT's remand instructions, on September 6, 2001, the Department released its draft results of redetermination to the plaintiff and defendant-intervenors for comment. *See Certain Cut-to-Length Carbon Steel Plate from Belgium; Draft Results of Redetermination Pursuant to Court Remand* (September 6, 2001) (*Draft Remand Results*).

In the *Draft Remand Results*, we reconsidered our methodology in accordance with the CIT's decision. The Department determined that the selling, general, and administrative (SG&A) expenses detailed on the financial statements of FAFER's U.S. affiliate, submitted in FAFER's October 21, 1996 Questionnaire Response, are a reasonable estimate of FAFER's U.S. indirect selling expenses, as the reported expenses bear a rational relationship to FAFER's missing information. The Act does not use the term indirect selling expenses, but refers to any selling expenses other than direct selling expenses, commission expenses, and expenses paid by the seller on the buyer's behalf. *See* Section 772(d) of the Act (19 U.S.C. §§ 1677a(d)(1)(D)). Thus, it is appropriate to combine all SG&A expenses for purposes of this CEP deduction. On September 13, 2001, the defendant-intervenors, Bethlehem Steel Corporation and United States Steel LLC, formerly U.S. Steel Group, a unit of USX Corporation, provided a timely brief commenting on the draft results. On September 14, 2001, plaintiff, Usinor Industeel, SA, (formerly FAFER), provided a timely brief commenting on the draft results. On September 19, 2001, the defendant-intervenors in this case provided a timely rebuttal brief.

After reviewing parties comments, on October 1, 2001, the Department issued its final remand results. *See Certain Cut-to-Length Carbon Steel Plate from Belgium Final Results of Redetermination Pursuant to Court Remand* (October 1, 2001) (*Final Remand Results*). In our *Final Remand Results*, we made no changes to the *Draft Remand Results*. Parties comments to our *Draft Remand Results* and the Department's responses are discussed in the *Final Remand Results*.

On December 4, 2001, the CIT affirmed the Department's *Final Remand Results*. *See Fabrique De Fer Charleroi S.A. v. United States*, Slip Op. 01–140 (December 4, 2001). No party appealed the CIT's decision. As this case is now final and conclusive, we are amending the *Final Results* of review. As a result of our recalculations, based upon the changes set forth above, we have revised the dumping margin for respondent.

Amendment to Final Results of Review

Because no further appeals have been filed and there is now a final and conclusive decision in the CIT proceeding, effective as of the publication date of this notice, we are amending the *Final Results*, and establishing the following revised weight-averaged dumping margin:

Company Amended Final Results 1995–1996	Margin
Fabrique de Fer de Charleroi S.A.	12.96%

Accordingly, the Department will instruct the Customs Service to assess antidumping duties on all appropriate entries of subject merchandise in accordance with these amended final results.

Cash Deposit Requirements

The Department has not conducted a review of this order for any review period subsequent to the review period at issue (August 1, 1995 through July 31, 1996). Therefore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain cut-to-length carbon steel plate from Belgium entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for FAFER will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the LTFV investigation, which is 6.75 percent. *See Amended Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Belgium*, 63 FR 40698 (July 30, 1998). These deposit rates shall remain in effect until publication of the final results of the next administrative review.

Dated: May 9, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12443 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–820]

Fresh Tomatoes from Mexico: Extension of Time Limit for Final Results of Five-Year Sunset Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Final Results of Five-Year ("Sunset") Review of the Suspended Antidumping Duty Investigation on Fresh Tomatoes from Mexico.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for final results in the full sunset review of the suspended antidumping duty investigation on fresh tomatoes ("tomatoes") from Mexico. We are extending the full sunset review of the suspended antidumping duty investigation to appropriately address issues relevant in the Department's on-going re-negotiation of the suspended agreement on tomatoes from Mexico. The Department intends to issue final results of this sunset review not later than August 27, 2002.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: James P. Maeder or Martha V. Douthit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3330 or (202) 482–5050, respectively.

SUPPLEMENTARY INFORMATION:

Extension of Final Results:

On October 1, 2001, the Department initiated (66 FR 49926) a sunset review of the suspended antidumping investigation on tomatoes from Mexico pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of the notice of intent to participate filed on behalf of domestic interested parties, and adequate substantive comments filed on behalf of the domestic interested parties and respondent interested parties, the Department determined that a full (240 day) sunset review was warranted of this suspended antidumping duty investigation.

In a sunset review, the Department normally will issue its final results not later than 240 days after the date of publication in the Federal Register of the notice of initiation in accordance with 19 CFR 351.218 (f)(3)(i). However, if the Secretary determines that a full sunset review is extraordinarily complicated under section 751(c)(5)(C) of the Act, the Secretary may extend the period for issuing final results by not more than 90 days (see section 751 (c)(5)(B) of the Act).

We find this case to be extraordinarily complicated due to issues related to the on-going re-negotiation of the suspension agreement from Mexico. Therefore, we determine it appropriate to take the maximum amount of time allowed under the statute to conduct this sunset review. For this reason we are extending the period for issuing final results by 90 days. Thus, the Department intends to issue the final results on tomatoes from Mexico, not later than August 27, 2002, in accordance with section 751(c)(5)(B) of the Act.

Dated: May 10, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12445 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal from Brazil: Amended Final Results of Antidumping Duty Administrative Review in Accordance with Court Decision

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce

ACTION: Notice of Amended Final Results of Antidumping Duty

Administrative Review in accordance with Court Decision

SUMMARY: On August 27, 2001, the United States Court of International Trade ("CIT")affirmed the remand determination of the 1994–95 administrative review for Companhia Ferroligas Minas Gerais-Minasligas ("Minasligas"), Companhia Brasilerira Carbureto de Calcio ("CBCC"), Eletrosilex Belo Horizonte ("Eletrosilex"), and Rima Industrial S/A ("RIMA") by the Department of Commerce ("the Department") arising from the antidumping duty order on silicon metal from Brazil. *See American Silicon Technologies v. United States*, No. 97–02–00267, Slip Op. 2001–109 (August 27, 2001). CBCC timely appealed the CIT's judgment. On January 15, 2002 the CIT stayed its judgment and extended the injunction solely in respect to CBCC's entries. *See American Silicon Technologies v. United States*, No. 97–02–00267, Slip Op. 2002–5 (January 15, 2002). After recalculation of the dumping margins for Minasligas, Eletrosilex, and RIMA, we are amending the final results of the review in this matter. We will instruct the U.S. Customs Service to liquidate Electrosilex, Minasligas, and RIMA's entries subject to these amended final results.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Marlene Hewitt, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W.,Washington DC 20230; telephone (202) 482–1385.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991 the Department issued an antidumping duty order on silicon metal from Brazil. *See Antidumping Duty Order: Silicon Metal from Brazil*, 56 FR 36135 (July 31, 1991). On January 14, 1997, the Department published its final results of the 1994–1995 administrative review (fourth review) of silicon metal for five Brazilian manufacturers/exporters, CBCC, Minasligas, Eletrosilex, RIMA, and Camargo Correa Metais ("CCM"). *See Silicon Metal from Brazil; Final Results of Antidumping Administrative Review and Determination Not to Revoke in Part*, 62 FR 1970 (January 14, 1997) ("Final Results").

On August 18, 1997, the U.S. Court of International Trade ("CIT") issued an order directing the Department to consider the alleged ministerial errors and correct any ministerial errors identified in the allegations and contained in the *Final Results*. *See American Silicon Technologies v. United States*, No. 97–02–00267, Slip Op. 97–113 (August 18, 1997). The Department subsequently corrected the ministerial errors and published an amended final. *See Silicon Metal from Brazil; Amended Final Results of Antidumping Administrative Review*, 62 FR 54087 (October 17, 1997) ("*Amended Final Results*").

On April 9, 1999 the CIT issued an order remanding to the Department the Amended Final Results. *See American Silicon Technologies v. United States*, No. 97–02–00267, Slip Op. 99–34 (April 9, 1999). In its April 9, 1999 order, the CIT instructed the Department to: recalculate CBCC's financial expenses with the instruction that Commerce base those expenses upon the consolidated financial statements of CBCC and its immediate parent Solvay do Brasil; recalculate cost of production ("COP") for Minasligas based upon an accounting methodology which is non-distortive and reasonably reflective of actual costs; reconsider CBCC's depreciation expenses; reconsider RIMA's COP and constructed value ("CV"); reconsider Electrosilex's financial expenses; reconsider CBCC's and RIMA's COP and CV regarding cost of internally-produced charcoal; reconsider CBCC's and RIMA's COP and CV regarding supervisory labor costs; reconsider CBCC's CV regarding IPI taxes; reconsider Rima's and CBCC's CV profit regarding profit ratios determined from non-CBCC financial statements; reconsider Minasligas' interest income expense; and reconsider Minasligas' CV profit. The CIT affirmed the *Amended Final Results* as to all other issues.

On September 23, 1999, the Department filed its redetermination on remand.

On August 27, 2001, the CIT sustained the Department's redetermination on remand. *See American Silicon Technologies v. United States*, No. 97–02–00267, Slip Op. 2001–109 (August 27, 2001).

CBCC timely appealed the CIT's judgment. On January 15, 2002 the CIT stayed its judgment and extended the injunction solely in respect to CBCC's entries. *See American Silicon Technologies v. United States*, No. 97–02–00267, Slip Op. 2002–5 (January 15, 2002).

Litigation in this case is final and conclusive for Minasligas, Eletrosilex, CCM, and RIMA. We are therefore amending our final results of review for the period July 1, 1994 through June 30, 1995.

The revised weighted-average margin for the above companies are as follows:

Manufacturer/Exporter	Margin (percent)
Minasligas	9.68
Eletrosilex	13.18
RIMA	81.61
CCM	35.23

Accordingly, the Department will determine, and the U.S. Customs Service ("Customs") will assess, antidumping duties on all entries of subject merchandise from Minasligas, Eletrosilex, CCM, and RIMA, in accordance with these amended final results. For assessment purposes, we have calculated importer-specific duty assessment rates for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. The Department will issue appraisement instructions directly to Customs. The above rate will not affect Minasligas, Eletrosilex, CCM, and RIMA's cash deposit rates currently in effect, which continue to be based on the margins found to exist in the most recently completed review.

This notice is published in accordance with sections 751(a)(1) and 777(i) of the Tariff Act (19 U.S.C. 1675(a)(1) and 1677f(i)) and 19 CFR 351.221.

Dated: May 13, 2002.

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

[FR Doc. 02–12444 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002E]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Advisory Panel in May 2002. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Friday, May 31, 2002, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Groundfish Advisory Committee will meet to review the final report of the Council's Capacity Committee. This report suggests alternatives for reducing fishing capacity in the groundfish fleet. The Advisors have been asked to comment on the proposed measures, including whether they will make rationale business sense for those vessel owners who may choose to take advantage of the alternatives. The Advisors will develop recommendations which will be reported to the Groundfish Committee and the full Council at a later date. The Advisory Panel may also address alternatives under development for Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP). Any recommendations of the Panel will be considered by the Groundfish Committee at a future date.Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12474 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002H]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings of the North Pacific Fishery Management Council (Council) and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings June 3-12, 2002, in Dutch Harbor, AK.

DATES: The Council's Advisory Panel will begin at 8 a.m., Monday, June 3, and continue through Saturday, June 8, 2002. The Scientific and Statistical Committee will begin at 8 a.m. on Monday, June 3, and continue through Wednesday, June 5, 2002.

The Council will begin its plenary session at 8 a.m. on Wednesday, June 5, continuing through noon Wednesday, June 12. All meetings are open to the public except executive sessions.

ADDRESSES: The Grand Aleutian Hotel, 498 Salmon Way, Dutch Harbor, AK 99692.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907-271-2809.

SUPPLEMENTARY INFORMATION: Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports:
(a) Executive Director's Report.
(b) State Fisheries Report by Alaska Dept. of Fish and Game.
(c) NMFS Management Report.
(d) NMFS & U.S. Coast Guard Enforcement Surveillance reports.

2. Gulf of Alaska Groundfish Rationalization: Receive committee report and provide direction, as necessary.

3. Essential Fish Habitat: Receive committee report and provide direction, as necessary.

4. Bering Sea/Aleutian Islands (BSAI) Crab Rationalization:
(a) Identify preferred alternative for rationalization.
(b) Finalize alternatives for the Environmental Impact Statement for the BSAI King and Tanner Crab Fishery Management Plan.

5. Community Development Quotas: Final action on alternatives for program policy changes.

6. Draft Programmatic Groundfish Supplemental Environmental Impact Statement: finalize alternatives for analysis.

7. Steller Sea Lion Issues: final action on two proposed amendments.

8. American Fisheries Act:
(a) Initial review of improved retention/utilization adjustments.
(b) Final action on single geographic location amendment.
(c) Review committee report on pollock bycatch measures, if available, and provide further direction.

9. Research Priorities: review and recommend research priorities.

10. Groundfish Management:
(a) Initial review of proposed changes to the annual harvest specification process.
(b) Review workplan and provide direction for an analysis of differential gear impacts.
(c) Final action on alternatives to allocate BSAI Pacific cod harvests between pot catcher processors and pot catcher vessels.

11. Review staff tasking and provide direction.

12. Discuss annual management cycle.

Scientific and Statistical Committee (SSC): The SSC agenda will include the following issues:

1. Research priorities (Item #9 on the Council agenda)
2. Harvest specification process (Item 10(a) on the Council agenda)
3. Draft Groundfish Programmatic SEIS (Item 6 on the Council agenda)
4. Review data collection information.
5. Review impacts methodology.

Advisory Panel: The Advisory Panel will address the same agenda issues as the Council, with the exception of the Reports under Item #1 of the Council agenda.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, these issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907-271-2809 at least 7 working days prior to the meeting date.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12477 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002G]

Fisheries of the South Atlantic; Executive Committee Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of law enforcement committee meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Executive Committee in Charleston, SC.

DATES: The meeting will take place on June 3-4, 2002.

ADDRESSES: The meeting will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 843–571–1000; fax: 843–766–9444.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: 843–571–4366; fax: 843–769–4520.

SUPPLEMENTARY INFORMATION: The Executive Committee will meet from 1:30 p.m. until 5 p.m. on June 3, 2002 (closed session), and again from 8:30 a.m. until 1 p.m. on June 4, 2002.

The Committee will meet in closed session on Monday, June 3, to receive legal briefing on recent court rulings regarding bycatch, overfished species and other issues and how they will affect Council actions. On Tuesday, June 4, the Executive Committee will meet in open session to discuss a request from the Secretary of Commerce for a response from the Council regarding a recent petition for rulemaking on bycatch (Federal Register Notice, 67 FR 19154, April 18, 2002). In addition, the Committee will discuss avenues for moving forward with fishery management plans and amendments currently being developed for submission to the Secretary of Commerce relevent to recent court rulings affecting fisheries management.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by May 31, 2002.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12476 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050702C]

Marine Mammals; File No. 984–1587

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Terrie Williams, Department of Biology, University of California at Santa Cruz, Santa Cruz, CA 95064 has been issued an amendment to scientific research Permit No. 984–1587–00, as amended by Permit No. 984–1587–01. The permit number has been changed to 984–1587–02 to reflect that the permit has been amended.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On May 7, 2002, notice was published in the **Federal Register** (67 FR 30651) that an amendment of Permit No. 984–1587–00 had been requested by the above-named individual. The requested amendment has been granted prior to close of the public comment period under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), specifically, 50 CFR 216.33(e)(6) and 216.39(c), because delaying issuance of the permit amendment could result in loss of unique research opportunites.

The permit amendment authorizes extension of holding and research on three female California sea lions (*Zalophus californianus*) at Long Marine Laboratory to June 30, 2004; temporary holding of an adult male sea lion for research and breeding purposes; research on the three female sea lions while pregnant; and temporary holding of up to three pups. All procedures are performed voluntarily by the sea lions.

Dated: May 13, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12473 Filed 5–16–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the Operational Architecture Panel from the Predictive Battlespace Awareness (PBA) to improve Military Effectiveness Study. The purpose of the meeting is to allow the SAB and study leadership to further discuss operational architecture issues at a classified level. This meeting will be closed to the public.

DATES: 28–30 May 2002.

ADDRESSES: (TBD) Wilson Blvd, Rosslyn VA 20330.

FOR FURTHER INFORMATION CONTACT: Colonel Marian Alexander, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–12329 Filed 5–16–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 16, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this'information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 13, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Master Promissory Note.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden: Responses: 706,000.

Burden Hours: 706,000.

Abstract: This form is the means by which a student borrower agrees to repay a Federal Direct Stafford/Ford Loan and/or a Federal Direct Unsubsidized Stafford/Ford Loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 2037. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his Internet address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–12342 Filed 5–16–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 17, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: May 13, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Application for State Grants for Reading First.

Frequency: Grants awarded for a period of six years; SEAs not required to reapply until that period ends.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 3,306.

Abstract: This application will be used to award grants to State Educational Agencies (SEAs) to improve K–3 reading instruction and student achievement through the application of scientifically based reading research, and the proven instructional and assessment tools consistent with this research.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 1936. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her Internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–12341 Filed 5–16–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 17, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: May 13, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Study to Assess Funding, Accountability, and One-Stop Delivery Systems in Adult Education.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 220.

Burden Hours: 272.

Abstract: This study is part of the National Assessment of Adult Education authorized by the Workforce Investment Act (WIA), Title II (otherwise known as AEFLA). Findings and recommendations will be used by Congress in considering reauthorization in 2003. OMB approval is requested for two data collection components: (1) A survey of state adult education directors; and (2) site visits to describe state and local implementation of AEFLA and the implications of one-stop service delivery on local adult education programs and providers.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 1940. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her Internet address *Jackie.Montague.ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–12343 Filed 5–16–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1756–000]

LG&E Capital Trimble County LLC; Notice of Filing

May 13, 2002.

Take notice that on May 7, 2002, of LG&E Capital Trimble County LLC (LCTC) filed an application requesting acceptance of its proposed Market-Based Rate Tariff (Tariff), waiver of certain regulations, and blanket approvals. The Tariff would authorize LCTC, inter alia, to engage in wholesale sales of capacity, energy, certain ancillary services, and firm transmission rights to eligible customers at market-based rates.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Comment Date: May 22, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12368 Filed 5–16–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2031–046]

Springville City, UT; Notice of Availability of Environmental Assessment

May 13, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the application dated August 30, 2000, requesting the Commission's authorization to issue a new license for the existing Bartholomew Hydroelectric Project, and has prepared an Environmental Assessment (EA) for the proposed and alternative actions. The subject project is located within Bartholomew Canyon and on Hobble Creek, in Utah County, Utah. The project is partially situated on federal lands within the Uinta National Forest.

Copies of the EA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. The document also may be viewed on the Web at *www.ferc.fed.us/online/rims.htm*. Call (202) 208–2222 for assistance.

Any comments on the EA should be filed within 45 days from the date of this notice and should be addressed to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix "Bartholomew Hydroelectric Project, No.2031–046" to the first page of your comments. All timely filed comments will be considered in any Commission order addressing the proposed new license.

If you have any questions concerning this matter, please telephone the Commission's Environmental Coordinator for the Bartholomew Hydroelectric Project at (202) 219–2780 or contact him by E-mail at *james.haimes@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12369 Filed 5–16–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD02–1–000]

Federal Energy Regulatory Records Information System; Notice of Intent To Replace the Commission Issuance Posting System, Records Information Management System and Docket Sheet System

May 13, 2002.

The Federal Energy Regulatory Commission (the Commission), hereby gives notice that it intends to discontinue updating its Commission Issuance Posting System (CIPS), Records Information Management System (RIMS) and its Docket Sheet System on the web. As detailed in the notice of March 3, 2002 in the referenced docket, the Commission intends to combine these three online systems into a single online system called the Federal Energy Regulatory Records Information System (FERRIS).

This notice announces the coming availability of the new system. The Commission will start updating FERRIS with current issuances (CIPS data only) on or about May 20, 2002. On or about June 1, 2002, the Commission will complete the conversion of RIMS files and will discontinue updating CIPS, RIMS and Docket Sheets. Please refer to the Commission's website for the announcement of the exact dates these systems will no longer be updated.

To familiarize the public with the features of the new system, the Commission is holding demonstrations and classes. Dates for these events, held at the Commission's headquarters and through the web, are announced under the link, Demo's & Classes, on the FERRIS introductory page on the Commission's website, *http://www.ferc.gov/help/demos_classes.htm*.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12367 Filed 5–16–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT02–2–000, RT01–86–000, RT01–95–000, RM99–2–000, RT01–99–000, and RT01–100–000]

State-Federal Regional Panels on Regional Transmission Organizations, New England Transmission Owners, New York Independent System Operator, Inc., Regional Transmission Organizations; Notice of State-Federal Regional Panel

May 13, 2002.

On May 28, 2002, from 10 a.m. to 12 p.m. Eastern Daylight Time, there will be a state-federal regional panel in the form of a teleconference for New England and New York. Commissioners and staff from state regulatory agencies, the Federal Energy Regulatory Commission, and comparable Canadian national or provincial agencies will participate in the panel. It is established pursuant to the Order Announcing the Establishment of State-Federal Regional Panels to Address RTO Issues, Modifying the Application of Rule 2201 in the Captioned Dockets, and Clarifying Order No. 607, 97 FERC ¶ 61,182 (2001), *order on reh'g*, 98 FERC ¶ 61,309 (2002), *amended by* 99 FERC ¶ 61,092 (2002).

The participants have proposed the following agenda:

(1) The cost-benefit study on regional transmission organizations to be released May 14, 2002, by the New England and New York Independent System Operators.

(2) The geographic scope of regional transmission organizations in relation to New England.

(3) The merger of the New England and New York Independent System Operators.

(4) Governance of regional transmission organizations, including selection of board members and independence.

(5) Market monitoring.

The panel discussion will be transcribed, and the transcript will be placed in the captioned dockets. Ace-Federal Reporters will provide copies of the transcript at cost. The phone

numbers for Ace-Federal Reporters are (800) 336–6646 and (202) 347–3700. Additionally, the Commission will post the transcript on its website ten days after receipt from Ace-Federal Reporters.

For additional information, please contact: Sarah McKinley, State Relations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2016, *Sarah.McKinley@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12370 Filed 5–16–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6629–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002, (67 FR 17992).

Draft EISs

ERP No. D–AFS–J82016–MT Rating EC2, Bitterroot National Forest Noxious Weed Treatment Project, Ground and Aerial Herbicides Application, Mechanical, Biological and Cultural Weed Treatment and Public Awareness Measures, Implementation, Stevensville Ranger District, Bitterroot National Forest, Ravalli County, MT.

Summary: EPA supports the need for an integrated weed management program, but expressed environmental concerns regarding potential for herbicide transport to surface and ground water, and recommended improved mitigation measures to reduce risk of drift or herbicides to aquatic areas during aerial application. Specifically, the final EIS should include information regarding application rates for herbicide treatments, and information on herbicide leaching potential and aquatic toxicity and a minimal level of monitoring for herbicides in selected sensitive waters to validate effectiveness of mitigation measures.

ERP No. D–DOE–L08059–WA Rating EC2, Schultz-Hanford Transmission Line Project, New 500 kilovolt (kV) Transmission Line Construction, Central Washington, north of Hanford connecting to existing line at the Schultz Substation, Kittitas, Yakima, Grant and Benton Counties, WA.

Summary: EPA expressed environmental concerns with the purpose and need and alternatives evaluated, characterization of expected effects and proposed mitigation measures. EPA recommended that the FEIS include a monitoring and evaluation plan and include a discussion of the rationale for evaluating two specific project segments (Segment A Reroute and Segment B).

ERP No. D–DOE–L08060–00 Rating EC2, Wallula Power Project and Wallula-McNary Transmission Line Project, Construction and Operation, 1300 megawatt(MW) Natural Gas Fired Combustion Gas Turbine Facility and a new 500-kilovolt(kV) Transmission Line and Upgrade of the McNary Substation, US COE Section 10 and 404 Permits, Walla-Walla Co., WA and Umatilla Co., OR.

Summary: EPA had environmental concerns and identified issues with the project purpose and need and alternatives, air quality impact assessment, cumulative effects, lack of a monitoring and evaluation plan, noise effects on wildlife and vegetation management. EPA recommended that these issues be addressed in the final EIS.

ERP No. D–DOE–L08061–00 Rating EC2, McNary-John Day Transmission Line Project, Construction, Operation and Maintenance of a 79-mile-long 500-Kilovolt-Transmission Line between McNary Substation and John Day Substation, Umatilla and Sherman Counties, OR and Benton and Klickitat Counties, WA.

Summary: EPA has environmental concerns due to the lack of a demonstrated need for the project, an effectively constrained range of alternatives and the general, programmatic analyses for a site specific project. EPA recommends that the final EIS demonstrate the need for the project, examine the full range of reasonable alternatives, and include site-specific information and analyses about the project corridor, proposed project and mitigation measures.

ERP No. D–FHW–E40793–00 Rating EC2, Appalachian Corridor I–66 Highway Construction, US 23/119 south of Pikeville, KY eastward to the King Coal Highway southeast of Matewan, Funding and US Army COE Section 404 Permits Issuance, Pike County, KY and Mingo County, WV.

Summary: EPA expressed environmental concerns regarding locations of Alternates and Connectors, avoidance and mitigation of wetlands and stream impacts, and potential secondary and cumulative impacts. EPA requested additional information on these issues and clarification of study area maps.

ERP No. D–FHW–F40399–MI Rating EC2, M–15 Reconstruction, I–75 to I–69, Funding and NPDES and US Army COE Section 404 Permits Issuance, Oakland and Genesse Counties, MI.

Summary: EPA has environmental concerns and have identified issues relating to: Alternatives, wetland impacts/ mitigation, surface/ groundwater water and cumulative impacts.

ERP No. D–FHW–F40402–MI Rating EC2, I–94 Jackson Freeway Modernization Project, Improvements between Michigan State Route-60 (MI–60) and Sargent Road, Funding and NPDES and US Army COE Section 404 Permits Issuance, Jackson County, MI.

Summary: EPA identified environmental concerns with respect to wetland and stormwater impacts.

ERP No. D–FRC–J03014–00 Rating EC2, Kern River 2003 Gas Transmission Project, Expansion of the existing (KRGT) Interstate Pipeline System from southwestern Wyoming to southern California, Right-of-Way Grant, NPDES and US Army COE Section 404 Permits Issuance, (FERC Docket NO. CP01–422–000), WY, UT, NV and CA.

Summary: EPA expressed environmental concerns about impacts to wetlands and riparian areas, as well as the need to include information on revegetation plans and methods for controlling erosion.

ERP No. D–FRC–L05222–ID Rating EO2, Four Mid-Snake River Hydroelectric Projects, Applications for New License for the Existing Projects: Shoshane Falls-FERC No. 2778, Upper Salmon Falls-FERC No. 2777, Lower Salmon Falls-FERC No. 2061 and Bliss-FERC No. 1975, Snake River, ID.

Summary: EPA expressed objections to three of the alternatives evaluated in the DEIS as they would not result in any appreciable improvement to instream or riparian environmental conditions. EPA expressed concerns with the Year-Round Run-of-River alternative due to the lack of clarity as to whether this alternative would effectively deliver the quantity and quality of water needed for downstream salmon recovery efforts. EPA recommended that the FEIS include additional information related to project purpose and need, issues identified during scoping, relationship to salmon recovery efforts, water quality and project impacts and mitigation.

ERP No. D–FTA–G54006–TX Rating LO, Southeast Corridor Light Rail Transit Project, Construction and Operation, Funding, NPDES Permit and US Army COE Section 404 Permit Issuance and, Mobility 2025 Plan Update, Dallas Area Rapid Transit (DART), City of Dallas, Dallas County, TX.

Summary: EPA has no objection to the alternative presented in the Draft EIS.

ERP No. D–JUS–K99007–CA Rating EO2, 14-Mile Border Infrastructure System Completion along the United States and Mexico Border, Areas I, V and VI, Pacific Ocean to just east of Tin Can Hill, San Diego County, CA.

Summary: EPA expressed environmental objections regarding the preferred alternative. EPA requested that the FEIS address the environmental degradation of ecologically sensitive habitat, wetlands and water quality. EPA also expressed concerns regarding impacts to cultural and recreational resources.

ERP No. D–NPS–F65031–MN Rating EC2, Grand Portage National Monument General Management Plan, Implementation, Cook County, MN.

Summary: EPA expressed environmental concerns of potential impacts to sensitive cultural resources and the need for clarification on the extent and potential disturbance from new and expanded trail systems.

ERP No. D–SFW–K70013–CA Rating LO, Multiple Habitat Conservation Program for Threatened and Endangered Species Due to the Urban Growth within the Planning Area, Adoption and Incidental Take Permits Issuance, San Diego County, CA.

Summary: EPA expressed a lack of objections with the DEIS and proposed project, and indicated EPA's support for a multi-species, multi-habitat approach as well as implementing "adaptive management" techniques.

ERP No. DR–FHW–L40199–WA Rating EC2, WA–509 Corridor Completion/I–5/ South Access Road Project, Improvements to WA–509 Extension, Enhancement of Southern Access to and from Sea-Tac International Airport and I–5 Improvements between South 210th Street and 310th Street, Funding, US Army COE Section 404 Permit and NPDES Permit Issuance, King County, WA.

Summary: EPA expressed environmental concerns relating to impacts associated with aquatic resources, air quality, direct/indirect, and cumulative effects, environmental justice and Tribal consultation.

ERP No. DS–AFS–G65049–00 Rating LO, Vegetation Management in the Ozark/Quachita Mountains, Proposal to Clarify Direction for Conducting Project-Level Inventories for Biological Evaluations (BEs), Qzark, Quachita and St. Francis National Forests, AR and McCurtain and LeFlore Counties, OR.

Summary: EPA has lack of objections to the preferred alternative.

ERP No. DS–COE–F36163–00 Rating LO, Upper Des Plaines River, Flood Damage Reduction at Site 37, Construction of a Concrete Floodwall along Des Plaines River, Milwaukee Avenue, Willow Road, and Palatine Road in Mt. Prospect, Cook County, IL.

Summary: EPA has no objections to the proposed project, and commended the Corps for the extensive wetland mitigation proposals.

ERP No. DS–FAA–E40785–FL Rating EC2, Fort Lauderdale-Hollywood International Airport, New Information and Changes to the Aviation Activity Forecasts as Presented, Proposed Expansion of Runway 9R–2FL and other Associated Improvements, Funding, Broward County, FL.

Summary: EPA continues to have environmental concerns regarding the Proposed Project, primarily the mitigation of future noise impacts of the southern area and full disclosure of the cumulative impacts of local vision plans as they relate to FLL.

ERP No. DS–FRC–L05208–WA Rating EO2, Irene Creek Hydroelectric Project, (FERC No. 10100–002) and Anderson Creek Hydroelectric Project (FERC No. 10416–003), Construction and Operation, Issuance of Amended License Applications, Skagit and Whatcom Counties, WA.

Summary: EPA has environmental objections to the proposed projects because they would undermine provisions of the Northwest Forest Plan that protect sensitive species, degrade State-designated "extraordinary" water quality in Anderson and Irene Creeks, and likely adversely affect bull trout stocks listed as threatened under the Endangered Species Act. EPA recommended that FERC select the no-action alternative due to these impacts and the lack of a demonstrated public need for future power. The FEIS should also fully analyze the affected environment and environmental consequences instead of proposing such analysis at a later time.

ERP No. DS–FTA–K40241–HI Rating LO, Oahu Primary Corridor Transportation Project, Updated Information on the Refined Bus Rapid Transit (BRT) Alternative, Major Investment Study, City and County of Honolulu, HI.

Summary: EPA has no objection to the proposed action.

Final EISs

ERP No. F–AFS–G65079–NM Talpa-to-Penasco Construction and Operation of a 69 kV Transmission Line, Carson National Forest, Camine Real Ranger District, Tasos County, NM.

Summary: EPA had no comment on the FEIS.

ERP No. F–BLM–G65077–NM Santo Domingo Pueblo and Bureau of Land Management Proposed Land Exchange Project, Sandoval and Santa Fe Counties, NM.

Summary: EPA had no comments on the FEIS.

ERP No. F–COE–G39035–AR Greers Ferry Lake Shoreline Management Plan (SMP), Implementing Revision to Replace the 1994 Shore Management Plan, Revision include Zoning of Limited Development Areas, Vegetation Modification Provisions for Grandfathered Docks and Restrictions on Boats, Van Buren, Cleburne, Searcy Stone, White, Independence and Pope Counties, AR.

Summary: The Final EIS adequately responded to EPA's comments offered on the DEIS.

ERP No. F–FHW–C40154–NY Interstate 86/Route 15 Interchange and Route 15/ Gang Mills Interchange, New Roadway and Ramp Construction, Intersection Reconstruction, New Bridges Construction and Bridge Rehabilitation, Funding, Town of Erwin, Steuben County, NY.

Summary: EPA's concerns with impacts to wetlands in the draft EIS have been adequately addressed in the final EIS, therefore EPA has no objection to the action as proposed.

ERP No. F–FHW–F40361–MI MI–59 Proposed Right-of-Way Preservation Project, Funding for Right-of-Way Acquisition, I–96 to US 23, Livingston County, MI.

Summary: EPA has no objection to the right-of-way action as construction will be addressed in a future Tier 2 Draft EIS.

ERP No. FS–TVA–A06018–AL Browns Ferry Nuclear Plant, Operating License Renewal, Units 2 and 3 and Potentially Unit 1 Operations Extension, Athens, Limstone County, AL.

Summary: EPA has five remaining environmental concerns: (1) TVA's preference for Alternative 2 with its 2D cooling option was inconclusively presented, (2) cooling option 2D selected in the FSEIS was not presented in the DSEIS, (3) thermal discharge modeling of 2D was not included until the FSEIS, (4) the proposed action would likely contribute to the thermal

load of downstream 303(d) segment of the Tennessee River listed for temperature and other pollutants of concern and (5) cooling option 2D provides the lowest capacity cooling of the four presented cooling tower options and therefore would allow the hottest average thermal discharge.

Dated: May 14, 2002.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 02–12471 Filed 5–16–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6629–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed May 06, 2002 Through May 10, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020178, Draft EIS, AFS, CO, Lizard Head Road Easement, Application from Private Landowners Requesting a Permit to Cross Public Lands to Access Non-Federal Lands, San Juan National Forest, Dolores Ranger District, Dolores County, CO, Comment Period Ends: July 01, 2002, Contact: Tom Rennick (970) 882–6823.

EIS No. 020179, Final EIS, COE, CA, Salinas Valley Water Project, Construction, Monterey County Water Resources Agency (MCWRA), Issuing of Permits or Approval of Action, Monterey and San Luis Obispo Counties, CA, Wait Period Ends: June 17, 2002, Contact: Robert Smith (415) 977–8450.

EIS No. 020180, Final EIS, AFS, MT, West Lake Timber Sale and Road Decommissioning Project, Implementation, Gallatin National Forest, Hebgen Lake Ranger District, Gallatin County, MT, Wait Period Ends: June 17, 2002, Contact: Susan Lamont (406) 823–6976.

EIS No. 020181, Draft EIS, NRC, VA, Generic EIS– North Anna Power Station, Units 1 and 2, Supplement 7 to NUREG–1437, License Renewal, VA, Comment Period Ends: July 01, 2002, Contact: Andrew Kugler (301) 415–2828.

EIS No. 020182, Draft EIS, NOA, FL, MS, TX, AL, LA, Reef Fish Fishery Management Plan, Secretarial Amendment 1, To Set a 10-Year Rebuilding Plan for Red Grouper, with Associated Impacts on Gag and Other Groupers, Gulf of Mexico, Comment Period Ends: July 01, 2002, Contact: Phil Steele (727) 570–5305. This document is available on the Internet at: *http://caldera.sero.nmfs.gov.*

EIS No. 020183, Draft EIS, NPS, AZ, Tonto National Monument, General Management Plan, Construct a New Administrative Facility within Monument Boundaries, Implementation, AZ, Comment Period Ends: July 30, 2002, Contact: Elias (Lee) Baiza (928) 467–2241. This document is available on the Internet at: *http://www.nps.gov/planning/tont.*

EIS No. 020184, Final Supplement, GSA, CA, San Diego-United States Courthouse Annex Street Project, Site Selection and Construction, New Information concerning Addition of the Union Street with Hotel San Diego Facade and Lobby Alternative, Central Business District (CBD), City of San Diego, San Diego County, CA, Wait Period Ends: June 07, 2002, Contact: Rosanne Nieto (415) 522–3490.

EIS No. 020185, Final EIS, UAF, OK, Altus Air Force Base (AFB), Proposed Airfield Repairs, Improvements, and Adjustments to Aircrew Training and Installation of an Instrument Landing System (ILS) and a Microwave Landing System (MLS), Jackson County, OK, Wait Period Ends: June 17, 2002, Contact: Gwen Brewer (580) 481–7700.

EIS No. 020186, Final EIS, FHW, WV, WV–9 Transportation Corridor, Improvements from Martinsburg to Charles Town, Berkeley, Jefferson and Morgan Counties, WV, Wait Period Ends: June 28, 2002, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 020187, Draft Supplemental, AFS, AK, Tongass Land Management Plan Revision for Roadless Area Evaluation for Wilderness Recommendations, Implementation, Tongass National Forest, AK, Comment Period Ends: August 16, 2002, Contact: Larry Lunde (907) 228–6202. This document is available on the Internet at: *www.tongass-seis.net.*

EIS No. 020188, Final EIS, USA, KY, U.S. Army Armor Center and Fort Knox Northern Training Complex, Construction and Operation of a Multi-Purpose Digital Training Ranger and a Series of Maneuver Areas, Drop and Landing Zones, Fort Knox, KY, Wait Period Ends: June 17, 2002, Contact: Anthony Rekas (703) 692–6413.

EIS No. 020189, Final EIS, NPS, AR, Little Rock Central High School National Historic Site General Management Plan, Implementation, Future Management and Use, Little Rock, AR, Wait Period Ends: June 17, 2002, Contact: Dave Forney (501) 324–5683.

EIS No. 020190, Final EIS, NPS, WY, Devil's Tower National Monument General Management Plan, Implementation, Crook County, WY, Wait Period Ends: June 17, 2002, Contact: Chas Cartwright (307) 467–5283.

Dated: May 14, 2002.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 02–12472 Filed 5–16–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0062; FRL–7177–5]

Workshop on Ecological Assessment of Bt Crops on Non-Target Invertebrates; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a workshop focusing on the ecological risk assessment of Bt crops to non-target invertebrate. The workshop will involve a small expert group (about 20 people). Information from this workshop will be used to assist the Agency in the design and evaluation of effective insect resistance management strategies for Bt corn. EPA will provide a publically-available workshop report after the workshop is completed.

DATES: The meeting will be held on June 3 - 4 2002, from 8 am to 5 pm.

ADDRESSES: The meeting will be held at EPA, Crystal Mall II, Room 1126, 1921 Jefferson Davis Hwy, Arlington, VA 22202. Space is limited. Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your request must identify docket control number OPP–2002–0062 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Glaser, National Risk Management Research Laboratory, Environmental Protection Agency, 26 W. King Dr., Cincinnati, OH 45268; telephone number: (513) 569–7568; fax number: (513) 487–2511; e-mail address:glaser.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to: Registrants and users of Bt crops under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as well as non-users of Bt crops and the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–2002–0062. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the "Ecological Assessement of Bt Crops on Non-Target invertebrates," including any information claimed as Confidential Business Information (CBI). This administraive record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting must be received on or before June 17, 2002. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0062 in the subject line on the first page of your request.

1. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your request electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–2002–0062. You may also file a request online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Bt crops.

Dated: May 8, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–12468 Filed 5–14–02; 4:18 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7212–8]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92–463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee (CAC).

DATES: The CAC Meeting will be held on Tuesday, June 11, 2002, from 1 p.m. to 5:30 p.m and on Thursday, June 13, 2002, from 1 to 3 p.m. The CAC will participate as members of the GMP Focus Teams in the Comprehensive Meeting on June 12, 2002, from 9:00 a.m. to 5:00 p.m. and on Thursday, June 13, 2002, from 8:30 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the Hilton New Orleans Riverside Hotel, Poydras at the Mississippi River, New Orleans, Louisiana. (504–561–0500)

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached.

The meeting is open to the public.

Dated: May 10, 2002.

Gloria D. Car,

Designated Federal Officer.

Gulf of Mexico Program

Citizens Advisory Committee Meetings and Comprehensive Meeting of the Focus Teams, Hilton Riverside, New Orleans, Louisiana, June 11–13, 2002.

Draft Agenda

June 11, 2002

11:45–1—CAC Members Networking Luncheon

1–1:20 p.m.—Opening Remarks/ Introductions (Jim Kachtick, Chair), Review and approval of November 7–8, 2001 Meeting Summary, Jim Kachtick, Chair

1:20–1:45—Chair Report, Jim Kachtick, Chair

- Follow-up on CAC Action Items

1:45–2:15—GMP Director's Report—Jim Giattina, GMPO Director

2:15–2:45—CAC Projects Reports

- Dockwatch Project
- Coastal Bird Trail
- FFA Environmental Speech Project
- GMP Presentation for CAC Members
- CAC Web Page and Status of Bulletin Board

2:45–3—Louisiana Coastal Initiative Discussion

3–3:15—Break

3:15–4:30—Presentation and Discussion on "Confronting Climate Change in the Gulf Coast Region" Report—Dr. Robert Twilley, Director of the Center for Ecology and

Environmental Technology, University of Louisiana, Lafayette
4:30–5:00—Members Roundtable and Participation Reports
5–5:15—"Where Do We Go From Here" CAC Activities and Measures Discussion
5:15–5:30—Participation and Plans for Comprehensive Meeting
Meeting Calendar for remainder of 2002 and 2003
Adjourn

June 12, 2002

CAC Members Attend Comprehensive Meeting of the Focus Teams

9:00–11:30—Plenary Session (Napoleon Ballroom, Third Floor)
11:30–1—Break for lunch (free time)
1–5:00—All Focus Teams Meet
Public Health
Habitat
Invasive Species
Nutrient Enrichment

Thursday, June 13

8:30–3—All Focus Teams Meet (Lunch 11:30–12:30)
Public Health (with Vibrio Vulnificus Education Sub-committee in a.m.)
Habitat
Invasive Species
Nutrient Enrichment
1–3—Citizens Advisory Committee Wrap-up
- Discussion and Recommendations

[FR Doc. 02–12409 Filed 5–16–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7213–2]

Gulf of Mexico Program Comprehensive Meeting of the Focus Teams

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92–463, EPA gives notice of a Comprehensive Meeting of the Gulf of Mexico Program (GMP) Focus Teams (Public Health, Nutrient Enrichment, Habitat, and Invasive Species).

DATES: The Meeting will be held on Wednesday, June 12, 2002, from 9 a.m. to 11:30 a.m. (Plenary Session) and 1 p.m. to 5 p.m. (Focus Team Meetings), and on Thursday, June 13, 2002, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Hilton New Orleans Riverside Hotel, Poydras at the Mississippi River, New Orleans, Louisiana. (504–561–0500).

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–P6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached.

The meeting is open to the public.

Dated: May 13, 2002.

Gloria D. Car,

Designated Federal Officer.

Gulf of Mexico Program

Comprehensive Meeting of the Focus Teams, Hilton Riverside New Orleans, June 12–13, 2002

Draft Agenda

Wednesday, June 12—Comprehensive Meeting

Data and Information Transfer Meeting, 8–9 Durham Board Room
Plenary Session, 9–11:30, Napoleon Ballroom
Break for Lunch (free time), 11:30–1
Afternoon Sessions, 1–5
Public Health Focus Team—Melrose Room
Habitat Focus Tream—Jasperwood
Invasive Species—Rosedown
Nutrient Enrichment—Magnolia

Thursday, June 13—Final Day

NEP Directors Meeting, 8:30–12, Durham Board Room
Public Health Focus Team Meeting, Vibrio Vulnificus Subcommittee, 8:30–11:30, Rosedown Room
Invasive Species Transition Team Meeting, 8:30–11:30 TBD
Citizens Advisory Committee, 1–3, Rosedown Room
MMRC Meeting, 1–3, Durham Board Room

[FR Doc. 02–12416 Filed 5–16–02; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 02–1005]

Wireline Competition Bureau Seeks Comment on Guam Cellular and Paging, Inc. d/b/a Saipancell Petition for Designation as an Eligible Telecommunications Carrier on the Island of Saipan in the Commonwealth of the Northern Mariana Islands

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: This document seeks comments on the Guam Cellular and Paging, Inc. d/b/a Saipancell (Saipancell) petition seeking designation of eligibility to receive federal universal service support for service offered on the island of Saipan in the Commonwealth of the Northern Mariana Islands.

DATES: Comments are due on June 17, 2002. Reply comments are due on July 1, 2002.

ADDRESSES: See Supplementary Information section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Mark G. Seifert, Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400, TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On February 19, 2002, Guam Cellular and Paging, Inc. d/b/a Saipancell (Saipancell) filed with the Commission a petition under section 214(e)(6) seeking designation as an eligible telecommunications carrier (ETC) to receive federal universal service support for service offered on the island of Saipan in the Northern Mariana Islands. The Commission issued a Public Notice, 67 FR 13332 (March 22, 2002), on March 4, 2002 seeking comment on the Saipancell Petition. Saipancell subsequently filed an amendment to its petition and at Saipancell's direction, the Commission is tolling the filing of the Saipancell Petition to April 15, 2002.

Saipancell contends that the CTC, which has jurisdiction over telecommunications in the Northern Mariana Islands, has provided an affirmative statement that it does not regulate commercial mobile radio service (CMRS) carriers, Saipancell meets all the statutory and regulatory prerequisites for ETC designation, and designating Saipancell as an ETC will serve the public interest.

Pursuant to § 54.207(c) of the Commission's rules, Saipancell also requests that the Commission redefine the service area of the incumbent rural local exchange carrier, Micronesian Telephone Corporation (MTC). MTC serves three islands in the Northern Mariana Islands—Saipan, Tinian, and Rota. Saipancell seeks redefinition of the MTC service area to enable Saipancell to be designated as an ETC only for the island of Saipan. The Wireline Competition Bureau seeks comment on the Saipancell Petition, including the requested service area redefinition. Parties that have already filed comments on the Saipancell Petition may, but are not required to, resubmit their comments.

The petitioner must provide copies of its petition to the CTC at the time of filing with the Commission. The Commission will also send a copy of this Public Notice to the CTC by overnight express mail to ensure that the CTC is notified of the notice and comment period.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: comments are due June 17, 2002, and reply comments are due July 1, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings* , 63 FR 24121 (May 1, 1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to *<http://www.fcc.gov/e-file/ecfs.html>*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address> ." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 Twelfth Street SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC 20054.

Pursuant to 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

Federal Communications Commission.

Mark G. Seifert,

Deputy Chief, Telecommunications Access Policy.

[FR Doc. 02–12316 Filed 5–16–02; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

May 9, 2002.

Open Commission Meeting; Thursday, May 16, 2002

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 16, 2002 which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Wireline Competition	*Title:* Section 272(f)(l) Sunset of the BOC Separate Affiliate and Related Requirements. Summary: The Commission will consider a Notice of Proposed Rulemaking concerning section 272.
2	Media	*Title:* Amendment of Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service (CS Docket No. 99–250; RM–9257). Summary: The Commission will consider a Report and Order allowing private cable operators to use frequencies in the 12 GHz band of the Cable Television Relay Service (CARS).
3	Media	*Title:* Requests for Extension of the October 5, 2001, Digital Television Construction Deadline. Summary: The Commission will consider an Order concerning extension of the October 5, 2001, digital television construction deadline filed by certain network-affiliated television stations located in the top thirty television markets and a Notice of Proposed Rulemaking on remedial steps for failure to comply with the DTV construction schedule.
4	Office of Engineering and Technology.	*Title:* Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices (ET Docket No. 99–231). Summary: The Commission will consider a Second Report and Order concerning regulations for spread spectrum systems.
5	Wireless Tele-Communications	*Title:* Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz, and 2385–2390 MHz Government Transfer Bands (WT Docket No. 02–8; RM–9267, RM–9692, RM–9797, RM–9854, RM–9882).

Item No.	Bureau	Subject
		Summary: The Commission will consider a Report and Order concerning service rules for the 216–220 MHz, 1390–1395 MHz, 1427–1432 MHz, 1670–1675 MHz, 2385–2390 MHz and the paired 1392–1395 MHz and 1432–1435 MHz Bands.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@apl.com*.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 834–1470 Ext. 10. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <*http://www.fcc.gov/realaudio/*>. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12571 Filed 5–15–02; 2:24 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201135.

Title: SSAT (Oakland) Agreement.

Parties: Yusen Terminals Inc., SSA Terminals, LLC, SSA Terminals (Oakland), LLC, SSA Pacific Terminals, Inc.

Synopsis: The agreement authorizes the parties to discuss, agree, organize, and operate as a marine terminal operator at a marine terminal facility in Alameda County, California.

Dated: May 13, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–12320 Filed 5–16–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Petition No. P1–02]

Petition of the National Customs Brokers and Forwarders Association of America, Inc. and the International Association of NVOCCS, Inc. for an Investigation of the Contracting Practices of the Transpacific Stabilization Agreement; Notice of Filing and Request for Comments

Notice is hereby given that the National Customs Brokers and Forwarders Association of America, Inc. and the International Association of NVOCCs, Inc. (collectively, "Petitioners") have petitioned the Commission for an investigation under section 11(c) of the Shipping Act of 1984 ("Shipping Act") of certain activities by the members of the Transpacific Stabilization Agreement ("TSA").

In particular, Petitioners request that the Commission determine whether TSA's members have violated the Shipping Act through discriminatory service contracting practices with regard to traffic moving in the eastbound transpacific trades that intentionally discriminate against Ocean Transportation Intermediaries ("OTIs") in violation of sections 10(c)(7) and 10(c)(8) of the Shipping Act.

In support of this contention, Petitioners claim that TSA's members have refused to negotiate with OTIs or shippers' associations representing OTIs until such time as they completed negotiations and signed contracts with proprietary shippers. Petitioners also claim that TSA's members have agreed to charge OTIs substantially higher rates than are being assessed against proprietary shippers for exactly the same services, regardless of volume or other lawful transportation factors. Petitioners state that this is being done through a General Rate Increase ("GRI") and Peak Season Surcharge ("PSS") that are mandatory for OTI service contracts, but waived for contracts with beneficial cargo owners.

Petitioners further assert that TSA members' refusal to negotiate or enter into service contracts with OTIs at the same time as proprietary shippers constitutes an unreasonable refusal to deal in violation of section 10(c)(1) of the Shipping Act. Petitioners also request that the Commission determine whether these practices are causing unreasonable increases in transportation cost for OTIs, their customers and the shipping public within the meaning of section 6(g) of the Shipping Act.

Petitioners also contend that TSA and its members appear to be abusing the "voluntary guidelines" authorized by section 5(c) of the Shipping Act by failing to file their true agreements with the Commission, and are thus operating under an unfiled agreement in violation of section 10(a)(3) of the Shipping Act.

If the Commission's investigation concludes that Shipping Act violations have occurred, Petitioners urge the Commission to: (1) Issue sanctions against TSA and its members pursuant to section 13 of the Shipping Act for violations found; (2) require TSA member lines to pay reparations pursuant to section 11(g) of the Shipping Act to those OTIs who have been damaged; and (3) seek appropriate injunctive relief to enjoin further operation of TSA pursuant to sections 6(g) and (h) of the Shipping Act.

The Petition was filed under Rule 69 of the Commission's Rules of Practice and Procedure, 46 CFR 502.69, and states that it was served upon counsel for TSA. Replies to the petition, as provided by Rule 69 and Rule 74, 46 CFR 502.74, are due May 28, 2002. In order for the Commission to make a thorough evaluation of the petition, the Commission is also inviting interested persons to submit their comments on the petition no later than May 28, 2002. Comments shall consist of an original and 15 copies, or, if e-mailed, as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications; be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573–0001 (e-mail to: *Secretary@fmc.gov*); and be served on Petitioners' counsel: David P. Street and Edward D. Greenberg, Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C., 1054 Thirty-First Street, NW, Washington, DC 20007–4492; and on counsel for TSA, Stanley Sher, Sher & Blackwell, 1850 M Street, NW. Suite 900, Washington, DC 20036.

Copies of the petition are available at the Office of the Secretary of the Commission, 800 N. Capitol Street, NW., Room 1046, by telephone request at 202–523–5725 or through email request directed to *Secretary@fmc.gov*.

Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–12440 Filed 5–16–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 10, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. FNB Corp., Asheboro, North Carolina; to merge with Rowan Bancorp, Inc., China Grove, North Carolina, and thereby indirectly acquire Rowan Savings Bank SSB, Inc., China Grove, North Carolina.

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Community First, Inc., Columbia, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Community First Bank & Trust, Columbia, Tennessee.

Board of Governors of the Federal Reserve System, May 13, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc: 02–12324 Filed 5–16–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of March 19, 2002

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on March 19, 2002.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 1¾ percent.

[1] Copies of the Minutes of the Federal Open Market Committee meeting on March 19, 2002, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

By order of the Federal Open Market Committee, May 13, 2002.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 02–12432 Field 5–16–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Regulation and Program Development Division; Cancellation of a Standard Form

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Notice.

SUMMARY: This notice announces the cancellation of the following Standard form:

SF 1203, U.S. Government Billing of Lading-Privately Owned Personnel Property (7-part continuous fee version) (identified by NSN 7540–01–096–8489). New regulations require Federal agencies to use the Transportation Service Provider's bill of lading or pay with a government purchase card (*See* 41 CFR 102–118).

FOR FURTHER INFORMATION CONTACT: General Services Administration, Forms Management, (202) 501–0581.

DATES: Effective May 17, 2002.

Dated: April 30, 2002.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 02–12339 Filed 5–16–02; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Performance Review Boards for Small Client Agencies Services by the General Services Administration, Names of Members

Sec. 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive. The Performance Review Board also shall make recommendations as to whether the career executive should be recertified, conditionally recertified, or not recertified.

As provided under Section 601 of the Economy Act of 1932, amended 31 U.S.C. 1525, the General Services Administration, through its Agency Liaison Division, provides various personnel management services to a number of diverse Presidential commissions, committees, boards and other agencies through reimbursable administrative support agreements. This notice is processed on behalf of the client agencies, and it supersedes all other notices in the **Federal Register** on this subject. Because of their small size, a Performance Review Board register has been reestablished in which SES members from the client agencies participate. The Board is composed of SES members from various agencies. From this register of names,the head of each client agency will appoint executives to a specific board to serve a particular client agency.

The members whose names appear on the Performance Review Board standing roster to serve client agencies are:

Barry M. Goldwater Scholarship and Excellence In Education Foundation

Gerald J. Smith, Executive Secretary

Committee for Purchase From People Who Are Blind or Severely Disabled

Leon A. Wilson, Jr., Executive Director

Federal Retirement Thrift Investment Board

David L. Black, Director of Accounting
Lawrence E. Stiffler, Director of Automated Systems
Veda R. Charrow, Director of Communications
Thomas J. Trabucco, Director of External Affairs
James B. Petrick, Director of Benefits and Investment
Elizabeth S. Woodruff, General Counsel
Pamela J. Moran, Deputy Director of External Affairs

Harry S. Truman Scholarship Foundation

Louis H. Blair, Executive Secretary

Japan-United States Friendship Commission

Eric J. Gangloff, Executive Director

Arctic Research Commission

Garrett W. Brass, Executive Director

National Mediation Board

Benetta M. Mansfield, Chief of Staff

Dated: April 25, 2002.

Melynda Clarke,

Director, Liaison Division.

[FR Doc. 02–12408 Filed 5–16–02; 8:25 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Aaron J. Morrow, B.S., Saint Louis University: Based on Mr. Morrow's admission, the report of an investigation conducted by Saint Louis University (SLU), and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Aaron J. Morrow, graduate student, SLU Graduate School, engaged in scientific misconduct by falsifying and fabricating data in research supported by National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH), grant 5 R01 GM54428–04, "Elucidation of the mechanisms of *in vitro* Golgi transport."

Specifically PHS found that Mr. Morrow falsified data relating to the study of the mechanisms of protein transport using *in vitro* preparations. From October 1999 through January 2001, he falsified and fabricated data in his research notebook and produced false films and graphs of purported experiments to produce data for his thesis and misrepresent his progress.

Mr. Morrow reported the falsified and fabricated data in: (1) Laboratory group meetings; (2) a poster presentation at the American Society for Cell Biology meeting held in December 2000, and (3) a draft manuscript that he was preparing. Mr. Morrow also provided falsified data to his mentor, who unknowingly included it in a draft of NIGMS, NIH, application 2 R01 GM54428–05A2, "Elucidation of the mechanisms of *in vitro* Golgi transport." Given the extensive nature of Mr. Morrow's data falsification and fabrication, none of his research after July 2000 can be considered reliable. His actions adversely and materially affected the laboratory's ongoing research in protein transport mechanisms by creating uncertainty about all his experimental results, necessitating verification and repetition of experiments, preventing the reporting of results for publication, and preventing the principal investigator from submitting a competitive renewal application for a NIH grant.

Mr. Morrow has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed for a period of three (3) years:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (*e.g.*, grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 (Debarment Regulations); and

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852. (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–12361 Filed 5–16–02; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Topical Microbicides To Reduce Sexual Transmission of Human Immunodeficiency Virus (HIV)

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services (DHHS).

ACTION: Opportunities for collaboration for evaluation of topical microbicides.

The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of HIV/AIDS Prevention-Surveillance and Epidemiology (DHAP–SE), Epidemiology Branch (EpiBr), announces an opportunity for collaboration to evaluate the safety and preliminary efficacy of topical microbicides designed for vaginal and/or rectal application to reduce HIV transmission. These evaluations will include in-vitro assays, macaque studies, and phase I/phase II trials in women and men.

SUMMARY: The Division of HIV/AIDS Prevention-Surveillance and Epidemiology (DHAP-SE) of the National Center of HIV, STD, and TB Prevention (NCHSTP) at the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services (DHHS) seeks one or more pharmaceutical, biotechnical, or other companies that hold a proprietary position on agents which may be useful as microbicides to prevent sexual transmission of HIV infection. The selected company and CDC will execute an Agreement under which the company will provide a product for CDC to study the product's safety and preliminary efficacy as a topical microbicide. Initial studies will include in-vitro assays and may include macaque studies. Agents will be selected for phase I and phase II trials in women and men based upon data obtained in the CDC studies as well as other available published and unpublished safety and efficacy data. Each collaboration would have an expected duration of one (1) to five (5) years. The goals of the collaboration include the timely development of data to further the identification and commercialization of effective topical microbicides and the rapid publication of research findings to increase the number of HIV prevention technologies proven effective and available for use.

Confidential proposals, preferably 10 pages or less (excluding appendices), are solicited from companies with patented or licensed agents which have undergone sufficient preclinical testing to be prepared to submit an Investigational New Drug (IND) application to the FDA within six months of submitting the proposal.

DATES: This Notice will be open indefinitely.

ADDRESSES: Formal proposals should be submitted to Jeff Efird, MPA, Epidemiology Branch, Division of HIV/AIDS Prevention—Surveillance and Epidemiology, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–45, Atlanta, GA 30333; Phone: (direct) 404–639–6136, (office) 404–639–6130; Fax: 404–639–6127; e-mail: *JLE1@cdc.gov.* Scientific questions should be addressed to Lisa A. Grohskopf, MD, MPH, Epidemiology Branch, Division of HIV/AIDS Prevention -Surveillance and Epidemiology, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–45, Atlanta, GA 30333; Phone: (direct) 404–639–6116, (office) 404–639–6146; Fax: 404–639–6127; e-mail: *lkg6@cdc.gov.* Inquiries directed to "Agreement" documents related to participation in this opportunity should be addressed to Thomas E. O'Toole, MPH, Deputy Director, Technology Transfer Office, CDC, 1600 Clifton Road, Mailstop E–67, Atlanta, GA 30333; Phone: (direct) 404–639–6270, (office) 404–639–6270; Fax: 404–639–6266; e-mail: *TEO1@cdc.gov*

SUPPLEMENTARY INFORMATION:

Technology Available

One mission of the Epidemiology Branch (EpiBr) of DHAP–SE/NCHSTP is to develop and evaluate biomedical interventions to reduce HIV transmission. To this end, the EpiBr is establishing contracts to conduct phase I and phase II trials of topical microbicides. EpiBr also funds research in the Division of AIDS, STD, and TB Laboratory Research (DASTLR) of the National Center for Infectious Diseases (NCID) at CDC and with external laboratories to conduct macaque studies and in-vitro studies in support of human microbicide trials. The goal of these efforts is to provide scientific and technical expertise and key resources for the evaluation of topical microbicides through late preclinical, phase I and phase II safety and phase II efficacy clinical trials.

Technology Sought

EpiBr now seeks potential collaborators having licensed or patented agents for use as vaginal and/or rectal microbicides which:

(1) Have laboratory or animal model evidence of anti-HIV activity;

(2) Have been formulated for vaginal or rectal application;

(3) Are not entering phase III clinical trial in the next 12 months;

(4) Have sufficient preclinical data to submit an IND application within approximately six months following submission of proposal; and

(5) Have manufacturing arrangements for production of clinical trial-grade product (and applicator if necessary) under Good Manufacturing Process (c-GMP) standards.

NCHSTP and Collaborator Responsibilities

The NCHSTP anticipates that its role may include, but not be limited to, the following:

(1) Providing intellectual, scientific, and technical expertise and experience to the research project;

(2) Planning and conducting preclinical (in-vitro and in-vivo) research studies of the agent and interpreting results;

(3) Publishing research results;

(4) Depending on the results of these preclinical investigations, NCHSTP may elect to conduct additional research with macaques to evaluate safety and/or efficacy proof-of-concept; and

(5) Depending on the results of preclinical and/or macaque studies and FDA approval, NCHSTP may elect to conduct phase I/II clinical trials of the agent.

The NCHSTP anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing intellectual, scientific, and technical expertise and experience to the research project;

(2) Participating in the planning of research studies, interpretation of research results, and as appropriate, joint publication of conclusions;

(3) Providing NCHSTP access to necessary proprietary technology and/or data in support of the research activities; and

(4) Providing NCHSTP clinical grade (c-GMP) agent for use in preclinical and clinical studies covered in this collaboration.

Other contributions may be necessary for particular proposals.

Selection Criteria

In addition to evidence of the ability to fulfill the roles described above, proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Data on the in-vitro anti-HIV activity of the agent;

(2) Animal and other data on the safety of the agent when applied to mucosal surfaces;

(3) Data on the effects of the agent on vaginal and/or rectal commensal microbial organisms; and

(4) Data on the in-vitro activity of the agent against other sexually transmitted organisms.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 02–12353 Filed 5–16–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–460]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send

comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Participating Physician or Supplier Agreement, CMS–460; *Form No.:* CMS–460 (OMB# 0938–0373); *Use:* The CMS–460 is completed by nonparticipating physicians and supplier if they choose to participate in Medicare Part B. By signing the agreement, the physician or supplier agrees to take assignment on all Medicare claims. To take assignment means to accept the Medicare allowed amount as payment in full for the services they furnish and to charge the beneficiary no more than the deductible and coinsurance for the covered service. In exchange for signing the agreement, the physician or supplier receives a significant number of program benefits not available to nonparticipating physicians and suppliers. The information is needed to know to whom to provide these benefits.; *Frequency:* Once, unless re-enrolled; *Affected Public:* Business or other for-profit, and Individuals or Households; *Number of Respondents:* 6,250; *Total Annual Responses:* 6,250; *Total Annual Hours:* 1,563. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group. Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–460, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12348 Filed 5–16–02; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–257]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare + Choice Disenrollment Form to original Medicare; *Form No.:* CMS–R–257 (OMB# 0938–0741); *Use:* Section 4001 of the Balanced Budget Act of 1997 amended the Social Security Act to add Section 1851; including 1851(c) (1) which required the establishment of a procedure and form to make and change Medicare + Choice elections, which include disenrollment. In addition, BBA of 1997 also required information be provided to beneficiaries to make better informed choices. Certain information is needed from the beneficiary in order to process the disenrollment action as a change of election.; *Frequency:* On occasion; *Affected Public:* Individuals or Households, Business or other for-profit, federal government, not-for-profit institutions; *Number of Respondents:* 50,000; *Total Annual Responses:* 50,000; *Total Annual Hours:* 3,300.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention:, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12349 Filed 5–16–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–267]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Plus Choice Program Requirements Referenced in 42 CFR 422.000–422.700; *Form No.* CMS–R–267 (OMB# 0938–0753); *Use:* Section 4001 of the Balanced Budget Act of 1997 added sections 1851 through 1859 to the Social Security Act to establish a new Part C of the Medicare Program, known as the Medicare + Choice Program. Under this program, every individual entitled to Medicare Part A and enrolled under Part B may elect to receive benefits through either the existing Medicare fee-for-service program or a Part C M + C Plan. The regulations implementing these sections was published on June 26, 1998. The regulations revising these sections was published on February 17, 1999 and June 29, 2000.; *Frequency:* As Needed; *Affected Public:* Business or other for-profit, Individuals or Households, federal government, not-for-profit institutions, State, Local or Tribal Gov't.; *Number of Respondents:* 2,450; *Total Annual Responses:* 7,657,534; *Total Annual Hours:* 2,120,006.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention:, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12350 Filed 5–16–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–65]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in Final Peer Review Organization Sanction Regulations—42 CFR 1004.40, 1004.50, 1004.60, and 1004.70; *Form No.:* CMS–R–65 (OMB# 0938–0444); *Use:* This final rule updates the procedures governing the imposition and adjudication of program sanctions predicated on the recommendations of Peer Review Organizations (PROs). These changes are being made as a result of statutory revisions designed to address health care fraud and abuse issues and the OIG sanction process; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions and Business or other for-profit; *Number of Respondents:* 53; *Total Annual Responses:* 1,060; *Total Annual Hours:* 22,684. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Melissa Musotto, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12351 Filed 5–16–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–1771]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality,

utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Attending Physicians Statement and Documentation of Medicare Emergency and Supporting Regulations in 42 CFR 424.103;

Form No.: CMS–1771 (OMB# 0938–0023);

Use: Payment, by Medicare, may be made for certain Part A inpatient hospital services and Part B outpatient services provided in a nonparticipating U.S. or foreign hospital, when services are necessary to prevent the death or serious impairment to the health of an individual. This form is used to document the attending physician's statement that the hospitalization was required due to an emergency and give clinical support for the claim.;

Frequency: On occasion;

Affected Public: Business or other for profit;

Number of Respondents: 2,000;

Total Annual Responses: 2,000;

Total Annual Hours: 500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 7, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–12347 Filed 5–16–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1215–N2]

Medicare Program; June 3, 2002, Meeting of the Practicing Physicians Advisory Council

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice; revision to a meeting agenda.

SUMMARY: This notice announces a revision to the agenda items to be discussed at the June 3, 2002 Practicing Physicians' Advisory Council (the Council). An agenda item will be added in order to accommodate a discussion and to receive testimony for the Council concerning the Emergency Medical Treatment and Labor Act (EMTALA). In accordance with section 10(a) of the Federal Advisory Committee Act, the meeting is open to the public.

DATES: The meeting is scheduled for June 3, 2002, from 8:30 a.m. until 5 p.m. e.d.t.

ADDRESSES: The meeting will be held in the Multipurpose Room at CMS Headquarters, 7500 Security Blvd., Baltimore, MD 21244–1850.

MEETING REGISTRATION: Persons wishing to attend this meeting must contact Diana Motsiopoulos, the Council Administrative Coordinator, at *dmotsiopoulos@cms.hhs.gov* or (410) 786–3379, at least 72 hours in advance to register. Persons not registered in advance will not be permitted into the building and will not be permitted to attend the meeting. Persons attending the meeting will be required to show a photographic identification, preferably a valid driver's license, before entering the building.

FOR FURTHER INFORMATION CONTACT: Paul Rudolf, M.D., J.D., Executive Director, Practicing Physicians' Advisory Council, 7500 Security Blvd., Mail Stop C5–17–14, Baltimore, MD 21244–1850, 410–786–3379. News media representatives should contact the CMS Press Office, (202) 690–6145. Please refer to the CMS Advisory Committee's Information Line (1–877–449–5659, toll free)/(410–786–9379, local) or the Internet at *http://www.hcfa.gov/medicare/ppacsite.htm* for additional information and updates on Committee activities.

SUPPLEMENTARY INFORMATION: The following agenda topic has changed from the initial notice published on April 26, 2002 (67 FR 20803):

- Emergency Medical Treatment and Labor Act (EMTALA) has been added.

The revised agenda follows.

The meeting will commence with a Council update on the status of prior recommendations, followed by discussion and comment on the following agenda topics:

- Physician's Regulatory Issues Team (PRIT) update.
- Medicaid Overview.
- Evaluation & Management Guidelines.
- Update Health Insurance Portability & Accountability Act (HIPAA) Privacy Rule.
- Claims Processing.
- EMTALA.
- Beneficiary Access.
- Physician Fee Schedule.

For additional information and clarification, contact the Executive Director, listed under the "For Further Information Contact" section of this notice. Individual physicians or medical organizations that represent physicians wishing to make a 5-minute oral presentation on agenda issues should contact the Executive Director by 12 noon, May 24, 2002, to be scheduled. Testimony is limited to agenda topics only. The number of oral presentations may be limited by the time available. A written copy of the presenter's oral remarks must be submitted to Diana Motsiopoulos, Administrative Coordinator, *dmotsipoulos@cms.hhs.gov*, no later than 12 noon, May 24, 2002, for distribution to Council members for review before the meeting. Physicians and medical organizations not scheduled to speak may also submit written comments to the Administrative Coordinator for distribution.

Authority: (Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 9, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02–12549 Filed 5–16–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Child Care and Development Fund Quarterly Financial Report (ACF–696).

OMB No.: 0970–0163.

Description: States and Territories use this form to facilitate the reporting of expenditures for the Child Care and Development Fund on a quarterly basis. The form provides specific data regarding financial disbursements, obligations, and estimates. It provides States and Territories with a mechanism to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise the Administration for Children and Families' (ACF) ability to monitor expenditures. This form may also be used to prepare ACF budget submissions to Congress. This information collection is a revised version of the currently used ACF–696 for which Office of Management and Budget approval expires on September 30, 2002.

Respondents: States and Territories that are CCDF grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average hours per response	Total burden hours
ACF–696	56	4	8	1792

Estimated Total Annual Burden Hours: 1792.

In compliance with the requirements of Section 350(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 9, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–12317 Filed 5–16–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: National Survey of Child and Adolescent Well-Being.

OMB No.: 0970–0202.

Description: This longitudinal survey provides national estimates on the characteristics related to children and families who enter the child welfare system. It has collected data from a cohort of 6100 children who entered the child welfare system as a result of a CPS investigation between October, 1999 and April, 2001. Data were collected from the children themselves, their caregivers, their teachers, and their caseworkers at baseline, with followups at 12 and 18 months post-baseline. The current request is to pursue a 36-month followup, essentially replicating the measures that were used at baseline and at the 18-month followup.

Respondents: Children who are clients of the child welfare system, their primary caregivers, caseworkers, and teachers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child interview	5491	1	1.63	8950
Caregiver interview	5491	1	1.50	8237
Caseworker interview	2366	1	.80	1893
Caseworker interview	2491	1	.75	1868

Estimated Total Annual Burden Hours: 20948.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW.,

Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 9, 2002.

Bob Sargis,

Reports Clearance, Officer.

[FR Doc. 02–12318 Filed 5–16–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project

Title: State Plan for FC, ILP and AA under Title IV–E of the Social Security Act.

OMB No.: 0980–0141.

Description: A State plan is required by sections 471 and 477(b)(2), part IV–E of the Social Security Act (the Act) for each public child welfare agency requesting Federal funding for foster care (FC), independent living services (ILP) and adoption assistance (AA) under the Act. The State plan is a comprehensive description of the nature and scope of the State's program and provides assurance the program will be administered in conformity with the specific requirements stipulated in title IV–E. The plan must include all applicable State statutory, regulatory, or policy references and citations for each requirement as well as documentation to support the references. States may use the pre-print format prepared by the Children's Bureau or a different format, on the condition that the format used includes all of the title IV–E state plan requirements of the law.

Respondents: State and Territorial Agencies (State Agencies) administering or supervising the administration of the title IV–E program.

Annual Burden Estimates: An initial plan is submitted by the State Agency for approval to participate in the title IV–E program. Plan amendments are submitted whenever necessary to reflect changes in Federal statute or regulation, or, material changes in State law, policy or program operation. Our experience is that a State Agency will amend a plan once every four years and that 12 will amend their plans annually.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Plan for FC, ILP and AA	12	1	15	180

Estimated Total Annual Burden Hours: 180.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 30 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 9, 2002.

Bob Sargis,

Reports Clearance, Officer.

[FR Doc. 02–12319 Filed 5–16–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2635]

ANDAs: Blend Uniformity Analysis; Withdrawal of Draft Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of a draft guidance that was issued on August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Devinder S. Gill, Center for Drug Evaluation and Research (HFD–623), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5848.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 27, 1999 (64 FR 46917), FDA announced the availability of a draft guidance for industry entitled "ANDAs: Blend Uniformity Analysis." The draft guidance was intended to provide recommendations to sponsors of abbreviated new drug applications (ANDAs) on what information should be provided in an ANDA to support the demonstration and bioequivalence batches and to establish in-process acceptance criteria related to blend uniformity analysis (BUA) for the manufacture of some drug products. Written comments on the draft guidance were to be submitted by October 26, 1999.

After careful consideration of the comments received, FDA has decided to withdraw the draft guidance. The information and comments from the public raised scientific issues relating to the scope of the guidance and methodology for blend uniformity analysis in general, including the: (1) Adequacy of current blend sampling techniques and (2) appropriateness of various test methods for assessing blend uniformity. The agency has decided that further research on BUA is needed. FDA is participating in research on BUA through the Product Quality Research Institute (PQRI). Based on the results of the research and recommendations submitted by PQRI, FDA will determine whether a new guidance on BUA will be issued.

An applicant or manufacturer must still comply with any applicable regulations regardless of the status of this guidance. For example, an application must include specifications and analytical methods to ensure the identity, strength, quality, purity, and bioavailability of the drug product (21 CFR 314.50(d)(1)(ii)(a)), and a manufacturer must monitor and validate the performance of processes that could be responsible for variability, including adequacy of mixing to ensure uniformity and homogeneity (21 CFR 211.110(a)(3)). An evaluation of uniformity of a blend may be necessary to fulfill such requirements.

Dated: May 6, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12359 Filed 5–16–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1679]

Compliance Policy Guidance for FDA Staff and Industry on Blood Donor Classification Statement, Paid or Volunteer Donor; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Blood Donor Classification Statements, Paid or Volunteer Donor," dated May 7, 2002. The guidance document provides guidance to FDA staff and industry for determining when blood or blood components should be labeled with a "paid donor" or "volunteer donor" classification statement. The document is intended to assist industry in determining when a donor incentive is considered a monetary payment, and to assist FDA employees in inspecting blood centers. This guidance finalizes the document entitled "Draft Compliance Policy Guidance for FDA Employees and Industry on Blood Donor Incentives," published in the **Federal Register** of January 16, 2001 (66 FR 3605).

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this compliance policy guidance to the Division of Compliance Policy (HFC–230), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist the office in processing your requests. You may fax your request to 301–827–0852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Tom M. Chin, Division of Compliance Policy (HFC–230), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0410.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a compliance policy guidance document entitled "Blood Donor Classification Statements, Paid or Volunteer Donor," dated May 7, 2002. The guidance document provides information to industry and FDA employees regarding when a blood donor incentive would require the blood or blood component to be labeled with a "paid donor" or "volunteer donor" classification statement.

In the **Federal Register** of January 13, 1978 (43 FR 2142), FDA published a final rule requiring that blood and blood components intended for transfusion include a statement on the labels that indicated whether the products were collected from a paid or volunteer donor (§ 606.121(c)(5) (21 CFR 606.121(c)(5))). The regulation defines a "paid donor" as a person who receives monetary payment for blood donation (§ 606.121(c)(5)(i)). A volunteer donor is a person who does not receive monetary payment for blood donation (§ 606.121(c)(5)(ii)).

The requirement for a donor classification statement applies only to blood and blood components intended for transfusion. It does not apply to blood and blood components intended for further manufacturing, such as Source Plasma.

If the donor receives an incentive other than cash, the incentive must be evaluated to determine if it is readily convertible to cash. This guidance document provides FDA employees and industry with the factors that FDA uses to evaluate incentives, and provides some examples of incentives that the Center for Biologics Evaluation and Research has evaluated in the past.

This guidance finalizes the draft guidance entitled "Draft Compliance Policy Guidance for FDA Employees and Industry on Blood Donor Incentives" (66 FR 3605). The title of the document was changed to more accurately reflect its contents.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance document represents the agency's current thinking on blood donor classification statements. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Discussion of Comments

The agency received a number of comments on the draft compliance policy guidance (66 FR 3605). All of the comments were considered when preparing the final document.

Some of the comments requested further guidance on blood donor incentives that was outside of the scope of this document. FDA will consider issuing further guidance on the subject of blood donor incentives in the future.

IV. Comments

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/ora/compliance_ref/cpg/default.htm.

Dated: May 7, 2002.
Dennis E. Baker,
Associate Commissioner for Regulatory Affairs.
[FR Doc. 02–12360 Filed 5–16–02; 8:45 am]
BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0084]

Guidance for Industry on Special Protocol Assessment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Special Protocol Assessment." This guidance provides guidance for industry on procedures adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) to evaluate issues related to the adequacy (*e.g.*, design, conduct, analysis) of certain proposed studies.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, FAX 888–CBERFAX or 301–827–3844. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Requests and comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Kim M. Colangelo, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400, or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 9, 2000 (65 FR 6377), FDA announced the availability of a draft version of this guidance for industry entitled "Special Protocol Assessment." The agency has finalized that draft guidance after considering comments received on the draft guidance version. Eight comments were received, and minor changes were made to the draft guidance version in an effort to make the document more clear.

Section 119(a) of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Public Law 105–115) amends section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) and directs FDA to allow sponsors to request special protocol assessment and for the agency to act on such requests. Moreover, in conjunction with the reauthorization of the Prescription Drug User Fee Act of 1992 in November 1997, FDA agreed to specific performance goals for special protocol assessment and agreement. The performance goals are summarized in an enclosure to a letter dated November 12, 1997, from the then Secretary of Health and Human Services, Donna E. Shalala, to Senator James E. Jeffords.

The procedures and policies described in this guidance were adopted by CDER and CBER for evaluating issues related to the adequacy (*e.g.*, design, conduct, analysis) of proposed studies. These procedures will implement section 119(a) of the Modernization Act and are consistent with the timeframes described in the performance goals.

In the **Federal Register** document (65 FR 6377) announcing the availability of the draft version of this guidance, FDA published the proposed collection of information related to the draft guidance. The document also requested comments on the burden estimates for the draft guidance. In the **Federal Register** of May 29, 2001 (66 FR 29147), the agency announced that it was submitting the collection of information to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The information collection provisions related to this guidance have been approved under OMB control number 0910–0470. This approval expires July 31, 2004. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This level 1 guidance is being issued consistent with FDA's good guidance practices (21 CFR 10.115). The guidance represents the agency's current thinking on special protocol assessment in CDER and CBER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. The guidance will be updated as appropriate.

II. Comments

Interested persons may submit to the Dockets Management Branch (*see* **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ohrms/dockets/default.htm, http://www.fda.gov/cder.guidance/index.htm*, or *http://www.fda.gov/cber/guidelines.htm*.

Dated: May 6, 2002.
Margaret M. Dotzel,
Associate Commissioner for Policy.
[FR Doc. 02–12327 Filed 5–16–02; 8:45 am]
BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0388]

Draft Guidance for Industry on Topical Dermatological Drug Product NDAs and ANDAs—In Vivo Bioavailability, Bioequivalence, In Vitro Release and Associated Studies; Withdrawal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of a draft guidance for industry entitled "Topical Dermatological Drug Product NDAs and ANDAs—In Vivo Bioavailability, Bioequivalence, In Vitro Release, and Associated Studies." After careful consideration of the comments from the public and public advisory committees, FDA has decided to withdraw the draft guidance.

FOR FURTHER INFORMATION CONTACT: Dale P. Conner, Center for Drug Evaluation and Research (HFD–650), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5847.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 18, 1998 (63 FR 33375), FDA announced the availability of a draft guidance for industry entitled "Topical Dermatological Drug Product NDAs and ANDAs—In Vivo Bioavailability, Bioequivalence, In Vitro Release and Associated Studies." The draft guidance was intended to provide recommendations to sponsors of new drug applications (NDAs), abbreviated new drug applications (ANDAs), and supplements on performing bioavailability and bioequivalence studies for topically applied dermatological drug products during either the preapproval or postapproval period. Written comments on the draft guidance were to be submitted by August 17, 1998. In the June 1998 notice, the agency also announced that it intended to discuss the guidance and the public response to the guidance before FDA public advisory committees. The draft guidance and public comments were discussed at joint meetings of the Advisory Committee for Pharmaceutical Science and the Dermatologic and Ophthalmic Drugs Advisory Committee on October 23, 1998, and November 17, 2000, and at a meeting of the Advisory Committee for Pharmaceutical Science on November 29, 2001.

The information and comments provided to FDA raised scientific concerns regarding the primary method, dermatopharmacokinetics (DPK), recommended in the draft guidance for documenting bioavailability and/or bioequivalence of topical dermatological drug products. The DPK method involves sampling of *stratum corneum* concentrations of drug over time after administration of a topical dermatological drug product. The information and comments from the public and advisory committees raised substantial doubt regarding: (1) The adequacy of the DPK method to assess the bioequivalence of topical dermatological drug products because the products are used to treat a variety of diseases in different parts of the skin, not just the *stratum corneum* and (2) the reproducibility of the DPK method between laboratories.

The agency plans to explore the development of new methods and improvements in current methods for documenting the bioequivalence of topical dermatological drug products.

Dated: May 6, 2002.
Margaret M. Dotzel,
Associate Commissioner for Policy.
[FR Doc. 02–12326 Filed 5–16–02; 8:45 am]
BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4), and 552b(6), as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Advisory Board.
Dates: June 11–12, 2002.
Open: June 11, 2002, 8:45 a.m. to 4 p.m.
Agenda: Program reports and presentations: Business of the Board.
Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.
Closed: June 11, 2002, 4 p.m. to Recess.
Agenda: Review of grant applications; Discussion of confidential personnel issues.
Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Bethesda, MD 20892.
Open: June 12, 2002, 8:45 a.m. to 10:50 a.m.
Agenda: Program reports and presentations; Business of the Board.
Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.
Contact Person: Dr. Marvin R. Kalt, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327, (301) 496–5147.
Name of Committee: National Cancer Advisory Board, Subcommittee on Cancer Centers.
Time: June 11, 2002, 12 p.m. to 1 p.m.
Agenda: To discuss activities related to the Subcommittee on Cancer Centers.
Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.
Contact Person: Dr. Brian Kimes, Executive Secretary, Subcommittee on Cancer Centers, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd, Suite 700, Bethesda, MD 20892, (301) 496–8537.

Any interested person may file written comments with the committee by forwarding the statement of the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center home page: *deainfo.nci.nih.gov/advisory/ncab.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancern Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancern Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 13, 2002.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 02–12454 Filed 5–16–02; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel, HIV/Drug Interactions.

Date: June 4, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20814.

Contact Person: Dale Birkle, PhD, Scientific Review Administrator, NIH/NCCAM, 6707 Democracy Blvd., Democracy Two Building, Suite 401, Bethesda, MD 20892, (301) 451–6570, *birkled@mail.nih.gov*.

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12446 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 553b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Alcohol Abuse and Alcoholism Initial Review Group, Health Services Research Review Subcommittee, Review of Applications of Health Services Research.

Date: June 14, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, *etaylor@niaaa.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel Review Biomedical Research Applications.

Date: June 20, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 443–2926, *skandasa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12447 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel, Informal Caregiving Research SEP.

Date: June 10–11, 2002.

Time: June 10, 2002, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Mary Stephens-Frazier, PhD., Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Room 707, Bethesda, MD 20892, (301) 402–6959.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12448 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 20, 2002.

Open: 8:30 a.m. to 12 p.m.

Agenda: The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Steven J. Hausman, PhD, Deputy Director, NIAMS/NIH, Bldg. 31, Room 4C–31, 31 Center Dr, MSC 2350, Bethesda, MD 20892–2350, (301) 594–2463.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12449 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: June 13–14, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn on the Hill, 415 New Jersey Avenue, Washington, DC 20001.

Contact Person: Richard D. Crosland, PhD., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: June 13–14, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Beaver Creek Lodge, 26 Avondale Lane, Beaver Creek, CO 81620.

Contact Person: W. Ernest Lyons, PhD., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders C.

Date: June 13–14, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Beaver Creek Lodge, 26 Avondale Lane, Beaver Creek, CO 81620.

Contact Person: Alan L. Willard, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: Training Grant and Career Development Review Committee.

Date: June 20–21, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street NW., Washington, DC 20037.

Contact Person: Raul A. Saavedra, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders K.

Date: June 27–28, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Katherine M. Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health; HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12450 Filed 5–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Medical Rehabilitation Research Subcommittee.

Date: June 10, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12453 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.
Date: June 19–20, 2002.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House 1615 Rhode Island Avenue, NW, Washington, DC 20036.
Contact Person: Melissa Stick, PHD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892. 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12455 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Contract Proposal Review.
Date: May 24, 2002.
Time: 1 p.m. to 4:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Carl Newman, Contracting Officer, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Contract Management Branch, 6700–B Rockledge Drive, Bethesda, MD 20892, 301–496–4481, *cn18y@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12456 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, Publications—ZLM1 MMW P 01.
Date: July 17, 2002.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: 6705 Rockledge Dr., Suite 301, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Merlyn M. Rodrigues, MD, PHD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12452 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Vision Technology, ZRG1 SSSP (2).
Date: May 20, 2002.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Carole L. Jelsema, PhD, Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892. (301) 435–1248. *jelsemac@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Pathology A Study Section.
Date: June 4–5, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle, 1 Washington Circle, NW., Washington, DC 20037.
Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892. (301) 435–1214.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1—Surgery, Radiology and Bioengineering (03)—BRP.
Date: June 9, 2002.
Time: 6 p.m. to 8 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Eileen W. Bradley, DSC, Chief and Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892. (301) 435–1179. *bradleye@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1—Diagnostic Imaging (33).
Date: June 9, 2002.
Time: 7 p.m. to 9 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Lee Rosen, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel—ZRG1—Diagnostic Radiology (33)-Member Conflict.
Date: June 9, 2002.
Time: 8 p.m. to 9 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892. (301) 435–1179. *bradleye@csr.nih.gov.*

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.
Date: June 10–11, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892. (301) 435–1179. *bradleye@csr.nih.gov.*

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.
Date: June 10–11, 2002.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Lee Rosen, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

Name of Committee: Endocrinology and Reproduction Sciences Integrated Review Group, Biochemical Endocrinology Study Section.
Date: June 10–11, 2002.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Knecht, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892. (301) 435–1046.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative Functional and Cognitive Neuroscience 5.
Date: June 11–12, 2002.
Time: 8 a.m. to 10:30 a.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: John Bishop, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844. Bethesda, MD 20892. (301) 435–1250.

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine B Study Section.
Date: June 11–12, 2002.
Time: 8 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892. (301) 435–1198.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 Integrative, Functional and Cognitive Neuroscience 6 (01).
Date: June 11–12, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.
Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892. (301) 435–1249.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Visual Sciences B Study Section.
Date: June 11–12, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892. (301) 435–1713. *melchioc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–Diagnostic Imaging (34).
Date: June 11, 2002.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

Name of Committee: Nutritional and Metabolic Sciences Integrated Review Group, Metabolism Study Section.
Date: June 12–13, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA 94102.
Contact Person: Ann A. Jerkins, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892. (301) 435–4514.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Reproductive Endocrinology Study Section.
Date: June 12–13, 2002.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Abubakar A. Shaikh, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892. (301) 435–1042.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Epidemiology and Disease Control Subcommittee 1.
Date: June 12–13, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Scott Osborne, PHD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892. (301) 435–1782.

Name of Committee: Nutritional and Metabolic Sciences Integrated Review Group, Nutrition Study Section.
Date: June 12–13, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA 94102.
Contact Person: Sooja K. Kim, PHD, RD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7892, Bethesda, MD 20892. (301) 435–1780.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 F02B (20).

Date: June 12, 2002.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: John Bishop, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12451 Filed 5–16–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–12]

Notice of Proposed Information Collection: Comment Request; Application for Mortgage Insurance for Cooperative and Condominium Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 16, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Mortgage Insurance for Cooperative and Condominium Housing.

OMB Control Number, if applicable: 2502–0141.

Description of the need for the information and proposed use: Form HUD–93201 is used to analyze specific project information including financial data, cost data, drawings and specifications to determine whether a cooperative or condominium project is eligible for FHA mortgage insurance. HUD technical specialists in appraisal, cost, architecture, and mortgage credit determine if the project is eligible for mortgage insurance; and also analyze information provided on the form HUD–93201. If the information were not collected and analyzed, the Department would have to rely solely on a sponsor's undocumented request, and the Department could expect to sustain substantial losses to the FHA Insurance Fund.

Agency form numbers, if applicable: HUD–93021.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

The estimated total number of hours needed to prepare the information collection is 91 hours; the number of respondents is 15; the frequency of response is on occasion; and the number of hours per response is 4 hours for reporting and 2 hours for recordkeeping. One additional hour is added for what is customary and usual in conventional mortgage processing.

Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 9, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–12331 Filed 5–16–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–18]

Notice of Submission of Proposed Information Collection to OMB; Housing Choice Voucher Tenant Accessibility Study; 2002–2003

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: June 17, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office, Building, Washington, DC 20503; FAX number (202) 395–6974; E-mail Joseph_F._Lackey_Jr@OMB.EOP.GOV.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10 the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This notice also lists the following information:

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	400	1		.25		100

Total Estimated Burden House: 100.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 10, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–12332 Filed 5–16–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–20]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1998 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for

Title of Proposal: Housing Choice Voucher Tenant Accessibility Study: 2002–2003.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: A pretest will develop a mail questionnaire for tenants living with disabilities to determine their satisfaction with the search process and the quality of their housing unit.

Respondents: Individuals or households, Business or other for-profit. Not-for-profit institutions.

Frequency of Submission: On occasion, One time submission.

review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Ms. Julie Jones-Conte, Headquarters, department of the Army, Office of the Assistant Chief of Staff for Installation management, Program Integration Office, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 692–9223; DOT: Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; ENERGY: Mr. Tom Knox, Department of Energy, Office of Engineering & Construction Management, CR–80, Washington, DC 20585; (202) 586–8715; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; INTERIOR: Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 219–0728; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: May 9, 2002.

Mark R. Johnston,

Deputy Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 5/17/02

Suitable/Available Properties

Buildings (by State)

Arizona

Bldgs. 44021–44025
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613–
Landholding Agency: Army
Property Number: 21200220099
Status: Excess
Comment: fourplex 895 sq. ft./unit, most recent use—residential, off-site use only

Bldgs. 68818–68826
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613–
Landholding Agency: Army
Property Number: 21200220100
Status: Excess
Comment: duplex, 1046 sq. ft./unit, most recent use—residential, off-site use only

Bldgs. 68829–68832
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613–
Landholding Agency: Army
Property Number: 21200220101
Status: Excess
Comment: duplex, 1046 sq. ft./unit, most recent use—residential, off-site use only

Bldgs. 68833–68835
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613–
Landholding Agency: Army
Property Number: 21200220102
Status: Excess
Comment: duplex, 1193 sq. ft./unit, most recent use—residential, off-site use only

California

Bldg. 00597
Mare Island USARC
Vallejo Co: Solano CA 94592–5100
Landholding Agency: Army
Property Number: 21200220103
Status: Excess
Comment: 9040 sq. ft., presence of asbestos/lead paint, most recent use—reserve center, off-site use only

Georgia

Quarters 5
Chattahoochee River Natl Rec Area
1425 Indian Trail
Atlanta Co: Fulton GA 30327–
Landholding Agency: Interior
Property Number: 61200220011
Status: Excess
Comment: 1200 sq. ft., most recent use—residential, off-site use only

Hawaii

Bldg 01227
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200220104
Status: Unutilized
Comment: 525 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. 4334
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200220105
Status: Unutilized
Comment: 7402 sq. ft., concrete, needs repair, most recent use—housing, off-site use only

Bldg. 06508
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200220106
Status: Unutilized
Comment: 1140 sq. ft., most recent use—office, off-site use only

Illinois

Bldg. 124
Rock Island Arsenal
Rock Island Co: IL 61299–5000
Landholding Agency: Army
Property Number: 21200220107
Status: Unutilized
Comment: 107 sq. ft., off-site use only

Maryland

Bldg. 00546
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220109
Status: Unutilized
Comment: 5659 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 00939
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220110
Status: Unutilized
Comment: 8185 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 02206
Fort Meade
Ft. Meade Co: Anne Arundel MD 29755–
Landholding Agency: Army
Property Number: 21200220111
Status: Unutilized
Comment: 3075 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 02207
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220112
Status: Unutilized
Comment: 6855 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 02266
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220113
Status: Unutilized
Comment: 10,080 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 02271
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220114
Status: Unutilized
Comment: 10,080 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 04675
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220115
Status: Unutilized
Comment: 1710 sq. ft., possible asbestos/lead paint, most recent use—rental store, off-site use only

Massachusetts

Russell House
Minute Man Natl Historical Pk
112 North Great Road
Lincoln Co: Middlesex MA 01773–
Landholding Agency: Interior
Property Number: 61200220004
Status: Excess
Comment: 2365 sq. ft., off-set use only, moving could be cost prohibitive, must secure all state & local permits/perform site restoration/meet timelines

Downing House
Minute Man Natl Historical Pk
58 Bedford Lane
Lincoln Co: Middlesex MA 01773–
Landholding Agency: Interior
Property Number: 61200220005
Status: Excess
Comment: 1215 sq. ft., off-site use only, moving could be cost prohibitive, must secure all state & local permits/perform site restoration/meet timelines

New Mexico

Bldg. 00304
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220116
Status: Excess
Comment: 594 sq. ft., poor condition, presence of asbestos, most recent use—equipment bldg., off-site use only

Bldg. 01711
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220117
Status: Excess
Comment: 80 sq. ft., poor condition, presence of asbestos, most recent use—car wash bldg., off-site use only

Bldg. 01716
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220118
Status: Excess
Comment: 208 sq. ft., poor condition, presence of asbestos, most recent use—car wash and shed, off-site use only

Bldg. 01758
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220119
Status: Excess
Comment: 2160 sq. ft., poor condition, presence of asbestos, most recent use—contractor bldg., off-site use only

Bldg. 01796
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220120
Status: Excess
Comment: 1200 sq. ft., poor condition, presence of asbestos, most recent use—admin., off-site use only

Bldg. 21238
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220121
Status: Excess
Comment: 675 sq. ft., poor condition, presence of asbestos, most recent use—sentry station, off-site use only

Bldg. 30724
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220122
Status: Excess
Comment: 255 sq. ft., poor condition, presence of asbestos, most recent use—rote bldg., off-site use only

Bldg. 30740
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220123
Status: Excess
Comment: 466 sq. ft., poor condition, presence of asbestos, most recent use—admin., off-site use only

Bldg. 30775
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220124
Status: Excess
Comment: 864 sq. ft., poor condition, presence of asbestos, most recent use—storage, off-site use only

Bldg. 30779
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220125
Status: Excess
Comment: 188 sq. ft., poor condition, presence of asbestos, off-site use only

Bldg. 30780
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220126
Status: Excess
Comment: 960 sq. ft., poor condition, presence of asbestos, most recent use—maint. shop, off-site use only

Bldg. 31725
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220127
Status: Excess
Comment: 4640 sq. ft., poor condition, presence of asbestos, most recent use—storage, off-site use only

Bldg. 31741
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220128
Status: Excess
Comment: 1920 sq. ft., poor condition, presence of asbestos, most recent use—maint. shop, off-site use only

Bldg. 31754
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220129
Status: Excess
Comment: 2400 sq. ft., poor condition, presence of asbestos, most recent use—warehouse, off-site use only

Bldg. 31765
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200220130
Status: Excess
Comment: 107 sq. ft., poor condition, presence of asbestos, most recent use—water plant bldg., off-site use only

Pennsylvania

Bldg. 00420
Carlisle Barraks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21200220131
Status: Unutilized
Comment: 18,233 sq. ft., 3-story, needs rehab, presence of asbestos/radon gas, most recent use—barracks/admin, historic bldg., off-site use only

South Dakota

Alppha Launch Control Fac.
NE of Ellsworth AFB
Quinn Co: Pennington SD 57779–
Landholding Agency: GSA
Property Number: 54200220009
Status: Surplus
Comment: 2 equipment bldgs. consisting of 6307 sq. ft., presence of asbestos/lead paint, deed restrictions
GSA Number: 7–D–SD–521–2A

Tennessee

Federal Building
309 N. Church Street
Dyersburg Co: Dyers TN 38024–
Landholding Agency: GSA
Property Number: 54200220008
Status: Excess
Comment: 24,325 sq. ft., most recent use—office, approx. 65% of bldg. will remain occupied by the U.S. Post Office and U.S. Fish & Wildlife
GSA Number: 4–G–TN–0655
Batten Tract 01–198
Stones River Natl Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61200220012
Status: Excess
Comment: 1152 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bell Tract 01–189
Stones River Natl Battlefield
Old Nashville Hwy
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61200220013
Status: Excess
Comment: 1755 sq. ft., most recent use—residential, off-site use only

Simons Tract 01–197
Stones River Natl Battlefield
Nickens Lane
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61200220014
Status: Excess
Comment: 1375 sq. ft., needs extensive repairs, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 7173
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200220132
Status: Unutilized
Comment: 8855 sq. ft., presence of asbestos/lead paint, most recent use—child development center, off-site use only

Bldg. T5900

Camp Bullis
San Antonio Co: Bexar TX 78257–
Landholding Agency: Army
Property Number: 21200220133
Status: Excess
Comment: 9876 sq. ft., possible lead paint, most recent use—theater/training bldg., off-site use only
Bldg. T6111
Camp Bullis
San Antonio Co: Bexar TX 78257–
Landholding Agency: Army
Property Number: 21200220134
Status: Excess
Comment: 521 sq. ft., possible lead paint, most recent use—gas station, off-site use only
Bldg. T5002
Camp Bullis
San Antonio Co: Bexar TX 78257–
Landholding Agency: Army
Property Number: 21200220135
Status: Excess
Comment: 370 sq. ft., presence of lead paint, off-site use only
Bldgs. 107, 108
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220136
Status: Unutilized
Comment: 13,319 & 28,051 sq. ft., most recent use—admin., off-site use only
Bldg. 120
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: 21200220137
Status: Unutilized
Comment: 1450 sq. ft., most recent use—dental clinic, off-site use only
Bldg. 134
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220138
Status: Unutilized
Comment: 16,114 sq. ft., most recent use—auditorium, off-site use only
Bldg. 56305
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220143
Status: Unutilized
Comment: 2160 sq. ft., most recent use—admin., off-site only
Bldg. 56402
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220144
Status: Unutilized
Comment: 2680 sq. ft., most recent use—recreation center, off-site use only
Bldgs. 56403, 56405
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 2120220145
Status: Unutilized
Comment: 480 sq. ft., most recent use—shower, off-site use only
Bldgs. 56620, 56621
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220146
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only
Bldgs. 56626, 56627
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220147
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site only
Bldg. 56628
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220148
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only
Bldgs. 56630, 56631
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220149
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only
Bldgs. 56636, 56637
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220150
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only
Bldg. 56638
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220151
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only
Bldgs. 56703, 56708
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220152
Status: Unutilized
Comment: 1306 sq. ft., most recent use—shower, off-site use only
Bldgs. 56750, 56751
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220153
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only
Bldg. 56758
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220154
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only
Bldg. P2789
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220155
Status: Excess
Comment: 25,784 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—dining, Historic Preservation requirement, off-site use only
Bldg. P6202
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220156
Status: Excess
Comment: 1479 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—officer's family quarters, off-site use only
Bldg. P6203
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220157
Status: Excess
Comment: 1381 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—military family quarters, off-site use only
Bldg. P6204
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220158
Status: Excess
Comment: 1454 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—military family quarters, off-site use only

Wyoming

House #16
Seminoe Dam Camp
Rawlins Co: Carbon WY
Landholding Agency: Interior
Property Number: 61200220007
Status: Excess
Comment: 1794 sq. ft., most recent use—residential, off-site use only
House #17
Seminoe Dam Camp
Rawlins Co: Carbon WY
Landholding Agency: Interior
Property Number: 61200220008
Status: Excess
Comment: 1794 sq. ft., most recent use—residential, off-site use only

Alabama

Bldg. 01433
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200220098
Status: Excess
Comment: 800 sq. ft., most recent use—office, off-site use only

Texas

Bldgs. 4219, 4227
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220139
Status: Unutilized
Comment: 8056 & 10,500 sq. ft., most recent use—admin., off-site use only
Bldgs. 4229, 4230, 4231
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220140
Status: Unutilized
Comment: 9000 sq. ft., most recent use—hq. bldg., off-site use only
Bldgs. 4244, 4246
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220141
Status: Unutilized
Comment: 9000 sq. ft., most recent use—storage, off-site use only
Bldgs. 4260, 4261, 4262
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220142
Status: Unutilized
Comment: 7680 sq. ft., most recent use—storage, off-site use only

Washington

Bldgs. 03272
Fort Lewis
Tacoma Co: Pierce WA 98335–
Landholding Agency: Army
Property Number: 21200220160
Status: Unutilized
Comment: 21,373 sq. ft., most recent use—storage, off-site use only

Unsuitable Properties

Buildings (by State)

Alaska

Longhouse
U.S. Coast Guard
Valdez Co: AK 99686–
Landholding Agency: DOT
Property Number: 87200220006
Status: Excess
Reason: Extensive deterioration

California

Bldg. 4090
Yosemite National Park
7977 Forest Dr.
Wawona Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200220002
Status: Unutilized
Reason: Extensive deterioration
Bldg. 4090
Yosemite National Park
7977 Forest Dr.
Wawona Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200220002
Status: Unutilized
Reason: Extensive deterioration
Bldg. 4190
Yosemite National Park
7977 Forest Dr.
Wawona Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200220003
Status: Unutilized
Reason: Extensive deterioration
Bldg. 2254
Marine Corps Air Station
Miramar Co: CA
Landholding Agency: Navy
Property Number: 77200220027
Status: Unutilized
Reason: Extensive deterioration
Bldg. 24002
Marine Corps Air Station
Miramar CO: CA
Landholding Agency: Navy
Property Number: 77200220028
Status: Unutilized
Reason: Extensive deterioration
Bldg. 9496
Marine Corps Air Station
Miramar Co: CA
Landholding Agency: Navy
Property Number: 77200220029
Status: Unutilized
Reason: Extensive deterioration

Colorado

Nelson Cabin
Tract No. 01–108
National Monument
Florissant Co: Teller Co 80816–
Landholding Agency: Interior
Property Number: 61200220009
Status: Unutilized
Reason: No legal access

Maryland

Bldg. 585
Naval Air Station
Patuxent River Co: MD
Landholding Agency: Navy
Property Number: 77200220030
Status: Excess
Reason: Extensive deterioration

Montana

Relocatable House
Yellowtail Dam
Fort Smith Co: Big Horn MT 59035–
Landholding Agency: Interior
Property Number: 61200220006
Status: Excess
Reason: Extensive deterioration

Tennessee

4 Bldgs.
Y–12 Natl Security Complex
9418–4, 9418–5, 9418–6, 9418–9
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200220038
Status: Unutilized
Reason: Secured Area
Bldg. 9620–2
Y–12 Natl Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200220039
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldgs. 9769, 9770–3
Y–12 Natl Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200220040
Status: Unutilized
Reason: Secured Area
Bldgs. 9720–1, 9720–2
Y–12 Natl Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200220041
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Texas

Tract No. 126–14
Big Thicket Natl Preserve
Rye Co: Liberty TX
Landholding Agency: Interior
Property Number: 61200220010
Status: Unutilized
Reason: Extensive deterioration

Virginia

Bldg. 002
USCG Eastern Shore
Chincoteague Co: Accomak VA 23336–
Landholding Agency: DOT
Property Number: 87200220007
Status: Excess
Reason: Secured Area

[FR Doc. 02–12077 Filed 5–16–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–1430–ER; A–059905]

Supplementary Rule With Criminal Penalties

AGENCY: Anchorage Field Office, Bureau of Land Management, DOI.

ACTION: Supplementary Rule for Restriction of Certain Activities on Public Lands Managed by the Anchorage Field Office, Bureau of Land Management, Alaska.

SUMMARY: This Supplementary Rule is necessary for the management of actions, activities, and use on public lands which may have, or are having, adverse impacts on persons using public lands, on property, and on resources located on public lands. The subject lands are utilized for a public boat launch, lawful hunting, and air boating and are adjacent to the heavily traveled Glenn Highway. This Supplemental Rule will be in effect from September 1, 2002, until such lands are conveyed to the State of Alaska.

While hunters, air boaters and other recreationists can schedule their use around published hunting seasons for safety reasons, they are not able to avoid random target shooting. Motorists on the Glenn Highway are not able to schedule their use of the highway. Local conditions such as heavy brush can reduce visibility and increase the hazard to other recreationists and motorists from target shooters. Recent incidents involving random target shooting are an endangerment to other users of this area and to motorists on the adjacent Glenn Highway. The discharge of fireworks increases the risk of wildfires. In

addition, resource damage is occurring from the accumulation of debris and lead contamination. To reduce the incidence of future conflicts and enhance public safety, this area of public land known as the Knik River Access or Gravel Pit Lake, located north of Anchorage, Alaska is being closed to the discharge of fireworks and discharge of firearms. This area will remain open to lawful hunting by licensed hunters during seasons administered by the Alaska Department of Fish and Game. Shotgun use will be limited to ammunition containing steel or non-lead shot.

This Supplemental Rule does not apply to other lands, specifically State or Federal lands including State lands in the Palmer Hay Flats State Wildlife Refuge.

The affected lands are public lands administered by the Bureau Land Management, Anchorage Field Office, and are described as follows:

T. 16 N., R. 1 E., Seward Meridian, Alaska

Sec. 10: Lot 6, West of the Alaska Railroad
Sec. 15: Lot 6

SUPPLEMENTARY INFORMATION:

Supplementary Rule

(1.0) Closure of public lands to discharge of fireworks and to the discharge of firearms except by licensed hunters during seasons administered by the Alaska Department of Fish and Game.

The following are prohibited:

(a). The discharge of fireworks.

(b). The discharge of firearms except by licensed hunters during seasons administered by the Alaska Department of Fish and Game.

(c). The use of ammunition containing lead shot.

(2.0) Exception:

(a). This regulation does not apply to the lawful hunting of game by licensed hunters during seasons administered by the Alaska Department of Fish and Game.

Penalties: Violations of this regulation are punishable by a fine in accordance with the Sentencing Reform Act of 1984 (18 USC 3551 *et seq.*), and/or imprisonment not to exceed 12 months for each offense. The authority for this closure is 43 CFR 8364.1.

FOR FURTHER INFORMATION CONTACT: Peter J. Ditton, Anchorage Field Manager, BLM, Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599 or call 907–267–1246.

Dated: April 29, 2002.

June Bailey,

Anchorage Associate Field Manager.

[FR Doc. 02–12330 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget; Review Opportunity for Public Comment; 30-Day Notice

AGENCY: National Park Service's, National Center for Recreation and Conservation and National Center for Cultural Resources, Department of the Interior.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) is proposing in 2002 to conduct surveys of recipients of services and/or assistance of the following programs: Rivers Trails, and Conservation Assistance Program (RTCA), Federal Lands to Parks Program (FLP), Partnership Wild and Scenic Rivers Program (PWSR), and the Historic Preservation Technical Assistance Program (HP). This survey will be conducted to meet the requirements of the 1995 Government Performance and Results Act (GPRA) and will be used to develop goals to improve effectiveness and public accountability of the respective programs.

Program	Est. number of	
	Responses	Burden hours
River Trails and Conservation Assistance (RTCA) Program	150	25
Federal Lands to Parks (FLP) Program	60	10
Wild and Scenic Rivers Coordination (WSR) Program	5	1
Historic Preservation Technical Assistance Program (Publications)	375	63
Historic Preservation Technical Assistance (Conferences)	200	33
Total	790	132

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on these five proposed information collection requests (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS goal in conducting these surveys is to obtain information to help evaluate and improve its recreation and conservation assistance program and its historic preservation programs. There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for these five surveys.

DATES: Public comments will be accepted on or before 30 days from the publication of this notice.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to Dr. Michael A. Schuett (Voice: (304) 293–3721) x2415) (e-mail: *mschuett@wvu.edu*), West Virginia University, Division of Forestry, PO Box 6125, Morgantown, WV 26506–6125.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments on or before 30 days from the publication of this notice.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGES SUBMITTED FOR OMB REVIEW, CONTACT: Dr. Michael A. Schuett (Voice: (304) 293–3721)(e-mail: *mschuett@wvu.edu*), West Virginia University, Division of Forestry, PO Box 6125, Morgantown, WV 26506–6125.

SUPPLEMENTARY INFORMATION:

Title: National Park Service Partnerships Programs= GPRA Information Collections; Recreation and Conservation Assistance Customer Satisfaction Survey, Historic Preservation Technical Assistance Customer Satisfaction Questionnaires, Historic Properties Designated or Protected by State Government Partners, and Historic Properties Designated or Protected by Local Government Partners.

Bureau Form Number: None.

OMB Number: 1024–0226

Expiration Date: 12/31/01.

Type of request: Reinstatement, with change, of a currently approved collection for which approval has expired.

Description of need: The Government Performance and Results Act requires the Federal agencies to prepare an annual performance report documenting the progress made toward achieving long term goals. The National Park Service needs the information in the proposed collections to assess the annual progress being made toward meeting Long-term Goals IIIa3 and IIIb2 of the National Park Service Strategic Plan of 1997. The information sought is not collected elsewhere by the Federal Government. The proposed information collections impose no data burden on the potential responders. Responding to the proposed collections is voluntary and is based on data that the respondents already collect and/or personal opinion. The National Park Service needs to obtain information to help evaluate and improve its recreation and conservation assistance program and its historic preservation programs.

Automated data collection: NPS is considering use of the worldwide web as a part of this information collection. NPS is committed to developing and implementing a method to seek evaluation of customer satisfaction with its web-based publications, training, and educational materials. The NPS will attempt to use electronic mail for respondents who have access to it so they can respond via the Internet.

Description of respondents: A sample of partners (individuals, organizations, and/or public agencies) who have received services and/or assistance from the National Park Service Rivers Trails, and Conservation Assistance Program (RTCA), Federal Lands to Parks Program (FLP), Partnerships Wild and Scenic Rivers Program (PWSR), and the Historic Preservation Publications and Technical Assistance Programs (HP).

Estimated average number of respondents: 790 (survey).

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 10 minutes (survey).

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 132 hours (survey).

Richard M. Cripe,

Acting Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 02–12358 Filed 5–16–02; 8:45 am]

BILLING CODE 4310–70–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–02–014]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 22, 2002 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–932 (Final) (Certain Folding Metal Tables and Chairs from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before May 31, 2002.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: May 8, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12548 Filed 5–15–02; 11:00 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 30, 2001, and published in the **Federal Register** on September 10, 2001, (66 FR 47039), Lipomed, Inc., One Broadway, Cambridge, Massachusetts 02142, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II

The firm plans to import small reference standard quantities of finished commercial product from its sister company in Switzerland for sale to its customers for drug testing and pharmaceutical research and development.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Lipomed, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Lipomed, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public

interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: May 8, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–12354 Filed 5–16–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(I)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 19, 2001, Salsbury Chemicals, Inc., 1205 11th Street, Charles City, Iowa 50616–3466, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import phenylacetone to manufacture amphetamines for distribution to its customers.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCF), and must be filed no later than June 17, 2002.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 24, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–12355 Filed 5–16–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Steven J. Watterson Denial of Application

On May 21, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Steven J. Watterson, notifying him of an opportunity to show cause as to why the DEA should not deny his application for DEA registration, pursuant to 21 U.S.C. 823(f), for reason that Mr. Watterson was not licensed to conduct controlled substance research activity by the Tennessee Board of Pharmacy. The OTSC also notified Mr. Watterson that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent certified mail, return receipt requested, to the address listed on Mr. Watterson's application for DEA registration. DEA received a return receipt dated May 29, 2001, signed on behalf of Mr. Watterson. No request for a hearing or any other response was received from Mr. Watterson nor anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the OTSC, and (2) no request for a hearing having been received, concludes that Mr. Watterson has waived his right to a hearing. Having completely reviewed the investigative file in this matter, the Deputy Administrator hereby enters his final order without a hearing, pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Mr. Watterson applied with the Tennessee Board of Pharmacy, Department of Commerce and Insurance (Board) for a research license pursuant to the Tennessee Legend Drug and Controlled Substance Research Act of 1984. By letter dated November 27, 2000, the Director of the Board informed Mr. Watterson that "we must deny the issuance of this license because the activity described in your application does not fall with [sic] the parameters delineated by the statute."

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16,193 (1997), Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

In the instant case, the Administrator finds the Government has presented undisputed evidence demonstrating that Mr. Watterson is not authorized to handle controlled substances in the State of Tennessee, the state in which he seeks to obtain a DEA registration. As a result, he is not entitled to a DEA registration in that State.

Since DEA does not have the statutory authority to issue Mr. Watterson a DEA registration because he is not currently authorized to handle controlled substances in Tennessee, the Deputy Administrator concludes that it is not necessary to determine whether Mr. Watterson's application is consistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Steven J. Watterson, be, and it hereby is, denied. This order is effective June 17, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12356 Filed 5–16–02; 8:45 am]

BILLING CODE 4410–04–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

James C. Womack, M.D.; Denial of Application

On June 4, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to James C. Womack, M.D., notifying him of an opportunity to show cause as to why the DEA should not deny his application for DEA registration, pursuant to 21 U.S.C. 823(f), for reason that Dr. Womack's registration would be inconsistent with the public interest. The OTSC also notified Dr. Womack that should no request for a hearing be filed within 30 days, his right to a hearing would be considered waived.

The OTSC was sent to the address listed on Dr. Womack's application for registration. DEA received a postal return receipt indicating that an individual had signed on behalf of Dr. Womack June 15, 2001. No request for a hearing or any other response was received from Dr. Womack nor anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days having passed since receipt of the OTSC, and (2) no request for a hearing having been received, concludes that Dr. Womack has waived his right to a hearing. Having considered the complete investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds as follows. On November 14, 1985, Dr. Womack was granted a DEA Certificate of Registration as a practitioner in Schedules II through V.

On July 28, 1989, the Texas State Board of Medical Examiners (Board) entered an Agreed Order based on a finding that Dr. Womack was an impaired and recovering physician. The Board suspended his medical license, stayed the suspension, and placed Dr. Womack on probation for ten years, subject to certain terms and conditions. Among the conditions imposed by the Board was a requirement that Dr. Womack surrender his DEA and Texas State controlled substance registrations. Accordingly, Dr. Womack surrendered his DEA Certificate of Registration on August 31, 1989, as well as his Texas State registration.

Sometime in early 1990, the Board received information that Dr. Womack continued to issue prescriptions for controlled substances using the DEA registration of his father, also a licensed physician in the State of Texas. These prescriptions were not authorized by Dr. Womack's father. Subsequent investigation by DEA revealed that Dr. Womack had issued 701 prescriptions totaling 23,736 dosage units of controlled substances between the time of his surrender of his DEA and Texas State controlled substances registrations and September 5, 1990.

On May 12, 1991, Dr. Womack submitted an application to DEA for registration as a practitioner that was denied. 58 FR 7,248 (1993). On May 9, 1994, Dr. Womack was issued a DEA Certificate of Registration as a practitioner in Schedules II through V.

From February 1997 through January 1999, Dr. Womack was a supervising physician to a physician's assistant at a family practice clinic in Center, Texas, which was approximately 419 miles away from his primary practice in Brandera, Texas. During the time between April 16, 1998, and May 14, 1998, Dr. Womack sought treatment for substance abuse at La Hacienda Treatment Center in Hunt, Texas. During the time of Dr. Womack's treatment, DEA received information that prescriptions for controlled substances were issued and filled under Dr. Womack's DEA registration number. Subsequent information received by DEA indicated that Dr. Womack's physician assistant called in the prescriptions using Dr. Womack's DEA registration number without Dr. Womack's authorization.

On January 6, 1999, Dr. Womack was admitted to the emergency room at a hospital in San Antonio, Texas, and treated for chemical substance toxicity related to his abuse of alcohol and Soma, a non-controlled but addictive substance. On January 18, 1999, Dr. Womack again entered a program for the treatment of substance abuse, in the State of Oregon. As a result, Dr. Womack entered into an Agreed Order with the Board, in which Dr. Womack's medical license was suspended. The Board found, *inter alia*, that Dr. Womack failed to supervise the prescriptive authority of his physician assistant and failed to monitor the clinical responses to narcotic analgesia prescribed to a patient in September, 1998. On August 28, 1999, the Board denied Dr. Womack's request to stay or lift the suspension based upon Dr. Womack's "history of substance abuse, relapse, and depression."

On February 9, 1999, DEA investigators visited the family practice clinic in Center, Texas, and interviewed Dr. Womacks' physician assistant. DEA investigators found three triplicate prescription books, and one triplicate prescription book that contained ten blank pre-signed prescription forms, all in Dr. Womack's name. As a result of the above-described activity, Dr. Womack surrendered his DEA registration on March 16, 1999.

On March 31, 2000, the Board issued on Agreed Order staying the January 29, 1999, suspension of Dr. Womack's medical license, and placed Dr. Womack's medical license on probation for seven years subject to certain terms and conditions.

Pursuant to 21 U.S.C. 823(f), the Administrator may deny an application for a DEA Certificate of Registration if he determined that granting the registration would be inconsistent with the public interest. Section 823(f) requires the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Administrator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied, see Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

The Deputy Administrator finds with regard to factor one that, pursuant to the Agreed Order of the Texas State Board of Medical Examiners (Board) effective April 1, 2000, Dr. Womack's medical license was placed on seven year's probation, with extensive terms and conditions. Among the conditions is a requirement that Dr. Womack abstain from the consumption of alcohol, dangerous drugs, or controlled

substances unless prescribed by another physician for a legitimate and documented therapeutic purpose. Other relevant conditions are that Dr. Womack submit to random drug and alcohol screenings, that he attend Alcoholics Anonymous meetings at least four times a week, that he attend weekly meetings of a county or state medical society committee on physician health and rehabilitation, and that he continue to receive care and treatment from a psychiatrist at least once a month. The Deputy Administrator finds these and the other conditions of the Agreed Order to be evidence that the Board finds Dr. Womack could pose a substantial threat to the public health and safety, and further that Dr. Womack poses a significant threat of relapse.

The Deputy Administrator finds with regard to factors two and four that the investigative file reveals Dr. Womack has a history of non-compliance with applicable State and Federal laws relating to handling controlled substances. First, following the surrender of his DEA and Texas State controlled substances registrations, the Board found that Dr. Womack continued to issue prescriptions for controlled substances using the DEA registration of his father, also a licensed physician in the State of Texas, even though these prescription were not authorized by Dr. Womack's father. Subsequent investigation by DEA revealed that Dr. Womack had issued 701 prescriptions totaling 23,736 dosage units of controlled substances between the time of his surrender of his DEA and Texas State controlled substances registrations and September 5, 1990, in violation of 21 U.S.C. 843(a)(2) and 21 CFR 1306.03.

Next, while Dr. Womack was acting as a supervising physician to a physician's assistant at a family practice clinic in Center, Texas, approximately 419 miles away from his primary practice in Banderra, Texas, Dr. Womack sought treatment for substance abuse at La Hacienda Treatment Center in Hunt, Texas. During the time of his treatment, DEA received information that prescriptions for controlled substances were issued and filled under Dr. Womack's DEA registration number. Subsequent information received by DEA indicated that Dr. Womack's physician assistant called in the prescriptions using Dr. Womack's DEA registration number without Dr. Womack's authorization. These prescriptions were issued in violation of 21 CFR 1306.03 and 1306.04 as a result of Dr. Womack's failure to adequately monitor and exercise control over his assistant. When DEA investigators visited the family practice clinic in Center, Texas, to interview the physician's assistant, the investigators found three triplicate prescription books, and one triplicate prescription book that contained ten blank pre-signed prescription forms, all in Dr. Womack's name. As a result, Dr. Womack surrendered his DEA registration on March 16, 1999.

With regard to factor three, the investigative file contains no evidence that Dr. Womack has any record of convictions under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

With regard to factor five, the Deputy Administrator finds that the investigative file reveals substantial evidence that Dr. Womack has, as the Board found in its Agreed Order, a "history of substance abuse, relapse, and depression." The Deputy Administrator finds that insufficient time has passed since the effective date of the Agreed Order to determine whether Dr. Womack has been able to sufficiently overcome his problems so as not to pose a serious threat to the public health and safety. The Deputy Administrator notes that no countervailing evidence was presented, despite the opportunity to do so.

Therefore, for the above-stated reasons, the Deputy Administrator concludes that it would be inconsistent with the public interest to grant Dr. Womack's application at this time.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby order that the application for a DEA Certificate of Registration submitted by James C. Womack, M.D., be, and it hereby is, denied. This order is effective June 17, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12357 Filed 5–16–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 9, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or Email *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: State Alien Labor Certification Activity Report.

OMB Number: 1205–0319.

Affected Public: State, Local, or Tribal Government.

Frequency: Semi-annually.

Number of Respondents: 54.

Number of Annual Responses: 108.

Estimated Time Per Response: 2 hours.

Total Burden Hours: 216.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Form ETA 9037 collects information from States on the activities they perform under the Alien Labor Certification Reimbursable Grant and provides a sound basis for program management, including budget and workload management, and monitoring for compliance with the Grant Statement of Work.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–12377 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

May 13, 2002.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by May 17, 2002. A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain a copy of this ICR, contact Darrin King on 202–693–4129 or email: *king-darrin@dol.gov*.

Comments and questions about the ICR listed below should be submitted to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Office of Disability Employment Policy, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), and received 5 days prior to the requested OMB approval date.

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Office of Disability Employment Policy (ODEP).

Title: Solicitation of Nominations for the Department of Labor's Inaugural New Freedom Award.

OMB Number: 1230–ONEW.

Frequency: Annually.

Affected Public: Individuals or households; businesses or other for profit organizations; not-for-profit institutions: Federal Government.

Number of Respondents: 100.

Number of Annual Responses: 100.

Estimated Time Per Respondent: 10 hours.

Total Burden Hours: 1,000 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: The information will be used by the Department of Labor to determine eligibility for its Inaugural New Freedom Initiative Award. This award will be presented annually by the Secretary of Labor to honor individuals, corporations, and non-profit organizations which have been exemplary in furthering the employment related objectives of President George W. Bush's New Freedom Initiative. The award requirements are to be published in the **Federal Register** in mid May with a closing date for submitting applications 30 days. The recipients of the award are to be notified in late August or early September with an award ceremony to follow at the White House sometime in October.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–12378 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–CX–M

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Office of Disability Employment Policy is soliciting comments concerning the proposed new collection of the data contained in the nomination packet for the Department of Labor's Inaugural New Freedom Initiative Award. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before July 16, 2002.

ADDRESSES: Submit comments to Lisa Lahrman, Office of Disability Employment, United States Department of Labor, 200 Constitution Avenue, NW, Room N–4720, Washington, DC 20210, 202–693–3047 (this is not a toll free number), Internet Address: *lahrman-lisa@dol.gov*, and FAX: 202–693–2939.

FOR FURTHER INFORMATION CONTACT: Lisa Lahrman, tel.(202) 693–3047 This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Background

This collection of information (solicitation of nominations to receive an award) is planned to honor individuals, corporations and non-profit organizations which have been exemplary in furthering the employment-related objectives of President George W. Bush's New Freedom Initiative. The New Freedom Initiative reflects the Administration's commitment to increasing development and access to assistive and universally designed technologies, expanding educational opportunities, further integrating Americans with disabilities into the workforce, and helping to remove barriers to their full participation in community life. Legal authority for this collection can be found in both the New Freedom itself.

and by Pub. L. 106–554, the Consolidated Appropriations Act of 2001 which established the Office of Disability Employment Policy within the Department of Labor to bring a heightened and permanent focus on increasing the employment of persons with disabilities.

II. Review Focus

The Department of Labor is particularly interested in comments which:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

To support ODEP's mission and recognize the employment of people with disabilities as an Administration priority, the Department of Labor is initiating the Inaugural New Freedom Initiative Award program. This award will be presented annually by the Secretary of Labor to honor individuals, corporations, and non-profit organizations which have been exemplary in furthering the employment related objectives of President George W. Bush's New Freedom Initiative.

Type of Review: New.

Agency: Department of Labor, Office of Disability Employment Policy.

Title: Inaugural New Freedom Initiative.

OMB Number: 1230–0NEW.

Agency Number:

Recordkeeping: None.

Affected Public: Individuals, businesses, non-profit organizations,and the federal government.

Form: Not Applicable.

Total Respondents: 100.

Frequency: Annually.

Total Responses: 100 nominations per year.

Average Time per Response: 10 hours.

Estimated Total Burden Hours: 1,000 Burden Hours.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 13, 2002.

Lisa Lahrman,

Executive Assistant to the Assistant Secretary, Office of Disability Employment Policy.

[FR Doc. 02–12375 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–CX–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,458 & A; Handler Textile, A Div. Of Duro Industries, Inc., Stone Mountain, GA and Duro Industries Sales Corp., A Div. of Duro Industries, Inc., Rochester, NY
TA–W–40,551; Chemical Lime Corp., Douglas Plant, Douglas, AZ
TA–W–41,121; Latronics Corp., Latrobe, PA
TA–W–41,064; Ocean State Finishing Co., Woonsocket, RI
TA–W–40,963; Credence Systems Corp., Hillsboro, OR
TA–W–40,095; Coastal Lumber Co., Daily, WV
TA–W–40,498; Precision Twist Drill Co., Rhinelander, WI
TA–W–40,492; Coastal Lumber Co.., Suffolk, VA
TA–W–40,383; New G.L.I., Inc., Formerly Doing Business as Como Products, Columbia, IN
TA–W–40,320; Elk Rapids Engineering, A Div. Of Star Cutter Co., Elk Rapids, MI
TA–W–39,846; Neville Chemical Co., Pittsburgh, PA
TA–W–39,838; Craftline Wood Products, Mountain City, TN
TA–W–39,513; Weyerhaeuser Co., Springfield Paperboard Mill, Springfield, OR
TA–W–40,191; Speedline Technologies, Electrovert, A Subsidiary of Cookson Group, Plc, Camdenton, MO

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–40,289; Motorala, Inc., Global Telecom Solutions Sector (GTSS), Rolling Meadows, IL
TA–W–39,306; Temco Acquistition, Inc., Hibbing, MN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,400; Meridian Automotive Systems, Centralia, IL
TA–W–39,854 Advanced Web Dynamics, Merriville, IN
TA–W–39,480; Anvil International, Inc., Satesboro, GA
TA–W–40,833; Pittsburgh Annealing Box Co., LLC, McKees Rocks, PA
TA–W–40,808, Crown, Cork and Seal Packaging Co., Inc., Plant #77, South Connellsville, PA
TA–W–40,658; Polaroid Corp., Waltham, MA
TA–W–41,354; Gulfstream Aerospace Technologies, Bethany, OK
TA–W–40,897; National Steel Pellet Co., Keewatin, MN
TA–W–40,784; Cam Tech Tool and Mold, Meadville, PA
TA–W–40,687; Goodyear Dunlop Tires, N.A. Ltd, Huntsville, AL
TA–W–40,416; Schaffstall Manufacturing, North Collins, NY
TA–W–40,638; Hayes Lemmerz International, Inc., Petersburg, MI
TA–W–40,623; Pacific Scientific Insturments—USA, Formerly Met One, Inc., A Subsidiary of The Danaker Corp., Grants Pass, OR
TA–W–40,566; ConAgra Foods, Inc., Con Agra Grocery Products Co., Hunt Food, Perrysburg, OH
TA–W–40,689; Motor Coils Manufacturing, A Div. Of Wabtec Corp., St. Louis, MO
TA–W–41,078; Thomson Multimedia, Formerly Thomason Consumer Electronics, Inc., Indianapolis, IN
TA–W–41,264; Ilissa Bridals Ltd, New York, NY

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–40,673; Stanley Fastening Systems, East Greenwich, RI

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,751; Grover Industries, Inc., Grover, NC: July 19, 2000.
TA–W–40,143; Quality Apparel, Inc., Dillon, SC: September 10, 2000.
TA–W–40,176; QWT Industires, Inc., Pickens, SC: September 20, 2000.
TA–W–40,691; Double Eagle Manufacturing, Tallassee, AL: November 5, 2000.
TA–W–40,712; Xerox Corp., Webster, NY: January 8, 2001.
TA–W–40,886; Otis Elevator Co., Bloomington, IN: March 7, 2002.
TA–W–40,947; BASF Corp., Vitamin Div., A Subsidiary of BASFIN Corp, Wyandotte, MI: January 14, 2001.
TA–W–41,003; Drexel Heritage Furnishings, Inc., Plant #1, Drexel NC: January 18, 2001.
TA–W–41,004 & A; Spectra Products Corp., Grand Haven, MI and Custom Innovation, Inc., Grand Haveń, MI: February 22, 2001.
TA–W–41,080; Bacou Dalloz USA, Inc., Dalloz Safety, Snow Hill, NC: February 20, 2001.
TA–W–41,112; Toshiba America Medical, Inc., South San Francisco, CA: February 7, 2001.
TA–W–41,202; Vertiflex Products, Div. Of VPI Venture Group, LLC, Irwindale, CA: February 20, 2001.
TA–W–41,223; Mead WestVaco Corp., Chillicothe, OH: March 8, 2001.
TA–W–41,312; Rohm and Haas Co., Philadelphia, PA: March 27, 2001.
TA–W–41,289: TRW, Inc., TRW Engine Components, Cleveland Valve Plant, Cleveland, OH: April 3, 2001.
TA–W–39,171; LDC, Inc., Wallington, NJ: April 23, 2000.
TA–W–39,862; Jac Rosa Fashions, Inc., Brooklyn, NY: July 31, 2000.
TA–W–40,145; West Point Stevens, Whitmire, SC: September 14, 2000.
TA–W–40,238; Mueller Electric Co., Cleveland, OH: October 3, 2000.
TA–W–40,396 & A, B, C; Lady Ester Lingerie Corpl, Berwick, PA, Kaydette Plant, Berwick, PA, Briar Creek Plant, Berwick, PA and Lay Ester Lingerie Corp., New York, NY: October 24, 2000.
TA–W–40,418; Wood and Hyde Leather Co., Inc., Gloversville, NY: October 17, 2000.
TA–W–40,433; Olin Corp., Olin Brass Indianapolis Plant, Indianapolis, IN: January 26, 2001.
TA–W–40,516 & A, B; Bayer Clothing Group, Inc., Target Square Facility, Clearfield, PA, Fletcherville Facility, Clearfield, PA and Kent Facility, Curwensville, PA: January 22, 2002.
TA–W–40,555; Tom's Sportswear, Lehighton, PA: December 20, 2000.
TA–W–40,580; Debbi-Sue Fashions, Inc., Bethlehem, PA: November 20, 2000.
TA–W–40,616; Storm Copper Components, Decatur, TN: October 13, 2000.
TA–W–40,619 & A; Cherry Electrical Products Div., Pleasant Prairie, WI and Cherry Automotive, Waukegan, IL: November 29, 2000.
TA–W–40,624; Trion Industries, Inc., Packaging Div., Wilkes-Barre, PA: November 5, 2000.
TA–W–40,645; Star Specialty Knitting Co., Inc., Laconia, NH: October 24, 2000.
TA–W–40,717; DyStar L.P., Coventry, RI: January 9, 2001.
TA–W–40,748; Felix Schoeller Technical Papers, Pulaski, NY: December 18, 2000.
TA–W–40,759; Jordana, Inc., Medley, FL: October 29, 2000.
TA–W–40,785; The Boeing Co., Commercial Airplane Div., Long Beach, CA: February 25, 2002.
TA–W–40,790; Springs Industries, Inc., Aileen Plant, Biscoe, NC: January 29, 2001.
TA–W–40,867; Chase Collecitons, Ltd, Fall River, MA: January 4, 2001.
TA–W–40,868; Lopal Securities, Inc., New York: November 29, 2000.
TA–W–40,913; Emsig Manufacturing Corp., Hudson Div., Hudson, NY: December 21, 2000.
TA–W–40,941; Wheland Automotive Industries, Warrenton, GA: January 14, 2001.
TA–W–40,949; DuPont Beaumont Works, Beaumont, TX: January 14, 2001.
TA–W–40,955; California Joy, Inc., Glendale, CA: January 24, 2001.
TA–W–40,958; Skyjack, Inc., Skyjack Manufacturing, Wathena, KS: October 26, 2000.
TA–W–40,983; Symbol Technologies, Houston, TX: January 3, 2001.
TA–W–41,070; Cali Sportswear, Co., Inc., Pen Argyl, PA: February 5, 2001.
TA–W–41,076; Clarion Sintered Metals, Inc., Ridgway, PA: February 28, 2001.
TA–W–41,140; Columbiaknit, Portland, OR: January 14, 2002.
TA–W–41,204; Carmum International, Div. Of IMI Cornelius, San Antonio, TX: February 7, 2001.
TA–W–41,216; Tama Manufacturing Corp., Inc., Allentown, PA: March 14, 2001.
TA–W–41,265; A.P. Green Industries, Inc., Including Leased Workers of Drexel Personnel Services, Middletown, PA: March 7, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases im ports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or

subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05000; Weyerhaeuser Co., Springfield Paperboard Mill, Springfield, OR.
NAFTA–TAA–05051; Quality Fabricating, Inc., North Huntington, PA
NAFTA–TAA–05133; Grover Industries, Inc., Gover, NC
NAFTA–TAA–05685; Chemical Line Corp., Douglas Plant, Douglas, AZ
NAFTA–TAA–05754; Polaroid Corp., Waltham, MA
NAFTA–TAA–05920 & A; Spectra Products Corp., Grand Haven, MI and Custom Innovations, Inc., Grand Haven, MI
NAFTA–TAA–05387; Classic Knitting Mills, Inc., Greensboro, NC
NAFTA–TAA–05479; Stan's Wood Products, Inc., Redmond, OR
NAFTA–TAA–05534; Trion Industries, Inc., Packaging Div., Wilkes-Barre, PA
NAFTA–TAA–05636; & A, B; Bayer Clothing Group, Inc., Target Square Facility, Clearfield, PA, Fletcherville Facility, Clearfield, PA and Kent Facility, Curwensville, PA
NAFTA–TAA–05654; Hayes Lemmerz International, Inc., Petersburg, MI.
NAFTA–TAA–05664; Neville Chemical Co., Pittsburgh, PA
NAFTA–TAA–05672; Pacific Scientific Instruments—USA, Formerly Met One, Inc., A Subsidiary of The Danaher Corp., Grants Pass, OR
NAFTA–TAA–05683; Multi Products, Inc., Tool Room Division, Erie, PA
NAFTA–TAA–05701; Trend Technologies, Round Rock, TX
NAFTA–TAA–05709; Precision Twist Drill Co., Rhinelander, WI
NAFTA–TAA–05724; Credence Systems Corp., Hillsboro, OR
NAFTA–TAA–05749; Goodyear Dunlop Tires, N.A. Ltd, Huntsville, AL
NAFTA–TAA–05851; California Joy, Inc., Glendale, CA
NAFTA–TAA–05865; National Steel Pellet Co., Keewatin, MN
NAFTA–TAA–05884; The Boeing Co., Commercial Aircraft Div., Long Beach, CA
NAFTA–TAA–05919; Sonoco Products Co., Industrial Products Div., Lincolnton, NC
NAFTA–TAA–05970; Penn-Union Corp., Nesco Division, Edinboro, PA
NAFTA–TAA–05998; Ibiden Graphite of America Corp., Portland, OR

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06016; Wheelabrator Air Pollution Control, Pittsburgh, PA
NAFTA–TAA–06010; Nature's Art, Albemarle, NC

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05337; Quality Apparel, Inc., Dillon, SC: September 10, 2000.
NAFTA–TAA–05712; Crown, Cork and Seal Packaging Co., Inc., Plant #77, South Connellsville, PA: January 4, 2001.
NAFTA–TAA–05869; Cherry Automotive, Cherry Corp., Waukegan, IL: February 22, 2001.
NAFTA–TAA–05508; Skyjack, Inc., Skyjack Manufacturing, Wathena, KS: October 26, 2000
NAFTA–TAA–05564; New G.L.I., Inc. (Formerly Doing Business as Como Products), Columbus, IN: November 16, 2000.
NAFTA–TAA–05630; Meridian Automotive Systems, Centralia; IL: November 14, 2000.
NAFTA–TAA–05815; Angelica Corp., Angelica Image Apparel, Collinwood, TN: January 31, 2001.
NAFTA–TAA–05844; Argus International, Inc., Medley, FL: January 7, 2001.
NAFTA–TAA–05850; A.P. Green Industries, Inc., Including Leased Workers of Drexel Personnel Services, Middletown, PA: February 4, 2001.
NAFTA–TAA–05860; Thomas and Betts Corp., Electrical Div., Quakertown, PA: January 15, 2001.
NAFTA–TAA–05956; Process Manufacturing, Inc., Richmond, KY: March 13, 2001.
NAFTA–TAA–05985; Gulfstream Aerospace Technologies, Bethany, OK: March 10, 2001.
NAFTA–TAA–05988; Douglas Furniture of California, LLC, Redondo Beach, CA: March 7, 2001.
NAFTA–TAA–05997; Ametek Specialty Motors, Hudson, WI: February 27, 2001.
NAFTA–TAA–06003; Joseph Timber Company, LLC, Joseph, OR: March 18, 2001.
NAFTA–TAA–06035; Motorola, Integrated Electronics Systems Sector, Automotive Communication Electronic Systems, Including Leased Workers of Manpower, Elma, NY: February 21, 2001.
NAFTA–TAA–06041; Rohm and Haas Company, Philadelphia, PA: March 27, 2001.
NAFTA–TAA–06047; TRW, Inc., TRW Engine Components, Cleveland Valve Plant, Cleveland, OH: April 3, 2001.
NAFTA–TAA–06052; Burrows Paper Company, Packaging Div., Little Falls, NY: December 31, 2000.

I hereby certify that the aforementioned determinations were issued during the month of May, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 13, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–12382 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April and May, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,029; Jackson Precision Die Casting, Inc., Jackson, MI
TA–W–34,535; Phoenix Gold International, Inc., Portland, OR
TA–W–40,699; AA Precisioneering, Inc., Meadville, PA
TA–W–40,710; Alpha Carb Enterprises, Leechburg, PA
TA–W–40,865; Sonoco Products Co., Industrial Products Div., Lincolnton, NC
TA–W–40,885; O.P. Schuman and Sons, Inc., Warrington, PA
TA–W–40,928; Ramtex, Inc., Ramseur, NC
TA–W–40,985; Bi-Link Florida, Ltd, A Subsidiary of Bi-Link Metal Specialties, Deerfield, FL
TA–W–40,651; The Electron Corp., Blackwell, OK
TA–W–40,429 & A; Onkyo America, In., Columbus, IN and Troy, MI
TA–W–41,123; Aldrich Corp., Greenwood, SC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,102; EA.Com, Inc., Charlottesville, VA
TA–W–41,256; The Isfel Co., Inc., New York, NY
TA–W–40,787; GE Capital Modular Space and Tip, Devon, PA
TA–W–39,564; Modine Aftermarket Holdings, Inc., A Div. Of Modine Manufacturing Co., Merced, CA
TA–W–40,741; Leavitt Communications, Inc., Lincolnshire, IL
TA–W–41,209; Federal Pipe and Steel Corp., Blythville, AR

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,855 & A; Quebecor World Kingsport, Inc., Kingsport, TN and Kingsport Press Road, Church Hill, TN
TA–W–41,205; Sonoco Products, Inc., Massillon, OH
TA–W–39,025; Talon Automotive Group, Production Stampong, Div., New Baltimore, MI
TA–W–40,018; Trailmobile Trailer, LLC, Liberal, KS
TA–W–40,220; Eagle Knits of Stanfield, Inc., Norwood, NC
TA–W–40,749; Trinity Industries, Plant 200, Longview, TX
TA–W–40,990; Alcon Simmut Technology, Waltham, MA
TA–W–40,919; Sovereign Adhesives, Inc., Formerly Croda Adhesives, Ewing, NJ
TA–W–40,950; Opton, Inc., Newport News, CA

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–41,136; Keystone Powered Metal Co., St. Marys, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,283; SHE-America, Inc., Vancouver, WA: April 5, 2001.
TA–W–41,266; Beacon Blankets, Inc., Swannanoa Plant, Swannanoa, NC: April 30, 2002
TA–W–41,236; Kayby Mills of NC, Inc., Trimfit, Inc., Thomasville, NC: October 30, 2000.
TA–W–41,199; Shelby Manufacturing Co., Charleston, MS: February 27, 2001.
TA–W–40,978; Vision Metals, Inc., Michigan Specialty Tube, South Lyon, MI: January 21, 2001.
TA–W–41,155; International Steel Wool Corp., A Subsidiary of F.H. Bonn Co., Springfield, OH: March 25, 2001.
TA–W–41,081; Bacou Dalloz USA, Inc., Dalloz Safety, Reading, PA: February 20, 2001.
TA–W–40,663; Greenwood Mills, Inc., Liberty Manufacturing, Liberty, SC: December 18, 2000.
TA–W–40,696; National Mills, Inc., Dayton, TN: November 16, 2000.
TA–W–39,674; Pennsylvania Steel Technologies, Steelton, PA: July 29, 2001.
TA–W–40,825; Artex International, Inc., West Point, MS: October 16, 2000.
TA–W–40,862; Brother Industries (USA), Inc., Bartlette, TN: October 31, 2000.
TA–W–40,876; Springfield Precision Instruments, Inc., Wood-Ridge, NJ: October 25, 2000.
TA–W–40,910; Stein Steel Mill Services, Inc., Employed at LTV Steel, Inc., Cleveland, OH: December 28, 2000.
TA–W–40,946; KBA North America, Inc., York, PA: January 29, 2001.
TA–W–40,957; Magnolia Garment Corp., Tylertown, MS: January 21, 2001.
TA–W–40,197; Lucent Technologies, Bell Labs Innovations, OKC Works, Oklahoma City, OK: September 26, 2000.
TA–W–40,472; Romart, Inc., Scranton, PA: October 24, 2000.
TA–W–40,392; A.S. Haight and Company, Inc., Cartersville, GA: November 19, 2000.
TA–W–40,339; Cornwall Wood Products, Inc., South Paris, ME: October 31, 2000.
TA–W–40,278; Beverly Coats, Inc., Brooklyn, NY: October 2, 2000.
TA–W–40,511; Lea-Wayne Knitting Mills, Inc., Morristown, TN: November 9, 2000.
TA–W–39,183; The Challenge Machinery Co., Grand Haven, MI: April 17, 2000.
TA–W–41,069; Michigan Magnetics, Inc., Vermontville, MI: February 5, 2001.
TA–W–40,998; Kellwood Co., Summit, MS: January 7, 2001.
TA–W–40,827; Argus International, Inc., Medley, FL: January 7, 2001.
TA–W–40,501 & A; Motorola, Inc., Global Telecom Solutions Sector (GTSS), Formerly Network Solutions Sector (NSS), Schaumburg, IL and Motorola, Inc., Commercial, Government, Industrial Solutions Sector (CGISS), Schaumburg, IL: November 15, 2000.
TA–W–41,188 & A; Landau Uniform, New Albany, MS and Olive Branch, MS: February 18, 2001.
TA–W–41,168 & A: Duplex Novelty Corp., Bronx, NY and New York, NY: January 17, 2001.
TA–W–41,137; ASL-Dallas Plant, Pillowtex Corp., Dallas TX: February 11, 2001.
TA–W–41,074; Isolyser Co., Inc., Microtek Medical, Inc., TR Division, Waynesville, NC: February 4, 2001.
TA–W–41,240; Nortel Networks, Raleigh System House, Raleigh, NC: February 8, 2001.
TA–W–41,237; Garan Manufacturing, Philadelphia, MS: March 8, 2001.
TA–W–211 & A; Eagle-Picher Technologies, LLC, A Division of Eagle-Picher Industries, Grove, OK and Seneca, MO: March 8, 2001.
TA–W–41,192; Graham-Field Health Products, Inc., Bay Shore, NY: February 13, 2001.

TA–W–41,258 & A, B; Weyerhaeuser Co., Western Timberlands Div., Cascade Operations, Snoqualmie, WA, Enumclaw, WA and Rainier, WA: March 1, 2001.

TA–W–41,271 & A; Koppel Steel Corp., Koppel Plant Beaver Falls, PA and Ambridge Plant, Ambridge, PA: March 4, 2001.

TA–W–41,297; Rivoli Mills, Chattanooga, TN: March 8, 2001.

TA–W–41,309 & A; The Morgan Crucible Co., PLC, VAC Magnetics Corp., Ferrite Div., Elizabethtown, KY and Alnico Div., Elizabethtown, KY: March 13, 2001.

TA–W–41,241; Alliant Techsystems, Inc., Alliant Ammunition and Powder Cp/o., Radford, VA: February 14, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of March and April, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05556; Alfa Laval, Inc., Formerly Known as Tri-Clover, Kenosha, WI: All workers engaged in the production of pumps and valves are denied eligibility to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

NAFTA–TAA–05926; Jordan Lumber and Supply, Inc., Mt. Gilead, NC

NAFTA–TAA–05951; Solid Wood, Inc., Olympia, WA

NAFTA–TAA–05960; Luwa Bahnson, Inc., Textile Engineering and Equipment Div., Charlotte, NC.

NAFTA–TAA–04714; Talon Automotive Group, Production Stamping Division, New Baltimore, MI

NAFTA–TAA–04785; The Challenge Machinery Co., Grand Haven, MI

NAFTA–TAA–05269; Trailmobile Trailer, LLC, Liberal, KS

NAFTA–TAA–05367; Eagle Knits of Stanfield, Inc., Norwood, NC.

NAFTA–TAA–05480; AA Precisioneering, Inc., Meadville, PA

NAFTA–TAA–05519; Motor Coils Manufacturing, A Div. Of Wabtec Corp., St. Louis, MO.

NAFTA–TAA–05579; A.S. Haight and Co., Inc., Cartersville, GA

NAFTA–TAA–05691; International Paper, Industrial Papers Business—Menasha Facility, Menasha, WI

NAFTA–TAA–05728; Quality Metal Products, Inc., Bessemer City, NC

NAFTA–TAA–06026; Portland Pattern, Inc., Portland, OR

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06053; Federal Pipe and Steel Corp., Blythville, AR

NAFTA–TAA–05763; Leavitt Communications, Inc., Lincolnshire, IL

NAFTA–TAA–05989; Specialty Ultravision, Inc., Campbell, CA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05961; A.O. Smith Corp., A.O. Smith Electrical Products Co., McMinnville, TN: March 11, 2001.

NAFTA–TAA–05903; Bacou Dalloz USA, Inc., Dalloz Safety, Reading, PA: February 20, 2001.

NAFTA–TAA–05320 & A; Motorola, Inc., Global Telecom Solutions Sector (GTSS), Formerly Network Solution Sector (NSS), Schaumburg, IL and Commercial, Government, Industrial Solutions Sector (CGISS), Schaumburg, IL: September 8, 2000.

NAFTA–TAA–05233; Springs Industries, Inc., Portland, OR: August 20, 2000.

NAFTA–TAA–059857 Alliant Techsystems, Inc., Alliant Ammunition and Power Co., Radford Army Ammunition Plant, Radford, VA: March 4, 2001.

NAFTA–TAA–06046; Mid-Western Machinery Co., Inc., Joplin, MO: April 2, 2001.

NAFTA–TAA–06028; L and A Molding Corp., Lewiston, ME: March 27, 2001.

NAFTA–TAA–05267; Jackson Precision Die Casting, Inc., Jackson, MI: August 31, 2000.

NAFTA–TAA–05483; Hi-Shear Automotive Corp., Torrance, CA: October 22, 2000.

NAFTA–TAA–05500; Romart, Inc., Scranton, PA: October 25, 2000.

NAFTA–TAA–05542; Lea-Wayne Knitting Mills, Inc, Morristown, TN: November 19, 2000.

NAFTA–TAA–05688; Greenwood Mills, Inc., Liberty Manufacturing, Liberty, SC: December 18, 2000.

NAFTA–TAA–05887; Vertiflex Products, Div. of VPI Venture Group, LLC, Irwindale, CA: February 4, 2001.

NAFTA–TAA–05930; Siemens VDO Automotive, Winchester, VA: March 5, 2001.

NAFTA–TAA–05940; Vision Metals, Inc., Michigan Specialty Tube, South Lyon, MI: January 24, 2001.

NAFTA–TAA–06005; Kayby Mills of NC, Inc., Trimfit, Inc., Thomasville, NC: October 30, 2000.

NAFTA–TAA–06014; Camfil Farr, Jonesboro, AR: March 28, 2001.

NAFTA–TAA–06019; Lucent Technologies, Bell Labs Innovations OKC Works, Oklahoma City, OK: October 22, 2000.

I hereby certify that the aforementioned determinations were issued during the month of April and May, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 9, 2002.

Edward A. Tomchick,

Director, Division of Trade, Adjustment Assistance.

[FR Doc. 02–12384 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,197]

3M Corporation, Bedford Park, Argo, Illinois; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 1, 2002 in response to a worker petition which was filed on behalf of workers at 3M Corporation, Bedford Park, Argo, Illinois.

An active certification covering the petitioning group of workers remains in effect (TA–W–40,874). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 30th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12395 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,251]

American Components, Inc., Dandridge, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 8, 2002, in response to a petition filed on behalf of all workers at American Component, Inc., Dandridge, Tennessee.

The workers' petition regarding the investigation is invalid. Two of the three petitioners neglected to sign the petition. Consequently, further investigation in this cannot progress, and the investigation has been terminated.

Signed at Washington, DC, this 29th day of April 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12388 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,852]

ASARCO, Inc. Amarillo Copper Refinery Amarillo, TX; Notice of termination of investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 25, 2002 in response to a petition filed by a company official on behalf of workers at ASARCO, Inc., Amarillo Copper Refinery, Amarillo, Texas. Workers at the subject plant produce refined copper and other metals.

An active certification covering the petitioning group of workers remains in effect (TA–W–40,104B). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 18th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12400 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,482]

Bridgestone/Firestone, Russellville, AR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 2001, in response to a worker petition that was filed by United Steelworkers of America, Local 884 on behalf of workers at Bridgestone/Firestone, located in Russellville, Arkansas.

The investigation revealed that this petition is a copy of the petition filed for the Bridgestone/Firestone workers in Russellville, Arkansas, TA–W–40,309. The petition investigation for TA–W–40,309, resulted in a negative determination that was issued on April 18, 2002. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 25th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12389 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,230]

Eagle-Picher Industries, Seneca, MO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 8, 2002, in response to a worker petition filed on behalf of workers at Eagle-Picher Industries, Seneca, Missouri.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–41,211). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 1st day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12391 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,599]

Erie Concrete & Steel Supply Co., Erie, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 22, 2002, in response to a petition filed by the company on behalf of workers at Erie Concrete & Steel Supply Co., Erie, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of April 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12379 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,804]

Key Manufacturing Company, Inc. Jasper, AL; Notice of Negative Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Key Manufacturing Company, Inc.* v. *Alexis Herman, United States Secretary of Labor,* No. 00–02–00084.

The Department's initial denial of Trade Adjustment Assistance (TAA) for the workers producing wooden furniture components at Key Manufacturing Company, Inc., was based on the finding that criterion (3) of the group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The decision was signed on September 30, 1999, and published in the **Federal Register** on November 4, 1999 (64 FR 60230).

The petitioners request for reconsideration of the Department's negative determination for TA–W–36,804, resulted in a Dismissal on Application for Reconsideration, since the application contained no new information which would bear importantly of the Department's determination. The dismissal was issued on January 5, 2000 and published in the **Federal Register** on March 31, 2000 (65 FR 17318).

On remand, the Department contacted the customer(s) of Key Manufacturing Company, Inc., Jasper, Alabama identified by the petitioner to be importing turned furniture parts. The petitioner claims that the customers increased their imports of turned furniture parts.

On remand, the survey indicated that none of the respondents increased their imports of turned furniture parts during the relevant period.

Two of the survey respondents reported that they purchased turned furniture parts from other domestic vendors immediately after the closure of the subject plant during late April 1999. They also reported that they began to import during the January/February 2000 period, well beyond the relevant period.

The third customer, based on data supplied by the petitioner, did not import turnings. The customer purchased all their turnings from the subject firm, changed their product line, which eliminated the need for turnings. That customer attributed their declines in purchases from the subject firm to increased imports of furniture. The import of furniture is not relevant to the products "like or directly competitive" with turned furniture parts produced by the subject firm.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Key Manufacturing Co. Inc., Jasper, Alabama.

Signed at Washington, DC this 24th day of April 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–12401 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,972]

Kurwood, Inc., Los Angeles, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 11, 2002, in response to a worker petition that was filed on behalf of workers at Kurwood, Inc., Los Angeles, California.

The petition lacks the requisite worker signatures. The worker who filed the petition is neither a company official nor a union representative. Furthermore, the worker does not recall filing the petition and does not desire that the investigation move forward.

Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 29th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12396 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,835]

Leybold Vacuum USA, Inc., Export, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 19, 2002 in response to a worker petition which was filed on behalf of workers at Leybold Vacuum USA, Inc., Export, Pennsylvania.

An active investigation covering the petitioning group of workers is already in effect (TA–W–40,609). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 25th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12393 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,726]

Liberty Manufacturing; Liberty, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 29, 2002, in response to a petition filed by a company official on behalf of workers at Liberty Manufacturing, Liberty, South Carolina.

An active certification covering the petitioning worker group of workers remains in effect (TA–W–40,663). Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC, this 2nd day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12386 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–40,575]

Phoenix Finishing Corp. a Division of NRB Industries, Inc. Gaffney, SC; Notice of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 14, 2002 in response to a worker petition which was filed by a company official on behalf of workers at Phoenix Finishing Corporation, a Division of NRB Industries, Inc, Gaffney, South Carolina.

An active investigation covering the petitioning group of workers is already in effect (TA–W–40,432). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 25th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12394 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2002.

The petitions filed in this case are available for inspection at the office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 11th day of March, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 03/11/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,952	United Plastic Group (Wkrs)	Pharr, TX	01/31/2002	Plastic Injection Molded Parts.
40,953	R.R. Donnelley and Sons (Wkrs)	Lynchburg, VA	01/16/2002	Pages for Catalogs.
40,954	Coldwell Moser Leather (Co.)	New Albany, IN	01/17/2002	Tanned Leather.
40,955	California Joy (Co.)	Glendale, CA	01/24/2002	Swimwear.
40,956	Bead Industries (Co.)	Bridgeport, CT	02/02/2002	Metal Bead Chain.
40,957	Magnolia Garment (Wkrs)	Tylertown, MS	01/21/2002	Children's Sleepwear.
40,958	Skyjack Manufacturing (Wkrs)	Wathena, KS	10/26/2001	Aerial Scissor Lifts.
40,959	Jester Apparel (Wkrs)	Brooklyn, NY	12/21/2001	Sweaters.
40,960	Alfa Laval, Inc. (Wkrs)	Kenosha, WI	10/18/2001	Fittings.
40,961	Foster Wrecking Yard (Co.)	Stamford, TX	10/22/2001	Scrap Steel.
40,962	Western Power Products (Co.)	Hood River, OR	01/09/2002	Fiberglass Enclosures.
40,963	Credence Systems (Wkrs)	Hillsboro, OR	11/08/2001	Circuit Test Equipment.
40,964	Ultrafem, Inc. (Co.)	Missoula, MT	01/06/2002	Ladies' Sanitary Products.
40,965	L.E. Mason Co. (Co.)	Boston, MA	02/05/2002	Weatherproof Enclosures.
40,966	Dewitt Footwear (Co.)	Dewitt, AR	02/08/2002	Men's Casual Shoes.
40,967	Tip Top Tees (Wkrs)	Lanes, SC	12/28/2001	Tee Shirts.
40,968	Toshiba Ceramics American (Wkrs)	Hillsboro, OR	01/03/2002	Quartz Crucibles.
40,969	Paramount Headwear (Co.)	Bourbon, MO	12/26/2001	Apparel.
40,970	Pleasant Hill (Wkrs)	Adair, OK	07/26/2001	Jackets and Shirts.
40,971	M.J. Soffe Co. (Co.)	Bladenboro, NC	01/30/2002	Fleece Garments.
40,972	Kurwood, Inc. (Co.)	Los Angeles CA	01/28/2002	Furniture.
40,973	Hawthorn Missouri (Wkrs)	Hermann, MO	01/31/2002	Canvas Tarps.
40,974	XESystems (Co.)	East Rochester, NY	01/30/2002	Marketing & Servicing Document Solutions.
40,975	Converter Concepts (Wkrs)	Pardeeville, WI	01/24/2002	Switching Power Supplies.
40,976	Abitibi Consolidated (IBEW)	Lufkin, TX	01/22/2002	Newsprint and Specialty Paper.
40,977	LaLa Imports (Co.)	El Paso, TX	01/04/2002	Paint Natural Wicker Baskets.
40,978	Vision Metals, Inc. (USWA)	South Lyon, MI	01/21/2002	Carbon Seamless Tubint.
40,979	COE Industries Electric (Wkrs)	Fontana, CA	01/11/2002	Install & Maintenance of Electric Equip.
40,980	Dyna-Craft Industries (Wkrs)	Murrysville, PA	01/20/2002	Stamped Frames.
40,981	Gates Rubber Co. (USWA)	Galesburg, IL	01/11/2002	Rubber Hose, Couplings for Hose.
40,982	Volk Packaging Corp. (Co.)	Biddleford, ME	01/31/2002	Corrugated Box Products.
40,983	Symbol Technologies (Wkrs)	Houston, TX	01/03/2002	Laser Bar Code Scanners.
40,984	Timesavers (IBT)	Crystal, MN	02/05/2002	Speedbelt Sanding Machines.
40,985	B. Link Florida (Wkrs)	Deerfield Beach, FL	01/09/2002	Precision Metal Stampings.
40,986	FDB, Inc. (Co.)	Lincolnton, GA	01/30/2002	Men's and Ladies' Jackets.

APPENDIX—Continued

[Petitions Instituted on 03/11/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,987	Globe Metallurgical (USWA)	Niagara Falls, NY	01/11/2002	Ferrosilicon Alloys.
40,988	Screen Creations (Wkrs)	O'Fallon, MO	01/08/2002	Screen Print Textile Materials.
40,989	California Cedar Products (CO.)	Stockton, CA	01/18/2002	Pencil Slats.
40,990	Alcon Summit Technology (Co.)	Waltham, MA	01/30/2002	Laser Disc.
40,991	Telex Communications (IUE)	Buchanan, MI	01/18/2002	Audio Systems.
40,992	CHF Industries (Wkrs)	Loris, SC	01/29/2002	Bedding and Shower Curtains.
40,993	L and G Manufacturing (UNITE)	Archbald, PA	01/16/2002	Men's Suit and Dress Pants.
40,994	Southwire Machinery (Co.)	Carrollton, GA	01/31/2002	Locomotive Fuel Tanks.
40,995	Bosch Rexroth Industrial (IAMAW)	Sturtevant, WI	01/14/2002	Hydraulic Pumps Valves.
40,996	Kosa (Wkrs)	Spartanburg, SC	01/28/2002	Polyester Fibers.
40,997	Kraft Foods (Co.)	Holland, MI	01/18/2002	Hard Candy and Mints.
40,998	Kellwood Company (Wkrs)	Summit, MS	01/07/2002	Swimwear, and Activewear.
40,999	Cleere Drilling Co. (Wkrs)	San Angelo, TX	01/03/2002	Gas Well Drilling.
41,000	Advanced Services (Wkrs)	Memphis, TN	01/08/2002	Problem Call Center—Medical Equipment.
41,001	Oxford Automotive (Co.)	Oscoda, MI	01/10/2002	Automotive Metal Stampings.
41,002	Flextronics Enclosures (Co.)	Kingston, PA	01/11/2000	Electronic Enclosures.
41,003	Drexel Heritage Furnish (Co.)	Drexel, NC	01/18/2002	Residential Furniture.
41,004	Glen Raven (Wkrs)	Burnsville, NC	01/11/2002	Textiles.
41,005	F.L. and J.C. Codman (Wkrs)	Rockland, MA	01/31/2002	Buffing Wheels.
41,006	Schlumberger Wireline (Wkrs)	Williston, ND	01/28/2002	Wireline Logs on Oil Wells.
41,007	Emerson Appliance Motors (Co.)	Oxford, MS	01/08/2002	Appliance Motors.
41,008	Mars Footwear (Wkrs)	Elizabethtown, PA	01/20/2002	Plastic Washable Slippers.
41,009	Washington Frontier Juice (Co.)	Prosser, WA	01/31/2002	Juice Concentrates.
41,010	Dupont Beaumont Works (Co.)	Beaumont, TX	01/15/2002	Industrial Ammonia.
41,011	Imaginknit, Inc. (Co.)	Brooklyn, NY	01/16/2002	Knit Fabrics.
41,012	Sensormatic Electronics (Wkrs)	Boca Raton, FL	01/25/2002	Security Tags, Cameras.
41,013	Chelsea Coat (Wkrs)	Lynbrook, NY	02/15/2002	Coats, Suits, Ladies'.
41,014	Exabyte Corporation (Co.)	Boulder, CO	02/22/2002	Computer Tape Drives.
41,015	Blairsville Factory (Co.)	Blairsville, GA	02/14/2002	Raw Materials.
41,016	Schott Corporation (Co.)	Minneota, MN	02/14/2002	Transformers—Telecommunications
41,017	Mason Shoe Manufacturing (UFCW)	Chippewa Falls, WI	02/17/2002	Footwear.
41,018	Lucent Technologies (Wkrs)	Eugene, OR	02/15/2002	Switches—Install, Upgrades, Maintain.
41,019	Sims Manufacturing Co. (Co.)	Rutland, MA	02/19/2002	Tractor Cabs.
41,020	Phelps Dodge Hidalgo (Co.)	Playas, NM	02/13/2002	Copper Smelting.
41,021	Kryptonite Corporation (Co.)	Canton, MA	02/20/2002	Bicycle and Motorcycle Locks.
41,022	DT Magnetics, Inc. (Wkrs)	Knightdale, NC	02/18/2002	Transformers.
41,023	Jabil Circuit (Wkrs)	Meridian, ID	01/30/2002	Circuit Boards.
41,024	Whisper Jet (Wkrs)	Sanford, FL	01/25/2002	Helicopter Services.
41,025	Bombardier Transportation (Wkrs)	Pittsburgh, PA	02/05/2002	Transit Vehicles.
41,026	PCS Phosphate (Co.)	Aurora, NC	01/24/2002	Diamonimum Phosphate, Phosphoric Acid.
41,027	Centurion Wireless (Wkrs)	Westminster, CO	01/15/2002	Cellular Handsets, Two-Way Radios.
41,028	Anne Klein for Kaspar ASL (Wkrs)	New York, NY	01/31/2002	Dresses, Suits and Coats.
41,029	Precision Rebuilding (Wkrs)	Reading, PA	01/14/2002	Machine Rebuilding.
41,030	LTV Steel Corp (USWA)	Lorain, OH	01/10/2002	Cold Rolled Sheet Steel.
41,031	Great American Knitting (Co.)	Bally, PA	01/16/2002	Knit Socks.
41,032	Bard Manufacturing (Wkrs)	Bryan, OH	01/20/2002	Heating and Air Conditioning Coils.
41,033	Accuride (Wkrs)	Columbia, TN	01/17/2002	Steel Wheel—Ford Motor.
41,034	American Mold & Engineer (Wkrs)	Fridley, MN	01/18/2002	Injection Molds.
41,035	Imerys Pigments (Wkrs)	Dry Branch, GA	11/27/2002	Pigments.

[FR Doc. 02–12383 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2002.

Interested person are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 18th day of March, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 03/18/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
41,036	Wiggins Lumber Co. (Wrks)	Wiggins, MS	11/16/2001	Pine lumber.
41,037	Devant, Ltd (Comp)	Monroe, NC	02/19/2002	Woven towels.
41,038	Murray, Inc. (Comp)	McKenzie, TN	02/07/2002	Mowers.
41,039	Carboloy, Inc (Comp)	Lenoir City, TN	01/28/2002	Mowers.
41,040	Chambersburg Engineering (Wrks)	Chambersburg, PA	01/29/2001	Heavy Capital equipment.
41,041	United Central Industrial (Comp)	Bassett, VA	01/15/2002	Cutting and milling tools for furniture.
41,042	Partridge River Inc. (Wrks)	Hoyt Lakes, MN	01/28/2002	Hardwood.
41,043	Champion Parts, Inc. (IBEW)	Beech Creek, PA	01/28/2002	Carburators.
41,044	Spectra Products/Custom (Comp)	Grand Haven, MI	02/22/2002	Fabricated Wood and Metal Parts.
41,045	Modine Manufacturing, Inc (Comp)	LaPorte, IN	02/27/2002	Radiators.
41,046	STS Apparel (Wrks)	Hialeah, FL	01/12/2002	Tee Shirts.
41,047	C.G. Bretting Mfg. Corp. (IAMAW)	Ashland, WI	02/14/2002	Paper Folding Machines.
41,048	Grede Pryor Foundry (USWA)	Pryor, OK	01/26/2002	Ductile Iron Castings.
41,049	Hale Products, Inc. (Comp)	St. Joseph, TN	01/31/2002	Portable Fire Pump.
41,050	Quality Components (Wrks)	Ridgway, PA	02/11/2002	Coils for Winding Forms.
41,051	West Point Foundry (Comp)	West Point, GA	02/01/2002	Capital Equipment—Textile Machinery.
41,052	Steel Valley Crane Serv. (Comp)	Canfield, OH	02/08/2002	Provide Engineering Services—Cranes.
41,053	Prime Manufacturing (IAM)	Oak Creek, WI	02/06/2002	Locomotive Accessories.
41,054	Trinity Industries, Inc (Wrks)	Springfield, MO	02/05/2002	Complete Railcars and Underframes.
41,055	Portex, Inc. (Wrks)	Ft. Myers, FL	02/07/2002	Disposable Medical Supplies.
41,056	LTV Tubular Products (USWA)	Youngstown, OH	02/08/2002	Weld Line Pipe & Standard Pipe.
41,057	Ingersoil CM Systems, Inc (Comp)	Midland, MI	02/08/2002	Machine Tools: Crankshaft.
41,058	Elswier Science (Wrks)	Philadelphia, PA	02/01/2002	Publish Medical Books.
41,059	Evy of California (Wrks)	Bakersfield, CA	01/10/2002	Children's Apparel.
41,060	Brooks Instruments (Wrks)	Hatfield, PA	02/07/2002	Sensors for Flow Meters.
41,061	Jeld-Wen of White Swan (Comp)	White Swan, WA	02/06/2002	Pine Cutstock for Windows.
41,062	Palmetto Loom Reed Co (Comp)	Greenville, SC	02/05/2002	Loom Reeds.
41,063	Lakemont Mfg Co., Inc. (Comp)	Lakemont, GA	01/24/2002	Ladies' Pants.
41,064	Ocean State Finishing Co (Wrks)	Woonsocket, RI	01/28/2002	Textile Dye and Finishing.
41,065	Wabash National (Wrks)	Huntsville, TN	02/14/2002	Flatbed Trailers.
41,066	Twin Rivers Textile (Wrks)	Schenectady, NY	02/06/2002	Printing and Finishing Textiles.
41,067	SCP Global Technologies (Wrks)	Boise, ID	02/01/2002	Semi Conductor Equipment.
41,068	Ansewn Footwear (Comp)	Bangor, ME	02/04/2002	Shoes and Belts.
41,069	Michigan Magnetics, Inc (Comp)	Vermontville, MI	02/05/2002	Magnetics.
41,070	Cali Sportswear Co., Inc (UNITE)	Pen Argyl, PA	02/05/2002	Knit Slacks.
41,071	Tyco International Ltd (Comp)	Arab, AL	01/29/2002	Electromechanical & Electronic Switches.
41,072	Fourth, Inc. (Comp)	Charlotte, NC	01/29/2002	Knitted Fabric for Apparel.
41,073	Vishay Dale Electronics (Comp)	Norfolk, NE	02/07/2002	Resistors.
41,074	Microtek Medical/Triad (Wrks)	Waynesville, NC	02/04/2002	Disposable Surgical Drapes.
41,075	Altec Industries, Inc (Wrks)	Plains, PA	02/07/2002	Powerline Trucks.
41,076	Clarion Sintered Metals (Wrks)	Ridgway, PA	02/08/2002	Powdered Metal Parts—Automotive.
41,077	Maloney Tool and Mold (Comp)	Meadville, PA	02/04/2002	Injection Molds.
41,078	Thomson Consumer Electron (Wrks)	Indianapolis, IN	02/01/2002	Automatic Test Equipment.
41,079	Exide Technologies (Comp)	Florence, MS	02/04/2002	Automative Batteries.
41,080	Bacou Dalloz USA (Comp)	Snow Hill, NC	02/20/2002	Personal Respiratory Protective Equip.
41,081	Bacou Dalloz USA, Inc. (Comp)	Reading, PA	02/20/2002	Personal Respiratory Protective Equip.
41,082	Bacou-Dalloz (Comp)	Lakeland, FL	02/20/2002	Eye Protection for Laser Systems.
41,083	Ellery Homestyles LLC (Wrks)	Pinebluff, NC	02/14/2002	Distribute Window Curtains.
41,084	Milady Bridals, Inc. (UNITE)	Union City, NJ	02/14/2002	Bridal Gowns.
41,085	BBI Enterprises, LP (UAW)	Alpena, MI	02/14/2002	Fiberglass Insulators.
41,086	Abbott Laboratories (Comp)	Laurinburg, NC	02/18/2002	Medical Equip/(IV) Units, Surgical Kits).
41,087	Holoplace Corp (Wrks)	Pataskaia, OH	02/01/2002	Ballasts—Lamp Fixtures.
41,088	Crompton and Knowles (Wrks)	Reading, PA	02/08/2002	Textile and Specialty Dyes, Food Color.
41,089	Weavexx (Wrks)	Greeneville, TN	02/10/2002	Forming Fabrics for Paper Machines.
41,090	Regal Originals, Inc. (Comp)	New York, NY	02/05/2002	Ladies' Apparel.
41,091	Halliburton Energy (Comp)	Tucson, AZ	02/21/2002	Oil and Gas.
41,092	Brown and Sharpe/Standard (IAM)	Poughkeepsie, NY	01/11/2002	Precision Measuring Instruments.
41,093	Greenwood Mills, Durst (Comp)	Greenwood, SC	12/18/2002	Fabrics.
41,094	STMicroelectronics, Inc (Comp)	San Diego, CA	02/28/2002	Integrated Circuits.
41,095	Woolrich, Inc (Comp)	Woolrich, PA	02/27/2002	Apparel Fabrics.
41,096	Greystar Corp (Wrks)	Houston, TX	12/05/2001	Provide Oil Field Services.
41,097	Tillmann Tool and Die (Wrks)	Breckenridge, MN	12/07/2001	Plastic Injection Molds, Dies and Jigs.

APPENDIX—Continued

[Petitions Instituted on 03/18/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
41,098	Marathon Electric (Wrks)	Wausau, WI	02/13/2002	Electric Motors and Generators.
41,099	Olamon Industries (Comp.)	Old Town, ME	03/08/2002	Audio Cassette Cases.
41,100	Russell Yarn—Alex City (Comp.)	Alexander City, AL	02/02/2002	Spin Yarn.
41,101	Black and Decker National (Comp)	Nashville, TN	02/08/2002	Reconditioned Power Tools.

[FR Doc. 02–12385 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 2002 Adverse Effect Wage Rates, Allowable Charges for Agricultural and Logging Workers' Meals, and Maximum Travel Subsistence Reimbursement

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs), allowable charges for meals, and maximum travel subsistence reimbursement for 2002.

SUMMARY: The Employment and Training Administration (ETA), announces 2002 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H–2A) workers for temporary or seasonal agricultural labor or services, the allowable charges employers seeking nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day, and the maximum travel subsistence reimbursement which a worker with receipts may claim in 2002.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H–2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Administrator also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

Under specified conditions, workers are entitled to reimbursement for travel subsistence expense. The minimum reimbursement is the charge for three daily meals as discussed above. The Administrator here announces the current maximum reimbursement for workers with receipts.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Mrs. Grace A. Kilbane, Administrator, Office of Workforce Security, U.S. Department of Labor, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–693–3200 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H–2A) workers to perform agricultural labor or services of a temporary or seasonal nature in the United States unless the petitioner has applied to the Department of Labor (DOL) for an H–2A labor certification. The labor certification must show that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H–2A program require that covered employers offer and pay their U.S. and H–2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502–20505 (June 1, 1987).

A. Adverse Effect Wage Rates (AEWRs) for 2002

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H–2A) agricultural workers. DOL emphasizes, however, that such employers must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR part 655, subpart B, the regionwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR 655.93) for which temporary alien agricultural labor (H–2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Administrator, Office of Workforce Security, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2002 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE—2002 ADVERSE EFFECT WAGE RATES (AEWRs)

State	2002 AEWR
Alabama	$7.28
Arizona	7.12
Arkansas	6.77
California	8.02
Colorado	7.62
Connecticut	7.94
Delaware	7.46
Florida	7.69
Georgia	7.28
Hawaii	9.25
Idaho	7.43
Illinois	8.38
Indiana	8.38
Iowa	8.33
Kansas	8.24
Kentucky	7.07
Louisiana	6.77
Maine	7.94
Maryland	7.46
Massachusetts	7.94
Michigan	8.57
Minnesota	8.57

TABLE—2002 ADVERSE EFFECT WAGE RATES (AEWRs)—Continued

State	2002 AEWR
Mississippi	6.77
Missouri	8.33
Montana	7.43
Nebraska	8.24
Nevada	7.62
New Hampshire	7.94
New Jersey	7.46
New Mexico	7.12
New York	7.94
North Carolina	7.53
North Dakota	8.24
Ohio	8.38
Oklahoma	7.28
Oregon	8.60
Pennsylvania	7.46
Rhode Island	7.94
South Carolina	7.28
South Dakota	8.24
Tennessee	7.07
Texas	7.28
Utah	7.62
Vermont	7.94
Virginia	7.53
Washington	8.60
West Virginia	7.07
Wisconsin	8.57
Wyoming	7.43

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H–2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H–2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H–2 logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI–U for Food between December of the year just past and December of the year prior to that. The regulations require the Administrator, Office of Workforce Security, to make the annual adjustments and to cause a notice to be published in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 2001 rates were published in a notice on August 2, 2001 at 66 FR 40298.

DOL has determined the percentage change between December of 2000 and December of 2001 for the CPI–U for Food was 3.2 percent.

Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 2002 are as follows: (1) For 20 CFR 655.102(b)(4) and 655.202(b)(4), the charge, if any, shall be no more than $8.44 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to $10.45 per day for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentation required to support the higher charge.

C. Maximum Travel Subsistence Expense

The regulations at 20 CFR 655.102(b)(5) establish that the minimum daily subsistence expense related to travel expenses, for which a worker is entitled to reimbursement, is the employer's daily charge for three meals or, if the employer makes no charge, the amount permitted under 20 CFR 655.104(b)(4). The regulation is silent about the maximum amount to which a qualifying worker is entitled.

The Department, in Field Memorandum 42–94, established that the maximum is the meals component of the standard CONUS (continental United States) per diem rate established by the General Services Administration (GSA) and published at 41 CFR Ch. 301. The CONUS meal component is now $30.00 per day.

Workers who qualify for travel reimbursement are entitled to reimbursement up to the CONUS meal rate for related subsistence when they provide receipts. In determining the appropriate amount of subsistence reimbursement, the employer may use the GSA system under which a traveler qualifies for meal expense reimbursement per quarter of a day. Thus, a worker whose travel occurred during two quarters of a day is entitled, with receipts, to a maximum reimbursement of $15.00.

If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.102(b)(4) as specified above.

Signed at Washington, DC, this 14th day of May, 2002.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 02–12376 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment And Training Administration

Wagner-Peyser Act Final Planning Allotments for Program Year (PY) 2002

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final planning allotments for Program Year (PY) 2002 (July 1, 2002 through June 30, 2003) for basic labor exchange activities provided under the Wagner-Peyser Act.

FOR FURTHER INFORMATION CONTACT: Timothy S. Felegie, Office of Workforce Security, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210. Telephone: (202) 693–2934 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with section 6(b)(5) of the Wagner-Peyser Act, 29 U.S.C. 49e(b)(5), the Employment and Training Administration is publfshing final planning allotments for each State for Program Year (PY) 2002 (July 1, 2002, through June 30, 2003). Preliminary planning estimates were provided to each State on March 8, 2002. The Secretary of Labor distributes funds in accordance with formula criteria established in section 6(a) and (b) of the Wagner-Peyser Act. The Secretary uses Civilian labor force (CLF) and unemployment data for Calendar Year 2001 to make the formula calculations.

The total amount of funds currently available for distribution is $761,735,000. The Secretary may set aside up to three percent (3%) of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required by section 6(b)(4) of the Act, 29 U.S.C. 49e(b)(4). In accordance with this provision, the Secretary has set aside $22,372,050 for administrative formula allocation. These funds are included in the total planning allotment. The Secretary distributes the funds that are set aside in two steps to States that have lost in relative share of resources from the prior year. In Step One, States that have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources.

The Secretary distributes the remainder in Step Two to all other States losing their relative share from the prior year, but which do not meet the size and density criteria for Step One. Postage costs incurred by States during the conduct of employment service (ES) activities are billed directly to the Department of Labor by the U.S. Postal Service. The total final planning allotment reflects $16,000,000, or 2.1 percent of the total amount available, withheld from distribution to finance postage costs associated with the conduct of ES business. Under section 7(b) of the Act, 29 U.S.C 49f(b), ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public ES offices and programs; services for groups with special needs; and for the extra costs of exemplary models for delivering job services.

Differences between preliminary planning estimates and final planning allotments are caused by the use of Calendar Year 2001 data as opposed to the earlier data (12 months ending September 2001) used for preliminary planning estimates.

Signed at Washington, DC, this 8th day of May, 2002.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

Appendix

BILLING CODE 4510–30–P

Employment and Training Administration

Employment Service (Wagner-Peyser)

Final PY 2002 Allotments to States

State	Basic Formula	3% Distribution Step 1*	3% Distribution Step 2**	3% Distribution Total	Total Allotment
Alabama	$10,746,239	$0	$145,242	$145,242	$10,891,481
Alaska	7,076,435	1,030,060	0	1,030,060	8,106,495
Arizona	11,580,322	0	46,023	46,023	11,626,345
Arkansas	6,053,987	0	201,864	201,864	6,255,851
California	86,962,894	0	1,537,408	1,537,408	88,500,302
Colorado	10,253,400	0	48,456	48,456	10,301,856
Connecticut	7,424,734	0	607,272	607,272	8,032,006
Delaware	2,020,326	0	62,642	62,642	2,082,968
District of Columbia	2,960,932	0	294,010	294,010	3,254,942
Florida	36,932,996	0	0	0	36,932,996
Georgia	18,848,169	0	593,664	593,664	19,441,833
Hawaii	2,891,240	0	224,643	224,643	3,115,883
Idaho	5,895,930	858,223	0	858,223	6,754,153
Illinois	31,918,188	0	54,571	54,571	31,972,759
Indiana	14,560,124	0	0	0	14,560,124
Iowa	6,892,164	0	60,535	60,535	6,952,699
Kansas	6,432,428	0	163,254	163,254	6,595,682
Kentucky	9,949,880	0	0	0	9,949,880
Louisiana	10,699,875	0	256,559	256,559	10,956,434
Maine	3,506,254	510,377	0	510,377	4,016,631
Maryland	13,019,000	0	467,099	467,099	13,486,099
Massachusetts	14,623,307	0	478,464	478,464	15,101,771
Michigan	25,855,187	0	0	0	25,855,187
Minnesota	12,556,225	0	0	0	12,556,225
Mississippi	6,569,999	0	504,190	504,190	7,074,189
Missouri	14,247,515	0	0	0	14,247,515
Montana	4,818,185	701,344	0	701,344	5,519,529
Nebraska	5,790,511	842,878	0	842,878	6,633,389
Nevada	5,129,043	0	161,344	161,344	5,290,387
New Hampshire	3,035,822	0	0	0	3,035,822
New Jersey	19,350,357	0	1,214,115	1,214,115	20,564,472
New Mexico	5,406,850	787,032	0	787,032	6,193,882
New York	42,828,509	0	3,034,927	3,034,927	45,863,436
North Carolina	20,275,400	0	0	0	20,275,400
North Dakota	4,906,354	714,178	0	714,178	5,620,532
Ohio	27,290,279	0	692,922	692,922	27,983,201
Oklahoma	7,494,537	0	430,517	430,517	7,925,054
Oregon	9,586,808	0	0	0	9,586,808
Pennsylvania	29,172,592	0	650,027	650,027	29,822,619
Puerto Rico	9,099,534	0	838,766	838,766	9,938,300
Rhode Island	2,417,187	0	120,684	120,684	2,537,871
South Carolina	9,821,032	0	0	0	9,821,032
South Dakota	4,534,598	660,065	0	660,065	5,194,663
Tennessee	13,297,360	0	287,922	287,922	13,585,282
Texas	50,698,155	0	546,595	546,595	51,244,750
Utah	8,917,588	0	885,485	885,485	9,803,073
Vermont	2,124,265	309,212	0	309,212	2,433,477
Virginia	16,111,056	0	0	0	16,111,056
Washington	16,059,602	0	81,861	81,861	16,141,463
West Virginia	5,190,295	755,510	0	755,510	5,945,805
Wisconsin	14,193,276	0	0	0	14,193,276
Wyoming	3,518,162	512,110	0	512,110	4,030,272
FORMULA TOTAL	721,545,107	7,680,989	14,691,061	22,372,050	743,917,157
Guam	348,947	0	0	0	348,947
Virgin Islands	1,468,896	0	0	0	1,468,896
Indicia Postage	16,000,000	0	0	0	16,000,000
NATIONAL TOTAL	739,362,950	7,680,989	14,691,061	22,372,050	761,735,000

*Funds are allocated to the 11 States whose relative share decreased from PY 2001 to the PY 2002 basic formula amount and which have a Civilian Labor Force (CLF) below one million and are below the median CLF density. These States are held harmless at 100% of their PY 2001 relative share.

** The balance of the 3% funds are distributed to the remaining 29 States losing in relative share from PY 2001 to their PY 2002 total allotment amount.

U. S. Department of Labor
Employment and Training Administration
Employment Service (Wagner-Peyser)
PY 2001 Final vs PY 2002 Final Allotments

	Final PY 2001	Final PY 2002	Difference	% Change
Total	$761,735,000	$761,735,000	$0	0.00%
Alabama	10,959,154	10,891,481	-67,673	-0.62%
Alaska	8,106,495	8,106,495	0	0.00%
Arizona	11,647,788	11,626,345	-21,443	-0.18%
Arkansas	6,349,907	6,255,851	-94,056	-1.48%
California	89,216,633	88,500,302	-716,331	-0.80%
Colorado	10,324,433	10,301,856	-22,577	-0.22%
Connecticut	8,314,954	8,032,006	-282,948	-3.40%
Delaware	2,082,968	2,082,968	0	0.00%
District of Columbia	3,391,931	3,254,942	-136,989	-4.04%
Florida	35,254,594	36,932,996	1,678,402	4.76%
Georgia	19,718,441	19,441,833	-276,608	-1.40%
Hawaii	3,220,552	3,115,883	-104,669	-3.25%
Idaho	6,754,153	6,754,153	0	0.00%
Illinois	31,998,185	31,972,759	-25,426	-0.08%
Indiana	14,316,804	14,560,124	243,320	1.70%
Iowa	6,980,905	6,952,699	-28,206	-0.40%
Kansas	6,671,747	6,595,682	-76,065	-1.14%
Kentucky	9,820,530	9,949,880	129,350	1.32%
Louisiana	11,075,973	10,956,434	-119,539	-1.08%
Maine	4,016,631	4,016,631	0	0.00%
Maryland	13,703,736	13,486,099	-217,637	-1.59%
Massachusetts	15,324,703	15,101,771	-222,932	-1.45%
Michigan	24,357,510	25,855,187	1,497,677	6.15%
Minnesota	12,471,659	12,556,225	84,566	0.68%
Mississippi	7,309,108	7,074,189	-234,919	-3.21%
Missouri	13,680,091	14,247,515	567,424	4.15%
Montana	5,519,529	5,519,529	0	0.00%
Nebraska	6,633,389	6,633,389	0	0.00%
Nevada	5,365,563	5,290,387	-75,176	-1.40%
New Hampshire	2,993,664	3,035,822	42,158	1.41%
New Jersey	21,130,170	20,564,472	-565,698	-2.68%
New Mexico	6,193,882	6,193,882	0	0.00%
New York	47,277,511	45,863,436	-1,414,075	-2.99%
North Carolina	18,608,828	20,275,400	1,666,572	8.96%
North Dakota	5,620,532	5,620,532	0	0.00%
Ohio	28,306,057	27,983,201	-322,856	-1.14%
Oklahoma	8,125,646	7,925,054	-200,592	-2.47%
Oregon	9,557,836	9,586,808	28,972	0.30%
Pennsylvania	30,125,489	29,822,619	-302,870	-1.01%
Puerto Rico	10,329,110	9,938,300	-390,810	-3.78%
Rhode Island	2,594,102	2,537,871	-56,231	-2.17%
South Carolina	9,751,496	9,821,032	69,536	0.71%
South Dakota	5,194,663	5,194,663	0	0.00%
Tennessee	13,719,435	13,585,282	-134,153	-0.98%
Texas	51,499,427	51,244,750	-254,677	-0.49%
Utah	10,215,650	9,803,073	-412,577	-4.04%
Vermont	2,433,477	2,433,477	0	0.00%
Virginia	15,820,479	16,111,056	290,577	1.84%
Washington	16,179,605	16,141,463	-38,142	-0.24%
West Virginia	5,945,805	5,945,805	0	0.00%
Wisconsin	13,675,955	14,193,276	517,321	3.78%
Wyoming	4,030,272	4,030,272	0	0.00%
State Total	743,917,157	743,917,157	0	0.00%
Guam	348,947	348,947	0	0.00%
Virgin Islands	1,468,896	1,468,896	0	0.00%
Postage	16,000,000	16,000,000	0	0.00%

[FR Doc. 02–12417 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5868]

Alcoa Wheel Products, Alcoa Wheel and Forged Products, Lebanon, VA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on February 13, 2002, in response to a petition filed by the United Steelworkers of America (Local 1305), on behalf of workers at Alcoa Wheel Products, Alcoa Wheel and Forged Products, Lebanon, Virginia.

The petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 17th day of April, 2002.

Linda G. Poole,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12398 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than May 28, 2002.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than May 28, 2002.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of April 2002.

Edward A. Tomchick,
Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date Received at governor's office	Petition No.	Articles produced
Biljo, Inc. (Co.)	Dublin, GA	04/22/2002	NAFTA–6,099	Men's and boy's slacks.
Pacific Crest Lumber (Co.)	Winlock, WA	04/15/2002	NAFTA–6,100	Wood.
Mount Vernon Mills (Co.)	Alto, GA	04/19/2002	NAFTA–6,101	Yarn.
Harris Welco—J.W. Harris (Co.)	Kings Mountain, NC	04/22/2002	NAFTA–6,102	Plastic lens.
Bombardier Aerospace (Wkrs.)	Wichita, KS	04/16/2002	NAFTA–6,103	Engineering and assemblies.
International Truck and Engine (UAW)	Springfield, OH	04/12/2002	NAFTA–6,104	Trucks and trucks chassis.
Warnaco (Co.)	Abeville, SC	04/16/2002	NAFTA–6,105	Jeanswear.
Spiegel Group TeleServices (SGTS) (Wkrs.).	Wichita, KY	04/17/2002	NAFTA–6,106	Call center.
Modine Manufacturing (Wkrs.)	Emporia, KY	01/16/2002	NAFTA–6,107	Motor vehicle radiators.
Peck Manufacturing (Co.)	Warronton, NC	04/18/2002	NAFTA–6,108	Cotton yarn.
GretagMacBeth (Wkrs.)	New Windsor, NY	04/18/2002	NAFTA–6,109	Software testing.
Newell Manufacturing (UAW/C)	Lowell, MI	04/18/2002	NAFTA–6,110	Metal stampings.
International Paper (IBEW)	Oswego, NY	03/11/2002	NAFTA–6,111	Linerboard and medium.
Ivaco Steel Processing (USWA)	Towawanda, NY	10/26/2001	NAFTA–6,112	Steel rod.
Crossroad Knitting (Co.)	Claudville, VA	04/18/2002	NAFTA–6,113	Socks.
Wellman, Inc. (Co.)	Fayetteville, NC	04/18/2002	NAFTA–6,114	Polyester filament (yarn).
B.F. Goodrich (IAM)	Palmyra, NY	10/09/2001	NAFTA–6,115	Seals, rubber good and expansion joints.
Signal Transformer (Co.)	Inwood, NY	11/16/2001	NAFTA–6,116	Power transformers.
Texf Industries (Co.)	New York, NY	10/31/2001	NAFTA–6,117	Apparel fabric.
Benchmark (Wkrs.)	Cheektowaga, NY	12/21/2001	NAFTA–6,118	Ceramic thermal couple sleeve.
American Fast Print Limited (Wkrs.)	Spartanbury, SC	04/18/2002	NAFTA–6,119	Textiles.
Aerus LLC—Electronlux (Wkrs.)	Bristol, VA	04/08/2002	NAFTA–6,120	Floor care products.
Acorn Products (Wkrs.)	Lewiston, ME	04/17/2002	NAFTA–6,121	Slippers, socks, footwear
Stream International—Solectron (Co.)	Dallas, TX	04/12/2002	NAFTA–6,122	Technical services for computer mfg.
Starkey Labs (Wkrs.)	Glencoe, MN	04/16/2002	NAFTA–6,123	Hearing aids.
National Service Industries—Holophane (Wkrs.).	Springfield, OH	03/28/2002	NAFTA–6,124	Foundries aluminum.

APPENDIX—Continued

Subject firm	Location	Date Received at governor's office	Petition No.	Articles produced
Wabach Technologies—Optek Sensor Group (Co.).	Huntington, IN	04/15/2002	NAFTA–6,125	Custom electrical actuators, solenoids.
Charm House—Furnimex Prod. U.S.A. (Wkrs.).	Plano, TX	04/22/2002	NAFTA–6,126	Dust ruffles, decor pillows, etc.
Knight Textile—Knight Industries (Co.)	Saluda, SC	04/22/2002	NAFTA–6,127	Ladies sportswear.
Deeter's Tool and Mfg. (Wkrs.)	Erie, PA	04/22/2002	NAFTA–6,128	Injection molding.
Bell Sponging (UNITE)	Allentown, PA	04/23/2002	NAFTA–6,129	Examination and sponging of fabric.
Corning—Photonic Technologies (Wkrs.)	West Henrietta, NY	11/21/2002	NAFTA–6,130	Couplers.
CimWorks (Wkrs.)	Kirkland, WA	04/23/2002	NAFTA–6,131	Software and hardware.
Midway Machine and Tool (Wkrs.)	Wilkes-Barre, PA	04/23/2002	NAFTA–6,132	Specialized parts and equipment.
Dekko Engineering (Co.)	Maintowoc, WI	04/23/2002	NAFTA–6,133	Wiring harness.
Keystone Thermistor (Co.)	Mt. Jewett, PA	04/23/2002	NAFTA–6,134	Thermistors control devices.
Independent Tool and Mfg. (Wkrs.)	Meadville, PA	04/23/2002	NAFTA–6,135	Molds, dies, production machining.
International Utility Structures (Co.)	Batesville, AR	04/22/2002	NAFTA–6,136	Poles.

[FR Doc. 02–12381 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5841]

Biltwell Clothing Co., Farmington, MO; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on January 30, 2002 in response to a worker petition, which was filed by the company on behalf of workers at Biltwell Clothing Co., Farmington, Missouri.

An active certification covering the petitioning group of workers remains in effect (NAFTA–4873). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12390 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5265]

Cleveland Caroknit, Spartan International, Lawndale, NC; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on August 20, 2001, in response to a petition filed on behalf of workers at Cleveland Caroknit, Spartan International, Lawndale, North Carolina.

An active certification covering the petitioning group of workers remains in effect (NAFTA–5081E). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC., this 23rd day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12397 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05183]

Cognis Corporation, Lock Haven; PA; Notice of Negative Determination Regarding Application for Reconsideration

By application received on February 11, 2002, the workers requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on November 16, 2001, and was published in the **Federal Register** on December 5, 2002 (66 FR 63262).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If its appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The NAFTA–TAA petition, filed on behalf of workers at Cognis Corporation, Lock Haven, Pennsylvania engaged in activities related to the production of photomers was denied because criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period. The investigation revealed that the Lock Haven plant transferred production to another domestic location.

The petitioner alleges that the company not only produced photomers as the decision indicated, but also produced dye intermediates.

Based on the information provided by the petitioner and the company it is evident that the dye intermediates were produced and discontinued prior to the relevant period. The investigation concentrated on the product (photomers) produced at the subject firm during the relevant period.

Although not noted in the denial notice, the Department surveyed the customers of the subject firm regarding their purchases of photomers during the relevant period. The survey revealed that none of the respondents increased their purchases of imported photomers, while decreasing their purchases from the subject firm during the relevant period.

Conclusion

After review of the application for reconsideration and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 16th day of April 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–12404 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5397]

Connolly North America, El Paso, Texas; Notice of Negative Determination Regarding Application for Reconsideration

By application dated December 4, 2001, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on November 15, 2001, and was published in the **Federal Register** on November 30, 2001 (66 FR 59817).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The denial of NAFTA–TAA for workers engaged in activities related to the production of leather and leather products (used by the automotive industry, i.e., seating components) at Connolly North America, El Paso, Texas, was based on the finding that criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. There were no company imports of leather or leather products from Mexico or Canada, nor did the subjects firm shift production from El Paso, Texas to Mexico or Canada.

The petitioner requested administrative reconsideration based on a major customer switching their purchases of leather and leather products from the subject firm in favor of producing the products at the customer's affiliated location in Mexico.

Based on data supplied during the initial investigation, the allegation by the petitioner is consistent with what the subject firm provided. The loss of a customer and the decision by the customer to produce the leather and leather products in Mexico and the further processing of these products into car seat components in Mexico does not meet the eligibility requirements of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act, as amended.

However, based on the data supplied, the Department will evaluate if the firm is secondarily impacted under the North American Free Trade Agreement (NAFTA) Implementation Act.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC. this 15th day of April 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–12403 Filed 5–16–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5397]

Connolly North America, El Paso, TX; Negative Finding Regarding Qualification as a Secondary Firm Pursuant to the Statement of Administrative Action Accompanying the North American Free Trade Agreement (NAFTA) Implementation Act

The Department of labor hererin presents the results of an investigation regarding qualification as a secondarily impacted firm, pursuant to the Statement of Administrative Action accompanying the North American Free Trade Agreement (NAFTA) Implementation Act.

The workers of Connolly North America, El Paso, Texas were denied eligibility to apply for NAFTA–TAA (NAFTA–5397). Pursuant to that determination, an investigation was conducted in order to determine whether the workers qualify as secondarily impacted as suppliers to or finishers or processors for a firm primarily affected by increased imports from or a shift in production to Mexico or Canada.

In order for an affirmative finding to be made, the following requirements must be met:

(1) The subject firm must be a supplier of a firm that is directly affected by imports from Mexico or Canada or shifts in production to those countries; or

(2) The subject firm must assemble or finish products made by a directly-impacted firm; and

(3) The loss of business with the directly-affected firm must have contributed importantly to worker separations at the subject firm.

The investigation revealed that criteria (1) and (2) have not been met.

The petitioners assert that a major customer switched their purchases of leather and leather products from the subject firm in favor of producing the leather and leather products at the customer's affiliated location in Mexico.

The subject firm workers were engaged in activities related to

production to leather and leather products (used by the automotive industry, *i.e.*, seating components). The investigation found that the customer has not been certified under NAFTA-Transitional Adjustment Assistance and therefore is not a directly-impacted firm.

Based on this evidence, I determine that with respect to workers of Connolly North America, El Paso, Texas, such workers do not qualify as secondarily affected pursuant to the Statement of Administrative Action accompanying the North American Free Trade Agreement Implementation Act.

For further information on assistance under Title I of the Workforce Investment Act which may be available to workers included under this determination, contact: Ms. Barbara Cigainero, Director, Workforce Development, Texas Workforce Commission, 101 E. 15th Street, Austin, Texas 78778–001, Phone: (512) 463–7747, FAX: (512) 463–2799, E-Mail: *Barbara.cigainero@twe.state.tx.us*

Signed at Washington, DC, this 15th day of April 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–12405 Filed 5–6–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–005610]

General Electric Transportation Systems, Global Signaling, Grain Valley, MO; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on July 30, 1998, in response to a petition filed on behalf of workers at General Electric Transportation System (GETS) Global Signaling, Grain Valley, Missouri.

None of the three workers that filed the petition are employees of GETS, Global Signaling's Grain Valley facility. The petition is therefore deemed invalid. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC., this 30th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12392 Filed 5–6–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6044]

Huntsman Polymers Corp., Odessa, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for NAFTA–TAA.

Petition NAFTA–6044 is a duplicate of a previous petition (NAFTA–5171), which was certified on August 29, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 3rd day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12387 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5291]

Kraft Foods North America, Inc., Lehigh Valley, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Kraft Foods North America, Inc., Lehigh Valley, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–5291; Kraft Foods North America, Inc., Lehigh Valley, Pennsylvania (April 25, 2002)

Signed at Washington, DC this 29th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–12380 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05148]

Plasticsource, Inc., Kelly Staff Leasing, Kelly Services, Inc., El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance on September 24, 2001, applicable to workers of PlasticSource, Inc., including workers of Kelly Staff Leasing, El Paso, Texas. The notice was published in the **Federal Register** on October 11, 2001 (66 FR 51974).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State shows that leased employees of Kelly Services, Inc. were also employed at PlasticSource, Inc. to produce headlamp parts and vacuum cleaner parts at the El Paso, Texas location of the subject firm.

Worker separations occurred at Kelly Services, Inc. as a result of worker separations at PlasticSource, Inc. El Paso, Texas.

Based on these findings, the Department is amending the certification to include workers of Kelly Service, Inc. employed at PlasticSource, Inc., El Paso, Texas.

The intent of the Department's certification is to include all workers of PlasticSource, Inc., El Paso, Texas adversely affected by declines in sales, production and employment and increased customer imports of headlamp parts and vacuum cleaner parts from Mexico.

The amended notice applicable to NAFTA—5148 is hereby issued as follows:

All workers of PlasticSource, Inc., El Paso, Texas, including workers of Kelly Staff Leasing and Kelly Services, Inc. producing headlamp parts and vacuum cleaner parts at PlasticSource, Inc., El Paso, Texas who became totally or partially separated from employment on or after July 26, 2000, through September 24, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 15th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12402 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5477]

Vison Tool & Manufacturing, Inc., Meadville, PA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on October 26, 2001 in response to a worker petition that was filed on behalf of workers at Vison Tool & Manufacturing, Inc., Meadville, Pennsylvania.

The petitioning group of workers has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 24th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–12399 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The Prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI020001 (Mar. 1, 2002)

Volume II

None

Volume III

None

Volume IV

Michigan
MI020007 (Mar. 1, 2002)
Minnesota
MN020008 (Mar. 1, 2002)
MN020010 (Mar. 1, 2002)
MN020051 (Mar. 1, 2002)
MN020058 (Mar. 1, 2002)
MN020059 (Mar. 1, 2002)
MN020061 (Mar. 1, 2002)
Wisconsin
WI020007 (Mar. 1, 2002)

Volume V

Arkansas
AR020003 (Mar. 1, 2002)
Louisiana
LA020001 (Mar. 1, 2002)
LA020005 (Mar. 1, 2002)
LA020009 (Mar. 1, 2002)
LA020012 (Mar. 1, 2002)
LA020014 (Mar. 1, 2002)
LA020015 (Mar. 1, 2002)
LA020017 (Mar. 1, 2002)
LA020018 (Mar. 1, 2002)
LA020048 (Mar. 1, 2002)
LA020052 (Mar. 1, 2002)
LA020053 (Mar. 1, 2002)

Volume VI

Alaska
AK020001 (Mar. 1, 2002)
AK020005 (Mar. 1, 2002)

Idaho
ID020001 (Mar. 1, 2002)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Services (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

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Signed at Washington, DC, this 9th day of May, 2002.

John Frank,

Acting Chief, Branch of Construciton Wage Determinations.

[FR Doc. 02–12155 Filed 5–16–02; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–412]

FirstEnergy Nuclear Operating Co., Beaver Valley Power Station, Unit No. 2; Exemption

1.0 Background

The FirstEnergy Nuclear Operating Company (FENOC/the licensee) is the holder of Facility Operating License No. NPF–73, which authorizes operation of Beaver Valley Power Station, Unit No. 2 (BVPS–2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor (PWR) located in Beaver County, Pennsylvania.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 54 addresses the various requirements for renewal of operating licenses for nuclear power plants. Section 54.17(c) of part 54 specifies:

> An application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license currently in effect.

By letter dated December 17, 2001, the licensee requested an exemption from 10 CFR 54.17(c) for BVPS–2. At the time of the request, there were more than 25 years remaining until the expiration of the current operating license for BVPS–2. The exemption would allow FENOC to process and submit the BVPS–2 license renewal application concurrent with the Beaver Valley Power Station, Unit No. 1 (BVPS–1) license renewal application. Because of the similarities in design, operation, maintenance, operating experience and environments of the two Beaver Valley units, many of the analyses to be performed for Unit 1 would be directly applicable to Unit 2.

This exemption is required in order to allow an application for renewal of the BVPS–2 license to be prepared and submitted concurrently with the license renewal application for BVPS–1. Based on an anticipated submittal of a renewal application in September 2004, such a license renewal request for BVPS–2 would occur approximately 3 years earlier than the earliest date allowed by 10 CFR 54.17(c).

3.0 Discussion

Pursuant to 10 CFR 54.15, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 54, in accordance with the provisions of 10 CFR 50.12, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

The requirements for exemption are discussed below:

3.1 Authorized by Law

The Commission's basis for establishing the 20-year limit contained in § 54.17(c) is discussed in the 1991 Statements of Consideration for part 54 (56 FR 64963). The limit was established to ensure that substantial operating experience was accumulated by a licensee before a renewal application is submitted such that any plant-specific concerns regarding aging would be disclosed. In amending the rule in 1995, the Commission indicated that it was willing to consider plant-specific exemption requests by applicants who believe that sufficient information is available to justify applying for license renewal earlier than 20 years from expiration of the current license. FENOC's exemption request is consistent with the Commission's intent to consider plant-specific requests and is permitted by § 54.15 of the Commission's regulations.

The current operating license for BVPS–2, was issued in accordance with the Atomic Energy Act, as amended (AEA), and 10 CFR 50.51 which limit the duration of an operating license to a maximum of 40 years. In accordance with § 54.31, a renewed license will be of the same class as the operating license currently in effect and cannot exceed a term of 40 years. Therefore, the term of a renewed license for BVPS–2 would be limited both by law and the Commission's regulations to 40 years. Additionally, Section 54.31 (b) states that:

> A renewed license will be issued for a fixed period of time, which is the sum of the additional amount of time beyond the expiration of the operating license (not to exceed 20 years) that is requested in a renewal application plus the remaining number of years on the operating license currently in effect. The term of any renewed license may not exceed 40 years.

The potential exists that, because of FENOC's decision to apply early for license renewal for BVPS–2, FENOC might not obtain the maximum 20-year period of extended operation permitted by § 54.31(b). Any actual reduction will depend on the date that a renewed license is issued. If a reduction in 20-year extension is required and FENOC desires further extension of the BVPS–2 operating license in the future, an additional renewal application can be submitted in accordance with part 54.

Therefore, should the Commission determine to renew the BVPS–2 operating license, the term of the license will not exceed 40 years, and granting of FENOC's exemption request will not result in violation of the AEA or the Commission's regulations.

3.2 No Undue Risk to Public Health and Safety

FENOC's exemption request seeks only schedular relief regarding the date of submittal, and not substantive relief from the requirements of parts 51 or 54. FENOC must still conduct all environmental reviews required by part 51 and all safety reviews and evaluations required by part 54 when preparing a license renewal application for BVPS–2. Following submittal, the staff's review will verify that all applicable Commission regulations are met before issuing a renewed license. Therefore, the staff finds that granting this schedular exemption will not represent an undue risk to public health and safety.

3.3 Consistent With the Common Defense and Security

As discussed previously, the exemption requested is only a schedular exemption. The NRC staff will review any renewal application for BVPS–2 submitted by FENOC, pursuant to the requested exemption, to determine whether all applicable requirements are fully met. Accordingly, granting the requested exemption is consistent with the common defense and security.

3.4 Special Circumstances Supporting Issuance of the Exemption

An exemption will not be granted unless special circumstances are present as defined in 10 CFR 50.12(a)(2). Specifically, § 50.12(a)(2)(ii) states that a special circumstance exists when "application of the regulation in the particular circumstances * * * is not necessary to achieve the underlying purpose of the rule." In initially promulgating § 54.17(c) in 1991, the Commission stated that the purpose of the time limit was "to ensure that substantial operating experience is accumulated by a licensee before it submits a renewal application" (56 FR 64963). At that time, the Commission found that 20 years of operating experience provided a sufficient basis for renewal applications. However, in issuing the amended Part 54 in 1995, the Commission indicated it would consider an exemption to this requirement if sufficient information was available on a plant-specific basis to justify submission of an application to renew a license before completion of 20 years of operation (60 FR 22488). The 20-year limit was imposed by the Commission to ensure that sufficient operating experience was accumulated to identify any plant-specific aging concerns. As set forth below, BVPS–1 and 2 are sufficiently similar, such that the operating experience for BVPS–1 is applicable to BVPS–2. In addition, BVPS–2 has accumulated significant operating experience. Accordingly, under the requested exemption, sufficient operating experience will have been accumulated to identify any plant-specific aging concerns for both units.

The licensee states that BVPS–1 and 2 are similar in design, operation, maintenance, use of operating experience, and environments, and, as such, BVPS–1 operating experience is directly applicable to BVPS–2. Both Beaver Valley units are 2689 megawatt (thermal) PWRs designed by the Westinghouse Electric Corporation, and the same architect/engineer designed and built the entire site. The licensee states that the materials of construction for systems, structures, and components on both units are similar. These statements are supported by a review of the BVPS–2 Updated Final Safety Analysis Report (UFSAR). In particular, Section 1.3 of the UFSAR describes the similarities in design between the units. Table 1.3–1 of the UFSAR lists significant similarities between systems, structures, and components installed at both BVPS–1 and 2, including elements of the engineered safety features, containment concepts, instrumentation systems, electrical systems, and waste management system.

BVPS–2 is physically located adjacent to BVPS–1. As such, the external environments would be similar for both units. Internal environments for both units are also similar due to the similarity in plant design and operation.

FENOC also stated that many of the procedures that govern site activities are not unit specific. The Beaver Valley Plant Condition Report procedure governs the documentation, analysis, and corrective action associated with plant non-conformances and other conditions of concern. Non-conformance or degraded equipment on one unit is cause to investigate the possibility of the same condition on the other unit.

Because of the similarities between BVPS–1 and 2, FENOC does not divide the plant organizations by unit with the exception of the operations area, which is a unit-specific organization. The Superintendent for BVPS–1 Operations and the Superintendent for BVPS–2 Operations both report to the Plant General Manager, who reports to the Beaver Valley Senior Vice President. Additionally, various plant organizations such as Maintenance and Engineering are not divided into separate Unit 1 and Unit 2 groups, and personnel from these organizations may be assigned work activities on both units.

Given the similarities between units, the operating experience at BVPS–1 is applicable to that of BVPS–2 for purposes of the license renewal review. At the time of the exemption request, BVPS–1 had achieved over 25 years of operating experience, which are applicable to BVPS–2. Unit 2 has operated for over 14 years, which provides a substantial period of additional plant-specific operating experience to supplement the BVPS–1 operating experience. The combined years of operating experience of BVPS–1 and 2 should be sufficient to identify any aging concerns applicable to the two units.

Therefore, sufficient combined operating experience exists to satisfy the intent of § 54.17(c), and the application of the regulation in this case is not necessary to achieve the underlying purpose of the rule. The staff finds that FENOC's request meets the requirement in § 50.12(a)(2)(ii) that special circumstances exist to grant the exemption.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Additionally, special circumstances are present. Therefore, the Commission hereby grants FENOC the exemption sought from the requirements of 10 CFR 54.17(c) for BVPS–2 based on the circumstances described herein.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 31384).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 10th day of May 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–12419 Filed 5–16–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Guidance for Inspections of Medical Licensees; Announcement of 10 CFR Part 35 Public Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcements of public workshop.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting a public meeting on June 6, 2002, to obtain stakeholder comments on draft guidance for inspections of Medical Use licensees. This guidance is being revised in order to facilitate inspections under a recently published, major revision to the regulations governing the medical use of byproduct material (67 FR 20249; April 24, 2002). The final rule becomes effective on October 24, 2002, six months from the date of publication. The meeting on inspection guidance is one of three workshops being conducted on guidance related to the revised rule. The other workshops, related to draft NUREG–1556, Volume 9, "Consolidated Guidance About Materials Licenses; Program-Specific Guidance About Medical Use Licenses," were held at NRC headquarters in Rockville MD on April 25 and 30, 2002. The NRC is especially interested in stakeholder comments that will improve guidance to make it more risk-informed and performance-based.

DATES: Commenters should submit comments on the draft inspection procedures by June 21, 2002. The draft inspection procedures will be made publically available in mid-May, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. A one day public workshop will be held on Thursday, June 6, 2002, from 9 a.m. to 5 p.m. at NRC's headquarters; the workshop will be preceded by an open house from 8 a.m. to 9 a.m. The intent of the open house is to present the opportunity for informal interactions between attendees, both NRC staff and members of the public. To ensure that adequate copies of handouts are available, persons planning to attend the workshop should contact the person designated below by June 4, 2002.

ADDRESSES: Written comments on the draft inspection guidance may be submitted to the Chief, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T6–D59, Washington, DC 20555. The draft inspection guidance will be available for review and comment on the Internet at the NRC's Rulemaking Forum at *http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=rg_lib&file=**. A link will be provided at that site to enable submission of public comments. For information about the web site, contact Carol Gallagher via e-mail at *CAG@nrc.gov*.

The public workshop will be held at the NRC Auditorium, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. Information about the workshops will also be posted at NRC's Web site at *http://www.nrc.gov;* click on "Public Meeting Schedule."

FOR FURTHER INFORMATION CONTACT: Wade T. Loo, Office of Nuclear Materials Safety and Safeguards, Division of Industrial and Medical Nuclear Safety, Rulemaking and Guidance Branch, Mail Stop T9–C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (404) 562–4727; e-mail: *WTL@nrc.gov*. Questions about the public meeting process should be directed to Francis Cameron, Office of the General Counsel, USNRC, Washington, DC 20555–000; e-mail: *FXC@nrc.gov;* telephone: (301) 415–1642. Individuals who need accommodations under the American with Disabilities Act may contact Roberta Gordon in advance at 301–415–7555; from outside of the Washington, DC metropolitan area, call 1–800–368–5642 and ask for extension 7555, e-mail: *REG@nrc.gov*. Persons planning to attend the meeting should contact Ms. Gordon and provide information that will facilitate entrance into the building on the day of the meeting.

SUPPLEMENTARY INFORMATION:

Draft Inspection Guidance for Implementation of Revised Part 35

The NRC is posting draft inspection guidance for public comment on the NRC's Rulemaking Forum web site. In addition to obtaining written comments, the NRC staff will be conducting a public workshop on June 6, 2002, to obtain stakeholder comments on the draft guidance. The workshop will be held in the Auditorium at NRC Headquarters in Rockville, MD.

The NRC staff is seeking input on the draft guidance in order to make it useful for the conduct of inspections for compliance with the revised 10 CFR part 35, "Medical Use of Byproduct Material." In particular, staff is especially interested in receiving comments on how to make inspection procedures both performance-based and risk-informed.

To facilitate the NRC's handling of comments, we request that commenters relate their comments to specific sections in the draft inspection guidance or in 10 CFR part 35. This will help place the comments in context and aid in understanding how they relate to the guidance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 10th day of May, 2002.

Patricia K. Holahan,

Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 02–12418 Filed 5–16–02; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Notification of Item Added to Meeting Agenda and Vote To Close Audit and Finance Committee Meeting

Date of Meeting: May 6, 2002.
Status: Closed.
Previous Announcement: 67 FR 20194, April 24, 2002.
Additions: Outside Audit Contract and Vote to Close Audit and Finance Committee Meeting.

At its meeting on May 6, 2002, the Board of Governors of the United States Postal Service voted unanimously to add consideration of an outside audit contract to the agenda of its closed meeting.

In addition, by telephone vote on May 2, a majority of the members contacted and voting, the Board voted to close to public observation the Audit and Finance Committee meeting scheduled for May 6, to consider resolution of an audit matter.

No earlier announcement of either of the above items was possible. The General Counsel of the United States Postal Service certified that in her opinion discussion of these items could be properly closed to public observation.

Contact Person for More Information: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000.

William T. Johnstone,

Secretary.

[FR Doc. 02–12601 Filed 5–15–02; 2:23 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27528]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

May 10, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 4, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 4, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Dominion Resources, Inc., et al. 70–9967)

Dominion Resources, Inc. ("DRI"), a registered holding company; Consolidated Natural Gas Company ("CNG"), a registered holding company subsidiary of DRI, both at 120 Tredegar Street, Richmond, VA 23219, and the following subsidiaries of DRI: Dominion Energy, Inc.; Elwood Energy LLC; Dominion Reserves, Inc.; Dominion Ohio ES, Inc.; Dominion Resources Services, Inc.; Dominion Alliance Holding, Inc., all located at 120 Tredegar Street, Richmond, VA 23219; Elwood II Holdings, LLC; Elwood III Holdings, LLC, both located at 21100 Noel Road, Elwood, IL 60421; Kincaid Generation, LLC, Box 260, Kincaid, IL 62540; DT Services, Inc.; Dominion Metering Services, Inc., both at 701 East Cary Street, Richmond, VA 23219; CNG International Corporation; Dominion Greenbrier, Inc.; and Dominion Natural Gas Storage, Inc. all located at 120 Tredegar Street, Richmond, Virginia 23219; CNG Power Services Corporation; Dominion Products and Services, Inc.; Dominion Retail, Inc.; The Peoples Natural Gas Company; Dominion Tower, all located at 625 Liberty Avenue, Pittsburgh, PA 15222; Dominion Exploration & Production, Inc.; CNG Pipeline Company; CNG Main Pass Gas Gathering Corporation; CNG Oil Gathering Corporation; Dominion Oklahoma Texas Exploration & Production, Inc., all located at Four Greenspoint Plaza, 16945 Northchase Drive, Houston, TX 77060; Dominion Transmission, Inc.; Dominion Iroquois, Inc.; Dominion Field Services, Inc., all located at 445 West Main Street, Clarksburg, WV 26301; Hope Gas, Inc., 347 West Main Street, Clarksburg, WV 26301; and The East Ohio Gas Company, 1717 E. Ninth Street, Cleveland, OH 44114; (collectively "Subsidiaries") have filed an application-declaration under sections 6(a), 7, 9, 10, 12(b), and 12(f) of the Act, and rules 43, 45, and 54 under the Act ("Application").

DRI, CNG, and the Subsidiaries seek authority to form and operate through December 31, 2005 a DRI money pool ("DRI Money Pool"). The Subsidiaries consist of both DRI subsidiaries, which are not subsidiaries of CNG, and DRI subsidiaries that are subsidiaries of CNG that are currently participants in the CNG money pool ("CNG Money Pool").[1] Neither DRI nor CNG will borrow from the DRI Money Pool, but will be the ultimate provider of funds to the DRI Money Pool as needed. Virginia Electric Power Company, an electric utility subsidiary company of DRI is not one of the participating Subsidiaries in the DRI Money Pool. Additional subsidiaries of DRI may become participants in the DRI Money Pool.[2]

The purpose of the DRI Money Pool will be to provide the Subsidiaries with internal and external funds and to invest surplus funds of DRI and the Subsidiaries in short-term money market instruments. The DRI Money Pool will offer the Subsidiaries lower short-term borrowing costs due to the elimination of banking fees, a mechanism to earn a higher return on interest from surplus funds that are loaned to other Subsidiaries, and decreased reliance on external funding sources.

Participants will invest their surplus funds in the DRI Money Pool, and the Subsidiaries will borrow funds from the DRI Money Pool, provided that, (A) with respect to each of the CNG utility companies (East Ohio Gas Company, Hope Gas, Inc., and The Peoples Natural Gas Company) outstanding borrowings from the DRI Money Pool shall not exceed $750 million at any one time and (B) Exempt wholesale generators ("EWGs"), foreign utility companies ("FUCOs"), and exempt telecommunications companies ("ETCs") are excluded as borrowers. DRI will obtain the funds to invest in the DRI Money Pool: (A) From internally generated funds; (B) through the authorizations the Commission granted by order date December 15, 1999 (HCAR No. 27112) and May 24,

[1] The CNG Money Pool will be terminated after issuance of an order approving the DRI Money Pool by the Commission and approval for each CNG utility company to participate in the DRI Money Pool by each state utility regulatory commission having jurisdiction over the transaction.

[2] DRI requests that the Commission reserve jurisdiction over the addition of any new company.

2001 (HCAR No. 27406); and/or (C) any other current financing authorization or exemptions that may be available to DRI. Dominion Resources Services, Inc. will administer the Money Pool on an "at cost" basis.

The daily interest rate on loans from the DRI Money Pool and on all deposits of cash in the money pool will equal the effective weighted average rate of interest on DRI's outstanding commercial paper and/or revolving credit borrowings. If no DRI borrowings are outstanding on the date of any outstanding loan, then the interest rate will be the Federal Funds' effective rate of interest as quoted daily by the Federal Reserve Bank of New York. The rate to be used for weekends and holidays will be the rate on the prior business day.

Each participant receiving a loan through the DRI Money Pool would be required to repay the principal amount of the loan, together with all interest accrued thereon, on demand. Interest on outstanding loans would be paid to the DRI Money Pool monthly. All loans made through the DRI Money Pool can be repaid by the borrower without premium or penalty.

Funds not required by the DRI Money Pool to make loans (with the exception of funds required to satisfy the DRI Money Pool's liquidity needs) would ordinarily be invested in one or more short-term investments including: (A) Obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities; (B) commercial paper; (C) certificates of deposits; (D) bankers' acceptances; (E) repurchase agreements; (F) tax exempt notes; and (G) other investments that are permitted by section 9(c)(3) of the Act and rule 40. The interest income and investment income earned on loans and investments of surplus funds would be allocated among the participants in the DRI Money Pool in accordance with the proportion each participant's contribution of funds bears to the total amount of funds in the DRI Money Pool.

All terms and conditions governing the operations of, and the participation by DRI, CNG and the Subsidiaries in, the DRI Money Pool will be contained in a written agreement.

C&T Enterprises, Inc. et al. (70–10023)

C&T Enterprises, Inc. ("C&T"), 1775 Industrial Boulevard, Lewisburg, PA 17837, a Pennsylvania corporation and a public-utility holding company exempt from registration under section 3(a)(1) of the Act by order of the Commission, Claverack Rural Electric Cooperative, Inc. ("Claverack"), RR 2, Box 17, Wysox, PA 18854, a Pennsylvania rural electric cooperative and a holding company exempt from registration under section 3(a)(1) of the Act by order of the Commission, Tri-County Rural Electric Cooperative, Inc. ("Tri-County"), a Pennsylvania rural electric cooperative and a holding company exempt from registration under section 3(a)(1) of the Act by order of the Commission, and Wilderness Area Utilities, Inc. ("Wilderness"), a Pennsylvania corporation and a public-utility holding company exempt from registration under section 3(a)(1) of the Act by order of the Commission,[3] both of 22 North Main Street, Mansfield, PA 16933 (collectively, "Applicants"), have filed with this Commission an application under sections 3(a)(1), 3(a)(2), 9(a)(2) and 10 under the Act.

Tri-County and Claverack each own 50% of the issued shares of C&T. Generally, the Applicants request: (1) Authority for C&T to directly and Tri-County and Claverack to indirectly acquire all of the common stock of Valley Energy, Inc. ("Valley"), a newly formed Pennsylvania public-utility company; (2) an order granting Tri-County, Claverack, Wilderness and C&T an exemption from registration under section 3(a)(1) of the Act from all provisions of the Act, except section 9(a)(2); and (3) in the alternative to section 3(a)(1) exemptions, Tri-County and Claverack request exemptions from registration under section 3(a)(2) from all provisions of the Act except section 9(a)(2).

Tri-County is engaged in the distribution of electricity to approximately 17,000 customers throughout a 4,484 square mile service area in seven counties in north-central Pennsylvania. Tri-County also serves a small percentage of customers in bordering counties of New York. Tri-County is not subject to utility regulation by any state or federal agency and is specifically exempted from any regulation by the Pennsylvania Public Utilities Commission ("PA PUC") under the Pennsylvania Electric Cooperative Corporation Act. For the fiscal year ended December 31, 2000, Tri-County's operating revenues and net income were approximately $16 million and $552,000, respectively. At December 31, 2000, the assets of Tri-County were approximately $32 million in identifiable electric utility property, plant and equipment and approximately $10 million in other corporate assets.

Tri-County has one wholly-owned subsidiary, Wilderness, which is a Pennsylvania public-utility holding company exempt from all provisions of the Act, except section 9(a)(2), under section 3(a)(1) of the Act.[4] Wilderness has one wholly-owned operating subsidiary, Wellsboro Electric Company ("Wellsboro"), a Pennsylvania investor-owned public-utility company. Wellsboro is engaged in the distribution of electricity to approximately 5,500 customers in an approximately 266 square mile area in north-central Pennsylvania. Wellsboro is subject to regulation by the PA PUC. For the fiscal year ended December 31, 2000, Wilderness' operating revenues, net income and total assets were $149,147, $182,195, and $12,938,323, respectively. For the fiscal year ended December 31, 2000, Wellsboro's operating revenues and net income were approximately $6.1 million and $391,000, respectively. As of December 31, 2000, Wellsboro's assets were approximately $6 million consisting of approximately $4.5 million in identifiable electric utility property, plant and equipment and approximately $1.5 million in other corporate assets.

Claverack is engaged in the distribution of electricity to approximately 17,000 customers throughout a service territory of approximately 1,820 square miles in an eight county region in north-central and north-eastern Pennsylvania. Claverack also serves a small percentage of customers in bordering counties in New York. Claverack wholly-owns one nonutility subsidiary, Susquehanna Energy Plus, Inc., doing business as Tioga Energy. Tioga Energy also jointly owns Tioga Propane with Wellsboro. Like Tri-County, Claverack is not subject to utility regulation by any state or federal agency and is specifically exempted from any regulation by the PA PUC under the Pennsylvania Electric Cooperative Corporation Act. For the fiscal year ended December 31, 2000, Claverack's operating electric revenues and net income were approximately $18 million and $300,000, respectively. At December 31, 2000, Claverack's assets were approximately $48 million consisting of approximately $40 million in identifiable electric utility property, plant and equipment and approximately $8 million in other corporate assets.

C&T is a Pennsylvania corporation formed for the purpose of acquiring and holding the common stock of Citizens' Electric Company ("Citizens"). Tri-County and Claverack each own 50% of the issued shares of C&T, 1,000 shares each of common stock. C&T's sole current asset is the stock of Citizens and upon consummation of the acquisition discussed below, the stock of Valley. C&T will not have any other subsidiaries. For the fiscal year ended December 31, 2000, C&T's operating revenues, net income and total assets were approximately $253,312, $110,586, and $13,282,139, respectively.

Citizens, a Pennsylvania public-utility company, is principally engaged in the distribution of electricity to approximately 6,300 customers in an approximately 55 square mile service territory in parts of two counties in central Pennsylvania. Citizens is subject to regulation as a public-utility company as to retail electric rates and other matters by the PA PUC. For the fiscal year ended December 31, 2000, Citizens' operating revenues and net income were approximately $9.3 million and $191,000, respectively. Assets of Citizens were approximately $8.4 million consisting of approximately $5.2 million in identifiable electric utility property, plant and equipment and approximately $3.2 million in other corporate assets.

On October 4, 2000, C&T entered into an agreement to purchase the Pennsylvania and New York natural gas assets of NUI Utilities, Inc ("NUI") ("Asset Sale Agreement"). The Asset Sale Agreement provides that C&T shall purchase substantially all of the natural gas assets of NUI located in Pennsylvania and New York ("Acquisition"). Upon consummation of the Acquisition, C&T will transfer its ownership interest in the NUI assets to Valley. Upon the transfer of the assets to Valley, Valley will issue 1000 shares of common stock, all of which will be held by C&T ("Stock Acquisition"). The shareholders of C&T and NUI have approved the Stock Acquisition at their respective shareholder meetings.

Valley will be a public-utility company as defined in section 2(a)(5) of the Act. Valley will be engaged in the business of selling and distributing natural gas in parts of one county in north-central Pennsylvania and in portions of two counties in south-central New York. Valley will serve approximately 6,300 retail customers in a 104 square mile territory lying substantially within the Commonwealth of Pennsylvania with the remaining portion in the state of New York. Approximately 5,000 of Valley's customers will be located in Pennsylvania with the remaining 1,300 customers located in New York. Valley will be an investor-owned public-utility subject to regulation by the PA PUC and the New York Public Service Commission.

Each of C&T, Wilderness, Tri-County and Claverack requests an order under section 3(a)(1) exempting it from all provisions of the Act except 9(a)(2) following consummation of the Stock Acquisition. Each states that it will remain predominantly intrastate in character and carry on its business substantially in Pennsylvania, the state in which each company and every material public-utility company subsidiary are organized. In the alternative, Tri-County and Claverack, request an order under section 3(a)(2), exempting it from all provisions of the Act except 9(a)(2).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12334 Filed 5–16–02; 8:45 am]

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[3] The Commission granted each Tri-County, Claverack and C&T exemptions in HCAR No. 26973 (Feb. 5, 1999). The Commission granted Wilderness an exemption in a prior order. (HCAR No. 26167 (Nov. 22, 1994)).

[4] HCAR No. 26167 (Nov. 22, 1994).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45909; File No. SR–CBOE–2002–16]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Removal of the Restriction on Floor Brokers From Trading in the Same Crowds as Affiliated Designated Primary Market-Makers

May 10, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to delete existing CBOE Rule 8.91(d) that prohibits a member affiliated with a Designated Primary Market-Maker ("DPM") from acting as a floor broker in any trading crowd in which that DPM is the appointed DPM. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 1998, CBOE filed a proposed rule change to update and reorganize its rules relating to the Exchange's DPM program.[3] As part of that filing, CBOE adopted CBOE Rule 8.91, which limits the dealings between DPMs and its affiliates.[4] CBOE Rules 8.91(a) through (c) describe the specific activities that are prohibited between a DPM and its affiliates and CBOE Rule 8.91(e) allows for exemptions to these restrictions if the related members can establish appropriate procedures to restrict the flow of material non-public and market information between the DPM and its affiliates.

The Commission approved CBOE Rule 8.91(d) in connection with the Exchange's DPM program.[5] CBOE Rule 8.91(d) provides, in pertinent part, that no member affiliated with a DPM may act as a floor broker in any trading crowd in which the DPM acts as a DPM. Although many other exchanges have rules similar to CBOE Rule 8.91 (a) through (c) and 8.91(e),[6] no other exchange's rules specifically prohibit a floor broker from trading in the same crowd of its affiliated specialist or lead market maker. The CBOE has concluded that the continued imposition of such a limitation on CBOE members can, and has, created a barrier to competition.

CBOE Rule 8.91(d) was added to the revised DPM rules for a very narrow

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43004 (June 30, 2000), 65 FR 43060 (July 12, 2000) (SR–CBOE–98–54).

[4] In addition, CBOE revised and restated CBOE Rule 8.81 as 8.91. *See supra* note 3.

[5] *See supra* note 3.

[6] *See e.g.*, American Stock Exchange Rule 193; New York Stock Exchange Rule 98; and Pacific Exchange Rule 6.83.

purpose.[7] Specifically, CBOE included this restriction to prevent DPMs from creating a wholly-owned floor brokerage subsidiary solely to circumvent its obligations and restrictions as a DPM. In proposing CBOE Rule 8.91(d), the Exchange raised concerns that, by directing orders to an affiliated floor broker, a DPM could circumvent its obligations to: (1) Place in the public order book orders eligible for entry into the book; (2) accord priority to any order which the DPM represents as agent over the DPM's principal transactions; (3) not charge any brokerage commission with respect to the execution of any order for which the DPM acts as both agent and principal; and (4) not represent discretionary orders.[8] CBOE represents, however, that these concerns were more relevant to the structure of the DPM organizations in 1998 than today.

In 1998, most DPMs were closely held entities and only about half of CBOE's equity option crowds were part of the DPM program. Since CBOE filed the proposal to implement CBOE Rule 8.91(d), there have been significant developments in the trading environment on CBOE, as well as in the entire industry. Somewhat recently, CBOE expanded the DPM program to virtually all trading crowds on the CBOE floor.[9] Also, the options industry has seen a growing number of consolidations, a trend which has affected a large number of CBOE firms and their respective DPM operations. Consequently, a large number of firms that now run CBOE DPM operations are diversified and integrated corporate entities.

CBOE represents that with this growing trend toward consolidation, member firms and potential members are precluded from pursuing new trading operations simply because a subsidiary or an affiliated company holds a DPM allocation(s) or is conducting a floor brokerage operation on CBOE. Even more serious is that current CBOE floor brokers would be required to discontinue existing operations simply because the floor broker's firm is included in a legitimate merger or acquisition transaction that creates an affiliation with the DPM operation, despite the fact that the DPM is a wholly separate entity with little or no direct managerial control over the floor brokers' operations. The CBOE represents that this was not the desired effect of CBOE Rule 8.91(d).

Additionally, in the absence of CBOE Rule 8.91(d), the CBOE believes that any attempt by a DPM organization to circumvent its obligations, in the manner proscribed by the Exchange in proposing Rule 8.91(d) would be covered by existing rules of the Exchange.[10] CBOE asserts that CBOE Rule 8.91(d) was not enacted to prevent floor brokers from trading with affiliated DPMs in the DPM's crowd, but to prevent member firms from creating a mechanism to blatantly flout its affirmative legal obligations. Due in large part to the recent changes both in the make-up of the CBOE's trading floor and in its membership, CBOE believes that CBOE Rule 8.91(d) has produced overly restrictive and unintended prohibitions. CBOE represents that, in the current environment, CBOE Rule 8.91(d) puts the CBOE at an undue competitive disadvantage with all other option exchanges. As such, in light of the industry trend toward consolidation and, most importantly, in consideration of the fact that no other exchange imposes such a restriction on its members, the CBOE believes that CBOE Rule 8.91(d) creates an unnecessary barrier upon its members, and potential members, and therefore, should be deleted.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR–CBOE–2002–16 and should be submitted by June 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12335 Filed 5–16–02; 8:45 am]

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[7] *See supra* note 3.

[8] *See* Securities Exchange Act Release No. 41325 (April 22, 1999), 64 FR 23691 (May 3, 1999).

[9] CBOE represents that the CBOE index option pits do not utilize DPMs.

[10] For example, CBOE Rule 6.43, Manner of Bidding and Offering, provides, in part, that "[a]ll bids and offers shall be general ones and shall not be specified for acceptance by particular members." CBOE Rule 6.43 would prohibit a DPM from directing its trades. Also, CBOE Rule 7.4, Obligations for Orders, subparagraph d, Execution, requires a DPM to "use due diligence to execute the orders placed in his custody at the best prices available to him under the Rules of the Exchange." CBOE Rule 4.1, Just and Equitable Principles of Trade, provides a general protection from any such illicit intentions, stating that: "No member shall engage in acts or practices inconsistent with just and equitable principles of trade. Persons associated with members shall have the same duties and obligations as members under the Rules of this Chapter [IV]."

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45861A, File No. SR–MSRB–2002–04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Rule G–14, on Reports of Sales or Purchases

May 13, 2002.

Correction

In FR Document No. 02–11394, beginning on page 30989 for Wednesday, May 8, 2002, the heading is corrected as set forth above and the first sentence of the second paragraph of Section III, Discussion, on page 30990 was incorrectly stated. The sentence should read as follows:

After careful review, the Commission finds that the MSRB's proposed rule change consisting of an amendment to Rule G–14, on reports of sales and purchases, meets the statutory standard.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12338 Filed 5–16–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45916; File No. SR–NASD–2002–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a Regulatory Fee and To Increase Market Data Revenue Sharing

May 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2) thereunder[4] as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to: (1) Institute a fee for the regulatory services provided in connection with the operation of The Nasdaq Stock Market; (2) expand the market data revenue available for sharing with members under NASD Rule 7010(a)(2) by eliminating the deduction for the cost of regulatory services provided by NASD Regulation, Inc. ("NASDR") and increasing the percentage of eligible revenue that is shared; and (3) extend the pilot period with respect to which market data revenue sharing is available through December 31, 2002.[5]

The proposed rule change is effective on filing, but Nasdaq will implement the proposed rule change beginning on June 1, 2002, for a pilot period running through December 31, 2002. Accordingly, the first regulatory fee will be based upon market activity during the month of June, and the last fee under the pilot will be based upon market activity during the month of December. The increase in market data revenue sharing will apply to trade reporting activity from June through December.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in brackets.

7010. System Services

(a) (1) No change.

(2) Market Data Revenue Sharing

(A) For a pilot period lasting [until] *through* [October] *December* 31, 2002, NASD members shall receive a market data revenue sharing credit. The total credit shall be calculated in accordance with the following formula:

Credit = [(0.80)]*(0.90)* × (Eligible Revenue) × (Member's Volume Percentage)

(B) Definitions. The following definitions shall apply to this Rule:

(i) "Eligible Revenue" shall mean[:]

[a.] The portion of the net distributable revenues that Nasdaq, through the NASD, is eligible to receive under the Nasdaq UTP Plan, that is attributed to the Nasdaq Level 1 Service for Eligible Securities.[, minus]

[b. The portion of the fee charged to Nasdaq by NASD Regulation, Inc. for regulatory services allocated to the Nasdaq Level 1 Service for Eligible Securities.]

(ii) "Eligible Securities" shall mean all Nasdaq National Market securities and any other security that meets the definition of "Eligible Security" in the Nasdaq UTP Plan.

(iii) "Member's Volume Pércentage" shall mean the average of:

a. The percentage derived from dividing the total number of trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to the Automated Confirmation Transaction Service ("ACT") by the total number of trades in Eligible Securities reported to ACT by NASD members, and

b. The percentage derived from dividing the total number of shares represented by trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members.

(iv) "Nasdaq UTP Plan" shall mean the Joint Self-Regulatory Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis.

(b)–(p) No change.

* * * * *

7110. Regulatory Services

(a) Fee. NASD members will be assessed a monthly fee for the regulatory services provided in connection with the operation of The Nasdaq Stock Market during a pilot period lasting through December 31, 2002. The fee shall be calculated at the beginning of each month using data

[1] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] When Nasdaq filed the proposed rule change, the proposed rule language stated the pilot period would last "until" December 31, 2002, while the description of the proposal stated the pilot period would last "through" December 31, 2002. To avoid confusion, Nasdaq consented to change the proposed rule language to state that the pilot period would last through December 31, 2002. The Commission did not require Nasdaq to file a formal amendment to accomplish this change, since it was Nasdaq's intention to have the pilot period last through December 31, 2002. *See* telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Joseph Morra, Special Counsel, Division of Market Regulation, SEC, May 10, 2002.

concerning market activity during the prior month, in accordance with the following formula:

Regulatory Fee = ((Monthly Regulatory Charge) × (Member's Quote Share) × 0.4) + ((Monthly Regulatory Charge) × (Member's Position Share) × 0.2) + ((Monthly Regulatory Charge) × (Member's ACT Record Share) × 0.4)

(b) Transitional Fee Reduction. The fee for regulatory services payable by a member in a given month shall be reduced by an amount calculated in accordance with the following formula (if such amount is positive):

Fee Reduction = (Aggregate Fee Reduction) × (Member's Share of Fee Reduction)

(c) Definitions. The following definitions shall apply to this Rule:

(1) "Aggregate Fee Reduction" shall mean the lesser of (i) the Aggregate Impact during a month or (ii) $416,667.

(2) "Aggregate Impact" shall mean the sum of each Member's Impact that is positive.

(3) "Implicit Monthly Fee" shall mean the product of (i) the Monthly Regulatory Charge with respect to a particular month and (ii) the Member's Volume Percentage (as defined in Rule 7010(a)(2)) during such month.

(4) "Market ACT Record Total" shall mean the sum of each Member's ACT Record Total.

(5) "Member's ACT Record Share" shall mean a percentage calculated by dividing the Member's ACT Record Total by the Market ACT Record Total.

(6) "Member's ACT Record Total" shall mean the greater of (i) the number of all types of ACT records in which the member is the reporting party during the month, minus the number of ACT records reported for dissemination to the public in which the member is either the reporting party or the contra-party during the month, or (ii) the number of ACT records reported for dissemination to the public in which the member is the reporting party during the month.

(7) "Member's Impact" shall mean the difference between the regulatory fee payable by the member under subsection (a) with respect to a particular month and the highest Implicit Monthly Fee for such member in any month between January 2002 and such month.

(8) "Member's Position Share" shall mean a percentage calculated by dividing (i) the sum of the number of days during the month that the member posted a bid or offer under its name with respect to each Nasdaq-listed security by (ii) the sum of the number of days during the month that each member posted a bid or offer under its name with respect to each Nasdaq-listed security.

(9) "Member's Quote Share" shall mean a percentage calculated by dividing the member's quotation activity in Nasdaq-listed securities during the month by the quotation activity of all members in Nasdaq-listed securities during the month. Prior to the introduction of the version of the Nasdaq National Market Execution System (the "NNMS") commonly referred to as SuperMontage, quotation activity shall be measured by quotation updates. In the version of the NNMS commonly referred to as SuperMontage, quotation activity shall be measured by any entry, modification, cancellation, or cancel/replace of a member's best priced Quote/Order on the bid or the offer side of the market.

(10) "Member's Share of Fee Reduction" shall mean a percentage calculated by dividing the Member's Impact by the Aggregate Impact.

(11) "Monthly Regulatory Charge" shall mean sum of (i) the fee that Nasdaq pays to NASD Regulation, Inc. for regulatory services with respect to Nasdaq-listed securities for the month, and (ii) costs incurred by Nasdaq's MarketWatch Department for regulatory services with respect to Nasdaq-listed securities during the month.

(12) "Nasdaq-listed securities" shall mean Nasdaq National Market securities and Nasdaq SmallCap Market securities.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to change the manner in which it shares tape revenue with NASD members that report trades in Nasdaq-listed securities to Nasdaq's Automated Confirmation Transaction Service ("ACT"), and is instituting a direct fee for the regulatory services provided in connection with the operation of The Nasdaq Stock Market. Nasdaq is making these changes to ensure that Nasdaq can effectively compete with exchanges that trade Nasdaq securities on an unlisted trading privileges basis ("UTP Exchanges") without impairing the effectiveness of Nasdaq's regulatory program.

In the past, Nasdaq has funded the costs associated with regulatory services through the market data revenue that it receives through the NASD, under the Joint Self-Regulatory Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (the "Nasdaq UTP Plan" or the "Plan"). The portion of this revenue used to fund regulation may be characterized as an implicit fee for regulatory services, based on the magnitude of trade reporting activity. Recently, however, UTP Exchanges have expanded their programs for trading Nasdaq securities and have begun sharing the market data revenue that they receive under the Plan with market participants that execute and/or report trades through their facilities. Nasdaq has also instituted a program for sharing market data revenue with members, but shares only a portion of the revenues remaining after funding its regulatory costs. [6]

Nasdaq has concluded that financing regulatory services out of market data revenue divorces the costs of regulation from the marketplace activities that necessitate it and thereby reduces the transparency of these costs to market participants. Nasdaq is also concerned that using market data revenue for this purpose may ultimately prove untenable in an environment where the sharing of market data revenues has become a basis for competition. Accordingly, Nasdaq is implementing a direct, explicitly formulated fee on members for regulatory services and is eliminating the deduction for regulatory costs from its market data revenue sharing program. At the same time, Nasdaq will increase the amount of tape revenue shared with NASD members that trade report Nasdaq securities to Nasdaq.

The Act imposes obligations on self-regulatory organizations to oversee the activities of their members. Currently, the NASD divides its regulatory responsibilities with respect to The

[6] Securities Exchange Act Release Nos. 45342 (Jan. 28, 2002), 67 FR 5109 (Feb. 1, 2002) (SR-NASD-2001-96); and 45444 (Feb. 14, 2002), 67 FR 8051 (Feb. 21, 2002) (SR-NASD-2002-17).

Nasdaq Stock Market between Nasdaq and NASDR, with Nasdaq's MarketWatch Department performing real-time surveillance and NASDR's Market Regulation Department performing extensive post-trade surveillance and investigation of the quoting and trading activity of NASD member firms. MarketWatch monitors quote and trade information, as well as third-party news sources, to detect unusual market activity that may be indicative of rule violations or disorderly market conditions. It helps to detect and correct inaccurate trade reports and monitors the market to resolve locked and crossed markets and trade-or-move rule violations. NASDR's Market Regulation Department conducts surveillance on a vast range of regulatory matters, including compliance with rules relating to order handling, trade reporting, best execution, and limit order protection, and the detection of wash sales, front running, manipulation, insider trading, and other forms of fraud. The Market Regulation Department also conducts on-site examinations of market makers, prosecutes violations of Nasdaq marketplace rules, and refers violations of SEC rules to the Commission.

Nasdaq bears the cost of all of these regulatory services, however: Directly, in the case of the MarketWatch Department, and through payments to NASDR in the case of its Market Regulation Department. If the Commission grants Nasdaq's application to register as a national securities exchange, Nasdaq will be directly responsible for regulation of its members, but will discharge many of its responsibilities through a Regulatory Services Agreement with NASDR, under which Nasdaq will continue to pay NASDR for services provided. Thus, the financial burden associated with regulation will remain largely unchanged following exchange registration.[7]

Nasdaq's traditional practice of funding regulatory costs out of market data revenue [8] is not sustainable in an environment where market participants have increasing opportunities to execute and/or report trades through UTP Exchanges and where Nasdaq UTP Plan participants compete by sharing market data revenue with market participants. Market data revenue sharing, although a feature of the current competitive environment, has the potential to wipe out the resources traditionally used to fund regulation. Moreover, if a market participant chooses to post quotes on Nasdaq but to report some portion of its trades to a UTP Exchange, the decrease in market data revenue received by Nasdaq will not be offset by a decrease in its regulatory costs. As long as the market participant remains active in Nasdaq, NASD/Nasdaq retains a responsibility for maintaining a program aimed at detecting regulatory infractions by the market participant and its customers.

Fragmentation of trade reporting data will make Nasdaq's regulatory program less effective and more costly, however, because NASDR will not have ready access to information about trades reported to UTP Exchanges. This will make it more difficult for NASDR to detect a range of abuses, including insider trading, wash sales, short sale rule violations, and violations of best execution obligations and limit order protection obligations. For example, a party wishing to trade on the basis of material non-public information might distribute its trading between market venues, making it less likely that the trades observed by any one regulator would give rise to suspicion. If an investigation of fraudulent conduct were commenced, moreover, NASDR would have to obtain information about suspicious trades from UTP Exchanges and/or their members. In time-sensitive investigations, the resulting delays may prevent regulators from taking prompt action to stop the fraudulent conduct. Moreover, the ultimate outcome of such an investigation may be adversely affected if the trade reporting rules of the UTP Exchange do not require the same range of information as NASD/Nasdaq trade reporting rules.

Nasdaq believes that the Commission must develop a policy response to the regulatory challenges posed by fragmentation of trade reporting activity. To enhance its ability to fulfill its own regulatory obligations, however, Nasdaq also believes that a restructuring of its traditional mechanisms for funding regulatory services is necessary. Rather than using a shrinking pool of market data revenue to underwrite regulation, Nasdaq believes that it must institute a direct charge on members. Such a charge will ensure that each member pays its fair share of the regulatory costs necessitated by its participation in the Nasdaq market. It will also provide Nasdaq with flexibility to share market data revenue in a manner consistent with UTP exchanges, rather than using these revenues to cross-subsidize regulation.

For the remainder of 2002, Nasdaq proposes to fund the costs associated with regulation of The Nasdaq Stock Market by imposing a fee based upon the number of markets that a member makes in Nasdaq securities (*i.e.*, the number of stocks in which the member posts a quote, whether it is a market maker or an electronic communications network), the number of quotation changes generated by that firm, and the number of ACT records reported by the firm. The number of markets that a member makes and its quoting activity correlate to the resources that NASDR (and therefore Nasdaq) must expend to surveil the firm for compliance with rules relating to the handling of customer orders, such as the SEC's Order Handling Rules and the NASD's "Manning" Rule, as well as the resources expended by Nasdaq's MarketWatch Department. A firm's ACT records correlate with resources expended to surveil for compliance with trading and reporting rules, such as rules relating to short sales, trade reporting, best execution, wash sales, front running, insider trading, and fraud.

To a large extent, the regulatory costs incurred by Nasdaq are technological: The costs associated with developing, operating, and maintaining systems that are capable of storing and analyzing vast quantities of market data. These systems include Nasdaq MarketWatch's Surveillance Delivery Real-Time ("SDR") system, which conducts real-time analysis of quote and trade information, as well as third-party news sources, for unusual market activity or conduct that may violate marketplace

[7] The costs of regulation incurred by Nasdaq to operate The Nasdaq Stock Market should not be confused with costs incurred by the NASD in performing non-Nasdaq regulatory activities—such as member examinations and regulating the sales and trading of fixed income securities, investment company securities, and other non-Nasdaq securities—which are financed through assessments under the NASD By-Laws.

[8] Prior to the introduction of its market data revenue sharing program, Nasdaq financed all of its regulatory costs from market data revenue. Under the market data revenue sharing program that Nasdaq put into effect in February 2002, Nasdaq shares 80% of "eligible revenue" with members, with each member's share of eligible revenue based on the percentage of trades reported through ACT that are attributable to the member (measured with reference to the number of trades and share volume). Securities Exchange Act Release Nos. 45342 (Jan. 28, 2002), 67 FR 5109 (Feb. 1, 2002) (SR-NASD-2001-96); and 45444 (Feb. 14, 2002), 67 FR 8051 (Feb. 21, 2002) (SR-NASD-2002-17). However, "eligible revenue" consists solely of the market data revenue associated with Nasdaq's basic data service, the Nasdaq Level 1 Service, minus the portion of the fee charged to Nasdaq by NASDR for regulatory services that is allocated to Nasdaq Level 1 Service. (The allocation of the fee to Level 1 is made in proportion to the revenue derived from Level 1 in comparison to other market data revenue.) Thus, under the current program, the entire NASDR fee is recovered before any revenue is shared. Under this approach, an NASD member is implicitly charged the market regulation fee on the basis of the number of trades and the share volume that the NASD member trade reports to Nasdaq.

rules, and NASDR's detection systems, such as the Advanced Detection System ("ADS") and the Securities Observation News Analysis and Research ("SONAR") system, which conduct more extensive post-trade analysis, both through automated detection algorithms and through the powerful analytical tools that they provide to NASDR personnel. Accordingly, Nasdaq believes that it is reasonable to assess a regulatory charge based upon the quoting and trading data that feed into these systems.

To be sure, there may be other aspects of a member's activity that create regulatory costs. Accordingly, during the remaining months of 2002, Nasdaq will conduct an extensive analysis of the costs incurred to regulate particular market activities (*e.g.*, quoting, trade execution, trade reporting, listing, order entry, *etc.*) with the goal of more precisely calibrating fees for regulation with the activities that necessitate it. In the meantime, however, Nasdaq believes that it is essential to begin the process of passing regulatory costs through to members directly, to ensure that regulatory arbitrage does not emerge as a serious threat to market integrity.

Nasdaq's total regulatory costs for the period from June 1, 2002 to December 31, 2002 are expected to be approximately $38,967,000: $3,967,000 for the operation of the MarketWatch Department and $35,000,000 to be paid to NASDR for the services that it provides.[9] During each month of this period, Nasdaq will allocate 40% of the cost to members based upon their quotation activity, 40% based on their ACT records, and 20% based upon the markets that they make.[10] Specifically, quotation activity will be measured by dividing the quotation activity attributable to the member by all quotation activity during the month.[11] Market making will be measured by dividing (i) the sum of the number of days during the month that the member posted a bid or offer under its name with respect to each Nasdaq-listed security by (ii) the sum of the number of days during the month that each member posted a bid or offer under its name with respect to each Nasdaq-listed security.[12]

Because all ACT records (clearing and non-clearing, tape and non-tape) have regulatory costs associated with them, it could be argued that a portion of the regulatory fee should be tied directly to the number of records in which a member is a reporting party. Some market participants, however, routinely interpose themselves as a counter party to their customers' trades, and therefore use multiple ACT records to report a single transaction fee: A fee tied directly to the number of records would impose a heavy burden upon such market participants, in effect penalizing them for their business model and the patterns of ACT usage that it dictates. To avoid this result, the number of ACT records used to calculate each member's share is the *greater of* (i) the number of all types of ACT records (*i.e.*, clearing and non-clearing, tape and non-tape) in which the member is the reporting party, minus the number of ACT records reported for dissemination to the public (*i.e.*, tape records) in which the member is either the reporting party or the contra-party, *or* (ii) the number of ACT records reported for dissemination to the public (*i.e.*, tape records) in which the member is the reporting party. For a firm that frequently uses multiple records to report a single transaction, the first part would result in the greater number, but the subtraction of tape records would offset the double counting that would occur if all ACT records were considered. For a firm that does not frequently use multiple records, the first part would drastically undercount its usage, so the second part (ACT tape records that it reports) provides a better measure of its activity. The number of reports attributed to each member under this formula would then be totaled to determine the percentage of the total attributable to each member.

The regulatory charge assigned to some members may be higher than the implicit fee that they would have "paid" under the old system for funding regulation. Although Nasdaq believes that the ultimate goal of an explicit regulatory fee must be to charge each member the regulatory costs to which its activities give rise, the pilot fee that Nasdaq is introducing itself represents a transitional step between the implicit fee and the more precisely calibrated fee that Nasdaq will develop this year. Accordingly, to ease the transition, the proposed rule change incorporates a fee reduction, calculated with reference to the difference between a member's regulatory fee and the implicit fee that the member paid, or would have paid, during that month or any preceding month of 2002. Specifically, all members whose regulatory fee in a particular month exceeds the highest implicit fee [13] in that month or any preceding month of 2002 will be eligible to receive a fee reduction in proportion to the member's share of the total impact on adversely affected members. The aggregate amount of the fee reduction per month will be the lesser of (i) the total impact on adversely affected members or (ii) $416,667, an amount that represents Nasdaq's projection of the average monthly difference between the regulatory fee chargeable to members (before the fee reduction) and the increased amount of market data revenue that will be shared with members in the period from June through December 2002 as a result of the proposed rule changes to NASD Rule 7010(a)(2) made by this filing. The fee reduction for a specific member will be determined by multiplying the aggregate amount of fee reduction by a percentage calculated by dividing the impact on the member [14] by the total impact on all adversely affected members.

In addition, Nasdaq will be eliminating the deduction of regulatory charges from the pool of revenue eligible for sharing under its market data revenue sharing program, and increasing the percentage of eligible revenue shared from 80% to 90%. As a result, from Nasdaq's revenue perspective, it is expected that the net effect of all the changes made by this filing will be revenue neutral or revenue diminishing. Particular members, however, may pay more or less, on a net basis, than they would have without these changes.

In particular, members that choose to report a significant number of trades through non-Nasdaq facilities will pay more than under an implicit fee model, but Nasdaq presumes that they choose to report trades elsewhere in large part because of the market data revenue sharing offered by exchanges where they print trades. The new regulation fee, however, will ensure that such members bear a portion of the cost of the regulatory services that continue to benefit them, their customers, and the market as a whole.

[9] These amounts exclude regulatory costs associated with the operation of Nasdaq's OTC Bulletin Board Service and Intermarket Trading System/Computer Assisted Execution System, which are used for trading securities other than Nasdaq-listed securities. The regulatory costs associated with these systems are not being charged directly to members under this proposed rule change.

[10] A greater weight is assigned to the quotation and ACT record components because of the predominance of costs associated with the storage and analysis of quotation and trading data.

[11] In Nasdaq's current quoting environment, a member may display only one two-sided quote per stock. In Nasdaq's future SuperMontage environment, a member may maintain Quotes/Orders at multiple price levels. Accordingly, the best priced Quote/Order on the bid and the offer side of the market will be used to measure quotation activity.

[12] For example, if a member posted quotes in 30 stocks during every day of a month with 22 trading days, the numerator used to calculate its "position share" would be 660.

[13] Calculated by multiplying regulatory costs for the month by the member's share of trade activity for the month, measured using the same methodology as under the market data revenue sharing program.

[14] That is, the difference between the member's regulatory fee and the implicit fee that the member paid, or would have paid, during that month or any preceding month of 2002.

2. Statutory Basis

Nasdaq believes the proposed rule change is consistent with the Act, including section 15A(b)(5) of the Act,[15] which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and section 15A(b)(6) of the Act,[16] which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The regulatory fee is objectively allocated among members based on their quotation activity, ACT reporting activity, and market-making activity during a recent prior period. The level of the fee is reasonable, in that it is designed to pass through the costs that Nasdaq will incur during the last eight months of 2002 to regulate the market. Moreover, Nasdaq expects that the increase in the level of market data revenue sharing available to members will be at least equal to the total regulatory charges. Accordingly, the proposed rule change is expected to be revenue-neutral or revenue diminishing from Nasdaq's perspective.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [17] and subparagraph (f)(2) of Rule 19b–4 thereunder,[18] because it establishes or changes a due, fee, or other charge imposed by the Association. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR–NASD–2002–61 and should be submitted by June 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12336 Filed 5–16–02; 8:45 am]

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[15] 15 U.S.C. 78o–3(b)(5).

[16] 15 U.S.C. 78o–3(b)(6).

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45915; File No. SR–NASD–2001–44]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. To Allow Electronic Communications Networks and Alternative Trading Systems To Participate in the Over-the-Counter Bulletin Board

May 10, 2002.

I. Introduction

On July 12, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow electronic communications networks ("ECNs") and alternative trading systems ("ATSs") to participate in the Over-the-Counter Bulletin Board ("OTCBB"). On August 28, 2001, the Commission published notice of the proposal in the **Federal Register**.[3] The Commission received seven comments on the proposal. On January 18, 2002, the NASD submitted Amendment No. 1 to the proposal.[4] This notice and order approves the proposed rule change, solicits comment from interested persons on Amendment No. 1, and approves Amendment No. 1 on an accelerated basis.

II. Description of the Proposal

The OTCBB is an automated quotation service that displays real-time quotes, last-sale prices, and volume information in over-the-counter ("OTC") equity securities.[5] The OTCBB,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44732 (August 22, 2001), 66 FR 45348.

[4] *See* Letter from Teri Nelson Jacoby, Office of General Counsel, Nasdaq, to Katherine A. England, Division of Market Regulation ("Division"), Commission, dated January 18, 2002 ("Amendment No. 1"). In Amendment No. 1, the NASD proposed additional rule text to clarify that an ATS or ECN that participates on the OTCBB must reflect non-subscriber access or post-transaction fees in its posted quote on the OTCBB.

[5] An OTC equity security generally is an equity security that is not listed or traded on Nasdaq or a national securities exchange. OTCBB securities include national, regional, and foreign equities, warrants, units, American Depositary Receipts, and direct participation programs securities.

which began operating on a pilot basis in June 1990, is designed to facilitate the widespread publication of quotation and last-sale information for OTC equity securities. The Commission permanently approved the OTCBB in 1997.[6]

The OTCBB operates pursuant to NASD Rule 6500 *et seq.* These rules provide, among other things, that all securities quoted on the OTCBB must be sponsored by an NASD member that is a participating market maker. An OTC equity security not currently quoted on the OTCBB is considered "ineligible" until a market maker registers the security on NASD's Form 211.[7] The market maker also must provide certain additional information about the issuer of the security, for purposes of NASD Rule 6530, on a Form 211 Addendum. Under NASD Rule 6530, the issuer must be current in its filings with the Commission or other applicable regulatory authority for the security to be eligible for quotation on the OTCBB.

A market maker would submit the Form 211 and the Addendum to the NASDR OTC Compliance Unit. If the NASDR OTC Compliance Unit "clears" the security for quotation, Nasdaq's Market Data Integrity Unit would notify the market maker that it has been registered in the security and that it may enter a quote for that security on the OTCBB. Once cleared, the security would have "eligible" status. During the eligible period, Nasdaq administers a frequency-of-quotation test. The test must be satisfied before the security is identified as "active." To become active, the security must have been quoted on the OTCBB on at least 12 business days during the preceding 30 calendar days, with no more than four consecutive business days without quotations.[8] If the security is active, a market maker need not submit a Form 211 before quoting the security. However, a market maker must register with Nasdaq when it enters a quotation on the OTCBB for the first time; this registration may be completed on-line.

Proposed NASD Rule 6540(b) would permit an ATS or ECN to participate in the OTCBB in the same way that a market maker currently participates. If the security were not "active," the ATS or ECN would be required to provide the same information required by the Form 211 Addendum.[9] The first time that an ATS or ECN posted a quotation in an active security, it would be required to register on-line in the same manner as a market maker.

In addition, ATSs and ECNs that wish to participate in the OTCBB would be required to comply with all other OTCBB rules applicable to market makers. For example, the OTCBB system does not permit a market maker to post a firm quote for less than the minimum size required by NASD Rule 6750.[10] Thus, an ATS or ECN would not be able to post in the OTCBB montage an order on behalf of a user for less than the minimum size required by NASD Rule 6750.[11]

III. Comments Received, NASD Response, and Amendment No. 1

The Commission received seven comments from six commenters in response to the proposal.[12] Three commenters supported the proposal without qualification.[13] The fourth commenter, Knight, was generally supportive but raised concerns that the proposal did not set forth with sufficient particularity the requirements that would be imposed on ATSs and ECNs electing to participate in the OTCBB.[14] Knight was "particularly concerned with Nasdaq's failure to state unequivocally that ATSs participating in the OTCBB shall not be permitted to levy post transaction fees against non-subscribers." Knight further stated that ATSs and ECNs should be prohibited from levying fees on non-subscribers or be required to include non-subscriber fees in their quotes on the OTCBB. Furthermore, Knight believed that ATSs and ECNs that participate in the OTCBB should be required to comply with all rules applicable to other market maker participants, including, but not limited, to Rule 15c2–11.

The fifth commenter—GlobeNet, an ATS that currently operates a matching system for orders in OTCBB securities and that seeks to participate in the OTCBB—also advocated approval of the proposal. In GlobeNet's view, consolidating the quotes of market makers and ATSs on the OTCBB would facilitate the search by broker-dealers for the best price for their customers' orders. GlobeNet also stated that Nasdaq's proposal would enhance fair competition by allowing ATSs and market makers to compete on equal terms and would encourage dealers in OTCBB securities to compete with ATSs on price. GlobeNet cautioned, however, that it did not believe that the proposal was the ideal means to allow ATS and ECN participation on the OTCBB. GlobeNet noted that the NASD's proposal was structured to treat an ATS as a market maker, even though an ATS operates in a very different manner than a market maker.

In its second comment letter that responded to the views and concerns raised by other commenters, GlobeNet argued that its business model should not be undercut by precluding its ability to charge transaction fees. GlobeNet stated, nevertheless, that "the ability of GlobeNet to participate in the OTCBB is of such paramount importance to our ability to compete on a level playing field with market makers in the OTCBB that we reluctantly would acquiesce for the time being to a Nasdaq decision to reflect our transaction fees in the GlobeNet quote on the OTCBB."[15] GlobeNet added that, when the Commission reaches a resolution on access fees in the Nasdaq market, it should apply the same approach to the OTCBB market.

The sixth commenter, Niehoff, was the only commenter who strongly opposed the NASD's proposal. Niehoff characterized the proposal as "clearly anti-competitive" and "a thinly disguised effort by Nasdaq to dictate the terms and conditions under which trading in OTCBB securities takes place."[16] Niehoff recommended that the Commission explore several issues—including whether an ATS or ECN desiring to participate in the OTCBB should be required to be an NASD member, to file Form 211, and to incur participation costs—and republish the proposal for additional comment.

On November 27, 2001, Nasdaq submitted a response to the comments noted above.[17] With respect to the application of Rule 15c2–11 to ATSs and ECNs, Nasdaq stated that it would apply NASD Rule 6740, *Submission of Rule 15c2–11 Information on Non-Nasdaq Securities*, to ATSs and ECNs in the same manner as it applies to market makers. Nasdaq noted, however, that the Commission has issued an exemption that permits broker-dealers to publish or submit quotations in quotation mediums—including quotation mediums that are not inter-dealer quotation systems—when they satisfy the requirements set forth in the exemption letter.[18] Nasdaq stated that it would adjust its administration of Rule 15c2–11 to be consistent with the Commission's interpretation of that rule, including with respect to GlobeNet and other similarly situated parties.

With respect to the comment submitted by Niehoff, Nasdaq stated that Niehoff did not offer specific reasons why he believes the proposal to be anti-competitive. Nasdaq believes, to the contrary, that the proposal is pro-competitive because it would broaden participation on the OTCBB while treating all participants equally. Also, Nasdaq believes that all ATSs and ECNs that seek to participate in the OTCBB must be NASD members; otherwise, the NASD would not have jurisdiction to regulate and oversee all participants. Nasdaq further stated that ATSs and ECNs would participate by posting quotes on the OTCBB through a Nasdaq Workstation II or an application program interface, as market makers currently do. According to Nasdaq, the costs to ATSs and ECNs of participation in the OTCBB would be the same as for market makers.

To address the issue of ATS and ECN fees, the NASD filed Amendment No. 1 to the proposal. As stated in Amendment No. 1, Nasdaq believes that, because market makers that enter quotes in the OTCBB are not permitted to charge access or post-transaction fees over and above their posted quotes, a participating ATS or ECN should be similarly prohibited from charging such fees, unless such fees were incorporated in its posted quote. Nasdaq indicated that the terms "access fee" and "post-transaction fee" both refer to fees charged by an ATS or ECN to participants with whom the ATS or ECN does not have a subscriber agreement. Typically, the fees are assessed on a per-share basis each time the non-subscriber accesses the posted quote of the ATS or ECN.

Nasdaq proposed to add new paragraph (c) to NASD Rule 6540 to reflect the foregoing. Paragraph (c) of the original proposal would become paragraph (d). Paragraph (b) is unchanged from the original proposal. NASD Rule 6540 would therefore read as follows. New text is italicized:

6540. Requirements Applicable to Market Makers

(a) No change.

(b) *An alternative trading system (ATS), as defined in Regulation ATS, Rule 300(a), or electronic communications network (ECN) as defined in SEC Rule 11Ac1–1(a)(8), shall be eligible to participate in the Service, provided however, that such ATS or ECN is an NASD member and otherwise meets the requirements for participation set forth in the OTC Bulletin Board Rules. Where used in the OTC Bulletin Board Rules, the term "market maker" shall be construed to include a participating ATS or ECN.*

(c) *A participating ATS or ECN shall reflect non-subscriber access or post-transaction fees in the ATS's or ECN's posted quote in the OTC Bulletin Board montage.*

(d) No change.

IV. Discussion

A. The Proposal as Amended

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the regulations thereunder applicable to the NASD.[19] In particular, the Commission believes that the proposal is consistent with section 15A(b)(6) of the Act.[20] Section 15A(b)(6) requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

The Commission finds that participation by ATSs and ECNs in the OTCBB will enhance competition in the marketplace for OTC equity securities. In the Commission's view, the proposal will foster competition because a greater number of market participants will be able to display their quotations on the OTCBB. Moreover, quotations for OTCBB securities will now be capable of being displayed in a single system, so that broker-dealers that execute orders in such securities can more readily ascertain the best prices.

As proposed in Amendment No. 1, an ATS or ECN that posts a quote for a security on the OTCBB may charge a fee to a non-subscriber for executing against that quote, provided that the fee is reflected in the quote. The Commission finds that Nasdaq's approach to ATS and ECN fees with respect to OTCBB participation is consistent with the Act.[21]

The Commission also believes that it is reasonable for the NASD to require ATSs and ECNs that wish to post quotes on the OTCBB to comply with the same obligations as a market maker. A broker-dealer is subject to Rule 15c2–11 whenever it places a quotation[22] in any quotation medium—including an ATS or ECN—unless it can rely on one of the exceptions set forth in Rule 15c2–11 or an exemption granted by the Commission.[23] The Commission has previously stated that Rule 15c2–11 would apply to an ATS or ECN if, as a registered broker-dealer, it displayed its own orders in the ATS or ECN.[24] However, if the ATS or ECN displayed the order of another broker-dealer, the

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[6] *See* Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (approving SR–NASD–92–7).

[7] In certain limited circumstances, a market maker is permitted to quote a security on the OTCBB by submitting a Rule 15c2–11 Exemption Form and/or a Form 211 Addendum, depending on the particular situation. For example, a market maker could be able to use a Rule 15c2–11 Exemption Form for certain securities that are already quoted on another quotation medium (e.g., the Pink Sheets) or are being delisted from Nasdaq. Telephone conversation between Teri Nelson Jacoby and Jeffrey Davis, Office of General Counsel, Nasdaq; Ken Worm, Market Regulation Department, NASD Regulation, Inc. ("NASDR"); Lisabeth Heese, Nasdaq Transaction Services; and Nancy Sanow and Michael Gaw, Division, Commission, on May 9, 2002 ("May 9 call").

[8] *See* NASD Rule 6540(b); 17 CFR 240.15c2–11(f)(3)(i).

[9] Nasdaq anticipates that ATSs and ECNs generally would submit quotations for those securities that do not require the filing of a Form 211 (i.e., "active" securities). *See* May 9 call.

[10] Telephone conversation between Teri Nelson Jacoby, Office of General Counsel, Nasdaq; Lisabeth Heese, Nasdaq Transaction Services; and Michael Gaw, Division, Commission, on April 23, 2002.

[11] *See id.*

[12] *See* e-mail from Malcolm Steed to *rule-comments@sec.gov*, dated September 9, 2001 ("Steed"); letter from K. Richard B. Niehoff to Margaret McFarland, Deputy Secretary, Commission, dated September 17, 2001 ("Niehoff"); letter from Kenneth Veneziano, Executive Vice President and General Counsel, GlobeNet Securities, Inc., to Jonathan G. Katz, Secretary, Commission, dated September 18, 2001; letter from Richard B. Levin, Assistant General Counsel and Regulatory Affairs Officer, Knight Securities, L.P., dated September 19, 2001 ("Knight"); e-mail from Gary Swancey to *rule-comments@sec.gov*, dated September 25, 2001 ("Swancey"); letter from Chris Concannon, Vice President, The Island ECN, Inc., dated September 26, 2001 ("Island"); letter from Kenneth Veneziano, Executive Vice President and General Counsel, GlobeNet Securities, Inc., to Jonathan G. Katz, Secretary, Commission, dated October 9, 2001 ("GlobeNet II").

[13] *See* Island; Steed; Swancey.

[14] *See* Knight.

[15] GlobeNet II.

[16] Niehoff.

[17] *See* letter from Mary M. Dunbar, Vice President, Nasdaq, to Jonathan G. Katz, Secretary, Commission, dated November 13, 2001.

[18] *See* letter from Larry E. Bergmann, Division, Commission, to Howard Kramer, Schiff Hardin & Waite, dated October 6, 2000.

[19] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78o–3(b)(6).

[21] The Commission notes that, while Nasdaq for the sake of convenience uses the definition of "electronic communication network" set forth in Rule 11Ac1–1(a)(8), 17 CFR 240.11Ac1–1(a)(8), an ECN that participates in the OTCBB must independently satisfy the Commission's requirements in order to be considered an ECN for purposes of the Commission's Order Handling Rules.

In addition, the Commission expects that the NASD will address how transactions on the OTCBB that result from the posted quote of an ATS or ECN will be reported, cleared, and confirmed in light of the fact that such quote must include non-subscriber access or post-transaction fees, if any.

[22] "Quotation," as defined in Rule 15c2–11, means any bid or offer at a specified price with respect to a security, or any indication of interest by a broker or dealer in receiving bids or offers from others for a security, or any indication by a broker or dealer that he wishes to advertise his general interest in buying or selling a particular security. *See* 17 CFR 240.15c2–11(e)(3).

[23] *See* Securities Exchange Act Release No. 41110 (February 25, 1999), 64 FR 11124, 11135 (March 8, 1999) (reproposing amendments to Rule 15c2–11).

[24] *See id.*

requirements of Rule 15c2–11 would apply only to that broker-dealer and not to the ATS or ECN that functions as the quotation medium for such order.[25] Therefore, in a case in which an "ineligible" security is being quoted for the first time on the OTCBB through an ATS or ECN, the broker-dealer submitting the quote to the ATS or ECN would be required to submit a Form 211, rather than the ATS or ECN itself.

The Commission does not believe that the commenters raised any issue that would preclude approval of the proposed rule change. In particular, the Commission disagrees with one commenter's view that "the Commission should republish the proposal with a thorough analysis of the issues raised and seek further public comment."[26] The Commission believes that the issues raised by this commenter have been sufficiently addressed by Nasdaq, and that expanding the OTCBB to allow ATS and ECN participation has the potential to increase competition.

B. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of public of notice in the **Federal Register**, pursuant to section 19(b)(2) of the Act.[27] Amendment No. 1 clarified the obligations that would be imposed on ATSs and ECNs by the new provisions of NASD Rule 6540. One of these obligations is that an ATS or ECN participating in the OTCBB must reflect non-subscriber access or post-transaction fees in a quote that it posts in the OTCBB montage. The Commission understands that, presently, only one ATS —GlobeNet— has clearly expressed its intent to participate in the OTCBB, and GlobeNet in its second comment letter stated that it "would acquiesce for the time being to a Nasdaq decision to reflect [its] transaction fees in the GlobeNet quote on the OTCBB." GlobeNet also argued that the Commission should approve the proposed rule change "as quickly as possible."[28] Therefore, the Commission does not believe that an additional comment period for Amendment No. 1 is necessary, and that the proposed rule change, as amended, should be approved at this time.

[25] *See id.*

[26] Niehoff.

[27] 15 U.S.C. 78s(b)(2).

[28] GlobeNet II.

VI. Solicitation of Comments on Amended Proposal

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–44 and should be submitted by June 7, 2002.

VII. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–NASD–2001–44) is approved and that Amendment No. 1 thereto is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12337 Filed 5–16–02; 8:45 am]

BILLING CODE 8010–01–P

[29] Id.

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45918; File No. SR–NYSE–2002–18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Extending the Pilot Regarding Shareholder Approval of Stock Option Plans through June 30, 2002

May 13, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 13, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend, until June 30, 2002, the effectiveness of the amendments to Sections 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual with respect to the definition of a "broadly-based" stock option plan, which were approved by the Commission on a pilot basis (the "Pilot") on June 4, 1999.[3] The Pilot was subsequently amended and extended on March 30, 2001 until September 30, 2001.[4] The Pilot has since been extended until January 11, 2002,[5] March 11, 2002,[6] and May 13, 2002.[7]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41479, 64 FR 31667 (June 11, 1999) (notice of filing and order granting accelerated approval, on a pilot basis, to File No. SR–NYSE–98–32) ("Original Pilot Approval Order").

[4] Securities Exchange Act Release No. 44141, 66 FR 18334 (April 6, 2001) (order granting approval, on a pilot basis, to the File No. SR–NYSE–00–32).

[5] Securities Exchange Act Release No. 44886 (September 28, 2001), 66 FR 51083 (October 5, 2001) (notice of filing and immediate effectiveness of File No. SR–NYSE–2001–37) ("2001 Extension Request").

[6] *See* Securities Exchange Act Release No. 45275 (January 14, 2002), 67 FR 2718 (January 18, 2002) (File No. SR–NYSE–2002–03).

[7] *See* Securities Exchange Act Release No. 45546 (March 12, 2002), 67 FR 10272 (March 18, 2002) (File No. SR–NYSE–2002–14).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 13, 2000, the Exchange filed a proposed rule change seeking to extend the effectiveness of the Pilot until September 30, 2003.[8] Following receipt of comments from interested parties and the SEC staff, on January 19, 2001, the Exchange amended the 2000 Extension Request to shorten the three-year extension request to one year and to amend the definition of "broadly based" under the Exchange's rule. While the 2000 Extension Request was under consideration, the Commission extended the Pilot to provide the Commission and the Exchange with additional time to review and evaluate comment letters.[9] On March 30, 2001, the Commission approved the 2000 Extension Request, which amended and extended the Pilot, on a pilot basis until September 30, 2001.[10] The Exchange's 2001 Extension Request became effective on September 28, 2001, on a pilot basis, and extended the Pilot until January 11, 2002 to provide additional time to evaluate the issues presented by the Pilot.[11] The Pilot was again extended until March 11, 2002 and then again until May 13, 2002 for the same reasons.[12]

The Exchange proposes to further extend the effectiveness of the Pilot until June 30, 2002 to provide additional time to evaluate the issues presented by the Pilot, in light of recently adopted requirements relating to disclosure of equity compensation plan information.[13] The Exchange also represents that its special Committee on Corporate Accountability and Listing Standards is actively considering this issue, among others, and is expected to make a recommendation regarding stockholder approval of stock option plans to the Exchange's Board of Directors in June 2002.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that an Exchange have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) [16] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange seeks to have the proposed rule change become operative on or before May 13, 2002, in order to allow the Pilot to continue in effect on an uninterrupted basis. In addition, under Rule 19b–4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter time as designated by the Commission. The Commission waived the five-day pre-notice and thirty-day operative date requirements for this proposed rule change.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change to extend the Pilot through June 30, 2002, become operative on May 13, 2002. The Commission notes that unless the Pilot is extended, the Pilot will expire and the provisions of Sections 312.01, 312.03, and 312.04 of the Exchange's Listed Company Manual that were amended in the Pilot will revert to those in effect prior to June 4, 1999. The Commission believes that such a result could lead to confusion.

The Commission recognizes that the Pilot has generated many comment letters from commenters that do not support the NYSE's definition of "broadly-based" stock option plans under the Pilot.[19] The Commission also notes that many commenters were critical of the NYSE's existing rules on broadly-based plans prior to the adoption of the original Pilot. As noted above, if the Pilot is not extended, the rules prior to the Pilot will go into effect. The proposed rule change merely extends the duration of the Pilot for only a short period of time and does not deal with the substantive issues presented by the Pilot itself.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change to extend the Pilot through June 30, 2002, become

[8] Securities Exchange Act Release No. 43111 (August 2, 2000), 65 FR 49046 (August 10, 2000) (ntoice of filing of File No. SR–NYSE–00–32) ("2000 Extension Request").

[9] *See* Securities Exchange Act Release Nos. 43329 (September 22, 2000), 65 FR 58833 (October 2, 2000) (notice of filing and immediate effectiveness of File No. SR–NYSE–00–38); 43647 (November 30, 2000), 65 FR 77407 (December 11, 2000) (notice of filing and immediate effectiveness of File No. SR–NYSE–00–52); and 44018 (February 28, 2001), 66 FR 13821 (March 7, 2001) (notice of filing and immediate effectiveness of File No. SR–NYSE–2001–04).

[10] *See* note 4 *supra.*

[11] *See* note 5 *supra.* One comment letter was received regarding the extension of the Pilot by the 2001 Extension Request. *See* letter from Sarah A.B. Teslick, Executive Director, Council of Institutional Investors ("CII") to Jonathan G. Katz, Secretary, Office of the Secretary, Commission, dated October 16, 2001. The CII commented that the 2001 Extension Request should have been released for public comment prior to the Commission approving another extension to the Pilot and that any future proposed extensions should be released for prior public comment, that the Pilot not be extended after January 11, 2002, that the NYSE should be required to submit a dilution standard for approval which should be in place before the 2002 proxy season, and that the Commission act on the proposed disclosure standards for stock option plans. The Commission notes that the disclosure standards were approved by it on December 21, 2001. *See* note 13 *infra* below.

[12] *See* notes 6 and 7 *supra.*

[13] Release Nos. 33–8048 and 34–45189 (December 21, 2001), 67 FR 232 (January 2, 2002).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] *Id.*

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] *See* Original Approval Order, note 3 *supra.*

operative on May 13, 2002.[20] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the File No. SR-NYSE–2002–18 and should be submitted by June 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Dupty Secretary.

[FR Doc. 02–12406 Filed 5–16–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3415]

Commonwealth of Kentucky; Amendment # 1

In accordance with a notice received from the Federal Emergency Management Agency, dated May 9, 2002, the above numbered declaration is hereby amended to include Boyle, Casey, Clay, Floyd, Jackson, Knott, Knox, Larue, Laurel, Letcher, Marion, Martin, McCreary, Nelson, Pike, Pulaski, Rockcastle, Taylor, Washington and Whitley Counties in the Commonwealth of Kentucky as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring on April 27, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Adair, Anderson, Bell, Breathitt, Estill, Garrard, Green, Harlan, Johnson, Lawrence, Lee, Leslie, Lincoln, Madison, Magoffin, Mercer, Owsley, Perry, Russell, Spencer and Wayne Counties in the Commonwealth of Kentucky; Campbell, Claiborne and Scott Counties Tennessee; Buchanan, Dickenson and Wise Counties Virginia; and Mingo and Wayne Counties West Virginia. All other contiguous counties have been previously declared.

The economic injury numbers assigned are 9P6400 for Tennessee; 9P6500 for Virginia; and 9P6600 for West Virginia.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 6, 2002, and for economic injury the deadline is February 7, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 10, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–12467 Filed 5–16–02; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, NewExecutive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. Letter to Landlord Requesting Rental Information—0960–0454

Form SSA–L5061 is used by SSA to provide a nationally uniform vehicle for collecting information from landlords in making a rental subsidy determination in the Supplemental Security Income (SSI) Program. The information is used in deciding whether income limits are met for SSI eligibility. The respondents are landlords who provide subsidized rental arrangements to SSI applicants and recipients.

Number of Respondents: 49,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Average Burden: 8,167.

2. Continuation of Full Benefit Standard for Persons Institutionalized—0960–0516

SSA is required by law to establish procedures for collecting information on whether an SSI recipient who becomes institutionalized (e.g., hospital, nursing home) may be eligible for continued benefits, based on the full federal benefit rate, if a physician certifies that he expects the period of medical confinement will last no more than 90 days. The individual (or someone acting on his behalf) must demonstrate that he needs to pay some or all of the expenses of maintaining the home to which he expects to return. The respondents are applicants for SSI benefits.

Number of Respondents: 60,000.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Annual Burden: 5,000 hours.

[20] For purposes only of accelerating the operative date of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

3. Inquiry To File an SSI Child's Application—0960–0557

The information collected on Form SSRO–3–293 (formerly SSA–293) is used by SSA to document the earliest possible filing date and to determine potential eligibility for SSI child's benefits. The respondents are individuals, such as hospital social workers, who inquire about SSI eligibility for low birth weight babies.

Number of Respondents: 2,100.
Frequency of Response: 1.
Average Burden Per Response: 3 minutes.
Estimated Average Burden: 105 hours.

4. Supplemental Security Income Notice of Interim Assistance Reimbursement (two forms)—0960–0546

Form SSA–8125 and SSA–L8125–F6 collect interim assistance reimbursement (IAR) information from the States that provide such assistance. Form SSA–8125 is used in situations where IAR can be distributed directly to the recipient after the State has deducted the amount of assistance it provided. Form SSA–L8125–F6 is used in situations where a recipient entitled to underpayments has received IAR from a State and SSA will control the benefit through the installment process. SSA uses the information collected through these forms for accounting and auditing purposes in administering the IAR process. The respondents are States that provide IAR to SSI claimants.

	SSA–8125	SSA–L8125–F6
Number of Respondents	50,000	50,000.
Frequency of Response	1	1.
Average Burden Per Response	10 minutes	10 minutes.
Estimated Annual Burden	8,333 hours	8,333 hours.

5. National Employment Activity and Disability Survey —0960–NEW

Background

The Ticket to Work program (TTW) was established by the 1999 Ticket to Work and Work Incentives Improvement Act. The program will provide eligible Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability beneficiaries with a Ticket, which can be used to obtain vocational rehabilitation (VR) or employment services through participating providers, called Employment Networks (ENs).

The reason for the TTW program is that some beneficiaries currently lack the resources necessary to return to work at a level above the Substantial Gainful Activity (SGA) level, either because they do not have easy access to such services, or because they lack the incentive to invest resources in return to work activities because of a variety of factors affecting the decision to work. TTW confers upon a beneficiary a means to access those resources in a less restrictive manner than under the traditional program. The manner in which the program is being implemented is expected to increase beneficiary demand for employment-related services and activities. It is also expected to increase the number and diversity of providers in response to the less restrictive participation requirements and increased consumer demand for services.

The National Employment Activity and Disability Survey

The National Employment Activity and Disability Survey will collect data on the work-related activities of SSI and Old Age, Survivors and Disability Insurance (OASDI) beneficiaries as the TTW program, and other initiatives designed to improve beneficiary employment outcomes, are implemented. The TTW Survey is specifically designed to be a significant resource for the formal evaluation of TTW, but SSA anticipates that the survey will provide useful information for a variety of evaluation and policy analysis purposes, especially related to current efforts that attempt to improve return to work. The survey questionnaire focuses on information about beneficiaries and their work-related activities that cannot be obtained from SSA's administrative records. The survey will provide information about: (1) Beneficiaries who assign their Tickets to ENs, and their experience in the program; (2) beneficiaries who do not assign their Tickets, and the reasons why they do not, including involuntary non-participants; (3) the employment outcomes of Ticket users and other beneficiaries; and (4) the use of employment services by Ticket users and other beneficiaries. The respondents will be selected from SSI and OASDI disabled beneficiaries who meet the Ticket to Work program eligibility requirements.

Number of Respondents: 6,557.
Frequency of Response: 1.
Average Burden Per Response: 45 minutes.
Estimated annual Burden: 4,918 hours.

6. Public Information Campaign Collections—0960–0544

SSA uses the information from public broadcasting systems to determine media interest in broadcasting SSA's public information materials. The respondents are radio and television stations.

Number of Respondents: 8,000.
Frequency of Response: 3.
Average Burden Per Response: 1 minute.
Estimated Annual Burden: 400.

7. State Mental Institution Policy Review—0960–0110

SSA uses the information collected on Form SSA–9584 to determine whether policies and practices of State mental institutions conform with SSA's regulations in the use of benefits and whether an institution is performing other duties and responsibilities required of a representative payee. The information also provides a basis for conducting an onsite review of the institution and is used in preparing the subsequent report of findings. The respondents are State mental institutions that serve as representative payees.

Number of Respondents: 125.
Frequency of Response: 1.
Average Burden Per Response: 60 minutes.
Estimated Annual Burden: 125 hours.

8. Record Of Supplemental Security Income Inquiry—0960–0140

Form SSA–3462 is completed by SSA personnel via telephone or personal interview, and it is used to determine potential eligibility for SSI benefits. The respondents are individuals who inquire about SSI eligibility for themselves or someone else.

Number of Respondents: 2,341,856.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Annual Burden: 195,155 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most

useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to the address listed above.

1. Internet Social Security Disability Report—0960–NEW

The Social Security Act requires applicants to furnish medical and other evidence and information to prove they are disabled. Applicants for disability benefits will be given the option to provide information needed to help determine they are disabled through the Internet. The Internet Social Security Disability Report, which is similar to the Form SSA–3368–BK, Disability Report-Adult, will collect allegations of disability and gather information about the disabling condition and sources of medical evidence. Collecting this information is critical to case development and adjudication. The information on the Disability Report, together with other evidence and information, will be used by State Disability Determination Services (who make disability decisions on behalf of SSA) to develop medical evidence, assess the alleged disability, and make a determination on whether or not the applicant is disabled under the Act. SSA plans to conduct a limited pilot of the Internet Social Security Disability Report followed by national implementation. The respondents are applicants for title II and title XVI disability benefits.

Pilot Burden Hours Estimate

Number of Respondents: 8,400.
Frequency of Response: 1.
Average Burden Per Response: 2 hours.
Estimated annual Burden: 16,800 hours.

National Implementation Burden Hours Estimate

Number of Respondents: 66,000.
Frequency of Response: 1.
Average Burden Per Response: 2 hours.
Estimated annual Burden: 132,000 hours.

2. Employee Work Activity Report—0960–0483

The data collected by SSA on Form SSA–3033 is used to determine if the claimant meets the disability requirements of the law, when the claimant returns to work after the alleged or established onset date of disability. When a possible unsuccessful work attempt or nonspecific subsidy is involved, Form SSA–3033 will be used to request a description of the employee's work effort. The respondents are employers of OASDI and SSI disability applicants and beneficiaries.

Number of Respondents: 12,500.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 3,125 hours.

Dated: May 13, 2002.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–12365 Filed 5–16–02; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/States, SDX–BENDEX–SVES Files—Matches 6001, 6002, and 6004)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the renewal of an existing computer matching program which is scheduled to expire on June 30, 2002.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with the States.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate; the Committee on Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Acting Associate Commissioner for Program Support, 2–Q–16 Operations Buildings, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Acting Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: May 9, 2002.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) with the States

A. PARTICIPATING AGENCIES:

SSA and the States.

B. PURPOSE OF THE MATCHING PROGRAM:

Section 1137 of the Social Security Act requires individual States to have in effect an income and eligibility verification system meeting certain requirements in order to administer certain State-administered income, food assistance, and medical assistance programs.

A chief purpose of this matching program is to facilitate administration of this provision. Individual agreements with the States will describe the conditions under which SSA agrees to disclose information to the States relating to the eligibility for, and payment of, Social Security, supplemental security income, special veterans benefits, including certain tax return information disclosed by SSA in accordance with applicable provisions of the Internal Revenue Code, as well as quarters of coverage, prisoner, and death information.

The matching program will also be used to implement provisions of Pub. L. 104–193, the Personal Responsibility and Work Reconciliation Act of 1996, involving the significance of Social Security coverage information to the eligibility of certain aliens for some Federal and State public benefits. Under this matching program, SSA will disclose certain Social Security coverage information on specific persons to States administering appropriate benefit programs.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

Sections 1106 and 1137 of the Social Security Act; sections 402, 412, 421 and 435 of Pub. L. 104–193; section 202(x)(3)(B)(iv) of the Social Security Act; section 205(r)(3) of the Social Security Act; and relevant provisions of the Internal Revenue Code under 26 U.S.C. 6103.

D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM:

States will provide SSA with names and other identifying information of appropriate benefit applicants or recipients. Specific information from participating States will be matched as provided in the agreement for the specific program with the following systems of records maintained by SSA:

1. SDX—Supplemental Security Income and Special Veterans Benefit Record (SSR), SSA/OSR (60–0103);
2. BENDEX—Master Beneficiary Record (MBR), SSA/OSR (60–0090) and the Earnings Recording and Self-Employment Income System, SSA/OSR (60–0059);
3. EVS—Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OSR (60–0058);
4. SVES—SSR, SSA/OSR (60–0103); MBR, SSA/OSR (60–0090); the Earnings Recording and Self-Employment Income System, SSA/OSR (60–0059); the Master Files of SSN Holders and SSN Applications, SSA/OSR (60–0058); and the Prisoner Update Processing System (PUPS), SSA/OSR (60–0269);
5. Quarters of Coverage Query—the Earnings Recording and Self-Employment Income System, SSA/OSR (60–0059) and the Master Files of SSN Holders and SSN Applications, SSA/OSR (60–0058);
6. Prisoner Query—PUPS, SSA/OSR (60–0269); and
7. Death Query—Master Files of SSN Holders and SSN Applications, SSA/OSR (60–0058)—subsection referred to as the NUMIDENT.

SSA and the States will exchange information through the File Transfer Management System (FTMS). Cartridge or magnetic tape will be used in the event FTMS is inoperable.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM:

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever is later. Individual State matching agreements under the program may also become effective upon the signing of the agreements by the parties to the agreements. The agreements with individual States will continue for 18 months from the effective date and may be extended for a period of time, up to 12 months, but not to exceed December 31, 2004, if certain conditions are met.

[FR Doc. 02–12366 Filed 5–16–02; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; as Amended; New System of Records and New Routine Use Disclosures

AGENCY: Social Security Administration.

ACTION: New system of records and proposed routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to establish a new system of records, the *Medicare Savings Programs Information System, 60–0310* and routine uses applicable to this system.

The Consolidated Appropriations Act, 2001, Appendix F, section 911 amended the Social Security Act by adding section 1144. Section 1144 of the Social Security Act requires the Commissioner of Social Security to conduct outreach efforts to identify individuals entitled to benefits under the Medicare program under title XVIII who may be eligible for medical assistance for payment of the cost of Medicare cost-sharing under the Medicaid program.

DATES: We filed a report of the proposed new system of records and routine uses with the Chairman of the Senate Committee on Governmental Affairs, the Chairman of the House Reform Committee, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 10, 2002. The proposed system will become effective on June 19, 2002, unless we receive comments that would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela McLaughlin, Social Insurance Specialist, Social Security Administration, Room 3–C–2 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone (410) 965–3677, e-mail: *pam.mclaughlin@ssa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Proposed New System of Records, the *Medicare Savings Programs Information System*

A. General Background

On December 21, 2000, the President signed into law the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Benefits Improvement and Protection Act of 2000, as Appendix F of Public Law 106–554, the Consolidated Appropriations Act, 2001. Section 911 of Appendix F amended title XI of the Social Security Act by adding section 1144, which requires the Commissioner of Social Security to conduct outreach efforts to identify individuals entitled to benefits under the Medicare program under title XVIII who may be eligible for medical assistance for payment of the cost of Medicare cost-sharing under the Medicaid program.

In conducting the outreach efforts, the Agency shall furnish the agency of each State responsible for the administration of the Medicaid program and any other appropriate State agency with information consisting of the name and address of individuals residing in the State that the Agency determines may be eligible for medical assistance for payment of the cost of Medicare cost-sharing under the Medicaid program. Additionally, information may be disclosed to the General Accounting Office for its evaluation of the effort as required by the statute.

B. Collection and Maintenance of Data for the Proposed New System of Records, the Medicare Savings Programs Information System

The proposed system will maintain relevant information about Social Security beneficiaries who either meet, or are about to meet, the requirements for Medicare (*i.e.*, attained age 65; disabled Social Security beneficiaries who have received 24 months of Social Security benefits); and for beneficiaries who have a disabling impairment(s) who lost entitlement to free Medicare Part A because of work; and certain individuals who suffer from end-stage renal disease. Information will be collected from existing SSA systems of records (*e.g.*, Master Beneficiary Record, 60–0090 and the Supplemental Security Income Record and Special Veterans Benefits, 60–0103 and other sources available to SSA, such as, the Veterans Administration and the Office of Personnel Management benefits files) and may be stored in paper form or magnetic media (*e.g.*, discs). The data will be indexed and retrieved by SSN.

II. Proposed Routine Use Disclosures of Data Maintained in the Proposed New System of Records, the *Medicare Savings Programs Information System*

A. Proposed Routine Use Disclosures

We are proposing to establish routine uses of information that will be maintained in the proposed new system as discussed below.

1. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

We will disclose information under this routine use only in situations in which an individual may contact the Office of the President, seeking that office's assistance in a SSA matter on his or her behalf. Information would be disclosed when the Office of the President makes an inquiry and presents evidence that the office is acting on behalf of the individual whose record is requested.

2. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

We will disclose information under this routine use only in situations in which an individual may ask his or her congressional representative to intercede in an SSA matter on his or her behalf. Information would be disclosed when the congressional representative makes an inquiry and presents evidence that he or she is acting on behalf of the individual whose record is requested.

3. To third parties in situations where the party to be contacted has, or is expected to have, information relating to an individual's eligibility for, or entitlement to, benefits under a Social Security Act program when the data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(a) His or her eligibility for benefits under a Social Security Act program;

(b) The amount of his or her benefit payment;

(c) Any case in which the evidence is being reviewed as a result of suspected fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

We will disclose information under this routine use only as necessary to enable SSA to obtain information that will assist State or local governments (or their agents) in determining individuals' eligibility for medical assistance for payment of the cost of Medicare cost-sharing under the Medicaid programs.

4. To State and local agencies (or agents on their behalf), for the purpose of assisting SSA in the efficient administration of its programs

We will disclose information under this routine use to State or local agencies to assist such agencies in administration of the Medicare Savings Programs. The purpose of this disclosure is to assist the agencies in establishing individuals' eligibility for such programs, to provide information necessary to enforce eligibility restrictions in such programs, and to combat and prevent fraud, waste and abuse in those programs.

5. To the Department of Justice (DOJ), a court, or other tribunal, or other party before such tribunal, when:

(a) SSA, or any component thereof; or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components is party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court, or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information which are subject to the disclosure provisions of the Internal Revenue Code (IRC) (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

We will disclose information under this routine use only as necessary to enable DOJ, a court, or other tribunal, to effectively defend SSA disability beneficiaries and recipients.

6. To student volunteers and other workers, who technically do not have the status of Federal employees, when they are performing work for SSA as authorized by law, and they need access to personally identifiable information in SSA records in order to perform their assigned Agency functions.

Under certain Federal statutes, SSA is authorized to use the service of volunteers and participants in certain educational, training, employment and community service programs. Examples of such statutes and programs are: 5 U.S.C. 311 regarding student volunteers; and 42 U.S.C. 2753 regarding the College Work-Study Program. We contemplate disclosing information under this routine use only when SSA uses the services of these individuals and they need access to information in this system to perform their assigned duties.

7. Non-tax return information which is not restricted from disclosure by federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by NARA Act of 1984, for the use of those agencies in conducting records management studies.

The Administrator of GSA and the Archivist of NARA are charged by 44 U.S.C. 2904, as amended, with promulgating standards, procedures and guidelines regarding record management and conducting records management studies. 44 U.S.C. 2906, as amended, provides that GSA and NARA are to have access to federal agencies' records and that agencies are to cooperate with GSA and NARA. In carrying out these responsibilities, it may be necessary for GSA and NARA to have access to information in this proposed system of records. In such instances, the routine use will facilitate disclosure.

B. Compatibility of Proposed Routine Uses

The Privacy Act (5 U.S.C. 552a(b)(3)) and our disclosure regulations (20 CFR part 401) permit us to disclose information under a published routine use for a purpose, which is compatible with the purpose for which we collected the information. Section 401.150(c) of the regulations permits us to disclose information under a routine use where necessary to carry out SSA programs. Section 401.120 of the regulations provides that we will disclose information when a law specifically requires the disclosure. The proposed routine uses, numbered 1–6 above, will ensure efficient administration of the Medicare Savings Programs; the disclosure that would be made under routine use number 7 is required by Federal law. Thus, all of the routine uses are appropriate and meet the relevant statutory and regulatory criteria.

III. Records Storage Medium and Safeguards for the Proposed New System, the *Medicare Savings Programs Information System*

We will maintain information in the proposed system of records in electronic and paper form. Only authorized SSA personnel and contractor personnel who have a need for the information in the performance of their official duties will be permitted access to the information. Security measures include the use of access codes to enter the computer systems that will maintain the data, and storage of the computerized records in secured areas that are accessible only to employees who require the information in performing their official duties. Any manually maintained records will be kept in locked cabinets or in otherwise secure areas. Contractor personnel having access to data in the proposed system of records will be required to adhere to SSA rules concerning safeguards, access and use of the data.

SSA and contractor personnel having access to the data on this system will be informed of the criminal penalties of the Privacy Act for unauthorized access to or disclosure of information maintained in this system. *See* 5 U.S.C. 552a(i)(1).

IV. Effect of the Proposed System of Records, the *Medicare Savings Programs Information System* on the Rights of Individuals

The proposed system will maintain information to determine a beneficiary's potential eligibility for Medicare Part B buy-in or for subsidized purchase of Medicare Part A. Information kept in the system will be used to increase Medicare buy-in applications and enrollments, and may be used by the General Accounting Office (GAO) for its evaluation of the effort as required by the statute. Therefore, we do not anticipate that the proposed system of records will have an unwarranted adverse effect on the rights of individuals.

Dated: May 10, 2002.

Jo Anne B. Barnhart,

Commissioner.

60–0310

SYSTEM NAME:

Medicare Savings Programs Information System, Social Security Administration, Office of Program Benefits.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of Systems Operations, 6401 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Social Security beneficiaries who have attained age 65 or are about to attain age 65, disabled Social Security beneficiaries who have received 24 months of Social Security benefits, beneficiaries with a disabling impairment(s) who lost entitlement to free Medicare Part A because of work and certain individuals who suffer from end-stage renal disease.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information about the beneficiary from records available to SSA. This information may include the individual's name, Social Security number (SSN), date of birth, address, marital status and income. Information will be obtained from other SSA systems of records (*e.g.*, Master Beneficiary Record, 60–0090, Supplemental Security Income Record and Special Veterans Benefits, 60–0103 and from other databases available to SSA, such as the Veterans

ADMINISTRATION AND OFFICE OF PERSONNEL MANAGEMENT BENEFITS FILES:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1144 of the Social Security Act (42 U.S.C. 1320b–14) as added by Public Law 106–554, the Consolidated Appropriations Act, 2001.

PURPOSE(S):

Information in this system will be used to determine a beneficiary's potential eligibility for Medicare Part B buy-in or for subsidized purchase of Medicare Part A. Information kept in the system will be used to increase Medicare buy-in applications and enrollments, and may be used by the General Accounting Office (GAO) for its evaluation of the effort as required by the statute.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure may be made for routine uses as indicated below. However, disclosure of information constituting "return or return information" within the scope of the Internal Revenue Code (IRC) (26 U.S.C. 6103) will not be disclosed unless disclosure is authorized by that statute.

1. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

2. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

3. To third parties in situations where the party to be contacted has, or is expected to have, information relating to the individual's eligibility for, or entitlement to, benefits under a Social Security Act program when the data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(a) His or her eligibility for benefits under a Social Security Act program;

(b) The amount of his or her benefit payment;

(c) Any case in which the evidence is being reviewed as a result of suspected fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

4. To State or local agencies (or agents on their behalf), for the purpose of assisting SSA in the efficient administration of its programs.

5. To the Department of Justice (DOJ), a court, or other tribunal, or other third party before such tribunal when:

(a) SSA, or any component thereof, or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA of any of its components is party to litigation or has an interest in such litigation, and SSA determines that the use of such records

by DOJ, the court or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information which are subject to the disclosure provisions of the IRC (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

6. To student volunteers and other workers, who technically do not have the status of Federal employees, when they are performing work for SSA as authorized by law, and they need access to personally identifiable information in SSA records in order to perform their assigned Agency functions.

7. Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by the NARA Act of 1984, for the use of those agencies in conducting records management studies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in paper form and on magnetic media (*e.g.*, discs).

RETRIEVABILITY:

Records in this system are indexed and retrieved by the SSN and/or address.

SAFEGUARDS:

Security measures include the use of access codes to enter the computer system, which will maintain the data, and storage of the computerized records in secured areas which are accessible only to employees who require the information in performing their official duties. Any paper records will be kept in locked cabinets or in otherwise secured areas. Contractor personnel having access to data in the system of records will be required to adhere to SSA rules concerning safeguards, access and use of the data. SSA and contractor personnel having access to the data will be informed of the criminal penalties of the Privacy Act for unauthorized access to or disclosure of information maintained in this system of records.

RETENTION AND DISPOSAL:

Electronic files and other files with personal identifiers are retained in secure areas accessible only to authorized personnel and will be disposed of as soon as they are determined to be no longer needed for contractor or SSA analysis. Means of disposal will be appropriate to the storage medium (*e.g.*, deletion of magnetic discs or shredding of paper records). Records used in administering the demonstration and experimental programs will be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Representative Payment and Evaluation, Office of Program Benefits, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE(S):

An individual can determine if this system of records contains a record about him/her by writing to the systems manager(s) at the above address and providing his/her name, SSN or other information that may be in the system of records that will identify him/her. An individual requesting notification of records in person should provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license. If an individual does not have identification documents sufficient to establish his/her identity, the individual must certify in writing that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

If notification is requested by telephone, an individual must verify his/her identity by providing identifying information that parallels the record to which notification is being requested. If it is determined that the identifying information provided by telephone is insufficient, the individual will be required to submit a request in writing or in person. If an individual is requesting information by telephone on behalf of another individual, the subject individual must be connected with SSA and the requesting individual in the same phone call. SSA will establish the subject individual's identity (his/her name, SSN, address, date of birth and place of birth along with one other piece of information such as mother's maiden name) and ask for his/her consent in providing information to the requesting individual.

If a request for notification is submitted by mail, an individual must include a notarized statement to SSA to verify his/her identity or must certify in the request that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense. These procedures are in accordance with SSA Regulations (20 CFR 401.40).

RECORD ACCESS PROCEDURE(S):

Same as "Notification procedures." Requesters should also reasonably specify the record contents being sought. These procedures are in accordance with SSA Regulations (20 CFR 401.50).

CONTESTING RECORD PROCEDURE(S):

Same as "Notification procedures." Requesters also should reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is untimely, incomplete, inaccurate or irrelevant. These procedures are in accordance with SSA Regulations (20 CFR 401.65).

RECORD SOURCE CATEGORIES:

Data for the system are secured from other SSA systems of records (*e.g.*, Master Beneficiary Record, 60–0090, Supplemental Security Income Record and Special Veterans Benefits, 60–0103 and from other databases available to SSA, such as the Veterans Administration and the Office of Personnel Management benefits files).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–12364 Filed 5–16–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3751]

Office of Overseas Schools; 60-Day Notice of Proposed Information Collection: Form DS–2061, Approval of Funding to Support Special Educational Programs (OMB #1405–0031)

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: Reinstatement.

Originating Office: Bureau of Administration, A/OPR/OS.

Title of Information Collection: Approval of Funding to Support Special Educational Programs.

Frequency: Annual.

Form Number: DS–2061 (Formerly JF–45).

Estimated Number of Respondents: 89.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 44.5 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Washington, DC 20520. He may be reached at 202–261–8200.

Dated: May 10, 2002.

Gregory K.O. Davis,

Management Analyst, Bureau of Administration, U.S. Department of State.

[FR Doc. 02–12441 Filed 5–16–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 4022]

Culturally Significant Objects Imported for Exhibition Determinations: "The Adventures of Hamza"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "The Adventures of Hamza," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Arthur M. Sackler Gallery, Smithsonian Institution, Washington, DC, from on or about June 26, 2002, to on or about September 29, 2002, at the Brooklyn Museum of Art, Brooklyn, New York, from on or about November 1, 2002, to on or about January 26, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 14, 2002.

Stephen T. Hart,

Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 02–12570 Filed 5–16–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3982]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Friday, June 21, 2002, at 9:30 a.m. in Conference Room 1107, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes a review of the recent activities of American-sponsored overseas schools and the overseas schools regional associations, a progress report on projects selected for the annual Program of Educational Assistance, and a presentation on the Council's project to develop a construction/renovation handbook for American-sponsored overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, DC 20522–0132, telephone 202–261–8200, prior to June 11, 2002. Each visitor will be asked to provide a date of birth and Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the C Street entrance to the building.

Dated: May 3, 2002.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

[FR Doc. 02–12442 Filed 5–16–02; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceeding Regarding the U.S. Department of Commerce Final Countervailing Duty Determination Concerning Certain Softwood Lumber From Canada

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice that, on May 3, 2002, the United States received from Canada a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding the U.S. Department of Commerce ("DOC") final countervailing duty determination concerning certain softwood lumber from Canada. Canada alleges that the initiation and conduct of the countervailing duty investigation, the final determination, the provision of

expedited reviews, and related matters are inconsistent with Articles 1, 2, 10, 11, 12, 14, 15, 19, 22, and 32.1 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") and Articles VI:3 and X:3 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994").

USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before May 31, 2002 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Softwood Lumber Final CVD Dispute, with a confirmation copy sent by fax to (202) 395–3640. Telephone: (202) 395–3582.

FOR FURTHER INFORMATION CONTACT: Amber L. Cottle, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC (202) 395–3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by Canada

The notice of the DOC final countervailing duty determination concerning certain softwood lumber from Canada was published in the **Federal Register** on April 2, 2002. The notice explains the basis for the DOC's final determination that Canada provides countervailable subsidies to the Canadian lumber industry.

In its panel request, Canada describes its claims in the following manner:

The measures at issue include the initiation and conduct of the investigation, the final determination, provision of expedited review, and other matters related to these measures. These measures are inconsistent with, and violate the obligations of the United States under Articles 1, 2, 10, 11, 12, 14, 15, 19, 22 and 32.1 of the SCM Agreement and Articles VI:3 and X:3 of GATT 1994 by:

1. Initiating the investigation,

(a) Without sufficient evidence of a subsidy, injury, or a causal link between the subsidized imports and the alleged injury, and

(b) On the basis of an application that failed to identify an appropriate applicant or its volume and value of production of the domestic like product;

2. Failing to make an objective assessment of the degree of support for the application by the domestic industry;

3. Imposing countervailing duties against programmes and policies that are not subsides within the meaning of Article 1.1 of the SCM Agreement and more specifically, by

(a) Treating stumpage as a "financial contribution",

(b) Determining and measuring benefit through impermissible cross-border comparisons,

(c) Failing in its analysis of an alleged benefit to objectively assess the facts on the record of the investigation, and

(d) Presuming that an alleged benefit from stumpage passes through arm's-length transactions to downstream recipients;

4. Countervailing programmes and policies that are not "specific" within the meaning of Article 2 of the SCM Agreement;

5. Imposing countervailing duties at a higher rate than the alleged subsidy by inflating the subsidy rate by a number of impermissible means (including by attributing the entirety of the alleged stumpage benefit to only a portion of the products produced from logs, using demonstrably inaccurate data, and excluding certain shipments from its calculations);

6. Failing to grant or provide for expedited reviews; and

7. Failing to conduct its investigation in accordance with fundamental substantive and procedural requirements, including by failing to address significant evidence and arguments in its determination, by gathering and relying upon information not made available to the parties, by failing to issue timely decisions and provide reasonable schedules for questionnaire responses, briefing, and hearings, and by, in effect, improperly applying adverse facts available to cooperative parties.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Comments must be in English and provided in fifteen copies to Sandy McKinzy at the address provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Bruce Hirsh,

Acting Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02–12362 Filed 5–16–02; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 27]

Railroad Safety Advisory Committee ("RSAC"); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect their current status.

FOR FURTHER INFORMATION CONTACT: Trish Butera or Lydia Leeds, RSAC Coordinators, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6213 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports on January 17, 2002, (67 FR 2507). The eighteenth full Committee meeting was held February 13, 2002, at the Almas Temple in Washington, DC. The nineteenth meeting is scheduled for May 29, 2002.

Since its first meeting in April of 1996, the RSAC has accepted seventeen tasks. Status for each of the tasks is provided below:

Task 96–1—(Completed) Revising the Freight Power Brake Regulations. This Task was formally withdrawn from the RSAC on June 24, 1997. FRA published an NPRM on September 9, 1998, reflective of what FRA had learned through the collaborative process. Two public hearings were conducted and a technical conference was held. The date for submission of written comments was extended to March 1, 1999. The final rule was published on January 17, 2001 (66 FR 4104). An amendment extending the effective date of the final rule until May 31, 2001 was published on February 12, 2001, (66 FR 9905). Amendments to Subpart D of the final rule were published August 1, 2001 (66 FR 36983). Amendments responding to the remaining issues raised in petitions for reconsideration were published in the **Federal Register** on April 10, 2002 (67 FR 17556). Contact: Thomas Hermann (202) 493–6036.

Task 96–2—(Completed) Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213). This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997, (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule was September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. A GRMS amendment to the Track Safety Standards was approved by the full RSAC in a mail ballot during August 2000. The GRMS final rule amendment was published January 10, 2001 (66 FR 1894). On January 31, 2001, FRA published a notice extending the effective date of the GRMS amendment to April 10, 2001 (66 FR 8372). On February 8, 2001, FRA published a notice delaying the effective date until June 9, 2001 in accordance with the Regulatory Review Plan (66 FR 9676). Contact: Al MacDowell (202) 493–6236.

Task 96–3—(Completed) Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220). This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182), and was effective on January 2, 1999. Contact: Gene Cox (202) 493–6319.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group monitored the steam locomotive regulations task. Planned future activities involve the review of other regulations for possible adaptation to the safety needs of tourist and historic railroads. Contact: Grady Cothen (202) 493–6302.

Task 96–5—(Completed) Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR Part 230). This Task was assigned to the Tourist and Historic Working Group on July 24, 1996. Consensus was reached and an NPRM was published on September 25, 1998 (63 FR 51404). A public hearing was held on February 4, 1999, and recommendations were developed in response to comments received. The final rule was published on November 17, 1999 (64 FR 62828). The final rule became effective January 18, 2000. Contact: George Scerbo (202) 493–6349.

Task 96–6—(Completed) Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240). This Task was accepted on October 31, 1996, and a Working Group was established. Consensus was reached and an NPRM was published on September 22, 1998. The Working Group met to resolve issues presented in public comments. The RSAC recommended issuance of a final rule with the Working Group modifications. The final rule was published November 8, 1999 (64 FR 60966). Contact: John Conklin (202) 493–6318.

Task 96–7—Developing Roadway Maintenance Machine (On-Track Equipment) Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force finalized a proposed rule which was approved by the full RSAC in a mail ballot in August 2000. The NPRM was published January 10, 2001 (66 FR 1930). The Task Force met to review comments on February 27–March 1, 2002, and agreed to the disposition of the comments for the final rule. Next actions are clearance by the Working Group and approval at the full RSAC meeting on May 29, 2002. Contact: Al MacDowell (202) 493–6236.

Task 96–8—(Completed) This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Planning Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories, and prepared drafts of the task statements for Tasks 97–1 and 97–2.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from

collisions. This Task was accepted on June 24, 1997. A Task Force on engineering issues was established by the Working Group on Locomotive Crashworthiness to review collision history and design options and additional research was commissioned. The Working Group reviewed results of the research and is drafting performance-based standards for freight and passenger locomotives to present to the RSAC for consideration. An accident review task force has evaluated the potential effectiveness of suggested improvements. An NPRM has been prepared and circulated, and the Working Group met to review and refine drafts on October 9–10, 2001, and January 17–18, 2002. The full RSAC will review after approval of the Working Group. Contact: Sean Mehrvazi (202) 493–6237.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997.

(Sanitation). A draft sanitation NPRM was circulated to the Working Group on Cab Working Conditions with ballot requested by November 3, 2000. The NPRM on sanitation was discussed during the full RSAC meeting on September 14, 2000 and published January 2, 2001 (66 FR 136). A public hearing was held April 2, 2001. A meeting was held on August 21, 2001, to discuss comments in response to the NPRM on sanitation. Agreement was reached on resolution of the comments to the NPRM. The Working Group gave concurrence to send the recommendations to the full RSAC for mail ballot vote. The recommendations were approved by the full Committee in December 2001. The final rule was published on April 4, 2002, with an effective date of July 3, 2002 (67 FR 16032).

(Noise exposure.) A Task Force has assisted in identifying options for strengthening the occupational noise exposure standard, and the Cab Working Group met in October and November 2000, and April 2001, and reached tentative agreement on most of the significant issues related to the noise NPRM. The Cab Working Group held a meeting April 3–5, 2001, to discuss noise exposure standards. Refinement and substantive changes were incorporated into the rule language. A full draft NPRM will be circulated to the working group for consideration at meeting scheduled for July 24 and 25, 2002.

The Cab Working Group has also considered issues related to cab temperature, and is expected to consider additional issues (such as vibration) in the future. Contact: Jeffrey Horn (202) 493–6283.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. The Event Recorder Working Group is completing preparation of an NPRM. The NPRM went to the Working Group on May 21, 2001, for comments, and FRA has reviewed the comments. A revised draft was provided on March 28, 2002. The next meeting of the Working Group is scheduled for May 30–31, 2002 with a goal of reaching consensus on the NPRM. Contact: Edward Pritchard (202) 493–6247.

Task 97–4 and Task 97–5—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment. Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems. These three tasks were accepted on September 30, 1997, and assigned to a single Working Group.

(Report to the Administrator.) A Data and Implementation Task Force, formed to address issues such as assessment of costs and benefits and technical readiness, completed a report on the future of PTC systems. The report was accepted as RSAC's Report to the Administrator at the September 8, 1999, meeting.

(Regulatory development.) The Standards Task Force, formed to develop PTC standards assisted in developing draft recommendations for performance-based standards for processor-based signal and train control systems. The NPRM was approved by consensus at the full RSAC meeting held on September 14, 2000. The NPRM was published in the **Federal Register** on August 10, 2001. A meeting of the Working Group was held December 4–6, 2001, in San Antonio, Texas to formulate recommendations for resolution of issues raised in the public comments. Agreement was reached on most issues raised in the comments. Consultations continue to complete that activity, after which recommendations will be submitted to the full committee for consideration on May 29, 2002. Monitoring of implementation continues.

(Other program development activities.) Task forces on Human Factors and the Axiomatic Safety-Critical Assessment Process (risk assessment) continue to work toward development of a risk assessment toolkit, and the Working Group continues to meet to monitor the implementation of PTC and related projects. Contact: Grady Cothen (202) 493–6302.

Task 97–7—(Completed) Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997. A working group was formed to address this task and conducted their initial meeting on February 8, 1999. The working group designed a survey form to collect specific data about damages to railroad equipment. The survey started on August 1 and ended January 31, 2001. A statistical analysis, using the survey data, was done to see if the method could be used to calculate property damages. The report was complete by the last week of April, 2001. A meeting was held May 21–23, 2001 to review the report. The Working Group agreed to terminate action on this task after reviewing the options. The Working Group reviewed a draft close-out report which was approved by the full RSAC on February 13, 2002, terminating this task. Contact: Robert Finkelstein (202) 493–6280.

Task 00–1—Determining the need to amend regulations protecting persons who work on, under, or between rolling equipment and persons applying, removing or inspecting rear end marking devices (Blue Signal Protection). The working group held its first meeting on October 16–18, 2000. Meetings have been held: February 27—March 1, 2001, March 19–21, 2001, May 1–3, 2001, June 19–21, 2001, October 23–25, 2001, and January 28–31, 2002. The Working Group has reached tentative consensus on several issues. FRA is preparing documents in an effort to assist in moving toward resolution of several remaining issues. Contact: Doug Taylor (202) 493–6255.

Task 01–1—Developing conformity of FRA's regulations for accident/incident reporting (49 CFR Part 225) to revised regulations of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and to make appropriate revisions to the FRA Guide for Preparing Accident/Incident Reports (Reporting Guide). This task was accepted April 23, 2001, by the full RSAC and assigned to the Accident/Incident Working Group. A target of September 15, 2001, was set for reporting the recommended changes. At a meeting of the Working Group, held May 21–23, 2001, the task was discussed, and four task forces were set up to review changes and/or modifications. These task forces identified a series of modifications to the Reporting Guide/regulations for consideration. The Working Group met September 11, 2001; meeting was dismissed due to national emergency. A meeting was held November 14–15, 2001 in St. Louis, Missouri. A Task Force on Remote Control met on December 11, 2001. The working group met January 23–24, 2002, in Baltimore, Maryland, and March 12–13, 2002, in New Orleans, Louisiana. A final meeting was held April 24–25, 2002 in Washington, DC. The Working Group recommendations on the NPRM will be presented to the full RSAC on May 29, 2002. Contact: Robert Finkelstein (202) 493–6280.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 02–12436 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–12157]

Applicant: CSX Transportation, Incorporated, Mr. Eric G. Peterson, Assistant Chief Engineer, Signal Design and Construction, 4901 Belfort Road, Suite 130 (S/C J–370), Jacksonville, Florida 32256.

CSX Transportation, Incorporated seeks approval of the proposed modification of the signal system on the two main tracks, between milepost CK–4.49 and Parsons Yard, milepost CK–4.54, on the Columbus Subdivision, C&O Division, near Columbus. The proposed changes consist of the discontinuance and removal of Signals H46, HA45, and HB45, and conversion of the method of operation from Rule D251 to Rule 105 between milepost CK–4.49 and milepost CK–4.54. The proposed changes are associated with the conversion of the automatic block signal system, westward from milepost CK–4.49, to a traffic control system.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on May 13, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–12437 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket NHTSA–99–5087]

Safety Performance Standards Program Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of NHTSA rulemaking status meeting.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's vehicle regulatory program.

DATES: The Agency's regular public meeting relating to its vehicle regulatory program will be held on Thursday, July 18, 2002, beginning at 9:45 a.m. and ending at approximately 12 p.m. at the Hyatt Regency Baltimore, on the Inner Harbor, 300 Light Street, Baltimore, Maryland 21202. Questions relating to the vehicle regulatory program must be submitted in writing with a diskette (Microsoft Word) by Thursday, June 20, 2002, to the address shown below or by e-mail. If sufficient time is available, questions received after June 20, may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by June 20, 2002, and the issues to be discussed will be posted on NHTSA's web site (*www.nhtsa.dot.gov*) by Monday, July 15, 2002, and also will be available at the meeting. The agency will hold a second public meeting on July 18, devoted exclusively to a presentation of research and development programs. This meeting will begin at 1:30 p.m. and end at approximately 5 p.m. This meeting is described more fully in a separate announcement. The next NHTSA Public Meeting will take place on Thursday, November 21, 2002, at the Best Western Gateway International Hotel, Romulus, Michigan.

ADDRESSES: Questions for the July 18, NHTSA Rulemaking Status Meeting, relating to the agency's vehicle regulatory program, should be submitted to Delia Lopez, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590, Fax Number 202–366–4329, e-mail *dlopez@nhtsa.dot.gov.* The meeting will be held at the Hyatt Regency Baltimore, on the Inner Harbor, 300 Light Street, Baltimore, Maryland 21202. If you need specific directions to the Hyatt Regency Baltimore, the telephone number is 410–528–1234.

FOR FURTHER INFORMATION CONTACT: Delia Lopez, (202) 366–1810.

SUPPLEMENTARY INFORMATION: NHTSA holds regular public meetings to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory program. Questions on aspects of the agency's

research and development activities that relate directly to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office. Transcripts of these meetings will be available for public inspection in the DOT Docket in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 80 to 150 pages) upon request to DOT Docket, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The DOT Docket is open to the public from 10 a.m. to 5 p.m. The transcript may also be accessed electronically at *http://dms.dot.gov*, at docket NHTSA–99–5087. Questions to be answered at the public meeting should be organized by categories to help us process the questions into an agenda form more efficiently.

Sample format:

I. Rulemaking
  A. Crash avoidance
  B. Crashworthiness
  C. Other Rulemakings
II. Consumer Information
III. Miscellaneous

NHTSA will provide auxiliary aids to participants as necessary. Any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, brailled materials, or large print materials and/or a magnifying device), please contact Delia Lopez on (202) 366–1810, by COB Monday, July 15, 2002.

Issued: May 14, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–12428 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–02–12087; Notice 1]

Century Products; Receipt of Application for Decision of Inconsequential Noncompliance

Century Products, a Division of Graco Children's Products, Inc. ("Century Products" and "Graco"), of Macedonia, Ohio, has determined that as many as 185,175 child restraints may fail to comply with 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child Restraint Systems," and has filed appropriate reports pursuant to 49 CFR part 573, "Defects and Noncompliance Reports." Century Products has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120, and does not represent any agency decision or other exercise of judgement concerning the merits of the application.

FMVSS No. 213, Paragraph S5.1.1, states that when a child restraint system is tested in accordance with S6.1, it shall "exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than 1/4 inch or surfaces with protrusions greater than 3/8 inch above the immediate adjacent surrounding contactable surface of any structural element of the system."

In its part 573 Defect and Noncompliance Report filed with the agency on December 11, 2001, Century Products states "On December 5, 2001, Century Products * * * decided that a noncompliance with Federal Motor Vehicle Safety Standard No. 213 exists in * * * certain * * * "Celestia" model infant car seats manufactured by Century Products * * * " The Celestia infant seat is sold with a detachable base that may be used to permit a fixed installation into the vehicle, allowing the child seat to be taken in and out of the vehicle without having to do a new installation each time. The Celestia infant seat can also be used without the detachable base. Century Products has identified 185,175 Celestia infant car seats manufactured between January 1, 2000 and December 6, 2001 that may contain this noncompliance. In its Application for Decision of Inconsequential Noncompliance, Century Products states that it:

has discovered variations in the plastic molding process during the manufacture of the plastic shell of the carrier portion (not the base) of the Subject Products, which can result in a void in the shell wall. This void may cause shell wall separation during the dynamic crash test specified by FMVSS No. 213 when the base is not used, rendering the seat noncompliant * * * There is no noncompliance when the car seat is installed in the vehicle with the base.

In its part 573 Report, Century Products states that:

Graco conducted a dynamic crash test audit of its Celestia infant car seats on December 4, 2001. Graco tested (ten) 10 Celestia infant car seats without the base, randomly taken from inventory. Four (4) of the ten (10) units exhibited wall separation and the presence of a void at the initiation point of the separation. As a result of this audit testing, Graco determined that a noncompliance existed.

Century Products believes that the FMVSS No. 213 noncompliance described above is inconsequential to motor vehicle safety. Century Products supports its application for inconsequential noncompliance with the following:

The risk of injury resulting from the wall separation during the dynamic crash test is inconsequential for several reasons. First, the shell wall separation does not affect, increase, or adversely influence the seat back angle. Thus, the restraint systems comply with FMVSS 213 S5.1.4, which provides that "[w]hen a rear-facing child restraint system is tested in accordance with S6.1, the angle between the system's back support surface for the child and the vertical shall not exceed 70 degrees."

Second, all portions of the test dummy's torso were retained within the system and all other requirements regarding target points on either side of the dummy's head comply with FMVSS 213 S5.1.3.2.

Third, the infant shell remained securely attached to the lap belt during testing. The separation did not contribute to any degradation in the ability of the vehicle belt to retain the infant seat in its original position.

Fourth, the shell wall separation did not create an opening that contributes to the pinching, shearing, or scissoring of fingers, toes, or limbs or any other body part of either the occupant or an adjacent child seated next to the infant seat. The seat pad also acts as a mechanism to keep the occupant from contacting the separated area.

Fifth, the shell wall separation occurs at relatively high energy levels, with the separation occurring late in the application of energy of the crash test (as revealed by Century Products' review of the flexing of the infant shell wall). Few motor vehicle accidents occur at the maximum energy levels of the dynamic crash test. The possibility of a wall separation occurring in the field therefore is remote.

Sixth, the shell wall separation occurs only in a high stress area on the shell when the shell is used *without the base*. When the shell is used with the base, the area in question experiences no significant stress. All of the subject products were sold with a stay-in-the-car base. The base is the most predominately used mode with the infant shell due to its convenience of removing the carrier from the vehicle.

Seventh, in the approximately 18 months that the infant shell has been in use in the subject products, there have been no reports of any incidents or complaints regarding the wall separation on the shell.

Eighth, product owners are advised in the accompanying literature that the seat should be discarded following a crash. In addition, it is a well-known industry practice to discontinue using a child restraint after it has experienced a crash. Thus, there is little risk of injury from the wall separation during a subsequent incident.

Based on the above, Century Products believes that a child subjected to a crash will be fully protected as required by FMVSS 213. Under the circumstances as set forth above, Century Products believes that the noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, Century Products respectfully requests that it be exempt from the notice and remedy procedures of the Safety Act.

Interested persons are invited to submit written data, views, and arguments on the applications of Century Products described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested, but not required, that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 17, 2002.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: May 13, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–12426 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–11472; Notice 2]

Krystal Enterprises, Inc., Grant of Application for Decision of Inconsequential Noncompliance

Krystal Koach, Inc., (Krystal), a California Corporation, dba Krystal Enterprises, has determined that 1,725 Krystal buses produced between June 1996 and November 27, 2001, do not meet the labeling requirements of paragraph S5.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Motor Vehicles Other than Passenger Cars." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Krystal has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published, with a 30-day comment period, on February 19, 2002, in the **Federal Register** (67 FR 7446). NHTSA received no comments on this application during the 30-day comment period.

Paragraph S5.3 of FMVSS No. 120 states that each vehicle shall show the information on tires and rims specified in S5.3.1 and S5.3.2, respectively, either on the vehicle certification label required by 49 CFR part 567, or on a tire information label, in both English and metric units. The standard also shows an example of the prescribed format.

Paragraph S5.3 states that each vehicle shall show the appropriate weight rating and tire information in metric and English units. This information must appear either on the certification label or a tire information label, lettered in block capitals and numerals not less than 2.4 millimeters high, and in the prescribed format.

The certification label affixed to Krystal's buses failed to comply with S5.3 because of the omission of metric measurements, and Krystal did not separately provide the metric measurements on another label, the alternative allowed by FMVSS No. 120 (the use of metric measurements is required by FMVSS No. 120, pursuant to Federal Motor Vehicle Safety Standards: Metric Conversion, 60 FR 13639, published on March 14, 1995, and effective on March 14, 1996).

Krystal supports its application for inconsequential noncompliance with the following statements:

(1) The correct information is shown on the certification label in English units;

(2) Krystal has not received any complaints or inquiries concerning a lack of a Metric equivalent of the subject information on the label;

(3) Krystal is not aware of any safety related incidents related to this noncompliance;

(4) All Krystal buses were sold in countries that predominantly use the English system of units. In fact, Krystal buses were only sold in the U.S. and Canada.

The purpose of labeling requirements in S5.3, Label information, of FMVSS No. 120 is to provide safe operation of vehicles by ensuring that those vehicles are equipped with tires of appropriate size and load rating, and rims of appropriate size and type designation. Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418) makes it the United States policy that the metric system of measurement is the preferred system of weights and measures for U.S. trade and commerce. On March 14, 1995, NHTSA published in the **Federal Register** (60 FR 13693) the final rule that metric measurements be used in S5.3 of FMVSS No. 120. The effective date for this final rule was March 14, 1996.

Based on the agency's telephone discussions with the petitioner, Krystal management has extensively reviewed the processes, the causes of these noncompliances have been isolated, and changes in the processes have been instituted to prevent any future occurrences. The noncompliance is limited to the buses addressed in this notice.

The omission of the metric measurements from Krystal's certification label is unlikely to have any affect on motor vehicle safety. The agency agrees with Krystal that the present label on these buses is likely to achieve the safety purpose of the required information. First, all the correct English unit information required by FMVSS No. 120 is provided on the certification label. Second, the information contained on the label is of the correct size. Third, the information contained on the label is in the prescribed format.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Accordingly, Krystal's application is hereby granted, and the applicant is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: May 13, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–12427 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Ford

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Ford Motor Company (Ford) for an exemption of a high-theft line, the Lincoln Town Car, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated January 25, 2002, Ford requested an exemption from the parts marking requirements of 49 CFR part 541, Federal Motor Vehicle Theft Prevention Standard, for the Lincoln Town Car vehicle line beginning in MY 2003. The petition was filed pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line. Based on the evidence submitted by Ford, the agency believes that the antitheft device for the Ford Lincoln Town Car vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

Section 331066(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts-marking requirements for not more than one additional line of a manufacturer for MYs 1997–2000. However, it does not address the contingency of what to do after model year 2000 in the absence of a decision under Section 33103(d). 49 U.S.C. 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts-marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we determined that the appropriate reading of Section 33103(d) is that NHTSA may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to Section 330103(d)(3).

Ford's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. Ford requested confidential treatment for information and attachments in support of its petition. In a letter to the manufacturer dated March 14, 2002, the agency granted Ford's request for confidential treatment of its petition.

In its petition, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the line. Ford will install its antitheft device, the SecuriLock Passive Anti-Theft Electronic Engine Immobilizer System (SecuriLock) as standard equipment on the MY 2003 Lincoln Town Car. The system has been voluntarily installed as standard equipment on its Lincoln Town Car line since MY 1998.

In order to ensure the reliability and durability of the device, Ford conducted tests, based on its own specified standards. Ford provided a detailed list of the tests conducted and stated its belief that the device is reliable and durable since it complied with Ford's specified requirements for each test. The environmental and functional tests conducted were for thermal shock, high temperature exposure, low-temperature exposure, powered/thermal cycle, temperature/humidity cycling, constant humidity, end-of-line, functional, random vibration, tri-temperature parametric, bench drop, transmit current, lead/lock strength/integrity, output frequency, resistance to solvents, output field strength, dust, and electromagnetic compatibility.

The Ford SecuriLock is a transponder-based electronic immobilizer system. The device is activated when the driver/operator turns off the engine by using the properly coded ignition key. When the ignition key is turned to the start position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module (PCM). The vehicle's engine can only be started if the transponder code matches the code previously 2 programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled.

Ford stated that there are four quadrillion different codes and each transponder is hard-coded with a unique code at the time of vehicle assembly. Additionally, Ford stated that communication between the SecuriLock transponder and the powertrain's electronic control module is encrypted, making key duplication nearly impossible.

Ford stated that its SecuriLock system incorporates a theft indicator using a light-emitting diode (LED) that provides a visual indicator to the driver/operator as to the "set" and "unset" condition of the device. When the ignition is initially turned to the "ON" position, a 3-second continuous LED indicates that the device is "unset." When the ignition is turned to "OFF," a flashing LED indicates the device is "set" and provides visual information that the vehicle is protected by the SecuriLock system. Ford states that the integration of the setting/unsetting device (transponder) into the ignition key assures activation of the device.

Ford believes that its new device is reliable and durable because its does not have any moving parts, nor does it require a separate battery in the key. If the correct code is not transmitted to the electronic control module (accomplished only by having the correct key), there is no way to mechanically override the system and start the vehicle. Furthermore, Ford stated that with the sophisticated design and operation of the electronic engine immobilizer system, conventional theft methods are ineffective (i.e., hot-wiring or attacking the ignition-lock cylinder). Ford reemphasized that any attempt to slam-pull the ignition-lock cylinder will have no effect on a thief's ability to start the vehicle.

Ford stated that the effectiveness of its SecuriLock device is best reflected in the reduction of the theft rates for its Mustang GT and Cobra models from MY 1995 to 1996. The SecuriLock antitheft device was voluntarily installed on all Mustang GT and Cobra models, and the Taurus LX and SHO models as standard equipment in MY 1996. In MY 1997, the SecuriLock system was installed on the entire Mustang vehicle line as standard equipment. Ford notes that a comparison of the National Crime Information Center's (NCIC) calendar year (CY)1995 theft data for MY 1995 Mustang GT and Cobra vehicles without an immobilizer device installed with MY 1997 data for Mustang GT and Cobra vehicles with an immobilizer device installed, shows a reduction in thefts of approximately 70% for the vehicles with the immobilizer. With the introduction of SecuriLock on all 2000 Taurus models, the NCIC data show a 63% drop in theft rate compared with the non-SecuriLock equipped 1999 Taurus models.

As part of its submission, Ford also provided a Highway Loss Data Institute (HLDI) theft loss bulletin, Vol. 15, No. 1, September 1997, which evaluated 1996 Ford Mustang and Taurus models fitted with the SecuriLock device and corresponding 1995 models without the SecuriLock device. The results as reported by HLDI indicated a reduction in overall theft losses by approximately 50% for both Mustang and Taurus models.

Additionally, Ford stated that its SecuriLock device has been demonstrated to various insurance companies, and as a result AAA Michigan and State Farm now give an antitheft discount for all Ford vehicles equipped with the SecuriLock device.

Ford's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lacks an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR part 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Ford proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of comparison, Ford has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has granted full exemptions from the parts-marking requirements.

Based on the evidence submitted by Ford, the agency believes that the antitheft device for the Lincoln Town Car vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

The agency believes that the device will provide four of the five types of performance listed in 49 CFR 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Ford has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Ford provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Ford Motor Company's petition for an exemption for the MY 2003 Lincoln Town Car vehicle line from the parts-marking requirements of 49 CFR part 541.

If Ford decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, must fully mark the line as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption. The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 13, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–12424 Filed 5–16–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor Vehicle Motor Theft Prevention Standard; Mazda

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Mazda Motor Corporation, (Mazda) for an exemption of a high-theft line, the Mazda 6, from the parts-marking requirements of the Federal motor vehicle theft prevention standard. The Mazda 6 vehicle line will replace the current 626 line. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. Mazda requested confidential treatment for some of the information submitted in support of its petition. In a letter to Mazda dated January 24, 2002 and April 4, 2002, the agency addressed its request for confidential treatment.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington DC 20590. Ms. Proctor's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated December 27, 2001, Mazda Motor Corporation (Mazda), requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Mazda 6 vehicle line beginning with MY 2003. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Section 33106(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts-marking requirements for not more than one additional line of a manufacturer for MYs 1997—2000. However, it does not address the contingency of what to do after model year 2000 in the absence of

a decision under section 33103(d). 49 U.S.C. 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts-marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we determined that the appropriate reading of section 33103(d) is that the National Highway Traffic Safety Administration (NHTSA) may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to section 330103(d)(3).

Mazda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. Mazda requested confidential treatment for some of the information submitted in support of its petition. In a letter to Mazda dated January 24, 2002, the agency addressed its request for confidential treatment.

In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. The antitheft device is a transponder-based electronic immobilizer system. Mazda will install its antitheft device, a transponder based electronic engine immobilizer antitheft system as standard equipment on its 6 carline beginning with MY 2003.

In order to ensure the reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda provided a detailed list of the tests conducted and stated its belief that the device is reliable and durable since it has complied with Mazda's specified requirements for each test.

Mazda's antitheft device is activated when the driver/operator turns off the engine using the properly coded ignition key. When the ignition key is turned to the start position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module. The vehicle's engine can only be started if the transponder code matches the code previously programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled. Mazda stated that there are approximately 18 quintillion different codes and at the time of manufacture, each transponder is hard-coded with a unique code. Additionally, Mazda stated that encrypted communications exist between the immobilizer system control function and the powertrain's electronic control module.

Mazda also stated that its immobilizer system incorporates a light-emitting diode (LED) that provides information to the driver/operator as to the "set" and "unset" condition of the device. When the ignition is initially turned to the "ON" position, a 3-second continuous LED indicates the proper "unset" state of the device. When the ignition is turned to "OFF", a flashing LED indicates the "set" state of the device and provides visual information that the vehicle is protected by the immobilizer system. Mazda states that the integration of the setting/unsetting device (transponder) into the ignition key prevents any inadvertent activation of the device.

Mazda believes that it would be very difficult for a thief to defeat this type of electronic immobilizer system. Mazda believes that its new device is reliable and durable because it does not have any moving parts, nor does it require a separate battery in the key. If the correct code is not transmitted to the electronic control module (accomplished only by having the correct key), there is no way to mechanically override the system and start the vehicle. Furthermore, Mazda stated that drive-away thefts are virtually eliminated with the sophisticated design and operation of the electronic engine immobilizer system which makes conventional theft methods (i.e., hot-wiring or attacking the ignition-lock cylinder) ineffective. Mazda reemphasized that any attempt to slam-pull the ignition-lock cylinder will have no effect on the thief's ability to start the vehicle.

Mazda reported that in MY 1996, the proposed system was installed on certain U.S. Ford vehicles as standard equipment (i.e. on all Ford Mustang GT and Cobra models, Ford Taurus LX, SHO and Sable LS models). In MY 1997, the immobilizer system was installed on the Ford Mustang vehicle line as standard equipment. When comparing 1995 model year Mustang vehicle thefts (without immobilizer), with MY 1997 Mustang vehicle thefts (with immobilizer), data from the National Insurance Crime Bureau showed a 70% reduction in theft. (Actual NCIC reported thefts were 500 for MY 1995 Mustang, and 149 thefts for MY 1997 Mustang.)

Mazda's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with devices similar to that which Mazda proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Mazda has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Mazda, the agency believes that the antitheft device for the Mazda vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Mazda has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Mazda provided about its device. This confidential information included a description of reliability and functional tests conducted by Mazda for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full Mazda's petition for exemption for its vehicle line from the parts-marking requirements of 49 CFR Part 541.

If Mazda decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mazda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 13, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–12425 Filed 5–16–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Preemption Determination No. PD–18(R); Docket No. RSPA–98–3577 (PDA–18(R))]

Broward County, Florida's Requirements on the Transportation of Certain Hazardous Materials To or From Points in the County

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Decision on petition for reconsideration of an administrative determination of preemption.

Petitioner: Broward County, Florida (the County).

Local Laws Affected: Broward County, Florida Code of Ordinance No. 1999–53, §§ 27–352; 27–355(a)(1); 27–356(b)(4)d.1; 27–436; 27–439(b); 27–439(f)(1); 27–439(g)(1) and 27–439(g)(2).

Applicable Federal Requirements: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

Modes Affected: Highway and rail.

SUMMARY: The County's petition for reconsideration is denied, and RSPA affirms its December 27, 2000 determination that Federal hazardous materials transportation law preempts the County's Ordinance No. 1999–53 on the following subjects to the extent that, as applied and enforced, they relate to transportation in commerce: certain hazardous materials definitions and the requirements that rely on those definitions; written notification of a hazardous materials release; retention of shipping papers; licensing fees for hazardous waste transporters; and monthly reports of transportation activity.

FOR FURTHER INFORMATION CONTACT: Donna L. O'Berry, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

A. Preemption Determination (PD) No. 18(R)

In April 1998, the Association of Waste Hazardous Materials Transporters (AWHMT) applied for a determination that Federal hazardous material transportation law preempts 10 specific provisions of Chapter 27 of the Broward County Ordinance (Ordinance) that defined hazardous materials and set requirements for their transportation to and from points within the County. These provisions were contained in Article XII (entitled "Hazardous Material") of Chapter 27.

On August 6, 1998, RSPA published in the **Federal Register** a public notice and invitation to comment on AWHMT's application (63 FR 42098). RSPA received comments from Nufarm, the Hazardous Materials Advisory Council (now the Dangerous Goods Advisory Council), Freehold Cartage, Inc., the Association of American Railroads (AAR), Mr. Tony Tweedale, and the Institute of Makers of Explosives (IME). AWHMT submitted rebuttal comments.

On September 28, 1999, the Broward County Commissioners amended Chapter 27 by adopting Ordinance No. 1999–53 (the revised Ordinance). Some of the regulations originally challenged in AWHMT's application were modified and moved by the County to new Article XVII (entitled "Waste Transporters"); some were deleted from the revised Ordinance; and others remained where they were in the previous Ordinance.

Because the County had substantially modified the Ordinance, RSPA asked AWHMT to supplement its application to reflect the revisions to the Ordinance, and invited interested parties to comment on the County's revised Ordinance. 64 FR 59231. (Nov. 2, 1999). On behalf of AWHMT, the American Trucking Associations (herein referred to as ATA/AWHMT) submitted the revised application. In addition, IME and AAR submitted comments. On March 22, 2000, the County submitted its comments to the revised Ordinance. On May 5, 2000, ATA/AWHMT submitted rebuttal comments to the County's comments.

As a result of the County's changes to the revised Ordinance, ATA/AWHMT withdrew its challenge to four of the County's requirements. ATA/AWHMT continued to challenge the County's definitions of certain hazardous materials in §§ 27–352 and 27–436, and the County's requirements for release reporting in §§ 27–355(a)(1) and 27–439(f)(1), packaging standards in § 27–439(e)(2), fees in § 439(a), monthly reporting in § 27–439(g), and vehicle inspection in § 27–439(e)(3). In addition, AAR continued to challenge the County's shipping paper requirements in § 27–439(g)(1), and vehicle marking requirements in § 27–439(e)(4). RSPA's December 27, 2000 decision addressed only the challenges to the revised Ordinance.

In its decision, RSPA determined that Federal hazardous material transportation law preempts County requirements pertaining to certain hazardous material definitions, all requirements that rely on those definitions, written notification of a hazardous material release, shipping paper retention for certain hazardous materials transporters, licensing fees for hazardous waste transporters and monthly transportation activity reporting. 65 FR 81950–60. RSPA stated that these requirements were preempted only to the extent that they related to transportation in commerce or differed from the HMR or other Federal requirements. *Id.* In addition, RSPA determined that Federal hazardous material transportation law did not preempt County requirements pertaining to oral notification of a hazardous material release, packaging standards for hazardous waste transport vehicles, shipping paper retention for

hazardous waste transporters, periodic vehicle inspection and vehicle marking. *Id.*

In Part II of its decision, RSPA discussed the standard for making preemption determinations under the Federal hazardous materials transportation law. 65 FR 81951–52. As RSPA explained, unless there is specific authority in another Federal law or DOT grants a waiver, a local (or other non-Federal) requirement is preempted if:

—It is not possible to comply with both the local requirements and a requirement in the Federal hazardous material transportation law or regulations;

—The local requirement, as applied or enforced, is an "obstacle" to accomplishing and carrying out the Federal hazardous materials transportation law or regulations; or

—The local requirement concerns any of five specific subjects and is not "substantively the same as" a provision in the Federal hazardous materials transportation law or regulations. *Id.* at 81951. Among these five subjects are (1) "the designation, description, and classification of hazardous material," (2) "the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents," and (3) "the written notification, recording and reporting of the unintentional release in transportation of hazardous material." *See* 49 U.S.C. 5125(a) and (b). *Id.*

In addition, a State, political subdivision, or Indian tribe may impose a fee related to transporting hazardous material "only if the fee is fair and used for a purpose relating to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response." 49 U.S.C. 5125(g)(1).

These preemption provisions stem from congressional findings that State and local laws which vary from Federal hazardous material transportation requirements can create "the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting * * * regulatory requirements," and that safety is advanced by "consistency in laws and regulations governing the transportation of hazardous materials." Pub. L. 101–615 §§ 2(3) and 2(4), 104 Stat. 3244.

B. Petition for Reconsideration and Comments

Within the 20-day time period provided in 49 CFR 107.211(a), the County filed a petition for reconsideration and stay of PD–18(R). The County challenged the preemption of:

- Revised Ordinances 27–325 and 27–436 pertaining to certain hazardous materials definitions,
- Revised Ordinances 27–355(a)(1) and 27–439(f)(1) pertaining to incident release reporting,
- Revised Ordinance 27–356(b)(4)d.1 pertaining to shipping paper retention requirements,
- Revised Ordinance 27–439(b) pertaining to fees, and
- Revised Ordinance 27–439(g)(2) pertaining to monthly reporting requirements.

The County certified that it had mailed a copy of its petition to all organizations and individuals that had submitted comments to the original application, with the exception of one individual whose address was incomplete. IME submitted comments to the County's petition for reconsideration and stay.

In its petition for reconsideration, the County argues that Article XII, Hazardous Materials, applies exclusively to "the generation, use, storage, handling, processing, manufacturing and disposal of hazardous materials." The County explains that the Article does not seek to regulate the transportation of hazardous materials in any fashion, but rather gives deference to Federal law. The County further contends that Article XII, Waste Transporters, has been subdivided and is the only area in which the County intends to regulate hazardous materials transportation in or incidental to commerce. The County argues that it has every right to regulate certain hazardous materials-related activities and facilities within the County's borders without Federal Government interference. Thus, the County concludes that RSPA has improperly sought to preempt a non-Federal regulation that does not conflict with Federal regulations. For the reasons discussed below, RSPA finds that portions of Article XII do apply to transportation in commerce, including storage incidental to transportation, and to that extent are preempted.

II. Discussion

A. Hazardous Materials Definitions

The County challenges RSPA's determination that its definitions of hazardous materials, combustible liquid, flammable liquid, biomedical waste discarded hazardous materials and sludge are preempted under 49 U.S.C. 5125(b)(1)(A). 65 FR 81952–54. Following is a summary of the County's arguments concerning each preempted definition.

- *Hazardous Materials.* The County states that the term "hazardous materials" as defined in § 27–352 applies exclusively to Article XII, "the generation, use, storage, handling, processing, manufacturing and disposal of hazardous material." As previously mentioned, the County states that Article XII does not seek to regulate the transportation of hazardous materials in any fashion and gives deference to Federal law. In support of its claim, the County points to § 27–351 of the County Ordinance, which states that

> (1) The Department of Planning and Environmental Protection (DPEP) *to the extent permitted by state and federal law,* shall have the authority to license, evaluate, review, and administer all hazardous materials activities, and all environmental assessments and remediation actions performed within Broward County. (Emphasis added by the County).

The County further states that Article XVII, which is titled "Waste Transporters," has been properly subdivided and is the only area in which the County intends to regulate hazardous materials transportation. The County contends that it has the right to regulate hazardous material facilities, construction overlying contamination, storage and use of hazardous material in wellfield zones, and abandonment or improper disposal of hazardous materials that occurs within Broward County without Federal Government interference. Thus, the County concludes that RSPA has improperly sought to preempt Article XII, which does not conflict with Federal regulations.

- *Combustible liquid and flammable liquid.* The County contends that the requirements for storage, handling processing, manufacturing and disposal of hazardous materials do not apply to materials defined as combustible liquid and flammable liquid in § 27–352. The County states that Article XVII, titled "Waste Transporters" (which contains § 27–436), applies to the generation, use and transportation of hazardous materials in commerce. The County further states that Article XVII is self-contained and the only place in the Code where the County seeks to regulate hazardous materials transportation in or incidental to commerce.
- *Biomedical waste.* The County states that it will delete the definition of biomedical waste contained in § 27–436 in upcoming revisions of the Code and will replace it with the HMR definition of "regulated waste." The County anticipates this will take approximately six months because of the County's requirements for notice and public hearing.
- *Discarded hazardous materials.* The County states that it will delete the definition of discarded hazardous materials contained in § 27–436 in upcoming revisions of the Code and replace it with the HMR definition of "hazardous material." The County states that this revision will only apply to Article XVII, Waste Transporters, because that is the only section where the County seeks to regulate the transportation of hazardous materials in or incidental to commerce. The County further states that it will not revise the current definition of hazardous materials found in § 27–352 because that section does not apply to transportation. The County anticipates this will take approximately six months because of the County's requirements for notice and public hearing.
- *Sludge.* The County states that RSPA has overstepped its authority by preempting the County's definition of sludge. The County agrees with RSPA's determination that sludge does not have a counterpart in the HMR. 65 FR 81953. The County argues that 49 CFR 171.8 does not include water and wastewater residual sludges in its list of regulated materials. The County claims that sludge, as defined by the County, has not been determined or designated by the Secretary of Transportation to pose an unreasonable risk to health, safety and property when transported. The County also states that sludge, as defined in County Code and state rule, is a solid waste, not a hazardous material as defined by the HMR. The County contends that, because solid waste is not a substance regulated by DOT, DOT does not have jurisdiction to preempt the County's regulations of sludge transportation.

In its decision, RSPA, under 49 U.S.C. 5125(b)(1)(A), preempted the County's definitions of hazardous materials, combustible liquid, flammable liquid, biomedical waste, discarded hazardous materials, and sludge because these definitions were not "substantively the same as" their counterparts in the HMR or did not have counterparts in the HMR. 65 FR 81952–53. Section 5125(b)(1)(A) preempts non-Federal requirement on the "designation, description, and classification of hazardous material" that are not "substantively the same as" the HMR. However, RSPA stated that these definitions were only preempted to the extent that they related to transportation in commerce. 65 FR 81952–53.

As RSPA stated in its decision, it appears from a plain reading of Article XII and Article XVII of the County's revised Ordinance that the County uses the definitions in defining the applicability of its regulation of transportation in commerce. 65 FR 81953. RSPA found that

> Article XII regulates the "generation, use, storage, handling, processing, manufacturing, and disposal of hazardous materials." Revised Ordinance 27–351. The * * * DPEP is authorize to license, evaluate, review and administer all hazardous materials activities * * * performed in Broward County. *Id.* Article XVII regulates the transportation of discarded hazardous material, sludge, and biomedical waste and applies to "all persons conducting activities within geographic boundaries of Broward County, who transport discarded hazardous material, sludge, or biomedical waste to, from, and within Broward County." Revised Ordinance 27–435.

Id. Based on these regulations, RSPA determined that the County was using the challenged definitions in defining the applicability of its regulation of transportation in commerce and preempted the definitions. *Id.*

If, however, that is not the case for a particular definition, then RSPA's preemption decision does not apply to that definition. Therefore, if the County's definitions in § 27–352 of hazardous material, combustible liquid, flammable liquid, and discarded hazardous materials, as applied and enforced by the County, do not relate to transportation in commerce or storage incidental to transportation, the preemption provisions in 49 U.S.C. 5125(b)(1)(A) do not apply.

Concerning the definitions of biomedical waste and discarded hazardous materials in §§ 27–352 and 27–436, RSPA's determination that these definitions are preempted still applies.

Concerning the definition of sludge in § 27–436, RSPA does not agree with the County that it does not have the authority to preempt this definition as it is applied and enforced. It appears that the County is using the definition of sludge to regulate a material as a hazardous material. The definition of sludge is contained in Article XVII, Waste Transporters, which, as the County states in its comments, is the section where the County seeks to regulate the transportation of hazardous materials in commerce. As previously mentioned, § 27–435 of Article XVII, which deals with the applicability of the article, states "[t]his article applies to all persons conducting activities within geographical boundaries of Broward County, which transport discarded hazardous material, sludge, or biomedical waste to, from, and within Broward County." Based on this information, the County appears to be attempting to use the definition of sludge for the purpose of regulating a hazardous material and, therefore, continues to find that the definition is preempted under 49 U.S.C. 5125(b)(1)(A). However, as stated in the previous determination, this definition and the regulations that apply this definition are preempted only to the extent that they relate to transportation in commerce and storage incidental to transportation in commerce. 65 FR 81953–54.

The County can, however, define sludge as it deems appropriate for State purposes, such as disposal, and RSPA's preemption of the definition has no effect on non-transportation-related functions. The County is correct that the HMR do not contain a specific definition of "solid waste." Solid waste and hazardous waste are defined in the Environmental Protection Agency's (EPA's) Resource Conservation and Recovery Act (RCRA) regulations at 40 CFR 261.2 and 261.3, respectively. We do not address whether the County's definition of sludge conflicts with EPA's definitions for solid waste or hazardous waste.

B. Release-Reporting Requirements

The County maintains its position that Article XII regulates releases that do not involve transportation, including storage incidental to transportation in commerce. The County states that Article XII has been consistently enforced in that manner and, therefore, should not be preempted. The County states that it has agreed to modify section 27–439(f)(1) and provides sample language of how it intends to revise the section. The County anticipates that it will take approximately six months to complete the revisions because of the required notice and public hearing requirements in its local law.

In its decision, RSPA addressed two requirements in the County's revised Ordinance that dealt with release reporting—§ 27–355(a)(1) in Article XII and § 27–439(f)(1) in Article XVII. 65 FR 81954–81955. RSPA found that the written notification requirement contained in § 27–355(a)(1), and the requirement in § 27–439(f)(1) to report releases in accordance with § 27–355(a)(1), were preempted to the extent that they related to the transportation of hazardous materials in commerce, including loading, unloading and

storage incidental to transportation. *Id.* RSPA found that these requirements were not "substantively the same" as the Federal written incident-reporting requirements found in 49 CFR 171.16 and, therefore, were preempted under 49 U.S.C. 5125(b)(1)(D). *Id.* RSPA determined that the oral incident notification requirements contained in §§ 27–355(a)(1) and 27–439(f)(1) were not preempted. 65 FR 81955.

As mentioned above, the County argues that Article XII [which contains § 27–355(a)(1)] regulates releases that do not involve transportation, including storage incidental to transportation in commerce, and has consistently been enforced in that manner. The County made the same argument in its comments to the initial proceeding. At that time, RSPA determined that it was not apparent from the face of the revised Ordinance whether Article XII could be construed as applying to hazardous materials transportation or storage incidental to transportation. 65 FR 81954. Thus, RSPA stated that its decision to preempt § 27–355(a)(1) was limited to the extent that § 27–355(a)(1) related to transportation in commerce, including storage incidental to commerce. *Id.* The text of § 27–355(a)(1) has not changed; therefore, RSPA reaches the same conclusion in this instance that § 27–355(a)(1) is preempted by Federal hazardous materials transportation law to the extent that it relates to transportation in commerce or storage incidental to transportation in commerce. If this regulation does not pertain to a release that occurs during transportation or storage incidental to transportation as the County claims, then RSPA's decision is irrelevant to the County's application of the regulation.

Concerning the proposed revisions to § 27–439(f)(1), it appears from the County's comments that the modification has not been made and likely will not be made for some time. Thus, RSPA's determination that this section is preempted as it pertains to written incident release reporting is affirmed.

C. Shipping Paper Requirements

The County's only comment is that it does not regulate intermediate rail transporters. IME contends that it is unclear what the County is asking of RSPA. IME points out that RSPA preempted section 27–439(g)(1) as it relates to intermediate rail transporters and that if the County does not regulate intermediate rail transporters RSPA's decision has no bearing on that part of the revised Ordinance.

In its decision, RSPA addressed two sections of the revised Ordinance that dealt with shipping paper retention: § 27–356(b)(4)d.1 in Article XII and § 27–439(g)(1) in Article XVII. 65 FR 81956. RSPA determined that § 27–356(b)(4)d.1 was preempted under the "substantively the same as" test to the extent that the requirement differed from the HMR and EPA's requirements for hazardous waste manifest retention because (1) it requires a five-year retention period for waste manifests, bills of lading or other equivalent manifesting, rather than three years as required under the HMR and by the EPA, and (2) it applies to intermediate rail transporters, which were exempt from this type of record retention under the HMR. *Id.* RSPA determined that § 27–439(g)(1) was only preempted to the extent that it applies to intermediate rail transporters. *Id.*

Section 27–435, which defines the applicability of Article XVII, states that the "article applies to all persons conducting activities within the geographical boundaries of Broward County, which transport discarded hazardous materials, sludge, or biomedical waste to, from, and within Broward County." It is not apparent from a plain reading of this section that it excludes intermediate rail transporters. However, if the County does not regulate intermediate rail transporters, as it asserts, then RSPA's determination that §§ 27–356(b)(4)d.1 and 27–439(g)(1) are preempted as applied to intermediate rail transporters is moot.

As mentioned above, however, RSPA also preempted § 27–356(b)(4)d.1 under the "substantively the same as" test because it imposed a longer record retention period for hazardous waste manifests, bills of lading and other equivalent manifesting. *Id.* The section requires that these documents be maintained on site for five years. As RSPA explained in its decision, the Federal requirements for hazardous waste manifests require, among other things, that a copy of the manifest * * * must be "[r]etained by the shipper (generator) and by the initial and each subsequent carrier for three years from the date the waste was accepted by the initial carrier." 49 CFR § 172.205(e)(5). *Id.* EPA also requires a three-year waste manifest retention period for hazardous waste generators and transporters. *Id. See also* 40 CFR 262.40 and 263.22. Neither RSPA nor EPA specifies where a manifest must be kept.

Thus, § 27–356(b)(4)d.1 remains preempted under the "substantively the same as" test to the extent that the requirement differs from the HMR (and EPA) requirements for hazardous waste manifest retention.

D. Fee Requirements

The County states that it has begun revising its transporter license fee structure, which will be based upon use of service. The County explains that all license fees that are colleted are deposited into the General Fund of Broward County. It states that these funds are then budgeted for use related to transporting hazardous materials, including enforcement, planning, and maintaining a capability for emergency response. The County further explains that the County's DPEP maintains a trained staff in its Emergency Response section, each with on-call capabilities. The County estimates that it will take approximately six months to implement the new fee structure because of its notice and public hearing requirements.

RSPA preempted the County's existing fee structure contained in § 27–439(a) because it failed the fairness and "used for" tests, as well as the "obstacle" test. 65 FR 81958–59. RSPA determined that the County's fee for obtaining a waste transport license was the same for every transporter that transported discarded hazardous materials, sludge or biomedical waste "to, from and within" the County. 65 FR 81959. RSPA determined that the County's fee structure was not fair under the standards set forth in 49 U.S.C. 5125(g)(1) because it was not based on some fair approximation of use of facilities and because it discriminated against interstate commerce. *Id.* RSPA determined that the County's fee structure failed the "used for" test under 49 U.S.C. 5125(g)(1) because the County did not provide any evidence of how it used the waste transporter fee. *Id.* Finally, RSPA determined that because the County's fee failed the fairness and "used for" tests in 49 U.S.C. 5125(g)(1), it created an obstacle to carrying out the Federal hazardous materials transportation law and, thus, failed the "obstacle" test in 49 U.S.C. 5125(a)(2). *Id.*

As mentioned above, the County indicates that it has begun modifying its waste transporter fee structure and that the funds are budgeted for items that appear to meet the requirements of 49 U.S.C. 5125(g)(1). To date, however, the County has not submitted its revised regulation and may not be able to do so for several months. Therefore, RSPA reaffirms it decision that the County's fee requirement contained in § 27–439(a) is preempted under 49 U.S.C. 5125(g)(1) for the reasons stated above. Once the County has competed its revision to that section of the Ordinance, it can apply to RSPA for a determination of whether Federal hazardous materials transportation law preempts its new requirement.

E. Reporting Requirements

The County states that it will revise its reporting requirements by deleting § 27–439(g)(2) in the upcoming version of Chapter 27. In its decision, RSPA preempted this section under the "obstacle" test because it required information in excess of the Federal reporting requirements. 65 FR 81959–60. If the County does remove this section in an upcoming revision of the County Code, then RSPA's preemption determination as to this particular section will become moot. Until that time, however, the section remains preempted.

III. Ruling

The County's petition for reconsideration and stay of determination is denied. RSPA finds that Federal hazardous materials preemption law preempts:

- Portions of revised §§ 27–352 and 27–436 containing the definitions of biomedical waste, combustible liquid, discarded hazardous materials, flammable liquid, hazardous material and sludge, to the extent that these definitions relate to transportation in commerce.
- All County hazardous materials transportation requirements that rely on these definitions.
- Portions of §§ 27–355(a)(1) and 27–439(f)(1) containing written incident release reporting requirements, to the extent that these sections pertain to transportation in commerce.
- Section 27–356(b)(4)d.1 containing shipping paper requirements, to the extent that they differ from HMR or EPA requirements for shipping paper and waste manifest retention. (Section 27–439(g)(1) is preempted only if it is applied to intermediate rail transporters.)
- Section 27–439(b) containing the fee requirements for obtaining a waste transporter license.
- Section 27–439(g)(2) containing monthly reporting requirements, to the extent that this requirement relates to transportation in commerce.

The County's request for a six-month stay to modify its existing regulations is also denied. It has been more than six months since the County submitted its request for a stay, but the County has provided no evidence that it has made the contemplated revisions to its Ordinance. Therefore, the specific sections discussed above are preempted.

IV. Final Agency Action

In accordance with 49 CFR 107.211(d), this decision constitutes RSPA's final agency action on ATA/AWHMT's application for a determination of preemption of specific sections of Broward County, Florida's revised Ordinances. Any party to this proceeding "may bring a civil action in an appropriate district court of the United States for judicial review of [this] decision * * * not later than 60 days after the decision becomes final." 49 U.S.C. 5125(f). This decision becomes final on the date of **Federal Register** publication. 49 CFR 107.213.

Issued in Washington, DC on May 13, 2002.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–12420 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub–No. 9X); STB Docket No. AB–55 (Sub–No. 611X)]

New York Central Lines, LLC-Discontinuance of Service Exemption-in Allen County, OH; CSX Transportation, Inc.—Discontinuance of Service Exemption-in Allen County, OH

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC and CSXT to discontinue service over approximately 0.9 miles of railroad from milepost QFL 51.0 to milepost QFL 51.9 in Lima, Allen County, OH.[1] The line traverses United States Postal Service Zip Code 45804.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C.91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on June 18, 2002,[2] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] must be filed by May 28, 2002. Petitions to reopen must be filed by June 6, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.[5]

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

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[1] Pursuant to Board authorization in 1998, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line for discontinuance is included among the property being operated by CSXT pursuant to the NYC operating agreement.

[2] Pursuant to 49 CFR 1150.50(d)(2), the railroad must filed a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. In its verified notice, applicant did not indicate a consummation date as required. A Board staff member consulted with applicant's representative and applicant's representative has subsequently confirmed that consummation cannot occur before June 18, 2002, 50 days after the April 29, 2002 filing of the verified notice.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).

[5] Because these are discontinuance proceedings and abandonment is not proposed, trail use/rail banking and public use conditions are not appropriate.

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 24, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV.*"

Decided: May 13, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12407 Filed 5–16–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Report of Financial and Reporting Statistics for Large Certificated Air Carriers

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 16, 2002 (67 FR 2282).

DATES: Written comments should be submitted by June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or e-mail *bernard.stankus@bts.gov.*

Comments: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information on respondents, in including the use of automated collection techniques of other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Report of Financial and Operating Statistics for Large Certificated Air Carriers

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2138–0013.

Forms: BTS Form 41.

Affected Public: Large certificated air carriers.

Number of Respondents: 74.

Estimated Time per Response: 4 hours per schedule, an average carrier may submit 90 schedules in one year.

Total Annual Burden: 24,428 hours.

Needs and Uses: Program uses for Form 41 data are as follows:

Mail Rates

The Department of Transportation sets and updates the international and mainline Alaska mail rates based on carrier aircraft operating expense, traffic and operational data. Form 41 cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Submission of U.S. Carrier Data to ICAO

As a party to the Convention on International Civil Aviation, the United States is obligated to provide the International Civil Aviation Organization with financial and statistical data on operations of U.S. air carriers. Over 99 percent of the data filed with ICAO is extracted from the carriers' Form 41 reports.

Standard Foreign Fare and Rate Levels

DOT uses Form 41 cost data to calculate the Standard Foreign Fare Level (SFFL) for passengers and the Standard Foreign Rate Level (SFRL) for freight. Any international fare or rate set below this fare level are automatically approved. Separate passenger fare and rate levels are established for Canadian, Atlantic, Latin America, and Pacific areas. In markets where liberal bilateral or multilateral pricing agreements provide for more competitive open market pricing, such agreements may take precedence over the SFFL and SFRL.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 41 for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

Form 41 reports, particularly balance sheet reports and cash flow statements play a major role in the identification of vulnerable carriers. Data comparisons are made between current and past periods in order to assess the current financial position of the carrier. Financial trend lines are extended into the future to analyze the continued viability of the carrier. DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier is operating, DOT is required to monitor its continuing fitness.

Status Reports

Senior DOT officials must be kept fully informed as to all current and developing economic issues affecting the airline industry. In preparing financial conditions reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers may use the same information.

War Air Service Program (Emergency Preparedness)

Under the War Air Service Program (WASP), FAA develops an official airline guide to establish air carrier boarding priorities in the event of a national emergency. The inventory of aircraft available for WASP equals the total aircraft fleet operated by certificated air carriers less the number of the largest wide-body aircraft that are allocated to the Civil Reserve Aircraft Fleet Program. Data on air carrier aircraft inventories, plus interim updates of acquisitions and retirements are used to assess the air transportation capabilities of the U.S. airline industry. This assessment is used in developing plans for emergency utilization of U.S. airline industry aircraft and resources in the event of a national emergency and/or mobilization.

Air Transportation Safety and System Stabilization Act

DOT is using Form 41 financial data to establish benchmarks to assess the reasonableness of air carrier claims under the Stabilization Act.

Bernard Stankus,

Acting Assistant Director, Airline Information, Bureau of Transportation Statistics.

[FR Doc. 02–12373 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Report of Financial and Reporting Statistics for Small Aircraft Operators

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) , this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 16, 2002 (67 FR 2281).

DATES: Written comments should be submitted by June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or e-mail *bernard.stankus@bts.gov.*

Comments: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information on respondents, in including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Report of Financial and Operating Statistics for Small Aircraft Operators.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2138–0009.

Forms: BTS Form 298–C.

Affected Public: Small certificated and commuter air carriers.

Number of Respondents: 94.

Estimated Time per Response: 9 hours per quarter for a commuter air carrier, 16 hours per quarter for a small certificated air carrier.

Total Annual Burden: 4,728 hours.

Needs and Uses: Program uses for Form 298–C data are as follows:

Mail Rates

The Department of Transportation sets and updates the Intra-Alaska Bush mail rates based on carrier aircraft operating expense, traffic, and operational data. Form 298–C cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Essential Air Service

DOT often has to select a carrier to provide a community's essential air service. The selection criteria include historic presence in the community, reliability of service, financial stability and cost structure of the air carrier.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 298–C for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

The quarterly financial submissions by commuter and small certificated air carriers are used in determining each carrier's continuing fitness to operate. Section 41738 of Title 49 of the United States Code requires DOT to find all commuter and small certificated air carriers fit, willing, and able to conduct passenger service as a prerequisite to providing such service to an eligible essential air service point. In making a fitness determination, DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier begins conducting flight operations, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed and advised of all current and developing economic issues affecting the airline industry. In preparing financial condition reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers prepared for senior DOT officials may use the same information.

Air Transportation Safety and System Stabilization Act

DOT is using financial data reported by small certificated and commuter air carriers to establish benchmarks to

assess the reasonableness of air carrier claims under the Stabilization Act.

Bernard Stankus,

Acting Assistant Director, Airline Information, Bureau of Transportation Statistics.

[FR Doc. 02–12374 Filed 5–16–02; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2003 Grant Application Package

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document contains a Notice that the IRS has made available the grant application package (Publication 3319) for parties interested in applying for a Low-Income Taxpayer Clinic Grant for the 2003 grant cycle. The IRS will award up to $100,000 in matching funds to qualifying organizations.

DATES: Grant applications for the 2003 grant cycle must be received by the IRS (not postmarked) by July 1, 2002.

ADDRESSES: Send completed grant applications to: Internal Revenue Service, SPEC Hqs, Mail Stop 55 WI, Attn: Grants Administration Office, 401 W. Peachtree St. NW, Atlanta, GA 30308. Copies of the grant application package (IRS Publication 3319) can be downloaded from the IRS Internet site at: *http://www.irs.gov* or ordered by calling 1–800–829–3676.

FOR FURTHER INFORMATION CONTACT: Beverly Smith, LITC Management and Program Analyst, at 317–226–6771. (not a toll-free number)

SUPPLEMENTARY INFORMATION:

Background

Section 7526 of the Internal Revenue Code authorizes the IRS, subject to the availability of appropriated funds, to make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics. Section 7526 authorizes the IRS to provide grants to qualified organizations that represent low income taxpayers in controversies with the IRS and/or inform individuals for whom English is a second language of their tax rights and responsibilities.

Selection Criteria

Applications that pass the eligibility screening process will be numerically ranked in each of the areas listed below based on the information contained in their proposed program plan. Each criterion reflects the maximum number of points that may be assigned. In assigning numerical points, the IRS will evaluate the program plan based on how it will assist in accomplishment of the IRS mission and goals and meeting the LITC statutory requirements as stated elsewhere in the application package. Organizations can receive a maximum of 100 points. If you are applying for more than one qualifying activity (i.e. representation, referral, ESL, or combination thereof) each type of program will be evaluated separately. The ranking points will be assigned as follows:

A. Quality of programs offered to assist low income taxpayers or individuals for whom English is a second language, including (Maximum 75 points)—

1. Qualifications of administrators and qualified representatives;
2. The amount of time devoted to the program by clinic staff;
3. Training clinic participants will be provided;
4. Plans for supervising clinic participants;
5. Procedures for ensuring the confidentiality of taxpayer information;
6. Publicity of clinic operations; and
7. The dates and days and hours of clinic operation.

B. Experience in sponsoring a tax clinic where individuals with tax controversies with the IRS were represented; or

Experience in sponsoring a tax clinic where individuals with tax controversies with the IRS were referred; or

Experience in providing a program to inform individuals for whom English is a second language about their rights and responsibilities. (Maximum 10 points)

C. Quality of grant administration and internal accounting procedures. (Maximum 10 points)

D. Number of low-income and ESL taxpayers in geographical area. (Maximum 5 points)

Other Considerations

Please note that the IRS Volunteer Income Tax Assistance (VITA) Program is a separate and distinct program from the LITC grant program. Organizations currently participating in the VITA Program may be eligible to apply for a LITC grant if they meet the criteria and qualifications outlined in the LITC Grant Application Package & Guidelines (Publication 3319). Organizations that seek to operate both VITA and LITC programs must maintain separate and distinct programs to ensure proper cost allocation for LITC grant funds and adherence to both VITA and LITC program rules and regulations. In addition to the foregoing criteria, to foster parity regarding clinic availability and accessibility for taxpayers nationwide, the IRS will consider the geographic area of applicants as part of the decision making process. The IRS will also seek to attain a proper balance of academic and non-profit organizations as well as a proper balance of start-up and existing clinics.

Comments

Interested parties are encouraged to provide comments on the IRS's administration of the grant program on an ongoing basis.

Dated: April 29, 2002.

Jim Grimes,

Director, Field Operations, Stakeholder Partnerships, Education and Communications (SPEC), Wage and Investment Division.

[FR Doc. 02–12465 Filed 5–16–02; 8:45 am]

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Federal Register

Friday,
May 17, 2002

Part II

Federal Emergency Management Agency

Compendium of Flood Map Changes; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Compendium of Flood Map Changes

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This Notice provides listings of changes made to National Flood Insurance Program (NFIP) maps produced by FEMA effective during the last 6 months of 2001.

DATES: The listings include changes to NFIP maps that became effective July 1, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Director, Hazard Mapping Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, Washington, DC 20472, (202)646-2756.

SUPPLEMENTARY INFORMATION: In accordance with Section 1360(i) of the National Flood Insurance Reform Act of 1994, this Notice is provided to inform interested parties of changes made by FEMA to NFIP maps. The two listings provided show communities affected by map changes made by letter and communities affected by physical map changes. For each Letter of Map Change, the first listing provides the map panel(s) affected, effective (determination) date of the change, case number, and determination type. For each physical map change, the Map Revision listing provides the map panel(s) affected and the effective date of the change. The listing also identifies: (1) Those panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate the Letters of Map Change issued before the effective date; and (2) those panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community. Future notices of changes to NFIP maps will be published approximately every 6 months.

Dated: April 29, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

Two listings are provided below. The first listing includes all Letters of Map Change issued by FEMA from July 1 through December 31, 2001. The following types of letters are included in the listing:

Type	Description
01	Letter of Map Revision Based on Fill
02	Letter of Map Amendment
05	Letter of Map Revision With Base Flood Elevation Changes
06	Letter of Map Revision Without Base Flood Elevation Changes
08	Denial
12	Floodway Revision
17	Letter of Map Revision-Inadvertent Inclusion in Floodway
18	Letter of Map Revision-Inadvertent Inclusion in V Zone
19	Letter of Map Change Revalidation

The second listing includes map panels that FEMA physically revised and republished from July 1 through December 31, 2001. For those map panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate Letters of Map Change issued before the effective date, two asterisks(**) are shown to the right of the map panel number. For those map panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community, three asterisks(***) are shown to the right of the map panel number.

For both listings, a single asterisk is shown to the right of each county name that appears in the "Community" column. This asterisk indicates the area covered is the unincorporated areas of that county.

Region	State	Community	Map panel	Determination date	Case No.	Type
01	CT	BERLIN, TOWN OF	0900220010D	26-SEP-2001	01-01-1350A	17
01	CT	BRANFORD, TOWN OF	0900730001D	21-NOV-2001	02-01-0094A	02
01	CT	CLINTON, TOWN OF	0900610003D	07-DEC-2001	02-01-0208A	02
01	CT	DANBURY, CITY OF	0900040020B	24-AUG-2001	01-01-0888A	01
01	CT	EAST HAVEN, TOWN OF	0900760005C	31-OCT-2001	02-01-0102A	02
01	CT	FAIRFIELD, TOWN OF	0900070003C	12-OCT-2001	01-01-1206A	02
01	CT	GREENWICH, TOWN OF	0900080025C	15-AUG-2001	01-01-1178A	02
01	CT	GREENWICH, TOWN OF	0900080024C	17-OCT-2001	01-01-1392A	02
01	CT	GREENWICH, TOWN OF	0900080024C	07-DEC-2001	01-01-039P	05
01	CT	GREENWICH, TOWN OF	0900080019C	19-DEC-2001	02-01-0234X	02
01	CT	GROTON, TOWN OF	0900970006E	05-JUL-2001	01-01-0976A	02
01	CT	GUILFORD, TOWN OF	0900770017B	13-JUL-2001	01-01-0956A	18
01	CT	HARTFORD, CITY OF	0950800005B	17-JUL-2001	00-01-043P	05
01	CT	MADISON, TOWN OF	0900790011C	19-SEP-2001	01-01-1182A	02
01	CT	MERIDEN, CITY OF	0900810004C	19-NOV-2001	01-01-033P	05
01	CT	MERIDEN, CITY OF	0900810007C	14-DEC-2001	02-01-0284A	02
01	CT	MERIDIAN, CITY OF	0900810005C	31-OCT-2001	01-01-1240A	02
01	CT	NEW HARTFORD, TOWN OF	0900480012B	13-JUL-2001	01-01-1050A	02
01	CT	NEW HAVEN, CITY OF	0900840003C	21-SEP-2001	01-01-1234A	02
01	CT	NORTH BRANFORD, TOWN OF	0900850008B	10-OCT-2001	01-01-1438A	02
01	CT	NORTH CANAAN, TOWN OF	0901490002B	12-OCT-2001	01-01-1282A	01
01	CT	NORTH CANAAN, TOWN OF	0901490004B	07-DEC-2001	02-01-0134A	02
01	CT	NORWALK, CITY OF	0900120010D	21-DEC-2001	01-01-1442A	02
01	CT	OLD SAYBROOK, TOWN OF	0900690004D	24-AUG-2001	01-01-1216A	02
01	CT	OLD SAYBROOK, TOWN OF	0900690001C	29-AUG-2001	01-01-1148A	02
01	CT	PORTLAND, TOWN OF	0901300010B	07-SEP-2001	01-01-1286A	17
01	CT	SIMSBURY, TOWN OF	0900350015C	12-SEP-2001	01-01-1284A	17
01	CT	SOMERS, TOWN OF	0901120004B	07-DEC-2001	02-01-0070A	02
01	CT	SOUTH WINDSOR, TOWN OF	0900360010D	10-AUG-2001	01-01-1200A	02
01	CT	SOUTHINGTON, TOWN OF	0900370003C	19-SEP-2001	01-01-1338A	02
01	CT	TRUMBULL, TOWN OF	0900170010C	05-SEP-2001	01-01-1246A	17

Region	State	Community	Map panel	Determination date	Case No.	Type
01	CT	WALLINGFORD, TOWN OF	0900900006D	29-AUG-2001	01-01-1268A	02
01	CT	WEST HARTFORD, TOWN OF	0950820001C	10-OCT-2001	01-01-1356A	02
01	CT	WESTBROOK, CITY OF	0900700006D	05-SEP-2001	01-01-1264A	02
01	CT	WOODBURY, TOWN OF	0901330002B	14-DEC-2001	02-01-0104A	02
01	MA	ACTON, TOWN OF	2501760003C	05-DEC-2001	02-01-0034A	02
01	MA	ACTON, TOWN OF	2501760001C	07-DEC-2001	02-01-0220A	02
01	MA	AGAWAM, TOWN OF	2501330002A	12-SEP-2001	01-01-1018A	02
01	MA	AGAWAM, TOWN OF	2501330002A	07-DEC-2001	02-01-0188A	02
01	MA	AGAWAM, TOWN OF	2501330002A	21-DEC-2001	02-01-0176A	02
01	MA	AMESBURY, TOWN OF	2500750004C	17-OCT-2001	01-01-1446A	02
01	MA	ANDOVER, TOWN OF	2500760007B	22-AUG-2001	01-01-1114A	02
01	MA	ANDOVER, TOWN OF	2500760007B	29-AUG-2001	01-01-1248A	02
01	MA	ARLINGTON, TOWN OF	2501770002B	18-JUL-2001	01-01-1022A	02
01	MA	ATTLEBORO, CITY OF	2500490010C	11-JUL-2001	01-01-0520A	01
01	MA	BERKLEY, TOWN OF	2500500002B	05-SEP-2001	01-01-1190A	02
01	MA	BERKLEY, TOWN OF	2500500002B	07-DEC-2001	02-01-0132A	02
01	MA	BRAINTREE, TOWN OF	2502330004D	10-AUG-2001	01-01-1118A	02
01	MA	BRAINTREE, TOWN OF	2502330010C	29-AUG-2001	01-01-1096A	02
01	MA	BRAINTREE, TOWN OF	2502330005D	12-SEP-2001	01-01-1016A	02
01	MA	BRAINTREE, TOWN OF	2502330005D	12-OCT-2001	01-01-1106A	02
01	MA	BRAINTREE, TOWN OF	2502330004D	17-OCT-2001	01-01-1378A	02
01	MA	BRIDGEWATER, TOWN OF	2502600002C	24-OCT-2001	01-01-1422A	02
01	MA	BRIDGEWATER, TOWN OF	2502600005C	31-OCT-2001	02-01-0038A	02
01	MA	BRIDGEWATER, TOWN OF	2502600002C	21-NOV-2001	01-01-1326A	02
01	MA	BRIDGEWATER, TOWN OF	2502600010C	21-NOV-2001	02-01-0120A	02
01	MA	BRIDGEWATER, TOWN OF	2502600010C	14-DEC-2001	02-01-0172A	02
01	MA	BROCKTON, CITY OF	2502610010C	28-SEP-2001	01-01-1242A	02
01	MA	EASTON, TOWN OF	2500530010E	14-SEP-2001	01-01-1296A	02
01	MA	EASTON, TOWN OF	2500530005C	24-OCT-2001	01-01-1464A	02
01	MA	FALMOUTH, TOWN OF	2552110011F	05-OCT-2001	01-01-1426A	02
01	MA	FRAMINGHAM, TOWN OF	2501930006B	01-AUG-2001	01-01-0858A	01
01	MA	GREENFIELD, TOWN OF	2501180007B	24-OCT-2001	01-01-1440A	02
01	MA	GROVELAND, TOWN OF	2500830005C	08-AUG-2001	01-01-1168A	02
01	MA	HOLBROOK, TOWN OF	2552120001D	06-JUL-2001	01-01-1240V	19
01	MA	HOLBROOK, TOWN OF	2552120003D	06-JUL-2001	01-01-1240V	19
01	MA	HOLLISTON, TOWN OF	2501950007C	07-DEC-2001	02-01-0198A	02
01	MA	HOLLISTON, TOWN OF	2501950005C	14-DEC-2001	02-01-0118A	02
01	MA	HUDSON, TOWN OF	2501970003B	24-OCT-2001	01-01-1374A	01
01	MA	LAKEVILLE, TOWN OF	2502710015C	22-AUG-2001	01-01-1162A	02
01	MA	LEE, TOWN OF	2500280002B	21-NOV-2001	01-01-1340A	02
01	MA	LEOMINSTER, CITY OF	2503140003C	05-DEC-2001	02-01-0206A	02
01	MA	MASHPEE, TOWN OF	2500090009G	05-OCT-2001	01-01-1388A	02
01	MA	MELROSE , CITY OF	2502060001B	29-AUG-2001	01-01-0776A	02
01	MA	MILTON, TOWN OF	2502450001B	07-NOV-2001	01-01-1124A	02
01	MA	NORTH READING, TOWN OF	2502090005B	05-JUL-2001	01-01-0792A	02
01	MA	NORTH READING, TOWN OF	2502090004C	21-DEC-2001	02-01-0294A	02
01	MA	PEPPERELL, TOWN OF	2502100002C	12-JUL-2001	01-01-011P	05
01	MA	PITTSFIELD, CITY OF	2500370020C	14-DEC-2001	02-01-0266A	02
01	MA	PLAINVILLE, TOWN OF	2502490003B	05-SEP-2001	01-01-1122A	02
01	MA	QUINCY, CITY OF	2552190008B	29-AUG-2001	01-01-1262A	02
01	MA	QUINCY, CITY OF	2552190012C	05-DEC-2001	02-01-0254A	02
01	MA	RANDOLPH, TOWN OF	2502510002D	19-SEP-2001	01-01-1202A	02
01	MA	RANDOLPH, TOWN OF	2502510002C	21-SEP-2001	01-01-1072A	02
01	MA	REVERE, CITY OF	2502880001B	01-AUG-2001	01-01-1076X	02
01	MA	ROCKLAND, TOWN OF	2502810003B	20-JUL-2001	01-01-0900A	02
01	MA	SOUTHBOROUGH, TOWN OF	2503330004B	05-SEP-2001	01-01-1120A	01
01	MA	SOUTHWICK, TOWN OF	2501490010B	05-OCT-2001	01-01-1396A	02
01	MA	WALTHAM, CITY OF	2502220003D	21-NOV-2001	02-01-0140A	02
01	MA	WAREHAM, TOWN OF	2552230015D	19-SEP-2001	01-01-1166A	02
01	MA	WAREHAM, TOWN OF	2552230015D	24-OCT-2001	01-01-1390A	02
01	MA	WELLFLEET, TOWN OF	2500140007C	05-SEP-2001	01-01-1170A	02
01	MA	WEST BROOKFIELD, TOWN OF	2503460015B	21-SEP-2001	01-01-1386A	02
01	MA	WESTFIELD, CITY OF	2501530015B	01-AUG-2001	01-01-1042A	02
01	MA	WESTPORT, TOWN OF	2552240010B	08-AUG-2001	01-01-0916A	02
01	MA	WESTWOOD, TOWN OF	2552250005C	31-OCT-2001	01-01-1294A	02
01	MA	WESTWOOD, TOWN OF	2552250005C	07-DEC-2001	02-01-0196A	02
01	MA	WORTHINGTON, TOWN OF	2501750007B	05-OCT-2001	01-01-1318A	02
01	ME	ALFRED, TOWN OF	2301910025C	19-SEP-2001	01-01-037P	05
01	ME	APPLETON, TOWN OF	230073—13B	28-SEP-2001	01-01-1394A	02
01	ME	AUGUSTA, CITY OF	2300670010C	24-OCT-2001	01-01-1348A	02
01	ME	BAR HARBOR, TOWN OF	2300640005B	08-AUG-2001	01-01-1088A	02
01	ME	BELGRADE, TOWN OF	2302320010B	05-DEC-2001	02-01-0148A	02
01	ME	BERWICK, TOWN OF	2301440003B	07-DEC-2001	01-01-1314A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	ME	BIDDEFORD, CITY OF	2301450004B	08-AUG-2001	01-01-1108A	02
01	ME	BOOTHBAY HARBOR, TOWN OF	2302130002B	10-AUG-2001	01-01-0570A	02
01	ME	BOOTHBAY HARBOR, TOWN OF	2302130002B	12-SEP-2001	01-01-1270A	02
01	ME	BOOTHBAY, TOWN OF	2302120011B	28-SEP-2001	01-01-1370A	02
01	ME	BUXTON, TOWN OF	2301460010B	07-DEC-2001	01-01-1038A	02
01	ME	CHESTERVILLE, TOWN OF	230346—01A	05-DEC-2001	02-01-0044A	02
01	ME	DAYTON, TOWN OF	2301480003B	12-DEC-2001	02-01-0212A	02
01	ME	EDMUNDS, TOWNSHIP OF	230471—04A	20-JUL-2001	01-01-1100A	02
01	ME	EDMUNDS, TOWNSHIP OF	230471—04A	20-JUL-2001	01-01-1102A	02
01	ME	ELIOT, TOWN OF	2301490010B	31-OCT-2001	02-01-0108A	02
01	ME	FORT FAIRFIELD, TOWN OF	2300180030B	19-NOV-2001	01-01-015P	05
01	ME	FREEDOM, TOWN OF	230255—01A	31-OCT-2001	01-01-1448A	02
01	ME	FRYEBURG, TOWN OF	2300930006C	29-AUG-2001	01-01-1136A	02
01	ME	GOULDSBORO,TOWN OF	2302830010B	05-JUL-2001	01-01-0946A	18
01	ME	GOULDSBORO,TOWN OF	2302830020B	11-JUL-2001	01-01-0922A	18
01	ME	GRAY, TOWN OF	2300480015A	08-AUG-2001	01-01-1160A	02
01	ME	GREENVILLE,TOWN OF	2304090005E	08-SEP-2001	02-01-0192V	19
01	ME	GREENVILLE,TOWN OF	2304090010E	08-SEP-2001	02-01-0192V	19
01	ME	GREENVILLE,TOWN OF	2304090011E	08-SEP-2001	02-01-0192V	19
01	ME	GREENVILLE,TOWN OF	2304090015E	08-SEP-2001	02-01-0192V	19
01	ME	GREENVILLE,TOWN OF	2304090020E	08-SEP-2001	02-01-0192V	19
01	ME	GREENWOOD, TOWN OF	230332—01A	21-SEP-2001	01-01-1366A	02
01	ME	GUILFORD, TOWN OF	0900770017B	12-DEC-2001	02-01-0062A	18
01	ME	HANCOCK, TOWN OF	2302840015A	22-AUG-2001	01-01-1266A	02
01	ME	HANCOCK, TOWN OF	2302840005A	24-OCT-2001	01-01-1428A	02
01	ME	HARPSWELL, TOWN OF	2301690005B	05-JUL-2001	01-01-0040A	18
01	ME	HARPSWELL, TOWN OF	2301690014D	22-AUG-2001	01-01-1254A	02
01	ME	HARPSWELL, TOWN OF	2301690011B	14-SEP-2001	01-01-1330A	02
01	ME	HARTLAND, TOWN OF	230361—02A	24-OCT-2001	02-01-0032A	02
01	ME	HAYNESVILLE, TOWN OF	230020—06B	10-OCT-2001	01-01-1458A	02
01	ME	JEFFERSON, TOWN OF	2300850020B	29-AUG-2001	01-01-1110A	02
01	ME	KINGFIELD, TOWN OF	2300580010C	08-NOV-2001	02-01-0190V	19
01	ME	LAMOINE, TOWN OF	2302850010A	10-AUG-2001	01-01-1126A	02
01	ME	LAMOINE, TOWN OF	2302850010A	10-OCT-2001	01-01-1450A	02
01	ME	LIMERICK, TOWN OF	2301940007B	28-SEP-2001	01-01-1368A	02
01	ME	LIMERICK, TOWN OF	2301940009B	28-SEP-2001	01-01-1380A	02
01	ME	LINCOLN, TOWN OF	2301090005B	13-JUL-2001	01-01-0994A	02
01	ME	LINCOLNVILLE, TOWN OF	2301720015A	07-SEP-2001	01-01-1310A	02
01	ME	LITCHFIELD, TOWN OF	2302380005B	13-JUL-2001	01-01-1028A	02
01	ME	LITCHFIELD, TOWN OF	2302380005B	07-SEP-2001	01-01-1306A	02
01	ME	LONG ISLAND, TOWN OF	2300510009B	07-DEC-2001	02-01-0072A	02
01	ME	LOWELL, TOWN OF	230395—03	20-JUL-2001	01-01-1010A	02
01	ME	LYMAN, TOWN OF	2301950010A	01-AUG-2001	01-01-0990A	02
01	ME	LYMAN, TOWN OF	2301950005A	29-AUG-2001	01-01-1142A	02
01	ME	MARIAVILLE, TOWN OF	230286—04	08-AUG-2001	01-01-1138A	02
01	ME	MT. VERNON, TOWN OF	2302410005B	08-SEP-2001	01-01-1410V	19
01	ME	MT. VERNON, TOWN OF	2302410025B	08-SEP-2001	01-01-1410V	19
01	ME	NEWPORT, TOWN OF	230398—08B	10-AUG-2001	01-01-1140A	02
01	ME	NORTH HAVEN, TOWN OF	2302280015B	13-NOV-2001	01-01-035P	05
01	ME	NORTH YARMOUTH, TOWN OF	2302020005B	01-AUG-2001	01-01-1084A	02
01	ME	OGUNQUIT, TOWN OF	2306320002B	16-NOV-2001	01-01-1334A	02
01	ME	OLD ORCHARD BEACH, TOWN OF	2301530003B	14-OCT-2001	01-01-009P	05
01	ME	OLD ORCHARD BEACH, TOWN OF	2301530003B	19-DEC-2001	02-01-0112A	02
01	ME	PALMYRA, TOWN OF	230366—05B	16-NOV-2001	02-01-0186A	02
01	ME	PHIPPSBURG, TOWN OF	2301200008D	12-DEC-2001	01-01-1462A	18
01	ME	PITTSFIELD, TOWN OF	2301270005C	29-AUG-2001	01-01-0932A	02
01	ME	POLAND, TOWN OF	2300090008D	08-AUG-2001	01-01-0918A	02
01	ME	PORTAGE LAKE, TOWN OF	230031—08A	11-JUL-2001	01-01-0654A	02
01	ME	PORTER, TOWN OF	2303380014A	12-DEC-2001	02-01-0274A	02
01	ME	PORTLAND, CITY OF	2300510007C	17-AUG-2001	01-01-1222A	02
01	ME	PORTLAND, CITY OF	2300510007C	28-DEC-2001	02-01-0326A	02
01	ME	RANGELEY, TOWN OF	2303520007B	11-JUL-2001	01-01-1036A	02
01	ME	READFIELD, TOWN OF	2302450006B	28-NOV-2001	02-01-0202A	02
01	ME	RUMFORD, TOWN OF	2300990012B	21-SEP-2001	01-01-1360A	02
01	ME	SCARBOROUGH, TOWN OF	2300520023D	05-SEP-2001	01-01-1228A	02
01	ME	SCARBOROUGH, TOWN OF	2300520023D	14-SEP-2001	01-01-1174A	02
01	ME	SCARBOROUGH, TOWN OF	2300520015D	19-NOV-2001	01-01-045P	05
01	ME	SIDNEY, TOWN OF	2302470015C	17-OCT-2001	01-01-1324A	02
01	ME	SOUTH BERWICK, TOWN OF	2301570008C	29-AUG-2001	01-01-1252A	02
01	ME	SOUTHPORT, TOWN OF	2302210004B	17-AUG-2001	01-01-1238A	02
01	ME	ST. ALBANS, TOWN OF	230369—04A	20-JUL-2001	01-01-1078A	02
01	ME	ST. ALBANS, TOWN OF	230369—03A	15-AUG-2001	01-01-1232A	02
01	ME	ST. ALBANS, TOWN OF	230369—02A	21-SEP-2001	01-01-1382A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	ME	ST. ALBANS, TOWN OF	230369—03A	17-OCT-2001	01-01-1434A	02
01	ME	ST. GEORGE, TOWN OF	2302290010C	08-AUG-2001	01-01-1058A	02
01	ME	ST. GEORGE, TOWN OF	2302290010C	08-AUG-2001	01-01-1180A	02
01	ME	ST. GEORGE, TOWN OF	2302290010C	12-OCT-2001	01-01-031P	05
01	ME	STEUBEN, TOWN OF	230323—02A	12-SEP-2001	01-01-1320A	02
01	ME	SWANS ISLAND,TOWN OF	230297—13A	13-JUL-2001	01-01-1046A	02
01	ME	T17 R04 WELS, TOWNSHIP OF	230453—01A	13-JUL-2001	01-01-1014A	02
01	ME	UNION,TOWN OF	2300800010C	16-NOV-2001	02-01-0168A	02
01	ME	WALDOBORO, TOWN OF	2300860030B	10-AUG-2001	01-01-0702A	02
01	ME	WATERBORO, TOWN OF	2301990003C	08-AUG-2001	01-01-1082A	02
01	ME	WATERVILLE, CITY OF	2300700003C	29-AUG-2001	01-01-1210A	02
01	ME	WINDHAM, TOWN OF	2301890015B	20-JUL-2001	01-01-0974A	02
01	ME	WINDHAM, TOWN OF	2301890030B	05-SEP-2001	01-01-1070A	02
01	ME	WINN, TOWN OF	230404—01	12-SEP-2001	01-01-1312A	02
01	ME	WOODSTOCK, TOWN OF	230344—04A	24-OCT-2001	01-01-1362A	02
01	ME	WOODSTOCK, TOWN OF	230344—04A	05-DEC-2001	01-01-1364A	02
01	ME	YORK, TOWN OF	2301590024B	16-NOV-2001	01-01-1414A	18
01	NH	ALTON, TOWN OF	3300010020B	07-NOV-2001	01-01-0850A	02
01	NH	BARTLETT, TOWN OF	3300100010C	17-JUL-2001	01-01-1144A	02
01	NH	BEDFORD, TOWN OF	3300830005C	10-OCT-2001	01-01-1400A	02
01	NH	BRIDGEWATER, TOWN OF	3300460010C	24-OCT-2001	01-01-1322A	02
01	NH	BRISTOL, TOWN OF	3300470006C	05-SEP-2001	01-01-1290A	02
01	NH	CANAAN, TOWN OF	3300490029B	08-AUG-2001	01-01-1060A	02
01	NH	CLAREMONT, CITY OF	3301540003C	11-JUL-2001	01-01-001P	05
01	NH	CONWAY, TOWN OF	3300110015B	10-AUG-2001	01-01-1154A	02
01	NH	CONWAY, TOWN OF	3300110010B	05-OCT-2001	01-01-1416A	17
01	NH	CORNISH, TOWN OF	3301550010B	10-AUG-2001	01-01-0986A	02
01	NH	DANVILLE, TOWN OF	330199—01A	24-OCT-2001	01-01-1344A	02
01	NH	FREMONT, TOWN OF	3301310005C	14-SEP-2001	01-01-1188A	02
01	NH	HILLSBOROUGH, TOWN OF	3300900020B	16-NOV-2001	02-01-0142A	02
01	NH	HOLLIS, TOWN OF	3300910010B	25-SEP-2001	01-01-011P	05
01	NH	KEENE, CITY OF	3300230009C	29-AUG-2001	01-01-1256A	02
01	NH	KEENE, CITY OF	3300230008D	06-OCT-2001	02-01-0098V	19
01	NH	KEENE, CITY OF	3300230009D	06-OCT-2001	02-01-0098V	19
01	NH	MANCHESTER, CITY OF	3301690020B	22-AUG-2001	01-01-1250A	02
01	NH	MERRIMACK, TOWN OF	3300950005A	05-SEP-2001	01-01-0864A	02
01	NH	MIDDLETON, TOWN OF	3302220001A	16-NOV-2001	02-01-0174A	02
01	NH	NASHUA, CITY OF	3300970010B	11-JUL-2001	01-01-1034A	02
01	NH	NEW BOSTON, TOWN OF	3300980005C	12-DEC-2001	02-01-0248A	17
01	NH	NEW BOSTON, TOWN OF	3300980005C	12-DEC-2001	02-01-0270A	02
01	NH	RAYMOND, TOWN OF	3301400005D	17-OCT-2001	01-01-1432A	02
01	NH	SALEM, TOWN OF	3301420005C	16-NOV-2001	02-01-0074A	02
01	NH	SEABROOK, TOWN OF	3301430003B	05-OCT-2001	01-01-1192A	02
01	NH	SHELBURNE, TOWN OF	330037—07A	05-SEP-2001	01-01-1274A	02
01	NH	SUTTON, TOWN OF	330122—03B	25-JUL-2001	01-01-0944A	02
01	NH	WAKEFIELD, TOWN OF	3300190005A	17-AUG-2001	01-01-1094A	02
01	NH	WAKEFIELD, TOWN OF	3300190005A	17-AUG-2001	01-01-1244A	02
01	NH	WAKEFIELD, TOWN OF	3300190005A	14-DEC-2001	02-01-0290A	02
01	NH	WASHINGTON, TOWN OF	330166—11B	05-OCT-2001	01-01-1402A	02
01	NH	WINCHESTER, TOWN OF	3300280020B	31-OCT-2001	01-01-1392A	01
01	RI	BARRINGTON, TOWN OF	4453920002F	21-NOV-2001	02-01-0146A	02
01	RI	BARRINGTON, TOWN OF	44001C0002F	14-DEC-2001	02-01-0302A	02
01	RI	CRANSTON, CITY OF	4453960005B	01-AUG-2001	01-01-0950A	02
01	RI	CRANSTON, CITY OF	4453960009B	05-SEP-2001	01-01-1198A	02
01	RI	CRANSTON, CITY OF	4453960005B	07-DEC-2001	02-01-0232A	02
01	RI	EAST GREENWICH, TOWN OF	4453970002B	14-SEP-2001	01-01-1316A	02
01	RI	NORTH PROVIDENCE, TOWN OF	4400200001C	24-OCT-2001	01-01-1406A	02
01	RI	PROVIDENCE, CITY OF	4454060004F	13-JUL-2001	01-01-0982A	02
01	RI	SMITHFIELD, TOWN OF	4400250008B	08-AUG-2001	01-01-0648A	02
01	RI	TIVERTON, TOWN OF	4400120005E	07-DEC-2001	02-01-0096A	02
01	RI	WARWICK, CITY OF	4454090005E	24-AUG-2001	01-01-0984A	02
01	VT	BARTON, TOWN OF	5000810002C	21-SEP-2001	01-01-1352A	02
01	VT	BENNINGTON, TOWN OF	5000130020C	07-SEP-2001	01-01-025P	05
01	VT	BLOOMFIELD, TOWN OF	5000450015B	31-OCT-2001	02-01-0090A	02
01	VT	BRISTOL, TOWN OF	5000010015B	13-JUL-2001	01-01-1068A	02
01	VT	COLCHESTER, TOWN OF	5000330006B	11-JUL-2001	01-01-1032A	02
01	VT	CRAFTSBURY, TOWN OF	500247—10B	05-OCT-2001	01-01-1420A	02
01	VT	DERBY, TOWN OF	500248—17B	21-SEP-2001	01-01-1332A	02
01	VT	FERRISBURG, TOWN OF	5000020020B	25-JUL-2001	01-01-1112A	02
01	VT	FERRISBURG, TOWN OF	5000020010B	24-OCT-2001	02-01-0064A	02
01	VT	HARDWICK, TOWN OF	5000270012C	31-OCT-2001	01-01-1048A	01
01	VT	JERICHO, TOWN OF	5000370008B	16-NOV-2001	02-01-0200A	02
01	VT	LUDLOW, VILLAGE OF	5002940001B	13-JUL-2001	01-01-1054A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	VT	LYNDON, TOWN OF	5000280020B	19-DEC-2001	02-01-0328A	02
01	VT	MIDDLESEX, TOWN OF	5001140012B	16-NOV-2001	02-01-0106A	02
01	VT	MONTPELIER, CITY OF	5055180002A	29-AUG-2001	01-01-1280A	02
01	VT	MONTPELIER, CITY OF	5055180002A	21-SEP-2001	01-01-1336A	01
01	VT	MORETOWN, TOWN OF	5001160001C	10-AUG-2001	01-01-1156A	02
01	VT	MORETOWN, TOWN OF	5001160011C	21-SEP-2001	01-01-1276A	02
01	VT	MORETOWN, TOWN OF	5001160001C	16-NOV-2001	02-01-0056A	01
01	VT	RYEGATE, TOWN OF	5000300008B	13-JUL-2001	01-01-0980A	02
01	VT	SHOREHAM, TOWN OF	5001710005B	07-DEC-2001	02-01-0238A	02
01	VT	SOUTH BURLINGTON, CITY OF	5001950008B	08-AUG-2001	01-01-1052A	02
01	VT	ST ALBANS, TOWN OF	5002190015A	10-AUG-2001	01-01-1158A	02
01	VT	ST ALBANS, TOWN OF	5002190005A	17-AUG-2001	01-01-1214A	02
01	VT	ST ALBANS, TOWN OF	5002190005A	22-AUG-2001	01-01-1258A	02
01	VT	SUTTON, TOWN OF	500198—06A	29-AUG-2001	01-01-1074A	02
01	VT	TUNBRIDGE, TOWN OF	500076—08B	05-SEP-2001	01-01-1278A	02
01	VT	WASHINGTON, TOWN OF	500077—02A	26-OCT-2001	01-01-1412A	02
01	VT	WESTFIELD, TOWN OF	500257—06B	21-SEP-2001	01-01-1372A	02
01	VT	WEYBRIDGE, TOWN OF	5001740005B	21-NOV-2001	02-01-0170A	02
01	VT	WINDSOR, TOWN OF	5001590004C	05-OCT-2001	01-01-1218A	02
01	VT	WOODSTOCK, TOWN OF	5001600001A	05-OCT-2001	01-01-0920A	02
01	VT	WOODSTOCK, TOWN OF	5001600001A	28-DEC-2001	02-01-0226A	02
02	NJ	ALLENDALE, BOROUGH OF	34003C0069G	10-AUG-2001	01-02-1108A	02
02	NJ	BARNEGAT, TOWNSHIP OF	3403960021C	14-DEC-2001	02-02-0048A	02
02	NJ	BERKELEY, TOWNSHIP OF	3403690025C	26-SEP-2001	01-02-1270A	02
02	NJ	BOUND BROOK, BOROUGH OF	3404300001C	11-JUL-2001	01-02-1086A	02
02	NJ	BRICK, TOWNSHIP OF	3452850003C	17-AUG-2001	01-02-1192A	02
02	NJ	BRICK, TOWNSHIP OF	3452850007E	28-DEC-2001	02-02-0356A	02
02	NJ	CAPE MAY CITY, CITY OF	3452880001E	21-SEP-2001	01-02-1258A	02
02	NJ	COLTS NECK, TOWNSHIP OF	3402910002C	03-AUG-2001	01-02-1100A	02
02	NJ	COMMERCIAL, TOWNSHIP OF	34016600008B	26-OCT-2001	01-02-1374A	02
02	NJ	CRANFORD, TOWNSHIP OF	3452910001B	26-OCT-2001	01-02-1298A	02
02	NJ	CRANFORD, TOWNSHIP OF	3452910001B	28-DEC-2001	02-02-0252A	02
02	NJ	CRESSKILL, BOROUGHS OF	34003C0204F	08-AUG-2001	01-02-1124A	02
02	NJ	EDISON, TOWNSHIP OF	3402610007C	07-DEC-2001	02-02-0262A	02
02	NJ	EDISON, TOWNSHIP OF	3402610006C	07-DEC-2001	02-02-0308A	02
02	NJ	EWING, TOWNSHIP OF	3452940002D	21-SEP-2001	01-02-1172A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0196F	26-SEP-2001	01-02-1306A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0178F	10-OCT-2001	01-02-1182A	02
02	NJ	FAIRVIEW, BOROUGH OF	34003C0259F	11-JUL-2001	01-02-1058A	02
02	NJ	HAMILTON, TOWNSHIP OF	3402460015C	03-AUG-2001	01-02-1128A	02
02	NJ	HAMILTON, TOWNSHIP OF	3402460015C	08-AUG-2001	01-02-1162A	02
02	NJ	HAMILTON, TOWNSHIP OF	3402460015C	22-AUG-2001	01-02-1180A	02
02	NJ	HARRINGTON PARK, BOROUGH OF	34003C0113F	18-JUL-2001	01-02-0828A	02
02	NJ	HARRINGTON PARK, BOROUGH OF	34003C0113F	05-DEC-2001	02-02-0222A	02
02	NJ	HAZLET, TOWNSHIP OF	3402980002B	31-AUG-2001	01-02-1234A	02
02	NJ	HAZLET, TOWNSHIP OF	3402980002B	17-OCT-2001	01-02-1332A	02
02	NJ	HAZLET, TOWNSHIP OF	3402980002B	14-DEC-2001	01-02-1380A	02
02	NJ	HIGHLANDS, BOROUGH OF	3452970001B	19-OCT-2001	01-02-0990A	01
02	NJ	HO-HO-KUS, BOROUGH OF	34003C0177F	31-AUG-2001	01-02-1252A	02
02	NJ	HOLLAND, TOWNSHIP OF	3405090006C	28-DEC-2001	02-02-0090A	02
02	NJ	LACEY, TOWNSHIP OF	340376—09A	18-JUL-2001	01-02-1040A	02
02	NJ	LAWRENCE, TOWNSHIP OF	3402500002B	24-OCT-2001	01-02-1338A	02
02	NJ	LITTLE FALLS, TOWNSHIP OF	3404010001B	07-DEC-2001	01-02-1232A	02
02	NJ	LIVINGSTON, TOWNSHIP OF	3401850002E	21-SEP-2001	01-02-1260A	02
02	NJ	LONG HILL, TOWNSHIP OF	3403560005B	22-SEP-2001	02-02-0292V	19
02	NJ	MANASQUAN, BOROUGH OF	3453030001C	31-AUG-2001	01-02-1210A	02
02	NJ	MANVILLE, BOROUGH OF	3404370001B	05-DEC-2001	02-02-0042A	02
02	NJ	MIDDLESEX, BOROUGH OF	3453050001B	08-AUG-2001	01-02-0728A	02
02	NJ	MONMOUTH BEACH, BOROUGH OF	3403150001D	21-NOV-2001	02-02-0164A	02
02	NJ	MONROE, TOWNSHIP OF	3402080018B	20-JUL-2001	01-02-0486A	02
02	NJ	MOUNT LAUREL, TOWNSHIP OF	3401070010E	27-JUL-2001	01-02-0736A	02
02	NJ	NEPTUNE, TOWNSHIP OF	3403170003C	24-OCT-2001	01-02-1324A	02
02	NJ	NEW PROVIDENCE, BOROUGH OF	3453060001D	20-DEC-2001	02-02-0418V	19
02	NJ	NORTH WILDWOOD, CITY OF	3453080001E	19-SEP-2001	01-02-021P	05
02	NJ	OLD BRIDGE, TOWN OF	3402650004D	12-DEC-2001	02-02-0228A	02
02	NJ	OLD BRIDGE, TOWN OF	3402650004D	21-DEC-2001	02-02-0258A	02
02	NJ	OLD BRIDGE, TOWNSHIP OF	3402650004D	14-NOV-2001	01-02-1276A	02
02	NJ	PALMYRA, BOROUGH OF	3401100001C	26-OCT-2001	01-02-1132A	
02	NJ	PALMYRA, BOROUGH OF	3401100001C	16-NOV-2001	02-02-0170A	01
02	NJ	PALMYRA, BOROUGH OF	3401100001C	05-DEC-2001	02-02-0140A	01
02	NJ	PASSAIC, TOWNSHIP OF	3403560005B	03-OCT-2001	01-02-1060A	02
02	NJ	PEQUANNOCK, TOWNSHIP OF	3453110001C	03-AUG-2001	01-02-0548A	02
02	NJ	PEQUANNOCK, TOWNSHIP OF	3453110001C	08-AUG-2001	01-02-0992A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
02	NJ	PEQUANNOCK, TOWNSHIP OF	34531100002B	10-AUG-2001	01-02-1106A	02
02	NJ	RIVERSIDE, TOWNSHIP OF	3401130001B	11-JUL-2001	01-02-1084A	02
02	NJ	RIVERSIDE, TOWNSHIP OF	3401130001B	17-OCT-2001	01-02-1320A	02
02	NJ	ROSELLE PARK, BOROUGH OF	3404730001C	14-NOV-2001	02-02-0148A	02
02	NJ	SCOTCH PLAINS, TOWNSHIP OF	3404740005C	18-JUL-2001	01-02-0514A	02
02	NJ	SCOTCH PLAINS, TOWNSHIP OF	3404740005C	03-AUG-2001	01-02-1078A	17
02	NJ	SCOTCH PLAINS, TOWNSHIP OF	3404740005C	31-AUG-2001	01-02-1230A	02
02	NJ	SCOTCH PLAINS, TOWNSHIP OF	3404740005C	24-OCT-2001	01-02-1158A	02
02	NJ	SCOTCH PLAINS, TOWNSHIP OF	3404740005C	21-DEC-2001	02-02-0224A	02
02	NJ	SUMMIT, CITY OF	340476—01A	05-DEC-2001	01-02-1354A	02
02	NJ	WANAQUE, BOROUGH OF	3404090001B	10-AUG-2001	01-02-1166A	02
02	NJ	WEST ORANGE, TOWN OF	3401970005B	24-OCT-2001	01-02-1384A	02
02	NY	AMHERST, TOWN OF	3602260006E	20-JUL-2001	01-02-0536A	02
02	NY	AMHERST, TOWN OF	3602260006E	01-AUG-2001	01-02-1012A	02
02	NY	AMHERST, TOWN OF	3602260007E	15-AUG-2001	01-02-1188A	02
02	NY	AMHERST, TOWN OF	3602260007E	10-OCT-2001	01-02-1292A	02
02	NY	AMHERST, TOWN OF	3602260009E	10-OCT-2001	01-02-1310A	02
02	NY	ARCADE, VILLAGE OF	3615550005D	16-NOV-2001	01-02-1386A	02
02	NY	BELLMONT, TOWN OF	361392—03A	21-DEC-2001	02-02-0276A	02
02	NY	BENTON, TOWN OF	360955—04D	16-NOV-2001	02-02-0052A	02
02	NY	BRIGHTON, TOWN OF	3604100010B	15-AUG-2001	01-02-1200A	02
02	NY	BRIGHTON, TOWN OF	3604100010B	05-DEC-2001	02-02-0112A	02
02	NY	BROOKHAVEN, TOWN OF	36103C0718G	05-DEC-2001	01-02-1190A	02
02	NY	BUFFALO, CITY OF	3602300010C	01-AUG-2001	01-02-1044A	02
02	NY	BUFFALO, CITY OF	3602300010C	28-DEC-2001	02-02-0310A	02
02	NY	CARMEL, TOWN OF	3606690003C	20-OCT-2001	02-02-0296V	19
02	NY	CHAUTAUQUA, TOWN OF	3610710035A	07-SEP-2001	01-02-1002A	02
02	NY	CHEEKTOWAGA, TOWN OF	3602310005E	16-NOV-2001	01-02-1118A	01
02	NY	CHESTER, TOWN OF	3608700010B	07-SEP-2001	01-02-0980A	02
02	NY	CHESTER, TOWN OF	360604—08A	24-OCT-2001	01-02-1140A	02
02	NY	CHESTER, TOWN OF	3608700010B	14-NOV-2001	01-02-1334A	02
02	NY	CHESTER, TOWN OF	3608700010B	05-DEC-2001	02-02-0160A	02
02	NY	CICERO, TOWN OF	3605720015D	15-AUG-2001	01-02-1094A	02
02	NY	CICERO, TOWN OF	3605720005D	31-AUG-2001	01-02-1222A	02
02	NY	CICERO, TOWN OF	3605720004D	26-SEP-2001	01-02-1256A	02
02	NY	CICERO, TOWN OF	3605720006D	10-OCT-2001	01-02-1264A	02
02	NY	CICERO, TOWN OF	3605720004D	05-DEC-2001	02-02-0056A	02
02	NY	CLARENCE, TOWN OF	3602320005C	05-JUL-2001	01-02-1082A	02
02	NY	CLARENCE, TOWN OF	3602320005C	05-JUL-2001	01-02-0412A	01
02	NY	CLARENCE, TOWN OF	3602320013C	20-JUL-2001	01-02-1048A	01
02	NY	CLARENCE, TOWN OF	3602320011C	01-AUG-2001	01-02-1130A	02
02	NY	CLARENCE, TOWN OF	3602320011C	03-AUG-2001	01-02-1070A	02
02	NY	CLARENCE, TOWN OF	3602320011C	19-SEP-2001	01-02-1212A	02
02	NY	CLARENCE, TOWN OF	3602320014C	21-SEP-2001	01-02-1214A	02
02	NY	CLARENCE, TOWN OF	3602320013C	21-SEP-2001	01-02-1216A	02
02	NY	CLARENCE, TOWN OF	3602320005C	10-OCT-2001	01-02-1274A	02
02	NY	CLARENCE, TOWN OF	3602320013C	17-OCT-2001	01-02-1352A	02
02	NY	CLARENCE, TOWN OF	3602320005C	24-OCT-2001	01-02-1322X	02
02	NY	CLARENCE, TOWN OF	3602320011C	05-DEC-2001	01-02-1042A	01
02	NY	CLARENCE, TOWN OF	3602320011C	05-DEC-2001	01-02-1244A	01
02	NY	CLARENCE, TOWN OF	3602320013C	28-DEC-2001	02-02-0272A	02
02	NY	CLARKSTOWN, TOWN OF	3606790008E	18-JUL-2001	01-02-0934A	02
02	NY	CLARKSTOWN, TOWN OF	3606790014E	27-JUL-2001	01-02-1148A	02
02	NY	CLARKSTOWN, TOWN OF	3606790004F	27-JUL-2001	01-02-1006A	01
02	NY	CLARKSTOWN, TOWN OF	3606790003E	17-AUG-2001	01-02-1126A	17
02	NY	CLARKSTOWN, TOWN OF	3606790004F	31-AUG-2001	01-02-1268A	02
02	NY	CLARKSTOWN, TOWN OF	3606790015E	26-SEP-2001	01-02-1296A	02
02	NY	CLARKSTOWN, TOWN OF	3606790006F	26-OCT-2001	01-02-1032A	02
02	NY	COBLESKILL, VILLAGE OF	3607430003B	09-AUG-2001	00-02-025P	05
02	NY	COPAKE, TOWN OF	360174—02B	31-AUG-2001	01-02-1104A	02
02	NY	CORTLAND, CITY OF	3601780001C	10-AUG-2001	01-02-0632A	02
02	NY	DOVER, TOWN OF	3613350008A	11-JUL-2001	01-02-0966A	01
02	NY	ELLENBURG, TOWN OF	361382—07A	26-OCT-2001	01-02-1326A	02
02	NY	ELLENBURG, TOWN OF	361382—07A	26-OCT-2001	02-02-0074A	02
02	NY	GATES, TOWN OF	3604160003B	10-OCT-2001	01-02-1290A	02
02	NY	GATES, TOWN OF	3604160001B	19-DEC-2001	02-02-0176A	02
02	NY	GORHAM, TOWN OF	3606010001C	26-SEP-2001	01-02-1194A	02
02	NY	GREECE, TOWN OF	3604170004E	26-SEP-2001	01-02-1228A	01
02	NY	GREECE, TOWN OF	3604170006B	10-OCT-2001	01-02-1206A	02
02	NY	GREECE, TOWN OF	3604170004E	21-DEC-2001	02-02-0172A	02
02	NY	HAMBURG, TOWN OF	3602440005B	24-OCT-2001	01-02-1254A	02
02	NY	ITALY, TOWN OF	360958C	14-NOV-2001	02-02-0044A	02
02	NY	JAY, TOWN OF	36026500020C	07-SEP-2001	01-02-1074A	02

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02	NY	JAY, TOWN OF	3602650004C	30-NOV-2001	01-02-1184A	02
02	NY	JERUSALEM, TOWN OF	360959C	11-JUL-2001	01-02-0946A	02
02	NY	JERUSALEM, TOWN OF	360959—15C	07-DEC-2001	01-02-1370A	02
02	NY	LAKE LUZERNE, TOWN OF	3608780005B	21-DEC-2001	01-02-1358A	02
02	NY	LARCHMONT, VILLAGE OF	3609150001B	07-NOV-2001	00-02-057P	05
02	NY	LLOYD, TOWN OF	3610120012D	20-JUL-2001	01-02-0438A	02
02	NY	LUMBERLAND, TOWN OF	3608250020C	21-DEC-2001	02-02-0294V	19
02	NY	MAMARONECK, TOWN OF	3609170005B	18-JUL-2001	01-02-0922A	02
02	NY	MANCHESTER, TOWN OF	361301—07B	05-DEC-2001	01-02-1168A	02
02	NY	MANLIUS, TOWN OF	3605840005E	15-AUG-2001	01-02-1094D	02
02	NY	MIDDLEBURGH, VILLAGE OF	3612450001D	12-SEP-2001	01-02-1110A	02
02	NY	MILFORD, TOWN OF	361274—06B	31-AUG-2001	01-02-1204A	02
02	NY	MINA, TOWN OF	361371—03A	18-JUL-2001	01-02-1010A	02
02	NY	NEW YORK, CITY OF	3604970131E	05-JUL-2001	01-02-0932A	02
02	NY	NEW YORK, CITY OF	3604970138E	18-JUL-2001	01-02-0998A	02
02	NY	NEW YORK, CITY OF	3604970146E	27-JUL-2001	01-02-0636A	02
02	NY	NEW YORK, CITY OF	3604970144E	07-SEP-2001	01-02-1160A	02
02	NY	NEW YORK, CITY OF	3604970126E	21-SEP-2001	01-02-1262A	02
02	NY	NEW YORK, CITY OF	3604970144E	17-OCT-2001	01-02-1302A	02
02	NY	NEW YORK, CITY OF	3604970146E	17-OCT-2001	01-02-1304A	02
02	NY	NEW YORK, CITY OF	3604970139E	26-OCT-2001	02-02-0064A	02
02	NY	NEW YORK, CITY OF	3604970139E	14-NOV-2001	02-02-0072A	02
02	NY	NEW YORK, CITY OF	3604970135E	28-NOV-2001	01-02-1350A	02
02	NY	NEW YORK, CITY OF	3604970139E	05-DEC-2001	02-02-0080A	02
02	NY	NEW YORK, CITY OF	3604970149E	12-DEC-2001	02-02-0246A	02
02	NY	NEW YORK, CITY OF	3604970139E	28-DEC-2001	02-02-0302A	02
02	NY	NEWCOMB, TOWN OF	361390—13A	26-OCT-2001	01-02-1342A	02
02	NY	NEWFANE, TOWN OF	3605040010B	19-DEC-2001	01-02-1178A	02
02	NY	NEWFANE, TOWN OF	3605040005C	28-DEC-2001	02-02-0234A	02
02	NY	NIAGARA FALLS, CITY OF	3605060003C	14-DEC-2001	02-02-0206A	02
02	NY	NIAGRA FALLS, CITY OF	3605060002B	17-OCT-2001	01-02-1090A	02
02	NY	NIAGRA FALLS, CITY OF	3605060003C	26-OCT-2001	01-02-1360A	02
02	NY	NORTH GREENBUSH, TOWN OF	3611640005A	31-OCT-2001	02-02-0116A	02
02	NY	PARMA, TOWN OF	3604250005D	26-OCT-2001	01-02-1376A	02
02	NY	PAWLING, TOWN OF	3613410003B	19-DEC-2001	01-02-1336A	02
02	NY	PENFIELD, TOWN OF	3604260015B	05-JUL-2001	01-02-0682A	02
02	NY	PERU,TOWN OF	3613840020B	05-JUL-2001	01-02-1076A	02
02	NY	PHILIPSTOWN,TOWN OF	3610260001B	07-SEP-2001	01-02-0908A	02
02	NY	PHILLIPSTOWN, TOWN OF	3610260001B	24-OCT-2001	01-02-1330A	02
02	NY	PITTSFORD, TOWN OF	3604290010C	01-AUG-2001	01-02-1154A	02
02	NY	PUTNAM VALLEY, TOWN OF	3610300013C	28-DEC-2001	02-02-0336A	02
02	NY	PUTNAM, TOWN OF	3612360005B	07-SEP-2001	01-02-1116A	02
02	NY	RAMAPO, TOWN OF	3653400029C	19-DEC-2001	02-02-0264A	02
02	NY	RICHVILLE, VILLAGE OF	361467A	20-JUL-2001	01-02-0542A	02
02	NY	ROME, CITY OF	3605420013B	31-AUG-2001	01-02-0844A	17
02	NY	ROTTERDAM, TOWN OF	3607400012B	21-DEC-2001	01-02-1346A	02
02	NY	SCHROEPPEL, TOWN OF	3606620020B	29-AUG-2001	01-02-1240A	02
02	NY	SOUTHAMPTON, TOWN OF	36103C0779G	16-NOV-2001	02-02-0106A	02
02	NY	TORREY, TOWN OF	3609660005B	05-DEC-2001	02-02-0196A	02
02	NY	TROY, CITY OF	3606770004B	10-OCT-2001	01-02-1316A	02
02	NY	TULLY, TOWN OF	361296—07A	07-SEP-2001	01-02-1218A	02
02	NY	TULLY, TOWN OF	361296—07B	17-OCT-2001	01-02-1340A	02
02	NY	TULLY, TOWN OF	361296—07B	17-OCT-2001	01-02-1388A	02
02	NY	TUSTEN, TOWN OF	3608310015C	21-SEP-2001	01-02-0182A	02
02	NY	TUXEDO, TOWN OF	3606310007B	07-SEP-2001	01-02-1046A	02
02	NY	UTICA, CITY OF	3605580001A	07-NOV-2001	01-02-007P	05
02	NY	WAPPINGER, TOWN OF	3603870001B	05-JUL-2001	01-02-0898A	02
02	NY	WATERVLIET, CITY OF	3600160001B	18-JUL-2001	01-02-0936A	02
02	NY	WAWARSING, TOWN OF	3608670034B	10-OCT-2001	01-02-0732A	01
02	NY	WEBB, TOWN OF	360321—21A	01-AUG-2001	01-02-1112A	02
02	NY	WEBB, TOWN OF	360321—23A	08-AUG-2001	01-02-1022A	02
02	NY	WEBB, TOWN OF	360321—22A	24-OCT-2001	01-02-1272A	02
02	NY	WEBB, TOWN OF	3603210022A	30-NOV-2001	02-02-0198A	02
02	NY	WEBB, TOWN OF	360321—22A	21-DEC-2001	02-02-0256A	02
02	NY	WESTERN, TOWN OF	3605640025B	22-AUG-2001	01-02-1220A	02
02	NY	WHEATFIELD, TOWN OF	3605130007D	21-SEP-2001	01-02-1196A	02
02	NY	WHEATFIELD, TOWN OF	3605130004D	24-OCT-2001	01-02-1328A	02
02	NY	WHEATFIELD, TOWN OF	3605130004D	28-DEC-2001	02-02-0200A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000053D	11-JUL-2001	01-02-0930A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000281D	27-JUL-2001	01-02-0860A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000046D	08-AUG-2001	01-02-1170A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000292D	08-AUG-2001	01-02-1038A	01
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000053D	08-AUG-2001	01-02-1120X	01

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02	PR	PUERTO RICO,COMMONWEALTH OF	7200000286D	07-SEP-2001	01-02-0614A	01
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000219C	19-SEP-2001	01-02-0106A	01
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000219C	26-SEP-2001	00-02-029P	05
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000047E	26-SEP-2001	01-02-0390A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000244D	24-OCT-2001	01-02-1146A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000047E	24-OCT-2001	01-02-1362A	02
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000169B	09-NOV-2001	00-02-051P	05
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000064G	14-NOV-2001	02-02-0058A	01
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000189D	14-NOV-2001	02-02-0120A	01
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000064G	14-NOV-2001	02-02-0156A	01
02	PR	PUERTO RICO,COMMONWEALTH OF	7200000058D	05-DEC-2001	02-02-0216A	02
02	VI	VIRGIN ISLANDS, TERRITORY OF	7800000065D	25-OCT-2001	01-02-025P	05
03	DE	DOVER, CITY OF	1000060005C	08-AUG-2001	01-03-009P	05
03	DE	ELSMERE, TOWN OF	10003C0151G	08-AUG-2001	01-03-1374A	02
03	DE	ELSMERE, TOWN OF	10003C0151G	07-SEP-2001	01-03-1530A	02
03	DE	ELSMERE, TOWN OF	10003C0151G	21-SEP-2001	01-03-1728A	02
03	DE	KENT COUNTY *	1000010020B	17-AUG-2001	01-03-1252A	02
03	DE	KENT COUNTY *	1000010075B	24-AUG-2001	01-03-1538A	02
03	DE	KENT COUNTY *	1000010075B	17-OCT-2001	01-03-1800A	02
03	DE	KENT COUNTY *	1000010075B	31-OCT-2001	01-03-1562A	02
03	DE	KENT COUNTY *	1000010175B	31-OCT-2001	01-03-1686A	02
03	DE	KENT COUNTY *	1000010090B	21-DEC-2001	02-03-0354A	02
03	DE	NEW CASTLE COUNTY *	10003C0059G	13-JUL-2001	01-03-0896A	02
03	DE	NEW CASTLE COUNTY *	10003C0165G	25-JUL-2001	01-03-0870A	02
03	DE	NEW CASTLE COUNTY *	10003C0135G	27-JUL-2001	01-03-1136A	02
03	DE	NEW CASTLE COUNTY *	10003C0059G	27-JUL-2001	01-03-1202A	02
03	DE	NEW CASTLE COUNTY *	10003C0230G	08-AUG-2001	01-03-1356A	02
03	DE	NEW CASTLE COUNTY *	10003C0059G	15-AUG-2001	01-03-1472A	02
03	DE	NEW CASTLE COUNTY *	10003C0068G	22-AUG-2001	01-03-1414A	02
03	DE	NEW CASTLE COUNTY *	10003C0067G	29-AUG-2001	01-03-1440A	02
03	DE	NEW CASTLE COUNTY *	10003C0230G	31-AUG-2001	01-03-0972A	02
03	DE	NEW CASTLE COUNTY *	10003C0151G	03-OCT-2001	01-03-1566A	02
03	DE	NEW CASTLE COUNTY *	10003C0078G	12-OCT-2001	01-03-1752A	02
03	DE	NEW CASTLE COUNTY *	10003C0140G	26-OCT-2001	01-03-1588A	02
03	DE	NEW CASTLE COUNTY *	10003C0067G	26-OCT-2001	01-03-1764A	02
03	DE	NEW CASTLE COUNTY *	10003C0040G	31-OCT-2001	01-03-1738A	02
03	DE	NEW CASTLE COUNTY *	10003C0130G	12-DEC-2001	02-03-0246A	02
03	DE	NEW CASTLE, CITY OF	10003C0165G	31-OCT-2001	01-03-1708A	02
03	DE	SUSSEX COUNTY *	10005C0458G	12-OCT-2001	01-03-0738A	02
03	DE	SUSSEX COUNTY*	10005C0425F	08-AUG-2001	01-03-1424A	02
03	DE	SUSSEX COUNTY*	10005C0112F	15-AUG-2001	01-03-1186A	02
03	DE	SUSSEX COUNTY*	10005C0384F	15-AUG-2001	01-03-1488A	02
03	DE	SUSSEX COUNTY*	10005C0355G	17-AUG-2001	01-03-1172A	02
03	DE	SUSSEX COUNTY*	10005C0355G	05-OCT-2001	01-03-1662A	02
03	DE	SUSSEX COUNTY*	10005C0660F	10-OCT-2001	01-03-1740A	02
03	DE	SUSSEX COUNTY*	10005C0275F	28-NOV-2001	01-03-1560A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080038C	25-JUL-2001	01-03-1224A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080028C	14-NOV-2001	01-03-1790A	02
03	MD	BALTIMORE COUNTY *	2400100440G	12-OCT-2001	01-03-1542A	02
03	MD	BALTIMORE COUNTY *	2400100270B	19-OCT-2001	01-03-1430A	02
03	MD	BALTIMORE COUNTY*	2400100505B	20-JUL-2001	01-03-0758A	02
03	MD	BALTIMORE COUNTY*	2400100315B	31-AUG-2001	01-03-1398A	02
03	MD	BALTIMORE COUNTY*	2400100380B	12-SEP-2001	01-03-1060A	17
03	MD	BALTIMORE COUNTY*	2400100505B	21-SEP-2001	01-03-1698A	02
03	MD	BALTIMORE COUNTY*	2400100410B	05-OCT-2001	01-03-1544A	02
03	MD	BALTIMORE COUNTY*	24000100435	31-OCT-2001	01-03-1632A	02
03	MD	BALTIMORE COUNTY*	2400100380B	09-NOV-2001	01-03-1706A	02
03	MD	BALTIMORE COUNTY*	2400100440C	28-NOV-2001	01-03-1798A	02
03	MD	BEL AIR, TOWN OF	24025C0164D	21-NOV-2001	01-03-197P	05
03	MD	CAROLINE COUNTY *	2401300230B	31-AUG-2001	01-03-1288A	02
03	MD	CAROLINE COUNTY *	2401300230B	14-SEP-2001	01-03-1300A	02
03	MD	CAROLINE COUNTY *	2401300305B	30-NOV-2001	01-03-0970A	02
03	MD	CAROLINE COUNTY *	2401300165B	07-DEC-2001	01-03-1786A	02
03	MD	CARROLL COUNTY *	2400150075B	14-NOV-2001	02-03-0292X	02
03	MD	CARROLL COUNTY *	2400150075B	12-DEC-2001	01-03-1200A	02
03	MD	CECIL COUNTY*	2400190028A	12-SEP-2001	01-03-1046A	02
03	MD	CHARLES COUNTY *	2400890027B	22-AUG-2001	01-03-1392A	02
03	MD	FREDERICK COUNTY *	2400270180A	18-JUL-2001	01-03-1310A	02
03	MD	FREDERICK COUNTY *	2400270115B	27-JUL-2001	01-03-1448A	02
03	MD	FREDERICK COUNTY *	2400270115B	27-JUL-2001	01-03-1450A	02
03	MD	FREDERICK COUNTY *	2400270115B	27-JUL-2001	01-03-1246A	01
03	MD	FREDERICK COUNTY *	2400270115B	30-OCT-2001	01-03-011P	05
03	MD	FREDERICK COUNTY *	2400270185A	09-NOV-2001	02-03-0104A	02

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03	MD	FREDERICK COUNTY *	2400270040A	07-DEC-2001	02-03-0288A	02
03	MD	FREDERICK COUNTY *	2400270185A	21-DEC-2001	02-03-0346A	02
03	MD	FREDERICK, CITY OF	2400270115A	13-JUL-2001	01-03-1280A	02
03	MD	FREDERICK, CITY OF	2400270115B	01-AUG-2001	01-03-1220A	02
03	MD	FREDERICK, CITY OF	2400270115B	10-AUG-2001	01-03-0604A	02
03	MD	FREDERICK, CITY OF	2400270115B	10-AUG-2001	01-03-1506A	17
03	MD	FREDERICK, CITY OF	2400270115B	31-AUG-2001	01-03-1626A	02
03	MD	FREDERICK, CITY OF	2400270115B	30-OCT-2001	01-03-011P	05
03	MD	FREDERICK, CITY OF	2400270180A	01-NOV-2001	01-03-167P	05
03	MD	GARRETT COUNTY *	2400340104C	12-SEP-2001	01-03-1396A	02
03	MD	HAGERSTOWN, CITY OF	2400740005C	21-SEP-2001	01-03-1426A	17
03	MD	HARFORD COUNTY *	24025C0261D	07-SEP-2001	01-03-1428A	02
03	MD	HOWARD COUNTY *	2400440033B	24-OCT-2001	01-03-1416A	02
03	MD	HOWARD COUNTY*	2400440028C	15-AUG-2001	01-03-1238A	02
03	MD	HOWARD COUNTY*	2400440035B	28-NOV-2001	01-03-135P	05
03	MD	HOWARD COUNTY*	2400440023B	21-DEC-2001	01-03-1610A	02
03	MD	KENT COUNTY *	2400450035B	10-OCT-2001	01-03-1432A	02
03	MD	LAUREL, CITY OF	2400530001D	19-OCT-2001	02-03-0138A	02
03	MD	LAUREL, CITY OF	2400530001	19-OCT-2001	01-03-1784A	01
03	MD	MONTGOMERY COUNTY *	2400490175C	05-OCT-2001	01-03-1518A	02
03	MD	MONTGOMERY COUNTY *	2400490200C	31-OCT-2001	01-03-1568A	02
03	MD	MONTGOMERY COUNTY *	2400490200C	28-NOV-2001	01-03-1750A	02
03	MD	MONTGOMERY COUNTY *	2400490200C	28-NOV-2001	02-03-0190A	02
03	MD	MONTGOMERY COUNTY *	2400490200C	21-DEC-2001	02-03-0302A	02
03	MD	OXFORD TOWNSHIP OF	2400680001A	15-AUG-2001	01-03-1286A	02
03	MD	PRINCE GEORGES COUNTY *	2452080050C	28-NOV-2001	01-03-1256A	02
03	MD	QUEEN ANNES COUNTY *	2400540006B	21-NOV-2001	01-03-1622A	02
03	MD	SOMERSET COUNTY *	2400610025A	12-SEP-2001	01-03-1244A	02
03	MD	SOMERSET COUNTY *	2400610125D	14-DEC-2001	02-03-0228A	02
03	MD	ST. MARYS COUNTY*	2400640052B	10-OCT-2001	01-03-1658A	02
03	MD	TALBOT COUNTY *	2400660044B	20-JUL-2001	01-03-1078A	02
03	MD	TALBOT COUNTY *	2400660032A	25-JUL-2001	01-03-1326A	02
03	MD	TALBOT COUNTY *	2400660024A	15-AUG-2001	01-03-1336A	02
03	MD	TALBOT COUNTY *	2400660021B	07-SEP-2001	01-03-1438A	02
03	MD	TALBOT COUNTY *	2400660023A	10-OCT-2001	01-03-1710A	02
03	MD	TALBOT COUNTY *	2400660037A	26-OCT-2001	01-03-1460A	02
03	MD	TALBOT COUNTY *	2400660031A	21-NOV-2001	01-03-1724A	02
03	MD	WALKERSVILLE, TOWN OF	2400320001B	10-AUG-2001	01-03-0822A	01
03	MD	WALKERSVILLE, TOWN OF	2400320001B	05-OCT-2001	01-03-1526A	02
03	MD	WASHINGTON COUNTY *	2400700170A	24-AUG-2001	01-03-1236A	02
03	MD	WASHINGTON COUNTY *	2400700090B	14-DEC-2001	01-03-1464A	02
03	MD	WASHINGTON, TOWN OF	2400700070A	31-OCT-2001	01-03-1458A	02
03	MD	WORCESTER COUNTY *	2400830105D	22-AUG-2001	01-03-1490A	02
03	MD	WORCESTER COUNTY *	2400830225A	12-SEP-2001	01-03-1208A	02
03	PA	ALLENTOWN, CITY OF	42077C0252D	08-NOV-2001	02-03-0254V	19
03	PA	BETHLEHEM, CITY OF	42095C0326D	01-AUG-2001	01-03-1346A	02
03	PA	BRISTOL, TOWNSHIP OF	42017C0462F	18-JUL-2001	01-03-1284A	02
03	PA	BRISTOL, TOWNSHIP OF	42017C0463F	12-SEP-2001	01-03-1660A	02
03	PA	CALN, TOWNSHIP OF	42029C0306D	21-SEP-2001	01-03-1314A	02
03	PA	CARBONDALE, CITY OF	4205260001B	21-SEP-2001	01-03-1332A	02
03	PA	CATASAUQUA, BOROUGH OF	42077C0164D	08-NOV-2001	02-03-0256V	19
03	PA	CENTER, TOWNSHIP OF	4225910002B	24-OCT-2001	02-03-0064A	02
03	PA	CHARTIERS, TWONSHIP OF	4221440005B	05-OCT-2001	01-03-1782A	02
03	PA	CHELTENHAM, TOWNSHIP OF	42091C0403E	01-AUG-2001	01-03-1156A	02
03	PA	CHELTENHAM, TOWNSHIP OF	42091C0384E	03-AUG-2001	01-03-1390A	02
03	PA	CHOCONUT, TOWNSHIP OF	4220760005B	26-OCT-2001	01-03-0086A	02
03	PA	COLLEGEVILLE, BOROUGH OF	42091C0237F	20-OCT-2001	02-03-0152V	19
03	PA	CONOY, TOWNSHIP OF	4205450010B	19-OCT-2001	01-03-1754A	02
03	PA	DOYLESTOWN, TOWNSHIP OF	42017C0293F	17-SEP-2001	01-03-1018A	02
03	PA	EAST COCALICO, TOWNSHIP OF	4205470008C	10-OCT-2001	01-03-1380A	02
03	PA	EAST PENN, TOWNSHIP OF	4210130003B	23-OCT-2001	01-03-181P	05
03	PA	EAST PENN, TOWNSHIP OF	4210130002B	19-DEC-2001	02-03-0192A	01
03	PA	EAST PIKELAND, TOWNSHIP OF	42029C0091D	31-AUG-2001	01-03-1534A	02
03	PA	EXETER, TOWNSHIP OF	42011C0529E	28-SEP-2001	01-03-1020A	02
03	PA	FORKS, TOWNSHIP OF	42095C0277D	15-AUG-2001	01-03-1436A	02
03	PA	FRANKLIN PARK, BOROUGH OF	42003C0177F	25-JUL-2001	01-03-1052A	02
03	PA	HAMBURG BOROUGH OF	42011C0161E	12-DEC-2001	02-03-0350A	02
03	PA	HARMONY, BOROUGH OF	4202170001B	31-OCT-2001	02-03-0166A	02
03	PA	HEIDELBERG, BOROUGH OF	42077C0105D	08-NOV-2001	02-03-0258V	19
03	PA	HEMPFIELD, TOWNSHIP OF	42129C0419D	30-NOV-2001	01-03-1372A	02
03	PA	LEHIGHTON, BOROUGH OF	4202510001C	07-NOV-2001	02-03-0106A	17
03	PA	LEWISBURG, BOROUGH OF	420831—02A	10-AUG-2001	01-03-1470A	02
03	PA	LOCK HAVEN, CITY OF	4203280001B	26-OCT-2001	01-03-1634A	02

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03	PA	LOWER ALSACE, TOWNSHIP OF	42011C0509E	20-JUL-2001	01-03-1142A	02
03	PA	LOWER FREDERICK, TOWNSHIP OF	42091C0112F	20-OCT-2001	02-03-0154V	19
03	PA	LOWER FREDERICK, TOWNSHIP OF	42091C0113F	20-OCT-2001	02-03-0154V	19
03	PA	LOWER GWYNEDD, TOWNSHIP OF	42091C0278E	10-AUG-2001	01-03-1370A	02
03	PA	LOWER MAKEFIELD, TOWNSHIP OF	42017C0451F	10-AUG-2001	01-03-1230A	02
03	PA	LOWER MERION, TOWNSHIP OF	42091C0369E	07-SEP-2001	01-03-159P	05
03	PA	LOWER MERION, TOWNSHIP OF	42091C0362E	26-SEP-2001	01-03-0796A	02
03	PA	LOWER MILFORD, TOWNSHIP OF	4210390001B	22-AUG-2001	01-03-1030A	02
03	PA	LOWER MILFORD, TOWNSHIP OF	42077C0330D	08-NOV-2001	02-03-0314V	19
03	PA	LOWER NAZERETH, TOWNSHIP OF	42095C0261D	29-AUG-2001	01-03-1558A	02
03	PA	LOWER NAZERETH, TOWNSHIP OF	42095C0255D	31-AUG-2001	01-03-1528A	02
03	PA	LOWER POTTSGROVE, TOWNSHIP OF	42091C0088E	12-DEC-2001	02-03-0286A	02
03	PA	LOWER PROVIDENCE, TOWNSHIP OF	42091C0239F	20-OCT-2001	02-03-0156V	19
03	PA	LOWER SAUCON, TOWNSHIP OF	42095C0335D	12-DEC-2001	02-03-0274A	02
03	PA	LYNN, TOWNSHIP OF	42077C0095D	08-NOV-2001	02-03-0260V	19
03	PA	MILESBURG, BOROUGH OF	420264—01B	07-DEC-2001	02-03-0212A	02
03	PA	MUHLENBERG, TOWNSHIP OF	42011C0363F	05-OCT-2001	01-03-1780A	02
03	PA	MUHLENBERG, TOWNSHIP OF	42011C0364F	31-OCT-2001	02-03-0182A	02
03	PA	MUHLENBERG, TOWNSHIP OF	42011C0366F	16-NOV-2001	02-03-0282A	02
03	PA	MUNCY CREEK, TOWNSHIP OF	4206500010B	31-OCT-2001	01-03-1316A	02
03	PA	NORTH WHITEHALL, TOWNSHIP OF	42077C0127D	08-NOV-2001	02-03-0262V	19
03	PA	NORTHAMPTON, BOROUGH OF	42095C0236D	10-AUG-2001	01-03-1342A	02
03	PA	PALMYRA, TOWNSHIP OF	42103C0115C	28-SEP-2001	01-03-1676A	02
03	PA	PERKASIE, BOROUGH OF	42017C0143G	24-AUG-2001	01-03-1452A	02
03	PA	PERKASIE, BOROUGH OF	42017C0143G	05-SEP-2001	01-03-1546A	02
03	PA	PETERS, TOWNSHIP OF	4216540005C	03-OCT-2001	01-03-1378A	02
03	PA	PHILADELPHIA, CITY OF	4207570183F	10-AUG-2001	01-03-1232A	02
03	PA	PIKE, TOWNSHIP OF	42011C0414E	12-OCT-2001	01-03-1768A	02
03	PA	RADNOR, TOWNSHIP OF	42045C0008D	01-AUG-2001	01-03-1182A	02
03	PA	RICHMOND, TOWNSHIP OF	4208250020B	09-NOV-2001	01-03-1406A	01
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0591D	12-SEP-2001	01-03-1410A	01
03	PA	SALFORD, TOWNSHIP OF	42091C0109F	20-OCT-2001	02-03-0158V	19
03	PA	SALFORD, TOWNSHIP OF	42091C0128F	20-OCT-2001	02-03-0158V	19
03	PA	SANDY, TOWNSHIP OF	4211910020B	14-DEC-2001	02-03-0424A	02
03	PA	SHALER, TOWNSHIP OF	42003C0351F	31-AUG-2001	01-03-1500A	02
03	PA	SLATINGTON, BOROUGH OF	42077C0038D	08-NOV-2001	02-03-0264V	19
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0491E	17-OCT-2001	01-03-1770A	02
03	PA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0226D	08-NOV-2001	02-03-0266V	19
03	PA	SPRING, TOWNSHIP OF	42011C0491E	07-SEP-2001	01-03-1628A	02
03	PA	SPRINGFIELD, TOWNSHIP OF	42045C0034D	20-JUL-2001	01-03-1134A	02
03	PA	SPRINGFIELD, TOWNSHIP OF	42091C0377E	21-SEP-2001	01-03-1264A	02
03	PA	SUSQUEHANNA, TOWNSHIP OF	420397—02A	12-DEC-2001	02-03-0358A	02
03	PA	TRAPPE, BOROUGH OF	42091C0229F	20-OCT-2001	02-03-0160V	19
03	PA	TUSCARORA, TOWNSHIP OF	4211160005B	12-SEP-2001	01-03-1484A	02
03	PA	ULSTER, TOWNSHIP OF	4212180010B	31-AUG-2001	01-03-1520A	02
03	PA	UPPER ALLEN, TOWNSHIP OF	4203720005C	24-OCT-2001	01-03-079P	05
03	PA	UPPER DARBY, TOWNSHIP OF	42045C0025D	14-DEC-2001	02-03-0344A	02
03	PA	UPPER DARBY, TOWNSHIP OF	42045C0024D	21-DEC-2001	02-03-0430A	02
03	PA	UPPER MAKEFIELD, TOWNSHIP OF	42017C0361F	15-AUG-2001	01-03-1330A	02
03	PA	UPPER MILFORD, TOWNSHIP OF	42077C0307D	08-NOV-2001	02-03-0268V	19
03	PA	UPPER MILFORD, TOWNSHIP OF	42077C0310D	21-NOV-2001	02-03-0330A	02
03	PA	UPPER PROVIDENCE, TOWNSHIP OF	42045C0020D	21-SEP-2001	01-03-1298A	02
03	PA	UPPER SOUTHAMPTON, TOWNSHIP O	42017C0416F	07-DEC-2001	02-03-0080A	02
03	PA	WARMINSTER, TOWNSHIP OF	42017C0401F	19-OCT-2001	02-03-0062A	02
03	PA	WASHINGTON, TOWNSHIP OF	42095C0155D	31-OCT-2001	02-03-0130A	02
03	PA	WASHINGTON, TOWNSHIP OF	42077C0126D	08-NOV-2001	02-03-0270V	19
03	PA	WATERFORD, TOWNSHIP OF	4224190010A	20-JUL-2001	01-03-0918A	02
03	PA	WAYNE, TOWNSHIP OF	421679—10A	15-AUG-2001	01-03-0754A	02
03	PA	WEST BRADFORD, TOWNSHIP OF	42029C0333D	05-OCT-2001	01-03-1574A	02
03	PA	WESTFALL, TOWNSHIP OF	42103C0352C	28-SEP-2001	01-03-1674A	02
03	PA	WYALUSING, TOWNSHIP OF	4211160005B	05-SEP-2001	01-03-1484A	02
03	VA	ALBEMARLE COUNTY *	5100060375B	31-AUG-2001	01-03-1522A	02
03	VA	ALBEMARLE COUNTY *	5100060375B	03-OCT-2001	01-03-1726A	02
03	VA	ARLINGTON COUNTY	5155200010B	07-SEP-2001	01-03-1062A	02
03	VA	AUGUSTA COUNTY *	5100130150B	25-JUL-2001	01-03-1216A	02
03	VA	AUGUSTA COUNTY *	5100130095B	25-JUL-2001	01-03-1340A	02
03	VA	BEDFORD COUNTY *	5100160100A	15-AUG-2001	01-03-1504A	02
03	VA	BEDFORD COUNTY *	5100160175A	22-AUG-2001	01-03-1478A	02
03	VA	BEDFORD COUNTY *	5100160175A	24-OCT-2001	02-03-0078A	02
03	VA	BEDFORD COUNTY *	5100160175A	07-NOV-2001	02-03-0204A	02
03	VA	BOTETOURT COUNTY *	5100180150A	31-OCT-2001	01-03-1694A	02
03	VA	BRUNSWICK COUNTY *	5102360175B	22-AUG-2001	01-03-1516A	02
03	VA	BUENA VISTA, CITY OF	51163C0401C	21-NOV-2001	02-03-0322A	02

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03	VA	CHESAPEAKE, CITY OF	5100340024C	12-SEP-2001	01-03-1454A	02
03	VA	CHESAPEAKE, CITY OF	5100340022C	12-SEP-2001	01-03-1596A	02
03	VA	CHESAPEAKE, CITY OF	5100340022C	10-OCT-2001	01-03-1742A	02
03	VA	CHESAPEAKE, CITY OF	5100340037C	14-NOV-2001	01-03-1386A	01
03	VA	CHESAPEAKE, CITY OF	5100340047C	19-DEC-2001	02-03-0202A	02
03	VA	CRAIG COUNTY *	51045C0095A	21-SEP-2001	01-03-1502A	02
03	VA	CULPEPER, TOWN OF	5100420002B	25-JUL-2001	01-03-0908A	02
03	VA	CULPEPER, TOWN OF	5100420002B	26-SEP-2001	01-03-1666A	02
03	VA	FAIRFAX COUNTY *	5155250150D	11-JUL-2001	01-03-0996A	02
03	VA	FAIRFAX COUNTY *	5155250100D	11-JUL-2001	01-03-1218A	02
03	VA	FAIRFAX COUNTY *	5155250075D	25-JUL-2001	01-03-1366A	02
03	VA	FAIRFAX COUNTY *	5155250075D	25-JUL-2001	01-03-1394A	02
03	VA	FAIRFAX COUNTY *	5155250050D	01-AUG-2001	01-03-1420A	02
03	VA	FAIRFAX COUNTY *	5155250075D	01-AUG-2001	01-03-1444A	02
03	VA	FAIRFAX COUNTY *	5155250050D	01-AUG-2001	01-03-1446A	02
03	VA	FAIRFAX COUNTY *	5155250100D	15-AUG-2001	01-03-1348A	02
03	VA	FAIRFAX COUNTY *	5155250025D	07-SEP-2001	01-03-157P	05
03	VA	FAIRFAX COUNTY *	5155250075D	07-SEP-2001	01-03-1584A	02
03	VA	FAIRFAX COUNTY *	5155250075D	07-SEP-2001	01-03-1650A	02
03	VA	FAIRFAX COUNTY *	5155250025D	12-SEP-2001	01-03-1598A	02
03	VA	FAIRFAX COUNTY *	5155250075D	12-SEP-2001	01-03-1614A	02
03	VA	FAIRFAX COUNTY *	5155250025D	12-SEP-2001	01-03-1644A	01
03	VA	FAIRFAX COUNTY *	5155250025D	12-SEP-2001	01-03-1646A	01
03	VA	FAIRFAX COUNTY *	5155250025D	14-SEP-2001	01-03-1550A	02
03	VA	FAIRFAX COUNTY *	5155250025D	14-SEP-2001	01-03-1648A	02
03	VA	FAIRFAX COUNTY *	5155250050D	28-SEP-2001	01-03-1482A	02
03	VA	FAIRFAX COUNTY *	5155250025D	12-OCT-2001	01-03-1642A	02
03	VA	FAIRFAX COUNTY *	5155250075D	12-OCT-2001	01-03-1654A	02
03	VA	FAIRFAX COUNTY *	5155250070D	17-OCT-2001	01-03-1680A	02
03	VA	FAIRFAX COUNTY *	5155250050D	17-OCT-2001	01-03-1802A	02
03	VA	FAIRFAX COUNTY *	5155250100D	14-NOV-2001	02-03-0200A	02
03	VA	FAIRFAX COUNTY *	5155250050D	12-DEC-2001	02-03-0372A	02
03	VA	FAIRFAX COUNTY *	5155250050D	12-DEC-2001	02-03-0400A	02
03	VA	FAIRFAX, CITY OF	5155240005B	11-JUL-2001	01-03-1276A	02
03	VA	FAUQUIER COUNTY *	5100550360A	05-JUL-2001	01-03-043P	05
03	VA	FAUQUIER COUNTY *	5100550075A	14-NOV-2001	02-03-0198A	02
03	VA	FRANKLIN COUNTY *	5100610220A	11-JUL-2001	01-03-1260A	02
03	VA	FRANKLIN COUNTY *	5100610250A	11-JUL-2001	01-03-1294A	02
03	VA	FRANKLIN COUNTY *	5100610250A	08-AUG-2001	01-03-1434A	02
03	VA	FRANKLIN COUNTY *	5100610210A	15-AUG-2001	01-03-1318A	02
03	VA	FRANKLIN COUNTY *	5100610220A	15-AUG-2001	01-03-1496A	02
03	VA	FRANKLIN COUNTY *	6100610210A	21-SEP-2001	01-03-1668A	02
03	VA	FRANKLIN COUNTY *	5100610215A	28-SEP-2001	01-03-1734A	02
03	VA	FRANKLIN COUNTY *	5100610080B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610090B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610095B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610205B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610210B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610215B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610220B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610230B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610240B	06-OCT-2001	02-03-0090V	19
03	VA	FRANKLIN COUNTY *	5100610210B	14-NOV-2001	02-03-0250A	02
03	VA	FRANKLIN COUNTY *	5100610220B	21-NOV-2001	02-03-0276A	02
03	VA	FRANKLIN COUNTY *	5100610215B	21-NOV-2001	02-03-0280A	02
03	VA	GLOUCESTER COUNTY*	5100710065B	21-SEP-2001	01-03-1630A	02
03	VA	HANOVER COUNTY *	5102370160A	10-AUG-2001	01-03-1442A	02
03	VA	HENRICO COUNTY *	5100770050B	14-SEP-2001	01-03-1576A	01
03	VA	HENRICO COUNTY *	5100770025B	28-SEP-2001	01-03-1402A	02
03	VA	HENRICO COUNTY *	5100770075B	12-OCT-2001	01-03-057P	05
03	VA	HENRICO COUNTY *	5100770050B	21-NOV-2001	02-03-0294A	02
03	VA	HENRICO COUNTY *	5100770025B	29-NOV-2001	01-03-205P	05
03	VA	HENRICO COUNTY *	5100770050B	14-DEC-2001	02-03-0338A	02
03	VA	HERNDON, TOWN OF	5100520001B	24-AUG-2001	01-03-1234A	02
03	VA	HOPEWELL, CITY OF	5100800005B	11-JUL-2001	01-03-0670A	02
03	VA	ISLE OF WIGHT COUNTY *	5103030070B	07-DEC-2001	02-03-0094A	02
03	VA	LEESBURG, TOWN OF	51107C0231D	10-OCT-2001	01-03-1776A	02
03	VA	LEESBURG, TOWN OF	51107C0231D	19-DEC-2001	02-03-0380A	02
03	VA	LOUDOUN COUNTY *	51107C0050D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0085D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0090D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0105D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0110D	06-JUL-2001	01-03-1384V	19

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03	VA	LOUDOUN COUNTY *	51107C0200D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0231D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0235D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0255D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0260D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0261D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0265D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0267D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0290D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0350D	06-JUL-2001	01-03-1384V	19
03	VA	LOUDOUN COUNTY *	51107C0266D	21-NOV-2001	02-03-0318A	02
03	VA	LYNCHBURG, CITY OF	5100930005B	07-DEC-2001	02-03-0328A	02
03	VA	MECKLENBURG COUNTY *	5101890150A	01-AUG-2001	01-03-0774A	02
03	VA	MECKLENBURG COUNTY *	5101890150A	22-AUG-2001	01-03-1548A	02
03	VA	MECKLENBURG COUNTY *	5101890150A	24-AUG-2001	01-03-1514A	02
03	VA	MONTGOMERY COUNTY *	5100990050B	28-SEP-2001	01-03-1592A	02
03	VA	MONTGOMERY COUNTY *	5100990075A	03-OCT-2001	01-03-1556A	02
03	VA	NELSON COUNTY *	5101020050A	20-JUL-2001	01-03-1344A	17
03	VA	NELSON COUNTY *	5101020075A	25-JUL-2001	01-03-1188A	02
03	VA	NELSON COUNTY *	5101020050A	24-AUG-2001	01-03-1090A	02
03	VA	NELSON COUNTY *	5101020050A	14-DEC-2001	02-03-0376A	02
03	VA	NEWPORT NEWS, CITY OF	5101030010C	03-OCT-2001	01-03-1688A	02
03	VA	NEWPORT NEWS, CITY OF	5101030010C	07-NOV-2001	02-03-0196X	02
03	VA	NEWPORT NEWS, CITY OF	5101030006C	19-DEC-2001	02-03-0364A	02
03	VA	NORFOLK, CITY OF	5101040011D	31-AUG-2001	01-03-1608A	02
03	VA	NORFOLK, CITY OF	5101040017D	21-NOV-2001	02-03-0194A	02
03	VA	NORTHAMPTON COUNTY *	5101050020C	30-NOV-2001	02-03-0334A	02
03	VA	PATRICK COUNTY *	5102520035C	12-DEC-2001	02-03-0132A	02
03	VA	PORTSMOUTH, CITY OF	5155290035B	18-JUL-2001	01-03-1338A	02
03	VA	PORTSMOUTH, CITY OF	5155290025E	18-JUL-2001	01-03-0968A	01
03	VA	PRINCE WILLIAM COUNTY *	51153C0089D	06-JUL-2001	01-03-1334A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0194D	31-AUG-2001	01-03-1404A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0088D	10-OCT-2001	01-03-1684A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0165D	14-NOV-2001	02-03-0108A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0165D	14-NOV-2001	02-03-0110A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0165D	14-NOV-2001	02-03-0112A	02
03	VA	ROANOKE, CITY OF	51161C0044D	13-JUL-2001	01-03-1272A	02
03	VA	ROANOKE, CITY OF	51161C0023D	14-DEC-2001	02-03-0234A	17
03	VA	ROCKINGHAM COUNTY *	5101330051B	10-OCT-2001	01-03-1640A	02
03	VA	ROCKINGHAM COUNTY *	5101330097B	12-OCT-2001	01-03-147P	05
03	VA	ROCKINGHAM COUNTY*	5101330092B	22-OCT-2001	02-03-0032A	02
03	VA	ROCKINGHAM COUNTY*	5101330092B	12-DEC-2001	02-03-0102A	02
03	VA	SHENANDOAH COUNTY *	5101470100B	20-JUL-2001	01-03-1302A	02
03	VA	SHENANDOAH COUNTY *	5101470175B	21-SEP-2001	01-03-1204A	02
03	VA	SHENANDOAH COUNTY *	5101470125B	03-OCT-2001	01-03-1324A	02
03	VA	SMYTH COUNTY *	5101840210B	12-DEC-2001	01-03-1794A	02
03	VA	SMYTH COUNTY *	5101840090A	19-DEC-2001	01-03-1540A	02
03	VA	STAFFORD COUNTY *	5101540220B	19-DEC-2001	02-03-0284A	02
03	VA	STAUNTON, CITY OF	5101550001C	22-AUG-2001	01-03-1480A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310037E	11-JUL-2001	01-03-0962A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310005E	08-AUG-2001	01-03-1160A	18
03	VA	VIRGINIA BEACH, CITY OF	5155310042E	29-AUG-2001	01-03-1572A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310049E	16-NOV-2001	02-03-0096A	02
03	VA	WINCHESTER, CITY OF	5101730005B	11-JUL-2001	01-03-1290A	02
03	VA	WINCHESTER, CITY OF	5101730005B	28-DEC-2001	02-03-0378A	02
03	WV	BOONE COUNTY *	54005C0060C	13-JUL-2001	01-03-1274A	02
03	WV	CHARLESTON, CITY OF	5400730004C	08-AUG-2001	01-03-1376A	02
03	WV	DUNBAR, CITY OF	5400760001C	31-OCT-2001	01-03-1624A	02
03	WV	ELEANOR, TOWN OF	540222—01B	25-JUL-2001	01-03-0986A	02
03	WV	ELIZABETH, TOWN OF	5402110001B	02-OCT-2001	01-03-1732A	02
03	WV	HINTON, CITY OF	5401870002B	14-DEC-2001	02-03-0326A	02
03	WV	JEFFERSON COUNTY *	5400650025B	10-OCT-2001	01-03-1254A	02
03	WV	KANAWHA COUNTY *	5400700084C	03-AUG-2001	01-03-1266A	02
03	WV	KANAWHA COUNTY *	5400700192C	07-SEP-2001	01-03-1418A	02
03	WV	LINCOLN COUNTY*	5400880125C	14-DEC-2001	02-03-0232A	02
03	WV	LOGAN COUNTY *	5455360098C	28-SEP-2001	01-03-1498A	17
03	WV	PUTNAM COUNTY*	5401640110C	13-JUL-2001	01-03-1196A	02
03	WV	PUTNAM COUNTY*	5401640115A	25-JUL-2001	01-03-1210A	02
03	WV	SOPHIA, TOWN OF	5401750005B	12-OCT-2001	01-03-1758A	02
03	WV	SUMMERS COUNTY *	5401860145A	14-DEC-2001	01-03-1638A	02
03	WV	TYLER COUNTY *	54095C0025B	27-JUL-2001	01-03-1258A	02
03	WV	VIENNA, CITY OF	5402150002B	12-DEC-2001	02-03-0134A	02
03	WV	WETZEL COUNTY *	5402070065A	28-SEP-2001	01-03-1594A	02

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03	WV	WIRT COUNTY *	5402110001B	17-OCT-2001	01-03-1736A	02
03	WV	WOOD COUNTY *	5402130107A	10-OCT-2001	01-03-1712A	02
04	AL	BALDWIN COUNTY*	0150000676G	19-DEC-2001	02-04-1054A	02
04	AL	CEDAR BLUFF,TOWN OF	0150100005A	10-AUG-2001	01-04-5216A	02
04	AL	CHEROKEE COUNTY*	0102340175B	27-JUL-2001	01-04-5386A	02
04	AL	CHILTON COUNTY *	0100300100B	12-OCT-2001	01-04-6316A	02
04	AL	COLBERT COUNTY	0103180125B	27-JUL-2001	01-04-4906A	02
04	AL	COLBERT COUNTY	0103180125B	27-JUL-2001	01-04-5140A	02
04	AL	COLBERT COUNTY	0103180125B	17-AUG-2001	01-04-5986X	02
04	AL	COLBERT COUNTY	0103180125B	12-OCT-2001	01-04-6544A	02
04	AL	COLBERT COUNTY	0103180125B	28-NOV-2001	02-04-0318A	02
04	AL	COLBERT COUNTY	0103180125B	05-DEC-2001	02-04-0514A	02
04	AL	DECATUR, CITY OF	01103C0070D	05-JUL-2001	01-04-4442A	02
04	AL	DECATUR, CITY OF	01103C0080D	04-SEP-2001	00-04-297P	05
04	AL	DECATUR, CITY OF	01103C0060D	07-NOV-2001	01-04-7106A	01
04	AL	ELMORE COUNTY*	0104060100B	05-JUL-2001	01-04-4378A	02
04	AL	ELMORE COUNTY*	0104060100B	25-JUL-2001	01-04-3482A	02
04	AL	ELMORE COUNTY*	0104060100B	08-AUG-2001	01-04-5134A	02
04	AL	ELMORE COUNTY*	0104060100B	03-OCT-2001	01-04-5774A	02
04	AL	ELMORE COUNTY*	0104060100B	16-NOV-2001	02-04-0504A	02
04	AL	ELMORE COUNTY*	0104060125B	28-NOV-2001	01-04-5994A	02
04	AL	ELMORE COUNTY*	0104060025B	05-DEC-2001	02-04-0730A	02
04	AL	FORT PAYNE, CITY OF	0100670003A	18-JUL-2001	01-04-2032A	01
04	AL	FORT PAYNE, CITY OF	0100670003A	25-JUL-2001	01-04-4822A	01
04	AL	FORT PAYNE, CITY OF	0100670004A	01-AUG-2001	01-04-5452A	02
04	AL	FORT PAYNE, CITY OF	0100670002A	12-DEC-2001	01-04-6934A	01
04	AL	HELENA, TOWN OF	0102940002B	08-AUG-2001	01-04-5390A	01
04	AL	HUNTSVILLE, CITY OF	01089C0329D	05-JUL-2001	01-04-4106A	01
04	AL	HUNTSVILLE, CITY OF	01089C0328D	25-JUL-2001	01-04-5136A	01
04	AL	JACKSON COUNTY *	01011002758	18-JUL-2001	01-04-4632A	02
04	AL	JACKSON COUNTY *	0101100150B	14-DEC-2001	02-04-1102A	02
04	AL	JEFFERSON COUNTY *	01073C0143E	27-JUL-2001	01-04-5236A	02
04	AL	JEFFERSON COUNTY *	01073C0250E	16-NOV-2001	02-04-0248A	02
04	AL	JEFFERSON COUNTY *	01073C0250E	16-NOV-2001	02-04-0256A	02
04	AL	JEFFERSON COUNTY *	01073C0484E	16-NOV-2001	02-04-0278A	02
04	AL	JEFFERSON COUNTY *	01073C0179E	12-DEC-2001	02-04-0068A	02
04	AL	LAUDERDALE COUNTY *	0103230069C	01-AUG-2001	01-04-4786A	02
04	AL	LAUDERDALE COUNTY *	0103230180C	05-SEP-2001	01-04-6158A	02
04	AL	LAWRENCE COUNTY *	0103240025B	14-NOV-2001	01-04-6930A	02
04	AL	LEE COUNTY *	0102500100C	18-JUL-2001	01-04-2320A	02
04	AL	LEE COUNTY *	0102500125C	10-AUG-2001	01-04-5768A	02
04	AL	LEE COUNTY *	0102500140C	28-NOV-2001	02-04-0976A	02
04	AL	LEE COUNTY *	0102500125C	05-DEC-2001	02-04-0542A	02
04	AL	LIMESTONE COUNTY *	0103070075B	31-AUG-2001	01-04-6156A	02
04	AL	LIMESTONE COUNTY *	0103070150B	19-SEP-2001	01-04-5142A	02
04	AL	MADISON COUNTY *	01089C0025D	27-JUL-2001	01-04-5132A	02
04	AL	MADISON COUNTY *	01089C0370D	17-OCT-2001	01-04-6814A	02
04	AL	MADISON COUNTY *	01089C0025D	30-NOV-2001	02-04-0652A	02
04	AL	MADISON, CITY OF	01089C0284D	28-SEP-2001	01-04-4930A	01
04	AL	MONTGOMERY, CITY OF	01101C0065F	05-JUL-2001	01-04-4630A	02
04	AL	MONTGOMERY, CITY OF	01101C0060F	11-JUL-2001	01-04-4074A	02
04	AL	MONTGOMERY, CITY OF	01101C0060F	01-AUG-2001	01-04-5336A	17
04	AL	MONTGOMERY, CITY OF	01101C0065F	12-OCT-2001	01-04-6646A	02
04	AL	MONTGOMERY, CITY OF	01101C0070F	14-DEC-2001	01-04-6728A	02
04	AL	MONTGOMERY, CITY OF	01101C0065F	21-DEC-2001	02-04-0744A	02
04	AL	MORGAN COUNTY *	01103C0175D	21-SEP-2001	01-04-6578A	02
04	AL	PELHAM, TOWN OF	0101930004B	13-JUL-2001	01-04-4876A	01
04	AL	PELHAM, TOWN OF	0101930001B	31-AUG-2001	01-04-4778A	01
04	AL	PELHAM, TOWN OF	0101930004B	05-DEC-2001	02-04-0776A	01
04	AL	RAINSVILLE, CITY OF	0103680010A	07-DEC-2001	02-04-0930A	02
04	AL	REFORM, TOWN OF	0102210005B	22-AUG-2001	01-04-5138A	02
04	AL	SHELBY COUNTY*	0101910150B	01-AUG-2001	01-04-2616A	02
04	AL	SHELBY COUNTY*	0101910025B	19-SEP-2001	01-04-6368A	02
04	AL	SHELBY COUNTY*	0101910100B	26-SEP-2001	01-04-6326A	01
04	AL	SHELBY COUNTY*	0101910175B	28-NOV-2001	01-04-5384A	02
04	AL	SYLACAUGA, CITY OF	0101990010C	07-NOV-2001	01-04-6932A	02
04	AL	TRUSSVILLE, CITY OF	01073C0213E	11-JUL-2001	01-04-4274A	02
04	AL	TUSCALOOSA COUNTY *	01125C0200E	08-AUG-2001	01-04-2218A	02
04	AL	TUSCALOOSA COUNTY *	01125C0425E	12-OCT-2001	01-04-6468A	02
04	AL	TUSCALOOSA COUNTY *	0102010225B	09-NOV-2001	01-04-5214A	02
04	AL	TUSCALOOSA COUNTY *	01125C0425E	09-NOV-2001	01-04-7132A	02
04	AL	TUSCALOOSA COUNTY *	01125C0175E	16-NOV-2001	02-04-0478A	02
04	AL	TUSCALOOSA COUNTY *	01125C0425E	28-NOV-2001	01-04-7102A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	AL	TUSCALOOSA, CITY OF	01125C0700E	13-JUL-2001	01-04-4908A	02
04	AL	TUSCALOOSA, CITY OF	01125C0516E	01-AUG-2001	01-04-4858A	02
04	AL	TUSCALOOSA, CITY OF	01125C0516E	08-AUG-2001	01-04-5594A	02
04	AL	TUSCALOOSA, CITY OF	01125C0500E	17-AUG-2001	01-04-5440A	02
04	AL	TUSCALOOSA, CITY OF	01125C0506E	22-AUG-2001	01-04-5388A	02
04	AL	TUSCALOOSA, CITY OF	01125C0700E	07-NOV-2001	01-04-6182A	02
04	AL	TUSCALOOSA, CITY OF	01125C0500E	16-NOV-2001	02-04-0066A	02
04	AL	TUSCALOOSA, CITY OF	01125C0537E	05-DEC-2001	02-04-0516A	02
04	AL	TUSCUMBIA, CITY OF	0100490002B	01-AUG-2001	01-04-4270A	02
04	AL	TUSCUMBIA, CITY OF	0100490002B	31-OCT-2001	01-04-6840A	01
04	AL	VESTAVIA HILLS, CITY OF	01073C0492E	26-SEP-2001	01-04-6088A	01
04	AL	WALKER COUNTY *	0103010055B	25-JUL-2001	01-04-4138A	02
04	AL	WALKER COUNTY *	0103010055B	02-NOV-2001	01-04-6378A	02
04	AL	WALKER COUNTY *	0103010055B	07-NOV-2001	01-04-7130A	02
04	AL	WETUMPKA, CITY OF	0100700002C	08-SEP-2001	01-04-6542V	19
04	FL	ALACHUA COUNTY*	1200010288A	29-AUG-2001	01-04-5508A	01
04	FL	ALTAMONTE SPRINGS, CITY OF	12117C0120E	15-AUG-2001	01-04-5358X	01
04	FL	ALTAMONTE SPRINGS, CITY OF	12117C0140E	12-SEP-2001	01-04-5608A	02
04	FL	ALTAMONTE SPRINGS, CITY OF	12117C0120E	12-DEC-2001	02-04-0620A	02
04	FL	ALTAMONTE SPRINGS, CITY OF	12117C0120E	28-DEC-2001	01-04-6776A	02
04	FL	APOPKA, CITY OF	12095C0140E	21-SEP-2001	01-04-6162A	02
04	FL	APOPKA, CITY OF	12095C0110E	02-NOV-2001	01-04-6856A	02
04	FL	APOPKA, CITY OF	12095C0140E	14-NOV-2001	01-04-7072A	02
04	FL	APOPKA, CITY OF	12095C0140E	28-NOV-2001	02-04-0210A	02
04	FL	APOPKA, CITY OF	12095C0110E	30-NOV-2001	02-04-0374A	02
04	FL	APOPKA, CITY OF	12095C0110E	07-DEC-2001	01-04-6502A	02
04	FL	AUBURNDALE, CITY OF	12105C0335F	25-JUL-2001	01-04-5072A	02
04	FL	AUBURNDALE, CITY OF	12105C0330F	17-AUG-2001	01-04-5722A	02
04	FL	AUBURNDALE, CITY OF	12105C0335F	31-OCT-2001	01-04-7160A	02
04	FL	BAY COUNTY*	1200040243D	24-AUG-2001	01-04-5244A	02
04	FL	BOCA RATON, CITY OF	1201950004C	26-OCT-2001	01-04-7094A	01
04	FL	BRADENTON, CITY OF	1201150009C	02-NOV-2001	01-04-6974A	02
04	FL	BRADFORD COUNTY *	12007C0175D	18-JUL-2001	01-04-2730A	02
04	FL	BREVARD COUNTY *	12009C0441E	27-JUL-2001	01-04-5030A	01
04	FL	BREVARD COUNTY *	12009C0180E	08-AUG-2001	01-04-5404A	02
04	FL	BREVARD COUNTY *	12009C0430E	15-AUG-2001	01-04-5620A	02
04	FL	BREVARD COUNTY *	12009C0365E	15-AUG-2001	01-04-5254X	01
04	FL	BREVARD COUNTY *	12009C0430E	31-AUG-2001	01-04-5472A	01
04	FL	BREVARD COUNTY *	12009C0430E	07-SEP-2001	01-04-5626A	01
04	FL	BREVARD COUNTY *	12009C0190F	12-SEP-2001	01-04-6028A	02
04	FL	BREVARD COUNTY *	12009C0275E	12-SEP-2001	01-04-5992A	01
04	FL	BREVARD COUNTY *	12009C0430E	19-SEP-2001	01-04-6092A	02
04	FL	BREVARD COUNTY *	12009C0430E	26-SEP-2001	01-04-5150A	01
04	FL	BREVARD COUNTY *	12009C0105E	03-OCT-2001	01-04-6422A	01
04	FL	BREVARD COUNTY *	12009C0190F	17-OCT-2001	01-04-6970A	02
04	FL	BREVARD COUNTY *	12009C0441F	31-OCT-2001	01-04-6698A	01
04	FL	BREVARD COUNTY *	12009C0190F	07-NOV-2001	01-04-7074A	02
04	FL	BREVARD COUNTY *	12009C0190F	07-NOV-2001	01-04-7156A	02
04	FL	BREVARD COUNTY *	12009C0365E	21-NOV-2001	01-04-7034A	01
04	FL	BREVARD COUNTY *	12009C0260E	28-NOV-2001	01-04-7056A	01
04	FL	BREVARD COUNTY *	12009C0435E	07-DEC-2001	02-04-0470A	02
04	FL	BREVARD COUNTY *	12009C0430E	19-DEC-2001	02-04-0678A	02
04	FL	BREVARD COUNTY *	12009C0430E	19-DEC-2001	02-04-0362A	01
04	FL	BREVARD COUNTY *	12009C0270E	21-DEC-2001	02-04-0868A	02
04	FL	BROWARD COUNTY*	12011C0120F	08-AUG-2001	01-04-5310X	01
04	FL	BROWARD COUNTY*	12011C0120F	22-AUG-2001	01-04-5598X	02
04	FL	CALHOUN COUNTY*	1204030075D	07-DEC-2001	02-04-0596A	02
04	FL	CAPE CORAL, CITY OF	1250950030C	05-JUL-2001	01-04-4556A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	11-JUL-2001	01-04-4554A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	18-JUL-2001	01-04-4552A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	20-JUL-2001	01-04-4708A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	25-JUL-2001	01-04-4810A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	27-JUL-2001	01-04-5178A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	27-JUL-2001	01-04-5196A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	03-AUG-2001	01-04-4850A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	10-AUG-2001	01-04-5256A	01
04	FL	CAPE CORAL, CITY OF	1250920030C	24-AUG-2001	01-04-4852A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	24-AUG-2001	01-04-5698A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	31-AUG-2001	01-04-6106A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	31-AUG-2001	01-04-6108A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	05-SEP-2001	01-04-6112A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	05-SEP-2001	01-04-6114A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	05-SEP-2001	01-04-6296A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	CAPE CORAL, CITY OF	1250950040C	07-SEP-2001	01-04-6110A	01
04	FL	CAPE CORAL, CITY OF	1250950020C	14-SEP-2001	01-04-6186A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	21-SEP-2001	01-04-6516A	01
04	FL	CAPE CORAL, CITY OF	1250950045C	26-SEP-2001	01-04-6622A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	26-SEP-2001	01-04-6624A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	17-OCT-2001	01-04-6870A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	17-OCT-2001	01-04-6906A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	09-NOV-2001	01-04-7184A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	09-NOV-2001	02-04-0904A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	14-NOV-2001	02-04-0610A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	05-DEC-2001	02-04-0664A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	05-DEC-2001	02-04-0666A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	07-DEC-2001	02-04-0762A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	07-DEC-2001	02-04-0764A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	14-DEC-2001	02-04-0874A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	19-DEC-2001	02-04-1164A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	21-DEC-2001	02-04-1304A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	21-DEC-2001	02-04-1306A	01
04	FL	CAPE CORAL, CITY OF	1250950020C	28-DEC-2001	02-04-1500A	01
04	FL	CHARLOTTE COUNTY *	1200610045E	28-AUG-2001	01-04-377P	05
04	FL	CHARLOTTE COUNTY *	1200610041D	19-OCT-2001	01-04-467P	05
04	FL	CHARLOTTE COUNTY *	1200610041D	13-NOV-2001	01-04-483P	05
04	FL	CITRUS COUNTY *	1200630255B	11-JUL-2001	01-04-4770A	02
04	FL	CITRUS COUNTY *	1200630260B	07-SEP-2001	01-04-5974A	02
04	FL	CITRUS COUNTY *	1200630210B	21-SEP-2001	01-04-5688A	02
04	FL	CITRUS COUNTY *	1200630270B	19-OCT-2001	01-04-6576A	02
04	FL	CITRUS COUNTY *	1200630220B	05-DEC-2001	02-04-0400A	02
04	FL	CITRUS COUNTY *	1200630260B	05-DEC-2001	02-04-0418A	02
04	FL	CLAY COUNTY *	1200640155D	27-JUL-2001	01-04-4368A	01
04	FL	CLAY COUNTY *	1200640325D	24-AUG-2001	01-04-6052A	02
04	FL	CLAY COUNTY *	1200640350D	07-SEP-2001	01-04-5382A	02
04	FL	CLAY COUNTY *	1200640135D	21-SEP-2001	01-04-4658A	01
04	FL	CLAY COUNTY *	1200640350D	03-OCT-2001	01-04-6784A	02
04	FL	CLAY COUNTY *	1200640065D	03-OCT-2001	01-04-3394A	01
04	FL	CLAY COUNTY *	1200640155D	16-NOV-2001	02-04-0004A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	19-DEC-2001	02-04-0944A	02
04	FL	COOPER CITY, CITY OF	12011C0285F	14-NOV-2001	01-04-6928A	02
04	FL	CORAL SPRINGS, CITY OF	12011C0095F	01-AUG-2001	01-04-5028A	D1
04	FL	CORAL SPRINGS, CITY OF	12011C0095F	07-SEP-2001	01-04-6116A	02
04	FL	DADE COUNTY*	12025C0354J	11-JUL-2001	01-04-4340A	02
04	FL	DADE COUNTY*	12025C0266J	11-JUL-2001	01-04-4866A	02
04	FL	DADE COUNTY*	12025C0090J	17-AUG-2001	01-04-5008A	02
04	FL	DADE COUNTY*	12025C0160J	17-AUG-2001	01-04-5826A	01
04	FL	DADE COUNTY*	12025C0075J	29-AUG-2001	01-04-5830A	01
04	FL	DADE COUNTY*	12025C0160J	31-AUG-2001	01-04-6118A	01
04	FL	DADE COUNTY*	12025C0160J	07-SEP-2001	01-04-6008A	01
04	FL	DADE COUNTY*	12025C0160J	12-SEP-2001	01-04-6120A	01
04	FL	DADE COUNTY*	12025C0075J	14-SEP-2001	01-04-5828A	01
04	FL	DADE COUNTY*	12025C0160J	14-SEP-2001	01-04-6212A	01
04	FL	DADE COUNTY*	12025C0075J	14-SEP-2001	01-04-6214A	01
04	FL	DADE COUNTY*	12025C0354J	19-SEP-2001	01-04-6408A	02
04	FL	DADE COUNTY*	12025C0265J	12-OCT-2001	01-04-5908A	01
04	FL	DADE COUNTY*	12025C0265J	30-NOV-2001	02-04-1010A	02
04	FL	DADE COUNTY*	12025C0265J	30-NOV-2001	02-04-1038A	02
04	FL	DADE COUNTY*	12025C0350J	07-DEC-2001	02-04-0616A	02
04	FL	DADE COUNTY*	12025C0075J	14-DEC-2001	02-04-0820A	01
04	FL	DAVIE, CITY OF	12011C0302F	05-JUL-2001	01-04-4522A	02
04	FL	DEBARY, CITY OF	1206720001F	20-JUL-2001	01-04-5084A	02
04	FL	DEBARY, CITY OF	1206720001F	28-NOV-2001	02-04-1040A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0108F	13-JUL-2001	01-04-4904A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0120F	03-OCT-2001	01-04-4634A	02
04	FL	DESOTO COUNTY*	12027C0270B	08-AUG-2001	01-04-3654A	02
04	FL	ESCAMBIA COUNTY*	12033C0369F	11-JUL-2001	01-04-3906A	02
04	FL	ESCAMBIA COUNTY*	12033C0368F	22-AUG-2001	01-04-5846A	02
04	FL	ESCAMBIA COUNTY*	12033C0360F	17-OCT-2001	01-04-5092A	02
04	FL	ESCAMBIA COUNTY*	12033C0368F	21-NOV-2001	02-04-0978A	02
04	FL	FORT LAUDERDALE, CITY OF	12011C0217F	18-JUL-2001	01-04-5024A	02
04	FL	FORT LAUDERDALE, CITY OF	12011C0207G	18-JUL-2001	01-04-4838A	01
04	FL	FORT LAUDERDALE, CITY OF	12011C0218F	08-AUG-2001	01-04-5252A	02
04	FL	FORT LAUDERDALE, CITY OF	12011C0209F	07-SEP-2001	01-04-6168A	02
04	FL	FRANKLIN COUNTY *	1200880555B	28-NOV-2001	02-04-0196A	02
04	FL	GADSDEN COUNTY *	1200910300A	07-NOV-2001	01-04-6962A	02
04	FL	GAINESVILLE, CITY OF	1251070005C	05-JUL-2001	01-04-4832X	02

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04	FL	GROVELAND, CITY OF	1204210325B	18-JUL-2001	01-04-3908A	01
04	FL	GULF BREEZE, CITY OF	1202750011F	07-DEC-2001	02-04-0674A	02
04	FL	HERNANDO COUNTY *	1201100225B	29-AUG-2001	01-04-5786A	02
04	FL	HERNANDO COUNTY *	1201100150B	02-NOV-2001	01-04-4050A	01
04	FL	HERNANDO COUNTY *	1201100140B	07-DEC-2001	02-04-0752A	02
04	FL	HERNANDO COUNTY *	1201100280B	14-DEC-2001	02-04-1056A	02
04	FL	HIALEAH GARDENS, CITY OF	12025C0075J	21-SEP-2001	01-04-5198A	02
04	FL	HIGHLANDS COUNTY *	1201110025B	19-OCT-2001	01-04-5446A	01
04	FL	HILLSBOROUGH COUNTY*	1201120065D	05-JUL-2001	01-04-4678A	02
04	FL	HILLSBOROUGH COUNTY*	1201120160C	11-JUL-2001	01-04-4364A	01
04	FL	HILLSBOROUGH COUNTY*	1201120530C	11-JUL-2001	01-04-4588A	01
04	FL	HILLSBOROUGH COUNTY*	1201120210E	13-JUL-2001	01-04-4686A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	25-JUL-2001	01-04-4932A	01
04	FL	HILLSBOROUGH COUNTY*	1201120180F	03-AUG-2001	01-04-3620A	02
04	FL	HILLSBOROUGH COUNTY*	1201120065D	03-AUG-2001	01-04-5100A	01
04	FL	HILLSBOROUGH COUNTY*	1201120210E	08-AUG-2001	01-04-5344A	02
04	FL	HILLSBOROUGH COUNTY*	1201120530C	15-AUG-2001	01-04-5308A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	17-AUG-2001	01-04-5502A	01
04	FL	HILLSBOROUGH COUNTY*	1201120530C	29-AUG-2001	01-04-5504A	01
04	FL	HILLSBOROUGH COUNTY*	1201120180F	30-AUG-2001	01-04-4934A	01
04	FL	HILLSBOROUGH COUNTY*	1201120065D	31-AUG-2001	01-04-4208A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	05-SEP-2001	01-04-5152A	02
04	FL	HILLSBOROUGH COUNTY*	1201120415C	07-SEP-2001	01-04-5532A	02
04	FL	HILLSBOROUGH COUNTY*	1201120160C	07-SEP-2001	01-04-5230A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	26-SEP-2001	01-04-3390A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	26-SEP-2001	01-04-6416A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	26-SEP-2001	01-04-6924A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	03-OCT-2001	01-04-6628A	01
04	FL	HILLSBOROUGH COUNTY*	1201120045D	10-OCT-2001	01-04-3392A	01
04	FL	HILLSBOROUGH COUNTY*	1201120070E	17-OCT-2001	01-04-6330A	02
04	FL	HILLSBOROUGH COUNTY*	1201120219B	17-OCT-2001	01-04-6788A	02
04	FL	HILLSBOROUGH COUNTY*	1201120395E	19-OCT-2001	01-04-7114A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	24-OCT-2001	01-04-6418A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	14-NOV-2001	01-04-3398A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	16-NOV-2001	01-04-6944A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	16-NOV-2001	01-04-7126A	01
04	FL	HILLSBOROUGH COUNTY*	1201120219E	16-NOV-2001	02-04-0658X	17
04	FL	HILLSBOROUGH COUNTY*	1201120185F	21-NOV-2001	01-04-6926A	01
04	FL	HILLSBOROUGH COUNTY*	1201120095C	28-NOV-2001	02-04-0630A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	30-NOV-2001	02-04-1042A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	07-DEC-2001	02-04-0530A	02
04	FL	HILLSBOROUGH COUNTY*	1201120160C	07-DEC-2001	02-04-0972A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	12-DEC-2001	02-04-0870A	02
04	FL	HILLSBOROUGH COUNTY*	1201120065D	12-DEC-2001	02-04-1108A	02
04	FL	HILLSBOROUGH COUNTY*	1201120415C	14-DEC-2001	02-04-1066A	01
04	FL	HILLSBOROUGH COUNTY*	1201120493D	17-DEC-2001	01-04-381P	05
04	FL	HILLSBOROUGH COUNTY*	1201120395E	19-DEC-2001	02-04-1206A	02
04	FL	HILLSBOROUGH COUNTY*	1201120180F	21-DEC-2001	02-04-0048A	02
04	FL	HILLSBOROUGH COUNTY*	1201120205D	21-DEC-2001	02-04-0144A	02
04	FL	HILLSBOROUGH COUNTY*	1201120160C	21-DEC-2001	02-04-0670A	01
04	FL	INDIAN RIVER COUNTY *	12061C0169F	28-NOV-2001	02-04-0044A	18
04	FL	JACKSON COUNTY *	12063C0175C	20-JUL-2001	01-04-4218A	02
04	FL	JACKSONVILLE, CITY OF	1200770179E	11-JUL-2001	01-04-4780A	02
04	FL	JACKSONVILLE, CITY OF	1200770236E	01-AUG-2001	01-04-015P	05
04	FL	JACKSONVILLE, CITY OF	1200770156E	01-AUG-2001	01-04-5060A	02
04	FL	JACKSONVILLE, CITY OF	1200770050E	08-AUG-2001	01-04-4746A	02
04	FL	JACKSONVILLE, CITY OF	1200770050E	08-AUG-2001	01-04-4748A	01
04	FL	JACKSONVILLE, CITY OF	1200770226E	24-OCT-2001	01-04-6960A	02
04	FL	JACKSONVILLE, CITY OF	1200770232E	07-NOV-2001	01-04-309P	05
04	FL	JACKSONVILLE, CITY OF	1200770236E	05-DEC-2001	01-04-6534A	01
04	FL	KEY WEST, CITY OF	12087C1716H	26-OCT-2001	01-04-7096A	02
04	FL	KISSIMMEE, CITY OF	12097C0066F	17-AUG-2001	01-04-5730A	02
04	FL	KISSIMMEE, CITY OF	12097C0055F	17-OCT-2001	01-04-4454A	01
04	FL	KISSIMMEE, CITY OF	12097C0060F	19-OCT-2001	01-04-7082A	02
04	FL	KISSIMMEE, CITY OF	12097C0065F	19-OCT-2001	01-04-6074A	01
04	FL	KISSIMMEE, CITY OF	12097C0068F	31-OCT-2001	02-04-0034A	02
04	FL	KISSIMMEE, CITY OF	12097C0067F	16-NOV-2001	02-04-0334A	01
04	FL	KISSIMMEE, CITY OF	12097C0060F	28-NOV-2001	02-04-0912X	02
04	FL	KISSIMMEE, CITY OF	12097C0065F	28-DEC-2001	02-04-0778A	01
04	FL	KISSIMMEE, CITY OF	12097C0065F	28-DEC-2001	02-04-145€A	01
04	FL	LAKE COUNTY *	1204210300B	05-JUL-2001	01-04-4590A	02
04	FL	LAKE COUNTY *	1204210275B	05-JUL-2001	01-04-4640A	02
04	FL	LAKE COUNTY *	1204210150B	11-JUL-2001	01-04-2694A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	LAKE COUNTY *	1204210300B	18-JUL-2001	01-04-5016A	02
04	FL	LAKE COUNTY *	1204210200B	20-JUL-2001	01-04-5104A	01
04	FL	LAKE COUNTY *	1204210100B	25-JUL-2001	01-04-4782A	02
04	FL	LAKE COUNTY *	1204210200B	01-AUG-2001	01-04-5102A	01
04	FL	LAKE COUNTY *	1204210200B	10-AUG-2001	01-04-5316A	02
04	FL	LAKE COUNTY *	1204210200B	10-AUG-2001	01-04-5340A	02
04	FL	LAKE COUNTY *	1204210225B	17-AUG-2001	01-04-4862A	02
04	FL	LAKE COUNTY *	1204210225B	17-AUG-2001	01-04-5074A	02
04	FL	LAKE COUNTY *	1204210375B	29-AUG-2001	01-04-5394A	02
04	FL	LAKE COUNTY *	1204210200B	31-AUG-2001	01-04-5116A	02
04	FL	LAKE COUNTY *	1204210200B	07-SEP-2001	01-04-6086A	02
04	FL	LAKE COUNTY *	1204210125B	12-SEP-2001	01-04-5984A	02
04	FL	LAKE COUNTY *	1204210125B	03-OCT-2001	01-04-6780A	02
04	FL	LAKE COUNTY *	1204210150B	12-OCT-2001	01-04-6346A	02
04	FL	LAKE COUNTY *	1202410150B	19-OCT-2001	01-04-7204A	02
04	FL	LAKE COUNTY *	1204210325B	24-OCT-2001	01-04-6612A	02
04	FL	LAKE COUNTY *	1204210125B	02-NOV-2001	02-04-0032A	02
04	FL	LAKE COUNTY *	1204210175B	07-DEC-2001	02-04-0294A	02
04	FL	LAKE COUNTY *	1204210125B	14-DEC-2001	02-04-0938A	02
04	FL	LAKELAND, CITY OF	12105C0303F	05-JUL-2001	01-04-4644A	02
04	FL	LAKELAND, CITY OF	12105C0292F	03-AUG-2001	01-04-335P	05
04	FL	LAKELAND, CITY OF	12105C0304F	17-AUG-2001	01-04-5602A	02
04	FL	LAKELAND, CITY OF	12105C0480F	29-AUG-2001	01-04-4642A	02
04	FL	LAKELAND, CITY OF	12105C0320F	28-SEP-2001	01-04-6604A	02
04	FL	LAKELAND, CITY OF	12105C0480F	14-DEC-2001	02-04-0344A	02
04	FL	LAUDERDALE LAKES, CITY OF	12011C0204F	01-AUG-2001	01-04-5334A	02
04	FL	LAUDERHILL, CITY OF	12011C0205F	26-OCT-2001	01-04-7108A	01
04	FL	LAUDERHILL, CITY OF	12011C0212F	21-NOV-2001	02-04-0700A	02
04	FL	LAUDERHILL, CITY OF	12011C0212F	05-DEC-2001	02-04-0746A	02
04	FL	LEE COUNTY*	1251240455B	20-JUL-2001	01-04-5176A	01
04	FL	LEE COUNTY*	1251240200C	24-AUG-2001	01-04-3254A	02
04	FL	LEE COUNTY*	1251240045B	20-SEP-2001	01-04-205P	05
04	FL	LEE COUNTY*	1251240250B	21-SEP-2001	01-04-6452A	02
04	FL	LEE COUNTY*	1251240325C	12-OCT-2001	01-04-6320A	02
04	FL	LEE COUNTY*	1251240510D	24-OCT-2001	01-04-6514A	01
04	FL	LEE COUNTY*	1251240250B	26-OCT-2001	01-04-7206A	01
04	FL	LEE COUNTY*	1251240075D	05-DEC-2001	02-04-0662A	01
04	FL	LEESBURG, CITY OF	1201360001C	12-DEC-2001	02-04-0564A	01
04	FL	LONGWOOD, CITY OF	12117C0130E	12-SEP-2001	01-04-6190A	02
04	FL	LYNN HAVEN, CITY OF	1200040335D	05-SEP-2001	01-04-6100A	02
04	FL	MAITLAND, CITY OF	12095C0145E	29-AUG-2001	01-04-6032A	02
04	FL	MAITLAND, CITY OF	12095C0165E	28-NOV-2001	02-04-0346A	02
04	FL	MAITLAND, CITY OF	12095C0165E	28-NOV-2001	02-04-1020A	02
04	FL	MANATEE COUNTY *	1201530220C	19-SEP-2001	01-04-4994A	01
04	FL	MANATEE COUNTY *	1201530360C	03-OCT-2001	01-04-6600A	02
04	FL	MANATEE COUNTY *	1201530187D	26-OCT-2001	01-04-6662A	02
04	FL	MARGATE, CITY OF	12011C0115F	05-JUL-2001	01-04-4538A	02
04	FL	MARGATE, CITY OF	12011C0115F	20-JUL-2001	01-04-5312X	02
04	FL	MARGATE, CITY OF	12011C0115F	31-AUG-2001	01-04-5200A	02
04	FL	MARGATE, CITY OF	12011C0115F	31-OCT-2001	01-04-7116X	02
04	FL	MARGATE, CITY OF	12011C0115F	07-NOV-2001	01-04-7186A	01
04	FL	MARION COUNTY *	1201600715B	25-JUL-2001	01-04-2818A	02
04	FL	MARION COUNTY *	1201600425B	24-OCT-2001	01-04-6414A	02
04	FL	MARION COUNTY *	1201600520B	21-NOV-2001	02-04-0558A	02
04	FL	MELBOURNE, CITY OF	12009C0509E	18-JUL-2001	01-04-3114A	01
04	FL	MELBOURNE, CITY OF	12009C0506E	01-AUG-2001	01-04-5146A	02
04	FL	MELBOURNE, CITY OF	12009C0441F	14-SEP-2001	01-04-3384A	01
04	FL	MIAMI SHORES VILLAGE, VILLAGE	12025C0093J	24-AUG-2001	01-04-5772A	02
04	FL	MT. DORA, CITY OF	1201370001B	18-JUL-2001	01-04-4854A	02
04	FL	MT. DORA, CITY OF	1204210150B	15-AUG-2001	01-04-4830A	01
04	FL	MT. DORA, CITY OF	1204210150B	12-SEP-2001	01-04-3530A	02
04	FL	NEW PORT RICHEY, CITY OF	1202300189C	03-OCT-2001	01-04-6486A	02
04	FL	NEW PORT RICHEY, CITY OF	1202300189C	10-OCT-2001	01-04-6488A	02
04	FL	NICEVILLE, CITY OF	1203380005B	09-NOV-2001	02-04-0508A	02
04	FL	NORTH LAUDERDALE, CITY OF	12011C0205F	16-NOV-2001	02-04-0366A	02
04	FL	OAKLAND PARK, CITY OF	12011C0209F	14-SEP-2001	01-04-6282A	02
04	FL	OAKLAND PARK, CITY OF	12011C0208F	26-OCT-2001	01-04-7104A	02
04	FL	OAKLAND PARK, CITY OF	12011C0208F	12-DEC-2001	02-04-0854X	02
04	FL	OCOEE, CITY OF	12095C0210E	17-AUG-2001	01-04-5784A	02
04	FL	OCOEE, CITY OF	12095C0210E	12-SEP-2001	01-04-5770A	02
04	FL	OCOEE, CITY OF	12095C0220E	28-SEP-2001	01-04-6504A	02
04	FL	OCOEE, CITY OF	12095C0210E	28-NOV-2001	02-04-0356A	02
04	FL	OCOEE, CITY OF	12095C0210E	14-DEC-2001	02-04-1084A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	OKALOOSA COUNTY *	1201730205E	05-JUL-2001	01-04-4654A	01
04	FL	OKALOOSA COUNTY *	1201730205E	28-SEP-2001	01-04-6496A	02
04	FL	OKALOOSA COUNTY *	1201730205E	28-SEP-2001	01-04-6550A	01
04	FL	OKALOOSA COUNTY *	1201730205E	12-OCT-2001	01-04-6690A	01
04	FL	OKALOOSA COUNTY *	1201730210E	31-OCT-2001	01-04-7162A	01
04	FL	OKALOOSA COUNTY *	1201730205E	07-NOV-2001	02-04-1006A	01
04	FL	OKALOOSA COUNTY *	1201730210E	07-DEC-2001	01-04-5630A	02
04	FL	ORANGE COUNTY *	12095C0270E	05-JUL-2001	01-04-4652A	02
04	FL	ORANGE COUNTY *	12095C0415E	05-JUL-2001	01-04-4684A	02
04	FL	ORANGE COUNTY *	12095C0385E	11-JUL-2001	01-04-4710A	02
04	FL	ORANGE COUNTY *	12095C0215E	11-JUL-2001	01-04-4692A	01
04	FL	ORANGE COUNTY *	12095C0585E	11-JUL-2001	01-04-4696A	01
04	FL	ORANGE COUNTY *	12095C0585E	11-JUL-2001	01-04-4698A	01
04	FL	ORANGE COUNTY *	12095C0260E	18-JUL-2001	01-04-4864A	01
04	FL	ORANGE COUNTY *	12095C0290E	25-JUL-2001	01-04-4784A	02
04	FL	ORANGE COUNTY *	12095C0435E	25-JUL-2001	01-04-5012A	02
04	FL	ORANGE COUNTY *	12095C0230E	01-AUG-2001	01-04-5610A	02
04	FL	ORANGE COUNTY *	12095C0260E	03-AUG-2001	01-04-4914A	02
04	FL	ORANGE COUNTY *	12095C0285E	03-AUG-2001	01-04-4918A	02
04	FL	ORANGE COUNTY *	12095C0405E	03-AUG-2001	01-04-4706A	01
04	FL	ORANGE COUNTY *	12095C0380E	08-AUG-2001	01-04-4682A	02
04	FL	ORANGE COUNTY *	12095C0410E	08-AUG-2001	01-04-5246A	02
04	FL	ORANGE COUNTY *	12095C0410E	08-AUG-2001	01-04-5510A	02
04	FL	ORANGE COUNTY *	12095C0410E	08-AUG-2001	01-04-5614A	02
04	FL	ORANGE COUNTY *	12095C0165E	10-AUG-2001	01-04-3900A	02
04	FL	ORANGE COUNTY *	12095C0270E	10-AUG-2001	01-04-5066A	02
04	FL	ORANGE COUNTY *	12095C0290E	15-AUG-2001	01-04-5342A	02
04	FL	ORANGE COUNTY *	12095C0270E	15-AUG-2001	01-04-5444A	02
04	FL	ORANGE COUNTY *	12095C0240E	15-AUG-2001	01-04-5644A	02
04	FL	ORANGE COUNTY *	12095C0420E	17-AUG-2001	01-04-5250A	01
04	FL	ORANGE COUNTY *	12095C0580E	17-AUG-2001	01-04-5410A	01
04	FL	ORANGE COUNTY *	12095C0465E	17-AUG-2001	01-04-5804A	02
04	FL	ORANGE COUNTY *	12095C0295E	24-AUG-2001	01-04-3324A	01
04	FL	ORANGE COUNTY *	12095C0250E	24-AUG-2001	01-04-5512A	01
04	FL	ORANGE COUNTY *	12095C0415E	24-AUG-2001	01-04-5514A	01
04	FL	ORANGE COUNTY *	12095C0270E	29-AUG-2001	01-04-5618A	02
04	FL	ORANGE COUNTY *	12095C0435E	29-AUG-2001	01-04-5696A	02
04	FL	ORANGE COUNTY *	12095C0270E	29-AUG-2001	01-04-5520A	01
04	FL	ORANGE COUNTY *	12095C0240E	07-SEP-2001	01-04-5898A	02
04	FL	ORANGE COUNTY *	12095C0290E	12-SEP-2001	01-04-5224A	02
04	FL	ORANGE COUNTY *	12095C0145E	12-SEP-2001	01-04-5616A	02
04	FL	ORANGE COUNTY *	12095C0415E	12-SEP-2001	01-04-5692A	02
04	FL	ORANGE COUNTY *	12095C0380E	12-SEP-2001	01-04-5724A	02
04	FL	ORANGE COUNTY *	12095C0235E	12-SEP-2001	01-04-5900A	02
04	FL	ORANGE COUNTY *	12095C0415E	12-SEP-2001	01-04-6030A	02
04	FL	ORANGE COUNTY *	12095C0285E	12-SEP-2001	01-04-5654A	01
04	FL	ORANGE COUNTY *	12095C0420E	12-SEP-2001	01-04-6536A	01
04	FL	ORANGE COUNTY *	12095C0215E	14-SEP-2001	01-04-6160A	02
04	FL	ORANGE COUNTY *	12095C0410E	14-SEP-2001	01-04-6232A	02
04	FL	ORANGE COUNTY *	12095C0415E	19-SEP-2001	01-04-6090A	02
04	FL	ORANGE COUNTY *	12095C0255E	19-SEP-2001	01-04-6166A	02
04	FL	ORANGE COUNTY *	12095C0410E	19-SEP-2001	01-04-6180A	02
04	FL	ORANGE COUNTY *	12095C0230E	19-SEP-2001	01-04-6286A	02
04	FL	ORANGE COUNTY *	12095C0290E	19-SEP-2001	01-04-6288A	02
04	FL	ORANGE COUNTY *	12095C0150E	19-SEP-2001	01-04-6424A	02
04	FL	ORANGE COUNTY *	12095C0230E	21-SEP-2001	01-04-6426A	02
04	FL	ORANGE COUNTY *	120095C0280	21-SEP-2001	01-04-6598A	02
04	FL	ORANGE COUNTY *	12095C0290E	26-SEP-2001	01-04-5948A	01
04	FL	ORANGE COUNTY *	12095C0270E	28-SEP-2001	01-04-5950A	02
04	FL	ORANGE COUNTY *	12095C0150E	28-SEP-2001	01-04-6420A	02
04	FL	ORANGE COUNTY *	12095C0295E	28-SEP-2001	01-04-5874A	01
04	FL	ORANGE COUNTY *	12095C0415E	03-OCT-2001	01-04-6500A	02
04	FL	ORANGE COUNTY *	12095C0290E	03-OCT-2001	01-04-6792A	02
04	FL	ORANGE COUNTY *	12095C0290E	10-OCT-2001	01-04-5878A	01
04	FL	ORANGE COUNTY *	12095C0465E	12-OCT-2001	01-04-5646A	02
04	FL	ORANGE COUNTY *	12095C0050E	12-OCT-2001	01-04-6402A	02
04	FL	ORANGE COUNTY *	12095C0050E	12-OCT-2001	01-04-6498A	02
04	FL	ORANGE COUNTY *	12095C0430E	12-OCT-2001	01-04-6602A	02
04	FL	ORANGE COUNTY *	12095C0420E	12-OCT-2001	01-04-6406A	01
04	FL	ORANGE COUNTY *	12095C0375E	17-OCT-2001	01-04-6230A	02
04	FL	ORANGE COUNTY *	12095C0260E	17-OCT-2001	01-04-6694A	02
04	FL	ORANGE COUNTY *	12095C0260E	17-OCT-2001	01-04-6794A	02
04	FL	ORANGE COUNTY *	12095C0430E	17-OCT-2001	01-04-6816A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	ORANGE COUNTY *	12095C0440E	17-OCT-2001	01-04-6508A	01
04	FL	ORANGE COUNTY *	12095C0260E	17-OCT-2001	01-04-6664A	01
04	FL	ORANGE COUNTY *	12095C0260E	19-OCT-2001	01-04-5902A	02
04	FL	ORANGE COUNTY *	12095C0415E	19-OCT-2001	02-04-0276A	02
04	FL	ORANGE COUNTY *	12095C0410E	24-OCT-2001	01-04-6790A	02
04	FL	ORANGE COUNTY *	12095C0240E	24-OCT-2001	01-04-7032A	02
04	FL	ORANGE COUNTY *	12095C0280E	24-OCT-2001	01-04-6404A	01
04	FL	ORANGE COUNTY *	12095C0290E	24-OCT-2001	01-04-6984A	01
04	FL	ORANGE COUNTY *	12095C0290E	31-OCT-2001	02-04-0906A	01
04	FL	ORANGE COUNTY *	12095C0280E	02-NOV-2001	01-04-6332A	02
04	FL	ORANGE COUNTY *	12095C0420E	02-NOV-2001	01-04-6586A	02
04	FL	ORANGE COUNTY *	12095C0420E	09-NOV-2001	01-04-6978A	01
04	FL	ORANGE COUNTY *	12095C0280E	09-NOV-2001	01-04-6980A	01
04	FL	ORANGE COUNTY *	12095C0295E	14-NOV-2001	02-04-0056A	02
04	FL	ORANGE COUNTY *	12095C0270E	14-NOV-2001	01-04-6942A	01
04	FL	ORANGE COUNTY *	12095C0420E	14-NOV-2001	01-04-6982A	01
04	FL	ORANGE COUNTY *	12095C0280E	14-NOV-2001	01-04-6986A	01
04	FL	ORANGE COUNTY *	12095C0290E	14-NOV-2001	01-04-6988A	01
04	FL	ORANGE COUNTY *	12095C0235E	16-NOV-2001	02-04-0214A	02
04	FL	ORANGE COUNTY *	12095C0295E	21-NOV-2001	02-04-0146A	02
04	FL	ORANGE COUNTY *	12095C0240E	21-NOV-2001	01-04-6524A	02
04	FL	ORANGE COUNTY *	12095C0410E	21-NOV-2001	02-04-0264A	01
04	FL	ORANGE COUNTY *	12095C0150E	28-NOV-2001	01-04-5734A	02
04	FL	ORANGE COUNTY *	12095C0260E	28-NOV-2001	01-04-6842A	02
04	FL	ORANGE COUNTY *	12095C0380E	28-NOV-2001	01-04-7038A	02
04	FL	ORANGE COUNTY *	12095C0270E	28-NOV-2001	01-04-7158A	02
04	FL	ORANGE COUNTY *	12095C0150E	28-NOV-2001	02-04-0058A	02
04	FL	ORANGE COUNTY *	12095C0260E	28-NOV-2001	02-04-0116A	02
04	FL	ORANGE COUNTY *	12095C0220E	28-NOV-2001	02-04-0180A	02
04	FL	ORANGE COUNTY *	12095C0415E	28-NOV-2001	02-04-0308A	02
04	FL	ORANGE COUNTY *	12095C0295E	28-NOV-2001	01-04-6370A	01
04	FL	ORANGE COUNTY *	12095C0150E	30-NOV-2001	01-04-7078A	02
04	FL	ORANGE COUNTY *	12095C0420E	30-NOV-2001	02-04-0420A	02
04	FL	ORANGE COUNTY *	12095C0585E	07-DEC-2001	02-04-0282A	01
04	FL	ORANGE COUNTY *	12095C0585E	07-DEC-2001	02-04-0284A	01
04	FL	ORANGE COUNTY *	12095C0270E	12-DEC-2001	02-04-0586A	02
04	FL	ORANGE COUNTY *	12095C0580E	12-DEC-2001	02-04-0378A	01
04	FL	ORANGE COUNTY *	12095C0270E	14-DEC-2001	02-04-0598A	02
04	FL	ORANGE COUNTY *	12095C0410E	19-DEC-2001	02-04-0474A	01
04	FL	ORANGE COUNTY *	12095C0395E	19-DEC-2001	02-04-0528A	01
04	FL	ORANGE COUNTY *	12095C0385E	28-DEC-2001	02-04-1390A	02
04	FL	ORANGE COUNTY *	12095C0260E	28-DEC-2001	02-04-0852A	01
04	FL	ORLANDO, CITY OF	12095C0265E	25-JUL-2001	01-04-4998A	02
04	FL	ORLANDO, CITY OF	12095C0255E	10-AUG-2001	01-04-5222A	02
04	FL	ORLANDO, CITY OF	12095C0240E	15-AUG-2001	01-04-4006A	01
04	FL	ORLANDO, CITY OF	12095C0230E	12-SEP-2001	01-04-4774A	01
04	FL	ORLANDO, CITY OF	12095C0270E	26-OCT-2001	01-04-3698A	02
04	FL	ORLANDO, CITY OF	12095C0270E	26-OCT-2001	01-04-4574A	02
04	FL	ORLANDO, CITY OF	12095C0270E	26-OCT-2001	01-04-4576A	02
04	FL	ORLANDO, CITY OF	12095C0270E	26-OCT-2001	01-04-4582A	02
04	FL	ORLANDO, CITY OF	12095C0270E	26-OCT-2001	01-04-6034A	02
04	FL	ORLANDO, CITY OF	12095C0270E	09-NOV-2001	01-04-4568A	02
04	FL	ORLANDO, CITY OF	12095C0270E	09-NOV-2001	01-04-4570A	02
04	FL	ORLANDO, CITY OF	12095C0270E	09-NOV-2001	01-04-4572A	02
04	FL	ORLANDO, CITY OF	12095C0270E	09-NOV-2001	01-04-4578A	02
04	FL	ORLANDO, CITY OF	12095C0270E	09-NOV-2001	01-04-4580A	02
04	FL	ORLANDO, CITY OF	12095C0270E	09-NOV-2001	02-04-0302A	02
04	FL	ORLANDO, CITY OF	12095C0265E	28-NOV-2001	01-04-7036A	02
04	FL	ORLANDO, CITY OF	12095C0245E	12-DEC-2001	02-04-0866A	02
04	FL	ORLANDO, CITY OF	12095C0245E	12-DEC-2001	02-04-0982A	02
04	FL	ORLANDO, CITY OF	12095C0245E	14-DEC-2001	02-04-1196A	02
04	FL	ORMOND BEACH, CITY OF	1251360007D	25-JUL-2001	01-04-5048A	01
04	FL	ORMOND BEACH, CITY OF	1251360007D	29-AUG-2001	01-04-6020A	01
04	FL	ORMOND BEACH, CITY OF	1251360007D	29-AUG-2001	01-04-6022A	01
04	FL	ORMOND BEACH, CITY OF	1251360007D	17-OCT-2001	01-04-3386A	01
04	FL	OSCEOLA COUNTY *	12097C0400F	05-JUL-2001	01-04-4500X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4502X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4504X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4506X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4508X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4510X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4512X	02
04	FL	OSCEOLA COUNTY *	12097C0225F	05-JUL-2001	01-04-4514X	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4516X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4518X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	05-JUL-2001	01-04-4520X	02
04	FL	OSCEOLA COUNTY *	12097C0240F	11-JUL-2001	01-04-4734A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	08-AUG-2001	01-04-4736A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	08-AUG-2001	01-04-4896A	01
04	FL	OSCEOLA COUNTY *	12097C0240F	15-AUG-2001	01-04-5546A	02
04	FL	OSCEOLA COUNTY *	12097C0230F	15-AUG-2001	01-04-5548A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	15-AUG-2001	01-04-5550A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	15-AUG-2001	01-04-5552A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	15-AUG-2001	01-04-5728A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	15-AUG-2001	01-04-5802A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	17-AUG-2001	01-04-5554A	02
04	FL	OSCEOLA COUNTY *	12097C0400F	12-SEP-2001	01-04-6208A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	19-SEP-2001	01-04-6394A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	21-SEP-2001	01-04-6392A	02
04	FL	OSCEOLA COUNTY *	12097C0120F	12-OCT-2001	01-04-6686A	02
04	FL	OSCEOLA COUNTY *	12097C0045F	12-OCT-2001	01-04-6838A	02
04	FL	OSCEOLA COUNTY *	12097C0065F	19-OCT-2001	01-04-6076A	01
04	FL	OSCEOLA COUNTY *	12097C0090F	26-OCT-2001	01-04-7026A	01
04	FL	OSCEOLA COUNTY *	12097C0400F	31-OCT-2001	01-04-7190A	02
04	FL	OSCEOLA COUNTY *	12097C0400F	07-NOV-2001	02-04-0040A	01
04	FL	OSCEOLA COUNTY *	12097C0400F	09-NOV-2001	01-04-7192A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	09-NOV-2001	01-04-7194A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	09-NOV-2001	01-04-7196A	02
04	FL	OSCEOLA COUNTY *	12097C0240F	14-NOV-2001	02-04-0440A	02
04	FL	OSCEOLA COUNTY *	12097C0400F	14-NOV-2001	02-04-0442A	02
04	FL	OSCEOLA COUNTY *	12097C0400F	14-NOV-2001	02-04-0448A	02
04	FL	OSCEOLA COUNTY *	12097C0400F	16-NOV-2001	02-04-0446A	02
04	FL	OSCEOLA COUNTY *	12097C0285F	21-NOV-2001	02-04-0804A	02
04	FL	OSCEOLA COUNTY *	12097C0040F	28-NOV-2001	01-04-7150A	02
04	FL	OSCEOLA COUNTY *	12097C0400F	28-NOV-2001	02-04-0444A	02
04	FL	OSCEOLA COUNTY *	12097C0030F	07-DEC-2001	01-04-537P	05
04	FL	OSCEOLA COUNTY *	12097C0120F	12-DEC-2001	02-04-0654A	02
04	FL	OSCEOLA COUNTY *	12097C0115F	14-DEC-2001	02-04-0896A	02
04	FL	OSCEOLA COUNTY *	12097C0090F	19-DEC-2001	02-04-0576A	01
04	FL	OSCEOLA COUNTY *	12097C0235F	28-DEC-2001	01-04-6828A	02
04	FL	PALM BEACH COUNTY *	1201920215A	12-SEP-2001	01-04-6234A	02
04	FL	PALM BEACH COUNTY *	1201920100B	21-SEP-2001	01-04-5528A	01
04	FL	PALM BEACH COUNTY *	1201920119B	28-SEP-2001	01-04-5736A	02
04	FL	PALMETTO, CITY OF	1201590003C	05-DEC-2001	02-04-0406A	02
04	FL	PASCO COUNTY *	1202300195D	05-JUL-2001	01-04-3994A	02
04	FL	PASCO COUNTY *	1202300360D	05-JUL-2001	01-04-4000A	02
04	FL	PASCO COUNTY *	1202300250E	13-JUL-2001	01-04-4676A	01
04	FL	PASCO COUNTY *	1202300450E	18-JUL-2001	01-04-3380A	01
04	FL	PASCO COUNTY *	1202300450E	18-JUL-2001	01-04-4372X	01
04	FL	PASCO COUNTY *	1202300425E	27-JUL-2001	01-04-4992A	02
04	FL	PASCO COUNTY *	1202300205D	10-AUG-2001	01-04-5482A	02
04	FL	PASCO COUNTY *	1202300050C	15-AUG-2001	01-04-5686A	02
04	FL	PASCO COUNTY *	1202300020C	22-AUG-2001	01-04-5838A	02
04	FL	PASCO COUNTY *	1202300354D	22-AUG-2001	01-04-5840A	02
04	FL	PASCO COUNTY *	1202300360D	22-AUG-2001	01-04-5842A	02
04	FL	PASCO COUNTY *	1202300425D	22-AUG-2001	01-04-5832A	01
04	FL	PASCO COUNTY *	1202300215D	24-AUG-2001	01-04-6070A	01
04	FL	PASCO COUNTY *	1202300425E	31-AUG-2001	01-04-6082A	02
04	FL	PASCO COUNTY *	1202300189C	21-SEP-2001	01-04-5978A	02
04	FL	PASCO COUNTY *	1202300250E	21-SEP-2001	01-04-6342A	02
04	FL	PASCO COUNTY *	1202300360D	21-SEP-2001	01-04-6490A	02
04	FL	PASCO COUNTY *	1202300352C	21-SEP-2001	01-04-6396A	01
04	FL	PASCO COUNTY *	1202300335C	26-SEP-2001	01-04-6492A	01
04	FL	PASCO COUNTY *	1202300352C	03-OCT-2001	01-04-6684A	02
04	FL	PASCO COUNTY *	1202300360D	12-OCT-2001	01-04-6868A	02
04	FL	PASCO COUNTY *	1202300195D	17-OCT-2001	01-04-5976A	02
04	FL	PASCO COUNTY *	1202300205D	19-OCT-2001	01-04-7042A	02
04	FL	PASCO COUNTY *	1202300360D	24-OCT-2001	01-04-7092A	01
04	FL	PASCO COUNTY *	1202300370D	31-OCT-2001	01-04-7208A	01
04	FL	PASCO COUNTY *	1202300400D	02-NOV-2001	02-04-0112A	01
04	FL	PASCO COUNTY *	1202300205D	07-NOV-2001	01-04-6228A	02
04	FL	PASCO COUNTY *	1202300195D	07-NOV-2001	02-04-0150A	02
04	FL	PASCO COUNTY *	1202300215D	07-NOV-2001	02-04-0228A	02
04	FL	PASCO COUNTY *	1202300360D	07-NOV-2001	02-04-0250A	02
04	FL	PASCO COUNTY *	1202300370D	14-NOV-2001	02-04-0480A	01
04	FL	PASCO COUNTY *	1202300370D	16-NOV-2001	01-04-6084A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	PASCO COUNTY *	1202300215D	21-NOV-2001	02-04-1012A	02
04	FL	PASCO COUNTY *	1202300425E	28-NOV-2001	02-04-0556A	02
04	FL	PASCO COUNTY *	1202300361C	28-NOV-2001	02-04-0218A	01
04	FL	PASCO COUNTY *	1202300360D	30-NOV-2001	02-04-0128A	01
04	FL	PASCO COUNTY *	1202300360D	12-DEC-2001	02-04-0676A	01
04	FL	PINELLAS COUNTY *	1251390079C	01-AUG-2001	01-04-4334A	01
04	FL	PINELLAS COUNTY *	1251390057C	05-DEC-2001	02-04-0178A	02
04	FL	PINELLAS COUNTY *	1251390081C	05-DEC-2001	02-04-1166X	01
04	FL	PLANTATION, CITY OF	12011C0215F	21-NOV-2001	02-04-0704A	02
04	FL	POLK COUNTY*	12105C0485F	05-JUL-2001	01-04-4646A	02
04	FL	POLK COUNTY*	12105C0320F	11-JUL-2001	01-04-4168A	02
04	FL	POLK COUNTY*	12105C0425F	20-JUL-2001	01-04-5156A	01
04	FL	POLK COUNTY*	12105C0480F	25-JUL-2001	01-04-5064A	02
04	FL	POLK COUNTY*	12105C0283F	01-AUG-2001	01-04-5238A	02
04	FL	POLK COUNTY*	12105C0292F	03-AUG-2001	01-04-335P	05
04	FL	POLK COUNTY*	12105C0175F	03-AUG-2001	01-04-5120A	02
04	FL	POLK COUNTY*	12105C0430F	08-AUG-2001	01-04-4452A	02
04	FL	POLK COUNTY*	12105C0283F	08-AUG-2001	01-04-4898A	02
04	FL	POLK COUNTY*	12105C0275F	10-AUG-2001	01-04-5158A	01
04	FL	POLK COUNTY*	12105C0281F	15-AUG-2001	01-04-4730A	02
04	FL	POLK COUNTY*	12105C0425F	15-AUG-2001	01-04-5534A	02
04	FL	POLK COUNTY*	12105C0357F	15-AUG-2001	01-04-5628A	02
04	FL	POLK COUNTY*	12105C0590F	15-AUG-2001	01-04-5862A	02
04	FL	POLK COUNTY*	12105C0368F	20-AUG-2001	01-04-383P	06
04	FL	POLK COUNTY*	12105C0425F	22-AUG-2001	01-04-5536A	02
04	FL	POLK COUNTY*	12105C0425F	22-AUG-2001	01-04-5538A	02
04	FL	POLK COUNTY*	12105C0425F	22-AUG-2001	01-04-5540A	02
04	FL	POLK COUNTY*	12105C0425F	22-AUG-2001	01-04-5542A	02
04	FL	POLK COUNTY*	12105C0425F	22-AUG-2001	01-04-5544A	02
04	FL	POLK COUNTY*	12105C0291F	22-AUG-2001	01-04-5790A	02
04	FL	POLK COUNTY*	12105C0175F	24-AUG-2001	01-04-419P	05
04	FL	POLK COUNTY*	12105C0302F	24-AUG-2001	01-04-4374A	02
04	FL	POLK COUNTY*	12105C0355F	24-AUG-2001	01-04-5906A	02
04	FL	POLK COUNTY*	12105C0302F	29-AUG-2001	01-04-5980A	02
04	FL	POLK COUNTY*	12105C0480F	31-AUG-2001	01-04-4450A	02
04	FL	POLK COUNTY*	12105C0485F	05-SEP-2001	01-04-5982A	02
04	FL	POLK COUNTY*	12105C0460F	07-SEP-2001	01-04-5398A	02
04	FL	POLK COUNTY*	12105C0284F	07-SEP-2001	01-04-5806A	02
04	FL	POLK COUNTY*	12105C0425F	12-SEP-2001	01-04-5338A	02
04	FL	POLK COUNTY*	12105C0510F	12-SEP-2001	01-04-5792A	02
04	FL	POLK COUNTY*	12105C0425F	12-SEP-2001	01-04-6210A	02
04	FL	POLK COUNTY*	12105C0535F	14-SEP-2001	01-04-6290A	02
04	FL	POLK COUNTY*	12105C0740F	19-SEP-2001	01-04-5442A	02
04	FL	POLK COUNTY*	12105C0250F	19-SEP-2001	01-04-6344A	02
04	FL	POLK COUNTY*	12105C0283F	21-SEP-2001	01-04-5220A	02
04	FL	POLK COUNTY*	12105C0485F	21-SEP-2001	01-04-6172A	02
04	FL	POLK COUNTY*	12105C0425F	28-SEP-2001	01-04-6390A	02
04	FL	POLK COUNTY*	12105C0485F	28-SEP-2001	01-04-6606A	02
04	FL	POLK COUNTY*	12105C0535F	12-OCT-2001	01-04-4902A	02
04	FL	POLK COUNTY*	12105C0369F	17-OCT-2001	01-04-5396A	02
04	FL	POLK COUNTY*	12105C0425F	17-OCT-2001	01-04-6908A	02
04	FL	POLK COUNTY*	12105C0425F	17-OCT-2001	01-04-6910A	02
04	FL	POLK COUNTY*	12105C0240F	19-OCT-2001	01-04-6912A	02
04	FL	POLK COUNTY*	12105C0250F	19-OCT-2001	01-04-7128A	02
04	FL	POLK COUNTY*	12105C0395F	24-OCT-2001	01-04-5788A	02
04	FL	POLK COUNTY*	12105C0535F	24-OCT-2001	01-04-6072A	02
04	FL	POLK COUNTY*	12105C0302F	31-OCT-2001	01-04-6176A	02
04	FL	POLK COUNTY*	12105C0590F	31-OCT-2001	01-04-7176A	02
04	FL	POLK COUNTY*	12105C0310F	31-OCT-2001	01-04-7202A	01
04	FL	POLK COUNTY*	12105C0480F	02-NOV-2001	01-04-5988A	02
04	FL	POLK COUNTY*	12105C0485F	02-NOV-2001	01-04-7174A	02
04	FL	POLK COUNTY*	12105C0335F	02-NOV-2001	02-04-0148A	02
04	FL	POLK COUNTY*	12105C0310F	02-NOV-2001	02-04-0176A	02
04	FL	POLK COUNTY*	12105C0530F	09-NOV-2001	01-04-5458A	02
04	FL	POLK COUNTY*	12105C0425F	09-NOV-2001	02-04-1008A	02
04	FL	POLK COUNTY*	12105C0460F	14-NOV-2001	01-04-4900A	02
04	FL	POLK COUNTY*	12105C0100F	14-NOV-2001	01-04-5014A	02
04	FL	POLK COUNTY*	13067C0035F	21-NOV-2001	02-04-0438A	02
04	FL	POLK COUNTY*	12105C0250F	28-NOV-2001	01-04-6292A	02
04	FL	POLK COUNTY*	12105C0530F	30-NOV-2001	01-04-503P	05
04	FL	POLK COUNTY*	12105C0510F	30-NOV-2001	01-04-6614A	02
04	FL	POLK COUNTY*	12105C0425F	30-NOV-2001	02-04-0062A	02
04	FL	POLK COUNTY*	12105C0275F	05-DEC-2001	02-04-0064A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	POLK COUNTY*	12105C0175F	07-DEC-2001	02-04-0300A	02
04	FL	POLK COUNTY*	12105C0425F	14-DEC-2001	02-04-0624A	02
04	FL	POLK COUNTY*	12105C0100F	19-DEC-2001	01-04-6836A	02
04	FL	POLK COUNTY*	12105C0480F	19-DEC-2001	02-04-0212A	02
04	FL	POLK COUNTY*	12105C0302F	19-DEC-2001	02-04-1182A	02
04	FL	POLK COUNTY*	12105C0480F	19-DEC-2001	02-04-0984A	02
04	FL	POLK COUNTY*	12105C0425F	28-DEC-2001	01-04-461P	06
04	FL	PORT ORANGE, CITY OF	1203130010C	11-JUL-2001	01-04-4808A	02
04	FL	PORT ORANGE, CITY OF	1251550409E	28-SEP-2001	01-04-6538A	01
04	FL	PORT ORANGE, CITY OF	1251550408E	28-SEP-2001	01-04-6590A	01
04	FL	PORT ORANGE, CITY OF	1203130005C	03-OCT-2001	01-04-5834A	02
04	FL	PORT ORANGE, CITY OF	1203130005C	30-NOV-2001	01-04-6846A	01
04	FL	PORT ST. LUCIE, CITY OF	12111C0410F	21-SEP-2001	01-04-5844A	02
04	FL	ROCKLEDGE, CITY OF	12009C0365E	18-JUL-2001	01-04-4826A	01
04	FL	ROCKLEDGE, CITY OF	12009C0365E	18-JUL-2001	01-04-4828A	01
04	FL	SANTA ROSA COUNTY *	1202740260B	18-JUL-2001	01-04-4794A	02
04	FL	SANTA ROSA COUNTY *	1202740342C	27-NOV-2001	01-04-4314P	06
04	FL	SARASOTA COUNTY *	1251440332E	25-JUL-2001	01-04-2132A	01
04	FL	SARASOTA COUNTY *	1251440342E	01-AUG-2001	01-04-5144A	01
04	FL	SARASOTA COUNTY *	1251440228E	14-NOV-2001	02-04-0900A	02
04	FL	SARASOTA COUNTY *	1251440153E	14-NOV-2001	01-04-4910A	02
04	FL	SARASOTA COUNTY *	1251440154E	19-DEC-2001	02-04-0774A	01
04	FL	SARASOTA, CITY OF	1251500008C	28-NOV-2001	01-04-455P	05
04	FL	SEMINOLE COUNTY*	12117C0160E	11-JUL-2001	01-04-4728A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	10-AUG-2001	01-04-5314A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	17-AUG-2001	01-04-5606A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	28-SEP-2001	01-04-6616A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	28-SEP-2001	01-04-6688A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	19-OCT-2001	01-04-7080A	02
04	FL	SEMINOLE COUNTY*	12117C0120E	24-OCT-2001	01-04-7090A	02
04	FL	SEMINOLE COUNTY*	12117C0110E	31-OCT-2001	01-04-7180A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	31-OCT-2001	01-04-6566A	01
04	FL	ST. AUGUSTINE, CITY OF	1251450003D	07-NOV-2001	02-04-0600A	02
04	FL	ST. CLOUD, CITY OF	12097C0252F	21-NOV-2001	01-04-6778A	02
04	FL	ST. JOHNS COUNTY *	1251470090D	21-SEP-2001	01-04-6520A	01
04	FL	ST. JOHNS COUNTY *	1251470183D	02-NOV-2001	01-04-6386A	02
04	FL	ST. JOHNS COUNTY *	1251470080D	14-NOV-2001	02-04-0106A	01
04	FL	ST. JOHNS COUNTY *	1251470085D	12-DEC-2001	02-04-0462A	01
04	FL	ST. JOHNS COUNTY *	1251470090D	12-DEC-2001	02-04-0672A	01
04	FL	ST. JOHNS COUNTY *	1251470095D	14-DEC-2001	02-04-0570A	01
04	FL	ST. PETERSBURG, CITY OF	1251390207C	01-AUG-2001	01-04-5032A	01
04	FL	ST. PETERSBURG, CITY OF	1251480034C	07-NOV-2001	01-04-385P	05
04	FL	ST. PETERSBURG, CITY OF	1251480004B	07-DEC-2001	02-04-0566A	01
04	FL	ST. PETERSBURG, CITY OF	1251390207C	26-DEC-2001	02-04-1852A	01
04	FL	SUMTER COUNTY *	1202960075B	29-AUG-2001	01-04-5524A	02
04	FL	SUMTER COUNTY *	1202960075B	05-SEP-2001	01-04-5320A	02
04	FL	SUMTER COUNTY *	1202960125B	12-DEC-2001	01-04-7178A	02
04	FL	SUNRISE, CITY OF	12011C0185F	12-OCT-2001	01-04-6700A	01
04	FL	SUNRISE, CITY OF	12011C0185F	14-NOV-2001	02-04-0482X	01
04	FL	SUNRISE, CITY OF	12011C0205F	21-NOV-2001	02-04-0222A	02
04	FL	SUNRISE, CITY OF	12011C0205F	05-DEC-2001	02-04-0612A	02
04	FL	TALLAHASSEE, CITY OF	12073C0140D	21-NOV-2001	02-04-0560A	02
04	FL	TALLAHASSEE, CITY OF	12073C0136D	30-NOV-2001	01-04-7028A	02
04	FL	TAMARAC, CITY OF	12011C0205F	13-JUL-2001	01-04-4802A	01
04	FL	TAMARAC, CITY OF	12011C0185F	15-AUG-2001	01-04-5436A	01
04	FL	TAMARAC, CITY OF	12011C0204F	12-SEP-2001	01-04-3166A	02
04	FL	TAMARAC, CITY OF	12011C0185F	12-SEP-2001	01-04-6666X	01
04	FL	TAMARAC, CITY OF	12011C0205F	19-SEP-2001	01-04-5882A	01
04	FL	TAMPA, CITY OF	1201140025C	18-JUL-2001	01-04-4650A	02
04	FL	TAMPA, CITY OF	1201140038C	27-JUL-2001	01-04-4792A	02
04	FL	TAMPA, CITY OF	1201140006C	22-AUG-2001	01-04-5456A	02
04	FL	TAMPA, CITY OF	1201140006C	29-AUG-2001	01-04-5624A	02
04	FL	TAMPA, CITY OF	1201120090E	16-NOV-2001	02-04-0002A	01
04	FL	TAMPA, CITY OF	1201120090E	30-NOV-2001	01-04-3396A	01
04	FL	TAVARES, CITY OF	1201380001B	17-AUG-2001	01-04-5648A	02
04	FL	TAVARES, CITY OF	1201380002B	17-AUG-2001	01-04-5816A	02
04	FL	TAVARES, CITY OF	1201380001B	12-DEC-2001	02-04-0272A	01
04	FL	TITUSVILLE, CITY OF	12009C0185F	12-DEC-2001	02-04-0190A	02
04	FL	VALPARAISO, CITY OF	1201760005C	27-JUL-2001	01-04-4494A	02
04	FL	VALPARAISO, CITY OF	1201760005C	27-JUL-2001	01-04-4608A	02
04	FL	VALPARAISO, CITY OF	1201760005C	10-AUG-2001	01-04-5380A	02
04	FL	VOLUSIA COUNTY*	1251550610E	01-AUG-2001	01-04-5240A	02
04	FL	VOLUSIA COUNTY*	1251550019F	12-SEP-2001	01-04-3728A	01

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04	FL	VOLUSIA COUNTY*	1251550150E	19-DEC-2001	02-04-0756A	01
04	FL	VOLUSIA COUNTY*	1251550150E	28-DEC-2001	02-04-0538A	01
04	FL	WAKULLA COUNTY *	1203150250B	03-OCT-2001	01-04-5464A	02
04	FL	WAKULLA COUNTY *	1203150250B	17-OCT-2001	01-04-5798A	02
04	FL	WALTON COUNTY *	12131C0543F	27-JUL-2001	01-04-4352A	02
04	FL	WALTON COUNTY *	12131C0543F	15-AUG-2001	01-04-5476A	02
04	FL	WALTON COUNTY *	12131C0534F	15-AUG-2001	01-04-5478A	02
04	FL	WALTON COUNTY *	12131C0744F	16-AUG-2001	01-04-3252A	02
04	FL	WALTON COUNTY *	12131C0543F	31-AUG-2001	01-04-5912A	02
04	FL	WALTON COUNTY *	12131C0544F	05-SEP-2001	01-04-6170A	02
04	FL	WALTON COUNTY *	12131C0519F	07-SEP-2001	01-04-5318A	02
04	FL	WALTON COUNTY *	12131C0568F	24-OCT-2001	01-04-5782A	02
04	FL	WALTON COUNTY *	12131C0543F	07-NOV-2001	01-04-6958A	02
04	FL	WALTON COUNTY *	12131C0200F	30-NOV-2001	02-04-0252A	02
04	FL	WALTON COUNTY *	12131C0543F	19-DEC-2001	02-04-0834X	02
04	FL	WEST PALM BEACH, CITY OF	1201920150A	20-JUL-2001	01-04-4298A	01
04	FL	WEST PALM BEACH, CITY OF	1201920150A	20-JUL-2001	01-04-4300A	01
04	FL	WILDWOOD, CITY OF	1202990005C	28-DEC-2001	02-04-0908A	02
04	FL	WINDERMERE, TOWN OF	12095C0220E	10-AUG-2001	01-04-5622A	02
04	FL	WINTER GARDEN, CITY OF	12095C0215E	05-SEP-2001	01-04-2520A	01
04	FL	WINTER GARDEN, CITY OF	12095C0215E	12-OCT-2001	01-04-6506A	02
04	FL	WINTER GARDEN, CITY OF	12095C0215E	24-OCT-2001	01-04-5662A	01
04	FL	WINTER HAVEN, CITY OF	12105C0365F	17-AUG-2001	01-04-5154A	02
04	FL	WINTER HAVEN, CITY OF	12105C0368F	20-AUG-2001	01-04-383P	06
04	FL	WINTER PARK, CITY OF	12095C0255E	20-JUL-2001	01-04-4462A	02
04	FL	WINTER PARK, CITY OF	12095C0255E	17-OCT-2001	01-04-6696A	02
04	GA	ACWORTH, CITY OF	13067C0025F	12-SEP-2001	01-04-5940A	01
04	GA	ALBANY, CITY OF	13095C0085D	06-OCT-2001	01-04-7098V	19
04	GA	ALBANY, CITY OF	13095C0105D	06-OCT-2001	01-04-7098V	19
04	GA	ALBANY, CITY OF	13095C0110D	06-OCT-2001	01-04-7098V	19
04	GA	ALPHARETTA, CITY OF	13121C0054E	05-OCT-2001	01-04-7020A	02
04	GA	ALPHARETTA, CITY OF	13121C0066E	19-OCT-2001	01-04-5590A	01
04	GA	AMERICUS, CITY OF	13261C0154B	12-SEP-2001	01-04-6016A	02
04	GA	AMERICUS, CITY OF	13261C0154B	31-OCT-2001	02-04-1004A	02
04	GA	ATLANTA, CITY OF	13121C0253E	27-JUL-2001	01-04-4820A	02
04	GA	ATLANTA, CITY OF	13121C0353E	26-SEP-2001	01-04-5864A	02
04	GA	ATLANTA, CITY OF	13089C0062H	03-OCT-2001	01-04-6274A	02
04	GA	ATLANTA, CITY OF	13121C0233E	21-NOV-2001	02-04-0326A	02
04	GA	AUGUSTA, CITY OF	1301580020E	18-JUL-2001	01-04-4338A	01
04	GA	AUGUSTA, CITY OF	1301580070E	07-DEC-2001	02-04-1172A	02
04	GA	AUGUSTA, CITY OF	1301580060E	14-DEC-2001	02-04-1218A	02
04	GA	AUSTELL, CITY OF	1300540005C	18-JUL-2001	01-04-4356A	02
04	GA	BALDWIN COUNTY*	1300050050B	20-JUL-2001	01-04-4626A	02
04	GA	BALDWIN COUNTY*	1300050025B	01-AUG-2001	01-04-4886A	02
04	GA	BALDWIN COUNTY*	1300050075B	31-AUG-2001	01-04-5890A	02
04	GA	BALDWIN COUNTY*	1300050075B	19-SEP-2001	01-04-5682A	02
04	GA	BALDWIN COUNTY*	1300050075B	28-DEC-2001	02-04-1682A	02
04	GA	BARROW COUNTY*	1304970050A	25-OCT-2001	01-04-083P	05
04	GA	BARTOW COUNTY *	13015C0095F	01-AUG-2001	01-04-4948A	02
04	GA	BARTOW COUNTY *	13015C0095F	24-AUG-2001	01-04-5808A	02
04	GA	BRYAN COUNTY *	1300160310A	28-DEC-2001	02-04-0396A	02
04	GA	BULLOCH COUNTY*	1300190200B	07-DEC-2001	02-04-0410A	02
04	GA	CHAMBLEE, CITY OF	13089C0018H	17-AUG-2001	01-04-5332A	02
04	GA	CHATHAM COUNTY*	1300300075C	18-JUL-2001	01-04-4124A	02
04	GA	CHATHAM COUNTY*	1300300080C	15-AUG-2001	01-04-5684A	02
04	GA	CHATHAM COUNTY*	1300300075C	19-DEC-2001	02-04-1336A	02
04	GA	CHEROKEE COUNTY *	13057C0255B	17-OCT-2001	01-04-5020A	02
04	GA	CHEROKEE COUNTY *	13057C0275B	17-OCT-2001	01-04-6202A	02
04	GA	CHICKAMAUGA, CITY OF	1301810001C	19-SEP-2001	01-04-5952A	02
04	GA	CLARKSTON, CITY OF	13089C0078H	19-OCT-2001	01-04-6632A	02
04	GA	COBB COUNTY *	13067C0015F	12-OCT-2001	01-04-6798A	02
04	GA	COBB COUNTY *	13067C0030F	17-OCT-2001	01-04-6242A	02
04	GA	COBB COUNTY *	13067C0050F	17-OCT-2001	01-04-6266A	02
04	GA	COBB COUNTY *	13067C0035F	17-OCT-2001	01-04-6304A	02
04	GA	COBB COUNTY *	13067C0035F	17-OCT-2001	01-04-6306A	02
04	GA	COBB COUNTY *	13067C0085F	31-OCT-2001	01-04-7044A	02
04	GA	COBB COUNTY*	13067C0035F	05-JUL-2001	01-04-4936A	02
04	GA	COBB COUNTY*	13067C0050F	05-JUL-2001	01-04-4258A	17
04	GA	COBB COUNTY*	13067C0035F	11-JUL-2001	01-04-3072A	02
04	GA	COBB COUNTY*	13067C0035F	11-JUL-2001	01-04-3302A	02
04	GA	COBB COUNTY*	13067C0055F	11-JUL-2001	01-04-3770A	02
04	GA	COBB COUNTY*	13067C0035F	13-JUL-2001	01-04-3162A	02
04	GA	COBB COUNTY*	13067C0075F	20-JUL-2001	01-04-4402A	02

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04	GA	COBB COUNTY*	13067C0050F	20-JUL-2001	01-04-4622A	02
04	GA	COBB COUNTY*	13067C0030F	25-JUL-2001	01-04-4804A	01
04	GA	COBB COUNTY*	13067C0035F	27-JUL-2001	01-04-4758A	02
04	GA	COBB COUNTY*	13067C0070F	01-AUG-2001	01-04-4122A	02
04	GA	COBB COUNTY*	13067C0025F	03-AUG-2001	01-04-5186A	02
04	GA	COBB COUNTY*	13067C0015F	15-AUG-2001	01-04-2580A	02
04	GA	COBB COUNTY*	13067C0025F	22-AUG-2001	01-04-5180A	02
04	GA	COBB COUNTY*	13067C0015F	29-AUG-2001	01-04-4892A	02
04	GA	COBB COUNTY*	13067C0010F	07-SEP-2001	01-04-5660A	02
04	GA	COBB COUNTY*	13067C0040F	12-SEP-2001	01-04-4308A	02
04	GA	COBB COUNTY*	13067C0010F	12-SEP-2001	01-04-5658A	02
04	GA	COBB COUNTY*	13067C0075F	14-SEP-2001	01-04-4260A	02
04	GA	COBB COUNTY*	13067C0035F	14-SEP-2001	01-04-6178A	01
04	GA	COBB COUNTY*	13067C0030F	21-SEP-2001	01-04-6146A	02
04	GA	COBB COUNTY*	13067C0060F	26-SEP-2001	01-04-2468A	02
04	GA	COBB COUNTY*	13067C0050F	28-SEP-2001	01-04-6002A	02
04	GA	COBB COUNTY*	13067C0050F	28-SEP-2001	01-04-6004A	02
04	GA	COBB COUNTY*	13067C0035F	03-OCT-2001	01-04-6058A	02
04	GA	COBB COUNTY*	13067C0040F	03-OCT-2001	01-04-6948A	02
04	GA	COBB COUNTY*	13067C0035F	14-NOV-2001	01-04-5942A	02
04	GA	COBB COUNTY*	13067C0085F	21-NOV-2001	02-04-0414A	02
04	GA	COBB COUNTY*	13067C0055F	05-DEC-2001	02-04-0204A	02
04	GA	COBB COUNTY*	13067C0025F	05-DEC-2001	02-04-0590A	02
04	GA	COBB COUNTY*	13067C0070F	19-DEC-2001	02-04-0644A	02
04	GA	COBB COUNTY*	13067C0015F	28-DEC-2001	02-04-0298A	02
04	GA	COBB COUNTY*	13067C0035F	28-DEC-2001	02-04-1368A	02
04	GA	COBB COUNTY*	13067C0080F	28-DEC-2001	02-04-1642A	02
04	GA	COLUMBIA COUNTY*	1300590090B	18-OCT-2001	01-04-363P	05
04	GA	COLUMBIA COUNTY*	1300590150A	01-NOV-2001	01-04-293P	05
04	GA	COLUMBUS, CITY OF	1351580050D	10-OCT-2001	01-04-7112A	01
04	GA	COLUMBUS, CITY OF	1351580075D	24-OCT-2001	02-04-0074A	02
04	GA	COOK COUNTY*	1305010050A	31-AUG-2001	01-04-5428A	02
04	GA	COOK COUNTY*	13075C0100B	07-DEC-2001	02-04-1492V	19
04	GA	COOK COUNTY*	13075C0100B	14-DEC-2001	01-04-6096A	02
04	GA	COWETA COUNTY *	1302980145A	11-JUL-2001	01-04-4550A	02
04	GA	CRISP COUNTY *	1305040075A	14-DEC-2001	01-04-7010A	02
04	GA	CRISP COUNTY*	1305040025A	19-DEC-2001	01-04-6062A	02
04	GA	DAWSON COUNTY	1303040100A	28-NOV-2001	01-04-5188A	02
04	GA	DE KALB COUNTY *	13089C0062	11-JUL-2001	01-04-4566A	02
04	GA	DE KALB COUNTY *	13089C0154H	13-JUL-2001	01-04-3872A	02
04	GA	DE KALB COUNTY *	13089C0153H	18-JUL-2001	01-04-2752A	02
04	GA	DE KALB COUNTY *	13089C0016H	03-AUG-2001	01-04-3404A	17
04	GA	DE KALB COUNTY *	13089C0081H	22-AUG-2001	01-04-4492A	19
04	GA	DE KALB COUNTY *	13089C0016H	14-SEP-2001	01-04-6268A	02
04	GA	DE KALB COUNTY *	13089C0014H	05-OCT-2001	01-04-6574A	02
04	GA	DE KALB COUNTY *	13089C0057H	10-OCT-2001	01-04-7154A	02
04	GA	DE KALB COUNTY *	13089C0069H	24-OCT-2001	01-04-6264A	02
04	GA	DE KALB COUNTY *	13089C0089H	21-NOV-2001	02-04-0592A	02
04	GA	DE KALB COUNTY *	13089C0056H	12-DEC-2001	02-04-1124A	02
04	GA	DECATUR, CITY OF	13089C0066H	11-JUL-2001	01-04-4250A	02
04	GA	DECATUR, CITY OF	13089C0066H	21-NOV-2001	02-04-0458A	02
04	GA	DEKALB COUNTY *	13089C0113H	12-OCT-2001	01-04-6674A	02
04	GA	DEKALB COUNTY *	13089C0019H	19-OCT-2001	01-04-5182A	02
04	GA	DEKALB COUNTY *	13089C0094H	19-OCT-2001	01-04-6738A	02
04	GA	DEKALB COUNTY *	13089C0067H	31-OCT-2001	01-04-6462A	02
04	GA	DEKALB COUNTY *	13089C0152H	07-DEC-2001	01-04-7058A	02
04	GA	DOUGLAS COUNTY *	1303060015A	29-AUG-2001	01-04-5088A	02
04	GA	EAST POINT, CITY OF	13121C0344E	24-AUG-2001	01-04-297P	05
04	GA	FANNIN COUNTY	13111C0045D	12-SEP-2001	01-04-4762A	02
04	GA	FAYETTE COUNTY *	13113C0080D	26-SEP-2001	01-04-4668A	02
04	GA	FAYETTE COUNTY *	13113C0090D	03-OCT-2001	01-04-6144A	02
04	GA	FAYETTE COUNTY *	13113C0040D	05-DEC-2001	01-04-5700A	02
04	GA	FLOYD COUNTY*	13115C0185D	21-NOV-2001	01-04-5762A	02
04	GA	FLOYD COUNTY*	13115C0260D	05-DEC-2001	01-04-5780A	02
04	GA	FLOYD COUNTY*	13115C0185D	05-DEC-2001	02-04-0602A	02
04	GA	FORSYTH COUNTY *	13117C0075C	25-JUL-2001	01-04-4690A	02
04	GA	FORSYTH COUNTY *	13117C0125C	27-JUL-2001	01-04-3446A	02
04	GA	FORSYTH COUNTY *	13117C0075C	14-SEP-2001	01-04-5326A	02
04	GA	FORSYTH COUNTY *	13117C0090C	17-OCT-2001	01-04-6454A	02
04	GA	FORSYTH COUNTY *	13117C0075C	21-NOV-2001	02-04-0798A	02
04	GA	FORT OGLETHORPE, CITY OF	1300280025D	19-DEC-2001	02-04-0864A	01
04	GA	FULTON COUNTY *	13121C0331E	19-SEP-2001	01-04-6458A	02
04	GA	FULTON COUNTY *	13121C0142E	19-OCT-2001	01-04-4978A	02

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04	GA	FULTON COUNTY *	13121C0087E	12-DEC-2001	02-04-0352A	02
04	GA	FULTON COUNTY *	13121C0160E	19-DEC-2001	02-04-0708A	02
04	GA	FULTON COUNTY *	13121C0163D	21-DEC-2001	02-04-1398A	02
04	GA	GAINESVILLE, CITY OF	13139C0180E	14-SEP-2001	01-04-6548A	02
04	GA	GLYNN COUNTY *	1300920207C	14-NOV-2001	01-04-7198A	02
04	GA	GWINNETT COUNTY *	1303220195C	11-JUL-2001	01-04-3876A	02
04	GA	GWINNETT COUNTY *	1303220185C	25-JUL-2001	01-04-4304A	02
04	GA	GWINNETT COUNTY *	1303220160E	25-JUL-2001	01-04-4348A	02
04	GA	GWINNETT COUNTY *	1303220215C	01-AUG-2001	01-04-2810A	02
04	GA	GWINNETT COUNTY *	1303220195C	10-AUG-2001	01-04-4972A	02
04	GA	GWINNETT COUNTY *	1303220285C	29-AUG-2001	01-04-5324A	02
04	GA	GWINNETT COUNTY *	1303220085C	05-SEP-2001	01-04-3402A	02
04	GA	GWINNETT COUNTY *	1303220170C	14-SEP-2001	01-04-4890A	02
04	GA	GWINNETT COUNTY *	1303220305C	20-SEP-2001	01-04-295P	05
04	GA	GWINNETT COUNTY *	1303220095A	21-SEP-2001	01-04-6244A	02
04	GA	GWINNETT COUNTY *	1303220195C	26-SEP-2001	01-04-6060A	02
04	GA	GWINNETT COUNTY *	1303220195C	03-OCT-2001	01-04-3366A	02
04	GA	GWINNETT COUNTY *	1303220160E	03-OCT-2001	01-04-6302A	02
04	GA	GWINNETT COUNTY *	1303220190C	03-OCT-2001	01-04-7062A	02
04	GA	GWINNETT COUNTY *	1303220155D	09-OCT-2001	01-04-187P	05
04	GA	GWINNETT COUNTY *	1303220190C	17-OCT-2001	01-04-6718A	02
04	GA	GWINNETT COUNTY *	1303220205C	01-NOV-2001	01-04-313P	05
04	GA	GWINNETT COUNTY *	1303220085C	14-NOV-2001	01-04-5496A	02
04	GA	GWINNETT COUNTY *	1303220085C	16-NOV-2001	01-04-6434A	02
04	GA	GWINNETT COUNTY *	1303220090C	29-NOV-2001	01-04-255P	05
04	GA	HALL COUNTY *	13139C0281E	11-JUL-2001	01-04-3706A	02
04	GA	HALL COUNTY *	13139C0312E	11-JUL-2001	01-04-4330A	02
04	GA	HALL COUNTY *	13139C0312E	27-JUL-2001	01-04-4430A	02
04	GA	HALL COUNTY *	13139C0312E	27-JUL-2001	01-04-4672A	02
04	GA	HALL COUNTY *	13139C0175E	01-AUG-2001	01-04-3772A	02
04	GA	HALL COUNTY *	13139C0275E	08-AUG-2001	01-04-4712A	02
04	GA	HALL COUNTY *	13139C0180E	10-AUG-2001	01-04-4760A	02
04	GA	HALL COUNTY *	13139C0300G	22-AUG-2001	01-04-4426A	02
04	GA	HALL COUNTY *	13139C0294E	29-AUG-2001	01-04-5720A	02
04	GA	HALL COUNTY *	13139C0356E	31-AUG-2001	01-04-5006A	02
04	GA	HALL COUNTY *	13139C0300E	19-SEP-2001	01-04-5466A	02
04	GA	HALL COUNTY *	13139C0183E	19-OCT-2001	01-04-5676A	02
04	GA	HALL COUNTY *	13139C0294E	19-DEC-2001	02-04-0726A	02
04	GA	HALL COUNTY *	13139C0300E	21-DEC-2001	02-04-1526A	02
04	GA	HARRIS COUNTY *	1303380150A	19-OCT-2001	02-04-0286A	02
04	GA	HARRIS COUNTY*	1303380250A	18-JUL-2001	01-04-3962A	02
04	GA	HARRIS COUNTY*	1303380175A	08-AUG-2001	01-04-4434A	02
04	GA	HARRIS COUNTY*	1303380150A	29-AUG-2001	01-04-4840A	02
04	GA	HARRIS COUNTY*	1303380150A	21-NOV-2001	01-04-6010A	02
04	GA	HARRIS COUNTY*	1303380150A	21-NOV-2001	01-04-6012A	02
04	GA	HARRIS COUNTY*	1303380150A	21-NOV-2001	02-04-0796A	02
04	GA	HARRIS COUNTY*	1303380150A	19-DEC-2001	02-04-0710A	02
04	GA	HENRY COUNTY *	1304680070B	10-OCT-2001	01-04-6046A	02
04	GA	KENNESAW, CITY OF	13067C0025F	27-JUL-2001	01-04-4472A	02
04	GA	KENNESAW, CITY OF	13067C0030F	03-OCT-2001	01-04-5636A	02
04	GA	KENNESAW, CITY OF	13067C0030F	14-DEC-2001	02-04-0946A	02
04	GA	LEE COUNTY *	1301220250B	07-DEC-2001	02-04-0948A	02
04	GA	LEE COUNTY*	1301220250B	12-OCT-2001	01-04-6920A	02
04	GA	LUMPKIN COUNTY	1303540125A	07-SEP-2001	01-04-5814A	02
04	GA	MACON, CITY OF	1300110010D	26-OCT-2001	01-04-4928A	01
04	GA	MARIETTA, CITY OF	13067C0035F	03-OCT-2001	01-04-3704A	02
04	GA	MARIETTA, CITY OF	13067C0035F	03-OCT-2001	01-04-7060A	02
04	GA	MONROE, CITY OF	13297C0113B	07-DEC-2001	01-04-6882A	02
04	GA	NEWTON COUNTY *	1301430020A	10-OCT-2001	01-04-5330A	02
04	GA	NEWTON COUNTY *	1301430085A	24-OCT-2001	02-04-0136A	02
04	GA	OCONEE COUNTY *	1304530040B	03-OCT-2001	01-04-6636A	02
04	GA	OXFORD, TOWN OF	130367H	19-SEP-2001	01-04-5970A	01
04	GA	OXFORD, TOWN OF	130367—01H	19-OCT-2001	02-04-0402A	01
04	GA	PEACHTREE CITY, CITY OF	13113C0080D	12-SEP-2001	01-04-4468A	17
04	GA	POOLER, TOWN OF	1300300075C	28-SEP-2001	01-04-6050A	02
04	GA	POWDER SPRINGS, CITY OF	13067C0065F	11-JUL-2001	01-04-3676A	02
04	GA	POWDER SPRINGS, CITY OF	13067C0065F	10-OCT-2001	01-04-4888A	02
04	GA	RICHMOND COUNTY*	1301580060E	11-JUL-2001	01-04-3804A	02
04	GA	RICHMOND COUNTY*	1301580020E	10-AUG-2001	01-04-5114A	02
04	GA	RICHMOND COUNTY*	1301580060E	24-AUG-2001	01-04-5328A	02
04	GA	ROCKDALE COUNTY *	13247C0114C	29-AUG-2001	01-04-5450A	02
04	GA	ROME, CITY OF	13115C0195D	27-JUL-2001	01-04-4970A	02
04	GA	ROME, CITY OF	13115C0190D	14-SEP-2001	01-04-6634A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	GA	ROSWELL, CITY OF	13121C0061E	27-JUL-2001	01-04-4078A	02
04	GA	SMYRNA, CITY OF	13067C0075F	29-AUG-2001	01-04-5868A	02
04	GA	SMYRNA, CITY OF	13067C0070F	29-AUG-2001	01-04-5968A	02
04	GA	ST. MARYS, CITY OF	13039C0455D	10-AUG-2001	01-04-4262A	02
04	GA	STAPLETON, CITY OF	130433—02A	01-AUG-2001	01-04-3552A	02
04	GA	SUWANEE, CITY OF	1303280002A	05-OCT-2001	01-04-6878A	02
04	GA	SUWANEE, CITY OF	1303280002A	21-DEC-2001	02-04-1410A	02
04	GA	UNION COUNTY *	1302540025C	31-OCT-2001	02-04-0154A	02
04	GA	UNION COUNTY*	1302540079C	26-SEP-2001	01-04-4666A	02
04	GA	WALTON COUNTY *	13297C0100B	19-SEP-2001	01-04-6270A	02
04	GA	WORTH COUNTY*	1301960175B	16-NOV-2001	00-04-213P	06
04	KY	BALLARD COUNTY *	2102680205B	01-AUG-2001	01-04-4302A	02
04	KY	BENTON, CITY OF	310163B	10-OCT-2001	01-04-4470A	02
04	KY	BOWLING GREEN, CITY OF	21227C0105D	17-AUG-2001	01-04-5858A	02
04	KY	CAMPBELL COUNTY *	2100340105B	15-AUG-2001	01-04-5296A	02
04	KY	CAMPBELL COUNTY *	2100340180B	19-DEC-2001	02-04-0646A	02
04	KY	CAMPBELL COUNTY *	2100340095B	28-DEC-2001	02-04-0830A	02
04	KY	CARROLL COUNTY *	2100450010B	19-OCT-2001	01-04-4756A	02
04	KY	DAVIESS COUNTY *	21059C0285C	01-OCT-2001	01-04-471P	05
04	KY	GREENUP COUNTY*	2102840060B	18-JUL-2001	01-04-3864A	02
04	KY	JEFFERSON COUNTY *	21111C0095D	10-OCT-2001	01-04-5248A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	13-JUL-2001	01-04-4942A	02
04	KY	JEFFERSON COUNTY*	21111C0095D	18-JUL-2001	01-04-5202A	02
04	KY	JEFFERSON COUNTY*	21111C0080D	20-JUL-2001	00-04-225P	05
04	KY	JEFFERSON COUNTY*	21111C0095D	20-JUL-2001	01-04-5204A	02
04	KY	JEFFERSON COUNTY*	21111C0015D	25-JUL-2001	01-04-4290A	01
04	KY	JEFFERSON COUNTY*	21111C0170D	27-JUL-2001	01-04-4408A	02
04	KY	JEFFERSON COUNTY*	21111C0170D	27-JUL-2001	01-04-4410A	02
04	KY	JEFFERSON COUNTY*	21111C0170D	27-JUL-2001	01-04-4412A	02
04	KY	JEFFERSON COUNTY*	21111C0170D	27-JUL-2001	01-04-4414A	02
04	KY	JEFFERSON COUNTY*	21111C0080D	01-AUG-2001	01-04-5366A	02
04	KY	JEFFERSON COUNTY*	21111C0255D	01-AUG-2001	01-04-5368A	02
04	KY	JEFFERSON COUNTY*	21111C0160D	08-AUG-2001	01-04-5082A	02
04	KY	JEFFERSON COUNTY*	21111C0115D	08-AUG-2001	01-04-5468A	02
04	KY	JEFFERSON COUNTY*	21111C0120D	10-AUG-2001	01-04-4238A	02
04	KY	JEFFERSON COUNTY*	21111C0015D	17-AUG-2001	01-04-4292A	02
04	KY	JEFFERSON COUNTY*	21111C0080D	17-AUG-2001	01-04-6018A	02
04	KY	JEFFERSON COUNTY*	21111C0170D	24-AUG-2001	01-04-5860X	02
04	KY	JEFFERSON COUNTY*	21111C0170D	07-SEP-2001	01-04-6040A	02
04	KY	JEFFERSON COUNTY*	21111C0170D	12-SEP-2001	01-04-6314A	02
04	KY	JEFFERSON COUNTY*	21111C0080D	19-SEP-2001	01-04-6756A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	19-SEP-2001	01-04-6764A	02
04	KY	JEFFERSON COUNTY*	21111C0080D	03-OCT-2001	01-04-6672A	02
04	KY	JEFFERSON COUNTY*	21111C0020D	19-OCT-2001	02-04-0080A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	19-OCT-2001	02-04-0084A	02
04	KY	JEFFERSON COUNTY*	21111C0020D	14-NOV-2001	02-04-0464A	02
04	KY	JEFFERSON COUNTY*	21111C0180D	16-NOV-2001	02-04-0582A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	05-DEC-2001	02-04-0828A	02
04	KY	JEFFERSON COUNTY*	21111C0095D	07-DEC-2001	01-04-433P	05
04	KY	JEFFERSON COUNTY*	21111C0170D	12-DEC-2001	02-04-0490A	02
04	KY	JEFFERSON COUNTY*	21111C0160D	19-DEC-2001	02-04-1400A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNT	2100670070C	19-SEP-2001	01-04-5570A	17
04	KY	LEXINGTON-FAYETTE URBAN COUNT	2100670070C	03-OCT-2001	01-04-5738A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNT	2100670070C	16-NOV-2001	01-04-5920A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNT	2100670080C	21-NOV-2001	02-04-0182A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNT	2100670080C	14-DEC-2001	01-04-6594A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNT	2100670080C	14-DEC-2001	01-04-6596A	02
04	KY	LOUISVILLE, CITY OF	21111C0090D	03-OCT-2001	01-04-6750A	02
04	KY	LOUISVILLE, CITY OF	21111C0090D	03-OCT-2001	01-04-6752A	02
04	KY	LOUISVILLE, CITY OF	21111C0090D	03-OCT-2001	01-04-6754A	02
04	KY	LOUISVILLE, CITY OF	21111C0095D	07-DEC-2001	01-04-433P	05
04	KY	MARSHALL COUNTY *	2102520025B	13-JUL-2001	01-04-4882A	02
04	KY	MARSHALL COUNTY *	2102520100B	16-NOV-2001	02-04-0584A	02
04	KY	MERCER COUNTY*	2103060100B	14-SEP-2001	01-04-6200A	02
04	KY	NICHOLASVILLE, CITY OF	2101260002B	05-DEC-2001	02-04-1070A	02
04	KY	OWENSBORO, CITY OF	21059C0280C	13-JUL-2001	01-04-3668A	01
04	KY	OWENSBORO, CITY OF	21059C0260C	08-AUG-2001	01-04-5558A	02
04	KY	OWENSBORO, CITY OF	21059C0280C	07-SEP-2001	01-04-5050A	01
04	KY	OWENSBORO, CITY OF	21059C0280C	07-SEP-2001	01-04-5872A	01
04	KY	OWENSBORO, CITY OF	21059C0280C	21-SEP-2001	01-04-6714A	02
04	KY	OWENSBORO, CITY OF	21059C0280C	12-OCT-2001	01-04-6184A	01
04	KY	OWENSBORO, CITY OF	21059C0280C	17-OCT-2001	01-04-6946A	01
04	KY	OWENSBORO, CITY OF	21059C0280C	05-DEC-2001	02-04-0886A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	KY	PADUCAH, CITY OF	2101520005D	07-SEP-2001	01-04-6042A	02
04	KY	PADUCAH, CITY OF	2101520006D	03-OCT-2001	01-04-6766A	02
04	KY	SHEPHERDSVILLE, CITY OF	2100280005D	05-DEC-2001	02-04-0928A	01
04	KY	SHIVELY, CITY OF	21111C0135D	24-OCT-2001	02-04-0140A	02
04	KY	STANTON, CITY OF	2101960001B	25-JUL-2001	01-04-3508A	02
04	KY	STANTON, CITY OF	2101960001B	12-SEP-2001	01-04-5290A	02
04	KY	WILLIAMSBURG, CITY OF	21235C0070B	10-AUG-2001	01-04-407P	05
04	KY	WINCHESTER, CITY OF	2100560002B	16-NOV-2001	01-04-5292A	02
04	MS	BATESVILLE, CITY OF	2801260005C	10-AUG-2001	01-04-2976A	01
04	MS	BOONEVILLE, CITY OF	280135—07A	07-NOV-2001	01-04-5642A	01
04	MS	BOONEVILLE, CITY OF	280135—07A	19-DEC-2001	02-04-1266X	01
04	MS	BRANDON, CITY OF	2801430003B	18-JUL-2001	01-04-5000A	01
04	MS	CLARKE COUNTY *	2802200200B	19-JUL-2001	00-04-381P	05
04	MS	CLAY COUNTY *	28025C0115C	13-JUL-2001	01-04-4912A	02
04	MS	COAHOMA COUNTY *	2800380250C	12-DEC-2001	01-04-6580A	02
04	MS	COLUMBUS, CITY OF	28087C0065J	07-NOV-2001	01-04-7100A	01
04	MS	DESOTO COUNTY *	28033C0095D	25-JUL-2001	01-04-5056A	02
04	MS	DESOTO COUNTY *	28033C0043E	24-OCT-2001	01-04-6658A	02
04	MS	DESOTO COUNTY *	28033C0105D	07-NOV-2001	01-04-6806A	02
04	MS	GRENADA, CITY OF	2800610005B	24-OCT-2001	01-04-5998A	02
04	MS	GRENADA, CITY OF	2800610005B	05-DEC-2001	02-04-0696X	02
04	MS	HANCOCK COUNTY*	2852540135C	29-AUG-2001	01-04-5212A	02
04	MS	HATTIESBURG, CITY OF	28035C0080C	31-AUG-2001	01-04-6026A	02
04	MS	HINDS COUNTY*	2800700250D	10-OCT-2001	01-04-5910A	01
04	MS	JACKSON, CITY OF	28007200015G	20-JUL-2001	01-04-4940A	02
04	MS	JACKSON, CITY OF	2800720030F	17-OCT-2001	01-04-6768A	02
04	MS	JACKSON, CITY OF	2800720040F	24-OCT-2001	01-04-6278A	01
04	MS	JACKSON, CITY OF	2800720020F	09-NOV-2001	01-04-6412A	02
04	MS	LAMAR COUNTY *	28073C0035C	26-SEP-2001	01-04-6582A	02
04	MS	LEAKE COUNTY *	2802930200B	12-OCT-2001	01-04-5438A	02
04	MS	LONG BEACH, CITY OF	2852570001C	19-SEP-2001	01-04-5818A	02
04	MS	MADISON, CITY OF	28089C0320D	24-OCT-2001	01-04-6770A	02
04	MS	MADISON, CITY OF	28089C0310D	24-OCT-2001	01-04-6772A	02
04	MS	MADISON, CITY OF	28029C0310D	07-NOV-2001	01-04-7076A	17
04	MS	MERIDIAN, CITY OF	28075C0092E	28-SEP-2001	01-04-6510X	01
04	MS	MERIDIAN, CITY OF	28075C0101E	17-OCT-2001	01-04-6154A	17
04	MS	OKTIBBEHA COUNTY *	2802770130B	08-AUG-2001	01-04-5506A	01
04	MS	OLIVE BRANCH,TOWN OF	28033C0055E	28-NOV-2001	01-04-6626A	01
04	MS	PEARL RIVER COUNTY *	28109C0200D	10-JUL-2001	01-04-031P	05
04	MS	PEARL RIVER VALLEY WATER SUPP	2803380065B	05-JUL-2001	01-04-4272A	02
04	MS	QUITMAN, CITY OF	2803190005A	15-AUG-2001	01-04-3854A	02
04	MS	RANKIN COUNTY *	2801420070C	18-JUL-2001	01-04-4812A	01
04	MS	RANKIN COUNTY *	2801420095C	01-AUG-2001	01-04-4824A	01
04	MS	RIDGELAND, CITY OF	28089C0320D	07-NOV-2001	01-04-6380A	01
04	MS	RIDGELAND, CITY OF	28089C0320D	16-NOV-2001	01-04-403P	05
04	MS	SHUBUTA, TOWN OF	2800340001D	21-SEP-2001	01-04-6466A	02
04	MS	STARKVILLE, CITY OF	2801240003C	07-SEP-2001	01-04-5732A	02
04	MS	SUNFLOWER COUNTY *	2801950250B	07-NOV-2001	01-04-5592A	02
04	MS	TUPELO, CITY OF	28081C0226D	01-AUG-2001	01-04-4184A	02
04	MS	TUPELO, CITY OF	28081C0227D	22-AUG-2001	01-04-5530A	01
04	NC	ARCHDALE, CITY OF	3702730003B	05-JUL-2001	01-04-4602A	02
04	NC	ARCHDALE, CITY OF	3702730003B	29-AUG-2001	01-04-5926A	02
04	NC	ARCHDALE, CITY OF	3702730007B	19-DEC-2001	02-04-1048A	02
04	NC	ASHEBORO, CITY OF	3701960012B	27-JUL-2001	01-04-4662A	02
04	NC	ASHEVILLE, CITY OF	37021C0309C	16-AUG-2001	00-04-071P	05
04	NC	BLADEN COUNTY *	3702930012B	18-JUL-2001	01-04-3630A	02
04	NC	BRUNSWICK COUNTY *	3702950360E	17-OCT-2001	01-04-6556A	02
04	NC	BRUNSWICK COUNTY*	3702950355E	20-JUL-2001	01-04-3232A	02
04	NC	BRUNSWICK COUNTY*	3702950360E	12-SEP-2001	01-04-5278A	02
04	NC	BRUNSWICK COUNTY*	3702950360E	19-SEP-2001	01-04-6702A	02
04	NC	BRUNSWICK COUNTY*	3702950220C	04-OCT-2001	01-04-081P	05
04	NC	BRUNSWICK COUNTY*	3702950360E	05-OCT-2001	01-04-6760A	02
04	NC	BRUNSWICK COUNTY*	3702950330E	12-DEC-2001	02-04-0840A	02
04	NC	BUNCOMBE COUNTY *	37021C0331C	25-JUL-2001	01-04-3242A	17
04	NC	BUNCOMBE COUNTY *	37021C0134C	19-SEP-2001	01-04-6812X	02
04	NC	BUNCOMBE COUNTY *	37021C0184C	14-DEC-2001	01-04-5350A	02
04	NC	CALDWELL COUNTY *	37027C0050D	25-JUL-2001	01-04-3408A	02
04	NC	CAMDEN COUNTY *	3700420125B	19-DEC-2001	01-04-6448A	02
04	NC	CANTON, TOWN OF	370121C	07-DEC-2001	02-04-0686A	02
04	NC	CARRBORO, TOWN OF	3702750005C	25-JUL-2001	01-04-1842A	17
04	NC	CARRBORO, TOWN OF	3702750005C	27-AUG-2001	01-04-037P	05
04	NC	CARTERET COUNTY *	3700430630C	07-SEP-2001	01-04-6322A	02
04	NC	CARY, TOWN OF	37183C0293E	26-JUL-2001	00-04-183P	05

Region	State	Community	Map panel	Determination date	Case No.	Type
04	NC	CARY, TOWN OF	37183C0270E	29-AUG-2001	01-04-065P	05
04	NC	CARY, TOWN OF	37183C0293E	12-SEP-2001	01-04-5044A	02
04	NC	CARY, TOWN OF	37183C0504E	05-DEC-2001	02-04-0164A	02
04	NC	CATAWBA COUNTY *	3700500350C	05-JUL-2001	01-04-4714A	02
04	NC	CATAWBA COUNTY *	3700500350C	05-JUL-2001	01-04-4716A	02
04	NC	CATAWBA COUNTY *	3700500350C	18-JUL-2001	01-04-5096A	02
04	NC	CATAWBA COUNTY *	3700500325B	20-JUL-2001	01-04-4596A	02
04	NC	CATAWBA COUNTY *	3700500325B	20-JUL-2001	01-04-5172A	02
04	NC	CATAWBA COUNTY *	3700500350C	20-JUL-2001	01-04-5266A	02
04	NC	CATAWBA COUNTY *	3700500325B	20-JUL-2001	01-04-5268A	02
04	NC	CATAWBA COUNTY *	3700500325B	20-JUL-2001	01-04-5270A	02
04	NC	CATAWBA COUNTY *	3700500325B	25-JUL-2001	01-04-5170A	02
04	NC	CATAWBA COUNTY *	3700500135B	27-JUL-2001	01-04-5098A	02
04	NC	CATAWBA COUNTY *	3700500200C	08-AUG-2001	01-04-5632A	02
04	NC	CATAWBA COUNTY *	3700500200C	08-AUG-2001	01-04-5744A	02
04	NC	CATAWBA COUNTY *	3700500325B	10-AUG-2001	01-04-5746A	02
04	NC	CATAWBA COUNTY *	3700500350C	22-AUG-2001	01-04-5778A	02
04	NC	CATAWBA COUNTY *	3700500350C	22-AUG-2001	01-04-5934A	02
04	NC	CATAWBA COUNTY *	3700500350C	29-AUG-2001	01-04-5932A	02
04	NC	CATAWBA COUNTY *	3700500325B	29-AUG-2001	01-04-6126A	02
04	NC	CATAWBA COUNTY *	3700500350C	31-AUG-2001	01-04-5678A	02
04	NC	CATAWBA COUNTY *	3700500325B	31-AUG-2001	01-04-6124A	02
04	NC	CATAWBA COUNTY *	3700500350C	14-SEP-2001	01-04-6564A	02
04	NC	CATAWBA COUNTY *	3700500325B	26-SEP-2001	01-04-5850A	02
04	NC	CATAWBA COUNTY *	3700500325B	26-SEP-2001	01-04-6808A	02
04	NC	CATAWBA COUNTY *	3700500350C	26-SEP-2001	01-04-6850A	02
04	NC	CATAWBA COUNTY *	3700500200C	28-SEP-2001	01-04-6810A	02
04	NC	CATAWBA COUNTY *	3700500200C	05-OCT-2001	01-04-5488A	02
04	NC	CATAWBA COUNTY *	3700500350C	10-OCT-2001	01-04-6530A	02
04	NC	CATAWBA COUNTY *	3700500200C	10-OCT-2001	01-04-6940A	02
04	NC	CATAWBA COUNTY *	3700500350E	24-OCT-2001	02-04-0130A	02
04	NC	CATAWBA COUNTY *	3700500350C	14-NOV-2001	02-04-0486A	02
04	NC	CATAWBA COUNTY *	3700500200C	14-NOV-2001	02-04-0488A	02
04	NC	CATAWBA COUNTY *	3700500350C	16-NOV-2001	02-04-0562A	02
04	NC	CATAWBA COUNTY *	3700500350C	21-NOV-2001	02-04-0288A	02
04	NC	CATAWBA COUNTY *	3700500325B	21-NOV-2001	02-04-0742A	02
04	NC	CATAWBA COUNTY *	3700500350C	14-DEC-2001	02-04-1360A	02
04	NC	CHAPEL HILL, TOWN OF	3701800001E	28-AUG-2001	00-04-081P	05
04	NC	CHARLOTTE, CITY OF	3701590020B	11-JUL-2001	01-04-3694A	01
04	NC	CHARLOTTE, CITY OF	3701590025B	07-SEP-2001	01-04-5486A	01
04	NC	CHARLOTTE, CITY OF	3701590019B	26-SEP-2001	01-04-6532A	01
04	NC	CHARLOTTE, CITY OF	3701590025B	28-NOV-2001	02-04-0788A	01
04	NC	CHATHAM COUNTY	3702990225B	12-OCT-2001	01-04-3572A	02
04	NC	CONCORD, CITY OF	37025C0084D	10-AUG-2001	01-04-4926A	02
04	NC	CONCORD, CITY OF	37025C0120D	28-SEP-2001	01-04-6746A	01
04	NC	CORNELIUS, TOWN OF	3704980005A	11-JUL-2001	01-04-4790A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	11-JUL-2001	01-04-4988A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	13-JUL-2001	01-04-4986A	02
04	NC	CORNELIUS, TOWN OF	3704980015A	25-JUL-2001	01-04-4958A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	27-JUL-2001	01-04-5414A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	01-AUG-2001	01-04-4114A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	08-AUG-2001	01-04-5260A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	08-AUG-2001	01-04-5354A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	31-AUG-2001	01-04-6056A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	07-SEP-2001	01-04-6352A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	28-SEP-2001	01-04-6852A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	28-SEP-2001	01-04-4614A	19
04	NC	CORNELIUS, TOWN OF	3701580005B	03-OCT-2001	01-04-6562A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	05-OCT-2001	02-04-0980A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	31-OCT-2001	02-04-0290A	02
04	NC	CORNELIUS, TOWN OF	3704980015A	05-DEC-2001	02-04-0934A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	05-DEC-2001	02-04-0980A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	07-DEC-2001	02-04-1098A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	19-DEC-2001	02-04-1342A	02
04	NC	CORNELIUS, TOWN OF	3704980005A	21-DEC-2001	02-04-0310A	02
04	NC	CRAVEN COUNTY*	3700720330B	08-AUG-2001	01-04-5562A	02
04	NC	CRAVEN COUNTY*	3700720320B	29-AUG-2001	01-04-6000A	02
04	NC	CRAVEN COUNTY*	3700720310C	07-SEP-2001	01-04-6324A	02
04	NC	CUMBERLAND COUNTY *	3700760095B	21-DEC-2001	02-04-1224A	02
04	NC	CURRITUCK COUNTY *	3700780170C	15-AUG-2001	01-04-5750A	02
04	NC	DARE COUNTY*	3753480810E	16-AUG-2001	01-04-361P	05
04	NC	DARE COUNTY*	3753480810E	12-OCT-2001	01-04-4362P	05
04	NC	DARE COUNTY*	3753480815E	24-OCT-2001	01-04-6708A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	NC	DAVIDSON COUNTY *	37057C0220D	05-JUL-2001	01-04-3640A	02
04	NC	DAVIDSON COUNTY *	37057C0300D	05-JUL-2001	01-04-4718A	02
04	NC	DAVIDSON COUNTY *	37057C0400D	05-JUL-2001	01-04-4740A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	13-JUL-2001	01-04-4604A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	18-JUL-2001	01-04-4960A	02
04	NC	DAVIDSON COUNTY *	37057C0300D	18-JUL-2001	01-04-4962A	02
04	NC	DAVIDSON COUNTY *	37057C0400D	20-JUL-2001	01-04-5164A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	27-JUL-2001	01-04-5276A	02
04	NC	DAVIDSON COUNTY *	37057C0300C	01-AUG-2001	01-04-5274A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	10-AUG-2001	01-04-2058A	02
04	NC	DAVIDSON COUNTY *	37057C0285D	17-AUG-2001	01-04-5820A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	29-AUG-2001	01-04-6220A	02
04	NC	DAVIDSON COUNTY *	37057C0285D	26-SEP-2001	01-04-6194A	02
04	NC	DAVIDSON COUNTY *	37057C0375D	28-SEP-2001	01-04-6864A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	03-OCT-2001	01-04-6038A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	17-OCT-2001	01-04-7054A	02
04	NC	DAVIDSON COUNTY *	37057C0400D	17-OCT-2001	01-04-7124A	02
04	NC	DAVIDSON COUNTY *	37057C0285D	24-OCT-2001	02-04-0162A	02
04	NC	DAVIDSON COUNTY *	37057C0325D	16-NOV-2001	02-04-0500A	02
04	NC	DAVIDSON COUNTY *	37057C0300D	07-DEC-2001	02-04-0740A	02
04	NC	DAVIDSON, TOWN OF	3705030005A	15-AUG-2001	01-04-5708A	02
04	NC	DAVIDSON, TOWN OF	3705030005A	31-AUG-2001	01-04-5706A	02
04	NC	DAVIDSON, TOWN OF	3705030005A	21-SEP-2001	01-04-6762X	02
04	NC	DAVIDSON, TOWN OF	3705030005A	16-NOV-2001	02-04-0160A	02
04	NC	DURHAM COUNTY *	37063C0055G	08-AUG-2001	01-04-5494A	02
04	NC	DURHAM COUNTY *	37063C0169G	24-OCT-2001	01-04-4982A	01
04	NC	DURHAM, CITY OF	37063C0167G	17-AUG-2001	01-04-1848A	01
04	NC	DURHAM, CITY OF	37063C0153G	22-AUG-2001	01-04-5126A	02
04	NC	DURHAM, CITY OF	37063C0159H	31-AUG-2001	01-04-6132A	02
04	NC	DURHAM, CITY OF	37063C0154H	19-SEP-2001	01-04-6648A	02
04	NC	DURHAM, CITY OF	37063C0154H	14-DEC-2001	02-04-1222A	02
04	NC	ELKIN, TOWN OF	3702250005B	08-AUG-2001	01-04-5168A	02
04	NC	EMERALD ISLE, TOWN OF	3700470002D	18-JUL-2001	01-04-5038A	02
04	NC	EMERALD ISLE, TOWN OF	3700470002D	05-SEP-2001	01-04-1828P	05
04	NC	FAYETTEVILLE, CITY OF	3700770011C	31-OCT-2001	02-04-0244A	02
04	NC	FORSYTH COUNTY *	37067C0187H	05-JUL-2001	01-04-4722A	02
04	NC	FORSYTH COUNTY *	37067C0335H	01-AUG-2001	01-04-5416A	01
04	NC	FORSYTH COUNTY *	37067C0244H	12-SEP-2001	01-04-6450A	02
04	NC	FORSYTH COUNTY *	37067C0261H	12-SEP-2001	01-04-6036A	01
04	NC	FRANKLIN COUNTY *	37069C0232D	19-OCT-2001	01-04-7120A	02
04	NC	FRANKLIN COUNTY *	37069C0240D	31-OCT-2001	01-04-7144A	02
04	NC	FRANKLIN COUNTY*	37069C0400D	11-JUL-2001	01-04-4816A	02
04	NC	FRANKLIN COUNTY*	37069C0150D	13-JUL-2001	01-04-4034A	02
04	NC	GARNER, TOWN OF	37183C0540E	11-JUL-2001	01-04-181P	05
04	NC	GASTON COUNTY *	3700990210B	12-DEC-2001	01-04-7050A	01
04	NC	GASTONIA, CITY OF	3701000005D	10-OCT-2001	01-04-6442A	01
04	NC	GASTONIA, CITY OF	3701000020D	05-DEC-2001	01-04-345P	05
04	NC	GREENSBORO, CITY OF	3753510018C	20-JUL-2001	01-04-5130A	02
04	NC	HENDERSON COUNTY *	3701250085B	12-DEC-2001	02-04-1142A	02
04	NC	HICKORY, CITY OF	3700540010C	10-AUG-2001	01-04-5264A	02
04	NC	HICKORY, CITY OF	3700540010C	31-OCT-2001	01-04-6560A	02
04	NC	HIGH POINT, CITY OF	3701130011C	11-JUL-2001	01-04-4814A	02
04	NC	HIGH POINT, CITY OF	3701130007C	28-SEP-2001	01-04-1732A	01
04	NC	HIGH POINT, CITY OF	3701130007C	26-OCT-2001	01-04-6558A	02
04	NC	HUDSON, TOWN OF	37027C0085E	24-AUG-2001	01-04-5500A	02
04	NC	HUNTERSVILLE, TOWN OF	3704980005A	27-JUL-2001	01-04-4966A	02
04	NC	IREDELL COUNTY *	3703130220C	05-SEP-2001	01-04-5704A	02
04	NC	JACKSONVILLE, CITY OF	3701780006B	19-SEP-2001	01-04-6372A	02
04	NC	JACKSONVILLE, CITY OF	3701780005B	14-DEC-2001	01-04-6446A	02
04	NC	JOHNSTON COUNTY *	37101C0360D	11-JUL-2001	01-04-3626A	02
04	NC	JOHNSTON COUNTY *	37101C0255D	18-JUL-2001	01-04-4598A	02
04	NC	JOHNSTON COUNTY *	3701380020D	27-JUL-2001	01-04-5174A	02
04	NC	JOHNSTON COUNTY *	37101C0235D	08-AUG-2001	01-04-4848A	02
04	NC	JOHNSTON COUNTY *	37101C0255D	19-OCT-2001	01-04-7052A	02
04	NC	KERNERSVILLE, TOWN OF	37067C0304H	18-JUL-2001	01-04-4344A	02
04	NC	KERNERSVILLE, TOWN OF	37067C0304H	18-JUL-2001	01-04-4346A	02
04	NC	LEXINGTON, CITY OF	37057C0211D	11-JUL-2001	01-04-3566A	02
04	NC	LINCOLN COUNTY *	3701460150C	12-SEP-2001	01-04-4342A	02
04	NC	LONG BEACH, TOWN OF	3753540003D	29-AUG-2001	01-04-5752A	02
04	NC	LUMBERTON, CITY OF	37155C0179D	05-JUL-2001	01-04-4120A	02
04	NC	MECKLENBURG COUNTY *	3701580145B	18-JUL-2001	01-04-2254A	01
04	NC	MECKLENBURG COUNTY *	3701580045C	01-AUG-2001	01-04-5352A	02
04	NC	MECKLENBURG COUNTY *	3701580210B	01-AUG-2001	01-04-4394A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	NC	MECKLENBURG COUNTY *	3701580140C	31-AUG-2001	01-04-5938A	02
04	NC	MECKLENBURG COUNTY *	3701580165B	28-NOV-2001	02-04-0668A	02
04	NC	MONROE, CITY OF	37179C0094C	15-AUG-2001	01-04-5936A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	13-JUL-2001	01-04-4924A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	18-JUL-2001	01-04-5040A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	18-JUL-2001	01-04-5094A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	25-JUL-2001	01-04-4616A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	27-JUL-2001	01-04-5348A	02
04	NC	MONTGOMERY COUNTY *	3703360105B	15-AUG-2001	01-04-5852A	02
04	NC	MONTGOMERY COUNTY *	3703360065B	17-AUG-2001	01-04-6078A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	29-AUG-2001	01-04-6254A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	31-AUG-2001	01-04-5766A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	17-OCT-2001	01-04-7018A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	17-OCT-2001	01-04-7168A	02
04	NC	MONTGOMERY COUNTY *	3703360055B	31-OCT-2001	01-04-0808A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	21-NOV-2001	02-04-0636A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	21-NOV-2001	02-04-0790A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	14-DEC-2001	02-04-1228A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	14-DEC-2001	02-04-1230A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	14-DEC-2001	02-04-1426A	02
04	NC	MONTGOMERY COUNTY *	3703360025B	14-DEC-2001	02-04-1428A	02
04	NC	NEW BERN, CITY OF	3700740005E	12-SEP-2001	01-04-6444A	02
04	NC	NORTH WILKESBORO, TOWN OF	3702570003C	28-SEP-2001	01-04-4738A	01
04	NC	OCEAN ISLE BEACH, TOWN OF	3753570003C	25-JUL-2001	01-04-5046A	02
04	NC	OLD FORT, TOWN OF	37111C0135C	12-SEP-2001	01-04-5930A	02
04	NC	ONSLOW COUNTY *	3703400360C	17-OCT-2001	01-04-6848A	02
04	NC	ONSLOW COUNTY *	3703400315C	26-OCT-2001	01-04-6904A	02
04	NC	ONSLOW COUNTY*	3703400190C	11-JUL-2001	01-04-3574A	02
04	NC	ONSLOW COUNTY*	3703400300C	27-JUL-2001	01-04-4984A	02
04	NC	PENDER COUNTY*	3703440411B	21-NOV-2001	02-04-0738A	02
04	NC	PENDER COUNTY*	3703440536D	05-DEC-2001	02-04-1050A	02
04	NC	PERQUIMANS COUNTY *	3703150115B	10-AUG-2001	01-04-4976A	02
04	NC	PERQUIMANS COUNTY *	3703150120B	10-OCT-2001	01-04-6652A	02
04	NC	PITT COUNTY *	3703720280C	18-JUL-2001	01-04-4742A	02
04	NC	RALEIGH, CITY OF	37183C0540E	11-JUL-2001	01-04-181P	05
04	NC	RALEIGH, CITY OF	37183C0326E	18-JUL-2001	01-04-5128A	02
04	NC	RALEIGH, CITY OF	37183C0341E	07-SEP-2001	01-04-6218A	02
04	NC	RALEIGH, CITY OF	37183C0531E	21-NOV-2001	01-04-6996A	01
04	NC	ROWAN COUNTY *	3703510150B	17-OCT-2001	01-04-7122A	02
04	NC	SALISBURY, CITY OF	3702150005B	27-JUL-2001	01-04-3492A	01
04	NC	SOUTHERN SHORES, TOWN OF	3704300001C	05-OCT-2001	01-04-6654A	02
04	NC	STALLINGS, TOWN OF	37179C0015C	24-AUG-2001	01-04-3412A	02
04	NC	STANLY COUNTY *	37167C0175D	15-AUG-2001	01-04-5854A	02
04	NC	STANLY COUNTY *	37167C0175D	14-NOV-2001	02-04-0434A	02
04	NC	SUNSET BEACH, TOWN OF	3753590001E	27-JUL-2001	01-04-5280A	02
04	NC	SUNSET BEACH, TOWN OF	3753590001E	27-JUL-2001	01-04-5282A	02
04	NC	SWANSBORO, CITY OF	3703400380C	08-AUG-2001	01-04-5226A	02
04	NC	TRENT WOODS, TOWNSHIP OF	3704340002B	31-OCT-2001	02-04-0292A	02
04	NC	UNION COUNTY *	37179C0070C	01-AUG-2001	01-04-5490A	02
04	NC	UNION COUNTY *	37179C0070C	17-OCT-2001	01-04-347P	05
04	NC	WAKE COUNTY *	37183C0540E	11-JUL-2001	01-04-181P	05
04	NC	WAKE COUNTY *	37183C0720E	07-DEC-2001	01-04-5664A	02
04	NC	WARREN COUNTY*	3703960002C	13-JUL-2001	01-04-4032A	02
04	NC	WARREN COUNTY*	3703960002C	01-AUG-2001	01-04-5272A	02
04	NC	WARREN COUNTY*	3703960002C	18-SEP-2001	01-04-6224A	02
04	NC	WARREN COUNTY*	3703960002C	28-SEP-2001	01-04-4358A	02
04	NC	WARREN COUNTY*	3703960002C	28-NOV-2001	02-04-0626X	02
04	NC	WASHINGTON, CITY OF	3700170006C	18-JUL-2001	01-04-3418A	02
04	NC	WASHINGTON, CITY OF	3700170007C	22-AUG-2001	01-04-5776A	02
04	NC	WASHINGTON, CITY OF	3700170007C	16-NOV-2001	02-04-0634A	02
04	NC	WILMINGTON, CITY OF	3701710005B	18-JUL-2001	01-04-5042A	01
04	NC	WINFALL, TOWN OF	3703450001A	16-NOV-2001	02-04-0454A	02
04	NC	WINSTON-SALEM, CITY OF	37067C0252H	19-SEP-2001	01-04-6618A	02
04	SC	ANDERSON COUNTY *	4500130040B	15-AUG-2001	01-04-2668A	01
04	SC	ANDERSON COUNTY *	4500130025B	26-SEP-2001	01-04-185P	05
04	SC	BARNWELL, CITY OF	4500230003C	03-AUG-2001	01-04-2952A	02
04	SC	BEAUFORT COUNTY*	4500250065D	11-JUL-2001	01-04-4212A	02
04	SC	BEAUFORT COUNTY*	4500250065D	01-AUG-2001	01-04-5426X	02
04	SC	BEAUFORT COUNTY*	4500250090D	24-OCT-2001	02-04-0240A	02
04	SC	BEAUFORT COUNTY*	4500250040D	16-NOV-2001	02-04-0384A	02
04	SC	BEAUFORT COUNTY*	4500250035D	16-NOV-2001	02-04-0540A	02
04	SC	BENNETTSVILLE, CITY OF	4501470005B	15-AUG-2001	01-04-5740A	02
04	SC	BERKELEY COUNTY *	450029—029C	01-AUG-2001	01-04-5304A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	SC	BERKELEY COUNTY *	4500290290C	17-AUG-2001	01-04-5306A	02
04	SC	BERKELEY COUNTY *	4500290395C	14-DEC-2001	01-04-6676A	02
04	SC	BRUNSON, TOWN OF	450096B	03-AUG-2001	01-04-5018A	02
04	SC	CHARLESON COUNTY *	4554130225G	12-SEP-2001	01-04-6376A	02
04	SC	CHARLESTON COUNTY*	4554130245F	13-JUL-2001	01-04-4420A	01
04	SC	CHARLESTON COUNTY*	4554130350F	15-AUG-2001	01-04-5892A	02
04	SC	CHARLESTON COUNTY*	4554130350F	26-SEP-2001	01-04-6678A	02
04	SC	CHARLESTON COUNTY*	4554130231F	05-DEC-2001	02-04-0494C	01
04	SC	CHARLESTON, CITY OF	4554120020D	12-SEP-2001	01-04-4842A	02
04	SC	COLLETON COUNTY*	45029C0180F	08-NOV-2001	02-04-0792V	19
04	SC	COLLETON COUNTY*	45029C0650F	28-DEC-2001	01-04-6478A	02
04	SC	COLUMBIA, CITY OF	45063C0134G	12-NOV-2001	01-04-127P	05
04	SC	DORCHESTER COUNTY *	4500680330C	18-JUL-2001	01-04-4490A	02
04	SC	FAIRFIELD COUNTY *	4500750135B	07-SEP-2001	01-04-6142A	02
04	SC	FAIRFIELD COUNTY *	4500750135B	17-OCT-2001	01-04-5924A	02
04	SC	FLORENCE COUNTY *	4500760080B	27-JUL-2001	01-04-5286A	02
04	SC	FLORENCE COUNTY *	4500760210B	29-AUG-2001	01-04-277P	05
04	SC	FLORENCE COUNTY *	4500760230B	29-AUG-2001	01-04-277P	05
04	SC	FLORENCE COUNTY *	4500760210B	12-DEC-2001	01-04-277P	05
04	SC	GOOSE CREEK, CITY OF	4500290290C	05-DEC-2001	02-04-0158A	02
04	SC	GOOSE CREEK, CITY OF	4500290290C	07-DEC-2001	02-04-0714A	02
04	SC	GOOSE CREEK, CITY OF	4500290355C	12-DEC-2001	02-04-0716A	02
04	SC	GREENVILLE COUNTY *	4500890165B	03-OCT-2001	01-04-7136A	02
04	SC	GREENVILLE COUNTY *	4500890210B	19-DEC-2001	02-04-0216A	01
04	SC	HORRY COUNTY *	45051C0652H	27-JUL-2001	01-04-5034A	02
04	SC	HORRY COUNTY *	4501090691H	19-OCT-2001	01-04-7152X	02
04	SC	LAKE CITY, CITY OF	4500790001C	29-AUG-2001	01-04-277P	05
04	SC	LAKE CITY, CITY OF	4500790002C	29-AUG-2001	01-04-277P	05
04	SC	LAKE CITY, CITY OF	4500790001C	12-DEC-2001	01-04-277P	05
04	SC	LEXINGTON COUNTY *	45063C0161G	14-SEP-2001	01-04-5810A	02
04	SC	LEXINGTON COUNTY *	45063C0225G	19-SEP-2001	01-04-4624A	02
04	SC	LEXINGTON COUNTY *	45063C0258G	28-SEP-2001	01-04-4080A	02
04	SC	LEXINGTON COUNTY *	45063C0137G	24-OCT-2001	01-04-6374A	02
04	SC	LEXINGTON COUNTY *	45063C0134G	12-NOV-2001	01-04-127P	05
04	SC	LEXINGTON COUNTY *	45063C0105G	30-NOV-2001	01-04-6480A	02
04	SC	MYRTLE BEACH, CITY OF	45051C0701H	14-DEC-2001	01-04-6722A	02
04	SC	NEWBERRY COUNTY *	4502240225B	12-SEP-2001	01-04-6362A	02
04	SC	NEWBERRY COUNTY*	4502240225B	01-AUG-2001	01-04-5058A	02
04	SC	NEWBERRY COUNTY*	4502240225B	22-AUG-2001	01-04-5672A	02
04	SC	NEWBERRY COUNTY*	4502240150B	24-OCT-2001	01-04-7134A	02
04	SC	NEWBERRY COUNTY*	4502240225B	05-DEC-2001	02-04-0856A	02
04	SC	NEWBERRY COUNTY*	4502240225B	19-DEC-2001	02-04-1116A	02
04	SC	ORANGEBURG, CITY OF	4501640001B	29-AUG-2001	01-04-5742A	02
04	SC	PICKENS COUNTY *	4501660150B	11-JUL-2001	01-04-3582A	02
04	SC	QUINBY, TOWN OF	450082—01B	07-SEP-2001	01-04-5638A	02
04	SC	RICHLAND COUNTY*	45079C0025G	13-JUL-2001	01-04-4418A	02
04	SC	RICHLAND COUNTY*	45079C0025G	27-JUL-2001	01-04-4620A	02
04	SC	RICHLAND COUNTY*	45079C0110G	01-AUG-2001	01-04-4130A	02
04	SC	RICHLAND COUNTY*	45079C0025G	01-AUG-2001	01-04-4944A	02
04	SC	RICHLAND COUNTY*	45079C0025G	31-AUG-2001	01-04-5564A	02
04	SC	RICHLAND COUNTY*	45079C0025G	31-AUG-2001	01-04-5568A	02
04	SC	RICHLAND COUNTY*	45079C0025G	31-AUG-2001	01-04-5922A	02
04	SC	RICHLAND COUNTY*	45079C0110G	26-SEP-2001	01-04-5972A	02
04	SC	RICHLAND COUNTY*	45079C0110G	16-NOV-2001	02-04-0242A	02
04	SC	RICHLAND COUNTY*	45079C0185G	10-DEC-2001	01-04-445P	05
04	SC	RICHLAND COUNTY*	45079C0025G	12-DEC-2001	02-04-1028A	02
04	SC	RICHLAND COUNTY*	45079C0225G	19-DEC-2001	01-04-225P	05
04	SC	RICHLAND COUNTY*	45079C0113G	19-DEC-2001	02-04-1080A	02
04	SC	RICHLAND COUNTY*	45079C0025G	19-DEC-2001	02-04-1214A	02
04	SC	RICHLAND COUNTY*	45079C0025G	28-DEC-2001	02-04-1086A	02
04	SC	SALUDA COUNTY *	4502300002A	19-OCT-2001	01-04-6584A	02
04	SC	SPARTANBURG COUNTY *	4501760134B	10-OCT-2001	01-04-6044A	02
04	SC	SPARTANBURG COUNTY *	4501760089B	26-OCT-2001	01-04-5284A	02
04	SC	SUMTER COUNTY *	4501820180C	17-AUG-2001	01-04-5090A	02
04	SC	SUMTER COUNTY *	4501820090C	14-DEC-2001	02-04-1110A	02
04	SC	SUMTER COUNTY *	4501820180C	19-DEC-2001	02-04-0732A	02
04	SC	YORK COUNTY *	4501930125C	08-AUG-2001	01-04-5492A	02
04	SC	YORK COUNTY *	4501930200C	19-SEP-2001	01-04-5566A	02
04	SC	YORK COUNTY *	4501930050B	10-OCT-2001	01-04-6456A	02
04	TN	BENTON COUNTY	4702180025B	10-AUG-2001	01-04-5160A	02
04	TN	BRENTWOOD, CITY OF	4702040020C	16-NOV-2001	01-04-321P	05
04	TN	CELINA, CITY OF	4700320005D	08-AUG-2001	01-04-5572A	02
04	TN	CHATTANOOGA, CITY OF	4700720017E	01-AUG-2001	01-04-4844A	01

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04	TN	CHATTANOOGA, CITY OF	4700720021B	15-AUG-2001	01-04-5712A	01
04	TN	CHATTANOOGA, CITY OF	4700720009A	17-AUG-2001	01-04-5300A	01
04	TN	CHATTANOOGA, CITY OF	4700720009A	28-SEP-2001	01-04-6802X	17
04	TN	CHATTANOOGA, CITY OF	4700720029E	10-OCT-2001	01-04-6312A	02
04	TN	CHATTANOOGA, CITY OF	4700720010B	19-OCT-2001	01-04-6720A	02
04	TN	CHATTANOOGA, CITY OF	4700720006B	21-NOV-2001	02-04-1000A	01
04	TN	CHATTANOOGA, CITY OF	4700720006B	14-DEC-2001	02-04-1314A	02
04	TN	CHEATHAM COUNTY *	47021C0216C	11-JUL-2001	01-04-2430A	02
04	TN	CHEATHAM COUNTY *	47021C0217C	07-DEC-2001	02-04-0316A	02
04	TN	CLARKSVILLE, CITY OF	4701370010C	12-DEC-2001	02-04-0628A	01
04	TN	COCKE COUNTY*	47029C0085D	01-AUG-2001	01-04-5206A	01
04	TN	COCKE COUNTY*	47029C0085D	05-SEP-2001	01-04-6238A	01
04	TN	COCKE COUNTY*	47029C0095D	14-DEC-2001	02-04-0274A	01
04	TN	COLLIERVILLE, CITY OF	47157C0295E	29-AUG-2001	01-04-5836A	01
04	TN	COLLIERVILLE, CITY OF	47157C0245E	28-NOV-2001	02-04-0958X	01
04	TN	COLLIERVILLE, CITY OF	47157C0240E	14-DEC-2001	02-04-1210A	01
04	TN	COLLIERVILLE, TOWN OF	45157C0300E	05-DEC-2001	02-04-0660A	02
04	TN	COLUMBIA, CITY OF	4754230001D	15-AUG-2001	01-04-207P	05
04	TN	DECATUR COUNTY *	4700410004C	19-DEC-2001	02-04-1508A	02
04	TN	DYERSBURG, CITY OF	47045C0190D	05-JUL-2001	01-04-4610A	02
04	TN	DYERSBURG, CITY OF	47045C0170D	19-OCT-2001	01-04-5964A	02
04	TN	DYERSBURG, CITY OF	47045C0190D	24-OCT-2001	02-04-0120A	02
04	TN	DYERSBURG, CITY OF	47045C0180D	07-DEC-2001	02-04-1348A	02
04	TN	DYERSBURG, CITY OF	47045C0190D	12-DEC-2001	01-04-4628A	02
04	TN	FARRAGUT, TOWN OF	4703870015A	26-SEP-2001	01-04-6670A	01
04	TN	FRANKLIN, CITY OF	4702060005D	18-JUL-2001	01-04-067P	05
04	TN	GERMANTOWN, CITY OF	47157C0235E	27-JUL-2001	01-04-1706A	01
04	TN	GOODLETTSVILLE, CITY OF	47037C0129F	21-DEC-2001	02-04-0648A	02
04	TN	HAMILTON COUNTY *	4700710135D	07-DEC-2001	02-04-0926A	02
04	TN	HAMILTON COUNTY *	4700710135D	19-DEC-2001	02-04-1478A	01
04	TN	KINGSPORT, CITY OF	4701840020C	16-AUG-2001	01-04-111P	05
04	TN	KINGSPORT, CITY OF	4701840020C	19-OCT-2001	01-04-6918A	02
04	TN	KINGSTON SPRINGS, CITY OF	47021C0280C	17-OCT-2001	01-04-6964A	02
04	TN	KNOX COUNTY *	4754330075B	13-JUL-2001	01-04-5108A	02
04	TN	KNOX COUNTY *	4754330020B	24-OCT-2001	01-04-5578A	02
04	TN	KNOX COUNTY *	4754330165B	24-OCT-2001	01-04-5812A	02
04	TN	KNOX COUNTY *	4754330175B	09-NOV-2001	02-04-0498A	02
04	TN	KNOX COUNTY *	4754330115B	12-DEC-2001	02-04-0992A	02
04	TN	LEBANON, CITY OF	4702070075C	27-SEP-2001	01-04-209P	05
04	TN	LINCOLN COUNTY*	47103C0200C	05-DEC-2001	01-04-7064A	02
04	TN	MAURY COUNTY*	4701230090B	15-AUG-2001	01-04-207P	05
04	TN	MEMPHIS, CITY OF	47157C0220E	05-OCT-2001	01-04-5756A	02
04	TN	MEMPHIS, CITY OF	47157C0185E	24-OCT-2001	01-04-7000A	02
04	TN	MEMPHIS, CITY OF	47157C0230E	16-NOV-2001	01-04-5886A	01
04	TN	MEMPHIS, CITY OF	47157C0230E	28-DEC-2001	02-04-1632A	01
04	TN	MONTGOMERY COUNTY *	4701360055B	19-OCT-2001	01-04-5714A	02
04	TN	MOSCOW, CITY OF	4700490001B	19-OCT-2001	01-04-6518A	01
04	TN	MURFREESBORO, CITY OF	47149C0259F	12-DEC-2001	02-04-0922A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0316F	25-JUL-2001	01-04-5062A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0231F	01-AUG-2001	01-04-4198A	19
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0284F	01-AUG-2001	01-04-5434A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0244F	08-AUG-2001	01-04-5580A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0125F	08-AUG-2001	01-04-5650A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0368F	15-AUG-2001	01-04-4754A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0242F	15-AUG-2001	01-04-4836A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0378F	29-AUG-2001	01-04-6148A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0326F	29-AUG-2001	01-04-6152A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	29-AUG-2001	01-04-5888A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0303F	12-SEP-2001	01-04-5822A	19
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	21-SEP-2001	01-04-6430A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0253F	26-SEP-2001	01-04-6644A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0253F	28-SEP-2001	01-04-5110A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0232F	28-SEP-2001	01-04-6476A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0231F	03-OCT-2001	01-04-6804A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0378F	03-OCT-2001	01-04-6952A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0231F	03-OCT-2001	01-04-6668A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0234F	12-OCT-2001	01-04-6834A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	17-OCT-2001	01-04-7022A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0242F	19-OCT-2001	01-04-0104A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0231F	19-OCT-2001	01-04-5002A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0331F	19-OCT-2001	01-04-6472A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0366F	19-OCT-2001	01-04-7024A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	26-OCT-2001	02-04-0118A	19

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04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0229F	31-OCT-2001	02-04-0208A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	31-OCT-2001	02-04-0168A	19
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0378F	14-NOV-2001	02-04-0526A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0284F	21-NOV-2001	01-04-5716A	19
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0143F	21-NOV-2001	01-04-5376A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0229F	28-NOV-2001	02-04-0522A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	30-NOV-2001	02-04-0092A	19
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0284F	05-DEC-2001	01-04-6582A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0284F	05-DEC-2001	01-04-5584A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,*	47037C0227F	05-DEC-2001	01-04-4834A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	05-DEC-2001	02-04-0688A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	07-DEC-2001	01-04-5448A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	07-DEC-2001	01-04-6360A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0361F	07-DEC-2001	01-04-6832A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0227F	07-DEC-2001	02-04-0848A	01
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0234F	19-DEC-2001	02-04-0862A	02
04	TN	NASHVILLE & DAVIDSON COUNTY,	47037C0234F	19-DEC-2001	02-04-1370A	02
04	TN	PERRY COUNTY*	4701440001A	14-SEP-2001	01-04-5758A	02
04	TN	RHEA COUNTY	4701510025B	21-NOV-2001	01-04-7066A	02
04	TN	ROBERTSON COUNTY	4701580160B	21-NOV-2001	02-04-0134A	02
04	TN	RUTHERFORD COUNTY *	47149C0287E	24-OCT-2001	01-04-6966A	02
04	TN	RUTHERFORD COUNTY *	47149C0260F	31-OCT-2001	01-04-6470A	02
04	TN	RUTHERFORD COUNTY *	47149C0286E	04-DEC-2001	02-04-0916A	02
04	TN	SAVANNAH, CITY OF	4700840001C	10-OCT-2001	01-04-1808A	01
04	TN	SEVIER COUNTY	4702360070B	05-JUL-2001	01-04-3980A	02
04	TN	SEVIER COUNTY	4702360060B	27-JUL-2001	01-04-5432A	02
04	TN	SEVIERVILLE, CITY OF	4754440015D	07-DEC-2001	01-04-5026A	01
04	TN	SHELBY COUNTY *	47157C0150E	29-AUG-2001	01-04-6134A	01
04	TN	SHELBY COUNTY *	47157C0290E	14-SEP-2001	01-04-6256A	02
04	TN	SHELBY COUNTY *	47157C0295E	28-SEP-2001	01-04-6800A	02
04	TN	SHELBY COUNTY *	47157C0195E	19-OCT-2001	01-04-6066A	01
04	TN	SHELBY COUNTY *	47157C0105E	14-NOV-2001	02-04-1022A	02
04	TN	SHELBY COUNTY *	47157C0115E	28-NOV-2001	02-04-0404A	02
04	TN	SHELBY COUNTY *	47157C0115E	05-DEC-2001	02-04-0408A	02
04	TN	SHELBY COUNTY *	47157C0110E	05-DEC-2001	02-04-0918A	17
04	TN	SHELBY COUNTY *	47157C0195E	05-DEC-2001	02-04-1274A	01
04	TN	SHELBY COUNTY *	47157C0060E	07-DEC-2001	02-04-0270A	01
04	TN	SHELBY COUNTY *	47157C0195E	12-DEC-2001	02-04-0736A	01
04	TN	SHELBY COUNTY *	47157C0195E	19-DEC-2001	01-04-3400A	01
04	TN	SHELBYVILLE, CITY OF	4700080029C	05-DEC-2001	02-04-0734A	01
04	TN	SUMNER COUNTY*	4703490120B	24-OCT-2001	01-04-6968A	02
04	TN	TRENTON, CITY OF	4700620002B	08-AUG-2001	01-04-5574A	02
04	TN	VAN BUREN COUNTY *	4703420001A	22-AUG-2001	01-04-5356A	02
05	IL	ADDISON, VILLAGE OF	1701980005C	28-AUG-2001	01-05-1683X	05
05	IL	ALGONQUIN, VILLAGE OF	1704740001B	14-SEP-2001	01-05-3217A	02
05	IL	ALGONQUIN, VILLAGE OF	1704740001B	19-SEP-2001	01-05-3616A	02
05	IL	ANTIOCH, VILLAGE OF	17097C0028F	02-NOV-2001	01-05-3519A	02
05	IL	ANTIOCH, VILLAGE OF	17097C0026F	21-DEC-2001	02-05-0717A	02
05	IL	ARLINGTON HEIGHTS, VILLAGE OF	17031C0201F	02-NOV-2001	01-05-3053A	17
05	IL	AROMA PARK, VILLAGE OF	1707400001D	08-AUG-2001	01-05-3197A	02
05	IL	AROMA PARK, VILLAGE OF	1707400001D	12-DEC-2001	02-05-0783A	02
05	IL	AURORA, CITY OF	1703200035E	28-SEP-2001	01-05-2918A	01
05	IL	AURORA, CITY OF	1703200020E	26-SEP-2001	01-05-3304A	02
05	IL	BARTLETT, VILLAGE OF	1700590005C	15-AUG-2001	01-05-1888A	02
05	IL	BELLWOOD, VILLAGE OF	17031C0369F	21-SEP-2001	01-05-3329A	02
05	IL	BELLWOOD, VILLAGE OF	17031C0388F	03-OCT-2001	01-05-3550A	02
05	IL	BENSENVILLE, VILLAGE OF	1702000003C	12-DEC-2001	02-05-0157A	17
05	IL	BLOOMINGTON, CITY OF	17113C0501D	18-JUL-2001	01-05-2679A	02
05	IL	BLOOMINGTON, CITY OF	17113C0318D	03-OCT-2001	01-05-3680A	02
05	IL	BLOOMINGTON, CITY OF	17113C0482D	12-OCT-2001	01-05-3966A	02
05	IL	BOLINGBROOK, VILLAGE OF	17197C0033F	05-JUL-2001	01-05-2595A	01
05	IL	BOLINGBROOK, VILLAGE OF	17197C0045F	14-SEP-2001	01-05-3153A	01
05	IL	BOLINGBROOK, VILLAGE OF	17197C0053E	19-DEC-2001	02-05-0857A	02
05	IL	BUFFALO GROVE, VILLAGE OF	17031C0063F	05-JUL-2001	01-05-2241A	17
05	IL	BUFFALO GROVE, VILLAGE OF	17031C0063F	05-JUL-2001	01-05-2493A	02
05	IL	BURR RIDGE, VILLAGE OF	17031C0469F	25-JUL-2001	01-05-2836A	02
05	IL	BURR RIDGE, VILLAGE OF	17031C0582F	25-JUL-2001	01-05-2836A	02
05	IL	CAHOKIA, VILLAGE OF	1706200005C	29-AUG-2001	01-05-3290A	02
05	IL	CALUMET CITY, CITY OF	17031C0752F	27-JUL-2001	01-05-2530A	01
05	IL	CARMI, CITY OF	1706810005B	19-SEP-2001	01-05-2990A	02
05	IL	CARMI, CITY OF	1706810005B	22-AUG-2001	01-05-3274A	02
05	IL	CARMI, CITY OF	1706810005B	12-OCT-2001	01-05-3531A	02
05	IL	CARMI, CITY OF	1706810005B	28-SEP-2001	01-05-3772A	02

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05	IL	CARMI, CITY OF	1706810005B	12-OCT-2001	01-05-3970A	02
05	IL	CARMI, CITY OF	1706810005B	19-OCT-2001	02-05-0144A	02
05	IL	CARMI, CITY OF	1706810005B	14-NOV-2001	02-05-0402A	02
05	IL	CARROLL COUNTY	1700190125B	03-OCT-2001	01-05-3720A	02
05	IL	CARROLLTON, CITY OF	17025001A	05-SEP-2001	01-05-3415A	02
05	IL	CHAMPAIGN COUNTY *	1708940175B	11-JUL-2001	01-05-2061X	02
05	IL	CHAMPAIGN COUNTY *	1708940150B	31-AUG-2001	01-05-2935A	02
05	IL	CHAMPAIGN COUNTY *	1708940225B	12-DEC-2001	02-05-0666A	02
05	IL	CHANNAHON, VILLAGE OF	17197C0255E	16-NOV-2001	02-05-0348A	02
05	IL	CHICAGO, CITY OF	17031C0515F	29-AUG-2001	01-05-1925A	02
05	IL	CLEVELAND, VILLAGE OF	1707480001B	14-DEC-2001	02-05-0182A	02
05	IL	CLINTON COUNTY*	170044A	15-AUG-2001	01-05-2069A	02
05	IL	CLINTON COUNTY*	170044A	11-JUL-2001	01-05-2278A	02
05	IL	CLINTON COUNTY*	170044B	11-JUL-2001	01-05-2343A	02
05	IL	CLINTON COUNTY*	170044—07B	05-DEC-2001	02-05-0424A	02
05	IL	CLINTON COUNTY*	170044—18 B	28-DEC-2001	02-05-0439A	02
05	IL	CLINTON COUNTY*	170044—33A	14-DEC-2001	02-05-0669A	02
05	IL	COOK COUNTY	17031C0612F	05-JUL-2001	01-05-1054A	17
05	IL	COOK COUNTY	17031C0044F	03-OCT-2001	01-05-3001A	17
05	IL	COOK COUNTY	17031C0708F	31-OCT-2001	02-05-0166A	02
05	IL	COOK COUNTY	17031C0236F	24-OCT-2001	02-05-0202A	02
05	IL	COOK COUNTY	17031C0708F	30-NOV-2001	02-05-0594A	02
05	IL	COOK COUNTY *	17031C0164F	05-JUL-2001	01-05-2208A	01
05	IL	COOK COUNTY *	17031C0089F	15-NOV-2001	01-05-2360P	05
05	IL	CRESTWOOD, VILLAGE OF	17031C0617F	13-JUL-2001	01-05-2833A	02
05	IL	CRESTWOOD, VILLAGE OF	17031C0617F	12-SEP-2001	01-05-3503A	02
05	IL	CRESTWOOD, VILLAGE OF	17031C0638F	20-SEP-2001	01-05-664P	06
05	IL	CRESTWOOD, VILLAGE OF	17031C0617F	24-OCT-2001	02-05-0163A	02
05	IL	CRETE, VILLAGE OF	17197C0359F	29-AUG-2001	01-05-3264A	02
05	IL	CRETE, VILLAGE OF	17197C0359F	24-OCT-2001	01-05-3527A	02
05	IL	DE KALB COUNTY	17037C0076D	30-NOV-2001	01-05-3104A	02
05	IL	DE KALB COUNTY	17037C0057D	26-NOV-2001	02-05-0220A	02
05	IL	DECATUR, CITY OF	1704290020C	26-NOV-2001	02-05-0518A	02
05	IL	DECATUR, CITY OF	1704290020C	07-DEC-2001	02-05-0657A	02
05	IL	DES PLAINES, CITY OF	17031C0217F	18-JUL-2001	01-05-2149A	02
05	IL	DES PLAINES, CITY OF	17031C0219F	07-SEP-2001	01-05-2225A	02
05	IL	DES PLAINES, CITY OF	17031C0236F	05-JUL-2001	01-05-2392A	02
05	IL	DES PLAINES, CITY OF	17031C0219F	08-AUG-2001	01-05-3040A	02
05	IL	DES PLAINES, CITY OF	17031C0217F	24-OCT-2001	01-05-3439A	02
05	IL	DES PLAINES, CITY OF	17031C0217F	07-NOV-2001	02-05-0360X	08
05	IL	DOLTON, VILLAGE OF	17031C0751F	28-DEC-2001	01-05-2658A	02
05	IL	DOUGLAS COUNTY	1701940100B	17-OCT-2001	01-05-1242A	02
05	IL	DOUGLAS COUNTY	1701940100B	13-JUL-2001	01-05-2807A	02
05	IL	DOUGLAS COUNTY	1701940100B	12-SEP-2001	01-05-3632A	02
05	IL	DOUGLAS COUNTY	1701940025B	19-OCT-2001	02-05-0088A	02
05	IL	DOUGLAS COUNTY	1701940100B	26-NOV-2001	02-05-0552A	02
05	IL	DOWNERS GROVE, VILLAGE OF	1702040006C	28-SEP-2001	01-05-3558A	02
05	IL	DU PAGE COUNTY*	1701790030D	28-AUG-2001	01-05-1683X	05
05	IL	EAST PEORIA, CITY OF	1706490010B	07-SEP-2001	01-05-3347A	02
05	IL	EAST PEORIA, CITY OF	1706490005B	26-NOV-2001	02-05-0068A	02
05	IL	EAST PEORIA, CITY OF	1706490005B	05-DEC-2001	02-05-0215A	01
05	IL	EFFINGHAM, CITY OF	17022901B	26-SEP-2001	01-05-3664A	02
05	IL	EFFINGHAM, CITY OF	17022903B	09-NOV-2001	02-05-0059A	01
05	IL	ELGIN, CITY OF	1700870003C	12-DEC-2001	02-05-0569A	02
05	IL	ELGIN, CITY OF	1700870003C	13-JUL-2001	01-05-1342A	17
05	IL	FLOSSMOOR, VILLAGE OF	17031C0737F	12-SEP-2001	01-05-3465A	02
05	IL	FLOSSMOOR, VILLAGE OF	17031C0739F	12-SEP-2001	01-05-3465A	02
05	IL	FORSYTH, VILLAGE OF	1710170005A	12-OCT-2001	01-05-3946A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	25-JUL-2001	01-05-2768A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	10-AUG-2001	01-05-2804A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	20-JUL-2001	01-05-2904A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015G	12-SEP-2001	01-05-3518A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015G	12-OCT-2001	01-05-3718A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015G	24-OCT-2001	01-05-3861A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015G	31-OCT-2001	02-05-0213A	02
05	IL	FRANKFORT, VILLAGE OF	17197C0310E	15-JUL-2001	01-05-1228P	06
05	IL	FRANKLIN PARK, VILLAGE OF	17031C0367F	01-AUG-2001	01-05-2839A	02
05	IL	GARDNER, VILLAGE OF	1702610005C	12-DEC-2001	02-05-0556A	02
05	IL	GERMANTOWN, VILLAGE OF	170049B	25-JUL-2001	01-05-2599A	02
05	IL	GERMANTOWN, VILLAGE OF	170049B	25-JUL-2001	01-05-2632A	02
05	IL	GERMANTOWN, VILLAGE OF	170049B	13-NOV-2001	02-05-0124A	02
05	IL	GERMANTOWN, VILLAGE OF	170049—01 B	14-NOV-2001	02-05-0126A	02
05	IL	GERMANTOWN, VILLAGE OF	170049—01B	12-DEC-2001	02-05-0674A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	GLEN ELLYN, VILLAGE OF	1702070005C	18-JUL-2001	01-05-2352P	05
05	IL	GLENVIEW, VILLAGE OF	17031C0233F	12-OCT-2001	01-05-3796A	02
05	IL	GRANITE CITY, CITY OF	1704430002A	28-NOV-2001	01-05-3823A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0132G	06-JUL-2001	01-05-2331A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0131G	19-OCT-2001	02-05-0090A	02
05	IL	GRUNDY COUNTY	1702560040C	10-AUG-2001	01-05-2756A	17
05	IL	GRUNDY COUNTY	1702560045C	10-AUG-2001	01-05-2756A	17
05	IL	GRUNDY COUNTY	1702560040C	25-JUL-2001	01-05-3014A	02
05	IL	GRUNDY COUNTY	1702560040C	31-AUG-2001	01-05-3483A	17
05	IL	GRUNDY COUNTY	1702560045C	31-AUG-2001	01-05-3483A	17
05	IL	GRUNDY COUNTY	1702560085C	28-DEC-2001	02-05-0311A	01
05	IL	HARDIN COUNTY	1710020100B	28-NOV-2001	02-05-0572A	02
05	IL	HAWTHORN WOODS, VILLAGE OF	17097C0232F	12-DEC-2001	01-05-2982A	17
05	IL	HAZEL CREST, VILLAGE OF	17031C0729F	10-AUG-2001	01-05-2549A	02
05	IL	HIGHLAND PARK, CITY OF	17097C0287F	03-AUG-2001	01-05-1985A	02
05	IL	HIGHLAND PARK, CITY OF	17097C0291F	24-OCT-2001	01-05-3941A	02
05	IL	HINSDALE, VILLAGE OF	1701050004B	06-DEC-2001	02-05-0293A	02
05	IL	HINSDALE, VILLAGE OF	1701050002B	07-SEP-2001	01-05-3368A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	17031C0167F	14-NOV-2001	02-05-0324A	02
05	IL	HOLIDAY HILLS, VILLAGE OF	1709360001B	13-JUL-2001	01-05-2484A	02
05	IL	HOLIDAY HILLS, VILLAGE OF	1709360001B	01-AUG-2001	01-05-3034A	02
05	IL	HOLIDAY HILLS, VILLAGE OF	1709360001B	29-AUG-2001	01-05-3406A	02
05	IL	HOLIDAY HILLS, VILLAGE OF	1709360001B	19-DEC-2001	02-05-0660A	02
05	IL	HUNTLEY, VILLAGE OF	1704800003C	28-NOV-2001	02-05-0378A	01
05	IL	IROQUOIS COUNTY	17075C0105D	24-AUG-2001	01-05-2223A	02
05	IL	IROQUOIS COUNTY	17075C0110D	24-AUG-2001	01-05-2223A	02
05	IL	IROQUOIS COUNTY	17075C0045D	05-OCT-2001	01-05-3690A	02
05	IL	IROQUOIS COUNTY	17075C0035D	14-DEC-2001	01-05-3845A	02
05	IL	ITASCA, VILLAGE OF	1702100003B	19-DEC-2001	01-05-2906A	02
05	IL	JACKSON COUNTY	1709270006B	21-SEP-2001	01-05-2214A	02
05	IL	JACKSON COUNTY	1709270006B	12-OCT-2001	01-05-3967A	02
05	IL	JOLIET, CITY OF	17197C0255E	11-JUL-2001	01-05-2620A	02
05	IL	JOLIET, CITY OF	17197C0141E	13-JUL-2001	01-05-1211P	06
05	IL	JOLIET, CITY OF	17197C0130E	03-OCT-2001	01-05-3608A	02
05	IL	JOLIET, CITY OF	17197C0141E	17-OCT-2001	01-05-3969A	02
05	IL	JOLIET, CITY OF	17197C0130E	07-NOV-2001	02-05-0309A	02
05	IL	JOLIET, CITY OF	17197C0144E	21-DEC-2001	02-05-0627A	02
05	IL	KANE COUNTY *	1708960034B	18-DEC-2001	01-05-2373P	05
05	IL	KANE COUNTY *	1708960035B	18-DEC-2001	01-05-2373P	05
05	IL	KANE COUNTY *	1708960106B	06-DEC-2001	01-05-2948P	05
05	IL	KANE COUNTY *	1708960102B	12-SEP-2001	01-05-3299A	02
05	IL	KANE COUNTY *	1708960106B	12-DEC-2001	02-05-0463A	02
05	IL	KANKAKEE COUNTY	1703360185C	13-JUL-2001	01-05-367A	02
05	IL	KANKAKEE COUNTY	1703360185C	26-NOV-2001	02-05-0545A	17
05	IL	KANKAKEE COUNTY	1703360170C	05-DEC-2001	02-05-0581A	17
05	IL	KENDALL COUNTY *	1703410095C	26-JUL-2001	01-05-605P	05
05	IL	KILDEER, VILLAGE OF	17097C0241F	07-NOV-2001	02-05-0314X	17
05	IL	KIRKLAND, CITY OF	17037C0004D	20-JUL-2001	01-05-2652A	01
05	IL	KIRKLAND, CITY OF	17037C0004D	07-SEP-2001	01-05-3353A	02
05	IL	LA SALLE COUNTY	17099C0405E	09-NOV-2001	02-05-0212A	17
05	IL	LAKE COUNTY	17097C0127G	21-SEP-2001	01-05-2579A	02
05	IL	LAKE COUNTY	17097C0166G	05-JUL-2001	01-05-2642A	02
05	IL	LAKE COUNTY	17097C0019F	05-JUL-2001	01-05-2666A	02
05	IL	LAKE COUNTY	17097C0166G	21-SEP-2001	01-05-2827A	02
05	IL	LAKE COUNTY	17097C0110H	13-JUL-2001	01-05-2831A	02
05	IL	LAKE COUNTY	17097C0010F	27-JUL-2001	01-05-2895A	02
05	IL	LAKE COUNTY	17097C0036F	24-OCT-2001	01-05-3679A	02
05	IL	LAKE COUNTY	17097C0110H	14-NOV-2001	02-05-0020A	02
05	IL	LAKE COUNTY	17097C0020F	07-DEC-2001	02-05-0244A	02
05	IL	LAKE COUNTY	17097C0019F	09-NOV-2001	02-05-0342A	02
05	IL	LAKE COUNTY	17097C0258G	05-DEC-2001	02-05-0491A	02
05	IL	LAKE COUNTY	17097C0162G	26-NOV-2001	02-05-0506A	02
05	IL	LAKE COUNTY	17097C0110H	26-NOV-2001	02-05-0538A	02
05	IL	LAKE COUNTY	17097C0162G	26-NOV-2001	02-05-0565A	02
05	IL	LAKE COUNTY	17097C0166G	07-DEC-2001	02-05-0653A	02
05	IL	LAKE FOREST, CITY OF	17097C0277F	03-OCT-2001	01-05-2319A	01
05	IL	LAKE FOREST, CITY OF	17097C0257F	14-SEP-2001	01-05-2715A	01
05	IL	LAKE ZURICH, VILLAGE OF	17097C0229F	18-JUL-2001	01-05-1260P	06
05	IL	LAKE ZURICH, VILLAGE OF	17097C0229F	28-NOV-2001	02-05-0486A	01
05	IL	LAKEMOOR, VILLAGE OF	17091500001B	07-SEP-2001	01-05-3312A	02
05	IL	LAKEMOOR, VILLAGE OF	17097C0105H	13-JUL-2001	01-05-2440A	02
05	IL	LAKEMOOR, VILLAGE OF	17097C0105H	10-AUG-2001	01-05-3169A	01
05	IL	LANSING, VILLAGE OF	17031C0759F	01-AUG-2001	01-05-3059A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	LANSING, VILLAGE OF	17031C0759F	12-OCT-2001	01-05-3181A	02
05	IL	LAWRENCE COUNTY	1704090050B	25-JUL-2001	01-05-2539A	02
05	IL	LAWRENCE COUNTY	1704090100B	19-SEP-2001	01-05-2759A	02
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0161F	08-AUG-2001	01-05-3062A	02
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0168G	28-SEP-2001	01-05-3693A	02
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0258G	28-SEP-2001	01-05-3779A	02
05	IL	LISLE, VILLAGE OF	1701970055B	24-JUL-2001	01-05-1153P	05
05	IL	LOCKPORT, CITY OF	17197C0159E	26-SEP-2001	01-05-2571A	02
05	IL	LOCKPORT, CITY OF	17197C0180E	27-OCT-2001	01-05-2724P	05
05	IL	LOCKPORT, CITY OF	17197C0156E	03-OCT-2001	01-05-3856A	02
05	IL	LOGAN COUNTY	17107C0150C	31-AUG-2001	01-05-2580A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0234F	20-JUL-2001	01-05-2401A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0234F	21-SEP-2001	01-05-3682A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0234F	28-SEP-2001	01-05-3709A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0234F	31-OCT-2001	02-05-0275A	02
05	IL	LOVES PARK, CITY OF	1707220010C	31-OCT-2001	02-05-0252A	02
05	IL	LYNWOOD, VILLAGE OF	17031C0768F	27-JUL-2001	01-05-1858A	17
05	IL	LYNWOOD, VILLAGE OF	17031C0768F	13-JUL-2001	01-05-2221A	01
05	IL	LYNWOOD, VILLAGE OF	17031C0766F	25-JUL-2001	01-05-2537A	02
05	IL	LYNWOOD, VILLAGE OF	17031C0768F	31-OCT-2001	01-05-2787A	17
05	IL	LYNWOOD, VILLAGE OF	17031C0768F	31-OCT-2001	01-05-2840A	17
05	IL	LYNWOOD, VILLAGE OF	17031C0768F	12-SEP-2001	01-05-2845A	17
05	IL	LYNWOOD, VILLAGE OF	17031C0768F	28-NOV-2001	01-05-3414A	17
05	IL	LYNWOOD, VILLAGE OF	17031C0766F	12-DEC-2001	02-05-0760A	02
05	IL	MACKINAW, VILLAGE OF	1709590001A	29-AUG-2001	01-05-3398A	02
05	IL	MACON COUNTY	1709280020B	07-NOV-2001	02-05-0357X	17
05	IL	MADISON COUNTY	1704360085B	25-JUL-2001	01-05-2692A	02
05	IL	MADISON COUNTY	1704360085B	12-OCT-2001	01-05-3530A	02
05	IL	MADISON COUNTY	1704360085B	14-SEP-2001	01-05-3668A	02
05	IL	MADISON COUNTY	1704360085B	07-NOV-2001	01-05-3754A	02
05	IL	MARION, CITY OF	1707190003B	05-NOV-2001	00-05-381P	05
05	IL	MASON COUNTY	1704630025B	07-DEC-2001	01-05-3424A	02
05	IL	MATTESON, VILLAGE OF	17031C0719F	17-AUG-2001	01-05-2788A	01
05	IL	MATTESON, VILLAGE OF	17031C0738F	17-AUG-2001	01-05-2788A	01
05	IL	MCHENRY COUNTY	1707320115B	12-SEP-2001	01-05-2428A	02
05	IL	MCHENRY COUNTY	1707320230B	27-JUL-2001	01-05-2757A	02
05	IL	MCHENRY COUNTY	1707320230B	22-AUG-2001	01-05-3248A	02
05	IL	MCHENRY COUNTY	1707320355B	03-OCT-2001	01-05-3684A	02
05	IL	MCHENRY COUNTY	1707320025B	14-NOV-2001	01-05-3758A	02
05	IL	MCHENRY COUNTY	1707320355B	03-OCT-2001	01-05-3871A	02
05	IL	MCHENRY COUNTY	1707320240B	19-OCT-2001	02-05-0048A	02
05	IL	MCHENRY COUNTY	1707320115B	30-NOV-2001	02-05-0498A	02
05	IL	MCHENRY COUNTY	1707320355B	12-DEC-2001	02-05-0520A	02
05	IL	MCLEAN COUNTY	17113C0310D	12-SEP-2001	01-05-3469A	02
05	IL	MCLEAN COUNTY	17113C0175D	28-NOV-2001	01-05-3849A	02
05	IL	MCLEAN COUNTY	17113C0310D	07-NOV-2001	02-05-0201A	02
05	IL	MCLEAN COUNTY	17113C0310D	05-DEC-2001	02-05-0495A	02
05	IL	MCLEAN COUNTY	17113C0175D	05-DEC-2001	02-05-0589A	02
05	IL	MIDLOTHIAN, VILLAGE OF	17031C0726F	31-AUG-2001	01-05-3442A	02
05	IL	MOLINE, CITY OF	1705910010B	21-NOV-2001	02-05-0119A	02
05	IL	MONMOUTH, CITY OF	17067602B	29-AUG-2001	01-05-2887A	02
05	IL	MORRIS, CITY OF	1702630005C	08-AUG-2001	01-05-3121A	02
05	IL	MORRIS, CITY OF	1702630005C	26-OCT-2001	02-05-0198A	02
05	IL	MORRIS, CITY OF	1702630005C	26-OCT-2001	02-05-0219A	02
05	IL	MORRIS, CITY OF	1702630005C	26-NOV-2001	02-05-0533A	02
05	IL	MORRIS, CITY OF	1702630005C	26-NOV-2001	02-05-0536A	02
05	IL	MORRIS, CITY OF	1702630005C	26-NOV-2001	02-05-0549A	02
05	IL	MORRIS, CITY OF	1702630005C	26-NOV-2001	02-05-0559A	02
05	IL	MORRIS, CITY OF	1702630005C	30-NOV-2001	02-05-0619A	02
05	IL	MORRISON, CITY OF	1706910001B	19-SEP-2001	01-05-3719A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0211F	07-SEP-2001	01-05-3156A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0207F	14-SEP-2001	01-05-3635A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0207F	24-OCT-2001	02-05-0175A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0208F	31-OCT-2001	02-05-0177A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0207F	09-NOV-2001	02-05-0332A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0207F	30-NOV-2001	02-05-0333A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0207F	26-NOV-2001	02-05-0334A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0209F	26-NOV-2001	02-05-0334A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	17031C0207F	19-DEC-2001	02-05-0488A	02
05	IL	NAPERVILLE, CITY OF	17197C0033F	05-JUL-2001	01-05-304A	02
05	IL	NAPERVILLE, CITY OF	1702130021C	28-SEP-2001	01-05-3790A	02
05	IL	NELSON, VILLAGE OF	17103C0076D	31-AUG-2001	01-05-3431A	02
05	IL	NEW ATHENS, VILLAGE OF	1706320005B	29-NOV-2001	01-05-3785P	06

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05	IL	NORMAL, TOWN OF	17113C0314D	07-NOV-2001	01-05-2861A	02
05	IL	NORMAL, TOWN OF	17113C0314D	21-SEP-2001	01-05-3428A	17
05	IL	NORTHBROOK, VILLAGE OF	17031C0227F	31-AUG-2001	01-05-3261A	02
05	IL	NORTHFIELD, VILLAGE OF	17031C0232F	05-JUL-2001	01-05-2259A	02
05	IL	NORTHFIELD, VILLAGE OF	17031C0232F	18-JUL-2001	01-05-2654A	02
05	IL	NORTHFIELD, VILLAGE OF	17031C0232F	01-AUG-2001	01-05-3033A	02
05	IL	NORTHFIELD, VILLAGE OF	17031C0232F	19-SEP-2001	01-05-3640A	02
05	IL	NORTHFIELD, VILLAGE OF	17031C0232F	12-OCT-2001	02-05-0069A	02
05	IL	NORTHFIELD, VILLAGE OF	17031C0232F	26-NOV-2001	02-05-0551A	02
05	IL	OAK FOREST, CITY OF	17031C0707F	31-AUG-2001	01-05-2626A	02
05	IL	OAK FOREST, CITY OF	17031C0726F	11-JUL-2001	01-05-2247A	17
05	IL	OAK FOREST, CITY OF	17031C0726F	19-SEP-2001	01-05-2758A	17
05	IL	OAK FOREST, CITY OF	17031C0707F	24-AUG-2001	01-05-3084A	02
05	IL	OAK FOREST, CITY OF	17031C0707F	12-DEC-2001	02-05-0061A	02
05	IL	OAK LAWN, VILLAGE OF	17031C0609F	14-NOV-2001	01-05-3336A	17
05	IL	OAK LAWN, VILLAGE OF	17031C0608F	10-OCT-2001	01-05-3964A	02
05	IL	OAK LAWN, VILLAGE OF	17031C0628F	10-OCT-2001	01-05-3987A	02
05	IL	ORLAND PARK, VILLAGE OF	17031C0684F	31-AUG-2001	01-05-2760A	01
05	IL	ORLAND PARK, VILLAGE OF	17031C0703F	31-AUG-2001	01-05-2760A	01
05	IL	ORLAND PARK, VILLAGE OF	17031C0682F	16-NOV-2001	02-05-0504A	02
05	IL	PALATINE, VILLAGE OF	17031C0044F	22-OCT-2001	01-05-1413P	05
05	IL	PALATINE, VILLAGE OF	17031C0177F	21-NOV-2001	02-05-0131A	01
05	IL	PALATINE, VILLAGE OF	17031C0044F	31-AUG-2001	01-05-3002A	17
05	IL	PALATINE, VILLAGE OF	17031C0044F	24-OCT-2001	02-05-0200X	17
05	IL	PALOS HILLS, CITY OF	17031C0604F	27-JUL-2001	01-05-2427A	02
05	IL	PALOS HILLS, CITY OF	17031C0604F	18-JUL-2001	01-05-2688A	02
05	IL	PALOS HILLS, CITY OF	17031C0604F	06-JUL-2001	01-05-2748A	02
05	IL	PALOS HILLS, CITY OF	17031C0604F	22-AUG-2001	01-05-2829A	02
05	IL	PALOS HILLS, CITY OF	17031C0604F	12-SEP-2001	01-05-3103A	02
05	IL	PALOS HILLS, CITY OF	17031C0603F	05-OCT-2001	01-05-3407A	02
05	IL	PALOS PARK, VILLAGE OF	17031C0611F	18-JUL-2001	01-05-2113A	02
05	IL	PALOS PARK, VILLAGE OF	17031C0611F	27-JUL-2001	01-05-2560A	02
05	IL	PALOS PARK, VILLAGE OF	17031C0612F	05-JUL-2001	01-05-2763A	02
05	IL	PEORIA COUNTY	1705330125B	26-SEP-2001	01-05-3204A	01
05	IL	PEORIA COUNTY	1705330125B	26-OCT-2001	02-05-0206A	02
05	IL	PEORIA COUNTY	1705330125B	09-NOV-2001	02-05-0341A	02
05	IL	PIATT COUNTY	1705420004B	05-JUL-2001	01-05-2489A	02
05	IL	PLAINFIELD, VILLAGE OF	17197C0045F	26-JUL-2001	00-05-361P	05
05	IL	PLAINFIELD, VILLAGE OF	17197C0127E	12-OCT-2001	01-05-3926A	02
05	IL	PONTIAC, CITY OF	1704260001C	05-JUL-2001	01-05-2719A	02
05	IL	POSEN, VILLAGE OF	17031C0643F	02-NOV-2001	01-05-2168A	02
05	IL	POSEN, VILLAGE OF	17031C0643F	17-AUG-2001	01-05-2743A	02
05	IL	POSEN, VILLAGE OF	17031C0643F	02-NOV-2001	01-05-2888A	02
05	IL	PROSPECT HEIGHTS, CITY OF	17031C0206F	24-OCT-2001	02-05-0142A	02
05	IL	PROSPECT HEIGHTS, CITY OF	17031C0206F	30-NOV-2001	02-05-0593A	02
05	IL	QUINCY, CITY OF	1700010160C	19-OCT-2001	01-05-2873A	02
05	IL	RIVER GROVE, VILLAGE OF	17031C0386F	03-AUG-2001	01-05-2289A	02
05	IL	ROBBINS, VILLAGE OF	17031C0639F	11-JUL-2001	01-05-2502A	02
05	IL	ROCHELLE, CITY OF	1705250470A	14-SEP-2001	01-05-3258A	01
05	IL	ROCHELLE, CITY OF	1705320002B	14-SEP-2001	01-05-3258A	01
05	IL	ROCHELLE, CITY OF	1705250470A	12-JUL-2001	01-05-635A	01
05	IL	ROCHELLE, CITY OF	1705320002B	12-JUL-2001	01-05-635A	01
05	IL	ROLLING MEADOWS, CITY OF	17031C0184F	27-JUL-2001	01-05-2391A	17
05	IL	ROMEOVILLE, VILLAGE OF	17197C0065F	19-JUL-2001	01-05-2034P	06
05	IL	ROMEOVILLE, VILLAGE OF	17197C0065F	27-JUL-2001	01-05-2892A	02
05	IL	ROMEOVILLE, VILLAGE OF	17197C0065F	16-NOV-2001	02-05-0490A	02
05	IL	ROMEOVILLE, VILLAGE OF	17197C0065F	12-DEC-2001	02-05-0568A	02
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0126F	22-AUG-2001	01-05-3064A	02
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0127G	21-SEP-2001	01-05-3646A	02
05	IL	ROUND LAKE, VILLAGE OF	17097C0110H	25-JUL-2001	01-05-2500A	02
05	IL	ROUND LAKE, VILLAGE OF	17097C0110H	24-AUG-2001	01-05-2501A	02
05	IL	ROUND LAKE, VILLAGE OF	17097C0110H	14-DEC-2001	02-05-0389A	01
05	IL	SANGAMON COUNTY *	1709120120C	25-JUL-2001	01-05-2066A	02
05	IL	SANGAMON COUNTY *	1709120250C	14-SEP-2001	01-05-2943A	01
05	IL	SAUK VILLAGE, VILLAGE OF	17031C0827F	25-JUL-2001	01-05-2466A	17
05	IL	SCHAUMBURG, VILLAGE OF	17031C0188F	05-JUL-2001	01-05-2676A	02
05	IL	SCHAUMBURG, VILLAGE OF	17031C0188F	02-NOV-2001	01-05-3047A	17
05	IL	SLEEPY HOLLOW, VILLAGE OF	1703310001B	25-JUL-2001	01-05-2076A	02
05	IL	SLEEPY HOLLOW, VILLAGE OF	1703310001B	15-AUG-2001	01-05-3286X	02
05	IL	SOUTH HOLLAND, VILLAGE OF	17031C0754F	26-NOV-2001	01-05-3705A	01
05	IL	ST. CLAIR COUNTY *	1706160065A	11-JUL-2001	01-05-2600A	02
05	IL	STREAMWOOD, VILLAGE OF	17031C0168F	25-JUL-2001	01-05-2637A	02
05	IL	SUGAR GROVE, VILLAGE OF	1703330001B	19-SEP-2001	01-05-3322A	02

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05	IL	SWANSEA, VILLAGE OF	1706370001B	03-OCT-2001	01-05-3829A	17
05	IL	TINLEY PARK, CITY OF	17031C0708F	13-JUL-2001	01-05-0760A	02
05	IL	TINLEY PARK, CITY OF	17031C0709F	05-JUL-2001	01-05-2510A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	13-JUL-2001	01-05-2559A	02
05	IL	TINLEY PARK, CITY OF	17031C0717F	13-JUL-2001	01-05-2659A	02
05	IL	TINLEY PARK, CITY OF	17031C0709F	20-JUL-2001	01-05-2746A	02
05	IL	TINLEY PARK, CITY OF	17031C0709F	10-AUG-2001	01-05-2855A	01
05	IL	TINLEY PARK, CITY OF	17031C0708F	25-JUL-2001	01-05-2896A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	25-JUL-2001	01-05-3021A	02
05	IL	TINLEY PARK, CITY OF	17031C0709F	25-JUL-2001	01-05-3043A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	22-AUG-2001	01-05-3119A	02
05	IL	TINLEY PARK, CITY OF	17031C0716F	21-SEP-2001	01-05-3382A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	19-SEP-2001	01-05-3760A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	31-OCT-2001	02-05-0001A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	31-OCT-2001	02-05-0002A	02
05	IL	TINLEY PARK, CITY OF	17031C0709F	31-OCT-2001	02-05-0002A	02
05	IL	TINLEY PARK, CITY OF	17031C0708F	31-OCT-2001	02-05-0003A	02
05	IL	TINLEY PARK, CITY OF	17031C0709F	31-OCT-2001	02-05-0003A	02
05	IL	TINLEY PARK, CITY OF	17031C0716F	31-OCT-2001	02-05-0003A	02
05	IL	TINLEY PARK, CITY OF	17031C0717F	31-OCT-2001	02-05-0003A	02
05	IL	TINLEY PARK, CITY OF	17031C0716F	02-NOV-2001	02-05-0181A	01
05	IL	TUSCOLA, CITY OF	1701950005C	25-JUL-2001	01-05-2978A	02
05	IL	TUSCOLA, CITY OF	1701950005C	08-AUG-2001	01-05-3184A	02
05	IL	TUSCOLA, CITY OF	1701950005C	15-AUG-2001	01-05-3240A	02
05	IL	TUSCOLA, CITY OF	1701950005C	09-NOV-2001	02-05-0366A	02
05	IL	URBANA, CITY OF	1700350009B	07-NOV-2001	02-05-0110A	02
05	IL	VERNON HILLS, VILLAGE OF	17097C0164G	28-SEP-2001	01-05-3706A	02
05	IL	VERNON HILLS, VILLAGE OF	17097C0252G	28-SEP-2001	01-05-3706A	02
05	IL	VERNON HILLS, VILLAGE OF	17097C0252G	12-OCT-2001	02-05-0056A	02
05	IL	VILLA GROVE, CITY OF	1701940050B	19-SEP-2001	01-05-3118A	01
05	IL	VILLA GROVE, CITY OF	1701940050B	07-NOV-2001	02-05-0329A	02
05	IL	VILLA PARK, VILLAGE OF	1702170001B	28-AUG-2001	01-05-1683X	05
05	IL	WALNUT, VILLAGE OF	1700170001B	09-NOV-2001	02-05-0249A	02
05	IL	WATSEKA, CITY OF	17075C0120D	07-DEC-2001	01-05-3507A	02
05	IL	WATSEKA, CITY OF	17075C0120D	21-SEP-2001	01-05-3738A	02
05	IL	WAYNE COUNTY	1710030008A	10-OCT-2001	01-05-3991A	02
05	IL	WESTCHESTER, VILLAGE OF	17031C0459F	25-JUL-2001	01-05-2852A	02
05	IL	WESTCHESTER, VILLAGE OF	17031C0459F	27-JUL-2001	01-05-2925A	02
05	IL	WESTCHESTER, VILLAGE OF	17031C0457F	02-AUG-2001	01-05-2936A	02
05	IL	WESTCHESTER, VILLAGE OF	17031C0459F	10-AUG-2001	01-05-2952A	02
05	IL	WESTCHESTER, VILLAGE OF	17031C0459F	24-AUG-2001	01-05-3250A	02
05	IL	WESTERN SPRINGS, VILLAGE OF	17031C0466F	05-JUL-2001	01-05-2558A	02
05	IL	WESTERN SPRINGS, VILLAGE OF	17031C0467F	05-JUL-2001	01-05-2558A	02
05	IL	WHEELING, VILLAGE OF	17031C0069F	11-JUL-2001	01-05-2613X	01
05	IL	WHEELING, VILLAGE OF	17031C0206F	19-SEP-2001	01-05-2621A	02
05	IL	WHEELING, VILLAGE OF	17031C0068F	27-JUL-2001	01-05-2903A	02
05	IL	WHEELING, VILLAGE OF	17031C0069F	27-JUL-2001	01-05-2903A	02
05	IL	WHEELING, VILLAGE OF	17031C0068F	09-NOV-2001	01-05-3837A	01
05	IL	WILL COUNTY	17197C0385E	15-AUG-2001	01-05-3225A	02
05	IL	WILL COUNTY	17197C0310E	26-OCT-2001	01-05-3228A	02
05	IL	WILL COUNTY	17197C0090E	07-NOV-2001	01-05-3651A	02
05	IL	WILL COUNTY	17197C0385E	12-OCT-2001	01-05-3935A	02
05	IL	WILL COUNTY	17197C0090E	28-NOV-2001	01-05-4004A	01
05	IL	WILL COUNTY	17197C0134E	30-NOV-2001	02-05-0578A	02
05	IL	WILL COUNTY	17197C0285E	19-DEC-2001	02-05-0852A	02
05	IL	WILL COUNTY *	17197C0045F	12-OCT-2001	00-05-361P	05
05	IL	WILLOW SPRINGS, VILLAGE OF	17031C0582F	25-JUL-2001	01-05-2511A	01
05	IL	WILLOW SPRINGS, VILLAGE OF	17031C0582F	20-JUL-2001	01-05-2583A	01
05	IL	WILLOW SPRINGS, VILLAGE OF	17031C0582F	13-JUL-2001	01-05-2820A	02
05	IL	WILMINGTON, CITY OF	17197C0417E	15-AUG-2001	01-05-3082A	02
05	IL	WILMINGTON, CITY OF	17197C0408E	07-DEC-2001	02-05-0656A	02
05	IL	WINNEBAGO COUNTY	1707200110B	30-NOV-2001	02-05-0184A	02
05	IL	WINNEBAGO COUNTY	1707200010B	26-NOV-2001	02-05-0505A	02
05	IL	WINNEBAGO COUNTY *	1707200070C	22-AUG-2001	01-05-2625P	06
05	IL	WOOD RIVER, CITY OF	1704510005B	22-AUG-2001	01-05-3244A	02
05	IL	WOODLAND, VILLAGE OF	17075C0185D	05-DEC-2001	02-05-0272A	02
05	IL	WOODLAND, VILLAGE OF	17075C0185D	05-DEC-2001	02-05-0408A	02
05	IN	ALLEN COUNTY	18003C0155E	13-JUL-2001	01-05-1525A	01
05	IN	ALLEN COUNTY *	18003C0350D	26-SEP-2001	01-05-2631A	02
05	IN	ALLEN COUNTY *	18003C0165E	28-NOV-2001	01-05-3552A	17
05	IN	ALLEN COUNTY *	18003C0350D	26-SEP-2001	01-05-3573A	02
05	IN	ALLEN COUNTY *	18003C0285E	08-AUG-2001	01-05-933P	05
05	IN	ALLEN COUNTY *	18003C0165E	19-DEC-2001	02-05-0120A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	AUBURN, CITY OF	1800460005C	21-NOV-2001	02-05-0483A	02
05	IN	BARTHOLOMEW COUNTY	1800060150B	15-AUG-2001	01-05-3337A	02
05	IN	BARTHOLOMEW COUNTY	1800060050B	19-SEP-2001	01-05-3670A	02
05	IN	BARTHOLOMEW COUNTY	1800060100B	10-OCT-2001	01-05-3977A	02
05	IN	BARTHOLOMEW COUNTY	1800060075B	14-DEC-2001	02-05-0831A	02
05	IN	BLOOMINGTON, CITY OF	1801690020C	14-DEC-2001	01-05-2532A	17
05	IN	BLOOMINGTON, CITY OF	1801690025C	19-SEP-2001	01-05-2588A	02
05	IN	BROWN COUNTY	1851740020B	12-SEP-2001	01-05-2777A	01
05	IN	BROWN COUNTY	1851740060B	30-NOV-2001	02-05-0585A	02
05	IN	CARMEL, CITY OF	1800810009C	27-JUL-2001	01-05-2589A	02
05	IN	CLARK COUNTY	1804260125C	03-AUG-2001	01-05-3091A	02
05	IN	CLARK COUNTY	1804260175C	19-SEP-2001	01-05-3235A	01
05	IN	CLARK COUNTY	1804260175C	17-OCT-2001	01-05-3339A	02
05	IN	CLARK COUNTY	1804260175C	10-OCT-2001	01-05-3853A	02
05	IN	CLARK COUNTY	1804260175C	26-NOV-2001	01-05-3953A	01
05	IN	CLARK COUNTY	1804260050B	12-DEC-2001	02-05-0250A	17
05	IN	CLARK COUNTY	1804260175C	07-NOV-2001	02-05-0317A	02
05	IN	CLARK COUNTY	1804260125C	09-NOV-2001	02-05-0374A	02
05	IN	CLEAR LAKE, TOWN OF	1802430050B	22-AUG-2001	01-05-2609A	02
05	IN	COLUMBUS, CITY OF	1800070020D	17-OCT-2001	01-05-3671A	02
05	IN	COLUMBUS, CITY OF	1800070020D	14-NOV-2001	01-05-3809A	02
05	IN	COLUMBUS, CITY OF	1800070020D	14-NOV-2001	02-05-0384A	02
05	IN	DE KALB COUNTY *	1800440050B	22-AUG-2001	01-05-2924A	02
05	IN	DELAWARE COUNTY	1800510125C	07-NOV-2001	01-05-1730A	17
05	IN	DYER, TOWN OF	1801290001D	06-DEC-2001	01-05-1672P	05
05	IN	EDINBURGH, CITY OF	1801130005C	30-NOV-2001	02-05-0617A	02
05	IN	ELKHART COUNTY	1800560010B	18-JUL-2001	01-05-2529A	02
05	IN	ELKHART COUNTY	1800560075A	19-SEP-2001	01-05-3395A	02
05	IN	ELKHART COUNTY	1800560075A	10-OCT-2001	01-05-3757A	02
05	IN	ELKHART COUNTY	1800560020B	26-SEP-2001	01-05-3759A	02
05	IN	ELKHART COUNTY	1800560020B	28-SEP-2001	01-05-3808A	02
05	IN	ELKHART COUNTY	1800560020B	28-SEP-2001	01-05-3819A	02
05	IN	ELKHART, CITY OF	1800570010C	18-JUL-2001	01-05-823A	17
05	IN	ELWOOD, CITY OF	1801520001C	24-OCT-2001	01-05-3866A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	11-JUL-2001	01-05-2617A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	11-JUL-2001	01-05-2618A	02
05	IN	EVANSVILLE, CITY OF	1802570006B	16-NOV-2001	02-05-0136A	02
05	IN	EVANSVILLE, CITY OF	1802570004B	07-DEC-2001	02-05-0444A	01
05	IN	EVANSVILLE, CITY OF	1802570004B	19-DEC-2001	02-05-0672A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	12-SEP-2001	01-05-3317A	02
05	IN	FORT WAYNE, CITY OF	18003C0285E	12-SEP-2001	01-05-3325A	02
05	IN	FORT WAYNE, CITY OF	18003C0165E	19-SEP-2001	01-05-3551A	02
05	IN	FORT WAYNE, CITY OF	18003C0285E	08-AUG-2001	01-05-933P	05
05	IN	FORT WAYNE, CITY OF	18003C0285E	28-DEC-2001	02-05-0112A	01
05	IN	FORT WAYNE, CITY OF	18003C0260D	28-DEC-2001	02-05-0687A	02
05	IN	FORT WAYNE, CITY OF	18003C0280E	03-OCT-2001	01-05-3843A	02
05	IN	FRANKLIN COUNTY	18047C0150C	22-AUG-2001	01-05-3061A	02
05	IN	FRANKLIN COUNTY	18047C0150C	22-AUG-2001	01-05-3063A	02
05	IN	FRANKLIN COUNTY	18047C0150C	12-OCT-2001	01-05-3637A	02
05	IN	FRANKLIN, CITY OF	1801140002B	13-JUL-2001	01-05-989A	02
05	IN	FRANKLIN, CITY OF	1801110100C	21-DEC-2001	02-05-0362X	01
05	IN	FULTON COUNTY	1800700050B	05-JUL-2001	01-05-2732A	02
05	IN	GOSHEN, CITY OF	1800580005B	12-SEP-2001	01-05-374P	05
05	IN	GOSHEN, CITY OF	1800580005B	20-JUL-2001	01-05-2823A	02
05	IN	GREENSBURG, CITY OF	1800430001B	14-NOV-2001	02-05-0285A	01
05	IN	GREENSBURG, CITY OF	1804300105B	14-NOV-2001	02-05-0285A	01
05	IN	GREENWOOD, CITY OF	1801150004B	10-OCT-2001	01-05-3370A	02
05	IN	GRIFFITH, TOWN OF	1851750004C	12-DEC-2001	02-05-0546A	02
05	IN	HAMILTON COUNTY*	1800800040B	05-DEC-2001	01-05-3588A	02
05	IN	HANCOCK COUNTY	1804190025B	29-AUG-2001	01-05-3020A	02
05	IN	HANCOCK COUNTY	1804190025B	28-NOV-2001	01-05-3440A	02
05	IN	HANCOCK COUNTY	1804190100B	19-OCT-2001	02-05-0052A	02
05	IN	HARRISON COUNTY	1800850006B	22-AUG-2001	01-05-3013A	02
05	IN	HARRISON COUNTY	1800850006B	15-AUG-2001	01-05-3238A	02
05	IN	HARRISON COUNTY	1800850006B	14-DEC-2001	02-05-0765X	02
05	IN	HENDRICKS COUNTY	1804150050B	10-OCT-2001	01-05-2846A	02
05	IN	HENDRICKS COUNTY	1804150050B	07-SEP-2001	01-05-3467A	02
05	IN	HENDRICKS COUNTY	1804150050B	10-OCT-2001	01-05-3604A	02
05	IN	HENDRICKS COUNTY	1804150100B	26-NOV-2001	02-05-0481A	02
05	IN	HENDRICKS COUNTY	1804150100B	19-DEC-2001	02-05-0600A	02
05	IN	HOWARD COUNTY	1804140027B	08-AUG-2001	01-05-3192A	02
05	IN	HOWARD COUNTY	1804140027B	08-AUG-2001	01-05-3193A	02
05	IN	HOWARD COUNTY	1804140042B	11-JUL-2001	01-05-508A	17

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	HOWARD COUNTY	1804140043B	19-DEC-2001	02-05-0262A	02
05	IN	HOWARD COUNTY	1804140075B	19-DEC-2001	02-05-0262A	02
05	IN	HOWARD COUNTY	1804140029B	14-DEC-2001	02-05-0321A	02
05	IN	HOWARD COUNTY	1804140027B	14-DEC-2001	02-05-0778A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0240E	03-AUG-2001	01-05-1315A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0126E	21-SEP-2001	01-05-1480P	05
05	IN	INDIANAPOLIS, CITY OF	18097C0127E	21-SEP-2001	01-05-1480P	05
05	IN	INDIANAPOLIS, CITY OF	18097C0261E	05-JUL-2001	01-05-2006A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0128E	05-JUL-2001	01-05-2300A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0186E	03-AUG-2001	01-05-2542A	17
05	IN	INDIANAPOLIS, CITY OF	18097C0240E	05-JUL-2001	01-05-2569A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0261E	20-JUL-2001	01-05-2683A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0240E	08-AUG-2001	01-05-2766A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	10-OCT-2001	01-05-2969A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0117E	31-AUG-2001	01-05-3007A	17
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	25-JUL-2001	01-05-3015A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0107E	25-JUL-2001	01-05-3028A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0188E	17-AUG-2001	01-05-3094A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0233E	03-OCT-2001	01-05-3099A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0127E	22-AUG-2001	01-05-3105A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0039E	03-AUG-2001	01-05-3109A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0109E	17-AUG-2001	01-05-3127A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0039E	15-AUG-2001	01-05-3163A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0262E	31-AUG-2001	01-05-3164A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0254E	05-OCT-2001	01-05-3188A	17
05	IN	INDIANAPOLIS, CITY OF	18097C0041E	24-AUG-2001	01-05-3207A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0110E	22-AUG-2001	01-05-3208A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0089E	31-AUG-2001	01-05-3221A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0135E	05-OCT-2001	01-05-3243A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0167E	12-SEP-2001	01-05-3254A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0107E	15-AUG-2001	01-05-3263A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0043E	24-AUG-2001	01-05-3330A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0136E	09-NOV-2001	01-05-3346A	17
05	IN	INDIANAPOLIS, CITY OF	18097C0064E	31-AUG-2001	01-05-3359A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	31-AUG-2001	01-05-3374A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0127E	17-OCT-2001	01-05-3379A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0270E	14-NOV-2001	01-05-3383A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0112E	07-SEP-2001	01-05-3388A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0116E	07-SEP-2001	01-05-3388A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0290E	26-OCT-2001	01-05-3392A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0136E	29-AUG-2001	01-05-3409A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0105E	05-OCT-2001	01-05-3413A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0139E	24-AUG-2001	01-05-3418A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0139E	24-AUG-2001	01-05-3419A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0144E	29-AUG-2001	01-05-3420A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0063E	24-OCT-2001	01-05-3433A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0290E	07-SEP-2001	01-05-3436A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0180E	12-SEP-2001	01-05-3460A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0242E	10-OCT-2001	01-05-3478A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0155E	31-OCT-2001	01-05-3493A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0117E	16-NOV-2001	01-05-3532A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0244E	14-SEP-2001	01-05-3642A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0270E	10-OCT-2001	01-05-3650A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0254E	09-NOV-2001	01-05-3669A	17
05	IN	INDIANAPOLIS, CITY OF	18097C0128E	21-SEP-2001	01-05-3696A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0044E	19-OCT-2001	01-05-3704A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0107E	14-NOV-2001	01-05-3733A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0137E	26-NOV-2001	01-05-3770A	17
05	IN	INDIANAPOLIS, CITY OF	18097C0210E	28-SEP-2001	01-05-3792A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0038E	19-OCT-2001	01-05-3838A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0135E	03-OCT-2001	01-05-3844A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0241E	19-OCT-2001	01-05-3859A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0110E	05-OCT-2001	01-05-3863A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0155E	03-OCT-2001	01-05-3930A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0068E	02-NOV-2001	01-05-3958A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0038E	10-OCT-2001	01-05-3972A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0205E	19-OCT-2001	01-05-3980A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	10-OCT-2001	01-05-3994A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0210E	19-OCT-2001	01-05-4002A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0107E	17-OCT-2001	01-05-4006A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0262E	14-NOV-2001	02-05-0053A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0241E	17-OCT-2001	02-05-0055A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0261E	31-OCT-2001	02-05-0064A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	INDIANAPOLIS, CITY OF	18097C0280E	19-OCT-2001	02-05-0143A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0118E	24-OCT-2001	02-05-0153A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0251E	05-DEC-2001	02-05-0156A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	31-OCT-2001	02-05-0256A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0063E	30-NOV-2001	02-05-0266A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0228E	07-NOV-2001	02-05-0270A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	31-OCT-2001	02-05-0279A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0043E	28-NOV-2001	02-05-0291A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0138E	02-NOV-2001	02-05-0294A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0114E	02-NOV-2001	02-05-0302A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0038E	07-NOV-2001	02-05-0318A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0063E	19-DEC-2001	02-05-0355A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0240E	09-NOV-2001	02-05-0361X	01
05	IN	INDIANAPOLIS, CITY OF	18097C0186E	26-NOV-2001	02-05-0532A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0188E	12-DEC-2001	02-05-0539A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0244E	26-NOV-2001	02-05-0548A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0063E	28-NOV-2001	02-05-0575A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0118E	30-NOV-2001	02-05-0610A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0180E	05-DEC-2001	02-05-0628A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0155E	14-DEC-2001	02-05-0631A	01
05	IN	INDIANAPOLIS, CITY OF	18097C0290E	07-DEC-2001	02-05-0726A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0290E	12-DEC-2001	02-05-0770A	02
05	IN	INDIANAPOLIS, CITY OF	18097C0242E	21-DEC-2001	02-05-0848X	02
05	IN	JACKSON COUNTY	1804050130B	05-SEP-2001	01-05-3455A	02
05	IN	JACKSON COUNTY	1804050130B	07-NOV-2001	02-05-0313A	02
05	IN	JACKSON COUNTY	1804050130B	09-NOV-2001	02-05-0339A	02
05	IN	JACKSON COUNTY	1804050130B	14-NOV-2001	02-05-0375A	02
05	IN	JASPER COUNTY	1804390005B	25-JUL-2001	01-05-2847A	02
05	IN	JEFFERSON COUNTY	1801040006B	07-SEP-2001	01-05-2962A	02
05	IN	JEFFERSONVILLE, CITY OF	1800270005D	22-AUG-2001	01-05-3270A	02
05	IN	JEFFERSONVILLE, CITY OF	1800270005D	12-DEC-2001	02-05-0720A	02
05	IN	JOHNSON COUNTY	1801110050C	13-JUL-2001	01-05-2816A	02
05	IN	JOHNSON COUNTY	1801110100C	15-AUG-2001	01-05-3024A	02
05	IN	JOHNSON COUNTY	1801110050C	17-OCT-2001	02-05-0015A	02
05	IN	JOHNSON COUNTY	1801110050C	12-OCT-2001	02-05-0081A	02
05	IN	KOKOMO, CITY OF	1804140041B	22-AUG-2001	01-05-3365A	02
05	IN	KOSCIUSKO COUNTY	18085C0078C	05-JUL-2001	01-05-2678A	02
05	IN	KOSCIUSKO COUNTY	18085C0035C	05-JUL-2001	01-05-2705A	02
05	IN	KOSCIUSKO COUNTY	18085C0045C	20-JUL-2001	01-05-2884A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	03-AUG-2001	01-05-2894A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	17-AUG-2001	01-05-3008A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	26-SEP-2001	01-05-3362A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	22-AUG-2001	01-05-3396A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	12-SEP-2001	01-05-3500A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	19-SEP-2001	01-05-3656A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	19-SEP-2001	01-05-3672A	02
05	IN	KOSCIUSKO COUNTY	18085C0040C	28-SEP-2001	01-05-3773A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	03-OCT-2001	01-05-3854A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	17-OCT-2001	01-05-3992A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	17-OCT-2001	01-05-4001A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	24-OCT-2001	02-05-0161A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	26-OCT-2001	02-05-0187A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	30-NOV-2001	02-05-0248A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	31-OCT-2001	02-05-0281A	02
05	IN	KOSCIUSKO COUNTY	18085C0100C	14-NOV-2001	02-05-0319A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	07-DEC-2001	02-05-0722A	02
05	IN	KOSCIUSKO COUNTY	18085C0045C	19-DEC-2001	02-05-0833A	02
05	IN	KOSCIUSKO COUNTY	18085C0080C	19-DEC-2001	02-05-0854A	02
05	IN	LAFAYETTE, CITY OF	1804280055B	14-NOV-2001	02-05-0496A	02
05	IN	LAGRANGE COUNTY	1801250004B	27-JUL-2001	01-05-2830A	02
05	IN	LAGRANGE COUNTY	1801250003B	07-SEP-2001	01-05-3470A	02
05	IN	LAGRANGE COUNTY	1801250004B	31-OCT-2001	02-05-0278A	02
05	IN	LAKE COUNTY	1801260115B	18-JUL-2001	01-05-2446A	02
05	IN	LAKE COUNTY	1801260115B	27-JUL-2001	01-05-2497A	02
05	IN	LAKE COUNTY	1801260080B	11-JUL-2001	01-05-2680A	02
05	IN	LEBANON, CITY OF	1800130001D	05-JUL-2001	01-05-2694A	02
05	IN	LEBANON, CITY OF	1800130002D	22-AUG-2001	01-05-2971A	02
05	IN	LEBANON, CITY OF	1800130002D	17-OCT-2001	01-05-2981A	02
05	IN	LIBERTY, TOWNSHIP OF	1804880001A	12-OCT-2001	01-05-3996A	02
05	IN	MARION COUNTY	18097C0136E	17-AUG-2001	01-05-3185A	02
05	IN	MARSHALL COUNTY	1804430060B	05-JUL-2001	01-05-2690A	02
05	IN	MARSHALL COUNTY	1804430070B	19-OCT-2001	01-05-3747A	02
05	IN	MICHIGAN CITY, CITY OF	1801470015B	25-JUL-2001	01-05-2897A	02

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05	IN	MORGAN COUNTY	1801760075B	31-AUG-2001	01-05-3410A	02
05	IN	MUNCIE, CITY OF	1800530010C	01-AUG-2001	01-05-2825A	01
05	IN	NEW ALBANY, CITY OF	1800620010D	10-AUG-2001	01-05-3088A	02
05	IN	NEW ALBANY, CITY OF	1800620013D	16-NOV-2001	02-05-0260A	02
05	IN	NEW ALBANY, CITY OF	1800620012D	12-DEC-2001	02-05-0754A	02
05	IN	NEW HAVEN, CITY OF	18003C0305D	03-OCT-2001	01-05-3545A	02
05	IN	NEWTON COUNTY	1801790001B	07-DEC-2001	01-05-3799A	02
05	IN	NOBLE COUNTY *	1801830100B	05-SEP-2001	00-05-265P	05
05	IN	NOBLE COUNTY *	1801830075B	17-AUG-2001	01-05-2381A	17
05	IN	NOBLE COUNTY *	1801830075B	18-JUL-2001	01-05-2907A	02
05	IN	NOBLE COUNTY *	1801830075B	14-NOV-2001	02-05-0422X	02
05	IN	NOBLE COUNTY *	1801830075B	28-NOV-2001	02-05-0426A	02
05	IN	NOBLESVILLE, CITY OF	1800820005E	24-AUG-2001	01-05-2092A	01
05	IN	NOBLESVILLE, CITY OF	1800820015E	30-NOV-2001	02-05-0102A	02
05	IN	NORTH WEBSTER, TOWN OF	18085C0045C	26-OCT-2001	02-05-0204A	02
05	IN	NORTH WEBSTER, TOWN OF	18085C0045C	09-NOV-2001	02-05-0343A	02
05	IN	PARKE COUNTY	1801920004A	19-DEC-2001	02-05-0595A	02
05	IN	PLAINFIELD, TOWN OF	1800890001B	14-SEP-2001	00-05-301P	05
05	IN	PLAINFIELD, TOWN OF	1800890001B	18-JUL-2001	01-05-2704A	02
05	IN	PLAINFIELD, TOWN OF	1804150100B	14-SEP-2001	01-05-3066A	02
05	IN	PLAINFIELD, TOWN OF	1804150100B	14-SEP-2001	01-05-3412A	02
05	IN	PLAINFIELD, TOWN OF	1804150100B	12-OCT-2001	01-05-3783A	01
05	IN	PLYMOUTH, CITY OF	18016402B	19-OCT-2001	01-05-3649A	02
05	IN	PORTER COUNTY	1804250060B	19-DEC-2001	01-05-3940A	02
05	IN	PULASKI COUNTY	1804820002B	19-SEP-2001	01-05-2750A	02
05	IN	PUTNAM COUNTY	1802130003B	26-NOV-2001	01-05-3835A	01
05	IN	RUSH COUNTY *	1804210100B	20-JUL-2001	01-05-372P	05
05	IN	RUSHVILLE, CITY OF	1802230001B	20-JUL-2001	01-05-372P	05
05	IN	SCHERERVILLE, TOWN OF	1801420005B	06-DEC-2001	01-05-1672P	05
05	IN	SEYMOUR, CITY OF	1800990004C	18-JUL-2001	01-05-2806A	02
05	IN	SEYMOUR, CITY OF	1800990004C	29-AUG-2001	01-05-3423A	02
05	IN	SEYMOUR, CITY OF	1800990004C	12-SEP-2001	01-05-3501A	02
05	IN	SEYMOUR, CITY OF	1800990004C	26-SEP-2001	01-05-3544A	02
05	IN	SEYMOUR, CITY OF	1800990004C	19-SEP-2001	01-05-3755A	02
05	IN	SEYMOUR, CITY OF	1800990004C	10-OCT-2001	01-05-3985A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-NOV-2001	02-05-0288X	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-NOV-2001	02-05-0289X	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-NOV-2001	02-05-0290X	02
05	IN	SPENCER COUNTY	1802370250A	28-SEP-2001	01-05-2521A	01
05	IN	SPENCER COUNTY	1802370150A	06-JUL-2001	01-05-2769A	02
05	IN	SPENCER COUNTY	1802370125A	12-SEP-2001	01-05-3332A	02
05	IN	SPENCER COUNTY	1802370150A	28-NOV-2001	02-05-0345A	02
05	IN	STEUBEN COUNTY	1802430100B	19-DEC-2001	02-05-0637A	02
05	IN	STEUBEN COUNTY*	1802430025B	05-JUL-2001	01-05-2614A	02
05	IN	STEUBEN COUNTY*	1802430100B	18-JUL-2001	01-05-2623A	02
05	IN	STEUBEN COUNTY*	1802430025B	14-SEP-2001	01-05-3284A	02
05	IN	STEUBEN COUNTY*	1802430025B	07-SEP-2001	01-05-3310A	02
05	IN	STEUBEN COUNTY*	1802430025B	03-OCT-2001	01-05-3546A	02
05	IN	STEUBEN COUNTY*	1802430025C	19-SEP-2001	01-05-3547A	02
05	IN	STEUBEN COUNTY*	1802430025B	24-OCT-2001	02-05-0075A	02
05	IN	STEUBEN COUNTY*	1802430025B	07-NOV-2001	02-05-0130A	02
05	IN	STEUBEN COUNTY*	1802430075B	14-NOV-2001	02-05-0140A	02
05	IN	SULLIVAN COUNTY	1804100005A	22-AUG-2001	01-05-1976A	02
05	IN	SYRACUSE, TOWN OF	18085C0031C	24-OCT-2001	02-05-0070A	02
05	IN	TELL CITY, CITY OF	18019709B	24-OCT-2001	01-05-3482A	02
05	IN	TIPPECANOE COUNTY	1804280030B	28-SEP-2001	01-05-249A	01
05	IN	VANDERBURGH COUNTY *	1802560100B	30-NOV-2001	01-05-1101P	05
05	IN	VANDERBURGH COUNTY *	1802560050B	11-JUL-2001	01-05-2358A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	18-JUL-2001	01-05-2602A	02
05	IN	VANDERBURGH COUNTY *	1802560100B	28-SEP-2001	01-05-2616A	01
05	IN	VANDERBURGH COUNTY *	1802560100B	20-JUL-2001	01-05-2913A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	01-AUG-2001	01-05-2922A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	01-AUG-2001	01-05-2923A	01
05	IN	VANDERBURGH COUNTY *	1802560015C	03-AUG-2001	01-05-2927A	01
05	IN	VANDERBURGH COUNTY *	1802560100B	11-OCT-2001	01-05-2940P	05
05	IN	VANDERBURGH COUNTY *	1802560025C	08-AUG-2001	01-05-2944A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	10-AUG-2001	01-05-2945A	01
05	IN	VANDERBURGH COUNTY *	1802560015C	12-SEP-2001	01-05-2954A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	17-AUG-2001	01-05-3283A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	24-AUG-2001	01-05-3287A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	17-AUG-2001	01-05-3294A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	24-AUG-2001	01-05-3295A	01
05	IN	VANDERBURGH COUNTY *	1802560050B	19-SEP-2001	01-05-3296A	01

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05	IN	VANDERBURGH COUNTY *	1802560025C	12-SEP-2001	01-05-3308A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	07-SEP-2001	01-05-3314A	01
05	IN	VANDERBURGH COUNTY *	1802560075C	03-OCT-2001	01-05-3318A	01
05	IN	VANDERBURGH COUNTY *	1802560050B	19-SEP-2001	01-05-3566A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	03-OCT-2001	01-05-3589A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	05-OCT-2001	01-05-3875A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	16-NOV-2001	02-05-0428A	01
05	IN	VANDERBURGH COUNTY *	1802560015C	05-DEC-2001	02-05-0455A	02
05	IN	VANDERBURGH COUNTY *	1802560015C	05-DEC-2001	02-05-0457A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	05-DEC-2001	02-05-0458A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	12-DEC-2001	02-05-0679A	01
05	IN	VANDERBURGH COUNTY *	1802560100B	19-DEC-2001	02-05-0680A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	14-DEC-2001	02-05-0681A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	19-DEC-2001	02-05-0688A	02
05	IN	VERMILLION COUNTY	1804490001B	05-OCT-2001	01-05-3535A	02
05	IN	VERMILLION COUNTY	1804490001B	17-OCT-2001	02-05-0007A	02
05	IN	VIGO COUNTY	1802630070B	24-OCT-2001	01-05-3636A	02
05	IN	WABASH COUNTY	18169C0139D	27-JUL-2001	01-05-2798A	02
05	IN	WABASH COUNTY	18169C0150D	27-JUL-2001	01-05-2798A	02
05	IN	WARRICK COUNTY	1804180175B	16-NOV-2001	02-05-0160A	02
05	IN	WARRICK COUNTY	1804180175B	05-DEC-2001	02-05-0744X	02
05	IN	WARRICK COUNTY *	1804180200B	25-JUL-2001	01-05-2627A	02
05	IN	WARRICK COUNTY *	1804180175B	30-NOV-2001	01-05-2914A	02
05	IN	WARRICK COUNTY *	1804180175B	08-AUG-2001	01-05-2941A	02
05	IN	WARRICK COUNTY *	1804180200B	21-SEP-2001	01-05-3319A	02
05	IN	WARSAW, CITY OF	18085C0067C	09-NOV-2001	02-05-0185A	02
05	IN	WARSAW, CITY OF	18085C0078C	12-DEC-2001	02-05-0784A	02
05	IN	WELLS COUNTY	1802880100C	19-SEP-2001	01-05-3623A	02
05	IN	WHITE COUNTY	1804470005C	13-JUL-2001	01-05-2722A	02
05	IN	WHITE COUNTY	1804470005C	05-JUL-2001	01-05-2728A	02
05	IN	WHITE COUNTY	1804470002C	06-JUL-2001	01-05-2856A	02
05	IN	WHITE COUNTY	1804470005C	25-JUL-2001	01-05-2958A	02
05	IN	WHITE COUNTY	1804470002C	22-AUG-2001	01-05-3227A	02
05	IN	WHITE COUNTY	1804470002C	14-NOV-2001	02-05-0472A	02
05	IN	WHITE COUNTY	1804470002C	28-DEC-2001	02-05-0864A	02
05	IN	WHITELAND, TOWN OF	1801180001A	20-JUL-2001	01-05-2790A	02
05	IN	WHITELAND, TOWN OF	1801180001A	14-NOV-2001	02-05-0162A	02
05	IN	WHITLEY COUNTY	1802980004B	31-AUG-2001	01-05-3354A	02
05	IN	WHITLEY COUNTY	1802980002B	07-SEP-2001	01-05-3466A	02
05	IN	WHITLEY COUNTY	1802980002B	09-NOV-2001	02-05-0330A	02
05	IN	WINONA LAKE, TOWN OF	18085C0086C	24-OCT-2001	01-05-3399A	02
05	IN	WINONA LAKE, TOWN OF	18085C0086C	28-DEC-2001	02-05-0350A	02
05	IN	WINONA LAKE, TOWN OF	18085C0086C	26-NOV-2001	02-05-0537A	02
05	MI	ALBEE, TOWNSHIP OF	26145C0240D	24-OCT-2001	01-05-3052A	02
05	MI	ALBEE, TOWNSHIP OF	26145C0245D	07-SEP-2001	01-05-3454A	02
05	MI	ALMA, CITY OF	2600830001B	05-DEC-2001	02-05-0399A	01
05	MI	ALPENA, CITY OF	2600100005B	26-OCT-2001	02-05-0235A	02
05	MI	ALPENA, CITY OF	2600100005B	21-DEC-2001	02-05-0774A	02
05	MI	ALPENA, TOWNSHIP OF	2600110039C	28-SEP-2001	01-05-2863A	02
05	MI	ALPENA, TOWNSHIP OF	2600110024B	22-AUG-2001	01-05-3106A	02
05	MI	ALPENA, TOWNSHIP OF	2600110005A	19-SEP-2001	01-05-3735A	02
05	MI	ALPENA, TOWNSHIP OF	2600110025B	07-DEC-2001	02-05-0733A	02
05	MI	ARGENTINE, TOWNSHIP OF	2603920010A	19-SEP-2001	01-05-3603A	02
05	MI	ASH, TOWNSHIP OF	26115C0103D	24-AUG-2001	01-05-3333A	17
05	MI	AU TRAIN, TOWNSHIP OF	2603420025C	10-OCT-2001	01-05-3865A	02
05	MI	AU TRAIN, TOWNSHIP OF	2603420025C	26-OCT-2001	02-05-0232A	02
05	MI	AU TRAIN, TOWNSHIP OF	2603420025C	26-NOV-2001	02-05-0344A	02
05	MI	AUGRES, TOWNSHIP OF	2600130025B	05-JUL-2001	01-05-2685A	02
05	MI	BALDWIN, TOWNSHIP OF	2600990005D	12-OCT-2001	02-05-0021A	02
05	MI	BALDWIN, TOWNSHIP OF	2600990015D	28-DEC-2001	02-05-0879A	02
05	MI	BANGOR, TOWNSHIP OF	26017C0145D	21-SEP-2001	01-05-3430A	02
05	MI	BANGOR, TOWNSHIP OF	26017C0140D	31-OCT-2001	02-05-0286A	02
05	MI	BAY MILLS, TOWNSHIP OF	26037400050B	03-OCT-2001	01-05-3836A	02
05	MI	BAY MILLS, TOWNSHIP OF	26037400050B	19-OCT-2001	01-05-3968A	02
05	MI	BEAUGRAND, TOWNSHIP OF	2606460002B	08-AUG-2001	01-05-2734A	02
05	MI	BEAUGRAND, TOWNSHIP OF	2606460002B	07-DEC-2001	02-05-0265A	02
05	MI	BEDFORD, TOWNSHIP OF	26115C0363D	11-JUL-2001	01-05-2080A	02
05	MI	BEDFORD, TOWNSHIP OF	26115C0364D	18-JUL-2001	01-05-2707A	02
05	MI	BELLEVUE, VILLAGE OF	26056601A	14-NOV-2001	02-05-0412A	02
05	MI	BENTON, TOWNSHIP OF	2600310002B	26-SEP-2001	01-05-1461A	01
05	MI	BROOMFIELD, TOWNSHIP OF	26073C0275C	26-NOV-2001	01-05-3928A	02
05	MI	BROOMFIELD, TOWNSHIP OF	26073C0275C	21-DEC-2001	02-05-0625A	02
05	MI	BROWNSTOWN, CHARTERED TOWNSHIP OF	2602180015B	29-AUG-2001	01-05-2977A	02

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05	MI	BROWNSTOWN, CHARTERED TOWNSHIP OF	2602180010B	02-NOV-2001	02-05-0152A	02
05	MI	BRUCE, TOWNSHIP OF	2608840025A	27-JUL-2001	01-05-2107A	02
05	MI	BRUCE, TOWNSHIP OF	2603750050A	03-OCT-2001	01-05-3195A	02
05	MI	BRUCE, TOWNSHIP OF	2608840025A	12-OCT-2001	01-05-3827A	02
05	MI	BRUCE, TOWNSHIP OF	2603750025A	14-NOV-2001	02-05-0410A	02
05	MI	CANTON, TOWNSHIP OF	2602190003B	01-AUG-2001	01-05-2647A	02
05	MI	CARROLLTON, TOWNSHIP OF	26145C0085D	28-SEP-2001	01-05-3665A	02
05	MI	CASEVILLE, TOWNSHIP OF	2602570003A	01-AUG-2001	01-05-2876A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200005B	20-JUL-2001	01-05-2146A	17
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	10-AUG-2001	01-05-3180A	02
05	MI	CLARK, TOWNSHIP OF	2607590050B	26-SEP-2001	01-05-3698A	02
05	MI	CLAY, TOWNSHIP OF	2601940003B	20-JUL-2001	01-05-2877A	02
05	MI	CLAY, TOWNSHIP OF	2601940002B	19-DEC-2001	02-05-0881A	02
05	MI	CLEVELAND, TOWNSHIP OF	26030206A	12-OCT-2001	01-05-3925A	02
05	MI	CLINTON, TOWNSHIP OF	2601210005E	03-AUG-2001	01-05-2848A	01
05	MI	COLDWATER, TOWNSHIP OF	2608260010A	02-NOV-2001	02-05-0356X	02
05	MI	COLON, TOWNSHIP OF	2605100010A	28-SEP-2001	01-05-3517A	02
05	MI	COLON, VILLAGE OF	2605110005B	10-OCT-2001	01-05-3957A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730005B	11-JUL-2001	01-05-2592A	02
05	MI	DAVISON, TOWNSHIP OF	2606640010B	10-AUG-2001	01-05-3102A	01
05	MI	DEARBORN HEIGHTS, CITY OF	2602210007C	31-AUG-2001	01-05-2605A	02
05	MI	DEARBORN HEIGHTS, CITY OF	2602210007C	03-OCT-2001	01-05-3801A	02
05	MI	DEERFIELD, TOWNSHIP OF	26073C0305C	12-DEC-2001	02-05-0322A	02
05	MI	DENVER, TOWNSHIP OF	26073C0220C	05-JUL-2001	01-05-2458A	02
05	MI	DRUMMOND ISLAND, TOWNSHIP OF	2608030025A	15-AUG-2001	01-05-2452A	02
05	MI	DRUMMOND ISLAND, TOWNSHIP OF	2608030075A	15-AUG-2001	01-05-2452A	02
05	MI	EAST CHINA, TOWNSHIP OF	2601970005B	10-AUG-2001	01-05-3202A	02
05	MI	EAST TAWAS, CITY OF	2601000001C	15-AUG-2001	01-05-2864A	02
05	MI	EAST TAWAS, CITY OF	2601000001C	01-AUG-2001	01-05-3093A	02
05	MI	ELBA, TOWNSHIP OF	2607760001A	14-SEP-2001	01-05-2238A	02
05	MI	ELBA, TOWNSHIP OF	2607760001A	12-DEC-2001	02-05-0764X	02
05	MI	ERIE, TOWNSHIP OF	26115C0502D	19-DEC-2001	02-05-0577A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	18-JUL-2001	01-05-2832A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	18-JUL-2001	01-05-2869A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	08-AUG-2001	01-05-2980A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	10-AUG-2001	01-05-3186A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	08-AUG-2001	01-05-3187A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	10-OCT-2001	01-05-3973A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	28-NOV-2001	02-05-0602A	02
05	MI	FAIRHAVEN, TOWNSHIP OF	2606280002B	27-JUL-2001	01-05-2993A	02
05	MI	FARMINGTON HILLS, CITY OF	2601720001C	15-AUG-2001	01-05-2369A	02
05	MI	FARMINGTON HILLS, CITY OF	2601720011C	22-AUG-2001	01-05-2929A	17
05	MI	FARMINGTON HILLS, CITY OF	2601720003C	21-SEP-2001	01-05-3305A	02
05	MI	FARMINGTON HILLS, CITY OF	2601720003C	21-DEC-2001	02-05-0464A	02
05	MI	FARMINGTON HILLS, CITY OF	2601720002C	28-DEC-2001	02-05-0671A	02
05	MI	FLAT ROCK, CITY OF	2602240003B	08-AUG-2001	01-05-3074A	02
05	MI	FLAT ROCK, CITY OF	2602240003B	19-DEC-2001	01-05-3949A	02
05	MI	FLAT ROCK, CITY OF	2602240005B	28-DEC-2001	02-05-0946A	02
05	MI	FLINT, CITY OF	2600760015C	14-SEP-2001	01-05-3334A	02
05	MI	FRANKENLUST, TOWNSHIP OF	26017C0200D	28-SEP-2001	01-05-3485A	02
05	MI	FRASER, CITY OF	2601220001B	18-JUL-2001	01-05-2498A	02
05	MI	FRASER, CITY OF	2601220001B	24-AUG-2001	01-05-2883A	02
05	MI	FRASER, CITY OF	2601220001B	08-AUG-2001	01-05-2889A	02
05	MI	FRASER, CITY OF	2601220001B	25-JUL-2001	01-05-2999A	02
05	MI	FRASER, CITY OF	2601220001B	29-AUG-2001	01-05-3366A	02
05	MI	FRASER, CITY OF	2601220001B	19-SEP-2001	01-05-3595A	02
05	MI	FRASER, CITY OF	2601220001B	19-SEP-2001	01-05-3639A	02
05	MI	FRENCHTOWN CHARTER, TOWNSHIP OF	26115C0262D	19-SEP-2001	01-05-3767A	02
05	MI	FRENCHTOWN CHARTER, TOWNSHIP OF	26115C0241D	14-DEC-2001	02-05-0776A	02
05	MI	FRENDONIA, TOWNSHIP OF	26056208A	07-DEC-2001	02-05-0347A	02
05	MI	GIBRALTAR, CITY OF	2602260001B	11-JUL-2001	01-05-2554A	02
05	MI	GOODRICH, VILLAGE OF	2603970005B	28-SEP-2001	01-05-3524A	01
05	MI	GRAND BLANC, TOWNSHIP OF	2600790001B	01-AUG-2001	01-05-2227A	02
05	MI	GRAND HAVEN, TOWNSHIP OF	2602700005B	01-AUG-2001	01-05-2504A	02
05	MI	GRAND HAVEN, TOWNSHIP OF	2602700005B	21-DEC-2001	02-05-0839A	02
05	MI	GRANDVILLE, CITY OF	2602710003B	28-SEP-2001	01-05-3798A	02
05	MI	GREEN OAK, TOWNSHIP OF	2604400005B	28-DEC-2001	02-05-0655A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	13-JUL-2001	01-05-2513A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	27-JUL-2001	01-05-2567A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	05-JUL-2001	01-05-2726A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	14-SEP-2001	01-05-3367A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	19-SEP-2001	01-05-3765A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	24-OCT-2001	02-05-0209A	02

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05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	09-NOV-2001	02-05-0257A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	12-DEC-2001	02-05-0745A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	12-DEC-2001	02-05-0749A	02
05	MI	GROSSE ILE, TOWNSHIP OF	2602270005B	25-JUL-2001	01-05-2961A	02
05	MI	GROSSE ILE, TOWNSHIP OF	2602270010B	12-DEC-2001	02-05-0758A	02
05	MI	HAMBURG, TOWNSHIP OF	2601180010C	12-SEP-2001	01-05-3479A	02
05	MI	HAMBURG, TOWNSHIP OF	2601180010C	12-DEC-2001	02-05-0411A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	29-AUG-2001	01-05-1958A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	18-JUL-2001	01-05-2495A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	05-JUL-2001	01-05-2684A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	05-JUL-2001	01-05-2696A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	03-AUG-2001	01-05-2822A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	18-JUL-2001	01-05-2841A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	14-SEP-2001	01-05-2849A	01
05	MI	HARRISON, TOWNSHIP OF	2601230010C	08-AUG-2001	01-05-3157A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	15-AUG-2001	01-05-3171A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	12-SEP-2001	01-05-3614A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	21-SEP-2001	01-05-3700A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	09-NOV-2001	01-05-3813A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	26-NOV-2001	02-05-0303A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	14-NOV-2001	02-05-0477A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	07-DEC-2001	02-05-0663A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	12-DEC-2001	02-05-0769A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	28-DEC-2001	02-05-0919A	02
05	MI	HAYNES, TOWNSHIP OF	26027411A	18-JUL-2001	01-05-2184A	02
05	MI	HOWELL, CITY OF	2604410002B	11-JUL-2001	01-05-2774A	02
05	MI	HOWELL, CITY OF	2604410002B	27-JUL-2001	01-05-2974A	02
05	MI	HUDSONVILLE, CITY OF	2604930002A	19-SEP-2001	01-05-3652A	02
05	MI	IDA, TOWNSHIP OF	26115C0355D	01-AUG-2001	01-05-2821A	02
05	MI	IDA, TOWNSHIP OF	26115C0355D	05-OCT-2001	01-05-3458A	02
05	MI	IDA, TOWNSHIP OF	26115C0215D	19-SEP-2001	01-05-3769A	02
05	MI	IDA, TOWNSHIP OF	26115C0355D	07-NOV-2001	02-05-0308A	02
05	MI	IDA, TOWNSHIP OF	26115C0350D	28-DEC-2001	02-05-0898A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750008B	29-AUG-2001	01-05-2851A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750005B	28-DEC-2001	02-05-0445A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750006B	28-DEC-2001	02-05-0667A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750006B	30-NOV-2001	02-05-0615A	02
05	MI	IRA, TOWNSHIP OF	2601990010B	21-SEP-2001	01-05-2762A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	03-AUG-2001	01-05-2784A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	07-SEP-2001	01-05-3601A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	10-OCT-2001	02-05-0013A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	07-NOV-2001	02-05-0367A	02
05	MI	KAWKAWLIN, TOWNSHIP OF	26017C0115D	11-JUL-2001	01-05-2508A	02
05	MI	KINGSFORD, CITY OF	26006402A	17-OCT-2001	01-05-2967A	02
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	05-SEP-2001	01-05-3364A	01
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	02-NOV-2001	01-05-3944A	02
05	MI	LAPEER, CITY OF	2601120001D	21-DEC-2001	01-05-690A	17
05	MI	LASALLE, TOWNSHIP OF	26115C0360D	05-SEP-2001	01-05-3488A	02
05	MI	LEELANAU, TOWNSHIP OF	26011410B	15-AUG-2001	01-05-2824A	02
05	MI	LEELANAU, TOWNSHIP OF	26011411B	22-AUG-2001	01-05-3201A	02
05	MI	LEELANAU, TOWNSHIP OF	26011410B	05-OCT-2001	01-05-3951A	02
05	MI	LIVONIA, CITY OF	2602330002B	19-DEC-2001	02-05-0514A	17
05	MI	LOCKPORT, TOWNSHIP OF	2607150010B	28-NOV-2001	02-05-0603A	02
05	MI	LONG LAKE, TOWNSHIP OF	2607820025A	24-OCT-2001	02-05-0210A	02
05	MI	LONG LAKE, TOWNSHIP OF	2607820025A	30-NOV-2001	02-05-0642A	02
05	MI	MACOMB, TOWNSHIP OF	2604450015B	20-AUG-2001	00-05-299P	06
05	MI	MACOMB, TOWNSHIP OF	2604450010B	17-AUG-2001	01-05-2126A	01
05	MI	MACOMB, TOWNSHIP OF	2604450010B	22-AUG-2001	01-05-3085A	02
05	MI	MACOMB, TOWNSHIP OF	2604450010B	21-SEP-2001	01-05-3826A	02
05	MI	MACOMB, TOWNSHIP OF	2604450010B	13-DEC-2001	01-05-735P	06
05	MI	MACOMB, TOWNSHIP OF	2604450020B	26-OCT-2001	02-05-0159A	02
05	MI	MACOMB, TOWNSHIP OF	2604450010B	21-DEC-2001	02-05-0644A	02
05	MI	MCKINLEY, TOWNSHIP OF	26032204A	21-DEC-2001	02-05-0022A	02
05	MI	MENOMINEE, CITY OF	2601380005B	07-SEP-2001	01-05-2966A	01
05	MI	MENOMINEE, TOWNSHIP OF	2607020025B	28-SEP-2001	01-05-2174A	02
05	MI	MENOMINEE, TOWNSHIP OF	2607020030B	06-JUL-2001	01-05-2409A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	10-AUG-2001	01-05-1319A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930013B	05-JUL-2001	01-05-2477A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930013B	13-JUL-2001	01-05-2698A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930010B	25-JUL-2001	01-05-2989A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	08-AUG-2001	01-05-3087A	17
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930013B	22-AUG-2001	01-05-3376A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	22-AUG-2001	01-05-3376A	02

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05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	19-OCT-2001	01-05-3450A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930010B	12-SEP-2001	01-05-3526A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930010B	28-SEP-2001	01-05-3745A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	01-AUG-2001	01-05-776A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930013B	26-OCT-2001	02-05-0238A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	26-OCT-2001	02-05-0238A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930010B	26-NOV-2001	02-05-0512A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930015B	26-NOV-2001	02-05-0547A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930010B	19-DEC-2001	02-05-0819A	02
05	MI	MIDLAND, CITY OF	2601400007D	07-SEP-2001	01-05-3487A	02
05	MI	MIDLAND, CITY OF	2601400005D	19-OCT-2001	02-05-0027A	02
05	MI	MIDLAND, CITY OF	2601400007D	24-OCT-2001	02-05-0230A	02
05	MI	MIDLAND, CITY OF	2601400007D	14-NOV-2001	02-05-0364A	02
05	MI	MONITOR, TOWNSHIP OF	26017C0135D	06-AUG-2001	01-05-1763P	05
05	MI	MONROE, CITY OF	26115C0242D	21-DEC-2001	02-05-0856A	02
05	MI	MUSKEGON, TOWNSHIP OF	2601630005C	14-DEC-2001	01-05-3344A	02
05	MI	NORTHFIELD, TOWNSHIP OF	2606350005A	22-AUG-2001	01-05-2853A	02
05	MI	NORTHVILLE, CITY OF	2602350001B	08-AUG-2001	01-05-2697A	02
05	MI	NORTON SHORES, CITY OF	2601650001A	18-JUL-2001	01-05-2211A	02
05	MI	NORTON SHORES, CITY OF	2601650001A	31-AUG-2001	01-05-3172A	02
05	MI	NOTTAWA, TOWNSHIP OF	26073C0165C	07-DEC-2001	02-05-0573A	02
05	MI	NOVI, CITY OF	2601750005C	25-JUL-2001	01-05-2596A	02
05	MI	NOVI, CITY OF	2601750009C	18-JUL-2001	01-05-2633A	02
05	MI	NOVI, CITY OF	2601750005C	17-OCT-2001	01-05-2910A	02
05	MI	NOVI, CITY OF	2601750007C	19-SEP-2001	01-05-2934A	02
05	MI	NOVI, CITY OF	2601750008C	07-SEP-2001	01-05-3293A	01
05	MI	NOVI, CITY OF	2601750008C	26-SEP-2001	01-05-3327A	01
05	MI	NOVI, CITY OF	2601750009C	28-DEC-2001	02-05-0468A	02
05	MI	OSCODA, TOWNSHIP OF	2601010025C	21-SEP-2001	01-05-3095A	02
05	MI	OSCODA, TOWNSHIP OF	2601010025C	19-OCT-2001	02-05-0188X	02
05	MI	OSCODA, TOWNSHIP OF	2601010050C	07-DEC-2001	02-05-0386A	02
05	MI	OWOSSO, CITY OF	2605960002A	05-OCT-2001	01-05-3594A	02
05	MI	OWOSSO, TOWNSHIP OF	2608090010A	08-AUG-2001	01-05-2881A	02
05	MI	PORT AUSTIN, TOWNSHIP OF	26029003C	29-AUG-2001	01-05-3115A	02
05	MI	PORTAGE, CITY OF	2605770005A	26-SEP-2001	01-05-3441A	02
05	MI	PORTAGE, CITY OF	2605770003A	14-SEP-2001	01-05-3489A	17
05	MI	PORTAGE, CITY OF	2605770006A	26-SEP-2001	01-05-3789A	02
05	MI	RABER, TOWNSHIP OF	2607860025A	27-JUL-2001	01-05-2731A	02
05	MI	READING, TOWNSHIP OF	2604100002A	13-JUL-2001	01-05-2213A	02
05	MI	ROCKWOOD, CITY OF	2602410005B	19-SEP-2001	01-05-3358A	02
05	MI	SAGINAW COUNTY	26145C0085D	21-SEP-2001	01-05-3736A	02
05	MI	SAGINAW, TOWNSHIP OF	26145C0130D	08-AUG-2001	01-05-3154A	02
05	MI	SAGINAW, TOWNSHIP OF	26145C0130D	22-AUG-2001	01-05-3161A	02
05	MI	SELMA, TOWNSHIP OF	26165C0336C	27-JUL-2001	01-05-2815A	02
05	MI	SHELBY, TOWNSHIP OF	2601260020B	05-JUL-2001	01-05-1092A	02
05	MI	SHELBY, TOWNSHIP OF	2601260010B	03-OCT-2001	01-05-3597A	02
05	MI	SHELBY, TOWNSHIP OF	2601260010B	21-SEP-2001	01-05-3626A	02
05	MI	SHELBY, TOWNSHIP OF	2601260020B	31-OCT-2001	02-05-0168A	02
05	MI	SHELBY, TOWNSHIP OF	2601260010B	14-NOV-2001	02-05-0497A	02
05	MI	SHERMAN, TOWNSHIP OF	26073C0175C	31-AUG-2001	01-05-2555A	02
05	MI	SHERMAN, TOWNSHIP OF	26073C0175C	20-JUL-2001	01-05-2650A	02
05	MI	SHERMAN, TOWNSHIP OF	26073C0175C	27-JUL-2001	01-05-3005A	02
05	MI	SHERMAN, TOWNSHIP OF	26073C0175C	21-DEC-2001	02-05-0087A	02
05	MI	SOUTH HAVEN, CITY OF	2602110002B	08-AUG-2001	01-05-625A	02
05	MI	SOUTHGATE, CITY OF	2602420005B	15-AUG-2001	01-05-2751A	01
05	MI	SPAULDING, TOWNSHIP OF	26145C0190D	28-SEP-2001	01-05-3206A	02
05	MI	SPAULDING, TOWNSHIP OF	26145C0190D	07-SEP-2001	01-05-3456A	02
05	MI	SPRING LAKE, TOWNSHIP OF	2602810002B	14-DEC-2001	02-05-0645A	02
05	MI	SPRING LAKE, VILLAGE OF	2602820001B	24-OCT-2001	02-05-0072A	02
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0235D	12-SEP-2001	01-05-2985A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	18-JUL-2001	01-05-2648A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	18-JUL-2001	01-05-2655A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	25-JUL-2001	01-05-2670A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	27-JUL-2001	01-05-2727A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	06-JUL-2001	01-05-2739A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	02-AUG-2001	01-05-3042A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	10-AUG-2001	01-05-3079A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	22-AUG-2001	01-05-3182A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	10-AUG-2001	01-05-3203A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	10-AUG-2001	01-05-3219A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	15-AUG-2001	01-05-3246A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	29-AUG-2001	01-05-3363A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	14-SEP-2001	01-05-3641A	02

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05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	19-SEP-2001	01-05-3713A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	03-OCT-2001	01-05-3723A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	27-SEP-2001	01-05-3739A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	10-OCT-2001	01-05-3939A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	03-OCT-2001	01-05-3954A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	10-OCT-2001	01-05-3981A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	09-NOV-2001	02-05-0392A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	21-DEC-2001	02-05-0500A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	26-NOV-2001	02-05-0524A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	26-NOV-2001	02-05-0567A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	14-DEC-2001	02-05-0649A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	05-DEC-2001	02-05-0652A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	05-DEC-2001	02-05-0721A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	19-DEC-2001	02-05-0735A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	21-DEC-2001	02-05-0762A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	14-DEC-2001	02-05-0794A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	19-DEC-2001	02-05-0808A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	21-DEC-2001	02-05-0849A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	19-DEC-2001	02-05-0884A	02
05	MI	STANDISH, TOWNSHIP OF	2600170015C	26-SEP-2001	01-05-3520A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	14-NOV-2001	01-05-3997A	17
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	21-DEC-2001	02-05-0316A	02
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0125D	14-SEP-2001	01-05-3369A	02
05	MI	TALLMADGE, TOWNSHIP OF	2604940010B	30-NOV-2001	02-05-0582A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0070D	05-JUL-2001	01-05-2725A	17
05	MI	THOMAS, TOWNSHIP OF	26145C0125D	29-AUG-2001	01-05-3213A	17
05	MI	THOMAS, TOWNSHIP OF	26145C0070D	28-NOV-2001	02-05-0080A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0130D	19-OCT-2001	02-05-0155A	02
05	MI	THORNAPPLE, TOWNSHIP OF	2606300001B	25-JUL-2001	01-05-2890A	02
05	MI	TRENTON, CITY OF	2602440003C	19-DEC-2001	02-05-0571A	02
05	MI	TROY, CITY OF	2601800002D	11-JUL-2001	01-05-1684A	02
05	MI	TROY, CITY OF	2601800004E	13-JUL-2001	01-05-2635A	02
05	MI	TROY, CITY OF	2601800004E	03-AUG-2001	01-05-3058A	02
05	MI	TROY, CITY OF	2601800004E	21-NOV-2001	02-05-0115A	02
05	MI	UNION, TOWNSHIP OF	2608050025A	29-AUG-2001	01-05-2475A	02
05	MI	UNION, TOWNSHIP OF	26073C0194C	21-DEC-2001	02-05-0205A	02
05	MI	UNION, TOWNSHIP OF	26073C0194C	26-NOV-2001	02-05-0234A	02
05	MI	VICTOR, TOWNSHIP OF	2607200010B	19-DEC-2001	02-05-0305A	02
05	MI	WARREN, CITY OF	2601290010C	05-JUL-2001	01-05-2520A	02
05	MI	WARREN, CITY OF	2601290010C	22-AUG-2001	01-05-3220A	02
05	MI	WARREN, CITY OF	2601290010C	07-DEC-2001	02-05-0608A	02
05	MI	WARREN, CITY OF	2601290005C	19-DEC-2001	02-05-0838A	02
05	MI	WARREN, CITY OF	2601290010C	19-DEC-2001	02-05-0838A	02
05	MI	WASHINGTON, TOWNSHIP OF	2604470015A	21-SEP-2001	01-05-3275A	02
05	MI	WASHINGTON, TOWNSHIP OF	2604470005A	21-DEC-2001	02-05-0025P	05
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	22-AUG-2001	01-05-3049A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	01-AUG-2001	01-05-3057A	02
05	MI	WHITE LAKE, TOWNSHIP OF	2604790005B	25-JUL-2001	01-05-2911A	02
05	MI	WHITE LAKE, TOWNSHIP OF	2604790005B	20-JUL-2001	01-05-2912A	02
05	MI	WHITE LAKE, TOWNSHIP OF	2604790005B	19-SEP-2001	01-05-3324A	02
05	MI	WHITE OAK, TOWNSHIP OF	26041708A	14-NOV-2001	01-05-4005A	02
05	MI	WHITEFISH, TOWNSHIP	2603210050C	12-OCT-2001	01-05-3927A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	13-JUL-2001	01-05-2166A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	12-SEP-2001	01-05-3226A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	07-SEP-2001	01-05-3509A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	19-SEP-2001	01-05-3727A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	21-SEP-2001	01-05-3774A	02
05	MI	WILLIAMSTON, CITY OF	2600940001B	14-NOV-2001	02-05-0405A	02
05	MI	WILLIAMSTOWN, TOWNSHIP OF	2600950010A	03-AUG-2001	01-05-2997A	02
05	MI	WILLIAMSTOWN, TOWNSHIP OF	2600950005A	10-AUG-2001	01-05-3212A	02
05	MI	WOODHAVEN, CITY OF	2607300005A	08-AUG-2001	01-05-2733A	02
05	MI	WOODHAVEN, CITY OF	2607300005A	19-OCT-2001	01-05-3627A	02
05	MI	WOODHAVEN, CITY OF	2607300005A	12-OCT-2001	01-05-3975A	17
05	MI	WORTH, TOWNSHIP OF	260296A	16-OCT-2001	01-05-3787P	06
05	MI	WYANDOTTE, CITY OF	2602460001B	19-OCT-2001	02-05-0191A	02
05	MI	WYOMING, CITY OF	2601110015C	10-AUG-2001	01-05-2630A	02
05	MI	ZILWAUKEE, CITY OF	26145C0085D	11-JUL-2001	01-05-2479A	02
05	MI	ZILWAUKEE, CITY OF	26145C0085D	02-NOV-2001	02-05-0328A	02
05	MN	AFTON, CITY OF	27522601A	28-DEC-2001	02-05-0889A	02
05	MN	AITKIN COUNTY	2706280245B	25-JUL-2001	01-05-1964A	02
05	MN	AITKIN COUNTY	2706280400C	26-OCT-2001	02-05-0282A	02
05	MN	ANDOVER, CITY OF	2706890015B	03-OCT-2001	01-05-3834A	02
05	MN	ANDOVER, CITY OF	2706890015B	07-NOV-2001	02-05-0301A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MN	ANDOVER, CITY OF	2706890010B	07-NOV-2001	02-05-0307A	02
05	MN	ANDOVER, CITY OF	2706890010B	26-NOV-2001	02-05-0376A	17
05	MN	ANOKA COUNTY	2700050025A	07-NOV-2001	01-05-2996A	02
05	MN	ANOKA COUNTY	2700050050A	20-JUL-2001	01-05-3017A	02
05	MN	ARLINGTON, CITY OF	2706200075B	10-AUG-2001	01-05-2752A	02
05	MN	AUSTIN, CITY OF	2752280004B	05-JUL-2001	01-05-2703A	02
05	MN	AUSTIN, CITY OF	2752280004B	12-SEP-2001	01-05-3401A	02
05	MN	BAXTER, CITY OF	2700920005B	25-JUL-2001	01-05-132A	02
05	MN	BECKER, CITY OF	27141C0240E	24-AUG-2001	01-05-3223A	02
05	MN	BENTON COUNTY	2700190025B	01-AUG-2001	01-05-2249A	01
05	MN	BENTON COUNTY	2700190050B	14-DEC-2001	02-05-0258A	02
05	MN	BIG LAKE, CITY OF	27141C0245E	07-SEP-2001	01-05-3437A	02
05	MN	BLAINE, CITY OF	2700070005C	11-JUL-2001	01-05-2091A	02
05	MN	BLAINE, CITY OF	2700070005C	31-AUG-2001	01-05-3280A	02
05	MN	BLAINE, CITY OF	2700070005C	05-SEP-2001	01-05-3282A	02
05	MN	BLAINE, CITY OF	2700070005C	30-NOV-2001	01-05-3892A	01
05	MN	BLAINE, CITY OF	2700070010C	28-NOV-2001	01-05-3897A	01
05	MN	BLAINE, CITY OF	2700070005C	05-DEC-2001	02-05-0128A	02
05	MN	BROOKLYN PARK, CITY OF	2701520003D	05-DEC-2001	01-05-3885A	02
05	MN	CANNON FALLS, CITY OF	2701410002C	22-AUG-2001	01-05-3231A	02
05	MN	CARVER COUNTY	2700490050C	24-AUG-2001	01-05-2959A	02
05	MN	CARVER COUNTY	2700490050C	19-SEP-2001	01-05-3612A	02
05	MN	CLAY COUNTY	2752350175C	26-SEP-2001	01-05-3691A	02
05	MN	COLD SPRING, CITY OF	2704440001C	16-NOV-2001	02-05-0233A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	18-JUL-2001	01-05-2761A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	15-AUG-2001	01-05-3019A	01
05	MN	CROSSLAKE, CITY OF	27009503B	17-OCT-2001	01-05-3999A	02
05	MN	CROSSLAKE, CITY OF	27009506B	17-OCT-2001	01-05-3999A	02
05	MN	CROW WING COUNTY	2700910025B	10-AUG-2001	01-05-3023A	02
05	MN	CROW WING COUNTY	2700910025B	19-OCT-2001	01-05-3937A	02
05	MN	CROW WING COUNTY	2700910200B	26-NOV-2001	02-05-0511A	02
05	MN	CRYSTAL, CITY OF	2701560004C	26-SEP-2001	01-05-2615A	01
05	MN	CRYSTAL, CITY OF	2701560004C	25-JUL-2001	01-05-927P	05
05	MN	DAKOTA COUNTY	2701010175B	28-NOV-2001	02-05-0563A	02
05	MN	DOUGLAS COUNTY	2706230004B	26-OCT-2001	01-05-3998A	02
05	MN	DOVER, CITY OF	27109C0357D	21-DEC-2001	02-05-0906A	02
05	MN	DULUTH, CITY OF	2704210025C	21-SEP-2001	01-05-3260A	02
05	MN	DUNDAS, CITY OF	2704030001A	18-DEC-2001	02-05-0959P	05
05	MN	EAST BETHEL, CITY OF	2700120010A	26-NOV-2001	02-05-0255A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	07-SEP-2001	01-05-3539A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	21-DEC-2001	02-05-0813A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590010C	10-AUG-2001	01-05-2341A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	18-JUL-2001	01-05-2372A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	31-AUG-2001	01-05-2956A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590010C	12-SEP-2001	01-05-3320A	02
05	MN	ELYSIAN, CITY OF	27079C0425D	07-SEP-2001	01-05-2453A	02
05	MN	FARIBAULT, CITY OF	2704040001C	20-JUL-2001	00-05-5882A	01
05	MN	FARMINGTON, CITY OF	2701040002C	10-OCT-2001	01-05-2547C	02
05	MN	FARMINGTON, CITY OF	2701040002C	16-NOV-2001	02-05-0280A	01
05	MN	FILLMORE COUNTY	2701240075B	20-JUL-2001	01-05-2003A	02
05	MN	GOLDEN VALLEY, CITY OF	2701620001B	25-JUL-2001	01-05-927P	05
05	MN	GOODHUE COUNTY	2701400125A	05-JUL-2001	01-05-2663A	02
05	MN	GOODHUE COUNTY	2701400125A	26-OCT-2001	02-05-0254A	02
05	MN	GRANT COUNTY	2705490004B	31-AUG-2001	01-05-3101A	02
05	MN	GREENFIELD, CITY OF	2706730010C	13-JUL-2001	01-05-2379A	02
05	MN	GREENFIELD, CITY OF	2706730005C	20-JUL-2001	01-05-1993A	02
05	MN	HAM LAKE, CITY OF	2706740010B	05-JUL-2001	01-05-1282A	01
05	MN	HAM LAKE, CITY OF	2706740005B	11-JUL-2001	01-05-2886A	02
05	MN	HAM LAKE, CITY OF	2706740010B	20-JUL-2001	01-05-2899A	02
05	MN	HAM LAKE, CITY OF	2706740005B	03-OCT-2001	01-05-3703A	02
05	MN	HAM LAKE, CITY OF	2706740005B	07-NOV-2001	02-05-0359X	02
05	MN	HAM LAKE, CITY OF	2706740010B	19-DEC-2001	02-05-0820X	02
05	MN	HERMANTOWN, CITY OF	2707080005B	11-JUL-2001	01-05-2316A	01
05	MN	HOUSTON COUNTY *	2701900020B	15-AUG-2001	01-05-2604A	02
05	MN	ISANTI COUNTY	2701970060B	11-JUL-2001	01-05-2439A	02
05	MN	ISANTI COUNTY	2701970060B	20-JUL-2001	01-05-2834A	02
05	MN	ISANTI COUNTY	2701970085A	03-AUG-2001	01-05-3215A	02
05	MN	ISANTI COUNTY	2701970035B	19-SEP-2001	01-05-3654A	02
05	MN	ISANTI COUNTY	2701970040B	26-OCT-2001	01-05-3955A	02
05	MN	ISANTI COUNTY	2701970045C	12-DEC-2001	02-05-0482A	02
05	MN	ISANTI COUNTY	2701970060B	05-DEC-2001	02-05-0630A	02
05	MN	KANABEC COUNTY	2702140250A	29-AUG-2001	01-05-3496A	02
05	MN	KOOCHICHING COUNTY	2702330005C	18-JUL-2001	01-05-2773A	17

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MN	KOOCHICHING COUNTY	2702330006B	18-JUL-2001	01-05-3055A	02
05	MN	KOOCHICHING COUNTY	2702330006A	21-SEP-2001	01-05-3438A	02
05	MN	KOOCHICHING COUNTY	2702330006B	14-SEP-2001	01-05-3624A	02
05	MN	KOOCHICHING COUNTY	27023300014B	26-OCT-2001	01-05-3868A	02
05	MN	KOOCHICHING COUNTY	2702330006B	07-NOV-2001	02-05-0306A	02
05	MN	KOOCHICHING COUNTY	2702330006B	14-DEC-2001	02-05-0315A	02
05	MN	KOOCHICHING COUNTY	2702330006B	30-NOV-2001	02-05-0489A	02
05	MN	LAKE CITY, CITY OF	27157C0033D	14-SEP-2001	01-05-1303A	01
05	MN	LE SUEUR COUNTY	27079C0091D	07-SEP-2001	01-05-3443A	02
05	MN	MAPLE GROVE, CITY OF	2701690001B	20-JUL-2001	01-05-2356A	01
05	MN	MEDICINE LAKE, CITY OF	2706900001A	25-JUL-2001	01-05-927P	05
05	MN	MEEKER COUNTY	2702800001B	05-DEC-2001	02-05-0507A	02
05	MN	MINNEAPOLIS, CITY OF	2701720006B	25-JUL-2001	01-05-927P	05
05	MN	MINNETONKA, CITY OF	2701730002C	28-DEC-2001	02-05-0123A	02
05	MN	MINNETRISTA, CITY OF	270175B	13-JUL-2001	01-05-2349A	02
05	MN	MOORHEAD, CITY OF	2752440005D	18-JUL-2001	01-05-2811A	02
05	MN	MOORHEAD, CITY OF	2752440005D	18-JUL-2001	01-05-2812A	02
05	MN	MOORHEAD, CITY OF	2752350175C	11-JUL-2001	01-05-2813A	02
05	MN	MOORHEAD, CITY OF	2752440010D	25-JUL-2001	01-05-2814A	01
05	MN	MOORHEAD, CITY OF	2752440010D	07-NOV-2001	02-05-0271A	02
05	MN	MOOSE LAKE, CITY OF	2700450003B	28-NOV-2001	02-05-0247A	02
05	MN	MORRISON COUNTY	2706170200B	28-SEP-2001	01-05-3741A	02
05	MN	MORRISON COUNTY	2706170290B	07-DEC-2001	02-05-0620A	02
05	MN	MOUNDS VIEW, CITY OF	2703790001C	26-OCT-2001	01-05-3599A	02
05	MN	MOUNDS VIEW, CITY OF	2703790001C	28-DEC-2001	01-05-3952A	01
05	MN	NEW PRAGUE, CITY OF	27079C0091D	14-NOV-2001	01-05-3748A	02
05	MN	NORTH ST. PAUL, CITY OF	2703820005B	03-AUG-2001	01-05-2459A	02
05	MN	OLMSTED COUNTY	27109C0050D	01-AUG-2001	01-05-2862A	02
05	MN	OLMSTED COUNTY	27109C0075D	01-AUG-2001	01-05-2862A	02
05	MN	OLMSTED COUNTY	27109C0075D	05-OCT-2001	01-05-3476A	02
05	MN	OLMSTED COUNTY	27109C0302E	31-OCT-2001	01-05-3851A	01
05	MN	OWATONNA, CITY OF	2704630004B	12-SEP-2001	01-05-3253A	02
05	MN	PENNINGTON COUNTY	27113C0180C	19-DEC-2001	02-05-0750A	02
05	MN	PINE ISLAND, CITY OF	2701450001C	07-SEP-2001	01-05-2872A	02
05	MN	PLYMOUTH, CITY OF	2701790010C	05-JUL-2001	01-05-2368A	01
05	MN	PLYMOUTH, CITY OF	2701790010C	25-JUL-2001	01-05-927P	05
05	MN	POLK COUNTY	2705030425B	01-AUG-2001	01-05-2262A	02
05	MN	POLK COUNTY	2705030195B	18-JUL-2001	01-05-2454A	02
05	MN	PRIOR LAKE, CITY OF	2704320004C	20-JUL-2001	01-05-3077A	02
05	MN	PRIOR LAKE, CITY OF	2704320004C	17-OCT-2001	02-05-0009A	02
05	MN	RICE COUNTY	2706460025C	18-JUL-2001	01-05-2874A	02
05	MN	RICE COUNTY	2706460025C	24-AUG-2001	01-05-3252A	02
05	MN	RICE COUNTY	2706460075B	19-SEP-2001	01-05-3605A	02
05	MN	RICE COUNTY	2706460025C	19-SEP-2001	01-05-3631A	02
05	MN	ROCHESTER, CITY OF	27109C0163E	14-NOV-2001	01-05-751A	01
05	MN	ROSEAU COUNTY	2706330250C	03-OCT-2001	01-05-3840A	02
05	MN	SCOTT COUNTY	2704280100C	16-NOV-2001	01-05-3521A	02
05	MN	SHERBURNE COUNTY	27141C0150E	13-JUL-2001	01-05-2792A	02
05	MN	SHERBURNE COUNTY	27141C0205E	03-OCT-2001	01-05-3183A	02
05	MN	SHERBURNE COUNTY	27141C0245E	09-NOV-2001	01-05-3268A	02
05	MN	SHERBURNE COUNTY	27141C0245E	21-SEP-2001	01-05-3475A	02
05	MN	SHOREVIEW, CITY OF	2703840001B	19-SEP-2001	00-05-3970A	01
05	MN	SHOREVIEW, CITY OF	2703840001B	17-OCT-2001	01-05-2538A	01
05	MN	ST. FRANCIS, CITY OF	2700170010B	28-DEC-2001	01-05-3961A	02
05	MN	ST. FRANCIS, CITY OF	2700170015B	28-DEC-2001	01-05-3961A	02
05	MN	ST. LOUIS COUNTY	2704160100C	19-OCT-2001	02-05-0077A	02
05	MN	ST. LOUIS COUNTY	2704160575C	12-DEC-2001	02-05-0732A	02
05	MN	STEARNS COUNTY	2705460265B	07-NOV-2001	02-05-0354A	02
05	MN	STEARNS COUNTY	2705460025A	07-DEC-2001	02-05-0638A	02
05	MN	WABASHA COUNTY	27157C0280D	14-SEP-2001	01-05-2789A	17
05	MN	WASHINGTON COUNTY	2704990025B	05-SEP-2001	01-05-3397A	02
05	MN	WASHINGTON COUNTY	2704990125B	14-SEP-2001	01-05-3629A	02
05	MN	WASHINGTON COUNTY	2704990075B	07-DEC-2001	02-05-0718A	02
05	MN	WATERTOWN, CITY OF	2700560001C	07-NOV-2001	01-05-3936A	17
05	MN	WATERVILLE, CITY OF	27079C0427D	26-SEP-2001	01-05-3780A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	13-JUL-2001	01-05-2765A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	19-DEC-2001	02-05-0785A	02
05	MN	WINDOM, CITY OF	2700900001C	14-DEC-2001	01-05-3988A	02
05	MN	WINONA COUNTY	2705250100C	19-OCT-2001	02-05-0008A	02
05	MN	WINONA COUNTY	2705250113C	07-DEC-2001	02-05-0553A	02
05	MN	WRIGHT COUNTY	2705340028C	29-AUG-2001	01-05-3247A	02
05	MN	WRIGHT COUNTY	2705340042C	10-OCT-2001	01-05-3867A	02
05	MN	WRIGHT COUNTY	2705340027B	10-OCT-2001	01-05-3971A	02

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05	OH	AKRON, CITY OF	3905230020B	28-SEP-2001	01-05-3598A	02
05	OH	AKRON, CITY OF	3905230004B	28-NOV-2001	01-05-4008A	01
05	OH	ASHTABULA COUNTY	3900100215B	24-AUG-2001	01-05-2568A	02
05	OH	AUGLAIZE COUNTY	39011C0090C	25-JUL-2001	01-05-2976A	02
05	OH	AUGLAIZE COUNTY	39011C0025C	07-NOV-2001	01-05-3083A	02
05	OH	AUGLAIZE COUNTY	39011C0090C	28-SEP-2001	01-05-3857A	02
05	OH	AVON, CITY OF	3903480005C	24-OCT-2001	01-05-3846A	02
05	OH	BALTIMORE, VILLAGE OF	3901590001B	13-JUL-2001	01-05-3038A	02
05	OH	BELMONT COUNTY	3907620125C	05-OCT-2001	01-05-3923A	02
05	OH	BELMONT COUNTY*	3907620050C	19-SEP-2001	01-05-3107A	02
05	OH	BROADVIEW HEIGHTS, CITY OF	3900990001B	15-AUG-2001	01-05-2462A	02
05	OH	BUCKEYE LAKE, VILLAGE OF	3908820001A	08-AUG-2001	01-05-3158A	02
05	OH	BUCYRUS, CITY OF	3900900001C	14-SEP-2001	01-05-3081A	02
05	OH	BUTLER COUNTY	3900370045C	01-AUG-2001	01-05-2203A	01
05	OH	BUTLER COUNTY	3900370050C	17-AUG-2001	01-05-2747A	17
05	OH	BUTLER COUNTY	3900370045C	15-AUG-2001	01-05-3357A	02
05	OH	BUTLER COUNTY	3900370070C	05-SEP-2001	01-05-3537A	02
05	OH	BUTLER COUNTY	3900370045C	30-NOV-2001	02-05-0473A	01
05	OH	CAMBRIDGE, CITY OF	39059C0092C	27-JUL-2001	00-05-249P	05
05	OH	CARROLL COUNTY	3907630100B	26-OCT-2001	01-05-1047A	02
05	OH	CARROLL COUNTY	3907630075B	13-JUL-2001	01-05-2749A	02
05	OH	CARROLL COUNTY	3907630075B	26-NOV-2001	02-05-0561A	02
05	OH	CLERMONT COUNTY	3900650085D	28-SEP-2001	01-05-3044A	02
05	OH	COLUMBUS, CITY OF	39049C0277G	22-AUG-2001	00-05-319P	05
05	OH	COLUMBUS, CITY OF	39049C0270G	18-JUL-2001	01-05-1238A	01
05	OH	COLUMBUS, CITY OF	39049C0245G	24-AUG-2001	01-05-2264A	17
05	OH	COLUMBUS, CITY OF	39049C0290G	12-SEP-2001	01-05-3051A	01
05	OH	COLUMBUS, CITY OF	39049C0290G	03-AUG-2001	01-05-3056A	02
05	OH	COLUMBUS, CITY OF	39049C0270G	24-AUG-2001	01-05-3342A	02
05	OH	COLUMBUS, CITY OF	39049C0270G	18-JUL-2001	01-05-795A	01
05	OH	CRAWFORD COUNTY	3908110006C	28-NOV-2001	02-05-0417A	02
05	OH	CRAWFORD COUNTY	3908110003B	16-NOV-2001	02-05-0480A	02
05	OH	DEFIANCE, CITY OF	3901440005D	08-AUG-2001	01-05-2037A	02
05	OH	DELAWARE COUNTY	39041C0150J	25-JUL-2001	01-05-2033A	02
05	OH	DELAWARE COUNTY	39041C0120J	31-OCT-2001	01-05-3499A	02
05	OH	DELAWARE COUNTY	39041C0095J	14-SEP-2001	01-05-3697A	02
05	OH	DELAWARE, CITY OF	39041C0115J	05-JUL-2001	01-05-1783A	02
05	OH	DELAWARE, CITY OF	39041C0115J	28-NOV-2001	02-05-0601A	02
05	OH	DELAWARE, CITY OF	39041C0115J	14-DEC-2001	02-05-0775A	02
05	OH	DELTA, VILLAGE OF	3901830005C	11-JUL-2001	01-05-2764A	02
05	OH	DOVER, CITY OF	3905430005B	11-JUL-2001	01-05-2702A	02
05	OH	DUBLIN, CITY OF	39049C0019H	10-OCT-2001	01-05-2753A	01
05	OH	DUBLIN, CITY OF	39049C0107G	10-OCT-2001	01-05-2753A	01
05	OH	DUBLIN, CITY OF	39049C0105G	11-JUL-2001	01-05-745P	01
05	OH	DUBLIN, CITY OF	39049C0106G	11-JUL-2001	01-05-745P	01
05	OH	DUBLIN, CITY OF	39049C0108G	11-JUL-2001	01-05-745P	01
05	OH	FAIRFIELD COUNTY	3901580035D	05-JUL-2001	01-05-2485A	02
05	OH	FAIRFIELD, CITY OF	3900380005B	05-DEC-2001	02-05-0268A	02
05	OH	FAIRFIELD, CITY OF	3900380005B	30-NOV-2001	02-05-0503A	02
05	OH	FAIRPORT HARBOR, VILLAGE OF	3903140001B	14-DEC-2001	01-05-3529A	01
05	OH	FINDLAY, CITY	3907670080B	03-AUG-2001	01-05-3162A	02
05	OH	FINDLAY, CITY	3902440005C	24-OCT-2001	02-05-0089A	02
05	OH	FORT RECOVERY, VILLAGE OF	3903920103C	07-AUG-2001	01-05-2079P	05
05	OH	FRANKLIN COUNTY	39049C0120G	05-JUL-2001	01-05-2424A	01
05	OH	FRANKLIN COUNTY	39049C0290G	06-JUL-2001	01-05-2528A	02
05	OH	FRANKLIN COUNTY	39049C0195G	22-AUG-2001	01-05-3218A	02
05	OH	FRANKLIN COUNTY	39049C0188G	05-OCT-2001	01-05-3850A	02
05	OH	FRANKLIN COUNTY	39049C0290G	10-OCT-2001	01-05-3948A	02
05	OH	FRANKLIN COUNTY*	39049C0277G	22-AUG-2001	00-05-319P	05
05	OH	FULTON COUNTY	3901820050C	18-JUL-2001	01-05-2651A	02
05	OH	GAHANNA, CITY OF	39049C0167G	19-OCT-2001	01-05-4009A	01
05	OH	GAHANNA, CITY OF	39049C0169G	02-NOV-2001	02-05-0171A	02
05	OH	GLOUSTER, VILLAGE OF	3900180001B	20-JUL-2001	01-05-684P	05
05	OH	GRANDVIEW HEIGHTS, CITY OF	39049C0235G	29-AUG-2001	01-05-098A	01
05	OH	GROVE CITY, CITY OF	39049C0239G	13-JUL-2001	01-05-2114A	02
05	OH	GROVE CITY, CITY OF	39049C0335G	18-JUL-2001	01-05-2507A	01
05	OH	GROVE CITY, CITY OF	39049C0327G	21-DEC-2001	02-05-0866A	02
05	OH	GUERNSEY COUNTY *	39059C0092C	27-JUL-2001	00-05-249P	05
05	OH	HANCOCK COUNTY	3907670090B	26-NOV-2001	02-05-0544A	02
05	OH	HILLIARD, CITY OF	39049C0120G	01-AUG-2001	01-05-3069A	01
05	OH	HOLLAND, VILLAGE OF	39095C0227D	11-JUL-2001	01-05-2775A	02
05	OH	HURON COUNTY	3907700001B	07-DEC-2001	01-05-3506A	02
05	OH	JUNCTION CITY, VILLAGE OF	3908340001B	19-DEC-2001	02-05-0809A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	KENT, CITY OF	3904560001B	24-AUG-2001	01-05-3335A	02
05	OH	KETTERING, CITY OF	3904120010B	01-AUG-2001	01-05-2776A	02
05	OH	KETTERING, CITY OF	3904120020B	01-AUG-2001	01-05-2776A	02
05	OH	KETTERING, CITY OF	3904120020B	25-JUL-2001	01-05-2878A	02
05	OH	KETTERING, CITY OF	3904120020B	10-AUG-2001	01-05-3200A	02
05	OH	KNOX COUNTY	3903060135C	08-AUG-2001	01-05-2975A	02
05	OH	LAKE COUNTY *	3907710051C	09-AUG-2001	01-05-1668X	05
05	OH	LANCASTER, CITY OF	3901610005D	10-AUG-2001	01-05-2695A	02
05	OH	LANCASTER, CITY OF	3901610003D	13-JUL-2001	01-05-2799A	02
05	OH	LAWRENCE COUNTY	3903250110B	31-OCT-2001	01-05-3647A	02
05	OH	LAWRENCE COUNTY *	3903250185B	10-AUG-2001	01-05-2027A	02
05	OH	LAWRENCE COUNTY *	3903250180B	05-DEC-2001	01-05-2937A	02
05	OH	LICKING COUNTY	3903280175B	05-OCT-2001	01-05-2431A	02
05	OH	LICKING COUNTY	3903280175B	03-OCT-2001	01-05-3459A	01
05	OH	LICKING COUNTY	3903280200B	19-DEC-2001	02-05-0811A	02
05	OH	LOGAN COUNTY	3907720025C	17-AUG-2001	01-05-2729A	02
05	OH	LOGAN COUNTY	3907720025C	29-AUG-2001	01-05-3224A	02
05	OH	LOGAN COUNTY	3907720025C	22-AUG-2001	01-05-3351A	02
05	OH	LOGAN COUNTY	3907720025C	24-OCT-2001	02-05-0193A	02
05	OH	LOGAN COUNTY	3907720025C	07-NOV-2001	02-05-0259A	02
05	OH	LORAIN COUNTY	3903460105B	07-NOV-2001	01-05-3962A	17
05	OH	LORAIN COUNTY	3903460095B	14-NOV-2001	02-05-0494A	02
05	OH	LOUISVILLE, CITY OF	3905160002D	26-NOV-2001	01-05-3732A	02
05	OH	LUCAS COUNTY	39095C0237D	03-AUG-2001	01-05-2039A	02
05	OH	LUCAS COUNTY	39095C0062D	18-JUL-2001	01-05-2451A	02
05	OH	LUCAS COUNTY	39095C0062D	05-JUL-2001	01-05-2661A	02
05	OH	LUCAS COUNTY	39095C0053D	10-AUG-2001	01-05-2866A	02
05	OH	LUCAS COUNTY	39095C0042D	26-SEP-2001	01-05-2882A	01
05	OH	LUCAS COUNTY	39095C0061D	26-SEP-2001	01-05-2882A	01
05	OH	LUCAS COUNTY	39095C0064D	22-AUG-2001	01-05-3122A	02
05	OH	LUCAS COUNTY	39095C0145D	10-OCT-2001	01-05-3492A	02
05	OH	LUCAS COUNTY	39095C0360D	19-SEP-2001	01-05-3505A	02
05	OH	LUCAS COUNTY	39095C0061D	26-SEP-2001	01-05-3675A	02
05	OH	LUCAS COUNTY	39095C0237D	19-DEC-2001	01-05-3869A	02
05	OH	LUCAS COUNTY	39095C0061D	07-DEC-2001	02-05-0584A	02
05	OH	MAHONING COUNTY	3903670050B	10-AUG-2001	01-05-2448A	02
05	OH	MALVERN, VILLAGE OF	3900520001B	20-JUL-2001	01-05-2646A	17
05	OH	MARION COUNTY	39101C0060C	15-AUG-2001	01-05-2844A	02
05	OH	MARION COUNTY	39101C0125C	10-AUG-2001	01-05-3046A	02
05	OH	MASON, CITY OF	3907570065C	30-AUG-2001	00-05-355P	05
05	OH	MAUMEE, CITY OF	39095C0234D	12-SEP-2001	01-05-3659A	02
05	OH	MAYFIELD, VILLAGE OF	39011605D	26-SEP-2001	01-05-3686A	02
05	OH	MAYFIELD, VILLAGE OF	39011608D	02-NOV-2001	02-05-0304A	02
05	OH	MAYFIELD, VILLAGE OF	39011608D	12-DEC-2001	02-05-0522A	02
05	OH	MAYFIELD, VILLAGE OF	39011608D	30-NOV-2001	02-05-0576A	02
05	OH	MERCER COUNTY	3903920100B	21-DEC-2001	02-05-0746A	02
05	OH	MERCER COUNTY *	3903950001C	07-AUG-2001	01-05-2079P	05
05	OH	MERCER COUNTY *	3903920100B	11-JUL-2001	01-05-2366A	02
05	OH	MERCER COUNTY *	3903920100B	21-SEP-2001	01-05-3300A	02
05	OH	MERCER COUNTY *	3903920100B	05-SEP-2001	01-05-3306A	02
05	OH	MIAMI COUNTY	3903980059B	05-JUL-2001	01-05-2545A	02
05	OH	MIAMI COUNTY	3903980075C	18-OCT-2001	01-05-2979A	02
05	OH	MIAMI COUNTY	3903980090B	22-AUG-2001	01-05-2998A	02
05	OH	MIAMI COUNTY	3903980059B	31-AUG-2001	01-05-3371A	02
05	OH	MIAMISBURG, CITY OF	3904130005C	05-OCT-2001	01-05-3622A	02
05	OH	MIDDLETOWN, CITY OF	3900370015B	28-SEP-2001	01-05-3743A	02
05	OH	MILLBURY, VILLAGE OF	3905860001B	24-AUG-2001	01-05-2995A	02
05	OH	MILLERSBURG, VILLAGE OF	39075C0110C	13-JUL-2001	01-05-1723A	02
05	OH	MONTGOMERY COUNTY	3907750040C	10-AUG-2001	00-05-4772A	02
05	OH	MONTGOMERY COUNTY	3907750035C	08-AUG-2001	01-05-2965A	17
05	OH	MONTGOMERY COUNTY	3907750060B	12-SEP-2001	01-05-3048A	02
05	OH	MONTGOMERY COUNTY	3907750040C	22-AUG-2001	01-05-3375A	02
05	OH	MONTGOMERY COUNTY	3907750055B	21-SEP-2001	01-05-3699A	02
05	OH	MONTGOMERY COUNTY	3907750035C	03-OCT-2001	01-05-3822A	02
05	OH	MONTGOMERY COUNTY	3907750040C	28-DEC-2001	02-05-0542A	01
05	OH	MONTGOMERY COUNTY	3907750040C	07-DEC-2001	02-05-0648A	02
05	OH	NEW PHILADELPHIA, CITY OF	3905450005C	26-NOV-2001	02-05-0513A	02
05	OH	NEW PHILADELPHIA, CITY OF	3905450005C	05-DEC-2001	02-05-0639A	02
05	OH	NEWARK,CITY OF	3903350002F	05-JUL-2001	01-05-2072A	01
05	OH	NEWARK,CITY OF	3903350002F	05-JUL-2001	01-05-2333A	02
05	OH	NEWARK,CITY OF	3903350004F	18-JUL-2001	01-05-2536A	02
05	OH	NEWARK,CITY OF	3903350002F	30-NOV-2001	02-05-0597A	02
05	OH	NILES, CITY OF	3905400001B	13-JUL-2001	01-05-2628A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	NORTH CANTON, CITY OF	3905210004B	07-SEP-2001	01-05-3090A	02
05	OH	NORTH CANTON, CITY OF	3905210003B	03-OCT-2001	01-05-3756A	02
05	OH	NORTH RIDGEVILLE, CITY OF	3903520005C	31-OCT-2001	02-05-0253A	02
05	OH	OLMSTED FALLS, CITY OF	3906720001B	26-NOV-2001	02-05-0528A	02
05	OH	OREGON, CITY OF	39095C0110D	13-JUL-2001	01-05-2795A	01
05	OH	OREGON, CITY OF	39095C0113D	24-OCT-2001	02-05-0194A	02
05	OH	OTTAWA COUNTY	3904320125B	20-JUL-2001	01-05-2176A	02
05	OH	OTTAWA COUNTY	3904320025A	20-JUL-2001	01-05-2293A	02
05	OH	OTTAWA COUNTY	3904320200B	08-AUG-2001	01-05-2674A	02
05	OH	OTTAWA COUNTY	3904320025A	28-SEP-2001	01-05-2968A	02
05	OH	OTTAWA COUNTY	3904320225B	07-SEP-2001	01-05-3457A	02
05	OH	OTTAWA COUNTY	3904320025A	12-OCT-2001	01-05-3721A	02
05	OH	OTTAWA COUNTY	3904320025A	24-OCT-2001	01-05-3775A	02
05	OH	OTTAWA COUNTY	3904320050B	17-OCT-2001	02-05-0164A	02
05	OH	OTTAWA, VILLAGE OF	3904720002C	01-AUG-2001	01-05-3029A	02
05	OH	PAULDING, VILLAGE OF	3904380001B	21-DEC-2001	02-05-0752A	02
05	OH	PERRYSVILLE, VILLAGE OF	39073001A	06-JUL-2001	01-05-1070A	02
05	OH	PORTAGE COUNTY	39045322C	12-DEC-2001	01-05-2818A	02
05	OH	PORTAGE COUNTY	39045334C	31-OCT-2001	01-05-3234A	02
05	OH	PORTAGE COUNTY	39045335C	10-AUG-2001	01-05-3241A	02
05	OH	PREBLE COUNTY	3904600010B	03-OCT-2001	01-05-3089A	02
05	OH	PUTNAM COUNTY	3904650130B	01-AUG-2001	01-05-2321A	02
05	OH	PUTNAM COUNTY	3904650130B	03-OCT-2001	01-05-3776A	02
05	OH	PUTNAM COUNTY	3904650100B	09-NOV-2001	01-05-3817A	02
05	OH	PUTNAM COUNTY	3904650130B	09-NOV-2001	01-05-3817A	02
05	OH	PUTNAM COUNTY	3904650040B	03-OCT-2001	01-05-3818A	02
05	OH	ROAMING SHORES, VILLAGE OF	3908850001A	31-OCT-2001	01-05-3807A	02
05	OH	ROCKY RIVER, CITY OF	3953720003B	17-OCT-2001	01-05-3782A	02
05	OH	ROSS COUNTY	3904800175B	12-OCT-2001	01-05-2231A	02
05	OH	ROSS COUNTY	3904800050B	14-DEC-2001	02-05-0786A	02
05	OH	SANDUSKY COUNTY	3904860115B	11-JUL-2001	01-05-2712A	02
05	OH	SANDUSKY, CITY OF	3901560004B	21-SEP-2001	01-05-3722A	02
05	OH	SCIOTO COUNTY *	3904960185B	21-NOV-2001	01-05-3556A	01
05	OH	SENECA COUNTY	3907790025B	29-AUG-2001	01-05-3025A	02
05	OH	SHELBY COUNTY	3905030060C	03-AUG-2001	01-05-2842A	02
05	OH	SPRINGBORO, CITY OF	3907570010B	30-NOV-2001	01-05-2505A	01
05	OH	SPRINGBORO, CITY OF	3907570010B	10-AUG-2001	01-05-2522A	01
05	OH	ST. MARYS, CITY OF	39011C0080C	06-JUL-2001	01-05-1233A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	18-JUL-2001	01-05-1947A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	11-JUL-2001	01-05-2755A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	07-SEP-2001	01-05-3112A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	07-SEP-2001	01-05-3113A	02
05	OH	STARK COUNTY	3907800010B	01-AUG-2001	01-05-2808A	02
05	OH	STRONGSVILLE, CITY OF	3901320005B	14-NOV-2001	02-05-0335A	02
05	OH	STRONGSVILLE, CITY OF	3901320005B	14-NOV-2001	02-05-0340A	02
05	OH	SUMMIT COUNTY	3907810045B	24-OCT-2001	01-05-3125A	01
05	OH	SUMMIT COUNTY	3907810015B	17-OCT-2001	01-05-3852A	02
05	OH	SUMMIT COUNTY	3907810015B	12-DEC-2001	01-05-4007A	02
05	OH	SUMMIT COUNTY	3907810015B	05-DEC-2001	02-05-0606A	02
05	OH	SYLVANIA, CITY OF	39095C0053D	29-AUG-2001	01-05-2902A	01
05	OH	TOLEDO, CITY OF	39095C0078D	25-JUL-2001	01-05-2280A	02
05	OH	TOLEDO, CITY OF	39095C0064D	11-JUL-2001	01-05-2318A	02
05	OH	TOLEDO, CITY OF	39095C0093D	28-SEP-2001	01-05-2337A	02
05	OH	TOLEDO, CITY OF	39095C0059D	10-AUG-2001	01-05-2390A	02
05	OH	TOLEDO, CITY OF	3953730064D	26-NOV-2001	01-05-2432A	02
05	OH	TOLEDO, CITY OF	39095C0057D	20-JUL-2001	01-05-2656A	02
05	OH	TOLEDO, CITY OF	39095C0057D	08-AUG-2001	01-05-2744A	02
05	OH	TOLEDO, CITY OF	39095C0231D	21-SEP-2001	01-05-2854A	02
05	OH	TOLEDO, CITY OF	39095C0059D	26-NOV-2001	01-05-3435A	02
05	OH	TOLEDO, CITY OF	39095C0068D	14-SEP-2001	01-05-3497A	02
05	OH	TOLEDO, CITY OF	39095C0057D	24-OCT-2001	01-05-3528A	02
05	OH	TOLEDO, CITY OF	39095C0086D	24-OCT-2001	01-05-3715A	02
05	OH	TOLEDO, CITY OF	39095C0078D	21-DEC-2001	02-05-0403A	02
05	OH	TROY, CITY OF	3904020005B	17-AUG-2001	01-05-3249A	17
05	OH	TUSCARAWAS COUNTY	3907820060B	21-SEP-2001	01-05-538A	02
05	OH	TWINSBURG, CITY OF	3905340004D	15-NOV-2001	01-05-216P	05
05	OH	UHRICHSVILLE, CITY OF	3905470005C	27-JUL-2001	01-05-1989A	02
05	OH	UNION COUNTY	3908080150B	19-SEP-2001	01-05-3196A	02
05	OH	UTICA, VILLAGE OF	3903380001A	21-DEC-2001	02-05-0878A	02
05	OH	VAN WERT COUNTY	3907840005B	26-SEP-2001	01-05-3810A	02
05	OH	VAN WERT COUNTY	3907840003B	05-DEC-2001	02-05-0416A	02
05	OH	WAPAKONETA, CITY OF	39011C0105C	05-JUL-2001	01-05-2019A	17
05	OH	WARREN COUNTY	3907570013D	25-JUL-2001	01-05-2960A	02

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05	OH	WARREN COUNTY	3907570013D	26-OCT-2001	02-05-0057A	02
05	OH	WAYNE COUNTY	39169C0250C	02-NOV-2001	01-05-3613A	02
05	OH	WAYNE COUNTY	39169C0275C	02-NOV-2001	01-05-3613A	02
05	OH	WESTERVILLE, CITY OF	39049C0159G	29-AUG-2001	01-05-2796A	02
05	OH	WESTERVILLE, CITY OF	39049C0064H	14-SEP-2001	01-05-3513A	02
05	OH	WESTERVILLE, CITY OF	39049C0157G	05-OCT-2001	01-05-3934A	02
05	OH	WILLIAMS COUNTY	3907850050B	24-AUG-2001	01-05-2809A	02
05	OH	WILLIAMS COUNTY	3907850050B	07-NOV-2001	01-05-3265A	02
05	OH	WOOD COUNTY	3908090012C	05-SEP-2001	01-05-3481A	02
05	OH	WOOD COUNTY	3908090075B	05-DEC-2001	02-05-0624A	02
05	OH	WYANDOT COUNTY	3907870050C	14-DEC-2001	02-05-0736A	02
05	OH	XENIA, CITY OF	3901970005B	10-AUG-2001	01-05-2720A	17
05	WI	BARRON COUNTY	5505680225C	27-JUL-2001	01-05-2265A	02
05	WI	BARRON COUNTY	5505680075C	05-JUL-2001	01-05-2668A	02
05	WI	BAYFIELD COUNTY	5505390026B	21-SEP-2001	01-05-2791A	02
05	WI	BRILLION, CITY OF	5500360001C	24-AUG-2001	01-05-2706A	02
05	WI	BROOKFIELD, CITY OF	5504780005B	24-OCT-2001	02-05-0195A	02
05	WI	BROOKFIELD, CITY OF	5504780010B	14-NOV-2001	02-05-0391A	02
05	WI	BROWN COUNTY *	5500200125B	24-OCT-2001	01-05-3582A	02
05	WI	BROWN COUNTY *	5500200150A	12-DEC-2001	02-05-0466A	02
05	WI	BROWN DEER, VILLAGE OF	5502710002B	02-NOV-2001	01-05-3259A	02
05	WI	BURNETT COUNTY *	5500320375B	12-SEP-2001	01-05-2378A	01
05	WI	CEDARBURG, CITY OF	55089C0064D	07-SEP-2001	01-05-3511A	02
05	WI	CHIPPEWA COUNTY	5555490075B	26-SEP-2001	01-05-3464A	02
05	WI	CHIPPEWA COUNTY	5555490250C	05-OCT-2001	01-05-3689A	02
05	WI	COLUMBIA COUNTY	5505810200C	31-AUG-2001	01-05-3152A	02
05	WI	COLUMBIA COUNTY	5505810075C	22-AUG-2001	01-05-3173A	02
05	WI	COLUMBIA COUNTY	5505810075C	22-AUG-2001	01-05-3343A	02
05	WI	COLUMBIA COUNTY	5505810075C	03-OCT-2001	01-05-3617A	02
05	WI	COLUMBIA COUNTY	5505810050C	28-SEP-2001	01-05-3816A	02
05	WI	COLUMBIA COUNTY	5505810075C	19-DEC-2001	02-05-0874X	02
05	WI	CRAWFORD COUNTY	55555101200	07-NOV-2001	01-05-3950A	02
05	WI	CUDAHY, CITY OF	5502720001B	25-JUL-2001	01-05-2251A	01
05	WI	CUDAHY, CITY OF	5502720001B	03-OCT-2001	01-05-3452A	01
05	WI	DE FOREST, VILLAGE OF	5500820005C	27-JUL-2001	01-05-2915A	02
05	WI	DE FOREST, VILLAGE OF	5500820005C	29-AUG-2001	01-05-2919A	02
05	WI	DE FOREST, VILLAGE OF	5500820005C	01-AUG-2001	01-05-2921A	02
05	WI	DE PERE, CITY OF	5500210005C	05-SEP-2001	01-05-3289A	02
05	WI	DE PERE, CITY OF	5500210005C	14-NOV-2001	02-05-0116X	01
05	WI	DODGE COUNTY	5500940205B	25-JUL-2001	01-05-2326A	02
05	WI	DODGE COUNTY	5500940210B	25-JUL-2001	01-05-2326A	02
05	WI	DODGE COUNTY	5500940140B	22-AUG-2001	01-05-2469A	02
05	WI	DODGE COUNTY	5500940140B	14-SEP-2001	01-05-2582A	02
05	WI	DODGE COUNTY	5500940075B	07-SEP-2001	01-05-3630A	02
05	WI	DOOR COUNTY	5501090085A	09-NOV-2001	02-05-0051A	02
05	WI	DUNN COUNTY	5501180125A	07-NOV-2001	01-05-2691A	02
05	WI	EAU CLAIRE COUNTY	5555520075B	13-JUL-2001	01-05-1293A	02
05	WI	ELM GROVE, VILLAGE OF	5505780001B	12-OCT-2001	01-05-3525A	02
05	WI	FOND DU LAC COUNTY	5501310060B	16-NOV-2001	01-05-2297A	01
05	WI	FOND DU LAC COUNTY	5501310070C	16-NOV-2001	01-05-2297A	01
05	WI	FOND DU LAC COUNTY	5501310170C	28-SEP-2001	01-05-3425A	02
05	WI	FOND DU LAC COUNTY	5501310070C	03-OCT-2001	01-05-3486A	02
05	WI	FOND DU LAC COUNTY	5501310070C	07-DEC-2001	02-05-0739A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	25-JUL-2001	01-05-3050A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	09-NOV-2001	02-05-0263A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	28-NOV-2001	02-05-0352A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	07-DEC-2001	02-05-0766X	02
05	WI	FOREST COUNTY	5506030006A	28-SEP-2001	01-05-2865A	02
05	WI	FOREST COUNTY	5506030001A	10-OCT-2001	01-05-3411A	02
05	WI	FOREST COUNTY	5506030001A	07-NOV-2001	02-05-0273A	02
05	WI	FREEMONT, VILLAGE OF	5504960001C	28-DEC-2001	02-05-0859A	02
05	WI	GERMANTOWN, VILLAGE OF	5504720008B	24-OCT-2001	02-05-0196A	02
05	WI	GREEN BAY, CITY OF	5500220020E	10-AUG-2001	01-05-2612A	02
05	WI	GREEN BAY, CITY OF	5500220020E	25-JUL-2001	01-05-2916A	02
05	WI	GREEN LAKE COUNTY	5501650005B	03-AUG-2001	01-05-2563A	02
05	WI	GREENDALE, VILLAGE OF	5502760002B	22-AUG-2001	01-05-3276A	02
05	WI	HOWARD, VILLAGE OF	5500230005B	14-SEP-2001	01-05-3311A	02
05	WI	IRON COUNTY	5501820008B	07-DEC-2001	02-05-0326A	02
05	WI	IRON COUNTY	5501820006B	14-NOV-2001	02-05-0385A	02
05	WI	IRON COUNTY	5501820010B	14-DEC-2001	02-05-0643A	02
05	WI	JANESVILLE, CITY OF	5555600010B	22-AUG-2001	01-05-3385A	02
05	WI	JEFFERSON COUNTY	5501910225A	29-AUG-2001	01-05-3267A	02
05	WI	JEFFERSON COUNTY	5501910250B	26-OCT-2001	01-05-3791A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	JEFFERSON COUNTY	5501910075B	21-DEC-2001	02-05-0759A	02
05	WI	KENOSHA COUNTY	5505230040B	27-JUL-2001	01-05-2025A	02
05	WI	KENOSHA COUNTY	5505230040B	10-OCT-2001	01-05-3965A	02
05	WI	KEWAUNEE COUNTY	5502120125B	07-SEP-2001	01-05-3384A	02
05	WI	LA CROSSE COUNTY *	5502170170A	11-JUL-2001	01-05-2154A	02
05	WI	LA CROSSE COUNTY *	5502170120A	21-NOV-2001	01-05-3554A	02
05	WI	LA CROSSE COUNTY *	5502170120A	03-OCT-2001	01-05-3577A	02
05	WI	LA CROSSE, CITY OF	5555620006B	14-NOV-2001	01-05-3285A	01
05	WI	LA CROSSE, CITY OF	5555620005B	14-SEP-2001	01-05-3292A	02
05	WI	LAC COURTE OREILLES INDIAN RESERVATION	5505910225B	19-OCT-2001	01-05-3502A	02
05	WI	LANGLADE COUNTY	5505760125B	12-DEC-2001	01-05-3793A	02
05	WI	LANGLADE COUNTY	5505760050B	14-DEC-2001	02-05-0475A	02
05	WI	MANITOWOC COUNTY	5502360030A	08-AUG-2001	01-05-3009A	17
05	WI	MANITOWOC COUNTY	5502360190C	26-OCT-2001	01-05-3830A	02
05	WI	MARATHON COUNTY	5502450375B	20-JUL-2001	01-05-2901A	02
05	WI	MARATHON COUNTY	5502450400B	22-AUG-2001	01-05-3126A	02
05	WI	MARATHON COUNTY	5502450425B	22-AUG-2001	01-05-3210A	02
05	WI	MARATHON COUNTY	5502450225B	10-AUG-2001	01-05-3255A	02
05	WI	MARATHON COUNTY	5502450375B	10-AUG-2001	01-05-3256A	02
05	WI	MARATHON COUNTY	5502450100B	03-OCT-2001	01-05-3389A	02
05	WI	MARATHON COUNTY	5502450225B	05-SEP-2001	01-05-3468A	02
05	WI	MARATHON COUNTY	5502450375B	26-OCT-2001	01-05-3781A	01
05	WI	MARATHON COUNTY	5502450400B	14-DEC-2001	02-05-0531A	02
05	WI	MARATHON COUNTY	5502450375B	26-NOV-2001	02-05-0535A	02
05	WI	MARATHON COUNTY	5502450525B	26-NOV-2001	02-05-0535A	02
05	WI	MARATHON COUNTY	5502450075B	21-DEC-2001	02-05-0738A	02
05	WI	MARINETTE COUNTY	5502590750B	09-NOV-2001	02-05-0267A	02
05	WI	MARQUETTE COUNTY	5506010100B	05-DEC-2001	02-05-0370A	17
05	WI	MENASHA, CITY OF	5505100005C	01-AUG-2001	01-05-3003A	02
05	WI	MENASHA, CITY OF	5505100005C	22-AUG-2001	01-05-3067A	02
05	WI	MENASHA, CITY OF	5505100005C	21-SEP-2001	01-05-3561A	02
05	WI	MENASHA, CITY OF	5505100005C	28-NOV-2001	02-05-0435A	02
05	WI	MENOMONEE FALLS, VILLAGE OF	5504830005C	17-OCT-2001	02-05-0050A	02
05	WI	MENOMONEE FALLS, VILLAGE OF	5504830010C	07-NOV-2001	02-05-0398A	02
05	WI	MEQUON, CITY OF	55089C0090D	28-SEP-2001	01-05-3714A	02
05	WI	MERRIMAC, VILLAGE OF	55111C0450D	06-JUL-2001	01-05-2711A	02
05	WI	MONROE COUNTY	5505710140B	05-JUL-2001	01-05-2570A	02
05	WI	MONROE COUNTY	5505710140B	12-SEP-2001	01-05-3434A	02
05	WI	MUKWONAGO, VILLAGE OF	5504760140B	01-AUG-2001	01-05-2526A	01
05	WI	MUKWONAGO, VILLAGE OF	5504760120B	19-SEP-2001	01-05-3710A	02
05	WI	MUKWONAGO, VILLAGE OF	5504760140B	19-SEP-2001	01-05-3710A	02
05	WI	OCONTO COUNTY	5502940365A	14-SEP-2001	01-05-2797A	02
05	WI	OCONTO COUNTY	5502940175A	01-AUG-2001	01-05-956A	02
05	WI	OCONTO COUNTY	5502940175A	21-DEC-2001	02-05-0084A	02
05	WI	ONEIDA COUNTY	55085C0350B	12-DEC-2001	02-05-0217A	02
05	WI	OUTAGAMIE COUNTY	5503020050B	22-AUG-2001	01-05-2308A	02
05	WI	OUTAGAMIE COUNTY	5503020100C	24-AUG-2001	01-05-3092A	02
05	WI	OUTAGAMIE COUNTY	5503020100C	08-AUG-2001	01-05-3111A	02
05	WI	OUTAGAMIE COUNTY	5503020050B	31-AUG-2001	01-05-3391A	02
05	WI	OUTAGAMIE COUNTY	5503020100C	19-SEP-2001	01-05-3667A	02
05	WI	OUTAGAMIE COUNTY	5503020050B	10-OCT-2001	01-05-3993A	02
05	WI	OUTAGAMIE COUNTY	5503020100C	07-NOV-2001	02-05-0222A	02
05	WI	OZAUKEE COUNTY	55089C0020D	05-DEC-2001	02-05-0767A	02
05	WI	PEWAUKEE, VILLAGE OF	5504890002B	05-JUL-2001	01-05-1788A	01
05	WI	PORTAGE COUNTY	5505720250C	31-OCT-2001	02-05-0006A	02
05	WI	PORTAGE COUNTY	5505720100C	07-NOV-2001	02-05-0323A	02
05	WI	PORTAGE COUNTY	5505720100C	16-NOV-2001	02-05-0415A	02
05	WI	PRAIRIE DU CHIEN, CITY OF	55557302A	19-DEC-2001	02-05-0540A	02
05	WI	PRESCOTT, CITY OF	555574A	17-OCT-2001	01-05-3480A	02
05	WI	RACINE COUNTY	5503470010B	20-JUL-2001	01-05-2499A	02
05	WI	REEDSBURG, CITY OF	55111C0195D	03-AUG-2001	01-05-2957A	02
05	WI	REEDSBURG, CITY OF	55111C0195D	21-DEC-2001	02-05-0885A	02
05	WI	RICHLAND COUNTY	5503560225B	05-JUL-2001	01-05-2416A	02
05	WI	RICHLAND COUNTY	5503560200B	19-OCT-2001	01-05-3076A	02
05	WI	RICHLAND COUNTY	5503560125B	07-NOV-2001	02-05-0085A	02
05	WI	RICHLAND COUNTY	5503560150B	14-DEC-2001	02-05-0499A	02
05	WI	RIVER HILLS, VILLAGE OF	5502800001B	12-OCT-2001	01-05-3462A	01
05	WI	ROCK COUNTY	5503630070A	05-DEC-2001	02-05-0519A	02
05	WI	RUSK COUNTY	5506020245B	05-JUL-2001	01-05-2561A	02
05	WI	RUSK COUNTY	5506020240B	10-OCT-2001	01-05-3271A	02
05	WI	RUSK COUNTY	5506020245B	19-SEP-2001	01-05-3766A	02
05	WI	SAUK COUNTY	55111C0525D	12-DEC-2001	01-05-3491A	02
05	WI	SAUK COUNTY	55111C0575D	31-OCT-2001	01-05-3678A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	SAUK COUNTY	55111C0625D	16-NOV-2001	02-05-0377A	02
05	WI	SAWYER COUNTY *	5505910100B	01-AUG-2001	01-05-3022A	02
05	WI	SHAWANO COUNTY	5504120150B	05-SEP-2001	01-05-2770A	02
05	WI	SHAWANO COUNTY	5504120150B	05-SEP-2001	01-05-2771A	02
05	WI	SHAWANO COUNTY	5504120150B	25-JUL-2001	01-05-2780A	02
05	WI	SHAWANO COUNTY	5504120150B	25-JUL-2001	01-05-3018A	02
05	WI	SHAWANO COUNTY	5504120175B	14-SEP-2001	01-05-3257A	02
05	WI	SHAWANO COUNTY	5504120150B	26-OCT-2001	01-05-3523A	02
05	WI	SHAWANO COUNTY	5504120150B	26-SEP-2001	01-05-3734A	02
05	WI	SHELL LAKE, CITY OF	5504690001E	25-JUL-2001	01-05-3065A	02
05	WI	SHELL LAKE, CITY OF	5504690001E	12-OCT-2001	01-05-3979X	02
05	WI	SHELL LAKE, CITY OF	5504690001E	12-OCT-2001	01-05-3990A	02
05	WI	SHELL LAKE, CITY OF	5504690001E	12-OCT-2001	02-05-0018A	02
05	WI	SHELL LAKE, CITY OF	5504690001E	19-OCT-2001	02-05-0148X	02
05	WI	SHELL LAKE, CITY OF	5504690001E	19-OCT-2001	02-05-0149X	02
05	WI	SHELL LAKE, CITY OF	5504690001E	19-OCT-2001	02-05-0150X	02
05	WI	SHIOCTON, VILLAGE OF	5503090001B	27-JUL-2001	01-05-2573A	02
05	WI	SHIOCTON, VILLAGE OF	5503090001B	31-OCT-2001	02-05-0284A	02
05	WI	SHIOCTON, VILLAGE OF	5503090001B	26-NOV-2001	02-05-0534A	02
05	WI	SHIOCTON, VILLAGE OF	5503090001B	21-DEC-2001	02-05-0829A	02
05	WI	SOUTH MILWAUKEE, CITY OF	5502830005B	26-OCT-2001	02-05-0028A	02
05	WI	ST. CROIX COUNTY *	555578B	31-AUG-2001	01-05-2598A	02
05	WI	TOMAH, CITY OF	5502910002B	14-NOV-2001	01-05-3596A	02
05	WI	TREMPEALEAU COUNTY *	555585—19A	21-SEP-2001	01-05-3302A	02
05	WI	WALPACA COUNTY	5504920170B	05-JUL-2001	01-05-2246A	01
05	WI	WALPACA COUNTY	5504920160B	18-JUL-2001	01-05-2793A	02
05	WI	WALPACA COUNTY	5504920155A	31-AUG-2001	01-05-3214A	02
05	WI	WALPACA COUNTY	5504920205B	26-SEP-2001	01-05-3658A	02
05	WI	WALPACA COUNTY	5504920130A	19-OCT-2001	01-05-3864A	02
05	WI	WALPACA COUNTY	5504920040A	10-OCT-2001	01-05-3995A	02
05	WI	WALWORTH COUNTY	5504620085B	18-JUL-2001	01-05-2562A	02
05	WI	WALWORTH COUNTY	5504620130B	19-OCT-2001	01-05-3643A	02
05	WI	WASHBURN COUNTY	5506060200B	31-OCT-2001	01-05-3245A	02
05	WI	WASHBURN COUNTY	5506060075B	28-SEP-2001	01-05-3800A	02
05	WI	WASHBURN COUNTY	5506060200B	28-SEP-2001	01-05-3820A	02
05	WI	WASHBURN COUNTY	5506060025B	19-OCT-2001	02-05-0066A	02
05	WI	WASHBURN COUNTY	5506060125B	07-DEC-2001	02-05-0651A	02
05	WI	WASHBURN COUNTY	5506060200B	14-DEC-2001	02-05-0782A	02
05	WI	WASHINGTON COUNTY	5504710070B	31-AUG-2001	01-05-2737A	01
05	WI	WASHINGTON COUNTY	5504710070B	17-OCT-2001	02-05-0016A	02
05	WI	WASHINGTON COUNTY	5504710025B	26-OCT-2001	02-05-0062A	02
05	WI	WASHINGTON COUNTY	5504710045B	26-OCT-2001	02-05-0062A	02
05	WI	WASHINGTON COUNTY	5504710040B	26-OCT-2001	02-05-0199A	02
05	WI	WAUKESHA COUNTY	5504760020B	18-JUL-2001	01-05-2870A	02
05	WI	WAUKESHA COUNTY	5504760015B	22-AUG-2001	01-05-3251A	02
05	WI	WAUKESHA COUNTY	5504760030B	29-AUG-2001	01-05-3266A	02
05	WI	WAUKESHA COUNTY	5504760010B	12-OCT-2001	01-05-3644A	02
05	WI	WAUKESHA COUNTY	5504760015B	09-NOV-2001	02-05-0246A	02
05	WI	WAUKESHA COUNTY	5504760015B	02-NOV-2001	02-05-0320A	02
05	WI	WAUKESHA COUNTY	5504760015B	28-DEC-2001	02-05-0623A	02
05	WI	WAUPUN, CITY OF	5501080001E	03-OCT-2001	01-05-3633A	02
05	WI	WEST ALLIS, CITY OF	5502850003C	05-OCT-2001	01-05-3933A	02
05	WI	WHITE LAKE, VILLAGE OF	55023301A	08-AUG-2001	01-05-2714A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	25-JUL-2001	01-05-2301A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	27-JUL-2001	01-05-2638A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	05-DEC-2001	01-05-3882A	02
05	WI	WOOD COUNTY	55141C0245F	18-JUL-2001	01-05-2234A	02
05	WI	WOOD COUNTY	55141C0245F	11-JUL-2001	01-05-2483A	02
06	AR	BENTON COUNTY	05007C0061F	08-AUG-2001	01-06-1577A	02
06	AR	BENTONVILLE, CITY OF	05007C0155H	20-JUL-2001	01-06-1467A	17
06	AR	BENTONVILLE, CITY OF	05007C0155H	01-AUG-2001	01-06-1575A	17
06	AR	BENTONVILLE, CITY OF	05007C0044F	19-SEP-2001	01-06-1627A	02
06	AR	BENTONVILLE, CITY OF	05007C0155H	08-AUG-2001	01-06-1659A	02
06	AR	CLEBURNE COUNTY	0504240100C	05-JUL-2001	00-06-1752A	02
06	AR	CLEBURNE COUNTY	0504240025C	20-JUL-2001	01-06-1114A	02
06	AR	CLEBURNE COUNTY	0504240025C	24-AUG-2001	01-06-1688A	02
06	AR	CLEBURNE COUNTY	0504240100C	14-NOV-2001	02-06-195A	02
06	AR	CONWAY, CITY OF	05045C0130F	12-SEP-2001	01-06-1708A	02
06	AR	CONWAY, CITY OF	05045C0130F	10-OCT-2001	01-06-1868A	02
06	AR	CRAWFORD COUNTY	05033C0180E	03-OCT-2001	01-06-1143A	02
06	AR	CROSS COUNTY	0500560005C	05-DEC-2001	01-06-1580A	02
06	AR	DESHA COUNTY	050065C	22-AUG-2001	01-06-1658A	02
06	AR	ELKINS, CITY OF	05143C0115E	16-NOV-2001	02-06-157A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	AR	ELKINS, CITY OF	05143C0115E	12-DEC-2001	02-06-328A	02
06	AR	ELM SPRINGS, TOWN OF	05143C0016C	05-JUL-2001	01-06-1247A	17
06	AR	FAULKNER COUNTY	05045C0055E	15-AUG-2001	01-06-1384A	02
06	AR	FAULKNER COUNTY	05045C0145F	15-AUG-2001	01-06-1696A	02
06	AR	FAULKNER COUNTY	05045C0215E	05-DEC-2001	02-06-150X	02
06	AR	FAYETTEVILLE, CITY OF	05143C0084D	16-NOV-2001	02-06-220A	02
06	AR	FORT SMITH, CITY OF	0550130015D	12-SEP-2001	01-06-1852A	02
06	AR	GARLAND COUNTY	05051C0158C	06-JUL-2001	01-06-1440A	02
06	AR	GARLAND COUNTY	05051C0050C	24-AUG-2001	01-06-1592A	02
06	AR	GARLAND COUNTY	05051C0154C	15-AUG-2001	01-06-1674A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	12-DEC-2001	01-06-1764A	01
06	AR	JACKSONVILLE, CITY OF	0501800005E	10-OCT-2001	01-06-1810A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	12-DEC-2001	02-06-349A	17
06	AR	JONESBORO, CITY OF	05031C0132C	12-SEP-2001	01-06-1788A	02
06	AR	JONESBORO, CITY OF	05031C0043C	16-NOV-2001	02-06-217A	02
06	AR	LAKE CITY, TOWN OF	05031C175C	23-OCT-2001	01-06-1975P	06
06	AR	LEACHVILLE, CITY OF	05014701B	01-AUG-2001	01-06-1604A	02
06	AR	LINCOLN COUNTY	05044515B	31-OCT-2001	01-06-2043A	02
06	AR	LITTLE ROCK, CITY OF	0501810002E	01-AUG-2001	01-06-1158A	01
06	AR	LITTLE ROCK, CITY OF	0501810021E	20-JUL-2001	01-06-1204A	01
06	AR	LITTLE ROCK, CITY OF	0501810006E	19-OCT-2001	01-06-1949A	02
06	AR	LITTLE ROCK, CITY OF	0501810044F	05-DEC-2001	02-06-135A	02
06	AR	LONOKE COUNTY	0504480060B	13-JUL-2001	01-06-1207A	01
06	AR	LONOKE COUNTY	0504480060B	17-AUG-2001	01-06-1285A	01
06	AR	LONOKE COUNTY	0504480060B	03-OCT-2001	01-06-1881A	01
06	AR	LONOKE COUNTY	0504480020B	25-JUL-2001	01-06-250A	01
06	AR	LOWELL, CITY OF	05007C0162F	15-AUG-2001	01-06-1625A	02
06	AR	MISSISSIPPI COUNTY	0504520025D	05-DEC-2001	01-06-1450A	01
06	AR	PERRY COUNTY	05105C0150B	29-AUG-2001	01-06-1433A	02
06	AR	PERRY COUNTY	05105C0050C	31-OCT-2001	02-06-052A	02
06	AR	PERRY COUNTY	05105C0150B	28-DEC-2001	02-06-430A	02
06	AR	PERRY COUNTY	05105C0150B	28-DEC-2001	02-06-431A	02
06	AR	PERRYVILLE, CITY OF	05105C0129B	20-JUL-2001	01-06-1549A	02
06	AR	PHILLIPS COUNTY	0501660050D	26-SEP-2001	01-06-1503A	01
06	AR	PULASKI COUNTY	0501790455D	18-JUL-2001	01-06-1408A	02
06	AR	PULASKI COUNTY	0501790432D	22-AUG-2001	01-06-1648A	02
06	AR	PULASKI COUNTY	0501790432D	28-NOV-2001	02-06-100A	01
06	AR	PULASKI COUNTY	0501790432D	07-NOV-2001	02-06-160X	02
06	AR	PULASKI COUNTY	0501790455D	07-NOV-2001	02-06-160X	02
06	AR	PULASKI COUNTY	0501790279D	14-DEC-2001	02-06-170A	02
06	AR	PULASKI COUNTY	0501790279D	07-DEC-2001	02-06-262A	01
06	AR	ROGERS, CITY OF	05007C0165F	08-AUG-2001	01-06-1511A	02
06	AR	ROGERS, CITY OF	05007C0152H	25-JUL-2001	01-06-1576A	02
06	AR	ROGERS, CITY OF	05007C0155H	17-AUG-2001	01-06-1617A	02
06	AR	ROGERS, CITY OF	05007C0155H	07-SEP-2001	01-06-1738A	02
06	AR	ROGERS, CITY OF	05007C0155H	28-SEP-2001	01-06-1893A	01
06	AR	ROGERS, CITY OF	05007C0152H	26-SEP-2001	01-06-1948A	17
06	AR	RUSSELLVILLE, CITY OF	0501780019D	09-NOV-2001	02-06-083A	02
06	AR	SHERWOOD, CITY OF	0502350001E	31-AUG-2001	01-06-1675A	02
06	AR	SHERWOOD, CITY OF	0502350001E	14-DEC-2001	02-06-348A	02
06	AR	SPRINGDALE, CITY OF	05143C0038D	27-JUL-2001	00-06-1655P	05
06	AR	STUTTGART, CITY OF	0500020005C	28-DEC-2001	02-06-436A	02
06	AR	TEXARKANA, CITY OF	0501370076C	06-JUL-2001	01-06-1325A	02
06	AR	TEXARKANA, CITY OF	0501370059C	03-OCT-2001	01-06-1985A	02
06	AR	TEXARKANA, CITY OF	0501370059C	16-NOV-2001	02-06-181A	02
06	AR	TEXARKANA, CITY OF	0501370059C	30-NOV-2001	02-06-265A	02
06	AR	WASHINGTON COUNTY	05143C0160C	28-NOV-2001	01-06-1721A	02
06	AR	WASHINGTON COUNTY	05143C0091D	30-NOV-2001	02-06-221A	02
06	AR	WHITE COUNTY	0504670013B	09-NOV-2001	01-06-1828A	02
06	AR	WHITE COUNTY	0504670005B	07-NOV-2001	02-06-113A	02
06	AR	WYNNE, CITY OF	0500560005C	14-SEP-2001	01-06-1844A	01
06	AR	YELLVILLE , CITY OF	05013601B	10-OCT-2001	00-06-1544A	01
06	LA	ACADIA PARISH	2200010025B	27-JUL-2001	01-06-1510A	02
06	LA	ACADIA PARISH	2200010225C	12-DEC-2001	02-06-287A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	13-JUL-2001	01-06-1276A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	20-JUL-2001	01-06-1351A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	01-AUG-2001	01-06-1569A	02
06	LA	ALEXANDRIA, CITY OF	2201450235D	28-SEP-2001	01-06-1661A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	03-OCT-2001	01-06-1988A	02
06	LA	ALEXANDRIA, CITY OF	2201460010F	24-OCT-2001	02-06-021A	01
06	LA	ALEXANDRIA, CITY OF	2201460015F	02-NOV-2001	02-06-086A	02
06	LA	ALEXANDRIA, CITY OF	2201450235D	09-NOV-2001	02-06-159X	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	07-DEC-2001	02-06-304A	02

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06	LA	ALEXANDRIA, CITY OF	2201450235D	05-DEC-2001	02-06-305A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	19-DEC-2001	02-06-337A	02
06	LA	ALEXANDRIA, CITY OF	2201450235D	12-DEC-2001	02-06-365X	02
06	LA	ALLEN PARISH	2200090225B	07-NOV-2001	01-06-1880A	02
06	LA	ALLEN PARISH	2200090225B	31-OCT-2001	02-06-087A	02
06	LA	ASCENSION PARISH	2200130045C	18-JUL-2001	01-06-1085A	01
06	LA	ASCENSION PARISH	2200130030C	13-JUL-2001	01-06-1329A	02
06	LA	ASCENSION PARISH	2200130045C	05-JUL-2001	01-06-1404A	02
06	LA	ASCENSION PARISH	2200130045C	05-JUL-2001	01-06-1466A	02
06	LA	ASCENSION PARISH	2200130065C	25-JUL-2001	01-06-1508A	02
06	LA	ASCENSION PARISH	2200130045C	27-JUL-2001	01-06-1557A	02
06	LA	ASCENSION PARISH	2200130040B	22-AUG-2001	01-06-1591A	01
06	LA	ASCENSION PARISH	2200130110D	14-SEP-2001	01-06-1639A	02
06	LA	ASCENSION PARISH	2200130040B	12-SEP-2001	01-06-1677A	02
06	LA	ASCENSION PARISH	2200130030C	02-NOV-2001	01-06-1762A	01
06	LA	ASCENSION PARISH	2200130025B	31-AUG-2001	01-06-589A	01
06	LA	ASCENSION PARISH	2200130040B	19-OCT-2001	02-06-038A	02
06	LA	ASCENSION PARISH	2200130105C	09-NOV-2001	02-06-039A	02
06	LA	ASCENSION PARISH	2200130040B	24-OCT-2001	02-06-044A	02
06	LA	ASCENSION PARISH	2200130045C	31-OCT-2001	02-06-088A	02
06	LA	ASCENSION PARISH	2200130040B	07-NOV-2001	02-06-137A	02
06	LA	ASCENSION PARISH	2200130130D	28-NOV-2001	02-06-163X	02
06	LA	ASCENSION PARISH	2200130110D	14-DEC-2001	02-06-350A	02
06	LA	AVOYELLES PARISH	2200190075B	01-AUG-2001	01-06-1295A	02
06	LA	AVOYELLES PARISH	2200190075B	05-OCT-2001	01-06-2014A	02
06	LA	AVOYELLES PARISH	2200190075B	31-OCT-2001	02-06-085A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	13-JUL-2001	01-06-1458A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	15-AUG-2001	01-06-1626A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	22-AUG-2001	01-06-1692A	02
06	LA	BOSSIER CITY, CITY OF	2200310315B	22-AUG-2001	01-06-1697A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	29-AUG-2001	01-06-1771A	02
06	LA	BOSSIER CITY, CITY OF	2200310315B	19-SEP-2001	01-06-1816A	02
06	LA	BOSSIER CITY, CITY OF	2200330005C	12-SEP-2001	01-06-1882A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	07-SEP-2001	01-06-1903A	02
06	LA	BOSSIER CITY, CITY OF	2200310315B	19-SEP-2001	01-06-1924A	02
06	LA	BOSSIER CITY, CITY OF	2200330010C	11-OCT-2001	02-06-004A	02
06	LA	BOSSIER CITY, CITY OF	2200330010C	28-NOV-2001	02-06-214A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	28-NOV-2001	02-06-216A	02
06	LA	BOSSIER CITY, CITY OF	2200330010C	28-NOV-2001	02-06-250A	02
06	LA	BOSSIER CITY, CITY OF	2200330010C	19-DEC-2001	02-06-284A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	07-DEC-2001	02-06-320A	02
06	LA	BOSSIER CITY, CITY OF	2200310315B	28-DEC-2001	02-06-425A	02
06	LA	BOSSIER CITY, CITY OF	2200310315B	28-DEC-2001	02-06-429A	02
06	LA	BOSSIER PARISH	2200310285B	25-JUL-2001	01-06-1544A	02
06	LA	BOSSIER PARISH	2200310285B	27-JUL-2001	01-06-1558A	02
06	LA	BOSSIER PARISH	2200310285B	25-JUL-2001	01-06-1561A	02
06	LA	BOSSIER PARISH	2200310285B	08-AUG-2001	01-06-1633A	02
06	LA	BOSSIER PARISH	2200310285B	12-OCT-2001	01-06-1728A	02
06	LA	BOSSIER PARISH	2200310285B	29-AUG-2001	01-06-1735A	02
06	LA	BOSSIER PARISH	2200310285B	31-AUG-2001	01-06-1793A	02
06	LA	BOSSIER PARISH	2200310285B	19-SEP-2001	01-06-1897A	02
06	LA	BOSSIER PARISH	2200310220B	21-SEP-2001	01-06-1898A	02
06	LA	BOSSIER PARISH	2200310220B	02-NOV-2001	01-06-996A	02
06	LA	BOSSIER PARISH	2200310220B	24-OCT-2001	02-06-019A	02
06	LA	BOSSIER PARISH	2200310295B	19-OCT-2001	02-06-047A	02
06	LA	BOSSIER PARISH	2200310285B	30-NOV-2001	02-06-268A	02
06	LA	BOSSIER PARISH	2200310475B	28-DEC-2001	02-06-366A	02
06	LA	CADDO PARISH	22017C0344F	22-AUG-2001	01-06-1574A	01
06	LA	CADDO PARISH	22017C0344F	22-AUG-2001	01-06-1729A	02
06	LA	CADDO PARISH	22017C0487F	24-OCT-2001	01-06-2026A	02
06	LA	CADDO PARISH	22017C0270F	05-OCT-2001	01-06-2037A	02
06	LA	CADDO PARISH	22017C0487F	26-NOV-2001	02-06-215A	02
06	LA	CALCASIEU PARISH	2200370350C	05-JUL-2001	01-06-1270A	02
06	LA	CALCASIEU PARISH	2200370225D	07-SEP-2001	01-06-1607A	02
06	LA	CALCASIEU PARISH	2200370250D	26-OCT-2001	01-06-1632A	02
06	LA	CALCASIEU PARISH	2200370250D	24-OCT-2001	01-06-1849A	02
06	LA	CALCASIEU PARISH	2200370375C	05-DEC-2001	02-06-286A	02
06	LA	COVINGTON, CITY OF	2252050230C	28-DEC-2001	02-06-184A	01
06	LA	CROWLEY, CITY OF	2251950001C	02-NOV-2001	01-06-2005A	02
06	LA	EAST BATON ROUGE PARISH	2200580080D	08-AUG-2001	01-06-1305A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	05-JUL-2001	01-06-1373A	02
06	LA	EAST BATON ROUGE PARISH	2200580095D	17-OCT-2001	01-06-1471A	01
06	LA	EAST BATON ROUGE PARISH	2200580110D	17-OCT-2001	01-06-1471A	01

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06	LA	EAST BATON ROUGE PARISH	2200580080D	08-AUG-2001	01-06-1578A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	08-AUG-2001	01-06-1653A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	31-AUG-2001	01-06-1766A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	10-OCT-2001	01-06-1800A	01
06	LA	EAST BATON ROUGE PARISH	2200580100D	02-NOV-2001	01-06-1986A	01
06	LA	EAST BATON ROUGE PARISH	2200580095D	19-OCT-2001	01-06-2038A	02
06	LA	EAST BATON ROUGE PARISH	2200580095D	28-DEC-2001	02-06-077A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	28-NOV-2001	02-06-239A	02
06	LA	EAST BATON ROUGE PARISH	2200580125C	26-NOV-2001	02-06-253A	02
06	LA	EAST BATON ROUGE PARISH	2200580100D	30-NOV-2001	02-06-280X	01
06	LA	EUNICE, CITY OF	2201680001B	10-OCT-2001	01-06-1925A	02
06	LA	EVANGELINE PARISH	2200640007C	07-NOV-2001	02-06-101A	02
06	LA	FRENCH SETTLEMENT, VILLAGE OF	22063C0360D	05-DEC-2001	02-06-260A	02
06	LA	HAMMOND, CITY OF	2202080001D	13-JUL-2001	01-06-1496A	02
06	LA	HAMMOND, CITY OF	2202080001D	13-JUL-2001	01-06-1497A	02
06	LA	HAMMOND, CITY OF	2202080001D	13-JUL-2001	01-06-1498A	02
06	LA	HAMMOND, CITY OF	2202080001D	14-NOV-2001	02-06-194A	02
06	LA	HAMMOND, CITY OF	2202080001D	12-DEC-2001	02-06-341A	02
06	LA	JEFFERSON PARISH	22051C0135E	31-AUG-2001	01-06-1538A	02
06	LA	KINDER, TOWN OF	220010C	24-OCT-2001	01-06-1932A	02
06	LA	KINDER, TOWN OF	22001001C	14-NOV-2001	02-06-089A	02
06	LA	KINDER, TOWN OF	220010C	07-NOV-2001	02-06-127A	02
06	LA	KINDER, TOWN OF	22001001C	07-DEC-2001	02-06-306A	02
06	LA	LAFAYETTE PARISH	22055C0065G	18-JUL-2001	01-06-1219A	01
06	LA	LAFAYETTE PARISH	22055C0045G	15-AUG-2001	01-06-1416A	02
06	LA	LAFAYETTE PARISH	22055C0065G	10-AUG-2001	01-06-1473A	01
06	LA	LAFAYETTE PARISH	22055C0075G	10-AUG-2001	01-06-1473A	01
06	LA	LAFAYETTE PARISH	22055C0065G	26-NOV-2001	01-06-1512A	01
06	LA	LAFAYETTE PARISH	22055C0070G	14-SEP-2001	01-06-1691A	01
06	LA	LAFAYETTE PARISH	22055C0045G	22-AUG-2001	01-06-1749A	02
06	LA	LAFAYETTE PARISH	22055C0080G	21-DEC-2001	02-06-091A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	13-JUL-2001	01-06-1302A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	05-JUL-2001	01-06-1340A	02
06	LA	LAFAYETTE, CITY OF	22055C0070G	29-AUG-2001	01-06-1513A	01
06	LA	LAFAYETTE, CITY OF	22055C0045G	28-SEP-2001	01-06-1636A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	29-AUG-2001	01-06-1730A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	07-SEP-2001	01-06-1747A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	28-SEP-2001	01-06-1957A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	14-DEC-2001	02-06-352A	02
06	LA	LAFOURCHE PARISH	2252020330C	14-SEP-2001	01-06-1808A	02
06	LA	LIVINGSTON PARISH	2201130025B	24-AUG-2001	01-06-1397A	02
06	LA	LIVINGSTON PARISH	22063C0475D	21-SEP-2001	01-06-1506A	02
06	LA	LIVINGSTON PARISH	2201130100B	01-AUG-2001	01-06-1551A	02
06	LA	LIVINGSTON PARISH	2201130100B	01-AUG-2001	01-06-1611A	02
06	LA	LIVINGSTON PARISH	22063C0120D	09-NOV-2001	01-06-1654A	02
06	LA	LIVINGSTON PARISH	22063C0120D	22-AUG-2001	01-06-1686A	02
06	LA	LIVINGSTON PARISH	22063C0125D	14-SEP-2001	01-06-1830A	02
06	LA	LIVINGSTON PARISH	22063C0125D	07-DEC-2001	02-06-218A	02
06	LA	LIVINGSTON PARISH	22063C0120D	05-DEC-2001	02-06-299X	02
06	LA	LIVINGSTON PARISH	22063C0125D	19-DEC-2001	02-06-383A	02
06	LA	LIVINGSTON PARISH	22063C0115D	28-DEC-2001	02-06-437A	02
06	LA	LIVINGSTON PARISH	22063C0125D	28-DEC-2001	02-06-451A	02
06	LA	MONROE, CITY OF	22073C0075E	19-SEP-2001	01-06-1848A	01
06	LA	MONROE, CITY OF	22073C0045E	10-OCT-2001	01-06-2040A	02
06	LA	NEW ORLEANS/ORLEANS PARISH	2252030095E	24-AUG-2001	01-06-1624A	02
06	LA	OUACHITA PARISH	22073C0070E	19-SEP-2001	01-06-1938A	02
06	LA	POINTE COUPEE PARISH	2201400270B	19-DEC-2001	01-06-1702A	02
06	LA	RAPIDES PARISH	2201450140D	13-JUL-2001	01-06-1156A	02
06	LA	RAPIDES PARISH	2201450165B	05-JUL-2001	01-06-1239A	02
06	LA	RAPIDES PARISH	2201450235D	13-JUL-2001	01-06-1286A	02
06	LA	RAPIDES PARISH	2201450165B	05-OCT-2001	01-06-1478A	02
06	LA	RAPIDES PARISH	2201450235D	20-JUL-2001	01-06-1495A	02
06	LA	RAPIDES PARISH	2201450125B	31-AUG-2001	01-06-1712A	02
06	LA	RAPIDES PARISH	2201450250C	16-NOV-2001	01-06-1937A	02
06	LA	RAPIDES PARISH	2201450135C	28-SEP-2001	01-06-1983A	02
06	LA	RAPIDES PARISH	2201450165B	27-JUL-2001	01-06-531A	02
06	LA	RAPIDES PARISH	2201450165B	14-NOV-2001	02-06-189X	02
06	LA	SCOTT, CITY OF	22055C0045G	07-NOV-2001	01-06-1668A	01
06	LA	SCOTT, CITY OF	22055C0040H	05-SEP-2001	01-06-1777A	02
06	LA	SCOTT, CITY OF	22055C0040H	07-DEC-2001	02-06-090A	02
06	LA	SHREVEPORT, CITY OF	22017C0469F	11-JUL-2001	01-06-1142A	02
06	LA	SHREVEPORT, CITY OF	22017C0488F	11-JUL-2001	01-06-1223A	02
06	LA	SHREVEPORT, CITY OF	22017C0489F	11-JUL-2001	01-06-1223A	02

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06	LA	SHREVEPORT, CITY OF	22017C0486F	13-JUL-2001	01-06-1277A	02
06	LA	SHREVEPORT, CITY OF	22017C0488F	13-JUL-2001	01-06-1277A	02
06	LA	SHREVEPORT, CITY OF	22017C0478F	08-AUG-2001	01-06-1435A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	08-AUG-2001	01-06-1547A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	08-AUG-2001	01-06-1548A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	22-AUG-2001	01-06-1590A	02
06	LA	SHREVEPORT, CITY OF	22017C0486F	03-AUG-2001	01-06-1600A	02
06	LA	SHREVEPORT, CITY OF	22017C0451F	08-AUG-2001	01-06-1666A	02
06	LA	SHREVEPORT, CITY OF	22017C0479F	08-AUG-2001	01-06-1706A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	22-AUG-2001	01-06-1731A	02
06	LA	SHREVEPORT, CITY OF	22017C0478F	31-AUG-2001	01-06-1807A	02
06	LA	SHREVEPORT, CITY OF	22017C0451F	12-OCT-2001	01-06-1978A	02
06	LA	SHREVEPORT, CITY OF	22017C0466F	03-OCT-2001	01-06-2006A	02
06	LA	SHREVEPORT, CITY OF	22017C0479F	01-AUG-2001	01-06-310A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	09-NOV-2001	02-06-138A	02
06	LA	SHREVEPORT, CITY OF	22017C0478F	14-NOV-2001	02-06-165X	01
06	LA	SHREVEPORT, CITY OF	22017C0479F	14-NOV-2001	02-06-165X	01
06	LA	SHREVEPORT, CITY OF	22017C0451F	14-NOV-2001	02-06-175X	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	05-DEC-2001	02-06-331A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	19-DEC-2001	02-06-359A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	19-DEC-2001	02-06-410A	02
06	LA	SHREVEPORT, CITY OF	22017C0487F	14-DEC-2001	02-06-416A	02
06	LA	SHREVEPORT, CITY OF	22017C0479F	12-DEC-2001	02-06-421X	02
06	LA	SORRENTO, TOWN OF	2200160001C	19-OCT-2001	02-06-040A	02
06	LA	ST. CHARLES PARISH	2201600150C	14-SEP-2001	01-06-1879A	02
06	LA	ST. MARY PARISH	2201920050B	24-AUG-2001	01-06-1437A	02
06	LA	ST. TAMMANY PARISH	2252050360C	20-JUL-2001	01-06-1494A	02
06	LA	ST. TAMMANY PARISH	2252050240E	08-AUG-2001	01-06-1565A	02
06	LA	ST. TAMMANY PARISH	2252050380C	24-OCT-2001	02-06-070A	02
06	LA	ST. TAMMANY PARISH	2252050300C	28-DEC-2001	02-06-309A	02
06	LA	TANGIPAHOA PARISH	2202060165E	05-JUL-2001	01-06-1396A	02
06	LA	TANGIPAHOA PARISH	2202060165E	06-JUL-2001	01-06-1407A	02
06	LA	TANGIPAHOA PARISH	2202060205D	07-SEP-2001	01-06-1487A	02
06	LA	TANGIPAHOA PARISH	2202060205D	22-AUG-2001	01-06-1492A	02
06	LA	TANGIPAHOA PARISH	2202060205D	22-AUG-2001	01-06-1509A	02
06	LA	TANGIPAHOA PARISH	2202060205D	12-DEC-2001	02-06-412A	02
06	LA	TERREBONNE PARISH	2252060120C	28-NOV-2001	01-06-2003A	02
06	LA	UNION PARISH	2203590150C	31-OCT-2001	01-06-1608A	02
06	LA	WEST CARROLL PARISH	2202430015B	05-JUL-2001	01-06-1268A	02
06	LA	WEST CARROLL PARISH	22024315B	26-OCT-2001	01-06-1831A	02
06	LA	WEST CARROLL PARISH	22024311B	28-NOV-2001	01-06-1853A	02
06	LA	WEST CARROLL PARISH	22024315A	10-OCT-2001	01-06-1936A	02
06	LA	ZACHARY, CITY OF	2200610005B	27-JUL-2001	01-06-1559A	01
06	NM	ALBUQUERQUE, CITY OF	35001C0137D	30-JUL-2001	01-06-152P	06
06	NM	ALBUQUERQUE, CITY OF	35001C0141D	30-JUL-2001	01-06-152P	06
06	NM	ALBUQUERQUE, CITY OF	35001C0354D	29-AUG-2001	01-06-1717A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0352D	10-AUG-2001	01-06-204A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0329D	01-DEC-2001	01-06-303P	06
06	NM	ALBUQUERQUE, CITY OF	35001C0354D	07-NOV-2001	02-06-132A	02
06	NM	BERNALILLO COUNTY	35001C0328D	08-NOV-2001	00-06-1176P	06
06	NM	BERNALILLO COUNTY	35001C0339D	07-DEC-2001	02-06-271A	02
06	NM	CORRALES, VILLAGE OF	35043C0911C	25-OCT-2001	01-06-1288P	06
06	NM	CORRALES, VILLAGE OF	35043C0913C	25-OCT-2001	01-06-1288P	06
06	NM	LAS CRUCES, CITY OF	35013C0631E	26-NOV-2001	01-06-1908A	01
06	NM	LAS CRUCES, CITY OF	35013C0631E	09-NOV-2001	01-06-1959A	01
06	NM	LAS CRUCES, CITY OF	35013C0631E	05-DEC-2001	01-06-2018A	01
06	NM	LAS CRUCES, CITY OF	35013C0631E	18-JUL-2001	01-06-459A	01
06	NM	LOS LUNAS, VILLAGE OF	3501440005A	14-NOV-2001	02-06-193A	02
06	NM	MORA COUNTY	3500430007B	12-SEP-2001	01-06-1820A	02
06	NM	PORTALES, CITY OF	3500540001D	25-JUL-2001	01-06-1472P	06
06	NM	PORTALES, CITY OF	3500540002D	25-JUL-2001	01-06-1472P	06
06	NM	PORTALES, CITY OF	3500540002D	14-SEP-2001	01-06-1895A	02
06	NM	RUIDOSO, VILLAGE OF	3500330084C	08-AUG-2001	01-06-1389A	02
06	NM	SAN JUAN COUNTY	3500640550B	12-DEC-2001	02-06-078A	02
06	NM	SANTA FE COUNTY	3500690100B	28-NOV-2001	01-06-1847A	02
06	NM	SANTA FE, CITY OF	3500700005C	21-SEP-2001	01-06-1876A	02
06	NM	TRUTH OR CONSEQUENCES, CITY OF	3500730005C	28-NOV-2001	02-06-177A	02
06	NM	VALENCIA COUNTY	3500860195D	17-AUG-2001	01-06-1128A	01
06	NM	VALENCIA COUNTY	3500860185D	28-NOV-2001	01-06-1221A	01
06	NM	WILLIAMSBURG, VILLAGE OF	3500740001C	01-AUG-2001	01-06-1457A	02
06	OK	BIXBY, TOWN OF	40143C0520H	18-JUL-2001	01-06-1526A	02
06	OK	BROKEN ARROW, CITY OF	40143C0562H	30-NOV-2001	02-06-232A	02
06	OK	BROKEN ARROW, CITY OF	40143C0631H	12-DEC-2001	02-06-279A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	OK	CACHE,TOWN OF	40031C0226C	26-SEP-2001	01-06-1685A	02
06	OK	CREEK COUNTY	4004900065C	05-OCT-2001	01-06-1806A	02
06	OK	DEL CITY, CITY OF	4002330002D	13-JUL-2001	01-06-1507A	02
06	OK	DEL CITY, CITY OF	4002330002D	26-SEP-2001	01-06-1873A	02
06	OK	DELAWARE COUNTY	4005020025C	05-JUL-2001	01-06-1417A	02
06	OK	DELAWARE COUNTY	4005020050C	20-JUL-2001	01-06-1502A	02
06	OK	DELAWARE COUNTY	4005020050C	17-OCT-2001	01-06-1783A	02
06	OK	DUNCAN, CITY OF	40137C0085D	14-NOV-2001	02-06-124A	02
06	OK	EDMOND, CITY OF	4002520020B	23-AUG-2001	00-06-1501P	05
06	OK	EDMOND, CITY OF	4002520005B	15-OCT-2001	01-06-156P	05
06	OK	ENID, CITY OF	40047C0115C	08-AUG-2001	01-06-1646A	02
06	OK	ENID, CITY OF	40047C0115C	10-AUG-2001	01-06-1695A	02
06	OK	ENID, CITY OF	40047C0115C	24-AUG-2001	01-06-1732A	02
06	OK	GROVE, TOWN OF	4003850004C	24-OCT-2001	01-06-1698A	01
06	OK	GROVE, TOWN OF	4003850004C	15-AUG-2001	01-06-756A	01
06	OK	HARRAH, CITY OF	4001400004C	10-OCT-2001	01-06-1418A	01
06	OK	HARRAH, CITY OF	4001400004C	26-OCT-2001	01-06-1718A	02
06	OK	HENRYETTA, CITY OF	4001440003C	31-AUG-2001	01-06-431A	01
06	OK	JENKS, CITY OF	40143C0513J	30-NOV-2001	02-06-168X	02
06	OK	KAY COUNTY	4004770225A	11-JUL-2001	01-06-1447A	02
06	OK	KAY COUNTY	4004770225A	14-NOV-2001	02-06-011A	02
06	OK	LAWTON, CITY OF	40031C0232C	11-JUL-2001	01-06-1059A	01
06	OK	LAWTON, CITY OF	40031C0250D	11-JUL-2001	01-06-1455A	02
06	OK	LAWTON, CITY OF	40031C0258C	20-JUL-2001	01-06-1572A	01
06	OK	LAWTON, CITY OF	40031C0253D	07-NOV-2001	02-06-037A	17
06	OK	LE FLORE COUNTY	4004840007A	14-SEP-2001	01-06-1616A	02
06	OK	LE FLORE COUNTY	4004840010A	05-SEP-2001	01-06-1741A	02
06	OK	LE FLORE COUNTY	4004840007A	05-OCT-2001	01-06-1993X	02
06	OK	LINCOLN COUNTY	4004570225A	05-OCT-2001	01-06-1857A	02
06	OK	MIDWEST CITY, CITY OF	4004050015E	31-AUG-2001	01-06-1727A	02
06	OK	MOORE, CITY OF	40027C0037F	31-OCT-2001	01-06-1638A	02
06	OK	MOORE, CITY OF	40027C0037F	24-OCT-2001	01-06-1987A	02
06	OK	MUSKOGEE, CITY OF	40101C0126D	07-DEC-2001	01-06-1491A	02
06	OK	NOBLE COUNTY	4001320125A	18-JUL-2001	01-06-1391A	02
06	OK	NORMAN,CITY OF	40027C0095G	07-NOV-2001	01-06-1609A	02
06	OK	NORMAN,CITY OF	40027C0090F	02-NOV-2001	02-06-073A	02
06	OK	NORTH ENID, TOWN OF	40047C0115C	22-AUG-2001	01-06-1610A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	19-SEP-2001	01-06-1369A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780265D	11-JUL-2001	01-06-1436A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	31-AUG-2001	01-06-1550A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	22-AUG-2001	01-06-1669A	17
06	OK	OKLAHOMA CITY, CITY OF	4053780020C	12-OCT-2001	01-06-1742A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780235C	26-SEP-2001	01-06-1790A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	26-SEP-2001	01-06-1791A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	28-NOV-2001	02-06-072A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	05-DEC-2001	02-06-142A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	14-NOV-2001	02-06-188X	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	05-DEC-2001	02-06-245A	02
06	OK	OKMULGEE, CITY OF	4001450004C	19-OCT-2001	02-06-034A	02
06	OK	OWASSO, CITY OF	40143C0236H	10-OCT-2001	01-06-1402A	01
06	OK	OWASSO, CITY OF	40143C0228H	22-AUG-2001	01-06-1713A	02
06	OK	OWASSO, CITY OF	40143C0228H	22-AUG-2001	01-06-1746A	02
06	OK	OWASSO, CITY OF	40143C0238H	24-AUG-2001	01-06-1768A	02
06	OK	OWASSO, CITY OF	40143C0238H	28-NOV-2001	02-06-219A	02
06	OK	PAYNE COUNTY	4004930120D	05-OCT-2001	01-06-1964A	02
06	OK	PIEDMONT, CITY OF	40017C0160D	12-SEP-2001	01-06-1865A	02
06	OK	PONCA CITY, CITY OF	4000800005C	11-JUL-2001	01-06-1292A	02
06	OK	PONCA CITY, CITY OF	4000800005C	14-NOV-2001	01-06-2004A	01
06	OK	PONCA CITY, CITY OF	4000800010C	19-DEC-2001	02-06-321A	02
06	OK	ROGERS COUNTY	4053790100B	03-AUG-2001	01-06-1589A	02
06	OK	ROGERS COUNTY	4053790130C	27-JUL-2001	01-06-1602A	17
06	OK	ROGERS COUNTY	4053790120B	28-NOV-2001	01-06-1679A	02
06	OK	ROGERS COUNTY	4053790035C	29-AUG-2001	01-06-1765A	02
06	OK	ROGERS COUNTY	4053790140B	21-SEP-2001	01-06-1946A	02
06	OK	ROGERS COUNTY	4053790120B	12-DEC-2001	01-06-1995A	02
06	OK	ROGERS COUNTY	4053790140B	08-AUG-2001	01-06-323A	02
06	OK	ROGERS COUNTY	4053790025B	28-NOV-2001	02-06-229A	02
06	OK	SAND SPRINGS, CITY OF	40143C0457H	19-OCT-2001	02-06-050A	02
06	OK	SHAWNEE, CITY OF	40125C0102D	27-JUL-2001	00-06-1468P	05
06	OK	SHAWNEE, CITY OF	40125C0101D	22-AUG-2001	01-06-1656A	02
06	OK	STILLWATER, CITY OF	4053800003D	02-NOV-2001	01-06-1657A	02
06	OK	STILLWATER, CITY OF	4053800005D	29-AUG-2001	01-06-1776A	02
06	OK	TAHLEQUAH, CITY OF	40021C0094C	17-AUG-2001	01-06-1530A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	OK	TULSA COUNTY	40143C0530H	03-AUG-2001	01-06-1594A	02
06	OK	TULSA COUNTY	40143C0210H	12-DEC-2001	02-06-389A	02
06	OK	TULSA, CITY OF	40143C0520H	22-AUG-2001	01-06-1482A	02
06	OK	TULSA, CITY OF	40143C0510H	18-JUL-2001	01-06-1505A	02
06	OK	TULSA, CITY OF	40143C0505H	03-AUG-2001	01-06-1606A	17
06	OK	TULSA, CITY OF	40143C0505H	14-SEP-2001	01-06-1892A	02
06	OK	TULSA, CITY OF	40143C0510H	09-NOV-2001	01-06-1935A	02
06	OK	TULSA, CITY OF	40143C0520H	10-OCT-2001	01-06-2045A	02
06	OK	TULSA, CITY OF	40143C0505H	09-NOV-2001	02-06-119X	02
06	OK	TULSA, CITY OF	40143C0520H	09-NOV-2001	02-06-167X	02
06	OK	UNION CITY, TOWN OF	40017C0430D	24-AUG-2001	01-06-1719A	02
06	OK	UNION CITY, TOWN OF	40017C0465D	26-SEP-2001	01-06-1884A	02
06	OK	WAGONER COUNTY	4002150041B	01-AUG-2001	01-06-1092A	02
06	OK	WAGONER COUNTY	4002150125B	28-SEP-2001	01-06-1570A	02
06	OK	WAGONER COUNTY	4002150041B	08-AUG-2001	01-06-1601A	02
06	OK	WAGONER COUNTY	4002150140B	12-DEC-2001	01-06-1856A	02
06	OK	WAGONER COUNTY	4002150012B	28-NOV-2001	01-06-1962A	02
06	OK	WAGONER COUNTY	4002150031B	27-DEC-2001	02-06-439A	01
06	OK	WASHINGTON COUNTY	4004590040A	01-AUG-2001	01-06-1615A	02
06	OK	WASHINGTON, TOWN OF	40010501A	18-JUL-2001	01-06-1061A	02
06	OK	WAURIKA, CITY OF	4000760002C	11-OCT-2001	01-06-1089P	05
06	OK	WAURIKA, CITY OF	4000760003C	11-OCT-2001	01-06-1089P	05
06	OK	YUKON, CITY OF	40017C0340D	13-JUL-2001	01-06-1441A	02
06	OK	YUKON, CITY OF	40017C0340D	27-JUL-2001	01-06-1567A	02
06	TX	ABILENE, CITY OF	4854500020D	02-NOV-2001	02-06-108A	02
06	TX	ALLEN, CITY OF	48085C0435G	18-JUL-2001	01-06-1488A	02
06	TX	ALLEN, CITY OF	48085C0435G	02-NOV-2001	01-06-1827A	01
06	TX	ALPINE, CITY OF	4800850002B	16-NOV-2001	01-06-2023A	01
06	TX	ANGELINA COUNTY	4800070008C	12-OCT-2001	01-06-1815A	02
06	TX	ANGELINA COUNTY	4800070011C	12-DEC-2001	01-06-2031A	02
06	TX	ARLINGTON, CITY OF	48439C0318J	03-AUG-2001	01-06-1338A	02
06	TX	ARLINGTON, CITY OF	48439C0339J	15-AUG-2001	01-06-1476A	02
06	TX	ARLINGTON, CITY OF	48439C0441J	21-SEP-2001	01-06-1822A	02
06	TX	ARLINGTON, CITY OF	48439C0440J	03-OCT-2001	01-06-1907A	02
06	TX	ARLINGTON, CITY OF	48439C0319J	17-OCT-2001	01-06-2036A	17
06	TX	ARLINGTON, CITY OF	48439C0339J	26-OCT-2001	02-06-067A	02
06	TX	ARLINGTON, CITY OF	48439C0431J	30-NOV-2001	02-06-139A	02
06	TX	ARLINGTON, CITY OF	48439C0431J	07-DEC-2001	02-06-140A	02
06	TX	ARLINGTON, CITY OF	48439C0336J	28-NOV-2001	02-06-199A	02
06	TX	ARLINGTON, CITY OF	48439C0319J	12-DEC-2001	02-06-201A	17
06	TX	ARLINGTON, CITY OF	48439C0463H	12-DEC-2001	02-06-289X	01
06	TX	AUSTIN COUNTY	48453C0200E	16-NOV-2001	01-06-1596A	02
06	TX	AUSTIN, CITY OF	48453C0195E	05-DEC-2001	01-06-1645A	02
06	TX	AUSTIN, CITY OF	48453C0195E	31-AUG-2001	01-06-1725A	02
06	TX	AUSTIN, CITY OF	48453C0210F	24-AUG-2001	01-06-1772A	02
06	TX	AUSTIN, CITY OF	48453C0135F	09-NOV-2001	01-06-1846C	01
06	TX	AUSTIN, CITY OF	48453C0175F	09-NOV-2001	01-06-1846C	01
06	TX	AUSTIN, CITY OF	48453C0205E	14-SEP-2001	01-06-1859A	02
06	TX	AUSTIN, CITY OF	48453C0200E	14-SEP-2001	01-06-1891A	02
06	TX	AUSTIN, CITY OF	48453C0300E	14-NOV-2001	01-06-2030A	02
06	TX	AUSTIN, CITY OF	48453C0200E	01-AUG-2001	01-06-664A	02
06	TX	AUSTIN, CITY OF	48453C0205E	17-OCT-2001	02-06-005A	02
06	TX	AUSTIN, CITY OF	48453C0250E	19-DEC-2001	02-06-428A	02
06	TX	AUSTIN, CITY OF	48453C0290E	12-SEP-2001	01-06-1044P	06
06	TX	BASTROP COUNTY	48021C0116C	09-NOV-2001	02-06-149X	17
06	TX	BEDFORD, CITY OF	48439C0308H	13-JUL-2001	01-06-1504A	02
06	TX	BEDFORD, CITY OF	48439C0307J	25-JUL-2001	01-06-1523A	02
06	TX	BELL COUNTY	4807060130B	19-OCT-2001	01-06-1405A	01
06	TX	BELL COUNTY	4807060345B	30-NOV-2001	02-06-048A	02
06	TX	BENBROOK, CITY OF	48439C0390J	19-SEP-2001	01-06-1930A	02
06	TX	BEXAR COUNTY	48029C0278E	22-JUL-2001	00-06-1371P	06
06	TX	BEXAR COUNTY	48029C0241E	05-SEP-2001	01-06-1568A	02
06	TX	BEXAR COUNTY	48029C0257E	03-OCT-2001	01-06-1910A	02
06	TX	BEXAR COUNTY	48029C0232E	23-NOV-2001	01-06-575P	06
06	TX	BEXAR COUNTY	48029C0080E	28-NOV-2001	01-06-648P	06
06	TX	BEXAR COUNTY	48029C0257E	31-OCT-2001	02-06-075A	02
06	TX	BLANCO, CITY OF	48031C0110C	12-JUL-2001	01-06-1411P	06
06	TX	BOWIE COUNTY	4811940230B	12-DEC-2001	02-06-180A	02
06	TX	BRAZORIA COUNTY	48039C0420H	29-AUG-2001	01-06-1560A	02
06	TX	BRAZORIA COUNTY	48039C0045J	22-AUG-2001	01-06-1619A	01
06	TX	BRAZORIA COUNTY	48039C0030I	21-SEP-2001	01-06-1751A	01
06	TX	BRAZORIA COUNTY	48039C0040I	21-SEP-2001	01-06-1751A	01
06	TX	BRAZORIA COUNTY	48039C0030I	07-SEP-2001	01-06-1818A	02

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06	TX	BRAZORIA COUNTY	48039C0030I	05-DEC-2001	02-06-147A	02
06	TX	BRAZORIA COUNTY	48039C0045J	05-DEC-2001	02-06-226A	01
06	TX	BRAZOS COUNTY	48041C0155C	17-OCT-2001	01-06-1197A	02
06	TX	BROWNSVILLE, CITY OF	4801030005B	20-JUL-2001	01-06-1220A	02
06	TX	BROWNSVILLE, CITY OF	4801010350B	14-SEP-2001	01-06-1631A	02
06	TX	BURNET COUNTY	48053C0220C	24-AUG-2001	01-06-1754A	02
06	TX	BURNET COUNTY	48053C0284C	19-DEC-2001	02-06-045A	02
06	TX	CALHOUN COUNTY	4800970053C	28-DEC-2001	02-06-254A	02
06	TX	CAMERON COUNTY	4801010075C	08-AUG-2001	01-06-1079A	02
06	TX	CAMERON COUNTY	4801010350B	10-OCT-2001	01-06-1866A	01
06	TX	CARROLLTON, CITY OF	4801670005G	20-JUL-2001	01-06-1442A	02
06	TX	CARROLLTON, CITY OF	4801670005G	05-OCT-2001	01-06-1527A	02
06	TX	CARROLLTON, CITY OF	4801670005G	08-AUG-2001	01-06-1612A	02
06	TX	CARROLLTON, CITY OF	4801670005G	12-SEP-2001	01-06-1682A	17
06	TX	CARROLLTON, CITY OF	48113C0020J	26-SEP-2001	01-06-1952A	02
06	TX	CARROLLTON, CITY OF	48113C0020J	10-OCT-2001	01-06-2010A	01
06	TX	CARROLLTON, CITY OF	4801670005G	01-AUG-2001	01-06-667A	02
06	TX	CARROLLTON, CITY OF	4801670005G	14-SEP-2001	01-06-670A	02
06	TX	CARROLLTON, CITY OF	48113C0020J	19-DEC-2001	02-06-390A	02
06	TX	CEDAR HILL, CITY OF	4801680015B	05-JUL-2001	01-06-521P	06
06	TX	CEDAR HILL, CITY OF	4801680020C	05-JUL-2001	01-06-521P	06
06	TX	CLEVELAND,CITY OF	4804390005B	22-AUG-2001	00-06-1558A	01
06	TX	COLLEYVILLE, CITY OF	48439C0307J	05-JUL-2001	01-06-1385A	02
06	TX	COLLIN COUNTY	48085C0440G	20-JUL-2001	01-06-1154A	17
06	TX	COLLIN COUNTY	48085C0325G	19-OCT-2001	02-06-026A	02
06	TX	COLUMBUS, CITY OF	48089C0145C	08-AUG-2001	01-06-1201A	01
06	TX	COPPELL, CITY OF	48113C0155J	03-OCT-2001	01-06-1961A	17
06	TX	COPPELL, CITY OF	48113C0155J	28-DEC-2001	01-06-1984A	01
06	TX	COPPER CANYON, TOWN OF	48121C0526E	07-DEC-2001	01-06-493P	06
06	TX	CORSICANA, CITY OF	4804980005A	10-OCT-2001	01-06-1965A	02
06	TX	DALLAS COUNTY	48113C0310J	12-SEP-2001	01-06-1445A	01
06	TX	DALLAS COUNTY	48085C0585G	12-OCT-2001	01-06-309P	05
06	TX	DALLAS COUNTY	48113C0235J	12-OCT-2001	01-06-309P	05
06	TX	DALLAS, CITY OF	4801710100D	15-AUG-2001	01-06-1184A	02
06	TX	DALLAS, CITY OF	4801710085D	25-JUL-2001	01-06-1323A	01
06	TX	DALLAS, CITY OF	4801710095C	15-AUG-2001	01-06-1448A	01
06	TX	DALLAS, CITY OF	4801710135D	15-AUG-2001	01-06-1448A	01
06	TX	DALLAS, CITY OF	48113C0355J	21-DEC-2001	01-06-1501P	05
06	TX	DALLAS, CITY OF	4801710210C	27-JUL-2001	01-06-1545A	02
06	TX	DALLAS, CITY OF	48113C0330J	07-SEP-2001	01-06-1641A	17
06	TX	DALLAS, CITY OF	4801710085D	10-AUG-2001	01-06-1681A	01
06	TX	DALLAS, CITY OF	48113C0190J	14-NOV-2001	01-06-1966A	02
06	TX	DALLAS, CITY OF	48113C0335J	02-NOV-2001	01-06-1967A	01
06	TX	DALLAS, CITY OF	48113C0345J	02-NOV-2001	01-06-1967A	01
06	TX	DALLAS, CITY OF	48113C0170J	07-DEC-2001	02-06-022A	01
06	TX	DALLAS, CITY OF	48113C0310J	07-DEC-2001	02-06-022A	01
06	TX	DALLAS, CITY OF	48113C0190J	02-NOV-2001	02-06-156X	02
06	TX	DALLAS, CITY OF	48113C0045J	30-NOV-2001	02-06-176A	01
06	TX	DALLAS, CITY OF	48113C0040J	21-DEC-2001	02-06-240A	01
06	TX	DALLAS, CITY OF	48113C0365J	14-DEC-2001	02-06-347A	02
06	TX	DALLAS, CITY OF	48113C0365	30-NOV-2001	02-06-377P	06
06	TX	DALLAS, CITY OF	48113C0190J	14-DEC-2001	02-06-382A	02
06	TX	DALLAS, CITY OF	48113C0355J	21-DEC-2001	02-06-454A	02
06	TX	DALLAS, CITY OF	48113C0185J	21-DEC-2001	02-06-513A	02
06	TX	DALLAS, CITY OF	48113C0180J	06-DEC-2001	01-06-1381P	05
06	TX	DENTON COUNTY	48121C0420E	18-OCT-2001	00-06-1774P	05
06	TX	DENTON COUNTY	48121C0386E	06-JUL-2001	01-06-1439A	02
06	TX	DENTON COUNTY	48121C0420E	20-JUL-2001	01-06-1486A	17
06	TX	DENTON, CITY OF	48121C0360E	24-OCT-2001	00-06-997P	05
06	TX	DENTON, CITY OF	48121C0380E	24-OCT-2001	00-06-997P	05
06	TX	DENTON, CITY OF	4801940388E	13-DEC-2001	01-06-607P	06
06	TX	ECTOR COUNTY	48135C0100D	21-DEC-2001	01-06-1951A	02
06	TX	EDINBURG,CITY OF	4803380030E	21-SEP-2001	01-06-1904A	02
06	TX	EDINBURG,CITY OF	4803380005E	24-OCT-2001	01-06-1960A	02
06	TX	EDINBURG,CITY OF	4803380015E	24-OCT-2001	01-06-1960A	02
06	TX	EL PASO, CITY OF	4802140017C	04-OCT-2001	01-06-1394P	06
06	TX	EL PASO, CITY OF	4802140048B	07-SEP-2001	01-06-1812A	02
06	TX	ENNIS, CITY OF	48139C0215D	14-AUG-2001	01-06-1353P	06
06	TX	ENNIS, CITY OF	48139C0220D	14-AUG-2001	01-06-1353P	06
06	TX	FAIRVIEW, TOWN OF	48085C0315G	08-AUG-2001	01-06-1454A	02
06	TX	FANNIN COUNTY	4808070010A	14-NOV-2001	02-06-062A	02
06	TX	FORT BEND COUNTY	48157C0355J	17-OCT-2001	01-06-1597A	01
06	TX	FORT BEND COUNTY	48157C0120J	14-NOV-2001	02-06-162X	02

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06	TX	FORT BEND COUNTY L.I.D. #2	48157C0255J	07-SEP-2001	01-06-1798A	01
06	TX	FORT WORTH, CITY OF	48439C0317J	20-JUL-2001	01-06-511P	06
06	TX	FORT WORTH, CITY OF	48439C0395J	11-JUL-2001	01-06-1164A	02
06	TX	FORT WORTH, CITY OF	48439C0395J	05-JUL-2001	01-06-1310A	02
06	TX	FORT WORTH, CITY OF	4805960330J	04-DEC-2001	01-06-1461P	06
06	TX	FORT WORTH, CITY OF	48439C0385J	08-AUG-2001	01-06-1537A	02
06	TX	FORT WORTH, CITY OF	48439C0380H	01-AUG-2001	01-06-1599A	02
06	TX	FORT WORTH, CITY OF	48439C0360H	08-NOV-2001	01-06-1671P	06
06	TX	FORT WORTH, CITY OF	48439C0385J	14-SEP-2001	01-06-1833A	17
06	TX	FORT WORTH, CITY OF	48439C0395J	12-SEP-2001	01-06-1858A	02
06	TX	FORT WORTH, CITY OF	48439C0405J	03-OCT-2001	01-06-1905A	02
06	TX	FORT WORTH, CITY OF	48439C0385J	03-OCT-2001	01-06-2012A	02
06	TX	FORT WORTH, CITY OF	48439C0395J	03-OCT-2001	01-06-2012A	02
06	TX	FORT WORTH, CITY OF	48439C0395J	17-OCT-2001	01-06-736A	02
06	TX	FORT WORTH, CITY OF	48439C0395J	06-NOV-2001	01-06-779A	01
06	TX	FORT WORTH, CITY OF	48439C0395J	12-DEC-2001	02-06-343A	02
06	TX	FRIENDSWOOD, CITY OF	4854680005E	17-OCT-2001	01-06-1352A	01
06	TX	FRISCO, CITY OF	48085C0245G	18-OCT-2001	01-06-1045P	06
06	TX	FRISCO, CITY OF	48085C0265G	18-OCT-2001	01-06-1045P	06
06	TX	GARDEN RIDGE, CITY OF	4801480001B	22-AUG-2001	01-06-1720A	02
06	TX	GARLAND, CITY OF	48113C0240J	09-NOV-2001	01-06-1490P	05
06	TX	GARLAND, CITY OF	48113C0220J	30-NOV-2001	02-06-267A	02
06	TX	GARLAND, CITY OF	48113C0230J	12-DEC-2001	02-06-272A	02
06	TX	GEORGETOWN, CITY OF	48491C0230C	29-AUG-2001	01-06-1680A	02
06	TX	GILLESPIE COUNTY	4806960007B	24-OCT-2001	01-06-1556A	02
06	TX	GILLESPIE COUNTY	4806960007B	15-AUG-2001	01-06-1670A	02
06	TX	GRANBURY, CITY OF	4803570005B	06-JUL-2001	01-06-1525A	01
06	TX	GRAND PRAIRIE, CITY OF	48113C0455J	17-OCT-2001	00-06-1058P	05
06	TX	GRAND PRAIRIE, CITY OF	4854720035G	07-SEP-2001	01-06-1206A	01
06	TX	GRAND PRAIRIE, CITY OF	48113C0295J	26-SEP-2001	01-06-1877A	02
06	TX	GRAND PRAIRIE, CITY OF	4854720035G	27-JUL-2001	01-06-476P	05
06	TX	GRAND PRAIRIE, CITY OF	48113C0295J	17-OCT-2001	02-06-029X	02
06	TX	GRAND PRAIRIE, CITY OF	48113C0455J	28-NOV-2001	02-06-116A	01
06	TX	GRAPEVINE, CITY OF	48439C0205H	25-JUL-2001	01-06-1287A	02
06	TX	GRAPEVINE, CITY OF	48439C0215H	11-JUL-2001	01-06-1434A	02
06	TX	GRAYSON COUNTY	48181C0153D	14-NOV-2001	01-06-1927A	02
06	TX	GREENVILLE, CITY OF	48231C0180F	02-NOV-2001	02-06-071A	02
06	TX	HARRIS COUNTY	48201C0260J	09-AUG-2001	00-06-1109P	05
06	TX	HARRIS COUNTY	48201C0270J	09-AUG-2001	00-06-1109P	05
06	TX	HARRIS COUNTY	48201C0445K	22-NOV-2001	00-06-1110P	05
06	TX	HARRIS COUNTY	48201C0840K	18-JUL-2001	01-06-1193A	02
06	TX	HARRIS COUNTY	48201C0215J	14-SEP-2001	01-06-1262A	01
06	TX	HARRIS COUNTY	48201C0320K	02-AUG-2001	01-06-1431P	06
06	TX	HARRIS COUNTY	48201C0245K	19-DEC-2001	01-06-1499P	08
06	TX	HARRIS COUNTY	48201C0065J	29-AUG-2001	01-06-1531A	17
06	TX	HARRIS COUNTY	48201C0230J	29-AUG-2001	01-06-1531A	17
06	TX	HARRIS COUNTY	48201C0410J	08-AUG-2001	01-06-1552A	02
06	TX	HARRIS COUNTY	48201C0230J	01-AUG-2001	01-06-1583A	17
06	TX	HARRIS COUNTY	48201C0435J	19-SEP-2001	01-06-1724A	02
06	TX	HARRIS COUNTY	48201C0245K	22-AUG-2001	01-06-1734A	17
06	TX	HARRIS COUNTY	48201C0320K	29-AUG-2001	01-06-1782A	02
06	TX	HARRIS COUNTY	48201C0240J	05-OCT-2001	01-06-1792A	02
06	TX	HARRIS COUNTY	48201C0220J	12-OCT-2001	01-06-415P	05
06	TX	HARRIS COUNTY	48201C0240J	12-OCT-2001	01-06-415P	05
06	TX	HARRIS COUNTY	48201C0220G	31-OCT-2001	01-06-510P	06
06	TX	HARRIS COUNTY	48201C0315K	19-OCT-2001	02-06-028A	02
06	TX	HARRIS COUNTY	48201C0240J	28-NOV-2001	02-06-203A	01
06	TX	HARRIS COUNTY	48201C0605J	12-DEC-2001	02-06-208A	02
06	TX	HARRIS COUNTY	48201C0610J	12-DEC-2001	02-06-208A	02
06	TX	HARRIS COUNTY	48201C0235K	28-DEC-2001	02-06-224A	01
06	TX	HARRIS COUNTY	48201C0085H	20-NOV-2001	02-06-237P	05
06	TX	HARRIS COUNTY	48201C0805J	05-DEC-2001	02-06-298A	01
06	TX	HENDERSON COUNTY	48213C0150D	05-OCT-2001	01-06-1996A	02
06	TX	HIDALGO COUNTY	4803340325D	03-AUG-2001	01-06-1581A	02
06	TX	HIDALGO COUNTY	4803340295D	19-SEP-2001	01-06-1832A	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533F	05-DEC-2001	01-06-1737A	02
06	TX	HILLSBORO, CITY OF	4803510005B	19-SEP-2001	01-06-1861A	17
06	TX	HOOD COUNTY	4803560045B	10-OCT-2001	01-06-1773A	02
06	TX	HOOD COUNTY	4803560065B	10-OCT-2001	01-06-2039A	02
06	TX	HOOD COUNTY	4803560035B	07-DEC-2001	02-06-080A	02
06	TX	HOOD COUNTY	4803560065B	30-NOV-2001	02-06-161X	02
06	TX	HOUSTON COUNTY	48201C0485J	28-NOV-2001	01-06-1994A	02
06	TX	HOUSTON, CITY OF	48201C0630J	27-NOV-2001	00-06-1475P	05

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06	TX	HOUSTON, CITY OF	48201C0640J	27-NOV-2001	00-06-1475P	05
06	TX	HOUSTON, CITY OF	48201C0840K	05-SEP-2001	01-06-1267A	02
06	TX	HOUSTON, CITY OF	48201C0865K	13-JUL-2001	01-06-1337A	02
06	TX	HOUSTON, CITY OF	48201C0320K	14-SEP-2001	01-06-1479A	02
06	TX	HOUSTON, CITY OF	48201C0510J	22-AUG-2001	01-06-1563A	02
06	TX	HOUSTON, CITY OF	48201C0880K	08-AUG-2001	01-06-1595A	02
06	TX	HOUSTON, CITY OF	48201C0845K	05-SEP-2001	01-06-1805A	02
06	TX	HOUSTON, CITY OF	48157C0140K	31-AUG-2001	01-06-1814A	02
06	TX	HOUSTON, CITY OF	48201C0840K	31-AUG-2001	01-06-1814A	02
06	TX	HOUSTON, CITY OF	48201C0315K	16-NOV-2001	01-06-1887A	01
06	TX	HOUSTON, CITY OF	48201C0620J	10-DEC-2001	01-06-304P	05
06	TX	HOUSTON, CITY OF	48201C0640J	10-DEC-2001	01-06-304P	05
06	TX	HOUSTON, CITY OF	48201C0645J	10-DEC-2001	01-06-304P	05
06	TX	HOUSTON, CITY OF	48201C0835K	10-DEC-2001	01-06-304P	05
06	TX	HOUSTON, CITY OF	48201C0465K	05-JUL-2001	01-06-677A	02
06	TX	HOUSTON, CITY OF	48157C0280K	25-JUL-2001	01-06-987A	02
06	TX	HOUSTON, CITY OF	48201C0320K	12-DEC-2001	02-06-325A	02
06	TX	HOUSTON, CITY OF	48201C0315K	28-DEC-2001	02-06-450A	02
06	TX	HUMBLE, CITY OF	48201C0485J	09-NOV-2001	02-06-066A	02
06	TX	HURST, CITY OF	48439C0312J	01-AUG-2001	01-06-1514A	02
06	TX	INGLESIDE, CITY OF	4854800005	11-OCT-2001	01-06-2017P	06
06	TX	JOHNSON COUNTY	48251C0037H	21-OCT-2001	00-06-1702P	05
06	TX	JOHNSON COUNTY	48251C0050H	21-OCT-2001	00-06-1702P	05
06	TX	JOHNSON COUNTY	48251C0041H	12-DEC-2001	01-06-1693A	02
06	TX	JONESTOWN, CITY OF	48453C0275E	22-AUG-2001	01-06-1700A	02
06	TX	KELLER, CITY OF	48439C0170H	21-DEC-2001	02-06-107A	02
06	TX	KERR COUNTY	48265C0165E	28-SEP-2001	01-06-1886A	02
06	TX	KERR COUNTY	48265C0170E	07-DEC-2001	01-06-1917A	01
06	TX	KERR COUNTY	48265C0170E	16-NOV-2001	02-06-032A	02
06	TX	KIMBLE COUNTY	4812320250A	28-NOV-2001	02-06-128A	02
06	TX	LAGO VISTA, CITY OF	48453C0335E	28-NOV-2001	02-06-123A	02
06	TX	LAKEWAY, CITY OF	48453C0330E	07-DEC-2001	02-06-027A	02
06	TX	LEAGUE CITY, CITY OF	4854880030E	01-AUG-2001	01-06-1586A	01
06	TX	LEWISVILLE, CITY OF	48121C0545E	02-AUG-2001	00-06-841P	05
06	TX	LLANO COUNTY	4812340285B	20-JUL-2001	01-06-1484A	02
06	TX	LUFKIN,CITY OF	4800090010C	01-AUG-2001	01-06-1518A	02
06	TX	MANSFIELD, CITY OF	48439C0560H	19-OCT-2001	02-06-036A	02
06	TX	MCALLEN, CITY OF	4803340425C	24-OCT-2001	01-06-1275A	01
06	TX	MCKINNEY, CITY OF	48085C0280G	22-AUG-2001	01-06-1072A	01
06	TX	MCLENNAN COUNTY	4804560050B	07-SEP-2001	01-06-1160A	02
06	TX	MCLENNAN COUNTY	4804560050B	14-SEP-2001	01-06-1870A	02
06	TX	MCLENNAN COUNTY	4804560050B	09-NOV-2001	02-06-125A	02
06	TX	MESQUITE, CITY OF	48113C0390J	24-OCT-2001	01-06-1860A	17
06	TX	MESQUITE, CITY OF	48113C0530J	12-DEC-2001	01-06-1928A	02
06	TX	MESQUITE, CITY OF	48113C0390J	05-DEC-2001	02-06-096A	01
06	TX	MESQUITE, CITY OF	48113C0360J	07-NOV-2001	02-06-171A	02
06	TX	MESQUITE, CITY OF	48113C0535J	21-DEC-2001	02-06-518A	02
06	TX	MIDLAND COUNTY	48329C0175E	11-JUL-2001	01-06-1427A	02
06	TX	MIDLAND COUNTY	48329C0068E	14-SEP-2001	01-06-1867A	02
06	TX	MIDLAND, CITY OF	48329C0088E	18-JUL-2001	01-06-1123A	02
06	TX	MIDLAND, CITY OF	48329C0067E	20-JUL-2001	01-06-1334A	02
06	TX	MIDLAND, CITY OF	48329C0087E	18-JUL-2001	01-06-1515A	02
06	TX	MIDLAND, CITY OF	48329C0068E	29-AUG-2001	01-06-1587A	01
06	TX	MIDLAND, CITY OF	48329C0088E	01-AUG-2001	01-06-1588A	02
06	TX	MIDLAND, CITY OF	48329C0088E	08-AUG-2001	01-06-1649A	02
06	TX	MIDLAND, CITY OF	48329C0088E	15-AUG-2001	01-06-1687A	02
06	TX	MIDLAND, CITY OF	48329C0067E	12-SEP-2001	01-06-1699A	02
06	TX	MIDLAND, CITY OF	48329C0087E	05-SEP-2001	01-06-1722A	02
06	TX	MIDLAND, CITY OF	48329C0067E	24-AUG-2001	01-06-1740A	02
06	TX	MIDLAND, CITY OF	48329C0087E	07-SEP-2001	01-06-1829A	02
06	TX	MIDLAND, CITY OF	48329C0087E	12-SEP-2001	01-06-1889A	02
06	TX	MIDLAND, CITY OF	48329C0069E	24-OCT-2001	02-06-043A	02
06	TX	MIDLAND, CITY OF	48329C0069E	16-NOV-2001	02-06-104A	02
06	TX	MIDLAND, CITY OF	48329C0088E	19-DEC-2001	02-06-372A	02
06	TX	MONTGOMERY COUNTY	48339C0215F	22-AUG-2001	01-06-1135A	01
06	TX	MONTGOMERY COUNTY	48339C0635F	17-AUG-2001	01-06-1426A	02
06	TX	MONTGOMERY COUNTY	48339C0215F	06-JUL-2001	01-06-1438A	02
06	TX	MONTGOMERY COUNTY	48339C0215F	15-AUG-2001	01-06-1665A	02
06	TX	MONTGOMERY COUNTY	48339C0535F	07-SEP-2001	01-06-1736A	02
06	TX	MONTGOMERY COUNTY	48339C0485F	21-SEP-2001	01-06-1855A	01
06	TX	MONTGOMERY COUNTY	48339C0385F	14-NOV-2001	01-06-2021A	17
06	TX	MONTGOMERY COUNTY	48339C0195F	14-NOV-2001	02-06-105A	02
06	TX	MONTGOMERY COUNTY	48339C0360F	21-DEC-2001	02-06-205A	02

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06	TX	MOUNT PLEASANT, CITY OF	4806210005C	24-AUG-2001	01-06-1663A	02
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0189H	20-SEP-2001	01-06-1465P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0190H	20-SEP-2001	01-06-1465P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0302J	19-DEC-2001	01-06-579P	05
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0302J	03-AUG-2001	01-06-902A	02
06	TX	OAK RIDGE NORTH, CITY OF	48339C0539G	05-OCT-2001	01-06-2009A	02
06	TX	ODESSA, CITY OF	48135C0170D	20-JUL-2001	01-06-1529A	02
06	TX	ODESSA, CITY OF	48135C0140D	07-SEP-2001	01-06-1770A	02
06	TX	ODESSA, CITY OF	48135C0140D	26-OCT-2001	01-06-1774A	02
06	TX	ODESSA, CITY OF	48135C0135D	05-SEP-2001	01-06-1803A	02
06	TX	ODESSA, CITY OF	48135C0135D	19-OCT-2001	02-06-024A	02
06	TX	ORANGE COUNTY	4805100025B	02-NOV-2001	01-06-1541A	02
06	TX	PANORAMA VILLAGE, CITY OF	48339C0238F	29-AUG-2001	01-06-1701A	02
06	TX	PASADENA, CITY OF	48201C0920J	12-OCT-2001	01-06-1186A	02
06	TX	PEARLAND, CITY OF	48039C0045J	15-AUG-2001	01-06-1621A	01
06	TX	PEARLAND, CITY OF	48039C0045J	24-AUG-2001	01-06-1622A	02
06	TX	PLANO, CITY OF	48085C0440G	27-JUL-2001	01-06-1564A	02
06	TX	PLANO, CITY OF	48085C0410G	17-OCT-2001	01-06-1043P	05
06	TX	PLANO, CITY OF	48085C0420G	07-NOV-2001	01-06-2015A	02
06	TX	PLANO, CITY OF	48085C0445G	31-OCT-2001	02-06-054A	17
06	TX	PLANO, CITY OF	48085C0420G	24-OCT-2001	02-06-065A	02
06	TX	PRINCETON, CITY OF	48085C0325G	19-DEC-2001	02-06-074A	01
06	TX	RICHARDSON, CITY OF	48113C0185J	10-OCT-2001	01-06-2024A	02
06	TX	ROCKWALL, CITY OF	4805470005C	15-AUG-2001	01-06-1342A	02
06	TX	ROWLETT, CITY OF	48113C0240J	16-OCT-2001	02-06-057A	01
06	TX	SACHSE, CITY OF	48085C0585G	12-OCT-2001	01-06-309P	05
06	TX	SACHSE, CITY OF	48113C0235J	12-OCT-2001	01-06-309P	05
06	TX	SAN ANTONIO, CITY OF	48029C0241F	11-JUL-2001	00-06-1730P	06
06	TX	SAN ANTONIO, CITY OF	48029C0461E	01-AUG-2001	01-06-1386A	02
06	TX	SAN ANTONIO, CITY OF	48029C0244E	01-AUG-2001	01-06-1468A	02
06	TX	SAN ANTONIO, CITY OF	48029C0286E	27-JUL-2001	01-06-1553A	02
06	TX	SAN ANTONIO, CITY OF	48029C0477E	12-SEP-2001	01-06-1562A	02
06	TX	SAN ANTONIO, CITY OF	48029C0407E	22-AUG-2001	01-06-1709A	02
06	TX	SAN ANTONIO, CITY OF	48029C0316E	22-AUG-2001	01-06-1726A	17
06	TX	SEABROOK, CITY OF	48201C1085J	21-DEC-2001	02-06-403A	02
06	TX	SEAGOVILLE, CITY OF	48113C0545J	14-DEC-2001	02-06-333A	02
06	TX	SMITH COUNTY	4811850250B	20-JUL-2001	01-06-1424A	02
06	TX	SMITH COUNTY	4811850375B	26-NOV-2001	02-06-278A	02
06	TX	SOUTH LAKE, CITY OF	48439C0195H	09-NOV-2001	00-06-1775P	06
06	TX	TARRANT COUNTY	48439C0535H	11-JUL-2001	01-06-1483A	02
06	TX	TARRANT COUNTY	48439C0382J	22-AUG-2001	01-06-1582A	02
06	TX	TARRANT COUNTY	48439C0245H	14-SEP-2001	01-06-1753A	02
06	TX	TARRANT COUNTY	48439C0395J	24-OCT-2001	02-06-014A	02
06	TX	TARRANT COUNTY	48439C0140H	07-NOV-2001	02-06-092A	02
06	TX	TARRANT COUNTY	48439C0170H	28-NOV-2001	02-06-148A	02
06	TX	TAYLOR COUNTY	4810140012B	20-JUL-2001	01-06-1614A	02
06	TX	TRAVIS COUNTY	48453C0245E	12-JUL-2001	01-06-1133P	06
06	TX	TRAVIS COUNTY	48453C0260F	13-JUL-2001	01-06-1256A	02
06	TX	TRAVIS COUNTY	48453C0260F	09-NOV-2001	01-06-1366A	02
06	TX	TRAVIS COUNTY	48453C0215G	24-AUG-2001	01-06-1519A	02
06	TX	TRAVIS COUNTY	48453C0110E	27-JUL-2001	01-06-1546A	02
06	TX	TRAVIS COUNTY	48453C0075E	29-AUG-2001	01-06-1739A	02
06	TX	TRAVIS COUNTY	48453C0260F	28-DEC-2001	01-06-1744A	01
06	TX	TRAVIS COUNTY	48453C0260F	12-OCT-2001	01-06-1854A	02
06	TX	TRAVIS COUNTY	48453C0065E	05-DEC-2001	01-06-1940A	02
06	TX	TYLER, CITY OF	4805710015B	14-SEP-2001	01-06-1843A	02
06	TX	VICTORIA COUNTY	48406370050B	18-JUL-2001	01-06-1315A	02
06	TX	WEST KEEGANS BAYOU IMPROVEMENT DISTRICT	48157C0120J	13-JUL-2001	01-06-1347A	01
06	TX	WHARTON, CITY OF	4806540005C	31-OCT-2001	01-06-1981A	02
06	TX	WHITE SETTLEMENT, CITY OF	48439C0380H	17-OCT-2001	01-06-1906A	01
06	TX	WOLFFORTH, CITY OF	4809150007A	05-SEP-2001	01-06-1799P	05
06	TX	WOOD COUNTY	4810550009A	28-DEC-2001	02-06-063A	02
06	TX	WYLIE, CITY OF	48085C0470G	16-NOV-2001	01-06-233P	06
06	TX	WYLIE, CITY OF	48085C0585G	12-OCT-2001	01-06-309P	06
06	TX	WYLIE, CITY OF	48113C0235J	12-OCT-2001	01-06-309P	06
06	TX	YOUNG COUNTY	48503C0250D	12-SEP-2001	01-06-1781A	02
07	IA	ANKENY, CITY OF	1909010039B	14-NOV-2001	02-07-028A	17
07	IA	BETTENDORF, CITY OF	1902400004D	29-AUG-2001	01-07-690A	02
07	IA	BETTENDORF, CITY OF	1902400004D	12-OCT-2001	02-07-003A	02
07	IA	BLACK HAWK COUNTY	1905350050B	12-SEP-2001	01-07-654A	02
07	IA	BLACK HAWK COUNTY	1905350095B	24-AUG-2001	01-07-713A	17
07	IA	BLACK HAWK COUNTY	1905350050B	26-NOV-2001	02-07-067A	02
07	IA	BLACK HAWK COUNTY	1905350095B	26-NOV-2001	02-07-090A	02

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07	IA	BREMER COUNTY	19017C0065C	10-OCT-2001	01-07-709A	02
07	IA	BUTLER COUNTY	1908500125B	10-OCT-2001	01-07-824A	02
07	IA	BUTLER COUNTY	1908500100B	07-NOV-2001	01-07-861A	02
07	IA	CEDAR RAPIDS, CITY OF	1901870010B	02-NOV-2001	01-07-730A	02
07	IA	CEDAR RAPIDS, CITY OF	1901870015C	19-SEP-2001	01-07-795A	17
07	IA	CEDAR RAPIDS, CITY OF	1901870015C	12-OCT-2001	01-07-867X	17
07	IA	CLEAR LAKE, CITY OF	1900590001B	11-JUL-2001	01-07-587A	02
07	IA	CLEAR LAKE, CITY OF	1900590001B	25-JUL-2001	01-07-645A	02
07	IA	CLEAR LAKE, CITY OF	1900590003B	14-SEP-2001	01-07-808A	02
07	IA	CLEAR LAKE, CITY OF	1900590003B	07-DEC-2001	02-07-153X	02
07	IA	CLINTON COUNTY	1900880010B	01-AUG-2001	01-07-478A	02
07	IA	CLINTON, CITY OF	1900880015C	10-AUG-2001	01-07-710A	02
07	IA	CLIVE, CITY OF	1904880005C	05-JUL-2001	01-07-558A	02
07	IA	CLIVE, CITY OF	1904880005C	13-JUL-2001	01-07-597A	02
07	IA	CLIVE, CITY OF	1904880005C	26-NOV-2001	02-07-119A	02
07	IA	DAVENPORT, CITY OF	1902420005B	27-JUL-2001	01-07-258A	01
07	IA	DAVENPORT, CITY OF	1902420004C	07-NOV-2001	02-07-041A	02
07	IA	DAVENPORT, CITY OF	1902420006B	28-DEC-2001	02-07-147A	02
07	IA	DES MOINES COUNTY	1901130088B	07-NOV-2001	02-07-050A	17
07	IA	DES MOINES, CITY OF	1902270004D	01-AUG-2001	01-07-631A	02
07	IA	DES MOINES, CITY OF	1902270004D	14-SEP-2001	01-07-742A	02
07	IA	DES MOINES, CITY OF	1902270009E	07-DEC-2001	02-07-096A	02
07	IA	DICKINSON COUNTY	1908640050C	29-AUG-2001	01-07-697A	02
07	IA	DICKINSON COUNTY	1908640050C	19-DEC-2001	02-07-094A	02
07	IA	FAIRBANK, CITY OF	190329A	14-DEC-2001	02-07-148A	02
07	IA	FLOYD COUNTY	19012725B	30-NOV-2001	02-07-093A	02
07	IA	GUTHRIE COUNTY	1908710004B	16-NOV-2001	02-07-043A	02
07	IA	INDEPENDENCE, CITY OF	1900310001C	08-AUG-2001	01-07-678A	02
07	IA	INDEPENDENCE, CITY OF	1900310001C	14-SEP-2001	01-07-761A	02
07	IA	JOHNSON COUNTY	1908820040B	07-NOV-2001	02-07-061A	02
07	IA	JOHNSTON, CITY OF	1907450005D	08-AUG-2001	01-07-660A	02
07	IA	JOHNSTON, CITY OF	1907450004D	02-NOV-2001	01-07-794A	01
07	IA	KINGSLEY, CITY OF	19047701A	19-DEC-2001	01-07-851A	02
07	IA	LE CLAIRE, CITY OF	1902430001B	03-AUG-2001	01-07-643A	02
07	IA	LEE COUNTY	1901820175B	03-OCT-2001	01-07-839A	02
07	IA	MANCHESTER, CITY OF	1901120001B	21-DEC-2001	02-07-190A	02
07	IA	MARION COUNTY	19088914A	25-JUL-2001	01-07-524A	02
07	IA	MISSOURI VALLEY, CITY OF	1901470001B	14-SEP-2001	01-07-641A	01
07	IA	MUSCATINE COUNTY	1908360020B	11-JUL-2001	01-07-482A	02
07	IA	NASHUA, CITY OF	1900680001B	13-JUL-2001	01-07-523A	02
07	IA	NEW HARTFORD, CITY OF	1900380001B	29-AUG-2001	01-07-751A	02
07	IA	NORA SPRINGS, CITY OF	19038401A	22-AUG-2001	01-07-642A	02
07	IA	RED OAK, CITY OF	1902100002C	12-DEC-2001	02-07-159A	02
07	IA	RED OAK, CITY OF	1902100002C	12-DEC-2001	02-07-162A	02
07	IA	SCHALLER, CITY OF	190652	05-DEC-2001	01-07-865P	06
07	IA	SPENCER, CITY OF	1900710005B	13-JUL-2001	01-07-593A	02
07	IA	SPENCER, CITY OF	1900710005B	08-AUG-2001	01-07-693A	02
07	IA	SPENCER, CITY OF	1900710005B	17-OCT-2001	01-07-708A	02
07	IA	SPENCER, CITY OF	1900710005B	12-SEP-2001	01-07-788A	02
07	IA	SPENCER, CITY OF	1900710005B	28-SEP-2001	01-07-842A	02
07	IA	SPENCER, CITY OF	1900710005B	12-OCT-2001	01-07-854A	02
07	IA	SPENCER, CITY OF	1900710005B	17-OCT-2001	02-07-008A	02
07	IA	SPENCER, CITY OF	1900710005B	05-DEC-2001	02-07-160A	02
07	IA	URBANDALE, CITY OF	1902300010D	01-AUG-2001	01-07-265A	02
07	IA	URBANDALE, CITY OF	1902300010D	10-AUG-2001	01-07-714A	01
07	IA	URBANDALE, CITY OF	1902300010D	02-NOV-2001	02-07-068A	02
07	IA	WALCOTT, CITY OF	1906750005B	09-NOV-2001	01-07-740A	02
07	IA	WATERLOO, CITY OF	1900250015E	15-AUG-2001	01-07-436A	02
07	IA	WATERLOO, CITY OF	1900250015E	18-OCT-2001	01-07-835A	02
07	IA	WATERLOO, CITY OF	1900250015E	30-NOV-2001	02-07-082A	02
07	IA	WAVERLY, CITY OF	19017C0054C	10-OCT-2001	01-07-750A	02
07	IA	WAVERLY, CITY OF	19017C0054C	14-SEP-2001	01-07-805A	02
07	IA	WOODBURY COUNTY	19053650B	09-NOV-2001	02-07-007A	02
07	KS	ABILENE, CITY OF	20041C0070C	25-JUL-2001	01-07-567A	02
07	KS	ALLEN COUNTY	20001C0156D	14-NOV-2001	02-07-017A	02
07	KS	ANDOVER, CITY OF	2003830005C	20-JUL-2001	98-07-542V	19
07	KS	BUTLER COUNTY	2000370230C	14-NOV-2001	02-07-080A	02
07	KS	COLBY, CITY OF	2003500005A	01-AUG-2001	01-07-599A	02
07	KS	COWLEY COUNTY	2005630100B	31-AUG-2001	01-07-685A	02
07	KS	DICKINSON COUNTY	20041C0070C	07-SEP-2001	01-07-764A	02
07	KS	ELLINWOOD, CITY OF	2000180001C	18-JUL-2001	01-07-563A	02
07	KS	ELLINWOOD, CITY OF	2000180001C	13-JUL-2001	01-07-612A	02
07	KS	ELLIS COUNTY	2000940190B	05-DEC-2001	02-07-151A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
07	KS	HARVEY COUNTY	2005850050B	03-OCT-2001	01-07-765A	01
07	KS	HARVEY COUNTY	2005850125D	05-DEC-2001	01-07-781A	02
07	KS	HAYSVILLE, CITY OF	2003240001C	18-JUL-2001	01-07-632A	02
07	KS	HAYSVILLE, CITY OF	2003240001C	07-SEP-2001	01-07-780A	02
07	KS	HOLCOMB, CITY OF	2008680001B	19-OCT-2001	02-07-026A	02
07	KS	HUTCHINSON, CITY OF	20155C0285D	01-AUG-2001	01-07-656A	17
07	KS	INDEPENDENCE, CITY OF	2002330001C	13-JUL-2001	01-07-592A	02
07	KS	JACKSON COUNTY	2006190095C	10-AUG-2001	01-07-650A	02
07	KS	JOHNSON COUNTY	20091C0075D	10-SEP-2001	01-07-423A	02
07	KS	KINGMAN COUNTY	2005890006B	25-JUL-2001	01-07-644A	02
07	KS	LAWRENCE, CITY OF	2000900005A	20-JUL-2001	01-07-615A	02
07	KS	LENEXA, CITY OF	20091C0077D	05-JUL-2001	01-07-553A	02
07	KS	MANHATTAN, CITY OF	2003000006D	12-OCT-2001	01-07-630A	01
07	KS	MCPHERSON, CITY OF	2002170015D	13-JUL-2001	01-07-608A	02
07	KS	MCPHERSON, CITY OF	2002170005D	31-AUG-2001	01-07-729A	02
07	KS	MCPHERSON, CITY OF	2002170015D	19-DEC-2001	02-07-166A	02
07	KS	MIAMI COUNTY	20022035A	27-JUL-2001	01-07-485A	02
07	KS	MIAMI COUNTY	20022031A	21-DEC-2001	02-07-194A	02
07	KS	MULVANE, CITY OF	2003260005D	26-SEP-2001	01-07-263P	06
07	KS	NEWTON, CITY OF	2001330005C	18-JUL-2001	01-07-505A	02
07	KS	NICKERSON, CITY OF	20155C0090D	20-JUL-2001	01-07-618A	02
07	KS	NICKERSON, CITY OF	20155C0090D	20-JUL-2001	01-07-640A	02
07	KS	OLATHE, CITY OF	20091C0090D	03-AUG-2001	00-07-748A	02
07	KS	OVERLAND PARK, CITY OF	20091C0081E	19-SEP-2001	01-07-797A	17
07	KS	OVERLAND PARK, CITY OF	20091C0079E	03-OCT-2001	01-07-810A	02
07	KS	PAOLA, CITY OF	2002240001B	19-DEC-2001	02-07-155A	02
07	KS	RENO COUNTY	20155C0315D	12-SEP-2001	01-07-728A	02
07	KS	RENO COUNTY	20155C0280D	07-SEP-2001	01-07-752A	02
07	KS	RENO COUNTY	20155C0500D	19-SEP-2001	01-07-778A	02
07	KS	RENO COUNTY	20155C0280D	30-NOV-2001	02-07-125A	02
07	KS	RENO COUNTY	20155C0315D	12-DEC-2001	02-07-152A	02
07	KS	RENO COUNTY	20155C0310D	21-DEC-2001	02-07-197A	17
07	KS	SALINA, CITY OF	2003190005B	11-JUL-2001	01-07-596A	02
07	KS	SALINA, CITY OF	2003190015B	13-JUL-2001	01-07-611A	02
07	KS	SALINA, CITY OF	2003190015B	13-JUL-2001	01-07-616A	02
07	KS	SALINA, CITY OF	2003190015B	27-JUL-2001	01-07-629A	02
07	KS	SALINA, CITY OF	2003190015B	15-AUG-2001	01-07-659A	02
07	KS	SALINA, CITY OF	2003190005B	07-SEP-2001	01-07-661A	01
07	KS	SALINA, CITY OF	2003190015B	17-AUG-2001	01-07-723A	02
07	KS	SALINA, CITY OF	2003190015B	31-AUG-2001	01-07-725A	02
07	KS	SALINA, CITY OF	2003190015B	12-SEP-2001	01-07-784A	02
07	KS	SALINA, CITY OF	2003190015B	12-SEP-2001	01-07-802A	02
07	KS	SALINA, CITY OF	2003190015B	21-SEP-2001	01-07-816A	02
07	KS	SALINA, CITY OF	2003190015B	19-SEP-2001	01-07-817A	02
07	KS	SALINA, CITY OF	2003190005B	19-SEP-2001	01-07-819X	01
07	KS	SALINA, CITY OF	2003190005B	28-SEP-2001	01-07-820A	02
07	KS	SALINA, CITY OF	2003160060B	28-SEP-2001	01-07-825A	02
07	KS	SALINA, CITY OF	2003190015B	05-OCT-2001	01-07-858A	02
07	KS	SALINA, CITY OF	2003160060B	31-OCT-2001	02-07-037A	02
07	KS	SALINA, CITY OF	2003190015B	12-DEC-2001	02-07-045A	02
07	KS	SALINA, CITY OF	2003190015B	28-NOV-2001	02-07-124A	02
07	KS	SALINA, CITY OF	2003190015B	07-DEC-2001	02-07-126A	02
07	KS	SALINE COUNTY	2003160100B	05-JUL-2001	01-07-257A	02
07	KS	SALINE COUNTY	2003160090B	07-NOV-2001	01-07-610A	01
07	KS	SALINE COUNTY	2003160060B	08-AUG-2001	01-07-700A	02
07	KS	SALINE COUNTY	2003160100B	17-AUG-2001	01-07-712A	02
07	KS	SALINE COUNTY	2003160100B	10-OCT-2001	01-07-862A	02
07	KS	SALINE COUNTY	2003160100B	10-OCT-2001	01-07-868A	02
07	KS	SALINE COUNTY	2003160065B	12-DEC-2001	02-07-177A	02
07	KS	SEDGWICK COUNTY	2003210050A	18-JUL-2001	01-07-264A	01
07	KS	SEDGWICK COUNTY	2003210050A	25-JUL-2001	01-07-676A	01
07	KS	SEDGWICK COUNTY	2003210125A	26-OCT-2001	01-07-703A	01
07	KS	SEDGWICK COUNTY	2003210075A	24-AUG-2001	01-07-747A	02
07	KS	SEDGWICK COUNTY	2003210075A	26-NOV-2001	02-07-078A	02
07	KS	SEDGWICK COUNTY	2003210125A	07-NOV-2001	02-07-097A	02
07	KS	SEDGWICK COUNTY	2003210300A	14-NOV-2001	02-07-103A	02
07	KS	SEDGWICK COUNTY	2003210225A	14-DEC-2001	02-07-128A	02
07	KS	SEDGWICK COUNTY	2003210225A	14-DEC-2001	02-07-129A	02
07	KS	SHAWNEE, CITY OF	20091C0040D	22-AUG-2001	01-07-215A	01
07	KS	TOPEKA, CITY OF	2003310095C	22-AUG-2001	01-07-562A	02
07	KS	TOPEKA, CITY OF	2051870014C	03-OCT-2001	01-07-803A	02
07	KS	WICHITA, CITY OF	2003210150A	31-AUG-2001	00-07-493P	05
07	KS	WICHITA, CITY OF	2003280015B	05-JUL-2001	01-07-534A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
07	KS	WICHITA, CITY OF	2003280025B	05-JUL-2001	01-07-549A	02
07	KS	WICHITA, CITY OF	2003280035B	19-OCT-2001	01-07-560A	01
07	KS	WICHITA, CITY OF	2003280020B	13-JUL-2001	01-07-603A	17
07	KS	WICHITA, CITY OF	2003280015B	13-JUL-2001	01-07-604A	02
07	KS	WICHITA, CITY OF	2003280005B	31-AUG-2001	01-07-639A	01
07	KS	WICHITA, CITY OF	2003280030B	25-JUL-2001	01-07-653A	17
07	KS	WICHITA, CITY OF	2003280035B	08-AUG-2001	01-07-667A	02
07	KS	WICHITA, CITY OF	2003280035B	07-SEP-2001	01-07-777A	02
07	KS	WICHITA, CITY OF	2003280020B	19-SEP-2001	01-07-798A	02
07	KS	WICHITA, CITY OF	2003280025B	17-OCT-2001	01-07-859A	02
07	KS	WICHITA, CITY OF	2003280035B	17-OCT-2001	01-07-859A	02
07	KS	WICHITA, CITY OF	2003280015B	10-OCT-2001	01-07-864A	02
07	KS	WICHITA, CITY OF	2003280020B	26-NOV-2001	02-07-114A	02
07	KS	WICHITA, CITY OF	2003280010B	30-NOV-2001	02-07-132A	02
07	KS	WICHITA, CITY OF	2003280020B	30-NOV-2001	02-07-133A	02
07	KS	WICHITA, CITY OF	2003280030B	12-DEC-2001	02-07-178A	02
07	KS	WICHITA, CITY OF	2003280035B	19-DEC-2001	02-07-198A	02
07	KS	WICHITA, CITY OF	2003280035B	28-DEC-2001	02-07-208A	02
07	KS	WICHITA, CITY OF	2003280035B	28-DEC-2001	02-07-208A	02
07	MO	BOONE COUNTY	2900340050B	05-SEP-2001	01-07-739A	02
07	MO	BRENTWOOD, CITY OF	29189C0302H	25-JUL-2001	01-07-561A	02
07	MO	CAMDEN COUNTY	2907890002B	31-OCT-2001	01-07-783A	02
07	MO	CAPE GIRARDEAU, CITY OF	2904580008B	22-AUG-2001	01-07-545A	01
07	MO	CAPE GIRARDEAU, CITY OF	2904580008B	12-SEP-2001	01-07-779A	01
07	MO	CARUTHERSVILLE, CITY OF	2902750001B	18-OCT-2001	01-07-845A	02
07	MO	CASS COUNTY	2907830050C	08-AUG-2001	01-07-623A	02
07	MO	CASS COUNTY	2907830125B	10-AUG-2001	01-07-658A	02
07	MO	CASS COUNTY	2907830050C	19-SEP-2001	01-07-759A	02
07	MO	CASS COUNTY	2907830075B	07-NOV-2001	02-07-015A	02
07	MO	CASS COUNTY	2907830025C	12-DEC-2001	02-07-171A	17
07	MO	CHESTERFIELD, CITY OF	29189C0145H	26-NOV-2001	01-07-782A	01
07	MO	CHRISTIAN COUNTY	2908470002A	28-DEC-2001	02-07-136A	02
07	MO	CLAY COUNTY	2900860050B	01-AUG-2001	01-07-540A	02
07	MO	CLAY COUNTY	2900860025A	28-DEC-2001	01-07-649A	02
07	MO	CLAYTON, CITY OF	29189C0188H	22-AUG-2001	01-07-732A	02
07	MO	CLAYTON, CITY OF	2903410188H	09-NOV-2001	02-07-098A	02
07	MO	CLAYTON, CITY OF	29189C0188H	19-DEC-2001	02-07-187A	02
07	MO	COLE COUNTY	2901070175B	25-JUL-2001	01-07-521A	02
07	MO	COLE COUNTY	2901070175B	24-AUG-2001	01-07-556A	02
07	MO	COLE COUNTY	2901070060B	28-SEP-2001	01-07-811A	02
07	MO	COLE COUNTY	2901070060B	10-OCT-2001	01-07-860A	02
07	MO	COLE COUNTY	2901070060B	17-OCT-2001	02-07-016A	02
07	MO	COLE COUNTY	2901070060B	16-NOV-2001	02-07-089A	02
07	MO	COLUMBIA, CITY OF	2900340109B	26-NOV-2001	02-07-014A	01
07	MO	COLUMBIA, CITY OF	2900340117B	26-NOV-2001	02-07-014A	01
07	MO	COTTLEVILLE, CITY OF	29183C0243E	01-OCT-2001	01-07-852P	06
07	MO	COTTLEVILLE, CITY OF	29183C0244E	01-OCT-2001	01-07-852P	06
07	MO	COTTLEVILLE, CITY OF	29183C0243E	19-OCT-2001	02-07-009A	02
07	MO	CRESTWOOD, CITY OF	29189C0292H	07-NOV-2001	02-07-071A	02
07	MO	CREVE COEUR, CITY OF	29189C0161H	05-DEC-2001	02-07-131A	01
07	MO	DES PERES, CITY OF	29189C0281J	17-AUG-2001	01-07-628A	02
07	MO	DES PERES, CITY OF	29189C0279J	03-OCT-2001	01-07-844A	01
07	MO	DUNKLIN COUNTY	2901220095B	08-AUG-2001	01-07-622A	02
07	MO	ELSBERRY, CITY OF	2902090001C	10-AUG-2001	01-07-576A	01
07	MO	ELSBERRY, CITY OF	2902090001C	07-SEP-2001	01-07-766A	01
07	MO	FENTON, CITY OF	29189C0289H	01-AUG-2001	01-07-456A	02
07	MO	FENTON, CITY OF	29189C0288H	17-AUG-2001	01-07-716A	02
07	MO	FLORISSANT, CITY OF	2903520058H	10-OCT-2001	01-07-662A	02
07	MO	FLORISSANT, CITY OF	29189C0062J	09-NOV-2001	01-07-789A	02
07	MO	FRANKLIN COUNTY	2904930250B	25-JUL-2001	01-07-509A	02
07	MO	FRONTENAC, CITY OF	29189C0281J	15-AUG-2001	01-07-671A	02
07	MO	GREEN PARK, CITY OF	29189C0315H	11-JUL-2001	01-07-575A	01
07	MO	GREENE COUNTY	2907820095C	20-JUL-2001	01-07-429A	01
07	MO	GREENE COUNTY	2907820045B	15-AUG-2001	01-07-503A	02
07	MO	HOLT COUNTY	2901570020B	14-NOV-2001	01-07-554A	01
07	MO	INDEPENDENCE,CITY OF	2901720020E	13-JUL-2001	01-07-535A	02
07	MO	INDEPENDENCE,CITY OF	2901720020E	22-AUG-2001	01-07-548A	02
07	MO	INDEPENDENCE,CITY OF	2901720040E	26-NOV-2001	02-07-116A	02
07	MO	INDEPENDENCE,CITY OF	2901720020E	21-DEC-2001	02-07-205A	02
07	MO	JEFFERSON COUNTY	2908080110B	22-AUG-2001	01-07-435A	01
07	MO	JEFFERSON COUNTY	2908080155B	03-AUG-2001	01-07-490A	02
07	MO	JEFFERSON COUNTY	2908080020B	16-NOV-2001	01-07-533A	02
07	MO	JEFFERSON COUNTY	2908080080C	11-JUL-2001	01-07-547A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
07	MO	JEFFERSON COUNTY	2908080090D	27-JUL-2001	01-07-578A	02
07	MO	JEFFERSON COUNTY	2908080090D	01-AUG-2001	01-07-617A	02
07	MO	JEFFERSON COUNTY	2908080080C	26-OCT-2001	02-07-040A	02
07	MO	JEFFERSON COUNTY	2908080085C	26-OCT-2001	02-07-044A	02
07	MO	JEFFERSON COUNTY	2908080020B	12-DEC-2001	02-07-168A	02
07	MO	JEFFERSON COUNTY	2908080080C	12-DEC-2001	02-07-179A	02
07	MO	JEFFERSON COUNTY	2908080080C	12-DEC-2001	02-07-184A	02
07	MO	JEFFERSON COUNTY	2908080080C	12-DEC-2001	02-07-185A	02
07	MO	JEFFERSON COUNTY	2908080080C	14-DEC-2001	02-07-186A	02
07	MO	JEFFERSON COUNTY	2908080080C	21-DEC-2001	02-07-191A	02
07	MO	JEFFERSON COUNTY	2908080080C	19-DEC-2001	02-07-192A	02
07	MO	JEFFERSON COUNTY	2908080080C	21-DEC-2001	02-07-201A	02
07	MO	JOPLIN, CITY OF	2901830015C	15-AUG-2001	01-07-518A	01
07	MO	KANSAS CITY, CITY OF	2901730055B	08-AUG-2001	01-07-550A	02
07	MO	LAFAYETTE COUNTY	2908120175B	19-SEP-2001	01-07-508A	02
07	MO	LAKE LOTAWANA, CITY OF	2906970001A	20-JUL-2001	01-07-638A	02
07	MO	LAKE LOTAWANA, CITY OF	2906970001A	27-JUL-2001	01-07-668A	02
07	MO	LAMAR, CITY OF	2900250001C	14-NOV-2001	02-07-086A	02
07	MO	LINCOLN COUNTY	2908690180C	22-AUG-2001	01-07-689A	02
07	MO	MARION COUNTY	2902220002A	09-JUL-2001	00-07-621P	06
07	MO	MARYLAND HEIGHTS, CITY OF	29189C0152H	14-SEP-2001	00-07-683A	01
07	MO	MCDONALD COUNTY	2908170050B	14-SEP-2001	01-07-583A	02
07	MO	MILLER COUNTY	2902260200A	08-AUG-2001	01-07-614A	02
07	MO	MOLINE ACRES, CITY OF	29189C0182H	05-SEP-2001	00-07-572A	01
07	MO	MORGAN COUNTY	2902440200A	31-OCT-2001	01-07-800A	02
07	MO	NEVADA, CITY OF	29044201B	24-AUG-2001	01-07-626A	02
07	MO	O'FALLON, CITY OF	29183C0240E	12-SEP-2001	01-07-458A	01
07	MO	O'FALLON, CITY OF	29183C0430E	09-NOV-2001	01-07-588A	02
07	MO	O'FALLON, CITY OF	29183C0239E	22-AUG-2001	01-07-606A	02
07	MO	O'FALLON, CITY OF	29183C0230E	19-SEP-2001	01-07-657A	02
07	MO	O'FALLON, CITY OF	29183C0230E	19-SEP-2001	01-07-718A	02
07	MO	O'FALLON, CITY OF	29183C0235E	12-OCT-2001	01-07-863A	02
07	MO	O'FALLON, CITY OF	29183C0241E	12-OCT-2001	01-07-863A	02
07	MO	O'FALLON, CITY OF	29183C0241E	09-NOV-2001	02-07-029A	01
07	MO	O'FALLON, CITY OF	29183C0430E	28-NOV-2001	02-07-064A	01
07	MO	PACIFIC, CITY OF	2901340001C	21-SEP-2001	01-07-770A	02
07	MO	PACIFIC, CITY OF	2901340001C	03-OCT-2001	01-07-843A	02
07	MO	PECULIAR, CITY OF	2908780001A	29-AUG-2001	01-07-735A	02
07	MO	PETTIS COUNTY	2908230200B	15-AUG-2001	01-07-605A	01
07	MO	PETTIS COUNTY	2908230200B	19-OCT-2001	01-07-720A	01
07	MO	POPLAR BLUFF, CITY OF	2900470004C	08-AUG-2001	01-07-543A	02
07	MO	POPLAR BLUFF, CITY OF	2900470003C	24-AUG-2001	01-07-738A	02
07	MO	PRINCETON, CITY OF	29022501C	29-AUG-2001	01-07-461A	01
07	MO	ROLLA, CITY OF	2908240075B	20-NOV-2001	01-07-675P	06
07	MO	SCOTT COUNTY	2908370075B	02-NOV-2001	01-07-736A	02
07	MO	SIKESTON, CITY OF	2952700006C	03-AUG-2001	01-07-698A	02
07	MO	SIKESTON, CITY OF	2952700006C	07-SEP-2001	01-07-775A	02
07	MO	ST. CHARLES COUNTY	29183C0241E	07-SEP-2001	01-07-721A	02
07	MO	ST. CHARLES COUNTY	29183C0452E	12-OCT-2001	02-07-010A	02
07	MO	ST. CHARLES COUNTY	29183C0452E	24-OCT-2001	02-07-060X	02
07	MO	ST. CHARLES COUNTY	29183C0451E	26-NOV-2001	02-07-117A	02
07	MO	ST. CHARLES COUNTY	29183C0435E	21-DEC-2001	02-07-169A	01
07	MO	ST. CHARLES, CITY OF	29183C0267E	10-OCT-2001	01-07-840A	02
07	MO	ST. CHARLES, CITY OF	29183C0267E	24-OCT-2001	02-07-024A	02
07	MO	ST. CHARLES, CITY OF	29183C0267E	26-NOV-2001	02-07-070A	02
07	MO	ST. LOUIS COUNTY	29189C0054J	25-JUL-2001	01-07-420A	01
07	MO	ST. LOUIS COUNTY	29189C0138H	13-JUL-2001	01-07-513A	01
07	MO	ST. LOUIS COUNTY	29189C0278J	17-OCT-2001	01-07-531A	02
07	MO	ST. LOUIS COUNTY	29189C0279J	17-OCT-2001	01-07-531A	02
07	MO	ST. LOUIS COUNTY	29189C0276J	20-JUL-2001	01-07-591A	02
07	MO	ST. LOUIS COUNTY	29189C0315H	25-JUL-2001	01-07-620A	02
07	MO	ST. LOUIS COUNTY	29189C0152H	09-NOV-2001	01-07-648A	02
07	MO	ST. LOUIS COUNTY	29189C0410H	07-SEP-2001	01-07-669A	02
07	MO	ST. LOUIS COUNTY	29189C0405H	15-AUG-2001	01-07-688A	02
07	MO	ST. LOUIS COUNTY	29189C0320H	17-OCT-2001	01-07-724A	01
07	MO	ST. LOUIS COUNTY	29189C0278J	28-SEP-2001	01-07-787A	01
07	MO	ST. LOUIS COUNTY	29189C0405H	24-OCT-2001	02-07-031A	01
07	MO	ST. LOUIS COUNTY	29189C0066J	31-OCT-2001	02-07-039A	02
07	MO	ST. PETERS, CITY OF	29183C0244E	19-SEP-2001	01-07-520A	01
07	MO	ST. PETERS, CITY OF	29183C0244E	05-JUL-2001	01-07-525A	01
07	MO	ST. PETERS, CITY OF	29183C0242E	18-JUL-2001	01-07-529A	01
07	MO	ST. PETERS, CITY OF	29183C0242E	17-AUG-2001	01-07-677A	01
07	MO	ST. PETERS, CITY OF	29183C0262E	19-SEP-2001	01-07-687A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
07	MO	ST. PETERS, CITY OF	29183C0244E	19-OCT-2001	02-07-004A	01
07	MO	STODDARD COUNTY	2908450200B	24-OCT-2001	01-07-572A	02
07	MO	TROY, CITY OF	2906410002A	24-SEP-2001	01-07-201P	06
07	MO	VALLEY PARK, CITY OF	29189C0267H	03-OCT-2001	01-07-826A	02
07	MO	WARREN COUNTY	2904430075C	06-JUL-2001	01-07-559A	02
07	MO	WARREN COUNTY	2904430125B	17-AUG-2001	01-07-627A	02
07	MO	WARREN COUNTY	2904430075C	19-SEP-2001	01-07-801A	02
07	MO	WARREN COUNTY	2904430075C	26-NOV-2001	02-07-108A	02
07	MO	WEBB CITY, CITY OF	2901870001B	08-AUG-2001	01-07-674A	17
07	NE	BOONE COUNTY	31011C0450C	28-SEP-2001	01-07-582A	02
07	NE	BUFFALO COUNTY	3104190014B	19-SEP-2001	01-07-701A	02
07	NE	COLFAX COUNTY	3104260005B	26-NOV-2001	02-07-111A	02
07	NE	CRETE, CITY OF	3101860003C	09-NOV-2001	02-07-038A	02
07	NE	CROFTON, VILLAGE OF	3103610005B	03-OCT-2001	01-07-850A	02
07	NE	DODGE COUNTY	3100680020D	01-AUG-2001	01-07-519A	02
07	NE	DOUGLAS COUNTY	3100730025B	25-JUL-2001	01-07-555A	02
07	NE	DOUGLAS COUNTY	3100730125B	12-SEP-2001	01-07-670A	01
07	NE	DOUGLAS COUNTY	3100730125B	26-NOV-2001	02-07-100A	01
07	NE	DOUGLAS COUNTY	3100730125B	26-NOV-2001	02-07-115X	01
07	NE	FREMONT, CITY OF	3100690002B	05-DEC-2001	02-07-095A	01
07	NE	GRAND ISLAND, CITY OF	3101030020B	13-JUL-2001	01-07-594A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	01-AUG-2001	01-07-646A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	15-AUG-2001	01-07-672A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	22-AUG-2001	01-07-673A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	22-AUG-2001	01-07-705A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	24-AUG-2001	01-07-706A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	24-AUG-2001	01-07-707A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	07-SEP-2001	01-07-733A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	07-SEP-2001	01-07-734A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	19-SEP-2001	01-07-771A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	12-OCT-2001	01-07-772A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	21-SEP-2001	01-07-773A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	19-SEP-2001	01-07-774A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	14-NOV-2001	01-07-791A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	31-OCT-2001	01-07-823A	01
07	NE	GRAND ISLAND, CITY OF	3101030020B	03-OCT-2001	01-07-833A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	03-OCT-2001	01-07-846A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	03-OCT-2001	01-07-847A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	03-OCT-2001	01-07-848A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	19-OCT-2001	02-07-001A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	24-OCT-2001	02-07-002A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	07-DEC-2001	02-07-167A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	14-DEC-2001	02-07-188A	02
07	NE	HALL COUNTY	3101000100C	22-AUG-2001	01-07-704A	02
07	NE	HALL COUNTY	3101000125B	14-SEP-2001	01-07-753A	02
07	NE	HALL COUNTY	3101000100C	28-SEP-2001	01-07-799A	02
07	NE	HALL COUNTY	3101000100C	14-NOV-2001	02-07-075A	02
07	NE	HAMILTON COUNTY	3104410025A	10-AUG-2001	01-07-691A	02
07	NE	HAMILTON COUNTY	3104410025A	03-OCT-2001	01-07-755A	02
07	NE	HAMILTON COUNTY	3104410125A	05-OCT-2001	01-07-790A	02
07	NE	HAMILTON COUNTY	3104410050A	21-SEP-2001	01-07-793A	02
07	NE	HAMILTON COUNTY	3104410025A	12-SEP-2001	01-07-804A	02
07	NE	HAMILTON COUNTY	3104410025A	05-OCT-2001	01-07-821A	02
07	NE	HAMILTON COUNTY	3104410025A	31-OCT-2001	02-07-035A	02
07	NE	HAMILTON COUNTY	3104410025A	19-DEC-2001	02-07-122A	02
07	NE	HASTINGS, CITY OF	3100010010B	18-JUL-2001	01-07-552A	02
07	NE	HASTINGS, CITY OF	3100010010B	02-NOV-2001	01-07-809A	02
07	NE	HOMER, VILLAGE OF	3102410002C	26-OCT-2001	02-07-032A	02
07	NE	LANCASTER COUNTY	3101340030B	26-OCT-2001	02-07-012A	02
07	NE	LINCOLN, CITY OF	3152730045C	01-AUG-2001	01-07-528A	01
07	NE	LINCOLN, CITY OF	3152730037D	10-AUG-2001	01-07-585A	02
07	NE	LINCOLN, CITY OF	31109C0310E	14-NOV-2001	01-07-665A	01
07	NE	LINCOLN, CITY OF	31109C0430E	30-NOV-2001	01-07-680A	01
07	NE	LINCOLN, CITY OF	31109C0305E	28-DEC-2001	02-07-163A	01
07	NE	LINCOLN, CITY OF	31109C0195E	14-DEC-2001	02-07-189A	01
07	NE	LINCOLN, CITY OF	31109C0310E	14-DEC-2001	02-07-189A	01
07	NE	LINCOLN, CITY OF	31109C0170E	22-SEP-2001	02-07-289V	19
07	NE	LINCOLN, CITY OF	31109C0285E	22-SEP-2001	02-07-289V	19
07	NE	LINCOLN, CITY OF	31109C0305E	22-SEP-2001	02-07-289V	19
07	NE	LINCOLN, CITY OF	31109C0310E	22-SEP-2001	02-07-289V	19
07	NE	LINCOLN, CITY OF	31109C0315E	22-SEP-2001	02-07-289V	19
07	NE	LINCOLN, CITY OF	31109C0317E	22-SEP-2001	02-07-289V	19
07	NE	LINCOLN, CITY OF	31109C0319E	22-SEP-2001	02-07-289V	19

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07	NE	MERRICK COUNTY	3104570150A	13-JUL-2001	01-07-577A	02
07	NE	MERRICK COUNTY	3104570175B	01-AUG-2001	01-07-663A	02
07	NE	MERRICK COUNTY	3104570200B	01-AUG-2001	01-07-679A	02
07	NE	MERRICK COUNTY	3104570150A	01-AUG-2001	01-07-683A	02
07	NE	MERRICK COUNTY	3104570150A	01-AUG-2001	01-07-686A	02
07	NE	MERRICK COUNTY	3104570200B	01-AUG-2001	01-07-692A	02
07	NE	MERRICK COUNTY	3104570125B	08-AUG-2001	01-07-711A	02
07	NE	MERRICK COUNTY	3104570125B	21-SEP-2001	01-07-818A	02
07	NE	MERRICK COUNTY	3104570125B	21-SEP-2001	01-07-832A	02
07	NE	MERRICK COUNTY	3104570175B	07-DEC-2001	02-07-157A	02
07	NE	ODELL,VILLAGE OF	31009401B	18-OCT-2001	01-07-849A	01
07	NE	OMAHA, CITY OF	3152740030F	03-OCT-2001	01-07-601A	02
07	NE	OMAHA, CITY OF	3152740050F	07-SEP-2001	01-07-625A	02
07	NE	OMAHA, CITY OF	3152740045G	08-AUG-2001	01-07-702A	02
07	NE	OMAHA, CITY OF	3152740025F	12-SEP-2001	01-07-754A	17
07	NE	OMAHA, CITY OF	3152740025F	10-OCT-2001	01-07-837A	02
07	NE	OMAHA, CITY OF	3152740050F	17-OCT-2001	01-07-855A	01
07	NE	OMAHA, CITY OF	3152740045G	24-OCT-2001	02-07-033A	02
07	NE	OMAHA, CITY OF	3152740045G	07-DEC-2001	02-07-134A	02
07	NE	OTOE COUNTY	3104620050A	05-JUL-2001	01-07-376A	02
07	NE	SARPY COUNTY	31153C0070F	18-JUL-2001	01-07-607A	02
07	NE	SAUNDERS COUNTY	3101950020B	07-DEC-2001	02-07-156A	02
07	NE	SCHUYLER, CITY OF	3100460005B	01-AUG-2001	01-07-493A	02
07	NE	SCHUYLER, CITY OF	3100460010B	06-JUL-2001	01-07-579A	02
07	NE	SCHUYLER, CITY OF	3100460010B	20-JUL-2001	01-07-619A	02
07	NE	SCHUYLER, CITY OF	3100460005B	01-AUG-2001	01-07-636A	02
07	NE	SCHUYLER, CITY OF	3100460010B	17-AUG-2001	01-07-637A	02
07	NE	SCHUYLER, CITY OF	3100460005B	08-AUG-2001	01-07-651A	02
07	NE	SCHUYLER, CITY OF	3100460005B	31-OCT-2001	01-07-748A	01
07	NE	SCHUYLER, CITY OF	3100460005B	28-SEP-2001	01-07-828A	02
07	NE	SCHUYLER, CITY OF	3100460005B	10-OCT-2001	01-07-841A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-046A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-047A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-048A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-051A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-052A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-053A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-054A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-055A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-056A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-057A	02
07	NE	SCHUYLER, CITY OF	3100460005B	28-NOV-2001	02-07-058A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-062A	02
07	NE	SCHUYLER, CITY OF	3100460005B	14-NOV-2001	02-07-083A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-084A	02
07	NE	SCHUYLER, CITY OF	3100460005B	09-NOV-2001	02-07-087A	02
07	NE	SCHUYLER, CITY OF	3100460005B	14-NOV-2001	02-07-104A	02
07	NE	SCHUYLER, CITY OF	3100460005B	05-DEC-2001	02-07-164A	02
07	NE	WEEPING WATER, CITY OF	3100360001B	28-SEP-2001	01-07-829A	02
07	NE	YORK COUNTY	3104860006B	05-JUL-2001	01-07-470A	02
07	NE	YORK COUNTY	3104860006B	26-NOV-2001	01-07-744A	02
08	CO	ADAMS COUNTY	08001C0030G	25-SEP-2001	01-08-353P	06
08	CO	ARCHULETA COUNTY	0802730400B	12-SEP-2001	01-08-315A	02
08	CO	ARCHULETA COUNTY	0802730425B	12-SEP-2001	01-08-315A	02
08	CO	ARVADA, CITY OF	0850720001B	05-DEC-2001	01-08-059P	05
08	CO	ARVADA, CITY OF	0850720002B	05-DEC-2001	01-08-059P	05
08	CO	ARVADA, CITY OF	0850720002B	03-DEC-2001	02-08-015A	02
08	CO	BOULDER COUNTY	08013C0435F	17-AUG-2001	01-08-331A	02
08	CO	BOULDER COUNTY	08013C0395F	21-SEP-2001	01-08-383A	02
08	CO	BOULDER, CITY OF	08013C0395F	26-OCT-2001	01-08-186A	02
08	CO	BOULDER, CITY OF	08013C0395F	28-NOV-2001	01-08-368A	01
08	CO	BROOMFIELD, CITY OF	0850730020E	04-SEP-2001	00-08-326P	05
08	CO	COLORADO SPRINGS, CITY OF	08041C0752F	05-JUL-2001	01-08-039P	06
08	CO	COLORADO SPRINGS, CITY OF	08041C0736F	24-AUG-2001	01-08-321A	02
08	CO	COLUMBINE VALLEY, TOWN OF	08005C0435J	18-DEC-2001	01-08-417P	06
08	CO	COLUMBINE VALLEY, TOWN OF	08005C0435J	18-DEC-2001	02-08-040P	06
08	CO	CRESTED BUTTE, TOWN OF	0800790001B	24-OCT-2001	01-08-415A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460008C	05-JUL-2001	01-08-220P	06
08	CO	DENVER, CITY AND COUNTY OF	0800460024E	12-JUL-2001	01-08-221A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460025E	12-JUL-2001	01-08-221A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460013C	20-SEP-2001	01-08-328A	02
08	CO	EAGLE COUNTY	0800510240C	06-JUL-2001	01-08-228A	02
08	CO	EL PASO COUNTY	08041C0285F	23-SEP-2001	00-08-417P	06

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08	CO	FORT COLLINS, CITY OF	0801020011C	23-AUG-2001	00-08-365P	05
08	CO	FORT COLLINS, CITY OF	0801020012C	23-AUG-2001	00-08-365P	05
08	CO	FORT COLLINS, CITY OF	0801020004C	29-NOV-2001	01-08-349P	05
08	CO	FORT COLLINS, CITY OF	0801020004C	03-OCT-2001	01-08-411P	06
08	CO	FORT COLLINS, CITY OF	0801020004C	31-DEC-2001	02-08-003A	01
08	CO	FREDERICK, TOWN OF	0802660850C	24-AUG-2001	00-08-398P	06
08	CO	FREDERICK, TOWN OF	0802660861C	24-AUG-2001	00-08-398P	06
08	CO	FREDERICK, TOWN OF	0802660863C	24-AUG-2001	00-08-398P	06
08	CO	GLENWOOD SPRINGS, CITY OF	0800711432C	12-JUL-2001	01-08-290A	02
08	CO	GOLDEN, CITY OF	0800900003A	03-DEC-2001	01-08-356A	02
08	CO	GUNNISON COUNTY	0800780625B	03-OCT-2001	01-08-334A	02
08	CO	GUNNISON COUNTY	0800780625B	30-AUG-2001	01-08-341A	02
08	CO	GUNNISON COUNTY	0800780755B	10-OCT-2001	01-08-364A	02
08	CO	GUNNISON COUNTY	0800780615B	19-DEC-2001	02-08-026A	02
08	CO	JEFFERSON COUNTY	0800870160B	14-SEP-2001	01-08-059P	06
08	CO	JEFFERSON COUNTY	0800870380C	20-NOV-2001	01-08-264A	01
08	CO	JEFFERSON COUNTY	0800870345C	10-OCT-2001	01-08-327A	02
08	CO	JEFFERSON COUNTY	0800870360B	03-DEC-2001	02-08-036A	02
08	CO	JEFFERSON COUNTY	0800870360B	19-DEC-2001	02-08-069A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	25-JUL-2001	00-08-331P	05
08	CO	LAKEWOOD, CITY OF	0850750005C	02-JUL-2001	01-08-252A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	20-SEP-2001	01-08-390A	02
08	CO	LAKEWOOD, CITY OF	0850750010C	20-SEP-2001	01-08-390A	02
08	CO	LARIMER COUNTY	0801010193E	06-JUL-2001	01-08-184P	06
08	CO	LARIMER COUNTY	0801010194E	06-JUL-2001	01-08-184P	06
08	CO	LARIMER COUNTY	0801010179E	02-JUL-2001	01-08-297A	02
08	CO	LITTLETON, CITY OF	0800170005D	18-DEC-2001	01-08-417P	06
08	CO	LITTLETON, CITY OF	0800170010D	18-DEC-2001	01-08-417P	06
08	CO	LITTLETON, CITY OF	0800170010D	21-DEC-2001	02-08-020A	02
08	CO	LONGMONT, CITY OF	08013C0286F	11-JUL-2001	01-08-257A	02
08	CO	LONGMONT, CITY OF	08013C0288F	27-JUL-2001	01-08-267A	02
08	CO	LONGMONT, CITY OF	08013C0286F	05-DEC-2001	02-08-009A	02
08	CO	LONGMONT, CITY OF	08013C0287F	05-DEC-2001	02-08-009A	02
08	CO	LYONS, TOWN OF	08013C0232F	10-AUG-2001	01-08-333A	02
08	CO	MANCOS, TOWN OF	0801230001B	02-JUL-2001	01-08-253A	02
08	CO	PITKIN COUNTY	08097C0162C	12-JUL-2001	01-08-170A	02
08	CO	PITKIN COUNTY	08097C0204C	30-AUG-2001	01-08-338A	02
08	CO	PUEBLO, CITY OF	0850770005C	31-DEC-2001	01-08-389A	17
08	CO	STEAMBOAT SPRINGS, CITY OF	0801590003C	11-JUL-2001	01-08-285A	01
08	CO	SUMMIT COUNTY	0802900107C	10-AUG-2001	99-08-119V	19
08	CO	SUMMIT COUNTY	0802900109C	10-AUG-2001	99-08-119V	19
08	CO	SUMMIT COUNTY	0802900192D	10-AUG-2001	99-08-119V	19
08	CO	THORNTON, CITY OF	08001C0030G	25-SEP-2001	01-08-353P	06
08	CO	WELD COUNTY	0802660850C	24-AUG-2001	00-08-398P	06
08	CO	WELD COUNTY	0802660861C	24-AUG-2001	00-08-398P	06
08	CO	WELD COUNTY	0802660863C	24-AUG-2001	00-08-398P	06
08	CO	WELD COUNTY	0802660605D	10-OCT-2001	01-08-261A	01
08	CO	WELD COUNTY	0802660850C	01-AUG-2001	01-08-312A	02
08	CO	WELD COUNTY	0802660725C	24-OCT-2001	01-08-401A	02
08	CO	WELD COUNTY	0802660900C	14-DEC-2001	02-08-065A	02
08	CO	WESTMINSTER, CITY OF	0800080004B	20-SEP-2001	99-08-419P	05
08	MT	CARBON COUNTY	3001390525B	12-SEP-2001	01-08-216A	02
08	MT	DAWSON COUNTY	3001400011B	27-JUL-2001	01-08-236A	02
08	MT	DAWSON COUNTY	3001400011B	18-JUL-2001	01-08-294A	02
08	MT	DAWSON COUNTY	3001400012B	25-JUL-2001	01-08-313A	02
08	MT	FLATHEAD COUNTY	3000232285D	02-JUL-2001	01-08-256A	02
08	MT	FLATHEAD COUNTY	3000231840E	15-NOV-2001	01-08-369A	01
08	MT	FLATHEAD COUNTY	3000231435C	03-OCT-2001	01-08-398A	17
08	MT	GALLATIN COUNTY	3000270310B	06-JUL-2001	01-08-269A	02
08	MT	GALLATIN COUNTY	3000270310B	31-OCT-2001	02-08-017A	02
08	MT	JEFFERSON COUNTY	3001540550B	10-SEP-2001	01-08-310A	02
08	MT	LEWIS AND CLARK COUNTY	3000381534C	18-JUL-2001	01-08-270A	02
08	MT	LINCOLN COUNTY	3001570650B	11-JUL-2001	01-08-188A	02
08	MT	LINCOLN COUNTY	3001570650B	24-OCT-2001	01-08-223A	02
08	MT	LINCOLN COUNTY	3001570620B	12-OCT-2001	02-08-007A	02
08	MT	LINCOLN COUNTY	3001570755B	21-DEC-2001	02-08-072A	02
08	MT	MISSOULA, CITY OF	30063C1460D	26-SEP-2001	01-08-365A	01
08	MT	MISSOULA, CITY OF	30063C1195D	10-SEP-2001	01-08-372A	02
08	MT	PARK COUNTY	3001600014B	10-SEP-2001	01-08-300A	02
08	MT	PARK COUNTY	3001600020B	15-AUG-2001	01-08-305A	02
08	MT	PARK COUNTY	3001600011B	30-AUG-2001	01-08-347A	02
08	MT	RAVALLI COUNTY	30081C0110C	25-JUL-2001	01-08-282A	02
08	MT	ROUNDUP, CITY OF	3000500001B	06-JUL-2001	01-08-271A	02

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08	MT	ROUNDUP, CITY OF	3000500001B	06-JUL-2001	01-08-273A	02
08	MT	SHELBY, CITY OF	300125—01A	11-DEC-2001	02-08-048A	02
08	MT	SUPERIOR, TOWN OF	3001280005A	17-OCT-2001	01-08-409A	02
08	MT	THREE FORKS, CITY OF	3000270170B	10-SEP-2001	01-08-283A	01
08	MT	THREE FORKS, CITY OF	3000290001B	24-OCT-2001	01-08-378A	01
08	MT	THREE FORKS, CITY OF	3000290001B	24-OCT-2001	01-08-381A	01
08	MT	YELLOWSTONE COUNTY	3001421020A	24-OCT-2001	01-08-405A	02
08	MT	YELLOWSTONE COUNTY	3001420885A	02-NOV-2001	02-08-018A	02
08	ND	BURLEIGH COUNTY	3800170570A	24-OCT-2001	01-08-284A	01
08	ND	FARGO, CITY OF	3853640035E	02-AUG-2001	01-08-200P	06
08	ND	GRAND FORKS COUNTY	3800330016B	18-JUL-2001	01-08-181A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	15-AUG-2001	01-08-344A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	21-DEC-2001	02-08-029A	02
08	ND	HARWOOD, CITY OF	3803380001B	24-OCT-2001	01-08-299A	01
08	ND	HARWOOD, CITY OF	3803380001B	02-NOV-2001	02-08-031X	01
08	ND	MINOT, CITY OF	38101C0776D	06-JUL-2001	01-08-263A	02
08	ND	NORMANNA, TOWNSHIP OF	3802640010B	24-OCT-2001	02-08-006A	02
08	ND	RAMSEY COUNTY	38071C0325D	25-JUL-2001	01-08-276A	02
08	ND	STANLEY, TOWNSHIP OF	3802580005B	03-OCT-2001	01-08-394A	02
08	ND	WALSH COUNTY	3801350008B	10-AUG-2001	01-08-320A	02
08	ND	WARD COUNTY	38101C1045D	12-SEP-2001	01-08-366A	02
08	SD	ABERDEEN, CITY OF	46013C0265C	21-SEP-2001	01-08-385A	01
08	SD	ABERDEEN, CITY OF	46013C0330C	10-OCT-2001	02-08-008A	01
08	SD	BROWN COUNTY	46013C0310C	07-NOV-2001	02-08-019A	02
08	SD	GROTON, CITY OF	46013C0352C	23-AUG-2001	01-08-295A	01
08	SD	GROTON, CITY OF	46013C0352C	02-NOV-2001	02-08-014A	01
08	SD	KEYSTONE, TOWN OF	4602310001B	18-JUL-2001	01-08-204A	17
08	SD	LAWRENCE COUNTY	4600940125B	20-NOV-2001	01-08-402A	02
08	SD	MEADE COUNTY	4600540625A	26-SEP-2001	01-08-324A	01
08	SD	NEW UNDERWOOD, CITY OF	4600920001C	14-SEP-2001	01-08-376A	02
08	SD	NEW UNDERWOOD, CITY OF	4600920001C	09-NOV-2001	02-08-004X	02
08	SD	NEW UNDERWOOD, CITY OF	4600920001C	14-DEC-2001	02-08-085P	05
08	SD	RAPID CITY, CITY OF	4654200008F	28-SEP-2001	01-08-332A	02
08	SD	RAPID CITY, CITY OF	4654200003F	26-SEP-2001	01-08-367A	17
08	SD	REDFIELD, CITY OF	4600810005B	17-AUG-2001	01-08-346A	02
08	SD	SPEARFISH, CITY OF	460046000D	18-JUL-2001	01-08-246A	17
08	SD	SPEARFISH, CITY OF	4600460005D	12-JUL-2001	01-08-262A	17
08	SD	SPEARFISH, CITY OF	4600460005D	25-JUL-2001	01-08-318A	17
08	SD	SPEARFISH, CITY OF	4600460004D	24-OCT-2001	02-08-002A	02
08	SD	UNION COUNTY	460242—40D	14-SEP-2001	01-08-399A	01
08	SD	UNION COUNTY	4602420040D	19-NOV-2001	02-08-012A	02
08	SD	WATERTOWN, CITY OF	4600160010B	31-OCT-2001	01-08-377A	02
08	SD	WATERTOWN, CITY OF	4600160010B	15-NOV-2001	02-08-028A	02
08	SD	YANKTON COUNTY	4600880006C	02-JUL-2001	01-08-265A	02
08	SD	YANKTON COUNTY	4600880006C	06-JUL-2001	01-08-268A	02
08	UT	ALPINE, CITY OF	4902280005A	06-JUL-2001	01-08-241A	02
08	UT	ALPINE, CITY OF	4902280005A	30-AUG-2001	01-08-345A	02
08	UT	ALPINE, CITY OF	4902280005A	10-OCT-2001	01-08-392A	02
08	UT	BOUNTIFUL, CITY OF	4900390005C	23-AUG-2001	01-08-348A	02
08	UT	DAVIS COUNTY	4900380160B	14-DEC-2001	01-08-304P	06
08	UT	GARFIELD COUNTY	4900650450B	25-JUL-2001	01-08-298A	02
08	UT	KAYSVILLE, CITY OF	4900460002B	21-DEC-2001	01-08-414A	02
08	UT	MURRAY, CITY OF	49035C0292E	24-SEP-2001	98-08-057V	19
08	UT	MURRAY, CITY OF	49035C0310E	24-SEP-2001	98-08-057V	19
08	UT	MURRAY, CITY OF	49035C0313E	24-SEP-2001	98-08-057V	19
08	UT	MURRAY, CITY OF	49035C0350E	24-SEP-2001	98-08-057V	19
08	UT	MURRAY, CITY OF	49035C0450E	24-SEP-2001	98-08-057V	19
08	UT	OAKLEY, TOWN OF	4901380001B	11-DEC-2001	02-08-047A	02
08	UT	OAKLEY, TOWN OF	4901380001B	11-DEC-2001	02-08-049A	02
08	UT	OGDEN, CITY OF	4901890002B	25-JUL-2001	01-08-243A	02
08	UT	OGDEN, CITY OF	4901890002B	01-AUG-2001	01-08-291P	06
08	UT	RIVERTON, CITY OF	49035C0440E	24-SEP-2001	02-08-077V	19
08	UT	RIVERTON, CITY OF	49035C0440E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE CITY, CITY OF	49035C0143E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE CITY, CITY OF	49035C0282E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE CITY, CITY OF	49035C0301E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE CITY, CITY OF	49035C0302E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE COUNTY	49035C0275E	03-OCT-2001	01-08-254A	02
08	UT	SALT LAKE COUNTY	49035C0303E	15-AUG-2001	01-08-326A	02
08	UT	SALT LAKE COUNTY	49035C0440E	24-SEP-2001	02-08-077V	19
08	UT	SALT LAKE COUNTY	49035C0303E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE COUNTY	49035C0311E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE COUNTY	49035C0318E	24-SEP-2001	98-08-057V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
08	UT	SALT LAKE COUNTY	49035C0350E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE COUNTY	49035C0420E	24-SEP-2001	98-08-057V	19
08	UT	SALT LAKE COUNTY	49035C0458E	24-SEP-2001	98-08-057V	19
08	UT	SANDY CITY, CITY OF	4901060012C	21-AUG-2001	01-08-005P	05
08	UT	SANDY CITY, CITY OF	49035C0441E	24-SEP-2001	98-08-057V	19
08	UT	SANDY CITY, CITY OF	49035C0462E	24-SEP-2001	98-08-057V	19
08	UT	SANDY CITY, CITY OF	49035C0466E	24-SEP-2001	98-08-057V	19
08	UT	SANTA CLARA, CITY OF	4901780005B	15-NOV-2001	99-08-278P	05
08	UT	SARATOGA SPRINGS, CITY OF	4955170115A	19-OCT-2001	01-08-393A	01
08	UT	SARATOGA SPRINGS, CITY OF	4955170120A	19-OCT-2001	01-08-393A	01
08	UT	SOUTH JORDAN, CITY OF	49035C0440E	24-SEP-2001	02-08-077V	19
08	UT	SOUTH JORDAN, CITY OF	49035C0169E	24-SEP-2001	98-08-057V	19
08	UT	SOUTH JORDAN, CITY OF	49035C0440E	24-SEP-2001	98-08-057V	19
08	UT	SOUTH JORDAN, CITY OF	49035C0441E	24-SEP-2001	98-08-057V	19
08	UT	SOUTH SALT LAKE, CITY OF	49035C0284E	24-SEP-2001	98-08-057V	19
08	UT	ST. GEORGE, CITY OF	4901770011D	15-NOV-2001	99-08-278P	05
08	UT	ST. GEORGE, CITY OF	4901770013D	15-NOV-2001	99-08-278P	05
08	UT	SUMMIT COUNTY	4901340550B	11-DEC-2001	02-08-046A	02
08	UT	TAYLORSVILLE, CITY OF	49035C0308E	24-SEP-2001	98-08-057V	19
08	UT	WASHINGTON,CITY OF	4901820015C	10-SEP-2001	01-08-355A	02
08	UT	WELLSVILLE, CITY OF	4900310001B	26-OCT-2001	01-08-403A	02
08	UT	WEST JORDAN, CITY OF	49035C0431E	24-SEP-2001	98-08-057V	19
08	UT	WEST VALLEY CITY, CITY OF	49035C0275E	24-SEP-2001	98-08-057V	19
08	WY	CASPER, CITY OF	5600370015C	17-AUG-2001	01-08-343A	02
08	WY	CASPER, CITY OF	5600370015C	17-AUG-2001	01-08-351A	02
08	WY	CASPER, CITY OF	5600370015C	10-OCT-2001	02-08-001A	02
08	WY	CASPER, CITY OF	5600370015C	31-DEC-2001	02-08-071A	02
08	WY	LARAMIE COUNTY	5600290375D	21-DEC-2001	02-08-067A	02
09	AZ	APACHE JUNCTION, CITY OF	0401200003C	22-AUG-2001	01-09-864P	06
09	AZ	AVONDALE, CITY OF	04013C2080H	24-JUL-2001	01-09-018P	05
09	AZ	AVONDALE, CITY OF	04013C2080H	15-NOV-2001	01-09-1071A	01
09	AZ	AVONDALE, CITY OF	04013C2080H	21-SEP-2001	01-09-1117A	01
09	AZ	AVONDALE, CITY OF	04013C2080H	23-AUG-2001	01-09-497P	05
09	AZ	AVONDALE, CITY OF	04013C2080H	31-DEC-2001	02-09-086A	01
09	AZ	AVONDALE, CITY OF	04013C2080H	31-DEC-2001	02-09-191A	01
09	AZ	BUCKEYE, TOWN OF	04013C2055F	09-OCT-2001	01-09-453P	05
09	AZ	BULLHEAD CITY, CITY OF	0401250020F	11-JUL-2001	01-09-798A	02
09	AZ	BULLHEAD CITY, CITY OF	0401250020F	10-OCT-2001	02-09-020A	01
09	AZ	CASA GRANDE, CITY OF	0400800010C	21-DEC-2001	02-09-147A	02
09	AZ	CHANDLER, CITY OF	04013C2670G	20-SEP-2001	01-09-1142A	02
09	AZ	CHANDLER, CITY OF	04013C2655F	10-OCT-2001	01-09-1203A	01
09	AZ	CHANDLER, CITY OF	04013C2630F	20-JUL-2001	98-09-558V	19
09	AZ	CHANDLER, CITY OF	04013C2640F	20-JUL-2001	98-09-558V	19
09	AZ	CHANDLER, CITY OF	04013C2655F	20-JUL-2001	98-09-558V	19
09	AZ	CHANDLER, CITY OF	04013C2670G	20-JUL-2001	98-09-558V	19
09	AZ	CHANDLER, CITY OF	04013C3030G	20-JUL-2001	98-09-558V	19
09	AZ	CHANDLER, CITY OF	04013C3035G	20-JUL-2001	98-09-558V	19
09	AZ	COCHISE COUNTY	0400120542B	21-SEP-2001	00-09-926P	06
09	AZ	COCHISE COUNTY	0400120544B	21-SEP-2001	00-09-926P	06
09	AZ	COCHISE COUNTY	0400120561B	21-SEP-2001	00-09-926P	06
09	AZ	COCHISE COUNTY	0400120563B	21-SEP-2001	00-09-926P	06
09	AZ	COCHISE COUNTY	0400121090C	31-JUL-2001	01-09-019P	05
09	AZ	COCHISE COUNTY	0400121234C	31-JUL-2001	01-09-019P	05
09	AZ	COCHISE COUNTY	0400121253D	31-JUL-2001	01-09-019P	05
09	AZ	COCHISE COUNTY	0400121090C	19-NOV-2001	01-09-841P	06
09	AZ	EAGAR, TOWN OF	0401030004C	06-JUL-2001	01-09-803A	02
09	AZ	EL MIRAGE, CITY OF	04013C1605H	27-JUL-2001	01-09-756A	01
09	AZ	EL MIRAGE, CITY OF	04013C1605H	20-JUL-2001	98-09-558V	19
09	AZ	EL MIRAGE, CITY OF	04013C1610H	20-JUL-2001	98-09-558V	19
09	AZ	GILBERT, TOWN OF	04013C2680G	31-AUG-2001	01-09-1084A	01
09	AZ	GILBERT, TOWN OF	04013C2660F	03-OCT-2001	01-09-1102A	01
09	AZ	GILBERT, TOWN OF	04013C2680G	20-JUL-2001	01-09-1192X	19
09	AZ	GILBERT, TOWN OF	04013C2660F	03-AUG-2001	01-09-918A	01
09	AZ	GILBERT, TOWN OF	04013C2660F	07-NOV-2001	02-09-052A	02
09	AZ	GILBERT, TOWN OF	04013C2190F	20-JUL-2001	98-09-558V	19
09	AZ	GILBERT, TOWN OF	04013C2215G	20-JUL-2001	98-09-558V	19
09	AZ	GILBERT, TOWN OF	04013C2655F	20-JUL-2001	98-09-558V	19
09	AZ	GILBERT, TOWN OF	04013C2660F	20-JUL-2001	98-09-558V	19
09	AZ	GILBERT, TOWN OF	04013C2680G	20-JUL-2001	98-09-558V	19
09	AZ	GLENDALE, CITY OF	04013C1190G	20-JUL-2001	98-09-558V	19
09	AZ	GLENDALE, CITY OF	04013C1195E	20-JUL-2001	98-09-558V	19
09	AZ	GLENDALE, CITY OF	04013C1635F	20-JUL-2001	98-09-558V	19
09	AZ	GLENDALE, CITY OF	04013C1640E	20-JUL-2001	98-09-558V	19

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09	AZ	GLENDALE, CITY OF	04013C1645F	20-JUL-2001	98-09-558V	19
09	AZ	GOODYEAR, CITY OF	04013C2080H	23-AUG-2001	01-09-497P	05
09	AZ	GOODYEAR, CITY OF	04013C2080H	20-JUL-2001	98-09-558V	19
09	AZ	GOODYEAR, CITY OF	04013C2555E	20-JUL-2001	98-09-558V	19
09	AZ	LITCHFIELD PARK, CITY OF	04013C2080H	10-SEP-2001	01-09-1076A	02
09	AZ	LITCHFIELD PARK, CITY OF	04013C2080H	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0975F	20-JUL-2001	00-09-985P	06
09	AZ	MARICOPA COUNTY	04013C1425F	20-JUL-2001	00-09-985P	06
09	AZ	MARICOPA COUNTY	04013C0390E	05-JUL-2001	01-09-082P	05
09	AZ	MARICOPA COUNTY	04013C0395F	05-JUL-2001	01-09-082P	05
09	AZ	MARICOPA COUNTY	04013C0975F	30-NOV-2001	01-09-1164X	06
09	AZ	MARICOPA COUNTY	04013C1425F	30-NOV-2001	01-09-1164X	06
09	AZ	MARICOPA COUNTY	04013C0210E	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0220E	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0230F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0235F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0240E	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0245E	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0255G	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0260E	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0265F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0270F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0300D	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0660F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0675F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C0680F	15-OCT-2001	01-09-184P	06
09	AZ	MARICOPA COUNTY	04013C2055F	09-OCT-2001	01-09-453P	05
09	AZ	MARICOPA COUNTY	04013C3035G	12-OCT-2001	02-09-009A	02
09	AZ	MARICOPA COUNTY	04013C0255G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0395G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0780G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0785H	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0790F	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0795G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C0806H	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C1280F	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C1285F	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C1300F	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C1585G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C2045G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C2090G	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C2160E	20-JUL-2001	98-09-558V	19
09	AZ	MARICOPA COUNTY	04013C2205F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2195F	20-JUL-2001	01-09-1192X	19
09	AZ	MESA, CITY OF	04013C2195F	24-OCT-2001	02-09-028A	01
09	AZ	MESA, CITY OF	04013C2170F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2180F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2185F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2190F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2195F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2205F	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2215G	20-JUL-2001	98-09-558V	19
09	AZ	MESA, CITY OF	04013C2635G	20-JUL-2001	98-09-558V	19
09	AZ	NAVAJO COUNTY	0400661807B	11-JUL-2001	01-09-610A	01
09	AZ	PARADISE VALLEY, TOWN OF	04013C1690F	20-JUL-2001	98-09-558V	19
09	AZ	PEORIA, CITY OF	04013C1170G	10-DEC-2001	01-09-1111P	06
09	AZ	PEORIA, CITY OF	04013C1190G	24-OCT-2001	02-09-008A	02
09	AZ	PEORIA, CITY OF	04013C1170G	20-JUL-2001	98-09-558V	19
09	AZ	PEORIA, CITY OF	04013C1630G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C0770E	10-SEP-2001	01-09-1003P	05
09	AZ	PHOENIX, CITY OF	04013C0780G	10-SEP-2001	01-09-1003P	05
09	AZ	PHOENIX, CITY OF	04013C0790F	10-SEP-2001	01-09-1003P	05
09	AZ	PHOENIX, CITY OF	04013C1205F	10-SEP-2001	01-09-1003P	05
09	AZ	PHOENIX, CITY OF	04013C1230G	24-AUG-2001	01-09-1065A	01
09	AZ	PHOENIX, CITY OF	04013C1690F	21-SEP-2001	01-09-1097A	02
09	AZ	PHOENIX, CITY OF	04013C1195E	03-OCT-2001	01-09-1156A	01
09	AZ	PHOENIX, CITY OF	04013C1215J	03-OCT-2001	01-09-1156A	01
09	AZ	PHOENIX, CITY OF	04013C2130F	26-SEP-2001	01-09-1169A	02
09	AZ	PHOENIX, CITY OF	04013C1210G	20-JUL-2001	01-09-1192X	19
09	AZ	PHOENIX, CITY OF	04013C1215J	20-JUL-2001	01-09-1192X	19
09	AZ	PHOENIX, CITY OF	04013C1220H	20-JUL-2001	01-09-1192X	19
09	AZ	PHOENIX, CITY OF	04013C1655J	20-JUL-2001	01-09-1192X	19
09	AZ	PHOENIX, CITY OF	04013C2130F	20-JUL-2001	01-09-1192X	19

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09	AZ	PHOENIX, CITY OF	04013C2155F	20-JUL-2001	01-09-1192X	19
09	AZ	PHOENIX, CITY OF	04013C2640F	20-JUL-2001	01-09-1192X	19
09	AZ	PHOENIX, CITY OF	04013C1670F	15-OCT-2001	01-09-285P	05
09	AZ	PHOENIX, CITY OF	04013C1215J	12-DEC-2001	01-09-526P	05
09	AZ	PHOENIX, CITY OF	04013C1655J	12-DEC-2001	01-09-526P	05
09	AZ	PHOENIX, CITY OF	04013C2130F	03-OCT-2001	01-09-818A	02
09	AZ	PHOENIX, CITY OF	04013C2130F	26-SEP-2001	01-09-819A	02
09	AZ	PHOENIX, CITY OF	04013C2145G	19-NOV-2001	01-09-881A	01
09	AZ	PHOENIX, CITY OF	04013C1195E	12-SEP-2001	01-09-998A	01
09	AZ	PHOENIX, CITY OF	04013C1195E	03-DEC-2001	02-09-049A	01
09	AZ	PHOENIX, CITY OF	04013C2135E	09-NOV-2001	02-09-078A	02
09	AZ	PHOENIX, CITY OF	04013C2640F	15-NOV-2001	02-09-092A	01
09	AZ	PHOENIX, CITY OF	04013C1185G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1195E	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1210G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1215J	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1220H	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1230G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1615J	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1620G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1655J	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1660G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1665H	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1670F	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1680G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C1690F	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2105E	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2110E	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2120F	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2130F	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2135E	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2145G	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2155F	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2605E	20-JUL-2001	98-09-558V	19
09	AZ	PHOENIX, CITY OF	04013C2610E	20-JUL-2001	98-09-558V	19
09	AZ	PIMA COUNTY	04019C1636K	20-SEP-2001	01-09-1077A	02
09	AZ	PIMA COUNTY	04019C2200K	07-AUG-2001	01-09-430P	05
09	AZ	PIMA COUNTY	04019C2225K	07-AUG-2001	01-09-430P	05
09	AZ	PIMA COUNTY	04019C1690K	02-JUL-2001	01-09-782A	02
09	AZ	PIMA COUNTY	04019C1637K	17-AUG-2001	01-09-836A	02
09	AZ	PIMA COUNTY	04019C1636K	24-OCT-2001	01-09-993A	02
09	AZ	PIMA COUNTY	04019C1665K	07-NOV-2001	02-09-067A	02
09	AZ	PIMA COUNTY	04019C2280K	19-DEC-2001	02-09-189A	02
09	AZ	QUEEN CREEK, TOWN OF	04013C3075G	20-JUL-2001	98-09-558V	19
09	AZ	SCOTTSDALE, CITY OF	04013C2160E	15-NOV-2001	01-09-1187A	02
09	AZ	SCOTTSDALE, CITY OF	04013C2155F	01-AUG-2001	01-09-171P	06
09	AZ	SCOTTSDALE, CITY OF	04013C1265F	31-AUG-2001	01-09-632P	05
09	AZ	SCOTTSDALE, CITY OF	04013C1235F	20-JUL-2001	98-09-558V	19
09	AZ	SCOTTSDALE, CITY OF	04013C1695G	20-JUL-2001	98-09-558V	19
09	AZ	SCOTTSDALE, CITY OF	04013C1705F	20-JUL-2001	98-09-558V	19
09	AZ	SCOTTSDALE, CITY OF	04013C1710E	20-JUL-2001	98-09-558V	19
09	AZ	SCOTTSDALE, CITY OF	04013C2155F	20-JUL-2001	98-09-558V	19
09	AZ	SCOTTSDALE, CITY OF	04013C2160E	20-JUL-2001	98-09-558V	19
09	AZ	SIERRA VISTA, CITY OF	0400170005C	31-JUL-2001	01-09-019P	05
09	AZ	SIERRA VISTA, CITY OF	0400170010C	31-JUL-2001	01-09-019P	05
09	AZ	SIERRA VISTA, CITY OF	0400170015C	31-JUL-2001	01-09-019P	05
09	AZ	SURPRISE, TOWN OF	04013C1585G	02-NOV-2001	01-09-973P	06
09	AZ	TEMPE, CITY OF	04013C2630F	17-AUG-2001	01-09-953A	01
09	AZ	TEMPE, CITY OF	04013C2165G	20-JUL-2001	98-09-558V	19
09	AZ	TEMPE, CITY OF	04013C2170F	20-JUL-2001	98-09-558V	19
09	AZ	TEMPE, CITY OF	04013C2630F	20-JUL-2001	98-09-558V	19
09	AZ	TOLLESON, CITY OF	04013C2085F	21-DEC-2001	02-09-135A	02
09	AZ	TUCSON, CITY OF	04019C2226K	02-NOV-2001	00-09-051P	05
09	AZ	TUCSON, CITY OF	04019C2227K	02-NOV-2001	00-09-051P	05
09	AZ	TUCSON, CITY OF	04019C2210K	10-SEP-2001	01-09-1061A	02
09	AZ	TUCSON, CITY OF	04019C1643K	10-SEP-2001	01-09-1095A	02
09	AZ	TUCSON, CITY OF	04019C2226K	03-DEC-2001	01-09-1163A	01
09	AZ	TUCSON, CITY OF	04019C2256K	03-OCT-2001	01-09-1165A	02
09	AZ	TUCSON, CITY OF	04019C2234K	02-JUL-2001	01-09-776A	02
09	AZ	TUCSON, CITY OF	04019C1670K	11-JUL-2001	01-09-816A	02
09	AZ	TUCSON, CITY OF	04019C2232K	06-JUL-2001	01-09-860A	02
09	AZ	TUCSON, CITY OF	04019C2251K	11-JUL-2001	01-09-876A	02
09	AZ	TUCSON, CITY OF	04019C1644K	08-AUG-2001	01-09-904A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
09	AZ	TUCSON, CITY OF	04019C2210K	28-AUG-2001	01-09-914P	06
09	AZ	TUCSON, CITY OF	04019C2259K	04-OCT-2001	01-09-994P	06
09	AZ	TUCSON, CITY OF	04019C2232K	21-DEC-2001	02-09-210A	02
09	AZ	WICKENBURG, TOWN OF	04013C0235F	20-JUL-2001	98-09-558V	19
09	AZ	WICKENBURG, TOWN OF	04013C0255G	20-JUL-2001	98-09-558V	19
09	AZ	YAVAPAI COUNTY	04025C2915F	31-DEC-2001	02-09-114A	02
09	CA	ALAMEDA COUNTY	0600010120B	19-DEC-2001	01-09-344P	05
09	CA	AMADOR COUNTY	060015—875E	19-OCT-2001	01-09-1196A	02
09	CA	ANAHEIM, CITY OF	06059C0008F	24-OCT-2001	01-09-1175A	02
09	CA	ANDERSON, CITY OF	0603580885E	12-SEP-2001	01-09-1039A	02
09	CA	ANDERSON, CITY OF	0603580885E	12-SEP-2001	01-09-1086A	02
09	CA	ANDERSON, CITY OF	0603590001C	03-OCT-2001	01-09-1179A	02
09	CA	ANDERSON, CITY OF	0603590001C	02-NOV-2001	02-09-032A	02
09	CA	AVALON, CITY OF	0600980005B	05-OCT-2001	01-09-964A	02
09	CA	BIG BEAR LAKE, CITY OF	06071C7295F	23-AUG-2001	01-09-1048A	02
09	CA	BRENTWOOD, CITY OF	0600250365B	24-OCT-2001	01-09-1129A	01
09	CA	BURLINGAME, CITY OF	0650190004C	03-OCT-2001	01-09-1153A	02
09	CA	BURLINGAME, CITY OF	0650190004C	31-OCT-2001	02-09-094X	02
09	CA	BUTTE COUNTY	06007C0520C	23-AUG-2001	01-09-1027A	02
09	CA	BUTTE COUNTY	06007C0505C	01-AUG-2001	01-09-795A	02
09	CA	BUTTE COUNTY	06007C0510D	01-AUG-2001	01-09-795A	02
09	CA	BUTTE COUNTY	06007C0520	18-JUL-2001	01-09-810A	02
09	CA	BUTTE COUNTY	06007C0790C	20-JUL-2001	01-09-871A	02
09	CA	CARLSBAD, CITY OF	06073C0768F	25-OCT-2001	01-09-204P	05
09	CA	CHICO, CITY OF	06007C0505C	26-SEP-2001	01-09-1079A	02
09	CA	CHULA VISTA, CITY OF	06073C2156F	01-NOV-2001	01-09-334P	06
09	CA	CHULA VISTA, CITY OF	06073C2157F	01-NOV-2001	01-09-334P	06
09	CA	CITRUS HEIGHTS, CITY OF	0602620085E	31-DEC-2001	01-09-1180A	02
09	CA	CITRUS HEIGHTS, CITY OF	0602620095E	24-OCT-2001	02-09-018A	02
09	CA	CLAYTON, CITY OF	0600270001C	21-DEC-2001	02-09-198A	02
09	CA	CLAYTON, CITY OF	0600270001C	10-SEP-2001	98-09-174V	19
09	CA	CLEARLAKE, CITY OF	0607140005C	19-NOV-2001	01-09-1201A	02
09	CA	CLOVERDALE, CITY OF	0603760001C	14-DEC-2001	02-09-057A	02
09	CA	CLOVIS, CITY OF	06019C1580F	20-JUL-2001	01-09-941V	19
09	CA	CLOVIS, CITY OF	06019C1585F	20-JUL-2001	01-09-941V	19
09	CA	CLOVIS, CITY OF	06019C1595F	20-JUL-2001	01-09-941V	19
09	CA	CONCORD, CITY OF	0650220008B	23-AUG-2001	01-09-1034A	02
09	CA	CONCORD, CITY OF	0650220005C	10-SEP-2001	98-09-173V	19
09	CA	CONCORD, CITY OF	0650220006C	10-SEP-2001	98-09-173V	19
09	CA	CONCORD, CITY OF	0650220007C	10-SEP-2001	98-09-173V	19
09	CA	CONCORD, CITY OF	0650220010C	10-SEP-2001	98-09-173V	19
09	CA	CONTRA COSTA COUNTY	0600250280B	23-AUG-2001	01-09-1040A	02
09	CA	CONTRA COSTA COUNTY	0600250295C	31-OCT-2001	01-09-1098A	01
09	CA	CONTRA COSTA COUNTY	0600250500B	21-DEC-2001	02-09-127A	02
09	CA	CONTRA COSTA COUNTY	0600250090C	10-SEP-2001	98-09-075V	19
09	CA	CONTRA COSTA COUNTY	0600250230C	10-SEP-2001	98-09-075V	19
09	CA	CONTRA COSTA COUNTY	0600250235C	10-SEP-2001	98-09-075V	19
09	CA	CONTRA COSTA COUNTY	0600250250C	10-SEP-2001	98-09-075V	19
09	CA	CONTRA COSTA COUNTY	0600250280C	10-SEP-2001	98-09-075V	19
09	CA	CONTRA COSTA COUNTY	0600250455C	10-SEP-2001	98-09-075V	19
09	CA	CONTRA COSTA COUNTY	0600250475C	10-SEP-2001	98-09-075V	19
09	CA	CORONA, CITY OF	0602500005F	10-AUG-2001	01-09-1008A	02
09	CA	DANVILLE, TOWN OF	0607070001B	10-SEP-2001	98-09-172V	19
09	CA	DIAMOND BAR, CITY OF	0650430980B	15-NOV-2001	02-09-107A	02
09	CA	DINUBA, CITY OF	0650660280B	24-OCT-2001	01-09-1044A	01
09	CA	DOWNEY, CITY OF	0606450005A	12-SEP-2001	01-09-852A	02
09	CA	EL DORADO COUNTY	0600400607B	11-JUL-2001	01-09-697A	02
09	CA	ESCONDIDO, CITY OF	06073C0818F	17-AUG-2001	01-09-745A	02
09	CA	ESCONDIDO, CITY OF	06073C0818F	06-JUL-2001	01-09-802A	02
09	CA	FORTUNA, CITY OF	0600630002B	06-JUL-2001	01-09-720A	02
09	CA	FORTUNA, CITY OF	0600601110B	06-JUL-2001	01-09-883A	02
09	CA	FOUNTAIN VALLEY, CITY OF	06059C0037F	14-DEC-2001	02-09-270A	02
09	CA	FREMONT,CITY OF	0650280033C	30-AUG-2001	01-09-1046A	02
09	CA	FREMONT,CITY OF	0605028003C	12-SEP-2001	01-09-1120A	02
09	CA	FREMONT,CITY OF	0650280033C	21-SEP-2001	01-09-1172X	02
09	CA	FREMONT,CITY OF	0650280033C	01-AUG-2001	01-09-944A	02
09	CA	FRESNO COUNTY	06019C1045F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1060F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1570F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1585F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1610F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1620F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1645F	20-JUL-2001	01-09-941V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	FRESNO COUNTY	06019C1665F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C2100F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C2130F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C2180F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C2225F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C2675F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C2710F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO COUNTY	06019C1615F	28-NOV-2001	02-09-121A	01
09	CA	FRESNO COUNTY	06019C2190F	14-DEC-2001	02-09-160A	02
09	CA	FRESNO, CITY OF	06019C1040F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C1565F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C1570F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C1580F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C1585F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C2110F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C2130F	20-JUL-2001	01-09-941V	19
09	CA	FRESNO, CITY OF	06019C1555F	19-DEC-2001	02-09-157A	17
09	CA	GRASS VALLEY, CITY OF	0602110003D	10-SEP-2001	01-09-956A	02
09	CA	HAYWARD, CITY OF	0650330020E	30-AUG-2001	01-09-1025A	01
09	CA	HAYWARD, CITY OF	0650330020E	26-SEP-2001	01-09-1114A	01
09	CA	HUNTINGTON BEACH, CITY OF	06059C0036F	31-AUG-2001	01-09-1055A	02
09	CA	KERN COUNTY	0600751825C	16-JUL-2001	00-09-754P	06
09	CA	KERN COUNTY	0600752025D	16-JUL-2001	00-09-754P	06
09	CA	KERN COUNTY	0600752025D	20-SEP-2001	01-09-1026A	02
09	CA	KERN COUNTY	0600752025D	26-SEP-2001	01-09-1170A	02
09	CA	KERN COUNTY	0600750100B	01-AUG-2001	01-09-791A	01
09	CA	KERN COUNTY	0600751910	27-SEP-2001	01-09-804P	05
09	CA	KERN COUNTY	0600751555B	28-NOV-2001	02-09-110A	02
09	CA	LAKE COUNTY	0600900845B	03-DEC-2001	02-09-076A	02
09	CA	LAKE ELSINORE, CITY OF	0606360013E	01-NOV-2001	01-09-607P	06
09	CA	LAKE ELSINORE, CITY OF	0606360026E	01-NOV-2001	01-09-607P	06
09	CA	LAKE ELSINORE, CITY OF	0606360033E	03-OCT-2001	01-09-781A	02
09	CA	LAKE FOREST, CITY OF	06059C0057E	03-OCT-2001	01-09-1161A	02
09	CA	LAKE FOREST, CITY OF	06059C0050F	06-JUL-2001	01-09-743A	17
09	CA	LARKSPUR, CITY OF	0650400001B	07-NOV-2001	02-09-072A	02
09	CA	LIVERMORE, CITY OF	0600080005B	19-DEC-2001	01-09-344P	05
09	CA	LIVERMORE, CITY OF	0600080010B	06-JUL-2001	01-09-844A	02
09	CA	LONG BEACH, CITY OF	0601360025C	11-DEC-2001	01-09-644A	01
09	CA	LOS ANGELES COUNTY	0650430345B	22-AUG-2001	01-09-459P	06
09	CA	LOS ANGELES COUNTY	0650430365B	22-AUG-2001	01-09-459P	06
09	CA	LOS ANGELES, CITY OF	0601370071C	15-AUG-2001	01-09-1022A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	20-SEP-2001	01-09-1148A	02
09	CA	LOS ANGELES, CITY OF	0601370084C	09-NOV-2001	01-09-557P	06
09	CA	LOS ANGELES, CITY OF	0601370085C	09-NOV-2001	01-09-557P	06
09	CA	LOS ANGELES, CITY OF	0601370005C	11-JUL-2001	01-09-704A	02
09	CA	LOS ANGELES, CITY OF	0601370086C	02-JUL-2001	01-09-789A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	08-AUG-2001	01-09-950A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	10-AUG-2001	01-09-951A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	21-SEP-2001	01-09-968A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	24-AUG-2001	01-09-971A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	07-NOV-2001	02-09-100A	02
09	CA	MADERA COUNTY	0601700350B	28-NOV-2001	02-09-112A	02
09	CA	MARIN COUNTY	0601730269B	20-JUL-2001	01-09-715A	01
09	CA	MARIN COUNTY	0601730250A	03-OCT-2001	01-09-932A	02
09	CA	MARIN COUNTY	0601730269B	26-OCT-2001	02-09-010A	02
09	CA	MARIN COUNTY	0601730443A	21-DEC-2001	02-09-065A	02
09	CA	MENDOCINO COUNTY	0601830600B	15-AUG-2001	01-09-1014A	02
09	CA	MENDOCINO COUNTY	0601830692B	03-OCT-2001	01-09-1143A	02
09	CA	MENDOCINO COUNTY	0601830784B	24-OCT-2001	01-09-606A	01
09	CA	MENDOCINO COUNTY	0601830801B	24-OCT-2001	01-09-606A	01
09	CA	MENDOCINO COUNTY	0601830803B	24-OCT-2001	01-09-606A	01
09	CA	MENLO PARK, CITY OF	0603210007D	28-NOV-2001	01-09-1080A	02
09	CA	MENLO PARK, CITY OF	0603210008D	03-OCT-2001	01-09-1176A	02
09	CA	MENLO PARK, CITY OF	0603210007D	28-SEP-2001	01-09-1178A	02
09	CA	MENLO PARK, CITY OF	0603210007D	01-AUG-2001	01-09-908A	02
09	CA	MERCED COUNTY	06047C0700E	20-NOV-2001	02-09-041A	01
09	CA	MERCED, CITY OF	06047C0440E	07-NOV-2001	01-09-1185A	01
09	CA	MILPITAS, CITY OF	0603440001G	17-AUG-2001	01-09-1029A	02
09	CA	MILPITAS, CITY OF	0603440001G	23-AUG-2001	01-09-1033A	02
09	CA	MILPITAS, CITY OF	0603440001G	31-AUG-2001	01-09-1064A	02
09	CA	MILPITAS, CITY OF	0603440003G	14-SEP-2001	01-09-1122A	02
09	CA	MILPITAS, CITY OF	0603440001G	26-SEP-2001	01-09-1126A	02
09	CA	MILPITAS, CITY OF	0603440003G	26-OCT-2001	01-09-1132A	01

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09	CA	MILPITAS, CITY OF	0603440001G	26-SEP-2001	01-09-1150A	02
09	CA	MILPITAS, CITY OF	0603440003G	26-SEP-2001	01-09-1152A	02
09	CA	MILPITAS, CITY OF	0603440001G	03-OCT-2001	01-09-1186A	02
09	CA	MILPITAS, CITY OF	0603440001G	10-OCT-2001	01-09-1188A	02
09	CA	MILPITAS, CITY OF	0603440003G	03-OCT-2001	01-09-1193A	02
09	CA	MILPITAS, CITY OF	0603440003G	06-JUL-2001	01-09-827A	02
09	CA	MILPITAS, CITY OF	0603440003G	27-JUL-2001	01-09-926A	02
09	CA	MILPITAS, CITY OF	0603440001G	01-AUG-2001	01-09-958A	02
09	CA	MILPITAS, CITY OF	0603440001G	08-AUG-2001	01-09-969A	02
09	CA	MILPITAS, CITY OF	0603440003G	10-AUG-2001	01-09-985A	02
09	CA	MILPITAS, CITY OF	0603440003G	10-OCT-2001	02-09-004A	02
09	CA	MILPITAS, CITY OF	0603440003G	12-OCT-2001	02-09-027A	02
09	CA	MILPITAS, CITY OF	0603440001G	24-OCT-2001	02-09-040A	02
09	CA	MILPITAS, CITY OF	0603440001G	24-OCT-2001	02-09-042A	02
09	CA	MILPITAS, CITY OF	0603440001G	09-NOV-2001	02-09-103A	02
09	CA	MILPITAS, CITY OF	0603440001G	15-NOV-2001	02-09-123A	02
09	CA	MILPITAS, CITY OF	0603440001G	19-NOV-2001	02-09-138A	02
09	CA	MILPITAS, CITY OF	0603440001G	28-NOV-2001	02-09-154A	02
09	CA	MILPITAS, CITY OF	0603440001G	14-DEC-2001	02-09-174A	02
09	CA	MILPITAS, CITY OF	0603440003G	31-DEC-2001	02-09-252A	02
09	CA	MILPITAS, CITY OF	0603440003G	31-DEC-2001	02-09-318A	02
09	CA	MODESTO, CITY OF	0603870015D	27-JUL-2001	01-09-848A	02
09	CA	MORAGA, TOWN OF	0606370003A	21-SEP-2001	01-09-1068A	02
09	CA	MOUNTAIN VIEW, CITY OF	0603470004E	18-JUL-2001	01-09-832A	02
09	CA	MOUNTAIN VIEW, CITY OF	0603470004E	28-NOV-2001	02-09-164A	02
09	CA	NAPA, CITY OF	0602070010C	15-AUG-2001	01-09-1010A	02
09	CA	NAPA, CITY OF	0602070005D	28-SEP-2001	01-09-1109A	02
09	CA	NAPA, CITY OF	0602070005D	06-JUL-2001	01-09-705A	02
09	CA	NAPA, CITY OF	0602070010C	10-AUG-2001	01-09-977A	02
09	CA	NAPA, CITY OF	0602050410B	24-OCT-2001	02-09-013A	02
09	CA	NAPA, CITY OF	0602070005D	15-NOV-2001	02-09-101A	02
09	CA	NAPA, CITY OF	0602070005D	03-DEC-2001	02-09-126A	02
09	CA	NAPA, CITY OF	0602070010C	28-NOV-2001	02-09-151A	02
09	CA	NEEDLES, CITY OF	06071C5028F	06-JUL-2001	01-09-817A	01
09	CA	NEVADA COUNTY	0602100583B	05-OCT-2001	01-09-1042A	02
09	CA	NEVADA COUNTY	0602100475B	21-SEP-2001	01-09-1093A	02
09	CA	NEWARK, CITY OF	0600090005F	28-NOV-2001	02-09-109A	02
09	CA	NORCO, CITY OF	0602560003B	14-NOV-2001	01-09-444P	06
09	CA	NOVATO, CITY OF	0601780002C	18-JUL-2001	01-09-674P	05
09	CA	OAKLEY, CITY OF	0600250355B	28-SEP-2001	01-09-1085A	01
09	CA	OAKLEY, CITY OF	0600250355C	10-OCT-2001	02-09-011X	01
09	CA	OAKLEY, CITY OF	0600250355C	09-NOV-2001	02-09-113A	01
09	CA	OCEANSIDE, CITY OF	06073C0752G	10-AUG-2001	01-09-1021A	01
09	CA	OCEANSIDE, CITY OF	06073C0754G	12-JUL-2001	01-09-814A	02
09	CA	OCEANSIDE, CITY OF	06073C0759F	03-AUG-2001	01-09-945A	02
09	CA	OCEANSIDE, CITY OF	06073C0759F	21-DEC-2001	02-09-202A	02
09	CA	PALO ALTO, CITY OF	0603480003E	30-AUG-2001	01-09-1072A	02
09	CA	PALO ALTO, CITY OF	0603480003E	10-SEP-2001	01-09-1075A	02
09	CA	PALO ALTO, CITY OF	0603480002E	12-SEP-2001	01-09-1108A	02
09	CA	PALO ALTO, CITY OF	0603480003E	02-JUL-2001	01-09-793A	02
09	CA	PALO ALTO, CITY OF	0603480002E	02-JUL-2001	01-09-805A	02
09	CA	PALO ALTO, CITY OF	0603480003E	11-JUL-2001	01-09-893A	02
09	CA	PALO ALTO, CITY OF	0603480005E	02-NOV-2001	02-09-079A	02
09	CA	PALO ALTO, CITY OF	0603480003E	03-DEC-2001	02-09-137A	02
09	CA	PALO ALTO, CITY OF	0603480003E	14-DEC-2001	02-09-170A	02
09	CA	PALO ALTO, CITY OF	0603480002E	19-DEC-2001	02-09-188A	02
09	CA	PALO ALTO, CITY OF	0603480002E	31-DEC-2001	02-09-209A	02
09	CA	PITTSBURG,CITY OF	0600330001E	10-SEP-2001	98-09-175V	19
09	CA	PITTSBURG,CITY OF	0600330002E	10-SEP-2001	98-09-175V	19
09	CA	PITTSBURG,CITY OF	0600330004E	10-SEP-2001	98-09-175V	19
09	CA	PLACER COUNTY	06061C0418F	03-DEC-2001	02-09-066A	02
09	CA	PLACER COUNTY	06061C0225F	28-NOV-2001	02-09-071A	02
09	CA	PLEASANTON, CITY OF	0600120003D	26-SEP-2001	01-09-1166A	02
09	CA	PLUMAS COUNTY	0602440125C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440225C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440300C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440525C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440725C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440750C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440775C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440800C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440850C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440925C	22-NOV-2001	99-09-410V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	PLUMAS COUNTY	0602440950C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602440975C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441000C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441025C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441100C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441200C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441234C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441275C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441375C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441400C	22-NOV-2001	99-09-410V	19
09	CA	PLUMAS COUNTY	0602441600C	22-NOV-2001	99-09-410V	19
09	CA	POWAY, CITY OF	06073C1366F	25-JUL-2001	00-09-080P	05
09	CA	POWAY, CITY OF	06073C1359F	23-AUG-2001	01-09-901A	01
09	CA	POWAY, CITY OF	06073C1358F	03-AUG-2001	01-09-925A	02
09	CA	POWAY, CITY OF	06073C1359F	31-OCT-2001	02-09-050A	02
09	CA	POWAY, CITY OF	06073C1358F	07-NOV-2001	02-09-085A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C8630F	10-OCT-2001	01-09-1073A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C7890F	10-OCT-2001	01-09-1154A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C7890F	07-AUG-2001	01-09-681P	06
09	CA	RANCHO CUCAMONGA, CITY OF	06071C7890F	27-JUL-2001	01-09-806A	01
09	CA	REDDING, CITY OF	0603600015C	18-OCT-2001	01-09-218P	05
09	CA	REDDING, CITY OF	0603600025D	02-JUL-2001	01-09-640A	02
09	CA	REDWOOD CITY, CITY OF	0603110175B	21-SEP-2001	01-09-748A	01
09	CA	RICHMOND, CITY OF	0600350010C	10-SEP-2001	98-09-168V	19
09	CA	RICHMOND, CITY OF	0600350020C	10-SEP-2001	98-09-168V	19
09	CA	RIVERSIDE COUNTY	0602451625C	12-OCT-2001	01-09-1054P	06
09	CA	RIVERSIDE COUNTY	0602451625C	03-AUG-2001	01-09-352P	06
09	CA	RIVERSIDE COUNTY	0602452050C	01-NOV-2001	01-09-607P	06
09	CA	RIVERSIDE COUNTY	0602450070A	18-JUL-2001	01-09-887A	02
09	CA	RIVERSIDE COUNTY	0602450705A	27-NOV-2001	02-09-069P	05
09	CA	RIVERSIDE COUNTY	0602452710C	04-DEC-2001	02-09-070P	06
09	CA	ROCKLIN, CITY OF	06061C0414F	03-AUG-2001	01-09-884A	02
09	CA	SACRAMENTO COUNTY	0602620345C	10-AUG-2001	01-09-1013A	02
09	CA	SACRAMENTO COUNTY	0602620310F	26-SEP-2001	01-09-1107A	02
09	CA	SACRAMENTO COUNTY	0602620095E	06-JUL-2001	01-09-792A	02
09	CA	SACRAMENTO COUNTY	0602620375C	18-JUL-2001	01-09-856A	02
09	CA	SACRAMENTO COUNTY	0602620340D	11-JUL-2001	01-09-858A	02
09	CA	SACRAMENTO COUNTY	0602620345C	01-AUG-2001	01-09-924A	02
09	CA	SACRAMENTO COUNTY	0602620055E	24-OCT-2001	02-09-017A	02
09	CA	SACRAMENTO COUNTY	0602620205E	31-DEC-2001	02-09-221A	02
09	CA	SACRAMENTO, CITY OF	0602660005F	10-SEP-2001	01-09-995A	01
09	CA	SALINAS, CITY OF	0602020003D	10-OCT-2001	01-09-1057A	01
09	CA	SAN BERNARDINO COUNTY	06071C3915F	06-JUL-2001	01-09-634A	02
09	CA	SAN BERNARDINO COUNTY	06071C7890F	07-AUG-2001	01-09-681P	06
09	CA	SAN DIEGO COUNTY	06073C1735F	31-DEC-2001	01-09-1052A	02
09	CA	SAN DIEGO COUNTY	06073C1917F	17-OCT-2001	01-09-477A	02
09	CA	SAN DIEGO COUNTY	06073C1700F	08-AUG-2001	01-09-889A	02
09	CA	SAN DIEGO, CITY OF	06073C1594F	18-JUL-2001	01-09-812A	02
09	CA	SAN DIEGO, CITY OF	06073C1613F	24-OCT-2001	01-09-872A	02
09	CA	SAN DIEGO, CITY OF	06073C1594F	08-AUG-2001	01-09-992A	02
09	CA	SAN JOAQUIN COUNTY	0602990445B	26-SEP-2001	01-09-1116A	02
09	CA	SAN JOSE, CITY OF	0603490020F	10-SEP-2001	01-09-1089A	02
09	CA	SAN JOSE, CITY OF	0603490014E	20-SEP-2001	01-09-1090A	02
09	CA	SAN JOSE, CITY OF	0603370255E	07-NOV-2001	01-09-1110A	01
09	CA	SAN JOSE, CITY OF	0603490026D	26-SEP-2001	01-09-1177A	02
09	CA	SAN JOSE, CITY OF	0603490026D	05-OCT-2001	01-09-1202A	02
09	CA	SAN JOSE, CITY OF	0603490026D	08-AUG-2001	01-09-678A	01
09	CA	SAN JOSE, CITY OF	0603490009G	02-JUL-2001	01-09-797A	02
09	CA	SAN JOSE, CITY OF	0603490026D	02-JUL-2001	01-09-807A	02
09	CA	SAN JOSE, CITY OF	0603490027D	02-JUL-2001	01-09-822A	02
09	CA	SAN JOSE, CITY OF	0603490026D	06-JUL-2001	01-09-846A	02
09	CA	SAN JOSE, CITY OF	0603490009G	02-JUL-2001	01-09-853A	02
09	CA	SAN JOSE, CITY OF	0603490020F	02-JUL-2001	01-09-868A	02
09	CA	SAN JOSE, CITY OF	0603490009G	06-JUL-2001	01-09-877A	02
09	CA	SAN JOSE, CITY OF	0603490026D	11-JUL-2001	01-09-886A	02
09	CA	SAN JOSE, CITY OF	0603490009G	11-JUL-2001	01-09-888A	02
09	CA	SAN JOSE, CITY OF	0603490009G	18-JUL-2001	01-09-915A	02
09	CA	SAN JOSE, CITY OF	0603490026D	03-AUG-2001	01-09-927A	02
09	CA	SAN JOSE, CITY OF	0603490014E	20-JUL-2001	01-09-929A	02
09	CA	SAN JOSE, CITY OF	0603490014E	08-AUG-2001	01-09-986A	02
09	CA	SAN JOSE, CITY OF	0603490020F	08-AUG-2001	01-09-990A	02
09	CA	SAN JOSE, CITY OF	0603490027D	05-OCT-2001	02-09-005A	02
09	CA	SAN JOSE, CITY OF	0603490037D	31-OCT-2001	02-09-073A	02

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09	CA	SAN JOSE, CITY OF	0603490026D	07-NOV-2001	02-09-083A	02
09	CA	SAN JOSE, CITY OF	0603490031D	07-NOV-2001	02-09-097A	02
09	CA	SAN JOSE, CITY OF	0603490026D	20-NOV-2001	02-09-155A	02
09	CA	SAN JOSE, CITY OF	0603490027D	20-NOV-2001	02-09-169A	02
09	CA	SAN JOSE, CITY OF	0603490020F	19-DEC-2001	02-09-186A	02
09	CA	SAN JUAN CAPISTRANO, CITY OF	06059C0075F	31-OCT-2001	01-09-1134A	01
09	CA	SAN LEANDRO, CITY OF	0600130002C	14-SEP-2001	01-09-1103A	02
09	CA	SAN LEANDRO, CITY OF	0600130003C	31-OCT-2001	01-09-1118A	02
09	CA	SAN LEANDRO, CITY OF	0600130003C	06-JUL-2001	01-09-785A	02
09	CA	SAN LEANDRO, CITY OF	0600130002C	15-NOV-2001	02-09-074A	02
09	CA	SAN LEANDRO, CITY OF	0600130003C	15-NOV-2001	02-09-074A	02
09	CA	SAN LUIS OBISPO COUNTY	0603040475C	06-JUL-2001	01-09-728A	02
09	CA	SAN LUIS OBISPO COUNTY	0603040729C	18-JUL-2001	01-09-855A	02
09	CA	SAN LUIS OBISPO, CITY OF	0603100005C	21-DEC-2001	02-09-180A	02
09	CA	SAN MARCOS, CITY OF	06073C1052F	10-SEP-2001	01-09-1058A	02
09	CA	SAN MATEO COUNTY	0603110319B	31-OCT-2001	02-09-019A	02
09	CA	SAN RAFAEL, CITY OF	0650580015B	02-JUL-2001	01-09-796A	02
09	CA	SAN RAMON, CITY OF	0607100001B	03-OCT-2001	01-09-1138A	02
09	CA	SANGER, CITY OF	06019C2155F	20-JUL-2001	01-09-941V	19
09	CA	SANGER, CITY OF	06019C2160F	20-JUL-2001	01-09-941V	19
09	CA	SANTA BARBARA COUNTY	0603310717C	10-AUG-2001	01-09-1009A	02
09	CA	SANTA BARBARA COUNTY	0603310765E	03-OCT-2001	01-09-1066A	02
09	CA	SANTA BARBARA COUNTY	0603310740D	06-JUL-2001	01-09-784A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	10-AUG-2001	01-09-1006A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	10-SEP-2001	01-09-1053A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	03-OCT-2001	01-09-1130A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	18-JUL-2001	01-09-892A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	08-AUG-2001	01-09-965A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	24-OCT-2001	02-09-001A	02
09	CA	SANTA CLARA COUNTY	0603370205D	02-JUL-2001	01-09-780A	02
09	CA	SANTA CLARA COUNTY	0603370645E	02-JUL-2001	01-09-859A	02
09	CA	SANTA CLARA, CITY OF	0603500001D	17-JUL-2001	00-09-071P	05
09	CA	SANTA CLARA, CITY OF	0603500003D	17-JUL-2001	00-09-071P	05
09	CA	SANTA CLARA, CITY OF	0603500005D	15-AUG-2001	01-09-1018A	02
09	CA	SANTA CLARA, CITY OF	0603500005D	02-JUL-2001	01-09-838A	02
09	CA	SANTA CLARA, CITY OF	0603500001D	25-JUL-2001	01-09-917A	02
09	CA	SANTA CLARA, CITY OF	0603500005D	27-JUL-2001	01-09-934A	02
09	CA	SANTA CLARA, CITY OF	0603500001D	27-JUL-2001	01-09-938A	02
09	CA	SANTA CLARA, CITY OF	0603500001D	20-SEP-2001	01-09-984A	02
09	CA	SANTA CLARA, CITY OF	0603500003D	28-NOV-2001	02-09-158A	02
09	CA	SANTA CLARITA, CITY OF	0607290480C	28-NOV-2001	01-09-1144A	02
09	CA	SANTA CRUZ COUNTY	0603530205B	08-AUG-2001	01-09-967A	02
09	CA	SANTA PAULA, CITY OF	0604200003D	20-JUL-2001	01-09-830A	02
09	CA	SANTA ROSA, CITY OF	0603810011B	10-AUG-2001	01-09-1001A	02
09	CA	SHASTA LAKE, CITY OF	0607580005A	18-JUL-2001	01-09-851A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	08-AUG-2001	01-09-1000A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	10-AUG-2001	01-09-1002A	02
09	CA	SIMI VALLEY, CITY OF	0604210009B	15-AUG-2001	01-09-1015A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	17-AUG-2001	01-09-1024A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	17-AUG-2001	01-09-1028A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	30-AUG-2001	01-09-1069A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	10-SEP-2001	01-09-1096A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	26-SEP-2001	01-09-1151A	02
09	CA	SIMI VALLEY, CITY OF	0604210007B	07-NOV-2001	01-09-435A	01
09	CA	SIMI VALLEY, CITY OF	0604210009B	07-NOV-2001	01-09-435A	01
09	CA	SIMI VALLEY, CITY OF	0604210006B	24-AUG-2001	01-09-694A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	08-AUG-2001	01-09-696A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	20-JUL-2001	01-09-811A	02
09	CA	SIMI VALLEY, CITY OF	0604210009B	31-OCT-2001	01-09-833A	01
09	CA	SIMI VALLEY, CITY OF	0604210002B	01-AUG-2001	01-09-897A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	20-JUL-2001	01-09-909A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	27-JUL-2001	01-09-912A	02
09	CA	SIMI VALLEY, CITY OF	0604210008B	25-JUL-2001	01-09-936A	02
09	CA	SIMI VALLEY, CITY OF	0604210008B	28-NOV-2001	01-09-963A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	08-AUG-2001	01-09-976A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	08-AUG-2001	01-09-979A	02
09	CA	SIMI VALLEY, CITY OF	0604210002B	26-NOV-2001	01-09-981P	05
09	CA	SIMI VALLEY, CITY OF	0604210004B	26-NOV-2001	01-09-981P	05
09	CA	SIMI VALLEY, CITY OF	0604210004B	24-OCT-2001	02-09-039A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	26-OCT-2001	02-09-055A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	24-OCT-2001	02-09-059A	02
09	CA	SIMI VALLEY, CITY OF	0604210002B	26-OCT-2001	02-09-060X	01
09	CA	SIMI VALLEY, CITY OF	0604210004B	26-OCT-2001	02-09-060X	01

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09	CA	SIMI VALLEY, CITY OF	0604210007B	02-NOV-2001	02-09-077A	02
09	CA	SIMI VALLEY, CITY OF	0604210007B	07-NOV-2001	02-09-084A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	31-DEC-2001	02-09-246A	02
09	CA	SISKIYOU COUNTY	0603620900C	12-JUL-2001	01-09-777A	02
09	CA	SISKIYOU COUNTY	0603621100B	17-AUG-2001	01-09-949A	02
09	CA	SISKIYOU COUNTY	0603620900C	24-OCT-2001	01-09-978A	02
09	CA	SISKIYOU COUNTY	0603621525B	14-DEC-2001	02-09-152A	02
09	CA	SISKIYOU COUNTY	0603620608B	31-DEC-2001	02-09-232A	02
09	CA	SONOMA COUNTY	0603750635B	12-OCT-2001	01-09-1088A	02
09	CA	SONOMA COUNTY	0603750680B	12-JUL-2001	01-09-774A	02
09	CA	SONOMA COUNTY	0603750530B	15-NOV-2001	01-09-943A	02
09	CA	SONOMA COUNTY	0603750515B	05-DEC-2001	02-09-140A	02
09	CA	SOUTH SAN FRANCISCO, CITY OF	0650620002B	14-SEP-2001	01-09-916A	01
09	CA	SUNNYVALE, CITY OF	0603520001D	12-SEP-2001	01-09-1119A	02
09	CA	SUNNYVALE, CITY OF	0603520001D	10-OCT-2001	01-09-815A	01
09	CA	SUNNYVALE, CITY OF	0603520001D	06-JUL-2001	01-09-837A	02
09	CA	SUNNYVALE, CITY OF	0603520001D	26-OCT-2001	02-09-036A	02
09	CA	TEHAMA COUNTY	0650640070C	11-JUL-2001	01-09-739A	02
09	CA	TEHAMA COUNTY	0650640660C	25-JUL-2001	01-09-890A	02
09	CA	TEMECULA, CITY OF	0607420005B	05-OCT-2001	01-09-1124A	02
09	CA	TEMECULA, CITY OF	0607420010B	25-JUL-2001	01-09-899A	02
09	CA	THOUSAND OAKS, CITY OF	0604220015B	06-JUL-2001	01-09-619A	02
09	CA	THOUSAND OAKS, CITY OF	0604220015B	02-JUL-2001	01-09-799A	02
09	CA	TORRANCE, CITY OF	0601650001B	21-DEC-2001	02-09-215A	02
09	CA	TULARE COUNTY	0650660450B	12-JUL-2001	01-09-194A	02
09	CA	TULARE COUNTY	0650660450B	20-JUL-2001	01-09-940A	02
09	CA	TUSTIN, CITY OF	06059C0039E	24-OCT-2001	02-09-062A	02
09	CA	UKIAH, CITY OF	0601860001E	24-OCT-2001	02-09-035A	02
09	CA	VALLEJO, CITY OF	0603740010C	26-SEP-2001	01-09-1112A	02
09	CA	VENTURA COUNTY	0604130945B	19-OCT-2001	00-09-451P	06
09	CA	VENTURA COUNTY	0604130975B	19-OCT-2001	00-09-451P	06
09	CA	VENTURA COUNTY	0604130645B	10-SEP-2001	01-09-911A	01
09	CA	VENTURA COUNTY	0604130545C	08-AUG-2001	01-09-955A	02
09	CA	VENTURA COUNTY	0604130535B	26-OCT-2001	02-09-007A	02
09	CA	VISALIA, CITY OF	0604090005D	06-JUL-2001	01-09-842A	01
09	CA	VISALIA, CITY OF	0604090010C	08-AUG-2001	01-09-966A	01
09	CA	VISALIA, CITY OF	0604090010C	15-NOV-2001	02-09-038A	02
09	CA	VISTA, CITY OF	06073C0759F	07-NOV-2001	01-09-568P	05
09	CA	VISTA, CITY OF	06073C0766F	07-NOV-2001	01-09-568P	05
09	CA	VISTA, CITY OF	06073C0767F	07-NOV-2001	01-09-568P	05
09	CA	WESTMINSTER, CITY OF	06059C0027F	20-JUL-2001	01-09-923A	01
09	CA	WESTMINSTER, CITY OF	06059C0028F	03-DEC-2001	02-09-203A	02
09	CA	YOUNTVILLE, TOWN OF	0602090001C	31-AUG-2001	01-09-1041A	02
09	HI	HAWAII COUNTY	1551660164D	02-NOV-2001	01-09-1005A	02
09	HI	HAWAII COUNTY	1551660267C	27-DEC-2001	01-09-1038P	05
09	HI	HAWAII COUNTY	1551660860C	12-SEP-2001	01-09-339P	06
09	HI	HAWAII COUNTY	1551660870C	12-SEP-2001	01-09-339P	06
09	HI	HAWAII COUNTY	1551660466C	25-JUL-2001	01-09-710A	01
09	HI	HAWAII COUNTY	1551660478C	25-JUL-2001	01-09-710A	01
09	HI	HAWAII COUNTY	1551660713D	07-AUG-2001	01-09-882P	06
09	HI	HONOLULU , CITY AND COUNTY OF	15003C0360E	20-SEP-2001	01-09-1067A	17
09	HI	HONOLULU , CITY AND COUNTY OF	15003C0030E	03-AUG-2001	01-09-633P	06
09	HI	HONOLULU , CITY AND COUNTY OF	15003C0351E	18-OCT-2001	01-09-961P	06
09	NV	CARSON CITY, CITY OF	3200010040B	29-NOV-2001	01-09-066P	05
09	NV	CARSON CITY, CITY OF	3200010175C	12-OCT-2001	01-09-1074A	02
09	NV	CARSON CITY, CITY OF	3200010130D	03-OCT-2001	01-09-1145A	01
09	NV	CLARK COUNTY	32003C2554D	20-SEP-2001	00-09-828P	05
09	NV	CLARK COUNTY	32003C2535D	15-AUG-2001	01-09-1017A	02
09	NV	CLARK COUNTY	32003C2525D	26-SEP-2001	01-09-1094A	02
09	NV	CLARK COUNTY	32003C0378D	29-AUG-2001	01-09-170P	06
09	NV	CLARK COUNTY	32003C2545D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2550D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2552D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2553D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2554D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2561D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2562D	04-SEP-2001	01-09-581P	06
09	NV	CLARK COUNTY	32003C2580D	10-OCT-2001	01-09-861A	02
09	NV	CLARK COUNTY	32003C2200D	20-NOV-2001	02-09-087A	01
09	NV	DOUGLAS COUNTY	32005C0235F	03-OCT-2001	01-09-1159A	02
09	NV	DOUGLAS COUNTY	32005C0268F	16-AUG-2001	01-09-231P	05
09	NV	HENDERSON, CITY OF	32003C2590D	12-DEC-2001	01-09-1031A	01
09	NV	HENDERSON, CITY OF	32003C2595D	12-DEC-2001	01-09-1031A	01

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09	NV	HENDERSON, CITY OF	32003C2590D	30-AUG-2001	01-09-1045A	02
09	NV	HENDERSON, CITY OF	32003C2615D	14-AUG-2001	01-09-631P	06
09	NV	HENDERSON, CITY OF	32003C2615D	18-JUL-2001	99-09-623P	06
09	NV	HENDERSON, CITY OF	32003C2620D	18-JUL-2001	99-09-623P	06
09	NV	HENDERSON, CITY OF	32003C2975D	18-JUL-2001	99-09-623P	06
09	NV	LAS VEGAS, CITY OF	32003C2155D	10-SEP-2001	01-09-1032A	02
09	NV	LAS VEGAS, CITY OF	32003C2155D	21-DEC-2001	01-09-770P	06
09	NV	MESQUITE, CITY OF	32003C0378D	29-AUG-2001	01-09-170P	05
09	NV	MESQUITE, CITY OF	32003C0386D	29-AUG-2001	01-09-170P	05
09	NV	MESQUITE, CITY OF	32003C0386D	10-SEP-2001	01-09-997P	05
09	NV	MINERAL COUNTY	3200170605B	03-AUG-2001	01-09-913A	02
09	NV	NORTH LAS VEGAS, CITY OF	32003C2176D	31-OCT-2001	01-09-514P	05
09	NV	NORTH LAS VEGAS, CITY OF	32003C2160D	29-NOV-2001	01-09-960P	06
09	NV	RENO, CITY OF	32031C2794E	09-NOV-2001	01-09-1127A	01
09	NV	RENO, CITY OF	32031C3157E	23-OCT-2001	01-09-1137P	06
09	NV	RENO, CITY OF	32031C3158E	23-OCT-2001	01-09-1137P	06
09	NV	RENO, CITY OF	32031C3159E	23-OCT-2001	01-09-1137P	06
09	NV	RENO, CITY OF	32031C3176F	19-OCT-2001	01-09-1195A	01
09	NV	RENO, CITY OF	32031C3157E	04-SEP-2001	01-09-338P	06
09	NV	RENO, CITY OF	32031C3158E	04-SEP-2001	01-09-338P	06
09	NV	RENO, CITY OF	32031C3159E	04-SEP-2001	01-09-338P	06
09	NV	RENO, CITY OF	32031C3159E	14-DEC-2001	01-09-689P	05
09	NV	RENO, CITY OF	32031C3170E	14-DEC-2001	01-09-689P	05
09	NV	RENO, CITY OF	32031C3178E	14-DEC-2001	01-09-689P	05
09	NV	RENO, CITY OF	32031C3176F	30-AUG-2001	01-09-922A	01
09	NV	RENO, CITY OF	32031C3178E	31-DEC-2001	02-09-016A	01
09	NV	WASHOE COUNTY	32031C3250F	17-OCT-2001	01-09-1194A	02
09	NV	WASHOE COUNTY	32031C3188E	26-NOV-2001	01-09-307P	05
10	AK	FAIRBANKS-NORTH STAR BOROUGH	0250090204G	02-JUL-2001	01-10-382A	02
10	AK	FAIRBANKS-NORTH STAR BOROUGH	0250090212H	30-AUG-2001	01-10-507A	02
10	AK	JUNEAU, CITY AND BOROUGH OF	0200090880C	02-JUL-2001	01-10-356A	02
10	AK	JUNEAU, CITY AND BOROUGH OF	0200090725B	31-DEC-2001	01-10-526A	02
10	AK	MATANUSKA-SUSITNA, BOROUGH OF	0200219675C	12-SEP-2001	01-10-422A	02
10	AK	MATANUSKA-SUSITNA, BOROUGH OF	0200218795C	23-AUG-2001	01-10-517A	02
10	ID	ADAMS COUNTY	16003C0400B	25-JUL-2001	01-10-320A	02
10	ID	ADAMS COUNTY	16003C0400B	30-AUG-2001	01-10-355A	02
10	ID	ADAMS COUNTY	16003C0250B	10-SEP-2001	01-10-440A	02
10	ID	BINGHAM COUNTY	1600180425B	03-AUG-2001	01-10-482A	02
10	ID	BINGHAM COUNTY	1600180425B	24-OCT-2001	01-10-494A	01
10	ID	BOISE, CITY OF	16001C0305G	06-SEP-2001	01-10-344P	06
10	ID	BONNER COUNTY	1602060400C	01-AUG-2001	01-10-489A	02
10	ID	BONNER COUNTY	1602060400C	23-AUG-2001	01-10-514A	02
10	ID	BONNER COUNTY	1602060300C	28-NOV-2001	02-10-008A	02
10	ID	BONNER COUNTY	1602060300C	26-OCT-2001	02-10-012A	02
10	ID	BONNER COUNTY	1602060360C	15-NOV-2001	02-10-013A	02
10	ID	CANYON COUNTY	1602080400C	01-AUG-2001	01-10-391A	02
10	ID	CANYON COUNTY	1602080236C	24-OCT-2001	02-10-005A	02
10	ID	EAGLE, CITY OF	16001C0162G	24-AUG-2001	01-10-437A	01
10	ID	ELMORE COUNTY	1602120225B	21-DEC-2001	02-10-019A	02
10	ID	GARDEN CITY, CITY OF	16001C0167G	28-NOV-2001	02-10-065A	02
10	ID	KETCHUM, CITY OF	1600230461C	31-OCT-2001	01-10-577A	02
10	ID	KOOTENAI COUNTY	1600760155C	01-AUG-2001	01-10-350A	02
10	ID	KOOTENAI COUNTY	1600760170D	06-JUL-2001	01-10-432A	02
10	ID	KOOTENAI COUNTY	1600760160C	25-JUL-2001	01-10-458A	02
10	ID	LATAH COUNTY	1600860135B	05-DEC-2001	01-10-444A	01
10	ID	MIDDLETON, CITY OF	1600370001E	31-DEC-2001	02-10-023A	02
10	ID	MINIDOKA COUNTY	160201—57B	30-AUG-2001	01-10-512A	02
10	ID	NAMPA, CITY OF	1600380002C	03-OCT-2001	01-10-527A	01
10	ID	VALLEY COUNTY	1602200312A	06-JUL-2001	01-10-414A	02
10	ID	VALLEY COUNTY	1602200475A	05-OCT-2001	01-10-532A	02
10	ID	WASHINGTON COUNTY	1602210405B	31-DEC-2001	02-10-110A	02
10	OR	ALBANY, CITY OF	4101370003F	03-OCT-2001	01-10-566A	02
10	OR	ASHLAND, CITY OF	4100900003B	03-AUG-2001	01-10-464A	02
10	OR	ASHLAND, CITY OF	4155890537B	03-AUG-2001	01-10-464A	02
10	OR	BANDON, CITY OF	4100430002C	10-DEC-2001	00-10-382P	05
10	OR	BENTON COUNTY	4100080090C	20-JUL-2001	01-10-405A	02
10	OR	BENTON COUNTY	4100080175C	18-JUL-2001	01-10-448A	02
10	OR	BENTON COUNTY	4100080025C	20-JUL-2001	01-10-454A	02
10	OR	BENTON COUNTY	4100080175C	02-NOV-2001	02-10-018A	02
10	OR	BURNS, CITY OF	4100840001D	07-NOV-2001	02-10-068A	01
10	OR	CENTRAL POINT, CITY OF	4100920001C	24-JUL-2001	00-10-524P	05
10	OR	CLACKAMAS COUNTY	4155880070B	25-JUL-2001	01-10-354A	02
10	OR	CLACKAMAS COUNTY	4155880206A	06-JUL-2001	01-10-429A	02

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10	OR	CLACKAMAS COUNTY	4155880020A	24-OCT-2001	01-10-559A	02
10	OR	CLACKAMAS COUNTY	4155880020A	03-OCT-2001	01-10-578A	02
10	OR	COLUMBIA COUNTY	41009C0450C	03-AUG-2001	01-10-237A	02
10	OR	COLUMBIA COUNTY	41009C0250C	02-NOV-2001	01-10-505A	02
10	OR	COLUMBIA COUNTY	41009C0444C	26-SEP-2001	01-10-530A	01
10	OR	COLUMBIA COUNTY	41009C0175C	14-SEP-2001	01-10-539A	02
10	OR	COLUMBIA COUNTY	41009C0127C	20-NOV-2001	02-10-062A	02
10	OR	COOS BAY, CITY OF	4100440008B	02-NOV-2001	02-10-009A	02
10	OR	COOS COUNTY	4100420350B	03-AUG-2001	01-10-451A	02
10	OR	COOS COUNTY	4100420155B	17-AUG-2001	01-10-497A	02
10	OR	CORNELIUS, CITY OF	4102610001A	21-DEC-2001	02-10-100A	02
10	OR	CORVALLIS, CITY OF	4100090004E	02-JUL-2001	01-10-390A	01
10	OR	CORVALLIS, CITY OF	4100090002E	21-SEP-2001	01-10-563A	02
10	OR	COTTAGE GROVE, CITY OF	41039C2087F	03-OCT-2001	01-10-542A	02
10	OR	CROOK COUNTY	41013C0400B	11-DEC-2001	02-10-075A	02
10	OR	DOUGLAS COUNTY	4100590755A	23-AUG-2001	01-10-501A	02
10	OR	DOUGLAS COUNTY	4100590735A	12-OCT-2001	01-10-573A	02
10	OR	DOUGLAS COUNTY	4100590760A	09-NOV-2001	01-10-591A	02
10	OR	EUGENE, CITY OF	41039C1137F	02-JUL-2001	01-10-404A	02
10	OR	EUGENE, CITY OF	41039C1136F	02-JUL-2001	01-10-417A	02
10	OR	EUGENE, CITY OF	41039C1106F	06-JUL-2001	01-10-420A	02
10	OR	EUGENE, CITY OF	41039C1107F	06-JUL-2001	01-10-425A	02
10	OR	EUGENE, CITY OF	41039C1136F	06-JUL-2001	01-10-433A	02
10	OR	EUGENE, CITY OF	41039C1106F	11-JUL-2001	01-10-461A	02
10	OR	EUGENE, CITY OF	41039C1127F	25-JUL-2001	01-10-472A	02
10	OR	EUGENE, CITY OF	41039C1106F	25-JUL-2001	01-10-478A	02
10	OR	EUGENE, CITY OF	41039C1107F	10-AUG-2001	01-10-506A	02
10	OR	EUGENE, CITY OF	41039C1104F	10-AUG-2001	01-10-508A	01
10	OR	EUGENE, CITY OF	41039C1104F	30-AUG-2001	01-10-533A	02
10	OR	EUGENE, CITY OF	41039C1106F	30-AUG-2001	01-10-535A	02
10	OR	EUGENE, CITY OF	41039C1106F	26-SEP-2001	01-10-572A	02
10	OR	EUGENE, CITY OF	41039C1104F	10-OCT-2001	02-10-002A	02
10	OR	EUGENE, CITY OF	41039C1126F	07-NOV-2001	02-10-033A	02
10	OR	EUGENE, CITY OF	41039C1104F	09-NOV-2001	02-10-035A	02
10	OR	EUGENE, CITY OF	41039C1107F	02-NOV-2001	02-10-037A	02
10	OR	EUGENE, CITY OF	41039C1137F	02-NOV-2001	02-10-039A	02
10	OR	EUGENE, CITY OF	41039C1128F	03-DEC-2001	02-10-041A	02
10	OR	EUGENE, CITY OF	41039C1136F	02-NOV-2001	02-10-043A	02
10	OR	EUGENE, CITY OF	41039C1136F	20-NOV-2001	02-10-069A	02
10	OR	FLORENCE, CITY OF	41039C1427F	11-JUL-2001	01-10-426A	02
10	OR	FLORENCE, CITY OF	41039C1427F	10-AUG-2001	01-10-456A	02
10	OR	GLADSTONE, CITY OF	4100170001B	18-JUL-2001	01-10-335A	17
10	OR	GRANTS PASS, CITY OF	4155900237D	28-NOV-2001	02-10-047A	02
10	OR	GRANTS PASS, CITY OF	4155900237D	21-DEC-2001	02-10-079A	02
10	OR	GRANTS PASS, CITY OF	4155900237D	21-DEC-2001	02-10-084A	02
10	OR	GRANTS PASS, CITY OF	4155900237D	31-DEC-2001	02-10-105A	02
10	OR	GRESHAM, CITY OF	4101810006E	20-SEP-2001	01-10-547A	02
10	OR	JACKSON COUNTY	4155890402B	02-NOV-2001	01-10-447A	02
10	OR	JACKSON COUNTY	4155890377B	10-AUG-2001	01-10-502A	02
10	OR	JACKSON COUNTY	4155890313B	31-AUG-2001	01-10-520A	02
10	OR	JACKSON COUNTY	4155890404B	10-SEP-2001	01-10-522A	02
10	OR	JACKSON COUNTY	4155890288B	17-OCT-2001	01-10-584A	02
10	OR	JACKSON COUNTY	4155890306B	20-NOV-2001	02-10-051A	02
10	OR	JACKSON COUNTY	4155890189B	20-NOV-2001	02-10-052X	02
10	OR	JACKSON COUNTY	4155890227B	20-NOV-2001	02-10-053A	02
10	OR	JACKSONVILLE, CITY OF	4100950001B	27-JUL-2001	01-10-471A	02
10	OR	JACKSONVILLE, CITY OF	4100950001B	15-AUG-2001	01-10-484A	02
10	OR	JOSEPHINE COUNTY	4155900237D	17-AUG-2001	01-10-481A	02
10	OR	JOSEPHINE COUNTY	4155900237D	30-AUG-2001	01-10-540A	02
10	OR	JOSEPHINE COUNTY	4155900237D	10-OCT-2001	01-10-590A	02
10	OR	JUNCTION CITY, CITY OF	41039C0602F	09-NOV-2001	02-10-036A	02
10	OR	KEIZER, CITY OF	41047C0193G	30-AUG-2001	01-10-528A	02
10	OR	KEIZER, CITY OF	41047C0194G	07-NOV-2001	01-10-538A	02
10	OR	KEIZER, CITY OF	41047C0193G	03-DEC-2001	02-10-027A	02
10	OR	KLAMATH COUNTY	4101091065B	18-JUL-2001	01-10-430A	02
10	OR	LA GRANDE, CITY OF	4102600002D	09-NOV-2001	01-10-583A	01
10	OR	LANE COUNTY	41039C0600F	02-JUL-2001	01-10-204A	02
10	OR	LANE COUNTY	41039C0690F	01-AUG-2001	01-10-365A	02
10	OR	LANE COUNTY	41039C1104F	12-JUL-2001	01-10-403A	02
10	OR	LANE COUNTY	41039C2400F	06-JUL-2001	01-10-411A	02
10	OR	LANE COUNTY	41039C0600F	20-JUL-2001	01-10-442A	02
10	OR	LANE COUNTY	41039C0600F	27-JUL-2001	01-10-468A	02
10	OR	LANE COUNTY	41039C0670F	10-AUG-2001	01-10-486A	02

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10	OR	LANE COUNTY	41039C1126F	26-SEP-2001	01-10-509A	02
10	OR	LANE COUNTY	41039C1107F	28-SEP-2001	01-10-515A	02
10	OR	LANE COUNTY	41039C1105F	30-AUG-2001	01-10-516A	02
10	OR	LANE COUNTY	41039C1107F	10-SEP-2001	01-10-524A	02
10	OR	LANE COUNTY	41039C1126F	28-NOV-2001	01-10-531A	02
10	OR	LANE COUNTY	41039C1180F	15-AUG-2001	01-10-549A	02
10	OR	LANE COUNTY	41039C1050F	31-AUG-2001	01-10-550A	02
10	OR	LANE COUNTY	41039C1660F	17-OCT-2001	01-10-585A	02
10	OR	LANE COUNTY	41039C0740F	10-OCT-2001	02-10-001A	02
10	OR	LANE COUNTY	41039C1107F	24-OCT-2001	02-10-017A	02
10	OR	LANE COUNTY	41039C2400F	19-DEC-2001	02-10-092A	02
10	OR	LANE COUNTY	41039C1645F	19-DEC-2001	02-10-093A	02
10	OR	LANE COUNTY	41039C1680F	31-DEC-2001	02-10-111A	02
10	OR	LINCOLN CITY, CITY OF	4101300001C	03-AUG-2001	01-10-376A	01
10	OR	LINN COUNTY	4101360350B	18-JUL-2001	01-10-438A	02
10	OR	LINN COUNTY	4101360350B	31-DEC-2001	02-10-112A	02
10	OR	MARION COUNTY	41047C0050G	15-NOV-2001	01-10-561A	02
10	OR	MILWAUKIE, CITY OF	4100190001B	19-DEC-2001	01-10-191P	05
10	OR	MULTNOMAH COUNTY	4101790381B	19-DEC-2001	01-10-191P	05
10	OR	PORTLAND, CITY OF	4101830047D	19-DEC-2001	01-10-191P	05
10	OR	PORTLAND, CITY OF	4101830048C	19-DEC-2001	01-10-191P	05
10	OR	PORTLAND, CITY OF	4101830051C	19-DEC-2001	01-10-191P	05
10	OR	PORTLAND, CITY OF	4101830046C	25-OCT-2001	01-R10-3	02
10	OR	PORTLAND, CITY OF	4101830020D	26-OCT-2001	02-10-010A	02
10	OR	PORTLAND, CITY OF	4101830025D	28-NOV-2001	02-10-063A	02
10	OR	ROSEBURG, CITY OF	4100670005E	06-JUL-2001	01-10-303A	01
10	OR	ROSEBURG, CITY OF	4100670005E	14-SEP-2001	01-10-553A	02
10	OR	TIGARD, CITY OF	4102760003B	20-SEP-2001	01-10-413A	02
10	OR	TILLAMOOK COUNTY	4101960315A	08-AUG-2001	01-10-453A	02
10	OR	TILLAMOOK COUNTY	4101960160B	24-AUG-2001	01-10-548A	02
10	OR	TILLAMOOK COUNTY	4101960250A	12-DEC-2001	02-10-086A	02
10	OR	TUALATIN, CITY OF	4102770002D	03-OCT-2001	01-10-455A	01
10	OR	WASHINGTON COUNTY	4102380316B	24-OCT-2001	01-10-575A	02
10	OR	WASHINGTON COUNTY	4102380500B	31-DEC-2001	02-10-020A	02
10	OR	YAMHILL COUNTY	4102490187C	07-NOV-2001	02-10-028A	02
10	WA	ABERDEEN, CITY OF	5300580004B	20-JUL-2001	01-10-452A	02
10	WA	BAINBRIDGE ISLAND, CITY OF	5300920310B	31-AUG-2001	01-10-446A	02
10	WA	BAINBRIDGE ISLAND, CITY OF	5300920220B	20-JUL-2001	01-10-450A	02
10	WA	BAINBRIDGE ISLAND, CITY OF	5303070001A	10-AUG-2001	01-10-485A	02
10	WA	BELLEVUE, CITY OF	53033C0656F	24-OCT-2001	02-10-014A	02
10	WA	BENTON COUNTY	5302370636D	02-NOV-2001	02-10-029A	02
10	WA	BENTON COUNTY	5302370645B	14-DEC-2001	02-10-091A	02
10	WA	BURIEN, CITY OF	53033C0955F	19-NOV-2001	02-10-058A	02
10	WA	BURLINGTON, CITY OF	5301530001B	27-JUL-2001	01-10-466A	02
10	WA	BURLINGTON, CITY OF	5301530001B	15-NOV-2001	02-10-055A	02
10	WA	CARNATION, CITY OF	53033C0418F	30-AUG-2001	01-10-421A	01
10	WA	CARNATION, CITY OF	53033C0419F	17-AUG-2001	01-10-513A	02
10	WA	CARNATION, CITY OF	53033C0419G	07-DEC-2001	99-10-161V	19
10	WA	CARNATION, CITY OF	53033C0419G	07-DEC-2001	99-10-161V	19
10	WA	CENTRALIA, CITY OF	5301030001B	02-JUL-2001	01-10-436A	02
10	WA	CENTRALIA, CITY OF	5301030001B	03-AUG-2001	01-10-490A	02
10	WA	CENTRALIA, CITY OF	5301030001B	21-DEC-2001	02-10-038A	02
10	WA	CHEHALIS, CITY OF	5301040002B	08-AUG-2001	01-10-465A	02
10	WA	CLARK COUNTY	5300240460C	01-AUG-2001	01-10-434A	02
10	WA	CLARK COUNTY	5300240225B	03-DEC-2001	02-10-003A	02
10	WA	COWLITZ COUNTY	5300320040E	21-DEC-2001	98-10-301V	19
10	WA	COWLITZ COUNTY	5300320129F	21-DEC-2001	98-10-301V	19
10	WA	COWLITZ COUNTY	5300320140E	21-DEC-2001	98-10-301V	19
10	WA	GOLD BAR, TOWN OF	53061C1427E	30-AUG-2001	01-10-521A	02
10	WA	ISLAND COUNTY	53029C0165D	10-OCT-2001	01-10-555A	02
10	WA	ISLAND COUNTY	53029C0275D	10-OCT-2001	01-10-555A	02
10	WA	KING COUNTY	53033C1290F	28-NOV-2001	01-10-460A	02
10	WA	KING COUNTY	53033C1505F	17-OCT-2001	01-10-492A	02
10	WA	KING COUNTY	53033C1280F	26-OCT-2001	01-10-570A	02
10	WA	KING COUNTY	53033C1250F	19-OCT-2001	01-10-592A	02
10	WA	KING COUNTY	53033C0680F	07-NOV-2001	02-10-034A	02
10	WA	KING COUNTY	53033C1076G	28-NOV-2001	02-10-067A	02
10	WA	KING COUNTY	53033C0418G	07-DEC-2001	99-10-161V	19
10	WA	KING COUNTY	53033C1057H	07-DEC-2001	99-10-161V	19
10	WA	KING COUNTY	53033C1059G	07-DEC-2001	99-10-161V	19
10	WA	KING COUNTY	53033C1076H	07-DEC-2001	99-10-161V	19
10	WA	KITSAP COUNTY	5300920120B	31-DEC-2001	02-10-113A	02
10	WA	KITTITAS COUNTY	5300950125B	24-OCT-2001	01-10-375A	02

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10	WA	KITTITAS COUNTY	5300950229B	03-AUG-2001	01-10-499A	02
10	WA	KITTITAS COUNTY	5300950554C	12-SEP-2001	01-10-541A	02
10	WA	LEWIS COUNTY	5301020041B	26-SEP-2001	01-10-558A	02
10	WA	MASON COUNTY	5301150275C	27-JUL-2001	01-10-469A	02
10	WA	N. BONNEVILLE, TOWN OF	5302560001A	13-SEP-2001	01-10-488P	05
10	WA	OKANOGAN COUNTY	5301170675D	10-AUG-2001	01-10-491A	02
10	WA	OLYMPIA, CITY OF	5301910004B	15-AUG-2001	01-10-358A	02
10	WA	OLYMPIA, CITY OF	5301910003B	18-JUL-2001	01-10-445A	02
10	WA	PACIFIC COUNTY	5301260025B	19-DEC-2001	02-10-096A	02
10	WA	PIERCE COUNTY	5301380730C	03-OCT-2001	01-10-504A	02
10	WA	PIERCE COUNTY	5301380375C	31-OCT-2001	01-10-518A	02
10	WA	PIERCE COUNTY	5301380250C	31-DEC-2001	02-10-073A	02
10	WA	RENTON, CITY OF	53033C0976F	18-JUL-2001	01-10-265A	01
10	WA	RICHLAND, CITY OF	5355330015E	01-AUG-2001	01-10-384P	06
10	WA	SAN JUAN COUNTY	5301490004B	02-JUL-2001	01-10-327A	02
10	WA	SKAGIT COUNTY	5301510250C	03-AUG-2001	01-10-439A	02
10	WA	SKAGIT COUNTY	5301510275C	12-JUL-2001	01-10-441A	02
10	WA	SKAGIT COUNTY	5301510425C	25-JUL-2001	01-10-463A	02
10	WA	SKAGIT COUNTY	5301510250C	10-SEP-2001	01-10-523A	02
10	WA	SKAGIT COUNTY	5301510305C	28-NOV-2001	02-10-059A	02
10	WA	SNOHOMISH COUNTY	53061C0715E	10-SEP-2001	01-10-529A	02
10	WA	SNOHOMISH COUNTY	53061C1310E	19-NOV-2001	02-10-057A	02
10	WA	SNOHOMISH COUNTY	53061C0755E	03-DEC-2001	02-10-074A	02
10	WA	SPOKANE COUNTY	5301740225B	06-JUL-2001	01-10-366A	02
10	WA	SPOKANE COUNTY	5301740085	31-DEC-2001	01-10-580A	02
10	WA	SPOKANE COUNTY	5301740401C	28-NOV-2001	02-10-064A	02
10	WA	SPOKANE COUNTY	5301740294C	05-DEC-2001	02-10-077A	02
10	WA	SPOKANE COUNTY	5301740294C	19-DEC-2001	02-10-095A	02
10	WA	SPOKANE COUNTY	5301740294C	19-DEC-2001	02-10-104A	02
10	WA	STEVENS COUNTY	5301850075B	27-JUL-2001	01-10-423A	02
10	WA	SULTAN, CITY OF	53061C1406E	18-JUL-2001	01-10-407A	02
10	WA	TACOMA, CITY OF	5301480035B	05-DEC-2001	01-10-459A	01
10	WA	THURSTON COUNTY	5301880150C	10-AUG-2001	01-10-480A	02
10	WA	WHATCOM COUNTY	530198—15B	13-NOV-2001	01-10-534P	05

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01	MAINE	DIXFIELD, TOWN OF	2300920003C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920004C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920005C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920006C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920007C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920008C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920009C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920010C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	2300920011C	07-SEP-2001
01	MAINE	DIXFIELD, TOWN OF	230092IND0**	07-SEP-2001
01	MAINE	GREENVILLE,TOWN OF	2304090005E	07-SEP-2001
01	MAINE	GREENVILLE,TOWN OF	2304090010E	07-SEP-2001
01	MAINE	GREENVILLE,TOWN OF	2304090011E	07-SEP-2001
01	MAINE	GREENVILLE,TOWN OF	2304090015E	07-SEP-2001
01	MAINE	GREENVILLE,TOWN OF	2304090020E	07-SEP-2001
01	MAINE	GREENVILLE,TOWN OF	230409IND0**	07-SEP-2001
01	MAINE	KINGFIELD, TOWN OF	2300580010C	07-NOV-2001
01	MAINE	KINGFIELD, TOWN OF	2300580015C	07-NOV-2001
01	MAINE	KINGFIELD, TOWN OF	2300580017C	07-NOV-2001
01	MAINE	KINGFIELD, TOWN OF	2300580020C	07-NOV-2001
01	MAINE	KINGFIELD, TOWN OF	230058IND0**	07-NOV-2001
01	MAINE	MT. VERNON, TOWN OF	2302410005B	07-SEP-2001
01	MAINE	MT. VERNON, TOWN OF	2302410025B	07-SEP-2001
01	MAINE	MT. VERNON, TOWN OF	230241IND0**	07-SEP-2001
01	MAINE	WILTON, TOWN OF	2300630001B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630002B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630004B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630005B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630006B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630007B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630008B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630009B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	2300630010B	23-AUG-2001
01	MAINE	WILTON, TOWN OF	230063IND0**	23-AUG-2001

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01	MASSACHUSETTS	HOLBROOK, TOWN OF	2552120002D	05-JUL-2001
01	MASSACHUSETTS	HOLBROOK, TOWN OF	2552120003D	05-JUL-2001
01	MASSACHUSETTS	HOLBROOK, TOWN OF	2552120004D	05-JUL-2001
01	MASSACHUSETTS	HOLBROOK, TOWN OF	255212IND0**	05-JUL-2001
01	NEW HAMPSHIRE	DURHAM, TOWN OF	3301460002C	23-AUG-2001
01	NEW HAMPSHIRE	DURHAM, TOWN OF	3301460004C	23-AUG-2001
01	NEW HAMPSHIRE	DURHAM, TOWN OF	3301460010C	23-AUG-2001
01	NEW HAMPSHIRE	DURHAM, TOWN OF	3301460015C	23-AUG-2001
01	NEW HAMPSHIRE	DURHAM, TOWN OF	330146IND0**	23-AUG-2001
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01	NEW HAMPSHIRE	KEENE, CITY OF	3300230006D	05-OCT-2001
01	NEW HAMPSHIRE	KEENE, CITY OF	3300230008D	05-OCT-2001
01	NEW HAMPSHIRE	KEENE, CITY OF	3300230009D	05-OCT-2001
01	NEW HAMPSHIRE	KEENE, CITY OF	330023IND0**	05-OCT-2001
01	VERMONT	MONTGOMERY, TOWN OF	5000560001C	05-JUL-2001
01	VERMONT	MONTGOMERY, TOWN OF	5000560005C	05-JUL-2001
01	VERMONT	MONTGOMERY, TOWN OF	500056IND0**	05-JUL-2001
02	NEW JERSEY	BERKELEY HEIGHTS, TOWNSHIP OF	3404590001E	21-NOV-2001
02	NEW JERSEY	BERKELEY HEIGHTS, TOWNSHIP OF	3404590002E	21-NOV-2001
02	NEW JERSEY	BERKELEY HEIGHTS, TOWNSHIP OF	3404590003E	21-NOV-2001
02	NEW JERSEY	BERKELEY HEIGHTS, TOWNSHIP OF	3404590004E	21-NOV-2001
02	NEW JERSEY	BERKELEY HEIGHTS, TOWNSHIP OF	340459IND0**	21-NOV-2001
02	NEW JERSEY	CHATHAM, BOROUGH OF	3403380001B	19-JUL-2001
02	NEW JERSEY	CHATHAM, TOWNSHIP OF	3405040002C	19-JUL-2001
02	NEW JERSEY	CHATHAM, TOWNSHIP OF	3405040004C	19-JUL-2001
02	NEW JERSEY	CHATHAM, TOWNSHIP OF	3405040005C	19-JUL-2001
02	NEW JERSEY	CHATHAM, TOWNSHIP OF	3405040006C	19-JUL-2001
02	NEW JERSEY	CHATHAM, TOWNSHIP OF	340504IND0**	19-JUL-2001
02	NEW JERSEY	FRENCHTOWN, BOROUGH OF	3402340001C	19-JUL-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440002D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440003D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440004D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440005D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440006D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440007D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440008D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	3403440009D	06-DEC-2001
02	NEW JERSEY	HARDING, TOWNSHIP OF	340344IND0**	06-DEC-2001
02	NEW JERSEY	NEW PROVIDENCE, BOROUGH OF	3453060001D	20-DEC-2001
02	NEW JERSEY	PHILLIPSBURG, TOWN OF	3404930001C	19-JUL-2001
02	NEW JERSEY	PHILLIPSBURG, TOWN OF	3404930002C	19-JUL-2001
02	NEW JERSEY	PHILLIPSBURG, TOWN OF	340493IND0**	19-JUL-2001
02	NEW JERSEY	ROSELAND, BOROUGH OF	3401930001C	20-DEC-2001
02	NEW JERSEY	ROSELAND, BOROUGH OF	3401930003C	20-DEC-2001
02	NEW JERSEY	ROSELAND, BOROUGH OF	340193IND0**	20-DEC-2001
02	NEW JERSEY	WEST CALDWELL, BOROUGH OF	3401960001C	20-DEC-2001
02	NEW JERSEY	WEST CALDWELL, BOROUGH OF	3401960002C	20-DEC-2001
02	NEW JERSEY	WEST CALDWELL, BOROUGH OF	3401960003C	20-DEC-2001
02	NEW JERSEY	WEST CALDWELL, BOROUGH OF	340196IND0**	20-DEC-2001
02	NEW YORK	CARMEL,TOWN OF	3606690001D	19-OCT-2001
02	NEW YORK	CARMEL,TOWN OF	3606690005D	19-OCT-2001
02	NEW YORK	CARMEL,TOWN OF	3606690006D	19-OCT-2001
02	NEW YORK	CARMEL,TOWN OF	360669IND0**	19-OCT-2001
02	NEW YORK	CHAMPLAIN, TOWN OF	3613110005B	19-JUL-2001
02	NEW YORK	CHAMPLAIN, TOWN OF	3613110010B	19-JUL-2001
02	NEW YORK	CHAMPLAIN, TOWN OF	3613110015B	19-JUL-2001
02	NEW YORK	CHAMPLAIN, TOWN OF	3613110020B	19-JUL-2001
02	NEW YORK	CHAMPLAIN, TOWN OF	361311IND0**	19-JUL-2001
02	NEW YORK	CHAMPLAIN, VILLAGE OF	3601670001C	19-JUL-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440001D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440002D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440003D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440004D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440005D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440006D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440007D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440008D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440009D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440010D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440011D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440012D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440013D	20-DEC-2001
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02	NEW YORK	HAMBURG, TOWN OF	3602440018D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440019D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440020D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	3602440021D	20-DEC-2001
02	NEW YORK	HAMBURG, TOWN OF	360244IND0**	20-DEC-2001
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02	NEW YORK	LUMBERLAND, TOWN OF	3608250005C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250010C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250015C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250020C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250034C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250051C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250052C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250053C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250054C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250058C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250060C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250061C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250062C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250066C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	3608250067C	19-OCT-2001
02	NEW YORK	LUMBERLAND, TOWN OF	360825IND0*	19-OCT-2001
02	NEW YORK	NORTH ELBA, TOWN OF	3611560009B	23-AUG-2001
02	NEW YORK	NORTH ELBA, TOWN OF	3611560010B	23-AUG-2001
02	NEW YORK	NORTH ELBA, TOWN OF	3611560016B	23-AUG-2001
02	NEW YORK	NORTH ELBA, TOWN OF	3611560017B	23-AUG-2001
02	NEW YORK	NORTH ELBA, TOWN OF	3611560025B	23-AUG-2001
02	NEW YORK	NORTH ELBA, TOWN OF	361156IND0**	23-AUG-2001
02	NEW YORK	WINDHAM, TOWN OF	3614010021E	19-JUL-2001
02	NEW YORK	WINDHAM, TOWN OF	3614010022E	19-JUL-2001
02	NEW YORK	WINDHAM, TOWN OF	361401IND0**	19-JUL-2001
03	PENNSYLVANIA	ALBURTIS, BOROUGH OF	42077C0238D	07-NOV-2001
03	PENNSYLVANIA	ALBURTIS, BOROUGH OF	42077C0239D	07-NOV-2001
03	PENNSYLVANIA	ALBURTIS, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0164D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0231D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0232D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0233D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0234D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0242D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0251D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0252D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0253D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0254D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0256D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0260D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0261D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077C0262D	07-NOV-2001
03	PENNSYLVANIA	ALLENTOWN, CITY OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	ASPINWALL, BOROUGH OF	42003C0357G**	21-SEP-2001
03	PENNSYLVANIA	ASPINWALL, BOROUGH OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	ASPINWALL, BOROUGH OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	BUFFALO, TOWNSHIP OF	4214160005C	05-JUL-2001
03	PENNSYLVANIA	BUFFALO, TOWNSHIP OF	4214160007C	05-JUL-2001
03	PENNSYLVANIA	BUFFALO, TOWNSHIP OF	421416IND0**	05-JUL-2001
03	PENNSYLVANIA	CATASAUQUA, BOROUGH OF	42077C0161D	07-NOV-2001
03	PENNSYLVANIA	CATASAUQUA, BOROUGH OF	42077C0162D	07-NOV-2001
03	PENNSYLVANIA	CATASAUQUA, BOROUGH OF	42077C0163D	07-NOV-2001
03	PENNSYLVANIA	CATASAUQUA, BOROUGH OF	42077C0164D	07-NOV-2001
03	PENNSYLVANIA	CATASAUQUA, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	COLLEGEVILLE, BOROUGH OF	42091C0229F	19-OCT-2001
03	PENNSYLVANIA	COLLEGEVILLE, BOROUGH OF	42091C0237F	19-OCT-2001
03	PENNSYLVANIA	COLLEGEVILLE, BOROUGH OF	42091CIND1**	19-OCT-2001
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03	PENNSYLVANIA	COOPERSBURG, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	COPLAY, BOROUGH OF	42077C0142D	07-NOV-2001
03	PENNSYLVANIA	COPLAY, BOROUGH OF	42077C0161D	07-NOV-2001
03	PENNSYLVANIA	COPLAY, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	EMMAUS, BOROUGH OF	42077C0242D	07-NOV-2001
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03	PENNSYLVANIA	EMMAUS, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	FOUNTAIN HILL, BORO OF	42077C0257D	07-NOV-2001
03	PENNSYLVANIA	FOUNTAIN HILL, BORO OF	42077C0260D	07-NOV-2001
03	PENNSYLVANIA	FOUNTAIN HILL, BORO OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	FOX CHAPEL, BOROUGH OF	42003C0217E	21-SEP-2001
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03	PENNSYLVANIA	FOX CHAPEL, BOROUGH OF	42003C0219F	21-SEP-2001
03	PENNSYLVANIA	FOX CHAPEL, BOROUGH OF	42003C0238G	21-SEP-2001
03	PENNSYLVANIA	FOX CHAPEL, BOROUGH OF	42003C0357G	21-SEP-2001
03	PENNSYLVANIA	FOX CHAPEL, BOROUGH OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	FOX CHAPEL, BOROUGH OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	FRANCONIA, TOWNSHIP OF	42091C0108F	19-OCT-2001
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03	PENNSYLVANIA	FRANCONIA, TOWNSHIP OF	42091C0116F	19-OCT-2001
03	PENNSYLVANIA	FRANCONIA, TOWNSHIP OF	42091C0117F	19-OCT-2001
03	PENNSYLVANIA	FRANCONIA, TOWNSHIP OF	42091C0128F	19-OCT-2001
03	PENNSYLVANIA	FRANCONIA, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	FRANCONIA, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	GREEN LANE, BOROUGH OF	42091C0103F	19-OCT-2001
03	PENNSYLVANIA	GREEN LANE, BOROUGH OF	42091C0104F	19-OCT-2001
03	PENNSYLVANIA	GREEN LANE, BOROUGH OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	GREEN LANE, BOROUGH OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	HANOVER, TOWNSHIP OF	42077C0162D	07-NOV-2001
03	PENNSYLVANIA	HANOVER, TOWNSHIP OF	42077C0164D	07-NOV-2001
03	PENNSYLVANIA	HANOVER, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	HARMAR, TOWNSHIP OF	42003C0238G**	21-SEP-2001
03	PENNSYLVANIA	HARMAR, TOWNSHIP OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	HARMAR, TOWNSHIP OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	HEIDELBERG, TOWNSHIP OF	42077C0085D	07-NOV-2001
03	PENNSYLVANIA	HEIDELBERG, TOWNSHIP OF	42077C0105D	07-NOV-2001
03	PENNSYLVANIA	HEIDELBERG, TOWNSHIP OF	42077C0110D	07-NOV-2001
03	PENNSYLVANIA	HEIDELBERG, TOWNSHIP OF	42077C0115D	07-NOV-2001
03	PENNSYLVANIA	HEIDELBERG, TOWNSHIP OF	42077C0120D	07-NOV-2001
03	PENNSYLVANIA	HEIDELBERG, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	INDIANA, TOWNSHIP OF	42003C0217F**	21-SEP-2001
03	PENNSYLVANIA	INDIANA, TOWNSHIP OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	INDIANA, TOWNSHIP OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	LIMERICK, TOWNSHIP OF	42091C0113F**	19-OCT-2001
03	PENNSYLVANIA	LIMERICK, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	LIMERICK, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091C0103F	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091C0104F	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091C0111F	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091C0112F	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091C0113F	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091C0114F	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	LOWER FREDERICK, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0217D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0219D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0230D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0233D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0234D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0236D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0237D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0238D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0239D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0241D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0242D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0243D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0244D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0301D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0302D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077C0310D	07-NOV-2001
03	PENNSYLVANIA	LOWER MACUNGIE, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0263D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0264D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0307D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0310D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0326D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0330D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0335D	07-NOV-2001

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03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077C0340D	07-NOV-2001
03	PENNSYLVANIA	LOWER MILFORD, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091C0229F	19-OCT-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091C0237F	19-OCT-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091C0239F	19-OCT-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091C0243F	19-OCT-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091C0327F	19-OCT-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	LOWER PROVIDENCE, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	LOWER SALFORD, TOWNSHIP OF	42091C0114F	19-OCT-2001
03	PENNSYLVANIA	LOWER SALFORD, TOWNSHIP OF	42091C0116F	19-OCT-2001
03	PENNSYLVANIA	LOWER SALFORD, TOWNSHIP OF	42091C0117F	19-OCT-2001
03	PENNSYLVANIA	LOWER SALFORD, TOWNSHIP OF	42091C0118F	19-OCT-2001
03	PENNSYLVANIA	LOWER SALFORD, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	LOWER SALFORD, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	LOWHILL,TOWNSHIP OF	42077C0115D	07-NOV-2001
03	PENNSYLVANIA	LOWHILL,TOWNSHIP OF	42077C0120D	07-NOV-2001
03	PENNSYLVANIA	LOWHILL,TOWNSHIP OF	42077C0138D	07-NOV-2001
03	PENNSYLVANIA	LOWHILL,TOWNSHIP OF	42077C0210D	07-NOV-2001
03	PENNSYLVANIA	LOWHILL,TOWNSHIP OF	42077C0226D	07-NOV-2001
03	PENNSYLVANIA	LOWHILL,TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077C0085D	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077C0090D	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077C0095D	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077C0105D	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077C0115D	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077C0185D	07-NOV-2001
03	PENNSYLVANIA	LYNN, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	MACUNGIE, BOROUGH OF	42077C0239D	07-NOV-2001
03	PENNSYLVANIA	MACUNGIE, BOROUGH OF	42077C0243D	07-NOV-2001
03	PENNSYLVANIA	MACUNGIE, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	MARLBOROUGH, TOWNSHIP OF	42091C0103F	19-OCT-2001
03	PENNSYLVANIA	MARLBOROUGH, TOWNSHIP OF	42091C0104F	19-OCT-2001
03	PENNSYLVANIA	MARLBOROUGH, TOWNSHIP OF	42091C0108F	19-OCT-2001
03	PENNSYLVANIA	MARLBOROUGH, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	MARLBOROUGH, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	NEW HANOVER, TOWNSHIP OF	42091C0103F**	19-OCT-2001
03	PENNSYLVANIA	NEW HANOVER, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	NEW HANOVER, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0110D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0120D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0127D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0128D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0129D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0131D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0132D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0133D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0134D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0136D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0137D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0138D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0139D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0141D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0142D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0143D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0144D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077C0226D	07-NOV-2001
03	PENNSYLVANIA	NORTH WHITEHALL, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	O'HARA, TOWNSHIP OF	42003C0218G**	21-SEP-2001
03	PENNSYLVANIA	O HARA, TOWNSHIP OF	42003C0219F**	21-SEP-2001
03	PENNSYLVANIA	O'HARA, TOWNSHIP OF	42003C0238G	21-SEP-2001
03	PENNSYLVANIA	O'HARA, TOWNSHIP OF	42003C0357G**	21-SEP-2001
03	PENNSYLVANIA	O'HARA, TOWNSHIP OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	O'HARA, TOWNSHIP OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	OAKMONT, BOROUGH OF	42003C0238G**	21-SEP-2001
03	PENNSYLVANIA	OAKMONT, BOROUGH OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	OAKMONT, BOROUGH OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	PENN HILLS, MUNICIPALITY OF	42003C0357G**	21-SEP-2001
03	PENNSYLVANIA	PENN HILLS, MUNICIPALITY OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	PENN HILLS, MUNICIPALITY OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	PERKIOMEN, TOWNSHIP OF	42091C0113F	19-OCT-2001
03	PENNSYLVANIA	PERKIOMEN, TOWNSHIP OF	42091C0114F	19-OCT-2001
03	PENNSYLVANIA	PERKIOMEN, TOWNSHIP OF	42091C0227F	19-OCT-2001
03	PENNSYLVANIA	PERKIOMEN, TOWNSHIP OF	42091C0229F	19-OCT-2001

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03	PENNSYLVANIA	PERKIOMEN, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	PERKIOMEN, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	PITTSBURGH, CITY OF	42003C0357G**	21-SEP-2001
03	PENNSYLVANIA	PITTSBURGH, CITY OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	PITTSBURGH, CITY OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091C0104F	19-OCT-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091C0108F	19-OCT-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091C0109F	19-OCT-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091C0116F	19-OCT-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091C0128F	19-OCT-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	SALFORD, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0234D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0242D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0252D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0253D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0254D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0256D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0257D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0260D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0261D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0262D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077C0263D	07-NOV-2001
03	PENNSYLVANIA	SALISBURY, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	SCHWENKSVILLE, BOROUGH OF	42091C0113F	19-OCT-2001
03	PENNSYLVANIA	SCHWENKSVILLE, BOROUGH OF	42091C0114F	19-OCT-2001
03	PENNSYLVANIA	SCHWENKSVILLE, BOROUGH OF	42091C0227F	19-OCT-2001
03	PENNSYLVANIA	SCHWENKSVILLE, BOROUGH OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	SCHWENKSVILLE, BOROUGH OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	SHALER, TOWNSHIP OF	42003C0218G**	21-SEP-2001
03	PENNSYLVANIA	SHALER, TOWNSHIP OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	SHALER, TOWNSHIP OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	SKIPPACK, TOWNSHIP OF	42091C0114F	19-OCT-2001
03	PENNSYLVANIA	SKIPPACK, TOWNSHIP OF	42091C0118F	19-OCT-2001
03	PENNSYLVANIA	SKIPPACK, TOWNSHIP OF	42091C0227F	19-OCT-2001
03	PENNSYLVANIA	SKIPPACK, TOWNSHIP OF	42091C0229F	19-OCT-2001
03	PENNSYLVANIA	SKIPPACK, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	SKIPPACK, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	SLATINGTON, BOROUGH OF	42077C0038D	07-NOV-2001
03	PENNSYLVANIA	SLATINGTON, BOROUGH OF	42077C0126D	07-NOV-2001
03	PENNSYLVANIA	SLATINGTON, BOROUGH OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0138D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0139D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0143D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0144D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0226D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0227D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0230D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0231D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0232D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0233D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0234D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077C0251D	07-NOV-2001
03	PENNSYLVANIA	SOUTH WHITEHALL, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	TRAPPE, BOROUGH OF	42091C0229F**	19-OCT-2001
03	PENNSYLVANIA	TRAPPE, BOROUGH OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	TRAPPE, BOROUGH OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	UPPER FREDERICK, TOWNSHIP OF	42091C0103F	19-OCT-2001
03	PENNSYLVANIA	UPPER FREDERICK, TOWNSHIP OF	42091C0111F	19-OCT-2001
03	PENNSYLVANIA	UPPER FREDERICK, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	UPPER FREDERICK, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0210D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0215D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0217D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0219D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0220D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0226D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0227D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0230D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0233D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0236D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077C0237D	07-NOV-2001
03	PENNSYLVANIA	UPPER MACUNGIE, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	UPPER MERION, TOWNSHIP OF	42091C0327F**	19-OCT-2001

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03	PENNSYLVANIA	UPPER MERION, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	UPPER MERION, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0242D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0243D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0244D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0261D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0263D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0264D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0302D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0307D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0310D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077C0326D	07-NOV-2001
03	PENNSYLVANIA	UPPER MILFORD, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	UPPER PROVIDENCE, TOWNSHIP OF	42091C0237F	19-OCT-2001
03	PENNSYLVANIA	UPPER PROVIDENCE, TOWNSHIP OF	42091C0239F	19-OCT-2001
03	PENNSYLVANIA	UPPER PROVIDENCE, TOWNSHIP OF	42091C0327F	19-OCT-2001
03	PENNSYLVANIA	UPPER PROVIDENCE, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	UPPER PROVIDENCE, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0103F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0104F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0108F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0112F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0114F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0116F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091C0118F	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	UPPER SALFORD, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0254D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0260D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0261D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0262D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0263D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0264D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0266D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0267D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0269D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0286D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077C0335D	07-NOV-2001
03	PENNSYLVANIA	UPPER SAUCON, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	VERONA, BOROUGH OF	42003C0238G**	21-SEP-2001
03	PENNSYLVANIA	VERONA, BOROUGH OF	42003CIND1**	21-SEP-2001
03	PENNSYLVANIA	VERONA, BOROUGH OF	42003CIND2**	21-SEP-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0020D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0036D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0038D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0105D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0110D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0120D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0126D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0127D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0128D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077C0129D	07-NOV-2001
03	PENNSYLVANIA	WASHINGTON, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0095D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0115D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0120D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0185D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0205D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0210D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0215D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077C0220D	07-NOV-2001
03	PENNSYLVANIA	WEISENBERG, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	PENNSYLVANIA	WEST NORRITON, TOWNSHIP OF	42091C0243F**	19-OCT-2001
03	PENNSYLVANIA	WEST NORRITON, TOWNSHIP OF	42091CIND1**	19-OCT-2001
03	PENNSYLVANIA	WEST NORRITON, TOWNSHIP OF	42091CIND2**	19-OCT-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0133D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0134D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0141D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0142D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0144D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0161D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0163D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0164D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0232D	07-NOV-2001

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03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077C0252D	07-NOV-2001
03	PENNSYLVANIA	WHITEHALL, TOWNSHIP OF	42077CIND0**	07-NOV-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440004C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440005C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440006C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440007C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440008C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440009C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440012C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440013C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440014C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440015C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440016C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440017C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440018C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440020C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440021C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440022C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	5100440023C	09-AUG-2001
03	VIRGINIA	DANVILLE, CITY OF	510044IND0**	09-AUG-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610055B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610060B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610070B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610080B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610090B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610095B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610180B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610185B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610190B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610195B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610205B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610210B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610215B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610220B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610230B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610240B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610355B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610360B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610365B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610370B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610380B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	5100610390B	05-OCT-2001
03	VIRGINIA	FRANKLIN COUNTY *	510061IND0**	05-OCT-2001
03	VIRGINIA	HAMILTON, TOWN OF	51107C0095D	05-JUL-2001
03	VIRGINIA	HAMILTON, TOWN OF	51107CIND0**	05-JUL-2001
03	VIRGINIA	HILLSBORO, TOWN OF	51107C0080D	05-JUL-2001
03	VIRGINIA	HILLSBORO, TOWN OF	51107CIND0**	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107C0115D	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107C0120D	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107C0227D	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107C0230D	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107C0231D	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107C0235D	05-JUL-2001
03	VIRGINIA	LEESBURG, TOWN OF	51107CIND0**	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0025D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0050D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0075D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0080D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0085D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0088D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0089D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0090D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0095D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0105D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0110D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0115D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0120D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0150D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0175D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0200D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0205D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0210D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0215D	05-JUL-2001

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03	VIRGINIA	LOUDOUN COUNTY *	51107C0227D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0230D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0231D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0235D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0240D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0242D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0244D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0245D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0255D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0260D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0261D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0263D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0265D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0266D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0267D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0268D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0269D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0286D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0290D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0325D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0350D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0355D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0360D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0365D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0370D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0380D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0385D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0390D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107C0425D	05-JUL-2001
03	VIRGINIA	LOUDOUN COUNTY *	51107CIND0**	05-JUL-2001
03	VIRGINIA	LOVETTSVILLE, TOWN OF	51107C0025D	05-JUL-2001
03	VIRGINIA	LOVETTSVILLE, TOWN OF	51107CIND0**	05-JUL-2001
03	VIRGINIA	MIDDLEBURG, TOWN OF	51107C0350D	05-JUL-2001
03	VIRGINIA	MIDDLEBURG, TOWN OF	51107CIND0**	05-JUL-2001
03	VIRGINIA	PITTSYLVANIA COUNTY *	5101130265C	09-AUG-2001
03	VIRGINIA	PITTSYLVANIA COUNTY *	5101130270C	09-AUG-2001
03	VIRGINIA	PITTSYLVANIA COUNTY *	5101130330C	09-AUG-2001
03	VIRGINIA	PITTSYLVANIA COUNTY *	5101130335C	09-AUG-2001
03	VIRGINIA	PITTSYLVANIA COUNTY *	5101130355C	09-AUG-2001
03	VIRGINIA	PITTSYLVANIA COUNTY *	510113IND0**	09-AUG-2001
03	VIRGINIA	PURCELLVILLE, TOWN OF	51107C0088D	05-JUL-2001
03	VIRGINIA	PURCELLVILLE, TOWN OF	51107C0089D	05-JUL-2001
03	VIRGINIA	PURCELLVILLE, TOWN OF	51107C0205D	05-JUL-2001
03	VIRGINIA	PURCELLVILLE, TOWN OF	51107CIND0**	05-JUL-2001
03	VIRGINIA	ROUNDHILL, TOWN OF	51107C0075D	05-JUL-2001
03	VIRGINIA	ROUNDHILL, TOWN OF	51107CIND0**	05-JUL-2001
04	ALABAMA	WETUMPKA, CITY OF	0100700001C	07-SEP-2001
04	ALABAMA	WETUMPKA, CITY OF	0100700002C	07-SEP-2001
04	ALABAMA	WETUMPKA, CITY OF	0100700003C	07-SEP-2001
04	ALABAMA	WETUMPKA, CITY OF	010070IND0**	07-SEP-2001
04	GEORGIA	ADEL, CITY OF	13075C0095B	06-DEC-2001
04	GEORGIA	ADEL, CITY OF	13075C0100B	06-DEC-2001
04	GEORGIA	ADEL, CITY OF	13075C0160B	06-DEC-2001
04	GEORGIA	ADEL, CITY OF	13075C0175B	06-DEC-2001
04	GEORGIA	ADEL, CITY OF	13075CIND0**	06-DEC-2001
04	GEORGIA	ALBANY, CITY OF	13095C0085D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0100D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0105D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0110D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0115D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0120D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0130D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095C0140D	05-OCT-2001
04	GEORGIA	ALBANY, CITY OF	13095CIND0**	05-OCT-2001
04	GEORGIA	CECIL, CITY OF	13075C0175B	06-DEC-2001
04	GEORGIA	CECIL, CITY OF	13075CIND0**	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0025B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0050B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0075B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0095B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0100B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0125B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0150B	06-DEC-2001

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04	GEORGIA	COOK COUNTY*	13075C0175B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075C0200B	06-DEC-2001
04	GEORGIA	COOK COUNTY*	13075CIND0**	06-DEC-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0025D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0075D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0085D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0100D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0105D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0110D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0115D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0120D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0130D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0135D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0140D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0145D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0175D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0200D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0225D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0235D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0255D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0260D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095C0300D	05-OCT-2001
04	GEORGIA	DOUGHERTY COUNTY *	13095CIND0**	05-OCT-2001
04	GEORGIA	LENOX, TOWN OF	13075C0050B	06-DEC-2001
04	GEORGIA	LENOX, TOWN OF	13075CIND0**	06-DEC-2001
04	GEORGIA	SPARKS, TOWN OF	13075C0095B	06-DEC-2001
04	GEORGIA	SPARKS, TOWN OF	13075C0100B	06-DEC-2001
04	GEORGIA	SPARKS, TOWN OF	13075CIND0**	06-DEC-2001
04	KENTUCKY	CADIZ, CITY OF	21035401B***	01-JUL-2001
04	KENTUCKY	SHELBY COUNTY *	2102090001B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	2102090002B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	2102090003B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	2102090004B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	2102090005B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	2102090006B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	2102090007B***	01-SEP-2001
04	KENTUCKY	SHELBY COUNTY *	210209IND0***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000001A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000002A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000004A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000005A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000007A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000008A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000009A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000010A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000011A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000012A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000013A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000014A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000015A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	2103000016A***	01-SEP-2001
04	KENTUCKY	TRIMBLE COUNTY *	210300ND0***	01-SEP-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0045F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0065F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0100F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0125F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0130F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0140F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0150F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0155F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0160F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0165F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0170F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0180F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0185F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0190F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0195F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0215F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0220F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0250F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0275F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0300F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0305F	07-NOV-2001

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04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0310F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0315F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0320F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0350F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0355F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0360F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0365F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0370F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0400F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0425F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0430F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0435F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0440F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0445F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0455F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0460F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0465F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0470F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0480F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0485F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0490F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0495F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0525F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0550F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0575F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0580F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0585F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0590F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0595F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0625F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0650F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0665F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0670F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0675F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0689F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0690F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0692F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0693F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0694F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0705F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0710F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0726F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0727F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029C0731F	07-NOV-2001
04	SOUTH CAROLINA	COLLETON COUNTY*	45029CIND0**	07-NOV-2001
04	SOUTH CAROLINA	COTTAGEVILLE, TOWN OF	45029C0355F	07-NOV-2001
04	SOUTH CAROLINA	COTTAGEVILLE, TOWN OF	45029C0365F	07-NOV-2001
04	SOUTH CAROLINA	COTTAGEVILLE, TOWN OF	45029CIND0**	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029C0689F	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029C0693F	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029C0694F	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029C0726F	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029C0727F	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029C0731F	07-NOV-2001
04	SOUTH CAROLINA	EDISTO BEACH,TOWN OF	45029CIND0**	07-NOV-2001
04	SOUTH CAROLINA	LODGE, TOWN OF	45029C0125F	07-NOV-2001
04	SOUTH CAROLINA	LODGE, TOWN OF	45029CIND0**	07-NOV-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	4502300001A***	01-OCT-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	4502300002A***	01-OCT-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	4502300003A***	01-OCT-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	4502300004A***	01-OCT-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	4502300005A***	01-OCT-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	4502300006A***	01-OCT-2001
04	SOUTH CAROLINA	SALUDA COUNTY*	450230IND0***	01-OCT-2001
04	SOUTH CAROLINA	SMOAKS, TOWN OF	45029C0130F	07-NOV-2001
04	SOUTH CAROLINA	SMOAKS, TOWN OF	45029C0150F	07-NOV-2001
04	SOUTH CAROLINA	SMOAKS, TOWN OF	45029CIND0**	07-NOV-2001
04	SOUTH CAROLINA	WALTERBORO,CITY OF	45029C0310F	07-NOV-2001
04	SOUTH CAROLINA	WALTERBORO,CITY OF	45029C0315F	07-NOV-2001
04	SOUTH CAROLINA	WALTERBORO,CITY OF	45029C0320F	07-NOV-2001
04	SOUTH CAROLINA	WALTERBORO,CITY OF	45029C0430F	07-NOV-2001
04	SOUTH CAROLINA	WALTERBORO,CITY OF	45029C0435F	07-NOV-2001
04	SOUTH CAROLINA	WALTERBORO,CITY OF	45029CIND0**	07-NOV-2001
04	SOUTH CAROLINA	WILLIAMS, TOWN OF	45029C0140F	07-NOV-2001

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04	SOUTH CAROLINA	WILLIAMS, TOWN OF	45029CIND0**	07-NOV-2001
05	ILLINOIS	BUREAU COUNTY *	1707290025B	06-DEC-2001
05	ILLINOIS	BUREAU COUNTY *	1707290100B	06-DEC-2001
05	ILLINOIS	BUREAU COUNTY *	1707290175B	06-DEC-2001
05	ILLINOIS	BUREAU COUNTY *	170729IND0**	06-DEC-2001
05	ILLINOIS	CEDAR POINT, CITY OF	17099C0470E	07-SEP-2001
05	ILLINOIS	CEDAR POINT, CITY OF	17099C0490E	07-SEP-2001
05	ILLINOIS	CEDAR POINT, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	DANA, VILLAGE OF	17099C0950E	07-SEP-2001
05	ILLINOIS	DANA, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	EARLVILLE, CITY OF	17099C0210E**	07-SEP-2001
05	ILLINOIS	EARLVILLE, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	GRAND RIDGE, VILLAGE OF	17099C0700E	07-SEP-2001
05	ILLINOIS	GRAND RIDGE, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	KANGLEY, VILLAGE OF	17099C0675E	07-SEP-2001
05	ILLINOIS	KANGLEY, VILLAGE OF	17099C0688E	07-SEP-2001
05	ILLINOIS	KANGLEY, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0100E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0125E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0167E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0175E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0186E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0200E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0210E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0250E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0265E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0270E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0275E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0278E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0286E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0330E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0350E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0375E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0385E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0395E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0400E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0405E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0410E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0460E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0470E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0478E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0480E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0482E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0484E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0485E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0490E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0495E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0525E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0530E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0535E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0550E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0572E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0575E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0578E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0586E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0675E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0688E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0689E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0693E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0700E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0725E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0826E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0827E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0831E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099C0950E	07-SEP-2001
05	ILLINOIS	LA SALLE COUNTY *	17099CIND0**	07-SEP-2001
05	ILLINOIS	LA SALLE, CITY OF	17099C0350E	07-SEP-2001
05	ILLINOIS	LA SALLE, CITY OF	17099C0478E	07-SEP-2001
05	ILLINOIS	LA SALLE, CITY OF	17099C0480E	07-SEP-2001
05	ILLINOIS	LA SALLE, CITY OF	17099C0482E	07-SEP-2001
05	ILLINOIS	LA SALLE, CITY OF	17099C0485E	07-SEP-2001
05	ILLINOIS	LA SALLE, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	LELAND, VILLAGE OF	17099C0250E	07-SEP-2001
05	ILLINOIS	LELAND, VILLAGE OF	17099CIND0**	07-SEP-2001

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05	ILLINOIS	LEONORE, VILLAGE OF	17099C0675E	07-SEP-2001
05	ILLINOIS	LEONORE, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	LOSTANT, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	MARSEILLES, CITY OF	17099C0575E**	07-SEP-2001
05	ILLINOIS	MARSEILLES, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	MENDOTA, CITY OF	17099C0167E	07-SEP-2001
05	ILLINOIS	MENDOTA, CITY OF	17099C0175E	07-SEP-2001
05	ILLINOIS	MENDOTA, CITY OF	17099C0186E	07-SEP-2001
05	ILLINOIS	MENDOTA, CITY OF	17099C0200E	07-SEP-2001
05	ILLINOIS	MENDOTA, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	MILLINGTON, VILLAGE OF	17099C0278E**	07-SEP-2001
05	ILLINOIS	MILLINGTON, VILLAGE OF	17099C0286E**	07-SEP-2001
05	ILLINOIS	MILLINGTON, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	NAPLATE, VILLAGE OF	17099C0525E	07-SEP-2001
05	ILLINOIS	NAPLATE, VILLAGE OF	17099C0530E	07-SEP-2001
05	ILLINOIS	NAPLATE, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	NORTH UTICA, VILLAGE OF	17099C0482E	07-SEP-2001
05	ILLINOIS	NORTH UTICA, VILLAGE OF	17099C0484E	07-SEP-2001
05	ILLINOIS	NORTH UTICA, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	OGLESBY, CITY OF	17099C0490E	07-SEP-2001
05	ILLINOIS	OGLESBY, CITY OF	17099C0495E	07-SEP-2001
05	ILLINOIS	OGLESBY, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	OTTAWA, CITY OF	17099C0400E	07-SEP-2001
05	ILLINOIS	OTTAWA, CITY OF	17099C0530E	07-SEP-2001
05	ILLINOIS	OTTAWA, CITY OF	17099C0535E	07-SEP-2001
05	ILLINOIS	OTTAWA, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	PERU, CITY OF	17099C0460E	07-SEP-2001
05	ILLINOIS	PERU, CITY OF	17099C0470E	07-SEP-2001
05	ILLINOIS	PERU, CITY OF	17099C0478E	07-SEP-2001
05	ILLINOIS	PERU, CITY OF	17099C0480E	07-SEP-2001
05	ILLINOIS	PERU, CITY OF	17099C0490E	07-SEP-2001
05	ILLINOIS	PERU, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	RANSOM, VILLAGE OF	17099C0725E	07-SEP-2001
05	ILLINOIS	RANSOM, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	SENECA, VILLAGE OF	17099C0572E	07-SEP-2001
05	ILLINOIS	SENECA, VILLAGE OF	17099C0575E	07-SEP-2001
05	ILLINOIS	SENECA, VILLAGE OF	17099C0578E	07-SEP-2001
05	ILLINOIS	SENECA, VILLAGE OF	17099C0586E	07-SEP-2001
05	ILLINOIS	SENECA, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	SHERIDAN, VILLAGE OF	17099C0265E	07-SEP-2001
05	ILLINOIS	SHERIDAN, VILLAGE OF	17099C0270E	07-SEP-2001
05	ILLINOIS	SHERIDAN, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099C0688E	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099C0689E	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099C0693E	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099C0826E	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099C0827E	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099C0831E	07-SEP-2001
05	ILLINOIS	STREATOR, CITY OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	TONICA, VILLAGE OF	17099CIND0**	07-SEP-2001
05	ILLINOIS	TROY GROVE, VILLAGE OF	17099C0330E**	07-SEP-2001
05	ILLINOIS	TROY GROVE, VILLAGE OF	17099CIND0**	07-SEP-2001
05	INDIANA	DECATUR COUNTY *	1804300065C	07-SEP-2001
05	INDIANA	DECATUR COUNTY *	180430IND0**	07-SEP-2001
05	INDIANA	FOUNTAIN COUNTY	1800640001B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	1800640002B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	1800640003B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	1800640004B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	1800640005B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	1800640006B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	1800640007B***	01-NOV-2001
05	INDIANA	FOUNTAIN COUNTY	180064IND0***	01-NOV-2001
05	MINNESOTA	COOK, CITY OF	2704200001B	06-DEC-2001
05	OHIO	ABERDEEN, VILLAGE OF	39015C0408C	21-NOV-2001
05	OHIO	ABERDEEN, VILLAGE OF	39015C0409C	21-NOV-2001
05	OHIO	ABERDEEN, VILLAGE OF	39015C0417C	21-NOV-2001
05	OHIO	ABERDEEN, VILLAGE OF	39015C0419C	21-NOV-2001
05	OHIO	ABERDEEN, VILLAGE OF	39015C0438C	21-NOV-2001
05	OHIO	ABERDEEN, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0025C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0050C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0075C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0100C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0125C	21-NOV-2001

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05	OHIO	ADAMS COUNTY *	39001C0150C	21-NOV-2001
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05	OHIO	ADAMS COUNTY *	39001C0200C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0225C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0250C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0275C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0300C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0314C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0317C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0318C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0319C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0328C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0329C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0332C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0333C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0334C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0336C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0353C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0361C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0362C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0366C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0367C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0375C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0386C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0388C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0389C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0400C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0402C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0406C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001C0407C	21-NOV-2001
05	OHIO	ADAMS COUNTY *	39001CIND0**	21-NOV-2001
05	OHIO	BROOKLYN HEIGHTS, VILLAGE OF	3901010001C	19-JUL-2001
05	OHIO	BROWN COUNTY *	39015C0050C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0075C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0100C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0125C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0150C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0175C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0250C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0275C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0300C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0317C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0318C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0319C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0325C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0336C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0337C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0338C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0339C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0341C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0343C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0344C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0350C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0363C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0375C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0400C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0401C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0402C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0404C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0408C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0409C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0410C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0417C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0419C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0438C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0439C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015C0450C	21-NOV-2001
05	OHIO	BROWN COUNTY *	39015CIND0**	21-NOV-2001
05	OHIO	CHERRY FORK, VILLAGE OF	39001C0138C	21-NOV-2001
05	OHIO	CHERRY FORK, VILLAGE OF	39001CIND0**	21-NOV-2001
05	OHIO	CUYAHOGA HEIGHTS, VILLAGE OF	3906540001C	19-JUL-2001
05	OHIO	CUYAHOGA HEIGHTS, VILLAGE OF	3906540002C	19-JUL-2001
05	OHIO	CUYAHOGA HEIGHTS, VILLAGE OF	390654IND0**	19-JUL-2001

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05	OHIO	FAYETTEVILLE, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	GEORGETOWN, VILLAGE OF	39015C0250C	21-NOV-2001
05	OHIO	GEORGETOWN, VILLAGE OF	39015C0350C	21-NOV-2001
05	OHIO	GEORGETOWN, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	GLOUSTER, VILLAGE OF	3900180001B	19-JUL-2001
05	OHIO	HAMERSVILLE, VILLAGE OF	39015C0250C	21-NOV-2001
05	OHIO	HAMERSVILLE, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	HIGGINSPORT, VILLAGE OF	39015C0336C	21-NOV-2001
05	OHIO	HIGGINSPORT, VILLAGE OF	39015C0337C	21-NOV-2001
05	OHIO	HIGGINSPORT, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	INDEPENDENCE, CITY OF	3901110001C	19-JUL-2001
05	OHIO	INDEPENDENCE, CITY OF	3901110002C	19-JUL-2001
05	OHIO	INDEPENDENCE, CITY OF	3901110003C	19-JUL-2001
05	OHIO	INDEPENDENCE, CITY OF	3901110005C	19-JUL-2001
05	OHIO	INDEPENDENCE, CITY OF	390111IND0**	19-JUL-2001
05	OHIO	MANCHESTER, VILLAGE OF	39001C0317C	21-NOV-2001
05	OHIO	MANCHESTER, VILLAGE OF	39001C0328C	21-NOV-2001
05	OHIO	MANCHESTER, VILLAGE OF	39001C0329C	21-NOV-2001
05	OHIO	MANCHESTER, VILLAGE OF	39001C0336C	21-NOV-2001
05	OHIO	MANCHESTER, VILLAGE OF	39001CIND0**	21-NOV-2001
05	OHIO	MOUNT ORAB, VILLAGE OF	39015C0150C	21-NOV-2001
05	OHIO	MOUNT ORAB, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	PEEBLES, VILLAGE OF	39001C0175C	21-NOV-2001
05	OHIO	PEEBLES, VILLAGE OF	39001CIND0**	21-NOV-2001
05	OHIO	RIPLEY, VILLAGE OF	39015C0363C	21-NOV-2001
05	OHIO	RIPLEY, VILLAGE OF	39015C0375C	21-NOV-2001
05	OHIO	RIPLEY, VILLAGE OF	39015C0401C	21-NOV-2001
05	OHIO	RIPLEY, VILLAGE OF	39015C0402C	21-NOV-2001
05	OHIO	RIPLEY, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	ROME, VILLAGE OF	39001C0367C	21-NOV-2001
05	OHIO	ROME, VILLAGE OF	39001C0386C	21-NOV-2001
05	OHIO	ROME, VILLAGE OF	39001CIND0**	21-NOV-2001
05	OHIO	RUSSELLVILLE, VILLAGE OF	39015C0275C	21-NOV-2001
05	OHIO	RUSSELLVILLE, VILLAGE OF	39015C0375C	21-NOV-2001
05	OHIO	RUSSELLVILLE, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	SARDINIA, VILLAGE OF	39015C0175C	21-NOV-2001
05	OHIO	SARDINIA, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	SEAMAN, VILLAGE OF	39001C0150C	21-NOV-2001
05	OHIO	SEAMAN, VILLAGE OF	39001CIND0**	21-NOV-2001
05	OHIO	ST. MARTIN, VILLAGE OF	39015C0075C	21-NOV-2001
05	OHIO	ST. MARTIN, VILLAGE OF	39015CIND0**	21-NOV-2001
05	OHIO	WEST UNION, VILLAGE OF	39001C0250C	21-NOV-2001
05	OHIO	WEST UNION, VILLAGE OF	39001CIND0**	21-NOV-2001
05	OHIO	WINCHESTER, VILLAGE OF	39001C0125C	21-NOV-2001
05	OHIO	WINCHESTER, VILLAGE OF	39001CIND0**	21-NOV-2001
06	AR	LITTLE ROCK, CITY OF	0501810017F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810029F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810033F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810037F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810038F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810039F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810041F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810042F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810043F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810044F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810061F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810062F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810063F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810064F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810066F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810068F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810069F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810077F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810081F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810082F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810083F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810084F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810087F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810089F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810091F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810092F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810093F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810094F	19-OCT-2001

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06	AR	LITTLE ROCK, CITY OF	0501810101F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810102F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810103F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810104F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810106F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810107F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810108F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810109F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810111F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810112F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810113F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810114F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810116F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810126F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810127F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810128F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810129F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810131F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810133F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	0501810134F	19-OCT-2001
06	AR	LITTLE ROCK, CITY OF	050181IND0 **	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790264D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790381D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790404D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790408D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790409D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790412D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790413D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790414D**	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790416D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790418D	19-OCT-2001
06	AR	PULASKI COUNTY *	0501790428D	19-OCT-2001
06	AR	PULASKI COUNTY *	050179IND0 **	19-OCT-2001
06	AR	TEXARKANA, CITY OF	0501370019C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370056C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370057C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370058C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370059C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370066C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370067C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370069C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370076C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370077C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	0501370086C	05-JUL-2001
06	AR	TEXARKANA, CITY OF	050137IND0 **	05-JUL-2001
06	LA	ALBANY, VILLAGE OF	22063C0189D	23-AUG-2001
06	LA	ALBANY, VILLAGE OF	22063C0277D	23-AUG-2001
06	LA	ALBANY, VILLAGE OF	22063CIND0 **	23-AUG-2001
06	LA	DENHAM SPRINGS, CITY OF	22063C0115D	23-AUG-2001
06	LA	DENHAM SPRINGS, CITY OF	22063C0120D	23-AUG-2001
06	LA	DENHAM SPRINGS, CITY OF	22063C0205D	23-AUG-2001
06	LA	DENHAM SPRINGS, CITY OF	22063C0210D	23-AUG-2001
06	LA	DENHAM SPRINGS, CITY OF	22063CIND0 **	23-AUG-2001
06	LA	FRENCH SETTLEMENT, VILLAGE OF	22063C0355D	23-AUG-2001
06	LA	FRENCH SETTLEMENT, VILLAGE OF	22063C0360D	23-AUG-2001
06	LA	FRENCH SETTLEMENT, VILLAGE OF	22063C0370D	23-AUG-2001
06	LA	FRENCH SETTLEMENT, VILLAGE OF	22063CIND0 **	23-AUG-2001
06	LA	KILLIAN, VILLAGE OF	22063C0295D	23-AUG-2001
06	LA	KILLIAN, VILLAGE OF	22063C0405D	23-AUG-2001
06	LA	KILLIAN, VILLAGE OF	22063C0410D	23-AUG-2001
06	LA	KILLIAN, VILLAGE OF	22063CIND0 **	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0025D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0050D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0075D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0100D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0115D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0120D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0125D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0138D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0139D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0145D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0150D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0165D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0175D	23-AUG-2001

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06	LA	LIVINGSTON PARISH*	22063C0205D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0207D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0209D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0210D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0225D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0226D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0227D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0228D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0229D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0235D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0250D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0255D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0275D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0277D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0285D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0295D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0300D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0350D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0355D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0360D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0365D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0370D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0400D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0405D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0410D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0425D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063C0500D	23-AUG-2001
06	LA	LIVINGSTON PARISH*	22063CIND0 **	23-AUG-2001
06	LA	LIVINGSTON, TOWN OF	22063C0145D	23-AUG-2001
06	LA	LIVINGSTON, TOWN OF	22063C0165D	23-AUG-2001
06	LA	LIVINGSTON, TOWN OF	22063C0235D	23-AUG-2001
06	LA	LIVINGSTON, TOWN OF	22063C0255D	23-AUG-2001
06	LA	LIVINGSTON, TOWN OF	22063CIND0 **	23-AUG-2001
06	LA	PORT VINCENT, VILLAGE OF	22063C0355D	23-AUG-2001
06	LA	PORT VINCENT, VILLAGE OF	22063CIND0 **	23-AUG-2001
06	LA	SPRINGFIELD, TOWN OF	22063C0285D	23-AUG-2001
06	LA	SPRINGFIELD, TOWN OF	22063C0295D	23-AUG-2001
06	LA	SPRINGFIELD, TOWN OF	22063CIND0 **	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0138D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0139D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0207D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0209D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0226D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0227D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063C0228D	23-AUG-2001
06	LA	WALKER, TOWN OF	22063CIND0 **	23-AUG-2001
06	OK	BIXBY, TOWN OF	40143CIND0 **	07-SEP-2001
06	OK	BOYNTON, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	BRAGGS, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	BROKEN ARROW, CITY OF	40143CIND0 **	07-SEP-2001
06	OK	COLLINSVILLE, CITY OF	40143CIND0 **	07-SEP-2001
06	OK	COUNCIL HILL, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	COYLE, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	CREEK COUNTY*	4004900065C	21-SEP-2001
06	OK	CREEK COUNTY*	4004900070C	21-SEP-2001
06	OK	CREEK COUNTY*	4004900130C	21-SEP-2001
06	OK	CREEK COUNTY*	4004900135C	21-SEP-2001
06	OK	CREEK COUNTY*	4004900150C**	21-SEP-2001
06	OK	CREEK COUNTY*	4004900225C**	21-SEP-2001
06	OK	CREEK COUNTY*	400490IND0 **	21-SEP-2001
06	OK	CRESCENT, CITY OF	40083CIND0 **	21-NOV-2001
06	OK	FORT GIBSON, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	GANS, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	GLENPOOL, TOWN OF	40143CIND0 **	07-SEP-2001
06	OK	GORE, TOWN OF	40135C0110E	21-SEP-2001
06	OK	GORE, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	GUTHRIE, CITY OF	40083C0194E	21-NOV-2001
06	OK	GUTHRIE, CITY OF	40083CIND0 **	21-NOV-2001
06	OK	HASKELL, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	JENKS, CITY OF	40143C0511J	07-SEP-2001
06	OK	JENKS, CITY OF	40143C0513J	07-SEP-2001
06	OK	JENKS, CITY OF	40143C0514J	07-SEP-2001

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06	OK	LANGSTON, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	LIBERTY, TOWN OF	40143CIND0 **	07-SEP-2001
06	OK	LOGAN COUNTY *	40083C0194E	21-NOV-2001
06	OK	LOGAN COUNTY *	40083C0238E	21-NOV-2001
06	OK	LOGAN COUNTY *	40083C0250E**	21-NOV-2001
06	OK	LOGAN COUNTY *	40083CIND0 **	21-NOV-2001
06	OK	LOTSEE, VILLAGE OF	40143CIND0 **	07-SEP-2001
06	OK	LOVELL, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	MARBLE CITY, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	MARSHALL, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	MERIDIAN, TOWN OF	40083C0250E**	21-NOV-2001
06	OK	MERIDIAN, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	MOFFETT, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	MULDROW, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	MULHALL, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	MUSKOGEE COUNTY *	40101C0263E	21-SEP-2001
06	OK	MUSKOGEE COUNTY *	40101C0264E	21-SEP-2001
06	OK	MUSKOGEE COUNTY *	40101C0275E	21-SEP-2001
06	OK	MUSKOGEE COUNTY *	40101C0325E**	21-SEP-2001
06	OK	MUSKOGEE COUNTY *	40101C0325E	21-SEP-2001
06	OK	MUSKOGEE COUNTY *	40101CIND0 **	21-SEP-2001
06	OK	MUSKOGEE, CITY OF	40101CIND0 **	21-SEP-2001
06	OK	OKTAHA, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	ORLANDO, TOWN OF	40083CIND0 **	21-NOV-2001
06	OK	OWASSO, CITY OF	40143CIND0 **	07-SEP-2001
06	OK	PORUM, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	ROLAND, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	SALLISAW, CITY OF	40135CIND0 **	21-SEP-2001
06	OK	SAND SPRINGS, CITY OF	40143CIND0 **	07-SEP-2001
06	OK	SAPULPA, CITY OF	4000530065C	21-SEP-2001
06	OK	SAPULPA, CITY OF	4000530070C	21-SEP-2001
06	OK	SAPULPA, CITY OF	4000530130C	21-SEP-2001
06	OK	SAPULPA, CITY OF	4000530135C	21-SEP-2001
06	OK	SAPULPA, CITY OF	4000530150C	21-SEP-2001
06	OK	SAPULPA, CITY OF	400053IND0 **	21-SEP-2001
06	OK	SEQUOYAH COUNTY *	40135C0110E	21-SEP-2001
06	OK	SEQUOYAH COUNTY *	40135CIND0 **	21-SEP-2001
06	OK	SKIATOOK, TOWN OF	40143CIND0 **	07-SEP-2001
06	OK	SPERRY, TOWN OF	40143CIND0 **	07-SEP-2001
06	OK	TAFT, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	TULSA COUNTY *	40143C0511J	07-SEP-2001
06	OK	TULSA COUNTY *	40143C0513J	07-SEP-2001
06	OK	TULSA COUNTY *	40143C0514J	07-SEP-2001
06	OK	TULSA COUNTY *	40143CIND0 **	07-SEP-2001
06	OK	TULSA, CITY OF	40143C0511J	07-SEP-2001
06	OK	TULSA, CITY OF	40143C0514J	07-SEP-2001
06	OK	TULSA, CITY OF	40143CIND0 **	07-SEP-2001
06	OK	VIAN, TOWN OF	40135CIND0 **	21-SEP-2001
06	OK	WAINWRIGHT, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	WARNER, TOWN OF	40101CIND0 **	21-SEP-2001
06	OK	WEBBERS FALLS, TOWN OF	40101C0263E	21-SEP-2001
06	OK	WEBBERS FALLS, TOWN OF	40101C0264E	21-SEP-2001
06	OK	WEBBERS FALLS, TOWN OF	40101C0275E	21-SEP-2001
06	OK	WEBBERS FALLS, TOWN OF	40101C0325E**	21-SEP-2001
06	OK	WEBBERS FALLS, TOWN OF	40101C0325E	21-SEP-2001
06	OK	WEBBERS FALLS, TOWN OF	40101CIND0 **	21-SEP-2001
06	TX	ADDISON, TOWN OF	48113C0180J	23-AUG-2001
06	TX	ADDISON, TOWN OF	48113C0185J	23-AUG-2001
06	TX	ADDISON, TOWN OF	48113C0190J	23-AUG-2001
06	TX	ADDISON, TOWN OF	48113CIND0 **	23-AUG-2001
06	TX	ARCOLA CITY OF	48157CIND0 **	07-NOV-2001
06	TX	ARGYLE, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	AUBREY, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	BALCH SPRINGS, CITY OF	48113C0510J	23-AUG-2001
06	TX	BALCH SPRINGS, CITY OF	48113C0530J	23-AUG-2001
06	TX	BALCH SPRINGS, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	BARTONVILLE, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	BEASLEY, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	BIG OAKS M.U.D.	48157CIND0 **	07-NOV-2001
06	TX	CALHOUN COUNTY *	4800970058D	07-NOV-2001
06	TX	CALHOUN COUNTY *	4800970179D	07-NOV-2001
06	TX	CALHOUN COUNTY *	480097IND0 **	07-NOV-2001
06	TX	CARROLLTON, CITY OF	48113C0015J	23-AUG-2001

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06	TX	CARROLLTON, CITY OF	48113C0040J	23-AUG-2001
06	TX	CARROLLTON, CITY OF	48113C0155J	23-AUG-2001
06	TX	CARROLLTON, CITY OF	48113C0160J	23-AUG-2001
06	TX	CARROLLTON, CITY OF	48113C0165J	23-AUG-2001
06	TX	CARROLLTON, CITY OF	48113C0170J	23-AUG-2001
06	TX	CARROLLTON, CITY OF	48113C0180J	23-AUG-2001
06	TX	CARROLLTON, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0465J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0585J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0595J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0605J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0610J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0615J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113C0620J	23-AUG-2001
06	TX	CEDAR HILL, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	CHELFORD M.U.D., CITY	48157CIND0 **	07-NOV-2001
06	TX	COCKRELL HILL, CITY OF	48113C0460J	23-AUG-2001
06	TX	COCKRELL HILL, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	COMBINE, CITY OF	48113C0685J	23-AUG-2001
06	TX	COMBINE, CITY OF	48113C0695J	23-AUG-2001
06	TX	COMBINE, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	COPPELL, CITY OF	48113C0135J	23-AUG-2001
06	TX	COPPELL, CITY OF	48113C0145J	23-AUG-2001
06	TX	COPPELL, CITY OF	48113C0155J	23-AUG-2001
06	TX	COPPELL, CITY OF	48113C0160J	23-AUG-2001
06	TX	COPPELL, CITY OF	48113C0165J	23-AUG-2001
06	TX	COPPELL, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	COPPER CANYON, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	CORINTH, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	CROSS ROADS, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0015J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0020J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0040J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0045J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0065J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0070J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0090J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0115J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0135J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0145J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0155J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0160J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0165J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0170J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0180J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0185J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0190J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0195J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0205J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0210J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0215J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0220J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0230J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0235J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0240J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0245J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0255J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0265J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0285J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0295J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0305J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0310J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0315J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0320J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0330J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0335J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0340J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0345J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0355J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0360J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0365J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0370J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0380J	23-AUG-2001

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06	TX	DALLAS COUNTY *	48113C0395J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0405J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0415J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0435J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0440J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0445J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0455J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0460J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0465J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0470J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0480J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0485J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0490J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0495J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0505J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0510J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0515J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0520J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0530J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0535J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0540J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0545J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0565J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0580J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0585J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0590J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0595J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0605J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0610J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0615J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0620J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0630J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0635J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0640J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0645J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0655J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0660J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0665J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0670J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0680J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0685J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0690J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113C0695J	23-AUG-2001
06	TX	DALLAS COUNTY *	48113CIND0 **	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0040J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0045J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0115J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0135J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0145J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0155J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0160J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0165J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0170J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0180J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0185J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0190J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0195J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0205J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0215J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0220J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0235J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0240J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0245J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0255J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0265J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0310J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0320J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0330J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0335J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0340J	23-AUG-2001
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06	TX	DALLAS, CITY OF	48113C0365J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0370J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0380J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0385J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0395J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0405J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0415J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0455J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0460J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0465J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0470J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0480J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0485J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0490J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0495J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0505J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0510J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0515J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0520J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0530J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0535J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0540J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0545J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0605J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0635J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113C0655J	23-AUG-2001
06	TX	DALLAS, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0555F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0558F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0565F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0567F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0570F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0586F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0705F	23-AUG-2001
06	TX	DENTON COUNTY*	48121C0710F	23-AUG-2001
06	TX	DENTON COUNTY*	48121CIND0 **	23-AUG-2001
06	TX	DENTON, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	DESOTO, CITY OF	48113C0470J	23-AUG-2001
06	TX	DESOTO, CITY OF	48113C0490J	23-AUG-2001
06	TX	DESOTO, CITY OF	48113C0610J	23-AUG-2001
06	TX	DESOTO, CITY OF	48113C0630J	23-AUG-2001
06	TX	DESOTO, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	DOUBLE OAK, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	DUNCANVILLE, CITY OF	48113C0465J	23-AUG-2001
06	TX	DUNCANVILLE, CITY OF	48113C0470J	23-AUG-2001
06	TX	DUNCANVILLE, CITY OF	48113C0605J	23-AUG-2001
06	TX	DUNCANVILLE, CITY OF	48113C0610J	23-AUG-2001
06	TX	DUNCANVILLE, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	FAIRCHILDS, VILLAGE OF	48157CIND0 **	07-NOV-2001
06	TX	FARMERS BRANCH, CITY OF	48113C0160J	23-AUG-2001
06	TX	FARMERS BRANCH, CITY OF	48113C0165J	23-AUG-2001
06	TX	FARMERS BRANCH, CITY OF	48113C0170J	23-AUG-2001
06	TX	FARMERS BRANCH, CITY OF	48113C0180J	23-AUG-2001
06	TX	FARMERS BRANCH, CITY OF	48113C0190J	23-AUG-2001
06	TX	FARMERS BRANCH, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	FIRST COLONY L.I.D.	48157CIND0 **	07-NOV-2001
06	TX	FLOWER MOUND, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	FORT BEND COUNTY *	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY *	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY *	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY *	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #2	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #2	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #2	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #2	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #7	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #7	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #7	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY L.I.D. #7	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #2	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #2	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #2	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #2	48157CIND0 **	07-NOV-2001

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06	TX	FORT BEND COUNTY M.U.D. #23	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #23	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #25	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #25	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #25	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #25	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #30	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #30	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #30	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #30	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #34	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #34	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #34	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #34	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #35	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #35	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #35	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #35	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #41	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #41	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #41	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #41	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #42	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #42	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #42	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #42	48157CIND0 **	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #81	48157C0455K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #81	48157C0460K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #81	48157C0470K	07-NOV-2001
06	TX	FORT BEND COUNTY M.U.D. #81	48157CIND0 **	07-NOV-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0267C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0269C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0275C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0286C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0288C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0300C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0450C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171C0451C	19-OCT-2001
06	TX	FREDERICKSBURG, CITY OF	48171CIND0 **	19-OCT-2001
06	TX	FULSHEAR, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	GARLAND, CITY OF	48113C0115J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0210J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0215J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0220J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0230J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0235J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0240J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0255J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0360J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0380J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113C0385J	23-AUG-2001
06	TX	GARLAND, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	GILLESPIE COUNTY*	48171C0025C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0050C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0075C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0100C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0125C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0150C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0175C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0200C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0225C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0250C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0267C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0269C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0275C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0286C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0288C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0300C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0325C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0350C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0375C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0400C	19-OCT-2001

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06	TX	GILLESPIE COUNTY*	48171C0450C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0451C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0475C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0477C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0481C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0482C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0500C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0501C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0502C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171C0525C	19-OCT-2001
06	TX	GILLESPIE COUNTY*	48171CIND0 **	19-OCT-2001
06	TX	GLENN HEIGHTS, CITY OF	48113C0610J	23-AUG-2001
06	TX	GLENN HEIGHTS, CITY OF	48113C0620J	23-AUG-2001
06	TX	GLENN HEIGHTS, CITY OF	48113C0630J	23-AUG-2001
06	TX	GLENN HEIGHTS, CITY OF	48113C0640J	23-AUG-2001
06	TX	GLENN HEIGHTS, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0285J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0295J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0305J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0315J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0320J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0435J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0440J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0445J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0455J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0460J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0465J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0580J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0585J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0590J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0595J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113C0605J	23-AUG-2001
06	TX	GRAND PRAIRIE, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	HACKBERRY, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	HEBRON, TOWN OF	48121C0567F	23-AUG-2001
06	TX	HEBRON, TOWN OF	48121C0570F	23-AUG-2001
06	TX	HEBRON, TOWN OF	48121C0586F	23-AUG-2001
06	TX	HEBRON, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	HICKORY CREEK, TOWN OF	48121C0555F	23-AUG-2001
06	TX	HICKORY CREEK, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	HIGHLAND PARK, TOWN OF	48113C0330J	23-AUG-2001
06	TX	HIGHLAND PARK, TOWN OF	48113C0335J	23-AUG-2001
06	TX	HIGHLAND PARK, TOWN OF	48113CIND0 **	23-AUG-2001
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121CIND0 **	23-AUG-2001
06	TX	HUTCHINS, CITY OF	48113C0515J	23-AUG-2001
06	TX	HUTCHINS, CITY OF	48113C0520J	23-AUG-2001
06	TX	HUTCHINS, CITY OF	48113C0655J	23-AUG-2001
06	TX	HUTCHINS, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0135J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0145J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0155J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0160J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0165J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0170J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0285J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0295J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0305J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0310J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0315J	23-AUG-2001
06	TX	IRVING, CITY OF	48113C0320J	23-AUG-2001
06	TX	IRVING, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	JUSTIN, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	KENDLETON, TOWN OF	48157CIND0 **	07-NOV-2001
06	TX	KINGSBRIDGE M.U.D.	48157CIND0 **	07-NOV-2001
06	TX	KRUGERVILLE, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	KRUM, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	LAKE DALLAS, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	LAKEWOOD, VILLAGE OF	48121CIND0 **	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113C0490J	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113C0495J	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113C0630J	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113C0635J	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113C0640J	23-AUG-2001

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06	TX	LANCASTER, CITY OF	48113C0645J	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113C0655J	23-AUG-2001
06	TX	LANCASTER, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0555F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0558F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0565F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0567F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0570F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0705F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121C0710F	23-AUG-2001
06	TX	LEWISVILLE, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	LINCOLN PARK, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	LITTLE ELM, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	MARSHALL CREEK, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	MEADOWS PLACE, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	MESQUITE, CITY OF	48113C0360J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0370J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0380J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0390J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0395J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0510J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0530J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0535J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113C0545J	23-AUG-2001
06	TX	MESQUITE, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	MISSION BEND M.U.D. #1	48157CIND0 **	07-NOV-2001
06	TX	MISSOURI CITY, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	NEEDVILLE, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	NORTHLAKE, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	OAK POINT, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	ORCHARD, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	PECAN GROVE M.U.D.	48157CIND0 **	07-NOV-2001
06	TX	PILOT POINT, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	PLEAK, VILLAGE OF	48157CIND0 **	07-NOV-2001
06	TX	PONDER, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0045J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0065J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0070J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0090J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0185J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0205J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0210J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0215J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0220J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113C0230J	23-AUG-2001
06	TX	RICHARDSON, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	RICHMOND, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	ROANOKE, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	ROSENBERG, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	ROWLETT, CITY OF	48113C0230J	23-AUG-2001
06	TX	ROWLETT, CITY OF	48113C0235J	23-AUG-2001
06	TX	ROWLETT, CITY OF	48113C0240J	23-AUG-2001
06	TX	ROWLETT, CITY OF	48113C0245J	23-AUG-2001
06	TX	ROWLETT, CITY OF	48113C0380J	23-AUG-2001
06	TX	ROWLETT, CITY OF	48113C0385J	23-AUG-2001
06	TX	ROWLETT, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	SACHSE, CITY OF	48113C0090J	23-AUG-2001
06	TX	SACHSE, CITY OF	48113C0230J	23-AUG-2001
06	TX	SACHSE, CITY OF	48113C0235J	23-AUG-2001
06	TX	SACHSE, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	SANGER, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0415J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0535J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0540J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0545J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0565J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0680J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113C0685J	23-AUG-2001
06	TX	SEAGOVILLE, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	SHADY SHORES, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	SIMONTON, VILLAGE OF	48157CIND0 **	07-NOV-2001
06	TX	STAFFORD, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	SUGAR LAND, CITY OF	48157CIND0 **	07-NOV-2001
06	TX	SUNNYVALE, TOWN OF	48113C0380J	23-AUG-2001

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06	TX	SUNNYVALE, TOWN OF	48113C0390J	23-AUG-2001
06	TX	SUNNYVALE, TOWN OF	48113C0395J	23-AUG-2001
06	TX	SUNNYVALE, TOWN OF	48113C0535J	23-AUG-2001
06	TX	SUNNYVALE, TOWN OF	48113CIND0 **	23-AUG-2001
06	TX	THE COLONY, CITY OF	48121C0555F	23-AUG-2001
06	TX	THE COLONY, CITY OF	48121C0558F	23-AUG-2001
06	TX	THE COLONY, CITY OF	48121C0567F	23-AUG-2001
06	TX	THE COLONY, CITY OF	48121C0586F	23-AUG-2001
06	TX	THE COLONY, CITY OF	48121CIND0 **	23-AUG-2001
06	TX	THOMPSONS, TOWN OF	48157CIND0 **	07-NOV-2001
06	TX	TROPHY CLUB, TOWN OF	48121CIND0 **	23-AUG-2001
06	TX	UNIVERSITY PARK, CITY OF	48113C0330J	23-AUG-2001
06	TX	UNIVERSITY PARK, CITY OF	48113C0335J	23-AUG-2001
06	TX	UNIVERSITY PARK, CITY OF	48113CIND0 **	23-AUG-2001
06	TX	VERNON, CITY OF	4816520005B	21-SEP-2001
06	TX	WEST KEEGANS BAYOU IMPROVEMENT DISTRICT.	48157CIND0 **	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520115D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520125D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520170D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520175D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520190D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520200D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520205D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520215D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520245D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520250D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520335D	07-NOV-2001
06	TX	WHARTON COUNTY*	4806520350D	07-NOV-2001
06	TX	WHARTON COUNTY*	480652IND0 **	07-NOV-2001
06	TX	WILLOW FORK DRAINAGE DISTRICT	48157CIND0 **	07-NOV-2001
06	TX	WILMER, CITY OF	48113C0655J	23-AUG-2001
06	TX	WILMER, CITY OF	48113C0660J	23-AUG-2001
06	TX	WILMER, CITY OF	48113C0665J	23-AUG-2001
06	TX	WILMER, CITY OF	48113C0670J	23-AUG-2001
06	TX	WILMER, CITY OF	48113C0680J	23-AUG-2001
06	TX	WILMER, CITY OF	48113C0690J	23-AUG-2001
06	TX	WILMER, CITY OF	48113CIND0 **	23-AUG-2001
07	IA	CERRO GORDO COUNTY *	1908530001B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	1908530002B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	1908530003B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	1908530004B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	1908530005B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	1908530006B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	1908539999B***	01-DEC-2001
07	IA	CERRO GORDO COUNTY *	190853IND0 ***	01-DEC-2001
07	IA	CHURDAN, CITY OF	1903950005B	07-NOV-2001
07	IA	IMOGENE, CITY OF	190391 A***	01-DEC-2001
07	IA	IMOGENE, CITY OF	1903919999A***	01-DEC-2001
07	IA	MARION COUNTY *	190889 B	07-NOV-2001
07	IA	SHELL ROCK, CITY OF	1903380001B	05-JUL-2001
07	IA	WALCOTT, CITY OF	1906750005B	07-NOV-2001
07	KS	ANDOVER, CITY OF	2003830005C	19-JUL-2001
07	KS	BALDWIN CITY, CITY OF	20045C0127C	07-NOV-2001
07	KS	BALDWIN CITY, CITY OF	20045C0130C	07-NOV-2001
07	KS	BALDWIN CITY, CITY OF	20045C0135C	07-NOV-2001
07	KS	BALDWIN CITY, CITY OF	20045CIND0 **	07-NOV-2001
07	KS	CHANUTE, CITY OF	2002410005C	05-JUL-2001
07	KS	DOUGLAS COUNTY *	20045C0002C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0005C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0006C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0008C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0010C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0015C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0017C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0019C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0020C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0030C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0036C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0037C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0038C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0039C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0044C	07-NOV-2001

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07	KS	DOUGLAS COUNTY *	20045C0045C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0055C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0060C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0065C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0070C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0076C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0080C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0082C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0085C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0090C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0095C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0125C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0127C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0130C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045C0135C	07-NOV-2001
07	KS	DOUGLAS COUNTY *	20045CIND0 **	07-NOV-2001
07	KS	EUDORA, CITY OF	20045C0044C	07-NOV-2001
07	KS	EUDORA, CITY OF	20045C0045C	07-NOV-2001
07	KS	EUDORA, CITY OF	20045C0082C	07-NOV-2001
07	KS	EUDORA, CITY OF	20045C0085C	07-NOV-2001
07	KS	EUDORA, CITY OF	20045CIND0 **	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0010C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0017C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0019C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0030C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0036C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0037C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0038C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0039C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0060C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0076C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045C0080C	07-NOV-2001
07	KS	LAWRENCE, CITY OF	20045CIND0 **	07-NOV-2001
07	KS	LECOMPTON, CITY OF	20045C0002C	07-NOV-2001
07	KS	LECOMPTON, CITY OF	20045C0005C	07-NOV-2001
07	KS	LECOMPTON, CITY OF	20045C0006C	07-NOV-2001
07	KS	LECOMPTON, CITY OF	20045C0008C	07-NOV-2001
07	KS	LECOMPTON, CITY OF	20045CIND0 **	07-NOV-2001
07	MO	IRON MOUNTAIN LAKE, CITY OF	2908970005B	07-NOV-2001
07	MO	KNOB NOSTER, CITY OF	2907240005B	07-NOV-2001
07	MO	LEXINGTON, CITY OF	2907070005B	07-NOV-2001
07	MO	LEXINGTON, CITY OF	2907070005B	07-NOV-2001
07	MO	MORGAN COUNTY*	2902440025B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440050B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440075B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440100B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440125B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440150B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440175B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902440200B***	01-DEC-2001
07	MO	MORGAN COUNTY*	2902449999B***	01-DEC-2001
07	MO	MORGAN COUNTY*	290244IND0 ***	01-DEC-2001
07	MO	WAYNESVILLE, CITY OF	2903000001B	20-DEC-2001
07	MO	WAYNESVILLE, CITY OF	2903000002B	20-DEC-2001
07	MO	WAYNESVILLE, CITY OF	290300IND0 **	20-DEC-2001
07	NE	BENEDICT, VILLAGE OF	310250 A***	01-DEC-2001
07	NE	BENEDICT, VILLAGE OF	3102509999A***	01-DEC-2001
07	NE	BENNET, VILLAGE OF	31109C0459E	21-SEP-2001
07	NE	BENNET, VILLAGE OF	31109C0467E	21-SEP-2001
07	NE	BENNET, VILLAGE OF	31109C0478E	21-SEP-2001
07	NE	BENNET, VILLAGE OF	31109C0486E	21-SEP-2001
07	NE	BENNET, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	DAVEY, VILLAGE OF	31109C0070E	21-SEP-2001
07	NE	DAVEY, VILLAGE OF	31109C0180E	21-SEP-2001
07	NE	DAVEY, VILLAGE OF	31109C0185E	21-SEP-2001
07	NE	DAVEY, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	DUNCAN, VILLAGE OF	310272 A***	01-OCT-2001
07	NE	DUNCAN, VILLAGE OF	3102729999 ***	01-OCT-2001
07	NE	FIRTH, VILLAGE OF	31109C0575E	21-SEP-2001
07	NE	FIRTH, VILLAGE OF	31109C0586E	21-SEP-2001
07	NE	FIRTH, VILLAGE OF	31109C0588E	21-SEP-2001
07	NE	FIRTH, VILLAGE OF	31109C0600E	21-SEP-2001
07	NE	FIRTH, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	HALLAM, VILLAGE OF	31109C0550E	21-SEP-2001

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07	NE	HICKMAN, VILLAGE OF	31109C0445E**	21-SEP-2001
07	NE	HICKMAN, VILLAGE OF	31109C0445E	21-SEP-2001
07	NE	HICKMAN, VILLAGE OF	31109C0463E	21-SEP-2001
07	NE	HICKMAN, VILLAGE OF	31109C0557E	21-SEP-2001
07	NE	HICKMAN, VILLAGE OF	31109C0575E	21-SEP-2001
07	NE	HICKMAN, VILLAGE OF	31109C0576E	21-SEP-2001
07	NE	HICKMAN, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0020E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0045E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0065E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0070E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0090E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0095E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0115E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0135E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0145E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0155E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0156E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0158E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0165E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0170E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0180E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0185E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0190E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0216E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0219E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0230E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0240E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0260E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0270E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0280E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0285E**	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0285E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0290E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0295E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0305E**	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0305E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0310E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0315E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0316E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0319E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0330E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0335E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0338E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0340E**	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0345E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0355E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0365E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0385E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0395E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0405E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0410E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0415E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0420E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0430E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0435E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0440E**	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0440E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0463E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0465E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0478E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0480E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0486E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0490E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0525E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0535E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0550E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0555E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0557E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0575E	21-SEP-2001
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07	NE	LANCASTER COUNTY *	31109C0600E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109C0625E	21-SEP-2001
07	NE	LANCASTER COUNTY *	31109CIND0 **	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0165E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0170E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0190E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0195E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0215E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0216E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0218E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0280E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0285E**	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0285E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0290E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0295E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0305E**	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0305E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0310E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0315E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0316E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0317E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0318E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0319E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0330E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0335E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0338E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0340E**	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0345E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0410E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0430E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0435E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0440E**	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0440E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0445E**	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0445E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0455E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109C0460E	21-SEP-2001
07	NE	LINCOLN, CITY OF	31109CIND0 **	21-SEP-2001
07	NE	MALCOLM, VILLAGE OF	31109C0145E	21-SEP-2001
07	NE	MALCOLM, VILLAGE OF	31109C0165E	21-SEP-2001
07	NE	MALCOLM, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	PANAMA, VILLAGE OF	31109C0600E	21-SEP-2001
07	NE	PANAMA, VILLAGE OF	31109C0625E	21-SEP-2001
07	NE	PANAMA, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	RAYMOND, VILLAGE OF	31109C0156E	21-SEP-2001
07	NE	RAYMOND, VILLAGE OF	31109C0157E	21-SEP-2001
07	NE	RAYMOND, VILLAGE OF	31109C0158E	21-SEP-2001
07	NE	RAYMOND, VILLAGE OF	31109C0159E	21-SEP-2001
07	NE	RAYMOND, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	ROCA, VILLAGE OF	31109C0444E	21-SEP-2001
07	NE	ROCA, VILLAGE OF	31109C0445E**	21-SEP-2001
07	NE	ROCA, VILLAGE OF	31109C0445E	21-SEP-2001
07	NE	ROCA, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	SPRAGUE, VILLAGE OF	31109C0420E	21-SEP-2001

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07	NE	SPRAGUE, VILLAGE OF	31109C0555E	21-SEP-2001
07	NE	SPRAGUE, VILLAGE OF	31109CIND0 **	21-SEP-2001
07	NE	WAVERLY, CITY OF	31109C0216E	21-SEP-2001
07	NE	WAVERLY, CITY OF	31109C0217E	21-SEP-2001
07	NE	WAVERLY, CITY OF	31109C0218E	21-SEP-2001
07	NE	WAVERLY, CITY OF	31109C0219E	21-SEP-2001
07	NE	WAVERLY, CITY OF	31109C0240E	21-SEP-2001
07	NE	WAVERLY, CITY OF	31109CIND0 **	21-SEP-2001
07	NE	WILSONVILLE, VILLAGE OF	3103350005B	07-NOV-2001
08	CO	SILVERTHORNE, TOWN OF	0802010012B	09-AUG-2001
08	CO	SILVERTHORNE, TOWN OF	0802010013B	09-AUG-2001
08	CO	SILVERTHORNE, TOWN OF	0802010014B	09-AUG-2001
08	CO	SILVERTHORNE, TOWN OF	0802010018B	09-AUG-2001
08	CO	SILVERTHORNE, TOWN OF	080201IND0 **	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900106C	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900107C	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900108C	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900109C	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900117D	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900184D	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900192D	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900195D	09-AUG-2001
08	CO	SUMMIT COUNTY *	0802900211D	09-AUG-2001
08	CO	SUMMIT COUNTY *	080290IND0 **	09-AUG-2001
08	SD	ANDOVER, TOWN OF	46037CIND0 **	06-DEC-2001
08	SD	BUTLER, TOWN OF	46037CIND0 **	06-DEC-2001
08	SD	DAY COUNTY *	46037C0275A	06-DEC-2001
08	SD	DAY COUNTY *	46037C0300A	06-DEC-2001
08	SD	DAY COUNTY *	46037C0325A	06-DEC-2001
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08	SD	DAY COUNTY *	46037C0475A	06-DEC-2001
08	SD	DAY COUNTY *	46037C0500A	06-DEC-2001
08	SD	DAY COUNTY *	46037C0650A	06-DEC-2001
08	SD	DAY COUNTY *	46037C0675A	06-DEC-2001
08	SD	DAY COUNTY *	46037C0700A	06-DEC-2001
08	SD	DAY COUNTY *	46037CIND0 **	06-DEC-2001
08	SD	GRENVILLE, TOWN OF	46037C0300A	06-DEC-2001
08	SD	GRENVILLE, TOWN OF	46037CIND0 **	06-DEC-2001
08	SD	LILY, TOWN OF	46037CIND0 **	06-DEC-2001
08	SD	PIERPONT, TOWN OF	46037CIND0 **	06-DEC-2001
08	SD	ROSLYN, TOWN OF	46037C0300A	06-DEC-2001
08	SD	ROSLYN, TOWN OF	46037CIND0 **	06-DEC-2001
08	SD	WAUBAY, CITY OF	46037C0500A	06-DEC-2001
08	SD	WAUBAY, CITY OF	46037CIND0 **	06-DEC-2001
08	SD	WEBSTER, CITY OF	46037C0450A	06-DEC-2001
08	SD	WEBSTER, CITY OF	46037CIND0 **	06-DEC-2001
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08	UT	ALTA, TOWN OF	49035C0525E	21-SEP-2001
08	UT	ALTA, TOWN OF	49035CIND0 **	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0420E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0440E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0443E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0575E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0577E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0579E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0581E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035C0583E	21-SEP-2001
08	UT	BLUFFDALE, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0441E	21-SEP-2001
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08	UT	DRAPER, CITY OF	49035C0444E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0461E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0462E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0463E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0464E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0466E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0581E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035C0583E	21-SEP-2001
08	UT	DRAPER, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	HERRIMAN, TOWN OF	49035C0420E	21-SEP-2001

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08	UT	MIDVALE, CITY OF	49035C0294E	21-SEP-2001
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08	UT	MURRAY, CITY OF	49035C0292E	21-SEP-2001
08	UT	MURRAY, CITY OF	49035C0293E	21-SEP-2001
08	UT	MURRAY, CITY OF	49035C0294E	21-SEP-2001
08	UT	MURRAY, CITY OF	49035C0311E	21-SEP-2001
08	UT	MURRAY, CITY OF	49035C0313E	21-SEP-2001
08	UT	MURRAY, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	RIVERTON, CITY OF	49035C0440E	21-SEP-2001
08	UT	RIVERTON, CITY OF	49035C0441E	21-SEP-2001
08	UT	RIVERTON, CITY OF	49035C0443E	21-SEP-2001
08	UT	RIVERTON, CITY OF	49035C0577E	21-SEP-2001
08	UT	RIVERTON, CITY OF	49035CIND0 **	21-SEP-2001
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08	UT	SALT LAKE CITY, CITY OF	49035C0125E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0129E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0133E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0137E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0139E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0140E	21-SEP-2001
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08	UT	SALT LAKE CITY, CITY OF	49035C0142E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0143E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0144E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0150E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0154E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0158E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0161E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0162E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0164E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0168E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0275E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0280E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0281E	21-SEP-2001
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08	UT	SALT LAKE CITY, CITY OF	49035C0284E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0301E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0302E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0303E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0304E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0306E	21-SEP-2001
08	UT	SALT LAKE CITY, CITY OF	49035C0308E	21-SEP-2001
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08	UT	SALT LAKE COUNTY *	49035C0100E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0120E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0125E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0129E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0133E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0137E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0139E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0140E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0141E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0142E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0143E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0144E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0150E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0154E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0158E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0161E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0162E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0164E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0168E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0169E	21-SEP-2001

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08	UT	SALT LAKE COUNTY *	49035C0187E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0188E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0200E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0250E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0275E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0280E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0281E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0282E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0283E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0284E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0291E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0292E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0293E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0294E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0301E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0302E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0303E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0304E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0306E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0308E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0310E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0311E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0312E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0313E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0314E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0316E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0317E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0318E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0350E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0375E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0410E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0420E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0425E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0427E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0429E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0430E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0431E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0433E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0434E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0440E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0441E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0442E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0443E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0444E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0451E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0452E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0453E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0456E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0458E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0460E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0461E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0462E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0463E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0464E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0466E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0500E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0525E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0575E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0577E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0579E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0581E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035C0583E	21-SEP-2001
08	UT	SALT LAKE COUNTY *	49035CIND0 **	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0431E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0433E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0434E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0442E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0451E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0452E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0453E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0458E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0461E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0462E	21-SEP-2001

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08	UT	SANDY CITY, CITY OF	49035C0464E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035C0466E	21-SEP-2001
08	UT	SANDY CITY, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0410E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0420E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0425E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0429E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0430E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0433E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0434E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0440E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0441E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035C0442E	21-SEP-2001
08	UT	SOUTH JORDAN, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	SOUTH SALT LAKE, CITY OF	49035C0281E	21-SEP-2001
08	UT	SOUTH SALT LAKE, CITY OF	49035C0282E	21-SEP-2001
08	UT	SOUTH SALT LAKE, CITY OF	49035C0283E	21-SEP-2001
08	UT	SOUTH SALT LAKE, CITY OF	49035C0284E	21-SEP-2001
08	UT	SOUTH SALT LAKE, CITY OF	49035C0303E	21-SEP-2001
08	UT	SOUTH SALT LAKE, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	TAYLORSVILLE, CITY OF	49035C0283E	21-SEP-2001
08	UT	TAYLORSVILLE, CITY OF	49035C0291E	21-SEP-2001
08	UT	TAYLORSVILLE, CITY OF	49035C0293E	21-SEP-2001
08	UT	TAYLORSVILLE, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0275E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0293E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0410E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0425E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0427E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0429E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0430E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0431E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035C0433E	21-SEP-2001
08	UT	WEST JORDAN, CITY OF	49035CIND0 **	21-SEP-2001
08	UT	WEST VALLEY CITY, CITY OF	49035C0275E	21-SEP-2001
08	UT	WEST VALLEY CITY, CITY OF	49035C0280E	21-SEP-2001
08	UT	WEST VALLEY CITY, CITY OF	49035C0281E	21-SEP-2001
08	UT	WEST VALLEY CITY, CITY OF	49035C0283E	21-SEP-2001
08	UT	WEST VALLEY CITY, CITY OF	49035C0291E	21-SEP-2001
08	UT	WEST VALLEY CITY, CITY OF	49035CIND0 **	21-SEP-2001
09	AZ	AVONDALE, CITY OF	04013C1615J	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013C2080H	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013C2085F	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013C2090G	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013C2095E	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013C2555E	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013C2560E	19-JUL-2001
09	AZ	AVONDALE, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C0675F	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1080H	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1085H	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1090H	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1095G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1105G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1115G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1530H	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1540G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1545G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C1550G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2005G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2015G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2020G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2025G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2030G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2035G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2040F	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2045G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2055F	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2065G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2480G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2485G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2505G	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013C2510F	19-JUL-2001

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09	AZ	BUCKEYE, TOWN OF	04013C2530F	19-JUL-2001
09	AZ	BUCKEYE, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0805G	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0806H	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0807H	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0808H	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0809H	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0815H	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0820F	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013C0850E	19-JUL-2001
09	AZ	CAREFREE, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0785H	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0795G	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0802G	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0805G	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0806H	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0808H	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013C0815H	19-JUL-2001
09	AZ	CAVE CREEK, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2630F	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2635G	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2640F	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2645E	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2655F	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2660F	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2665F	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C2670G	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C3030G	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013C3035G	19-JUL-2001
09	AZ	CHANDLER, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	EL MIRAGE, CITY OF	04013C1165H	19-JUL-2001
09	AZ	EL MIRAGE, CITY OF	04013C1170G	19-JUL-2001
09	AZ	EL MIRAGE, CITY OF	04013C1605H	19-JUL-2001
09	AZ	EL MIRAGE, CITY OF	04013C1610H	19-JUL-2001
09	AZ	EL MIRAGE, CITY OF	04013C1615J	19-JUL-2001
09	AZ	EL MIRAGE, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1269E	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1270E	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1288F	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1289F	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1710E	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1726F	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1727F	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1728F	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1729F	19-JUL-2001
09	AZ	FOUNTAIN HILLS, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3465E	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3470E	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3475E	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3480G	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3485G	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3490F	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013C3491F	19-JUL-2001
09	AZ	GILA BEND, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2190F	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2195F	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2215G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2220E	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2655F	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2660F	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2670G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2680G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2685G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2690G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C2695G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C3060G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013C3075G	19-JUL-2001
09	AZ	GILBERT, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1180F	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1185G	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1190G	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1195E	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1580G	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1585G	19-JUL-2001

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09	AZ	GLENDALE, CITY OF	04013C1615J	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1620G	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1630G	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1635F	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1640E	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013C1645F	19-JUL-2001
09	AZ	GLENDALE, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C1590G	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C1595G	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C1615J	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2055F	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2060F	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2065G	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2070G	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2080H	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2090G	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2530F	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2550F	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2555E	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2925F	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013C2950F	19-JUL-2001
09	AZ	GOODYEAR, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	GUADALUPE, TOWN OF	04013C2165G	19-JUL-2001
09	AZ	GUADALUPE, TOWN OF	04013C2630F	19-JUL-2001
09	AZ	GUADALUPE, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	LITCHFIELD PARK, CITY OF	04013C1595G	19-JUL-2001
09	AZ	LITCHFIELD PARK, CITY OF	04013C1615J	19-JUL-2001
09	AZ	LITCHFIELD PARK, CITY OF	04013C2060F	19-JUL-2001
09	AZ	LITCHFIELD PARK, CITY OF	04013C2080H	19-JUL-2001
09	AZ	LITCHFIELD PARK, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0025E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0050E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0130F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0135F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0140F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0155F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0160F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0165F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0170F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0190F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0210E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0230F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0235F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0240E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0245E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0255G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0260E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0265F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0270F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0320F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0340F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0350F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0365F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0370F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0375F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0390F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0395G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0400G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0414F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0415F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0418F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0419F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0660F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0675F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0679G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0680F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0685F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0687G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0689G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0690G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0694F	19-JUL-2001

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09	AZ	MARICOPA COUNTY*	04013C0695G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0705F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0710F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0715F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0720F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0730G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0735G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0740G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0745G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0755F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0760F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0765F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0770E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0780G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0785H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0790F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0795G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0802G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0805G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0806H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0807H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0808H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0809H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0815H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0820F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0850E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C0870E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1035G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1055G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1060G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1065G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1070G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1080H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1085H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1090H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1095G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1105G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1110G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1115G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1120G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1130F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1135F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1140G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1145G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1155G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1160G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1165H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1170G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1180F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1185G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1190G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1195E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1205F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1210G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1215J	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1220H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1230G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1235F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1240G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1245G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1255F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1260E	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C1270E	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C1288F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1289F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1300F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1425F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1450F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1475F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1500E	19-JUL-2001

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09	AZ	MARICOPA COUNTY*	04013C1510H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1525G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1530H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1540G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1545G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1550G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1560F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1570F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1580G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1585G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1590G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1595G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1605H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1610H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1615J	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1620G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1630G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1635F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1640E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1645F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1655J	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1660G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1665H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1670F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1680G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1685E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1690F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1695G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1705F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1710E	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C1726F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1727F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1728F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1729F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1750F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1900F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1925F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C1950F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2000F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2005G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2015G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2020G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2025G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2030G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2035G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2040F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2045G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2055F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2060F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2065G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2070G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2080H	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2085F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2090G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2095E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2105E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2110E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2115F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2120F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2130F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2135E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2140F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2145G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2155F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2160E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2165G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2170F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2180F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2185F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2190F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2195F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2205F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2210E	19-JUL-2001

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09	AZ	MARICOPA COUNTY*	04013C2215G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2220E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2230E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2425F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2450F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2460G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2470G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2475F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2480G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2485G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2490F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2495F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2505G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2510F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2515F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2520F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2530F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2550F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2555E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2560E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2580E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2585E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2595E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2605E	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C2620E	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C2635G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2640F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2645E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2655F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2660F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2665F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2670G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2680G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2685G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2690G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2695G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2750E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2835G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2855G	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C2865G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2870F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2880F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C2925F	19-JUL-2001
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09	AZ	MARICOPA COUNTY*	04013C3030G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3035G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3060G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3075G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3080G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3125E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3150E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3175E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3200E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3225E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3230F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3235F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3240F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3245F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3375E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3400E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3450E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3465E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3470E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3475E	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3480G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3485G	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3490F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013C3491F	19-JUL-2001
09	AZ	MARICOPA COUNTY*	04013CIND0 **	19-JUL-2001
09	AZ	MESA, CITY OF	04013C1750F	19-JUL-2001

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09	AZ	MESA, CITY OF	04013C2160E	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2170F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2180F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2185F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2190F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2195F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2205F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2210E	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2215G	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2220E	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2635G	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2655F	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2685G	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2690G	19-JUL-2001
09	AZ	MESA, CITY OF	04013C2695G	19-JUL-2001
09	AZ	MESA, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	PARADISE VALLEY, TOWN OF	04013C1670F	19-JUL-2001
09	AZ	PARADISE VALLEY, TOWN OF	04013C1680G	19-JUL-2001
09	AZ	PARADISE VALLEY, TOWN OF	04013C1685E	19-JUL-2001
09	AZ	PARADISE VALLEY, TOWN OF	04013C1690F	19-JUL-2001
09	AZ	PARADISE VALLEY, TOWN OF	04013C1695G	19-JUL-2001
09	AZ	PARADISE VALLEY, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0340F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0350F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0365F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0710F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0720F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0730G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0735G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0740G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0745G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0755F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C0765F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1160G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1170G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1180F	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1190G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1610H	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1620G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1630G	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013C1640E	19-JUL-2001
09	AZ	PEORIA, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0370F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0760F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0765F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0770E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0780G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0790F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0795G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C0815H	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1180F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1185G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1195E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1205F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1210G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1215J	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1220H	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1230G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1235F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1240G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1245G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1615J	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1620G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1635F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1640E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1645F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1655J	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1660G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1665H	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1670F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1680G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1685E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C1690F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2080H	19-JUL-2001

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09	AZ	PHOENIX, CITY OF	04013C2085F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2095E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2105E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2110E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2115F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2120F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2130F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2135E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2140F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2145G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2155F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2160E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2165G	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2580E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2585E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2595E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2605E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2610E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2615E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2620E	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2630F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013C2640F	19-JUL-2001
09	AZ	PHOENIX, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	QUEEN CREEK, TOWN OF	04013C2695G	19-JUL-2001
09	AZ	QUEEN CREEK, TOWN OF	04013C3060G	19-JUL-2001
09	AZ	QUEEN CREEK, TOWN OF	04013C3080G	19-JUL-2001
09	AZ	QUEEN CREEK, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0419F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0807H	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0808H	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0809H	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0815H	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0820F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C0850E	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1230G	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1235F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1245G	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1255F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1260E	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1265F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1270E	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1680G	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1685E	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1690F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1695G	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1705F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C1710E	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C2155F	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013C2160E	19-JUL-2001
09	AZ	SCOTTSDALE, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C0715F	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C0720F	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1105G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1110G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1115G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1120G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1130F	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1135F	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1140G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1145G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1165H	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1170G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1580G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1585G	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013C1605H	19-JUL-2001
09	AZ	SURPRISE, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013C2155F	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013C2160E	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013C2165G	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013C2170F	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013C2630F	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013C2635G	19-JUL-2001
09	AZ	TEMPE, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	TOLLESON, CITY OF	04013C2085F	19-JUL-2001

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09	AZ	TOLLESON, CITY OF	04013C2105E	19-JUL-2001
09	AZ	TOLLESON, CITY OF	04013C2115F	19-JUL-2001
09	AZ	TOLLESON, CITY OF	04013CIND0 **	19-JUL-2001
09	AZ	WICKENBURG, TOWN OF	04013C0235F	19-JUL-2001
09	AZ	WICKENBURG, TOWN OF	04013C0255G	19-JUL-2001
09	AZ	WICKENBURG, TOWN OF	04013CIND0 **	19-JUL-2001
09	AZ	YOUNGTOWN, TOWN OF	04013C1605H	19-JUL-2001
09	AZ	YOUNGTOWN, TOWN OF	04013C1610H	19-JUL-2001
09	AZ	YOUNGTOWN, TOWN OF	04013CIND0 **	19-JUL-2001
09	CA	AUBURN, CITY OF	06061CIND0 **	21-NOV-2001
09	CA	CLAYTON, CITY OF	0600270001C	07-SEP-2001
09	CA	CLAYTON, CITY OF	0600270002C	07-SEP-2001
09	CA	CLAYTON, CITY OF	060027IND0 **	07-SEP-2001
09	CA	CLOVIS, CITY OF	06019C1580F	19-JUL-2001
09	CA	CLOVIS, CITY OF	06019C1585F	19-JUL-2001
09	CA	CLOVIS, CITY OF	06019C1590F	19-JUL-2001
09	CA	CLOVIS, CITY OF	06019C1595F	19-JUL-2001
09	CA	CLOVIS, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3236F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3238F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3239F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3245F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3275F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3405F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3425F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019C3450F	19-JUL-2001
09	CA	COALINGA, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	COLFAX, CITY OF	06061CIND0 **	21-NOV-2001
09	CA	CONCORD, CITY OF	0650220005C	07-SEP-2001
09	CA	CONCORD, CITY OF	0650220006C	07-SEP-2001
09	CA	CONCORD, CITY OF	0650220007C	07-SEP-2001
09	CA	CONCORD, CITY OF	0650220010C	07-SEP-2001
09	CA	CONCORD, CITY OF	065022IND0 **	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250040C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250045C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250090C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250210C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250230C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250235C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250250C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250280C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250285C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250305C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250315C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250320C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250355C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250455C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250470C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	0600250475C	07-SEP-2001
09	CA	CONTRA COSTA COUNTY*	060025IND0 **	07-SEP-2001
09	CA	DANVILLE, TOWN OF	0607070001B	07-SEP-2001
09	CA	DANVILLE, TOWN OF	0607070004B	07-SEP-2001
09	CA	DANVILLE, TOWN OF	0607070008B	07-SEP-2001
09	CA	DANVILLE, TOWN OF	060707IND0 **	07-SEP-2001
09	CA	FIREBAUGH, CITY OF	06019C0990F	19-JUL-2001
09	CA	FIREBAUGH, CITY OF	06019C1430F	19-JUL-2001
09	CA	FIREBAUGH, CITY OF	06019C1435F	19-JUL-2001
09	CA	FIREBAUGH, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	FOWLER, CITY OF	06019C2139F	19-JUL-2001
09	CA	FOWLER, CITY OF	06019C2143F	19-JUL-2001
09	CA	FOWLER, CITY OF	06019C2675F	19-JUL-2001
09	CA	FOWLER, CITY OF	06019CIND0 **	19-JUL-001
09	CA	FRESNO COUNTY *	06019C0175F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0200F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0250F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0300F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0325F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0400F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0425F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0450F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0625F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0650F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0675F	19-JUL-2001

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09	CA	FRESNO COUNTY *	06019C0725F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0975F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0980F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C0990F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1020F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1030F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1035F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1040F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1045F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1055F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1060F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1065F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1070F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1100F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1125F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1150F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1175F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1200F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1350F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1375F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1400F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1405F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1410F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1415F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1420F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1430F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1435F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C1444F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C1525F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C1550F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C1585F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1590F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1595F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1605F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1610F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C1645F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1655F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C1825F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1950F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1955F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1960F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1975F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1980F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1982F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C1985F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2001F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C2105F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2110F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2125F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2130F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C2139F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C2143F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2145F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2155F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2160F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C2170F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C2190F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C2214F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2218F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2225F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2250F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2275F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2475F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2500F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2525F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C2550F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C3150F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C3220F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019C3260F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3275F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3280F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3300F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3325F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3385F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3400F	19-JUL-2001
09	CA	FRESNO COUNTY *	06019C3405F	19-JUL-2001

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09	CA	FRESNO COUNTY *	06019C3475F	19-JUL-2001
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09	CA	FRESNO COUNTY *	06019CIND0 **	19-JUL-2001
09	CA	FRESNO, CITY OF	06019C1020F	19-JUL-2001
09	CA	FRESNO, CITY OF	06019C1040F	19-JUL-2001
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09	CA	FRESNO, CITY OF	06019C1580F	19-JUL-2001
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09	CA	FRESNO, CITY OF	06019C2100F	19-JUL-2001
09	CA	FRESNO, CITY OF	06019C2105F	19-JUL-2001
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09	CA	FRESNO, CITY OF	06019C2125F	19-JUL-2001
09	CA	FRESNO, CITY OF	06019C2130F	19-JUL-2001
09	CA	FRESNO, CITY OF	06019C2135F	19-JUL-2001
09	CA	FRESNO, CITY OF	06019C2140F	19-JUL-2001
09	CA	FRESNO, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	HIDDEN HILLS, CITY OF	0601250001C	21-NOV-2001
09	CA	HURON, CITY OF	06019C3280F	19-JUL-2001
09	CA	HURON, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	LASSEN COUNTY*	0600920914C	21-NOV-2001
09	CA	LASSEN COUNTY*	0600920918C	21-NOV-2001
09	CA	LASSEN COUNTY*	0600920925C**	21-NOV-2001
09	CA	LASSEN COUNTY*	060092IND0 **	21-NOV-2001
09	CA	LINCOLN, CITY OF	06061CIND0 **	21-NOV-2001
09	CA	LOOMIS, TOWN OF	06061C0481G	21-NOV-2001
09	CA	LOOMIS, TOWN OF	06061CIND0 **	21-NOV-2001
09	CA	MENDOTA, CITY OF	06019C1444F	19-JUL-2001
09	CA	MENDOTA, CITY OF	06019C1463F	19-JUL-2001
09	CA	MENDOTA, CITY OF	06019C1982F	19-JUL-2001
09	CA	MENDOTA, CITY OF	06019C2001F	19-JUL-2001
09	CA	MENDOTA, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	ORANGE COVE, CITY OF	06019C2214F	19-JUL-2001
09	CA	ORANGE COVE, CITY OF	06019C2218F	19-JUL-2001
09	CA	ORANGE COVE, CITY OF	06019C2727F	19-JUL-2001
09	CA	ORANGE COVE, CITY OF	06019C2731F	19-JUL-2001
09	CA	ORANGE COVE, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	PALOS VERDES ESTATES, CITY OF	0601450605B	21-NOV-2001
09	CA	PARLIER, CITY OF	06019C2682F	19-JUL-2001
09	CA	PARLIER, CITY OF	06019C2685F	19-JUL-2001
09	CA	PARLIER, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	PITTSBURG,CITY OF	0600330001E	07-SEP-2001
09	CA	PITTSBURG,CITY OF	0600330002E	07-SEP-2001
09	CA	PITTSBURG,CITY OF	0600330004E	07-SEP-2001
09	CA	PITTSBURG,CITY OF	060033IND0 **	07-SEP-2001
09	CA	PLACER COUNTY*	06061C0417G	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0419G	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0425G**	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0477G	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0479G	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0481G	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0482G	21-NOV-2001
09	CA	PLACER COUNTY*	06061C0483G	21-NOV-2001
09	CA	PLACER COUNTY*	06061CIND0 **	21-NOV-2001
09	CA	PLUMAS COUNTY *	060244 C	21-NOV-2001
09	CA	PORTOLA, CITY OF	0604560001D	21-NOV-2001
09	CA	REEDLEY, CITY OF	06019C2190F	19-JUL-2001
09	CA	REEDLEY, CITY OF	06019C2705F	19-JUL-2001
09	CA	REEDLEY, CITY OF	06019C2710F	19-JUL-2001
09	CA	REEDLEY, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	RICHMOND, CITY OF	0600350010C	07-SEP-2001
09	CA	RICHMOND, CITY OF	0600350015D	07-SEP-2001
09	CA	RICHMOND, CITY OF	0600350020C	07-SEP-2001
09	CA	RICHMOND, CITY OF	0600350025C	07-SEP-2001
09	CA	RICHMOND, CITY OF	0600350030C	07-SEP-2001
09	CA	RICHMOND, CITY OF	060035IND0 **	07-SEP-2001

Region	State	Community	Panel	Panel date
09	CA	ROCKLIN, CITY OF	06061C0477G	21-NOV-2001
09	CA	ROCKLIN, CITY OF	06061C0481G	21-NOV-2001
09	CA	ROCKLIN, CITY OF	06061CIND0 **	21-NOV-2001
09	CA	ROSEVILLE, CITY OF	06061C0477G	21-NOV-2001
09	CA	ROSEVILLE, CITY OF	06061C0479G	21-NOV-2001
09	CA	ROSEVILLE, CITY OF	06061C0483G	21-NOV-2001
09	CA	ROSEVILLE, CITY OF	06061CIND0 **	21-NOV-2001
09	CA	SAN MATEO, CITY OF	0603280001B	19-OCT-2001
09	CA	SAN MATEO, CITY OF	0603280002B	19-OCT-2001
09	CA	SAN MATEO, CITY OF	0603280003B	19-OCT-2001
09	CA	SAN MATEO, CITY OF	0603280004B	19-OCT-2001
09	CA	SAN MATEO, CITY OF	060328IND0 **	19-OCT-2001
09	CA	SANGER, CITY OF	06019C2155F	19-JUL-2001
09	CA	SANGER, CITY OF	06019C2160F	19-JUL-2001
09	CA	SANGER, CITY OF	06019C2170F	19-JUL-2001
09	CA	SANGER, CITY OF	06019CIND0 **	19-JUL-2001
09	CA	SELMA, CITY OF	06019C2675F	19-JUL-2001
09	CA	SELMA, CITY OF	06019C2700F	19-JUL-2001
09	CA	SELMA, CITY OF	06019CIND0 **	19-JUL-2001
10	AK	SHISHMAREF, CITY OF	0200840001A	23-AUG-2001
10	ID	IDAHO COUNTY *	1602131761C	23-AUG-2001
10	ID	IDAHO COUNTY *	1602131775C**	23-AUG-2001
10	ID	IDAHO COUNTY *	160213IND0 **	23-AUG-2001
10	OR	PORTLAND, CITY OF	4101830041D**	07-NOV-2001
10	OR	PORTLAND, CITY OF	4101830045D**	07-NOV-2001
10	OR	PORTLAND, CITY OF	410183IND0 **	07-NOV-2001
10	WA	ALGONA, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	AUBURN, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	BEAUX ARTS VILLAGE, TOWN OF	53033CIND0 **	06-DEC-2001
10	WA	BELLEVUE, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	BLACK DIAMOND, TOWN OF	53033CIND0 **	06-DEC-2001
10	WA	BOTHELL, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	BURIEN, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	CARNATION, CITY OF	53033C0418G	06-DEC-2001
10	WA	CARNATION, CITY OF	53033C0419G	06-DEC-2001
10	WA	CARNATION, CITY OF	53033C0450G	06-DEC-2001
10	WA	CARNATION, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	CASTLE ROCK, CITY OF	5302770001E	20-DEC-2001
10	WA	CLYDE HILL, TOWN OF	53033CIND0 **	06-DEC-2001
10	WA	COLLEGE PLACE, CITY OF	5301950440B	07-SEP-2001
10	WA	COLLEGE PLACE, CITY OF	530195IND0 **	07-SEP-2001
10	WA	COVINGTON, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	COWLITZ COUNTY *	5300320030E	20-DEC-2001
10	WA	COWLITZ COUNTY *	5300320040E	20-DEC-2001
10	WA	COWLITZ COUNTY *	5300320129F	20-DEC-2001
10	WA	COWLITZ COUNTY *	5300320130D	20-DEC-2001
10	WA	COWLITZ COUNTY *	5300320137F	20-DEC-2001
10	WA	COWLITZ COUNTY *	5300320140E	20-DEC-2001
10	WA	COWLITZ COUNTY *	5300320205E	20-DEC-2001
10	WA	COWLITZ COUNTY *	530032IND0 **	20-DEC-2001
10	WA	DES MOINES, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	DUVALL, TOWN OF	53033CIND0 **	06-DEC-2001
10	WA	ENUMCLAW, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	FEDERAL WAY, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	HUNTS POINT, TOWN OF	53033CIND0 **	06-DEC-2001
10	WA	ISSAQUAH, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	KELSO, CITY OF	5300330001E	20-DEC-2001
10	WA	KELSO, CITY OF	5300330002D	20-DEC-2001
10	WA	KELSO, CITY OF	5300330003E	20-DEC-2001
10	WA	KELSO, CITY OF	5300330004D	20-DEC-2001
10	WA	KELSO, CITY OF	530033IND0 **	20-DEC-2001
10	WA	KENMORE, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	KENT, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	KING COUNTY*	53033C0418G	06-DEC-2001
10	WA	KING COUNTY*	53033C0419G	06-DEC-2001
10	WA	KING COUNTY*	53033C0420G	06-DEC-2001
10	WA	KING COUNTY*	53033C0436G	06-DEC-2001
10	WA	KING COUNTY*	53033C0438G	06-DEC-2001
10	WA	KING COUNTY*	53033C0450G	06-DEC-2001
10	WA	KING COUNTY*	53033C0743G	06-DEC-2001
10	WA	KING COUNTY*	53033C1057H	06-DEC-2001
10	WA	KING COUNTY*	53033C1059G	06-DEC-2001
10	WA	KING COUNTY*	53033C1076H	06-DEC-2001
10	WA	KING COUNTY*	53033C1078H	06-DEC-2001

Region	State	Community	Panel	Panel date
10	WA	KING COUNTY*	53033C1079H	06-DEC-2001
10	WA	KING COUNTY*	53033CIND0 **	06-DEC-2001
10	WA	KIRKLAND, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	LAKE FOREST PARK, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	LONGVIEW, CITY OF	5300340005D	20-DEC-2001
10	WA	MEDINA, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	MERCER ISLAND, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	NORMANDY PARK, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	NORTH BEND, CITY OF	53033C0743G	06-DEC-2001
10	WA	NORTH BEND, CITY OF	53033C1057H	06-DEC-2001
10	WA	NORTH BEND, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	PACIFIC, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	REDMOND, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	RENTON, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	SEATAC, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	SEATTLE, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	SHORELINE, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	SKYKOMISH, TOWN OF	53033CIND0 **	06-DEC-2001
10	WA	SNOQUALMIE, CITY OF	53033C0743G	06-DEC-2001
10	WA	SNOQUALMIE, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	TUKWILA, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	WASHTUCNA, TOWN OF	5300060001C	09-AUG-2001
10	WA	WOODINVILLE, CITY OF	53033CIND0 **	06-DEC-2001
10	WA	YARROW POINT, TOWN OF	53033CIND0 **	06-DEC-2001

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Friday,
May 17, 2002

Part III

Department of Health and Human Services

42 CFR Part 36, et al.
Tribal Self-Governance Amendments of 2000; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Parts 36, 36a, 136, 136a, and 137

RIN 0917–AA05

Tribal Self-Governance Amendments of 2000

AGENCY: Indian Health Service, DHHS.

ACTION: Final rule.

SUMMARY: The Secretary of the Department of Health and Human Services (DHHS) hereby issues this final rule to implement Title V of the Tribal Self-Governance Amendments of 2000 (the Act). The final rule has been negotiated among representatives of Self-Governance and non-Self-Governance Tribes and the DHHS. The final rule includes provisions governing how DHHS/Indian Health Service (IHS) carries out its responsibility to Indian Tribes under the Act and how Indian Tribes carry out their responsibilities under the Act. As required by section 517 (b) of the Act, the Department has developed this final rule with active Tribal participation of Indian Tribes, inter-Tribal consortia, Tribal organizations and individual Tribal members, using the guidance of the Negotiated Rulemaking Act.

DATES: This rule will become effective on June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Paula Williams, Director, Office of Tribal Self-Governance, The Reyes Building, 801 Thompson Ave., Suite 240, Rockville, MD 20852, Telephone 301–443–7821. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The "Tribal Self-Governance Amendments of 2000," Pub. L. 106–260, repeals Title III of the Indian Self-Determination Act, Pub. L. 93–638, as amended, (ISDA) and enacts a new Title V that establishes a permanent Self-Governance program within DHHS. Thus, Indian and Alaska Native Tribes are now able to compact for the operation, control, and redesign of various IHS activities on a permanent basis. Section 517 of Title V requires the Secretary, not later than 90 days after the date of the enactment of the Act, to initiate procedures under the Negotiated Rulemaking Act, 5 U.S.C. 561 et seq, to negotiate and promulgate the regulations necessary to carry out Title V. The Act calls for the establishment of a negotiated rulemaking committee pursuant to 5 U.S.C. 565, comprised only of Federal and Tribal representatives, with a majority of the Tribal government representatives representing Self-Governance Tribes. The Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (the Committee) conferred with and allowed representatives of Indian Tribes, inter-Tribal consortia, Tribal organizations, and individual Tribal members to actively participate in the rulemaking process.

Copies of the Committee's charter are on file with the appropriate committees of Congress and with the Library of Congress in accordance with section 9(c) of the Federal Advisory Committee Act, 5 U.S.C. Appendix.

Public Participation in Pre-Rulemaking Activity

A Notice of Intent to establish the Committee was published in the **Federal Register** at 65 FR 75906 on December 5, 2000. In the Notice of Intent, we proposed a rulemaking committee of representatives from 12 Self-Governance Tribes, 11 non-Self-Governance Tribes, and 7 Federal officials totaling 30 members. The Notice of Intent established a deadline of January 4, 2001, for submission of written comments. Twenty comments were received. The comments provided valuable input from Indian Tribes, organizations, and individuals. In order to change the composition of the Committee, as suggested by some comments, the Committee would have needed to be increased to more than 30 members. Carrying out the negotiated rulemaking process through a committee with more than 30 members would be cumbersome and challenging in reaching consensus under the time period required by section 517. Therefore, the size of the Committee was not changed. The members, representing 12 Self-Governance Tribes, 11 non-Self-Governance Tribes, and 7 Federal officials, met the requirements of the Act. The Committee was co-chaired by one Tribal representative and one Federal representative.

The negotiated rulemaking meetings were open to the public. Individuals that were not voting members of the Committee had an opportunity to attend meetings and to give input to the 30 members of the Committee. The public was informed about the establishment of the Committee through a notice in the **Federal Register** at 66 FR 15063 on March 15, 2001.

The first meeting of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance was held in San Diego, California on March 15–16, 2001. At that meeting, the Committee established three sub-committees, a meeting schedule, and a protocol for deliberations. The Committee agreed to operate based on consensus decision-making. The DHHS committed to publish all consensus decisions as the proposed rule. The Committee further agreed that any committee member and his/her constituents could comment on this proposed rule.

To complete the regulations within the statutory timeframe, the Committee divided the areas subject to regulation among three subcommittees, each co-chaired by one Federal and one Tribal representative. The sub-committees made recommendations to the Committee on whether regulations in a particular area were desirable. If the Committee agreed that regulations were desirable, the sub-committees developed options for draft regulations. The sub-committees presented their options to the Committee, which discussed them and eventually approved the proposed regulations.

Between April 2001 and August 2001, the Committee met five times in different locations throughout the country. All meetings were announced in the **Federal Register** at 66 FR 10182, 66 FR 17657, and 66 FR 27620. Generally, the meetings lasted three days. Sub-committees also met and held teleconferences to develop draft material in support of the Committee meetings.

The Department published proposed regulations in a Notice of Proposed Rulemaking in the **Federal Register** on February 14, 2002, at 67 FR 6998 (NPRM). In the NPRM the Department invited the public to comment on the proposed provisions. In addition, the Department outlined three issues where consensus was not yet reached and invited the public to comment on those issues as well.

Ultimately, the Department received comments from 36 Indian Tribes and Tribal organizations, one individual, and one State. The full committee reconvened in Bethesda, Maryland, between April 15 and April 18, 2002, to review the comments, to evaluate changes suggested by the comments, and to recommend final regulatory language.

As a result of the meeting, the full committee was able to reach consensus on regulatory language on all but three issues. Discussion of these three issues are contained under the appropriate subpart in the following Summary of Regulation and Comments Received.

The Department commends the ability of the committee to cooperate and develop a rule that addresses the interests of the Tribes and the Agency. We believe this negotiated rulemaking process has been a model for developing successful Federal and Tribal partnership in other endeavors.

Summary of Regulations and Comments Received

The narrative and discussion of comments below is keyed to specific subparts of the rule.

Subpart A—General Provisions

Summary of Subpart

This subpart contains provisions describing the authority, purpose and scope of these regulations. This subpart contains Congressional policies set forth in Title V. This subpart also contains provisions regarding the effect of these regulations on existing Tribal rights, whether Title V may be construed to reduce funding for programs serving a Indian Tribe under this Title or other laws, and the effect of these regulations on Federal policy directives.

Discussion of Comments

Several comments noted the lack of any Secretarial policy in the NPRM for Title V. In negotiating the NPRM for Title V, Federal and Tribal members reached an impasse based on this issue. However, to respond to the comments, Federal and Tribal committee members further negotiated language on Secretarial policy. Based upon this Administration's statements before Congress and other policy directives, the Federal representatives drafted language which recognizes the sovereign status of Indian Tribes and the Administration's support of the government-to-government relationship between Tribes and the United States. The following language was agreed upon by the Federal and Tribal members and is included as a new section 137.6:

Section 137.6 Secretarial Policy.

In carrying out Tribal self-governance under Title V, the Secretary recognizes the right of Tribes to self-government and supports Tribal sovereignty and self-determination. The Secretary recognizes a unique legal relationship with Tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The Secretary supports the self-determination choices of each Tribe and will continue to work with all Tribes on a government-to-government basis to address issues concerning Tribal self-determination.

Subpart B—Definitions

Summary of Subpart

This subpart sets forth definitions for key terms used in the balance of the regulations. Most of the definitions come from definitions set forth in Title I or Title V.

Discussion of Comments

There were two comments regarding the definitions in section 137.10. One comment recommended that the definition of "Compact" be clarified. With a slight change to the proposal, the Committee agreed with the recommendation and amended the definition to include the phrase ", including such terms as the parties intend shall control year after year,".

One comment suggested that the term "Tribal Self-Governance Advisory Committee," a term used in section 137.204, be defined. The Committee agreed and added the following definition:

Tribal Self-Governance Advisory Committee means the Committee established by the Director of IHS that consists of Tribal representatives from each of the IHS Areas participating in Self-Governance, and that provides advocacy and policy guidance for implementation of Tribal Self-Governance within IHS.

Subpart C—Selection of Indian Tribes for Participation in Self-Governance

Summary of Subpart

This subpart describes the eligibility criteria an Indian Tribe must satisfy to participate in self-governance. This subpart also describes that planning and negotiation grants may be available, but not required, for participation.

Discussion of Comments

A comment was received regarding section 137.25, recommending that the timing of planning and negotiation grants be spelled out in more detail. The Committee did not accept this comment because this matter can be dealt with more effectively in annual announcements regarding these grants. Therefore no change was made.

One comment recommended that the answer to section 137.26 should be amended to make it parallel to the question by adding "and to negotiate" at the end of the sentence. The Committee agreed and made the change. Another comment suggested adding additional questions and answers that provide instructions to Tribes seeking to participate in self-governance. The Committee determined that these issues are better addressed in annual agency announcements.

Subpart D—Compact

Summary of Subpart

This subpart describes the authority for Self-Governance Tribes to negotiate compacts and identifies what is included in a compact.

Discussion of Comments

No comments were received on Subpart D.

Subpart E—Funding Agreements

Summary of Subpart

This subpart describes the authority for Self-Governance Tribes to negotiate funding agreements and identifies what is included in a funding agreement. This subpart also describes the terms required to be included in a funding agreement and the terms that may be included at the Self-Governance Tribe's option.

Discussion of Comments

One comment to section 137.42 recommended explaining more about the effect of including "Tribal shares of IHS discretionary grants" in a funding agreement. The Committee concluded that Subpart E adequately addresses this matter and did not accept the recommendation.

One comment to section 137.43 suggested amending the question to make it clearer. The Committee agreed and amended the question to read: "May a Tribe negotiate and leave funds with IHS for retained services?" The Committee also changed the first word of the answer to "Yes" to be consistent with the revised question.

One comment suggested adding "or portions thereof" after "PSFAS" in the answer to section 137.43. The answer already states that "Tribal shares may be left, in whole or in part with IHS". The proposed language would be redundant and the Committee did not make the requested change.

One comment recommended substituting statutory language for the term "Tribal share" in section 137.43. The Committee made no change because the term "Tribal share" is already defined in section 137.10 and is used appropriately in section 137.43.

One comment suggested adding in the answer to section 137.56 the words ", including all recurring increases received and continuing eligibility for other increases." The Committee agreed and made the change.

Subpart F—Statutorily Mandated Grants

Summary of Subpart

This subpart describes to what extent statutorily mandated grants may be

added to a funding agreement after award. It also addresses annual lump sum advance payment after the grant is awarded, interest on grant awards, reallocation and redesign, and FTCA coverage of statutorily mandated grants added to a funding agreement.

Discussion of Comments

Several comments were submitted supporting the Tribal position in the Preamble that Title V provisions apply to statutorily mandated grants. The Committee did not reach agreement on this issue. Tribal committee members urged that the rule state clearly that Title V applies to statutorily mandated grants. Federal committee members rejected the Tribal view. The Secretary has included the following question and answer to the final rule as new question and answer 137.73:

Section 137.73 What provisions of Title V apply to statutorily mandated grants added to the funding agreement?

None of the provisions of Title V apply.

While the final rule includes the question and answer, Tribal committee members wish to make clear that they strongly disagree with the Department's interpretation of the statute on this issue. The full discussion of the conflict in statutory construction is found in the NPRM at 67 Fed. Reg. 6999 (February 14, 2002).

Subpart G—Funding

Summary of Subpart

This subpart describes what funds must be transferred to a Self-Governance Tribe in a funding agreement and when those funds must be transferred. This subpart describes those circumstances where the Secretary is prohibited from reducing or failing to transfer funds and where the Secretary is permitted to increase funds. This subpart also describes miscellaneous provisions pertaining to funding provided under a funding agreement. This subpart describes that a funding agreement may provide for a stable base budget and describes what funds are included in the stable base budget.

Discussion of Comments

In negotiating proposed rules, the Committee agreed to the following language which was published in the NPRM as section 137.77:

Section 137.77 When must the Secretary transfer funds identified in a funding agreement which does not correspond to the Federal fiscal year, e.g., calendar year?

When the period covered by a funding agreement crosses Federal fiscal years and unless 100 percent of the funding is available and agreed to in the funding agreement, funding for the funding agreement will be apportioned between the two fiscal years and payments due under the funding agreement associated with each respective fiscal year and will be made on the later of:

(a) The effective date of the funding agreement, or

(b) Ten days after apportionment from OMB.

One comment was received which recommended replacing section 137.77 with language reflecting the holding St. Regis Mohawk Tribe v. Area Director, Nashville Area, Indian Health Service, (D.A.B. Jan. 17, 2002). The comment proposed a new question and answer:

When must the Secretary transfer funds identified in a funding agreement which does not correspond to the Federal fiscal year, e.g., calendar year?

When a period covered by a funding agreement crosses Federal fiscal years a Tribe is entitled to be paid one hundred percent of the funding for both fiscal years at the beginning of the funding agreement.

Tribal Committee members agreed with the comment. Federal Committee members clarified that under Title V IHS provides a process for transfer of funds for this purpose. Because the Tribal and Federal Committee members disagreed on the interpretation of the holding to application of this case, the Secretary decided to delete section 137.77.

A comment on section 137.78 recommended that specific conditions be set forth in the rule regarding the timing of payments. The Committee believes that the rule adequately addresses this matter and did not make a change.

One comment recommended addressing carryover of grants in section 137.105. The Committee believes that the provisions applicable to various grants are adequately addressed in other sections and that no changes to the regulations are needed.

One comment recommended clarifying a citation to the Indian Health Care Improvement Act (IHCIA) found in Section 137.110. The Committee believes it is best not to try to interpret the IHCIA in these regulations and did not make a change.

Several comments were made regarding funds that may be included in a stable base budget. In response to the comment that the words "including direct contract support" be included in section 137.121(a), the Department is committed to recognizing all allowable program and contract support costs under section 106(a) of the Act, whether those costs are classified as direct or indirect. The proposed regulations reflect this commitment without singling out any particular classification of costs. The suggestion that Section 137.121 identify other funds that IHS agrees to is dealt with in Section 137.122. Thus, the Committee has made no change to section 137.121.

Subpart H—Final Offer

Summary of Subpart

This subpart describes the final offer and rejection process.

Discussion of Comments

One comment suggested adding more detail about the process by which Tribes and IHS achieve resolution after a final offer. The Committee determined that Subpart H provides sufficient detail and the Committee did not add additional questions and answers.

The Committee noted that "or" was inadvertently omitted at the end of subsection 137.132(a)(1) and has inserted it in the final rule.

In section 137.143 of the NPRM the term "Tribal shares" was substituted for the statutory language approved by the Committee. Several comments were received recommending reinsertion of the statutory language which is more accurate in the context of this rule. The Committee agreed and replaced the term "Tribal shares" with "any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian Tribe or its members, all without regard to the organizational level within the Department where such functions are carried out."

One comment recommended that section 137.190 be improved to make clear that the duplication prohibition applies to both funds and PSFAs. The comment was agreed to and the reference to "such funds" was changed to "the same funds or PSFA". In addition, for additional clarification the concluding clause regarding eligibility for other, non-duplicative PSFAs was set forth as a free-standing sentence, and the words "except that" were deleted.

One comment recommended that section 137.210 be expanded to explain how savings are identified and distributed. In light of the provision in section 137.407(a) requiring that savings be included in the Secretary's annual report, the Committee did not accept the recommendation.

Subpart I—Operational Provisions

Summary of Subpart

This subpart contains provisions that address most of the operational aspects of self-governance.

Discussion of Comments

One comment recommended that section 137.215 address what happens to Federally furnished property upon retrocession or reassumption. This is addressed expressly in the subparts regarding retrocession and reassumption at sections 137.251 and 137.264, respectively and thus, no action was required.

Subpart J—Regulation Waiver

Summary of Subpart

This subpart contains procedures authorizing the Secretary to waive regulations promulgated to implement Title V or regulations promulgated under the authority specified in section 505(b) of the Act.

Discussion of Comments

No comments were received on Subpart J.

Subpart K—Withdrawal

Summary of Subpart

This subpart addresses the procedures that apply when a Self-Governance Tribe withdraws from a Tribal organization or inter-Tribal consortium.

Discussion of Comments

Several comments objected to the NPRM's deletion of an additional sentence in section 137.238 and section 137.250 regarding the handling of contract support cost funds. Since the Act is clear and does not distinguish funds by type or treat them differently in this regard, there is no need to reference an agency policy to deal with one type of funding in a compact or funding agreement. Contract support costs are generally handled pursuant to the IHS contract support cost circular in effect.

Subpart L—Retrocession

Summary of Subpart

This subpart addresses the procedures that apply when a Self-Governance Tribe retrocedes a program to the Secretary.

Discussion of Comments

No comments were received on Subpart L.

Subpart M—Reassumption

Summary of Subpart

This subpart addresses procedures by which the Secretary, without the consent of the Self-Governance Tribe, may reassume the operation of a program and associated funding in a compact or funding agreement.

Discussion of Comments

The citation in section 137.257(d) regarding appeals was corrected in response to a comment.

One comment noted that in section 137.264, the word "reassume" should be "reassumed." The Committee agreed and has made the change in both the question and answer.

Subpart N—Construction

Summary of Subpart

This subpart addresses the process by which participating Self-Governance Tribes may agree to undertake construction projects and programs under section 509 of the Act. In its scope, this subpart distinguishes between construction projects, and ongoing programs that support construction projects. This subpart sets forth the process for Self-Governance Tribes to enter into and administer self-governance construction project agreements for construction projects, which may include Tribal shares of related construction programs. Alternatively, Self-Governance Tribes may assume construction programs (but not projects) using the compact and funding agreement process set forth in Subparts D and E.

Definitions are provided that are unique to this subpart. Self-Governance Tribes performing construction under section 509 are required to assume the Secretary's responsibilities for the completion of the construction project under the National Environmental Policy Act of 1969 (NEPA), the National Historic Preservation Act (NHPA), and related Federal environmental laws. This subpart describes the Secretary's responsibility to notify and consult with Indian Tribes concerning the development of construction budgets and new funding allocation methodologies, as well as when funds are available for the planning, design and construction of IHS construction projects. This subpart further describes the process that Self-Governance Tribes and the Secretary use to develop, negotiate and approve (or reject) construction project agreements under Title V. This subpart describes the Self-Governance Tribes' responsibility to complete construction project agreements and provide day-to-day management and administration for construction projects, within available funding. This subpart sets forth how Self-Governance Tribes will receive payments for construction project agreements, the process for Secretarial review and approval of project planning and design documents, as well as Secretarial review and approval of any proposed amendments to the construction project agreement.

Discussion of Comments

One comment recommended changing the term "scope of work" in the definitions in section 137.280 to read "specific scope of work" to resolve an inconsistency between the proposed definition and section 501(a)(2)(B) of the Act. The comment further recommended that the definition of "specific scope of work" be revised to clarify the level of detail required for the construction project agreement. The Committee agreed to modify the term in the final rule to resolve the inconsistency, and further agreed to specify that a scope of work is a brief, written description of the work.

One comment asked if the Department may delegate its responsibilities under the NHPA without the participation or approval of the Advisory Council on Historic Preservation. Section 509(a) of the Act provides:

> Indian Tribes participating under Tribal self-governance may carry out construction projects under this part if they elect to assume all Federal responsibilities under the National Environmental Policy Act * * * the National Historic Preservation Act * * * and related provisions of law that would apply if the Secretary were to undertake the construction project.

This provision requires the Department to delegate Federal environmental responsibilities for construction project agreements to Self-Governance Tribes, including the Department's responsibilities under NHPA. Subpart N sets forth procedures for a Self-Governance Tribe to assume these Federal environmental responsibilities, but is not intended to modify the statutory role of either the Council on Environmental Quality or the Advisory Council on Historic Preservation. Section 137.285 clarifies that Self-Governance Tribes must assume these Federal environmental responsibilities to carry out a construction project under Title V of the Act. Section 137.288 summarizes the Federal responsibility under section 106 of the NHPA to "afford the Advisory Council on Historic Preservation, acting through the State Historic Preservation Officer or the Tribal Historic

Preservation Officer, a reasonable opportunity to comment" on applicable undertakings. For these reasons, the Committee believed that Subpart N is consistent with the statutory requirements of the NHPA.

One comment suggested that because the abbreviations NEPA and NHPA are provided in the definitions, they should be used consistently throughout Subpart N. The Committee agreed with the comment and the abbreviations are used throughout Subpart N. The Committee also corrected the statutory reference to the NHPA in 137.288 to read 16 U.S.C. 470f.

One comment suggested that section 137.294 (a)(1) be revised to read "consult with *applicable* Tribal, Federal, State, and local officials and interested parties * * *" The Committee agreed that the regulation should be revised but concluded that "appropriate" should be inserted instead of "applicable." The Committee did not intend to use "appropriate" as a term of art but only to indicate that IHS consultation requirements vary based on the project under review.

One comment referenced section 137.297, which provides that if a Tribe adopts a Federal agency's environmental review policy, then the Federal agency is responsible for ensuring that the policy meets the requirements of NEPA, NHPA, and any related environmental laws. This comment also recommended that an additional question and answer be added to clarify that if a Tribe adopts its own environmental review procedures, then the Tribe is responsible for deciding that it has met the requirements of these related environmental laws. The Committee agreed that Tribes are to be permitted to adopt their own environmental review policies and procedures that comply with these Federal environmental statutes without oversight by the Department, but believed that sections 137.295, 137.296, 137.308 adequately discuss the Tribes' authority to develop such policies and procedures.

One comment asked if Subpart N will apply to construction projects carried out on non-Tribal lands. The comment stated that under the Advisory Council on Historic Preservation's regulations, 36 CFR Part 800, Tribes may only apply Tribal policies and procedures to Tribal lands. Subpart N applies to all construction project agreements carried out under Title V of the Act. The Department is required to carry out its Federal environmental responsibilities wherever it undertakes construction projects, whether on Tribal or non-Tribal lands. Section 509(a) of the Act requires that the Self-Governance Tribe assume the same responsibilities that would apply if the Department were to undertake the construction project. Section 509(a) of the Act does not exempt non-Tribal lands from its coverage. As discussed above, Subpart N only sets forth procedures for the delegation of Federal environmental procedures and does not modify any Federal environmental statutory requirements.

One comment expressed concern that the regulations do not assure that Tribal policies and procedures are the same or equivalent to the Advisory Council of Historic Preservation regulations at 36 CFR part 800. The Comment further stated that Section 137.296 does not appear to be consistent with the 36 CFR part 800 provisions regarding the approval of alternate procedures.

As discussed above, Section 509(a) independently requires the Department to delegate its Federal environmental responsibilities to Self-Governance Tribes carrying out construction projects under Title V. Notwithstanding section 106 of the NHPA, section 517(a)(1) of the ISDEAA provides "the Secretary shall initiate procedures under subchapter III of chapter 5 of Title 5 [the Negotiated Rulemaking Act] to negotiate and promulgate such regulations as are necessary to carry out [Title V of the Act]." Pursuant to this authority, Subpart N sets forth the procedures for Self-Governance Tribes to assume Federal environmental responsibilities when carrying out construction projects under Title V of the Act. Section 137.296 authorizes Self-Governance Tribes to adopt Tribal or Federal environmental review procedures that comply with the statutory requirements.

One comment recommended that section 137.301(b) be revised to clarify when the Secretary is involved in addressing unforeseen environmental review costs. The Committee agreed with the comment and revised section 137.301(b) to provide that it is at the request of the Self-Governance Tribe that the Secretary will become involved. The Committee further revised section 137.301(b) to clarify that this regulation applies to unforeseen environmental review costs identified during any phase of the construction project.

One comment stated that the last sentence of section 137.307 is not grammatically correct. The committee agreed and revised the sentence in the final rule.

One comment recommended that language be restored in Section 137.320 to reflect the answer that was originally proposed by the Committee but was deleted in the NPRM. The Committee agreed with the concerns raised by the comment that the final rule reflect the consensus of the Committee and revised section 137.320 to read in part as follows:

> the Secretary must consult with any Indian Tribe that would be significantly affected by the expenditure to determine and to honor Tribal preferences whenever practicable concerning the size, location, type, and other characteristics of the project.

This language is consistent with the Secretary's duty under 25 U.S.C. § 1631 to honor Tribal preferences as determined through consultation.

The Committee received four comments on behalf of twenty eight Tribes and Tribal organizations supporting the Tribal position on Department of Justice representation of Tribes and Tribal certifying officers for environmental claims brought under Section 509 of the Act. The comments proposed adding the additional question and answer suggested in the Tribal position on this area of disagreement in the NPRM:

Q: Are Indian Tribes and Tribal certifying officers entitled to the benefit of a Federal defense if they are sued as a result of carrying out their Federal environmental responsibilities?

A: Yes. Indian Tribes and Tribal certifying officers are performing Federal functions when carrying out these Federal environmental responsibilities, and they are deemed to be Federal agencies and Federal officials for this limited purpose. Under section 314 of Public Law 101–512, as amended, the Department of Justice is authorized and directed to defend Indian Tribes and Tribal employees who are sued with respect to claims resulting from the performance of these Federal functions.

The Federal and Tribal committee members did not reach consensus on whether the Department of Justice would represent Tribes and Tribal certifying officers in environmental actions. The Tribal representatives believe that the potential for Self-Governance Tribes to assume Federal responsibilities for NEPA and NHPA compliance under Title V removes a substantial burden from IHS construction program managers and places that burden on Tribal officials. In transferring this burden, it is important to treat Tribal and Federal certifying officials equally. The Tribal representatives believe this can best be achieved by assuring Tribal certifying officials the benefit of a Federal defense under section 314 of Pub. L. 101–512 for NEPA enforcement actions brought against them. This protection is essential and fundamentally fair.

The Tribal representatives believe their position is fully consistent with the language of the statute and greatly furthers the Title V Congressional policy of providing Self-Governance Tribes with all the resources, benefits and protections that IHS officials would have in carrying out this core governmental function.

The Tribal representatives believe that a narrow interpretation of the coverage of section 314 would shift the burden from the Department of Justice to the IHS, or worse still, to American Indian and Alaska Native beneficiaries of IHS health programs. A narrow interpretation would require Self-Governance Tribes to incur substantial expense for liability insurance and/or legal representation. The IHS would then, in the Tribal representatives' view, be legally obliged to provide adequate contract support funds to cover these expenses. If it failed to do so as a result of shortfalls or for some other reason, funds that should be used to provide direct services would be diverted and the beneficiaries would suffer from diminished health care services, again contrary to Congress' intent. An unduly narrow interpretation would thus conflict with Congressional intent in Title V and impair the Federal trust responsibility to deliver health care to Indian people. See S. Rep. 100–274, Dec. 21, 1987 at 2646 ("The United States has assumed a trust responsibility to provide health care to Native Americans. The intent of the Committee is to prevent the Federal Government from divesting itself, through the self-determination process, of the obligation it has to properly carry out that responsibility.").

The Tribal Representatives believe that Congress clearly intended to confer on Self-Governance Tribes the same benefits that Federal officials enjoy when performing these Federal functions. It is clear that Self-Governance Tribes are carrying out Federal responsibilities. The nature of the legal liability associated with such responsibilities does not change because a Tribal government is performing a Federal function. The unique nature of the legal trust relationship between the Federal Government and Tribal governments requires that the Federal Government provide liability insurance coverage in the same manner as such coverage is provided when the Federal Government performs the function. S. Rep. 100–274, Dec. 21, 1987 at 2645. Similarly, transferring the obligation to perform NEPA compliance determinations from Federal to Tribal officials, with virtually no additional funding and without providing these officials with a Federal defense, would create a windfall for the Federal Government, at the expense of Indian health care, contrary to Congressional intent. Department of Justice attorneys are well-experienced in APA litigation and would be in a better position to defend Tribal government officials in NEPA enforcement actions than would members of the private bar. The rare cases likely to be brought under this law will create no undue hardship or expense for the Department of Justice.

Tribal representatives are committed to working with the Secretary to address the concerns identified by the Committee through Secretarial interpretation, further rulemaking, and clarifying legislation that further fosters self-governance. Further clarification of the Tribal position may be found at 67 FR 7000–01 (February 14, 2002).

While the Department has carefully considered the views of the Tribal representatives on this issue, it cannot accept the Tribal proposal to add a question and answer providing Department of Justice representation for environmental actions brought under section 509(a). Section 314 of Public Law 101–512 applies only to actions brought under the Federal Tort Claims Act, not suits seeking to enforce NEPA, NHPA, or related environmental statutes. Moreover, as a matter of law, the Act treats the enforcement of environmental responsibilities differently from any other claims brought against a Self-Governance Tribe arising from self-governance compacts or construction project agreements. Section 509 of the Act specifically requires that the Self-Governance Tribe designate a certifying officer and accept the jurisdiction of the Federal court for purposes of enforcement of environmental statutes. The Tribal position, that suits to enforce environmental responsibilities are to be deemed suits against the United States, conflicts with these statutory requirements.

One comment recommended revising section 137.336(b)(5) and adding a new section 137.343(c) to allow Self-Governance Tribes to designate excess funds remaining at the end of a lump sum fixed price project as either savings or profit. The Committee agreed and adopted the recommendation in the final rule.

One comment recommended that section 137.338 be revised to replace the word "may" with "shall" to be consistent with similar provisions in Title I of the Act. The Committee agreed with the recommendation and revised section 137.338 to replace the word "may" with the word "must."

One comment expressed appreciation to the Committee for the payment provisions set forth in section 137.341 "as a prime example of a regulatory provision that seeks to liberally construe the Act to favor Self-Governance Tribes." No action was required.

One comment read section 137.372 as requiring that Self-Governance Tribes submit fee to trust applications to the Secretary of Health and Human Services for real property purchased with construction project agreement funds. The comment questioned why the Secretary of DHHS needs to be involved at all in the process of transferring fee land into trust when the Department of Interior's regulations at 25 CFR Part 151 already set forth a detailed process for transferring land into trust. The Committee agreed with the comment and revised section 137.372 in the final rule.

Consistent with this comment, the Committee also revised sections 137.373 and 137.374 to clarify that all references to the Secretary taking title to property purchased with construction project agreement funds refer to fee title, not trust title. The question in section 137.374 was also revised to include leasing to be consistent with the answer. One Committee member recommended that section 137.374 be further revised to discuss Tribal acquisitions of government surplus property. The Committee did not accept this recommendation because the revised regulation covers all acquisitions of property, including government surplus property.

The Committee received four comments on behalf of twenty-eight Tribes and Tribal organizations supporting the Tribal position on whether the Davis-Bacon Act applies to construction project agreements that include funds from both Federal and non-Federal sources, including Tribal contributions and State funds. The comments proposed adding the additional question and answer suggested in the Tribal position on this area of disagreement in the NPRM:

Q: Do Davis-Bacon wage rates apply to construction projects performed by Tribes using both Federal funds and non-Federal funds?

A: The Davis-Bacon wage rates only apply to the portion of the project that is funded with Federal funds. The Davis-Bacon Act and wage rates do not apply to portions of the project funded with non-Federal funds or when Tribes perform work with their own employees.

The Federal and Tribal committee members did not reach consensus on whether the Davis-Bacon Act applies to

projects funded with both Federal and non-Federal funds. Tribal and Federal officials included this issue in their non-consensus reports. The Tribal representatives believe this proposed regulation would give Self-Governance Tribes performing Title V construction projects greater autonomy and would advance Title V's goal of effectively "implementing the Federal policy of government-to-government relations with Indian Tribes" and of further "strengthen[ing] the Federal policy of Indian self-determination." *See* 25 U.S.C.A. § 458aaa (Pub. L. 106–260, Sec. 2(6), Title V Congressional findings reproduced as note following section 458aaa).

The Tribal representatives believe the proposed regulation is supported by 509(g) of the Act, and at best, this section of the Act is ambiguous. Section 512 requires that the "Secretary shall interpret all Federal laws * * * in a manner that will facilitate * * * the achievement of Tribal health goals and objectives." Furthermore, even if the language of Title V is open to more than one reasonable interpretation, rules of statutory construction for Indian legislation require that the statute be construed liberally in favor of the Self-Governance Tribes. *South Dakota v. Bourland*, 508 U.S. 679, 687 (1993); *Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759, 766 (1985) ("Statutes are to be construed liberally in favor of the Indians; ambiguous provisions are to be interpreted to the Indians' benefit."). In *Ramah Navajo Chapter v. Lujan*, the Tenth Circuit held that, "if the [ISDA] can reasonably be construed as the Tribe would have it construed, it must be construed that way." Id. at 1462 (quoting *Muscogee (Creek) Nation v. Hodel*, 851 F.2d 1439, 1445 (D.C. Cir. 1988)).

Tribal representatives are committed to working with the Secretary to address the concerns identified by the Committee through Secretarial interpretation, further rulemaking, and clarifying legislation that further fosters self-governance. Further clarification of the Tribal position may be found at 67 FR 7000 (February 14, 2002).

While the Department has given careful consideration to the views of the Tribal representatives on this issue, it cannot accept the Tribal proposal. The Department recognizes that requiring the use of Federal Davis-Bacon wage rates on jointly funded projects is cumbersome, especially for Self-Governance Tribes located in multiple prevailing wage jurisdictions. Moreover, the Department is concerned that this requirement may discourage Self-Governance Tribes from using non-Federal funds to build or improve health care facilities. However, the Department is persuaded that the wording of section 509(e) of the Act precludes adopting the proposed Q&A.

Subpart O—Secretarial Responsibility and Budget Request

Summary of Subpart

This subpart addresses consultation with Self-Governance Tribes in the budget formulation process.

Discussion of Comments

Several comments raised concerns about the deletion of sections 137.400, 401 and 402 and asked that they be reinstated in the final rule. Sections 137.400 and 137.402 were included in the proposed rule recommended by the rulemaking committee but deleted from the proposed rule published in the **Federal Register** because they purported to require the President, in consultation with Indian Tribes, to identify in his annual budget request to the Congress all funds necessary to fully fund all funding agreements authorized under Title V. To include the provisions in Departmental regulations raised concerns under Article II, Section 3 of the United States Constitution, because they would place requirements on the President and Administration officials regarding what to include in the President's budget request to the Congress. With respect to section 137.401, which concerned Tribal consultation on budget issues, the Committee decided to include in the final rule a revised section 137.401 on Tribal consultation, as follows:

Section 137.401 What Role Does Tribal Consultation Play in the IHS Annual Budget Request Process?

The IHS will consult with Tribes on budget issues consistent with Administration policy on Tribal consultation.

One comment noted that the term "Title I" in section 137.405 should be capitalized. The correction was made.

In response to a comment regarding a grammatical correction to section 137.407(d), the word "headquarter's" was changed to "headquarters".

The committee found that the word "and" had been misplaced in section 137.419(b). The word has been moved to section 137.419(c).

Subpart P—Appeals

Summary of Subpart

This subpart addresses post-award appeals, pre-award appeals (including informal conferences), appeals of immediate reassumptions, and attorneys fees and costs under the Equal Access to Justice Act.

Discussion of Comments

One comment recommended that section 137.421 be clarified to have the deadline to request an informal conference run from the date of receipt, and to provide Tribes with 45 days rather than 30 days to request an informal conference. Since section 137.421 already provides that the deadline runs from the date of receipt, rather than mailing, the Committee made no change.

One comment suggested additional language in subsection 137.422(c) to address the participation by an OTSG representative in the informal conference. In response, the Committee agreed to add the following sentence to the end of section 137.422(d):

Such designated representatives may include OTSG.

Administrative Matters

We have examined the impacts of this rule as required by Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121) and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Unless it is certified that the final rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires analysis of regulatory options that minimize any significant economic impact of a rule on small entities. Section 202 of the Unfunded Mandates Reform Act (Public Law 104–4) requires an assessment of anticipated costs and benefits before proposing any rule that may result in expenditure by State, local, and Tribal governments, in aggregate, or by the private sector, of $110 million in any one year (adjusted annually for inflation). We have determined that this rule is consistent with the principles set forth in the Executive Order and in these statutes and find that this rule will not have an effect on the economy that exceeds $110 million in any one year (adjusted for inflation). Therefore, no further analysis is required under the Unfunded Mandates Reform Act. Because this rule does not impose any new costs on small entities, it will not result in a significant economic impact on a substantial number of small entities. Thus, a Regulatory Flexibility Analysis is not required. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this final rule would not have substantial direct effect on the States, on the relationship between the National Government and States, or on the distribution of power and responsibilities among the various levels of government. As this rule has no Federalism implications, a Federalism summary impact statement is not required.

In accordance with the Act, this final rule was developed by a negotiated rulemaking committee comprised only of Federal and Tribal representatives, with a majority of the Tribal government representatives representing Self-Governance Tribes. The committee agreed to operate based on consensus decisionmaking. The regulations have been agreed on by consensus except as noted in the preamble.

The DHHS has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to NEPA.

Paperwork Reduction Act (PRA) of 1995

This regulation contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Management Reduction Act of 1995 (44 U.S.C. 3501–3520). The information collection requirements were negotiated between the Department and Tribal representatives through the negotiated rulemaking process and were agreed to by the parties in the negotiation. Health status reporting requirements will be negotiated on an individual Tribal basis and included in individual compacts or funding agreements. Response to the data collection is voluntary; however, submission of the data is essential to participation in the Tribal Self-governance process. Self-governance Tribes have the option of participating in a voluntary national uniform data collection effort with the IHS. Final submission of these requirements have been sent to OMB for approval pursuant to PRA. In the course of its review, OMB will consider any public comments received on these requirements as expressed in the proposed rule. The information to be collected is as follows:

Subpart C—Selection of Tribes for Participation in Self-Governance

The provisions in this subpart require collection of information that indicates successful completion of the planning phase, a Tribal resolution requesting participation in self-governance, and information that demonstrates financial stability and financial capacity for participation in self-governance. The Department needs and uses this information to determine the qualified applicant pool for the self-governance project. The information is collected at the time the Indian Tribe requests participation in self-governance. The annual reporting and record keeping burden for this collection of information is estimated to average 10 hours for each new request for 50 respondents. The total annual reporting and record keeping burden for this collection is estimated to be 500 hours.

Subparts D and E—Compact and Funding Agreement

The compact sets forth the general terms of the government-to-government relationship between the Self-Governance Tribe and the Secretary and any terms the parties intend to control year after year. A funding agreement is required for each Self-Governance Tribe participating in self-governance and it provides the information that authorizes the Self-Governance Tribe to plan, conduct, consolidate, administer, and receive funding. The funding agreement identifies the programs, services, functions, and activities (or portions thereof) (PSFAs) to be performed or administered; the budget category; the funds to be provided; the time and method of transfer of the funds; and, information regarding any other negotiated provisions or Tribal requests for stable base funding.

The provisions in this subpart require collection of information or record-keeping requirements that may be contained in either the compact or the funding agreement, such as the information provided in health status reports or the information needed when requesting multi-year funding. The Department needs and uses this information to determine eligibility of the applicant; to evaluate applicant capabilities; and to protect the service population and safeguard Federal funds and other resources. The information serves as the official record of the compact or funding agreement terms agreed to by the negotiating parties. The information is collected at the time the Self-Governance Tribe makes an initial request to compact or when the Self-Governance Tribe decides to take specific action to retrocede. The annual reporting and record keeping burden for this collection of information is estimated to average 34 hours for each response for 50 respondents. The total annual reporting and record keeping burden for this collection is estimated to be 1700 hours.

Subpart N—Construction Projects

The provisions in this subpart require collection of information regarding the Self-Governance Tribes' assumption of Federal responsibilities with respect to construction, including building codes and architectural and engineering standards (including health and safety), the successful completion of the construction project, and carrying out the negotiated construction project agreement. The information needed includes the semi-annual construction project progress and financial reports.

The Department needs and uses this information to determine eligibility of the applicant and to protect the service population and safeguard Federal funds and other resources. The information serves as the official record of the compact or funding agreement terms agreed to by the negotiating parties.

The information is collected at the time the Self-Governance Tribe negotiates the construction project agreement and through semi-annual reports. The annual reporting and record keeping burden for this collection of information is estimated to average 40 hours for each response for 30 respondents. The total annual burden for the collection is estimated to be 1200 hours.

Subpart P—Appeals

This subpart provides the appeals procedures available to Indian Tribes. It explains how to file a notice of appeal and what the notice should contain as well as instructions for submitting a written statement of objections. The Department uses this information to evaluate and grant or deny an appeal. The information is collected and reported once an Indian Tribe files an appeal. The annual reporting and record keeping burden for this collection of information is estimated to average 40 hours for each response for 8 respondents. The total annual reporting

and record keeping burden for this collection is estimated to be 320 hours.

In accordance with the PRA, no person is required to respond to an information collection request unless the form or regulation requesting the information has a currently valid OMB control number. This number will appear in 42 CFR part 137 upon approval.

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

List of Subjects

42 CFR Parts 36 and 136

Employment, Government procurement, Health care, Health facilities, Indians, Penalties, Reporting and recordkeeping requirements.

42 CFR Parts 36a and 136a

Grant programs-education, Grant programs-health, Grant programs-Indians, Health care, Health professions, Indians, Penalties, Reporting and recordkeeping requirements, Scholarships and fellowships, Student aid.

42 CFR Part 137

Grant programs-Indians, health care.

Dated: April 23, 2002.

Michael H. Trujillo,

Assistant Surgeon General, Director.

Dated: May 10, 2002.

Tommy G. Thompson,

Secretary.

For the reasons set out in the preamble, we are amending chapter I of title 42 of the Code of Federal Regulations as follows:

PART 36—[REDESIGNATED AS PART 136]

1. The authority for part 36 continues to read as follows:

Authority: 25 U.S.C. 13; sec. 3, 68 Stat. 674 (42 U.S.C. 2001, 2003); Sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001, unless otherwise noted.

2. Part 36—Indian Health is redesignated as part 136 and transferred to a new Subchapter—Indian Health Service, Department of Health and Human Services.

3. In redesignated part 136, in the section listed in the first column, the references listed in the second column are revised to read as shown in the third column:

In redesignated Part 136	References to §	Are revised to read §
136.14	36.12	136.12
136.21	36.61(c)	136.61
136.23	36.12	136.12
136.23	36.61	136.61
136.42	36.41	136.41
136.43	36.41	136.41
136.53	36.51	136.51
136.53	36.54	136.54
136.56	36.54	136.54
136.106	36.105	136.105
136.116	36.114	136.114
136.303	36.302	136.302
136.321	36.320	136.320
136.322	36.332	136.332
136.351(b)(4)	36.350(a)	136.350(a)
136.351(b)(5)	36.350(a)	136.350(a)
136.351(b)(7)	36.350(a)	136.350(a)
136.351(b)(10)	36.350(a)	136.350(a)
136.353	36.350(a)(7) and (8)	136.350(a)(7) and (8)
136.371	36.370	136.370
136.372	36.332	136.332

PART 36a—[REDESIGNATED AS PART 136a]

4. The authority for part 36a continues to read as follows:

Authority: Sec.203, 83 Stat. 763; 30 U.S.C.843, unless otherwise noted.

5. Part 36a—Indian Health is redesignated as Part 136a and transferred to new Subchapter—Indian Health Service, Department of Health and Human Services.

6. Add a new part 137 to new subchapter M to read as follows:

SUBCHAPTER M—INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 137—TRIBAL SELF-GOVERNANCE

Subpart A—General Provisions

Sec.
137.1 Authority, purpose and scope.
137.2 Congressional policy.
137.3 Effect on existing Tribal rights.
137.4 May Title V be construed to limit or reduce in any way the funding for any program, project, or activity serving an Indian Tribe under this or other applicable Federal law?
137.5 Effect of these regulations on Federal program guidelines, manual, or policy directives.
137.6 Secretarial policy.

Subpart B—Definitions

137.10 Definitions.

Subpart C—Selection of Indian Tribes for Participation in Self-Governance

137.15 Who may participate in Tribal Self-Governance?
137.16 What if more than 50 Indian Tribes apply to participate in self-governance?
137.17 May more than one Indian Tribe participate in the same compact and/or funding agreement?
137.18 What criteria must an Indian Tribe satisfy to be eligible to participate in self-governance?

Planning Phase

137.20 What is required during the planning phase?
137.21 How does an Indian Tribe demonstrate financial stability and financial management capacity?
137.22 May the Secretary consider uncorrected significant and material audit exceptions identified regarding centralized financial and administrative functions?
137.23 For purposes of determining eligibility for participation in self-governance, may the Secretary consider any other information regarding the Indian Tribe's financial stability and financial management capacity?
137.24 Are there grants available to assist the Indian Tribe to meet the requirements to participate in self-governance?
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137.34 May a funding agreement be executed without negotiating a compact?
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137.40 What is a funding agreement?
137.41 What PSFAs must be included in a funding agreement?
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137.43 May a Tribe negotiate and leave funds with IHS for retained services?

Terms in a Funding Agreement

137.45 What terms must be included in a funding agreement?
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137.48 What is the effect of incorporating a Title I provision into a compact or funding agreement?
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137.66 May a Self-Governance Tribe keep interest earned on statutorily mandated grant funds?
137.67 How may a Self-Governance Tribe use interest earned on statutorily mandated grant funds?
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137.69 May a statutorily mandated grant program added to a funding agreement be redesigned?
137.70 Are the reporting requirements different for a statutorily mandated grant program added to a funding agreement?
137.71 May the Secretary and the Self-Governance Tribe develop separate programmatic reporting requirements for statutorily mandated grants?
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137.73 What provisions of Title V apply to statutorily mandated grants added to the funding agreement?

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137.76 When must the Secretary transfer to a Self-Governance Tribe funds identified in a funding agreement?
137.77 When must the Secretary transfer funds that were not paid as part of the initial lump sum payment?
137.78 May a Self-Governance Tribe negotiate a funding agreement for a term longer or shorter than one year?
137.79 What funds must the Secretary include in a funding agreement?

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137.85 Is the Secretary prohibited from failing or refusing to transfer funds that are due to a Self-Governance Tribe under Title V?
137.86 Is the Secretary prohibited from reducing the amount of funds required under Title V to make funding available for self-governance monitoring or administration by the Secretary?
137.87 May the Secretary reduce the amount of funds due under Title V in subsequent years?
137.88 May the Secretary reduce the amount of funds required under Title V to pay for Federal functions, including Federal pay costs, Federal employee retirement benefits, automated data processing, technical assistance, and monitoring of activities under the Act?
137.89 May the Secretary reduce the amount of funds required under Title V to pay for costs of Federal personnel displaced by contracts under Title I or self-governance under Title V?
137.90 May the Secretary increase the funds required under the funding agreement?

Acquisition of Goods and Services From the IHS

137.95 May a Self-Governance Tribe purchase goods and services from the IHS on a reimbursable basis?

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137.98 Does the Prompt Payment Act apply to funds transferred to a Self-Governance Tribe in a compact or funding agreement?

Interest or Other Income on Transfers

137.100 May a Self-Governance Tribe retain and spend interest earned on any funds paid under a compact or funding agreement?
137.101 What standard applies to a Self-Governance Tribe's management of funds paid under a compact or funding agreement?

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137.105 May a Self-Governance Tribe carryover from one year to the next any funds that remain at the end of the funding agreement?

Program Income

137.110 May a Self-Governance Tribe retain and expend any program income earned pursuant to a compact and funding agreement?

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137.120 May a Self-Governance Tribe's funding agreement provide for a stable base budget?
137.121 What funds may be included in a stable base budget amount?
137.122 May a Self-Governance Tribe with a stable base budget receive other funding under its funding agreement?
137.123 Once stable base funding is negotiated, do funding amounts change from year to year?
137.124 Does the effective period of a stable base budget have to be the same as the term of the funding agreement?

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137.130 What is covered by this subpart?
137.131 When should a final offer be submitted?
137.132 How does the Indian Tribe submit a final offer?
137.133 What does a final offer contain?
137.134 When does the 45-day review period begin?
137.135 May the Secretary request and obtain an extension of time of the 45-day review period?
137.136 What happens if the agency takes no action within the 45-day review period (or any extensions thereof)?
137.137 If the 45-day review period or extension thereto, has expired, and the Tribe's offer is deemed accepted by operation of law, are there any exceptions to this rule?
137.138 Once the Indian Tribe's final offer has been accepted or deemed accepted by operation of law, what is the next step?

Rejection of Final Offers

137.140 On what basis may the Secretary reject an Indian Tribe's final offer?
137.141 How does the Secretary reject a final offer?
137.142 What is a "significant danger" or "risk" to the public health"?
137.143 How is the funding level to which the Indian Tribe is entitled determined?
137.144 Is technical assistance available to an Indian Tribe to avoid rejection of a final offer?
137.145 If the Secretary rejects a final offer, is the Secretary required to provide the Indian Tribe with technical assistance?

137.146 If the Secretary rejects all or part of a final offer, is the Indian Tribe entitled to an appeal?
137.147 Do those portions of the compact, funding agreement, or amendment not in dispute go into effect?
137.148 Does appealing the decision of the Secretary prevent entering into the compact, funding agreement or amendment?

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137.150 What is the burden of proof in an appeal from rejection of a final offer?

Decision Maker

137.155 What constitutes a final agency action?

Subpart I—Operational Provisions

Conflicts of Interest

137.160 Are Self-Governance Tribes required to address potential conflicts of interest?

Audits and Cost Principles

137.165 Are Self-Governance Tribes required to undertake annual audits?
137.166 Are there exceptions to the annual audit requirements?
137.167 What cost principles must a Self-Governance Tribe follow when participating in self-governance under Title V?
137.168 May the Secretary require audit or accounting standards other than those specified in § 137.167?
137.169 How much time does the Federal Government have to make a claim against a Self-Governance Tribe relating to any disallowance of costs, based on an audit conducted under § 137.165?
137.170 When does the 365-day period commence?
137.171 Where do Self-Governance Tribes send their audit reports?
137.172 Should the audit report be sent anywhere else to ensure receipt by the Secretary?
137.173 Does a Self-Governance Tribe have a right of appeal from a disallowance?

Records

137.175 Is a Self-Governance Tribe required to maintain a recordkeeping system?
137.176 Are Tribal records subject to the Freedom of Information Act and Federal Privacy Act?
137.177 Is the Self-Governance Tribe required to make its records available to the Secretary?
137.178 May Self-Governance Tribes tore patient records at the Federal Records Centers?
137.179 May a Self-Governance Tribe make agreements with the Federal Records Centers regarding disclosure and release of the patient records stored pursuant to § 137.178?
137.180 Are there other laws that govern access to patient records?

Redesign

137.185 May a Self-Governance Tribe redesign or consolidate the PSFAs that are included in a funding agreement and reallocate or redirect funds for such PSFAs?

Non-Duplication

137.190 Is a Self-Governance Tribe that receives funds under Title V also entitled to contract under section 102 of the Act [25 U.S.C. 450(f)] for such funds?

Health Status Reports

137.200 Are there reporting requirements for Self-Governance Tribes under Title V?
137.201 What are the purposes of the Tribal reporting requirements?
137.202 What types of information will Self-Governance Tribes be expected to include in the reports?
137.203 May a Self-Governance Tribe participate in a voluntary national uniform data collection effort with the IHS?
137.204 How will this voluntary national uniform data set be developed?
137.205 Will this voluntary uniform data set reporting activity be required of all Self-Governance Tribes entering into a compact with the IHS under Title V?
137.206 Why does the IHS need this information?
137.207 Will funding be provided to the Self-Governance Tribe to compensate for the costs of reporting?

Savings

137.210 What happens if self-governance activities under Title V reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings?
137.211 How does a Self-Governance Tribe learn whether self-governance activities have resulted in savings as described in § 137.210.

Access to Government Furnished Property

137.215 How does a Self-Governance Tribe obtain title to real and personal property furnished by the Federal Government for use in the performance of a compact, funding agreement, construction project agreement, or grant agreement pursuant to section 512(c) of the Act [25 U.S.C. 458aaa–11(c)]?

Matching and Cost Participation Requirements

137.217 May funds provided under compacts, funding agreements, or grants made pursuant to Title V be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program?

Federal Tort Claims Act (FTCA)

137.220 Do section 314 of Public Law 101–512 [25 U.S.C. 450f note] and section 102(d) of the Act [25 U.S.C. 450f(d)] (regarding, in part, FTCA coverage) apply to compacts, funding agreements and construction project agreements?

Subpart J—Regulation Waiver

137.225 What regulations may be waived under Title V?
137.226 How does a Self-Governance Tribe request a waiver?
137.227 How much time does the Secretary have to act on a waiver request?
137.228 Upon what basis may the waiver request be denied?
137.229 What happens if the Secretary neither approves or denies a waiver request within the time specified in § 137.227.
137.230 Is the Secretary's decision on a waiver request final for the Department?
137.231 May a Self-Governance Tribe appeal the Secretary's decision to deny its request for a waiver of a regulation promulgated under section 517 of the Act [25 U.S.C. 458aaa–16]?

Subpart K—Withdrawal

137.235 May an Indian Tribe withdraw from a participating inter-Tribal consortium or Tribal organization?
137.236 When does a withdrawal become effective?
137.237 How are funds redistributed when an Indian Tribe fully or partially withdraws from a compact or funding agreement and elects to enter a contract or compact?
137.238 How are funds distributed when an Indian Tribe fully or partially withdraws from a compact or funding agreement administered by an inter-Tribal consortium or Tribal organization serving more than one Indian Tribe and the withdrawing Indian Tribe elects not to enter a contract or compact?
137.239 If the withdrawing Indian Tribe elects to operate PSFAs carried out under a compact or funding agreement under Title V through a contract under Title I, is the resulting contract considered a mature contract under section 4(h) of the Act [25 U.S.C. 450b(h)]?

Subpart L—Retrocession

137.245 What is retrocession ?
137.246 How does a Self-Governance Tribe retrocede a PSFA?
137.247 What is the effective date of a retrocession?
137.248 What effect will a retrocession have on a retroceding Self-Governance Tribe's rights to contract or compact under the Act?
137.249 Will retrocession adversely affect funding available for the retroceded program?
137.250 How are funds distributed when a Self-Governance Tribe fully or partially retrocedes from its compact or funding agreement?
137.251 What obligation does the retroceding Self-Governance Tribe have with respect to returning property that was provided by the Secretary under the compact or funding agreement and that was used in the operation of the retroceded program?

Subpart M—Reassumption

137.255 What does reassumption mean?
137.256 Under what circumstances may the Secretary reassume a program, service, function, or activity (or portion thereof)?

137.257 What steps must the Secretary take prior to reassumption becoming effective?
137.258 Does the Self-Governance Tribe have a right to a hearing prior to a non-immediate reassumption becoming effective?
137.259 What happens if the Secretary determines that the Self-Governance Tribe has not corrected the conditions that the Secretary identified in the notice?
137.260 What is the earliest date on which a reassumption can be effective?
137.261 Does the Secretary have the authority to immediately reassume a PSFA?
137.262 If the Secretary reassumes a PSFA immediately, when must the Secretary provide the Self-Governance Tribe with a hearing?
137.263 May the Secretary provide a grant to a Self-Governance Tribe for technical assistance to overcome conditions identified under § 137.257?
137.264 To what extent may the Secretary require the Self-Governance Tribe to return property that was provided by the Secretary under the compact or funding agreement and used in the operation of the reassume program?
137.265 May a Tribe be reimbursed for actual and reasonable close out costs incurred after the effective date of reassumption?

Subpart N—Construction

Purpose and Scope

137.270 What is covered by this subpart?
137.271 Why is there a separate subpart in these regulations for construction project agreements?
137.272 What other alternatives are available for Self-Governance Tribes to perform construction projects?
137.273 What are IHS construction PSFAs?
137.274 Does this subpart cover construction programs?
137.275 May Self-Governance Tribes include IHS construction programs in a construction project agreement or in a funding agreement?

Construction Definitions

137.280 Construction definitions.

NEPA Process

137.285 Are Self-Governance Tribes required to accept Federal environmental responsibilities to enter into a construction project agreement?
137.286 Do Self-Governance Tribes become Federal agencies when they assume these Federal environmental responsibilities?
137.287 What is the National Environmental Policy Act (NEPA)?
137.288 What is the National Historic Preservation Act (NHPA)?
137.289 What is a Federal undertaking under NHPA?
137.290 What additional provisions of law are related to NEPA and NHPA?
137.291 May Self-Governance Tribes carry out construction projects without assuming these Federal environmental responsibilities?
137.292 How do Self-Governance Tribes assume environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa–8]?
137.293 Are Self-Governance Tribes required to adopt a separate resolution or take equivalent Tribal action to assume environmental responsibilities for each construction project agreement?
137.294 What is the typical IHS environmental review process for construction projects?
137.295 May Self-Governance Tribes elect to develop their own environmental review process?
137.296 How does a Self-Governance Tribe comply with NEPA and NHPA?
137.297 If the environmental review procedures of a Federal agency are adopted by a Self-Governance Tribe, is the Self-Governance Tribe responsible for ensuring the agency's policies and procedures meet the requirements of NEPA, NHPA, and related environmental laws?
137.298 Are Self-Governance Tribes required to comply with Executive Orders to fulfill their environmental responsibilities under section 509 of the Act [25 U.S.C. 458aaa–8]?
137.299 Are Federal funds available to cover the cost of Self-Governance Tribes carrying out environmental responsibilities?
137.300 Since Federal environmental responsibilities are new responsibilities which may be assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa–8], are there additional funds available to Self-Governance Tribes to carry out these formerly inherently Federal responsibilities?
137.301 How are project and program environmental review costs identified?
137.302 Are Federal funds available to cover start-up costs associated with initial Tribal assumption of environmental responsibilities?
137.303 Are Federal or other funds available for training associated with Tribal assumption of environmental responsibilities?
137.304 May Self-Governance Tribes buy back environmental services from the IHS?
137.305 May Self-Governance Tribes act as lead, cooperating, or joint lead agencies for environmental review purposes?
137.306 How are Self-Governance Tribes recognized as having lead, cooperating, or joint lead agency status?
137.307 What Federal environmental responsibilities remain with the Secretary when a Self-Governance Tribe assumes Federal environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa–8]?
137.308 Does the Secretary have any enforcement authority for Federal environmental responsibilities assumed by Tribes under Section 509 of the Act?
137.309 How are NEPA and NHPA obligations typically enforced?
137.310 Are Self-Governance Tribes required to grant a limited waiver of their sovereign immunity to assume Federal environmental responsibilities under Section 509 of the Act [25 U.S.C. 458aaa–8]?
137.311 Are Self-Governance Tribes entitled to determine the nature and scope of the limited immunity waiver required under section 509(a)(2) of the Act?
137.312 Who is the proper defendant in a civil enforcement action under section 509(a)(2) of the Act [25 U.S.C. 458aaa–8(a)(2)]?

Notification (Prioritization Process, Planning, Development and Construction)

137.320 Is the Secretary required to consult with affected Indian Tribes concerning construction projects and programs?
137.321 How do Indian Tribes and the Secretary identify and request funds for needed construction projects?
137.322 Is the Secretary required to notify an Indian Tribe that funds are available for a construction project or a phase of a project?

Project Assumption Process

137.325 What does a Self-Governance Tribe do if it wants to perform a construction project under section 509 of the Act [25 U.S.C. 458aaa–8]?
137.326 What must a Tribal proposal for a construction project agreement contain?
137.327 May multiple projects be included in a single construction project agreement?
137.328 Must a construction project proposal incorporate provisions of Federal construction guidelines and manuals?
137.329 What environmental considerations must be included in the construction project agreement?
137.330 What happens if the Self-Governance Tribe and the Secretary cannot develop a mutually agreeable construction project agreement?
137.331 May the Secretary reject a final construction project proposal based on a determination of Tribal capacity or capability?
137.332 On what bases may the Secretary reject a final construction project proposal?
137.333 What procedures must the Secretary follow if the Secretary rejects a final construction project proposal, in whole or in part?
137.334 What happens if the Secretary fails to notify the Self-Governance Tribe of a decision to approve or reject a final construction project proposal within the time period allowed?
137.335 What costs may be included in the budget for a construction agreement?
137.336 What is the difference between fixed-price and cost-reimbursement agreements?
137.337 What funding must the Secretary provide in a construction project agreement?
137.338 Must funds from other sources be incorporated into a construction project agreement?
137.339 May the Self-Governance Tribe use project funds for matching or cost

participation requirements under other Federal and non-Federal programs?
137.340 May a Self-Governance Tribe contribute funding to a project?
137.341 How will a Self-Governance Tribe receive payment under a construction project agreement?
137.342 What happens to funds remaining at the conclusion of a cost reimbursement construction project?
137.343 What happens to funds remaining at the conclusion of a fixed price construction project?
137.344 May a Self-Governance Tribe reallocate funds among construction project agreements?

Roles of Self-Governance Tribe in Establishing and Implementing Construction Project Agreements

137.350 Is a Self-Governance Tribe responsible for completing a construction project in accordance with the negotiated construction project agreement?
137.351 Is a Self-Governance Tribe required to submit construction project progress and financial reports for construction project agreements?
137.352 What is contained in a construction project progress report?
137.353 What is contained in a construction project financial report?

Roles of the Secretary in Establishing and Implementing Construction Project Agreements

137.360 Does the Secretary approve project planning and design documents prepared by the Self-Governance Tribe?
137.361 Does the Secretary have any other opportunities to approve planning or design documents prepared by the Self-Governance Tribe?
137.362 May construction project agreements be amended?
137.363 What is the procedure for the Secretary's review and approval of amendments?
137.364 What constitutes a significant change in the original scope of work?
137.365 What is the procedure for the Secretary's review and approval of project planning and design documents submitted by the Self-Governance Tribe?
137.366 May the Secretary conduct onsite project oversight visits?
137.367 May the Secretary issue a stop work order under a construction project agreement?
137.368 Is the Secretary responsible for oversight and compliance of health and safety codes during construction projects being performed by a Self-Governance Tribe under section 509 of the Act [25 U.S.C. 488aaa–8]?

Other

137.370 Do all provisions of this part apply to construction project agreements under this subpart?
137.371 Who takes title to real property purchased with funds provided under a construction project agreement?
137.372 Does the Secretary have a role in the fee-to-trust process when real property is purchased with construction project agreement funds?
137.373 Do Federal real property laws, regulations and procedures that apply to the Secretary also apply to Self-Governance Tribes that purchase real property with funds provided under a construction project agreement?
137.374 Does the Secretary have a role in reviewing or monitoring a Self-Governance Tribe's actions in acquiring or leasing real property with funds provided under a construction project agreement?
137.375 Are Tribally-owned facilities constructed under section 509 of the Act [25 U.S.C. 458aaa–8] eligible for replacement, maintenance, and improvement funds on the same basis as if title to such property were vested in the United States?
137.376 Are design and construction projects performed by Self-Governance Tribes under section 509 of the Act [25 U.S.C. 458aaa–8] subject to Federal metric requirements?
137.377 Do Federal procurement law and regulations apply to construction project agreements performed under section 509 of the Act [25 U.S.C. 458aaa–8]?
137.378 Does the Federal Davis-Bacon Act and wage rates apply to construction projects performed by Self-Governance Tribes using their own funds or other non-Federal funds?
137.379 Do Davis-Bacon wage rates apply to construction projects performed by Self-Governance Tribes using Federal funds?

Subpart O—Secretarial Responsibilities

Budget Request

137.401 What role does Tribal consultation play in the IHS annual budget request process?

Reports

137.405 Is the Secretary required to report to Congress on administration of Title V and the funding requirements presently funded or unfunded?
137.406 In compiling reports pursuant to this section, may the Secretary impose any reporting requirements on Self-Governance Tribes, not otherwise provided in Title V?
137.407 What guidelines will be used by the Secretary to compile information required for the report?

Subpart P—Appeals

137.410 For the purposes of section 110 of the Act [25 U.S.C. 450m–1] does the term "contract" include compacts, funding agreements, and construction project agreements entered into under Title V?

Post-Award Disputes

137.412 Do the regulations at 25 CFR Part 900, Subpart N apply to compacts, funding agreements, and construction project agreements entered into under Title V?

Pre-Award Disputes

137.415 What decisions may an Indian Tribe appeal under §§ 137.415 through 137.436?
137.416 Do §§ 137.415 through 137.436 apply to any other disputes?
137.417 What procedures apply to Interior Board of Indian Appeals (IBIA) proceedings?
137.418 How does an Indian Tribe know where and when to file its appeal from decisions made by IHS?
137.419 What authority does the IBIA have under §§ 137.415 through 137.436?
137.420 Does an Indian Tribe have any options besides an appeal?
137.421 How does an Indian Tribe request an informal conference?
137.422 How is an informal conference held?
137.423 What happens after the informal conference?
137.424 Is the recommended decision from the informal conference final for the Secretary?
137.425 How does an Indian Tribe appeal the initial decision if it does not request an informal conference or if it does not agree with the recommended decision resulting from the informal conference?
137.426 May an Indian Tribe get an extension of time to file a notice of appeal?
137.427 What happens after an Indian Tribe files an appeal?
137.428 How is a hearing arranged?
137.429 What happens when a hearing is necessary?
137.430 What is the Secretary's burden of proof for appeals covered by § 137.145?
137.431 What rights do Indian Tribes and the Secretary have during the appeal process?
137.432 What happens after the hearing?
137.433 Is the recommended decision always final?
137.434 If an Indian Tribe objects to the recommended decision, what will the Secretary do?
137.435 Will an appeal adversely affect the Indian Tribe's rights in other compact, funding negotiations, or construction project agreements?
137.436 Will the decisions on appeal be available for the public to review?

Appeals of an Immediate Reassumption of a Self-Governance Program

137.440 What happens in the case of an immediate reassumption under section 507(a)(2)(C) of the Act [25 U.S.C. 458aaa–6(a)(2)(C)]?
137.441 Will there be a hearing?
137.442 What happens after the hearing?
137.443 Is the recommended decision always final?
137.444 If a Self-Governance Tribe objects to the recommended decision, what action will the Secretary take?
137.445 Will an immediate reassumption appeal adversely affect the Self-Governance Tribe's rights in other self-governance negotiations?

Equal Access to Justice Act Fees

137.450 Does the Equal Access to Justice Act (EAJA) apply to appeals under this subpart?

Authority: 25 U.S.C. 458 *et seq.*

Subpart A—General Provisions

§ 137.1 Authority, purpose and scope

(a) Authority. These regulations are prepared, issued and maintained with the active participation and representation of Indian Tribes, Tribal organizations and inter-Tribal consortia pursuant to the guidance of the negotiated rulemaking procedures required by section 517 of the Act [25 U.S.C. 458aaa–16].

(b) Purpose. These regulations codify rules for self-governance compacts, funding agreements, and construction project agreements between the Department of Health and Human Services (DHHS) and Self-Governance Tribes to implement sections 2, 3, and 4 of Pub. L. 106–260.

(c) Scope. These regulations are binding on the Secretary and on Indian Tribes carrying out programs, services, functions, and activities (or portions thereof) (PSFAs) under Title V except as otherwise specifically authorized by a waiver under section 512(b) of the Act [25 U.S.C. 458aaa–11(b)].

(d) Information collection. The information collection requirements have been submitted to the Office of Management and Budget (OMB) and are pending OMB approval.

§ 137.2 Congressional policy.

(a) According to section 2 of Pub. L. 106–260, Congress has declared that:

(1) The Tribal right of self-government flows from the inherent sovereignty of Indian Tribes and nations;

(2) The United States recognizes a special government-to-government relationship with Indian Tribes, including the right of the Indian Tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian Tribes;

(3) Although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded Tribal Self-Governance and dominates Tribal affairs.

(4) The Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination Act (ISDA) [25 U.S.C. 450f note] was designed to improve and perpetuate the government-to-government relationship between Indian Tribes and the United States and to strengthen Tribal control over Federal funding and program management;

(5) Although the Federal Government has made considerable strides in improving Indian health care, it has failed to fully meet its trust responsibilities and to satisfy its obligations to the Indian Tribes under treaties and other laws; and

(6) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that transferring full control and funding to Tribal governments, upon Tribal request, over decision making for Federal PSFAs:

(i) Is an appropriate and effective means of implementing the Federal policy of government-to-government relations with Indian Tribes; and

(ii) Strengthens the Federal policy of Indian self-determination.

(b) According to section 3 of Pub. L. 106–260, Congress has declared its policy to:

(1) Permanently establish and implement Tribal Self-Governance within the DHHS;

(2) Call for full cooperation from the DHHS and its constituent agencies in the implementation of Tribal Self-Governance to—

(i) Enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian Tribes;

(ii) Permit each Indian Tribe to choose the extent of its participation in self-governance in accordance with the provisions of the ISDA relating to the provision of Federal services to Indian Tribes;

(iii) Ensure the continuation of the trust responsibility of the United States to Indian Tribes and Indians;

(iv) Affirm and enable the United States to fulfill its obligations to the Indian Tribes under treaties and other laws;

(v) Strengthen the government-to-government relationship between the United States and Indian Tribes through direct and meaningful consultation with all Tribes;

(vi) Permit an orderly transition from Federal domination of programs and services to provide Indian Tribes with meaningful authority, control, funding, and discretion to plan, conduct, redesign, and administer PSFAs that meet the needs of the individual Tribal communities;

(vii) Provide for a measurable parallel reduction in the Federal bureaucracy as programs, services, functions, and activities (or portion thereof) are assumed by Indian Tribes;

(viii) Encourage the Secretary to identify all PSFAs of the DHHS that may be managed by an Indian Tribe under this Act and to assist Indian Tribes in assuming responsibility for such PSFAs; and

(ix) Provide Indian Tribes with the earliest opportunity to administer PSFAs from throughout the Department.

(c) According to section 512(a) of the Act [25 U.S.C. 458aaa–11(a)], Congress has declared, except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive Orders, and regulations in a manner that will facilitate:

(1) The inclusion of PSFAs and funds associated therewith, in the agreements entered into under this section;

(2) The implementation of compacts and funding agreements entered into under this title; and

(3) The achievement of Tribal health goals and objectives.

(d) According to section 512(f) of the Act [25 U.S.C. 458aaa–11(f)], Congress has declared that each provision of Title V and each provision of a compact or funding agreement shall be liberally construed for the benefit of the Indian Tribe participating in and any ambiguity shall be resolved in favor of the Indian Tribe.

(e) According to section 515(b) of the Act [25 U.S.C. 458aaa–14(b)], Congress has declared that nothing in the Act shall be construed to diminish in any way the trust responsibility of the United States to Indian Tribes and individual Indians that exists under treaties, Executive orders, or other laws and court decisions.

(f) According to section 507(g) of the Act [25 U.S.C. 458aaa–6(g)], Congress has declared that the Secretary is prohibited from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian Tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

(g) According to section 515(c) of the Act [25 U.S.C. 458aaa–14(c)], Congress has declared that the Indian Health Service (IHS) under this Act shall neither bill nor charge those Indians who may have the economic means to pay for services, nor require any Tribe to do so. Nothing in this section shall impair the right of the IHS or an Indian Tribe to seek recovery from third parties section 206 of the Indian Health Care Improvement Act [25 U.S.C. 1621e], under section 1 of the Federal Medical Care Recovery Act [42 U.S.C. 2651], and any other applicable Federal, State or Tribal law.

(h) According to section 507(e) of the Act [25 U.S.C. 458aaa–6(e)], Congress has declared that in the negotiation of compacts and funding agreements the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy. The Secretary shall carry out Title V in a manner that maximizes the policy of Tribal Self-Governance, and in a manner

consistent with the purposes specified in section 3 of the Act.

§ 137.3 Effect on existing Tribal rights.

Nothing in this part shall be construed as:

(a) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by Indian Tribes;

(b) Terminating, waiving, modifying, or reducing the trust responsibility of the United States to the Indian Tribe(s) or individual Indians. The Secretary must act in good faith in upholding this trust responsibility;

(c) Mandating an Indian Tribe to apply for a compact(s) or grant(s) as described in the Act; or

(d) Impeding awards by other Departments and agencies of the United States to Indian Tribes to administer Indian programs under any other applicable law.

§ 137.4 May Title V be construed to limit or reduce in any way the funding for any program, project, or activity serving an Indian Tribe under this or other applicable Federal law?

No, if an Indian Tribe alleges that a compact or funding agreement violates section 515(a) of the Act [25 U.S.C. 458aaa–14(a)], the Indian Tribe may apply the provisions of section 110 of the Act [25 U.S.C. 450m–1].

§ 137.5 Effect of these regulations on Federal program guidelines, manual, or policy directives.

Unless expressly agreed to by the Self-Governance Tribe in the compact or funding agreement, the Self-Governance Tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the IHS, except for the eligibility provisions of section 105(g) of the Act [25 U.S.C. 450j(g)] and regulations promulgated under section 517 of the Act [25 U.S.C. 458aaa–16(e)].

§ 137.6 Secretarial policy.

In carrying out Tribal self-governance under Title V, the Secretary recognizes the right of Tribes to self-government and supports Tribal sovereignty and self-determination. The Secretary recognizes a unique legal relationship with Tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The Secretary supports the self-determination choices of each Tribe and will continue to work with all Tribes on a government-to-government basis to address issues concerning Tribal self-determination.

Subpart B—Definitions

§ 137.10 Definitions.

Unless otherwise provided in this part:

Act means sections 1 through 9 and Titles I and V of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93–638, as amended.

Appeal means a request by an Indian Tribe for an administrative review of an adverse decision by the Secretary.

Compact means a legally binding and mutually enforceable written agreement, including such terms as the parties intend shall control year after year, that affirms the government-to-government relationship between a Self-Governance Tribe and the United States.

Congressionally earmarked competitive grants as used in section 505(b)(1) of the Act [25 U.S.C. 458aaa–4(b)(1)] means statutorily mandated grants as defined in this section and used in subpart H of this part.

Contract means a self-determination contract as defined in section 4(j) of the Act [25 U.S.C. 450b].

Days means calendar days; except where the last day of any time period specified in these regulations falls on a Saturday, Sunday, or a Federal holiday, the period shall carry over to the next business day unless otherwise prohibited by law.

Department means the Department of Health and Human Services.

Director means the Director of the Indian Health Service.

Funding agreement means a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Self-Governance Tribe will carry out, the funds being transferred from the Service Unit, Area, and Headquarter's levels in support of those PSFAs and such other terms as are required, or may be agreed upon, pursuant to Title V.

Gross mismanagement means a significant, clear, and convincing violation of a compact, funding agreement, or regulatory or statutory requirements applicable to Federal funds transferred to an Indian Tribe by a compact or funding agreement that results in a significant reduction of funds available for the PSFAs assumed by a Self-Governance Tribe.

IHS means Indian Health Service.

IHS discretionary grant means a grant established by IHS pursuant to the IHS' discretionary authority without any specific statutory directive.

Indian means a person who is a member of an Indian Tribe.

Indian Tribe means any Indian Tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies, and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; provided that in any case in which an Indian Tribe has authorized another Indian Tribe, an inter-Tribal consortium, or a Tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under Title V, the authorized Indian Tribe, inter-Tribal consortium or Tribal organization shall have the rights and responsibilities of the authorizing Indian Tribe (except as otherwise provided in the authorizing resolution or in this part). In such event, the term "Indian Tribe" as used in this part includes such other authorized Indian Tribe, inter-Tribal consortium, or Tribal organization.

Indirect costs shall have the same meaning as it has in 25 CFR 900.6 as applied to compacts, funding agreements and construction project agreements entered into under this part.

Inherent Federal functions means those Federal functions which cannot legally be delegated to Indian Tribes.

Inter-Tribal consortium means a coalition of two or more separate Indian Tribes that join together for the purpose of participating in self-governance, including Tribal organizations.

OMB means the Office of Management and Budget.

PSFA means programs, services, functions, and activities (or portions thereof).

Real property means any interest in land together with the improvements, structures, and fixtures and appurtenances thereto.

Reassumption means rescission, in whole or part, of a funding agreement and assuming or resuming control or operation of the PSFAs by the Secretary without consent of the Self-Governance Tribe.

Retained Tribal share means those funds that are available as a Tribal share but which the Self-Governance Tribe elects to leave with the IHS to administer.

Retrocession means the voluntary return to the Secretary of a self-governance program, service, function or activity (or portion thereof) for any reason, before or on the expiration of the term of the funding agreement.

Secretary means the Secretary of Health and Human Services (and his or her respective designees.)

Self-Governance means the program of self-governance established under section 502 of the Act [25 U.S.C. 458aaa–1].

Self-Governance Tribe means an Indian Tribe participating in the program of self-governance pursuant to section 503(a) of the Act [25 U.S.C. 458aaa–2(a)] or selected and participating in self-governance pursuant to section 503(b) of the Act [25 U.S.C. 458aaa–2(b)].

Statutorily mandated grant as used in this section and subpart F of this part means a grant specifically designated in a statute for a defined purpose.

Title I means sections 1 through 9 and Title I of the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93–638, as amended.

Title V means Title V of the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93–638, as amended.

Tribal organization means the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; provided, that in any case where a contract or compact is entered into, or a grant is made, to an organization to perform services benefitting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the entering into or making of such contract, compact, or grant.

Tribal Self-Governance Advisory Committee means the Committee established by the Director of IHS that consists of Tribal representatives from each of the IHS Areas participating in Self-Governance, and that provides advocacy and policy guidance for implementation of Tribal Self-Governance within IHS.

Tribal share means an Indian Tribe's portion of all funds and resources that support secretarial PSFAs that are not required by the Secretary for the performance of inherent Federal functions.

Subpart C—Selection of Indian Tribes for Participation in Self-Governance

§ 137.15 Who may participate in Tribal Self-Governance?

Those Self-Governance Tribes described in 503(a) of the Act [25 U.S.C. 458aaa–2(a)] participating in the Title III Tribal Self-Governance Demonstration Project and up to 50 additional Indian Tribes per year that meet the criteria in § 137.18 may participate in self-governance.

§ 137.16 What if more than 50 Indian Tribes apply to participate in self-governance?

The first Indian Tribes who apply and are determined to be eligible shall have the option to participate in self-governance. Any Indian Tribe denied participation due to the limitation in number of Indian Tribes that may take part is entitled to participate in the next fiscal year, provided the Indian Tribe continues to meet the financial stability and financial management capacity requirements.

§ 137.17 May more than one Indian Tribe participate in the same compact and/or funding agreement?

Yes, Indian Tribes may either:

(a) Each sign the same compact and/or funding agreement, provided that each one meets the criteria to participate in self-governance and accepts legal responsibility for all financial and administrative decisions made under the compact or funding agreement, or

(b) Authorize another Indian Tribe to participate in self-governance on their behalf.

§ 137.18 What criteria must an Indian Tribe satisfy to be eligible to participate in self-governance?

To be eligible to participate in self-governance, an Indian Tribe must have:

(a) Successfully completed the planning phase described in § 137.20;

(b) Requested participation in self-governance by resolution or other official action by the governing body of each Indian Tribe to be served; and

(c) Demonstrated, for three fiscal years, financial stability and financial management capability.

Planning Phase

§ 137.20 What is required during the planning phase?

The planning phase must be conducted to the satisfaction of the Indian Tribe and must include:

(a) legal and budgetary research; and

(b) internal Tribal government planning and organizational preparation relating to the administration of health programs.

§ 137.21 How does an Indian Tribe demonstrate financial stability and financial management capacity?

The Indian Tribe provides evidence that, for the three years prior to participation in self-governance, the Indian Tribe has had no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribe's self-determination contracts or self-governance funding agreements with any Federal agency.

§ 137.22 May the Secretary consider uncorrected significant and material audit exceptions identified regarding centralized financial and administrative functions?

Yes, if the Indian Tribe chooses to centralize its self-determination or self-governance financial and administrative functions with non-self-determination or non-self-governance financial and administrative functions, such as personnel, payroll, property management, etc., the Secretary may consider uncorrected significant and material audit exceptions related to the integrity of a cross-cutting centralized function in determining the Indian Tribe's eligibility for participation in the self-governance program.

§ 137.23 For purposes of determining eligibility for participation in self-governance, may the Secretary consider any other information regarding the Indian Tribe's financial stability and financial management capacity?

No, meeting the criteria set forth in §§ 137.21 and 137.22, shall be conclusive evidence of the required stability and capability to participate in self-governance.

§ 137.24 Are there grants available to assist the Indian Tribe to meet the requirements to participate in self-governance?

Yes, any Indian Tribe may apply, as provided in § 137.25, for a grant to assist it to:

(a) Plan to participate in self-governance; and

(b) Negotiate the terms of the compact and funding agreement between the Indian Tribe and Secretary.

§ 137.25 Are planning and negotiation grants available?

Subject to the availability of funds, IHS will annually publish a notice of the number of planning and negotiation grants available, an explanation of the application process for such grants, and the criteria for award. Questions may be directed to the Office of Tribal Self-Governance.

§ 137.26 Must an Indian Tribe receive a planning or negotiation grant to be eligible to participate in self-governance?

No, an Indian Tribe may use other resources to meet the planning requirement and to negotiate.

Subpart D—Self-Governance compact

§ 137.30 What is a self-governance compact?

A self-governance compact is a legally binding and mutually enforceable

written agreement that affirms the government-to-government relationship between a Self-Governance Tribe and the United States.

§ 137.31 What is included in a compact?

A compact shall include general terms setting forth the government-to-government relationship consistent with the Federal Government's trust responsibility and statutory and treaty obligations to Indian Tribes and such other terms as the parties intend to control from year to year.

§ 137.32 Is a compact required to participate in self-governance?

Yes, Tribes must have a compact in order to participate in self-governance.

§ 137.33 May an Indian Tribe negotiate a funding agreement at the same time it is negotiating a compact?

Yes, at an Indian Tribe's option, a funding agreement may be negotiated prior to or at the same time as the negotiation of a compact.

§ 137.34 May a funding agreement be executed without negotiating a compact?

No, a compact is a separate document from a funding agreement, and the compact must be executed before or at the same time as a funding agreement.

§ 137.35 What is the term of a self-governance compact?

Upon approval and execution of a self-governance compact, the compact remains in effect for so long as permitted by Federal law or until terminated by mutual written agreement or retrocession or reassumption of all PSFAs.

Subpart E—Funding Agreements

§ 137.40 What is a funding agreement?

A funding agreement is a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Self-Governance Tribe will carry out, the funds being transferred from service unit, area and headquarters levels in support of those PSFAs and such other terms as are required or may be agreed upon pursuant to Title V.

§ 137.41 What PSFAs must be included in a funding agreement?

At the Self-Governance Tribe's option, all PSFAs identified in and in accordance with section 505(b) of the Act must be included in a funding agreement, subject to section 507(c) of the Act [25 U.S.C. 458aaa–6(c)].

§ 137.42 What Tribal shares may be included in a funding agreement?

All Tribal shares identified in sections 505(b)(1) [25 U.S.C. 458aaa–4(b)(1)] and 508(c) of the Act [25 U.S.C. 458aaa–7(c)] may be included in a funding agreement, including Tribal shares of IHS discretionary grants.

§ 137.43 May a Tribe negotiate and leave funds with IHS for retained services?

Yes, at the discretion of the Self-Governance Tribe, Tribal shares may be left, in whole or in part, with IHS for certain PSFAs. These shares are referred to as a "retained Tribal shares."

Terms in a Funding Agreement

§ 137.45 What terms must be included in a funding agreement?

A funding agreement must include terms required under section 505(d) of the Act [25 U.S.C. 458aaa–4(d)] and provisions regarding mandatory reporting and reassumption pursuant to section 507(a) of the Act [25 U.S.C. 458aaa–6(a)], unless those provisions have been included in a compact.

§ 137.46 May additional terms be included in a funding agreement?

Yes, at the Self-Governance Tribe's option, additional terms may be included as set forth in sections 506 [25 U.S.C. 458aaa–5] and 516(b) of the Act [25 U.S.C. 458aaa–15(b)]. In addition, any other terms to which the Self-Governance Tribe and the Secretary agree may be included.

§ 137.47 Do any provisions of Title I apply to compacts, funding agreements, and construction project agreements negotiated under Title V of the Act?

(a) Yes, the provisions of Title I listed in section 516(a) of the Act [25 U.S.C. 458aaa–15(a)] and section 314 of Pub. L. 101–512, as amended, [25 U.S.C. 450f note] mandatorily apply to a compact, funding agreement and construction project agreement to the extent they are not in conflict with Title V. In addition, at the option of a Self-Governance Tribe, under section 516(b) of the Act [25 U.S.C. 458aaa–15(b)] any provisions of Title I may be included in the compact or funding agreement.

(b) The provisions of Title I referenced in section 516(a) of the Act [25 U.S.C. 458aaa–15(a)] are sections 5 [25 U.S.C. 450c], 6 [25 U.S.C. 450d], 7 [25 U.S.C. 450e], 102(c) and (d) [25 U.S.C. 450f(c) and (d)], 104 [25 U.S.C. 450i], 105(k) and (l) [25 U.S.C. 450j(k) and (l)], 106(a) through (k) [25 U.S.C. 450j–1(a) through (k)], and 111 [25 U.S.C. 450n] of the Act.

§ 137.48 What is the effect of incorporating a Title I provision into a compact or funding agreement?

The incorporated Title I provision shall have the same force and effect as if it were set out in full in Title V.

§ 137.49 What if a Self-Governance Tribe requests such incorporation at the negotiation stage of a compact or funding agreement?

In that event, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

Term of a Funding Agreement

§ 137.55 What is the term of a funding agreement?

A funding agreement shall have the term mutually agreed to by the parties. Absent notification from an Indian Tribe that it is withdrawing or retroceding the operation of one or more PSFAs identified in the funding agreement, the funding agreement shall remain in full force and effect until a subsequent funding agreement is executed.

§ 137.56 Does a funding agreement remain in effect after the end of its term?

Yes, the provisions of a funding agreement, including all recurring increases received and continuing eligibility for other increases, remain in full force and effect until a subsequent funding agreement is executed. Upon execution of a subsequent funding agreement, the provisions of such a funding agreement are retroactive to the end of the term of the preceding funding agreement.

§ 137.57 How is a funding agreement amended during the effective period of the funding agreement?

A funding agreement may be amended by the parties as provided for in the funding agreement, Title V, or this part.

Subpart F—Statutorily Mandated Grants

§ 137.60 May a statutorily mandated grant be added to a funding agreement?

Yes, in accordance with section 505(b)(2) of the Act [25 U.S.C. 458aaa–4(b)(2)], a statutorily mandated grant may be added to the funding agreement after award.

§ 137.65 May a Self-Governance Tribe receive statutorily mandated grant funding in an annual lump sum advance payment?

Yes, grant funds shall be added to the funding agreement as an annual lump sum advance payment after the grant is awarded.

§ 137.66 May a Self-Governance Tribe keep interest earned on statutorily mandated grant funds?

Yes, a Self-Governance Tribe may keep Interest Earned on Statutorily Mandated Grant Funds.

§ 137.67 How may a Self-Governance Tribe use interest earned on statutorily mandated grant funds?

Interest earned on such funds must be used to enhance the grant program including allowable administrative costs.

§ 137.68 May funds from a statutorily mandated grant added to a funding agreement be reallocated?

No, unless it is permitted under the statute authorizing the grant or under the terms and conditions of the grant award, funds from a statutorily mandated grant may not be reallocated.

§ 137.69 May a statutorily mandated grant program added to a funding agreement be redesigned?

No, unless it is permitted under the statute authorizing the grant or under the terms and conditions of the grant award, a program added to a funding agreement under a statutorily mandated grant may not be redesigned.

§ 137.70 Are the reporting requirements different for a statutorily mandated grant program added to a funding agreement?

Yes, the reporting requirements for a statutorily mandated grant program added to a funding agreement are subject to the terms and conditions of the grant award.

§ 137.71 May the Secretary and the Self-Governance Tribe develop separate programmatic reporting requirements for statutorily mandated grants?

Yes, the Secretary and the Self-Governance Tribe may develop separate programmatic reporting requirements for statutorily mandated grants.

§ 137.72 Are Self-Governance Tribes and their employees carrying out statutorily mandated grant programs added to a funding agreement covered by the Federal Tort Claims Act (FTCA)?

Yes, Self-Governance Tribes and their employees carrying out statutorily mandated grant programs are added to a funding agreement covered by the FTCA. Regulations governing coverage under the FTCA are published at 25 CFR Part 900, Subpart M.

§ 137.73 What provisions of Title V apply to statutorily mandated grants added to the funding agreement?

None of the provisions of Title V apply.

Subpart G—Funding

General

§ 137.75 What funds must the Secretary transfer to a Self-Governance Tribe in a funding agreement?

Subject to the terms of any compact or funding agreement, the Secretary must transfer to a Tribe all funds provided for in the funding agreement, pursuant to section 508(c) of the Act [25 U.S.C. 458aaa–7(c)] and § 137.80. The Secretary shall provide funding for periods covered by joint resolution adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

§ 137.76 When must the Secretary transfer to a Self-Governance Tribe funds identified in a funding agreement?

When a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year, or requires semiannual or other periodic transfers of funding to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the OMB to the Department, unless the funding agreement provides otherwise.

§ 137.77 When must the Secretary transfer funds that were not paid as part of the initial lump sum payment?

The Secretary must transfer any funds that were not paid in the initial lump sum payment within 10 days after distribution methodologies and other decisions regarding payment of those funds have been made by the IHS.

§ 137.78 May a Self-Governance Tribe negotiate a funding agreement for a term longer or shorter than one year?

Yes, upon Tribal request, the Secretary must negotiate a funding agreement for a term longer or shorter than a year. All references in these regulations to funding agreements shall also include funding agreements for a term longer or shorter than one year.

§ 137.79 What funds must the Secretary include in a funding agreement?

The Secretary must include funds in a funding agreement in an amount equal to the amount that the Self-Governance Tribe would have been entitled to receive in a contract under Title I, including amounts for direct program costs specified under section 106(a)(1) of the Act and amounts for contract support costs specified under section 106(a) (2), (3), (5), and (6) of the Act [25 U.S.C. 450j–1(a)(2), (3), (5) and (6)]. In addition, the Secretary shall include any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Self-Governance Tribe or its members, all without regard to the organizational level within the Department where such functions are carried out.

Prohibitions

§ 137.85 Is the Secretary prohibited from failing or refusing to transfer funds that are due to a Self-Governance Tribe under Title V?

Yes, sections 508(d)(1)(A) and (B) of the Act [25 U.S.C. 458aaa–7(d)(1)(A) and (B)] expressly prohibit the Secretary from:

(a) Failing or refusing to transfer to a Self-Governance Tribe its full share of any central, headquarters, regional, area, or service unit office or other funds due under Title V, except as required by Federal law, and

(b) From withholding portions of such funds for transfer over a period of years.

§ 137.86 Is the Secretary prohibited from reducing the amount of funds required under Title V to make funding available for self-governance monitoring or administration by the Secretary?

Yes, the Secretary is prohibited from reducing the amount of funds required under Title V to make funding available for self-governance monitoring or administration.

§ 137.87 May the Secretary reduce the amount of funds due under Title V in subsequent years?

No, in accordance with section 508(d)(1)(C)(ii) of the Act [25 U.S.C. 458aaa–7(d)(1)(C)(ii)], the Secretary is prohibited from reducing the amount of funds required under Title V in subsequent years, except pursuant to:

(a) A reduction in appropriations from the previous fiscal year for the program or function to be included in a compact or funding agreement;

(b) A Congressional directive in legislation or accompanying report;

(c) A Tribal authorization;

(d) A change in the amount of pass-through funds subject to the terms of the funding agreement; or

(e) Completion of a project, activity, or program for which such funds were provided.

§ 137.88 May the Secretary reduce the amount of funds required under Title V to pay for Federal functions, including Federal pay costs, Federal employee retirement benefits, automated data processing, technical assistance, and monitoring of activities under the Act?

No, the Secretary may not reduce the amount of funds required under Title V to pay for Federal functions, including Federal pay costs, Federal employee

retirement benefits, automated data processing, technical assistance, and monitoring of activities under the Act.

§ 137.89 May the Secretary reduce the amount of funds required under Title V to pay for costs of Federal personnel displaced by contracts under Title I or Self-Governance under Title V?

No, the Secretary may not reduce the amount of funds required under Title V to pay for costs of Federal personnel displaced by contracts under Title I or Self-Governance under Title V.

§ 137.90 May the Secretary increase the funds required under the funding agreement?

Yes, the Secretary may increase the funds required under the funding agreement. However, the Self-Governance Tribe and the Secretary must agree to any transfer of funds to the Self-Governance Tribe unless otherwise provided for in the funding agreement.

Acquisition of Goods and Services From the IHS

§ 137.95 May a Self-Governance Tribe purchase goods and services from the IHS on a reimbursable basis?

Yes, a Self-Governance Tribe may choose to purchase from the IHS any goods and services transferred by the IHS to a Self-Governance Tribe in a compact or funding agreement. The IHS shall provide any such goods and services to the Self-Governance Tribe, on a reimbursable basis, including payment in advance with subsequent adjustment.

Prompt Payment Act

§ 137.96 Does the Prompt Payment Act apply to funds transferred to a Self-Governance Tribe in a compact or funding agreement?

Yes, the Prompt Payment Act, 39 U.S.C. section 3901 et seq., applies to the transfer of all funds due under a compact or funding agreement authorized pursuant to Title V. See also § 137.76 through 137.78 and 137.341(f).

Interest or Other Income on Transfers

§ 137.100 May a Self-Governance Tribe retain and spend interest earned on any funds paid under a compact or funding agreement?

Yes, pursuant to section 508(h) of the Act [25 U.S.C. 458aaa–7(h)], a Self-Governance Tribe may retain and spend interest earned on any funds paid under a compact or funding agreement.

§ 137.101 What standard applies to a Self-Governance Tribe's management of funds paid under a compact or funding agreement?

A Self-Governance Tribe is under a duty to invest and manage the funds as a prudent investor would, in light of the purpose, terms, distribution requirements, and provisions in the compact or funding agreement and Title V. This duty requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation but in the context of the investment portfolio and as a part of an overall investment strategy, which should incorporate risk and return objectives reasonably suitable to the Self-Governance Tribe. In making and implementing investment decisions, the Self-Governance Tribe has a duty to diversify the investments unless, under the circumstances, it is prudent not to do so. In addition, the Self-Governance Tribe must:

(a) Conform to fundamental fiduciary duties of loyalty and impartiality;

(b) Act with prudence in deciding whether and how to delegate authority and in the selection and supervision of agents; and

(c) Incur only costs that are reasonable in amount and appropriate to the investment responsibilities of the Self-Governance Tribe.

Carryover of Funds

§ 137.105 May a Self-Governance Tribe carryover from one year to the next any funds that remain at the end of the funding agreement?

Yes, pursuant to section 508(i) of the Act, a Self-Governance Tribe may carryover from one year to the next any funds that remain at the end of the funding agreement.

Program Income

§ 137.110 May a Self-Governance Tribe retain and expend any program income earned pursuant to a compact and funding agreement?

All Medicare, Medicaid, or other program income earned by a Self-Governance Tribe shall be treated as supplemental funding to that negotiated in the funding agreement. The Self-Governance Tribe may retain all such income and expend such funds in the current year or in future years except to the extent that the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) provides otherwise for Medicare and Medicaid receipts. Such funds shall not result in any offset or reduction in the amount of funds the Self-Governance Tribe is authorized to receive under its funding agreement in the year the program income is received or for any subsequent fiscal year.

Limitation of Costs

§ 137.115 Is a Self-Governance Tribe obligated to continue performance under a compact or funding agreement if the Secretary does not transfer sufficient funds?

No, if a Self-Governance Tribe believes that the total amount of funds provided for a specific PSFA in a compact or funding agreement is insufficient, the Self-Governance Tribe must provide reasonable written notice of such insufficiency to the Secretary. If the Secretary does not increase the amount of funds transferred under the funding agreement in a quantity sufficient for the Self-Governance Tribe to complete the PSFA, as jointly determined by the Self-Governance Tribe and the Secretary, the Self-Governance Tribe may suspend performance of the PSFA until such time as additional funds are transferred.

Stable Base Budget

§ 137.120 May a Self-Governance Tribe's funding agreement provide for a stable base budget?

Yes, at the option of a Self-Governance Tribe, a funding agreement may provide for a stable base budget, specifying the recurring funds to be transferred to a Self-Governance Tribe for a period specified in the funding agreement.

§ 137.121 What funds may be included in a stable base budget amount?

The stable base budget amount may include, at the option of the Self-Governance Tribe,

(a) Recurring funds available under section 106(a) of the Act [25 U.S.C. 450j–1] ;

(b) Recurring Tribal shares; and

(c) Any recurring funds for new or expanded PSFAs not previously assumed by the Self-Governance Tribe.

§ 137.122 May a Self-Governance Tribe with a stable base budget receive other funding under its funding agreement?

Yes, the funding agreement may include non-recurring funds, other recurring funds, and other funds the Self-Governance Tribe is entitled to include in a funding agreement that are not included in the stable base budget amount.

§ 137.123 Once stable base funding is negotiated, do funding amounts change from year to year?

Stable base funding amounts are subject to adjustment:

(a) Annually only to reflect changes in Congressional appropriations by sub-sub activity excluding earmarks;

(b) By mutual agreement of the Self-Governance Tribe and the Secretary; or

(c) As a result of full or partial retrocession or reassumption.

§ 137.124 Does the effective period of a stable base budget have to be the same as the term of the funding agreement?

No, the Self-Governance Tribe may provide in its funding agreement that the effective period of the stable base budget will be either longer or shorter than the term of the funding agreement.

Subpart H—Final Offer

§ 137.130 What is covered by this subpart?

This subpart explains the final offer process provided by the statute for resolving, within a specific timeframe, disputes that may develop in negotiation of compacts, funding agreements, or amendments thereof.

§ 137.131 When should a final offer be submitted?

A final offer should be submitted when the Secretary and an Indian Tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels).

§ 137.132 How does the Indian Tribe submit a final offer?

(a) A written final offer should be submitted:

(1) During negotiations to the agency lead negotiator *or*

(2) Thereafter to the Director.

(b) The document should be separate from the compact, funding agreement, or amendment and clearly identified as a "Final Offer."

§ 137.133 What does a final offer contain?

A final offer contains a description of the disagreement between the Secretary and the Indian Tribe and the Indian Tribe's final proposal to resolve the disagreement.

§ 137.134 When does the 45 day review period begin?

The 45 day review period begins from the date the IHS receives the final offer. Proof of receipt may include a date stamp, or postal return receipt, or hand delivery.

§ 137.135 May the Secretary request and obtain an extension of time of the 45 day review period?

Yes, the Secretary may request an extension of time before the expiration of the 45 day review period. The Indian Tribe may either grant or deny the Secretary's request for an extension. To be effective, any grant of extension of time must be in writing and be signed by the person authorized by the Indian Tribe to grant the extension before the expiration of the 45 day review period.

§ 137.136 What happens if the agency takes no action within the 45 day review period (or any extensions thereof)?

The final offer is accepted automatically by operation of law.

§ 137.137 If the 45 day review period or extension thereto, has expired, and the Tribes offer is deemed accepted by operation of law, are there any exceptions to this rule?

No, there are no exceptions to this rule if the 45 day review period or extension thereto, has expired, and the Tribe's offer is deemed accepted by operation of law.

§ 137.138 Once the Indian Tribe's final offer has been accepted or deemed accepted by operation of law, what is the next step?

After the Indian Tribe's final offer is accepted or deemed accepted, the terms of the Indian Tribe's final offer and any funds included therein, shall be added to the funding agreement or compact within 10 days of the acceptance or the deemed acceptance.

Rejection of Final Offers

§ 137.140 On what basis may the Secretary reject an Indian Tribe's final offer?

The Secretary may reject an Indian Tribe's final offer for one of the following reasons:

(a) the amount of funds proposed in the final offer exceeds the applicable funding level to which the Indian Tribe is entitled under the Act;

(b) the PSFA that is the subject of the final offer is an inherent Federal function that cannot legally be delegated to an Indian Tribe;

(c) the Indian Tribe cannot carry out the PSFA in a manner that would not result in significant danger or risk to the public health; or

(d) the Indian Tribe is not eligible to participate in self-governance under section 503 of the Act [25 U.S.C. 458aaa–2].

§ 137.141 How does the Secretary reject a final offer?

The Secretary must reject a final offer by providing written notice to the Indian Tribe based on the criteria in § 137.140 not more than 45 days after receipt of a final offer, or within a longer time period as agreed by the Self-Governance Tribe consistent with this subpart.

§ 137.142 What is a "significant danger" or "risk" to the public health?

A significant danger or risk is determined on a case-by-case basis in accordance with section 507(c) of the Act [25 U.S.C. 458aaa–6(c)].

§ 137.143 How is the funding level to which the Indian Tribe is entitled determined?

The Secretary must provide funds under a funding agreement in an amount equal to the amount that the Indian Tribe would have been entitled to receive under self-determination contracts under this Act, including amounts for direct program costs specified under section 106(a)(1) of the Act [25 U.S.C. 450j–1(a)(1)] and amounts for contract support costs specified under section 106(a) (2), (3), (5), and (6) of the Act [25 U.S.C. 450j–1(a)(2), (3), (5) and (6)], including any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian Tribe or its members, all without regard to the organizational level within the Department where such functions are carried out.

§ 137.144 Is technical assistance available to an Indian Tribe to avoid rejection of a final offer?

Yes, upon receiving a final offer, the Secretary must offer any necessary technical assistance, and must share all relevant information with the Indian Tribe in order to avoid rejection of a final offer.

§ 137.145 If the Secretary rejects a final offer, is the Secretary required to provide the Indian Tribe with technical assistance?

Yes, the Secretary must offer and, if requested by the Indian Tribe, provide additional technical assistance to overcome the stated grounds for rejection.

§ 137.146 If the Secretary rejects all or part of a final offer, is the Indian Tribe entitled to an appeal?

Yes, the Indian Tribe is entitled to appeal the decision of the Secretary, with an agency hearing on the record, and the right to engage in full discovery relevant to any issue raised in the matter. The procedures for appeals are found in subpart P of this part. Alternatively, at its option, the Indian Tribe has the right to sue pursuant to section 110 of the Act [25 U.S.C. 450m–1] in Federal district court to challenge the Secretary's decision.

§ 137.147 Do those portions of the compact, funding agreement, or amendment not in dispute go into effect?

Yes, subject to section 507(c)(1)(D) of the Act [25 U.S.C. 458aaa–6(c)(1)(D)].

§ 137.148 Does appealing the decision of the Secretary prevent entering into the compact, funding agreement, or amendment?

. No, appealing the decision of the Secretary does not prevent entering into the compact, funding agreement, or amendment.

Burden of Proof

§ 137.150 What is the burden of proof in an appeal from rejection of a final offer?

With respect to any appeal, hearing or civil action, the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for rejecting the final offer.

Decision Maker

§ 137.155 What constitutes a final agency action?

A final agency action shall consist of a written decision from the Department to the Indian Tribe either:

(a) By an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

(b) By an administrative judge.

Subpart I—Operational Provisions

Conflicts of Interest

§ 137.160 Are Self-Governance Tribes required to address potential conflicts of interest?

Yes, self-Governance Tribes participating in self-governance under Title V must ensure that internal measures are in place to address conflicts of interest in the administration of self-governance PSFAs.

Audits and Cost Principles

§ 137.165 Are Self-Governance Tribes required to undertake annual audits?

Yes, under the provisions of section 506(c) of the Act [25 U.S.C. 458aaa–5(c)], Self-Governance Tribes must undertake annual audits pursuant to the Single Audit Act, 31 U.S.C. 7501 *et seq.*

§ 137.166 Are there exceptions to the annual audit requirements?

Yes, the exceptions are described in 31 U.S.C. 7502 of the Single Audit Act.

§ 137.167 What cost principles must a Self-Governance Tribe follow when participating in self-governance under Title V?

A Self-Governance Tribe must apply the cost principles of the applicable OMB circular, except as modified by:

(a) Section 106 (k) of the Act [25 U.S.C. 450j–1],

(b) Other provisions of law, or

(c) Any exemptions to applicable OMB circulars subsequently granted by the OMB.

§ 137.168 May the Secretary require audit or accounting standards other than those specified in § 137.167?

No, no other audit or accounting standards shall be required by the Secretary.

§ 137.169 How much time does the Federal Government have to make a claim against a Self-Governance Tribe relating to any disallowance of costs, based on an audit conducted under § 137.165?

Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs is barred unless the Secretary provides notice of such a disallowance within 365 days from receiving any required annual agency single audit report or, for any period covered by law or regulation in force prior to enactment of the Single Agency Audit Act of 1984, any other required final audit report.

§ 137.170 When does the 365 day period commence?

For the purpose of determining the 365 day period, an audit report is deemed received on the date of actual receipt by the Secretary, at the address specified in § 137.172, if, within 60 days after receiving the audit report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency audit report as insufficient due to non-compliance with chapter 75 of title 31, United States Code or noncompliance with any other applicable law.

§ 137.171 Where do Self-Governance Tribes send their audit reports?

(a) For fiscal years ending on or before June 30, 1996, the audit report must be sent to: National External Audit Review Center, Lucas Place Room 514, 323 W. 8th St., Kansas City, MO 64105.

(b) For fiscal years, beginning after June 30, 1996, the audit report must be sent to: Single Audit Clearinghouse, 1201 E. 10th St., Jeffersonville, IN 47132.

§ 137.172 Should the audit report be sent anywhere else to ensure receipt by the Secretary?

Yes, the Self-Governance Tribe should also send the audit report to: National External Audit Review Center, Lucas Place Room 514, 323 W. 8th St., Kansas City, MO 64105.

§ 137.173 Does a Self-Governance Tribe have a right of appeal from a disallowance?

Yes, the notice must set forth the right of appeal and hearing to the Interior Board of Contract Appeals, pursuant to section 110 of the Act [25 U.S.C. 450m–1].

Records

§ 137.175 Is a Self-Governance Tribe required to maintain a recordkeeping system?

Yes. Tribes are required to maintain records and provide Federal agency access to those records as provided in § 137.177.

§ 137.176 Are Tribal records subject to the Freedom of Information Act and Federal Privacy Act?

No, except to the extent that a Self-Governance Tribe specifies otherwise in its compact or funding agreement, the records of the Self-Governance Tribe shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

§ 137.177 Is the Self-Governance Tribe required to make its records available to the Secretary?

Yes, after 30 days advance written notice from the Secretary, the Self-Governance Tribe must provide the Secretary with reasonable access to such records to enable the Department to meet its minimum legal recordkeeping system requirements under sections 3101 through 3106 of title 44 United States Code.

§ 137.178 May Self-Governance Tribes store patient records at the Federal Records Centers?

Yes, at the option of a Self-Governance Tribe, patient records may be stored at Federal Records Centers to the same extent and in the same manner as other Department patient records in accordance with section 105(o) of the Act [25 U.S.C. 450j(o)].

§ 137.179 May a Self-Governance Tribe make agreements with the Federal Records Centers regarding disclosure and release of the patient records stored pursuant to § 137.178?

Yes, a Self-Governance Tribe may make agreements with the Federal Records Centers regarding disclosure and release of the patient records stored pursuant to § 137.178.

§ 137.180 Are there other laws that govern access to patient records?

Yes, a Tribe must consider the potential application of Tribal, Federal and state law and regulations that may apply to requests for access to Tribal patient records, such as the provisions 42 CFR 2.1–2.67 pertaining to records regarding drug and/or alcohol treatment.

Redesign

§ 137.185 May a Self-Governance Tribe redesign or consolidate the PSFAs that are included in a funding agreement and reallocate or redirect funds for such PSFAs?

Yes, a Self-Governance Tribe may redesign or consolidate PSFAs included in a funding agreement and reallocate or redirect funds for such PSFAs in any manner which the Self-Governance Tribe deems to be in the best interest of the health and welfare of the Indian community being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law.

Non-Duplication

§ 137.190 Is a Self-Governance Tribe that receives funds under Title V also entitled to contract under section 102 of the Act [25 U.S.C. 450(f)] for such funds?

For the period for which, and to the extent to which, funding is provided under the compact or funding agreement, the Self-Governance Tribe is not entitled to contract with the Secretary for the same funds or PSFA under section 102 of the Act [25 U.S.C. 450f]. Such Self-Governance Tribe is eligible for new programs on the same basis as other Indian Tribes.

Health Status Reports

§ 137.200 Are there reporting requirements for Self-Governance Tribes under Title V?

Yes, compacts or funding agreements negotiated between the Secretary and a Self-Governance Tribe must include a provision that requires the Self-Governance Tribe to report on health status and services delivery. These reports may only impose minimal burdens on the Self-Governance Tribes.

§ 137.201 What are the purposes of the Tribal reporting requirements?

Tribal reports enable the Secretary to prepare reports required under Title V and to develop the budget request. The reporting requirements are not intended as a quality assessment or monitoring tool, although such provision may be included at the option of the Self-Governance Tribe. Under no circumstances will the reporting requirement include any confidential, proprietary or commercial information. For example, while staffing levels may be a part of a report, pay levels for the staff are considered confidential between the Self-Governance Tribe and the employee.

§ 137.202 What types of information will Self-Governance Tribes be expected to include in the reports?

Reports will be derived from existing minimal data elements currently collected by Self-Governance Tribes, and may include patient demographic and workload data. Not less than 60 days prior to the start of negotiations or a mutually agreed upon timeframe, the IHS will propose a list of recommended minimal data elements, along with justification for their inclusion, to be used as a basis for negotiating these requirements into the Self-Governance Tribe's compact or funding agreement.

§ 137.203 May a Self-Governance Tribe participate in a voluntary national uniform data collection effort with the IHS?

Yes, in order to advance Indian health advocacy efforts, each Self-Governance Tribe will be encouraged to participate, at its option, in national IHS data reporting activities such as Government Performance Results Act, epidemiologic and surveillance reporting.

§ 137.204 How will this voluntary national uniform data set be developed?

IHS will work with representatives of Self-Governance Tribes, in coordination with the Tribal Self Governance Advisory Committee (TSGAC), to develop a mutually-defined annual voluntary uniform subset of data that is consistent with Congressional intent, minimizes reporting burdens, and responds to the needs of the Self-Governance Tribe.

§ 137.205 Will this voluntary uniform data set reporting activity be required of all Self-Governance Tribes entering into a compact with the IHS under Title V?

No, to the extent that specific resources are available or have not otherwise been provided to Self-Governance Tribes for this purpose, and if the Self-Governance Tribes choose to participate, the IHS will provide resources, hardware, software, and technical assistance to the Self-Governance Tribes to facilitate data gathering to ensure data consistency and integrity under this voluntary effort.

§ 137.206 Why does the IHS need this information?

This information will be used to comply with sections 513 [25 U.S.C. 458aaa–12] and 514 [25 U.S.C. 458aaa–13] of the Act as well as to assist IHS in advocating for the Indian health system, budget formulation, and other reporting required by statute, development of partnerships with other organizations that benefit the health status of Indian Tribes, and sharing of best practices.

§ 137.207 Will funding be provided to the Self-Governance Tribe to compensate for the costs of reporting?

Yes, reporting requirements are subject to the Secretary providing specific funds for this purpose in the funding agreement.

Savings

§ 137.210 What happens if self-governance activities under Title V reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings?

To the extent that PSFAs carried out by Self-Governance Tribes under Title V reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of Tribal shares and other funds determined under section 508(c) of the Act [25 U.S.C. 458aaa–7(c)], the Secretary must make such savings available to the Self-Governance Tribes, for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs.

§ 137.211 How does a Self-Governance Tribe learn whether self-governance activities have resulted in savings as described in § 137.210.

The annual report prepared pursuant to section 514(b)(2) [25 U.S.C. 458aaa–13(b)(2)] of the Act must specifically identify any such savings.

Access to Government Furnished Property

§ 137.215 How does a Self-Governance Tribe obtain title to real and personal property furnished by the Federal Government for use in the performance of a compact, funding agreement, construction project agreement, or grant agreement pursuant to section 512(c) of the Act [25 U.S.C. 458aaa–11(c)]?

(a) For government-furnished real and personal property made available to a Self-Governance Tribe, the Self-Governance Tribe must take title to all real or personal property unless the Self-Governance Tribe requests that the United States retain the title.

(b) For government-furnished personal property made available to a Self-Governance Tribe:

(1) The Secretary, in consultation with each Self-Governance Tribe, must develop a list of the property used in a compact, funding agreement, or construction project agreement.

(2) The Self-Governance Tribe must indicate any items on the list to which the Self-Governance Tribe wants the Secretary to retain title.

(3) The Secretary must provide the Self-Governance Tribe with any documentation needed to transfer title to the remaining listed property to the Self-Governance Tribe.

(c) For government-furnished real property made available to a Self-Governance Tribe:

(1) The Secretary, in consultation with the Self-Governance Tribe, must develop a list of the property furnished for use in a compact, funding agreement, or construction project agreement.

(2) The Secretary must inspect any real property on the list to determine the presence of any hazardous substance activity, as defined in 41 CFR 101–47.202–2(b)(10).

(3) The Self-Governance Tribe must indicate on the list to the Secretary any items of real property to which the Self-Governance Tribe wants the Secretary to retain title and those items of property to which the Self-Governance Tribe wishes to obtain title. The Secretary must take such steps as necessary to transfer title to the Self-Governance Tribe those items of real property which the Self-Governance Tribe wishes to acquire.

Matching and Cost Participation Requirements

§ 137.217 May funds provided under compacts, funding agreements, or grants made pursuant to Title V be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program?

Yes, funds provided under compacts, funding agreements, or grants made pursuant to Title V may be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program.

Federal Tort Claims Act (FTCA)

§ 137.220 Do section 314 of Public Law 101–512 [25 U.S.C. 450f note] and section 102(d) of the Act [25 U.S.C. 450f(d)] (regarding, in part, FTCA coverage) apply to compacts, funding agreements and construction project agreements?

Yes, regulations governing FTCA coverage are set out at 25 CFR Part 900, Subpart M.

Subpart J—Regulation Waiver

§ 137.225 What regulations may be waived under Title V?

A Self-Governance Tribe may request a waiver of regulation(s) promulgated under section 517 of the Act [25 U.S.C. 458aaa–16] or under the authorities specified in section 505(b) of the Act [25 U.S.C. 458aaa–4(b)] for a compact or funding agreement entered into with the IHS under Title V.

§ 137.226 How does a Self-Governance Tribe request a waiver?

A Self-Governance Tribe may request a waiver by submitting a written request to the Secretary identifying the applicable Federal regulation(s) sought to be waived and the basis for the request.

§ 137.227 How much time does the Secretary have to act on a waiver request?

The Secretary must either approve or deny the requested waiver in writing within 90 days after receipt by the Secretary.

§ 137.228 Upon what basis may the waiver request be denied?

A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law.

§ 137.229 What happens if the Secretary neither approves or denies a waiver request within the time specified in § 137.227?

The waiver request is deemed approved.

§ 137.230 Is the Secretary's decision on a waiver request final for the Department?

Yes, the Secretary's decision on a waiver request is final for the Department.

§ 137.231 May a Self-Governance Tribe appeal the Secretary's decision to deny its request for a waiver of a regulation promulgated under section 517 of the Act [25 U.S.C. 458aaa–16]?

The decision may not be appealed under these regulations but may be appealed by the Self-Governance Tribe in Federal Court under applicable law.

Subpart K—Withdrawal

§ 137.235 May an Indian Tribe withdraw from a participating inter-Tribal consortium or Tribal organization?

Yes, an Indian Tribe may fully or partially withdraw from a participating inter-Tribal consortium or Tribal organization its share of any PSFAs included in a compact or funding agreement.

§ 137.236 When does a withdrawal become effective?

A withdrawal becomes effective within the time frame specified in the resolution that authorizes withdrawal from the participating Tribal organization or inter-Tribal consortium. In the absence of a specific time frame set forth in the resolution, such withdrawal becomes effective on

(a) The earlier of 1 year after the date of submission of such request, or the date on which the funding agreement expires; or

(b) Such date as may be mutually agreed upon by the Secretary, the withdrawing Indian Tribe, and the participating Tribal organization or inter-Tribal consortium that has signed the compact or funding agreement on behalf of the withdrawing Indian Tribe, inter-Tribal consortium, or Tribal organization.

§ 137.237 How are funds redistributed when an Indian Tribe fully or partially withdraws from a compact or funding agreement and elects to enter a contract or compact?

When an Indian Tribe eligible to enter into a contract under Title I or a compact or funding agreement under Title V fully or partially withdraws from a participating inter-Tribal consortium or Tribal organization, and has proposed to enter into a contract or compact and funding agreement covering the withdrawn funds:

(a) The withdrawing Indian Tribe is entitled to its Tribal share of funds supporting those PSFAs that the Indian Tribe will be carrying out under its own contract or compact and funding agreement (calculated on the same basis as the funds were initially allocated in the funding agreement of the inter-Tribal consortium or Tribal organization); and

(b) the funds referred to in paragraph (a) of this section must be transferred from the funding agreement of the inter-Tribal consortium or Tribal organization, on the condition that the provisions of sections 102 [25 U.S.C. 450f] and 105(i) of the Act [25 U.S.C. 450j], as appropriate, apply to the withdrawing Indian Tribe.

§ 137.238 How are funds distributed when an Indian Tribe fully or partially withdraws from a compact or funding agreement administered by an inter-Tribal consortium or Tribal organization serving more than one Indian Tribe and the withdrawing Indian Tribe elects not to enter a contract or compact?

All funds not obligated by the inter-Tribal consortium or Tribal organization associated with the withdrawing Indian Tribe's returned PSFAs, less close out costs, shall be returned by the inter-Tribal consortium or Tribal organization to the IHS for operation of the PSFAs included in the withdrawal.

§ 137.239 If the withdrawing Indian Tribe elects to operate PSFAs carried out under a compact or funding agreement under Title V through a contract under Title I, is the resulting contract considered a mature contract under section 4(h) of the Act [25 U.S.C. 450b(h)]?

Yes, if the withdrawing Indian Tribe elects to operate PSFAs carried out under a compact or funding agreement under Title V through a contract under Title I, the resulting contract is considered a mature contract under section 4(h) of the Act [25 U.S.C. 450b(h)] at the option of the Indian Tribe.

Subpart L—Retrocession

§ 137.245 What is retrocession?

Retrocession means the return by a Self-Governance Tribe to the Secretary of PSFAs, that are included in a compact or funding agreement, for any reason, before the expiration of the term of the compact or funding agreement.

§ 137.246 How does a Self-Governance Tribe retrocede a PSFA?

The Self-Governance Tribe submits a written notice to the Director of its intent to retrocede. The notice must specifically identify those PSFAs being retroceded. The notice may also include a proposed effective date of the retrocession.

§ 137.247 What is the effective date of a retrocession?

Unless the request for retrocession is rescinded, the retrocession becomes effective within the timeframe specified by the parties in the compact or funding agreement. In the absence of a specification, the retrocession becomes effective on:

(a) The earlier of 1 year after:

(1) The date of submission of the request, or

(2) The date on which the funding agreement expires; or

(b) Whatever date is mutually agreed upon by the Secretary and the retroceding Self-Governance Tribe.

§ 137.248 What effect will a retrocession have on a retroceding Self-Governance Tribe's rights to contract or compact under the Act?

A retrocession request shall not negatively affect:

(a) Any other contract or compact to which the retroceding Self-Governance Tribe is a party;

(b) Any other contracts or compacts the retroceding Self-Governance Tribe may request; and

(c) Any future request by such Self-Governance Tribe or an Indian Tribe to compact or contract for the same program.

§ 137.249 Will retrocession adversely affect funding available for the retroceded program?

No, the Secretary shall provide no less than the same level of funding that would have been available if there had been no retrocession.

§ 137.250 How are funds distributed when a Self-Governance Tribe fully or partially retrocedes from its compact or funding agreement?

Any funds not obligated by the Self-Governance Tribe and associated with the Self-Governance Tribe's returned PSFAs, less close out costs, must be returned by the Self-Governance Tribe to IHS for operation of the PSFA's associated with the compact or funding agreement from which the Self-Governance Tribe retroceded in whole or in part.

§ 137.251. What obligation does the retroceding Self-Governance Tribe have with respect to returning property that was provided by the Secretary under the compact or funding agreement and that was used in the operation of the retroceded program?

On the effective date of any retrocession, the retroceding Self-Governance Tribe, shall, at the option of the Secretary, deliver to the Secretary all requested property and equipment provided by the Secretary under the compact or funding agreement, to the extent used to carry out the retroceded PSFAs, which at the time of retrocession has a per item current fair market value, less the cost of improvements borne by the Self-Governance Tribe in excess of $5,000 at the time of the retrocession.

Subpart M—Reassumption

§ 137.255 What does reassumption mean?

Reassumption means rescission by the Secretary without consent of the Self-Governance Tribe of PSFAs and associated funding in a compact or funding agreement and resuming responsibility to provide such PSFAs.

§ 137.256 Under what circumstances may the Secretary reassume a program, service, function, or activity (or portion thereof)?

(a) Subject to the steps in § 137.257, the Secretary may reassume a program, service, function, or activity (or portion thereof) and associated funding if the Secretary makes a specific finding relative to that PSFA of :

(1) Imminent endangerment of the public health caused by an act or omission of the Self-Governance Tribe, and the imminent endangerment arises out of a failure to carry out the compact or funding agreement; or

(2) Gross mismanagement with respect to funds transferred to the Self-Governance Tribe by a compact or funding agreement, as determined by the Secretary, in consultation with the Inspector General, as appropriate.

(b) Immediate reassumption may occur under additional requirements set forth in § 137.261.

§ 137.257 What steps must the Secretary take prior to reassumption becoming effective?

Except as provided in § 137.261 for immediate reassumption, prior to a reassumption becoming effective, the Secretary must:

(a) Notify the Self-Governance Tribe in writing by certified mail of the details of findings required under § 137.256(a)(1) and (2);

(b) Request specified corrective action within a reasonable period of time, which in no case may be less than 45 days;

(c) Offer and provide, if requested, the necessary technical assistance and advice to assist the Self-Governance Tribe to overcome the conditions that led to the findings described under (a); and

(d) Provide the Self-Governance Tribe with a hearing on the record as provided under Subpart P of this part.

§ 137.258 Does the Self-Governance Tribe have a right to a hearing prior to a non-immediate reassumption becoming effective?

Yes, at the Self-Governance Tribe's request, the Secretary must provide a hearing on the record prior to or in lieu of the corrective action period identified in § 137.257(b).

§ 137.259 What happens if the Secretary determines that the Self-Governance Tribe has not corrected the conditions that the Secretary identified in the notice?

(a) The Secretary shall provide a second written notice by certified mail to the Self-Governance Tribe served by the compact or funding agreement that the compact or funding agreement will be rescinded, in whole or in part.

(b) The second notice shall include:

(1) The intended effective date of the reassumption;

(2) The details and facts supporting the intended reassumption; and

(3) Instructions that explain the Indian Tribe's right to a formal hearing within 30 days of receipt of the notice.

§ 137.260 What is the earliest date on which a reassumption can be effective?

Except as provided in § 137.261, no PSFA may be reassumed by the Secretary until 30 days after the final resolution of the hearing and any subsequent appeals to provide the Self-Governance Tribe with an opportunity

to take corrective action in response to any adverse final ruling.

§ 137.261 Does the Secretary have the authority to immediately reassume a PSFA?

Yes, the Secretary may immediately reassume operation of a program, service, function, or activity (or portion thereof) and associated funding upon providing to the Self-Governance Tribe written notice in which the Secretary makes a finding:

(a) of imminent substantial and irreparable endangerment of the public health caused by an act or omission of the Indian Tribe; and

(b) the endangerment arises out of a failure to carry out the compact or funding agreement.

§ 137.262 If the Secretary reassumes a PSFA immediately, when must the Secretary provide the Self-Governance Tribe with a hearing?

If the Secretary immediately reassumes a PSFA, the Secretary must provide the Self-Governance Tribe with a hearing under Subpart P of this part not later than 10 days after such reassumption, unless the Self-Governance Tribe and the Secretary agree to an extension.

§ 137.263 May the Secretary provide a grant to a Self-Governance Tribe for technical assistance to overcome conditions identified under § 137.257?

Yes, the Secretary may make a grant for the purpose of obtaining technical assistance as provided in section 103 of the Act [25 U.S.C. 458aaa-h].

§ 137.264 To what extent may the Secretary require the Self-Governance Tribe to return property that was provided by the Secretary under the compact or funding agreement and used in the operation of the reassumed program?

On the effective date of any reassumption, the Self-Governance Tribe, shall, at the option of the Secretary and only to the extent requested by the Secretary, deliver to the Secretary property and equipment provided by the Secretary under the compact or funding agreement, to the extent the property was used to directly carry out the reassumed program, service, function, or activity (or portion thereof), provided that at the time of reassumption the property has a per item current fair market value, less the cost of improvements borne by the Self-Governance Tribe, in excess of $5,000 at the time of the reassumption.

§ 137.265 May a Tribe be reimbursed for actual and reasonable close out costs incurred after the effective date of reassumption?

Yes, a Tribe may be reimbursed for actual and reasonable close out costs incurred after the effective date of reassumption.

Subpart N—Construction

Purpose and Scope

§ 137.270 What is covered by this subpart?

This subpart covers IHS construction projects carried out under section 509 of the Act [25 U.S.C. 458aaa-8].

§ 137.271 Why is there a separate subpart in these regulations for construction project agreements?

Construction projects are separately defined in Title V and are subject to a separate proposal and review process. Provisions of a construction project agreement and this subpart shall be liberally construed in favor of the Self-Governance Tribe.

§ 137.272 What other alternatives are available for Self-Governance Tribes to perform construction projects?

Self-Governance Tribes also have the option of performing IHS construction projects under a variety of other legal authorities, including but not limited to Title I of the Act, the Indian Health Care Improvement Act, Public Law 94–437, and Public Law 86–121. This subpart does not cover projects constructed pursuant to agreements entered into under these authorities.

§ 137.273 What are IHS construction PSFAs?

IHS construction PSFAs are a combination of construction projects as defined in § 137.280 and construction programs.

§ 137.274 Does this subpart cover construction programs?

No, except as provided in § 137.275, this subpart does not cover construction programs such as the:

(a) Maintenance and Improvement Program;

(b) Construction program functions; and,

(c) Planning services and construction management services.

§ 137.275 May Self-Governance Tribes include IHS construction programs in a construction project agreement or in a funding agreement?

Yes, Self-Governance Tribes may choose to assume construction programs in a construction project agreement, in a funding agreement, or in a combination of the two. These programs may include the following:

(a) Maintenance and improvement program;

(b) Construction program functions; and

(c) Planning services and construction management services.

Construction Definitions

§ 137.280 Construction Definitions.

ALJ means administrative law judge.

APA means Administrative Procedures Act, 5 U.S.C. 701—706.

Budget means a statement of the funds required to complete the scope of work in a construction project agreement. For cost reimbursement agreements, budgets may be stated using broad categories such as planning, design, construction, project administration, and contingency. For fixed price agreements, budgets may be stated as lump sums, unit cost pricing, or a combination thereof.

Categorical exclusion means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

CEQ means Council on Environmental Quality in the Office of the President.

Construction management services (CMS) means activities limited to administrative support services; coordination; and monitoring oversight of the planning, design, and construction process. CMS activities typically include:

(1) Coordination and information exchange between the Self-Governance Tribe and the Federal Government;

(2) Preparation of a Self-Governance Tribe's project agreement; and

(3) A Self-Governance Tribe's subcontract scope of work identification and subcontract preparation, and competitive selection of construction contract subcontractors.

Construction phase is the phase of a construction project agreement during which the project is constructed, and includes labor, materials, equipment and services necessary to complete the work, in accordance with the construction project agreement.

Construction project means:

(1) An organized noncontinuous undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, or expansion of buildings or facilities described in a project agreement, and

(2) Does not include construction program administration and activities described in sections 4(m)(1) through (3) of the Act [25 U.S.C. 4b(m)(1) through (3)], that may otherwise be included in a funding agreement under section 505 of the Act [25 U.S.C. 458aaa–4].

Construction project agreement means a negotiated agreement between the Secretary and a Self-Governance Tribe, that at a minimum:

(1) Establishes project phase start and completion dates;

(2) Defines a specific scope of work and standards by which it will be accomplished;

(3) Identifies the responsibilities of the Self-Governance Tribe and the Secretary;

(4) Addresses environmental considerations;

(5) Identifies the owner and operations and maintenance entity of the proposed work;

(6) Provides a budget;

(7) Provides a payment process; and

(8) Establishes the duration of the agreement based on the time necessary to complete the specified scope of work, which may be 1 or more years.

Design phase is the phase of a construction project agreement during which project plans, specifications, and other documents are prepared that are used to build the project. Site investigation, final site selection activities and environmental review and determination activities are completed in this phase if not conducted as a part of the planning phase.

Maintenance and improvement program:

(1) As used in this subpart means the program that provides funds for eligible facilities for the purpose of:

(i) Performing routine maintenance;

(ii) Achieving compliance with accreditation standards;

(iii) Improving and renovating facilities;

(iv) Ensuring that Indian health care facilities meet existing building codes and standards; and

(v) Ensuring compliance with public law building requirements.

(2) The maintenance and improvement program is comprised of routine maintenance and repair funding and project funding. Typical maintenance and improvement projects have historically been funded out of regional or national project pools and may include, but are not limited to, total replacement of a heating or cooling system, remodel of a medical laboratory, removal of lead based paint, abatement of asbestos and abatement of underground fuel storage tanks. Maintenance and repair program funding provided under a funding agreement is not covered under this subpart.

NEPA means the National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.*].

NHPA means the National Historic Preservation Act [16 U.S.C. 470 *et seq.*].

Planning phase is the phase of a construction project agreement during which planning services are provided.

Planning services may include performing a needs assessment, completing and/or verifying master plans, developing justification documents, conducting pre-design site investigations, developing budget cost estimates, conducting feasibility studies as needed, conducting environmental review activities and justifying the need for the project.

SHPO means State Historic Preservation Officer.

Scope of work or specific scope of work means a brief written description of the work to be accomplished under the construction project agreement, sufficient to confirm that the project is consistent with the purpose for which the Secretary has allocated funds.

THPO means Tribal Historic Preservation Officer.

NEPA Process

§ 137.285 Are Self-Governance Tribes required to accept Federal environmental responsibilities to enter into a construction project agreement?

Yes, under section 509 of the Act [25 U.S.C. 458aaa–8], Self-Governance Tribes must assume all Federal responsibilities under the NEPA of 1969 [42 U.S.C. 4321 *et seq.*] and the National Historic Preservation Act [16 U.S.C. 470 *et seq.*] and related provisions of law that would apply if the Secretary were to undertake a construction project, but only those responsibilities directly related to the completion of the construction project being assumed.

§ 137.286 Do Self-Governance Tribes become Federal agencies when they assume these Federal environmental responsibilities?

No, while Self-Governance Tribes are required to assume Federal environmental responsibilities for projects in place of the Secretary, Self-Governance Tribes do not thereby become Federal agencies. However, because Self-Governance Tribes are assuming the responsibilities of the Secretary for the purposes of performing these Federal environmental responsibilities, Self-Governance Tribes will be considered the equivalent of Federal agencies for certain purposes as set forth in this subpart.

§ 137.287 What is the National Environmental Policy Act (NEPA)?

The NEPA is a procedural law that requires Federal agencies to follow established environmental review procedures, which include reviewing and documenting the environmental impact of their actions. NEPA establishes a comprehensive policy for protection and enhancement of the environment by the Federal Government; creates the Council on Environmental Quality in the Office of the President; and directs Federal agencies to carry out the policies and procedures of the Act. CEQ regulations (40 CFR 1500–1508) establish three levels of environmental review: categorical exclusions, environmental assessments, and environmental impact statements.

§ 137.288 What is the National Historic Preservation Act (NHPA)?

The NHPA requires Federal agencies to take into account the effects of their undertakings, such as construction projects, on properties covered by the NHPA, such as historic properties, properties eligible for listing on the National Register of Historic Places, or properties that an Indian Tribe regards as having religious and/or cultural importance. Section 106 of the NHPA [16 U.S.C. 470f] requires Federal agencies to afford the Advisory Council on Historic Preservation, acting through the SHPO or the THPO, a reasonable opportunity to comment on such undertakings.

§ 137.289 What is a Federal undertaking under NHPA?

The Advisory Council on Historic Preservation has defined a Federal undertaking in 36 CFR 800.16(y) as a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

§ 137.290 What additional provisions of law are related to NEPA and NHPA?

(a) Depending upon the nature and the location of the construction project, environmental laws related to NEPA and NHPA may include:

(1) Archaeological and Historical Data Preservation Act [16 U.S.C. 469];

(2) Archeological Resources Protection Act [16 U.S.C. 470aa];

(3) Clean Air Act [42 U.S.C. 7401];

(4) Clean Water Act [33 U.S.C. 1251];

(5) Coastal Barrier Improvement Act [42 U.S.C. 4028 and 16 U.S.C. Sec. 3501];

(6) Coastal Barrier Resources Act [16 U.S.C. 3501];

(7) Coastal Zone Management Act [16 U.S.C. 1451];

(8) Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601];

(9) Endangered Species Act [16 U.S.C. 1531 *et seq.*];

(10) Farmland Protection Policy Act [7 U.S.C. 4201 *et seq.*];

(11) Marine Protection, Research, and Sanctuaries Act [33 U.S.C. 1401–1445; 16 U.S.C. 1431–1447F; 33 U.S.C. 2801–2805];

(12) National Historic Preservation Act [16 U.S.C. 470 *et seq.*];

(13) National Trails System Act [16 U.S.C. 1241];

(14) Native American Graves Protection and Repatriation Act [25 U.S.C. 3001];

(15) Noise Control Act [42 U.S.C.4901];

(16) Resource Conservation and Recovery Act [42 U.S.C. 6901];

(17) Safe Drinking Water Act [42 U.S.C. 300F];

(18) Toxic Substance Control Act [15 U.S.C. 2601];

(19) Wild and Scenic Rivers Act [16 U.S.C. 1271]; and

(20) Wilderness Act [16 U.S.C. 1131].

(b) This section provides a list of environmental laws for informational purposes only and does not create any legal rights or remedies, or imply private rights of action.

§ 137.291 May Self-Governance Tribes carry out construction projects without assuming these Federal environmental responsibilities?

Yes, but not under section 509 of the Act [25 U.S.C. 458aaa–8]. Self-Governance Tribes may otherwise elect to perform construction projects, or phases of construction projects, under other legal authorities (see § 137.272).

§ 137.292 How do Self-Governance Tribes assume environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa–8]?

Self-Governance Tribes assume environmental responsibilities by:

(a) Adopting a resolution or taking an equivalent Tribal action which:

(1) Designates a certifying officer to represent the Self-Governance Tribe and to assume the status of a responsible Federal official under NEPA, NHPA, and related provisions of law; and

(2) Accepts the jurisdiction of the Federal court, as provided in § 137.310 and § 137.311 for purposes of enforcement of the Federal environmental responsibilities assumed by the Self-Governance Tribe; and

(b) Entering into a construction project agreement under section 509 of the Act [25 U.S.C. 458aaa–8].

§ 137.293 Are Self-Governance Tribes required to adopt a separate resolution or take equivalent Tribal action to assume environmental responsibilities for each construction project agreement?

No, the Self-Governance Tribe may adopt a single resolution or take equivalent Tribal action to assume environmental responsibilities for a single project, multiple projects, a class of projects, or all projects performed under section 509 of the Act [25 U.S.C. 458aaa–8].

§ 137.294 What is the typical IHS environmental review process for construction projects?

(a) Most IHS construction projects normally do not have a significant impact on the environment, and therefore do not require environmental impact statements (EIS). Under current IHS procedures, an environmental review is performed on all construction projects. During the IHS environmental review process, the following activities may occur:

(1) Consult with appropriate Tribal, Federal, state, and local officials and interested parties on potential environmental effects;

(2) Document assessment of potential environmental effects; (IHS has developed a form to facilitate this process.)

(3) Perform necessary environmental surveys and inventories;

(4) Consult with the Advisory Council on Historic Preservation, acting through the SHPO or THPO, to ensure compliance with the NHPA;

(5) Determine if extraordinary or exceptional circumstances exist that would prevent the project from meeting the criteria for categorical exclusion from further environmental review under NEPA, or if an environmental assessment is required;

(6) Obtain environmental permits and approvals; and

(7) Identify methods to avoid or mitigate potential adverse effects;

(b) This section is for informational purposes only and does not create any legal rights or remedies, or imply private rights of action.

§ 137.295 May Self-Governance Tribes elect to develop their own environmental review process?

Yes, Self-Governance Tribes may develop their own environmental review process or adopt the procedures of the IHS or the procedures of another Federal agency.

§ 137.296 How does a Self-Governance Tribe comply with NEPA and NHPA?

Self-Governance Tribes comply with NEPA and the NHPA by adopting and following:

(a) their own environmental review procedures;

(b) the procedures of the IHS; and/or

(c) the procedures of another Federal agency.

§ 137.297 If the environmental review procedures of a Federal agency are adopted by a Self-Governance Tribe, is the Self-Governance Tribe responsible for ensuring the agency's policies and procedures meet the requirements of NEPA, NHPA, and related environmental laws?

No, the Federal agency is responsible for ensuring its own policies and procedures meet the requirements of NEPA, NHPA, and related environmental laws, not the Self-Governance Tribe.

§ 137.298 Are Self-Governance Tribes required to comply with Executive Orders to fulfill their environmental responsibilities under section 509 of the Act [25 U.S.C. 458aaa–8]?

No, but Self-Governance Tribes may at their option, choose to voluntarily comply with Executive Orders. For facilities where ownership will vest with the Federal Government upon completion of the construction, Tribes and the Secretary may agree to include the goals and objectives of Executive Orders in the codes and standards of the construction project agreement.

§ 137.299 Are Federal funds available to cover the cost of Self-Governance Tribes carrying out environmental responsibilities?

Yes, funds are available:

(a) for project-specific environmental costs through the construction project agreement; and

(b) for environmental review program costs through a funding agreement and/or a construction project agreement.

§ 137.300 Since Federal environmental responsibilities are new responsibilities, which may be assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa–8], are there additional funds available to Self-Governance Tribes to carry out these formerly inherently Federal responsibilities?

Yes, the Secretary must transfer not less than the amount of funds that the Secretary would have otherwise used to carry out the Federal environmental responsibilities assumed by the Self-Governance Tribe.

§ 137.301 How are project and program environmental review costs identified?

(a) The Self-Governance Tribe and the Secretary should work together during the initial stages of project development to identify program and project related costs associated with carrying out environmental responsibilities for proposed projects. The goal in this process is to identify the costs associated with all foreseeable environmental review activities.

(b) If unforeseen environmental review and compliance costs are identified during the performance of the construction project, the Self-Governance Tribe or, at the request of the Self-Governance Tribe, the Self-Governance Tribe and the Secretary (with or without amendment as required by § 137.363) may do one or more of the following:

(1) Mitigate adverse environmental effects;

(2) Alter the project scope of work; and/or

(3) Add additional program and/or project funding, including seeking supplemental appropriations.

§ 137.302 Are Federal funds available to cover start-up costs associated with initial Tribal assumption of environmental responsibilities?

(a) Yes, start-up costs are available as provided in section 508(c) of the Act [25 U.S.C. 458aaa–7(c)]. During the initial year that these responsibilities are assumed, the amount required to be paid under section 106(a)(2) of the Act [25 U.S.C. 450j–1(a)(2)] must include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the agreement necessary:

(1) To plan, prepare for, and assume operation of the environmental responsibilities; and

(2) To ensure compliance with the terms of the agreement and prudent management.

(b) Costs incurred before the initial year that the agreement is in effect may not be included in the amount required to be paid under section 106(a)(2) of the Act [25 U.S.C. 450j–1(a)(2)] if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

§ 137.303 Are Federal or other funds available for training associated with Tribal assumption of environmental responsibilities?

Yes, Self-Governance Tribes may use construction program and project funds for training and program development. Training and program development funds may also be available from other Federal agencies, such as the Environmental Protection Agency and the National Park Service, state and local governments, and private organizations.

§ 137.304 May Self-Governance Tribes buy back environmental services from the IHS?

Yes, Self-Governance Tribes may "buy back" project related services in their construction project agreement, including design and construction engineering, and environmental compliance services from the IHS in accordance with Section 508(f) of the Act [25 U.S.C. 458aaa–7(f)] and § 137.95, subject to the availability of the IHS's capacity to conduct the work.

§ 137.305 May Self-Governance Tribes act as lead, cooperating, or joint lead agencies for environmental review purposes?

Yes, Self-Governance Tribes assuming Federal environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa–8] are entitled to receive equal consideration, on the same basis as any Federal agency, for lead, cooperating, and joint lead agency status. For informational purposes, the terms "lead," "cooperating," and "joint lead agency" are defined in the CEQ regulations at 40 CFR 1508.16, 1508.5, and 1501.5 respectively.

§ 137.306 How are Self-Governance Tribes recognized as having lead, cooperating, or joint lead agency status?

Self-Governance Tribes may be recognized as having lead, cooperating, or joint lead agency status through funding or other agreements with other agencies. To the extent that resources are available, the Secretary will encourage and facilitate Federal, state, and local agencies to enter into agreements designating Tribes as lead, cooperating, or joint lead agencies for environmental review purposes.

§ 137.307 What Federal environmental responsibilities remain with the Secretary when a Self-Governance Tribe assumes Federal environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa–8]?

(a) All environmental responsibilities for Federal actions not directly related to construction projects assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa–8] remain with the Secretary. Federal agencies, including the IHS, retain responsibility for ensuring their environmental review procedures meet the requirements of NEPA, NHPA and related provisions of law, as called for in § 137.297.

(b) The Secretary will provide information updating and changing IHS agency environmental review policy and procedures to all Self-Governance Tribes implementing a construction project agreement, and to other Indian Tribes upon request. If a Self-Governance Tribe participating under section 509 of the Act [25 U.S.C. 458aaa–8] does not wish to receive this information, it must notify the Secretary in writing. As resources permit, at the request of the Self-Governance Tribe, the Secretary will provide technical assistance to the Self-governance tribe to assist the Self-governance Tribe in carrying out Federal environmental responsibilities.

§ 137.308 Does the Secretary have any enforcement authority for Federal environmental responsibilities assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa–8]?

No, the Secretary does not have any enforcement authority for Federal environmental responsibilities assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa–8].

§ 137.309 How are NEPA and NHPA obligations typically enforced?

NEPA and NHPA obligations are typically enforced by interested parties who may file lawsuits against Federal agencies alleging that the agencies have not complied with their legal obligations under NEPA and NHPA. These lawsuits may only be filed in Federal court under the provisions of the APA, 5 U.S.C. 701–706. Under the APA, a Federal judge reviews the Federal agency's actions based upon an administrative record prepared by the Federal agency. The judge gives appropriate deference to the agency's decisions and does not substitute the court's views for those of the agency. Jury trials and civil discovery are not permitted in APA proceedings. If a Federal agency has failed to comply with NEPA or NHPA, the judge may grant declaratory or injunctive relief to

the interested party. No money damages or fines are permitted in APA proceedings.

§ 137.310 Are Self-Governance Tribes required to grant a limited waiver of their sovereign immunity to assume Federal environmental responsibilities under section 509 of the Act [25 U.S.C. 458aaa–8]?

Yes, but only as provided in this section. Unless Self-Governance Tribes consent to the jurisdiction of a court, Self-Governance Tribes are immune from civil lawsuits. Self-Governance Tribes electing to assume Federal environmental responsibilities under section 509 of the Act [25 U.S.C. 458aaa–8] must provide a limited waiver of sovereign immunity solely for the purpose of enforcing a Tribal certifying officer's environmental responsibilities, as set forth in this subpart. Self-Governance Tribes are not required to waive any other immunity.

§ 137.311 Are Self-Governance Tribes entitled to determine the nature and scope of the limited immunity waiver required under section 509(a)(2) of the Act [25 U.S.C. 458aaa–8(a)(2)]?

(a) Yes, Section 509(a)(2) of the Act [25 U.S.C. 458aaa–8(a)(2)] only requires that the waiver permit a civil enforcement action to be brought against the Tribal certifying officer in his or her official capacity in Federal district court for declaratory and injunctive relief in a procedure that is substantially equivalent to an APA enforcement action against a Federal agency. Self-Governance Tribes are not required to subject themselves to suit in their own name, to submit to trial by jury or civil discovery, or to waive immunity for money damages, attorneys fees, or fines.

(b) Self-Governance Tribes may base the grant of a limited waiver under this subpart on the understanding that:

(1) Judicial review of the Tribal certifying official's actions are based upon the administrative record prepared by the Tribal official in the course of performing the Federal environmental responsibilities; and

(2) Actions and decisions of the Tribal certifying officer will be granted deference on a similar basis as Federal officials performing similar functions.

§ 137.312 Who is the proper defendant in a civil enforcement action under section 509(a)(2) of the Act [25 U.S.C. 458aaa–8(a)(2)]?

Only the designated Tribal certifying officer acting in his or her official capacity may be sued. Self-Governance Tribes and other Tribal officials are not proper defendants in lawsuits brought under section 509(a)(2) of the Act [25 U.S.C. 458aaa–8(a)(2)].

Notification (Prioritization Process, Planning, Development and Construction)

§ 137.320 Is the Secretary required to consult with affected Indian Tribes concerning construction projects and programs?

Yes, before developing a new project resource allocation methodology and application process the Secretary must consult with all Indian Tribes. In addition, before spending any funds for planning, design, construction, or renovation projects, whether subject to a competitive application and ranking process or not, the Secretary must consult with any Indian Tribe that would be significantly affected by the expenditure to determine and honor Tribal preferences whenever practicable concerning the size, location, type, and other characteristics of the project.

§ 137.321 How do Indian Tribes and the Secretary identify and request funds for needed construction projects?

In addition to the requirements contained in section 513 of the Act [25 U.S.C. 458aaa–12], Indian Tribes and the Secretary are encouraged to jointly identify health facility and sanitation needs at the earliest possible date for IHS budget formulation. In developing budget justifications for specific projects to be proposed to Congress, the Secretary shall follow the preferences of the affected Indian Tribe(s) to the greatest extent feasible concerning the size, location, type, and other characteristics of the project.

§ 137.322 Is the Secretary required to notify an Indian Tribe that funds are available for a construction project or a phase of a project?

(a) Yes, within 30 days after the Secretary's allocation of funds for planning phase, design phase, or construction phase activities for a specific project, the Secretary shall notify, by registered mail with return receipt in order to document mailing, the Indian Tribe(s) to be benefitted by the availability of the funds for each phase of a project. The Secretarial notice of fund allocation shall offer technical assistance in the preparation of a construction project proposal.

(b) The Secretary shall, within 30 days after receiving a request from an Indian Tribe, furnish the Indian Tribe with all information available to the Secretary about the project including, but not limited to: construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments, or environmental impact reports and archeological reports.

(c) An Indian Tribe is not required to request this information prior to either submitting a notification of intent or a construction project proposal.

(d) The Secretary shall have a continuing responsibility to furnish information to the Indian Tribes.

Project Assumption Process

§ 137.325 What does a Self-Governance Tribe do if it wants to perform a construction project under section 509 of the Act [25 U.S.C. 458aaa–8]?

(a) A Self-Governance Tribe may start the process of developing a construction project agreement by:

(1) Notifying the Secretary in writing that the Self-Governance Tribe wishes to enter into a pre-agreement negotiation phase as set forth in section 105(m)(3) of the Act [25 U.S.C. 450j(m)(3)]; or

(2) Submitting a proposed construction project agreement. This proposed agreement may be the final proposal, or it may be a draft for consideration and negotiation, or

(3) A combination of the actions described in paragraphs (a)(1) and (2) of this section.

(b) Upon receiving a Self-Governance Tribe's request to enter into a pre-negotiation phase the Secretary shall take the steps outlined in section 105(m)(3) of the Act [25 U.S.C. 450j(m)(3)].

§ 137.326 What must a Tribal proposal for a construction project agreement contain?

A construction project proposal must contain all of the required elements of a construction project agreement as defined in § 137.280. In addition to these minimum requirements, Self-Governance Tribes may propose additional items.

§ 137.327 May multiple projects be included in a single construction project agreement?

Yes, a Self-Governance Tribe may include multiple projects in a single construction project agreement proposal or may add additional approved projects by amendment(s) to an existing construction project agreement.

§ 137.328 Must a construction project proposal incorporate provisions of Federal construction guidelines and manuals?

(a) No, the Self-Governance Tribe and the Secretary must agree upon and specify appropriate building codes and architectural and engineering standards (including health and safety) which must be in conformity with nationally recognized standards for comparable projects.

(b) The Secretary may provide, or the Self-Governance Tribe may request, Federal construction guidelines and manuals for consideration by the Self-Governance Tribe in the preparation of its construction project proposal. If Tribal construction codes and standards (including national, regional, State, or Tribal building codes or construction industry standards) are consistent with or exceed otherwise applicable nationally recognized standards, the Secretary must accept the Tribally proposed standards.

§ 137.329 What environmental considerations must be included in the construction project agreement?

The construction project agreement must include:

(a) Identification of the Tribal certifying officer for environmental review purposes,

(b) Reference to the Tribal resolution or equivalent Tribal action appointing the Tribal certifying officer and accepting the jurisdiction of the Federal court for enforcement purposes as provided in §§ 137.310 and 137.311.

(c) Identification of the environmental review procedures adopted by the Self-Governance Tribe, and

(d) An assurance that no action will be taken on the construction phase of the project that would have an adverse environmental impact or limit the choice of reasonable alternatives prior to making an environmental determination in accordance with the Self-Governance Tribe's adopted procedures.

§ 137.330 What happens if the Self-Governance Tribe and the Secretary cannot develop a mutually agreeable construction project agreement?

The Self-Governance Tribe may submit a final construction project proposal to the Secretary. No later than 30 days after the Secretary receives the final construction project proposal, or within a longer time agreed to by the Self-Governance Tribe in writing, the Secretary shall review and make a determination to approve or reject the construction project proposal in whole or in part.

§ 137.331 May the Secretary reject a final construction project proposal based on a determination of Tribal capacity or capability?

No, the Secretary may not reject a final construction project proposal based on a determination of Tribal capacity or capability.

§ 137.332 On what basis may the Secretary reject a final construction project proposal?

(a) The only basis for rejection of project activities in a final construction project proposal are:

(1) The amount of funds proposed in the final construction project proposal exceeds the applicable funding level for the construction project as determined under sections 508(c) [25 U.S.C. 458aaa–7(c)] and 106 of the Act [25 U.S.C. 450j–1].

(2) The final construction project proposal does not meet the minimum content requirements for construction project agreements set forth in section 501(a)(2) of the Act [25 U.S.C. 458aaa(a)(2)]; and

(3) The final construction project proposal on its face clearly demonstrates that the construction project cannot be completed as proposed.

(b) For construction programs proposed to be included in a construction project agreement, the Secretary may also reject that portion of the proposal that proposes to assume an inherently Federal function that cannot legally be delegated to the Self-Governance Tribe.

§ 137.333 What procedures must the Secretary follow if the Secretary rejects a final construction project proposal, in whole or in part?

Whenever the Secretary rejects a final construction project proposal in whole or in part, the Secretary must:

(a) Send the Self-Governance Tribe a timely written notice of rejection that shall set forth specific finding(s) that clearly demonstrates, or that is supported by controlling legal authority supporting the rejection;

(b) Within 20 days, provide all documents relied on in making the rejection decision to the Self-Governance Tribe;

(c) Provide assistance to the Self-Governance Tribe to overcome any objections stated in the written notice of rejection;

(d) Provide the Self-Governance Tribe with a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter and the opportunity for appeal of the decision to reject the final construction contract proposal, under the regulations set forth in subpart P of this part, except that the Self-Governance Tribe may, in lieu of filing an appeal, initiate an action in Federal district court and proceed directly under sections 511 [25 U.S.C. 458aaa–10] and 110(a) of the Act [25 U.S.C. 450m–1(a)]. With respect to any hearing or appeal or civil action conducted pursuant to this section, the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for rejecting the final construction project proposal (or portion thereof); and

(e) Provide the Self-Governance Tribe with the option of entering into the severable portions of a final proposed construction project agreement (including a lesser funding amount) that the Secretary did not reject, subject to any additional alterations necessary to conform the construction project agreement to the severed provisions. Exercising this option does not affect the Self-Governance Tribe's right to appeal the portion of the final construction project proposal that was rejected by the Secretary.

§ 137.334 What happens if the Secretary fails to notify the Self-Governance Tribe of a decision to approve or reject a final construction project proposal within the time period allowed?

If the Secretary fails to notify the Self-Governance Tribe of the decision to approve or reject within 30 days (or a longer period if agreed to by the Self-Governance Tribe in writing), then the proposal will be deemed approved by the Secretary.

§ 137.335 What costs may be included in the budget for a construction agreement?

(a) A Self-Governance Tribe may include costs allowed by applicable OMB Circulars, and costs allowed under sections 508(c) [25 U.S.C. 458aaa–7(c)], 106 [25 U.S.C. 450j–1] and 105 (m) of the Act [25 U.S.C. 450j(m)]. The costs incurred will vary depending on which phase of the construction process the Self-Governance Tribe is conducting and type of construction project agreement that will be used.

(b) Regardless of whether a construction project agreement is fixed price or cost-reimbursement, budgets may include costs or fees associated with the following:

(1) Construction project proposal preparation;

(2) Conducting community meetings to develop project documents;

(3) Architects, engineers, and other consultants to prepare project planning documents, to develop project plans and specifications, and to assist in oversight of the design during construction;

(4) Real property lease or acquisition;

(5) Development of project surveys including topographical surveys, site boundary descriptions, geotechnical surveys, archeological surveys, and NEPA compliance;

(6) Project management, superintendence, safety and inspection;

(7) Travel, including local travel incurred as a direct result of conducting the construction project agreement and remote travel in conjunction with the project;

(8) Consultants, such as demographic consultants, planning consultants, attorneys, accountants, and personnel

who provide services, to include construction management services;
(9) Project site development;
(10) Project construction cost;
(11) General, administrative overhead, and indirect costs;
(12) Securing and installing moveable equipment, telecommunications and data processing equipment, furnishings, including works of art, and special purpose equipment when part of a construction contract;
(13) Other costs directly related to performing the construction project agreement;
(14) Project Contingency:
(i) A cost-reimbursement project agreement budgets contingency as a broad category. Project contingency remaining at the end of the project is considered savings.
(ii) Fixed-price agreements budget project contingency in the lump sum price or unit price.
(c) In the case of a fixed-price project agreement, a reasonable profit determined by taking into consideration the relevant risks and local market conditions.

§ 137.336 What is the difference between fixed-price and cost-reimbursement agreements?

(a) Cost-reimbursement agreements generally have one or more of the following characteristics:
(1) Risk is shared between IHS and the Self-Governance Tribe;
(2) Self-Governance Tribes are not required to perform beyond the amount of funds provided under the agreement;
(3) Self-Governance Tribes establish budgets based upon the actual costs of the project and are not allowed to include profit;
(4) Budgets are stated using broad categories, such as planning, design, construction project administration, and contingency;
(5) The agreement funding amount is stated as a "not to exceed" amount;
(6) Self-Governance Tribes provide notice to the IHS if they expect to exceed the amount of the agreement and require more funds;
(7) Excess funds remaining at the end of the project are considered savings; and
(8) Actual costs are subject to applicable OMB circulars and cost principles.
(b) Fixed Price agreements generally have one or more of the following characteristics:
(1) Self-Governance Tribes assume the risk for performance;
(2) Self-Governance Tribes are entitled to make a reasonable profit;
(3) Budgets may be stated as lump sums, unit cost pricing, or a combination thereof;
(4) For unit cost pricing, savings may occur if actual quantity is less than estimated; and,
(5) Excess funds remaining at the end of a lump sum fixed price project are considered profit, unless, at the option of the Self-Governance Tribe, such amounts are reclassified in whole or in part as savings.

§ 137.337 What funding must the Secretary provide in a construction project agreement?

The Secretary must provide funding for a construction project agreement in accordance with sections 106 [25 U.S.C. 450j–1] and 508(c) of the Act [25 U.S.C. 458aaa–7(c)].

§ 137.338 Must funds from other sources be incorporated into a construction project agreement?

Yes, at the request of the Self-Governance Tribe, the Secretary must include funds from other agencies as permitted by law, whether on an ongoing or a one-time basis.

§ 137.339 May a Self-Governance Tribe use project funds for matching or cost participation requirements under other Federal and non-Federal programs?

Yes, notwithstanding any other provision of law, all funds provided under a construction project agreement may be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program.

§ 137.340 May a Self-Governance Tribe contribute funding to a project?

Yes, the Self-Governance Tribe and the Secretary may jointly fund projects. The construction project agreement should identify the Secretarial amount and any Tribal contribution amount that is being incorporated into the construction project agreement. The Self-Governance Tribe does not have to deposit its contribution with the Secretary.

§ 137.341 How will a Self-Governance Tribe receive payment under a construction project agreement?

(a) For all construction project agreements, advance payments shall be made annually or semiannually, at the Self-Governance Tribe's option. The initial payment shall include all contingency funding for the project or phase of the project to the extent that there are funds appropriated for that purpose.
(b) The amount of subsequent payments is based on the mutually agreeable project schedule reflecting:
(1) Work to be accomplished within the advance payment period,
(2) Work already accomplished, and
(3) Total prior payments for each annual or semiannual advance payment period.
(c) For lump sum, fixed price agreements, at the request of the Self-Governance Tribe, payments shall be based on an advance payment period measured as follows:
(1) One year; or
(2) Project Phase(e.g., planning, , design, construction.) If project phase is chosen as the payment period, the full amount of funds necessary to perform the work for that phase of the construction project agreement is payable in the initial advance payment. For multi-phase projects, the planning and design phases must be completed prior to the transfer of funds for the associated construction phase. The completion of the planning and design phases will include at least one opportunity for Secretarial approval in accordance with § 137.360.
(d) For the purposes of payment, Sanitation Facilities Construction Projects authorized pursuant to Pub. L. 86–121, are considered to be a single construction phase and are payable in a single lump sum advance payment in accordance with paragraph (c)(2) of this section.
(e) For all other construction project agreements, the amount of advance payments shall include the funds necessary to perform the work identified in the advance payment period of one year.
(f) Any agreement to advance funds under paragraphs (b), (c) or (d) of this section is subject to the availability of appropriations.
(g) (1) Initial advance payments are due within 10 days of the effective date of the construction project agreement; and
(2) subsequent payments are due:
(i) Within 10 days of apportionment for annual payments or
(ii) Within 10 days of the start date of the project phase for phase payments.

§ 137.342 What happens to funds remaining at the conclusion of a cost reimbursement construction project?

All funds, including contingency funds, remaining at the conclusion of the project are considered savings and may be used by the Self-Governance Tribe to provide additional services for the purpose for which the funds were originally appropriated. No further approval or justifying documentation is required before the expenditure of the remaining funds.

§ 137.343 What happens to funds remaining at the conclusion of a fixed price construction project?

(a) For lump sum fixed price construction project agreements, all funds remaining at the conclusion of the project are considered profits and belong to the Self-Governance Tribe.
(b) For fixed price construction project agreements with unit price components, all funds remaining that are associated with overestimated unit price quantities are savings and may be used by the Self-Governance Tribe in accordance with section 137.342. All other funds remaining at the conclusion of the project are considered profit and belong to the Self-Governance Tribe.
(c) At the option of the Self-Governance Tribe, funds otherwise identified in paragraphs (a) and (b) as "profit" may be reclassified, in whole or in part, as savings and to that extent may be used by the Self-Governance Tribe in accordance with section 137.142.

§ 137.344 May a Self-Governance Tribe reallocate funds among construction project agreements?

Yes, a Self-Governance Tribe may reallocate funds among construction project agreements to the extent not prohibited by applicable appropriation law(s).

Roles of Self-Governance Tribe in Establishing and Implementing Construction Project Agreements

§ 137.350 Is a Self-Governance Tribe responsible for completing a construction project in accordance with the negotiated construction project agreement?

Yes, a Self-Governance Tribe assumes responsibility for completing a construction project, including day-to-day on-site management and administration of the project, in accordance with the negotiated construction project agreement. However, Self-Governance Tribes are not required to perform beyond the amount of funds provided. For example, a Self-Governance Tribe may encounter unforeseen circumstances during the term of a construction project agreement. If this occurs, options available to the Self-Governance Tribe include, but are not limited to:
(a) Reallocating existing funding;
(b) Reducing/revising the scope of work that does not require an amendment because it does not result in a significant change;
(c) Utilizing savings from other projects;
(d) Requesting additional funds or appropriations;
(e) Utilizing interest earnings;
(f) Seeking funds from other sources; and/or
(g) Redesigning or re-scoping that does result in a significant change by amendment as provided in §§ 137.363 and 137.364.

§ 137.351 Is a Self-Governance Tribe required to submit construction project progress and financial reports for construction project agreements?

Yes, a Self-Governance Tribe must provide the Secretary with construction project progress and financial reports semiannually or, at the option of the Self-Governance Tribe, on a more frequent basis. Self-Governance Tribes are only required to submit the reports, as negotiated in the Construction Project Agreement, after funds have been transferred to the Self-Governance Tribe for a construction project. Construction project progress reports and financial reports are only required for active construction projects.

§ 137.352 What is contained in a construction project progress report?

Construction project progress reports contain information about accomplishments during the reporting period and issues and concerns of the Self-Governance Tribe, if any.

§ 137.353 What is contained in a construction project financial report?

Construction project financial reports contain information regarding the amount of funds expended during the reporting period, and financial concerns of the Self-Governance Tribe, if any.

Roles of the Secretary in Establishing and Implementing Construction Project Agreements

§ 137.360 Does the Secretary approve project planning and design documents prepared by the Self-Governance Tribe?

The Secretary shall have at least one opportunity to approve project planning and design documents prepared by the Self-Governance Tribe in advance of construction if the Self-Governance Tribe is required to submit planning or design documents as a part of the scope of work under a construction project agreement.

§ 137.361 Does the Secretary have any other opportunities to approve planning or design documents prepared by the Self-Governance Tribe?

Yes, but only if there is an amendment to the construction project agreement that results in a significant change in the original scope of work.

§ 137.362 May construction project agreements be amended?

Yes, the Self-Governance Tribe, at its discretion, may request the Secretary to amend a construction project agreement to include additional projects. In addition, amendments are required if there is a significant change from the original scope of work or if funds are added by the Secretary. The Self-Governance Tribe may make immaterial changes to the performance period and make budget adjustments within available funding without an amendment to the construction project agreement.

§ 137.363 What is the procedure for the Secretary's review and approval of amendments?

(a) The Secretary shall promptly notify the Self-Governance Tribe in writing of any concerns or issues that may lead to disapproval. The Secretary shall share relevant information and documents, and make a good faith effort to resolve all issues and concerns of the Self-Governance Tribe. If, after consultation with the Self-Governance Tribe, the Secretary intends to disapprove the proposed amendment, then the Secretary shall follow the procedures set forth in § 137.330 through 137.334.
(b) The time allowed for Secretarial review, comment, and approval of amendments is 30 days, or within a longer time if agreed to by the Self-Governance Tribe in writing. Absence of a written response by the Secretary within 30 days shall be deemed approved.
(c) The timeframe set forth in paragraph (b) of this section is intended to be the maximum time and may be reduced based on urgency and need, by agreement of the parties. If the Self-Governance Tribe requests reduced timeframes for action due to unusual or special conditions (such as limited construction periods), the Secretary shall make a good faith effort to accommodate the requested timeframes.

§ 137.364 What constitutes a significant change in the original scope of work?

A significant change in the original scope of work is:
(a) A change that would result in a cost that exceeds the total of the project funds available and the Self-Governance Tribe's contingency funds; or
(b) A material departure from the original scope of work, including substantial departure from timelines negotiated in the construction project agreement.

§ 137.365 What is the procedure for the Secretary's review and approval of project planning and design documents submitted by the Self-Governance Tribe?

(a) The Secretary shall review and approve planning documents to ensure

compliance with planning standards identified in the construction project agreement. The Secretary shall review and approve design documents for general compliance with requirements of the construction project agreement.

(b) The Secretary shall promptly notify the Self-Governance Tribe in writing of any concerns or issues that may lead to disapproval. The Secretary shall share relevant information and documents, and make a good faith effort to resolve all issues and concerns of the Self-Governance Tribe. If, after consultation with the Self-Governance Tribe, the Secretary intends to disapprove the documents, then the Secretary shall follow the procedures set forth in § 137.333.

(c) The time allowed for Secretarial review, comment, and approval of planning and design documents is 21 days, unless otherwise agreed to by the Self-Governance Tribe in writing. Absence of a written response by the Secretary within 21 days shall be deemed approved.

§ 137.366 May the Secretary conduct onsite project oversight visits?

Yes, the Secretary may conduct onsite project oversight visits semiannually or on an alternate schedule negotiated in the construction project agreement. The Secretary must provide the Self-Governance Tribe with reasonable advance written notice to assist the Self-Governance Tribe in coordinating the visit. The purpose of the visit is review the progress under the construction project agreement. At the request of the Self-Governance Tribe, the Secretary must provide the Self-Governance Tribe a written site visit report.

§ 137.367 May the Secretary issue a stop work order under a construction project agreement?

No, the Secretary has no role in the day-to-day management of a construction project.

§ 137.368 Is the Secretary responsible for oversight and compliance of health and safety codes during construction projects being performed by a Self-Governance Tribe under section 509 of the Act [25 U.S.C. 488aaa–8]?

No, the Secretary is not responsible for oversight and compliance of health and safety codes during construction projects being performed by a Self-Governance Tribe under section 509 of the Act [25 U.S.C. 488aaa–8].

Other

§ 137.370 Do all provisions of this part apply to construction project agreements under this subpart?

Yes, to the extent the provisions are not inconsistent with the provisions in this subpart. Provisions that do not apply include: programmatic reports and data requirements; reassumption; compact and funding agreement review, approval, and final offer process; and compact and funding agreement contents.

§ 137.371 Who takes title to real property purchased with funds provided under a construction project agreement?

The Self-Governance Tribe takes title to the real property unless the Self-Governance Tribe requests that the Secretary take title to the property.

§ 137.372 Does the Secretary have a role in the fee-to-trust process when real property is purchased with construction project agreement funds?

No, the Secretary does not have a role in the fee-to-trust process except to provide technical assistance if requested by the Self-Governance Tribe.

§ 137.373 Do Federal real property laws, regulations and procedures that apply to the Secretary also apply to Self-Governance Tribes that purchase real property with funds provided under a construction project agreement?

No, unless the Self-Governance Tribe has requested the Secretary to take fee title to the property.

§ 137.374 Does the Secretary have a role in reviewing or monitoring a Self-Governance Tribe's actions in acquiring or leasing real property with funds provided under a construction project agreement?

No, unless the Self-Governance Tribe has requested the Secretary take fee title to the property. The Self-Governance Tribe is responsible for acquiring all real property needed to perform a construction project under a construction project agreement, not the Secretary. The Secretary shall not withhold funds or refuse to enter into a construction project agreement because of a disagreement between the Self-Governance Tribe and the Secretary over the Self-Governance Tribe's decisions to purchase or lease real property.

§ 137.375 Are Tribally-owned facilities constructed under section 509 of the Act [25 U.S.C. 458aaa–8] eligible for replacement, maintenance, and improvement funds on the same basis as if title to such property were vested in the United States?

Yes, Tribally-owned facilities constructed under section 509 of the Act [25 U.S.C. 458aaa–8] are eligible for replacement, maintenance, and improvement funds on the same basis as if title to such property were vested in the United States.

§ 137.376 Are design and construction projects performed by Self-Governance Tribes under section 509 of the Act [25 U.S.C. 458aaa–8] subject to Federal metric requirements?

No, however, the Self-Governance Tribe and the Secretary may negotiate the use of Federal metric requirements in the construction project agreement when the Self-Governance Tribe will design and/or construct an IHS facility that the Secretary will own and operate.

§ 137.377 Do Federal procurement laws and regulations apply to construction project agreements performed under section 509 of the Act [25 U.S.C. 458aaa–8]?

No, unless otherwise agreed to by the Tribe, no provision of the Office of Federal Procurement Policy Act, the Federal Acquisition Regulations issued pursuant thereto, or any other law or regulation pertaining to Federal procurement (including Executive Orders) shall apply to any construction project conducted under section 509 of the Act [25 U.S.C. 458aaa–8]. The Secretary and the Self-Governance Tribe may negotiate to apply specific provisions of the Office of Federal Procurement and Policy Act and Federal Acquisition Regulations to a construction project agreement or funding agreement. Absent a negotiated agreement, such provisions and regulatory requirements do not apply.

§ 137.378 Do the Federal Davis-Bacon Act and wage rates apply to construction projects performed by Self-Governance Tribes using their own funds or other non-Federal funds?

No, the Federal Davis-Bacon Act and wage rates do not apply to construction projects performed by Self-Governance Tribes using their own funds or other non-Federal funds.

§ 137.379 Do Davis-Bacon wage rates apply to construction projects performed by Self-Governance Tribes using Federal funds?

Davis-Bacon Act wage rates only apply to laborers and mechanics employed by the contractors and subcontractors (excluding Indian Tribes, inter-Tribal consortia, and Tribal organizations) retained by Self-Governance Tribes to perform construction. The Davis-Bacon Act and wage rates do not apply when Self-Governance Tribes perform work with their own employees.

Subpart O—Secretarial Responsibilities

Budget Request

§ 137.401 What role does Tribal consultation play in the IHS annual budget request process?

The IHS will consult with Tribes on budget issues consistent with Administration policy on Tribal consultation.

Reports

§ 137.405 Is the Secretary required to report to Congress on administration of Title V and the funding requirements presently funded or unfunded?

Yes, no later than January 1 of each year after the date of enactment of the Tribal Self-Governance Amendments of 2000, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a written report regarding the administration of Title V. The report shall include a detailed analysis of the funding requirements presently funded or unfunded for each Indian Tribe or Tribal organization, either directly by the Secretary, under self-determination contracts under Title I, or under compacts and funding agreements authorized under Title V.

§ 137.406 In compiling reports pursuant to this section, may the Secretary impose any reporting requirements on Self-Governance Tribes, not otherwise provided in Title V?

No, in compiling reports pursuant to this section, the Secretary may not impose any reporting requirements on Self-Governance Tribes, not otherwise provided in Title V.

§ 137.407 What guidelines will be used by the Secretary to compile information required for the report?

The report shall be compiled from information contained in funding agreements, annual audit reports, and data of the Secretary regarding the disposition of Federal funds. The report must identify:

(a) The relative costs and benefits of self-governance, including savings;

(b) With particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance Tribes and their members;

(c) The funds transferred to each Self-Governance Tribe and the corresponding reduction in the Federal bureaucracy;

(d) The funding formula for individual Tribal shares of all headquarters' funds, together with the comments of affected Self-Governance Tribes, developed under § 137.405 of this subpart; and

(e) Amounts expended in the preceding fiscal year to carry out inherent Federal functions, including an identification of those functions by type and location.

Subpart P—Appeals

§ 137.410 For the purposes of section 110 of the Act [25 U.S.C. 450m–1] does the term contract include compacts, funding agreements, and construction project agreements entered into under Title V?

Yes, for the purposes of section 110 of the Act [25 U.S.C. 450m–1] the term "contract" includes compacts, funding agreements, and construction project agreements entered into under Title V.

Post-Award Disputes

§ 137.412 Do the regulations at 25 CFR Part 900, Subpart N apply to compacts, funding agreements, and construction project agreements entered into under Title V?

Yes, the regulations at 25 CFR Part 900, Subpart N apply to compacts, funding agreements, and construction project agreements entered into under Title V.

Pre-Award Disputes

§ 137.415 What decisions may an Indian Tribe appeal under § 137.415 through 137.436?

An Indian Tribe may appeal:

(a) A decision to reject a final offer, or a portion thereof, under section 507(b) of the Act [25 U.S.C. 458aaa–6(b)];

(b) A decision to reject a proposed amendment to a compact or funding agreement, or a portion thereof, under section 507(b) of the Act [25 U.S.C. 458aaa–6(b)];

(c) A decision to rescind and reassume a compact or funding agreement, in whole or in part, under section 507(a)(2) of the Act [25 U.S.C. 458aaa–6(a)(2)], except for immediate reassumptions under section 507(a)(2)(C) of the Act [25 U.S.C. 458aaa–6(a)(2)(C)];

(d) A decision to reject a final construction project proposal, or a portion thereof, under section 509(b) of the Act [25 U.S.C. 458aaa–8(b)] and subpart N of this part; and

(e) For construction project agreements carried out under section 509 of the Act [25 U.S.C. 458aaa–8], a decision to reject project planning documents, design documents, or proposed amendments submitted by a Self-Governance Tribe under section 509(f) of the Act [25 U.S.C. 458aaa–8(f)] and subpart N of this part.

§ 137.416 Do §§ 137.415 through 137.436 apply to any other disputes?

No, §§ 137.415 through 137.436 only apply to decisions listed in § 137.415. Specifically, §§ 137.415 through 137.436 do not apply to any other dispute, including, but not limited to:

(a) Disputes arising under the terms of a compact, funding agreement, or construction project agreement that has been awarded;

(b) Disputes arising from immediate reassumptions under section 507(a)(2)(C) of the Act [25 U.S.C. 458aaa–6(a)(2)(C)] and § 137.261 and 137.262, which are covered under § 137.440 through 137.445.

(c) Other post-award contract disputes, which are covered under § 137.412.

(d) Denials under the Freedom of Information Act, 5 U.S.C. 552, which may be appealed under 45 CFR part 5.

(e) Decisions relating to the award of grants under section 503(e) of the Act [25 U.S.C. 458aaa–2(e)], which may be appealed under 45 CFR part 5.

§ 137.417 What procedures apply to Interior Board of Indian Appeals (IBIA) proceedings?

The IBIA may use the procedures set forth in 43 CFR 4.22–4.27 as a guide.

§ 137.418 How does an Indian Tribe know where and when to file its appeal from decisions made by IHS?

Every decision in any of the areas listed in § 137.415 must contain information which shall tell the Indian Tribe where and when to file the Indian Tribe's appeal. Each decision shall include the following statement:

> Within 30 days of the receipt of this decision, you may request an informal conference under 42 CFR 137.421, or appeal this decision under 42 CFR 137.425 to the Interior Board of Indian Appeals (IBIA). Should you decide to appeal this decision, you may request a hearing on the record. An appeal to the IBIA under 42 CFR 137.425 shall be filed with the IBIA by certified mail or by hand delivery at the following address: Board of Indian Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. You shall serve copies of your Notice of Appeal on the Secretary and on the official whose decision is being appealed. You shall certify to the IBIA that you have served these copies.

§ 137.419 What authority does the IBIA have under §§ 137.415 through 137.436?

The IBIA has the authority:

(a) to conduct a hearing on the record;

(b) to permit the parties to engage in full discovery relevant to any issue raised in the matter;

(c) to issue a recommended decision; *and*

(d) to take such action as necessary to insure rights specified in § 137.430.

§ 137.420 Does an Indian Tribe have any options besides an appeal?

Yes, the Indian Tribe may request an informal conference. An informal conference is a way to resolve issues as quickly as possible, without the need for a formal hearing. Or, the Indian Tribe may, in lieu of filing an administrative appeal under this subpart or upon completion of an informal conference, file an action in Federal court pursuant to section 110 of the Act [25 U.S.C. 450m–1].

§ 137.421 How does an Indian Tribe request an informal conference?

The Indian Tribe must file its request for an informal conference with the office of the person whose decision it is appealing, within 30 days of the day it receives the decision. The Indian Tribe may either hand-deliver the request for an informal conference to that person's office, or mail it by certified mail, return receipt requested. If the Indian Tribe mails the request, it will be considered filed on the date the Indian Tribe mailed it by certified mail.

§ 137.422 How is an informal conference held?

(a) The informal conference must be held within 30 days of the date the request was received, unless the Indian Tribe and the authorized representative of the Secretary agree on another date.

(b) If possible, the informal conference will be held at the Indian Tribe's office. If the meeting cannot be held at the Indian Tribe's office and is held more than fifty miles from its office, the Secretary must arrange to pay transportation costs and per diem for incidental expenses to allow for adequate representation of the Indian Tribe.

(c) The informal conference must be conducted by a designated representative of the Secretary.

(d) Only people who are the designated representatives of the Indian Tribe, or authorized by the Secretary are allowed to make presentations at the informal conference. Such designated representatives may include Office of Tribal Self-Governance.

§ 137.423 What happens after the informal conference?

(a) Within 10 days of the informal conference, the person who conducted the informal conference must prepare and mail to the Indian Tribe a written report which summarizes what happened at the informal conference and a recommended decision.

(b) Every report of an informal conference must contain the following language:

Within 30 days of the receipt of the recommended decision from the informal conference, you may file an appeal of the initial decision of the DHHS agency with the Interior Board of Indian Appeals (IBIA) under 42 CFR 137.425. You may request a hearing on the record. An appeal to the IBIA under 42 CFR 137.425 shall be filed with the IBIA by certified mail or hand delivery at the following address: Board of Indian Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. You shall serve copies of your Notice of Appeal on the Secretary and on the official whose decision is being appealed. You shall certify to the IBIA that you have served these copies. Alternatively you may file an action in Federal court pursuant to section 110 of the Act. [25 U.S.C. 450m–1].

§ 137.424 Is the recommended decision from the informal conference final for the Secretary?

No. If the Indian Tribe is dissatisfied with the recommended decision from the informal conference, it may still appeal the initial decision within 30 days of receiving the recommended decision and the report of the informal conference. If the Indian Tribe does not file a notice of appeal within 30 days, or before the expiration of the extension it has received under § 137.426 , the recommended decision of the informal conference becomes final for the Secretary and may be appealed to Federal court pursuant to section 110 of the Act [25 U.S.C. 450m–1].

§ 137.425 How does an Indian Tribe appeal the initial decision if it does not request an informal conference or if it does not agree with the recommended decision resulting from the informal conference?

(a) If the Indian Tribe decides to appeal, it must file a notice of appeal with the IBIA within 30 days of receiving either the initial decision or the recommended decision from the informal conference.

(b) The Indian Tribe may either hand-deliver the notice of appeal to the IBIA, or mail it by certified mail, return receipt requested. If the Indian Tribe mails the Notice of Appeal, it will be considered filed on the date the Indian Tribe mailed it by certified mail. The Indian Tribe should mail the notice of appeal to: Board of Indian Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203.

(c) The Notice of Appeal must:

(1) Briefly state why the Indian Tribe thinks the initial decision is wrong;

(2) Briefly identify the issues involved in the appeal; and

(3) State whether the Indian Tribe wants a hearing on the record, or whether the Indian Tribe wants to waive its right to a hearing.

(d) The Indian Tribe must serve a copy of the notice of appeal upon the official whose decision it is appealing. The Indian Tribe must certify to the IBIA that it has done so.

(e) The authorized representative of the Secretary will be considered a party to all appeals filed with the IBIA under the Act.

(f) In lieu of filing an administrative appeal an Indian Tribe may proceed directly to Federal court pursuant to section 110 of the Act [25 U.S.C. 450m–1].

§ 137.426 May an Indian Tribe get an extension of time to file a notice of appeal?

Yes, if the Indian Tribe needs additional time, the Indian Tribe may request an extension of time to file its Notice of Appeal with the IBIA within 60 days of receiving either the initial decision or the recommended decision resulting from the informal conference. The request of the Indian Tribe must be in writing, and must give a reason for not filing its notice of appeal within the 30-day time period. If the Indian Tribe has a valid reason for not filing its notice of appeal on time, it may receive an extension.

§ 137.427 What happens after an Indian Tribe files an appeal?

(a) Within 5 days of receiving the Indian Tribe's notice of appeal, the IBIA will decide whether the appeal falls under § 137.415. If so, the Indian Tribe is entitled to a hearing.

(b) If the IBIA cannot make that decision based on the information included in the notice of appeal, the IBIA may ask for additional statements from the Indian Tribe, or from the appropriate Federal agency. If the IBIA asks for more statements, it will make its decision within 5 days of receiving those statements.

(c) If the IBIA decides that the Indian Tribe is not entitled to a hearing or if the Indian Tribe has waived its right to a hearing on the record, the IBIA will dismiss the appeal and inform the Indian Tribe that it is not entitled to a hearing or has waived its right to a hearing.

§ 137.428 How is a hearing arranged?

(a) If a hearing is to be held, the IBIA will refer the Indian Tribe's case to the Hearings Division of the Office of Hearings and Appeals of the U.S. Department of the Interior. The case will then be assigned to an Administrative Law Judge (ALJ), appointed under 5 U.S.C. 3105.

(b) Within 15 days of the date of the referral, the ALJ will hold a pre-hearing conference, by telephone or in person, to decide whether an evidentiary hearing is necessary, or whether it is possible to decide the appeal based on the written record. At the pre-hearing conference the ALJ will provide for:

(1) A briefing and discovery schedule;

(2) A schedule for the exchange of information, including, but not limited to witness and exhibit lists, if an evidentiary hearing is to be held;

(3) The simplification or clarification of issues;

(4) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if an evidentiary hearing is to be held;

(5) The possibility of agreement disposing of all or any of the issues in dispute; and

(6) Such other matters as may aid in the disposition of the appeal.

(c) The ALJ shall order a written record to be made of any conference results that are not reflected in a transcript.

§ 137.429 What happens when a hearing is necessary?

(a) The ALJ must hold a hearing within 90 days of the date of the order referring the appeal to the ALJ, unless the parties agree to have the hearing on a later date.

(b) At least 30 days before the hearing, the Secretary must file and serve the Indian Tribe with a response to the notice of appeal.

(c) If the hearing is held more than 50 miles from the Indian Tribe's office, the Secretary must arrange to pay transportation costs and per diem for incidental expenses to allow for adequate representation of the Indian Tribe.

(d) The hearing shall be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. 556.

§ 137.430 What is the Secretary's burden of proof for appeals covered by § 137.415?

As required by section 518 of the Act [25 U.S.C. 458aaa–17], the Secretary must demonstrate by clear and convincing evidence the validity of the grounds for the decision made and that the decision is fully consistent with provisions and policies of the Act.

§ 137.431 What rights do Indian Tribes and the Secretary have during the appeal process?

Both the Indian Tribe and the Secretary have the same rights during the appeal process. These rights include the right to:

(a) Be represented by legal counsel;

(b) Have the parties provide witnesses who have knowledge of the relevant issues, including specific witnesses with that knowledge, who are requested by either party;

(c) Cross-examine witnesses;

(d) Introduce oral or documentary evidence, or both;

(e) Require that oral testimony be under oath;

(f) Receive a copy of the transcript of the hearing, and copies of all documentary evidence which is introduced at the hearing;

(g) Compel the presence of witnesses, or the production of documents, or both, by subpoena at hearings or at depositions;

(h) Take depositions, to request the production of documents, to serve interrogatories on other parties, and to request admissions; and

(i) Any other procedural rights under the Administrative Procedure Act, 5 U.S.C. 556.

§ 137.432 What happens after the hearing?

(a) Within 30 days of the end of the formal hearing or any post-hearing briefing schedule established by the ALJ, the ALJ shall send all the parties a recommended decision, by certified mail, return receipt requested. The recommended decision must contain the ALJ's findings of fact and conclusions of law on all the issues. The recommended decision shall also state that the Indian Tribe has the right to object to the recommended decision.

(b) The recommended decision shall contain the following statement:

Within 30 days of the receipt of this recommended decision, you may file an objection to the recommended decision with the Secretary under 42 CFR 137.43. An appeal to the Secretary under 42 CFR 137.43 shall be filed at the following address: Department of Health and Human Services, 200 Independence Ave. S.W., Washington, DC, 20201. You shall serve copies of your notice of appeal on the official whose decision is being appealed. You shall certify to the Secretary that you have served this copy. If neither party files an objection to the recommended decision within 30 days, the recommended decision will become final.

§ 137.433 Is the recommended decision always final?

No, any party to the appeal may file precise and specific written objections to the recommended decision, or any other comments, within 30 days of receiving the recommended decision. Objections must be served on all other parties. The recommended decision shall become final for the Secretary 30 days after the Indian Tribe receives the ALJs recommended decision, unless a written statement of objections is filed with the Secretary during the 30-day period. If no party files a written statement of objections within 30 days, the recommended decision shall become final for the Secretary.

§ 137.434 If an Indian Tribe objects to the recommended decision, what will the Secretary do?

(a) The Secretary has 45 days from the date it receives the final authorized submission in the appeal to modify, adopt, or reverse the recommended decision. The Secretary also may remand the case to the IBIA for further proceedings. If the Secretary does not modify or reverse the recommended decision or remand the case to the IBIA during that time, the recommended decision automatically becomes final.

(b) When reviewing the recommended decision, the Secretary may consider and decide all issues properly raised by any party to the appeal, based on the record.

(c) The decision of the Secretary must:

(1) Be in writing;

(2) Specify the findings of fact or conclusions of law that are modified or reversed;

(3) Give reasons for the decision, based on the record; and

(4) State that the decision is final for the Department.

§ 137.435 Will an appeal adversely affect the Indian Tribe's rights in other compact, funding negotiations, or construction project agreement?

No, a pending appeal will not adversely affect or prevent the negotiation or award of another compact, funding agreement, or construction project agreement.

§ 137.436 Will the decisions on appeal be available for the public to review?

Yes, all final decisions must be published for the Department under this subpart. Decisions can be found on the Department's website.

Appeals of an Immediate Reassumption of a Self-Governance Program

§ 137.440 What happens in the case of an immediate reassumption under section 507(a)(2)(C) of the Act [25 U.S.C. 458aaa–6(a)(2)(C)]?

(a) The Secretary may, upon written notification to the Self-Governance Tribe, immediately reassume operation of a program, service, function, or activity (or portion thereof) if:

(1) The Secretary makes a finding of imminent substantial and irreparable endangerment of the public health caused by an act or omission of the Self-Governance Tribe; and

(2) The endangerment arises out of a failure to carry out the compact or funding agreement.

(b) When the Secretary advises a Self-Governance Tribe that the Secretary

intends to take an action referred to in paragraph (a) of this section, the Secretary must also notify the Deputy Director of the Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203.

§ 137.441 Will there be a hearing?

Yes, unless the Self-Governance Tribe waives its right to a hearing in writing. The Deputy Director of the Office of Hearings and Appeals must appoint an Administrative Law Judge to hold a hearing.

(a) The hearing must be held within 10 days of the date of the notice referred to in § 137.440 unless the Self-Governance Tribe agrees to a later date.

(b) If possible, the hearing will be held at the office of the Self-Governance Tribe. If the hearing is held more than 50 miles from the office of the Self-Governance Tribe, the Secretary must arrange to pay transportation costs and per diem for incidental expenses. This will allow for adequate representation of the Self-Governance Tribe.

§ 137.442 What happens after the hearing?

(a) Within 30 days after the end of the hearing or any post-hearing briefing schedule established by the ALJ, the ALJ must send all parties a recommended decision by certified mail, return receipt requested. The recommended decision shall contain the ALJs findings of fact and conclusions of law on all the issues. The recommended decision must also state that the Self-Governance Tribe has the right to object to the recommended decision.

(b) The recommended decision must contain the following statement:

Within 15 days of the receipt of this recommended decision, you may file an objection to the recommended decision with the Secretary under § 137.443. An appeal to the Secretary under 25 CFR 900.165(b) shall be filed at the following address: Department of Health and Human Services, 200 Independence Ave. SW., Washington, DC 20201. You shall serve copies of your notice of appeal on the official whose decision is being appealed. You shall certify to the Secretary that you have served this copy. If neither party files an objection to the recommended decision within 15 days, the recommended decision will become final.

§ 137.443 Is the recommended decision always final?

No, any party to the appeal may file precise and specific written objections to the recommended decision, or any other comments, within 15 days of receiving the recommended decision. The objecting party must serve a copy of its objections on the other party. The recommended decision will become final 15 days after the Self-Governance Tribe receives the ALJs recommended decision, unless a written statement of objections is filed with the Secretary during the 15-day period. If no party files a written statement of objections within 15 days, the recommended decision will become final.

§ 137.444 If a Self-Governance Tribe objects to the recommended decision, what action will the Secretary take?

(a) The Secretary has 15 days from the date the Secretary receives timely written objections to modify, adopt, or reverse the recommended decision. If the Secretary does not modify or reverse the recommended decision during that time, the recommended decision automatically becomes final.

(b) When reviewing the recommended decision, the Secretary may consider and decide all issues properly raised by any party to the appeal, based on the record.

(c) The decision of the Secretary must:

(1) Be in writing;

(2) Specify the findings of fact or conclusions of law that are modified or reversed;

(3) Give reasons for the decision, based on the record; and

(4) State that the decision is final for the Secretary.

§ 137.445 Will an immediate reassumption appeal adversely affect the Self-Governance Tribe's rights in other self-governance negotiations?

No, a pending appeal will not adversely affect or prevent the negotiation or award of another compact, funding agreement, or construction project agreement.

Equal Access to Justice Act Fees

§ 137.450 Does the Equal Access to Justice Act (EAJA) apply to appeals under this subpart?

Yes, EAJA claims against the Department will be heard pursuant to 25 CFR 900.177.

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May 17, 2002

Part IV

Department of the Interior

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Plans and Information; Proposed Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC47

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Plans and Information

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would reorganize and update the requirements and processes for submitting various plans and information for MMS review and approval before a lessee or an operator may explore, develop, or produce oil and gas and sulphur in the Outer Continental Shelf (OCS).

DATES: We will consider all comments received by August 15, 2002. We will begin reviewing comments then and may not fully consider comments we receive after August 15, 2002.

ADDRESSES: If you wish to comment, you may mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team (RPT). If you wish to e-mail comments, the e-mail address is: *rules.comments@MMS.gov*. Reference Plans and Information in your e-mail subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

Mail or hand-carry comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–NEW); 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, Engineering and Operations Division, (703) 787–1600.

SUPPLEMENTARY INFORMATION: The current regulations at 30 CFR part 250, subpart B, are structured into five broad sections: General Requirements, Preliminary Activities, Well Location and Spacing, Exploration Plan, and Development and Production Plan. This rule would reorganize and clarify the requirements pertaining to Exploration Plans (EP), Development and Production Plans (DPP), and Development Operations Coordination Documents (DOCD). It also would add sections to describe Deepwater Operations Plans (DWOP) and Conservation Information Documents (CID). The rule would provide more descriptive headings under which a large number of separate sections would state the current requirements clearly and concisely and in a more logical order. In writing this rule, we focused on:

- Clarifying and updating the review process;
- Providing a concise list of the contents of EP, DPP, and DOCD (plan) submissions; and
- Detailing the accompanying information that operators must submit to support their plans.

Authorship of the Rule

The rule was written by the MMS Subpart B Team. Members of the team are Allen Adams (Office of Environmental Evaluation/Pacific OCS Region), Maureen Bornholdt (Headquarters/Environmental Division), Phyllis Casey (Operations/Alaska OCS Region), James Grant (Operations/Pacific OCS Region), Bonnie LaBorde Johnson (Leasing and Environment/Gulf of Mexico (GOM) OCS Region), and Kent Stauffer (Field Operations/GOM OCS Region), with Kumkum Ray (Headquarters/Engineering and Operations Division) as team leader. David Zinzer (Headquarters/Resource Evaluation Division) contributed on geologic and geophysical (G&G) issues.

We wrote this proposed rule in a plain-language format. We have tried to set out these requirements in a straightforward and uncomplicated way. The plain-language format uses the term "you," (or "I" in questions), which means the lessee, assignee of a lessee, operating rights holder, or a person acting on behalf of any of those persons. (See 30 CFR § 250.105.) We emphasize that "you" are responsible for ensuring that all requirements are met. We encourage your comments on our use of the plain-language format in this rule as well as future rulemaking.

Notice to Lessees and Operators (NTL) for the GOM OCS Region

After the proposed rule is published, we will post a companion draft NTL for the GOM OCS Region on our website at *www.mms.gov*. This NTL will further interpret the requirements in the proposed rule regarding the information you must submit for MMS determinations, analyses, and approvals of EPs and DOCDs as they would apply specifically to leases and units in the GOM OCS Region. It will also explain how the GOM OCS Region would implement proposed § 250.201(c) with respect to limiting submission of information that is not needed in particular cases.

Background

On April 1, 1988, we published final regulations (30 CFR part 250) that govern oil, gas, and sulphur exploration, development, and production requirements for operations on the OCS. The regulations were divided into subparts A through P. Each subpart was further divided into sections. Recently, we began rewriting the regulations to improve clarity, and the need for additional and shorter sections became acute. Therefore, on May 29, 1998 (63 FR 29487), we published a final rule redesignating the sections of 30 CFR part 250 "Oil and Gas and Sulphur Operations in the Outer Continental Shelf." That rulemaking action allotted 100 sections to each subpart and provided the flexibility to better organize our regulations.

As further background, MMS has issued NTLs and Letters to Lessees and Operators (LTLs) to explain and clarify its regulations. We no longer issue LTLs, and we issue NTLs only when necessary. We rescind NTLs that have served their short-term purpose and now regularly review our long-term NTLs—both regional and national—to keep them up-to-date and to ensure their accuracy and applicability.

MMS must comply with the National Environmental Policy Act (NEPA), its implementing regulations issued by the Council on Environmental Quality at 40 CFR parts 1500 through 1508, and policies of the Department of the Interior (DOI) and MMS. According to NEPA requirements, MMS must prepare an Environmental Assessment (EA) in connection with its review of plans for activities on the OCS. The contents of plans must be sufficient to support a sound analysis of potential environmental impacts that may result from the proposed activity. The appropriate MMS Region prepares these analyses for every plan received.

However, the NEPA regulations (40 CFR 1508.4) do allow agencies to exclude categories of actions from the preparation of an EA or an Environmental Impact Statement (EIS) when agency procedures have demonstrated these actions—individually or cumulatively—do not have a significant effect on the environment.

MMS follows the procedures outlined in the DOI's Departmental Manual (516 DM 15) to categorically exclude ("CATEX") routine OCS lease or unit plans in the Western and Central GOM Planning Areas unless certain exceptions are present. Some exceptions pertain to the nature of the proposed activity and others to the nature of potential environmental impacts that may result from the activity. When we process plans using a Categorical Exclusion Review (CER), we review the proposed activity and the potential environmental impacts at the proposed site. These do not require MMS to prepare an EA, and we limit the information that you are required to submit. We prepare an EA in our review of plans that meet the criteria of any of the specified exceptions to the CATEX criteria, and, in those cases, you are required to submit a full suite of information. As required by NEPA, if our EA concludes that significant impacts will result from the proposed activity, we will prepare an EIS.

Whether MMS reviews plans through the CER or EA process, we require that environmental impacts are avoided or diminished to an acceptable level through plan amendments and/or conditions we impose in the plan approval.

In addition to supporting the environmental analyses, MMS needs the information included in a plan to demonstrate that the proposed activity will not violate pertinent Federal laws intended to protect the marine, coastal, and human environment (Coastal Zone Management Act (CZMA), Clean Air Act, Endangered Species Act, Marine Mammal Protection Act, National Historic Preservation Act, etc.).

Proposed Changes to Subpart B Regulations

In rewriting subpart B, we incorporated many of the detailed procedures and processes that were addressed previously in LTLs and NTLs. Thus, although the proposed rule may appear to contain many changes from the text of the current 30 CFR part 250, subpart B, including expanded lists of data and information to be submitted, the rewritten regulations basically would reflect current requirements and ongoing practices as conveyed to operators via NTLs and former LTLs.

There are, however, some new or expanded areas. Following is a list of the major changes we are proposing in this rule:

(1) *Definitions*—250.200: We added definitions to explain certain terms used in the rule. Note that the terms "amendment," "modification," and "revised OCS plan" (revision) are not used synonymously in the rule and are used to distinguish certain types of changes that can be made to a pending or approved OCS plan. For ease of reference, we provided the definitions for "exploration," "development," and "production" verbatim from 30 CFR part 250, subpart A (§ 250.105).

(2) *Conservation*—§§ 250.203 and 250.204: We have added language to further clarify and emphasize conservation practices. This language will ensure the proper development of economically producible reservoirs according to sound conservation, engineering, and economic practices.

(3) *Comprehensive Environmental Management Plan*—§ 250.201(c)(3): The rule proposes to allow a lessee or operator to submit a comprehensive environmental management plan in lieu of repetitive submissions of the same environmental data and information for each lease or unit in the same/similar environment. Such plans are increasing in use and form part of the ongoing management process of many lessees/operators. We welcome your views on this concept and how it could be implemented to be effective.

(4) *Electronic Filing*—§ 250.206(c): The proposed regulations allow for electronic filing of EPs, DOCDs, DPPs, and their accompanying information to expedite their review.

(5) *Ancillary Activities*—§§ 250.207 to 250.210: With respect to those activities you conduct, without approval of an application or permit, to obtain information to ensure proper exploration or development of your lease or unit, the current regulations only address "preliminary" activities that are conducted prior to submitting an EP, DPP, or DOCD. We are not using the term "preliminary activities" in the proposed rule. Instead, we use the term "ancillary" activities, and the proposed rule covers ancillary activities that could be conducted "after," as well as before, you submit an EP, DPP, or DOCD to MMS. We also added the terms "development geophysical activities" and "geophysical and geological explorations" to clarify certain types of ancillary activities.

(6) *Written Notice*—§ 250.208: The rule contains requirements on conducting certain on-lease G&G explorations or development geophysical activities that are ancillary activities. Lessees must give MMS a written notice before beginning any such ancillary activities, including those conducted after an OCS plan is approved. This is not a new requirement. Various NTLs describe this notice. The notice enables us to better ensure safe use and environmental protection of the OCS with respect to certain G&G activities. Notification also makes us aware of significant sets of valuable data that we could and should incorporate into MMS analyses and MMS-funded studies.

(7) *Other Requirements Related to Notice of Certain Ancillary Activities*—§§ 250.208(c) and 250.209: Along with the notice requirement, lessees and operators may be required to prepare and submit a report; retain certain data and information; and notify other users of the OCS before conducting ancillary activities.

(8) *Detailing Accompanying Information*—§§ 250.212 and 250.242: The rule details what information must accompany EPs, DPPs, and DOCDs. We make our decision to approve, require modification of, or disapprove OCS plans based on our evaluation of the accompanying information, as well as the plan contents. If MMS determines that a plan has inadequate accompanying information, or if it omits accompanying information, then we will not deem it submitted.

The proposed rule clarifies that our adequacy review will not begin until we receive both the OCS plan and its accompanying information. Our objective is efficiency—so that lessees and operators provide MMS with all required information for OCS Lands Act, NEPA, and CZMA purposes at the beginning of the process. These regulations and the related draft NTL notify industry "up front" of the information needed for expeditious review of an OCS plan, thereby reducing the need for additional filings and costly delays. This will benefit industry and MMS long-term, particularly in those cases when an EA is required.

(9) *Detailing Cooling Water Intake Information*—§§ 250.217 and 250.248: The rule contains new requirements for EPs, DPPs, and DOCDs, which briefly summarize information on cooling water intake structures and mitigation measures for reducing adverse environmental impacts and biofouling of intake structures.

(10) *Environmental Impact Analysis (EIA)*—§§ 250.227 and 250.261: Environmental information "reports" are currently required for CZMA and NEPA purposes and to determine compliance with other Federal laws. The rule replaces these environmental reports with a reference to applicable regulations at 15 CFR 930 for required CZMA information and an EIA for use in our NEPA analysis. The EIA information will aid but not replace MMS's NEPA evaluation.

(11) *Change in Timeframes for Deemed-submitted Review*—§§ 250.231 and 250.266: The rule increases the time MMS can take to determine if a plan is deemed submitted from 10 to 15 working days for EPs, and from 20 to 25

working days for DPPs and DOCDs. The OCS Lands Act requires MMS to make a decision on plans within 30 days after they are submitted. However, as noted above, if we determine during our review that information is missing or not adequate for us to make a decision, the plan will not be deemed to have been submitted. Allowing adequate time before the decisionmaking period starts to determine that the plan and accompanying information fulfill requirements and are sufficiently accurate, can avoid multiple delays later in the review process and is more efficient.

(12) *Development Operations Coordination Document (DOCD)*—§ 250.241: The proposed rule would treat DPPs and DOCDs the same way. DOCDs are submitted for the Western GOM only. Current regulations state that any information submitted in DOCDs under the provisions at § 250.204(d)(1) and (d)(2) "shall be considered a Development and Production Plan for the purpose of references in any law, regulation, lease provision, agreement, or other document referring to the preparation or submission of a plan." Therefore, MMS proposes to deal with them together.

(13) *Deepwater Operations Plans (DWOP)*—§§ 250.288 to 295: We added several new sections pertaining to DWOPs. NTL 2000–N06 currently outlines the procedures for these plans. The DWOP provides us with information specific to floating production system and subsea equipment issues to demonstrate that such a project is being planned in an acceptable manner. The proposed rule incorporates the NTL procedures.

(14) *Conservation Information Documents (CID)*—§§ 250.296 to 299: We added a few sections pertaining to CIDs. NTL 2000–N05 currently outlines the procedures for these documents. We have added a statement to re-emphasize our commitment to conservation. The proposed rule incorporates the NTL procedures.

Derivation Table

The derivation table below shows where the proposed requirements come from in relation to the current sections.

Proposed new section and title		Current section
250.200	Definitions	New.
250.201	What plans and information must I submit before I conduct any activities on my lease or unit?	250.200; 250.203(b)(21), (c), and (d); 250.204(b)(17), (c), and (e).
250.202	What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?	New.
250.203	Where can wells be located under an EP, DPP or DOCD?	250.202(a).
250.204	How must I protect MMS' rights?	250.202(b) and (c).
250.205	Are there special requirements if my well affects an adjacent property?	250.202(b).
250.206	How do I submit the EP, DPP, or DOCD?	New.
250.207	What ancillary activities may I conduct?	250.201.
250.208	If I conduct ancillary activities, what notices must I provide?	250.201.
250.209	What is the MMS review process for the notice?	New.
250.210	If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?	New.
250.211	What must the EP include?	250.203(a).
250.212	What information must accompany the EP?	250.203(b).
250.213	What general information must accompany the EP?	250.203(b)(4), (6), and (20).
250.214	What geological and geophysical (G&G) information must accompany the EP?	250.203(b).
250.215	What hydrogen sulfide (H2S) information must accompany the EP?	250.203(b)(5).
250.216	What biological, physical, and socioeconomic information must accompany the EP?	250.203(b)(10) through (b)(15).
250.217	What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?	250.203(b)(9) New.
250.218	What air emissions information must accompany the EP?	250.203(b)(19).
250.219	What oil and hazardous substance spills information must accompany the EP?	250.203(b)(2).
250.220	If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?	250.203(a)(2).
250.221	What environmental monitoring information must accompany the EP?	250.203(b)(16).
250.222	What lease stipulations information must accompany the EP?	250.203(b)(3).
250.223	What mitigation measures information must accompany the EP?	New.
250.224	What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the EP?	250.203(b)(7).
250.225	What information on the onshore support facilities you will use must accompany the EP?	250.203(b)(7) and (8).
250.226	What Coastal Zone Management Act (CZMA) certification must accompany the EP?	250.203(b)(18).
250.227	What environmental impact analysis (EIA) information must accompany the EP?	250.203(b)(17).
250.228	What administrative information must accompany the EP?	New.
250.231	After receiving the EP, what will MMS do?	250.203(e).
250.232	What actions will be taken after the EP is deemed submitted?	250.203(f), (g), and (h).
250.233	What decisions will MMS make on the EP and within what timeframe?	250.203(i), (j), and (m).
250.234	How do I submit a modified EP or resubmit a disapproved EP, and when will MMS make a decision?	250.203(k)(1) and (2).
250.235	If a State objects to the EP's coastal zone consistency certification, what can I do?	250.203(l).
250.241	What must the DPP or DOCD include?	250.204(a).
250.242	What information must accompany the DPP or DOCD?	250.204(b).
250.243	What general information must accompany the DPP or DOCD?	250.204(b)(7), (8)(ii), (15), and (16).
250.244	What geological and geophysical (G&G) information must accompany the DPP or DOCD?	250.204(b)(1).
250.245	What hydrogen sulfide (H_2S) information must accompany the DPP or DOCD?	250.204(b)(2).
250.246	What mineral resource conservation information must accompany the DPP or DOCD?	250.204(b)(5).
250.247	What biological, physical, and socioeconomic information must accompany the DPP or DOCD?	250.204(b)(8)(v).

Proposed new section and title		Current section
250.248	What solid and liquid wastes and discharges information and cooling water intakeinformation must accompany the DPP or DOCD?	250.204(b)(8)(ii) and (b)(8)(iii) New.
250.249	What air emissions information must accompany the DPP or DOCD?	250.204(b)(14).
250.250	What oil and hazardous substance spills information must accompany the DPP or DOCD?	250.204(b)(3).
250.251	If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?	New.
250.252	What environmental monitoring information must accompany the DPP or DOCD?	250.204(b)(8)(v)(H).
250.253	What lease stipulations information must accompany the DPP or DOCD?	250.204(b)(4).
250.254	What mitigation measures information must accompany the DPP or DOCD?	New.
250.255	What decommissioning information must accompany the DPP or DOCD?	New.
250.256	What related facilities and operations information must accompany the DPP or DOCD?	250.204(b)(8)(i).
250.257	What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?	250.204(b)(8)(i) (C).
250.258	What information on the onshore support facilities you will use must accompany the DPP or DOCD?	250.204(b)(8)(iv).
250.259	What sulphur operations information must accompany the DPP or DOCD?	250.204(b)(9) and (10).
250.260	What Coastal Zone Management Act (CZMA) certification must accompany the DPP or DOCD?	250.204(b)(13).
250.261	What environmental impact analysis (EIA) information must accompany the DPP or DOCD?	250.204(b)(11).
250.262	What administrative information must accompany the DPP or DOCD?	New.
250.266	After receiving the DPP or DOCD, what will MMS do?	250.204(f).
250.267	What actions will be taken after the DPP or DOCD is deemed submitted?	250.204(g), (h), and (i).
250.268	How does MMS respond to recommendations?	250.204(h).
250.269	How will MMS evaluate the environmental impacts of the DPP or DOCD?	250.204(j) and (k).
250.270	What decisions will MMS make on the DPP or DOCD and within what timeframe?	250.204(l), (m), and (p).
250.271	For what reasons will MMS disapprove the DPP or DOCD?	250.204(l)(3).
250.272	If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?	250.204(o)(2).
250.273	How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?	250.204(n) and (o)(1).
250.274	When can I expect a decision from MMS on the modified or resubmitted DPP or DOCD?	250.204(n).
250.280	How must I conduct activities under the approved EP, DPP, or DOCD?	250.200; 250.203(q); 250.204(r) and (u).
250.281	What must I do to conduct activities under the approved EP, DPP, or DOCD?	250.203(p); 250.204(t).
250.282	Do I have to conduct post-approval monitoring?	250.203(o); 250.204(s)
250.283	When must I revise or supplement the approved EP, DPP, or DOCD?	New.
250.284	How will MMS require revisions to the approved EP, DPP, or DOCD?	250.203(n)(1); 250.204(q)(1).
250.285	How do I submit revised and supplemental EPs, DPPs, or DOCDs?	250.203(n)(2); 250.204(q)(2).
250.288	When must I submit a DWOP?	New.
250.289	Why do I need to submit a DWOP?	New.
250.290	What are the three parts of a DWOP?	New.
250.291	What must the Conceptual Part of a DWOP contain?	New.
250.292	What must the Preliminary Part of a DWOP contain?	New.
250.293	What must the Final Part of a DWOP contain?	New.
250.294	Where do I send the DWOP?	New.
250.295	When will the Regional Supervisor approve or disapprove the DWOP?	New.
250.296	When and why must I submit a CID?	New.
250.297	What information must a CID contain?	New.
250.298	How do I submit a CID?	New.
250.299	What decisions will MMS make on the CID?	New.

Procedural Matters

Public Comments Procedures

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Regulatory Planning and Review (Executive Order 12866)

This proposed rule is not a significant rule under Executive Order 12866. The Office of Management and Budget (OMB) has determined that it is not a significant rule and will not review the rule.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The major purpose for this proposed rule is the restructuring of the rule and clarifying the regulatory language. The restructuring and plain-language revisions will not result in any economic effects to small or large entities. Some of the proposed technical revisions will have a minor economic effect on lessees and operators with respect to the paperwork requirements. Although we estimate a total annual paperwork burden of 267,880 hours for all entities, this includes an actual increase of only 7,510 hours. Using a standard hourly cost of $50 to determine the paperwork burden, the increase would be $375,500. Based on 130 lessees/operators, the average increase is approximately $2,900 per entity from the current regulation. These costs will not cause an annual effect on the economy of $100 million.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule does not affect how lessees or operators interact with other agencies. Nor does this rule affect how MMS will interact with other agencies.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The rule only addresses the requirements and processes for submitting various plans and documents for MMS review and approval before an operator may explore, develop, or produce oil and gas in the OCS.

(4) This rule does not raise novel legal or policy issues. The rule involves a new policy issue, that of requiring a written notice to MMS before beginning certain ancillary activities and any G&G activity under a plan, but the new policy decision is not "novel." Under our regulations at 30 CFR part 251, MMS requires an application for a permit or the filing of a notice before allowing certain types of prelease G&G activities. The new requirement in the rule would enable MMS to better ensure safe use and environmental protection of the OCS. Notification would enable MMS to be aware of significant sets of valuable data that could and should be incorporated into MMS analyses and MMS-funded studies.

Regulatory Flexibility (RF) Act

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). This rule applies to all lessees that operate on the OCS. Small lessees that operate under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. Under these codes, SBA considers all companies with fewer than 500 employees to be a small business. We estimate that of the 130 lessees that explore for and produce oil and gas on the OCS, approximately 90 are small businesses (70 percent). The primary economic effect of the revised subpart B on small businesses is the cost associated with information collection activities. The rule is a plain-language rewrite of 30 CFR part 250, subpart B, and contains virtually all the same reporting and recordkeeping requirements and attendant costs as the existing regulations. The changes in reporting requirements will not significantly increase the information collection hour burden on respondents—large or small. We estimate an annual increase of 7,510 hours in the paperwork burden from that imposed by the current regulations. Using a standard hourly cost of $50, this represents a cost burden increase of $375,500. The following is a breakdown of the paperwork cost burden associated with the new or expanded requirements:

- Respondents may be required to submit a report that summarizes and analyzes information obtained or derived from ancillary activities. We estimate the burden would only be to provide MMS copies of the company documentation and report and would be 1 hour or $50 per report. We estimate 20 reports annually, for a cost burden increase of $1,000.
- We estimate the overall average burden of a plan (EP, DPP, or DOCD) to increase by approximately 20 hours or $1,000 per plan. We estimate 260 EPs and 100 DPPs or DOCDs, for a total of 360 plans or a cost burden increase of $360,000.
- Respondents may be required to submit monitoring plans for approval before beginning work estimated to take 1 hour or $50 per plan. We estimate 30 plans annually, for a cost burden increase of $1,500.
- Respondents may be required to retain copies of all monitoring data obtained or derived from monitoring programs. The burden would only be to make the information available to MMS. We estimated a burden of 2 hours or $100 annually per respondent and the number of respondents to be 130. The estimated annual cost burden increase would be $13,000.

Adding the increased paperwork cost burden amounts, we have a total of $375,000. ($1,000 + $360,000 + $1,500 + $13,000 = $375,500.) Thus, based on 130 lessees/operators, the average increase is $2,900, for both large and small entities.

As discussed above, we do not believe that this rule will have a significant impact on the lessees who explore for and produce oil and gas on the OCS, including those that are classified as small businesses.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)) the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. As described above, we estimate an annual increase of $2,900 per respondent. These costs will not cause an annual effect on the economy of $100 million.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The minor increase in cost will not change the way the oil and gas industry conducts business, nor will it affect regional oil and gas prices; therefore, it will not cause major cost increases for consumers, the oil and gas industry, or any Government agencies.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises. All lessees and drilling contractors, regardless of nationality, will have to comply with the requirements of this rule. So the rule will not affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Paperwork Reduction Act (PRA) of 1995

The rule contains a collection of information that has been submitted to OMB for review and approval under § 3507(d) of the PRA. The title of the collection of information for this rule is "Proposed Rulemaking—30 CFR 250, Subpart B—Outer Continental Shelf Plans" (OMB control number 1010–NEW). Respondents include approximately 130 Federal OCS oil and gas or sulphur lessees and operators. The frequency of response is on occasion. Responses to this collection of information are mandatory. MMS will protect proprietary information according to the Freedom of Information Act and 30 CFR 250.196, "Data and information to be made available to the public."

The information collection burden in the current subpart B regulations is approved by OMB under control number 1010–0049. The following details the proposed changes to the information collection requirements of the current regulations:

Section 250.208—Ancillary Activities Notice. Before beginning certain "ancillary" activities and any G&G activity approved under a plan, respondents must notify MMS. Under the current regulations, respondents notify MMS of certain types of "preliminary" activities. The rule revises the current procedures to include notifying MMS both before (preliminary) and after submitting a plan. The proposed rule also incorporates current procedures that respondents also may be required to notify other users of the OCS before conducting ancillary activities. However, the burden for these notifications is included under the current subpart B information collection approval. Therefore, the rule would not impose additional burden hours (no change).

Section 250.210(a)—Ancillary Activities Report. Respondents may be required to submit a report that summarizes and analyzes information obtained or derived from ancillary activities. Although this is a new reporting requirement, companies conducting ancillary activities prepare their own internal reports to document the results of these activities in the normal course of doing business. We estimate the burden would be only to provide MMS copies of the company documentation and report (plus 1 hour per report).

Section 250.210(b)—Ancillary Activities Recordkeeping. The rule incorporates records retention specified in current NTLs and former LTLs for all survey and study information and data obtained or derived from ancillary activities (preliminary activities), including information from previous leaseholders or unit operators. The burden for this recordkeeping activity has been approved under the current subpart B information collection approval. Therefore, the rule would not impose additional burden hours (no change).

Section 250.211 through 250.228 and sections 250.241 through 250.262—Contents of EPs, DPPs or DOCDs. In estimating the burden of the current regulations, we used 580 hours as the average paperwork burden for submitting a plan. That estimate included furnishing all of the information required in the plan, as well as the supporting detail (i.e., surveys, reports, studies, conservation information, forms used in the GOM OCS Region, etc.). The rule simply incorporates much of the information from current NTLs and former LTLs and imposes few new changes to the information submitted in the plans and accompanying information. The proposed GOM OCS Regional NTL includes one new form (Environmental Impact Analysis Matrix) for use in this region. The amended regulations should have minimal impact on the overall average burden of submitting a plan (plus 20 hours per plan).

Section 250.282—Monitoring Recordkeeping. Respondents may be required to retain copies of all monitoring data obtained or derived from monitoring programs. As with recordkeeping for ancillary activities, respondents would retain this information in the normal course of business. The burden would only be to make the information available to MMS, if requested (2 hours annually per respondent).

Section 250.282(a)—Monitoring Plans. Respondents may be required to submit monitoring plans for approval before beginning work (1 hour per plan).

Section 250.288 through section 250.299—DWOPs and CIDs. Although these are being incorporated into the regulations from current NTLs, the burden has been covered under the burden for current subpart B information collection approval. Therefore, the rule would not impose additional burden hours (no change).

We estimate the total annual reporting and recordkeeping "hour" burden for the rule will be 267,880 hours, of which only 7,510 hours is for the revised paperwork requirements. Following is a breakdown of the burden estimate.

BURDEN BREAKDOWN

Citation 30 CFR 250 Subpart B	Reporting & recordkeeping	Hour burden per requirement	Average annual number	Annual burden hours
200 through 206	General requirements for plans and information	Burden included with specific requirements below		0
208	Notify MMS and other users of the OCS before conducting ancillary activities.	10	20 notices	200
210(a) [New]	Submit report summarizing & analyzing data/information obtained or derived from ancillary activities.	1	20 reports	20
210(b)	Retain ancillary activities data/information	2	130 record-keepers	260
211 through 228 [Expanded]	Submit EP and accompanying information (including forms MMS–137, MMS 138, MMS–NEW used in GOM OCS Region) and provide notifications.	600	260 plans	156,000
232(d); 234; 235(a); 281(d)(3); 283; 284; 285.	Submit amended, modified, revised, or supplemental EP, or resubmit disapproved EP.	80	180 changed plans	14,400
241 through 262 [Expanded]	Submit DPP or DOCD and accompanying information (including forms MMS–137, MMS 139, MMS–NEW used in GOM OCS Region) and provide notifications.	600	100 plans	60,000
267(d); 272(a); 273, 283; 284; 285.	Submit amended, modified, revised, or supplemental DPP or DOCD, or resubmit disapproved DPP or DOCD.	82	215 changed plans	17,630
269(b)	Submit information on preliminary plans for leases or units in vicinity of proposed development and production activities.	2	10 responses	20
281(a)	Submit various applications and permits	Burden included under appropriate subpart or form (1010–0044; 1010–0059; 1010–0058; 1010–0050).		0
282 [New]	Retain monitoring data/information	2	130 record-keepers	260
282(a) [New]	Submit monitoring plans	1	30 plans	30
282(b)	Submit monitoring reports and data (including Form MMS–141 used in the GOM OCS Region).	6	30 reports	180
288 through 294	Submit DWOP	580	17 plans	9,860
296 through 298	Submit CID	300	30 documents	9,000

BURDEN BREAKDOWN—Continued

Citation 30 CFR 250 Subpart B	Reporting & recordkeeping	Hour burden per requirement	Average annual number	Annual burden hours
200 through 299	General departure and alternative compliance requests not specifically covered elsewhere in subpart B regulations.	2	10 requests	20
Total Burden			1,182	267,880

Information Collection Comments: As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. You may submit your comments directly to the Office of Information and Regulatory Affairs, OMB. Please provide MMS with a copy of your comments so that we can summarize all written comments and address them in the final rule preamble. Refer to the **ADDRESSES** section for mailing instructions. You may obtain a copy of the supporting statement for the new collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves the collection of information and assigns an OMB control number, you are not required to respond. OMB is required to make a decision concerning the collection of information of this proposed regulation between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by June 17, 2002. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

a. MMS specifically solicits comments on the following questions:

(1) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(2) Are the estimates of the burden hours of the proposed collection reasonable?

(3) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(4) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

b. In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping "non-hour cost" burden resulting from the collection of information. We have not identified any, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components:

(1) Total capital and start-up cost component, and (2) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to comply with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of customary and usual business or private practices.

Federalism (Executive Order 13132)

According to Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State Governments. The rule applies to lessees that operate on the OCS. This rule does not impose costs on States or localities. Any costs will be the responsibility of the lessees/operators.

Takings Implication Assessment (Executive Order 12630)

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required. The rule revises existing operation regulations. It does not prevent any lessee, operator, or drilling contractor from performing operations on the OCS, provided they follow the regulations. Thus, MMS did not need to prepare a Takings Implication Assessment according to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866. The rule does not have a significant effect on energy supply, distribution, or use because the major purpose for this rule is the restructuring of the rule and clarifying regulatory language. The rule addresses the requirements and processes for submitting various plans and documents for MMS approval before an operator may explore, develop, or produce oil and gas in the OCS and contains virtually all the same reporting and recordkeeping requirements and attendant costs as the existing regulations. There are some new or expanded areas of this rule that will only be incorporated into a final rule after a thorough analysis of public comments we receive.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not required.

Unfunded Mandates Reform Act (UMRA) of 1995 (Executive Order 12866)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have any Federal mandates nor does the rule have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interfere with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*

List of Subjects in 30 CFR Part 250

Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Outer continental shelf, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: April 23, 2002.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

For reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. Subpart B and its title are revised to read as follows:

Subpart B—Plans and Information

General Information

Sec.
250.200 Definitions.
250.201 What plans and information must I submit before I conduct any activities on my lease or unit?
250.202 What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?
250.203 Where can wells be located under an EP, DPP or DOCD?
250.204 How must I protect MMS' rights?
250.205 Are there special requirements if my well affects an adjacent property?
250.206 How do I submit the EP, DPP, or DOCD?

Ancillary Activities

250.207 What ancillary activities may I conduct?
250.208 If I conduct ancillary activities, what notices must I provide?
250.209 What is the MMS review process for the notice?
250.210 If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?

Contents of Exploration Plans (EP)

250.211 What must the EP include?
250.212 What information must accompany the EP?
250.213 What general information must accompany the EP?
250.214 What geological and geophysical (G&G) information must accompany the EP?
250.215 What hydrogen sulfide (H_2S) information must accompany the EP?
250.216 What biological, physical, and socioeconomic information must accompany the EP?
250.217 What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?
250.218 What air emissions information must accompany the EP?
250.219 What oil and hazardous substance spills information must accompany the EP?
250.220 If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?
250.221 What environmental monitoring information must accompany the EP?
250.222 What lease stipulations information must accompany the EP?
250.223 What mitigation measures information must accompany the EP?
250.224 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the EP?
250.225 What information on the onshore support facilities you will use must accompany the EP?
250.226 What Coastal Zone Management Act (CZMA) certification must accompany the EP?
250.227 What environmental impact analysis (EIA) information must accompany the EP?
250.228 What administrative information must accompany the EP?

Review and Decision Process for the EP

250.231 After receiving the EP, what will MMS do?
250.232 What actions will be taken after the EP is deemed submitted?
250.233 What decisions will MMS make on the EP and within what timeframe?
250.234 How do I submit a modified EP or resubmit a disapproved EP, and when will MMS make a decision?
250.235 If a State objects to the EP's coastal zone consistency certification, what can I do?

Contents of Development and Production Plans (DPP) and Development Operations Coordination Documents (DOCD)

250.241 What must the DPP or DOCD include?
250.242 What information must accompany the DPP or DOCD?
250.243 What general information must accompany the DPP or DOCD?
250.244 What geological and geophysical (G&G) information must accompany the DPP or DOCD?
250.245 What hydrogen sulfide (H_2S) information must accompany the DPP or DOCD?
250.246 What mineral resource conservation information must accompany the DPP or DOCD?
250.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?
250.248 What solid and liquid wastes and discharges information and cooling water intake information must accompany the DPP or DOCD?
250.249 What air emissions information must accompany the DPP or DOCD?
250.250 What oil and hazardous substance spills information must accompany the DPP or DOCD?
250.251 If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?
250.252 What environmental monitoring information must accompany the DPP or DOCD?
250.253 What lease stipulations information must accompany the DPP or DOCD?
250.254 What mitigation measures information must accompany the DPP or DOCD?
250.255 What decommissioning information must accompany the DPP or DOCD?
250.256 What related facilities and operations information must accompany the DPP or DOCD?
250.257 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?
250.258 What information on the onshore support facilities you will use must accompany the DPP or DOCD?
250.259 What sulphur operations information must accompany the DPP or DOCD?
250.260 What Coastal Zone Management Act (CZMA) certification must accompany the DPP or DOCD?

250.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?
250.262 What administrative information must accompany the DPP or DOCD?

Review and Decision Process for the DPP or DOCD

250.266 After receiving the DPP or DOCD, what will MMS do?
250.267 What actions will be taken after the DPP or DOCD is deemed submitted?
250.268 How does MMS respond to recommendations?
250.269 How will MMS evaluate the environmental impacts of the DPP or DOCD?
250.270 What decisions will MMS make on the DPP or DOCD and within what timeframe?
250.271 For what reasons will MMS disapprove the DPP or DOCD?
250.272 If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?
250.273 How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?
250.274 When can I expect a decision from MMS on the modified or resubmitted DPP or DOCD?

Post-Approval Requirements for the EP, DPP, and DOCD

250.280 How must I conduct activities under the approved EP, DPP, or DOCD?
250.281 What must I do to conduct activities under the approved EP, DPP, or DOCD?
250.282 Do I have to conduct post-approval monitoring?
250.283 When must I revise or supplement the approved EP, DPP, or DOCD?
250.284 How will MMS require revisions to the approved EP, DPP, or DOCD?
250.285 How do I submit revised and supplemental EPs, DPPs, or DOCDs?

Deepwater Operations Plans (DWOP)

250.288 When must I submit a DWOP?
250.289 Why do I need to submit a DWOP?
250.290 What are the three parts of a DWOP?
250.291 What must the Conceptual Part of a DWOP contain?
250.292 What must the Preliminary Part of a DWOP contain?
250.293 What must the Final Part of a DWOP contain?
250.294 Where do I send the DWOP?
250.295 When will the Regional Supervisor approve or disapprove the DWOP?

Conservation Information Documents (CID)

250.296 When and why must I submit a CID?
250.297 What information must a CID contain?
250.298 How do I submit a CID?
250.299 What decisions will MMS make on the CID?

General Information

§ 250.200 Definitions.

Acronyms and terms used in this subpart have the following meanings:

(a) *Acronyms* used frequently in the rule are alphabetically listed here:

CID means Conservation Information Document

CZM means Coastal Zone Management

DOCD means Development Operations Coordination Document

DPP means Development and Production Plan

DWOP means Deepwater Operations Plan

EIA means Environmental Impact Analysis

EP means Exploration Plan.

NPDES means National Pollutant Discharge Elimination System

NTL means Notice to Lessees and Operators

(b) Terms used in this subpart are listed here:

Act means the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*

Amendment means a change you make to an Exploration Plan, Development and Production Plan, or Development Operations Coordination Document that is pending before MMS for a decision (see §§ 250.232(d) and 250.267(d)).

Ancillary activities means those activities on your lease or unit that:

(1) You conduct to obtain information to ensure the proper exploration or development of your lease or unit;

(2) Do not need to be covered by an approved Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD); and

(3) You can conduct without MMS approval of an application or permit.

Development means those activities that take place following discovery of minerals in paying quantities, including but not limited to geophysical activity, drilling, platform construction, and operation of all directly related onshore support facilities, and which are for the purpose of producing the minerals discovered (see § 250.105).

Development geophysical activities means those geophysical and related data-gathering activities on your lease or unit that take place following discovery of oil, gas, or sulphur in paying quantities.

Exploration means the commercial search for oil, gas, or sulphur. Activities classified as exploration include but are not limited to:

(1) Geophysical and geological (G&G) surveys using magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulphur; and

(2) Any drilling conducted for the purpose of searching for commercial quantities of oil, gas, and sulphur, including the drilling of any additional well needed to delineate any reservoir to enable the lessee to decide whether to proceed with development and production (see § 250.105.)

Geophysical and geological explorations means those geophysical and geological surveys on your lease or unit that use seismic reflection, seismic refraction, magnetic, gravity, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulphur in commercial quantities.

Modification means a change required by the Regional Supervisor to an EP, DPP, or DOCD (see § 250.233(b)(2) for an EP, or § 250.270(b)(2) for a DPP or a DOCD) that is pending before MMS for a decision because the OCS plan is inconsistent with applicable requirements.

New or unusual technology means equipment and/or procedures that:

(1) Function in a manner that potentially causes different impacts to the environment than the equipment or procedures did in the past;

(2) Have not been used previously or extensively in an MMS OCS Region;

(3) Have not been used previously under the anticipated operating conditions; or

(4) Have operating characteristics that are outside the performance parameters established by this Part.

Production means those activities that take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover operations (see § 250.105).

Prospect means a geologic feature having the potential for mineral deposits.

Resubmitted OCS plan means an EP, DPP, or DOCD that contains changes you make to a plan that MMS has disapproved.

Revised OCS plan means an EP, DPP, or DOCD that proposes changes to an approved OCS plan, such as those in the location of a well or platform, type of drilling unit, or location of the onshore support base (see § 250.283(a)).

Supplemental OCS plan means an EP, DPP, or DOCD that proposes the addition to an approved OCS plan of an activity that requires approval of an application or permit (see § 250.283(b)).

§ 250.201 What plans and information must I submit before I conduct any activities on my lease or unit?

(a) *Plans and documents.* Before you conduct any activities on your lease or unit, you must submit, and MMS must approve, the following plans and documents. Your plans and documents may cover one or more leases or units.

You must submit a(n)—	Before you—
(1) Exploration Plan (EP)	Conduct any exploration activities (see definition under § 250.105) on a lease or unit.
(2) Development and Production Plan (DPP).	Conduct any development and production (see definition under § 250.105) activities on a lease or unit in any OCS area other than the western Gulf of Mexico (GOM) (see definition under § 250.105).
(3) Development Operations Coordination Document (DOCD).	Conduct any development and production activities on a lease or unit in the western GOM.
(4) Deepwater Operations Plan (DWOP).	(i) Conduct any activities in any water depth associated with: (A) A development project that will involve the use of a floating production system; or (B) A development project that will involve the use of subsea production technology.
(5) Conservation Information Document (CID).	(i) Conduct any activities associated with: (A) A development project that will involve the use of a structure other than a conventional steel-piled jacket platform in water depths greater than 1,312 feet (400 meters); or (B) A development project that will involve the use of subsea production technology at any water depth.
(6) EP, DPP, or DOCD	(i) Conduct a geophysical and geological exploration or a development geophysical activity (see definitions under § 250.200) on your lease or unit when: (A) It will result in a physical penetration of the seabed greater than 500 feet (152 meters); (B) It will involve the use of explosives; (C) The Regional Director determines that it might have a significant adverse effect on the human, marine, or coastal environment; or (D) The Regional Supervisor, after reviewing a notice under § 250.209, determines that an EP, DPP, or DOCD is necessary.

(b) *Submitting additional information.* On a case-by-case basis, the Regional Supervisor may require you to submit additional information if the Regional Supervisor determines that it is necessary to evaluate your proposed plan or document.

(c) *Limiting information.* The Regional Director may limit the amount of information or analyses that you otherwise must provide in your proposed plan or document under this subpart when:

(1) Sufficient information or analysis is readily available to MMS;

(2) Other coastal or marine resources are not present or affected;

(3) You conduct activities according to a comprehensive environmental management program; or

(4) Other factors such as technological advances affect information needs.

(d) *Referencing.* In preparing your proposed plan or document, you may reference information and data discussed in other plans or documents you previously submitted or that are otherwise readily available to MMS.

§ 250.202 What criteria must the Exploration Plan (EP), Development and Production Plan (DPP), or Development Operations Coordination Document (DOCD) meet?

Your EP, DPP, or DOCD must demonstrate that you have planned and are prepared to conduct the proposed activities in a manner that:

(a) Conforms to the Act, as amended, applicable implementing regulations, and lease provisions and stipulations;

(b) Is safe;

(c) Conforms to sound conservation practices and protects the rights of the lessor;

(d) Does not unreasonably interfere with other uses of the OCS, including those involved with national security or defense; and

(e) Does not cause undue or serious harm or damage to the human, marine, or coastal environment.

§ 250.203 Where can wells be located under an EP, DPP or DOCD?

The Regional Supervisor reviews and approves proposed well location and spacing under an EP, DPP or DOCD. In deciding whether to approve a proposed well location and spacing, the Regional Supervisor will consider factors including, but not limited to, the following:

(a) Protecting correlative rights;

(b) Recovering optimum resources;

(c) Number of wells that can be economically drilled for proper reservoir management;

(d) Location of drilling units and platforms;

(e) Extent and thickness of the reservoir;

(f) Geologic and other reservoir characteristics;

(g) Minimizing environmental risk;

(h) Preventing unreasonable interference with other uses of the OCS; and

(i) Drilling of unnecessary wells.

§ 250.204 How must I protect MMS' rights?

(a) You must either:

(1) Drill and produce the wells that the Regional Supervisor determines are necessary to protect MMS from loss due to production on other leases or units; or

(2) Pay a sum that the Regional Supervisor determines and approves as adequate to compensate MMS for your failure to drill and produce any well.

(b) Payment under paragraph (a)(2) of this section constitutes production in paying quantities for the purpose of extending the lease term.

(c) You must complete and produce any penetrated hydrocarbon-bearing zone that the Regional Supervisor determines is necessary to conform to sound conservation practices.

§ 250.205 Are there special requirements if my well affects an adjacent property?

For wells that could intersect or drain an adjacent property, the Regional Supervisor may require special measures to protect the rights of MMS and objecting lessees or operators of adjacent leases or units.

§ 250.206 How do I submit the EP, DPP, or DOCD?

(a) *Number of copies.* When you submit an EP, DPP, or DOCD to MMS, you must provide:

(1) Four copies that contain all required information (proprietary copies);

(2) Eight copies for public distribution (public information copies) that omit information that you assert is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR part 2); and

(3) Any additional copies that may be necessary to facilitate review of the EP, DPP, or DOCD by certain affected States.

(a) *Mailing Addresses.* Submit EPs, DPPs, and DOCDs for activities in the OCS to one of the following addresses:

(1) For the OCS off the State of Alaska—Minerals Management Service, Alaska OCS Region, Regional Supervisor, Field Operations, 949 East 36th Avenue, Room 308, Anchorage, AK 99508–4363

(2) For the OCS off the Atlantic Coast States and in the Gulf of Mexico—Minerals Management Service, Gulf of Mexico OCS Region, Regional Supervisor, Field Operations, 1201 Elmwood Park Boulevard, New Orleans, LA 70123–2394

(3) For the OCS off the States of California, Oregon, Washington, or Hawaii—Minerals Management Service, Pacific OCS Region, Regional Supervisor, Office of Field Operations, 770 Paseo Camarillo, Camarillo, CA 93010–6064

(c) *Electronic Submission.* The Regional Supervisor may require that you submit part or all of your EP, DPP, or DOCD and its accompanying information electronically. If it is not required but you prefer to submit your EP, DPP, or DOCD electronically, ask the Regional Supervisor for further guidance.

(d) *Withdrawal after submission.* You may withdraw your proposed EP, DPP, or DOCD at any time for any reason. Notify the appropriate MMS OCS Region at the address in paragraph (b) of this section.

Ancillary Activities

§ 250.207 What ancillary activities may I conduct?

Before or after you submit an EP, DPP, or DOCD to MMS, you may elect, the regulations in this part may require, or the Regional Supervisor may direct you to conduct ancillary activities. Ancillary activities include:

(a) Geophysical and geological explorations, and development geophysical activities, except those that must be covered by an EP, DPP, or DOCD under § 250.201(a)(6), or § 250.209.

(b) Geological hazards, geotechnical, archaeological, biological, physical oceanographic, meteorological, socioeconomic, or other surveys; or

(c) Studies that model potential oil and hazardous substance spills, drilling muds and cuttings discharges, projected air emissions, or potential hydrogen sulfide (H_2S) releases.

§ 250.208 If I conduct ancillary activities, what notices must I provide?

At least 30 calendar days before you conduct any geophysical and geological exploration or development geophysical activity (see § 250.207(a)), you must notify the Regional Supervisor in writing.

(a) When you prepare the notice, you must:

(1) Sign and date the notice;

(2) Provide the names of the vessel, its operator, and the person(s) in charge; the type(s) of operations you will conduct; and the instrumentation/techniques and vessel navigation you will use;

(3) Provide expected start and completion dates and the location of the activity; and

(4) Describe the potential adverse environmental effects of the proposed activity and any mitigation to eliminate or minimize these effects on the marine, coastal, and human environment.

(b) The Regional Supervisor may require you to:

(1) Give written notice to MMS before you conduct any other ancillary activity in addition to those listed in § 250.207(a); and

(2) Notify other users of the OCS before you conduct any ancillary activity.

§ 250.209 What is the MMS review process for the notice?

The Regional Supervisor will review any notice required under § 250.208(b) to ensure that your ancillary activity complies with the performance standards listed in § 250.202 (a), (b), (d), and (e). Under § 250.106, the Regional Supervisor may notify you that your ancillary activity does not comply with those standards. In such a case, the Regional Supervisor will require you to submit an EP, DPP, or DOCD, and you may not start your ancillary activity until the Regional Supervisor approves the EP, DPP, or DOCD.

§ 250.210 If I conduct ancillary activities, what reporting and data/information retention requirements must I satisfy?

(a) *Reporting.* The Regional Supervisor may require you to prepare and submit a report that summarizes and analyzes data or information obtained or derived from your ancillary activities.

(b) *Data or information retention.* You must retain copies of all original survey and study data or information obtained or derived from your ancillary activities, including any data or information obtained from previous leaseholders or unit operators. You must retain these records, including navigation data, and submit them to MMS for inspection and possible retention upon request at any time before lease or unit termination.

Contents of Exploration Plans (EP)

§ 250.211 What must the EP include?

Your EP must include the following:

(a) *Description, objectives, and schedule.* A description, discussion of the objectives, and tentative schedule (from start to completion) of the exploration activities that you propose to undertake. (Examples of exploration activities are: exploration drilling; well test flaring; installing a well protection structure; temporary well abandonment; and in the MMS Alaska and Pacific OCS Regions, 2–D, 3–D, 4–D, and multicomponent seismic activities.)

(b) *Location.* A map showing the surface and bottom-hole location and water depth of each proposed well and the locations of all associated drilling unit anchors.

(c) *Drilling unit.* A description of the drilling unit and associated equipment you will use to conduct your proposed exploration activities, including a brief description of important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels, oil, and lubricants that will be stored on the facility (see third definition of facility under § 250.105).

§ 250.212 What information must accompany the EP?

The following information must accompany your EP:

(a) General information required by § 250.213;

(b) Geophysical and geological information required by § 250.214;

(c) Hydrogen sulfide information required by § 250.215;

(d) Biological, physical, and socioeconomic information required by § 250.216;

(e) Solid and liquid wastes and discharges information and cooling water intake information required by § 250.217;

(f) Air emissions information required by § 250.218;

(g) Oil and hazardous substance spills information required by § 250.219;

(h) Alaska planning information required by § 250.220;

(i) Environmental monitoring information required by § 250.221;

(j) Lease stipulations information required by § 250.222;

(k) Mitigation measures information required by § 250.223;

(l) Support vessels and aircraft information required by § 250.224;

(m) Onshore support facilities information required by § 250.225;

(n) Coastal zone management information required by § 250.226;

(o) An environmental impact analysis required by § 250.227; and

(p) Administrative information required by § 250.228.

§ 250.213 What general information must accompany the EP?

The following general information must accompany your EP:

(a) *Applications and permits.* A listing, including filing or approval status, of the Federal, State, and local application approvals or permits you must obtain to conduct your proposed exploration activities.

(b) *Drilling fluids.* A table showing the components, chemical composition, and projected amounts and rates of usage of each drilling fluid you will use to drill your proposed exploration wells.

(c) *Chemical products.* A table showing the name and brief description, quantities to be stored, storage method, and rates of usage of the chemical products you will use to conduct your proposed exploration activities. List only those chemical products you will store or use in quantities greater than the amounts defined as Reportable Quantities in 40 CFR part 302, or amounts specified by the Regional Supervisor.

(d) *New or unusual technology.* A description and discussion of any new or unusual technology you will use to carry out your proposed exploration activities (see definition under § 250.200).

(e) *Bonds, oil spill financial responsibility, and well control statements.* Statements attesting that:

(1) The activities and facilities proposed in your EP are covered by an appropriate lease or areawide surety bond or alternative security instrument according to 30 CFR part 256, subpart I;

(2) You have demonstrated or will demonstrate oil spill financial responsibility for facilities proposed in your EP according to 30 CFR part 253; and

(3) You have or will have the financial capability to drill a relief well and conduct other emergency well control operations.

(f) *Suspensions of operations.* A brief discussion of any suspensions of operations that you anticipate may be necessary in the course of conducting your activities under the EP.

(g) *Blowout scenario.* A scenario for the potential blowout of the proposed well in your EP that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and timeframe associated with the potential blowout. Also, discuss the potential for the well to bridge over, the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, and rig package constraints. Estimate the time it would take to drill a relief well.

(h) *Contact.* The name, address (e-mail address, if available), and telephone number of the person with whom the Regional Supervisor and any affected State(s) can communicate with about your EP.

§ 250.214 What geological and geophysical (G&G) information must accompany the EP?

The following G&G information must accompany your EP:

(a) *Geological description.* A geological description of the prospect(s).

(b) *Structure contour maps.* Current structure contour maps (depth-based, expressed in feet subsea) drawn on the top of each prospective hydrocarbon-bearing reservoir showing the locations of proposed wells.

(c) *Two-dimensional (2–D) or three-dimensional (3–D) seismic lines.* Copies of migrated and annotated 2–D or 3–D seismic lines (with depth scale) intersecting at or near your proposed well locations. (You are not required to conduct both 2–D and 3–D seismic surveys if you choose to conduct only one type of survey.) If you have conducted both types of surveys, the Regional Supervisor may instruct you to submit the results of both surveys. You must interpret and display this information. Because of its volume, you must provide this data or information as an enclosure to only one proprietary copy of your EP.

(d) *Geological structure cross-sections.* Interpreted geological structure cross-sections showing the location and depth of each proposed well.

(e) *Shallow hazards report.* A shallow hazards report based on information obtained from a high-resolution geophysical survey or a reference to such report if you have already submitted it to the Regional Supervisor.

(f) *Shallow hazards assessment.* For each proposed well, an assessment of any seafloor and subsurface geological and manmade features and conditions that may adversely affect your proposed drilling operations.

(g) *High-resolution seismic lines.* Copies of the two intersecting high-resolution survey lines that are closest to your proposed well locations. Because of its volume, you must provide this data as an enclosure to only one proprietary copy of your EP.

(h) *Stratigraphic column.* A generalized biostratigraphic/lithostratigraphic column from the surface to the total depth of the prospect.

(i) *Time-versus-depth chart.* A seismic travel time-versus-depth chart based on the appropriate velocity analysis in the area of interpretation and specifying the geodetic datum.

(j) *Geochemical information.* A copy of any geochemical reports you used or generated.

(k) *Future G&G activities.* A brief description of the types of geophysical and geological explorations and development geophysical activities you may conduct for lease or unit purposes after your EP is approved.

§ 250.215 What hydrogen sulfide (H_2S) information must accompany the EP?

The following H_2S information, as applicable, must accompany your EP:

(a) *Concentration.* The estimated concentration of any H_2S you might encounter while you conduct your proposed exploration activities.

(b) *Classification.* Pursuant to § 250.417(c), a request that the Regional Supervisor classify the area of your proposed exploration activities as either H_2S absent, H_2S present, or H_2S unknown. Provide sufficient information to justify your request.

(c) *H_2S Contingency Plan.* If you ask the Regional Supervisor to classify the area of your proposed exploration activities as either H_2S present or H_2S unknown, an H_2S Contingency Plan prepared pursuant to § 250.417(f) or a reference to an approved or submitted H_2S Contingency Plan that covers the proposed exploration activities.

(d) *Modeling report.* In developing your EP, if you model a potential H_2S release, a modeling report or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(1) The analysis in the modeling report must be specific to the particular site of your proposed exploration activities and must consider any nearby human-occupied OCS facilities, shipping lanes, fishery areas, and other points where humans may be subject to potential exposure from an H_2S release from your proposed activities.

(2) If any H_2S emissions are projected to affect an onshore area, the modeling analysis must be consistent with the Environmental Protection Agency's (EPA) risk management plan methodologies outlined in 40 CFR part 68.

§ 250.216 What biological, physical, and socioeconomic information must accompany the EP?

In developing your EP, if you obtain the following information, you must include a report, or the information obtained, or a reference to such a report or information if you have already submitted it to the Regional Supervisor, as accompanying information:

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, sensitive underwater features, marine sanctuaries, or other areas of biological concern.

(b) *Physical environment reports.* Site-specific meteorological, physical oceanographic, geotechnical, or archaeological information.

(c) *Socioeconomic study reports.* Socioeconomic information regarding your proposed exploration activities.

§ 250.217 What solid and liquid wastes and discharges information and cooling water intake information must accompany the EP?

The following solid and liquid wastes and discharges information and cooling water intake information must accompany your EP:

(a) *Projected wastes.* A table providing the name, brief description, projected quantity (annual or monthly), and composition of solid and liquid wastes (such as spent drilling fluids, drill cuttings, trash, sanitary and domestic wastes, and chemical product wastes) likely to be generated by your proposed exploration activities.

Describe:

(1) The methods you used for determining this information; and

(2) Your plans for treating, storing, and downhole disposal of these wastes at your drilling location(s).

(b) *Projected ocean discharges.* If any of your solid and liquid wastes will be discharged overboard or are planned discharges from manmade islands:

(1) A table showing the name, projected amount, and rate of discharge for each waste type; and

(2) A description of the discharge method you will use.

(c) *National Pollutant Discharge Elimination System (NPDES) permit.*

(1) A discussion of how you will comply with the provisions of the applicable general NPDES permit that covers your proposed exploration activities; or

(2) A copy of your application for an individual NPDES permit. Briefly describe the major discharges and methods you will use for compliance.

(d) *Modeling report.* In developing your EP, if you model the discharges of your projected solid or liquid wastes, a modeling report, or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(e) *Projected cooling water intake.* A table for each cooling water intake structure likely to be used by your proposed exploration activities that includes a brief description of the cooling water intake structure, daily water intake rate, water intake through-screen velocity, percentage of water intake used for cooling water, mitigation measures for reducing impingement and entrainment of aquatic organisms, and biofouling prevention measures.

§ 250.218 What air emissions information must accompany the EP?

The following air emissions information, as applicable, must accompany your EP:

(a) *Projected emissions.* Tables showing the projected emissions of sulphur dioxide (SO_2), particulate matter in the form of PM_{10} and $PM_{2.5}$ when applicable, nitrogen oxides (NO_X), carbon monoxide (CO), and volatile organic compounds (VOC) that will be generated by your proposed exploration activities.

(1) For each source on or associated with the drilling unit (including well test flaring and well protection structure installation), you must list:

(i) The projected peak hourly emissions;

(ii) The total annual emissions in tons per year;

(iii) Emissions over the duration of the proposed exploration activities;

(iv) The frequency and duration of emissions; and

(v) The total of all emissions listed in paragraphs (a)(1)(i) through (iv) of this section.

(2) You must provide the basis for all calculations, including engine size and rating and applicable operational information.

(3) You must base the projected emissions on the maximum rated capacity of the equipment on the proposed drilling unit under its physical and operational design.

(4) If the specific drilling unit has not yet been determined, you must use the maximum emission estimates for the type of drilling unit you will use.

(b) *Emission reduction measures.* A description of any proposed emission reduction measures, including the affected source(s), the emission reduction control technologies or procedures, the quantity of reductions to be achieved, and any monitoring system you propose to use to measure emissions.

(c) *Processes, equipment, fuels, and combustibles.* A description of processes, processing equipment, combustion equipment, fuels, and storage units. You must include the characteristics and the frequency, duration, and maximum burn rate of any well test fluids to be burned.

(d) *Distance to shore.* Identification of the distance of your drilling unit from the mean high water mark (mean higher high water mark on the Pacific coast) of the adjacent State.

(e) *Non-exempt drilling units.* A description of how you will comply with § 250.303 when the projected emissions of SO_2, PM, NO_X, CO, or VOC that will be generated by your proposed exploration activities are greater than the respective emission exemption amounts "E" calculated using the formulas in § 250.303(d). When MMS requires air quality modeling, you must use the guidelines in Appendix W of 40 CFR part 51 with a model approved by the Director. Submit the best available meteorological information and data consistent with the model(s) used.

(f) *Modeling report.* In developing your EP, if you are required by § 250.303 to use an approved air quality model to model projected air emissions, a modeling report, or the modeling results, or a reference to such a report or results if you have already submitted it to the Regional Supervisor.

§ 250.219 What oil and hazardous substance spills information must accompany the EP?

The following information regarding potential spills of oil (see definition under 30 CFR 254.6) and hazardous substances (see definition under 40 CFR part 116) as applicable, must accompany your EP:

(a) *Oil spill response planning.* The material required under either paragraph (a)(1) or (a)(2) of this section:

(1) An Oil Spill Response Plan (OSRP) for the facilities you will use to conduct your exploration activities prepared according to the requirements of 30 CFR part 254, subpart B; or

(2) Reference to your approved regional OSRP (see 30 CFR 254.3) to include:

(i) A discussion of your regional OSRP;

(ii) The location of your primary oil spill equipment base and staging area;

(iii) The name(s) of your oil spill removal organization(s) for both equipment and personnel;

(iv) The calculated volume of your worst case discharge scenario (see 30 CFR 254.26(a)), and a comparison of the appropriate worst case discharge scenario in your approved regional OSRP with the worst case discharge scenario that could result from your proposed exploration activities; and

(v) A description of the worst case discharge scenario that could result from your proposed exploration activities (see 30 CFR 254.26 (b), (c), (d) and (e)).

(b) *Modeling report.* In developing your EP, if you model a potential oil or hazardous substance spill, a modeling report, or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

§ 250.220 If I propose activities in the Alaska OCS Region, what planning information must accompany the EP?

If you propose exploration activities in the Alaska OCS Region, the following planning information must accompany your EP:

(a) *Emergency plans.* A description of your emergency plans to respond to a blowout, loss or disablement of a drilling unit, and loss of or damage to support craft.

(b) *Critical operations and curtailment procedures.* Critical operations and curtailment procedures for your exploration activities. The procedures must identify ice conditions, weather, and other constraints under which the exploration activities will either be curtailed or not proceed.

§ 250.221 What environmental monitoring information must accompany the EP?

The following environmental monitoring information, as applicable, must accompany your EP:

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring, or will measure, environmental conditions and/or will provide project-specific data or information on the impacts of your exploration activities.

(b) *Flower Garden Banks National Marine Sanctuary.* If you propose to conduct exploration activities within the 4-mile protective zone of the Flower Garden Banks National Marine Sanctuary, a description of your provisions for monitoring the impacts of an oil spill.

§ 250.222 What lease stipulations information must accompany the EP?

A description of the measures you took, or will take, to satisfy the conditions of lease stipulations related to your proposed exploration activities must accompany your EP.

§ 250.223 What mitigation measures information must accompany the EP?

A description of any measures you will use, beyond those required by the regulations in this part, to minimize or mitigate environmental impacts from your proposed exploration activities must accompany your EP.

§ 250.224 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the EP?

The following information on the support vessels, offshore vehicles, and aircraft you will use must accompany your EP:

(a) *General.* A description of the crew boats, supply boats, anchor handling vessels, tug boats, barges, ice management vessels, other vessels, offshore vehicles, and aircraft you will use to support your exploration activities. The description of vessels and offshore vehicles must estimate the storage capacity of their fuel tanks and the frequency of their visits to your drilling unit.

(b) *Air emissions.* A table showing the source, composition, frequency, and duration of the air emissions likely to be generated by the support vessels, offshore vehicles, and aircraft you will use that will operate within 25 miles of your drilling unit.

(c) *Drilling fluids and chemical products transportation.* A description of the transportation method and quantities of drilling fluids and chemical products (see § 250.213(b) and (c)) you will transport from the onshore support facilities you will use to your drilling unit.

(d) *Solid and liquid wastes transportation.* A description of the transportation method; reason for transportation; and brief description of the composition, quantities, and destination(s) of solid and liquid wastes (see § 250.217(a)) you will transport from your drilling unit.

(e) *Vicinity map.* A map showing the location of your proposed exploration activities relative to the shoreline. The map must depict the route(s) the support vessels and aircraft will use when traveling between the onshore support facilities you will use and your drilling unit.

§ 250.225 What information on the onshore support facilities you will use must accompany the EP?

The following information on the onshore support facilities you will use must accompany your EP:

(a) *General.* A description of the onshore facilities you will use to provide supply and service support for your proposed exploration activities (e.g., service bases and mud company docks).

(1) Indicate whether the onshore support facilities are, or will be located, in areas not adjacent to the Western GOM, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding them.

(b) *Air emissions.* A description of the source, composition, frequency, and duration of the air emissions (attributable to your proposed exploration activities) likely to be generated by the onshore support facilities you will use.

(c) *Unusual solid and liquid wastes.* A description of the quantity, composition, and method of disposal of any unusual solid and liquid wastes (attributable to your proposed exploration activities) likely to be generated by the onshore support facilities you will use.

(d) *Waste disposal.* A description of the onshore facilities you will use to store and dispose of solid and liquid wastes generated by your proposed exploration activities (see § 250.217) and the types and quantities of such wastes.

§ 250.226 What Coastal Zone Management Act (CZMA) certification must accompany the EP?

Your EP must be accompanied by a copy of your consistency certification under § 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76(d) that states that each of the proposed exploration activities described in detail in this EP comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s).

§ 250.227 What environmental impact analysis (EIA) information must accompany the EP?

The following EIA information must accompany your EP:

(a) *General requirements.* Your EIA must:

(1) Assess the potential environmental impacts of your proposed exploration activities;

(2) Be project specific; and

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws.

(b) *Resources, conditions, and activities.* Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed exploration activities or that could affect the construction and operation of facilities or structures or the activities proposed in your EP.

(1) Meteorology, oceanography, geology, and geological and/or manmade hazards;

(2) Air and water quality;

(3) Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;

(4) Threatened or endangered species and their critical habitat;

(5) Sensitive biological resources or habitats such as essential fish habitat,

refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, and calving grounds;

(6) Archaeological resources;

(7) Socioeconomic resources including employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, and coastal zone management programs;

(8) Coastal and marine uses such as military activities, shipping, and mineral exploration or development; and

(9) Other resources, conditions, and activities identified by the Regional Supervisor.

(c) *Environmental impacts.* Your EIA must:

(1) Analyze the potential direct and indirect impacts (including those from accidents and cooling water intake structures) that your proposed exploration activities will have on the identified resources, conditions, and activities;

(2) Analyze any potential cumulative impacts from other activities to those identified resources, conditions, and activities potentially impacted by your proposed exploration activities;

(3) Describe the type, severity, and duration of these potential impacts and their biological, physical, and other consequences and implications;

(4) Describe potential measures to minimize or mitigate these potential impacts; and

(5) Summarize the information you incorporate by reference.

(d) *Consultation.* Your EIA must include a list of agencies and persons you consulted, or you will be consulting, regarding potential impacts associated with your proposed exploration activities.

(e) *References cited.* Your EIA must include a list of the references that you cite in the EIA.

§ 250.228 What administrative information must accompany the EP?

The following administrative information must accompany your EP:

(a) *Exempted information description (public information copies only).* A description of the general subject matter of the proprietary information that is included in the proprietary copies of your EP or its accompanying information.

(b) *Bibliography.* (1) A list of each previously submitted EP, DPP, DOCD, study report, survey report, or other material that you reference in your EP or its accompanying information.

(2) The location(s) where the Regional Supervisor can inspect the cited referenced material if you have not submitted it.

Review and Decision Process for the EP

§ 250.231 After receiving the EP, what will MMS do?

(a) *Determine whether deemed submitted.* Within 15 working days after receiving your proposed EP and its accompanying information, the Regional Supervisor will review your submission and deem your EP submitted if:

(1) The submitted information, including the information that must accompany the EP (refer to list in § 250.212), fulfills requirements and is sufficiently accurate;

(2) You have provided all needed additional information (see § 250.201(b)); and

(3) You have provided the required number of copies (see § 250.206(a)).

(b) *Identify problems and deficiencies.* If the Regional Supervisor determines that you have not met each of the conditions in paragraph (a) of this section, the Regional Supervisor will notify you of the problem or deficiency. The Regional Supervisor will not deem your EP submitted until you have corrected any problem or deficiency identified in the notice.

§ 250.232 What actions will be taken after the EP is deemed submitted?

(a) *State and CZM consistency reviews.* Within 2 working days after deeming your EP submitted under § 250.231(a), the Regional Supervisor will send by receipted mail a public information copy of the EP and its accompanying information to the following:

(1) *The Governor of each affected State.* The Governor has 21 calendar days after receiving your deemed-submitted EP to submit comments. The Regional Supervisor will consider comments received by the deadline.

(2) *The CZM agency of each affected State.* The CZMA consistency review period under § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(ii)) and 15 CFR 930.78 begins when the State's CZM agency receives a copy of your deemed-submitted EP, consistency certification, and required necessary data and information (see 15 CFR 930.77(a)(1)).

(b) *MMS compliance review.* The Regional Supervisor will review the exploration activities described in your proposed EP to ensure that they conform to the performance standards in § 250.202.

(c) *MMS environmental impact evaluation.* The Regional Supervisor will evaluate the environmental impacts of the activities described in your proposed EP and prepare environmental documentation under NEPA (42 U.S.C. 4321 *et seq.*) and the implementing regulations (40 CFR parts 1500 through 1508).

(d) *Amendments.* During the review of your proposed EP, the Regional Supervisor may require you, or you may elect, to change your EP.

§ 250.233 What decisions will MMS make on the EP and within what timeframe?

(a) *Timeframe.* The Regional Supervisor will take one of the actions shown in the table in paragraph (b) of this section within 30 calendar days after the Regional Supervisor deems your EP submitted under § 250.231(a) or receives the last amendment to your proposed EP, whichever occurs later.

(b) *MMS decision.* By the deadline in paragraph (a) of this section, the Regional Supervisor will take one of the following actions:

The Regional Supervisor will—	if—	and then—
(1) Approve your EP	it complies with all applicable requirements	the Regional Supervisor will notify you in writing of the decision and may require you to meet certain conditions, including those to provide monitoring information.
(2) Require you to modify your proposed EP	the Regional Supervisor finds that it is inconsistent with the lease, the Act, or the regulations prescribed under the Act or other Federal laws.	the Regional Supervisor will notify you in writing of the decision and describe the modifications you must make to your proposed EP to ensure it complies with all applicable requirements.

The Regional Supervisor will—	if—	and then—
(3) Disapprove your EP	(i) your proposed activities would probably cause serious harm or damage to life (including fish or other aquatic life); property; any mineral (in areas leased or not leased); the national security or defense; or the marine, coastal, or human environment; and you cannot modify your proposed activities to avoid such condition(s).	(A) the Regional Supervisor will notify you in writing of the decision and describe the reason(s) for disapproving your EP. (B) MMS may cancel your lease and compensate you pursuant to 43 U.S.C. 1334(a)(2)(C) and the implementing regulations in §§ 250.182, 250.184, 250.185, and 30 CFR 256.77.

§ 250.234 How do I submit a modified EP or resubmit a disapproved EP, and when will MMS make a decision?

(a) *Modified EP.* If the Regional Supervisor requires you to modify your proposed EP under § 250.233(b)(2), you must submit the modification(s) to the Regional Supervisor in the same manner as for a new EP. You need submit only information related to the proposed modification(s).

(b) *Resubmitted EP.* You may resubmit your disapproved EP if there is a change in the conditions that were the basis of its disapproval.

(c) *MMS review and timeframe.* The Regional Supervisor will use the performance standards in § 250.202 to either approve, require you to further modify, or disapprove your modified or resubmitted EP. The Regional Supervisor will make a decision within 30 calendar days after the Regional Supervisor deems your modified or resubmitted EP to be submitted or receives the last amendment to your modified or resubmitted EP, whichever occurs later.

§ 250.235 If a State objects to the EP's coastal zone consistency certification, what can I do?

If an affected State objects to the coastal zone consistency certification accompanying your proposed EP, you may do one of the following:

(a) *Amend your EP.* Amend your EP to accommodate the State's objection and submit the amendment to the Regional Supervisor for approval. The amendment needs only address information related to the State's objection.

(b) *Appeal.* Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(1) Grant your appeal by finding, under § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)) that each activity described in detail in your EP is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security; or

(2) Deny your appeal, in which case you may amend your EP as described in paragraph (a) of this section.

(c) *Withdraw your EP.* Withdraw your EP if you decide not to conduct your proposed exploration activities.

Contents of Development and Production Plans (DPP) and Development Operations Coordination Documents (DOCD)

§ 250.241 What must the DPP or DOCD include?

Your DPP or DOCD must include the following:

(a) *Description, objectives, and schedule.* A description, discussion of the objectives, and tentative schedule (from start to completion) of the development and production activities you propose to undertake. Examples of development and production activities include:

(1) Development drilling;

(2) Well test flaring;

(3) Installation of production platforms, satellite structures, subsea wellheads and manifolds, and lease term pipelines (see definition at § 250.105);

(4) Installation of production facilities and conduct of production operations; and

(5) In the MMS Alaska and Pacific OCS Regions, 2–D, 3–D, 4–D, and multicomponent seismic activities.

(b) *Location.* The location and water depth of each of your proposed wells and production facilities. Include a map showing the surface and bottom-hole location and water depth of each proposed well, the surface location of each production facility, and the locations of all associated drilling unit and construction barge anchors.

(c) *Drilling unit.* A description of the drilling unit and associated equipment you will use to conduct your proposed development drilling activities. Include a brief description of important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility (see third definition of "facility" under § 250.105).

(d) *Production facilities.* A description of the production platforms, satellite structures, subsea wellheads and manifolds, lease term pipelines (see definition at § 250.105), production facilities, umbilicals, and other facilities you will use to conduct your proposed development and production activities. Include a brief description of important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility (see third definition of "facility" under § 250.105).

§ 250.242 What information must accompany the DPP or DOCD?

The following information must accompany your DPP or DOCD.

(a) General information required by § 250.243;

(b) Geological and geophysical information required by § 250.244;

(c) Hydrogen sulfide information required by § 250.245;

(d) Mineral resource conservation information required by § 250.246;

(e) Biological, physical, and socioeconomic information required by § 250.247;

(f) Solid and liquid wastes and discharges information and cooling water intake information required by § 250.248;

(g) Air emissions information required by § 250.249;

(h) Oil and hazardous substance spills information required by § 250.250;

(i) Alaska planning information required by § 250.251;

(j) Environmental monitoring information required by § 250.252;

(k) Lease stipulations information required by § 250.253;

(l) Mitigation measures information required by § 250.254;

(m) Decommissioning information required by § 250.255;

(n) Related facilities and operations information required by § 250.256;

(o) Support vessels and aircraft information required by § 250.257;

(p) Onshore support facilities information required by § 250.258;

(q) Sulphur operations information required by § 250.259;

(r) Coastal zone management information required by § 250.260;

(s) An environmental impact analysis required by § 250.261; and

(t) Administrative information required by § 250.262.

§ 250.243 What general information must accompany the DPP or DOCD?

The following general information must accompany your DPP or DOCD:

(a) *Applications and permits.* A listing, including filing or approval status, of the Federal, State, and local application approvals or permits you must obtain to carry out your proposed development and production activities.

(b) *Drilling fluids.* A table showing the components, chemical composition, and projected amounts and rates of usage of each drilling fluid you will use to drill your proposed development wells.

(c) *Production.* The following production information:

(1) Estimates of the average and peak rates of production for each type of production, the life of the reservoir(s) you intend to produce, and a production decline curve; and

(2) The chemical and physical characteristics of the produced oil (see definition under 30 CFR 254.6) that you will handle or store at the facilities you will use to conduct your proposed development and production activities.

(d) *Chemical products.* A table showing the name and brief description, quantities to be stored, storage method, and rates of usage of the chemical products you will use to conduct your proposed development and production activities. You need list only those chemical products you will store or use in quantities greater than the amounts defined as Reportable Quantities in 40 CFR part 302, or amounts specified by the Regional Supervisor.

(e) *New or unusual technology.* A description and discussion of any new or unusual technology you will use to carry out your proposed development and production activities (see definition under § 250.200).

(f) *Bonds, oil spill financial responsibility, and well control statements.* Statements attesting that:

(1) The activities and facilities proposed in your DPP or DOCD are covered by an appropriate lease or areawide surety bond or alternative security instrument according to 30 CFR part 256, subpart I;

(2) You have demonstrated or will demonstrate oil spill financial responsibility for facilities proposed in your DPP or DOCD, according to 30 CFR part 253; and

(3) You have or will have the financial capability to drill a relief well and conduct other emergency well control operations.

(g) *Suspensions of production or operations.* A brief discussion of any suspensions of production or suspensions of operations that you anticipate may be necessary in the course of conducting your activities under the DPP or DOCD.

(h) *Blowout scenario.* A scenario for a potential blowout of the proposed well in your DPP or DOCD that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and timeframe associated with the potential blowout. Also, discuss the potential for the well to bridge over, the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, and rig package constraints. Estimate the time it would take to drill a relief well.

(i) *Contact.* The name, address (e-mail address, if available), and telephone number of the person with whom the Regional Supervisor and the affected State(s) can communicate with about your DPP or DOCD.

§ 250.244 What geological and geophysical (G&G) information must accompany the DPP or DOCD?

The following G&G information must accompany your DPP or DOCD:

(a) *Geological description.* A geological description of the prospect(s).

(b) *Structure contour maps.* Current structure contour maps (depth-based, expressed in feet subsea) showing depths of expected productive formations and the locations of proposed wells.

(c) *Two dimensional (2–D) or three-dimensional (3–D) seismic lines.* Copies of migrated and annotated 2–D or 3–D seismic lines (with depth scale) intersecting at or near your proposed well locations. (You are not required to conduct both 2–D and 3–D seismic surveys if you choose to conduct only one type of survey.) If you have conducted both types of surveys, the Regional Supervisor may instruct you to submit the results of both surveys. You must interpret and display this information. You must provide this information as an enclosure to only one proprietary copy of your DPP or DOCD.

(d) *Geological structure cross-sections.* Interpreted geological structure cross-sections showing the depths of expected productive formations.

(e) *Shallow hazards report.* A shallow hazards report based on information obtained from a high-resolution geophysical survey or a reference to such report if you have already submitted it to the Regional Supervisor.

(f) *Shallow hazards assessment.* For each proposed well, an assessment of any seafloor and subsurface geologic and manmade features and conditions that may adversely affect your proposed drilling operations.

(g) *High resolution seismic lines.* Copies of the two intersecting high-resolution survey lines that are closest to your proposed well locations. You must provide this information as an enclosure to only one proprietary copy of your DPP or DOCD.

(h) *Stratigraphic column.* A generalized biostratigraphic/lithostratigraphic column from the surface to the total depth of each proposed well.

(i) *Time-versus-depth chart.* A seismic travel time-versus-depth chart based on the appropriate velocity analysis in the area of interpretation and specifying the geodetic datum.

(j) *Geochemical information.* A copy of any geochemical reports you used or generated.

(k) *Future G&G activities.* A brief description of the geophysical and geological explorations and development geophysical activities that you may conduct for lease or unit purposes after your DPP or DOCD is approved.

§ 250.245 What hydrogen sulfide (H_2S) information must accompany the DPP or DOCD?

The following H_2S information, as applicable, must accompany your DPP or DOCD:

(a) *Concentration.* The estimated concentration of any H_2S you might encounter or handle while you conduct your proposed development and production activities.

(b) *Classification.* Pursuant to § 250.417(c), a request that the Regional Supervisor classify the area of your proposed development and production activities as either H_2S absent, H_2S present, or H_2S unknown. Provide sufficient information to justify your request.

(c) *H_2S Contingency Plan.* If you request that the Regional Supervisor classify the area of your proposed activities as either H_2S present or H_2S unknown, an H_2S Contingency Plan prepared pursuant to § 250.417(f) or a reference to an approved or submitted H_2S Contingency Plan that covers the proposed development and production activities.

(d) *Modeling report.* (1) If you have determined or estimated that the concentration of any H_2S you may encounter or handle while you conduct your development and production activities will be greater than 500 parts per million (ppm), you must:

(i) Model a potential worst case H_2S release from the facilities you will use to conduct your proposed development and production activities; and

(ii) Include a modeling report, or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(2) The analysis in the modeling report must be specific to the particular site of your development and production activities and must consider any nearby human-occupied OCS facilities, shipping lanes, fishery areas, and other points where humans may be subject to potential exposure from an H_2S release from your proposed activities.

(3) If any H_2S emissions are projected to affect an onshore area, the modeling analysis must be consistent with the Environmental Protection Agency's (EPA) risk management plan methodologies outlined in 40 CFR part 68.

§ 250.246 What mineral resource conservation information must accompany the DPP or DOCD?

The following mineral resource conservation information, as applicable, must accompany your DPP or DOCD:

(a) *Technology and reservoir engineering practices and procedures.* A description of the technology and reservoir engineering practices and procedures you may use to increase the ultimate recovery of oil and gas (e.g., secondary, tertiary, or other enhanced recovery practices).

(b) *Technology and recovery practices and procedures.* A description of the technology and recovery practices and procedures you may use to ensure optimum recovery of oil and gas and/or sulphur.

(c) *Reservoir development.* A discussion of exploratory well results, other reservoir data, proposed well spacing, completion methods, and other relevant well plan information.

§ 250.247 What biological, physical, and socioeconomic information must accompany the DPP or DOCD?

In developing your DPP or DOCD, if you obtain the following information, you must include a report, or the information obtained, or a reference to such a report or information if you have already submitted it to the Regional Supervisor, as accompanying information:

(a) *Biological environment reports.* Site-specific information on chemosynthetic communities, sensitive underwater features, marine sanctuaries, or other areas of biological concern.

(b) *Physical environment reports.* Site-specific meteorological, physical oceanographic, geotechnical, or archaeological information.

(c) *Socioeconomic study reports.* Socioeconomic information regarding your proposed development and production activities.

§ 250.248 What solid and liquid wastes and discharges information and cooling water intake information must accompany the DPP or DOCD?

The following solid and liquid wastes and discharges information and cooling water intake information must accompany your DPP or DOCD:

(a) *Projected wastes.* A table providing the name, brief description, projected quantity (annual or monthly), and composition of solid and liquid wastes (such as spent drilling fluids, drill cuttings, trash, sanitary and domestic wastes, produced waters, and chemical product wastes) likely to be generated by your proposed development and production activities. Describe:

(1) The methods you used for determining this information; and

(2) Your plans for treating, storing, and downhole disposal of these wastes at your facility location(s).

(b) *Projected ocean discharges.* If any of your solid and liquid wastes will be discharged overboard or are planned discharges from manmade islands:

(1) A table showing the name, projected amount, and rate of discharge for each waste type; and

(2) A description of the discharge method you will use.

(c) *National Pollutant Discharge Elimination System (NPDES) permit.*

(1) A discussion of how you will comply with the provisions of the applicable general NPDES permit that covers your proposed development and production activities; or

(2) A copy of your application for an individual NPDES permit. Briefly describe the major discharges and methods you will use for compliance.

(d) *Modeling report.* In developing your DPP or DOCD, if you model the discharges of your projected solid or liquid wastes, a modeling report, or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

(e) *Projected cooling water intake.* A table for each cooling water intake structure likely to be used by your proposed development and production activities that includes a brief description of the cooling water intake structure, daily water intake rate, water intake through-screen velocity, percentage of water intake used for cooling water, mitigation measures for reducing impingement and entrainment of aquatic organisms, and biofouling prevention measures.

§ 250.249 What air emissions information must accompany the DPP or DOCD?

The following air emissions information, as applicable, must accompany your DPP or DOCD:

(a) *Projected emissions.* Tables showing the projected emissions of sulphur dioxide (SO_2), particulate matter in the form of PM_{10} and $PM_{2.5}$ when applicable, nitrogen oxides (NO_X), carbon monoxide (CO), and volatile organic compounds (VOC) that will be generated by your proposed development and production activities.

(1) For each source on or associated with the facility you will use to conduct your proposed development and production activities, you must list:

(i) The projected peak hourly emissions;

(ii) The total annual emissions in tons per year;

(iii) Emissions over the duration of the proposed development and production activities;

(iv) The frequency and duration of emissions; and

(v) The total of all emissions listed in paragraph (a)(1)(i) through (iv) of this section.

(2) For a facility modification, you must show the revised emission rates for each source as well as the incremental change for each source.

(3) You must provide the basis for all calculations including engine size and rating and applicable operational information.

(4) You must base the projected emissions on the maximum rated capacity of the equipment and the maximum throughput of the facility you will use to conduct your proposed development and production activities under its physical and operational design.

(5) If the specific drilling unit has not yet been determined, you must use the maximum emission estimates for the type of drilling unit you will use.

(b) *Emission reduction measures.* A description of any proposed emission reduction measures, including the affected source(s), the emission reduction control technologies or procedures, the quantity of reductions to be achieved, and any monitoring system you propose to use to measure emissions.

(c) *Processes, equipment, fuels, and combustibles.* A description of processes, processing equipment, combustion equipment, fuels, and storage units. You must include the frequency, duration, and maximum burn rate of any flaring activity.

(d) *Distance to shore.* Identification of the distance of the site of your proposed development and production activities

from the mean high-water mark (mean higher high-water mark on the Pacific coast) of the adjacent State.

(e) *Non-exempt facilities.* A description of how you will comply with § 250.303 when the projected emissions of SO_2, PM, NO_X, CO, or VOC that will be generated by your proposed development and production activities are greater than the respective emission exemption amounts "E" calculated using the formulas in § 250.303(d). When MMS requires air quality modeling, you must use the guidelines in Appendix W of 40 CFR part 51 with a model approved by the Director. Submit the best available meteorological information and data consistent with the model(s) used.

(f) *Modeling report.* In developing your DPP or DOCD, if you are required by § 250.303 to use an approved air quality model to model projected air emissions, a modeling report, or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

§ 250.250 What oil and hazardous substance spills information must accompany the DPP or DOCD?

The following information regarding potential spills of oil (see definition under 30 CFR 254.6) and hazardous substances (see definition under 40 CFR part 116), as applicable, must accompany your DPP or DOCD:

(a) *Oil spill response planning.* The material required under either paragraph (a)(1) or (a)(2) of this section:

(1) An Oil Spill Response Plan (OSRP) for the facilities you will use to conduct your proposed development and production activities prepared according to the requirements of 30 CFR part 254, subpart B; or

(2) Reference to your approved regional OSRP (see 30 CFR 254.3) to include:

(i) A discussion of your regional OSRP;

(ii) The location of your primary oil spill equipment base and staging area;

(iii) The name(s) of your oil spill removal organization(s) for both equipment and personnel;

(iv) The calculated volume of your worst case discharge scenario (see 30 CFR 254.26(a)), and a comparison of the appropriate worst case discharge scenario in your approved regional OSRP with the worst case discharge scenario that could result from your proposed development and production activities; and

(v) A description of the worst case oil spill scenario that could result from your proposed development and production activities (see 30 CFR 254.26(b), (c), (d), and (e)).

(b) *Modeling report.* In developing your DPP or DOCD, if you model a potential oil or hazardous substance spill, a modeling report, or the modeling results, or a reference to such report or results if you have already submitted it to the Regional Supervisor.

§ 250.251 If I propose activities in the Alaska OCS Region, what planning information must accompany the DPP?

If you propose development and production activities in the Alaska OCS Region, the following planning information must accompany your DPP:

(a) *Emergency plans.* A description of your emergency plans to respond to a blowout, loss or disablement of a drilling unit, and loss of or damage to support craft; and

(b) *Critical operations and curtailment procedures.* Critical operations and curtailment procedures for your development and production activities. The procedures must identify ice conditions, weather, and other constraints under which the development and production activities will either be curtailed or not proceed.

§ 250.252 What environmental monitoring information must accompany the DPP or DOCD?

The following environmental monitoring information, as applicable, must accompany your DPP or DOCD:

(a) *Monitoring systems.* A description of any existing and planned monitoring systems that are measuring or will measure environmental conditions and/or will provide project-specific data or information on the impacts of your development and production activities.

(b) *Flower Garden Banks National Marine Sanctuary.* If you propose to conduct development and production activities within the 4-mile protective zone of the Flower Garden Banks National Marine Sanctuary, a description of your provisions for monitoring the impacts of an oil spill.

§ 250.253 What lease stipulations information must accompany the DPP or DOCD?

A description of the measures you took, or will take, to satisfy the conditions of lease stipulations related to your proposed development and production activities must accompany your DPP or DOCD.

§ 250.254 What mitigation measures information must accompany the DPP or DOCD?

A description of any measures you will use, beyond those required by the regulations in this part, to minimize or mitigate environmental impacts from your proposed development and production activities must accompany your DPP or DOCD.

§ 250.255 What decommissioning information must accompany the DPP or DOCD?

A brief description of how you intend to decommission your wells, platforms, pipelines, and other facilities, and clear your site(s) must accompany your DPP or DOCD.

§ 250.256 What related facilities and operations information must accompany the DPP or DOCD?

The following information regarding facilities and operations directly related to your proposed development and production activities must accompany your DPP or DOCD:

(a) *OCS facilities and operations.* A description and location of any of the following that directly relate to your proposed development and production activities:

(1) Drilling units;

(2) Production platforms;

(3) Right-of-way pipelines (including those that transport chemical products and produced water); and

(4) Other facilities and operations located on the OCS (regardless of ownership).

(b) *Transportation system.* A discussion of the transportation system that you will use to transport your production to shore, including:

(1) Routes of any new pipelines;

(2) Information concerning barges and shuttle tankers (including the storage capacity of the transport vessel(s) and the number of transfers that will take place per year);

(3) Information concerning any intermediate storage or processing facilities;

(4) An estimate of the quantities of oil, gas, and/or sulphur to be transported from your production facilities; and

(5) A description and location of the primary onshore terminal.

§ 250.257 What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?

The following information on the support vessels, offshore vehicles, and aircraft you will use must accompany your DPP or DOCD:

(a) *General.* A description of the crew boats, supply boats, anchor handling vessels, tug boats, barges, ice management vessels, other vessels, offshore vehicles, and aircraft you will use to support your development and production activities. The description of vessels and offshore vehicles must estimate the storage capacity of their fuel tanks and the frequency of their visits to the facilities you will use to conduct your proposed development and production activities.

(b) *Air emissions.* A table showing the source, composition, frequency, and duration of the air emissions likely to be generated by the support vessels, offshore vehicles, and aircraft you will use that will operate within 25 miles of the facilities you will use to conduct your proposed development and production activities.

(c) *Drilling fluids and chemical products transportation.* A description of the transportation method and quantities of drilling fluids and chemical products (see § 250.243(b) and (d)) you will transport from the onshore support facilities you will use to the facilities you will use to conduct your proposed development and production activities.

(d) *Solid and liquid wastes transportation.* A description of the transportation method; reason for transportation; and a brief description of the composition, quantities, and destination(s) of solid and liquid wastes (see § 250.248(a)) you will transport from the facilities you will use to conduct your proposed development and production activities.

(e) *Vicinity map.* A map showing the location of your proposed development and production activities relative to the shoreline. The map must depict the route(s) the support vessels and aircraft will use when traveling between the onshore support facilities you will use and the facilities you will use to conduct your proposed development and production activities.

§ 250.258 What information on the onshore support facilities you will use must accompany the DPP or DOCD?

The following information on the onshore support facilities you will use must accompany your DPP or DOCD:

(a) *General.* A description of the onshore facilities you will use to provide supply and service support for your proposed development and production activities (e.g., service bases, pipeline terminals, and mud company docks).

(1) Indicate whether the onshore support facilities are existing, to be constructed, or to be expanded; and

(2) For DPPs only, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding any of the onshore support facilities.

(b) *Air emissions.* A description of the source, composition, frequency, and duration of the air emissions (attributable to your proposed development and production activities) likely to be generated by the onshore support facilities you will use.

(c) *Unusual solid and liquid wastes.* A description of the quantity, composition, and method of disposal of any unusual solid and liquid wastes (attributable to your proposed development and production activities) likely to be generated by the onshore support facilities you will use.

(d) *Waste disposal.* A description of the onshore facilities you will use to store and dispose of solid and liquid wastes generated by your proposed development and production activities (see § 250.248) and the types and quantities of such wastes.

§ 250.259 What sulphur operations information must accompany the DPP or DOCD?

If you are proposing to conduct sulphur development and production activities, the following information must accompany your DPP or DOCD:

(a) *Bleedwater.* A discussion of the bleedwater that will be generated by your proposed sulphur activities, including the measures you will take to mitigate the potential toxic or thermal impacts on the environment caused by the discharge of bleedwater.

(b) *Subsidence.* An estimate of the degree of subsidence expected at various stages of your sulphur development and production activities and a description of the measures you will take to mitigate the effects of subsidence on existing or potential oil and gas production, production platforms, and production facilities, and to protect the environment.

§ 250.260 What Coastal Zone Management Act (CZMA) certification must accompany the DPP or DOCD?

Your DPP or DOCD must be accompanied by a copy of your consistency certification under § 307(c)(3)(B) of the CZMA (16 U.S.C. 1456(c)(3)(B)) and 15 CFR 930.76(d), that states that each of the proposed development and production activities described in detail in this DPP or DOCD comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner that is consistent with such program(s).

§ 250.261 What environmental impact analysis (EIA) information must accompany the DPP or DOCD?

The following EIA information must accompany your DPP or DOCD:

(a) *General requirements.* Your EIA must:

(1) Assess the potential environmental impacts of your proposed development and production activities;

(2) Be project specific; and

(3) Be as detailed as necessary to assist the Regional Supervisor in complying with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and other relevant Federal laws.

(b) *Resources, conditions, and activities.* Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed development and production activities or that could affect the construction and operation of facilities or structures or the activities proposed in your DPP or DOCD.

(1) Meteorology, oceanography, geology, and geological and/or manmade hazards;

(2) Air and water quality;

(3) Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;

(4) Threatened or endangered species and their critical habitat;

(5) Sensitive biological resources or habitats such as essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, and calving grounds;

(6) Archaeological resources;

(7) Socioeconomic resources (including the approximate number, timing, and duration of employment of persons engaged in onshore support and construction activities), population (including the approximate number of people and families added to local onshore areas), existing offshore and onshore infrastructure (including major sources of supplies, services, energy, and water), types of contractors or vendors that may place a demand on local goods and services, land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including seasons, location, and type), minority and lower income groups, and coastal zone management programs;

(8) Coastal and marine uses such as military activities, shipping, and mineral exploration or development; and

(9) Other resources, conditions, and activities identified by the Regional Supervisor.

(c) *Environmental impacts.* Your EIA must:

(1) Analyze the potential direct and indirect impacts (including those from accidents and cooling water intake structures) that your proposed development and production activities will have on the identified resources, conditions, and activities;

(2) Analyze any potential cumulative impacts from other activities to those identified resources, conditions, and activities potentially impacted by your proposed development and production activities;

(3) Describe the type, severity, and duration of these potential impacts and their biological, physical, and other consequences and implications;

(4) Describe potential measures to minimize or mitigate these potential impacts;

(5) Describe any alternatives to your proposed development and production activities that you considered while developing your DPP or DOCD and compare the potential environmental impacts; and

(6) Summarize the information you incorporate by reference.

(d) *Consultation.* Your EIA must include a list of agencies and persons you consulted, or you will be consulting, regarding potential impacts associated with your proposed development and production activities.

(e) *References cited.* Your EIA must include a list of the references that you cite in the EIA.

§ 250.262 What administrative information must accompany the DPP or DOCD?

The following administrative information must accompany your DPP or DOCD:

(a) *Exempted information description (public information copies only).* A description of the general subject matter of the proprietary information that is included in the proprietary copies of your DPP or DOCD or its accompanying information.

(b) *Bibliography.* (1) A list of each previously submitted EP, DPP, DOCD, study report, survey report, or other material that you reference in your DPP or DOCD or its accompanying information.

(2) The location(s) where the Regional Supervisor can inspect the cited referenced material if you have not submitted it.

Review and Decision Process for the DPP or DOCD

§ 250.266 After receiving the DPP or DOCD, what will MMS do?

(a) *Determine whether deemed submitted.* Within 25 working days after receiving your proposed DPP or DOCD and its accompanying information, the Regional Supervisor will deem your DPP or DOCD submitted if:

(1) The submitted information, including the information that must accompany the DPP or DOCD (refer to list in § 250.242), fulfills requirements and is sufficiently accurate;

(2) You have provided all needed additional information (see § 250.201(b)); and

(3) You have provided the required number of copies (see § 250.206(a)).

(b) *Identify problems and deficiencies.* If the Regional Supervisor determines that you have not met each of the conditions in paragraph (a) of this section, the Regional Supervisor will notify you of the problem or deficiency. The Regional Supervisor will not deem your DPP or DOCD submitted until you have corrected any problem or deficiency identified in the notice.

§ 250.267 What actions will be taken after the DPP or DOCD is deemed submitted?

(a) *State, local government, CZM consistency, and other reviews.* Within 10 working days after the Regional Supervisor deems your DPP or DOCD submitted under § 250.266(a), the Regional Supervisor will send by receipted mail a public information copy of the DPP or DOCD and its accompanying information to the following:

(1) *The Governor of each affected State.* The Governor has 60 calendar days after receiving your deemed-submitted DPP or DOCD to submit comments and recommendations. The Regional Supervisor will consider comments and recommendations received by the deadline.

(2) *The executive of any affected local government who requests a copy.* The executive of any affected local government has 60 calendar days after receipt of your deemed-submitted DPP or DOCD to submit comments and recommendations. The Regional Supervisor will only consider comments and recommendations received by the deadline. The executive of any affected local government must forward all comments and recommendations to the respective Governor before submitting them to the Regional Supervisor.

(3) *The CZM agency of each affected State.* The CZMA consistency review period under § 307(c)(3)(B)(ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(ii)) and 15 CFR 930.78 begins when the State's CZM agency receives a copy of your deemed-submitted DPP or DOCD, consistency certification, and required necessary data/information (see 15 CFR 930.77(a)(1)).

(b) *General public.* Within 10 working days after the Regional Supervisor deems your DPP or DOCD submitted under § 250.266(a), the Regional Supervisor will make a public information copy of the DPP or DOCD and its accompanying information available for review to any appropriate interstate regional entity and the public at the appropriate MMS Regional Public Information Office. Any interested Federal agency or person may submit comments and recommendations to the Regional Supervisor. Comments and recommendations must be received by the Regional Supervisor within 60 calendar days after the DPP or DOCD and its accompanying information is made available.

(c) *MMS compliance review.* The Regional Supervisor will review the development and production activities in your proposed DPP or DOCD to ensure that they conform to the performance standards in § 250.202.

(d) *Amendments.* During the review of your proposed DPP or DOCD, the Regional Supervisor may require you, or you may elect, to change your DPP or DOCD.

§ 250.268 How does MMS respond to recommendations?

(a) *Governor.* The Regional Supervisor will accept those recommendations from the Governor that provide a reasonable balance between the national interest and the well-being of the citizens of each affected State. The Regional Supervisor will explain in writing to the Governor the reasons for rejecting any of his or her recommendations.

(b) *Local governments and the public.* The Regional Supervisor may accept recommendations from the executive of any affected local government or the public.

(c) *Availability.* The Regional Supervisor will make all comments and recommendations available to the public upon request.

§ 250.269 How will MMS evaluate the environmental impacts of the DPP or DOCD?

The Regional Supervisor will evaluate the environmental impacts of the activities described in your proposed DPP or DOCD and prepare environmental documentation under NEPA (42 U.S.C.4321 *et seq.*) and the implementing regulations (40 CFR parts 1500 through 1508).

(a) *Environmental impact statement (EIS) declaration.* At least once in each OCS planning area (other than the Western and Central GOM Planning Areas), the Director will declare that the approval of a proposed DPP is a major Federal action, and MMS will prepare an EIS.

(b) *Leases or units in the vicinity.* Before or immediately after the Director determines that preparation of an EIS is required, the Regional Supervisor may require lessees and operators of leases or units in the vicinity of the proposed development and production activities for which DPPs have not been approved to submit information about preliminary plans for their leases or units.

(c) *Draft EIS.* The Regional Supervisor will send copies of the draft EIS to the Governor of each affected State and to the executive of each affected local government who requests a copy. Additionally, when MMS prepares a DPP EIS and when an affected State's Federally-approved coastal zone management program requires a DPP NEPA document for use in determining consistency, the Regional Supervisor will forward a copy of the draft EIS to the State's CZM agency. The Regional Supervisor will also make copies of the draft EIS available to any appropriate Federal agency, interstate regional entity, and the public.

§ 250.270 What decisions will MMS make on the DPP or DOCD and within what timeframe?

(a) *Timeframe.* The Regional Supervisor will act on your deemed-submitted DPP or DOCD as follows:

(1) The Regional Supervisor will make a decision within 60 calendar days after the close of the comment period provided in § 267(a)(1), (a)(2), and (b); or the release or adoption of the final EIS for a DPP; or the receipt date of the last amendment to your proposed DOCD, whichever occurs later.

The Regional Supervisor will—	if—	And then—
(1) Approve your DPP or DOCD	it complies with all applicable requirements	The Regional Supervisor will notify you in writing of the decision and may require you to meet certain conditions, including those to provide monitoring information.
(2) Require you to modify your proposed DPP or DOCD.	it fails to make adequate provisions for safety, environmental protection, or conservation of natural resources or otherwise does not comply with the lease, the Act, or the regulations prescribed under the Act or other Federal laws.	The Regional Supervisor will notify you in writing of the decision and describe the modifications you must make to your proposed DPP or DOCD to ensure it complies with all applicable requirements.
(3) Disapprove your DPP or DOCD	(i) Any of the reasons in § 250.271 apply	(A) The Regional Supervisor will notify you in writing of the decision and describe the reason(s) for disapproving your DPP or DOCD; and (B) MMS may cancel your lease and compensate you pursuant to 43 U.S.C. 1351(h) and the implementing regulations in §§ 250.183, 250.184, 250.185, and 30 CFR 256.77.

(2) Notwithstanding paragraph (a)(1) of this section, MMS will not approve your DPP or DOCD until either:

(i) All affected States with approved CZM programs concur, or have been conclusively presumed to concur, with your DPP or DOCD consistency certification under § 307(c)(3)(B)(i) and (ii) of the CZMA (16 U.S.C. 1456 (c)(3)(B)(i) and (ii)); or

(ii) The Secretary of Commerce has made a finding authorized by § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii) (see § 250.274(b)(1)).

(b) *MMS decision.* By the deadline in paragraph (a) of this section, the Regional Supervisor will take one of the following actions:

§ 250.271 For what reasons will MMS disapprove the DPP or DOCD?

The Regional Supervisor will disapprove your proposed DPP or DOCD if one of the four reasons in this section applies.

(a) *Non-compliance.* The Regional Supervisor determines that you have failed to demonstrate that you can comply with the requirements of the Act, implementing regulations, or other applicable Federal laws.

(b) *No consistency concurrence.*

(1) An affected State has delayed issuing a final decision on your coastal zone consistency certification (see 15 CFR 930.78(a)); or

(2) An affected State objects to your coastal zone consistency certification and the Secretary of Commerce, under § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)), does not find that each activity described in the DPP or DOCD is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

(3) If the Regional Supervisor disapproved your DPP or DOCD for the sole reason that an affected State either has delayed issuing a final decision on or objected to your coastal zone consistency certification (see paragraphs (b)(1) and (2) in this section), the Regional Supervisor will approve your DPP or DOCD upon receipt of concurrence, at the time concurrence is presumed, or when the Secretary of Commerce makes a finding authorized by § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)). In that event, you do not need to resubmit your DPP or DOCD for approval under § 250.273(b).

(c) *National security or defense conflicts.* Your proposed activities would threaten national security or defense.

(d) *Exceptional circumstances.* The Regional Supervisor determines because of exceptional geological conditions, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that all of the following apply:

(1) Implementing your DPP or DOCD would cause serious harm or damage to life (including fish and other aquatic life), property, any mineral deposits (in areas leased or not leased), the national security or defense, or to the marine, coastal, or human environment;

(2) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(3) The advantages of disapproving your DPP or DOCD outweigh the advantages of development and production.

§ 250.272 If a State objects to the DPP's or DOCD's coastal zone consistency certification, what can I do?

If an affected State objects to the coastal zone consistency certification accompanying your proposed or disapproved DPP or DOCD, you may do one of the following:

(a) *Amend or resubmit your DPP or DOCD.* Amend or resubmit your DPP or

DOCD to accommodate the State's objection and submit the amendment or resubmittal to the Regional Supervisor for approval. The amendment or resubmittal needs only address information related to the State's objections.

(b) *Appeal.* Appeal the State's objection to the Secretary of Commerce using the procedures in 15 CFR part 930, subpart H. The Secretary of Commerce will either:

(1) Grant your appeal by finding under § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(iii)) that each activity described in detail in your DPP or DOCD is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security; or

(2) Deny your appeal, in which case you may amend or resubmit your DPP or DOCD, as described in paragraph (a) of this section.

(c) *Withdraw your DPP or DOCD.* Withdraw your DPP or DOCD if you decide not to conduct your proposed development and production activities.

§ 250.273 How do I submit a modified DPP or DOCD or resubmit a disapproved DPP or DOCD?

(a) *Modified DPP or DOCD.* If the Regional Supervisor requires you to modify your proposed DPP or DOCD under § 250.270(b)(2), you must submit the modification(s) to the Regional Supervisor in the same manner as for a new DPP or DOCD. You need submit only information related to the proposed modification(s).

(b) *Resubmitted DPP or DOCD.* You may resubmit your disapproved DPP or DOCD if there is a change in the conditions that were the basis of its disapproval.

§ 250.274 When can I expect a decision from MMS on the modified or resubmitted DPP or DOCD?

The Regional Supervisor will use the performance standards in § 250.202 to either approve, require you to further modify, or disapprove your modified or resubmitted DPP or DOCD. The Regional Supervisor will make a decision within 60 calendar days after the Regional Supervisor deems your modified or resubmitted DPP or DOCD to be submitted or receives the last amendment to your modified or resubmitted DPP or DOCD, whichever occurs later.

Post-Approval Requirements for the EP, DPP, and DOCD

§ 250.280 How must I conduct activities under the approved EP, DPP, or DOCD?

(a) *Compliance.* You must conduct all of your lease and unit activities according to your approved EP, DPP, or DOCD and any approval conditions. If you fail to comply with your approved EP, DPP, or DOCD:

(1) You may be subject to MMS enforcement action including civil penalty; and

(2) The lease(s) involved in your EP, DPP, or DOCD may be forfeited or cancelled under 43 U.S.C. 1334(c) or (d). If this happens, you will not be entitled to compensation under § 250.185(b) and 30 CFR 256.77.

(b) *Emergencies.* Nothing in this subpart or in your approved EP, DPP, or DOCD relieves you of or limits your responsibility to take appropriate measures to meet emergency situations. In an emergency situation, the Regional Supervisor may approve or require departures from your approved EP, DPP, or DOCD.

§ 250.281 What must I do to conduct activities under the approved EP, DPP, or DOCD?

(a) *Approvals and permits.* Before you conduct activities under your approved EP, DPP, or DOCD you must obtain the following approvals and or permits, as applicable, from the District or Regional Supervisor:

(1) Approvals of applications for permits to drill (see § 250.414);

(2) Approvals of production safety systems (see § 250.800);

(3) Approvals of new platforms and other structures (or major modifications to platforms and other structures) (see § 250.901);

(4) Approvals of applications to install lease term pipelines (see § 250.1007); and

(5) Other permits, as required by applicable law.

(b) *Conformance.* The activities proposed in these applications and permits must conform to the activities described in detail in your approved EP, DPP, or DOCD.

(c) *Separate State CZM consistency review.* Your APDs and other applications and permits to conduct activities under your approved EP, DPP, or DOCD including those identified in paragraph (a) of this section are not subject to separate State CZM consistency review.

(d) *EP approval restrictions.* The District Supervisor or Regional Supervisor will not approve any APDs or other applications and permits under your approved EP until either:

(1) All affected States with approved CZM programs concur or are conclusively presumed to concur with your coastal zone consistency certification accompanying your EP under § 307(c)(3)(B)(i) and (ii) of the CZMA (16 U.S.C. 1456(c)(3)(B)(i) and (ii)); or

(2) The Secretary of Commerce finds, under § 307(c)(3)(B)(iii) of the CZMA (16 U.S.C. 1456 (c)(3)(B)(iii)) that each activity covered by the EP is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

(3) If an affected State objects to the coastal zone consistency certification accompanying your approved EP, you may revise your EP to accommodate the State's objection and submit the revision to the Regional Supervisor for approval.

§ 250.282 Do I have to conduct post-approval monitoring?

After approving your EP, DPP, or DOCD, the Regional Supervisor may direct you to conduct monitoring programs. You must retain copies of all monitoring data obtained or derived from your monitoring programs and make them available to MMS upon request. The Regional Supervisor may require you to:

(a) Submit monitoring plans for approval before you begin the work; and

(b) Prepare and submit reports that summarize and analyze data and information obtained or derived from your monitoring programs. The Regional Supervisor will specify requirements for preparing and submitting these reports

§ 250.283 When must I revise or supplement the approved EP, DPP, or DOCD?

(a) *Revised OCS plans.* You must revise your approved EP, DPP, or DOCD when you propose to:

(1) Change the type of drilling rig, production facility, or transportation mode;

(2) Change the surface location of a well or production platform by a distance more than that specified by the Regional Supervisor;

(3) Change the type of production or significantly increase the volume of production or storage capacity;

(4) Increase the emissions of an air pollutant to an amount that exceeds the amount specified in your approved EP, DPP, or DOCD;

(5) Significantly increase the amount of solid or liquid wastes to be handled or discharged;

(6) Request a new H_2S area classification or increase the concentration of H_2S to a concentration greater than that specified by the Regional Supervisor;

(7) Change the onshore support base you are using; or

(8) Change any other activity specified by the Regional Supervisor.

(b) *Supplemental OCS plans.* You must supplement your approved EP, DPP, or DOCD when you propose to conduct activities on your lease(s) or unit that require approval of an application or permit and are not covered by your approved EP, DPP, or DOCD. These types of changes are called supplemental OCS plans.

§ 250.284 How will MMS require revisions to the approved EP, DPP, or DOCD?

(a) *Periodic review.* The Regional Supervisor will periodically review the activities you conduct under your approved EP, DPP, or DOCD and may require you to submit updated information on your activities. The frequency and extent of this review will be based on the significance of any changes in available information and onshore or offshore conditions affecting or affected by the activities in your approved EP, DPP, or DOCD.

(b) *Significant changes in information or conditions.* The Regional Supervisor may require you to revise your approved EP, DPP, or DOCD if significant changes in available information or in conditions affecting or affected by the activities being conducted under the EP, DPP, or DOCD have occurred or are occurring.

§ 250.285 How do I submit revised and supplemental EPs, DPPs, and DOCDs?

(a) *Submittal.* You must submit to the Regional Supervisor any revisions and supplements to approved EPs, DPPs, or DOCDs for approval, whether you initiate them or the Regional Supervisor orders them.

(b) *Information.* Revised and supplemental EPs, DPPs, and DOCDs need include only information related to or affected by the proposed changes, including information on changes in expected environmental impacts.

(c) *Procedures.* All supplemental EPs, DPPs, and DOCDs, and those revised EPs, DPPs, and DOCDs that the Regional Supervisor determines are likely to result in a significant change in the impacts previously identified and evaluated, are subject to all of the procedures under § 250.231 through § 250.235 for EPs, and § 250.266 through § 250.274 for DPPs and DOCDs.

Deepwater Operations Plans (DWOP)

§ 250.288 When must I submit a DWOP?

You must submit, and MMS must approve, a DWOP before you conduct any activities associated with a development project that will involve the use of floating production systems or subsea production technology for all water depths.

§ 250.289 Why do I need to submit a DWOP?

A DWOP contains information specific to floating production systems or subsea equipment issues that allows MMS to determine if the project is being developed in an acceptable manner.

§ 250.290 What are the three parts of a DWOP?

You must prepare and submit your DWOP to the Regional Supervisor in three parts: the Conceptual Part, the Preliminary Part, and the Final Part, as required by the following table:

Part	Purpose	Deadline for submission to regional supervisor	Other requirements
(a) Conceptual ...	Addresses the general design basis and philosophy used to develop the field. Provides an early opportunity for MMS and you to agree on a development plan before you make major expenditures for engineering design.	After you have identified the concept(s) for development and before you start engineering design.	You must prepare a Conceptual Part for all projects requiring a DWOP. (See § 250.291 for detailed content requirements.)
(b) Preliminary ...	Provides an opportunity for approval of the system and operations plan before you make major commitments and expenditures for hardware.	After you have substantially completed the system design and before you start procurement and fabrication, you may submit the Preliminary Part in several sections to suit the project schedule.	The Regional Supervisor must approve the Preliminary Part before you start production. The Regional Supervisor may waive the requirement for a Preliminary Part for subsea projects in water depths less than 1,312 feet (400 meters) that are similar to projects previously approved. (See § 250.292 for detailed content requirements.)
(c) Final	Updates information previously submitted in the Preliminary or Conceptual Parts.	Within 90 days following initial production.	None. (See § 250.293 for detailed content requirements.)

§ 250.291 What must the Conceptual Part of a DWOP contain?

The Conceptual Part of a DWOP must include the following information:

(a) A location plat;

(b) An overview of the development concept(s); and

(c) Information concerning any temporarily abandoned well(s) that are being completed for production.

§ 250.292 What must the Preliminary Part of a DWOP contain?

The Preliminary Part of a DWOP must include the following:

(a) A description and schematic of the typical wellbore, casing, and completion;

(b) Structural design, fabrication, and installation information for each surface system;

(c) Design, fabrication, and installation information on the mooring systems for each surface system;

(d) Information on any active stationkeeping system(s) involving thrusters or other means of propulsion used with a surface system;

(e) Information concerning the drilling and completion systems;

(f) Design and fabrication information for each riser system (e.g., drilling, workover, production, and injection);

(g) Pipeline information;

(h) Information about the design, fabrication, and operation of an offtake system for transferring produced hydrocarbons to a transport vessel;

(i) Information about subsea wells and associated systems that constitute all or a part of a single project development covered by the DWOP;

(j) A general description of surface production equipment. This may be in the form of a narrative or summary level diagrams. Identify the proposed fabrication, integration, and assembly locations of process equipment;

(k) A description of the surface/subsea safety system and emergency support systems;

(l) A description of the well production allocation test process;

(m) A general description of the operating procedures, including a table summarizing the curtailment of production and offloading based on operational considerations and environmental conditions (winds, waves, and/or currents);

(n) A description of the facility installation and commissioning procedure; and

(o) A summary of the hazard analysis to identify, evaluate, and reduce the likelihood and consequences of uncontrolled hydrocarbon releases and other safety or environmental incidents.

§ 250.293 What must the Final Part of a DWOP contain?

The Final Part of a DWOP must include the following information:

(a) A statement about your adherence to the Preliminary Part of the DWOP;

(b) A listing of any areas where the final configuration or operations differ from that approved under the Preliminary Part, with appropriate supporting documentation;

(c) Where the final configuration or operation impacts areas approved under other submittals (plans, applications, permits, etc.), a discussion and resolution of such issues under the affected submittal; and

(d) For multi-phased development concepts, an update, as applicable, of the status of future phases, and a prognosis for proceeding to the next phase.

§ 250.294 Where do I send the DWOP?

You must submit four copies of a DWOP to the MMS regional office at the applicable address shown in § 250.206(b).

§ 250.295 When will the Regional Supervisor approve or disapprove the DWOP?

The Regional Supervisor will either approve or disapprove a particular part of your DWOP within the following number of days after the Regional Supervisor determines that each part of your DWOP is complete:

(a) Conceptual Part—30 calendar days.

(b) Preliminary Part—90 calendar days.

(c) Final Part—60 calendar days.

Conservation Information Documents (CID)

§ 250.296 When and why must I submit a CID?

(a) You must submit, and the Regional Supervisor must approve, a CID before you conduct any of the following:

(1) Activities associated with a development project that will involve the use of a structure other than a conventional steel-piled jacket platform in water depths greater than 1,312 feet (400 meters); or

(2) Activities associated with a project utilizing subsea production technology at any water depth.

(b) MMS will use the information in the CID to ensure development of economically producible reservoirs according to sound conservation, engineering, and economic practices before you commit or expend substantial funds.

§ 250.297 What information must a CID contain?

A CID must include all of the following information that is available for each penetrated hydrocarbon-bearing reservoir that would qualify a well as capable of producing in paying quantities under § 250.115 or § 250.116:

(a) Estimates of original oil and gas in-place and anticipated recoverable reserves;

(b) Reservoir development strategies or a statement that you do not plan to develop the reservoir;

(c) Project-specific economic justification, including risk assessment, consistent with your internal evaluation if you do not plan to develop the reservoir;

(d) Structure maps, showing the penetration point and subsea depth for each well penetrating the reservoir, fluid contacts or the lowest or highest known levels in the absence of actual contacts, reservoir boundaries, and the scale of the map;

(e) Interpreted structural cross sections and corresponding full-scale interpreted seismic lines or block diagrams, as necessary, that include all current wellbores and planned wellbores on the leases or units to be developed, the reservoir boundaries, gas/oil/water contacts, depth scale, stratigraphic positions, and relative biostratigraphic ages;

(f) Isopach maps of each reservoir showing the net feet of pay for each well within the reservoir identified at the penetration point, along with the well name, labeled contours, and the correct scale of the map;

(g) Appropriate well logs;

(h) Appropriate pressure data, specified by date, and whether estimated or measured; and

(i) Any other appropriate data you used in performing your reservoir evaluations and preparing your reservoir development strategies.

§ 250.298 How do I submit a CID?

You must submit three copies of a CID to MMS's GOM OCS Region, Production and Development, Attention: Chief, Rate Control Section (MS 5330). You are encouraged to submit the CID as early as practical and before you make capital investment decisions that could be affected by MMS conservation decisions.

§ 250.299 What decisions will MMS make on the CID?

The Regional Supervisor will provide a written decision on your CID. MMS may disapprove your CID if we determine that additional wells or alternative development schemes would result in the economic recovery of significant additional volumes of oil and gas reserves.

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Part V

Department of the Interior

Minerals Management Service

30 CFR Parts 250, 256

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Decommissioning Activities; Final Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 256

RIN 1010–AC65

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Decommissioning Activities

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends MMS regulations governing oil and gas operations in the Outer Continental Shelf (OCS) to update decommissioning requirements. The rule includes requirements for plugging a well, decommissioning a platform and pipeline, and clearing a lease site. We restructured the requirements to make the regulations easier to read and understand. The final rule also updates requirements to reflect changes in technology. The final technical changes will help ensure that lessees and pipeline right-of-way holders conduct decommissioning operations safely and effectively.

EFFECTIVE DATE: July 16, 2002.

FOR FURTHER INFORMATION CONTACT: Sharon Buffington, Engineering and Research Branch, at (703) 787–1147.

SUPPLEMENTARY INFORMATION: On July 7, 2000, we published the proposed rule in the **Federal Register** (65 FR 41892). During the 90-day comment period, which ended on October 5, 2000, MMS received eight letters of comment from the oil and gas industry, the environmental community, and other government agencies.

Background

In 1996, at the request of MMS, the Marine Board of the National Research Council (NRC) published a report titled "An Assessment of Techniques for Removing Offshore Structures." On April 15–17, 1996, MMS convened an International Decommissioning Workshop in New Orleans, Louisiana, to discuss the recommendations in the NRC report and current industry decommissioning practices. The workshop drew over 475 attendees to discuss and make recommendations on OCS decommissioning operations. On August 8, 1996, MMS published a notice in the **Federal Register** (61 FR 41422) that requested comments on its plans to follow up on recommendations received at the workshop.

We also sponsored several other public workshops, including one in Ventura, California, on September 23–25, 1997. The purpose of the workshops was to continue the process of discussing decommissioning activities and to receive recommendations.

Differences Between Proposed and Final Rules

In addition to the changes we made to the final rule in response to comments, MMS reworded certain phrases for further clarity. In many instances, the changes improve MMS's internal work processes. MMS has also added more specific guidance in this final rule concerning items that should be included in decommissioning applications.

Response to Comments

We reviewed all of the comments, and in some instances, we revised the final language based on these comments. MMS grouped the comments by major issues and regulatory sections.

Organization of the Regulation

We received comments from various non-government agencies supporting the new organizational structure of the regulation which locates all of the decommissioning requirements into one subpart. We received no negative comments; therefore, we have kept that structure.

Abandoning Platforms in Place (30 CFR 250.1728)

Comment: MMS received comments from non-profit public interest groups, private citizens and government agencies stating that MMS should not permit oil companies to abandon platforms in place in the Pacific and Alaska OCS Regions.

Response: MMS requires that lessees remove all platforms to at least 15 feet below the mud line. Depending on the situation, MMS may allow an alternate removal depth if the remaining structure would not become a hazard to other users of the seafloor and in other very specific situations as listed in § 250.1728. However, this is not meant to allow large portions of platforms to be abandoned in place. As one commenter suggested, MMS is closely following the research and legislation on artificial reefs. As provided in § 250.1730, MMS may grant a departure from the removal requirements if the structure becomes part of an artificial reef program.

Power Cable Guidance

Comment: A lessee requested that MMS provide guidance on power cables.

Response: Under 30 CFR 250.1700, power cables associated with OCS oil, gas, or sulphur operations may be considered to be obstructions. If they are, the lessee must remove them under §§ 250.1740 through 250.1743.

Site Clearance

Comment: A lessee asked if NTL 98–26 concerning site clearance will be rescinded or revised because the new regulations would discuss site clearance.

Response: We may revise the NTL, as authorized under § 250.103, to provide more detail on trawling consistent with this final rule.

Comment: A government agency recommended that the regulation should specify that the operator must remove drilling piles or shell mounds from the base of the platform if required by the Department of the Interior (DOI).

Response: MMS has defined these items as obstructions in § 250.1700. Sections 250.1740 through 250.1743 require that obstructions be removed.

Comment: An oil industry group asked what the trawling requirements are for unburied pipelines.

Response: We address the relationship of the trawling requirements to unburied pipelines in the regulation at § 250.1741(g). That section prescribes that trawling must be parallel to an unburied pipeline and may not cross the pipeline unless the pipeline is smaller than 8 inches in diameter and has no obstructions present.

Comment: An oil industry representative asked if the Regional Supervisor would be authorized to prescribe variances for site clearance.

Response: Section 1740(c) authorizes variance.

Regulatory Flexibility (RF) Act

Comment: Lessees commented that the costs for trawling operations for temporarily abandoned wells were underestimated for § 250.1722.

Response: We received estimates from trawling organizations that the trawling operation would cost about $2,500 per day, and it may take 1 to 3 days to trawl the site of a temporarily abandoned (TA) well. However, we did not include an estimate for equipment that may be lost or damaged during the operation. Therefore, we may have unintentionally underestimated the cost by using an average cost of $3,000. We have re-verified the costs with trawling organizations and have adjusted the costs upward to an average cost of $9,000 per operation. The trawling organizations noted that the costs for temporary abandonment would be less than the costs of trawling for site clearance because the amount of debris should be substantially less for a TA well site.

Section 250.1006

Comment: Pipeline companies commented that it is not clear whether § 250.1006 applies to both lease term and right-of-way pipelines.

Response: The requirements apply to both lease term and right-of-way pipelines because DOI has regulatory authority for both. We have added the term "DOI" to the heading to make it clear that we are not referring to pipelines regulated by the Department of Transportation.

Comment: A pipeline company commented that MMS should clarify the requirements for out-of-service pipelines at each timeframe.

Response: We have created a table to clarify the requirements for out-of-service pipelines for 0 to 1 year, more than 1 year, and 5 or more years.

Comment: A pipeline company suggested adding a definition for out-of-service pipelines.

Response: We have added a definition for out-of-service pipelines in § 250.1001.

Comment: A pipeline company commented that 1 year is not enough time to allow before MMS requires a lessee to flush and fill a line with seawater when the line is out of service. Also, 5 years is too much time before requiring total decommissioning.

Response: We have retained the 1-year and 5-year requirements. MMS is doing research on flushing out-of-service pipelines and may address this in the future.

Section 250.1700

Comment: A government agency commented that MMS should expand the definition of obstacles to include marine growth such as shell mounds, and debris from oil, gas, or sulphur operations left in vessel traffic lanes.

Response: We have added marine growth to the definition of obstructions. Obstructions already include all debris from oil, gas, or sulphur operations, which is practical to remove from the area to be trawled.

Comment: A lessee commented that MMS should remove "(in the Pacific OCS Region)" from the definition because the Gulf OCS Region has power cables.

Response: We agree. MMS may require power cables to be removed if they are part of OCS oil, gas, or sulphur operations.

Section 250.1702

Comment: A lessee commented that MMS should add a qualifier that the sales contracts between operating partners may excuse the new lessee from accruing decommissioning obligations.

Response: All transferees of title or operating rights will continue to accrue the decommissioning obligations. Assignors and assignees may provide in their contract for allocation of responsibilities, but the Government should not be restricted from seeking performance by any of the parties by terms of a private agreement. This position has not changed.

Section 250.1703

Comment: A government agency commented that MMS should include a diligence requirement to prevent operators from indefinitely delaying proper decommissioning. As a mechanism, the commenter suggested that MMS review production to determine if the operator is entitled to continue operations based on economics.

Response: MMS does require lessees to prove that leases are still capable of production in paying quantities under 30 CFR 250.180 and that wells and other facilities are still needed for lease operations. *Also see* §§ 250.1710 and 250.1711 for timely well plugging requirements.

Section 250.1704

Comment: A lessee questioned how the MMS could expect to receive a platform removal application for the Pacific OCS Region and Alaska OCS Region at least 2 years before production ceases.

Response: Planning ahead is the key to a successful decommissioning operation, particularly given the size of the facilities to be removed in the Pacific OCS Region. Removal events are planned and contracted for several years in advance. The platforms that will be removed in the Pacific OCS Region will be the largest platforms located in the deepest water to date. According to a research project that MMS contracted for the Pacific OCS Region titled the "State of the Art of Removing Large Platforms Located in Deep Water," some of the removal equipment will be brought in from the North Sea at great expense, and it will take a considerable amount of planning and time.

Comment: A lessee commented that MMS should include a requirement to make the final platform removal application due 2 years after the deadline for the initial platform removal application (in the Pacific OCS Region and Alaska OCS Region).

Response: We have included this recommendation in § 250.1704(b).

Comment: A lessee commented that MMS should replace the provision for submitting decommissioning applications in (a) "at least 2 years before production is projected to cease" with "at least 1 year before production is projected to cease."

Response: We have maintained the requirement for submitting the application 2 years in advance because of the complexity of the platform removals. If we find that we no longer need 2 years notice, we will revisit this regulation. However, we have adopted the recommendation to add the language "before production is projected to cease" to the requirement.

Section 250.1711 (Proposed section 250.1707)

Comment: An oil industry organization recommended that MMS change (b) to "If the well is the last producing well on a lease, and not useful for further operations and is not capable of profitable oil, gas, or sulphur production." This would eliminate abandonment of wells for a producing lease, field, or platform.

Response: We disagree. It is MMS's responsibility to ensure that wells are properly plugged as soon as it is determined that they are no longer needed for operations. We do not see any benefit to keeping an unnecessary well unplugged.

Comment: We received a comment from a government agency asking how we know when a well is not capable of producing in paying quantities.

Response: Some of the information that we may request with form MMS–124 includes recent well tests, remaining recoverable reserves, production data, pressure data, and economic analysis. This information would help us determine if a well is capable of producing in paying quantities.

Section 250.1712 (Proposed section 250.1709)

Comment: An oil industry organization recommended that in proposed § 250.1709(a)(2), MMS should only require submission of "available" recent well test data and pressure data because the data may not be available at the time of the submittal of form MMS–124.

Response: We agree, and we have revised the final rule at § 250.1712(b).

Comment: An oil industry organization recommended that MMS change proposed § 250.1709(a)(6)(ii) from "All perforated intervals" to "All perforated intervals that have not been plugged." This eliminates the need to re-submit any details regarding other

intervals in the well that were previously abandoned with the appropriate approvals.

Response: We agree, and we have made the change at § 250.1712(f)(2).

Section 250.1715 (Proposed section 250.1710)

Comment: An oil industry organization recommended that MMS delete proposed paragraph § 250.1710(h) concerning cement displacement plugs because it is addressed in paragraph (k) for testing of plugs placed by displacement, it is not common practice and is expensive ($20,000).

Response: We agree, and we have made the change and renumbered the paragraphs. See § 250.1715(b) in this final rule.

Comment: An oil industry organization recommended that MMS change "plugs" to "plug(s)" as applicable to cover both where it would be one plug and where there may be more than one anticipated.

Response: We agree, and we have done so in appropriate places in the rule.

Comment: An oil industry organization recommended that MMS remove the word "permanent" before bridge plugs in proposed § 250.1710(d)(2), because other references to bridge plugs do not specify the type of bridge plug.

Response: We agree, and we have deleted this limitation to a specific type of bridge plug.

Comment: An oil industry organization recommended that MMS change proposed § 250.1710(i) to "Cement plugs designed to set before freezing and have a low heat of hydration" for clarity.

Response: We agree, and we have made the change.

Section 250.1716 (Proposed section 250.1712 and section 250.1713)

Comments: A county government organization recommended that this section should specify that the operators should not leave the wellheads and casing above the mud line.

Response: MMS will only allow a lessee an alternate removal depth when the object would not become a hazard, the water depth is greater than 800 meters, or other very specific situations. We believe that this is a reasonable requirement. A 1996 report from the NRC titled, "An Assessment of Techniques for Removing Structures," recommends that regulations governing removals need to be sufficiently flexible to accommodate the complex requirements of a wide variety of structures, a spectrum of marine life, and various users. MMS will analyze the requests for alternate removal depth carefully and case-by-case.

Comment: A lessee noted that it is not clear how to determine and/or prove that a particular obstruction constitutes a hazard.

Response: In determining whether an obstruction constitutes a hazard, consider whether the area would not be used by others (fishing community, military, etc.) and whether geotechnical information demonstrates that erosional processes will not expose the object to create obstructions.

Comment: A lessee recommended that MMS use 1,000 feet or more instead of 800 meters (2,624 feet) as the depth for departure from the requirement to remove all wellheads and casings to at least 15 feet below the mud line, in paragraph (a).

Response: Allowing an alternate removal requirement for all wellheads and casings in water depths 1,000 feet or more may not provide adequate protection against the wellhead becoming an obstruction. However, applications for removal in water depths less than 800 meters (2,624 feet) will be evaluated case-by-case. We also request concurrence from the Department of the Navy on these types of proposals.

Comment: An oil industry organization recommended that MMS add language to allow an alternative removal depth if "seafloor sediment stability poses safety concerns," because when using divers, mudline requirements can be difficult to meet in areas with soft sediments, and cave-ins have led to diver injuries.

Response: We agree that there may be cases when seafloor sediment stability poses safety concerns if divers are used; however, we would only approve an alternative removal depth if you determine, and MMS concurs, that you must use divers, and seafloor sediment stability poses safety concerns. You must have determined that no other removal method is possible. We have made this change in the regulations.

Section 250.1721 (Proposed section 250.1711)

Comment: An oil industry organization recommended that MMS change the wording in proposed § 250.1711(c) to "Set a retrievable or permanent-type bridge plug or a cement plug at least 100-feet long in the innermost casing. The top of the bridge plug or cement plug must be no greater than 1,000 feet below the mud line. MMS may consider approving alternate requirements for sub-sea wells case-by-case." Shallow plugs on wells intended for re-entry can be dangerous.

Response: We agree and have added § 250.1721(d).

Comment: A lessee commented that MMS should require a subsea dome cover only when the water is less than 200 feet.

Response: We disagree because damage can occur to fishing nets in depths between 200 and 300 feet. Therefore, we have specified in § 250.1721(f) that subsea domes are not required in water depths greater than 300 feet.

Comment: An oil industry organization recommended that MMS should allow subsea domes in proposed § 250.1711(g)(3) that extend more than 10 feet above the seafloor case-by-case due to different well conditions that may exist. The 10-foot requirement seems an arbitrary figure, with no engineering or maritime justification. In fact, the current installations are greater than 10 feet above the seafloor.

Response: We have added flexibility in § 250.1722(b) for allowing subsea domes that extend beyond 10 feet when approved. However, the higher the dome, the more difficult it will be for lessees to add a net guard and to have the trawling completed. We have also clarified that corrective action must be taken if the dome is not effective.

Comment: A lessee commented that MMS should rescind NTL 98–19 and use § 250.1720.

Response: The NTL is designed to give more specific guidance on satisfying the performance-based requirement. We plan to revise it to compliment the new regulation.

Comment: A lessee commented that MMS should add more flexibility to the new requirement for trawling over temporarily abandoned well domes.

Response: We agree. In § 250.1722(h), MMS has added that we may issue a departure for the trawling test if the lessee marks the subsea protective covering with an automatic daily tracking buoy or uses a design and installation method that has been proven with similar bottom conditions.

Section 250.1725 (Proposed section 250.1718)

Comment: A lessee commented that in proposed § 250.1718(a) MMS should include a requirement for considering whether removal and placement in a previously designated artificial reef site is more appropriate, and to allow time to make this determination.

Response: MMS is not the agency to determine if placement in an artificial reef site is more appropriate. However, if time is needed to make this determination, it may be obtained under § 250.1725(a).

Comment: An oil industry organization recommended that MMS add language to allow abandonment in place of subsea equipment in greater than 1,000 feet of water because they pose no hazard or obstruction. This has also been approved in DWOP submittals by MMS.

Response: MMS may approve such a request on a case-by-case basis only. However, blanket approval will not be given.

Comment: An oil industry organization recommended that MMS amend the rule to provide a waiver to defer platform removal as part of a joint industry program to remove multiple platforms or facilities. A joint industry program to remove multiple platforms (e.g. SWARS program in the Pacific OCS Region) may require that platforms remain for longer than 1 year after lease termination. This may also be the preferred alternative due to lower environmental impacts.

Response: Under 30 CFR 250.141, MMS can grant departures from regulations or lease stipulations or approve alternative compliance measures for sufficient cause.

Section 250.1727 (Proposed section 250.1719)

Comment: A commenter recommended that MMS require that unburied pipelines that may become an obstruction be removed.

Response: Removal is required under § 250.1754 because lessees and pipeline right-of-way holders may only decommission pipelines in place if they will not become a hazard.

Comment: A lessee asked what constitutes an active pipeline. Also NTL 98–26 lists requirements for unburied lines. The lessee recommended that we put these requirements in this rule.

Response: Active pipelines are those not out of service or decommissioned. We have put a definition for pipelines taken out of service at § 250.1001 and included the requirements for unburied pipelines in § 250.1741(g).

Comment: An oil industry organization recommended that MMS add "if applicable" before the list of information to include in the platform removal application.

Response: We agree, and we have made the change.

Comment: A commenter recommended that MMS include the requirements of the removal for subsea equipment.

Response: Subsea equipment removals are handled case-by-case by the MMS District offices. Too many variables exist to specify the requirements in the regulations. However, lessees can assume that equipment must be removed unless the requirements of §§ 250.1725 through 250.1728 are met.

Section 250.1728 (Proposed section 250.1720 and section 250.1721)

Comment: A commenter argued that subsea equipment in water depths greater than 1,000 feet should be allowed to remain on the seafloor as long as it is cleaned and flushed of all hydrocarbons.

Response: MMS believes that § 250.1728 is flexible enough to accommodate this request if the equipment is not an obstruction. However, lessees must still seek approval from the Regional Supervisor. MMS coordinates with the Department of the Navy on these requests, and we keep a list of all objects remaining above the mud line. Also, MMS does not have the authority to allow leaving a partial platform in place. If the platform is not officially converted into an artificial reef, it requires an ocean dumping permit from the Environmental Protection Agency (EPA). MMS believes that wellheads and casing are not part of the platform, and the decision to leave these types of structures in place is similar to abandoning pipelines in place, and does not require an EPA permit.

Comment: Specify the 800-meter water depth in feet also.

Response: MMS will state the water depth both as 800 meters and 2,624 feet throughout the regulation.

Section 250.1730 (Proposed section 250.1723)

Comment: A commenter suggested that a minimum unobstructed water column depth of 300 feet be given as acceptable for marine navigation regarding partial structure removals.

Response: MMS does not have the authority to set specific limitations on partial structure removals because the limitations will be determined by other agencies.

Comment: A commenter suggested that instead of requiring that an unobstructed water column be above the structure, MMS should require that lessees satisfy U.S. Coast Guard (USCG) navigational requirements for the remaining structure.

Response: We agree, and we have changed (b) accordingly. We have also made a change in (a) from the National Artificial Reef Program to the State's artificial reef plan for accuracy.

Section 250.1740 (Proposed section 250.1714)

Comment: An oil industry organization recommended that MMS reduce the required water depth for trawling to 200 feet.

Response: We did not make this change in the final rule because we are also anticipating future fishing and military uses with our requirements because the obstructions would be there for a very long time. We also have determined this criteria in consultation with a representative group of interested parties; therefore, we have not made this change.

Section 250.1741 (Proposed section 250.1714 and section 250.1717)

In § 250.1741, we have clarified that sensitive biological features must be protected by not trawling closer than 500 feet. This is a current requirement.

Comment: An oil industry organization recommended that MMS limit the requirement for trawling around wells to less than a 200-foot water depth and use a 200-foot radius centered on an exploration or delineation well.

Response: We are maintaining the requirement for 300 feet for both water depth and radius because 200 feet would not protect other users of the OCS. We have determined these requirements in consultation with a representative group of interested parties who are anticipating future needs.

Section 250.1742 (Proposed section 250.1715)

Comment: An oil industry organization recommended that MMS add the flexibility to use diver or remotely operated vehicle (ROV) inspections and video documentation. Many drilling rigs are now equipped with an ROV, which provides for an efficient, reliable inspection of the well site before rig departure.

Response: We agree, and we have made the change.

Section 250.1741 (Proposed section 250.1717)

Comment: A commenter recommended that the lessee should send the clearance report that is required in proposed § 250.1717(g) to MMS, along with the completion report to ensure that all the right paperwork is submitted to MMS on time. Paragraph (g)(6) should be combined with (g).

Response: We agree and have changed the final rule accordingly.

Proposed Section 250.1722

Comments: A private citizen, a non-profit public interest group, and a government agency suggested that MMS should not state its policy on artificial reefs, since it does not manage the program, and it is controversial in California. Also, paragraph (c) needs to allow for the operator, not the State, to retain liability for the structure if left as an artificial reef. Another commenter said that paragraph (c) unilaterally requires the State agency to take responsibility for the platforms, in perpetuity. Also, another commenter mentioned that an area previously designated as an artificial reef should be considered the number one option for a reef proposal.

Response: MMS deleted proposed § 250.1722 because it is unnecessary to the regulation.

Comment: A commenter said that the rule should address other uses, such as mariculture and research for decommissioned platforms.

Response: Having agreed to delete proposed § 250.1722, there is no need for the suggested change.

Section 250.1750 (Proposed section 250.1724)

Comment: A commenter argued that this paragraph needs to specify that pipelines may be left in place only when they are buried.

Response: If the unburied pipeline is an obstruction, it may not be left in place. This is now covered in § 250.1754.

Section 250.1754 (Proposed section 250.1725)

Comment: A commenter suggested that the rule define the term "hazard."

Response: We have changed the term "hazard" to "obstruction" because "obstruction" is defined in the regulation. We have also moved the requirement to remove a pipeline that subsequently becomes a hazard (proposed § 250.1725(i)) to § 250.1754 for emphasis and clarity.

Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The new or expanded requirements are written in plain language and designed to ensure that lessees decommission facilities to protect the environment and minimize obstructions to other uses of the OCS. The economic effects of this rule will be minimal. Lessees planning decommissioning activities in the Pacific OCS Region and Alaska OCS Region would be required to plan these activities at least 2 years before production ceases and submit an initial decommissioning application. This will impact an estimated two lessees a year, as shown in Table 1. The cost to develop an initial decommissioning application is estimated at $1,000 per application.

TABLE 1.—NEW REPORTING COST FOR THE INITIAL DECOMMISSIONING APPLICATION SUBMITTED IN THE PACIFIC AND ALASKA OCS REGIONS

	Yearly		
	Cost @ $1,000 per application	Lessees affected	Applications submitted
Small Businesses	$1,000	1	1
Other Lessees	1,000	1	1
Totals	2,000	2	2

TABLE 2.—NEW REQUIREMENT COST FOR TRAWLING

	First year			Subsequent years		
	Total cost @ $9000 per trawl	Lessees affected	Domes trawled	Total cost @ $9000 per Trawl	Lessees affected	Domes trawled
Small Businesses	$180,000	20	20	$27,000	3	3
Other Lessees	225,000	10	25	18,000	2	2
Totals	405,000	30	45	45,000	5	5

TABLE 3.—TOTAL COSTS FOR BOTH THE NEW PLAN AND NEW TRAWLING REQUIREMENT

	First year			Subsequent years		
	Total cost	Lessees affected	Domes trawled + plans submitted	Total cost	Lessees affected	Domes trawled + plans submitted
Small Businesses	$181,000	21	21	$28,000	4	4
Other Lessees	226,000	11	26	19,000	3	3
Totals	407,000	32	47	47,000	7	7

Also, lessees who use domes to protect temporarily abandoned wells would be required to trawl over those domes after they install them. We estimate the cost for trawling would be $9,000 for each of the 45 existing domes and $9,000 to trawl each of the 10 additional domes installed each year. We estimate that 30 lessees will be required to trawl the 45 existing domes, and 5 lessees will trawl the additional 10 domes each subsequent year as shown in Table 2. The total costs are shown in Table 3.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The new or expanded requirements are minimal and apply only to the OCS decommissioning activities.

(3) This rule does not significantly alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The new requirements and costs are minimal, and the main purpose of the rule is to write it in plain language.

(4) This rule does not raise novel legal or policy issues. The new requirements are based on the legal authority of the OCS Lands Act and other laws.

Regulatory Flexibility (RF) Act

The Department certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). The changes proposed in 30 CFR 250, subpart Q, will not have a significant economic effect on offshore lessees and operators, including those that are classified as small businesses. The Small Business Administration (SBA) defines a small business as having:

- Annual revenues of $5 million or less for exploration service and field service companies.
- Fewer than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

Under the SBA's North American Industry Classification System code 211111, Crude Petroleum and Natural Gas Extraction, MMS estimates that there is a total of 1,380 firms that drill oil and gas wells onshore and offshore. Of these, approximately 130 companies are offshore lessees/operators, based on current estimates. According to SBA estimates, 39 companies qualify as large firms, leaving 91 companies qualified as small firms with fewer than 500 employees.

Where there are some additional new or expanded reporting requirements in this rule, they do not impose extensive burdens. The cost to comply with the new requirements is a one-time cost of approximately $9,000 paid to a trawling organization to trawl over domes of temporarily abandoned wells in shallow water. The OCS has approximately 45 of these domes. In subsequent years, we predict that 10 new domes will be trawled over. We estimate that 20 of the 30 lessees that will trawl over the 45 existing domes are small businesses and 3 out of the 5 lessees that will trawl over domes in subsequent years will be small businesses. The cost to the small businesses will be $180,000 the first year and $27,000 each subsequent year, as shown in Table 2 (in the Regulatory Planning and Review section). However, the trawling industry, another small business, will benefit by having less loss to their equipment.

Also, about two lessees per year in the Pacific OCS Region or Alaska OCS Region will need to submit an initial decommissioning plan for a cost of approximately $1,000 to develop each application as shown in Table 1 (in the Regulatory Planning and Review section).

We estimate that one of these lessees will be a small business. These plans are necessary to ensure that early planning is occurring for these upcoming decommissioning activities.

Based on these calculations, this rule has no significant economic impact on small entities.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small businesses. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The main purpose of this rule is to reorganize the requirements and write them in plain language. The new requirements will cost lessees $407,000 for the first year and $47,000 in subsequent years and only a few lessees will be affected.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The cost to comply with the new requirements is minor and will minimize conflicts with other uses of the OCS.

(c) Does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises. The regulation contains a few new requirements that are not burdensome and ensure that decommissioning operations in the OCS are conducted properly.

Paperwork Reduction Act (PRA) of 1995

We examined the proposed rule and these final regulations under section 3507(d) of the PRA. As part of the proposed rulemaking process, we submitted the information collection requirements in the entire proposed subpart Q to OMB for approval. The final regulations do contain minor changes in the collection of information from what was proposed. Therefore, before publication, we again submitted the subpart Q information collection to OMB, and OMB approved them under OMB control number 1010–0142, with a current expiration date of July 31, 2004. An agency may not collect or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The title of the collection of information for this final rule is "30 CFR 250, Subpart Q—Decommissioning Activities." Respondents include approximately 130 Federal OCS oil and gas or sulphur lessees and 106 holders of pipeline rights-of-way. The frequency of response is on occasion or annually, depending upon the requirement. Responses to this collection of information are mandatory. MMS will protect proprietary information according to the Freedom of Information Act and 30 CFR 250.196, "Data and information to be made available to the public."

This rulemaking primarily consolidates information collection requirements on decommissioning from our current regulations in 30 CFR 250, subparts G, I, and J (approved under OMB control numbers 1010–0079, 1010–0058, and 1010–0050, respectively). The approved burdens for those subparts will be correspondingly reduced when the new subpart Q regulations take effect. The proposed rulemaking imposed only one new information collection burden. Section 250.1726 (proposed § 250.1705) requires submission of an initial decommissioning application in the Pacific OCS Region and Alaska OCS

Region, which we estimate will require 20 burden hours per application.

Most of the section numbers in the final regulations have changed from the proposed rule, and information collection requirements are now in different sections. The final regulations also are more specific with respect to several reporting requirements. These new burdens were included in the subsequent information collection submission that OMB approved.

We estimate the total annual reporting "hour" burden for the final rule to be 6,071 hours. There are no recordkeeping requirements. There are no paperwork "non-hour cost" burdens associated with these regulations. Following is a breakdown of the hour burden estimate.

BURDEN BREAKDOWN

Citation 30 CFR 250 subpart Q	Reporting requirement	Burden	Average number per year	Annual burden hours
1703; 1704	Request approval for decommissioning	Burden included below		0
1704(f); 1712; 1716; 1717; 1721(a), (f), (g); 1722(a),(b), (d); 1723(b); 1743(a).	Submit form MMS–124 to plug wells; provide subsequent report; request alternate depth departure; request procedure to protect obstructions above seafloor; report results of trawling; certify area cleared of obstructions; remove casing stub or mud line suspension equipment and subsea protective covering; or other departures..	Burden included under 1010–0045.		0
1713 (*Final New*)	Notify MMS 48 hours before beginning operations to permanently plug a well.	15 minutes	100 notices	25
1721(e); 1722(e), (h)(1); 1741(c).	Identify and report subsea wellheads, casing stubs, or other obstructions; mark wells protected by a dome; mark location to be cleared as navigation hazard.	U.S. Coast Guard requirement.		0
1722(c), (g)(2) (*Final New*)	Notify MMS within 5 days if trawl does not pass over protective device or causes damages to it; or if inspection reveals casing stub or mud line suspension is no longer protected.	15 minutes	10 notices	3
1722(f), (g)(3)	Submit annual report on plans for re-entry to complete or permanently abandon the well and inspection report..	2 hours	75 reports	150
1722(h) (*Final New*)	Request waiver of trawling test	2 hours	2 requests	4
1704(a); 1726 (*Proposed New*).	Submit initial decommissioning application in Pacific OCS and Alaska OCS Regions.	20 hours	2 applications	40
1704(b); 1725; 1727; 1728; 1730.	Submit final application to remove platform or other subsea facility structures (including alternate depth departure) or approval to maintain, to conduct other operations, or to convert to artificial reef.	8 hours	124 applications	992
1725(e) (*Final New*)	Notify MMS 48 hours before beginning removal of platform and other facilities.	15 minutes	124 notices	31
1704(c); 1729 (*Final New*)	Submit post platform or other facility removal report	2 hours	124 reports	248
1740(b)(5), (c)(3); 1740(g)(1); 1743(b).	Request approval of well site, platform, or other facility clearance method; including contacting pipeline owner or operator.	4 hours	125 requests	500
1743(b)	Verify permanently plugged well, platform, or other facility removal site cleared of obstructions and submit certification letter.	12 hours	124 verifications	1,488
1704(d); 1751; 1752	Submit application to decommission pipeline in place or remove pipeline.	8 hours	257 applications	2,056
1753 (*Final New*)	Submit post pipeline decommissioning report	2 hours	257 reports	514
1700 through 1754	General departure and alternative compliance requests not specifically covered elsewhere in subpart Q regulations.	2 hours	10 requests	20
Total Reporting			1,334	6,071

Federalism (Executive Order 13132)

According to Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. The final rule revises existing operation regulations. It does not prevent any lessee, operator, or drilling contractor from performing operations on the OCS, provided they follow the regulations. This rule is updating decommissioning requirements and will not impose costs on States or localities.

Takings Implication Assessment (Executive Order 12630)

According to Executive Order 12630, the final rule does not represent a governmental action capable of interference with constitutionally protected property rights. The new requirements are minor and deal with minimizing obstructions to other uses of the OCS. Thus, a Takings Implication Assessment need not be prepared according to Executive Order 12630, Government Action and Interference with Constitutionally Protected Property Rights.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by OMB under Executive Order 13211. The rule does not have a significant effect on energy supply, distribution, or use because it will not reduce crude oil supply or production. It also will not increase energy prices or increase dependence on foreign supplies. The new or expanded requirements are written in plain language and designed to ensure that lessees decommission facilities to protect the environment and minimize obstructions to other uses of the OCS. The economic effects of this rule will be minimal.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of §§ 3(a) and 3(b)(2) of the Order.

Unfunded Mandate Reform Act (UMRA) of 1995 (Executive Order 12866)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule was mainly updated to include plain language and to give additional guidance. It contains very few new requirements, and it will not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, a statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

National Environmental Policy Act (NEPA) of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Natural gas, Petroleum, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur, Surety bonds.

30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Dated: April 23, 2002.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

§ 250.102 What does this part do?

2. In § 250.102, the following changes are made:

a. In § 250.102, in the table in paragraph (b), line (1) is removed.

b. Lines 2 through 13 are redesignated lines 1 through 12 respectively.

c. A new line 13 is added to read as follows:

TABLE.—WHERE TO FIND INFORMATION FOR CONDUCTING OPERATIONS

For information about—	Refer to—
. . . . .	
(13) Permanently plugging wells	§ 250.1710
. . . . .	

3. In § 250.199, the following changes are made:

a. In the table in paragraph (e), entry (7) is removed.

b. Entries (8) through (16) are renumbered (7) through (15).

c. A new entry (16) is added to read as follows:

30 CFR 250 subpart/title (OMB control No.)	Reasons for collecting information and how used
. . . . .	
(16) Subpart Q, Decommissioning Activities (1010–0142).	To determine that decommissioning activities comply with regulatory requirements and approvals. To ensure that site clearance and platform or pipeline removal are properly performed to protect marine life and the environment and do not conflict with other users of the OCS.
. . . . .	

Subpart G—[Removed and Reserved]

4. Subpart G (§§ 250.700–250.704) is removed and reserved.

Subpart I—Platforms and Structures

§ 250.913 [Removed]

5. Section 250.913 is removed.

Subpart J—Pipelines and Pipeline Rights-of-Way

6. In § 250.1001, the following definition is added in alphabetical order:

§ 250.1001 Definitions.

* * * * *

Out-of-service pipelines are those pipelines that have not been used to transport oil, natural gas, sulfur, or produced water for more than 30 consecutive days.

* * * * *

7. Section 250.1006 is revised to read as follows:

§ 250.1006 How must I decommission and take out of service a DOI pipeline?

(a) The requirements for decommissioning pipelines are listed in § 250.1750 through § 250.1754.

(b) The table in this section lists the requirements if you take a DOI pipeline out of service:

If you have the pipeline out of service for:	Then you must:
(1) 1 year or less	Isolate the pipeline with a blind flange or a closed block valve at each end of the pipeline.
(2) More than 1 year but less than 5 years	Flush and fill the pipeline with inhibited seawater.
(3) 5 or more years	Decommission the pipeline according to §§ 250.1750–250.1754.

§ 250.1007 [Amended]

8. In § 250.1007 paragraph (c) is removed.

9. In § 250.1014, the second sentence is revised to read as follows:

§ 250.1014 Relinquishment of a right-of-way grant.

* * * It must contain those items addressed in §§ 250.1751 and 250.1752 of this part. * * *

10. Subpart Q is added to read as follows:

Subpart Q—Decommissioning Activities

General

Sec.
250.1700 What do the terms "decommissioning", "obstructions", and "facility" mean?
250.1701 Who must meet the decommissioning obligations in this subpart?
250.1702 When do I accrue decommissioning obligations?
250.1703 What are the general requirements for decommissioning?
250.1704 When must I submit decommissioning applications and reports?

Permanently Plugging Wells

250.1710 When must I permanently plug all wells on a lease?
250.1711 When will MMS order me to permanently plug a well?
250.1712 What information must I submit before I permanently plug a well or zone?
250.1713 Must I notify MMS before I begin well plugging operations?
250.1714 What must I accomplish with well plugs?
250.1715 How must I permanently plug a well?
250.1716 To what depth must I remove wellheads and casings?
250.1717 After I permanently plug a well, what information must I submit?

Temporarily Plugging Wells

250.1721 If I temporarily plug a well that I plan to re-enter, what must I do?
250.1722 If I install a subsea protective device, what requirements must I meet?
250.1723 What must I do when it is no longer necessary to maintain a well in temporary abandoned status?

Removing Platforms and Other Facilities

250.1725 When do I have to remove platforms and other facilities?
250.1726 When must I submit an initial platform removal application, and what must it include?
250.1727 What information must I include in my final application to remove a platform or other facility?
250.1728 To what depth must I remove a platform or other facility?
250.1729 After I remove a platform or other facility, what information must I submit?
250.1730 When might MMS approve partial structure removal or toppling in place?

Site Clearance for Wells, Platforms, and Other Facilities

250.1740 How must I verify that the site of a permanently plugged well, removed platform, or removed facility is clear of obstructions?
250.1741 If I drag a trawl across a site, what requirements must I meet?
250.1742 What other methods can I use to verify that a site is clear?
250.1743 How do I certify that a site is clear of obstructions?

Pipeline Decommissioning

250.1750 When may I decommission a pipeline in place?
250.1751 How do I decommission a pipeline in place?
250.1752 How do I remove a pipeline?
250.1753 After I decommission a pipeline, what information must I submit?
250.1754 When must I remove a pipeline decommissioned in place?

Authority: 43 U.S.C. 1331 *et seq.*

Subpart Q—Decommissioning Activities

General

§ 250.1700 What do the terms "decommissioning", "obstructions", and "facility" mean?

(a) *Decommissioning* means:

(1) Ending oil, gas, or sulphur operations; and

(2) Returning the lease or pipeline right-of-way to a condition that meets the requirements of regulations of MMS and other agencies that have jurisdiction over decommissioning activities.

(b) *Obstructions* means structures, equipment, or objects that were used in oil, gas, or sulphur operations or marine growth that, if left in place, would hinder other users of the OCS. Obstructions may include, but are not limited to, shell mounds, wellheads, casing stubs, mud line suspensions, well protection devices, subsea trees, jumper assemblies, umbilicals, manifolds, termination skids, production and pipeline risers, platforms, templates, pilings, pipelines, pipeline valves, and power cables.

(c) *Facility* means any installation other than a pipeline used for oil, gas, or sulphur activities that is permanently or temporarily attached to the seabed on the OCS. Facilities include production and pipeline risers, templates and pilings, and any other facility or equipment that constitutes an obstruction such as jumper assemblies, termination skids, umbilicals, anchors, and mooring lines.

§ 250.1701 Who must meet the decommissioning obligations in this subpart?

(a) Lessees and owners of operating rights are jointly and severally responsible for meeting decommissioning obligations for facilities on leases, including the obligations related to lease-term pipelines, as the obligations accrue and until each obligation is met.

(b) All holders of a right-of-way are jointly and severally liable for meeting decommissioning obligations for facilities on their right-of-way, including right-of-way pipelines, as the obligations accrue and until each obligation is met.

(c) In this subpart, the terms "you" or "I" refer to lessees and owners of operating rights, as to facilities installed under the authority of a lease, and to right-of-way holders as to facilities installed under the authority of a right-of-way.

§ 250.1702 When do I accrue decommissioning obligations?

You accrue decommissioning obligations when you do any of the following:

(a) Drill a well;

(b) Install a platform, pipeline, or other facility;

(c) Create an obstruction to other users of the OCS;

(d) Are or become a lessee or the owner of operating rights of a lease on which there is a well that has not been permanently plugged according to this subpart, a platform, a lease term pipeline, or other facility, or an obstruction;

(e) Are or become the holder of a pipeline right-of-way on which there is a pipeline, platform, or other facility, or an obstruction; or

(f) Re-enter a well that was previously plugged according to this subpart.

§ 250.1703 What are the general requirements for decommissioning?

When your facilities are no longer useful for operations, you must:

(a) Get approval from the appropriate District Supervisor before decommissioning wells and from the Regional Supervisor before decommissioning platforms and pipelines or other facilities;

(b) Permanently plug all wells;

(c) Remove all platforms and other facilities;

(d) Decommission all pipelines;

(e) Clear the seafloor of all obstructions created by your lease and pipeline right-of-way operations; and

(f) Conduct all decommissioning activities in a manner that is safe, does not unreasonably interfere with other uses of the OCS, and does not cause undue or serious harm or damage to the human, marine, or coastal environment.

§ 250.1704 When must I submit decommissioning applications and reports?

You must submit decommissioning applications and receive approval and submit subsequent reports according to the table in this section.

DECOMMISSIONING APPLICATIONS AND REPORTS TABLE

Decommissioning applications	When to submit	Instructions
(a) Initial platform removal application [not required in the Gulf of Mexico OCS Region].	In the Pacific OCS Region or Alaska OCS Region, submit the application to the Regional Supervisor at least 2 years before production is projected to cease.	Include information required under § 250.1726.
(b) Final removal application for a platform or other facility.	Before removing a platform or other facility in the Gulf of Mexico OCS Region, or not more than 2 years after facility the submittal of an initial platform removal application to the Pacific OCS Region and the Alaska OCS Region.	Include information required under § 250.1727.
(c) Post-removal report for a platform or other facility.	Within 30 days after you remove a platform or other facility	Include information required under § 250.1729.
(d) Pipeline decommissioning application.	Before you decommission a pipeline	Include information required under § 250.1751(a) or § 250.1752(a), as applicable.
(e) Post-pipeline decommissioning report.	Within 30 days after you decommission a pipeline	Include information required under § 250.1753.
(f) Form MMS–124, Sundry Notices and Reports on Wells.	(1) Before you plug a well	Include information required under § 250.1712.
	(2) Within 30 days after you plug a well	Include information required under § 250.1717.
	(3) Within 30 days after you complete siteclearance activities	Include information required under § 250.1743(b).

Permanently Plugging Wells

§ 250.1710 When must I permanently plug all wells on a lease?

You must permanently plug all wells on a lease within 1 year after the lease terminates.

§ 250.1711 When will MMS order me to permanently plug a well?

MMS will order you to permanently plug a well if that well:

(a) Poses a hazard to safety or the environment; or

(b) Is not useful for lease operations and is not capable of oil, gas, or sulphur production in paying quantities.

§ 250.1712 What information must I submit before I permanently plug a well or zone?

Before you permanently plug a well or zone, you must submit form MMS–124, Sundry Notices and Reports on Wells, and receive approval. A request for approval must contain the following information:

(a) The reason you are plugging the well (or zone), for completions with production amounts specified by the Regional Supervisor, along with substantiating information demonstrating its lack of capacity for further profitable production of oil, gas, or sulfur;

(b) Recent well test data and pressure data, if available;

(c) Maximum possible surface pressure, and how it was determined;

(d) Type and weight of well-control fluid you will use;

(e) A description of the work (including any measures proposed to protect archaeological or biological bottom features from anchor damage); and

(f) A current and proposed well schematic and description that includes:

(1) Well depth;

(2) All perforated intervals that have not been plugged;

(3) Casing and tubing depths and details;

(4) Subsurface equipment;

(5) Estimated tops of cement (and the basis of the estimate) in each casing annulus;

(6) Plug locations;

(7) Plug types;

(8) Plug lengths;

(9) Properties of mud and cement to be used;

(10) Perforating and casing cutting plans;

(11) Plug testing plans;

(12) Casing removal (including information on explosives, if used);

(13) Proposed casing removal depth; and

(14) Your plans to protect archaeological and sensitive biological features during plugging operations, including a brief assessment of the environmental impacts of the plugging operations and the procedures and

mitigation measures you will take to minimize such impacts.

§ 250.1713 Must I notify MMS before I begin well plugging operations?

You must notify the appropriate District Supervisor at least 48 hours before beginning operations to permanently plug a well.

§ 250.1714 What must I accomplish with well plugs?

You must ensure that all well plugs:

(a) Provide downhole isolation of hydrocarbon and sulphur zones;

(b) Protect freshwater aquifers; and

(c) Prevent migration of formation fluids within the wellbore or to the seafloor.

§ 250.1715 How must I permanently plug a well?

(a) You must permanently plug wells according to the table in this section. The District Supervisor may require additional well plugs as necessary.

PERMANENT WELL PLUGGING REQUIREMENTS

If you have—	Then you must use—
(1) Zones in open hole	Cement plug(s) from at least 100 feet below the bottom to 100 feet above the top of oil, gas, and fresh-water zones to isolate fluids in the strata.
(2) Open hole below casing	(i) A cement plug set by the displacement method, at least 100 feet above and below deepest casing shoe; (ii) A cement retainer with effective back-pressure control set 50 to 100 feet above the casing shoe, and a cement plug that extends at least 100 feet below the casing shoe and at least 50 feet above the retainer; or (iii) A bridge plug 50 feet to 100 feet above the shoe with 50 feet of cement on top of the bridge plug, for expected or known lost circulation conditions.
(3) perforated zone that is currently open and not previously squeezed or isolated.	A (i) A method to squeeze cement to all perforations; (ii) A cement plug set by the displacement method, at least 100 feet above to 100 feet below the perforated interval, or down to a casing plug, whichever is less; or (iii) If the perforated zones are isolated from the hole below, you may use any of the plugs specified in paragraphs (A) through (E) of this paragraph instead of those specified in paragraphs (3)(i) and (3)(ii) of this section: (A) A cement retainer with effective back-pressure control 50 to 100 feet above the top of the perforated interval, and a cement plug that extends at least 100 feet below the bottom of the perforated interval with at least 50 feet of cement above the retainer; (B) A bridge plug set 50 to 100 feet above the top of the perforated interval and at least 50 feet of cement on top of the bridge plug; (C) A cement plug at least 200 feet in length, set by the displacement method, with the bottom of the plug no more than 100 feet above the perforated interval; (D) A through-tubing basket plug set no more than 100 feet above the perforated interval with at least 50 feet of cement on top of the basket plug; or (E) A tubing plug set no more than 100 feet above the perforated interval topped with a sufficient volume of cement so as to extend at least 100 feet above the uppermost packer in the wellbore and at least 300 feet of cement in the casing annulus immediately above the packer.
(4) A casing stub where the stub end is within the casing.	(i) A cement plug at least 100 feet above and below the stub end; (ii) A cement retainer or bridge plug set at least 50 to 100 feet above the stub end with at least 50 feet of cement on top of the retainer or bridge plug; or (iii) A cement plug at least 200 feet long with the bottom of the plug set no more than 100 feet above the stub end.
(5) A casing stub where the stub end is below the casing.	A plug as specified in paragraph (a)(1) or (a)(2) of this section, as applicable.
(6) An annular space that communicates with open hole and extends to the mud line.	A cement plug at least 200 feet long set in the annular space. For a well completed above the ocean surface, you must pressure test each casing annulus to verify isolation.
(7) A subsea well with unsealed annulus	A cutter to sever the casing, and you must set a stub plug as specified in paragraphs (a)(4) and (a)(5) of this section.
(8) A well with casing	A cement surface plug at least 150 feet long set in the smallest casing that extends to the mud line with the top of the plug no more than 150 feet below the mud line.
(9) Fluid left in the hole	A fluid in the intervals between the plugs that is dense enough to exert a hydrostatic pressure that is greater than the formation pressures in the intervals.

(b) You must test the first plug below the surface plug and all plugs in lost circulation areas that are in open hole. The plug must pass one of the following tests to verify plug integrity:

(1) A pipe weight of at least 15,000 pounds on the plug; or

(2) A pump pressure of at least 1,000 pounds per square inch. Ensure that the pressure does not drop more than 10 percent in 15 minutes. The District Supervisor may require you to tests other plug(s).

§ 250.1716 To what depth must I remove wellheads and casings?

(a) Unless the District Supervisor approves an alternate depth under paragraph (b) of this section, you must remove all wellheads and casings to at least 15 feet below the mud line.

(b) The District Supervisor may approve an alternate removal depth if:

(1) The wellhead or casing would not become an obstruction to other users of the seafloor or area, and geotechnical and other information you provide demonstrate that erosional processes capable of exposing the obstructions are not expected; or

(2) You determine, and MMS concurs, that you must use divers, and the seafloor sediment stability poses safety concerns; or

(3) The water depth is greater than 800 meters (2,624 feet).

§ 250.1717 After I permanently plug a well, what information must I submit?

Within 30 days after you permanently plug a well, you must submit form MMS–124, Sundry Notices and Reports on Wells (subsequent report), and include the following information:

(a) Information included in § 250.1712 with a final well schematic;

(b) Description of the plugging work;

(c) Nature and quantities of material used in the plugs; and

(d) If you cut and pulled any casing string, the following information:

(1) A description of the methods used (including information on explosives, if used);

(2) Size and amount of casing removed; and

(3) Casing removal depth.

Temporary Plugging of Wells

§ 250.1721 If I temporarily plug a well that I plan to re-enter, what must I do?

You may temporarily plug a well when it is necessary for proper development and production of a lease. To temporarily plug a well, you must do all of the following:

(a) Submit form MMS–124, Sundry Notices and Reports on Wells, and the applicable information required by § 250.1712 to the appropriate District Supervisor and receive approval;

(b) Adhere to the plugging and testing requirements for permanently plugged wells listed in the table in § 250.1715, except for § 250.1715 (a)(8). You do not need to sever the casings, remove the wellhead, or clear the site;

(c) Set a bridge plug or a cement plug at least 100-feet long at the base of the deepest casing string, unless the casing string has been cemented and has not been drilled out. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole;

(d) Set a retrievable or a permanent-type bridge plug or a cement plug at least 100 feet long in the inner-most casing. The top of the bridge plug or cement plug must be no more than 1,000 feet below the mud line. MMS may consider approving alternate requirements for subsea wells case-by-case;

(e) Identify and report subsea wellheads, casing stubs, or other obstructions that extend above the mud line according to U.S. Coast Guard (USCG) requirements; and

(f) Except in water depths greater than 300 feet, protect subsea wellheads, casing stubs, mud line suspensions, or other obstructions remaining above the seafloor by using one of the following methods, as approved by the Regional or District Supervisor:

(1) A caisson designed according to 30 CFR 250, subpart I, and equipped with aids to navigation;

(2) A jacket designed according to 30 CFR 250, subpart I, and equipped with aids to navigation; or

(3) A subsea protective device that meets the requirements in § 250.1722.

(g) Within 30 days after you temporarily plug a well, you must submit form MMS–124, Sundry Notices and Reports on Wells (subsequent report), and include the following information:

(1) Information included in § 250.1712 with a well schematic;

(2) Information required by § 250.1717(b), (c), and (d); and

(3) A description of any remaining subsea wellheads, casing stubs, mudline suspension equipment, or other obstructions that extend above the seafloor.

§ 250.1722 If I install a subsea protective device, what requirements must I meet?

If you install a subsea protective device under § 250.1721(f), you must install it in a manner that allows fishing gear to pass over the obstruction without damage to the obstruction, the protective device, or the fishing gear.

(a) Use form MMS–124, Sundry Notices and Reports on Wells to request approval from the appropriate District Supervisor to install a subsea protective device.

(b) The protective device may not extend more than 10 feet above the seafloor (unless MMS approves otherwise).

(c) You must trawl over the protective device when you install it (adhere to the requirements at § 250.1740(a)). If the trawl does not pass over the protective device or causes damage to it, you must notify the appropriate District Supervisor within 5 days and perform remedial action within 30 days of the trawl;

(d) Within 30 days after you complete the trawling test described in paragraph (c) of this section, submit a report to the appropriate District Supervisor using form MMS–124, Sundry Notices and Reports on Wells, that includes the following:

(1) The date(s) the trawling test was performed and the vessel that was used;

(2) A plat at an appropriate scale showing the trawl lines;

(3) A description of the trawling operation and the net(s) that were used;

(4) An estimate by the trawling contractor of the seafloor penetration depth achieved by the trawl;

(5) A summary of the results of the trawling test including a discussion of any snags and interruptions, a description of any damage to the protective covering, the casing stub or mud line suspension equipment, or the trawl, and a discussion of any snag removals requiring diver assistance; and

(6) A letter signed by your authorized representative stating that he/she witnessed the trawling test.

(e) If a temporarily abandoned well is protected by a subsea device installed in a water depth less than 100 feet, mark the site with a buoy installed according to the USCG requirements.

(f) Provide annual reports to the Regional Supervisor describing your plans to either re-enter and complete the well or to permanently plug the well.

(g) Ensure that all subsea wellheads, casing stubs, mud line suspensions, or other obstructions in water depths greater than 300 feet remain protected.

(1) To confirm that the subsea protective covering remains properly installed, either conduct a visual inspection or perform a trawl test at least annually.

(2) If the inspection reveals that a casing stub or mud line suspension is no longer properly protected, or if the trawl does not pass over the subsea protective covering without causing damage to the covering, the casing stub or mud line suspension equipment, or the trawl, notify the appropriate District Supervisor within 5 days, and perform the necessary remedial work within 30 days of discovery of the problem.

(3) In your annual report required by paragraph (f) of this section, include the inspection date, results, and method used and a description of any remedial work you will perform or have performed.

(h) You may request approval to waive the trawling test required by paragraph (c) of this section if you plan to use either:

(1) A buoy with automatic tracking capabilities installed and maintained according to USCG requirements at 33 CFR part 67 (or its successor); or

(2) A design and installation method that has been proven successful by trawl testing of previous protective devices of the same design and installed in areas with similar bottom conditions.

§ 250.1723 What must I do when it is no longer necessary to maintain a well in temporary abandoned status?

If you or MMS determines that continued maintenance of a well in a temporarily plugged status is not necessary for the proper development or production of a lease, you must:

(a) Promptly and permanently plug the well according to § 250.1715;

(b) Remove any casing stub or mud line suspension equipment and any subsea protective covering. You must submit a request for approval to perform such work to the appropriate District

Supervisor using form MMS–124, Sundry Notices and Reports on Wells; and

(c) Clear the well site according to § 250.1740 through § 250.1742.

Removing Platforms and Other Facilities

§ 250.1725 When do I have to remove platforms and other facilities?

(a) You must remove all platforms and other facilities within 1 year after the lease or pipeline right-of-way terminates, unless you receive approval to maintain the structure to conduct other activities. Platforms include production platforms, well jackets, single-well caissons, and pipeline accessory platforms.

(b) Before you may remove a platform or other facility, you must submit a final removal application to the Regional Supervisor for approval and include the information listed in § 250.1727.

(c) You must remove a platform or other facility according to the approved application.

(d) You must flush all production risers with seawater before you remove them.

(e) You must notify the Regional Supervisor at least 48 hours before you begin the removal operations.

§ 250.1726 When must I submit an initial platform removal application and what must it include?

An initial platform removal application is required only for leases in the Pacific OCS Region or the Alaska OCS Region. It must include the following information:

(a) Platform or other facility removal procedures, including the types of vessels and equipment you will use;

(b) Facilities (including pipelines) you plan to remove or leave in place;

(c) Platform or other facility transportation and disposal plans;

(d) Plans to protect marine life and the environment during decommissioning operations, including a brief assessment of the environmental impacts of the operations, and procedures and mitigation measures that you will take to minimize the impacts; and

(e) A projected decommissioning schedule.

§ 250.1727 What information must I include in my final application to remove a platform or other facility?

You must submit a final application to remove a platform or other facility to the Regional Supervisor for approval. This requirement applies to leases in all MMS Regions. If you are proposing to use explosives, provide three copies of the application. If you are not proposing to use explosives, provide two copies of the application. Include the following information in the final removal application, as applicable:

(a) Identification of the applicant including:

(1) Lease operator/pipeline right-of-way holder;

(2) Address;

(3) Contact person and telephone number; and

(4) Shore base.

(b) Identification of the structure you are removing including:

(1) Platform Name/MMS Complex ID Number;

(2) Location (lease/right-of-way, area, block, and block coordinates);

(3) Date installed (year);

(4) Proposed date of removal (Month/Year); and

(5) Water depth.

(c) Description of the structure you are removing including:

(1) Configuration (attach a photograph or a diagram);

(2) Size;

(3) Number of legs/casings/pilings;

(4) Diameter and wall thickness of legs/casings/pilings;

(5) Whether piles are grouted inside or outside;

(6) Brief description of soil composition and condition;

(7) The sizes and weights of the jacket, topsides (by module), conductors, and pilings; and

(8) The maximum removal lift weight and estimated number of main lifts to remove the structure.

(d) A description, including anchor pattern, of the vessel(s) you will use to remove the structure.

(e) Identification of the purpose, including:

(1) Lease expiration/right-of-way relinquishment date; and

(2) Reason for removing the structure.

(f) A description of the removal method, including:

(1) A brief description of the method you will use;

(2) If you are using explosives, the following:

(i) Type of explosives;

(ii) Number and sizes of charges;

(iii) Whether you are using single shot or multiple shots;

(iv) If multiple shots, the sequence and timing of detonations;

(v) Whether you are using a bulk or shaped charge;

(vi) Depth of detonation below the mud line; and

(vii) Whether you are placing the explosives inside or outside of the pilings;

(3) If you will use divers or acoustic devices to conduct a pre-removal survey to detect the presence of turtles and marine mammals, a description of the proposed detection method; and

(4) A statement whether or not you will use transducers to measure the pressure and impulse of the detonations.

(g) Your plans for transportation and disposal (including as an artificial reef) or salvage of the removed platform.

(h) If available, the results of any recent biological surveys conducted in the vicinity of the structure and recent observations of turtles or marine mammals at the structure site.

(i) Your plans to protect archaeological and sensitive biological features during removal operations, including a brief assessment of the environmental impacts of the removal operations and procedures and mitigation measures you will take to minimize such impacts.

(j) A statement whether or not you will use divers to survey the area after removal to determine any effects on marine life.

§ 250.1728 To what depth must I remove a platform or other facility?

(a) Unless the Regional Supervisor approves an alternate depth under paragraph (b) of this section, you must remove all platforms and other facilities (including templates and pilings) to at least 15 feet below the mud line.

(b) The Regional Supervisor may approve an alternate removal depth if:

(1) The remaining structure would not become an obstruction to other users of the seafloor or area, and geotechnical and other information you provide demonstrate that erosional processes capable of exposing the obstructions are not expected; or

(2) You determine, and MMS concurs, that you must use divers and the seafloor sediment stability poses safety concerns; or

(3) The water depth is greater than 800 meters (2,624 feet).

§ 250.1729 After I remove a platform or other facility, what information must I submit?

Within 30 days after you remove a platform or other facility, you must submit a written report to the Regional Supervisor that includes the following:

(a) A summary of the removal operation including the date it was completed;

(b) A description of any mitigation measures you took; and

(c) A statement signed by your authorized representative that certifies that the types and amount of explosives you used in removing the platform or other facility were consistent with those set forth in the approved removal application.

Site Clearance for Wells, Platforms, and Other Facilities

§ 250.1730 When might MMS approve partial structure removal or toppling in place?

The Regional Supervisor may grant a departure from the requirement to remove a platform or other facility by approving partial structure removal or toppling in place for conversion to an artificial reef or other use if you meet the following conditions:

(a) The structure becomes part of a State artificial reef program, and the responsible State agency acquires a permit from the U.S. Army Corps of Engineers and accepts title and liability for the structure; and

(b) You satisfy any U.S. Coast Guard (USCG) navigational requirements for the structure.

§ 250.1740 How must I verify that the site of a permanently plugged well, removed platform, or other removed facility is clear of obstructions?

Within 60 days after you permanently plug a well or remove a platform or other facility, you must verify that the site is clear of obstructions by using one of the following methods:

(a) For a site in water depths less than 300 feet, you must drag a trawl over the site.

(b) For a well site in water depths 300 feet or more, you may:

(1) Drag a trawl over the site;

(2) Scan across the location using sonar equipment;

(3) Inspect the site using a diver;

(4) Videotape the site using a camera on a remotely operated vehicle (ROV); or

(5) Use another method approved by the District Supervisor if the particular site conditions warrant.

(c) For a platform or other facility site in water depths 300 feet or more, you may:

(1) Drag a trawl over the site;

(2) Scan across the site using sonar equipment; or

(3) Use another method approved by the District Supervisor if the particular site conditions warrant.

§ 250.1741 If I drag a trawl across a site, what requirements must I meet?

If you drag a trawl across the site in accordance with § 250.1740, you must meet all of the requirements of this section.

(a) You must drag the trawl in a grid-like pattern as shown in the following table:

For a—	You must drag the trawl across a—
(1) Well site	300-foot-radius circle centered on the well location.
(2) Subsea well site	600-foot-radius circle centered on the well location.
(3) Platform site	1,320-foot-radius circle centered on the location of the platform.
(4) Single-well caisson, well protector jacket, template, or manifold.	600-foot-radius circle centered on the structure location.

(b) You must trawl 100 percent of the limits described in § 250.1741 in two directions.

(c) You must mark the area to be cleared as a hazard to navigation according to USCG requirements until you complete the site clearance procedures.

(d) You must use a trawling vessel equipped with a calibrated navigational positioning system capable of providing position accuracy of ±30 feet.

(e) You must use a trawling net that is representative of those used in the commercial fishing industry (one that has a net strength equal or greater than that provided by No. 18 twine).

(f) You must ensure that you trawl no closer than 300 feet from a shipwreck, and 500 feet from a sensitive biological feature.

(g) If you trawl near an active pipeline, you must meet the requirements in the following table:

For—	You must trawl—	And you must—
(1) Buried active pipelines		First contact the pipeline owner or operator to determine the condition of the pipeline before trawling over the buried pipeline.
(2) Unburied active pipelines that are 8 inches in diameter or larger.	no closer than 100 feet to the either side of the pipeline.	Trawl parallel to the pipeline Do not trawl across the pipeline.
(3) Unburied smaller diameter pipelines in the trawl area that have obstructions (e.g., pipeline valves) present.	no closer than 100 feet to either side of the pipeline.	Trawl parallel to the pipeline. Do not trawl across the pipeline.
(4) Unburied active pipelines in the trawl area that are smaller than 8 inches in diameter and have no obstructions present.	parallel to the pipeline	

(h) You must ensure that any trawling contractor you may use:

(1) Has no corporate or other financial ties to you; and

(2) Has a valid commercial trawling license for both the vessel and its captain.

§ 250.1742 What other methods can I use to verify that a site is clear?

If you do not trawl a site, you can verify that the site is clear of obstructions by using any of the methods shown in the following table:

If you use—	You must—	And you must—
(a) Sonar	cover 100 percent of the appropriate grid area listed in § 250.1741(a).	Use a sonar signal with a frequency of at least 500 kHz.

If you use—	You must—	And you must—
(b) A diver	ensure that the diver visually inspects 100 percent of the appropriate grid area listed in § 250.1741(a).	Ensure that the diver uses a search pattern of concentric circles or parallel lines spaced no more than 10 feet apart.
(c) An ROV ensure (remotely operated vehicle).	ensure that the ROV camera records videotape over 100 percent of the appropriate grid area listed in § 250.1741(a).	Ensure that the ROV uses a pattern of concentic circles or parallel lines spaced no more than 10 feet apart.

§ 250.1743 How do I certify that a site is clear of obstructions?

(a) For a well site, you must submit to the appropriate District Supervisor within 30 days after you complete the verification activities a form MMS–124, Sundry Notices and Reports on Wells, to include the following information:

(1) A signed certification that the well site area is cleared of all obstructions;

(2) The date the verification work was performed and the vessel used;

(3) The extent of the area surveyed;

(4) The survey method used;

(5) The results of the survey, including a list of any debris removed or a statement from the trawling contractor that no objects were recovered; and

(6) A post-trawling job plot or map showing the trawled area.

(b) For a platform or other facility site, you must submit the following information to the appropriate District Supervisor within 30 days after you complete the verification activities:

(1) A letter signed by an authorized company official certifying that the platform or other facility site area is cleared of all obstructions and that a company representative witnessed the verification activities;

(2) A letter signed by an authorized official of the company that performed the verification work for you certifying that they cleared the platform or other facility site area of all obstructions;

(3) The date the verification work was performed and the vessel used;

(4) The extent of the area surveyed;

(5) The survey method used;

(6) The results of the survey, including a list of any debris removed or a statement from the trawling contractor that no objects were recovered; and

(7) A post-trawling job plot or map showing the trawled area.

Pipeline Decommissioning

§ 250.1750 When may I decommission a pipeline in place?

You may decommission a pipeline in place when the Regional Supervisor determines that the pipeline does not constitute a hazard (obstruction) to navigation and commercial fishing operations, unduly interfere with other uses of the OCS, or have adverse environmental effects.

§ 250.1751 How do I decommission a pipeline in place?

You must do the following to decommission a pipeline in place:

(a) Submit a pipeline decommissioning application in triplicate to the Regional Supervisor for approval that includes the following information:

(1) Reason for the operation;

(2) Proposed decommissioning procedures;

(3) Length (feet) of segment to be decommissioned; and

(4) Length (feet) of segment remaining.

(b) Pig the pipeline, unless the Regional Supervisor determines that pigging is not practical;

(c) Flush the pipeline;

(d) Fill the pipeline with seawater;

(e) Cut and plug each end of the pipeline;

(f) Bury each end of the pipeline at least 3 feet below the seafloor or cover each end with protective concrete mats, if required by the Regional Supervisor; and

(g) Remove all pipeline valves and other fittings that could unduly interfere with other uses of the OCS.

§ 250.1752 How do I remove a pipeline?

Before removing a pipeline, you must:

(a) Submit a pipeline removal application in triplicate to the Regional Supervisor for approval that includes the following information:

(1) Proposed removal procedures;

(2) If the Regional Supervisor requires it, a description, including anchor pattern(s), of the vessel(s) you will use to remove the pipeline;

(3) Length (feet) to be removed;

(4) Length (feet) of the segment that will remain in place;

(5) Plans for transportation of the removed pipe for disposal or salvage;

(6) Plans to protect archaeological and sensitive biological features during removal operations, including a brief assessment of the environmental impacts of the removal operations and procedures and mitigation measures that you will take to minimize such impacts; and

(7) Projected removal schedule and duration.

(b) Pig the pipeline, unless the Regional Supervisor determines that pigging is not practical; and

(c) Flush the pipeline.

§ 250.1753 After I decommission a pipeline, what information must I submit?

Within 30 days after you decommission a pipeline, you must submit a written report to the Regional Supervisor that includes the following:

(a) A summary of the decommissioning operation including the date it was completed;

(b) A description of any mitigation measures you took; and

(c) A statement signed by your authorized representative that certifies that the pipeline was decommissioned according to the approved application.

§ 250.1754 When must I remove a pipeline decommissioned in place?

You must remove a pipeline decommissioned in place if the Regional Supervisor determines that the pipeline is an obstruction.

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

11. The authority citation for part 256 continues to read as follows:

Authority: 42 U.S.C. 6213, 43 U.S.C. 1331 *et seq.*

§ 256.56 [Amended]

12. In § 256.56(a)(1), the citation "250.700" is revised to read "250.1703".

§ 256.62 [Amended]

13. In § 256.62(e)(2), the citation "part 250", subpart G" is revised to read "part 250, subpart Q".

[FR Doc. 02–11640 Filed 5–16–02; 8:45 am]
BILLING CODE 4310–MR–P

Federal Register

Friday,
May 17, 2002

Part VI

Department of Education

Office of Educational Research and Improvement; Cooperative Civic Education and Economic Education Exchange Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.304A]

Office of Educational Research and Improvement; Cooperative Civic Education and Economic Education Exchange Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of the Cooperative Education Exchange program is to improve the quality of civic education through cooperative civic education exchange programs with emerging democracies.

This competition is for organizations that are defined in the *Eligible Applicants* section below. For FY 2002 the competition for new awards focuses on projects designed to carry out the authorized activities listed under the *Program Activities* section of this notice.

Eligible Applicants: Organizations in the United States experienced in the development of curricula and programs in civics and government education and economic education for students in elementary schools and secondary schools in countries other than the United States, to carry out civic education activities.

Primary Participants: The primary participants in the Cooperative Education Exchange Programs assisted under this section will be leaders in the areas of civics and government education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, educational policymakers, and government and private sector leaders from the United States and eligible countries.

Applications Available: May 24, 2002.

Deadline for Transmittal of Applications: July 15, 2002.

Deadline for Intergovernmental Review: September 13, 2002.

Estimated Available Funds: $2,875,000.

Estimated Range of Awards: $100,000 to $2,875,000.

Estimated Average Size of Awards: The size of any award will be commensurate with the nature and level of activities proposed.

Maximum Award: We will reject any application that proposes a budget exceeding $2,875,000 for a single budget period of 12 months. The Assistant Secretary for the Office of Educational Research and Improvement may change the maximum amount through a notice published in the **Federal Register.**

Estimated Number of Awards: At least one, but not more than three.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations and Statue: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, 86, 97, 98, and 99. (b) The regulations in 34 CFR part 700. (c) *Education for Democracy Act,* sections 2341–2346 of the Elementary and Secondary Education Act as amended, 20 U.S.C. 6711–6716.

Program Activities: In carrying out the Cooperative Education Exchange Program eligible organizations shall—

(1) Provide to the participants from eligible countries—

(A) Seminars on the basic principles of United States constitutional democracy, including seminars on the major governmental institutions and systems in the United States, and visits to such institutions;

(B) Visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education in the United States;

(C) Translations and adaptations with respect to United States civics and government education curricular programs for students and teachers, and in the case of training programs for teachers, translations and adaptations into forms useful in school in eligible countries, and joint research projects in such areas; and

(D) Independent research and evaluation assistance—

(i) To determine the effects of the cooperative education exchange programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(2) provide to the participants from the United States—

(A) Seminars on the histories and systems of government of eligible countries;

(B) Visits to school systems, institutions of higher education, and organizations conducting exemplary programs in civics and government education located in eligible countries;

(C) Assistance from educators and scholars in eligible countries in the development of curricular materials on the histories and governments of such countries that are useful in the United States classrooms;

(D) Opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(E) Independent research and evaluation assistance to determine—

(i) The effects of the Cooperative Education Exchange Programs assisted under this section on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(3) Assist participants from eligible countries and the United States to participate in international conferences on civics and government education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

Eligible Countries: The term *eligible country* means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, the independent states of the former Soviet Union as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801), the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 209(d) of the Education for the Deaf Act) if the Secretary, with concurrence of the Secretary of State, determines that such developing country has a democratic form of government.

Selection Criteria: The Secretary selects from the criteria in 34 CFR 700.30(e) to evaluate applications for new grants under this competition. Under 34 CFR 700.30(a), the Secretary will announce in the application package the evaluation criteria selected for this competition and the maximum weight assigned to each criterion.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Rita Foy Moss, U.S. Department of Education, 555 New Jersey Avenue, NW, room 510, Washington, DC 20208–5573. Telephone: (202) 219–2079 or via Internet *rita.foy@ed.gov.*

If you use telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under the **FOR APPLICATIONS OR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the person listed. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 6711–6716.

Dated: May 10, 2002.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–12457 Filed 5–16–02; 8:45 am]

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Federal Register

Friday,
May 17, 2002

Part VII

Department of Education

National Institute on Disability and Rehabilitation Research; Request for Written Comments; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Request for Written Comments

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Request for written comments.

SUMMARY: The Assistant Secretary invites written comments suggesting priorities for research centers and projects administered by the National Institute on Disability and Rehabilitation Research (NIDRR) under title II of the Rehabilitation Act of 1973, as amended (the Act). We encourage individuals to suggest research priorities that are consistent with NIDRR's Long-Range Plan (the Plan) and that support the New Freedom Initiative (NFI).

DATES: We would like to receive your written comments suggesting priorities on or before July 16, 2002.

ADDRESSES: Address all comments to Joel Myklebust, U.S. Department of Education, 400 Maryland Avenue, SW., room 3422, Switzer Building, Washington, DC 20202-2645. Fax: (202) 205-8515. If you prefer to send your comments through the Internet, use the following address: *Joel.Myklebust@ed.gov*

During and after the comment period, you may inspect all public comments about these priorities in room 3422, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Comments

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Joel Myklebust. Telephone: (202) 205–8831.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475 or via the Internet: *Joel.Myklebust@ed.gov*

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

The Plan

NIDRR is interested in suggestions for research priorities that are consistent with the research areas, needs, and target populations addressed in the Plan.

The Plan aims to maximize independence and participation in society by individuals with disabilities. The Plan addresses priorities in five major research areas: (1) Employment outcomes; (2) health and function; (3) technology for access and function; (4) independent living and community integration; and (5) associated disability research areas, including but not limited to, knowledge dissemination and utilization, and capacity building for rehabilitation research.

The Plan addresses a range of diverse needs and target populations, including the following:

- The needs of individuals with disabilities for knowledge and information that will enable them to achieve their aspirations for self-direction, independence, inclusion, and functional competence.
- The needs of rehabilitation service providers for information on new techniques and technologies that will enable them to assist in the rehabilitation of individuals with disabilities.
- The needs of researchers to advance the capabilities of science as well as the body of scientific knowledge.
- The needs of society, and its leadership, for strategies that will enable it to facilitate the potential contributions of all citizens.
- The need to transfer findings from basic to applied research.

The NFI

NIDRR is interested in suggestions for research priorities that will contribute to one or more of the following objectives that support the NFI.

The NFI addresses increasing access to assistive technologies, expanding educational opportunities, increasing the ability of individuals with disabilities to integrate into the workforce, and promoting increased access into daily community life.

Objectives that support the NFI are the following:

- Increasing access to assistive and universally designed technologies.
- Expanding educational opportunities for individuals with disabilities.
- Integrating individuals with disabilities into the workforce.
- Expanding telecommuting.
- Promoting innovative transportation solutions.
- Promoting full access to community life.
- Promoting homeownership for individuals with disabilities.
- Promoting the successful implementation of the Olmstead Decision.
- Improving America's mental health service delivery system.
- Increasing the availability and delivery of new treatments and technologies for individuals with severe mental illness.
- Improving the accessibility of organizations that are currently exempt from Title III of the ADA, such as churches, mosques, synagogues, and civic organizations.
- Improving access to polling places and ballot secrecy for individuals with disabilities.

Availability of Copies of The Plan and NFI

The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/offices/OSERS/NIDRR/Products*

The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/news/freedominitiative/freedominiative.html*

Individuals who are unable to access the Internet may obtain copies of the Plan and the NFI by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** Individuals with disabilities may obtain a copy of the Plan or the NFI in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the person listed under **FOR FURTHER INFORMATION CONTACT.**

Recommended Format for Comments

We recommend that your written comments be no longer than two single-spaced pages. We recommend that your comments include the following information:

(1) A brief background statement that identifies the target population, describes the problem or issue that would be addressed, and summarizes the current state of the research.

(2) A description of the research project or projects that would address the identified problem or issue.

(3) An estimate of the amount of the annual award and the number of years (5 years or less) that a grantee would need to carry out the suggested research.

Applicable Program Regulations: 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 701, *et seq.*

Dated: May 10, 2002.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rabilitative Services.

[FR Doc. 02–12602 Filed 5–16–02; 8:45 am]

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Federal Register

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May 17, 2002

Part VIII

The President

Notice of May 16, 2002—Continuation of the National Emergency With Respect to Burma

Federal Register
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Friday, May 17, 2002

Presidential Documents

Title 3—

The President

Notice of May 16, 2002

Continuation of the National Emergency With Respect to Burma

On May 20, 1997, the President issued Executive Order 13047, certifying to the Congress under section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208) that the Government of Burma had committed large-scale repression of the democratic opposition in Burma after September 30, 1996, thereby invoking the prohibition on new investment in Burma by United States persons contained in that section. The President also declared a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Government of Burma, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Because actions and policies of the Government of Burma continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on May 20, 1997, and the measures adopted on that date to deal with that emergency must continue in effect beyond May 20, 2002. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Burma. This notice shall be published in the **Federal Register** and transmitted to the Congress.

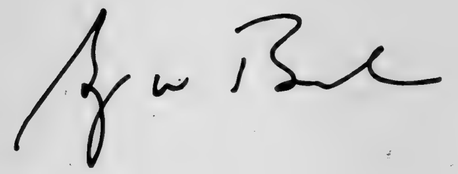

THE WHITE HOUSE,
May 16, 2002.

[FR Doc. 02–12664
Filed 5–16–02; 11:17 am]
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H.R. 169/P.L. 107–174

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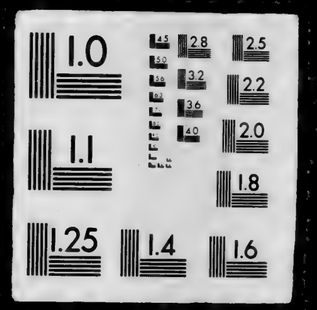

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–372–AD; Amendment 39–12752; AD 2002–10–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires replacing certain flight warning computers (FWCs) with improved FWCs. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent erroneous display of decision height information to the flightcrew during final approach, which could result in an increased risk of collision with terrain.

DATES: Effective June 24, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 24, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on September 25, 2001 (66 FR 48985). That action proposed to require replacing certain flight warning computers (FWCs) with improved FWCs.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requests that the proposed AD be revised to supersede AD 2000–04–11, amendment 39–11593 (65 FR 9209, February 24, 2000), and to restate the requirements of that AD as well as to require the previously optional terminating action. AD 2000–04–11 requires incorporation of a specific operational procedure into the Airplane Flight Manual (AFM) and provides for optional terminating action to incorporate Airbus Service Bulletin A320–31–1106. The proposed AD would require accomplishment of that Airbus service bulletin, which would terminate the requirements of AD 2000–04–11.

The FAA does not concur. The applicability of AD 2000–04–11, which corresponds to French airworthiness directive 2000–004–142(B), is different from the applicability of this final rule. AD 2000–04–11 and the French airworthiness directive apply only to Airbus Model A319, A320, and A321 series airplanes equipped with Rockwell Collins radio altimeter LRA 700 having part number 622–4542–020, excluding those on which Airbus Modification 26017 has been installed. However, this final rule and corresponding French airworthiness directive 2000–320–147(B) apply to all Airbus Model A319, A320, and A321 series airplanes without Airbus Modification 26017, regardless of which radio altimeter is installed. In addition, French airworthiness directive 2000–320–147(B) did not supersede French airworthiness directive 2000–04–142(B), nor was the latter cancelled. Therefore, the FAA actions are consistent with the French airworthiness directives.

The same commenter requests that the statement of unsafe condition in the proposed AD be revised to be consistent with AD 2000–04–11, as follows: "To prevent erroneous display of decision height information to the flightcrew during final approach, which could result in an increased risk of collision with the terrain, accomplish the following. * * *" The FAA concurs, and has revised this final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 352 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $63,360, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on

the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–06 Airbus Industrie: Amendment 39–12752. Docket 2000–NM–372–AD.

Applicability: Model A319, A320, and A321 series airplanes without Airbus Modification 26017; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent erroneous display of decision height information to the flightcrew during final approach, which could result in an increased risk of collision with terrain, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, replace the flight warning computers (FWCs) in accordance with Airbus Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999.

Note 2: FWC replacement accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–31–1106, dated January 3, 1997; Revision 01, dated April 16, 1997; Revision 02, dated January 20, 1998; or Revision 03,dated July 9, 1999, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Spare Parts

(b) As of the effective date of this AD, no person may install an FWC, part number 350E017251414, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2000–320–147(B), dated July 26, 2000.

(f) This amendment becomes effective on June 24, 2002.

Issued in Renton, Washington, on May 10, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12321 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–4]

Amendment to Class E Airspace; Norton, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace at Norton, KS. The FAA has developed Nondirectional Radio Beacon (NDB) Runway (RWY) 16 ORIGINAL Standard Instrument Approach Procedure (SIAP) and NDB RWY 34 ORIGINAL SIAP to serve Norton Municipal Airport, Norton, KS. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to segregate aircraft using instrument approach procedure in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, October 3, 2002.

Comments for inclusion in the rules Docket must be received on or before July 15, 2002.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 02–ACE–4, 901 Locus, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Lucust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA has developed NDB RWY 16 ORIGINAL and NDB RWY 34 ORIGINAL SIAPs to serve Norton Municipal Airport, Norton, KS. The amendment to Class E airspace at Norton, KS. will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register**, that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rule Docket.

Comments wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 02–ACE–4." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reason discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE KS E5 Norton, KS [REVISED]

Norton Municipal Airport, KS
(lat.39°51'01" N., long. 99°53'41" W.)
Norton NDB
(lat.39°51'20" N., long. 99°53'20" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Norton Municipal Airport and within 2.5 miles each side of the 171° bearing from the Norton NDB extending from the 6.5-mile radius to seven miles south of the airport and within 2.5 miles each side of the 311° bearing from the Norton NDB extending from the 6.5-miles radius to 7 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on April 26, 2002.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 02–12609 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 020328073–2073–01]

RIN 0694–AC55

Revisions to the Export Administration Regulations as a Result of the September 2001 Missile Technology Control Regime (MTCR) Plenary Meeting

AGENCY: Bureau of Industry and Security, Commerce

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR), Commerce Control List (CCL), to reflect changes that were negotiated during the September 2001 Missile Technology Control Regime (MTCR) Plenary in Ottawa, Canada. These revisions include several changes to CCL entries ECCN 1C107 and ECCN 9A101. The revisions to ECCN 1C107 clarify what shapes and sizes are usable for rocket nozzles and reentry vehicle nose tips. The revisions to ECCN 9A101 expand the scope of items controlled, but will have a minimal effect on the number of license applications submitted to BIS.

DATES: This rule is effective May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich, Office of Exporter Services, Bureau of Industry and Security, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: The Missile Technology Control Regime (MTCR) is an export control arrangement among 33 nations including the world's most advanced suppliers of ballistic missiles and missile-related materials and equipment. The regime is designed to stem the spread of rockets and unmanned air vehicles systems capable of delivering weapons of mass destruction by establishing a common export control policy (the Guidelines) and a shared list of controlled items (the Annex) that each country implements through its own national legislation.

While the MTCR originally restricted transfers of missiles capable of carrying a nuclear warhead, it was expanded in January 1993 to also cover delivery systems for chemical and biological weapons. The only absolute prohibition in the regime's Guidelines is on the transfer of complete "production facilities" for specially designed items in Category I of the MTCR Annex.

MTCR members voluntarily pledge to adopt the regime's export Guidelines and to restrict the export of items contained in the regime's Annex. MTCR export controls are not bans, but regulatory efforts by individual partners to prevent transfers of items that could contribute to delivery systems for weapons of mass destruction.

This rule amends the Commerce Control List (CCL) to reflect the revisions to the MTCR Annex made at the September 2001 plenary meeting. These revisions include several changes to items 3.A.1 and 8.C.3 of the MTCR Annex and the addition of items 8.C.4 and 8.C.6 to the MTCR Annex, controlled on the CCL under ECCNs 9A101 and 1C107, respectively. Specific changes are:

ECCN 1C107 New parameters are inserted for fine grain recrystallized bulk graphites in paragraph (a), to clarify what bulk graphites are usable in "missiles." The remainder of the entry is restructured for clarity.

Paragraph (b) is divided into two paragraphs and redesignated as (c) and (d), and a new paragraph (b) has been created, from text that was previously in paragraph (a).

ECCN 9A101 The maximum thrust value (paragraph a.1) for lightweight turbojet and turbofan engines usable in "missiles," other than those controlled by 9A001, is changed from 1000 N to 400 N. The specific fuel consumption (paragraph a.2) is changed from 0.13 kg/N/hr to 0.15 kg/N/hr. In addition, clarifying language is added to paragraphs (a.2) and (b), and the text in the "Related Controls" paragraph is clarified.

Saving Clause

This rule revises the control parameters of ECCNs 1C107 and 9A101 on the Commerce Control List. For items under these entries, exports and reexports of items removed from eligibility for export or reexport without a license as a result of this regulatory action may continue to be exported or reexported without a license until June 19, 2002.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001) continues the Regulations in effect under the International Emergency Economic Powers Act.

Rule Making Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088. There are neither additions nor subtractions to these collections due to this rule.

3. This rule does not contain policies with Federalism as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Matthew Blaskovich, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects in 15 CFR Part 774

Exports, Foreign trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Publ. L. 106–387; Sec. 221, Publ. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1 (Materials, Chemicals, "Microorganisms," and Toxins) is amended by revising the List of Items Controlled section of ECCNs 1C107, to read as follows:

* * * * *

1C107 Graphite and ceramic materials, other than those controlled by 1C007, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items:

a. Fine grain recrystallized bulk graphites with a bulk density of 1.72 g/cm^3 or greater, measured at 288 K (15 °C), and having a particle size of 100 micrometers or less, usable for rocket nozzles and reentry vehicle nose tips as follows:

a.1. Cylinders having a diameter of 120 mm or greater and a length of 50 mm or greater;

a.2. Tubes having an inner diameter of 65 mm or greater and a wall thickness of 25 mm or greater and a length of 50 mm or greater;

a.3. Blocks having a size of 120 mm × 120 mm × 50 mm or greater.

b. Pyrolytic or fibrous reinforced graphites, usable for rocket nozzles and reentry vehicle nose tips;

c. Ceramic composite materials (dielectric constant less than 6 at frequencies from 100 Hz to 10 GHz), for use in "missile" radomes; and

d. Bulk machinable silicon-carbide reinforced unfired ceramic, usable for nose tips.

3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9 (Propulsion Systems, Space Vehicles and Related Equipment) is amended by revising the List of Items Controlled section of ECCN 9A101, to read as follows:

9A101 Lightweight turbojet and turbofan engines (including turbocompound engines) usable in "missiles", other than those controlled by 9A001, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: 9A101.b controls only engines for non-military unmanned air vehicles [UAVs] or remotely piloted vehicles [RPVs], and does not control other engines designed or modified for use in "missiles", which are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items:

a. Engines having both of the following characteristics:

a.1. Maximum thrust value greater than 400 N (achieved un-installed) excluding civil certified engines with a maximum thrust value greater than 8,890 N (achieved un-installed), *and*

a.2. Specific fuel consumption of 0.15 kg/N/hr or less (at maximum continuous power at sea level static and standard conditions); *or*

b. Engines designed or modified for use in "missiles", regardless of thrust or specific fuel consumption.

Dated: May 10, 2002.

James J. Jochum,

Assistant Secretary for Industry and Security.

[FR Doc. 02–12622 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 00C–0929]

Listing of Color Additives Exempt From Certification; Sodium Copper Chlorophyllin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of sodium copper chlorophyllin as a color additive in citrus-based dry beverage mixes. This action is in response to a petition filed by Kraft Foods, Inc.

DATES: This rule is effective June 20, 2002; except as to any provisions that may be stayed by the filing of proper objections. Submit written or electronic objections and requests for a hearing by June 19, 2002.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic objections and requests for a hearing to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3076.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of March 14, 2000 (65 FR 13770), FDA announced that a color additive petition (CAP 0C0270) had been filed by Kraft Foods, Inc.,c/o Flamm Associates, 622 Beachland Blvd., Vero Beach, FL 32963. The petition proposed to amend the color additive regulations to provide for the safe use of sodium copper chlorophyllin to color citrus-based dry beverage mixes.

II. Identity

Sodium copper chlorophyllin is manufactured from chlorophyll, the common pigment of green plants. The manufacturing process consists of three main steps: (1) Extraction of chlorophyll from plant material with an appropriate solvent, (2) preparation of water-soluble derivatives by alkaline hydrolysis of ester groups of chlorophyll (saponification), and (3) replacement of the magnesium ion of natural chlorophyll with copper. The final color additive product sodium copper chlorophyllin is a complex mixture of chlorophyll derivatives (Ref. 1). The petitioner specified the source of chlorophyll used to make sodium copper chlorophyllin as alfalfa (*Medicago sativa*) and provided data showing that sodium copper chlorophyllin prepared from chlorophyll extracted from alfalfa meets the proposed specifications. Therefore, in new § 73.125 (21 CFR 73.125) FDA is limiting the source of chlorophyll used to make sodium copper chlorophyllin to alfalfa.

The agency notes that the intended coloring effect of citrus-based dry beverage mixes is achieved when sodium copper chlorophyllin is used in an amount not exceeding 0.2 percent. Therefore, in new § 73.125 the agency is limiting the amount of sodium copper chlorophyllin in the dry mix to 0.2 percent.

III. Safety Evaluation

In evaluating the safety of the use of sodium copper chlorophyllin to color citrus-based dry beverage mixes, the agency considered: (1) The safety of chlorophyll and copper chlorophyllins, including the manufacturing process of sodium copper chlorophyllin; and (2) the safety of copper in sodium copper chlorophyllin.

A. Safety of Chlorophyll and Copper Chlorophyllins

Chlorophyll occurs naturally in green vegetables and as such constitutes a normal part of the human diet. Various derivatives of chlorophyll, generally referred to as copper chlorophyllins or chlorophyllin copper complexes, including sodium copper chlorophyllin, are commonly used food colors (Refs. 1 and 2). In the United States, potassium sodium copper chlorophyllin has been listed for use as a color additive in dentifrices that are either drugs (21 CFR 73.1125) or cosmetics (21 CFR 73.2125). In addition, FDA permits over-the-counter use of chlorophyllin copper complex as an internal deodorant in doses up to 300 milligrams (mg) daily (21 CFR 357.850).

FDA calculated the estimated daily intake (EDI) of sodium copper chlorophyllin that will result from the petitioned use for 90th percentile consumers older than 2 years as 90 mg/person/day(d). During this calculation, the agency also considered the exposure to the color additive from its uses in dentifrices, and determined that such exposure would be negligible. The agency reviewed a published study submitted with the petition in which potassium sodium copper chlorophyllin was fed to rats at levels up to 3 percent in the feed for up to 2 years (Ref. 3). The agency determined that the results of the study showed no indications of adverse effects in rats at any of the doses tested from the prolonged consumption of the color additive. In addition, there was no evidence of metal toxicity. Moreover, evaluating the same study, the Joint Food and Agriculture Organization/World Health Organization (FAO/WHO) Expert Committee on Food Additives (JECFA) also found no adverse effects and established 1,500 mg/kilogram (kg) body weight/d as the no observed effect level (NOEL) of sodium copper chlorophyllin (Ref. 4). By applying a 200-fold safety factor to this NOEL, the agency calculated the acceptable daily intake (ADI) for sodium copper chlorophyllin for a 60-kg human as 450 mg/person/d. The agency notes that the EDI of sodium copper chlorophyllin that will result from the petitioned use for 90th percentile consumers is one-fifth of this ADI. Therefore, FDA concludes that the exposure to sodium copper chlorophyllin from the petitioned use does not pose a safety concern (Ref. 5).

During its safety review, FDA also evaluated the manufacturing process of sodium copper chlorophyllin. The agency is specifying in new § 73.125 the solvents that may be used to manufacture sodium copper chlorophyllin and is establishing a specification for the residues of these solvents that do not present a safety concern and thus may be present in the final product.

B. Safety of Copper in Sodium Copper Chlorophyllin

The petitioner provided data showing that the amount of free (ionizable) copper in sodium copper chlorophyllin does not exceed 200 parts per million (ppm). Therefore, new § 73.125 specifies the amount of free copper in sodium copper chlorophyllin as not more than 200 ppm. Using this limit, FDA calculated the EDI of free copper from the consumption of sodium copper chlorophyllin for 90th percentile consumers older than 2 years as 0.018 mg/person/d. The agency also considered the exposure to copper from the uses of the color additive in dentifrices and determined that this exposure would be negligible. The agency notes that copper is an essential element and a dose of 2 mg/d is the reference daily intake (RDI) (21 CFR 101.9(c)(8)(iv)). Because the EDI for 90th percentile consumers is less than 1 percent of the RDI, the agency believes that the additional exposure of 0.018 mg/d to copper from the petitioned use will not pose a safety concern (Ref. 6).

IV. Conclusion

Based on the data in the petition and other relevant material, FDA concludes that the petitioned use of sodium copper chlorophyllin as a color additive in citrus-based dry beverage mixes is safe, the additive will achieve its intended technical effect, and thus, it is suitable for this use. FDA concludes that 21 CFR part 73 should be amended as set forth below. In addition, based upon the factors listed in 21 CFR 71.20(b), FDA concludes that certification of sodium copper chlorophyllin is not necessary for the protection of the public health.

V. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, FDA will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VI. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 0C0270 (65 FR 13770, March 14, 2000). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by June 19, 2002. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

IX. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Hendry, G. A. F., "Chlorophylls and Chlorophyll Derivatives," in "Natural Food Colorants," 2d ed., pp. 131–156, edited by Hendry, G. A. F. and J. D. Houghton, Blackie Academic & Professional, New York, 1996.

2. European Parliament and Council Directive 94/36/EC of June 30, 1994, on colours for use in foodstuffs, *Official Journal of the European Communities*, L 237:17–18, 1994.

3. Harrisson, J. W. E., S. E. Levin, and B. Trabin, "The Safety and Fate of Potassium Sodium Copper Chlorophyllin and Other Copper Compounds," *Journal of the American Pharmaceutical Association*, 43:722–737, 1954.

4. "Toxicological Evaluation of Some Food Colours, Enzymes, Flavour Enhancers, Thickening Agents, and Certain Other Food Additives," Joint FAO/WHO Expert Committee on Food Additives, WHO Food Additives Series, No. 6, pp. 74–77, Geneva, 1975.

5. Ikeda, G. J., Memorandum entitled "Addendum to Toxicology Review Memorandum of June 14, 2000" from the Division of Food Contact Substance Notification Review (HFS–225) to the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, FDA, November 21, 2001.

6. Ikeda, G. J., Memorandum entitled "Toxicology Review; Use of Sodium Copper Chlorophyllin as a Colorant for Citrus-based Dry Beverage Mix" from the Division of Health Effects Evaluation (HFS–225) to the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, FDA, June 14, 2000.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 73.125 is added to subpart A to read as follows:

§ 73.125 Sodium copper chlorophyllin.

(a) *Identity.* (1) The color additive sodium copper chlorophyllin is a green to black powder prepared from chlorophyll by saponification and replacement of magnesium by copper. Chlorophyll is extracted from alfalfa (*Medicago sativa*) using any one or a combination of the solvents acetone, ethanol, and hexane.

(2) Color additive mixtures made with sodium copper chlorophyllin may contain only those diluents that are suitable and are listed in this subpart as safe for use in color additive mixtures for coloring foods.

(b) *Specifications.* Sodium copper chlorophyllin shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

(1) Moisture, not more than 5.0 percent.

(2) Solvent residues (acetone, ethanol, and hexane), not more than 50 parts per million, singly or, in combination.

(3) Total copper, not less than 4 percent and not more than 6 percent.

(4) Free copper, not more than 200 parts per million.

(5) Lead (as Pb), not more than 10 parts per million.

(6) Arsenic (as As), not more than 3 parts per million.

(7) Mercury (as Hg), not more than 0.5 part per million.

(8) Ratio of absorbance at 405 nanometers (nm) to absorbance at 630 nm, not less than 3.4 and not more than 3.9.

(9) Total copper chlorophyllins, not less than 95 percent of the sample dried at 100 °C for 1 hour.

(c) *Uses and restrictions.* Sodium copper chlorophyllin may be safely used to color citrus-based dry beverage mixes in an amount not exceeding 0.2 percent in the dry mix.

(d) *Labeling requirements.* The label of the color additive and any mixtures prepared therefrom shall conform to the requirements of § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the act.

Dated: April 25, 2002.

L. Robert Lake,

Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–12544 Filed 5–17–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

RIN 0596–AB87

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline

AGENCY: Forest Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Department is issuing an interim final rule to extend the date by which all land and resource management plan amendments and revisions would otherwise be subject to the planning regulations adopted November 9, 2000. An extension of the compliance date will allow the agency to propose and adopt adjustments to the 2000 planning rule that may be necessary. On May 17, 2001 (66 FR 27555), the public was given an opportunity to comment on the advisability and effects of extending the compliance date. At that time, the Forest Service noted that the Department had instructed the agency to propose changes to the November 2000 rule to improve its implementability. The deadline for complying with the November 2000 rule was May 9, 2002, and the proposed changes to the 2000 rule are not yet published. Therefore, the Department is issuing this interim final rule to delay mandatory compliance with the 2000 rule until a new final planning rule is adopted.

EFFECTIVE DATE: This interim final rule is effective May 20, 2002.

ADDRESSES: Written inquiries about or comments on this rule may be sent to the Director, Ecosystem Management Coordination Staff, Forest Service, USDA, Mail Stop 1104, 1400 Independence Ave., SW, Washington, DC 20250–1104 or by facsimile to (202) 205–1012.

FOR FURTHER INFORMATION CONTACT: Dave Barone, Planning Specialist, Forest Service, (202) 205–1019.

SUPPLEMENTARY INFORMATION: On November 9, 2000, the Secretary of Agriculture adopted a final rule substantially revising the National Forest System land and resource management planning regulation at 36 CFR part 219 (65 FR 67514). Section 219.35 of that rule provided for the transition from the 1982 planning rule to the 2000 rule. Under the requirements of § 219.35 as adopted, all amendments and revisions to land and resource management plans must be prepared pursuant to the November 2000 planning rule, unless the amendment or revision was initiated before November 9, 2000, and a notice of availability of the required environmental disclosure document was published before May 9, 2001. However, the Department subsequently determined that the Forest Service was not sufficiently prepared to implement the November 2000 planning rule. Therefore, on May 17, 2001, the Department issued an interim final rule immediately extending the compliance date of May 9, 2001, until May 9, 2002,

in anticipation that a revised planning rule would be final by that date (66 FR 27552). However, completion of the revised planning rule by May 9, 2002, has proven to be unrealistic; thus, the Department is extending the compliance deadline until the adoption of a new final planning rule.

The Need For Immediate Action

This interim rulemaking action is needed immediately. The May 9, 2002, compliance deadline is imminent, and it is necessary to grant relief to the units of the National Forest System that may initiate plan revisions and amendments after this date but before a new planning regulation is finalized. There are currently 33 forest plans being revised using the 1982 planning rule. An additional 19 plan revisions will be initiated in the next 18 months. The 2000 planning rule requires substantially different analyses to be completed prior to initiating revisions and engaging the public in the revision process. The November 2000 rule also requires different procedures for collaborating with the public to identify issues to be considered in the revision process. Even though units have had the option of using the November 2000 planning rule for plan revisions and amendments, to date no unit is utilizing it. As with the interim final rule adopted May 17, 2001, this new interim final rule allows forests the option of proceeding under the 1982 rule or under the November 2000 rule.

Another immediate concern is that many forests need to amend their land and resource management plans to implement site-specific projects that support the objectives of the interagency National Fire Plan, which was developed in response to the catastrophic wildfires of the 2000 fire season. These projects include activities to reduce high-hazard fuels near urban and suburban areas and to restore and rehabilitate burned areas. Because the November 2000 rule is less well understood, and, in some respects, more complicated than the 1982 regulations, it will be difficult for forests to fully comply with it and complete the necessary amendments to implement those projects.

Agency Proposal To Improve November 2000 Rule

After adoption of the November 2000 planning rule, the Secretary received a number of comments from individuals, groups, and organizations expressing concerns regarding its implementation. In addition, lawsuits challenging the promulgation of the 2000 rule have been filed. As a result, the Department and the agency initiated two reviews of the 2000 rule focusing on its "implementability". The reviews concluded that many of the concerns regarding implementability of the rule were serious. The principal concerns identified were lack of clarity, budgetary and staffing impacts associated with sustainability, species viability requirements, use of science and scientists, monitoring, and the length of the transition requirements of the 2000 rule. Having considered the conclusions of the reviews of the 2000 rule, the Department directed the agency to develop a proposed rule to revise the 2000 rule. Notice of this proposed rulemaking was given in the Semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions on December 3, 2001 (66 FR 61400). That proposed rule is currently undergoing review within the Administration and is expected to be published soon. However, the Department does not expect to have a final rule in place before October 1, 2002.

On May 17, 2001, the Department issued an interim final rule and simultaneously issued a proposed rule extending the compliance date of May 9, 2001, until May 9, 2002. The agency received 84 responses to the request for comments. Categories of respondents included the wood products, mining, and agricultural industries; recreation, preservation, and conservation organizations; and unaffiliated individuals. About half of the respondents did not believe that the agency should extend the compliance deadline. They feel that the November 2000 rule should be implemented as is. In contrast, the balance of the respondents agreed with the need to extend the compliance date and felt that it was reasonable to allow the agency time to make adjustments to the 2000 rule. Among those who felt that the extension was appropriate, many encouraged the agency to take whatever time necessary to carefully consider the needed adjustments to the November 2000 rule. Some suggested the agency consider an extension beyond May 9, 2002. This interim final rule extending the date in § 219.35(b) will provide the agency and the Department the time needed to continue the current rulemaking effort to propose and adopt improvements and adjustments to the November 2000 rule that may be needed.

Effects of the Interim Final Rule

In light of the reponses the agency received on the May 17, 2001, proposed rule, and the subsequent delay in publishing a proposed rule to revise the November 2000 planning rule, the Department is now extending the compliance date established in 36 CFR 219.35(b) until such time as a new final planning rule is adopted.

The interim final rule will not alter the timber suitability provision in 36 CFR 219.35(c). If a suitability analysis must be prepared before a new planning rule is adopted, the Responsible Official will continue to have the option of conducting the suitability review pursuant to either the 1982 rule or § 219.35(c) of the 2000 rule. While most units are not prepared to implement the November 2000 rule, this interim final rule does not prohibit forests from preparing amendments or revisions of land and resource management plans under the November 2000 rule. Rather, this interim final rule will maintain the status quo while the agency proposes and adopts changes to the November 2000 rule to improve its implementability.

The interim final rule also will not alter the transition language in 36 CFR 219.35(d) that directs site-specific decisions to conform to the provisions of the planning regulations after November 9, 2003. However, concerns have been raised by field personnel that the reasons necessitating an extended transition to the November 2000 rule for forest plan amendments or revisions may apply equally, if not more, to the November 9, 2003, deadline for preparing site-specific decisions under part 219. To address these concerns, the Forest Service expects to issue a proposed rule later this year and seek public comment on whether the November 9, 2003, date in 36 CFR 219.35(d), which would require that site-specific decisions conform to the 2000 rule, should be extended or whether the provision should be removed.

Exemption From Notice and Comment

The Administrative Procedure Act (APA) generally requires agencies to provide advance notice and an opportunity to comment on agency rulemakings. However, the APA allows agencies to promulgate rules without notice and comment when an agency, for good cause, finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest." (5 U.S.C. 553(b)(3)(B)). Furthermore, the APA exempts certain rulemakings from its notice and comment requirements, including rulemakings
of agency organization, procedure, or practice" (5 U.S.C. 553 (a)(2) and (b)(3)(A)).

In 1971, Secretary of Agriculture Hardin announced a voluntary partial waiver from the APA notice and comment rulemaking exemptions (July 24, 1971; 36 FR 13804). Thus, USDA agencies proposing rules generally provide notice and an opportunity to comment on proposed rules. However, the Hardin policy permits agencies to publish final rules without prior notice and comment when an agency finds for good cause that notice and comment procedures would be impracticable, unnecessary, or contrary to the public interest. The courts have recognized this good cause exception of the Hardin policy and have indicated that since the publication requirement was adopted voluntarily, the Secretary should be afforded "more latitude" in making a good cause determination. See *Alcaraz v. Block*, 746 F.2d 593, 612 (9th Cir. 1984).

To the extent that 5 U.S.C. section 553 applies to this interim final rule, good cause exists to exempt this rulemaking from advance notice and comment. (5 U.S.C. 553 (b)(B) and 553 (d)(3)). The Department has determined that delaying an extension of the compliance date in § 219.35(b) in order to obtain public comment is impracticable, unnecessary, and contrary to the public interest. Earlier in this preamble, the Department has made a clear showing that an extension of the compliance date is necessary to allow amendments and revisions to land and resource management plans to continue and to help ensure, among other things, timely implementation of the interagency National Fire Plan as directed by Congress. Given the agency's inability to complete all the actions necessary to meet the May 9, 2002, deadline, it is impracticable to provide for prior public comment on this extension. The agency's announced intention to revise the November 2000 planning rule, as well as previous public comment opportunities on adjusting the transitional language, are also important considerations in adopting this interim final rule.

The public interest is best served by extending the compliance date and avoiding the loss and duplication of agency analysis and public involvement efforts for amendments and revisions prepared pursuant to the 1982 rule.

Other Changes

In addition to the extension, this interim final rule would include at § 219.35(b) the interpretation of the term "initiated" as published in an interpretive rule on January 10, 2001 (66 FR 1864), to clarify this term as it applies to amendments or revisions initiated prior to May 9, 2002. This language was also included in the May 17, 2001, interim rule. The changes to § 219.35(b) are also fully consistent with the other provisions of the interpretive rule.

Conclusion

For the reasons identified in this preamble, the Department finds good cause to adopt without prior notice and comment this interim final rule that amends § 219.35(b). This rule extends the date by which land and resource management plan amendments or revisions must comply with the November 2000 planning rule from May 9, 2002, until the Department promulgates a revised final planning rule.

This interim final rule is necessary to grant relief to the units of the National Forest System that may initiate plan revisions and amendments after May 9, 2002, but before a new planning rule is finalized. The interim final rule is also needed to facilitate timely implementation of site-specific projects that support the interagency National Fire Plan.

Regulatory Certifications

Regulatory Impact

This is not a significant rule as defined in Executive Order (E.O.) 12866. This interim final rule will not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This interim final rule will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this interim final rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this interim final rule is not subject to Office of Management and Budget (OMB) review under E.O. 12866. Moreover, this interim final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This interim final rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This interim final rule will not impose recordkeeping requirements; will not affect the competitive position of small businesses in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact

This interim final rule has no direct or indirect effect on the environment, but merely extends the date by which amendments and revisions of land and resource management plans may be continued under the 1982 planning rule, as well as the date by which plans must conform to the November 2000 rule. The planning regulation itself deals with the development and adoption of Forest Service land and resource management plan decisions. An environmental assessment was completed on the November 2000 planning rule, with a finding that the rule would have no significant impact on the environment. Moreover, section 31.1b of Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook (57 FR 43180; September 18, 1992), excludes from documentation in an environmental assessment or impact statement any rule, regulation, or policy to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking and the procedural nature of 36 CFR part 219, the Department has determined that this interim final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the interim final rule will not pose the risk of a taking of private property, as the interim final rule is limited to adjustment of the compliance date in the November 2000 planning rule.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This interim final rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this interim final rule on State, local and tribal governments and the private

sector. This interim final rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination with Tribal Governments

The Department has considered this interim final rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does not have substantial direct effects on (1) the States, (2) on the relationship between the national government and the States, or (3) on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has determined that no further assessment of federalism implications is necessary at this time.

Additionally, this interim final rule does not have tribal implications as defined in Executive Order 13175 and, therefore, advance consultation with tribes was not required.

Controlling Paperwork Burdens on the Public

This interim final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Energy Effects

This interim final rule has been reviewed under Executive Order 13211 of May 18, 2001, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that this rule does not constitute a significant energy action as defined in the Executive Order. This interim final rule merely extends a compliance date and allows the option of using the 1982 or the 2000 planning regulations to guide the amendment or revision of National Forest System land and resource management plans.

List of Subjects in Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is amended as follows:

PART 219–PLANNING

Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Revise paragraph (b) of § 219.35 to read as follows:

§ 219.35 Transition.

* * * * *

(b) Until the Department promulgates the revised final planning regulations announced in the December 3, 2001, Semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2001), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to initiation of a plan amendment or revision means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

* * * * *

Dated: May 10, 2002.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 02–12508 Filed 5–17–02; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 245–0311a; FRL–7202–1]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of nitrogen oxides (NO_X) and carbon monoxide (CO) from electric power generating steam boilers. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 19, 2002, without further notice, unless EPA receives adverse comments by June 19, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local Agency	Rule No.	Rule Title	Adopted	Submitted
BAAQMD	9–11	Nitrogen Oxides and Carbon Monoxide From Electric Power Generating Steam Boilers.	05/17/00	12/11/00

On February 8, 2001, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

The previous version of Rule 9–11 is SIP Rule 9–11, Nitrogen Oxides and Carbon Monoxide From Utility Electric Power Generating Boilers, approved into the SIP on July 31, 1998 (63 FR 40828).

C. What are the Changes in the Submitted Rule?

BAAQMD Rule 9–11 regulates NO_X and CO emissions from electric power generating steam boilers down to a rating of 250 million Btu per hour (MM Btu/hr). We approved an earlier version of Rule 9–11 into the California SIP. The submitted Rule 9–11 includes changes necessary to ensure that the rule continues to be as effective in reducing emissions from power plants under the deregulated electricity market in California as had been anticipated when the original Rule 9–11 was drafted and submitted to EPA for approval into the SIP. Specifically, the existing Rule 9–11 applies to electric power generating steam boilers owned and/or operated by a California Public Utilities Commission (CPUC) regulated utility. In the wake of deregulation of certain aspects of the California electricity market and the corresponding change in the role of the CPUC, the number of such boilers has decreased and will eventually be zero, which will diminish the enforceability of the rule by EPA or citizens. The submitted Rule 9–11 deletes the references to utilities or the CPUC that are found in the existing SIP Rule 9–11 and simply refers to all electric power generating steam boilers of a certain size or greater in the BAAQMD, thereby retaining the regulatory support for emission reductions assumed to be a part of the SIP.

II. EPA's Evaluation and Action

A. How is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). The BAAQMD regulates an area designated as a nonattainment area for ozone, and such areas must comply with title I, part D, subpart 1 of the CAA, which includes section 172(c)(1). accordance with subpart 1, section 172(c)(1) of the CAA. This section requires that the BAAQMD adopt RACM that, at a minimum, includes RACT. However, there are no specific mandatory NO_X measures that must be adopted under section 172(c)(1). In addition, ozone isopleths developed by the BAAQMD have shown that additional NO_X control would be disbeneficial in reducing peak ozone concentrations in Livermore Valley, the subarea from which the most ozone violations are recorded and from which the regional ozone attainment strategy derives. See figure 3, on page 17, of the *San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard*, BAAQMD (June 1999) and figures 3 and 6, on pages 18 and 21, respectively, of the *Revised San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard*, BAAQMD (October 24, 2001). Therefore, requiring more stringent NO_X controls is not required to fulfill RACM/RACT requirements under section 172(c)(1) of the CAA.

Guidance and policy documents that we used include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24,1987 Federal Register Document*, (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown, U.S. EPA (September 20, 1999).
- Alternative Control Techniques Document—NO_X Emissions From Utility Boilers, U.S. EPA, Office of Air Quality Planning and Standards (March 1994).

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and RACM/RACT requirements. The TSD has more information on our evaluation.

C. EPA Recommendations for the Next Rule Revision

The following are not grounds for disapproval at this time, but should be corrected in the next rule revision:

- The ammonia test method should not allow for the approval by the APCO of an unspecified alternate test method.
- The exemption from the NO_X emission standards during startup can continue indefinitely if an unspecified catalytic reaction temperature is not reached. A maximum limit for the startup time or the means of determining the applicable catalytic reaction temperature should be stated.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by June 19, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 19, 2002. This action will incorporate BAAQMD Rule 9–11, adopted on May 17, 2000 into the federally enforceable SIP and thereby supercede the existing SIP Rule 9–11, approved into the SIP on July 31, 1998 (63 FR 40828).

III. Background Information

Why Was This Rule Submitted?

NO_X helps produce ground-level ozone, smog, and particulate matter which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency NO_X rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 11, 2002.

Nora L. McGee,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(285)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(285) * * *

(C) Bay Area Air Quality Management District.

(*1*) Rule 9–11, adopted on May 17, 2000.

* * * * *

[FR Doc. 02–12410 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN66–01–7291a; FRL–7206–3]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is approving a site-specific revision to the Minnesota Sulfur Dioxide (SO_2) State Implementation Plan (SIP) for Marathon Ashland Petroleum, LLC. (Marathon Ashland). By its submittal dated February 6, 2000, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve Marathon Ashland's Title V Operating Permit into the Minnesota SO_2 SIP and remove the Marathon Ashland Administrative Order from the state SO_2 SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: This direct final rule will be effective July 19, 2002, unless EPA receives adverse comment by June 19, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353–8328, before visiting the Region 5 office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information
1. What action is EPA taking today?
2. Why is EPA taking this action?
II. Background on Minnesota Submittal
1. What is the background for this action?
2. What information did Minnesota submit, and what were its requests?
3. What is a "Title I Condition?"
III. Final Rulemaking Action
IV. Administrative Requirements

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving into the Minnesota SO_2 SIP certain portions of the Title V permit for Marathon Ashland, located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is only approving into the SIP those portions of the permit cited as "Title I condition: SIP for SO_2 NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP)." In this same action, EPA is removing the Marathon Ashland Administrative Order from the state SO_2 SIP.

2. Why Is EPA Taking This Action?

EPA is taking this action because the state's request does not change any of the emission limitations currently in the SIP or their accompanying supportive documents, such as the SO_2 air dispersion modeling. The revision to the SIP does not approve any new construction or allow an increase in emissions, thereby providing for attainment and maintenance of the SO_2 National Ambient Air Quality Standards (NAAQS) and satisfying the applicable SO_2 requirements of the Act. The only change to the SO_2 SIP is the enforceable document for Marathon Ashland, from the Administrative Order to the federal Title V permit.

II. Background on Minnesota Submittal

1. What Is the Background for This Action?

Marathon Ashland is located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Monitored violations of the primary SO_2 NAAQS from 1975 through 1977 led EPA to designate Air Quality Control Region (AQCR) 131 as a primary SO_2 nonattainment area on March 3, 1978 (43 FR 8962). AQCR 131 includes Washington County. In response to Part D requirements of the Clean Air Act, MPCA submitted an SO_2 plan on August 4, 1980. EPA approved the Minnesota Part D SO_2 SIP for AQCR 131 on April 8, 1981 (46 FR 20996).

The promulgation of the Stack Height Rule on July 8, 1985, required MPCA to review existing emission limitations to determine if any sources were affected by the new Rule. The MPCA determined that Marathon Ashland would require additional permit revisions due to modeled violations of the SO_2 NAAQS using the reduced creditable stack heights. A SIP revision for Marathon Ashland was submitted on June 30, 1987, which MPCA later withdrew because the company could not meet one of the emission limits listed in the permit.

On December 11, 1992, the MPCA submitted an SO_2 SIP revision for the St. Paul Park/Ashland area, which included an administrative order for Marathon Ashland. Minnesota submitted a revised plan on September 30, 1994, in response to changes EPA required to the proposed SIP revision before it could be approved. EPA approved the St. Paul Park/Ashland SO_2 SIP on January 18, 1995 (60 FR 3544).

The state requested that portions of Dakota and Washington Counties (the areas surrounding Marathon Ashland) be redesignated to attainment of the SO_2 NAAQS on October 31, 1995. EPA approved the St. Paul Park Area redesignation request on May 13, 1997 (62 FR 26230).

On December 31, 1998, the MPCA submitted to EPA Amendment Four to Marathon Ashland's order as a site-specific SO_2 SIP revision. EPA determined that Amendment Four to Marathon Ashland's order provided for attainment and maintenance of the SO_2 NAAQS and approved the revised order into the state SIP on August 16, 1999 (64 FR 44408).

2. What Information Did Minnesota Submit, and What Were its Requests?

The SIP revision submitted by MPCA on February 6, 2000, consists of a Title V operating permit issued to Marathon Ashland. The state has requested that EPA approve the following:

(1) The inclusion into the Minnesota SO_2 SIP only the portions of the NSP Riverside Plant Title V permit cited as "Title I condition: SIP for SO_2 NAAQS

40 CFR pt.50 and Minnesota State Implementation Plan (SIP)'; and,

(2) the removal from the Minnesota SO_2 SIP of the Administrative Order for Marathon Ashland previously approved into the SIP.

3. What is a "Title I Condition?'

SIP control measures were contained in permits issued to culpable sources in Minnesota until 1990 when EPA determined that limits in state-issued permits are not federally enforceable because the permits expire. The state then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota's Title V permitting rule, approved into the state SIP on May 2, 1995 (60 FR 21447), includes the term "Title I condition" which was written, in part, to satisfy EPA requirements that SIP control measures remain permanent. A "Title I condition" is defined as "any condition based on source-specific determination of ambient impacts imposed for the purposes of achieving or maintaining attainment with the national ambient air quality standard and which was part of the state implementation plan approved by EPA or submitted to the EPA pending approval under section 110 of the act * * *." The rule also states that "Title I conditions and the permittee's obligation to comply with them, shall not expire, regardless of the expiration of the other conditions of the permit." Further, "any title I condition shall remain in effect without regard to permit expiration or reissuance, and shall be restated in the reissued permit."

Minnesota has since resumed using permits as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in the permits submitted by MPCA are cited as "Title I condition: State Implementation Plan for SO_2," therefore assuring that the SIP requirements will remain permanent and enforceable. In addition, EPA reviewed the state's procedure for using permits to implement site-specific SIP requirements and found it to be acceptable under both Titles I and V of the Act (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA). The MPCA has committed to using this procedure if the Title I SIP conditions in the permit issued to Marathon Ashland and included in the SIP submittal need to be revised in the future.

III. Final Rulemaking Action

EPA is approving the site-specific SIP revision for Marathon Ashland, located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is approving into the SIP only those portions of Marathon Ashland's Title V permit cited as "Title I condition: SIP for SO_2 NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP)." In this same action, EPA is also removing from the state SO_2 SIP the Marathon Ashland Administrative Order which had previously been approved into the SIP on January 18, 1995 and revised on August 16, 1999.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective July 19, 2002 without further notice unless we receive relevant adverse comments by June 19, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 19, 2002.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401 et seq.

Dated: March 8, 2002.

Robert Springer,

Acting Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by removing and reserving paragraphs (c)(38) and (c)(49) and adding paragraph (c)(55) to read as follows:

Sec. 52.1220 Identification of plan.

* * * * *

(c) * * *

(38) [Reserved]

* * * * *

(49) [Reserved]

* * * * *

(55) On February 6, 2000, the State of Minnesota submitted a site-specific revision to the Minnesota Sulfur Dioxide (SO_2) SIP for Marathon Ashland Petroleum, LLC (Marathon Ashland), located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is only approving into the SIP only those portions of the Marathon Ashland Title V Operating permit cited as "Title I condition: SIP for SO_2 NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP)." In this same action, EPA is removing from the state SO_2 SIP the Marathon Ashland Administrative Order previously approved in paragraph (c)(38) and revised in paragraph (c)(49) of this section.

(i) Incorporation by reference

(A) AIR EMISSION PERMIT NO. 16300003–003, issued by the Minnesota Pollution Control Agency to Marathon Ashland Petroleum, LLC on October 26, 1999, Title I conditions only.

[FR Doc. 02–12414 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME–066–7015a; A–1–FRL–7171–7]

Approval and Promulgation of Air Quality Implementation Plans; Maine; New CTGs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes requirements for certain facilities which emit volatile organic compounds (VOCs). The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective July 19, 2002, unless EPA receives adverse comments by June 19, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, D.C. and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: This section is organized as follows:

What action is EPA taking?
What are the relevant Clean Air Act requirements?
What is a control techniques guideline (CTG)?
How has Maine addressed the new CTG categories?
What are the requirements in the licenses submitted by Maine?
Why is EPA approving Maine's submittal?
What is the process for EPA's approval of this SIP revision?

What Action Is EPA Taking?

EPA is approving air emission licenses for the following facilities and incorporating these licenses into the Maine SIP: Bath Iron Works in Bath; Pratt & Whitney in North Berwick; and Moosehead Manufacturing's Dover-Foxcroft and Monson plants.

What Are the Relevant Clean Air Act Requirements?

Sections 182(b)(2) and 184(b) of the Clean Air Act contain the requirements relevant to today's action. Section 182(b)(2) requires States to adopt reasonably available control technology (RACT) rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing Control Techniques Guideline (CTG)—i.e., a CTG issued prior to the enactment of the 1990 amendments to the CAA; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, i.e., non-CTG sources.

Pursuant to the CAA Amendments of 1990, three areas in Maine were classified as moderate ozone nonattainment. (See 56 FR 56694; November 6, 1991). These areas were, thus, subject to the section 182(b)(2) RACT requirement.

In addition, the State of Maine is located in the Northeast Ozone

Transport Region (OTR). The entire State is, therefore, subject to section 184(b) of the amended CAA. Section 184(b) requires that RACT be implemented in the entire state for all VOC sources covered by a CTG issued before or after the enactment of the CAA Amendments of 1990 and for all major VOC sources (defined as 50 tons per year for sources in the OTR).

What Is a Control Techniques Guideline (CTG)?

A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. Under the pre-amended CAA, EPA issued CTG documents for 29 categories of VOC sources. Section 183 of the amended CAA requires that EPA issue 13 new CTGs. Appendix E of the General Preamble of Title I (57 FR 18077) lists the categories for which EPA plans to issue new CTGs.

On November 15, 1993, EPA issued a CTG for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations and Reactor Processes. Also, on August 27, 1996, EPA issued a CTG for shipbuilding and repair operations and on May 26, 1996, EPA issued a CTG for wood furniture manufacturing operations. Furthermore, on March 27, 1998, EPA issued a CTG for aerospace coating operations.

How Has Maine Addressed the New CTG Categories?

On November 15, 1994, Maine submitted a negative declaration for the SOCMI Distillation and Reactors Processes CTG categories. In addition, in response to the shipbuilding CTG, Maine submitted a license for Portsmouth Naval Shipyard (PNSY). The SOCMI negative declaration and the license for PNSY were approved by EPA on April 18, 2000 (65 FR 20749). Furthermore, on October 11, 2001, Maine submitted licenses for Bath Iron Works, Pratt & Whitney, and Moosehead Manufacturing's Dover-Foxcroft and Monson plants. These facilities are subject to EPA's CTGs for shipbuilding and repair, aerospace coating operations, and wood furniture manufacturing operations, respectively.

What Are the Requirements in the Licenses Submitted by Maine?

The license for Bath Iron Works imposes VOC coating emission limits and recordkeeping requirements on this shipbuilding and repair facility. Specifically, the license includes a general use coating emission limit, as well as limits for 22 categories of specialty coatings. The license for Pratt & Whitney imposes VOC coating emission limits and recordkeeping requirements on this aerospace coating facility. Specifically, the license includes VOC content limits for primers, topcoats, chemical milling maskants and 57 categories of specialty coatings. The licenses for Moosehead Manufacturing's two facilities impose VOC coating emission limits, work practice standards, and recordkeeping requirements on these wood furniture manufacturing facilities. Specifically, the licenses include VOC content limits for sealers and topcoats.

Why Is EPA approving Maine's submittal?

EPA has evaluated the licenses submitted for the four facilities discussed above and has found that these licenses are consistent with the applicable CTG documents. The specific requirements imposed on each facility and EPA's evaluation of these requirements are detailed in a memorandum dated December 17, 2001, entitled "Technical Support Document—Maine—New CTGs" (TSD). Copies of the TSD are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

What Is the process for EPA's approval of this SIP revision?

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective July 19, 2002 without further notice unless the EPA receives adverse comments by June 19, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 19, 2002 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Final Action

EPA is approving the licenses for the following facilities and incorporating them into the Maine SIP: Bath Iron Works; Pratt & Whitney; and Moosehead Manufacturing's Dover-Foxcroft and Monson plants. With this approval, and the previous approval of Maine's negative declaration for the SOCMI Distillation and Reactors Processes CTG categories and the license for Portsmouth Naval Shipyard (65 FR 20749), Maine has met the sections 182(b)(2) and 184(b) CAA requirements to address all new CTGs.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: April 3, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(51) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(51) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on October 11, 2001.

(i) Incorporation by reference.

(A) License Amendment #10 issued by the Maine Department of Environmental Protection to Bath Iron Works Corporation on April 11, 2001.

(B) License Amendment #6 issued by the Maine Department of Environmental Protection to Pratt & Whitney on April 26, 2001.

(C) License Amendment #7 issued by the Maine Department of Environmental Protection to Pratt & Whitney on July 2, 2001.

(D) License Amendment #2 issued by the Maine Department of Environmental Protection to Moosehead Manufacturing Co.'s Dover-Foxcroft plant on May 10, 2001.

(E) License Amendment #2 issued by the Maine Department of Environmental Protection to Moosehead Manufacturing Co.'sMonson plant on May 10, 2001.

(ii) Additional materials

(A) Nonregulatory portions of the submittal.

3. In § 52.1031, Table 52.1031 is amended by adding new entries to existing state citations for Chapter 134 to read as follows:

§ 52.1031 EPA-approved Maine Regulations

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State	Title/subject	Adopted date by State	Approved date by EPA	Federal Register citation	52.1020	
134	Reasonably available control technology for facilities that emit volatile organic compounds.	4/11/01	5/20/02	[Insert FR citation from published date]	(c)(51)	VOC RACT determination for Bath Iron Works.
134	Reasonably available control technology for facilities that emit volatile organic compounds.	4/26/01 7/2/01	5/20/02	[Insert FR citation from published date].	(c)(51)	VOC RACT determination for Pratt & Whitney.
134	Reasonably available control technology for facilities that emit volatile organic compounds.	5/10/01	5/20/02	[Insert FR citation from published date].	(c)(51)	VOC RACT determination for for Moosehead Manufacturing's Dover-Foxcroft plant.

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS—Continued

State	Title/subject	Adopted date by State	Approved date by EPA	Federal Register citation	52.1020	
	Reasonably available control technology for facilities that emit volatile organic compounds.	5/10/01	5/20/02	[Insert FR citation from published date].	(c)(51)	VOC RACT determination for for Moosehead Manufacturing's Monson plant.
	. . . . .					

[FR Doc. 02–12469 Filed 5–17–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 62

[UT–001–0034a, UT–001–0035a; FRL–7201–3]

Clean Air Act Approval and Promulgation of State Implementation Plan; Utah; Revisions to Air Pollution Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving two separate State Implementation Plan (SIP) revisions submitted by the Governor of Utah on June 17, 1998. The submittals repeal Utah's Air Conservation Regulations (UACR) R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants and R307–2–28 Section XX, Committal SIP. In addition, the submittals revise R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. The intended effect of this action is to make federally enforceable those provisions of Utah's June 17, 1998 submittals that EPA is approving and to remove from the SIP those provisions that Utah has repealed. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on July 19, 2002 without further notice, unless we receive adverse comment by June 19, 2002. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail your written comments to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the Incorporation by Reference material are available at the Air and Radiation Docket (6102), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA Region VIII, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "our," or "us" is used, we mean EPA.

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I. Summary of EPA's Actions

We are approving revisions to the SIP submitted by the Governor of Utah on June 17, 1998. Specifically, we are approving the repeal of UACR R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants. This rule is obsolete and is no longer needed. We are also approving revisions to UACR R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. These revisions represent minor changes and corrections to cross references. In addition, we are taking no action on the submittal repealing R307–2–28 Section XX, Committal SIP since this rule was never approved by the EPA and thus was never part of the SIP.

II. What Is the State's Process To Submit These Materials To EPA?

Section 110(k) of the Act addresses our actions on submissions of SIP revisions. The Act also requires States to observe certain procedures in developing SIP revisions. Section 110(a)(2) of the Act requires that each SIP revision be adopted after reasonable notice and public hearing. We have evaluated the State's submission and determined that the necessary procedures were followed. We also must determine whether a submittal is complete and therefore warrants further review and action (see section 110(k)(1) of the Act). Our completeness criteria for SIP submittals can be found in 40 CFR part 51, appendix V. We attempt to determine completeness within 60 days of receiving a submission. However, the law considers a submittal complete if we do not determine completeness within six months after we receive it. These submissions became complete by operation of law on December 17, 1998 in accordance with section 110(k)(1)(B) of the Act.

A. R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants

The Utah Air Quality Board held a public hearing on October 22, 1997, to repeal UACR R307–1–4.11 Regulation for the Control of Fluorides from Existing Plants from the SIP. The removal of UACR R307–1–4.11 became State effective on November 6, 1997 and was submitted by the Governor of Utah to us on June 17, 1998.

B. R307–2–28 Section XX, Committal SIP

The Utah Air Quality Board held a public hearing on October 22, 1997, to repeal UACR R307–2–28 which incorporates by reference Section XX, Committal SIP, from the SIP. The removal of UACR R307–2–28 Section XX from the SIP became State effective on November 6, 1997 and was submitted by the Governor of Utah to us on June 17, 1998.

C. R307–7 Exemption From Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery

The Utah Air Quality Board held a public hearing on September 19, 1996, to amend UACR R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. The revision to UACR R307–7 became State effective on November 15, 1996 and was submitted by the Governor of Utah to us on June 17, 1998.

III. Evaluation of the State's Submittal

A. R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants

UACR R307–1–4.11 is entitled "Regulation for the Control of Fluorides from Existing Plants." This rule was repealed by the State on November 6, 1997. Previously, we had incorporated this provision into the Federally approved SIP. Since fluoride emissions are not generally related to attainment or maintenance of the NAAQS, we are approving the deletion of UACR R307–1–4.11 from the SIP. In addition, UACR R307–1–4.11 only applied to the Chevron Chemical Company Phosphate Fertilizer Plant which was located in Salt Lake County. In a letter dated June 30, 1998, the State indicated that the plant has been dismantled, and the rule is no longer needed. We are approving the repeal of UACR R307–1–4.11 from Utah's SIP.

Additionally, since this rule was approved as meeting the 111(d) requirements for Fluorides from Existing Phosphate Fertilizer Plants, on January 30, 2002 the State submitted a letter indicating there were no phosphate fertilizer plants in Utah. Specifically, the letter indicated that there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 60, subpart T, U, V, W or X, Standards of Performance for the Phosphate Fertilizer Industry. Additionally, there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 62, subpart T, U, V, W or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974.[1] We are revising 40 CFR part 62, subpart TT to indicate that Utah has certified that it has no such sources.

B. R307–2–28 Section XX, Committal SIP

UACR R307–2–28 incorporates by reference Section XX, Committal SIP. Section XX committed the State to adopt certain measures to control ozone. This rule was never approved by the EPA based on the results of a lawsuit that disallowed the EPA's right to request committal SIPs. In addition, the committal SIP is now irrelevant since the EPA has approved Utah's Ozone Maintenance Plan. Since this rule was never approved into the SIP, we are taking no action on the June 17, 1998 submittal request to repeal R307–2–28.

C. R307–7 Exemption From Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery

UACR R307–7 is entitled "Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery." This rule exempts certain sources from the notice of intent requirement (permit application) of R–307–1–3. This rule has been re-numbered to UACR R307–413–7 and re-titled "Used Oil Burned for Energy Recovery," since the SIP revision was submitted. Under Utah Administrative Rulemaking Act, 63–46a–9, the State must review rules every five years. Following a review of this rule, SIP revisions were made to UACR R307–7 which clarify and update the rule. The SIP revision to UACR R307–7 includes the following minor clarifications and corrections:

1. Expands the definition of a boiler in R307–7–1 by including additional language that defines specific types of boilers,
2. Changes the record keeping requirements in R307–7–3 from two years to three years to be consistent with the Solid and Hazardous Waste Rule R315–15–4.7(d),
3. Clarifies the reference in R307–7–2 to R307–1–3,
4. Updates the statutory authorization at the end of the rule to reflect the separation of the Department of Environmental Quality from the Department of Health in 1991.

The revisions to UACR R307–7 are acceptable and we are approving them into the SIP. We caution that if sources are subject to more stringent requirements under the provisions of the Clean Air Act or other environmental statutes, our approval of the SIP revision does not excuse sources from meeting those other, more stringent, requirements. Note that EPA is not approving the renumbering and renaming of the rule at this time.

[1] The State letter references part 62. We believe they intended to reference part 60. Part 60 contains the performance standards and part 62 contains the approval status of state plans.

IV. Final Action

In this action, we are granting approval to repeal UACR R307–1–4.11 from Utah's SIP. We are also approving revisions to UACR R307–7 of Utah's SIP submitted by the Governor of Utah on June 17, 1998. We are taking no action on the request to repeal R307–2–28.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Utah SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) Fluoride emissions are not related to attainment of the NAAQS and also there are no fluoride plants in Utah that meet the definition of affected facility under 40 CFR part 60; (2) revisions to R307–7 make the rule more stringent than the current rule and will enhance the State's efforts in implementing the Clean Air Act. Therefore, section 110(l) requirements are satisfied.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective July 19, 2002 without further notice unless the Agency receives adverse comments by June 19, 2002. If we receive adverse comments, then we will publish a timely withdrawal of the direct final rule, in the **Federal Register**, informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 19, 2002, and no further action will be taken on the proposed rule. Please note that if we

receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Fluoride, Intergovernmental relations, Phosphate, Reporting and recordkeeping requirements.

Dated: April 15, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(47) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(47) The Governor of Utah submitted a request to repeal sections R307–1–4.11 and R307–2–28, and revise R307–7of the Utah Air Conservation Regulations (UACR) on June 17, 1998. R307–1–4.11 is removed from the SIP. No action was taken on the repeal of R307–2–28 because it was never approved into the SIP.

(i) Incorporation by reference.

(A) UACR R307–7 effective November 15, 1996.

Part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671.

Subpart TT—Utah

2. Section 62.11100 is revised to read as follows:

Fluoride Emissions from Existing Phosphate Fertilizer Plants

§ 62.11100 Identification of plan—negative declaration.

The Utah Department of Environmental Quality certified in a letter dated January 30, 2002 that there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 60, subpart T, U, V, W or X, Standards of Performance for the Phosphate Fertilizer Industry.

Additionally, there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 62, subpart T, U, V, W or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974.

(Note: the State referenced part 62 in the second sentence. We believe they meant part 60).

[FR Doc. 02–12413 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1603

Rules Implementing the Government in the Sunshine Act

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board adopts new regulations establishing the agency's procedures for implementing the Government in the Sunshine Act.

DATES: This rule is effective June 19, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher Kirkpatrick, (202) 261–7600.

SUPPLEMENTARY INFORMATION: The Chemical Safety and Hazard Investigation Board ("CSB" or "Board"), as an agency headed by a collegial body composed of five members appointed by the President with the advice and consent of the Senate, is subject to the Government in the Sunshine Act ("Sunshine Act" or "Act"), 5 U.S.C. 552b. The Sunshine Act establishes standards for publicizing and permitting access to agency meetings, and for closing meetings to the public under certain conditions. The Act requires agencies to promulgate regulations to implement the statute's requirements.

In the **Federal Register** of April 8, 2002 (67 FR 16670), the CSB published a proposed rule setting forth its regulations for the implementation of the Sunshine Act. The proposed rule provided for a 30-day comment period. No comments were received in response to the proposed rule and invitation for comments. This final rule is unchanged from the proposed rule, except for the correction of a technical error in § 1603.7(h).

This rule implements the requirements of the Sunshine Act. This rule mirrors the Sunshine Act regulations of many other agencies, most specifically, those of the National Transportation Safety Board (49 CFR part 804) and the Defense Nuclear Facilities Safety Board (10 CFR part 1704).

Regulatory Flexibility Act

The Board, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and certifies that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48.

List of Subjects in 40 CFR Part 1603

Sunshine Act.

For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board adds a new 40 CFR part 1603 to read as follows:

PART 1603—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

1603.1 Applicability.
1603.2 Policy.
1603.3 Definitions.
1603.4 Open meetings requirement.
1603.5 Assurance of compliance.
1603.6 Business requiring a meeting.
1603.7 Grounds on which meetings may be closed or information may be withheld.
1603.8 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.
1603.9 Procedures for public announcement of meetings.
1603.10 Changes following public announcement.
1603.11 Transcripts, recordings, or minutes of closed meetings.
1603.12 Availability of transcripts, recordings, and minutes, and applicable fees.
1603.13 Report to Congress.
1603.14 Severability.

Authority: 5 U.S.C. 552b; 42 U.S.C. 7412(r)(6)(N).

§ 1603.1 Applicability.

(a) This part implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b. These procedures apply to meetings, as defined herein, of the Members of the Chemical Safety and Hazard Investigation Board ("CSB" or "Board").

(b) This part does not affect the procedures by which CSB records are made available to the public, which continue to be governed by part 1601 of this chapter pursuant to the Freedom of Information Act, 5 U.S.C. 552, except that the exemptions set forth in § 1603.7 shall govern in the case of any requests made for the transcripts, recordings, and minutes described in § 1603.11.

§ 1603.2 Policy.

It is the policy of the CSB to provide the public with the fullest practicable information regarding the decisionmaking processes of the Board, while protecting the rights of individuals and the ability of the Board to discharge its statutory functions and responsibilities. The public is invited to attend but not to participate in open meetings. For any open meeting, the Board, by majority vote, may decide to allow for a public comment period immediately following the close of that meeting.

§ 1603.3 Definitions.

As used in this part:

(a) *Days* means calendar days, except where noted otherwise.

(b) *General Counsel* means the Board's principal legal officer, or a CSB attorney serving as Acting General Counsel.

(c) *Meeting* means the deliberations of at least a quorum of Members where such deliberations determine or result in the joint conduct or disposition of official CSB business, and includes conference telephone calls or other exchanges otherwise coming within the definition. A meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(2) Action by at least a quorum of Members to:

(i) Open or to close a meeting or to release or to withhold information pursuant to § 1603.7;

(ii) Set an agenda for a proposed meeting(s);

(iii) Call a meeting on less than seven days' notice as permitted by § 1603.9(b); or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under § 1603.10(b).

(3) A session attended by at least a quorum of Members for the purpose of having the Board's staff or expert consultants to the Board brief or otherwise provide information to the Board concerning any matters within

the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official CSB business on such matters.

(4) A session attended by at least a quorum of Members for the purpose of having the Environmental Protection Agency or Occupational Safety and Health Administration (including contractors of those agencies) or other persons or organizations brief or otherwise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official CSB business on such matters.

(5) A gathering of Members for the purpose of holding informal preliminary discussions or exchange of views which do not effectively predetermine official action.

(d) *Member* means an individual duly appointed and confirmed to the collegial body known as the Board.

(e) *Reporter* means a CSB employee designated by the General Counsel, under § 1603.5(c), to attend and prepare a written summary of all briefings described in paragraphs (c)(3) and (c)(4) of this section and all informal preliminary discussions described in paragraph (c)(5) of this section.

(f) *Sunshine Act* means the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 1603.4 Open meetings requirement.

Any meetings of the Board, as defined in § 1603.3, shall be conducted in accordance with this part. Except as provided in § 1603.7, the Board's meetings, or portions thereof, shall be open to public observation.

§ 1603.5 Assurance of compliance.

(a) The General Counsel or another attorney designated by the General Counsel will attend and monitor all briefings described in § 1603.3(c)(3) and (c)(4) and all informal preliminary discussions described in § 1603.3(c)(5), to assure that those gatherings do not proceed to the point of becoming deliberations and meetings for Sunshine Act purposes.

(b) The General Counsel or the designated attorney will inform the Board Members if developing discussions at a briefing or gathering should be deferred until a notice of an open or closed meeting can be published in the **Federal Register**, and a meeting conducted pursuant to the Sunshine Act and this part.

(c) For each briefing described in § 1603.3(c)(3) or (c)(4) and each informal preliminary discussion described in § 1603.3(c)(5), the General Counsel is hereby authorized to designate a CSB employee, other than the attorney referred to in paragraph (a) of this section, to serve as a reporter. An employee may be designated as reporter for a single briefing or informal discussion or for a series of briefings or discussions. The reporter shall attend and prepare a written summary of each briefing(s) or informal discussion(s) for which he/she has been designated. The reporter must prepare the summary of a particular briefing or informal discussion within five business days after the date of that briefing or discussion. The reporter must then submit the summary to the General Counsel or the designated attorney who attended the briefing or informal discussion that is the subject of the summary for review and approval as a fair and accurate summary of that briefing or discussion. The written summaries of briefings and informal discussions shall be maintained in the Office of General Counsel.

§ 1603.6 Business requiring a meeting.

The Board may, by majority vote of its Members, determine that particular items or classes of Board business cannot be accomplished by notation voting, but must instead be decided by a recorded vote at a meeting, as defined in § 1603.3(c).

§ 1603.7 Grounds on which meetings may be closed or information may be withheld.

Except in a case where the Board finds that the public interest requires otherwise, a meeting may be closed and information pertinent to such meeting otherwise required by §§ 1603.8, 1603.9, and 1603.10 to be disclosed to the public may be withheld if the Board properly determines that such meeting or portion thereof or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy; and

(2) In fact, properly classified pursuant to such Executive Order. In making the determination that this exemption applies, the Board shall rely upon the classification assigned to a document by the Environmental Protection Agency, Occupational Safety and Health Administration, or other originating agency;

(b) Relate solely to the internal personnel rules and practices of the CSB;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the CSB, except that this paragraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative prior to taking final action on such proposal;

(i) Specifically concern the Board's issuance of a subpoena, or the CSB's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the CSB of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing; or

(j) Disclose other information for which the Government in the Sunshine Act provides an exemption to the open meeting requirements of that Act.

§ 1603.8 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.

(a) A meeting shall not be closed, or information pertaining thereto withheld, unless a majority of all Members votes to take such action. A majority of the Board may act by taking a single vote with respect to any action under § 1603.7. A single vote is permitted with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular subject matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under this paragraph shall be recorded and proxies are not permitted.

(b) Any person whose interest may be directly affected if a portion of a meeting is open may request the Board to close that portion on any of the grounds referred to in § 1603.7(e) through (g). Requests, with reasons in support thereof, should be submitted in writing, no later than two days before the meeting in question, to the General Counsel, Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite 400, Washington, DC 20037. In motion of any Member, the Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the CSB shall make available a written copy of such vote reflecting the vote of each Member on the question and, if a portion of a meeting is to be closed to the public, a full written explanation of its action closing the meeting and a list of all persons expected to attend and their affiliation.

(d) Before every closed meeting, the General Counsel of the CSB shall publicly certify that, in his/her opinion, the meeting may be closed to the public and shall state each relevant exemption provision. If the General Counsel invokes the exemption for classified or sensitive unclassified information under § 1603.7(a), he/shall rely upon the classification or designation assigned to the document containing such information by the Environmental Protection Agency, Occupational Safety and Health Administration, or other originating agency. A copy of such certification, together with a statement setting forth the time and place of the meeting and the persons present, shall be retained by the Board as part of the transcript, recording, or minutes required by § 1603.11.

§ 1603.9 Procedures for public announcement of meetings.

(a) For each meeting, the CSB shall make public announcement, at least one week before the meeting, of:

(1) The time of the meeting;

(2) The place of the meeting;

(3) The subject matter of the meeting;

(4) Whether the meeting is to be open or closed; and

(5) The name and business telephone number of the offical designated by the CSB to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if:

(1) A majority of all Members determines by recorded vote that CSB business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time.

(c) Immediately following each public announcement required by this section, or by § 1603.10, the CSB shall submit a notice of public announcement for publication in the **Federal Register**.

§ 1603.10 Changes following public announcement.

(a) The time or place of a meeting may be changed following the public announcement only if the CSB publicly announces such change at the earliest practicable time. Members need not approve such change.

(b) A meeting may be cancelled, or the subject matter of a meeting or the determination of the Board to open or to close a meeting, or a portion thereof, to the public may be changed following public announcement only if:

(1) A majority of all Members determines by recorded vote that CSB business so requires and that no earlier announcement of the cancellation or change was possible; and

(2) The CSB publicly announces such cancellation or change and the vote of each Member thereon at the earliest practicable time.

(c) The deletion of any subject matter announced for a meeting is not a change requiring the approval of the Board under paragraph (b) of this section.

§ 1603.11 Transcripts, recordings, or minutes of closed meetings.

(a) Along with the General Counsel's certification referred to in § 1603.8(d), the CSB shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. The CSB may maintain a set of minutes in lieu of such transcript or recording for meetings closed pursuant to § 1603.7(i). Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any actions shall be identified in such minutes.

(b) The CSB shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or a portion thereof, closed to the public for at least two years after such meeting, or until one year after the conclusion of any CSB proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

§ 1603.12 Availability of transcripts, recordings, and minutes, and applicable fees.

The CSB shall make promptly available to the public the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at a meeting, except for such item, or items, of discussion or testimony as determined by the CSB to contain matters which may be withheld under the exemptive provisions of § 1603.7. Copies of the nonexempt portions of the transcript or minutes, or transcription of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication. Requests for transcripts, recordings, or minutes shall be made in writing to the General Counsel of the CSB, 2175 K Street, NW., Suite 400, Washington, DC 20037.

§ 1603.13 Report to Congress.

The CSB General Counsel shall annually report to the Congress regarding the Board's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Board pursuant to the

Government in the Sunshine Act, including any cost assessed against the Board in such litigation (whether or not paid by the Board).

§ 1603.14 Severability.

If any provision of this part or the application of such provision to any person or circumstances, is held invalid, the remainder of this part or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Dated: May 14, 2002.

Christopher W. Warner,

General Counsel.

[FR Doc. 02–12529 Filed 5–17–02; 8:45 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 051402B]

Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 15, 2002, until 1200 hrs, A.l.t., June 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), was established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002) for the second season, the period April 1, 2002, through June 30, 2002, as 100 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ≥other species.≥

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 14, 2002.

John H. Dunnigan,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12572 Filed 5–15–02; 4:31 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 97
Monday, May 20, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

RIN 3245–AE91

New Markets Venture Capital Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration ("SBA") proposes to make several amendments to the regulations for the New Markets Venture Capital ("NMVC") program. The majority of the proposed amendments make technical changes to the regulations, to correct typographical errors or to clarify language. SBA also proposes to make five substantive amendments to the regulations, which SBA believes will result in more efficient and effective delivery of NMVC program benefits to the targeted geographic areas. Generally, the five changes would:

Allow a New Markets Venture Capital company ("NMVC company") to include in its regulatory capital SBA-approved organizational and management expenses paid on behalf of the NMVC company before the company is finally approved;

Allow SBA, in selecting recipients for NMVC program assistance, to compare applications from specialized small business investment companies ("SSBICs") with NMVC company applications from the same or proximate low-income geographic areas ("LI" areas");

Create rules governing fees an NMVC company or its associates may charge for management services provided to small businesses in which the NMVC company invests;

Revise the application process for SSBICs so as to make it more parallel with the application process for NMVC companies; and

Add a requirement that NMVC companies must use at least 80 percent of their grant funds (both funds from SBA and grant matching resources) to provide operational assistance to smaller enterprises located in an LI area at the time the operational assistance commenced.

DATES: Comments must be received on or before June 19, 2002.

ADDRESSES: Address all comments concerning this proposed rule to Austin Belton, Director of New Markets Venture Capital, U.S. Small Business Administration, 409 Third Street, SW., 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Peter C. Gibbs, Deputy Director of New Markets Venture Capital, (202) 205–7574.

SUPPLEMENTARY INFORMATION:

I. Background

The New Markets Venture Capital Program Act of 2000 ("the Act") was created by the Consolidated Appropriations Act of 2001, Public Law 106–554, enacted December 21, 2000. SBA published in the **Federal Register** a final rule implementing the Act on May 23, 2001 (66 FR 28602) and a technical correction on June 19, 2001 (66 FR 32894).

SBA has conducted a first application round for the NMVC program, and selected seven companies as conditionally approved NMVC companies. The amendments proposed in this rule would apply to those seven companies as well as to applicants for the NMVC program in future application round(s) and to entities SBA selects for participation in the NMVC program as a result of any future application round(s).

II. Section-by-Section Analysis

SBA proposes to amend three of the definitions in § 108.50. The definitions of "New Markets Venture Capital Company" and "Participation Agreement" would be amended to correct typographical errors.

The definition of "Regulatory Capital" would be amended to simplify it by consolidating into § 108.230, which addresses private capital, all the current restrictions on what may be included in regulatory capital. The proposed definition would state that regulatory capital is private capital, excluding any portion of private capital that the NMVC company designates as grant matching resources.

SBA proposes to amend paragraphs (b), (c), and (d) of § 108.230. In paragraph (b), SBA proposes to make a technical change. The word "contributed" would be revised to read "paid-in," to indicate more clearly that only capital contributions actually made are considered "contributed capital" for purposes of § 108.230.

SBA proposes to amend paragraph (c) by adding a new subparagraph (5) to move to this section language concerning questionable commitments that currently is in the definition of regulatory capital in § 108.50. This is a non-substantive change.

SBA proposes to revise paragraph (d) to allow NMVC companies to include in private capital SBA-approved organizational and management expenses paid on behalf of an NMVC company prior to SBA's final approval of the NMVC company. SBA intends to provide guidance on the limitations by percentage and/or dollar amounts on such expenses that SBA will approve for inclusion in private capital. Other non-cash assets, such as "pre-licensing investments," would continue to not be allowed for inclusion in private capital. SBA previously determined that such non-cash assets would not be acceptable for inclusion in regulatory capital (see discussion on this subject in the preamble to the proposed rule implementing the Act, 66 FR 20536, April 23, 2001, and the preamble to the final rule implementing the Act, 66 FR 28603, May 23, 2001).

SBA proposes to make technical changes to § 108.310 to more clearly articulate what an NMVC company applicant must state in its application regarding the amounts of regulatory capital and grant matching resources it proposes to raise. The proposed amendment would require an applicant to state specific amounts of regulatory capital and grant matching resources, both of which must comply with the statutory minimums established by the Act. SBA also proposes to make a minor technical change to § 108.320.

SBA proposes to amend § 108.360(k) to allow SBA, when making selections as to which applicants will receive conditional approval, to compare the applications submitted by NMVC company applicants to the applications submitted by SSBICs that intend to invest in the same or proximate LI areas. This change would allow SBA to more effectively utilize limited NMVC program appropriations. This change

also would increase the potential for achieving the nationwide distribution of the NMVC program's benefits that the Act directs.

SBA proposes to make three technical changes to § 108.380. Proposed changes to subsections (a)(1)(i)(A) and (a)(1)(i)(B), would more clearly state that the amounts of regulatory capital and grant match applicants must raise before they can be finally approved are the exact same amounts that they said they would raise in their applications. SBA proposes to amend subsection (b)(3) to correct a typographical error.

SBA proposes to add new § 108.900, based in part on § 107.900 for the small business investment company (SBIC) program, governing fees for management services and similar services (for example, negotiating bank debt, sale of the company, or a lease, or structuring an employee stock ownership plan) charged by an NMVC company or its associates to small businesses that the NMVC company finances. The proposed regulation would require SBA's prior written approval of all such fees charged. The proposed regulation states that it does not apply to operational assistance that an NMVC company or its associate provides to a business that the NMVC company has financed or in which it expects to make a financing, and that the NMVC company may not charge the business a fee for such operational assistance. SBA expects an NMVC company to use its grant funds (both SBA funds and grant matching resources) to cover the costs of providing such operational assistance.

This proposed regulation also would require that at least 50 percent of all such fees paid to an associate (as defined in 13 CFR 108.50) of an NMVC company by a small business must be allocated back to the NMVC company for its benefit. SBA understands that an NMVC company or its associate (for example, its management company) may want to provide management and other services to the NMVC company's portfolio companies and charge a fee for such services. It may be in the best interests of the small business that the NMVC company or its associate provide such services rather than an outside third party. However, SBA believes that the NMVC company's manager should share equally with the NMVC company the financial benefit (i.e., fees) of providing those services, since that relationship (of the manager to the NMVC company) is what brought about the opportunity for the manager to obtain that financial benefit. In addition, SBA believes that neither the NMVC company itself nor the NMVC program in general is well served if the focus of the NMVC company's manager is on fee generation rather than managing the NMVC company. SBA believes that a 50–50 allocation of such fees between the NMVC company manager and the NMVC company itself strikes an appropriate balance between these objectives and reflects what knowledgeable private investors often require in commercial equity venture capital funds.

SBA proposes to remove § 108.2000 and replace it with several smaller, more easily readable sections, §§ 108.2000–108.2007. Proposed § 108.2000 (currently § 108.2000(a)) would provide a more comprehensive list of the regulations applicable to operational assistance grants to NMVC companies and to SSBICs. Proposed § 108.2001 (currently § 108.2000(b)(1) and (b)(3)(i)) is unchanged in content.

Proposed § 108.2002 (currently § 108.2000(b)(2)) includes several technical corrections. First, the term "Developmental Venture Capital Investments" would be replaced with "Low-Income Investments" in new subsections (a) and (c). The term "Low-Income Investments" already is defined in § 108.50, and more accurately reflects the statutory requirement that an SSBIC must use all of its new capital raised for the NMVC program, to make equity capital investments in smaller enterprises located in LI areas. Second, the phrase "after December 21, 2000" would be added to the end of new subsection (c), to incorporate the NMVC program statutory effective date and make more clear that an SSBIC may use operational assistance grant funds only in connection with investments it makes after such date.

Proposed § 108.2003 (currently § 108.2000(b)(3)(ii)) is unchanged in content. Proposed § 108.2004 (currently § 108.2000(b)(4)(i) and (ii)) would make technical changes to more clearly articulate what an SSBIC must state in its application regarding the amounts of regulatory capital and grant matching resources it proposes to raise. The proposed regulation would require that an SSBIC state specific amounts of regulatory capital and grant matching resources, and that the amount of grant matching resources comply with the statutory minimum established by the Act.

Proposed § 108.2005 (currently § 108.2000(b)(4)(ii)(A) through (G)) would replace the term "Developmental Venture Capital Investments" with "Low-Income Investments" in new subsections (a), (c), (d) and (f), for the reasons described above. Subsections (a) and (d) would add new requirements that an SSBIC identify specific LI areas in which it intends to make investments and provide operational assistance, and specify how much of its investments it will make in each of the specified LI areas. These requirements parallel the information required from NMVC company applicants, and will allow SBA to better determine the potential impact on specific LI areas, when making selections as to recipients of NMVC program benefits.

Proposed § 108.2006 (currently § 108.2000(b)(5)) would replace the term "Developmental Venture Capital Investments" with "Low-Income Investments" in new subsection (d), for the reasons described above. The proposed regulation also would allow SBA to add an interview component to its selection process, paralleling SBA's current authority to require an interview with NMVC company applicants (see 13 CFR 108.340). SBA is considering interviewing applicants in future application rounds. In new subsection (h), SBA proposes a change to allow SBA, when making selections as to which SSBICs conditionally will receive an operational assistance grant, to compare the applications submitted by SSBICs to the applications submitted by NMVC company applicants that intend to invest in the same or proximate LI areas. This change would allow SBA to more effectively utilize limited NMVC program appropriations. This change also would increase the potential for achieving the nationwide distribution of the NMVC program's benefits contemplated by the Act.

Proposed § 108.2007 (currently § 108.2000(b)(6)) is unchanged in content.

Proposed § 108.2010 would add a new paragraph (b) (and redesignate paragraph (b) as paragraph (c)) requiring that an NMVC company must use at least 80 percent of its grant funds (both funds from SBA and grant matching resources) to provide operational assistance to smaller enterprises whose principal office is located in an LI area at the time the operational assistance commences.

The Act explicitly requires that all operational assistance funded by the NMVC program go only to smaller enterprises. The proposed regulation would impose an additional requirement that a specific percentage, 80 percent, of such operational assistance provided by NMVC companies go to businesses located in LI areas. This requirement serves to maximize the impact of the operational assistance funded by SBA on the LI areas targeted for assistance through the NMVC program. This proposed 80 percent requirement also parallels the existing regulatory requirement (see 13 CFR 108.710(a)) that NMVC companies must use at least 80 percent of its capital (both funds from SBA and private capital) to make equity capital investments in smaller enterprises located in an LI area at the time the investment is made.

SBA proposes to revise redesignated paragraph (c) to correct the title of the part of the Federal Acquisition Regulations containing the definition of G&A expense.

Technical amendments are proposed to §§ 108.2020(b), 108.2030(c)(2)(iii), 108.2030(c)(2)(iv), 108.2030(d)(2), and 108.2040(a) to correct cross-references to other sections in this part and to clarify requirements. The proposed changes to § 108.2030(c) would allow grant matching resources to be payable over a multiyear period not to exceed the term of the grant from SBA, and in no event more than 10 years. This change would provide support for SBA to allow an applicant to request a specific grant term, within a range acceptable to SBA and as long as it did not exceed the 10 year limit set forth in the Act, rather than having SBA establish one allowable grant term for all applicants. This would give each NMVC company and selected SSBIC greater flexibility to determine how best to use operational assistance funds from SBA to accomplish its mission. This proposed change is made possible by a change in the law governing SBA's appropriation for the NMVC program. On July 24, 2001, Congress passed a supplemental appropriations bill (Pub. L. 107–20) that extended the availability of the funds appropriated to SBA for the NMVC program.

III. Regulatory Compliance Section—Compliance With Executive Orders 12866, 12988, and 13132; With the Paperwork Reduction Act (44 U.S.C. Ch. 35); and With the Regulatory Flexibility Act (5 U.S.C. 601–612)

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a "significant regulatory action" under Executive Order 12866. A regulatory assessment of the potential costs and benefits of the regulatory action follows. Because this is a new program and no NMVC Companies are operational yet, SBA does not have relevant data to estimate actual dollar values for these proposed amendments. However, SBA welcomes comments from the public regarding the potential costs and benefits of the proposed amendments.

The NMVC program is an equity venture capital program designed to promote the economic development of, and address the unmet equity capital needs of smaller enterprises located in, LI areas. The program has a one-time no-year appropriation of $52 million to fund newly formed NMVC companies. To date, seven applicants have been selected as conditionally approved NMVC companies. SBA anticipates a second application round, and the proposed amendments concerning the application process would affect applicants in the second round. The proposed amendments that concern participation in the program would apply to all NMVC companies selected through both application rounds and SSBICs applying under the second application round.

This rule proposes to make several amendments to the existing regulations implementing the program. Most of the amendments are technical changes that would have no impact on the costs associated with the program to the Government or to the program beneficiaries. After SBA's first year of experience in creating and administering this new program, SBA also proposes a few substantive changes which SBA believes will result in more efficient and effective delivery of NMVC program benefits to the targeted LI areas and businesses. SBA believes that these changes will result in reduced operational costs for the program to both the government, the NMVC companies, and to the beneficiary small businesses financed by the NMVC companies with SBA leverage.

The most significant change SBA proposes is to add a requirement that NMVC companies must use at least 80% of the SBA grant funds (and the required match funding from non-SBA sources) to assist smaller enterprises whose principal office is in an LI area. This is consistent with the existing requirement on the use of an NMVC company's capital. This change would ensure that the primary impact of the grant would be on the LI areas targeted by the NMVC program. It also would have the effect of assisting smaller enterprises in LI areas to qualify for equity investment, or otherwise enabling such enterprises to grow at no cost to such businesses.

SBA's experience over the past year indicates that some NMVC companies may charge management services fees to smaller enterprises in connection with investments made by the NMVC company, but SBA's existing regulations are silent in this area. SBA believes that adding a regulation governing such fees will give SBA the necessary tools to ensure that smaller enterprises are not being charged too much for such services and that an NMVC company's management is not motivated solely by fee generation. SBA proposes to add section 108.900 which would place limits on such fees, require SBA's advance approval, and require that at least 50% of any fees charged by the fund-manager be for the benefit of the NMVC company.

SBA also proposes several changes to clarify the application requirements for SSBICs to participate in the NMVC program and to do so on a parallel basis as NMVC companies. For example, one change would require SSBICs to identify specific LI areas they are targeting, thereby allowing comparison with any NMVC applicant for the same LI area and avoiding duplicative coverage of a LI area. The overall results of these changes are to ensure even-handed treatment of SSBICs and NMVC companies, maximize the nationwide impact of the NMVC program, and achieve greater administrative efficiency in program administration.

SBA also proposes to clarify that SBA will permit SBA-approved organizational and management expenses incurred prior to SBA's final approval of the NMVC company to be credited in whole or part against the regulatory capital the NMVC company is required to raise. This credit would be in lieu of an NMVC company being required to pay out cash at its outset for the same pre-approved costs. This change will improve the efficiency of an NMVC company's operations and prevent unnecessary paperwork on the part of the NMVC company, which will streamline the program. This change also would bring the NMVC program in line with the SBIC program and with best practices of the private venture fund industry in this area.

In sum, the proposed changes will result in more NMVC program funds going to smaller enterprises in LI areas, in line with the legislative intent, and greater cost-effectiveness and efficiency in SBA's administration of the NMVC program to execute the congressional mandate.

Compliance With Executive Order 12988

For purposes of Executive Order 12988, SBA has determined that this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that order.

Compliance With Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this

proposed rule has no federalism implications because the legislation authorizing it addresses private, for-profit concerns (NMVC companies) working directly with entrepreneurs. The regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, SBA determines that this proposed rule does not have sufficient federalism implications warranting the preparation of a Federalism Assessment.

Compliance With Paperwork Reduction Act, 44 U.S.C. Ch. 35

SBA has determined that this proposed rule imposes new information collection requirements that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501–3520. The proposed rule includes two new collections of information: (1) A request for prior SBA approval of management services fees and other fees and (2) concerning the application process for SSBICs, an additional component to the plan for use of the operational assistance grant, and an interview component. These information collections are described in more detail below.

Simultaneously with the publication of this rule in the **Federal Register**, SBA will make the collection available to the public by posting it on SBA's Web site at *http://www.sba.gov/inv*. You also may request a copy by calling Peter Gibbs at (202) 205–7574 or writing to him at Office of New Markets Venture Capital, Investment Division, U.S. Small Business Administration, 409 Third Street, SW., 6th Floor, Washington, DC 20416.

SBA seeks comment on: (1) Whether the proposed collection of information is necessary for the proper performance of SBA's functions, including whether the information will have practical utility; (2) the accuracy of SBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information SBA proposed to collect; and (4) ways to minimize the burden on respondents of the proposed collection of information, including through the use of automated collection techniques or other forms of information technology.

Please send comments, by the closing date for comment on this proposed rule, to David Rostker, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, and to Austin Belton, Director of New Markets Venture Capital, Investment Division, U.S. Business Administration, 409 Third Street, SW., Washington, DC 20416.

1. SBA proposes the following new information collection, applicable only to NMVC companies finally approved by SBA for participation in the NMVC program:

Title: Request for SBA Approval of Management Services Fees and Other Fees (SBA Form Number not yet assigned; see proposed § 108.900 for reference).

Need and purpose: Through the use of this new form, SBA will collect information from an NMVC company that seeks SBA's prior approval for the NMVC company or its associates to charge certain fees to small businesses that the NMVC company finances (i.e., fees for management services, services on a business's board, or services related to certain kinds of transactions). SBA will collect this information at the time the NMVC company requests SBA prior approval of such fees. SBA will use the information collected to evaluate the NMVC company's request.

Burden: An NMVC company will complete this information collection only when it desires to charge certain fees to small businesses. Some NMVC companies may not desire to charge such fees to the small businesses it finances; others may desire to charge such fees to every such small business. SBA estimates that each NMVC company (SBA estimates that there will be 15 NMVC companies participating in the program) may complete this collection one time per year, for a total of 15 respondents per year. SBA estimates that the time needed to complete this collection will average four hours, and that the cost to complete this collection will be approximately $75.00 per hour, for a total estimated aggregated burden of 60 hours per year costing an aggregated $4,500.00 per year.

2. SBA proposes the following two new information collections, applicable only to SSBICs applying for an operational assistance grant under the NMVC program:

a. SBA proposes to add one item to the list of topics an SSBIC applicant must address in its plan for use of the operational assistance grant.

Title: Identification of LI Areas (no SBA Form Number will be assigned; see proposed § 108.2005(c) for reference).

Need and purpose: SBA will collect information from an SSBIC applicant concerning the specific geographic areas in which the SSBIC intends to make investments and provide operational assistance under the NMVC program. SBA will collect this information at the time the SSBIC applies for an operational assistance grant. SSBIC applicants will be directed to use a geographic mapping/searching function, available on SBA's Web site, to create maps and related information in order to respond to this information collection. SBA will use the information collected to evaluate the potential impact of the SSBIC's proposed activities on low-income geographic areas identified by the SSBIC, when SBA makes selections of which applicants will receive NMVC program benefits.

Burden: An SSBIC applicant will complete this information collection only once, when it applies for a grant under the NMVC program. SBA estimates that three SSBIC applicants likely will submit applications in response to any subsequent application rounds that SBA holds, for a total of three respondents per year (during a year in which SBA holds an application round). SBA estimates that the time needed to complete this collection will average 15 minutes, and that the cost to complete this collection will be approximately $75.00 per hour, for a total estimated aggregated burden of 45 minutes per year costing an aggregated $56.00 per year.

b. SBA proposes to add an interview component to the application process for SSBIC applicants.

Title: Interview Questions for NMVC Company and SSBIC Applicants (SBA Form Number not yet assigned; see proposed § 108.2006 for reference).

Need and purpose: SBA will collect information from an SSBIC applicant through an interview, during which SBA will ask a set of standardized questions of all SSBIC applicants (SBA will ask a slightly different set of standardized questions of all NMVC company applicants). The questions will concern the applicant's proposed use of operational assistance grant resources to develop small businesses located in low-income geographic areas. SBA will collect this information during a 90-minute interview with an SSBIC applicant's self-selected representatives, shortly after the SSBIC applies for an operational assistance grant. SBA will use the information collected to evaluate the potential impact of the SSBIC's proposed activities on low-income geographic areas identified by the SSBIC, when SBA makes selections of which applicants will receive NMVC program benefits.

Burden: An SSBIC applicant will complete this information collection

only once, when it applies for a grant under the NMVC program. SBA estimates that three SSBIC applicants likely will submit applications in response to any subsequent application rounds that SBA holds, for a total of three respondents per year (during a year in which SBA holds an application round). SBA estimates that the time needed to complete this collection will average 90 minutes, and that the cost to complete this collection will be approximately $75.00 per hour, for a total estimated aggregated burden of 4.5 hours per year costing an aggregated $338.00 per year.

Compliance With the Regulatory Flexibility Act, 5 U.S.C. 601–602

Under the Regulatory Flexibility Act (RFA), SBA has determined that this rule does not have a significant economic impact on a substantial number of small entities, within the meaning of the RFA, for the following reasons.

The NMVC program is expected to result in the creation of fewer than 20 NMVC companies. The program's impact will be felt to a greater extent on the small businesses that the NMVC companies invest in and assist through this program. The Act authorizes $150 million to guarantee debentures to NMVC companies, which will result in a discounted amount of approximately $100 million with which NMVC companies can make investments, and $30 million for operational assistance grants to NMVC companies and SSBICs. In addition, NMVC companies must raise capital totaling $100 million, and NMVC companies and SSBICs must raise grant matching resources totaling $30 million. Thus, the total net funding for the NMVC program, including matching funds raised by NMVC companies and SSBICs, is $260 million. Based upon industry practices, it is likely that the funds will be disbursed over a five to seven year period. A NMVC company's minimum life is 10 years and NMVC companies' investments are typically made during their first five to seven years of existence. Generally, a NMVC company will fund three or at most four businesses in one year out of the 20 to 30 businesses it will fund over its life. Therefore, NMVC program funds will flow out to businesses at a rate of approximately $50 million per year.

The average size of an investment by a community development company is approximately $300,000. Based upon total funding of $260 million and an average investment in a small business of $300,000, approximately 867 small businesses will be affected by this program during the lives of the NMVC companies authorized by the Act. Based upon 1997 Economic Census data, SBA estimates that there are approximately 25 million small businesses in the United States and 867 constitutes less than 1% of those businesses.

Further, NMVC companies must invest in "smaller enterprises" which are defined as businesses with a net worth not greater than $6 million and average net income of not greater than $2 million. Based upon an average investment of $300,000, an investment in a business with a net worth of $6 million would equate to 5% of the business's net worth. Additionally, industry practices indicate that while the average investment in a particular business is $300,000, this amount may not be disbursed all at once. The average investment per round in the industry is approximately $185,000, which is only 3% of the business's net worth.

List of Subjects in 13 CFR Part 108

Community development, Government securities, Grant programs—business, Securities, Small businesses.

For the reasons stated in the preamble, the Small Business Administration proposes to amend 13 CFR part 108 as follows.

PART 108—NEW MARKETS VENTURE CAPITAL ("NMVC") PROGRAM

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 689—689q.

2. Amend § 108.50 by:

a. Revising the citation in paragraph (1) of the definition of *New Markets Venture Capital Company* or *NMVC Company* from "§ 108.390" to "§ 108.380";

b. Revising the citation in the introductory text of the definition of *Participation Agreement* from "§ 108.390" to "§ 108.380"; and

c. Revising the definition of *Regulatory Capital*.

The revision reads as follows:

§ 108.50 Definition of terms.

* * * * *

Regulatory Capital means Private Capital, excluding any portion of Private Capital that is designated as matching resources in accordance with § 108.2030(b)(3).

* * * * *

3. Amend § 108.230 by:

a. Revising paragraph (b);

b. Adding paragraph (c)(5); and

c. Revising paragraph (d).

The addition and revisions read as follows:

§ 108.230 Private Capital for NMVC Companies.

* * * * *

(b) *Contributed capital.* For purposes of this section, contributed capital means the paid-in capital and paid-in surplus of a Corporate NMVC Company, the members' paid-in capital of a LLC NMVC Company, or the partners' paid-in capital of a Partnership NMVC Company, in each case subject to the limitations in paragraph (c) of this section.

(c) * * *

(5) A commitment from an investor if SBA determines that the collectability of the commitment is questionable.

(d) *Limitations on including non-cash capital contributions in Private Capital.* Private Capital does not include capital contributions in a form other than cash, except as provided in this paragraph (d). Subject to SBA's prior approval, Private Capital may include payments made on behalf of an Applicant or Conditionally Approved NMVC Company before the Applicant or Conditionally Approved NMVC Company becomes a NMVC Company for organizational expenses and Management Expenses incurred by the Applicant or the Conditionally Approved NMVC Company prior to its becoming a NMVC Company.

* * * * *

4. Revise § 108.310(a) to read as follows:

§ 108.310 Contents of application.

* * * * *

(a) *Amounts.* The Applicant must indicate—

(1) The specific amount of Regulatory Capital it proposes to raise (which amount must be at least $5,000,000); and

(2) The specific amount of binding commitments for contributions in cash or in-kind it proposes to raise, and/or an annuity it proposes to purchase, in accordance with the requirements of § 108.2030, as its matching resources for its Operational Assistance grant award (the aggregate of which must be not less than $1,500,000 or 30 percent of the Regulatory Capital it proposes to raise under paragraph (a)(1) of this section, whichever is greater).

* * * * *

5. Revise the second sentence of § 108.320(g) to read as follows:

§ 108.320 Contents of comprehensive business plan.

* * * * *

(g) * * * If it proposes to obtain commitments for cash and in-kind contributions, it also must estimate the ratio of cash to in-kind contributions (in no event may in-kind contributions

exceed 50 percent of the total contributions). * * *

* * * * *

6. Revise § 108.360(k) to read as follows:

§ 108.360 Evaluation criteria.

* * * * *

(k) The strength of the Applicant's application compared to applications submitted by other Applicants and by SSBICs intending to invest in the same or proximate LI Areas.

7. Revise § 108.380(a)(1)(i)(A), (a)(1)(i)(B), and the last sentence in (b)(3) to read as follows:

§ 108.380 Final approval as a NMVC Company.

(a) * * *

(1) * * *

(i) * * *

(A) The amount of Regulatory Capital set forth in its application, pursuant to § 108.310(a)(1); and

(B) The amount of matching resources for its Operational Assistance grant award set forth in its application, pursuant to § 108.310(a)(2); and

* * * * *

(b) * * *

(3) * * * Under no circumstances will SBA designate a Conditionally Approved NMVC Company as a NMVC Company if such Conditionally Approved NMVC Company does not raise the required amount of Regulatory Capital within the time period SBA gave it to do so.

8. Add a new undesignated centerheading and § 108.900 to subpart I to read as follows:

Management Services and Fees

§ 108.900 Fees for management services provided to a Small Business by a NMVC Company or its Associate.

(a) *General.* This § 108.900 applies to management services that you or your Associate provide to a Small Business during the term of a Financing or prior to a Financing. It does not apply to management services that your Associate provides to a Small Business that you do not finance. It also does not apply to Operational Assistance that you or your Associate provide to a Smaller Enterprise that you have Financed or in which you expect to make a Financing, for which neither you nor your Associate may charge the Smaller Enterprise.

(b) *SBA approval.* You must obtain SBA's prior written approval of any management services fees and other fees described in this section that you or your Associate charge.

(c) *Permitted management services fees.* You or your Associate may provide management services to a Small Business financed by you if:

(1) You or your Associate have entered into a written contract with the Small Business;

(2) The fees charged are for services actually performed;

(3) Services are provided on an hourly fee, project fee, or other reasonable basis;

(4) You can demonstrate to SBA, upon request, that the rate does not exceed the prevailing rate charged for comparable services by other organizations in the geographic area of the Small Business; and

(5) At least 50 percent of any management services fees paid to your Associate by a Small Business for management services provided by the Associate is allocated back to you for your benefit.

(d) *Fees for service as a board member.* You or your Associate may charge a Small Business Financed by you for services provided as members of the Small Business' board of directors. The fees must not exceed those paid to other outside board members. In the absence of such board members, fees must be reasonable when compared with amounts paid to outside directors of similar companies. Fees may be in the form of cash, warrants, or other payments. At least 50 percent of any such fees paid to your Associate by a Small Business for service by the Associate as a board member must be allocated back to you for your benefit.

(e) *Transaction fees.* (1) You or your Associate may charge reasonable transaction fees for work performed such as preparing a Small Business for a public offering, private offering, or sale of all or part of the business, and for assisting with the transaction. Fees may be in the form of cash, notes, stock, and/or options. At least 50 percent of any such fees paid to your Associate by a Small Business for transactions work done by the Associate must be allocated back to you for your benefit.

(2) Your Associate may charge market rate investment banking fees to a Small Business on that portion of a Financing that you do not provide.

(f) *Recordkeeping requirements.* You must keep a record of hours spent and amounts charged to the Small Business, including expenses charged.

9. Revise § 108.2000 and add new §§ 108.2001 through 108.2007 to read as follows:

§ 108.2000 Operational Assistance Grants to NMVC Companies and SSBICs.

(a) *NMVC Companies.* Regulations governing Operational Assistance grants to NMVC Companies may be found in subparts D and E of this part, and in §§ 108.2010 through 108.2040.

(b) *SSBICs.* Regulations governing Operational Assistance grants to SSBICs may be found in §§ 108.2001 through 108.2040.

§ 108.2001 When and how SSBICs may apply for Operational Assistance grants.

(a) *Notice of Funds Availability ("NOFA").* SBA will publish a NOFA in the **Federal Register**, advising SSBICs of the availability of funds for Operational Assistance grants to SSBICs. This NOFA will be the same NOFA described in § 108.300(a), or will be published simultaneously with that NOFA. An SSBIC may submit an application for an Operational Assistance grant only during the time period specified for such purpose in the NOFA.

(b) *Application form.* An SSBIC must apply for an Operational Assistance grant using the application packet provided by SBA. Upon receipt of an application, SBA may request clarifying or technical information on the materials submitted as part of the application.

§ 108.2002 Eligibility of SSBICs to apply for Operational Assistance grants.

An SSBIC is eligible to apply for an Operational Assistance grant if:

(a) It intends to increase its Regulatory Capital, as in effect on December 21, 2000, and to make Low-Income Investments in the amount of such increase;

(b) It intends to raise binding commitments for contributions in cash or in-kind, and/or to purchase an annuity, in an amount not less than 30 percent of the intended increase in its Regulatory Capital described in paragraph (a) of this section; and

(c) It has a plan describing how it intends to use the requested grant funds to provide Operational Assistance to Smaller Enterprises in which it has made or expects to make Low-Income Investments after December 21, 2000.

§ 108.2003 Grant issuance fee for SSBICs.

An SSBIC must pay to SBA a grant issuance fee of $5,000. An SSBIC must submit this fee in advance, at the time of application submission. If SBA does not award a grant to the SSBIC, SBA will refund this fee to the SSBIC.

§ 108.2004 Contents of application submitted by SSBICs.

Each application submitted by an SSBIC for an Operational Assistance grant must contain the information specified in the application packet provided by SBA, including the following information:

(a) *Amounts.* An SSBIC must specify the amount of Regulatory Capital it intends to raise after December 21, 2000, and the amount of Operational Assistance grant funds it seeks from SBA, which must be at least 30 percent of its intended increase in its Regulatory Capital since December 21, 2000.

(b) *Plan.* An SSBIC must submit a plan addressing the specific items described in § 108.2005.

§ 108.2005 Contents of plan submitted by SSBICs.

(a) *Plan for providing Operational Assistance.* The SSBIC must describe how it plans to use its grant funds to provide Operational Assistance to Smaller Enterprises in which it will make Low-Income Investments. Its plan must address the types of Operational Assistance it proposes to provide, and how it plans to provide the Operational Assistance through the use of licensed professionals, when necessary, either from its own staff or from outside entities.

(b) *Matching resources for Operational Assistance grant.* The SSBIC must include a detailed description of how it plans to obtain binding commitments for contributions in cash or in-kind, and/or to purchase an annuity, to match the funds requested from SBA for the SSBIC's Operational Assistance grant. If it proposes to obtain commitments for cash and in-kind contributions, it also must estimate the ratio of cash to in-kind contributions (in no event may in-kind contributions exceed 50 percent of the total contributions). The SSBIC must discuss its potential sources of matching resources, the estimated timing on raising such match, and the extent of the expressions of interest to commit such match to the SSBIC.

(c) *Identification of LI Areas.* The SSBIC must identify the specific LI Areas in which it intends to make Low-Income Investments and provide Operational Assistance under the NMVC program.

(d) *Projected amount of investment in LI Areas.* The SSBIC must describe the amount of Low-Income Investments it intends to make in each of the identified LI Areas.

(e) *Track record of management team in obtaining public policy results through investments.* The SSBIC must provide information concerning the past track record of the SSBIC in making investments that have had a demonstrable impact on the socially or economically disadvantaged businesses targeted by the SSBIC program (for example, new businesses created, jobs created, or wealth created). Such information might include case studies or examples of the SSBIC's successful Financings.

(f) *Market analysis.* The SSBIC must provide an analysis of the LI Areas in which it intends to make its Low-Income Investments and provide its Operational Assistance to Smaller Enterprises, demonstrating that the SSBIC understands the market and the unmet capital needs in such areas and how its activities will meet these unmet capital needs through Low-Income Investments and have a positive economic impact on those areas. The analysis must include a description of the extent of the economic distress in the identified LI Areas. The SSBIC also must analyze the extent of the demand in such areas for Low-Income Investments and any factors or trends that may affect the SSBIC's ability to make effective Low-Income Investments.

(g) *Regulatory Capital.* The SSBIC must include a detailed description of how it plans to raise its Regulatory Capital. The SSBIC must discuss its potential sources of Regulatory Capital, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the SSBIC.

(h) *Projected impact.* The SSBIC must describe the criteria and economic measurements to be used to evaluate whether and to what extent it has met the objectives of the NMVC program. It must include:

(1) An estimate of the social, economic, and community development benefits to be created within identified LI Areas over the next five years or more as a result of its activities;

(2) A description of the criteria to be used to measure the benefits created as a result of its activities; and

(3) A discussion about the amount of such benefits created that it will consider to constitute successfully meeting the objectives of the NMVC program.

§ 108.2006 Evaluation and selection of SSBICs.

SBA will evaluate and select an SSBIC for an Operational Assistance grant award under the NMVC program solely at SBA's discretion, based on SBA's review of the SSBIC's application materials, interviews or site visits with the SSBIC (if any), and information in SBA's records relating to the SSBIC's regulatory compliance status and track record as an SSBIC. SBA's evaluation and selection process is intended to ensure that SSBIC requests are evaluated on a competitive basis and in a fair and consistent manner. SBA will evaluate and select SSBICs for an Operational Assistance grant award by considering the following criteria:

(a) The strength of the SSBIC's application, including the strength of its proposal to provide Operational Assistance to Smaller Enterprises in which it intends to invest;

(b) The SSBIC's regulatory compliance status and past track record in being able to accomplish program goals through its investment activity;

(c) The likelihood that and the time frame within which the SSBIC will be able to raise the Regulatory Capital it intends to raise and obtain the matching resources described in § 108.2005(b) and (g);

(d) The need for Low-Income Investments in the LI Areas in which the SSBIC intends to invest;

(e) The SSBIC's demonstrated understanding of the markets in the LI Areas in which it intends to invest;

(f) The extent to which the activities proposed by the SSBIC will promote economic development and the creation of wealth and job opportunities in the LI Areas in which it intends to invest and among individuals living in LI Areas;

(g) The likelihood that the SSBIC will fulfill the goals described in its application and meet the objectives of the NMVC program; and

(h) The strength of the SSBIC's application compared to applications submitted by other SSBICs and by Applicants intending to invest in the same or proximate LI Areas.

§ 108.2007 Grant award to SSBICs.

An SSBIC selected for an Operational Assistance grant award will receive a grant award only if, by a date established by SBA, it increases its Regulatory Capital in the specific amount set forth in its application, pursuant to § 108.2004(a), and raises matching resources for the grant in the amount required by § 108.2030(d)(2).

10. Amend § 108.2010 by redesignating paragraph (b) as paragraph (c) and revising it and adding a new paragraph (b) to read as follows:

§ 108.2010 Restrictions on use of Operational Assistance grant funds.

* * * * * *

(b) *Restrictions applicable only to NMVC Companies.* A NMVC Company must use at least 80 percent of both grant funds awarded by SBA and its matching resources to provide Operational Assistance to Smaller Enterprises whose Principal Office at the time the Operational Assistance commences is located in an LI Area.

(c) *Restrictions applicable to NMVC Companies and SSBICs.* A NMVC

Company or a SSBIC that receives an Operational Assistance grant must not use either grant funds awarded by SBA or its matching resources for "general and administrative expense," as defined in the Federal Acquisition Regulations, "Definitions of Words and Terms," 48 CFR 2.101.

§ 108.2020 [Amended]

11. Revise the citation in § 108.2020(b) from "§§ 108.2000 and 108.2030" to "§§ 108.2007 and 108.2030".

12. Revise § 108.2030(c)(2)(iii), (c)(2)(iv), and (d)(2) to read as follows:

§ 108.2030 Matching requirements.

* * * * *

(c) * * *

(2) * * *

(iii) Binding commitments for cash or in-kind contributions that may be payable over a multiyear period acceptable to SBA (but not to exceed the term of the Operational Assistance grant from SBA and in no event more than 10 years); and/or

(iv) An annuity, purchased with funds other than Regulatory Capital, from an insurance company acceptable to SBA and that may be payable over a multiyear period acceptable to SBA (but not to exceed the term of the Operational Assistance grant from SBA and in no event more than 10 years).

(d) * * *

(2) *SSBICs.* The amount of matching resources required of an SSBIC is equal to the amount of Operational Assistance grant funds requested by the SSBIC, as set forth in its application pursuant to § 108.2004(a).

13. Revise § 108.2040(a) to read as follows:

§ 108.2040 Reporting and recordkeeping requirements.

(a) *NMVC Companies.* Policies governing reporting, record retention, and recordkeeping requirements applicable to NMVC Companies may be found in subpart H of this part. NMVC Companies also must comply with all reporting, record retention, and recordkeeping requirements set forth in Circular A–110 of the Office of Management and Budget (For availability, see 5 CFR 1310.3.) and any grant award document executed between SBA and the NMVC Company.

* * * * *

Dated: May 9, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–12198 Filed 5–17–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–12–AD]

RIN 2120–AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Models DG–400 and DG–800A Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Glaser-Dirks Flugzeugbau GmbH (DG Flugzeugbau) Models DG–400 and DG–800A sailplanes. This proposed AD would require you to inspect the rear plate of the propeller mount for marks and/or cracks and replace if necessary. This proposed AD would also require you to inspect the mounting blocks for cracks and replace if necessary. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this proposed AD are intended to detect and correct cracks in the propeller mount plate and mounting blocks, which could result in reduced structural integrity of the propeller mounting structure. This could lead to a hazardous flight condition or loss of control of the sailplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before June 17, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–12–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov*. Comments sent electronically must contain "Docket No. 2002–CE–12–AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from DG Flugzeugbau, Postbox 41 20, D–76625 Bruchsal, Federal Republic of Germany; telephone: ++49 7257–890; facsimile: ++49 7257–8922. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64016; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2002–CE–12–AD." We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified FAA that an unsafe condition may exist on all Model DG–400 and DG–800A sailplanes. The LBA reports that cracks have been found on the rear plate of the propeller mount on one DG–400 sailplane. The cracks were found during regular maintenance. Models DG–400 and DG–800 sailplanes are equipped with the same propeller mount structure.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if left undetected and corrected, could result in reduced structural integrity of the propeller mounting structure. This could lead to a hazardous flight condition or loss of control of the sailplane.

Is There Service Information That Applies to This Subject?

DG Flugzeugbau has issued Technical Note No. 826/42, dated August 30, 2001, which applies to Model DG–400 sailplanes, and Technical Note No. 873/25, dated August 30, 2001, which applies to Model DG–800A sailplanes.

What are the Provisions of This Service Information?

These technical notes include procedures for inspecting the rear plate of the propeller mount for marks and/or cracks and replacing if necessary, and inspecting the mounting blocks for cracks and replacing if necessary.

What Action Did the LBA take?

The LBA classified these technical notes as mandatory and issued German AD 2001–346, dated December 13, 2001, and German AD 2001–340, dated December 13, 2001, in order to ensure the continued airworthiness of these sailplanes in Germany.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the LBA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other DG Flugzeugbau Models DG–400 and DG–800A sailplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected sailplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

Cost Impact

How many sailplanes would this proposed AD impact?

We estimate that this proposed AD affects 43 sailplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected sailplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
1 workhour × $60 per hour = $60	No parts required for the inspection	$60	43 × $60 = $2,580

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of sailplanes that may need such replacement:

Labor cost	Parts cost	Total cost per sailplane
2 workhours × $60 per hour = $120	$400	$120 + $400 = $520

Compliance Time of This Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of the proposed inspection is "within the next 25 hours time-in-service (TIS) or 3 calendar months after the effective date of this AD, whichever occurs first."

Why Is the Compliance Time of This Proposed AD Presented in Both Hours TIS and Calendar Time?

The unsafe condition on these sailplanes is not a result of the number of times the sailplane is operated. Sailplane operation varies among operators. For example, one operator may operate the sailplane 50 hours TIS in 3 months while it may take another operator 12 months or more to accumulate 50 hours TIS. For this reason, the FAA has determined that the compliance time of this proposed AD should be specified in both hours time-in-service (TIS) and calendar time in order to ensure this condition is not allowed to go uncorrected over time.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Glaser-Dirks Flugzeugbau GMBH: Docket No. 2002–CE–12–AD

(a) *What sailplanes are affected by this AD?* This AD affects Models DG–400 and DG–800A sailplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the sailplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the propeller mount plate, which could result in reduced structural integrity of the propeller mounting structure This could lead to a hazardous flight condition or loss of control of the sailplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Accomplish the following inspections: (i) Inspect the rear plate of the propeller mount for cracks and any marks made by the mounting bolt washer; and (ii) Inspect the mounting blocks for the rear plate of the propeller mount for cracks.	Inspect within the next 25 hours time-in-service (TIS) or 3 calendar months after the effective date of this AD, whichever occurs first.	In accordance with DG Flugzeugbau Technical Note No. 826/42, dated August 30, 2001, or DG Flugzeugbau Technical Note No. 873/25, dated August 30, 2001, as applicable maintenance manual.
(2) Accomplish the following if cracks and/or marks are found during the inspections required in paragraph (d)(1) of this AD: (i) If a mark made by the mounting bolt washer is found and the mark is 0.1 mm deep or less and no cracks are found on the rear plate of the propeller mount, polish out the mark using standard maintenance practices; (ii) If a mark made by the moutning bolt washer is found and the mark is more than 0.1 mm deep and/or cracks are found on the rear plate of the propeller mount, replace the rear plate with a new one. Use new bolts and washers as required by paragraph (d)(3) of this AD; and (iii) If cracks are found on the mounting block(s) of the rear plate of the propeller mount, replace the mounting block(s) with a new one. Use new bolts and washers as required by paragraph (d)(3) of this AD.	Prior to further flight after the inspections required in paragraph (d)(1) of this AD.	In accordance with DG Flugzeugbau Technical Note No. 826/42, dated August 30, 2001, or DG Flugzeugbau Technical Note No. 873/25, dated August 30, 2001, as applicable, and the applicable maintenance manual.
(3) Reinstall the rear plate of the propeller mount to the mounting blocks using new bolts, M10×25 DIN912–8.8zn with the aluminum washer S48 (or FAA-approved equivalent parts)	Prior to further flight after the inspections required in paragraph (d)(1) of this AD and/or after the replacements required in paragraph (d)(2) of this AD.	In accordance with DG Flugzeugbau Technical Note No. 826/42, dated August 30, 2001, or DG Flugzeugbau Technical Note No. 873/25, dated August 30, 2001, as applicable, and the applicable maintenance manual.
(4) Do not install any rear propeller mount plate mounting bolts that are not bolts M10×25 DIN912–8.8zn with the aluminum washer S48 (or FAA-approved equivalent parts)	As of the effective date of this AD.	Not applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

Note 1: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64016; telephone: (816) 329–4144; facsimile: (816) 329–4090.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from DG Flugzeugbau, Postbox 41 20, D–76625 Bruchsal, Federal Republic of Germany. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in German AD 2001–346, dated December 13, 2001, and German AD 2001–340, dated December 13, 2001.

Issued in Kansas City, Missouri, on May 10, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12520 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–11–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Models H–36 "Dimona", HK 36 R "Super Dimona", HK 36 TC, HK 36 TS, HK 36 TTC, HK 36 TTC–ECO, HK 36 TTC–ECO (Restricted Category), and HK 36 TTS Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Diamond Aircraft Industries GmbH (Diamond) Models H–36 "Dimona", HK 36 R "Super Dimona", HK 36 TC, HK 36 TS, HK 36 TTC, HK 36 TTC-ECO, HK 36 TTC-ECO (Restricted Category), and HK 36 TTS sailplanes. This proposed AD would require you to inspect the long aileron push rods in both wings for damage and modify the push rods. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Austria. The actions specified by this proposed AD are intended to detect and correct damage in the long aileron push control rods, which could result in failure of the aileron push rods and decreased control. Such failure could lead to aeroelastic flutter.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before June 17, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–11–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov*. Comments sent electronically must contain "Docket No. 2002–CE–11–AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Diamond Aircraft Industries GmbH, N.A. Otto-Strasse 5, A–2700 Wiener Neistadt, Austria; telephone: 43 2622 26 700; facsimile: 43 2622 26 780. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I be Sure FAA Receives My comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2002–CE–11–AD." We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Austro Control GmbH (Austro Control), which is the airworthiness authority for Austria, recently notified FAA that an unsafe condition may exist on all Diamond Models H–36 "Dimona", HK 36 R "Super Dimona", HK 36 TC, HK 36 TS, HK 36 TTC, HK 36 TTC–ECO, HK 36 TTC–ECO (Restricted Category), and HK 36 TTS sailplanes. The Austro Control reports during the preflight of one sailplane, the long aileron push rod was found to be broken. On several sailplanes, the aileron push control rods in both wings were found damaged due to contact or interference with the support for the aileron bellcrank.

What Are the Consequences if the Condition Is Not Corrected?

If the damaged aileron push control rods are not detected and corrected, the damage could result in failure of the aileron push rods and decreased control. Such failure could lead to aeroelastic flutter.

Is there service information that applies to this subject?

Diamond has issued:

—Service Bulletin No. MSB36–72, dated February 1, 2002; and

—Work Instruction No. WI–MSB36–72, dated February 1, 2002.

What Are the Provisions of This Service Information?

The service bulletin includes procedures for:

—Inspecting the long aileron push rods in both wings; and

—Modifying the long aileron push rods.

What Action Did the Austro Control Take?

The Austro Control classified this service bulletin as mandatory and issued Austrian AD Number 111, dated February 26, 2002, in order to ensure the continued airworthiness of these sailplanes in Austria.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These sailplane models are manufactured in Austria and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the Austro Control has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

The FAA has examined the findings of the Austro Control; reviewed all

available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Diamond Models H–36 "Dimona", HK 36 R "Super Dimona", HK 36 TC, HK 36 TS, HK 36 TTC, HK 36 TTC–ECO, HK 36 TTC–ECO (Restricted Category), and HK 36 TTS sailplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected sailplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

Why Is a Compliance of 10 Hours Time-in-Service (TIS) Used for the Inspection of the Long Aileron Push Rods?

Normally, FAA uses a 10-hours TIS compliance time for urgent safety of flight conditions. However, sailplane operation varies among operators. It might take operators between 3 months to 12 months or more to accumulate 10 hours TIS. For this reason, FAA has determined that compliance time of this proposed AD should be 10 hours TIS to ensure this condition is corrected in a timely manner but does not unduly penalize operators.

Cost Impact

How Many Sailplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 45 sailplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Sailplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
1 workhour × $60 per hour=$60	None	$60 per airplane	$60 × 45 = $2,700

We estimate the following costs to accomplish any necessary modification that would be required based on the results of the proposed inspection.

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	$80	$200	$9,000

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Diamond Aircraft Industries GMBH: Docket No. 2002–CE–11–AD

(a) *What sailplanes are affected by this AD?* This AD affects the following sailplane models, all serial numbers, that are certificated in any category:

Model

H–36 "Dimona"
HK 36 R "Super Dimona"
HK 36 TC
HK 36 TS
HK 36 TTC
HK 36 TTC–ECO
HK 36 TTC–ECO (Restricted Category)
HK 36 TTS

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the sailplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damage in the long aileron push control rods, which could result in failure of the aileron push rods and decreased control. Such failure could lead to aeroelastic flutter.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the long aileron push rods in both wings.	Within the next 10 hours time-in-service (TIS) after the effective date of this AD.	In accordance with paragraph 1.8 Measures of Diamond Aircraft Industries GmbH Service Bulletin No. MSB36–72, dated February 1, 2002, Diamond Aircraft Industries GmbH Work Instruction No. WI–MSB36–72, dated February 1, 2002, and the applicable sailplane maintenance manual.
(2) If any long aileron push rods are found damaged during the inspection required in paragraph (d)(1) of this AD, modify the push rods.	Before further flight, after the inspection in paragraph (d)(1) of this AD.	In accordance with paragraph 1.8 Measures of Diamond Aircraft Industries GmbH Service Bulletin No. MSB36–72, dated February 1, 2002, Diamond Aircraft Industries GmbH Work Instruction No. WI–MSB36–72, dated February 1, 2002, and the applicable sailplane maintenance manual.
(3) If no damage is found during the inspection required in paragraph (d)(1), modify the push rods.	Within the next 25 hours TIS after effective date of this AD.	In accordance with paragraph 1.8 Measures of Diamond Aircraft Industries GmbH Service Bulletin No. MSB36–72, dated February 1, 2002, Diamond Aircraft Industries GmbH Work Instruction No. WI–MSB36–72, dated February 1, 2002, and the applicable sailplane maintenance manual.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

Note 1: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Diamond Aircraft Industries GmbH, N.A. Otto-Strasse 5, A–2700 Wiener Neistadt, Austria; telephone: 43 2622 26 700; facsimile: 43 2622 26 780. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Austrian AD No. 111, dated February 26, 2002.

Issued in Kansas City, Missouri, on May 10, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12519 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–322–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 series airplanes. This proposal would require a one-time inspection of the aft edge of the left and right main windshields to determine whether a certain placard is installed, and corrective actions if necessary. This action is necessary to prevent failure of the main windshields due to stress-related cracking, which could cause cabin depressurization and emergency descent, and adversely affect continued safe flight of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–322–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–322–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street,

Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–322–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–322–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 series airplanes. TCCA advises that a significant number of cracking incidents have occurred in the inner and middle panes of the main windshields during taxi, takeoff, climb, cruise, and descent of the airplane. In addition, frequent cracking incidents during flight have resulted in emergency descent, which poses an increased risk to passengers and crew members. Findings indicate that most of the windshield failures are due to excessive stress at the lower forward corner of the windshield. Failure of the main windshields due to stress-related cracking, if not corrected, could cause cabin depressurization and emergency descent, and adversely affect continued safe flight of the airplane.

Background Information

Until a new design for the main windshield can be developed by the manufacturer and approved by the FAA, operators have requested procedures for modifying the existing windshields to address the identified unsafe condition and to improve service performance. In response, the manufacturer has conducted tests on windshield units similar to those used on in-service airplanes, and on windshield units fitted with reduced diameter fasteners (hi-lok pins with a reduced diameter shank). Findings indicate that the test units with reduced diameter fasteners did not fracture, unlike the windshield units fitted with the original diameter fasteners. Results of analysis and testing indicate that installation of reduced diameter fasteners in the lower forward corner of the windshield can reduce the stress in that area and increase the service life of the windshield. Findings also indicate that windshields with low flight cycles have a greater risk of windshield failure. As a result, the manufacturer recommends the "expeditious accomplishment" of applicable corrective actions for airplanes subject to this AD and equipped with certain windshield units that have accumulated fewer than 2,500 total flight cycles. This recommendation is based on the manufacturer's statistical analysis of the failure rate of those windshields, and also on the tests conducted on the windshields.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin 601R–56–004, dated August 16, 2001, which describes procedures for an inspection of the left and right main windshields to determine the part number of the placard installed on the aft edge of the windshields. If a placard having the correct part number is found, no further action is specified. If a placard having the incorrect part number is found, the service bulletin describes procedures for modifying the main windshields. The Bombardier service bulletin references PPG Industries, Inc., Service Bulletin CSB-NP–139321–002, Revision C, dated July 31, 2001, as a secondary source of service information for modifying the main windshields by replacing nine of the hi-lok pins installed in the lower forward corner of the windshields with hi-lok pins having a reduced diameter shank, installing a placard having the correct part number on the inner retainer near the part identification placard located along the aft edge of the window, and replacing any torn or deformed gasket.

TCCA classified the Bombardier service bulletin as mandatory and issued Canadian airworthiness directive CF–2001–35R1, dated September 27, 2001, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusion

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the Bombardier service bulletin described previously, except as discussed below.

Difference Between Proposed Rule and Service Bulletin/Canadian Airworthiness Directive

Operators should note that the Canadian airworthiness directive and Bombardier Service Bulletin specify a compliance time of 12 months for the one-time inspection, and modification if necessary. However, this proposed AD would require a compliance time of 6 months after the effective date of this AD to accomplish the one-time general visual inspection, and any necessary modification. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection, and modification if necessary. In light of these factors, the FAA finds a compliance time of 6 months after the effective date of this AD to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 339 Model CL–600–2B19 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 214 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish the inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspection is estimated to be $12,840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator be required to accomplish the corrective actions, it would take approximately 1 work hour per airplane to accomplish at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the corrective actions is estimated to be $60 per airplane.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Bombardier, Inc. (Formerly Canadair): Docket 2001–NM–322–AD.

Applicability: Model CL–600–2B19 series airplanes; certificated in any category; serial numbers 7003 and subsequent; equipped with main windshield units, part numbers 601R33033–1, –2, –5, –6, –9, or –10.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main windshields due to stress-related cracking, which could cause cabin depressurization and emergency descent, and adversely affect continued safe flight of the airplane; accomplish the following:

Inspection and Corrective Action

(a) For airplanes equipped with windshield units that have accumulated fewer than 2,500 total flight cycles as of the effective date of this AD: Within 6 months after the effective date of this AD, accomplish a one-time general visual inspection of the aft edges of the left and right main windshields to determine whether a placard having part number (P/N) CSB–NP–139321–002–1 is installed, per the Accomplishment Instructions of Bombardier Service Bulletin 601R–56–004, dated August 16, 2001.

(1) If a placard having P/N CSB–NP–139321–002–1 is installed, no further action is required by this AD.

(2) If a placard having a part number other than CSB–NP–139321–002–1 is installed, before further flight, accomplish the corrective actions (including modifying the main windshields by replacing nine of the hi-lok pins installed in the lower forward corner of the windshields with hi-lok pins having a reduced diameter shank, installing a placard having the correct part number on the inner retainer near the part identification placard located along the aft edge of the window, and replacing any torn or deformed gasket), per the Accomplishment Instructions of the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Bombardier Service Bulletin 601R–56–004, dated August 16, 2001, references PPG Industries, Inc., Service Bulletin CSB-NP–139321–002, Revision C, dated July 31, 2001, as an additional source of service information for accomplishment of the modification of the left and right main windshields.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–35R1, dated September 27, 2001.

Issued in Renton, Washington, on May 13, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12518 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–19–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727, 737–100, 737–200, and 737–200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727, 737–100, 737–200, and 737–200C series airplanes. This proposal would require a one-time inspection to determine the part number of hydraulic accumulators installed in various areas of the airplane, and follow-on corrective actions, if necessary. This action is necessary to prevent high-velocity separation of a barrel, piston, or end cap from a hydraulic accumulator. Such separation could result in injury to personnel in the accumulator area; loss of cabin pressurization; loss of affected hydraulic systems; or damage to plumbing, electrical installations, or structural members. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 5, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2002–NM–19–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 227–1119, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *judy.golder@faa.gov*. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NM–19–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of several incidents on various Boeing Model 747 series airplanes, and one incident on a Boeing Model 737–200 series airplane, in which aluminum end caps on hydraulic accumulators have fractured. One incident resulted in an injury to a maintenance worker. Fracture of the aluminum end caps has been attributed to fatigue cracking caused by stress corrosion or tooling marks. Fracture of an end cap could lead to a rupture of a hydraulic accumulator, which could result in high-velocity separation of a barrel, piston, or end cap from a hydraulic accumulator. Such separation could result in injury to personnel in the accumulator area; loss of cabin pressurization; loss of affected hydraulic systems; or damage to plumbing, electrical installations, or structural members.

Certain Boeing Model 727 and Model 737–100, -200, and -200C series airplanes have hydraulic accumulators with aluminum end caps installed in various areas of the airplane. Therefore, all of these airplanes could be subject to the same unsafe condition described previously.

Other Relevant Rulemaking

The FAA previously has issued AD 2000–14–01, amendment 39–11810 (65 FR 44670, July 19, 2000). That AD applies to certain Boeing Model 747 series airplanes and requires replacement of any brake system accumulator that has aluminum end caps with an accumulator that has stainless steel end caps. That AD is intended to prevent high-velocity separation of a brake system accumulator barrel, piston, or end cap, which could result in injury to personnel in the wheel well area, loss of cabin pressurization, loss of certain hydraulic systems, or damage to the fuel line of the auxiliary power unit.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following Boeing Special Attention Service Bulletins:

- 727–29–0064, Revision 1, dated May 3, 2001, which concerns hydraulic accumulators in hydraulic systems "A" and "B" of certain Model 727 series airplanes.
- 727–32–0410, Revision 2, dated January 24, 2002, which concerns a hydraulic accumulator in the landing gear brake system of certain Model 727 series airplanes.
- 727–52–0148, Revision 2, dated January 24, 2002, which concerns a hydraulic accumulator in the aft airstairs of certain Model 727–200 series airplanes.
- 737–32–1334, Revision 1, dated March 1, 2001, which concerns a hydraulic accumulator in the landing gear brake system of certain Model 737–100, –200, and –200C series airplanes.

These service bulletins describe procedures for a one-time inspection to determine the part number of installed hydraulic accumulators, and follow-on corrective actions. Corrective actions in Service Bulletins 727–29–0064, Revision 1, and 737–32–1334, Revision 1, include replacement of hydraulic accumulators that have aluminum end caps with new or modified accumulators that have stainless steel end caps. For airplanes equipped with hydraulic accumulators with certain part numbers, corrective actions in Service Bulletins 727–32–0410, Revision 2, and 727–52–0148, Revision 2, include replacement of existing mounting clamps and hardware for the hydraulic accumulators with stronger clamps and hardware. For airplanes equipped with hydraulic accumulators with certain other part numbers, corrective actions in Service Bulletins 727–32–0410, Revision 2, and 727–52–0148, Revision 2, include replacement of hydraulic accumulators that have aluminum end caps with new or modified accumulators that have stainless steel end caps, in addition to replacement of existing mounting clamps and hardware.

Accomplishment of the actions specified in the applicable service bulletins is intended to adequately address the identified unsafe condition.

Boeing Service Bulletin 727–29–0064, Revision 1, refers to Parker Service Bulletin 1356–603303–29–60, dated January 9, 2001, as the appropriate source of service information for modification of the hydraulic accumulators that are subject to replacement per Boeing Service Bulletin 727–29–0064. Similarly, Revision 2 of Boeing Service Bulletins 727–32–0410 and 727–52–0148 refer to Parker Service Bulletins 1356–603399–29–61 and 2660472–29–63, both dated December 12, 2000, as the appropriate sources of service information for modification of the hydraulic accumulators that are subject to replacement per those Boeing service bulletins. Also, Revision 1 of Boeing Service Bulletin 737–32–1334 refers to Parker Service Bulletin 2660472–29–63, dated December 12, 2000, as the appropriate source of service information for modification of the hydraulic accumulators that are subject to replacement per that Boeing service bulletin.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the Boeing service bulletins described previously.

Cost Impact: Required Actions

There are approximately 1,832 Model 727 series airplanes and 1,033 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,294 Model 727 series airplanes and 376 Model 737 series airplanes of U.S. registry would be affected by this proposed AD.

We estimate that it would take approximately 1 work hour per airplane to accomplish the proposed one-time inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed one-time inspection on U.S. operators is estimated to be $100,200, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Cost Impact: On-Condition Actions

For an airplane subject to the replacement per Boeing Service Bulletin 727–29–0064, we estimate that it would take approximately 5 work hours per accumulator (two hydraulic system accumulators per airplane), at an average labor rate of $60 per work hour. Required parts would cost between $1,400 (new part) and $2,810 (vendor-modified part) per accumulator. Based on these figures, the cost impact of this replacement, if necessary, would be between $1,700 and $3,110 per accumulator.

For an airplane subject to the replacement of both the mounting clamps and hardware and the hydraulic accumulator per Boeing Service Bulletin 727–32–0410, we estimate that it would take approximately 6 work hours per airplane to accomplish (one landing gear brake accumulator per airplane), at an average labor rate of $60 per work hour. Required parts would cost between $2,500 (new part) and $3,975 (vendor-modified part) per airplane. Based on these figures, the cost impact of this replacement, if necessary, would be between $2,860 and $4,335 per airplane.

For an airplane subject to the replacement of both the mounting clamps and hardware and the hydraulic accumulator per Boeing Service Bulletin 727–52–0148, we estimate that it would take approximately 6 work hours per airplane (one aft airstairs hydraulic accumulator per airplane) to accomplish, at an average labor rate of $60 per work hour. Required parts would cost between $2,500 (new part) and $3,975 (vendor-modified part) per airplane. Based on these figures, the cost impact of this replacement, if necessary, would be between $2,860 and $4,335 per airplane.

For an airplane subject to the replacement per Boeing Service Bulletin 737–32–1334, we estimate that it would take approximately 5 work hours per accumulator (two landing gear hydraulic brake accumulators per airplane) to accomplish, at an average labor rate of $60 per work hour.

Required parts would cost between $2,175 (operator-modified part) and $2,410 (vendor-modified part) per accumulator. Based on these figures, the cost impact of this replacement, if necessary, would be between $2,475 and $2,710 per accumulator.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2002–NM–19–AD.

Applicability: Model 727 series airplanes, line numbers (L/N) 1 through 1832 inclusive; and Model 737–100, –200, and –200C series airplanes, L/N 1 through 1033 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent high-velocity separation of a barrel, piston, or end cap from a hydraulic accumulator; which could result in injury to personnel in the accumulator area; loss of cabin pressurization; loss of affected hydraulic systems; or damage to plumbing, electrical installations, or structural members; accomplish the following:

Inspection/Corrective Action: Service Bulletin 727–29–0064

(a) For airplanes listed in Boeing Special Attention Service Bulletin 727–29–0064, Revision 1, dated May 3, 2001: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, do a one-time inspection to determine the part numbers (P/Ns) of hydraulic accumulators in hydraulic systems "A" and "B," per the service bulletin.

(1) If no hydraulic accumulator with Parker P/N 1356–603303 is installed: No further action is required by this paragraph.

(2) If any hydraulic accumulator with Parker P/N 1356–603303 is installed: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, replace the subject hydraulic accumulator with a new or modified accumulator, per the service bulletin.

Note 2: Inspections and replacements done prior to the effective date of this AD per Boeing Special Attention Service Bulletin 727–29–0064, dated June 8, 2000, are considered acceptable for compliance with the corresponding actions in this AD.

Note 3: Boeing Special Attention Service Bulletin 727–29–0064, Revision 1, refers to Parker Service Bulletin 1356–603303–29–60, dated January 9, 2001, as the appropriate source of service information for modification of the hydraulic accumulators that are subject to replacement per Service Bulletin 727–29–0064.

Inspection/Corrective Action: Service Bulletin 727–32–0410

(b) For airplanes listed in Boeing Special Attention Service Bulletin 727–32–0410, Revision 2, dated January 24, 2002: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, do a one-time inspection to determine the P/N of the hydraulic accumulator in the landing gear brake system, per the service bulletin.

(1) If no hydraulic accumulator with P/N 1356–603399, 3780078–104, BACA11E4S, BACA11E4SA, 60857–4–1, or BACA11E4 (vendor P/N 2660472–4 or 2660472M4) is installed: No further action is required by this paragraph.

(2) If any hydraulic accumulator with P/N 1356–603399, 3780078–104, BACA11E4S, BACA11E4SA, 60857–4–1, or BACA11E4 (vendor P/N 2660472–4 or 2660472M4) is installed: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, replace existing accumulator clamps and mounting hardware with new, stronger accumulator clamps and mounting hardware; and replace the subject hydraulic accumulator with a new or modified accumulator; as applicable; per the service bulletin.

Note 4: Boeing Special Attention Service Bulletin 727–32–0410, Revision 2, refers to Parker Service Bulletins 1356–603399–29–61 and 2660472–29–63, both dated December 12, 2000, as the appropriate sources of service information for modification of the hydraulic accumulators that are subject to replacement per Service Bulletin 727–32–0410.

Inspection/Corrective Action: Service Bulletin 727–52–0148

(c) For airplanes listed in Boeing Special Attention Service Bulletin 727–52–0148, Revision 2, dated January 24, 2002: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, do a one-time inspection to determine the P/N of the hydraulic accumulator in the aft airstairs, per the service bulletin.

(1) If no hydraulic accumulator with P/N 1356–603399, 3780078–104, BACA11E4S, BACA11E4SA, 60857–4–1, or BACA11E4 (vendor P/N 2660472–4 or 2660472M4) is installed: No further action is required by this paragraph.

(2) If any hydraulic accumulator with P/N 1356–603399, 3780078–104, BACA11E4S, BACA11E4SA, 60857–4–1, or BACA11E4 (vendor P/N 2660472–4 or 2660472M4) is installed: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, replace existing accumulator clamps and mounting hardware with new, stronger accumulator clamps and mounting hardware; and replace the subject hydraulic accumulator with a new or modified accumulator; as applicable; per the service bulletin.

Note 5: Boeing Special Attention Service Bulletin 727–52–0148, Revision 2, refers to Parker Service Bulletins 1356–603399–29–61 and 2660472–29–63, both dated December 12, 2000, as the appropriate sources of service information for modification of the hydraulic accumulators that are subject to replacement per Service Bulletin 727–52–0148.

Inspection/Corrective Action: Service Bulletin 737–32–1334

(d) For airplanes listed in Boeing Special Attention Service Bulletin 737–32–1334, Revision 1, dated March 1, 2001: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, do a one-time inspection to determine the P/Ns of the hydraulic accumulators in the landing gear brake system, per the service bulletin.

(1) If no hydraulic accumulator with P/N BACA11E2 (vendor P/N 2660472–2 or 2660472M2) is installed: No further action is required by this paragraph.

(2) If any hydraulic accumulator with P/N BACA11E2 (vendor P/N 2660472–2 or 2660472M2) is installed: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, replace the subject hydraulic accumulator with a new or modified accumulator, per the service bulletin.

Note 6: Inspections and replacements done prior to the effective date of this AD per Boeing Special Attention Service Bulletin 737–32–1334, dated May 11, 2000, are considered acceptable for compliance with the corresponding actions in this AD.

Note 7: Boeing Special Attention Service Bulletin 737–32–1334, Revision 1, refers to Parker Service Bulletin 2660472–29–63, dated December 12, 2000, as the appropriate source of service information for modification of the hydraulic accumulators that are subject to replacement per Service Bulletin 737–32–1334, Revision 1.

Spares

(e) As of the effective date of this AD, no one may install a hydraulic accumulator with a P/N listed in paragraph (a)(2), (b)(2), (c)(2), or (d)(2) of this AD on any airplane.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 8: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 13, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12517 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 245–0311b; FRL–7202–2]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of nitrogen oxides (NO_X) and carbon monoxide (CO) from electric power generating steam boilers. We are proposing to approve a local rule under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 19, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revision and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local BAAQMD Rule 9–11. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final rule.

Dated: April 17, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–12411 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN66–01–7291b; FRL–7206–4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to approve a site-specific revision to the Minnesota Sulfur Dioxide (SO_2) State Implementation Plan (SIP) for Marathon Ashland Petroleum, LLC (Marathon Ashland), located in the cities of St. Paul Park and Newport, Washington County, Minnesota. The Minnesota Pollution Control Agency requested in their February 6, 2000, submittal that EPA approve into the Minnesota SO_2 SIP certain portions of the Title V permit for Marathon Ashland and remove the Marathon Ashland Administrative Order from the state SO_2 SIP. The request is approvable because it satisfies the requirements of the Clean Air Act. Specifically, we are proposing to approve into the SIP only those portions of the permit cited as "Title I condition: SIP for SO_2 NAAQS 40 CFR pt. 50 and Minnesota State Implementation Plan (SIP)." In addition, we are proposing to remove the Marathon Ashland Administrative Order from the state SO_2 SIP. In the final rules section of the **Federal Register**, we are approving the SIP revision as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not

institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before June 19, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: For additional information, *see* the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: March 08, 2002.

Robert Springer,

Acting Regional Administrator, Region 5.

[FR Doc. 02–12415 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME–066–7015b; A–1–FRL–7171–6]

Approval and Promulgation of Air Quality Implementation Plans; Maine; New CTGs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes requirements for certain facilities which emit volatile organic compounds (VOCs). The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 19, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: April 3, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 02–12470 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–61–1–7552; FRL–7213–4]

Proposed Approval and Promulgation of Implementation Plans; Louisiana; Contingency Measures for the Baton Rouge (BR) Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Louisiana State Implementation Plan (SIP) for the Baton Rouge ozone non-attainment area submitted by the State of Louisiana for the purpose of replacing the previously approved contingency measures in the Demonstration of Attainment. These replacement measures meet the requirements in sections 172(c)(9) and 182(c)(9) of the Clean Air Act (the Act) as amended in 1990. We are proposing approval of replacement contingency measures that would require emission reductions from the Trunkline Gas Company—Patterson Compressor Station in St. Mary Parish to replace the State's current contingency measure requirements. Currently, the State's contingency measure requirement is that it hold 5.7 tons/day of VOC emission reductions "on deposit" in the State of Louisiana Emission Reduction Credit Bank (ERC Bank). The replacement contingency measure that the EPA proposes to approve would require that the Trunkline facility permanently reduce its volatile organic compound (VOC) emissions by 6.1 tons/day from 1990 emission levels. These reductions are surplus and federally enforceable.

DATES: Written comments must be received on or before June 19, 2002.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action, including the Technical Support Document (TSD), are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Louisiana Department of Environmental Quality, Air Quality Compliance Division, 7290 Bluebonnet, 2nd Floor, Baton Rouge, Louisiana. Louisiana Department of Environmental Quality Capital Regional Office, 11720 Airline Highway, Baton Rouge, Louisiana.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7367.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refers to EPA.

What Action Are We Taking Today?

On February 27, 2002, the Governor of Louisiana submitted to EPA a revision to the Baton Rouge SIP requesting that the current contingency measures contained in the Attainment Demonstration be replaced with substitute contingency measures. The current contingency measures for the Attainment Demonstration require that the State escrow at least 5.7 tons/day of VOC (3 percent of the adjusted base year inventory of 191.2 tons/day) in its Emission Reduction Credit (ERC) Bank. EPA approved these VOC reductions as creditable towards the 3 percent contingency requirement for the Demonstration of Attainment. (64 FR 35930, July 2, 1999.)

This revision substitutes 6.1 tons/day in VOC emission reductions from the Trunkline Gas Company for the previously approved measure. The EPA is proposing to approve this revision to the Louisiana SIP to regulate emissions of VOCs in accordance with the requirements of the Act. For more information on the SIP revision, please refer to the State's February 27, 2002, SIP revision and EPA's TSD.

What Are the Clean Air Act Requirements?

Section 172(c)(9) and 182 (c)(9) of the Act require that SIPs contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date, or to meet rate-of-progress (ROP) deadlines. The Act does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) and 182(c)(2)(A) in the April 16, 1992, General Preamble for Implementation of the Act (*See* 57 FR 13498, 13510, April 16, 1992). In that guidance EPA indicated that states with moderate and above ozone nonattainment areas, such as the Baton Rouge area, should include sufficient contingency measure so that, upon implementation of such measures, additional emission reductions of up to three percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. The State must show that the contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions.

Why Is Louisiana Submitting a Substitute Contingency Measure?

We previously approved a contingency measures plan as satisfying section 172(c)(9) and 182(c)(9) of the Act (64 FR 35930, July 2, 1999). The contingency plan consisted of 5.7 tons/day of VOC ERCs held in escrow in the Louisiana ERC Bank that would be confiscated by the State and no longer available for use in the event of a milestone failure or if attainment was not achieved in a timely manner. In August 1999, a petition for review was filed in the United States Court of Appeals for the Fifth Circuit challenging our July 2, 1999, SIP approval. *Louisiana Environmental Action Network* v. *EPA*, No. 99–60570. In response to the litigation, we requested a partial voluntary remand to reconsider that final approval of the State's contingency measures plan for the Baton Rouge area. On October 19, 2000, the Fifth Circuit Court of Appeals granted a Joint Motion for a Partial Voluntary Remand.

The State has submitted this contingency measure as a substitute for the ERC bank contingency measure. This proposal, and any final action taken pursuant to it, serve as EPA's response with respect to the voluntary remand.

Does the Substitute Measure Meet All Applicable Requirements?

The State is using excess reductions that accrued in 1998 at the Trunkline facility to meet the contingency measure requirement. In guidance issued in 1993 [1], we allow the use of surplus reductions that have already been achieved before the failure has been identified to serve as contingency measures in the year after the failure for attainment and ROP plans. If an area then fails to meet a milestone which triggers the implementation of contingency measures, the state would have one year to backfill the contingency measure. *See* 57 FR 13498, 13511 (April 16, 1992). The State ensured that the VOC reductions relied on as the contingency measure have not been used anywhere else in the 2005 attainment demonstration.

Because the Trunkline Gas Company—Patterson Compressor Station in St. Mary Parish is not in the Baton Rouge nonattainment area, the State followed EPA's policy guidance [2] allowing 1-hour ozone nonattainment areas to take credit in plans for emission reductions obtained from sources outside the designated nonattainment area, provided that the sources are no farther away than 100 km (for VOC sources) or 200 km (for NO_x sources) from the nonattainment area. The Patterson Compressor Station is only 40 km from the Baton Rouge nonattainment area, and, as such, its reductions are available for use as credit in the contingency measures plan. In addition, in accordance with the guidance, the emissions from this source, which is outside the nonattainment area, were included in the 1990 base year emissions inventory for the nonattainment area.

The contingency measure plan requirement for the Attainment Demonstration is 3 percent of the 1990 adjusted base year VOC inventory. Therefore, in order to use the emission reductions available from Trunkline, the State added the emissions from the facility back into the 1990 inventory.[3] When the inventory was adjusted to include the Trunkline emissions, the new 3 percent requirement for contingency measures became 6.1 tons/day of VOC emission reductions.

These reductions are available because the Trunkline facility installed a flare in 1998 to dispose of flash gases from several storage containers to comply with Louisiana's waste gas disposal rule and comprehensive toxic air pollutant control program. This was an alternative to combustion in a furnace or closed combustion chamber. The destruction efficiency of the open air flare is estimated at 99 percent.

After the installation of the flare, VOC emissions changed from 13.4 tons/day to 0.4 tons/day. The resulting 13 tons/day of emission reductions are creditable. To ensure that these emission reductions are permanent and Federally enforceable, the State revised emission limit is reflected in the permit issued to Trunkline. The permit makes the additional emission reductions available for SIP purposes, *i.e.*, surplus, permanent, and enforceable. 6.1 tons/day of this 13 ton/day reduction will be credited to contingency measures and will no longer be available for any other use. Because the 6.1 tons/day from the Trunkline facility is greater than the 5.7 tons/day in the prior contingency

[1] Memorandum, "Early Implementation of Contingency Measures for Ozone and Carbon Monoxide in Nonattainment Areas," from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 13, 1993.

[2] Memorandum: Guidance for Implementing the 1–Hour Ozone and Pre-Existing PM10 NAAQS. Richard D. Wilson, December 29, 1997 (signature date).

[3] The EPA recognizes that adding the Trunkline emission back into the 1990 emissions inventory will also impact the 9 percent and the 15 percent ROP Plan targets. These adjustments are discussed in the TSD and will be dealt with in the ROP plans.

measure, this SIP revision also complies with section 110(l) of the Act.

Proposed Action

Because the substitute contingency measure submitted in this SIP revision meets all the requirements for contingency measures and other SIP requirements, we are proposing approval of a substitute contingency measure for the Baton Rouge ozone nonattainment area. We are proposing to approve 6.1 tons/day of VOC emissions, as obtained from the issuance of a permit to Trunkline, as the substitute contingency measure. If we finalize this action, those 6.1 tons/day of VOC emissions from Trunkline are no longer available for any other uses, *e.g.*, netting.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 7, 2002.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

[FR Doc. 02–12616 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 62

[UT–001–0034b, UT–001–0035b; FRL–7201–4]

Clean Air Act Approval and Promulgation of State Implementation Plan; Utah; Revisions to Air Pollution Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve two separate revisions to the State Implementation Plan (SIP) submitted by the Governor of Utah on June 17, 1998. The submittals repeal Utah's Air Conservation Regulations (UACR) R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants and R307–2–28 Section XX, Committal SIP. In addition, the submittals revise R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. The intended effect of this action is to make federally enforceable those provisions of Utah's June 17, 1998 submittals that EPA is approving and to remove from the SIP those provisions that Utah has repealed. This action is being taken under section 110 of the Clean Air Act (CAA).

In the "Rules and Regulations" section of this **Federal Register**, EPA is acting on the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing on or before June 19, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA Region VIII, (303) 312–6144.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 15, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 02–12412 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7214–1]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Rocky Flats Environmental Technology Site for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at the Rocky Flats Environmental Technology Site (RFETS) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents (Item II–A2–39, Docket A–98–49) are available for review in the public dockets listed in **ADDRESSES.** EPA will conduct an inspection of waste streams, characterization systems and processes at RFETS to verify that the site can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA will perform this inspection the week of June 3, 2002.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before June 19, 2002.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Mail Code 6102, Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday 1 a.m.–5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m.

As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying. Air Docket A–98–49 in Washington, DC, accepts comments sent electronically or by fax (fax: 202–260–4400; e-mail: a-and-r-docket@epa.gov).

FOR FURTHER INFORMATION CONTACT: Ed Feltcorn, Office of Radiation and Indoor Air, (202) 564–9422. You can also call EPA's toll-free WIPP Information Line, 1–800–331–WIPP or visit our website at http://www.epa/gov/radiation/wipp.

SUPPLEMENTARY INFORMATION:

Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102–579), as amended (Pub. L. 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratories (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of appendix A to 40 CFR part 194); and (2) (with the exception of specific, limited waste streams and equipment at LANL) prohibit shipment of TRU waste for disposal at WIPP (from LANL or any other site) until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, DC, and informational dockets in the State of New Mexico for public review and comment.

EPA will perform an inspection of the waste characterization systems and processes for TRU waste at RFETS in accordance with Conditions 2 and 3 of the WIPP certification. Specifically, we will be inspecting new equipment—a mobile real-time radiography unit and the Multi Purpose Crate Counter for gamma and neutron analysis. We will also evaluate acceptable knowledge (AK) and batch data reports for newly generated waste. The inspection is scheduled to take place the week of June 3, 2002.

EPA has placed a number of documents pertinent to the inspection in the public docket described in **ADDRESSES.** The documents are listed as Item II–A2–39 in Docket A–98–49. In accordance with 40 CFR 194.8, as amended by the final certification decision, EPA is providing the public 30 days to comment on these documents.

If EPA determines as a result of the inspection that the proposed waste streams, processes, systems, and equipment at RFETS adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to ship TRU waste to WIPP using the approved characterization processes. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air

Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: May 14, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 02–12684 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 67, No. 97

Monday, May 20, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee (PAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee will meet on June 19–20, 2002. The first day is a field trip to view recreation-related topics on the Mt. Hood National Forest. The second day will be a joint business meeting with the Willamette PAC beginning 8 a.m. and ending 3:30 p.m. at the Alton Collins Retreat Center at 2867 SE Highway 211 in Eagle Creek, Oregon. Topics include Subcommittee updates/ Round Robin, a Presentation on Recreation Strategy, an Update on NW Forest Plan, and a Public Forum from 3–3:30.

FOR FURTHER INFORMATION CONTACT: Chris Mickle, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 NE. 3rd., Bend, OR, 97701, Phone (541) 383–4769.

Dated: May 9, 2002.

Leslie A.C. Weldon,

Forest Supervisor.

[FR Doc. 02–12510 Filed 5–17–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet on June 4, 2002 in Crescent City, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the "Payments to States" Act.

DATES: The meeting will be held on June 4, 2002 from 6 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Elk Valley Rancheria Community Center, 2298 Norris Avenue, Suite B, Crescent City, California.

FOR FURTHER INFORMATION CONTACT: Laura Chapman, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501. Phone: (707) 441–3549. E-mail: *lchapman@fs.fed.us.*

SUPPLEMENTARY INFORMATION: This will be the sixth meeting of the committee, and will focus on the process reviewing and approving Title II project proposals from the public. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: May 13, 2002.

S.E. 'Lou' Woltering,

Forest Supervisor.

[FR Doc. 02–12532 Filed 5–17–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

South Mississippi Electric Power Association; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact with respect to the construction and operation of an 85-megawatt electric generation unit in Jones County, Mississippi. South Mississippi Electric Power Association proposes to construct and operate the unit. RUS may provide financing for the project.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at: *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: South Mississippi Electric Power Association proposes to construct an additional single, 85-megawatt, simple-cycle, gas-fired electric generation unit at South Mississippi Electric Power Association's Moselle Generating Station. The Moselle Generation Station is located approximately 1 mile north of Moselle in Jones County, Mississippi. No additional electric transmission lines or natural gas pipelines will need to be constructed for this project.

Copies of the Finding of No Significant Impact are available from RUS at the address provided herein or from Mr. Joey Ward, South Mississippi Electric Power Association, 7037 U.S. Highway 49, North, Hattiesburg, Mississippi 39404–5849, telephone (601) 268–2083. Mr. Ward's e-mail address is *jward@smepa.com.*

Dated: May 14, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–12578 Filed 5–17–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee will meet on August 1, 2002, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Industry and Security with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Public Session

1. Opening remarks and introductions.
2. Presentation of papers or comments by the public.
3. Update on the Wassenaar Arrangement.
4. Report on committee proposal to include the 5-axis exclusion note from

the Nuclear Suppliers Group control list in the Wassenaar Arrangement control list.

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available for the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials, the Committee suggests that presenters forward the materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BIS MS:3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on November 30, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information, contact Lee Ann Carpenter on 202–482–2583.

Dated: May 13, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–12531 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet June 4, 2002, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Industry and Security on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on pending regulations.
4. Working group activity reports.
5. Update on Wassenaar Arrangement proposals.
6. Discussion of Automated Export regulations and Option 5 proposal.
7. Discussion on status of pending encryption regulations.
8. Review of revised deemed export license conditions.
9. Review of Simplified Network Application Process (SNAP) 2002 status.

Closed Session

10. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BIS MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 12, 2001, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and 10(a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information, call Lee Ann Carpenter at (202) 482–2583.

Dated: May 14, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–12530 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Tom Futtner at (202) 482–6320 or (202) 482–3814 respectively, AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations are to 19 CFR Part 351 (April 2001).

FINAL DETERMINATION:

We determine that polyethylene terephthalate film, sheet, and strip (PET film) from Taiwan are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margin of sales at LTFV is shown in the Suspension of Liquidation section of this notice.

Case History

On December 21, 2001, the Department published the preliminary determination of the antidumping duty investigation of PET film from Taiwan. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan*, 66 FR 65889 (December 21, 2001) (*Preliminary Determination*). The investigation covers two manufacturers/exporters, Nan Ya Plastics Corporation, Ltd. (Nan Ya), and Shinkong Synthetic Fibers Corporation (Shinkong). The petitioners in this investigation are Dupont Teijin Films, Mitsubishi Polyester Film of America, and Toray Plastics (America) (collectively, the petitioners).

We conducted verification of the questionnaire responses of the respondents, Nan Ya during the weeks of January 28, 2002 and February 8, 2002, and Shinkong during the weeks of February 25, 2002, and March 4, 2002. We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On April 8, 2002, one respondent, Shinkong, and the petitioners, submitted case briefs. On April 12, 2002, Shinkong and the petitioners submitted rebuttal briefs. Nan Ya submitted its rebuttal brief on April 16, 2002. The Department received requests for a public hearing from both petitioners and Shinkong. A public hearing was held on April 17, 2002.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the "Issues and Decision Memorandum" (*Decision Memorandum*), dated May 6, 2002, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 (B–099) of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination calculation methodologies in calculating the final dumping margins in this proceeding. These adjustments are discussed in detail in the *Decision Memorandum* and are listed below:

Nan Ya

(1) We determined that Nan Ya is affiliated with two of its U.S. customers and that Nan Ya's sales through these customers should be treated as constructed export price sales. *See Decision Memorandum at comment 4.*

(2) We recalculated home market inventory carrying costs to reflect changes from verification. *See* Calculation Memorandum of the Final Determination of the Investigation of Nan Ya Plastics Corporation, Ltd. (May 6, 2002)

(3) We adjusted Nan Ya's reported per-unit cost to attribute a portion of the total cost difference and stop loss expenses attributable to PET film production. *See* Cost of Production and Constructed Value Calculation Adjustments Memorandum for the Final Determination (May 6, 2002).

4) We increased Na Ya's reported per-unit conversion costs. *Id.*

Shinkong

(1) We revised home market and U.S. indirect selling expenses to reflect changes from verification. *See*Calculation Memorandum of the Final Determination of the Investigation of Shinkong Synthetic Fibers Corporation (May 6, 2002) (Shinkong's Calculation Memorandum).

(2) We recalculated home market credit expenses to reflect changes from verification. *Id.*

(3) We recalculated home market inventory carrying costs to reflect changes from verification. *Id.*

(4) We recalculated the general and administrative (G&A) expense ratio to reflect changes from verification. *See* Shinkong's Calculation Memo.

(5) We recalculated the interest expense ratio to reflect changes from verification. *Id.*

(6) We revised the total cost of manufacture (TOTCOM) to reflect changes from verification. *See* Issues and Decision Memorandum at comment 9. *See* also Shinkong's Calculation Memorandum.

(7) We recalculated U.S. credit expenses to reflect changes from verification. *See* Shinkong's Calculation Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Suspension of Liquidation

Because Nan Ya received a *de minimis* weighted-average margin in the preliminary determination, but an above *de minimis* margin in the final determination, pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to suspend liquidation of all entries of subject merchandise from Nan Ya that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this final determination in the **Federal Register**. For Shinkong and all other companies, we are directing Customs to continue to suspend liquidation of entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 21, 2001, the date of publication of the preliminary determination. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. The suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Nan Ya Plastics Corporation, Ltd.	2.70
Shinkong Synthetic Fibers Corporation	2.05
All Others	2.56

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 6, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix Issues in Decision Memorandum

Comments

1. Nan Ya's Yield Ratios
2. Nan Ya's PET Film Productivity
3. Nan Ya's Product-Specific Costs
4. Nan Ya's Relationship With U.S. Customers
5. Nan Ya's Recycled Packing Costs
6. Nan Ya's Sales Quantities
7. Shinkong's Home Market Sales Made to Port
8. Shinkong's Packing Costs
9. Shinkong's Certified Public Accountant (CPA) adjustments

[FR Doc. 02–12575 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Stainless Steel Sheet and Strip in Coils from Mexico: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) has received information sufficient to warrant initiation of a changed circumstances administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Mexico (64 FR 40560 (July 27, 1999)). On March 19, 2002, ThyssenKrupp Mexinox S.A. de C.V., formerly Mexinox S.A. de C.V., informed the Department of its corporate name change effective February 25, 2002, and requested that the Department initiate and conduct an expedited changed circumstances review. Based on information provided in its March 19, 2002 letter, we preliminarily determine that ThyssenKrupp Mexinox S.A. de C.V. is the successor firm to Mexinox S.A. de C.V.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

On July 27, 1999, the Department published the antidumping duty order on stainless steel sheet and strip in coils from Mexico. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From Mexico*, 64 FR 40560 (July 27, 1999). In a March 19, 2002 letter to the Department, ThyssenKrupp Mexinox S.A. de C.V. requested that the Department initiate and conduct an expedited changed circumstances administrative review pursuant to section 751(b) of the Tariff Act to determine whether it is the successor-in-interest to Mexinox S.A. de C.V. for purposes of the antidumping duty order on stainless steel sheet and strip in coils from Mexico, and to issue preliminary results concurrently with the notice of initiation, pursuant to 19 CFR 351.221(c)(3)(ii). In its request, ThyssenKrupp Mexinox S.A. de C.V., formerly Mexinox S.A. de C.V., notified the Department that effective February 25, 2002, its corporate name had changed to ThyssenKrupp Mexinox S.A. de C.V., and despite this change in corporate name, the management, production facilities, supplier relationships, and customer base are identical to those of the former Mexinox S.A. de C.V. Citing the Department's determination in *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 67513 (December 31, 2001) (*S4 from Korea Changed Circumstances Review*), ThyssenKrupp Mexinox S.A. de C.V. claimed the Department should determine that it is the successor-in-interest to Mexinox S.A. de C.V.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36".[2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by

[1] "Arnokrome III" is a trademark of the Arnold Engineering Company.

[2] "Gilphy 36" is a trademark of Imphy, S.A.

[3] "Durphynox 17" is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."[5]

Initiation and Preliminary Resudlts of Changed Circumstances Antidumping Duty Administrative Review

In accordance with section 751(b) of the Tariff Act, the Department is initiating a changed circumstances administrative review to determine whether ThyssenKrupp Mexinox S.A. de C.V. is the successor company to Mexinox S.A. de C.V. In making such a determination, the Department examines several factors including, but not limited to, changes in: (1) management, (2) production facilities, (3) supplier relationships, and (4) customer base. *See, e.g., S4 from Korea Changed Circumstances Review*, 66 FR 67513, 67515. While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is similar to that of the predecessor. *See, e.g., Industrial Phosphoric Acid from Israel Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944 (February 14, 1994). Thus, if evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same entity as the former company, the Department will treat the successor company the same as the predecessor for purposes of antidumping liability, *e.g.*, assign the same cash deposit rate, revocation, *etc.*

We have examined the information provided by ThyssenKrupp Mexinox S.A. de C.V. in its March 19, 2002 letter and determine that ThyssenKrupp Mexinox S.A. de C.V. has established a *prima facie* case that it is the successor-in-interest to Mexinox S.A. de C.V. As shown in Attachments 7, 8 and 9, respectively, the Board of Directors, management, and organizational structure of the former Mexinox S.A. de C.V. have remained intact. Attachments 3 and 6 confirm there has been no change in ownership. As determined in the original investigation of stainless steel sheet and strip in coils from Mexico, the former Mexinox S.A. de C.V. was a privately-held company; ThyssenKrupp Mexinox S.A. de C.V. is a also privately held company with an ownership structure identical to that found in the most recently-completed administrative review of stainless steel sheet and strip in coils from Mexico. Attachment 5 demonstrates there has not been a change in the location of the production facilities, and Attachments 11 and 12, respectively, show there have been no changes in the customer or supplier base. Finally, ThyssenKrupp Mexinox S.A. de C.V. has provided sufficient documentation of the name change. *See, e.g.*, Attachment 4 (notarized amendments to Articles of Incorporation changing corporate name) and Attachment 5 (registration of corporate name change with Mexican tax authorities). Therefore, we preliminarily determine that ThyssenKrupp Mexinox S.A. de C.V. has maintained the same management, production facilities, supplier relationships, and customer bases as did Mexinox S.A. de C.V. Based upon the foregoing, we preliminarily determine that ThyssenKrupp Mexinox S.A. de C.V. is the successor-in-interest to Mexinox S.A. de C.V. and we find it appropriate to issue the preliminary results in combination with the notice of initiation in accordance with 19 CFR 351.221(c)(3)(ii). If there are no changes in the final results of the changed circumstances review, ThyssenKrupp Mexinox S.A. de C.V. shall retain the antidumping duty cash deposit rate assigned to Mexinox S.A. de C.V. in the most recent administrative review of the subject merchandise.

Public Comment

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 10 days of publication of this notice. Case briefs and/or written comments from interested parties may be submitted no later than 21 days after the date of publication of this notice. Rebuttal briefs and rebuttals comments, limited to the issues raised in those case briefs or comments, may be filed no later than 28 days after the publication of this notice. All written comments must be submitted and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Any hearing, if requested, will be held no later than 30 days after the date of publication of this notice, or the first working day thereafter. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish in the **Federal Register** a notice of final results of this changed circumstances antidumping duty administrative review, including the results of its analysis of any issues raised in any written comments.

During the course of this changed circumstances review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change is determined to be warranted pursuant to the final results of this review.

We are issuing and publishing this finding and notice in accordance with sections 751(b) and 777(i)(1) of the Tariff Act and 19 CFR 351.221(c)(3) and 19 CFR 351.216.

Dated: May 13, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–12589 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rod India: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the final results of antidumping duty administrative review.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the final results of the review of stainless steel wire rod from India. This review covers the period December 1, 1999 through November 30, 2000.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand at (202) 482–3207; Office of AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 C.F.R. Part 351 (2000).

Background

On January 8, 2002, the Department of Commerce ("the Department") published the preliminary results of review of its administrative review of the antidumping duty order on stainless steel wire rod from India. See Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative Review, 67 FR 865 (January 8, 2002) ("Preliminary Results"). The final results of this administrative review are currently due no later than May 8, 2002.

Extension of Time Limit for Preliminary Results

Due to the complexity of issues present in this administrative review, such as complicated cost accounting issues, the Department has determined that it is not practicable to complete this review within the original time period provided in section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations. Therefore, we are extending the due date for the final results by 30 days, until no later than June 7, 2002.

Dated: May 8, 2002

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–12574 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–DS–S

[5] "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–869]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of structural steel beams from the People's Republic of China. The period of investigation is October 1, 2000, through March 31, 2001.

Based on our analysis of the comments received from the respondent and the petitioners, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. Furthermore, we determine that structural steel beams from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson, Catherine Cartsos, or Richard Rimlinger, AD/CVD Enforcement Group I, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR part 351 (April 2001).

Case History

The preliminary determination in this investigation was issued on December 28, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams from The People's Republic of China*, 66 FR 67197 (December 28, 2001) (*Preliminary Determination*).

On January 4, 2002, we issued a supplemental questionnaire to which respondent, Maanshan Iron and Steel Co., Ltd. (Maanshan), responded on January 8, 2002.

On January 7, 2002, the Department received from Maanshan a timely allegation of ministerial errors in the *Preliminary Determination*. Because we agreed with the respondent's ministerial-error allegations, we revised the margin calculations for the final determination to reflect the correction of these ministerial errors. See the *Ministerial Error Comments Decision Memorandum* dated January 24, 2002.

In January 2002, we conducted verification of the questionnaire responses of the sole respondent in this case, Maanshan.

On March 15, and 21, 2002, we received a case brief from the respondent and the petitioners (the Committee for Fair Beam Imports and its individual members), respectively. On March 20, 2002, the Department received a letter from the petitioners requesting that all or portions of the case brief submitted by the respondent be stricken from the record of the investigation because it contained new factual information. On March 22, 2002, in accordance with 19 CFR 351.301(b)(1) and (c)(1)(i), we sent a letter notifying the respondent that we were rejecting certain parts of the case brief because it contained untimely filed new factual information. See the letter from Laurie Parkhill dated March 22, 2002, rejecting certain parts of Maanshan's case brief. On March 25, 2002, the petitioners filed a rebuttal brief. On March 26, 2002, Maanshan submitted a rebuttal brief. On the same day it also submitted a revised case brief which redacted the new factual information.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless

otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in a concurrent structural steel beams investigation requested that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation. Our analysis has not changed since our preliminary determination.

Period of Investigation

The period of investigation is October 1, 2000, through March 31, 2001.

Analysis of Comments Received

All issues raised in the case briefs by the parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the *Decision Memorandum* which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on findings at verification and analysis of comments we received, we have made the adjustments described below to the margin calculations. See the *Decision Memorandum* for a discussion of these changes.

(1) We used the revised database files submitted by Manshaan on January 14, 2002, with the exception of revisions we made for the consumption usages of argon, nitrogen, and oxygen (see Comment 2 of the *Decision Memorandum*).

(2) We have used Bhoruka, an Indian manufacturer of industrial gases, to value oxygen, nitrogen, and argon for Maanshan instead of the United Nations Trade Commodity Statistics (UN Statistics). For the PRC-wide rate, we continue to use the UN Statistics.

(3) We recalculated labor expenses based on eight-hour workdays instead of six-and-a-half-hour workdays.

(4) We included the Steel Authority of India Limited (SAIL) as a surrogate company for valuing selling, general, and administrative costs, overhead costs, and profit; therefore, we calculated a simple average of the financial ratios based on data from SAIL and The Tata Iron and Steel Co. Ltd. (TATA).

(5) We have included commissions and other selling expenses in our calculated financial ratios for TATA since they are standard selling costs and properly categorized under SG&A in TATA's financial statements.

(6) With respect to surrogate values for material inputs, we have made the following changes: (a) We applied more recent data from the *United States Geological Survey 2000 Minerals Yearbook* to value slag, (b) we used the correct harmonized tariff number to value steel strap, and (c) we used a brokerage and handling cost based on bulk products instead of stainless steel products.

(7) We have excluded factor input prices from Korea, Thailand, and Indonesia when using the *Monthly Statistics of the Foreign Trade of India*. The Department has found that these countries maintain broadly available, non-industry-specific export subsidies. In prior decisions the Department found that the existence of these subsidies provide sufficient reason to believe or suspect that export prices from these countries are distorted. See *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying *Issues and Decision Memorandum*.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Separate Rates

In our preliminary determination, we found that the respondent had met the criteria for the application of a separate antidumping duty rate. For a more detailed discussion, see the Department's *Preliminary Determination*.

PRC-Wide Rate and Adverse Facts Available

For the reasons set forth in the *Preliminary Determination*, we continue to find that the use of adverse facts available for the calculation of the PRC-wide rate is appropriate. See the *Preliminary Determination* for further discussion of this topic. As adverse facts available we used price quotations for U.S. price which the petitioners obtained from a producer of the subject merchandise. We corroborated the petitioners' price quotations with data submitted by Maanshan in its questionnaire response. The price quotations fell within the range of export prices reported by Maanshan and are therefore reliable and relevant. For normal value we used the factors of production reported by Maanshan and applied the valuations which we used to calculate normal value for Maanshan, with the exception of the factor valuations which we used for argon, nitrogen, and oxygen. With respect to Maanshan, as explained in response to Comment 2 in the *Decision Memorandum*, we used values based on the prices charged by an Indian producer of the gases in question. These prices were substantially lower than the average values we derived for argon, nitrogen, and oxygen based on the UN Statistics data and which we used in the *Preliminary Determination*. As adverse facts available, to calculate the PRC-wide rate, we have continued to value argon, nitrogen, and oxygen using the UN Statistics data because these represent the highest values on record for these particular gases. We have used the highest values for the gases in question as an adverse inference for situations where respondents do not cooperate to the best of their ability. Because this information is based on official data compiled by the United Nations we consider it to be corroborated. Using this data, we have calculated a PRC-wide rate of 89.17 percent.

Final Determination Margins

We determine that the following percentage weighted-average margins exist for the period October 1, 2000, through March 31, 2001:

Manufacturer/exporter	Margin (percent)
Maanshan	0.00
PRC-wide rate	89.17

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of structural steel beams from the PRC, except for subject merchandise produced and exported by Maanshan (which has no margin and is excluded from this determination), that are entered, or withdrawn from warehouse, for consumption on or after the publication date of this final determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown above. The suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: May 13, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

A. Comment 1: New Factual Information
B. Comment 2: Valuation of Oxygen, Nitrogen, and Argon
C. Comment 3: Labor Calculation
D. Comment 4: Surrogate-Company Selection for Financial Data
E. Comment 5: Financial-Ratio Calculations
F. Comment 6: By-Product Yields
G. Surrogate Values Selection
Comment 7: Slag
Comment 8: Iron Dust and Iron Scale
Comment 9: Steel Strap
Comment 10: Iron Ore
Comment 11: Brokerage and Handling Expenses
H. Comment 12: Value of Iron Ore

[FR Doc. 02–12590 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–831]

Notice of Final Determination of Sales at Not Less Than Fair Value: Structural Steel Beams from Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Not Less Than Fair Value.

SUMMARY: On December 28, 2001, the Department of Commerce published its preliminary determination of sales at not less than fair value of structural steel beams from Italy. The period of investigation is April 1, 2000, through March 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margin is listed below in the section entitled "*Final Determination Margin.*"

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Mike Strollo, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0629.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR Part 351 (April 2001).

Final Determination:

We determine that structural steel beams from Italy are not being, nor are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determination in this investigation was issued on December 19, 2001. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Italy*, 66 FR 67185 (Dec. 28, 2001) (*Preliminary Determination*).

From January through March 2002, we conducted verification of the questionnaire responses of the sole respondent in this case, Duferdofin SpA (Duferdofin).

In April 2002, we received a case brief from the petitioners (the Committee for Fair Beam Imports and its individual members). We also received a rebuttal brief from Duferdofin.

The Department held a public hearing on April 24, 2002, at the request of the petitioners.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These

structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

Period of Investigation

The period of investigation is April 1, 2000, through March 31, 2001, which corresponds to Duferdofin's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting records, production records, and original source documents provided by the respondent.

Final Determination Margin

We determine that the following percentage weighted-average margin exists:

Manufacturer/exporter	Margin (percent)
Duferdofin SpA	0.33

Suspension of Liquidation

Because the estimated weighted-average dumping margin for the investigated company is 0.33 percent (*de minimis*), we are not directing the Customs Service to suspend liquidation of entries of structural steel beams from Italy.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: May 13, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix Issues in the Decision Memorandum

Comment 1: Classification of the Shape of Products Sold in the Home Market
Comment 2: Home Market Rebates
Comment 3: Home Market Discounts
Comment 4: Commission Expenses
Comment 5: Home Market Credit Expenses
Comment 6: Reclassification of U.S. Quality Codes
Comment 7: International Freight Costs
Comment 8: U.S. Credit Expenses
Comment 9: U.S. Dates of Payment for Unpaid Sales
Comment 10: Expenses Related to the Sale of Certain Assets in the United States
Comment 11: U.S. Indirect Selling Expenses

[FR Doc. 02–12591 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–811]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published its preliminary determination of sales at not less than fair value of structural steel beams from Spain. The period of investigation is April 1, 2000, through March 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled "*Final Determination Margins*."

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Mike Strollo, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0629.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR Part 351 (April 2001).

Final Determination:

We determine that structural steel beams from Spain are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determination in this investigation was issued on December 19, 2001. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Spain*, 66 FR 66207 (Dec. 28, 2001) (Preliminary Determination).

From January through March 2002, we conducted verification of the questionnaire responses of the sole respondent in this case, Aceralia Corporacion Siderurgica, S.A. (Aceralia).

In April 2002, we received case and rebuttal briefs from the petitioners (the Committee for Fair Beam Imports and its individual members) and Aceralia. The Department held a public hearing on April 16, 2002, at the request of the petitioners and Aceralia.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

Period of Investigation

The period of investigation is April 1, 2000, through March 31, 2001, which corresponds to Aceralia's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting records, production records, and original source documents provided by the respondent.

Final Determination Margins

We determine that the following percentage weighted-average margins exist:

Manufacturer/exporter	Margin (percent)
Aceralia Corporacion Siderurgica, S.A.	5.19
All Others	5.19

In accordance with section 735(c)(5)(A), we have based the "all others" rate on the dumping margin found for the sole producer/exporter investigated in this proceeding, Aceralia.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to suspend liquidation of all entries of structural steel beams from Spain that are entered, or withdrawn from warehouse, for consumption on or after the publication date of this final determination. The Customs Service shall require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the

International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 75 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: May 13, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix Issues in the Decision Memorandum

Comment 1: Level of Trade in the Home Market
Comment 2: Level of Trade for U.S. Sales/CEP Offset
Comment 3: Arm's Length Test
Comment 4: Strength Codes
Comment 5: Billing Adjustments
Comment 6: Home Market Rebates
Comment 7: Home Market and U.S. Freight Expenses
Comment 8: Inland Freight Expenses of the Affiliated Resellers
Comment 9: Home Market Credit Expenses
Comment 10: U.S. Rebates
Comment 11: U.S. Brokerage and Handling Expenses
Comment 12: U.S. Indirect Selling Expenses of Arbed Americas
Comment 13: Interest Expenses Included in U.S. Indirect Selling Expenses
Comment 14: Clerical Errors in the Preliminary Determination
Comment 15: Calculation of the Overall Dumping Margin
Comment 16: Calculation of Raw Materials Costs
Comment 17: Exchange Gains and Losses
Comment 18: Acceptance of Revised Sales Databases

[FR Doc. 02–12592 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–838]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of structural steel beams from Taiwan. The period of investigation is April 1, 2000, through March 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled "Final Determination Margins."

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, AD/ CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4007 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR Part 351 (April 2001).

Final Determination:

We determine that structural steel beams from Taiwan are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determination in this investigation was issued on December 19, 2001. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Taiwan*, 66 FR 67202 (December 28, 2001) (*Preliminary Determination*).

During the period January 19 - 30, 2002, we conducted verification of the questionnaire responses of Tung Ho Enterprise Corp. (Tung Ho), and Kuei Yi Industrial Co., Ltd. (Kuei Yi), the respondents in this case.

We received case and rebuttal briefs on April 18 and 24, 2002, respectively, from the petitioners (*i.e.*, the Committee for Fair Beam Imports and its individual members) and the respondents. On January 4, 11, and 28, 2002, Tung Ho, Kuei Yi, and the petitioners, respectively, requested a hearing. On April 15, 2002, Kuei Yi withdrew its request for a hearing. Both Tung Ho and the petitioners withdrew their requests on April 16, 2002.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I- sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in this case, interested parties in several of the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

Period of Investigation

The period of investigation is April 1, 2000, through March 31, 2001, which corresponds to the respondents' four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated May 13, 2002, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Final Determination Margins

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Kuei Yi Industrial Co., Ltd.	15.32
Tung Ho Steel Enterprise Corp.	5.21
All Others	12.24

In accordance with section 735(c)(5)(A), we have based the "all others" rate on the dumping margins found for the producers/exporters investigated in this proceeding, Kuei Yi and Tung Ho.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of structural steel beams from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after December 28, 2001, the publication date of the preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: May 13, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix Issues in the Decision Memorandum

Comments

Comment 1: Total Cost of Manufacturing Reconciliation
Comment 2: Scrap Offset
Comment 3: General and Administrative Expense Ratio
Comment 4: Home Market Payment Dates
Comment 5: Interest Expense
Comment 6: Correction to Interest Expense Ratio
Comment 7: Rental Expenses
Comment 8: Minor Correction to Rental Expenses
Comment 9: U.S. Imputed Credit Expenses
Comment 10: Correction of Clerical Error

[FR Doc. 02–12593 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–811]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published the preliminary determination of sales at less than fair value of structural steel beams from South Africa.. The period of investigation is April 1, 2000, through March 31, 2001.Based on our analysis of the comments received and certain findings from the verification, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination.We determine that structural steel beams from South Africa are being, or are likely to be, sold in the United States at less-than-fair-value prices as provided in section 735 of the Tariff Act of 1930, as amended. The estimated margins of sales at less than fair value are shown in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4033.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the provisions codified at 19 CFR Part 351 (April 2001).

Final Determination

We determine that structural steel beams (beams) from South Africa are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W"shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector, or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Case History

On June 20, 2001, the Department published a notice of initiation of the investigation of sales at LTFV of structural steel beams from South Africa (66 FR 33048). We published in the Federal Register the preliminary determination in this investigation on December 28, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams from South Africa*, 66 FR 67213 (December 28, 2001) (*Preliminary Determination*). Since the publication of the *Preliminary Determination*, the following events have occurred.

On January 7, through 11, 2002, the Department conducted verification of the home- market sales of Highveld Steel and Vanadium Corporation, Ltd. (Highveld), the sole respondent in this investigation. See Memorandum from J. David Dirstine and Dunyako Ahmadu to the File, dated January 29, 2002, Re: Home-Market Verification of Highveld Steel and Vanadium Corporation. On February 11, through 15, 2002, the Department conducted a cost-of-production (COP) and constructed-value (CV) data verification of Highveld. See Memorandum from Laurens van Houten and Heidi Norris to Neal Halper, Director, Office of Accounting, dated March 18, 2002, Re: Verification Report on the Cost of Production and Constructed Value Data Submitted by Highveld Steel and Vanadium Corporation, Ltd. (*Cost Verification Memorandum*). On February 25, through 28, 2002, the Department conducted a U.S. sales data verification of Newco Steel Trading Co. (Newco), an affiliated U.S. reseller of merchandise produced by Highveld. See Memorandum from J. David Dirstine and Dunyako Ahmadu to the File, dated March 25, 2002, Re: United States Sales Verification of Highveld Steel and Vanadium Corporation.

On April 2, 2002, the petitioners, the Committee for the Fair Beam Imports and its individual members, and Highveld submitted their case briefs with respect to the verifications and the *Preliminary Determination*. On April 8, 2002, the petitioners and Highveld submitted rebuttal briefs with respect to the sales verifications and the *Preliminary Determination*. On April 9, 2002, we conducted a public hearing with a closed session with respect to the issues raised in the case briefs.

In a letter dated January 3, 2002, Highveld requested that the Department and Highveld enter into a suspension agreement pursuant 734(b) of the Act. The petitioners objected to Highveld's proposal in letters dated April 1, 2002, and February 14, 2002. After careful consideration and discussing the proposed agreement with the petitioners and Highveld, on April 15, 2002, the Department advised Highveld that it could not accept the proposed suspension agreement for various reasons.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001.

Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in a decision memorandum which is hereby adopted by this notice. See the Structural Steel Beams from South Africa Issues and Decisions Memorandum dated May 13, 2002 (*Issues and Decision Memorandum*). A list of the issues which parties raised, and to which we have responded, all of which are in the *Issues and Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B–099. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at www.ita.doc.gov/import_admin/records/frn/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments we received, we have made adjustments to the calculation methodology in calculating the final dumping margins for Highveld in this proceeding. See Final Analysis Memorandum for Highveld dated May 13, 2001 (*Final Analysis Memorandum*). These revisions are as follows:

1. We adjusted COP and CV with a credit for vanadium slag using a by-product methodology in the calculation of the total cost of manufacture. See *Issues and Decision Memorandum* at Comment 4 and Memorandum to the File from Laurens van Houten, Senior Accountant, Office of Accounting, dated May 13, 2002, Re: Cost of Production and Constructed Value Calculation Adjustments for the Final Determination (*Office of Accounting COP and CV Memorandum*).
2. We recalculated Highveld's reported fixed cost per ton. See *Issues and Decision Memorandum* at Comment 9 and *Office of Accounting COP and CV Memorandum*.
3. We revised the calculation of the general and administrative expense rate for Highveld based on information we obtained at the home-market Highveld verification. See *Issues and Decision Memorandum* at Comment 6 and *Office of Accounting COP and CV Memorandum*.
4. In accordance with the Department's long-standing practice, we recalculated Highveld's interest-expense ratio based on the net financial expenses and cost of sales from the audited fiscal-year financial statements of the highest level of consolidation which corresponds most closely to the POI, *i.e.*, on the December 31, 2000, audited financial statements of Highveld's parent, Anglo American PLC. See *Issues and Decision Memorandum* at Comment 7 and *Office of Accounting COP and CV Memorandum*.5. We eliminated equal angles and channels from both the home-market and U.S. sales databases as non-subject merchandise. See *Final Analysis Memorandum*.
6. Based on findings at verification at Highveld's offices in South Africa, we excluded certain sales reported incorrectly as export-price (EP) sales and included one EP sale that had been excluded incorrectly. See Highveld home-market sales verification report dated January 29, 2002 (*Highveld home-market sales verification report*).
7. Based on findings at the home-market verification, we used revised inventory carrying costs for this final determination. See *Highveld home-market sales verification report*.
8. Based on findings at the home-market verification, we used revised inland-freight expenses for certain EP sales. See *Highveld home-market sales verification report*.
9. Based on findings at the home-market verification we made a deduction from normal value for a per-ton levy paid to the South African Iron and Steel Institute applicable to home-market sales of structural beams. See *Highveld home-market sales verification report*.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Highveld for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, as well as original source documents provided by the respondents. For changes from the *Preliminary Determination* as a result of verification, see the "Changes Since the Preliminary Determination" section of this notice, above, and *Final Analysis Memorandum*.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from South Africa that are entered, or withdrawn from warehouses, for consumption on or after December 28, 2001, the date of publication of the preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension-of-liquidation instruction will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Highveld	5.17
All Others	5.17

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 13, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Comment 1: Affiliation

Comment 2: Indirect Selling Expenses

Comment 3: Understated Cost of Production (COP)

Comment 4: Byproduct Methodology v. Coproduct Methodology

Comment 5: Unallocated Costs

Comment 6: General and Administrative Expenses

Comment 7: Financial Expense Ratio

Comment 8: South African Iron and Steel Institute Domestic Sales Levy

Comment 9: Minor Errors Discovered at the Cost Verification

[FR Doc. 02–12594 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–810]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Luxembourg

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of structural steel beams from Luxembourg. Subsequently, we published an amended preliminary determination of sales at not less than fair value on January 31, 2002. The period of investigation is April 1, 2000, through March 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margin for the investigated company is listed below in the section entitled "Final Determination Margins."

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Margarita Panayi, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR part 351 (April 2001).

Final Determination: We determine that structural steel beams from Luxembourg are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determination in this investigation was issued on December 19, 2001. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Luxembourg*, 66 FR 67223 (December 28, 2001) (*Preliminary Determination*). On January 31, 2002, we published an amended preliminary determination. *See Notice of Amended Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Luxembourg*, 67 FR 4701 (January 31, 2002).

In January, February and March, we conducted verifications of the questionnaire responses of the sole respondent in this case, ProfilARBED, S.A. (ProfilARBED).

In April 2002, we received case and rebuttal briefs from the petitioners (the Committee for Fair Beam Imports and its individual members) and ProfilARBED. The Department held a public hearing on April 19, 2002, at the request of the petitioners and ProfilARBED.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

Period of Investigation

The period of investigation is April 1, 2000, through March 31, 2001, which corresponds to ProfilARBED's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum, *ProfilARBED Final Determination Calculations*, Memorandum to the File dated May 13, 2002, and *Cost of Production and Constructed Value Calculation Adjustments for the Final Determination*, Memorandum to Neal Halper from Heidi S. Norris dated May 13, 2002 (*Cost Calculation Memo*).

1. We used the revised third country and U.S. sales listings, submitted on April 17, 2002, which took into account revisions presented at the commencement of verifications and our verification findings, as discussed in the April 10, 2002, letter requesting the revised data bases.
2. We used the revised cost of production (COP) data base submitted on April 5, 2002, which included the corrections for the formula errors presented at the commencement of the COP verification.
3. We reclassified the shape variable (SHAPET/U) for ProfilARBED's sales of IPN beams, consistent with our determination in the companion structural steel beams from Italy investigation, and the classification of IPN beams by ProfilARBED's Spanish affiliate, Aceralia Corporacion Siderurgica (Aceralia), in the companion structural steel beams from Spain investigation.
4. We made corrections to ProfilARBED's April 17, 2002, third country sales listing to account for errors identified in the petitioners' April 26, 2002, letter and ProfilARBED's April 30, 2002, and May 1, 2002, letters.
5. For ProfilARBED's sales to affiliated resellers that were shipped directly to the customer, and where the price from ProfilARBED to the affiliate was not at arm's length, we applied the highest gross third country price reported for that product, less movement expenses, among the sales to unaffiliated customers and affiliated customers at arm's length.
6. We adjusted the cost of manufacture to reflect the higher of the transfer price, COP, or market price for electricity.
7. We adjusted the cost of manufacture to reflect the transfer price paid by ProfilARBED to their affiliates for the leases.
8. We revised the general and administrative (G&A) expense ratio to account for exchange rate gains and losses and to exclude sales commission offsets and a financial income offset.
9. We revised the financial expense rate, as described in the *Cost Calculation Memo*.
10. We revised the date of sale for U.S. sales to the date of shipment from the European port, except for U.S. warehouse sales, where we applied the earlier of invoice date or warehouse shipment date.
11. We applied the average ocean freight expense reported for west coast U.S. ports to all U.S. sales, except for those specific transactions where the reported expense was higher than this average, as facts available, because ProfilARBED failed to disclose properly that it used an affiliated supplier of ocean freight services.
12. We revised the U.S. imputed credit calculation to account for a revised U.S. interest rate, based on our verification findings, and the date of sale revision. In addition, we revised the inventory carrying expenses reported on U.S. sales shipped directly to the customer to account for the revised date of sale.
13. We revised the U.S. indirect selling expenses incurred in the United States to include a portion incurred by another U.S. affiliate.
14. We revised the offset to the interest expense component of U.S. indirect selling expenses to account for imputed credit expenses on a company-wide basis.
15. Except for sales shipped through the U.S. ports where we were able to verify the port-specific charges, we applied the highest U.S. port-specific per-unit brokerage and handling expense rate on the record of this investigation, to all U.S. sales incurring this expense.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Final Determination Margins

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
ProfilARBED, S.A	15.23
All Others	15.23

In accordance with section 735(c)(5)(A), we have based the "all others" rate on the dumping margin found for the sole producer/exporter investigated in this proceeding, ProfilARBED.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to suspend liquidation of all entries of structural steel beams from Luxembourg that are entered, or withdrawn from warehouse, for consumption on or after the publication date of this final determination. The Customs Service shall require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margin shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 75 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: May 13, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comments

1. Third-Country Sales Data Base
2. Sales by Affiliated Resellers in Germany
3. Third-Country Sales Rebate Adjustments
4. Date of Sale for CEP Transactions
5. Ocean Freight Expenses Through Affiliate
6. Inclusion of U.S. Affiliate's Expenses in Calculation of U.S. Indirect Selling Expense
7. Interest Expenses Included in U.S. Indirect Selling Expenses
8. Price of Electricity from Affiliates
9. Price of Natural Gas from Affiliates

10. Valuation of Leases from Affiliates
11. Exchange Rate Gains and Losses in the G&A Calculation
12. Petitioners Ability to Comment Meaningfully
13. Calculation of the Overall Dumping Margin

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–814]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of structural steel beams from the Russian Federation. On January 7 and 9, 2002, we received timely allegations of ministerial errors from the petitioner and the respondent. Because we agreed with the interested parties' ministerial-error allegations, we published on January 31, 2002, the amended preliminary antidumping duty determination of sales at less than fair value of structural steel means from the Russian Federation.

Based on our analysis of the comments received and certain findings from the verifications, we have made changes in the margin calculations. Therefore, the final determination differs from the amended preliminary determination.

We find that structural steel beams from the Russian Federation are being, or are likely to be, sold in the United States at less than fair value as provided in section 735 of the Tariff Act of 1930, as amended. The estimated margin of sales at less than fair value are shown in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Richard Rimlinger, AD/CVD Enforcement Group I, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR Part 351 (April 2001).

Final Determination

We determine that structural steel beams from the Russian Federation are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determination in this investigation was issued on December 28, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From the Russian Federation*, 66 FR 66217 (Dec. 28, 2001) (*Preliminary Determination*). On January 7 and 9, 2002, we received timely allegations of ministerial errors from the petitioner and the respondent. Because we agreed with the interested parties' ministerial-error allegations, we published the amended preliminary antidumping duty determination of sales at less than fair value of structural steel beams from the Russian Federation. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Structural Steel Beams From the Russian Federation*, 67 FR 4704 (January 31, 2002).

In March, we conducted verification of the questionnaires responses of the sole respondent in this case, Nizhny Tagil Iron and Steel Works (Tagil).

On April 15, 2002, we received a case brief from the petitioner (i.e., the Committee for Fair Beam Imports), and on April 17, 2002, the respondent submitted its rebuttal brief.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is currently classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

Period of Investigation

The period of investigation (POI) is October 1, 2000, through March 31, 2001.

Analysis of Comments Received

All issues raised in the case briefs by the petitioner to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments we received, we have made certain adjustments to the margin calculations. For a discussion of these changes, see the Decision Memorandum. These revisions are as follows:

1. In the *Preliminary Determination*, we used the 1997 financial statements of Eregli Demir ve Celik Fabrikalari TAS (Erdemir), a Turkish steel producer, to value overhead selling, general, and administrative (SG&A) expenses and profit ratios. For the final determination of this investigation, we have used the 2000 financial statement of Erdemir to value overhead SG&A expenses and profit ratios. For further details see analysis memorandum (analysis memorandum) dated May 10, 2002.
2. During our sales verification we found that Tagil had misreported its inventory carrying costs. Therefore, for the final determination of this investigation, we revised Tagil's inventory carrying costs. See the sales verification report dated March 22, 2002, at page 23. See also analysis memorandum.
3. During our sales verification we found that Tagil's factor for indirect selling expenses changed slightly. Therefore, for the final determination of this investigation, we have revised Tagil's factor for indirect selling expenses. See the sales verification report dated March 22, 2002, at page 22. See also analysis memorandum.
4. During our verification of Tagil's factors-of-production information we found that Tagil misreported its labor costs by basing its labor costs on a 7.5-hour workday instead of the eight hours for which the workers were actually paid. Therefore, for the final determination of this investigation, we revised Tagil's labor figures to capture total labor hours associated with the production of the subject merchandise. See the factors-of-production verification report dated April 5, 2002, at page 2. See also analysis memorandum.
5. During our factors-of-production verification we found that Tagil misreported the several distances from the supplier to Tagil's factory. Therefore, for the final determination of this investigation, we revised, where applicable, Tagil's reported distances from the supplier to the factory. See the factors-of-production verification report dated April 5, 2002, at page 2. See also analysis memorandum.
6. Because of numerous corrections which Tagil presented during the factors-of-production verification, we requested that it revise its factors-of-production database and submit a new factors-of-production database for the final determination.
7. For the final results of this investigation, we are using current information regarding South African imports of slag, dross, scalings and waste as reported in the Tradstat data service to value slag, waste, and vanadium. See the petitioner's February 6, 2002, submission at exhibit 3. See also analysis memorandum.
8. We determined to use the second alternative calculation of Tagil's short-term borrowing rate for the final results. See sales verification report dated March 22, 2002, at page 19, footnote 5. Consequently, we revised Tagil's credit expenses and inventory carrying costs to reflect the revised short-term borrowing rate. See analysis memorandum.
9. Upon review of our calculations for the *Preliminary Determination*, we found that the import statistics the respondent proposed and which we used to value lime/limestone vary from each other significantly. Therefore, we re-evaluated the use of these statistics and contacted a lime specialist with the U.S. Geological Survey. The lime specialist explained that the lime which is most likely used in the steel industry is categorized under HTS numbers 2522.10.0000, 2522.20.000, and 2522.30.000, not under HTS number 2521000 as proposed by the respondent. Therefore, based on this information, we have used import statistics for calendar year 2000 pertinent to HTS numbers under subcategory 2522 for the final determination. For further detail, see analysis memorandum.
10. For the final results of this investigation, we have accounted for the differences in calorific or energy potential and valued by-product gases according to their proper natural gas equivalents. For further details, see analysis memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, and original source documents, provided by the respondent.

Russia-Wide Rate

In all non-market economy (NME) cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Tagil has qualified for a separate rate. Furthermore, the information on the record of this investigation indicates that Tagil is the only Russian producer and/or exporter of the subject merchandise with sales or shipments to the United States during the POI. Based upon our examination and clarification of U.S. Customs Service data, we have determined that there are no other Russian producers and/or exporters of the subject merchandise and consequently none which were required to respond to our questionnaire. Because the only known Russian producer of steel beams, Tagil, responded to our questionnaire and the evidence indicates that there are no other Russian producers or exporters of subject merchandise during the POI, we have calculated a Russia-wide rate for this investigation based on the weighted-average margin we determined for Tagil. This Russia-wide rate applies to all entries of subject merchandise except for entries of subject merchandise exported by Tagil.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of structural steel beams from the Russian Federation that are entered, or withdrawn from warehouse, for consumption on or after December 28, 2001, the publication date of the preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown above. The suspension-of-liquidation instructions will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturer/exporter	Margin (percent)
Nizhny Tagil Iron and Steel Works	230.66
Russia-Wide Rate	230.66

In accordance with section 735(c)(5)(A) of the Act, we have based the Russia-wide rate on the dumping margin found for the sole producer/exporter investigated in this proceeding, Tagil.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: May 13, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.,

Appendix—Issues in the Decision Memorandum

Comments

Comment 1: Valuation of By-Products
Comment 2: Sales of "I" Beams
Comment 3: Inventory Carrying Costs
Comment 4: Labor Costs

[FR Doc. 02–12597 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–822–805, A–451–804, A–823–814, A–821–818]

Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Zev Primor, Paige Rivas, John Conniff, or Crystal Crittenden, AD/CVD Enforcement Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4114, (202) 482–0651, (202) 482–1009, or (202) 482–0989 respectively.

SUPPLEMENTARY INFORMATION:

INITIATION OF INVESTIGATIONS:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to 19 CFR part 351 (2001).

The Petitions

On April 19, 2002, the Department received petitions filed in proper form by the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.. The Department received information supplementing the petitions on May 3, 2002.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of urea ammonium nitrate solutions (UANS) from Belarus, Lithuania, the Russian Federation, and Ukraine are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigations that it is requesting the Department to initiate. *See Determination of Industry Support for the Petitions* section below.

Scope of Investigations

For purposes of these investigations, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.00.00. Although the HTSUS subheading is provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petitions, we discussed the scope with the petitioner and commodity specialists at U.S. Customs to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU) at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

Period of Investigations

Section 351.204(b) of the Department's regulations states that, in the case of a non market economy (NME) country, in an investigation, the Department normally will examine merchandise sold during the two most recently completed fiscal quarters as of the month preceding the month in which the petitions were filed. The regulations further state that the Department may examine merchandise sold during any additional or alternate period it concludes is appropriate.

Following the above noted guidelines from section 351.204(b) of the Department's regulations, the anticipated period of investigation (POI) for each of these investigations is October 1, 2001, through March 31, 2002.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Finally, section 732(c)(4)(D) of the Act provides that if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or (ii) determine industry support using any statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1]

[1] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations.

The domestic like product referred to in these petitions is the domestic like product defined in the *Scope of Investigations* section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

The Department has further determined that these petitions contain adequate evidence of industry support. Information contained in the petitions demonstrates that the domestic producers or workers who support the petitions account for over 50 percent of total production of the domestic like product. *See Petitions for Imposition of Antidumping Duties: Urea Ammonium Nitrate Solutions from Ukraine, Lithuania, Belarus, and the Russian Federation*, dated April 19, 2002, at Exhibit 9. Therefore, the domestic producers or workers who support the petitions account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. *See Initiation Checklists* (public version on file in the CRU of the Department, Room B–099). Furthermore, because the Department received no opposition to the petitions, the domestic producers or workers who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. *See Initiation Checklists*. Thus, the requirements of section 732(c)(4)(A)(ii) are met.

Accordingly, the Department determines that these petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Initiation Checklists* at Industry Support.

Export Price and Normal Value

The following are descriptions of the allegations of sales at LTFV upon which our decisions to initiate these investigations are based. Based on the information submitted in the petitions, adjusted where appropriate, we are initiating these investigations, as discussed below and in the *Initiation Checklists*.

The Department has analyzed the information in the petitions and considers the country-wide import statistics for the anticipated POI and market information used to calculate the estimated margins for the subject countries to be sufficient for purposes of initiation. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Non Market Economies

Regarding an investigation involving an NME, the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. , 66 FR 33525 (June 22, 2001) and *Notice of Final Determination of Sales at Less Than Fair Value: Solid Agricultural Ammonium Nitrate from Ukraine*, 66 FR 38632 (July 25, 2001).

Belarus

Export Price

The petitioner based export price (EP) on import weighted average unit value (AUV) data from official U.S. Census Bureau statistics for the period October 2001 through February 2002, for the subject HTSUS number. The petitioner calculated a net U.S. price by deducting foreign inland freight and brokerage and handling from the AUV data.

The petitioner based foreign inland freight on a price quote for the rail transport effective during calender year 2000, obtained from a South African rail company provider and adjusted for inflation using the South African Wholesale Price Index (WPI) as published in the *International Financial Statistics* of the International Monetary Fund. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 21319, 21324 (April 30, 2001) (*Preliminary LTFV Determination: Pure Magnesium from the Russian Federation*). Foreign brokerage and handling charges were based on the "waterfront charges" for the port of Durban, as published in a report by the South African Department of Transportation.

Normal Value

The petitioner asserted that the Department has long treated Belarus as an NME country. Pursuant to section 771(18)(C)(i) of the Act, because Belarus's status as an NME remains in effect, the petitioner determined the dumping margin using a factors of production (FOP) analysis.

For normal value (NV), the petitioner based the FOP, as defined by section 773(c)(3) of the Act, on the quantities of inputs of one U.S. UANS producer. The petitioner asserted that information regarding consumption rates for the production of this product in Belarus is not reasonably available, and has therefore assumed, for purposes of the petition, that the producer in Belarus used the same inputs in the same quantities as the petitioner. Based on the information provided by the petitioner, we believe that the petitioner's FOP methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

Pursuant to section 773(c) of the Act, the petitioner asserted that South Africa is the most appropriate surrogate country for Belarus, claiming that South Africa is: (1) a significant producer of comparable merchandise, and (2) is at a level of development comparable to Belarus in terms of per capita gross national income (GNI), which is the current World Bank term for what was previously termed "Gross National Product" (GNP). The petitioner notes that the Department's regulations state that it will place primary emphasis on per capita GNP in determining whether a given market economy is at a level of economic development comparable to the NME country. *See e.g. Cold-Rolled Carbon Steel Flat Products from the Russian Federation: Non-Market Economy Status and Surrogate Country Selection*, Memorandum from Jeffery May to Jim Doyle, February 28, 2002 (*Cold-Rolled Surrogate Country Selection Memo*). The petitioner further notes that South Africa has been included on the Department's most recent list of potential surrogates for Belarus. *See Antidumping Duty Investigation of Steel Concrete Reinforcing Bars (Rebar) from Belarus: Non-market Economy Status and Surrogate Country Selection*, Memorandum from Jeff May to Tom Futtner (August 31, 2000). Furthermore, the petitioner has been able to obtain all of the necessary data to value factors of UANS production in South Africa. Based on the information provided by the petitioner, we believe that the petitioner's use of South Africa as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, the petitioner valued FOP, where possible, on reasonably available, public surrogate data from South Africa. Materials were valued based on South African import values, as published by *Statistics of the South African Department of Minerals & Energy (DME Statistics)*, and *Global Trade Information Services: World Trade Atlas (GTI Services)*, sourced from the South Africa Revenue Service.

Labor was valued using the Department's regression-based wage rate for Belarus, in accordance with 19 CFR 351.408(c)(3).

Natural gas was valued using *DME Statistics* for October through December 2001. Electricity was valued using *DME Statistics* for the calender year 2000. Petitioners assert that the same figures were recently relied upon by the Department in pure magnesium from the Russian Federation. *See Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001) (*Pure Magnesium from the Russian Federation*).

Catalysts and the corrosion inhibitor were valued using AUVs of imports into South Africa taken from *GTI Services*. For manufacturing overhead, depreciation, general expenses and profit, the petitioner relied upon publicly available financial data from a South African producer of nitrogen fertilizers, Omnia Holdings, covering the period January 2000 through March 2001. Based on the information provided by the petitioner, we believe that the surrogate values represent information reasonably available to the petitioners and are acceptable for purposes of initiating this investigation. *See Initiation Checklist.*

Lithuania

Export Price

The petitioner based EP on the import weighted AUV data from official U.S. Census Bureau statistics for the period October 2001 through February 2002 for the subject HTSUS number. The petitioner calculated a net U.S. price by deducting brokerage, handling and domestic inland freight from the AUV. The petitioner based foreign inland freight on a price quote for the rail transport effective during calendar year 2000, obtained from a South African rail company provider and adjusted for inflation using the South African Wholesale Price Index (WPI) as published in the *International Financial Statistics* of the International Monetary Fund. *See Preliminary LTFV Determination: Pure Magnesium From the Russian Federation.* Foreign brokerage and handling charges were based on the "waterfront charges" for the port of Durban, as published in a report by the South African Department of Transportation.

Normal Value

The petitioner asserted that Lithuania is an NME country and no determination to the contrary has yet been made by the Department. The petitioner claimed that, pursuant to 19 USC 1677(18)(C)(i), Lithuania presumptively remains an NME country until that status is revoked.

For NV, the petitioner based the FOP, as defined by section 773(c)(3) of the Act, on the quantities of inputs of one U.S. UANS producer. The petitioner asserted that information regarding the Lithuanian producer's consumption rates is not reasonably available, and has therefore assumed, for purposes of the petition, that the producer in Lithuania uses the same inputs in the same quantities as the petitioner uses. Based on the information provided by the petitioner, we believe that the petitioner's FOP methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

Pursuant to section 773(c) of the Act, the petitioner asserted that South Africa is the most appropriate surrogate country for Lithuania, claiming that South Africa is: (1) a significant producer of comparable merchandise; (2) at a level of economic development comparable to Lithuania in terms of per capita GNI; and (3) that 30 percent of South Africa's labor force is employed in the agricultural sector, which corresponds to Lithuania's rate of 20 percent. The petitioner notes that the Department's regulations state that it will place primary emphasis on per capita GNP in determining whether a given market economy is at a level of economic development comparable to the NME country. *See Cold-Rolled Surrogate Country Selection Memo.* Furthermore, the petitioner has been able to obtain all of the necessary data to value factors of UANS production in South Africa. Based on the information provided by the petitioner, we believe that the petitioner's use of South Africa as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, the petitioner valued FOP, where possible, on reasonably available, public surrogate data from South Africa. Materials were valued based on South African import values, as published by *DME Statistics* and *GTI Services.*

Labor was valued using the Department's regression-based wage rate for Lithuania, in accordance with 19 CFR 351.408(c)(3).

Natural gas was valued using *DME Statistics* for October to December 2001. Electricity was valued using *DME Statistics* for the calender year 2000. Petitioners assert that the same figures were recently relied upon by the Department in pure magnesium from the Russian Federation. *See Pure Magnesium From the Russian Federation.*

Catalysts, chemicals, and the corrosion inhibitor were valued using AUVs of imports into South Africa taken from *GTI Services* for July to December 2001. For manufacturing overhead, depreciation, general expenses and profit, the petitioner has relied upon publicly available financial data from a South African producer of nitrogen fertilizers, Omnia Holdings, covering the period January 2000 through March 2001. Based on the information provided by the petitioner, we believe that the surrogate values represent information reasonably available to the petitioner and are acceptable for purposes of initiating this investigation. *See Initiation Checklist.*

The Russian Federation

Export Price

The petitioner based EP on import weighted AUV data from official U.S. Census Bureau statistics for the period October 2001 through February 2002 for the subject HTSUS number. The petitioner calculated a net U.S. price by deducting brokerage, handling and domestic inland freight from the AUV. The petitioner based foreign inland freight on a price quote for the rail transport effective during calender year 2000, obtained from a South African rail company provider and adjusted for inflation using the South African WPI as published in the *International Financial Statistics* of the International Monetary Fund. *See Preliminary LTFV Determination: Pure Magnesium From the Russian Federation.* Foreign brokerage and handling charges were based on the "waterfront charges" for the port of Durban, as published in a report by the South African Department of Transportation.

Normal Value

The petitioner asserted that the Department has treated the Russian Federation as an NME country in the past and has issued no determinations to the contrary. Pursuant to19 CFR 351.202(b)(7)(i)(C) of the Department's regulations, because the Russian Federation's status as an NME remains in effect, the petitioner determined the dumping margin using a FOP analysis.

For NV, the petitioner based the FOP, as defined by section 773(c)(3) of the Act, on the quantities of inputs of one U.S. UANS producer. The petitioner asserted that information regarding the Russian producers' consumption rates is not reasonably available, and it has therefore assumed, for purposes of the petition, that producers in Russia use the same inputs in the same quantities as the petitioner used. Based on the information provided by the petitioner, we believe that the petitioner's FOP methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

Pursuant to section 773(c) of the Act, the petitioner asserted that South Africa is the most appropriate surrogate country for the Russian Federation, claiming that South Africa is: (1) a significant producer of comparable merchandise; and (2) at a level of economic development comparable to the Russian Federation in terms of per capita GNI. The petitioner further notes that in recent antidumping cases involving the Russian Federation, the Department identified a group of countries at a level of economic development comparable to the Russian Federation based primarily on per capita GNI. This group includes Colombia, Egypt, the Philippines, Thailand, and Tunisia. The petitioner claimed that none of these potential surrogates were suitable for the instant petition for the following reasons: 1) the petitioner stated that surrogate country producer information is not available for Colombia; 2) in the case of Egypt, the petitioner asserted that it is unable to locate reliable, countrywide natural gas pricing data; 3) for the Philippines and Thailand, the petitioner stated that there is no nitrogen fertilizer production in those two countries; and 4) in the case of Tunisia, the petitioner asserted that it was unable to locate any sources of nationwide natural gas or electricity prices, in addition to being unable to obtain financial data for the one nitrogen producer in Tunisia. The petitioner claims it has been able to obtain all of the necessary data to value factors of UANS production in South Africa.

Based on the information provided by the petitioner, we believe that the petitioner's use of South Africa as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, the petitioner valued FOP, where possible, on reasonably available, public surrogate data from South Africa. Materials were valued based on South African import values, as published by DME Statistics and GTI Services.

Labor was valued using the Department's regression-based wage rate for the Russian Federation, in accordance with 19 CFR 351.408(c)(3).

Natural gas was valued using *DME Statistics* for October through December 2001. Electricity was valued using *DME Statistics* for the calender year 2000. The petitioner asserted that the same figures were recently relied upon by the Department in pure magnesium from the Russian Federation. *See Pure Magnesium From the Russian Federation.* These figures were adjusted to account for known price differences between U.S. production factors and factors reported to the Department by a Russian Federation producer in the production of ammonium nitrate (AN), and publicly reported factors for AN provided in the AN antidumping investigations. *See Initiation of Antidumping Investigation: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 64 FR 45226 (September 27, 2000) (*Initiation of Ammonium Nitrate*). The petitioner assumed that the proprietary factor data was ranged upward by the full 10 percent maximum adjustment percentage. Therefore, to be conservative, the petitioner reduced the publicly reported factors by 10 percent to account for the possibility for an upward adjustment.

Catalysts, chemicals, and the corrosion inhibitor were valued using AUVs of imports into South Africa taken from *GTI Services* for July through December 2001. For manufacturing overhead, depreciation, general expenses and profit, the petitioner relied upon publicly available financial data from a South African producer of nitrogen fertilizers, Omnia Holdings, covering the period January 2000 through March 2001. Based on the information provided by the petitioner, we believe that the surrogate values represent information reasonably available to the petitioner and are acceptable for purposes of initiating this investigation. *See Initiation Checklist.*

Ukraine

Export Price

The petitioner based EP on the AUV data from official U.S. Census Bureau statistics for the period October 2001 through February 2002 for the subject HTSUS number. The petitioner

calculated a net U.S. price by deducting brokerage, handling and domestic inland freight from the AUV. The petitioner based foreign inland freight on rail freight information provided by the U.S. Embassy in Jakarta, Indonesia for February 2001 and adjusted for inflation using the Indonesian WPI as published in the *International Financial Statistics* of the International Monetary Fund. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate From Ukraine*, 66 FR 13286 (March 5, 2001) (Ammonium Nitrate from Ukraine). Foreign brokerage and handling charges were based on Indonesian brokerage and handling cost for February 2001 used by the Department in the antidumping investigation of AN from Ukraine and were inflated to the POI using the Indonesian WPI as published in the *International Financial Statistics* of the International Monetary Fund. *See Ammonium Nitrate from Ukraine*, 66 FR at 13290–91.

Normal Value

The petitioner asserted that the Department has treated Ukraine as an NME country in the past and has issued no determinations to the contrary. Pursuant to19 CFR 351.202(b)(7)(i)(C), because Ukraine's status as an NME remains in effect, the petitioner determined the dumping margin using a FOP analysis.

For NV, the petitioner based the FOP, as defined by section 773(c)(3) of the Act, on the quantities of inputs of one U.S. UANS producer. The petitioner asserted that information regarding the Ukrainian producers' consumption rates is not reasonably available, and it has therefore assumed, for purposes of the petition, that producers in Ukraine use the same inputs in the same quantities as the petitioner uses. Based on the information provided by the petitioner, we believe that the petitioner's FOP methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

Pursuant to section 773(c) of the Act, the petitioner asserted that Indonesia is the most appropriate surrogate country for Ukraine, claiming that Indonesia is: (1) a significant producer of comparable merchandise; and (2) at a level of economic development comparable to Ukraine in terms of per capita GNI. The petitioner further notes that Indonesia, in addition to Pakistan, Sri Lanka, the Philippines, and Egypt, is included on the Department's most recent list of possible surrogate countries for Ukraine. *See Ammonium Nitrate from Ukraine.* Based on the information provided by the petitioner, we believe that the petitioner's use of Indonesia as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, petitioner valued FOP, where possible, on reasonably available, public surrogate data from Indonesia.

Labor was valued using the Department's regression-based wage rate for Ukraine, in accordance with 19 CFR 351.408(c)(3).

Natural gas and electricity were valued from the Organization for Economic Cooperation and Development's *Energy Prices & Taxes* (4th quarter 2001) and adjusted to the anticipated POI to take inflation into account. Adjustments were also made to account for known price differences between U.S. production factors and factors reported to the Department by Ukrainian producer, J.S.C. Stirol, for the production of AN, and publicly reported factors for AN provided in the AN antidumping investigations. *See Ammonium Nitrate from Ukraine.* The petitioner assumed that the proprietary factor data was ranged upward by the full 10 percent maximum adjustment percentage. Therefore, to be conservative, the petitioner reduced the publicly reported factors by 10 percent to account for the possibility for an upward adjustment.

For manufacturing overhead, depreciation, general expenses and profit, the petitioner has relied upon publicly available financial data from an Indonesian producer of ammonia and urea, PT Pupuk Kalimantan.

Catalysts, chemicals and the corrosion inhibitor were valued using import data from Indonesia taken from *GTI Services* for July to December 2001. The petitioner used Indonesian import statistics for HTSUS number 3815.1100 to value the catalysts containing nickel and, in accordance with 19 CFR 351.408(a), subtracted NME values from the total quantity and value of imports. The Indonesian import statistics also contained values listed as being imports from Indonesia. Because we do not know what these values represent, we adjusted the petitioner's surrogate value data by subtracting these values from the Indonesian import statistics. Furthermore, it is the Department's practice to disregard import values from South Korea, Thailand, and Indonesia. The Department has determined that each of these countries maintain broadly available, non-industry specific export subsidies which may benefit all exporters to all export markets. Therefore, we have also adjusted the petitioner's surrogate data by subtracting these imports from these countries from the statistics. *See Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002). Based on the information provided by the petitioner and taking into account adjustments made by the Department, we believe that the surrogate values represent information reasonably available to the petitioner and are acceptable for purposes of initiating this investigation.

Fair Value Comparisons

Based on a comparison of EP to NV, the petitioner calculated estimated weighted-average dumping margins of 75.80, 103.90, and 331.40 percent for Belarus, Lithuania, and the Russian Federation, respectively. In the case of Ukraine, the Department adjusted the petitioner's calculations, which then produced an estimated weighted-average dumping margin of 144.70 percent. Summaries of the margin calculations are contained in the *Initiation Checklists.*

Based on the data provided by the petitioner, there is reason to believe that imports of UANS from Belarus, Lithuania, the Russian Federation, and Ukraine are being, or are likely to be, sold at LTFV.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, ITC data, information gathered during the AN investigations, lost sales data, and pricing information. *See Ammonium Nitrate From Ukraine. See also Ammonium Nitrate from Russia.* The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklists* at 4 and 5.

Request for an Expedited Preliminary Determinations

The petitioner has requested that, in accordance with the Department's June 8, 2000, policy bulletin regarding expedited antidumping duty investigations, the Department issue expedited preliminary determinations in these investigations. *See* Department Policy Bulletin No. 00.1, "Expedited Antidumping Duty Allegations" (policy bulletin), which can be found on the Department's web page at http://ia.ita.doc.gov. The policy bulletin lays out specific criteria that the Department will consider in deciding whether to expedite an investigation, including evidence of an extraordinary surge in imports prior to the filing of the petition, evidence of significant import penetration, evidence of an unusually high dumping margin or recent declines in import prices, whether there are prior determinations of dumping against the same product (or class of product) from the subject country in the United States or in other countries, and whether the Department's resources permit it to expedite the preliminary determination.

The petitioner contended that there has been a surge of "unfairly traded imports" of UANS from Belarus, Lithuania, the Russian Federation, and Ukraine at "unprecedented levels" and that subject country producers have captured U.S. market share through "aggressive and persistent underselling." The petitioner also alleged that the United States market has been and continues to be flooded with UANS traded at LTFV from the Russian Federation, Ukraine, Lithuania, and Belarus. Furthermore, the petitioner asserted that after the imposition of antidumping restrictions in the European Union in 2000, the United States, the largest unrestricted market for UANS, has become a target for unfairly traded imports of UANS. Moreover, the petitioner argued that the massive surge of imports from the Russian Federation, Ukraine, Lithuania, and Belarus did not recede in 2001, but instead comprised 84.1 percent of the total share of UANS imports. The petitioner claimed the rapid and voluminous increase of imports from the Russian Federation, Ukraine, Lithuania, and Belarus warrants an expedited preliminary determination.

The Department is considering the petitioner's arguments on this matter and will make a determination on whether to expedite the preliminary determination. Section 351.205(b)(1) of the Department's regulations states that the deadline for a preliminary determination in an antidumping investigation is normally not later than 140 days after the date on which the Secretary initiated the investigation.

We are inviting parties to comment on the petitioner's request for expedited preliminary determination. The Department encourages all parties to submit such comments no later than May 20, 2002. Comments should be addressed to the Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Antidumping Investigations

Based on our examination of the petitions, we have found that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of UANS from Belarus, Lithuania, the Russian Federation, and Ukraine are being, or are likely to be, sold in the United States at LTFV. Should the need arise to use any of this information as facts available under Section 776 of the Act in our preliminary or final determinations, we may reexamine the information and revise the margin calculations, if appropriate. Unless this deadline is extended, we will make our preliminary determinations no later than 140 days after the date of these initiations.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the petitions have been provided to representatives of the government of Belarus, Lithuania, Ukraine, and the Russian Federation.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by June 3, 2002, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of UANS from Belarus, Lithuania, Ukraine, and the Russian Federation. A negative ITC determination will result in the investigations being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued an published in accordance with section 777(i) of the Act.

DATED: May 9, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–12588 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 970424097–1069–06]

RIN 0625–ZA05

Market Development Cooperator Program

AGENCY: International Trade Administration, Commerce.

ACTION: Correction of notice of funding availability.

On page 31781 in the issue of Friday, May 10, 2002, in the second column, "June 10, 2002" should read "July 1, 2002". With this change, the affected sentence reads as follows: "From May 10, 2002, until July 1, 2002, the Department does not counsel potential applicants regarding the merits of projects they may propose in their applications."

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hess, Manager, Market Development Cooperator Program, Trade Development, ITA, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 3215, Washington, DC 20230.

E-mail: *Brad_Hess@ita.doc.gov.*

Phone/Fax: (202) 482–2969/–4462.

Internet: *http://www.export.gov/mdcp.*

Dated: May 14, 2002.

Robert W. Pearson,

Director, Office of Planning, Coordination and Management, Trade Development, International Trade Administration, Department of Commerce.

[FR Doc. 02–12528 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–831]

Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On December 28, 2001, the Department of Commerce published the preliminary determination of sales at less than fair value of structural steel beams from Germany. The period of investigation is April 1, 2000, through March 31, 2001.

Based on our analysis of the comments received and certain findings

from the verification, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination.

We find that structural steel beams from Germany are being, or are likely to be, sold in the United States at less than fair value as provided in section 735 of the Tariff Act of 1930, as amended. The estimated margins of sales at less than fair value are shown in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0410.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the provisions codified at 19 CFR part 351 (2001).

Final Determination

We determine that structural steel beams (beams) from Germany are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Final Margin" section of this notice.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W"shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on December 28, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Germany*, 66 FR 67190 (December 28, 2001) (Preliminary Determination). Since the publication of the *Preliminary Determination*, the following events have occurred.

On January 2, 2002, Stahlwerk Thüringen GmbH (SWT), a respondent in this investigation, requested that the Department correct a ministerial error it found in the Department's margin calculations. On January 7, 2002, the Committee for Fair Beam Imports and its individual members, Northwestern Steel and Wire Company, Nucor Corporation, Nucor-Yamato Steel Company, and TXI-Chaparral Steel Company (the petitioners), requested that the Department correct ministerial errors they found in the Department's margin calculation for SWT. On January 31, 2002, the Department determined that the ministerial error alleged by SWT was a significant ministerial error within the meaning of 19 CFR 351.224(g)(1) but that the errors alleged by the petitioners were not ministerial errors. Accordingly, we corrected the error identified by SWT. We published in the **Federal Register** our amended preliminary determination in this investigation on January 31, 2002. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 4703 (January 31, 2002).

On January 21 through 25, 2002, the Department conducted verifications of three of SWT's affiliated resellers in Germany to examine SWT's claim that it could not report downstream sales by its affiliated resellers. See *Sales Verifications of Affiliated Resellers*, Memorandum to the File dated March 1, 2002. On January 28 through 31, 2002, the Department conducted a verification of SWT's cost-of-production (COP) and constructed-value (CV). See SWT COP and CV verification report dated March 20, 2002. On January 28 through February 5, 2002, the Department conducted a home-market sales data verification of SWT. See SWT home-market sales verification report dated April 2, 2002. On March 11 through 15, 2002, the Department conducted a U.S. sales data verification of TradeARBED Corporation (TANY), an affiliated U.S. reseller of merchandise produced by SWT. See TANY U.S. sales verification report dated March 28, 2002.

On April 11, 2002, the petitioners and SWT submitted their case briefs with respect to the verifications and the *Preliminary Determination*. On April 17, 2002, the petitioners and SWT submitted rebuttal briefs. On April 19, 2002, we conducted a public hearing with a closed session with respect to the issues raised in the parties' case briefs.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001.

Use of Facts Available

In the *Preliminary Determination*, we determined that the application of total adverse facts available was appropriate with respect to Salzgitter AG (Salzgitter), as this entity failed to respond to our antidumping questionnaire. As adverse facts available, we applied a margin rate of 35.75 percent, the highest margin

alleged in the petition (which we were able to corroborate). See the Decision Memorandum for Salzgitter AG for the Preliminary Results of the Less-Than-Fair-Value Investigation of Structural Steel Beams from Germany for the Period of Investigation April 1, 2000, through March 31, 2001, dated December 19, 2001. The interested parties did not object to the use of AFA for Salzgitter, or to our choice of facts available, and no new facts were submitted since the *Preliminary Determination* which would cause us to reconsider whether the information relied upon in the petition has probative value. Therefore, for the reasons set out in the *Preliminary Determination*, we have continued to use 35.75 percent as adverse facts available for the purposes of this final determination.

We used facts available for SWT's international freight expenses. As facts available, we used the average ocean-freight expense SWT reported for west-coast ports for all U.S. sales transactions except for those specific transactions where the reported ocean-freight expense was higher than this average. For a complete discussion of why we used facts available for these sales and the selection of facts available, see comment 1 of the Structural Steel Beams from Germany Issues and Decisions Memorandum dated May 13, 2002 (Decision Memorandum), available in B–099 of the Central Records Room at the Department of Commerce and the web at *http://ia.ita.doc.gov/frn/index.html*.

Finally, we used adverse facts available for SWT's U.S. brokerage and handling expenses. We did this because, when we asked at verification for the documents to support the reported expense for ports other than the two we examined, TANY informed us that it was not prepared to provide these invoices, claiming that they were "not available." See the TANY verification report at page 11. Therefore, because TANY was unprepared to provide the documents in question at verification, although it was given adequate notice that these documents would be reviewed,[1] we find that it did not act to the best of its ability in reporting its brokerage and handling expenses related to certain U.S. ports. Accordingly, we have based the amount of brokerage and handling expenses for these ports on adverse facts available. As adverse facts available, we have used SWT's highest per-port amount on the record of this proceeding. For a further discussion of this issue, see comment 11 of the Structural Steel Beams from Spain Issues and Decisions Memorandum dated May 13, 2002. However, because TANY was able to provide adequate documentation for two of the ports in question, we have accepted the expenses calculated for those ports for purposes of the final determination.

[1] See the February 27, 2002, verification outline for TANY at page 10.

Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in a decision memorandum, which is hereby adopted by this notice. See the Decision Memorandum. A list of the issues which parties raised, and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. As indicated above, parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B–099. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by SWT for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records as well as original source documents provided by the respondents.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins for SWT in this investigation. See Final Analysis Memoranda for SWT dated May 13, 2001. These revisions are as follows:

1. We used the cost-of-production (COP) database that SWT submitted on January 14, 2002, the home-market sales database that it submitted on February 21, 2002, and the U.S. sales database that it submitted on April 16, 2002.
2. We used the reported date of shipment as the date of sale for U.S. sales. We also revised SWT's reported credit expense and inventory carrying costs accordingly, using the short-term borrowing rate we verified. See the TradeARBED Corporation (TANY) U.S. sales verification report dated March 28, 2002, at page 12.
3. We revised SWT's reported billing adjustments to include two claims that we found, at verification, that TANY did not account for in its reported billing adjustments.
4. We revised SWT's U.S. indirect selling expenses to allocate a portion of Arbed Americas Atlantic, Inc.'s selling expenses to TANY rather than use the rate we calculated for ARBED Americas, Inc. In addition, we did not include any of TANY's or Arbed Americas Atlantic, Inc.'s interest expenses in our calculation of TANY's indirect selling expense because the imputed credit which we calculated exceeded the amount of interest expense attributable to TANY's sales of SWT beams. See the SWT final results calculation memorandum dated May 13, 2002, at attachment 2 for our calculation of indirect selling expenses.
5. We replaced the warranty expense SWT reported in its February 21, 2002, home-market sales database with the verified transaction-specific warranty expense we verified in SWT's home-market sales database which it submitted on January 14, 2002. Because SWT did not provide observation numbers, we identified the specific transactions for which the warranty expenses were reported by invoice, product code, and quantity.
6. As partial facts available, we used the average ocean-freight expense SWT reported for Los Angeles, San Francisco/Oakland, and Portland for all U.S. sales transactions except for those specific transactions where the reported ocean-freight expense was higher than this average.
7. As adverse facts available, we used the highest per-port amount for U.S. brokerage and handling expenses on the record of this proceeding for all U.S. transactions except for sales through two ports.
8. We revised the financial-expense rate to include other financial charges and bond expenses and to exclude long-term interest income offsets from the numerator. We also revised the denominator in the calculation to reflect cost of goods sold rather than raw materials.
9. We subtracted home-market billing adjustments from home-market price instead of adding them to home-market price.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, for SWT, we are directing the Customs Service to suspend liquidation of all entries of subject merchandise from Germany that are entered, or withdrawn from

warehouses, for consumption on or after the date of publication of the final determination in the **Federal Register**. For all other companies, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Germany that are entered, or withdrawn from warehouses, for consumption on or after December 28, 2001, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension-of-liquidation instruction will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
SWT	8.09
Salzgitter	35.75
All Others**	8.09

**Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero (or *de mimimis*) or determined entirely on facts available. Because we determined Salzgitter's margin entirely on facts available, we used SWT's margin as the all-others rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 13, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

I. Changes From the Preliminary Determination
II. Company-Specific Issues
Comment 1: Ocean Freight Expenses Through An Affiliate
Comment 2: Date of Sale for Constructed-Export-Price Transactions
Comment 3: Sales by Affiliated Resellers in Germany
Comment 4: Home-Market Inland Freight
Comment 5: Home-Market Quantity Rebates
Comment 6: Home-Market Warranties
Comment 7: Home-Market Other Rebates
Comment 8: U.S. Billing Adjustments
Comment 9: U.S. Indirect Selling Expenses
Comment 10: Interest Expense
Comment 11: Clerical-Error Allegation
Comment 12: Calculation of Weighted-Average Dumping Margin

[FR Doc. 02–12596 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050102E]

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Public Meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold meetings.

DATES: The meetings will be held on June 12–13, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Windward Passage Holiday Inn, in Veterans Drive, Charlotte Amalie, St. Thomas, U.S.V.I.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will convene on Wednesday, June 12, 2002, from 8:30 a.m. to 3 p.m., and on Thursday, June 13, 2002, from 9 a.m. to 12 noon, approximately. A scoping meeting period for Sustainable Fishery Act (SFA) Comprehensive Amendment will be open from 1 p.m. to 3 p.m., on June 12, 2002, to allow the general public and interested persons to provide their comments.

The Council will hold its 108th regular public meeting to discuss the items contained in the following agenda:

June 12, 2002, 8:30 a.m.—10 a.m.

Closed Session

10 a.m.—12 noon

Call to Order
Adoption of Agenda
Consideration of 106th Council Meeting Verbatim Minutes
SFA Comprehensive Amendment Presentation—Southeast Regional Office/NMFS

12 noon—1 p.m.

Lunch

1 p.m.—3 p.m.

Scoping meeting on SFA Comprehensive Amendment

June 13, 2002, 9 a.m.—12 noon

Reef Fish Fishery Management Plan
SFA Next Steps
Other Business

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12603 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002D]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team (HMSPDT) will hold a work session, which is open to the public.

DATES: The HMSPDT will meet Monday, June 10, 2002 from 10 a.m. until 5 p.m.; Tuesday, June 11, 2002 from 8 a.m. until 5 p.m.; and Wednesday, June 12, 2002 from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held in the large conference room at NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D–203, La Jolla, CA 92037; (858) 546–7000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck, Pacific Fishery Management Council; (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the work session is to continue revising the draft fishery management plan (FMP) for West Coast highly migratory species (HMS) fisheries per Council guidance from the March 2002 Council meeting. Initial preparation of the HMSPDT report for the June 2002 Council meeting will also occur. The HMS FMP is scheduled for final Council action in November 2002.

Although nonemergency issues not contained in the HMSPDT meeting agenda may come before the HMSPDT for discussion, those issues may not be the subject of formal HMSPDT action during this meeting. HMSPDT action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the HMSPDT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12604 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Marine Reserves Subcommittee of the Scientific and Statistical Committee (SSC) will hold a meeting which is open to the public.

DATES: The Marine Reserves Subcommittee of the SSC will meet Monday, June 10, 2002, at 8:30 a.m. and Tuesday, June 11, 2002, from 8:30 a.m. until business for the day is completed.

ADDRESSES: The meeting will be held at the Pacific Fishery Management Council office, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Gilden, Associate Staff Officer, Information Communications, Pacific Fishery Management Council, (503) 326–6352 before May 15, 2002 or (866) 806–7204 after May 15, 2002.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the California Environmental Quality Act analysis on the creation of marine reserves in state waters of the Channel Islands National Marine Sanctuary.

Although non-emergency issues not contained in the Marine Reserves Subcommittee of the SSC meeting agenda may come before the Subcommittee for discussion, those issues may not be the subject of formal Marine Reserves Subcommittee of the SSC action during this meeting. Subcommittee action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Subcommittee's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 (or (866) 806–7204 after May 15) at least 5 days prior to the meeting date.

Dated: May 13, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12605 Filed 5–17–02; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 020322065–2065–01]

Notice of Applicability of Special Use Permit Requirements to Certain Categories of Activities Conducted Within the National Marine Sanctuary System

AGENCY: Marine Sanctuaries Division, National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for public comments.

SUMMARY: In accordance with a requirement of Pub. L. 106–513, NOAA hereby gives public notice of the applicability of the special use permit requirements of Section 310 of the National Marine Sanctuaries Act to certain categories of activities conducted within the National Marine Sanctuary System. In addition, NOAA is seeking public comment on the subject of special use permits.

DATES: Comments must be received on or before July 19, 2002.

ADDRESSES: Submit all written comments to Helen Golde, National Marine Sanctuary Program, 1305 East West Highway (N/ORM6), 11th floor, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Helen Golde, National Marine Sanctuary Program, 1305 East West Highway (N/ORM6), Silver Spring, MD 20910, telephone (301) 713–3125, extension 152, email *Helen.Golde@noaa.gov*; or John Armor, National Marine Sanctuary Program, 1305 East West Highway (N/ORM6), Silver Spring, MD 20910, telephone (301) 713–3125, extension 117, email *John.Armor@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Congress first granted NOAA the authority to issue special use permits for the conduct of specific activities in National Marine Sanctuaries (NMSs or Sanctuaries) in the 1988 Amendments to the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*; NMSA) (Public Law 100–627). The NMSA allows NOAA to issue special use permits to establish conditions of access to and use of any Sanctuary resource or to promote public use and understanding of a Sanctuary resource. Since 1988, special use permits have been issued to persons conducting usually commercial (and usually revenue-generating), otherwise prohibited, operations in NMSs. Such activities have included a diving concessionaire conducting trips to the USS Monitor, the filming of television advertisements, and the use of a Sanctuary for public events.

Section 310 of the NMSA allows NOAA to issue special use permits to authorize the conduct of specific activities with four conditions. The NMSA requires that special use permits:

1. Shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the Sanctuary is designated and with protection of Sanctuary resources;
2. Shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by NOAA;
3. Shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure Sanctuary resources; and
4. Shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

Condition 3 above tends to be the most limiting in that it prevents NOAA from issuing a special use permit if the activity may destroy, cause the loss of, or injure a Sanctuary resource. Since activities that are prohibited by National Marine Sanctuary Program (NMSP) regulations (15 CFR Part 922) usually have some adverse impact, it is generally thought that if an activity is prohibited, it should not qualify for a special use permit. While this is generally true, there are some prohibited activities that, when done in a certain way, are not likely to adversely impact a Sanctuary resource. Several of these activities are of a nature that does not qualify for other NMS permits (for example, because they are not related to research or education), but do meet the statutory conditions for special use permits. Therefore, special use permits may be issued for the narrow range of activities that are both prohibited by NMSP regulations and do not destroy, cause the loss of, or injure a Sanctuary resource when conducted in a certain way.

Section 310 of the NMSA allows NOAA to assess and collect a fee for special use permits. A special use permit fee must include each of three components. They are:

1. The costs incurred, or expected to be incurred, by NOAA in issuing the permit;
2. The costs incurred, or expected to be incurred, by NOAA as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and
3. An amount which represents the fair market value of the use of the Sanctuary resource.

Number 1 above essentially covers the administrative costs that NOAA incurs when it processes permit applications (including labor, printing costs, and contracts for the preparation of supporting documentation). Number 2 includes amounts to fund monitoring projects designed to assess the success or failure of the permittee to comply with the terms and conditions of the permit. It may also include money to fund a compliance monitoring program and to recoup any costs incurred by the NMSP in enforcing permit terms and conditions. Number 3 is calculated using economic valuation methods appropriate to the situation.

In the National Marine Sanctuaries Amendments Act of 2000 (P.L. 106–513), Congress added a new requirement that prior to requiring a special use permit for any category of activity, NOAA shall give appropriate public notice. Subsection (b) of section 310 of the NMSA, as amended by Public Law 106–513, provides: "[NOAA] shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a)." In addition, Public Law 106–513 gives the NMSP the authority to waive, reduce, or accept in-kind contributions in lieu of these fees when the activity does not derive a profit from the access to or use of Sanctuary resources.

This notice lists those categories of activities that have been subject to the requirements of Section 310 in the past and will continue to be in the future (unless NOAA issues a **Federal Register** notice indicating otherwise). All of these activities are currently prohibited by NMS regulations, and may only be permitted using a special use permit when conducted in a way that does not injure, cause the loss of, or destroy a Sanctuary resource. It is important to note that the fact that an activity is consistent with a category listed in this notice does not guarantee approval of an application for a special use permit. Special use permit applications will be reviewed for consistency with the relevant Sanctuary's management plan and regulations, the NMSA, as well as this **Federal Register** notice. Individual special use permit applications will also be reviewed with respect to all other pertinent regulations and statutes, including the National Environmental Policy Act. Additional categories of activities may be added in subsequent **Federal Register** notices, if the NMSP deems them appropriate for special use permits.

As such, the following categories of activities have been and will continue until further notice to be subject to the requirements of special use permits:

1. The disposal of cremated human remains by a commercial operator in any National Marine Sanctuary;
2. The operation of aircraft below the minimum altitude in restricted zones of National Marine Sanctuaries for commercial purposes;
3. The placement and subsequent recovery of objects associated with public events on non-living substrate of the seabed;
4. The discharge and immediate recovery of objects related to special effects of motion pictures; and
5. The maintenance of submarine cables beneath or on the seabed.

Each category listed above is further described below.

Disposal of Cremated Human Remains by a Commercial Entity

The NMSP has received permit applications to spread cremated human remains (i.e., ashes) over and within the Monterey Bay National Marine Sanctuary (MBNMS). Since most NMS regulations prohibit the discharge of material or other matter into the Sanctuary, this activity requires a permit. After an extensive review of the common practices involved with the disposal of cremated human remains, the MBNMS determined that no detectable negative impacts to NMS resources and qualities were expected to result from the practice when certain conditions are adhered to by those engaged in the activity.

Conditions placed on this activity that eliminate negative impacts to Sanctuary resources include: restricting the minimum altitude of any aircraft used to facilitate the spreading of the ashes; prohibiting the use of any plastics or any other toxic material associated with the remains; and requiring that the remains be sufficiently incinerated.

In 1998, the superintendent of MBNMS issued an authorization (authorization number MBNMS–03–98) of the U.S. Environmental Protection Agency's (EPA) general permit for burial at sea (40 CFR 229.1). This authorization allows anyone (commercial entities as well as private individuals) to discharge cremated human remains in the MBNMS without first requesting a permit (subject to special conditions such as those described above). This authorization does not authorize anyone to conduct any activity otherwise prohibited by the MBNMS regulations except the discharge of cremated human remains (e.g., this authorization does not allow a person to operate an aircraft below 1,000 feet in one of the restricted overflight zones during the course of discharging cremated human remains). If an individual engaged in the disposal of cremated human remains wished to conduct an additional otherwise prohibited activity (e.g., low overflight) he would need to first obtain permission from the Sanctuary superintendent. This authorization expires on April 7, 2004 and does not apply to any other NMS in the system.

Commercial entities proposing the dispersion of cremated human remains must apply for and receive a special use permit prior to initiating this activity within the boundaries of any National Marine Sanctuary except MBNMS, as described above. (When private individuals wish to scatter cremated human remains in a NMS other than the MBNMS, they may request an individual authorization, if available, of the EPA's general permit from the appropriate Sanctuary manager or superintendent on a case-by-case basis.)

Commercial Overflights in Restricted Zones

Within certain zones of MBNMS, Olympic Coast National Marine Sanctuary (OCNMS), Channel Islands National Marine Sanctuary, and the Gulf of the Farallones National Marine Sanctuary operating an aircraft below a minimum altitude is prohibited by Sanctuary regulations (15 CFR Part 922). The minimum altitude for the zones within all aforementioned Sanctuaries, with the exception of OCNMS, is 1,000 feet. The minimum altitude for the zones within OCNMS is 2,000 feet.

The NMSP has received applications for permits to fly below the minimum altitude for commercial purposes within the restricted zones of MBNMS. Examples of commercial activities that have been subject to special use permits in the past include the filming of television advertisements and documentaries. When conditioned so that impacts to Sanctuary resources are eliminated, these activities have been determined to qualify for special use permits. Conditions on the permits generally include, but are not limited to, limitations on the number of passes an aircraft can take in a particular location, requirements for monitors to be present during operations, and seasonal restrictions so as to avoid certain areas during particularly sensitive times of the year.

All Sanctuaries with overflight restrictions have received requests to fly below the minimum altitude for non-commercial purposes (scientific research or education). These activities are eligible for research or education permit categories permittable under each site's regulatory authority and do not require the issuance of a special use permit.

Anyone wishing to operate an aircraft for commercial purposes below the designated altitude in any of the restricted overflight zones must apply for and receive a special use permit prior to conducting that activity.

The Placement and Subsequent Recovery of Objects Associated With Public Events on Non-Living Substrate

MBNMS has, in the past, issued special use permits to non-profit institutions and public entities to place temporary objects (e.g., marker buoys) on non-living portions of the seabed when that activity is associated with public events. Public triathlons and the California Chocolate Abalone dive are two such events that have been subject to special use permit requirements. Since the placement of objects on the seabed within most NMSs is prohibited by individual Sanctuary regulations, this activity usually requires a permit.

Conditions of special use permits for public events require that each object be placed on the seafloor in such a way as to not destroy, cause the loss of, or injure Sanctuary resources or qualities. The objects are required to be removed in a similar non-intrusive fashion after each event. In addition, the markers and other objects themselves are to be composed of substances that do not leach deleterious materials or other matter into the Sanctuary.

Special use permits are required for public events that involve the placement of objects on the seafloor in any National Marine Sanctuary. Anyone wishing to hold a public event that involves the placement of an object (or objects) on the seafloor of a National Marine Sanctuary must apply for and receive a special use permit prior to holding the event.

The Deposit and Immediate Recovery of Objects Related to Special Effects of Motion Pictures

The NMSP has received inquiries from motion picture companies seeking to deposit objects into a Sanctuary and immediately recover them for special effects. No special use permit has been applied for or issued for this type of activity to date. Sanctuary regulations generally prohibit the placement of objects on the seabed as well as the discharge of material or other matter into the Sanctuary. If the NMSP determines to allow this type of activity, persons proposing this activity would be required to prove to the NMSP that the objects being deposited would not injure, cause the loss of, or destroy any Sanctuary resource (e.g., are of a nature that would not cause harmful substances to leach into the Sanctuary, that the objects would be recovered from the Sanctuary immediately, and that the area of the seafloor where the object would be deposited is not sensitive to the proposed disturbance). In addition, Sanctuary staff would require that, if permitted, this type of activity is done at locations and during times of the year that are least likely to have sensitive Sanctuary resources in the vicinity of the disturbance.

Any individual or entity proposing to deposit any object into a National Marine Sanctuary related to special effects by the motion picture or other industry must apply for and receive a permit prior to conducting this activity within a National Marine Sanctuary.

The Maintenance of Commercial Submarine Cables on or Beneath the Seafloor

The NMSP has issued two special use permits to allow telecommunications companies to maintain fiber optic cables beneath the seafloor within the Olympic Coast National Marine Sanctuary (two cables permitted in November of 1999) and Stellwagen Bank National Marine Sanctuary (one cable permitted in June of 2000). While the actual installation,

removal, and any necessary repair activities were authorized under the NMSP's regulatory authority, the continued presence of the cable buried beneath the surface of the seabed was allowed through a special use permit issued pursuant to section 310 of the NMSA. This activity will continue to be subject to the requirements of section 310 of the NMSA.

In a separate process, NOAA will continue to develop its policy on submarine cables within National Marine Sanctuaries, following up on the August 23, 2000, Advance Notice of Proposed Rulemaking (ANPR) on Installing and Maintaining Commercial Submarine Cables in National Marine Sanctuaries (65 FR 51264). The ANPR included a draft set of proposed principles for laying submarine cables in the marine and coastal environment. Through this separate process, NOAA will consider whether to issue regulations or a policy statement on submarine cables within Sanctuaries including whether the issuance of special use permits allowing the presence of submarine cables beneath or on the seafloor continues to be appropriate. Depending on the outcome of this process the NMSP may issue another **Federal Register** notice amending this one, as appropriate.

Comments

NMSP is accepting comments on its use of the special use permit authority. NMSP is especially interested in comments that pertain specifically to the impacts of the aforementioned activities on Sanctuary resources. NMSP is also interested in any other comments on the subject matter addressed in this notice.

Miscellaneous Requirements

Paperwork Reduction Act

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. Applications for the special use permits discussed in this notice involves a collection-of-information requirement subject to the requirements of the PRA. OMB has approved this collection-of-information requirement under OMB control number 0648–0141.

The collection-of-information requirement applies to persons seeking special use permits to conduct otherwise prohibited activities and is necessary to determine whether the proposed activities are consistent with the terms and conditions of special use permits prescribed by the NMSA. Public reporting burden for this collection of information is estimated to average twenty four (24) hours per response (application, annual report, and financial report), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This estimate also includes the significant time that may be required should the applicant choose to prepare a draft of any documentation that may be required under the National Environmental Policy Act (NEPA), e.g., environmental impact statement or environmental assessment. If the applicant chooses not to prepare a draft of any NEPA documentation for the proposed activity, or if only minimal NEPA documentation is needed, the public reporting burden would be much less (approximately one hour for each response). If additional NEPA documentation is required and not prepared in draft by the permit applicant, NOAA would be required to prepare this documentation using its own staff and resources prior to NOAA taking final action on the application. As staff time and funding resources are limited, the preparation of complicated NEPA documents can significantly add to the time NOAA takes to review the application and take final action.

This may also significantly add to the costs incurred by the federal government in processing the special use permit applications and thus the cost to the applicant.

Send comments on the burden estimate or on any other aspect of the collection of information, and ways of reducing the burden, to NOAA and OMB (see **ADDRESSES**).

National Environmental Policy Act

NOAA has concluded that this action will not have a significant effect, individually or cumulatively, on the human environment. This action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.05c3(i) of NOAA Administrative Order 216–6. Specifically, this action is a notice of an administrative and legal nature. Furthermore, individual permit actions by the NMSP will be subject to additional case-by-case analysis, as required under NEPA, and will be completed when those actions are proposed to be taken by NMSP in the future.

NOAA also expects that many of these individual actions will also meet the criteria of one or more of the categorical exclusions described in NOAA Administrative Order 216–6 because special use permits cannot be issued for activities that are expected to result in any destruction of, injury to, or loss of any Sanctuary resource. However, the special use permit authority may at times be used to allow activities that may meet the Council on Environmental Quality's definition of the term "significant" despite the lack of apparent environmental impacts (e.g., publicly controversial activities). In addition, NOAA may, in certain circumstances, combine its special use permit authority with other regulatory authorities to allow activities not described above that may result in environmental impacts to NMS resources and thus require the preparation of an environmental assessment or environmental impact statement. In these situations NOAA will ensure that the appropriate NEPA documentation is prepared prior to taking final action on a permit or making any irretrievable or irreversible commitment of agency resources.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–12521 Filed 5–17–02; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 19, 2002.

Title, Form, and OMB Number: Customer Service Survey—Regulatory Program U.S. Army Corps of Engineers; ENG For 5065; OMB Number 0710–0012.

Type of Request: Reinstatement.

Number of Respondents: 60,000.

Responses per Respondent: 1.

Annual Responses: 60,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 15,000.

Needs and Uses: Survey of applicants who are required to obtain permits from the U.S. Army Corps of Engineers to build on or conduct dredge and fill operations in United States waters. Opinions on the quality of service are used to make program improvements. The Corps will conduct surveys of customers at our districts, division, and headquarters offices, currently a total of 49 offices. Most customer responses are solicited from the 38 districts. These elements will tabulate their survey results and send copies to headquarters for a Corps wide tabulation. The survey form will be provided to the public when they receive a regulatory product, primarily a permit decision or wetland determination.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-for-Profit Institutions; Farms; State, Local of Tribal Government.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for the U.S. Army Corps of Engineers, Room 10202, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate SOD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12499 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 19, 2002.

Title, Form, and OMB Number: Terminal and Transfer Facilities Description; IWR Forms 1, 2, 3, 4, 5, 6, 7, 8, and 9; OMB Number 0710–0007.

Type of Request: Reinstatement.

Number of Respondents: 1,489.

Responses per Respondent: 1.

Annual Responses: 1,489.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 372.

Needs and Uses: Data gathered and published as one of the 56 Port Series Reports, relating to terminals, transfer facilities, storage facilities, and intermodal transportation. This information is used in navigation, planning, safety, National Security, emergency operations, and general interest studies and activities. Respondents are terminal and transfer facility operators. These data are essential to the Waterborne Commerce Statistics Center in exercising their enforcement and quality control responsibilities in the collection of data from vessel reporting companies.

Affected Public: Business or Other For-Profit; State, Local or Tribal Government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for the U.S. Army Corps of Engineers, Room 10202, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12500 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 19, 2002.

Title, Form, and OMB Number: Tender of Service and Letter of Intent for Personal Property Household Goods and Unaccompanied Baggage Shipments; DD form 619, 619–1; OMB Number 0702–0022.

Type of Request: Reinstatement.

Number of Respondents: 2,636.

Responses per Respondent: 168 (average).

Annual Responses: 441,677.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 70,548.

Needs and Uses: The information provided by a carrier serves as a bid for contract to transport household goods (HHG), unaccompanied baggage, mobile homes, and boats. In accordance with the provisions of DoD 4500.9–R, the DD Form 619 is used by the household goods carrier industry to itemize packing material and other charges for billing purposes on household goods and unaccompanied baggage shipments. The DD form 619 certifies that accessorial services were actually performed.

Affected Public: Business or Other For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12501 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 19, 2002.

Title, Form, and OMB Number: Application and Contract for Establishment of a Reserve Officers' Training Corps Unit; DA Form 3126; OMB Number 0702–0021.

Type of Request: Extension.

Number of Respondents: 70.

Responses per Respondent: 1.

Annual Responses: 70.

Average Burden per Response: 1 hour.

Annual Burden Hours: 70.

Needs and Uses: Educational institutions desiring to host a Junior ROTC Unit may apply by using DA Form 3126. The form documents the agreement and becomes a contract signed by both the institution and the U.S. Government. The DA Form 3126 provides information on the school's facilities and states specific conditions, if an ROTC Unit is placed at the institution. The data provided is used to determine which schools are selected.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions; State, Local or Tribal Government.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12502 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 19, 2002.

Title, Form, and OMB Number: Uniform Tender of Rates and/or Charges for Domestic Transportation Services (DoD/USCG Sponsored Household Goods; MT Form 43–R; OMB Number 0702–0018.

Type of Request: Reinstallment.

Number of Respondent: 1,580.

Response per Respondent: 1.

Annual Responses: 6,320.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 3,160.

Needs and Uses: Department of Defense approved household goods carriers file rates to engage in the movement of DoD and United States Coast Guard sponsored shipments within the continental United States. Headquarters, Military Traffic Management Command evaluates the rates and awards the traffic to low rate responsible carriers whose rates are responsive and most advantageous to the Government.

Affected Public: Business or Other For-Profit.

Frequency: Semi-Annually.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12503 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 19, 2002.

Title, Form, and OMB Number: Application for Uniformed Services Identification Card—DEERS Enrollment; DD Form 1172; OMB Number 0704–0020.

Type of Request: Extension.

Number of Respondents: 1,690,048.

Responses per Respondent: 1.

Annual Responses: 1,690,048.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 281,675.

Needs and Uses: This information collection requirement is necessary to authorize members of the Uniformed Services, their spouses and dependents, and other authorized individuals certain benefits and privileges. These privileges include health care, use of commissary, base exchange, and morale, welfare and recreation facilities. This information collection is needed to obtain the necessary data to determine eligibility to benefits and privileges, to provide eligible individuals with an authorization card (identification card) for benefits and privileges administered by the Uniformed Services, and to maintain a centralized database of eligible individuals. This information collection may also be used by the Uniformed Services, military departments, and the Defense Agencies to issue their non-benefit identification cards.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12504 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 19, 2002.

Title, Form, and OMB Number: Procurement Technical Assistance Center Cooperative Agreement Performance Report; DLA Form 1806; OMB Number 0704–0320.

Type of Request: Reinstatement.

Number of Respondents: 89.

Responses per Respondent: 2.

Annual Responses: 178.

Average Burden Per Response: 7 hours.

Annual Burden Hours: 1,246.

Needs and Uses: The Defense Logistics Agency uses the report as the principal instrument for measuring the performance of Cooperative Agreements awards made under 10 U.S.C. Chapter 142. Each cooperative agreement award recipient submitted goals and objectives in their application that were subsequently incorporated into their cooperative agreement awards. The level of achievement of these goals and the funds expended in the process of conducting the program is measured by the report. The government's continued funding of a cooperative agreement and the decision to exercise an option award is based to a significant degree on the award holder's current performance as measured by the report. Information from the report is also used to identify programs that may be in need of assistance and/or increased surveillance.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions; State, Local or Tribal Government.

Frequency: Semi-Annually.

Respondents Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12505 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of proposed amendments to the Manual for Courts-Martial, United States (2000 ed.) and notice of public meeting.

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States (2000 ed.) (MCM). The proposed changes constitute the 2002 annual review required by the MCM and DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice," May 8, 1996. The proposed changes concern the rules of procedures and evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon," May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

This notice also sets forth the date, time and location for the public meeting of the JSC to discuss the proposed changes.

This notice is provided in accordance with DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice," May 8, 1996. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

In accordance with paragraph III.B.4 of the Internal Organization and Operating Procedures of the JSC, the committee also invites members of the public to suggest changes to the Manual for Courts-Martial in accordance with the described format.

DATES: Comments on the proposed changes must be received no later than July 30, 2002 to be assured consideration by the JSC. A public meeting will be held on June 27, 2002 at 2 p.m. in Room 808, 1501 Wilson Boulevard, Arlington, VA 22209–2403.

ADDRESSES: Comments on the proposed changes should be sent to Major D. T. Brannon, Headquarters, U.S. Marine Corps (JAM), 2 Navy Annex, Room 5E618, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Major D. T. Brannon, Executive Secretary, Joint Service Committee on Military Justice, Headquarters, U.S. Marine Corps (JAM), 2 Navy Annex, Room 5E618, Washington, DC 20380–1775, (703) 614–4250, (703) 695–0335 fax.

SUPPLEMENTARY INFORMATION: The proposed amendments to the MCM are as follows:

Amend R.C.M. 103(2) by deleting "without" and replacing with "with" and by deleting "noncapital" and replacing with "capital."

Amend the Analysis accompanying R.C.M. 103(2) by inserting the following prior to the discussion of subsection (3):

"200__ Amendment: This definition is based on *United States* v. *Mathews*, 16 M.J. 354 (C.M.A. 1983), and R.C.M. 1004, and is consistent with the numerous affirmative steps required of a convening authority in order to refer a court-martial case as capital. See R.C.M. 1004 and accompanying analysis at Appendix 21, R.C.M. 1004."

Amend R.C.M. 201(f)(1)(A)(iii)(b) by substituting the following therefor:

"(b) The case has not been referred with a special instruction that the case is to be tried as capital."

Amend the Analysis accompanying R.C.M. 201(f) by inserting the following prior to the discussion of subsection (f)(2):

"200__ Amendment: Subsection (1)(A)(iii)(b) was changed to reflect that a convening authority must affirmatively act to refer a capital punishment eligible offense for trial as a capital case."

Amend R.C.M. 307(c)(4) by inserting the following at the end thereof:

"What is substantially one transaction should not be made the basis for an unreasonable multiplication of charges against one person."

Amend the Discussion accompanying R.C.M. 307(c)(4) by striking the first sentence.

Amend the Analysis accompanying R.C.M. 307(c)(4) by inserting the following prior to the discussion of subsection (c)(5):

"200 Amendment: The first sentence of the non-binding discussion was moved, en toto, to subsection (4) to reflect the decision of *United States* v. *Quiroz*, which identifies the prohibition against the unreasonable multiplication of charges as a "a long-standing principle of military law. See United States v. Quiroz, 55 M.J. 334 (CAAF 2001)."

Amend R.C.M. 501(a)(1)(A) to read as follows:

"(A) A military judge and, except in capital cases, not less than five members."

Amend R.C.M. 501(a)(1) by inserting the following subparagraph (C) to read as follows:

"(C) In all capital cases, a military judge and no fewer than twelve members, unless twelve members are not reasonably available because of physical conditions or military exigencies. If fewer than twelve members are reasonably available, the convening authority shall detail the next lesser number of reasonably available members under twelve, but in no event fewer than five. In such a case, the convening authority shall state in the convening order the reasons why twelve members are not reasonably available."

Amend R.C.M. 805(b) is amended by replacing the current second sentence with the following:

"No general court-martial proceeding requiring the presence of members may be conducted unless at least 5 members are present, or in capital cases, at least twelve members are present except as provided in R.C.M. 501(a)(1)(C), where twelve members are not reasonably available because of physical conditions or military exigencies. No special court-martial proceeding requiring the presence of members may be conducted unless at least 3 members are present except as provided in R.C.M. 912(h)."

Amend R.C.M. 1003(b) (2) by deleting "foreign" and substituting "hardship" therefor.

Amend the Analysis accompanying R.C.M. 1003(b) (2) by inserting the following paragraph:

"200___Amendment: Hardship Duty Pay (HDP) superseded Foreign Duty Pay (FDP) on 3 February 1999. HDP is payable to members entitled to basic pay. The Secretary of Defense has established that HDP will be paid to members (a) for performing specific missions, or (b) when assigned to designated areas."

Amend R.C.M. 1004(b) by inserting the following after "(1) Notice." and before "Before":

"(A) Referral. The convening authority shall indicate that the case is to be tried as a capital case by including a special instruction in the referral block of the charge sheet. Failure to include this special instruction at the time of the referral shall not bar the convening authority from later adding the required special instruction, provided:

(i) that the convening authority has otherwise complied with the notice requirement of subsection (B); and

(ii) that if the accused demonstrates specific prejudice from such failure to include the special instruction, a continuance or a recess is an adequate remedy.

(B) Arraignment."

Amend the analysis accompanying R.C.M. 1004(b) by substituting the following paragraph for the current first paragraph:

"200___Amendment: Subsection (1) (A) is intended to provide early and definitive notice that the case has been referred for trial as a capital case. Subsection (1) (B) is intended to provide the defense written notice of the aggravating factors it intends to prove, yet afford some latitude to the prosecution to provide later notice, recognizing that the exigencies of proof may prevent early notice in some cases."

Insert the following new R.C.M. 1103A to read as follows:

"Sealed exhibits and proceedings. If the record of trial contains exhibits, proceedings, or other matter ordered sealed by the military judge, the trial counsel shall cause such materials to be sealed so as to prevent indiscriminate viewing or disclosure. Trial counsel shall ensure that such materials are properly marked, including an annotation that the material was sealed by order of the military judge, and inserted at the appropriate place in the original record of trial. Copies of the record shall contain appropriate annotations that matters were sealed by order of the military judge and have been inserted in the original record of trial. Except as provided in the following subsections to this rule, sealed exhibits may not be opened by any party.

(1) Examination of sealed matters. For the purpose of this rule, "examination" includes unsealing the sealed documents, reading, viewing, or manipulating them in any way. "Examination" under this rule does not include photocopying, photographing, duplicating, or disclosing in any manner in the absence of an order from appropriate authority.

(A) Prior to authentication. Prior to authentication of the record by the military judge, sealed materials may not be examined in the absence of an order from the military judge based on good cause shown.

(B) Authentication through action. After authentication and prior to disposition of the record of trial pursuant to Rule for Courts-Martial 1111, sealed materials may not be examined in the absence of an order. Such order may be issued from the military judge upon a showing of good cause at a post-trial Article 39a session directed by the Convening Authority.

(C) Reviewing and appellate authorities.

(i) Reviewing and appellate authorities may examine sealed matters when those authorities determine that such action is reasonably necessary to a proper fulfillment of their responsibilities under the Uniform Code of Military Justice, the Manual for Courts-Martial, governing directives, instructions, regulations, applicable rules for practice and procedure or rules of professional responsibility.

(ii) Reviewing and appellate authorities shall not, however, disclose sealed matter or information in the absence of:

(a) Prior authorization of the Judge Advocate General in the case of review under Rule for Courts-Martial 1201 (b); or

(b) Prior authorization of the appellate court before which a case in pending in the case of review under Rules for Courts-Martial 1203 and 1204.

(iii) In those cases in which review is sought or pending before the United States Supreme Court, authorization to disclose sealed materials or information shall be obtained under that Court's rules of practice and procedure.

(iv) The authorizing officials in paragraph (ii) above may place conditions on authorized disclosures in order to minimize the disclosure.

(v) Reviewing and appellate authorities include:

(a) Judge advocates reviewing records pursuant to Rule for Courts-Martial 1112;

(b) Officers and attorneys in the office of the Judge Advocate General reviewing records pursuant to Rule for Courts-Martial 1201(b);

(c) Appellate government counsel;

(d) Appellate defense counsel;

(e) Appellate judges of the Courts of Criminal Appeals and their professional staffs;

(f) The judges of the United States Court of Appeals for the Armed Forces and their professional staffs;

(g) The Justices of the United States Supreme Court and their professional staff; and

(h) Any other court of competent jurisdiction."

Insert the following Analysis to accompany new R.C.M. 1103A:

"200___Amendment: The 1998 amendments to the Manual for Courts-Martial introduced the requirement to seal M.R.E. 412 (rape shield) motions, related papers, and the records of the hearings, to "fully protect an alleged victim of [sexual assault] against invasion of privacy and potential embarrassment." MCM Appendix 22, p. 36. As current rule 412(c)(2) reads, it is unclear whether appellate courts are bound by orders sealing 412 information issued by the military judge. *See, e.g., United States* v. *Stirewalt*, 53 M.J. 582 (C.G.C.C.A. 2000).

On a larger scale, the effect and scope of a military judge's order to seal exhibits, proceedings, or materials is similarly unclear. Certain aspects of the military justice system, particularly during appellate review, seemingly mandate access to sealed materials. For example, appellate defense counsel have a need to examine an entire record of trial to advocate thoroughly and knowingly on behalf of a client. Yet there is some uncertainty about appellate defense counsel's authority to examine sealed materials in the absence of a court order.

The rule is designed to respect the privacy and other interests that justified sealing the material in the first place, while at the same time recognizing the need for certain military justice functionaries to review that same information. The rule favors an approach relying on the integrity and professional responsibility of those functionaries, and assumes that they can review sealed materials and at the same time protect the interests that justified sealing the material in the first place. Should disclosures become necessary, then the party seeking disclosure is directed to an appropriate judicial or quasi-judicial official or tribunal to obtain a disclosure order."

Amend Manual for Courts-Material, Part IV, Paragraph 14c(2)(a), by inserting the following new subparagraph (ii) and renumbering existing subparagraphs (a)(ii) through (iv) as (a)(iii) through (v):

"(ii) Determination of lawfulness. The lawfulness of an order is a question of law to be determined by the military judge."

Amend Manual for Courts-Martial, Part IV, Paragraph 109, by deleting the current text and replacing with the following: .

"109. Article 134—Threat or Hoax Designed or Intended To Cause Panic or Public Fear

a. Text. See paragraph 60.

b. Elements.

(1) Threat.

(a) That the accused communicated certain language;

(b) That the information communicated amounted to a threat;

(c) That the harm threatened was to be done by means of an explosive, weapon of mass destruction, biological, or chemical agent, substance, or weapon, or hazardous material;

(d) That the communication was wrongful; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) Hoax.

(a) That the accused communicated or conveyed certain information;

(b) That the information communicated or conveyed concerned an attempt being made or to be made by means of an explosive, weapon of mass destruction, biological, or chemical agent, substance or weapon, or hazardous material to unlawfully kill, injure, or intimidate a person or to unlawfully damage or destroy certain property;

(c) That the information communicated or conveyed by the accused was false and that the accused then knew it to be false;

(d) That the communication of the information by the accused was malicious; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. Explanation:

(1) Threat. A "threat" means an expressed present determination or intent to kill, injure, or intimidate a person or to damage or destroy certain property presently or in the future. Proof that the accused actually intended to kill, injure, intimidate, damage, or destroy is not required.

(2) Explosive. "Explosive" means gunpowder, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electrical circuit breakers), detonators, and other detonating agents, smokeless powders, any explosive bomb, grenade, missile, or similar device, and any incendiary bomb or grenade, fire bomb, or similar device, and any other explosive compound, mixture, or similar material.

(3) Weapon of mass destruction. A weapon of mass destruction is a device designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; or any weapon involving a disease organism; or any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

(4) Biological agent. The term "biological agent" means any micro-organism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method production, that is capable of causing—

(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water equipment, supplies, or materials of any kind; or

(5) Chemical agent, substance, or weapon. A chemical agent, substance or weapon refers to a toxic chemical and its precursors and or a munition or device, specifically designed to cause death or other harm through toxic properties of those chemicals which would be released as a result of the employment of such munition or device, and any equipment specifically designed for use directly in connection with the employment of such munitions or devices.

(6) Hazardous material. A substance or material (including explosive, radioactive material, etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material, and compressed gas, or mixture thereof) or a group or class of material designated as hazardous by the Secretary of Transportation.

(7) Malicious. A communication is "malicious" if the accused believed that the information would probably interfere with the peaceful use of the building, vehicle, aircraft, or other property concerned, or would cause fear or concern to one or more persons.

d. Lesser included offenses.

(1) Threat

(a) Article 134—communicating a threat

(b) Article 80—attempts

(c) Article 128—assault

(2) Hoax. Article 80—attempts

e. Maximum punishment. Dishonorable discharge, forfeitures of all pay and allowances and confinement for 10 years.

f. Sample specifications.

(1) Threat.

In that _____ (personal jurisdiction data) did, (at/on board—location) on or about _____ 20____, wrongfully communicate certain information, to wit: _____, which language constituted a threat to harm a person or property by means of a(n) [explosive, weapon of mass destruction, biological agent or substance, chemical agent or substance and/or (a) hazardous material[s]]].

(2) Hoax.

In that _____ (personal jurisdiction data) did, (at/on board—location), on or about _____ 20 ____, maliciously (communicate) (convey) certain information concerning an attempt being made or to be made to unlawfully [(kill) (injure) (intimidate) _____] [(damage) (destroy) _____] by means of a(n) [explosion, weapon of mass destruction, biological agent or substance, chemical agent or substance, and/or (a) hazardous material(s)], to wit: _____, which information was false and which the accused then knew to be false."

Amend the Analysis accompanying Punitive Article 134, Paragraph 109, subparagraph c, by inserting the following at the end thereof:

"200 ____ Amendment: This paragraph has been expanded to annunciate the various means by which a threat or hoax is based. Whereas explosives were the instruments most commonly used in the past, new types of weapons have developed. These devices include weapons of mass destruction, chemical agents, biological agents, and hazardous materials."

Amend the Analysis accompanying Punitive Article 134, Paragraph 109, subparagraph e, by inserting the following at the end thereof:

"200 ____ Amendment: This amendment increases the maximum punishment currently permitted under paragraph 109 from 5 years to 10 years. Ten years is the maximum period of confinement permitted under 18 U.S.C. 844(e), the U.S. Code section upon which the original paragraph 109 is based.

Amend the Analysis accompanying Punitive Article 90 by inserting the following new subparagraph c(2)(a)(ii) and renumbering existing subparagraphs (a)(ii) through (iv) as (a)(iii) through (v):

"200____ Amendment: The Court of Appeals for the Armed Forces held that the lawfulness of an order is a question of law to be determined by the military judge, not the trier of fact. See United States v. New, 55 M.J. 95 (C.A.A.F.)."

Dated: May 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–12636 Filed 5–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University, DoD.

ACTION: Notice.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of visitors (BoV) will be held in the Packard Conference Center. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: Thursday, June 20, 2002 from 09001500.

ADDRESSES: Packard Conference Center, Building 184, Fort Belvoir, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Reid, 703–805–5133.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Diane Reid at 703–805–5133.

Dated: May 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 02–12506 Filed 5–7–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Application Serial No. 10/059, 978 entitled "Pulsed Laser Deposition of Polymer Thin Films Using a Tunable Infrared Laser", Navy Case No. 82,974.

ADDRESSES: Requests for copies of the invention cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, e-mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: May 13, 2002.

R. E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–12511 Filed 5–17–02; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Friday, May 31, 2002. The hearing will be part of the Commission's regular business meeting. The conference session and business meeting both are open to the public. The conference session will be held at Grey Towers, 151 Grey Towers Drive, Milford, Pennsylvania. The business meeting also will be held at Grey Towers, unless there is a possibility of bad weather in the afternoon or evening. In that event, the business meeting will be held at the Best Western Inn at Hunt's Landing, 120 Route 6 and Route 209, also in Milford, Pennsylvania. In case of doubt about the hearing location, contact the DRBC on May 31 at 609–883–9500. Directions to both locations are posted on the Commission's web site, *http://www.DRBC.net.*

The conference among the Commissioners and staff will begin at 10 a.m. Topics of discussion will include: an update on a proposal for protecting existing water quality in the Lower Delaware River pending a possible special protection waters designation; an update on PCB TMDL development and sampling activities; a proposed resolution authorizing the Executive Director to engage a consultant to assist in development of a PCB fate and transport model for the Delaware Estuary; a proposal to engage the Chesapeake Biological Laboratory of the University of Maryland to conduct carbon analytical work in connection with development of a TMDL for PCBs in the Delaware Estuary; a report on the May meeting of the DRBC's Flow Management Technical Advisory Committee; and proposed resolutions authorizing the Executive Director to renew DRBC's contract with the Northeast-Midwest Institute and to engage a consultant to perform a position classification and compensation analysis.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the dockets listed below, a resolution amending Article 8 of the *Administrative Manual—Rules of Practice and Procedure* relating to fees associated with Commission responses to Freedom of Information Act ("FOIA") requests. In the event a resolution or docket is considered involving modification of the Commission's Comprehensive Plan to adjust releases from the New York City Reservoirs to protect tailwaters fisheries, then a hearing on such proposal also will be held. Please contact the Commission Secretary after May 16 for information on the status of this item.

The dockets scheduled for public hearing are as follows:

1. *Boyertown Foundry Company D–85–80 RENEWAL 2.* A renewal of a ground water withdrawal project to supply up to 3.54 million gallons (mg)/30 days of water to the applicant's foundry facility (formerly Eastern Foundry Company) from existing Well No. 1A in the Leithsville Dolomite Formation. No increase in allocation is proposed. The project is located in Boyertown Borough, Berks County, Pennsylvania.

2. *Schwenksville Borough Authority D–98–30 CP.* A project to increase the rated capacity of the applicant's existing 0.206 million gallons per day (mgd) sewage treatment plant (STP) to 0.3 mgd. The STP will continue to provide secondary biological treatment via trickling filter and activate sludge systems to serve the Borough of Schwenksville and adjacent portions of Perkiomen and Lower Frederick Townships, all in Montgomery County, Pennsylvania. The STP is situated just west of Perkiomen Creek, to which it will continue to discharge, and just east of State Route 73 between Church and Maple Streets in the Borough of Schwenksville, Montgomery County, Pennsylvania.

3. *McGinley Mills, Inc. D–91–55 RENEWAL.* A renewal of a ground water withdrawal project to continue withdrawal of 13.4 mg/30 days to supply the applicant's industrial facility from existing Wells Nos. 1 and 2 in the Allentown formation. The project is located in the Town of Phillipsburg, Warren County, New Jersey

4. *Maidencreek Township Authority D–91–58 CP RENEWAL.* A renewal of a ground water withdrawal project with an increase of withdrawal from 13.2 mg/30 days to 22.7 mg/30 days to supply the applicant's public water distribution system from existing Wells No. 1, 2, and 3 in the Epler and Allentown formations. The project is located in Maidencreek Township, Berks County, Pennsylvania.

5. *New Jersey Department of Corrections—Bayside State Correctional Facility D–2000–10 CP.* A ground water withdrawal project to supply up to 30 mg/30 days of water to the applicant's correctional facility and farm from new Well No. 5 in the Cohansey-Kirkwood aquifer and to retain the withdrawal limit from all wells at 30 mg/30 days. The project is located in Maurice River Township, Cumberland County, New Jersey.

6. *Pennridge Wastewater Treatment Authority D–2001–1 CP.* A project to expand the applicant's existing advanced secondary STP from 4.0 mgd to 4.325 mgd via trickling filter and chemical addition processes. Located in both West Rockhill Township and Sellersville Borough, both in Bucks County, Pennsylvania, the STP will serve the Boroughs of Perkasie, Sellersville, Silverdale and Telford, and the Townships of East Rockhill, Hilltown and West Rockhill, all in Bucks County. Treated effluent will continue to be discharged to the adjacent East Branch Perkiomen Creek through an existing outfall.

7. *West Vincent Township D–2001–60.* A project to construct a 0.11 mgd aerated-lagoon type STP and effluent spray irrigation system to serve proposed housing and commercial office development on the northeast corner of Routes 100 and 401 in West Vincent Township, Chester County, Pennsylvania. Following secondary treatment, effluent will be sprayed on 22 acres of adjacent farm and wooded lands. During inclement weather, STP effluent can be stored in on-site lagoons, so no discharge to nearby Birch Run Creek in the French Creek watershed is required.

8. *Tidewater Utilities, Inc. D–2002–4 CP.* A ground water withdrawal project to supply up to 7.95 mg/30 days of water to the applicant's public water distribution system from new Wells Nos. L5 and L9 in the Columbia Formation. Wells Nos. L5 and L9 will be interconnected with the applicant's eleven other wells, which are located outside the Delaware River Basin. The project is located in the Broadkill River watershed in Lewes/Rehoboth, Sussex County, Delaware.

9. *Philadelphia Suburban Water Company D–2002–5 CP.* A ground water withdrawal project to supply a combined total of 6.26 mg/30 days of water to the applicant's public water supply distribution system from new Kay Wells B and C, to be interconnected with nine existing wells currently comprising the Pennsylvania Suburban Water Company (PSW) UGS Northern Division service area, and to limit the withdrawal from all wells to 15.86 mg/30 days. Kay Well B is to be allocated at 2.80 mg/30 days and Kay Well C at 3.45 mg/30 days. The project is located in the Beaver Creek watershed in East Brandywine Township, Chester County, Pennsylvania. As proposed in the PADEP draft water supply permit, Special Condition I, the Kay Wells would be removed from service once a water treatment plant receiving water from PSW's Cornog Quarry Project (a proposed surface water withdrawal and storage project on the East Branch Brandywine Creek in Wallace Township, Chester County) is placed into operation. At such time, the DRBC's combined total allocation for the remaining wells is proposed to be limited to 9.6 mg/30 days.

10. *Kidder Township D–2002–6 CP.* A project to expand the 0.15 mgd Split Rock STP to process 0.4 mgd, while continuing to provide a tertiary level of treatment. The applicant proposes to purchase the existing STP from Vacation Charters, Ltd. and expand the sequencing batch reactor plant to serve future development at the Split Rock Resort and current flows from properties in the Lake Harmony and Split Rock areas, all within Kidder Township, Carbon County, Pennsylvania. The project is located about 2 miles west of the intersection of Interstate 80 and State Route 115. The existing STP owner will retain a spray irrigation permit to apply the effluent to its resort golf course, as needed, or allow it to discharge to Shingle Mill Run, a tributary of Tobyhanna Creek in the Lehigh River Watershed.

In addition to the public hearing items, the Commission will address the following at its 1 p.m. business meeting: Minutes of the April 3, 2002 business meeting; announcements; a report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; discussion and possible Commission response to requests for a hearing to review the Commission's action on Docket D–98–11 CP of the Pennsylvania Suburban Water Company (formerly Philadelphia Suburban Water Company); and resolutions (1) authorizing the Executive Director to engage a consultant to assist in development of a PCB fate and transport model for the Delaware Estuary; (2) authorizing the Executive Director to engage the Chesapeake Biological Laboratory of the University of Maryland to conduct carbon analytical work in connection with development of a TMDL for PCBs in the Delaware Estuary; (3) authorizing the Executive Director to renew DRBC's contract with the Northeast-Midwest Institute; (4) authorizing the Executive Director to engage a consultant to performing a position classification and compensation analysis; (5) providing for election of the Commission Chair, Vice Chair and Second Vice Chair for the year 2002–03, commencing July 1, 2002; and (6) honoring N.G. Kaul. The meeting will conclude with an opportunity for public dialogue.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at 609–883–9500 ext. 221 with any docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Commission Secretary at 609–883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at 609–883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY), to discuss how the Commission may accommodate your needs.

Dated: May 14, 2002.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 02–12534 Filed 5–17–02; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 19, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address Karen_F._Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires

that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: May 14, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: William D. Ford Federal Direct Loan Program Deferment Request Forms (JS).

Frequency: On Occasion.

Affected Public: Individuals or household (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 143030.

Abstract: These forms serve as the means by which the U.S. Department of Education collects the information needed to determine whether a Direct Loan borrower qualifies for a loan deferment.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 1953. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at his Internet address *joe.schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–12509 Filed 5–17–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.214A]

Migrant Education Even Start Program

AGENCY: Department of Education.

Notice inviting applications for new awards for fiscal year (FY) 2002.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations, the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The Migrant Education Even Start (MEES) program is designed to help break the cycle of poverty and improve the literacy of participating migratory families by integrating early childhood education, adult literacy or adult basic education (including English language training, as appropriate), and parenting education into a unified family literacy program.

Eligible Applicants: While any entity is eligible to apply for a grant under the MEES program, the Assistant Secretary for Elementary and Secondary Education specifically invites applications from State educational agencies (SEAs) that administer migrant education programs; local educational agencies (LEAs) that have a high percentage of migratory students; non-profit community-based organizations that work with migratory families; and faith-based organizations, provided that they meet all statutory and regulatory requirements.

The Assistant Secretary also invites applications from novice applicants. "Novice applicant" means any applicant for a grant from the U.S. Department of Education (the Department) that has never received a grant or subgrant under the MEES program; has never been a participant in a group application, submitted in accordance with sections 75.127–75.129 of the Education Department General Administrative Regulations (EDGAR), that received a grant under the program from which it sought funding; and has not had an active discretionary grant from the Federal Government in five years before the deadline date for applications under the MEES program. (34 CFR 75.225.)

The Assistant Secretary has determined that special consideration of novice applications is appropriate and will give competitive preference of 5 points to eligible novice applicants under the procedures in 34 CFR 75.105 (c)(2). In addition, before making a grant to a novice applicant, the Assistant Secretary imposes special conditions, if necessary, to ensure that the grant is managed effectively and project objectives are achieved.

(Authority 20 U.S.C. 1221e–3 and 3474.)

Deadline for Transmittal of Applications: July 5, 2002.

Deadline for Intergovernmental Review: September 3, 2002.

Available Funds: For FY 2002, approximately $7,000,000 is available for this program.

Estimated Range of Awards: $75,000–$300,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 20–25.

Note: The Department is not bound by any estimates in this notice.

Project Period: 48 months.

Applicable Regulations:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99. (b) The definitions of a migratory child, a migratory agricultural worker and a migratory fisher contained in 34 CFR 200.40.

Waiver of Proposed Rulemaking: In the "Program Description" and "Required Program Elements" sections of this notice, the Assistant Secretary has interpreted provisions in ESEA sections 1231 and 1235 to require an emphasis on reading proficiency as the basis for academic success in program that underscores programs such as Reading First and Early Reading First.

It is the Assistant Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed rules and competitive preferences. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Assistant Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). The Assistant Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards.

Description of Program: Under the authority of section 1232(a)(1)(A) of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001, the Assistant Secretary awards grants to eligible applicants under the MEES program for projects that—

(1) Improve the educational opportunities of migratory families by integrating early childhood education, adult literacy or adult basic education (including English language training, as appropriate), and parenting education into a unified program of family literacy services.

(**Note:** Each project must use the grant funds to provide intensive family literacy services that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to help children in reaching their full potential as learners. See ESEA section 1234(a).)

As defined in ESEA section 9101(20) "Family literacy services" means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Opportunities for parents, the first teachers, to improve the academic achievement of the their children.

(C) Adult literacy training that advances parents reading achievement and academic success.

(D) An early childhood education that improves reading readiness and prepares children for success in school.

(2) Are implemented through cooperative projects that build on high-quality existing community resources to create a new range of services.

(3) Promote the academic achievement of children and adults.

(4) Assist children and adults from low-income families to achieve to challenging State content standards and challenging State student academic achievement standards; and

(5) Use instructional programs based on scientifically based reading research and the prevention of reading difficulties for children and adults.

Program Requirements:

Eligible participants. Eligible MEES participants consist of migratory children and their parents as defined in 34 CFR 200.30 and 200.40 who also meet the following conditions specified in ESEA, section 1236(a):

(1) The parent or parents—

(i) Are eligible for participation in an adult basic or adult secondary education program under the Adult Education and Family Literacy Act; or

(ii) Are younger than the State's compulsory school attendance age, as long as a local educational agency provides (or ensures the availability of) the basic education component MEES requires, or who are attending secondary school; and

(2) The child or children of the parent described in paragraph (c) must be younger than eight years of age.

(**Note:** Family members of eligible participants described in paragraphs (a)(1) and (a)(2) may also participate in MEES activities. These participants may include siblings, grandparents, and other family members so long as one or more eligible children and their parents or guardian participate in the core services. In addition, section 1236(b) of the ESEA, as amended, permits families to remain eligible for MEES services until all family members become ineligible to participate. For example, in the case of a family in which the parent or parents lose eligibility because of their educational advancement, the parent or parents can still participate in MEES activities until all children in the family reach age eight. When all children in the family have reached age eight, the family continues to be eligible for Even Start services for two more years (until the youngest participating child turns ten) or until the parents are no longer eligible for adult basic education under the Adult Education and Family Literacy Act, whichever occurs first. In addition, the Department interprets 34 CFR 200.30 together with ESEA section 1236(b)(3), to mean that MEES services may continue to be provided to a parent or child who is no longer migratory, provided that the family has at least one parent or child who is a migratory worker or migratory child as these terms are defined under 34 CFR 200.40.)

Required program elements. Any MEES project must, at a minimum, incorporate the following program elements specified in ESEA section 1235:

1. Identification and recruitment of migratory families most in need of MEES services, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators.

(**Note:** MEES program services may be provided in communities where migratory families have resided for extended periods of time. 34 CFR 200.30 and 200.40 permit children to be eligible for MEES services for up to three years after the children make a move that makes them eligible for the Migrant Education Program (MEP). However, in developing and using their need-related indicators to identify and recruit those families most in need of MEES program services, the Assistant Secretary believes that the most effective MEES projects are likely to focus on families that are highly mobile or who have only recently moved to the communities that projects propose to serve. In this regard, the MEP statute (section 1304(d) of the ESEA) requires that migratory students whose education has been interrupted and who are at most risk of failing be given a priority for the services that the program offers. While this MEP priority is not an explicit requirement of the MEES program, we assume, given the purpose of the MEES program, that those families receiving a priority under the MEP also have the greatest need for MEES services.)

2. Screening and preparation of children and parents, including teenage parents, to enable them to participate fully in program activities and services, including testing, referral to necessary counseling, and other developmental and support services.

3. High-quality, intensive instructional programs that teach reading skills and informs parents how to support the educational growth of their children; developmentally appropriate early childhood educational services; and preparation of children for success in the regular school programs.

4. Accommodation of participants' work schedules and other responsibilities, including the provision of support services necessary for participation in the activities, when such services are unavailable from other sources, such as—

(A) Scheduling and locating services to allow joint participation by parents and children;

(B) Child care for the period that parents are participating in the program provided under this part; and

(C) Transportation to enable parents and their children to participate in the MEES program;

5. Qualifications of project staff whose salaries are paid partially or totally with MEES or other federal Even Start funds. Projects must meet the following requirements:

(A) A majority of the staff providing academic instruction (1) must have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary or secondary school education, or adult education, and, (2) if applicable, must meet State qualifications for early childhood, elementary, or secondary school education, or adult education provided as part of an Even Start

program or another family literacy program.

(i) By December 21, 2004, the individual responsible for MEES local project administration must have received training in the operation of a family literacy program; and

(ii) By December 21, 2004, paraprofessionals who provide support for academic instruction must have a high school diploma or its recognized equivalent.

6. Special training of staff, including childcare staff, to develop the skills necessary to work with parents and young children in the full range of instructional services that MEES offers.

7. Provision and monitoring of integrated instructional services to participating parents and children through home-based activities.

8. Operation on a year-round basis, including the provision of instructional and enrichment services, during the summer.

Note: For MEES projects, the Assistant Secretary interprets the requirement for year-round services to mean that project activities must be conducted throughout the period in which participating migratory families reside in the project area, and that alternative activities or services are offered when participating families work and reside outside the project area.

9. Recruitment and retention that encourages participating families to attend regularly and remain in the program for a period of time sufficient to meet their program goals.

10. Promotion of the continuity of family literacy, if applicable, to ensure that individuals retain and improve their educational outcomes.

11. Appropriate coordination with other ESEA programs, any relevant programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, Title I of the Workforce Investment Act of 1998, Head Start, volunteer literacy programs, and other relevant programs.

Note: In addition, to promoting strong community collaboration, ESEA sections 1232(e) and 1237(a) require applicants for grants under the SEA-administered Even Start Family Literacy program administered by SEAs to be partnerships composed of: (1) A local educational agency (LEA), and (2) a non-profit community-based organization, a public agency other than an LEA, an institution of higher education, or a public or private nonprofit organization of demonstrated quality other than an LEA. While these provisions are not requirements of the MEES program, the Assistant Secretary believes that the most effective MEES projects are also likely to contain strong, on-going collaborative relationships among these kinds of local entities.

12. Use of instructional programs based on scientifically based reading research (as defined in ESEA section 1208) for children and adults.

13. Include preschool reading skills for preschool children that are based on scientifically based reading research, to ensure that children enter school ready to learn to read.

14. Provide for an independent evaluation of the program to be used for program improvement.

Note: The Assistant Secretary encourages projects to use evaluators for MEES projects who understand the family literacy model, who are able to work with the project as a partner in designing the evaluation, and who will help the project use its on-going evaluation results in a way that ensures continuous program improvement.

Federal and local funding. A MEES project's funding is composed of both a Federal portion of funds (Federal share) and a portion contributed by the eligible applicant (local share). ESEA section 1234 states that the Federal share of the program may not exceed—

- 90 percent of the total cost of the project in the first year of the applicant's first project period;
- 80 percent in the second year;
- 70 percent in the third year;
- 60 percent in the fourth year;
- 50 percent in the fifth, sixth, seventh, and eighth years; and
- 35 percent in any following year.

Note: Applicants who are applying for continuations of MEES projects for the fifth year and beyond must meet the 50 per cent match in their fifth through eighth years and the 65 per cent local match in their ninth year and beyond.

The local share of the MEES project may be provided in cash or in kind, fairly evaluated, and may be obtained from any source, including other ESEA programs. Indirect costs are not an allowable cost either for the Federal share or the matching portion of a MEES project.

Invitational Priority

The Assistant Secretary is especially interested in receiving applications that include a plan demonstrating that grant activities will focus on one or more approaches described in this section. However, an application that meets one of more of these invitational priorities does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Coordination across SEAs and LEAs is at the heart of migrant education's purpose: preventing or mitigating disruptions in the education of qualifying migratory students. Seasonal MEES projects may not be of sufficient duration to effect long-term gains for parents or students.

Therefore, to promote opportunities for continuous learning by migratory families, the Assistant Secretary is particularly interested in receiving applications that propose to do one or more of the following:

- Create Federal, State, and local partnerships that improve reading proficiency and advance English language acquisition so that migratory children enter elementary school with strong early reading skills.
- Plan long-range, intensive family literacy services that engage migrant families wherever they move outside the project area in order to eliminate disruptions in the education of participating families.
- Build networks with agricultural employers that will supplement resources available to develop English proficiency for migratory agricultural families with limited English or native-language literacy.

Selection Criteria

The Assistant Secretary uses the following selection criteria to evaluate applications for grants under this competition.

(1) The maximum score for all of these criteria is 100 points. However, novice applicants will be awarded an additional 5 points, which could result in a maximum score of 105 points.

(2) The maximum score for each criterion is indicated in parentheses.

(a) *Meeting the purposes of the authorizing statute.* (5 points)

The Assistant Secretary reviews each application to determine how well the project will—

(1) Improve the educational opportunities of migratory families by integrating early childhood education, adult literacy or adult basic education (including English language training, as appropriate), and parenting education into a unified family literacy program.

(2) Be implemented through cooperative projects that build on existing community resources to create a new range of services to migratory families.

(3) Promote the achievement of family literacy goals (particularly the goals that address school readiness, student achievement, adult literacy, and parent involvement and participation in their child's early education) through research-based reading and English-language acquisition practices that meet the diverse needs of the migrant community of learners.

(4) Assist children and adults from migratory families to achieve challenging State content standards and

challenging State student academic achievement standards.

(b) *Need for project.* (15 points) The Assistant Secretary considers the need for the proposed project. In determining the need for the proposed project, the Assistant Secretary considers the following factors:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(2) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals (i.e., eligible migratory agricultural or fishing families).

(3) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

Note: Applicants are free to address criterion (b) in any way that they wish. However, given the purpose of the MEES program, the Assistant Secretary believes that high-quality applications will likely include a discussion of the following key elements:

(i) Whether the project would be located in an area or areas with high percentages or large numbers of migratory children and their parents, guardians, or primary caretakers in need of MEES services.

(ii) How the project will address the lack of existing comprehensive family literacy services for the migrant population.

(iii) How community resources will be used to benefit project participants both during the participants' period of eligibility for migrant education services and in the event that participating families lose their eligibility for MEES services during the project period.

(iv) How the project will integrate age-appropriate early childhood education, adult literacy, parenting education activities, and interactive parent/child literacy activities.

(v) How the project will assist migratory children and adults to achieve the State content standards and student academic achievement standards.

Some migratory families may settle in a community during their enrollment, and thereafter, cease to be eligible. The Assistant Secretary believes that high-quality applications will likely include a plan for ensuring that these families have ongoing access to family literacy services when their enrollment can no longer be supported with basic MEP or MEES program funds. In this regard, an applicant might, for example, describe how the project will fill any gaps in services, or how it will connect families with existing resources or services if they settle in the community.

(c) *Quality of the project design.* (20 points) The Assistant Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Assistant Secretary considers the following factors:

(1) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(2) The extent to which the project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(3) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(Note: Applicants are free to address criterion (c) in any way that they wish. However, the Assistant Secretary believes that, in designing their project, high-quality applications likely will address each of the required program elements in ESEA section 1235, and listed in the Program Requirements section of this notice. In this regard, the Assistant Secretary believes that a high-quality application likely would explain how its proposed design addresses each one of those requirements in order to meet the needs of the migratory families whom the project will serve.

For example, given the mobility of these families, the Assistant Secretary believes that high-quality applications will likely include strategies for maintaining family education services to migratory families after they have moved from the local community.

In addressing requirement number 8, that projects conduct family literacy services year-round, the Assistant Secretary acknowledges that migratory families may reside in communities for varying lengths of time. Therefore, the Assistant Secretary interprets that requirement to mean that grantees must provide project activities not only during the period in which participating migratory families reside in the project area but also at times when families travel or work outside the local community. The Assistant Secretary strongly encourages applicants to explore ways to maintain contact and continue to monitor the progress of highly mobile families whether or not they are resident in the applicant's community.

Examples of strategies that address this requirement for year-round operations and ongoing family participation include distance learning; capacity building and partnership efforts with sending and receiving States and school districts; self-paced learning packages; and other materials, technologies, and activities that make year-round literacy services viable and family-friendly for migrant workers.)

(d) *Quality of project services.* (15 points) The Assistant Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Assistant Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Assistant Secretary considers the following factors:

(1) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from scientifically based research and effective practice.

(2) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(3) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

(e) *Quality of Project Personnel.* (10 points) The Assistant Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Assistant Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Assistant Secretary considers the qualifications, including relevant training and experience of key project personnel.

(**Note:** Applicants may answer criterion (e) in any way that seems reasonable. The Assistant Secretary believes that high quality applications will, at a minimum, address how projects will meet staffing, certification, training, and professional development requirements under ESEA section 1235(b)(5), and described in the PROGRAM REQUIREMENTS section of this notice.)

(f) *Adequacy of resources.* (15 points) The Assistant Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Assistant Secretary considers the following factors:

(1) The relevance and demonstrated commitment of each partner in the

proposed project to the implementation and success of the project.

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(3) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(4) The extent to which costs are reasonable in relation to the number of persons to be served and the anticipated results and benefits.

(g) *Quality of the project evaluation.* (20 points) The Assistant Secretary considers the quality of the evaluation to be conducted of the proposed project.

In determining the quality of the evaluation, the Assistant Secretary considers the following factors:

(1) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(2) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(3) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(4) The extent to which methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(5) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Note: Applicants are free to address criterion (g) in any way they wish. However, ESEA section 1235(10), requires applicants to conduct an independent evaluation of their project. In addition, they must participate in the national Even Start data collection effort. Given these two requirements, the Assistant Secretary believes that high-quality applications are likely to address this criterion by explaining how the project will conduct an ongoing, independent, local evaluation to ensure that the quality of the proposed family literacy services is validated and improved over the course of the four-year project period.

In addition, the Assistant Secretary believes that high-quality applicants would likely bear in mind the following information in considering how they intend to report the effectiveness of their project. Funded projects are required to complete an annual performance report on their progress in meeting the approved objectives of their grant to ensure continued funding. These reports and other evaluation information provide local projects, the Department, and the Congress with objective data about the activities and services provided by the project, the participants served, the retention rates of those participants, and the success of the families in the project.

The Department has also developed a set of performance indicators for the Even Start Family Literacy Program in accordance with the Government Performance and Results Act (GPRA) that relate to participant outcomes and project management. The Department uses these indicators in reporting to the Congress on the overall effectiveness of the program. The Assistant Secretary will provide Migrant Education Even Start grantees with these indicators and technical assistance for responding to them.

The following items are not part of the program's selection criteria, but provide additional information for applicants.

National Evaluation

The Department is conducting a national evaluation of Even Start Family Literacy projects. MEES program grantees must cooperate with the Department's efforts by adopting an evaluation plan that is consistent with the national evaluation (as well as with the grantee's responsibilities under ESEA section 1235(10) and 34 CFR 74.51, 75.118, 75.253, and 80.40).

The Assistant Secretary suggests that projects designate appropriate funds for conducting their independent local evaluation, as well as resources to coordinate submissions of their local evaluation with annual performance reports. The Assistant Secretary also recommends that applicants budget for the cost of travel to Washington, DC and four nights' lodging for the project director, instructional services coordinator, and project evaluator, for their participation in annual technical assistance/evaluation meetings. The budget should also include a staff travel plan for training and professional development in the family literacy construct.

Information by project and budget periods. Under 34 CFR 75.112 and 75.117, an eligible applicant must propose a project period, and provide budgetary information for each budget period of that proposed project period. The Assistant Secretary requires that the budgetary information include an amount for all key project components with an accompanying breakdown of any subcomponents, along with a written justification for all requested amounts. (A form for reporting this information is contained in the appendix of this notice.)

Section 75.112(b) also requires that an applicant describe how and when, in each budget period of the project, it plans to meet each objective of the project.

Note: The Department will use this information, in conjunction with the grantee's annual performance report required under 34 CFR 75.118(a), to determine whether a continuation award for the subsequent budget year should be made. Under 34 CFR 75.253, a grantee can receive a continuation award only if it demonstrates that it either has made substantial progress toward meeting the objectives of the approved project, or has received the Assistant Assistant Secretary's approval of changes in the project to enable it to meet the objectives in the succeeding budget periods.

As indicated in the Note to the selection criterion (g) (Quality of project evaluation), each project must conduct an independent local evaluation. In budgeting for the cost of this independent local evaluation, you may wish to contact potential local evaluators, such as researchers or teachers at local community colleges or universities, to ascertain a typical hourly rate.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant, you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive Order 12372. If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order. You may view the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants*

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Assistant Secretary, E.O. 12372—CFDA# 84.214A, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

We will determine proof of mailing 34 CFR 75.102 (Deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424) and instructions. Novice applicants identify themselves in item number six (6) on the form.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials:

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013, 12/98).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

You may submit information on a photocopy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

For Further Information Contact: DonnaMarie Marlow, U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, 400 Maryland Avenue, SW., Room 3E313, Washington, DC 20202–6135. Telephone: (202) 260–1164. The program contact may also be reached via e-mail at *donnamarie.marlow@ed.gov*. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Instructions for Transmittal of Applications

An application for an award may be submitted by regular mail, or hand delivery.

(a) If an applicant wants to apply for a grant, an applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U. S. Department of Education, Application Control Center, Attention: (CFDA #84.214A) Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.214A), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Assistant Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Assistant Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(1) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

(4) Guidelines provided for hand delivered applications are applicable to applications delivered by express delivery services. There is a 4:30 p.m. (Washington, D.C. time) deadline for receipt of express delivery services.

(5) Items mailed through the U.S. Post Office to the U.S. Department of Education is subject to rerouting and special processing at other U.S. postal facilities. These special circumstances have and can delay the mail for up to two months. It is recommended that applicants use electronic or express delivery services for the transmission of their applications to ensure timely delivery and processing.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the Internet at either of the following site: *www.ed.gov/legislation/FedRegister/*

To use PDF you must have the Adobe Acrobat Reader, which is available free at this site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 6381(a)(1)(a).

Dated: May 15, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative, an applicant should read carefully the description of the program and the selection criteria the Assistant Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project.

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package.

(*Note:* While applicants can address the criteria in any way that is reasonable, given the required emphasis of any MEES project on an integrated program of early childhood education, adult literacy or adult basic education, and parenting education, the Assistant Secretary believes that a reasonable plan of operation would likely address how the proposed project will provide high-quality instruction in these three areas that, with interactive literacy activities between parents and children (PACT), is integrated into a unified family literacy program. Moreover, consistent with 34 CFR 75.112(b), which requires that the application describe how and when, in each budget period, the applicant plans to meet each project objective, the Assistant Secretary believes that applicants would want particularly to describe each goal in terms of measurable objectives, specific activities that are proposed to meet each objective, time lines associated with these activities, the resources believed to be needed to achieve each objective, and how each objective will be evaluated.)

3. Provide the following information in response to the attached "NOTICE TO ALL APPLICANTS": (1) a reference to the portion of the application in which the applicant has described the steps that the applicant proposes to take to remove barriers to equitable access to, and equitable participation in, project activities; or (2) a separate statement that includes this information.

4. Include any other pertinent information that might assist the Assistant Secretary in reviewing the application.

Page Limit: The application narrative (Part III of the application) is where the applicant addresses the selection criteria reviewers use to evaluate your application. The recommended page limit for this application is 50 pages (appendices excepted), using the following standards:

- A page is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

Instruction for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1810–0541. (Expiration date: 04/30/2003). The time required to complete this information collection is estimated to average 60 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: US Department of Education, Washington, DC 20202–4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Migrant Education, US Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6135.

(Information collection approved under OMB control number 1810—0541. Expiration date: 04/30/2003)

BILLING CODE 4000–01–P

Application for Federal Education Assistance (ED 424)

U.S. Department of Education
Form Approved
OMB No 1875-0106
Exp. 11/30/2004

Applicant Information

1. Name and Address
Legal Name: _____
Address: _____
City _____ State _____ County _____ ZIP Code + 4 _____

Organizational Unit

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 84
Title: _____
5. Project Director: _____
Address: _____
City _____ State _____ ZIP Code + 4 _____
Tel. #: _____ Fax #: _____
E-Mail Address: _____

6. Novice Applicant ☐ Yes ☐ No
7. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)
8. Type of Applicant (Enter appropriate letter in the box.)
A State
B Local
C Special District
D Indian Tribe
E Individual
F Independent School District
G Public College or University
H Private, Non-Profit College or University
I Non-Profit Organization
J Private, Profit-Making Organization
K Other (Specify): _____

Application Information

9. Type of Submission:
—PreApplication ☐ Construction ☐ Non-Construction
—Application ☐ Construction ☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes (Date made available to the Executive Order 12372 process for review): _____
☐ No (If "No," check appropriate box below.)
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: _____ End Date: _____

12. Are any research activities involving human subjects planned at any time during the proposed project period?
☐ Yes (Go to 12a.) ☐ No (Go to item 13.)

12a. Are all the research activities proposed designated to be exempt from the regulations?
☐ Yes (Provide Exemption(s) #): _____
☐ No (Provide Assurance #): _____

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	0.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Authorized Representative (Please type or print name clearly.)
b. Title
c. Tel. #: _____ Fax #: _____
d. E-Mail Address:
e. Signature of Authorized Representative _____ Date: _____

Instructions for ED 424

1. Legal Name and Address. Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. D-U-N-S Number. Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: http://www.dnb.com.

3. Tax Identification Number. Enter the taxpayer's identification number as assigned by the Internal Revenue Service.

4. Catalog of Federal Domestic Assistance (CFDA) Number. Enter the CFDA number and title of the program under which assistance is requested. The CFDA number can be found in the federal register notice and the application package.

5. Project Director. Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. Novice Applicant. Check "Yes" or "No" only if assistance is being requested under a program that gives special consideration to novice applicants. Otherwise, leave blank.

   Check "Yes" if you meet the requirements for novice applicants specified in the regulations in 34 CFR 75.225 and included on the attached page entitled "Definitions for Form ED 424." By checking "Yes" the applicant certifies that it meets these novice applicant requirements. Check "No" if you do not meet the requirements for novice applicants.

7. Federal Debt Delinquency. Check "Yes" if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check "No."

8. Type of Applicant. Enter the appropriate letter in the box provided.

9. Type of Submission. See "Definitions for Form ED 424" attached.

10. Executive Order 12372. See "Definitions for Form ED 424" attached. Check "Yes" if the application is subject to review by E.O. 12372. Also, please enter the month, day, and four (4) digit year (e.g., 12/12/2001). Otherwise, check "No."

11. Proposed Project Dates. Please enter the month, day, and four (4) digit year (e.g., 12/12/2001).

12. Human Subjects Research. (See I.A. "Definitions" in attached page entitled "Definitions for Form ED 424.")

    If Not Human Subjects Research. Check "No" if research activities involving human subjects are not planned at any time during the proposed project period. The remaining parts of Item 12 are then not applicable.

    If Human Subjects Research. Check "Yes" if research activities involving human subjects are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution. Check "Yes" even if the research is exempt from the regulations for the protection of human subjects. (See I.B. "Exemptions" in attached page entitled "Definitions for Form ED 424.")

12a. If Human Subjects Research is Exempt from the Human Subjects Regulations. Check "Yes" if all the research activities proposed are designated to be exempt from the regulations. Insert the exemption number(s) corresponding to one or more of the six exemption categories listed in I.B. "Exemptions." In addition, follow the instructions in II.A. "Exempt Research Narrative" in the attached page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. If Human Subjects Research is Not Exempt from Human Subjects Regulations. Check "No" if some or all of the planned research activities are covered (not exempt). In addition, follow the instructions in II.B. "Nonexempt Research Narrative" in the page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. Human Subjects Assurance Number. If the applicant has an approved Federal Wide (FWA) or Multiple Project Assurance (MPA) with the Office for Human Research Protections (OHRP), U.S. Department of Health and Human Services, that covers the specific activity, insert the number in the space provided. If the applicant does not have an approved assurance on file with OHRP, enter "None." In this case, the applicant, by signature on the face page, is declaring that it will comply with 34 CFR 97 and proceed to obtain the human subjects assurance upon request by the designated ED official. If the application is recommended/selected for funding, the designated ED official will request that the applicant obtain the assurance within 30 days after the specific formal request.

    Note about Institutional Review Board Approval. ED does not require certification of Institutional Review Board approval with the application. However, if an application that involves non-exempt human subjects research is recommended/selected for funding, the designated ED official will request that the applicant obtain and send the certification to ED within 30 days after the formal request.

13. Project Title. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. Estimated Funding. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. Certification. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, day, and four (4) digit year (e.g., 12/12/2001) in the date signed field.

Paperwork Burden Statement. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0106. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form write directly to: Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

Definitions for Form ED 424

Novice Applicant (See 34 CFR 75.225). For discretionary grant programs under which the Secretary gives special consideration to novice applications, a novice applicant means any applicant for a grant from ED that—

- Has never received a grant or subgrant under the program from which it seeks funding;

- Has never been a member of a group application, submitted in accordance with 34 CFR 75.127-75.129, that received a grant under the program from which it seeks funding; and

- Has not had an active discretionary grant from the Federal government in the five years before the deadline date for applications under the program. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In the case of a group application submitted in accordance with 34 CFR 75.127-75.129, a group includes only parties that meet the requirements listed above.

Type of Submission. "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). "Construction" also includes remodeling to meet standards, remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries. For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

Executive Order 12372. The purpose of Executive Order 12372 is to foster an intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The application notice, as published in the Federal Register, informs the applicant as to whether the program is subject to the requirements of E.O. 12372. In addition, the application package contains information on the State Single Point of Contact. An applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a State Single Point of Contact. For additional information on E.O. 12372 go to http://www.cfda.gov/public/eo12372.htm.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH

I. Definitions and Exemptions

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Research

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, it is research. Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Human Subject

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." (1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met. [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of exemptions are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. If the subjects are children, exemption 2 applies only to research involving educational tests and observations of public behavior when the investigator(s) do not participate in the

activities being observed. Exemption 2 does not apply if children are surveyed or interviewed or if the research involves observation of public behavior and the investigator(s) participate in the activities being observed. [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

II. Instructions for Exempt and Nonexempt Human Subjects Research Narratives

If the applicant marked "Yes" for Item 12 on the ED 424, the applicant must provide a human subjects "exempt research" or "nonexempt research" narrative and insert it immediately following the ED 424 face page.

A. Exempt Research Narrative.

If you marked "Yes" for item 12a. and designated exemption numbers(s), provide the "exempt research" narrative. The narrative must contain sufficient information about the involvement of human subjects in the proposed research to allow a determination by ED that the designated exemption(s) are appropriate. The narrative must be succinct.

B. Nonexempt Research Narrative.

If you marked "No" for item 12a. you must provide the "nonexempt research" narrative. The narrative must address the following seven points. Although no specific page limitation applies to this section of the application, be succinct.

(1) Human Subjects Involvement and Characteristics: Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable

(2) Sources of Materials: Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Recruitment and Informed Consent: Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Potential Risks: Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Protection Against Risk: Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Importance of the Knowledge to be Gained: Discuss the importance of the knowledge gained or to be gained as a result of the proposed research. Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

(7) Collaborating Site(s): If research involving human subjects will take place at collaborating site(s) or other performance site(s), name the sites and briefly describe their involvement or role in the research.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff, Office of the Chief Financial Officer, U.S. Department of Education, Washington, D.C. 20202-4248, telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://www.ed.gov/offices/OCFO/humansub.html

U.S. DEPARTMENT OF EDUCATION
BUDGET INFORMATION
NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004
Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						0
2. Fringe Benefits						0
3. Travel						0
4. Equipment						0
5. Supplies						0
6. Contractual						0
7. Construction						0
8. Other						0
9. Total Direct Costs (lines 1-8)	0	0	0	0	0	0
10. Indirect Costs						0
11. Training Stipends						0
12. Total Costs (lines 9-11)	0	0	0	0	0	0

ED Form No. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						0
2. Fringe Benefits						0
3. Travel						0
4. Equipment						0
5. Supplies						0
6. Contractual						0
7. Construction						0
8. Other						0
9. Total Direct Costs (lines 1-8)	0	0	0	0	0	0
10. Indirect Costs						0
11. Training Stipends						0
12. Total Costs (lines 9-11)	0	0	0	0	0	0

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

OMB Control No. 1890-0007 (Exp. 09/30/2004)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Public Law (P.L.) 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1890-0007.** The time required to complete this information collection is estimated to average 1.5 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3652, GSA Regional Office Building No. 3). Washington, DC 20202-4248.

[FR Doc. 02–12620 Filed 5–17–02; 8:45 am]
BILLING CODE 4000–01–C

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1412–DR]

Missouri; Amendment No.1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri, (FEMA–1412–DR), dated May 6, 2002, and related determinations.

EFFECTIVE DATE: May 8, 2002.
FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.
SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include Individual Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 6, 2002:

Bollinger, Butler, Carter, Howell and Madison Counties for Individual Assistance (already designated for Public Assistance).

Cape Girardeau, Douglas, Dunklin, Iron, Oregon, Ozark, Perry, Reynolds, Ripley, Shannon, St. Francois, Stoddard, Texas and Wayne Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,
Director.
[FR Doc. 02–12538 Filed 5–17–02; 8:45 am]
BILLING CODE 6718–02–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.
ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, June 6, 2002, 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Quarterly update on Rocky Flats issues, provided by a representative from the U.S. Environmental Protection Agency.
2. Discussion with DOE representatives and regulators on Rocky Flats end-state issues.
3. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on May 15, 2002.
Rachel M. Samuel,
Deputy Committee Management Officer.
[FR Doc. 02–12550 Filed 5–17–02; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–339–000]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

May 14, 2002.

Take notice that on May 1, 2002, Transcontinental Gas Pipe Line Corporation (Transco) submitted a motion for extension of time to comply with Order No. 587–N, until the date Transco implements its new business system, 1Line.

Transco states that the basis for the extension of time is related to its ongoing efforts to develop its new business system, 1Line and, in the interim, to avoid the allocation of substantial resources necessary to modify its existing system to comply with the Commission's directives. Transco requests an extension of time to comply with the first phase of the intraday recall requirement in Order No. 587–N until the implementation of 1Line on April 1, 2003. Transco contends that it is unable to modify its existing business systems to comply with the Commission's intraday recall provisions by July 1, 2002. Transco further asserts that it cannot manually comply with Order No. 587–N. Since Transco is in the process of developing a new business system 1Line, it requests an extension of time to comply with the first phase of Order No. 587–N until its new business system is implemented. Transco asserts that it anticipates 1Line will be implemented by April 1, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before May 24, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.
[FR Doc. 02–12525 Filed 5–17–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–68–000, et al.]

Progress Ventures, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 13, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Progress Ventures, Inc., Progress, GenCo Ventures, LLC, Washington, County Power, LLC and Walton, County Power, LLC

[Docket No. EC02–68–000]

Take notice that on May 8, 2002, Progress Ventures, Inc. (Progress Ventures), Progress GenCo Ventures, LLC (Progress GenCo), Washington County Power, LLC (Washington) and Walton County Power, LLC (Walton) (collectively, Applicants), tendered for filing pursuant to Section 203 of the Federal Power Act and Part 33 of the Federal Energy Regulatory Commission's (Commission) regulations, a request for authorization and approval to engage in an internal restructuring whereby Progress Ventures transfers to Progress GenCo all of Progress Ventures' membership interest Washington and Walton.

Copies of the filing were served on the North Carolina Public Utilities Commission and the Georgia Public Service Commission.

Comment Date: June 3, 2002.

2. Duke Energy Moapa, LLC

[Docket No. EG02–134–000]

On May 8, 2002, Duke Energy Moapa, LLC (Duke Moapa) filed an application with the Federal Energy Regulatory Commission (the Commission) for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and Part 365 of the Commission's regulations.

Duke Moapa is a Delaware limited liability company that will be engaged directly and exclusively in the business of operating all or part of one or more eligible facilities to be located in Clark County, Nevada. The eligible facilities will consist of an approximately 1,200 MW natural gas-fired, combined cycle electric generation plant and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment Date: June 3, 2002.

3. Duke Electric Transmission

[Docket No. ER02–1745–000]

Take notice that on May 6, 2002, Duke Electric Transmission (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with Select Energy, Inc., for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on April 26, 2002. Duke states that this filing is in accordance with Part 35 of the Federal Energy Regulatory Commission's (Commission) Regulations.

A copy has been served on the North Carolina Utilities Commission.

Comment Date: May 28, 2002.

4. Duke Electric Transmission

[Docket No. ER02–1746–000]

Take notice that on May 6, 2002, Duke Electric Transmission (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with Select Energy, Inc., for Non-Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on April 25, 2002. Duke states that this filing is in accordance with Part 35 of the Federal Energy Regulatory Commission's (Commission) Regulations.

A copy has been served on the North Carolina Utilities Commission.

Comment Date: May 28, 2002.

5. Xcel Energy Services, Inc.

[Docket No. ER02–1750–000]

Take notice that on May 7, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a First Amendment to the Interconnection Agreement between SPS and West Texas Municipal Power Agency (WTMPA).

XES requests that this agreement become effective on July 8, 2002.

Comment Date: May 28, 2002.

6. Southern Company Services, Inc.

[Docket No. ER02–1751–000]

Take notice that on May 7, 2002, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company ("Southern Companies") tendered for filing the Generator Balancing Service Agreement by and between Williams Energy Marketing & Trading Company ("Williams") and Southern Companies (the "Service Agreement") under Southern Companies' Generator Balancing Service Tariff (FERC Electric Tariff, First Revised Volume No. 9). The Service Agreement supplies Williams with unscheduled energy in connection with sales from Tenaska Alabama Partners, L.P.'s electric generating facility as a replacement for unintentional differences between the facility's actual metered generation and its scheduled generation. The Service Agreement (No. 7) is dated as of May 1, 2002, and shall terminate upon twelve months prior written notice of either party.

Comment Date: May 28, 2002.

7. Southern Company Services, Inc.

[Docket No. ER02–1752–000]

Take notice that on May 7, 2002, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies) tendered for filing the Generator Balancing Service Agreement by and between Duke Energy Trading and Marketing, LLC (Duke Energy) and Southern Companies (the "Service Agreement") under Southern Companies' Generator Balancing Service Tariff (FERC Electric Tariff, First Revised Volume No. 9). The Service Agreement supplies Duke Energy with unscheduled energy in connection with sales from Duke Energy Enterprise, LLC's electric generating facility as a replacement for unintentional differences between the facility's actual metered generation and its scheduled generation. The Service Agreement (No. 8) is dated as of May 2, 2002, and shall terminate upon twelve months prior written notice of either party.

Comment Date: May 28, 2002.

8. Wisconsin Public Service Corporation

[Docket No. ER02–1753–000]

Take notice that on May 7, 2002, Wisconsin Public Service Corporation (WPSC) tendered for filing a revised partial requirements service agreement with Upper Peninsula Power Company (UPPCO). Second Revised Service Agreement No. 11 provides UPPCO's contract demand nominations for January 2003—December 2003, under WPSC's W–2A partial requirements tariff.

The company states that copies of this filing have been served upon UPPCO and to the State Commissions where WPSC serves at retail.

Comment Date: May 28, 2002.

9. West Texas Utilities Company

[Docket No. ER02–1754–000]

Take notice that on May 7, 2002, West Texas Utilities Company (WTU) submitted for filing the Interconnection Agreement, dated January 1, 2000, between WTU and Coleman County Electric Cooperative, Inc. (Coleman) amended to include an additional point of interconnection to be established between the parties near Coleman's two new substations that will serve water pumping load near Lake Ivie in west Texas.

WTU seeks an effective date of August 1, 2002 for this point of interconnection.

WTU served copies of the filing on Coleman and the Public Utility Commission of Texas.

Comment Date: May 28, 2002.

10. New England Power Pool

[Docket No. ER02–1755–000]

Take notice that on May 7, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include the Robert E. McLaughlin Trust (Trust). The Participants Committee requests a May 7, 2002 effective date for the commencement of participation in NEPOOL by the Trust.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: May 28, 2002.

11. American Transmission Company LLC

[Docket No. ER02–1757–000]

Take notice that on May 7, 2002, American Transmission Company LLC (ATCLLC) tendered for filing a Generation-Transmission Interconnection Agreement between ATCLLC and Riverside Energy Center, LLC. ATCLLC requests an effective date of April 7, 2002.

Comment Date: May 28, 2002.

12. California Independent System Operator Corporation

[Docket No. ER02–1758–000]

Take notice that on May 7, 2002, the California Independent System Operator Corporation (ISO) filed First Revised Service Agreement No. 239 Under ISO Rate Schedule No. 1, which is a Participating Generator Agreement between the ISO and Green Power Partners I LLC (Green Power Partners). The ISO has revised the PGA to update the list of generating units listed in Schedule 1 of the PGA. The ISO requests an effective date for the filing of February 21, 2002.

The ISO has served copies of this filing upon Green Power Partners and all entities that are on the official service list for Docket No. ER99–3254–000.

Comment Date: May 28, 2002.

13. Dominion Energy Marketing, Inc.

[Docket No. ER02–1759–000]

Take notice that on May 7, 2002, Dominion Energy Marketing, Inc. (the Company) respectfully tendered for filing the following:

Service Agreement by Dominion Energy Marketing, Inc. to FirstEnergy Solutions Corp. designated as Service Agreement No 1 under the Company's Market-Based Sales Tariff, FERC Electric Tariff, Original Volume No. 1, effective on December 15, 2000. The Company requests an effective date of April 8, 2002, as requested by the customer.

Copies of the filing were served upon the FirstEnergy Solutions Corp., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: May 28, 2002.

14. Consumers Energy Company

[Docket No. ER02–1760–000]

Take notice that on May 7, 2002 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with Northern States Power Company (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of May 3, 2002.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment Date: May 28, 2002.

15. Arizona Public Service Company

[Docket No ER02–1761–000]

Take notice that on May 7, 2002, Arizona Public Service Company (APS) filed the following with the Federal Energy Regulatory Commission: (1) Amended Lease Power Agreement between APS and ED–3, APS FERC First Revised Rate Schedule No. 12, to be effective as of March 1, 2002; (2) Amended Lease Power Agreement between APS and ED–1, APS FERC First Revised Rate Schedule No. 68, to be effective as of March 1, 2002; (3) Notice of Cancellation of Amended Lease Power Agreement between APS and ED–3, APS FERC First Revised Rate Schedule No. 12, to be effective upon sale of Sexton Substation by PWCC to ED–3; (4) Notice of Cancellation of Amended Lease Power Agreement between APS and ED–1, APS FERC First Revised Rate Schedule No. 68, to be effective upon sale of Sexton Substation by PWCC to ED–3; (5) Notice of Cancellation of Lease Agreement between APS and ED–1, pages 31 through 59 of APS FERC Rate Schedule No. 68, to be effective as of March 31, 2002; (6) Notice of Cancellation of Banking Agreement between APS and ED–3, APS Rate Schedule No. 106, to be effective upon sale of Sexton Substation by PWCC to ED–3; and (7) Notice of Cancellation of Banking Agreement between APS and ED–1, APS Rate Schedule No. 117, to be effective upon sale of Sexton Substation by PWCC to ED–3.

Comment Date: May 28, 2002.

16. Reliant Energy Solutions East, LLC

[Docket No. ER02–1762–000]

Take notice that on May 7, 2002, Reliant Energy Solutions East, LLC (RESE) petitioned the Federal Energy Regulatory Commission to grant certain blanket authorizations, to waive certain of the Commission's Regulations and to issue an order accepting RESE's FERC Electric Rate Schedule No. 1. RESE intends to engage in power marketing transactions, purchasing and reselling electricity and offering electric generation services including services designed to facilitate power trading, such as brokering of electricity, engaging in risk management transactions or arranging or providing related services. RESE does not own or control electric generating or transmission facilities or have any franchised electric service territories. RESE is a wholly owned subsidiary of Reliant Energy Retail Holdings, LLC that is in turn a wholly owned subsidiary of Reliant Resources, Inc. which is a wholly owned subsidiary of Reliant Energy, Incorporated.

Comment Date: May 28, 2002.

17. Holland Energy, LLC

[Docket No. ER02–1763–000]

Take notice that on May 7, 2002, Holland Energy, LLC (Holland) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed service agreement with Ameren Services Company designated as Service Agreement No. 1. under Holland's FERC Electric Tariff, Original Volume No. 1.

Holland respectfully requests an effective date of March 29, 2002.

Comment Date: May 28, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12522 Filed 5–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–14–005, et al.]

Southwest Electric Cooperative, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 10, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Southwestern Electric Cooperative, Inc., Complainant, v. Soyland Power Cooperative, Inc., Respondent.

[Docket No. EL99–14–005]

Take notice that on May 2, 2002, Soyland Power Cooperative, Inc. tendered for filing a Compliance Filing in accordance with the orders issued in the above-captioned docket. *See Southwestern Electric Cooperative, Inc.* v. *Soyland Power Cooperative, Inc.*, 90 FERC ¶ 63,001 (2000), 95 FERC ¶ 61,254 (2001), 97 FERC ¶ 61,008 (2001), and 99 FERC ¶ 61,001 (2002).

Comment Date: June 3, 2002.

2. Hardee Power Partners Limited

[Docket No. ER99–2341–001]

Take notice that on May 6, 2002, Hardee Power Partners Limited (HPP) tendered for filing an updated market power analysis in accordance with Commission policies applicable to public utilities that are authorized to sell electric power at market-based rates. A copy of the filing has been served on the Florida Public Service Commission.

Comment Date: May 28, 2002.

3. Tampa Electric Company

[Docket No. ER99–2342–001]

Take notice that on May 6, 2002, Tampa Electric Company (Tampa Electric) tendered for filing an updated market power analysis in accordance with Commission policies applicable to public utilities that are authorized to sell electric power at market-based rates.

A copy of the filing has been served on each customer under Tampa Electric's market-based sales tariffs and the Florida Public Service Commission.

Comment Date: May 28, 2002.

4. Portland General Electric Company

[Docket No. ER02–338–003]

Take notice that on May 6, 2002, Portland General Electric Company (PGE) filed with the Federal Energy Regulatory Commission (Commission) corrections to PGE's revised Energy Imbalance Service tariff sheets of its Open Access Transmission Tariff in compliance with the Commission's March 15, 2002 letter order in the above-referenced proceeding.

PGE requests that the Commission make the amended tariff sheets effective as of March 1, 2002.

Comment Date: May 28, 2002.

5. PJM Interconnection, L.L.C.

[Docket No. ER02–1726–000]

Take notice that on May 6, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing (1) an amended Rock Springs Generating Facility interconnection service agreement to interconnect a 930 MW generating facility located in Rock Springs, Maryland to the PJM system, designated as First Revised Service Agreement No. 610 (Rock Springs ISA) between PJM and the owners of the Rock Springs Generating Facility, and (2) an executed Agreement On Operation of Certain Electric Transmission Facilities among PJM Interconnection L.L.C., Rock Springs Generation, L.L.C. and CED Rock Springs, Inc. (Facilities Operation Agreement), designated as Rate Schedule FERC No. 34. PJM states that the amendment to the Rock Springs ISA modifies the Rock Springs ISA to incorporate all the current owners of the Rock Springs Generating Facility as signatories to the Rock Springs ISA, which the Commission accepted for filing on October 24, 2001, effective May 18, 2001.

PJM Interconnection, L.L.C., 97 FERC § 61,068 (2001). PJM states that the Facilities Operation Agreement transfers to PJM operational control of certain electric transmission facilities that are now under construction in association with the Rock Springs Generating Facility. PJM requests an effective date of April 29, 2002, for the Facilities Operation Agreement.

Copies of this filing were served upon the official service list of Docket No. ER01–3014–000, all members of PJM, and the state electric utility regulatory commissions within the PJM region.

Comment Date: May 28, 2002.

6. Otter Tail Power Company

[Docket No. ER02–1727–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an executed service agreement with Northern States Power Company, d/b/a Xcel Energy (NSP), for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of NSP and other affected parties.

Comment Date: May 28, 2002.

7. Otter Tail Power Company

[Docket No. ER02–1728–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an unexecuted Service Agreement with East Grand Forks Water and Light Department (East Grand Forks) for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of East Grand Forks and other affected parties.

Comment Date: May 28, 2002.

8. Otter Tail Power Company

[Docket No. ER02–1729–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an unexecuted service agreement with Minnkota Power Cooperative, Inc. (MPC) for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of MPC and other affected parties.

Comment Date: May 28, 2002.

9. Otter Tail Power Company

[Docket No. ER02–1730–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an unexecuted service agreement with Missouri River Energy Services (MRES) for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of MRES and other affected parties.

Comment Date: May 28, 2002.

10. Otter Tail Power Company

[Docket No. ER02–1731–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an unexecuted service agreement with East River Electric Power Cooperative, Inc. (EREPC) for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of EREPC and other affected parties.

Comment Date: May 28, 2002.

11. Otter Tail Power Company

[Docket No. ER02–1732–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an unexecuted service agreement with Great River Energy (GRE) for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of GRE and other affected parties.

Comment Date: May 28, 2002.

12. Otter Tail Power Company

[Docket No. ER02–1733–000]

Take notice that on May 6, 2002, Otter Tail Power Company (Otter Tail) tendered for filing an unexecuted service agreement with Central Power Electric Cooperative (CPEC) for services provided under Otter Tail's Control Area Services and Operations Tariff. Otter Tail requests an effective date of April 6, 2002 for this service agreement.

A copy of the filing was served on representatives of CPEC and other affected parties.

Comment Date: May 28, 2002.

13. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1734–000]

Take notice that on May 6, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Service Agreement for the transmission service requested by California Electric Marketing, LLC.

A copy of this filing was sent to California Electric Marketing, LLC.

Comment Date: May 28, 2002.

14. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1735–000]

Take notice that on May 6, 2002, pursuant to section 205 of the Federal Power Act and section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing Service Agreements for the transmission service requested by The Empire District Electric Company.

A copy of this filing was sent to The Empire District Electric Company.

Comment Date: May 28, 2002.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1736–000]

Take notice that on May 6, 2002, pursuant to section 205 of the Federal Power Act and section 35.13 of the Commission's regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing Service Agreements for the transmission service requested by RWE Trading Americas, Inc.

A copy of this filing was sent to RWE Trading Americas, Inc.

Comment Date: May 28, 2002.

16. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1737–000]

Take notice that on May 6, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing Service Agreements for the transmission service requested by Sikeston Board of Municipal Utilities.

A copy of this filing was sent to Sikeston Board of Municipal Utilities.

Comment Date: May 28, 2002.

17. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1738–000]

Take notice that on May 6, 2002, pursuant to section 205 of the Federal Power Act and section 35.13 of the Commission's regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Service Agreements for the transmission service requested by UBS AG, London Branch.

A copy of this filing was sent to UBS AG, London Branch.

Comment Date: May 28, 2002.

18. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1739–000]

Take notice that on May 6, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing Service Agreements for the transmission service requested by Virginia Electric and Power Company.

A copy of this filing was sent to Virginia Electric and Power Company.

Comment Date: May 28, 2002.

19. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1740–000]

Take notice that on May 6, 2002, pursuant to section 205 of the Federal Power Act and section 35.13 of the Commission's regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Service Agreements for the transmission service requested by Western Resources, Inc. dba Westar Energy.

A copy of this filing was sent to Western Resources, Inc. dba Westar Energy.

Comment Date: May 28, 2002.

20. Nevada Power Company

[Docket No. ER02–1741–000]

Take notice that on May 6, 2002, Nevada Power Company tendered for filing four executed second Letters of Understanding between Nevada Power Company and the following generators: (1) Las Vegas Cogeneration II; (2) Mirant Las Vegas, LLC; (3) Duke Energy Moapa, LLC; and (4) Reliant Energy Bighorn, LLC. The Letters of Understanding are submitted as Service Agreement Nos. 119 through 122, respectively, to Nevada Power's Open Access Transmission Tariff. Nevada Power requests that the Letters of Understanding be made effective as of the execution date of each agreement.

Comment Date: May 28, 2002.

21. Nevada Power Company

[Docket No. ER02–1742–000]

Take notice that on May 6, 2002, Nevada Power Company tendered for filing five Memoranda of Understanding between Nevada Power Company and the following five generators: (1) Las Vegas Cogeneration II, LLC; (2) Duke Energy Moapa, LLC; (3) Mirant Las Vegas, LLC; (4) Reliant Energy Bighorn, LLC; and (5) GenWest, LLC. The MOUs are submitted as Service Agreement Nos. 123 through 127, respectively, to Nevada Power's Open Access Transmission Tariff. Nevada Power requests that the Memoranda of Understanding be made effective on the filing date of each agreement, or May 6, 2002.

Comment Date: May 28, 2002.

22. Avista Corp.

[Docket No. ER02–1743–000]

Take notice that on May 6, 2002, Avista Corporation (AVA) tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm and Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with FPL Energy Power Marketing. AVA requests the Service Agreements be given an effective date of April 1, 2002.

Comment Date: May 28, 2002.

23. Northwestern Wisconsin Electric Company

[Docket No. ER02–1744–000]

Take notice that Northwestern Wisconsin Electric Company, on May 2, 2002, tendered for filing proposed changes in its Transmission Use Charge, Rate Schedule FERC No. 2. The proposed changes would decrease revenues from jurisdictional sales by $1,422.07 based on the 12 month period ending April 30, 2002. Northwestern Wisconsin Electric Company is proposing this rate schedule change to more accurately reflect the actual cost of transmitting energy from one utility to another based on current cost data. The service agreement for which this rate is calculated calls for the Transmission Use Charge to be reviewed annually and revised on May 1.

Northwestern Wisconsin Electric Company requests this Rate Schedule Change become effective May 1, 2002.

Copies of this filing have been provided to the respective parties and to the Public Service Commission of Wisconsin.

Comment Date: May 28, 2002.

24. PPL Shoreham Energy, LLC

[Docket No. ER02–1747–000]

On May 6, 2002, PPL Shoreham Energy, LLC filed with the Federal Energy Regulatory Commission (Commission) an application for authority to sell electric energy, capacity and certain ancillary services at market-based rates.

Comment Date: May 28, 2002.

25. Southwest Power Pool, Inc.

[ER02–1748–000]

Take notice that on May 6, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing a filing three revised service agreements for Firm Point-to-Point Transmission Service with Southwest Public Service Company d.b.a. Xcel Energy (Transmission Customer). SPP seeks an effective date of April 26, 2002 for these service agreements.

The Transmission Customer was served with a copy of this filing.

Comment Date: May 28, 2002.

26. PPL Edgewood Energy, LLC

[Docket No. ER02–1749–000]

On May 6, 2002, PPL Edgewood Energy, LLC filed with the Federal Energy Regulatory Commission (Commission) an application for authority to sell electric energy, capacity and certain ancillary services at market-based rates.

Comment Date: May 28, 2002.

27. Boston Edison Company

[Docket No. ES02–33–000]

Take notice that on April 30, 2002, Boston Edison Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt in an amount not to exceed $350 million during a two-year period.

Comment Date: May 24, 2002.

28. Cambridge Electric Light Company

[Docket No. ES02–34–000]

Take notice that on April 30, 2002, Cambridge Electric Light Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt securities in an amount not to exceed $60 million during a two-year period.

Comment Date: May 24, 2002.

29. Commonwealth Electric Company

[Docket No. ES02–35–000]

Take notice that on April 30, 2002, Commonwealth Electric Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt securities in an amount not exceeding $125 million during a two year period.

Comment Date: May 24, 2002.

30. Consumers Energy Company

[Docket No. ES02–36–000]

Take notice that on May 2, 2002, Consumers Energy Company (Consumers) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue up to $2.7 billion of long-term securities, including but not limited to, term loans, first mortgage bonds, stocks, preferred securities and notes.

Consumers also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: May 31, 2002.

31. Consumers Energy Company

[Docket No. ES02–37–000]

Take notice that on May 2, 2002, Consumers Energy Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term securities in an amount not to exceed $1.1 billion at any one time.

Comment Date: May 31, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12523 Filed 5–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM961000]

Regulations Governing Off-the-Record Communications; Public Notice

May 14, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. Copies of these filings are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

EXEMPT

Docket No.	Date Filed	Presenter or requester
1. CP01–438–000	4–11–02	Paul Friedman.
2. Project No. P–1494–232.	5–8–02	Edward B. Lienbach.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12524 Filed 5–17–02; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7214–2]

Announcement of a Stakeholder Meeting on the Six-Year Review of Existing National Primary Drinking Water Regulations, as Required by the Safe Drinking Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of a stakeholder meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has scheduled a public meeting to discuss the results of the Agency's preliminary findings in the review of 69 pre-1997 National Primary Drinking Water Regulations (NPDWRs). The **Federal Register** notice that announced the preliminary results of the review of NPDWRs (i.e., the Six-Year Review) was published by EPA on April 17, 2002.

The purpose of this meeting is to provide information to stakeholders and the public on the Six-Year Review of NPDWRs.

DATES: The stakeholder meeting will be held from 9 a.m. to 5:15 p.m. on May 30.

ADDRESSES: The meeting will be at the Washington Plaza Hotel, phone (202)842–1300, or (800)424–1140, located at 10 Thomas Circle, NW (corner of M and 14th Streets) in downtown Washington, DC. The hotel is a short distance from both the McPherson Square Metro Station (Orange and Blue Lines) and Farragut North Metro Station (Red Line).

FOR FURTHER INFORMATION CONTACT: For technical inquiries regarding the Six-Year Review of NPDWRs contact: Ms. Judy Lebowich, (202) 564–4884, e-mail: *lebowich.judy@epa.gov;* or Ms. Wynne Miller, (202) 564–4887, e-mail: *miller.wynne@epa.gov.* For registration and general information about this meeting, please contact Ms. Paula Moreno at RESOLVE, Inc., 1255 23rd Street, NW., Suite 275, Washington, DC. 20037, by phone: (202) 965–6218; by fax: (202)338–1264, or by e-mail at *pmoreno@resolv.org.* Those registered by May 22nd will receive background materials prior to the meeting. Additional information on these and other EPA activities under SDWA is available at the Safe Drinking Water Hotline at (800)426–4791.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA to review each national primary drinking water regulation (NPDWR) at least once every six years and revise any NPDWR as appropriate. SDWA specifies that any revision must maintain or increase public health protection. EPA developed a systematic approach, or protocol, for the review of NPDWRs in consultation with stakeholders. EPA has applied this protocol to the Agency's initial Six-Year Review of most of the NPDWRs published prior to the 1996 SDWA Amendments (i.e., pre-1997 NPDWRs). The review focused on 68 chemical NPDWRs and the Total Coliform Rule (TCR). The meeting will provide stakeholders information on EPA's protocol for the review of these 69 NPDWRs and EPA's preliminary revise/not revise decisions for these 69 NPDWRs. Comments on the Six-Year Review of NPDWRs must be submitted in writing to the Agency's Water Docket by June 17, 2002.

There will be a limited number of teleconference lines available for those who are unable to attend in person. Information about how to access these lines will accompany the pre-meeting materials to be mailed out to those who register, and also will be available prior to the day of this meeting through the previously-noted point of contact at RESOLVE, Inc.

Any person needing special accommodations at this meeting, including wheelchair access, should contact the same previously-noted point of contact at RESOLVE, Inc., at least five business days before the meeting so that the Agency can make appropriate arrangements.

Registration for this meeting will occur from 8:45 a.m. to 9 a.m.

Dated: May 15, 2002.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 02–12685 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7213–3]

General Administrative Compliance Order Issued Under Section 309 of the CWA to Permittees Covered by the NPDES General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000)

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of general administrative compliance order.

SUMMARY: Region 6 of the Environmental Protection Agency (EPA) today issues a general administrative compliance order applicable to those dischargers affected by EPA's recent modification to the National Pollutant Discharge Elimination System (NPDES) general permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000) for discharges from new sources, existing sources and new dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category, which was published on December 18, 2001 ("the offshore general permit" or "the permit"). The general administrative compliance order requires those dischargers who cannot comply with the modified permit's limits for discharges of drill cuttings generated using synthetic and other non-aqueous based drilling fluids to achieve compliance no later than August 16, 2002, with all limitations except the four-day sediment toxicity limit. Permittees must achieve compliance with the limitation for four-day sediment toxicity no later than February 1, 2003.

ADDRESSES: Mr. Taylor Sharpe, EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202, Telephone: (214) 665–7112, or via EMAIL at the following address: *sharpe.taylor@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Taylor Sharpe at (214) 665–7112.

SUPPLEMENTARY INFORMATION: As published on December 18, 2001 (66 FR 65209), EPA modified the offshore general permit, which was originally published November 2, 1998 (63 FR 58722) and modified April 19, 1999 (64 FR 19156), to address certain discharges and uses of non-aqueous based (synthetic) drilling fluids. The December 18, 2001 (66 FR 65209), modification will become effective on February 16, 2002, and can be found on the Internet at *http://www.epa.gov/region6/6wq/npdes/genpermt/offshore/fr_not.pdf.*

EPA received several comments on the draft permit, published on June 4, 2001 (66 FR 29948), requesting additional time for compliance with the permit modification. EPA is aware that this permit modification may cause many permittees to add and/or modify existing pollution control equipment in order to obtain compliance with the modified permit. Upon review of the probable process modifications necessary for compliance, EPA has agreed that a reasonable schedule for compliance may be issued for facilities that become aware of a violation, report it to EPA, and request an administrative compliance order within thirty (30) days of becoming aware of the violation. Compliance Order Notices for all violations except violations of the four-day sediment toxicity limitation, must be postmarked before August 16, 2002. Compliance Order Notices for violations of the four-day sediment toxicity limitation must be postmarked before February 1, 2003. The compliance order will provide until August 16, 2002, for permittees to make any necessary pollution control changes for all discharges to come into compliance with the new permit modifications for all new limitations except the four-day sediment toxicity limit. Permittees will be given until February 1, 2003, to make any necessary pollution control changes for all discharges to come into compliance with the new limitation for four-day sediment toxicity.

It is the policy of EPA to achieve full compliance with the NPDES permit program as rapidly as possible. If you have any questions regarding the applicability of this action to a particular entity, please contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. An "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act (SBREFA) may pertain to you and you may find this "Information Sheet" on the Internet at *<http://es.epa.gov/oeca/ccsmd/sbrefa.pdf>.* You may be subject to providing a "Notice of Registrants Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission (SEC). This SEC notice may be found on the Internet at *<http://www.epa.gov/earth1r6/6en/w/sec.pdf>.* You can find out more information regarding your NPDES Offshore program on the Internet at: *http://www.epa.gov/region6/offshore.*

United States Environmental Protection Agency, Region 6

In Re: NPDES PERMIT NO. GMG290000

General Administrative Compliance Order

The following Findings are made, and Order issued, under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by sections 308(a) and 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. 1318(a) and 1319(a). The Administrator of EPA has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Compliance Assurance and Enforcement Division. Issuance of this order is not "final agency action" and is subject to

judicial review only in connection with an action to enforce its terms.

Findings

1. Section 402(a) of the Act, 33 U.S.C. 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (NPDES) program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

2. Pursuant to section 402(a) of the Act, EPA issued the "Final NPDES General Permit for New and Existing Sources and New Discharges in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico," 63 FR 58722 (November 2, 1998) (GMG290000), which was modified April 19, 1999 (64 FR 19156), and December 18, 2001 (66 FR 65209). The general permit authorizes discharges from new sources, existing sources, and new discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A) to operators of lease blocks in the Oil and Gas Extraction Point Source Category which are located in Federal waters of the Western Portion of the Gulf of Mexico (defined as seaward of the outer boundary of the territorial seas off Louisiana and Texas) to the Western Portion of the Federal Waters of the Gulf of Mexico ("the industry"), but only in accordance with the conditions of the permit. The permit does not authorize discharges from facilities located in or discharging to the territorial seas of Louisiana or Texas or from facilities defined as "coastal," "onshore," or "stripper" (see 40 CFR part 435, subparts C, E, and E). The permit does, however, authorize the discharge of produced water to the Western portion of the Federal Waters of the Gulf of Mexico from wells located in lease blocks in the territorial seas of Louisiana and Texas.

3. As published on December 18, 2001 (66 FR 65209), EPA Region 6 again modified the permit to allow for discharges of drill cuttings generated using synthetic and other non-aqueous based drilling fluids and hydrostatic test water from pressure testing of existing pipelines. These permit modifications, effective February 16, 2002, impose new discharge limitations and standards for non-aqueous drilling fluids as specified below. Any further reference to "the permit" in this Order shall refer to the modified permit published on December 18, 2001 (66 FR 65209).

Limitations and Monitoring Requirements Which Apply to Drill Cuttings Generated Using Non-Aqueous Based Drilling Fluids

A. Stock Limitations

The permittee shall analyze a representative sample of the stock base fluids at the frequencies listed below. The test results shall be reported on the Discharge Monitoring Report.

Alternatively, the permittee may provide certification, as documented by the supplier(s), that the stock base fluid being used on the well will meet the limits listed below.

Polynuclear Aromatic Hydrocarbons (PAH). The mass ratio in grams of PAH (as phenanthrene) divided by the mass in grams of base fluids shall not exceed 0.00001. Monitoring shall be performed at least once per year on each base fluid blend. See part I, section D.10. of the permit.

Sediment Toxicity. The ratio of the 10-day LC_{50} of C_{16}–C_{18} internal olefin or C_{12}–C_{14} or C_8 ester reference fluid divided by the 10-day LC_{50} sediment toxicity test with Leptocheirus plumulosus of the base fluid shall not exceed 1.0. Monitoring shall be performed at least once per year on each base fluid blend. See part I, section D.8 of the permit.

Biodegradation Rate. The ratio of the cumulative gas production (ml) of C_{16}–C_{18} internal olefin or C_{12}–C_{14} or C_8 ester reference fluid divided by the cumulative gas production (ml) of stock base fluid, both at 275 days, shall not exceed 1.0. Monitoring shall be performed at least once per year on each base fluid blend. See part I, section D.9. of the permit.

Exception: Until February 1, 2003 a blend of different non-aqueous base fluids may be considered compliant with the biodegradation rate limit if the weighted average of the base fluids' biodegradation rate is greater than that of the C_{16}–C_{18} internal olefin standard tested concurrently.

B. Discharge Limitations

Sediment Toxicity. The ratio of the 4-day LC_{50} of C_{16}–C_{18} internal olefin reference drilling fluid divided by the 4-day LC_{50} of the drilling fluids removed from cuttings at the solids control equipment shall not exceed 1.0. Monitoring shall be performed at least once per month on drilling fluids which meet the stock limitations for a C_{16}–C_{18} internal olefin. The final monthly sample shall be collected at the end of drilling with non-aqueous based drilling fluids. For drilling fluids which meet stock limitations for C_{12}–C_{14} ester or C_8 ester, monitoring shall be performed at least once per well at the end of drilling with non-aqueous based drilling fluids. See appendix A of the permit.

The reference drilling fluid shall be formulated from C_{16}–C_{18} internal olefin and meet the criteria listed in Table 1 of 40 CFR part 435, subpart A, appendix 8. A uniform emulsifier package shall be used for all formulations of reference drilling fluids.

Formation Oil. No discharge. Monitoring shall be performed on the drilling fluid as follows:

(1) Once prior to drilling using the gas chromatography/mass spectrometry test method specified in part I, section D.11. of the permit. The test results shall be reported on the Discharge Monitoring Report (DMR).

Alternatively, the permittee may provide certification, as documented by the supplier(s), that the drilling fluid being used on the well will meet the no discharge limit for formation oil.

(2) Once per week during drilling using the Reverse Phase Extraction test method specified in part I, section D.12. of the permit.

Base Fluids Retained on Cuttings

Monitoring shall be performed at least once per day when generating new cuttings, except when meeting the conditions of the Best Management Practices described below. Operators conducting fast drilling (i.e., greater than 500 linear feet advancement of the drill bit per day using non-aqueous fluids) shall collect and analyze one set of drill cuttings samples per 500 linear feet drilled, with a maximum of three sets per day. Operators shall collect a single discrete drill cuttings sample for each point of discharge to the ocean. The weighted average of the results of all discharge points for each sampling interval will be used to determine compliance. See part I, section D.13. of the permit.

Drilling Fluids which meet stock limitations for C_{16}–C_{18} internal olefin: The end-of-well maximum weighted mass ratio averaged over all well sections drilled using non-aqueous fluids shall not exceed 6.9 grams non-aqueous base fluids per 100 grams of wet drill cuttings.

Drilling fluids which meet stock limitations for C_{12}–C_{14} ester or C_8 ester: The end-of-well maximum weighted mass ratio averaged over all well sections drilled using non-aqueous fluids shall not exceed 9.4 grams non-aqueous base fluids per 100 grams of wet drill cuttings.

See also part I, section B.2.c. of the permit.

4. To maintain oil and gas production and comply with the permit's new limits established in the permit modifications, Permittees may have to modify process controls to decrease the sediment toxicity, biodegradation, formation oil contamination, PAH content, and retention of drilling fluids on drill cuttings of the discharge. This may include installing new pollution control equipment for compliance with the permit.

5. Permittees may reasonably take all actions necessary to achieve final compliance with the permit's limitations by August 16, 2002, except for the four-day sediment toxicity limit, with which the Permittees may reasonably take all actions necessary to achieve compliance by February 1, 2003. Upon submission of a Compliance Order Notice, permittees shall become Respondents under this administrative compliance order. The EPA will acknowledge receipt of Compliance Order Notices and send confirmation to Respondents.

6. Respondents are "persons," as that term is defined at section 502(5) of the Act, 33 U.S.C. 1362(5), and 40 CFR 122.2.

7. At all relevant times, Respondents owned or operated offshore platforms described in the Compliance Order Notices (herein "the facilities") and were therefore "owners or operators" within the meaning of 40 CFR 122.2.

8. At all relevant times, the facilities were "point sources" subject to a "discharge" of "pollutant[s]" with its discharges to the receiving waters of the Gulf of Mexico, which are "waters of the United States" within the meaning of section 502 of the Act, 33 U.S.C. 1362, and 40 CFR 122.2.

9. Because Respondents owned or operated facilities that were point sources subject to discharges of pollutants to waters of the U.S., Respondents and the facilities were subject to the Act and the NPDES program.

10. Under section 301 of the Act, 33 U.S.C. 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to section 402 of the Act, 33 U.S.C. 1342.

11. Respondents obtained NPDES permit coverage for discharges from new sources, existing sources, and new discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category.

12. Violations are those violations specified by Respondents in the Compliance Order Notices submitted to EPA per instructions in Order Paragraph A below.

13. Each violation of the conditions of the permit is a violation of section 402 of the Act, 33 U.S.C. 1342, or section 301 of the Act, 33 U.S.C. 1311, and may be subject to enforcement as set forth in section 309 of the Act, 33 U.S.C. 1319.

14. Given the large number of persons regulated under the permit, it would be impractical for EPA to issue individual compliance orders to all permit violators or conduct "show cause" meetings to establish individual compliance schedules for all such violators. A general compliance order setting forth procedures for establishing such schedules will avoid delays attendant on such meetings and issuance of individual compliance orders.

Order

Based on these Findings and pursuant to the authority of sections 308(a) and 309(a) of the Act, EPA hereby orders Respondents to take the following actions:

A. Any NPDES permittee in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico with coverage under the permit may request coverage under this administrative compliance order by submitting a "Compliance Order Notice," to EPA Region 6. Such Compliance Order Notices must be postmarked before August 16, 2002, and no more than thirty (30) days after becoming aware of a violation, except for violations of the four-day sediment toxicity limit. For violations of the four-day sediment toxicity limit, all Compliance Order Notices must be postmarked before February 1, 2003, and no more than thirty (30) day after becoming aware of a violation. All Compliance Order Notices shall be sent to: Ms. Sharon Haggard, Water Enforcement Branch (6EN–WC), U.S. EPA, Region 6, P.O. Box 50625, Dallas, Texas 75250.

The Compliance Order Notice must be signed and certified by an "authorized official" (40 CFR 122.22), and include the following:

i. Identification of the violating facility by name, location and NPDES facility identification number (GMG29####) (by lease block), the legal name and address of its operator, the name and address of an authorized official, as defined at 40 CFR 122.22, and the name, address, and telephone number of a contact person with whom EPA may further discuss the violation.

ii. A brief description of the violation, Respondent's opinion on the cause of the violation, and the basis for that opinion.

iii. A commitment to achieve final compliance with the permit by August 16, 2002, except for the four-day sediment toxicity limit; and a commitment to comply with the four-day sediment toxicity limit by February 1, 2003.

B. By August 16, 2002, Respondents shall complete all necessary pollution control changes for all discharges to come into compliance with the new permit modifications for all new limitations except the four-day sediment toxicity limit. By February 1, 2003, Respondents shall complete all necessary pollution control changes for all discharges to come into compliance with the new limitation for four-day sediment toxicity. This Order covers only those discharges by Respondents that are authorized by the permit published on December 18, 2001 (66 FR 65209) and listed in the Compliance Order Notices described above.

C. Respondents shall report all violations in accordance with permit requirements, including those that result during the period of this administrative compliance order. Part II.D.7. of the permit requires a 24 hour oral report or else a 24 hour e-mail to the following Internet e-mail address: *r6genpermit@epa.gov*. Additionally, part II.D.7 of the permit requires a written submission within 5 days of the time the permittee becomes aware of the circumstances. All reports submitted to the EPA shall be signed by an authorized person in accordance with part II.D.10. of the permit, and shall include the following certification set forth in this part of the permit:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If the report is made by e-mail, the 24 hour report should include this statement and be submitted by an authorized official. Please note that only authorized officials as defined by the permit may sign such documentation unless a delegation of authority letter has been sent to EPA Region 6.

D. Issuance of this Order shall not be deemed an election by EPA to forego any administrative, civil, or criminal action to seek penalties, fines, or any

other relief appropriate under the Act for the violations cited herein. EPA reserves the right to seek any remedy available under the law that it deems appropriate for the violations cited.

E. Failure to comply with this Order or the Act can result in further administrative action, or a civil judicial action initiated by the U.S. Department of Justice. If the United States initiates a civil judicial action, Respondents will be subject to civil penalties of up to $27,500 per day per violation.[1]

F. This Order is not an NPDES permit, and compliance with the terms and conditions of this Order does not relieve Respondents of their obligations to apply for and comply with any applicable permit, and comply with any applicable federal, state or local law or regulation.

G. This Order shall be effective on February 16, 2003.

Tai-Ming Chang,

Acting Director, Compliance Assurance and Enforcement Division.

[FR Doc. 02–12617 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 9, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0954.

Title: Implementation of the 911 Act.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, state, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents: 800.

Estimated Time Per Response: .50–2 hours (average).

Frequency of Response: Third party disclosure requirement, on occasion reporting requirement.

Total Annual Burden: 3,100 hours.

Total Annual Cost: N/A.

Needs and Uses: On January 11, 2002, the Commission received emergency OMB approval for information collection burdens contained in rules adopted in a Fifth Report and Order, in CC Docket No. 92–105, First Report and Order in WT Docket No. 00–110, and Memorandum Opinion and Order on Reconsideration in both dockets, regarding implementation of the Wireless Communications and Public Safety Act of 1999. The approval expires on June 30, 2002. Therefore, the Commission now resubmits this information collection, with no change, to the Office of Management and Budget for the regular three-year approval. The Commission requires certain carriers to file various transition reports. Those affected carriers are only: (1) Those operating in counties where there is no 911 service; (2) those operating in counties that are in the process of implementing 911; or (3) those operating in counties that have basic 911 service only in some parts as summarized by the National Emergency Number Association (NENA) in its Report Card to the Nation (Congressional Summary, 2001), and more specifically identified in the list NENA has submitted at the Commission's request. In addition, in March 2002, the Commission issued a Public Notice in which it offered a suggested template or sample as an optional guide to completing these reports. The coordination requirements will help to minimize the chances of confusion between all concerned parties and will improve the chances of a smooth, speedy transition to 911 service.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12507 Filed 5–17–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2552]

Petition for Reconsideration of Action in Rulemaking Proceeding

May 9, 2002.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to this petition must be filed by June 4, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the FM Table of Allotments (MM Docket No. 90–66).

Number of Petitions Filed: 1

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12577 Filed 5–17–02; 8:45 am]

BILLING CODE 6712–01–M

[1] The civil penalty amounts that can be assessed under Section 309 of the Clean Water Act were amended by the Civil Monetary Penalty Inflation Adjustment Rule (61 FR 69359, December 31, 1996, as corrected in 62 FR 13514, March 20, 1997), effective June 1, 1997, under the Debt Collections Improvement Act of 1996, 31 U.S.C. 3701, et. seq., for all violations occurring or continuing after January 30, 1997.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1414–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1414–DR), dated May 7, 2002, and related determinations.

EFFECTIVE DATE: May 7, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 7, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from severe storms, tornadoes, and flooding on April 27, 2002, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for the Individual and Family Grant program will be limited to 75 percent of the total eligible costs. If Public Assistance and/or Hazard Mitigation is later requested and warranted, Federal funds provided under those programs will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael Bolch of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

Breckinridge, Crittenden, Grayson, Hancock, Hardin, Henderson, Hopkins, McLean, Meade, Ohio, Union, and Webster Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–12539 Filed 5–17–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1414–DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, (FEMA–1414–DR), dated May 7, 2002, and related determinations.

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 7, 2002:

Boyle, Casey, Clay, Floyd, Jackson, Knott, Knox, Larue, Laurel, Letcher, Marion, Martin, McCreary, Nelson, Pike, Pulaski, Rockcastle, Taylor, Washington, and Whitely Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–12540 Filed 5–17–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1414–DR]

Kentucky; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA–1414-DR), dated May 7, 2002, and related determinations.

EFFECTIVE DATE: May 10, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 10, 2002.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–12541 Filed 5–17–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1412–DR]

Missouri; Amendment No.1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri, (FEMA–1412–DR), dated May 6, 2002, and related determinations.

EFFECTIVE DATE: May 8, 2002.
FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.
SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include Individual Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 6, 2002:

Bollinger, Butler, Carter, Howell and Madison Counties for Individual Assistance (already designated for Public Assistance).

Cape Girardeau, Douglas, Dunklin, Iron, Oregon, Ozark, Perry, Reynolds, Ripley, Shannon, St. Francois, Stoddard, Texas and Wayne Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,
Director.
[FR Doc. 02–12539 Filed 5–17–02; 8:45 am]
BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1408–DR]

Tennessee; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee, (FEMA–1408–DR), dated April 5, 2002, and related determinations.

EFFECTIVE DATE: May 9, 2002.
FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.
SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 5, 2002:

Haywood County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,
Director.
[FR Doc. 02–12535 Filed 5–17–02; 8:45 am]
BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1411–DR]

Virginia; Amendment No.1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia, (FEMA–1411–DR), dated May 5, 2002, and related determinations.

EFFECTIVE DATE: May 8, 2002.
FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.
SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 5, 2002:

Buchanan and Tazewell Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,
Director.
[FR Doc. 02–12537 Filed 5–17–02; 8:45 am]
BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1410–DR]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of West Virginia, (FEMA–14–DR), dated May 5, 2002, and related determinations.

EFFECTIVE DATE: May 8, 2002.
FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.
SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of West Virginia is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 5, 2002:

McDowell, Mercer, Mingo, and Wyoming Counties for Public Assistance (already designated for Individual Assistance).

Logan County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,
Director.
[FR Doc. 02–12536 Filed 5–17–02; 8:45 am]
BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 4, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Joseph R. Gregory, Piney Flats, Tennessee; Kingway, LLC, Piney Flats, Tennessee; and Mary Ann Blessing, Bristol, Tennessee; all to acquire additional voting shares of Tennessee Commerce Bancorp, Inc., Franklin, Tennessee, and thereby indirectly acquire additional voting shares of Tennessee Commerce Bank, Franklin, Tennessee.

Board of Governors of the Federal Reserve System, May 15, 2002.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 02–12621 Filed 5–17–02; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 13, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Americanwest Bancorporation, Spokane, Washington; to merge with Latah Bancorporation, Inc., Latah, Washington, and thereby indirectly acquire Bank of Latah, Saint Maries, Idaho.

Board of Governors of the Federal Reserve System, May 14, 2002.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 02–12526 Filed 5–17–02; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 3, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. 1867 Western Financial Corporation, Stockton, California, and Capital Corp of the West, Merced, California; to acquire Regency Investment Advisors, Incorporated, Fresno, California, and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, May 14, 2002.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc.02–12527 Filed 5–17–02; 8:45 am]
BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–53]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To

request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Support for State Oral Disease Prevention Program Infrastructure Development Evaluation Reporting—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

In 2000, the Surgeon General published the first ever report on oral health in America to alert Americans to the full meaning of oral health and its importance to general health and well-being. Included in the framework for action was the charge to build an effective oral health infrastructure that meets the oral health needs of all Americans and integrates oral health effectively into overall health planning. In response, the CDC will award funds for cooperative agreements to an estimated total of 13 demonstration sites in two phases, for the planning and implementation of oral health capacity infrastructure building and demonstration delivery programs. Building infrastructure enables the demonstration states to develop the capacity to achieve *Healthy People 2010* objectives and reach many more Americans than a single local program could reach and to potentially sustain health gains beyond the funding cycle. Infrastructure development encompasses many activities, each of which can be accomplished in a myriad of methods by the grantees. To summarize and track vital development information across grantee sites, a uniform reporting system must be established for the demonstration sites. Obtaining uniform data will allow the construction of summary reports to assist future sites and not-yet-funded oral health infrastructure development programs.

Evaluation tracking reporting for this project would describe the implementation of each site's infrastructure model in relation to environmental context and state characteristics. The results would provide evidence for the essential implementation strategies for effective infrastructure development as defined by the consensus-based Association of State and Territorial Dental Directors (ASTDD) model. The results would be used to structure flexible guidelines for infrastructure development and identify high-priority activities enabling additional sites to efficiently plan and implement cost-effective oral health improvement activities. Additionally, this project will assist in the development of objectives and indicators of sustainability—the ability of these demonstration programs to meet the needs of their constituents beyond the seed-funding period.

The objectives of the uniform evaluation tracking reporting system are to:

1. Evaluate infrastructure development activity characteristics among the funded sites.

2. Synthesize progress and promote cross-collaboration among grantees.

3. Make progress indicators available to nonfunded sites

4. Promote positive infrastructure growth among funded and non-funded sites.

The above objectives will be attained through a family of uniform evaluation reporting documents designed to evaluate demographic, extent, and culture climate of infrastructure development activities. One respondent from each site will be required to submit the activity-tracking document annually. Participation is mandatory for funded sites. Non-funded sites actively involved in infrastructure development are welcome to submit tracking information to further provide information for all sites. Participation is not mandatory for non-funded sites.

The CDC anticipates that approximately 13 grantee sites will report annually using this method. It has been estimated that the completion of the required forms will take approximately 45 minutes each reporting period. There are no cost to respondents except there time.

Form name	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Support for State Oral Disease Prevention Program Infrastructure Development Evaluation Reporting Activity	13	1	45/60	10
Total				10

Dated: May 9, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–12514 Filed 5–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–54]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Data Collection and Analysis to Determine the Reliability and Validity of Current and Proposed Oral Health Questions, Behavioral Risk Factor Surveillance System—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

The National Center for Chronic Disease Prevention and Health Promotion, Division of Oral Health, proposes to support data collection and analysis to determine the reliability and validity of current and proposed Oral Health questions for the Behavioral Risk Factor Surveillance System (BRFSS). At the request of the Association of State and Territorial Dental Directors (ASTDD), the Division of Oral Health (DOH) provided technical assistance in standardization of questions to monitor the oral health of adults. Three questions appeared on the BRFSS core in 1999, and were included again in 2002; They permit state dental programs to track progress toward *Healthy People (HP)* objectives for adults (HP 2010: 21–3, 21–4, 21–10), to monitor reported use of a key preventive service for adults (teeth cleaning), and to examine the relationship of oral health indicators to general health status, conditions, and behaviors.

As more state dental programs consider the oral health of adults, states have requested that a bank of additional standardized questions be created to monitor other oral health indicators. CDC/DOH has been reluctant to provide additional technical assistance, without firm data on the reliability and validity of questions. Because all BRFSS questions require self-report by respondents about their own oral health status or behaviors, recall bias and errors in perception exist. To accomplish estimates of response error, answers to existing and proposed BRFSS questions (limit = 10 content questions, plus 7 demographic questions) must be compared to the "True" situation of that individual, *i.e.*, that is found in patient charts or other clinical records.

The proposed data collection and analysis will be conducted through the Alliance of Community Health Plans by research foundations affiliated with two dental plans, Kaiser Permanente Northwest, Portland, OR and Health Partners, Minneapolis, MN. The proposed telephone survey, similar to BRFSS, of a convenience sample of 400 dental plan members (200 from each respective HMO) would occur only once. Neither published studies nor informal discussions with dental researchers regarding work in progress uncovered any information that would eliminate the need for this data collection. All work on this project, including linkages between health plan records and responses to the BRFSS questions, will be conducted at the research foundations associated with the respective health plans. CDC will receive only a report on the validity of the questions, and will not have access to the database constructed for the contract.

Study findings will allow CDC to respond to state requests for inclusion of additional standardized questions in an optional oral health module for BRFSS and ensure that any such questions are reliable, valid, and useful for state program planning and evaluation. There is no cost to respondents.

Health plan respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Kaiser Northwest	200	1	15/60	50
Health Partners	200	1	15/60	50
Total				100

Dated: May 10, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–12515 Filed 5–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–29–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Public Health Performance Standards Program State Public Health System Assessment—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC).

Since 1998, the CDC National Public Health Performance Standards Program has convened workgroups with the National Association of County and City Health Officials (NACCHO), the Association of State and Territorial Health Officials (ASTHO), the National Association of Local Boards of Health NALBOH), the American Public Health Association (APHA), and the Public Health Foundation (PHF) to develop performance standards for public health systems based on the essential services of public health. In the fall of 2000, CDC conducted field tests with the state public health survey instruments in Hawaii, Minnesota, and Mississippi.

CDC is now proposing to implement a formal, voluntary data collection, based on the lessons learned during field testing, to assess the capacity of state public health systems to deliver the Essential Services of Public Health. Electronic data submission will be the method of choice when state and

territorial health departments complete the public health assessment.

An estimated 33 percent of the 59 state and territorial health departments are expected to participate in the National Performance Standards Program during the first year. In year two, an additional 25 percent and in year three, 22 percent. The total burden hours are estimated to be 720.

Data collection period	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Year 1	20	1	15
Year 2	15	1	15
Year 3	13	1	15

Dated: May 10, 2002.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–12512 Filed 5–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–28–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National AIDS and STD Hotline Survey of Callers (OMB No. 0920–0295)—Revision—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CD). The purpose of this request is to continue active and passive data collection from people who call the CDC National AIDS and Sexually Transmitted Disease (STD) Hotlines. The mission of the CDC National AIDS and STD Hotlines is to provide the general population of the United States, its territories, and Puerto Rico with highly visible and readily accessible resources for accurate and timely information on HIV/AIDS and other STDs. The CDC is seeking OMB approval for renewal of the data collection with one proposed change and one proposed system enhancement, both aimed at improving the management and evaluation of collected information.

The change is the ability of CDC to survey every 15th caller, instead of every 30th caller, to the hotlines. The information gathered will assist CDC in the improvement of HIV and STD services, particularly to high-risk populations. Before the integration of the National AIDS and STD Hotlines in 1998, every 15th caller was surveyed in the AIDS hotline, and every 30th caller was surveyed in the STD hotline.

The National AIDS Hotline responded to a maximum of 1.6 million calls per year during the 1980s and early 1990s. Throughout the period, the calls have decreased to approximately 650,000 calls per year due to changes such as treatment advances, a more knowledgeable audience, and access to information on the Internet. However, the number of callers selected for the survey has increased to assure that a substantial amount of data can be submitted to CDC regarding information about the callers who contact the hotline. Respondents (callers) will be the general public, and only the callers to the hotlines will be affected.

The enhancement to the data collection is the employment of a partially integrated system that will allow CDC Information Specialists to answer calls about HIV/AIDS and STDs using the same toll free telephone system. The telephone system will be designed to display telephone numbers for both the AIDS Hotline and the STD Hotline. Thus, when a caller contacts the hotline for AIDS information, the phone for the AIDS Hotline will appear on the caller ID. If the caller wants additional information about STDs, the same Information Specialist can respond to the call rather than requesting that the caller place a separate call to the STD Hotline. This process will also allow for an integrated data collection system for AIDS and STD caller information and service evaluation, as well as allow CDC to provide a more efficient and effective means of addressing the needs of its constituents.

In addition, since both hotlines will still retain their separate telephone numbers, the call volume can be monitored separately with distinct extrapolation of data. This integrated system began in August 2000. The integrated system also supports strategies in the *CDC HIV Prevention Strategic Plan Through 2005,* which also states that HIV prevention must be integrated with STD prevention.

Data will be collected on an active and passive basis for both hotlines. The active data collection method occurs while the caller is on the phone. It allows the Information Specialist to gather information about caller demographics such as age, race, ethnicity and education through a short survey administered at the conclusion of the call. The passive data collection instrument allows the Information Specialist to capture more specific information about the characteristics of the caller such as the callers primary topic for discussion, gender, level of concern of caller. The Information Specialist enters this information into a database once the call is completed.

To assist in completing the surveys and providing accurate data responses, the hotlines will be using the CDC Federal Telecommunications Service (FTS) 2001 telephone systems; call length data from the Integrated Information Program (IIP), which is a computer interface. The hotlines will also be using the Automated Call Distribution (ACD) program which allows the calls to be distributed to the correct numbers (AIDS or STD) and Symposium software which can assist the hotlines in several areas, including quickly (1) determining what happened to a call that may be in the queue,(2) compiling a geographic distribution table of all calls throughout the United States, including ages of callers,(3) and routing calls to the English, Spanish or TTY service.

For the AIDS and STD integrated English service, the estimated number of persons surveyed for the active survey is 34,520, and the average active survey length is 72 seconds with a yearly burden of 691 hours. It is estimated that passive surveys are completed on 29,420 calls, and the average passive survey length for completion is 179 seconds, with a yearly burden of 1,463 hours.

Active surveys for the Spanish service for the AIDS Hotline are estimated to be about 5,040 calls with an average active survey length of 88 seconds. The average number of passive surveys estimated for the Spanish service is 5,000. All callers are surveyed from the TTY service and one out of three callers are surveyed from the Spanish service. The total estimated annualized burden is 1,071 hours.

Survey	Number of respondents	Number of responses per respondent	Average burden per response (in seconds)
AIDS Hotline (English)	21,760	1	1.5
AIDS Hotline (Spanish)	5,040	1	2
AIDS Hotline (TTY Service)	350	1	7
STD Hotline (Spanish)	12,760	1	1.5

Dated: May 10, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–12513 Filed 5–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: 45 CFR 1309 Head Start Facilities Purchase.

OMB No. 0970–0193.

Description: This regulation contains the administrative requirements applicable to Head Start grantees when applying for funding to purchase Head Start program facilities. The rule ensures that standard business practices are applied when acquiring real property to protect the federal interest in properties purchased with public funds. The rule further ensures compliance with all applicable federal statutes applicable to the expenditure of public funds when purchasing real property.

Respondents: Head Start and Early Head Start grantees applying to purchase program facilities.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Regulation	200	1	41	8200
Estimated Total Annual Burden Hours:				8200

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 13, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–12533 Filed 5–17–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00C–1321]

Wesley Jessen Corp.; Filing of Color Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a color additive petition filed by Wesley Jessen, Corp. (now Ciba Vision Corp.), to indicate that the petitioned additive is more appropriately identified as mica coated with iron oxides or mica coated with titanium dioxide for use in contact lenses. The previous filing notice

indicated that the proposed additive was mica for use in contact lenses.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3076.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 7, 2000 (65 FR 36148), FDA announced that a color additive petition (CAP 0C0271) had been filed by Wesley Jessen, Corp., 333 East Howard Ave., Des Plaines, IL 60018 (now Ciba Vision Corp., 11460 Johns Creek Pkwy., Duluth, GA 30097–1556). The petition proposed to amend the color additive regulations to provide for the safe use of mica to color contact lenses.

During its review of the petition, the agency determined that the subject color additives are composite pigments, commonly known as pearlescent pigments, composed of mica coated with iron oxides or mica coated with titanium dioxide. Therefore, FDA is amending the filing notice of June 7, 2000, to state that the petition proposes that the color additive regulations in 21 CFR part 73 subpart D—Medical Devices be amended to provide for the safe use of mica coated with iron oxides or mica coated with titanium dioxide, collectively identified as mica-based pearlescent pigments, in contact lenses.

The agency has determined under 21 CFR 25.32(l) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: May 6, 2002.

Alan M. Rulis,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–12546 Filed 5–17–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02F–0220]

Nutrinova, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Nutrinova, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acesulfame potassium as a general-purpose sweetener and flavor enhancer.

DATES: Submit written or electronic comments on the petitioner's environmental assessment by June 19, 2002.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 202–418–3106.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP No. 2A4735) has been filed by Nutrinova, Inc., 285 Davidson Ave., suite 102, Somerset, NJ 08873. The petition proposes to amend the food additive regulations in § 172.800 *Acesulfame potassium* (21 CFR 172.800) to provide for the safe use of acesulfame potassium as a general-purpose sweetener and flavor enhancer.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (see **ADDRESSES**) for public review and comment. Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments, on or before June 19, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: May 6, 2002.

Alan M. Rulis,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–12545 Filed 5–17–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–13]

Notice of Proposed Information Collection: Comment Request; Single Family Mortgage Insurance on Hawaiian Homelands

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 19, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. This Notice also lists the following information.

Title of Proposal: Single Family Mortgage Insurance on Hawaiian Homelands.

OMB Control Number, if applicable: 2502–0358.

Description of the need for the information and proposed use: FHA insures mortgages on single family dwelling under various provisions of the National housing Act (12 U.S.C. 1701, *et seq.*). The Housing and Urban Rural Recovery Act (HURRA), Pub. L. 98–181, amended the National Housing Act to add Section 247 to permit FHA to insure mortgages for properties located on Hawaiian Homelands. Under this program the mortgagor must be a Native Hawaiian. The Statute preconditions that the Department of Hawaiian Homelands (DHHL) of the State of Hawaii (a) agrees to be a co-mortgagor, and (b) guarantees to reimburse the Secretary for any mortgage insurance claims paid in connection with a property on Hawaiian Homelands or offers other security acceptable to the Secretary. The collection of information and the regulatory origins for them are in accordance with Section 203.43i which states that the lender will: (a) Verify that the loan applicant is a Native Hawaiian and that the applicant holds a lease on land in a Hawaiian Homelands' area; (b) report on delinquent borrowers in accordance with Section 203.439(c); and (c) provide documentation to HUD to support that the requirements of Section 203.665 have been met.

Agency form numbers, if applicable: None.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 253; the number of respondents is 112 generating approximately 1,170 annual responses; the frequency of response is on occasion; and the number of hours per response varies from 3 minutes to 30 minutes.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 9, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–12600 Filed 5–17–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4723–C–2A]

FY 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grants Programs for Fiscal Year 2002; Technical Corrections

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD's discretionary grant programs; technical corrections.

SUMMARY: On March 26, 2002, HUD published its Fiscal Year (FY) 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's discretionary grant programs. This document makes certain technical corrections to the following programs: Continuum of Care Homeless Assistance; Youthbuild; Resident Opportunities and Self Sufficiency (ROSS) Program; Section 202 Supportive Housing for the Elderly Program; Section 811 Supportive Housing for Persons with Disabilities Program; Community Outreach Partnership Centers; Historically Black Colleges and Universities; Alaska Native/Native Hawaiian Institutions Assisting Communities Program; Tribal Colleges and Universities Program; Rural Housing and Economic Development; Lead Hazard Control; Healthy Homes and Lead Technical Studies; Healthy Homes Demonstration Program; Brownfields Economic Development Initiative; and Community Development Block Grant (CDBG) Program for Indian Tribes and Alaska Native Villages.

This document also extends the application due date for Alaska Native/Native Hawaiian Institutions Assisting Communities Program (AN/NHIAC) to July 20, 2002.

DATES: The application due date for the Alaska Native/Native Hawaiian Institutions Assisting Communities Program, the application due date has been extended to July 20, 2002. All other application due dates remain as published in the **Federal Register** of March 26, 2002.

FOR FURTHER INFORMATION CONTACT: For the Programs listed in this notice, please contact the office or individual listed under the "For Further Information" heading in the individual program section of the SuperNOFA, published on March 26, 2002. The application due date for AN/NHIAC is extended to July 20, 2002.

SUPPLEMENTARY INFORMATION: On March 26, 2002 (67 FR 13826), HUD published its Fiscal Year (FY) 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's discretionary grant programs. The FY 2002 SuperNOFA announced the availability of approximately $2.2 billion in HUD program funds covering 41 grant categories within programs operated and administered by HUD offices.

This notice published in today's **Federal Register** makes certain corrections and clarifications to the funding availability announcements of the following programs: Continuum of Care Homeless Assistance; Youthbuild; Resident Opportunities and Self Sufficiency (ROSS) Program; Section 202 Supportive Housing for the Elderly Program; Section 811 Supportive Housing for Persons with Disabilities Program; Community Outreach Partnership Centers; Historically Black Colleges and Universities; Tribal Colleges and Universities Program; Rural Housing and Economic Development; Brownfield Economic Development Initiative; Lead Hazard Control; Healthy Homes and Lead Technical Studies; Healthy Homes Demonstration Program; and Community Development Block Grant (CDBG) Program for Indian Tribes and Alaska Native Villages.

Summary of Technical Corrections

A summary of the technical corrections that will be made by this document are as follows. The page numbering shown in bracket identifies where the individual funding availability announcement that is being corrected can be found in the March 26, 2002 SuperNOFA, and the page numbering in parentheses identifies where the specific language that is being corrected can be found in the March 26, 2002 SuperNOFA.

General Section of SuperNOFA [Page 13826]

HUD amends the List of HUD Field Offices in APPENDIX A–1 on page

13844 to show the correct address, phone and FAX numbers of all HUD Field Offices. The previous Appendix contained some inaccurate listings. (*See* page 13844).

Community Development Block Grants for Indian Tribes and Alaskan Native Villages [13907]

In the table on page 13915, under paragraph J of Section V (Application Selection Process), HUD corrects the number of points under Rating Factor 3, Subfactor 1 to read 14 points. HUD also corrects the number of points under Rating Factor 3, Subfactor (2) to read 5 points. Additionally, the entry "All Project Types" under "PROJECT TYPE" for Rating Factor 2 is erroneous and is removed.

Under Rating Factor 2 (Need/Extent of the Problem) on page 13916, HUD is revising paragraph (2) to add language with respect to the requirements for documenting persons employed by the project.

Paragraph (C)(6) of Section VI on page 13919 is removed, because it is not possible to award RC/EZ/EC bonus points under the Community Development Block Grants For Indian Tribes And Alaskan Native Villages program.

Community Outreach Partnership Centers (COPC) [Page 13927]

Section I on page 13929 is revised to add a new paragraph that sets out the appropriate address to which applications are to be mailed. The revision also corrects the caption and placement of some of the paragraphs in the section.

Paragraph (D) of Section IV (Program Requirements) is amended by adding a new sentence at the end of the paragraph to read "You should use HUD–3001 Community Outreach Partnership Centers Matching Requirements to show how you have met the match requirements." (See page 13931).

Paragraph IV(D)(2)(b) (Outreach Activities) is amended by removing the last two sentences in the second paragraph and substituting the following sentence: "An example of how you should calculate match correctly, and Forms 30011 (New Directions) and 30012 (New Grants) are included in the Application Kit. The completed form should be included with your application." (See page 13931).

Paragraph (C) of Section VI (Application Submission Requirements) is removed because the form is not required. The remaining paragraphs are redesignated accordingly. (See page 13935).

Historically Black Colleges and Universities (HBCU) [Page 13949]

HUD corrects the form number in paragraph (A)(3) of Section VI (Application Submission Requirements) to read SF–424D. (See page 13956).

Hispanic-Serving Institutions Assisting Communities (HSIAC) Program [13969]

In Section III(B) (Eligible Applicants) on page 13972, HUD adds an introductory sentence that clarifies the definition of an "Eligible Applicant."

Alaska Native/Native Hawaiian Assisting Communities (AN/NHIAC) Program [13981]

In the Program Overview at page 13981, HUD extends the Application Deadline from June 20, 2002 to July 20, 2002. Consistent with the HUD Reform Act of 1989, this change permits NHIs with multiple campuses time to submit one application per campus, rather than being limited to submitting one application per institution. Similarly, in Section I (Application Due Date, Application Kits, Further Information, and Technical Assistance), page 19383, second column, last paragraph, HUD removes language that limits NHIs with multiple campuses from submitting more than one application per institution.

In Section III(B) (Eligible Applicants), on page 13984, HUD adds an introductory sentence that clarifies the definition of an "Eligible Applicant."

Also in Section III(B), in the second paragraph, middle column, HUD corrects the first sentence of the paragraph to read " If you are an NHI and your institution has multiple campuses, each one is eligible to apply separately, as long as it meets the above-described enrollment threshold. You may undertake as many projects and activities as you want, as long as you do not exceed the $600,000 cap for an application." The remainder of the paragraph is removed.

Tribal Colleges and Universities Program [Page 13993]

In Section III(B) (Eligible Applicants) on page 13995, HUD adds an introductory sentence that clarifies the definition of an "Eligible Applicant."

In paragraph (E)(3) of Section V (Application Submission Requirements) on page 13999, HUD corrects the number of factors for award to read five.

Lead-Based Paint Hazard Control Grant Program [Page 14065]

HUD amends paragraph B of Section IV (Program Requirements) to add a sentence at the end of the paragraph that reserves to HUD the right to approve no-cost time extensions for a period not to exceed 36 months. (*See* page 14070).

HUD amends paragraph (c)(ii) on page 14074 under Rating Factor 3 (Soundness of Approach) to correct the unit of measurement to read µg with respect to the standard for testing lead in dust.

Healthy Homes and Lead Technical Studies [Page 14091]

HUD amends Section V(A) (Submitting Applications for Grants) on page 14096 to remove the parenthetical phrase—"(*e.g.*, 12 to 24 months from the date of award)". (See page 14096, middle column, first full paragraph.)

HUD amends Section IV(E) (Period of Performance) by removing the existing language and substituting new language to read as follows: "*Period of Performance.* The period of performance is 36 months. HUD reserves the right to approve no-cost time extensions for up to an additional 3 years based upon the submission of adequate justification by the grantee." (See page 14096).

Healthy Homes Demonstration Program [Page 14113]

HUD amends paragraph (B) (Period of Performance) of Section IV by removing the existing language and substituting new language to read as follows: "*Period of Performance.* The period of performance is 36 months. HUD reserves the right to approve no-cost time extensions for up to an additional 3 years based upon the submission of adequate justification by the grantee." (See page 14117).

Youthbuild [Page 14163]

In Section VI (Application Selection Process), HUD amends paragraph (B)(3)(A)(ii) to remove the word "more" and substitute in its place "fewer." (*See* page 14167).

Brownfields Economic Development Initiative (BEDI) [Page 14137]

On page 14147, first column, HUD amends paragraph (G)(4) of Section VI (Application Submission Requirements) to add the requirement that Form HUD 40122, Section 108 Loan Guarantee, State Certifications Related to Nonentitlement Entities be submitted to HUD as part of the BEDI application package, along with the requirement to submit Form HUD–40076–EDI/BEDI, Rating Factor 4: Leveraging Resources/ Financial Need Sources and Uses Statement. The two Forms are added to Appendix A at pages 14154 and 14155.

Continuum of Care Homeless Assistance Programs [Page 14363]

On page 14364, middle column, HUD amends the final paragraph of Section II (Amount Allocated) to correct the reference to "FY 2003" to read "calendar year 2003".

On page 14365, third column, Section III(A)(3) (Project Renewals), in line 7 of the first paragraph, HUD also is correcting the reference to "FY 2003" to read "calendar year 2003".

Resident Opportunities and Self-Sufficiency (ROSS) Program [Page 14205]

HUD amends paragraph (C)(2)(iii) of Section II (Amount Allocated) on page 14208 to clarify the category and maximum amounts for which tribes are eligible. The amendment also makes clear that Tribes/TDHEs may serve a single tribal group.

In paragraph (3)(a)(i) (Maximum grant amount) of Section II (Amount Allocated) on page 14208, the reference to section III(e) is corrected to read II(C)(3)(e).

In paragraph (C)(3)(e) of Section II on page 14208, the reference to the fiscal year is corrected to read 2002, not 2001.

Paragraph (D)(1)(a) of Section III on page 14213 is corrected to add "and tribes/TDHEs" immediately after "(IROs)".

In paragraph (ii) of Section (II)(C)(5), the introductory phrase is amended by removing the words "new and". (See page 14209).

In Section V(D)(2) (Factors for Award Used to Evaluate and Rate HSS Applications) in the second sentence, HUD corrects a typographical error to change the maximum number of points available to read 102, not 1024 (See page 14221).

Paragraph (i) of Section II(C)(4) is amended to add "/or" immediately after "and" in the first sentence. (See page 14208).

Paragraph (E) (Number of Applications Permitted) of Section II is amended to add a new sentence before the last sentence in the paragraph to read as follows: "A PHA, RA, RO, or nonprofit may not submit an application to serve the same development." (*See* page 14209).

In Section III (Program Description; Eligible Applicants; Eligible Activities) paragraph (F)(1) (Eligible Applicants) is amended by adding "/or" immediately after "and" and by adding "or participated" immediately after "participates". Also in Section III, paragraph (F)(2)(a) is amended by adding "/or" immediately after "and" and by adding "or participated" immediately after "participates". (*See* page 14215).

Paragraph (E)(2)(b) in Section VI (Application Submission Requirements) is revised to read "(b) and/or participates or participated in a public housing family self-sufficiency program funded from operating subsidies," (*See* page 14229).

Section 202 Supportive Housing for the Elderly [Page 14375]

In Section I (Application Due Date, Application Kits, Further Information, and Technical Assistance), HUD corrects the first paragraph to provide that all mailed applications must be postmarked on or before midnight of June 5, 2002 and received by HUD within 15 days of the due date. (*See* page 14377).

Also in Section I, HUD is adding a paragraph 5 to state that "Applications for projects proposed to be located within the jurisdiction of the Grand Rapids, Michigan Office must be submitted to the Detroit, Michigan Office." (See middle column, page 14377). Further, HUD is notifying applicants of address changes to several local HUD offices. See the Section 811 technical corrections involving page 14439 of the Section 811 program NOFA.

The **Note** at the end of Section III(D) (Ineligible Activities) is amended to clarify that existing Federally funded or assisted projects or projects insured or guaranteed by a Federal agency involving refinancing are not permissible activities under this Section 202 NOFA. This clarification is necessary because HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a Federal program. For example, Section 202 or Section 202/8 direct loan projects cannot be refinanced with capital advances and project rental assistance. (*See* middle column, page 14383).

Section V(C) on page 14385, middle column, is amended to add Renewal Communities (RC) to the other two federally designated areas appearing in the section. Identical amendments are made to Section V(D), first column (see page 14386), Section V(D), **Bonus Points,** third column (see page 14387), and the Table of Contents in Appendix B (see page 14396). The reference in Section V(C), Section V(D) and in the Table of Contents in Appendix B now reads RC/EZ/EC, making it consistent with the reference used in Section III(C)(1) of the General Section of the SuperNOFA. (*See* page 13839). The amendment clarifies that projects that are located in an RC/EZ/EC area are eligible to receive the two bonus points in the rating of their application.

HUD amends paragraph (B)(7)(i) of Section VI (Application Submission Requirements) to correct the title of Form HUD–2990 to read *Certification of Consistency with the RC/EZ/EC Strategic Plan (HUD–2990).* (See page 14391).

In Section VI (Application Submission Requirements), paragraph (B)(4)(c)(iv) is amended to read "Describe your plan for getting your project to initial closing and start of construction within the initial 18-month term of the fund reservation (optional)." (See page 14389). In making the revision, HUD is not asking applicants to describe their plans to complete construction and finally close the project within the initial 18-month fund reservation term because HUD recognizes that such an event would be unlikely.

Under Rating Factor 3 (Soundness of Approach), paragraph (h) is amended to read "(-1 point) Your application did not include a plan for getting your project to initial closing and start of construction within the initial fund reservation period of 18-months." (*See* page 14387). The amendment here is consistent with the change made to Section VI(B)(4)(c)(iv).

Paragraph (B)(4)(d)(i)(A) (pertaining to HUD's site control requirements) of Section VI (Application Submission Requirements) is amended to require a lease with a term of 50 years with renewable provisions for 25 years in cases where the form of site control is a leasehold. HUD recognizes that in some areas, applicants are unable to obtain a lease on sites for an initial term of 75 years due to, for example, state, local or tribal laws prohibiting such long-term leases. This restriction has the effect of excluding such sites from the Section 202 program. HUD has determined to make the change to require 50-year leases with renewable provisions for 25 years to expand the supply of housing for the elderly in those areas that otherwise would be denied the benefit of such housing.

In Appendix B, HUD corrects the Application Form needed to file your Section 202 application with HUD and replaces it with Form HUD–92015–CA, Supportive Housing for the Elderly, Section 202, Application for Capital Advance Summary Information. (See page 14397) This correction is necessary because Form HUD–92016–CA, Section 811, Application for Capital Advance Summary Information, which was

inadvertently included in Appendix B of the Section 202 program NOFA, is not used in filing a Section 202 application.

Section 811 Supportive Housing for Persons With Disabilities [Page 14421]

In Section I (Application Due Date, Application Kits, Further Information, and Technical Assistance), HUD corrects the first paragraph to provide that all mailed applications must be postmarked on or before midnight of June 5, 2002 and received by HUD within 15 days of the due date. (See page 14423).

Also in Section I, HUD is adding a paragraph 5 to state that "Applications for projects proposed to be located within the jurisdiction of the Grand Rapids, Michigan Office must be submitted to the Detroit, Michigan Office". (*See* middle column, page 14423). APPENDIX A: Local HUD Offices in the section captioned **Notes** similarly is amended to reflect the addition of paragraph 5 and corrections to addresses and/or telephone numbers of several local HUD Offices (listed as paragraph 6 in APPENDIX A). (*See* page 14439).

HUD amends the Fiscal Year 2002 Section 811 Allocations chart on page 14427 to add the following footnote to the Los Angeles Hub total (the footnote is indicated by an asterisk): "This amount includes $518,500 in capital advance authority to fund Therapeutic Living Centers for the Blind of West Hills, California. Since this 6-unit project was not selected in FY 2001 due to HUD error, the application will be funded from the FY 2002 allocation to the Los Angeles Office."

The **Note** at the end of Section III(C) (Eligible Activities) is amended to clarify that existing Federally funded or assisted projects or projects insured or guaranteed by a Federal agency involving refinancing are not permissible activities under this Section 811 NOFA. This clarification is necessary because HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a Federal program. For example, Section 202, Section 202/8, or 202/PAC direct loan projects cannot be refinanced with capital advances and project rental assistance. (See middle column, page 14428).

Section V(C) on page 14431 is amended to add Renewal Communities (RC) to the other two federally designated areas appearing in the section. Identical amendments are made to Section V(D), first column, (see page 14432), Section V(D), **Bonus Points**, third column, (see page 14433), and the Table of Contents in the Appendix to the NOFA (see page 14446). The reference in Section V(C), V(D), and in the Table of Contents in the Appendix now reads RC/EC/EZ, making it consistent with the reference used in Section III(C)(1) of the General Section of the SuperNOFA. (See page 13839). The amendment clarifies that projects that are located in an RC/EZ/EC area are eligible to receive the two bonus points in the rating of their application.

HUD amends paragraph (B)(7)(i) of Section VI (Application Submission Requirements) to correct the title of Form HUD–2990 to read *Certification of Consistency with the RC/EZ/EC Strategic Plan (HUD–2990)*. (*See* page 14438).

Paragraph (B)(4)(c)(iv) in Section VI is amended to read "Describe your plan for getting your project to initial closing and start of construction within the initial 18-month term of the fund reservation (optional)." (See page 14435). The amendment makes it clear that HUD is not asking applicants to describe their plans to complete construction and finally close the project within the initial 18-month fund reservation term because HUD recognizes that such an event would be unlikely.

Under Rating Factor 3 (Soundness of Approach), paragraph (f) is amended to read "(-1 point) Your application did not include a plan for getting your project to initial closing and start of construction within the initial fund reservation period of 18-months." (*See* page 14433). The amendment here is consistent with the change made to Section VI(B)(4)(c)(iv).

Paragraph (B)(4)(d)(i)(A) (pertaining to HUD's site control requirements) of Section VI(Application Submission Requirements) is amended to require a lease with a term of 50 years with renewable provisions for 25 years in cases where the applicant submits an application with site control and the form of site control is a leasehold. HUD recognizes that in some areas, applicants are unable to obtain a lease on sites for an initial term of 75 years due to, for example, state, local or tribal laws prohibiting such long-term leases. This restriction has the effect of excluding such sites from the Section 811 program. HUD has determined to make the change to require 50-year leases with renewable provisions for 25 years to expand the supply of housing for persons with disabilities in those areas that otherwise would be denied the benefit of such housing.

Accordingly, in the Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs for Fiscal Year 2002 [Docket No. FR–4723–N–01], beginning at 67 FR 13826, in the issue of Tuesday, March 26, 2002, the following corrections are made.

1. General Section of SuperNOFA, Beginning at 67 FR 13826

Appendix A–1 List of HUD Field Offices beginning on page 13844 and continuing through page 13859 is removed and replaced with a corrected Appendix A–1. List of HUD Field Offices.

BILLING CODE 4210–32–P

APPENDIX A-1. LIST OF HUD FIELD OFFICES

Region	Office	Address and phone numbers
NEW ENGLAND	Boston, MA	O'Neil Federal Building 10 Causeway Street Boston, MA 02222-1092 OFC PHONE (617) 994-8203 FAX (617) 565-6558
NEW ENGLAND	Hartford, CT	One Corporate Center Hartford, CT 06103 OFC PHONE (860) 240-4844 FAX (860) 240-4850
NEW ENGLAND	Bangor, ME	202 Harlow Street - Chase Bldg. Suite 101 Bangor, ME 04402-1384 OFC PHONE (207) 945-0468 FAX (207) 945-0533
NEW ENGLAND	Manchester, NH	Norris Cotton Federal Bldg. 275 Chestnut Street Manchester, NH 03101-2487 OFC PHONE (603) 666-7682 FAX (603) 666-7667
NEW ENGLAND	Providence, RI	10 Weybosset Street Sixth Floor Providence, RI 02903-2808 OFC PHONE (401) 528-5352 FAX (401) 528-5097
NEW ENGLAND	Burlington, VT	159 Bank Street, 2nd Floor Burlington, VT 05401 OFC PHONE (802) 951-6290 FAX (802) 951-6298
NEW YORK/NEW JERSEY	New York, NY	26 Federal Plaza - Suite 3541 New York, NY 10278-0068 OFC PHONE (212) 264-1161 FAX (212) 264-3068
NEW YORK/NEW JERSEY	Albany, NY	52 Corporate Circle Albany, NY 12203-5121 OFC PHONE (518) 464-4200 Ext. 4204 FAX (518) 464-4300
NEW YORK/NEW JERSEY	Buffalo, NY	Lafayette Court, 5th Floor 465 Main Street Buffalo, NY 14203-1780 OFC PHONE (716) 551-5733 Ext. 5000 FAX (716) 551-5752
NEW YORK/NEW JERSEY	Syracuse, NY	128 Jefferson Street Syracuse, NY 13202 OFC PHONE (315) 477-0616 FAX (315) 477-0196
NEW YORK/NEW JERSEY	Newark, NJ	One Newark Center Newark, NJ 07102-5260 OFC PHONE (973) 622-7619 FAX (973) 645-2323
NEW YORK/NEW JERSEY	Camden, NJ	2nd Floor - Hudson Bldg. 800 Hudson Square Camden, NJ 08102-1156 OFC PHONE (856) 757-5081 FAX (856) 757-5373
MID-ATLANTIC	Philadelphia, PA	The Wanamaker Building 100 Penn Square, East Philadelphia, PA 19107-3380 OFC PHONE (215) 656-0600 FAX (215) 656-3445
MID-ATLANTIC	Pittsburgh, PA	339 Sixth Avenue - Sixth Floor Pittsburgh, PA 15222-2515 OFC PHONE (412) 644-5945 FAX (412) 644-4240
MID-ATLANTIC	Wilmington, DE	920 King Street, STE 404 Wilmington, DE 19801-3337 OFC PHONE (302) 573-6300 FAX (302) 573-6259
MID-ATLANTIC	Baltimore, MD	10 South Howard Street, 5th Floor Baltimore, MD 21201-2505 OFC PHONE (410) 962-2520 Ext. 3474 FAX (410) 962-1849
MID-ATLANTIC	Richmond, VA	600 East Broad Street Richmond, VA 23219 OFC PHONE (804) 771-2100 Ext. 3736 FAX (804) 771-2090
MID-ATLANTIC	Washington, DC	820 First Street NE, Suite 300 Washington, DC 20002-4205 OFC PHONE (202) 275-9206 Ext. 3075 FAX (202) 275-9212
MID-ATLANTIC	Washington, DC	801 N. Capitol St NE Washington, DC 20002 (202) 275-9200 Ext. 3141
MID-ATLANTIC	Charleston, WV	405 Capitol Street, Suite 708 Charleston, WV 25301-1795 OFC PHONE (304) 347-7036 Ext. 101 FAX (304) 347-7050
SOUTHEAST/CARIBBEAN	Atlanta, GA	40 Marietta Street - Five Points Plaza Atlanta, GA 30303-2806 OFC PHONE (404) 331-4111 FAX (404) 730-2392
SOUTHEAST/CARIBBEAN	Birmingham, AL	Medical Forum Bldg 950 22nd Street North, Suite 900 Birmingham, AL 35203-5301 OFC PHONE (205) 731-2617 FAX (205) 290-7593
SOUTHEAST/CARIBBEAN	San Juan, PR	171 Carlos E. Chardon Avenue San Juan, PR 00918-0903 OFC PHONE (787) 766-5201 FAX (787) 766-5995

APPENDIX A-1. LIST OF HUD FIELD OFFICES

Region	Office	Address and phone numbers
SOUTHEAST/CARIBBEAN	Louisville, KY	601 West Broadway Louisville, KY 40201-1044 OFC PHONE (502) 582-5251 FAX (502) 582-6074
SOUTHEAST/CARIBBEAN	Miami, FL	909 SE First Avenue Miami, FL 33131 OFC PHONE (305) 536-5678 FAX (305) 536-5765
SOUTHEAST/CARIBBEAN	Jacksonville, FL	301 West Bay Street, Suite 2200 Jacksonville, FL 32202-5121 OFC PHONE (904) 232-2627 FAX (904) 232-3759
SOUTHEAST/CARIBBEAN	Orlando, FL	3751 Maguire Boulevard, Room 270 Orlando, FL 32803-3032 OFC PHONE (407) 648-6441 FAX (407) 648-6310
SOUTHEAST/CARIBBEAN	Tampa, FL	500 E. Zack Street, Suite 402 Tampa, FL 33602 OFC PHONE (813) 228-2504 FAX (813) 228-2431
SOUTHEAST/CARIBBEAN	Jackson, MS	McCoy Federal Building 100 W. Capitol Street, Room 910 Jackson, MS 39269-1096 OFC PHONE (601) 965-4700 Ext. 2105 FAX (601) 965-4773
SOUTHEAST/CARIBBEAN	Greensboro, NC	Koger Building 2306 West Meadowview Road Greensboro, NC 27401-3707 OFC PHONE (336) 547-4001, 4002,4003 FAX (336) 547-4138
SOUTHEAST/CARIBBEAN	Columbia, SC	1835 Assembly Street Columbia, SC 29201-2480 OFC PHONE (803) 765-5592 FAX (803) 253-3040
SOUTHEAST/CARIBBEAN	Nashville, TN	235 Cumberland Bend, Suite 200 Nashville, TN 37228-1803 OFC PHONE (615) 736-5213 ext. 7120 FAX (615) 736-2018
SOUTHEAST/CARIBBEAN	Knoxville, TN	710 Locust Street, SW Knoxville, TN 37902-2526 OFC PHONE (865) 545-4384 FAX (423) 545-4569
SOUTHEAST/CARIBBEAN	Memphis, TN	200 Jefferson Avenue, Suite 1200 Memphis, TN 38103-2335 OFC PHONE (901) 544-3367 FAX (901) 544-3697
MIDWEST	Chicago, IL	Ralph Metcalfe Federal Building 77 West Jackson Boulevard Chicago, IL 60604-3507 OFC PHONE (312) 353-5680 FAX (312) 886-2729
MIDWEST	Indianapolis, IN	151 North Delaware Street, Suite 1200 Indianapolis, IN 46204-2526 OFC PHONE (317) 226-6303, ext. 7034 FAX (317) 226-6317
MIDWEST	Detroit, MI	477 Michigan Avenue Detroit, MI 48226-2592 OFC PHONE (313) 226-7900 FAX (313) 226-5611
MIDWEST	Flint, MI	Municipal Center, North Building 1101 S. Saginaw Street Flint, MI 48502 OFC PHONE (810) 766-5112 FAX (810) 766-5122
MIDWEST	Grand Rapids, MI	Trade Center Building 50 Louis Street, N.W. Grand Rapids, MI 49503-2633 OFC PHONE (616) 456-2100 FAX (616) 456-2114
MIDWEST	Minneapolis, MN	920 Second Avenue South Minneapolis, MN 55402 OFC PHONE (612) 370-3288 FAX (612) 370-3220
MIDWEST	Columbus, OH	200 North High Street Columbus, OH 43215-2499 OFC PHONE (614) 469-2540, Ext. 8116 FAX (614) 469-2432
MIDWEST	Cincinnati, OH	15 East 7th Street Cincinnati, OH 45202-2967 OFC PHONE (513) 684-2967 FAX (513) 684-6224
MIDWEST	Cleveland, OH	1350 Euclid Avenue, Suite 500 Cleveland, OH 44115-1815 OFC PHONE (216) 522-4058 Ext. 7102 FAX (216) 522-4067
MIDWEST	Milwaukee, WI	310 West Wisconsin Avenue, Room 1380 Milwaukee, WI 53203-2289 OFC PHONE (414) 297-3214 ext. 8000 FAX (414) 297-3947
SOUTHWEST	Ft. Worth, TX	801 Cherry St, PO Box 2905 Ft. Worth, TX 76113-2905 OFC PHONE (817) 978-5965 FAX (817) 978-5567
SOUTHWEST	Dallas, TX	525 Griffin Street, Room 860 Dallas, TX 75202-5007 OFC PHONE (214) 767-8300 FAX (214) 767-8973
SOUTHWEST	Houston, TX	2211 Norfolk #200 Houston, TX 77098-4096 OFC

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Region	Office	Address and phone numbers
SOUTHWEST	Lubbock, TX	PHONE (713) 313-2274 ext. 7015 FAX (713) 313-2319 1205 Texas Avenue, Room. 511F Lubbock, TX 79401-4093 OFC PHONE (806) 472-7265 Ext. 3030 FAX (806) 472-7275
SOUTHWEST	San Antonio, TX	800 Dolorosa San Antonio, TX 78207-4563 OFC PHONE (210) 475-6806 FAX (210) 472-6804
SOUTHWEST	Little Rock, AR	425 West Capitol Avenue #900 Little Rock, AR 72201-3488 OFC PHONE (501) 324-5401 FAX (501) 324-6142
SOUTHWEST	New Orleans, LA	Hale Boggs Bldg. 501 Magazine Street, 9th Floor New Orleans, LA 70130-3099 OFC PHONE (504) 589-7201 FAX (504) 589-6619
SOUTHWEST	Shreveport, LA	401 Edwards Street, Room. 1510 Shreveport, LA 71101-3289 OFC PHONE (318) 676-3440 FAX (318) 676-3407
SOUTHWEST	Albuquerque, NM	625 Silver Avenue SW, Suite 100 Albuquerque, NM 87102 OFC PHONE (505) 346-6463 Ext. 7332 FAX (505) 346-6704
SOUTHWEST	Oklahoma City, OK	500 W. Main Street, Suite 400 Oklahoma City, OK 73102-2233 OFC PHONE (405) 553-7500 FAX (405) 553-7588
SOUTHWEST	Tulsa, OK	1516 S Boston Ave, Suite 100 Tulsa, OK 74119 OFC PHONE (918) 581-7168 FAX (918) 581-7440
GREAT PLAINS	Kansas City, KS	400 State Avenue, Room 200 Kansas City, KS 66101-2406 OFC PHONE (913) 551-5462 Ext. 5 FAX (913) 551-5469
GREAT PLAINS	Des Moines, IA	210 Walnut Street, Room 239 Des Moines, IA 50309-2155 OFC PHONE (515) 284-4573 FAX (515) 284-4743
GREAT PLAINS	Omaha, NE	10909 Mill Valley Road, Suite 100 Omaha, NE 68154-3955 OFC PHONE (402) 492-3103 FAX (402) 492-3150
GREAT PLAINS	St. Louis, MO	1222 Spruce Street #3207 St. Louis, MO 63103-2836 OFC PHONE (314) 539-6560 FAX (314) 539-6384
ROCKY MOUNTAINS	Denver, CO	HUD Denver Office 633 17th Street, 14th Floor Denver, CO 80202-3607 OFC PHONE (303) 672-5440 FAX (303) 672-5004
ROCKY MOUNTAINS	Helena, MT	7 W 6th Avenue Helena, MT 59601 OFC PHONE (406) 449-5048 FAX (406) 441-1292
ROCKY MOUNTAINS	Fargo, ND	657 2nd Avenue North, Room 366 Fargo, ND 58108 OFC PHONE (701) 239-5040 FAX (701) 239-5249
ROCKY MOUNTAINS	Sioux Falls, SD	2400 West 49th Street, Room. I-201 Sioux Falls, SD 57105-6558 OFC PHONE (605) 330-4223 FAX (605) 330-4428
ROCKY MOUNTAINS	Salt Lake City, UT	257 East, 200 South, Room. 550 Salt Lake City, UT 84111-2048 OFC PHONE (801) 524-6071 FAX (801) 524-3439
ROCKY MOUNTAINS	Casper, WY	150 East B Street, Room 1010 Casper, WY 82601-7005 OFC PHONE (307) 261-6251 FAX (307) 261-6245
PACIFIC/HAWAII	San Francisco, CA	450 Golden Gate Avenue San Francisco, CA 94102-3448 OFC PHONE (415) 436-6532 FAX (415) 436-6446
PACIFIC/HAWAII	Fresno, CA	2135 Fresno Street, Suite 100 Fresno, CA 93721-1718 OFC PHONE (559) 487-5032 Ext. 232 FAX (559) 487-5191
PACIFIC/HAWAII	Los Angeles, CA	611 W. Sixth Street, Suite 800 Los Angeles, CA 90017 OFC PHONE (213) 894-8007 FAX (213) 894-8110
PACIFIC/HAWAII	Sacramento, CA	925 L Street Sacramento, CA 95814 OFC PHONE (916) 498-5220 Ext. 322 FAX (916) 498-5262
PACIFIC/HAWAII	San Diego, CA	Symphony Towers 750 B Street, Suite 1600 San Diego, CA 92101-8131 OFC PHONE (619) 557-5310 FAX

APPENDIX A-1. LIST OF HUD FIELD OFFICES

Region	Office	Address and phone numbers
		(619) 557-5312
PACIFIC/HAWAII	Santa Ana, CA	1600 N. Broadway, Suite 100 Santa Ana, CA 92706-3927 OFC PHONE (714) 796-5577 Ext. 3006 FAX (714) 796-1285
PACIFIC/HAWAII	Phoenix, AZ	One North Central Avenue, Suite 600 Phoenix, AZ 85004 OFC PHONE (602) 379-7100 FAX (602) 379-3985
PACIFIC/HAWAII	Tucson, AZ	160 N Stone Ave Tucson, AZ 85701 OFC PHONE (520) 670-6000 FAX (520) 670-6207
PACIFIC/HAWAII	Honolulu, HI	500 Ala Moana Blvd. #3A Honolulu, HI 96813-4918 OFC PHONE (808) 522-8175 Ext. 256 or 259 FAX (808) 522-8194
PACIFIC/HAWAII	Las Vegas, NV	333 N. Rancho Drive - Atrium Bldg. Suite 700 Las Vegas, NV 89106-3714 OFC PHONE (702) 388-6208/6500 FAX (702) 388-6244
PACIFIC/HAWAII	Reno, NV	3702 S. Virginia Street Reno, NV 89502-6581 OFC PHONE (775) 784-5356 FAX (775) 784-5066
NORTHWEST/ALASKA	Seattle, WA	909 First Avenue, Suite 200 Seattle, WA 98104-1000 OFC PHONE (206) 220-5101 FAX (206) 220-5108
NORTHWEST/ALASKA	Spokane, WA	US Courthouse Bldg. 920 W. Riverside, Suite 588 Spokane, WA 99201-1010 OFC PHONE (509) 353-0674 FAX (509) 353-0682
NORTHWEST/ALASKA	Anchorage, AK	949 East 36th Avenue, Suite 401 Anchorage, AK 99508-4399 OFC PHONE (907) 271-4170 FAX (907) 271-3778
NORTHWEST/ALASKA	Boise, ID	Plaza IV, Suite 220 800 Park Boulevard Boise, ID 83712-7743 OFC PHONE (208) 334-1990 ext. 3007 FAX (208) 334-9648
NORTHWEST/ALASKA	Portland, OR	400 SW 6th Avenue #700 Portland, OR 97204-1632 OFC PHONE (503) 326-2561 FAX (503) 326-2568
MIDWEST	Springfield, IL	320 West Washington 7th Floor Springfield, IL 62701-1135 OFC PHONE (217) 492-4120

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2. Community Development Block Grants for Indian Tribes and Alaskan Native Villages, Beginning at 67 FR 13907

On page 13915, in the table under paragraph (J) (Factors for Award Used to Evaluate and Rate Applications), HUD makes the following corrections:

(a) the number of points under Rating Factor 3, Subfactor (1) is corrected to read 14.

(b) the number of points under Rating Factor 3, Subfactor (2) is corrected to read 5.

(c) Under the heading "Project Type", for Rating Factor 2 the entry "All Project Types" is removed.

As corrected, the table now reads as follows:

Rating factor	Rating sub-factor	Points	Project type
1	Total	30	Minimum of 15 Points Required.
	(1)(a)	10	All Project Types.
	(1)(b)	5 or 7	All Project Types.
	(1)(c)	3 or 8*	All Project Types.
	(1)(d)	2 or 5*	All Project Types.
	(2)(a)	2 or 0*	All Project Types.
	(2)(b)	2 or 0*	All Project Types.
	(2)(c)	2 or 0*	All Project Types.
	(2)(d)	2 or 0*	All Project Types.
	(2)(e)	2 or 0*	All Project Types.
2	Total	20	
	1	5	All Project Types.
	(2)(a)	15	Public Facilities and Improvements and Economic Development Projects.
	(2)(b)	15	New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects.
	(2)(c)	15	Microenterprise Programs.
3	Total	35	
	(1)	14	All Project Types.
	(2)	5	All Project Types.
	(3)	1	All Project Types.
	(4)(a)(i)	15	Public Facilities and Improvements (tribe assumes O & M responsibilities).
	(4)(a)(ii)	15	Public Facilities and Improvements (entity other than tribe assumes O&M responsibilities).
	(4)(b)	15	New Housing Construction, Housing Rehabilitation, and Homeownership Assistance Projects.
	(4)(c)	15	Economic Development.
	(4)(d)	15	Microenterprise Programs.
	(4)(e)	15	Land Acquisition to Support New Housing.
4	Total	10	All Project Types.
5	Total	5	All Project Types.
Total Possible		100	Minimum of 70 Points Required.

*The first number listed indicates the maximum number of points available to current ICDBG grantees under this sub-factor. The second number indicates the maximum number of points available to new applicants.

On page 13916, under Rating Factor 2 (Need/Extent of the Problem), HUD adds the following language to the end of paragraph (2)—

For documenting persons employed by the project, you do not need to submit a demographic data certification and corresponding documentation. However, you do need to submit information that describes the nature of the jobs created or retained. Such information includes but is not limited to proposed job descriptions, salaries and the number of full-time equivalent positions. If you believe jobs will be retained as a result of the ICDBG project, include information that shows clearly and objectively, that jobs will be lost without the ICDBG project. Jobs that are retained only for the period of the grant will not count under this Rating Factor.

On page 13919, paragraph (C)(6) of Section VI (Application Submission Requirements) is removed.

On page 13919, existing paragraphs (C)(7) and (C)(8) of Section VI (Application Submission Requirements) are renumbered (C)(6) and (C)(7), respectively.

3. Community Outreach Partnership Centers (COPC), Beginning at 67 FR 13929

On page 13929, Section I, HUD corrects the caption (the text of the paragraph remains unchanged) that reads "Address for Submitting Applications" to read "Application Submission Procedures".

On page 13929 in Section I (Application Due Date, Application Kits, Further Information, and Technical Assistance), HUD adds a new section to follow the paragraph captioned "Mailed Applications" to read as follows:

Address for Submitting Applications. Your completed application consists of one original and two copies of your application. Submit the original and two copies to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC, 20410. When submitting your application, please refer to the COPC program, and include your name, mailing address (including zip code) and telephone number (including area code).

On page 13931, HUD amends Section IV(D) (Match) by adding a new sentence at the end of the section to read as follows:

You should use HUD–30001 Community Outreach Partnership Centers Matching Requirements to show how you have met the match requirements.

On page 13931, HUD amends Section IV(D)(1)(b) by removing the last two sentences in the second paragraph and adding new language in their place. As amended, the new paragraph now reads:

(b) *Outreach Activities.* 35% of the total project costs of establishing and operating outreach activities.

In previous competitions, some applicants incorrectly based their match calculations on the Federal grant amount, not on the total project costs. An example of how you should calculate match correctly, and Forms 30011 (New Directions) and 30012 (New Grants) are included in the Application Kit. The completed form should be included with your application.

On page 13935, paragraph (C) (Application Checklist) of Section VI (Application Submission Requirements) is removed.

4. Historically Black Colleges and Universities (HBCU), Beginning at 67 FR 13951

On page 13956, in paragraph (A)(3) of Section VI (Application Submission Requirements), HUD corrects the form number to read SF–424D, Assurances for Construction Programs.

5. Hispanic-Serving Institutions Assisting Communities (HSIAC) Program, Beginning at 67 FR 13971

On page 13972, HUD amends Section III(B) (Eligible Applicants) by adding an introductory sentence to read as follows:

"Eligible applicants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education." With the addition of the sentence, paragraph (B) now reads as follows:

(B) *Eligible Applicants.* Eligible applicants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. Only if your institution is a nonprofit institution of higher education and meets the statutory definition of an HSI in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244) are you eligible to apply. In order for you to meet this definition, at least 25 percent of the full-time undergraduate students enrolled in your institution must be Hispanic and not less than 50 percent of these Hispanic students must be low-income individuals. You are not required to be on the list of eligible institutions prepared by the U.S. Department of Education. However, if you are not, you will be required to certify in the application that you meet the statutory definition. If you are one of several campuses of the same institution, you may apply separately from the other campuses as long as your campus has a separate administrative structure and budget from the other campuses. In addition, in order to fund as many different HSIs as possible, you can only apply if you did not receive an HSIAC grant in FY 2001. If you received an HSIAC grant in FY 2000, you may reapply as long as: (1) you propose an

entirely new project for a different activity; (2) you propose a different project director; and (3) you have drawn down at least 75% of your previous grant by the application due date.

6. Alaska Native/Native Hawaiian Assisting Communities (AN/NHIAC) Program, Beginning at 67 FR 13983

On page 13983, HUD amends the paragraph entitled "Application Deadline" in the Program Overview Section to read as follows:

Application Deadline: July 20, 2002.

On page 13983, HUD amends Section I, second column, last paragraph, second sentence, to read as follows: "For ANIs, HUD only will accept one application per campus. Similarly, for NHIs HUD will only accept one application per campus." HUD also removes the balance of this paragraph.

On page 13984, HUD amends Section III(B) by adding a new introductory sentence to read as follows: "Eligible applicants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education." Also, HUD corrects the first sentence in the second paragraph of Section III(B) to read as follows: "If you are an NHI and your institution has multiple campuses, each one is eligible to apply separately, as long as it meets the above-described enrollment threshold. You may undertake as many projects and activities as you want, as long as you do not exceed the $600,000 cap for an application."

As amended, Section III(B) now reads as follows:

(B) *Eligible Applicants.* Eligible applicants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. Only if your institution is a nonprofit institution of higher education and meets the statutory definition of either an Alaska Native institution of higher education or a Native Hawaiian institution of higher education, as contained in Title III, Part A, Section 317 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998 (Pub. L. 105–244) are you eligible to apply. If you are an Alaska Native institution of higher education, in order to meet this definition at least 20 percent of your undergraduate headcount enrollment must be Alaska Native students. If you are a Native Hawaiian institution of higher education, in order to meet this definition at least 10 percent of your undergraduate headcount enrollment must be Native Hawaiian students. You are not required to be on a list of eligible AN/NHIs prepared by the U.S. Department of Education. However, if you are not, you will be required to certify in the application that you meet the statutory definition. If you are an ANI and received a grant in FY 2001, you are not eligible to submit an application in FY 2002. If you are an NHI and received a grant in FY 2001, you are not permitted to submit an application for the same specific project in a different neighborhood, another project in the same neighborhood, or another project with the same project director as the project funded in FY 2001.

If you are an NHI and your institution has multiple campuses, each one is eligible to apply separately, as long as it meets the above-described enrollment threshold. You may undertake as many projects and activities as you want, as long as you do not exceed the $600,000 cap for an application.

7. Tribal Colleges and Universities Program, Beginning at 67 FR 13995

On page 13995, HUD amends Section III(B) by adding a new introductory sentence to read as follows:

"Eligible applicants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education." As amended, Section III(B) now reads as follows:

(B) *Eligible Applicants.* Eligible applicants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. Only if your institution is a nonprofit institution of higher education and meets the statutory definition of a TCU in Title III of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244) are you eligible to apply. If you are one of several campuses of the same institution, you may apply separately from the other campuses as long as your campus has a separate administrative structure and budget from the other campuses.

On page 13999, in paragraph (E)(3) of Section V (Application Submission Requirements), HUD corrects the number of factors for award to read five, instead of four. As amended, paragraph (E)(3) now reads as follows:

(3) Your narrative statement addressing the factors for award should address each of the five factors for award. (Please note that although submitting pages in excess of the page limit will not disqualify your application, HUD will not consider the information on any excess pages, which may result in a lower score or failure to meet a threshold.)

In addressing Factor 4, for each leveraging source, cash or in-kind, you must submit a letter, dated no earlier than the date of this NOFA, from the provider on the provider's letterhead that addresses the following:

8. Lead-Based Paint Hazard Control Grant Program, Beginning at 67 FR 14067

On page 14070, HUD amends Section IV(B) (Period of Performance) to add a sentence at the end of paragraph (B) to read as follows: HUD reserves the right to approve no-cost time extensions based upon the submission of adequate justification by the grantee. As amended, paragraph (B) now reads:

(B) *Period of Performance.* The period of performance is 36 months for first-time grant recipients. The period of performance for current and prior grantees is 30 months, except grantees receiving an award under a "Request for Renewal," for which there is a 24-month period of performance. HUD reserves the right to approve no-cost time extensions for a period of up to 36 months based upon the submission of adequate justification by the grantee.

On page 14074, HUD amends paragraph (c)(ii) under Rating Factor 3 (Soundness of Approach) to correct the unit of measurement to read µg with respect to the standard for testing lead in dust. The corrected paragraph (c)(ii) now reads:

(ii) Describe your testing methods, schedule, and costs for performing blood lead testing, risk assessments, inspections and clearance examinations to be used. If you propose to use a more restrictive standard than the HUD/EPA thresholds (*e.g.*, less than 0.5% or 1.0 mg/ square centimeter for lead in paint, or less than 40, 250, 400 µg/square foot for lead in dust on floors, sills and troughs respectively); or 400 ppm in bare soil in children's play areas and 1200 ppm for bare soil in the rest of the yard), identify the standard(s) that will be used. All testing shall be performed in accordance with applicable regulations.

9. Healthy Homes and Lead Technical Studies, Beginning at 67 FR 14093

On page 14096, HUD amends paragraph (E) (Period of Performance) of Section IV by removing the existing language and substituting new language.

As amended, Section IV(E) now reads as follows:

(E) *Period of Performance.* The period of performance is 36 months. HUD reserves the right to approve no-cost time extensions for up to an additional 3 years based upon the submission of adequate justification by the grantee.

On page 14096, HUD amends Section V(A) (Submitting Applications for Grants) to remove the parenthetical phrase—"(*e.g.*, 12 to 24 months from the date of award)". (The parenthetical phrase appears in the fourth paragraph in Section V(A). As amended, Section (V)(A) now reads:

(A) Submitting Applications for Grants. Applications that meet all of the threshold requirements will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors described below in Section V(B) of this program section of the SuperNOFA. Your application must receive a total score of at least 70 points to remain in consideration for funding.

Awards will be made separately in rank order for Healthy Homes Technical Studies applications and Lead Technical Studies applications, within the limits of funding availability for each program.

Within each of the two technical studies programs, you may address more than one of the technical study topic areas within your proposal (*e.g.*, a HH technical studies applicant can address multiple topics consistent with the HHI program objectives), or submit separate applications for different topic areas. Projects need not address all of the objectives within a given topic area. While you will not be penalized for not addressing all of the specific objectives for a given topic area, if two applications for technical study in a given topic have equal scores, HUD will select the applicant whose project addresses the most objectives.

Regarding the amount to be awarded to the selected applicants, please refer to the Negotiations section in the General Section of the SuperNOFA.

Grants will be awarded in amounts ranging in size from $250,000 to $1 million. Final dollar amounts will be negotiated based upon the initial application submission, elimination of duplicative programs or activities based upon previously funded awards or selected applicants and ineligible activities.

10. Healthy Homes Demonstration Program, Beginning at 67 FR 14113

On page 14117, HUD amends paragraph (B) (Period of Performance) of Section IV by removing the existing language and substituting new language. As amended, Section IV(B) now reads as follows:

(B) *Period of Performance.* The period of performance is 36 months. HUD reserves the right to approve no-cost time extensions for up to an additional 3 years based upon the submission of adequate justification by the grantee.

11. Brownfields Economic Development Initiative (BEDI), Beginning at 67 FR 14137

HUD amends paragraph (G)(4) of Section VI (Application Submission Requirements) on page 14147, first column, to add the requirement that Form HUD 40122, Section 8 Loan Guarantee, State Certifications Related to Nonentitlement Entities be submitted to HUD as part of the BEDI application package, along with the requirement to submit Form HUD–40076–EDI/BEDI, Rating Factor 4: Leveraging Resources/ Financial Need Sources and Uses Statement.

As amended, paragraph (G)(4) now reads:

(4) Rating Factor 4: Leveraging Resources. The response should include a completed copy of Form HUD–40076–EDI/BEDI, Rating Factor 4: Leveraging Resources/Financial Need Sources and Uses Statement and Form HUD 40122, Section 108 Loan Guarantee, State Certifications Related to Nonentitlement Entities.

At page 14154 of Appendix A, HUD adds Form HUD–40076–EDI/BEDI, Rating Factor 4: Leveraging Resources/ Financial Need Sources and Uses Statement and at page 14155 Form HUD–40122, Section 108 Loan Guarantee, State Certifications Related to Nonentitlement Entities.

BILLING CODE 4210–32–P

RATING FACTOR 4: LEVERAGING RESOURCES/FINANCIAL NEED
SOURCES & USES STATEMENT

Applicant: _____

Project Name/Title: _____

		Acquisition of Real Property	
EDI or BEDI (circle one)		Construction/Rehab	
Section 108		(excl. infrastructure & remediation)	
CDBG		Infrastructure	
		Remediation	
		M&E	
		Working Capital	
		Creation of Loan Fund for	
		ED Activities	
		Project Delivery Costs	
		Contingency	
		Loan Loss Reserve	
		Land Writedown	
		Interest Rate Writedown	
		Credit Enhancements	
Equity			
TOTAL:		TOTAL:	

Instructions: Fill in the dollar amounts corresponding to each project source in the Amount column on the left half of the table. Sources of funding not listed should be added under the relevant category (Federal, State/Local, Private). For each of the project uses (on the right half of the table), fill in the dollar amount to be spent in the Amount column. Add additional uses in the blank lines at the bottom of the Uses column.

form HUD-40076-EDI/BEDI (8/2004)

SECTION 108 LOAN GUARANTEE
State Certifications Related to Nonentitlement Public Entities

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

Pursuant to 24 CFR §570.704(b)(9), the SECTION 108 LOAN GUARANTEE

State Certifications Related to Nonentitlement Public Entities

State of _____, with regard to the Section 108 Loan guarantee application submitted by the _____ (Nonentitlement Public Entity), certifies that:

(i) It agrees to make the pledge of grants required under 24 CFR §570.705(b)(2).

(ii) It possesses the legal authority to make such pledge.

(iii) At least 70 percent of the aggregate use of the CDBG grant funds received by the State, guaranteed loan funds, and program income during the one, two, or three consecutive years specified by the State for its CDBG program will be for activities that benefit low and moderate income persons.

(iv) It agrees to assume the responsibilities described in 24 CFR §570.710.

_____

Signature

_____

Name

_____

Title

_____

Date (mm/dd/yyyy)

form **HUD-40122** (05/08/2002)

BILLING CODE 4210–32–C

12. Youthbuild, Beginning at 67 FR 14165

On page 14167, HUD amends Section VI (Application Selection Process) paragraph (B)(3)(a)(ii) to remove the word "more" and substitute in its place "fewer." As amended, paragraph (B)(3)(a)(ii) now reads:

(ii) A county with an urban population of 20,000 inhabitants or fewer.

13. Resident Opportunities and Self-Sufficiency (ROSS), Beginning at 67 FR 14207

On page 14208, HUD amends paragraph (C)(2)(iii) of Section II (Amount Allocated) to read as follows:

(iii) The maximum amounts for CB grants are: $100,000 for CWROs per applicant, and $240,000 per applicant for all other eligible applicants. Applicants are required to allocate at least two-thirds of the total grant to direct funding of CB activities for site-based RAs/ROs and/or tribal ROs. CWROs are required to serve a minimum of 3 RAs. All other applicants are required to serve a minimum of 10 RAs. Tribes/TDHEs may serve a single tribal group.

On page 14208, HUD amends paragraph (C)(3)(a)(i) to read as follows:

(i) *Maximum grant amount.* For RSDM, the maximum grant amounts are as follows: For PHAs applying for family grants, the maximum grant application award will be based on the number of occupied family conventional public housing units. Tribes/TDHEs applying for RSDM should refer to section II(C)(3)(e) of this NOFA for computation of units for the maximum grant amount.

On page 14208, HUD amends paragraph (C)(3)(e) of Section II to read as follows:

(e) Tribes/TDHEs should use the number of units counted as Formula Current Assisted Stock for Fiscal Year 2002 as defined in 24 CFR 1000.316. Tribes who have not previously received funds from the Department under the 1937 Housing Act should count housing units under management that are owned and operated by the Tribe and are identified in their housing inventory as of September 30, 2001 for either family or elderly/disabled units.

On page 14208, HUD amends paragraph (i) of Section II(C)(4) to read as follows:

(i) This funding category provides grants for a targeted group of public housing residents who were beneficiaries of previously awarded ROSS grants, and/or public housing Family Self-Sufficiency participants funded through operating subsidy. This funding category recognizes the improved earning capacity of residents participating in self-sufficiency programs and provides the support necessary to achieve increased opportunities for homeownership for public housing residents through housing choice vouchers. Under this funding category, PHAs will receive grants for counseling and other supportive services to achieve homeownership for public housing residents. PHAs will design and develop homeownership supportive services for public housing residents. These supportive services shall comprehensively address the needs identified by the PHA for public housing families to obtain homeownership.

On page 14209, HUD amends paragraph (ii) of Section II(C)(5) to read as follows:

(ii) To update and expand existing technology centers, PHAs must use the number of occupied conventional family public housing units to determine the maximum grant amount in accordance with the categories listed below for families:

—For PHAs with 1 to 780 occupied family units, the maximum grant award is $50,000.
—For PHAs with 781 to 7,300 occupied family units, the maximum grant award is $100,000.
—For PHAs with 7,301 or more occupied family units, the maximum grant award is $200,000.

On page 14209, HUD amends paragraph (E) of Section II to read as follows:

(E) *Number of Applications Permitted.* PHAs applying for Service Coordinator Renewal grants under this program section of the SuperNOFA may apply for one renewal grant and three additional grants in the NN, HSS and RSDM funding categories, but may not apply for more than one grant in any one funding category. RO applicants may submit a total of two applications for RMBD and RSDM, but not more than one application in any one funding category. Nonprofit applicants may submit a total of two applications for CB and RSDM, but not more than one application in any one funding category under this ROSS competition. A PHA, RA, RO, or nonprofit may not submit an application to serve the same development. Please read each funding category carefully for additional limitations.

On page 14213, HUD amends paragraph (D)(1)(a) in Section II to read as follows:

(D) *Capacity Building.*

(1) *Eligible applicants.* (a) Intermediary Resident Organizations (IROs) and tribes/TDHEs on behalf of public or Indian housing residents, which include Public Housing Site-Based Resident Councils, Resident Organizations and Resident Management Corporations, may apply for Capacity Building (CB) grants. IROs include National Resident Organizations, Statewide Resident Organizations, Regional Resident Organizations, City-Wide Resident Organizations, and Jurisdiction-Wide Resident Organizations.

On page 14215, HUD amends paragraphs (F)(1) and (F)(2)(a) of Section III(F) to read as follows:

(1) *Eligible Applicants.* This funding category provides grants to PHAs for homeownership supportive services for public housing residents that were recipients of previously awarded ROSS grants and/or participate or participated in the public housing Family Self Sufficiency Program funded from the operating fund. Tribes/TDHEs are not eligible applicants for HSS.

(2) *Eligible participants and requirements.* Program participants must meet all of the following conditions:

(a) This funding category is targeted to the population of public housing residents that were recipients/beneficiaries of previously awarded ROSS grants between FY 1999 and FY 2000, and/or participate or participated in the public housing Family Self Sufficiency Program funded from the operating fund.

On page 14221, HUD amends paragraph (2) of Section V(D) to read as follows:

(2) *Factors for Award Used to Evaluate and Rate HSS Applications.* The factors for rating and ranking applicants and maximum points for each factor are provided below. The maximum number of points available for this program is 102. This includes two RC/EZ/EC bonus points, as described in the General Section of the SuperNOFA. The application kit contains a certification that must be completed for the applicant to be considered for RC/EZ/EC bonus points and a listing of federally designated RCs, EZs and ECs. In addition, a list of RCs, EZs, and ECs is attached to the General Section of the SuperNOFA as Appendix A–2 and is also available from the SuperNOFA Information Center, and the HUD web site, *www.hud.gov.* A HSS application must receive a total of 70 points out of 100 to be eligible for funding.

On page14229, HUD amends paragraph (b) of Section VI(E)(2) to read as follows:

(b) and/or participates or participated in a public housing family self-sufficiency program funded from operating subsidies.

14. Continuum of Care Homeless Assistance Programs, Beginning at 67 FR 14363

On page 14364, HUD corrects the final paragraph in Section II (Amount Allocated) to read as follows:

Under the FY 2002 HUD Appropriations Act, eligible Shelter Plus Care Program grants whose terms are expiring in calendar year 2003 and Shelter Plus Care Program grants that have been extended beyond their original five-year terms but which are projected to run out of funds in calendar year 2003 will be renewed for one year provided that they are determined to be needed by the Continuum of Care as evidenced by their inclusion on the priority chart. These projects must also meet the applicant and sponsor eligibility and capacity requirements described in Section V(A)(1) of this NOFA. However, these S+C renewal projects will not count against a continuum's pro rata need amount. On the other hand, no S+C renewal adjustment will be made to a Continuum of Care's pro rata need amount since these projects are being funded outside of the competition. Please be advised that Shelter Plus Care renewal applications which are not submitted as part of either a "consolidated" or "associated" Continuum of Care application will not be considered as eligible for funding. (See Section VI for a description of the three options for submitting applications.)

On page 14365, HUD corrects the first paragraph of Section III(A)(3) (Project Renewals) to read as follows:

(3) *Project renewals.* If your Supportive Housing or Shelter Plus Care grant will be expiring in calendar year 2003, or if your Shelter Plus Care Program grant has been extended beyond its original five-year term and is projected to run out of funds in calendar year 2003, you must apply under this Continuum of Care program section of the SuperNOFA to get continued funding.

15. Section 202 Supportive Housing for the Elderly, Beginning at 67 FR 14377

On page 14377, HUD amends the first paragraph under the heading "Application Due Date" in Section I (Application Due Date, Application Kits, Further Information, and Technical Assistance) to read as follows:

Application Due Date. All mailed applications must be postmarked on or before midnight, local time, on June 5, 2002, and received by HUD within 15 days of the due date.

On page 14377, HUD amends Section I to add a new paragraph 5 under *Address for Submitting Applications* to read as follows:

5. Applications for projects proposed to be located within the jurisdiction of the Grand Rapids, Michigan Office must be submitted to the Detroit, Michigan Office.

On page 14383, middle column, the Note at the end of paragraph III(D) is amended to read as follows:

Note: You may propose to rehabilitate an existing currently owned or leased structure that may or may not already serve elderly persons, except that the refinancing of any Federally funded or assisted project or project insured or guaranteed by a Federal agency is not permissible under this Section 202 NOFA. HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a Federal program. For example, Section 202 or Section 202/8 direct loan projects cannot be refinanced with capital advances and project rental assistance.

On page 14385, HUD amends the first paragraph of Section V(C) (Ranking and Selection Procedures) and Section V(D) (Factors for Award Used to Evaluate and Rate Applications) on pages 14386 and 14387 to read as follows:

(C) *Ranking and Selection Procedures.* Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score (without the addition of RC/EZ/EC bonus points) of 70 points or more and meet all of the applicable threshold requirements of Section II(B) of the **General Section** of the SuperNOFA will be eligible for selection, and HUD will place them in rank order per metropolitan or nonmetropolitan allocation. These applications, after adding any bonus points for RC/EZ/EC, will be selected based on rank order, up to and including the last application that can be funded out of each HUD office's metropolitan or nonmetropolitan allocation. HUD Offices must not skip over any applications in order to select one based on the funds remaining. After making the initial selections in each allocation area, however, HUD may use any residual funds to select the next rank-ordered application by reducing the number of units by no more than 10 percent, rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

(D) *Factors For Award Used To Evaluate and Rate Applications.* HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements identified in Section VI(B) below. The maximum number of points an application may receive under this program is 102. This includes two RC/EZ/EC bonus points, as described in the General Section of the SuperNOFA.

On page 14387, paragraph (h) under Rating Factor 3 (Soundness of Approach) is amended to read as follows:

(h) **(−1 point)** Your application did not include a plan for getting your project to initial closing and start of construction within the initial fund reservation period of 18-months.

On page 14387, **Bonus Points,** which follows paragraph (e) under Rating Factor 5 (Coordination, Self Sufficiency and Sustainability) is amended to read as follows:

(2 bonus points) Location of proposed site in an RC/EZ/EC area, as described in the General Section of this SuperNOFA. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in paragraph (B)(7)(i) of Section VI of this program section of the SuperNOFA.

On page 14389, HUD amends paragraph (B)(4)(c)(iv) of Section VI (Application Submission Requirements) to read as follows:

(4)(c)(iv) Describe your plan for getting your project to initial closing and start of construction within the initial 18-month term of the fund reservation (optional).

On page 14389, paragraph (4)(d)(i)(A) of Section VI(B), is amended to read as follows:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 50 years with renewable provisions for 25 years.

On page 14391, HUD corrects paragraph (7)(i) of Section VI(B) to read as follows:

(7)(i) Certification of Consistency with the RC/EZ/EC Strategic Plan (HUD–2990). A certification that the project is consistent with the RC/EZ/EC strategic plan, is located within the RC/EZ/EC, and serves RC/EZ/EC residents. (This certification is not required if the project

site(s) will not be located in an RC/EZ/EC.)

On page 14396, Appendix B, Table of Contents, HUD amends item 7 (i) of the Table of Contents to read: "(i) Certification of Consistency with the RC/EZ/EC Strategic Plan (HUD–2990)".

On page 14397, Appendix B, HUD replaces the Application for Capital Advance Summary Information form with Form HUD–92015–CA, Supportive Housing for the Elderly, Section 202, Application for Capital Advance Summary Information.

BILLING CODE 4210–32–P

Supportive Housing for the Elderly Section 202

Application for Capital Advance Summary Information

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0267
(exp.7/31/2002)

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

HUD Use Only | 202 Project Number | PRAC Number

1. Sponsor's Name(s), Address(es) & Telephone Number (s)

1a. Sponsor is a "grassroots" organization ☐ Yes ☐ No

2. Minority Sponsor Designation. A minority sponsor is one in which at least 51 percent of the board members are minority.
Is this sponsor a minority applicant? ☐ Yes ☐ No
If "Yes," place the numeric code as shown below in this box ☐
Codes: 2 - Black; 3 - Native American; 4 - Hispanic; 5 - Asian Pacific; 6 - Asian Indian

3a. Address of Site

3b. Will project be located within the boundaries of a Federally-designated: (1) Empowerment Zone, (2) Enterprise Community, (3) Urban Enhanced Enterprise Community, (4) Strategic Planning Community, or (5) Renewal Community?
(Contact local HUD Office for information on these designated areas.)
☐ Yes ☐ No
If "Yes," please place the appropriate number as shown above in this box ☐

4a. Congressional District
4b. Census Tract

5. Type of Area ☐ Metropolitan ☐ Non-metropolitan

6. Capital Advance Amount Requested $

7. Project Rental Assistance Contract Amount Requested $

8. Total No. of 202 Units

8a. Number & Type of Resident Units Proposed ☐ Efficiency ☐ One bedroom

8b. Resident Manager's Unit (check appropriate type) ☐ Efficiency ☐ One bedroom ☐ Two bedroom

9. Number of Buildings

10. Type of Project ☐ New Construction ☐ Rehabilitation ☐ Acquisition
Year Built (yyyy) ☐

11. Type of Building(s) ☐ Row/Townhouse ☐ Semi-detached ☐ Walk-up ☐ Detached ☐ Elevator

12. Number of Stories

13. Number of Parking Spaces

14. Check utilities and services not included in the rent and to be paid directly by the tenant.
☐ Electric ☐ Water ☐ Heat ☐ Gas

15. Off-Site Facilities

	Public	At Site	Feet from Site
Water	☐	☐	
Sewer	☐	☐	
Paving	☐	☐	
Gas	☐	☐	
Electric	☐	☐	

16a. Community Spaces to be included in Project

16b. Mixed-Finance or Mixed-Use Project For Additional Units
☐ Yes ☐ No
No. of Additional Units _____

17. Unusual Site Features
☐ None ☐ Cuts ☐ Fill ☐ Erosion ☐ Other (specify)
☐ Poor Drainage ☐ Retaining Walls ☐ Rock Foundations ☐ High Water Table

18. Mark one box
☐ Consultant ☐ Agent ☐ Authorized Representative
Name, Address & Telephone Number

19. If Sponsor is applying for more than one HUD program from the SuperNOFA, indicate which application(s) contain the forms with original signatures.
Program Name / Form

20. Sponsor's Attorney (name, address & telephone number)

By (Signature of Sponsor's Authorized Representative)

Type in Name

Type in Title | Date (mm/dd/yyyy)

Previous editions are obsolete

form HUD-92015-CA (04/2002)
ref: Handbook 4571.3 Rev-1

BILLING CODE 4210–32–C

16. Section 811 Supportive Housing for Persons With Disabilities, Beginning at 67 FR 14423

On page 14423, HUD amends the first paragraph under the heading "Application Due Date" in Section I (Application Due Date, Application Kits, Further Information, and Technical Assistance) to read as follows:

Application Due Date. All mailed applications must be postmarked on or before midnight, local time, on June 5, 2002, and received by HUD within 15 days of the due date.

On page 14423, HUD amends Section I to add a new paragraph 5 under *Address for Submitting Applications* to read as follows:

5. Applications for projects proposed to be located within the jurisdiction of the Grand Rapids, Michigan Office must be submitted to the Detroit, Michigan Office.

On page 14427, HUD amends the chart labeled "Fiscal Year 2002 Allocations for Supportive Housing for Persons with Disabilities" by adding an asterisk (*) next to the entry for "Los Angeles Hub" with a footnote to read as follows:

* This amount includes $518,500 in capital advance authority to fund Therapeutic Living Centers for the Blind of West Hills, California. Since this 6-unit project was not selected in FY 2001 due to HUD error, the application will be funded from the FY 2002 allocation to the Los Angeles Office.

On page 14428, middle column, the **Note** at the end of Section III(C) is amended to read as follows:

Note: You may propose to rehabilitate an existing currently owned or leased structure that may or may not already serve persons with disabilities, except that the refinancing of any Federally funded or assisted project or project insured or guaranteed by a Federal agency is not permissible under this Section 811 NOFA. HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a Federal program. (For example, Section 202, Section 202/8 or Section 202/PAC direct loan projects cannot be refinanced with capital advances and project rental assistance.)

On page 14431, HUD amends the first paragraph of Section V(C) (Ranking and Selection Procedures) and Section V(D) Factors for Award Used To Evaluate and Rate Applications to read as follows:

(C) *Ranking and Selection Procedures.* Applications that have a total base score of 70 points or more (without the addition of RC/EZ/EC bonus points) and meet all of the applicable threshold requirements of Section II(B) of the **General Section** of the SuperNOFA will be eligible for selection and will be placed in rank order. HUD will select applications, after adding any bonus points for RC/EZ/EC, based on rank order, up to and including the last application that can be funded out of each HUD Office's allocation. HUD Offices must not skip over any applications in order to select one based on the funds remaining. After making the initial selections, however, HUD may use any residual funds to select the next rank-ordered application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

(D) *Factors For Award Used To Evaluate and Rate Applications.* HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements in Section VI(B) below. The maximum number of points an application may receive under this program is 102. This includes two (2) EZ/EC/RC bonus points, as described in the General Section of this SuperNOFA.

On page 14433, **Bonus Points,** which follows paragraph (f) under Rating Factor 5: (Coordination, Self-Sufficiency and Sustainability) is amended to read as follows:

(2 bonus points) Location of proposed site in an RC/EZ/EC area, as described in the **General Section** of this SuperNOFA. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in paragraph (B)(7)(i) of Section VI of this program section of the SuperNOFA.

On page 14433, HUD amends paragraph (f) of Rating Factor 3 (Soundness of Approach) to read as follows:

(f) **(−#1 point)** Your application did not include a plan for getting your project to initial closing and start of construction within the initial fund reservation period of 18 months.

On page 14435, HUD amends paragraph (B)(4)(c)(iv) of Section VI (Application Submission Requirements) to read as follows:

(4)(c)(iv) Describe your plan for getting your project to initial closing and start of construction within the initial 18-month term of the fund reservation (optional).

On page 14435,paragraph (4)(d)(i)(A) of Section VI(B) is amended to read as follows:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at lease 50 years with renewable provisions for 25 years.

On page 14438, HUD corrects paragraph (7)(i) of Section VI(B) to read as follows:

(7)(i) Certification of Consistency with the RC/EZ/EC Strategic Plan (HUD–2990) A certification that the project is consistent with the RC/EZ/EC strategic plan, is located within the RC/EZ/EC, and serves RC/EZ/EC residents. (This certification is not required if the project site(s) will not be located in an RC/EZ/EC.)

On page 14439, APPENDIX A: LOCAL HUD OFFICES, HUD adds a new paragraph (6) under **Notes** to read as follows, and corrects the addresses for several local HUD Offices as indicated below:

(6) Applications for projects proposed to be located within the jurisdiction of the Grand Rapids, Michigan Office must be submitted to the Detroit, Michigan Office. HUD also corrects the addresses and/or telephone numbers of the following local HUD Offices:

HUD—Boston Hub

Manchester Office: Telephone number (603) 666–7510. The TTY number and address remain unchanged.

HUD—Baltimore Hub

Richmond Office: Third Floor, 600 East Broad Street, Richmond, VA 23219–1800. Telephone number (804) 771–2100, TTY number (804) 771–2038.

HUD—Atlanta Hub

Louisville Office: 601 West Broadway, Louisville, KY 40202. The telephone and TTY numbers remain unchanged.

HUD—Minneapolis Hub

Minneapolis Office: Suite 1300, 920 Second Avenue, South, Minneapolis, MN 55402–4012. The telephone and TTY numbers remain unchanged.

San Francisco Hub:

Honolulu Office: Suite 3A, 500 Ala Moana Boulevard, Honolulu, HI 96813. The telephone and TTY numbers remain unchanged.

Dated: May 14, 2002.

Vickers B. Meadows,

Assistant Secretary for Administration.

[FR Doc. 02–12599 Filed 5–17–02; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–090–02–6332–AA: GP02–0001]

Temporary Closure of Public Lands; Lane County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Land Closure.

SUMMARY: Notice is hereby given that except for walking, hiking and pedestrian sightseeing, certain public lands in Lane County, Oregon are temporarily closed to all public use, including driving, parking, camping, discharge of firearms, and all equestrian uses, from October 8, 2001 through November 30, 2002.

DATES: This closure is effective from October 8, 2001 through November 30, 2002.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands are available from the Eugene District Office, P. O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Pat Johnston, Wetlands Project Manager, Eugene District Office, at (541) 683–6181.

SUPPLEMENTARY INFORMATION: The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this temporary closure are specifically identified as follows:

Federal lands located in Section 29, Township 17 south, Range 4 West of the Willamette Meridian, Oregon, more generally described as follows: All federal lands within the City of Eugene Urban Growth Boundary located in Section 29, Township 17 South, Range 4 West of the Willamette Meridian lying east of Greenhill Road, South of Royal Ave., west of Terry street and a line running South from the end of Terry Street to the Southern Pacific Railroad tracks, and north of the Southern Pacific Railroad tracks.

Containing approximately 200 acres.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau, City of Eugene, and Corps of Engineers employees; state, local and federal law enforcement and fire protection personnel; agents for the Cone wetland mitigation sites; the contractor authorized to construct the Lower Amazon Wetland Restoration Project and its subcontractors; the contractor authorized by the City of Eugene to construct the Fern Ridge Bicycle Path and related recreation facilities and its subcontractors. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

The public lands temporarily closed to public use under this order will be posted with signs at points of public access.

The purpose of this temporary closure is to provide for public safety, facilitate construction of the Lower Amazon Wetland Restoration Project and Fern Ridge Bicycle Path and related facilities, and protection of property and equipment during the mobilization, construction and de-mobilization phases of the Lower Amazon Wetland Restoration and Fern Ridge Bicycle Path construction projects.

Dated: September 28, 2001.

J.O.I. Williams,

Acting Coast Range Field Office Manager.

[FR Doc. 02–12586 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–100–6334–AA; GP2–0195]

Roseburg District Bureau of Land Management Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notices for the Roseburg District Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Roseburg District BLM Resource Advisory Committee pursuant to Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Roseburg District BLM Resource Advisory Committee include operating procedures, evaluation criteria for projects, technical details for projects under Title II of the Act, facilitation needs, as well as future meeting dates.

DATES: 9 a.m. to 4 p.m., on June 10 and 24, July 22 and 29, August 13, 19, and 26 and there will be a field trip on July 8, 2002.

ADDRESSES: The Roseburg Resource Advisory Committee will meet at the BLM Roseburg District Office, 777 N.W. Garden Balley Boulevard, Roseburg, Oregon 97470.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Roseburg District BLM Resource Advisory Committee may be obtained from E. Lynn Burkett, Public Affair Officer, Roseburg District Office, 777 Garden Valley Blvd, Roseburg, Oregon 97470, or *elynn_burkett@blm.gov*, or on the web at *www.or.blm.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grand Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on federal lands, which have dropped dramatically over the past 10 years.

The Act creates a new mechanism for local community collaboration with federal land management activities in the selection of projects to be conducted on federal lands or that will benefit resources on federal lands using funds under Title II of the Act. The Roseburg District BLM Resource Advisory Committee consists of 15 local citizens (plus 6 alternates) representing a wide array of interests.

Dated: April 17, 2002.

Cary Osterhaus,

Roseburg District Manager.

[FR Doc. 02–12580 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–500–0777–PB–252Z]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA),5 U.S.C. Appendix, notice is hereby given that the next two meetings of the Front Range Resource Advisory Council (Colorado) will be held on July 16, 17, 2002 and September 18, 2002 in Canon City, Colorado.

The meeting on July 16, 2002 is scheduled to begin at 10 a.m. and will be a Tour of the Gold Belt Travel Management Area which will begin and end at the Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. The meeting will continue the following day, July 17, 2002 at 9:15 a.m. and will also be at the Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. Topics will include discussion and updates on fire management, travel management and other current public land issues.

The meeting on September 18, 2002 will begin at 9:15 a.m. at the Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. Topics will include discussion of several public land management topics including Gold Belt Travel Management and RAC reports.

All Resource Advisory Council meetings are open to the public although the public may need to provide their own transportation for the Tour on July 16. Interested persons may make oral statements to the Council at 9:30 a.m. on July 17, 2002 and September 18, 2002 or written statements may be submitted for the Council's consideration. The Center Manager or Council Chair may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The two meetings are scheduled for Tuesday, July 16, 2002 from 10 a.m. to 4 p.m. and will continue Wednesday, July 17, 2002 from 9:15 a.m. to 4 p.m. and September 18, 2002 from 9:15 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management (BLM), Front Range Center Office, 3170 East Main Street, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: For further information contact Ken Smith at (719) 269–8500.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Front Range Center Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: May 2, 2002.

Roy L. Masinton,

Front Range Center Manager.

[FR Doc. 02–12581 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–070–1020–PG]

Upper Snake River District Resource Advisory council meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Upper Snake River District Resource Advisory Council Meeting: Location and Times.

SUMMARY: The next Upper Snake River District Resource Advisory Council (RAC) Meeting will be held on May 29, 2002, beginning at 1 p.m.; and May 30, 2002, beginning at 8 a.m. The meeting will be held at the Wood River Lodge, 391 2nd Avenue North, in Ketchum, Idaho.

FOR FURTHER INFORMATION CONTACT: David Howell at the Upper Snake River District Office, 1405 Hollipark Dr., Idaho Falls, ID 83401, or telephone (208) 524–7559.

SUPPLEMENTARY INFORMATION: The RAC meets in accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. All meetings are open to the public. Each formal council meeting has time allocated for hearing public comments, and the public may present written or oral comments. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact the address below.

Dated: April 4, 2002.

LeRoy Cook,

Acting District Manager.

[FR Doc. 02–12582 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR110–5882–PB–MX01; HAG02–0189]

Notice of Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings.

SUMMARY: The Medford District Resource Advisory Committee will meet in Medford to tour project sites and to discuss proposed 2003 projects. Agenda topics include on-site inspections of 2002 projects and proposed 2003 projects, review of last meeting minutes, presentations on proposed fiscal year 2003 Title II projects, and discussion regarding proposed projects.

DATES: July 11, 2002, August 8, 2002, August 22, 2002, and August 25, 2002. The field trips on July 11, 2002 and August 25, 2002 will begin at 7 a.m. The meetings on August 8, 2002 and August 22, 2002 will begin at 10 a.m. A public comment period will be held from 2 p.m. to 2:30 p.m. The field trips and meetings are expected to adjourn at 4 p.m.

ADDRESSES: The field trips will start from, and the meetings will be held at, the Medford District Office, located at 3040 Biddle Road, Medford, Oregon.

FOR FURTHER INFORMATION CONTACT: Karen Gillespie, Medford District Office (541–618–2424).

Dated: April 15, 2002.

Ron Wenker,

District Manager.

[FR Doc. 02–12585 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–080–6333–PF; GP2–0192]

Salem Oregon Bureau of Land Management Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notice for the Salem, Oregon, Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Salem Oregon BLM Resource Advisory Committee pursuant to Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Salem BLM Resource Advisory Committee include: review 2003 project applications and develop criteria for and select 2003 projects, identification of opportunities for future field trips.

DATES: 9 a.m. to 3 p.m., on July 11, July 12 and August 15, 2002.

ADDRESSES: The Salem Resource Advisory Committee will meet at the BLM Salem District Office, 1717 Fabry Road, Salem, Oregon 97306.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Salem BLM Resource Advisory Committee may be obtained from Trish Hogervorst, Salem BLM Public Affairs, 1717 Fabry Rd. SE, Salem, Oregon 97306. (503–375–5657).

SUPPLEMENTARY INFORMATION: Pursuant to the Act, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on federal lands, which have dropped dramatically over the past 10 years.

The Act creates a new mechanism for local community collaboration with federal land management activities in the selection of projects to be conducted on federal lands or that will benefit resources on federal lands using funds under Title II of the Act. The BLM Resource Advisory Committees consist of 15 local citizens (plus 6 alternates) representing a wide array of interests.

Dated: April 19, 2002.

Denis Williamson,

District Manager.

[FR Doc. 02–12618 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–02–1220–JG–064B]

The Interim Closure to Motorized Vehicle Use of Selected Routes Within the Western Rand Mountains Area of Critical Environmental Concern

AGENCY: Bureau of Land Management, United States Department of the Interior.

ACTION: Temporary closure to motorized vehicle use of BLM routes R5, R50, R40, R15, R25, R35, R37, R12 and R48, and all other unauthorized routes and trails, within the Western Rand Mountains ACEC in Kern County, California.

EFFECTIVE DATE: This closure is effective March 29, 2002 and will remain in effect until a Record of Decision is signed on the West Mojave Plan, which is expected to be signed by June 2003.

FOR FURTHER INFORMATION CONTACT: Field Office Manager, Bureau of Land Management, Ridgecrest Field Office, 300 South Richmond Road, Ridgecrest CA 93555, (760) 384–5405. The closure is posted in the Ridgecrest Field Office and at places near and/or within the area to which the closure applies. Maps identifying the affected areas are available at the Ridgecrest Field Office as well as on the Bureau of Land Management (BLM) California website at *www.ca.blm.gov*.

SUPPLEMENTARY INFORMATION: This temporary closure is implemented pursuant to 43 CFR 8341.2 (Special rules governing the use of off highway vehicles on public lands). The closure was approved on March 29, 2002 and will remain in effect until a Record of Decision is signed on the West Mojave Plan, which is expected to be signed by June 2003. The ACEC will remain open for all other non-motorized uses currently allowed under 43 CFR. Maps showing the affected area are available by contacting the Ridgecrest Field Office. All designated routes entering the ACEC will be posted with public notices and standard motorized vehicle closure signs. Management fences and/or barriers will be installed at key access points to block entry by motorized vehicles.

This closure order is issued to provide for the protection of the desert tortoise and desert tortoise critical habitat within the Western Rand Mountains ACEC. This interim closure was made necessary by the high incidence of noncompliance exhibited by public land visitors willfully operating off highway vehicles on closed routes and traveling cross country within the ACEC. Recent surveys show that over 90% of the closed routes in the ACEC are being ridden regularly by visitors operating off highway vehicles. Visitor compliance with the designated route system is essential to protect the desert tortoise, a species listed as threatened under the Endangered Species Act.

Exemptions to this closure include vehicles conducting official government business which shall be allowed on closed routes and areas as authorized. Official government business may include public service emergencies, resource monitoring/research, and management activities, and other actions authorized by BLM's Ridgecrest Field Office Manager.

Authority: 43 CFR subparts 8341.2 (Special rules) and 8364.1 (Closure and restriction orders). Any person who violates this closure order may be subject to a fine, not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: March 21, 2002.

Hector A. Villalobos,

Field Office Manager.

Closure Order

Notice is hereby given that effective March 29, 2002, BLM Routes R5, R50, R40, R15, R25, R35, R37, R12, and R48, and all other unauthorized routes and trails, in the Western Rand Mountain Area of Critical Environmental Concern (ACEC) are closed to all motorized vehicle use. No person may use, drive, transport, park, let stand, or have charge or control over any motorized vehicle in the area located within the closure signs.

This closure order is issued to provide for the protection of the desert tortoise and desert tortoise critical habitat within the Western Rand Mountains ACEC. This interim closure was made necessary by the high incidence of noncompliance exhibited by visitors willfully operating off highway vehicles on closed routes and traveling cross country within the ACEC. Recent surveys show that over 90% of the closed routes in the ACEC are being ridden regularly by visitors operating off highway vehicles. Visitor compliance with the designated route system is essential to protect the desert tortoise, a species listed as threatened under the Endangered Species Act. The ACEC will remain open for all other non-motorized uses currently allowed under 43 CFR.

The authority for this closure is found in 43 CFR Subparts 8341.2 (Special rules) and 8364.1 (Closure and restriction orders). Any person who violates this closure order may be subject to a fine, not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Exemptions to this closure include vehicles conducting official government business which shall be allowed on closed routes and areas as authorized. Official government business may include public service emergencies, resource monitoring/research, and management activities, and other actions authorized by BLM's Ridgecrest Field Office Manager.

The closure will remain in effect until rescinded by the Ridgecrest Field Office Manager.

Dated: March 29, 2002.

Hector A. Villalobos,

Ridgecrest Field Office Manager.

[FR Doc. 02–12587 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR128–6332 02–0121]

Road Closure to Motorized Public Access

AGENCY: Bureau of Land Management, U.S. Department of Interior.

ACTION: Notice of road closure.

SUMMARY: Closure of 0.46 miles of Bureau of Land Management (BLM) Road No. 29–11–24.0 to motorized public access, which is within Township 29 South, Range 11 West, Sections 23 and 24, Williamette Meridian, in the Coos Bay District, Coos County, Oregon. This action is intended to prevent unauthorized entry of motorized vehicles onto meadow areas which can be accessed using BLM Road No. 29–11–24.0, while continuing to allow for pedestrian, equestrian and bicycle use of the road.

EFFECTIVE DATE: Road closure is effective immediately and extends indefinitely.

ADDRESSES: Bureau of Land Management, Coos Bay District Office, 1300 Airport Lane, North Bend, Oregon, 97459.

FOR FURTHER INFORMATION CONTACT: Stephan R. Samuels, Team Lead, (541) 751–4244.

SUPPLEMENTARY INFORMATION: This action is being taken at the request of the Coquille Indian Tribe, to prevent further degradation of culturally-sensitive meadow areas on the Coquille Forest which can be accessed by motorized vehicle from BLM Road No. 29–11–24.0. Exceptions to this closure include motorized vehicle use for administrative and emergency purposes and for permittees. The authorized officer may issue a permit allowing motorized vehicle access into the area for specific purposes. This closure order is in accordance with provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) and 43 CFR 8364.1.

Dated: March 26, 2002.

Mark E. Johnson,

Acting Coos Bay District Manager.

[FR Doc. 02–12584 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–ET; COC–66122]

Proposed Withdrawal: Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, proposes to withdraw approximately 40.84 acres of public land for 20 years to protect an Administrative Facility. This notice closes this land to operation of the public land laws and to location and entry under the mining laws for up to two years. The land remains open to mineral leasing.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before August 19, 2002.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–239–3706.

SUPPLEMENTARY INFORMATION: On, April 18, 2002, a petition was approved allowing the Bureau of Land management to file an application to withdraw the following described land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights.

Sixth Principal Meridian

T. 7 N., R91 W.,
Sec. 8, lot 15.

The area described contains 40.84 acres of public land in Moffat County.

The purpose of this withdrawal is to protect facilities which will be constructed to house the Hotshot Fire Crew recently assigned to the Little Snake Field Office.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed action, may present their views in writing to the Colorado State Director. If it is determined that a public meeting should be held, the public meeting will be scheduled and conducted in accordance with 43 CFR 2310.3–1(c)(2). Notice of the meeting would be published in the **Federal Register**.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period of two years from the date of publication in the **Federal Register**, this land will be segregated from the mining laws as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. During this period the Bureau of Land Management will continue to manage these lands.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 02–12583 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan/ Environmental Assessment, Saugus Iron Works National Historic Site, Essex County, MA

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of General Management Plan/Environmental Assessment and Finding of No Significant Impact.

SUMMARY: Pursuant to Council on Environmental Quality regulations and National Park Service Policy, this notice announces the pubication of the General Management Plan/Environmental Assessment for Saugus Iron Works National Historic Site, Essex County, Massachusetts. In accordance with the National Environmental Policy Act 102(2)(C) of 1969, the environmental assessment was prepared to assess the impacts of implementing the general management plan, and as a result of that analysis, a Finding Of No Significant Impact has been issued.

The General Management Plan/ Environmental Assessment identifies the Preferred Alternative and assesses the potential environmental, cultural and socioeconomic effects of the actions presented on site resources, visitor experience, and the surrounding area. The Preferred Alternative involves (a) rehabilitating the interior of the museum building to allow for compliance with NPS museum exhibit standards and consolidating the museum collections and archival materials in existing residences that would be adaptively reused to house these resources under appropriate climate controlled and protective systems, (b) removing existing maintenance facilities, restoring their current locations and consolidating them into a single facility, (c) adaptively reusing the Iron Works House Annex and Lean-to into a visitor contact facility, and d) improving access through the iron works structures and between those structures and the Iron Works House and Museum for persons with disabilities and special needs.

DATES: The General Management Plan/ Environmental Assessment and FONSI are now available.

SUPPLEMENTARY INFORMATION: Copies of the document are available at the following locations: Saugus Iron Works National Historic Site-Visitor Kiosk, 244 Central Street, Saugus, MA 01906. The visitor kiosk is open everyday from 9 a.m. to 5 p.m. The Saugus Public Library, 295 Central Street Saugus, MA. The library is open Monday through Thursday from 8:30 a.m. to 8:30 p.m.; Friday hours are 8:30 am until noon. The library is closed on weekends.

To request a copy of the document, please call (781) 233–0050, fax (781–231–7345), or write Superintendent, Saugus Iron Works National Historic Site 244 Central Street, Saugus, MA 01906.

Bob McIntosh,

Associate Regional Director, Planning, Resources Stewardship and Science, Northeast Region.

[FR Doc. 02–12564 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park Bar Harbor, Maine; Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, June 3, 2002.

The Commission was established pursuant to Public Law 99–420, § 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at park Headquarters, McFarland Hill, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held February 4, 2002
2. Committee reports:
   —Land Conservation
   —Park Use
   —Science
3. Old business
4. Superintendent's report
5. Public comments
6. Proposed agenda for next Commission meeting, September 9, 2002.

The meeting is open to the public. Interested persons may make oral/ written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: April 17, 2002.

Paul F. Haertel,

Superintendent, Acadia National Park.

[FR Doc. 02–12557 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a joint meeting of the Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions will be held on Wednesday, June 26, 2002, and Thursday, June 27, 2002, at the U. S. Fish and Wildlife Service Office in Kotzebue, Alaska.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. The purpose of the meeting will be to continue work on currently authorized and proposed National Park Service subsistence hunting program recommendations including other related subsistence management issues.

The following agenda items will be discussed:

1. Call to order (SRC Chairs).
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chairs and Superintendent's Welcome and Introductions.
4. Review and Adopt Agenda.
5. Review and adopt minutes from last meeting.
6. Review Commission Purpose.
7. Status of Membership.
8. Superintendent's Report.
9. Old Business:

(a) October 2001 Chairs Workshop Report.

(b) Status of Hunting Program Recommendations.

(c) Customary Trade.

10. Review Federal Wildlife and Fisheries Management Regulatory Actions.
11. Public and Agency Comments.
12. Work Session (comment on issues, develop new recommendations, prepare letters).
13. Set time and place of next SRC meeting.

Adjournment

DATES: The meeting will be held from 9 a.m. to 5 p.m. on Wednesday, June 26, 2002 and Thursday, June 27, 2002.

ADDRESSES: The meeting will be held at the U.S. Fish and Wildlife Service Office (Conference Room) in Kotzebue, Alaska, Telephone (907) 442–3799.

FOR FURTHER INFORMATION CONTACT: Persons who want further information concerning the meeting may contact Superintendent David W. Spirtes at P.O. Box 1029, Kotzebue, Alaska 99752, at (907) 442–8301 or 800—478–7252 or Ken Adkisson, Subsistence Manager, at (907) 443–6104 or 800–471–2352.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operation in accordance with the provisions of the Federal Advisory Committees Act. Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent—National Park Service, P.O. Box 1029, Kotzebue, Alaska 99752, Telephone (800)—478–7252.

Judith C. Gottlieb,

Acting Regional Director, National Park Service, Alaska Region.

[FR Doc. 02–12565 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware Water Gap National Recreation Area Citizen Advisory Commission Meeting

AGENCY: National Park Service; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces public meetings of the Delaware Water Gap National Recreation Area Citizen Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Saturday, June 1, 2002 at 8 a.m.

Address: Grey Towers, Pinchot Institute, Milford PA 18337.

The agenda will include reports from Citizen Advisory Commission members, specifically approval of minutes from the June 9 and October 11, 2001, and January 26 and April 13, 2002 meetings, election of Commission officers for the 2002–2003 term, and attendance of Commission members. Superintendent William Laitner will give a report on various park issues. The agenda is set up to invite the public to bring issues of interest before the Commission. These issues typically include treatment of historic buildings within the recreation area, monitoring of waste water facilities outside the recreation area but empyting into the Delaware River, and wildlife management issues.

Meeting Date and Time: Saturday, October 5, 2002 at 9 a.m.

Address: Walpack Environmental Education Center, Walpack, New Jersey 07881.

The agenda for this meeting will consist of Commission reports which typically include natural resources, recreation, and historic structures. The Superintendent will provide reports on park issues such as the Tri-State Wastewater Planning project and the

New Jersey Swim Beach development. The agenda is set up to invite the public to bring issues of interest before the Commission.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizen Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the recreation area and its surrounding communities.

FOR FURTHER INFORMATION, CONTACT: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324, 570–588–2418.

Dated: April 15, 2002.

Doyle W. Nelson,

Superintendent.

[FR Doc. 02–12573 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Gates of the Arctic National Park Subsistence Resource Commission (SRC) Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Gates of the Arctic National Park Subsistence Resource Commission (SRC) meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gates of the Arctic National Park Subsistence Resource Commission will be held on Wednesday, September 25, 2002 and Thursday, September 26, 2002, at Sophie Station Hotel in Fairbanks, Alaska. The proposed meeting provides the Commission an opportunity to continue work on the subsistence hunting program recommendations and other related subsistence management issues. The public is invited to comment on the proposed agenda topics.

The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review and Adopt Agenda.
5. Review and adopt minutes from SRC work session.
6. Review Commission Purpose.
7. Status of Membership.
8. Election of SRC Chair and Vice Chair.
9. Superintendent's Report
10. Gates of the Arctic NP& P Staff Report
    (a) Backcountry/Wilderness Planning Initiative.
    (b) Community Oral History Project.
11. Federal Subsistence Board Update
    (a) Wildlife Management Proposals and Issues
    (b) Fisheries Management Proposals and Issues
    (c) Customary Trade
    (d) Regional Council Update
    (1) Northwest Arctic Regional Advisory Council
    (2) Western Interior Regional Advisory Council
12. Public and Agency Comments
13. Work Session (comment on issues, develop new recommendations, prepare letters).
14. Set time and place of next SRC meeting.
15. Adjournment

DATES: The meeting will begin at 9 a.m. on Wednesday, September 25, 2002, and conclude at approximately 5 p.m. The meeting will reconvene at 9 a.m. on Thursday, September 26, 2002, and adjourn at approximately 5 p.m. The meeting will adjourn earlier if the agenda items are completed.

ADDRESSES: The meeting will be held at the Sophie Station Hotel, 1717 University Avenue, Fairbanks, Alaska 99709, and telephone (907) 479–3650.

Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances.

FOR FURTHER INFORMATION CONTACT: Persons who want further information concerning the meeting may contact Superintendent Dave Mills or Fred Andersen, Subsistence Manager, at Gates of the Arctic National Park and Preserve, 201 First Avenue, Fairbanks, AK, 99701, telephone (907) 457–5752.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent Gates of the Arctic National Park and Preserve, 201 First Avenue, Fairbanks, AK, 99701, telephone (907) 457–5752.

Robert L. Arnberger,

Regional Director, National Park Service, Alaska Region.

[FR Doc. 02–12563 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the American Museum of Natural History of New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the American Museum of Natural History that meets the definition of "unassociated funerary object" under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The cultural item is a wooden hat carved in the shape of a seagull with wings and tail of hide. The seagull is painted in red, black, and blue; has a hawk carved into its breast; and has copper eyebrows. The wings and tail have been printed with a design of bear's heads.

At an unknown date, George Thorton Emmons acquired the seagull hat as part of a set of implements from a grave house of the "Hootz-ar-tar qwan," near Angoon, AK. In 1894, the American Museum of Natural History acquired this seagull hat from Mr. Emmons and accessioned the item into its collection the same year.

The cultural affiliation of this item is Hutsnuwu ("Hootz-ar-tar qwan") Tlingit as indicated through museum records and consultation with representatives of the Central Council of the Tlingit and Haida Indian Tribes of Alaska. The Central Council of the Tlingit and Haida Indian Tribes of Alaska has filed a claim for this cultural item on behalf of the Deisheetaan clan of the Hutsnuwu Tlingit, for which the seagull is said to be a crest.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the American Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between this item and the Central Council of the Tlingit and Haida Indian Tribes of Alaska.

This notice has been sent to officials of the Central Council of the Tlingit and Haida Indian Tribes of Alaska, Sealaska Corporation; Kootznoowoo, Incorporated; and Angoon Community Association. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Elaine Guthrie, Acting Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769-5835 before June 19, 2002. Repatriation of this object to the Central Council of the Tlingit and Haida Indian Tribes of Alaska may begin after that date if no additional claimants come forward.

Dated: February 6, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–12558 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalogue records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum professional staff in consultation with the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

In 1954, human remains representing at least one individual were removed during excavations at CA-Lak-203, on the north shore of Clear Lake, Lake County, CA, and were donated to the Phoebe A. Hearst Museum of Anthropology by Raymond Oechsli. No known individual was identified. The one funerary object is a piece of worked bone.

The presence of clamshell disk beads and historic-period trade beads in the assemblage of materials from other areas of the site indicates that occupation of CA-Lak-203 dates to post-A.D. 1500. Linguistic and archeological evidence indicates that Pomo people moved into the region of Lake County, CA by circa 5000 B.C. and have occupied the region since that time. The preponderance of the available evidence indicates that the human remains are culturally affiliated with Pomo groups whose traditional territories include CA-Lak-203: Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

Based on the above-mentioned information, officials of the Phoebe Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of at least one individual of Native American ancestry. Officials of the Phoebe Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland

Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

This notice has been sent to officials of the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642-6096, before June 19, 2002. Repatriation of the human remains and associated funerary objects to the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria;Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California may begin after that date if no additional claimants come forward.

Dated: April 25, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc.02–12560 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalogue records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum professional staff in consultation with the Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; and the Round Valley Indian Tribes of the Round Valley Reservation, California.

In 1952, human remains representing at least one individual were removed during excavations at site CA-But-48, Butte County, CA, by Mr. and Mrs. A.B. Elsasser and J.A. Bennyhoff of the University of California, Berkeley, and were donated to the Phoebe A. Hearst Museum of Anthropology by Charles Collier the same year. No known individuals were identified. The 15 associated funerary objects are saddle olivella beads, whole olivella beads, and clamshell disc beads.

In 1956, human remains representing at least one individual were recovered during excavations at site CA-Teh-210, Tehama County, CA, by A.B. Elsasser and J.A. Bennyhoff of the University of California, Berkeley, and were accessioned into the Phoebe A. Hearst Museum of Anthropology the same year. No known individual was identified. The 89 funerary objects are clamshell disc beads, olivella beads, pine seed beads, and a steatite bead.

The presence of clamshell disk beads among the associated funerary objects from CA-But-48 and CA-Teh-210 indicate that both sites were occupied during the Protohistoric period, post-A.D. 1500. Archeological and linguistic evidence indicates that the Maidu peoples, represented by the Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; and the Round Valley Indian Tribes of the Round Valley Reservation, California moved into north-central California by circa A.D. 1400.

Based on the above-mentioned information, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of at least two individuals of Native American ancestry. Officials of the Phoebe Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 104 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; and the Round Valley Indian Tribes of the Round Valley Reservation, California.

This notice has been sent to officials of the Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; and the Round Valley Indian Tribes of the Round Valley Reservation, California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley CA 94720, telephone (510) 642-6096, before July 19, 2002. Repatriation of the human remains and associated funerary objects to the Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; and the Round Valley Indian Tribes of the Round Valley Reservation, California may begin after that date if no additional claimants come forward.

Dated: April 25, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–12561 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, National Park Service, Statue of Liberty National Monument, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of the inventory of human remains and associated funerary objects presently in the control of the U.S. Department of the Interior, National Park Service, Statue of Liberty National Monument, New York, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park unit that has control or possession of these Native American human remains and associated funerary objects. The Manager, National NAGPRA Program is not responsible for the determinations within this notice.

A detailed inventory and assessment of these human remains has been made by National Park Service curatorial, anthropological, and archeological staff; contracted specialists in physical anthropology; and representatives of the Delaware Nation, Oklahoma and the Delaware Tribe of Indians, Oklahoma. The National Park Service also consulted with the Stockbridge-Munsee Community of Mohican Indians of Wisconsin and the non-Federally recognized Delaware Nation Grand Council of Oklahoma (consisting of representatives of the Delaware Nation and the Delaware Tribe of Indians of Oklahoma, and the Moravian of the Thames First Nation and the Munsee-Delaware Nation of Canada).

In 1963, human remains representing a minimum of one individual were recovered from Liberty Island (also known as Bedloe's Island), during the restoration of Fort Wood. The human remains were recovered from strata located four feet below the present ground level. No associated funerary objects are present. The identity of this individual could not be determined.

Between 1985-1987, human remains representing a minimum of four individuals were recovered from Ellis Island during restoration of the main building of the Immigration Station. The human remains were recovered at a depth of 3.5 to 4 feet below the present ground level from both a prehistoric shell stratum and a disturbed area associated with the prehistoric shell midden: It is believed that the disturbance is related to construction of the Main Building that occurred in the 1890s. No items were found that appear to have been intentionally placed with these human remains at the time of death. A sage bundle placed at the site in 1987, and now in the monument's collections, was intentionally placed near the human remains as part of a death rite or ceremony of a culture. No known individuals were identified.

In 1986, human remains representing a minimum of one individual were recovered from another location on Ellis Island during construction of a water line. The human remains were recovered from a disturbed area believed to have been used as fill during the 20th Century. No associated funerary objects are present. The identity of this individual could not be determined.

The remains of all six individuals were reviewed for indications of Native American ancestry. Characteristics of the remains of two individuals recovered during the renovation of the Immigration Station and one individual recovered during the construction of the water line are indicative of Native American ancestry. Traits indicative of non-Native American ancestry were not noted on any of the remains recovered from Ellis Island; and traits from the Liberty Island remains could not be evaluated in this respect due to the lack of comparative data.

The remains of five individuals appear to have been originally associated with prehistoric shell middens. Remains of the four individuals associated with the Immigration Station were recovered from intact prehistoric shell matrices, and from disturbed oyster shell/sand and clay contexts believed to have been obtained from prehistoric strata underlying the Immigration Station. It is apparent from the contexts and condition of archeological removals that the remains were present while the area was still being used to procure shellfish.

Previous archeological excavations have shown that shell middens were commonly used as burial areas during the Middle Woodland (0 AD to 1000 AD) and Late Woodland (1000 AD to 1600) periods. The presence of pottery in the Ellis Island strata suggests a similar time frame of late Middle Woodland to Late Woodland occupation. A radiocarbon assay of charcoal from the base of the Ellis Island shell midden dates occupation of the lowest level of that site to A.D. 801-949. The human remains recovered from the context of the shell middens on the two islands are believed to have been interred between A.D. 801-1600.

Historical documentation indicates that in A.D. 1600 the area around Statue of Liberty National Monument was occupied by Algonquian-speaking peoples, including the Munsee Delaware peoples. Archeological excavations throughout the mid-Atlantic region reveal a continuity of material

culture through time indicative of a relationship of shared group identity between the Munsee Delaware peoples and the Middle Woodland and Late Woodland period populations of the area. Representatives of the Delaware Nation Grand Council have identified the Statue of Liberty National Monument as being within the traditional territory of their constituent tribes.

Based on the above-mentioned information, the superintendent of Statue of Liberty National Monument determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of at least six individuals of Native American ancestry. The superintendent of Statue of Liberty National Monument also determined that, pursuant to 43CFR 10.2 (d)(2), the one item listed above is reasonably believed to have been placed with or near individual human remains as part of a death rite or ceremony. Lastly, the superintendent of Statue of Liberty National Monument has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these human remains and the associated funerary object and the Delaware Nation, Oklahoma; the Delaware Tribe of Indians, Oklahoma; and the Stockbridge-Munsee Community of Mohican Indians of Wisconsin.

This notice has been sent to officials of the Delaware Tribe of Indians, Oklahoma; the Delaware Nation, Oklahoma; the Stockbridge-Munsee Community of Mohican Indians of Wisconsin; and to officials of the non-Federally recognized Delaware Nation Grand Council of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Diane H. Dayson, Superintendent, Statue of Liberty National Monument, Liberty Island, New York, NY 10004; telephone; (212) 363-7772, before June 19, 2002. Repatriation of the human remains and associated funerary object to the Delaware Tribe of Indians, Oklahoma; Delaware Nation, Oklahoma; and Stockbridge-Munsee Community of Mohican Indians of Wisconsin may begin after that date if no additional claimants come forward.

Dated: April 16, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–12559 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, National Park Service, Zion National Park, Springdale, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, National Park Service, Zion National Park, Springdale, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The Manager, National NAGPRA Program is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the National Park Service's professional staff in consultation with representatives of the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah (Cedar City, Indian Peak, Kanosh, Koosharem, Shivwits Bands); Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1927, human remains representing one individual were donated to Zion National Park. No information on the provenance of the human remains was provided. No known individual was identified. No associated funerary objects are present.

In 1933, human remains representing three individuals were recovered during legally authorized excavations within the boundary of Zion National Park. The excavation was under the direction of archeologist Ben Wetherill. No known individual was identified. No associated funerary objects are present.

In 1935, human remains representing one individual were donated to Zion National Park. No information on the provenance of the human remains was provided. No known individual was identified. No associated funerary objects are present.

In the 1960s, human remains representing one individual were donated to Zion National Park. No information on the provenance of the human remains was provided. No known individual was identified. No associated funerary objects are present.

In 1960, human remains representing one individual were donated to Zion National Park. No information on the provenance of the human remains was provided. No known individual was identified. No associated funerary objects are present.

In 1962, human remains representing two individuals were donated to Zion National Park. The human remains are believed to have been excavated on private land in Springdale, UT. No known individual was identified. No associated funerary objects are present.

In 1964, human remains representing one individual were discovered at a site within the boundary of Zion National Park. No known individual was identified. No associated funerary objects are present.

In the 1970s, human remains representing one individual were donated to Zion National Park. No information on the provenance of the human remains was provided. No known individual was identified. No associated funerary objects are present.

Based on the above mentioned information, the superintendent of Zion National Park determined in 1995 that, pursuant to 43 CFR 10.2 (d) (1), the human remains listed above represent the physical remains of 11 individuals of Native American ancestry. In 2001, the superintendent of Zion National Park also determined that a relationship of shared group identity could not reasonably be traced between these human remains and any present-day Indian tribe.

In May 2001, the superintendent of Zion National Park requested a recommendation regarding the disposition of these culturally unidentifiable human remains from the Native American Graves Protection and Repatriation Review Committee. The review committee is charged by statute with compiling an inventory of culturally unidentifiable human remains and recommending specific actions for developing a process for disposition of such remains [25 U.S.C. 3006 (d)(5)]. The superintendent of Zion National Park requested that the review committee recommend disposition of the culturally unidentifiable human remains to seven Indian tribes that have demonstrated a cultural relationship with the Zion National Park area by means of a final judgement of the Indian Claims Commission and other sources.

The review committee considered the request at its May 31-June 2, 2001, meeting in Kelseyville, CA. On August 13, 2001, the Assistant Director, Cultural Resources Stewardship and Partnerships, writing on behalf of the Secretary of the Interior, informed the superintendent of Zion National Park that the review committee recommended disposition of the culturally unidentifiable human remains to the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah (Cedar City, Indian Peak, Kanosh, Koosharem, Shivwits Bands); Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

This notice has been sent to officials of the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah (Cedar City, Indian Peak, Kanosh, Koosharem, Shivwits Bands); Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any Indian tribe that believes itself to be culturally affiliated with these human remains should contact Martin C. Ott, Superintendent, Zion National Park, Springdale, UT 84767-1099, telephone (435) 772-0142, before July 19, 2002. Disposition of these human remains to the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah (Cedar City, Indian Peak, Kanosh, Koosharem, Shivwits Bands); Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico may begin after that date if no additional claimants come forward.

Dated: April 16, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–12562 Filed 5–17–02; 8:45 am]

BILLING CODE 4310–70–S

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–428 and 731–TA–992–994 and 996–1005 (Preliminary)]

Oil Country Tubular Goods From Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of oil country tubular goods, provided for in subheadings 7304.21.30, 7301.21.60, 7304.29.10, 7304.29.20, 7304.29.30, 7304.29.40, 7304.29.50, 7304.29.60, 7305.20.20, 7305.20.40, 7305.20.60, 7305.20.80, 7306.20.10, 7306.20.20, 7306.20.30, 7306.20.40, 7306.20.60, and 7306.20.80 of the Harmonized Tariff Schedule of the United States, from Austria that are alleged to be subsidized by the Government of Austria and from Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela that are alleged to be sold at less than fair value (LTFV).[2]

Background

On March 29, 2002, petitions were filed with the Commission and the Department of Commerce (Commerce) on behalf of IPSCO Tubulars, Inc., Camanche, IA; Koppel Steel Corp., Ambridge, PA; Lone Star Steel Co., Dallas, TX; Maverick Tube Corp., Chesterfield, MO; Newport Steel Corp., Newport, KY; and United States Steel Corp., Pittsburgh, PA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of oil country tubular goods from Austria and by reason of LTFV imports of the same product from Austria, Brazil, China, Colombia, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela.[3] Accordingly, effective March 29, 2002, the Commission instituted the subject investigations. Petitioners withdrew their petition against Colombia on April 11, 2002, and Commerce did not initiate an investigation on this country. Accordingly, the Commission terminated its investigation concerning Colombia (Inv. No. 731–TA–995 (Preliminary)) on April 29, 2002 (**Federal Register** of May 8, 2002 (67 FR 30964)).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 5, 2002 (67 FR 16437). The conference was held in Washington, DC, on April 19, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 13, 2002. The views of the Commission are contained in USITC Publication 3511 (May 2002), entitled Oil Country Tubular Goods from Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela: Investigations Nos. 701–TA–428 and 731–TA–992–994 and 996–1005 (Preliminary).

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12542 Filed 5–17–02; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Lynn M. Bragg dissenting.

[3] Lone Star does not join the petition with respect to Romania.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Joseph Thomas Allevi, M.D.; Revocation of Registration

On July 24, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Joseph Thomas Allevi, M.D., notifying him of an opportunity to show

cause as to why the DEA should not revoke his DEA Certificate of Registration, BA4784927, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Allevi was not authorized by the State of California to handle controlled substances. The order also notified Mr. Allevi that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Allevi at his DEA registered premises in Laguna Niguel, California. The OTSC was returned, marked "Attempted, Not Known." To date, no communications have been received from Dr. Allevi nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the DEA made a legally sufficient attempt to serve the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Allevi is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Allevi currently possesses DEA Certificate of Registration BA4784927, issued to him in California. By Order of the Medical Board of California (Board), dated May 8, 2000, the State of California issued charges seeking the revocation of Dr. Allevi's Physician's and Surgeon's Certificate. The Board outlined five separate causes for discipline, including *inter alia* an allegation that between December 1999 and April 2000, Dr. Allevi issued false prescriptions for Schedule III and IV controlled substances in the names of his wife and daughters, but in fact was obtaining the prescriptions for his own personal use. Dr. Allevi subsequently admitted to an investigating law enforcement officer that he was addicted to controlled substances, and was diverting controlled substances for his own personal use. Each of the five causes for discipline set forth in the Order by the Board stemmed from various acts of misconduct by Dr. Allevi concerning the mishandling of controlled substances.

As a result of the Board's action, Dr. Allevi entered into a Stipulation for Surrender of License with the Board, effective August 29, 2000. Among the terms and conditions was an agreement that Dr. Allevi surrender his Physician's and Surgeon's Certificate. The investigative file contains no evidence that Dr. Allevi's Certificate has been reinstated. Therefore, the Deputy Administrator concludes that Dr. Allevi is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green*, M.D., 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Allevi is not authorized to practice medicine in California, and therefore, the Deputy Administrator infers that Dr. Allevi is also not authorized to handle controlled substances in California, the state in which he holds his DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and).104, hereby orders that the DEA Certificate of Registration BA4784927, previously issued to Joseph Thomas Allevi, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

John B. Brown, III,
Deputy Administrator.
[FR Doc. 02–12483 Filed 5–17–02; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Layfe Robert Anthony, M.D.; Revocation of Registration

On June 22, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Layfe Robert Anthony, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration BA4090320, pursuant to 21 U.S.C. 834(a)(3), and deny any pending applications for renewal of this registration, pursuant to 21 U.S.C. 823(f), for the reason that Respondent is not currently authorized to practice medicine or to handle controlled substances in Utah, the state in which he is registered.

By letter received August 6, 2001, Respondent, through counsel, requested a hearing in this matter. On August 10, 2001, the Government filed a Request for Stay of Proceedings and Motion for Summary Disposition. By Order dated August 15, 2001, Administrative Law Judge Gail A. Randall (Judge Randall) granted Respondent time to respond to the Government's Motion. On August 23, 2001, the Respondent timely filed Respondent's Memorandum in Opposition to Government's Request for Stay and Summary Disposition. On August 29, 2001, Judge Randall issued an Order Granting a Stay in this proceeding. The Stay was lifted by her Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge dated October 2, 2001 (Opinion and Recommended Ruling), granting the Government's Motion for Summary Disposition. The record of these proceedings was subsequently transmitted to the Deputy Administrator for his final decision November 20, 2001.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The Government requests summary disposition based upon its allegation that Respondent does not have state authority to handle controlled substances. The Government attached to its motion a copy of an Emergency Order, entered by J. Craig Jackson, R.Ph., Director of Occupational and Professional Licensing, Department of Commerce, State of Utah, dated April 3, 2001. In the Order, Director Jackson ordered the immediate suspension of the Respondent's licenses to perform surgery and to administer and prescribe controlled substances, "pending further order of the Division." Director Jackson further stated that the Division will issue a restricted license to the Respondent pending a formal adjudicative proceeding in the matter.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the application or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented undisputed evidence demonstrating that the Respondent is not authorized to practice medicine or to administer or prescribe controlled substances in the State of Utah.

Respondent contends the Emergency Order resulted from a closed hearing in which he was not permitted to appear, call witnesses, confront his accusers, or participate in any meaningful fashion. Respondent argues that because a formal hearing has yet to be concluded, the matter before the DEA should be stayed pending the outcome of the proceeding before the Utah State Division of Occupational and Professional Licensing. In support of this contention, Respondent cites to *Hezekiah K. Heath, M.D.*, 51 FR 26,612 (1986) (*Heath*) for the proposition that the DEA has recognized it cannot rely upon a state's suspension where the respondent in a DEA hearing did not have the opportunity to contest the state's action in a plenary hearing.

The Deputy Administrator concurs with Judge Randall's reading of *Heath*, which she found "did not create an exception to the statutory mandate for cases in which a registrant's state license has been suspended by the appropriate state licensing authority without a hearing. Rather, the Administrator informed the Respondent that the DEA would accept as lawful and valid, a state regulatory board's order, unless and until such order had been overturned 'by a state court or otherwise pursuant to state law.'" *Heath* further found that he DEA proceedings were an inappropriate forum in which to challenge a state regulatory board's order. The Deputy Administrator hereby reaffirms *Heath's* conclusion that "* * * 21 U.S.C. 824(a) clearly provides that a registrant's state license need only have been suspended to provide a lawful basis for revocation of a DEA registration." *Id* at 26,612.

The Deputy Administrator further concurs with Judge Randall's finding that respondent's allegation that he was authorized to handle controlled substances in the State of Nevada is not supported by the evidence, meritless, and ultimately irrelevant. Respondent's DEA Certificate of Registration is for a Utah address, and Respondent is not authorized to practice medicine or to handle controlled substances in Utah.

The Deputy Administrator also concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *See Michael G. Dolin, M.D.*, 65 FR 5,661 (2000); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *see also Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom. Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BA4090320, issued to Layfe Robert Anthony, M.D., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown, III,
Deputy Administrator.
[FR Doc. 02–12495 Filed 5–17–02; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Byron L. Aucoin, M.D.; Revocation of Registration

On June 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Byron L. Aucoin, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BA5204817, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Aucoin was not authorized by the State of Louisiana to handle controlled substances. The order also notified Dr. Aucoin that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Aucoin at his DEA registered premises in Shreveport, Louisiana. A postal delivery receipt was signed July 12, 2001, on behalf of Dr. Aucoin, indicating the OTSC was received. To date, no response has been received from Dr. Aucoin nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Aucoin is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 130.143(d) and (e), and 1301.46.

The Deputy Administrator finds as follows: Dr. Aucoin currently possesses DEA Certificate of Registration BA5204817, issued to him in Louisiana. In a letter dated October 30, 2000, the Louisiana State Board of Medical Examiners (Board) notified the DEA New Orleans Field Division that Dr. Aucoin had entered into a Stipulation and Agreement for Voluntary Surrender of his medical license, effective September 27, 2000. Subsequent to his failure to attend a hearing set by the Board to address charges of misconduct, Dr. Aucoin informed the Board that he wished to permanently retire from the practice of medicine in Louisiana by voluntarily surrendering his medical license. The investigative file contains no evidence that Dr. Aucoin's medical license has been reinstated. Therefore, the Deputy Administrator concludes that Dr. Aucoin is not currently licensed or authorized to handle controlled substances in Louisiana.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Aucoin is not authorized to practice medicine in Louisiana, and therefore, the Deputy Administrator infers that Dr. Aucoin is also not authorized to handle controlled substances in Louisiana, the state in which he holds his DES Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823

and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BA5204817, previously issued to Byron L. Aucoin, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02–12490 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Miguel Ramon Castillo-Inzunza, M.D.; Revocation of Registration

On August 27, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Miguel Ramon Castillo-Inzunza, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BC3931955, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Castillo-Inzunza was not authorized by the State of California to practice medicine. The order also notified Dr. Castillo-Inzunza that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

Copies of the OTSC were sent to Dr. Castillo-Inzunza at his DEA registered premises in Santa Ana, California, the United States Penitentiary at Lom Poc, California, and to his attorney in La Jolla, California. The OTSC sent to Dr. Castillo-Inzunza's registered premises was returned, marked "Undeliverable as addressed—forwarding order expired." The OTSC sent to Dr. Castillo-Inzunza's incarceration address was received on September 7, 2001, as indicated by the signed postal return receipt. The OTSC sent to Dr. Castillo-Inzunza's attorney was received September 11, 2001, as indicated by the signed postal return receipt. To date, no response has been received from Dr. Castillo-Inzunza nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Castillo-Inzunza is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Castillo-Inzunza currently possesses DEA Certificate of Registration BC3931955, issued to him in California. By Decision dated January 4, 2001, and effective January 11, 2001, the Medical Board of California, Division of Medical Quality (Board) adopted a Stipulated Surrender of Licenses and Order whereby Dr. Castillo-Inzunza, with advice of counsel, surrendered his California State Physician's and Surgeon's Certificate and his Physician Assistants Supervisor Approval to the Board.

The Stipulated Surrender was based upon a series of charges outlined in an Accusation by the Board, dated April 12, 1999, that set forth five Causes for Discipline, to wit: (1) Aiding and Abetting the Unlicensed Practice of Medicine; (2) Gross Negligence and Repeated Negligent Acts; (3) Falsification and/or Alteration of Medical Records; (4) Violation of Drug Statutes and Dishonesty; and (5) Prescribing Without Good Faith Prior Examination and Medical Indication.

The investigative file further reveals Dr. Castillo-Inzunza pleaded guilty in San Diego County Superior Court on or about November 6, 2000, to two counts of Unlawful Practice of Medicine with Serious Injury and was sentenced to two years in Federal prison (to run concurrently with his Federal conviction, *infra*) and a $400 fine.

Dr. Castillo-Inzunza also pleaded guilty in the United States District Court for the Southern District of California on or about November 7, 2000, to Federal charges relating to the Unlawful Importation of Merchandise and Introduction into Interstate Commerce of Unapproved Drugs, and was sentenced to two years' incarceration, running concurrently with his California State conviction, followed by three years' probation and a $4,000 fine.

Therefore, the Deputy Administrator concludes that Dr. Castillo-Inzunza is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Castillo-Inzunza is not authorized to practice medicine in California, and therefore, the Deputy Administrator infers that Dr. Castillo-Inzunza is also not authorized to handle controlled substances in California, the State in which he holds his DEA Certificate of Registration. Furthermore the Deputy Administrator finds pursuant to 21 U.S.C. 824(a)(2) that Dr. Castillo-Inzunza has been convicted of a felony relating to the controlled substances in that he caused his employees to illegally transport medications from Mexico into the United States, including codeine and other controlled drugs, in violation of 18 U.S.C. 371 and 545. Dr. Castillo-Inzunza then caused his employees to remove the Spanish labels from the medications and replace them with new labels showing different lot numbers and expiration dates. Dr. Castillo-Inzunza gave at least one of his patients these unlawful Mexican drugs.

In addition, the Deputy Administrator finds pursuant to 21 U.S.C. 824(a)(4) that Dr. Castillo-Inzunza has committed acts that render his registration inconsistent with the public interest, as determined pursuant to 21 U.S.C. 823(f). All five of the public interest factors are adversely implicated by the conduct of Dr. Castillo-Inzunza described above.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BC3931955, previously issued to Miguel Ramon Castillo-Inzunza, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12489 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Winthrop C. Davis, M.D.; Revocation of Registration

On June 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Winthrop C. Davis, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BD3685053, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Davis was not authorized by the State of Florida to practice medicine. The order also notified Dr. Davis that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Davis at his DEA registered premises in Fort Lauderdale, Florida. The OTSC was returned, marked "Unclaimed." An Andalusia, Alabama forwarding address was written on the envelope. Through the assistance of Alabama State law enforcement authorities, copies of the OTSC were delivered to Dr. Davis and his legal counsel in Andalusia, Alabama, on or about September 7, 2001. To date, no response has been received from Dr. Davis nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Davis is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant o 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Davis currently possesses DEA Certificate of Registration BD3685053, issued to him in Florida. By Order of Emergency Suspension of License, dated November 15, 2000, the State of Florida, Department of Health, suspended Dr. Davis' medical license, finding that Dr. Davis posed a danger to the health, safety and welfare of the public, in that Dr. Davis was unable to practice medicine as a physician with reasonable skill and safety because of untreated major depression and chronic relapsing substance abuse. In addition, the Florida Department of Health found Dr. Davis unwilling to cooperate with the Physicians Recovery Network, and that he failed to follow the recommendations of the Network. The investigative file further reveals Dr. Davis apparently has abandoned his DEA registered premises in Fort Lauderdale, Florida for a last known address in Andalusia, Alabama, approximately 625 miles away in a state in which Dr. Davis does not possess a license to practice.

On January 10, 2001, Dr. Davis was arrested by the Covington County Police Department, Andalusia, Alabama, and charged with Possession of a Controlled Substance. At the time of his arrest, Dr. Davis was observed to be driving erratically, and he refused to stop until law enforcement personnel forced him using a rolling roadblock. Four tablets of Carisoprodol (Soma), a Schedule IV controlled substance under Alabama State law, were found on Dr. Davis' person, and a search of the vehicle revealed two prescription bottles, in the name of another individual, containing another 109 additional Soma tablets. Dr. Davis did not possess a prescription for Soma. In addition, two Soma prescriptions found in the vehicle were written by Dr. Davis at a time when his Florida State medical license was suspended.

The investigative file contains no evidence that the Emergency Suspension of Dr. Davis' medical license has been lifted.

Therefore, the Deputy Administrator concludes that Dr. Davis is not currently licensed or authorized to handle controlled substances in Florida. Nor does the investigative file contain any evidence that Dr.Davis is authorized to practice medicine or handle controlled substances in Alabama.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f), and 824(a)(3). This prereequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Davis is not authorized to practice medicine in Florida, and therefore, the Deputy Administrator infers that Dr. Davis is also not authorized to handle controlled substances in Florida, the State in which he holds his DEA Certificate of Registration.

In addition, the Deputy Administrator also finds pursuant to 21 U.S.C. 824(a)(4) that Dr. Davis has committed acts that render his registration inconsistent with the public interest, as determined pursuant to 21 U.S.C. 823(f). All five of the public interest factors are adversely implicated by the conduct of Dr. Davis described above.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BD 3685053, previously issued to Winthrop C. Davis, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12491 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Corrado Di Martino, M.D.; Revocation of Registration

On July 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Corrado Di Martino, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AD6909951, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Di Martino was not authorized by the Commonwealth of Massachusetts to handle controlled substances. The order also notified Dr. Di Martino that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Di Martino at his DEA registered premises in Southbridge, Massachusetts. A postal delivery receipt was signed July 26, 2001, by Dr. Di Martino, indicating the OTSC was received. To date, no response has been received from Dr. Di Martino nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Di Martino is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Di Martino currently possesses DEA Certifying of Registration AD6909951, issued to him in Massachusetts. By Order of the Commonwealth of Massachusetts Board of Registration in Medicine (Board), dated October 11, 2000, Dr. Di Martino's medical license was summarily suspended, upon the finding that "based upon the information set forth in the Motion for Summary Suspension* * * the health, safety, and welfare of the public necessitates said suspension." The investigative file contains no evidence that the Summary Suspension of Dr. Di Martino's medical license has been lifted.

Therefore, the Deputy Administrator concludes that Dr. Di Martino is not currently licensed or authorized to handle controlled substances in Massachusetts.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green*, M.D., 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Di Martino is not authorized to practice medicine in Massachusetts, and therefore, the Deputy Administrator infers that Dr. Di Martino is also not authorized to handle controlled substances in Massachusetts, the state in which he holds his DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AD6909951, previously issued to Corrado Di Martino, M.D. be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02–12488 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

James E. Eaves, M.D.; Revocation of Registration

On January 4, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to James E. Eaves, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AE4563967, pursuant to 21 U.S.C. 824(a)(1) and (a)(4), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Eaves was not authorized by the State of Iowa to practice medicine, and his continued registration was inconsistent with the public interest. The Order also notified Dr. Eaves that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Eaves at his DEA registered premises in Clarinda, Iowa. A postal delivery receipt was signed January 15, 2002, by Dr. Eaves, indicating the OTSC was received. To date, no response has been received from Dr. Eaves nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Eaves is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Eaves currently possesses DEA Certificate of Registration AE4563967, issued to him in Iowa. Pursuant to a Settlement Agreement in May 1999, Dr. Eaves was prohibited by the Iowa Board of Medical Examiners (Board) from the practice of medicine in Iowa, without the specific permission of the Board. The DEA investigative file reveals Dr. Eaves does not currently maintain an active medical license in Iowa, and is therefore foreclosed from the practice of medicine in the state in which he holds his DEA registration.

In January 2001, however, Dr. Eaves stated to DEA investigators that he intended to retain his DEA Certificate of Registration solely for the purposes of self-prescribing controlled substances. This practice is not permitted by Iowa State law.

The investigative file further reveals that in October 1988, the Board placed Dr. Eaves' medical license on three years' probation, based in part on findings that Dr. Eaves authorized excessive amounts of controlled substances to be dispensed when such drug therapy was not warranted. In May 1991, the Board again placed Dr. Eaves' medical license on probation, this time for five years, and further restricted his controlled substance privileges, based in part on findings that Dr. Eaves continued to authorize excessive amounts of controlled substances to be dispensed when such drug therapy was not warranted. In December 1994, the Board extended this probation period for an additional 32 months, based on findings that Dr. Eaves had violated his previous probation.

In addition, in June 1998, the Board issued a new Compliant and Statement of Charges Against James Edgar Eaves, M.D., Respondent, based in part on findings that Dr. Eaves authorized the dispensing of excessive amounts of controlled substances when such drug therapy was not warranted. This is the action that led to the previously mentioned May 1999 Settlement Agreement.

Pursuant to 21 U.S.C. 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration if he determines that granting the registration would be *inter alia* inconsistent with the public interest, as determined by section 823. In determining the public interest, 823(f) requires that the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. *See Henry J. Schwartz, Jr., M.D.*, 54 FR 16,422 (1989).

The Deputy Administrator finds factors two, four, and five relevant to the instant case.

Regarding factor two, the applicant's experience in dispensing controlled substances, the investigative file reveals that, on at least three separate occasions, the Iowa Board of Medical examiners took action against Dr. Eaves' medical license for *inter alia* his authorization of excessive amounts of controlled substances to be dispensed for lack of a legitimate medical reason. The Board's actions culminated in an outright prohibition of Dr. Eaves' practicing medicine in Iowa without the express permission of the Board. The Deputy Administrator finds Dr. Eaves' documented, actionable willingness to authorize the dispensing of excessive amounts of controlled substances creates a grave risk of diversion, and furthermore is in violation of 21 CFR 1306.04, in that in prescribing excessive amounts of controlled substances, as documented by the Board, Dr. Eaves was not issuing prescriptions for a legitimate medical purpose, nor was he acting in the usual course of professional practice.

Regarding factor four, compliance with applicable State, Federal, and local laws relating to controlled substances, the DEA investigation revealed that the Iowa Board of Medical Examiners has, on at least three separate occasions, taken action against Dr. Eaves' medical license, based upon his failure to properly handle controlled substances, as set forth above. Dr. Eaves is currently prohibited from practicing medicine in the state in which he holds his DEA registration without the Board's specific permission.

Regarding factor five, such other conduct which may threaten the public health and safety, two separate letters were sent to Dr. Eaves by DEA, requesting that he voluntarily surrender his DEA Certificate of Registration due to the above-described circumstances. Dr. Eaves refused, stating that he wished to maintain his DEA registration in order to self-prescribe. Dr. Eaves failed to respond to a subsequent letter from DEA informing him that self-prescribing is a violation of section 653 of the Iowa Administrative Code, Chapter 12, Sub Rule 12.4(19)(a), pursuant to which a physician licenses in Iowa is prohibited from self-prescribing or self-dispensing controlled substances. The Deputy Administrator finds Dr. Eaves' lack of familiarity with applicable state law concerning controlled substances, his apparent willingness to ignore that law even when brought to his attention, together with his demonstrated past record of lack of competence in handling controlled substances, creates an unacceptable risk to the public health and safety.

The investigative file contains a letter dated March 17, 2000, to DEA from counsel for Dr. Eaves. The letter contests several of the allegations set forth in the Board's Statement of Charges Against James Edgar Eaves, M.D., Respondent, dated June 4, 1998. As a matter of discretion, the Deputy Administrator has considered the contentions raised in the letter, and rejects them. The Deputy Administrator notes that Dr. Eaves had the opportunity to contest the charges against him before the Board, but chose instead to enter into the May 1999 Settlement Agreement. That Agreement provided that Dr. Eaves consent to be cited for the violations set forth in the Board's Statement of Charges, and further provided that Dr. Eaves waived all rights to a contested hearing concerning the allegations in the Statement of Charges and further waiver any objections to the Settlement Agreement. The Deputy Administrator thus finds Dr. Eaves has conceded the allegations contained in the Board's Statement of Charges, and he will not be permitted to raise objections for the first time here through his counsel's anomalous submission.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration, number AE4563967, previously issued to James E. Eaves, M.D., be, and it hereby is, revoked; and furthermore, any applications for renewal and/or modification of said Certificate be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02–12494 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David H. Mills, D.V.M.; Revocation of Registration

On July 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to David H. Mills, D.V.M., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration BM4863812, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal or modification of this registration, pursuant to 21 U.S.C. 823(f), for the reasons that Respondent's state medical license has been suspended, and Respondent is not currently authorized to practice veterinary medicine or to handle controlled substances in Wisconsin, the state in which he is registered.

By letter dated August 10, 2001, Respondent requested a hearing in this matter. On September 14, 2001, the Government filed a Request for Stay of Proceedings and Motion for Summary Disposition (Government's Motion). By Order dated September 20, 2001, Administration Law Judge Gail A. Randall (Judge Randall) granted Respondent until October 4, 2001 to respond to the Government's Motion. Subsequently, by Order dated November 28, 2001, Respondent was granted until December 5, 2001, to respond to the Government's Motion. The Order was sent certified mail, return receipt requested. Yet while Judge Randall's office received a signed and dated receipt indicating this Order was received December 3, 2001, Respondent failed to file a response to the Government's Motion.

The Government attached to its Motion a copy of the Final Decision and Order of the State of Wisconsin (Order), Veterinary Examining Board (Board), dated February 1, 2001, revoking Respondent's license to practice veterinary medicine. The Government also attached to its Motion a declaration of the custodian of records for the Board, verifying that, as of February 1, 2001, Respondent's veterinary license had been revoked.

On January 8, 2002, Judge Randall issued her Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Recommended Ruling), wherein she granted the Government's Motion and recommended that Respondent's DEA registration be revoked. The record

of these proceedings was subsequently transmitted to the Deputy Administrator for final decision February 12, 2002.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts in full the Recommended Ruling of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green*, M.D., 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented undisputed evidence demonstrating that the Respondent is not authorized to practice veterinary medicine in the State of Wisconsin, the location of his business as stated on his DEA Certificate of Registration. The Deputy Administrator concurs with Judge Randall's finding that, as Respondent is not authorized to practice veterinary medicine in Wisconsin, it is reasonable to infer that Respondent likewise is not authorized to handle controlled substances in Wisconsin. *James D. Okun*, 62 FR 16,871 (1997). Without state authority to handle controlled substances, the Respondent is not eligible to possess a DEA registration for a place of business in Wisconsin.

The Deputy Administrator also concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *See Michael G. Dolin, M.D.*, 65 FR 5,661 (2000); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *see also Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom. Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BM4863812, issued to David H. Mills, D.V.M., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be, and hereby are, denied.

This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12487 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Willard W. Leiske, M.D., Revocation of Registration

On December 21, 2001, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Willard W. Leiske, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AL6303046, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Leiske was not authorized by the State of California to handle controlled substances. The order also notified Dr. Leiske that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Leiske at his DEA registered premises in Big Bear Lake, California. The OTSC was returned, marked "Returned To Sender." To date, no communications have been received from Dr. Leiske nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since a legally sufficient attempt to serve the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Leiske is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Leiske currently possesses DEA Certificate of Registration AL6303046, issued to him in California. By Decision and Order dated May 19, 2000, the Medical Board of California, Division of Medical Quality (Board) adopted as its Decision a Stipulation for Surrender of License signed by Dr. Leiske April 25, 2000, whereby he surrendered his medical license and acknowledged that he would no longer be permitted to practice as a physician and a surgeon in California. The investigative file contains no evidence that Dr. Leiske's medical license has been reinstated.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Leiske is not authorized to practice medicine in California, and therefore, the Deputy Administrator infers that Dr. Leiske is also not authorized to handle controlled substances in California, the State in which he holds his DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AL6303046, previously issued to Willard W. Leiske, M.D., be, and it hereby is revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12484 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Frank W. Nedock, D.D.S.; Revocation of Registration

On or about April 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) to Frank W. Nedock, D.D.S., at his DEA registered premises in Bloomfield Township, Michigan, notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AN7738048, and deny any pending applications for renewal of said registration, for reason that such registration is inconsistent with the public interest as determined pursuant to 21 U.S.C. 823(f). The OTSC also notified Dr. Nedock that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was personally served upon Dr. Nedock by a DEA Diversion Investigator May 4, 2001. To date, no response has been received from Dr. Nedock nor anyone purporting to represent him.

Therefore, the Deputy Administrator of the DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Nedock is deemed to have waived his rights to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds as follows. On June 27, 2000, the State of Michigan Bureau of Health Service, Board of Dentistry (Board), issued a Final Order prohibiting Dr. Nedock from prescribing any controlled substances in Schedules I through IV. On December 26, 2000, the Board's Disciplinary Subcommittee issued an Administrative Complaint to Dr. Nedock alleging that he wrote 125 Schedule III controlled substance prescriptions during the period between July 27, 2000, and October 10, 2000, in violation of the Board's Final Order. On January 2, 2001, the Board issued an Order of Summary Suspension suspending Dr. Nedock's license to practice dentistry.

In response, Dr. Nedock issued a letter dated January 6, 2001, to the Michigan Department of the Attorney General, alleging that an employee of that office was "* * * in violation of my Recorded Copyright * * * [that] mandates issue(s) and user(s) in violation of the Recorded Copyright be charged one million dollars of silver species [sic] in lawful coinage of the United States per use per fiction."

On February 13, 2001, the DEA Detroit office was notified that controlled substance prescriptions written by Dr. Nedock were being presented to local pharmacies. On February 23, 2001, a DEA investigator met with Dr. Nedock and informed him that he was not permitted to prescribe controlled substances.

On February 15, 2001, the Board held a hearing regarding Dr. Nedock's suspension. Although he was present, Dr. Nedock refused to admit his identity, and instead identified himself as the "trustee fiduciary creditor of the secured party." On March 5, 2001, a patient presented a prescription issued by Dr. Nedock for a controlled substance at a local pharmacy. That same day, DEA investigators learned that the same patient also received a controlled substance prescription from Dr. Nedock February 26, 2001. Substantial evidence in the investigative file shows Dr. Nedock continues to practice dentistry even though his license has been suspended.

The investigative file contains no evidence that Dr. Nedock's license has been reinstated. Therefore, the Deputy Administrator concludes that Dr. Nedock is not currently authorized to practice dentistry in Michigan, the State in which he maintains his DEA Certificate of Registration.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,014 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Nedock is not authorized to practice dentistry in Michigan, and therefore, the Deputy Administrator infers that Dr. Nedock is also not authorized to handle controlled substances in Michigan, the state in which he holds his DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AN7738048, previously issued to Frank W. Nedock, D.D.S., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12486 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Allison E. Purtell, M.D., Revocation of Registration

On June 14, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Allison E. Purtell, M.D., notifying her of an opportunity to show cause as to why the DEA should not revoke her DEA Certificate of Registration, AP1775064, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Purtell was not authorized by the State of California to handle controlled substances. The order also notified Dr. Purtell that should no request for hearing be filed within 30 days, her right to a hearing would be deemed waived.

The OTSC was sent to Dr. Purtell at her DEA registered premises in Laguna Niguel, California. A postal delivery receipt was signed July 6, 2001, by Dr. Purtell, indicating the OTSC was received. To date, no response has been received from Dr. Purtell nor anyone purporting to represent her.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Purtell is deemed to have waived her right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Purtell currently possesses DEA Certificate of Registration AP1775064, issued to her in California. By Decision of the Division of Medical Quality, California Medical Board (Board), dated March 3, 2000 and effective April 3, 2000, the Board adopted an opinion of an Administrative Law Judge revoking Dr. Purtell's Physician and Surgeon's Certificate, finding *inter alia*, negligence, incompetence, and that "Dr. Purtell engaged in unprofessional conduct based on repeated acts of

clearly excessive prescribing drugs as determined by the standard of the community of physician and surgeons." The investigative file contains no evidence that Dr. Purtell's medical license has been reinstated.

Therefore, the Deputy Administrator concludes that Dr. Purtell is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Purtell is not authorized to practice medicine in California, and therefore, the Deputy Administrator infers that Dr. Purtell is also not authorized to handle controlled substances in California, the state in which she holds her DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AP1775064, previously issued to Allison E. Purtell, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12482 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Randall M. Schaffer, D.D.S.; Revocation of Registration

On August 6, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Randall M. Schaffer, D.D.S., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registrations, AS1641554 and BS3509289, and deny any applications for modification or renewal, pursuant to 21 U.S.C. 824(a)(4) and 823(f), for reason that Respondent's registration would be inconsistent with the public interest. Following prehearing procedures, a hearing was held on March 28 and 29, 2000, in New Orleans, Louisiana.

On October 4, 2000, Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued an Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law, and Decision of Administrative Law Judge, recommending that Respondent's registration be continued with restrictions. By letter dated November 21, 2000, Judge Bittner transmitted the complete record to the Deputy Administrator for final decision in this matter.

On January 11, 2001, the Government filed a request for remand with the Deputy Administrator. On January 26, 2001, the Administrator of the DEA remanded the record to Judge Bittner for further proceedings, because "(b)y correspondence dated January 11, 2001, I was informed by counsel for the Government that new and previously unavailable evidence had recently been acquired by the Government, and that such evidence may affect the outcome of these proceedings."

On February 16, 2001, counsel for the Government filed the Government's Motion to Reopen Record and Admission of Supplemental Evidence. On February 27, 2001, Respondent filed the Respondent's Response to the Government Motion.

By her Ruling on Motion and Order Rescinding Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge dated March 27, 2001, Judge Bittner granted the Government's Motion and rescinded the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge issued October 4, 2000. In her Supplemental Opinion and Recommended Decision of the Administrative Law Judge dated March 27, 2001, Judge Bittner recommended that Respondent's DEA Certificate of Registrations be revoked and any pending applications for renewal be denied on the basis that Respondent lacks state authority to handle controlled substances.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The additional evidence submitted by the Government consists of a Revised Decision of the Louisiana State Board of Dentistry (Board) dated September 20, 2000, ordering the revocation of the Respondent's license to practice dentistry in the State of Louisiana, and a letter from the Louisiana Department of Health and Hospitals to Respondent dated December 4, 2000, revoking Respondent's Louisiana Controlled Substance License.

The DEA does not have the statutory authority pursuant to the Controlled Substance Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice dentistry in Louisiana, and furthermore, that Respondent's state authority to handle controlled substances has been revoked. Respondent does not deny that he is not currently authorized to handle controlled substances in the State of Louisiana. The Deputy Administrator finds that Judge Bittner allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Respondent cites no authority for his assertion that revocation of his DEA Certificate of Registrations would be premature and a violation of due process.

According, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registrations, AS1641554 and BS3509289, previously issued to Randall M. Schaffer, D.D.S., be, and it hereby is, revoked, and any pending applications for renewal or modification and said Certificate be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–12492 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Gary Phillip Venuto, M.D., Revocation of Registration

On July 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Gary Phillip Venuto, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AV2928022, and deny any pending applications for renewal, pursuant to 21 U.S.C. 823(f) and 824(a)(4). On August 6, 2001, Respondent filed a request for a hearing in this matter.

On August 29, 2001, the Government filed a Motion for Summary Disposition, asserting that Respondent is not currently authorized to handle controlled substances in Utah, the state in which he practices. Specifically, the Government contends that, on April 23, 2001, Respondent entered into a Stipulation and Order with the Utah Division of Occupational and Professional Licensing, Department of Commerce (Division), pursuant to which the Division revoked Respondent's controlled substance license. The Government argues that DEA cannot register or maintain a registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he or she practices.

Respondent argues that pursuant to the Division's Order, which placed his medical license on probation for five years, "although (Respondent) is forbidden from direct contact with controlled substances, (he) is still a licensed practitioner who has authority to make decisions about his patients' controlled and addictive substance intake." Respondent argues there is no case law on the issue regarding whether a physician who has authority to make decisions about treating patients with controlled substances may retain his DEA registration.

On October 3, 2001, Administrative law Judge Mary Ellen Bittner (Judge Bittner) issued her Opinion and Recommended Decision granting the Government's Motion for Summary Disposition. The matter was thereafter transmitted to the Deputy Administrator for final decision on November 19, 2001.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. *See* 21 USC 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green*, M.D., 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to handle controlled substances in Utah, the State in which he practices, according to the address listed on his DEA Certificate of Registration. The Deputy Administrator concurs with Judge Bittner's finding that the Division's Stipulation and Order prohibited Respondent from exercising independent judgment in determining whether patients should be treated with controlled substances, and further that Respondent was prohibited from handling controlled substances. The Stipulation and Order specifically states that Respondent "shall not be involved in any way regarding the patient's treatment regarding controlled substances or addictive medication." Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to handle controlled substances in the State of Utah.

The Deputy Administrator concurs with Judge Bittner's finding that it is well settled that when there is no question of material fact involved, there is not need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *See Michael G. Dolin, M.D.*, 65 FR 5,661 (2000); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *see also Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom. Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AV2928022, previously issued to Gary Philip Venuto, M.D., be, and it hereby is, revoked; and any pending applications for renewal or modification of said Certificate be, and hereby are, denied. This is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02–12485 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jonathan Weinstein, M.D.; Revocation of Registration

On June 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to show Cause (OTSC) by certified mail to Jonathan Weinstein, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration BW5121948, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of this registration, pursuant to 21 U.S.C. 823(f), for the reason that Respondent is no longer authorized to handle controlled substances in the State in which he practices. By letter dated August 7, 2001, Respondent through counsel requested a hearing in this matter.

On August 21, 2001, the Government filed a Request for Stay of Proceedings and Motion for Summary Disposition (Government's Motion), arguing that Respondent is no longer authorized to handle controlled substances in the Commonwealth of Virginia, where Respondent's DEA Certificate of Registration states he conducts his business. The Government attached to its Motion a copy of an Order of the Department of Health Professions, State of Virginia, dated February 16, 2000, suspending Respondent's license to practice medicine and surgery. The basis for the suspension of Respondent's medical license was his February 4, 2000 felony conviction, in the United States District Court for the eastern District of Virginia, of possession of

child pornography, a copy of which judgment was also attached to the Government's Motion.

By letter dated September 1, 2001, Respondent requested a continuation in these proceedings, as he apparently was no longer being represented by counsel and needed to determine how to proceed. Respondent was granted until September 27, 2001, to respond to the Government's Motion.

On September 27, 2001, Respondent filed a response to the Government's Motion, asserting that since his medical license had been suspended, rather than revoked, revocation of his DEA registration would be extreme and excessive. Respondent also contends that there are no guidelines requiring revocation of a DEA registration following a registrant's felony conviction.

By Opinion and Recommended Decision of the Administrative Law Judge dated October 3, 2001, Mary Ellen Bittner (Judge Bittner) granted the Government's Motion, recommending that Respondent's DEA registration be revoked, and any pending applications for modification or renewal be denied. On November 19, 2001, the record of these proceedings was transmitted to the Deputy Administrator for final decision.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which he or she practices. *See* 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. *See Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented undisputed evidence demonstrating that the Respondent is not authorized to practice medicine or surgery in Virginia, and therefore, the Deputy Administrator infers that Respondent is also not authorized to handle controlled substances in Virginia, where he practices, according to the address listed on his DEA Certificate of Registration. The Deputy Administrator concurs with Judge Bittner's findings that Respondent does not deny that he is not currently licensed to practice medicine in the Commonwealth of Virginia, the jurisdiction in which he is registered by DEA. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice medicine in Virginia or to handle controlled substances in that State.

The Deputy Administrator further concurs with Judge Bittner's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *See Michael G. Dolin, M.D.*, 65 FR 5,661 (2000); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *see also Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom. Kirk v. Mullen*, 749 F. 2d 297 (6th Cir. 1984).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BW5121948, issued to Jonathan I. Weinstein, M.D., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02–12496 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; memorandum of understanding to participate in an employment eligibility confirmation pilot program.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 19, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the muse of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Revision of a currently approved collection.*

(2) *Title of the Form/Collection:* Memorandum of Understanding to Participate in an Employment Eligibility Confirmation Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB–18). SAVE Program, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Employers electing to participate in a pilot will execute a Memorandum of Understanding with the Immigration and Naturalization Service and the Social Security Administration (if applicable), that provides the specific terms and conditions governing the pilot and company information for each site that will be performing employment verification queries.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,000 responses at 1 hour and 35 minutes (1.538 hours) per response.

(6) *an estimate of the total public burden (in hours) associated with the collection:* 7,915 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 14, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–12497 Filed 5–17–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day notice of information collection under review; Request for Fee Waiver; Form I–912.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 19, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: New Information Collection.*

(2) *Title of the Form/Collection:* Request for Fee Waiver.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–912, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The data collected on this form is used by the INS to determine eligibility for a fee waiver associated with the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 16,000 responses at 1 hour and 15 minutes (1.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 14, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–12498 Filed 5–7–02; 8:45 am]

BILLING CODE 4410–10–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on May 23, 2002 via conference call. The meeting will begin at 2 p.m. and continue until conclusion of the Board's agenda.

LOCATION: 750 First Street, NE, 11th Floor, Washington, DC 20002, in Room 11026.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the agenda.
2. Consider and act on Board of Directors' Semiannual Report to Congress for the period of October 1, 2001 through March 31, 2002.
3. Consider and act on other business.
4. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth Cushing, at (202) 336–8800.

Dated: May 16, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–12731 Filed 5–16–02; 3:52 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used when former Federal civilian employees and

other authorized individuals request information from or copies of documents in Official Personnel Folders or Employee Medical Folders from the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) . The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 19, 2002 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–837–3213; or electronically mailed to *tamee.fechhelm@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Returned Request Form, Reply to Request Involving Relief Agencies, Walk-In Request for OPM Records or Information.

OMB number: 3095–0037.

Agency form number: NA Forms 13022, 13064, 13068.

Type of review: Regular.

Affected public: Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 4,500.

Estimated time per response: 5 Minutes.

Frequency of response: On occasion, when individuals desire to acquire information from Federal civilian employee personnel or medical records.

Estimated total annual burden hours: 375 hours.

Abstract: In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. When former Federal civilian employees and other authorized individuals request information from or copies of documents in OPF or EMF, they must provide in forms or in letters certain information about the employee and the nature of the request. The NA Form 13022, Returned Request Form, is used to request additional information about the former Federal employee. The NA Form 13064, Reply to Request Involving Relief Agencies, is used to request additional information about the former relief agency employee. The NA Form 13068, Walk-In Request for OPM Records or Information, is used by members of the public, with proper authorization, to request a copy of a Personnel or Medical record.

Dated: May 14, 2002.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 02–12551 Filed 5–17–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Folk & Traditional Arts Section (Creativity and Organizational Capacity categories), will be held from 10 a.m.–4 p.m. on Friday, June 7, 2002 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: May 14, 2002.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 02–12555 Filed 5–17–02; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that two meetings of the Combined Arts Advisory Panel to the National Council on the Arts (Creativity and Organizational Capacity categories) will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506 as follows:

Media Arts: June 18–21, 2002, Room 716. A portion of this meeting, from 1 p.m. to 2 p.m. on June 21st, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6 p.m. on June 18th–20th and from 9 a.m. to 1 p.m. and 2 p.m. to 4 p.m. on June 21st, will be closed.

Opera: June 25–26, 2002, Room 714. A portion of this meeting, from 4 p.m. to 5 p.m. on June 26th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9:00 a.m. to 5:50 p.m. on June 25th and from 9 a.m. to 4 p.m. and 5 p.m. to 5:30 p.m. on June 26th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: May 14, 2002.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 02–12556 Filed 5–17–02; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Boards for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Boards for Senior Executive Service.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to the NRC Performance Review Boards.

The following individuals are appointed as members of the NRC Performance Review Board (PRB) responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives and Senior Level employees:

Patricia G. Norry, Deputy Executive Director for Management Services, Office of the Executive Director for Operations

R. William Borchardt, Associate Director for Inspection and Programs, Office of Nuclear Reactor Regulation

Stephen G. Burns, Deputy General Counsel, Office of the General Counsel

Jesse L. Funches, Chief Financial Officer

Jon R. Johnson, Deputy Director, Office of Nuclear Reactor Regulation

Paul H. Lohaus, Director, Office of State and Tribal Programs

Ellis W. Merschoff, Regional Administrator, Region IV

Scott F. Newberry, Director, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research

James B. Schaeffer, Director, Applications Development Division, Office of the Chief Information Officer

Michael L. Springer, Director, Office of Administration

Martin J. Virgilio, Director, Office of Nuclear Material Safety and Safeguards

The following individuals will serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

Karen D. Cyr, General Counsel, Office of the General Counsel

William F. Kane, Deputy Executive Director for Reactor Programs, Office of the Executive Director for Operations

Carl J. Paperiello, Deputy Executive Director for Materials, Research, and State Programs, Office of the Executive Director for Operations

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–2026.

Dated at Rockville, Maryland, this 14th day of May 2002.

For the U.S. Nuclear Regulatory Commission,

Johanna P. Gallagher,

Secretary Executive Resources Board.

[FR Doc. 02–12554 Filed 5–17–02; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INTESTMENT CORPORATION

May 16, 2002 Public Hearing

OPIC's Sunshine Act notice of its public hearing was published in the **Federal Register** (Volume 67, Number 84, Page 21779) on May 1, 2002. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing in conjunction with OPIC's May 22, 2002 Board of Directors meeting scheduled for 2 p.m. on May 16, 2002 has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov*.

Dated: May 16, 2002.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 02–12727 Filed 5–16–02; 3:09 pm]

BILLING CODE 3210–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: Individual authorities established under Schedule C between April 1, 2002, and April 30, 2002, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during April 2002:

Council on Environmental Quality

Associate Director for Energy and Transportation to the Chairman, Council on Environmental Quality. Effective April 15, 2002.

Department of Agriculture

Special Assistant to the Under Secretary for Food Safety. Effective April 9, 2002.

Special Assistant to the Director of Human Resources Management. Effective April 12, 2002.

Department of the Army (DOD)

Confidential Assistant to the General Counsel of the Army. Effective April 3, 2002.

Special Assistant to the Assistant Secretary of the Army (Installations and Environment). Effective April 4, 2002.

Special Assistant to the General Counsel of the Army. Effective April 15, 2002.

Special Assistant to the General Counsel of the Army. Effective April 23, 2002.

Department of Commerce

Confidential Assistant to the Executive Assistant to the Secretary. Effective April 1, 2002.

Special Assistant for National Marine Fisheries Service to the Director, Office of Legislative Affairs. Effective April 3, 2002.

Special Assistant to the Chief of Staff. Effective April 3, 2002.

Public Affairs Specialist to the National Director, Minority Business Development Agency. Effective April 5, 2002.

Legislative Affairs Specialist to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective April 12, 2002.

Senior Advisor to the Assistant Secretary for Communications and Information. Effective April 17, 2002.

Press Secretary to the Director of Communications. Effective April 24, 2002.

Special Assistant to the Deputy Assistant Secretary for Service Industries, Tourism and Finance. Effective April 30, 2002.

Department of Defense

Civilian Executive Assistant to the Special Assistant to the Secretary of Defense (White House Liaison). Effective April 9, 2002.

Special Assistant to the Inspector General, Department of Defense. Effective April 12, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective April 17, 2002.

Staff Assistant to the Assistant Secretary of Defense (International Security Policy). Effective April 23, 2002.

Staff Assistant to the Assistant Secretary of Defense (International Security Policy). Effective April 23, 2002.

Staff Assistant to the Assistant Secretary of Defense (International Security Policy). Effective April 23, 2002.

Special Advisor to the Under Secretary of Defense (Policy). Effective April 24, 2002.

Staff Specialist to the Director, Small and Disadvantaged Business Utilization. Effective April 25, 2002.

Confidential Assistant to the Secretary of Defense. Effective April 26, 2002.

Staff Assistant to the Deputy Assistant Secretary of Defense for East Asia and Pacific. Effective April 29, 2002.

Department of Education

Special Assistant to the Chief of Staff. Effective April 3, 2002.

Confidential Assistant to the Special Assistant (Executive Assistant). Effective April 4, 2002.

Special Assistant to the Assistant Secretary for Civil Rights. Effective April 4, 2002.

Deputy Chief of Staff for Strategy/ Policy to the Chief of Staff. Effective April 5, 2002.

Special Assistant to the Director, Office English Language Acquisition. Effective April 9, 2002.

Special Assistant to the Deputy Secretary. Effective April 11, 2002.

Special Assistant to the Chief of Staff. Effective April 11, 2002.

Special Assistant to the Assistant Secretary for Vocational and Adult Education. Effective April 17, 2002.

Deputy Regional Representative, Region IV to the Secretary's Regional Representative. Effective April 17, 2002.

Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective April 17, 2002.

Special Assistant to the Deputy Assistant Secretary for Regional Services, Office of Intergovernmental and Interagency Affairs, Atlanta , Georgia. Effective April 17, 2002.

Special Assistant to the Director, Office of Public Affairs. Effective April 23, 2002.

Confidential Assistant to the Chief of Staff. Effective April 25, 2002.

Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective April 26, 2002.

Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective April 26, 2002.

Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective April 26, 2002.

Deputy Regional Representative, Dallas Texas, to the Secretary's Regional Representative. Effective April 29, 2002.

Special Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs. Effective April 29, 2002.

Department of Energy

Trip Coordinator to the Director, Office of Scheduling and Advance. Effective April 3, 2002.

Congressional Affairs Officer to the Assistant Secretary for Fossil Energy. Effective April 3, 2002.

Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 9, 2002.

Deputy Director of Advance for Strategic Initiatives to the Director, Office of Scheduling and Advance. Effective April 9, 2002.

Senior Policy Advisor to the Assistant Secretary for Fossil Energy. Effective April 12, 2002.

Confidential Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 12, 2002.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 16, 2002.

Senior Policy Advisor to the Assistant Secretary for Policy and International Affairs. Effective April 19, 2002.

Director of Intergovernmental Affairs to the Deputy Assistant Secretary for Intergovernmental and External Affairs. Effective April 19, 2002.

Deputy Assistant Secretary for Environmental Science to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 25, 2002.

Department of Health and Human Services

Special Assistant to the Assistant Secretary for Public Affairs. Effective April 4, 2002.

Associate Commissioner to the Commissioner, Administration for Children, Youth and Families. Effective April 8, 2002.

Special Assistant to the Commissioner, Administration for Children, Youth and Families. Effective April 16, 2002.

Special Assistant to the Deputy Director, Office of Child Support Enforcement. Effective April 26, 2002.

Department of Housing and Urban Development

Special Assistant to the Regional Director, Chicago, Illinois. Effective April 5, 2002.

Staff Assistant to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations. Effective April 15, 2002.

Special Assistant to the Assistant Secretary for Administration. Effective April 17, 2002.

Regional Director, Kansas City, Kansas to the Assistant Deputy Secretary for Field Policy and Management. Effective April 17, 2002.

Regional Director, Denver Colorado to the Assistant Deputy Secretary for Field Policy and Management. Effective April 18, 2002.

Staff Assistant to the Director of Executive Scheduling. Effective April 19, 2002.

Staff Assistant to the Regional Director, Atlanta, Georgia. Effective April 19, 2002.

Special Assistant to the Regional Director, Philadelphia, Pennsylvania. Effective April 26, 2002.

Legislative Officer to the Deputy Assistant Secretary for Legislation. Effective April 30, 2002.

Department of the Interior

Public Affairs Specialist to the Director, External and Internal Governmental Affairs. Effective April 8, 2002.

Chief, Congressional and Legislative Affairs to the Director of External and Intergovernmental Affairs. Effective April 12, 2002.

Special Assistant to the Assistant Secretary Indian Affairs. Effective April 15, 2002.

Special Assistant to the Director, External and Intergovernmental Affairs. Effective April 30, 2002.

Department of Justice

Public Affairs Specialist to the Director, Office of Public Affairs. Effective April 3, 2002.

Special Assistant to the Assistant Attorney General, Civil Rights Division. Effective April 19, 2002.

Senior Counsel to the Director and Project Safe Neighborhoods Coordinator. Effective April 19, 2002.

Director, Office of Police Corps and Law Enforcement Education to the Assistant Attorney General, Office of Justice Programs. Effective April 29, 2002.

Department of Labor

Special Assistant to the Assistant Secretary for Employment and Training Administration. Effective April 9, 2002.

Staff Assistant to the Director of Public Liaison. Effective April 17, 2002.

Department of State

Foreign Affairs Officer to the Under Secretary for Global Affairs. Effective April 5, 2002.

Staff Assistant to the Under Secretary for Global Affairs. Effective April 9, 2002.

Special Assistant to the Deputy Assistant Secretary, Chief Operating Officer of Overseas Buildings Operations. Effective April 9, 2002.

Director, Art in Embassies Program to the Deputy Assistant Secretary, Chief Operating Officer of Overseas Buildings Operations. Effective April 9, 2002.

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective April 19, 2002.

Public Affairs Specialist to the Deputy Assistant Secretary (Principal) in Public Affairs. Effective April 22, 2002.

Department of Transportation

Director of Public Affairs to the Administrator, Research and Special Programs Administration. Effective April 11, 2002.

Deputy Assistant Secretary to the Assistant Secretary for Governmental Affairs. Effective April 15, 2002.

Special Assistant to the Assistant to the Secretary and Director of Public Affairs. Effective April 23, 2002.

Executive Assistant to the Associate Deputy Secretary of Transportation. Effective April 29, 2002.

Department of the Treasury

Deputy Director for Scheduling and Advance to the Director of Scheduling. Effective April 17, 2002.

Deputy Assistant Secretary to the Assistant Secretary for Financial Institutions. Effective April 17, 2002.

Deputy Assistant Secretary to the Assistant Secretary, Legislative Affairs. Effective April 29, 2002.

Environmental Protection Agency

Deputy Associate Administrator to the Associate Administrator, Office of Congressional Affairs. Effective April 5, 2002.

Federal Emergency Management Agency

Legislative Branch Chief to the Director of Congressional and Intergovernmental Affairs Division. Effective April 11, 2002.

Advisor for Media Affairs to the Director, Public Affairs. Effective April 22, 2002.

Assistant Division Director to the Director, Public Affairs Division. Effective April 25, 2002.

General Services Administration

Special Assistant to the Chief of Staff, Public Buildings Service. Effective April 17, 2002.

National Transportation Safety Board

Director, Office of Communications to the Chairman. Effective April 2, 2002.

Director, Office of Family Members to the Chairman. Effective April 18, 2002.

Office of Management and Budget

Confidential Assistant to the Associate Director for Information Technology and E-Government. Effective April 5, 2002.

Confidential Assistant to the Associate Director for Legislative Affairs. Effective April 25, 2002.

Office of National Drug Control Policy

Special Assistant to the Director, Office of National Drug Control Policy. Effective April 3, 2002.

Information Receptionist to the Director, Office of the National Drug Control Policy. Effective April 3, 2002.

Office of Personnel Management

Special Counselor to the General Counsel. Effective April 9, 2002.

Office of Science and Technology Policy

Assistant to the Director for Communications. Effective April 15, 2002.

Social Security Administration

Special Assistant to the Commissioner of Social Security. Effective April 9, 2002.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–12579 Filed 5–17–02; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17Ad–17; SEC File No. 270–412; OMB Control No. 3235–0469.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 17Ad–17 *Transfer Agents' Obligation to Search for Lost Securityholders.*

Rule 17Ad–17 requires approximately 952 registered transfer agents to conduct searches using third party database vendors to attempt to locate lost securityholders. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule.

The staff estimates that the average number of hours necessary for each transfer agent to comply with Rule 17Ad–17 is five hours annually. The total burden is 4,760 hours annually for all transfer agents. The cost of

compliance for each individual transfer agent depends on the number of lost accounts at each transfer agent. Based on information received from transfer agents, we estimate that the annual cost industry wide is $3.3 million.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: May 10, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12567 Filed 5–17–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25574; 812–12578]

J.P. Morgan Fleming Asset Management (USA), Inc., et al.; Notice of Application

May 15, 2002.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a).

APPLICANTS: J.P. Morgan Fleming Asset Management (USA), Inc. ("JPMFAM"), J.P. Morgan Fleming Asset Management (London), Ltd. ("JPMFAML"), any other existing or future registered investment adviser which acts as investment adviser or subadviser to a Portfolio (defined below) and which controls, is controlled by, or is under common control (as defined in section 2(a)(9) of the Act) with J.P. Morgan Chase & Co. ("JPM") ("Future Advisers"),[1] J.P. Morgan Securities, Inc. ("JPMSI"), Mutual Fund Group ("MFG"), Mutual Fund Trust ("MFT"), Mutual Fund Select Group ("MFSG"), Mutual Fund Select Trust ("MFST"), Mutual Fund Variable Annuity Trust ("MFVAT"), Mutual Fund Investment Trust ("MFIT"), Growth and Income Portfolio ("GIP" together with MFG, MFT, MFSG, MFVAT, and MFIT, the "Trusts"), all existing and future series of the Trusts, and any existing or future registered investment companies and their series, that are advised or subadvised by the Advisers.[2]

SUMMARY OF APPLICATION: Applicants request an order to permit the Portfolio to engage in certain principal transactions with JPMSI.

FILING DATES: The application was filed on July 13, 2001, and amended on April 22, 2002. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

HEARING ON NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 10, 2002, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: c/o Philip von Türk, Esq., JP Morgan Chase Bank, Legal Department, 345 Park Avenue, 5th Floor, New York, NY 10154–1002; and Robert B. Adams, Esq. and Merrill B. Stone, Esq., Kelley Drye & Warren LLP, 101 Park Avenue, New York, NY 10178.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Branch Chief, or Nadya B. Roytblat, Assistant Director, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC. 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each Trust is an open end management investment company registered under the Act, MFG, MFT, MFSG, MFST, MFVAT, MFIT and MFMIT are organized as business trusts under the laws of the Commonwealth of Massachusetts. GIP is organized as a trust under the laws of the State of New York. Each Trust, consistent with its stated investment objectives and policies, may invest in high quality short-term taxable money market instruments and repurchase agreements.

2. JPMFAM, a Delaware corporation, is a wholly-owned subsidiary of JP Morgan Chase Bank ("Chase"), a New York banking corporation and wholly-owned subsidiary of JPM, a Delaware corporation. JPMFAML is a United Kingdom corporation and a wholly owned subsidiary of Chase. JPMFAM and JPMFAML are each registered as investment advisers under the Investment Advisers Act of 1940 (the "Advisers Act"). Currently, each Portfolio has an investment advisory agreement with JPMFAM under which JPMFAM provides investment advisory and management services. JPMFAM, in turn, has entered into subadvisory agreements with JPMFAML for certain of the Portfolios.

3. JPMSI is a wholly owned subsidiary of JPM and is registered as a broker-dealer under the Securities Exchange Act of 1934 (the "1934 Act"). JPMSI, a primary dealer in U.S. Government securities, is one of the largest dealers in commercial paper, repurchase agreements and other money market instruments in the United States.

4. Applicants state that the Advisers and JPMSI are functionally independent of each other. JPMSI and the Advises operate as completely separate entities under the umbrella of JPM, the parent holding company. While JPMSI and the Advisers are under common control, each entity has its own separate directors, officers and employees, is separately capitalized, maintains its own separate books and records and operates on different sides of walls of separate with respect to the Portfolios and *Eligible Securities*.[3] The Advisers maintain offices physically separate from JPMSI.

5. Investment decisions for the Portfolios are determined solely by the Advisers. The portfolio managers and other employees that are responsible for the investment of the Portfolios are employed solely by one of the Advisers (and not JPMSI), and have lines of reporting responsibility solely within the Advisers. The compensation of personnel assigned to an Adviser will not depend on the volume or nature of trades with JPMSI, except to the extent that such trades may affect the profits and losses of JPM and its subsidiaries as a whole.

6. The portfolio securities in which the Portfolios invest that are the subject of this application include taxable money market instruments and repurchase agreements. Practically all trading in money market instruments takes place in over-the-counter markets consisting of groups of dealers who are primarily major securities firms or large commercial banks. Money market securities generally are traded in lots of $1,000,000 or more on a net basis and normally do not involve payment of either brokerage commissions or transfer taxes. The cost of portfolio transactions to the Portfolios consistent primarily of dealer or underwriter spreads. Spreads vary somewhat among money market instruments, but generally spread level for short-term investment grade products are in the range of 5 to 10 basis points (.05% to .10%). In the Portfolios' experience, there is not a great deal of variation in the spreads on money market instruments quoted by the various dealers, except perhaps during turbulent market conditions.

7. The money market consists of an elaborate telephonic and electronic communications network among dealer firms, principal issuers of money market instruments and principal institutional buyers of such instruments. Because the money market is a dealer market, there is not a single obtainable price for a given instrument that generally prevails at any given time. A dealer acts either as "agent" on behalf of issuer clients or as "principal" for its own account. In either capacity, a dealer posts rates throughout its internal, private distribution network that are intended to reflect "market clearing price levels," as determined by the dealer. Only customers of the dealer seeking to purchase money market instruments have access to these postings.

8. Because of the variety of types of money market instruments and other factors, the money markets tends to be somewhat segmented. The markets for various types of instruments will vary in terms of price, volatility, liquidity and availability. Although the rates for the different types of instruments tend to fluctuate closely together, there may be significant differences in yield among the various types of instruments, and even within a particular instrument category, depending upon the maturity of the instrument and the credit quality of the issuer. Moreover, from time to time, segmenting exists within money market securities with the same maturity date and rating. The segmenting is based on such factors as whether the issuer is an industrial or financial company, whether the issuer is domestic or foreign and whether the securities are asset-backed or unsecured. Because dealers tend to specialize in certain types of money market instruments, the particular needs of a potential buyer or seller with respect to certain type of security, maturity or credit quality may limit the number of dealers who can provide optimum pricing and execution. Hence, with respect to any given type of instrument, there may be only a few dealers who can be expected to have the instrument available and be in a position to quote an acceptable price.

9. JPMSI is among the largest major dealers in the taxable money market instruments and repurchase agreements, ranking among the top firms in each of the major markets and product areas.[4] As of April 2001; JPMSI had become the third largest dealer in terms of number of U.S. commercial paper programs. When it conducted an informal survey in September 1999, CSI was recognized as the most active secondary trading firm in the bankers acceptance market. JPMSI also is one of the leading participants in the medium-term note ("MTNs") market. MTNs are offered continuously in public or private offerings, with maturities beginning at nine months. Because commercial paper is not issued for a maturity longer than nine months and bankers acceptances are not issued for a maturity of longer than six months, there are fewer longer term investment alternatives than shorter term investment alternatives for the Portfolios. Thus, MTNs represent a significant portion of the longer-term money market investment alternatives. In 2000, JPMSI ranked as the third largest manager or co-manager of MTN programs in the United States in terms of proceeds ($37.9 billion) and market share (15.1%). Applicants further believe that JPMSI plays a relatively significant role in the repurchase agreement market with average outstandings from $35 billion to $45 billion in 2001. Applicant believes that it is one of the top ten leading dealers in repurchase agreements and estimates that the ten leading dealers control approximately 80% of the market for repurchase agreements.

10. Applicants state that because of substantial consolidation in the money market industry, there are fewer major dealers who are active in the market than was the case only a few years ago. In light of this consolidation, applicants believe that it has become very important for investors to have access to as many dealers who are actively engaged in the money market as possible. Applicants state that there are far fewer sources of information available to investors. Applicants also contend that the decline in the number of active money market dealers has affected the competition in the pricing of investment opportunities.

11. Subject to the general supervision of the trustees of each of the Trusts (collectively, the "Trustees"), the Advisers are responsible for making investment decisions and for the placement of portfolio transactions. The Portfolios have no obligation to deal with any dealer or group of dealers in the execution of their portfolio transactions. When placing orders, an Adviser must attempt to obtain the best net price and the most favorable execution of its orders. In doing so, it takes into account such factors as price, the size, type and difficulty of the transaction involved in the dealer's general execution and operational facilities.

Applicants' Legal Analysis

1. Applicants request an order pursuant to sections 6(c) and 17(b) of the Act exempting certain transactions from the provisions of section 17(a) of

[1] JPMFAM, JPMFAML and the Future Advisers are referred to collectively in this notice as the Advisers. Any Adviser that currently intends to rely on the requested order is named as an applicant in this application. Any other Adviser that relies on the order in the future will comply with the terms and conditions of this application.

[2] The Trusts, all existing or future series of the Trusts, and any existing or future registered investment companies and their series that are advised or subadvised by the Advisers are referred to collectively in this notice as the "Portfolios". Any Portfolio that currently intends to rely on the requested order is named as an applicant in this application. Any other Portfolio that relies on the order in the future will comply with the terms and conditions of this application.

[3] Italicized terms are defined as set forth in paragraph (a) of rule 2a–7, unless otherwise indicated.

[4] Applicants state that JPM was formed by the merger of The Chase Manhattan Corporation ("CMC") and J.P. Morgan & Co. Inc. ("JPM&CO.") on December 2000. At the time of the merger, J.P. Morgan Securities Inc. ("Old JPMSI") was a broker-dealer subsidiary of JPM&Co. and Chase Securities Inc. ("CSI") was a broker-dealer subsidiary of CMC. The money market operations of Old JPMSI and CSI were combined in January 2001 ("Combination") and Old JPMSI merged into CSI (which became the current JPMSI) in May 2001. The rankings and market share figures discussed in this notice generally reflect the current money market operations of JPMSI, the combined money market operations of Old JPMSI and CSI beginning in January 2001, and, prior to the Combination, the combined operations of Old JPMSI and CSI on a pro forma basis.

the Act to permit JPMSI, acting as principal, to sell to or purchase from the Portfolios certain money market instruments and to enter into repurchase agreements, subject to the conditions set forth below.

2. Section 17(a) of the Act generally prohibits an affiliated person or principal underwriter of a registered investment company, or any affiliated person of that person, acting as principal, from selling to or purchasing from the registered company, or any company controlled by the registered company, any security or other property. Because an Adviser is an affiliated person of the Portfolios it advises and JPMSI and the Advisers are under common control, the Portfolios are currently prohibited from conducting portfolio transactions with JPMSI in transactions in which JPMSI acts as principal.

3. Section 17(b) of the Act provides that the Commission, upon application, may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transactions, including the consideration to be paid, are reasonable and fair, and do not involve overreaching on the part of any person concerned, and that the proposed transaction, is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 6(c) provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants contend that the rationale for the proposed order is based upon the decreased liquidity in the money market, the major and growing role played in the money market by JPMSI and the special requirements of the Portfolios with respect to their portfolio transactions. In particular applicants note the following.

(a) With over 53 billion invested in short term money market instruments and repurchase agreements as of January 31, 2002, the Portfolios are major buyers and sellers in the money market with a strong need for a constant flow of large quantities of high quality money market instruments and repurchase agreements. The applicants believe that access to such a significant dealer as JPMSI in these markets increases the Portfolios' abilities to manager their portfolios effectively.

(b) The fact that the Portfolios regularly invest in securities with short maturities and repurchase agreements, combined with the active portfolio management techniques employed by the Advisers, often results in high portfolio activity and the need to make numerous purchases and sales of securities and instruments. Such high portfolio activity makes the need to obtain suitable portfolio securities and best price and execution especially compelling.

(c) JPMSI is such a significant factor in the money market, including the market for repurchase agreements, that being unable to deal directly with JPMSI may, upon occasion, deprive the Portfolios of obtaining best price and execution.

(d) The money market, including the market for repurchase agreements, is highly competitive, and removing a competitive factor as important as JPMSI from the dealers with which the Portfolios may conduct principal transactions may indirectly deprive the Portfolios of obtaining best price and execution even when the Portfolios trade with other dealers.

5. Applicants believe that the requested order will provide the Portfolios with broader and more complete access to the money market, which is necessary to carry out the policies and objectives of each of the Portfolios in obtaining the best price, execution and quality in all portfolio transactions, and will provide the Portfolios with important new information sources in the money market, to the direct benefit of investors in the Portfolios. Applicants submit that these reasons apply equally to Portfolios that are not money market funds even though they invest in money market instruments to a lesser extent. Applicants believe that the transactions contemplated by the application are identical to those in which they currently are engaged except for the proposed participation of JPMSI, and that such transactions are consistent with the policies of the Portfolios as recited in their registration statements and reports filed under the Act.

6. Applicants believe that the procedures set forth with respect to transactions with JPMSI are structured in such a way as to insure that the transactions will be, in all instances, reasonable and fair, and will not involve overreaching on the part of any person concerned, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purpose fairly intended by the policy and provisions of the Act.

Applicants' Conditions

1. Transactions Subject to the Exemption—The exemption shall be applicable to principal transactions in the secondary market and primary or secondary fixed price dealer offerings not made pursuant to underwriting syndicates. The principal transactions which may be conducted pursuant to the exemption will be limited to transactions in *Eligible Securities*. To the extent a Portfolio is subject to rule 2a-7, such *Eligible Securities* must meet the portfolio maturity and quality requirements of paragraphs (c)(2) and (c)(3) of rule 2a-7. To the extent a Portfolio is not subject to rule 2a-7, such *Eligible Securities* must meet the requirements of clauses (i), (iii) and (iv) of paragraph (c)(3) of Rule 2a-7. Additionally:

(a) No Portfolio shall make portfolio purchases pursuant to the exemption that would result directly or indirectly in a Portfolio investing pursuant to the exemption more than 2% of its *Total Assets* (or, in the case of a Portfolio that is not subject to Rule 2a-7, more than 2% of the total of its cash, cash items and *Eligible Securities*) in securities which, when acquired by the Portfolio (either initially or upon any subsequent roll over) were *Second Tier Securities;* provided that any Portfolio may make portfolio sales of *Second Tier Securities* pursuant to the exemption without regard to this limitation.

(b) The exemption shall not apply to an *Unrated Security* other than a *Government Security.*

(c) The exemption shall not apply to any security, other than a repurchase agreement, issued by JPM or any affiliated person thereof, or to any security subject to a *Demand Feature* or *Guarantee* issued by JPM or any affiliated person thereof.

2. Repurchase Agreement Requirements—The Portfolios may engage in repurchase agreements with JPMSI only if JPMSI has: (a) net capital, as defined in rule 15c3–1 under the 1934 Act, of at least $100 million and (b) a record (including the record of predecessors) of at least five years continuous operations as a dealer during which time it engaged in repurchase agreements relating to the kind of security subject to the repurchase agreement. JPMSI will furnish the Advisers with financial statements for its most recent fiscal year and the most recent semi-annual financial statements made available to customers. The Advisers shall determine that JPMSI complies with the above requirements and with other repurchase agreement guidelines adopted by the Trustees. Each repurchase agreement will be *Collateralized Fully.*

3. Volume Limitations on Transactions—Transactions other than repurchase agreements conducted pursuant to the exemption shall be limited to no more than 25% of (a) the direct or indirect purchases or sales, as the case may be, by each Portfolio of *Eligible Securities* other than repurchase agreements; and (b) the purchases or sales, as the case may be, by JPMSI of *Eligible Securities* other than repurchase agreements. Transactions comprising repurchase agreements conducted pursuant to the exemption shall be limited to no more than 10% of (a) the repurchase agreements directly or indirectly entered into by the relevant Portfolio and (b) the repurchase agreements transacted by JPMSI. These calculations shall be measured on an annual basis (the fiscal year of each Portfolio and of JPMSI) and shall be computed with respect to the dollar volume thereof.

4. Information Required to Document Compliance with Price Tests—Before any transaction may be conducted pursuant to the exemption, the relevant Portfolio or the Advisers must obtain such information as they deem necessary to determine that the price test (as defined in condition (5) below) applicable to such transaction has been satisfied. In the case of purchase or sale transactions, the Portfolios or the Advisers must make and document a good faith determination with respect to compliance with the price test based upon current price information obtained through the contemporaneous solicitation of bona fide offers in connection with the type of security involved (the same instrument type, credit rating, maturity and segment, if any, but not necessarily the identical security or issuer). With respect to prospective purchases of securities, these dealers must be those who have in their inventories or otherwise have access to money market securities of the categories and the types desired and who, in the experience of the Portfolios and the Advisers, are in a position to quote favorable prices with respect thereto. With respect to the prospective disposition of securities, these dealers must be those who, in the experience of the Portfolios and the Advisers, are in a position to quote favorable prices. Before any repurchase agreements are entered into pursuant to the exemption, the Portfolios or the Advisers must obtain and document competitive quotations from at least two other dealers with respect to repurchase agreements comparable to the type of repurchase agreement involved, except that if quotations are unavailable from two such dealers only one other competitive quotation is required.

5. Price Tests—In the case of purchase and sale transactions, a determination will be required in each instance, based upon the information available to the Portfolios and the Advisers, that the price available from JPMSI is at least as favorable as that available from other sources. In the case of "swaps" involving trades of one security for another, the price test will be based upon the transaction viewed as a whole, and not upon the two components thereof individually. With respect to transactions involving repurchase agreements, a determination will be required in each instance, based on the information available to the Portfolios and the Advisers, that the income to be earned from the repurchase agreement is at least equal to that available from other sources.

6. Permissible Spread—JPMSI's spreads in regard to any transaction with the Portfolios will be no greater than its customary dealer spreads which in turn will be consistent with the average or standard spread charged by dealers in money market securities for the type of security and the size of transaction involved.

7. Parties Must Be Factually Independent—The Adivsers, on the one hand, and JPMSI, on the other, will operate on different sides of appropriate walls of separation with respect to the Portfolios and *Eligible Securities*. The walls of separation will include all of the following characteristics, and such others as may from time to time be considered reasonable by JPMSI and the Advisers to facilitate the factual independence of the Advisers from JPMSI.

(a) Each of the Advisers will maintain offices physically separate from those of JPMSI.

(b) The compensation of persons assigned to any of the Advisers (i.e., executive, administrative or investment personnel) will not depend on the volume or nature of trades effected by the advisers for the Portfolios with JPMSI under this exemption, except to the extent that such trades may affect the profits and losses of JPM and its subsidiaries as a whole.

(c) JPMSI will not share any of its respective profits or losses on such transactions with any of the Advisers, except to the extent that such profits and losses affect the general firmwide compensation of JPM and its subsidiaries as a whole.

(d) Personnel assigned to the Advisers' investment advisory operations on behalf of the Portfolios will be exclusively devoted to the business and affairs of one or more of the Advisers.

(e) Personnel assigned to JPMSI will not participate in the decision-making process for the Advisers or otherwise seek to influence the Advisers other than in the normal course of sales and dealer activities of the same nature as are simultaneously being carried out with respect to nonaffiliated institutional clients. Each Adviser, on the one hand, and JMPSI, on the other, may nonetheless maintain affiliations other than with respect to the Portfolios, and in addition with respect to the Portfolios as follows:

(i) Adviser personnel may rely on research, including credit analysis and reports prepared internally by various subsidiaries and divisions of JPMSI.

(ii) Certain senior executives of JPM with responsibility for overseeing operations of various divisions, subsidiaries and affiliates of JPM are not precluded from exercising those functions over the Advisers because they oversee JPMSI as well, provided that such persons shall not have any involvement with respect to proposed transactions pursuant to the exemption and will not in any way attempt to influence or control the placing by the Portfolios or the Advisers of Orders in respect of *Eligible Securities* with JPMSI.

8. Record-Keeping Requirements—The Portfolios and the Advisers will maintain such records with respect to those transactions conducted pursuant to the exemption as may be necessary to confirm compliance with the conditions to the requested relief. In this regard:

(a) Each Portfolio shall maintain an itemized daily record of all purchases and sales of securities pursuant to the exemption showing for each transaction: the name and quantity of securities; the unit purchase or sale price; the time and date of the transaction; and whether the security was a *First Tier Security* or a *Second Tier Security.* The records also shall, for each transaction, document two quotations received from other dealers for comparable securities, including: The names of the dealers; the names of the securities; the prices quoted; the times and dates the quotations were received; and whether such securities were *First Tier Securities* or *Second Tier Securities.*

(b) Each Portfolio shall maintain a ledger or other record showing, on a daily basis, the percentage of the

Portfolio's *Total Assets* (or, in the case of a Portfolio that is not subject to rule 2a–7, the percentage of the total of its cash, cash items and *Eligible Securities*) represented by *Second Tier Securities* acquired from JPMSI.

(c) Each Portfolio will maintain records sufficient to verify compliance with the volume limitations contained in condition (3), above. JMPSI will provide the Portfolios with all records and information necessary to implement this requirement.

(d) Each Portfolio will maintain records sufficient to verify compliance with the repurchase agreement requirements contained in condition (2), above.

The records required by this condition (8) will be maintained and preserved in the same manner as records required under rule 31a–1(b)(1).

9. Guidelines—Each of the compliance departments of the Advisers and of JPMSI (the "Compliance Departments") will prepare and, as necessary update guidelines for personnel of the Advisers or JPMSI, as the case may be, to make certain that transactions conducted pursuant to the exemption comply with the conditions of the exemption, and that the parties generally maintain arm's length relationships. In training personnel of JPMSI, particular emphasis will be given to the fact that the Portfolios are to receive rates as favorable as other institutional purchasers buying the same quantities. The Compliance Departments will periodically monitor the activities of JPMSI and the Advisers to make certain that the conditions set forth in the exemption are adhered to.

10. Audit Committee Review—The Audit Committees, consisting of Trustees who are not "interested persons" as defined in section 2(a)(19) of the Act ("Independent Trustees"), will prepare, periodically review and update the guidelines for the Advisers and JPMSI to ensure that transactions conducted pursuant to the exemption comply with the conditions set forth therein and that the above procedures are followed in all respects. The respective Audit Committees will periodically monitor the activities of the Portfolios, the Advisers and JPMSI in this regard to ensure that these matters are being accomplished.

11. Scope of Exemption—Applicants expressly acknowledge that any order issued on the application would grant relief from section 17(a) of the Act only, and would not grant relief from any other section of, or rule under, the Act including, without limitation, rule 2a–7.

12. Board Review—The Trustees, including a majority of the Independent Trustees, have approved the Portfolio's participation in transactions conducted pursuant to the exemption and have determined that such participation by the Portfolios is in the best interests of the Portfolios and their investors. The minutes of the meetings of the Trustees at which this approval was given reflect in detail the reasons for the Trustees' determinations. The Trustees will review no less frequently than annually the Portfolios' participation in transactions conducted pursuant to the exemption during the prior year and determine whether the Portfolios' participation in such transactions continues to be in the best interests of the Portfolios and their investors. Such review will include (but not be limited to) (a) a comparison of the volume of transactions in each type of security conducted pursuant to the exemption to the market presence of JPMSI in the market for that type of security, and (b) a determination that the Portfolios are maintaining appropriate trading relationships with other sources for each type of security to ensure that there are appropriate sources for the quotations required by condition (4) above. The minutes of the meetings of the Trustees at which such determinations are made will reflect in detail the reasons for the Trustees' determinations.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–12641 Filed 5–17–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission held the following additional meeting during the week of May 13, 2002:

An additional closed meeting was held on Tuesday, May 14, 2002, at 11 a.m.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries attended the closed meeting. Certain staff members who had an interest in the matter were also present.

The General Counsel of the Commission, or his designee, certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the closed meeting.

The subject matter of the closed meeting held on Tuesday, May 14, 2002, was:

Institution and settlement of an administrative proceeding of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: May 15, 2002.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–12638 Filed 5–15–02; 4:15 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45921; File No. SR–CHX–2002–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated to Amend the Rules Relating to the Composition of the CHX's Minor Rule Violation Panel

May 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 26, 2002, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend the rules relating to the composition of the CHX's Minor Rule Violation Panel ("Panel"). The text of the proposed rule change is below. Proposed additions are in italics; proposed deletions are in brackets.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Article XII

Discipline and Trial Proceedings

* * * * *

Minor Rule Violations

RULE 9.(a) No change in text.

(b) Procedure for Imposing Fines. In the event that the staff of the Exchange determines that a member, member organization, associated person or registered or non-registered employee of a member or member organization has violated a rule of the Exchange set forth in paragraph (h) of this Rule, and the Exchange staff desires to take action under this Rule 9, the staff shall present the facts supporting the violative conduct to [the] *a* Minor Rule Violation Panel. The accused shall not have the right to attend such presentation nor shall the accused have the right to present any evidence or testimony at such presentation. [The] *A* Minor Rule Violation Panel may (i) accept the staff's recommendation and impose sanctions on behalf of the Exchange in accordance with this Rule 9, (ii) reject the staff's recommendation, or (iii) recommend that the Exchange commence a formal disciplinary proceeding. [The] *A* Minor Rule Violation Panel shall have no authority, however, to authorize the initiation of a formal disciplinary proceeding. In the event [the] *a* Minor Rule Violation Panel recommends that the Exchange commence a formal disciplinary proceeding, the staff shall either (i) issue a report to the Chief Executive Officer in accordance with Article XII, Rule 1(a), recommending that formal charges be brought or (ii) advise the Minor Rule Violation Panel that the staff will not recommend that the Exchange commence a formal disciplinary proceeding. In the event that the staff chooses alternative (ii) from the preceding sentence, the matter shall be returned to the Minor Rule Violation Panel *that recommended the commencement of the formal disciplinary proceeding*, which shall then impose a fine in accordance with the provisions of this Rule 9.

[The] *One or more* Minor Rule Violation Panels shall be appointed, from time to time, by the Chief Executive Officer and shall *each* consist of three persons—one member of the Rules Subcommittee of the Committee on Floor Procedure, one member of the Committee on Floor Procedure [who is not a member of the Rules Subcommittee], and one floor member who is not a member of the Committee on Floor Procedure or *the Rules Subcommittee* [any of its subcommittees].

Notwithstanding anything in this paragraph (b) to the contrary, the Committee on Floor Procedure shall have jurisdiction to impose a fine pursuant to this Rule for violations of (h)(ii)(7) and (8) of this Rule relating to decorum on the trading floor. However, the Committee on Floor Procedure and [the] *a* Minor Rule Violation Panel shall not, collectively, impose more than one fine pursuant to this Rule 9 relating to the same underlying violation and incident.

(c)–(h) No change in text.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the rules relating to the composition of the Panel. The Panel is a three-person group charged with evaluating rule violations that fall under the Exchange's Minor Rule Violation Plan and assessing fines in response to that conduct.

The proposed rule change would allow the appointment of additional Panels. In recent months, it has become increasingly difficult for Panel members to balance their responsibilities as Panel members with their responsibilities as active members of the trading floor community. The ability to appoint additional Panels would relieve some of the workload of the current Panel members and ensure that potential minor rule violations are heard by a Panel as soon as possible. The Exchange's Market Regulation staff will work with each Panel to ensure that their decisions provide consistent sanctions for similar offenses.

The proposed rule change also would remove a current restriction on the composition of the Panel that makes it difficult to find a sufficient number of persons to serve as a member of this group. Under the current rules, the Panel consists of: (1) One member of the Rules Subcommittee; (2) one member of the Committee on Floor Procedure who is not on the Rules Subcommittee; and (3) one floor member who is not on the Committee on Floor Procedure or on any of its subcommittees (such as the Rules Subcommittee).[3]

The proposed rule change would modify this composition so that the Panel would consist of: (1) One member of the Rules Subcommittee; (2) one member of the Committee on Floor Procedure (whether or not he or she is on the Rules Subcommittee); and (3) one floor member who is not on the Committee on Floor Procedure, but could be on one or more of its subcommittees (but not the Rules Subcommittee).

In recent years, the Exchange's floor members have become more active on various Exchange committees, including on the various subcommittees of the Committee on Floor Procedure. As a result, they often are not eligible to fill the second or third positions on the Panel. The proposed rule change would help ensure that a sufficient number of members are eligible to be selected to serve on the Panel.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[4] In particular, the CHX believes the proposed rule change is consistent with Section 6(b)(5) of the Act[5] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest by ensuring that potential minor rule violations are addressed as soon as possible.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[3] The Committee on Floor Procedure has several subcommittees, including the Rules Subcommittee, the Floor Broker Technical Subcommittee, the Specialist Technical Subcommittee and the Space Allocation Subcommittee.

[4] 15 U.S.C. 78(f)(b).

[5] 15 U.S.C. 78(f)(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CHX consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2002–12 and should be submitted by June 10, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12568 Filed 5–17–02; 8:45 am]

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[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45924; File No. SR–CHX–2002–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Membership Dues and Fees

May 14, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice hereby is given that on April 26, 2002, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend a provision of its membership dues and fees schedule (the "Schedule") governing assessment of transaction fees. The text of the proposed rule change follows. Proposed new language is italicized; proposed deletions are in brackets.

Membership Dues and Fees

* * * * *

F. Transaction and Order Processing Fees

* * * * *

6. Transaction Fees

* * * * *

e. *In Nasdaq/NM securities, a*[A]gency *executions* [orders in NASDAQ/NM securities] executed through a floor broker *and market maker executions.*

f. *In Dual Trading System issues, a*[A]gency *executions* [orders in Dual Trading System Securities] executed through a floor broker *and market maker executions.*

g. All other *MAX* orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend a provision of the Schedule governing assessment of transaction fees. The Schedule contains provisions assessing various transaction fees and order processing fees. Transaction fees are assessed based on factors including (a) the type of order executed on the Exchange, and (b) the type of member that facilitates execution of the order on the Exchange.

A previous change to the provisions governing transaction fees was intended to provide for a transaction fee applicable to certain manual orders that are not executed by a specialist, *i.e.*, agency orders executed through a floor broker or executions by a market maker. The Exchange believes that it is appropriate to edit this provision to reflect the intent that the provision applies to all manual orders not executed by a specialist (other than executions by floor brokers in their capacity as principals). Significantly, the proposed edit set forth in Exhibit A reflects current billing practice; the change to the fee schedule thus will not result in assessment of any additional transaction fees.

In addition, the Exchange proposed to clarify that the catch-all provision governing transaction fees, subsection g., only applied to all other "MAX" orders.[3]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(4),[5] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Telephone call between Ellen Neely, Senior Vice President and General Counsel, CHX, and Jennifer Lewis, Attorney, Division of Market Regulation, Commission, on May 9, 2002.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received by the Exchange relating to this submission. [6]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and Rule 19b–4(f)(2) thereunder.[8] Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–2002–13 and should be submitted by June 10, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–12569 Filed 5–17–02; 8:45 am]

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[6] At the request of CHX, this sentence was revised to clarify that the Exchange did not solicit comment from its members. Telephone call between Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Ellen Neely, Senior Vice President and General Counsel, CHX, on May 14, 2002.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45920; File No. SR–NASD–2002–45]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. to Establish Listing Standards and Listing Fees for Portfolio Depository Receipts and Index Fund Shares

May 13, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 3, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On May 6, 2002, Nasdaq filed Amendment No. 1 to the proposal.[3] On May 13, 2002, Nasdaq filed Amendment No. 2 to the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is granting partial accelerated approval to the proposal.[5]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to establish listing standards and listing fees for PDRs and Fund Shares.

Proposed new language is *italicized;* proposed deletions are in [brackets].

* * * * *

4420. Quantitative Designation Criteria

In order to be designated for the Nasdaq National Market, an issuer shall be required to substantially meet the criteria set forth in paragraphs (a), (b), (c), (d), (e), (f), [or] (g), *(h), (i), or (j)* below. Initial Public Offerings substantially meeting such criteria are eligible for immediate inclusion in the Nasdaq National Market upon prior application and with the written consent of the managing underwriter that immediate inclusion is desired. All other qualification issues, exception special situations, are included on the next inclusion date established by Nasdaq.

(a)–(h) No change.

(i) Portfolio Depository Receipts

(1) Definitions. The following terms shall, unless the context otherwise requires, have the meanings herein specified:

(A) Portfolio Depository Receipt. The term "Portfolio Depository Receipt" means a security:

(i) that is based on a unit investment trust ("Trust") which holds the securities which comprise an index or portfolio underlying a series of Portfolio Depository Receipts;

(ii) that is issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock plus a cash amount;

(iii) that, when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and cash then comprising the "Portfolio Deposit"; and

(iv) that pays holders a periodic cash payment corresponding to the regular cash dividends or distributions declared with respect to the component securities of the stock index or portfolio of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John D. Nachmann, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 3, 2002 ("Amendment No. 1"). In Amendment No. 1, Nasdaq did the following: (1) Made corrections to its proposed rule text and proposal; (2) added discussion and stated its statutory basis for the proposed listing fees; (3) clarified that its regular trading hours for Portfolio Depository Receipts ("PDRs") and Index Fund Shares ("Fund Shares") will be from 9:30 a.m. to 4 p.m. or 4:15 p.m., as designated by Nasdaq; and (4) requested accelerated approval for the portion of the proposal relating to the listing and trading standards for PDRs and Fund Shares, and not for the portion on the proposed listing fees.

[4] *See* letter from John D. Nachmann, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission, dated May 13, 2002 ("Amendment No. 2"). In Amendment No. 2, Nasdaq removed the term "member organization" throughout its proposed rule text and proposal.

[5] Nasdaq requested accelerated approval of all portions of the proposal except those that deal with its proposed new listing fees.

securities underlying the Portfolio Depository Receipts, less certain expenses and other charges as set forth in the Trust prospectus.

(B) Reporting Authority. The term "Reporting Authority" in respect to a particular series of Portfolio Depository Receipts means Nasdaq, a wholly-owned subsidiary of Nasdaq, an institution (including the Trustee for a series of Portfolio Depository Receipts), or a reporting service designated by Nasdaq or its subsidiary as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Trust in connection with issuance of Portfolio Depository Receipts; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depository Receipts, net asset value, and other information relating to the creation, redemption or trading of Portfolio Depository Receipts.

Nothing in this paragraph shall imply that an institution or reporting service that is the source for calculating and reporting information relating to Portfolio Depository Receipts must be designated by Nasdaq; the term "Reporting Authority" shall not refer to an institution or reporting service not so designated.

(2) The provisions of this Rule apply only to series of Portfolio Depository Receipts that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940. Nasdaq will inform members regarding application of this Rule to a particular series of Portfolio Depository Receipts by means of an Information Circular prior to commencement of trading in such series.

Nasdaq requires that members provide to all purchasers of a series of Portfolio Depository Receipts a written description of the terms and characteristics of such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of Portfolio Depository Receipts that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Portfolio Depository Receipts as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Portfolio Depository Receipts] has been prepared by [Trust name] and is available from your broker or Nasdaq. It is recommended that you obtain and review such circular before purchasing [the series of Portfolio Depository Receipts]. In addition, upon request you may obtain from your broker a prospectus for [the series of Portfolio Depository Receipts]."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Portfolio Depository Receipts for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of Portfolio Depository Receipts.

(3) Nasdaq may approve a series of Portfolio Depositary Receipts for listing and trading pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934, provided each of the following criteria is satisfied:

(A) Eligibility Criteria for Index Components. Upon the initial listing of a series of Portfolio Depository Receipts, the component stocks of an index or portfolio underlying such series of Portfolio Depository Receipts shall meet the following criteria:

(i) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least $75 million;

(ii) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

(iii) The most heavily weighted component stock cannot exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio;

(iv) The underlying index or portfolio must include a minimum of 13 stocks; and

(v) All securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including The Nasdaq SmallCap Market).

(B) Index Methodology and Calculation.

(i) The index underlying a series of Portfolio Depository Receipts will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology;

(ii) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer; and

(iii) The current index value will be disseminated every 15 seconds over the Nasdaq Trade Dissemination System.

(C) Disseminated Information. The Reporting Authority will disseminate for each series of Portfolio Depository Receipts an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

(D) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Portfolio Depository Receipts is required to be outstanding at start-up of trading.

(E) Surveillance Procedures. NASD Regulation will implement written surveillance procedures for Portfolio Depository Receipts.

(4) Trading will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series of Portfolio Depository Receipts, as specified by Nasdaq.

(5) Nasdaq may list and trade Portfolio Depository Receipts based on one or more stock indexes or securities portfolios. The Portfolio Depository Receipts based on each particular stock index or portfolio shall be designated as a separate series and shall be identified by a unique symbol. The stocks that are included in an index or portfolio on which Portfolio Depository Receipts are based shall be selected by Nasdaq or its agent, a wholly-owned subsidiary of Nasdaq, or by such other person as shall have a proprietary interest in and authorized use of such index or portfolio, and may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(6) A Trust upon which a series of Portfolio Depository Receipts is based will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing—for each Trust, Nasdaq will establish a minimum number of Portfolio Depository Receipts required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Continued Listing—following the initial twelve month period following formation of a Trust and commencement of trading on Nasdaq, Nasdaq will consider the suspension of trading in or removal from listing of a Trust upon which a series of Portfolio Depository Receipts is based under any of the following circumstances:

(i) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Portfolio Depository Receipts for 30 or more consecutive trading days; or

(ii) if the value of the index or portfolio of securities on which the Trust is based is no longer calculated or available; or

(iii) if such other event shall occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Upon termination of a Trust, Nasdaq requires that Portfolio Depository Receipts issued in connection with such Trust be removed from listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(C) Term—the stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(D) Voting—voting rights shall be as set forth in the Trust prospectus. The Trustee of a Trust may have the right to vote all of the voting securities of such Trust.

(7) Neither Nasdaq, the Reporting Authority nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the Trust; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depository Receipts; net asset value; or other information relating to the creation, redemption or trading of Portfolio Depository Receipts, resulting from any negligent act or omission by Nasdaq, the Reporting Authority, or any agent of Nasdaq or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in one or more underlying securities.

(j) Index Fund Shares

(1) Definitions. The following terms shall, unless the context otherwise requires, have the meanings herein specified:

(A) Index Fund Share. The term "Index Fund Share" means a security:

(i) that is issued by an open-end management investment company based on a portfolio of stocks that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index;

(ii) that is issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified numbers of shares of stock and/or a cash amount with a value equal to the next determined net asset value; and

(iii) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end investment company which will pay to the redeeming holder the stock and/or cash with a value equal to the next determined net asset value.

(B) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Index Fund Shares means Nasdaq, a wholly-owned subsidiary of Nasdaq, or an institution or reporting service designated by Nasdaq or its subsidiary as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of any securities required to be deposited in connection with issuance of Index Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Index Fund Shares, net asset value, and other information relating to the issuance, redemption or trading of Index Fund Shares.

Nothing in this paragraph shall imply that an institution or reporting service that is the source for calculating and reporting information relating to Index Fund Shares must be designated by Nasdaq; the term "Reporting Authority" shall not refer to an institution or reporting service not so designated.

(2) The provisions of this Rule apply only to series of Index Fund Shares that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940. Nasdaq will inform members regarding application of this Rule to a particular series of Index Fund Shares by means of an Information Circular prior to commencement of trading in such series.

Nasdaq requires that members provide to all purchasers of a series of Index Fund Shares a written description of the terms and characteristics of such securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of Index Fund Shares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Index Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Index Fund Shares] has been prepared by the [open-end management investment company name] and is available from your broker or The Nasdaq Stock Market. It is recommended that you obtain and review such circular before purchasing [the series of Index Fund Shares]. In addition, upon request you may obtain from your broker a prospectus for [the series of Index Fund Shares]."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Index Fund Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of Index Fund Shares.

(3) Nasdaq may approve a series of Index Fund Shares for listing and trading pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934, provided each of the following criteria is satisfied:

(A) Eligibility Criteria for Index Components. Upon the initial listing of a series of Index Fund Shares, each component of an index or portfolio underlying a series of Index Fund Shares shall meet the following criteria:

(i) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall

have a minimum market value of at least $75 million;

(ii) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

(iii) The most heavily weighted component stock cannot exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio;

(iv) The underlying index or portfolio must include a minimum of 13 stocks; and

(v) All securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including The Nasdaq SmallCap Market).

(B) Index Methodology and Calculation

(i) The index underlying a series of Index Fund Shares will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology;

(ii) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer; and

(iii) The current index value will be disseminated every 15 seconds over the Nasdaq Trade Dissemination System.

(C) Disseminated Information. The Reporting Authority will disseminate for each series of Index Fund Shares an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

(D) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Index Fund Shares is required to be outstanding at start-up of trading.

(E) Surveillance Procedures. NASD Regulation will implement written surveillance procedures for Index Fund Shares.

(4) Trading will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m. for each series of Index Fund Shares, as specified by Nasdaq.

(5) Nasdaq may list and trade Index Fund Shares based on one or more foreign or domestic stock indexes or securities portfolios. Each issue of Index Fund Shares based on each particular stock index or portfolio shall be designated as a separate series and shall be identified by a unique symbol. The stocks that are included in an index or portfolio on which a series of Index Fund Shares are based shall be selected by such person, which may be Nasdaq or an agent or wholly-owned subsidiary thereof, as shall have authorized use of such index or portfolio. Such index or portfolio may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(6) Each series of Index Fund Shares will be listed and traded on Nasdaq subject to application of the following criteria:

(A) Initial Listing—for each series, Nasdaq will establish a minimum number of Index Fund Shares required to be outstanding at the time of commencement of trading on Nasdaq.

(B) Continued Listing—following the initial twelve month period following commencement of trading on Nasdaq of a series of Index Fund Shares, Nasdaq will consider the suspension of trading in or removal from listing of such series under any of the following circumstances:

(i) if there are fewer than 50 beneficial holders of the series of Index Fund Shares for 30 or more consecutive trading days; or

(ii) if the value of the index or portfolio of securities on which the series of Index Fund Shares is based is no longer calculated or available; or

(iii) if such other event shall occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.

Upon termination of an open-end management investment company, Nasdaq requires that Index Fund Shares issued in connection with such entity be removed from listing.

(C) Voting—voting rights shall be as set forth in the applicable open-end management investment company prospectus.

(7) Neither Nasdaq, the Reporting Authority, nor any agent of Nasdaq shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Index Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Index Fund Shares; net asset value; or other information relating to the purchase, redemption or trading of Index Fund Shares, resulting from any negligent act or omission by Nasdaq, the Reporting Authority or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in one or more underlying securities.

4540. Portfolio Depository Receipts and Index Fund Shares

(a) Entry Fee

(1) When an issuer submits an application for listing a series of Portfolio Depository Receipts or Index Fund Shares in The Nasdaq National Market, it shall pay to The Nasdaq Stock Market, Inc. a listing fee of $5,000 (which shall include a $1,000 non-refundable processing fee).

(2) The Board of Directors of The Nasdaq Stock Market, Inc. or its designee may, in its discretion, defer or waive all or any part of the entry fee prescribed herein.

(3) If the application is withdrawn or is not approved, the entry fee (less the non-refundable processing fee) shall be refunded.

(b) Annual Fee

(1) The issuer of a series of Portfolio Depository Receipts or Index Fund Shares listed on The Nasdaq National Market shall pay to The Nasdaq Stock Market, Inc. an annual fee calculated on total shares outstanding according to the following schedule:

Up to 1 million shares	$6,500
1+ to 2 million shares	7,000
2+ to 3 million shares	7,500
3+ to 4 million shares	8,000
4+ to 5 million shares	8,500
5+ to 6 million shares	9,000
6+ to 7 million shares	9,500
7+ to 8 million shares	10,000
8+ to 9 million shares	10,500
9+ to 10 million shares	11,000
10+ to 11 million shares	11,500
11+ to 12 million shares	12,000
12+ to 13 million shares	12,500
13+ to 14 million shares	13,000
14+ to 15 million shares	13,500
15+ to 16 million shares	14,000
Over 16 million shares	14,500

(2) Total shares outstanding means the aggregate number of shares in all series of Portfolio Depository Receipts or Index Fund Shares to be included in The Nasdaq National Market as shown in the issuer's most recent periodic report required to be filed with the issuer's appropriate regulatory authority or in more recent information held by Nasdaq.

(3) The Board of Directors of The Nasdaq Stock Market, Inc. or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to adopt listing standards and listing fees for PDRs and Fund Shares. A description of the criteria is set forth below.

a. *Portfolio Depository Receipts.* i. *Listing Requirements.* Nasdaq proposes to adopt criteria for listing and trading PDRs, which are securities that: (1) Are based on a unit investment trust ("Trust") which holds the securities which comprise an index or portfolio underlying a series of PDRs; (2) are issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock plus a cash amount; (3) when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and cash then comprising the "Portfolio Deposit'; and (4) pay holders a periodic cash payment corresponding to the regular cash dividends or distributions declared with respect to the component securities of the stock index or portfolio of securities underlying the PDRs, less certain expenses and other charges as set forth in the Trust prospectus.

In connection with initial listing, Nasdaq represents that it will establish, for each Trust, a minimum number of PDRs required to be outstanding at the time of commencement of trading on Nasdaq.

With respect to continued listing, following the initial twelve month period after formation of a Trust and commencement of trading on Nasdaq, Nasdaq represents that it will consider the suspension of trading in or removal from listing of a Trust upon which a series of PDRs is based under any of the following circumstances: (1) If the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of PDRs for 30 or more consecutive trading days; (2) if the value of the index or portfolio of securities on which the Trust is based is no longer calculated or available; or (3) if such other event shall occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable. Upon termination of a Trust, Nasdaq represents that it will require that PDRs issued in connection with such Trust be removed from listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

ii. *Standards to Permit Trading of PDRs Pursuant to Rule 19b–4(e) under the Act.* Nasdaq further proposes to adopt generic listing standards to permit the trading of PDRs pursuant to Rule 19b–4(e) under the Act.[6] Rule 19b–4(e) under the Act permits self-regulatory organizations ("SROs") to list and trade new derivative products that comply with existing SRO trading rules, procedures, surveillance programs and listing standards, without submitting a proposed rule change under Section 19(b) of the Act. Accordingly, Nasdaq proposes to adopt the following listing standards in order to list PDRs pursuant to Rule 19b–4(e) under the Act.

Upon initial listing of PDRs, component stocks must in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least $75 million. In addition, the component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio. Moreover, the most heavily weighted component stock cannot exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio. The underlying index or portfolio must include a minimum of 13 stocks. Lastly, all securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including The Nasdaq SmallCap Market).

The index underlying a series of PDRs will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology. In addition, if the index is maintained by a broker-dealer, the broker-dealer shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer.

The current index value will be disseminated every 15 seconds over the Nasdaq Trade Dissemination System. The Reporting Authority will disseminate for each series of PDRs an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

A minimum of 100,000 shares of a series of PDRs is required to be outstanding at the start-up of trading. Trading for each series of PDRs will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m., as specified by Nasdaq.[7] Nevertheless, as with other listed securities, quotes and trades in PDRs may be reported using Nasdaq systems that operate in the extended-hours session from 4 p.m. to 6:30 p.m.[8]

iii. *Disclosure.* Nasdaq represents that it will require members to provide all purchasers of newly issued PDRs with a prospectus. Since the PDRs will be in continuous distribution, the prospectus delivery requirements of Section 5(b)(2) of the Securities Act of 1933 ("Securities Act")[9] will apply to all investors in PDRs, including secondary market purchases on Nasdaq.

[6] 17 CFR 240.19b–4(e).

[7] At initiation, Nasdaq represents that trading in PDRs will occur until 4 p.m. Nasdaq understands that most other markets that trade PDRs extend their regular trading session until 4:15 p.m., and Nasdaq plans to extend its regular trading session until 4:15 p.m. as soon as technically feasible. Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Florence Harmon, Senior Special Counsel, Commission, on May 13, 2002.

[8] Trades after the end of the regular trading session will have a ".T" identifier, which will exclude them from the consolidated daily "high," "low," and "close" prices, but they would be included in the daily volume statistics. Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Florence Harmon, Senior Special Counsel, Commission, on May 13, 2002. *See also* Securities Exchange Act Release Nos. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999); and 45503 (March 5, 2002), 67 FR 10955 (March 11, 2002).

[9] 15 U.S.C. 77e(b)(2).

With respect to a series of PDRs that are the subject of an order by the SEC exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 ("Investment Company Act"),[10] Nasdaq represents that it will inform members regarding disclosure obligations with respect to a particular series of PDRs by means of an Information Circular prior to commencement of trading in such series.

For these exempted series, Nasdaq represents that it will require that members provide to all purchasers of a series of PDRs a written description of the terms and characteristics of such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of PDRs that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of PDRs as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Portfolio Depository Receipts] has been prepared by [Trust name] and is available from your broker or Nasdaq. It is recommended that you obtain and review such circular before purchasing [the series of Portfolio Depository Receipts]. In addition, upon request you may obtain from your broker a prospectus for [the series of Portfolio Depository Receipts]."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of PDRs for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of PDRs.

iv. *Trading of PDRs.* Nasdaq represents that dealings in PDRs will be conducted pursuant to Nasdaq and the NASD's existing equity trading rules. Thus, Nasdaq's general dealing and settlement rules would apply, including its rules on clearance and settlement of securities transactions and its equity margin rules. Other generally applicable Nasdaq equity rules and procedures would also apply.[11] In addition, NASD Regulation's surveillance procedures for PDRs will be the same as the current surveillance procedures governing equity securities, and will include additional monitoring on key pricing dates.

Prior to the commencement of trading in PDRs, Nasdaq represents that it will issue an Information Circular to members highlighting the characteristics of purchases in PDRs. The Information Circular will discuss, among other things, the special characteristics and risks of trading this type of security, inform members of any obligation to deliver a written product description or prospectus, as applicable, to purchasers of PDRs, and the applicability of the suitability rules. Specifically, members must have reasonable grounds for believing that a recommendation to a customer regarding the purchase, sale or exchange of any security is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.[12] Furthermore, as new products are introduced from time to time, Nasdaq believes that it is important that members make every effort to familiarize themselves with each customer's financial situation, trading experience, and ability to meet the risks involved with such products and to make every effort to make customers aware of the pertinent information regarding the products.

With respect to trading halts, Nasdaq represents that the trading of PDRs would be halted, along with trading of all other listed or traded stocks, in the event the "circuit breaker" thresholds are reached.[13] Nasdaq represents that it will disclose the policies regarding trading halts in PDRs in the Information Circular. For a PDR based on an index, such policies would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value.

b. *Index Fund Shares.* i. *Listing Requirements.* Nasdaq also proposes to adopt criteria for the listing and trading of Fund Shares, which are securities that: (1) Are issued by an open-end management investment company based on a portfolio of stocks that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index; (2) are issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified numbers of shares of stock and/or a cash amount with a value equal to the next determined net asset value; and (3) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end investment company which will pay to the redeeming holder the stock and/or cash with a value equal to the next determined net asset value.

In connection with initial listing, Nasdaq represents that it will establish, for each series, a minimum number of Index Fund Shares required to be outstanding at the time of commencement of trading on Nasdaq.

With respect to continued listing, following the initial twelve month period after commencement of trading on Nasdaq of a series of Index Fund Shares, Nasdaq represents that it will consider the suspension of trading in or removal from listing of such series under any of the following circumstances: (1) If there are fewer than 50 beneficial holders of the series of Index Fund Shares for 30 or more consecutive trading days; (2) if the value of the index or portfolio of securities on which the series of Index Fund Shares is based is no longer calculated or available; or (3) if such other event shall occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable. Upon termination of an open-end management investment company, Nasdaq represents that it will require that Index Fund Shares issued in connection with such entity be removed from listing.

ii. *Standards to Permit Trading of Index Fund Shares Pursuant to Rule 19b–4(e) under the Act.* Nasdaq also proposes to adopt generic listing standards to permit the trading of Fund Shares pursuant to Rule 19b–4(e) under the Act. As previously mentioned, Rule 19b–4(e) under the Act permits SROs to list and trade new derivative products that comply with existing SRO trading rules, procedures, surveillance programs and listing standards, without submitting a proposed rule change under Section 19(b) of the Act. Accordingly, Nasdaq proposes to adopt the following listing standards in order to list Fund Shares pursuant to Rule 19b–4(e) under the Act.

Upon initial listing of Fund Shares, component stocks must in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least $75 million. In addition, the component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio. Moreover, the most heavily weighted component stock cannot exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio. The underlying index or portfolio must include a minimum of 13 stocks. Lastly, all securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including The Nasdaq SmallCap Market).

The index underlying a series of Fund Shares will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology. In addition, if the index is maintained by a broker-dealer, the broker-dealer shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer.

The current index value will be disseminated every 15 seconds over the Nasdaq Trade Dissemination System. The Reporting Authority will disseminate for each series of Fund Shares an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

A minimum of 100,000 shares of a series of Fund Shares is required to be outstanding at the start-up of trading. Trading for each series of Fund Shares will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m., as specified by Nasdaq.[14] Nevertheless, as with other listed securities, quotes and trades in Fund Shares may be reported using Nasdaq systems that operate in the extended-hours session from 4 p.m. to 6:30 p.m.[15]

iii. Disclosure. Nasdaq represents that it will require members to provide all purchasers of newly issued Index Fund Shares with a prospectus. Since the Fund Units will be in continuous distribution, the prospectus delivery requirements of Section 5(b)(2) of the Securities Act[16] will apply to all investors in Index Fund Shares, including secondary market purchases on Nasdaq.

With respect to a series of Index Fund Shares that are the subject of an order by the SEC exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act,[17] Nasdaq represents that it will inform members regarding disclosure obligations with respect to a particular series of Index Fund Shares by means of an Information Circular prior to commencement of trading in such series.

For these exempted series, Nasdaq represents that it will require that members provide to all purchasers of a series of Index Fund Shares a written description of the terms and characteristics of such securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of Index Fund Shares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Index Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Index Fund Shares] has been prepared by the [open-end management investment company name] and is available from your broker or The Nasdaq Stock Market. It is recommended that you obtain and review such circular before purchasing [the series of Index Fund Shares]. In addition, upon request you may obtain from your broker a prospectus for [the series of Index Fund Shares]."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Index Fund Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of Index Fund Shares.

iv. Trading of Fund Shares. Nasdaq represents that dealings in Fund Shares will be conducted pursuant to Nasdaq and the NASD's existing equity trading rules. Thus, Nasdaq's general dealing and settlement rules would apply, including its rules on clearance and settlement of securities transactions and its equity margin rules. Other generally applicable Nasdaq equity rules and procedures would also apply.[18] In addition, NASD Regulation's surveillance procedures for Fund Shares will be the same as the current surveillance procedures governing equity securities, and will include additional monitoring on key pricing dates.

Prior to the commencement of trading in Fund Shares, Nasdaq represents that it will issue an Information Circular to members highlighting the characteristics of purchases in Fund Shares. The circular will discuss, among other things, the special characteristics and risks of trading this type of security, inform members of the requirement to deliver a prospectus to investors purchasing Fund Shares prior to or concurrently with the confirmation of a transaction, and the applicability of suitability rules. Specifically, members must have reasonable grounds for believing that a recommendation to a customer regarding the purchase, sale or exchange of any security is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.[19]

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[10] 15 U.S.C. 80a–24(d)

[11] Pursuant to NASD Rule 4613(a)(1)(D), a minimum quotation increment of one penny will apply to transactions of PDRs on The Nasdaq National Market.

[12] *See* NASD Rule 2310 and NASD IM–2310–2. In addition, NASD Rule 2310(b) requires members to make reasonable efforts to obtain information concerning a customer's financial status, a customer's tax status, a customer's investment objectives, and such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

[13] *See* NASD IM–4120–4.

[14] At initiation, Nasdaq represents that trading in Fund Shares will occur until 4 p.m. Nasdaq understands that most other markets that trade Fund Shares extend their regular trading session until 4:15 p.m., and Nasdaq plans to extend its regular trading session until 4:15 p.m. as soon as technically feasible. Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Florence Harmon, Senior Special Counsel, Commission, on May 13, 2002.

[15] Trades after the end of the regular trading session will have a ".T" identifier, which will exclude them from the consolidated daily "high," "low," and "close" prices, but they would be included in the daily volume statistics. Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Florence Harmon, Senior Special Counsel, Commission, on May 13, 2002. *See also* Securities Exchange Act Release Nos. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999); and 45503 (March 5, 2002), 67 FR 10955 (March 11, 2002).

[16] 15 U.S.C. 77e(b)(2).

[17] 15 U.S.C. 80a–24(d).

[18] Pursuant to NASD Rule 4613(a)(1)(D), a minimum quotation increment of one penny will apply to transactions of Fund Shares on The Nasdaq National Market.

[19] *See* NASD Rule 2310 and NASD IM–2310–2. In addition, NASD Rule 2310(b) requires members to make reasonable efforts to obtain information concerning a customer's financial status, a customer's tax status, a customer's investment objectives, and such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

Furthermore, as new products are introduced from time to time, Nasdaq represents that it is important that members make every effort to familiarize themselves with each customer's financial situation, trading experience, and ability to meet the risks involved with such products and to make every effort to make customers aware of the pertinent information regarding the products.

With respect to trading halts, the trading of Fund Shares would be halted, along with trading of all other listed or traded stocks, in the event the "circuit breaker" thresholds are reached.[20] Nasdaq represents that it will disclose the policies regarding trading halts in Fund Shares in the Information Circular. For a Fund Share based on an index, such policies would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value.

c. Listing Fees. In addition to listing standards, Nasdaq also proposes to adopt a new listing fee schedule for PDRs and Fund Shares. With respect to entry fees, each series of PDRs and Fund Shares will be assessed a $5,000 fee, which Nasdaq states is significantly lower than the current entry fees for traditional domestic and foreign equity issues listing on The Nasdaq National Market ("National Market"). Moreover, the proposed annual fees for PDRs and Fund Shares also will be significantly less than the current fees for traditional domestic and foreign equity issues listed on the National Market. Nasdaq represents that the entry and annual fees are designed to cover the costs associated with the listing of PDRs and Fund Shares on the National Market, while allowing Nasdaq to compete for the listing of these securities with national securities exchanges.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A(b)(6) of the Act[21] in that the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, Nasdaq believes that PDRs and Fund Shares will allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies similar to those used by institutional investors; and (3) reduce transactions costs for trading a portfolio of securities.[22]

Nasdaq further believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A(b)(5) of the Act[23] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among issuers using the Nasdaq system. The proposed listing fees for PDRs and Fund Shares are less than the current fees for traditional domestic and foreign equity issues listed on the National Market as the regulatory and client services costs associated with PDRs and Fund shares are lower than those for traditional equity issues. Furthermore, Nasdaq represents that the proposed listing fees for PDRs and Fund Shares are designed to cover costs and allow Nasdaq to compete for the listing of these securities with national securities exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Nasdaq has requested that the Commission find good cause, pursuant to Section 19(b)(2) of the Act, [24] for approving, prior to the thirtieth day after publication in the **Federal Register**, the portion of the rule proposal related to the listing and trading of PDRs and Fund Shares, as amended.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2002–45 and should be submitted by June 10, 2002.

V. Commission Findings and Order Granting Partial Accelerated Approval of the Proposed Rule Change

Nasdaq has requested that the Commission approve the proposed rule change, as amended, on an accelerated basis, except the portions of the amended proposal related to its proposed listing fees. The Commission notes that it has previously approved the listing and trading of PDRs and Fund Shares on other exchanges.[25]

[20] *See* NASD IM–4120–4.

[21] 15 U.S.C. 78o–3(b)(6).

[22] *See* Securities Exchange Act Release No. 42988 (June 28, 2000), 65 FR 42041 (July 7, 2000).

[23] 15 U.S.C. 78o–3(b)(5). Nasdaq represents that it intended to refer to Section 15A(b)(5) of the Act instead of Section 15A(b)(6) of the Act in Amendment No. 1 under "Statutory Basis." Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Sapna C. Patel, Attorney, Commission, on May 7, 2002.

[24] 15 U.S.C. 78s(b)(2).

[25] *See, e.g.*, Securities Exchange Act Release Nos. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (listing and trading of PDRs on the American Stock Exchange LLC ("Amex")); 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (listing and trading of Fund Shares on the Amex); 39660 (February 12, 1998), 63 FR 9026 (February 23, 1998) (listing and trading of PDRs on the Boston Stock Exchange, Inc. ("BSE")); 42988 (June 28, 2000), 65 FR 42041 (July 7, 2000) (listing and trading of Fund Shares on the BSE); 39076 (September 15, 1997), 62 FR 49270 (September 19, 1997) (listing and trading of PDRs on the Chicago Stock Exchange, Inc.); 39268 (October 22, 1997), 62 FR 56211 (October 29, 1997) (listing and trading of PDRs on the Cincinnati Stock Exchange, Inc. ("CSE")); 43620 (November 27, 2000), 65 FR 75740 (December 4, 2000) (listing and trading of Fund Shares on the CSE); and 43912 (January 31, 2001), 66 FR 9401 (February 7, 2001) (listing and trading of Fund Shares on the Philadelphia Stock Exchange, Inc.).

The Commission finds that the portion of the proposed rule change relating to the listing and trading of PDRs and Fund Shares, as amended, is consistent with the requirements of Section 15A(b)(6) of the Act[26] and the rules and regulations thereunder applicable to a national securities association.[27] The Commission believes that the listing and trading of PDRs and Fund Shares on Nasdaq will provide investors with a convenient and flexible way of participating in the securities markets. In particular, the Commission believes that the trading of PDRs and Fund Shares provides investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a low-cost security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day, and by increasing the availability of PDRs and Fund Shares as an investment tool. The Commission also believes that PDRs and Fund Shares will benefit investors by allowing them to trade securities based on unit investment trusts and open-end management companies in secondary market transactions. Accordingly, the Commission finds that the portion of Nasdaq's proposal relating to listing standards for PDRs and Fund Shares, as amended, will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[28]

A. Benefits of PDRs and Fund Shares

The relatively low cost of individual PDRs and Fund Shares makes them attractive to individual retail investors who wish to hold a security replicating the performance of a portfolio of stocks. Moreover, the Commission believes that PDRs and Fund Shares provide investors with several other advantages. In particular, investors are able to trade PDRs and Fund Shares continuously throughout the business day in secondary market transactions at negotiated prices.[29] In contrast, Investment Company Act Rule 22c–1[30] limits holders and prospective holders of open-end investment company shares to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors. Accordingly, PDRs and Fund Shares allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies not otherwise available to retail investors; and (3) reduce transaction costs for trading a portfolio of securities.

The Commission believes that the listing and trading on Nasdaq of securities like PDRs and Fund Shares, which replicate the performance of a broad portfolio of stocks, can benefit the securities markets by, among other things, helping to reduce the volatility occasionally experienced in these markets.[31]

Although PDRs and Fund Shares are not leveraged instruments and will be regulated like equity instruments subject to Nasdaq's rules governing equity securities, the Commission believes that the unique nature of these products raises certain product design, disclosure, trading and other issues that must be adequately addressed. As discussed more fully below, the Commission believes that Nasdaq has adequately addressed these concerns.

C. Disclosure

The Commission believes that the Exchange's proposal should ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading PDRs and Fund Shares. Investors purchasing PDRs and Fund Shares will be required to receive either a prospectus or, as discussed below, a product description of the PDRs and Fund Shares. If the PDR or Fund Share is not granted relief from prospectus delivery requirements of the Investment Company Act, then investors purchasing PDRs and Fund Shares will be required to receive a prospectus prior to or concurrently with the confirmation of the transaction. Because PDRs and Fund Shares will be in continuous distribution, the prospectus delivery requirements of Section 5(b)(2) of the Securities Act[32] will apply both to initial investors, and to all investors purchasing such securities in secondary market transactions on Nasdaq or the over-the-counter market.

If the particular series of PDRs or Fund Shares is subject to an order by the Commission exempting such series from the prospectus delivery requirements under Section 24(d) of the Investment Company Act,[33] Nasdaq members will provide a written description regarding the product to all PDR and Fund Share investors.

Thus, if the proposed PDRs and Fund Shares are granted relief from the prospectus delivery requirements of the Investment Company Act, they will be subject to proposed Nasdaq listing standards NASD Rules 4420(i)(2) and 4420(j)(2), which provide for the delivery of a product description for series of PDRs and Fund Shares that have been granted relief from the prospectus delivery requirements of the Investment Company Act. Under the proposed NASD Rule 4420(i)(2) and NASD Rule 4420(j)(2) listing standards, the delivery requirement will extend to a member carrying an omnibus account for a non-member broker-dealer, who must notify the non-member to make a product description available to its customers on the same terms as are directly applicable to members. In addition, proposed NASD Rule 4420(i)(2) and NASD Rule 4420(j)(2) provide that a member must deliver a prospectus to a customer upon request.[34]

The Commission also notes that Nasdaq will issue an Information Circular to members prior to the commencement of trading in PDRs or Fund Shares. Nasdaq represents that such Information Circular will highlight the general issues pertaining to the purchase of PDRs and Fund Shares and the specific characteristics of the PDRs or Fund Shares to be purchased. Nasdaq

[26] 15 U.S.C. 78o–3(b)(6).

[27] In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] 15 U.S.C. 78o–3(b)(6).

[29] Because of potential arbitrage opportunities, the Commission believes that PDRs and Fund Shares will not trade at a material discount or premium in relation to their net asset value. The mere potential for arbitrage should keep the market price of a PDR or a Fund Share comparable to its net asset value, and therefore, arbitrage activity likely will be minimal.

[30] 17 CFR 270.22c–1. Investment Company Act Rule 22c–1 generally provides that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security may sell, redeem, or repurchase the security only at a price based on the net asset value next computed after receipt of an investor's request to purchase, redeem, or resell. The net asset value of an open-end investment company generally is computed once daily Monday through Friday, usually after the market's close, as designated by the investment company's board of directors.

[31] *See* Division, SEC, The October 1987 Market Break (February 1988) and Division, SEC, Market Analysis of October 13, and 16, 1989 (December 1990).

[32] 15 U.S.C. 77e(b)(2).

[33] 15 U.S.C. 80a–24(d).

[34] This prospectus delivery requirement applies to member broker-dealers that use electronic communication networks.

represents that the Information Circular will discuss, among other things, the special characteristics and risks of trading this type of security, inform members of the obligation to deliver a prospectus or written description, as applicable, to purchasers of PDRs or Fund Shares, and the applicability of the suitability rules.

D. Listing and Trading of PDRs and Fund Shares

The Commission finds that adequate rules and procedures exist to govern the listing and trading of PDRs and Fund Shares. Nasdaq represents that PDRs and Fund Shares will be subject to Nasdaq and the NASD's equity trading rules. PDRs and Fund Shares will be deemed equity securities subject to all Nasdaq and NASD rules governing the trading of equity securities, including, among others, rules governing the listing and de-listing of securities, trading halts, notices to members, responsibilities of the specialist and customer suitability requirements.

Nasdaq represents that transactions for each series of PDRs and Fund Shares will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m., as specified by Nasdaq. [35] Nevertheless, as with other listed securities, quotes and trades in PDRs and Fund Shares may be reported using Nasdaq systems that operate in the extended-hours session from 4 p.m. to 6:30 p.m.[36] The Commission notes that these trading hours are consistent with those on other exchanges.

In addition, the Commission notes that a Reporting Authority will disseminate an estimate, updated every 15 seconds, of the value of a share of each series of PDRs and Fund Shares on Nasdaq's behalf. Nasdaq represents that such current value will be disseminated every 15 seconds over the Nasdaq Trade Dissemination System.

E. Surveillance

The Commission notes that Nasdaq has submitted surveillance procedures for the trading of PDRs and Fund Shares. The Commission believes that those procedures, which incorporate and rely upon existing NASD Regulation surveillance procedures governing equity securities, are adequate under the Act. Finally, the Commission believes that the surveillance procedures developed by the NASD are adequate to address concerns associated with the listing and trading of PDRs and Fund Shares, including any concerns associated with purchasing and redeeming Creation Units.

The Commission also notes that concerns are raised when a broker-dealer is involved in the development and maintenance of a stock index upon which products such as PDRs and Fund Shares are based. In that case, the broker-dealer and its affiliate should have procedures designed specifically to address the improper sharing of information. The Commission notes that if a broker-dealer is involved in developing or maintaining a stock index, the index must be calculated by a third party who is not a broker-dealer. The Commission believes that such information barrier procedures will address the unauthorized transfer and misuse of material, non-public information.

The Commission further notes that PDRs and Fund Shares are not leveraged instruments and thus do not require any monitoring procedures in connection with leveraging.

F. Scope of the Commission's Order

The Commission is approving Nasdaq's proposed listing standards for PDRs and Fund Shares. The Commission specifically notes that, notwithstanding approval of the listing standards for PDRs and Fund Shares, other similarly structured instruments and products, including other ETFs, will require review by the Commission pursuant to Section 19(b) of the Act [37] prior to being traded on Nasdaq.

G. Accelerated Approval

The Commission finds good cause for partially approving the listing standards portion of the proposed rule change and Amendment Nos. 1 and 2 thereto prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that the eligibility of PDRs and Fund Shares for listing and trading on Nasdaq will provide investors with increased investment choice, and that partial accelerated approval of the proposal relating to the listing and trading of PDRs and Fund Shares will allow investors to take advantage of such increased choice promptly. In addition, the Commission notes that it has previously approved the listing and trading of PDRs and Fund Shares.[38]

In Amendment No. 1 to the proposed rule change, Nasdaq did the following: (1) Made corrections to its proposed rule text and proposal; (2) added discussion and stated its statutory basis for the proposed listing fees; (3) clarified that its regular trading hours for PDRs and Fund Shares will be from 9:30 a.m. to 4 p.m. or 4:15 p.m., as designated by Nasdaq; and (4) requested accelerated approval for the portion of the proposal relating to the listing and trading standards for PDRs and Fund Shares, and not for the portion on the proposed listing fees. In Amendment No. 2, Nasdaq removed the term "member organization" throughout its proposed rule text and proposal.

Accordingly, the Commission believes that there is good cause, consistent with Sections 15A(b)(6) and 19(b)(2) of the Act,[39] for granting partial accelerated approval to the proposed rule change relating to listing standards for PDRs and Fund Shares, as amended.[40]

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the portion of the proposed rule change (SR–NASD–2002–45) relating to the listing and trading of PDRs and Fund Shares, as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[41]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–12642 Filed 5–17–02; 8:45 am]

BILLING CODE 8010–01–P

[35] At initiation, Nasdaq represents that trading in PDRs and Fund Shares will occur until 4 p.m. Nasdaq understands that most other markets that trade PDRs and Fund Shares extend their regular trading session until 4:15 p.m., and Nasdaq plans to extend its regular trading session until 4:15 p.m. as soon as technically feasible. Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Florence Harmon, Senior Special Counsel, Commission, on May 13, 2002.

[36] Trades after the end of the regular trading session will have a ".T" identifier, which will exclude them from the consolidated daily "high," "low," and "close" prices, but they would be included in the daily volume statistics. Telephone conversation between John D. Nachmann, Senior Attorney, Nasdaq, and Florence Harmon, Senior Special Counsel, Commission, on May 13, 2002. *See also* Securities Exchange Act Release Nos. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999); and 45503 (March 5, 2002), 67 FR 10955 (March 11, 2002).

[37] 15 U.S.C. 78s(b)(2).

[38] *See supra* note 25.

[39] 15 U.S.C. 78o–3(b)(6) and 78s(b)(2).

[40] The proposed listing fees are not being approved, and are only being noticed for comment by the Commission for review under Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of a Final Environmental Impact Statement, Tier 1 for Federal Aviation Administration Site Approval and Land Acquisition by the State of Illinois for a Proposed South Suburban Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Noticeof availability.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that a Tier 1 Final Environmental Impact Statement (FEIS)—FAA Site Approval and Land Acquisition by the State of Illinois for a Proposed South Suburban Airport, has been prepared and is available for public viewing during normal business hours at the following locations listed below. No decision on the proposed action will be made or recorded until at least 30 days after notice of availability has been published in the **Federal Register** by the United States Environmental Protection Agency.

1. Chicago Airports District Office, Room 312, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.
Governors State University Library, Governors State University, University Park, Illinois 60466
2. Joliet Public Library, 150 North Ottawa Street, Joliet, Illinois 60432.
3. Northwestern University Library, 1935 Sheridan Road, Evanston, Illinois 60202
4. Harold Washington Public Library, 400 South State Street, Chicago, Illinois 60605
5. Kankakee Public Library, 304 South Indiana, Kankakee, Illinois 60901
6. Matteson Public Library, 801 South School Avenue, Matteson, Illinois 60443
7. Crete Public Library, 1177 North Main Street, Crete, Illinois 60417
8. Indiana University Northwest Library, 3400 Broadway, Gary, Indiana 46408
9. Purdue University, Calumet Campus Library, 2200 169th Street, Hammond, Indiana 46323
10. Village of Manteno, Village Hall, 269 North Main Street, Manteno, Illinois 60950
11. Village of Monee, Village Hall, 5130 West Court Street, Monee, Illinois 60449
12. Village of Beecher, Village Hall, 724 Penfield, Beecher, Illinois 60401
13. Village of Peotone, Village Hall, 208 East Main Street, Peotone, Illinois 60468
14. College of DuPage, Learning Resources Center (Library), 425 Second Street, Glen Ellyn, Illinois 60137
15. Illinois Department of Transportation, 310 South Michigan Avenue, Chicago, Illinois 60604
16. Illinois Department of Transportation, Illinois Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707
17. Illinois Department of Transportation, South Suburban Airport Program Office, 4749 Lincoln Mall Drive, Suite 501, Matteson, Illinois 60443

FOR FURTHER INFORMATION, CONTACT: Denis R. Rewerts, Capacity Officer, Federal Aviation Administration, Chicago Airports District Office, Room 312, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. Rewerts can be contacted at (847)294–7195 (voice), (847) 294–7046 (facsimile) or by e-mail at *7–AGL–SSA–EIS–PROJECT@faa.gov*.

Issued in Des Plaines, Illinois on May 7, 2002.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 02–12613 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Stand-Alone Airborne Navigation Equipment Using the Global Positioning System (GPS) Augmented by the Wide Area Augmention System (WAAS)

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and requests comments on a revised draft Technical Standard Order (TSO) C–146a, Stand Alone Airborne Navigation Equipment Using the GPS Augmented by the WAAS. The draft TSO tells persons seeking a TSO authorization or letter of design approval what minimum performance standards (MPS) their stand-alone airborne navigation equipment, using GPS augmented by the WAAS must meet to obtain approval and be identified with the applicable TSO marking.

DATES: Comments submitted must be received on or before July 19, 2002.

ADDRESSES: Send all comments on the proposed technical standard order to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. Or Deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Michelle Swearingen, Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–9897, FAX: (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to comment on the draft TSO listed in this notice by submitting such written data, views, or arguments, as they desire, to the aforementioned specified address. Comments must be marked "Comments to TSO C–146a." Comments received on the draft Technical Standard Order may be examined, both before and after the closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communication received on or before the closing date for comment specified will be considered by the Director of the Aircraft Certification service before issuing the final TSO.

How To Obtain Copies

A copy of the revised draft TSO may be obtained via Internet (*http://www.faa.gov/avr/air/airhome.htm*) or on request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on May 15, 2002.

Brian A. Yanez,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 02–12610 Filed 5–17–02; 8:45 am]

BILLING CODE 4710–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement and Hold Scoping Meetings for Washington Dulles International Airport (IAD), Chantilly, VA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent to prepare an Environmental Impact Statement and hold two (2) public scoping meetings and one (1) Governmental and Public Agency scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for development of proposed new runways, terminal facilities, and related facilities at Washington Dulles International Airport, Chantilly, Virginia. To ensure that all significant issues related to the proposed action are identified, two (2) public scoping meetings and one (1) governmental and public agency scoping meeting will be held.

FOR FURTHER INFORMATION CONTACT: Frank Smigelski, Environmental Specialist, Federal Aviation Administration, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166, Phone (703) 661–1365, Fax: (703) 661–1370, e-mail *Frank.Smigelski@FAA.GOV*. Comments on the scope of the EIS should be submitted to the address above and must be received no later than Friday, July 12, 2002.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare an Environmental Impact Statement for development of proposed new runways, terminal facilities, and related facilities at Washington Dulles International Airport (IAD), located 26 miles west of Washington, DC in Fairfax and Loudoun Counties in Chantilly, Virginia. The EIS is being prepared in accordance with FAA Order 5050.4A, Airport Environmental Handbook, implementing the National Environmental Policy Act. IAD is a commercial service airport located within a metropolitan area and served 18 million passengers in 2001 with approximately 400,000 aircraft operations. IAD currently has three runways. Two additional runways are proposed.

The alternatives to be evaluated in the EIS include, but will not necessarily be limited to, the No-Action Alternative; the Proposed Action Alternative; and runway separation variation alternatives. Comments and suggestions are invited from Federal, state, and local agencies, and other interested parties to ensure that the full range of actions, alternatives and impacts related to the proposed development are considered and that all significant issues are identified. Written comments and suggestions concerning the scope of the EIS may be mailed to the FAA informational contact listed above and must be received no later than Friday, July 12, 2002.

Public Scoping Meetings: The FAA will hold two (2) public and one (1) governmental agency scoping meetings to solicit input from the public and various Federal, state, and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed project. The public scoping meetings will be held Wednesday, June 26, 2002, in Fairfax County at Westfield High School, 4700 Stonecroft Blvd. Chantilly, VA and Thursday, June 27, 2002, in Loudoun County at Farmwell Station Middle School, 44281 Gloucester Pkwy, Ashburn, VA. The public meetings will be held from 5 p.m. to 8 p.m. An agency scoping meeting will be held specifically for governmental agencies on Wednesday, June 26, 2002, at the Washington Dulles Marriott, 45020 Aviation Drive, Sterling, VA. The agency meeting will be held from 1 p.m. to 3 p.m. Please confirm the meeting location and date with the FAA informational contact listed above close to the meeting date.

Issued in Chantilly, Virginia on Monday, May 13, 2002.

Terry J. Page,

Manager, Washington Airports District Office, FAA, Eastern Region.

[FR Doc. 02–12611 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–01–C–00–COU To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Columbia Regional Airport, Columbia, MO

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Columbia Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William E. Boston, III, Airport Manager, Columbia Regional Airport, at the following address: City of Columbia, Missouri, 701 E. Broadway, Columbia, Missouri 65201.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Columbia, Columbia Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 901 Locust, Kansas City, MO 64106, (816) 329–2641. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Columbia Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990) (Title IX of the Omnibus Budget Reconciliation Act of 1990), (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 10, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Columbia, Missouri, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 13, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: October, 2002.

Proposed charge expiration date: September, 2012.

Total estimated PFC revenue: $2,363,932.

Brief description of proposed project(s): Acquisition of Rapid Intervention Vehicle/Fire Truck; Phases I and II Resurfacing General Aviation Apron, Purchase Snowblower, and Renovation of Access Road and Ramp Lighting; Overlay Runway 13/31, Replace Fence, and Relocate Access Gate 5; Overlay Access Road and terminal loop, Construct Snow Removal Equipment Building Addition, Construct Taxiway C and Apron Underdrain; Add Computer Controlled Access Gates, Install Standby Electrical Generator; Extend Apron, Retain Consultant for Terminal Renovation, Aircraft Rescue Fire Fighting Facility Relocation, and Americans with Disabilities Act Updates to Terminal; Phase II of Air Carrier Apron Extension, Replace Front End Loader; Design Taxiway A Connecting Taxiway, Modify Gate 9 for Automated Operation, Construct Portion of Ramp and Taxiway Connector; Rehabilitation of North Cargo Apron; Master Plan Update; Reconstruct Portion of Runway 2/20, Upgrade Runway 2/20 North Safety Area and Relocate Omni-Directional Approach Lighting System and Instrument Landing System Localizer Building, Replace Underground Lighting Control Cables and Control Units; Construction of Phase II Portion of Apron Expansion and Connecting Taxiway between the Apron and Parallel Taxiway; Acquisition of Land; Preliminary Terminal Study; Environmental Assessment; Replacement of Snow Plow/Spreader Truck; Cargo Apron South Addition with Connecting Taxiway; Upgrade Runway 13/31; and Preliminary Terminal Upgrade Design.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Columbia Regional Airport. Issued in Kansas City, Missouri on May 10, 2002.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 02–12612 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–05–C–00–DCA to Impose Revenue from a Passenger Facility Charge at Ronald Reagan Washington National Airport, Arlington, Virginia and for Use at Washington Dulles International Airport, Chantilly, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose revenue from a Passenger Facility Charge (PFC) at Ronald Reagan Washington National Airport for use at Washington Dulles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 1 Aviation Plaza, Airports Division, AEA–610, Jamaica, New York 11434.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Brian Duffy, Manager, Fiscal Programs of the Metropolitan Washington Airports Authority (MWAA) at the following address: 1 Aviation Circle, Washington, DC 20001–6000.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the MWAA under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Eleanor Schifflin, PFC Program Manager, Airports Division, 1 Aviation Plaza, Jamaica, New York 11434, (718) 553–3354. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application impose the revenue from a PFC at Ronald Reagan Washington National Airport for use at Washington Dulles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 8, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by MWAA was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 4, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–05–C–00–DCA.

Level of the proposed PFC: $4.50.

Proposed charge effective date: September 1, 2006.

Proposed charge expiration date: November 1, 2007.

Total estimated PFC revenue: $33,895,949.

Brief description of proposed project(s):

—Rehabilitation of Taxiway F

—Taxiway J Extension

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled, on demand air carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the Washington Airport District Office: 23723 Air Freight Ln., Suite 210, Dulles, Virginia 20166.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Metropolitan Washington Airports Authority.

Issued in Jamaica, New York on May, 2002.

Eleanor Schifflin,

PFC Program Manager, AEA–610, Eastern Region.

[FR Doc. 02–12615 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–04–C–00–IAD To Impose and Use the Revenue From a Passenger Facility Charge at Washington Dulles International Airport, Chantilly, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Washington Dulles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 1 Aviation Plaza, Airports Division, AEA–610, Jamaica, New York 11434.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Brian Duffy, Manager, Fiscal Programs of the Metropolitan Washington Airports Authority (MWAA) at the following

address: 1 Aviation Circle, Washington, DC 20001–6000.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the MWAA under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Eleanor Schifflin, PFC Program Manager, Airports Division, 1 Aviation Plaza, Jamaica, New York 11434, (718) 553–3354. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Washington Dulles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.) 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 8, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by MWAA was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 4, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–04–C–00–IAD.

Level of the proposed PFC: $4.50.

Proposed charge effective date: December 1, 2006.

Proposed charge expiration date: August 1, 2008.

Total estimated PFC revenue: $59,102,550.

Brief description of proposed projects(s):

—Concourse B Expansion

—Wetland Mitigation Program

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the Washington Airport District Office: 23723 Air Freight Ln., Suite 210, Dulles, Virginia 20166.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Metropolitan Washington Airports Authority.

Dated: Issued in Jamaica, New York on May, 2002.

Eleanor Schifflin,

PFC Program Manager, AEA–610, Eastern Region.

[FR Doc. 02–12614 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket Number: RSPA–98–4957]

Pipeline Safety Reports of Abandoned Underwater Pipelines

AGENCY: Research and Special Programs Administration.

ACTION: Notice and request for public comments.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process regarding the renewal of an existing Research and Special Programs Administration's (RSPA) collection of information for Pipeline Safety Reports of Abandoned Underwater Pipelines. Specifically, public comment is requested on ways to minimize the burden of this collection of information on the public, along with other factors. RSPA intends to request OMB approval for renewal of this information collection under the Paperwork Reduction Act of 1995 and 5 CFR Part 1320.

DATES: Comments on this notice must be received by July 19, 2002 to be assured of consideration.

ADDRESSES: Interested persons are invited to send comments in duplicate to the U.S. Department of Transportation, Dockets Facility, Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. To submit comments electronically, log on to the following Internet Web address *http://dms.dot.gov.* Click on "Help & Information" for instructions on how to file a document electronically. Comments can be reviewed at the dockets facility which is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays, when the facility is closed. Comments must identify docket number of this notice. Persons should submit the original documents and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a stamped, self-addressed postcard. Please identify the docket and notice numbers shown in the heading of this notice. Documents pertaining to this notice can be viewed in this docket. The docket can also be viewed electronically at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366–6205, to ask questions about this notice; or write by e-mail to marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION: *Title:* Pipeline Safety Reports of Abandoned Underwater Pipelines

Type of Request: Renewal of existing information collection.

Abstract: Underwater pipelines are being abandoned at an increasing rate as older facilities reach the end of their useful life. This trend is expected to continue. In 1992, Congress responded to this issue by amending the Pipeline Safety Act (49 U.S.C. 60108(c)(6)(B)) which directs the Secretary of Transportation to require operators of an offshore pipeline facility or a pipeline crossing navigable waters to report the abandonment to the Secretary of Transportation in a way that specifies whether the facility has been abandoned properly according to applicable Federal and State requirements. RSPA's regulations for abandonment reporting can be found at 49 CFR 192.727 and 195.402.

Respondents: Gas and hazardous liquid pipeline operators.

Estimated Number of Respondents: 400.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,400 hours.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

All timely written comments to this notice will be summarized and included in the request for OMB approval. All comments will also be available to the public in the docket.

Issued in Washington, DC on May 14, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–12547 Filed 5–17–02; 8:45 am]

BILLING CODE 4910–60–P

Federal Register

Monday,
May 20, 2002

Part II

Securities and Exchange Commission

17 CFR Parts 228, 229 and 249

Disclosure in Management's Discussion and Analysis About the Application of Critical Accounting Policies; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229 and 249

[Release Nos. 33–8098; 34–45907; International Series Release No. 1258; File No. S7–16–02]

RIN 3235–AI44

Disclosure in Management's Discussion and Analysis About the Application of Critical Accounting Policies

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of proposed rulemaking.

SUMMARY: As an initial step in improving the transparency of companies' financial disclosure, the Commission is proposing disclosure requirements that would enhance investors' understanding of the application of companies' critical accounting policies. The proposals would encompass disclosure in two areas: accounting estimates a company makes in applying its accounting policies and the initial adoption by a company of an accounting policy that has a material impact on its financial presentation. Under the first part of the proposals, a company would have to identify the accounting estimates reflected in its financial statements that required it to make assumptions about matters that were highly uncertain at the time of estimation. Disclosure about those estimates would then be required if different estimates that the company reasonably could have used in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, would have a material impact on the presentation of the company's financial condition, changes in financial condition or results of operations. A company's disclosure about these critical accounting estimates would include a discussion of: the methodology and assumptions underlying them; the effect the accounting estimates have on the company's financial presentation; and the effect of changes in the estimates. Under the second part of the proposals, a company that has initially adopted an accounting policy with a material impact would have to disclose information that includes: what gave rise to the initial adoption; the impact of the adoption; the accounting principle adopted and method of applying it; and the choices it had among accounting principles. Companies would place all of the new disclosure in the "Management's Discussion and Analysis of Financial Condition and Results of Operations' section (commonly referred to as "MD&A") of their annual reports, registration statements and proxy and information statements. In addition, in the MD&A section of their quarterly reports U.S. companies would have to update the information regarding their critical accounting estimates to disclose material changes.

DATES: Comments should be received by July 19, 2002.

ADDRESSES: You should send three copies of your comments to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC, 20549–0609. You also may submit your comments electronically to the following address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7–16–02; this file number should be included in the subject line if you use electronic mail. Comment letters will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549–0102. We will post electronically-submitted comment letters on the Commission's Internet Web site (*http://www.sec.gov*). We do not edit personal identifying information, such as names or electronic mail addresses, from electronic submissions. Submit only information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Questions about this release should be referred to Anita Klein or Andrew Thorpe, Division of Corporation Finance (202–942–2980) or Jackson Day or Jenifer Minke-Girard, Office of the Chief Accountant (202–942–4400), Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

We are proposing amendments to Item 303 [1] of Regulation S–K, [2] Item 303 [3] of Regulation S–B [4] and Item 5 of Form 20–F [5] under the Securities Exchange Act of 1934 [6] ("Exchange Act").

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I. Executive Summary

One important challenge facing our capital markets today is the need to improve the quality and transparency of corporate disclosure. Our capital markets could reach a higher level of efficiency and investor confidence if companies were to provide higher-quality, more insightful financial information. To serve that purpose, we issued cautionary advice in December 2001 regarding MD&A disclosure. [7] In that release, we recognized the need for disclosure that allows investors to understand more completely the manner in which, and degree to which, a company's reported operating results, financial condition and changes in financial condition depend on estimates involved in applying accounting policies that entail uncertainties and subjectivity. We also asked companies to begin better addressing investors' need for this disclosure.

As contemplated in that release, we are now proposing to amend the MD&A requirements [8] to mandate improved disclosure in a new "Application of Critical Accounting Policies" section in companies' filed annual reports, annual reports to shareholders, registration statements and proxy and information statements. [9] The new section would encompass disclosure both about accounting estimates resulting from the application of critical accounting policies and the initial adoption of accounting policies that have a material impact on a company's financial presentation. The proposed disclosure requirements would apply to all companies except small business issuers that have not had revenues from operations during the last two fiscal years. The proposed MD&A disclosure requirements would cover the most recent fiscal year and any subsequent interim period for which financial statements are required to be presented.

To determine whether an accounting estimate [10] involved in applying the company's accounting policies would entail disclosure under the proposals, a company would have to answer two questions:

1. Did the accounting estimate require us to make assumptions about matters that were highly uncertain at the time the accounting estimate was made?

2. Would different estimates that we reasonably could have used in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, have a material impact on the presentation of our financial condition, changes in financial condition or results of operations?

If the answers to both questions are "yes," the accounting estimate would be a "critical accounting estimate," and disclosure would be required in the new "Application of Critical Accounting Policies" section.

The proposed disclosure about these accounting estimates would involve three basic elements. [11] The first element would be the basic disclosures needed to understand the accounting estimates. A company would have to describe them, identify where and how they affect the company's reported financial results, financial condition and changes in financial condition, and, where material, identify the affected line items. It would have to describe the methodology underlying each critical accounting estimate, the assumptions that are about highly uncertain matters and other assumptions that are material. If applicable, a company would have to discuss why it could have chosen in the current period estimates that would have had a materially different impact on the company's financial presentation. Similarly, a company would have to discuss, if applicable, why the accounting estimate is reasonably likely to change in future periods with a material impact on the company's financial presentation. [12]

A company would have to identify the segments [13] of its business that a critical accounting estimate affects. A company also would have to provide appropriate parts of the proposed disclosure for affected segments where a failure to present that information would result in an omission that renders the disclosure materially misleading.

The second element of the proposed disclosure about critical accounting estimates would give investors a better understanding of the sensitivity of the reported operating results and financial condition to changes in those estimates or their underlying assumption(s). For each critical accounting estimate, a company would discuss changes that would result either from: (i) Making reasonably possible, near-term changes in the most material assumption(s) underlying the estimate; or (ii) using in place of the recorded estimate the ends of the range of reasonably possible amounts which the company likely determined when formulating its recorded estimate. The company would describe the impact of those changes on the company's overall financial performance and, to the extent material, on the line items in the company's financial statements. In addition, the proposals would require a quantitative and qualitative discussion of management's history of changing its critical accounting estimates in recent years.

The third element of the proposed disclosure about critical accounting estimates would require a company to state whether or not senior management discussed the development, selection and disclosure of those estimates with the company's audit committee. This part of the proposals is designed to inform investors about whether there is oversight of critical accounting estimates by audit committee members and may incidentally encourage such oversight and increase reliability of the proposed MD&A disclosure about critical accounting estimates.

Our proposals also address MD&A disclosure regarding initial adoption of an accounting policy. If an accounting policy initially adopted by a company had a material impact on the company's financial presentation, the company would provide certain disclosures about that initial adoption unless it resulted solely from new accounting literature issued by a recognized accounting standard setter. The initial adoption of

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[1] 17 CFR 229.303.

[2] 17 CFR 229.10 *et seq.*

[3] 17 CFR 228.303.

[4] 17 CFR 228.10 *et seq.*

[5] 17 CFR 249.308b.

[6] 15 U.S.C. § 78a *et seq.*

[7] *See* Securities Act Release No. 8040, FR–60 (Dec. 12, 2001) [66 FR 65013]. *See also* Securities Act Release No. 8056, FR–61 (Jan. 22, 2002)[67 FR 3746]. In addition, we recently announced our intention to propose other changes in disclosure rules to improve the financial reporting and disclosure system. *See* SEC Press Release No. 2002–22 (Feb. 13, 2002).

[8] We propose to amend Item 303 of Regulation S–K, and the parallel provisions in Regulation S–B (which applies to small business issuers) and Form 20–F (which applies to foreign private issuers).

[9] The proposals would not alter which documents require presentation of an MD&A. MD&A disclosure is only required in proxy and information statements themselves if action is to be taken with respect to: (1) the modification of any class of securities of the registrant; (2) the issuance or authorization for issuance of securities of the registrant; or (3) mergers, consolidations, acquisitions and similar matters. *See* Items 11, 12 and 14 of Schedule 14A, 17 CFR 240.14a–101. Investors otherwise receive the MD&A disclosure in the annual report to shareholders that must accompany or precede any proxy or information statement relating to an annual meeting at which directors are to be elected. *See* 17 CFR 240.14a–3.

[10] An accounting estimate is an approximation made by management of a financial statement element, item or account in the financial statements. Accounting estimates in historical financial statements measure the effects of past business transactions or events, or the present status of an asset or liability. *See Codification of Statements on Auditing Standards* (including related Auditing Interpretations) ("AU") § 342, *Auditing Accounting Estimates* ("AU § 342"), paragraphs 1–3. For purposes of the proposals, an accounting estimate would include one for which a change in the estimate is inseparable from the effect of a change in accounting principle. *See* Accounting Principles Board ("APB") Opinion No. 20, *Accounting Changes* (July 1971) ("APB No. 20"), paragraph 11. *See also* proposed Item 303(b)(3)(ii)(A) of Regulation S–B, 17 CFR 228.303(b) (3)(ii)(A); proposed Item 303(c)(2)(i) of Regulation S–K, 17 CFR 229.303(c)(2)(i); and proposed Item 5.E.2.(a) of Form 20–F, 17 CFR 249.220f.

[11] In the MD&A section of quarterly reports, U.S. companies would have to update their critical accounting estimates disclosure to reflect material changes.

[12] The statutory and Commission rule safe harbors for forward-looking statements would be available to companies satisfying their terms and conditions in making forward-looking statements in connection with the proposed critical accounting estimates discussion. *See* Securities Act Section 27A, 15 U.S.C. 77z–2, Securities Act Rule 175, 17 CFR 230.175, Exchange Act Section 21E, 15 U.S.C. 78u–5, and Exchange Act Rule 3b–6, 17 CFR 240.3b–6.

[13] A segment for financial reporting purposes is defined by Financial Accounting Standards Board ("FASB") Statement of Financial Accounting Standards ("SFAS") No. 131, *Disclosures about Segments of an Enterprise and Related Information* (June 1997) ("SFAS No. 131").

an accounting policy may occur in situations such as when events or transactions affecting the company occur for the first time, or were previously immaterial in their effect but become material, or events or transactions occur that are clearly different in substance from previous ones.

The proposed MD&A disclosure about the initial adoption of accounting policies seeks more qualitative information from companies about those types of situations. The disclosures we are proposing would include a description of:

- The events or transactions that gave rise to the initial adoption;
- The accounting principle adopted and the method of applying that principle; and
- The impact, discussed qualitatively, on the company's financial presentation.

In addition, if upon initial adoption the company had a choice between acceptable accounting principles under generally accepted accounting principles (GAAP), the company would disclose that it made a choice, explain the alternatives and state why it made the choice that it did. Further, if no accounting literature governed the accounting upon initial adoption, the company would have to explain which accounting principle and method of application it decided to use and how it made its decision.

All of the proposed MD&A disclosure regarding the application of critical accounting policies would have to be presented in language and a format that is clear, concise and understandable to the average investor. Boilerplate disclosures, or disclosures written in overly technical accounting terminology, would not satisfy the proposed requirements.

Our proposals do not attempt to address all circumstances where a company may exercise discretion in its accounting under GAAP. We focus our proposals on two areas involving the application of critical accounting policies in which there is a clear need for improved disclosure—critical accounting estimates and the initial adoption of accounting policies that have a material impact. As discussed below, disclosure in many other areas of accounting judgment is provided by existing MD&A requirements, materiality standards and financial statement disclosure requirements.

II. Background

A. Current MD&A Disclosure

For decades, the regulations governing disclosure in registration statements under the Securities Act of 1933 ("Securities Act") and the Exchange Act, as well as annual and quarterly reports and proxy and information statements by public companies under the Exchange Act, have mandated MD&A disclosure.[14] MD&A disclosure should satisfy three related objectives:

1. To provide a narrative explanation of companies' financial statements that enables investors to see the company through the eyes of management;
2. To improve overall financial disclosure and provide the context within which financial statements should be analyzed; and
3. To provide information about the quality of, and potential variability of, a company's earnings and cash flow, so that investors can ascertain the likelihood that past performance is indicative of future performance.[15]

In MD&A, a company must discuss its results of operations, liquidity and capital resources and other information necessary to an understanding of the company's financial condition or changes in financial condition. A well-prepared MD&A discussion focuses on explaining a company's financial results and condition by identifying key elements of the business model and the drivers and dynamics of the business, and also addressing key variables. A company currently must disclose known trends, demands, commitments, events and uncertainties that are reasonably likely to occur and have material effects.[16]

In addition to these general subjects, a company must include in MD&A historical and prospective analysis of its financial statements, and identify the cause of material changes from prior periods in the line items of the financial statements where those changes are reflected. A company must analyze significant components of revenues or expenses needed to understand the results of operations. It also must discuss significant or unusual economic events or transactions that materially affected results of operations. Finally, a company also must discuss its ability to generate adequate amounts of cash to meet its short-term and long-term needs for capital and identify the anticipated sources of funds necessary to fulfill its commitments.

These requirements do not call for, and indeed we have discouraged and continue to discourage companies from providing, rote calculations of percentage changes in figures in the financial statements combined with boilerplate recitations of a surfeit of inadequately differentiated material and immaterial factors related to such changes. Rather, companies should emphasize material factors and their underlying reasons and preferably omit, or at least differentiate, immaterial information.

Recognizing the paramount importance of MD&A information to investors, in addition to today's proposal, we intend to continue to focus on improving disclosure in this area. In particular, we are considering MD&A proposals that will focus discussion on the three key objectives of MD&A noted above. We are considering a more explicit requirement for a summary of the MD&A section that would, in relatively short form, identify what management considers the most important factors in determining its financial results and condition, including the principal factors driving them, the principal trends on which management focuses and the principal risks to the business. We also are considering how to adjust the relative attention devoted in MD&A towards a more general discussion of material matters and away from a detailed description of business results that too often recites information that is otherwise available or is not material to investors.

In addition, we are continuing our consideration of subjects as to which we believe MD&A disclosure is particularly important, including the topics discussed in our January 22, 2002 release regarding MD&A.[17] For example, investors have become increasingly concerned about the sufficiency of disclosure regarding structured finance transactions, including those consummated using special purpose entities. A company's relationships with those types of entities may facilitate its transfer of, or access to, assets. Investors need to know more about the liquidity risk, market price risks and effects of "off-balance sheet" transaction structures and obligations. Another item of concern is a lack of transparent disclosure about transactions where that information appeared necessary to understand how significant aspects of the business were conducted. Investors would better understand financial statements in many circumstances if MD&A included descriptions of all material transactions involving related persons or entities, with a clear discussion of terms that differ from those which would likely be negotiated with clearly independent parties. Investors should understand these transactions' business purpose and economic substance, their effects on the financial statements, and any special risks or contingencies arising from them.

Finally, we are considering improvements to MD&A disclosures relating to trend information. We believe that investors may be better able to see the company through management's eyes if MD&A includes information about the trends that a company's management follows and evaluates in making decisions about how to guide the company's business. As with today's proposal, that disclosure would naturally entail a certain degree of forward-looking information.

B. Current Disclosure in Financial Statements about Accounting Estimates

Currently, GAAP and generally accepted auditing standards acknowledge that there are numerous circumstances in which companies, in applying accounting policies, exercise judgment and make estimates for purposes of the financial statements. For example, they call for companies to communicate in a number of circumstances about the use of estimates in the preparation of financial information. The use of estimates results in the presentation of many amounts that are in fact approximate rather than exact.[18] For example, APB No. 20 notes that "changes in estimates used in accounting are necessary consequences of periodic presentation of financial statements" because preparing financial statements requires estimating the effects of future events, and future events and their effects cannot be perceived with certainty.[19] Estimating the impact of those events therefore requires the exercise of judgment. Because the preparation of financial statements requires estimates that are likely to change over time, APB No. 20 requires disclosure about changes in estimates that are expected to affect several future reporting periods and that are not made each period in the ordinary course of accounting. It recommends disclosure if the effects of other changes in the estimate are material.[20]

In addition, AICPA Statement of Position No. 94–6[21] requires general disclosure in notes to financial statements that the preparation of financial statements requires the use of estimates in the determination of the carrying amounts of assets or liabilities, including gain or loss contingencies.[22] That Statement also requires note disclosure regarding those specific estimates when known information indicates that it is at least reasonably possible[23] that the estimate will change in the near term and the effect would be material to the financial statements.[24] A company must disclose the nature of the uncertainty, in addition to stating that a change in the estimate in the near term is at least reasonably possible. SOP 94–6, encourages, but does not require, disclosure of the factors that cause an estimate to be susceptible to change from period to period.[25]

SOP 94–6 references SFAS No. 5, which itself requires certain disclosures about accounting estimates—specifically, estimated losses that arise from loss contingencies. A company is required to accrue (by a charge to income) an estimated loss from a loss contingency if certain criteria are met.[26] If an estimated loss does not meet the criteria for accrual, but there is at least a reasonable possibility that a loss may have been incurred, the company is required to disclose the nature of the contingency and an estimate of the possible loss or range of loss, or state that an estimate of the loss cannot be made. Although SFAS No. 5 elicits useful disclosure about certain accounting estimates, not all uncertainties inherent in the accounting process give rise to loss contingencies as that term is used in SFAS No. 5, and therefore that Statement does not apply to all estimates in the financial statements.[27]

Further, while not specifically requiring disclosure about estimates, APB Opinion No. 22 requires disclosure about the application of accounting policies which may entail generalized disclosure about estimation techniques.[28] APB No. 22 notes that a company's accounting principles, and their method of application, can affect significantly the presentation of its financial position, results of operations and cash flows,[29] and accordingly, requires disclosure that describes those accounting principles and the company's methods of applying them.[30] In particular, APB No. 22 indicates that a company should provide disclosure when:

- Unusual or innovative applications of accounting principles materially affect the determination of financial position, results of operations or cash flows (such as the recognition of revenue);

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[14] *See* Item 303 of Regulation S–K, 17 CFR 229.303. Item 303 of Regulation S–B, 17 CFR 228.303 and Item 5 of Form 20–F, referenced in 17 CFR 249.220f. Although the current MD&A disclosure requirements were adopted starting in 1980, earlier versions date back to 1968. *See* Securities Act Release Nos. 6231 (Sept. 2, 1980) [45 FR 63630] and 4936 (Dec. 9, 1968) [33 FR 18617]. *See also* Securities Act Release No. 5520 (Aug. 14, 1974) [39 FR 31894].

[15] *See* Securities Act Release No. 6711 (Apr. 23, 1987) [52 FR 13715], Section II.

[16] In assessing whether disclosure of a trend, event, etc. is required, management must consider both whether it is reasonably likely to occur and whether a material effect is reasonably likely to occur. As the Commission noted when it adopted the requirement, the "reasonably likely to occur" test is to be used rather than the *Basic* v. *Levinson* probability and magnitude test for materiality of contingent events. *See* Securities Act Release No. 6835 (May 18, 1989) [54 FR 22427] at fns. 27–28 and accompanying text.

[17] Securities Act Release No. 8056; FR–61 (Jan. 22, 2002) [67 FR 3746].

[18] *See* American Institute of Certified Public Accountants ("AICPA") Statement of Position ("SOP") No. 94–6, *Disclosure of Certain Significant Risks and Uncertainties* (Dec. 1994), ("SOP 94–6"), paragraph B–20; *See also* AU § 380, *Communication with Audit Committees* ("AU § 380") and AU § 508, *Reports on Audited Financial Statements* (Apr. 1998).

[19] *See* APB No. 20, paragraph 10.

[20] *See* APB No. 20, paragraph 33.

[21] *See* SOP 94–6, particularly paragraphs 11–19.

[22] *See* FASB SFAS No. 5, *Accounting for Contingencies* (Mar. 1975) ("SFAS No. 5"), paragraph 1, which defines a contingency as "an existing condition, situation, or set of circumstances involving uncertainty as to possible gain * * * or loss * * * to an enterprise that will ultimately be resolved when one or more future events occur or fail to occur. Resolution of the uncertainty may confirm the acquisition of an asset or the reduction of a liability or the loss or impairment of an asset or the incurrence of a liability."

[23] The term "reasonably possible" as used in SOP 94–6 is consistent with its use in SFAS No. 5. *See* SOP 94–6, fn. 7. SFAS No. 5 states that "reasonably possible" means the chance of a future transaction or event occurring is more than remote but less than likely. Reasonably possible events are less likely to occur than probable events.

[24] SOP 94–6, paragraph 17, notes: "Whether the estimate meets the criteria for disclosure under this SOP does not depend on the amount that has been reported in the financial statements, but rather on the materiality of the effect that using a different estimate would have had on the financial statements. Simply because an estimate resulted in the recognition of a small financial statement amount, or no amount, does not mean that disclosure is not required under this SOP."

[25] *See* SOP 94–6, paragraph 14.

[26] *See* SFAS No. 5, paragraph 8. An estimated loss should be accrued when *both* it is probable that an asset has been impaired or a liability has been incurred and the amount of the loss can be reasonably estimated. Also, when it is probable that an asset has been impaired or a liability has been incurred and the reasonable estimate of the loss is a range, the company is required to accrue an amount for the loss. *See* FASB Interpretation No. 14, *Reasonable Estimation of the Amount of a Loss* (Sept. 1976), paragraph 3.

[27] *See* SFAS No.5, paragraph 2.

[28] *See* APB Opinion No. 22, *Disclosure of Accounting Policies* (Apr. 1972) ("APB No. 22").

[29] *See* APB No. 22, paragraphs 6–7. APB No. 22 defines accounting policies of a reporting entity as "the specific accounting principles and the methods of applying those principles that are judged by the management of the entity to be the most appropriate in the circumstances to present fairly financial position, results of operations, and cash flows in accordance with generally accepted accounting principles * * *." APB No. 22, paragraph 6, as amended.

[30] *See* APB No. 22, paragraph 12.

- A selection is made among alternative permissible policies; or
- Policies are unique to the industry of the reporting company.[31]

Under APB No. 22, a company's disclosure also should encompass important judgments as to appropriateness of principles relating to revenue recognition and allocation of asset costs to current and future periods. Although the particular format or location of these APB No. 22 disclosures in financial statements is not prescribed by GAAP, a summary of these significant accounting policies is customarily the first note to the financial statements.

Finally, some accounting standards currently prescribe specific disclosures about accounting estimates or the underlying methodologies and assumptions.[32] For example, Statement of Financial Accounting Standards No. 132 requires specific disclosures of the assumptions used in accounting for pensions and other post-retirement benefits.[33] Statement of Financial Accounting Standards No. 140 requires disclosure regarding the measurement of retained interests in securitized financial assets, including the methodology, assumptions and sensitivity of the assumptions used in determining their fair value.[34]

C. Current Disclosure in Financial Statements About Initial Adoption of Accounting Policies

Certain general requirements under GAAP may elicit information about the initial adoption of an accounting policy by a company. When companies present comparative financial statements, any exceptions to comparability between the most recent period and prior periods must be clearly presented.[35] In addition, if a company initially adopts an accounting policy and considers that policy to be a significant accounting policy, the company would provide certain disclosures about that policy as required by APB No. 22.[36]

APB No. 20 provides financial statement disclosure requirements for accounting changes, which include changes in an accounting principle, an accounting estimate and the reporting entity.[37] Neither "(a) the initial adoption of an accounting principle in recognition of events or transactions occurring for the first time or that previously were immaterial in their effect nor (b) adoption or modification of an accounting principle necessitated by transactions or events that are clearly different in substance from those previously occurring" are considered, however, to be "accounting changes" under GAAP.[38] As discussed below, our proposals about initial adoption of accounting policies address these circumstances that are not accounting changes under GAAP if they have a material impact on a company's financial presentation.

III. Proposed Rules

A. Objectives of the Current Proposals

Our proposals would promote greater investor understanding of a company's important accounting estimates that reflect significant management judgment and uncertainty, and of a company's initial adoption of accounting policies that may reflect such judgment and uncertainty. Our primary objectives are:

- To enhance investors' understanding of the existence of, and necessity for, estimation in a company's financial statements;
- To focus investors on the important estimates that are particularly difficult for management to determine and where management therefore exercises significant judgment;
- To give investors an understanding of the impact those estimates have on the presentation of a company's financial condition, changes in financial condition or results of operations;
- To give investors an appreciation for how sensitive those estimates are; and
- To give investors an understanding of new material accounting policies as they arise and affect a company's financial results.

Our aim is to increase the transparency of the application of those accounting policies where management is the most prone to use judgment, generally because objective data and methodologies do not exist for the estimates or management is given initial policy choices under GAAP. We believe that it is these accounting policies that are least understood by investors and that mandated disclosure regarding areas of the application of them would provide meaningful insight into the importance of estimates and adoption of policies to a company's financial presentation. With a greater understanding of the application of critical accounting policies, we believe that investors would be in a better position to assess the quality of, and potential variability of, a company's earnings.

We propose to mandate enhanced disclosure of critical accounting estimates and initial adoption of material policies by specifically linking them to the objectives of MD&A, and the type of disclosure presented in MD&A. A focused discussion of these areas is well-suited to MD&A because it would further explain to investors the company's financial condition "through management's eyes." Moreover, MD&A's emphasis on disclosure of significant uncertainties and favorable or unfavorable trends naturally dovetails with disclosure of the more subjective aspects used in arriving at critical accounting estimates or selecting which accounting policies to adopt initially. Finally, as we have noted previously, the less technical language customarily used outside the financial statements may be conducive to a clearer explanation to investors of the effects of estimates, assumptions, methodologies and initial accounting policy adoption on a company's financial reporting.[39]

B. Scope of the Proposals

Our proposals address estimates that a company makes in preparing financial statements using accounting policies under GAAP and the initial adoption by a company of an accounting policy under GAAP that has a material impact on its financial presentation.[40] We believe the proposals address directly and clearly two areas where there is a need for improved disclosure. While certain elements of our proposed critical accounting estimates disclosure are subsumed in existing general MD&A requirements, we believe more direct

[31] *Id.*

[32] In addition to the examples cited in the paragraph, see the disclosure requirements in FASB SFAS No. 107, *Disclosures about Fair Value of Financial Instruments* (Dec. 1991); FASB SFAS No. 123, *Accounting for Stock-Based Compensation* (Oct. 1995) ("SFAS No. 123"); and FASB SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (Aug. 2001) ("SFAS No. 144").

[33] *See* FASB SFAS No. 132, *Employers' Disclosures about Pensions and Other Postretirement Benefits* (Feb. 1998).

[34] *See* FASB SFAS No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* (a replacement of FASB Statement No. 125) (Sept. 2000).

[35] See Accounting Research Bulletin (ARB) No. 43, *Restatement and Revision of Accounting Research Bulletins* (June 1953), Chapter 2, "Form of Statements," Section A, "Comparative Financial Statements," paragraph 3, and paragraph 2 ("the well recognized principle that any change in practice which affects comparability should be disclosed").

[36] *See* APB No. 22, paragraph 12.

[37] *See* APB No. 20, paragraph 6.

[38] *See* APB No. 20, paragraph 8.

[39] *See* Securities Act Release No. 7793 (Jan. 21, 2000) [65 FR 4585] (suggesting that additions to financial disclosure outside the financial statements could help address concerns relating to lack of transparency in some aspects of financial reporting within the financial statements).

[40] These could include estimates made on a one-time basis, on a few occasions, or on a recurring basis.

and complete requirements in our rules would lead to improved disclosure. In addition, while there are financial statement disclosure requirements that would elicit certain information about initially adopted accounting policies in some cases, our proposals are designed to provide additional MD&A disclosure that would assist investors to understand better a company's new accounting policies.

We are leaving disclosure about other circumstances where a company may exercise discretion over its accounting under GAAP to existing MD&A disclosure requirements, materiality standards and existing financial statement disclosure requirements. Our proposals do not, for example, alter disclosure requirements regarding a company's change from an accounting policy it has been using to another policy acceptable under GAAP.[41] The proposals also do not require disclosure of a company's adoption of a new accounting pronouncement where the company must make its best judgment as to how to apply the new accounting pronouncement in the absence of interpretive guidance.

Discipline surrounding a company's changes in accounting policies is provided under GAAP and the federal securities laws. When a company changes an accounting policy, the company must determine that the alternative principle is preferable under the circumstances.[42] We require that the company file a letter from its independent public accountant confirming its opinion to that effect.[43] In addition, a company is required to make certain disclosures in the financial statements about the accounting change, including the nature and justification for the change and its effect on income when the change is made.[44] In its justification for the change, the company is required to explain clearly why the newly adopted accounting principle is preferable.[45]

In addition to the existing disclosure requirements in the financial statements, scrutiny over management's discretion and judgment in applying accounting policies occurs on a number of different levels. Auditors are required to inform audit committees about management's "initial selection of and changes in significant accounting policies or their application" and about management's judgments and estimates.[46] We have encouraged companies, management, audit committees and auditors to consult with our accounting staff if they are uncertain about the application of GAAP.[47] We also have committed to provide assistance to companies in a timely fashion to address problems before they happen.

We recognize that the circumstances where a company may exercise discretion over its accounting policies under GAAP could yield significantly different financial results. Given the existing disclosure regime, we are not currently proposing additional MD&A disclosure to address all of these cases. Companies should provide complete, transparent disclosure under the applicable requirements. While we believe the proposed disclosure may be sufficient to achieve our currently stated objective, we may revisit the other circumstances where a company may exercise discretion over its accounting policies under GAAP at a later date.

We solicit comment with regard to broadening the scope of our proposals to achieve a more expansive objective.

- Should we require additional MD&A disclosure specifically regarding the effects of a change by a company from one accounting policy to another acceptable (and preferable) accounting policy under GAAP?
- Should we require in MD&A a discussion of the impact that alternative accounting policies acceptable under GAAP would have had on a company's financial statements even when a company did not choose to apply the alternatives?
- What costs would companies incur if they had to prepare disclosure about the effects of alternative accounting policies that could have been chosen but were not?
- Beyond a company's initial adoption of those policies, should we require disclosure in MD&A regarding a company's reasons for choosing, and the effects of applying, accounting policies used for unusual or innovative transactions or in emerging areas? Similarly, should we require companies to disclose in MD&A the effects of accounting policies that a company could have adopted, but did not adopt, for unusual or innovative transactions or in emerging areas?
- Should we require more disclosure by companies about their process of making estimates, or in other areas of discretion relating to recognition and measurement in financial statements? If so, please describe in detail.
- Should we require in MD&A a discussion of the impact of a company's choice among accounting methods under GAAP that are used in the company's industry (for example, the completed contract and the percentage of completion methods of accounting for construction-type contracts[48]) Should we require that type of disclosure only where a company uses a method under GAAP that is not generally used by other companies in the industry?

C. Proposed Disclosure About Critical Accounting Estimates

To inform investors of each critical accounting estimate and to place it in the context of the company's financial presentation, we would require the following information in the MD&A section:[49]

- A discussion that identifies and describes:
  - The critical accounting estimate;
  - The methodology used in determining the critical accounting estimate;
  - Any underlying assumption that is about highly uncertain matters and any other underlying assumption that is material;
  - Any known trends, demands, commitments, events or uncertainties that are reasonably likely to occur and materially affect the methodology or the assumptions described;

[41] When a company has selected an accounting policy from acceptable alternatives, it is required under GAAP to make certain disclosures about that accounting policy. *See* APB No. 22, paragraph 12. *See supra* fns. 28–31 and accompanying text.

U.S. GAAP provides only a limited number of situations in which more than one method of accounting would be considered acceptable. Over the years, the combined efforts of accounting standard setters, the accounting profession, public and non-public companies, and regulatory agencies have significantly reduced the number of acceptable alternatives in U.S. GAAP. *See* APB No. 22, paragraph 5. Areas remaining in U.S. GAAP in which there are acceptable alternatives include inventory pricing and depreciation methods. *See* APB No. 20, paragraph 9. *See also* SFAS No. 123 (providing a choice of accounting methods for an employee stock option or similar equity instrument).

[42] *See* APB No. 20, paragraph 16.

[43] *See* Accounting Series Release No. 177 (Sept. 10, 1975) [40 FR 46107], as codified in the Codification of Financial Reporting Policies § 304.02, *Preferability Letters*, Fed. Sec. L. Rep. (CCH) ¶ 73,096. *See also* Item 601(b)(18) of Regulations S–K and S–B, 17 CFR 229.601(b)(18) and 17 CFR 228.601(b)(18). A preferability letter generally is not required when a company adopts a new accounting policy as a result of implementing a new accounting pronouncement or rule issued by the FASB, AICPA or SEC.

[44] *See* APB No. 20, paragraphs 17–30.

[45] *Id.*

[46] *See* AU § 380, paragraphs 7 and 8.

[47] *See, e.g.*, Securities Act Release No. 8040, FR–60 (Dec. 12, 2001) [66 FR 65013].

[48] *See* SOP No. 81–1, *Accounting for Performance of Construction-Type and Certain Production-Type Contracts* (July 1981).

[49] In addition to the information specifically required, a company would be required to provide any other information necessary to keep its disclosure from being materially misleading. *See* Securities Act Rule 408, 17 CFR 230.408, and Exchange Act Rule 12b–20, 17 CFR 240.12b–20

- If applicable, why different estimates that would have had a material impact on the company's financial presentation could have been used in the current period; and
- If applicable, why the accounting estimate is reasonably likely to change from period to period with a material impact on the financial presentation;
- An explanation of the significance of the accounting estimate to the company's financial condition, changes in financial condition and results of operations and, where material, an identification of the line items in the company's financial statements affected by the accounting estimate;
- A quantitative discussion of changes in overall financial performance and, to the extent material, line items in the financial statements if the company were to assume that the accounting estimate were changed, either by using reasonably possible near-term changes in the most material assumption(s) underlying the accounting estimate or by using the reasonably possible range of the accounting estimate;[50]
- A quantitative and qualitative discussion of any material changes made to the accounting estimate in the past three years, the reasons for the changes, and the effect on line items in the financial statements and overall financial performance;[51]
- A statement of whether or not the company's senior management has discussed the development and selection of the accounting estimate, and the MD&A disclosure regarding it, with the audit committee of the company's board of directors;
- If the company operates in more than one segment, an identification of the segments of the company's business the accounting estimate affects; and
- A discussion of the accounting estimate on a segment basis, to the extent that a failure to present that information would result in an omission that renders the disclosure materially misleading.

Unless otherwise stated, the discussion would cover the financial statements for the most recent fiscal year and any subsequent period for which interim period financial statements are required to be included.[52]

[50] If those changes could have a material effect on the company's liquidity or capital resources, then the company also would have to explain that effect.

[51] As described below, we would phase in the three-year period and use two years for small business issuers.

[52] The proposed rules would apply equally to business development companies. Business development companies are defined in Section 2(a)(48) of the Investment Company Act of 1940.

1. Accounting estimates covered under the proposals

A number of circumstances can require a company to make accounting estimates. For example, a company typically will estimate the net realizable value of its accounts receivable and of its inventory.[53] Not all accounting estimates in a company's financial statements, however, will necessarily be critical accounting estimates to which the proposed disclosure relates. An accounting estimate would be a critical accounting estimate for purposes of the proposed disclosure only if it meets two criteria. First, the accounting estimate must require a company to make assumptions about matters that are highly uncertain at the time the accounting estimate is made. Second, it must be the case that different estimates that the company reasonably could have used for the accounting estimate in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, would have a material impact on the presentation of the company's financial condition, changes in financial condition or results of operations.[54]

For purposes of the first criterion, a matter involves a high degree of uncertainty if it is dependent on events remote in time that may or may not occur, or it is not capable of being readily calculated from generally accepted methodologies or derived with some degree of precision from available data. Accordingly, a matter that is highly uncertain requires management to use significant judgment in making assumptions about that matter. The application of management's judgment in those circumstances typically results in management developing a range within which it believes the accounting estimate should fall.

The second criterion focuses the proposals further on two types of accounting estimates involved in the application of accounting policies. First, it includes accounting estimates for which a company in the current period could reasonably have recorded in the financial statements an amount sufficiently different such that it would have had a material impact on the company's financial presentation. Second, it includes any accounting estimate that is reasonably likely to change from period to period to the extent that the change would have a material impact on the company's financial presentation. Thus, whether management's judgment has an impact primarily in the current period or on an ongoing basis (or both), the estimate would qualify.

Under the proposals, a company would discuss any accounting estimate that it determines to be critical. We believe that few of a company's accounting estimates generally would meet those thresholds. We do not currently propose an outside limit to the number of accounting estimates that a company must discuss under the proposals. As the term "critical accounting estimate" implies, however, the disclosure should not encompass a long list of accounting estimates resulting from the application of accounting policies which cover a substantial number of line items in the company's financial statements.[55] While the number of critical accounting estimates will vary by company, we would expect a very few companies to have none at all and the vast majority of companies to have somewhere in the range of three to five critical accounting estimates. The number could be at the high end of the range, or be slightly higher, for companies that conclude that one or more critical accounting estimates must be identified and discussed primarily because of particular segments. Investors, however, will not benefit from a lengthy discussion of a multitude of accounting estimates in which the truly critical ones are obscured. If we adopt the proposals without a maximum number, we may monitor disclosure to determine whether disclosure would be improved if a maximum number were set.

We seek comment on the proposed definition of critical accounting estimates.

- Is the definition appropriately tailored?

See 15 USC § 80a–2(a)(48). Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act, but file Forms 10–K and 10–Q, and also include MD&A in their annual reports to shareholders.

[53] Other examples of accounting estimates include property and casualty insurance loss reserves, current obligations that will be fulfilled over several years, future returns of products sold, the amount of cash flows expected to be generated by a specific group of assets, revenues from contracts accounted for by the percentage of completion method and pension and warranty expenses. *See* AU § 342, paragraph 2. For a more detailed list, *see* the Appendix to AU § 342.

[54] "Critical accounting estimate" is defined in proposed Item 303(b)(3)(ii)(B) of Regulation S–B, 17 CFR 228.303(b)(3)(ii)(B); proposed Item 303(c)(2)(ii) of Regulation S–K, 17 CFR 229.303(c)(2)(ii); and proposed Item 5.E.2.(b) of Form 20–F, 17 CFR 249.220f.

[55] *See* proposed Instruction 3 to paragraph (b)(3) of Item 303 of Regulation S–B, 17 CFR 228.303(b)(3); proposed Instruction 4 to paragraph (c) of Item 303 of Regulation S–K, 17 CFR 229.303(c); and proposed Instruction 3 to Item 5.E of Form 20–F, 17 CFR 249.220f.

- Does the definition capture the appropriate type and scope of accounting estimates?
- Is the definition appropriately designed to identify the accounting estimates that require management to use significant judgment or that are the most uncertain? If not, what other aspects descriptive of that type of estimate should be included?
- Is the definition appropriately designed to identify the accounting estimates involving a high potential to result in a material impact on the company's financial presentation?
- Would it be difficult for a company to discern which of its accounting estimates require assumptions about highly uncertain matters? If so, how could the proposal better target them?
- Should we consider setting a minimum percentage impact on results of operations in the second criterion of the definition, or would that be unnecessary because the proposed definition would not capture changes that have an insignificant impact?
- How many accounting estimates would a company typically identify as critical accounting estimates under the proposed definition?
- Would a company with multiple segments have a greater number of critical accounting estimates than a company without multiple segments? If so, please provide an explanation.
- Should we establish a maximum number of accounting estimates that may be discussed as critical accounting estimates (*e.g.*, seven)? If so, what should the maximum number be and what criteria should be applied to set the number so as to strike the appropriate balance between information truly useful to investors and overly extensive disclosure of marginal use? If a maximum were set, should the number of segments a company has be considered?
- Should we expand the definition to include MD&A disclosure of volatile accounting estimates that use complex methodologies but do not involve significant management judgment? Should we do so only when the underlying assumptions or methodologies of those estimates are not commonly used and therefore not understood by investors?

2. Identification and Description of the Accounting Estimate, the Methodology Used, Certain Assumptions and Reasonably Likely Changes

A company first would have to identify and describe each critical accounting estimate in such a way that it gives the appropriate context for investors reading that section and reflects management's view of the importance of the critical accounting estimate.[56] A company would have to disclose the methodology it used in determining the estimate. It also would have to disclose the assumptions underlying the accounting estimate that reflect matters highly uncertain at the time the estimate was made as well as other assumptions underlying the estimate that are material. We recognize that a critical accounting estimate may involve multiple assumptions. The proposed disclosure would focus in the first instance on those that are about highly uncertain matters because they have the greatest potential to make the accounting estimate highly susceptible to change.

If applicable, the company would have to describe why different estimates could have been used in the current period and why the accounting estimate is reasonably likely to change from period to period in the financial statements. For example, a critical accounting estimate related to a significant portfolio of over-the-counter derivative contracts may require that a company estimate the fair value of such contracts using a model or other valuation method. In that case, the company would disclose the methods it employs to estimate fair value, *e.g.*, the types of valuation models used such as the present value of estimated future cash flows, and assumptions such as an estimated price in the absence of a quoted market price.[57]

A company also would have to explain known trends, demands, commitments, events or uncertainties that are reasonably likely to occur and materially affect the assumptions made or the methodology used. Like the requirements elsewhere in MD&A, disclosure would be required if the trend, demand, commitment, event or uncertainty is currently known, it is reasonably likely to occur and it is reasonably likely to have a material impact. Disclosure would not be required if management could affirmatively conclude that the trend, demand, commitment, event or uncertainty is not reasonably likely to come to fruition or that a material effect is not reasonably likely to occur.[58]

[56] *See* proposed Item 303(b)(3)(iii)(A) of Regulation S–B, 17 CFR 228.303(b)(3)(iii)(A); proposed Item 303(c)(3)(i) of Regulation S–K, 17 CFR 229.303(c)(3)(i); and proposed Item 5.E.3.(a) of Form 20–F, 17 CFR 249.220f.

[57] *See also* Securities Act Release No. 8056, FR–61 (Jan. 22, 2002) [67 FR 3746], Section II.B. (providing an example of a critical accounting estimate related to non-exchange traded contracts accounted for at fair value).

[58] *See supra* fn. 16.

3. Impact of the Estimate on Financial Condition, Changes in Financial Condition and Results of Operations

For each critical accounting estimate, a company would have to explain its significance to the company's financial condition, changes in financial condition and results of operations and, where material, identify its effect on the line items in the company's financial statements.[59] Because not all estimates themselves are line items in the financial statements,[60] their existence and their effect may not be readily apparent. Thus, this disclosure would provide additional information and clarity for investors.

4. Quantitative Disclosures

There are two areas of the proposed MD&A disclosure relating to critical accounting estimates in which we explicitly would require a presentation of quantitative information.[61] First, the proposals would require disclosure that demonstrates the sensitivity of financial results to changes made in connection with each critical accounting estimate. Second, the proposals would require quantitative disclosure relating to historical changes in a company's critical accounting estimates in the past three years.

a. Quantitative Disclosures To Demonstrate Sensitivity

We propose to require that a company present quantitative information about changes in its overall financial performance and, to the extent material, line items in the financial statements that would result if certain changes relating to a critical accounting estimate were assumed to occur. The company would identify the change being assumed and discuss quantitatively its impact on the company. Because the point of the disclosure is to demonstrate the degree of sensitivity, the impact on overall financial performance would be discussed regardless of how large that is.

As proposed, a company would have two possible choices of changes it would assume for purposes of the sensitivity analysis. First, the company

[59] *See* proposed Item 303(b)(3)(iii)(B) of Regulation S–B, 17 CFR 228.303(b)(3)(iii)(B); proposed Item 303(c)(3)(ii) of Regulation S–K, 17 CFR 229.303(c)(3)(ii); and proposed Item 5.E.3.(b) of Form 20–F, 17 CFR 249.220f.

[60] For example, an estimate of fair value used to measure an impairment loss on a long-lived asset may not itself appear as a line item in the financial statements.

[61] *See* proposed Item 303(b)(3)(iii)(C) of Regulation S–B, 17 CFR 228.303(b)(3)(iii)(C); proposed Item 303(c)(3)(iii) of Regulation S–K, 17 CFR 229.303(c)(3)(iii); and proposed Item 5.E.3.(c) of Form 20–F, 17 CFR 249.220f.

could choose to assume that it changed the most material assumption or assumptions underlying the critical accounting estimate and discuss the results of those changes. Second, the company could choose to assume that the critical accounting estimate itself changes. In addition to providing two choices of methods to demonstrate sensitivity, we allow a company to determine the amount of the change that it assumes for this analysis rather than attempting to standardize those amounts. Under the first choice, a company could select the alternative material assumption or assumptions to use as long as the alternative represents a change that is reasonably possible in the near term. "Reasonably possible" means the chance of a future transaction or event occurring is more than remote but less than likely.[62] "Near-term" means a period of time going forward up to one year from the date of the financial statements.[63] Under the second choice, the company would use the upper and the lower ends of the range of reasonably possible estimates which it likely determined in formulating its recorded critical accounting estimate. It would substitute the upper end of the range for the recorded estimate and discuss the results. It would do the same for the lower end of the range.

We believe the most informative disclosure about sensitivity would result if we allow companies significant flexibility to customize these analyses. Our approach would accommodate different types of companies, different critical accounting estimates and different types of underlying assumptions. The parameters selected for the sensitivity analysis must, however, be realistic and meaningful measures of change.[64] For purposes of the sensitivity analysis, a company should disclose, if known or available, the likelihood of occurrence of the changes it selects, such as estimated probabilities of occurrence or standard deviations where applicable.

Under the first choice for demonstrating sensitivity, we would provide that a company choose its most material assumption underlying the critical accounting estimate and alter it at least twice[65] to reflect reasonably possible, near-term changes.[66] A company would have to complete the analysis assuming a positive change in the assumption. It would also have to complete the analysis assuming a negative change. In some cases, a company may not be able to select a single most material assumption to use for purposes of these analyses, or it may believe that using a single assumption would not provide meaningful sensitivity information for investors. If that were to occur, a company either could select the second choice for analyzing sensitivity (*i.e.*, using the ends of the range) or it could demonstrate the effects of near-term reasonably possible changes in more than one material assumption underlying the critical accounting estimate. If the company chooses the latter course of action, it also would have to disclose clearly the separate effect of each changed assumption.

In general, we believe the impact of a positive change and the impact of a negative change would both have to be disclosed where a company is assuming changes in its most material assumption (or assumptions). There may be cases, however, where both types of changes would not be applicable. In some instances, an increase in an assumption, but not a decrease in an assumption, or vice versa, would have no effect on the line items or the overall financial performance and therefore would not have to be discussed other than noting that fact.[67] It is conceivable that in other cases either a decrease or an increase would not be reasonably possible and therefore would not have to be discussed other than noting that fact.

With the proposed analysis, a company would demonstrate sensitivity of reported results to changes that affect its critical accounting estimates. Investors would have a better understanding of the extent to which there is a correlation between management's key assumptions and the company's overall financial performance. Investors also would understand better which particular line items in reported results would be materially affected and how much. In addition, a company would be required to state whether those assumed changes could have a material effect on the company's liquidity or capital resources. If they could have such an effect, the company would have to explain how, as a company currently is required to explain in MD&A when factors affecting liquidity or capital resources are present.[68]

From the proposed disclosure, the average investor should be able to ascertain the general degree to which the company's results of operations, liquidity and capital resources are susceptible to changes in management's views relating to critical accounting estimates. Along with the other provisions in the proposal, this quantitative and qualitative disclosure conveys information about the impact of management's subjective assumptions on current and future financial results.

We request comment on the proposed identification and analysis of changes.

- Are there some types of critical accounting estimates or some circumstances where the proposed disclosure relating to sensitivity would not be meaningful or otherwise helpful to investors? If so, which estimates or what circumstances?
- In addition to the two choices we propose for assuming changes relating to the critical accounting estimates to analyze sensitivity, are there others that we should permit? Should we require instead that all companies use the same method? If so, which one?
- Should we require a company to use whichever of the two proposed choices demonstrates the greatest impact on the company's financial presentation?
- Are there circumstances under which a company should be required to demonstrate sensitivity using both of the proposed choices?
- Are there any critical accounting estimates for which neither of the two choices for selecting the assumed changes would be appropriate?
- Will companies be able to select appropriate changes in their most material assumption or assumptions, or should we provide further guidance?
- To enhance an investors' ability to compare the sensitivity of various companies' financial statements to changes relating to a particular type of accounting estimate, should we standardize the changes that companies must assume for various types of estimates? If so, what should they be and why? For example, should we set a specified percentage increase and decrease to assume (*e.g.*, a 10% increase and decrease), or a presumptive increase and decrease, provided that degree of change is reasonably possible in the near term?
- Conversely, would any changes we standardize not be equally meaningful to measure sensitivity, or equally probable, for various accounting estimates, industries and companies, and thus reduce the value of any disclosure about sensitivity?

b. Quantitative and Qualitative Disclosures Concerning Past Changes in the Estimate

We recognize that a company will change its accounting estimates over time as new events occur or as management acquires more experience or additional information. Existing MD&A disclosure rules would call for discussion of the effects of changes in accounting estimates where those changes are material to an investor's understanding of financial position or results of operations. For example, MD&A currently requires companies to disclose:

- Information necessary for an understanding of financial condition, changes in financial condition and results of operations;[69]
- Significant components of revenues or expenses that should, in the company's judgment, be described in order to understand results of operations;[70]
- A material change in the relationship between costs and revenues resulting from a known event;[71]
- Matters that will have an impact on future operations and have not had an impact in the past;[72] and
- Matters that have had an impact on reported operations and are not expected to have an impact upon future operations.[73]

Notwithstanding the existing MD&A disclosure requirements, we believe it would be appropriate to require specific disclosure regarding past changes in critical accounting estimates. This type of information required under the proposal would give investors a clear understanding of a company's recent history of those changes. A company other than a small business issuer would have to include the proposed quantitative and qualitative discussion of any material changes in those accounting estimates under the proposals during the past three fiscal years.[74] A small business issuer would discuss material changes in its critical accounting estimates during the past two years.[75] Companies would have to identify how the material changes affected measurements in the financial statements and their overall financial performance.[76] This would enable investors to evaluate management's formulation of critical accounting estimates over time.

Companies also would be required to describe the reasons for those changes. If no material changes in the critical accounting estimates were made in the prescribed time period, or if a company did not make that estimate during any part of that period, a company would only be required to disclose that fact.

Although the period covered for the proposed disclosure of past changes in critical accounting estimates would be two years for small business issuers and three years for other companies, our proposed requirement relating to past changes would be put into effect in stages. Thus, when a small business issuer or other company files its first covered report, registration statement or proxy or information statement following adoption of the proposed rules, the rules would require it to provide the proposed specific past changes disclosure only for the past one or two years respectively. For example, if the first report were an annual report on Form 10–K for the fiscal year ended December 31, 2002, the company would include that information in the "Application of Critical Accounting Policies" section of MD&A about changes in 2001 and 2002 (and a small business issuer would include it only for 2002). In the first annual report, registration statement or proxy or information statement filed by a company more than one year following the effective date of the rules, it would have to provide that information for the past three years (two years for a small business issuer).[77]

We solicit comment on the proposed disclosure of past material changes in critical accounting estimates.

- Is sufficient disclosure of these changes already required under current MD&A requirements?
- Is a three-year period the most appropriate period of time over which investors should consider changes? If not, why would a shorter or longer period be more appropriate?
- Would requiring disclosure over a longer period, such as five years, make it easier for investors to identify trends? If so, over how many years should we phase in a longer period requirement?
- Should we mandate a standardized format for quantitative disclosure about past changes in critical accounting estimates (*e.g.*, a chart illustrating the dollar value of the change from the prior year for each year showing the impacted line items and other effects in each year)?

5. Senior Management's Discussions with the Audit Committee

Independent auditors discuss accounting estimates with management in order to conduct an audit, and the auditors may discuss them with the audit committee. In 1999, following the recommendations in the Report of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees, we adopted a rule that would require an audit committee report in proxy or information statements connected to board of

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[62] "Reasonably possible" would have the same meaning as defined in SFAS No. 5. *See supra* fn. 23. *See also* proposed Item 303(b)(3)(ii)(D) of Regulation S–B, 17 CFR 228.303(b)(3)(ii)(D); proposed Item 303(c)(2)(iv) of Regulation S–K, 17 CFR 229.303(c)(2)(iv); and proposed Item 5.E.2.(d) of Form 20–F, 17 CFR 249.220f.

[63] "Near-term" would have the same meaning as defined in SOP 94–6 at paragraph 7. *See* proposed Item 303(b)(3)(ii)(C) of Regulation S–B, 17 CFR 228.303(b)(3)(ii)(C); proposed Item 303(c)(2)(iii) of Regulation S–K, 17 CFR 229.303(c)(2)(iii); and proposed Item 5.E.2.(c) of Form 20–F, 17 CFR 249.220f.

[64] For example, companies would be required to select meaningful changes in material assumptions and not ones so minute as to avoid, or materially understate, any demonstration for investors of sensitivity. *See* proposed Instruction 1 to paragraph (b)(3) of Item 303 of Regulation S–B, 17 CFR 228.303(b)(3); proposed Instruction 1 to paragraph (c) of Item 303 of Regulation S–K, 17 CFR 229.303(c); and proposed Instruction 1 to Item 5.E of Form 20–F, 17 CFR 249.220f.

[65] Where use of only one positive change, or use of only one negative change, would render the analysis materially misleading, companies would have to include more than one assumed positive change, or more than one assumed negative change, to avoid that result.

[66] In completing the analysis, companies would have to consider whether assumed events that alter the most material assumption also could have some impact on other assumptions made in formulating the critical accounting estimate. For example, if a company were to assume a reasonably possible near-term change in fuel prices occurred, that change may impact multiple assumptions underlying a critical accounting estimate that each take fuel prices into account. Companies would have to determine whether and how their other assumptions would change and disclose the aggregate effect of all of those changes.

[67] For an example of when this could take place, *see infra* Example 3 in Section III.D.

[68] *See, e.g.*, Item 303(a)(1)–(2) of Regulation S–K, 17 CFR 229.303(a)(1)–(2).

[69] *See, e.g.*, Item 303(a) of Regulation S–K, 17 CFR 229.303(a).

[70] *See, e.g.*, Item 303(a)(3)(i) of Regulation S–K, 17 CFR 229.303(a)(3)(i).

[71] *See, e.g.*, Item 303(a)(3)(ii) of Regulation S–K, 17 CFR 229.303(a)(3)(ii).

[72] *See, e.g.*, Instruction 3(A) to Item 303(a) of Regulation S–K, 17 CFR 229.303(a).

[73] *See, e.g.*, Instruction 3(B) to Item 303(a) of Regulation S–K, 17 CFR 229.303(a).

[74] *See* proposed Item 303(c)(3)(iv) of Regulation S–K, 17 CFR 229.303(c)(3)(iv), and proposed Item 5.E.3.(d) of Form 20–F, 17 CFR 249.220f. As part of its disclosure, a company would have to include discussion of assumptions that changed materially from a prior period but did not cause the estimate itself to change by a material amount. For example, a company could change two or more material assumptions underlying an accounting estimate, but the changes in the assumptions could have an offsetting impact, resulting in no material change to the amount of the accounting estimate recorded in the financial statements.

[75] *See* proposed Item 303(b)(3)(iii)(D) of Regulation S–B, 17 CFR 228.303(b)(3)(iii)(D). These periods correspond to the time frame currently encompassed by the MD&A requirements applicable to each of those types of companies.

[76] *Compare* APB No. 20, paragraph 33, which requires financial statement disclosure of the effect on income before extraordinary items, net income, and related per share amounts of the current period for a change in an estimate not made in the ordinary course of accounting that materially affects several future periods.

[77] Of course, the phase-in of the specific MD&A disclosure about changes in estimates would not delay the effect of the rest of the proposed changes or affect the requirements for disclosure under current MD&A rules.

director elections.[78] Among other items, the audit committee report must state whether the audit committee has discussed with the independent auditors the matters required to be discussed by Statement on Auditing Standards ("SAS") No. 61 (codified in AU § 380), as may be modified or supplemented.[79] SAS 61 requires independent auditors to communicate certain matters related to the conduct of an audit to those who have responsibility for oversight of the financial reporting process, specifically the audit committee. With respect to accounting estimates, SAS 61 states, "[t]he auditor should determine that the audit committee is informed about the process used by management in formulating particularly sensitive accounting estimates and about the basis for the auditor's conclusions regarding the reasonableness of those estimates."[80] In addition, in connection with each SEC engagement, the auditor should discuss with the audit committee the auditor's judgments about the quality of the entity's accounting principles as applied in its financial reporting. The discussion should include items that have a significant impact on the financial statements (for example, estimates, judgments and uncertainties, among other items).[81]

In addition to the disclosure relating to SAS 61 (as amended), the audit committee report must state whether the audit committee has reviewed and discussed the audited financial statements with management.[82] Because that item relates to the financial statements generally, a focused discussion on critical accounting estimates may or may not result from it. Moreover, the newly required disclosure in MD&A would not be a part of the financial statements, and therefore would not necessarily be covered by that proxy statement disclosure requirement.

The existing audit committee report also requires audit committees to state whether, based on discussions with management and the auditors, the committee recommended to the board of directors that the audited financial statements be included in the company's Form 10–K or 10–KSB for the last fiscal year.[83] This disclosure requirement conveys whether the audit committee review of the financial statements and discussions with management and the auditors have provided a basis for recommending to the board that the audited financial statements be filed with the Commission. This item too does not require any specific discourse between management and the audit committee about critical accounting estimates.

We believe that senior management should discuss the company's critical accounting estimates with the audit committee of its board of directors.[84] If specific discussions between senior management and audit committees regarding the development, selection and disclosure of the critical accounting estimates were to take place, the audit committee may seek to understand the company's critical accounting estimates, the underlying assumptions and methodologies, the appropriateness of management's procedures and conclusions, and the disclosure about those accounting estimates. This type of oversight would have the potential to improve the quality and the transparency of disclosure.

Requiring a company to disclose in MD&A whether or not senior management has engaged in discussions with the audit committee about the critical accounting estimates would give investors a better understanding of whether such oversight by those responsible for the general oversight of the financial reporting process was applied to those accounting estimates and the disclosure about those accounting estimates. We therefore are proposing to require such disclosure.[85] When senior management and the audit committee have not had those discussions, we would require disclosure that they have not, and an explanation of the reasons why they have not.[86] If the company does not have an audit committee, then the proposed disclosure would address discussions with the board committee that performs equivalent functions to those of an audit committee or, if no such committee exists, the entire board of directors.[87] Unlike the audit committee report, our proposed disclosure of discussions between the audit committee and senior management would not be limited to proxy and information statements that involve the election of directors.[88]

We do not propose to require disclosure of the substance of the discussions between senior management and the audit committee. We believe that such a requirement could deter the type of open discourse that we expect to take place in those discussions.

We request comment on the proposed disclosure about discussions between senior management and the audit committee regarding the development, selection and disclosure of critical accounting estimates.

- To what extent does senior management currently discuss critical accounting estimates with the audit committee of the board of directors and the company's auditors?
- Would the proposed requirement provide useful information to investors?
- Would the proposed disclosure be a catalyst for discussion between audit committees and senior management? Could it chill discussions?
- Is there other related disclosure that should be required for the benefit of investors?
- Should we require that companies disclose any unresolved concerns of the audit committee about the critical accounting estimates or the related MD&A disclosure?
- Should we require disclosure of any specific procedures employed by the audit committee to ensure that the company's response to the proposed disclosure requirements is complete and fair?
- Should we consider requiring disclosure of whether the audit committee recommends the disclosure be included in the MD&A, which is akin to the disclosure required in the Item 306 audit committee report?
- Instead of the proposed disclosure, should we amend Item 306 of Regulation S–K and Regulation S–B to require that the audit committee report disclose whether the audit committee has reviewed and discussed with senior management the development, selection and disclosure regarding critical accounting estimates?
- If we were to amend Items 306 in this manner, should we also expand them to include the discussions about critical accounting estimates between senior management and the audit committee as one of the bases for the audit committee's recommendation to include the financial statements in the annual report?
- Should we expand Items 306 to require disclosure of whether, based on an audit committee's review of and discussions about the MD&A, the audit committee recommended to the board of directors that the MD&A be included in the company's annual report?
- Should we expand Items 306 to require disclosure of whether the audit committee has reviewed and discussed the entire MD&A disclosure (current and proposed) with management and/or the auditors?
- If any of a company's accounting policies diverge, to its knowledge, from the policies predominately applied by other companies in the same industry, should we require that the company disclose, possibly in connection with the audit committee report, whether the audit committee has had discussions with senior management about the appropriateness of the accounting policies being used? When such discussions have taken place, should we require that the company disclose the audit committee's unresolved concerns about the divergent accounting policies being applied? Prior to the adoption of our proposals, to what extent would a company know that its accounting policies diverge from those of other companies in its industry?

6. Disclosure Relating to Segments

Current MD&A disclosure requirements provide companies with the discretion to include a discussion of segment information where, in the company's judgment, such a discussion would be appropriate to an understanding of the company.[89] In 1989, we stated in an interpretive release, "[t]o the extent any segment contributes in a materially disproportionate way to [revenues, profitability, and cash needs], or where discussion on a consolidated basis would present an incomplete and misleading picture of the enterprise, segment disclosure should be included."[90] In accordance with this interpretation, we are proposing disclosure regarding the impact of critical accounting estimates on segments of a company's business.[91] Where applicable, we believe that this disclosure would be important for investors because it would enable them to determine which reported segments' results are dependent on management's subjective estimates, and material information would be provided on a segment basis.

Under the proposals, if a company operates in more than one segment[92] and a critical accounting estimate affects fewer than all of the segments, the company would have to identify the segments it affects. A company also would have to determine whether it must include, in addition to the disclosure on a company-wide basis, a separate discussion of the critical accounting estimates for each identified segment about which disclosure is otherwise required.[93] That determination would follow an analysis similar to that in the 1989 guidance. A company would have to provide a discussion on a segment basis to the extent that discussion only on a company-wide basis would result in an omission that renders the disclosure materially misleading.[94] We would not mandate repetition on a segment basis of all matters discussed on a company-wide basis. Rather, a company would have to disclose only that information necessary to avoid an incomplete or misleading picture.

We request comment regarding identification of the segments affected and the proposed additional disclosure of the critical accounting estimates on a segment basis.

- Should we provide more guidance for determining the circumstances that warrant segment disclosure?
- Should we require the additional segment discussion only when more than one segment is affected?

D. Examples of Proposed Disclosure About Critical Accounting Estimates

To assist in understanding the scope of the MD&A disclosure that is proposed, we have developed three examples. Each example examines how a fictional public company that has identified a critical accounting estimate could draft MD&A disclosure to satisfy the proposal. The examples are illustrative only. In addition, our January 22, 2002 release provides an example of disclosure that companies should consider when discussing in MD&A trading activities involving contracts that are accounted for at fair value where a lack of market price quotations necessitates the use of fair value estimation techniques.[95]

Example 1

Background

Alphabetical Company manufactures and distributes electrical equipment used in large-scale commercial pumping and water treatment facilities. The company operates in four business segments. The company's equipment carries standard product warranties extending over a period of 6 to 10 years. If equipment covered under the standard warranty requires repair, the company provides labor and replacement parts to the customer at no cost. Historically, the costs of fulfilling warranty obligations have principally related to providing replacement parts, with labor costs representing the remainder. Over the past 3 years, the cost of copper included in replacement parts constituted approximately 35% to 40% of the total cost of warranty obligations.

A liability for the expected cost of warranty-related claims is established when equipment is sold. The amount of the warranty liability accrued reflects the company's estimate of the expected future costs of honoring its obligations under the warranty plan. Because of the long-term nature of the company's equipment warranties, estimating the

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[78] *See* Exchange Act Release No. 42266 (Dec. 22, 1999) [64 FR 73389] and Item 306 of Regulation S–K, 17 CFR 229.306.

[79] *See* Item 306(a)(2) of Regulation S–K, 17 CFR 229.306(a)(2), SAS No. 61, *Communication with Audit Committees* (Apr. 1988) ("SAS 61") and SAS No. 90, *Audit Committee Communications* (Dec. 1999) ("SAS 90") (amending SAS 61 and AU § 380).

[80] SAS 61, paragraph 8.

[81] *See* AU § 380, paragraph 11 (added by SAS 90).

[82] *See* Item 306(a)(1) of Regulation S–K, 17 CFR 229.306(a)(1).

[83] *See* Item 306(a)(4) of Regulation S–K, 17 CFR 229.306(a)(4).

[84] *See* Securities Act Release No. 8040, FR–60 (Dec. 12, 2001) [66 FR 65013].

[85] *See* proposed Item 303(b)(3)(iii)(E) of Regulation S–B, 17 CFR 228.303(b)(3)(iii)(E); proposed Item 303(c)(3)(v) of Regulation S–K, 17 CFR 229.303(c)(3)(v); and proposed Item 5.E.3.(e) of Form 20–F, 17 CFR 249.220f.

[86] The proposed MD&A disclosure is distinguishable from the audit committee report in annual proxy or information statements. Under the proxy requirements, the audit committee must prepare a report and state whether it recommended, based on its review and discussions with management and the auditors, that the financial statements be included in the Form 10–K. In our proposals, we would not require an audit committee report or recommendation, but only that the company state whether or not discussions between the audit committee and senior management occurred and, if they did not, why not. We therefore are not convinced that a liability exemption like that applicable to the audit committee report is necessary for disclosure in MD&A of whether or not a company's senior management has discussed the development and selection of critical accounting estimates, and the disclosure in MD&A regarding them.

[87] If the registrant is not a corporation, the disclosure would address senior management's discussions with the equivalent group responsible for the oversight of the financial reporting process.

[88] This disclosure would be required in annual reports filed with the Commission, annual reports to shareholders, registration statements and proxy and information statements. When a new critical accounting estimate is identified in a quarterly report, there also would be disclosure in the Form 10–Q or Form 10–QSB regarding whether the development, selection and disclosure regarding the estimate was discussed by management with the audit committee of the board of directors.

[89] *See* Item 303(a) of Regulation S–K, 17 CFR 229.303(a).

[90] *See* Securities Act Release No. 6835 (May 18, 1989) [54 FR 22427].

[91] *See* proposed Item 303(b)(3)(iii)(F) of Regulation S–B, 17 CFR 228.303(b)(3)(iii)(F); proposed Item 303(c)(3)(vi) of Regulation S–K, 17 CFR 229.303(c)(3)(vi); and proposed Item 5.E.3.(f) of Form 20–F, 17 CFR 249.220f.

[92] *See* SFAS No. 131 for requirements as to presentation of segment disclosure in the financial statements.

[93] Certain foreign private issuers providing disclosure under Item 17 of Form 20–F are not required to provide segment disclosure in their filed financial statements and therefore would not be required to provide a quantitative discussion of the identified segments.

[94] Any discussion on a segment basis would appear in the section of MD&A devoted to critical accounting estimates, and not in the separate discussion of segment results in MD&A.

[95] *See* Securities Act Release No. 8056, FR–61 (Jan. 22, 2002)[67 FR 3746], Section II.B.

expected cost of such warranties requires significant judgment. Based on management's evaluation of analysts' forecasts for copper prices, management believes a 30% decrease in copper prices or a 50% increase in copper prices is reasonably possible in the near term. In each of the last three years, warranty expense represented approximately 19% to 22% of cost of sales.

Possible MD&A Disclosure Under the Proposal

Application of Critical Accounting Policies

Alphabetical's products are covered by standard product warranty plans that extend 6 to 10 years. A liability for the expected cost of warranty-related claims is established when equipment is sold. The amount of the warranty liability accrued reflects our estimate of the expected future costs of honoring our obligations under the warranty plan. We believe the accounting estimate related to warranty costs is a "critical accounting estimate" because: changes in it can materially affect net income, it requires us to forecast copper prices in the distant future which are highly uncertain and require a large degree of judgment, and copper is a significant raw material in the replacement parts used in warranty repairs. The estimate for warranty obligations is a critical accounting estimate for all of our four segments.

Historically, the costs of fulfilling our warranty obligations have principally related to replacement parts, with labor costs representing the remainder. Over the past 3 years, the cost of copper included in our parts constituted approximately 35% to 40% of the total cost of warranty repairs. Over that same period, warranty expense represented approximately 19% to 22% of cost of sales.

Over the past 10 years, the price of copper has exhibited significant volatility. For example, during 1994, the price of copper rose by approximately 72%, while in 2001 the price decreased by approximately 19%. Our hedging programs provide adequate protection against short-term volatility in copper prices, as described in "Risk Management," but our hedging does not extend beyond 5 years. Accordingly, our management must make assumptions about the cost of that raw material in periods 6 to 10 years in the future. Management forecasts the price of copper for the portion of our estimated copper requirements not covered by hedging. Our forecasts are based principally on long-range price forecasts for copper which are published by private research companies specializing in the copper markets.

Each quarter, we reevaluate our estimate of warranty obligations, including our assumptions about the cost of copper. During 2001, we decreased our estimated cost of unhedged copper purchases over the next 10 years by 15%, reflecting a growing excess of supply over forecasted demand, which reduced our accrued warranty costs and our cost of sales (and, accordingly, increased operating income) by $15 million. In contrast, during 2000, long-term price forecasts were essentially unchanged, so we made no adjustments to our estimated cost of unhedged copper purchases over the next 10 years. During 1999, copper prices increased by approximately 28% over the prior year. Long-term prices also reflected increases in prices over those projected in 1998. Thus, in 1999, we increased our estimated cost of unhedged copper purchases over the next 10 years (through 2009) by 15%. That increase in our estimate resulted in an $18 million addition to our accrued warranty cost and our cost of sales, and an equal reduction in our operating income.

If, for the unhedged portion of our estimated copper requirements, we were to decrease our estimate of copper prices as of December 31, 2001 by 30%, our accrued warranty costs and cost of sales would have been reduced by approximately $27 million or 6% and 4%, respectively, while operating income would have increased by 9%. If we were to increase our estimate as of December 31, 2001 by 50%, our accrued warranty costs and cost of sales would have been increased by approximately $45 million or 10% and 7%, respectively, while our operating income would have been reduced by 23%.

A very significant increase in our estimated warranty obligation, such as one reflecting the increase in copper prices that occurred in 1994, could lower our earnings and increase our leverage ratio (leverage refers to the degree to which a company utilizes borrowed funds). That, in turn, could limit our ability to borrow money through our revolving credit facilities described in "Liquidity and Capital Resources."

Our management has discussed the development and selection of this critical accounting estimate with the audit committee of our board of directors and the audit committee has reviewed the company's disclosure relating to it in this MD&A.

Example 2

Background

MQB Corp. is a developer and publisher of desktop publishing software that operates in two segments. MQB distributes its products primarily through third-party distributors, resellers, and retailers (customers). Like many companies in the software industry, MQB has a product return policy and has historically accepted significant product returns. MQB permits its customers to return software titles published and distributed by the company within 120 days of purchase.

MQB recognizes revenues under SOP 97–2, "Software Revenue Recognition." The company ships its products FOB (Free on Board) shipping point. Therefore, legal title to the products passes to the customers upon shipment, and the company has no legal obligation for product damage in transit. Accordingly, MQB recognizes revenue upon shipment of its software products, provided that collection of payment is determined to be probable and no significant obligations on MQB's part remain. Payment is due from customers 30 days after shipment. At the time revenue is recorded, MQB accounts for estimated future returns by reducing sales by its estimate of future returns and by reducing accounts receivable by the same amount. For example, MQB reduced its gross sales and accounts receivable by 12% for its fiscal year ended December 31, 2001 to reflect estimated product returns. In the last three years, the range in which the company has reduced its gross sales and accounts receivable to reflect product returns has been between 11% and 13%.

MQB receives weekly reports from distributors and retailers regarding the amount of MQB products in their inventory. A historical correlation exists between levels of inventory held by distributors and retailers (together, the distribution channel) and the amount of returns that actually occur. The weekly reports from distributors and retailers provide the company with visibility into the distribution channel such that MQB has the ability to estimate future returns. In each of the past few years, actual returns have varied from period to period, although they have not exceeded the estimated amounts by more than 5%. The company's products are, however, subject to intense marketplace competition, including several recently introduced competing products. If actual returns significantly exceed the previously estimated amounts, it would result in materially lower sales and net income before taxes in one or more future periods.

Possible MD&A Disclosure Under the Proposal

Application of Critical Accounting Policies

Our recognition of revenue from sales to distributors and retailers (the "distribution channel") is impacted by agreements we have giving them rights to return our software titles within 120 days after purchase. At the time we recognize revenue, upon shipment of our software products, we reduce our measurements of those sales by our estimate of future returns and we also reduce our measurements of accounts receivable by the same amount.

For our products, a historical correlation exists between the amount of distribution channel inventory and the amount of returns that actually occur. The greater the distribution channel inventory, the more product returns we expect. For each of our products, we monitor levels of product sales and inventory at our distributors' warehouses and at retailers as part of our effort to reach an appropriate accounting estimate for returns. In estimating returns, we analyze historical returns, current inventory in the distribution channel, current economic trends, changes in consumer demand, introduction of new competing software and acceptance of our products.

In recent years, as a result of a combination of the factors described above, we have materially reduced our gross sales to reflect our estimated amount of returns. It is also possible that returns could increase rapidly and significantly in the future. Accordingly, estimating product returns requires significant management judgment. In addition, different return estimates that we reasonably could have used would have had a material impact on our reported sales and thus have had a material impact on the presentation of the results of operations. For those reasons, we believe that the accounting estimate related to product returns is a "critical accounting estimate." Our estimate of product returns is a critical accounting estimate for both of our segments. Management of the company has discussed the development and selection of this critical accounting estimate with the audit committee of our board of directors and the audit committee has reviewed the company's disclosure relating to it in this MD&A.

We are aware of several recently introduced products that compete with several of our significant products. These new competitive factors have not, to date, materially impacted returns; therefore, we have made no adjustment as a result of these factors in our estimated returns for 2001. In our highly competitive marketplace, these factors have some potential to increase our estimates of returns in the future. The introduction of new competing products has impacted our estimate of returns in the past. In 1999, we increased our estimate of returns over the previous year by 1%, as a percentage of gross sales, because of increased inventory in the distribution channel due to new products introduced by two of our competitors.

In preparing our financial statements for the year ended December 31, 2001, we estimated future product returns for all of our products to be $145 million, and we reduced our gross sales by that amount. Our 2001 estimate for returns was $20 million greater than our estimate in 2000 and $15 million greater than our estimate in 1999. From 1999 to 2000, products introduced by two of our competitors in 1998 lost market share to our products and our sales increased. Due to our increased sales in 2000, the distribution channel inventory declined over levels in 1999, which also resulted in a 2% decline in the estimated amount of returns, as a percentage of gross sales. In 2001, with the slow down in consumer spending over the prior period, distribution channel inventory grew faster than sales, necessitating an increase in the estimated returns equal to 1% of gross sales. The estimates for returns represented approximately 12%, 11% and 13% of our gross sales for 2001, 2000 and 1999, respectively.

If we were to assume that our estimate of future product returns for all of our products was changed to the upper end or lower end of the range we developed in the course of formulating our estimate, the estimate for future returns as of December 31, 2001 would range from $130 million to $160 million. Accordingly, the amounts by which we would reduce gross sales and operating income also would range from $130 million to $160 million as compared to the recorded amount of $145 million. In each of the years in the three-year period ended 2001, our actual returns have not deviated from our estimates by more than 5%. Our actual returns for 2000 and 1999 were $129 million and $134 million, respectively. If we were to change our estimate of future product returns to the high end of the range, there would be no material impact on our liquidity or capital resources.

Example 3

Background

Betascott Company manufactures and sells data storage devices including computer hard drives. The hard drive industry is subject to intense competition and significant shifts in market share amongst the competitors. In the last three years, Betascott has reported falling sales and market share, which has contributed to a fiscal year 2001 loss from operations in the hard drive segment. (This trend is separately discussed in MD&A.)

As of December 31, 2001, the company had $200 million in property, plant and equipment ("PP&E") used in producing hard drives. The company's accounting policies require that it test long-lived assets for impairment whenever indicators of impairment exist. The 2001 fiscal year loss from operations in that segment, coupled with the company's falling sales and market share, are indicators of a potential impairment of the hard drive-related PP&E.

The company follows the provisions of FASB SFAS No. 121, *Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets To Be Disposed Of*.[96] That accounting standard requires that if the sum of the future cash flows expected to result from the assets, undiscounted and without interest charges, is less than a company's reported value of the assets, then the asset is not recoverable and the company must recognize an impairment. The amount of impairment to be recognized is the excess of the reported value of the assets over the fair value of those assets.

The hard drive-related PP&E accounts for approximately 67% of Betascott's PP&E. The sum of Betascott's current estimate of expected future cash flows from its hard drive-related PP&E, undiscounted and without interest charges, is near the reported value of that PP&E. In the year ended December 31, 2001, Betascott would have been required to recognize an impairment loss of approximately $30 million if its estimate of those future cash flows had been 10% lower.

[96] SFAS No. 144 superseded SFAS No. 121 and is effective for financial statements issued for fiscal years beginning after December 15, 2001.

Possible MD&A Disclosure Under the Proposal

Application of Critical Accounting Policies

We evaluate our property, plant and equipment ("PP&E") for impairment whenever indicators of impairment exist. Accounting standards require that if the sum of the future cash flows expected to result from a company's asset, undiscounted and without interest charges, is less than the reported value of the asset, an asset impairment must be recognized in the financial statements. The amount of impairment to recognize is calculated by subtracting the fair value of the asset from the reported value of the asset.

As we discuss in the notes to the financial statements, we operate in four segments, one of which is the hard drive segment. In our hard drive segment, we reviewed our hard drive-related PP&E for impairment as of December 31, 2001, due to a trend of declining sales and market share. We determined that the undiscounted sum of the expected future cash flows from the assets related to the hard drive segment exceeded the recorded value of those assets, so we did not recognize an impairment in accordance with GAAP. The PP&E in our hard-drive segment represents approximately two-thirds of our total PP&E.

We believe that the accounting estimate related to asset impairment is a "critical accounting estimate" because: (1) It is highly susceptible to change from period to period because it requires company management to make assumptions about future sales and cost of sales over the life of the hard drive-related PP&E (generally seven years); and (2) the impact that recognizing an impairment would have on the assets reported on our balance sheet as well as our net loss would be material. Management's assumptions about future sales prices and future sales volumes require significant judgment because actual sales prices and volumes have fluctuated in the past and are expected to continue to do so. Management has discussed the development and selection of this critical accounting estimate with the audit committee of our board of directors and the audit committee has reviewed the company's disclosure relating to it in this MD&A.

In estimating future sales, we use our internal budgets. We develop our budgets based on recent sales data for existing products, planned timing of new product launches, customer commitments related to existing and newly developed products, and current unsold inventory held by distributors.

Our estimates of future cash flows assume that our sales of hard drive inventory will remain consistent with current year sales. While actual sales have declined by an average of approximately 2% per year during the last three years, our introduction of the Stored line of hard drives in August 2001 has resulted in a 0.5% increase in market share over the last five months of 2001, and a

corresponding increase in sales of 5% over the comparable 5-month period last year. We therefore have assumed that sales will not continue to decline in the future. We have also assumed that our costs will have annual growth of approximately 2%. This level of costs is comparable to actual costs incurred over the last two years, following the 1999 restructuring of the hard drive division (which is described in the note 2 to the financial statements).

In each of the last two years, we have tested the hard drive-related PP&E for impairment and in each year we determined that, based on our assumptions, the sum of the expected future cash flows, undiscounted and without interest charges, exceeded the reported value and therefore we did not recognize an impairment. Because 2001 sales were lower than those in 2000 and 1999, despite the improvement in the latter part of the year, and because our estimates of future cash flows are assumed to be consistent with current year sales, the current year impairment analysis includes estimated sales that are 2% and 5% less than those assumed in the 2000 and 1999 impairment tests, respectively.

As of December 31, 2001, we estimate that our future cash flows, on an undiscounted basis, are greater than our $200 million investment in hard drive-related PP&E. Any increases in estimated future cash flows would have no impact on the reported value of the hard drive-related PP&E. In contrast, if our current estimate of future cash flows from hard drive sales had been 10% lower, those cash flows would have been less than the reported amount of the hard drive-related PP&E. In that case, we would have been required to recognize an impairment loss of approximately $30 million, equal to the difference between the fair value of the equipment (which we would have determined by calculating the discounted value of the estimated future cash flows) and the reported amount of the hard drive-related PP&E. A $30 million impairment loss would have reduced PP&E and Total Assets as of December 31, 2001 by 10% and 3%, respectively. That impairment loss also would have increased Net Loss Before Taxes, for the year ended December 31, 2001, by 100%.

If we had been required to recognize an impairment loss on our hard-drive related PP&E, it would likely not have affected our liquidity and capital resources because, even with the impairment loss, we would have been within the terms of the tangible net-worth covenant in our long-term debt agreement discussed in note 5 to the financial statements.

E. Auditor Examination of MD&A Disclosure Relating to Critical Accounting Estimates

A company's management bears primary responsibility for its accounting estimates. Auditors also have important responsibilities regarding a company's accounting estimates. A company's auditor currently is responsible for evaluating the reasonableness of the accounting estimates made by management in the context of the financial statements taken as a whole.[97] When a company's audited financial statements are included in an annual report filed with the Commission, the independent auditor is required to read the information in the entire filed document, including the MD&A, and consider whether such information, or the manner of its presentation, is materially inconsistent with information, or the manner of its presentation, appearing in the financial statements.[98]

Despite the current auditing standards, and the auditor's consideration of the proposed MD&A disclosure that may take place by virtue of them, we are considering whether to take additional steps with a view to ensuring the accuracy and reliability of the proposed disclosure. Subjecting the MD&A disclosure to the auditing process itself would require the imposition of auditing standards, including examination of the disclosure itself, application of auditing processes regarding internal controls, coverage in management representations of material relevant to the disclosure and other procedures. One possible approach would be to adopt a requirement that an independent auditor must examine, in accordance with Attestation Standards,[99] the new MD&A disclosure relating to critical accounting estimates.

The American Institute of Certified Public Accountants has established standards and procedures when an auditor is engaged by a company to examine and render an opinion that the disclosure in a company's MD&A satisfies applicable Commission requirements.[100] An auditor's objective in an examination is to express an opinion on:

- Whether the MD&A presentation includes in all material respects the required elements of the disclosure mandated by the Commission;
- Whether the historical financial amounts have been accurately derived, in all material respects, from the company's financial statements; and
- Whether the underlying information, determinations, estimates and assumptions of the company provide a reasonable basis for the disclosures contained in the MD&A.[101]

To complete an examination, an auditor must examine documents and records and accumulate sufficient evidence in support of the disclosures and assumptions and take other steps to get reasonable assurance of detecting both intentional and unintentional misstatements that are material to the MD&A presentation.[102] To accept an examination engagement, an auditor must have sufficient knowledge about the company and its operations. AT § 701 therefore requires that an auditor must have at least audited the company's financial statements for the most recent period covered by the MD&A, and the other periods covered by the MD&A must have been audited by it or another auditor.[103]

Auditor examinations of MD&A disclosure are, we believe, undertaken on few occasions. Some companies have engaged independent auditors to conduct an examination of their MD&A disclosures either in connection with their initial public offering or after a major restructuring or acquisition when the company disclosure is being presented on a pro forma basis.[104] In one case, an auditor examination of MD&A was undertaken pursuant to a settlement with the Commission of an enforcement action alleging material deficiencies in the company's past MD&A disclosure.[105]

We solicit comment with respect to independent auditor examinations of the proposed MD&A disclosure regarding critical accounting estimates.

- Should we require that the critical accounting estimates disclosure in the MD&A undergo an auditor examination comparable to that enumerated in AT § 701?
- Would these engagements significantly improve the disclosure provided in MD&A?
- In practice, when companies engage auditors to examine the MD&A pursuant to AT § 701, does it elicit a higher quality of disclosure than when auditors consider only, as currently required, whether an MD&A is materially inconsistent with the financial statements?
- If we were to require examinations by auditors of part or all of MD&A disclosures, should we also require that a company file, or disclose the results of, the auditor's reports?
- If we do not require auditors' examinations of MD&A disclosure but an auditor nonetheless examines MD&A disclosure on critical accounting estimates, should we require that the auditor's report be filed or the results be disclosed?
- What would be the relative benefits and costs of a requirement for an auditor examination with respect to the critical accounting estimates portion of the MD&A?
- Should we require an auditor "review" under standards comparable to AT § 701,[106] as opposed to an auditor "examination" of the critical accounting estimates MD&A disclosure?
- Do current requirements relating to what an auditor must consider make an examination or review of the proposed MD&A disclosure under standards comparable to AT § 701 unnecessary?
- If we do not require auditor examination or review, are there other steps we should take to help ensure the quality of disclosure in this proposed section of MD&A?

F. Quarterly Updates

Material changes relating to critical accounting estimates may occur from fiscal period to fiscal period. For example, management could materially change an accounting estimate previously disclosed as a critical accounting estimate because it changes the methodology for computing it. A company could determine that an additional accounting estimate met the standards and is a critical accounting estimate for the period subsequent to its most recent annual or quarterly report. A company also could materially change one of the important assumptions underlying an existing critical accounting estimate (which may or may not result in a change to the critical accounting estimate depending on what changes in other assumptions underlying the estimate are made). Any of those changes could have a material effect on the company's financial condition, changes in financial condition or results of operations. We expect that U.S. companies would be evaluating accounting estimates and the underlying assumptions and methodologies on at least a quarterly basis[107] and therefore we believe that quarterly updates to reflect material developments would be appropriate. Disclosure of material developments made only at the end of each fiscal year also may not identify changes quickly enough to inform investors adequately.

In quarterly reports on Form 10–Q or Form 10–QSB, companies would be required to provide an update to the MD&A information related to critical accounting estimates discussed in the company's last filed annual or quarterly report under the Exchange Act.[108] Newly identified critical accounting estimates would be disclosed in the same manner as in an annual report. If other material changes have occurred that would render the critical accounting estimates disclosure in the company's latest report materially out of date or otherwise materially misleading, we propose that those changes and their effect be described in the quarterly report. The proposed rules would not, however, require quarterly updates with regard to the proposed quantitative and qualitative discussion concerning past material changes in critical accounting estimates in annual reports, registration statements and proxy and information statements.

We solicit comment on the quarterly updating requirement for U.S. companies.

- Are there some accounting estimates or material assumptions or methodologies that would normally be considered by companies only on a less frequent basis than quarterly? If so, which ones? Should they be omitted from the quarterly updating requirement on that basis?
- Is the scope of the disclosure required in a quarterly update appropriate? If not, what should be added or omitted?

G. Proposed Disclosure About Initial Adoption of Accounting Policies

A company initially adopts an accounting policy when events or transactions that affect the company occur for the first time, when events or transactions that were previously immaterial in their effect become material, or when events or transactions occur that are clearly different in substance from previous events or transactions. For example, a company may for the first time enter into transactions involving derivative instruments, such as interest rate swaps, or may begin selling a new type of product that has delivery terms and conditions that are different from those associated with the products the company has previously been selling.

If an initially adopted accounting policy has a material impact on the company's financial condition, changes in financial condition or results of operations, that impact will likely be of interest to investors, to financial analysts and others. If a company considers an accounting policy that it has initially adopted to be a significant accounting policy, the company would provide certain disclosures about that accounting policy as required by APB No. 22. Those disclosures are typically in the first note to the financial statements.[109] The disclosure provided in the notes to the financial statements, however, may not adequately describe,

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[97] *See* AU § 342, paragraph 4. In evaluating the reasonableness, the auditor's objective is "to obtain sufficient competent evidential matter to provide a reasonable assurance that—

a. All accounting estimates that could be material to the financial statements have been developed.

b. Those accounting estimates are reasonable in the circumstances.

c. The accounting estimates are presented in conformity with applicable accounting principles and are properly disclosed."

AU § 342, paragraph 7. The auditor normally focuses on key factors and assumptions that are significant to the accounting estimate, that are sensitive to variations, that are deviations from historical patterns or that are subjective and susceptible to misstatement and bias. *See* AU § 342, paragraph 9.

[98] *See* AU § 550, *Other Information in Documents Containing Audited Financial Statements* ("AU § 550").

[99] *See* Codification of Statements on Standards for Attestation Engagements ("AT") § 101, *Attest Engagements* and AT § 701, *Management's Discussion and Analysis.*

[100] AT § 701 contemplates two levels of service by an auditor with respect to MD&A: an "examination" of an MD&A presentation and a more limited "review" of an MD&A presentation. Unlike an examination, a review culminates with the auditor giving negative assurance. The auditor's review report states whether any information came to the auditor's attention to cause him or her to believe that: the MD&A presentation taken as a whole does not include in all material respects the required elements of the disclosure; the historical financial amounts have not been accurately derived, in all material respects, from the company's financial statements; or the underlying information, determinations, estimates and assumptions of the company do not provide a reasonable basis for the disclosures contained in the MD&A. In undertaking a review, an auditor is expected to apply analytical procedures and make inquiries of people at the company who are responsible for financial, accounting and operational matters, but is not expected to test accounting records through inspection or observation, obtain corroborating evidence in response to inquiries, or take other steps required during an MD&A examination. An auditor's review report is not intended to be filed with the Commission. *See* AT § 701, paragraph 2.

[101] *See* AT § 701, paragraph 5.

[102] *See* AT § 701, paragraphs 28–29.

[103] *See* AT § 701, paragraph 6.

[104] Goldman Sachs engaged an auditor to review its MD&A disclosure in connection with its initial public offering. *See* Form S–1, Commission File No. 333–74449. In addition, in the course of reading agreements between issuers and their underwriters created in connection with registered offerings, the staff has noted that approximately 50 companies have agreed to engage an auditor to conduct an examination of the company's MD&A disclosure as a condition to closing.

[105] In 1998, we issued a cease-and-desist order in a settlement with Sony Corporation that required Sony to engage an independent auditor to examine its MD&A disclosure for the fiscal year ending March 31, 1999. *See SEC* v. *Sony Corporation.* Litigation Release No. 15832 (Aug. 5, 1998).

[106] *See* supra fn. 100.

[107] The procedures performed by an independent accountant to issue a review report on the financial statements filed in a Form 10–Q generally would include reading information such as that found in the MD&A section of the Form 10–Q. Further, the independent accountant's association with those financial statements would require the independent accountant to read the MD&A. *See* AU § 722, *Interim Financial Information*, paragraph 35 and AU § 550, paragraph 4.

[108] *See* proposed Item 303(b)(3)(v) of Regulation S–B, 17 CFR 228.303(b)(3)(v), and proposed Item 303(c)(5) of Regulation S–K, 17 CFR 229.303(c)(5). To assist companies in preparing quarterly updates, we would allow them to presume that investors have read, or have access to, the discussion of critical accounting estimates in their previously filed Exchange Act annual reports and any quarterly reports filed subsequent to the most recent annual report.

[109] *See* APB No. 22, paragraphs 12 and 15.

in a qualitative manner, the impact of the initially adopted accounting policy or policies on the company's financial presentation. We are therefore proposing additional MD&A disclosure to further describe, where a material impact exists, the initial adoption of accounting policies.[110] The proposed MD&A disclosure would be provided in companies' filed annual reports, annual reports to shareholders, registration statements and proxy and information statements and would include description of:

- The events or transactions that gave rise to the initial adoption of an accounting policy;
- The accounting principle that has been adopted and the method of applying that principle; and
- The impact (discussed qualitatively) resulting from the initial adoption of the accounting policy on the company's financial condition, changes in financial condition and results of operations.

If, upon initial adoption of one of those accounting policies, a company is permitted a choice among acceptable accounting principles,[111] the company also would be required to explain in MD&A that it had made a choice among acceptable alternatives, identify the alternatives, and describe why it made the choice that it did. In addition, where material, the company would have to provide a qualitative discussion of the impact on the company's financial condition, changes in financial condition and results of operations that the alternatives would have had. Finally, if no accounting literature exists that governs the accounting for the events or transactions giving rise to the initial adoption of a material accounting policy (*e.g.*, the events or transactions are unusual or novel or otherwise have not been contemplated in past standard-setting projects), the company would be required to explain its decision regarding which accounting principle to use and which method of applying that principle to use.

We seek comment on the proposed disclosures related to initial adoption of accounting policies.

- Would the proposed disclosures about initial adoption of accounting policies provide useful information to investors and other readers of financial reports?
- Are there particular situations involving the initial adoption of a material accounting policy for which we should require additional disclosure? If so, what are those situations and what additional disclosure should we require?
- Should we require companies to disclose, in MD&A or in the financial statements, the estimated effect of adopting accounting policies that they could have adopted, but did not adopt, upon initial accounting for unusual or novel transactions?
- What would be the costs for companies to prepare disclosure about the effects of alternative accounting policies that could have been chosen but were not?
- Would investors be confused if companies presented disclosure of the effects of acceptable alternative policies that were not chosen?
- Should we require in MD&A a discussion of whether the accounting policies followed by a company upon initial adoption differ from the accounting policies applied, in similar circumstances, by other companies in its industry, and the reasons for those differences? Please explain. If such a discussion should be required, please identify the specific disclosures companies should make.
- Would a company know the policies applied in similar circumstances by other companies in its industry? If not, would auditing firms or other financial advisors be able to assist companies in determining whether their accounting policies generally diverge from industry practices?

H. Disclosure Presentation

The proposals would require that a company present the required information in a separate section of MD&A. While the proposed disclosure may relate to other aspects of the discussion in MD&A, such as the results of operations or liquidity and capital resources, we have chosen to separate it both to highlight the discussion and because we believe the proposed discussion would present information that is better communicated separately to promote understanding.

The proposed MD&A discussion must be presented in language, and a format, that is clear, concise and understandable to the average investor.[112] The disclosure should not be presented in such a way that only an investor who is also an accountant or an expert on a particular industry would be able to understand it fully. To reinforce the importance of the disclosure being presented in a manner that investors will understand, we also would specify that the proposed disclosure must not be presented, for example, solely as a single discussion of the aggregate consequences of multiple critical accounting estimates or the aggregate consequences of the initial application of multiple new accounting policies.[113] Because a company may identify and discuss more than one critical accounting estimate or more than one newly adopted accounting policy, and those estimates or those policies could materially affect a company's financial presentation in differing ways, a separate discussion of the application of each estimate and each new accounting policy will facilitate investors' understanding of the implications of each one.

Boilerplate disclosures that do not specifically address the company's particular circumstances and operations also would not satisfy the proposed requirements.[114] Disclosure that could easily be transferred from year to year, or from company to company, with no change would neither inform investors adequately nor reflect the independent thinking that must accompany the periodic assessment by management that is intended under the proposal. Finally, the purpose of the proposed disclosure would be hindered if a company were to include disclosures that consisted principally of blanket disclaimers of legal responsibility for its application of a new accounting policy or its development of its critical accounting estimates in light of the uncertainties associated with them. While the Commission fully expects companies to craft the proposed disclosure responsibly to take advantage of any available safe harbors, simple disclaimers of legal liability would be contrary to the disclosure goals underlying the proposal and would not be permitted.[115]

We solicit comment on the disclosure presentation aspects of the proposals.

- Should the proposed disclosure be presented in a separate section of MD&A or should we require that it be integrated into the other discussions of financial condition, changes in financial condition, results of operations and liquidity and capital resources when the proposed disclosure is closely related to an aspect discussed in those separate sections of MD&A?
- Should other requirements relating to the language and format be added to the requirement for clear, concise and understandable disclosure? If so, what requirements?

I. Application to Foreign Private Issuers

In annual reports and registration statements filed with the Commission by foreign private issuers,[116] we propose to apply the same MD&A disclosure requirements regarding the application of accounting policies that would apply to U.S. companies.[117] Foreign private issuers, however, may present their financial statements either in accordance with U.S. GAAP, in accordance with GAAP of a foreign country, or in accordance with International Accounting Standards and International Financial Reporting Standards issued by the International Accounting Standards Committee and the International Accounting Standards Board. If financial statements are presented in accordance with non-U.S. GAAP, a reconciliation to U.S. GAAP accompanies them. The MD&A disclosure that foreign private issuers currently make in documents filed with the Commission[118] must focus on the primary financial statements, whether those are prepared in accordance with non-U.S. GAAP or U.S. GAAP, although the reconciliation also must be taken into account.[119]

The proposed MD&A disclosure regarding critical accounting estimates would do the same. If the primary financial statements were in non-U.S. GAAP, the company would have to consider critical accounting estimates in connection with both its primary financial statements and its reconciliation to U.S. GAAP. The reasons are essentially two. First, a company could make an accounting estimate under non-U.S. GAAP that would not constitute a critical accounting estimate or could use a method under non-U.S. GAAP that would not involve an estimate, but in applying U.S. GAAP in the reconciliation could be required to make different assumptions that involve highly uncertain matters therefore causing it to be highly susceptible to change where change would have a material impact. For example, non-U.S. GAAP may permit or require derivative instruments held as investments to be reported at cost (or not recognized), while U.S. GAAP would require the same instruments to be reported at fair value. If the instruments are not traded and therefore no quoted market prices are available, assumptions about highly uncertain matters would be required to estimate fair value for purposes of the reconciliation.

Second, a foreign private issuer could apply different accounting methods under U.S. GAAP than under non-U.S. GAAP, and while both may involve critical accounting estimates, they may do so for different reasons that investors would need to understand. For example, both non-U.S. GAAP and U.S. GAAP may require recognition of liabilities for environmental or mass tort claims. However, the methodologies, assumptions and judgments necessary to estimate the amount to recognize may be significantly different under the two different GAAPs. Thus, a foreign private issuer would be required also to include the proposed disclosure for any critical accounting estimate that is related to the application of U.S. GAAP.[120]

Similarly, the proposed MD&A disclosures about the initial adoption of accounting policies would focus on the primary financial statements but also take into account the reconciliation to U.S. GAAP. When a foreign private issuer initially adopts an accounting policy under non-U.S. GAAP, it may have different acceptable alternative principles available to it than it would if it were initially adopting an accounting policy under U.S. GAAP. Those alternatives may be unfamiliar to investors. Accordingly, we would require that the foreign private issuer provide the proposed disclosure about initial adoption in relation to its primary financial statements. Foreign private issuers also would be required to consider the reconciliation to U.S. GAAP. The reconciliation would not necessarily present an initial adoption of an accounting policy simply because the company is initially adopting a policy under non-U.S. GAAP. In the event that it does, however, and it has the requisite material impact on the foreign private issuer's financial presentation, we believe disclosure would be appropriate.

The Commission has fundamentally conformed the non-financial statement disclosure requirements for foreign private issuers to the non-financial statement disclosure requirements adopted by the International Organization of Securities Commissions (IOSCO).[121] The MD&A-equivalent provision is intended to mirror in substance the MD&A requirements for U.S. companies in Regulation S–K.[122] Our application of the proposed critical accounting estimates disclosure and the disclosure regarding initial adoption of an accounting policy to foreign private issuers is consistent with the current approach to MD&A. MD&A disclosure is narrative financial disclosure and the proposed MD&A disclosure can be viewed particularly as an important new aspect of financial disclosure.

Foreign private issuers are not required to submit quarterly reports on Form 10–Q or Form 10–QSB to the Commission. Instead, foreign private issuers submit information on Form 6–K, which encompasses only information that the issuer makes public under its home country requirements.[123] In addition, foreign private issuers are exempt from U.S. proxy and information statement disclosure

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[110] *See* proposed Item 303(b)(3)(iv) of Regulation S–B, 17 CFR 228.303(b)(3)(iv); proposed Item 303(c)(4) of Regulation S–K, 17 CFR 229.303(c)(4); and proposed Item 5.E.4. of Form 20–F, 17 CFR 249.220f. These proposed disclosures would not be required if the initial adoption of an accounting policy solely results from adoption of new accounting literature issued by a recognized accounting standard setter (including, in the U.S., new accounting pronouncements or rules issued by the FASB, AICPA or SEC or a new consensus of the Emerging Issues Task Force (EITF)).

[111] *See supra* fn. 31 and accompanying text.

[112] *See* proposed Instruction 3 to paragraph (b)(3) of Item 303 of Regulation S–B, 17 CFR 228.303(b)(3); proposed Instruction 4 to paragraph (c) of Item 303 of Regulation S–K, 17 CFR 229.303(c); and proposed Instruction 3 to Item 5.E. of Form 20–F, 17 CFR 249.220f.

[113] *Id.*

[114] *Id.*

[115] *Id.*

[116] Foreign private issuers are non-governmental foreign issuers that primarily are owned by non-U.S. investors or are primarily located, doing business and managed outside the U.S. *See* 17 CFR 240.3b–4. Foreign governments, and Canadian issuers filing reports and registration statements with the Commission pursuant to Canadian disclosure requirements under the Multijurisdictional Disclosure System with Canada, would be unaffected by the proposals.

[117] Under the proposals, the MD&A disclosure would apply to foreign private issuers regardless of whether they reconcile in accordance with Item 17 or Item 18 of Form 20–F.

[118] Item 5 in Form 20–F, the provision parallel to disclosure entitled "MD&A" for domestic issuers, is entitled "Operating and Financial Review and Prospects."

[119] Instruction 2 to Item 5 states that the "discussion should focus on the primary financial statements presented in the document. You should refer to the reconciliation to U.S. GAAP, if any, and discuss any aspects of the differences between foreign and U.S. GAAP, not otherwise discussed in the reconciliation, that you believe are necessary for an understanding of the financial statements as a whole."

[120] *See* proposed Instruction 2 to Item 5 of Form 20–F, 17 CFR 249.220f.

[121] See Securities Act Release No. 7745 (Sept. 28, 1999) [64 FR 53900].

[122] Although the wording of the MD&A requirement in Form 20–F was revised in 1999, the Commission's adopting release noted that we interpret that Item as calling for the same disclosure as Item 303 of Regulation S–K. *See* Securities Act Release No. 7745 (Sept. 28, 1999) [64 FR 53900 at 59304]. In addition, Instruction 1 to Item 5 in Form 20–F provides that issuers should refer to the Commission's 1989 interpretive release on MD&A disclosure under Item 303 of Regulation S–K (Securities Act Release No. 6835 (May 18, 1989) [54 FR 22427]) for guidance in preparing the discussion and analysis by management of the company's financial condition and results of operations required in Form 20–F.

[123] Many foreign country disclosure systems do not require quarterly reporting. Nonetheless, some registered foreign private issuers do report financial information on a quarterly basis. If a foreign regulatory authority were to adopt the proposed MD&A requirements, foreign private issuers subject to it would provide the information on Form 6–K.

requirements.[124] Thus, unless a foreign private issuer files a registration statement that must include interim period financial statements and related MD&A disclosure, it would not be required to update the proposed MD&A disclosure more frequently than annually. Foreign private issuers could, however, voluntarily disclose newly identified critical accounting estimates and any other material changes to the most recent MD&A disclosure on Form 6–K, and we encourage them to do so.

We request comment regarding the proposed MD&A disclosure of the application of critical accounting policies as it relates to foreign private issuers.

- Should we apply different standards for foreign private issuers with respect to the proposed MD&A disclosure?
- Are there specific items of the proposed disclosure that would be less appropriate for foreign private issuers? If so, what should substitute for that disclosure?
- Should we consider applying an updating requirement to the proposed critical accounting estimates disclosure for foreign private issuers that do not file quarterly reports? If so, what should trigger that updating requirement?
- Are there reasons to distinguish this aspect of MD&A disclosure when foreign private issuers otherwise may not prepare MD&A-equivalent disclosure on a quarterly basis?

J. Application to Small Business Issuers

Small business issuers[125] are permitted to register and report under somewhat different disclosure requirements than those applicable to larger companies. With respect to MD&A disclosure, the requirements for small business issuers and larger companies are substantially similar.[126] One exception, however, is that small business issuers that have not had revenues from operations in each of the last two fiscal years (or the last fiscal year and any interim period presented in the furnished financial statements) must provide business plan disclosure rather than MD&A disclosure.[127] Those small business issuers must discuss in the business plan disclosure matters such as: how they will satisfy their requirements for cash and raise additional funds in the next 12 months; planned product research and development in that period; expected acquisitions or dispositions of plant and significant equipment; and anticipated significant changes in the number of employees.

Under our proposals, we would not apply the new requirements for MD&A disclosure to the small business issuers disclosing their business plans instead of providing MD&A disclosure. We believe a modified approach is consistent with the objectives underlying the small business issuer disclosure system's alteration of the MD&A disclosure requirements for these companies. Thus, we would not add to the compliance burdens for these small companies. Small business issuers with a recent history of revenues would be required to provide the proposed MD&A disclosure.

We request comment regarding the application to small business issuers of the proposed MD&A disclosure.

- Should we require the proposed MD&A disclosure for small business issuers with no recent revenues even though MD&A disclosure by them is otherwise not required? If so, why?
- Are there modifications or simplifications to the proposed disclosure requirements that we could make, consistent with our ongoing simplification and reduction of burden for small business issuers, that still would achieve the goal of providing investors with an adequate understanding of the implications of management's critical accounting estimates and its initial adoption of accounting policies with a material impact?
- Should we create an exemption from the quarterly updating, or simplify it, for small business issuers?

K. Application of Safe Harbors for Forward-Looking Information

As we note in the proposed MD&A requirements, companies preparing disclosure under the proposal that would constitute a forward-looking statement should consider the conditions under which several existing safe harbors apply.[128] As defined in the relevant statutory provisions, a "forward-looking statement" generally is

- A statement containing a projection of revenues, income (or loss), earnings (or loss) per share, capital expenditures, dividends, capital structure, or other financial items;
- A statement of the plans and objectives of management for future operations, including plans or objectives relating to the products or services of the issuer;
- A statement of future economic performance, including any such statement contained in MD&A;
- Any statement of assumptions underlying or relating to any statement described in the three bullet points above; or
- Any report issued by an outside reviewer retained by an issuer, to the extent that the report assesses a forward-looking statement made by the issuer.[129]

The Exchange Act and the Securities Act contain parallel safe harbor protection for forward-looking statements against private legal actions that are based on allegations of a material misstatement or omission.[130] In addition, two Commission rules under those Acts that pre-date the adoption of the statutory safe harbors also provide protection for forward-looking statements.

The statutory safe harbors provide three separate bases for a company to claim the protection against liability for forward-looking statements made in the company's MD&A. First, a forward-looking statement would fall within that safe harbor if it is identified as forward-looking and it is accompanied by meaningful cautionary statements that identify important factors that could cause actual results to differ materially from those in the forward-looking statement. Second, the safe harbor protects from private liability any forward-looking statement that is not material. Finally, the safe harbor precludes private liability if a plaintiff fails to prove that the forward-looking statement was made by or with the approval of an executive officer of the company who had actual knowledge that it was false or misleading. The statutory safe harbors cover statements by reporting companies, persons acting on their behalf, outside reviewers retained by them, and their underwriters (when using information from, or derived from, the companies).

The Commission safe harbor rules that apply to forward-looking statements are Rule 175 under the Securities Act and Rule 3b–6 under the Exchange Act.[131] Under those rules, a forward-looking statement made by or on behalf of a company is deemed not to be a fraudulent statement if it is made in good faith and made or reaffirmed with a reasonable basis. The rule-based safe harbors apply to a company if it is a reporting company at the time it makes the forward-looking statement or if it is not a reporting company but it is making the statement in a Securities Act registration statement[132] or an Exchange Act registration statement. The safe harbors cover forward-looking statements in filed documents, in annual reports to shareholders and in Part 1 of Forms 10–Q and 10–QSB.[133]

Some of the proposed MD&A disclosure, but not all of it, would require a company to make forward-looking statements. For example, a company's disclosure of the reasonably possible, near-term changes in its most material assumption(s) underlying accounting estimates would qualify as forward-looking statements, but its quantitative disclosure of the changes it made to its accounting estimates during the past three years would not. Other examples of forward-looking statements that could be made in response to the proposed mandates are: A discussion of the assumptions underlying an estimate that involve, for example, projections of future sales; and a discussion of the expected effect if a known uncertainty were to come to fruition and result in a change in management's assumptions.

In light of the forward-looking statements that would be required, we propose to delete the statements in the existing MD&A rules that indicate that companies are not required to make forward-looking statements under those rules.[134] New Instructions would note that forward-looking statements are required, provide some examples of required forward-looking statements and alert companies preparing the proposed MD&A disclosure to consider the terms, conditions and scope of the safe harbors in drafting their disclosure.

We request comment regarding the application of safe harbors for forward-looking information to the proposed MD&A disclosure.

- Is there any need for further guidance from the Commission with respect to the application of either the statutory or rule safe harbors?

IV. General Request for Comment

The Commission is proposing these amendments to the MD&A requirements to improve the quality and relevance of explanatory disclosure about a company's financial condition, changes in financial condition, results of operations and reasonably likely trends, demands, commitments, events and uncertainties affecting a company. We welcome your comments. We solicit comment, both specific and general, upon each component of the proposals. If you would like to submit written comments on the proposals, to suggest additional changes or to submit comments on other matters that might affect the proposals, we encourage you to do so.

We also solicit comment on the following general aspects of the proposals:

- Is the additional information elicited by the proposals useful to investors, other users of company disclosure and readers of a company's financial statements? If not, how can it be improved to achieve that goal?
- In addition to the requirements we propose, are there particular aspects of critical accounting estimates or their development or impact that the proposals should specifically require companies to address? If so, what are they?
- In addition to the requirements we propose, are there particular aspects concerning a company's initial adoption of an accounting policy that the proposals should specifically require companies to address? If so, what are they?
- Is disclosure necessary concerning the procedures that management follows in selecting its critical accounting estimates? If so, what additional disclosure should be provided?
- Is additional disclosure or regulation necessary or appropriate concerning the role of the audit committee in discussing the critical accounting estimates and the disclosure about them that management drafts?
- In addition to the proposed disclosure, should we adopt a specific requirement that a company must provide any other information that is needed to make the proposed disclosure reflective of management's view of the critical accounting estimates and the initially adopted policies being discussed?
- For critical accounting estimates of fair value, should we mandate the example in FR–61[135] as part of these rules? If yes, do other areas exist for which that type of detailed disclosure would be appropriate?
- If the proposed disclosure would involve competitive or other sensitive information, are there any mechanisms that would ensure full and accurate disclosure while reducing a company's risk of competitive harm?
- Are there some aspects of the proposed disclosure that should be retained while eliminating other parts of the proposed disclosure? We solicit comment on the desirability of adopting some sections of the proposed rules, but not all sections.

Any interested person wishing to submit written comments on any aspect of the proposals, as well as on other matters that might have an impact on the proposals, is requested to do so. In addition, we request comment on whether any further changes to our rules

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[124] *See* 17 CFR 240.3a12–3(b).

[125] "Small business issuer" is defined to mean any entity that (1) has revenues of less than $25,000,000, (2) is a United States or Canadian issuer, (3) is not an investment company, and (4) if a majority-owned subsidiary, has a parent corporation that also is a small business issuer. An entity is not a small business issuer, however, if it has a public float (the aggregate market value of the outstanding equity securities held by non-affiliates) of $25,000,000 or more. *See* 17 CFR 228.10.

[126] *Compare* Item 303 of Regulation S–B, 17 CFR 228.303, to Item 303 of Regulation S–K, 17 CFR 229.303.

[127] *See* Item 303(a) of Regulation S–B, 17 CFR 228.303(a).

[128] *See* proposed Instruction 2 to Item 303 of Regulation S–B, 17 CFR 228.303; proposed Instruction 2 to Item 303(c) of Regulation S–K, 17 CFR 229.303(c); and proposed Instruction 2 to Item 5.E of Form 20–F, 17 CFR 249.220f.

[129] *See* 15 U.S.C. 77z–2 and 78u–5.

[130] While the statutory safe harbors by their terms do not apply to forward-looking statements included in financial statements prepared in accordance with U.S. GAAP, they do cover MD&A disclosures. The statutory safe harbors would not apply, however, if the MD&A forward-looking statement were made in connection with: an initial public offering, a tender offer, an offering by a partnership or a limited liability company, a roll-up transaction, a going private transaction, an offering by a blank check company or a penny stock issuer, or an offering by an issuer convicted of specified securities violations or subject to certain injunctive or cease and desist actions. *See* 15 U.S.C. 77z–2(b) and 78u–5(b).

[131] *See* 17 CFR 230.175 and 17 CFR 240.3b–6. Forward-looking statements covered by the safe harbors under Rules 175 and 3b–6 are:

- Projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure, other financial items;
- Management's plans and objectives for future operations;
- Statements of future economic performance in MD&A and
- Statements of assumptions underlying or relating to any of the above.

[132] Thus, unlike the statutory safe harbors, the Rule 175 safe harbor would protect MD&A forward-looking statements made in a registration statement or prospectus for an initial public offering.

[133] The rule safe harbors also cover statements that reaffirm forward-looking statements made in those documents and forward-looking statements made prior to filing or submission of those documents that are reaffirmed in those documents.

In addition to the statutory and rule safe harbors directed at forward-looking statements, companies preparing the proposed MD&A disclosure also could be protected by the "bespeaks caution" legal doctrine that has developed through case law and is recognized by most circuit courts of appeal. *See, e.g., Lilley* v. *Charren*, 2001 U.S. App. LEXIS 19430 (9th Cir. 2001); *EP Medsystems, Inc.* v. *Echocath Inc.*, 235 F.3d 865; (3d Cir. 2000); *Parnes* v. *Gateway 2000*, 122 F.3d 539 (8th Cir. 1997). The bespeaks caution doctrine recognizes that forecasts, projections and expectations must be read in context and that accompanying cautionary language can render a misstatement or omission immaterial or render a plaintiff's reliance on it unreasonable. For a forward-looking statement to be covered by the bespeaks caution doctrine, there must be adequate cautionary language that warns investors of the potential risks related to the forward-looking statement.

[134] *See* Instruction 2 to Item 303 of Regulation S–B, 17 CFR 228.303; Instruction 7 to Item 303(a) of Regulation S–K, 17 CFR 229.303(a); Instruction 6 to Item 303(b) of Regulation S–K, 17 CFR 229.303(b); and Instruction 3 to Item 5 of Form 20–F, 17 CFR 249.220f.

[135] *See* Securities Act Release No. 8056, FR–61 (Jan. 22, 2002)[67 FR 3746], Section II.B. (providing an example of a critical accounting estimate related to non-exchange-traded contracts accounted for at fair value).

and forms are necessary or appropriate to implement the objectives of the proposals. Please submit three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. You may also submit comments electronically to the following e-mail address: *rule-comments@sec.gov*.[136] All comments should refer to file number S7–16–02. If you are commenting by e-mail, include this file number in the subject line. We will make comments available for public inspection and copying in the Commission's public reference room at 450 Fifth Street, NW, Washington, DC 20549–0102. In addition, we will post electronically submitted comments on our Internet website (*www.sec.gov*).

V. Paperwork Reduction Act

A. Background

The proposed amendments to Regulations S–B, S–K[137] and Form 20–F contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[138] We are submitting the proposal to the Office of Management and Budget ("OMB") for review in accordance with the PRA.[139] The titles for the collections of information are:

(1) "Form S–1" (OMB Control No. 3235–0065);

(2) "Form F–1" (OMB Control No. 3235–0258);

(3) "Form SB–2" (OMB Control No. 3235–0418);

(4) "Form S–4" (OMB Control No. 3235–0324);

(5) "Form F–4" (OMB Control No. 3235–0325);

(6) "Form 10" (OMB Control No. 3235–0064);

(7) "Form 10–SB" (OMB Control No. 3235–0419);

(8) "Form 20–F" (OMB Control No. 3235–0288);

(9) "Form 10–K" (OMB Control No. 3235–0063);

(10) "Form 10–KSB" (OMB Control No. 3235–0420);

(11) "Proxy Statements—Regulation 14A (Commission Rules 14a–1 through 14a–15) and Schedule 14A" (OMB Control No. 3235–0059);

(12) "Information Statements—Regulation 14C (Commission Rules 14c–1 through 14c–7 and Schedule 14C)" (OMB Control No. 3235–0057);

(13) "Form 10–Q" (OMB Control No. 3235–0070);

(14) "Form 10–QSB" (OMB Control No. 3235–0416);

(15) "Regulation S–K" (OMB Control No. 3235–0071); and

(16) "Regulation S–B" (OMB Control No. 3235–0417).

These regulations and forms were adopted pursuant to the Securities Act and the Exchange Act and set forth the disclosure requirements for annual and quarterly reports, registration statements and proxy and information statements filed by companies to ensure that investors are informed. The hours and costs associated with preparing, filing, and sending these forms constitute reporting and cost burdens imposed by each collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Under the proposals, we would require companies to include a discussion of the application of critical accounting policies in the MD&A section of annual reports, registration statements and proxy and information statements and make updates to some of that disclosure quarterly. We believe that the proposed MD&A disclosure would provide investors with a better understanding of management's application of accounting policies and how those accounting policies affect the financial statements. We believe this disclosure would increase transparency regarding financial disclosure. Compliance with the revised disclosure requirements would be mandatory. There would be no mandatory retention period for the information disclosed, and responses to the disclosure requirements would not be kept confidential.

We estimate the annual incremental paperwork burden for all companies to prepare the disclosure that would be required under our proposals to be approximately 781,911 hours and a cost of approximately $98,467,000.[140] We estimated the average number of hours each entity spends completing the form and the average hourly rate for outside professionals from discussions with persons regularly involved in completing the forms.[141]

B. Registration Statements

Table 1 below illustrates the total annual compliance burden of the proposed collection of information in hours and in cost for registration statements under the Securities Act and the Exchange Act. The burden was calculated by multiplying the estimated number of responses by the estimated average number of hours each entity spends completing the form. We have based our estimated number of annual responses on the actual number of filers during the 2001 fiscal year. We have estimated that, based on a three-year sample period, the average amount of time it would take to prepare the application of critical accounting policies disclosure for registration statements would be approximately 34 hours.

To determine the average total number of hours each entity spends completing each form, we added the estimated hour increment discussed below to the current burden hour estimate for each form reported to OMB. For registration statements, we estimate that 25% of the burden of preparation is carried by the company internally and that 75% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $300 per hour. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours. The incremental cost of outside professionals for registration statements would be approximately $22,811,000 per year and the incremental company burden would be approximately 25,345 hours per year. For purposes of our submission to OMB under the PRA, the total cost of outside professionals for registration statements would be approximately $3,740,773,000 per year and the company burden would be approximately 4,156,415 hours per year.

To determine a new PRA burden per form that would accurately reflect the amount of respondents required to prepare the new disclosure, we adjusted the 34-hour incremental burden for some of the forms of registration statements. For the other registration statements in Table 1, we used the 34-hour burden estimate. We adjusted the incremental burden to account for the fact that some registration statements allow incorporation by reference, and other forms would not require the company to substantially change a previously prepared MD&A.[142] We have adjusted the incremental burden for Forms S–1, F–1, S–4 and F–4 in recognition of the fact that many repeat issuers complete these forms.[143] A repeat issuer (who is already a reporting company) would not have to prepare an entirely new MD&A for each new registration statement because it would have already prepared MD&A for its periodic reports.

To account for this, we estimate that 40% of the Forms S–1, 65% of Forms F–1, 38% of Forms S–4 and 34% of Forms F–4 would be required to carry the full burden of preparing entirely new MD&A disclosure about the application of critical accounting policies.[144] To reflect the fact that the proposed disclosure would only be prepared anew for a subset of the total forms filed, yet the collection burden is calculated and submitted to OMB for 100% of the forms filed, we reduced the incremental burden hours for the above forms by the percentage of respondents who would not be required to carry the full burden of preparing new disclosure about the application of critical accounting policies. Therefore, we estimate that the average annual incremental burden for all Forms S–1 would be 14 hours per form, which is approximately 40% of the 34-hour burden estimate for preparing the disclosure. We estimate that the average annual incremental burden for all Forms F–1 would be 22 hours per form, which is approximately 65% of the 34-hour burden estimate for preparing the disclosure. We estimate that the average annual incremental burden for all Forms S–4 would be 13 hours per form, which is approximately 38% of the 34-hour burden estimate for preparing the disclosure. Finally, we estimate that the average annual incremental burden for all Forms F–4 would be 12 hours per form, which is 34% of the 34-hour burden estimate for preparing the disclosure.

TABLE 1.—REGISTRATION STATEMENTS

[Columns in bold are the PRA burdens submitted to OMB]

	Annual responses	Total hours/form	Total burden	**25% Company**	75% Professional	**$300 Prof. cost**
	(A)	(B)	(C)=(A)*(B)	**(D)=(C)*0.25**	(E)=(C)*0.75	**(F)=(E)*$300**
S–1	452	1,742	787,384	**196,846**	590,538	**$177,161,000**
F–1	48	1,905	91,440	**22,860**	68,580	**20,574,000**
SB–2	698	582	406,236	**101,559**	304,677	**91,403,000**
S–4	3,774	3,973	14,994,102	**3,748,526**	11,245,577	**3,373,673,000**
F–4	211	1,323	279,153	**69,788**	209,365	**62,810,000**
Form 10	91	126	11,466	**2,867**	8,600	**2,580,000**
10–SB	458	122	55,876	**13,969**	41,907	**12,572,000**
Total			16,625,657	**4,156,415**		**3,740,773,000**

C. Annual Reports and Proxy/Information Statements

Table 2 below illustrates the total annual compliance burden of the collection of information in hours and in cost for annual reports and proxy and information statements under the Exchange Act. The burden was calculated by multiplying the estimated number of responses by the estimated average number of hours each entity spends completing the form. We have based our estimated number of annual responses on the actual number of filers during the 2001 fiscal year. We have estimated that, based on a three-year sample period, the average amount of time it would take to prepare disclosure about the application of critical accounting policies for annual reports and proxy and information statements would be approximately 29 hours.

To determine the average total number of hours each entity spends completing each form, we added the 29-hour increment to the current burden hours estimated for each form. For Exchange Act reports and proxy and information statements, we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $300 per hour.[145] The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours. The incremental cost of outside professionals for annual reports and proxy/information statements would be approximately $32,508,000 per year and the incremental company burden would be approximately 325,083 hours per year. For purposes of our submission to OMB under the PRA the total cost of outside professionals for annual reports and proxy/information statements would be approximately $1,738,387,000 per year and the company burden would be approximately 17,383,796 hours per year.

To determine the average total number of hours each entity spends completing each form, we added the estimated hour increment discussed above to the current burden hour estimate for each form reported to OMB. We made one exception, however, with respect to Schedules 14A and 14C. Those schedules only require MD&A in three situations: (1) The modification of any class of securities of the company; (2) the issuance or authorization for issuance of securities of the company; or (3) mergers, consolidations, acquisitions and similar matters.[146] In addition, many of these Schedules are filed by reporting companies. Because in many

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[136] For more information on how to submit comments electronically, *see www.sec.gov/rules/submitcomments.htm*.

[137] While we are proposing amendments to Regulations S–B and S–K, the burden is imposed through the forms that refer to the disclosure regulations. To avoid a Paperwork Reduction Act inventory with duplicative burdens, we estimate the burdens imposed by Regulations S–B and S–K to be one hour.

[138] 44 U.S.C. 3501 *et seq.*

[139] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[140] For convenience, the estimated PRA hour burdens have been rounded to the nearest whole number, and the estimated PRA cost burdens have been rounded to the nearest $1,000.

[141] In connection with this rulemaking, we have contacted a few companies to obtain cost estimates for preparing the proposed disclosure. Also, in connection with other recent rulemakings, we have had discussions with several private law firms to estimate an hourly rate of $300 as the cost of outside professionals that assist companies in preparing these disclosures.

[142] We have not included registration statements where a registrant fulfills its MD&A disclosure obligation entirely through incorporation by reference (such as Forms S–3 and S–2).

[143] In addition, Forms S–4 and F–4 allow for incorporation by reference when the issuer would be eligible.

[144] We derived these percentages from the proportion of new issuers to total issuers derived from our internal database.

[145] This allocation of the burden is a departure from our past PRA submissions for Exchange Act periodic reports and proxy and information statements, for which we estimated that the company carried 25% of the burden internally and 75% of the burden of preparation was carried by outside professionals retained by the company. We believe that this new allocation more accurately reflects current practice for annual and quarterly reports and proxy and information statements.

[146] *See* Items 11, 12 and 14 of Schedule 14A, 17 CFR 240.14a–101.

instances reporting companies would have previously prepared MD&A for their periodic reports, we estimate that 5% of Schedules 14A and 14C would require a company to prepare an entirely new MD&A.[147] To reflect the fact that only the above percentage would require new disclosure, yet the collection burden is calculated and submitted to OMB for 100% of the Schedules filed, we reduced the incremental burden hours for Schedules 14A and 14C by the percentage of respondents who would not be required to carry the full burden of preparing new disclosure about the application of critical accounting policies. Therefore, we estimate that the average annual incremental burden for these forms would be approximately 2 hours, which is approximately 5% of the 34-hour burden estimate for registration statements.

TABLE 2.—ANNUAL REPORTS AND PROXY/INFORMATION STATEMENTS

[Columns in bold are the PRA burdens submitted to OMB]

	Annual responses	Total hours/form	Total burden	75% Company	25% Professional	$300 Prof. Cost
	(A)	(B)	(C)=(A)*(B)	(D)=(C)*0.75	(E)=(C)*0.25	(F)=(E)*$300
20–F	1,177	1,752	2,062,104	**1,546,578**	515,526	**$154,658,000**
10–K	9,384	1,749	16,412,616	**12,309,462**	4,103,154	**1,230,946,000**
10–KSB	3,789	1,205	4,565,745	**3,424,309**	1,141,436	**342,431,000**
SCH 14A	8,239	16	131,824	**98,868**	32,956	**9,887,000**
SCH 14C	407	15	6,105	**4,579**	1,526	**458,000**
Total			23,178,394	**17,383,796**		**1,738,380,000**

D. Quarterly Reports

Table 3 below illustrates the total annual compliance burden of the collection of information in hours and in cost for quarterly reports under the Exchange Act. The burden was calculated by multiplying the estimated number of responses by the estimated average number of hours each entity spends completing the form. We have based our estimated number of annual responses on the actual number of filers during the 2001 fiscal year. We have estimated that, based on a three-year sample period, the average amount of time it would take each year to add the new disclosures would be 15 hours per form for each company.[148]

To determine the average total number of hours each entity spends completing each form, we added the 15-hour increment to the current burden hours for each form. For quarterly reports, we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $300 per hour. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours. Additionally, there would be no change to the estimated burden of the collection of information entitled "Regulation S–B" and "Regulation S–K" because the burdens are already reflected in our estimates for the forms. The incremental cost of outside professionals for quarterly reports would be approximately $43,148,000 per year and the incremental company burden would be approximately 431,483 hours per year. For purposes of our submission to OMB under the PRA, the total cost of outside professionals for quarterly reports and Regulation S–K and S–B would be approximately $427,395,000 per year and the company burden would be 4,273,945 hours per year.

TABLE 3.—QUARTERLY REPORTS AND REGULATIONS S–K AND S–B

[Columns in bold are the PRA burdens submitted to OMB]

	Annual responses	Total hours/form	Total burden	75% Company	25% Professional	$300 Prof. Cost
	(A)	(B)	(C)=(A)*(B)	(D)=(C)*0.75	(E)=(C)*0.25	(F)=(E)*$300
10–Q	26,746	151	4,038,646	**3,028,985**	1,009,662	**$302,899,000**
10–QSB	11,608	143	1,659,944	**1,244,958**	414,986	**124,496,000**
Regulation S–K	0	1	1	**1**	0	**0**
Regulation S–B	0	1	1	**1**	0	**0**
Total				**4,273,945**		**427,395,000**

E. Solicitation of Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), we solicit comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of our estimate of the burden of the proposed collection of information; (iii) determine whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (iv) evaluate whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, with reference to File No. S7–16–02. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–16–02, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is assured of having its full effect if OMB receives it within 30 days of publication.

[147] That percentage is our best estimate based on our belief that the percentage of companies that file Schedules 14A and 14C that would actually be required to carry the full burden of preparing the proposed disclosure would be minimal.

[148] That estimate assumes that all U.S. reporting companies would have material updates to disclosure about critical accounting estimates in each quarter.

VI. Cost-Benefit Analysis

A. Background

The Commission is proposing disclosure rules to address investors' increasing demand for greater transparency with respect to the application of companies' accounting policies and their effects. The proposed disclosure about the application of critical accounting policies encompasses a company's critical accounting estimates and its initial adoption of accounting policies that have a material impact. While the existing disclosure requirements in GAAP result in some basic disclosure of a company's material changes in accounting estimates, initial adoption of accounting policies and risks and uncertainties that may materially affect the financial statements, the proposals would require companies to provide more comprehensive information and analysis about a company's application of critical accounting policies. Because of the potential impact of a company's critical accounting policies and the subjectivity and complexity involved, they are important for investors' understanding of a company's overall financial condition, changes in financial condition and results of operations. The proposals would require companies that are reporting, raising capital in the registered public markets or asking shareholders for their votes to identify their critical accounting estimates and their initial adoption of material accounting policies. For those applications, a company would provide a meaningful analysis of their impact in the "Management's Discussion and Analysis" section of the disclosure documents.

B. Objectives of Proposed Disclosure of Critical Accounting Estimates

Beyond the disclosure of the application of accounting policies provided for in the accounting literature, our proposals would provide additional key information in MD&A that enhances understanding of a company's financial statements, and provides information about the quality of, and potential variability of, a company's earnings. Our proposals would give management the impetus to discuss candidly, and provide insight into, the company's critical accounting estimates and its initial adoption of accounting policies that have a material impact. Our proposals are expected to increase investor understanding, to enhance the ability of investors to make informed investment decisions and to allocate capital on a more efficient basis.

C. Alternative Regulatory Approaches

We considered alternative regulatory actions for achieving the proposed disclosure and greater transparency of a company's application of critical accounting policies. We considered encouraging companies to provide disclosure regarding the application of critical accounting policies.[149] Although some public companies are voluntarily providing more detailed information in their financial statements, it has been noted that some companies generally have not been providing investors with the desired level of detail in their disclosure. To stimulate higher quality disclosures regarding the application of critical accounting policies, we are proposing mandated disclosures.

The proposed mandated disclosures are likely to result in a more focused and descriptive discussion of the company's critical accounting estimates and initial adoption of accounting policies that have a material impact. In addition, mandated disclosures regarding the application of critical accounting policies should benefit investors because the enumerated disclosure under the proposed rule would likely be more comparable across all firms and consistent over time.[150]

In addition to voluntary disclosure, we considered various methods of mandating this disclosure to the public. We are proposing what we believe to be the least onerous method that retains the primary benefit of increased transparency. One alternative approach we considered was to change accounting rules regarding the presentation of financial statements to require more disclosure in the financial statements with respect to the application of critical accounting policies. Another approach we considered was to require companies to file schedules of all accounting estimates as exhibits to their quarterly and annual filings. These schedules would contain a demonstration of how a company calculated each estimate.

Unlike these alternative approaches, we believe that the placement of the proposed disclosure in the MD&A would encourage management to provide more insightful disclosure in a manner more understandable to the average investor than these other disclosure alternatives.

We solicit comment with respect to alternative regulatory approaches.

- Is there evidence that market forces would elicit the disclosures we are proposing?[151]
- What are the relative costs and benefits of pursuing these or other alternative regulatory solutions to elicit disclosure of the application of critical accounting policies?

D. Potential Benefits of the Proposed Rules

The primary anticipated benefit of the proposed rules is to increase transparency of the financial condition, changes in financial condition and operating results of companies and to reduce the information asymmetry between management and investors. Current market events have evidenced a need to provide investors with a clearer understanding of where a company's accounting policies, estimates, assumptions and methodologies materially affect the financial statements

[149] *See* Securities Act Release No. 8040, FR–60 (Dec. 12, 2001) [66 FR 65013]. *See also* Securities Act Release No. 8056, FR–61 (Jan. 22, 2002) [67 FR 3746].

[150] *See generally*, Kothari, S., *Capital Markets Research In Accounting*, 31 Journal of Accounting and Economics 105 (2001). This author suggests that mandated disclosures provide useful information to markets reducing information processing costs for investors by providing for consistent, comparable disclosures.

[151] *See generally*, Healy, P. and K. Palepu, *Information Asymmetry, Corporate Disclosure And Capital Markets: A Review Of The Empirical Disclosure Literature*, 31 Journal of Accounting and Economics 405 (2001). The authors argue that one reason why firms are reluctant to disclose voluntarily is that they face significant proprietary and litigation costs.

when they are prepared.[152] The proposed disclosure is intended to enhance the quality of the disclosure in the MD&A section by providing more information about management's insight into the company. By making information about the application of critical accounting policies and their implications on the presentation of the company's financial position available and more understandable, the proposals would benefit investors both directly and indirectly through the financial analysts and the credit rating agencies whose analyses investors consider. Greater transparency would thus enable investors to make more informed investment decisions and to allocate capital on a more efficient basis.

As a secondary benefit to investors, a possible by-product of the proposed MD&A disclosure may be to deter improper accounting practices by some companies. For example, the proposed disclosure of critical accounting estimates could make inappropriate earnings management more difficult because it could be easier to detect. The proposed disclosure could also assist investors in evaluating management's performance. With the proposed disclosure, an investor may be better able to judge whether management applies the company's accounting policies either aggressively or conservatively.

Another possible beneficial by-product of the proposed MD&A disclosure could be to increase the discipline and oversight of management in their application of a company's critical accounting policies. In order to prepare the disclosure, management would be required to review and explain the company's application of accounting policies, and the reasonably likely impact. The proposed disclosure could increase management's motivation to exercise greater discipline in applying the company's accounting policies because the material assumptions and methodologies would be more transparent and subject to greater investor scrutiny. In light of this possibility, both auditors and audit committees may also improve their oversight of the application of critical accounting policies.

We solicit comment with respect to the potential benefits of the proposed MD&A disclosure.

- We solicit quantitative data to assist our assessment of the benefits of identifying critical accounting estimates and analyzing their effects on the financial statements and explaining the initial adoption of material accounting policies and their impacts in the manner proposed.
- Would the proposed disclosure serve as a deterrent for improper accounting practices?

E. Potential Costs of Proposed Rules

1. Costs of Preparing Disclosure

We estimate that proposed rules would impose a new disclosure requirement on approximately 14,000 public companies.[153] We anticipate that the average company's application of critical accounting policies disclosure would consist of about six pages of additional text when the company is required to prepare the proposed disclosure in its entirety. We estimate that the disclosure would involve multiple parties, including in-house preparers, senior management, in-house counsel, outside counsel, outside auditors, and audit committee members. For purposes of the Paperwork Reduction Act,[154] we estimated that company personnel would spend approximately 780,000 hours per year (56 hours per company) to prepare, review and file the proposed disclosure. Based on our estimated cost of in-house staff time, we estimated the PRA hour-burden would translate into an approximate cost of $98,000,000 ($7,000 per company).[155] We also estimated that companies would spend approximately $98,000,000 ($7000 per company) on outside professionals to comply with the disclosure.[156] We also estimate that companies will incur some additional printing and dissemination costs.[157] We are unable to estimate the potential printing and dissemination costs because there is a wide possible range of paper and ink available and different companies will print a different number of reports depending on their shareholder base.

While companies may face increased costs associated with the preparation, review, filing, printing and dissemination of these disclosures, we believe our proposals would not substantially increase the costs to collect the information necessary to prepare the proposed disclosure. This information should largely be readily available from each company's books and records. Since management must calculate accounting estimates and apply initially adopted accounting policies to prepare the required financial statements, the proposed disclosure may not impose significant incremental costs for the collection and calculation of data. In addition, management is likely to already conduct analysis of the application of the company's accounting policies in the course of managing the business activities of the company. We recognize that management does not currently describe its analysis and is likely to confer with legal counsel in drafting the disclosure. Because of the wide variance among public companies, it is difficult to estimate the average cost. We did contact a few companies that voluntarily had provided information about critical accounting policies in their 2001 Form 10-Ks. They indicated that preparation of the proposed disclosure would cost from approximately $5,000 to $500,000 per year.

We solicit comment regarding the potential cost of compliance with the proposals.

- What types of expenses would companies incur in order to comply with the proposed disclosure requirements?
- What would the average printing and dissemination costs be for each firm?
- We solicit quantitative data to assist our assessment of the compliance costs of identifying critical accounting estimates and the initial adoption of accounting policies that have a material impact and analyzing their effects on the financial statements in the manner proposed.

2. Competitive Harm

There is some possibility that a company's competitors could be able to infer proprietary or sensitive information from disclosure about management's application of critical accounting policies under our proposals. To the extent that all companies make the proposed disclosure, that impact may diminish.

We solicit comment regarding possible competitive harm.

- To what degree would our proposed disclosure requirements create competitively harmful effects upon public companies?
- How could we minimize those effects?

3. Perception of Increased Liability

With any new disclosure mandate, there may be an increased chance that a company could include a materially misleading statement or a material omission in its disclosure document. A company may be concerned that it could be subjected to increased liability due to the disclosure required by the proposed rules. For example, one aspect of our proposed rules would require a quantitative and qualitative analysis to depict the effects of changing a critical accounting estimate. Companies may believe that this disclosure would subject them to potential liability if actual changes to the critical accounting estimates affect line items and overall financial performance to a greater or lesser degree than disclosed. Companies may particularly be concerned with the potential liability when required disclosure is forward-looking in nature.

In part to help alleviate this perception, we are proposing the new disclosure be included in the MD&A section—a section *not* excluded from the coverage of the safe harbor for forward-looking statements provided by the Private Securities Litigation Reform Act of 1995.[158] Those safe harbors were designed to help companies reduce the costs of litigation relating to those types of statements. The PSLRA safe harbors, as well as those provided by existing Commission Rules 175 and 3b–6 and the "bespeaks caution" legal doctrine created by the courts, should reduce potential litigation costs of companies that craft the disclosure under the proposed rules to meet the conditions of those safe harbors and that doctrine.

We are soliciting comment with regard to the perception of increased liability.

- What are the potential litigation and liability costs that would be associated with the proposed disclosure requirements?

F. Small Business Issuers

We have proposed to require that those small business issuers that must currently make MD&A disclosure also must provide disclosure about the application of critical accounting policies. Small business issuers that are not currently required to prepare MD&A would not be subject to the proposed MD&A disclosure. Thus, only small business issuers that have generated revenues in the past two years would be required to disclose the proposed information about their application of critical accounting policies. The proposals would not impose additional costs for start-up and early stage businesses at a time when they need their resources for growth. We believe the burden on small firms may be less significant overall because these firms would be likely to have fewer critical accounting estimates. We do not have specific data, however, with respect to that assumption.

We ask commenters to provide us with data to estimate the costs of the proposed regulations for small business issuers.

- Would small business issuers on average have fewer critical accounting estimates to discuss?
- Who would prepare the disclosure for small business issuers?
- What types of expenses would be incurred to prepare this disclosure?

G. Foreign Private Issuers

We propose to apply to foreign private issuers the same MD&A disclosure requirements regarding the application of critical accounting policies that would apply to U.S. companies. Foreign private issuers, however, may present their financial statements either in accordance with U.S. GAAP, in accordance with GAAP of a foreign country, or in accordance with International Accounting Standards and International Financial Reporting Standards issued by the International Accounting Standards Committee and the International Accounting Standards Board. If financial statements are presented in accordance with non-U.S. GAAP, a reconciliation to U.S. GAAP accompanies them. If the primary financial statements were in non-U.S. GAAP, the company would have to consider the application of critical accounting policies in connection with both its primary financial statements and its reconciliation to U.S. GAAP. Therefore, foreign private issuers may incur additional costs with regard to the proposed disclosure because of possible additional disclosure regarding the reconciliation to U.S. GAAP.

Offsetting this additional cost, however, is the fact that foreign private issuers would not be required to submit quarterly reports on Form 10–Q or Form 10–QSB to the Commission. In addition, foreign private issuers are exempt from U.S. proxy and information statement disclosure requirements.[159] Thus, unless a foreign private issuer files a registration statement that must include interim period financial statements and related MD&A disclosure, it generally would not be required to update the proposed MD&A disclosure more frequently than annually. Therefore, the overall cost of compliance could be lower for foreign private issuers than for U.S. companies.

We ask commenters to provide us with data to estimate the costs of the proposed regulations for foreign private issuers.

- On average, would the U.S. GAAP reconciliation cause foreign private issuers to have more critical accounting estimates and more initial adoptions of accounting policies to discuss than a U.S. company? If so, how many more?

H. Request for Comments

To assist the Commission in its evaluation of the costs and benefits of the proposed disclosure discussed in this release, we request that commenters provide views and data relating to any costs and benefits associated with the proposed rules.

VII. Effects on Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act[160] requires us, when adopting rules under the Exchange Act, to consider the anti-competitive effects. The proposed rules are intended to make information about the application of critical accounting policies and their implications for the presentation of a company's financial condition, changes in financial condition and operating results more understandable to investors. We have identified one possible area where the proposed rules could potentially place a burden on competition. In our cost-benefit analysis above, we note that there is some possibility that a company's competitors could be able to infer proprietary or sensitive information from disclosure about management's application of critical accounting policies under our proposals. To the extent that all companies make the proposed disclosure, that impact may diminish. In our cost-benefit analysis above, we request comment regarding the degree to which our proposed disclosure requirements would create competitively harmful effects upon public companies, and how to minimize those effects. We request comment on any disproportionate cross-sectional burdens among the firms affected by our proposals that could have anti-competitive effects.

Section 2(b) of the Securities Act[161] and Section 3(f) of the Exchange Act[162]

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[152] *See generally*, Marcia Vickers, Mike McNamee et. al, *The Betrayed Investor*, BusinessWeek, Feb. 25, 2002 at 105.

[153] We derived this estimate by assessing the number of registrants who filed annual reports last year, and subtracting an estimated number of small business issuers who we expect would not be required to provide the disclosure.

[154] 44 U.S.C. § 3501 *et seq.*

[155] This cost estimate is based on data obtained from *The SIA Report on Management and Professional Earnings in the Securities Industry* (Oct. 2001).

[156] To derive our estimates for the Paperwork Reduction Act, we multiplied the number of filers for each form by the incremental hours per form. The portion of the product carried by the company is reflected in hours and the portion carried by outside professionals is reflected as a cost.

[157] *See generally*, Del Jones, *Companies Beef up their Annual Reports*, USA Today, Mar. 12, 2002 at 1B.

[158] Pub. L. No. 104–67, 109 Stat. 737 (1995).

[159] *See* 17 CFR 240.3a12–3(b).

[160] 15 U.S.C. § 78w(a)(2).

[161] 15 U.S.C. 77b(b).

[162] 15 U.S.C. 78c(f).

require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation. We believe the proposed disclosure may promote market efficiency by making information about the application of critical accounting policies, and their impact on the presentation of the company's financial position, more understandable. As a result, we believe that investors may be able to make more informed investment decisions and capital may be allocated on a more efficient basis. In addition, we believe this disclosure would assist investors in evaluating management. The possibility of these effects, their magnitude if they were to occur and the extent to which they would be offset by the costs of the proposals are difficult to quantify. We request comment on these matters and how the proposed amendments, if adopted, would affect efficiency and capital formation. Commenters are requested to provide empirical data and other factual support to the extent possible.

VIII. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603. It relates to proposed revisions to Item 303 of Regulation S–K,[163] Item 303 of Regulation S–B [164] and Item 5 of Form 20–F.[165] The proposals require a company to discuss the application of critical accounting policies. The new disclosure would be included in the MD&A section of a company's annual reports, registration statements and proxy and information statements. Companies would be required to update the portion of the proposed MD&A information about critical accounting estimates by disclosing material changes quarterly on Form 10–Q or Form 10–QSB.

A. Reasons for the Proposed Action

The requirements of GAAP for disclosure in financial statements and the current requirements in MD&A have not resulted in the type of discussion of the application of critical accounting policies that our proposals would require. The potential consequences of not taking this action to require disclosure regarding the application of critical accounting policies are: (a) Less transparency in the presentation of companies' financial statements and, correspondingly, a lesser understanding of companies' financial condition, changes in financial condition and results of operations when making investment decisions; and (b) a potential decrease in investor confidence in the full and fair disclosure system that is the hallmark of the U.S. capital markets.

B. Objectives

Beyond the disclosure of the application of accounting policies provided for in the accounting literature, our proposals would provide additional key information in MD&A that enhances understanding of a company's financial statements, and provides information about the quality of, and potential variability of, a company's earnings. Our proposals would give management the impetus to discuss candidly, and provide insight into, the company's application of critical accounting policies. We believe that our proposals may increase investor understanding, enhance the ability of investors to make informed investment decisions and allocate capital on a more efficient basis.

C. Legal Basis

We are proposing the amendments under the authority set forth in Sections 7, 10 and 19 of Securities Act of 1933 and Sections 12, 13, 14 and 23 of the Securities Exchange Act of 1934.

D. Small Entities Subject to the Proposed Regulation and Rules

The proposals would affect companies that are small entities. Exchange Act Rule 0–10(a) [166] and Securities Act Rule 157 [167] define a company, other than an investment company, to be a "small business" or "small organization" if it had total assets of $5 million or less on the last day of its most recent fiscal year. As of February 20, 2002, we estimated that there were approximately 2,500 companies, other than investment companies, that may be considered small entities. The proposed disclosure requirements would apply to any small entity that fulfills its disclosure obligations by either complying with our standard disclosure requirements [168] or providing the "Management's Discussion and Analysis" disclosure item contained in our optional disclosure system available only to small businesses.[169] If a small entity elects to fulfill its disclosure obligations pursuant to our optional disclosure system for small businesses, it would be required to comply with our proposed rule only if it had revenues during the past two fiscal years. While we believe that there are a number of small entities that therefore would not be required to comply with our proposals, we are unable to quantify that number. We request comment on the number of small entities that would not be required to comply with our proposals.

E. Reporting, Recordkeeping and Other Compliance Requirements

Small entities would either utilize existing personnel or hire an outside professional to provide the proposed disclosure. This would impose incremental costs on small entities in connection with drafting, reviewing, filing, printing and disseminating additional disclosure in annual reports, registration statements, proxy and information statements and quarterly reports. The data underlying the proposed disclosure should be readily available from a company's books and records. Thus, the proposed rules involve relatively low incremental costs for the collection and calculation of data. This belief is based on the fact that management already must calculate the critical accounting estimates and apply initially adopted accounting policies to prepare the required financial statements. In addition, the burden on small entities of disclosing the effects of those estimates and changes in them may be less because it is possible that these firms may have fewer critical accounting estimates that would be covered by the proposals.

The proposed rule was designed to reduce costs for small entities by requiring the proposed disclosure only in the event that a small business issuer has generated revenue in the past two years. Our proposals thus would avoid applying the new requirements for MD&A disclosure relating to the application of critical accounting policies to start-up or developing companies that need not provide MD&A disclosure otherwise. Those companies describe a business plan rather than the traditional MD&A. In addition, small business issuers that provide the critical accounting estimates disclosure would only be required to provide a quantitative discussion of past material changes in estimates for the last two fiscal years. This corresponds to the income statements required to be included in our small business forms.

[163] 17 CFR 229.303.
[164] 17 CFR 228.303.
[165] 17 CFR 249.220f.
[166] 17 CFR 270.0–10(a).
[167] 17 CFR 230.157.
[168] Regulation S–K, 17 CFR 229.10–229.1016.
[169] Regulation S–B, 17 CFR 228.10–228.701.

Other companies would be required to discuss this information for the past three years.

F. Duplicative, Overlapping or Conflicting Federal Rules

We believe that there are no rules that conflict with or completely duplicate the proposed rules. There is a possible partial overlap with financial statement requirements requiring disclosure about material changes in critical accounting estimates and risks and uncertainties that could materially affect the financial statements and with MD&A requirements that may require some discussion of the application of critical accounting policies if that is essential to an understanding of a company's financial condition, changes in financial condition or results of operations. However, those requirements do not include much of the information specifically targeted for inclusion in the proposed rules.

G. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. In connection with the proposals, we considered the following alternatives:

(a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(b) The clarification, consolidation, or simplification of disclosure related to critical accounting estimates for small entities;

(c) The use of performance rather than design standards; and

(d) An exemption for small entities from coverage under the proposals.

We have drafted the proposed disclosure rules to require clear and straightforward disclosure in MD&A. Separate disclosure requirements for small entities would not yield the disclosure that we believe to be necessary to achieve our objectives. In addition, the informational needs of investors in small entities are typically as great as the needs of investors in larger companies. Therefore, it does not seem appropriate to develop separate requirements for small entities involving clarification, consolidation or simplification of the proposed disclosure.

We have used design rather than performance standards in connection with the proposals for three reasons. First, we believe the proposed disclosure would be more useful to investors if there were enumerated informational requirements. The proposed mandated disclosures may be likely to result in a more focused and comprehensive discussion of the company's application of its critical accounting policies. Second, mandated disclosures regarding the application of critical accounting policies may benefit investors in small entities because the enumerated disclosure under the proposed rule would likely be more comparable across all firms and consistent over time. Third, a mandated discussion of a company's application of critical accounting policies is uniquely suited to the MD&A disclosure in light of MD&A's emphasis on the identification of significant uncertainties and events and favorable or unfavorable trends. Therefore, adding a disclosure requirement to the existing MD&A appears to be the most effective method of eliciting the disclosure.

As noted above, we have proposed not to cover small business issuers that have not generated revenue during the last two years. We have made this accommodation in recognition of the fact that a limited modified approach is consistent with the objectives underlying the small business issuer disclosure system's alteration of the MD&A requirements for these companies and reduction of compliance burdens for these small companies. We believe that exempting small entities further from coverage of the proposals would not be appropriate. Investors in smaller companies may want and benefit from the disclosures about the application of critical accounting policies just as much as investors in larger companies. We note that a study commissioned by the Committee of Sponsoring Organizations of the Treadway Commission found that the incidence of financial fraud was greater at small companies.[170] Accordingly, a possible secondary benefit to investors in small entities may be to deter improper accounting practices. For example, the proposed disclosure could make inappropriate earnings management more difficult because it could be easier to detect.

H. Solicitation of Comments

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comments regarding: (i) The number of small entities that may be affected by the proposals; (ii) the existence or nature of the potential impact of the proposals on small entities discussed in the analysis; and (iii) how to quantify the impact of the proposed revisions. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposals are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

IX. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"),[171] a rule is "major" if it has resulted, or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We preliminarily believe that our proposals could constitute a "major rule" under SBREFA. We request comment on whether our proposals would be a "major rule" for purposes of SBREFA. We solicit comment and empirical data on: (a) The potential effect on the U.S. economy on an annual basis; (b) any potential increase in costs or prices for consumers or individual industries; and (c) any potential effect on competition, investment or innovation.

X. Codification Update

The Commission proposes to amend the "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982):

By adding Section 501.12, captioned "The Application of Critical Accounting Policies," to include the text in the adopting release that discusses the final rules, which, if the proposed rules are adopted, would be substantially similar to Section III of this release. The Codification is a separate publication of the Commission. It will not be published in the Code of Federal Regulations.

Statutory Bases and Text of Proposed Amendments

We are proposing amendments to Commission's existing rules under the authority set forth in Sections 7, 10 and 19 of the Securities Act and Sections 12, 13, 14 and 23 of the Exchange Act.

[170] *See* Beasley, Carcello and Hermanson, Fraudulent Financial Reporting: 1987–1997, and Analysis of U.S. Public Companies (Mar. 1999).
[171] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996).

List of Subjects 17 CFR Parts 228, 229 and 249

Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendments

In accordance with the foregoing, the Securities and Exchange Commission proposes to amend Title 17, chapter II of the Code of Federal Regulations as follows:

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

1. The authority citation for Part 228 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–29, 80a–30, 80a–37 and 80b–11.

2. Section 228.303 is amended by adding paragraph (b)(3) and Instructions to paragraph (b)(3) and revising Instruction 2 of Instructions to Item 303 to read as follows:

§ 228.303 (Item 303) Management's Discussion and Analysis or Plan of Operation.

* * * * *

(b) * * *

(3) *The application of critical accounting policies.*

(i) *Annual reports, registration statements and proxy and information statements.* In an annual report filed under the Exchange Act, an annual report to shareholders prepared under § 240.14a–3 or § 240.14c–3 of this chapter, a registration statement filed under the Securities Act or the Exchange Act, or a proxy or information statement filed under the Exchange Act, include a separately-captioned section in "Management's Discussion and Analysis" setting forth the disclosure regarding the small business issuer's application of critical accounting policies required by paragraphs (b)(3)(iii) and (b)(3)(iv) of this section. Except as otherwise stated, the discussion must cover the financial statements for the most recent fiscal year and any subsequent period for which interim period financial statements are required to be included.

(ii) *Definitions.*

(A) *Accounting estimate.* As used in paragraph (b)(3) of this section, the term *accounting estimate* means an approximation made by management of a financial statement element, item or account in the financial statements.

(B) *Critical accounting estimate.* An accounting estimate recognized in the financial statements presented is a *critical accounting estimate* for purposes of this section if:

(*1*) The accounting estimate requires the small business issuer to make assumptions about matters that are highly uncertain at the time the accounting estimate is made; and

(*2*) Different estimates that the small business issuer reasonably could have used in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, would have a material impact on the presentation of the small business issuer's financial condition, changes in financial condition or results of operations.

(C) *Near-term.* As used in paragraph (b)(3) of this section, the term *near-term* means a period of time going forward up to one year from the date of the financial statements.

(D) *Reasonably possible.* As used in paragraph (b)(3) of this section, the term *reasonably possible* means the chance of a future transaction or event occurring is more than remote but less than likely.

(iii) *Disclosure regarding critical accounting estimates.* For each critical accounting estimate:

(A) Identify and describe the accounting estimate. Describe the methodology underlying the accounting estimate. Describe the assumptions underlying the accounting estimate that relate to matters highly uncertain at the time the estimate was made. Describe any other underlying assumptions that are material. Discuss any known trends, demands, commitments, events or uncertainties that are reasonably likely to occur and materially affect the methodology or assumptions described. Disclose, if applicable, why different estimates that would have had a material impact on the small business issuer's financial presentation could have been used in the current period. Describe, if applicable, why the accounting estimate is reasonably likely to change from period to period with a material impact on the financial presentation;

(B) Explain the significance of the accounting estimate to the small business issuer's financial condition, changes in financial condition and results of operations and, where material, identify the line items in the financial statements affected by the accounting estimate;

(C)(*1*) Present either:

(*i*) A quantitative discussion of changes in overall financial performance, and to the extent material the line items in the financial statements, assuming that reasonably possible near-term changes occur, both negative and positive (where applicable), in the most material assumption or assumptions underlying the accounting estimate; or

(*ii*) A quantitative discussion of changes in overall financial performance, and to the extent material the line items in the financial statements, assuming that the accounting estimate was changed to the upper end and the lower end of the range of reasonable possibilities determined by the small business issuer in the course of formulating its recorded estimate; and

(*2*) Discuss the impact, if material, on the small business issuer's liquidity or capital resources if any of the changes being assumed for purposes of satisfying paragraph (b)(3)(iii)(C)(*1*)(*i*) or paragraph (b)(3)(iii)(C)(*1*)(*ii*) of this section were in effect;

(D) Present a quantitative and qualitative discussion of any material changes made to the accounting estimate in the past two years (or in the past year for any filing made before [one year after the effective date of the final rule]), describe the reasons for the changes and discuss the effect on line items in the financial statements and overall financial performance;

(E) Disclose whether or not the small business issuer's senior management has discussed the development and selection of the critical accounting estimates, and the MD&A disclosure regarding them, with the audit committee of the small business issuer's board of directors (or the equivalent oversight group). If the senior management has not had these discussions, disclose the reasons why not; and

(F) If the small business issuer operates in more than one segment, identify the segments that the accounting estimate affects. To the extent that the disclosure under the requirements of paragraph (b)(3) of this section only on a company-wide basis would result in an omission that renders the disclosure materially misleading, include a separate discussion on a segment basis for the identified segments of the small business issuer's business about which disclosure is otherwise required.

(iv) *Disclosure regarding initial adoption of an accounting policy.* If an accounting policy initially adopted by the small business issuer (other than those solely resulting from the adoption of new accounting literature issued by a recognized accounting standard setter) had a material impact on its financial condition, changes in financial condition or results of operations, disclose:

(A) The events or transactions that gave rise to the initial adoption;

(B) The accounting principle that has been adopted and the method of applying that principle;

(C) The impact, qualitatively, of the initial adoption on the financial condition, changes in financial condition and results of operations of the small business issuer;

(D) If the small business issuer is permitted a choice between acceptable accounting principles, an explanation it made such a choice, what the alternatives were, and why it made the choice that it did (including, where material, qualitative disclosure of the impact on financial condition, changes in financial condition and results of operations that alternatives would have had); and

(E) If no accounting literature exists that governs the accounting for the events or transactions giving rise to the initial adoption, an explanation of the small business issuer's decision regarding which accounting principle to use and which method of applying that principle to use.

(v) *Quarterly reports.* In a quarterly report on Form 10–QSB (§ 249.308b of this chapter), in a separately-captioned section of "Management's Discussion and Analysis," disclose:

(A) For any critical accounting estimate that was not previously discussed as a critical accounting estimate in the MD&A section of the small business issuer's last Form 10–KSB (§ 249.310b of this chapter) or any of its subsequent Forms 10–QSB, the information required by paragraph (b)(3)(iii) of this section; and

(B) For any critical accounting estimate previously discussed as a critical accounting estimate in the MD&A section of the small business issuer's last Form 10–KSB or any of its subsequent Forms 10–QSB, any material change to that prior disclosure (other than disclosure under paragraph (b)(3)(iii)(D) of this section) necessary to make that disclosure not materially misleading as of the time the small business issuer files its Form 10–QSB for the current fiscal quarter.

Instructions to paragraph (b)(3):

1. The changes being assumed in connection with paragraph (b)(3)(iii)(C)(*1*) of this section must be meaningful and therefore may not be so minute as to avoid, or materially understate, any demonstration of sensitivity.

2. For purposes of paragraph (b)(3)(v) of this section, the small business issuer preparing the disclosure required by this paragraph may presume that investors have read or have access to the discussion of critical accounting estimates in its most recently filed Form 10–KSB and any of its subsequent Forms 10–QSB.

3. All information provided under paragraph (b)(3) of this section must be presented in clear, concise format and language that is understandable to the average investor. The information provided in this section must not be presented, for example: only as a general discussion of multiple critical accounting estimates in the aggregate or of multiple new accounting policies in the aggregate; as boilerplate disclosures that do not specifically address the small business issuer's particular circumstances and operations; as lists of accounting estimates relating to each material line item in the small business issuer's financial statements; or as disclosures that consist principally of disclaimers of legal liability for the small business issuer's preparation of critical accounting estimates or initial application of an accounting policy.

4. Refer to the Commission's release number 33–_____ dated_____, 200__ (adopting paragraph (b)(3) of this section) for guidance in preparing the disclosure relating to critical accounting estimates in this MD&A.

Instructions to Item 303

* * * * *

2. Your response to this Item requires you to make certain forward-looking statements. Examples include, but are not limited to: a small business issuer's disclosure of the reasonably possible, near-term changes in assumptions underlying accounting estimates; a discussion of the assumptions underlying an estimate that involve, for example, projections of future sales; and a discussion of the expected effect if a known uncertainty were to come to fruition and result in a change in management's assumptions. If the terms and conditions of Section 27A of the Securities Act (15 U.S.C. 77z–2), Section 21E of the Exchange Act (15 U.S.C. 78u–5), § 230.175 of this chapter or § 249.3b–6 of this chapter are satisfied, forward-looking statements would be entitled to the safe harbor protection. Small business issuers are encouraged to consider the terms, conditions and scope of those safe harbors when drafting disclosure, particularly when preparing disclosure under the provisions of paragraph (b)(3) of this section.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

3. The general authority citation for Part 229 is revised to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78u–5, 78w, 78*ll*(d), 78mm, 79e, 79j, 79n, 79t, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39 and 80b–11, unless otherwise noted.

* * * * *

4. Section 229.303 is amended by:

a. Removing the authority citation following § 229.303;

b. Removing Instruction 7 of "Instructions to Paragraph 303(a)" and Instruction 6 of "Instructions to Paragraph (b) of Item 303;"

c. Redesignating Instructions 8 through 12 of "Instructions to Paragraph 303(a)" as Instructions 7 through 11; and

d. Adding paragraph (c).

The addition reads as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

* * * * *

(c) *The application of critical accounting policies.*

(1) *Annual reports, registration statements and proxy and information statements.* In an annual report filed under the Exchange Act, an annual report to shareholders prepared under § 240.14a–3 or § 240.14c–3 of this chapter, a registration statement filed under the Securities Act or the Exchange Act, or a proxy or information statement filed under the Exchange Act, include a separately-captioned section in "Management's Discussion and Analysis of Financial Condition and Results of Operations" setting forth the disclosure regarding the registrant's application of critical accounting policies required by paragraphs (c)(3) and (c)(4) of this section. Except as otherwise stated, the discussion must cover the financial statements for the most recent fiscal year and any subsequent period for which interim period financial statements are required to be included.

(2) *Definitions.*

(i) *Accounting estimate.* As used in paragraph (c) of this section, the term *accounting estimate* means an approximation made by management of a financial statement element, item or account in the financial statements.

(ii) *Critical accounting estimate.* An accounting estimate recognized in the financial statements presented is a *critical accounting estimate* for purposes of this section if:

(A) The accounting estimate requires the registrant to make assumptions about matters that are highly uncertain at the time the accounting estimate is made; and

(B) Different estimates that the registrant reasonably could have used in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, would have a material impact on the presentation of the registrant's financial condition, changes in financial condition or results of operations.

(iii) *Near-term.* As used in paragraph (c) of this section, the term *near-term* means a period of time going forward up to one year from the date of the financial statements.

(iv) *Reasonably possible.* As used in paragraph (c) of this section, the term *reasonably possible* means the chance of a future transaction or event occurring is more than remote but less than likely.

(3) *Disclosure regarding critical accounting estimates.* For each critical accounting estimate:

(i) Identify and describe the accounting estimate. Describe the methodology underlying the accounting estimate. Describe the assumptions underlying the accounting estimate that relate to matters highly uncertain at the time the estimate was made. Describe any other underlying assumptions that are material. Discuss any known trends, demands, commitments, events or uncertainties that are reasonably likely to occur and materially affect the methodology or assumptions described. Disclose, if applicable, why different estimates that would have had a material impact on the registrant's financial presentation could have been used in the current period. Describe, if applicable, why the accounting estimate is reasonably likely to change from period to period with a material impact on the financial presentation;

(ii) Explain the significance of the accounting estimate to the registrant's financial condition, changes in financial condition and results of operations and, where material, identify the line items in the financial statements affected by the accounting estimate;

(iii)(A) Present either:

(*1*) A quantitative discussion of changes in overall financial performance, and to the extent material the line items in the financial statements, assuming that reasonably possible near-term changes occur, both negative and positive (where applicable), in the most material assumption or assumptions underlying the accounting estimate; or

(*2*) A quantitative discussion of changes in overall financial performance, and to the extent material the line items in the financial statements, assuming that the accounting estimate was changed to the upper end and the lower end of the range of reasonable possibilities determined by the registrant in the course of formulating its recorded estimate; and

(B) Discuss the impact, if material, on the registrant's liquidity or capital resources if any of the changes being assumed for purposes of satisfying paragraph (c)(3)(iii)(A)(*1*) or paragraph (c)(3)(iii)(A)(*2*) of this section were in effect;

(iv) Present a quantitative and qualitative discussion of any material changes made to the accounting estimate in the past three years (or in the past two years for any filing made before [one year after the effective date of the final rule]), describe the reasons for the changes and discuss the effect on line items in the financial statements and overall financial performance;

(v) Disclose whether or not the registrant's senior management has discussed the development and selection of the critical accounting estimates, and the MD&A disclosure regarding them, with the audit committee of the registrant's board of directors (or the equivalent oversight group). If the senior management has not had these discussions, disclose the reasons why not; and

(vi) If the registrant operates in more than one segment, identify the disclosed segments that the accounting estimate affects. To the extent that the disclosure under the requirements of paragraph (c) of this section only on a company-wide basis would result in an omission that renders the disclosure materially misleading, include a separate discussion on a segment basis for the identified segments of the registrant's business about which disclosure is otherwise required.

(4) *Disclosure regarding initial adoption of an accounting policy.* If an accounting policy initially adopted by the registrant (other than those solely resulting from the adoption of new accounting literature issued by a recognized accounting standard setter) had a material impact on its financial condition, changes in financial condition or results of operations, disclose:

(i) The events or transactions that gave rise to the initial adoption;

(ii) The accounting principle that has been adopted and the method of applying that principle;

(iii) The impact, qualitatively, on the financial condition, changes in financial condition and results of operations of the registrant;

(iv) If the registrant is permitted a choice between acceptable accounting principles, an explanation it made such a choice, what the alternatives were, and why it made the choice that it did (including, where material, qualitative disclosure of the impact on financial condition, changes in financial condition and results of operations that alternatives would have had); and

(v) If no accounting literature exists that governs the accounting for the events or transactions giving rise to the initial adoption, an explanation of the registrant's decision regarding which accounting principle to use and which method of applying that principle to use.

(5) *Quarterly reports.* In a quarterly report on Form 10–Q (§ 249.308a of this chapter), in a separately-captioned section of "Management's Discussion and Analysis of Financial Condition and Results of Operations," disclose:

(i) For any critical accounting estimate that was not previously discussed as a critical accounting estimate in the MD&A section of the registrant's last Form 10–K (§ 249.310 of this chapter) or any of its subsequent Forms 10–Q, the information required by paragraph (c)(3) of this section; and

(ii) For any critical accounting estimate previously discussed as a critical accounting estimate in the MD&A section of the registrant's last Form 10–K or any of its subsequent Forms 10–Q, any material change to that prior disclosure (other than disclosure under paragraph (c)(3)(iv) of this section) necessary to make that disclosure not materially misleading as of the time the registrant files its Form 10–Q for the current fiscal quarter.

Instructions to paragraph (c) of § 229.303:

1. The changes being assumed in connection with paragraph (c)(3)(iii)(A) of this section must be meaningful and therefore may not be so minute as to avoid, or materially understate, any demonstration of sensitivity.

2. Your response to this section requires you to make certain forward-looking statements. Examples include, but are not limited to: a registrant's disclosure of the reasonably possible, near-term changes in its assumptions underlying accounting estimates; a discussion of the assumptions underlying an estimate that involve, for example, projections of future sales; and a discussion of the expected effect if a known uncertainty were to come to fruition and result in a change in management's assumptions. If the terms and conditions of Section 27A of the Securities Act (15 U.S.C. 77z–2), Section 21E of the Exchange Act (15 U.S.C. 78u–5), § 230.175 of this chapter or § 249.3b–6 of this chapter are satisfied, forward-looking statements would be entitled to the safe harbor protection. Registrants are encouraged to consider the terms, conditions and scope of those safe harbors when drafting disclosure, particularly when preparing disclosure under the provisions of paragraph (c) of this section.

3. For purposes of paragraph (c)(5) of this section, the registrant preparing the disclosure required by this paragraph may presume that investors have read or have access to the discussion of critical accounting estimates in its most recently filed Form 10–K and any of its subsequent Forms 10–Q.

4. All information provided under paragraph (c) of this section must be presented in clear, concise format and language that is understandable to the average investor. The information provided in this section must not be presented, for example: only as a general discussion of multiple critical accounting estimates in the aggregate or of multiple new accounting policies in the aggregate; as boilerplate disclosures that do not specifically address the registrant's particular circumstances and operations; as lists of accounting estimates relating to each material line item in the registrant's financial statements; or as disclosures that consist principally of disclaimers of legal liability for the preparation of the registrant's critical accounting estimates or initial application of an accounting policy.

5. Refer to the Commission's release number 33–_____ dated_____, 200__ (adopting paragraph (c) of this section) for guidance in preparing the disclosure relating to critical accounting estimates in this MD&A.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

5. The authority citation for Part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a *et seq.*, unless otherwise noted.

* * * * *

6. Form 20–F (referenced in § 249.220f), Item 5 is amended by:

a. Adding paragraph E.,

b. Adding a sentence to the end of Instruction 2 of Instructions to Item 5,

c. Removing Instruction 3 of Instructions to Item 5, and

d. Adding Instructions to Item 5.E. to read as follows:

Note: Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Item 5. Operating and Financial Review and Prospects

* * * * *

E. The application of critical accounting policies.

1. Disclosure requirement in annual reports and registration statements. In an annual report filed under the Exchange Act or a registration statement filed under the Securities Act or the Exchange Act, include a separately-captioned section in "Operating and Financial Review and Prospects" setting forth the disclosure regarding the company's application of critical accounting policies required by Item 5.E.3. and Item 5.E.4. of this Form. Except as otherwise stated, the discussion must cover the financial statements for the most recent fiscal year and any subsequent period for which interim period financial statements are required to be included.

2. Definitions.

(a) *Accounting estimate.* As used in Item 5.E., the term *accounting estimate* means an approximation made by management of a financial statement element, item or account in the financial statements.

(b) *Critical accounting estimate.* An accounting estimate recognized in the financial statements presented is a *critical accounting estimate* for purposes of this Item if:

(i) the accounting estimate requires the company to make assumptions about matters that are highly uncertain at the time the accounting estimate is made; and

(ii) different estimates that the company reasonably could have used in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, would have a material impact on the presentation of the company's financial condition, changes in financial condition or results of operations.

(c) *Near-term.* As used in Item 5.E.3., the term *near-term* means a period of time going forward up to one year from the date of the financial statements.

(d) *Reasonably possible.* As used in Item 5.E.3., the term *reasonably possible* means the chance of a future transaction or event occurring is more than remote but less than likely.

3. Disclosure regarding critical accounting estimates. For each critical accounting estimate:

(a) Identify and describe the accounting estimate. Describe the methodology underlying the accounting estimate. Describe the assumptions underlying the accounting estimate that relate to matters highly uncertain at the time the estimate was made. Describe any other underlying assumptions that are material. Discuss any known trends, demands, commitments, events or uncertainties that are reasonably likely to occur and materially affect the methodology or assumptions described. Disclose, if applicable, why different estimates that would have had a material impact on the company's financial presentation could have been used in the current period. Describe, if applicable, why the accounting estimate is reasonably likely to change from period to period with a material impact on the financial presentation.

(b) Explain the significance of the accounting estimate to the company's financial condition, changes in financial condition and results of operations and, where material, identify the line items in the financial statements affected by the accounting estimate.

(c)(1) Present either:

(i) A quantitative discussion of changes in overall financial performance, and to the extent material the line items in the financial statements, assuming that reasonably possible near-term changes occur, both negative and positive (where applicable), in the most material assumption or assumptions underlying the accounting estimate; or

(ii) A quantitative discussion of changes in overall financial performance, and to the extent material the line items in the financial statements, assuming that the accounting estimate was changed to the upper end and the lower end of the range of reasonable possibilities determined by the company in the course of formulating its recorded estimate; and

(2) Discuss the impact, if material, on the company's liquidity or capital resources if any of the changes being assumed for purposes of satisfying paragraph 5.E.3.(c)(1)(i) or paragraph 5.E.3.(c)(1)(ii) of this Item were in effect.

(d) Present a quantitative and qualitative discussion of any material changes made to the accounting estimate in the past three years (or in the past two years for any filing made before [one year after the effective date of the final rule]), describe the reasons for the changes and discuss the effect on

line items in the financial statements and overall financial performance.

(e) Disclose whether or not your senior management has discussed the development and selection of the critical accounting estimates, and the MD&A disclosure regarding them, with the audit committee of your board of directors (or the equivalent oversight group). If your senior management has not had these discussions, disclose the reasons why not.

(f) If the company operates in more than one segment, identify the disclosed segments that the accounting estimate affects. To the extent that the disclosure under the requirements of this Item 5.E. made only on a company-wide basis would result in an omission that renders the disclosure materially misleading, include a separate discussion on a segment basis for the identified segments of your business about which disclosure is otherwise required.

4. Disclosure regarding initial adoption of an accounting policy. If an accounting policy initially adopted by the company (other than those solely resulting from the adoption of new accounting literature issued by a recognized accounting standard setter) had a material impact on its financial condition, changes in financial condition or results of operations, disclose:

(a) The events or transactions that gave rise to the initial adoption;

(b) The accounting principle that has been adopted and the method of applying that principle;

(c) The impact, qualitatively, on the financial condition, changes in financial condition and results of operations of the company;

(d) If the company is permitted a choice between acceptable accounting principles, an explanation it made such a choice, what the alternatives were, and why it made the choice that it did (including, where material, qualitative disclosure of the impact on financial condition, changes in financial condition and results of operations that alternatives would have had); and

(e) If no accounting literature exists that governs the accounting for the events or transactions giving rise to the initial adoption, an explanation of the company's decision regarding which accounting principle to use and which method of applying that principle to use.

Instructions to Item 5: * * *

2. * * * With respect to the disclosure under Item 5.E., although the discussion would focus on the primary financial statements, you also must consider any reconciliation to U.S. GAAP and include disclosure required under Item 5.E. for any critical accounting estimate that is related to the application of U.S. GAAP and for any initial adoption of an accounting policy that is related to the application of U.S. GAAP.

Instruction to Item 5.A:

* * * * *

Instructions to Item 5.E:

1. The changes being assumed in connection with Item 5.E.3.(c)(1) must be meaningful and therefore may not be so minute as to avoid, or materially understate, any demonstration of sensitivity.

2. Item 5 requires you to make certain forward-looking statements. Examples of forward-looking statements include, but are not limited to: a company's disclosure of the reasonably possible, near-term changes in its assumptions underlying accounting estimates; a discussion of the assumptions underlying an estimate that involve, for example, projections of future sales; and a discussion of the expected effect if a known uncertainty were to come to fruition and result in a change in management's assumptions. If the terms and conditions of Section 27A of the Securities Act (15 U.S.C. 77z–2), Section 21E of the Exchange Act (15 U.S.C. 78u–5), § 230.175 of this chapter or § 249.3b–6 of this chapter are satisfied, forward-looking statements would be entitled to the safe harbor protection. Companies are encouraged to consider the terms, conditions and scope of those safe harbors when drafting disclosure, particularly when preparing disclosure under the provisions of Item 5.E.

3. All information provided under Item 5.E. must be presented in clear, concise format and language that is understandable to the average investor. The information provided in Item 5.E. must not be presented, for example: only as a general discussion of multiple critical accounting estimates in the aggregate or of multiple new accounting policies in the aggregate; as boilerplate disclosures that do not specifically address the company's particular circumstances and operations; as lists of accounting estimates relating to each material line item in the company's financial statements; or as disclosures that consist principally of disclaimers of legal liability for the company's preparation of critical accounting estimates or initial application of an accounting policy.

4. Refer to the Commission's release number 33–_____ dated_____, 200__ (adopting Item 5.E.) for guidance in preparing the disclosure relating to critical accounting estimates in this discussion and analysis by management of the company's financial condition, changes in financial condition and results of operations.

* * * * *

Dated: May 10, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12259 Filed 5–17–02; 8:45 am]

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Federal Register

Monday,
May 20, 2002

Part III

Federal Election Commission

11 CFR Parts 100, 102 et al.
Prohibited and Excessive Contributions; Non-Federal Funds or Soft Money; Proposed Rule

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, 104, 106, 108, 110, 114, 300, and 9034

[Notice 2002–7]

Prohibited and Excessive Contributions; Non-Federal Funds or Soft Money

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission seeks comments on proposed changes to its rules relating to funds raised, received, and spent by party committees under the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"). The proposed rules are based on the Bipartisan Campaign Reform Act of 2002 ("BCRA"), which adds to the Act new restrictions and prohibitions on the receipt, solicitation, and use of certain types of non-Federal funds, which are commonly referred to as "soft money." BCRA and the proposed rules prohibit national parties and Federal candidates and officeholders from raising non-Federal funds. They also generally require State, district, and local party committees to fund "Federal election activity," including voter registration and get-out-the-vote ("GOTV") drives, with money raised pursuant to the limitations, prohibitions, and reporting requirements of the Act, or with a combination of funds subject to various requirements of the Act and BCRA. They also address fundraising by Federal and non-Federal candidates and officeholders on behalf of political party committees, other candidates, and non-profit organizations.

BCRA's general effective date is November 6, 2002, the day following the November 2002 general election, although national party committees that received soft money prior to that date may use these funds for certain purposes before January 1, 2003. The changes to the Act's contribution limits take effect on January 1, 2003.

Further information is contained in the Supplementary Information that follows. Please note that the Commission has not made a final decision on any of these proposals.

DATES: Comments must be received on or before May 29, 2002. The Commission will hold a hearing on these proposed rules on June 4 and 5, 2002, at 9:30 a.m. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Rosemary C. Smith, Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to *BCRAsoftmon@fec.gov* and must include the full name, electronic mail address, and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address, and postal service address of the commenter will not be considered. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The hearing will be held in the Commission's ninth floor meeting room, 999 E St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Assistant General Counsel, or Attorneys Ruth Heilizer (definitions), Jonathan M. Levin (office buildings), Dawn Odrowski (national parties and tax-exempt organizations), Rita A. Reimer (Federal and State candidates), John C. Vergelli (Levin funds), or Anne A. Weissenborn (parties), 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Bipartisan Campaign Reform Act of 2002 ("BCRA"), Public Law 107–155, 116 Stat. 81 (March 27, 2002), contains extensive and detailed amendments to the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"), 2 U.S.C. 431 *et seq.* This is the first of a series of Notices of Proposed Rulemakings ("NPRM") the Commission will publish over the next several months in order to meet the rulemaking deadlines set out in BCRA.

This NPRM addresses BCRA's new limitations on party, candidate, and officeholder solicitation and use of non-Federal funds. Section 402 of BCRA establishes a 90-day deadline for the Commission to promulgate these rules. Since BCRA was signed into law on March 27, 2002, the 90-day deadline is June 25, 2002.

Future NPRMs will address: (1) Electioneering communications and issue ads; (2) coordinated and independent expenditures; (3) the so-called "millionaire's amendment," which increases contribution limits for congressional candidates facing self-financed candidates on a sliding scale, based on the amount of personal funds the opponent contributes to his or her campaign; (4) the increase in contribution limits; and (5) other new and amended provisions, including contribution prohibitions and reporting. This last NPRM will address contributions by minors, foreign nationals, and U.S. nationals; inaugural committees; fraudulent solicitations; disclaimers; personal use of campaign funds; and civil penalties. BCRA's deadline for promulgation of these remaining rules is 270 days after the date of enactment, or December 22, 2002. The Commission also plans to address BCRA's impact on national nominating conventions in a separate rulemaking.

Because of the extremely tight deadline for promulgating these rules, the Commission must adhere to a shorter-than-usual timeline for receiving and considering public input on the proposed rules that follow. This schedule will be strictly adhered to. Comments on this NPRM must be received no later than May 29, 2002. Commenters who wish to testify at the June 4 and 5, 2002 public hearing must so indicate in their comments, also by May 29, 2002.

Introduction

The Act limits the amount that individuals can contribute to candidates, political committees, and political parties for use in Federal elections. 2 U.S.C. 441a. The Act also prohibits corporations and labor organizations from contributing their general treasury funds for these purposes. 2 U.S.C. 441b. Contributions from national banks, 2 U.S.C. 441b(a); government contractors, 2 U.S.C. 441c; foreign nationals, 2 U.S.C. 441e; and minors, new 2 U.S.C. 441k, as enacted by BCRA; as well as contributions made in the name of another, 2 U.S.C. 441f; are also prohibited. These strictures regulate what is often referred to as "hard money," or Federal funds.

Some donations that do not meet the FECA hard money requirements, for example, corporate and labor organization general treasury contributions, may not be used for Federal elections, and are referred to as non-Federal funds.[1] Non-Federal funds may not be used for the purpose of influencing any election for Federal office. Funds raised that are used by State or local parties or State or local candidates wholly on non-Federal elections may be governed by State or local law. Prior to BCRA's revisions, the FECA permitted national party committees, Federal candidates, and officeholders to raise money not subject to some of the Act's source limitations and prohibitions. Beginning November 6, 2002, under BCRA, national party committees "may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act." 2 U.S.C. 441i(a).

BCRA also provides that State, district, and local political party committees must pay for "Federal election activities," which is a new term introduced and defined by BCRA, 2 U.S.C. 431(20), 441i(b)(1), with entirely Federal funds or, in some cases, a mixture of Federal funds and a new type of non-Federal funds, which the proposed rules call "Levin funds." These two provisions are related in that the latter is intended to prevent evasion of the former. A national political party committee may not evade the restrictions in BCRA by merely transferring its spending for Federal election activity to State, district, or local party committees. The State, district, and local party committees must spend Federal funds on these activities. *See* 148 Cong. Rec. H408–409 (daily ed. Feb. 13, 2002) (statement of Rep. Shays).

The "Levin Amendment" (named after Sen. Levin of Michigan who offered it) provides an exception or refinement to the requirement that State, district, and local party committees must spend only hard money for Federal election activities. The Levin Amendment provides that State, district, and local political party committees may use funds that do not meet all of the Act's limitations, prohibitions, and reporting requirements for a portion of certain Federal election activities if certain conditions are satisfied. *See* 2 U.S.C. 441i(b)(2)(A). The proposed regulations refer to these funds, which are a subset of non-Federal funds, as "Levin funds," a term which would be defined in the proposed regulations. BCRA does not permit national party committees, candidate committees, separate segregated funds, or nonconnected committees to raise or spend Levin funds.

A State, district, or local political party committee may spend under the Levin Amendment if the expenditure or disbursement is allocated between Federal funds and Levin funds. BCRA contemplates that the Commission will adopt regulations prescribing the allocation requirements. 2 U.S.C. 441i(b)(2)(A). *See* below. Under BCRA, Federal candidates and officeholders may not solicit or receive non-Federal funds in connection with a Federal election, and may raise only limited amounts in connection with non-Federal elections. 2 U.S.C. 441i(e)(1) and (2). These far-reaching amendments affect many other aspects of the Act and the Commission's rules. For example, the prohibition on Federal candidate and officeholder solicitation of non-Federal funds, and national party committees' solicitation or receipt of non-Federal funds, applies to convention committees, which are established by national committees under 11 CFR 9008.3(a). These statutory changes could apply to other entities as well. *See* 2 U.S.C. 441i(a)(2). As noted above, BCRA's impact on national nominating conventions will be addressed in a separate rulemaking. It also will be necessary to rewrite the Commission's allocation rules at 11 CFR part 106. *See* below.

The proposed rules are described and explained below. In several sections the Commission has identified specific questions, issues, or alternatives for which it seeks comments. In addition, the Commission welcomes comments that address issues not raised in this NPRM.

Scope, Effective Date, and Organization

The Commission proposes to prescribe new rules for non-Federal funds of political party committees. The bulk of these rules would be in 11 CFR part 300. Proposed 11 CFR 300.1 addresses the scope of new part 300, sets forth the effective date of the provisions contained in the new part, and outlines the organization of the new part. Specifically, proposed paragraph (a) of section 300.1 states that proposed new part 300 would implement changes to the FECA, enacted by Title I of BCRA. It also notes that nothing in part 300 is intended to alter the definitions, restrictions, liabilities, and obligations imposed by sections 431–455 of Title 2 of the United States Code or in the regulations prescribed thereunder in 11 CFR parts 100–116.

The effective date of BCRA, except where otherwise stated, is November 6, 2002. *See* 2 U.S.C. 431 note, section 402(a). Paragraph (b) of proposed section 300.1 states that part 300 would take effect on November 6, 2002, except for the following: (1) Where otherwise stated in part 300; (2) subpart B of part 300 relating to State, district, and local party committees will not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to November 6, 2002; (3) the increase in individual contribution limits to State party committees as set forth in proposed 11 CFR 110.1(c)(5) will apply to contributions made on or after January 1, 2003, and (4) national parties must spend any remaining non-Federal funds received before November 6 and in their possession on that date before January 1, 2003, subject to the transition rules set forth in proposed 11 CFR 300.12.

Finally, paragraph (c) of section 300.1 indicates that part 300 would be organized into five subparts, with each subpart addressing a specific category of persons affected by BCRA. Specifically, subpart A of part 300 prescribes rules pertaining to national party committees; subpart B prescribes rules pertaining to State, district, and local party committees and organizations; subpart C addresses rules affecting certain tax-exempt organizations; subpart D prescribes rules pertaining to Federal candidates and Federal officeholders; and subpart E prescribes rules pertaining to State and local candidates. BCRA also requires changes in these parts of Title 11 of the *Code of Federal Regulations*, which are also addressed in this rulemaking.

Definitions

The proposed rules would amend an existing definition and add several new ones. Some of the new definitions would be added to current 11 CFR part 100 because they would have general applicability in Title 11 of the *Code of Federal Regulations*. The remaining new definitions would be added to proposed new 11 CFR part 300. The definitions are explained below.

1. Proposed 11 CFR 100.24 Definition of "Federal Election Activity"

BCRA amends 2 U.S.C. 431 by adding a new term, "Federal election activity," which consists of certain activities that State and local committees of political parties must pay for with either Federal funds or a combination of Federal funds and Levin funds. As stated above, Levin funds are funds which are exempt from the restrictions and prohibitions of the Act, but which are limited, under BCRA, to $10,000 per donor and which must comply with State law.

The proposed definition of Federal election activity, which would be incorporated into proposed new 11 CFR

[1] Because the term "soft money" is used by different people to refer to a wide variety of funds under different circumstances, the Commission has decided to use the term "non-Federal funds" in the rules rather than the term "soft money." BCRA itself does not use the term except in the heading of Title I of BCRA and the headings within Title IV. Some donations that do not meet the Act's hard money requirements, for example, those from foreign nationals, national banks, and Federal corporations, may not be used at all. Nonetheless, the Commission seeks comment on whether use of the term "soft money" would in some instances be a better approach.

100.24, tracks BCRA by including in Federal election activity the following activities when they occur in close proximity to, or in connection with, a Federal election: Voter registration; voter identification; GOTV drives; and public communications that refer to clearly identified Federal candidates, even if candidates for State and local offices are also mentioned. ("Generic campaign activities" are discussed below.)

With respect to "voter registration activity," which is addressed in proposed 11 CFR 100.24(a)(1), "special elections" are excluded, pursuant to BCRA. However, with regard to proposed 11 CFR 100.24(a)(2), which addresses other activities conducted in connection with an election, such as voter identification and GOTV activities, BCRA does not exclude "special elections." Therefore, under proposed 11 CFR 100.24(a)(2), voter identification and GOTV activities would constitute Federal election activity if conducted in connection with special elections.

Proposed 11 CFR 100.24(a)(2)(i) would set forth examples of "voter identification," such as activities designed to determine registered voters, likely voters, or voters indicating a preference for a candidate or political party. The Commission seeks comments as to whether those are appropriate examples of voter identification, or whether they are too broad or too narrow. Do efforts to identify potential voters for State or local candidates, without any mention of a Federal candidate, constitute Federal election activity? Should there be a *de minimis* level of voter identification activities related to Federal elections that would nonetheless not render certain activities "Federal election activities" under BCRA? For example, would a State committee's purchase of a list of voters from a vendor for the purpose of State fundraising constitute "Federal election activity"? Should "voter identification" be read in conjunction with "GOTV" to reach only those activities intended to identify voters for GOTV purposes? Should there be a defined time period that distinguishes "voter identification" from GOTV activities? For example, is an activity designed to identify supporters of a gubernatorial candidate "voter identification" if conducted several weeks or months before an election, but "GOTV" if conducted within a week of the election? What other examples of "voter identification" should be included in the regulations?

The Commission also notes that some examples of "voter identification," such as activities designed to determine registered voters or likely voters, may sometimes be conducted on a nonpartisan basis. Nonpartisan activities intended to encourage individuals to vote or to register to vote appear to come within the definition of "Federal election activity" under BCRA. Nevertheless, should non-partisan GOTV drives be excluded from the definition of "Federal election activity" in 11 CFR 100.24? *See* 2 U.S.C. 431(9)(B)(ix). Is it appropriate to treat certain party or candidate-initiated or 501(c) activities as nonpartisan voter drives? If so, under what conditions?

Proposed 11 CFR 100.24(a)(2)(iii) contains the following examples of GOTV activities: Transporting voters to the polls; contacting voters on election day or shortly before to encourage voting, but without referring to any clearly identified candidate for Federal office; and distributing printed slate cards, sample ballots, palm cards, or other printed listing(s) of three or more candidates for any public office. The Commission seeks comments as to whether there should be a *de minimis* level of GOTV activities related to Federal elections that would nonetheless not render these activities "Federal election activities" under BCRA.

In addition, the Commission seeks comments concerning additional examples of GOTV activity for possible inclusion in the final version of this proposed rule. The Commission also seeks comments on whether printed slate cards, sample ballots, and palm cards should properly be considered GOTV activities or "public communications."

The Commission notes that, although slate cards, sample ballots, and printed listings of three or more candidates are exempted from the Act's definitions of "contribution" and "expenditure," (*see* 2 U.S.C. 431(8)(b)(v) and (9)(b)(iv)), they could be viewed as falling within the term "Federal election activities" under BCRA. Should they?

The Commission also notes that voter identification, GOTV, and generic campaign activity are only "Federal election activities" under BCRA when they are conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State of local office also appears on the ballot.) The Commission seeks comments on how this requirement should be construed and implemented—specifically, during what period(s) of time should a Federal candidate be deemed to be on the ballot? Congress clearly intended to establish certain periods of time in which a Federal candidate is not deemed to be on the ballot. How should the Commission proceed in effectuating Congress' intent?

The Commission notes that there are a variety of ways in which Federal candidates may qualify to have their names placed on the ballots of their States and that these processes are governed by State law. In addition, the method by which a candidate for Federal office obtains a position on the ballot is likely to differ for primaries and general elections. In some cases, one State political party may choose its candidate for Federal office before other State political parties choose their candidates. Should the Commission construe the statutory language "on the ballot" to encompass the period of time beginning on the earliest date that any Federal candidate could qualify for a position on the ballot according to the time periods specified in the applicable State law or should the time period begin on the day the filing period for Federal offices closes under State law? In the alternative, does this time period begin on January 1 of any Federal election year, that is, each even-numbered year? Or should the time period begin on the date that any individual has become a Federal candidate under the Act? *See* 2 U.S.C. 431(2) and 11 CFR 100.3(a)(1) through (4) regarding the definition of "candidate" for FECA purposes. In some States, most non-Federal elections are held in odd-numbered years. Should the Commission only exempt from "Federal election activity" that voter identification, GOTV, and generic campaign activity that occurs in such States in odd-numbered years?

Proposed 11 CFR 100.24(a)(3) follows new 2 U.S.C. 431(20) by providing that a public communication that refers to a clearly identified candidate for Federal office would constitute "Federal election activity" that must be paid for with Federal funds if the communication promotes, supports, attacks, or opposes any candidate for that Federal office. This is true even if a candidate for State or local office is also mentioned or identified. However, public communications that do not promote, support, attack, or oppose any Federal candidate, as well as certain contributions to State or local candidates, the costs of State, district, or local political conventions or similar meetings and conferences, and grassroots materials that refer only to non-Federal candidates would be specifically excluded from the definition of "Federal election activity."

"Public communication" is defined in proposed 11 CFR 100.26, discussed below. Thus, the definition of "Federal election activity" in proposed 11 CFR 100.24 and BCRA would extend beyond communications expressly advocating a vote for or against a candidate. Note that a proposed definition of "promote or support or attack or oppose" is set forth in proposed 11 CFR 300.2(l), which is discussed below.

BCRA also crafted 2 U.S.C. 431(20) to exempt from the definition of "Federal election activity" certain expenditures or disbursements by State, district, or local committees of political parties for certain activities which may be paid for with non-Federal funds. These activities are:

(1) Public communications that refer to a clearly identified candidate for State or local office, provided that the public communications are not voter registration activity, voter identification, generic campaign activity, or GOTV activity, as those terms are defined in proposed 11 CFR 100.24(a). This exception does not apply, for example, to a telephone bank on the day before an election where there is a federal candidate on the ballot and where GOTV phone calls are made to over 500 voters where the calls only refer to a State or local candidate (proposed 11 CFR 100.24(b)(1)).

(2) Contributions to candidates for State or local office, provided that the contributions are not for Federal election activities (proposed 11 CFR 100.24(b)(2)).

(3) The costs of State, district, or local political conventions, meetings or conferences (proposed 11 CFR 100.24(b)(3)).

(4) The costs of grassroots campaign materials, including buttons, bumper stickers, handbills, brochures, posters and yard signs, that name or depict no Federal candidate (proposed 11 CFR 100.24(b)(4)).

(5) Voter registration activity before or after the dates during which this activity becomes Federal election activity (proposed 11 CFR 100.24(b)(5)).

(6) GOTV and voter identification activities in elections in which no candidate for Federal office appears on the ballot (proposed 11 CFR 100.24(b)(6)).

The Commission also seeks comments concerning additional examples of "grassroots" activities.

2. Proposed 11 CFR 100.25 Definition of "Generic Campaign Activity"

Proposed section 100.25 contains the new statutory definition of "generic campaign activity," which is campaign activity that promotes a political party, and not a candidate for Federal office or for non-Federal office. The proposed rules would add to the statutory definition those activities that oppose a political party without opposing specific candidates. Activities in opposition to a particular party or candidate may be construed as a form of promoting the other party or other candidates. Unlike "voter registration activity," as described in 11 CFR 100.24(a)(1), the Commission is proposing to interpret "generic campaign activity" to apply to special elections. In addition, the Commission seeks comment on the extent, if any, to which the exclusions for exempt activities in 11 CFR 100.7(b)(9), (15), (17) and 100.8(b)(8), (10), and (16), should apply to the definition of "generic campaign activity. "

3. Proposed 11 CFR 100.26 Definition of "Public Communication"

BCRA amends 2 U.S.C. 431 by adding a new definition for the term "public communication." BCRA defines "public communication" to include communication by broadcast, cable, satellite, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising. In proposed 11 CFR 100.26, the Commission has not included the Internet as a form of "general public political advertising" because this provision of BCRA does not refer to the Internet. However, the Commission seeks comments as to whether the definition of "public communication" in proposed 11 CFR 100.26 should include or exclude communications provided through the use of World Wide Web sites available to the public, widely distributed electronic mail, or other uses of the Internet, such as "Webcasts" or the transmission of high-quality voice, graphics, or video advertisements.

A letter sent by Chairman Mason and Commissioner Smith requested that Congress clarify whether the term "public communication" was intended to encompass communications sent over the Internet. The letter noted that the definition included "any other form of general public political advertising," and stated: "The Commission has treated Internet web pages available to the public and widely-distributed e-mail as forms of 'general public political communication.' Thus, the new definition combined with the Commission's established interpretation of the FECA could command regulation of Internet and e-mail communications." *See* 148 Cong. Rec. S2340 (daily ed. March 22, 2002). Congress did not express agreement or disagreement with this interpretation.

4. Proposed 11 CFR 100.27 Definition of "Mass Mailing"

BCRA amends 2 U.S.C. 431 by adding a new definition of the term "mass mailing." This new definition, which is set out in proposed 11 CFR 100.27, would include any mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

The term "substantially similar" is also used in the Commission's disclaimer regulations at 11 CFR 110.11(a)(3). When these rules were adopted in 1995, the Commission explained that technological advances now permit what is basically the same communication to be personalized to include the recipient's name, occupation, geographic location, and similar variables. Communications are considered "substantially similar" for purposes of the disclaimer rules if they would be the same but for such individualization. *See* Explanation and Justification for Regulations on Communications Disclaimer Requirements, 60 FR 52069, 52070 (Oct. 5, 1995). The Commission is proposing that the term "substantially similar" as used in proposed 11 CFR 100.27 have the identical meaning, and is including language to this effect in the text of the rule. However, it welcomes comments as to whether some other definition of "substantially similar" would be more appropriate in this context.

5 Proposed 11 CFR 100.28 Definition of "Telephone Bank"

BCRA amends 2 U.S.C. 431 by adding a new definition of the term "telephone bank." This new definition, which is set out in proposed 11 CFR 100.28, would include more than 500 telephone calls of an identical or substantially similar nature within any 30-day period. The Commission is also proposing to address the meaning of "substantially similar" in the text of the rules. *See* discussion of proposed 11 CFR 100.27, above.

6. Proposed 11 CFR 300.2 Definitions

In proposed new section 300.2, the Commission seeks comments on draft definitions for the following terms: "501(c) organization that makes expenditures or disbursements in connection with a Federal election"; "agent"; "directly or indirectly establish, finance, maintain, or control"; "disbursement"; "donation"; "Federal account"; "Federal funds"; "Levin account"; "Levin funds"; "non-Federal account"; "non-Federal funds"; "promote, support, attack, or oppose";

and "to solicit or direct." Several of these terms are adapted from existing rules.

Several key terms are discussed in further detail below. In addition, the Commission notes that proposed 11 CFR 300.2 defines several phrases, such as "directly or indirectly establish, finance, maintain, or control," "to solicit or direct," and "promote or support or attack or oppose," rather than attempting to define the individual words in each phrase. Comments are sought on this approach, and on the clarity and scope of these definitions.

A. Definition of "Agent"

With respect to the definition of "agent," the Commission seeks comments as to when an agent is acting "on behalf of" a principal. Additionally, the Commission seeks comments as to the circumstances under which a principal, such as a party committee or a candidate, would be held liable for the actions of an agent, such as an individual soliciting funds on behalf of the committee for a 501(c) organization. For example, must such an individual be a paid employee of the principal (*i.e.*, the candidate or officeholder) in order to qualify as an agent or would a vendor or independent consultant hired by a candidate or political committee qualify as an agent? Could a principal be held responsible for the actions of a volunteer who solicited impermissible funds if the volunteer was making solicitations pursuant to general written or oral instructions from the principal? Would a volunteer qualify as an agent if a principal had knowledge that a volunteer was making impermissible solicitations using the candidate's name without being specifically directed by the principal to do so? In addition, should a principal only be held liable if an agent has actual, as opposed to apparent, authority to engage in the alleged actions at issue? Similarly, should a principal only be held liable if an agent has express, rather than implied, authority to act? Or should the Commission not attempt to define agency concepts in this part of the regulations, but instead leave the concepts undefined for purposes of BCRA and rely on common law definitions? Please note that the latter approach would depart from the approach taken regarding the definition of agency in the current independent expenditure rules. *See* 11 CFR 109.1(b)(5).

B. Definition of "Directly or Indirectly Establish, Finance, Maintain, or Control"

Proposed 11 CFR 300.2(c) would define "directly or indirectly establish, finance, maintain, or control," a term that is used in several provisions of BCRA. (The phrase "established, financed, maintained, or controlled" already appears in the Commission's "affiliation" regulation. *See* 2 U.S.C. 441a(a)(5), 11 CFR 100.5(g).) The term appears in BCRA in the context of State, district, and local political party committees (*see, e.g.*, 2 U.S.C. 441i(b)(2)(B)(iii)) and of Federal candidates and officeholders (*see, e.g.*, 2 U.S.C. 441i(e)(1)).

In BCRA, "directly or indirectly establish, finance, maintain, or control" is used in one context which seems to be akin to the current affiliation rule, that is, determining when ostensibly separate entities share a contribution limit. *See* 2 U.S.C. 441i(b)(2)(B)(iii). This usage would suggest that the existing affiliation regulation is helpful in understanding what is meant by "directly or indirectly establish, finance, maintain, or control." The term, "directly or indirectly establish, finance, maintain, or control," however, is also used in what seems to be a slightly different manner. For example, a State, district, or local committee of a political party must not use as "Levin funds" (a term that would also be defined in this section) any funds transferred to it from, among other persons, "any other State, local, or district committee of any State party, * * * or * * * any entity directly or indirectly established, financed, maintained, or controlled [by the State party committee]." 2 U.S.C. 441i(b)(2)(B)(iv)(I), (IV); *see also* 2 U.S.C. 441i(e)(1). This latter usage suggests a different purpose, namely preventing the proliferation of committees or organizations as a means of evading the Levin Amendment transfer prohibition, as well as other BCRA prohibitions.

The definition in proposed 11 CFR 300.2(c) would accommodate both of the usages of the term "directly or indirectly establish, finance, maintain, or control." Proposed paragraph (c)(1) would begin by enumerating the persons to whom the regulation would apply, and would employ the shorthand "sponsor" to refer to these persons. Also in proposed paragraph (c)(1), the statutory concept of "indirect" establishment, financing, maintenance, or control would be addressed by including actions taken by a sponsor's agents, and those taken on behalf of the sponsor, or at the sponsor's behest, within the definition.

Proposed paragraph (c)(1)(i) would provide that a sponsor "directly or indirectly establishes, finances, maintains, or controls" an entity if the sponsor and the entity would be considered affiliated under 11 CFR 100.5(g).

Given that the term, "directly or indirectly establish, finance, maintain, and control," seems also to have a somewhat broader meaning in other contexts, proposed paragraphs (c)(1)(ii) through (c)(1)(vi) would go on to state other conditions in which a sponsor would "directly or indirectly establish, finance, maintain, or control" an entity. The Commission seeks comment on whether this term should be interpreted to extend beyond the current affiliation standard.

Proposed paragraph (c)(1)(ii) would focus on the establishment of entities by sponsors, and would extend to the conversion of an existing entity. Note that the proposed phrase, "alone or in combination with others," would extend this provision to circumstances in which a sponsor (or its agent) was not solely responsible for the establishment of the entity, but worked with one or more other persons to establish the entity. The Commission seeks comment on whether this proposed paragraph should apply only to entities established by a sponsor after a given date (perhaps November 6, 2002, which is the effective date of BCRA), provided that the sponsor and the entity are not affiliated and do not satisfy the conditions in proposed paragraphs (c)(1)(iii) through (vi). In the alternative, should there be a rebuttable presumption that entities organized before a given date are not directly or indirectly established by a sponsor, provided that the sponsor and the entity are not affiliated and do not satisfy the conditions in proposed paragraphs (c)(1)(iii) through (vi)?

Proposed paragraph (c)(1)(iii) would address financing of an entity by a sponsor. It would state that providing a "significant amount of the entity's funding at any point" would suffice to constitute "financing." The proposed paragraph would enumerate three factors to be used in gauging the "significance" of funding. These factors would go to the magnitude, frequency, and duration of funding, and to how recently or distantly (in time) the funding has been provided. For example, a sponsor that had provided a sizable, but one-time contribution to an entity many years earlier would be able to assert that the one-time nature of the contribution, combined with its remoteness in time, make this funding not "significant," as the term is used here.

Proposed paragraph (c)(1)(iv) would address the maintenance of an entity by a sponsor. It would state that providing certain services to an entity would constitute "maintaining" the entity. The Commission seeks comment on whether there should be a *de minimis* exception to this provision. For example, if a party committee provides a *de minimis* amount of administrative services to a party-related organization, such as a governor's association, should this activity be included in this provision?

Proposed paragraphs (c)(1)(v) and (c)(1)(vi) would go to control of an entity by a sponsor. Proposed paragraph (c)(1)(v) would focus on control, whether formal or informal, by the sponsor of solicitation of contributions and donations, and of making expenditures or disbursement, by the entity. Proposed paragraph (c)(1)(vi) would focus on more formal or structural decision-making relationships between the sponsor and the entity.

The Commission seeks comment on several aspects of these conditions. In proposed paragraph (c)(1)(ii), a sponsor would "directly or indirectly establish, finance, maintain, or control" an entity if the sponsor provided "any funding" for the formation or organization of the entity. The Commission seeks comment as to whether there should be a *de minimis* exception to the proposed "any funding" rule. Proposed paragraph (c)(1)(iii) would provide that a sponsor would "directly or indirectly establish, finance, maintain, and control" an entity if the sponsor "provides a significant amount of the entity's funding at any point in the entity's existence." The Commission seeks comment about whether "at any point" should be replaced with a temporal limit (e.g., "within the past 5 years").

Proposed paragraph (c)(2) would provide a mechanism for a sponsor or an entity to request a determination by the Commission through the advisory opinion process that the sponsor is no longer deemed to finance, maintain, or control an entity, even if it established the entity.

C. Definition of "Donation"

BCRA uses but does not define the term "donation." The Commission proposes to define a "donation" in 11 CFR 300.2(e) as a payment, gift, subscription, loan, advance, deposit, or anything of value given to a non-Federal candidate or party committee, but not including a contribution or transfer. Comments are sought on specifically excluding from "donation" some of the exemptions to "contribution" set forth in existing 11 CFR 100.7(b). Under this approach, the following would not be donations: Funds received solely for the purpose of determining whether an individual should become a Federal candidate (existing 11 CFR 100.7(b)(1)(i)); any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publisher (existing 11 CFR 100.7(b)(2)); individual volunteer services provided without compensation to Federal candidates and political committees (existing 11 CFR 100.7(b)(3)); the costs of providing the use of residential premises or of church or community rooms in the course of volunteering personal services to candidates or political parties (existing 11 CFR 100.7(b)(4) and (5)); the cost of invitations, food, and beverages in accordance with existing 11 CFR 100.7(b)(6); unreimbursed transportation and subsistence costs under existing 11 CFR 100.7(b)(7); and the staging of candidate debates in accordance with existing 11 CFR 100.7(b)(20) and (21). The Commission seeks comments concerning whether each of these activities should be expressly exempted from the definition of "donation." What, if any, additional expenses should be excluded from the definition of "donation"? For example, are there particular activities that have been recognized through the Commission's advisory opinion process as exempt from the definition of "contribution" (e.g., funds given to a candidate's legal defense fund) that should be exempt from the definition of "donation" as well?

D. Definitions of "Levin Funds" and "Levin Accounts"

As explained above, BCRA's Levin Amendment provides that State, district, and local political party committees may spend certain non-Federal funds for Federal election activities if those funds comply with certain prohibitions, limitations, and reporting requirements added to the Act by BCRA. 2 U.S.C. 441i(b)(2)(A)(ii). Thus, these funds are unlike Federal funds, which are fully subject to the Act's requirements, and unlike "regular" non-Federal funds because they are subject to certain additional requirements under BCRA. Proposed paragraph (i) of proposed 11 CFR 300.2 would define these funds as "Levin funds," with the intention that "Levin funds" become a definite, unambiguous reference to such funds. Note that the proposed definition contemplates that a State, district, or local political party committee would be permitted to spend Levin funds on non-Federal activity or Federal election activity. As explained more thoroughly below in the discussion of proposed 11 CFR 300.32, the Commission seeks comment as to whether the Levin Amendment (2 U.S.C. 441i(b)(2)) should be interpreted to permit the spending of Levin funds for any purpose other than Federal election activity.

The Commission is considering requiring State, district, and local political party committees to set up a separate account to handle Levin funds if they raise and spend such funds. Proposed paragraph (h) of proposed 11 CFR 300.2 would define "Levin account" as these separate accounts for handling Levin funds, which would be established under proposed 11 CFR 300.30. Again, the intention is that the term would become an unambiguous reference to such accounts. The Commission seeks comment as to whether a requirement for mandatory Levin accounts would be more or less burdensome than the alternative of allowing party committees to deposit and spend Levin funds from any non-Federal account. The alternative approach would include a requirement that the committee must be able to show by a reasonable accounting method that the non-Federal portion of an expenditure for Federal election activities under the Levin Amendment (*see* 2 U.S.C. 441i(b)(2)(A)) was comprised of lawful Levin funds.

E. Definition of "Promote or Support or Attack or Oppose"

BCRA uses the terms, "promote," support," "attack," and "oppose" in both the Levin Amendment and elsewhere, but does not define these terms. The proposed rules at 11 CFR 300.2(*l*) include a definition, which incorporates the concept of "unmistakably and unambiguously" encouraging actions to elect or defeat a clearly identified candidate. *Cf. Buckley* v. *Valeo*, 424 U.S. 1, 43–44 (1976) (restricting the reach of former 18 U.S.C. 608(e)'s "clearly identified" to "an explicit and unambiguous reference to the candidate.") The Commission has also included language in section 300.2(*l*) from its existing express advocacy regulations, 11 CFR 100.22(a) and (b), but has broadened the scope of these provisions in order to effectuate BCRA's intention of enlarging the scope of regulated communications. The Commission seeks comments as to whether its proposed definition is too broad or too narrow, and why. Specifically, the Commission seeks

comments as to what definition is most likely to survive Constitutional scrutiny.

F. Definition of "To Solicit or Direct"

Lastly, proposed 11 CFR 300.2(m) contains a definition of "to solicit or direct" a contribution or donation. The draft definition would include a request, suggestion, or recommendation to make a contribution or donation, including those made through a conduit or intermediary. However, the definition does not construe advice or guidance as to applicable laws to constitute a "solicitation." The Commission seeks comments as to how the concept of "solicitation" should be applied to a series of conversations which, taken together, constitute a request for contributions or donations, but which do not do so individually. Comment is also sought as to whether the proposed definition is too broad or narrow, as well as whether the term "direct" in BCRA should be interpreted to follow the earmarking rules regarding contributions directed through a conduit or intermediary under 2 U.S.C. 441a(a)(8). Comment is also sought as to whether the passive providing of information in response to an unsolicited request for information should be specifically excluded from this definition.

National Party Committees

BCRA prohibits national party committees from raising and spending non-Federal funds, that is, funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act. *See* 2 U.S.C. 441i(a). In explaining the purpose of this prohibition, BCRA co-sponsor, Congressman Shays, stated: "The purpose of these provisions is simple: to put the national parties entirely out of the soft money business." According to Congressman Shays, the corrupting dangers of funds raised outside the Act's prohibitions, limitations, and reporting requirements is present in the funding of national parties given that they operate at the national level and "are inextricably intertwined with Federal officeholders and candidates, who raise money for them * * *" 148 Cong. Rec. H408–409 (daily ed. February 13, 2002) (statement of Rep. Shays).

The Commission is proposing to place the regulations that address this prohibition in a new part of the Code of Federal Regulations, 11 CFR part 300, subpart A. In addition to proposing this new subpart, the Commission is also proposing to amend current 11 CFR 102.5 to conform with BCRA's prohibition on national party committees and Federal candidates and officeholders from raising and spending non-Federal funds.

1. Proposed 11 CFR 300.10 General Prohibitions

The proposed rules at 11 CFR 300.10 track the language of BCRA in prohibiting national party committees from soliciting, receiving, or directing to another person "a contribution, donation, or transfer of funds or any other thing of value," or spending funds that are not subject to the Act's prohibitions, limitations, and reporting requirements. Accordingly, national party committees would no longer be able to accept funds from corporations or labor organizations or funds from individuals and others that exceed the limitations of the Act. Further, all expenditures and disbursements made by a national party committee, including donations to State and local candidates and donations or transfers to State parties, would be made with Federal funds.

The national party ban on raising and spending non-Federal funds has widespread application. BCRA expressly provides that the prohibition on raising and spending non-Federal funds also applies to the national party congressional committees (currently, the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee), to officers and agents acting on behalf of a national party committee or a national party congressional committee, and to any entities directly or indirectly established, financed, maintained, or controlled by either. 2 U.S.C. 441i(a)(1) and (2). "The provision is intended to be comprehensive at the national party level. Simply put, the national parties and anyone operating on behalf of them are not to raise or spend nor [sic] to direct or control soft money." 148 Cong. Rec. H408–409 (daily ed. February 13, 2002) (statement of Rep. Shays).

The proposed rules track the statutory language. *See* proposed 11 CFR 300.10(a) and (c). Consequently, Federal candidates or Federal officeholders, or anyone else acting on behalf of a national party committee would not be able to raise or spend non-Federal funds or direct them to other persons. Similarly, party-created entities such as convention committees, which are established by a national party committee in accordance with 11 CFR 9008.3(a)(2) to conduct the daily operations of a party's national nominating convention, would not be able to raise or spend, or direct to other persons, funds from corporations or labor organizations, or funds from individuals or other entities in amounts that exceed the Act's contribution limitations. In a subsequent rulemaking, the Commission will seek comment on whether BCRA bans national party committees, and their officers and agents, from directing non-Federal funds to a host committee in light of the statutory language that they are not permitted to direct non-Federal funds to other persons. *See* 2 U.S.C. 441(i)(a)(1).

The proposed rules also make clear that national parties cannot raise, spend, or direct to another person Levin funds. *See* proposed 11 CFR 300.10(a)(3). The Commission seeks comments on whether the rules should contain specific examples of "entities directly or indirectly established, maintained, financed, or controlled by a national party committee," and if so, what entities should be included.

2. Proposed 11 CFR 300.11 Prohibition on National Party Fundraising for Certain Tax-Exempt Organizations

In addition to prohibiting national parties from raising and spending non-Federal funds, BCRA prohibits national party committees, their officers and agents, and entities directly or indirectly established, financed, maintained, or controlled by them from raising funds for, or making or directing donations to, certain tax-exempt organizations. 2 U.S.C. 441i(d)(1). BCRA's prohibition on this type of donor and fundraising activity extends only to tax-exempt organizations with a political purpose or that conduct activities in connection with a Federal election.

Specifically, the party fundraising ban extends to organizations exempt from taxation under 26 U.S.C. 501(c) that "[make] expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity)." 2 U.S.C. 441i(d)(1). (Organizations formed under 26 U.S.C. 501(c) are referred to as "501(c) organizations" below.) The ban also extends to political organizations exempt from taxation under 26 U.S.C. 527. These entities are defined in the Internal Revenue Code as parties, committees, associations, funds, or other organizations organized and operated primarily to directly or indirectly accept contributions and make expenditures for the "exempt function" of influencing or attempting to influence the selection, nomination, election or appointment of an individual to a Federal, State, or local public office, political organization office, or election of Presidential and Vice Presidential electors. 26 U.S.C. 527(e)(1) and (2). BCRA excludes certain section 527 organizations from the prohibition: Political committees, State, district, and local party committees and the authorized committees of State and local candidates.

Again, the proposed rules track the statute. *See* proposed 11 CFR 300.11. A section 501(c) organization that "makes expenditures or disbursements in connection with a Federal election" is defined as an organization that operates, supports, finances, or controls a political committee, as defined under the Act, makes expenditures and disbursements in connection with Federal election activity, finances voter registration at any time, or finances voter guides, candidate surveys and candidate questionnaires that refer to one or more Federal candidates. *See* proposed 11 CFR 300.2(a). As explained above, the definition of "Federal election activity" would generally follow the statutory definition of that term. *See* proposed 11 CFR 100.24. This ban on party fundraising for certain tax-exempt organizations would ensure that national party committees could not direct non-Federal funds they formerly raised themselves to other organizations that engage in election activity that could directly or indirectly support Federal candidates.

The Commission requests comment on whether any other types of disbursements and expenditures by 501(c) organizations should bring those organizations within the proposed 11 CFR 300.12 prohibition and whether the prohibition should contain a temporal requirement. For example, should the prohibition encompass a 501(c) organization that has made disbursements and expenditures in connection with a Federal election at any time in the past, within the past three election cycles, within the past three years, or within some other time frame? The Commission also seeks comments on whether the rules should include additional guidance as to how a national party committee, or anyone else, could determine whether a particular 501(c) organization falls within the prohibition.

Comments are also sought as to whether a safe harbor provision should be provided for a national party committee that takes certain actions before fundraising for, or donating to, a 501(c) organization to determine that the organization does not engage in the election activity described? Examples of such actions could include: (1) A national party obtains a 501(c) organization's publicly available application for tax-exempt status or annual Form 990 tax returns and determines from that information that the organization has not reported making, or indicated plans to make, expenditures or disbursements in connection with a Federal election; or (2) with respect to future activity by a 501(c) organization or an organization that has applied for, but not yet obtained, tax-exempt status, obtains a certification from the organization indicating that it does not engage in or plan to engage in the type of election activity described.

Finally, the Commission seeks comment on what it means for a national party to "direct donations." Pursuant to proposed 11 CFR 300.2(m), "to direct" a donation would mean to request, suggest, or recommend that another person donate something of value to a section 501(c) or section 527 organization. So construed, could a national party committee or its agent respond to an unsolicited request for information about organizations that share a party's political, social, or philosophical goals?

Please note that the proposed section 300.11 prohibition on national party fundraising for, and donating to, certain tax exempt organizations would extend to a broader group than the prohibition in proposed section 300.10 on non-Federal fundraising by national party committees. Both 300.10 and 300.11 apply to national party and national congressional committees, officers and agents acting on behalf of them, and entities indirectly or directly established, financed, maintained, or controlled by them. In accordance with the statute, the 300.11 prohibition would also apply to officers and agents acting on behalf of entities directly or indirectly established, financed, maintained, or controlled by national party and national congressional campaign committees, and to entities directly or indirectly established, financed, maintained, or controlled by an agent of national party or congressional campaign committees. As is the case for the proposed 11 CFR 300.10 prohibition, the Commission seeks comments on whether the final rules should provide examples of entities directly or indirectly established, financed, maintained, or controlled by an agent of national party or congressional campaign committees, as well as examples of officers and agents acting on behalf of them and of entities directly or indirectly established, financed, maintained, or controlled by an agent of national party committees or congressional campaign committees.

3. Proposed 11 CFR 300.12 Transition Rules

BCRA's prohibitions on non-Federal funds raised and spent by national parties become effective on November 6, 2002. Accordingly, through November 5, 2002, a national party can use funds in non-Federal accounts in any way permissible under current law. Beginning on November 6, 2002, national parties can no longer accept non-Federal funds. Non-Federal funds that remain in a national party's possession after the November 5, 2002 general election are covered by BCRA's transition rules. *See* 2 U.S.C. 431 note, section 402(b)(2). Under these rules, non-Federal funds received by a national party before November 6, 2002 must be used before January 1, 2003 solely to: (1) Retire outstanding non-Federal debts or non-Federal obligations incurred solely in connection with an election held before November 6, 2002; or (2) to pay non-Federal expenses or retire outstanding non-Federal debts or obligations incurred solely in connection with any run-off election, recount, or election contest resulting from an election held prior to November 6, 2002. *See* 2 U.S.C. 431 note, section 402(b)(2)(B)(i) and (ii). These remaining non-Federal funds could not be used for building fund expenses or for outlays that would qualify as "expenditures" under the Act. Non-Federal funds contained in national party building fund accounts are treated separately and are described below. Non-Federal funds of State and local party committees would be covered by proposed 11 CFR part 300, subpart B.

The proposed transition rules governing the use of non-Federal funds remaining in a national party's possession, other than non-Federal funds contained in building funds, are set forth in 11 CFR 300.12(a) through (c). The proposed rules track the statutory language. In addition, the proposed rules would also indicate that current allocation regulations applicable to national party non-Federal accounts will remain in effect during the transition period. *See* proposed 11 CFR 300.12(d).

BCRA appears to restrict the use of excess non-Federal funds by national party committees to the specific purposes described above. It does not address what happens if national party committees have any non-Federal funds remaining after they have disbursed funds for those purposes. The Commission seeks comments as to whether any funds remaining may be disgorged to the United States Treasury or to a charitable organization or

whether they may be used in any other way.

BCRA treats non-Federal funds contained in national party building fund accounts more stringently. Under current law, funds in a national party building fund account can be used only for the purchase or construction of the national party committees' office building or facility. Beginning November 6, 2002, however, any funds remaining in a national party building fund account cannot be used for any building fund purposes. *See* 2 U.S.C. 431 note, 402(b)(2)(B)(iii). Hence, the proposed 11 CFR 300.12(e) would require any funds on deposit in such accounts on November 6, 2002 to be either disgorged to the United States Treasury or donated to an organization described in 26 U.S.C. 170(c) no later than December 31, 2002.

4. Proposed 11 CFR 300.13 Reporting

BCRA requires national party committees, including national congressional campaign committees, and any subordinate committee of either, to report all receipts and disbursements during a reporting period. 2 U.S.C. 434(e). The proposed rules track the statutory language. *See* proposed 11 CFR 300.13(a). The Commission seeks comments on whether this provision is intended to require reporting by existing entities that currently are not required to report, and if so, the identification of such entities.

The proposed rules would also require national party committees to file termination reports for their non-Federal accounts to disclose the disposition of all non-Federal funds. *See* proposed 11 CFR 300.13(b). Proposed 11 CFR 300.13(c) identifies the current reporting regulations applicable to non-Federal accounts, including building funds, which will remain in effect to accomplish this.

5. Effect on Joint Fundraising Rules

The ban on national party non-Federal fundraising would affect the Commission's joint fundraising rules, found at 11 CFR 102.17 (FECA) and 11 CFR 9034.8 (Presidential Primary Matching Payment Act). The Commission is, therefore, proposing to add introductory language to each of these sections, advising readers that "[n]othing in this section shall permit any person to solicit, receive, direct, transfer, or spend" any non-Federal funds prohibited under 11 CFR part 300.

State, District, and Local Party Committee, and Organizations

While BCRA completely prohibits national party committees from receiving, soliciting, using, and transferring non-Federal funds after November 5, 2002, State, district, and local party committees and organizations may continue to solicit and use non-Federal funds, consistent with State law, for certain purposes. 2 U.S.C. 441i(b). Proposed 11 CFR part 300, subpart B, which is explained in more detail below, would implement the new statutory provisions governing these non-Federal funds that apply to State, district, and local party committees and party organizations that are not political committees under the FECA.

1. Proposed Revisions to 11 CFR 100.14 State, District, or Local Committee of a Political Party

The Levin Amendment, as set out in 2 U.S.C. 441i(b)(2), refers to "State, district, and local committees of a political party." The Commission's regulations already define "State committee" and "subordinate committee," and "party committee." 11 CFR 100.14, 100.5(e)(4); *see also* 2 U.S.C. 431(15). The proposed rules that follow would amend section 100.14 to conform with the Levin Amendment, and to harmonize sections 11 CFR 100.14 and 100.5(e)(4).

In proposed paragraph (a), status as a State committee would be determined by reference to the party by-laws or State law, with an eye to limiting the definition to organizations that are part of "the official party structure." This change would create a parallel with the current 11 CFR 100.5(e)(4), and would allow the proposed amended regulation to cover those States in which party committee status is a matter of State law and those in which it is a matter of party by-laws. There would also be a grammatical correction.

In proposed paragraph (b), there would be, in addition to a grammatical correction, the same change with regard to "official party structure" as in proposed paragraph (a), and the addition of the phrase, "as determined by the Commission," to the end of the paragraph. This added language would standardize the treatment of "State committees" and "subordinate committees" in the section (existing paragraph (a) already includes this statutory phrase). The added language would also give the Commission the necessary authority and flexibility to ensure that district and local committees are treated consistently and fairly.

Proposed paragraph (c) would be a new provision defining "district or local committee." This proposed definition would parallel proposed paragraph (a) but for political subdivisions below the State level, and would encompass those political party committees that do not necessarily operate formally under the "control or direction" of the State party committee. The key criterion for determining status as a district or local party committee would again be "the official party structure,." whether that is a matter of State law or the party's by-laws.

2. Proposed Revisions to 11 CFR 106.5

The creation of a new part 300 to cover all aspects of party committee activity has rendered considerable portions of present section 106.5 either outdated or duplicative. As presently constituted, the proposed revision of this section will state in broad terms the general principles that after December 31, 2002, (1) national party committees are no longer permitted to raise and spend non-Federal funds, and thus are unable to allocate expenses between Federal and non-Federal accounts, and (2) that State, district, and local party committees that make expenditures and disbursements in connection with both Federal and non-Federal elections must either use only Federal funds for these purposes or must establish separate accounts and allocate expenditures between or among those accounts pursuant to the requirements of part 300. References to Levin activities and accounts have been added and references to specific sub-sections of part 300 are included in the draft revisions.

Although all references to "exempt activities" have been dropped from section 106.5, comments are solicited with regard to the relationship of such activities, as defined by 11 CFR 100.7(b)(9), (15) and (17) and 11 CFR 100.8(b)(10), (16) and (18), to the concept of "Federal election activity" in BCRA. Do these exempt activities remain separate allocable categories of State, district, and local party expenditures, or are they subsumed within "voter registration," "voter identification," "get-out-the vote," and "generic campaign activities" now included in what are termed "Levin activities" in the proposed regulations? Would voter registration activity outside the time frame of 120 or fewer days before an election be an example of remaining "exempt activity?" Would solely volunteer participation in the distribution of campaign materials take such activity out of "Levin activity" for purposes of the kinds of funds that would be permissible to make such expenditures?

As discussed below, allocation accounts might be retained as they appear at present section 106.5.

3. Proposed 11 CFR 300.30 Accounts

The Commission is considering whether or not to require State, district, and local party committees to maintain three separate accounts. These would include a Federal account to be used for both Federal and mixed Federal and non-Federal activities; a second account, known as a Levin account, to be used to meet Levin activities, i.e., certain costs of voter registration within a fixed time period, voter identification, GOTV, and generic campaign activity pursuant to proposed 11 CFR 300.32; and a third account to be used for State, district, and/or local activities. The perceived need for these three separate accounts is based upon BCRA's apparent separation of State, district, and local party campaign activity into three distinct categories for which there are three distinct sets of conditions as to the funds that may be used to pay for each type of activity.

Consequently, the proposed rules in this section have been written to require that State, district, and local party committees maintain these three separate accounts. Comments are sought, however, as to whether, in the alternative, accounting procedures designed to track Levin receipts, expenditures, and disbursements could be adequate for purposes of enforcing BCRA with respect to these types of Federal election activities. Comments are also sought as to whether the requirement of a third account would serve as an unnecessary administrative burden or would it in fact create an accounting aid for the committees affected? Would it be more appropriate to leave to each committee the decision of whether or not to set up a separate Levin account? Would it be reasonable to require State party committees to maintain a separate Levin account, but only to recommend that district and local party committees do the same? Would three separate accounts promote greater transparency?

The proposed regulations in section 300.30(a)(4) require that, in order for contributions to be deposited into a State, district, or local committee's Federal account, either the solicitation of the contributions must expressly state the committee's intent to use the contributions for Federal elections, or the solicitation must expressly state that only permissible contributions can be accepted into the Federal account, or the contributor must expressly designate the contribution for use in Federal elections. The Commission would presume that all contributions that meet these requirements, and are within the contribution limitations and prohibitions of the Act, may be deposited into the Federal account.

The proposed regulations in section 300.30(a)(8) state that Federal funds may be used for non-Federal election activities, provided that the contributors of the Federal funds have been informed that their contributions would be subject to the limitations and prohibitions of the Act and provided that the disbursements are reported pursuant to section 300.36. (*See, e.g.*, Advisory Opinion 2000–24 in which the Commission found the use of a non-Federal account to be permissive, not mandatory. *See also* the Explanation and Justification for revisions of the Commission's allocation regulations at 55 FR 26058 (June 26, 1990) and at 57 FR 8990, 8991 (March 13, 1992)).

The proposed regulations at section 300.30(b) provide that a State, district, and local committee would be permitted to deposit into its Levin account only those donations solicited and received for that account pursuant to proposed 11 CFR 300.31, and would have to use this account to make disbursements and expenditures only for the activities permitted by proposed 11 CFR 300.32 or for other, non-Federal activity permitted by State law. Comments are sought on whether this permission to use Levin funds for non-Federal activities is in keeping with the intent of BCRA.

In order for donations to be placed in the Levin account, either the solicitations for the donations would have to expressly state that donations will be subject to the special limitations and prohibitions of section 300.31, or there would have to be an express designation by the donors to the Levin account.

The proposed regulations in 11 CFR 300.30(c) would clarify that State, district, and local party committees would also be able to maintain a non-Federal account to be used for State, district, or local election activities.

The proposed regulations in section 300.30(a)(6) would continue the Commission's well-established requirement that State, district, and local party committees make all allocable expenditures and disbursements from their Federal accounts. Transfers into the Federal account from a non-Federal account of the non-Federal portions of allocable disbursements and expenditures would be permitted only within a specified period of time which is set out in 11 CFR 300.34. The same approach and time frame are being proposed for Levin activities with regard to the payment of non-Federal portions of Levin expenses.

As an alternative to using the Federal account for all Federal and mixed expenditures, the Commission could also continue to permit, but not require, State, district, and local party committees to establish separate allocation accounts for purposes of making allocated expenditures for administrative and/or Levin expenses. Comments are sought on whether allocation accounts should still be permitted and whether there should be a second, separate Levin allocation account for use in financing Levin activities.

4. Proposed 11 CFR 300.31 Receipt of Levin Funds

BCRA places several restrictions on how State, district, and local political party committees raise Levin funds. Proposed 11 CFR 300.31 would implement these restrictions. Proposed paragraph (a) would state as a general proposition a key point in the statute: a State, district, or local political party committee that spends Levin funds must raise those funds solely by itself. 2 U.S.C. 441i(b)(2)(B)(iv).

Proposed 300.31(b) would elaborate on the statutory requirement that Levin funds must be raised from donations that comply with the laws of the State in which the State, district, or local party committee is organized. 2 U.S.C. 441i(b)(2)(B)(iii). More specifically, proposed paragraph (c) would clarify the status of donations from sources that are permitted under State law, but prohibited by the Act. A prime example is donations from corporations and labor organizations. Under Section 441b of the Act, "[i]t is unlawful * * * for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election" for Federal office. 2 U.S.C. 441b(a). Under the campaign finance laws of several States, however, donations by corporations or labor organizations to political party committees are legal. Proposed 300.31(c) would clarify that in such States, a political party committee may solicit and accept donations of Levin funds from corporations and labor organizations, subject to the other conditions of the Act. (Of course, if donations from corporations or labor organizations to a political party committee are illegal in a State, political party committees in that State would not be able to accept Levin fund donations from those sources.)

Proposed paragraph (d) would address amount limitations on donations of Levin funds to a State, district, or local party committee. The Levin Amendment places a $10,000 per calendar year per donor limitation on donations to a State, district, and local political party committee intended for use as Levin funds. 2 U.S.C. 441i(b)(2)(B)(iii). Proposed paragraph (d)(1) would clarify that this is an aggregate limit per recipient committee (i.e., the aggregate limit applies separately to each party committee). *See* discussion of proposed 11 CFR 300.31(d)(3), below. The amount limitation applies to a person, including "any person established, financed, maintained, or controlled by such person." The Commission seeks comment on whether its current "affiliation" regulation (11 CFR 100.5(g)) would appropriately determine whether a person is "established, financed, maintained, or controlled," within the meaning of this proposed paragraph.

Proposed paragraph (d)(2) would address those cases where State law generally imposes an amount limitation on donations to a State, district, or local party committee that differs from the amount limitation in 2 U.S.C. 441i(b)(2)(B)(iii) and proposed paragraph (d)(1). Proposed paragraph (d)(2) would attempt to strike a balance between respect for State law and protecting the integrity of the Levin Amendment amount limitation. It would make clear that lower State law amount limitations control over the amount limitation in the Levin Amendment, but that the Levin Amendment amount limitation would control where State law amount limitations exceed the limitation in proposed paragraph (d)(1).

A question may arise as to whether State, district, and local committees of the same political party would be affiliated for purposes of applying the donation amount limitation in proposed paragraph (d)(1). *See generally* 11 CFR 110.3. Proposed paragraph (d)(3) addresses this issue. The proposed paragraph would clarify that such committees are not considered affiliated *only* for the purpose of determining compliance with proposed paragraph (d)(1). *See* 148 Cong. Rec. H410 (daily ed. Feb. 13, 2002) (statement of Rep. Shays).

The Levin Amendment restricts the manner in which State, district, and local political party committees may raise Levin funds. Proposed paragraph (e) would restate these restrictions, clarifying that the Commission's joint fundraising regulation, 11 CFR 102.17, does not otherwise sanction this activity. Proposed paragraph (f) would operate similarly in implementing the Levin Amendment's prohibition against joint fundraising of Levin funds by more than one State, district, or local committee of a political party, including such parties from more than one State. The final sentence of proposed paragraph (f) would clarify that the mere use of common vendors by two or more State, district, or local political party committees would not in and of itself constitute joint fundraising within the meaning of the proposed paragraph.

5. Proposed 11 CFR 300.32 Expenditures and Disbursements

Proposed 11 CFR part 300, subpart B would encompass political party committee expenditures and disbursements of Federal funds and of Levin funds. Proposed 11 CFR 300.32 would address both kinds of spending, and would clarify that BCRA does not affect spending of non-Federal funds for State or local political activity.

Proposed paragraph (a)(1) would clarify that spending by a State, district, or local political party committee "for the purpose of influencing" a Federal election (*see* 11 CFR 100.8) must use Federal funds; that is, nothing in BCRA changes the existing requirements for that type of spending. *See* 148 Cong. Rec. H409 (daily ed. February 13, 2002) (statement of Rep. Shays). In addition, this proposed paragraph would require that an association or similar group of candidates for State or local office, or an association of State or local officeholders, would have to make expenditures for Federal election activity solely with Federal funds. Comments are sought about whether or not this term should be further defined in the proposed regulations, and if so, about examples of such associations or groups to include in the regulations. Proposed paragraph (a)(2) would make clear that the general rule in BCRA is that a State, district, or local political party committee spending on Federal election activity must use Federal funds for that spending, except as provided in the Levin Amendment. 2 U.S.C. 441i(b)(1).

The proposed rules interpret BCRA as requiring that local party organizations that do not qualify as political committees are nonetheless subject to the requirement to use Federal funds for Federal election activity. (*See also* proposed 11 CFR 300.36(a) regarding recordkeeping for such local party organizations.) The Commission seeks comment on this interpretation and whether, alternatively, use of the term "committee" in 2 U.S.C. 441i(b)(1) should be read to exclude local party organizations which do not otherwise qualify as political committees under 2 U.S.C. 431(4).

Proposed paragraphs (a)(3) and (a)(4) would address the costs of fundraising, providing that a State, district, or local committee of a political party must use exclusively Federal funds to pay for all costs of raising funds for its Federal account and its Levin account. *See* 2 U.S.C. 441i(c). The Commission seeks comment on this interpretation of section 441i(c) with regard to Levin funds. In particular, the Commission seeks comment on (1) whether proposed paragraph (a)(4) could be limited to the direct costs (*see* current 11 CFR 106.5(a)(2)(ii)) of raising Levin funds; and (2) whether the costs of fundraising for Levin funds could be allocated between a party committee's Federal and non-Federal accounts under the "funds received" method. *See* current 11 CFR 106.5(f). Comments are also sought as to whether, generally, greater specificity should be provided in proposed section 300.32 as to the nature of fundraising costs in this section.

Proposed paragraph (b) would list the types of activities for which a State, district, or local political party committee may spend Levin funds in accordance with this proposed part. Proposed paragraph (b)(1) would spell out expressly the two kinds of Federal election activity for which Levin funds may be spent, *see* 2 U.S.C. 441i(b)(2)(A), and provide that such spending must be made subject to the conditions set out in proposed paragraph (c). Proposed paragraph (b)(2) would provide that a State, district, or local political party committee may also spend Levin funds for any purpose that is lawful under State law, and that such spending need not comply with proposed paragraph (c). (*See* below.) The Commission seeks comment on proposed paragraph (b)(2), specifically whether this broader use of Levin funds is within the intended scope of 2 U.S.C. 441i(b)(2)(A).

While the Levin Amendment would permit the spending of Levin funds as set out in proposed paragraph (b), it places restrictions and conditions on that spending when it is for Federal election activity. Proposed paragraph (c) would set out in one place important restrictions and conditions that are stated in different sections of BCRA. Proposed paragraph (c)(1) would implement the restriction that the Federal election activity paid for partly with Levin funds must not refer to a clearly identified Federal candidate. *See* 2 U.S.C. 441i(b)(2)(B)(i). Proposed paragraph (c)(2) would implement the restriction that the Federal election activity paid for partly with Levin funds must not be for any broadcasting, cable, or satellite communications, other than a communication that refers solely to a clearly identified candidate for State or local office. *See* 2 U.S.C. 441i(b)(2)(B)(ii). Proposed paragraph (c)(4) would implement the Levin Amendment's requirement that spending under its authority must be allocated between Federal funds and Levin funds pursuant to the proposed regulation covering allocation. *See* 2 U.S.C. 441i(b)(2)(A)(i), (ii); *see* proposed 11 CFR 300.33, below. Finally, proposed paragraph (c)(3) would tie together the provisions of this proposed regulation with proposed 11 CFR 300.31 on raising Levin funds, above.

Proposed paragraph (d) would serve as a clarifying reminder that spending of non-Federal funds by a State, district, or local political party committee for State or local political activity, including the raising of solely non-Federal funds, remains a matter of State law. The proposed final sentence would clarify that a disbursement of non-Federal funds made under State law by a State, district, or local political party committee that is not directed by the disbursing committee for the purpose of influencing a Federal election or for Federal election activity shall not be an expenditure under 11 CFR 100.8 or an expenditure or disbursement for Federal election activity.

6. Proposed 11 CFR 300.33 Allocation of Expenses

Section 441i(b)(1) of Title 2, United States Code, states that State, district, and local party committees must make all disbursements and expenditures for Federal election activity from their Federal accounts. This requirement holds even when the expenses involved are also related to non-Federal election activity. Generally, the costs of mixed Federal and non-Federal election activities cannot be allocated between Federal and non-Federal accounts. The only exception to the rule against the use of non-Federal funds in connection with Federal election activity involves activities to be funded from a Levin account, pursuant to Section 441i(b)(2).

Section 441i(b)(2)(A) permits State, district, and local party committees, under certain conditions, to use Levin funds for particular categories of activity, including voter registration, voter identification, GOTV, and generic campaign activities, in connection with Federal and non-Federal elections. These funds must have been received pursuant to specific requirements, are to be used to meet expenses related to voter registration activity within 120 days of a Federal election and/or expenses related to voter identification, GOTV activities, and generic campaign activities when a Federal candidate appears on the ballot, and must be used in situations in which disbursements and expenditures for the permitted activities are allocated between a committee's Federal and Levin accounts. Section 441i(b)(2)(A) permits the use of Levin funds for these purposes "to the extent that" the costs of the activities are allocated. Thus, if a committee wishes to use other than Federal funds for such costs, it must allocate a portion to its Federal account.

Comments are sought with regard to the relationships between the activities for which Levin funds may be used and "exempt activities" as defined by 11 CFR 100.7(b)(9), (15) and (17) and 11 CFR 100.8(b)(10), (16) and (18). In particular, information is requested on whether there remain exempt activities that should not be deemed "Federal election activity." For example, would voter registration activity outside the time frame of 120 or fewer days before an election be an example of remaining "exempt activity" that would be allocable between Federal and non-Federal accounts (as opposed to Federal and Levin accounts), but that would not count as an "expenditure" for purposes of political committee status? In the alternative, should voter registration activity outside the 120-day time frame be considered 100% non-Federal activity?

With the exception of salaries, BCRA does not address administrative costs directly, either as a category of expenditures and disbursements or as allocable expenditures. BCRA defines "Federal election activity" at 2 U.S.C. 431(b)(20) as including specified categories of activity that do not include administrative costs.

With regard to salaries, BCRA, for purposes of defining "Federal election activity," distinguishes between salaries paid those who spend more than 25% of their compensated time in any given month on activities in connection with Federal elections, who must be paid only with Federal funds, and those who do not spend that amount of time on these activities. Therefore, proposed section 300.33 would require State, district, and local committees to use only Federal funds to pay the salaries of those employees who spend more that 25% of their time in a particular month on activities in connection with Federal election activity. The proposed regulations also require that the salaries of those employees who spend 25% or less of their time in a given month on activities in connection with a Federal election be allocated between the committee's Federal and non-Federal accounts. Salaries of those employees who spend no time in a given month on activities in connection with a Federal election could be paid solely from the non-Federal account.

Comments are sought as to whether State, district, and local party committees should be permitted to pay the salaries of employees who spend 25% or less of their time on Federal election activity with non-Federal funds, rather than be required to allocate those payments. The 100% non-Federal alternative is not set out in the proposed rules. For purposes of administering the 25% rule for salary payments, comments are sought as to whether the proposed regulations should require that any of the following three alternative methods be used by State, district, and local party committees to document decisions as to the accounts from which all or portions of employees' salaries have been paid. First, employees could be required to keep contemporary time logs documenting their Federal and non-Federal activities. Secondly, employees could be required at the end of each month to certify in writing the percentage or amount of time spent on Federal election activity. Or, thirdly, a responsible party official could keep a monthly tally sheet for the all employees. Please note that none of these options appear in the proposed rules that follow.

In lieu of requiring 100% Federal payments for certain other administrative costs, the proposed rules would continue the Commission's policy of permitting the allocation of those costs between the Federal and non-Federal accounts of State, district, and local party committees, unless such expenses are directly attributable to a Federal candidate, in which case they would have to be paid only with Federal funds. Allocable administrative costs would include rent, office equipment (calculators, computers, copiers, facsimile machines, furniture), office supplies, postage for other than mass mailings, and utilities. Other allocable administrative costs would include routine building maintenance, upkeep and repairs.

Comments are requested regarding whether the Commission should continue requiring allocation of administrative costs other than certain salaries, if a committee desires to use some non-Federal funds for these purposes. BCRA requires certain Federal election activities, fundraising costs and certain salaries to be paid with Federal funds. As a result, significant amounts

of activity that were once allocable will have to be paid for exclusively with Federal funds. BCRA also delineates which Federal election activities may be allocated between Federal funds and Levin funds. The Commission seeks comments on whether administrative expenses that are not identified in BCRA have a significant enough impact on Federal elections to require continued allocation of such expenses, or whether a State, district, or local committee should be able to pay administrative expenses, other than certain salaries, with 100% non-Federal funds, depending upon applicable State law.

The proposed rules address the issue of appropriate minimum amounts of Federal funds to be required both for administrative expenses, when allocable, and for the Federal portions of costs of the specified Levin activities for which the use of non-Federal funds is also permitted. One goal of the allocation regulations are to assure that activities deemed allocable are not paid for with a disproportionate amount of non-Federal or Levin funds. Another goal is to simplify the allocation process, in particular by establishing formulas that do not vary from State to State and that do not require measurements of time or space. Therefore, the proposed rules establish a fixed formula for all States that would vary only in terms of whether or not a Presidential campaign and/or a Senate campaign is to be held in a particular election year.

The following formulas have been derived by taking averages of the ballot composition-based allocation percentages reported by State party committees in four groupings of States selected for their diversities of size and geographic location and for the particular elections held in each state in 2000 and 2002. The groupings were: (1) Six states (Alabama, Colorado, Illinois, New Hampshire, Oklahoma, and Oregon) in which there was a Presidential but no Senate campaign in 2000; (2) 10 states (California, Delaware, Georgia, Florida, Michigan, New York, North Dakota, Texas, Vermont, and Wyoming) in which there were both a Presidential campaign and a Senate campaign in 2000; (3) six states (Delaware, Georgia, Michigan, Oklahoma, Texas and Wyoming) in which there will be a Senate campaign in 2002; and (4) six states (California, Florida, New York, North Dakota, Vermont and Washington) in which there will be no Senate campaign in 2002.

In 2000, the Federal percentages for the two parties in six States with only a Presidential campaign ranged from 20%–33.33%, with an average of 28%, while the Federal percentages for the two parties in ten States which held both Presidential and Senate campaign that year ranged from 30% to 43%, with an average of 36%. In 2002, the Federal percentages for the two parties in six States with a Senate campaign range from 20% to 25%, with an average of 21%, while the Federal percentages for the two parties in six States with no Senate campaign range from 11.11% to 16.67, with an average of 15%.

The proposed rules would apply the average percentages in each of the four groupings of States to all 50 states, resulting in the following proposed minimum percentages for Federal shares of administrative costs and for Federal shares of costs of the voter registration, voter identification, GOTV, and generic campaign activities permitted to be paid in part with Levin funds, pursuant to 2 U.S.C. 441i(b)(2):

(i) Presidential only election year—28% of costs
(ii) Presidential and Senate election year—36% of costs
(iii) Senate only election year—21% of costs
(iv) Non-Presidential and Non-Senate election year—15% of costs.

Comments are solicited as to whether a set percentage approach to allocation of both administrative and Levin expenses is preferable to a State-by-State ballot composition ratio approach, and as to whether the formula proposed by the Commission serves the purposes of the Act.

Voter registration activities undertaken 120 days or less before an election and no later than the election itself are included among the activities for which Levin funds may be used by State, district, and local party committees. The proposed regulations assume that activity outside this time frame would fall outside the general provisions of 2 U.S.C. 441i(b)(i), which prohibits the use of non-Federal funds for Federal election activities, including activities that are wholly or in part in connection with a Federal election. Therefore, the proposed regulations in 11 CFR 300.33(b)(3) state that the expenses of voter registration activity outside the 120-day time frame could be paid entirely with non-Federal funds or they could be allocated between Federal and non-Federal accounts.

In the alternative, the regulations could state that, because voter registration activities undertaken more than 120 days before an election would be outside the time frame for the use of Levin funds, the expenses for such activities would fall within the general provisions of 2 U.S.C. 441i(b)(i), which prohibits the use of non-Federal funds for Federal election activities, including activities that are wholly or in part in connection with a Federal election. Under this approach, expenses for voter registration activity outside the 120-day time frame would have to be paid entirely with Federal funds.

Comments are solicited as to which of these alternative approaches to expenses for voter registration activities more than 120 days before an election would most closely track the intent of BCRA.

The proposed regulations in 11 CFR 300.33(c) set out the categories of costs that may not be allocated. These include the costs of activities that refer to clearly identified Federal candidates, the costs of activities that refer to both Federal and State or local elections and certain fundraising costs.

Comments are sought as to whether fundraising costs would include a portion of a committee's overhead or only direct costs such as telephone banks, postage, printing, catering, banquet hall rental, and other such expenses related to a particular fundraising program. Comments are also sought as to whether costs related to raising funds only for non-Federal activity may be paid entirely from a non-Federal account.

The proposed regulations at 11 CFR 300.33(d) address the issue of transfers from a State, district, or local party committee's non-Federal account to cover the non-Federal portion of allocated administrative costs, and transfers from the committee's Levin account to meet that account's portion of the costs of allocated expenditures made pursuant to 2 U.S.C. 441i(b)(2). The proposed regulations employ the language of the present regulations at 11 CFR 106.5(g)(1)(i) and (2)(ii)(B), which require the use of the party committee's Federal account to pay the entire amounts of allocable expenses, with subsequent reimbursement by other accounts, and the limitation of such reimbursements to a set time frame of 10 days before and 60 days after the payment from the Federal account, unless a vendor requires an advance payment and the payment is based on a reasonable estimate. The proposed regulation continues the present rule's admonition at 11 CFR 106.5(g)(2)(B)(iii) that any payment outside this time frame, absent the need for an advance payment of a reasonably estimated amount, would result in the presumption of a loan of non-Federal funds to the Federal account and a violation of the Act.

7. Conforming Amendments to 11 CFR 104.10 and 106.1

A. Allocation of Expenses Among Candidates and Activities

Current section 104.10 addresses the reporting of expenses that are allocated among more than one clearly identified candidate (paragraph (a)) and expenses that are allocated among specific types of mixed Federal/non-Federal activities by political party committees and by separate segregated funds and nonconnected committees (paragraph (b)). However, BCRA has defined different categories of allocable expenses, including some of those areas falling within Federal election activity. Some of the allocable activity areas set out in current 11 CFR 106.5 (allocation of mixed Federal/non-Federal activities by party committees) are now subsumed by Federal election activity. In addition, under BCRA, mixed fundraising activity must be done with Federal funds, and the use of non-Federal funds by national party committee has been eliminated. Hence, the Commission proposes to divide the rules for reporting of allocable expenses into three sections: 11 CFR104.10 would apply to political committees that are separate segregated funds or nonconnected committees; new 11 CFR 104.17 would address administrative expenses and some other activities by political committees that are State, district, or local party committees; and new 11 CFR 300.36 would cover reporting of payments allocated between Federal funds and Levin funds.

BCRA has no impact on the support by separate segregated funds and nonconnected committees of one or more clearly identified Federal and non-Federal candidates or such committees' allocation of specific categories of mixed Federal/non-Federal activities. Thus, revised section 104.10(a), which addresses payments entailing combined expenditures and disbursements on behalf of more than one clearly identified Federal and non-Federal candidates, would be changed very little. It would be amended to clarify the type of committee subject to this section and would delete references to current section 106.5(g), which addresses non-Federal to Federal transfers made by party committees for the purpose of mixed payments.

In revised section 104.10(b), the references to the Senate and House campaign committees of a political party would be deleted. In the discussion of itemization of allocated disbursements for administrative and generic voter drive expenses at proposed paragraph (b)(1)(ii), the specific reference to the types of committees using the funds expended method would be deleted because all committees addressed in this regulation would use the funds expended method for those two allocation categories. References to exempt activities would be deleted because separate segregated funds and nonconnected committees do not engage in those activities. References to various paragraphs in 11 CFR 106.5, which currently pertains to party committees, would also be deleted.

B. Allocation of Expenses Between Candidates

Current section 106.1 addresses the allocation of expenses among more than one candidate. Paragraph (a)(1) sets out the general rule for allocation of an expenditure made on behalf of more than one clearly identified Federal candidate. It also addresses allocation of a payment involving both an expenditure made on behalf of one or more clearly identified Federal candidates and a disbursement on behalf of one or more non-Federal candidates. In view of the language of newly proposed section 300.33(c)(1), new language would be added to section 106.1(a)(1) making it clear that a party committee must only use Federal funds in both types of situations. *See also* newly proposed section 100.24(a)(3). Comments are requested as to whether the requirement that a State, district, or local party committee use only Federal funds for all payments made on behalf of both clearly identified Federal and clearly identified non-Federal candidates is appropriate under BCRA. (*See also* the narrative for newly proposed section 104.17 which addresses reporting of such activity by party committees.)

In view of the rearrangement and renumbering of the allocation reporting regulations; paragraph (a)(2) would be amended to conform to different section citations. It would also delete the citation to party committee transfer procedures in the event of a payment on behalf of clearly identified Federal and non-Federal candidates.

Paragraph (e) refers to allocation of activities that entail specific types of mixed Federal/non-Federal activity, other than payments on behalf of clearly identified candidates. The paragraph would be amended to conform to the new allocation categories and new allocation citation.

8. Proposed 11 CFR 300.34 Transfers

As explained above, the Levin Amendment permits spending on certain Federal election activity subject to certain restrictions and conditions, one of which is that the spending must be allocated between Levin funds and Federal funds. 2 U.S.C. 441i(b)(2)(A)(i), (ii). The Levin Amendment also requires that a State, district, or local committee must raise solely by itself all money spent under the Levin Amendment. 2 U.S.C. 441i(b)(2)(B)(iv). By the plain language of the last-cited provision, this restriction extends to the Federal funds component of the expenditure or disbursement allocated between Levin funds and Federal funds. *See* 148 Cong. Rec. H410 (daily ed. February 13, 2002) (Rep. Shays).

This provision of the Levin Amendment could cause confusion given the existing rule that party committees of the same political party may transfer Federal funds among themselves without limit on amount. *See* 11 CFR 102.6(a)(1)(ii). Proposed paragraph (a) of proposed section 300.34 would make clear that 11 CFR 102.6(a)(1)(ii) does not override the Levin Amendment as to transfers of Federal funds. Specifically, the committee must not use such transferred Federal funds to pay the Federal portion of Federal election activity that may be funded with a mixture of Federal funds and Levin funds under proposed 11 CFR 300.32 and 300.33. The Commission emphasizes that revisions to section 102.6(a) regarding transfers may be forthcoming in a future rulemaking to implement changes to 2 U.S.C. 441a(d) made by BCRA. The present discussion and this rulemaking extend only to Title I of BCRA. Pub L. 107–155, March 27, 2002. The proposed final sentence would state as a positive requirement that a State, district, or local political party committee that spends Levin funds must raise the Federal funds component of those funds by itself. As already mentioned above, the Levin Amendment imposes this fundraising requirement. 2 U.S.C. 441i(b)(2)(B)(iv).

In the same provision, the Levin Amendment specifically forbids certain transfers of Levin funds; that is, a State, district, or local party committee may not use as Levin funds any funds transferred to it by certain persons. 2 U.S.C. 441i(b)(2)(B)(iv)(I) through (IV). Proposed 11 CFR 300.34(b)(1) and (b)(2) would implement these transfer prohibitions by expressly identifying these persons.

9. Proposed 11 CFR 300.35 Office Buildings

BCRA repealed the provision at 2 U.S.C. 431(8)(B)(viii) exempting from the definition of contribution any donation of money or anything of value,

or loan, to a national or State party committee that is specifically designated to "defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office." In the technical amendments, however, Congress provided for the use of funds that were not subject to the limitations and prohibitions of the Act for the purchase or construction of a State or local party committee office building. This provision, which is an addition to the section on preemption at 2 U.S.C. 453, states: "Notwithstanding any other provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee." 2 U.S.C. 453(b).

The current text of 11 CFR 114.1(a)(2)(ix) follows the repealed statutory provision and would be deleted and replaced with an annotated cross-reference to proposed new 11 CFR 300.35. The texts of the regulations currently at 11 CFR 100.7(b)(12) and 100.8(b)(13), which are similar to the current text of section 114.1(a)(2)(ix), would be deleted in a separate rulemaking that the Commission is publishing concurrently with this rulemaking. The receipt and use of funds for the purchase or construction of a national party committee's office building would be addressed in proposed section 300.10, which would allow only federal funds to be used for such purpose.

Proposed new section 300.35 would address four areas in implementing 2 U.S.C. 453(b)(1). First, it would provide for the application of State law to the activities, and would provide that generally Federal law will not preempt the application of State law. Second, it would explain the meaning of "purchase or construction of a party office building." Third, it would provide that, if the funds are not used for the purpose as defined, they are to be treated as disbursements for other purposes and Federal law would apply. Finally, it would address the transitional requirements for the current State party office facility funds established under the repealed statutory section.

A. Application of State Law

Senator McConnell, the principal speaker in support of the technical amendments after their introduction in the Senate, described the party office building provision as "[r]especting the primacy of State law in financing State and local party buildings." 148 Cong. Rec. S2339 (daily ed. March 22, 2002) (statement of Sen. McConnell). During floor debate prior to Senate passage of the main bill, in anticipation of the adoption of technical amendments, Senator Feingold described the proposal as providing that Federal law would no longer allow a State or local party committee to receive non-Federal donations to purchase or construct an office building where such donations violated State law, that State law governs the receipt and disbursement of non-Federal donations by State or local parties for such purpose, and that there is no "required match consisting of Federal contributions." 148 Cong. Rec. S2143–2144 (daily ed. March 20, 2002) (statement of Sen. Feingold).

Paragraph (a) of proposed section 300.35 would set out the basic provision that funds raised outside the limits and prohibitions of the Act may be used, and that State law would govern whether they may be raised and used for the purchase or construction of a State or local party office building. Paragraph (a) would also incorporate language from the repealed statute and deleted regulations to the effect that the exemptions from Federal limits and prohibitions are premised on the idea that the building is not purchased or constructed for the purpose of any particular Federal candidacy. The building is being purchased or constructed for the functioning of the party, which entails the support of most or all of the party's candidates over a number of years; this concept did not change with the repeal of 2 U.S.C. 431(8)(B)(viii) and the enactment of 2 U.S.C. 453(b). The purchase or construction of the building for a particular Federal candidacy would entail the use of impermissible funds in a manner contrary to the basic purpose of the Federal law.

Paragraph (b) of section 300.35 would explain the coverage of State law. Paragraph (b)(1) would provide that Federal law will not preempt State law as to the non-Federal account activity, except where the funding does not fit the definition of the purchase or construction of an office building and would be another type of disbursement. Commission advisory opinions have addressed the question of whether the repealed contribution exemption, which permitted donations to a building fund from such Federally impermissible sources as corporations, preempted State law prohibitions on the use of such funds for campaign purposes. Advisory Opinions 2001–12, 1998–8, 1998–7, 1997–14, 1993–9, 1991–5, and 1986–40. The Commission stated in these opinions that Congress decided not to place restrictions on the subject even though it could have determined that the purchase of the facility was for the purpose of influencing a Federal election, that Congress took the affirmative step of deleting the receipt and disbursement of funds for such activity from the proscriptions of the Act, and that there was no indication that Congress intended to limit the preemptive effect to some allocable portion of the purchase costs. Proposed new section 300.35, in effect, would supersede these Commission decisions as to Federal preemption with respect to the purchase or construction of an office building. Corporate donations and donations that would be excessive under Federal law may be used for the purchase or construction of a State party office building where State law permits (and this has been expanded to local party office buildings), but if the State law forbids corporate donations and donations in excess of a particular amount, Federal law would not preempt that law and such donations could not be made for that purpose.

Paragraph (b)(2) would provide that funds contributed to a Federal account that are then used to purchase or construct a State or local party office building must still comply with the limits and prohibitions of the Act. The committee's reports filed with the Commission would disclose the Federal account's receipts and disbursements that were used for the building purchase or construction as contributions received and disbursements made. Although this proposed section would address the use of Federal account funds, State law is the primary determinant as to the financing of these buildings and would still control whether such funds may be used. Thus, the Federal law would not preempt a State regulatory attempt to determine, using a reasonable accounting method, whether the Federal account funds used for the purchase or construction originated from contributions that would be impermissible or excessive under State law. Consistent with this State coverage, a State would be able to require the committees to file reports disclosing the Federal account's receipts and disbursements of funds used for the building purchase or construction. This would not entail a replication of the Federal reports; it would merely entail the disbursements for the activity covered by this section and the contributions that, under a reasonable accounting method, were the source of such disbursements.

Although receipts and disbursements from the non-Federal accounts would have to be in compliance with State law, and both Federal and State law would apply to the permissibility of receipts and disbursements from the Federal account, proposed new section 300.35 would not contemplate a Commission enforcement action against a party committee for violating State law. Such an action, which would interpret and apply State law, would be the State's responsibility. Moreover, although the new provision would not require the establishment of a separate bank account or book account for the receipt and disbursement of funds for purchase or construction of the office building, Federal law would not preempt a State law requirement to establish such an account.

Under paragraph (b)(3), Levin funds would be usable for the purchase or construction of an office building provided that State law permits the use of such funds.

In accordance with these provisions as to the application of State law, current section 108.7(c), which lists types of State laws that are not superseded by the Act and the regulations, would be amended to include the application of State law to the purchase or construction of a State or local party office building in accordance with proposed section 300.35.

B. Definition of "Purchase or Construction of an Office Building"

In view of the Commission's prior advisory opinions interpreting the scope of the repealed exception, it is necessary to delineate more precisely the scope of the activity covered under the new exception. In order to explain the scope of activities under which the funds would not be subject to the limitations and prohibitions of the Act (except for contributions to Federal accounts) and would be subject to State law, the proposed rules would define three terms: office building, purchase, and construction.

Section 453(b) of FECA refers to the purchase or construction of an "office building" rather than an "office facility" as found in the repealed section. The term "building" is a narrower term that indicates a more restricted range of covered expenses. In recent advisory opinions applying the repealed section, the Commission has stated that expenses that would be considered capital expenditures under the Internal Revenue Code would be payable from the building fund. *See* Advisory Opinions 2001–12, 2001–01, and 1998–7; *see also* 26 CFR 1.263(a)–(1) and 1.263(a)–(2). This has been interpreted by some to mean that the building fund may pay for the purchase of office machinery, equipment, and furniture. *See* Advisory Opinion 2001–12. The proposed rules interpret the use of the term "building" instead of "facility" as a basis for ensuring that this proposed section would not include what are more appropriately administrative expenses for the operation of the party, rather than the purchase or construction of an office building.

Specifically, proposed paragraph (c)(1) would ensure that items such as office equipment, machinery, and furniture would not be considered a part of the building and that the exemption afforded by this section would not extend to such payments; such payments would instead be allocable administrative expenses. The definition of "building" would extend only to the building itself and accompanying land, but this definition would not be meant to exclude a portion of the building, such as an office suite or one or more floors of a building, that a committee may purchase instead of an entire building. Although structural components and certain other fixtures, as described in proposed paragraph (c)(1), would not by themselves constitute a building, they would appear in the proposed regulation to convey the idea of what would be part of the building's structure, as opposed to the office equipment and machinery and similar items. The term "structural component" would be derived from the tax regulations, at 26 CFR 1.148–1; it would apply to such features as interior walls, floors, ceilings, windows, doors, stairwells and elevators, central air conditioning or heating systems, sprinkler systems, plumbing and plumbing fixtures, and electrical and data transmission wiring and lighting fixtures. There may be other fixtures that are not strictly "structural components" that are essential to the operation or appearance of the building. (*See* the discussion below as to when the installation of a significant number of structural components as part of a major restoration or renovation will qualify as construction of an office building.)

One particularly relevant illustration of the distinction between a structural component and an item that would not be part of the building pertains to audio-visual production facilities. Although a studio with special lighting, acoustical paneling, and special wiring in the walls may be built during the general construction of the building and would be considered part of the building, equipment such as recording equipment and cameras that are placed in the studio would not be part of the building's structure for the purposes of the proposed regulation.

The Commission seeks comment on whether the proposed definition of "building" should include, rather than explicitly exclude, items such as office equipment, machinery, or furniture. More generally, the Commission seeks comment on whether BCRA's use of the term "building" instead of "facility" contemplated a narrowing of the range of expenses falling within the exemption.

Proposed paragraph (c)(1) would also refer to the purpose of the party's use of the building, which is solely for its own party administration and election campaign support purposes. A party office building would not include floors or offices within the building or portions of the underlying land that are not used, or set aside for use, for party committee purposes. A party would be able to purchase a portion of a building such as a floor or suite to be its office building, but a party owning an entire building would not be able to rent or sell space in the building to others. The Commission seeks comment on whether a State or local party committee should be permitted to purchase an entire building and lease parts of it at fair market rates in order to generate income. In addition, the Commission seeks comment on whether the sources of the funds used to purchase or construct the office building should govern or guide the Commission in the determination of the lawful uses of such income. For example, would the purchase of a building with non-Federal funds require that the rental income generated be deposited in a non-Federal account and only used for non-Federal purposes? Would the purchase of the building with Federal funds allow rental income to be deposited in a Federal account and used for Federal purposes? What approach should be taken when revenue is generated from a building that was purchased with proceeds from a building fund that contains both Federal and non-Federal funds?

In the definition of "purchase" at proposed paragraph (c)(2), the payment to acquire the sole legal title would, of course, include down payments and mortgage payments. The proposed rule would draw from advisory opinions that limited the kinds of payments that would fall within the repealed exception. These opinions excluded payments for ongoing "operating expenses" such as property taxes and assessments (Advisory Opinion 1983–8)

or administrative expenses such as rent, building maintenance, utilities, and "office equipment expenses." Advisory Opinions 2001–12, 2001–01 and 1988–12.

In defining "construction," proposed paragraph (c)(3) would distinguish between expenses that constitute the erection of the building or the extensive renovation of a building on one hand, and costs for the upkeep, repair, or more piecemeal replacement of structural components. This distinction is derived from Advisory Opinion 1998–7 where the Commission, drawing from the tax code, distinguished the cost of incidental repairs that do not materially add to the property's value nor appreciably prolong its life, but "keep it in an ordinary efficient operating condition" from "repair work [that] reaches a level to constitute wholesale restoration or renovation of a structure." The distinction may be illustrated by the following examples:

Example A—Expansion of the size of the building (*i.e,* changing the size or position of the outer perimeter of the structure) would constitute "construction."

Example B—A single large scale project (with a specific time deadline) entailing the replacement of a number of various structural components throughout the building to improve the building's habitability and function; for example, expanding, contracting, or altering the configuration of a significant number of rooms within the building coupled with replacements of a significant number of other structural components throughout the building such as installation of new electrical wiring throughout the building, and new climate control and plumbing systems would also constitute "construction."

Example C—The replacement on a periodic basis of structural components where such replacement is not part of a single large scale renovation project with a specific time deadline would not constitute "construction" under this section.

The definitions in proposed paragraph (c) may not include all of the possibilities for expenses for the purchase or construction of a party office building. In seeking comments on this proposed regulation, the Commission asks whether more examples should be included in what is or is not included in the particular sub-definitions, or whether the advisory opinion process would best serve that purpose. For example, should payments for a long-term lease with an option to purchase the rented building be included within the definition of purchase? More generally, the Commission seeks comment on what constitutes the purchase or construction of a party office building.

C. Office Building-Related Expenses Not Qualifying Under Proposed Paragraph (c)

An expense that is not included within the definition of the purchase or construction of an office building would most likely be an administrative expense of the party. Depending on the circumstances, such an expense may be support for a particular candidate or in some other category, rather than an administrative expense. If the expense is an administrative expense, it would be allocable under proposed 11 CFR 300.33 and a sufficient amount of Federal account funds would have to be used for the expense. In addition, the provisions of the Act would apply to the sources that are properly used for allocable expense purposes. The Commission notes that the portion of this NPRM describing the allocation rules at proposed section 300.33 asks for comments on whether administrative expenses should be allocable between Federal and non-Federal accounts, or whether such funds should be considered as entirely Federal or entirely non-Federal.

D. Transitional Provisions for State Party Building or Facility Account

Up to and including November 5, 2002, the funds in a State party office facility account can be used only for the purchase or construction of a State party office facility. Starting on November 6, those funds, if used for the purchase or construction of the office building, would be subject to State law, and State law may determine that the funds may not be used for that purpose, as would be provided in proposed new section 300.35. The proposed rule would also state what the funds may not be used for.

10. Proposed 11 CFR 300.36 Reporting Federal Election Activity; Recordkeeping

BCRA establishes certain reporting requirements for State, district, and local committees that finance Federal election activities. *See* 2 U.S.C. 434(e)(2). This requirement extends generally to all receipts and disbursements for Federal election activities if the aggregate amount of receipts and disbursements for such activity is $5,000 or more per calendar year, 2 U.S.C. 434(e)(2)(A), and specifically extends to receipts and disbursements of Levin funds. 2 U.S.C. 434(e)(2)(B). Because spending under the Levin Amendment is allocated between Federal funds and non-Federal funds not otherwise subject to the Act's prohibitions, limitation, and reporting requirements (*i.e.*, Levin funds), Congress has specifically required Federal disclosure of certain otherwise non-Federal receipts and disbursements of State, district, and local committees (*i.e.*, the Levin funds).

Proposed paragraph (a) of this section would apply to State, district, and local political party committees that have not qualified as political committees under 11 CFR 100.5. Although such an organization would not have reporting requirements under BCRA (*see* 2 U.S.C. 434(e)(2)), it would be required under proposed paragraph (a)(1) to demonstrate through a reasonable accounting method that it had sufficient Federal funds on hand to pay the required Federal portion of the costs of Federal election activity under proposed 11 CFR 300.32 and 300.33. Proposed paragraph (a)(1) would also require such a party organization to keep records of Federal receipts and disbursements and to make those records available to the Commission upon request.

Proposed paragraph (a)(2) would clarify that a payment of Federal funds for the costs of Federal election activity, or for the Federally allocated portion of the costs of Federal election activity, would constitute an expenditure, within the meaning of 11 CFR 100.8, unless an exclusion from the definition of expenditure in 11 CFR 100.8(b) applies. Thus, such payments would constitute expenditures for purposes of determining whether or not a State, district, or local political party organization becomes a political committee, under 11 CFR 100.5. The Commission seeks comment on this interpretation and whether, alternatively, disbursements for Federal election activity that do not otherwise qualify as "expenditures" or "exempt activities" should be excluded from the threshold for determining political committee status. Proposed paragraph (a)(2) would also state that a payment of Federal funds for the costs of Federal election activity, or for the Federally allocated portion of the costs of Federal election activity, that meets the definition of "exempt activities" (*see* 11 CFR 100.8(b)(10), (16), and (18)) would be treated as exempt activities in accordance with applicable provisions of the current (*i.e.*, pre-BCRA) regulations.

Proposed paragraph (b) of proposed section 300.36 would apply to State, district, and local political party committees that have qualified as political committees under 11 CFR 100.5. Proposed paragraph (b)(1) would provide that such committees must report all receipts and disbursements of Federal funds for all or part of the costs of Federal election activity. Proposed paragraph (b)(1) would go on to state that this requirement holds even if the committee has less than $5,000 of aggregate receipts and disbursements for Federal election activity. *See* 2 U.S.C. 434(e)(2)(A). The final sentence of proposed paragraph (b)(1) would provide that a disbursement of Federal funds for the costs of, or for the Federally allocated portion of the costs of, Federal election activity is reportable as an expenditure, unless an exclusion in 11 CFR 100.8(b) applies.

Proposed paragraph (b)(2) would implement the broader reporting provisions of 2 U.S.C. 434(e)(2)(A) and (B). The proposed first sentence would state the basic rule that all receipts and disbursements for Federal election activity must be reported if the political committee has had an aggregate of $5,000 or more of such receipts and disbursements in a calendar year. The proposed second sentence would make it clear that this basic reporting rule extends to the otherwise non-Federal funds spent for Federal election activity under the Levin Amendment (that is, to the Levin funds).

Proposed paragraph (b)(2)(i) would spell out the requirements for reporting payments for the costs of Federal election activity that are allocated between Federal funds and Levin funds. It would identify certain information, such as name, address, amount, and description of purpose, which must be provided for each reportable payment. Proposed paragraph (b)(2)(i) would require activity-by-activity itemization of a reportable payment that covers the costs of more than one Federal election activity. Proposed paragraph (b)(2)(ii) would implement BCRA's itemization provision for receipts and disbursements to or from any person of more than $200 in a calendar year. *See* 2 U.S.C. 434(e)(3).

Proposed paragraph (b)(3) is intended to alert the reader to the rules for reporting payments allocated between Federal funds and non-Federal funds that are not covered in proposed paragraph (b)(2). As explained above, proposed paragraph (b)(2) would apply only to payments for Federal election activity allocated between Federal funds and Levin funds under proposed 11 CFR 300.33. The reporting regulation for other payments allocated between Federal funds and non-Federal funds would be contained in proposed new 11 CFR 104.17. For example, section 104.17 would address reporting of administrative expenses and salaries of employees who spend 25% of their time, or less, on Federal elections.

Proposed paragraph (c) would implement BCRA's new requirement for monthly filing by party committees that come under new section 434(e) of the Act. This would be accomplished by referring to the Commission's existing regulation specifying monthly reporting, i.e., 11 CFR 104.5(c)(3). The Commission seeks comments on the applicability of the $50,000 annual threshold for electronic filing to receipts and disbursements for Federal election activities. *See* 11 CFR 104.18.

Finally, proposed paragraph (d) would support the disclosure provisions outlined above by adding a recordkeeping requirement. This would be accomplished by referring to the Commission's existing regulation on recordkeeping, 11 CFR 104.14. This requirement is necessary to ensure that sufficient documentation exists to ensure compliance with the disclosure provisions of BCRA.

With regard to reporting and recordkeeping, the Commission seeks comments about what, if any, reporting requirements an association or similar group of candidates for, or holders of, State and local office (*see* 2 U.S.C. 441i(b)(1)) that is not a political committee has under 2 U.S.C. 434(e)(2).

11. Proposed 104.17 Reporting of Allocable Expenses by Party Committees

As indicated in the description of section 104.10, the proposed rules would divide the present regulations at that section into several regulations to cover reporting of specific allocation areas by specific types of reporting entities. New section 104.17, which is currently reserved space, would address reporting by party committees of allocable expenses. Reporting requirements with regard to activity allocated between Federal and Levin accounts pursuant to 11 CFR 300.30 and 11 CFR 300.33 are also addressed in 11 CFR 300.36.

Proposed 11 CFR 104.17(a) would address payments on behalf of more than one clearly identified candidate, including non-Federal candidates. Current section 104.10 provides for allocated Federal/non-Federal spending when a combined payment is made on behalf of both Federal and non-Federal clearly identified candidates. Under BCRA and as provided in the proposed revisions of section 106.1(a), however, it appears that all such payments must be made entirely from Federal funds. Hence, proposed 11 CFR 104.17(a) would provide for the reporting of all allocations between or among clearly identified Federal and non-Federal candidates as Federal activity. Comments are solicited as to whether this requirement that State, district and local committees of political parties use Federal funds for activity on behalf of clearly identified Federal and clearly identified non-Federal candidates is appropriate under BCRA. (*See also* 11 CFR 300.30).

Proposed 11 CFR 104.17(b)(1) would require explanations of the percentages used to allocate payments for specific categories of State, district and local party activity. The Commission is also contemplating requiring the assignment of unique identifying codes to some allocable activities as is required in current 11 CFR 104.10(b)(2). (For example, the reporting of exempt costs now requires such identifiers.) Comments are sought as to whether such unique identifying codes for activities would be of utility in tracking any of the allocable expenditures for activities. Also, should activities that have been included under exempt costs (now apparently subsumed by other categories) require such identifiers?

Proposed 11 CFR 104.17(b)(2) would address the reporting of transfers between State, district and local party accounts for allocable expenses, while proposed 11 CFR 104.17(b)(3) would set out the details required in the reporting of disbursements for allocable activity by State, district and local committees of political parties.

12. Proposed 11 CFR 300.37 Prohibitions on Fundraising for and Donating to Certain Tax Exempt Organizations

Just as it prohibits national parties from fundraising for, or making or directing donations to, certain tax exempt organizations, BCRA also prohibits State, district, and local party committees, their officers and agents acting on their behalf, and entities directly or indirectly established, maintained, financed, or controlled by them from doing so. 2 U.S.C. 441i(d)(i). Thus, the proposed rules at 11 CFR 300.37 relating to State, district, and local party committees would mirror the proposed rules at 11 CFR 300.11 relating to national party committees. *See* discussion above.

The Commission seeks comments on one component of the proposed rules as they apply to State, district, and local party committees. Proposed 11 CFR 300.37(a)(3), like proposed 11 CFR 300.11(a)(3), would mirror 2 U.S.C. 441i(d) in extending the prohibition on fundraising for, or donating to, section 527 organizations "except for a political committee; a State, district, or local

committee of a political party; or the authorized campaign committee of a State or local candidate." The proposed rules would interpret "political committee" as it is currently defined in 11 CFR 100.5. Under this construction, State, district, and local party committees could fundraise for, or donate to, a section 527 organization that is a Federal political committee under the Act, but they could not do so for a section 527 organization that is a State-registered political action committee ("PAC") that supports only non-Federal candidates. The Commission seeks comment as to whether another interpretation of "political committee" is warranted that would permit State, district, and local party committees to donate to this type of State-registered section 527 organization.

Tax-Exempt Organizations

For the convenience of readers interested in locating rules pertaining to fundraising and donations to tax-exempt organizations, subpart C of new part 300 would combine in a single place the prohibitions on national, State, district, and local party committee donations to, and fundraising for, certain 501(c) and 527 tax-exempt organizations and the rules governing fundraising by Federal candidates and officeholders for 501(c) organizations. Proposed 11 CFR 300.50 would mirror proposed rule 11 CFR 300.11. Proposed 11 CFR 300.51 would mirror proposed rule 300.37. Proposed 11 CFR 300.52 would mirror proposed 11 CFR 300.65. *See* the discussion in proposed 11 CFR 300.11 and 300.37 above and 300.65 below.

Federal Candidates and Officeholders

BCRA places limits on the amounts and types of funds that can be raised by Federal candidates and officeholders for both Federal and State candidates. *See* 2 U.S.C. 441i(e). The Commission is proposing to place the regulations that address these limitations in 11 CFR part 300, subpart D.

1. General Prohibitions

The restrictions apply to Federal candidates and officeholders, their agents, and entities directly or indirectly established, maintained, or controlled by, or acting on behalf of, any such candidate(s) or officeholder(s). As defined in 2 U.S.C. 431(3) and existing 11 CFR 100.4, "Federal office" means the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States. There is a similar definition of "Federal officeholder" in 11 CFR 113.1(c). Please note that these restrictions encompass candidate PACs and leadership PACs. Persons covered by these restrictions may not "solicit, receive, direct, transfer or spend" non-Federal funds unless certain requirements are satisfied.

BCRA prohibits any Federal candidate or officeholder, his or her agent, or any entity described above, from raising non-Federal funds in connection with an election for Federal, State, or local office. 2 U.S.C. 441i(e)(1)(A) and (B); proposed 11 CFR 300.61. These prohibitions encompass raising money for section 527 organizations, whether or not such organizations are Federal political committees. With limited exceptions, such persons may raise and spend Federal money in connection with a non-Federal election only in amounts and from sources that are consistent with State law, and that do not exceed the Act's contribution limits or come from prohibited sources under the Act. 2 U.S.C. 441i(e)(1)(B); proposed 11 CFR 300.62.

The prohibitions in 11 CFR 300.61 and 300.62 encompass "leadership" and "candidate" PACs since these PACs are entities directly or indirectly established, financed, maintained, or controlled by, Federal candidates and/or officeholders. Specifically, leadership PACs and candidate PACs are political organizations set up by congressional leaders and other Federal candidates and officeholders as a way to support other candidates' campaigns. In 2001, at least 110 members of Congress had leadership PACs.

As Senator McCain explained in the Senate debate, "A Federal officeholder or candidate is prohibited from soliciting contributions for a Leadership PAC that do not comply with the Federal hard money source and amount limitations." *See* 148 Cong. Rec. S2140 (Daily ed. March 20, 2002) (statement of Sen. McCain). Consequently, under proposed 11 CFR 300.61, Federal candidates, Federal officeholders, and their leadership PACs and candidate PACs cannot solicit, receive, direct, transfer, or spend funds for a Federal account of a leadership or candidate PAC unless the funds are subject to the prohibitions, limitations, and reporting requirements of the Act. Similarly, Federal candidates, Federal officeholders, and their leadership PACs and candidate PACs cannot solicit, receive, direct, transfer, or spend funds for a non-Federal account of a leadership PAC or candidate PAC unless the funds are subject to the prohibitions and limitations of the Act. Thus, neither the Federal nor non-Federal accounts of a Federal candidate's leadership PAC or candidate PAC could receive or spend corporate treasury or labor organization funds or funds from individuals and political committees that exceed the limitations of the Act. Additionally, funds in the non-Federal account of these PACs must not be used for Federal election activities or in connection with a Federal election. *See* 148 Cong. Rec. S2140 (Daily ed. March 20, 2002) (statement of Sen. McCain).

2. Exceptions for State and Local Candidates and for Fundraising Events

An exception applies when a Federal candidate or Federal officeholder is also a candidate for State or local office. Such candidates may raise and spend non-Federal funds for their State campaign, as long as their activities are consistent with State law and refer only to their status as a State or local candidate, to other candidates for that same office, or both. 2 U.S.C. 441i(e)(2); proposed 11 CFR 300.63. Please note that if a State or local candidate is simultaneously a candidate for Federal office, he or she must raise and spend only Federal funds in connection with the Federal campaign.

BCRA contains a further exemption, for Federal candidates and officeholders who attend, speak, or appear as a featured guest at a State, district, or local party committee fundraising event. *See* 2 U.S.C. 441i(e)(3); proposed 11 CFR 300.64. The Commission seeks comment on how it should construe and implement this provision, particularly in light of the separate general prohibition on Federal candidates and officeholders from soliciting non-Federal funds in connection with an election for Federal, State, or local office.

Sen. McCain explained in the Senate debate that "[t]he rule here is simple: Federal candidates and officeholders cannot solicit soft money funds, funds that do not comply with Federal contribution limits and source prohibitions, for any party committee—national, State, or local." 148 Cong. Rec. S2139 (daily ed. March 20, 2002) (statement of Sen. McCain). Thus, under the proposed rules, while such individuals may attend, speak, or be a featured guest at a State or local party fundraising event, they cannot solicit funds at any such event.

However, the Commission seeks comments on whether the fundraising event provision is a total exemption from the general solicitation ban, whereby Federal candidates and officeholders and their agents may attend and speak freely at such events without restriction or regulation. In addition, the Commission seeks comments on how it should construe BCRA's phrase permitting Federal candidates and officeholders to "attend, speak, or be a featured guest" at a fundraising event. Specifically, the phrase "featured guest" strongly suggests that State, district, or local party committees may publicize in advance that a Federal candidate or officeholder will be attending and speaking at an event. Does this mean that Federal candidates and officeholders may be referred to in invitation materials for the event? May they appear as members of a host committee of an event? May they be honored at the event? Should the general solicitation bar be construed to mean that Federal candidates and officeholders are strictly prohibited from doing anything that would constitute a "solicitation" under the Internal Revenue Code that would trigger IRS disclaimer obligations?

3. Exception for Tax-Exempt Organizations

BCRA also addresses solicitations on behalf of 501(c) organizations that are made by Federal candidates, Federal officeholders, and individuals who are agents of either. 2 U.S.C. 441i(e)(4). BCRA makes clear that these individuals may make general solicitations on behalf of 501(c) organizations, without regard to the source or amount solicited, as long as the solicitation does not specify how the funds will or should be spent and as long as the solicitation is not for a 501(c) organization whose principal purpose is to conduct certain Federal election activity as described in 11 CFR 300.2(a), such as voter registration, voter identification, GOTV activities, or generic campaign activity. BCRA prohibits these individuals from specifically soliciting funds for the above-described Federal election activity, or for 501(c) organizations whose principal purpose is to conduct those Federal election activities, unless the solicitation is made to an individual and the amount solicited does not exceed $20,000 per year. No solicitations may be made on behalf of 501(c) organizations for funds to use for public communications that refer to a clearly identified Federal candidate and that promote, support, attack, or oppose the candidate. *See* 148 Cong. Rec. H408 (daily ed. February 13, 2002) (statement of Rep. Shays). Thus, for example, a Federal candidate may make a general solicitation to a corporation or labor organization on behalf of the Red Cross, but may not solicit a corporation or labor organization for GOTV activities conducted by a 501(c)(4) organization. These provisions also apply to organizations that have applied for 501(c) tax exempt status, where the application is still pending. The proposed rules track these provisions. *See* 11 CFR 300.65.

The BCRA provision relating to candidate/officeholder solicitations on behalf of 501(c) organizations specifically applies only to individuals described in 2 U.S.C. 441i(e)(1). Section 441i(e)(1) of FECA applies to Federal candidates, individual holding Federal office, their agents, and entities directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of either Federal candidates and Federal officeholders. Thus, the proposed rules construe BCRA to permit only individuals to make the solicitations—that is, Federal candidates, Federal officeholders, and individuals acting as their agents. An entity acting as a candidate's agent or an entity directly or indirectly established, financed, maintained, or controlled by a candidate could not make these general or specific solicitations on behalf of a 501(c) organization. However, the Commission seeks comments as to whether another interpretation is warranted.

The Commission also notes that the language encompassing an "agent" of Federal candidates and officeholders in Section 441i(e)(1), unlike the "agent" language in Sections 441i(a)(2) and 441i(d), does not include the limiting phrase, "agent acting on behalf of." The Commission seeks comment as to whether Section 441i(e)(1) should be similarly construed as applying to an agent acting on behalf of a Federal candidate or officeholder or whether the absence of this limiting language was intended to confer a different meaning on the use of the term "agent" in this provision.

The Commission also seeks comments on whether the proposed rules should address how to identify organizations whose principal purpose is to conduct the described Federal election activity. Should a 501(c) organization's major activities, as identified in publicly available information such as its application for tax-exempt status or annual Form 990 tax returns, be used to determine whether an organization's principal purpose is to conduct Federal election activity? Although those publicly available tax forms would reveal the past major activities of an organization or the major activities planned by the organization at the time it applied for tax exempt status, additional information would be needed to determine the principal purpose of an organization that has applied for, but not yet obtained, tax exempt status, and to ascertain the current major activities of a 501(c) organization. Thus, should Federal candidates and officeholders be required to obtain a certification from an organization on whose behalf the candidate or officeholder wants to solicit funds that its principal purpose is not to conduct the described Federal election activity? Should the rules include a knowledge standard prohibiting solicitations for unlimited funds from any source if a Federal candidate, Federal officeholder, or individual acting on their behalf has knowledge that an organization is planning to conduct the described Federal election activity?

Finally, the Commission seeks comments on whether the rules should further address a Federal candidate's or Federal officeholder's responsibility when specifically soliciting individuals for funds for a 501(c) organization to use in conducting Federal election activity. For example, if a Federal candidate is soliciting a donation of $20,000 from an individual who serves as the CEO of a major corporation, should the candidate be required to inform the individual that personal funds are being solicited and not funds from the individual's corporation?

Communications by State and Local Candidates

Proposed Subpart E would implement two provisions of BCRA regarding State and local candidates. BCRA prohibits State and local candidates and officeholders from funding certain public communications with non-Federal funds. *See* 2 U.S.C. 441i(f)(1); proposed 11 CFR 300.71. They may, however, use Federal funds for these communications. The prohibition on use of non-Federal funds encompasses communications that refer to a clearly identified candidate for Federal office, if the communication promotes, supports, attacks, or opposes any candidate for that Federal office, regardless of whether the communication expressly advocates voting for or against any candidate.

In addition, BCRA contains an exception that permits State and local candidates to use non-Federal funds for communications that merely refer to Federal candidates in another context. 2 U.S.C. 441i(f)(2); proposed 11 CFR 300.72. For example, State and local candidates may note that they have been endorsed by Federal candidates, or that they agree or disagree with a Federal candidate's position on a certain issue. *See* 148 Cong. Rec. S2142–43 (daily ed. March 20, 2002) (statement of Sen.

Feingold). They would also be able to use non-Federal funds to refer to a bill or law by its popular name where that name happens to include the name of a Federal candidate. These examples are included in proposed 11 CFR 300.2(l)(ii), the definition of "promote, support, attack, or oppose," which is cross-referenced in proposed 11 CFR 300.72.

A State or local candidate or officeholder may also use non-Federal funds for communications made in connection with an election for State or local office, that refer only to the sponsoring individual or to any other candidate for the State or local office held or sought by that individual, or both. *Id.*

Certification of No Effect Pursuant to 5 U.S.C. 605(b)

[Regulatory Flexibility Act]

The Commission certifies that the attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that the national, State, and local party committees of the two major political parties are not small entities under 5 U.S.C. 601, and the number of other small entities to which the rules would apply is not substantial.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 102

Political committees and parties, reporting and recordkeeping requirements.

11 CFR Part 104

Campaign funds, political committees and parties, reporting and recordkeeping requirements.

11 CFR Part 106

Campaign funds, political committees and parties, political candidates.

11 CFR Part 108

Elections, reporting and recordkeeping.

11 CFR Part 110

Campaigns, political parties and committees.

11 CFR Part 114

Business and industry, elections, labor.

11 CFR Part 300

Campaign funds, nonprofit organizations, political committees and parties, political candidates, reporting and recordkeeping requirements.

11 CFR Part 9034

Campaign funds, reporting and recordkeeping requirements.

For reasons set out in the preamble, Subchapters A, B and F of Chapter I of title 11 of the *Code of Federal Regulations* would be amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for 11 CFR part 100 would continue to read as follows:

Authority: 2 U.S.C. 431; 434(a)(11), 438(a)(8).

2. Section 100.14 would be revisied to read as follows:

§ 100.14 State committee, subordinate committee, district, or local committee (2 U.S.C. 431(15)).

(a) *State committee* means the organization that by virtue of the bylaws of a political party or the operation of state law is part of the official party structure, and is responsible for the day-to-day operation of the political party at the State level, including an entity that is directly or indirectly established, financed, maintained, or controlled by that organization, as determined by the Commission.

(b) *Subordinate committee of a State committee* means any organization that is part of the official party structure, and is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the State committee, as determined by the Commission.

(c) *District or local committee* means any organization that by virtue of the bylaws of a political party or the operation of State law is part of the official party structure, and is responsible, under State law, for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State, including an entity that is directly or indirectly established, financed, maintained, or controlled by the district or local committee, as determined by the Commission.

3. Section 100.24 would be added to read as follows:

§ 100.24 Federal election activity (2 U.S.C. 431(20)).

(a) *Federal election activity* means—

(1) Voter registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal election is held and ends on the date of the election. For purposes of voter registration activity, the term "election" does not include any special election;

(2) The following activities conducted in connection with an election in which one or more candidates for Federal office appears on the ballot (regardless of whether one or more candidates for State or local office also appears on the ballot):

(i) Voter identification, including canvassing, and other activities designed to determine registered voters, likely voters, or voters indicating a preference for a specific candidate or political party; or

(ii) Generic campaign activity, as defined in 11 CFR 100.25;

(iii) Get-out-the-vote activity. Examples of get-out-the-vote activity include transporting voters to the polls, contacting voters on election day or shortly before to encourage voting but without referring to any clearly identified candidate for Federal office, and distributing printed slate cards, sample ballots, palm cards, or other printed listing(s) of three or more candidates for any public office;

(3) A public communication that refers to a clearly identified candidate for Federal office, regardless of whether a candidate for State or local election is also mentioned or identified and that promotes, supports, attacks, or opposes any candidate for Federal office. This paragraph applies regardless of whether the communication expressly advocates a vote for or against a Federal candidate; or

(4) Services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

(b) *Exceptions. Federal election activity* does not include any amount expended or disbursed by a State, district, or local committee of a political party for:

(1) A public communication that refers solely to one or more clearly identified candidates for State and local office. This exception does not apply to a public communication that is voter registration activity, voter identification, generic campaign activity, or get-out-the-vote activity under paragraphs (a)(1) or (a)(2) of this section;

(2) A contribution to a candidate for State or local office, provided the contribution is not designated to pay for

voter registration activity, voter identification, generic campaign activity, get-out-the-vote activity, or a public communication as set forth in paragraphs (a)(1) through (4) of this section;

(3) The costs of a State, district, or local political convention or other similar meeting or conference;

(4) The costs of grassroots campaign materials, including buttons, bumper stickers, handbills, brochures, posters and yard signs, that name or depict only candidates for State or local office;

(5) Voter registration activity at any time other than the period of time that is 120 days before the date that a regularly scheduled Federal election is held through the date of the election; and

(6) Get-out-the-vote and voter identification activities in elections in which no candidate for Federal office appears on the ballot.

4. Section 100.25 would be added to read as follows:

§ 100.25 Generic campaign activity (2 U.S.C. 431(21)).

Generic campaign activity means a campaign activity that promotes or opposes a political party and does not promote or oppose a Federal candidate or a non-Federal candidate.

5. Section 100.26 would be added to read as follows:

§ 100.26 Public communication (2 U.S.C. 431(22)).

Public communication means a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising.

6. Section 100.27 would be added to read as follows:

§ 100.27 Mass mailing (2 U.S.C. 431(23)).

Mass mailing means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period. For purposes of this section, substantially similar means communications that have been personalized to include the recipient's name, occupation, geographic location, or similar types of individualization.

7. Section 100.28 would be added to read as follows:

§ 100.28 Telephone bank (2 U.S.C. 431(24)).

Telephone bank means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period. For purposes of this section, *substantially similar* means communications that have been personalized to include the recipient's name, occupation, geographic location, or similar types of individualization.

§§ 100.29–100.50 [Added and Reserved]

8. Sections 100.29 through 100.50 would be added and reserved.

9. Sections 100.1 through 100.50 would be designated as subpart A—General Definitions, and Subpart B would be added and reserved.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

10. The authority citation for part 102 would continue to read as follows:

Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

11. Section 102.5 would be revised to read as follows:

§ 102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers.

(a) *Organizations that are political committees under the Act, other than National Party committees.*

(1) Each organization, including a State, district, or local party committee, that finances political activity in connection with both Federal and non-Federal elections and that qualifies as a political committee under 11 CFR 100.5 shall either:

(i) Establish a separate Federal account in a depository in accordance with 11 CFR part 103. Such account shall be treated as a separate Federal political committee which shall comply with the requirements of the Act including the registration and reporting requirements of 11 CFR part 102 and 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate Federal account. All disbursements, contributions, expenditures, and transfers by the committee in connection with any Federal election shall be made from its Federal account, except as otherwise permitted for State, district, and local party committees by 11 CFR part 300. No transfers may be made to such Federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-Federal elections, except as provided by 11 CFR 300.34 and 106.6(e). Administrative expenses for political committees other than party committees shall be allocated pursuant to 11 CFR part 106 between such Federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-Federal elections. Administrative expenses for State, district, and local party committees are subject to 11 CFR part 300; or

(ii) Establish a political committee which shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with Federal or non-Federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

(2) Only contributions meeting the conditions set forth in paragraphs (a)(2)(i), (ii), or (iii) of this section may be deposited in a Federal account established under 11 CFR 102.5(a)(1)(i) or may be received by a political committee established under 11 CFR 102.5(a)(1)(ii).

(i) Contributions designated for the Federal account;

(ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a Federal election; or

(iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act.

(3) Any party committee solicitation that makes reference to a Federal candidate or a Federal election shall be presumed to be for the purpose of influencing a Federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act. This presumption may be rebutted by demonstrating to the Commission that the funds were solicited with express notice that they would not be used for Federal election purposes.

(b) *Organizations that are not political committees under the Act.* Any organization that makes contributions or expenditures but does not qualify as a political committee under 11 CFR 100.5, including any State, district, or local party organization that makes contributions, expenditures and exempted payments under 11 CFR 100.7(b)(9), (15) and (17) and 11 CFR 100.8(b)(10), (16) and (18), or payments for certain Federal election activities under 11 CFR 300.32(b), shall either:

(1) Establish separate accounts to which only funds subject to the prohibitions and limitations of the Act, and only funds solicited for activities undertaken pursuant to 11 CFR 300.32, shall be deposited and from which contributions, expenditures, exempted payments, and payments for certain

Federal activities shall be made. Such organization shall keep records of deposits to and disbursements from such accounts and, upon request, shall make such records available for examination by the Commission; or

(2) Demonstrate through a reasonable accounting method that whenever such organization makes a contribution, expenditure, exempted payment or payment for certain Federal election activities, that organization has received sufficient funds subject to the limitations and prohibitions of the Act or to the requirements of 11 CFR 300.31 to make such contribution, expenditure or payment. Such organization shall keep records of amounts received or expended under this subsection and, upon request, shall make such records available for examination by the Commission.

(c) *National party committees.* National party committees are prohibited from raising and spending non-Federal funds. Therefore, these committees are not included in this section.

12. Section 102.17 would be amended by adding introductory language to paragraph (a) to read as follows:

§ 102.17 Joint fundraising by committees other than separate segregated funds.

(a) *General.* Nothing in this section shall permit any person to solicit, receive, direct, transfer, or spend any non-Federal funds prohibited under 11 CFR part 300.

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

13. The authority citation for part 104 would continue to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b), 439a.

14. Section 104.8 would be amended by revising paragraphs (e) and (f) to read as follows:

§ 104.8 Uniform reporting of receipts.

* * * * *

(e) For reports covering activity on or before December 31, 2002, national party committees shall disclose in a memo Schedule A information about each individual, committee, corporation, labor organization, or other entity that donates an aggregate amount in excess of $200 in a calendar year to the committee's non-Federal account(s). This information shall include the donating individual's or entity's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation. If a donor's name is known to have changed since an earlier donation reported during the calendar year, the exact name or address previously used shall be noted with the first reported donation from that donor subsequent to the name change. The memo entry shall also include, where applicable, the information required by paragraphs (b) through (d) of this section.

(f) For reports covering activity on or before December 31, 2002, national party committees shall also disclose in a memo Schedule A information about each individual, committee, corporation, labor organization, or other entity that donates an aggregate amount in excess of $200 in a calendar year to the committee's building fund account(s).

This information shall include the donating individual's or entity's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation. If a donor's name is known to have changed since an earlier donation reported during the calendar year, the exact name or address previously used shall be noted with the first reported donation from that donor subsequent to the name change. The memo entry shall also include, where applicable, the information required by paragraphs (b) through (d) of this section.

15. Section 104.9 would be amended by revising paragraphs (c), (d), and (e) to read as follows:

§ 104.9 Uniform reporting of disbursements.

* * * * *

(c) For reports covering activity on or before December 31, 2002, national party committees shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or value in excess of $200 within the calendar year is made from the committee's non-Federal account(s), together with the date, amount and purpose of such disbursement, in accordance with 11 CFR 104.9(b). As used in 11 CFR 104.9, purpose means a brief statement or description as to the reasons for the disbursement. *See* 11 CFR 104.3(b)(3)(i)(A).

(d) For reports covering activity on or before December 31, 2002, national party committees shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or value in excess of $200 within the calendar year is made from the committee's building fund account(s), together with the date, amount and purpose of such disbursement, in accordance with 11 CFR 104.9(b). As used in 11 CFR 104.9, purpose means a brief statement or description as to the reasons for the disbursement. *See* 11 CFR 104.3(b)(3)(i)(A).

(e) For reports covering activity on or before December 31, 2002, national party committees shall report in a memo Schedule B each transfer from their non-Federal account(s) to the non-Federal account(s) of a State or local party committee.

16. Section 104.10 would be revised to read as follows:

§ 104.10 Reporting by separate segregated funds and nonconnected committees of expenses allocated among candidates and activities.

(a) *Expenses allocated among candidates.* A political committee that is a separate segregated fund or a nonconnected committee making an expenditure on behalf of more than one clearly identified candidate for Federal office shall allocate the expenditure among the candidates pursuant to 11 CFR 106.1. Payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates shall also be allocated pursuant to 11 CFR 106.1. For allocated expenditures, the committee shall report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each Federal candidate. If a payment also includes amounts attributable to one or more non-Federal candidates, and is made by a political committee with separate Federal and non-Federal accounts, then the payment shall be made according to the procedures set forth in 11 CFR 106.6(e), as appropriate, but shall be reported pursuant to paragraphs (a)(1) through (a)(4), as follows:

(1) *Reporting of allocation of expenses attributable to specific Federal and non-Federal candidates.* In each report disclosing a payment that includes both expenditures on behalf of one or more Federal candidates and disbursements on behalf of one or more non-Federal candidates, the committee shall assign a unique identifying title or code to each program or activity conducted on behalf of such candidates, shall state the allocation ratio calculated for the program or activity, and shall explain the manner in which the ratio was derived. The committee shall also summarize the total amounts attributed to each candidate, to date, for each joint program or activity.

(2) *Reporting of transfers between accounts for the purpose of paying expenses attributable to specific Federal and non-Federal candidates.* A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall report each transfer of funds from its non-Federal account to its Federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one program or activity, the committee shall itemize the transfer, showing the amounts designated for each program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates.

(3) *Reporting of allocated disbursements attributable to specific Federal and non-Federal candidates.* A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall also report each disbursement from its Federal account or its separate allocation account in payment for a program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount, and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one program or activity, the committee shall itemize the disbursement, showing the amounts designated for payment of each program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates. The committee shall also report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each Federal candidate, and the total amount attributed to the non-Federal candidate(s). In addition, the committee shall report the total amount expended by the committee that year, to date, for each joint program or activity.

(4) *Recordkeeping.* The treasurer shall retain all documents supporting the committee's allocation on behalf of specific Federal and non-Federal candidates, in accordance with 11 CFR 104.14.

(b) *Expenses allocated among activities.* A political committee that is a separate segregated fund or a nonconnected committee and that has established separate Federal and non-Federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate between those accounts its administrative expenses and its costs for fundraising and generic voter drives according to 11 CFR 106.6, as appropriate, and shall report those allocations according to paragraphs (b) (1) through (5), as follows:

(1) *Reporting of allocation of administrative expenses and costs of generic voter drives.*

(i) In the first report in a calendar year disclosing a disbursement for administrative expenses or generic voter drives, as described in 11 CFR 106.6(b), the committee shall state the allocation ratio to be applied to these categories of activity according to 11 CFR 106.6(c), and the manner in which it was derived.

(ii) In each subsequent report in the calendar year itemizing an allocated disbursement for administrative expenses or generic voter drives:

(A) The committee shall state the category of activity for which each allocated disbursement was made, and shall summarize the total amount spent by the Federal and non-Federal accounts that year, to date, for each such category.

(B) The committees shall also report in a memo entry the total amounts expended in donations and direct disbursements on behalf of specific State and local candidates, to date, in that calendar year.

(2) *Reporting of allocation of the direct costs of fundraising.* In each report disclosing a disbursement for the direct costs of a fundraising program, as described in 11 CFR 106.6(b), the committee shall assign a unique identifying title or code to each such program or activity, shall state the allocation ratio calculated for the program or activity according to 11 CFR 106.6(d), and shall explain the manner in which the ratio was derived. The committee shall also summarize the total amounts spent by the Federal and non-Federal accounts that year, to date, for each such program or activity.

(3) *Reporting of transfers between accounts for the purpose of paying allocable expenses.* A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall report each transfer of funds from its non-Federal account to its Federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one activity, the committee shall itemize the transfer, showing the amounts designated for administrative expenses and generic voter drives, and for each fundraising program, as described in 11 CFR 106.6(b).

(4) *Reporting of allocated disbursements.* A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall also report each disbursement from its Federal account or its separate allocation account in payment for a joint Federal and non-Federal expense or activity. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount, and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one activity, the committee shall itemize the disbursement, showing the amounts designated for payment of administrative expenses and generic voter drives, and for each fundraising program, as described in 11 CFR 106.6(b). The committee shall also report the total amount expended by the committee that year, to date, for each category of activity.

(5) *Recordkeeping.* The treasurer shall retain all documents supporting the committee's allocated disbursements for three years, in accordance with 11 CFR 104.14.

17. Part 104 would be amended by adding section 104.17 to read as follows:

§ 104.17 Reporting of allocable expenses by party committees.

(a) *Expenses allocated among candidates.* A national party committee making an expenditure on behalf of more than one clearly identified candidate for Federal office must report the allocation between or among the named candidates pursuant to 11 CFR 106.1. A national party committee making expenditures and disbursements on behalf of one or more clearly identified Federal candidates and on behalf of one or more clearly identified non-Federal candidates must report the allocation among all named candidates pursuant to 11 CFR 106.1. A State, district or local party committee making expenditures and disbursements for Federal election activity as defined at 11 CFR 100.24 on behalf of one or more clearly identified Federal and one or more clearly identified non-Federal candidates must make the payments from its Federal account and must report the allocation among all named

candidates. For allocated expenditures, the committee must report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each candidate.

(1) *Reporting of allocation of expenses attributable to specific Federal and non-Federal candidates.* In each report disclosing an expenditure and/or disbursement that reflects payments on behalf of one or more Federal candidates and/or on behalf of one or more non-Federal candidates, the committee must assign a unique identifying title or code to each program or activity conducted on behalf of such candidates, and shall state and explain the manner in which the percentage of costs applied to each candidate was derived, pursuant to 11 CFR 106.1. The committee must also summarize the total amounts attributed to each candidate, to date, for each program or activity.

(2) *Recordkeeping.* The treasurer must retain all documents supporting the committee's allocations on behalf of specific Federal and non-Federal candidates, in accordance with 11 CFR 104.14.

(b) *Expenses allocated among activities.* A State, district or local committee of a political party that has established separate Federal and Levin accounts under 11 CFR 300.30 must report, pursuant to 11 CFR 300.36, all payments that are allocable between these accounts pursuant to the allocation rules at 11 CFR 300.33(a) and (b). A State, district or local committee of a political party that has established separate Federal and non-Federal accounts under 11 CFR 102.5 and 11 CFR 300.30 must report all payments that are allocable between these accounts pursuant to the allocation rules at 11 CFR 300.33(a) and (b).

(1) *Reporting of allocations of expenses for activities.*

(i) In the first report in a calendar year disclosing a disbursement allocable pursuant to 11 CFR 300.33, a State, district or local committee must state and explain the allocation percentage to be applied to each category of activity (e.g., 36% Federal/64% non-Federal in Presidential and Senate election years) pursuant to 11 CFR 300.33(b).

(ii) In each subsequent report in the calendar year itemizing an allocated disbursement, the State, district or local party committee must state the category of activity for which each allocated disbursement was made, and must summarize the total amounts expended by the Federal and non-Federal accounts that year, to date, for each such category.

(iii) In each report disclosing disbursements for allocable activity as described in 11 CFR 300.33, the State, district or local party committee must assign a unique identifying code to each such activity.

(2) *Reporting of transfers between the accounts of State, district and local party committees for allocable expenses.* A State, district or local committee of a political party that pays allocable expenses in accordance with 11 CFR 300.33(d) must report each transfer of funds from its non-Federal account or its Levin account to its Federal account for the purpose of payment of such expenses. In the report covering the period in which each transfer occurred, the committee must explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one activity, the committee must itemize the transfer, showing the amounts designated for each category of expense, as described in 11 CFR 300.33(b).

(3) *Reporting of allocated disbursements.* A State, district or local committee of a political party that pays allocable expenses in accordance with 11 CFR 300.33(d) must report each allocable disbursement from its Federal account (*see* 11 CFR 300.36). In the report covering the period in which the disbursement occurred, the committee must state the full name and address of each individual or vendor to which the disbursement was made, the date, amount and purpose of each such disbursement, and the amounts allocated between Federal and Levin accounts or Federal and non-Federal accounts. If the disbursement includes payment for the allocable costs of more than one activity, the committee shall itemize the disbursement, showing the amounts designated for payments of certain salaries, of other administrative costs and of costs for voter registration outside 120 days before an election, as described in 11 CFR 300.33. The committee must also report the total amount expended by the committee that year, to date, for each category of activity.

(4) *Recordkeeping.* The treasurer must retain all documents supporting the committee's allocations of expenditures and disbursements for the costs and activities cited at paragraph (b) of this section, in accordance with 11 CFR 104.14.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

18. The authority citation for part 106 would continue to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

19. Section 106.1 would be amended by revising paragraphs (a)(1), (a)(2), and (e) to read as follows:

§ 106.1 Allocation of expenses between candidates.

(a) *General rule.*

(1) Expenditures, including in-kind contributions, independent expenditures, and coordinated expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. For example, in the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to each candidate as compared to the total space or time devoted to all candidates. In the case of a fundraising program or event where funds are collected by one committee for more than one clearly identified candidate, the attribution shall be determined by the proportion of funds received by each candidate as compared to the total receipts by all candidates. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates. Party committees must use only Federal funds for such payments. *See* 11 CFR 100.24(a)(5).

(2) An expenditure made on behalf of more than one clearly identified Federal candidate shall be reported pursuant to 11 CFR 104.10(a) or 104.17(a), as appropriate. A payment by a separate segregated fund or a nonconnected committee that also includes amounts attributable to one or more non-Federal candidates, and that is made by a political committee with separate Federal and non-Federal accounts, shall be made according to the procedures set forth in 11 CFR 106.6(e), but shall be reported pursuant to 11 CFR 104.10(a).

* * * * *

(e) Party committees, separate segregated funds, and nonconnected committees that make disbursements for certain salaries, other administrative expenses, fundraising, generic voter drives, Levin activities, or certain voter registration activities, in connection with both Federal and non-Federal elections, shall allocate their expenses in accordance with 11 CFR 106.6 or 300.33, as appropriate.

20. Section 106.5 would be revised to read as follows:

§ 106.5 Allocation of expenses between Federal and non-Federal activities by party committees.

(a) National party committees are prohibited from raising or spending non-Federal funds. Therefore, these committees shall not allocate expenditures and disbursements between Federal and non-Federal accounts. Only Federal accounts may be used.

(b) State, district, and local party committees that make expenditures and disbursements in connection with Federal and non-Federal elections shall make those expenditures and disbursements entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 CFR 102.5 and 11 CFR 300.30. Political committees that have established separate Federal, Levin and/or non-Federal accounts under 11 CFR 102.5(a)(1)(i) and 11 CFR 300.30 shall allocate expenses according to 11 CFR 300.33. Party organizations that are not political committees but have established separate Federal, Levin and/or non-Federal accounts under 11 CFR 102.5(b)(1)(i) and 11 CFR 300.30, or that make Federal and non-Federal disbursements from a single account under 11 CFR 102.5(b)(1)(ii) and any Levin payments from a separate account, shall also allocate their Federal and non-Federal expenses according to 11 CFR 300.33.

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 U.S.C. 439)

21. The authority citation for part 108 would continue to read as follows:

Authority: 2 U.S.C. 434(a)(2), 438(a)(8), 439, 453.

22. Section 108.7 would be amended by revising paragraphs (c)(4) and (c)(5) and adding paragraph (c)(6) to read as follows:

§ 108.7 Effect on State law (2 U.S.C. 453).

* * * * *

(c) * * *

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses;

(5) Candidate's personal financial disclosure; or

(6) Application of State law to the funds used for the purchase or construction of a State or local party office building to the extent described in 11 CFR 300.35.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

23. The authority citation for part 110 would continue to be read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h.

24. Section 110.1 would be amended by adding new paragraph (c)(5) to read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

* * * * *

(c) * * *

(5) On or after January 1, 2003, no person shall make contributions to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000.

* * * * *

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

25. The authority citation for part 114 would continue to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 434(a)(11), 437d(a)(8), 438(a)(8), 441b.

26. Section 114.1 would be amended by revising paragraph (a)(2)(ix) to read as follows:

§ 114.1 Definitions.

(a) * * *

(2) * * *

(ix) Donations to a State or local party committee used for the purchase or construction of its office building are subject to 11 CFR 300.35. No exception applies to contributions or donations to a national party committee that are made or used for the purchase or construction of any office building or facility; or

* * * * *

27. Part 300 would be added to subchapter B read as follows:

PART 300—NON-FEDERAL FUNDS

Sec.

300.1 Scope, effective date, and organization.
300.2 Definitions.

Subpart A—National Party Committees

300.10 General prohibitions on raising and spending non-Federal funds (2 U.S.C. 441(i)(a) and (c)).
300.11 Prohibition on fundraising for and donating to certain tax-exempt organizations, (2 U.S.C. 441i(d)).
300.12 Transition rules.
300.13 Reporting (2 U.S.C. 431 note and 434(e)).

Subpart B—State, District, and Local Party Committees and Organizations

300.30 Accounts.
300.31 Receipt of Levin funds.
300.32 Expenditures and disbursements.
300.33 Allocation.
300.34 Transfers.
300.35 Office buildings.
300.36 Reporting Federal election activity; recordkeeping.
300.37 Prohibitions on fundraising for and donating to certain tax-exempt organizations (2 U.S.C. 441i(d)).

Subpart C—Tax-exempt Organizations

300.50 Prohibited fundraising by national party committees (2 U.S.C. 441i(d)).
300.51 Prohibited fundraising by State, district, and local party committees (2 U.S.C. 441i(d)).
300.52 Fundraising by Federal candidates and Federal officeholders (2 U.S.C. 441i(e)(4)).

Subpart D—Federal Candidates and Officeholders

300.60 Scope (2 U.S.C. 441i(e)(1)).
300.61 Federal elections (2 U.S.C. 441i(e)(1)(A)).
300.62 Non-Federal elections (2 U.S.C. 441i(e)(1)(B)).
300.63 Exception for State party candidates (2 U.S.C 441i(e)(2)).
300.64 Exemption for attending or speaking at fundraising events.
300.65 Exceptions for certain tax-exempt organizations.

Subpart E—State and Local Candidates

300.70 Scope (2 U.S.C. 441i(f)(1)).
300.71 Federal funds required for certain public communications (2 U.S.C. 441i(f)(1)).
300.72 Federal funds not required for certain communications (2 U.S.C. 441i(f)(2)).

Authority: 2 U.S.C. 434(e), 438(a)(8), 441a(a)(i), 441i, 453.

§ 300.1 Scope, effective date, and organization.

(a) *Introduction.* This part implements changes to the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"), enacted by Title I of the Bipartisan Campaign Finance Reform Act of 2002 ("BCRA"), Public Law 107–155. Unless expressly stated to the contrary, nothing in this part alters the definitions, restrictions, liabilities, and obligations imposed by sections 431–455 of Title 2, United States Code, or regulations prescribed thereunder (11 CFR parts 100–116).

(b) *Effective dates.*

(1) Except as otherwise specifically provided in this part, this part shall take effect on November 6, 2002; however, subpart B of this part shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date. *See* 11 CFR 300.12 for transition rules applicable to subpart A of this part.

(2) The increase in individual contribution limits to State committees of political parties, as described in 11 CFR 110.1(c)(5), shall apply to contributions made on or after January 1, 2003.

(c) *Organization of part.* Part 300, which generally addresses non-Federal funds and closely related topics, is organized into five subparts. Each subpart is oriented to the perspective of a category of persons facing issues related to non-Federal funds.

(1) Subpart A of this part prescribes rules pertaining to national party committees, including general non-Federal funds prohibitions, fundraising, and donation prohibitions with regard to certain tax-exempt organizations, transition rules as BCRA takes effect, and reporting.

(2) Subpart B of this part pertains to State, district, and local political party committees and organizations. Subpart B of this part focuses on the so-called "Levin Amendment" to BCRA, "building fund" issues, and fundraising and donation prohibitions with regard to certain tax-exempt organizations.

(3) Subpart C of this part addresses non-Federal funds issues from the perspective of tax-exempt organizations, setting out rules about prohibited fundraising for certain tax-exempt organizations by national party committees, State, district, and local party committees, and Federal candidates and officeholders.

(4) Subpart D of this part includes regulations about non-Federal funds issues facing Federal candidates and officeholders in Federal and non-Federal elections, and exceptions for those who are also State candidates, for attending and speaking at fundraising events, and with regard to certain tax-exempt organizations.

(5) Subpart E of this part focuses on State and local candidates, including regulations about the Federal funds for certain public communications, and exceptions for entirely non-Federal communications.

(6) For rules pertaining to convention and host committees, *see* 11 CFR part 9008.

§ 300.2 Definitions.

(a) A *501(c) organization that makes expenditures or disbursements in connection with a Federal election* includes an organization that:

(1) Establishes, finances, maintains, supports, or controls a political committee;

(2) Makes expenditures or disbursements for Federal election activity;

(3) Finances voter registration at any time; or

(4) Finances voter guides, candidate questionnaires, or candidate surveys that refer to one or more candidates for Federal office.

(b) *Agent* means any person who has actual express oral or written authority to act on behalf of a candidate, officeholder, or a national committee of a political party, or a State, district or local committee of a political party, or an entity directly or indirectly established, financed, maintained, or controlled by a party committee. An agent has actual authority if he or she has instructions, either oral or written, from the candidate or a committee official.

(c) *Directly or indirectly establish, maintain, finance, or control.* This paragraph applies to State, district, or local committees of a political party, candidates, and holders of Federal office, which shall be referred to as "sponsors" in this paragraph.

(1) A sponsor directly or indirectly establishes, finances, maintains, or controls an entity if one or more of the following conditions are satisfied as a result of actions taken by the sponsor, or by an officer, employee, or agent of the sponsor acting on behalf of the sponsor or at the sponsor's behest:

(i) The sponsor and the entity are affiliated under 11 CFR 100.5(g).

(ii) The sponsor, alone or in combination with other persons, forms, organizes, or otherwise creates the entity, including providing any of the funds used to form, organize or create the entity. As used in this paragraph, "forms, organizes, or otherwise creates" includes the conversion, reorganization, or redirection of a pre-existing entity.

(iii) The sponsor provides a significant amount of the entity's funding at any point in the entity's existence, whether by contribution (including in-kind contribution), donation (including in-kind donation), transfer, or other means. In determining whether or not this condition is satisfied, one or more of the following factors, any one of which may be dispositive, may be considered:

(A) The percentage of the entity's total funding in a given calendar year represented by the amount of funding provided by the sponsor.

(B) Whether the sponsor provided funding to the entity on a one-time basis or more systematically over a period of time, including the frequency, regularity, and duration of funding.

(C) The amount of time that has elapsed since the sponsor last provided funding to the entity.

(iv) The sponsor provides or has provided legal, accounting, consulting, administrative, or other services to the entity.

(v) The sponsor, alone or in combination with other persons, sets or has set policies for soliciting contributions or donations to the entity or for the making of expenditures or disbursements by the entity.

(vi) The same person or persons has or has had decision-making authority over the management of both the sponsor and the entity.

(2) Determinations by the Commission.

(i) A sponsor or entity may request an advisory opinion of the Commission to determine whether the sponsor is no longer directly or indirectly financing, maintaining, or controlling the entity for purposes of this part. The request for such an advisory opinion must meet the requirements of 11 CFR part 112.

(ii) Notwithstanding the fact that a sponsor may have established an entity within the meaning of paragraph (c)(1)(ii) of this section, the committee or the entity may request an advisory opinion of the Commission determining that the relationship between the sponsor and the entity has been severed. The request for such an advisory opinion must meet the requirements of 11 CFR part 112, and must specifically include a complete description of all facts relevant to showing that all connections between the sponsor and the entity have been severed for at least five years.

(d) *Disbursement* means any purchase or payment made by a political committee or organization that is not a political committee.

(e) For purposes of part 300, *donation* means a payment, gift, subscription, loan, advance, deposit, or anything of value given to a non-Federal candidate, a party committee, 501(c) organization, or a section 527 organization, but does not include contributions or transfers.

(f) *Federal account* means an account at a financial depository institution or other account that contains funds to be used in connection with a Federal election.

(g) *Federal funds* mean funds that comply with the limitations, prohibitions, and reporting requirements of the Act.

(h) *Levin account* means an account established by a State, district, or local committee of a political party pursuant to 11 CFR 300.30 for purposes of making expenditures or disbursements for Federal election activity or non-Federal activity (subject to State law) under 11 CFR 300.32.

(i) *Levin funds* mean non-Federal funds that comply with the limitations, prohibitions, and reporting requirements set out in subpart B of this part, which are or will be disbursed by a State, district, or local committee of a political party for Federal election activity or non-Federal activity (subject to State law) under 11 CFR 300.32.

(j) *Non-Federal account* means an account at a financial depository institution or other account which contains funds to be used in connection with a State or local election.

(k) *Non-Federal funds* mean funds that are not subject to the limitations and prohibitions of the Act.

(l) *Promote, support, attack, or oppose.*

(1) A communication *promotes, supports, attacks, or opposes* a candidate if, when taken as a whole and with limited reference to external events, such as the proximity to the election, the communication:

(i) Expressly advocates the election or defeat of that clearly identified candidate; or

(ii) Unmistakably and unambiguously encourages action to elect or defeat a clearly identified candidate, even if it also encourages some other kind of action.

(2) For purposes of paragraph (l)(1), a communication does not *promote, support, attack, or oppose* a candidate for Federal office if:

(i) The communication is made in connection with an election for State or local office, and does not refer to any candidate for Federal office; or

(ii) The communication refers to a candidate for Federal office but the reference to the Federal candidate consists only of:

(A) The fact that the Federal candidate endorsed another Federal, State, or local candidate;

(B) The fact that another Federal, State, or local candidate agrees or disagrees with the Federal candidate's position on an issue or on legislation; or

(C) A reference to a bill or law by its popular name where that name includes the name of the Federal candidate.

(m) *To solicit or direct* means to request or suggest or recommend that another person make a contribution or donation, including through a conduit or intermediary, to a candidate, a political committee, or a political organization described in 26 U.S.C. 527 or a tax-exempt organization described in 26 U.S.C. 501(c). A solicitation does not include merely providing information or guidance as to the requirements of applicable law.

Subpart A—National Party Committees

§ 300.10 General prohibitions on raising and spending non-Federal funds (2 U.S.C. 441i(a) and (c)).

(a) *Prohibitions.* A national committee of a political party, including a national party congressional campaign committee, must not:

(1) Solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or any other thing of value that are not subject to the prohibitions, limitations and reporting requirements of the Act; or

(2) Spend any funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act; or

(3) Solicit, receive, direct or transfer to another person, or spend, Levin funds.

(b) *Fundraising costs.* A national committee of a political party, including a national party congressional campaign committee, must use only Federal funds to raise funds that are used, in whole or in part, for expenditures and disbursements for Federal election activity.

(c) *Application.* This section also applies to:

(1) An officer or agent acting on behalf of a national party committee or a national party congressional campaign committee; and

(2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee or a national congressional campaign committee.

§ 300.11 Prohibitions on fundraising for and donating to certain tax-exempt organizations (2 U.S.C. 441i(d)).

(a) *Prohibitions.* A national committee of a political party, including a national party congressional campaign committee, must not solicit any funds for, or make or direct any donations to the following organizations:

(1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;

(2) An organization that has submitted an application for tax-exempt status under section 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or

(3) An organization described in 26 U.S.C. 527, except for a political committee; a State, district, or local committee of a political party; or the authorized campaign committee of a State or local candidate.

(b) *Application.* This section also applies to:

(1) An officer or agent acting on behalf of a national party committee, including a national party congressional committee;

(2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee, including a national party congressional committee, or an officer or agent acting on behalf of such entity; and

(3) An entity that is directly or indirectly established, financed, maintained, or controlled by an agent of a national committee of a political party, including a national party congressional committee.

§ 300.12 Transition rules.

(a) *Permissible uses of excess non-Federal funds.* Non-Federal funds received before November 6, 2002, by a national committee of a political party, including a national party congressional campaign committee, must be used before January 1, 2003. Subject to the restrictions in paragraphs (b) and (e) of this section, such funds may be used only as follows:

(1) To retire outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(2) To pay expenses, retire outstanding debts, or pay for obligations incurred solely in connection with any run-off election, recount, or election contest resulting from an election held prior to November 6, 2002.

(b) *Prohibited uses of non-Federal funds.* Non-Federal funds received by a national committee of a political party, including a national party congressional campaign committee, before November 6, 2002, and in its possession on that date, may not be used for the following purposes:

(1) To pay any expenditure as defined in 2 U.S.C. 431(9);

(2) To retire outstanding debts or obligations that were incurred for any expenditure; or

(3) To defray the costs of the construction or purchase of any office building or facility.

(c) *Application.* This section also applies to:

(1) An officer or agent acting on behalf of a national party committee or a national party congressional campaign committee; and

(2) An entity that is directly or indirectly established, financed,

maintained, or controlled by a national party committee or a national congressional campaign committee.

(d) *Treatment of Federal and non-Federal accounts during transition period.* The following provisions applicable to the allocation of, and payment for, expenses between Federal and non-Federal accounts of national party committees shall remain in effect between November 6 and December 31, 2002: 11 CFR 106.5(a), 106.5(b), 106.5(c), 106.5(f) and 106.5(g).

(e) *National party committee office building or facility accounts.* Before November 6, 2002, the national committee of a political party, including a national party congressional campaign committee, may accept funds into its party office building or facility account, established pursuant to repealed § 431(8)(B)(viii), and may use the funds in the account only for the construction or purchase of an office building or facility. After November 5, 2002, the national committees may no longer accept funds into such an account and must not use such funds for the purchase or construction of a national party office building or facility. Funds on deposit in any party office building or facility account on November 6, 2002, must be either disgorged to the United States Treasury or donated to an organization described in 26 U.S.C. 170(c) no later than December 31, 2002.

§ 300.13 Reporting (2 U.S.C. 431 note and 434(e)).

(a) *In general.* The national committee of a political party, a national party campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(b) *Termination report for non-Federal accounts.* Each committee described in paragraph (a) of this section shall file a termination report disclosing the disposition of all funds in all non-Federal accounts and building fund accounts by January 31, 2003.

(c) *Transitional reporting rules.*

(1) The reporting requirements in 11 CFR 104.9(c) for national party committee non-Federal accounts shall remain in effect for the report covering activity between November 6 and December 31, 2002.

(2) The reporting requirements in 11 CFR 104.8(e) for national party committee non-Federal accounts shall remain in effect for the report covering activity between November 6 and December 31, 2002.

(3) The reporting requirements in 11 CFR 104.8(f) and 104.9(d) for national party committee building fund accounts shall remain in effect for the report covering activity between November 6 and December 31, 2002.

Subpart B—State, District, and Local Party Committees and Organizations

§ 300.30 Accounts.

(a) *Federal Account.*

(1) Each State, district, and local party organization that qualifies as a political committee under 11 CFR 100.5 and that finances political activity in connection with both Federal and non-Federal elections shall:

(i) Establish a Federal account in a depository, in accordance with 11 CFR part 103, which shall be treated as a separate political committee and be required to comply with the requirements of the Act including the registration and reporting requirements of 11 CFR part 102 and part 104; or

(ii) Establish a separate Federal political committee that shall register As a political committee and comply with the requirements of the Act.

(2) Each State, district, and local party organization that does not qualify as a political committee under 11 CFR 100.5 and that finances political activity in connection with both Federal and non-Federal elections shall—

(i) Establish a Federal account in a depository; or

(ii) Demonstrate by a reasonable accounting method that whenever such organization makes a contribution or expenditure, that organization has received sufficient funds that are permissible under the Act to make such contribution or expenditure. Such organization shall keep records of amounts received or expenditures under this subsection and, upon request, shall make such records available for examination by the Commission.

(3) Only contributions that are permissible pursuant to the limitations and prohibitions of the Act shall be deposited into any Federal account established pursuant to paragraphs (a)(1) or (2) of this section, regardless of whether such contributions are for use in connection with Federal and non-Federal elections.

(4) Only contributions solicited and received pursuant to the following conditions may be deposited in a Federal account established under paragraph (a)(1) or (2) of this section:

(i) Contributions must be designated by the contributors for the Federal account;

(ii) The solicitation must expressly state that contributions may be used wholly or in part in connection with a Federal election; or

(iii) The solicitation must expressly state that all contributions are subject to the prohibitions and limitations of the Act.

(5) All disbursements, contributions, and expenditures by a State, district, or local party committee made wholly or in part in connection with a Federal election must be made from the committee's Federal account, except as permitted by 11 CFR 300.32.

(6) Expenditures and disbursements for costs that are allocable pursuant to 11 CFR 300.33 must be made from the Federal account in their entirety, with the shares of a non-Federal account or of a Levin account being then transferred to the Federal account pursuant to 11 CFR 300.34.

(7) No transfers may be made to such Federal account from any other account(s) maintained by a State, district, or local party committee or from any other party committee at any level for the purpose of financing activity in connection with Federal elections, except as provided by 11 CFR 300.33 and 11 CFR 300.34.

(8) State, district, and local party committees may choose to make non-Federal disbursements from the Federal account, provided that such disbursements are reported pursuant to 11 CFR part 104 and provided that contributors of the Federal funds so used were notified that their contributions were subject to the limitations and prohibitions of the Act.

(b) *Levin account.*

(1) Any State, district, or local party committee, whether or not it qualifies as a political committee under the Act and including any organization that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and any officer or agent of such a committee or organization, that intends to engage in voter registration, voter identification, get-out-the-vote activity, and/or generic campaign activity pursuant to 11 CFR 300.32 must maintain a separate account in a depository for this purpose. This account shall be known as a Levin account.

(2) Only donations solicited and received pursuant to either of the following conditions may be deposited in a Levin account established under paragraph (b)(1) of this section:

(i) Donations must be designated by the donors for the Levin account; or

(ii) Donors have been informed that donations will be subject to the special donation limitations and prohibitions of 2 U.S.C. 441i(b)(2)(B) and 11 CFR 300.31(c) and (d).

(3) A State, district, or local party committees may use its Levin account to make expenditures or disbursements for the categories of activities described at 11 CFR 300.32 or for other, non-Federal activities permissible under State law.

(4) A State, district, or local party committee may use its Levin account to make expenditures or disbursements only if all of the following conditions are met:

(i) The expenditure or disbursement does not pay for an activity that refers to a clearly identified candidate for Federal office;

(ii) The expenditure or disbursement does not pay for any part of the costs of any broadcasting, cable, or satellite communication, other than a communication that refers solely to a clearly identified candidate for State or local office; and

(iii) The Levin funds used for the expenditure or disbursement have been solicited, donated, received, and deposited in accordance with this part.

(c) *Non-Federal account.*

(1) Any State, district, or local party committee that makes disbursements solely in connection with State or local elections must establish a separate non-Federal account in a depository. The funds deposited into this account may be governed by State law.

(2) Disbursements, contributions, and expenditures made wholly or in part in connection with Federal elections must not be made from any non-Federal account, except as permitted by 11 CFR 300.33 and 11 CFR 300.34.

§ 300.31 Receipt of Levin funds.

(a) *General rule.* Levin funds expended or disbursed by any State, district, or local committee must be raised solely by the committee that expends or disburses them.

(b) *Compliance with State law.* Each donation of Levin funds solicited or accepted by a State, district, or local committee of a political party must be lawful under the laws of the State in which the committee is organized.

(c) *Donations from sources permitted by State law but prohibited by the Act.* If the laws of the State in which a State, district, or local committee of a political party is organized permit donations to the committee from a source prohibited by the Act and this chapter, the committee may solicit and accept donations of Levin funds from that source, subject to paragraph (d) of this section.

(d) *Donation amount limitation.*

(1) *General rule.* A State, district, or local committee of a political party must not solicit or accept from any person (including any person established, financed, maintained, or controlled by such person) one or more donations of Levin funds aggregating to more than $10,000 in a calendar year.

(2) *Effect of different State limitations.* If the laws of the State in which a State, district, or local committee of a political party is organized limit donations to that committee to less than the amount specified in paragraph (d)(1) of this section, then the State law amount limitations shall control. If the laws of the State in which a State, district, or local committee of a political party is organized permit donations to that committee in amounts greater than the amount specified in paragraph (d)(1) of this section, then the amount limitations in paragraph (d)(1) of this section shall control.

(3) *No affiliation of committees for purposes of this paragraph.* For purposes of determining compliance with paragraph (d) of this section only, State, district, and local committees of the same political party shall not be considered affiliated. A person (including any person established, financed, maintained, or controlled by such person) may donate up to $10,000 per calendar year to each State, district, and local committee of political party.

(e) *No Levin funds from a national party committee or a Federal candidate or officeholder.* A State, district, or local committee of a political party disbursing Levin funds pursuant to 11 CFR 300.32 must not accept or use for those purposes any donations or other funds that are solicited, received, directed, transferred, or spent by or in the name of any of the following persons:

(1) A national committee of a political party (including a national congressional campaign committee of a political party). Notwithstanding 11 CFR 102.17, a State, district, or local committee of a political party must not raise Levin funds by means of joint fundraising with a national committee of a political party.

(2) A Federal candidate, individual holding Federal office, or an entity directly or indirectly established, financed, maintained, or controlled by or acting on behalf of one or more candidates or individuals holding Federal office. Notwithstanding 11 CFR 102.17, a State, district, or local committee of a political party must not raise Levin funds by means of joint fundraising with a Federal candidate, individual holding Federal office, or an entity directly or indirectly established, financed, maintained, or controlled by or acting on behalf of one or more candidates or individuals holding Federal office. A Federal candidate or individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party at which Levin funds are raised. *See* 11 CFR 300.64.

(f) *Certain joint fundraising prohibited.* Notwithstanding 11 CFR 102.17, a State, district, or local committee of a political party must not raise Levin funds by means of joint fundraising with any other State, district, or local committee of any political party, or the agent of such a committee. This prohibition includes State, district, and local committees of a political party organized in another State. The use of a common vendor for fundraising by more than one State, district, or local committee of a political party, or the agent of such a committee, shall not, by itself, be deemed joint fundraising for purposes of this paragraph.

§ 300.32 Expenditures and disbursements.

(a) *Federal funds.*

(1) A State, district, or local committee of a political party that makes an expenditure or disbursement for the purpose of influencing a Federal election must use Federal funds for the expenditure, subject to the provisions of this chapter. An association or similar group of candidates for State or local office, or an association or similar group of individuals holding State or local office, must make any expenditures or disbursements for Federal election activity solely with Federal funds.

(2) Except as provided in this part, a State, district, or local committee of a political party that makes expenditures or disbursements for Federal election activity must use Federal funds for that purpose, subject to the provisions of this chapter.

(3) State, district, and local party committees that engage in fundraising for Federal activities must pay all costs related to such fundraising only with Federal funds.

(4) State, district, and local party committees that engage in fundraising for a Levin account must pay all costs related to raising such funds only with Federal funds.

(b) *Levin funds.* A State, district, or local committee of a political party may spend Levin funds in accordance with this part on the following types of activity:

(1) Subject to the conditions set out in paragraph (c) of this section, the following types of Federal election activity:

(i) Voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; and

(ii) Voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State of local office also appears on the ballot).

(2) Any use that is lawful under the laws of the State in which the committee is organized. A disbursement of Levin funds under this paragraph need not comply with paragraph (c) of this section, except as required by State law.

(c) *Conditions and restrictions on spending Levin funds for Federal election activity.*

(1) The Federal election activity for which the expenditure or disbursement is made must not refer to a clearly identified candidate for Federal office.

(2) The expenditure or disbursement must not pay for any part of the costs of any broadcasting, cable, or satellite communication, other than a communication that refers solely to a clearly identified candidate for State or local office.

(3) The expenditure or disbursement must be made from funds raised in accordance with 11 CFR 300.31.

(4) The expenditure or disbursement must be allocated between Federal funds and Levin funds according to 11 CFR 300.33.

(d) *Non-Federal funds.* A State, district, or local committee of a political party that makes disbursements for non-Federal activity may make those disbursements from its Federal or non-Federal funds, subject to the laws of the State in which it is organized. A State, district, or local party committee that engages in fundraising for solely non-Federal funds may pay the costs related to such fundraising from any account, subject to State law, including a Federal account. A disbursement of non-Federal funds made under State law by a State, district, or local committee of a political party that is not directed by the disbursing committee for the purpose of influencing a Federal election or for Federal election activity shall not be an expenditure under 11 CFR 100.8 or an expenditure or disbursement for Federal election activity.

§ 300.33 Allocation.

(a) *Costs allocable by State, district, and local party committees.*

(1) *Salaries.* State, district, and local party committees may allocate the salaries of employees who spend 25% or less of their time in any given month on Federal election activity between the committee's Federal and non-Federal accounts. The salaries of those employees who spend more than 25% of their time in any given month on Federal election activity must be paid only with Federal funds.

(2) *Administrative costs.* State, district, and local party committees may allocate administrative costs, including rent, utilities, office equipment, office supplies, postage for other than mass mailings, and routine building maintenance, upkeep and repair, between their Federal and non-Federal accounts, except that any such expenses directly attributable to a clearly identified Federal candidate must be paid only from the Federal account.

(3) *Costs of voter registration within a certain time period, voter identification, get-out-the-vote, and generic campaign activity.* State, district, and local party committees that have established a Federal account and a separate Levin account pursuant to 11 CFR 300.30(b), must allocate disbursements or expenditures between these two accounts for:

(i) Voter registration activity during the period that begins on the date that is 120 days before the date of a regularly scheduled Federal election and that ends on the date of the election, provided that the activity does not clearly identify a Federal candidate; and

(ii) Voter identification, get-out-the-vote activity, or generic campaign activities conducted in connection with an election in which a candidate for Federal office is on the ballot.

(b) *Allocation percentages, ratios and record-keeping.*

(1) *Salaries.* Committees must keep time records for all employees for purposes of determining the percentage of time spent on activities in connection with a Federal election. Allocations of salaries will be undertaken as follows:

(i) Salaries of employees who spend more than 25% of their compensated time in a given month on activities in connection with a Federal election must be paid 100% from the Federal account.

(ii) Salaries of employees who spend 25% or less of their compensated time in a given month on activities in connection with a Federal election shall be allocated between the committee's Federal and non-Federal account.

(iii) Salaries of employees who spend no time in a given month on activities in connection with a Federal election may be paid solely from the non-Federal account.

(2) *Administrative costs.* State, district, and local party committees that choose to allocate administrative expenses may do so subject to the following requirements:

(i) *Presidential election years.* In any year in which a Presidential candidate, but no Senate candidate appears on the ballot, State, district, and local party committees must allocate at least 28% of administrative expenses to their Federal accounts.

(ii) *Presidential and Senate election year.* In any year in which a Presidential candidate and a Senate candidate appear on the ballot, State, district, and local party committees must allocate at least 36% of administrative expenses to their Federal accounts.

(iii) *Senate election year.* In any year in which a Senate candidate, but no Presidential candidate, appears on the ballot, State, district and local party committees must allocate at least 21% of administrative expenses to their Federal account.

(iv) *Non-Presidential and non-Senate year.* In any year in which neither a Presidential nor a Senate candidate appears on the ballot, State, district and local party committee must allocate at least 15% of administrative expenses to their Federal account.

(3) *Levin activities—Voter registration, voter identification, get-out-the-vote, and generic campaign activity.* State, district, and local party committees that choose to make expenditures and disbursements in connection with activities described in paragraph (a)(3) of this section must allocate such expenditures and disbursements between their Federal and Levin accounts. The allocation must result in the following minimum percentages to their Federal accounts:

(i) *Presidential election years.* In any year in which a Presidential candidate, but no Senate candidate appears on the ballot, State, district, and local party committees must allocate at least 28% of expenses for activities described in paragraph (a)(2) of this section to their Federal account.

(ii) *Presidential and Senate election year.* In any year in which a Presidential candidate and a Senate candidate appear on the ballot, State, district, and local party committees must allocate at least 36% of expenses for activities described in paragraph (a)(2) of this section to their Federal account.

(iii) *Senate election year.* In any year in which a Senate candidate, but no Presidential candidate, appears on the ballot, State, district, and local party committees must allocate at least 21% of expenses for activities described in paragraph (a)(2) of this section to their Federal account.

(iv) *Non-Presidential and non-Senate year.* In any year in which neither a Presidential nor a Senate candidate appears on the ballot, State, district, and local party committee must allocate at least 15% of expenses for activities described in paragraph (a)(2) of this section to their Federal account.

(4) *Other voter registration activities.* Expenses for voter registration activities undertaken by a State, district, or local party committee outside the period beginning 120 days before an election and ending on the date of the election may be paid with 100% non-Federal funds, or they may be allocated between the committee's Federal and non-Federal accounts.

(5) *Other get-out-the-vote activities when no Federal candidate is on the ballot.* Expenses for voter identification, get-out-the-vote, and generic campaign activity when no Federal candidate is on the ballot that are undertaken by a State, district, or local party committee may be paid with 100% non-Federal funds, or they may be allocated between the committee's Federal and non-Federal accounts.

(c) *Costs not allocable by State, district, and local party committees.* The following costs incurred by State, district, and local party committees shall be paid only with Federal funds:

(1) *Activities that refer to clearly identified Federal candidates.* Disbursements by State, district, and local party committee for activities that refer to a clearly identified candidate for Federal office must not be allocated between or among Federal, non-Federal and Levin accounts. Only Federal funds may be used.

(2) *Activities that refer to Federal and to State and/or local elections.* With the exception of activities described in paragraph (a)(3) of this section, disbursements by State, district, and local party committee for activities that do not refer to a clearly identified Federal candidate, but that are wholly or in part in connection with Federal elections, must not be allocated between or among Federal, non-Federal and Levin accounts. Only Federal funds may be used.

(3) *Fundraising costs.* Disbursements for fundraising costs incurred by State, district, and local party committees for funds to be used, in whole or in part, for Federal election activity, including the activities described at paragraph (a)(3) of this section, must not be allocated between or among Federal, non-Federal and Levin accounts. Only Federal funds may be used. However, if such disbursements are for solely non-Federal fundraising costs, non-Federal funds may be used.

(d) *Transfers between accounts to cover allocable expenses.* State, district, and local party committees may transfer funds from their non-Federal or Levin accounts to their Federal accounts solely to meet allocable expenses and only pursuant to the following requirements:

(1) *Payments from Federal accounts.* State, district, and local party committees must pay the entire amount of an allocable expense from their Federal accounts and must transfer funds from their non-Federal account to the Federal account for administrative expenses or from their Levin account for expenses related to activities identified in paragraph (a)(2) of this section.

(2) *Timing.*

(i) State, district, and local party committees must transfer funds from their non-Federal or Levin accounts to their Federal accounts to meet allocable expenses no more than 10 days before and no more than 60 days after the payments for which they are designated are made from a Federal account, except that transfers may be made more than 10 days before a payment is made from the Federal account if advance payment is required by the vendor(s) and if such payment is based on a reasonable estimate of the activity's final costs as determined by the committee and the vendor(s) involved.

(ii) Any portion of a transfer from a committee's non-Federal account to its Federal account that does not meet the requirement of paragraph (d)(2)(i) of this section shall be presumed to be a loan or contribution from the non-Federal account or the Levin account to the Federal account, in violation of the Act.

§ 300.34 Transfers.

(a) *Federal funds.* Notwithstanding 11 CFR 102.6(a)(1)(ii), a State, district, or local committee of a political party must not use any Federal funds transferred to it from, or otherwise accepted by it from, any of the persons enumerated in paragraphs (b)(1) and (b)(2) of this section as the Federal component of an expenditure for Federal election activity under 11 CFR 300.32. A State, district, or local committee of a political party must itself raise the Federal component of an expenditure allocated between Federal funds and Levin funds under 11 CFR 300.32 and 300.33.

(b) *Levin funds.* Levin funds must be raised solely by the State, district, or local committee of a political party that expends or disburses the funds. A State, district, or local committee of a political party must not use as Levin funds any funds transferred or otherwise provided to the committee by:

(1) Any other State, district, or local committee of any political party, any officer or agent acting on behalf of such a committee, or any entity directly or indirectly established, financed, maintained or controlled by such a committee; or,

(2) The national committee of any political party (including a national congressional campaign committee of a political party), any officer or agent acting on behalf of such a committee, or any entity directly or indirectly established, financed, maintained or controlled by such a committee.

(c) *Allocation transfers.* Transfers of Levin funds between the accounts of a State, district, or local committee of a political party for allocation purposes must comply with 11 CFR 300.33.

§ 300.35 Office buildings.

(a) *General provision.* A State or local party committee may raise and spend funds for the purchase or construction of its office building, and such funds are not subject to the limitations, prohibitions, and disclosure provisions of the Act. Funds raised and spent for the purchase or construction of an office building are subject to State law. An office building must not be purchased or constructed for the purpose of influencing the election of any candidate in any particular election for Federal office. For purposes of this section, the term *local party committee* shall include a *district party committee.*

(b) *Application of State law.* Amounts raised and spent by a State or local party committee for the purchase or construction of its office building are subject to State law as set forth in paragraphs (b)(1) and (b)(2) of this section.

(1) *Non-Federal account.* If a State or local party committee uses non-Federal funds, Federal law does not preempt or supersede State law as to the source of funds used, the permissibility of the disbursements, or the reporting of the receipt and disbursement of such funds, except as provided in paragraph (d) of this section.

(2) *Federal account.* If a State or local party committee uses funds from its accounts containing only Federal funds, Federal law does not supersede or preempt State law as to the permissibility of the disbursements, except as provided in paragraph (d) of this section. Federal law also does not preempt or supersede any State law that purports to prohibit or limit the source of the funds, as ascertained by application of a reasonable accounting method prescribed under State law.

(3) *Levin funds.* Levin funds may be used for the purchase or construction of a State or local party committee office building, if permitted by State law.

(c) *Definition of "purchase or construction of an office building."*

(1) *Office building* means a structure and the land underlying the structure, comprised of structural components and

fixtures essential to the operation or appearance of the building, and that is lawfully occupied and used by a State or local party committee solely for its own party administration and election campaign support purposes. The term does not include office furnishings, furniture, equipment and machinery (such as computers, file cabinets, photocopiers or audio-visual production equipment).

(2) *Purchase* means any payment to acquire the sole legal title to the building, including fees directly related to the acquisition of the building, such as sales commissions and real estate closing or settlement fees. Purchase does not include payments for the rent or leasing of an office building, property taxes and similar assessments, building maintenance, utility services, and office equipment.

(3) *Construction* includes the design and erection of the structure of a building. Construction does not include the maintenance or repair of the building or its structural components, unless the repair work reaches a level to constitute major restoration or renovation of the building.

(d) *Allocation of expenses not within the definition of "purchase or construction of an office building."* If funds raised by a State or local party committee are used for an expense for its office building and the expense does not fall within the definitions in paragraph (c) of this section, the expense is an allocable administrative expense unless it falls within another category, such as support for a Federal or non-Federal candidate. If the expense is an allocable administrative expense, 11 CFR 300.33 applies, and the administrative expense is subject to the limitations and prohibitions of the Act.

(e) *Transitional Provisions for State Party Building or Facility Account.* Up to and including November 5, 2002, the State committee of a political party may accept funds into its party office building or facility account, established pursuant to repealed 2 U.S.C. 431(8)(B)(viii), and use the funds in the account only for the construction or purchase of an office building or facility. Starting on November 6, 2002, the funds in the account will be subject to the provisions of paragraphs (a) through (c) of this section if used for a State party office building. They may not be used for Federal account or Levin account purposes. They may be used for any non-Federal purposes, as permitted under State law.

§ 300.36 Reporting Federal election activity; recordkeeping.

(a) *Requirements for a State, district, or local committee of a political party that is not a political committee.*

(1) A State, district, or local committee of a political party that is not a political committee (*see* 11 CFR 100.5) must demonstrate through a reasonable accounting method that whenever it makes a payment of Federal funds for Federal election activity (*see* 11 CFR 300.32 and 300.33) it has received sufficient funds subject to the limitations and prohibitions of the Act to make the payment. Such an organization must keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission.

(2) A payment of Federal funds for Federal election activity shall constitute an expenditure for purposes of determining whether a State, district, or local committee of a political party qualifies as a political committee under 11 CFR 100.5, unless the payment is excluded from the definition of expenditure under 11 CFR 100.8. A payment of Federal funds for Federal election activity that meets the criteria of 100.8(b)(10), (16), or (18) (*exempt activities*) shall be treated as a payment for exempt activity in accordance with all applicable provisions of this chapter, including, but not limited to, 11 CFR 100.5(c).

(b) *Requirements for a State, district, or local committee of a political party that is a political committee.*

(1) *Reporting disbursements of Federal funds for Federal election activity.* A State, district, or local committee of a political party that is a political committee (*see* 11 CFR 100.5) must report all disbursements of Federal funds for Federal election activity, including the Federally allocated portion of a payment for Federal election activity. This requirement applies whether or not the committee's aggregate total receipts and disbursements for Federal election activity is $5,000 or more during the calendar year. For purposes of this paragraph, a disbursement of Federal funds for Federal election activity (*see* 11 CFR 300.32 and 300.33) by a State, district, or local committee of a political party that is a political committee shall be deemed an expenditure and reported as such, unless the disbursement is excluded from the definition of expenditure under 11 CFR 100.8.

(2) *Reporting all receipts and disbursements for Federal election activity; threshold.* In addition to the requirements of paragraph (b)(1) of this section, a State, district, or local committee of a political party that is a political committee must report all receipts and disbursements made for Federal election activity if the aggregate amount of such receipts and disbursements is $5,000 or more during the calendar year. The disclosure required by this paragraph must include receipts and disbursements of Federal funds and of Levin funds used for Federal election activity, notwithstanding the otherwise non-Federal nature of the Levin funds.

(i) *Reporting of payments for Federal election activity allocated between Federal funds and Levin funds.* A State, district, or local committee of a political party that makes a payment for Federal election activity that is allocated between Federal funds and Levin funds (*see* 11 CFR 300.33) must report for each such payment the full name and address of each person to whom the payment was made, the date of the payment, amount and purpose of the payment, and the amount of and explanation for the allocation percentage used for the payment, as provided in 11 CFR 104.17(b). If the payment is for the allocable costs of more than one Federal election activity, the committee must itemize the payment, showing the amounts designated for each Federal election activity. The committee must also report the total amount paid for Federal election activity that calendar year, to date, for each Federal election activity.

(ii) *Itemization.* The disclosure required by paragraph (b)(2) of this section must include, in addition to any other applicable reporting requirement of this chapter, the itemized disclosure of receipts and disbursements of $200 or more to or from any person for Federal election activities, as provided in part 104.

(3) *Reporting of other payments allocated between Federal funds and non-Federal funds.* A State, district, or local committee of a political party that makes a payment for costs allocable between Federal and non-Federal funds, other than the costs of Federal election activity that is allocated between Federal funds and Levin funds under 11 CFR 300.33, must comply with 11 CFR 104.17.

(c) *Filing Schedule.* A State, district, or local committee of a political party that must file reports under paragraph (b) of this section must comply with the monthly filing schedule in 11 CFR 104.5(c)(3).

(d) *Recordkeeping.* A State, district, or local committee of a political party that must file reports under paragraph (b) of this section must comply with the requirements of 11 CFR 104.14.

§ 300.37 Prohibitions on fundraising for and donating to certain tax-exempt organizations (2 U.S.C. 441i(d)).

(a) *Prohibitions.* A State, district, or local committee of a political party must not solicit any funds for, or make or direct any donation to:

(1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;

(2) An organization that has submitted an application for tax exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or

(3) An organization described in 26 U.S.C. 527 except for a political committee; a State, district, or local committee of a political party; or the authorized campaign committee of a state or local candidate.

(b) *Application.* This section also applies to:

(1) An officer or agent acting on behalf of a State, district or local committee of a political party;

(2) An entity that is directly or indirectly established, financed, maintained or controlled by a State, district or local committee of a political party or an officer or agent acting on behalf of such entity; and

(3) An entity that is directly or indirectly established, financed, maintained or controlled by an agent of a State, district or local committee of a political party.

Subpart C—Tax-Exempt Organizations

§ 300.50 Prohibited fundraising by national party committees (2 U.S.C. 441i(d)).

(a) *Prohibitions on fundraising and donations.* A national committee of a political party, including a national party congressional campaign committee, must not solicit any funds for, or make or direct any donations to:

(1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;

(2) An organization that has submitted an application for tax-exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or

(3) An organization described in 26 U.S.C. 527, except for a political committee; a State, district, or local committee of a political party; or the authorized campaign committee of a State or local candidate.

(b) *Application.* This section also applies to:

(1) An officer or agent acting on behalf of a national party committee, including a national party congressional committee;

(2) An entity that is directly or indirectly established, financed, maintained or controlled by a national party committee, including a national party congressional committee, or an officer or agent acting on behalf of such an entity; or

(3) An entity that is directly or indirectly established, financed, maintained, or controlled by an agent of a national committee of a political party, including a national party congressional committee.

§ 300.51 Prohibited fundraising by State, district, and local party committees (2 U.S.C. 441i(d)).

(a) *Prohibitions.* A State, district, or local committee of a political party must not solicit any funds for, or make or direct any donation to:

(1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;

(2) An organization that has submitted an application for tax-exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or

(3) An organization described in 26 U.S.C. 527, except for a political committee; a State, district, or local committee of a political party; or the authorized campaign committee of a State or local candidate.

(b) *Application.* This section also applies to:

(1) An officer or agent acting on behalf of a State, district, or local committee of a political party;

(2) An entity that is directly or indirectly established, financed, maintained or controlled by a State, district, or local committee of a political party or an officer or agent acting on behalf of such entity; and

(3) An entity that is directly or indirectly established, financed, maintained or controlled by an agent of a State, district, or local committee of a political party.

§ 300.52 Fundraising by Federal candidates and Federal officeholders (2 U.S.C. 441i(e)(4)).

(a) *General solicitations.* A Federal candidate, an individual holding Federal office, and an individual who is an agent of either may make a general solicitation of funds on behalf of any organization described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a), or an organization that has submitted an application for determination of tax-exempt status under 26 U.S.C. 501(c), without regard to the source or amount of funds, only if all of the following conditions apply:

(1) The solicitation does not specify how the funds will or should be spent;

(2) The solicitation is not for a 501(c) organization whose principal purpose is to conduct:

(i) Voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; or

(ii) Voter identification, get-out-the-vote activity or generic campaign activity conducted in connection with an election in which a Federal candidate appears on the ballot even if a candidate for State or local office also appears on the ballot; and

(3) The solicitation is not for the activities described in paragraph (a)(2) of this section.

(b) *Specific solicitations.*

(1) A Federal candidate, an individual holding Federal office, and an individual who is an agent of either may make a solicitation explicitly to obtain funds to carry out the activities described in paragraph (a)(2) of this section, only if the following conditions are met:

(i) The solicitation is made only to individuals; and

(ii) The amount solicited from any individual during any calendar year does not exceed $20,000.

(2) A Federal candidate, an individual holding Federal office, and an individual who is an agent of either may make a solicitation explicitly for an entity whose principal purpose is to conduct any of the activities described in paragraph (a)(2) of this section, only if the following conditions are met:

(i) The solicitation is made only to individuals; and

(ii) The amount solicited from any individual during any calendar year does not exceed $20,000.

Subpart D—Federal Candidates and Officeholders

§ 300.60 Scope (2 U.S.C. 441i(e)(1)).

This subpart applies to:

(a) Federal candidates,

(b) Individuals holding Federal office,

(c) Agents of a Federal candidate or individual holding Federal office, and

(d) Entities that are directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of, one or more Federal candidates or individuals holding Federal office.

§ 300.61 Federal elections (2 U.S.C. 441i(e)(1)(A)).

No person described in 11 CFR 300.60 shall solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity as defined in 11 CFR 100.24, unless the amounts consist of Federal funds that are subject to the limitations, prohibitions, and reporting requirements of the Act.

§ 300.62 Non-Federal elections (2 U.S.C. 441i(e)(1)(B)).

No person described in 11 CFR 300.60 shall solicit, receive, direct, transfer, or spend or disburse funds in connection with any non-Federal election, unless the amounts consist of Federal funds that are subject to the limitations and prohibitions of the Act.

§ 300.63 Exception for State party candidates (2 U.S.C. 441i(e)(2)).

Section 300.62 shall not apply to a Federal candidate or individual holding Federal office who is a candidate for State or local office, if the solicitation, receipt or spending of funds is permitted under State law; and refers only to that State or local candidate, to any other candidate for that same State or local office, or both. If an individual is simultaneously running for both Federal and State or local office, the individual must raise, accept, and spend only Federal funds for the Federal election.

§ 300.64 Exemption for attending or speaking at fundraising events (2 U.S.C. 441i(e)(3)).

Notwithstanding the provisions of 11 CFR 100.24, 300.61 and 300.62, a Federal candidate or individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party, including a fundraising event at which Levin funds are raised, or at which non-Federal funds are raised. Such candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds or participate in any other fundraising aspect of any such event.

§ 300.65 Exceptions for certain tax-exempt organizations.

(a) *General solicitations.* A Federal candidate, an individual holding Federal office, and an individual who is an agent of either may make a general solicitation of funds on behalf of any organization described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a), or an organization that has submitted an application for determination of tax-exempt status under 26 U.S.C. 501(c), without regard to the source or amount of funds, only if all of the following conditions apply:

(1) The solicitation does not specify how the funds will or should be spent;

(2) The solicitation is not for a 501(c) organization whose principal purpose is to conduct:

(i) Voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; or

(ii) Voter identification, get-out-the-vote activity or generic campaign activity conducted in connection with an election in which a Federal candidate appears on the ballot even if a candidate for State or local office also appears on the ballot; and

(3) The solicitation is not for the activities described in paragraph (a)(2) of this section.

(b) *Specific solicitations.*

(1) A Federal candidate, an individual holding Federal office, and an individual who is an agent of either may make a solicitation explicitly to obtain funds to carry out the activities described in paragraph (a)(2) of this section, only if:

(i) The solicitation is made only to individuals; and

(ii) The amount solicited from any individual during any calendar year does not exceed $20,000.

(2) A Federal candidate, an individual holding Federal office, and an individual who is an agent of either may make a solicitation explicitly for an entity whose principal purpose is to conduct any of the activities described in paragraph (a)(2) of this section only if:

(i) The solicitation is made only to individuals; and

(ii) The amount solicited from any individual during any calendar year does not exceed $20,000.

Subpart E—State and Local Candidates

§ 300.70 Scope (2 U.S.C. 441i(f)(1)).

This subpart applies to any candidate for State or local office, individual holding State or local office, or an agent of any such candidate or individual. For example, this subpart applies to an individual holding Federal office who is a candidate for State or local office. This subpart does not apply to an association or similar group of candidates for State or local office or of individuals holding State or local office.

§ 300.71 Federal funds required for certain public communications (2 U.S.C. 441i(f)(1)).

No individual described in 11 CFR 300.70 shall spend any amounts for a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified), and that promotes or supports any candidate for that Federal office, or attacks or opposes any candidate for that Federal office (regardless of whether the communication expressly advocates a vote for or against a candidate) unless the amounts consist of Federal funds that are subject to the limitations, prohibitions, and reporting requirements of the Act. *See* definition of *public communication* at 11 CFR 100.26.

§ 300.72 Federal funds not required for certain communications (2 U.S.C. 441i(f)(2)).

The requirements of section 11 CFR 300.71 shall not apply if the communication:

(a) Is in connection with an election for State or local office, and refers to one or more candidates for State or local office or to a State or local officeholder but does not promote, support, attack, or oppose any candidate for Federal office; or

(b) Comes within the scope of 11 CFR 300.2(*l*)(2)(ii).

PART 9034—ENTITLEMENTS

28. The authority citation for Part 9034 would continue to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

29. Section 9034.8 would be amended by adding introductory language to paragraph (a) to read as follows:

§ 9034.8 Joint fundraising.

(a) *General.* Nothing in this section shall permit any person to solicit, receive, direct, transfer, or spend any non-Federal funds prohibited under 11 CFR part 300.

* * * * *

Dated: May 10, 2002.

David. M. Mason,

Chairman, Federal Election Commission.

[FR Doc. 02–12177 Filed 5–15–02; 10:13 am]

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Federal Register

Monday,
May 20, 2002

Part IV

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priorities.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes funding two priorities, one priority on Aging-Related Changes in Impairment for Persons Living with Physical Disabilities and a priority on Personal Assistance Services under the Rehabilitation Research and Training Center (RRTC) Program for the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years (FY) 2002–2004. The Assistant Secretary takes this action to focus research attention on an identified national need. We intend these priorities to improve the rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before June 19, 2002.

ADDRESSES: Address all comments about these proposed priorities to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov*.

You must include the term Aging-Related Changes in Impairment for Persons Living with Physical Disabilities or Personal Assistance Services in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475 or via the Internet: *donna.nangle@ed.gov*.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding the proposed priorities.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from the proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the priorities in room 3412, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priorities. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding an additional priority, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use these proposed priorities, we invite applications through a notice published in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational.

The proposed priorities refer to President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html*.

The proposed priorities also refer to NIDRR's Long-Range Plan (the Plan). The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/offices/OSERS/NIDRR/Products*.

Description of the Rehabilitation Research and Training Centers (RRTC) Program

The RRTCs conduct coordinated and integrated advanced programs of research targeted toward the production of new knowledge, to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, or promote maximum social and economic independence for persons with disabilities. RRTCs operate in collaboration with institutions of higher education or providers of rehabilitation or other appropriate services. Additional information on the RRTC program can be found at: *http://www.ed.gov/offices/OSERS/NIDRR/Programs/res_program.html#RRTC*.

General Requirements

The RRTC must:

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties;
- Serve as centers for national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

Priorities

Aging-Related Changes in Impairment for Persons Living With Physical Disabilities

Background:

In recent years, advances in medical science, technology, rehabilitation, public health, and consumer education have resulted in increased life expectancies for individuals with physical disabilities. Individuals with physical disabilities face challenges, not only with the physical, mental and social manifestations of "normal" aging, but also the cumulative effects of chronic, disability-specific functional impairments. The impact of these new, physical, functional, and psychosocial changes are often unanticipated and are variable, depending on a myriad of factors including, but not limited to, disability severity and age of onset, presence of secondary health conditions, access to community-based supports, caregiver support and burden, and access to routine health care. (Aging with Disability, RRTC on Aging with a Disability, *http://www.jik.com/awdrtcawd.html)*.

The 1997 Census data estimate that 33.0 million individuals, 12.3 percent of the population had a severe disability. Individuals 15 years of age and over were defined as having a severe disability if they: (1) Used a wheelchair, cane, crutches, or walker; (2) had other mental or emotional conditions that seriously interfered with everyday activities; (3) received federal benefits based on their inability to work; (4) had Alzheimer's disease, mental retardation, or a developmental disability; or (5) were unable to perform (without assistance) one or more activities of daily living, instrumental activities of daily living, or functional activities such as seeing, hearing, speaking, lifting, walking, or grasping small objects (U.S. Census Bureau, Census 1996 Survey of Income and Program Participation: Aug.–Nov. 1997, pg. 2).

For those 21 million individuals who reported having a disability in a single domain, those 15 years of age and older confirmed having a disability in the physical domain. This represents a substantially higher proportion than those declaring disability in the communication or mental domains (U.S. Census Bureau, Census 1996 Survey of Income and Program Participation: Aug.–Nov. 1997, Table 2, pg. 13).

It is recognized that there are numerous widely accepted definitions for physical disability used in the disability and rehabilitation research literature. For the purposes of this priority, Verbrugge's definition of the physical class of disability will be used. As stated, "physical disability refers to difficulty in performing basic actions required for daily living, such as mobility, purposeful movement, balance, and strength," (*Verbrugge L., Disability*, Rheumatic Disease Clinics of North America, Nov. 1990; 16(4)). Physical disabilities are often referred to in the context of being able to perform self-care activities or activities required for community living (Ostir G.V., *Disability in Older Adults 1: Prevalence, Causes and Consequences*, Behavioral Medicine, Winter 1999; 24(4): 147–56, pg.2). Some examples of physical disabilities include, but are not limited to: Spinal Cord Injury (SCI); Cerebral Palsy (CP); Post-Polio Syndrome (PPS); Muscular Dystrophy (MD); and Multiple Sclerosis (MS). Many individuals with these long-term conditions describe the onset of increased pain, spasticity, joint stiffness and generalized fatigue, decreased muscle strength, reduced stamina and endurance (*Aging, Well-Being and Cerebral Palsy*, The Roeher Institute Final Report, submitted October 1996, *http://www.ofcp.on.ca/aging.html;* Gueze R., et al., *Clinical and research diagnostic criteria for developmental coordination disorder: a review and discussion*, Human Movement Science 2001 Mar; 20(1–2): 7–47; Siddall P.J. & Loeser J.D., *Pain following spinal cord injury*, Spinal Cord, 2001; 39: 63–73). For example, studies show that persons aging with SCI routinely report increased fatigue and pain *(Functional Change Fact Sheet 3, http://www.agingwithsci.org)*. Individuals diagnosed with PPS encounter new, progressive muscle weakness, increases in pain, diminished energy levels up to 15 years after their original illness *(Post Polio Syndrome: Identifying Best Practices in Diagnosis and Care, http://www.modimes.org)*.

Classic studies on aging, such as, the Baltimore Longitudinal Study of Aging have provided a plethora of baseline data from which gerontologists and geriatric professionals have documented the physiological, psychological, and social aspects of the normal aging process. As a result of more recent studies conducted in the disability and rehabilitation arena, findings are emerging that begin to support and frame: (1) documentation and characterization of the atypical aging patterns noted in many individuals with physical disabilities and (2) systematic identification and development of strategies to measure and assess aging related changes and increases in severity of impairment.

Measurement of changes in impairment associated with aging with a disability is as complex and dynamic as the myriad of medical, socio-demographic, and psychosocial factors that influence the aging process. Gerontology, sociology and allied health literature suggest that, across disability groups, examination of the variability and interrelationship of five factors are critical to successfully measuring and characterizing aging-related changes and the overarching impact these changes may have on activity limitation and participation across major life domains. These factors are: (1) The era in which the individual is diagnosed (period of onset); (2) the chronological age at which disability occurs (age of onset) (3) duration of disability; (4) initial severity; and (5) the presence or onset of secondary conditions.

Study across diagnostic groups has been especially difficult because of the wide array of secondary conditions and confounding complications resulting from routine aging and associated with the primary condition causing disability. Public health experts agree that secondary conditions constitute a significant and shared health risk for individuals aging with physical disabilities. Individuals with polio and rheumatoid arthritis report experiencing osteoarthritis, diabetes, heart disease, high blood pressure, and asthma. (Campbell M.L., *et al., Secondary health conditions among middle-aged individuals with chronic physical disabilities: implications for unmet needs for services*, Assistive Technology; 1999; 11(2): 105–122). Individuals with SCI and other chronic physical disabilities also report health problems such as hypertension, high cholesterol, cardiopulmonary disorders, obesity, osteoporosis, bone fractures, and pressure ulcers, which are all considered to be of especially high incidence in individuals with chronic physical disability (Garland D.E., *et al., Bone Loss with Aging and the Impact of SCI*, Topics in Spinal Cord Rehabilitation, 6: 3, 61–69; Kraft G.H., *Multiple Sclerosis: A Rehabilitative Approach, http://depts.washington.edu/rehab/ms/narrative.shtml)*.

In general, inviduals aging with a physical disability are more likely than their non-disabled peers to experience declines in health status, increases in severity of impairment, reduction in level of activity, and reduced participation in major life activities. These aging-related changes can lead to decreased functional independence and diminished quality of life for some individuals while others may experience relative stability in function as they age with their physical disability. (Ostir G.V., *Disability in Older Adults 1: Prevalence, Causes and Consequences*, Behavioral Medicine, Winter 1999; 24(4): 147–56; Carlson J.E., *Disability in Older Adults 2: Physical Activity as Prevention*, Behavioral Medicine, Winter 1999; 24 (4): 157–68; Guttman C., *Older Americans 2000: New data system that tracks health and well-being finds successes and disparities*, Geriatrics, Oct 2000; 55(10): 63–6,69).

Further, as compared to the non-disabled population, aging-related changes have a greater impact on individuals with physical disabilities who are already less likely to work, attend college, access and utilize community-based services, and participate in recreation and leisure time activities. These same individuals are often more likely to experience clinical depression, encounter social isolation and substance abuse problems (Maloni H.W., *Pain in multiple sclerosis: an overview of its nature and management*, Journal of Neuroscience Nursing, 2000; June; 32(3): 139–44, 152; Kaplan G.A., *et al., Natural history of leisure-time physical activity and its correlates: associations with mortality from all causes and cardiovascular disease over 28 years*, American Journal

of Epidemiology, 1996; 144: 793–7; Mendes de Leon, *et al., Self-efficacy, physical decline, and change in functioning in community-living elders: a prospective study*, Journal of Gerontology and Social Science, 1996; 51: 183–90). Through the implementation of the NFI and the Plan, NIDRR seeks to address the issues of aging with a physical disability, with particular attention on preventing or minimizing changes in impairment or both that impact activity and participation in major life domains.

Focusing on both individual and systemic factors that impact function, activity and participation, the NFI emphasizes the importance of access to assistive and universally-designed technologies, employer and workplace supports, and promoting full access to community-based care. The Plan, which emphasizes the need for consumer knowledge and information, new techniques, and technologies and advancements in the overall body of scientific knowledge, calls for research to improve individual outcomes in employment, health and function, technology for access and function, and independent living and community integration. Clearly, the challenges and opportunities for research on the unique and varied issues of aging across disability groups are reflected throughout the elements of the NFI and the Plan.

Priority 1

The Assistant Secretary proposes to establish a Rehabilitation Research and Training Center on Aging-Related Changes in Impairment for Persons Living with Physical Disabilities. The purpose of this absolute priority is to generate new knowledge regarding the characteristics, prevalence, and distribution of these changes, their interrelationships with lifestyle and environmental factors, and their consequences on health, activity, and participation across the life span. The priority seeks to improve rehabilitation outcomes by encouraging innovative interventions aimed at preventing or minimizing the impact of aging-related changes on the well-being and productivity of persons with physical disabilities. The RRTC is required to conduct significant and substantial cross-disability research and is encouraged to collaborate with one or more institutions, for the purposes of ensuring inclusion of multidisciplinary expertise across disability groups, and sufficient sample size and methodological rigor to generate robust findings.

The RRTC must:

(1) Clarify definitions and critically review and analyze strategies to measure aging-related changes in physical, psychological, and sensory impairment within and across at least two physical disabilities such as, but not limited to, SCI, CP, PPS, MD, and MS;

(2) Using the disabilities selected, document aging-related changes and examine variations in terms of prevalence, magnitude of change, timing of onset (age and duration of disability), onset severity and socio-demographic distribution within, and between study groups;

(3) Develop a conceptual model, grounded in an appropriate theoretical framework, of aging-related changes in impairment that: (a) Predicts determinants of increases or stability in severity of impairment such as age, disability, lifestyle, or environmental factors; (b) quantifies the interrelationships between stability and increases in impairment and the occurrence of secondary health conditions; and (c) evaluates the consequences of changes in impairment on activity and participation across major life domains;

(4) Using the model (see (3)) as a framework, identify or develop and evaluate rehabilitation techniques or interventions, or both, to mitigate the direct consequences of changes in impairment on health, activity limitations, and participation in employment, family life, independent living, community integration, and leisure and recreational activities; and

(5) Develop, implement, and evaluate a comprehensive plan to train policymakers, researchers, practitioners, service providers and advocates in rehabilitation and disability-related fields, and consumers and family members about aging-related changes in impairment, and the consequences for health, participation and quality of life of individuals with physical disabilities.

In carrying out the purposes of the priority, the RRTC shall:

- Develop and implement during the first year of the grant, and in consultation with the National Center on Dissemination of Disability Research (NCDDR), a comprehensive plan that promotes broad dissemination to both consumer and professional audiences;
- Involve consumers and family members as appropriate in all stages of research and related activities;
- Address the unique needs of individuals aging with physical disabilities who are members of groups that have traditionally been underrepresented, and demonstrate use of culturally appropriate methods of data collection, measurement and dissemination;
- Collaborate on projects, as appropriate, with NIDRR-funded RRTCs, RERCs, and Model Systems, and other public and private agencies and institutions;
- In the fourth year of the project, conduct a state-of-the-science national conference to disseminate and discuss the results of the research with researchers, policymakers, consumers, family members, and other stakeholders; and
- Demonstrate appropriate multidisciplinary linkages to Geriatrics, Gerontology and Rehabilitation.

Personal Assistance Services

Background

Personal Assistance Services (PAS) "means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. The services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job." (34 CFR 385.4(b)). In practice, PAS may be provided to a range of populations, with a variety of disabilities, through a number of delivery models with varying types of services, and using a variety of funding mechanisms. NIDRR's Long-Range Plan (the Plan) sets a goal in which PAS is based upon a support model, with the consumer having primary control.

In both the New Freedom Initiative (NFI) and in his Executive Order (E.O.) 13207 on Community-Based Alternatives for Individuals with Disabilities derived from the Supreme Court's Olmstead decision, the President states a clear intent "to help ensure that all Americans have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment, and to participate in community life" *(http://www.whitehouse.gov/news/releases/2001/06/20010619.html)*.

The combination of policies, protections, and mandates underscores the appropriateness of a continued strong research focus on factors associated with PAS at home, in the community, and at the worksite. The goal of these efforts is to maximize the range of options available to individuals with disabilities to ensure their full integration into and participation in society.

PAS includes assistance with activities of daily living (ADLs), such as eating, bathing, dressing, or toileting, or instrumental activities of daily living (IADLs), such as preparing meals, managing money, or shopping. "Work-related PAS might include filing, retrieving work materials that are out of reach, or providing travel assistance for an employee with a mobility impairment; helping an employee with a cognitive disability with planning or decision making; reading handwritten mail to an employee with a visual impairment; or ensuring that a sign language interpreter is present during staff meetings to accommodate an employee with a hearing impairment" (President's Committee on Employment of People with Disabilities, *Personal Assistance Services in the Workplace*, 2000, *http://www.odc.state.or.us/tadoc/ada69.htm)*.

In an analysis of data from the National Health Interview Survey on Disability (NHIS–D), 1994–95, LaPlante, Harrington, and Kang found that almost 13.2 million individuals in the U.S. needed or received an average of 31.4 hours per week of help with ADLs or IADLs, for a total of 22 billion hours of care annually. Most of that care was from unpaid caregivers (LaPlante M., Harrington C., and Kang T., *Estimating Paid and Unpaid Hours of Personal Assistance Services in Activities of Daily Living Provided to Adults Living at Home*, Health Services Research, 2002, publication pending). In other work based upon the same data source, the authors found that a substantial number of individuals reported that they needed more help than they received, with lower incomes being a key factor in whether or not the individual needed additional PAS (Harrington C., LaPlante M. and Kang T., *Estimating the Amount and Cost of the Unmet Need for Personal Assistance Services at Home*, Disability Statistics Center, draft 2000). Also, data from the NHIS–D indicate that more than 500,000 people would need help with the work-related tasks mentioned earlier in order to work—of that number, 176,000 are working, with 44,000 not being accommodated (e-mail communication to NIDDR Staff from Kay, S., Jan. 31, 2002).

Demographic, social, and environmental trends affect the prevalence and distribution of various types of disabilities as well as the demands of those disabilities on social policy and service systems. For example, persons age 65 and older have a greater need for PAS than do persons of working age, 21 to 64 (LaPlante, Harrington & Kang, 2000; McNeil J., *Americans with Disabilities: 1997*, U.S. Census Bureau, 2001). The effect of such a trend can be seen in the unmet needs for PAS and, for some, the need to rely upon a barely adequate patchwork of services. The specific nature of disability, whether physical, cognitive, or psychiatric, must also be evaluated in terms of significance to the availability of PAS that is appropriate to the individual. The Olmstead decision, NFI, and other policies and initiatives create what may be a fertile opportunity for expansion of PAS that reflects the independent living perspective.

Availability of, and payment for, worksite PAS requires models that allow greater freedom for individuals with disabilities to remain in, or re-enter, the workforce. Sometimes, "in the workplace, PAS is provided as a reasonable accommodation to enable an employee to perform the functions of a job. The employer's responsibility for providing reasonable accommodations begins when the employee reaches the job site and concludes when the work day ends" (President's Committee on Employment of People with Disabilities, 2000). Given the generally lower earnings of people with severe disabilities as compared to those without disabilities (McNeil, 2001), a substantial barrier may remain for individuals with lower earnings in particular. Workers with disabilities who may lack access to public programs or adequate health insurance may be unable to afford PAS at home and in the community.

A recent report of the National Blue Ribbon Panel on PAS notes that "for many individuals with disabilities, absence of assistance with * * * non-medical, day-to-day activities * * * can affect the musculoskeletal, circulatory, respiratory, and skin systems * * * and can result in greater levels of disability and even greater need for health and support services" (Dautel and Frieden, *Consumer Choice and Control: Personal Attendant Services and Supports in America, http://www.ilru.org/pas/BRPPAS.htm*, 1999). Living in the community with severe disability can require negotiation of a complex variety of programs and services to find appropriate PAS. In addition, depending upon geographic location, availability of family and other informal supports, respite care, and of course financial assets, adequate PAS may not be assured. As Harrington and LeBlanc report, the availability of home- and community-based services under Medicaid varies widely depending upon location (Harrington C. and LeBlanc A.J., Medicaid Home and Community-Based Services, Disability Statistics Report, 16, 2001). McNeil finds that people with severe disabilities are less likely than those without disabilities to be a householder and are more likely to live as an unrelated individual. Analysis of model policies to provide formal and informal assistance must be sensitive to the range of sociodemographic variables

The availability of PAS is a complex issue involving many factors that affect community living and participation in employment activities. Individuals with disabilities and personal care assistants alike have reported numerous PAS workforce gaps, which negatively impact the provision of PAS services to individuals with disabilities. Recruiting potential PAS workers is hampered because of low pay, poor benefits, and lack of opportunities for professional training, development, networking, and career advancement (*Focus on the Frontline: Perceptions of Workforce Issues Among Direct Support Workers and Their Supervisors*, National Center on Outcomes Resources, *http://www.qualitymall.org/products/FMPro?-DB=qmproducts&-Lay=products&-format=product_1.html&-Error=error.html&-RecID=34051&hits=17&-Edit*, 2001). PAS providers also report difficulties measuring success, another factor that contributes to worker burnout (Cockerill R. and Durham N., *Attendant Care and Its Role in Independent Living, as Developed in Transitional Living Centres*, New England Journal of Human Services, 1992). Retaining existing PAS providers is difficult for the same reasons; as a result, morale is low and turnover rates are high.

Mending these gaps is necessary to ensure successful independent and community living for individuals with disabilities. Bob Kafka of American Disabled for Attendant Programs Today notes that "whatever our solution it is clear that outreach for attendants will be essential if choice and control are to have any real meaning" (Kafka, B., *Empowering Service Delivery: Evolving Home Health for the 21st Century, http://www.libertyresources.org/mc/ca-26.html*, 1998). The importance of training for PAS providers is clear, with some consumer groups noting that training should encompass philosophical as well as technical matters. Kafka writes, for example, that "training should not focus so much on medical needs of the individual but rather on independent living principles, disability rights, body mechanics.* * *" NIDRR-funded grantees and others have addressed some of these issues in conjunction with specific geographic or target populations and determined that what is needed is

an effort that is geographically diverse, covers a range of individuals with disabilities, and addresses issues raised by new policy initiatives.

Although the quality of PAS is impacted by training issues, policies, low wages, and other complexities, the extent of the PAS worker's knowledge about the needs of consumers is a major concern. For example, knowledge of assistive technology (AT) is critical to enabling individuals with disabilities to live as independently as possible. Therefore, workers can be trained about the range of AT resources available to individuals with disabilities. Information can be provided about how these devices work, how to obtain them, and how to assist individuals with disabilities to use them independently, to the greatest extent practicable. As one consumer report notes, it is important to combine "the skills of listening and networking with the knowledge of resources and technical assistance to address the needs of people with disabilities in a timely manner" (*People with Physical Disabilities are Speaking Out About Quality and Services,* National Center on Outcomes Resources, 2001).

Another important aspect of PAS affecting the well-being and productivity of persons with significant disabilities is the relationship between formal assistance and informal, unpaid assistance from family and friends. Although formal and informal care are in principle largely complementary, estimates from the 1994 National Long-Term Care Survey quoted by R. Stone indicate that the majority of noninstitutionalized elders with disabilities (67 percent) rely solely on unpaid help from family members (Stone R., *Long-Term Care for the Elderly with Disabilities; Current Policy, Emerging Trends and Implications for the Twenty-First Century, http://www.milbank.org/0008stone/index.html,* 2000). Other studies have estimated that 60–80 percent of all personal assistance and long-term care services in the United States, regardless of age, are provided by families (Morris R., Caro F., and Hansan J., *Personal Assistance; The Future of Home Care,* The Johns Hopkins University Press, 1998).

Key questions are: (1) To what extent, and how, is informal help from family and friends being used to supplement or replace the need for paid personal assistance services to support the employment, functional independence, and community integration of working-age and older adults with disabilities; (2) how satisfied are consumers with the combination of formal and informal services they receive; and (3) how does the provision of informal services affect the amount of paid personal assistance they utilize? In tandem with other issues surrounding PAS, the balance between formal and informal services is inextricably tied to funding sources, whether public or private. Research suggests that the degree to which funding streams, especially public programs such as Medicaid, pay for formal PAS in lieu of, or to supplement, informal PAS has substantial cost implications (Harrington, LaPlante, and Kang, 2000).

Priority 2

The Assistant Secretary proposes to establish a Rehabilitation Research and Training Center on Personal Assistance Services. The purpose of this absolute priority is to support methodologically rigorous collaborative research to generate new knowledge that informs service delivery providers and policymakers regarding the need for and provision of PAS at the worksite, in the community, and in home-based settings for individuals with physical, sensory, cognitive, psychiatric, and multiple disabilities.

The activities are:

(1) Identify or develop, or both, evaluate, and disseminate best practices for PAS at the worksite to facilitate employment of individuals with disabilities who need such accommodations;

(2) Identify or develop, or both, evaluate, and disseminate best practices for PAS in community- and home-based settings to facilitate maximum integration and participation by working-age and older adults with disabilities;

(3) Conduct research on the PAS workforce and workforce development that reflects geographic diversity and addresses PAS workforce recruitment, retention, compensation and benefits; professional training, development, and networking, for PAS providers, including communication between individual, group, public and private PAS providers; and crossover issues between disability and aging providers;

(4) Identify and analyze existing model State and Federal PAS policies and programs, and develop a database to inventory the results;

(5) Evaluate and determine the impact on, and relevance to, PAS at the worksite and in the community of recent policy initiatives, such as E.O. 13207 implementing the Olmstead decision, the NFI, and other systems change activities for changes to existing State and Federal policies and programs;

(6) Conduct research on the relationship between formal and informal PAS and caregiving support, and on the role of assistive technology (AT) in complementing personal assistance to enhance the function, access, independent living, and quality of life of working-age and older adults with disabilities. In addition, identify and evaluate barriers to obtaining and using multiple sources of support; and

(7) Identify, develop, and evaluate models to eliminate barriers encountered by working-age and older adults with disabilities in accessing and utilizing both formal and informal PAS and AT to support employment, functional independence, and community integration.

In addition to proposed activities, in carrying out these priorities, the applicant must:

- Involve individuals with disabilities or their family members, or both and persons who are members of groups that have traditionally been underrepresented, as appropriate, in all stages of research and related activities;
- In the fourth year of the project, conduct a state-of-the-science national conference to disseminate and discuss the results of the research with researchers, policymakers, consumers, and other stakeholders;
- Coordinate with other entities carrying out related research or training activities; and
- Identify coordination responsibilities through consultation with the NIDRR project officer.

Applicable Program Regulations: 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Center.)

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Dated: May 15, 2002.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–12619 Filed 5–17–02; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Monday,
May 20, 2002

Part V

Department of Housing and Urban Development

Notice of Availability of Revised HUD Occupancy Handbook and Request for Comments; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4770–N–01]

Notice of Availability of Revised HUD Occupancy Handbook and Request for Comments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of availability and request for comments.

SUMMARY: The Department of Housing and Urban Development is revising HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs. This notice advises the public that HUD will make available a copy of its revised Occupancy Handbook on the HUD website and invites interested parties to comment on HUD's revised Occupancy Handbook.

DATES: Comment Due Date: June 4, 2002.

ADDRESSES: A copy of HUD's revised Occupancy Handbook can be obtained via the World Wide Web at *http://www.hud.gov/offices/hsg/hsgmulti.cfm* or by calling the Multifamily Housing Clearinghouse at 1–800–685–8470. Interested persons may also submit comments regarding this Notice to the Department of Housing and Urban Development, Attention: Handbook 4350.3 Comments, Room 6134, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. Comments may also be submitted by e-mail to: *occupancy_handbook_comments@HUD.gov*.

FOR FURTHER INFORMATION CONTACT: Dewayne Kimbrough, Director, Office of Housing, Grant and Housing Assistance Field Support Division, 451 Seventh Street, SW., Washington, DC 20410–2000; telephone number (202) 708–3000. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development is revising HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs, as part of the Department's Rental Housing Integrity Improvement Project (RHIIP). RHIIP is a Secretarial initiative designed to reduce subsidy payment errors and to ensure that the right benefits are going to the right person. This handbook provides guidance for owners, management agents, residents, contract administrators, and HUD staff on the admission and continued occupancy for approximately 1.4 million households in project based subsidized housing units.

In order to improve the quality of HUD's revised Occupancy Handbook, HUD has determined to make copies available for public comment. Copies of HUD's revised Occupancy Handbook will be available for a period of five (5) business days beginning May 20, 2002, at the HUD website, *http://www.hud.gov/offices/hsg/hsgmulti.cfm*. Members of the public without access to the World Wide Web may obtain a copy of the revised Occupancy Handbook by contacting the Multifamily Housing Clearinghouse at 1–800–685–8474.

Public input is solicited on the overall scope and direction of the revised HUD Occupancy Handbook. Interested members of the public may submit comments either electronically or by overnight mail to the addresses listed in the **ADDRESSES** section above. To be most helpful, comments must be identified by specific page and paragraph references and must be received by June 4, 2002.

Dated: May 14, 2002.

John Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–12598 Filed 5–17–02; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Monday,
May 20, 2002

Part VI

Department of Commerce

Economic Development Administration

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 991215339–2112–04]

RIN 0610–ZA14

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Request for Grant Proposals (RFP) Upon Availability of Funds.

SUMMARY: The role of government is to create conditions in which jobs are created, and in which people can find work. EDA is soliciting proposals to determine the role institutions of higher education can play in local and regional economic development and to conduct a demonstration project of faith-based and community organizations in economic development that will help our partners across the nation (states, regions and communities) create wealth and minimize poverty by promoting a favorable business environment to attract private capital investment and high skill, high wage jobs through world-class capacity building, infrastructure, business assistance, research grants and strategic initiatives. EDA will fulfill this mission by promoting progressive domestic business policies and growth, and by assisting states, communities, and individuals to achieve their highest economic potential.

DATES: Prospective applicants are advised that EDA will conduct a pre-proposal conference on June 5, 2002, at 2:00 p.m. EDT in the Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue, NW., Washington, DC 20230, Room 1414, at which time questions regarding these projects can be answered. Potential applicants are encouraged to provide written questions by June 3, 2002 (see **ADDRESSES** section below). Prospective applicants unable to attend this pre-proposal conference may participate by teleconference. Teleconference information may be obtained by calling (202) 482–4085 between 8:30–4:30 EDT on June 4, 2002.

Proposals for funding under this program will be accepted through June 19, 2002, at either of the addresses provided below. Proposals received after 4:00 p.m. EDT, on June 19, 2002, will not be considered for funding.

By June 28, 2002, EDA will notify proposers whether or not they will be given further funding consideration. Each successful proponent will be invited to submit an Application for Federal Assistance, OMB Control Number 0610–0094. Projects will be funded no later than September 30, 2002.

ADDRESSES:

1. Proposals may be mailed to:

John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, or

2. Proposals may be hand-delivered to:

John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 1874, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

EDA will not accept proposals submitted by FAX.

FOR FURTHER INFORMATION CONTACT: John J. McNamee (202) 482–4085; e-mail: *jmcnamee@eda.doc.gov*.

SUPPLEMENTARY INFORMATION: In a previous notice published on March 1, 2002 (67 FR 9544) EDA stated that it would publish a separate announcement for its National Technical Assistance, Training, Research, and Evaluation program. Pursuant to that notice, EDA publishes program requirements and solicits applications for this program.

I. Funding Availability

Funding appropriated under Public Law 107–77 is available for the National Technical Assistance, Training, Research, and Evaluation program authorized by the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121, *et seq*) and as further amended by the Economic Development Administration Reform Act of 1998 (Public Law 105–393). Funds in the amount of $1,601,000 have been appropriated for FY 2002 and shall remain available until expended. Awards will be in the form of grants or cooperative agreements. The average funding level in FY 2001 for National Technical Assistance investments was $108,000, and for Research and Evaluation investments was $43,000. EDA anticipates using only a portion of this funding for the two RFPs described below and has no preset allocation for the division of the $1,601,000 between any areas of special interest.

II. Authority

The authority for the programs listed above is the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121 *et seq*), and as further amended by Public Law 105–393.

III. Eligibility

The following entities are eligible to receive an award under this notice:

1. Institutions of higher education or a consortium of institutions of higher education;
2. A public or private nonprofit organization or association acting in cooperation with officials of a political subdivision of a state;
3. For-profit organizations and private individuals;
4. An Economic Development District;
5. An Indian tribe;
6. A state;
7. A city, or other political subdivision of a state or a consortium of political subdivisions; or
8. An area described in section 301(a).

A copy of this list is also published at 13 CFR 300.2.

IV. Proposal Format

Each proposal submitted must include:

1. A description of how the researcher(s) intend(s) to carry out the scope of work (not to exceed 10 pages in length);
2. A proposed budget and accompanying explanation;
3. Resumes/qualifications of key staff (not to exceed two pages per individual, with an additional two pages allowed for a single summary description of all organizations/consultants named in the proposal); and
4. A proposed schedule for completion of the project.

V. Evaluation and Selection Process

To apply for an award under this request, an eligible recipient must submit a proposal to EDA during the specified timeframe, at one of the addresses specified above. Proposals that do not meet all items required or that exceed the page limitations of Section IV of this RFP, will be considered nonresponsive, and will not be returned to the proponents. Proposals that meet all the requirements will be evaluated by a review panel comprised of at least three members all of whom will be full-time federal employees. The panel first evaluates the proposals using the general evaluation criteria set forth in 13 CFR 304.1 and 304.2. The panel then evaluates each proposal using the following criteria:

(1) The quality of a proposal's response to the Scope of Work and other requirements described in Section VI below;

(2) The ability of the prospective applicant to successfully carry out the proposed activities; and

(3) Cost to the federal government.

The Assistant Secretary for Economic Development is the Selecting Official. He may or may not select highly rated proposals based on the evaluations provided by the review panel and the criteria set forth in 13 CFR 307.10.

If a proposal is selected, EDA will provide the proponent with an Application for Federal Assistance (OMB Control Number 0610–0094).

VI. Areas of Special Interest

EDA is inviting proposals for National Technical Assistance, Training, Research, and Evaluation as described below.

A. Program: Research and Evaluation—(Pub. L. 89–136, as amended by Pub. L. 105–393, 42 U.S.C. 3147)

(Catalog of Federal Domestic Assistance: 11.312 Research and Evaluation)

- Role of Institutions of Higher Education in Local and Regional Economic Development

EDA invites proposals to examine how communities can harness the wealth of intellectual and technical resources of institutions of higher education in local and regional economic development.

Background: Effective economic development depends on the participation of the major segments of a community. The wealth of intellectual and technical resources of institutions of higher education are often not fully tapped by the local community to promote economic development. Whether large or small, whether universities, four-year colleges, or community colleges, each institution of higher education already serves a unique role. Some promote economic development through research and teaching, providing the pool of educated workers needed for an increasingly technology-based economy. Others respond to the more localized training needs of community businesses. Often they are one of the larger employers in a community. However, some operate almost independently of the local community, while others are an integral part of the local economic development process and planning efforts.

Institutions of higher education can be a powerful force when harnessed effectively to serve the local community. Their highly qualified staffs can help develop a community's vision, provide the research and data for effective long-range local planning, and bring a regional and national perspective to the local economic development efforts. EDA funds a network of University Centers at institutions of higher education. This research is not intended to examine the role of these Centers. Rather, it is intended to explore the contributing role that all universities and colleges can play in more fully meeting the economic development needs of their communities.

Scope of Work: The successful applicant:

- Will identify and analyze the most common areas where universities effectively participate in the economic development of the community as well as barriers that prevent some from doing so.
- Will identify effective university-community partnerships for economic development that could be replicated by other universities and communities facing comparable situations.
- Will select a number of case studies for detailed review and analysis.
- Will suggest innovative approaches not presently used.
- Must prepare a report describing the selected case studies, the methodology used to select them, the lessons learned that would be of value to other universities and communities, and additional innovative practices.
- Conduct up to seven presentations of the study findings, as described in Section VII.B.

Timing: This project must be completed and the final report submitted within one year of approval of the project

B. Program: National Technical Assistance—(Pub. L. 89–136, as amended by Pub. L. 105–393, 42 U.S.C. 3147)

(Catalog of Federal Domestic Assistance: 11.303 Economic Development Technical Assistance)

- Demonstration project of faith-based and community organizations in economic development.

EDA invites proposals to conduct a demonstration of the role of faith-based and community organizations in economic development, that will build on and advances the links between faith-based and community organizations with the broader economic development needs of a community.

Background: The economic revitalization of many communities depends in great measure on the initiative of faith-based and community organizations. Such local organizations are in a position to understand the needs of their communities and to design programs that best address those needs. They have more trust from community members than do governmental agencies or those from outside who lack connections to the community. This trust in turn often leads to a sense of ownership by the community and enhances the likelihood of successful partnerships.

Scope of Work: The successful applicant will propose an actual project that demonstrates an effective role of a faith-based or community organization in local economic development. This project:

- Must be conducted by an existing faith-based or community organization with a demonstrated track record of completing projects effectively.
- Must convene leaders of community-based and faith-based organizations in a roundtable to discuss issues and devise strategies for the role of faith-based and community-based organizations in rural and urban redevelopment.
- Will demonstrate what additional services are needed and how these services can be effectively integrated into a local economic development strategy. Such services may include technical assistance to small business, job training and placement, housing rehabilitation, microenterprise, and business incubators.
- Must maximize private investment that would not otherwise take place without the EDA investment.
- Must, by the nature of the project, have significant potential to generate lessons that can be applied to other communities.
- Must include reasonable job creation or retention as a result of the investment.
- May be an existing project that can be expanded to enhance its success or a new project. If it is a new project, it must be up and running within six months of grant approval.
- Must prepare a report describing the demonstration and lessons learned that would be of value to other faith-based or community organizations, and identify potential applicants that have the experience to have an impact on local communities.
- Conduct up to seven presentations as described in Section VII.B.

Timing: Must either be completed within one year of project approval, or demonstrate that it can continue without additional federal funds.

VII. Other Information and Requirements

EDA regulations at 13 CFR Chapter III are available on the EDA Web site www.doc.gov/eda. The Department of Commerce Pre-Award Notification

Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917) are applicable to this solicitation and can be found on EDA's Web site www.doc.gov/eda. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the Office of Management and Budget in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case has been finally resolved, the Department will provide further information on implementation of Executive Order 13202. Certain Departmental and other requirements are noted below:

A. Projects are expected to be completed in a timely manner consistent with the nature of the project. The completion date for each project is specified in the RFP.

B. Each award includes a requirement that the successful applicant(s) conduct briefings and/or training workshops for individuals and organizations interested in the project results. The completion dates set forth above are only for completion of the project and submission of the written report. Briefings/workshops will take place no later than one year after submission of the final report. Locations and dates of the briefings/workshops are at EDA's sole discretion. Usually these consist of at least one briefing in Washington, DC, with the other briefings/workshops held in conjunction with one or more of EDA's regional conferences.

C. Ordinarily, the applicant is expected to provide a 50% non-federal share of project costs. However, EDA may reduce or waive the required 50% matching share of the total project costs, provided the applicant demonstrates: (1) The project is not feasible without a reduction or waiver and the project merits a reduction or waiver, or (2) the requirements of 13 CFR 301.4(b) are satisfied.

D. Each award includes a requirement that the applicant submit an electronic version and 500 hard copies of the final report in formats acceptable to EDA.

E. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094. The EDA application (ED–900A), which incorporates the SF–424, are the forms in the EDA application kit, approved under the aforementioned OMB control number.

F. If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

G. EDA is committed to a policy of non-discrimination in the administration of all its programs.

H. EDA will notify unsuccessful proposers in writing and unsuccessful proposals will be maintained for not more than three years from the date of receipt.

I. This Notice has been determined to be "not significant" for purposes of Executive Order 12866.

J. It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

K. Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

L. See EDA's Notice of Funding Availability for FY 2002 (67 FR 9544, 3/1/2002) for additional information and requirements (available on the Internet at *http://www.doc.gov/eda*, under the heading "Notice of Funding Availability."

Dated: May 15, 2002.

Mary C. Pleffner,

Acting Assistant Secretary for Economic Development.

[FR Doc. 02–12607 Filed 5–17–02; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

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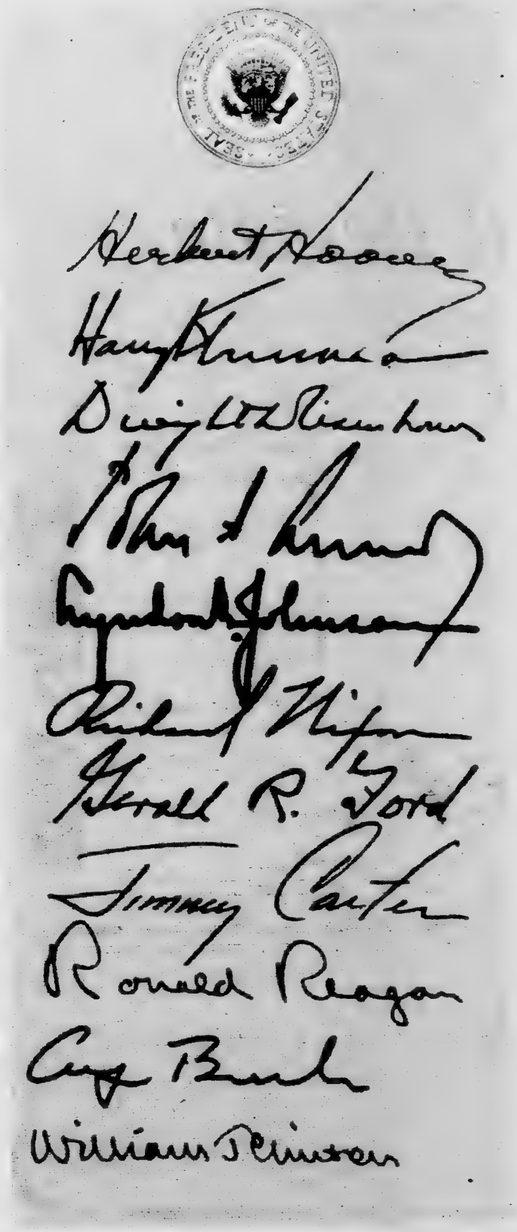

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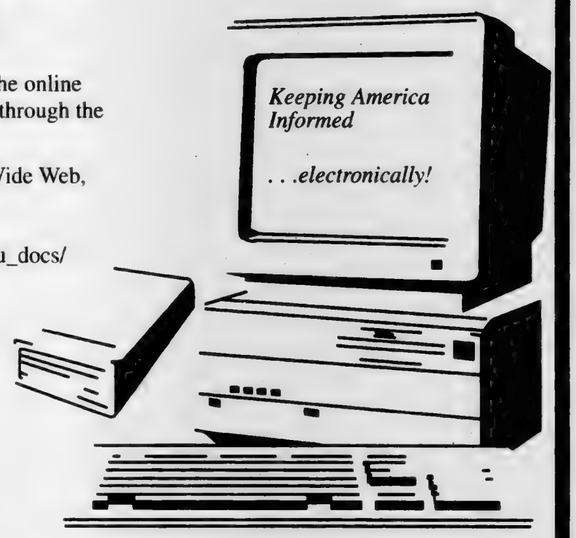

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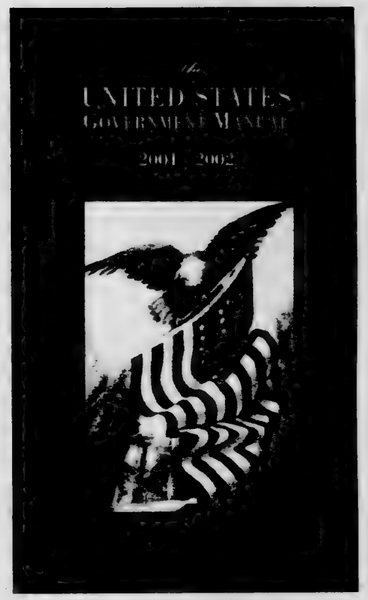

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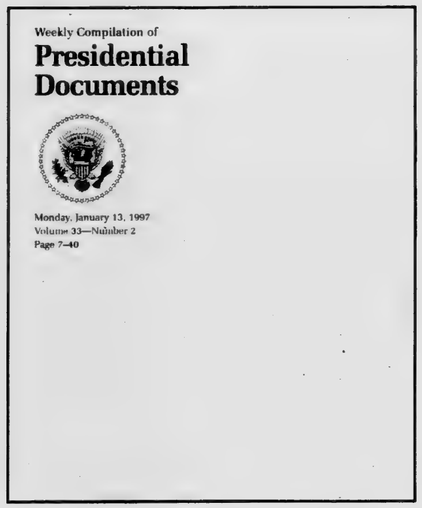

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Presidential Documents

Title 3—

The President

Proclamation 7561 of May 16, 2002

To Designate the Republic of Côte d'Ivoire as a Beneficiary Sub-Saharan African Country

By the President of the United States of America

A Proclamation

Section 506A(a)(1) of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200) (AGOA), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a "beneficiary sub-Saharan African country."

Section 112(b)(3)(B) of the AGOA (19 U.S.C. 3721(b)(3)(B)) provides special rules for certain apparel articles imported from "lesser developed beneficiary sub-Saharan African countries."

Proclamation 7350 of October 2, 2000, and Proclamation 7400 of January 17, 2001, designated certain countries listed in section 107 of the AGOA as beneficiary sub-Saharan African countries and identified which designated beneficiary sub-Saharan African countries would be considered lesser developed beneficiary sub-Saharan African countries under section 112(b)(3)(B) of the AGOA.

Pursuant to section 506A(a)(1) of the 1974 Act, and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate the Republic of Côte d'Ivoire (Côte d'Ivoire) as a beneficiary sub-Saharan African country.

Côte d'Ivoire satisfies the criteria for treatment as a "lesser developed beneficiary sub-Saharan country" under section 112(b)(3)(B) of the AGOA.

Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including sections 506A and 604 of the 1974 Act, and section 111 of the AGOA, do proclaim that:

(1) Côte d'Ivoire is designated as a beneficiary sub-Saharan African country.

(2) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries "Republic of Côte d'Ivoire."

(3) For purposes of section 112(b)(3)(B) of the AGOA, Côte d'Ivoire shall be considered a lesser developed beneficiary sub-Saharan African country.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with this proclamation are superseded to the extent of such inconsistency.

(5) The modifications of the HTS made by this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

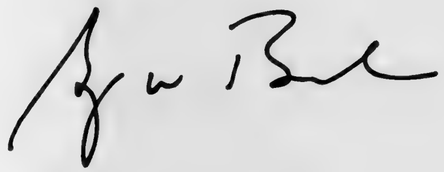

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Proclamation 7562 of May 16, 2002

Armed Forces Day, 2002

By the President of the United States of America

A Proclamation

The words of President Dwight D. Eisenhower written in 1953 remain true today: "It is fitting and proper that we devote one day each year to paying special tribute to those whose constancy and courage constitute one of the bulwarks guarding the freedom of this nation and the peace of the free world." On Armed Forces Day, our grateful Nation salutes the brave men and women who protect our country, defend freedom, and help make our world a better place.

During these extraordinary times, we are reminded that our achievements in peace and war stand upon the service and sacrifice of those in uniform. Today, we have troops fighting overseas to defeat terrorism. These brave men and women follow in the footsteps of previous generations who, since our Nation's founding, have stepped forward to defend our homeland and secure liberty for our country and our friends and allies. The members of our military exemplify the true spirit of patriotism—a love of country expressed through a commitment to serve our Nation and defend our freedom. Their selfless dedication and determination are an inspiration to every American.

In difficult times, America has called on members of our Armed Forces to protect the democratic ideals on which our country was founded, and they have never let our country down. As we confront the challenges of this new era, we will continue to rely on our military's extraordinary skill, sense of honor, devotion to duty, and courageous commitment to service.

More than 50 years ago, President Harry S. Truman helped establish a day for Americans to join together and thank our military members for their service to our country. In 1949, Secretary of Defense Louis Johnson announced the establishment of Armed Forces Day to replace separate Army, Navy, Marine Corps, and Air Force Days. A year later, President Truman issued a Presidential Proclamation, observing that the day "marks the first combined demonstration by America's defense team of its progress, under the National Security Act, towards the goal of readiness for any eventuality. It is the first parade of preparedness by the unified forces of our land, sea, and air defense."

The theme of this year's celebration is "United For Freedom." During this celebration, I encourage Americans to show the world that we are unified as a people and ready to defend our way of life, our freedoms, and our homeland. As President and Commander in Chief, I urge all our citizens to join me in expressing appreciation for the dedication and selfless service of the members of our extraordinary Armed Forces.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Commander in Chief of the Armed Forces of the United States, continuing the precedent of my ten immediate predecessors in this Office, do hereby proclaim the third Saturday of each May as Armed Forces Day.

I direct the Secretary of Defense on behalf of the Army, Navy, Marine Corps, and Air Force, and the Secretary of Transportation on behalf of

the Coast Guard, to plan for appropriate observances each year, with the Secretary of Defense responsible for soliciting the participation and cooperation of civil authorities and private citizens.

I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States.

I also invite national and local veterans, civic, and community service organizations to join in the observance of Armed Forces Day each year.

I call upon all Americans not only to display the flag of the United States at their homes on Armed Forces Day, but also to learn about our system of defense and about the men and women who sustain it by attending and participating in the local observances of the day.

Proclamation 6693 of May 21, 1994, is hereby superseded.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

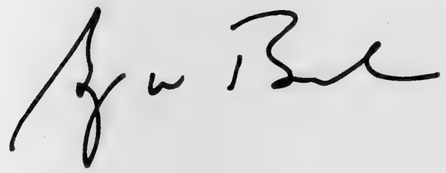

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Rules and Regulations

Federal Register
Vol. 67, No. 98
Tuesday, May 21, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2608

RIN 3209–AA23

Testimony by OGE Employees Relating to Official Information and Production of Official Records in Legal Proceedings

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is adopting as final a proposed rule, with certain minor changes based primarily on comments received, that sets forth procedures that requesters have to follow when making demands on or requests to an OGE employee to produce official records and information, and provide testimony relating to official information, in connection with a legal proceeding in which OGE is not a party. This final rule establishes procedures to respond to such demands and requests in an orderly and consistent manner. The rule, among other benefits, will promote uniformity in decisions, protect confidential information, provide guidance to requesters, and reduce the potential for both inappropriate disclosures of official information and wasteful allocation of agency resources.

EFFECTIVE DATE: June 20, 2002.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, telephone: 202–208–8000; TDD: 202–208–8025; FAX: 202–208–8037.

SUPPLEMENTARY INFORMATION:

Background

The Office of Government Ethics occasionally receives subpoenas and requests for OGE employees to provide evidence in litigation or other legal proceedings in which OGE is not a party. Typically, these subpoenas and requests are for OGE records that are not available to the public under the Freedom of Information Act (FOIA). Also, OGE sometimes receives subpoenas and requests for OGE employees to appear as witnesses in litigation in conjunction with a request for nonpublic records. Requesters have sought information, for example, on a particular filer of a financial disclosure report, a particular nominee or incumbent or former employee and for any ethics advice that OGE may have given to that individual, or concerning the nature of ethical advice that OGE gave to another agency and how OGE arrived at that advice.

Responding to such demands and requests sometimes results in a significant disruption in an OGE employee's work schedule. The result is that employees may be diverted from performing their official duties in order to respond to requests from parties in litigation. In order to address this problem, many agencies over the years have issued "*Touhy*" regulations that are similar to this final regulation, governing the circumstances and manner in which an employee may respond to demands for testimony or for the production of documents. Such a regulation was upheld by the United States Supreme Court in *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

In *Touhy*, the Supreme Court held that a Department of Justice (DOJ) official, acting on order of the Attorney General, could not be held in contempt for declining to produce records in response to a subpoena. The employee's refusal was based upon a DOJ regulation that prohibited disclosure of agency files, documents, records, or information without the express approval of the Attorney General. The Court upheld the validity of the DOJ regulation, reasoning that it was appropriate for the Attorney General to prescribe regulations not inconsistent with law for the custody, use, and preservation of records, papers, and property pertaining to DOJ.

On September 24, 2001, OGE published in the **Federal Register** its own proposed *Touhy* regulation, for codification in a new part 2608 of 5 CFR. See 66 FR 48824–48828, which provided for a 60-day public comment period. The Office of Government Ethics received suggestions on the rule as proposed from two commenters. As noted below in the summary of this final rule, we are adopting several minor changes in this final rule from the rule as proposed, based primarily on those comments. Moreover, in order to clarify the application of this rule, OGE has decided to revise the proposed part heading to make express that it applies to testimony by OGE employees "relating to official information" (as opposed to private matters), as well as to the production of official records in legal proceedings. In addition, OGE has determined to add a reference to 31 U.S.C. 9701 to the new part 2608 authority citation. This statute authorizes agencies to issue regulations providing for fair and cost-based fees and charges.

Briefly summarized, this final rule prohibits disclosure of nonpublic official records or testimony by OGE employees unless there is compliance with the rule (§§ 2608.201 and 2608.203). Based on a suggestion of one of the commenters, OGE is dropping the word "recorded" before the term "interviews" in the list of types of testimony covered by this regulation. The rule identifies the factors that OGE will consider in making determinations in response to such requests and what information requesters must provide (§§ 2608.202 and 2608.203). In response to a comment, OGE has added "otherwise protected information" to the types of sensitive information enumerated in paragraph (i) of § 2608.202; on its own initiative, OGE is adding the term "demand," in addition to request, to the text of paragraph (d) of that section. The rule also specifies when the request should be submitted (§ 2608.203), the time period for review (§ 2608.205), potential fees (§ 2608.301), and, if a request is granted, any restrictions that may be placed on the disclosure of records or the appearance of an OGE employee as a witness (§§ 2608.207 and 2608.208). As suggested by one of the commenters, OGE is deleting proposed subparagraph (c)(2) of § 2608.207, which concerned denial of authorization by the General Counsel for fact testimony if contrary to the best interest of OGE or the United States, as unnecessary given the overall requirement for authorization for such testimony in paragraph (c). The Office of Government Ethics is adopting in this

final rule two other changes suggested by the commenters. First, OGE is adding the phrase "when necessary" to the procedure provided in § 2608.209 for informing the court or other competent authority and seeking a stay when a decision is not made prior to the time a response is required. This modification from the section as proposed recognizes that at times there can be informal resolution of such matters short of seeking a stay. The second change is that OGE is adding the phrase "unless otherwise advised by the General Counsel" to the procedure provided in § 2608.210 for personal appearance of an OGE employee when a stay of a demand (or, as now added by OGE, a request) is denied. This change likewise recognizes that such denials can sometimes be resolved instead by written response (see the section's last sentence) or otherwise.

The charges for witnesses are the same as those provided by the Federal courts; and the fees related to production of records are the same as those charged under FOIA. The charges for time spent by an employee to prepare for testimony and for certification of records by OGE are authorized under 31 U.S.C. 9701, which permits an agency to charge for services or things of value that are provided by the agency.

This final rule applies to a broad range of matters in any legal proceeding in which OGE is not a named party. It also applies to former and current OGE employees (as well as OGE consultants and advisers). Former OGE employees are prohibited from testifying about specific matters for which they had responsibility during their active employment unless permitted to testify as provided in the rule. They would not be barred from appearing to testify about general matters unconnected with the specific matters for which they had responsibility.

This final regulation will ensure a more efficient use of OGE resources, minimize the possibility of involving OGE in issues unrelated to its responsibilities, promote uniformity in responding to such requests and subpoenas, and maintain the impartiality of OGE in matters that are in dispute between other parties. It will also serve OGE's interest in protecting sensitive, confidential, and privileged information and records that are generated in response to the requirements in the ethics laws and regulations.

This final OGE rule is internal (not branchwide), and is essentially procedural, not substantive. It does not create a right to obtain official records or the official testimony of an OGE employee nor would it create any additional right or privilege not already available to OGE to deny any demand or request therefor. However, any failure to comply with the procedures in this rule would be a basis for denying a demand or request submitted to OGE.

Matters of Regulatory Procedure

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6), this final rule will not have a significant economic impact on a substantial number of small entities. The rule addresses only the procedures to be followed in the production or disclosure of official OGE materials and information in litigation where OGE is not a party. Accordingly, OGE has determined that a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Executive Order 12866

In issuing this regulation, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this final regulation does not contain information collection requirements that require approval by the Office of Management and Budget. The Office of Government Ethics expects the collection of information that is called for by the regulation would involve fewer than ten persons each year.

Congressional Review Act

The Office of Government Ethics has determined that this rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has submitted a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law.

List of Subjects in 5 CFR Part 2608

Administrative practice and procedure, Conflict of interests, Courts, Government employees, Penalties, Records, Subpoenas, Testimony.

Approved: May 14, 2002.

Amy L. Comstock,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics hereby adds a new part 2608 to 5 CFR chapter XVI to read as follows:

PART 2608—TESTIMONY BY OGE EMPLOYEES RELATING TO OFFICIAL INFORMATION AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

Subpart A—General Provisions

Sec.

2608.101 Scope and purpose.
2608.102 Applicability.
2608.103 Definitions.

Subpart B—Requests for Testimony and Production of Documents

2608.201 General prohibition.
2608.202 Factors OGE will consider.
2608.203 Filing requirements for demands or requests for documents or testimony.
2608.204 Service of subpoenas or requests.
2608.205 Processing demands or requests.
2608.206 Final determination.
2608.207 Restrictions that apply to testimony.
2608.208 Restrictions that apply to released records.
2608.209 Procedure when a decision is not made prior to the time a response is required.
2608.210 Procedure in the event of an adverse ruling.

Subpart C—Schedule of Fees

2608.301 Fees.

Subpart D—Penalties

2608.401 Penalties.

Authority: 5 U.S.C. App. (Sec. 401, Ethics in Government Act of 1978); 31 U.S.C. 9701; 44 U.S.C. 3101–3107, 3301–3303a, 3308–3314.

Subpart A—General Provisions

§ 2608.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Office of Government Ethics (OGE) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Office of Government Ethics intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OGE in controversial issues not related to our functions;

(3) Maintain OGE's impartiality among private litigants where OGE is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of OGE.

(c) In providing for these requirements, OGE does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of OGE. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 2608.102 Applicability.

This part applies to demands and requests to employees for factual or expert testimony relating to official information, or for production of official records or information, in legal proceedings in which OGE is not a named party. However, it does not apply to:

(a) Demands upon or requests for an OGE employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of OGE;

(b) Demands upon or requests for a former OGE employee to testify as to matters in which the former employee was not directly or materially involved while at the OGE;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(d) Congressional demands and requests for testimony or records.

§ 2608.103 Definitions.

The following definitions apply to this part:

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of an OGE employee that is issued in a legal proceeding.

General Counsel means the General Counsel of OGE or a person to whom the General Counsel has delegated authority under this part.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

OGE means the U.S. Office of Government Ethics.

OGE employee or employee means:

(1)(i) Any current or former officer or employee of OGE;

(ii) Any other individual hired through contractual agreement by or on behalf of OGE or who has performed or is performing services under such an agreement for OGE; and

(iii) Any individual who served or is serving in any consulting or advisory capacity to OGE, whether formal or informal.

(2) Provided, that this definition does not include persons who are no longer employed by OGE and who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with OGE.

Records or official records and information mean:

(1) All documents and materials which are OGE agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in OGE files; and

(3) All other information or materials acquired by an OGE employee in the performance of his or her official duties or because of his or her official status.

Request means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

Subpart B—Requests for Testimony and Production of Documents

§ 2608.201 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the General Counsel.

§ 2608.202 Factors OGE will consider.

The General Counsel, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the General Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) OGE has an interest in the decision that may be rendered in the legal proceeding;

(d) Allowing such testimony or production of records would assist or hinder OGE in performing its statutory duties or use OGE resources where responding to the demand or request will interfere with the ability of OGE employees to do their work;

(e) Allowing such testimony or production of records would be in the best interest of OGE or the United States;

(f) The records or testimony can be obtained from other sources;

(g) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;

(h) Disclosure would violate a statute, Executive order or regulation;

(i) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, otherwise protected information, or information which would otherwise be inappropriate for release;

(j) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceedings, or compromise constitutional rights;

(k) Disclosure would result in OGE appearing to favor one litigant over another;

(l) Disclosure relates to documents that were produced by another agency;

(m) A substantial Government interest is implicated;

(n) The demand or request is within the authority of the party making it; and

(o) The demand or request is sufficiently specific to be answered.

§ 2608.203 Filing requirements for demands or requests for documents or testimony.

You must comply with the following requirements whenever you issue demands or requests to an OGE employee for official records and information or testimony:

(a) Your request must be in writing and must be submitted to the General Counsel. If you serve a subpoena on OGE or an OGE employee before submitting a written request and receiving a final determination, OGE will oppose the subpoena on grounds that your request was not submitted in accordance with this subpart.

(b) Your written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on OGE to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than an OGE employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require with each OGE employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The Office of Government Ethics reserves the right to require additional information to complete your request where appropriate.

(d) Your request should be submitted at least 45 days before the date that records or testimony is required. Requests submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your request.

§ 2608.204 Service of subpoenas or requests.

Subpoenas or requests for official records or information or testimony must be served on the General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917.

§ 2608.205 Processing demands or requests.

(a) After service of a demand or request to testify, the General Counsel will review the demand or request and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official records and information.

(b) The Office of Government Ethics will process requests in the order in which they are received. Absent exigent or unusual circumstances, OGE will respond within 45 days from the date that we receive it. The time for response will depend upon the scope of the request.

(c) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of OGE or the United States or for other good cause.

§ 2608.206 Final determination.

The General Counsel makes the final determination on demands and requests to employees for production of official records and information or testimony. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and the court or other authority of the final determination, the reasons for the grant or denial of the demand or request, and any conditions that the General Counsel may impose on the release of records or information, or on the testimony of an OGE employee.

§ 2608.207 Restrictions that apply to testimony.

(a) The General Counsel may impose conditions or restrictions on the testimony of OGE employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The Office of Government Ethics may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose confidential or privileged information; or

(2) For a current OGE employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of OGE unless testimony is being given on behalf of the United States (see also § 2635.805 of this chapter).

§ 2608.208 Restrictions that apply to released records.

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, OGE may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original OGE records may be presented for examination in response to a demand or request, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official OGE records, nor are they to be marked or altered. In lieu of the original records, certified copies will be presented for evidentiary purposes (see 28 U.S.C. 1733).

§ 2608.209 Procedure when a decision is not made prior to the time a response is required.

If a response to a demand or request is required before the General Counsel can make the determination referred to in § 2608.201, the General Counsel, when necessary, will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the demand or request is being reviewed, and seek a stay of the demand or request pending a final determination.

§ 2608.210 Procedure in the event of an adverse ruling.

If the court or other competent authority fails to stay the demand or request, the employee upon whom the demand or request is made, unless otherwise advised by the General Counsel, will appear at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand or request, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). A written response may be offered to a request, or to a demand, if permitted by the court or other competent authority.

Subpart C—Schedule of Fees

§ 2608.301 Fees.

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to OGE.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by OGE in its Freedom of Information Act and Ethics in Government Act fee regulations at 5 CFR part 2604, subparts E and G.

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(d) *Payment of fees.* You must pay witness fees for current OGE employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former OGE employees, you must pay applicable fees directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(e) *Certification (authentication) of copies of records.* The Office of Government Ethics may certify that records are true copies in order to facilitate their use as evidence. If you seek certification, you must request certified copies from OGE at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of $15.00 for each document certified.

(f) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(g) *De minimis fees.* Fees will not be assessed if the total charge would be $10.00 or less.

Subpart D—Penalties

§ 2608.401 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by OGE or as ordered by a Federal court after OGE has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former OGE employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current OGE employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action.

[FR Doc. 02–12552 Filed 5–20–02; 8:45 am]
BILLING CODE 6345–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 966

[No. 2002–19]

RIN 3069–AB10

Federal Home Loan Bank Consolidated Obligations—Definition of the Term "Non-Mortgage Assets"

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation on Federal Home Loan Bank (Bank) consolidated obligations in order to redefine the term "non-mortgage assets," as used in the provision on Bank leverage limits. The effect of this amendment would be to allow a Bank to qualify more easily to maintain a 25-to-1 assets-to-capital leverage ratio instead of the general 21-to-1 ratio. In addition, the rule makes several technical changes to the definition of "non-mortgage assets."

EFFECTIVE DATE: This rule will become effective on June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Scott L. Smith, Acting Director, Office of Policy, Research and Analysis (202) 408–2991; Charlotte A. Reid, Special Counsel, Office of General Counsel (202) 408–2510; Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

On March 7, 2002, the Finance Board published for notice and comment a proposed rule to amend § 966.3(a) of the Finance Board's regulations, which sets forth the assets-to-capital leverage limit that will apply to each Bank until: (1) That Bank's capital structure plan required under part 933 of the regulations becomes effective; and (2) the Bank is in compliance with the new leverage limit set forth in § 932.2 of the regulations.[1] Under § 966.3(a)(1), each Bank generally is required to maintain a leverage ratio not in excess of 21-to-1. However, § 966.3(a)(2) provides that a Bank may maintain a leverage ratio of up to 25-to-1 if the amount of its "non-mortgage assets" (after deducting deposits and capital held by the Bank) does not exceed 11 percent of the Bank's total assets. Thus, this rule is in a transitory stage because as the Banks' capital plans are approved and implemented, this leverage requirement will yield to the new leverage limit in § 932.2 of the Finance Board regulations.

Under § 966.3(a)(2), "non-mortgage assets" are defined to include a Bank's total assets after deduction of core mission activity (CMA) assets described in § 940.3 of the regulations and assets described in sections II.B.8 through II.B.11 of the Federal Home Loan Bank System Financial Management Policy

[1] See 12 CFR 931.9(b)(1) (governing transition from old to new leverage limit; see also 66 FR 8262, 8280 (Jan. 30, 2001) (transition discussed in preamble to rule adopting new capital regulations).

(FMP),[2] which include: mortgage-backed securities (MBS) or collateralized mortgage obligations (CMOs) issued by U.S. government-sponsored enterprises; AAA-rated MBS or CMOs issued by private entities; AAA-rated asset-backed securities backed by manufactured housing loans or home equity loans; and certain obligations of state and local housing finance agencies rated AA or higher.

While serving as a vehicle to transition the Banks from this leverage requirement to their new capital structures and the new leverage limit set forth in § 932.2 of the Finance Board regulations, the final rule amends § 966.3(a)(2) to: (1) Exclude from the scope of the definition of "non-mortgage assets" United States government-insured single family and multifamily mortgages acquired by Banks as part of their acquired member asset (AMA) programs established under part 955 of the regulations; and (2) clarify the definition by eliminating the CMA and FMP cross-references and replacing them with direct descriptions of the assets in question. This clarification will provide the Banks with an unambiguous standard for assets that are to be excluded from the definition of non-mortgage assets in leverage limit calculations.

The Finance Board received four comment letters, all of which were favorable comments, on the proposed rule. The comments are discussed below. Accordingly, the final rule adopts the proposed rule with only one clarification as discussed below.

II. Analysis of Comment Letters and Changes Made in the Final Rule

The Finance Board received four comment letters from Banks. All of the commenters supported the rule change. Two commenters suggested that the list of excluded assets contain certain additional items. Additionally, one commenter recommended that the Finance Board add a provision to codify a Finance Board regulatory interpretation (2001–RI–02) that the Banks may, at their option, calculate the non-mortgage asset ratio on a monthly average. Upon consideration of the comments, the Finance Board has determined that, with one exception, the recommendations would not substantively improve the rule, especially in light of the transitional nature of the rule. Ultimately, of course, the issue is best served by the Banks' new capital structures. In the unlikely event that a question arises in the interim concerning whether an asset may be excluded from the definition of non-mortgage assets, the Finance Board believes that the analysis may best be undertaken on a case-by-case basis.

One Bank requested that the definition of the government-insured or -guaranteed loans be broadened to include government insured or guaranteed multi-family residential mortgage loans in the list of excluded assets. The Finance Board agrees with the comment that all government-insured (or guaranteed) residential mortgage loans—single family and multi-family—should be excluded from non-mortgage assets, and has amended the final rule to reflect that change. As proposed, the final rule also amends § 966.3(a)(2) to eliminate any cross-reference to CMA assets and in its place adds "acquired member assets, including all United States government-insured or guaranteed whole single-family and multi-family residential mortgage loans" to the list of assets to be subtracted from a Bank's total assets to obtain the amount of "non-mortgage assets" on a Bank's balance sheet for purposes of the leverage limit calculation under this rule.

In addition to the above-described revision, as proposed, the final rule also eliminates the reference in § 966.3(a)(2) to "assets described in sections II.B.8 through II.B.11 of the FMP" and replaces that reference with an explicit enumeration of the assets to be subtracted from a Bank's total assets in calculating the percentage of non-mortgage assets. By including all relevant information in the published regulatory text, the definition of non-mortgage assets is made clearer and more transparent, without any substantive change.

The Finance Board received several recommendations for additions to the enumerated list of excluded assets. One Bank requested that standby bond purchase agreements for state housing finance agency bonds be excluded from non-mortgage assets, stating that to do so would be consistent with the exclusion of standby letters of credit. The Finance Board has considered the suggestion and determined that the rule should not be amended to include such contracts. Such bonds may be counted as mortgage assets for purposes of this rule only at such time as the purchase is executed.

Another Bank requested that the accrued interest carried on a Bank's books with respect to assets enumerated in § 966.3(a)(2) be added to that list as a stand-alone category of excluded assets. Upon consideration, the Finance Board rejects this suggestion. While accrued interest may be related to an asset, it is shown as a separate line item on a balance sheet. Once an interest payment is made it is removed from the balance sheet and flows through the income statement. An outstanding interest payment due is not the equivalent of a Bank advancing funds to a member. Thus, the Finance Board has determined that the interest due is not a "mortgage asset" for purposes of the final rule. Additionally, the Finance Board is not persuaded that principal amounts carried as receivables on a balance sheet should be granted separate asset status for purposes of this rule.

The Bank also suggested that the list of excluded assets should be broadened to include any adjustments made to the book value of the asset categories stated in § 966.3(a)(2) resulting from the application of SFAS No. 133 under Generally Accepted Accounting Principles (GAAP), and the book value of derivative assets that hedge similar provisions embedded in advances, such as a cap on the floating rate of an advance. The commenter correctly noted that under SFAS No. 133 the Bank includes in the book value of assets hedged with derivatives any fair value gains or losses on those assets. The Finance Board does not believe that the rule should be amended to take such values into account. Nevertheless, the Finance Board has determined that a Bank may value an asset under GAAP, as appropriate, for purposes of this final rule.

Finally, one Bank suggested it would be beneficial to codify in the final rule the Finance Board's regulatory interpretation (2001-RI–02) that the Banks may, at their option, calculate the non-mortgage asset ratio on a monthly average basis. Again, the rule is a transitional provision with a limited shelf life. The Finance Board does not believe that amending the rule is necessary at this late stage in the transition process. Accordingly, the final rule does not incorporate the requested amendment.

As stated, the final rule is a transitional mechanism. In the interim, in the unlikely event that any of these issues arise, the Finance Board is prepared to address such matters on a case-by-case basis in a regulatory interpretation or other appropriate regulatory adjudication.

[2] The FMP is a Finance Board policy that governs Banks' investments and other issues of financial management. The policy currently is being phased out as the Banks transition to their new capital structures in compmliance with the Finance Board's new regulations on Bank capital. *See* 12 CFR parts 930–933.

III. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* at 605(b), the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 966

Federal home loan banks, Securities.

Accordingly, the Finance Board hereby amends title 12, chapter IX, Code of Federal Regulations as follows:

PART 966—CONSOLIDATED OBLIGATIONS

1. The authority citation for part 966 continues to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, and 1431.

2. Revise § 966.3(a)(2) to read as follows:

§ 966.3 Leverage limit and credit rating requirements.

(a) * * *

(2) The aggregate amount of assets of any Bank may be up to 25 times the total paid-in capital stock, retained earnings, and reserves of that Bank, provided that non-mortgage assets, after deducting the amount of deposits and capital, do not exceed 11 percent of such total assets. For the purposes of this section, the amount of non-mortgage assets equals total assets after deduction of:

(i) Advances;

(ii) Acquired member assets, including all United States government-insured or guaranteed whole single-family or multi-family residential mortgage loans;

(iii) Standby letters of credit;

(iv) Intermediary derivative contracts;

(v) Debt or equity investments:

(A) That primarily benefit households having a targeted income level, a significant proportion of which must benefit households with incomes at or below 80 percent of area median income, or areas targeted for redevelopment by local, state, tribal or Federal government (including Federal Empowerment Zones and Enterprise and Champion Communities), by providing or supporting one or more of the following activities:

(*1*) Housing;

(*2*) Economic development;

(*3*) Community services;

(*4*) Permanent jobs; or

(*5*) Area revitalization or stabilization;

(B) In the case of mortgage-or asset-backed securities, the acquisition of which would expand liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily available or well established secondary market; and

(C) That involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank;

(vi) Investments in SBICs, where one or more members or housing associates of the Bank also make a material investment in the same activity;

(vii) SBIC debentures, the short term tranche of SBIC securities, or other debentures that are guaranteed by the Small Business Administration under title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 681 *et seq*);

(viii) Section 108 Interim Notes and Participation Certificates guaranteed by the Department of Housing and Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308);

(ix) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

(x) Securities representing an interest in pools of mortgages (MBS) issued, guaranteed, or fully insured by the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or the Federal National Mortgage Association (Fannie Mae), or Collateralized Mortgage Obligations (CMOs), including Real Estate Mortgage Investment Conduits (REMICs), backed by such securities;

(xi) Other MBS, CMOs, and REMICs rated in the highest rating category by a NRSRO;

(xii) Asset-backed securities collateralized by manufactured housing loans or home equity loans and rated in the highest rating category by a NRSRO; and

(xiii) Marketable direct obligations of state or local government units or agencies, rated in one of the two highest rating categories by a NRSRO, where the purchase of such obligations by a Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community development.

* * * * *

Dated: May 8, 2002.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 02–12637 Filed 5–20–02; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM211; Special Conditions No. 25–200–SC]

Special Conditions: Airbus Industrie, Model A340–500/–600 Airplanes; Ground Loads and Conditions for Center Landing Gear With Four Wheels and Braking Capability

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus Industrie Model A340–500 and –600 airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is associated with the landing gear, in the form of a four-wheeled center landing gear, installed under the fuselage, which functions like a main landing gear in all respects, including the ability to brake. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards

EFFECTIVE DATE: May 10, 2002.

FOR FURTHER INFORMATION CONTACT: Tim Backman, FAA, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2797; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 1996, Airbus Industrie applied for an amendment to

U.S. type certificate (TC) A43NM to include the new models A340–500 and –600. These models are derivatives of the A340–300, which is approved under the same TC.

The Model A340–500 fuselage is a 6-frame stretch of the Model A340–300 and is powered by 4 Rolls Royce Trent 553 engines, each rated at 53,000 pounds of thrust. The airplane has interior seating arrangements for up to 375 passengers, with a maximum takeoff weight (MTOW) of 820,000 pounds. The Model 340–500 is intended for long-range operations and has additional fuel capacity over that of the Model A340–600.

The Model A340–600 fuselage is a 20-frame stretch of the Model A340–300 and is powered by 4 Rolls Royce Trent 556 engines, each rated at 56,000 pounds of thrust. The airplane has interior seating arrangements for up to 440 passengers, with a MTOW of 804,500 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Airbus Industrie must show that the Model A340–500 and –600 airplanes meet the applicable provisions of the regulations incorporated by reference in TC A43NM or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in TC A43NM are 14 CFR part 25 effective February 1, 1965, including Amendments 25–1 through 25–63 and Amendments 25–64, 25–65, 25–66, and 25–77, with certain exceptions that are not relevant to these proposed special conditions.

In addition, if the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model A340–500 and –600 airplanes must be shown to comply with Amendments 25–1 through 25–91,with certain FAA-allowed reversions for specific part 25 regulations to the part 25 amendment levels of the original type certification basis.

Airbus has also chosen to comply with part 25 as amended by Amendments 25–92, –93, –94, –95, –97, –98, and –104.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus Industrie Model A340–500 and –600 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Industrie Model A340–500 and –600 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with 14 CFR 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

Novel or Unusual Design Features

The Airbus Model A340–500 and –600 airplanes will incorporate the following novel or unusual design feature: a four-wheel center landing gear with braking ability.

Discussion

The basic A340 included a two-wheel center landing gear which did not have brakes. The purpose of the center landing gear was to assist the main landing gear during ground handling conditions for heavy airplane weights. This center landing gear was not intended for energy absorption during landing, even if it could participate in the impact under certain conditions. Therefore, to provide additional taxi, takeoff, and landing criteria for this arrangement, Special Conditions 25–ANM–69 were issued.

The Model A340–500 and –600 airplanes have a four-wheel center landing gear which functions in all respects like a main landing gear, including braking capabilities. Because the speeds and weights of the Model A340–500 and –600 airplanes are greater than that of the basic A340, redesign of the center landing gear was necessary. As a result, the current rules, applying to the original two-wheel center landing gear, are inadequate.

Discussion of Comments

Notice of proposed special conditions No. 25–02–03–SC for the Airbus Industrie Model A340–500 and –600 airplanes was published in the **Federal Register** on March 20, 2002 (67 FR 12903). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus Model A340–500 and –600 airplanes. Should Airbus Industries apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Airbus Model A340–500 and A340–600 airplanes is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features of the center landing gear on the Model A340–500 and A340–600 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Model A340–500 and A340–600 airplanes.

The following special conditions are issued in lieu of the previously issued special conditions, "Ground Load Conditions for Center Landing Gear," recorded as item 10 of Special Conditions: Airbus Industrie Model A340 Series Airplanes [Docket No. NM–75, Special Conditions No. 25–ANM–69]:

1. *Ground Load Conditions for Center Landing Gear.* Notwithstanding § 25.477, the requirements of § 25.473 and §§ 25.479 through 25.485 apply, except as noted:

(a) In addition to the requirements of § 25.473, "Landing load conditions and assumptions," and § 25.479, "Level landing conditions," landing should be considered on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent at main landing gear stations. The maximum loads determined from these two conditions must be applied to each main landing gear and to the center landing gear.

(b) In addition to the requirements of § 25.483, "One gear landing conditions," the condition represented by Figure 1 also applies:

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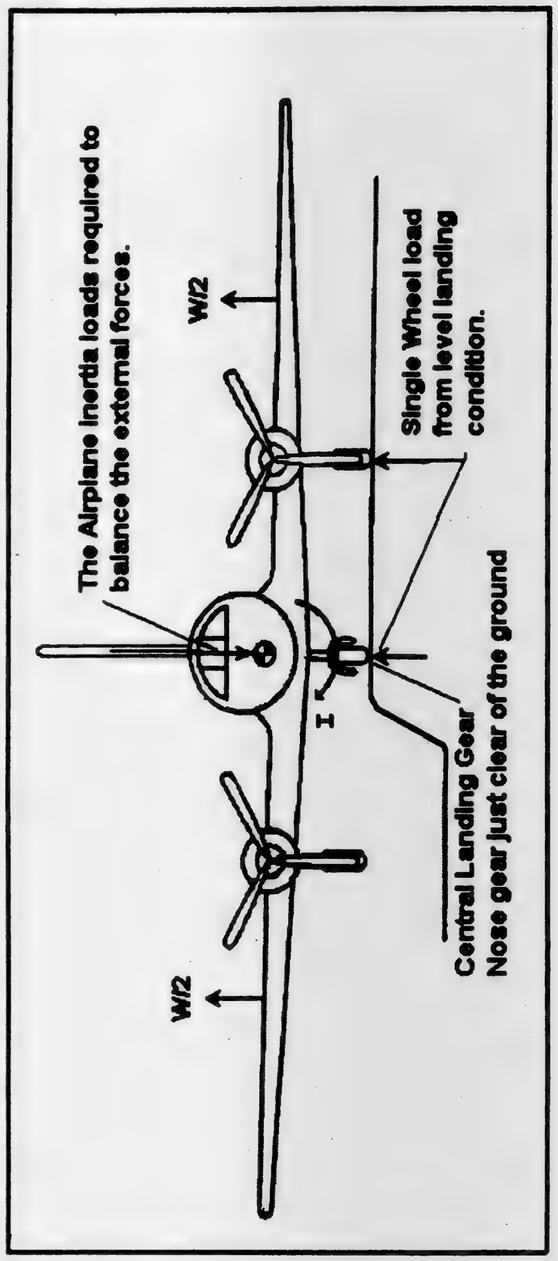

Figure 1. Center gear landing Condition

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(c) In lieu of the requirements of § 25.485, "Side load conditions," the following apply:

(1) The airplane is considered to be in the level attitude with only the main and center wheels contacting the ground.

(2) Vertical reactions of one-half of the maximum vertical reaction obtained at each main and center gear in the level landing conditions should be considered. The vertical loads must be combined with side loads as follows: for the main gear, 0.8 of the vertical reaction (on one side) acting inward and 0.6 of the vertical reaction (on the other side) acting outward; for the center gear, 0.7 of the vertical reaction acting in the same direction as main gear side loads. These loads are assumed to be applied at the ground contact point and to be resisted by the inertia of the airplane. The drag loads may be assumed to be zero.

(d) In addition to § 25.489, "Ground handling conditions," the airplane should be considered to be on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent at main landing gear stations. The ground reactions must be distributed to the individual landing gear units in a rational or conservative manner.

(e) In addition to the requirements of § 25.493(d), "Braked roll conditions," the sudden application of maximum braking effort must be defined taking into account the behavior of the braking system. Failure conditions of the braking system not shown to be extremely improbable must be analyzed in accordance with the following criteria:

(1) At the time of occurrence. A realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static strength substantiation, these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure are ultimate loads to be considered for design. The factor of safety (F.S.) is defined in Figure 2 as follows:

Figure 2

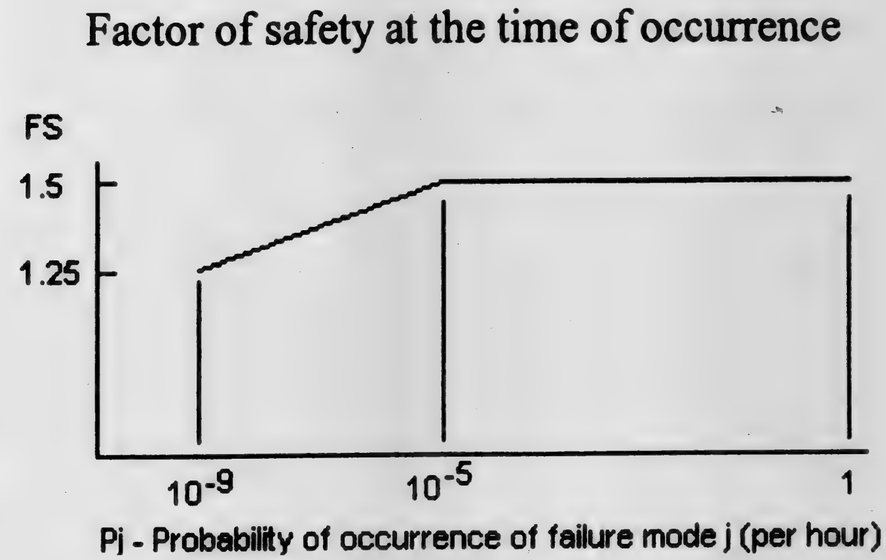

(ii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph (e)(1)(i).

(iii) Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(2) Consideration of certain failure conditions may be required by other sections of part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(3) Warning considerations. For system failure detection and warning, the system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. The flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service

history shows that inspections will provide an adequate level of safety.

(4) Dispatch with known failure conditions. If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met for the dispatched condition and for subsequent failures. Flight limitations and expected operational limitations may be taken into account in establishing Qj as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figure 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than 10^{-3} per hour. Figure 3 follows:

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Figure 3

Factor of safety for continuation of flight

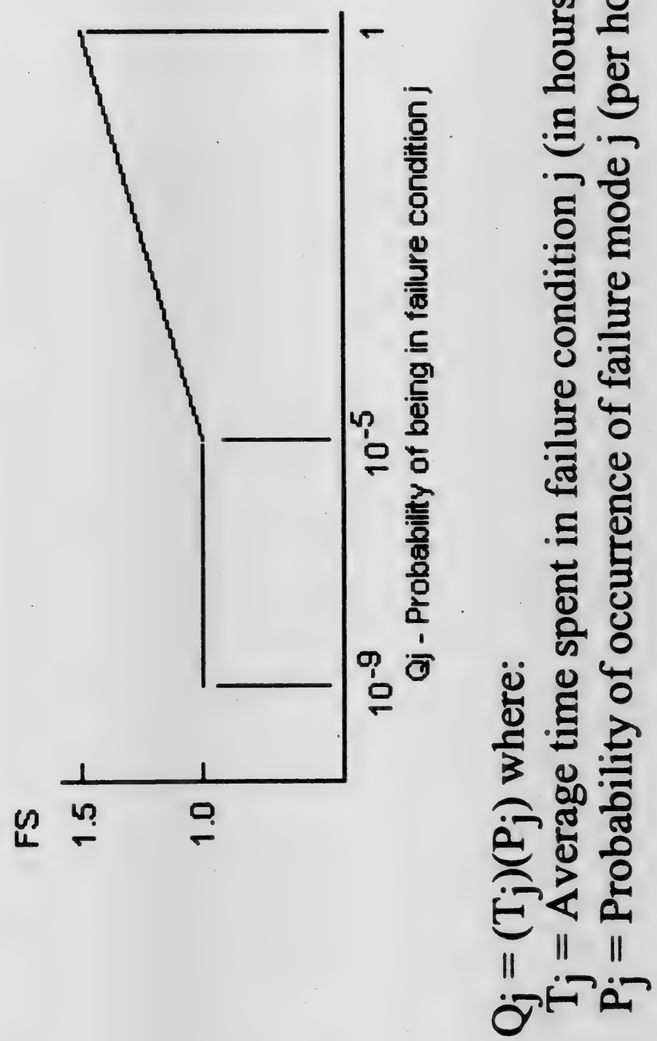

$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours).

P_j = Probability of occurrence of failure mode j (per hour).

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(f) In lieu of the requirements of § 25.495, "Turning," the following apply:

(1) The airplane is assumed to execute a steady turn by nose gear steering, or by application of sufficient differential power, so that the limit load factors applied at the center of gravity are 1.0 vertically and 0.5 laterally.

(2) The airplane must be designed for the condition prescribed in paragraph (f)(1), taking into account:

(i) The effects of tire characteristics on the sharing of lateral loads on each tire of the landing gear system, and

(ii) The effect of airframe and landing gear flexibility on the sharing of loads on the different legs of the landing gear system.

(g) In lieu of the requirements of § 25.503, "Pivoting," the following apply:

(1) The main and center gear units and supporting structure must be designed for the scrubbing or torsion loads, or both, induced by pivoting during ground maneuvers produced by:

(i) Towing at the nose gear, no brakes applied, and

(ii) Application of symmetrical or unsymmetrical forward thrust to aid pivoting and with or without braking by pilot action on the pedals.

(2) The airplane is assumed to be in static equilibrium, with the loads being applied at the ground contact points.

(3) The limit vertical load factor must be 1.0, and:

(i) For wheels with locked brakes applied by pilot action on the pedals, the coefficient of friction must be 0.8.

(ii) For wheels with brakes not applied, the ground tire reactions must be based on reliable tire data.

(4) The failure conditions must be analyzed in accordance with paragraph (e) of these Special Conditions.

(h) In lieu of paragraph (b) of § 25.723 "Shock absorption tests," the center landing gear should not fail in a test demonstrating its reserve energy absorption capacity at design landing weight, assuming airplane lift no greater than the airplane weight acting during a 12-feet-per-second airplane landing impact, taking into account both main and center gear acting during the impact. Landing should be considered on a level runway or a runway having a convex upward shape that may be approximated by a slope of 1.5 percent with the horizontal at main landing gear stations, whichever is the most critical.

Issued in Renton, Washington, on May 10, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12608 Filed 5–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T. D. 02–27]

New User Fee Airport

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the establishment of a new user fee airport in Dallas, Texas. A user fee airport is one which, while not qualifying for designation as an international or landing rights airport, has been approved by the Commissioner of Customs to receive, for a fee, the services of a Customs officer for the processing of aircraft entering the United States and their passengers and cargo.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy Bruner, Mission Support, Office of Field Operations, (202) 927–2290.

SUPPLEMENTARY INFORMATION:

Background

Part 122, Customs Regulations (19 CFR part 122), sets forth regulations that are applicable to all international air commerce relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft.

Under § 1644a, Title 19, United States Code (19 U.S.C. 1644a), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States, and for merchandise carried on the aircraft. These airports are referred to as international airports, and the location and name of each are listed in § 122.13, Customs Regulations (19 CFR 122.13). In accordance with § 122.33, Customs Regulations (19 CFR 122.33), the first landing of every civil aircraft entering the United States from a foreign area must be at one of these international airports, unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties and enforce the customs laws and regulations.

Other than making an emergency or forced landing, if a civil aircraft desires to land at an airport not designated by Customs as an international airport, the pilot may request permission to land at a specific airport. If permission is granted, Customs will assign personnel to that airport for the aircraft. The airport where the aircraft is permitted to land is called a landing rights airport (19 CFR 122.14).

Section 236 of Pub. L. 98–573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside of the United States may ask Customs for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of Customs business at the airport is insufficient to justify the availability of Customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of airport that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of Customs services is not paid for out of the Customs appropriations from the general treasury of the United States. Instead, the services of Customs officers are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the Customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing Customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the Customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport of that airport's authority agrees to pay Customs a flat fee annually and the users of the airport are to reimburse that airport/airport authority. The airport/airport authority agrees to set and periodically to review its charges to ensure that they are in accord with the airport's expenses.

Pursuant to Treasury Department Order No. 165, Revised (Treasury Decision 53564), all the rights, privileges, powers and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws, or by any other laws administered by Customs, are transferred to the Commissioner of Customs. Accordingly, the authority granted to the Secretary of the Treasury to designate user fee airports and to determine appropriate fees is delegated to the Commissioner of Customs.

Under this authority, Customs has determined that certain conditions must be met before an airport can be designated as a user fee airport. At least one full-time Customs officer must be requested, and the airport must be responsible for providing Customs with satisfactory office space, equipment and supplies, at no cost to the Federal Government.

Thirty-six airports are currently listed in § 122.15, Customs Regulations, as user fee airports. This document revises the list of user fee airports. It adds McKinney Municipal Airport, in Dallas, Texas, to this listing of designated user fee airports.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely updates the list of user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b and neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553 (b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3) a delayed effective date is not required.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs Duties and Inspection, Freight.

Amendment to the Regulations

Part 122, Customs Regulations (19 CFR part 122) is amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

2. The listing of user fee airports in § 122.15(b) is amended by adding, in alphabetical order, in the "Location" column, "Dallas, Texas" and by adding on the same line, in the "Name" column, "McKinney Municipal Airport".

Robert C. Bonner,

Commissioner of Customs.

Approved: May 16, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–12645 Filed 5–20–02; 8:45 am]

BILLING CODE 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AB01

Revised Medical Criteria for Determination of Disability, Musculoskeletal System and Related Criteria; Correction

AGENCY: Social Security Administration.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations that were published in the **Federal Register** of Monday, November 19, 2001 (66 FR 58010). The regulations revised the criteria in our Listing of Impairments (the listings) that we use to evaluate musculoskeletal impairments in adults and children.

DATES: Effective on February 19, 2002.

FOR FURTHER INFORMATION CONTACT: Suzanne DiMarino, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1769 or TTY (410) 966–5609.

For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at www.ssa.gov.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections affect disability determinations and decisions we make for individuals under title II and title XVI of the Social Security Act. In addition, to the extent that Medicare and Medicaid eligibility are based on entitlement to benefits under title II and eligibility for benefits under title XVI, these corrections would also affect the Medicare and Medicaid programs.

Need for Correction

As published, the final regulations inadvertently did not update the cross-references in listings 111.07A and 111.08A of part B of the listings to reflect the new musculoskeletal listings criteria. The cross-references in current listings 111.07A and 111.08A are to listings 101.03 or 111.06. To reflect the revised musculoskeletal listings, the correct cross-references should be to listings 101.02 or 111.06.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Accordingly, 20 CFR part 404, Subpart P, is corrected by making the following correcting amendments:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Revise the introductory text and paragraph A. in listings 111.07 and 111.08 of Part B of appendix 1 of Subpart P of part 404 to read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments {Amended}

* * * * *

Part B

* * * * *

111.01 Category of Impairments, Neurological

* * * * *

111.07 *Cerebral Palsy.* With:

A. Motor dysfunction meeting the requirements of 101.02 or 111.06; or

* * * * *

111.08 *Meningomyelocele (and related disorders).* With one of the following despite prescribed treatment:

A. Motor dysfunction meeting the requirements of 101.02 or 111.06; or

* * * * *

Georgia E. Myers,

SSA Regulations Officer.

[FR Doc. 02–12553 Filed 5–20–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20, 58, 170, 171, 174, and 179

[Docket No. 99N–5556]

RIN 0910–AB94

Food Additives: Food Contact Substance Notification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations regarding the premarket notification process for food contact substances (FCSs) established by the Food and Drug Administration Modernization Act (FDAMA) of 1997. The notification process is the primary method for authorizing new uses of food additives that are FCSs. FDA is codifying regulations that identify the circumstances under which a food additive petition (FAP) will be required to authorize the use of an FCS; specify the information required in a notification for an FCS; describe the administration of the notification process; and establish the procedure by which the agency may deem a notification to be no longer effective.

DATES: This rule is effective June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Mitchell A. Cheeseman, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Background

In 1997, FDAMA amended section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C 348) to establish a premarket notification process as the primary method for authorizing new uses of food additives that are FCSs. In the proposed rule, published in the **Federal Register** of July 13, 2000 (65 FR 43269) (hereinafter referred to as the July 2000 proposal), FDA referred to a premarket notification for a food contact substance as a "PMN" and the process of premarket notification for such substances as the "PMN process." This document refers to a premarket notification for a food contact substance as an "FCN" and to the process as the food contact notification (FCN) process. This change responds to a request from the comments (see section II.H of this document). A "food contact substance" is defined in section 409(h)(6) of the act as "any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food." The FDAMA amendments and their legislative history make clear that the FCN process is to be the preferred process for authorizing new uses of food additives that are FCSs. Specifically, section 409(h)(3)(A) of the act states that the FCN process shall be utilized for authorizing the marketing of food additives that are FCSs except where the Secretary of Health and Human Services determines that the submission and review of a FAP is necessary to provide adequate assurance of safety, or where FDA and any manufacturer or supplier agree that a petition may be submitted. (See S. Rept. No. 105–43, 105th Cong., 1st sess. 46 (1997); H. Rept. 105–306, 105th Cong., 1st sess. 19 (1997).) FDA expects most new uses of FCSs that previously would have been regulated by issuance of a listing regulation in response to an FAP or would have been exempted from the requirement of a regulation under the threshold of regulation (TOR) process (21 CFR 170.39) will be the subject of FCNs.

The FCN program began operating on October 22, 1999, with the signing of FDA's Fiscal Year 2000 budget. This budget met the requirements under section 409(h)(5) of the act for funding the FCN program. On October 25, 1999, FDA sent letters to trade associations and persons with pending submissions (i.e., a food additive petition or a TOR exemption request) under active review by the agency to authorize use of an FCS. The letter stated that FDA expected to be ready to accept new FCNs on January 18, 2000, and requested that those persons with a pending submission for approval of an FCS under active review contact FDA prior to withdrawing such submission and converting it to an FCN. After October 25, 1999, FDA began working with the food packaging industry to convert these pending submissions under FDA review to FCNs.[1]

In the **Federal Register** of November 12, 1999 (64 FR 61648), FDA published a notice announcing the availability of a draft guidance on the chemistry and toxicology information that should be included in an FCN. In the November 12, 1999, notice FDA requested comments on the guidance documents and on the information collection burden associated with the FCN program.

In addition, FDA published a direct final rule in the **Federal Register** of May 11, 2000 (65 FR 30352), that amended the agency's regulations on environmental impact considerations to permit manufacturers or suppliers to claim in FCNs the categorical exclusions currently applicable to FAPs and TOR exemption requests. The regulations in the May 11, 2000, direct final rule became effective on August 24, 2000.

Finally, in the July 2000 proposal (65 FR 43377), the agency proposed regulations to implement the FCN process and announced the availability of an administrative guidance document concerning the FCN process.

II. Comments on the Proposed Rule

The agency provided 75 days for comment on the proposed rule. FDA received comments from three trade associations representing the food packaging industry. In general, the comments supported the proposal. They also raised issues specific to the draft administrative guidance document announced with the proposed rule in the July 13, 2000, issue of the **Federal Register** (65 FR 43377) and the draft chemistry and toxicology guidance documents announced in the **Federal Register** of November 12, 1999 (64 FR 61648). In accordance with FDA's good guidance practice (GGP) regulations (21 CFR 10.115), such comments have been addressed by modification of the final toxicology and chemistry guidance documents announced in the **Federal Register** of April 11, 2002 (67 FR 17703), and in FDA's revised

[1]Between October 25, 1999, and December 31, 2000, FDA and industry converted 58 FAPs and 19 TOR submissions to FCNs. FDA currently lists those FCNs that have become effective on its Internet site at http://www.cfsan.fda.gov/~dms/opa-fcn.html.

administrative guidance document, the availability of which is published elsewhere in this issue of the **Federal Register**. Comments also requested that FDA clarify several specific issues in the proposal. These issues and FDA's responses follow.

(Comment 1) Two of the comments were concerned with the language in proposed § 170.104(b) describing FDA's initial review of an FCN submission. Proposed § 170.104(b) reads: "In order for the 120-day review period to begin FDA must accept that notification." The comments expressed the opinion that the language in proposed § 170.104(b) could be read to mean that the 120-day review period for the FCN does not begin until after FDA "accepts" the submission as an FCN. These comments referenced the language in section 409(h)(2)(A) of the act that states that a "* * * notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary * * *."

FDA agrees with these comments that the 120-day review period for the FCN runs from the date of receipt of a complete notification. The purpose of § 170.104(b) is to provide FDA with an opportunity to determine whether the submission is a complete notification and to ensure that FDA would not be required to review or object to an incomplete FCN. The following are examples of how FDA's initial review of FCN submissions has operated thus far and how FDA expects its initial review of FCNs to proceed in the future. FDA expects to determine whether an FCN is complete and reviewable within 30 days after receipt of a submission. If FDA finds that an FCN is complete and reviewable as received, then FDA will accept the FCN and the 120-day review period will continue to run from the date of receipt of the FCN. However, if FDA determines that, as submitted, an FCN is incomplete, the agency will request additional information from the manufacturer or supplier. If the information is submitted before FDA issues a nonacceptance letter, FDA will accept the now complete FCN, and the 120-day review period begins on the date of receipt of the additional information. If the required additional information is not submitted, and the FCN is not withdrawn, FDA will issue a nonacceptance letter. Issuance of the nonacceptance letter will complete the review of the FCN submission.

In any case, the date of receipt of the complete FCN is the date of receipt for the purposes of section 409(h)(2) of the act. FDA is revising the language in § 170.104(b) to clarify that the 120-day review period begins on the date of receipt of a complete FCN and not on the date the FCN is accepted.

(Comment 2) All three comments requested that FDA clarify that the requirements in proposed § 170.101(c) regarding compliance with FDA's good laboratory practice regulations in part 58 (21 CFR part 58) do not apply to analytical testing (e.g., migration testing). The comments noted that analytical testing had not been previously required to comply with part 58. One comment requested that FDA make this clarification by explicitly referencing the definition of nonclinical laboratory studies in § 58.3.

FDA agrees that, historically, it has not applied its good laboratory practice regulations to analytical testing such as migration testing. Therefore, FDA is revising § 170.101(c) to explicitly reference the definition of nonclinical laboratory studies in § 58.3(d).

(Comment 3) All three comments requested that FDA make it clear that FCNs are required only for FCSs that are food additives. The comments referenced a statement in the preamble of the July 2000 proposal (65 FR 43269 at 43274) that reads as follows "* * * Under section 409(a) of the act, in the absence of an effective notification an FCS cannot be legally marketed." One of the comments requested that FDA revise the referenced language to read as follows: "Under section 409(a) of the act, in the absence of an effective notification, an FCS that is a food additive cannot be legally marketed."

FDA agrees with the comments that FCNs are required only for those FCSs that are food additives as defined by section 201(s) of the act (21 U.S.C. 321(s)). FDA intended the referenced statement to clarify that in cases where FDA objects to an FCN, the FCN cannot become effective. Because the language referred to was not in the codified portion of the proposed regulation, the agency is taking no further action in response to these comments.

FDA also believes, however, that the language suggested by one comment is misleading because it implies that FCSs are authorized only through the FCN process. Although the FCN process is the primary means for authorizing new uses of FCSs, some new uses of FCSs still will be authorized through the petition process in section 409(b) of the act.

(Comment 4) All three comments requested that FDA clarify the relationship of FDA Form 3480 to the recommendations in the agency's draft guidance documents for FCNs. The comment noted that adopting § 170.101(e), as proposed, would require that a completed and signed FDA Form 3480 be included in an FCN. FDA Form 3480 requires that manufacturers or suppliers list summary toxicology information on the FCS and its constituents. In addition, the comments noted, the draft guidance on toxicology information in an FCN advises that notifiers (i.e., manufacturers and suppliers) should provide a comprehensive toxicological profile for the FCS and its constituents. The comments expressed uncertainty about the level of detail required in FDA Form 3480. The comments noted that the draft toxicology guidance document appeared to request that some of the same information be included in both the comprehensive toxicology profile and the safety narrative, as is required in FDA Form 3480. Thus, a notifier might have to list the same information in two sections of a notification.

FDA has revised FDA Form 3480 (Ref. 1) to minimize duplication of effort in developing the toxicology package for FCNs. FDA also has revised its guidance documents to assist manufacturers and suppliers in completing FDA Form 3480. Published elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of administrative, chemistry, and toxicology guidance documents.

(Comment 5) One comment requested that FDA make mandatory the issuance by the agency of a final letter for FCNs that become effective. The comment argued that the listing of notifications in FDA's inventory of effective notifications on the agency's Internet site may not be adequate to inform interested persons regarding the status of an FCN. In addition, the comment contended that listing of notifications on FDA's Internet site may not be completed in a timely manner.

FDA disagrees with this comment. The statute does not require FDA to issue a letter at the conclusion of the review of an FCN. Indeed, no action is required by FDA for an FCN to become effective. FDA believes that issuance of final letters for effective FCNs has some value, but FDA is concerned that the issuance of such letters may consume limited resources that are necessary to complete a timely review of FCNs. Therefore, FDA is denying the request to require the agency to issue a final letter for effective notifications. However, as noted above, FDA has been reviewing FCNs since the program began operating and, since that time, FDA has consistently issued final letters and listed effective notifications on its Internet site in a timely manner. Accordingly, FDA expects to continue to issue final letters as long as the

resources necessary to do so do not prevent timely review of FCNs.

(Comment 6) One comment requested that FDA provide an opportunity for a company to notify the agency of any change in name or corporate structure subsequent to its filing of an FCN. The comment also requested that FDA establish a procedure whereby FDA would change the name of the manufacturer in the listing of the FCN on FDA's Internet site and reissue the final letter for the FCN with the new company's name.

The agency agrees in part with this comment. Under § 170.100(d), manufacturers or suppliers are required to keep on file with FDA an address at which FDA may contact the manufacturer or supplier regarding the notification. FDA already had one experience with the sale of the manufacturing unit of a notified FCS from one company to another. In that case, the original manufacturer verified the sale and FDA changed the name of the manufacturer in the listing for the FCN on the agency's Internet site. FDA did not, however, reissue the final letter. FDA believes that reissuing final letters would be an ineffective use of its limited resources. Therefore, FDA will not reissue an updated final letter when the manufacturer or supplier of the FCN changes. FDA has included guidance on the above procedure in "Preparation of Premarket Notifications for Food Contact Substances: Administrative Recommendations," the availability of which is announced elsewhere in this issue of the **Federal Register**.

FDA also is revising the language in all the regulations to replace the word "notifier" with the words "manufacturer or supplier." FDA believes "manufacturer or supplier" is more appropriate because it is the term used in section 409(h) of the act.

(Comment 7) One comment requested that FDA clarify its position on the issue of transferability of FCNs. Specifically, the comment requests that FDA establish regulations to permit a manufacturer identified in an effective FCN to transfer the rights granted under an effective notification. The comment contended that licensing the manufacture of an FCS would maintain the safety of the FCS because it would continue to be manufactured in the manner reviewed by the agency.

At the time of the proposal, FDA did not contemplate regulations to permit a subsequent manufacturer other than the manufacturer identified in the FCN to produce and market the FCS under that FCN and did not discuss such regulations in the proposed rule. Thus, FDA believes that the issues raised in this comment are outside the scope of the proposal. Currently, FDA requires any subsequent manufacturer who wishes to market an FCS for a use that is the subject of an already effective FCN to submit a notification to FDA. In addition, the manufacturer identified in an effective FCN may authorize other manufacturers to reference information contained in the effective FCN. Thus, other manufacturers may have to provide only limited additional information in subsequent FCNs but they must notify FDA separately and wait 120 days for their FCN to become effective. However, FDA is interested in hearing the views of other interested parties on this issue. Therefore, elsewhere in this issue of the **Federal Register**, FDA is publishing an advanced notice of proposed rulemaking requesting comments on the issue of transferability of FCNs.

(Comment 8) All three comments requested FDA to replace the abbreviation "PMN" with "FCN" to represent a premarket notification for a food contact substance (also called a Food Contact Notification). The comments argued that this change will avoid confusing a premarket notification for a food contact substance with a "PMN" submitted to the U.S. Environmental Protection Agency (EPA).

FDA already made this change in the operation of the FCN program, throughout this document, and where appropriate in the codified regulations. FDA also made other nonsubstantive editorial changes in the regulations.

(Comment 9) In § 170.100(a)(2), FDA is replacing the word "should" with "must." FDA is making this change to be consistent with the description of the provision in the proposed rule. In the preamble of the proposed rule, the agency stated that it would permit a manufacturer or supplier to incorporate by reference information in FDA's files where the submitter of the information has given the notifier permission to reference the information (65 FR 43269 at 43271). Requiring the manufacturer or supplier to establish that it has permission to incorporate certain information by reference also is consistent with standard FDA practice on incorporation by reference. (See 21 CFR 171.1(f); 21 CFR 314.420(d); 21 CFR 571.1(f); 21 CFR 814.20(c).)

III. Summary and Conclusions

The comments received in response to the July 2000 proposal requested changes to the proposed language in §§ 170.101(c) and 170.104(b). In addition, FDA is revising certain language throughout the proposed regulations. Because no comments were received relating to the remaining regulations included in the July 2000 proposal, FDA is finalizing those regulations as proposed with only minor editorial changes. Listed below are the revisions that are being incorporated into this final rule, based on the comments received in response to the proposal:

1. FDA is replacing the term "notifier" with the term "manufacturer or supplier" throughout the regulations to correspond with the language in section 409(h) of the act.
2. FDA is revising the language in § 170.101(c) to reference the definition of nonclinical laboratory studies in § 58.3(d) to clarify that 170.101(c) does not apply to analytical testing to determine the functionality or to determine physical or chemical characteristics of the test article.
3. FDA is revising the language in § 170.104(b) to clarify that the 120-day review period for an FCN begins on the date FDA receives the complete FCN. Thus, where FDA receives an incomplete FCN, the 120-day review period begins when FDA receives the missing information.
4. FDA is replacing the acronym "PMN" with "FCN" to refer to a premarket notification for a food contact substance (also known as a Food Contact Notification). FDA is using the acronym FCN throughout this document and in the codified regulations.
5. In § 170.100(a)(2) FDA is replacing the word "should" with "must."

IV. Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: Food Contact Substances Notification System.

Description: Section 409(h) of the act establishes a premarket notification process for FCSs. Section 409(h)(6) of the act defines a "food contact substance" as "any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food." Section 409(h)(3) of the act requires that the notification process be used for authorizing the marketing of FCSs except where FDA determines that the submission and premarket review of an FAP under section 409(b) of the act is necessary to provide adequate assurance of safety or where FDA and the manufacturer or supplier agree that a petition should be submitted. Section 409(h)(1) of the act requires that a notification include information on the identity and the intended use of the FCS and the basis for the manufacturer's or supplier's determination that the FCS is safe under the intended conditions of use. Because section 409(h)(1) of the act references the general safety standard for food additives, the data in an FCN should be comparable to the data in an FAP. FDA is issuing regulations necessary to implement the FCN program that will largely replace the FAP process for those food additives that are FCSs.

Also, FDA is requiring that an FCN include FDA Form 3480 entitled "Notification for New Use of a Food Contact Substance" (Ref. 1) and is requiring that a notification for a food contact substance formulation (NFCSF) include FDA Form 3479 entitled "Notification for a Food Contact Substance Formulation" (Ref. 2). These forms will serve to summarize pertinent information in the notification. FDA made Form 3480 available for public comment in the November 12, 1999 (64 FR 61648 at 61649), notice and Form 3479 available for public comment in the July 2000 proposal (65 FR 43269 at 43277). FDA believes that these forms will facilitate both preparation and review of notifications because the forms will serve to organize information necessary to support the safety of the use of the FCS. The burden of filling out the appropriate form has been included in the burden estimate for the notification.

Description of Respondents: Manufacturers of food contact substances.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
170.106[2]	FDA 3479	200	4	800	2	1,600
170.101[3,7]	FDA 3480	200	1	200	25	5,000
170.101[4,7]	FDA 3480	55	2	110	120	13,200
170.101[5,7]	FDA 3480	45	2	90	150	13,500
107.101[6,7]	FDA 3480	16	1	16	150	2,400
Total						35,700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Notifications for a food contact substance formulation. These notifications require only FDA Form 3479 ("Notification for a Food Contact Substance Formulation") to be filled out and documentation attached.
[3] Duplicate notifications for uses of FCSs.
[4] Notifications for uses that currently would be the subject of exemptions under 21 CFR 170.39 or very simple FAPs.
[5] Notifications for uses that currently would be the subject of moderately complex FAPs.
[6] Notifications for uses that currently would be the subject of more complex FAPs.
[7] These notifications require the submission of FDA Form 3480 ("Notification for New Use of a Food Contact Substance").

The above estimate is based on the types of submissions that FDA currently receives for food contact substances in the TOR and the FAP processes and the following assumptions and information:

- FDA estimates that the likely increase in FCNs over the number of FAPs and TOR requests will be approximately four times the highest recent annual influx of these submissions (50 and 54, respectively). This factor is based on an analysis of the number of companies producing various types of FCSs and the types of FCSs for which FAPs and TORs most commonly are submitted to FDA.
- Based on input from industry sources, FDA estimates that the agency will receive approximately 800 notifications annually for food contact substance formulations.
- FDA also has included 200 expected duplicate submissions in the second lowest tier. FDA expects that the burden for preparing these notifications primarily will consist of the manufacturer or supplier filling out FDA Form 3480, verifying that a previous notification is effective, and preparing necessary documentation.
- Based on the amount of data typically submitted in FAPs and TOR requests, FDA identified three other tiers of FCNs that represent escalating levels of burden required to collect information.
- FDA estimated the median number of hours necessary for collecting information for each type of notification within each of the three tiers based on input from industry sources.

In the July 2000 proposal (65 FR 43269 at 43276), the agency requested comments on the proposed collection of information. On October 3, 2000, OMB filed comment on the information collection provisions, assigning OMB control number 0910–0447. OMB's comments stated that, "FDA shall evaluate the contents of this collection in light of any comments received regarding the information collection requirements contained in the rule. In addition, FDA shall address any issues related to reducing duplication between FDA and EPA related to this collection."

FDA received no comments on the information collection requirements in the proposed rule. FDA continues to work with EPA and the U.S. Department of Agriculture (USDA) to eliminate areas of duplicative data collection and evaluation. Within the past 2 years USDA has eliminated its separate approval process for components of food contact materials that duplicated FDA's process. In addition, the Food Quality Protection Act of 1996 gave sole jurisdiction to EPA for certain substances formerly regulated by FDA as food additives and by EPA as pesticide chemicals. Currently, there is no significant duplication of data collection and evaluation for food contact substances among Federal agencies with jurisdiction. In addition, to avoid unnecessary duplication for

individual submissions, existing data will be used whenever possible by FDA in evaluating notifications for food contact substances.

FDA submitted the information collection provisions of this final rule to OMB for review. Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection provisions in this final rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

V. Analysis of Impacts

A. Final Regulatory Impact Analysis

FDA has examined the economic implications of this final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation also is considered a significant regulatory action if it raises novel legal or policy issues. OMB determined that this final rule is a significant regulatory action as defined by Executive Order 12866. Accordingly, OMB has reviewed this final rule and has approved its publication in the **Federal Register**.

There were no comments that pertained directly or indirectly to the preliminary regulatory impact analysis (PRIA) so FDA has made no change in the evaluation of the regulation for the final regulatory impact analysis. The rulemaking was necessary to implement the FCN process established by FDAMA. The notification process largely will replace the FAP process for FCSs. The FCN process requires FDA to object within 120 days to the notification of an FCS manufacturer or supplier that it intends to market a particular food contact substance for a specific use, or the substance may be marketed legally on the 121st day without issuance of a regulation.

FDA estimates that the social benefits of the change in regime will be from new product innovation. The agency estimates that four times the current annual number of petitions and threshold of regulation exemptions will be introduced into the market, for a total of 416. The social costs from the change in regimes are the costs to submit duplicate notifications. The agency estimates that 50 percent of the total will be duplicates for a total social cost of $26,387,500. For a full explanation of the estimated costs and benefits of this final rule, see the preliminary regulatory impact assessment published in the July 2000 proposal (65 FR 43269 at 43277), which is incorporated by reference.

B. Final Regulatory Flexibility Analysis

1. Introduction

FDA has examined the economic implications of this final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612.) If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities.

2. Economic Effects on Small Entities

There were no comments that pertained directly or indirectly to the initial regulatory flexibility analysis so FDA made no change in the evaluation of the regulation for the final regulatory flexibility analysis. The final rule could affect small businesses because new costs will be imposed that did not exist before the change in regimes. A small firm that wants to introduce a new FCS will have to produce more documentation after the final rule than before. However, because the final rule reduces the uncertainty about the period of evaluation of new uses of substances, firms that rely heavily on the authorization of a unique use of a substance stand to benefit the most. Because new small businesses may rely on innovation that requires new use authorization, they are more likely to benefit the most from the final rule. However, they also may incur proportionately greater costs than if they would have relied on rival firms to incur the authorization costs.

3. Regulatory Relief

Because some small firms are expected to be adversely affected by the final rule, options for regulatory relief, such as a small business exemption, were addressed in the proposed rule. The benefit of this option is that small businesses would not incur an additional cost. The drawback is that small firms could copy and distribute themselves the substances being reviewed in response to the marketing submission of a competitor, thus, creating disincentives for new substance development by rival firms.

4. Description of Recordkeeping and Reporting

There are no additional recordkeeping requirements for the final rule.

5. Summary

FDA estimates that there will be no net costs to small businesses because of this final rule. If small business entities determine that the costs of notification outweigh the benefits, the small business entities could rely on existing authorized FCSs.

C. Unfunded Mandates

Section 1531(a) of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), defines a significant rule as a Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any one year. FDA has determined that this rule does not constitute a significant rule under the Unfunded Mandates Reform Act of 1995.

VI. Environmental Impact

The agency previously reviewed the potential environmental effects of this final rule as announced in the July 2000 proposal (65 FR 43269). The agency concluded under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. FDA Form No. 3480 "Notification for a New Use of A Food Contact Substance," Rev. 9/01.

2. FDA Form No. 3479 "Notification for a Food Contact Substance Formulation," Rev. 5/00.

List of Subjects

21 CFR Part 20

Confidential business information, Courts, Freedom of information, Government employees.

21 CFR Part 58

Laboratories, Reporting and recordkeeping requirements.

21 CFR Part 170

Administrative practice and procedure, Food additives, Reporting and recordkeeping requirements.

21 CFR Part 171

Administrative practice and procedure, Food additives.

21 CFR Part 174

Food additives, Food packaging.

21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 20, 58, 170, 171, 174, and 179 are amended as follows:

PART 20—PUBLIC INFORMATION

1. The authority citation for 21 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582; 21 U.S.C. 321–393, 1401–1403; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1.

2. Section 20.100 is amended by adding paragraph (c)(41) to read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(41) Premarket notifications for food contact substances, in § 170.102 of this chapter.

PART 58—GOOD LABORATORY PRACTICE FOR NONCLINICAL LABORATORY STUDIES

3. The authority citation for 21 CFR pari 58 continues to read as follows:

Authority: 21 U.S.C. 342, 346, 346a, 348, 351, 352, 353, 355, 360, 360b–360f, 360h–360j, 371, 379e, 381; 42 U.S.C. 216, 262, 263b–263n.

4. Section 58.3 is amended by adding paragraph (e)(23) to read as follows:

§ 58.3 Definitions.

* * * * *

(e) * * *

(23) A premarket notification for a food contact substance, described in part 170, subpart D, of this chapter.

* * * * *

PART 170—FOOD ADDITIVES

5. The authority citation for 21 CFR part 170 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 346a, 348, 371.

6. Section 170.3 is amended by revising paragraph (e)(2) and by adding paragraph (e)(3) to read as follows:

§ 170.3 Definitions.

* * * * *

(e)(1) * * *

(2) *Uses of food additives not requiring a listing regulation.* Use of a substance in a food contact article (e.g., food-packaging or food-processing equipment) whereby the substance migrates, or may reasonably be expected to migrate, into food at such levels that the use has been exempted from regulation as a food additive under § 170.39, and food contact substances used in accordance with a notification submitted under section 409(h) of the act that is effective.

(3) *A food contact substance* is any substance that is intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.

* * * * *

7. Subpart D, consisting of §§ 170.100 through 170.106, is added to part 170 to read as follows:

Subpart D—Premarket Notifications

Sec.

170.100 Submission of a premarket notification for a food contact substance (FCN) to the Food and Drug Administration (FDA).
170.101 Information in a premarket notification for a food contact substance (FCN).
170.102 Confidentiality of information in a premarket notification for a food contact substance (FCN).
170.103 Withdrawal without prejudice of a premarket notification for a food contact substance (FCN).
170.104 Action on a premarket notification for a food contact substance (FCN).
170.105 The Food and Drug Administration's (FDA's) determination that a premarket notification for a food contact substance (FCN) is no longer effective.
170.106 Notification for a food contact substance formulation (NFCSF).

Subpart D—Premarket Notifications

§ 170.100 Submission of a premarket notification for a food contact substance (FCN) to the Food and Drug Administration (FDA).

(a) An FCN is effective for the food contact substance manufactured or prepared by the manufacturer or supplier identified in the FCN submission. If another manufacturer or supplier wishes to market the same food contact substance for the same use, that manufacturer or supplier must also submit an FCN to FDA.

(1) An FCN must contain all of the information described in § 170.101.

(2) An FCN may incorporate by reference any information in FDA's files provided that the manufacturer or supplier is authorized to reference the information. The FCN must include information establishing that the manufacturer or supplier is authorized to reference information in FDA's files.

(3) Any material submitted in or referenced by an FCN that is in a foreign language must be accompanied by an English translation verified to be complete and accurate.

(b) FDA may choose not to accept an FCN for either of the following:

(1) A use of a food contact substance that is the subject of a regulation in parts 173 through 189 of this chapter; or

(2) A use of a food contact substance that is the subject of an exemption under the threshold of regulation process described in § 170.39.

(c) A petition must be submitted under § 171.1 of this chapter to authorize the safe use of a food contact substance in either of the following circumstances, unless FDA agrees to accept an FCN for the proposed use.

(1) The use of the food contact substance increases the cumulative dietary concentration to a certain level. For a substance that is a biocide (e.g., it is intended to exert microbial toxicity), this level is equal to or greater than 200 parts per billion in the daily diet (0.6 milligram (mg)/person/day). For a substance that is not a biocide, this level is equal to or greater than 1 part per million in the daily diet (3 mg/person/day); or

(2) There exists a bioassay on the food contact substance, FDA has not reviewed the bioassay, and the bioassay is not clearly negative for carcinogenic effects.

(d) A manufacturer or supplier for which a notification is effective must keep a current address on file with FDA.

(1) The current address may be either the manufacturer's (or supplier's) address or the address of the manufacturer's (or supplier's) agent.

(2) FDA will deliver correspondence to the manufacturer's or supplier's current address.

§ 170.101 Information in a premarket notification for a food contact substance (FCN).

An FCN must contain the following:

(a) A comprehensive discussion of the basis for the manufacturer's or supplier's determination that the use of the food contact substance is safe. This discussion must:

(1) Discuss all information and data submitted in the notification; and

(2) Address any information and data that may appear to be inconsistent with the determination that the proposed use of the food contact substance is safe.

(b) All data and other information that form the basis of the determination that the food contact substance is safe under the intended conditions of use. Data must include primary biological data and chemical data.

(c) A good laboratory practice statement for each nonclinical laboratory study, as defined under § 58.3(d) of this chapter, that is submitted as part of the FCN, in the form of either:

(1) A signed statement that the study was conducted in compliance with the good laboratory practice regulations under part 58 of this chapter; or

(2) A brief signed statement listing the reason(s) that the study was not conducted in compliance with part 58 of this chapter.

(3) Data from any study conducted after 1978 but not conducted in compliance with part 58 of this chapter must be validated by an independent third party prior to submission to the Food and Drug Administration (FDA), and the report and signed certification of the validating party must be submitted as part of the notification.

(d) Information to address FDA's responsibility under the National Environmental Policy Act, in the form of either:

(1) A claim of categorical exclusion under § 25.30 or § 25.32 of this chapter; or

(2) An environmental assessment complying with § 25.40 of this chapter.

(e) A completed and signed FDA Form No. 3480.

§ 170.102 Confidentiality of information in a premarket notification for a food contact substance (FCN).

(a) During the 120-day period of the Food and Drug Administration (FDA) review of an FCN, FDA will not disclose publicly any information in that FCN.

(b) FDA will not disclose publicly the information in an FCN that is withdrawn prior to the completion of FDA's review.

(c) Once FDA completes its review of an FCN, the agency will make its conclusion about the FCN publicly available. For example, if FDA objects to a notification 90 days after the date of receipt, the agency would make available its objection at that time.

(d) By submitting an FCN to FDA, the manufacturer or supplier waives any claim to confidentiality of the information required to adequately describe the food contact substance and the intended conditions of use that are the subject of that FCN.

(e) The following data and information in an FCN are available for public disclosure, unless extraordinary circumstances are shown, on the 121st day after receipt of the notification by FDA, except that no data or information are available for public disclosure if the FCN is withdrawn under § 170.103.

(1) All safety and functionality data and information submitted with or incorporated by reference into the notification. Safety and functionality data include all studies and tests of a food contact substance on animals and humans and all studies and tests on a food contact substance for establishing identity, stability, purity, potency, performance, and usefulness.

(2) A protocol for a test or study, unless it is exempt from disclosure under § 20.61 of this chapter.

(3) A list of all ingredients contained in a food contact substance, excluding information that is exempt from disclosure under § 20.61 of this chapter. Where applicable, an ingredient list will be identified as incomplete.

(4) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is exempt from disclosure under § 20.61 of this chapter.

(5) All correspondence and written summaries of oral discussions relating to the notification, except information that is exempt for disclosure under § 20.61 of this chapter.

(6) All other information not subject to an exemption from disclosure under subpart D of part 20 of this chapter.

§ 170.103 Withdrawal without prejudice of a premarket notification for a food contact substance (FCN).

A manufacturer or supplier may withdraw an FCN without prejudice to a future submission to the Food and Drug Administration (FDA) if FDA has not completed review of the FCN. For the purpose of this section, FDA's review is completed when FDA has allowed 120 days to pass without objecting to the FCN or FDA has issued an objection letter.

§ 170.104 Action on a premarket notification for a food contact substance (FCN).

(a) If the Food and Drug Administration (FDA) does not object to an FCN within the 120-day period for FDA review, the FCN becomes effective.

(b) If an FCN is complete when received, the 120-day review period begins on the date FDA receives the FCN.

(1) If any element required under § 170.101 is missing from an FCN, then FDA will not accept that FCN and FDA will send an FCN nonacceptance letter to the manufacturer or supplier. If the manufacturer or supplier submits the missing information before FDA sends an FCN nonacceptance letter, the 120-day review period begins on the date of receipt of the missing information.

(2) If FDA accepts an FCN, then FDA will acknowledge in writing its receipt of that FCN.

(c) Objection to an FCN:

(1) If FDA objects to an FCN, then FDA will send an FCN objection letter. The date of the letter will be the date of FDA's objection for purposes of section 409(h)(2)(A) of the act.

(2) If FDA objects to an FCN within the 120-day period for FDA review, the FCN will not become effective.

(3) FDA may object to an FCN if any part of FDA's 120-day review occurs during a period when this program is not funded as required in section 409(h)(5) of the act.

(d) If FDA and a manufacturer or supplier agree that the notifier may submit a food additive petition proposing the approval of the food contact substance for the use in the manufacturer's or supplier's FCN, FDA will consider that FCN to be withdrawn by the manufacturer or supplier on the date the petition is received by FDA.

§ 170.105 The Food and Drug Administration's (FDA's) determination that a premarket notification for a food contact substance (FCN) is no longer effective.

(a) If data or other information available to FDA, including data not submitted by the manufacturer or supplier, demonstrate that the intended use of the food contact substance is no longer safe, FDA may determine that the authorizing FCN is no longer effective.

(b) If FDA determines that an FCN is no longer effective, FDA will inform the manufacturer or supplier in writing of the basis for that determination. FDA will give the manufacturer or supplier an opportunity to show why the FCN should continue to be effective and will specify the time that the manufacturer or supplier will have to respond.

(c) If the manufacturer or supplier fails to respond adequately to the safety concerns regarding the notified use, FDA will publish a notice of its determination that the FCN is no longer effective. FDA will publish this notice in the **Federal Register**, stating that a detailed summary of the basis for FDA's determination that the FCN is no longer effective has been placed on public display and that copies are available upon request. The date that the notice publishes in the **Federal Register** is the date on which the notification is no longer effective.

(d) FDA's determination that an FCN is no longer effective is final agency action subject to judicial review.

§ 170.106 Notification for a food contact substance formulation (NFCSF).

(a) In order for the Food and Drug Administration (FDA) to accept an NFCSF, any food additive that is a component of the formulation must be authorized for its intended use in that NFCSF.

(b) FDA may publish a notice in the **Federal Register** stating that the agency has insufficient resources to review NFCSFs. From the date that this notice publishes in the **Federal Register**, FDA will no longer accept NFCSFs.

(c) An NFCSF must contain the following:

(1) A completed and signed FDA Form No. 3479; and

(2) Any additional documentation required to establish that each component of the formulation already may be marketed legally for its intended use.

PART 171—FOOD ADDITIVE PETITIONS

8. The authority citation for 21 CFR part 171 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

9. Section 171.1 is amended by revising paragraph (i)(1) to read as follows:

§ 171.1 Petitions.

* * * * *

(i)(1)(i) Within 15 days after receipt, the Food and Drug Administration will notify the petitioner of the acceptance or nonacceptance of a petition, and if not accepted, the reasons therefor. If accepted, the petitioner will be sent a letter stating this and the date of the letter shall become the date of filing for the purposes of section 409(b)(5) of the act. In cases in which the Food and Drug Administration agrees that a premarket notification for a food contact substance (Food Contact Notification (FCN)) submitted under section 409(h) of the act may be converted to a petition, the withdrawal date for the FCN will be deemed the date of receipt for the petition.

(ii) If the petitioner desires, he may supplement a deficient petition after being notified regarding deficiencies. If the supplementary material or explanation of the petition is deemed acceptable, the petitioner shall be notified. The date of such notification becomes the date of filing. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified.

(iii) Notwithstanding paragraph (i)(1)(ii) of this section, the petition shall not be filed if the Food and Drug Administration determines that the use identified in the petition should be the subject of an FCN under section 409(h) of the act rather than a petition.

* * * * *

10. Section 171.7 is amended by adding paragraph (c) to read as follows:

§ 171.7 Withdrawal of petition without prejudice.

* * * * *

(c) Any petitioner who has a food additive petition pending before the agency and who subsequently submits a premarket notification for a food contact substance (FCN) for a use or uses described in such petition shall be deemed to have withdrawn the petition for such use or uses without prejudice to a future filing on the date the FCN is received by the Food and Drug Administration.

PART 174—INDIRECT FOOD ADDITIVES: GENERAL

11. The authority citation for 21 CFR part 174 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

12. Section 174.5 is amended by adding paragraph (d)(5) to read as follows:

§ 174.5 General provisions applicable to indirect food additives.

* * * * *

(d) * * *

(5) Food contact substances used in accordance with an effective premarket notification for a food contact substance (FCN) submitted under section 409(h) of the act.

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

13. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

14. Section 179.25 is amended by revising paragraph (c) to read as follows:

§ 179.25 General provisions for food irradiation.

* * * * *

(c) Packaging materials subjected to irradiation incidental to the radiation treatment and processing of prepackaged food shall be in compliance with § 179.45, shall be the subject of an exemption for such use under § 170.39 of this chapter, or shall be the subject of an effective premarket notification for a food contact substance for such use submitted under § 170.100 of this chapter.

* * * * *

Dated: September 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12661 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 54, and 602

[TD 8967]

RIN 1545–AY69, 1545–AY70

Required Distributions From Retirement Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to final and temporary regulations that were published in the **Federal Register** on Wednesday, April 17, 2002 (67 FR 18988) relating to the required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts.

DATES: This correction is effective January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Cathy A. Vohs, (202) 622–6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of these corrections are under sections 401, 403, 408, 457, and 4974 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 8987), that were the subject of FR Doc. 02-8963, are corrected as follows:

1. On page 18991, column 2, in the preamble under the paragraph heading "*Temporary Rules for Defined Benefit Plans and Annuity Contracts*", first paragraph, line 2 from the bottom, the language "assets has been replaced with this more" is corrected to read "assets have been replaced with this more".

§ 54.4974–2 [Corrected]

2. On page 19028, column 1, § 54.4974–2(b)(4), line 19, the language "the calendar in which the employee" is corrected to read "the calendar year in which the employee".

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–12720 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046–AA57

Federal Sector Equal Employment Opportunity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission is publishing this final rule to implement the amendment of section 501 of the Rehabilitation Act, under the Rehabilitation Act Amendments of 1992. This rule continues the movement towards full integration of individuals with disabilities into the Federal workforce.

DATES: Effective June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff, Assistant Legal Counsel, or Mary Kay Mauren, Senior Attorney Advisor, (202) 663–4689 (voice), (202) 663–7026 (TDD). This document is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this document in an alternative format should be made to the Publications Information Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: Increasing the employment of individuals with disabilities is one of the goals of section 501 of the Rehabilitation Act of 1973, as amended (section 501),[1] and Title I and selected sections of Title V of the Americans with Disabilities Act (ADA).[2] Section 501 has prohibited the federal government, as an employer, from discriminating on the basis of disability since the late 1970's. Title I of the ADA applied similar prohibitions to private sector and state and local government employers in 1990. To promote consistent and full enforcement of these two laws, Congress amended section 501 in 1992 [3] to adopt the employment nondiscrimination standards of the Americans with Disabilities Act (ADA).[4] In a Notice of Proposed Rulemaking (NPRM), the U.S. Equal Employment Opportunity Commission (EEOC or Commission) proposed to implement the 1992 Amendments by deleting the text of its old section 501 regulation, at 29 CFR 1614.203, and inserting new language to cross-reference the Commission's existing ADA regulation at 29 CFR part 1630.[5] The Commission now responds to public comments submitted in response to this NPRM and issues a final rule. Consistent with President George W. Bush's New Freedom Initiative, this final rule continues "the movement towards full integration of individuals with disabilities" into the workforce and promotes full compliance with section 501.[6]

[1] 29 U.S.C. 791(1994) (codified as amended). For a summary of the early history of Section 501, see *Prewitt v. United States Postal Service*, 662 F.2d 292, 301–304 (5th Cir. 1981).

[2] 42 U.S.C. 12101–12117, 12201–12213 (1994) (codified as amended). This goal was reaffirmed by the New Freedom Initiative of President George W. Bush (Integrating Americans with Disabilities into the Workforce, Part C: Compliance with the Americans with Disabilities Act) (Feb. 1, 2001), at http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html (visited 1/09/02) [hereinafter New Freedom Initiative].

[3] Rehabilitation Act Amendments of 1992, Pub. L. 102–569, 106 Stat. 4344, 4424 (1992) (codified as amended at 29 U.S.C. 791(g) (1994)) (1992 Amendments).

[4] The 1992 Amendments refer to Title I and selected sections of Title V (sections 501 through 504 and 510).

[5] Notice of Proposed Rulemaking to Update 29 CFR 1614.203, 65 FR 11019, March 1, 2000.

[6] New Freedom Initiative, *supra* note 2.

Overview of Public Comments

The Commission received fifteen comments in response to this NPRM. Of these comments, four were from federal agencies, two were from federal unions, two from advocacy groups representing persons with disabilities, one from a group representing employment attorneys, and one from a state agency. The remaining submissions were from four individuals and one group not specifically involved with federal employees or disability rights. The Commission has carefully considered all of the comments and, as a result, has made some changes to the proposed regulation. The public comments and the text of the final regulation are discussed below.

Nondiscrimination and Model Employer

An advocacy group for individuals with disabilities expressed concern that paragraph (a) of the proposed rule specifically referenced hiring, placement, and advancement of qualified individuals with disabilities, but did not enumerate all the types of employment discrimination prohibited by the ADA. To clarify that the ADA's broad nondiscrimination standards apply in the federal sector, this commenter suggested cross-referencing the ADA's list of prohibited activities in paragraph (a) and also deleting the specific references to hiring, placement, and advancement.

The Commission concludes that these changes are not necessary because paragraph (b) of the rule already cross references the ADA statute and regulation. Specifically, paragraph (b) states that the ADA's nondiscrimination standards apply to section 501 complaints, and cross references the ADA rule at 29 CFR part 1630. Title I of the ADA, and the ADA rule at 29 CFR part 1630, both enumerate many types of prohibited employment discrimination. In light of this cross-reference, it is unnecessary to supplement paragraph (a) to establish that the ADA's broad discrimination prohibitions apply under section 501. Furthermore, for purposes of simplicity and clarity, the Commission makes paragraph (b) the sole reference to nondiscrimination in the final rule, deleting the general nondiscrimination language from paragraph (a).

Using the ADA Rule To Implement the 1992 Amendments

One commenter questioned the Commission's proposal to implement the 1992 Amendments by cross-referencing its ADA regulation at 29 CFR part 1630. The Commission remains convinced that this is the most efficient way to implement the 1992 Amendments. The Commission's ADA regulation at 29 CFR part 1630 implements the ADA employment provisions that are cited in the 1992 Amendments.[7]

This commenter also correctly noted that the ADA's statutory definition of "employer" excludes the United States. On this basis, the commenter contended that the ADA cannot cover federal employers. This commenter misapprehended both the purpose and effect of the 1992 Amendments and this regulation. Neither the 1992 Amendments nor this regulation result in the ADA directly covering federal employers. Rather, section 501 of the Rehabilitation Act continues to cover federal employers. Due to the text of the 1992 Amendments, however, section 501 now incorporates by reference the ADA's nondiscrimination standards. The ADA's statutory definition of "employer" does not impact the coverage of section 501.

Self-Identification and Affirmative Action

One advocacy group for individuals with disabilities asserted that old subparagraph 1614.203(e)(3), which permitted self-identification for affirmative action purposes, should be retained so that federal agencies can comply with their affirmative action responsibilities under section 501.[8] The Commission has considered the comment but concludes that old subparagraph 1614.203(e)(3) should be deleted in its entirety. Contrary to the commenter's assertions, the ADA standard does not prevent federal employers from satisfying their section 501 affirmative action obligations. The ADA permits affirmative action disability-related inquiries of job applicants if certain requirements are met. Specifically, employers may ask applicants to voluntarily self-identify as individuals with disabilities if the employer is undertaking affirmative action because of a federal, state, or local law (including a veterans' preference law) that requires affirmative action for individuals with disabilities.[9] This would include the government's affirmative action efforts under section 501. *See* 29 U.S.C. 791(b).

[7] The 1992 Amendments cite two sections in Title V of the ADA that are not implemented by the Commission's ADA regulation because they do not concern employment. These are sections 502 (state immunity) and 504 (regulations by the Architectural and Transportation Barriers Compliance Board). *Compare* 29 U.S.C. 791(g) (1994) *with* 29 CFR 1630.1(a) (2001).

[8] Old subparagraph 1614.203(e)(3) states: "To enable and evaluate affirmative action to hire, place or advance individuals with handicaps, the agency may invite applicants for employment to indicate whether and to what extent they are handicapped * * *"

Definition of Disability

An advocacy group for individuals with disabilities contended that the U.S. Supreme Court's decision in *Sutton* v. *United Airlines*, Inc., 527 U.S. 471 (1999), should not apply to section 501. The Commission has considered this comment but does not adopt it. The ADA definition of "disability" as construed by the Supreme Court must apply to section 501.[10]

Safety Issues and "Direct Threat'

A federal agency commented that the NPRM imposes a burden on federal employers because they may need to determine whether an applicant or employee poses a "direct threat" to health or safety. The Commission has considered this comment but has decided that, pursuant to the 1992 Amendments, the same "direct threat" standard must apply to federal employers as to private employers. The NPRM correctly stated the ADA standard for "direct threat," which requires employers to assess each individual's ability to safely perform a particular job, based on the most current medical assessment or other objective evidence.[11]

[9] The employer also must state clearly on any written questionnaire, or orally if no written questionnaire is used, that the information requested is used solely in connection with its affirmative obligations or efforts, and that the information is being requested on a voluntary basis and will be kept confidential and used in accordance with the ADA (or section 501 of the Rehabilitation Act). The information must also be on a form that is kept separate from the application. *See* "ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations," at 12, 8 FEP Manual (BNA) 405:7191, 7196–97 (1995) [hereinafter "Guidance on Preemployment Inquiries"]. (This and other ADA guidances are available through the Internet at *http://www.eeoc.gov.*) However, the information on a separate form may be provided to hiring officials or special appointing authorities to fulfill affirmative action obligations.

[10] The Commission notes that the *Sutton* analysis has been applied in section 501 decisions. *See Crocker* v. *Runyon*, 207 F.3d 314, 319 n.1 (6th Cir. 2000). *See also Flynn-Banigan* v. *Dep't of Justice*, EEOC Appeal No. 01973401 (August 3, 2000), *Pulcini* v. *Social Security Admin.*, EEOC Appeal No. 01990835 (July 27, 2000).

[11] The Supreme Court is deciding an ADA direct threat case this term. *See Chevron U.S.A., Inc.* v. *Echazabal*, No. 00–1406 (U.S. argued February 27, 2002). The Commission already has applied the ADA "direct threat" standard to federal employers in its decisions. *Kahout* v. *United States Postal Service*, EEOC Appeal No. 01954900 (June 19, 1997); *Hobbs* v. *United States Postal Service*, EEOC Appeal No. 01944181 (January 26, 1996); *Robinson* v. *United States Postal Service*, EEOC Request No. 05940034 (September 16, 1994). *See* 29 CFR 1630.2(r)(2001)(definition of "direct threat"). For a discussion of when employers may request medical information necessary for assessing "direct threat," see "Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act," question 5, n.39, 8 FEP Manual (BNA) 405:7701, 7708 (2000).

Reasonable Accommodation

Section 501 requires federal employers to provide reasonable accommodation for qualified applicants and employees with disabilities, barring undue hardship. Reasonable accommodation is central to integrating individuals with disabilities into the workforce.[12] The NPRM preamble addressed the ADA's treatment of the interactive process, reassignment, and undue hardship. The Commission reiterates that the ADA standards that apply in private sector employment apply to federal employment as well.[13] The following discussion addresses some of the public comments regarding reasonable accommodation.

The Interactive Process

The Commission agrees with the public comment that, under ADA standards, a request for reasonable accommodation and the informal interactive process are two distinct steps. First, the individual must request reasonable accommodation, in all but the most limited circumstances.[14] Second, the employer engages in the interactive process if the disability or the type of accommodation needed are not obvious.[15] Under ADA standards, employers must make a reasonable effort to identify an effective accommodation that does not pose an

[12] *See* New Freedom Initiative *supra* note 2.

[13] In *US Airways, Inc.* v. *Barnett*, No. 00–1250, slip op. at 9 (U.S. April 29, 2002), the Supreme Court adopted the position articulated in several lower court cases that in any reasonable accommodation case, a plaintiff/employee "need only show that an 'accommodation' seems reasonable on its face, i.e., ordinarily or in the run of cases," to defeat a defendant/employer's motion for summary judgment with respect to whether an accommodation is "reasonable." Once the plaintiff/employee has made this showing, the defendant/employer has the burden of demonstrating undue hardship on the facts of the particular case. The decision in *Barnett* involved a conflict between a seniority system and a reassignment as a reasonable accommodation.

[14] *See* "EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act," at questions 1–4, 39, 8 FEP Manual (BNA) at 405:7601, 7604–07, 7628–29 (1999) [hereinafter "Reasonable Accommodation Guidance"]. The Reasonable Accommodation Guidance contains a detailed description of the reasonable accommodation interactive process.

[15] *See* Reasonable Accommodation Guidance, supra note 14 at question 5, 8 FEP at 405:7606–07 (1999).

undue hardship. *See* 29 CFR part 1630 app. 1630.9.

Reassignment as a Reasonable Accommodation

Reassignment Is Separate From the Federal Merit Promotion System

Several agencies expressed concern that section 501 reassignment actions could violate the federal merit promotion system. Under ADA standards, however, reassignment of a qualified individual with a disability is distinct from the competitive selection process. The ADA defines reassignment to be part of the duty of reasonable accommodation, which is a nondiscrimination obligation separate and apart from the competitive selection process.[16] Indeed, the Office of Personnel Management (OPM) has characterized the reasonable accommodation of reassignment as "a non-competitive process."[17]

Probationary Employees and Reassignment

Agencies also expressed concern that the ADA approach to reassignment permits reassignment of probationary employees, contrary to the categorical prohibition against such reassignment in the old regulation at 29 CFR 1614.203(g). The Commission considered these comments and again concludes that reassignment is available as a reasonable accommodation for probationary employees.

Under the ADA, qualified individuals with disabilities are entitled to reasonable accommodation, barring undue hardship. Reassignment is a form of reasonable accommodation. An individual with a disability is qualified for reassignment if s/he has adequately performed the essential functions of the original position, with or without reasonable accommodation, before the need for reassignment arose.[18] The longer the period of time in which a probationary employee has adequately performed the essential job functions, with or without reasonable accommodation, the more likely it is that reassignment is appropriate if s/he becomes unable to continue performing the essential functions of the position due to a disability. If, however, the probationary employee has never adequately performed the essential functions, with or without reasonable accommodation, then s/he is not entitled to reassignment because s/he was never "qualified" for the original position.[19]

When a Position Becomes "Vacant" for Purposes of Reassignment

Two federal agencies responded to the Commission's request for comment on when a position becomes vacant in the federal government. One agency commented that a position must not only be funded and unencumbered but must also be one that the agency intends to fill rather than eliminate for budgetary or mission reasons. The other agency commented that positions subject to hiring or other employment freezes are not presently funded and so cannot be considered vacant positions even though they may be authorized and not filled. It further contended that if an employee leaves a position, the employer must continue to have the opportunity to decide whether to fund the position, abolish it, or modify it in accordance with changed work or business requirements. Both agencies contended that a position cannot be considered vacant if it has been unconditionally offered to another individual. Finally, one of the agencies argued that a position cannot be considered vacant if another employee has a vested priority to it by seniority or some other superior right based on the employer's non-discriminatory policies.

The Commission agrees that an agency must have an opportunity to decide whether to abolish, modify, or simply continue funding a position after an employee departs. The Commission also agrees that the duty to provide reassignment does not include reassignment to a position for which there has already been an offer to another individual.[20] Finally, a position is not vacant if it is subject to a hiring freeze. Any decision not to continue a position, whether for funding or mission reasons, must not be discriminatorily based.

Undue Hardship and the Extent of Duty To Search for a Vacancy

Several agencies commented on an employer's duty to search for vacancies throughout its organization and on issues involving reassignments denied on the basis of undue hardship. These agencies expressed concern that an obligation to search for vacant positions beyond a commuting area and throughout an entire organization would result in administrative difficulty and expense. One commenter asserted that federal employers should not always be required to search for vacancies in different subagencies or components of the larger agency, because subagencies may be legally separate and may operate under separate appropriations, appointing authorities, and personnel offices. Another commenter urged the Commission to redefine the ADA "undue hardship" standard for the federal sector, so that reassignment decisions could be based on the budget of a particular facility. In the federal sector, the agency commented, a facility may have a limited budget with which to respond to growing public needs.

Under the 1992 Amendments, the Commission is bound by ADA standards, including the undue hardship standard.[21] The Commission concludes, however, that the ADA's "undue hardship" analysis takes into account the operational, financial, and legal relationships between components of large organizations, whether the organizations are private or federal.[22] An employer seeking to demonstrate "undue hardship" under the ADA standard would have to demonstrate why, in light of the resources, operations, and constraints of its particular organization, a reasonable accommodation would result in significant difficulty or expense. If a federal employer seeks to demonstrate that a specific reasonable accommodation poses an undue hardship because it would compromise the agency's mission, the agency needs to factually assess the "impact of the accommodation" on operations.[23]

An advocacy group for individuals with disabilities objected that the proposed rule appeared to limit reassignment to situations in which there was no other effective accommodation, or in which all other accommodations would impose an undue hardship. The Commission has consistently interpreted the ADA to mean that reassignment is only required in these circumstances.[24] Reassignment may be an option in other circumstances if the employer and the employee agree to it.[25] To avoid any ambiguity concerning when reassignment is appropriate, we eliminated paragraph (b)(2) which defined the employer's duty to provide reasonable accommodation and reassignment. The remaining cross-reference to the ADA standards in paragraph (b) provides the appropriate standard.

Conflict With Collective Bargaining Agreement

Some federal unions and employers questioned whether reassignment should be required as a reasonable accommodation when it would create a conflict with another employee's seniority rights under a collective bargaining agreement (CBA). These commenters cited developing ADA case law on this issue and urged the view that CBA seniority rights should prevail. Following the submission of these public comments to the Commission, the U.S. Supreme Court decided *US Airways, Inc.* v. *Barnett*, No. 00–1250, (U.S. April 29, 2002). In *Barnett*, the Court considered whether the ADA requires an employer to reassign an individual with a disability as a reasonable accommodation when another employee is entitled to hold the position under an established seniority system.

The Court held that a conflict between a seniority system and a proposed accommodation should be analyzed to determine whether the requested accommodation is reasonable. The Court ruled that "ordinarily" a proposed accommodation will not be reasonable if it conflicts with a seniority system. *Barnett*, slip op. at 14. However, the Court also stated that, even if an employer shows that the proposed accommodation will violate a seniority system, a plaintiff/employee may nevertheless show that "special circumstances" warrant a finding that the accommodation is "reasonable" on the facts of the particular case. The plaintiff/employee has the burden of proof to show that such "special circumstances" exist. The Court remanded *Barnett* for consideration under this standard.

In *Barnett*, a seniority system was linked to longstanding employer practice but was not part of a negotiated CBA. In its analysis, the Court relied primarily on Rehabilitation Act and ADA case law involving collectively bargained seniority systems to conclude that accommodations conflicting with seniority systems are unreasonable absent special circumstances. The Court's language broadly and consistently referred to "seniority systems." Accordingly, the Commission construes *Barnett* as applying to CBA seniority provisions as well as to seniority systems based on employer practices.

Effective Date of the Final Rule

This regulation will be effective 30 days after publication of the final rule in the **Federal Register**, and will apply to conduct occurring on or after that date.

Additional Amendment

The Commission did not receive public comment on its proposal to delete the provision in § 1614.102(a)(9) which refers to reassignment pursuant to § 1614.203(g). That paragraph is now deleted.

Regulatory Procedures

Executive Order 12866

Pursuant to Executive Order 12866, EEOC has coordinated this final rule with the Office of Management and Budget. Under section 3(f)(1) of Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local tribal governments or communities. Therefore, a detailed cost-benefit assessment of the regulation is not required.

Paperwork Reduction Act

This regulation contains no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

In addition, the Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, because it applies exclusively to employees and agencies and departments of the federal government. For this reason, a regulatory flexibility analysis is not required.

List of Subjects in 29 CFR Part 1614

Administrative practice and procedure, Equal employment opportunity, Government employees, Individuals with disabilities.

For the Commission.

Cari M. Dominguez,

Chair.

For the reasons set forth in the preamble, Chapter XIV of Title 29 of the Code of Federal Regulations is amended as follows:

PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

1. The authority citation for part 1614 continues to read as follows:

Authority: 29 U.S.C. 206(d), 633(a), 791 and 794a; 42 U.S.C. 2000e–16; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR, 1969 Comp., p. 133; E.O. 12106, 3 CFR 1978 Comp., p. 263; Reorg. Plan No. 1 of 1978, 3 CFR 1978 Comp., p. 321.

§ 1614.102 [Amended]

2. Section 1614.102 is amended by removing paragraph (a)(9) and redesignating paragraphs (a)(10) through (a)(14) as paragraphs (a)(9) through (a)(13), respectively.

3. Section 1614.203 is revised to read as follows:

§ 1614.203 Rehabilitation Act.

(a) *Model employer.* The Federal Government shall be a model employer of individuals with disabilities. Agencies shall give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities.

(b) *ADA standards.* The standards used to determine whether section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791), has been violated in a complaint alleging nonaffirmative action employment discrimination under this part shall be the standards applied under Titles I and V (sections 501 through 504 and 510) of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101, 12111, 12201), as such sections relate to employment. These standards are set forth in the Commission's ADA regulations at 29 CFR part 1630.

[FR Doc. 02–12543 Filed 5–20–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 140

[FRL–7212–4]

Marine Sanitation Devices (MSDs); Regulation to Establish a No Discharge Zone (NDZ) for State Waters within the Boundary of the Florida Keys National Marine Sanctuary (FKNMS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is establishing a NDZ for State waters within the boundaries of

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[16] *See* 42 U.S.C. 12111(9)(B) (1994).

[17] *See* Employment Service, U.S. Office of Personnel Management, People with Disabilities in the Federal Government: An Employment Guide at 31 (1999).

[18] *See* Reasonable Accommodation Guidance, *supra* note 14 at question 25, 8 FEP at 405:7622–23 (1999).

[19] *See id.*

[20] Under the ADA, a job offer is real if the employer has evaluated all relevant non-medical information which it reasonably could have obtained and analyzed prior to giving the offer. *See* Guidance on Preemployment Inquiries, *supra* note 9, at 18–19, 8 FEP 405:7200 (1995).

[21] The Supreme Court, in *US Airways*, slip op. at 10, emphasized that the employer still retains the burden of showing undue hardship.

[22] *See* 42 U.S.C. 12111(10) (1994). *See also* 29 CFR 1630.2(p) (2001).

[23] *Id.*

[24] *See* Reasonable Accommodation Guidance, *supra* note 14, at p. 39, 8 FEP at 405:7622 (1999).

[25] *Id.*

the FKNMS pursuant to section 312 (f)(4)(A) of the Clean Water Act. This action is being taken in response to an October 27, 1999, resolution passed by the FKNMS Water Quality Protection Program Steering Committee and a December 8, 1999, resolution of the Board of County Commissioners of Monroe County, Florida to establish a NDZ area for State waters within the FKNMS. These resolutions led to a December 7, 2000, letter from Governor Jeb Bush of Florida requesting this action.

DATES: This rule will take effect June 19, 2002.

ADDRESSES: Written comments or requests for information may be submitted to Wesley B. Crum, Chief, Coastal Programs, EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Drew Kendall at (404) 562–9394 or Fred McManus at (404) 562–9385.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed rule was published in the **Federal Register** on July 26, 2001 (66 FR 38967). A 90-day comment period followed (ending October 26, 2001), during which time, EPA Region 4 received 1,050 comments via letter, fax, or E-Mail. The comment tally was 1,016 in favor and 34 opposed. This **Federal Register** document will address comments submitted in response to the July 26, 2001 (66 FR 38967), **Federal Register** document. Comments in opposition to the NDZ designation are addressed in section II below in general subject categories. Comments in favor of the NDZ designation focused on the fact that the FKNMS contains unique marine ecosystems(seagrass meadows, third largest coral barrier reef in the world, and mangrove islands) that are a State and national treasure and of high ecological, educational, aesthetic, recreational, and commercial value. Commentors supporting the NDZ pointed out that these ecosystems support tremendous biological diversity, containing more than 6,000 species of plants, fish and invertebrates that depend upon pristine water quality. Further, they stated that all boaters who use the FKNMS share the responsibility to protect this resource for future generations and that establishment and compliance with the NDZ is important and necessary to protect water quality.

A map which delineates the area to be designated can be obtained or viewed by accessing the FKNMS's Web site at *http://www.fknms.nos.noaa.gov/*, by calling the Sanctuary office at (305) 743–2437, or by writing to the Sanctuary Superintendent at P.O. Box 500368, Marathon, Florida 33050. Basically, State waters extend from land out to a distance of three statute miles on the Atlantic side of the Florida Keys and nine nautical miles on the Gulf side. It should be noted that the National Oceanic and Atmospheric Administration (NOAA) is pursuing NDZ status for Federal waters within the FKNMS. It is estimated that NOAA will complete its rule-making process in late 2002 or early 2003.

Currently, there are about 30 pump out facilities located throughout the Florida Keys. To obtain a list of these facilities you may contact George Garrett, Director of Marine Resources for Monroe County, at (305) 289–2507, E-mail at *garrettg@mail.state.fl.us*, or by writing to Monroe County Service Center, 2798 Overseas Highway, Suite 420, Marathon, Florida 33050–2227.

The Florida Keys are a national treasure of international acclaim that contain unique environments and possess high value to humans when properly conserved. Adjacent to the Florida Keys land mass are located spectacular, unique nationally significant marine environments, including seagrass meadows, mangrove islands, and extensive living coral reefs. These marine environments support rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and aesthetic values. These marine environments are the maritime equivalent of tropical rain forests in that they support high levels of biological diversity, are fragile and easily susceptible to damage from human activities, including nutrient enrichment. The economy of the Florida Keys is based in large part on tourism and fisheries that are directly tied to the ecological resources and quality of the waters surrounding the Florida Keys. In recognition of this, Congress created the FKNMS with the signing of H.R. 5905 (Public Law 101–605, the FKNMS and Protection Act) on November 16, 1990. The purpose of a marine sanctuary is to protect resources and their conservation, recreational, ecological, historical, research, educational, or aesthetic values through comprehensive long-term management. The mission of the National Marine Sanctuary Program is to identify, designate, and comprehensively manage marine areas of national significance. National Marine Sanctuaries are established for the public's long-term benefit, use, and enjoyment. Congress also recognized the critical role of water quality in maintaining the ecological resources of the Florida Keys, and directed the U.S. EPA and the State of Florida to develop a Water Quality Protection Program (WQPP) for the Sanctuary. The WQPP was finalized in September 1996 and implementation of the numerous recommended actions within the WQPP is ongoing.

The State of Florida recognized the importance of water quality to ecosystem structure and function and declared the State waters surrounding the Florida Keys as "Outstanding Florida Waters" (OFW) in 1985. Florida Statute grants the Florida Department of Environmental Protection the power to establish rules that provide for the category of water bodies called OFW, which are worthy of special protection because of their natural attributes. No degradation of water quality is allowed in OFW, except as allowed in Florida Administrative Code (F.A.C.) 62–4.242(2). In addition, the Florida Keys have been designated as an "Area of Critical State Concern." The objective of this program is to provide another level of legislative review for development plans within areas where unique and fragile natural resources exist and local protection may be lacking. "Areas of Critical State Concern" are declared where there is a perceived need to protect public resources from risk by unregulated or inadequately regulated development. Further, the pristine and unique habitats of the Florida Keys have led to the establishment of special protection areas by the Federal government, including the Key West Wildlife Refuge and the Great White Heron Wildlife Refuge. These actions are further evidence of the importance of the Florida Keys and their unique natural resources.

The purpose of the WQPP is to recommend priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the FKNMS. This includes restoration and maintenance of a balanced, indigenous population of corals, shellfish, fish and wildlife, and recreational activities in and on the water. NOAA's Final Management Plan/Environmental Impact Statement for the FKNMS became effective on July 1, 1997 and includes the WQPP. The Monroe County Board of County Commissioners and the State of Florida recognize and support this document.

There is a large community in the Florida Keys that live on boats and many live-aboard vessels are permanently anchored in harbors and are not capable of movement. Transient vessels also anchor in harbors and other protected sites and are very numerous in winter months. The number of live-aboard vessels has increased dramatically in recent years. While the Clean Vessel Act prohibits the dumping of raw sewage, treated wastewater from vessels may be discharged into State waters. Wastewater treatment (disinfection) by Type I and II MSDs does not remove nutrients from wastewater. Many live-aboard and transient vessels discharge wastewater into surface waters. It is estimated that nutrients from vessel wastewater account for about 2.8% of nitrogen and 3.0% of phosphorus loadings into nearshore waters of the Florida Keys (U.S. EPA, 1993, Phase II Report). Nutrient loadings from vessels may be relatively small contributions to total Keys-wide loadings. However, loadings from vessels are a significant source of nutrients to harbors and result in eutrophication of waters that typically exhibit poor circulation/flushing. Violations of fecal coliform standards are common in marinas and harbors throughout the Florida Keys (Florida Department of Environmental Regulation 1987, 1990). The WQPP Phase II Report (1993) and other studies have determined that discharges of wastewater from vessels are degrading water quality in nearshore and confined waters. The final WQPP document (1996) identified the need to eliminate sewage discharges from live-aboard vessels and other vessels as a high priority action item. The State of Florida, as requested by the City of Key West, recently determined that the protection and enhancement of the quality of waters surrounding the City of Key West require greater environmental protection. This action prohibits the discharge from all vessels of any sewage, whether treated or not, into such waters out to a distance of 600 feet from shore. The U.S. EPA, pursuant to section 312(f)(3) of the Clean Water Act (Public Law 92–500), recently (August 25, 1999) concurred with the State's determination that adequate pumpout facilities for safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters surrounding the City of Key West.

The Board of County Commissioners of Monroe County, Florida has for some time been concerned about water quality in the Florida Keys. Monroe County's Comprehensive Plan is very strongly predicated upon environmental protection and the associated Executive Order and Work Program adopted by the Florida Governor and Cabinet are geared toward assisting Monroe County with improving and protecting water quality. The Board of County Commissioners of Monroe County has adopted a resolution requesting that the Governor of the State of Florida petition the EPA to declare all waters of the State within the boundaries of the FKNMS to be a NDZ for sewage, whether treated or not, from all vessels. Monroe County believes that this action would be a major step in protecting water quality around the Keys and especially in those areas where there are high concentrations of vessels. The NDZ designation is fully supported by the WQPP Steering Committee and is consistent with the overall goals of the WQPP for the FKNMS. This designation is also consistent with Florida's Area of Critical State Concern Program and the Principles for Guiding Development for the Florida Keys. The Governor of the State of Florida supports Monroe County's decision and submitted the County's request to EPA Region 4, asking EPA to designate all State waters within the boundary of the FKNMS as a NDZ under the authority of section 312(f)(4)(a) of the CWA.

Section 312(f)(4)(a) states: "If the EPA Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall, by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters." This authority has now been delegated to EPA Regional Administrators. On December 7, 2000, the Governor of Florida, Jeb Bush, requested that EPA Region 4 establish the NDZ status for State waters within the FKNMS. The EPA Region 4 Administrator concurs with this request.

II. Response to Comments

A. Clarification of the Requirements of Section 312 of the CWA

Several commentors appeared to misinterpret the different requirements of Clean Water Act (CWA) section 312(f)(4)(A) and CWA section 312(f)(3) and which regulatory process was being used to propose this NDZ. To propose a NDZ in this situation, there are two primary but distinct regulatory approaches that may be followed. Under CWA section 312(f)(3), the State may designate a NDZ based on a State determination that protection and enhancement of the quality of the waters within the area requires additional protection and a determination by EPA that adequate pump out facilities for safe and sanitary removal and treatment of sewage from vessels are reasonably available. This is contrasted with CWA section 312(f)(4)(A), which focuses solely on the water quality issues and does not require EPA to make the determination that adequate pump out facilities are reasonably available for State waters within the boundary of the NDZ. Under section 312(f)(4)(A), "if EPA determines upon application by a State that the protection and enhancement of the quality of specified waters within the state requires a prohibition, EPA shall, by regulation completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters." In this particular matter, the Board of County Commissioners of Monroe County, by resolution, requested that Florida Governor Jeb Bush submit an application to EPA for a NDZ designation pursuant to section 312(f)(4)(A). The Governor honored this request and applied to EPA under the authority of section 312(f)(4)(a) based on the State's finding that its waters within the boundary of the FKNMS have particular environmental importance considering the unique, fragile, and ecologically important natural resources of the Florida Keys ecosystem. However, although section 312(f)(4)(A) does not require an analysis of whether adequate pump out facilities are reasonably available, due to the number of comments received related to this issue, EPA, working with the County and the State has provided information concerning this issue below.

B. Adequate Pump Out Facilities

Many commentors' letters expressed concern about the adequacy of existing pump out facilities in the Florida Keys, including the total number of facilities and the availability of the pump outs. In addition, a few commentors stated that EPA did not investigate the availability of pump out facilities. Although it was not required for this determination under section 312(f)(4)(a), staff from EPA, the Florida Department of Environmental Protection (FDEP), and Monroe County did conduct a survey and collect information on the existing and planned pump out facilities throughout the Florida Keys. This effort identified 29 locations with active pump-out stations and several more in the planning stages (see the summary section of this final notice for instructions on how to obtain this information). The types of pump outs varied from stationary facilities located on docks, to carts that boaters can roll to their vessels, to pump out boats/barges that navigate to vessels in need of pump out services. The hours of operation usually coincided with the normal business hours of marinas and

many facilities were open seven days a week. Several pump out stations in Key West are capable of servicing large vessels. During the survey, a review of GIS maps identified several areas throughout the Florida Keys where gaps exist and where additional pump out facilities may be needed. The survey effort resulted in the development of a detailed spreadsheet and maps with specific information concerning all pump out facilities in the Florida Keys. Ideally, about 26 additional pump out facilities are recommended (by the interagency planning group mentioned above) throughout the Florida Keys for total coverage along the entire length of the islands which would eliminate the identified gaps. It should be noted that most of those areas in the Florida Keys with large populations and density of vessels have available pump out stations.

Currently, the majority of existing marinas in the Florida Keys are not required to provide pump out services. State regulations only require installation of pump out systems for new and expanded docking facilities where the development project involves construction of ten or more slips in Outstanding Florida Waters, pursuant to Rule 62–312.430 of the Florida Administrative Code (F.A.C.), or in sovereign submerged lands owned by the State, in accordance with Rule 18–21.0041(1)(b)6, F.A.C.

The FDEP Division of Law Enforcement administers the Clean Vessel Act (CVA) grant program. Under this program, grants are available to fund installation of vessel sewage pump out facilities and portable toilet dump stations at marinas. These grants can be used to fund mobile pump out systems and are available to local governments and commercial and non-profit entities operating marinas, boat ramps, mooring fields, etc.

Projects under this program receive federal/state funds for up to 75% of the project cost. Grantees are required to provide pump out services to the recreational boating public and fees shall not exceed $5.00 per service, unless justified and approved by FDEP and the U.S. Fish and Wildlife Service. FDEP staff is currently working with local governments and marina owners to increase the number of pump out facilities. Since 1996, eighteen pump out facilities have been funded with CVA grants totaling approximately $520,000 in the Florida Keys. In addition, National Fish and Wildlife Foundation and Coastal Improvement Assistance Program (CIAP) grants obtained by Monroe County will be used to establish mooring fields. CIAP grants will also be used to develop additional pump out systems.

FDEP in consultation with EPA and many other state, regional, local, and federal government agencies and concerned citizens have initiated an effort to develop an implementation plan for the NDZ. This implementation plan will consist of many components, including a public education/outreach program, a strategy to develop additional infrastructure (pump outs, mooring fields, etc.) and an enforcement strategy. Initial efforts will be focused on public education and outreach and the construction of additional pump out facilities in areas where gaps have been identified. Initially, enforcement of the NDZ will be focused in the marinas, harborages, and other protected areas where vessels congregate and where pump out facilities are available. Later, after pump out stations are added in the areas with gaps, enforcement will be expanded to all areas of the Florida Keys.

One group of commentors representing the tugboat, barge, and towboat industry commented that there are no existing facilities in the Florida Keys that can accommodate large tug/towboat units. In 1999, pursuant to section 312(f)(3) of the CWA, the State of Florida designated the waters around the City of Key West out to a distance of 600 feet from shore as a NDZ and EPA determined that adequate pump out facilities for safe and sanitary removal and treatment of sewage from vessels are reasonably available. In addition, according to the Assistant City Manager of Key West, there are existing facilities in the City of Key West that can accommodate large ocean-going vessels and can provide pump out services. The dock at Mallory Square can accommodate large tugs and towboats and presently, the City pumps the holding tanks of large vessels by running a hose from the dock to a sewage collection line that is directly connected to the City's state-of-the-art sewage treatment and disposal facility. The City has plans to install a large capacity pump station capable of servicing large vessels at Mallory Square by April 2002. The U.S. Naval Base at Truman Annex in Key West can also accommodate large vessels and is equipped with a pump out station that is directly connected to the collection system of the City's wastewater treatment facility. This U.S. Naval facility may be transferred to the City of Key West in the near future and can now be used by the City in emergency situations for pump out services. The U.S. Coast Guard Base at Trumbo Point does receive fuel shipments via tankers and this facility has a pump out station that is connected to the Key West wastewater management system. In addition, the City of Key West operates a pump out vessel with a capacity of 300 gallons and is scheduled to acquire another pump out vessel with a capacity of 1,000 gallons by summer 2002. Accordingly, consistent with our 1999 determination, EPA still believes that there are sufficient pump out facilities in the Key West area to service the limited number of ocean-going tugs, towboats, and other large vessels with destinations in the Key West area. Further, we believe that ocean-going barge traffic navigating through Sanctuary waters should be able to retain the minimum volume of sewage generated while in Sanctuary waters and then discharge that sewage when outside the established NDZ in an environmentally safe manner.

C. Effectiveness of Land-Based Wastewater Treatment Facilities/ Adequacy of Existing MSDs

Some commentors questioned whether land-based wastewater treatment systems were more effective at treating and disposing of sewage from vessels than Type 1 and 2 MSDs. EPA believes that the land based facilities which are available to treat the pumped sewage are more effective in removing a greater range of pollutants than the Type 1 and Type 2 MSDs. Type 1 and 2 MSDs are flow-through devices for treating and discharging sewage on commercial and recreational vessels that are equipped with installed toilets. When operated properly, these devices macerate fecal material and add chemicals, or otherwise treat/disinfect the sewage to meet specified requirements for fecal coliform bacteria. However, Type 1 and 2 MSDs do not remove nutrients and other pollutants (e.g.; oxygen demanding materials) that contribute to water quality degradation. The City of Key West and the City of Key Colony Beach have recently completed significant and costly upgrades to their wastewater management systems, including construction of advanced wastewater treatment plants, subsurface well injection of effluent, and replacement of inadequate sewage collection lines. In addition, there are waste water treatment facilities in the Miami area that properly treat and dispose of sewage pumped from vessel holding tanks. Further, Monroe County's Sanitary Wastewater Master Plan has been completed and the County is pursuing wastewater system upgrades to state-of-the-art wastewater management systems that remove the vast majority of nutrients from sewage prior to disposal. Pursuant to recent State legislation, all new and expanded land-based wastewater discharges permitted in the Florida Keys after June 1999 are required to meet best available technology standards for treatment and disposal, including nutrient removal. In addition, the legislation requires all existing sewage treatment plants and on-site sewage treatment and disposal systems to meet these standards by year 2010.

Several commentors stated that they had already installed an approved Type 1 MSD and that this type device is adequate to protect the environment. Boaters who have taken the initiative to install approved Type 1 MSD devices are to be commended. However, as mentioned above, Type 1 MSDs do not remove nutrients or the biochemical oxygen demand loading from vessel sewage. The population of the Florida Keys includes a large number of individuals that live on their boats and many of these vessels are permanently anchored in various harbors throughout the chain of islands. Thousands of transient vessels also anchor in harbors and other protected sites and are especially numerous in the winter months. Nutrient loadings from vessels may be a relatively minor contribution to total Keys-wide loadings. However, loadings from vessels are a significant source of nutrients to harbors and other protected areas that experience poor circulation and flushing contributing to eutrophication. Several scientific studies have determined that discharges from vessels have caused degraded water quality in nearshore areas of confined and semi-confined waters. The discharge of minimally treated sewage from vessels is not consistent with the numerous actions that the State of Florida and Monroe County have taken to restore and protect the water quality of the Florida Keys, and which formed the basis for the State's application for a NDZ.

D. Land-Based Sources of Pollution

Some respondents to the NDZ Federal Register Notice pointed out that land-based sources of pollution are the primary cause of water quality problems in the Florida Keys and that the relative contribution of vessel sewage versus other sources is minuscule. It is true that comparatively, most sewage nutrients entering the nearshore waters of the Florida Keys are from land-based sources such as inadequate cesspits, malfunctioning septic systems, and leaky collection lines associated with aging wastewater treatment plants. It is also true that the relative contribution of vessel sewage versus other sources represents a small percentage of the overall sewage load entering the system. Several scientific studies conducted in the Florida Keys have documented that sewage and the associated nutrients from onsite wastewater treatment systems migrate from land to semi-confined waters (canal systems) and other nearshore coastal waters and cause water quality degradation and eutrophication of the environment. It is estimated that nutrients from vessel wastewater account for only about 2.8% of the total nitrogen and 3.0% of the total phosphorus loadings into nearshore waters of the Florida Keys (EPA, 1999). However, loadings from vessels are a significant source of nutrients to harbors, marinas, and other protected areas where vessels congregate and result in eutrophication of waters that typically exhibit poor circulation and flushing. The WQPP document and action plan (EPA, 1996) concluded that sewage discharges from vessels were degrading water quality in nearshore and confined waters. However small the contribution from vessels may be, the fact remains that nutrients from vessel sewage does negatively impact the fragile environment of the Florida Keys (additional information is provided in section G below).

E. Enforcement

Several commentors expressed concern over the relatively large size of the proposed NDZ and felt that enforcement would be difficult. These respondents also commented that previous NDZ designations in other areas (i.e., Rhode Island) have been ineffective. As mentioned above, FDEP in consultation with EPA and many other state, regional, local, and federal government agencies and concerned citizens have initiated an effort to develop an implementation plan for the NDZ. This implementation plan will consist of many components, including a public education/outreach program, a strategy to develop additional infrastructure (pump outs, mooring fields, etc.), and an enforcement strategy. Initial efforts will be focused on public education and outreach and the construction of additional pump out facilities in areas where gaps have been identified. The NDZ implementation plan recommends that enforcement activities be phased in after the public education/outreach initiative. The recommended approach is to conduct a comprehensive public education/outreach program, after the NDZ designation becomes effective, before taking formal enforcement action, issuing citations, and imposing penalties. This phased approach will not apply to the previously established NDZ for the jurisdictional waters surrounding the City of Key West. Marine law enforcement agencies including federal, State, and local governments will actively participate in the implementation of the public education/outreach program by distributing information on the NDZ regulations to boaters.

Initially, enforcement of the NDZ will be focused in the marinas, harborages, and other protected areas where vessels congregate and where pump out facilities are available. Later, after pump out stations are added in the areas that have been identified as requiring pump outs, enforcement activities can be expanded to all areas of the Florida Keys. Achieving 100% compliance with the NDZ designation in all the State waters of the FKNMS is probably not realistic. However, EPA does believe that the vast majority of the boating public will voluntarily comply with the requirements of the NDZ and utilize the available pump out stations. This will lead to a decrease in the amount of nutrients and other pollutants entering the waters of the FKNMS and an increase in the level of protection for the waters and unique marine resources of the Florida Keys ecosystem. EPA staff reviewed the magazine articles provided by respondents concerning the Rhode Island NDZ and have discussed the status of this NDZ with staff from EPA Region 1 in Boston, Massachusetts. Problems do appear to exist with the availability of pump out facilities during certain times of the day and in some specific areas throughout the designated NDZ area. However, this information does not lead to a conclusion that the NDZ for the State of Rhode Island is ineffective. Based on the existing level of public concern for and demonstrated desire to protect the environment of the Florida Keys and the level of commitment and willingness to cooperate and coordinate on the part of all levels of government, we are confident that the NDZ designation for State waters within the boundary of the FKNMS will be successful.

F. Economic Impacts, Safety, and Feasibility

The Florida Keys have been, and continue to be an international tourist/boating destination. According to a study sponsored by NOAA, the Florida Keys Tourist Development Council, and The Nature Conservancy, visitors in the Florida Keys spent $1.38 billion during the 12-month period from June 1997 through May 1998. The primary

attractions for people who visit this area are warm weather, historic areas, fishing, and diving/snorkeling activities that are available in the nearby coral reef communities. Currently, the coral reef ecosystem is degrading. Coral reefs require waters low in nutrients to thrive. Therefore, actions that reduce the input of nutrients into this system are likely to benefit coral reefs. If the coral reefs and associated biological resources are allowed to decline, then a significant portion of the attraction for visiting this area will no longer exist.

One commentor thought that a NDZ would make it illegal to discharge grey water associated with bathing and washing dishes. Designation of an area as a NDZ does not make it illegal to discharge grey water. Another commentor believed that the NDZ would outlaw existing Type 1 and 2 MSDs currently installed onboard vessels. The NDZ designation would not cause existing Type 1 and 2 MSDs to be in violation by their mere presence onboard the vessel. However, it would be illegal for vessel operators to discharge from these devices while inside the NDZ. Type 1 and 2 MSDs should be secured to prohibit discharge while navigating or otherwise situated within the NDZ.

Some commentors stated that holding tanks were personally unacceptable and installation of Type 3 MSDs could cause various problems, including unpleasant odors, decrease in boat stability, and substantially reduce the limited usable space on the average vessel. Cost to retrofit was also cited as a negative impact on boat owners. It is indisputable that boating safety is an important consideration. Neither EPA or the State of Florida would promulgate any rule which compromises the safety of the boating public. Installation of a holding tank should be approached no differently than any other marine retrofit, and if done properly by a well-trained and certified marine mechanic, safety, odor, and cost issues can be dealt with effectively. According to the Monroe County Department of Marine Resources and the FDEP Division of Law Enforcement, the average cost of installing a typical Type 3 MSD in most vessels should be about $600. As an alternative, portable toilets (i.e.; porto-potties) can be purchased ($50 to $100) and used onboard most vessels, or boaters can tie-up at a marina with shoreside facilities.

The vast majority of vessels that operate within the FKNMS are recreational (approximately 22,000 registered recreational vessels). However, there are a significant number of commercial fishing, charter/dive/party boats, and some tugboats/towboats that operate within the boundary of the FKNMS. According to the U.S. Coast Guard, most charter/dive/party boats in the Florida Keys are already equipped with Type 3 MSDs and these commercial vessels will be able to use the available pump out facilities (most already do this) and comply with the NDZ rule. Other commercial vessels without Type 3 MSDs should be able to retrofit for less than $1,000 in most cases. A commercial vessel (e.g., tugboat/towboat, etc.) operator with an existing Type 2 MSD that chooses not to retrofit (prohibitive cost or other considerations) may install an appropriate portable toilet in addition to the existing Type 2 MSD for use while navigating through waters of the FKNMS designated as a NDZ.

Several commentors were concerned about the cost to pump out vessel holding tanks. EPA, FDEP, and Monroe County conducted a survey and collected information on the existing pump outs in the Florida Keys and determined that the range of costs to pump out was from $5.00 to $25.00, with the majority of pump out facilities charging $5.00. The number of times a tank will need to be pumped out will depend on usage. Live-aboards will have to pump out fairly often while less frequent boat users will need to empty the tank much less often. Using $10.00 as the pump out charge, ($10 is on the high end, most pump outs cost $5) and one pump out per week, results in an estimated annual cost of $520 per vessel per year. Annual costs in this range are considered reasonable. It should also be noted that pump out fees may qualify as a business expense and may be tax deductible for some vessel owners.

One commentor suggested that it would be a better use of funds from FDEP to provide money for research into more effective MSD technology. The State of Florida, in accordance with section 312 (f)(4)(A) filed an application for the designation of the NDZ and EPA has the responsibility of processing that application. EPA would always encourage research into more effective means to reduce pollution that is being discharged into the nation's waters. However, whether FDEP should fund research into more effective MSDs is an issue that EPA would defer to the State.

G. Availability of Scientific Evidence to Support NDZ

Several commentors claimed that there is no scientific evidence to demonstrate that the proposed NDZ will improve water quality in the Florida Keys aquatic environment. It is their opinion that Type I or Type II MSDs are effective and that their use does not contribute to water quality problems.

As part of the Florida Keys National Marine Sanctuary and Protection Act of 1990, specific programs were established to address water quality issues. Water quality matters in the Florida Keys are reviewed and evaluated by the Steering Committee for the Water Quality Protection Program. The Steering Committee consists of federal and State resource agency managers, local elected officials and knowledgeable citizens. The Steering Committee receives technical guidance from the Water Quality Protection Program Technical Advisory Committee which consists of scientists from the Florida Keys and South Florida. Both committees concurred that water quality concerns in the Florida Keys must be addressed comprehensively. The committees concluded that elimination of discharges from vessels, including discharge from Type I or Type II MSDs, will eliminate a known source of water quality degradation.

A major challenge to scientists and managers working in the Florida Keys, and elsewhere, is being able to differentiate the natural variability of ecosystems from human-caused disturbances. Signs of ecosystem stress in the Florida Keys include loss of coral cover and diversity, particularly at offshore bank reefs, increasing nitrogen and phosphorus concentrations in the near shore waters, decreased water clarity, and changes in the natural benthic community composition. Comprehensive monitoring has documented a 37% reduction in stony coral coverage between 1996 and 2000. Also, the reason that monitoring was initiated was the observed, but poorly quantified loss of coral cover at many sites prior to 1996. Habitat and water quality degradation in canals and other semi-confined waters within the Florida Keys has been measured and is related to population density. The distance from shore at which ecological changes are attributable to sources of pollution continues to be a subject of scientific debate.

Scientists have postulated that the observed degradation of the Florida Keys marine ecosystem is due to multiple stressors operating on different scales. The increase in atmospheric carbon dioxide and warming of ocean waters is occurring on a global scale and may be responsible for weakening corals through bleaching or other heat-related stresses. Nutrient addition to coastal waters is a local stressor that may be more easily managed than others by implementing wastewater and storm water treatment technologies to eliminate or significantly reduce nutrient addition.

Just like lawn fertilizer, human wastes contain nutrients that if discharged to water can stimulate algal growth and deplete the amount of oxygen in the water. Algal growth and changes in water chemistry are two of the identified factors in ecosystem decline. The most readily observed impacts of nutrient addition occur in confined waters (canals, marina basins) because of reduced circulation and/or reduced dilution. However, it is feared that if nutrient additions continue or increase, those perturbations will result in changes in community structure further and further from shore.

Manipulative experiments in seagrass beds in south Florida have demonstrated that the time course of response of seagrass beds to nutrient enrichment is on the order of decades. Since the bank reefs are already stressed and are a major component of the economy of the Keys, it is prudent to reduce all manageable sources of pollution before additional environmental degradation occurs.

The Florida Keys ecosystem is, hydrologically, very "open." Water current directions and speeds are very complex and are just beginning to be understood. Nutrients and other pollutants derived from other geographical areas undoubtedly reach waters surrounding the Florida Keys. The mass balance loadings from these various sources have not been quantified because of the hydrological complexity. However, nutrient loadings from land-based sources and vessels in the Keys have been estimated (EPA, 1993; Monroe County Sanitary Wastewater Master Plan, 2000; Monroe County Storm Water Master Plan, 2001). Nutrient loading to a water body can come from various land-based sources including residential, commercial, and municipal sewage treatment systems, poor storm water practices, and other discharges from shoreline facilities and boats.

It is estimated that nutrients from vessel wastewater account for only about 2.8% of the total nitrogen and 3.0% of the total phosphorus loadings into nearshore waters of the Florida Keys (EPA, 1999). While these percentages may not seem significant Keys-wide, it is thought that vessel discharge is a major contributor of nutrients in harbors and other anchorages where vessels congregate.

Type I MSDs treat sewage with disinfectant chemicals before discharge and the discharges must not show any visible floating solids. Type II MSDs provide a higher level of maceration and disinfection, and the discharge contains a greater level of chemicals. Neither Type I or Type II MSDs remove nutrients from the discharge. Raw sewage or improperly treated sewage from vessels or other sources is not only visually repulsive, but also has the potential to expose swimmers and shellfish to pathogens.

Waterborne illnesses directly attributable to sewage pollution include hepatitis, typhoid, cholera, and gastroenteritis. The indicators used to detect the presence of sewage pollution are usually not the pathogens themselves, but rather a type of bacteria called fecal coliform bacteria. Fecal coliform bacteria detected in water can be an indicator of the presence of human waste and the potential exposure to diseases. Enterococci bacteria are another indicator of fecal contamination that is more specific to human wastes than fecal coliform bacteria. When bacteria levels exceed designated public health standards, swimming beaches and shellfish beds may be closed, which can harm tourism and deteriorate the quality of life.

Several studies conducted by the FDEP, or its predecessor agency, have documented water quality standard violations or other signs of eutrophication (nutrient enrichment) in areas where vessels congregate in the Florida Keys. In 1985, State scientists studied the water quality of waters surrounding the Keys in preparation for their proposed designation as Outstanding Florida Waters (OFW). That study concluded that the majority of waters met the criteria for designation as OFW, but that certain areas, including canals and other confined waters exhibited low values in dissolved oxygen, high nutrient concentrations, and violations of the fecal coliform standard. These areas were listed as "hot spots" by EPA (Phase 1 Report, 1992). Included in that list are several marinas or boat basins (e.g., Plantation Yacht Harbor, Faro Blanco Marina, Boot Key Harbor, Oceanside Marina, and Garrison Bight Marina).

In 1984, FDEP (1987) measured water quality parameters in the vicinity of the City of Marathon (Middle Keys). High levels of nutrients and fecal coliform bacteria were found at Faro Blanco Marina during the tourist season due to discharge of sewage from vessels. In 1990, the Florida Department of Environmental Regulation conducted an intensive one-year study to assess the water quality in Boot Key Harbor (Marathon). Boot Key Harbor is a basin with limited flushing that has approximately 400 live-aboard vessels during winter months. The canals discharging into the basin and the basin itself had reduced oxygen concentration and high fecal coliform concentrations. Fecal coliform levels in the basin were highest during winter months at stations in close proximity to live-aboard vessels; violations of the State standard for fecal coliform bacteria were common.

In 1994, Lapointe et al. assessed nutrient concentrations along transects from known sources, including House Boat Row (Cow Key Channel), Key West. Nutrients were highest at the sources and decreased seaward. They found elevated nutrients hundreds of meters offshore of the source. Because any degradation from ambient conditions is a violation of OFW standards, these elevated nutrient concentrations were a violation of State water quality standards. They also concluded that nutrient enrichment was resulting in significant degradation to seagrass community structure for a considerable distance from shore.

One commentor stated that the use of MSDs on commercial vessels transiting the Keys would cause no water quality or habitat degradation. There are no site-specific scientific studies available that directly address that matter. There are many variables to consider in assessing the impacts of vessels transiting Keys waters including the volume of discharge, level of treatment, the number of vessels, the depth and distance from shore or other sources of pollution, current patterns, and the habitat type at the discharge point. The dilution of wastewater from a single vessel transiting the Keys may be so great that the discharge may not cause serious ecological problems and may not be detectable within a short distance from the point of discharge. However, the cumulative impact from many transiting vessels could be significant. The potential impacts are increased if the transiting vessels discharge in close proximity to coral reef or seagrass habitats. As a practical matter, allowing some vessels to discharge at some locations within the FKNMS would lead to confusion among boaters and enforcement problems. Thus, it is our determination that the prudent and expedient course of action is to eliminate all discharges of wastewater from all vessels in State waters in the FKNMS.

H. Geographic Scope of NDZ

At least one commentor noted that the jurisdictional waters surrounding the City of Key West have previously been designated as a NDZ and suggested that the proposed Keys-wide NDZ be limited

to 600 feet from shore and only in areas with adequate pump outs. EPA, pursuant to section 312 (f)(3) of the CWA, concurred (August 1999) with the State of Florida's determination that adequate pump out facilities for safe and sanitary removal and treatment of sewage from all vessels are reasonably available for waters surrounding the City of Key West. The action cited above prohibits the discharge from all vessels of any sewage, whether treated or not, into such waters around Key West out to a distance of 600 feet from shore.

Based on information provided by the Monroe County Department of Marine Resources, there are many vessel anchorage areas (both nearshore and offshore) throughout the Florida Keys that are outside the zone that would be delineated by a line 600 feet from shore. Many, if not most, of these anchorages are situated in areas with extensive living corals, seagrass meadows, and other unique and ecologically important marine resources. A NDZ limited to 600 feet from shore would not provide an increased level of protection to a vast area within the FKNMS that contains fragile and nationally significant marine resources. In addition, limiting the NDZ area to a line 600 feet from shore would cause confusion among the boating public and would complicate and confound enforcement of the NDZ designation. Therefore, EPA believes that the NDZ should encompass all State waters within the boundary of the FKNMS to provide the highest level of protection afforded by law to the waters and the precious marine ecosystem of the Florida Keys.

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is significant and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. This Order defines "significantly regulatory action" as likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact or entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA, in consultation with local and State government officials, has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13132

The State of Florida is requesting that EPA take action to designate State waters within the FKNMS as a NDZ. Therefore, this order does not apply.

C. Executive Order 13175

This order pertains to compliance costs of this rule to tribes. There are no tribal lands within the boundaries of the FKNMS. Therefore, this order does not apply.

D. Executive Order 13045

This order authorizes EPA the discretion to consider health or safety risks (especially for children) when making regulatory determinations. The net result of this action will be to improve environmental conditions within the FKNMS.

E. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 6501 *et seq* whenever an agency is developing regulations, it must prepare and make available for public comment the impact of the regulations on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required if the head of the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. EPA policy dictates that an Initial Regulatory Flexibility Analysis (IRFA) be prepared if the proposed action will have any significant effect on any small entities. An abbreviated IRFA can be prepared depending on the severity of the economic impact and relevant statute's allowance of alternatives. After considering the economic impacts of this proposed regulation/rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

F. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as we minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and recordkeeping requirements affecting 10 or more non-Federal respondents be approved by OMB. Since today's rule would not establish or modify any information and recordkeeping requirements, it is not subject to the requirements of the Paperwork Reduction Act.

G. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statute is required for EPA rules under section 205 of the Act, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must consider that alternative, unless the Administrator explains otherwise in the final rule. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them opportunity for meaningful and timely input during the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them of compliance with the regulatory requirements.

EPA, in consultation with local and State government officials, has determined that this rule does not include a Federal mandate that will result in estimated annualized costs of $100 million or more to either State, local, and tribal governments in the aggregate, or to the private sector. All vessels that are equipped with MSDs and that navigate throughout the FKNMS are already subject to the EPA MSD Standard at 40 CFR part 140 and the U.S. Coast Guard MSD Standard at 33 CFR part 159. These standards prohibit the overboard discharge of untreated vessel sewage in State waters in the FKNMS and require that vessels with on-board toilets shall have U.S. Coast Guard certified MSDs which either retain sewage or treat sewage to the applicable standards.

There are 3 types of MSDs certified by the U.S. Coast Guard. Only those vessels that have either one of the two types of certified flow-through devices will be affected by this rule. Those vessels affected by this rule will either retain and pump out treated sewage or discharge outside of the designated NDZ. Any costs associated with those activities is minimal and it is therefore estimated that the annualized costs to State or tribal governments in the aggregate, or to the private sector, will not exceed $100 million.

Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Act. Because the rule contains no regulatory requirements that might significantly or uniquely affect small governments, it is also not subject to the requirements of section 203 of the Act. Small governments are subject to the same requirements as other entities whose duties result from this rule and they have the same ability as other entities to retain and pump out treated sewage or discharge outside of the designated zones.

List of Subjects in 40 CFR Part 140

Environmental protection, Sewage disposal, Vessels.

Dated: May 7, 2002.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

Title 40, Chapter 1, Part 140 of the Code of Federal Regulations is amended as follows:

PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

Authority: 33 U.S.C. 1322.

2. Section 140.4 is amended by adding paragraph (b)(1)(ii)to read as follows:

§ 140.4 Complete prohibition.

* * * * *

(b) ***

(1) ***

(ii) Waters of the State of Florida within the boundaries of the Florida Keys National Marine Sanctuary as delineated on a map of the Sanctuary at *http://www.fknms.nos.noaa.gov/*.

* * * * *

[FR Doc. 02–12283 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7523]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Executive Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Fairfield.	Town of Greenwich.	February 11, 2002, February 18, 2002, *Greenwich Times.*	Mr. Richard Bergstresser, First Selectman for the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Feb. 4, 2002	090008 C
Delaware: New Castle.	Unincorporated Areas.	March 25, 2002, April 1, 2002, *The News Journal.*	Mr. Thomas P. Gordon, New Castle County Executive, New Castle County Government Center, 87 Reads Way, New Castle, Delaware 19720.	July 1, 2002	105085 D
Illinois: Kane	City of Geneva	March 6, 2002, March 13, 2002, *Kane County Chronicle.*	The Honorable Kevin Burns, Mayor of the City of Geneva, 22 South First Street, Geneva, Illinois 60134.	June 12, 2002	170325 B
Indiana: DeKalb	Unincorporated Areas.	February 26, 2002, *The Evening Star.*	Ms. Connie Miles, President of the County Commissioners, 100 South Main Street, Auburn, Indiana.	Mar. 28, 2002	18044 B
Hamilton	Town of Westifeld	April 12, 2002, April 19, 2002, *The Daily Ledger.*	Mr. Michael McDonald, Town of Westfield Council President, 130 Penn Street, Westfield, Indiana 46074.	July 19, 2002	180083 C
Maryland: Montgomery	City of Rockville	March 6, 2002, March 13, 2002, *Rockville Gazette.*	The Honorable Larry Giammo, Mayor of the City of Rockville, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 28050.	Feb. 22, 2002	200051 B
Howard	Unincorporated Areas.	December 13, 2001, December 20, 2001, *The Howard County Times.*	Mr. James N. Robey, Howard County Executive, 3430 Courthouse Drive, Ellicott City, Maryland 21043.	Nov. 28, 2001	240044 B
New York: Queensbury.	Town of Queensbury.	February 13, 2002, February 20, 2002, *The Post-Star.*	Mr. Dennis Brower, Supervisor for the Town of Queensbury, 742 Bay Road, Queensbury, New York 12804.	Aug. 6, 2002	360879 B
Ohio: Hamilton	Unincorporated Areas.	April 12, 2002, April 19, 2002, *The Cincinnati Enquirer.*	Mr. David J. Krings, Hamilton County Administrator, 138 East Court Street, Room 603, Cincinnati, Ohio 45202.	April 4, 2002	390204 B
Pennsylvania: Chester	Township of East Bradford.	April 25, 2002, May 2, 2002, *Daily Local News.*	Mr. John T. Jordan, Chairman of the Township of East Bradford Board of Supervisors, 666 Copeland School Road, West Chester, Pennsylvania 19380.	August 1, 2002	420276 D
Bucks	Township of Hilltown.	April 23, 2002, *The Intelligencer.*	Mr. Ken Bennington, Chairman of the Township of Hilltown Board of Supervisors, 13 West Creamery Road, Hilltown, Pennsylvania 18297.	May 24, 2002	420189 D
Lehigh	Township of Salisbury.	March 11, 2002, March 18, 2002, *Morning Call.*	Mr. Gabriel Khalife, Manager of the Township of Salisbury, 2900 South Pike Avenue, Allentown, Pennsylvania 18103.	June 17, 2002	450591 D
Chester	Township of Willistown.	April 17, 2002, April 24, 2002, *Daily Local News.*	Mr. Robert T. Lang, Chairman of the Township of Willistown Board of Supervisors, 688 Sugartown Road, Malvern, Pennsylvania 19335.	April 1, 2002	422282 D
Puerto Rico	Commonwealth	November 16, 2001, November 23, 2001, *The San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, Office of the Governor, P.O. Box 9020082, San Juan, Puerto Rico 00901.	Nov. 7, 2002	720000 E

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Virginia: Prince William	Unincorporated Areas.	April 19, 2002, April 26, 2002, *Potomac News.*	Mr. Craig Gerhart, Prince William County Executive, 1 County Complex Court, Prince William, Virginia 22192.	April 3, 2002	510119 D
Prince William	Unincorporated Areas.	February 7, 2002, February 14, 2002, *Potomac News.*	Mr. Craig Gerhart, Prince William County Executive, 1 County Complex Court, Prince William, Virginia 22192.	May 16, 2002	510119 D
Fauquier	Town of Warrenton.	March 21, 2002, March 28, 2002, *Fauquier Citizen.*	Mr. John Anzivino, Warrenton Town Manager, Municipal Building, 18 Court Street, Warrenton, Virginia 20186.	Mar. 5, 2002	510057 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12656 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–P–7610]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Administrator for Federal Insurance and Mitigation Administration reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arkansas: Cleburne.	Unincorporated Areas.	April 3, 2002, April 10, 2002, *The Sun Times.*	The Honorable Claude Dill, Judge, Cleburne County, County Courthouse, 301 West Main Street, Heber Springs, Arkansas 72543.	March 12, 2002	050424
Illinois: Cook	Unincorporated Areas.	March 20, 2002, March 27, 2002, *The Chicago Tribune.*	Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	June 26, 2002	170054
Illinois: Cook	Unincorporated Areas.	January 17, 2002, January 24, 2002, *Northbrook Star.*	Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Northbrook, Illinois 60602.	December 20, 2001 ..	170054
Illinois: St. Clair ..	City of Belleville	January 8, 2002, January 15, 2002, *Belleville News-Democrat.*	The Honorable Mark A. Kern, Mayor, City of Belleville, 101 South Illinois Street, Belleville, Illinois 62220.	April 16, 2002	170618
Illinois: Cook	City of Northbrook.	January 17, 2002, January 24, 2002, *Northbrook Star.*	Mr. Mark W. Damisch, President, Village of Northbrook, 1225 Cedar Lane Northbrook, Illinois 60062–4582.	December 20, 2001 ..	170132
Illinois: Cook	City of Oak Forest.	March 20, 2002, March 27, 2002, *The Chicago Tribune.*	The Honorable Patrick M. Gordon, Mayor, City of Oak Forest, 15440 South Central Avenue, Oak Forest, Illinois 60452.	June 26, 2002	170136
Illinois: Will	Village of Plainfield.	February 20, 2002, February 27, 2002, *The Enterprise.*	Mr. Richard Rock, President, Village of Plainfield, 530 West Lockport Street, Suite 206, Plainfield, Illinois 60544.	May 29, 2002	170771
Indiana: Dearborn	Town of Greendale.	February 7, 2002, February 14, 2002, *The Dearborn County Register.*	The Honorable Doug Hedrick, Mayor, Town of Greendale, 510 Ridge Avenue, Greendale, Indiana 47025.	January 9, 2002	180040
Indiana: Johnson	City of Greenwood.	April 3, 2002, April 10, 2002, *Greenwood and Southside Challenger.*	The Hon. Charles E. Henderson, Mayor, City of Greenwood, 2 North Madison Avenue, Greenwood, Indiana 46142.	April 22, 2002	180115
Indiana: Dearborn	City of Lawrenceburg.	February 7, 2002, February 14, 2002, *The Dearborn County Register.*	The Honorable Paul E. Tremain, Mayor, City of Lawrenceburg, 450 Main Street, Lawrenceburg, Indiana 47025.	January 9, 2002	180041
Michigan: Oakland.	Village of Lake Orion.	April 3, 2002, April 10, 2002, *The Lake Orion Review.*	Ms. JoAnn Van Tassel, Manager, Village of Lake Orion, 37 East Flint Street, Lake Orion, Michigan 48362.	April 5, 2002	260588
Michigan: Macomb.	City of Warren ...	March 22, 2002, March 29, 2002, *The Macomb Daily.*	The Hon Mark A. Steenbergh, Mayor, City of Warren, Warren Municipal Building, 29500 Van Dyke Avenue, Warren, Michigan 48093.	June 28, 2002	260129
Michigan: Macomb.	Township of Washington.	February 8, 2002, February 15, 2002, *The Macomb Daily.*	Mr. Gary Kirsh, Supervisor, Township of Washington, P.O. Box 94067, Washington, Michigan 48094.	December 21, 2001 ..	260447
Minnesota: Anoka	City of Coon Rapids.	February 15, 2002, February 22, 2002, *The Herald.*	The Honorable Ilona McCauley, Mayor, City of Coon Rapids, 11155 Robinson Drive, Coon Rapids, Minnesota 55433.	January 22, 2002	270011
Minnesota: Rice ..	City of Dundas ..	January 23, 2002, January 30, 2002, *Northfield News.*	The Honorable Myron Malecha, Mayor, City of Dundas, 216 Railway Street North, Dundas, Minnesota 55109–4013.	May 1, 2002	270403

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Missouri: St. Louis.	City of Ladue	April 19, 2002, April 26, 2002, *St. Louis Post Dispatch.*	The Honorable Jean Quenlen, Mayor, City of Ladue, 9345 Clayton Road, Ladue, Missouri 63124–1511.	April 2, 2002	290363
Missouri: Ste. Genevieve.	City of Ste., Ste. Genevieve.	February 20, 2002, February 27, 2002, *Ste. Genevieve Herald.*	The Honorable Kathleen Waltz, Mayor, City of Ste. Genevieve, 165 South Fourth Street, Ste. Genevieve, Missouri 63670.	February 8, 2002	290325
Missouri: Ste. Genevieve.	Unincorporated Areas.	February 20, 2002, February 27, 2002, *Ste. Genevieve Herald.*	Mr. Dennis Huck, County Commissioner, Ste. Genevieve County, 165 South Fourth Street, Ste. Genevieve, Missouri 63670.	February 8, 2002	290833
New Mexico: Bernalillo.	City of Albuquerque.	February 21, 2002, February 28, 2002, *Albuquerque Journal.*	Mr. Tom Rutherford, Chairman, Bernalillo County, 2400 Broadway, S.E., Albuquerque, New Mexico 87102.	January 29, 2002	350001
Ohio: Lorain	City of Avon	March 22, 2002, March 29, 2002, *The Morning Journal.*	The Honorable James A. Smith, Mayor, City of Avon, 36080 Chester Road, Avon, Ohio 44011.	June 28, 2002	390348
Ohio: Montgomery.	City of Centerville.	March 15, 2002, March 22, 2002, *Dayton Daily News.*	The Honorable Sally D. Beals, Mayor, City of Centerville, 7875 Stonehouse Court, Centerville, Ohio 45459.	June 21, 2002	390408
Ohio: Delaware ...	Unincorporated Areas.	March 6, 2002, March 13, 2002, *Westerville News and Public Opinion.*	Mr. James Ward, President, Delaware County, Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015.	June 12, 2002	390146
Ohio: Franklin	Unincorporated Areas.	March 6, 2002, March 13, 2002, *Westerville News and Public Opinion.*	Mr. Dewey R. Stokes, President, Franklin County, Board of Commissioners, 373 South High Street, 26th Floor, Columbus, Ohio 43215.	June 12, 2002	390167
Ohio: Franklin	City of Grove City.	April 17, 2002, April 24, 2002, *Suburban News Publication.*	The Hon. Cheryl L. Grossman, Mayor, City of Grove City, P.O. Box 427, Grove City, Ohio 43123.	July 24, 2002	390173
Ohio: Lucas	Unincorporated Areas.	February 19, 2002, February 26, 2002 *Farmland News.*	Ms. Sandy Isenberg, President, Lucas County, Board of Commissioners, One Government Center, Suite 800, Toledo, Ohio 43604.	May 28, 2002	390359
Ohio: Franklin and Delaware.	City of Westerville.	March 6, 2002, March 13, 2002, *Westerville News and Public Opinion.*	The Honorable Stewart Flaherty, Mayor, City of Westerville, 21 South State Street, Westerville, Ohio 43081.	June 12, 2002	390179
Ohio: Franklin and Delaware.	City of Westerville.	April 10, 2002, April 17, 2002 *Westerville News and Public Opinion.*	The Honorable Stewart Flaherty, Mayor, City of Westerville, 21 South State Street, Westerville, Texas 43081.	March 8, 2002	390179
Oklahoma: Oklahoma.	Unincorporated Areas.	March 22, 2002, March 29, 2002, *The Edmond Sun.*	The Honorable Saundra Naifeh, Mayor, City of Edmond, P.O. Box 2970, Edmond, Oklahoma 73083.	February 28, 2002	400252
Oklahoma: Tulsa	Unincorporated Areas.	March 7, 2002, March 14, 2002, *Tulsa World.*	The Honorable Wilbert E. Collins, Chairman, Board of Commissioners, 500 South Denver, Tulsa, Oklahoma 74103.	June 13, 2002	400462
Texas: Tarrant	City of Arlington	April 10, 2002, April 17, 2002, *The Arlington Morning News.*	The Honorable Elzie Odom, Mayor, City of Arlington, 101 West Abram Street, Arlington, Texas 76004–0231.	July 16, 2002	485454
Texas: Travis	City of Austin	March 5, 2002, March 12, 2002, *Austin American Statesman.*	The Honorable Kirk P. Watson, Mayor, City of Austin, 124 West 8th Street, Austin, Texas 78701.	January 18, 2002	480624
Texas: Travis	City of Austin	April 30, 2002, May 7, 2002, *Austin American Statesman.*	The Honorable Kirk P. Watson, Mayor, City of Austin, 124 West 8th Street, Austin, Texas 78701.	August 6, 2002	480624

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Texas: Bexar	Unincorporated Areas.	January 17, 2002, January 24, 2002, *San Antonio Express News.*	The Honorable Cyndi T. Krier, Judge, Bexar County, 100 Dolorosa, Suite 101, San Antonio, Texas 78205–3035.	April 25, 2002	480035
Texas: Bexar	Unincorporated Areas.	February 21, 2002, February 28, 2002, *San Antonio Express News.*	The Honorable Nelson W. Wolff, Judge, Bexar County, 100 Dolorosa, Suite 101, San Antonio, Texas 78205–3035.	May 30, 2002	480035
Texas: Johnson ..	City of Burleson	February 20, 2002, February 27, 2002, *The Burleson Star.*	The Honorable Byron Black, Mayor, City of Burleson, 141 West Renfro, Burleson, Texas 76028.	May 29, 2002	485459
Texas: Comal	Unincorporated Areas.	November 16, 2001, November 23, 2001, *New Braunfels Herald-Zeitung.*	The Honorable Danny Scheel, Judge, Comal County, 150 North Seguin Street, New Braunfels, Texas 78130.	February 22, 2002	485463
Texas: Montgomery.	City of Conroe ...	February 19, 2002, February 26, 2002, *The Courier.*	The Honorable Carter Moore, Mayor, City of Conroe, P.O. Box 3066, Conroe, Texas 77305.	May 28, 2002	480484
Texas: Denton	Town of Corinth	April 3, 2002, April 10, 2002, *Lake Cities Sun Paper.*	The Hon. Shirley Spellerberg, Mayor, Town of Corinth, 2003 South Corinth, Corinth, Texas 76205.	July 10, 2002	481143
Texas: Dallas	City of Dallas	January 24, 2002, January 31, 2002, *Dallas Morning News.*	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, City Hall, Dallas, Texas 75201.	May 1, 2002	480171
Texas: Tarrant	City of Fort Worth.	March 20, 2002, March 27, 2002, *Fort Worth Star-Telegram.*	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	June 26, 2002	480569
Texas: Tarrant	City of Fort Worth.	April 3, 2002, April 10, 2002, *Fort Worth Star-Telegram.*	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	July 10, 2002	480596
Texas: Dallas	City of Garland ..	March 7, 2002, March 14, 2002, *Garland Morning News.*	The Honorable Jim Spence, Mayor, City of Garland, 200 North 5th Street, P.O. Box 469002, Garland, Texas 76046–9002.	June 13, 2002	485471
Texas: Harris	City of Houston	January 10, 2002, January 17, 2002, *Houston Chronicle.*	The Honorable Lee P. Brown, Mayor, City of Houston, P.O. Box 1562 Houston, Texas 77251.	April 18, 2002	480296
Texas: Williamson	City of Hutto	February 21, 2002, February 28, 2002, *Hutto Herald.*	The Honorable Glen Pierce, Mayor, City of Hutto, P.O. Box 280, Hutto, Texas 78634.	May 30, 2002	481047
Texas: Dallas	City of Irving	April 4, 2002, April 11, 2002 *The Irving Morning News.*	The Honorable Joe H. Putnam, Mayor, City of Irving, P.O. Box 152288, Irving, TX 75015–2288.	March 8, 2002	480180
Texas: Midland ...	City of Midland ..	May 2, 2002, May 9, 2002, *Midland Reporter-Telegram.*	The Honorable Michael J. Canon, Mayor, City of Midland, City Hall, 300 N. Loraine, Midland, Texas 79701.	August 8. 2002	480477
Texas: Montgomery.	Unincorporated Areas.	March 6, 2002, March 13, 2002, *The Courier.*	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 201, Conroe, Texas 77301.	June 12, 2002	480483
Texas: Montgomery.	Unincorporated Areas.	March 20, 2002, March 27, 2002, *The Courier.*	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.	February 26, 2002	480483
Texas: Montgomery.	Unincorporated Areas.	March 21, 2002, March 28, 2002, *The Courier.*	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.	March 1, 2002	480483

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Texas: Tarrant	City of North Richland Hills.	January 8, 2002, January 15, 2002, *Fort Worth Star-Telegram.*	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	December 19, 2001 ..	480607
Texas: Tarrant	City of North Richland Hills.	March 4, 2002, March 11, 2002, *Fort Worth Star-Telegram.*	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	January 23, 2002	480607
Texas: Montgomery.	City of Oak Ridge North.	March 6, 2002, March 13, 2002, *The Courier.*	The Honorable Joe Michels, Mayor, City of Oak Ridge North, City Hall, 27424 Robinson Road, Oak Ridge North, TX 77385.	June 12, 2002	481560
Texas: Collin	City of Plano	February 20, 2002, February 27, 2002, *Plano Star Courier.*	The Honorable Jeran Akers, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	May 29, 2002	480140
Texas: Rockwall	City of Rockwall	March 22, 2002, March 29, 2002, *The Rockwall/Rowlett Morning News.*	The Honorable Scott Self, Mayor, City of Rockwall, 205 West Rusk, Rockwall, TX 75087.	March 1, 2002	480547
Texas: Tarrant	Unincorporated Areas.	April 3, 2002, April 10, 2002, *Fort Worth Star-Telegram.*	The Honorable Tom Vandergriff, Judge, Tarrant County, 100 East Weatherford Street, Fort Worth, Texas 76196–0101.	July 10, 2002	480582
Texas: Travis	Unincorporated Areas.	March 6, 2002, March 13, 2002, *Austin American-Statesman.*	The Honorable Samuel T. Briscoe, Judge, Travis County, P.O. Box 1748, Austin, Texas 78767–1748.	June 12, 2002	481026
Texas: Collin	City of Wylie	March 20, 2002, March 27, 2002, *Wylie News.*	The Honorable John Mondy, Mayor, City of Wylie, 2000 State Highway 78 North, Wylie, TX 75098.	March 1, 2002	480759

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 14, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12655 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps ((FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4. *National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Craighead (FEMA Docket No. 7608).	City of Jonesboro	September 4, 2001, September 11, 2001, *The Jonesboro Sun.*	The Honorable Hubert Brodell, Mayor, City of Jonesboro, P.O. Box 1845, Jonesboro, Arkansas 72403–1845.	Aug. 15, 2001	050048
Arkansas: Pope (FEMA Docket No. 7606).	City of Russellville.	August 21, 2001, August 28, 2001, *The Courier.*	The Honorable Raye Turner, Mayor, City of Russellville, P.O. Box 428, Russellville, Arkansas 72801.	July 30, 2001	050178
Illinois:					
Lake (FEMA Docket No. 7606).	Village of Lake Zurich.	August 16, 2001, August 23, 2001, *Lake Zurich Courier.*	The Honorable James Krischke, Mayor, Village of Lake Zurich, 70 East Main Street, Lake Zurich, Illinois 60047.	July 18, 2001	170376
Will (FEMA Docket No. 7606).	Unincorporated Areas.	July 24, 2001, July 31, 2001, *Chicago Sun-Times.*	Mr. Joseph L. Mikan, Will County Executive, 302 North Chicago Street, Joliet, Illinois 60432.	Oct. 30, 2001	170695
Indiana:					
Howard (FEMA Docket No. 7608).	Unincorporated Areas.	October 23, 2001, October 30, 2001, *Kokomo Tribune.*	Mr. John Harbaugh, President, Howard County, Board of Commissioners, 230 North Main, Kokomo, Indiana 46901.	Oct. 12, 2001	180414
Howard (FEMA Docket No. 7608).	City of Kokomo ...	October 23, 2001, October 30, 2001, *Kokomo Tribune.*	The Honorable James Trobaugh, Mayor, City of Kokomo, 100 South Union Street, Kokomo, Indiana 46901.	Oct. 12, 2001	180093
Iowa: Black Hawk (FEMA Docket No. 7606).	City of Cedar Falls.	July 24, 2001, July 31, 2001, *Waterloo Cedar Falls Courier.*	The Honorable Jon Crews, Mayor, City of Cedar Falls, 220 Clay Street, Cedar Falls, Iowa 50613.	June 22, 2001	190017
Minnesota: Winona (FEMA Docket No. 7608).	Unincorporated Areas.	December 21, 2001, December 28, 2001, *Winona Daily News.*	Mr. David Stoltman, Chairperson, Winona County, Board of Commissioners, 177 Main Street, Winona, Minnesota 55987.	Mar. 29, 2002	270525
Missouri:					
St. Charles (FEMA Docket No. 7608).	City of Cottleville	October 5, 2001, October 12, 2001, *St. Charles Journal.*	The Honorable Robert Powers, Mayor, City of Cottleville, P. O. Box 387, Cottleville, Missouri 63338.	Jan. 11, 2002	290898
St. Charles (FEMA Docket No. 7608).	Unincorporated Areas.	October 5, 2001, October 12, 2001, *St. Charles Journal.*	Mr. Joe Ortwerth, St. Charles County Executive, 201 North Second Street, St. Charles, Missouri 63301.	Jan. 11, 2002	290315
Marion (FEMA Docket No. 7606).	Unincorporated Areas.	August 1, 2001, August 8, 2001, *Palmyra Spectator.*	Mr. Lyndon, Presiding Commissioner, Marion County, 100 South Main Street, Palmyra, Missouri 63461.	July 9, 2001	290222

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Ohio: Lorain (FEMA Docket No. 7608).	City of Avon Lake	October 24, 2001, October 31, 2001, *The Morning Journal.*	The Honorable Robert Berner, Mayor, City of Avon Lake, 150 Avon Belden Road, Avon Lake, Ohio 44012–1699.	Jan. 30, 2002	390602
Oklahoma:					
Tulsa (FEMA Docket No. 7608).	City of Broken Arrow.	November 1, 2001, November 8, 2001, *Broken Arrow Ledger.*	The Honorable Jim Reynolds, Mayor, City of Broken Arrow, 220 South First Street, Broken Arrow, Oklahoma 74012.	Feb. 7, 2002	400236
Tulsa (FEMA Docket No. 7608).	City of Broken Arrow.	October 18, 2001, October 25, 2001, *Broken Arrow Ledger.*	The Honorable Jim Reynolds, Mayor, City of Broken Arrow, P.O. Box 610, Broken Arrow, Oklahoma 74013.	Jan. 24, 2002	400236
Oklahoma (FEMA Docket No. 7608).	City of Edmond ..	November 1, 2001, November 8, 2001, *The Edmond Sun.*	The Honorable Saundra Naifeh, Mayor, City of Edmond, 100 E. First, Edmond, Oklahoma 73034.	Oct. 15, 2001	400252
Oklahoma (FEMA Docket No. 7608).	City of Oklahoma City.	December 5, 2001, December 12, 2001, *The Daily Oklahoman.*	The Hon. Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, Oklahoma 73102.	Mar. 13, 2002	405378
Texas:					
Comal (FEMA Docket No. 7608).	Unincorporated Areas.	November 16, 2001, November 23, 2001, *New Braunfels Herlad-Zeitung.*	The Honorable Danny Scheel, Judge, Comal County, 150 North Seguin Street, New Braunfels, Texas 78130.	Feb. 22, 2002	485463
Dallas and Ellis (FEMA Docket No. 7608).	City of Cedar Hill	October 19, 2001, October 26, 2001, *Southwest Morning News..*	The Hon. Robert L. Franke, Mayor, City of Cedar Hill, P.O. Box 96, Cedar Hill, Texas 75106.	Jan. 24, 2002	480168
Denton (FEMA Docket No. 7608).	City of Denton	November 14, 2001, November 21, 2001, *Denton Record Chronicle.*	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	Feb. 20, 2002	480194
Collin (FEMA Docket No. 7608).	City of Frisco	December 12, 2001, December 19, 2001, *Plano Star Courier.*	The Honorable Kathy Seei, Mayor, City of Frisco, 6891 Main Street, Frisco, Texas 75034.	Mar. 20, 2002	480134
Dallas (FEMA Docket No. 7608).	City of Garland ...	December 20, 2001, December 27, 2001, *Garland Morning News.*	The Honorable Jim Spence, Mayor, City of Garland, P. O. Box 469002, Garland, Texas 75046–9002.	Nov. 9, 2001	485471
Dallas and Ellis (FEMA Docket No. 7608).	City of Grand Prairie.	October 19, 2001, October 26, 2001, *Arlington Morning News.*	The Hon. Charles England, Mayor, City of Grand Prairie, 317 College Street, P. O. Box 534045, Grand Prairie, Texas 75053.	Jan. 24, 2001	485472
Ellis, Tarrant and Dallas (FEMA Docket No. 7608).	City of Grand Prairie.	November 14, 2001, November 21, 2001, *Arlington Morning News.*	The Hon. Charles England, Mayor, City of Grand Prairie, 317 College Street, P. O. Box 534045, Grand Prairie, Texas 75053.	Oct. 17, 2001	485472
Tarrant (FEMA Docket No. 7606).	City of Haltom City.	July 24, 2001, July 31, 2001, *Fort Worth Star Telegram.*	Mr. Joel A. Guerrero, Floodplain Administrator, City of Haltom City, 5024 Broadway Avenue, Haltom City, Texas 76117.	Oct. 30, 2001	480599
Harris (FEMA Docket No. 7606).	Unincorporated Areas.	August 16, 2001, August 23, 2001, *Houston Chronicle.*	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	Nov. 22, 2001	480287
Harris (FEMA Docket No. 7606).	Unincorporated Areas.	August 21, 2001, August 28, 2001, *Houston Chronicle.*	The Honorable Robert Eckels, Judge Harris County, 1001 Preston Street, Suite 911, Houston, Texas 77002.	Nov. 27, 2001	480287
Harris (FEMA Docket No. 7606).	City of Houston ..	August 21, 2001, August 28, 2001, *Houston Chronicle.*	The Honorable Lee P. Brown, Mayor, City of Houston, P. O. Box 1562, Houston, Texas 77251–1562.	Nov. 27, 2001	480296
Dallas (FEMA Docket No. 7608).	City of Irving	December 20, 2001, December 27, 2001, *The Irving Morning News.*	The Honorable Joe H. Putnam, Mayor, City of Irving, P. O. Box 152288, 825 West Irving Boulevard, Irving, Texas 75015–2288.	Mar. 28, 2002	480180

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Galveston (FEMA Docket No. 7608).	City of League City.	December 13, 2001, December 20, 2001, *The Galveston County Daily News.*	The Hon. A. T. Frankovich, Mayor, City of League City, City Hall, Suite 216, 200 West Walker, League City, Texas 77573.	Mar. 21, 2002	485488
Ellis (FEMA Docket No. 7608).	City of Midlothian	November 8, 2001, November 15, 2001, *The Midlothian Mirror.*	The Honorable Daid Setzer, Mayor, City of Midlothian, 104 West Avenue E, Midlothian, Texas 76065.	Feb. 14, 2002	480801
Tarrant (FEMA Docket No. 7606).	City of North Richland Hills.	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram.*	The Honorable Charles Scoma, Mayor, City of N. Richland Hills, P. O. Box 820609, North Richland Hils, Texas 76182.	Oct. 30, 2001	480607
Tarrant (FEMA Docket No. 7604).	City of North Richland Hills.	June 22, 2001, June 29, 2001, *Fort Worth Star-Telegram.*	The Honorable Charles Scoma, Mayor, City of N. Richland Hills, P. O. Box 820609, North Richland Hills, Texas 76182.	June 12, 2001	480607
Tarrant (FEMA Docket No. 7606).	City of North Richland Hills.	August 23, 2001, August 30, 2001, *Fort Worth Star-Telegram.*	The Honorable Charles Scoma, Mayor, City of N. Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	July 31, 2001	480607
Parker (FEMA Docket No. 7608).	Unincorporated Areas.	September 12, 2001, September 19, 2001, *Weatherford Democrat.*	The Honorable Mark Riley, Parker County Judge, 1 Court House Square Weatherford, Texas 76086.	Aug. 9, 2001	480520
Collin and Dallas (FEMA Docket No. 7608).	City of Richardson.	November 20, 2001, November 27, 2001, *Dallas Morning News.*	The Honorable Gary A. Slagel, Mayor, City of Richardson, P. O. Box 830309, Richardson, Texas 75083.	Feb. 26, 2002	480184
Tarrant (FEMA Docket No. 7606).	City of Richland Hills.	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram.*	Mr. John W. Cherry, P.E., Director, Department of Public Works, City of Richland Hills, 6700 Rena Drive, Richland Hills, Texas 76118.	Oct. 30, 2001	480608
Bexar (FEMA Docket No. 7608).	City of San Antonio.	December 21, 2001, December 28, 2001, *San Antonio Express-News.*	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283.	March 29, 2002	480045
Tarrant (FEMA Docket No. 7606).	City of Southlake	August 3, 2001, August 10, 2001, *Fort Worth Star-Telegram.*	The Honorable Rick Stacy, Mayor, City of Southlake, 1400 Main Street, Suite 270, Southlake, Texas 76092.	Nov. 9, 2001	480612
Harris (FEMA Docket No. 7606).	City of Tomball ...	July 25, 2001, August 1, 2001, *Tomball Magnolia Tribune.*	The Hon. Hap Harrington, Mayor, City of Tomball, 401 West Market Street, Tomball, Texas 77375.	Oct. 31, 2001	480315

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 14, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12658 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Executive Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut:					
Fairfield (FEMA Docket No. D–7517).	Town of Greenwich.	November 15, 2001, November 22, 2001, *Greenwich Times.*	Ms. Lolly H. Prince, First Selectman of the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Nov. 5, 2001	090008 C
Fairfield (FEMA Docket No. D–7519).	Town of Greenwich.	December 21, 2001, December 28, 2001, *Greenwich Times.*	Mr. Richard Bergstresser, First Selectman for the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Dec. 7, 2001	090008 C
New Haven (FEMA Docket No. D–7519).	City of Meriden ...	November 30, 2001, December 7, 2001, *Record-Journal.*	The Honorable Joseph J. Marinan, Jr., Mayor of the City of Meriden, 142 East Main Street, Meriden, Connecticut 06450–8022.	Nov. 19, 2001	090081 C
Florida:					
Lee (FEMA Docket No. D–7517).	Unincorporated Areas.	September 27, 2001, October 4, 2001, *News-Press.*	Mr. Doug St. Cerny, Chairman of the Lee County Board of County Commissioners, P.O. Box 398, Fort Myers, Florida 33902.	Sept. 20, 2001	125124 B
Santa Rosa (FEMA Docket No. D–7521).	Unincorporated Areas.	December 4, 2001, December 11, 2001, *The Pensacola News Journal.*	Mr. Hunter Walker, Santa Rosa County Administrator, 6495 Caroline Street, Suite D, Milton, Florida 32570–4592.	Nov. 27, 2001	120274 C
Sarasota (FEMA Docket No. D–7521).	City of Sarasota	December 5, 2001, December 12, 2001, *Sarasota Herald Tribute.*	The Honorable Carolyn Mason, Mayor of the City of Sarasota, P.O. Box 1058, Sarasota, Florida 34230.	Nov. 28, 2001	125150 C
Leon (FEMA Docket No. D–7517).	City of Tallahassee.	September 28, 2001, October 5, 2001, *Tallahassee Democrat.*	The Honorable Scott Maddox, Mayor of the City of Tallahassee, 300 South Adams Street, Tallahassee, Florida 32301–1731.	Jan. 4, 2002	120144 D
Georgia:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Fulton (FEMA Docket No. D–7521).	City of Alpharetta	October 11, 2001, October 18, 2001, *The Review & News.*	The Honorable Charles E. Martin, Jr., Mayor of the City of Alpharetta, City Hall, 2 South Main Street, Alpharetta, Georgia 30004.	Jan. 17, 2001	130084 E
Columbia (FEMA Docket No. D–7521).	Unincorporated Areas.	October 25, 2001, November 1, 2001, *The Augusta Chronicle.*	Mr. Barry Fleming, Chairman of the Columbia County Board of Commissioners, 630 Ronald Reagan Drive, Evans, Georgia 30809.	Oct. 18, 2001	130059 B
Columbia (FEMA Docket No. D–7521).	Unincorporated Areas.	November 8, 2001, November 15, 2001, *The Augusta Chronicle.*	Mr. Barry Flemming, Chairman of the Columbia County Board of Commissioners, 630 Ronald Reagan Drive, Evans, Georgia 30809.	Nov. 1, 2001	130059 A
Fulton (FEMA Docket No. D–7521).	Unincorporated Areas.	October 25, 2001, November 8, 2001, *The Atlanta Daily World.*	Mr. Thomas Andrews, Fulton County Manager, 141 Pryor Street S.W., Fulton County Government Center, Atlanta, Georgia 30303.	Jan. 31, 2002	135160 E
Gwinnett (FEMA Docket No. D–7517).	Unincorporated Areas.	September 27, 2001, October 4, 2001, *Gwinnett Daily Post.*	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30045.	Sept. 20, 2001	130322 B&C
Gwinnett (FEMA Docket No. D–7515).	Unincorporated Areas.	August 23, 2001, August 30, 2001, *Gwinnett Daily Post.*	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30045.	Nov. 29, 2001	130322 C
Bibb and Jones (FEMA Docket No. D–7517).	City of Macon	September 25, 2001, October 4, 2001, *The Macon Telegraph.*	The Honorable Jack Ellis, Mayor of the City of Macon, 700 Poplar Street, Macon, Georgia 31201.	Jan. 1, 2002	130011 E
Illinois:					
Cook (FEMA Docket No. D–7521).	Village of Arlington Heights.	November 2, 2001, November 9, 2001, *Daily Herald.*	The Honorable Arlene J. Malder, Mayor of the Village of Arlington Heights, Arlington Heights Village Hall, 33 South Arlington Road, Arlington Heights, Illinois 60005.	Feb. 8, 2002	170056 F
Cook	Unincorporated Areas.	January 25, 2002, *The Daily Southtown.*	Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	Feb. 24, 2002	170054 F
Cook	Village of Willow Springs.	January 25, 2002, *The Daily Southtown.*	The Honorable Terrence Carr, Mayor of the Village of Willow Springs, 8156 South Archer Avenue, Willow Springs, Illinois 60480.	Feb. 24, 2002	170174 F
Indiana:					
Lake (FEMA Docket No. D–7519).	Town of Dyer	December 14, 2001, December 21, 2001, *Daily Herald.*	Mr. Glen Eberly, President, Town of Dyer Board of Trustees, One Town Square, Dyer, Indiana 46311.	Dec. 6, 2001	180129 D
Lake (FEMA Docket No. D–7519).	Town of Schererville.	December 14, 2001, December 21, 2001, *Daily Herald.*	Mr. Richard Kramer, Manager of the Town of Schererville, 833 West Lincoln Highway, Suite B20W, Schererville, Indiana 46375.	Dec. 6, 2001	180142 B
Maine:					
York (FEMA Docket No. D–7517).	Town of Alfred	September 27, 2001, October 4, 2001, *The Sanford News.*	Mr. Perley Yeaton, Chairperson of the Board of Selectmen for the Town of Alfred, P.O. Box 667, Alfred, Maine 04002.	Sept. 19, 2001	230191C
Aroostook (FEMA Docket No. D–7519).	Town of Fort Fairfield.	November 28, 2001, December 5, 2001, *Fort Fairfield Press.*	Mr. Dan K. Foster, Manager of the Town of Fort Fairfield, P.O. Box 350, Fort Fairfield, Maine 04742.	Nov. 19, 2001	230018 B
Knox (FEMA Docket No. D–7519).	Town of North Haven.	November 22, 2001, November 29, 2001, *The Courier-Gazette.*	Mr. Dake Collins, Town of North Haven Administrator, P.O. Box 400, North Haven, Maine 04853.	Nov. 13, 2001	230228 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Cumberland (FEMA Docket No. D–7521).	Town of Scarborough.	November 30, 2001, December 7, 2001, *Portland Press Herald.*	Mr. Ronald W. Owens, Manager of the Town of Scarborough, P.O. Box 360, Scarborough, Maine 04070–0360.	Nov. 19, 2001	230052 D
Knox (FEMA Docket No. D–7517).	Town of St. Geprge.	October 18, 2001, October 25, 2001, *Courier-Gazette.*	Mr. John Falla, St. George Town Manager, P.O. Box 131, Tenants Harbor, Maine 04860.	Oct. 12, 2001	230229 C
Maryland:					
Frederick (FEMA Docket No. D–7517).	City of Frederick	November 14, 2001, November 21, 2001, *Frederick News Post.*	The Honorable James Grimes, Mayor of the City of Frederick, 101 North Court Street, Frederick, Maryland 21701.	Oct. 30, 2001	240030 B
Frederick (FEMA Docket No. D–7521).	City of Frederick	November 19, 2001, November 26, 2001, *Frederick News Post.*	The Honorable James Grimes, Mayor of the City of Frederick, 101 North Court Street, Frederick, Maryland 21701.	Nov. 1, 2001	240030 B
Frederick (FEMA Docket No. D–7517).	Unincorporated Areas.	November 14, 2001, November 21, 2001, *Frederick News Post.*	Mr. Ron Hart, Frederick County Manager, 12 East Church Street, Frederick, Maryland 21701.	Oct. 30, 2001	240027 B
Massachusetts:					
Plymouth (FEMA Docket No. D–7521).	Town of Hanover	December 12, 2001, December 19, 2001, *Hanover Mariner.*	Office of the Chairman of the Board of Selectmen, Town Hall, 550 Hanover Street, Hanover, Massachusetts 02339.	Mar. 13, 2002	250266 B
Michigan:					
Wayne (FEMA Docket No. D–7517).	Township of Canton.	October 18, 2001, October 25, 2001, *The Observer & Eccentric.*	Mr. Thomas J. Yack, Township of Canton Supervisor, 1150 South Canton Center Road, Canton, Michigan 48188.	Jan. 24, 2002	260219 B
New Jersey:					
Cape May (FEMA Docket No. D–7517).	City of North Wildwood.	October 10, 2001, October 17, 2001, *The Leader.*	The Honorable Aldo A. Palombo, Mayor of the City of North Wildwood, Municipal Building, 901 Atlantic Avenue, North Wildwood, New Jersey 08260.	Sept. 19, 2001	345308 E
North Carolina:					
Wake (FEMA Docket No. D–7513).	Town of Cary	May 24, 2001, May 31, 2001, *The Cary News.*	The Honorable Glenn D. Lang, Mayor of the Town of Cary, P.O. Box 8005, Cary, North Carolina 27512.	August 29, 2001	370238 E
Wake (FEMA Docket No. D–7521).	Town of Cary	November 23, 2001, November 30, 2001, *The News and Observer.*	The Honorable Glenn D. Lang, Mayor of the Town of Cary, 318 North Academy Street, P.O. Box 8005, Cary, North Carolina 27512.	July 26, 2001	370238 E
Dare (FEMA Docket No. D–7515).	Unincorporated Areas.	August 23, 2001, August 30, 2001, *Coastland Times.*	Mr. Moncie L. Daniels, Chairman of the Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	Aug. 16, 2001	375348E
Ohio:					
Warren (FEMA Docket No. D–7517).	City of Mason	September 5, 2001, September 12, 2001, *Pulse-Journal.*	The Honorable John McCurley, Mayor of the City of Mason, 202 West Main Street, Mason, Ohio 45040.	Aug. 30, 2001	390559 C
Pennsylvania:					
Dauphin (FEMA Docket No. D–7521).	Township of East Hanover.	November 30, 2001, December 7, 2001, *Patriot News.*	Mr. George Rish, Chairman, Township of East Hanover, Board of Supervisors, 80848 Jonestown Road, Grantville, Pennsylvania 17028.	Nov. 14, 2001	420377 B
Carbon (FEMA Docket No. D–7519).	Township of East Penn.	November 2, 2001, November 9, 2001, *Times News.*	Mr. Gordon Scherer, Chairman of the Township of East Penn Board of Supervisors, 167 Municipal Road, Lehighton, Pennsylvania 18253.	Oct. 23, 2001	421013 B
Dauphin (FEMA Docket No. D–7521).	Township of Swatara.	December 7, 2001, December 14, 2001, *Patriot News.*	Mr. Gregory J. Ricci, President of the Township of Swatara Board of Commissioners, 599 Eisenhower Boulevard, Swatara, Pennsylvania 17111–2397.	Mar. 15, 2002	420398 B
Puerto Rico:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Common wealth.	.....	October 5, 2000, October 12, 2000, *El Nuevo Dia.*	Mr. Jose R. Cabellero Mercado, President de la Junta de, Planificacion de Puerto Rico, El Piso 13, Oficina 1304, Edificio Norte, Centro Gubernamental Minillas, Santurce, Puerto Rico 00940.	Jan. 12, 2001	720000
Puerto Rico (FEMA Docket No. D–7517).	Commonwealth ..	October 12, 2001, October 19, 2001, *San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	Jan. 18, 2002	720000 B&C
South Carolina:					
Richland (FEMA Docket No. D–7513).	Unincorporated Areas.	June 28, 2001, July 5, 2001, *The State.*	Mr. T. Cary McSwain, Richland County Administrator, 2020 Hampton Street, P.O. Box 192, Columbia, South Carolina 29202.	June 21, 2001	450170 G
Richland (FEMA Docket No. D–7521).	Unincorporated Areas.	December 17, 2001, December 24, 2001, *The State Newspaper.*	Mr. T. Cary McSwain, Richland County Administrator, P.O. Box 192, 2020 Hampton Street, Columbia, South Carolina 29202.	Dec. 10, 2001	450170 G
Tennessee:					
Williamson (FEMA Docket No. D–7521).	City of Brentwood	November 23, 2001, November 30, 2001, *The Review Appeal.*	The Honorable Joseph Reagan, Mayor of the City of Brentwood, 5211 Maryland Way, Brentwood, Tennessee 37024.	November 16, 2001 ..	470205 C
Shelby (FEMA Docket No. D–7521).	Town of Collierville.	October 18, 2001, October 25, 2001, *The Collierville Herald.*	The Honorable Linda Kerley, Mayor of the Town of Collierville, 101 Walnut Street, Collierville, Tennessee 38017–2671.	Jan. 31, 2002	470263 E
U.S. Virgin Islands (FEMA Docket No. D–7517).	Island of St. Croix	November 1, 2001, November 8, 2001, *The Daily News.*	The Honorable Charles W. Turnbull, Governor of the U.S. Virgin Islands, Government House, 21–22 Kongens Gade, St. Thomas, Virgin Islands 00802.	Oct. 25, 2001	780000 D
Virginia:					
Fauquier (FEMA Docket No. D–7517).	Unincorporated Areas.	October 18, 2001, October 25, 2001, *Fauquier Citizen.*	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	Jan. 24, 2002	510055 A
Henrico (FEMA Docket No. D–7517).	Unincorporated Areas.	October 26, 2001, November 1, 2001, *The Richmond Times.*	Mr. Richard Glover, Chairman of the Henrico County, Board of Supervisors, P.O. Box 27032, Richmond, Virginia 23273.	Oct. 12, 2001	510077 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12657 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floódprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
OHIO	
Meigs County (Unincorporated Areas) (FEMA Docket No. D–7518)	
Village of Middleport, Village of Pomeroy, Village of Syracuse, and Meigs County (Unincorporated Areas)	
Ohio River:	
Approximately 2 miles upstream of the downstream county boundary	*576
At the upstream county boundary	*602
Meigs County (Unincorporated Areas)	
Little Leading Creek:	
Approximately 0.8 mile upstream of the Village of Rutland corporate limits	*578
Approximately 0.9 mile upstream of the Village of Rutland corporate limits	*578
Kerr Run:	
Just upstream of the Village of Pomeroy corporate limits	*579
Approximately 250 feet upstream of the Village of Pomeroy corporate limits	*579
Unnamed Tributary to Kerr Run:	
Just upstream of the Village of Pomeroy corporate limits	*579
Approximately 50 feet upstream of the Village of Pomeroy corporate limits	*579
Unnamed Tributary to Wolf Run:	
Approximately 750 feet upstream of the confluence with Wolf Run	*582
Approximately 950 feet upstream of the confluence with Wolf Run	*582
Rose Creek:	
Approximately 0.8 mile upstream of the confluence with the Ohio River	*580
Approximately 1.1 miles upstream of the confluence with the Ohio River	*580
Johns Run:	
Approximately 200 feet downstream of State Route 338	*587
Approximately 0.7 mile upstream of State Route 338	*587
Groundhog Creek:	
Just upstream of State Route 338	*593
Approximately 1.7 miles upstream of State Route 338	*593
Sugarcamp Run:	
Just upstream of State Route 124	*601
Approximately 0.8 mile upstream of State Route 124	*601
Indian Run:	
Just upstream of State Route 124	*602
Approximately 0.9 mile upstream of State Route 124	*602
Meigs County (Unincorporated Areas)	
Maps available for inspection at the Meigs County Courthouse, 100 East Second Street, Pomeroy, Ohio.	
Village of Middleport	
Maps available for inspection at the Middleport Village Hall, 237 Race Street, Middleport, Ohio.	
Village of Pomeroy	
Maps available for inspection at the Pomeroy Village Hall, 320 East Main Street, Pomeroy, Ohio.	
Village of Racine	
Maps available for inspection at the Racine Village Hall, 405 Main Street, Racine, Ohio.	
Village of Syracuse	
Maps available for inspection at the Syracuse Village Hall, 2581 Third Street, Syracuse, Ohio.	
Scioto County (Unincorporated Areas) (FEMA Docket No. D–7516)	
Scioto County (Unincorporated Areas), City of Portsmouth	
Ohio River:	
Approximately 1,270 feet downstream of the confluence of Spencer Run	*531
Approximately 4.2 miles downstream of CSX Transportation	*536
Village of Rarden	
Rarden Creek:	
At Norfolk Southern Railway	*615
At upstream corporate limits	*615
City of Portsmouth	
Scioto River:	
At downstream corporate limits	*535

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
At upstream corporate limits	*535
Scioto County (Unincorporated Areas)	
Maps available for inspection at the Scioto County Courthouse, 602 7th Street, Room 1, Portsmouth, Ohio.	
Village of Rarden	
Maps available for inspection at the Rarden City Hall, 1400 Main Street, Rarden, Ohio.	
City of Portsmouth	
Maps available for inspection at the Portsmouth Municipal Building, 728 2nd Street, Portsmouth, Ohio.	
VIRGINIA	
Southampton County (Unincorporated Areas) (FEMA Docket No. D–7520)	
Southampton County (Unincorporated Areas)	
Blackwater River:	
At the confluence with Chowan River	*14
Approximately 6,700 feet upstream of State Route 620 (Broadwater Road)	*36
Southampton County (Unincorporated Areas), Town of Courtland	
Nottoway River:	
At the confluence with Chowan River	*14
Approximately 2,400 feet upstream of Norfolk Franklin & Danville Railroad	*27
Southampton County (Unincorporated Areas)	
Maps available for inspection at the Southampton County Administrator's Office, 26022 Administration Center Drive, Courtland, Virginia.	
Town of Courtland	
Maps available for inspection at the Courtland Town Office, 22219 Meherrin Road, Courtland, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12654 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
CONNECTICUT	
Cheshire (Town), New Haven (FEMA Docket No. D–7512)	
Judd Brook:	
At West Johnson Avenue	*137
Approximately 600 feet upstream of Interstate 84	*140
Maps available for inspection at the Town Planning Department, Town Hall, 84 South Main Street, Cheshire, Connecticut.	
Southington (Town), Hartford County (FEMA Docket No. D–7512)	
Judd Brook:	
Approximately 75 feet upstream of corporate limits	*139
At confluence of East Branch Judd Brook and Humiston Brook	*144
Humiston Brook:	
At confluence of Judd Brook and East Branch Judd Brook	*144
Approximately 50 feet downstream of Marion Avenue	*166
East Branch Judd Brook:	
At confluence of Judd Brook and Humiston Brook	*144
Approximately 1,940 feet upstream of Marion Avenue	*185
Maps available for inspection at the Planning and Zoning Department, 75 Main Street, Southington, Connecticut.	
FLORIDA	
Bay County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Gulf of Mexico:	
Approximately 500 feet southwest of the intersection of Paridiso Place and Miracle Strip Parkway	*16
Approximately 1,100 feet southwest of Salt Creek crossing of U.S. Route 98	*8
East Bay:	
At Farndale Bayou shoreline crossing of Tyndall County Line Road	*6
Approximately 500 feet west of the Hamilton Road extended	*10
St. Andrew Bay:	
Approximately 500 feet east of the intersection of Delwood Beach Road and Delwood Drive	*12
Approximately 500 feet west of the intersection of Sabre Drive and Delta Avenue	*8
North Bay:	
Approximately 500 feet west of the intersection of 27th Street and Mound Avenue	*11
Approximately 750 feet north of the intersection of North Shore Road and Goose Bayou Road	*7
Callaway Creek:	
At State Route 22	*7
Approximately 0.8 mile upstream of State Route 22	*7
Callaway Bayou:	
Approximately 200 feet south of intersection of Colonial Road and Coleridge Drive	*7
Approximately 1,600 feet south of intersection of Colonial Road and Coleridge Drive	*10
Watson Bayou Tributary:	
Approximately 200 feet southwest of intersection of Cherry Street and Everitt Avenue	*8
St. Andrew Sound:	
Approximately 4,000 feet south of intersection of Interstate 98 and Unnamed Road	*11
Approximately 2,000 feet south of intersection of Interstate 98 and Unnamed Road	*13
Maps available for inspection at the Bay County Builders Services Division, 640 Mulberry Avenue, Panama City, Florida.	
Callaway (City), Bay County (FEMA Docket No. D–7524)	
East Bay:	
Approximately 0.7 mile east of the intersection of South Berthe Avenue and Wallace Road	*11
Approximately 1,000 feet southeast of intersection of South Berthe Avenue and Wallace Road	*7
Callaway Bayou:	
Approximately 0.7 mile east of the intersection of South Berthe Avenue and Wallace Road	*11
Approximately 500 feet southeast of intersection of Winonast and Beulah Avenue	*7
Callaway Creek:	
At State Route 22	*7
Approximately 0.6 mile upstream of State Route 22	*7
Pitts Bayou:	
West side of U.S. Route 98 (Tyndall Parkway) at Pitts Bayou Crossing	*8
Maps available for inspection at the Department of Public Works, 324 South Berthe Avenue, Callaway, Florida.	
Lynn Haven (City), Bay County (FEMA Docket No. D–7524)	
North Bay:	
At the intersection of West 19th Street and Maryland Avenue	*7
Shoreline at Little Oyster Bar Point	*11
At intersection of New Jersey Avenue and 11th Street	*7
Maps available for inspection at the Lynn Haven City Hall, 825 Ohio Avenue, Lynn Haven, Florida.	
Martin County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Bessey Creek:	
Approximately 1,100 feet downstream of Andrews Drive	*8
At 84th Avenue	*26
Danforth Creek:	
At Martin Downs Boulevard	*8
Approximately 1,600 feet upstream of State Route 76A	*23
South Fork St. Lucie River:	
Approximately 2.1 miles upstream of State Route 76	*8
Approximately 4.9 miles upstream of State Route 76	*10
Roebuck Creek:	
Approximately 700 feet downstream of Buckskin Trail	*8
Approximately 0.78 miles upstream of State Route 76A	*19
Manatee Creek:	
State Route A1A	*9
Approximately 1,800 feet upstream of Twin Lakes Drive	*15
East Fork Creek:	
Approximaely 400 feet upstream of Cove Road	*9
Approximately 100 feet upstream of Mariner Sands Drive	*15
Atlantic Ocean:	
Approximately 600 feet east of the intersection of A1A and 42nd Street	*14
Approximately 1.1 miles northeast of intersection of Golfhouse Drive and Hill Terrace	*6

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
Maps available for inspection at the Martin County Engineer's Office, 2401 South East Monterey Road, Stuart, Florida.	
Mexico Beach (City), Bay County (FEMA Docket No. D–7524)	
Gulf of Mexico:	
At the intersection of 38th Street and 36th Street	*8
Approximately 175 feet south of the intersection of 16th Street and U.S. Highway 98	*16
Maps available for inspection at the Mexico Beach City Hall, 118 North 14th Street, Mexico Beach, Florida.	
Panama City (City), Bay County (FEMA Docket No. D–7514)	
Watson Bayou:	
Approximately 300 feet west of the intersection of Harris Avenue and 11th Street	*8
Approximately 1,600 feet northeast of the intersection of Hollis Avenue and Texas Street	*11
St. Andrew Bay:	
Approximately 400 feet north of the intersection of Allen Avenue and Linda Avenue	*8
Approximately 125 feet south of the intersection of Fairland Avenue and Beach Drive	*12
North Bay:	
Approximately 100 feet west of the intersection of Frankfort Avenue and Calhoun Avenue	*7
Approximately 650 feet northwest of the intersection of Harbor Place and Harbor Road	*11
Maps available for inspection at the City Hall, City of Panama City, 9 Harrison Avenue, Panama City, Florida.	
Panama City Beach (City), Bay County (FEMA Docket No. D–7514)	
Gulf of Mexico:	
Approximately 400 feet west of the intersection of Crane Street and Miracle Strip Parkway	*16
Approximately 200 feet west of the intersection of Habanero Avenue and Lullwater Drive East	*8
Maps available for inspection at the Panama City Beach City Hall, 110 South Arnold Road, Panama City Beach, Florida	
Parker (City), Bay County (FEMA Docket No. D–7514)	
East Bay:	
Approximately 2,500 feet southeast of the intersection of Fleming Street and Interstate 98	*10
Approximately 300 feet east of the intersection of Bay Avenue and Oak Shore Drive	*8
St. Andrew Bay:	
Approximately 800 feet west of intersection of Sunset Drive and Cedar Avenue	*11
At the intersection of East Street and Fourth Street	*8
Maps available for inspection at the Parker City Hall, 1001 West Parker, Parker, Florida.	
Springfield (City), Bay County (FEMA Docket No. D–7514)	
Watson Bayou Tributary:	
Approximately 300 feet south of the intersection of East 2nd St and Springfield Avenue	*8
Maps available for inspection at the Springfield City Hall, 3529 East Third Street, Springfield, Florida.	
GEORGIA	
White County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Blue Creek:	
Approximately 300 feet upstream of the confluence with Chattahoochee River	*1,268
Approximately 2.5 miles upstream of Duncan Bridge Road	*1,372
Brasstown Creek:	
Approximately 800 feet upstream of the confluence with Chattahoochee River	*1,271
Approximately 3.2 miles upstream of Roy Powers Road	*1,391
Brasstown Creek Tributary No. 1:	
At confluence with Brasstown Creek	*1,322
Approximately 1.3 miles upstream of the confluence with Brasstown Creek	*1,386
Brasstown Creek Tributary No. 2:	
At the confluence with Brasstown Creek	*1,341
Approximately 0.9 mile upstream of the confluence with Brasstown Creek	*1,394
White Creek:	
Approximately 200 feet upstream of the confluence with Chattahoochee River	*1,133
At State Route 254	*1,317
Chattahoochee River:	
Approximately 1.7 miles downstream of State Route 75	*1,390
Approximately 1.5 miles downstream of State Route 75	*1,394
Maps available for inspection at the White County Planning Commission Director's Office, 59 South Main Street, Cleveland, Georgia.	
MAINE	
Orrington (Town), Penobscot County (FEMA Docket No. D–7522)	
Sedgeunkedunk Stream:	
A point approximately 100 feet downstream of Orrington corporate limits	*42
A point approximately 420 feet upstream of Fields Pond Road bridge	*102
Penobscot River:	
At downstream corporate limits	*11
At upstream corporate limits	*16
Brewer Lake:	
Entire shoreline within community	*112
Maps available for inspection at the Orrington Town Hall, 29 Center Drive, Orrington, Maine.	
MASSACHUSETTS	
Malden (City), Middlesex County (FEMA Docket No. D–7516)	
Town Line Brook:	
Approximately 1,000 feet downstream of corporate limits	*9
Approximately 500 feet upstream of Lynn Street	*9
Linden Brook:	
Approximately 250 feet downstream of corporate limits	*9
On downstream side of Beach Street	*9
Maps available for inspection at the Malden Engineering Office, Malden City Hall, 200 Pleasant Street, Malden, Massachusetts.	
Revere (City), Suffolk County (FEMA Docket No. D–7516)	
Town Line Brook:	
Approximately 100 feet east of intersection of Washington Avenue and Squire Road	*9
Linden Brook:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
Approximately 180 feet south of the intersection of Lynn Street and Adamski Memorial Highway	*9
Maps available for inspection at the Revere Planning Office, 281 Broadway, Revere, Massachusetts.	
MISSISSIPPI	
Gulfport (City), Harrison County (FEMA Docket No. D–7524)	
Flat Branch:	
Approximately 525 feet upstream of Dedeaux Road	*20
Downstream side of U.S. Highway 49	*50
Maps available for inspection at the Gulfport City Hall, 2309 15th Street, Gulfport, Mississippi.	
NEW JERSEY	
Watchung (Borough), Somerset County (FEMA Docket No. D–7255)	
Stony Brook:	
Approximately 40 feet downstream of Johnston Drive	*115
Approximately 150 feet upstream of Somerset Street	*187
East Branch Stony Brook:	
Approximately 675 feet downstream of Valley Drive	*213
Approximately 20 feet downstream of Meadowlark Drive	*237
Green Brook:	
At Raymond Avenue	*128
Approximately 1,650 feet upstream of Apple Tree Road	*405
Maps available for inspection at the Watchung Borough Hall, 15 Mountain Boulevard, Watchung, New Jersey.	
NEW YORK	
Corning (City), Steuben County (FEMA Docket No. D–7516)	
Post Creek:	
Approximately 0.52 mile upstream of the confluence with Chemung River	*924
Approximately 1.55 miles upstream of the confluence with Chemung River	*958
Maps available for inspection at the Corning Code Enforcement Office, 7 Nasser Civic Center, Corning, New York.	
Corning (Town), Steuben County (FEMA Docket No. D–7506)	
Post Creek:	
Approximately 150 feet downstream of downstream corporate limits	*956
Approximately 1,850 feet upstream of downstream corporate limits	*967
Maps available for inspection at the Corning Town Hall, 20 South Maple Street, Corning, New York.	
Hamilton (Town), Madison County (FEMA Docket No. D–7504)	
Sangerfield River:	
From downstream corporate limits	*1,075
Approximately 150 feet upstream of upstream corporate limits	*1,186
Maps available for inspection at the Hamilton Town Hall, 16 Broad Street, Hamilton, New York.	
Hamilton (Village), Madison County (FEMA Docket No. D–7516)	
Canal Tributary:	
At confluence with Payne Brook Tributary	*1,110
At the upstream corporate limits	*1,116
Payne Brook:	
Approximately 1,360 feet downstream of College Street	*1,101
At upstream corporate limits	*1,125
Payne Brook Tributary:	
At the confluence with Payne Brook	*1,104
Approximately 80 feet upstream of Eaton Street	*1,119
Maps available for inspection at the Hamilton Village Hall, 3 Broad Street, Hamilton, New York.	
Lisle (Town), Broome County (FEMA Docket No. D–7514)	
Dudley Creek:	
Approximately 650 feet downstream of Owen Hill Road	*1,044
At Popple Hill Road	*1,097
Culver Creek:	
At the confluence with Dudley Creek	*1,075
At Hunts Corners Road	*1,106
Tioughnioga River:	
Approximately 3.12 miles downstream of Main Street	*979
A point approximately 1.19 miles upstream of Main Street	*1,003
Maps available for inspection at the Lisle Town Office, 9234 NYS Route 79, Lisle, New York.	
Lockport (Town), Niagara County (FEMA Docket No. D–7516)	
Eighteen Mile Creek:	
At downstream corporate limits	*356
Approximately 130 feet upstream of Stone Road	*365
East Tributary to Eighteen Mile Creek:	
At downstream corporate limits	*360
Approximately 1 mile upstream of State Route 104	*363
West Tributary to Eighteen Mile Creek:	
At confluence with Eighteen Mile Creek	*359
At Lockport town line	*384
East Branch to Eighteen Mile Creek:	
At downstream corporate limits	*357
Approximately 1,500 feet upstream of upstream corporate limits	*375
Gulf Branch:	
At Niagara Street	*472
Just downstream of Upper Mountain Road	*584
Gulf Tributary:	
At confluence with Gulf Branch	*497
Approximately 2,250 feet upstream of confluence with Gulf Branch	*514
Tonawanda Creek:	
Approximately 1 mile upstream of Rapids Road	*591
At upstream corporate limits	*591
Donner Creek:	
At the downstream corporate limits	*606
Approximately 1,660 feet upstream of Hamm Road	*618
Maps available for inspection at the Lockport Town Hall, 6560 Dysinger Road, Lockport, New York.	
Tusten (Town), Sullivan County (FEMA Docket No. D–7514)	
Delaware River:	
At the downstream corporate limits	*629
Approximately 2.03 miles downstream of the CONRAIL bridge	*665
Maps available for inspection at the Tusten Town Hall, 210 Bridge Street, Narrowsburg, New York.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
VIRGINIA	
Franklin (City), Independent City (FEMA Docket No. D–7514)	
Blackwater River:	
At downstream corporate limits	*17
At upstream corporate limits	*22
Maps available for inspection at the Franklin City Office, 207 West Second Avenue, Franklin, Virginia.	
Suffolk (City), Independent City (FEMA Docket No. D–7514)	
Blackwater River:	
At downstream corporate limits	*15
At upstream corporate limits	*16
Maps available for inspection at the Suffolk City Manager's Office, 441 Market Street, Suffolk, Virginia.	
Isle of Wight County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Blackwater River:	
Approximately 3.7 miles downstream of CSX Transportation	*16
Approximately 1.3 miles upstream of Broadwater Road (State Route 629)	*36
Maps available for inspection at the Isle of Wight Planning and Zoning Department, 17140 Monument Circle, Suite 201, Isle of Wight, Virginia.	
WISCONSIN	
Bay City (Village), Pierce County (FEMA Docket No. D–7516)	
Mississippi River (Lake Pepin):	
Entire shoreline within community	*682
Bay City Creek:	
Approximately 520 feet downstream of CSX Transportation	*683
Approximately 900 feet upstream of Great River Road	*690
Maps available for inspection at the Bay City Village Hall, W6371 Main Street, Bay City, Wisconsin.	
Chippewa Falls (City), Chippewa County (FEMA Docket No. D–7516)	
Duncan Creek:	
Upstream side of Bridge Street	*827
Approximately 0.72 mile upstream of Glen Loch Dam	*898
Maps available for inspection at the Chippewa Falls City Hall, 30 West Central Street, Chippewa Falls, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12653 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

Proposed Rules

Federal Register

Vol. 67, No. 98

Tuesday, May 21, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–42–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, 205A–1, 205B, 212, 214B, and 214B–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 204B, 205A–1, 212, 214B, and 214B–1 helicopters. That AD currently requires reducing the retirement time for certain main rotor tension-torsion (TT) straps on those models and on the Model UH–1 series helicopters. This document would contain the same requirements but would remove the Model UH–1 series restricted category helicopters and would add the BHTI Model 205A and 205B helicopters to the applicability. This proposal is prompted by the issuance of a separate AD for the Model UH–1 series helicopters and the need to add the BHTI Model 205A and 205B helicopters to the applicability because the affected straps are eligible for installation on these model helicopters. The actions specified by the proposed AD are intended to prevent failure of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before June 5, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–42–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On July 31, 1980, the FAA issued AD 80–17–09, Amendment 39–3876 (45 FR 54014, August 14, 1980), Docket No. 80–ASW–25. That AD requires replacing certain TT straps on or before attaining 1,200 hours TIS or 24 calendar months, whichever occurs first, for the BHTI Model 204B, 205A–1, 212, 214B, 214B–1, and the Model UH–1 series military helicopters. That action was prompted by an offshore accident of a Bell Model 212 helicopter in which a TT strap reportedly failed in flight after 2,140 hours TIS with resulting loss of the main rotor blade. The requirements of that AD are intended to prevent failure of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter.

Since the issuance of that AD, a separate NPRM has been issued (67 FR 17305, April 10, 2002) for the military surplus restricted category helicopters that includes the Model UH–1 series hence the removal of the Model UH–1 series helicopters from the applicability of this proposed AD. Also, further review indicates that the affected TT straps are eligible for installation on the BHTI Model 205A and 205B helicopters. Therefore, this proposed AD includes those models in the applicability.

This unsafe condition is likely to exist or develop on other helicopters of these same type designs. The proposed AD would supersede AD 80–17–09 to contain the same requirements but would change the applicability by removing the restricted category Model UH–1 series helicopters and adding the BHTI Model 205A and 205B helicopters.

The FAA estimates that this AD would affect 168 helicopters of U.S. registry. The FAA also estimates that it would take 8 work hours to replace the TT straps at an average labor rate of $60 per work hour. The TT straps would cost approximately $10,484 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,840,352.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal

would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40114, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–3876 (45 FR 54014, dated August 14, 1980), and by adding a new airworthiness directive (AD), to read as follows:

Bell Helicopter Textron, Inc.: Docket No. 2001–SW–42. Supersedes AD 80–17–09, Amendment 39–3876, Docket No. 80–ASW–25.

Applicability: Model 204B, 205A, 205A–1, 205B, 212, 214B, and 214B–1 helicopters, with main rotor tension-torsion (TT) strap, part number (P/N) 204–012–122–1, –5, or 214–010–179–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove and replace any TT strap with 1,200 or more hours time-in-service (TIS) or 24 or more months since initial installation on any helicopter, whichever occurs first.

(b) This AD revises the limitations section of the maintenance manual by establishing a life limit for the TT straps, P/N 204–012–122–1, –5, or 214–010–179–1, of 1200 hours TIS or 24 months since initial installation on any helicopter, whichever occurs first.

(c) Special flight permits will not be issued.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

Issued in Fort Worth, Texas, on May 9, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–12702 Filed 5–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 170

[Docket No. 01N–0234]

Food Additives: Food Contact Substance Notification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is requesting input on whether the agency should establish regulations permitting the licensing of the rights to manufacture and market a food contact substance for the use that is the subject of an effective food contact notification (FCN). FDA is requesting this input in response to a comment on a proposed rule published in the **Federal Register** of July 13, 2000. The action requested in the comment concerning the transfer of rights granted under the FCN process is beyond the scope of the July 2000 proposal, and FDA is publishing this document so that interested persons may have adequate time to consider and comment on this issue.

DATES: Submit written or electronic comments by August 5, 2002.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Background

The Food and Drug Administration Modernization Act of 1997 (Public Law 105–115) established a premarket notification process for food contact substances (FCSs). The FCN process began to operate on October 22, 1999, and is now the primary method for authorizing new uses of food additives that are FCSs. In the **Federal Register** of July 13, 2000 (65 FR 43269), the agency proposed regulations to facilitate implementation of the notification process. FDA provided 75 days for comment on the proposed rule. FDA received three comments from trade associations representing the food packaging industry. One comment requested that FDA issue regulations to permit the transfer of rights granted under the FCN process. Because that request is outside the scope of the proposed rule, in this advanced notice of proposed rulemaking, FDA is soliciting input from interested parties on the action requested by that comment. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule responding to the remaining comments on the proposal and codifying the proposed regulations with limited changes.

II. The American Plastics Council Comment

The comment on the proposed rule received from the American Plastics Council (APC) requests that FDA issue regulations to permit a manufacturer identified in an effective FCN to transfer by sale, licensing, or otherwise to another manufacturer the right to manufacture and market the FCS for the use that is the subject of the FCN, provided that FDA is advised of the transfer. The APC comment argues that such a process would maintain the safety of the FCS because the FCS would continue to be manufactured in the manner reviewed by FDA and would still be authorized only for the use that was the subject of the original FCN. As noted, FDA believes that the issue raised in the APC comment is outside the scope of the proposed rule, and thus, the agency has not addressed the APC comment in the final rule published elsewhere in this issue of the **Federal Register**. To assist the agency in determining what, if any, action it should take, FDA is requesting comments from interested parties on whether the agency should permit a manufacturer to transfer the rights, granted by an effective FCN, to manufacture and market an FCS.

III. FDA's Current Practice

Under section 409(h)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)(2)(C)), a notification is only effective for the FCS identified in the FCN and not for a similar or identical FCS manufactured or prepared by another manufacturer. Currently, FDA requires any subsequent manufacturer who wishes to market an FCS for a use that is the subject of an effective FCN to submit a new notification to FDA. In addition, the manufacturer identified in an effective FCN may authorize other manufacturers to reference information contained in the effective FCN. Thus, other manufacturers may have to provide only limited additional information in subsequent FCNs but they must separately notify FDA and wait 120 days for their FCN to become effective. One effect of FDA issuing the regulations requested in the APC comment would be that subsequent manufacturers could more rapidly market FCSs.

IV. Paperwork Reduction Act of 1995

This advanced notice of proposed rulemaking contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Analysis of Impacts

Executive Order 12866, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act of 1995 require cost-benefit and other economic analyses of regulatory alternatives. FDA requests comments on economic issues associated with regulations permitting a manufacturer or supplier identified in an effective FCN to transfer by sale, licensing, or otherwise to another manufacturer or supplier the right to manufacture or market the FCS for the use that is the subject of the FCN. The agency particularly requests answers or comments on the following questions:

1. What paperwork and other costs will you incur in submitting a transfer application?

2. What health and safety safeguards operate under transfer?

3. Will consumers benefit from establishing such a transfer right? If so, how?

4. What effect would transfer have on the costs and market position of small businesses?

5. How many transfers do you anticipate issuing for each new FCN?

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comment from the American Plastics Council submitted to FDA Docket No. 99N–5556, dated September 26, 2000.

VIII. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this notice by August 5, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12662 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[REG–136193–01]

RIN 1545–BA08

Notice of Significant Reduction in the Rate of Future Benefit Accrual; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains a correction to the notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Tuesday, April 23, 2002 (67 FR 19713) that relates to the requirements of section 4980F of the Internal Revenue Code (Code) and section 204(h) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, which apply to defined benefit plans and to individual account plans that are subject to the funding standards of section 412 of the Code and section 302 of ERISA.

FOR FURTHER INFORMATION CONTACT: Pamela Kinard, (202) 622–3847 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 4980F of the Internal Revenue Code.

Need for Correction

As published, REG–136193–01 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–136193–01), which is the subject of FR Doc. 02–9529 is corrected as follows:

On page 19718, column 2, in the preamble under the caption "Comments and Public Hearing", third paragraph, line 8, the language "(8) copies) by June

18, 2002. A period" is corrected to read "(8) copies) by July 22, 2002. A period".

LaNita Van Dyke,
Paralegal Specialist, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–12721 Filed 5–20–02; 8:45 am]
BILLING CODE 4830–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2002–1; Order No. 1341]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes revising its rules of practice to require, in most instances, that participants file documents electronically over the Internet. This will allow the Commission and others to apply modern technology to certain routine procedures. This should reduce the burden and expense associated with traditional hard copy filing. Conforming and related changes to other rules, including those addressing service and submission of computer-generated studies and analyses, are also proposed. These changes also will contribute to more efficient participation in Commission proceedings and enhance administration.

DATES: Working session on June 12, 2002 (10:00 a.m.); comments due by June 21, 2002.

ADDRESSES: Send correspondence concerning this proposal to Steven W. Williams, Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001. The working session will be held at the same address.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

See 66 FR 33034 (June 20, 2001).

Procedural History

The Commission has preliminarily concluded that it is feasible and desirable to make electronic filing of documents over the Internet the standard procedure for filing official documents with the Commission. The Internet-based filing system that the Commission has developed is referred to as Filing Online. Nearly all participants in Commission proceedings rely on word processing software to generate the documents that they file, and nearly all have the capability to send those documents in electronic form to the Commission via the Internet using standard browser technology. The Commission has developed a user interface to support the electronic filing of documents by participants in Commission proceedings. Tests of this interface have shown it to be secure, reliable, and user-friendly. It is therefore appropriate to propose that online filing be made the standard procedure for filing documents in Commission proceedings.

The Commission laid the groundwork for the conversion from hard copy to online filing in its notice and order concerning electronic filing (order no. 1317), issued June 13, 2001. There the Commission notified the public of the specific online filing procedures that it was developing, and of its intention to incorporate them in a notice of proposed rulemaking. It invited both written comments on those procedures and oral comments at a technical conference that it conducted on July 11, 2001. The public's suggestions resulted in some adjustments to the procedures proposed.

On October 24, 2001, the Commission issued a notice to participants in all of the dockets that were active at that time. The notice announced that the Commission was setting up docket no. T2002–1 as a vehicle for conducting a live test of its proposed online filing procedures. Participants were encouraged to take hard copy documents that they were filing in other dockets and file them simultaneously in docket no. T2002–1 via the Internet. Additional minor revisions were made to the Commission's proposed electronic filing procedures as a result of this test. The notice indicated the Commission's desire to make online filing procedures available on an optional basis shortly after the conclusion of the test.

Proposal To Make Filing Over the Internet Standard Procedure

The results of the T2002–1 test docket have led the Commission to conclude preliminarily that the potential benefits to participants and the Commission promised by online filing are substantial, but that to fully realize them it will be necessary to make online filing the standard procedure for filing and serving documents in its proceedings. Therefore, the Commission is proposing to make the use of Filing Online mandatory. A participant may obtain a waiver of the online filing requirement if it demonstrates to the Commission that it faces special circumstances that make online filing infeasible. The Commission proposes to revise its rules of practice and arrange for any training that may be necessary to ensure that the benefits of online filing will be available to all participants in the next major rate or classification proceeding that the Commission conducts.

The Benefits of Filing Online

As noted in order no. 1317, using Filing Online should substantially reduce the cost of participating in Commission proceedings. The process for filing documents will be greatly simplified. Transaction costs associated with the actual filing of hard copy, as well as the costs of paper, printing, and postage, will be largely eliminated. The need to serve participants will be eliminated for all but the most lengthy documents. The cumbersome attestation requirement for interrogatory answers will be eliminated as well. This streamlining should reduce the time and expense of filing documents with the Commission. It should also give participants earlier access to documents filed by others, making it possible to shorten the current cycle of pleading and response. It should also eliminate any confusion over service dates.

Because documents will be available in portable document format (pdf), they will be vastly more efficient to download. It will also be easier to cut and paste portions of filed documents into related pleadings and testimony. Conversion to Filing Online should also facilitate document management and electronic archiving for participants. It should bring about these improvements without a reduction in security, since web transmissions between participants and the Commission's server will be over encrypted channels. Processing documents on the Commission's Web site will be secure as well. Procedures are provided that allow a participant to temporarily store documents that it plans to file in a reserved area on the Commission's server without losing control over its documents. Filing Online also provides procedures that safeguard against inadvertent filing of documents that have not been finalized. Materials subject to a protective order, however, may not be filed through Filing Online, and will not be posted on the Commission's Web site.

Conversion to Filing Online also offers significant benefits to the Commission. The time and expense of applying scanning and optical character recognition procedures to filed documents will be eliminated for most filings. As a result, filings can be posted on the Commission's Web site more quickly, in drastically reduced file sizes, and in a form that will ensure consistency when they are reproduced on different printers by different users. This will enable the Commission to provide participants with faster and more efficient service.

Account Holders

The specific procedures that are proposed for filing documents online with the Secretary of the Commission are set forth in the Filing Online user guide, which may be accessed from the Filing Online Login page on the Commission's Web site (url: *www.prc.gov*). A hard copy of the Filing Online user guide will also be mailed to each person who was on a service list of any Commission docket that was active within the past year. It will also be mailed to anyone else that requests it.

Basic to the proposed Filing Online procedures is the requirement that each individual who wishes to represent a participant in a Commission proceeding become an account holder. An individual may become an account holder by filling out the account holder application that is attached to this notice as attachment 2 and mailing it to the Secretary.

When the Commission accepts an application to become an account holder, the account holder assumes a contractual duty to ensure that each document that he or she files online is authentic, accurate, and authorized by the participant that the account holder purports to represent. This duty is the same as that imposed by the Commission's current subscription rule [39 CFR 3001.11(e)]. Under proposed 39 CFR 3001.6(c), the account holder must notify the Commission if this authority to represent a particular participant ends.

The Secretary will assign the new account holder a user name and temporary password and deliver them by e-mail. The e-mail will instruct the new account holder to immediately access the Profile page through the Commission's Filing Online link and select a new password. The new password and all files subsequently submitted using the new password will be transmitted to the Commission's server over an encrypted channel. The account holder will be encouraged to take the added precaution of periodically changing his or her password, which can be done on the Profile page. These procedures will keep the password-protected material in each account holder's dedicated user area on the Commission's server secure.

By submitting a document for filing under the account holder's user name and password, the account holder would vouch for the accuracy and authenticity of that document in the same way that a person would vouch for the accuracy and authenticity of the documents that he or she submits under the Commission's current subscription rule. This procedure will dispense with the need to sign individual documents that are filed online. For the same reason, submitting an interrogatory answer to the Commission for filing under an account holder's user name and password will dispense with the need for the witness to attest to the accuracy of his or her answer. Attestation will not be required until the interrogatory is offered as record evidence.

The Basic Mechanics of Filing Documents Online

In order to use Filing Online, an account holder will access the Commission's Web site. The account holder will click on the Filing Online link in the banner at the top of the Home page and log in by providing the appropriate user name and password. A Welcome page will appear. This page will offer several choices. A page can be selected that will explain how to file a document (the Create Filing Record page). Another page can be selected that will list and display all the documents the account holder is currently preparing for filing (the User Activity page). The account holder may also select a page that will list all of the documents that have been submitted on behalf of a participant that the account holder represents, indicate which account holder submitted them, and whether the filings are pending or accepted (the Participant Activity page). Finally, a page can be selected that will explain how the account holder's password or address information can be changed (the Profile page).

There are several ways for an account holder to file a document. All begin with the creation of a filing record. A filing record may be thought of as an empty receptacle that the account holder will fill. The account holder will begin this process by clicking on "create filing record." If the document to be filed consists of a single file, the account holder will fill in the basic record-identifying fields by selecting the appropriate docket number and filing party, and entering the title of the document to be filed exactly as it appears on the first page of that document. The document may be uploaded either from the account holder's personal computer or from the user area reserved for the account holder on the Commission's server.

In order for the document to be filed, however, it must be in text-based pdf form. Requiring that all Filing Online documents be submitted in this form is essential to the Commission's ability to provide a seamless exchange among all participants of documents that are filed online. It will ensure that page and line citations to any document downloaded via Filing Online will be consistent; it will make it feasible to assemble Filing Online documents into a searchable database; and it will drastically reduce the size of downloaded files.

The account holder can produce a document in text-based pdf form on a personal computer using standard Adobe Acrobat software. Alternatively, the account holder can convert a document to text-based pdf form when submitting it to the Commission by simply clicking on either the "create pdf" button on the Edit Filing page, the Add Files to Computer page, or the User Activity page.

If the material that the user wishes to file consists of a set of files, the user must select a text file from the set to treat as the "host document." A host document is one that references all other files in the set and describes them (as attachments, exhibits, workpapers, et cetera). The user will be required to enter the title of the host document exactly as it appears on the first page of that document. The host document and any collateral files that belong in the set should then be uploaded, either from the user's work station or from the user's area on the Commission's web server. The host document must be submitted in text-based pdf form. Any collateral files that can be produced in text-based pdf must also be submitted in that form. The "create pdf" button on the Commission's Edit Filing page, Add Files from Computer page, and the User Activity page can convert Postscript, Word, Rich Text Format or Wordperfect files into text-based pdf files. While data files may be submitted in their native format, they must accompany a host document that is in the required pdf format. This is necessary to enable the Commission to track and archive the filed material.

After the record-identifying information has been supplied, the host document and attachments have been assembled, and the host document and any other documents capable of being converted to text-based pdf format have been converted, the user will then click the "proceed with filing" button. This will bring up the Confirmation page.

The confirmation page gives the user a final chance to view a filing before submitting it. Clicking the "Save on Activity page" button saves the record on the User Activity page without filing it. If the account holder submits the record to the Commission, a Receipt page will appear that reflects the time that the Commission received the submission. The account holder should print a copy of this record. The receipt acknowledges only the fact that the Commission's server has received the submission. It does not constitute acceptance of the submission as an officially filed document. The receipt will contain a unique document identifier that may be used if problems subsequently arise.

The Secretary or designee will check the document-identifying information for the host document and review any collateral files. If they are found to be in compliance with the Commission's rules, the filing will be posted on the Daily Listing page. This will indicate that the filing has been accepted. If a problem is found the account holder will be contacted.

A dedicated User Activity page will be provided for the account holder's convenience. It will be password-protected and will have three parts. The "holding area" screen provides a space on the Commission's server where the account holder can temporarily upload individual files in order to assemble them into a set, or test their conversion to pdf format, without creating an official filing record. Documents in the holding area can be added directly to a prospective filing using the "add files from holding area" button. Files will remain in the holding area for 7 days.

Filings not yet submitted will be listed in the "filings in progress" table on the User Activity page. An account holder will be able to save a filing record and return to it later from this screen. Unsubmitted filings will remain on this screen for seven days. Filings that the account holder has submitted to the Commission in the last seven days appear in the "submitted filings" table on the same page. All submitted filings will be listed on this screen as "pending" until they have been reviewed and accepted or rejected. Once a document is accepted, its status will change from "pending" to "filed."

A Participant Activity page will be available where multiple account holders who represent the same participant can view a list of all of the filings that they submitted on behalf of that participant, on that day and the previous business day, whether the filings are pending or accepted. Both hard copy and electronic files will be listed.

A Profile page will be made available where account holders can change their password and update their address information. To maintain security, account holders are encouraged to periodically change their password. Updating the address information on the Profile page will simultaneously update the account holder's address on the service list and participant representative pages on the Commission's Web site.

A Help page will be available where the public may obtain information in a question and answer format about how to use the Filing Online system. Commission information specialists will also be available to answer questions by telephone at (202) 789–6847 during regular Commission office hours.

Compatibility With Users' Systems

Filing Online is designed to be compatible with most commonly-used web browsers, computer operating systems, and word processing software. The basic uploading and downloading functions provided by Filing Online are available to account holders that use any recent edition of the Internet Explorer, Netscape, or AOL web browsers, the Windows or Mac operating systems, and Word or WordPerfect word processing software. The Commission recommends that all account holders download and use the most recent version of Adobe Acrobat Reader to view documents downloaded through Filing Online. Adobe Acrobat Reader may be downloaded free of charge at *www.Adobe.com*.

At its inception, Filing Online will offer some enhanced functions as well, such as batch downloading and batch printing. These will be available to account holders that use any recent version of the Windows operating system together with either Internet Explorer, Netscape 4.7 or Netscape 6.2. Batch downloading and batch printing, however, will not initially be available to account holders who use other versions of Netscape, or who use a Mac operating system. The availability of these enhanced functions will gradually be expanded.

Comparison With Hard Copy Filing System

Filing Online filing procedures should prove to be easier to comply with than the hard copy-based filing procedures that are currently followed. Most documents filed with the Commission will be generated in the same manner as they are currently, using standard word processing, spreadsheet, and statistical software. The principal restriction that Filing Online will impose on users is the requirement that each filing have at least a host document that is submitted in text-based pdf form. This conversion is straightforward for users who have Adobe Acrobat software. Users who do not have Adobe Acrobat software can make the conversion on the Commission's Web site at the touch of a button. This will ensure that all copies subsequently made of host documents filed through Filing Online will be true to the original, wherever and however they are generated.

The requirement that host documents be filed in text-based pdf format should not add to the complexity of producing such documents for filing with the Commission. Currently, hard copy text documents are typically composed in Word or Wordperfect format and then printed before they are filed with the Commission. If a filer uses different printers with different printer drivers to print the same document, it may affect the formatting, and therefore, the appearance of the document, particularly if the document incorporates a graph or table generated by non-text based software. For this reason, the prudent participant currently will review a document one final time after it has been printed but before it has been submitted to the Commission, in order to catch such discrepancies. The same precaution should be followed when submitting a document under Filing Online. A document should be reviewed one final time in pdf form before it is submitted to the Commission in order to catch similar discrepancies that might arise between the word-processed version and the pdf version.

Once produced in pdf form, it should be much easier and cheaper to file documents with the Commission under Filing Online than under the current hard copy system, for the reasons discussed above. As was also noted above, the need to serve documents filed through Filing Online on other participants will largely be eliminated.

Training and Implementation

After comments on this notice of proposed rulemaking have been received and evaluated, the Commission hopes to adopt Filing Online as the standard procedure for filing documents in Commission proceedings. The Commission expects to have Filing Online rules in place and to implement the system in the summer of 2002.

As noted, the Commission established docket no. T2002–1 on October 24, 2001, as a vehicle for testing online

filing procedures. Participants in docket no. T2002–1 became account holders by submitting the application that was attached to the notice to participants in that docket. Those who became account holders in that docket should continue to test the Filing Online system until they are familiar with its procedures. Those who expect to represent participants in future Commission proceedings who are not account holders should apply to become account holders and become familiar with Filing Online procedures by filing test documents in docket no. T2002–1. An account holder may file documents in any active docket. An account holder application is provided with this notice of proposed rulemaking as attachment 2. A workshop for current and prospective account holders will be conducted by the Commission where instruction on Filing Online procedures will be provided. That workshop is scheduled for June 12, 2002, at 10:00 a.m. Those interested in participating are asked to notify the secretary by June 5, 2002.

Proposed Changes to the Commission's Rules of Practice

The changes to the Commission's rules of practice that implement Filing Online are set forth in attachment 1. Included in these changes are some that relate only indirectly to Filing Online.

The basic change that the Commission proposes is to revise rule 9 to make it mandatory that all documents that are filed with the Commission be filed via the internet through Filing Online, unless a waiver is obtained. To obtain a waiver, a participant must demonstrate that there are special circumstances that make it infeasible for it to use Filing Online to file a document.

The Commission proposes to revise rule 10 to include a list of documents that must be filed both through Filing Online and in hard copy form. The list consists of testimony and briefs that exceed 20 pages in length, and formal rate or classifications change requests. Such documents are likely to be cumbersome for participants to download and print because they are likely to be long, to include images or spreadsheets, or are likely to be submitted in large batches. Where supplementary hard copy filing is required, the form, content, and service requirements for hard copy documents that are set forth in proposed rules 9 though 12 must be followed. Among them is a requirement that hard copy documents filed with the Commission be printed from a text-based pdf version of the document, where possible. See proposed rule 10(b). The proposal that lengthy documents still be served in hard copy form reflects requests made by the attendees at the technical conference that was held at the Commission on July 11, 2001.

Documents that are filed through Filing Online will be posted on the Commission's Web site and will be available to participants and the public for downloading, normally on the same business day that they are submitted. When Filing Online becomes the standard form of filing documents with the Commission, documents filed online will be considered served when the document is posted by the Commission on the Daily Listing page of its Web site. Participants will not be required to serve those documents on other participants. This change in procedure is reflected in proposed rule 12(a). However, participants would still be required to serve documents in hard copy form on individuals found to be unable to receive service through the Commission's Web site.

Proposed rule 9 requires that each individual, whether representing himself or herself or a participant in Commission proceedings, become an account holder in order to file documents in Commission dockets. This requirement is set forth in proposed rule 9(b). As discussed above, account holders would assume a contractual obligation to warrant the authenticity and accuracy of the documents that they file through Filing Online. They would receive a user name and a password, and a dedicated user area on the Commission web server. Relying on account holders to warrant the authenticity and accuracy of the documents that they file through Filing Online would dispense with the need for the participant's representatives to sign specific documents that they file. This change in procedure is reflected in proposed rule 11(e).

With respect to interrogatory answers, the reliance on account holders to warrant the authenticity and accuracy of documents filed through Filing Online dispenses with the need for witnesses to specifically attest to the accuracy of their answers. It is contemplated that attestation will be not required until interrogatory answers are offered as evidence. This change in procedure is reflected in proposed rule 26(b).

As noted, there will be restrictions on the formats and computer technologies that account holders may use to submit documents via Filing Online in order to make them compatible with the Commission's data processing system. These will be prescribed by the secretary of the Commission in a set of instructions that will be maintained on the Commission's Web site. Chief among them, as discussed above, is the requirement that documents submitted via Filing Online be accompanied by a host document that is in text-based pdf format. Proposed rule 10(a)(2) would authorize the secretary to compile and maintain these instructions. These instructions are expected to be adapted over time to reflect new technology and to facilitate the use of Filing Online by all interested persons. A set of instructions in the form of a Filing Online user guide is available on the Commission's web site, and in hard copy form upon request.

While reviewing its proposal to require that documents filed with the Commission be in a standardized electronic form, the Commission also re-evaluated the form requirements that are set forth in its rules of practice with respect to library references and computer analyses. Current rule 31(b)(2)(vii) requires that material filed as a library reference be provided in an "electronic version" unless it is shown that an electronic version cannot be provided. The current rule is broad enough to permit material to be filed as a library reference even if it can only be read and executed on a mainframe or on a Macintosh computer. Neither of these is commonly available hardware. If material can only be accessed through such hardware, it imposes on participants and the Commission the undue burden of acquiring such hardware, or converting the files to a PC compatible form, in order to read and execute the files. To avoid this, the Commission proposes to revise this rule to require that material filed as a library reference be provided on "PC media," unless it is shown that it cannot be provided in that form.

The Commission's evidence rule governing the submission of computer analyses requires that a listing of input data, output data, and source codes be provided, unless it is shown that they cannot be provided. See current rule 31(k)(3)(i). As with the current library reference rule, this is broad enough to allow such material to be submitted in a form that can only be read and executed by a mainframe or a Macintosh computer. To make such material reasonably accessible to participants and the Commission, the Commission proposes to revise this rule to require that a copy of input data, output data, and source codes be provided in a form that allows them to be replicated using a publicly available PC application.

Postal Rate Commission Filing Online Account Holder Application [1]

To file documents electronically, each account holder must have a login name and password. Upon submitting a completed application to the Commission, the account holder will receive a login name and password. The login name/password procedure is designed to ensure that material filed using the Filing Online system conforms to the Commission's rules of practice, is authorized by the account holder, that it is filed on behalf of the participant that it purports to represent, that the account holder has read the material filed and is familiar with its contents, and that the account holder warrants that it is authentic, accurate and otherwise in compliance with rule 11(e). If the account holder authorizes support staff to use his/her login name and password for purposes of filing documents with the Commission, the account holder remains ultimately responsible for ensuring that each filing submitted under his/her login name and password is in full compliance with rule 11(e). The Commission, therefore, cautions each account holder to employ suitable monitoring procedures to ensure that any material filed under his/her account fully conforms to that rule.

Account Holder Name
Affiliation
Address
Phone
Fax
Email Address

I, _____ recognize that as the account holder I remain responsible for the authenticity and accuracy of all documents filed under my login name and password and undertake to monitor filings with the Commission to safeguard that no unauthorized filing is made under my login name and password.

Signature of account holder.

Privacy Act Notice: The collection of this information is authorized by 39 U.S.C. 3603. This information will be used for administering the filing of documents in electronic form by participants in Postal Rate Commission proceedings. It may be publicly disclosed under the routine uses given in the Privacy Act system notice published at 64 FR 56819 (1999).

For the reasons discussed above, the Commission proposes to amend subpart A of its rules of practice and procedure as set forth below.

Ordering Paragraphs

It is ordered:

1. Interested persons are invited to submit comments on the Commission's proposed Filing Online proposal and this notice of proposed rulemaking no later than June 21, 2002.

2. The Secretary shall cause this notice of proposed rulemaking to be published in the **Federal Register**.

3. A workshop for current and prospective account holders will be held on June 12, 2002, at 10:00 a.m., in the hearing room of the Commission, 1333 H Street NW., Washington, DC.

Steven W. Williams,
Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Commission proposes to amend 39 CFR part 3001—Rules of Practice and Procedure Subpart A—Rules of General Applicability as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622–24; 3661; 3662; 3663.

Subpart A—Rules of General Applicability

2. Revise §3001.6(c) to read as follows:

§ 3001.6 Appearances.

* * * * *

(c) *Notice of appearance and withdrawal of appearance.* An individual intending to appear before the Commission or its presiding officer in a representative capacity for a participant in a proceeding shall file with the Commission a notice of appearance in the form prescribed by the Secretary unless that individual is named in an initial filing of the participant whom he/she represents as a person to whom communications from the Commission in regard to the filing are to be addressed. A person whose authority to represent a participant in a specific Commission proceeding has been terminated shall file a timely notice of withdrawal of appearance with the Commission.

* * * * *

3. Revise §§ 3001.9 through 3001.13 to read as follows:

§ 3001.9 Filing of documents.

(a) *Filing with the Commission.* The filing of each written document required or authorized by these rules or any applicable statute, rule, regulation, or order of the Commission, or by direction of the presiding officer shall be made using the Internet (Filing Online) pursuant to § 3001.10(a) at the following url: *www.prc.gov*, unless a waiver is obtained. If a waiver is obtained, a hard copy document may be filed either by mailing or by hand delivery to the Office of the Secretary, Postal Rate Commission, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 during regular business hours on a date no later than that specified for such filing.

(b) *Account holder.* In order for a document to be accepted using Filing Online, it must be submitted to the Commission by a Filing Online account holder. The authority of the account holder to represent the participant on whose behalf the document is filed must be valid and current, in conformance with § 3001.6.

(c) *Acceptance for filing.* Only such documents as conform to the requirements of this part and any other applicable rule, regulation, or order of the Commission shall be accepted for filing. In order for a document to be accepted using Filing Online, it must be submitted to the Commission by a Filing Online account holder.

(1) Subject to rule 9(d):

(i) A document submitted through Filing Online is filed on the date indicated on the receipt issued by the Secretary. It is accepted when the Secretary, after review, has posted it on the Daily Listing page of the Commission's Web site.

(ii) A hard copy document is filed on the date stamped by the secretary. It is accepted when the Secretary, after review, has posted it on the Daily Listing page of the Commission's Web site.

(2) Any document received after the close of regular business hours or on a Saturday, Sunday, or holiday, shall be deemed to be filed on the next regular business day.

(d) *Rejected filings.* Any filing that does not comply with any applicable statute, rule, regulation, or order may be rejected. Any filing that is rejected is deemed not to have been filed with the Commission. If a filing is rejected, the secretary or the secretary's designee will notify the person submitting the filing, indicating the reason(s) for rejection. Acceptance for filing shall not waive any failure to comply with this part, and such failure may be cause for subsequently striking all or any part of any document.

§ 3001.10 Form and number of copies of documents.

(a) *Documents.* Each document filed with the Commission must be submitted through Filing Online by an account holder, unless a waiver is obtained. The text of documents filed with the Commission shall be formatted in not less than one and one-half spaced lines except that footnotes and quotations may be single spaced. Documents must be submitted in Arial 12 point font, or such program, format, or font as the presiding officer may designate.

(b) Attachments to documents filed online will be accepted in their native format (i.e., Excel, Lotus, et cetera). The form of documents filed as library references is governed by § 3001.31(b)(2)(iv).

(1) The following shall be filed both online and in hard copy form pursuant to paragraph (b):

(i) Requests for changes in rates or classifications, including supporting documentation.

(ii) Written testimony, including appendices and exhibits, that exceeds 20 pages in length.

(iii) Briefs that exceed 20 pages in length.

(2) Documents filed online must satisfy computer system compatibility requirements specified by the Secretary. They may be accessed from the Filing Online page on the Commission's Web site, *www.prc.gov*.

(3) Documents requiring privileged or protected treatment shall not be filed online.

(b) *Hard copies.* Each document filed in paper form must be produced on letter-size paper, 8 to 8½ inches wide by 10½ to 11 inches long, with left- and right-hand margins not less than 1 inch and other margins not less than .75 inches, except that tables, charts or special documents attached thereto may be larger if required, provided that they are folded to the size of the document to which they are attached. If the document is bound, it shall be bound on the left side. Copies of documents for filing and service must be printed from a text-based pdf version of the document, where possible. Otherwise, they may be reproduced by any duplicating process that produces clear and legible copies. Participants in proceedings conducted under subpart H who are unable to comply with these requirements may seek to have them waived. Each person filing a hard copy document with the Commission must provide an original and 24 fully conformed copies of the document required or permitted to be filed under this part, except for a document filed under seal, for which only the original and two (2) copies need be filed. The copies need not be signed but shall show the full name of the individual signing the original document and the certificate of service attached thereto.

(c) *Computer media.* A participant that has obtained a waiver of the online filing requirement of § 3001.9(a) may submit a document on standard PC media, simultaneously with the filing of one printed original and three hard copies, provided that the stored document is a file generated in either Acrobat (pdf), Word, or WordPerfect, or Rich Text Format (rtf).

§ 3001.11 General contents of documents.

(a) *Caption and title.* The caption of each document filed with the Commission in any proceeding shall clearly show the docket designation and title of the proceeding before the Commission. The title of such document shall identify each participant on whose behalf the filing is made and include a brief description of the document or the nature of the relief sought therein (e.g., motion for extension, brief on exceptions, complaint, notice of intervention, answer to complaint).

(b) *Designation of individuals to receive service.* Each notice of intervention filed pursuant to §§ 3001.20 or 20a must state the name, full mailing address, telephone number, and e-mail address of up to two individuals designated to receive service of hard copy documents relating to the proceeding.

(c) *Contents.* In the event there is no rule, regulation, or order of the Commission which specifically prescribes the contents of any document to be filed, such document shall contain a proper identification of the parties concerned and a concise but complete statement of the relief sought and of the facts and citations of authority and precedent relied upon.

(d) *Improper matter.* Defamatory, scurrilous, or unethical matter shall not be included in any document filed with the Commission.

(e) *Subscription.* Each document filed with the Commission shall be subscribed. Subscription constitutes a certification that he/she has read the document being subscribed and filed; that he/she knows the contents thereof; that if executed in any representative capacity, the document has been subscribed and executed in the capacity specified in the document with full power and authority so to do; that to the best of his/her knowledge, information and belief every statement contained in the document is true and no such statements are misleading; and that such document is not filed for purposes of delay.

(1) For a document filed via the Internet by an account holder, the subscription requirement is met when the document is filed with the Commission.

(2) For a hard copy document filed under either § 3001.10(b) or (c), the original shall be signed in ink by the individual filing the same or by an authorized officer, employee, attorney, or other representative and all other copies of such document filed with the Commission and served on the participants in any proceeding shall be fully conformed thereto.

(f) *Table of contents.* Each document filed with the Commission consisting of 20 or more pages shall include a table of contents with page references. For briefs see § 3001.34.

(g) *Certificate of service.* A certificate of service signed in ink must be attached to the original of each hard copy document filed with the Commission showing service on all participants in a proceeding as prescribed by § 3001.12. All copies filed and served shall be fully conformed thereto.

§ 3001.12 Service of documents.

(a) *Service by account holders.* Each document filed in a proceeding via the Internet by an Account Holder shall be deemed served on all participants upon its acceptance for filing by the Commission, except for:

(1) A document subject to § 3001.10(a)(1), which must meet the service requirements that apply to hard copy documents as well as those that apply to documents filed online.

(2) A document that must be served on a participant that the Commission or presiding officer has determined is unable to receive service through the Commission's Web site.

(b) *Service by others.* If the Commission or presiding officer has determined that a participant is unable to file documents online, documents filed by that participant must meet the service requirements that apply to hard copy documents.

(c) *Service by the Commission.* Except as provided in this section, each document issued by the Commission or presiding officer shall be deemed served upon the participants in the proceeding upon its posting by the Commission on its Web site. Service of Commission documents on any participant that the Commission or presiding officer has determined is unable to receive service

[1] This application appears as attachment 2 in the notice distributed to the service list and in the notice as posted on the Commission's web site. The changes proposed in the Code of Federal Regulations appear as attachment 1. The order of appearance has been reversed for purposes of publication in the **Federal Register**.

through the Commission Web site shall be by mail.

(d) *Hard copy documents.* Each participant filing a hard copy document in a proceeding shall serve such document upon each person on the proceeding's service list, unless the Commission or presiding officer otherwise directs.

(e) *Limitation on extent of hard copy service.* To avoid the imposition of an unreasonable burden upon participants, the Commission or the presiding officer may, by appropriate order, limit service of hard copy documents to service upon participants intending to actively participate in the hearing, or upon a person or persons designated for properly representative groups, or by requiring the making of documents available for convenient public inspection, or by any combination of such methods.

(f) *Service list.* The Secretary shall maintain a current service list in each proceeding which shall include the participants in that proceeding and up to two individuals designated for service of documents by each participant . The service list for each current proceeding will be available on the Commission's Web site, *www.prc.gov.* Each participant is responsible for ensuring that its listing on the Commission's Web site is accurate, and should promptly notify the Commission of any errors.

(g) *Method of hard copy service.* Service of hard copy documents may be made by First-Class Mail or personal delivery, to the address shown for the individuals designated on the Secretary's service list. Service of any hard copy document upon the Postal Service shall be made by delivering or mailing six copies thereof to the address shown for the individual designated in the Secretary's service list.

(h) *Date of hard copy service.* Whenever service is made by mail, the date of the postmark shall be the date of service. Whenever service is made by personal delivery, the date of such delivery shall be the date of service.

(i) *Form of hard copy certificate of service.* The certificate of service of hard copy documents shall show the name of the participant or his/her counsel making service, the date and place of service, and include the statement that "I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice."

§ 3001.13 Docket and hearing calendar.

The Secretary shall maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The Secretary shall maintain a hearing calendar of all proceedings that have been set for hearing. Proceedings shall be heard on the date set in the hearing order, except that the Commission may for cause, with or without motion, at any time with due notice to the parties advance or postpone the date of hearing. All documents filed in a docket, other than matter filed under seal, and the hearing calendar may be accessed remotely via the Commission's Web site, or viewed at the Commission's docket section during regular business hours.

4. Amend § 3001.20 by revising paragraph (c) to read as follows:

§ 3001.20 Formal intervention.

* * * * *

(c) *Form and time of filing.* Notices of intervention shall be filed no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary, unless in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Notices of intervention shall conform to the requirements of §§ 3001.9 through 3001.12.

* * * * *

5. Amend § 3001.20a by revising paragraph (a) to read as follows:

§ 3001.20a Limited participation by persons not parties.

* * * * *

(a) *Form of Intervention.* Notices of intervention as a limited participator shall be in writing, shall set forth the nature and extent of the intervenor's interest in the proceeding, and shall conform to the requirements of §§ 3001.9 through 3001.12.

* * * * *

6. Amend § 3001.26 to revise paragraphs (a) through (c) and paragraph (e) to read as follows:

§ 3001.26 Interrogatories for purpose of discovery.

(a) *Service and contents.* In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may propound to any other participant in a proceeding written, sequentially numbered interrogatories, by witness, requesting nonprivileged information relevant to the subject matter in such proceeding, to be answered by the participant served, who shall furnish such information as is available to the participant. A participant through interrogatories may require any other participant to identify each person whom the other participant expects to call as a witness at the hearing and to state the subject matter on which the witness is expected to testify. The participant propounding the interrogatories shall file them with the Commission in conformance with §§ 3001.9 through 3001.12. Follow-up interrogatories to clarify or elaborate on the answer to an earlier discovery request may be filed after the initial discovery period ends. They must be filed within 7 days of receipt of the answer to the previous interrogatory unless extraordinary circumstances are shown.

(b) *Answers.* Answers to discovery requests shall be prepared so that they can be incorporated as written cross-examination. Each answer shall begin on a separate page, identify the individual responding and the relevant testimony number, if any, the participant who asked the question, and the number and text of the question. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in the manner prescribed by paragraph (c) of this section. The participant responding to the interrogatories shall file the answers in conformance with §§ 3001.9 through 3001.12 within 14 days of the filing of the interrogatories or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an interrogatory, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the interrogatory, providing estimates of cost and work hours required, to the extent possible. An interrogatory otherwise proper is not necessarily objectionable because an answer would involve an opinion or contention that relates to fact or the application of law to fact, but the Commission or presiding officer may order that such an interrogatory need not be answered until a prehearing conference or other later time. Objections shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12 within 10 days of the filing of the interrogatories.

* * * * *

(e) *Compelled answers.* The Commission, or the presiding officer, upon motion of any participant to the proceeding, may compel a more responsive answer, or an answer to an interrogatory to which an objection has been raised if the objection is found not to be valid, or may compel an additional answer if the initial answer is found to be inadequate. Such compelled answers shall be filed in conformance with §§ 3001.9 through 3001.12 within 7 days of the date of the order compelling an answer or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing.

* * * * *

7. Amend § 3001.27 to revise paragraphs (a) through (c) and paragraph (e) to read as follows:

§ 3001.27 Requests for production of documents or things for purpose of discovery.

(a) *Service and contents.* In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may serve on any other participant to the proceeding a request to produce and permit the participant making the request, or someone acting in his/her behalf, to inspect and copy any designated documents or things that constitute or contain matters, not privileged, that are relevant to the subject matter involved in the proceeding and that are in the custody or control of the participant to whom the request is addressed. The request shall set forth the items to be inspected either by individual item or category, and describe each item and category with reasonable particularity, and shall specify a reasonable time, place, and manner of making inspection. The participant requesting the production of documents or things shall file its request with the Commission in conformance with §§ 3001.9 through 3001.12.

(b) *Answers.* The participant responding to the request shall file an answer with the Commission in conformance with §§ 3001.9 through 3001.12 within 14 days after the request is filed, or within such other period as may be fixed by the Commission or presiding officer. The answer shall state, with respect to each item or category, that inspection will be permitted as requested unless the request is objected to pursuant to paragraph (c) of this section.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an item or category, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state with particularity the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the request, providing estimates of cost and work hours required, to the extent possible. Objections shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12 within ten days of the request for production.

* * * * *

(e) *Compelled answers.* Upon motion of any participant to the proceeding to compel a response to discovery, as provided in paragraph (d) of this section, the Commission or the presiding officer may compel production of documents or things to which an objection is found not to be valid. Such compelled documents or things shall be made available to the participant making the motion within 7 days of the date of the order compelling production or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing. When complying with orders to produce documents or things, notice shall be filed in conformance with §§ 3001.9 through 3001.12. The Commission or the presiding officer may, on such terms and conditions as are just and reasonable, order that any participant in a proceeding shall respond to a request for inspection, and may make any protective order of the nature provided in § 3001.26(g) as may be appropriate.

8. Amend § 3001.28 to revise paragraphs (a) through (c) and paragraph (e) to read as follows:

§ 3001.28 Requests for admissions for purpose of discovery.

(a) *Service and content.* In the interest of expedition, any participant may serve upon any other participant a written request for the admission, for purposes of the pending proceeding only, of any relevant, unprivileged facts, including the genuineness of any documents or exhibits to be presented in the hearing. The participant requesting the admission shall file its request with the Commission in conformance with §§ 3001.9 through 3001.12.

(b) *Answers.* Each matter of which an admission is requested shall be separately set forth and is admitted unless within 14 days after the request is filed, or within such other period as may be fixed by the Commission or presiding officer, the participant to whom the request is directed files a written answer or objection pursuant to paragraph (c) of this section. A participant who answers a request for admission shall file its answer with the Commission in conformance with §§ 3001.9 through 3001.12.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an item, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the request, providing estimates of cost and work hours required, to the extent possible. Objections shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12, within 10 days of the request for admissions.

* * * * *

(e) *Compelled answers.* Upon motion of any participant to the proceeding the Commission or the presiding officer may compel answers to a request for admissions to which an objection has been raised if the objection is found not to be valid. Such compelled answers shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12 within 7 days of the date of the order compelling production or within such other period as may be fixed by the Commission or the presiding officer, but before the conclusion of the hearing. If the Commission or presiding officer determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be filed.

9. Amend § 3001.30 by revising paragraph (e)(3) to read as follows:

§ 3001.30 Hearings.

* * * * *

(e) * * *

(3) *Oral cross-examination.* Oral cross-examination will be permitted for clarifying written cross-examination and for testing assumptions, conclusions or other opinion evidence. Notices of intent to conduct oral cross-examination should be filed three or more working days before the announced appearance of the witness and should include specific references to the subject matter to be examined and page references to the relevant direct testimony and exhibits. Participants intending to use complex numerical hypotheticals, or to question using intricate or extensive cross-references, shall provide adequately documented cross-examination exhibits for the record. Copies of these exhibits should be filed at least two calendar days (including

one working day) before the scheduled appearance of the witness. If a participant has obtained permission to receive service of documents in hard copy form, hard copy notices of intent to conduct oral cross-examination of witnesses for that participant should be delivered to counsel for that participant and served three or more working days before the announced appearance of the witness, and cross-examination exhibits should be delivered to counsel for the witness at least two calendar days (including one working day) before the scheduled appearance of the witness.

* * * * *

10. Amend § 3001.31 by:

a. Revising the first sentence of paragraph (b)(2)(iv);

b. Revising paragraph (b)(2)(vii);

c. Removing and reserving paragraph (f);

d. Removing and reserving paragraph (g);

e. Revising paragraph (k)(3)(i); and

f. Revising paragraph (k)(3)(i)(*i*).

§ 3001.31 Evidence.

* * * * *

(b) * * *

(2) * * *

(iv) *Filing procedure.* Participants filing material as a library reference shall file contemporaneous written notice of this action in conformance with §§ 3001.9 through 3001.12. * * * * * * * * *

(vii) *Electronic version.* Material filed as a library reference shall also be made available on standard PC media, absent a showing of why a version on PC media cannot be supplied or should not be required to be supplied. The material provided on PC media must be submitted in a form that allows it to be replicated using a publicly available PC application. The library reference documentation shall include file names and corresponding descriptions of file contents, and shall identify the applications necessary to execute the files. This documentation should be included in both the hard copy and the electronic version of the library reference.

* * * * *

The revisions are to read as follows:

(k) * * *

(3) *Computer analyses.* (i) In the case of computer analyses that are being offered in evidence, or relied upon as support for other evidence, a foundation for the reception of such materials must be laid by furnishing a general description of the program that includes the objectives of the program, the processing tasks performed, the methods and procedures employed, and a copy of the input and output data and source codes (or a showing pursuant to paragraph (k)(3)(iii) of this section as to why such codes cannot be so furnished). The copy provided must be submitted in a form that allows it to be replicated using a publicly available PC application. For the purpose of completing such foundation, the following additional items shall be deemed presumptively necessary and shall be furnished upon request of a participant, the Commission, or the presiding officer, unless the presumption is overcome by an affirmative showing.

* * * * *

(i) An expert on the design and operation of the program shall be provided at a technical conference to respond to any oral or written questions concerning information that is reasonably necessary to enable independent replication of the program output. Machine-readable data files and program files shall be provided in a form that allows them to be replicated using a publicly available PC application. Any machine-readable data file or program file so provided must be identified and described in accompanying hard copy documentation. In addition, files in text format must be accompanied by hard copy instructions for printing them. Files in machine code must be accompanied by hard copy instructions for executing them.

* * * * *

11. Amend § 3001.42 by revising paragraph (a) to read as follows:

§ 3001.42 Public information and requests.

* * * * *

(a) *Notice and publication.* Service of intermediate and recommended decisions, advisory opinions and public reports upon parties to the proceedings is provided in §§ 3001.12(c) and 3001.39(d). Descriptions of the Commission's organization, its methods of operation, statements of policy and interpretations, procedural and substantive rules, and amendments thereto will be filed with and published in the **Federal Register**, and are available on the Commission's Web site, *www.prc.gov.* Commission recommended decisions, advisory opinions and public reports, orders, and intermediate decisions will be released to the press and made available to the public promptly, by posting on the Commission's Web site.

* * * * *

[FR Doc. 02–12644 Filed 5–20–02; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 438

[FRL–7213–7]

RIN 2040–AB79

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category; Announcement of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; announcement of meeting.

SUMMARY: EPA will conduct a public meeting on the upcoming Metal Products and Machinery (MP&M) Notice of Data Availability.

The Office of Science and Technology within EPA's Office of Water is holding the public meeting to inform all interested parties of the status of the MP&M effluent guidelines. EPA intends to finalize effluent limitations guidelines and standards for the Metal Products and Machinery Point Source Category in December 2002. At the meeting, EPA will report on the status of the rulemaking; new data and information available for public comment; revised economic and engineering models and methodologies used for estimating costs, pollutant loads, benefits, and economic impacts; revised limitations and standards; compliance alternatives we developed based on new information; and specific areas where EPA is seeking further comment.

EPA will also use this meeting to ask for informal public comment on any of the issues or information presented in the upcoming NODA and in the Administrative Record supporting that notice. The meeting does not include a pretreatment hearing nor will EPA record the meeting for the Administrative Record. The meeting is open to the public, and limited seating is available on a first-come, first-served basis. For information on the location, see the **ADDRESSES** section below.

DATES: EPA will conduct the MP&M public meeting on Friday, June 7, 2002, from 1 p.m. to 4 p.m. Central Standard Time.

ADDRESSES: The MP&M public meeting will be held at the EPA Region 5 Offices, 77 West Jackson Boulevard, Room 331, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: For additional information, call Mr. Carey A. Johnston at (202) 566–1014 or send him an e-mail at *johnston.carey@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 3, 2001 (66 FR 424), EPA proposed technology-based effluent limitations guidelines and standards under the Clean Water Act (33 U.S.C. 1251 et. seq.) for the Metal Products and Machinery Point Source Category. You can find additional information on these proposed effluent guidelines at: *http://www.epa.gov/waterscience/guide/mpm.*

No meeting materials will be distributed in advance of the public meeting; all materials will be distributed at the meeting. If you need special accommodations at this meeting, such as wheelchair access or special audio-visual needs, you should contact Ms. Krista Durlas, (312) 886–3894, at least five business days before the meeting so that we can make appropriate arrangements. You can also use the EPA Region 5 website (www.epa.gov/region5/visitor/index.htm) for further information on directions, lodging, and transportation. Those who are unable to attend the meeting can get a copy of the presentation and meeting materials after the meeting by making an e-mail or telephone request to Mr. Carey A. Johnston, see the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: May 14, 2002.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 02–12706 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7528]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
Florida	Gulf County (Unincorporated Areas).	Gulf of Mexico	Along the coast of the Gulf of Mexico approximately 1,000 feet north of Eagle Harbor.	*13	*12

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD) Existing	Modified
			Along the Gulf of Mexico shoreline approximately 1,500 feet west of Indian Pass.	*14	*13
		St. Joseph Bay	Approximately 1,500 feet inland from St. Joseph Bay, along the shoreline of St. Joseph Bay.	*9	*8
			Along the St. Joseph Bay shoreline, approximately 3 miles southeast of Pig Island.	*10	*11
		Indian Lagoon	Along the shoreline of Indian Lagoon, approximately 1,000 feet west of Indian Pass.	*11	*9
			Approximately 500 feet west of Indian Pass.	*11	*10

Maps available for inspection at the Gulf County Courthouse, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida.
Send comments to Mr. Nathan Peters, Jr., Chairman of the Gulf County Board of Commissioners, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida 32456.

Florida	Port St. Joe (City). Gulf County.	St. Joseph Bay	Intersection of 11th Street and Palmer Boulevard.	None	*8
			Approximately 250 feet west of intersection of Constitution Drive and 14th Street.	*10	*12
			At intersection of 16th Street and Long Avenue.	*7	*8
		Shallow Flooding	Approximately 425 feet southeast of intersection of Fourth Street and Woodward Avenue.	*10	*8

Maps available for inspection at the City of Port St. Joe Chamber of Commerce Office, 105 West 4th Street, Port St. Joe, Florida.
Send comments to The Honorable Frank Pate, Jr., Mayor of the City of Port St. Joe, 305 Cecil G. Costin, Sr., Boulevard, Port St. Joe, Florida 32456.

Illinois	Champaign County (Unincorporated Areas).	Sangamon River	Approximately 1,000 feet downstream from the Township Road 2000 North (Shively) bridge.	None	*676
			At Lake of the Woods covered bridge	None	*689

Maps available for inspection at the Champaign County Department of Planning and Zoning, Brookens Administrative Center, 1776 East Washington Street, Urbana, Illinois

Illinois	Mahomet (Village), Champaign County.	Sangamon River	Approximately 800 feet downstream of downstream corporate limits.	None	*677
			Approximately 1,800 feet downstream of upstream corporate limits.	None	*689

Maps available for inspection at the Mahomet Village Hall, 503 East Main Street, Mahomet, Illinois.
Send comments to The Honorable Jeff Courson, Mayor of the Village of Mahomet, 503 Main Street, P.O. Box 259, Mahomet, Illinois 61853.

Illinois	Milan (Village), Rock Island County.	Eckhart Creek (Zone AO).	East of Chaney Lane and approximately 500 feet south of Interstate Route 280.	None	#1
			Approximately 600 feet north of W 10th Avenue and approximately 450 feet east of 9th Street.	None	#1
			Northwest of Missouri Kansas and Texas Railroad and approximately 600 feet south of Interstate Route 280.	None	#1

Maps available for inspection at the Village of Milan Administrative Office, 321 West 2nd Avenue, Milan, Illinois.
Send comments to Mr. Duane Dawson, Milan Village President, 321 West 2nd Avenue, Milan, Illinois 61264.

Maine	Allagash (Town) Aroostook County.	St. John River	Approximately 3.68 miles downstream of State Route 161.	None	*603
			Approximately 550 feet upstream of confluence of Little Black River.	None	*627
		Little Black River	At the confluence with St. John River	None	*626
			Approximately 125 feet upstream of Route 161.	None	*626

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD) Existing	Modified
Maps available for inspection at the Allagash Town Office, Route 161, Allagash, Maine.					
Send comments to Mr. Roy Gardner, Town of Allagash First Selectman, Municipal Building, R.R. 1, P.O. Box 127, St. Francis, Maine 04774.					
Massachusetts	Scituate (Town), Plymouth County.	Massachusetts Bay	Approximately 500 feet east of intersection of Crescent Avenue and Peggotty Beach Road.	*25	*27
			Approximately 100 feet east of intersection of Wellesley Road and Jericho Road.	None	*10
			Approximately 150 feet west of Intersection of Wampatuck Way and Turner Road.	*11	Depth 3′
			Approximately 900 feet northeast of intersection of Circuit Avenue and Edward Foster Road.	Depth 2′	Depth 3′
			At intersection of Baileys Causeway and Glades Road.	Depth 1′	Depth 2′
Maps available for inspection at Scituate Town Hall, 600 Chief Justice Highway, Scituate, Massachusetts.					
Send comments to Mr. Richard Agnew, Scituate Town Administrator, 600 Chief Justice Cushing Highway, Scituate, Massachusetts 02066.					
Massachusetts	Worcester (City), Worcester County.	Broad Meadows Brook	Approximately 240 feet downstream of U.S. Highway 20.	None	*450
			Approximately 1.6 miles upstream of U.S. Highway 20.	None	*484
		Beaver Brook	Approximately 175 feet downstream of Mill Street bridge.	*480	*480
			At Maywood Street.	*484	*481
Maps available for inspection at the Worcester Environmental/Land Use Planner's Office, 25 Meade Street, Worcester, Massachussetts.					
Send comments to Mr. Thomas R. Hoover, Worcester City Manager, Worcester City Hall, 455 Main Street, Worcester, Massachusetts 01608.					
New Jersey	Weymount (Township), Atlantic County.	Tuckahoe River	At the downstream corporate limits	None	*56
			At the upstream corporate limits	None	*77
		Great Egg Harbor River	At the confluence of the South River	None	*9
			At the upstream corporate limits	None	*9
		South River	At Walkers Forge Avenue	None	*16
			Approximately 500 feet upstream of upstream corporate limits.	None	*38
Maps available for inspection at the Weymouth Township Hall, 45 South Jersey Avenue, Dorothy, New Jersey.					
Send comments to The Honorable Amelia A. Messina, Mayor of the township of Weymount, P.O. Box 53, Dorothy, New Jersey 08317.					
New York	Mina (Town), Chautauqua County.	Findley Lake	Entire shoreline of Findley Lake	None	*1,423
Maps available for inspection at the Mina Town Community Center, 2883 North Road, Findley Lake, New York.					
Send comments to Ms. Rebecca Brumagin, Mina Town Supervisor, P.O. Box 38, 2883 North Road, Findley Lake, New York 14736.					
New York	Sardinia (Town), Erie County.	Hosmer Brook	Approximately 0.83 mile downstream of State Route 39.	None	*1,320
			Approximately 80 feet upstream of Genesee Road.	None	*1,408
Maps available for inspection at the Sardinia Community Center, 12320 Savage Road, Sardinia, New York.					
Send comments to Mr. William Hare, Sardinia Town Supervisor, P.O. Box 219, 12320 Savage Road, Sardinia, New York 14134.					
Ohio	Bloomingburg (Village), Fayette County.	East Fork Paint Creek	Upstream side of Midland Avenue (State Route 38).	None	•973
			Approximately 0.5 mile upstream of State Route 38.	None	•974
Maps available for inspection at Bloomingburg Village Hall, 62 Main Street, Bloomingburg, Ohio.					
Send comments to The Honorable James Fabin, Mayor of the Village of Bloomingburg, 62 Main Street, Box 186, Bloomingburg, Ohio 43106.					
Ohio	Fayette County (Unincorporated Area).	East Fork Paint Creek	Approximately 300 feet upstream of confluence with Paint Creek.	*955	•954

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD) Existing	Modified
			Approximately 0.90 mile upstream of Greene Road	None	•1,026
		Rattlesnake Creek	At Milledgeville-Octa Road	None	•1,038
			Approximately 130 feet upstream of State Route 734	None	•1,058
		Sugar Creek	Approximately 150 feet downstream of parrott Station Road	None	•1,025
			Approximately 1,500 feet upstream of Main Street	None	•1,048

Maps available for inspection at the Fayette County Building Department, 121 E. East Street, Washington Court House, Ohio.

Send comments to Mr. John M. Schlichter, President of the Fayette County Commissioners, 133 South Main Street, Suite 401, Washington Court House, Ohio 43160.

Ohio	Octa (Village), Fayette County.	Rattlesnake Creek	At the downstream side of Allen Road	None	*1,041
			Approximately 175 feet upstream of Allen	None	*1,041

Maps available for inspection at the Village of Octa Council House, Allen Street, Milledgeville, Ohio.

Send comments to The Honorable Robert E. Ison, Mayor of the Village of Octa, P.O. Box 63, Milledgeville, Ohio 43142.

Ohio	Washington Court House (City), Fayette County.	East Fork Paint Creek	Approximately 1,375 feet downstream of Washington Avenue.	*956	*954
			Approximately 1.2 miles upstream of Washington Avenue.	*960	*959

Maps available for inspection at the Washington Court House City Hall, 105 North Main Street, Washington Court House, Ohio.

Send comments to Mr. Stephen J. Sobers, Washington Court House City Manager, 105 North Main Street, Washington Court House, Ohio 43160.

Pennsylvania	Bullskin (Township), Fayette County.	Jacobs Creek	At the downstream corporate limits	*1,039	*1,037
			At a point approximately 250 feet upstream of State Route 31.	*1,143	*1,142

Maps available for inspection at the Bullskin Township Municipal Building, 178 Shenandoah Road, Connellsville, Pennsylvania.

Send comments to Mr. Robert Butler, Chairman of the Township of Bullskin Board of Supervisors, 178 Shenandoah Road, Connellsville, Pennsylvania 15425.

Pennsylvania	Everson (Borough), Fayette County.	Jacobs Creek	Approximately 2,400 feet downstream of 5th Avenue.	*1,027	*1,025
			Upstream corporate limits	*1,031	*1,029

Maps available for inspection at the Everson Borough Building, Brown Street, Everson, Pennsylvania.

Send comments to The Honorable Timothy Shoemaker, Mayor of the Borough of Everson, Municipal Building, Brown Street, Everson Pennsylvania 15631.

Pennsylvania	Timicum (Township), Bucks County.	Delaware River	Approximately 0.25 mile upstream of Uhlerstown Hill Road.	*126	*127
			Approximately 1.17 miles downstream of Upper Black Eddy Bridge.	*135	*134
		Delaware River	At confluence with the Delaware River	*127	*128
		Overland Flow	At divergence from the Delaware River	*135	*133

Maps available for inspection at the Tinicum Municipal Building, 163 Municipal Road, Pipersville, Pennsylvania.

Send comments to Mr. Gary Pearson, Chairperson of the Township of Tinicum Board of Supervisors, 163 Municipal Road, Pipersville, Pennsylvania 18947.

Pennsylvania	Upper Tyrone (Township), Fayette County.	Jacobs Creek	At State Route 819	*1,021	*1,020
			At upstream corporate limits	*1,039	*1,037
		Stauffer Run	At confluence with Jacobs Creek	*1,034	*1,030
			At upstream corporate limits	*1,034	*1,031

Maps available for inspection at the Upper Tyrone Township Building, 259 Montgomery Road, Scottdale, Pennsylvania.

Send comments to Mr. Jack E. Fullem, Upper Tyrone Township Supervisor, 509 Hickory Square Road, Connellsville, Pennsylvania 15425.

Tennessee	Chattanooga (City), Hamilton County.	North Chickamauga Creek	At confluence with the Tennessee River	*661	*660

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD) Existing	Modified
			Approximately 200 feet downstream of Thrasher Pike.	*684	*682
		Tennessee River	Approximately 1,625 feet downstream of Shoal Creek.	*651	*650
			Just downstream of Chicakmauga Dam	*651	*660
		Mountain Creek	At the confluence wiht the Tennessee River.	*653	*652
			Approximately 1,109 feet upstream of the Norfolk Southern Railway.	*653	*652
		Lookout Creek	At the confluence with Tennessee River	*655	*654
			Approximately 160 feet upstream of the confluence of Black Creek.	*655	*654
		Black Creek	At the confluence with Lookout Creek	*655	*654
			At downstream side of Norfolk Southern Railway (first crossing).	*655	*654
		Shallow Flooding Areas	In the vicinity of the Tennessee River, south of Cherokee Boulevard.	*657	*656
		Stringers Branch	At the confluence with Mountain Creek	*653	*652
			At Signal Mountain Road	*653	*652
		Chattanooga Creek	Approximately 850 feet downstream of Market Street.	*656	*655
			At downstream side of 2nd crossing of Norfolk Southern Railway.	*656	*655

Maps available for inspection at the City of Chattanooga City Hall Annex, 101 East 11th Street, Room 44, Chattanooga, Tennessee.

Send comments to The Honorable Bob Corker, Mayor of the City of Chattanooga, City Hall, East 11th Street, Room 100, Chattanooga, Tennessee 37402.

Tennessee	East Ridge (City) Hamilton County.	Spring Creek	At Interstate 75	*678	*679
			At Spring Creek Road	*678	*679
		South Chickamauga Creek	Approximately 800 feet downstream of 4th crossing of Louisville and Nashville Railroad.	*677	*678
			At upstream state boundary	*691	*689

Maps available for inspection at the Building Department, 1517 Tombras Avenue, East Ridge, Tennessee.

Send comments to The Honorable Fred Pruett, Mayor of the City of East Ridge, 1517 Tombras Avenue, East Ridge, Tennessee 37412.

Tennessee	Hamilton County (Unincorporated areas).	Rogers Branch	At confluence with Wolftever Creek	*688	*687
			At Access/Mountain View Road	None	*748
		Rogers Branch Tributary	At confluence with Rogers Branch	None	*719
			Approximately 550 feet upstream of Interstate 75.	None	*742
		Wolftever Creek	At the confluence with Wolftever Creek Tributary.	*762	*761
			Approximately 2,200 feet upstream of Bill Reed Road.	None	*795
		Little Soddy Creek	At the City of Soddy-Daisy corporate limits.	None	*820
			Approximately 120 feet upstream of the City of Soddy-Daisy corporate limits.	None	*823
		Lookout Creek	Approximately 135 feet downstream of the Norfolk Southern Railway.	*655	*654
			Approximately 525 feet upstream of Cummings Highway.	*655	*654
		Tennessee River	At the county boundary	*649	*650
			At the confluence of Shoal Creek	*652	*650
		Fruedenberg Creek	Approximately 250 feet upstream of confluence with Middle Creek.	None	*1,670
			Approximately 0.9 mile upstream of confluence with Middle Creek.	None	*1,777
		Lick Branch	At confluence with North Chickamauga Creek.	*671	*670
			Approximately 50 feet downstream of Thrasher Pike.	None	*676
		Lick Branch	At confluence with Lick Branch	*671	*670

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD) Existing	Modified
		Tributary	Approximately 100 feet downstream of Thrasher Pike.	None	*683
		Lick Branch	At confluence with Lick Branch	*671	*670
		Tributary 2	Approximately 50 feet downstream of Thrasher Pike.	None	*675
		Lick Branch	At confluence with Lick Branch	*671	*670
		Tributary 3	Approximately 50 feet downstream of Thrasher Pike.	None	*680
		Middle Creek	Approximately 1,100 feet downstream of Edwards Point Road.	None	*1,634
			Approximately 50 feet downsteam of Timesville Road.	None	*1,718
		North Chickamauga Creek	At the upstream side of Lower Mill Road	*670	*669
			Approximately 1 mile upstream of Dayton Pike.	*754	*753
		Possum Creek	At Lee Pike	*688	*687
			Approximately 1.4 miles upstream of Black Valley Road.	*861	*862
		Sale Creek	At the confluence with the Tennessee River.	*687	*688
			Approximately 1,580 feet upstream of the confluence with the Tennessee River.	*687	*688

Maps available for inspection at the Regional Planning Agency, County Courthouse, Room 208, Chattanooga, Tennessee.
Send comments to Mr. Claude Ramsey, Hamilton County Executive, County Courthouse, Room 208, Chattanooga, Tennessee 37402.

Tennessee	Red Bank (City), Hamilton County.	Stringers Branch	Approximately 400 feet downstream of Signal Mountain Road.	*653	*652
			At Barker Road	None	*785

Maps available for inspection at the Red Bank City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee.
Send comments to The Honorable Ronnie Moore, Mayor of the City of Red Bank, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee 37415.

Virginia	Fairfax City (Independent Citry).	Accotink Creek	At the downstream corporate limits	*287	*289
			Approximately 50 feet upstream of Poplar Street.	*396	*397
		Dale Lestina Tributary	At the confluence with North Fork Accotink Creek.	*312	*313
			Approximately 500 feet upstream of Plantation Parkway.	None	*344
		Daniels Run	At the confluence with Accotink Creek	*295	*296
			Approximately 1,030 feet upstream of Sager Avenue.	*400	*406
		Draper Drive Tributary	Approximately 750 feet upstream of confluence with Accotink Creek.	None	*307
			Approximately 920 feet upstream of the confluence with Accotink Creek.	None	*311
		Little River Hills Tributary	Approximately 150 feet upstream of the confluence with Daniels Run.	None	*328
			Approximately 1,460 feet upstream of Ashby Road.	None	*379
		Mosby Woods Tributary	At the confluence with North Fork Accotink Creek.	*328	*332
			Approximately 1,940 feet upstream of confluence with North Fork Accotink Creek.	None	*342
		North Fork Accotink Creek	At the confluence with Accotink Creek	*310	313
			Approximately 800 feet upstream of Howerton Avenue.	None	*382
		Ranger Road Tributary	At the confluence with Accotink Creek	*309	*312
			Approximately 260 feet upstream of Ranger Road.	None	*314
		Tusico Branch	At the confluence with Accotink Creek	*360	*362
			Approximately 570 feet upstream of Keith Avenue.	*377	*373
		Tusico Branch (area of shallow flooding).	Approximately 570 feet upstream of Keith Avenue.	*377	#2

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD) Existing	Modified
			Approximately 625 feet upstream of Scott Drive.	None	#2

Maps available for inspection at the Fairfax City Hall, 10455 Armstrong Street, Room 204, Fairfax, Virginia.
Send comments to Mr. Robert Sissan, Fairfax City Manager, 10455 Armstrong Street, Fairfax, Virginia 22030.

Virginia	Grottoes (Town), Augusta and Rockingham Counties.	Miller Run	Approximately 60 feet downstream of 21st Street.	None	*1,090
			Approximately 60 feet upstream of Cary Street.	None	*1,152

Maps available for inspection at the Grottoes Town Office, 601 Dogwood Avenue, Grottoes, Virginia.
Send comments to Mr. Timonty E. Crider, Grottoes Town Superintendent, P.O. Box 146, Grottoes, Virginia 24441.

Wisconsin	Lincoln County (Unincorporated Areas).	Wisconsin River	Approximately 1.37 miles downstream of Alexander Dam.	None	*1,258
			At downstream side of Alexander Dam	None	*1,261
		Prairie River	Approximately 528 feet downstream of Mill Street.	None	*1,263
			Approximately 0.9 mile upstream of U.S. Business Highway 51.	*1,273	*1,274

Maps available for inspection at the Lincoln County Zoning Office, 1110 East Main Street, Merrill, Wisconsin.
Send comments to Mr. Phil Cohrs, Chairman of the Lincoln County Board, 1110 East Main Street, Merrill, Wisconsin 54452.

Wisconsin	River Falls (City), St. Croix and Pierce Counties.	Kinnickinnic River	Approximately 1.1 miles downstream of the confluence of South Fork Kinnickinnic River.	None	*806
			Approximately 400 feet upstream of State Route 35/65.	*897	*898
		Rocky Branch	Approximately 850 feet upstream of confluence with Kinnickinnic River.	None	*805
			Approximately 2,230 feet upstream of confluence with Kinnickinnic River.	None	*814
		South Fork Kinnickinnic River	At confluence with Kinnickinnic River	*837	*828
			Approximately 575 feet upstream of State Route 35/65.	*900	*906
		South Fork Kinnickinnic River.	At confluence with South Fork Kinnickinnic River.	*901	*906
		Tributary No. 2	Approximately 950 feet upstream of South Fork Kinnickinnic River.	None	*907

Maps available for inspection at the River Falls City Hall, 123 East Elm Street, River Falls, Wisconsin.
Send comments to The Honorable Katie Chaffee, Mayor of the City of River Falls, 123 East Elm Street, River Falls, Wisconsin 54022.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12652 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7530]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

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FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

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Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

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Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

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§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

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		Existing	Modified	
FLORIDA				
Charlotte County				
Auburn Waterway	At the confluence with Pellam Waterway	None	*8	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*12	
Broad Creek	At the upstream side of Copley Drive	None	*8/9	Charlotte County
	Approximately 1 mile upstream of Airport Road.	None	*12	(Unincorporated Areas)
Broad Creek Tributary	At the confluence with Broad Creek	*8	*10	Charlotte County
	Just upstream of Piper Road	None	*23	(Unincorporated Areas)
Courtland Waterway ..	At the confluence with Auburn Waterway	None	*8	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*13	
Crestview-Lionheart ...	At the confluence with Crestview Waterway	None	*16	Charlotte County (Unincorporated Areas)
Connector Waterway	At divergence from Lionheart Waterway	None	*16	
Crestview Waterway ..	At the confluence with West Spring Lake	None	*9	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*16	
Delavan Waterway	At the confluence with Fordham Waterway	None	*21	Charlotte County (Unincorporated Areas)
	Approximately 475 feet upstream of Comstock Boulevard.	None	*21	
Elkcam Waterway	Approximately 1,900 feet upstream of U.S. Route 41.	None	*9	Charlotte County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Peachland Boulevard.	None	*19	
Fordham Waterway ...	Approximately 1,750 feet upstream of U.S. Route 41.	None	*9	Charlotte County (Unincorporated Areas)
	Approximately 1.0 mile upstream of Peachland Boulevard.	None	*21	
Kings Highway East Outfall.	At the downstream side of Westchester Boulevard.	None	*9	Charlotte County (Unincorporated Areas)
	Approximately 780 feet upstream of Suncoast Boulevard.	None	*13	
Kings Highway West Outfall.	Approximately 150 feet upstream of Westchester Boulevard.	*9	*10	Charlotte County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 1,080 feet upstream of MacDougall Avenue.	None	*16	
Lionheart Waterway ...	At the county boundary	None	*19	Charlotte County
	Approximately 170 feet upstream of U.S. Route 41.	None	*9	(Unincorporated Areas)
Newgate Waterway	Approximately 1.2 miles upstream of the confluence with Early Waterway.	None	*8	Charlotte County (Unincorporated Areas)
	Approximately 2.2 miles upstream of Jenning's Boulevard.	None	*10	
Niagara Waterway	At the confluence with Fordham Waterway	None	*9	Charlotte County (Unincorporated Areas)
	At Peachland Boulevard	None	*19	
Pellam Waterway	Approximately 2.1 miles upstream of Holly Avenue.	None	*8	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*14	
Pelton Circle Waterway.	At the confluence with Crestview Waterway	None	*16	Charlotte County (Unincorporated Areas)
	Approximately 0.5 mile upstream of confluence with Crestview Waterway.	None	*16	
Rampart Outfall	Approximately 0.3 mile upstream of Harborview Road.	None	*9	Charlotte County (Unincorporated Areas)
	Just upstream of Rampart Boulevard	None	*22	
Sunset Waterway	At the confluence with Lionheart Waterway	None	*13	Charlotte County (Unincorporated Areas)
	At County boundary	None	*20	
Yale Waterway	At the confluence with Fordham Waterway	None	*13	Charlotte County (Unincorporated Areas)
	Approximately 475 feet upstream of Sheehan Boulevard.	None	*14	
Gulf of Mexico	Approximately 1,200 feet southwest of the intersection of Gulf Boulevard and South Gulf Boulevard.	*17	*16	Charlotte County (Unincorporated Areas)
	Approximately 200 feet east of the intersection of County Route 775 and Cap Haza Drive.	*11	*10	

Charlotte County (Unincorporated Area)

Maps available for inspection at the Charlotte County Community Development, Charlotte County Administration Building, 18500 Murdock Circle, Port Charlotte, Florida

Send comments to Ms. Pamela Brangaccio, Charlotte County Administrator, 18500 Murdock Circle, Port Charlotte, Florida 33948.

WISCONSIN				
Winnebago County				
Arrowhead River	Approximately 300 feet upstream of County Highway M.	*750	*751	Winnebago County (Unincorporated Areas)
	Approximately 7,650 feet upstream of Woodland Road.	*755	*757	
Wolf River	Approximately 1.7 miles upstream of mouth at Lake Poygan.	*750	*751	Winnebago County (Unincorporated Areas)
	At County boundary	*754	*753	
Mud Creek.	Approximately 250 feet downstream of county boundary.	*743	*744	Winnebago County (Unincorporated Areas)
	At County boundary	*743	*744	
Eight Mile Creek	At the confluence with Rush Creek	None	*817	Winnebago County
	Approximately 2,000 feet upstream of Knott Road.	*843	*844	(Unincorporated Areas)
Rush Creek	At upstream side of State Highway 116	None	*780	Winnebago County
	At the confluence of Eight Mile Creek	None	*817	(Unincorporated Areas)
Sawyer Creek	Downstream side of North Westfield Street	*754	*753	Winnebago County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Clairville Road.	None	*811	Oshkosh
Rush Lake	Entire shoreline within community	None	*823	Winnebago County (Unincorporated Areas)
Waukau Creek	At the confluence of Eight Mile Creek	None	*817	Winnebago County
	Approximately 1.8 miles upstream of confluence of Eight Mile Creek.	None	*818	(Unincorporated Areas)

Winnebago County (Unincorporated Areas)

Maps available for inspection at the Winnebago County Zoning Office, 448 Algoma Boulevard, Oshkosh, Wisconsin.

Send comments to Ms. Jane Van De Hey, Winnebago County Executive, P.O. Box 2808, Oshkosh, Wisconsin 54901.

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
City of Oshkosh				
Maps available for inspection at the Oshkosh City Hall. 215 Church Avenue, Oshkosh, Wisconsin. Send comments to The Honorable Jon Dell'Antonia, Mayor of the City of Oshkosh, 215 Church Avenue, Oshkosh, Wisconsin 54903.				

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12651 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–P–7605]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) ♦(NAVD)	
				Existing	Modified
AR	Vadnais Heights, City of Ramsey County.	Ponding Area	Pond west of McMenemy Road, north of Meadowood Lane, and southeast Foothill Trail.	None	*889

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) ♦(NAVD)	
				Existing	Modified
			Ponding area northeast of the intersection of McMenemy Road and Commerce Court.	None	*892
		Ponding Area	Ponding area north of Commerce Court and south of Oak Grove Parkway and west of SOO Line Railroad.	None	*904
			Ponding area north of Oak Grove Parkway approximately 1,500 feet east of its intersection with McMenemy Road.	None	*918
			Ponding area east of the SOO Line Railroad, north of Spring Hill Road and west of Morningside Avenue.	None	*912
			Pond north of Willow Grove Lane and west of Greenhaven Drive.	None	*915
			Pond north of Clearbrook Lane, east of Bramblewood Avenue, west of Evergreen Drive and South of Birch Ridge Road.	None	*920
			Pond north of Heritage Court East and South of Valley Oaks Road.	None	*941
			Ponding area south of Westfield Lane, east and north of Oakcrest Drive and north of South Oak Drive.	None	*902
			Ponding area south of North Oak Drive, west of Thornhill Lane, and North of County Road "F".	None	*898
		Ponding area	Ponding area south of Bridgewood Terrace, east of Thornhill Lane and west of Centerville Road.	None	*907
			Ponding area north of County Road "F," east of Thornhill Lane and west of Centerville Road.	None	*901
			Ponding area along Edgerton Street, south of Bear Avenue North and north of Stockdale Road.	None	*897
			Ponding area along Arcade Street and Stockdale Road, south of County Road "F," north of Kohler Road, east of Stockdale Drive and west of Centerville Road.	None	*896
			Ponding area east of Interstate 35E, south of the Burlington Northern Railroad, west of Labore Road and north of County Road "E".	None	*908
			Ponding area north of Hiawatha Avenue, west of Greenbrier Street, and south of the Burlington Northern Railroad.	None	*904
			Ponding area east of Centerville Road, and north of Vadnais Road.	None	*900
			Pond south of Manor Street and north of Interstate 694.	None	*909
		Ponding area	Ponds south of Vadnais Center Drive, east of Interstate 35 and west of the intersection of Labore Road and Willow Lake Boulevard.	None	*915
			Willow Lake	None	*884
			Ponding area south of County Road "E," east of Montmorency Street and north of Willow Lake Boulevard.	None	*949
Maps are available for inspection at City Hall, 800 East County Road E, Vadnais Heights, Minnesota. Send comments to the Honorable Susan Banovetz, Mayor, City of Vadnais Heights, 800 East County Road E, Vadnais Heights, MN 55127.					
IA	Marshall County (Unincorporated Areas).	Iowa River		*861	*881
Maps are available for inspection at the Marshall County Court House, 1 East Main Street, Marshalltown, Iowa. Send comments to The Honorable Gordie Johnson, Chairman, Marshall County Board of Supervisors, 1 East Main Street, Marshalltown, Iowa 50158.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) ♦(NAVD)	
				Existing	Modified
MO	Madison County (Unincorporated Areas).	Little St. Francis River	Approximately 8,550 feet downstream of West Main Street.	None	*703
			Approximately 3,960 feet downstream of the Missouri Pacific Railroad.	None	*716
		Saline Creek	Approximately 530 feet upstream of the abandoned Railroad Spur.	None	*718
			Approximately 2,510 feet upstream of the abandoned Railroad Spur.	None	*726
		Village Creek	Just downstream of Catherine Mine Road	None	*707
			Just downstream of the Missouri Pacific Railroad.	None	*709
Maps are available for inspection at Madison County Courthouse, #1 Courthouse Square, Fredericktown, Missouri. Send comments to the Honorable Robert Mooney, Presiding Commissioner, Madison County Courthouse, #1 Courthouse Square, Fredericktown, Missouri 63645.					
TX	Corinth, Town of Denton County.	Swisher Creek	At North Shady Shores Road	*537	*537
	Lake Dallas, City of Denton County.	Swisher Creek	At Jean Street about 70 feet east of Fairview Drive.	None	*579
		GS–1	At North Shady Shores Road	*537	*537
	Shady Shores, Town of Denton County.	GS–1	About 100 feet upstream of Dobbs Road	None	*552
Maps are available for inspection at Denton County Government Center, 306 North Loop 288, Suite 115, Denton, Texas. Send comments to the Honorable Scott Armey, Court-House-on-the-Square, 110 West Hickory Street, Denton, Texas 76201. Maps are available for inspection at the Town Hall, 2003 South Corinth Street, Corinth, Texas. Send comments to The Honorable J. B. Troutman, Town Hall, 2003 South Corinth Street, Corinth, Texas 76205. Maps are available for inspection at City Hall, 303 Alamo, Lake Dallas, Texas. Send comments to The Honorable Steve Wohr, City Hall, 303 Alamo Avenue, Lake Dallas, Texas 75065. Maps are available for inspection at City Hall, 101 South Shady Shores Road, Shady Shores, Texas. Send comments to The Honorable Olive Stephens, P.O. Box 362, Lake Dallas, Texas 75065.					
TX	Town of Leona, Leon County.	Adkisson Branch		•298	•325
		Leona Branch		•300	•356
		Leona Branch Tributary 1		•315	•349
		Leona Branch Tributary 2		•299	•315
Maps are available for inspection at City Hall, Highway 75, Leona, Texas.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 14, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12650 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 67, No. 98
Tuesday, May 21, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before July 22, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC, 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov*.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0004.

Form No.: AID 11.

Title: Application for Approval of Commodity Eligibility.

Type of Review: Renewal of Information Collection.

Purpose: USAID provides loans and grants to some developing countries in the form of Commodity Import Programs (CIPs). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S., or in some cases, from other developing countries. In accordance with section 604(f) of the Foreign Assistance Act of 1961, as amended, USAID may finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and agency policies. Using the Application for approval of Commodity Eligibility (form AID 11), the supplier certifies to USAID information about the commodities being supplied, as required in section 604(f), so that USAID may determine eligibility.

Annual Reporting Burden:

Respondents: 260.

Total annual responses: 850.

Total annual hours requested: 425 hours.

Dated: May 13, 2002.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 02–12678 Filed 5–20–02; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Commodity Credit Corporation.

ACTION: Notice of request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Farm Service Agency (FSA) to request for reinstatement of the information collection previously approved for the Sugar Program.

DATES: Comments on this notice must be received on or before July 22, 2002 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Danielle Cooke, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0512; Washington, DC 20550–0512, telephone number (202) 720–1919. Comments may also be submitted by e-mail to: *Danielle Cooke@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Sugar Program, 7 CFR Part 1435.

OMB Control Number: 0560–0093.

Type of Request: Reinstatement of a Previously Approved Information Collection.

Abstract: The Secretary of Agriculture is authorized to make price support through the Commodity Credit Corporation (CCC) by eligible sugar processors or refiners on behalf of the grower delivering eligible sugar to them. Sugar loans provide eligible processors with interim financing on their inventory, facilitate the orderly distribution of sugar throughout the year, and provide a market floor through the set loan rate. Instead of selling the crop immediately at harvest, a loan allows a processor to store the production, pledging the crop itself as collateral.

Respondents: Sugar beet and Sugar Cane Processors.

Estimated Number of Respondents: 43.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 58 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility and protect the interests of CCC and the producer; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; or (d) ways to minimize the burden of the collection of the information on those who respond, including the use of appropriated automated, electronic, mechanical, or techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Danielle Cooke, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0512; Washington, DC 20250–0512, telephone number (202) 720–1919. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, DC on May 14, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–12640 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Draft Environment Impact Statement, Lemolo Watershed Projects, Diamond Lake Ranger District, Umpqua National Forest, Douglas County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Supplement to a Draft Environmental Impact Statement.

SUMMARY: The USDA, Forest Service, will prepare a Supplement to the Draft Environmental Impact Statement (EIS) for a variety of connected resource projects within the Lemolo Watershed Projects planning area of the Diamond Lake Ranger District. The Draft Supplemental EIS will describe additional alternatives developed in response to public comments. The additional alternatives address issues related to old-growth forests, and recreation. The projects proposed within the range of alternatives include several timber sales, the construction of temporary and system roads, site preparation, planting, the burning of natural fuels, road decommissioning, and soil restoration. These projects are proposed for implementation in 2003 and 2004. The planning area is located approximately 80 miles east of Roseburg, Oregon. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people may become aware of how they can participate in the process and contribute to the final decision.

ADDRESSES: Send written comments and suggestions concerning this proposal to John Ouimet, District Ranger, Diamond Lake Ranger District, 2020 Toketee Ranger Station RD, Roseburg, Oregon 97447–9704.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action, or EIS to Pat Williams, ID Team Leader/Project Planner, Diamond Lake Ranger District, 2020 Toketee Ranger Station RD, Idleyld Park, Oregon 97447–9704, or (541) 498–2531.

RESPONSIBLE OFFICIAL: Forest Supervisor James Caplan is the responsible official for this EIS. Mr. Caplan may be contacted at Umpqua National Forest, PO Box 1008, Roseburg, OR 97470.

SUPPLEMENTARY INFORMATION: The Lemolo Watershed Project proposed action was first published in the federal register on April 14, 1999. A public meeting was held at the Douglas County Library on April 21, 1999 along with a subsequent field trip to the planning area in August of 1999. The draft EIS was published in October, 2001. The Forest Service received many comments on the project during the 45 day comment period. Public comments identified issues related to harvest of old-growth timber, and protection of recreation values. Based on public comment, 2 additional alternatives to the proposed action have been developed to address these issues and will be described in the Supplement to the Draft Environmental Impact Statement. A total of 5 alternatives including the No Action and the Proposed Action alternative have been developed.

Public comments are appreciated throughout the analysis process. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by July 2002. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register.** The final EIS is scheduled to be available in October 2002.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environment review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon* v. *Hodel,* 803 f.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Supplement to the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3 in addressing these points.)

In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Responsible Official will document the decision and rationale for the decision in a Record of Decision. That decision will be subject to appeal under, 36 CFR Part 215.

Dated: May 7, 2002.

James Caplan,

Forest Supervisor, Umpqua National Forest.

[FR Doc. 02–12646 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on June 13, 2002, at the Convention Center, Horizon Casino and Resort, Highway 50, Stateline, NV. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held June 13, 2002, beginning at 9:00 a.m. and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at the Convention Center, Horizon Casino and Resort, Highway 50, Stateline NV.

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Federal Interagency Partnership. Items to be covered on the agenda include: Lands and Budget Subcommittee reports, the Federal Partnership perspective the Partnership, Lake Tahoe August Congressional Event, update on the USFS Lake Tahoe Restoration Act projected list, USACE update on Lade Tahoe projects, the status of Lake Tahoe atmospheric deposition, and public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: May 13, 2002.

Maribeth Gustafson,

Forest Supervisor.

[FR Doc. 02–12701 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Kootenai National Forests' Lincoln County Resource Advisory Committee will meet Monday, June 3, 2002 at 6:30 p.m. in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: June 3, 2002.

ADDRESSES: The meeting will be held at the Kootenai National Forest Supervisor's Office, located at 1101 U.S. Highway 2 West, Libby, MT.

FOR FURTHER INFORMATION CONTACT: Barbara Edgmon, Committee Coordinator at (406) 293–6211.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing project proposals and receiving public comment.

Dated: May 13, 2002.

Bob Castaneda,

Forest Supervisor.

[FR Doc. 02–12629 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Clarification of Direction on Safety Priorities During Wildland Firefighting Activities and Procedures for Emergency Consultation under the Endangered Species Act

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency interim directives.

SUMMARY: The Forest Service is issuing two interim directives to provide internal administrative direction to guide its employees during wildland firefighting activities. The interim directive issued to Forest Service Manual chapter FSM 5130, Wildland Fire Suppression, as ID number 5130–2002–1, clarifies existing direction to ensure that the safety of firefighters, other personnel, and the public is always the first priority in fire suppression. While this is already the current agency policy, the agency believes that the direction should be clarified and better stated. The interim directive issued to Forest Service Manual chapter FSM 2670, Threatened, Endangered, and Sensitive Plants and Animals, as ID number 2670–2002–1, clarifies and expands existing direction to facilitate emergency consultation under the Endangered Species Act. This interim directive makes clear that human safety is the highest priority for every emergency response action, and under no circumstances should an emergency response action be delayed in order to contact the Fish and Wildlife Service or the National Marine Fisheries Service for initiating emergency consultation or during an ongoing consultation. The agency will consider any comments received in the development of final directives.

DATES: The interim directives are effective May 21, 2002.

ADDRESSES: The interim directives are available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the interim directives also are available for ID 5130–2002–1 by contacting Shelly Steen, National Interagency Fire Center, 3833 South Development Avenue, Boise, Idaho 83705 (telephone 208–387–5100), and for ID 2670–2002–1 by contacting Tina Kingsberry, Forest Service, USDA, Watershed, Fish, Wildlife, Air, and Rare Plants Staff, Stop Code 1121, 1400 Independence Avenue SW., Washington, DC 20250–1121 (telephone 202–205–1205). Members of the public who wish to comment on the interim directives may mail their written comments in paper format to these addresses or send them electronically to *directivecomment@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Shelly Steen (208–387–5100) or Tina Kingsberry (202–205–1205).

Dated: May 14, 2002.

Sally Collins,

Associate Chief.

[FR Doc. 02–12719 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East River Electric Power Cooperative, Inc., Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact in connection with a request from East River Electric Power Cooperative (EREPC) for assistance from RUS to finance the construction of an electrical substation, a short segment of 230kV transmission line, and a communication tower in Lincoln County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Rural Utilities Service, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–1414, Fax (202) 720–0820, e-mail *nislam@rus.usda.gov.* Information is also available from Mr. Ronald W. Golden, Land Agent, East River Electric Power Cooperative, Inc., 121 Southeast First Street, Madison, South Dakota 5704, telephone (605) 256–4536, Fax (605) 256–8058, e-mail *rgolden@eastriver.coop.*

SUPPLEMENTARY INFORMATION: East River Electric Power Cooperative (EREPC) proposes to construct an electrical substation, a short segment of 230 kV transmission line and a communication

tower in Lincoln County, South Dakota. The proposed Virgil Fodness 230 kV Substation will be located in the southwest corner of the Southeast Quarter (SE1/4) of Section two, Township 99 North, Range 51 West in Lincoln County. The overall height of the communication tower with antenna will be 285 feet. The tower will be a self-supporting type with red obstruction lighting. The existing 230 kV transmission line will be rerouted and it will need the addition of four steel poles. The height of the poles will vary between 95 feet and 145 feet. The facility will require 20 acres to construct. It will make it possible for EREPC to provide transmission and transformation service to meet the increasing power requirements of its member distribution system. RUS may provide financial assistance to EREPC for this project. RUS has concluded that the impacts of the proposed project would not be significant and the proposed action is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary. RUS, in accordance with its environmental policies and procedures, required that EREPC prepare an Environmental Report reflecting the potential impacts of the proposed facilities. The Environmental Analysis, which includes input from federal, state, and local agencies, has been reviewed and accepted as RUS' Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.41. EREPC published notices of the availability of the EA and solicited public comments per 7 CFR 1794.42. The 30-day comment period on the EA for the proposed project ended May 6, 2002. No comments were received on the EA.

Based on the EA, RUS has concluded that the proposed action will not have a significant effect on various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, air and water quality, and noise. RUS has also determined that there would be no negative impacts of the proposed project on minority communities and low-income communities as a result of the construction of the project.

The EA is available for public review at the RUS or the headquarters of EREPC at the addresses provided in this notice and at the following location: Lincoln County Courthouse, County Auditor's Office, 100 East Fifth Street, Canton, South Dakota 57013.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–12639 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Stolz at (202) 482–4474, Michele Mire at (202) 482–4711, or Crystal Crittenden at (202) 482–0989, AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Time Limits:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 31, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC), covering the period December 1, 1999 through November 30, 2000 (66 FR 8378). On December 4, 2001, the Department published an extension of time limit for the preliminary results. On January 17, 2002, we published the preliminary results of review (67 FR 2402). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than 120 days from the date of publication of the preliminary results.

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the final results until no later than July 16, 2002. See Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: May 8, 2002.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 02–12724 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Final Determination of Sales at Less Than Fair Value: IQF Red Raspberries from Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: The Department of Commerce has conducted an antidumping duty investigation of IQF red raspberries from Chile. We determine that individually quick frozen ("IQF") red raspberries from Chile are being sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended. On December 31, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of IQF red raspberries from Chile. Based on the results of verification and our analysis of the comments received, we have made changes in the margin calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled **Continuation of Suspension of Liquidation.**

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1503, or (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR Part 351 (April 2001).

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: IQF Red Raspberries From Chile*, 66 FR 67510 (December 31, 2001) ("*Preliminary Determination*")), the following events have occurred:

On January 9, 2002, the petitioners and the respondents submitted ministerial error allegations regarding the Department's preliminary margin calculations. For a detailed discussion of the allegations and the Department's analysis, *see*Memorandum to Richard W. Moreland, "Ministerial Errors in the Preliminary Determination in the Antidumping Duty Investigation of Individually Quick Frozen (IQF) Red Raspberries from Chile" ("*Ministerial Errors Memo*") dated January 15, 2002, which is on file in the Import Administration's Central Records Unit ("CRU"), Room B–099 of the main Department of Commerce building.

In January and February 2002, we conducted verifications of the questionnaire responses submitted by Comercial Fruticola ("Comfrut"), Exportadora Frucol ("Frucol"), and Fruticola Olmue ("Olmue") (collectively, "the respondents"). We issued verification reports in March and April 2002. *See* "Verification" section of this notice for further discussion.

The petitioners and respondents filed case and rebuttal briefs, respectively, on April 15 and April 18, 2002. At the request of the petitioners, the Department held a public hearing on April 22, 2002.

Scope of Investigation

The products covered by this investigation are imports of IQF whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.*, organic or not), the size of the container in which packed, or the method of packing. The scope of the investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under section 0811.20.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than fair value, we compared export price ("EP") to normal value ("NV"). Our calculations follow the methodologies described in the *Preliminary Determination*, except as noted below and in each individual respondent's calculation memorandum, dated May 15, 2002, which are on file in the Department's CRU.

Export Price

For sales to the United States, we used EP as defined in section 772(a) of the Act. We calculated EP based on the same methodologies described in the Preliminary Determination, with the following exceptions:

Comfrut

We corrected certain ministerial errors from the preliminary determination (*see* the January 15, 2002 *Ministerial Errors Memo*). We revised reported amounts, where appropriate, with respect to international freight, shipping date, and direct selling expenses based on information obtained at verification. We also revised the reported amounts for warehousing expenses, indirect selling expenses, and inventory carrying costs. For further information, *see* the May 15, 2002 calculation memorandum for Comfrut ("*Comfrut Calculation Memorandum*") and the March 22, 2002 sales verification report for Comfrut ("*Comfrut Sales Verification Report*").

Frucol

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). We revised reported amounts, where appropriate, with respect to payment date, inland freight, indirect selling expenses, credit expenses, gross unit price, and brokerage expenses based on information collected at verification. We also revised the reported amounts for packing and direct selling expenses. For further information, *see* the May 15, 2002 calculation memorandum for Frucol ("*Frucol Calculation Memorandum*") and the March 7, 2002 sales verification report for Frucol ("*Frucol Sales Verification Report*").

Olmue

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). We revised reported amounts for international freight, gross unit price, and direct selling expenses for several sales based on information obtained at verification. We also revised the reported amount for indirect selling expenses and inventory carrying costs. For further information, *see* the May 15, 2002 calculation memorandum for Olmue ("*Olmue Calculation Memorandum*") and the April 3, 2002 sales verification report for Olmue ("*Olmue Sales Verification Report*").

Normal Value

We used the same methodology as that described in the preliminary determination to determine the cost of production ("COP"), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

1. Cost of Production Analysis

Comfrut

We made adjustments to Comfrut's costs based on verification findings (*see Comfrut Calculation Memorandum* and the March 6, 2002 cost verification report for Comfrut). We are not making the major input adjustment made in the preliminary determination. For further information, *see* the *Comfrut Calculation Memorandum*.

Frucol

We have calculated a single, weighted-average cost of fresh raspberries for Frucol. For the reasons

discussed in our response to Comment 1 in the May 15, 2002 *Issues and Decision Memorandum for the Antidumping Duty Investigation of IQF Red Raspberries from Chile; Final Determination*("*Decision Memorandum*"), we have used market prices for the berries grown by Frucol and, for the reasons discussed in response to Comment 3 in the *Decision Memorandum*, we have used the higher of market or transfer prices for the berries purchased by Frucol's affiliated supplier. Also, based on our findings at verification, we made revisions to Frucol's interest expense and total cost of manufacturing, including, direct labor, SG&A, variable overhead, and fixed overhead. *See* the *Frucol Calculation Memorandum*, the April 2, 2002 cost verification report for Frucol ("*Frucol's Cost Verification Report*") and Comments 1, 2, 4, 5, and 6 of the *Decision Memorandum*).

Olmue

Based on our findings at verification, we made revisions to Olmue's total cost of manufacturing, including raw materials, direct labor, variable overhead, and fixed overhead. See the Olmue Calculation Memorandum and the Olmue Cost Verification Report.

2. Calculation of NV

Comfrut

We revised the reported amounts for billing adjustments and credit expenses for certain sales based on information obtained at verification. We also revised the reported amounts for warehousing expenses, indirect selling expenses, and inventory carrying costs. For further information, *see* the *Comfrut Calculation Memorandum* and the *Comfrut Sales Verification Report*.

Frucol

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). Based on information collected at verification, we revised the reported form, control number, commissions, and customer code for certain sales. We also revised the reported amounts for packing and direct selling expenses. For further information, *see* the *Frucol Calculation Memorandum* and the *Frucol Sales Verification Report* at Exhibit S–1.

Olmue

We revised reported amounts for gross unit price, brokerage and handling, and direct selling expenses for several sales based on information obtained at verification. We also revised the reported amounts for indirect selling expenses and inventory carrying costs. For further information, see the *Olmue Calculation Memorandum* and the *Olmue Sales Verification Report* at Exhibit S–1.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the preliminary determination.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by all responding companies during January and February 2002. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of IQF red raspberries from Chile (except for entries from Comercial Fruticola and Exportadora Frucol) that are entered, or withdrawn from warehouse, for consumption on or after December 31, 2001, the date of publication of the *Preliminary Determination* in the Federal Register. Comercial Fruticola and Exportadora Frucol have de minimis and zero margins, respectively, and will be excluded from the antidumping duty order, if issued. Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Comercial Fruticola	0.50 percent (de minimis)
Exportadora Frucol	0.00 percent
Fruticola Olmue	5.98 percent
All Others	5.98 percent

Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all others rate margins which are zero or *de minimis*.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments in the Issues and Decision Memorandum

Frucol

*Comment 1:*COP Methodology
Comment 2: Production Quantities
Comment 3: Frucol's Purchases of Fresh Raspberries
Comment 4: Extraordinary Costs
Comment 5: Unreconciled Differences
Comment 6: General and Administrative Expense Ratio
Comment 7: Third Country Sales
Comment 8: Billing Adjustment

Comfrut

Comment 9: Direct Material Costs
Comment 10: Raw Material Costs

Olmue

Comment 11: COM
Comment 12: Sales to Third Country
Comment 13: CV Profit Rate

[FR Doc. 02–12725 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302E]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Hazard Investigations in Washington State

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals by harassment incidental to collecting marine seismic reflection data to investigate the earthquake hazard in the Straits of Georgia region of Washington State by the U.S. Geological Survey (USGS) during May, 2002.

DATES: This authorization is effective from April 30, 2002, through September 30, 2002.

ADDRESSES: A copy of the application and an Environmental Assessment (EA) may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

In May, 2002, the USGS, in cooperation with the Geological Survey of Canada and the University of Victoria, will collect marine seismic reflection data to investigate the earthquake hazards in the Straits of Georgia. For approximately 2 to 4 days this research will be in U.S. waters and about 17 to 19 days will be in Canadian waters. Geological features around the Straits of Georgia that might produce earthquakes lie obscured beneath water, urban areas, forest, and thick glacial deposits. As a result, investigators must use sound waves that are produced by either a single airgun or more usually an array of airguns to indirectly view these features. Because seismic noise from the proposed survey's airguns could potentially affect marine mammals due to disturbance by sound (i.e., acoustic harassment), an IHA under the MMPA is warranted.

Throughout western Washington state and southwest British Columbia (BC), geological faults that might produce earthquakes lie hidden beneath the dense forest and the waters of Puget Sound and the Strait of Georgia. Although some faults are known from limited exposures on land and from marine seismic surveys, such as the Lummi Island and Outer Islands faults (see Figure 1 in the USGS application), more may have eluded detection in this little-studied area. Furthermore, the amount of recent (<50,000 years) motion on these faults, if any, is unknown. Estimating the frequency and sizes of earthquakes on both the known and unknown faults is crucial to understanding the earthquake risk to the cities of Bellingham and Anacortes, WA to Vancouver and Victoria, BC and to the more rural parts of the region. For more detailed information on the geological faults in this area, please refer to the USGS application.

Seismic reflection data will be collected during May, 2002 by the Canadian research vessel *J. P. Tully*. Seismic profiling will be done by towing a 600–m (1,968.5–ft) long hydrophone streamer for sensing and recording pressure changes from the airgun echos. The streamer will be towed at a depth of 5 m (16.4 ft). Near the forward end of the streamer, an airgun will be towed about 10 m (32.8 ft) behind the ship at a depth of about 5 m (16.4 ft). The hydrophone streamer, which is connected to a computer recording system, will record echos coming from the strata beneath the sea bottom. These recordings will be computer-processed to create an image of the subsurface strata, including any faults that are crossed during the profiling. The seismic operation will operate 24 hours/day while in U.S. waters and will be traveling at a speed of 6 to 8 knots (6.9 to 9.2 miles/hr; 11.1 to 14.8 km/hr).

The sound source will be either a single, 120 inch^3 airgun or, more likely, a small array of airguns consisting of two 40- in3 and two 20–in^3 guns being fired within several milliseconds (1/1000 second) of each other. The source will be chosen after tests at the beginning of the cruise. Either way, this sound source, as measured by the volume of the chamber, is only 2 percent of the size of the airgun array

used in the USGS survey conducted in 1998 in Puget Sound (see 63 FR 2213, January 14, 1998). Both of the USGS' potential sources for this activity will produce similar levels of sound pressure, which is estimated to be about 225 dB. An array of small airguns increases the frequency of the sound over that from a single gun, and an array better directs the sound downward. This array has been used previously in the inland waters of Canada (Reidel *et al.*, 1999), and the characteristics of this sound source have been measured (see Figure 3 in the USGS application).

The airgun does not emit a prolonged sound source; rather, it emits an impulsive noise burst (<10 milliseconds) with a peak-to-peak (P-P) sound pressure level (SPL) estimated to be between 220 dB and 230 dB. The USGS best estimate is that the source will have an SPL of about 225 dB (P-P). This compares to an estimated SPL of 240 dB (P-P) for the 6730 $inch^3$ airgun array used in the 1998 Puget Sound seismic survey project (Fisher, 1997). The airgun will be fired almost continuously 3 to 6 times per minute.

There is about a 16–dB difference between measuring the P-P sound pressure and the more commonly used root-mean-square (RMS) measurement for assessing sound pressure impacts on marine mammals (6 dB converts P-P to peak-to-zero values, and an additional 10 dB converts peak-to-zero to RMS values). NMFS' criteria for safety radii based on pressure measurements are based on the RMS or the average received level over the duration of the sound pulse. These conversions mean that the USGS airgun array will be approximately equivalent to a source with a RMS sound pressure of about 204 to 214 dB (relative to 1 μPa), with a best estimate being about 209 dB (RMS). This compares with the continuous noise from freighters and other ship traffic in the area, which is estimated to be 150 to 205 dB RMS (Richardson *et al.*, 1995).

The frequency spectrum of the sound emission was measured when the array was used in a previous study (Reidel et al., 1999). The airgun's energy is concentrated below 200 Hz, with a rapid decrease in amplitude with increasing frequency between 200 and 400 Hz. Frequencies above 400 Hz have amplitudes that are less than 10 percent of the lower frequencies. Frequencies below 1,000 Hz (1 kHz) are considered low frequency (LF).

Comments and Responses

A notice of receipt of the application and proposed authorization was published on February 7, 2002 (67 FR 5792), and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Marine Mammal Commission (MMC) and Lifeforce.

Comment 1: Lifeforce advises that all activities that could produce any undetermined impact on marine wildlife must not be permitted. This should be of special concern regarding the southern community of resident orca. They are in the planned research area during April and May. In 2001 all three pods were present in May. The abundance of orcas is high. Noise from these tests could interrupt foraging, socializing, and resting periods. These types of disturbance are believed to jeopardize the survival of this population. The population was recently designated as an endangered species by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and the U.S. Government is considering similar action.

Response: The proposed authorization notice did not state that impacts could not be determined, but that impacts from noise were variable. If NMFS finds that the taking will be small, have a negligible impact on the species or stock(s) of affected marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, the taking by incidental harassment can be authorized under section 101(a)(5)(D) of the MMPA. Due to the fairly low SPL for the single airgun or small airgun array (approximately 209 dB RMS) and the mitigation monitoring required under the IHA, marine mammal injury and mortality is unlikely. Impacts, therefore, would be limited to Level B harassment. Because behavioral reactions to the seismic airgun sounds and/or the USGS vessel could occur, the USGS applied for an IHA under the MMPA. Provided certain findings are made, as here, the MMPA allows marine mammals to be harassed, injured or killed incidental to conducting maritime activities.

The killer whale, however, appears to be fairly insensitive to LF sounds, with hearing ability approximately 100–140 dB for LF-sound (Richardson *et al.*, 1995). This means that it would be unlikely for killer whales to behaviorally respond to the sounds unless the sounds are about 20 dB or higher above those levels. For the airgun(s) planned to be used by this activity, this means being close to the source. In addition, due to the short duration of the activity under consideration here and the mitigation required to be conducted, it is unlikely that impacts on killer whales would cause more than a short-term disturbance on a very few animals and would therefore have a negligible impact on the killer whale population or stock.

On August 13, 2001 (66 FR 42499), NMFS announced that a petition to list the eastern North Pacific southern resident stock of killer whales as endangered or threatened species under the Endangered Species Act (ESA) and to designate critical habitat for this stock under the ESA presented substantial scientific information indicating that a listing may be warranted and would initiate an ESA status review. In accordance with section 4(b)(3)(B) of the ESA, NMFS is completing its status review on this stock.

Comment 2: There has been evidence from necropsies on marine mammals that damage to auditory systems can be caused by loud noises and can be fatal. As in humans, hearing impairment can be caused by short term and/or long term exposure to loud noises. Therefore, any exposure from these tests could have an immediate or accumulative impact.

Response: Injury to both auditory and non-auditory organs can be caused by loud impulse noise and by explosions as noted in the proposed authorization document and this document. However, the acoustic sources proposed for use by this activity are unlikely to result in an SPL sufficient to cause Level A harassment (i.e., injury). In addition, Diercks et al. (1971), as reported in Richardson *et al.* (1995) recorded killer whale echo-location clicks at 180 dB in the 12 to 25-kHz frequency. For the proposed airgun, 180 dB (P-P) is approximately 50 m (32.8 ft) from the source, at which distance the SPL on an RMS basis would be approximately 164 dB (180 dB would be less than 10 m (32.8 ft) from the acoustic source). Therefore, since marine mammals are unlikely to be injured by their own vocalizations or vocalizations of conspecifics, it is unlikely that animals would be injured by sounds from this acoustic source unless the animal is significantly closer to the airgun than 10 m (32.8 ft). Finally, because the activity will be less than 19 days long, no long-term impacts are anticipated.

Comment 3: Seals should be regarded as any other species in the mitigation and monitoring plans. It is known that seal bombs and noise deterrents used on fish farms frighten seals and can cause hearing damage. Lifeforce assumes that continuous noise from airguns would create similar problems.

Response: Under section 101(a)(5)(D) of the MMPA, it is NMFS' responsibility to ensure that the impact on marine mammals due to an activity is reduced to the lowest level practicable. In reviewing the information available, NMFS has determined that it is not practicable to require applicants to delay surveys in order to provide more protection for curious seals than has been proposed by the applicant, unless the animal indicates a significant adverse effect (see response to comment (RTC) 4 in this document). Delays due to shutdowns lengthen the time necessary for completing surveys, requiring additional survey time and resulting in a potential increase in impacts on more sensitive marine mammal species, and raise the potential for either increased costs for conducting surveys or continuing surveys in future years. As mentioned in this document and in prior **Federal Register** notices, seals and sea lions are believed to be less likely to be harmed by underwater noise than cetaceans, and have even been observed swimming in the bubbles of large seismic airgun arrays, a source significantly more powerful than the one proposed for use by this activity. For impulse noise such as the one under consideration here, it has been determined through scientific workshops that pinnipeds would need to be closer than 190 dB (RMS) before there is even the potential for injury. Because an SPL of 190 dB would be within about 5 m (16.4 ft) of the airgun, a requirement under the IHA of a 100–m (328-ft) shutdown is unnecessary for those seals and sea lions approaching the airgun.

Comment 4: Regarding monitoring the impact on marine mammals by the activity, the MMC believes the program (if funded) is adequate to verify that animals are taken only as authorized. The MMC notes however, that, in monitoring pinniped approaches to the active airgun array, transmissions be suspended if there is any indication that the animals are being adversely affected.

Response: NMFS concurs and has made that recommendation a part of the IHA. However, these seals and sea lions need to be actively approaching the vessel (itself moving forward at about 3–5 knots) from the side of the vessel or the stern, meaning that the animal is voluntarily approaching a noise source that is increasing in strength as the animal gets closer. Therefore, if a pinniped approaches the USGS vessel, the IHA requires the USGS to monitor the interaction to ensure the animal does not show signs of distress. If the pinniped(s) show obvious distress, the USGS is to suspend airgun operations until the pinniped moves outside of the safety zone and to continue to conduct observations on effects on all pinnipeds after the airgun is again powered up.

Comment 5: When cetaceans, such as orcas, gray whales, humpback whales, minke whales and other slower moving cetaceans are sighted at any distance, the tests should be suspended until they are a safe distance from, and are clearly moving away from the test site. When faster dolphins and porpoises are sighted at any distance near the safety zone the tests should be suspended until they are clearly heading in a direction away from the research activity.

Response: The USGS has recommended, and NMFS has adopted, shutdown criteria for this activity at 100 m (328 ft) for all cetaceans and pinnipeds. At 100 m (328 ft), the SPL from the proposed airgun(s) will be approximately 170 dB (P-P) or 154 dB (RMS). This shutdown distance is significantly greater than is necessary to protect marine mammals from the potential for injury. As noted in RTC 3, suspension of activities whenever a marine mammal is sighted is not practical due to the potential number of shutdowns that could be required, and is not necessary because of the low SPL of the acoustic source.

Comment 6: Tests during darkness must not be permitted. Proper monitoring of marine wildlife at night is impossible and may not meet MMPA requirements. The use of night vision equipment only works if you know where to look and scanning the areas would miss marine wildlife during their dive periods. By the time they are spotted, they could be within the safety zone. Operation should only be allowed from sunrise to sunset.

Response: During nighttime, observers are required to monitor a minimum of 50–m (164–ft) radius around the source whenever the airgun or small airgun array is powered up, to protect marine mammals. This distance is sufficient to ensure that marine mammals are detected prior to getting close enough to the airgun array to be injured. As discussed in the proposed authorization, suspension of night-time operations is impractical and costly to the USGS, and it may not result in reduced impacts to marine mammals by extending surveys either into a period of greater marine mammal abundance or into a future year when funding and ship time become available, or both. NMFS believes that because the vessel is underway, resulting in a de-facto ramp-up for marine mammals at distances forward of the vessel, no marine mammals will be injured by the airgun or small airgun array. However, because a mitigation requirement of the IHA is for the safety zone to be monitored for 15 minutes prior to the time the source is turned on, if the source is powered up at night or in inclement weather, the entire 50–m (164–ft) safety zone needs to be visible to the biological observers. Otherwise, the source must remain below 160 dB re 1 micro Pa-m (RMS), until sufficient light is available to observe the safety zone(s). Alternatives to night-vision equipment would include lighting the safety zone with high intensity lights or use of infra-red scopes, which operate differently than most light-enhancement devices. Infra-red scopes were tested by biologists in 1997 and found to be useful in detecting marine mammals at night; however, they are expensive to rent or purchase and may not be warranted for this short duration survey.

Comment 7: The applicants have stated that their monitoring plans would probably not meet MMPA requirements. They state that funding would be required to meet adequate monitoring objectives.

Response: The USGS will be capable of conducting the monitoring program required under the IHA for this activity.

Comment 8: Lifeforce recommends that observers on the seismic team should have experience and training in spotting marine wildlife.

Response: In order to monitor shutdown areas and to make observations on marine mammal behavior, at least one observer on watch needs to be trained in making at-sea observations of marine mammals. For this activity, the USGS has contracted with a private company to provide a minimum of three biological observers. In addition, crewmembers will also assist in watching for marine mammals.

Comment 9: The MMC recommends that NMFS advise the USGS that, if there is any indication that other types of taking (e.g., mortalities) may be occurring, survey activities be suspended while NMFS considers whether an authorization under section 101(a)(5)(A) is needed.

Response: Because the survey time is limited to 2 days in U.S. waters, suspension of an IHA would likely result in termination of that portion of the scientific research being conducted in U.S. waters. It is also unlikely that a cause-and-effect relationship would be able to be determined within a reasonable length of time to affect the work schedule. Even though it is a standard requirement in all IHAs to suspend activities if a taking occurred in a manner that was not authorized, mortality by this activity, caused either by a ship strike (because of the relatively low speed) or by seismic noise

(because of low SPL), is highly improbable. NMFS notes that the SPLs made by this activity are comparable to the vocalizations made by many species of marine mammals. If marine mammals vocalize at high SPL levels, it is realistic to believe that these species have also evolved mechanisms to protect themselves and conspecifics from high SPL vocalizations.

Comment 10: Lifeforce has studied behavior and travel patterns of orcas over a 9-year period. This allows it to be able to locate and track orcas on a daily basis and to predict estimated times of their arrival in certain areas. Communication between Lifeforce and the research team would reduce many conflicts resulting from the merging and crossing of routes taken by the research team and the endangered orcas.

Response: To the extent possible, NMFS recommends that the monitoring team for this activity coordinate with Lifeforce so that the acoustic harassment incidental to conducting a 2-day seismic program in U.S. waters is reduced to the lowest level practicable. However, this should not be interpreted to mean that the USGS can not conduct its activity without the participation of Lifeforce. Since the USGS will have an NMFS-approved observation team onboard the vessel, additional monitoring tasks are not needed, but would be useful.

Comment 11: Many of the species which could be affected by this research are transboundary species making their homes in both the U.S. and Canadian waters. Lifeforce urges NMFS to advise both American and Canadian participants that they must follow all requirements to protect marine wildlife as stated in the MMPA and all requirements set forth in any permit.

Response: The MMPA is effective in U.S. waters and, for U.S. citizens, on the global commons; it is not effective within the waters of another nation. As a result, NMFS is recommending that the USGS follow Canadian law while operating within that nation's waters. To the extent possible, NMFS recommends that the USGS follow the mitigation requirements of the IHA while within these waters, unless required by Canada to comply with other methods for protecting marine mammals.

Comment 12: Lifeforce recommends that a new Environmental Impact Study should be considered because during the past 6 years there has been a 20–percent decrease in the southern orca community. The last EIS was conducted 5 years ago.

Response: In conjunction with a seismic survey project in Puget Sound in 1998, NMFS completed an EA that addressed the impacts on the human environment from issuance of an authorization and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact (FONSI). As a result of that finding, in accordance with Council on Environmental Quality regulations (40 CFR 1501.3) and NOAA Administrative Order 216–6 (i.e., NOAA's guidelines implementing the National Environmental Policy Act (NEPA)), an Environmental Impact Statement was not prepared. This seismic survey will operate in approximately the same geographic area as the 1998 survey, and affect the same species of marine mammals. However, the airgun sources used in this action are significantly less intense the 1998 array and only 2 percent of the size of the earlier acoustic array. Accordingly, this proposed action qualifies for a categorical exclusion under NEPA. A change in the status of a marine mammal stock does not necessarily require a new NEPA analysis; a new NEPA review would be required if either the impact of the action was different than assessed under the proposed action or alternatives in the EA, or if new knowledge became available that called into question the impact assessments made in the EA. Since neither situation is relevant here, a new NEPA analysis is unnecessary.

Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected habitat and its associated marine mammals can be found in the USGS application and in several documents issued previously for acoustic research in Washington State waters (NMFS, 1996, 1997).

Marine Mammals

The species of marine mammals that are likely to be present in the region of the Straits of Georgia include the harbor porpoise (Phocoena phocoena), killer whale (Orcinus orca), Dall's porpoise (*Phocoenoides dalli*), harbor seal (*Phoca vitulina*) California sea lion (*Zalophus californianus*), elephant seal (Mirounga angustirostris) (Calambokidis and Baird, 1995) and Steller sea lion (*Eumetopias jubatus*) (NMFS data). Additional species that are rare or only occasionally seen in the area at the time of the survey include: Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), minke whale (*Balaenoptera acutorostrata*) humpback whale (*Megaptera novaengliae*) and gray whale (*Eschrichtius robustus*). However, because of the short duration of this project in waters under the jurisdiction of the United States, it is very unlikely that these latter species would be subject to harassment as a result of conducting seismic surveys.

General information on the marine mammal species can be found in the USGS application and the previously mentioned documents prepared under NEPA. Information on marine mammal species in this area can also be found in Caretta *et al.* (2002). In addition, a general synopsis of marine mammal presence and abundance in the Straits of Georgia area has been provided by NMFS' National Marine Mammal Laboratory for the determinations made here. That paper and the NEPA documents are available upon request (see **ADDRESSES**); Caretta *et al.* (2002) is available at the following URL: *http://www.nmfs.noaa.gov/prot_res/readingrm/MMSARS/*FinalPacSar2001.pdf. Please refer to these documents for information on marine mammal species.

Potential Effects of Seismic Surveys on Marine Mammals

Discussion

Disturbance by seismic noise is the principal means of taking incidental to this activity. Vessel noise may provide a secondary source. Also, the physical presence of vessel(s) could also lead to some non-acoustic effects involving visual or other cues.

The effects of underwater noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.*, 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e. lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) the noise may be audible but not strong enough to elicit any overt behavioral response; (3) the noise may elicit behavioral reactions of variable conspicuousness and variable relevance to the well being of the animal; these can range from subtle effects on respiration or other behaviors (detectable only by statistical analysis) to active avoidance reactions; (4) any noise that is strong enough to be heard has the potential to reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and/or echolocation sounds, and environmental sounds such as storms and surf noise; (5) upon repeated exposure, animals may exhibit diminishing responsiveness (habituation), or disturbance effects may persist (the latter is most likely with sounds that are highly variable in characteristics, unpredictable in occurrence, and associated with

situations that the animal perceives as a threat); and (6) very strong sounds have the potential to cause either a temporary or a permanent reduction in hearing sensitivity (i.e., temporary threshold shift (TTS) or permanent threshold shift (PTS), respectively). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained. However, in terrestrial mammals (and presumably in marine mammals), received sound levels must far exceed the animal's hearing threshold for there to be any TTS and must be even higher for there to be risk of PTS (Richardson *et al.*, 1995).

Depending upon ambient conditions and the sensitivity of the receptor, underwater sounds produced by large-scale open-water seismic operations may be detectable some substantial distance away from the activity. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance reaction by a marine mammal or masking a signal of comparable frequency. Incidental harassment is presumed to occur when marine mammals in the vicinity of the seismic source (or vessel) show a significant behavioral response to the generated sounds or visual cues.

High-intensity LF seismic pulses are known to cause some species of whales, including gray and bowhead whales, to behaviorally respond within a distance of several kilometers of the source (Richardson *et al.*, 1995). Although some limited masking of low-frequency sounds is a possibility for those species of whales using low frequencies for communication, the intermittent nature of seismic source pulses limit the extent of masking. Bowhead whales, for example, are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Richardson *et al.*, 1986).

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions. The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations and season. Behavioral changes may be subtle alterations in surface-dive-respiration cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors such as feeding, socializing or mating are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening.

Neither hearing damage nor nonauditory trauma are expected to occur as a result of this project. While TTS is a theoretical possibility for marine mammals close to an acoustic source, if the SPL of the source is of sufficient intensity, planned monitoring and mitigation measures (described later in this document) are designed to detect marine mammals occurring near the airgun array and to avoid, to the greatest extent practicable, exposing them to sound pulses that have any possibility of causing TTS.

Two factors determine the effect of the airgun array on marine mammals: (1) The intensity of the sound (mentioned previously in this document), and (2) the frequency range of the sound. The airgun sound spreads laterally in the water as the radius of the sound wave increases, resulting in a decrease in amplitude with distance of 20Log(R) or greater (R= distance in meters). Given this estimate of decay, a 230 dB(P-P) sound pressure decays to 180 dB(P-P) at a distance of about 300 m (984.3 ft)(see Figure 4 in the USGS application) from the source.

The 300–m (984.3–ft) distance, however, is clearly an overestimate for an estimation for a zone of potential injury (i.e., 180 db) because (1) it is based on a P-P measurement and not the accepted RMS measurement and (2) the frequency range of the airgun lies primarily outside the hearing range of most marine mammals. Data on hearing thresholds for odontocetes and pinnipeds show that the most sensitive hearing is in the 1,000– to 100,000–Hz frequency range (see Figure 5 in the USGS application; Richardson *et al.*, 1995; Kastack and Schusterman, 1995). The USGS airgun source rapidly decreases in strength above 200 Hz, resulting in the source strength above 400 Hz being less than 10 percent of the amplitude at lower frequencies.

The USGS has estimated the SPL of its airgun source as a function of frequency. The P-P sound pressure is created by the sum of waves of all the frequencies emitted by the airguns, with each frequency contributing only a portion of the total sound. If the maximum P-P SPL is divided by the frequency spectrum of the airgun array, the amplitude of the individual frequency components can be estimated at several distances, as shown in Figure 5 of the USGS application. The results indicate that the noise from any specific frequency emitted from the airgun array lies below the TTS of marine mammals at all distances (see Fig. 5 in the application).

The latter estimate of the strength of the individual frequency components is an underestimate, however, because it assumes that all the frequencies are exactly in phase to produce the sound pulse. In reality, the system is not perfectly efficient as implied in this calculation, and the individual frequency components are somewhat larger than shown in Figure 4 in the USGS application. If it is assumed that the USGS source is about 70 percent efficient, the individual frequency components would be about 1.43 times what the USGS estimates assuming perfect efficiency. By this calculation, the sound levels from the airgun lie below the temporary hearing shift of most marine mammals at any distance greater than 50 m (164 ft)(USGS, 2001).

NMFS concurs with the USGS that the best estimate of the strength of the airgun source is the 209 dB(RMS) measure of sound pressure. Using this RMS measure, the "annoyance" or behavioral-response threshold is reached at a distance of 300 m (984.3 ft) from the airguns based on a P-P measurement (Table 4 in the USGS application) and less than 50 m (164 ft) on an RMS measurement (subtracting 16 dB from each of the Y-axis SPL designations). This implies that animals 50 m (164 ft) from the USGS airguns may become annoyed (harassed), but TTS would potentially not occur unless the USGS airguns were within about 5–10 m (16.4–32.8 ft) of a mammal.

In light of the above information and recent scientific information that indicates that nonauditory injury is unlikely at SPL levels below 190 dB (Crum and Mayo, 1996); and frequencies below 300 Hz (Ketten, 2001), nonauditory injury is also unlikely for marine mammals exposed to this acoustic source.

Mitigation

Several mitigation measures to reduce the potential for marine mammal harassment will be implemented by USGS as part of their proposed activity. These include:

(1) Scheduling the survey during May, when marine mammal abundance in the Straits of Georgia is low;

(2) Keeping the vessel's speed between 6 and 8 knots to permit marine mammals that hear the ship and airgun noise to be able to move out of the area of the ship's track if they find the

approaching vessel and accompanying noise annoying;

(3) Establishing a safety zone of 100 m (328 ft) around the seismic airguns; the USGS will shut down the airgun operation if any marine mammal enters the safety zone. The 100–m (328–ft) distance is double the 50–m (164–ft) estimate of the distance for harassment. This safety zone radius compares with a 100–m (328–ft) safety radius for marine mammals that was used successfully in the 1998 Puget Sound seismic experiment using much larger airguns (Fisher, 1997; Calambokidis and Osmek, 1998; Bain, 1998). Given that the current USGS airgun source is only 2 percent of the size of the 1998 source as measured in chamber volume (120 inch^3 versus 6730 inch^3), NMFS concurs with the USGS that a 100–m (328–ft) safety radius is overly conservative to ensure that no marine mammals would be injured and that the potential even for marine mammal harassment is unlikely.

(4) For all seals and sea lions, if the seismic vessel approaches a pinniped, a safety radius of 100 m (328 ft) will be maintained from the animal(s). However, if a pinniped (except Steller sea lions) approaches the towed airgun array during airgun transmissions, the USGS will not be required to shutdown the airguns, unless the animal(s) shows signs of distress. Therefore, if a pinniped (except Steller sea lions) approaches the USGS vessel, the IHA requires the USGS to monitor the interaction to ensure the animal does not show signs of distress. If the pinniped(s) show obvious distress, the USGS is to suspend airgun operations until the pinniped moves outside of the safety zone and to continue to conduct observations on effects on all pinnipeds after the airgun is again powered up. Experience indicates that pinnipeds will come from great distances to scrutinize seismic operations. Seals have been observed swimming within airgun bubbles, 10 m (33 ft) away from active arrays and, more recently, Canadian scientists, who were using a high-frequency seismic system that produced sound closer to pinniped hearing than will the USGS airgun array, describe how seals frequently approached close to the seismic source, presumably out of curiosity. Therefore, the above-mentioned mitigation plan has been proposed. In addition, the USGS will gather information on how often pinnipeds approach the airgun array on their own volition, and what effect the airguns appear to have on them.

(5) To ensure no marine mammals are inadvertently harmed when data collection first begins or resumes after operations have ceased temporarily, the airguns will be turned on sequentially (if an array is used), so that peak power is achieved gradually to give marine mammals a chance to move away from the source.

(6) Upon notification by a local stranding network that a marine mammal has been found dead within the waters of the Straits of Georgia or nearby U.S. waters when the array is operating within that body of water, NMFS will investigate the stranding to determine whether a reasonable chance exists that the USGS seismic survey project caused the animal's death. If NMFS determines, based upon a necropsy of the animal(s), that the death was likely due to the seismic source, the survey must cease U.S. operations until procedures are altered to eliminate the potential for future deaths.

Monitoring

To monitor the 100–m (328–ft) safety zone when in U.S. waters, the USGS will have two trained observers, one on each side of the ship, specifically watching for marine mammals at all times that the airguns are operating. Members of the crew, specifically the ship's pilot, will also be instructed to immediately notify the observers if any marine mammals are sighted. However, in order for 24–hour operations to be undertaken, a sufficient number of biological observers must be available so that no single observer is on active watch for more than 3 consecutive hours.

Observations will begin at least 15 minutes before airguns are turned on. The observers will be equipped with binoculars during the day and night-vision equipment during the night, both of which are believed adequate to monitor the 100–m (328–ft) safety zone while standing on the ship. The observers will order the airgun operations to cease if the vessel approaches within 100 m (328 ft) of a marine mammal during daylight hours and 50 m (164 ft) during nighttime operations.

The objectives of the proposed monitoring program will be: to mitigate potential harassment of marine mammals, to document the number of animals of each species present in the vicinity of the sound transmissions, and to evaluate the reactions of marine mammals to these transmissions.

Reporting

The USGS will provide an initial report to NMFS within 120 days of the completion of the Straits of Georgia marine seismic survey project. This report will provide dates and locations of seismic operations, details of marine mammal sightings, and estimates of the amount and nature of all takes by harassment. A final technical report will be provided by USGS within 1 year of completion of the project. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

NEPA

In conjunction with a seismic survey project in Puget Sound in 1998, NMFS completed an EA that addressed the impacts on the human environment from issuance of an authorization and the alternatives to that action. NMFS' analysis resulted in a FONSI. This proposed seismic survey will operate in the same geographic area as the 1998 survey and as the seismic airgun sources used in this proposed action are significantly less intense. Accordingly, this proposed action qualifies for a categorical exclusion under NEPA. Therefore, a new EA will not be prepared. A copy of the 1997 EA is available upon request (see **ADDRESSES**).

Consultation

Under section 7 of the ESA, NMFS has completed consultation on the issuance of this IHA. NMFS has concluded that this action is unlikely to adversely affect listed marine mammals because those species of whales that are listed under the ESA are not expected to be present in the inshore waters of the Straits of Georgia at the time of the year that the activity will take place. Steller sea lions, which are more common in British Columbia than the Straits of Georgia, are unlikely to be affected by low frequency seismic sources unless fairly close to the source. However, the acoustic source that will be used during this project is of low intensity and will not have a large zone of influence. Therefore, even though Steller sea lions may be fairly abundant in these waters in late spring, because of the small zone of influence for this source (less than 50 m (164 ft)), no Steller sea lions are expected to be taken during this short acoustic survey.

Conclusions

NMFS has determined that the short-term impact of conducting a marine seismic survey in the Straits of Georgia will result, at worst, in a temporary modification in behavior by certain species of pinnipeds, and possibly some individual cetaceans. While behavioral modifications may be occur in certain species of marine mammals to avoid the resultant noise from airgun arrays, this behavioral change is expected to result in the harassment of only small numbers of each of several species of marine mammals and would have no more than a negligible impact on the affected species or stocks of marine mammals.

In addition, no take by injury and/or death is anticipated and takes by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously. No known rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

Authorization

As a result of these determinations, NMFS has issued an IHA to the USGS for the possible harassment of small numbers of several species of marine mammals incidental to collecting marine seismic data in Straits of Georgia region of Washington State, provided the above-mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 15, 2002.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12718 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Romania

May 15, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2000). Also see 66 FR 63033, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 15, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 21, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
435	10,529 dozen.
444	44,829 numbers.
604	1,652,800 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–12632 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, June 7, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12814 Filed 5–17–02; 2:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, June 14, 2002.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSONS FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12815 Filed 5–17–02; 2:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

DATES: *Time and Date:* 11:00 a.m., Friday, June 21, 2002

PLACE: 1155 21st St., NW., Washington, DC., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12816 Filed 5–17–02; 2:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, June 28, 2002.
PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED: Surveillance Matters.
CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 02–12817 Filed 5–17–02; 2:40 am]
BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed collection; comment request

AGENCY: Defense Finance and Accounting Service, DoD.
ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(2)(B) of the Paperwork Reduction act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.
DATES: Consideration will be given to all comments received by July 22, 2002.
ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Denver, (PDSA) ATTN: Ms. Sue Debevec, 6760 East Irvington Place, Denver, CO 80279–8000.
FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Sue Debevec, 303–676–3126.

Title, Associated Form, and OMB Number: Custodianship Certification to Support Claim on Behalf of Minor Children of Decreased Members of the Armed Forces, DD Form 2790, OMB License Number 0730–0010.
Needs and Uses: Per DoD Financial Management Regulation 7000.14–R, Volume 7B, Chapter 46, paragraph 460103A(1), an annuity for a minor child is paid to the legal guardian, or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child then is considered an adult for annuity purposes and a custodian or legal fiduciary is not required.
Affected Public: Individuals.
Annual Burden Hours: 120 hours.
Number of Respondents: 300.
Responses per Respondent: 1.
Average Burden per Response: 24 minutes.
Frequency: 1.
SUPPLEMENTARY INFORMATION:

Summary of Informaiton Collection

The form is used by the Directorate of Annuity Pay, Defense Finance and Accounting Service Denver, (DFAS–DE), in order to pay the annuity to the correct person on behalf of a child under the age of majority. If the form with the completed certification is not received, the annuity payments are suspended. Since the funds for annuity are paid by members there are no consequences to the Federal Government.

Dated: May 15, 2002.
Patricia L. Toppings,
Alternate OSD Federal Register, Liaison Officer, Department of Defense.
[FR Doc. 02–12670 Filed 5–20–02; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).
DATES: June 17 and 18, 2002.
ADDRESSES: Conference Center, Room C, Government Center South, 302 W. Washington Street, Indianapolis, IN 46204.
FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its Web site at *http://www.rand.org/organization/nsrd/terrpanel;* it can also be reached at (703) 413–1100 extension 5321.
SUPPLEMENTARY INFORMATION:

Proposed Schedule and Agenda

Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 12:00 p.m. until 5:30 p.m. on June 17, 2002 and from 8:30 am. until 3:00 p.m. on June 18, 2002. Time will be allocated for public comments by individuals or organizations at the end of the meeting on June 18.

Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Nancy Rizor, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: May 14, 2002.
Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 02–12671 Filed 5–20–02; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).
Date(s) of Meeting: May 20–22, 2002.
Time(s) of Meeting: 0800–1700—May 20, 2002, 0800–1700—May 21, 2002, 0800–1700—May 22, 2002.
Place: Institute for Defense Analysis.
1. AGENDA: The Integration and Analysis Panel of the Army Science Board FY02 Summer Study on "Ensuring the Financial Viability of the Objective Force" is holding a meeting on 20–22 May. The meeting will be held at IDA—4850 Mark Center Drive. The meeting will begin at 0800 hours on the 20th and will end at approximately 1700 hours on the 22nd. For further information, please contact LTC Mark Malcolm—703–604–7047 or e-mail: Malcolm. Mark A LTC DUSA(OR).

Wayne Joyner,
Program Support Specialist, Army Science Board.
[FR Doc. 02–12700 Filed 5–20–02; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Improvements to the Sabine-Neches Ship Channel Near Beaumont and Port Arthur, Texas as Published in a Resolution of the Senate Committee on Environment and Public Works, dated June 5, 1997, 105th Congress, 2nd Session

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.
ACTION: Notice of intent.

SUMMARY: The proposed action to be addressed in the Draft Environmental Impact Statement (DEIS) is to evaluate several widening and deepening alternatives to improve a deep-draft navigation channel that connects harbor facilities in the Beaumont and Port Arthur area with the Gulf of Mexico. The study will focus on circulation and salinity changes associated with an improved channel and develop dredged material disposal options that will include an evaluation of beneficial uses of dredged material. The project is being maintained at its authorized depth of 40 feet and includes about 56 nautical miles of deep-draft channel. The Beaumont/Port Arthur area is located about 90 miles northeast of Houston, Texas. The local sponsor for the project is the Jefferson County Waterway and Navigation District.
FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Ms. Lizette Richardson, (409) 766–3123, Project Manager, Project Management Branch, or Ms. Janelle Stokes, (409) 766–3039, Environmental Lead, Environmental Section, Planning Branch, Planning Environmental and Regulatory Division, P.O. Box 1229, Galveston, Texas 77553–1229.
SUPPLEMENTARY INFORMATION:
(1) *Background.* The study began in 1997 when Congress directed the Secretary of the Army to study the feasibility of modifying the channels serving the Ports of Beaumont, Port Arthur, and Orange, Texas in the interests of commercial navigation. A reconnaissance study evaluated a deepening and widening plan to establish a Federal Interest in the project. The study concluded that there was a Federal Interest in continuing studies in 1998. The feasibility study began in March 2000 and will determine the most cost-effective alternative for improving the channel while protecting the Nation's environment.
(2) a. *Alternatives.* The construction alternatives that will be evaluated in the feasibility phase are: (1) Deepening the channel to 45 ft from offshore to the Beaumont turning basin; (2) deepening the channel to 48 ft from offshore to the Beaumont turning basin ; (3) deepening the channel to 50 ft from offshore to the Beaumont turning basin ; (4) various combinations of selective widening and turning basins; 5) various combinations of selective widening and turning basins with each one of the above depths.
b. *No Action.* A "No Action" alternative will be evaluated and presented for comparison purposes in evaluating the various construction alternatives.
(3) *Scoping.* The scoping process will involve Federal, State and local agencies, and other interested persons and organizations. Scoping meetings are scheduled for May 28 and 29, 2002 in Lake Charles, Louisiana, and Beaumont, Texas. The time and place of these meetings will be announced in local newspapers and mailings. Issues to be discussed at these meetings include, but are not limited to, changes in salinity and circulation, changes in fresh and saltwater marshes, water and sediment quality, erosion along the channel, threatened and endangered species impacts, opportunities for ecosystem restoration, and the beneficial use of dredged material. Any person or organization wishing to provide information on issues or concerns should contact the Corps of Engineers at the above address.
4. *Coordination.* Further coordination with environmental agencies will be conducted under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Clean Water Act, the Clean Air Act, the National Historic Preservation Act, the Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat), and the Coastal Zone Management Act under the Texas Coastal Management Program and the Louisiana Coastal Resources Program. An Interagency Coordination Team (ICT) has been formed to provide guidance and counsel on matters relating to the evaluation of environmental impacts of this project. The ICT is composed of representatives from 4 Federal agencies, 7 regulatory agencies from the States of Texas and Louisiana, the local sponsor, and the U.S. Army Corps of Engineers.
5. *DEIS Preparation.* It is estimated that the DEIS will be available to the public for review and comment in January 2004.

Carolyn E. Murphy,
Chief, Environmental Section.
[FR Doc. 02–12647 Filed 5–20–02; 8:45 am]
BILLING CODE 3710–62–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–517–002, et al.]

UtiliGroup, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 14, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. UtiliGroup, Inc.

[Docket No. ER02–517–002]

Take notice that on May 3, 2002, UtiliGroup, Inc. (UtiliGroup) tendered for filing with the Federal Energy Regulatory Commission (Commission) additional information to its original Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority filed December 10, 2001 and Amendment filed February 4, 2002.

Comment Date: May 24, 2002.

2. San Diego Gas & Electric Company

[Docket No. ER02–613–001]

Take notice that on April 30, 2002, San Diego Gas and Electric Company (SDG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) revised tariff sheets in Docket No. ER02–613–000, dated December 24, 2001, reflecting its proposed recovery of revenue requirements. Since making its filing, SDG&E determined that the revenue requirement submitted did not include recovery of franchise fees paid to the cities and counties in its service territory.

SDG&E is requesting the Commission to approve the revised revenue requirements and rates effective July 1, 2002 through December 31, 2002.

Comment Date: May 24, 2002.

3. Oncor Electric Delivery Company

[Docket No. ER02–1029–001]

Take notice that on May 9, 2002, Oncor Electric Delivery Company (Oncor) tendered for filing with the Federal Energy Regulatory Commission (Commission), its Sixth Revised Tariff for Transmission Service To, From and Over Certain HVDC Interconnections to modify the tariff to change the name of TXU Electric Company to Oncor Electric Delivery Company and otherwise conform the tariff to the requirements of Order No. 614 in compliance with the Commission's April 15, 2002 order in Docket No. ER02–1029–000 regarding Oncor's Notice of Succession.

Oncor states that this filing has been served upon each customer taking service under the tariff and the Public Utility Commission of Texas.

Comment Date: May 30, 2002

4. Oncor Electric Delivery Company

[Docket No. ER02–1029–002]

Take notice that on May 9, 2002, Oncor Electric Delivery Company (Oncor) tendered for filing with the Federal Energy Regulatory Commission (Commission), its Second Revised Tariff for Transmission Service for Tex-La Electric Cooperative of Texas, Inc. to modify the tariff to change the name of TXU Electric Company to Oncor Electric Delivery Company and otherwise conform the tariff to the requirements of Order No. 614 in compliance with the Commission's April 15, 2002 order in Docket No. ER02–1029–000 regarding Oncor's Notice of Succession.

Oncor states that this filing has been served upon each customer taking service under the tariff and the Public Utility Commission of Texas.

Comment Date: May 30, 2002.

5. Continental Electric Cooperative Services, Inc.

[Docket No. ER02–1118–001]

Take notice that on May 9, 2002, Continental Electric Cooperative Services, Inc. (CCS) tendered for filing with the Federal Energy Regulatory Commission (Commission), modified FERC Electric Rate Schedule No. 1 in compliance with the Commission's Letter Order issued April 24, 2002.

Comment Date: May 30, 2002.

6. Garnet Energy LLC

Docket No. ER02–1119–001]

Take notice that on May 9, 2002, Garnet Energy LLC (Garnet) filed with the Federal Energy Regulatory Commission (Commission), a Clarification and Compliance Filing of Supplemental Information regarding the Application for Market-Based Rate Authority filed February 26, 2002, with the Commission seeking acceptance of Garnet's FERC Rate Schedule No. 1 and the granting of certain blanket approvals, including the authority to sell energy and capacity at market-based rates and the waiver of certain Commission regulations. The filing was submitted in compliance with the letter order issued April 22, 2002.

Comment Date: May 30, 2002.

7. Tampa Electric Company

Docket No. ER02–1177–001]

Take notice that on May 8, 2002, Tampa Electric Company (TEC) tendered for filing an amendment to an executed Interconnection and Operating Agreement between TEC and Auburndale Peaker Energy Center, L.L.C. in accordance with the April 8, 2002 letter order issued by the Director of the Division of Tariffs and Rates—East.

Comment Date: May 29, 2002.

8. Midwest Independent Transmission System Operator, Inc.

Docket No. ER02–1422–002]

Take notice that on May 7, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing the average loss factor for the Joint Open Access Transmission Tariff for the Midwest Independent Transmission System Operator, Inc. for the Transmission System (Michigan), FERC Electric Tariff, Original Volume No. 2 (JOATT).

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at www.midwestiso.org under the heading "Filings to FERC" for other interested parties in this matter. Customers served under the existing JOATT will be served with paper copies of this filing by U.S. mail.

Comment Date: May 28, 2002.

9. Pinnacle West Capital Corporation

Docket No. TX02–1–001]

Take notice that on May 7, 2002, Electrical District No. 3 of Pinal County, State of Arizona, (ED3) filed with the Federal Energy Regulatory Commission (Commission), a transmission service agreement (TSA) between ED3 and Pinnacle West Capital Corporation (PWCC), pursuant to which ED3 will provide transmission services to PWCC pursuant to Section 211 of the Federal Power Act, in accordance with the Commission's Proposed Order Directing Transmission Services and Ordering Further Proceedings in *Pinnacle West Capital Corp.*, 98 FERC ¶ 61,039 (2002).

ED3 requests an effective date of October 9, 2001 for the TSA. PWCC concurs in ED3's filing.

Comment Date: June 13, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12660 Filed 5–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Power Rates

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised FY 2002 Power Repayment Studies which show the need for an increase in annual revenues to meet cost recovery criteria. Such increased revenues are needed primarily to cover increased investments and replacements in hydroelectric generating and high-voltage transmission facilities, increased operation and maintenance expenses and increased transmission service expenses. The Administrator has developed proposed Integrated System rates, which are supported by a rate design study, to recover the required revenues. Beginning October 1, 2002, and thereafter, the proposed rates would increase annual system revenues approximately 5.6 percent from $109,463,500 to $115,602,003, which includes an increase in the purchased power adder.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end August 19, 2002.

1. Public Information Forum—June 6, 2002, 1 p.m.,Tulsa, OK.

2. Public Comment Forum—July 10, 2002, 1 p.m.,Tulsa, OK.

ADDRESSES: The forums will be held in Southwestern's offices, Room 1402, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103. Ten copies of the written comments together with a diskette in MS Word or Corel Word Perfect, regarding the proposed rate change should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma, 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696, *reeves@swpa.gov*.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of Interior to the Department of Energy, effective October 1, 1977. Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2, Power Marketing Administration Financial Reporting. Procedures for Public Participation in Power and Transmission Rate Adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR 903).

Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these States plus Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues received under the Integrated System rates, as are Southwestern's transmission facilities which consist of 1,380 miles of high-voltage transmission lines, 24 substations, and 46 microwave and VHF radio sites. Costs associated with the Sam Rayburn and Robert D. Willis Dams, two Corps of Engineers projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid under separate rate schedules and are not addressed in this notice.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment study using existing system rates. The Study indicates that Southwestern's legal requirement to repay the investment in power generating and transmission facilities for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is primarily due to increased investments and replacements in hydroelectric generating and high-voltage transmission facilities, increased operation and maintenance expenses and increased transmission services expenses. The Revised Power Repayment Study shows that additional annual revenues of $5,542,676, (a 5.1 percent increase), beginning October 1, 2002, are needed to satisfy repayment criteria.

A Rate Design Study has also been completed which allocates the revenue requirement to the various system rate schedules for recovery, and provides for transmission service rates in conformance with FERC Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). The proposed new rates would increase estimated annual revenues from $109,463,500 to $115,602,003 and would satisfy the present financial criteria for repayment of the project and transmission system investments within the required number of years. As indicated in the Integrated System Rate Design Study, this revenue would be developed primarily through increases in the charges for generation and transmission services, to include some of the ancillary services for deliveries of both Federal and non-Federal power and associated energy from the transmission system of Southwestern. There are also increased charges for transformation services for deliveries at voltages of 69 kV (kilovolt) or less.

A second component of the Integrated System rates for power and energy, the purchased power adder, produces revenues which are segregated to cover the cost of power purchased to meet contractual obligations. The purchased power adder is established to reflect what is expected to be needed by Southwestern to meet purchased power needs on an average annual basis. It has been increased from the existing rate to reflect the projected power costs based on present market rates. The Administrator's authority to adjust the purchased power adder annually at his/her discretion, plus or minus $0.0011 per kilowatthour (kWh), will remain the same.

Below is a general comparison of the existing and proposed system rates:

	Existing rates	Proposed rates
GENERATION RATES	Rate Schedule P–98D (System Peaking)	Rate Schedule P–02 (System Peaking)
Capacity:		
Grid or 138–161kV	$2.56/kW/Mo + up to $0.0146/kW/Mo (ancillary services) for generation within control area: Regulation Ancillary Services + $0.04/kW/Mo for deliveries within control area	$2.72/kW/Mo + up to $0.0112/kW/Mo (ancillary services) for generation within control area: Regulation Ancillary Services + $0.06/kW/Mo for deliveries within control area
69 kV	Transformation Service + $0.25/kW/Mo (applied to usage, not reservation)	Transformation Service + $0.28/kW/Mo (applied to usage, not reservation)

	Existing rates	Proposed rates
GENERATION RATES	Rate Schedule P–98D (System Peaking)	Rate Schedule P–02 (System Peaking)
Energy	$0.0048/kWh of Peaking Energy and Supplemental Peaking Energy + a Purchased Power Adder of $0.0011 of Peaking Energy (± 0.0011 annually at Administrator's discretion).	$0.0050/kWh ofr Peaking Energy and Supplemental Peaking Energy + a Purchase Power Adder or $0.0025 of Peaking Energy (± 0.0011 annually at Administrator's discretion).
TRANSMISSION RATES	Rate Schedule NFTS–98D (Transmission)	Rate Schedule NFTS–02 (Transmission)
Capacity-Firm Reservation with energy). Grid of 138–161 kV.	$0.69/W/Mo $0.173/kW/Week $0.0314/kW/Day + Required Ancillary Services: $0.06/kw/Mo, or $0.016/kW/Week, or $0.0028/kW/Day + Reserve Ancillary Services: up to: $0.00146/kW/Mo, or $0.00366/kW/Week, or $0.00066kW/Day, for generation in control area + Regulation & Freq Response Ancillary Service up to: $0.04/kW/Mo, or $0.010/kW/Week, or $0.0018/kW/Day, for deliveries within control area	$0.73/kW/Mo $0.183/kW/Week $0.0332/kW/Day + Required Ancillary Services: $0.08/kW/Mo, or $0.021/kW/Week, or $0.0037/kW/Day + Reserve Ancillary Services: up to: $0.00112/kW/Mo, or $0.0028/kW/Week, or $0.00050/kW/Day, for generation in control area + Regulation & Freq Response Ancillary Service up to: $0.06/kW/Mo, or $0.015/kW/Week, or $0.0027/kW/Day, for deliveries within control area
69 kV and below	Transformation Service + 40.25/kW/Mo no separate charge (applied on usage, not reservation). Weekly and daily rates not applied.	Transformation Service + $0.28/KW/Mo no separate charge (applied on usage, not reservation). Weekly and daily rates not applied.
Capacity (Non-firm with energy):.		
Network Service	no separate capacity charge $0.55/kW/Mo, or $0.138/kW/Week, or $0.0251/kW/Day, or $0.00157/kWh, delivered	no separate capacity charge 80% of firm monthly charge divided by 4 for weekly rate, divided by 22 for daily rate and divided by 352 for hourly rate.
	$0.72/kW/Mo of Network Load + Required Ancillary Services: $0.06/kW/Mo, or + Reserve Ancillary Services: up to: $0.00146/kW/Mo, for generation in control area + Regulation & Freq Response	$0.73/kW/Mo of Network Load + Required Ancillary Services: $0.08/kW/Mo, or + Reserve Ancillary Services: up to: $0.00112/kW/Mo, for generation in control area +
	Rate Schedule EE–98 (Excess Energy)	Rate Schedule EE–02 (Excess Energy)
Energy	$0.0048/Wh + $0.0018/kWh (transmission) + Required ancillary services $0.00018/kWh + $0.00018/kWh (anciullary service) for generation in control area + $0.00011/kWh (ancillary service) + for deliveries in control area:	$0.0050/kWh + $0.0021/kWh (transmission) + Required ancillary services $0.00023/kWh + $0.00004/kWh (ancillary service) for generation in control area + .000017/kWh (ancillary service) + for deliveries in control area:

Opportunity is presented for Southwestern customers and other interested parties to receive copies of the Integrated System Studies. If you desire a copy of the Integrated System Power Repayment Studies and Rate Design Study Data Package, submit your request to Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, One West Third, Tulsa, OK 74103 (918) 595–6696.

A Public Information Forum is scheduled to be held on June 6, 2002, to explain to customers and the public the proposed rates and supporting studies. The proceeding will be transcribed. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Questions concerning the rates, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing, except that questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Public Information Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by May 31, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held.

A Public Comment Forum is scheduled to be held on July 10, 2002, at which interested persons may submit written comments or make oral presentations of their views and comments related to the rate proposal. The proceeding will be transcribed. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Southwestern's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in attending the Public Comment Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by July 3, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held. Persons interested in speaking at the Forum should submit a request to Mr. Forrest E. Reeves, Assistant Administrator, Southwestern, at least five (5) days prior to the Forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each Forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from Southwestern upon request for a fee.

Following review of the oral and written comments and the information gathered in the course of the proceedings, the Administrator will submit the amended Integrated System Rate Proposal, Power Repayment Studies, and Rate Design Study in support of the proposed rates to the Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate increase before making a final decision.

Issued in Tulsa, Oklahoma, this 6th day of May 2002.

Michael A. Deihl,

Administrator.

[FR Doc. 02–12683 Filed 5–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Power Rate

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised 2002 Power Repayment Studies which show the need for a decrease in annual revenues to meet cost recovery criteria. Such decreased revenues are required primarily due to decreased investments and operations and maintenance expenses at the project. The Administrator has developed a proposed Sam Rayburn Dam rate schedule, which is supported by a power repayment study, to recover the required revenues. Beginning October 1, 2002, the proposed rates would decrease annual revenues approximately 3.1 percent from $2,077,632 to $2,013,024.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end August 19, 2002.

1. Public Information Forum—June 6, 2002, 9 a.m. central time,Tulsa, OK.

2. Public Comment Forum—July 10, 2002, 9 a.m. central time,Tulsa, OK.

ADDRESSES: The forums will be held in Southwestern's offices, Room 1402, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103. Ten copies of the written comments, together with a diskette in MS Word or Corel Word Perfect, regarding the proposed rate change should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of Interior to the Department of Energy, effective October 1, 1977. Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2, Power Marketing Administration Financial Reporting. Procedures for Public Participation in Power and Transmission Rate Adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR 903).

Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these States plus Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues received under the Integrated System rates, as are Southwestern's transmission facilities which consist of 1,380 miles of high-voltage transmission lines, 23 substations, and 46 microwave and VHF radio sites. Costs associated with the Sam Rayburn and Robert D. Willis Dams, two projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid by separate rate schedules.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment study using the existing Sam Rayburn Dam rate. The Study indicates that Southwestern's legal requirement to repay the the investment in the power generating facility for power and energy marketed by Southwestern will be over-collected without a decrease in revenues. The need for decreased revenues is primarily due to the decreased costs for project investments, together with decreased costs for operations and maintenance expenses. The Revised Power Repayment Study shows that a reduction in annual revenue of $64,608 (a 3.1 percent decrease), beginning October 1, 2002, is needed to satisfy repayment criteria.

Opportunity is presented for Southwestern customers and other interested parties to receive copies of the Sam Rayburn Dam Studies and the proposed rate schedule. If you desire a copy of the Sam Rayburn Dam Power Repayment Data Package with the proposed Rate Schedule, submit your request to Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595–6696 or via e-mail to reeves@swpa.gov.

A Public Information Forum is scheduled to be held on June 6, 2002, to explain to customers and the public

the proposed rate and supporting studies. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Questions concerning the rate, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing, except that questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Public Information Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by May 31, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held.

A Public Comment Forum is scheduled to be held on July 10, 2002, at which interested persons may submit written comments or make oral presentations of their views and comments related to the rate proposal. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Southwestern's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in attending the Public Comment Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by July 3, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held. Persons interested in speaking at the Forum should submit a request to the Administrator, Southwestern, at least five (5) days prior to the Forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each Forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from Southwestern upon request for a fee. Written comments, together with a diskette in MS Word or Corel Word Perfect, on the proposed Sam Rayburn Dam Rate are due on or before August 19, 2002. Ten copies of the written comments should be submitted to the Administrator, Southwestern, at the above-mentioned address for Southwestern's offices.

Following review of the oral and written comments and the information gathered in the course of the proceedings, the Administrator will submit the amended Sam Rayburn Dam Rate Proposal, and Power Repayment Studies in support of the proposed rate to the Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate decrease before making a final decision.

Issued in Tulsa, Oklahoma, this 6th day of May, 2002.

Michael A. Deihl,

Administrator.

[FR Doc. 02–12682 Filed 5–20–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0014; FRL–7177–1]

TSCA Section 8(d) Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA is seeking public comment on the following Information Collection Request (ICR): TSCA Section 8(d) Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies (EPA ICR No. 0575.09, OMB Control No. 2070–0004). This ICR involves a collection activity that is currently approved and scheduled to expire on October 31, 2002. The information collected under this ICR relates to requirements that manufacturers and processors submit lists and copies of health and safety studies relating to the health and/or environmental effects of chemical substances and mixtures listed in the TSCA section 8(d) rule (40 CFR part 716). Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket ID number OPPT–2002–0014, must be received on or before July 22, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0014 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul Campanella, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8091; fax number: (202) 564–4765; e-mail address: campanella.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a company that manufactures, processes, imports, or distributes in commerce chemical substances or mixtures. Potentially affected categories and entities may include, but are not limited to:

Type of business	NAICS codes
Chemical manufacturing	325
Petroleum refineries	32411

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. Fax-on-Demand

Using a faxphone call (202) 564–3119 and select items 4094 and 4095 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket ID number OPPT–2002–0014. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0014 on the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPPT–2002–0014. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: TSCA Section 8(d) Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies.

ICR numbers: EPA ICR No. 0575.09, OMB No. 2070–0004.

ICR status: This ICR is currently scheduled to expire on October 31, 2002. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 8(d) of the Toxic Substances Control Act (TSCA) and 40 CFR part 716 require manufacturers and processors of chemicals to submit lists and copies of health and safety studies relating to the health and/or environmental effects of certain chemical substances and mixtures. In order to comply with the reporting requirements of section 8(d), respondents must search their records to

identify any health and safety studies in their possession, copy and process relevant studies, list studies that are currently in progress, and submit this information to EPA.

EPA uses this information to construct a complete picture of the known effects of the chemicals in question, leading to determinations by EPA of whether additional testing of the chemicals is required. The information enables EPA to base its testing decisions on the most complete information available and to avoid demands for testing that may be duplicative. EPA will use information obtained via this collection to support its investigation of the risks posed by chemicals and, in particular, to support its decisions on whether to require industry to test chemicals under section 4 of TSCA.

Responses to the collection of information are mandatory (see 40 CFR part 716). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 4.1 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 569.

Frequency of response: On occasion.

Estimated average number of responses for each respondent: 12.5.

Estimated total annual burden hours: 2,344.

Estimated total annual burden costs: $203,512.

VI. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 2,198 hours (from 4,542 hours to 2,344 hours) in the total estimated respondent burden compared with that identified in the information collection request most recently approved by OMB. This change results from an updated analysis of the historical reporting patterns and the number of chemicals listed on the section 8(d) reporting rule (adjustment). Specifically, because no new chemicals were added to the rule during the previous ICR reporting period, the number of chemicals added during the 1993 through 1996 period were averaged over 8 years (1993 through 2000) to provide an estimate of expected reporting over the coming 3 year period of this ICR renewal. Unit burden estimates have not changed.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: May 10, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–12714 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7213–9]

Proposed Alternative Tier 2 Requirements for PuriNO__ Diesel Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed requirements.

SUMMARY: The Lubrizol Corporation (Lubrizol) has developed a motor-vehicle diesel fuel, known as PuriNO$_X$, that contains significant amounts of water and methanol. The purpose of this notice is to announce that EPA has notified Lubrizol, by certified letter, of proposed Alternative Tier 2 testing requirements for PuriNO$_X$ Generation 2 Winter Diesel Fuel Emulsion (Winter PuriNO$_X$) under the fuel and fuel additive registration testing requirements. EPA is also proposing that testing performed by Lubrizol on Winter PuriNO$_X$ and a warm-climate PuriNO$_X$ is sufficient to cover intermediate versions of PuriNO$_X$. A copy of the letter has been placed in the public record. The purpose of these proposals is to assist in characterizing potential health risks associated with the use of this fuel. The public is invited to comment on these proposals.

DATES: Comments must be submitted on or before June 20, 2002. Comments on the proposed Alternative Tier 2 provisions must be received from Lubrizol within 60 days of Lubrizol's receipt of the notification letter.

ADDRESSES: Written comments should be addressed to Public Docket No. A–2002–07, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, SW., Washington, DC, 20460–0001. Relevant materials have been placed in this docket. It may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Environmental Engineer, U.S. Environmental Protection Agency, Office of Transportation and Air Quality, Mail Code 6406J, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460–0001, (202) 564–9303, fax (202) 565–2085, *caldwell.jim@epa.gov*.

SUPPLEMENTARY INFORMATION: Regulated Entity. The entity potentially regulated by this action is Lubrizol.

I. Introduction

Pursuant to sections 211(b)(2) and 211(e) of the Clean Air Act (CAA) EPA promulgated regulations requiring manufacturers of designated fuels and fuel additives (F/FA) to conduct tests to determine the potential health effects of the F/FA emissions. The final rule, promulgated May 27, 1994, established new health-effects testing requirements for the registration of designated F/FAs (59 FR 33042).

The registration requirements are organized within a three-tier structure. Tier 1 requires F/FA manufacturers to supply to EPA (1) the identity and concentration of certain emission products, and (2) any available information regarding the health and welfare effects of the whole and speciated emissions. 40 CFR 79.52. Tier 2 requires that combustion emissions of each F/FA subject to the testing requirements be tested for subchronic systemic and organic toxicity, as well as the assessment of specific health-effect endpoints. 40 CFR 79.53. Tier 3 testing may be required, at EPA's discretion, when remaining uncertainties as to the significance of observed health or welfare effects, or emissions exposures, interfere with EPA's ability to reasonably assess the potential risks posed by the emissions from a F/FA. 40 CFR 79.54. EPA's regulations permit submission of adequate existing test data in lieu of conducting new, duplicative tests. 40 CFR 79.53(b).

At its discretion, EPA may modify the standard Tier 2 health-effects testing requirements for a F/FA (or group thereof) by substituting, adding, or deleting testing requirements, or changing the underlying vehicle/engine specifications. 40 CFR 79.58(c). EPA will not, however, delete a testing requirement for a specific end point in the absence of existing adequate information, or an alternative testing requirement for that endpoint. 40 CFR 79.58(c).

II. Proposed Alternative Tier 2 Requirements for PuriNO$_X$

The purpose of this document is to announce that EPA has notified Lubrizol of proposed Alternative Tier 2 testing requirements under 40 CFR 79.58(c) for Lubrizol's Winter PuriNO$_X$ formulation. The proposed Alternative Tier 2 testing requirements are identical to the standard Tier 2 requirements with the exception that the test fuel will be the Winter PuriNO$_X$ formulation, consisting of 74% diesel fuel, 16.8% water, 5.7% methanol, and 3.5% PuriNO$_X$ Generation 2 Additive Package. Under the standard Tier 2 requirements the water and methanol would have been tested separately in diesel fuel. EPA believes that, since such separate formulations will never occur in the production of Winter PuriNO$_X$, testing of the proposed test fuel, which corresponds with its commercial composition, will produce more meaningful health-effects testing results.

Lubrizol has already conducted standard Tier 2 testing on a warm-climate PuriNO$_X$ formulation, consisting of 77% diesel fuel, 20% water, and 3% PuriNO$_X$ 1121A Additive Package. We propose that this testing, in conjunction with the Alternative Tier 2 testing for Winter PuriNO$_X$, will be sufficient to meet the Tier 2 requirements for intermediate PuriNO$_X$ combinations of diesel fuel, water, methanol, and additive package.[1]

EPA requests public comment on these proposals. A copy of the notification to Lubrizol has been placed in Public Docket No. A–2002–07 noted above. The notification is also available from the contact noted above and at *www.epa.gov/otaq/fuels*.

III. Environmental Impact

This document will result in no immediate environmental impact, but may provide a basis for further regulatory action, should the collected data indicate that there may be a risk to public health or welfare.

IV. Economic Impact

This document will reduce the testing expense for Lubrizol by reducing the number of test fuels. Since this applies only to Lubrizol, which is not a small entity, there is no economic impact on small entities.

Dated: May 14, 2002.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02–12707 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

[1] Thus, if the Winter PuriNO$_X$ Alternative Tier 2 testing is successfully completed, the Tier 2 health effects testing requirements would be met for PuriNO$_X$ formulations consisting of 100%–74% diesel fuel, 0%–20% water, 0%–5.7% methanol, 0%–3.5% PuriNO$_X$ Generation 2 Additive, or 0%–3% PuriNO$_X$ 1121A.

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–7214–3]

California State Motor Vehicle Pollution Control Standards; Request for Waiver of Federal Preemption; Within the Scope Request; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Opportunity for public hearing and comment.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its Low-Emission Vehicle (LEV) regulations including amendments to its exhaust emission standards, evaporative emission standards, its certification requirements, and to its Zero-Emission-Vehicle (ZEV) program (collectively the "LEVII" amendments; the ZEV amendments are referred to as the "1999 ZEV amendments"). By letter dated May 30, 2001, California requested that EPA grant a waiver of preemption under section 209(b) of the Clean Air Act (CAA), 42 U.S.C. 7543(b) for the LEVII amendments. By letter dated February 7, 2002, California requested that EPA confirm CARB's determination that a limited portion of the LEVII amendments, the 1999 ZEV amendments, are within-the-scope of previously issued waivers granted by EPA. This notice announces that EPA has tentatively scheduled two successive public hearings concerning California's requests and that EPA is accepting comments on these requests. EPA invites comments on all relevant aspects of California's requests, in particular, whether EPA should waive preemption of California's LEVII amendments, and whether the 1999 ZEV amendments are within the scope of previous waivers and, if not, whether EPA should waive preemption for the 1999 ZEV amendments.

DATES: EPA has tentatively scheduled a public hearing concerning the 1999 ZEV amendments on June 20, 2002 beginning at 10:00 a.m. EPA has also tentatively scheduled a public hearing concerning the LEVII amendments to commence immediately following the hearing for the 1999 ZEV amendments and may carry over until the following day. EPA will hold hearings only if a party notifies EPA by June 10, 2002, expressing its interest in presenting oral testimony regarding the 1999 ZEV amendments and/or the LEVII amendments. By June 17, 2002, any person who plans to attend the hearing(s) should call David Dickinson at (202) 564–9256 to learn if either hearing will be held. If EPA does not receive a request for one or both public hearings, then EPA will not hold one or both hearings, and instead consider CARB's requests based on written submissions to the docket. Any party may submit written comments by July 22, 2002.

ADDRESSES: EPA will make available for public inspection at the Air and Radiation Docket and Information Center written comments received from interested parties, in addition to any testimony given at the public hearing. The Air Docket is open during working hours from 8 a.m. to 4 p.m. at EPA, Air Docket (6102), Room M–1500, Waterside Mall, 401 M St., SW., Washington, DC 20460. The reference number for this docket is A–99–26. Parties wishing to present oral testimony at either public hearing should provide written notice to David Dickinson at the address noted below;

parties should submit any written comments to David Dickinson. If EPA receives a request for a public hearing, EPA will hold the public hearing in the first floor conference room at 501 3rd Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Certification and Compliance Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Telephone: (202) 564–9256, Fax: (202) 565–2057, e-mail address: *Dickinson.David@EPA.GOV*. EPA makes available an electronic copy of this Notice on the Office of Transportation and Air Quality's (OTAQ's) homepage *(http://www.epa.gov/otaq/)*. Users can find this document by accessing the OTAQ homepage and looking at the path entitled "Regulations." This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary website: *(http://www.epa.gov/docs/fedrgstr/EPA–AIR/)*.

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur.

SUPPLEMENTARY INFORMATION:

(A) Procedural History

On January 13, 1993, EPA published a Notice Regarding Waiver of Federal Preemption granting California a waiver of federal preemption for the California LEV program (58 FR 4166). The California LEV waiver included California's original ZEV requirements.

In March 1996, CARB amended the LEV program by eliminating the ZEV sales requirement for model years 1998 through 2002 (1996 ZEV amendments). On February 26, 1997, CARB submitted to the Administrator a request that EPA confirm the CARB Board's determination that the 1996 ZEV amendments to its LEV program (primarily repealing the ZEV requirements for 1998 through 2002), but also creating multiple ZEV credits for vehicles produced prior to the 2003 model year and test procedures for determining All-Electric Vehicle Range) are within-the-scope of the existing California LEV program which had previously received a waiver. On January 25, 2001, EPA published a document (66 FR 7751) confirming CARB's within the scope determination.

On May 30, 2001, CARB submitted to the Administrator its request that EPA grant a waiver of preemption for its LEVII regulations. (May 2001 letter) These LEVII regulations include amendments to its exhaust emission standards, evaporative emission standards, certification requirements, and to its Zero-Emission Vehicle program. Subsequently, on February 7, 2002, CARB submitted to the Administrator its request that EPA confirm CARB's determination that the limited portion of the previously submitted LEVII amendments that pertains to ZEVs does not require a new waiver of preemption but rather is within the scope of previously issued waivers. (February 2002 letter)

(B) Background and Discussion

Section 209(a) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emission from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any state that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the state determines that the state standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. California is the only state that is qualified to seek and receive a waiver under section 209(b). The Administrator must grant a waiver unless she finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the state standards to meet compelling and extraordinary conditions, or (C) the state standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB's May 2001 letter to the Administrator notified EPA that it had adopted amendments to its LEV program. These amendments include (1) imposing passenger car exhaust emission standards on most sport utility vehicles (SUVs), pick-up trucks, and mini-vans; (2) lower exhaust emission standards for all light- and medium-duty vehicles; (3) reductions in evaporative emission standards; (4) additional mechanisms for the generation of ZEV credits; and (5) establishment of "CAP 2000" certification requirements.

When EPA receives new waiver requests from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment and then publishes a decision in the **Federal Register** following the public comment period. In contrast, when EPA receives within the scope waiver requests from CARB, EPA traditionally publishes a decision in the **Federal Register** and concurrently invites public comment if an interested part is opposed to EPA's decision.

Because CARB seeks a new waiver for nearly all of the requirements in its LEVII regulations, and because EPA has already received written comment on CARB's within the scope request for its 1999 ZEV amendments, EPA invites comment on the following issues: (1) Whether California's 1999 ZEV amendments (a) undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (b) affect the consistency of California's requirements with section 202(a) of the Act, and (c) raise new issues affecting EPA's previous waiver determinations; and (2) Whether (a) California's determination that its standards (including its LEVII standards and including the 1999 ZEV amendments to the extent they are not within the scope of previous waivers), as referenced in its May 2001 request letter, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) California needs separate standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the CAA?

Procedures for Public Participation

In recognition that public hearings are designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If hearing(s) are held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing(s) to obtain a copy of the transcript at their own expense. Regardless of whether public hearing(s) are held, EPA will keep the record open until July 22, 2002. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing(s), if any, relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at EPA Air Docket. (Docket No. A–99–26).

EPA requests that parties wishing to submit comments specify which issue, noted above, they are addressing. Commenters may submit one document which addresses several issues but they should separate, to the extent possible, those comments that relate to the 1999 ZEV amendments from those that relate to the LEVII amendments.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information" (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of the document that summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: May 14, 2002.

Robert D. Brenner,

Deputy Assistant Administrator for Air and Radiation.

[FR Doc. 02–12709 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7215–2]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings; Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of three meetings of the Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel (TCE Review Panel) of the US EPA Science Advisory Board (SAB). The Panel will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. For teleconference meetings, available lines may also be limited. *Important Notice*: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

Background: The background for this review and the charge to the panel were published in the **Federal Register** (66 FR 54768–54769) on October 30, 2001. The notice also included a call for nominations for members of the panel in certain technical expertise areas needed to address the charge and described the process to be used in forming the panel.

1. Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel—June 5, 2002 Teleconference

The TCE Review Panel will meet on June 5, 2002 via teleconference from 1:00 pm to 3:00 pm Eastern Time. This teleconference meeting will be hosted out of Conference Room 6013, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting is open to the public, but, due to limited space, seating will be on a first-come basis. The public may also attend via telephone, however, lines may be limited. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed at the end of this FR notice.

Purpose of the Meeting—The purpose of this public teleconference meeting is to: (a) Discuss the charge and the adequacy of the review materials provided to the TCE Review Panel; (b) to clarify any questions and issues relating to the charge and the review materials; (c) to discuss specific charge assignments to the TCE Review Panelists; and (d) to clarify specific points of interest raised by the Panelists in preparation for the face-to-face meeting to be held on June 18 and June 19, 2002. This teleconference meeting of the TCE Review Panel will provide focus on the charge and issues prior to the June 18–19, 2002 meeting of the Panel.

See below for availability of review materials, the charge to the review panel, and contact information.

2. Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel—June 18 and 19, 2002 Meeting

The TCE Review Panel of the Science Advisory Board (SAB) will conduct a public meeting on June 18 and June 19, 2002. The meeting will begin on June 18, 2002 at 9:00 am and adjourn no later than 5:30 pm that day. On June 19, 2002, the meeting may begin at 9:00 am and adjourn no later than 1:00 pm. The meeting will take place at RESOLVE, 1255 23rd Street, Suite 275, NW Washington, DC 20037. For further information concerning the meeting, please contact the individuals listed at the end of this FR notice.

The need for subsequent meetings of the Review Panel will be discussed at this meeting and schedules of any future meetings to complete review of this topic will be discussed. However, a contingency date of July 18, 2002 from 1:00 pm to 3:00 pm Eastern Standard Time has been reserved for a conference call. Information concerning any future public meetings will appear in **Federal Register** notices as appropriate.

Purpose of the Meeting—The purpose of this meeting is to conduct a review of an Agency draft document, Trichlorethylene Health Risk Assessment: Synthesis and Characterization, Draft Report, Prepared for the U.S. Environmental Protection Agency, Office of Research and Development, EPA/600/P–01/002A, August 2001 External Review Draft. In particular, the Review Panel will: (1) Engage in dialogue with appropriate officials from the Agency who are responsible for its preparation; (2) begin to prepare responses to the charge questions; (3) receive public comments as appropriate; and (4) plan and schedule subsequent meetings (if needed) to complete this review.

See below for availability of review materials, the charge to the review panel, and contact information for both meetings.

3. Environmental Health Committee Review of the Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Draft Document—July 18, 2002 Teleconference

Purpose of the Meeting—Depending on progress achieved in developing its report from the June 18–19, 2002 meeting, the TCE Review Panel of the Executive Committee of the Science Advisory Board (SAB) may convene in a public teleconference on July 18, 2002 from 1 p.m. to 3 p.m. Eastern Standard Time as a contingency date to conduct a public meeting to reach closure on a draft report. The purpose of reserving this date is to provide an opport unity for the Review Panel to reach closure on a consensus draft in a public forum. This will be coordinated through a teleconference connection hosted out of Conference Room 6013, US EPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The meeting is open to the public, but due to limited space, seating will be on a first-come basis—the public may also attend via telephone, however, lines may be limited. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed at the end of this FR notice.

For Further Information about Public Participation in the meetings identified above must contact Dr. Angela Nugent, Designated Federal Officer, TCE Review Panel, USEPA Science Advisory Board (1400A), Suite 6450BB, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4562; fax at (202) 501–0323; or via e-mail at *nugent.angela@epa.gov*. Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Dr. Nugent no later than noon Eastern Time on the following dates: for the June 5 teleconference call, requests must be received by May 29; for the June 18–19 face to face meeting, requests must be received by June 4; and for the July 18 teleconference call, requests must be received by July 11.

The SAB will have a brief period (no more than 30 minutes) available during the Teleconference meetings for applicable public comment. At the Teleconferences, the oral public comment period will be limited to 30 minutes divided among the speakers who register. At the June 18–19th face to face meeting, the oral public comment will be limited to ninety minutes divided among the speakers who register. Registration is on a first come basis. Speakers who have been granted time on the agenda may not yield their time to other speakers. Speakers who are unable to register in time may provide their comments in writing.

Members of the public desiring additional information about the meeting locations or the call-in number for the teleconference before June 30, 2002, must contact *Ms. Diana Pozun, Program Specialist* EPA Science Advisory Board (1400A), Suite 6450N, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4544; fax at (202) 501–0323; or via e-mail at *pozun.diana@epa.gov*.

A copy of the draft agenda for each meeting will be posted on the SAB Web site (*www.epa.gov/sab*) (under the AGENDAS subheading) approximately 10 days before that meeting.

Availability of Review Material—There is one primary document that is the subject of the review. The review document is available electronically at the following site *http://oaspub.epa.gov/eims/eimscomm.getfile?p—download—id=4580*. For questions and information pertaining to the review documents, please contact Dr. V. James Cogliano (Mail Code 8623D), U.S. Environmental Protection Agency, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460; tel. (202) 564–3269, Fax (202) 565–0079, e-mail: *cogliano.jim@epa.gov*. Dr. Cogliano will refer you to the appropriate contact for the particular issue of interest. The review document which is the subject of this review is cited as follows: *Trichloroethylene Health Risk Assessment: Synthesis and Characterization*, Draft Report, Prepared for the U.S. Environmental Protection Agency, Office of Research and Development, EPA/600/P–01/002A August 2001 External Review Draft.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than 3 minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Nugent at least 5 business days prior to the meeting so that appropriate arrangements can be made.

General Information—Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the *Science Advisory Board FY2001 Annual Staff Report* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: May 16, 2002.

A. Robert Flaak,

Acting Staff Director, EPA Science Advisory Board.

[FR Doc. 02–12823 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7214–5]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in the following consolidated cases: Assoc. of Irritated Residents, *et al.* v. *U.S.* EPA, *et al.* No. 02–70160, Medical Alliance for Healthy Air, *et al.* v. *Whitman, et al.*, No. 02–70177, *Communities for a Better Environment* v. *U.S.* EPA, No. 02–70191 (9th Circuit). These cases concern the U.S. Environmental Protection Agency's (EPA) full approval of the part 70 operating permit programs in 34 air districts in the State of California, published at 66 FR 63503 (December 7, 2001). The proposed settlement agreement was signed by the last party on May 14, 2002.

DATES: Written comments on the proposed settlement agreement must be received by June 20, 2002.

ADDRESSES: Written comments should be sent to Carol S. Holmes, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A copy of the proposed settlement agreement is available on EPA's Web Page at *http://www.epa.gov/region09/air*. You may also obtain a copy from Phyllis J. Cochran, (202) 564–7606.

SUPPLEMENTARY INFORMATION:

EPA granted full approval of the 34 California part 70 operating permit programs (also known as "title V" permit programs) on November 29, 2001. 66 FR 63503 (December 7, 2001). The following groups of petitioners filed a timely petition for review: (1) Association of Irritated Residents (AIR) and Communities for Land, Air and Water (CLAW); (2) Natural Resources Defense Council (NRDC), Sierra Club, Medical Alliance for Healthy Air; and (3) Citizens for a Better Environment (CBE) and Our Children's Earth Foundation (OCEF). Petitioners challenged EPA's action due to California Health and Safety Code section 42310(e), which provides in relevant part that "a permit shall not be required for * * * * (e) any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals * * * ." (Petitioners CBE and OCEF made additional challenges to the Bay Area Air Quality Management District part 70 program that are not a part of this proposed settlement agreement.) The parties engaged in settlement discussions and entered the Ninth Circuit Mediation Program.

The proposed settlement agreement provides that EPA will send a Notice of Deficiency (NOD) for publication to the Office of the Federal Register by May 15, 2002. Such NOD will provide notice to the State of California that the 34 local air districts covered by the December 2001 rule are not adequately administering or enforcing their part 70 programs because the districts lack adequate authority to issue permits to, and assure compliance by, all major agricultural sources required to have a permit under Title V of the Clean Air Act as a result of the exemption in section 42310 of the California Health and Safety Code. The proposed settlement agreement also provides that no later than July 19, 2002, the Regional Administrator of EPA Region 9 shall sign and forward to the Office of the Federal Register a Notice of Proposed Rulemaking ("NPRM") that will propose, pursuant to 40 CFR 70.10(b)(2)(i), to partially withdraw approval of those portions of the 34 part 70 programs that relate to major sources using equipment involved in the growing of crops or raising of fowl or animals that would be subject to Title V but for the state agricultural exemption ("state-exempt agricultural sources"). In such NPRM, the Regional Administrator also shall propose that EPA will implement a partial federal operating permits program under 40 CFR part 71 ("Part 71 program") for major state-exempt agricultural sources. A signed, final rule must to sent to the Office of the Federal Register no later than October 2, 2002. Finally, the proposed settlement agreement sets forth application deadlines for sources subject to the part 71 federal permit program in the event the final rule implements such a program, as well as the deadline for EPA to act on any such part 71 permit applications.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

Dated: May 14, 2002.

Alan W. Eckert,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 02–12708 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7213–8]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act; Robesonia Mercury Spill Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Robesonia Mercury Spill Site, Robesonia, Berks County, Pennsylvania. The administrative settlement was signed by the United States Environmental Protection Agency, Region III's Acting Regional Administrator on May 6, 2002, and is subject to review by the public pursuant to this document.

The Environmental Protection Agency is proposing to enter into a settlement pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. 9622(h). The proposed settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42 U.S.C. 9607 against the UGI Corporation for response costs incurred at the Robesonia Mercury Spill Site, Robesonia, Berks County, Pennsylvania. The proposed settlement requires UGI Corporation to pay $13,499.42 to the EPA Hazardous Substance Fund.

The UGI Corporation, as the Settling Party, has executed binding certifications of its consent to participate in this settlement. UGI Corporation has agreed to pay $13, 499.42 subject to the contingency that the Environmental Protection Agency may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this document.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may withdraw or withhold consent to the

proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before June 20, 2002.

ADDRESSES: Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, and should reference Robesonia Mercury Spill Site, Robesonia, Berks County, Pennsylvania, U.S. EPA Docket No. CERCLA 03–2002–0082. The proposed settlement agreement is available for public inspection at the United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. A copy of the proposed settlement agreement can be obtained from Suzanne Canning, Regional Docket Clerk (3RCOO) Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, telephone number (215) 814–2476.

FOR FURTHER INFORMATION CONTACT: Charles Hayden, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Office of Enforcement, Compliance, and Environmental Justice (3EC00) 1650 Arch Street, Philadelphia, Pennsylvania, 19103, telephone number (215) 814–2668.

James W. Newson,

Acting Regional Administrator, Region III.

[FR Doc. 02–12710 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Proposed Guidelines.

SUMMARY: This notice requests comment on proposed guidelines implementing Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2002 (Public Law 106–554; H.R. 5658). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines under sections 3504(d)(1) and 3516 of Title 44, and require each Federal agency to issue agency-specific guidelines, to ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency and to establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with such guidelines. Each agency must also report periodically to the OMB director on the number, nature, and resolution of complaints received by the agency in regards to these requirements. The proposed guidelines published below would implement these requirements for the Council on Environmental Quality. They are intended to comply with both the statutory requirements noted above and the final guidelines published by OMB on February 22, 2002 (67 FR 36, at 8452).

DATES: Public comments must be submitted by July 1, 2002.

ADDRESSES: Please submit comments to Dinah Bear, General Counsel of the Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. Comments can be emailed to *informationquality@ceq.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. Telephone: (202) 395–7421.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality (CEQ) was established by Congress in 1969 through passage of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and is an agency within the Executive Office of the President (EOP). The Chairman of CEQ, who is appointed by the President with the advice and consent of the Senate, serves as the principal environmental policy adviser to the President. CEQ coordinates federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives. CEQ also oversees federal agencies implementation of NEPA through promulgation of regulations implementing the procedural provisions of NEPA (40 CFR 1500–1508) and through interpretation of statutory requirements. CEQ also has a variety of other responsibilities under NEPA, the Environmental Quality Improvement Act of 1970 and other statutes.

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554, hereinafter referred to as Section 515) directs the Office of Management and Budget to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." OMB has required agencies to publish draft guidelines no later than May 1, 2002. The Council on Environmental Quality's guidelines will be published in the **Federal Register** and posted on the agency's Web site at *www.whitehouse.gov/ceq.*

The following are CEQ's "Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Council on Environmental Quality":

A. CEQ Will Ensure That All Information It Disseminates to the Public Meets All Applicable Standards of Quality, Including Objectivity, Utility and Integrity. CEQ Hereby Adopts This Standard of Quality, as a Performance Goal, and Adopts the Following Procedures for the Incorporation of Information Quality Criteria Into CEQ Information Dissemination Activities

1. Objectivity and Utility of Information

As defined in Section C, below, "objectivity" is a measure of whether disseminated information is "accurate, clear, complete, and unbiased;". "Utility" refers to the usefulness of the information to its intended audience. CEQ is committed to disseminating reliable and useful information. Before disseminating information, CEQ staff and officials will ensure that the information has been reviewed in an information quality review process that is proportional to the importance of the information. It is the primary responsibility of the professional staff person drafting information intended for dissemination, or supervising the preparation of such information, to use the most knowledgeable and reliable sources reasonably available to confirm the objectivity and utility of such information.

2. Much of the information CEQ disseminates consists of or is based on information submitted to CEQ by other Federal agencies. Prior to dissemination of such information, responsible CEQ staff will obtain a written statement from the agency submitting the information attesting that the information meets the agency of origin's information quality guidelines.

3. In seeking to assure the "objectivity" and "utility" of the information it disseminates, CEQ will generally follow the basic clearance process established internally by the Chief of Staff and, where appropriate, the government-wide clearance process coordinated by OMB. Where appropriate, substantive input will be sought from within CEQ, other offices within the EOP, other government agencies, non-government organizations, and the public. When CEQ determines that the transparency of information is relevant for assessing the information's usefulness from the perspective of the users of the information, including the public, CEQ shall ensure that transparency has been appropriately addressed and provided. In determining the appropriate level of transparency, CEQ should consider the types of data that can practicably be subjected to a reproducibility requirement given ethical, feasibility, and confidentiality constraints.

4. The CEQ staff member or official responsible for the dissemination of information should generally take the following basic steps to assure the "objectivity" and "utility" of the information to be disseminated:

a. Preparing a draft of the document after consulting the necessary parties, including government and non-government sources, as appropriate;

b. Determining necessary clearance points;

c. Determining where the final decision shall be made;

d. Determining whether peer review would be appropriate and, if necessary, coordinating such review;

e. Obtain clearances; and

f. Overcoming delays and, if necessary, presenting the matter to higher authority.

5. For information regarding risks to human health, safety and the environment and information that CEQ determines is "influential" as defined in Section D(3) of these guidelines, CEQ adapts the standards set forth by Congress in the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B) to CEQ's information quality review process. Thus, CEQ will use the "best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices", and "data collected by the accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data)." Such information shall be presented in a manner that is comprehensive and informative. CEQ will also determine whether peer review would be appropriate and, if necessary, coordinate such review. Further, CEQ will provide sufficient information about such methods as related to influential information that a qualified member of the public could reproduce the analysis, subject to an acceptable degree of imprecision and subject to ethical, feasibility and confidentiality constraints.

6. CEQ will disseminate information only after appropriate internal clearances are obtained from the Office of the General Counsel and the Chief of Staff.

7. "Integrity" refers to be protection of information from unauthorized, unanticipated, or unintentional modification, thus preventing information from being compromised by corruption of falsification. Within the EOP, the Office of Administration has substantial responsibility for ensuring the "integrity" of information as defined in these guidelines. CEQ also has an Administrative Officer that coordinates and works with the EOP Office of Administration to ensure the integrity of information. These offices implement and maintain new computer software and hardware systems and provide operational support for systems and system users.

8. Computer security is the responsibility of the EOP Office of Administration's Chief Information, Information Assurance Directorate. This Office oversees all matters relating to information integrity, including the design and implementation of the security architecture for the EOP, periodic audits of security architecture components, and review and approval of changes to the technical baseline.

9. As an agency under the EOP, CEQ is an integral part of the overall EOP network, and is an active participant in all aspects of information integrity at EOP. CEQ adheres to both law and OMB IT security policies, along with EOP security policies and operational processes for the protection of data and information.

10. Information quality standards applicable to the dissemination of information by CEQ may be waived temporarily by the Chair of CEQ, the General Counsel, the Chief of Staff, or his/her designee in urgent situations (e.g., imminent threats to public health, homeland security, or of significant environmental impact) to the extent necessary to respond to the urgent situation. Any waiver shall provide for public notice, to the extent practicable under the circumstances of the waiver, and a determination of the point at which the normal application of information quality standards will resume.

B. Administrative Process for Correction of Information

1. Any person who is affected by information disseminated by CEQ that he or she believes does not comply with these guidelines may seek correction of that information by submitting a request for correction to CEQ within 90 days of CEQ's dissemination of the information.

2. Any request for correction must be submitted by mail to the Deputy General Counsel, CEQ, 722 Jackson Place, NW., Washington, DC 20503 or via electronic mail at *informationquality@ceq.eop.gov.* The request for correction should be as specific as possible regarding the information that is the subject of the concern and the reason(s) for the concern. Affected persons shall clearly indicate that the communication is a "Request for Correction" under Section 515 of the Treasury and General Government Appropriation Act for Fiscal Year 2001. Persons should specify the information that is being contested, the aspect of the information that needs to be corrected, explain how they are affected by the information, how the information identified does not comply with applicable information quality guidelines, and what corrective action is sought. Persons should provide all supporting information necessary for CEQ to correct the information. CEQ may decline to respond to requests that appear to be frivolous and/or duplicative.

3. CEQ will respond to any request within 60 days of receipt of the request in accordance with paragraph C.1, and may at that time provide an initial response that additional time is necessary to consider the request, to consult with the source of the information or other agencies, or to obtain additional information from the requestor or the public. If CEQ finds that additional time is necessary, CEQ shall seek a mutually agreed-upon extension of time and, if agreement is not obtained, shall include in its initial response a deadline for a final CEQ response based upon the factors that require additional time.

4. CEQ's final response will set forth whether CEQ agrees or disagrees with the concern expressed and, if it believes that concern has validity, how CEQ will correct the information or otherwise address the concern. Subject to applicable law, rules and regulations, CEQ may take corrective measures through any appropriate and effective means, including personal contacts via letter or telephone, form letters, press

releases, or postings on the CEQ Web site to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, should be designed to provide reasonable notice to affected persons of such correction.

5. If CEQ responds that the information meets the requirements of the applicable guidelines and no correction is needed, the affected person may request reconsideration of the response from the CEQ General Counsel within 60 days of receipt of the response. Such a request for reconsideration shall clearly indicate that the communication is a "Request for Reconsideration" under Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 and set forth, as specifically as possible, the reasons for the affected person's disagreement with CEQ's response. The request for reconsideration should be mailed to the CEQ General Counsel, 722 Jackson Place, NW., Washington, DC 20503 or e-mailed to *informationquality@ceq.eop.gov*.. CEQ will respond to any such request for reconsideration within 60 days of receipt of the request.

C. Definitions

1. "Affected" persons are those who use, or may benefit from or be harmed by, the disseminated information.

2. "Dissemination" means agency-initiated or sponsored distribution of information to the public, whether in written, electronic, or audiovisual form. Dissemination does not include distribution of information or materials that are:

a. Intended for government employees or agency contractors, consultants or volunteers;

b. Intended for U.S. government agencies;

c. Produced in response to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or similar law, or requests from Congress or other government officials;

d. Correspondence or other communication limited to individuals or to other persons within the meaning of "person" as forth in paragraph 7, below;

e. Archival records;

f. Responses to subpoenas or other compulsory document productions;

g. Documents prepared for adjudicative proceedings.

3. "Influential" when used in the phrase "influential information" refer to disseminated information that CEQ determines will have a clear and substantial impact on important public policies or important private sector decisions.

4. "Information," for purposes of these guidelines, means any communication or representation of facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition does not include:

a. Opinions, where the presentation makes clear that the statements are subjective opinions, rather than facts; however, any underlying information disseminated by CEQ upon which the opinion is based may be subject to these guidelines;

b. Information originated by, and attributed to, non-CEQ sources, provided CEQ does not expressly rely upon it. Examples include: non-U.S. Government information reported and duly attributed in materials prepared and disseminated by CEQ; hyperlinks on CEQ's Web site to information that others disseminate; and reports of advisory committees published on CEQ's Web site;

c. Statements related solely to the internal personnel rules and practices of CEQ and other materials produced for CEQ employees, contractors, agents, volunteers or alumni;

d. Descriptions of the agency, its responsibilities and its organizational components;

e. Statements, the modification of which might cause harm to the national security, including harm to the national defense or foreign relations of the United States;

f. Statements of Administration policy; however, any underlying information disseminated by CEQ upon which a statement is based may be subject to these guidelines;

g. Testimony or comments of CEQ officials before Congress, courts, administrative bodies, or the media;

h. Investigatory material compiled pursuant to U.S. law or for law enforcement purposes in the United States; or

i. Statements which are, or which reasonably may be expected to become, the subject of litigation, whether before a U.S. or foreign court, or in a dispute resolution proceeding.

5. "Integrity" refers to the security of information—protection of the information from unauthorized access or revision, to prevent the information from being compromised through corruption or falsification.

6. "Objectivity" addresses whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner, including background information where warranted by the circumstances.

7. "Person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a regional, national, State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision, or an international organization;

8. "Quality" encompasses "utility", "objectivity", and "integrity". Thus, the government-wide guidelines and CEQ's guidelines may refer to these four statutory terms, collectively, as "quality".

9. "Utility" refers to the usefulness of the information to its intended users, including the public.

Dated: May 15, 2002.

James L. Connaughton,

Chairman, Council on Environmental Quality.

[FR Doc. 02–12643 Filed 5–20–02; 8:45 am]

BILLING CODE 3125–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

May 13, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 22, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman or Leslie Smith, Federal Communications Commission, Room 1–C804 or Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *jboley@fcc.gov* or *lesmith@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: *OMB Control No.:* 3060–0214.

Title: Section 73.3526, Local Public Inspection File of Commercial Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10,780 commercial radio licensee recordkeepers; 1,310 commercial TV licensee recordkeepers; 1,310 commercial TV stations making must-carry/retransmission consent elections.

Estimated Time Per Response: 104 ours per year for radio recordkeeping; 130 hours per year for TV recordkeeping; 5 hours per election statement per TV station.

Frequency of Response: Recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 1,356,920 hours.

Total Annual Cost: N/A.

Needs and Uses: Section 73.3526 requires that each licensee/permittee of a commercial broadcast station maintain a file for public inspection. The contents of the file vary according to type of service and status. The contents include, but are not limited to, copies of certain applications tendered for filing, a statement concerning petitions to deny filed against such applications, copies of ownership reports and annual employment reports, statements certifying compliance with filing announcements in connection with renewal applications, letters received from members of the public, etc. The data are used by the public and FCC to evaluate information about the broadcast licensee's performance, to ensure that broadcast stations are addressing issues concerning the community to which it is licensed to serve and to ensure that radio stations entering into time brokerage agreements comply with Commission policies pertaining to licensee control and to the Communications Act and the antitrust laws. Broadcasters are required to send each cable operator in the station's market a copy of the election statement applicable to that particular cable operator. Placing these retransmission consent/must-carry elections in the public file provide public access to documentation of station's elections which are used by cable operators in negotiations with television stations and by the public to ascertain why some stations are/are not carried by the cable systems.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12668 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

May 16, 2002.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Marie Moyd, Federal Communications Commission, (202) 418–2111.

Federal Communications Commission

OMB Control No.: 3060–0422.

Expiration Date: 10/31/2004.

Title: Section 68.5, Waivers (Application for Waiver of Hearing Aid Compatibility Requirements).

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 30 respondents; 3 per response (avg.); 30 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: Section 710(b) of the Communications Act of 1934, as amended, requires that almost all telephones manufactured in or imported into this country after August 16, 1989 be hearing aid compatible. Refurbished, repaired or resold telephones, telephones used with public and private mobile radio services, and secure telephones used for classified communications are exempt. The Hearing Aid Compatibility (HAC) Act provides a three-year grace period for cordless telephones before they must comply with the requirement. Congress recognized, however, that there may be technological and/or economical reasons some new telephones may not meet the hearing aid compatibility requirement. Therefore, it provided for a waiver requirement for new telephones based on technological and economical grounds. Telephone manufacturers seeking a waiver of 47 CFR 68.4 which requires that certain telephones be hearing aid compatible must demonstrate that compliance with the rule is technologically infeasible or too costly. 47 CFR 68.5 provides the criteria to be used to assess waivers. Applicants seeking waivers must submit sufficient information for the Commission to make an informed decision. Information is used by FCC staff to determine whether to grant or dismiss the request. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–00992

Expiration Date: 12/31/2004.

Title: Request for Extension of the Implementation Deadline for Non-Recurring Services, CC Docket No. 96–45 (FCC 01–195) and 47 CFR 54.507(d)(1)–(4).

Form No.: N/A.

Respondents: Not-for-profit institutions; Business or other for-profit.

Estimated Annual Burden: 850 respondents; 1 per response (avg.); 850 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: 47 CFR 54.507(d) provides additional time for recipients under the schools and libraries universal service support mechanism to implement contracts or agreements with service providers for non-recurring services. 47 CFR 54.407(d) extends the deadline for receipt of non-recurring services from 6/30 to 9/30 following the close of the funding year. 47 CFR 54.507(d) establishes a deadline for the implementation of non-recurring services for certain qualified applicants who are unable to complete

implementation by the September 30 deadline. The rule provides schools and libraries with more time to install non-recurring services. The information will be used by the Commission to determine whether schools and libraries qualify for additional time to implement non-recurring services. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0986

Expiration Date: 01/31/2005.

Title: Federal-State Joint Board on Universal Service " Plan for Reforming the Rural Universal Service Support Mechanism, CC Docket No. 96–45.

Form No.: N/A.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Estimated Annual Burden: 7099 respondents; .81 per response (avg.); 5770 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Quarterly; Annually; One-time; Third Party Disclosure.

Description: In the Fourteenth Report and Order, Twenty-Second Order on Reconsideration in CC Docket No. 96–45 and Report and Order in CC Docket No. 00–256, released May 23, 2001 (FCC 01–157), consistent with the recommendation of the Federal-State Joint Board on Universal Service (Joint Board), the Commission adopts rules for determining high-cost universal service support for rural telephone companies for the next five years based upon the proposals made by the Rural Task Force. The Commission also addresses certain proposals made by the Multi-Association Group (MAG) for reforming universal services rules applicable to rural carriers. As part of its proposal to reform the Federal universal service support mechanism for rural carriers, the Rural Task Force proposed that rural carriers be permitted to depart from study area averaging and instead disaggregate and target per-line high-cost universal service support, including high-cost loop support, LTS, and LSS, into geographic areas below the study area level. The Rural Task Force concluded that the disaggregation and targeting of support is necessary to eliminate the economic distortions that may result from the delivery of support on a uniform per-line basis under the current mechanism. At the same time, however, the Rural Task Force stated that rural carriers need flexibility in the manner in which support is disaggregated and targeted in light of the widely varying characteristics and operating environments of rural carriers. Recognizing that a disaggregation and targeting system must meet the unique regulatory and competitive environments in each state, the Rural Task Force recommended a disaggregation system consisting of three paths. a. Election of Disaggregation Plan and Change in Path: Carriers are required to elect one of three paths within 270 days of the effective date of the Order implementing rural high-cost reform through a submission to the state commission. Rural carriers not subject to the jurisdiction of the state are required to make such submission to the Commission. Carriers failing to do so will not be permitted to disaggregate and target support unless ordered to do so by a state commission or other appropriate regulatory authority either on its own motion or in response to a request by an interested party. *See* 47 CFR 54.315(a). (Number of respondents: 1300; hours per response: .5 hours; total annual burden: 650 hours). b. Notification of Disaggregation Methodology: 1. Path One: Carriers Not Disaggregating and Targeting High-Cost Support. Path One provides that a carrier may choose not to disaggregate. This Path is intended to address those instances where a carrier determines that given the demographics, cost characteristics, and location of its service territory, and the lack of a realistic prospect of competition, that disaggregation is not economically rational. A carrier must certify to the state commission, or other appropriate regulatory authority, that it does not want to disaggregate support. Carriers electing Path One must submit to USAC a copy of the certification of the state commission or appropriate regulatory authority certifying that it will not disaggregate and target support. *See* 47 CFR 54.315(b). (No. of respondents: 500; hours per response: .5 hours; total annual burden: 250 hours).2. Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support. Path Two provides that a carrier may seek approval of its disaggregation and targeting plan from the appropriate regulatory authority. Because there are no constraints on disaggregation and targeting proposals under this path, for example a carrier could disaggregate and target support to multiple levels below a wire center, a disaggregation and targeting method can be tailored with precision, subject to state approval, to the cost and geographic characteristics of the carrier and the competitive and regulatory environment in which it operates. A carrier that chooses this path would file a disaggregation plan with the state commission, or other appropriate regulatory authority. Carriers selecting Path 2 must submit a copy to USAC of the Order approving the disaggregation plan submitted by the carriers to the state commission or appropriate regulatory authority and a copy of the disaggregation plan approved by the state commission or appropriate regulatory authority. *See* 47 CFR 54.315(c), (e), and (f). (No. of respondents: 873; hours per response: .666 hours; total annual burden: 582 hours). 3. Path 3. Self-Certification of the Disaggregation and Targeting of Support: The Commission adopts the Path Three self-certification process that permits carriers to choose (1) a disaggregation plan of up to two cost zones per wire center, or (2) a disaggregation plan that complies with a prior regulatory determination. A carrier must provide, among other things, the state and USAC with a description of the rationale used to disaggregate support, including the methods and data and a discussion of how the plan complies with the self-certification guidelines. In addition, if the plan uses a benchmark, it must be generally consistent with how the total study area level of support for each category of costs (high-cost loop support, LSS and LTS) is derived, to enable a competitor to compare the disaggregated costs used to determine support for each zone. *See* 47 CFR 54.315(d), (e) and (f). (No. of respondents: 873; hours per response: .666 hours; total annual burden: 582 hours). c. Reporting Working Loops at Cost-Zone Level: Rural carriers that elect to disaggregate and target per-line support under either Path Two or Three are required to report loops at the cost-zone level. If there is no competition in the service area the carrier is required to file annually. If competition exists in the service area than the carrier is required to file quarterly. *See* 47 CFR 54.307(b) and (c). (No. of respondents: 864 filing annually; 9 filing quarterly; hours per response: 2 hours; total annual burden: 1746 hours). d. State Certification Letter Under 254(e): The Commission also concludes that states should be required to file annual certifications with the Commission to ensure that carriers use universal service support "only for the provision, maintenance and upgrading of facilities and services for which the support is intended" consistent with section 254(e). The Commission concludes that the mandate in section 254(e) applies to all carriers, rural and non-rural, that are designated as eligible to receive support under section 214(e) of the Act. States that wish to receive federal universal service high-cost support for rural carriers within their boundaries to file a certification with the Commission and USAC stating that all federal high-cost funds flowing to rural carriers in that state will be used in a manner consistent with section 254(e). The Commission recognizes that some state commissions may have only limited regulatory oversight to ensure that federal support is reflected in intrastate rates. In the case of non-rural carriers, the Commission concluded that states nonetheless may certify to the Commission that a non-rural carrier in the state had accounted to the state commission for its receipt of federal support, and that such support will be used "only for the provision, maintenance and upgrading of facilities and services for which the support is intended." The Commission determined that, in states in which the state commission has limited jurisdiction over such carriers, the state need not initiate the certification process itself. Instead, non-rural local exchange carriers, and competitive eligible telecommunications carriers serving lines in the service area of the non-rural local exchange carriers, may formulate plans to ensure compliance with section 254(e), and present those plans to the state, so that the state may make the appropriate certification to the Commission. Absent the filing of such certification, carriers will not receive support. *See* 47 CFR 54.313(b) and 54.314. (No. of respondents: 60 respondents; hours per response: 3 hours; total annual burden: 180 hours). e. Support in Competitive Study Areas: Under our existing rules, rural carriers and their competitors currently are required to file line count data annually, and may file quarterly updates on a voluntary basis. Quarterly updates are required in non-rural carrier study areas. Under the current rules, if an incumbent rural carrier does not update its line count data but its competitor does, the competitor's more recent data may include lines captured from the incumbent since the incumbent's last filing. Thus the incumbent may continue to receive support for the year based on an overstated number of lines. To prevent an overpayment of support, the Commission requires the filing of line count data on a regular quarterly basis upon competitive entry in rural carrier study areas. The Commission emphasizes that this requirement will not apply in rural carrier study areas in which an eligible telecommunications carrier has not been designated. *See* 47 CFR 36.611 and 36.612. To ensure that the interval between the submission of data and receipt of support is as short as possible in rural carrier study areas, the Commission clarifies that competitive eligible telecommunications carriers may submit initial line count data and receive support on a regular quarterly basis under section 54.307(c). Rural telephone companies that incorporate acquired exchanges into existing study areas should exclude the costs associated with the acquired exchanges from the cost associated with the pre-acquisition study areas in annual universal service data a submissions used to determine eligibility for high-cost loop supports. Acquiring rural carriers shall separately provide the information listed in section 47 CFR section 36.611 for both acquired and existing exchanges, as if these two categories of exchanges constitute separate study areas. *See* 47 CFR section 36.611. (No. of respondents: 20; hours per response: 24 hours; total annual burden: 480 hours). f. Safety Net Additive: Safety net additive support would only be available in years in which support levels would otherwise exceed the new indexed cap on the high-cost loop support fund. To receive such support in a particular study area, a carrier would need to show that growth in telecommunications plant in service (TPIS) per line is at least 14 percent greater than the study area's TPIS per line in the prior year, or the "base year." Any study area that initially qualifies for safety net additive support would also qualify for such support in each of the four succeeding years if the cap is again triggered, regardless of whether the study area meets the 14 percent criterion in the succeeding years. Carriers must provide written notice to the Commission and USAC in conjunction with their annual or quarterly submissions to NECA indicating that a study area meets the 14 percent TPIS trigger. If a carrier should fail to provide written notification to the Commission and USAC, the study area that otherwise would have qualified for safety net additive will not be eligible. *See* 47 CFR 36.605(c)(2). (No. of respondents: 1300; hours per response: .5 hours; total annual burden: 650 hours). g. Safety Valve: Once relevant regulatory approvals are obtained and the transaction is closed, the rural carrier shall provide written notice to USAC that they have acquired access lines that may become eligible for safety value support. In order to assist USAC in the administration of the safety valve mechanism, rural carriers shall also provide written notice to USAC of when their index year has been established for purposes of calculating eligibility for safety valve support. *See* 47 CFR 54.305 (f). (No. of respondents: 1300; hours per response: .5 hours; total annual burden: 650 hours). The Commission will use the information requirements to determine whether and to what extent rural telecommunications carriers providing the data are eligible to receive universal service support. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0149

Expiration Date: 01/31/2005.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, Sections 63.01 –63.601.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 35 respondents; 5 per response (avg.); 175 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communication, or (2) discontinue, reduce, or impair service over a line of communication. Part 63 of title 47 of the CFR implements section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video programming by telephone common carriers. In the Report and Order for Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996 (214 Streamlining Order), released on June 30, 1999, the Commission modified part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submission requirements for other categories. Among other things, carrier filing requirements in the following area were either reduced, altered, or entirely eliminated: (1) entry certification for common carriers; (2) applications for line extensions; (3) reports identifying proposed small projects; (4) applications for new lines; and (5) applications for exit from the market. By making these revisions, the Commission substantially reduced the amount of time carriers had to spend in order to fully comply with Part 63's requirements. The Commission also entirely eliminated the requirement

for line extensions because Congress exempted such "extensions" from the requirements of 47 U.S.C. 214, under Section 402(b)(2)(A) of the Act. Furthermore, the Commission eliminated reporting requirements by domestic non-dominant carriers, small carriers, and carriers proposing small projects because Congress enacted section 214 to prevent unnecessary duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers. Moreover, the Commission reduced, but did not entirely eliminate, submission requirements for domestic dominant rate-of-return carriers in applications for "new" lines because the information was either collected elsewhere, was found to be unnecessary and/or confusing in light of the provisions of section 402(b)(2)(A), or was no longer of decisional significance to the Commission. The Commission significantly streamlined the carrier exit procedures this process because of its desire to eliminate unnecessary barriers to carriers wanting to exit the market. *See* 47 CFR part 63. The Commission will use the information to determine if affected respondents are in compliance with its rules and the requirements of Section 214 of the Communications Act of 1934, as amended. Obligation to respond: Required to obtain or retain benefits.

Public reporting burden for the collections of information are as noted above. Send comments regarding the burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 02–12726 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 13, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 20, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0987.

Title: 911 Callback Capability: Non-initialized Phones.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal government.

Number of Respondents: 3,137.

Estimated Time Per Response: .50–2 hours (average).

Frequency of Response: Third party disclosure requirement, and other one-time requirements.

Total Annual Burden: 4,481 hours.

Total Annual Cost: $661,125.

Needs and Uses: The Report and Order in CC Docket No. 94–102, FCC 02–120, released April 29, 2002, imposes requirements on wireless and wireline carriers and equipment manufacturers aimed at responding to the problem of the inability of emergency workers and the public to contact for further critical information a 911 caller may be using a non-initialized wireless telephone or a "911-only" phone, which do not have dial-able numbers. To advise the public and emergency workers of this limitation and to thus advise them using such phones in emergency situations to provide as much critical information, particularly regarding location, the Commission adopted labeling, software modification, and public education requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12669 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2553]

Petitions for Reconsideration of Action in Rulemaking Proceedings

May 15, 2002.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by June 5, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of the pay telephone reclassification and compensation provision's of the Telecommunications Act of 1996 (CC Docket No. 96–128), Amendment of FM Table of Allotments (MM Docket No. 01–120, RM–10126).

Number of Petitions Filed: 3.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12667 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Forms SF–424, SF–270 (LM–6), (LM–8), SF–269a (LM–7), (LM–9), and (LM–3) submitted for an emergency extension and review to the Office of Management and Budget.

SUMMARY: This notice announces that six information collection requests contained in the Federal Mediation and Conciliation Service (FMCS) agency forms are coming up for renewal. FMCS submitted to the Office of Management and Budget (OMB) a request for an emergency review of six FMCS forms: SF–424 Application for Federal Assistance, SF–270 (LM–6)—Request for Advance or Reimbursement, (LM–8)—Project Performance, SF–269 (LM–7)—Financial Status Report, (LM–9)—FMCS Grants Program Grantee Evaluation Questionnaire, and (LM–3)—Accounting System and Financial Capability Questionnaire. The request seeks OMB approval for a three-year expiration date of Forms SF–424, SF–269a (LM–6), (LM–8), SF–270a (LM–7), (LM–9) and (LM–3) until December 31, 2004. FMCS is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before *June 24, 2002.*

ADDRESSES: Submit written comments identified by the appropriate agency form number by mail to the Office of Information and Regulatory Affairs of Office of Management and Budget, Attn: Desk Office for the Federal Mediation and Conciliation Service, Room 10235, Washington, DC 20503. Copies of the complete agency forms may be obtained from the Labor Management Grants Program at Federal Mediation and Conciliation Service, the Labor Management Grants Program, 2100 K Street, NW., Washington, DC 20427 or by contacting the person whose name appears under the section headed, **FOR FURTHER INFORMATION CONTACT.**

Comments and data may also be submitted by fax at (202) 606–3434 or electronically by sending electronic (e-mail) to *lstubbs@fmcs.gov* or *jlorber@fmcs.gov.* All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as "CBI". Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by FMCS without prior notice. All written comments will be available for inspection in Room 211 at the Washington, DC address above from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jane A. Lorber, Director, Labor Management Grants Program or Linda E. Stubbs, Grants Management Specialist, FMCS 2100 K Street, NW., Washington, DC 20427. Telephone (202) 606–8181; Fax: (202) 606–3434.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Labor-Management Grants Program, by calling, faxing, or writing, Ms. Linda Stubbs at the above address. Please ask for the form by title and agency form number.

I. Information Collection Requests

FMCS is seeking comments on the following information collection requests contained in FMCS agency forms.

Agency: Federal Mediation and Conciliation Service.

Form Number: OMB No. 3076–0006.

Type of Request: Emergency Extension of Expiration date of a currently approved collection without any change in the substance or method of collection.

Affected Entities: Potential applicants/grantees who received our grant application kit. Also, applicants/grantees who have received a grant from FMCS.

Frequency:

a. Three of the forms, the SF–424, LM–6, and LM–9 are submitted at the applicant/grantee's discretion.

b. To conduct the quarterly submissions, LM–7/LM–8 forms are used. Less than quarterly reports would deprive FMCS of the opportunity to provide prompt technical assistance to deal with those problems identified in the report.

c. Once per application. The LM–3 is the only form to which a "similar information" requirement could apply. That form takes the requirement into consideration by accepting recent audit reports in lieu of applicant completion of items C2 through 9 and items D1 through 3.

Burden: SF–424 Application for Federal Assistance, SF–270 (LM–6) Request for Advance or Reimbursement—30 minutes, (LM–8) Project Performance—60 minutes, SF–269a (LM–7) Financial Status Report—30 minutes, (LM–9) FMCS Grants Program Evaluation Questionnaire—60 minutes, and (LM–3) Accounting System and Financial Capability Questionnaire 60 minutes.

Abstract: Except for the FMCS Forms LM–3 and LM–9, the forms under consideration herein are either required or recommended in OMB Circulars. The two exceptions are non-recurring forms, the former a questionnaire sent only to non-governmental potential grantees and the latter a questionnaire sent only to former grantees for voluntary completion and submission.

The collected information is used by FMCS to determine annual applicant suitability, to monitor quarterly grant project status, and for on-going program evaluation. If the information were not collected, there could be no accounting for the activities of the program. Actual use has been the same as intended use.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the appropriate performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g. permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper records maintained at the address in **ADDRESSES** at the beginning of this document. FMCS will transfer all electronically received comments into printed form as they are received. These records are available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

List of Subjects

Labor-Management Cooperation Program and Information collection requests.

Dated: May 14, 2002.

C. Richard Barnes,

Director.

[FR Doc. 02–12659 Filed 5–20–02; 8:45 am]

BILLING CODE 6372–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–02–08]

Fiscal Year 2002 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Extension of deadline to apply for funds under the Older Americans Act, Title VI, Grants for Native Americans, Part A—Indian Program, stated in the **Federal Register** Program Announcement dated September 17, 2001.

SUMMARY: Because of continuing needs of Tribal elders, the Administration on Aging is extending the date for which the Title VI grant applications for the grant period April 1, 2002–March 31, 2005 are due. Applications will be accepted from Tribes with grants that ended on March 31, 2002. Please note, since the Older Americans Act allows only one grant per Tribal organization, the program announcement applies only to Tribes that did not receive a grant under the program announcement of September 17, 2001.

DATES: The deadline date for the submission of applications is June 20, 2002.

ADDRESSES: Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Yvonne Jackson, Director, Office for American Indian, Alaska Native and Native Hawaiian Programs, 330 Independence Ave., SW., Washington, DC 20201 or by calling 202/619–2713. Applications must be postmarked on or before June 20, 2002. An original and two copies of the application are to be mailed to Margaret Tolson, Director, Office of Grants Management, 330 Independence Ave., SW., Washington, DC 20201.

Dated: May 15, 2002.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 02–12679 Filed 5–20–02; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02033]

Improving Effectiveness of Tuberculosis Prevention and Control in Lithuania; Notice of Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of $105,000 in fiscal year (FY) 2002 funds for a Cooperative Agreement to provide education and technical assistance to improve the quality, efficiency, and effectiveness of programs for the prevention and control of tuberculosis (TB) with the National Tuberculosis Control Program (NTP), Ministry of Health of the Government of Lithuania. The award is anticipated to begin in May 2002, with a 12-month budget period within a five-year project period. This program addresses the "Healthy People 2010" priority areas of Immunization and Infectious Diseases.

The National Tuberculosis Control Program (NTP), Ministry of Health of the Government of Lithuania is the most appropriate and qualified agency to conduct the activities under this Cooperative Agreement because:

1. The NTP is uniquely positioned, in terms of legal authority, ability, track record, and credibility in Lithuania to develop and implement TB control activities in both public sites throughout the country.

2. The NTP is currently involved in TB treatment services in Lithuania, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to utilize and build upon the existing framework of TB control activities that the NTP has developed or initiated.

4. The NTP has been mandated by the Ministry of Health in Lithuania to coordinate and implement TB treatment and control activities including Multi-Drug Resistant Tuberculosis (MDR–TB) within the country.

The purpose of this Cooperative Agreement is to assist the recipient in conducting an anti-tuberculosis drug resistance survey in Lithuania based on WHO/IUATLD Global Project on Anti-Tuberculosis Drug Resistance Surveillance protocols ("The Global Project").

B. Where To Obtain Additional Information

To obtain business management technical assistance, contact: Dorimar Rosado, Lead Grants Management Specialist. International Grants & Contracts Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, MS E–09, Atlanta, GA 30341–4146, Telephone number: (770) 488–2782, FAX: (770) 488–2866, Email address: *dpr7@cdc.gov*.

For program technical assistance, contact: Charles Wells, Email address *ccw2@cdc.gov*, Puneet Dewan, Email address *phd8@cdc.gov*, Michael Qualls, Email address *muq1@cdc.gov*, National Center for HIV/STD/STD and TB Prevention, Division of Tuberculosis Elimination, 1600 Clifton Road, MS E–10, Atlanta, GA 30333, Telephone: (404) 639–8120, Fax: (404) 639–8961.

Dated: May 15, 2002.

Sandra R. Manning, CGFM,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–12648 Filed 5–20–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Exclusive License: Control of Arthropod Vectors of Parasitic Diseases

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7 (a) (1) (i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a worldwide exclusive license to practice the inventions embodied in the patent application referred to below to Aventis Environmental Sciences, a business unit of Aventis CropScience, of Montvale, New Jersey. The patent rights in these inventions have been assigned to the government of the United States of America. The patent application to be licensed is:

Title: Use of Fipronil to Control Ixodes Ticks and Control Lyme Disease. U.S. Patent Application Serial No. 09/595,035 Filing Date: 06/16/00

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

This invention comprises a method of controlling Lyme disease by preventing the maturation of deer ticks on white-footed mice by exposing the mice to fipronil as they enter food-baited boxes.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments, and other materials relating to the contemplated license should be directed to Andrew Watkins, Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K–79, Atlanta, GA 30341, telephone: (770) 488–8600; facsimile: (770) 488–8615. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by CDC within fifteen days of this notice will be considered.

Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552. A signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent application.

Dated: May 15, 2002.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–12649 Filed 5–20–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Innovative Food Safety Projects; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Division of Federal-State Relations (DFSR), is announcing the availability of grant funds for the support of an innovative food safety program. Approximately $350,000 will be available in fiscal year 2002. FDA anticipates making at least seven awards, not to exceed $50,000 (direct and indirect costs combined) per award per year. Support of these grants will be for 1 year. The number of grants funded will depend on the quality of the applications received and the availability of Federal funds to support the grant. These grants are not intended to fund or conduct food inspections.

DATES: Submit applications by July 22, 2002.

ADDRESSES: Application forms are available from, and completed applications should be submitted to Cynthia M. Polit, Grants Management Office (HFA–520), Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7180, e-mail: cpolit@oc.fda.gov. Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857. Application forms PHS–5161–1 (7/00) are available via the Internet at http://www.psc.gov/forms (revised 7/00).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Cynthia M. Polit (see **ADDRESSES**).

Regarding the programmatic aspects of this notice: Paul M. Raynes, or Anne Hope Scott, Division of Federal-State Relations, Office of Regulatory Affairs (HFC–150), Food and Drug Administration, 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–6906, e-mail: dfsr@ora.fda.gov, on the Internet at http://www.fda.gov/ora/fed_state/default.htm.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA will support projects covered by this notice under title XVII of the Public Health Service Act (42 U.S.C. 1702). FDA's project program is described in the Catalog of Federal Domestic Assistance No. 93.245, and applicants are limited to food safety regulatory agencies of State, local, and tribal governments.

FDA urges applicants to submit work plans that address specific objectives of "Healthy People 2010." Applicants may obtain a hard copy of the "Healthy People 2010" objectives, volumes I and II, Conference Edition (B0074), for $22 per set, by writing to the Office of Disease Prevention and Health promotion (ODPHP) Communication Support Center, P.O. Box 37366, Washington, DC 20013–7366. Each of the 28 chapters of "Healthy People 2010" is priced at $2 per copy. Telephone orders can be placed to the center on 301–468–5690. The center also sells the complete Conference Edition in CD–ROM format (B0071) for $5. This publication is available as well on the Internet at http://www.health.gov/healthypeople/. Internet viewers should proceed to "Publications."

The Public Health Service strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the FDA mission to protect and advance the physical and mental health of the American people.

II. Background

ORA is the inspection component of the FDA and has some 1,100 investigators and inspectors who cover the country's approximately 95,000 FDA-regulated businesses. These investigators inspect more that 15,000 facilities a year. In addition to the standard inspection program, they conduct special investigations, conduct food inspection recall audits, perform consumer complaint inspections, and collect samples of regulated product. FDA has relied on the States in assisting with the these activities through formal contracts, partnership agreements, and other informal arrangements. Under the Food Safety Initiative (FSI), the demands on both the agency and the States has increased. Procedures need to be reviewed and innovative changes made that will increase effectiveness and efficiency and conserve resources. ORA will support FSI by: (1) Effectively and efficiently ensuring compliance of regulatory products; and (2) providing high quality, science-based work that results in maximizing consumer protection.

Under FSI, FDA is mandated to develop innovative food safety programs that would be utilized nationally by State and local food safety regulatory agencies. Even though the American food supply is among the safest in the world, millions of Americans are stricken by illness each year caused by the food they consume, and some 7,000 Americans a year, primarily the very young and elderly, die as a result. The goal of FSI is to further reduce the incidence of foodborne disease to the greatest extent possible. Innovative food safety programs that are developed at the State and local levels and have national implication could enhance programs that are developed at the Federal level.

A. Project Goals, Definitions, and Examples

The specific objective of this program will be to complement, develop, or improve State and local food safety programs that would have applicability to food safety programs nationwide. Examples of food safety projects are retail food (food manufacturers,

processors, wholesalers, and warehouses); egg safety program; milk safety program; shellfish safety program. Applications that address one of the food safety projects and fulfill the following specific project objectives will be considered for funding.

Each application must address only one project. Applicants may apply for more than one project area, but must submit a separate application for each project. These grants are not to fund or conduct food inspections for food safety regulatory agencies. Applications relating to the Retail Food Program area should be applicable to program improvement processes for FDA's draft "Recommended National Retail Food Regulatory Program Standards" (http://vm.cfsan.fda.gov/~dms/ret-toc.html) (see review criteria).

There are two key project areas identified for this effort:

1. Inspection

Development of innovative regulatory inspection methods or techniques for the inspection process of various food establishments in order to improve effectiveness and efficiency. Innovative Regulatory Program Methodology projects must demonstrate an effect on factors that contribute to foodborne illness in all, or a segment of, food industry programs. For example, projects could address key elements from the draft entitled "Recommended National Retail Food Regulatory Program Standards," such as the five Food Code Interventions (management knowledge, employee health, hands as a vehicle of contamination, time/temperature relationships, and consumer advisory), or the five Centers for Disease Control and Prevention risk factors (improper holding temperature, inadequate cooking, contaminated equipment, unsafe source, and poor personal hygiene). Other examples of projects in this area could include prevention and control of *Listeria monocytogenes* in retail and foodservice environments and projects that address shell egg safety, such as refrigeration, safe handling, or labeling. The goal of these projects should be to achieve efficient and effective compliance with regulations that affect factors that contribute to foodborne illness.

2. Education and Health Information Dissemination

Development of innovative education projects and materials for State and local food safety regulatory officials that foster consistency and uniform application of State and local food regulations. These education projects and/or materials must be reproducible by other State and local food safety regulatory agencies. These projects may incorporate concurrent education of both State and local food safety regulatory agencies and the food industry.

B. Applicability

All grant application projects that are developed at State, local, and tribal levels must have national implication or application that can enhance Federal, State, and local food regulatory programs and are likely to reduce factors that cause foodborne illness. At the discretion of FDA, successful project formats will be made available to interested Federal, State, local, and tribal food safety regulatory agencies. No grant will be awarded for projects that do not support the FDA Food Code.

III. Reporting Requirements

Semiannual progress reports as well as a final program progress report and a final financial status report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's Grants Management Officer within 90 days of the expiration date of the grant. The final program progress report must provide full written documentation of the project, copies of any results, as described in the grant application, and an analysis and evaluation of the results of the project. The documentation must be in a form and contain sufficient detail such that other State and local food safety regulatory agencies could reproduce the final project.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least semiannually by the project officer. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a grant. These grants will be subject to all policies and requirements that govern the project grant programs of FDA, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 also apply to this program and are implemented through Department of Health and Human Services regulations at 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert the SPOC to the prospective application(s) and to receive any necessary instructions on the State's review process. A current listing of SPOCs is included in the application kit. The SPOC should send any State review process recommendations to FDA's administrative contact (see **ADDRESSES**). The due date for the State process recommendations is no later than 60 days after the deadline date for the receipt of applications. FDA does not guarantee to accommodate or explain SPOC comments that are received after the 60 day cut-off.

B. Eligibility

This grant program is only available to State, local, and tribal government food regulatory agencies. (See SPOC requirements stated previously.)

C. Length of Support

The length of support will be for 1 year from date of award.

V. Review Procedure and Criteria

All applications submitted in response to this request for application (RFA) will first be reviewed by grants management and program staff for responsiveness. Responsiveness is defined as submission of a complete application with original signatures on or before the required submission date as listed previously in this document. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration. An application will be considered nonresponsive if any of the following criteria are not met: (1) If it is received after the specified receipt date; (2) if the total dollar amount requested from FDA exceeds $50,000; (3) if all required original signatures are not on the face, assurance, or certification pages of the application; (4) if there is no original signature copy; (5) if it is illegible; (6) if the material presented is insufficient to permit an adequate review; (7) if the application demonstrates an inadequate understanding of the intent of the RFA; (8) if the application is determined to be essentially similar to projects that have been funded in the past; or (9) if for any reason the results of the project, including computer software, cannot be made available to other State, local, and tribal food regulatory agencies. All applicants are encouraged to check the

list of projects that received funding in prior years under this program on the Internet at www.fda.gov/ora/fed_state/Innovative_Grants.html.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Applications will be considered for funding on the basis of their overall technical merit as determined through the review process. Other award criteria will include availability of funds and overall program balance in terms of geography. Final funding decisions will be made by the Commissioner of Food and Drugs or his designee.

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or programmatic nature must be directed to ORA's program staff (see **ADDRESSES**) and all questions of an administrative or financial nature must be directed to the grants management staff (address above).

Applications will be given an overall score and judged based on all of the following criteria:

1. Application budgets must remain within the $50,000 cap for combined direct and indirect costs. Applications exceeding this dollar amount will be returned as nonresponsive.

2. Applications must provide in detail, a sound rationale and appropriate grant design to address the objectives of the RFA.

3. The project must be generic enough in nature to be used by other State, local, and tribal food regulatory agencies.

4. Applications must include a detailed explanation of the desired goals and outcomes of the project.

5. Only for applications relating to the Retail Food Program, the outcomes of the project should be applicable to program improvement process for FDA's draft "Recommended National Retail Food Regulatory Program Standards." These standards will serve as a guide to the regulatory retail food program. The standards apply to the operation, management, and promotion of a regulatory retail food program focused on the reduction of risk factors known and suspected to cause foodborne illness. The FDA draft "Recommended National Retail Food Regulatory Program Standards" are found on the Internet at http://vm.cfsan.fda.gov/~dms/ret-toc.html or contact your local FDA Regional Retail Food Specialist from the list provided in the application packet.

6. Applications must include a full description of the project design, a detailed implementation plan, methods of execution, and timeline for completion. The application must include a detailed description of measures of effectiveness and a description of the source documents or data collection methods for establishing the baseline for measurement.

7. Applications must address the adequacy of facilities, expertise of project staff, equipment, databases and support services needed for the project.

8. Applicants and applicants' subgrantees and subcontractors must ensure compliance that any projects developed in whole or in part with Federal funds may be made available to other State, local, and tribal food regulatory agencies by FDA or its agents. Such copyrighted or copyrightable works shall be subject to a royalty-free, nonexclusive, and irrevocable license to the Federal Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes.

VI. Submission Requirements

The original and two copies of the completed Grant Application Form PHS–5161–1 (Revised 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Cynthia M. Polit (see **ADDRESSES**). The application receipt date is July 22, 2002. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following workday. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled "Response to RFA–FDA–ORA–02–Project I (Inspection) or "RFA–FDA–ORA–02–Project II (Education and Health Information Dissemination)." Submit only one project application (an original and two copies) per package.

VII. Method of Application

A. Submission Instructions

Each application must be submitted under separate cover. Do not submit more than one application (original with two copies) per envelope. Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application sent to NIH that is then forwarded to FDA and not received in time for orderly processing will be deemed unresponsive and returned to the applicant. Instructions for completing the application are included in Form PHS–5161–1. FDA is unable to receive applications via Internet.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 5161–1 (Rev 7/00). All instructions for the enclosed Standard Form 424 (SF–424) should be followed using the nonconstruction application pages. A properly formatted sample application for the grant can be accessed on the Internet at http://www.fda.gov/ora/fed_state/Innovative_Grants.html. Applications may be considered nonresponsive if not submitted in the proper order.

The face page of the application should indicate "RFA–FDA–ORA–02–Project I (Inspection)," or "RFA–FDA–ORA–02–Project II (Education and Health Information and Dissemination)." Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on PHS Form 5161–1 were approved and issued under Office of Management and Budget Circular A–102.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of Department of Health and Human Services or by a court, data contained in the portions of this application which have been specifically identified by page number and paragraph by the applicant as

containing restricted or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: May 14, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12665 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1360]

Guidance for Industry on Preparation of Food Contact Notifications: Administrative; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance document entitled "Preparation of Food Contact Notifications: Administrative." This guidance document is intended to provide guidance for industry regarding the preparation of food contact notifications (FCNs). FDA is providing this guidance as part of its implementation of the premarket notification process for food contact substances (FCSs) established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written or electronic comments concerning this guidance document at any time.

ADDRESSES: Submit written comments concerning this guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http//www.fda.gov/dockets/ecomments. Submit written requests for single copies of the guidance document to the Office of Food Additive Safety (HFS–275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835. Send one self-addressed adhesive label to assist that office in processing your requests. You also may request a copy of the guidance document by electronic mail at OPAPMN@CFSAN.FDA.GOV, or by telephone to the Office of Food Additive Safety at 202–418–3087 (voice) or FAX 202–418–3131. All requests should be identified with the guidance document by its title. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Background

FDAMA (Public Law 105–115) amended section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348) to establish an FCN process as the primary method for authorizing new uses of food additives that are FCSs. A "food contact substance" is defined in section 409(h)(6) of the act as "any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food." FDA expects most new uses of FCSs that previously would have been regulated by issuance of a listing regulation in response to a food additive petition or would have been exempted from the requirement of a regulation under the "Threshold of Regulation" process will be the subject of FCNs. FDA is announcing the availability of the guidance document entitled "Preparation of Food Contact Notifications: Administrative." This guidance document is intended to provide guidance for industry regarding the preparation of FCNs. FDA is providing this guidance document as part of its implementation of the premarket notification process for FCSs established by FDAMA.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the data and information that should be submitted in an FCN and the plan for administration of the FCN program. This guidance document does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations. This guidance document is a level 1 guidance under the agency's good guidance practices (GGPs) regulations (21 CFR 10.115).

Because it is a level 1 guidance under the agency's GGPs, FDA announced the availability for comment of a draft of the guidance document "Preparation of Food Contact Notifications: Administrative" in a notice published in the **Federal Register** of July 13, 2000 (65 FR 43377). The comment period for the guidance document closed on September 26, 2000. FDA received no comments on the guidance document. However, FDA did receive three comments on the proposed rule published simultaneously with the July 13, 2000, notice of availability. Portions of these three comments are relevant to the guidance document and FDA has addressed the relevant portions of the comments in the guidance document announced by this notice. Thus, in accordance with its GGPs, FDA now is reissuing this guidance document in final form.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document at http://www.cfsan.fda.gov/~dms/guidance.html.

IV. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written and electronic comments regarding the guidance document at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Such comments will be considered when determining whether to amend the guidance.

Dated: May 6, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12663 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0199]

Advertisements for High-Intensity Mercury Vapor Discharge Lamps; Revocation of Compliance Policy Guide 7133.13

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the Compliance Policy Guide (CPG) entitled "Sec. 391.100 Advertisement Literature for High-Intensity Mercury Vapor Discharge Lamps (CPG 7133.13)" because it is obsolete and outdated. This CPG is no longer necessary because it concerns revising advertisements, printed before March 7, 1980, to comply with the Federal performance standard for high-intensity mercury vapor discharge lamps (HIMVDLs).

DATES: June 20, 2002.

ADDRESSES: Submit written requests for single copies of the CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411 or FAX your request to 301–827–0482.

A copy of the CPG may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued the CPG entitled "Sec. 391.100 Advertisement Literature for High-Intensity Mercury Vapor Discharge Lamps (CPG 7133.13)" on October 1, 1980. This CPG addresses a question from manufacturers related to advertisements, printed before March 7, 1980, for HIMVDLs that were manufactured after that date. These advertisements, primarily catalogs, should have been revised by now. Because the requirements for these types of lamps manufactured after March 7, 1980, and their advertisements are included in the Federal performance standard for HIMVDLs (21 CFR 1040.30), this CPG is obsolete and outdated. Therefore, FDA is revoking CPG 7133.13, in its entirety, to eliminate unnecessary compliance policy.

II. Electronic Access

Before June 20, 2002, a copy of the CPG may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs (ORA) homepage includes the referenced document that may be accessed at: http://www.fda.gov/ora/compliance_ref/cpg/cpgdev/cpg391–100.html.

Dated: May 14, 2002.

John Marzilli,

Deputy Associate Commissioner for Regulatory Affairs.

[FR Doc. 02–12623 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0200]

Sunlamp Product Performance Standard and UVA Tanning Products; Revocation of Compliance Policy Guide 7133.16

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the compliance policy guide (CPG) entitled "Sec. 396.100 Applicability of the Sunlamp Performance Standard to UVA Tanning Products (CPG 7133.16)." This CPG is no longer necessary because the agency has amended the sunlamp product performance standard (21 CFR 1040.20) to include sunlamp products and ultraviolet lamps that emit only ultraviolet A (UVA) radiation.

DATES: The revocation is effective June 20, 2002.

ADDRESSES: Submit written requests for single copies of the CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411 or FAX your request to 301–827–0482.

A copy of the CPG may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued the CPG entitled "Sec. 396.100 Applicability of the Sunlamp Performance Standard to UVA Tanning Products (CPG 7133.16)" on October 1, 1980. This CPG describes how the sunlamp product performance standard (§ 1040.20 (21 CFR 1040.20)), that became effective on May 7, 1980, applied to: (1) Any sunlamp product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body by ultraviolet radiation with wavelengths, in air, between 180 and 320 nanometers (nm) to induce skin tanning and (2) any ultraviolet lamp that produces radiation in the wavelength interval of 180 to 320 nm, in air, and is intended for use in any sunlamp product. Sunlamp products, that emit only UVA radiation (320 to 400 nm), were not subject to the 1980 performance standard.

In the **Federal Register** of September 6, 1985 (50 FR 36548 at 36550), FDA amended the sunlamp product performance standard to accommodate new products and designs that were significantly different from those for which the original standard was developed. This revised performance standard, which became effective on September 8, 1986, applies to sunlamp products and ultraviolet lamps that emit ultraviolet radiation with wavelengths, in air, between 200 and 400 nm and are intended for skin tanning (§ 1040.20(b)(9) and (b)(11)). Accordingly, sunlamp products and ultraviolet lamps which emit only UVA radiation are now subject to the performance standard.

Given the current sunlamp product performance standard, FDA is revoking CPG 7133.16, in its entirety.

II. Electronic Access

Prior to June 20, 2002, a copy of the CPG may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs home page includes the referenced document that may be accessed at http://www.fda.gov/ora/compliance_ref/cpg/cpgdev/cpg396–100.html.

Dated: May 14, 2002.

John Marzilli,

Deputy Associate Commissioner for Regulatory Affairs.

[FR Doc. 02–12666 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4740–N–03]

Notice of Proposed Information Collection: Comment Request; Schedule of Subscribers and Ginnie Mae Guaranty Agreement

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment Due Date: July 22, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya Suarez, Office of Program Operations, Department of Housing & Urban Development, 451 7th Street, SW., Room 6206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya Suarez, Ginnie Mae, (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Schedule of Subscribers and Ginnie Mae Guaranty Agreement.

OMB Control Number, if applicable: 2503–0009.

Description of the Need for the Information and Proposed Use

This form is prepared and submitted by the issuer to Ginnie Mae's agent, JPMorgan Chase Bank. This form must be used by the issuer to submit pool or loan packages. Each time the issuer issues a new security, it agrees that the applicable Guaranty Agreement is in effect on the issue date of the securities and that it will govern all of the issuer's outstanding pool and loan packages, pooled mortgages, and securities whether created under the Ginnie Mae I MBS Program or the Ginnie Mae II MBS Program. The pool will vary as to the amount of each security, securities holders, and the number of securities for each holder. The data provided on this form is the basis for the preparation of the securities issued under each Ginnie Mae MBS pool. Upon receipt of the form, JPMorgan Chase Bank reviews the information submitted in conjunction with other documentation required for the issuance of MBS securities. The approval of this form enables the actual preparation of the securities to be issued.

Agency form numbers, if applicable: Form HUD 11705.

Members of affected public: For-profit business (mortgage companies, thrifts, savings & loans, etc.).

Estimation of the total number of hours needed to prepare the information collection, including number of respondents, frequency of response, and hours of response:

Number of respondents: 297 (end of 2001).

Frequency of responses: 106 (per year).

Total annual responses: 31,482.

Hours per response: .17 (10 minutes).

Total burden hours: 5,352.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 13, 2002.

George S. Anderson,

Executive Vice President, Ginnie Mae.

[FR Doc. 02–12717 Filed 5–20–02; 8:45 am]

BILLING CODE 4210–66–M

INTER-AMERICAN FOUNDATION

Meeting of the Board of Directors and Advisory Council; Sunshine Act

TIME AND DATE: June 3, 2002, 9:30 a.m.–3:00 p.m.

PLACE: Inter-American Foundation, 901 N. Stuart Street, 10th Floor, Arlington, VA 22203.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the March 1, 2002, Meeting of the Board of Directors
- President's Report
- IAF 2001 Results Report
- Investment Initiative

CONTACT PERSON FOR MORE INFORMATION: Carolyn Karr, General Counsel, (703) 306–4350.

Dated: May 16, 2002.

Carolyn Karr,

General Counsel.

[FR Doc. 02–12821 Filed 5–17–02; 2:41 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

DATES: June 20, 2002, at 8:30 a.m.

ADDRESSES: Fifth floor conference room, 441 West 5th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 "C" Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. The meeting agenda will feature discussions about the fiscal year 2003 draft work plan, an update on injured resources and services, and the proposed Gulf of Alaska Ecosystem Monitoring and Research program.

Dated: May 13, 2002.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 02–12686 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Call for Nominations for the Wild Horse and Burro Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Wild Horse and Burro Advisory Board call for nominations.

SUMMARY: The purpose of this notice is to solicit public nominations for three members to the Wild Horse and Burro Advisory Board. The Board provides advice concerning management, protection, and control of wild free-roaming horses and burros on the public lands administered by the Department of the Interior, through the Bureau of Land Management, and the Department of Agriculture, through the Forest Service.

DATES: Nominations should be submitted to the address listed below under **ADDRESSES** no later than March 29, 2002.

ADDRESSES: National Wild Horse and Burro Program, Bureau of Land Management, Department of the Interior, P.O. Box 12000, Reno, Nevada 89520–0006, Attn: Ramona DeLorme; FAX 775–861–6711.

FOR FURTHER INFORMATION CONTACT: John Fend, Group Manager—Wild Horse and Burro Group, (202) 452–0379. Individuals who use a telecommunications device for the deaf (TDD) may contact Mr. Fend at any time by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Any individual or organization may nominate one or more persons to serve on the Wild Horse and Burro Advisory Board. Individuals may also nominate themselves for Board membership. All nomination letters should include the name, address, profession, relevant biographic data, and reference sources for each nominee, and should be sent to the address listed under ADDRESSES, above. Nominations for the following categories of interest are needed:

Humane Advocacy,

Wildlife Management,

Livestock Management.

The specific category that the nominee will represent should be identified in the letter of nomination. Board membership must be balanced in terms of categories of interest represented. Each member must be a person who, as a result of training and experience, has knowledge or special expertise which qualifies him or her to provide advice from among the categories of interest listed above. Members will be appointed to a term of 3 years.

Pursuant to Section 7 of the Wild Free-Roaming Horse and Burro Act, Members of the Board cannot be employed by either Federal or State Government.

Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Board will meet no less than two times annually. The Director, Bureau of Land Management may call additional meetings in connection with special needs for advice.

Henri Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 02–12677 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–02–0040; OR–56288]

Partial Cancellation of Proposed Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has partially cancelled 118,000 acres of an application to withdraw approximately 151,970 acres of Federal lands to protect the nationally significant ecological and biological values of the Siskiyou Wild Rivers area. This Notice terminates the temporary segregation of the Federal lands described below from location and entry under the mining laws. All of the lands have been and will remain open to the public land and mineral leasing laws unless closed by other segregations of record.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Matt Craddock, Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, 541–618–2272.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register** on January 22, 2001, 66 FR 6663—6664, segregating approximately 151,970 acres of Federal lands from location and entry under the mining laws. Based on a review of the lands proposed for withdrawal and a review of the Medford Resource Management Planning objectives outlined in its Record of Decision dated June 1995, the Bureau of Land Management hereby cancels from the withdrawal application the following described lands:

Willamette Meridian

T. 37 S., R. 6 W.,
Sec. 31, W½.

T. 39 S., R. 6 W.,

Sec. 5, E½;
Sec. 8.
T. 33 S., R. 7 W.,
Secs. 18, 19, 30, and 31.
T. 34 S., R. 7 W.,
Secs. 7, 19, 30, and 31.
T. 35 S., R. 7 W.,
Secs. 3 to 10, inclusive, and
Secs. 15, 17, 18, and 19;
Sec. 20, W½.
T. 39 S., R. 7 W.,
Sec. 2.
T. 32 S., R. 8 W.,
Sec. 31.
T. 33 S., R. 8 W.,
Secs. 5 to 36, inclusive.
T. 34 S., R. 8 W.,
Secs. 2 to 5, inclusive, secs. 8 to 10, inclusive, secs. 15 to 17, inclusive;
Secs. 20 to 29, inclusive, and secs. 31 to 36, inclusive.
T. 35 S., R. 8 W.,
Secs. 1, 2, and secs. 6 to 36, inclusive.
T. 38 S., R. 8 W.,
Secs. 9, 15, 21, and 28.
T. 40 S., R. 8 W.,
Secs. 7, 10, 15, and secs. 17 to 20, inclusive;
Sec. 22, N½;
Sec. 33, S½NE¼, and S½; sec. 34.
T. 32 S., R. 9 W.,
Secs. 3 to 9, inclusive, secs. 17 to 22, inclusive, and secs. 24 to 35, inclusive.
T. 33 S., R. 9 W.,
Secs. 1 to 20, inclusive, secs. 23 to 27, inclusive, and secs. 29 to 34, inclusive.
T. 34 S., R. 9 W.,
Secs. 4 to 7, inclusive, secs. 16 to 21, inclusive, and secs. 27 to 36, inclusive.
T. 35 S., R. 9 W.,
Secs. 1 to 14, inclusive, secs. 17 to 20, inclusive, and secs. 23 to 36, inclusive.
T. 41 S., R. 9 W.,
Sec. 9.
Tps. 32, 33, and 34 S., R. 10 W.
T. 32 S., R.11 W.

The areas described aggregate approximately 118,000 acres, more or less, in Curry, Coos, Josephine, and Douglas Counties.

2. At 8:30 a.m., on May 21, 2002, the lands described above will be opened to location and entry under the United States mining laws subject to valid and existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this Notice under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

3. The Bureau of Land Management will continue to evaluate the remaining lands to consider whether or not to recommend a formal withdrawal to the Secretary of Interior.

Dated: February 4, 2002.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 02–12675 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–02–0039; OR–56289 et al]

Cancellation of Proposed Withdrawal, and Notice of Proposed Withdrawal and Opportunity for a Public Meeting; California and Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service canceled its application to withdraw approximately 1,093,953 acres of National Forest System lands to protect the Siskiyou Wild Rivers area. This notice terminates the temporary segregation of the National Forest System lands described below from location and entry under the mining laws. This notice also notifies the public that the Forest Service proposes to withdraw approximately 82,829.35 acres of National Forest System lands in the Siskiyou National Forest to protect endangered species and preserve outstanding botanical and scenic values. Subject to valid existing rights, this notice segregates the National Forest System lands described below for up to 2 years from location and entry under the United States mining laws. The lands have been and will remain open to such forms of disposition as may by law be made of National Forest System lands and mineral leasing.

DATES: The effective date of the Siskiyou Wild Rivers withdrawal application cancellation is May 21, 2002. The effective date of the Siskiyou withdrawal application is May 21, 2002. Comments on the new proposed withdrawal must be received by August 19, 2002.

ADDRESSES: Comments should be sent to the Forest Supervisor, Siskiyou National Forest, 333 West 8th Street, P.O. Box 520, Medford, Oregon 97501.

FOR FURTHER INFORMATION CONTACT: Rob Shull, Siskiyou National Forest, (541) 858–2200.

SUPPLEMENTARY INFORMATION: On January 22, 2001, a notice of proposed withdrawal was published in the **Federal Register**, 66 FR page 6664, segregating approximately 1,093,953 acres of National Forest System lands from location and entry under the United States mining laws. The proposed withdrawal as described in the **Federal Register** is hereby cancelled in its entirety on May 21, 2002. Subject to valid existing rights and other segregations of record, the lands described in the January notice are opened to such uses as may by law be made of National Forest System lands including location and entry under the United States mining law.

On October 18, 2001, the United States Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Willamette Meridian

Siskiyou National Forest

T. 32 S., R. 11 W.,
Sec. 5, E½SW¼, and SW¼SE¼;
Sec. 8, lots 1 and 2, W½NE¼, and NE¼NW¼.
T. 32 S., R. 12 W.,
Sec. 26, W½E½, SE¼NE¼, E½NW¼, SW¼NW¼, SW¼, and NE¼SE¼;
Sec. 27, NE¼SE¼ and S½S½;
Sec. 28, SE¼SE¼;
Sec. 33, E½ and SW¼;
Sec. 34, N½ and NW¼SW¼;
Sec. 35, NE¼NW¼ and W½NW¼.
T. 33 S., R. 12 W.,
Sec. 9, lot 4 and SE¼;
Sec. 10, lots 1 to 4, inclusive, SW¼, NE¼SE¼, and W½SE¼;
Sec. 15, W½W½;
Sec. 16, E½;
Sec. 20, S½SE¼;
Sec. 21, NE¼, SW¼SW¼, and N½SE¼;
Sec. 22, W½NW¼ and NW¼SW¼;
Sec. 28, NW¼, NE¼SW¼, and W½SW¼;
Sec. 29, E½ and SW¼;
Sec. 31, E½NE¼ and NE¼SE¼;
Sec. 32;
Sec. 33, W½W½ and NE¼SW¼.
T. 34 S., R. 10 W.,
Sec. 11, S½NE¼ and SE¼;
Sec. 12, E½NW¼, SW¼NW¼, SW¼, and SW¼SE¼;
Sec. 13, NW¼NE¼ and N½NW¼;
Sec. 14, NE¼, E½NW¼, W½SW¼, and NE¼SW¼;
Sec. 26, S½SW¼ and SW¼SE¼;
Sec. 33, E½NE¼;
Sec. 34, W½NE¼, NW¼, NW¼SW¼, E½SW¼, and SE¼;
Sec. 35, W½NE¼, W½, and NW¼SE¼.
T. 34 S., R. 12 W.,
Sec. 4, lots 3 and 4, SW¼NW¼, and NW¼SW¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, and N½S½.
T. 35 S., R. 8 W.,
Sec. 13, lots 2 and 3, SW¼NE¼, NE¼SW¼, S½SW¼, and W½SE¼;
Sec. 14, S½SE¼;
Sec. 22, SE¼SW¼ and S½SE¼;
Sec. 23, NE¼NE¼, W½NE¼, SE¼NW¼, and SW¼;
Sec. 24, NW¼NW¼;
Sec. 27, N½NE¼, NW¼, and NE¼SW¼;
Sec. 28, NE¼NE¼.
T. 35 S., R. 9 W.,
Sec. 24, SW¼SE¼;
Sec. 25, NE¼, SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 26, SE¼NE¼, and SE¼;
Sec. 31, lots 3 and 4, and S½SE¼;
Sec. 32, lots 1 to 3, inclusive, S½SW¼, and SW¼SE¼;
Sec. 33, lots 4 to 6, inclusive, SE¼NW¼, and E½SW¼;
Sec. 35, NE¼, E½SW¼, and W½SE¼;
Sec. 36, NW¼NW¼.
T. 35 S., R. 10 W.,
Sec. 2, lot 4, SW¼NW¼ and SW¼;
Sec. 3, lots 1 to 3, inclusive, S½NE¼, N½,SE¼, and SE¼SE¼;
Sec. 10, E½, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 11, lots 3 and 4, and SW¼NW¼;
Sec. 12, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 13, NE¼, NE¼NW¼, S½NW¼, SW¼, NE¼SE¼, and W½SE¼;
Sec. 15, NW¼NE¼, NW¼, NE¼SW¼, and W½SW¼;
Sec. 16, E½NE¼ and SE¼;
Sec. 21, E½SW¼ and E½;
Sec. 22, W½ and S½SE¼;
Sec. 23, E½ and SW¼;
Sec. 24, NW¼NE¼, S½NE¼, W½, and SE¼;
Sec. 25, N½NE¼, NW¼, W½SW¼, and NE¼SW¼;
Sec. 26, E½, NE¼NW¼, W½NW¼, NE¼SW¼, and S½SW¼;
Sec. 27, N½ and N½SW¼;
Sec. 28, N½ and N½S½;
Sec. 29, NE¼, NE½NW¼, S½NW¼, SW¼, NE¼SE¼, and W½SE¼;
Sec. 30, lots 1 to 4, inclusive, SE¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 31, N½NE¼ and NE¼NW¼;
Sec. 32, NE¼, E½SW¼, and W½SE¼;
Sec. 33, NE¼, NE¼NW¼, S½NW¼, SW¼, NE¼SE¼, and S½SW¼;

Sec. 35, N½NE¼, NW¼, W½SW¼, and NE¼SW¼;
Sec. 36, SE¼SW¼ and SE¼.
T. 35 S., R. 10½ W.,
Sec. 31, lots 3 and 4, SW¼, and W½SE¼.
T. 35 S., R. 11 W.,
Sec. 33, SE¼SE¼;
Sec. 34, lots 1 and 2, NE¼SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 35, SW¼NW¼, SW¼, and S½SE¼;
Sec. 36, NE¼SW¼, S½SW¼, and SE¼.
T. 35 S., R. 13 W.,
Sec. 31, lot 1, lots 3 to 8, inclusive, portions of lots 2 and 9, N½NE¼, NE¼NW¼, and SE¼SE¼;
Sec. 32, lots 4 and 5, NW¼NW¼, and SW¼SW¼.
T. 36 S., R. 9 W.,
Sec. 4, lots 3 and 4, S½NW¼, SW¼, and NW¼SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, NE¼SW¼, and N½SE¼;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 7, lot 1.
T. 36 S., R. 10 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, S½N½ and S½;
Sec. 3, lots 2 to 4, inclusive, S½NW¼, W½SW¼, and E½SE¼;
Sec. 4, lot 1, S½NE¼, S½SW¼, and SE¼;
Sec. 5, SW¼, W½SE¼, and SE¼SE¼;
Sec. 6, SE¼SW¼, and SE¼;
Sec. 7, lots 1 to 3, inclusive, NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 8, NE¼ and N½NW¼;
Sec. 9, E½, NW¼, and N½SW¼;
Sec. 10, E½NE¼, SW¼NW¼, and S½;
Sec. 11, NE¼, W½, NE¼SE¼, and W½SE¼;
Sec. 12, N½ and NW¼SW¼;
Sec. 14, NE¼NW¼ and W½NW¼;
Sec. 15, NE¼, N½NW¼, and SE¼NW¼.
T. 36 S., R. 11 W.,
Sec. 1, lots 1 to 4, inclusive, and SE¼NE¼;
Sec. 2, lots 1 to 4, inclusive, and S½NW¼;
Sec. 3, lots 1 to 4, inclusive, and S½NE¼;
Sec. 4, lots 1 to 6, inclusive, SW¼NW¼, and W½SW¼;
Sec. 5, lot 1, SE¼NE¼, and E½SE¼;
Sec. 13, S½;
Sec. 14, SE¼, NE¼SW¼, and S½SW¼;
Sec. 15, SW¼, W½SE¼, and SE¼SE¼;
Sec. 16, lots 3 and 4, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 21, N½NE¼ and NE¼NW¼;
Sec. 22, NE¼ and N½NW¼;
Sec. 23, N½N½ and SW¼NW¼;
Sec. 24, N½N½.
T. 36 S., R. 12 W.,
Sec. 22, SE¼SE¼;
Sec. 23, S½SW¼ and SW¼SE¼;
Sec. 26, N½ and N½SW¼;
Sec. 27, NE¼ and NE¼SE¼.
T. 36 S., R. 13 W.,
Sec. 6, S½NE¼ and SE¼.
T. 37 S., R. 12 W.,
Sec. 3, W½SW¼ and SE¼SW¼;
Sec. 4, E½SE¼;
Sec. 18, S½SE¼;
Sec. 19, lots 2 to 4, inclusive, E½, and E½W½;
Sec. 20, W½NW¼, SE¼NW, and N½SW¼;
Sec. 30, lots 1 to 4, inclusive, and E½NW¼;
Sec. 31, NW¼NW¼;
Sec. 34, E½SW¼ and SE¼;
Sec. 35, S½NE¼, SE¼NW¼, and S½;
Sec. 36, W½SW¼.
T. 37 S., R. 12½ W.,
Sec. 24, E½, NE¼NW¼, and SE¼SW¼;
Sec. 25, NE¼, E½NW¼, and E½SE¼.
T. 37 S., R. 13 W.,
Protracted blocks 44 and 46.
T. 37½ S., R. 12 W.,
Sec. 25, lots 2 to 4, inclusive, lots 6 and 7;
Sec. 26, lots 2 to 6, inclusive;
Sec. 27, lot 1;
Protracted blocks 43 and 44.
T. 38 S., R. 8 W.,
Sec. 7, SE¼NE¼ and SE¼;
Sec. 8, lots 2 to 4, inclusive, W½E½, and W½;
Sec. 17;
Sec. 18, E½, SE¼NW¼, NE¼SW¼, and S½SW¼;
Secs. 19 and 20;
Sec. 28, portion of M.S. No. 334;
Sec. 29, lots 1 to 12, inclusive, portion of M.S. No. 334, NW¼NE¼, and NE¼SW¼;
Sec. 30, W½NE¼ and W½;
Sec. 31, NW¼NW¼.
T. 38 S., R. 9 W.,
Sec. 24, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Sec. 25, E½, NW¼, and NE¼SW¼;
Sec. 30, SE¼SW¼ and SW¼SE¼;
Sec. 31, E½ and NE¼SW¼;
Sec. 32, S½NW¼ and N½SW¼;
Sec. 36, NE¼NE¼.
T. 39 S., R. 9 W.,
Sec. 19, lots 2 to 4, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 29, SW¼NW¼ and W½SW¼;
Sec. 30, lots 1 and 2, E½NW¼, and E½;
Sec. 31, lot 4, N½NE¼, SE¼NE¼, E½SW¼, and SE¼;
Sec. 32, W½.
T. 39 S., R. 10 W.,
Sec. 26, S½S½ and NE¼SE¼;
Sec. 34, S½;
Sec. 35, N½, SW¼, N½SE¼, and SE¼SE¼;
Protracted blocks 44 to 46, inclusive.
T. 39 S., R. 11 W.,
Sec. 9, SE¼SE¼;
Sec. 10, W½NW¼, SE¼NW¼, and SW¼;
Sec. 15, NW¼.
T. 39 S., R. 12 W.,
Sec. 28, W½NW¼.
T. 40 S., R. 9 W.,
Sec. 5, lot 4;
Sec. 6, lots 1 to 7, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, and SW¼SE¼;
Sec. 7, lots 1 to 3, inclusive, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 8, W½SW¼ and SE¼SW¼;
Sec. 10, E½SE¼;
Sec. 11, lots 4 to 6, inclusive, and N½SW¼;
Sec. 13, NE¼, S½NE¼NW¼, S½NW¼, and N½S½;
Sec. 14, NE¼, N½NW¼, N½SW¼NW¼, SE¼SW¼NW¼, SE¼NW¼, N½NE¼SW¼, and N½SE¼;
Sec. 15, NE¼, W½, and N½SE¼;
Sec. 16, E½, W½NW¼, SE¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 17, N½ and N½SE¼;
Sec. 18, NE¼NE¼;
Sec. 27, S½NE¼ and SE¼;
Sec. 33, SE¼;
Sec. 34, lots 1 to 8, inclusive, NE¼NE¼, W½NE¼, and NW¼SE¼.
T. 40 S., R. 10 W.,
Secs. 2 and 3;
Sec. 4, SE¼NE¼;
Sec. 8, SE¼;
Sec. 9, E½, S½NW¼, and SW¼;
Secs. 10 and 11;
Secs. 14 to 16, inclusive;
Sec. 17, NE¼NE¼, S½NE¼, SE¼NW¼, and S½;
Sec. 19, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Secs. 20 to 23, inclusive, and secs. 26 to 29, inclusive;
Sec. 30, lots 2 to 4, inclusive, E½, and E½W½;
Protracted blocks 37 to 46, inclusive.
T. 40 S., R. 11 W.,
Sec. 25, NE¼SE¼ and S½SE¼; protracted blocks 42 and 43.
T. 40 S., R. 12 W.,
Sec. 14, SW¼NE¼ and E½NW¼;
Sec. 15, S½NE¼, SE¼NW¼, N½SW¼, and NW¼SE¼;
Sec. 16, SW¼NE¼, SE¼NW¼, and N½SW¼.
T. 40 S., R. 13 W.,
Sec. 12, lot 14;
Sec. 13, NW¼NW¼.
T. 41 S., R. 6 W.,
Sec. 7, lots 1 and 2, NE¼, and W½NW¼;
Sec. 8, NE¼NW¼ and S½NW¼.
T. 41 S., R. 7 W.,
Sec. 8, SE¼SE¼;
Sec. 12, NE¼NE¼;
Sec. 16, NW¼NW¼;
Sec. 17, N½NE¼.
T. 41 S., R. 8 W.,
Sec. 15, lot 1, W½NE¼, and SE¼NE¼.
T. 41 S., R. 9 W.,
Sec. 4, lots 1 and 2, S½NE¼, and S½;
Sec. 5, S½SE¼;
Sec. 8, E½;
Sec. 17, lots 1 and 2, N½, N½SW¼, and NW¼SE¼;
Sec. 18, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 41 S., R. 10 W.,
Sec. 3, NW¼NE¼ and NW¼;
Sec. 4, NE¼, W½, N½SE¼, SW¼SE¼;
Secs. 5 and 6;
Sec. 7, NE¼;
Sec. 8, E½, NW¼, N½SW¼, and SE¼SW¼;
Sec. 9, NW¼NE¼, NW¼, and W½SW¼.
T. 41 S., R. 11 W.,
Sec. 1;
Sec. 2, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 11, N½NE¼ and NW¼;
Sec. 12, NW¼NW¼.
T. 41 S., R. 12 W.,
Sec. 3, NW¼NW¼;
Sec. 7, lot 16, NE¼, and SW¼SE¼;
Sec. 8, SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 11, SW¼SE¼;
Sec. 14, S½N½, NE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 17, S½NW¼ and N½SW¼;
Sec. 18, lot 1 and NW¼NE¼.

The area described contains approximately 81,769.50 acres in Curry, Coos, Josephine, and Douglas County.

Humboldt Meridian

Siskiyou National Forest

T. 18 N., R. 5 E.,
Sec. 1, W½SW¼ and SE¼SW¼;
Sec. 2, lots 2 to 4, inclusive, S½NE¼, and NE¼SE¼;
Sec. 12, E½NW¼, SW¼NW¼, and W½SW¼;
Sec. 13, NW¼ NW¼.
T. 19 N., R. 5 E.,
Sec. 34, lots 1, 3, 5, and 6, NE¼SW¼, N½SE¼, and SE¼SE¼.
Sec. 35, W½SW¼ and SE¼SW¼;
The area described contains 1,059.85 acres in Del Norte County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Siskiyou National Forest, at the address stated above.

Notice is hereby given that a public meeting will be provided in connection with the proposed withdrawal. The times, dates, and places for the meetings will be announced in a subsequent notice published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set fourth in 43 CFR 2300. For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from location and entry under the United States mining laws unless the application is denied or canceled or the withdrawal is approved prior to that date. All temporary land uses identified in 43 CFR 2310.2(c) may be approved while the lands remain segregated which include, applications for licenses, permits, cooperative agreements or other discretionary land use authorizations of a temporary nature. Locatable mineral operations (36 CFR 228.3(a)) conducted on or for the benefit of mining claims located prior to the effective date of this segregation, can continue and may be allowed without first conducting a valid existing rights determination.

Dated: November 26, 2001.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 02–12676 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–929–931 (Final)]

Silicomanganese From India, Kazakhstan, and Venezuela

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from India, Kazakhstan, and Venezuela of silicomanganese, provided for in subheading 7202.30.00 or statistical reporting number 7202.99.5040 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective April 6, 2001, following receipt of a petition filed with the Commission and Commerce by Eramet Marietta Inc. (Marietta, OH) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of silicomanganese from India, Kazakhstan, and Venezuela were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 29, 2001 (66 FR 59596).[2] The hearing was held in Washington, DC, on April 2, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 16, 2002. The views of the Commission are contained in USITC Publication 3505 (May 2002), entitled Silicomanganese from India, Kazakahstan, and Venezuela: Investigations Nos. 731–TA–929–931 (Final).

Issued: May 16, 2002.
By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12703 Filed 5–20–02; 8:45 am]

BILLING CODE 7020–20–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] On January 14, 2002, the Commission published in the **Federal Register** a notice of revised schedule (67 FR 1783).

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–426 and 731–TA–984–985 (Final)]

Sulfanilic Acid From Hungary and Portugal

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–426 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–984–985 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from Hungary of sulfanilic acid and less-than-fair-value imports from Hungary and Portugal of sulfanilic acid, provided for in subheadings 2921.42.22 and 2921.42.90 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: May 6, 2002.

FOR FURTHER INFORMATION CONTACT: Gail Burns (202–205–2501), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid."

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Hungary of sulfanilic acid, and that such products from Hungary and Portugal are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on September 28, 2001, by Nation Ford Chemical Co., Fort Mill, SC.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 10, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 24, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 17, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 19, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is July 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 31, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 31, 2002. On August 14, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 16, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. In addition, parties may submit comments on Commerce's final determination with respect to sulfanilic acid from Portugal no later than three working days after Commerce's notice of final determination is published in the **Federal Register**. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: May 16, 2002.
By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12704 Filed 5–20–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Request for Information Concerning Draft Miscellaneous Tariff Legislation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission is seeking non-confidential general information from interested parties, including proponents, on approximately 400 pending bills proposing duty suspensions or other tariff modifications on imported goods, from among the total number of such bills already introduced (over 600). The Commission

regularly provides this information to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate, based on longstanding requests from the two Committees. These bills are under consideration for possible enactment later this year; many of them are covered by a recent press release issued by the Subcommittee on Trade of the Committee on Ways and Means (see *http://waysandmeans.house.gov/trade/107cong/tr-9.htm*). Because of the large number of bills introduced in recent weeks and the likely scheduling of Congressional proceedings for this summer, the normal Commission process for collecting and compiling this information is being suspended for the remainder of the 107th Congress, based on communications with the staffs of the two Committees. This notice is intended to advise interested parties of the introduction of these bills and to supplement the Commission's efforts to contact interested parties and collect the information needed by the two Committees.

EFFECTIVE DATE: To be useful to the Congress in its consideration, information is sought as soon as possible but not later than July 15, 2002.

ADDRESSES: A single copy of the information being supplied pursuant to this notice can be sent by facsimile transmission to the Office of Tariff Affairs and Trade Agreements, 202–205–2616. Information or questions on bills concerning chemicals, pharmaceuticals or related goods can be sent by electronic mail to David Beck, Nomenclature Analyst, at *dbeck@usitc.gov* or mailed to the Office of Tariff Affairs and Trade Agreements, United States International Trade Commission, Room 404-M, 500 E Street SW, Washington, DC 20436. Information or questions on other bills can be sent by electronic mail to Janis L. Summers, Esq., at *jsummers@usitc.gov* or mailed to Room 404-J at the above address.

FOR FURTHER INFORMATION CONTACT: David Beck, Nomenclature Analyst (202–205–2603); Janis L. Summers, Esq. (202–205–2605); or Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (202–205–2592).

SUPPLEMENTARY INFORMATION: As indicated above, due to the volume of pending legislation and the likely scheduling of Congressional proceedings, the normal Commission process for collecting and compiling general information on miscellaneous tariff bills is being suspended for the remainder of the 107th Congress, based on communications with the staffs of the two Congressional Committees. To expedite the collection of the information needed by the Committees, the Commission is posting a list of bills for which general information is being sought, indicating the subject of each bill, on its Internet site, *www.usitc.gov* (under "New and Notable"), and will be updating this list as additional bills are introduced. A link enabling users to obtain these bills over the Internet will be supplied as well. Persons without access to the Internet can contact the Office of Tariff Affairs and Trade Agreements (202–205–2592) to obtain copies of the list of bills under review or copies of individual bills.

Information supplied to the Commission will be compiled for use by the Congress in its consideration of these bills; aggregate information on each bill will be made available to the Congress and to government agencies requested by Congress to evaluate each bill. While Commission analysts will be communicating directly with individual firms, it is requested that firms and other interested parties, particularly firms that may produce goods covered by pending bills in the United States, supply particular general information to ensure its availability to the Committees in a timely manner. Information need not be supplied on all of the above items but can be supplied to the Commission as it is available. Persons desiring to register support for or objections to particular bills should contact the relevant Congressional Committees directly so that such views are available to the Members as quickly as possible.

Accordingly, non-confidential information of the following general types is being sought for each bill, as appropriate to the bill's subject matter, and information may be supplied on any or all of these topics:

(1) Chemical name of the product, if the proposed tariff provision contains only a trade or proprietary name; the Chemical Abstracts Service registry number, if missing from or incorrect in a bill dealing with a chemical product; and the Colour Index name, for chemical dyes and pigments;

(2) Suggested changes in product description or in Harmonized Tariff Schedule of the United States classification, and basis therefor;

(3) Estimated annual dutiable import levels (aggregate and for your firm) for each product covered by the bill for 2002 and each year of the bill's effective period or, if the proposal is for a permanent tariff change, through 2006;

(4) Current, past, or future domestic production of each product covered by the bill by your firm and by other firms; if none, any efforts by your firm to locate a domestic producer or reasons prohibiting domestic production (such as patent coverage);

(5) Estimated annual revenue loss (dutiable imports times applicable duty rate) for each product covered by the bill for 2002 and each year of the bill's effective period or, if the proposal is for a permanent tariff change, through 2006;

(6) Other recommended technical changes and information relevant to consideration of the bill.

Issued: May 16, 2002.
By order of the Commission.

Marilyn R. Abbott,
Secretary.

[FR Doc. 02–12705 Filed 5–20–02; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 9, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E–Mail: *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act.

OMB Number: 1215–0158.

Affected Public: Farms, Individuals or households; Business or other for-profit.

Frequency: On Occasion.

Number of Respondents: 60.

Number of Annual Responses: 60.

Estimated Time Per Response: 3 minutes.

Total Burden Hours: 4.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section 203(b)(1) of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and Section 500.135(b) of Regulations 29 CFR part 500, provide that any person who owns or controls a facility or real property to be used for housing migrant agricultural workers shall not permit such housing to be occupied by any worker unless a copy of a certificate of occupancy from State, Local, or Federal agency which conducted the housing safety and health inspection, is posted at the site of the facility or real property.

Form WH–520 is the form used to gather information to determine whether or not the facility meets the applicable safety and health standards, and also serve as the certificate of occupancy. If the information were not collected, it would not be possible to ascertain which facility had been inspected and certified as meeting applicable safety and health standards and who is responsible for maintaining those standards.

Ira L. Mills,
Departmental Clearance Officer.

[FR Doc. 02–12696 Filed 5–20–02; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 14, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-Mail: *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: New collection.

Title: Workforce Investment Act (WIA) National Emergency Grant (NEG) Financial Reporting Requirements.

OMB Number: 1205–0NEW.

Affected Public: State, Local, or Tribal Government; Not-for-profit institutions; and Business or other for-profit.

Frequency: Quarterly.

Type of Response: Reporting.

Number of Respondents: 40.

Number of Annual Responses: 320.

Estimated Time Per Response: .5 hours.

Total Burden Hours: 160.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: In accordance with the Workforce Investment Act of 1998 (Public Law 105–220) and 20 CFR 652 et al., the National Emergency Grant Financial Reporting requirements have been developed to achieve compliance with the statute. Furthermore, the Regulations at 20 CFR 667.300 require that DOL issue financial reporting instructions to the States and other direct grant recipients. These financial reporting requirements represent the DOL's only means for obtaining the statutorily required data.

Ira L. Mills,
Departmental Clearance Officer.

[FR Doc. 02–12697 Filed 5–20–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 14, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or Email *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: 29 CFR Part 825, The Family and Medical Leave Act of 1993.

OMB Number: 1215–0181.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Frequency: On Occasion.

Number of Respondents: 4.7 million.

Number of Annual Responses: 10.107 million.

Estimated Time Per Response: 1 to 10 minutes.

Total Burden Hours: 718,529.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Family and Medical Leave Act of 1993 (FMLA), Public Law 103–3, 107 Stat. 6, 29 U.S.C. 2601, which became effective on August 5, 1993, requires private sector employers of 50 or more employees, and public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to "eligible" employees for certain family and medical reasons. The information collections involve third-party notifications between the employer and the employees. These requirements are necessary to ensure that both employers and employees are aware of and can exercise their rights and meet their respective obligations under FMLA. The record-keeping requirement are necessary in order for the Department of Labor to carry out its statutory obligation under section 106 of FMLA to investigate and ensure employer compliance. Without requiring employers to maintain these records, it would not be possible for the Department of Labor to determine compliance.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–12698 Filed 5–20–02; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary of Labor

Notice of Meeting; President's Council on the 21st Century Workforce and the Committees on Skills Gap, Demographics and Workplace Issues

AGENCY: Office of the Secretary of Labor, DOL.

ACTION: Notice of a meeting of the President's Council on the 21st Century Workforce and meeting of Committees.

SUMMARY: Pursuant to Executive Order 13218, the Secretary of Labor will hold a meeting of the President's Council on the 21st Century Workforce, hereafter (The Council). This is the first meeting of The Council and it's Committees on the Skills Gap, the Changing Demographics and Workplace Issues. The Council and its Committees will provide information and advice to the President, through the Secretary of Labor and the Office of the 21st Century Workforce on issues guided by Executive Order 13218.

DATE, TIME & LOCATION: The Council and its Committees will meet on June 18, 2002 from 8:30 am to approximately 4 pm. The location of the meeting will be the Secretary's Conference Room, U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Russell Harris, in the Secretary's Office of the 21st Century Workforce, room S–2229, 200 Constitution Ave. NW., Washington, DC 20210. The contact telephone number is (202)–693–6490.

SUPPLEMENTARY INFORMATION: The Council and it's Committees will meet on June 18, 2002 in Washington, DC. The meeting is open to the public. The agenda for this meeting includes a:

- ☐ Welcome and remarks by the Secretary of Labor
- ☐ Welcome and remarks by the Director of the Office of the 21st Century Workforce
- ☐ Briefing by Department of Labor (DOL) Officials
- ☐ Committee meeting on the Skills Gap, the Changing Demographics and Workplace Issues
- ☐ Reception

An official record of the meeting will be available for public inspection, in the Office of the 21st Century Workforce. All inquires should be addressed to the Office of the 21st Century Workforce at the address and telephone number provide in the **FOR FURTHER INFORMATION CONTACT** section.

Individuals needing special accommodations for the Council or Committee meeting should contact Russell Harris at telephone number (202) 693–6490 before June 10, 2002 at the above address.

Interested parties may submit written data, views or comments, preferably 20 copies, to Russell Harris at the address listed above. The Office of the 21st Century Workforce will provide submissions received prior to the meeting to the appropriate Committees and will include each submission in the record of the meeting.

Signed at Washington, DC, On May 15, 2002.

Shelley S. Hymes,

Director, Office of the 21st Century Workforce.

[FR Doc. 02–12694 Filed 5–20–02; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed collection; comment request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of "The Consumer Expenditure Surveys: The Quarterly Interview and the Diary." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 22, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions; (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation; and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policy making agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policy makers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand—from the public and private sectors—for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over five calendar quarters. The sample for each quarter is divided into three panels, with CU's being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

The BLS and the Census Bureau have converted the paper and pencil CE Quarterly Interview Survey to a computer assisted personal interview (CAPI) instrument. The CE Quarterly Interview CAPI instrument will be implemented in April, 2003.

Minor wording changes were made in the CAPI version of the questionnaire to streamline the reading of questions with automatic "fills" of pronouns or previously reported data.

The race and ethnicity questions have been modified in both the Quarterly Interview and the Diary in accordance with the Office of Management and Budget's (OMB) 1997 published "Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity". The placement and exact wording of these questions were based on consultations with the interagency group formed to study the implementation of these standards, in an effort to maintain comparability with other household surveys collecting this information.

The response category "unmarried partner" was added to the question defining each household member's relationship to the reference person. Previously, this response was a "write-in" under "other" on the questionnaire. If this category is selected, the person is automatically included in the reference person's consumer unit without asking the subsequent financial responsibility questions.

The wording of the question concerning receipt of cash assistance/welfare was reworded in the Quarterly Interview Survey to ensure respondents correctly include all benefits received from state and local government agencies.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Form	Total Respondents	Frequency	Total Responses	Average Time per Response	Estimated Total Burden (hours)
CE Quarterly Interview CAPI Instrument	9,629	4	38,516	90	57,774
Quarterly Interview Reinterview	2,118	1	2,118	15	530
CE Diary: CE–802 Household Questionnaire	7,745	3	23,235	25	9,681
CE Diary: CE–801, Record of Your Daily Expenses	7,745	2	15,490	105	27,108
CE Diary Reinterview CE–880 CE–880(N)	1,293	1	1,293	12	259
Totals	17,374		80,652		95,352

Please note: Reinterview respondents are a subset of the original number of respondents for each survey. Therefore, they are not counted again in the totals.

Affected Public: Individuals or households.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 8th day of May, 2002.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 02–12695 Filed 5–20–02; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–057)]

NASA Advisory Committee; Notice of Establishment

AGENCY: National Aeronautics and Space Administration (NASA). The Administrator of the National

Aeronautics and Space Administration has determined that the establishment of an Aerospace Medicine and Occupational Health Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed upon NASA by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Aerospace Medicine and Occupational Health Advisory Committee.

Purpose and Objective: The Committee will advise the NASA Administrator through the NASA Advisory Council on programs, policies, plans, and other matters pertinent to the Agency's responsibilities for aerospace medicine and occupational health. Aerospace medicine responsibilities broadly relate to all health and medical issues impacting space flight. Occupational health responsibilities include compliance with externally mandated occupational safety and health requirements and the provision of effective, uniform basic health services to employees of the Agency. The Committee's advice will span crucial health and safety practices in all work environments, on the ground, in the air, and in space. Areas of advice will include the direction and requirements for NASA's clinical research in support of human space flight, standards for occupational health and medical practice, and medical and ethical standards for human and animal research and clinical practice.

Balanced Membership Plans: The Committee will consist of 6 to 11 members. At least one member of the Office of Biological and Physical Research Advisory Committee, the Space Flight Advisory Committee, and the Aerospace Safety Advisory Panel will be appointed to the Committee to ensure robust communication and integration between these advisory groups on all matters affecting health. Membership will be balanced with experts in Aerospace Medicine, Occupational Health, clinical medicine practice, and medical management.

Duration: Continuing.

Responsible NASA Official: Dr. Richard S. Williams, Chief Health and Medical Officer, National Aeronautics and Space Administration, 300 E Street, SW., Washington, DC 20546, telephone 202/358–0702.

Dated: May 9, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12625 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–058)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Tuesday, June 11, 2002, 8:00 a.m. to 6:00 p.m.; and Wednesday, June 12, 2002, 8:00 a.m. to 12:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–7H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Pagel, Code IC, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4621.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Agency Status on ISS Program

—NASA Education Initiative

—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Visitors will be requested to sign a visitors register.

Dated: May 8, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12626 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–062]

NASA Advisory Council, Space Science Advisory Committee, Astronomical Search for Origins and Planetary Systems Subcommittee

AGENCY: National Aeronautics and Space Administration (NASA).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–059)]

NASA Advisory Council, Space Science Advisory Committee, Education and Public Outreach Task Force; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Education and Public Outreach (E/PO) Task Force.

DATES: Tuesday, June 11, 2002, 9:00 a.m. to 5:00 p.m., and Friday, June 14, 2002, 1:00 p.m. to 5:00 p.m.

ADDRESSES: Union League Club of Chicago, 65 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2470.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Discussion with OSS E/PO Broker/Facilitators

—Discussion with OSS E/PO Forum Leads

—General Discussion

—Work Assignments

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

May 8, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12627 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Astronomical Search for Origins and Planetary Systems Subcommittee (OS).

DATES: Thursday, June 6, 2002, 8:30 a.m. to 5:30 p.m., and Friday, June 7, 2002, 8:30 a.m. to 5:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room 5H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- OSS Budget
- Origins Update
- Starlight Update
- Terrestrial Planet Finder Update
- SOFIA Data Cycle System Update
- Origins Roadmap Review
- Origins Government Performance and Results Act Review
- Astronomy and Physics Working Group Report
- Space Archives Working Group Report

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 15, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12691 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–060)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability.

SUMMARY: NASA hereby gives notice that U.S. Patent No. 6,207,114 entitled, "Reactive Material Placement Technique for Groundwater Treatment," and NASA Case No. KSC–12246, entitled, "Zero-Valent Metal Emulsion for Reductive Dehalogenation of DNAPLs," are available for licensing on a nonexclusive basis. Both of these inventions are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

FOR FURTHER INFORMATION CONTACT: Randy Heald, Assistant Chief Counsel/Patent Counsel, Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899–0001, telephone (321) 867–7214.

May 8, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–12628 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–061]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Veridian Engineering, Inc. of Dayton, Ohio, 45440–3638 has applied for an exclusive license to practice the inventions disclosed in U.S. Patent No. 5,736,642, entitled "Nonlinear Ultrasonic Scanning to Detect Material Defects," U.S. Patent No. 6,343,513, entitled "Non-Destructive Evaluation Method and Apparatus for Measuring Acoustic Material Nonlinearity," and NASA Case No. LAR 15927–1 entitled "Method and Apparatus to Ultrasonically Determine Fatigue State," for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by June 5, 2002.

FOR FURTHER INFORMATION CONTACT: Helen M. Galus, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–2199, telephone (757) 864–3227; fax (757) 864–9190.

Dated: May 15, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–12692 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 AND 50–414]

Duke Energy Corporation, Catawba Nuclear Station, Units 1 and 2; Notice of Availability of the Draft Supplement 9 to the Generic Environmental Impact Statement and Public Meeting for the License Renewal of Catawba Units 1 and 2

Notice is hereby given that the U. S. Nuclear Regulatory Commission (the Commission) has published a draft plant-specific supplement to the Generic Environmental Impact Statement (GEIS), NUREG–1437, regarding the renewal of operating licenses NPF–35 and NPF–52 for an additional 20 years of operation at Catawba Nuclear Station, Units 1 and 2 (Catawba). Catawba is located in York County, South Carolina. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

The draft supplement to the GEIS is available electronically for public inspection in the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov*. In addition, the York County Library, located at 138 Black Street, Rock Hill, South Carolina, has agreed to make the draft supplement to the GEIS available for public inspection.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be certain of consideration, comments on the draft supplement to the GEIS and the proposed action must be received by August 9, 2002. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments

received on or before this date. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by the Internet at *CatawbaEIS@nrc.gov*. All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available electronically at the Commission's Public Document Room in Rockville, Maryland and from the Publicly Available Records (PARS) component of NRC's document system (ADAMS).

The NRC staff will hold public meetings to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meetings will be held in the auditorium at the Council Chamber at the City Hall, located at 155 Johnston Street, Rock Hill, South Carolina on June 27, 2002. There will be two sessions to accommodate interested parties. The first session will commence at 1:30 p.m. and will continue until 4:30 p.m. The second session will commence at 7:00 p.m. and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) a presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. James H. Wilson by telephone at 1–800–368–5642, extension 1108, or by Internet to the NRC at *CatawbaEIS@nrc.gov* no later than June 21, 2002. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Wilson's attention no later than June 21, 2002, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION, CONTACT: Mr. James H. Wilson, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Wilson may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 13th day of May, 2002.

For the Nuclear Regulatory Commission.

John R. Tappert,

Acting Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–12687 Filed 5–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy and on Plant Operations; Notice of Meeting

The ACRS Subcommittees on Materials and Metallurgy and on Plant Operations will hold a joint meeting on June 5, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 5, 2002—8:30 a.m. Until the Conclusion of Business

The Subcommittees will discuss the Root Cause Report and Repair Plan associated with the Davis-Besse vessel head degradation, the status of licensees' response to Bulletin 2001–01, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles," Bulletin 2002–01, "Reactor Pressure Vessel Head Degradation and Reactor Coolant Pressure Boundary Integrity," and data used to support findings related to the control rod drive mechanism (CRDM) penetration cracking and the reactor pressure vessel (RPV) head degradation. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, Electric Power Research Institute (EPRI), Materials Reliability Program (MRP), First Energy Nuclear Operating Company (FENOC), and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the Designated Federal Official, Ms. Maggalean W. Weston (telephone 301–415–3151) between 7:30 a.m. and 5:00 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda that may have occurred.

Dated: May 15, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–12688 Filed 5–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Plant Operations and on Fire Protection; Notice of Meeting

The ACRS Subcommittees on Plant Operations and on Fire Protection will hold a joint meeting on June 19, 2002, in Region II, at the Sam Nunn Atlanta Federal Center, 23 T85, 61 Forsyth Street, SW, Atlanta, Georgia.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 19, 2002—8:30 a.m. Until the Conclusion of Business

The Subcommittees will discuss the performance of the plants in Region II including fire protection issues, and other plant related information. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman and written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the Region II personnel, and other interested persons regarding matters scheduled for this meeting.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore, can be obtained by contacting the Designated Federal Official, Ms. Maggalean W. Weston (telephone 301/415–3151) between 8:00 a.m. and 5:30 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda that may have occurred.

Dated: May 15, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–12689 Filed 5–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of May 20, 27, June 3, 10, 17, 24, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 20, 2002

There are no meetings scheduled for the Week of May 20, 2002.

Week of May 27, 2002.

Tuesday, May 28, 2002

9:30 a.m.—Discussion of Security Issues (Closed—Ex. 1)

Wednesday, May 29, 2002

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

9:30 a.m.—Briefing on the Status of New Reactor Licensing Activities (Public Meeting) (Contact: Joseph Williams, 301–415–1470)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of June 3, 2002—Tentative

Friday, June 7, 2002

9:00 a.m.—Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)—New Date, originally scheduled for June 6, 2002)

Week of June 10, 2002—Tentative

There are no meetings scheduled for the Week of June 10, 2002.

Week of June 17, 2002, 2002—Tentative

There are no meetings scheduled for the Week of June 17, 2002.

Week of June 24, 2002—Tentative

10:30 a.m.—All Employees Meeting (Public Meeting)

1:30 p.m.—All Employees Meeting (Public Meeting)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording—(301) 415–1292. Contact person for more information David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet sysetm if available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: May 16, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–12822 Filed 5–17–02; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–11663]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Community Banks, Inc., Common Stock, $5.00 par value) From the American Stock Exchange LLC

May 15, 2002.

Community Banks, Inc., a Pennsylvania corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $5.00 par value ("Security"), from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Pennsylvania, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Trustees ("Board") of the Issuer approved a resolution on March 25, 2002 to withdraw the Issuer's Security from listing on the Amex and to list its Security on the Nasdaq National Market ("Nasdaq"). The Issuer hopes to increase trading volume and the liquidity of its Security by listing on the Nasdaq. The Issuer stated in its application that trading in the Security began on the Nasdaq at the opening of business on May 14, 2002.

The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and from registration

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

under Section 12(b) of the Act [3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before June 7, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–12690 Filed 5–20–02; 8:45 am]

BILLING CODE 8010–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Procedures for Consideration of New Requests for Exclusion of Particular Products From Actions With Regard to Certain Steel Products Under Section 203 of the Trade Act of 1974, as Established in Presidential Proclamation 7529 of March 5, 2002

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Presidential Proclamation 7529 of March 5, 2002 established actions under section 203 of the Trade Act of 1974, as amended, (19 U.S.C. 2253) (safeguard measures) with regard to certain steel products, and authorized the United States Trade Representative (USTR) to further consider requests for exclusion of particular products from the safeguard measure that had been submitted in accordance with a **Federal Register** notice published on October 26, 2001 (66 FR 54321). In a notice published on April 18, 2002, USTR established procedures for further consideration of such requests and provided that, to the extent possible, it would consider new exclusion requests submitted after the time period specified in the Notice. This notice sets out the procedures for submitting new exclusion requests.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Industry, Office of the United States Trade Representative, 600 17th Street, NW, Room 501, Washington DC 20508. Telephone (202) 395–5656.

SUPPLEMENTARY INFORMATION: On October 22, 2001, the U.S. International Trade Commission (ITC) issued affirmative determinations under section 202(b) of the Trade Act (22 U.S.C. 2252(b)) that (1) carbon and alloy steel slabs, plate (including cut-to-length plate and clad plate), hot-rolled sheet and strip (including plate in coils), cold-rolled sheet and strip (other than grain-oriented electrical steel), and corrosion-resistant and other coated sheet and strip; (2) carbon and alloy hot-rolled bar and light shapes; (3) carbon and alloy cold-finished bar; (4) rebar; (5) carbon and alloy welded tubular products (other than oil country tubular goods); (6) carbon and alloy flanges, fittings, and tool joints; (7) stainless steel bar and light shapes; and (8) stainless steel rod are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing those products. The Commissioners voting were equally divided with respect to the determination under section 202(b) of the Trade Act as to whether increased imports of (9) carbon and alloy tin mill products; (10) tool steel, all forms; (11) stainless steel wire; and (12) stainless steel flanges and fittings are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing those products.

On October 26, 2001, the Trade Policy Staff Committee (TPSC) published a **Federal Register** notice that requested comments on what action the President should take under section 203 of the Trade Act, including any exclusion requests. The TPSC received more than 200 requests, covering approximately 1000 particular products. Each request was assigned a tracking number, beginning with an X (the X number), and posted on the USTR website, *http://www.ustr.gov/sectors/industry/steel201/exclusion_requests.htm*.

On March 5, 2002, the President issued Proclamation 7529, which established safeguard measures in the form of increases in duty and a tariff-rate quota pursuant to section 203 of the Trade Act on imports of ten steel products described in paragraph 7 of that proclamation. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, Proclamation 7529 modifies the HTS so as to provide for such increased duties and a tariff-rate quota. Proclamation 7529 also delegated to the USTR the authority to further consider exclusion requests submitted in accordance with the procedures set out in the Notice and, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to that proclamation to exclude such particular product from the pertinent safeguard measure. USTR published a notice in 67 FR 16484 (April 5, 2002), excluding certain particular products from the safeguard measure.

On April 18, 2002, USTR published a notice in the **Federal Register** informing interested persons of the need for additional information with regard to both previously submitted exclusion requests and previously submitted oppositions to those requests. It instructed interested persons to provide this information in response to questionnaires available on the websites of USTR and the U.S. Department of Commerce. The notice provided further that, to the extent possible, USTR would consider requests for exclusion of products that have not received an X number. It asked interested persons requesting the exclusion of such a product to respond to the questionnaire before May 20, 2002, and indicated that procedures for submitting such additional requests for exclusion will be announced in a subsequent **Federal Register** notice.

USTR, in conjunction with the U.S. Department of Commerce, has developed a series of questions designed to elicit information for products that have not been excluded from the remedy and currently are not subject to reconsideration requests. The information required clearly identifies the product under consideration and provides detailed information on the requestor's situation. These questions, presented in the form of a new exclusion request questionnaire, are available on the USTR and Commerce Department websites at *http://ia.ita.doc.gov/steel/exclusion/*. Parties applying for an exclusion of their product from the remedy should provide responses to this questionnaire by May 20, 2002.

USTR, in conjunction with the Commerce Department, has developed a series of questions designed to substantiate any objections to these new requests for exclusion. These questions, presented in the form of an objector questionnaire, will be available on the USTR and Commerce Department websites at *http://ia.ita.doc.gov/steel/exclusion/*. Interested persons should submit a complete objector questionnaire at a date to be determined and announced shortly.

If a complete response to the new exclusion request questionnaire with regard to a particular product has not been received by the date indicated above, USTR may disregard the exclusion request for that product. To ensure that an interested party's position is considered in the context of the exclusion request, a complete response to the objector questionnaire should be submitted no later than the due date, which will be determined and announced shortly.

Each request will be evaluated on a case-by-case basis. USTR will grant only those exclusions that do not undermine the objectives of the safeguard measures. In analyzing the requests, USTR will consider whether the product is currently being produced in the United States, whether substitution of the product is possible, whether qualification requirements affect the requestor's ability to use domestic products, inventories, whether the requested product is under development by a U.S. producer who will imminently be able to produce it in commercial quantities and any other relevant factors. Where necessary, USTR and/or the Commerce Department will meet with parties to discuss the information that was submitted and/or to gain additional information.

Every effort will be made to process requests as soon as possible consistent with resources and the quality of information that is received.

Proclamation 7529 also authorizes USTR to exclude particular products from the safeguard measures in March of any year in which a safeguard measure remains in effect. To the extent possible, information submitted in accordance with this notice will be used in the evaluation of whether to grant additional exclusions pursuant to this authority, so as to avoid repetitive submission of information.

Submission of Requests for Exclusion and Opposition to Requests for Exclusion

Parties should follow the instructions posted on the USTR and Commerce Department web sites at *http://ia.ita.doc.gov/steel/exclusion/*. Failure to follow the instructions posted there may result in rejection of the questionnaire submission.

After new exclusion request questionnaires have been received, the Commerce Department will assign an alpha-numeric designator such as "N299.3" assigned to the requested product. Requestors will be notified of the assigned alpha-numeric designator for each product as soon as possible after receipt of the submission. All parties must use this alpha-numeric designator in every subsequent reference to that exclusion request.

We strongly discourage the submission of business confidential information. Any questionnaire response that contains business confidential information must be accompanied by six copies of a public summary that does not contain business confidential information, and a diskette containing an electronic version of the public summary. Any paper submission and diskette containing business confidential information must be clearly marked "Business Confidential" at the top and bottom of the cover page (or letter) and each succeeding page of the submission, and on the label of the diskette. The version that does not contain business confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "nonconfidential," and on the label of the diskette.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (PRA) that the Office of Management and Budget (OMB) has approved. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish voluntarily to request the exclusion of a product from the safeguard measures. USTR has submitted the new exclusion request questionnaire to OMB for approval under the Paperwork Reduction Act. It is expected that the collection of information burden will be no more than 20 hours. This collection of information contains no annual reporting or record keeping burden. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the address above.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 02–12624 Filed 5–20–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34195]

Bighorn Divide & Wyoming Railroad Inc.—Acquisition and Operation Exemption—Rail Lines of Bad Water Line, Inc. and Lost Cabin Gas Plant Line in Riverton, WY, and of The Burlington Northern and Santa Fe Railway Company Between Lysite, WY and Shobon, WY

Bighorn Divide & Wyoming Railroad Inc. (BDW), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate rail lines of: (a) Bad Water Line Inc. (BDL) extending from milepost 0.0 at Shobon (switch on The Burlington Northern and Santa Fe Railway Company (BNSF) at BNSF milepost 303.9) to milepost 4.1 at the town of Shoshoni, WY, and of Lost Cabin Gas Plant Line extending from milepost 0.0 at Lysite (at BNSF milepost 282.7) to milepost 3.89 at Lost Cabin, WY, a total distance of 7.99 miles; and (b) BDL's trackage rights agreement with BNSF between milepost 282.5 at Lysite and milepost 306.0 near Shobon, WY, a distance of 23.5 miles.[1] BDW states that its projected annual revenues do not exceed those that would qualify it as a Class III carrier.

The transaction was scheduled to be consummated on May 1, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34195, must be filed with the Surface Transportation Board, Case

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] Because BDW is acquiring BDL's rights in a trackage rights agreement that had already existed with BNSF, and not acquiring or entering into a new trackage rights agreement, this proceeding is an acquisition and operation exemption. The owners of BDL have agreed to reorganize the Subchapter S Corporation, BDL, as a Subchapter S Corporation named BDW. Real property of BDL is being transferred to a Limited Liability Company (LLC), named BDW, LLC. Applicant states that these changes are for both tax and public relations purposes and include all assets owned by the former Bad Water Railway, LLC.

Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Clifford Root, 642 South Federal Blvd., Riverton, WY 82501.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV*."

Decided: May 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12699 Filed 5–20–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2290–EZ

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2290–EZ, Heavy Highway Vehicle Use Tax Return for Filers With a Single Vehicle.

DATES: Written comments should be received on or before July 22, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Heavy Highway Vehicle Use Tax Return for Filers With a Single Vehicle.

OMB Number: 1545–1781.

Form Number: 2290–EZ.

Abstract: Form 2290–EZ may be used instead of Form 2290 to pay the tax due on a highway motor vehicle with a taxable gross weight of more than 75,000 pounds.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time Per Respondent: 4 hours, 57 minutes.

Estimated Total Annual Burden Hours: 544,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 14, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–12722 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedures 2002–37, 2002–38, and 2002–39

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedures 2002–37, 2002–38, 2002–39, Changes in Periods of Accounting.

DATES: Written comments should be received on or before July 22, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedures should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Changes in Periods of Accounting.

OMB Number: 1545–1786.

Revenue Procedure Numbers: Revenue Procedures 2002–37, 2002–38, and 2002–39.

Abstract: Revenue Procedures 2002–37, 2002–38, and 2002–39, provide the comprehensive administrative rules and guidance, for affected taxpayers adopting, changing, or retaining annual accounting periods, for federal income tax purposes. In order to determine whether a taxpayer has properly adopted, changed to, or retained an annual accounting period, certain information regarding the taxpayer's qualification for and use of the requested annual accounting period is required. The revenue procedures request the information necessary to make that determination when the information is not otherwise available.

Current Actions: There are no changes being made to these revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization, individuals, not-for-profit institutions and farms.

Estimated Number of Respondents: 800.

Estimated Average Time Per Respondent: 53 minutes.

Estimated Total Annual Burden Hours: 700.

Also, the burden is reflected in the burdens of Forms 1128 and 2553.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 14, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–12723 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: denise.mclamb@mail.va.gov. Please refer to "OMB Control No. 2900–0115."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0115" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used to determine if a marital relationship has been established and benefits are payable based on a claim of common law marriage.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at page 8066.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 2,400.

Dated: May 9, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–12673 Filed 5–20–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0408]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0408."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0408" in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26–8629.

b. Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan " Manufactured Home Unit and Lot or Lot Only), VA Form 26–8630.

OMB Control Number: 2900–0408.
Type of Review: Extension of a currently approved collection.
Abstract:

a. VA Form 26–8629 is completed and submitted by holders of terminated VA guaranteed manufactured home unit loans and a prerequisite payment of any claims.

b. VA Form 26–8630 is used as a prerequisite to payment of claims on terminated combination loans. The collected is used to determine claim payment due the holder.

Data furnished on these forms, such as accrued interest, various expenses of liquidation, and claim balance, are used by holder in determining the amount claimed. Supporting documentation required includes copies of ledgers for VA use in verifying data provided by the holder to ensure its accounts are correct and to avoid overpayment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 28, 2002, at page 9359.

Affected Public: Business or other for-profit, and Individuals or households.
Estimated Annual Burden: 36 hours.

a. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26–8629—33 hours.

b. Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan—Manufactured Home Unit and Lot or Lot Only), VA Form 26–8630—3 hours.

Estimated Average Burden Per Respondent:

a. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26–8629—20 minutes.

b. Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan—Manufactured Home Unit and Lot or Lot Only), VA Form 26–8630—20 minutes.

Frequency of Response: On occasion.
Estimated Number of Total Respondents: 110.

Dated: May 9, 2002.
By direction of the Secretary.

Genie McCully,
Acting Director, Information Management Service.

[FR Doc. 02–12674 Filed 5–20–02; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held from Monday, June 10, 2002, through Wednesday, June 12, 2002, at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 230, Washington, DC. Each day the meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. The meeting is open to the public. The Committee will meet to write the Committee's legislatively mandated annual report.

The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services to minority veterans, to assess the needs of minority veterans, and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

Those wishing to attend the meeting should contact Mr. Anthony T. Hawkins, Department of Veterans Affairs, at (202) 273–6708. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments form interested parties on the meeting agenda items and other issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: May 8, 2002.
By direction of the Secretary.

Nora E. Egan,
Committee Management Officer.

[FR Doc. 02–12672 Filed 5–20–02; 8:45 am]
BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 67, No. 98
Tuesday, May 21, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–01–AD; Amendment 39–12744; AD 2002–09–11]

RIN 2120–AA64

Airworthiness Directives; SOCATA–Groupe AEROSPATIALE Model TBM 700 Airplanes

Correction

In rule document 02–11215 beginning on page 30541 in the issue of Tuesday, May 7, 2002, make the following corrections:

§ 39.13 [Corrected]

1. On page 30542, in the third column, under § 39.13, in the second paragraph, "**Aerpspatiale**" should read, "**Aerospatiale**".

2. On the same page, in the same column, under § 39.13, paragraph (c), last line, "5" should be removed.

3. On page 30543, in the table, in the first column, in paragraph (1)(i), in the first line, "inboard and carriage" should read, "inboard and outboard carriage".

4. On the same page, in the table, the same column, in paragraph (1)(iv), in the second line, "and the screw heads" should read, "and on the screw heads".

5. On the same page, in the table, in the same column, in paragraph (2), in the second line, "on the inboard, and central carriages" should read, "on the inboard, outboard, and central carriages".

6. On the same page, in the table, in the same column, in paragraph (3)(iii), in the third line, "directs AD. differently." should read, "directs differently.".

7. On the same page, in the table, in the second column:

a. In the first paragraph, in the seventh line, "yoy" should read, "you".

b. In the ninth line, "paragraph (s)(2)" should read, "paragraph (d)(2)".

8. On the same page, in the table, in the same column, in the fourth paragraph, in the first line, "April 27, 201" should read, "April 27, 2001".

[FR Doc. C2–11215 Filed 5–20–02; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–13–AD; Amendment 39–12745; AD 2002–09–12]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Model C90 Airplanes

Correction

In rule document 02–11333 beginning on page 31115 in the issue of Thursday, May 9, 2002 make the following correction:

§ 39.13 [Corrected]

On page 31116, in the third column, §39.13, in the table, under the "Procedures" column, in the sixth line, remove the words " compliance with the".

[FR Doc. C2–11333 Filed 5–20–02; 8:45 am]
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Federal Register

Tuesday,
May 21, 2002

Part II

Department of Transportation

Federal Highway Administration

23 CFR Part 655

National Standards for Traffic Control Devices: Manual on Uniform Traffic Control Devices for Streets and Highways; Revision; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2001–11159]

RIN 2125–AE93

National Standards for Traffic Control Devices: Manual on Uniform Traffic Control Devices for Streets and Highways; Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices used on all public roads. The purpose of this notice of proposed amendments is to revise standards, guidance, options, and supporting information relating to the traffic control devices in all parts of the MUTCD. The proposed changes are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application. These proposed changes are being designated Revision No. 2.

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 or submit electronically at *http://dmses.dot.gov/submit*. All comments should include the docket number that appears in the heading of this document. To facilitate documenting comments, please include the applicable MUTCD section number with each of your comments. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring a notification of receipt of comments must include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Huckaby, Office of Transportation Operations, Room 3408, (202) 366–9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, Room 4230, (202) 366–0791, U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at *http://dmses.dot.gov/submit*. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661 by using a computer, modem and suitable communications software. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara*.

Background

A list of the items of Revision No. 2 and the text of the Millennium Edition of the MUTCD with Revision No. 2 text incorporated are available for inspection and copying, as prescribed in 49 CFR part 7, at the FHWA Office of Transportation Operations, Room 3408, 400 Seventh Street, SW., Washington, DC 20590. Furthermore, the list of items of Revision No. 2 and the text of the 2000 Millennium Edition of the MUTCD with Revision No. 2 text incorporated are available on the MUTCD Internet site *http://mutcd.fhwa.dot.gov*. The current version of the 2000 Millennium Edition of the MUTCD with Revision No. 1 text incorporated is also available on this Internet site.

This notice of proposed amendments is being issued to provide an opportunity for public comment on the desirability of these proposed amendments to the MUTCD. Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice.

The notice of proposed amendments is being published in response to many comments received after the final rule creating the Millennium Edition of the MUTCD was published on December 18, 2000. About 150 of the 7100 comments that were received on the eight notices of proposed amendments leading to the creation of the Millennium Edition of the MUTCD, while extremely worthy, were deemed to result in too significant a change from the text in the notices of proposed amendments to be incorporated in the final rule without allowing the public an additional comment period. Also, this notice addresses the many advances in technology, and the traffic and safety management strategies that have occurred since the beginning of the updating process of the 1988 edition of the MUTCD in 1997.

The FHWA invites comments on these proposed changes to the MUTCD.

The FHWA proposes giving figure numbers and titles to all pages that did not have a figure number for images of traffic control devices in the Millennium Edition of the MUTCD, to facilitate easy reference. The FHWA also proposes changing the titles of a number of figures to clarify a figure as either "typical" or "example(s) of." In general, the FHWA proposes using the word "typical" in the title if the figure portrays preferred or recommended practice, and the words "example(s) of" in the title if the figure portrays one or several of a variety of things that would be acceptable practice with no recommended preference. Also, where appropriate, the FHWA proposes modifying figures to reflect proposed changes in the text.

Additionally, throughout the MUTCD, minor changes in text are proposed for grammatical or style consistency, to improve consistency with related text or figures, to improve clarity, or to correct minor errors. Where the FHWA proposes to add new sections within a chapter of the MUTCD, the sections in the chapter that follow the proposed addition would be renumbered accordingly. All Tables of Contents, Lists of Figures, Lists of Tables, and page headers and footers would be revised as appropriate to reflect the proposed changes.

The FHWA is aware that Section 508 of the Rehabilitation Act, 29 U.S.C. 794 (2001), requires that certain electronic and information technology ("EIT") be accessible to individuals with disabilities. By regulation, 36 CFR 1194.4 (2001), EIT includes information contained on world wide websites. Because the FHWA distributes the MUTCD via the Internet site *(http://mutcd.fhwa.dot.gov)*, it is aware that it must comply with Section 508, and it will do so by providing, in addition to the PDF file format, an alternative

format (hypertext markup language—HTML), that is accessible to individuals with disabilities. Included within those HTML files will be narrative descriptions of the illustrations (figures) that are contained within the affected non-accessible format electronic files. However, because of the very large number of figures of traffic control devices and of their possible applications in the 1150 page MUTCD, it was determined that the FHWA would be tentatively exempted from meeting this regulation due to onerous and costly effort resulting in a fundamental alteration of the electronic version of the MUTCD. The FHWA does have a contractual task underway, that will be completed approximately in a year, to develop the hypertext markup language tags. Furthermore, the FHWA determined that this notice of proposed amendments go forward immediately as the proposed changes would be beneficial to the traveling public, including those with visual disabilities.

A summary of the significant proposed changes for each of the parts of the MUTCD is included in the following discussion.

1. On Page i the FHWA proposes including addresses for several additional organizations whose publications are referenced in the various parts of the MUTCD.

Discussion of Proposed Amendments to the Table of Contents

2. The FHWA proposes condensing the Table of Contents to include only the list of Parts and Chapters. Each Part will continue to begin with a "table of contents" that contains the page number of every section, figure, and table. This change will simplify the search for an item by those with visual disabilities by enabling them to advance to the appropriate Part and then page more quickly and easily.

Discussion of Proposed Amendments to the Introduction

3. In the Introduction, the FHWA proposes adding a fourth SUPPORT statement to clarify the organization of the MUTCD and explain how one could reference portions of the MUTCD.

The FHWA also proposes adding a new section that lists special compliance dates for various portions of the MUTCD. The purpose of this list is to provide a convenient reference guide to the user of special compliance dates for various portions of the MUTCD.

Discussion of Proposed Amendments to Part 1—General

4. In Section 1A.05 Maintenance of Traffic Control Devices, in the second paragraph of the GUIDANCE statement, the FHWA proposes revising the text to eliminate redundancy.

5. In Section 1A.10 Interpretations, Experimentations, and Changes, the FHWA proposes changing the first GUIDANCE statement to a STANDARD statement to ensure that these requests come to the FHWA's Office of Transportation Operations.

Additionally, following the fourth GUIDANCE statement the FHWA proposes adding STANDARD, GUIDANCE, OPTION, and SUPPORT statements describing a new "interim approval" process for the FHWA approving the use of new traffic control devices pending official rulemaking. Additionally, the FHWA proposes modifying Figure 1A–2 to reflect the "interim approval" process.

6. In Section 1A.11 Relation to Other Documents, the FHWA proposes modifying the STANDARD statement to update the documents to the latest editions. Additionally, the FHWA proposes adding additional sources of information in the SUPPORT statement. The FHWA also proposes revising the order of the sources of information, alphabetizing first by source, then by the title of the document.

7. In Section 1A.12 Color Code, the FHWA proposes adding to the STANDARD statement the assignment of the color fluorescent coral to incident management to make it easier for road users to follow directions relating to traffic incidents. The items will be reordered so that the colors appear in alphabetical order. The color coordinates for the color coral are indicated below.

The Commission Internationale de l'Eclairage (CIE) (English: International Commission on Illumination) chromaticity coordinates (x, y), defining the corner of the Fluorescent Coral daytime color region are as follows:

x	y
0.450	0.270
0.590	0.350
0.644	0.290
0.536	0.230

	Luminance Factor Limits (Y)				
	D_{65}		D_{150}		
	Min	Max	Y_F	Min	Max
Fluorescent Pink	25	None	15	25	None.

Fluorescent materials differ from non-fluorescent materials in that the total luminance is the sum of the luminances due to reflection and fluorescence. The luminance factor Y of such materials is the sum of the luminance due to reflection (Y_R) and the luminance due to fluorescence (Y_F). Therefore, $Y=Y_R+Y_F$. If the value Y_F is greater than zero, the material is fluorescent; if Y_F equals zero, then the luminance factor Y is equal to Y_R.

These four pairs of chromaticity coordinates determine the acceptable color in terms of CIE 1931 Standard Colorimetric System (2 degree standard observer) measured with CIE Standard Illuminant D65 in accordance with ASTM E991. In addition, the color shall be fluorescent, as determined by ASTM E1247.

8. In Section 1A.13 Definitions of Words and Phrases in This Manual, the FHWA proposes in the STANDARD statement revising definitions for: "Active Grade Crossing Warning System," "Average Day," "Beacon," "Crosswalk," and "Highway Traffic Signal" to better reflect accepted practice and terminologies.

Additionally, the FHWA proposes adding definitions for "Crashworthy," "Detectable," "Inherently Low Emission Vehicle (ILEV)," "Pedestrian Facilities," and "Roundabout Intersection" since they are used in the MUTCD.

Additionally, the FHWA proposes removing the definition for "Preferential Lane Marking" since it is no longer used in the MUTCD.

9. In Section 1A.14 Abbreviations Used on Traffic Control Devices, the FHWA proposes in the first STANDARD statement revising the text to clarify that the abbreviations shown in Table 1A–1 are not the only word messages that can be abbreviated.

The FHWA also proposes adding a GUIDANCE statement at the end of this section to give guidance regarding the consistency of abbreviations within a single jurisdiction.

Additionally, the FHWA proposes revising Tables 1A–1 and 1A–2 to include additional abbreviations, delete some abbreviations, and modify some abbreviations, based on research on driver understanding of abbreviations.

Discussion of Proposed Amendments to Part 2—Signs

10. In Section 2A.06 Design of Signs, the FHWA proposes adding to the SUPPORT statement that the "general appearance" of the sign legends, colors and sizes are shown in the illustrations and do not exactly correspond to the letter brush stroke widths of the "Standard Highway Signs" [1] book and the FHWA central values and tolerance limits of colors.

Additionally, the FHWA proposes adding to the STANDARD statement that, unless otherwise stated in the MUTCD for a specific sign, phone numbers or Internet addresses shall not be shown on any sign to reduce the possibility of driver distraction.

11. In Section 2A.07 Changeable Message Signs, the FHWA proposes revising the GUIDANCE statement to include safety messages as one of the types of allowable displays for changeable message signs.

Additionally, the FHWA proposes adding at the end of the section OPTION, SUPPORT, GUIDANCE, and STANDARD statements regarding the use, design, and format of safety and other messages so that they do not adversely affect the usefulness of the sign.

12. In Section 2A.08 Retroreflectivity and Illumination, the FHWA proposes clarifying Table 2A–1 by replacing "Patterns of incandescent light bulbs" with "Incandescent light bulbs" and by adding "Light Emitting Diodes (LEDs)" to the listed Means of Illumination under Other Devices to reflect current technology.

Additionally, the FHWA proposes adding a new SUPPORT statement at the end of the section referencing information contained in Section 2A.22 on the use of retroreflective material on the sign support.

13. In Section 2A.10 Shapes, the FHWA proposes clarifying Table 2A–3 by removing the Emergency Evacuation Route Marker from the listed signs for the circle shape as the FHWA proposes that the design of this sign be a rectangular plate in accordance with other guide signs, as indicated in Section 2I.03.

Additionally, the FHWA proposes clarifying the information for the Trapezoid shape signs to be "Recreational and Cultural Interest Area Series" and "National Forest Route" signs.

14. In Section 2A.11 Sign Colors, the FHWA proposes modifying the STANDARD statement to read "The colors to be used on standard signs and their specific use on these signs shall be as indicated in the applicable sections of this Manual. The color coordinates and values shall be as described in 23 CFR, Part 655, Subpart F, Appendix." This proposed modification will clarify that the color requirements apply to all signs in the MUTCD, not just those in Part 2, and would refer to the correct location of the color coordinates and values. The FHWA also proposes modifying the SUPPORT statement by deleting the color coral from the reserved colors, because FHWA proposes that the color coral be assigned for incident management uses. Additionally, the FHWA proposes adding to the SUPPORT statement that information regarding color coding of destinations on guide signs is contained in Section 2D.03. The FHWA also proposes modifying Table 2A–4 by adding a new column on the right hand side for the color coral, by adding a new row "Incident Management" to the bottom, by adding a second new row at the bottom, following Incident Management, "Changeable Message Signs**" and by adding or revising color designation and note to reflect proposed changes in other parts of the MUTCD.

15. In Section 2A.12 Dimensions, the FHWA proposes adding a second paragraph to the SUPPORT statement describing and clarifying the different sizes of signs, as detailed in the Standard Highway Signs book.

16. In Section 2A.14 Word Messages, the FHWA proposes modifying the first GUIDANCE statement to clarify that the specific ratio of 25 mm (1 in) of letter height per 12 m (40 ft) of legibility distance should be a minimum.

Additionally, the FHWA proposes adding a new SUPPORT statement after the first paragraph of GUIDANCE to provide additional information that some research indicates that a ratio of 25 mm (1 in) of letter height per 10m (33 ft) of legibility distance could be beneficial for addressing the needs of older road users. A new GUIDANCE heading would be added after the new SUPPORT statement.

17. In Section 2A.15 Sign Borders, the FHWA proposes modifying the STANDARD statement to clarify that the corners of all sign borders, except for STOP signs, shall be rounded. The FHWA also proposes modifying the GUIDANCE statement to clarify that, where practical, the corners of the sign should be rounded to fit the border, except for STOP signs.

18. In Section 2A.16 Standardization of Location, the FHWA proposes relocating Figures 2A–3, 2A–4, 2A–5, and 2A–6 to Section 2B.32 and removing Figure 2A–7. These relocated figures are more appropriate in Chapter 2B. The first SUPPORT statement would be revised to reflect these changes.

19. In Section 2A.17 Overhead Sign Installations, the FHWA proposes modifying the GUIDANCE statement to clarify that overhead guide signs should be used on freeways as well as expressways, under certain conditions.

20. In Section 2A.18 Mounting Height, the FHWA proposes relocating the first OPTION and SUPPORT statements so that they appear after the second paragraph of the first STANDARD statement. This proposed change will improve the clarity of the section.

Additionally, the FHWA proposes adding a paragraph to the last OPTION statement heading to state that if the vertical clearance for the design of other structures is less than 4.9 m (16 ft), the vertical clearance to overhead sign structures or supports may be as low as 0.30 m (1 ft) higher than the vertical clearance for the design of the other structures. These lower clearances for the sign structures are sometimes needed to maximize the visibility of the signs when low bridge structure or tunnel clearances limit the sign visibility.

21. In Section 2A.19 Lateral Offset, the FHWA proposes dividing the first STANDARD statement into a STANDARD and a GUIDANCE statement. The proposed STANDARD statement will deal with the lateral offset of overhead sign supports, and the proposed GUIDANCE statement will deal with the lateral offset of roadside-mounted signs. This will provide additional flexibility to jurisdictions for roadside-mounted signs.

22. In Section 2A.20 Position of Signs, the FHWA proposes to removing the second sentence under the SUPPORT statement as the references to the figures duplicates other references elsewhere.

23. In Section 2A.22 Posts and Mountings, the FHWA proposes adding an OPTION statement after the SUPPORT statement, indicating that a strip of retroreflective material may be used on the supports of regulatory and warning signs to draw attention to the sign during nighttime conditions.

Additionally, the FHWA proposes adding a second STANDARD statement after the OPTION statement specifying the size, location, and color of the strip of retroreflective material if it is used. This will provide for uniformity of application.

24. In Section 2A.24, the FHWA proposes changing the title of the section from "Wrong Way Traffic Control" to "Median Opening Treatments for Divided Highways with Wide Medians," to better clarify the content of the section.

Additionally, the FHWA proposes removing the existing GUIDANCE statement and to change the STANDARD statement to a GUIDANCE statement, to clarify that at the median opening of a divided highway with side streets and driveways, where the median width at the median opening is 9 m (30 ft) or more, the median openings should be signed as two separate intersections. This will provide additional signing flexibility to jurisdictions.

25. In Section 2B.02 Design of Regulatory Signs, the FHWA proposes adding OPTION and GUIDANCE statements at the end of the section regarding the use of Changeable Message Signs to provide for the display of regulatory signs.

26. In Section 2B.03 Size of Regulatory Signs, the FHWA proposes modifying Table 2B–1 by adding and removing signs to reflect proposed changes in Part 2, and by adding additional sign sizes. These new sign sizes reflect proposed changes in Part 2, are values from the "Standard Highway Signs" book, and reflect regular use by highway agencies.

Additionally, the FHWA proposes that the ONE WAY (R6–2) sign and the DIVIDED HIGHWAY CROSSING (R6–3, R6–3a) signs be increased in size for all roads based on the research addressing the needs of older road users. The FHWA proposes adding sign sizes in the "Expressways" and "Freeways" columns for these signs and the R6–1 ONE WAY sign, since these are the main signs to alert road users of the divided highway.

The FHWA proposes that the new sizes of these signs become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding to the OPTION statement that signs larger than those shown in Table 2B–1 may be used. Sometimes there are special conditions that warrant much larger signs and this flexibility is needed.

27. In Section 2B.06 STOP Sign Placement, the FHWA proposes correcting an error in the STANDARD statement by changing the word "correct" to "right" so that the statement reads, "The STOP sign shall be installed on the right side of the traffic lane to which it applies."

Additionally, the FHWA proposes adding that other than a DO NOT ENTER sign, no other sign shall be mounted back-to-back with a STOP sign, to assure that the shape of the STOP sign is visible to road users on other approaches to the intersection. The proposed exception for the DO NOT ENTER sign is to allow flexibility in urban areas where there may not be enough room to install separate poles for each sign and both signs must be installed at the corner.

28. In Section 2B.09 YIELD Sign Applications, the FHWA proposes clarifying the OPTION statement by adding a reference to STOP signs. The proposed change states that instead of using a STOP sign, a YIELD sign may be used if engineering judgment indicates that one or more of the conditions listed exist. The conditions for using a YIELD sign are not being changed.

Additionally, the FHWA proposes adding a STANDARD statement after the OPTION statement to require the use of a YIELD sign to assign right-of-way at the entrance to a roundabout intersection. An essential design feature of a modern roundabout is "yield-on-entry" so a YIELD sign is necessary at all entrances to the roundabout.

29. In Section 2B.10 YIELD Sign Placement, the FHWA proposes correcting an error in the first paragraph of the STANDARD statement by changing the word "correct" to "right" so that the first sentence reads, "The YIELD sign shall be installed on the right side of the traffic lane to which it applies." Additionally, FHWA proposes adding a new sentence after the first sentence of the STANDARD statement to require that YIELD signs shall be placed on both the left and right sides of the approaches to roundabout intersections with more than one approach lane. This is in concert with best practices of modern roundabout design and to assure adequate visibility of the YIELD signs.

The FHWA also proposes adding a paragraph to the STANDARD statement, which states that other than a DO NOT ENTER sign, no other sign shall be mounted back-to-back with a YIELD sign.

Additionally, the FHWA proposes adding a paragraph to the GUIDANCE statement stating that, at a roundabout intersection, the face of the YIELD sign should not be visible from the circulating roadway. This is recommended to prevent circulating vehicles in the roundabout from yielding unnecessarily.

The FHWA also proposes adding an OPTION statement at the end of the section to allow the installation of an additional YIELD sign on the left side of the road and/or the use of a YIELD line at wide-throat intersections. This will provide for improved visibility of the YIELD signs where needed.

30. In Section 2B.11 Speed Limit Sign (R2–1), the FHWA proposes modifying the STANDARD statement to reflect that as indicated in Figure 2B–1, the FHWA proposes a new unique design for the metric speed limit sign. The sign will have a red circle around the speed value with a "km/h" legend below. Based on this new design, the FHWA proposes removing the first SUPPORT statement, as it is no longer needed. The new design of the metric Speed Limit sign will better differentiate a metric speed limit sign from an English units speed limit sign, and will also remedy the possible situation where the "METRIC" plaque used in the old design is damaged or stolen and the sign appears to be an English units Speed Limit sign with a higher but erroneous value.

The FHWA also proposes clarifying the third paragraph of the GUIDANCE statement to differentiate the rounding of a speed limit on a sign located on a non-residential street from a sign located on a residential street. The proposed GUIDANCE states that when a speed limit is posted, it should be the 85th-percentile speed of free-flowing traffic, rounded up to the nearest 10 km/h (5 mph) on non-residential streets and rounded up or down to the nearest 10 km/h (5 mph) increment on residential streets. Additionally, the FHWA proposes adding a paragraph to the beginning of the GUIDANCE statement, which states that States and local agencies should reevaluate their non-statutory speed limits on their streets and highways at least once every 5 years to determine whether adjustments would be appropriate.

The FHWA proposes adding a paragraph to the end of the OPTION statement, which states that a changeable message sign that displays to approaching drivers the speed at which they are traveling may be installed in conjunction with a Speed Limit sign.

[1] "Standard Highway Signs," FHWA, 2002 Edition is available for purchase from the U.S. Government Printing Office Bookstore, Superintendent of Documents, Room 118, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222. Internet web site at *http://bookstore.gpo.gov*. It is also available on the FHWA's web site at *http://mutcd.fhwa.dot.gov* and is available for inspection and copying at the FHWA Washington Headquarters and all FHWA Division Offices as prescribed at 49 CFR part 7.

The FHWA also proposes adding, following the OPTION statement, a GUIDANCE statement, which states that if a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX KM/H (MPH) or similar legend should be shown. Changeable message signs displaying the actual speeds of approaching drivers have been shown to be valuable tools to enhance driver compliance with speed limits.

31. Following Section 2B.14 Minimum Speed Limit Sign (R2–4), the FHWA proposes adding a new section numbered and titled "Section 2B.15 Fines Higher Sign (R2–6)." The proposed Section 2B.15 will consist of OPTION, GUIDANCE, and STANDARD statements on the uses of the FINES HIGHER sign; namely, to advise road users when increased fines are imposed for traffic violations within designated roadway segments; and on the installation of the FINES HIGHER sign; namely, below an applicable regulatory or warning sign in a temporary traffic control zone, a school zone, or other applicable designated zone. The sections following Section 2B.15 will be renumbered accordingly.

32. The FHWA proposes removing existing Section 2B.16 Reduced Speed Ahead Signs (R2–5) Series, as these signs are proposed to be revised to be warning signs and added to Chapter 2C. The FHWA proposes this change because the intended message is more properly categorized as a warning message rather than a regulatory message. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

33. In Section 2B.17, the FHWA proposes retitling the section from "Turn Prohibition Signs (R3–1 through R3–4)" to "Turn Prohibition Signs (R3–1 through R3–4, and R3–18)" to include a new symbol sign which combines the No Left Turn and the No U-Turn symbol signs into one symbol sign, and to add to the OPTION and GUIDANCE statements information on the proper use of the sign. This proposed new sign will reduce the sign clutter at an intersection where both movements are restricted and make it easier for road users to understand the multiple turn restrictions.

34. In Section 2B.19 Mandatory Movement Lane Control Signs (R3–5, R3–5a, and R3–7), the FHWA proposes clarifying the GUIDANCE statement that the lane control pavement markings mentioned are lane-use arrow markings.

35. In Section 2B.23, the FHWA proposes changing the title from "Reversible Lane Control Signs (R3–9c through R3–9i)" to "Reversible Lane Control Signs (R3–9d, R3–9f through R3–9i)" and removing the R3–9c and R3–9e signs and all of their references in the section. Using just the R3–9d sign will improve uniformity and maintain consistency with the red X symbol used in reversible lane signal systems. The DO NOT ENTER symbol is intended to be used to prohibit entry into a roadway or ramp, and using this symbol to prohibit use of a single lane of a roadway that is otherwise available for travel is inconsistent and degrades the meaning of the symbol.

The FHWA proposes clarifying in the first STANDARD statement that the barriers mentioned are physical barriers.

Additionally, the FHWA proposes modifying item B of the second OPTION statement to read, "An engineering study indicates that the use of the Reversible Lane Control signs alone would result in an acceptable level of safety and efficiency." This is proposed to clarify the specific types of signs used for control of a reversible lane operation that the study needs to evaluate to determine whether such signs alone, without reversible lane signals, would be acceptable.

The FHWA proposes that these changes in Section 2B.23 become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

36. In Section 2B.28 Keep Right and Keep Left Signs (R4–7, R4–8), the FHWA proposes adding to the first OPTION statement that the Keep Left (R4–8) sign may be used at locations where it is necessary for traffic to pass only to the left of a roadway feature or obstruction.

The FHWA proposes adding to the GUIDANCE statement to clarify that the Keep Right sign should be mounted on the face of, or just in front of, a pier or other obstruction separating opposite directions of traffic in the center of the highway such that traffic will have to pass to the right of the sign.

Additionally, the FHWA proposes adding a new STANDARD statement following the GUIDANCE statement that the Keep Right sign shall not be installed on the right side of the roadway in a position where traffic must pass to the left of the sign.

The proposed changes in Section 2B.28 are to clarify the proper uses of Keep Right and Keep Left signs.

37. In Section 2B.29 DO NOT ENTER Sign (R5–1), the FHWA proposes modifying the GUIDANCE statement by clarifying the placement of the DO NOT ENTER sign. The proposed GUIDANCE states that, if used, the DO NOT ENTER sign should be placed directly in view of the road user at the point where a road user could wrongly enter a divided highway, one-way roadway, or ramp, and includes a reference to Figure 2B–8.

Additionally, the FHWA proposes renumbering and retitling Figure 2B–2 from "Typical Wrong-Way Signing for a Divided Highway" to "Figure 2B–8. Example of Wrong-Way Signing for a Divided Highway with a Median Width of 9 m (30 ft) or Greater."

38. In Section 2B.31 Selective Exclusion Signs, the FHWA proposes changing item H in the SUPPORT statement from "Hazardous Cargo" to "Hazardous Material" to reflect the changes proposed in Section 2B.46.

39. In Section 2B.32 ONE WAY Signs (R6–1, R6–2), the FHWA proposes relocating four figures from Section 2A.16 to Section 2B.32. Figure 2A–5 will be renumbered and retitled "Figure 2B–10. Examples of Locations of ONE WAY Signs"; Figure 2A–6 will be renumbered and retitled "Figure 2B–11. Examples of Locations of ONE WAY Signs"; Figure 2A–4 will be renumbered and retitled "Figure 2B–12. Examples of ONE WAY Signing for Divided Highways with Medians 9 m (30 ft) or Greater"; and Figure 2A–3 will be renumbered and retitled "Figure 2B–13. Example of ONE WAY Signing for Divided Highways with Medians Less Than 9 m (30 ft)." The FHWA also proposes to add a new figure, "Figure 2B–14. Examples of ONE WAY Signing for Divided Highways with Medians Less Than 9 m (30 ft) and Separated Left-Turn Lanes." These figures are most directly associated with ONE WAY signs and should be located adjacent to Section 2B.32, which contains the text about ONE WAY signs.

Additionally, the FHWA proposes showing the optional Keep Right signs on the medians on Figures 2B–13 and 2B–14 at a 45 degree angle facing the road users on the cross street, to make it easier for them to determine the location of the median nose and to enter the proper roadway of a divided highway.

40. In Section 2B.35 Design of Parking, Standing, and Stopping Signs, the FHWA proposes adding to the GUIDANCE statement that where special parking restrictions are imposed during heavy snowfall, Snow Emergency signs should be installed, and that the legend will vary according to the regulations, but the signs should be vertical rectangles, having a white background with the upper part of the plate a red background. This GUIDANCE was inadvertently left out of the current MUTCD. However, signs of this type are used by many jurisdictions.

41. In Section 2B.39 Pedestrian Crossing Signs (R9–2, R9–3), the FHWA proposes modifying the second OPTION statement by changing the "PEDESTRIANS PROHIBITED" to "NO PEDESTRIAN CROSSING" as the proper word message sign to be used as an alternate to the No Pedestrian Crossing (R9–3a) symbol sign. "NO PEDESTRIAN CROSSING" is the intended meaning of the symbol and more clearly describes the actual restriction of pedestrian movement.

42. In Section 2B.40, the FHWA proposes changing the title from "Traffic Signal Signs (R10–1 through R10–13)" to "Traffic Signal Signs (R10–1 through R10–21)" to reflect proposed additional traffic signal signs. These signs are shown in new Figures 2B–17 and 2B–18.

The FHWA proposes adding to the second OPTION statement that the R10–3d sign may be used if the pedestrian clearance time is sufficient only for the pedestrian to cross to the median. This sign is similar to the existing R10–3b sign except that next to the DON'T WALK symbol is the message "START CROSSING TO MEDIAN WATCH FOR VEHICLES." The FHWA also proposes modifying Figure 2B–17 to add illustrations of the R10–3d sign and the R10–3e sign. The R10–3e sign is a variant incorporating "time remaining to finish crossing" and is consistent with countdown pedestrian signals as proposed in Part 4.

Additionally, the FHWA proposes revising and relocating the third OPTION statement to follow the second STANDARD statement to indicate that a symbolic NO TURN ON RED (R10–11) sign may be used as an alternate to the R10–11a and R10–11b signs. The symbolic sign is proposed to have a symbolic red ball rather than using the "No Right Turn" symbol, to avoid confusion with the R3–1 (No Right Turn) sign.

Additionally, the FHWA proposes relocating the last item in the second GUIDANCE statement to the first paragraph under the third OPTION statement (new fourth OPTION statement) and changing it to read that when right turn on red after stop is permitted and pedestrian crosswalks are marked, the TURNING TRAFFIC MUST YIELD TO PEDESTRIANS (R10–15) sign may be used. This proposed change is necessary to prevent potential overuse and reduced impact of the sign. Additionally, the FHWA proposes adding a paragraph to the third OPTION statement (new fourth OPTION statement) allowing the use of supplemental plaques showing times of day or with the legend WHEN PEDESTRIANS ARE PRESENT below a NO TURN ON RED sign, to allow the flexibility to restrict turns on red only during certain times or when a pedestrian conflict is present.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that where turns on red after stop are permitted and the turn signal indication is a RED ARROW, the RIGHT (LEFT) TURN ON RED ARROW PERMITTED AFTER STOP (R10–17 or R10–17a) sign should be installed adjacent to the RED ARROW signal indication to conform to the "Uniform Vehicle Code and Model Traffic Ordinance"[2] (UVC) as revised. The revised UVC prohibits turns on a RED ARROW after stop unless a sign specifically allowing the turn is in place.

Additionally, the FHWA proposes adding to the third STANDARD statement that the EMERGENCY SIGNAL—STOP WHEN FLASHING RED (R10–14) sign shall be used in conjunction with emergency beacons and that the U–TURN YIELD TO RIGHT TURN (R10–16) sign shall be installed near the left-turn signal face if U-turns are allowed on a protected left-turn movement from which drivers making a right turn from the conflicting approach to their left are simultaneously being shown a right-turn GREEN ARROW signal indication, to correspond with proposed changes in Part 4 of the MUTCD, which will require the use of these signs with Emergency Beacons and when right turns conflict with U-turns, respectively.

43. In Section 2B.46 the FHWA proposes changing the title from "Hazardous Cargo Signs (R14–2, R14–3)" to "Hazardous Material Signs (R14–2, R14–3)" and revising the OPTION and GUIDANCE statements to replace "cargo" with the word "material" and to revise the symbol for the Hazardous Material sign (R14–3) sign to be HM rather than HC, to correspond with Section 2B.31 and to reflect the change in terminology in the industry. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 5 years for existing signs in good condition to minimize any impact on State or local highway agencies.

44. In Section 2B.48 Preferential Lane Signs (R3–10 through R3–17), the FHWA proposes modifying the first paragraph of the third GUIDANCE statement to include light rail transit in the list of preferential lane signs for which the diamond symbol should not be used, because the diamond symbol is intended to be used only to denote HOV lanes. The FHWA also proposes changing the last paragraph of the third GUIDANCE statement to a second STANDARD statement because changeable message signs serving as HOV signs shall be the required sign size and shall display the required letter height and legend format that corresponds to the type of facility and design speed as articulated in Section 2A.07. This proposed change from a recommended practice to a required practice is being made to preclude the use of insufficiently sized or designed changeable message signs to display these important regulatory messages for HOV lane use.

Additionally, the FHWA proposes adding a new GUIDANCE statement at the end of the section that the Inherently Low Emission Vehicle (ILEV) (R3–10b) sign should be used to indicate that it is permissible for a properly labeled and certified ILEV, regardless of the number of occupants, to operate in the HOV lanes and that the ILEV signs should be ground mounted in advance of the HOV lanes and at intervals along the HOV lanes based upon engineering judgment. A uniform sign design and application are needed to enhance driver understanding and compliance regarding ILEV use of HOV lanes and also to correspond to proposed changes in Section 2B.49.

45. In Section 2B.49 High-Occupancy Vehicle (HOV) Lanes, the FHWA proposes modifying the STANDARD statement to allow motorcycles to use HOV lanes that received Federal-aid program funding.

The FHWA also proposes three additions to this STANDARD statement. The first addition requires agencies to allow a vehicle with less than the required number of occupants to operate in the HOV lanes if:

A. The vehicle is properly labeled and certified as an ILEV and the HOV lane is not a bus-only HOV lane; or

[2] The "Uniform Vehicle Code and Model Traffic Ordinance," 2000 edition, is published by the National Committee on Uniform Traffic Laws and Ordinances, 107 S. West Street, #110, Alexandria, Virginia 22314. It is available for inspection as prescribed at 49 CFR part 7. Purchase information is available on the web site for the National Committee at *http://www.ncutlo.org*.

B. The HOV lanes are part of a project that is participating in the FHWA Value Pricing Pilot Program.

The second addition requires that the requirements for a minimum number of occupants in a vehicle to use an HOV lane shall be in effect for most, or all, of at least one of the usual times during the day when the demand to travel is greatest (such as morning or afternoon peak travel periods) and the traffic congestion problems on the roadway and adjoining transportation corridor are at their worst. The final addition requires a Federal review prior to initiating a proposed test or demonstration project that seeks to significantly change the operation of the HOV lanes for any length of time.

The last major change that the FHWA proposes to this section is the addition of a SUPPORT statement at the end of the Section. The SUPPORT statement states that the Inherently Low Emissions Vehicle (ILEV) program requirements, certification program, and other regulatory provisions are developed and administered through the U.S. Environmental Protection Administration (EPA). The U.S. EPA is the only entity with the authority to certify ILEVs. Vehicle manufacturers must request the U.S. EPA to grant an ILEV certification for any vehicle to be considered and labeled as meeting these standards. According to the U.S. EPA, 1996 was the first year that they certified any ILEVs. The U.S. EPA regulations specify that ILEVs must meet the emission standards specified in 40 CFR 88.311–93 and their labeling must be in accordance with 40 CFR 88.311–93(c).

The proposed changes in Section 2B.49 are to assure consistency with the provisions of Titles 23 and 49 of the United States Code (USC), with commitments made by FHWA during the National Environmental Policy Act process, and with requirements under the Clean Air Act.

46. In Section 2B.50 High-Occupancy Vehicle Sign Applications and Placement, the FHWA proposes adding a SUPPORT statement after the GUIDANCE statement, which states that Figures 2E–44 through 2E–48 show application and placement examples of HOV signing for entrances to barrier-separated HOV lanes and direct entrances to and exits from HOV lanes. This figure reference will clarify the intended use of these signs.

47. The FHWA proposes redesignating current Section 2B.51 Other Regulatory Signs, as Section 2B.54 and revising the STANDARD statement to indicate that the symbol for the seat belt symbol is in the "Standard Highway Signs" book.

48. The FHWA proposes adding a new Section 2B.51 Photo Enforced Signs (R10–18, R10–19). The purpose of this new section is to provide guidance to State and local agencies on the use of the photo enforcement signs to alert road users of this type of traffic enforcement. The FHWA proposes including an OPTION statement with two paragraphs. The first paragraph states that a TRAFFIC LAWS PHOTO ENFORCED (R10–18) sign may be installed at a jurisdictional boundary to advise road users that some of the traffic regulations within that jurisdiction are being enforced by photographic equipment. The second paragraph states that a PHOTO ENFORCED (R10–19) sign (see Figure 2B–1) may be mounted below a regulatory sign to advise road users that the regulation is being enforced by photographic equipment.

Additionally, the FHWA proposes including a STANDARD statement, which states that if the PHOTO ENFORCED (R10–19) sign is used below a regulatory sign, it shall be a rectangle with black legend and border on a white background.

The FHWA proposes that these signs become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs of different designs that are in good condition to minimize any impact on State or local highway agencies.

49. The FHWA proposes adding a new Section 2B.52 Yield Here To Pedestrians Signs (R1–6, R1–6a). These proposed new signs alert road users of the presence of an unsignalized midblock pedestrian crossing. The FHWA proposes including a STANDARD statement, which states that if YIELD lines are used in advance of an unsignalized marked crosswalk, the YIELD HERE TO PEDESTRIANS (R1–5 or R1–5a) signs, shall be placed 6.1 to 15 m (20 to 50 ft) in advance of the nearest crosswalk line. The purpose of the STANDARD is to provide for the uniform use and placement of these signs and improved pedestrian safety.

The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

50. The FHWA proposes adding a new Section 2B.53 In-Street Pedestrian Crossing Signs (R1–6, R1–6a). These proposed new signs remind road users of the laws regarding right-of-way at an unsignalized pedestrian crossing. The FHWA proposes including OPTION, GUIDANCE, and STANDARD statements describing the proposed use, design and application of the In-Street Pedestrian Crossing (R1–6, R1–6a) signs. These signs are proposed in order to provide for uniformity of these regulatory messages and for improved pedestrian safety.

The FHWA also proposes adding a new figure numbered and titled Figure 2B–22, "Unsignalized Pedestrian Crosswalk Signs" to illustrate the design of the R1–5, R1–5a, the R1–6, and the R1–6a signs.

51. In Section 2C.02 Application of Warning Signs, the FHWA proposes modifying the SUPPORT statement to reflect that "categories" not "applications" of warning signs are shown in Table 2C–1. This change is necessary to make the text and Table 2C–1 consistent.

Additionally, the FHWA proposes changing the title of Table 2C–1 from "Application of Warning Signs" to "Categories of Warning Signs" and to add new roadway related and traffic related signs and supplemental plaques to the table based on proposed changes in other sections of Chapter 2C. The change in the title of the table is being proposed to better reflect the actual content of the table.

52. In Section 2C.04 Size of Warning Signs, the FHWA proposes changing Table 2C–2 to add sizes for the Expressway W1 series Arrows signs, sizes for the Expressways and Freeways W7 series truck runaway signs, sizes for the Expressways and Freeways W12–2P low clearance signs, and increasing the sizes for all roadways except Freeways for the W10–1 advance grade crossing sign, to enhance visibility of this sign for all road users, including older drivers. The FHWA proposes that the larger sizes become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

53. In Section 2C.05 Placement of Warning Signs, the FHWA proposes changing Table 2C–4 so that the distances for the placement of advance warning signs correspond to the values in the 2001 AASHTO "A Policy on Geometric Design of Highway and Streets"[3] book and to make the table easier to use.

[3] "A Policy on Geometric Design of Highways and Streets," 4th Edition, 2001, in both hardcopy and CD–ROM, is available from the American

In Table 2C–4, the FHWA proposes combining the "Condition B" and "Condition C" columns and labeling them "Condition B". The FHWA also proposes adding columns for 90, 100, and 110 km/h and 60 and 70 mph for the deceleration to the listed advisory speed and rows for 70 and 75 mph for the Posted or 85th Percentile Speed. Finally, the FHWA proposes revising the Notes to reflect the proposed changes throughout the MUTCD. These changes to Table 2C–4 are proposed to reflect the needs of older road users, and to improve the clarity of the Notes.

54. In Section 2C.06, the FHWA proposes changing the title from "Horizontal Alignment Signs (W1–1 through W1–5)" to "Horizontal Alignment Signs (W1–1 through W1–5, W1–10, W1–11, W1–15)" to reflect the proposed Hairpin Curve (W1–11) sign and the 270 Degree Loop (W1–15) sign.

In the first OPTION statement, the FHWA proposes recommending the use of the Hairpin Curve sign and the 270 Degree Loop sign based on the change in horizontal alignment. These new signs would better portray the severe curvature for these types of alignment changes.

The FHWA also proposes adding to the GUIDANCE statement. The proposed addition recommends installing a One-Direction Large Arrow (W1–6) sign or Chevron Alignment (W1–8) sign on the outside of a turn or curve when the Hairpin Curve sign or 270-Degree Loop sign is installed. The reason for this recommendation is to provide for enhanced warning to road users of the severe alignment change and reduce run-off-the-road crashes.

The FHWA also proposes adding a second GUIDANCE statement following the STANDARD statement. This proposed GUIDANCE recommends that the need for additional curve warning signs or advisory speed reduction warning plaques be based on an engineering study or on engineering judgment. The reason for this recommendation is that highway curves tend to be high crash locations with the crash rate about three times the rate for highway tangent segments and with the run-off-the-road crash rate about four times the tangent segment rate.

The FHWA proposes adding an OPTION statement that provides a method that may be used to determine the need for additional speed reduction warning signs. The FHWA proposes these optional criteria for determining the need for additional recommended speed reduction signs to mitigate the high number of run-off-the-road crashes along curves and ramps. Most curves are very well outlined with delineators or chevron signs. Since crashes are still occurring, the FHWA believes that there is a need to remind drivers of the recommended reduction in speed as they proceed along the curve or ramp.

Additionally, the FHWA proposes adding to Table 2C–5 to show the metric speed value of less than or equal to 50 km/h along with the English unit of less than or equal to 30 mph and showing the metric speed value of greater than 50 km/h along with the English unit of greater than 30 mph. The metric values were inadvertently omitted from the Millennium Edition of the MUTCD.

55. In Section 2C.07, the FHWA proposes changing the title from "Combination Horizontal Alignment/ Advisory Speed Signs (W1–9)" to "Combination Horizontal Alignment/ Advisory Speed Signs". The FHWA also proposes changes to the first OPTION statement to allow the combination into a single sign of any Horizontal Alignment sign with an Advisory Speed (W13–1) plaque. The resulting sign number for the combination sign would be the Horizontal Alignment sign number with an "a" added. This change will provide additional flexibility to jurisdictions.

The FHWA proposes revising the STANDARD statement. When a combination Horizontal Alignment/ Advisory Speed sign is used, the proposed revised STANDARD statement will require that the advisory speed match the advisory speed on the Advisory Speed plaque mounted with the advance warning sign and that the sign also be installed as near as practical to the beginning of the turn or curve, as depicted on new Figure 2C–2. When the recommended reduction in speed is 20 km/h (15 mph) or greater, the proposed revised STANDARD will require that the combination Horizontal Alignment/ Advisory Speed sign supplement other advance warning signs.

Additionally, the FHWA proposes adding an OPTION statement, which states that when the recommended reduction in speed is less than 25 km/h (15 mph), instead of installing other advance warning signs, the combination Horizontal Alignment/ Advisory Speed sign alone may be installed just before the point of curvature. The combination Horizontal Alignment/Advisory Speed sign may be used throughout the turn or curve.

The proposed changes to Section 2C.07 provide for enhanced uniformity of application of these types of signs and improved safety on curves and turns.

56. In Section 2C.10 Chevron Alignment Sign (W1–8), the FHWA proposes adding to the STANDARD statement that a border shall not be used on the CHEVRON ALIGNMENT sign. The purpose of this change is to correct an error in the current edition.

57. In Section 2C.11 Hill Signs (W7–1, W7–1a, W7–1b), the FHWA proposes adding to the GUIDANCE statement to clarify that on longer grades, the Hill sign with distance (W7–3a) plaque or the combination distance/grade (W7–3b) plaque at periodic intervals of approximately 1.6 km (1 mi) spacing should be considered. This change is proposed to clarify that the plaques should not be used alone but should supplement the Hill sign.

58. In Section 2C.12 Truck Escape Ramp Signs (W7–4 Series), the FHWA proposes adding to the STANDARD statement to indicate that at least one of the W7–4 series warning signs shall be used when truck escape ramps are installed. This change clarifies that additional warning signs may be used as conditions warrant.

59. In Section 2C.13, the FHWA proposes changing the title from "ROAD NARROWS Sign (W5–1)" to "ROAD NARROWS Sign (W5–1, W5–1a)" to reflect the new symbolic Road Narrows (W1–5a) sign. The Narrow Bridge (W5–2a) symbol sign would be renumbered and retitled as the new Road Narrows (W5–1a) symbol sign. The Road Narrows (W5–1a) symbol sign may be used as an alternate to the word message ROAD NARROWS (W1–5) word sign. The FHWA proposes these changes because the road user's understanding of the symbol is not exclusively as "narrow bridge ahead," but rather as symbolic of any narrowing of the road, such as the presence of curb bulb-outs or chicanes.

60. In Section 2C.14 NARROW BRIDGE Sign (W5–2), the FHWA proposes removing the reference to the Narrow Bridge symbol (W5–2b) sign from the OPTION statement. This change reflects the proposed change of the Narrow Bridge symbol (W5–2b) sign to the Road Narrows symbol (W5–1a) sign.

61. In Section 2C.17 Divided Highway (Road) Ends Sign (W6–2), the FHWA proposes modifying the GUIDANCE statement to clarify that a Divided Highway Ends (W6–2) symbol sign should be used in advance of the end of a section of physically divided highway (not an intersection or junction) as a warning of two-way traffic ahead. The reason for this change is that the

warning sign should be placed in advance of, rather than at, the start of the divided highway section.

62. In Section 2C.19 DEAD END/NO OUTLET Sign (W14–1, W14–2), the FHWA proposes modifying the STANDARD statement to clarify that when the W14–1 or W14–2 sign is used, the sign shall be posted as near as practical to the entry point or at a sufficient advance distance to permit the road user to avoid the dead end or no outlet condition by turning off, if possible, at the nearest intersecting street. The change is proposed to give additional flexibility to jurisdictions when posting the sign at the exact entry point is not practical due to obstructions or other factors.

63. In Section 2C.20 Low Clearance Signs (W12–2 and W12–2P), the FHWA proposes clarifying the STANDARD statement by removing the words "or minimum structure height". This change is proposed to clarify the proper application of Low Clearance signs.

Additionally, the FHWA proposes clarifying the GUIDANCE statement by changing the phrase "legal limit" to "legal maximum vehicle height" to reflect more precisely the proper dimension.

64. In Section 2C.21 BUMP and DIP Signs (W8–1, W8–2), the FHWA proposes modifying the second GUIDANCE statement to clarify that a short stretch of depressed alignment that might momentarily hide a vehicle should be treated as a no-passing zone when centerline striping is provided on a two-lane or three-lane road. The proposed change replaces the word "may" with "might" to avoid possible confusion of this as an OPTION statement, and clarifies that the use of a no-passing zone in this situation only applies when centerline striping is provided on the road.

65. In Section 2C.22 SPEED HUMP Sign (W17–1), the FHWA proposes adding a sentence to the OPTION statement to allow the use of the legend SPEED BUMP instead of the legend SPEED HUMP on the W17–1 sign. This proposed addition provides additional flexibility to jurisdictions and to reduce sign inventory.

66. In Section 2C.24, the FHWA proposes changing the title from "SHOULDER Signs (W8–4, W8–9, W8–9a, and W8–11)" to "SHOULDER and UNEVEN LANES Signs (W8–4, W8–9, W8–9a, and W8–11)". This new title is more accurate since the UNEVEN LANES (W8–11) sign is distinguished from the Shoulder signs.

The FHWA proposes adding a STANDARD statement just before the GUIDANCE statement. The proposed STANDARD statement requires the use of the SHOULDER DROP-OFF (W8–9a) sign when a shoulder drop-off, adjacent to the travel lane, exceeds 75 mm (3 in) in depth and is not protected by portable barriers. The FHWA also proposes removing the part of the GUIDANCE statement concerning the use of the SHOULDER DROP-OFF sign since it is covered in the proposed new STANDARD statement. This STANDARD statement is identical to the STANDARD statement in Section 6F.41 (Shoulder and UNEVEN LANES Signs). This proposed requirement is to represent the state-of-the-practice.

67. In Section 2C.26 Advance Traffic Control Signs (W3–1a, W3–2a, W3–3, W3–4), the FHWA proposes clarifying that the reference to a beacon in the second OPTION statement and the second GUIDANCE statement is a reference to a warning beacon. This clarification is necessary to be consistent with prescribed use of warning beacons in Part 4 of the MUTCD.

68. In Section 2C.27 CROSS TRAFFIC DOES NOT STOP Plaque (W4–4), the FWHA proposes replacing the entire section with new OPTION and STANDARD statements. The OPTION statement specifies that the CROSS TRAFFIC DOES NOT STOP (W4–4) plaque may be used in combination with a STOP sign when engineering judgment indicates drivers frequently misinterpret the intersection as a multi-way stop condition. The STANDARD statement specifies that if the W4–4 plaque is used, it shall be installed below the STOP sign. The proposed new text for this section is necessary to provide for more uniform application of this plaque.

Additionally, the FHWA proposes removing the arrow from the design of the plaque to reduce potential confusion and misunderstanding as to whether the arrow denotes the direction cross traffic is flowing or the direction toward which the driver is to look for cross traffic.

69. In Section 2C.28 Merge Sign (W4–1), the FHWA proposes changing the title to reflect the addition of the new Entering Roadway Merge (W4–1a) sign. In addition to the title change, the FHWA proposes adding a recommendation to the GUIDANCE statement, which states that when a Merge sign is to be installed on an entering roadway that curves before merging with the major roadway, the Entering Roadway Merge (W4–1a) sign should be used. This sign is recommended for this condition because it would better portray the actual geometric conditions to road users on the entering roadway. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

70. In Section 2C.29 Added Lane Sign (W4–3), the FHWA proposes changing the title to reflect the addition of the new Entering Roadway Added Lane (W4–3a) sign. In addition to the title change, the FHWA proposes an addition to the GUIDANCE statement, which states that when an Added Lane sign is to be installed on a roadway that curves before converging with another roadway that has a tangent alignment at the point of convergence, the Entering Roadway Added Lane (W4–3a) sign should be used. This sign is recommended for this condition because it would better portray the actual geometric conditions to road users on the entering roadway. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

71. In Section 2C.30, the FHWA proposes changing the title of the section from "Lane Ends Signs (W9–1, W9–2)" to "Lane Ends Signs (W4–2, W9–1, W9–2)." This title change reflects the addition of the Lane Reduction (W4–2) sign, which was included in previous editions of the MUTCD but not in the Millennium Edition.

The FHWA proposes changing the design of the Lane Reduction (W4–2) symbol sign to improve the comprehension by road users. The new design has been developed by human factors research studies and will be similar to one being used successfully in Canada. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding the Lane Reduction (W4–2) symbol sign to the first and second GUIDANCE statements and to the OPTION statement, indicating that the W4–2 symbol sign is an alternative to the LANE ENDS MERGE LEFT (RIGHT) (W9–2) word sign. This will provide additional flexibility to jurisdictions.

72. In Section 2C.33 Advisory Exit, Ramp, and Curve Speed Signs (W13–2, W13–3, W13–5), the FHWA proposes

changing the design of the metric exit speed, ramp speed, and curve speed signs, and advisory speed signs/plaques so that the metric speed value is within a black circle with "km/h" below. This new design will better differentiate between signs and plaques with metric units for speed from those using English units for speed.

The FHWA also proposes adding "Figure 2C–8 Example of Advisory Speed Signing for an Exit Ramp". This figure illustrates the use of the Exit Speed sign along the deceleration lane and the use of the Ramp Speed signs along the actual ramp. The figure will clarify application of these signs to jurisdictions.

Additionally, the FHWA proposes adding to the OPTION statement at the end of the section, which states that the 85th percentile speed, which is equivalent to the 16 degree ballbank indication or an 85 mm/second (0.28 ft/second) reading on an accelerometer, may be used to determine the recommended speed along the ramp or curve as it is the speed at which most road users' judgment recognizes incipient instability along a ramp or curve. The FHWA proposes this OPTION criteria to enhance the uniformity of determining the recommended advisory speed and to provide additional warning to motorists since highway curves have a crash rate about three times the rate for highway tangent segments and a run-off-the-road crash rate about four times the tangent segment rate.

73. In Section 2C.34 Intersection Warning Signs (W2–1 through W2–6), the FHWA proposes changing the design of the CIRCULAR INTERSECTION (W2–6) sign to a symbol sign with three rotating arrows to better portray the operations at circular intersections. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes modifying the GUIDANCE statement. The proposed changes clarify that the recommendation to not use Intersection Warning signs on controlled approaches does not apply to the use of the Circular Intersection Warning symbol (W2–6) sign, and add a recommendation that this sign should be used on the approach to a YIELD sign controlled roundabout intersection. These changes are proposed to reflect state of the practice regarding roundabouts.

74. In Section 2C.36, the FHWA proposes changing the title from "Motorized Traffic Signs (W8–6, W11–5, W11–8, W11–10)" to "Motorized Traffic Signs (W8–6, W11–5, W11–5a, W11–8, W11–10, W11–10a, W11–12)" to include the optional Farm Machinery (W11–5a) symbol sign which was inadvertently omitted, and to reflect a proposed Dump Truck (11–10a) sign for use in work zones and other locations where there is a concentration of dump truck crossing or entering the roadway, and a proposed Emergency Signal Ahead (W11–12) supplemental plaque for use with the W11–8 sign.

In the first OPTION statement, the FHWA proposes adding a statement that the TRUCK CROSSING (W8–6) word message sign may be used as an alternate to the Truck Crossing symbol sign, to provide additional flexibility.

In the second OPTION statement, the FHWA proposes adding that a supplemental plaque with the legend SHARE THE ROAD may be mounted below Motorized Traffic warning signs. The purpose of this addition is to allow the use of this sign to provide additional warning to road users.

75. In Section 2C.37, the FHWA proposes changing the title from "Crossing Signs (W11–1, W11–2, W11–3, W11–4, W16–7P)" to "Nonvehicular Signs (W11–1, W11–2, W11–3, W11–4, W11–11, W11–14, W11–14a, W11–15)" to reflect the addition of the following proposed signs: Golf Cart (W11–11) symbol sign, Horse and Buggy (W11–14) symbol sign, Horse and Carriage (W11–14a) symbol sign, and the Waterfowl Crossing (W11–15) symbol sign. Many variations of these symbol signs are currently being used and these designs will create a set of uniform symbol messages for road users. The FHWA proposes that these changes become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

The FHWA also proposes clarifying the first OPTION statement to add golf carts and horse-drawn vehicles to the list of crossing activities for which Nonvehicular signs may be used to alert road users. This reflects the addition of new signs for this purpose.

The FHWA also proposes clarifying the second OPTION statement to clarify that the supplemental plaques such as AHEAD or XX METERS may be used with the Nonvehicular warning signs, when used in advance of a crossing. These plaques are specifically intended to provide advance notice to road users of crossing activity.

Additionally, the FHWA proposes modifying the STANDARD statement to clarify that when Nonvehicular warning signs are used at the crossing, the signs shall be supplemented with a diagonal downward pointing arrow (W16–1) plaque showing the location of the crossing. This proposed modification reflects the fact that Nonvehicular warning signs can be used either in advance of or at the crossing, and is consistent with the practice of using the diagonal downward pointing arrow with other crossing signs.

Additionally, the FHWA proposes adding to the third OPTION statement to clarify that Pedestrian, Bicycle, School Advance Crossing, and School Crossing signs and their related supplemental plaques may have a fluorescent yellow-green background with a black legend and border. This proposed change reflects the common practice for supplemental plaques to be of the same color as the signs they supplement.

76. In Section 2C.42 Advisory Speed Plaque (W13–1), the FHWA proposes adding to the first OPTION statement to clarify that the Advisory Speed (W13–1) plaque may be used to supplement any warning sign to indicate the recommended speed for a condition. This will provide additional flexibility for jurisdictions.

In the STANDARD statement, the FHWA proposes requiring the use of the Advisory Speed plaque where an engineering study indicates a need to advise road users of the recommended speed for a condition and if they are used, the speed shown shall be a multiple of 10 km/h (5 mph). This change is needed to clarify that engineering studies are needed to determine the need for an Advisory Speed plaque and to determine what the recommended speed is for the condition.

Additionally, the FHWA proposes adding an OPTION statement at the end of the section, which states that the 85th-percentile speed, which is equivalent to the 16 degree ballbank indication or an 85 mm/second (0.28 ft/second) reading on an accelerometer, may be used to determine the recommended speed along the ramp or curve as it is the speed at which most road users' judgment recognizes incipient instability along a ramp or curve. This provides jurisdictions with several optional methods of determining recommended speeds, reflecting current practices.

77. In Section 2C.43, the FHWA proposes changing the title from

"Supplemental Arrow Plaques (W16–5P, W16–6P)" to "Supplemental Arrow Plaques (W16–5, W16–6, W16–7)" to remove the "p" suffix and to reflect the existence of the diagonally pointing down arrow plaque and include the designation in the section text.

78. In Section 2C.46 DEAD END/NO OUTLET Plaques (W14–1P, W14–2P), the FHWA proposes adding to the OPTION statement to clarify that DEAD END (W14–1P) or NO OUTLET (W14–2P) plaques may be used in combination with Street Name (D3) signs to warn turning traffic that the crossroad ends in the direction indicated by the arrow on the plaque and that where there the cross street has no name, the plaque may be used alone in place of a street name sign. The proposed change will clarify the proper use of these types of plaques with street name signs or alone.

Additionally, the FHWA proposes removing the STANDARD statement, which requires the use of the DEAD END or NO OUTLET plaque where traffic can proceed straight through the intersection to the dead end or no outlet street. This STANDARD is proposed for removal because it is no longer appropriate. The preferred practice under the conditions cited is the use of the DEAD END (W4–1) and NO OUTLET (W4–2) warning signs rather than the plaques.

79. The FHWA proposes adding a new section, numbered and titled "Section 2C.48 High Occupancy Vehicle (HOV) Plaque (W16–1)." This proposed new section includes an OPTION statement on the use of the proposed High Occupancy Vehicle (HOV) Plaque. Specifically, an HOV (W16–1) plaque may be used to warn drivers in an HOV lane of a specific condition and to differentiate a warning sign specific for HOV lanes when the sign is also visible to traffic on the adjoining general purpose roadway. Additionally the diamond symbol may be used instead of the word message HOV and, when appropriate, the words LANE or ONLY may be used. This will enhance road user understanding of which signs apply to which lanes.

80. The FHWA proposes adding a new section numbered and titled "Section 2C.49 PHOTO ENFORCED Plaque (W16–10)." This proposed new section includes an OPTION statement on the use of the proposed PHOTO ENFORCED plaque in advance of locations of photo enforcement of traffic laws, thereby, alerting motorists of the use of cameras as an enforcement tool. This change is proposed for consistency with the proposed addition of the PHOTO ENFORCED plaque for use with regulatory signs, as described in proposed Section 2B.51. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding a STANDARD statement to require that, if used below a warning sign, the PHOTO ENFORCED plaque be a rectangle with a black legend and border on a yellow background. This STANDARD is proposed to make the color of the plaque consistent with the color of the warning sign it supplements.

81. The FHWA proposes adding a new section, numbered and titled "Section 2C.50 HILL BLOCKS VIEW Sign (W7–6)." This proposed new section includes an OPTION statement on the use of the proposed HILL BLOCKS VIEW sign in advance of the crest of a vertical curve to advise road users to reduce speed and to look for vehicles and other roadway users as they approach and traverse the hill as only limited sight distance is available. The FHWA proposes adding this sign because it is in use, fulfills an important need, and has been found by research to be well understood by road users.

Additionally, the FHWA proposes including a GUIDANCE statement, which states that when a HILL BLOCKS VIEW sign is used, an Advisory Speed plaque based on available stopping sight distance should accompany it. This is proposed because road users should be advised of the recommended speed for traversing the hillcrest.

82. The FHWA proposes adding a new section, numbered and titled "Section 2C.51 Speed Reduction Signs (W3–5, W3–5a)." This proposed new section includes a GUIDANCE statement, which recommends using the proposed Speed Reduction signs to inform road users of a reduced speed zone when engineering judgment indicates the need for advance notice to comply with the posted speed limit ahead. These proposed new warning signs replace the R2–5a, b, and c signs because the intended message is more properly categorized as a warning message rather than regulatory message. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes including a STANDARD statement, which requires that a Speed Reduction sign be followed by a Speed Limit (R2–1) sign installed at the beginning of the zone where the speed limit applies and that the speed limit displayed on the Speed Reduction sign shall be identical to the speed limit displayed on the subsequent Speed Limit sign. This is needed to provide for uniform application of these signs.

82. The FHWA proposes adding a new section, numbered and titled "Section 2C.52 BRIDGE ICES BEFORE ROAD Sign (W8–13)." This proposed new section includes an OPTION statement on the use of the proposed BRIDGE ICES BEFORE ROAD sign, which states that the sign may be used in advance of bridges to advise road users as they approach and traverse the bridge during winter weather conditions.

Additionally, the FHWA proposes including a GUIDANCE statement, which recommends that the BRIDGE ICES BEFORE ROAD sign be removed or covered during seasons of the year when its message is not relevant.

This proposed new section will provide for uniform design and application of a sign for warning of the specific condition.

84. The FHWA proposes adding a new section, numbered and titled "Section 2C.53 Traffic Signal Signs (W25–1, W25–2)." This proposed new section includes a STANDARD statement on the use of the proposed CAUTION ONCOMING GREEN EXTENDED (W25–1) and CAUTION ONCOMING GREEN MAY BE EXTENDED (W25–2) traffic signal signs. The STANDARD statement requires that unless a separate left-turn signal face is provided and is operated as described in Section 4D.06, if the possibility exists that a CIRCULAR YELLOW signal indication could be displayed to an approach from which drivers are turning left permissively without the simultaneous display of a CIRCULAR YELLOW signal indication to the opposing approach (see Section 4D.05), either a W25–1 or a W25–2 sign be installed near the left-most signal head. The FHWA proposes adding this new section because these signs are proposed in Chapter 4D as one of several ways to eliminate or reduce safety issues associated with the "yellow trap" in some traffic signal phasing sequences.

85. The FHWA proposes adding a new section, numbered and titled "Section 2C.54 Truck Rollover Warning Signs (W1–13, W1–13a)." This proposed new section includes OPTION and STANDARD statements on the use of the proposed Truck Rollover Warning signs to warn driver of vehicles with a high center of gravity of a curve or turn having geometric conditions that are prone to cause such vehicles to lose control and overturn. This proposed new section will provide for uniform design and application of signs for this purpose. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

86. In Section 2D.03 Color, Retroreflection, and Illumination, the FHWA proposes adding a SUPPORT statement following the STANDARD statement, which states that color coding is sometimes used to help road users distinguish between multiple potentially confusing destinations. The SUPPPORT statement gives examples of valuable uses of color coding including guide signs for roadways approaching or inside an airport property with multiple terminals serving multiple airlines, and wayfinding signs for various neighborhoods, business areas, or traffic generator destinations within a community or area.

The FHWA proposes adding a second STANDARD statement that prohibits the use of different color sign backgrounds to provide color-coding of destinations and that requires that the color-coding shall be accomplished by the use of different colored square or rectangular panels on the face of the guide signs.

The FHWA also proposes adding an OPTION statement, which states that the different colored panels may include a black or white (whichever provides the better contrast with the panel color) letter, numeral, or other appropriate designation to identify the airport terminal or other destination.

Additionally, the FHWA proposes adding a SUPPORT statement, which states that two examples of color-coded guide sign assemblies are shown in Figure 2D–1. Figure 2D–1 is a proposed new figure titled "Examples of Color-Coded Destination Guide Signs" and illustrates two overhead guide signs examples of color-coded airport terminal destination guide signs and an example of a color-coded community destination guide sign.

The proposed changes to Section 2D.03 will provide for enhanced uniformity of design and application of color-coding of destinations in guide signs.

87. In Section 2D.04 Size of Signs, the FHWA proposes rephrasing the first OPTION statement to clarify that reduced letter height, reduced interline spacing, and reduced edge spacing may be used on guide signs if the sign size is limited by factors such as lane width, and vertical and lateral clearance.

Additionally, the FHWA proposes adding a STANDARD statement that prohibits the use of reduced spacing between the letters or words of the legend as a means of reducing the overall size of a guide sign.

The proposed changes to this section will provide for enhanced legibility of guide signs, especially for older road users.

88. In Section 2D.06 Size of Lettering, the FHWA proposes removing the last paragraph in the STANDARD statement, which required sign panels to be large enough to accommodate the legend without crowding. That information has been modified and included in Section 2D.04, where it is more appropriately located.

89. In Section 2D.17 ALTERNATE Auxiliary Signs (M4–1, M4–1a), the FHWA proposes adding the qualifiers of time or distance to the word "shorter" in the GUIDANCE statement. This addition clarifies that the shorter (time or distance) or better-constructed route should retain the regular route number. This will clarify that the shorter route can be defined in terms of either time or distance, and will provide additional flexibility.

90. In Section 2D.23, the FHWA propose changing the title from "TEMPORARY Auxiliary Sign (M4–7)" to "TEMPORARY Auxiliary Sign (M4–7, M4–7a)" to reflect the addition of the new TEMP (M4–7a) sign and to add the TEMP (M4–7a) sign to the OPTION and STANDARD statements. The TEMP sign is proposed for improved legibility.

91. In Section 2D.26 Directional Arrow Auxiliary Signs (M6 Series), the FHWA proposes removing the M6–8 and M6–9 multiple direction advance arrow auxiliary signs. These specific arrow signs are not consistent in design concept with the other Directional Arrow Auxiliary Signs, and the M6–6 and M6–4 signs or separate assemblies for each route direction should be used instead to provide enhanced clarity to road users.

92. In Section 2D.27 Route Sign Assemblies, the FHWA proposes renumbering Figure 2D–2 to become Figure 2D–6 and modifying all three sheets of the figure to make the sign assemblies illustrated in the figure consistent with requirements in Section 2D.15 regarding the size of the initial letter of the Cardinal Direction Auxiliary Signs, and to illustrate directional assemblies that reflect the most recent state of the practice.

93. In Section 2D.31 Confirming or Reassurance Assemblies, the FHWA proposes removing from the STANDARD statement the requirement that, if used, the Confirming Assembly be installed just beyond intersections of numbered routes.

Additionally, in the first GUIDANCE statement, the FHWA proposes recommending that a Confirming Assembly should be installed just beyond intersections of numbered routes.

These changes are proposed because use of the confirming assembly beyond intersections with numbered routes should be a recommended practice rather than completely optional. The confirming assembly provides highly desirable information to road users. These proposed changes allow flexibility in installing the signs to adjust to roadside conditions.

94. In Section 2D.34, the FHWA proposes changing the title from "Destination Signs" to "Destination Signs (D1 Series)" and to add the sign number designations to the section text to clarify which signs are applicable to the material in the section.

The FHWA proposes moving material concerning the use of a sloping arrow at an irregular intersection from the second GUIDANCE statement to a new second OPTION statement. This proposed change removes unclear language and clarifies that the sloping arrow use is optional.

95. In Section 2D.36, the FHWA proposes changing the title from "Distance Signs" to "Distance Signs (D2 Series)", adding the sign number designations to the section text to clarify which signs are applicable to the material in the section, and adding the D2–3 (3 destination distance sign) to the text, to reflect all the signs included in the series.

Additionally, in the first GUIDANCE statement, the FHWA proposes adding a recommendation that the distance shown on the sign be the distance to the center of the central business district, or to the point where the major north/south and east/west routes serving the city intersect, or to some point near the center of the city. The FHWA proposes this addition because this distance measurement is the general practice used by State and local agencies.

96. In Section 2D.38, the FHWA proposes changing the title from "Street Name Sign (D3)" to "Street Name Sign (D3–1)". In the first GUIDANCE statement the FHWA proposes adding a recommendation that on multi-lane streets with speed limits of 60 km/h (40 mph) or more the minimum letter size should be 200 mm (8 in). Larger letter

sizes are needed to improve sign legibility and safety for older drivers. In this same GUIDANCE statement, the FHWA proposes deleting the recommendation that larger letter heights be used for Street Name signs mounted overhead, because more specific guidance is being proposed to be added elsewhere in this section.

The FHWA also proposes adding a clarification to the first OPTION statement. Currently the OPTION statement generally states that a symbol or letter designation may be used to identify the government jurisdiction. The proposed paragraph provides more specificity by stating that a symbol or letter designation may be used on a Street Name sign to identify the governmental jurisdiction, area of jurisdiction, or other government-approved institution. This change is proposed to provide additional flexibility for jurisdictions that install Street Name signs.

The FHWA proposes adding to the first STANDARD statement that if a symbol or letter designation is used, the height, in addition to the width, of the symbol or letter designation shall not exceed the letter height of the sign. This proposal will provide for more uniform Street Name sign design and assure that the name of the street will have more prominence on the sign than the jurisdictional symbol or letter designation.

Two changes are proposed in the second OPTION statement. First, the FHWA proposes eliminating midblock locations from the provision concerning locations where Street Name signs may be installed, because Street Name signs are not appropriate at non-intersection locations. At midblock locations, Advance Street Name signs, as described in a subsequent section, are appropriate to provide advance notice of the next intersection. Second, the FHWA proposes eliminating the provision allowing the installation of a supplemental Street Name sign separately or below an intersection-related warning sign on intersection approaches, because this is an inappropriate use. Instead, the Advance Street Name plaque, as described in Section 2C.45, is appropriate for this purpose.

The FHWA proposes changes to the fourth GUIDANCE statement. First, the FHWA proposes eliminating the recommendation on the color of the supplemental Street Name sign when it is combined with a warning sign, because this is now termed an Advance Street Name plaque and is discussed in Section 2C.45. Second, the FHWA proposes recommending that in urban and suburban areas, especially where Advance Street Name signs are not used, overhead-mounted street name signs be considered. If overhead Street Name signs are used, the lettering should be at least 300 mm (12 inch) high in capital letters or 300 mm (12 in) upper-case letters with 225 mm (9 in) lower-case letters. This proposal reflects the need for enhanced visibility and legibility of Street Name signs for road users, especially older people, in the complex driving environments of urban and suburban areas.

Additionally, the FHWA proposes adding a SUPPORT statement at the end of the section referencing Section 2C.45 for information regarding the use of street name signs as supplemental plaques below intersection-related warning signs. The FHWA proposes that these changes become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period until January 9, 2012, for existing signs in good condition to minimize any impact on State or local highway agencies. This date corresponds with the existing compliance period for increasing the letter height to 150 mm (6 in) on all street name signs.

97. The FHWA proposes adding a new section, numbered and titled "Section 2D.39 Advance Street Name Signs (D3–2)" immediately following Section 2D.38. The FHWA proposes SUPPORT, STANDARD, OPTION, and GUIDANCE statements to describe the uses, placement, legend, and lettering sizes for Advance Street Name signs. The proposed new section is needed to provide for uniform design and application of Advance Street Name signs. The following sections would be renumbered accordingly. The FHWA proposes a phase-in compliance period until January 9, 2012, for existing signs in good condition to minimize any impact on State or local highway agencies. This date corresponds with the existing compliance period for increasing the letter height to 150 mm (6 in) on all street name signs.

98. In existing Section 2D.44 (new Section 2D.45) General Service Signs (D9 Series), the FHWA proposes adding Electric Vehicle Charging to the list of services, one or more of which General Services signs must carry, in accordance with the second STANDARD statement.

The FHWA proposes removing references in the fourth OPTION statement to the Road Conditions Dial 511 (D12–5) sign and adding new OPTION, STANDARD, and GUIDANCE statements regarding the use and design of the redesigned TRAVELER INFO CALL 511 (D12–5) sign. These changes reflect the assignment of 511 as the nationwide traveler information telephone number.

Additionally, the FHWA proposes changing the words "CB Monitoring" in the existing fifth OPTION statement to "Channel 9 Monitored" and to make a corresponding change in item C of the following GUIDANCE statement. These changes reflect current practice and terminology. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

99. In existing Section 2D.45 (new Section 2D.46), the FWHA proposes changing the title from "Reference Posts (D10–1 through D10–3)" to "Reference Location Signs (D10–1 through D10–8)" and to change the term "reference posts" to "reference location signs" throughout the section to correspond to terminology used throughout the MUTCD.

The FHWA proposes two changes to the first STANDARD statement. First, the FHWA proposes distinguishing between use on conventional roads and freeways. The design of reference location signs used on conventional roads is the same as currently listed in the STANDARD. If reference location signs are used on freeways or expressways, the FHWA proposes requiring that the reference location signs be designed in accordance with the STANDARDS contained in Section 2E.54, for consistency with other signs used on expressways or freeways. Second, the FHWA proposes requiring the installation of reference location signs on the right side of the roadway, except where conditions limit or restrict the use of such signs on the right side of the roadway. This is proposed for enhanced uniformity of location of these signs.

The FHWA proposes two changes to the last OPTION statement. First, the FHWA proposes changing the suggested spacing of intermediate reference location signs from one, two, or five tenths of a kilometer (or mile) to one-tenth of a kilometer (or mile) or some other regular spacing, for enhanced consistency and uniformity. Second, the FHWA proposes that to further enhance the reference location sign system, a new enhanced reference location (D10–7) sign and a new enhanced intermediate reference location (D10–8) sign may be installed at one-tenth of a kilometer (mile) interval, or at some other regular spacing. Evaluation of experimental systems indicates that this type of sign greatly assists road users in reporting a more precise location of an incident or other emergency.

The FHWA proposes adding a STANDARD statement describing the design of the enhanced reference location signs and the enhanced intermediate reference location signs. The proposed STANDARD requires that the signs shall be vertical panels having green backgrounds with white numerals, letters, and borders, except for the route shield which shall be the standard color and shape. The top line shall consist of the cardinal direction for the roadway; the second line shall consist of the applicable route shield for the roadway; the third line shall identify the units in metric or English; the fourth line shall identify the kilometer (mile) reference for the location; and for the enhanced intermediate reference location sign the fifth line shall give the tenth of a kilometer (mile) using a decimal point.

Although a blue background has been used in some experimental projects, the FHWA believes that the standard green background of the 30-year old "mile marker" system should be used. Although most of the signs of experimental projects use an abbreviation and do not spell out the cardinal direction, the FHWA believes that most road users do not understand the abbreviations, thus spelling out the cardinal direction would assist road users in reporting incidents. Likewise, most of the signs of experimental projects do not use a decimal point before the tenth of kilometer (mile), however, recent research indicates that road users better understand that the location is a fraction of a kilometer (mile) with the decimal point.

The FHWA proposes that the design of this optional enhanced reference location sign become effective immediately for new location referencing system installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs of existing systems to minimize any impact on State or local highway agencies.

The FHWA also proposes requiring the installation of the enhanced reference location signs on the right side of the roadway in rural areas except where conditions limit or restrict the use of enhanced reference location signs on the right side of the roadway.

Finally, the FHWA proposes adding an OPTION statement, which states that in urban areas, enhanced reference location signs may be installed on the right side of the roadway, in the median, or on ramps to replace or to supplement reference location signs. This will provide flexibility to jurisdictions.

100. In existing Section 2D.47 (new Section 2D.48) General Information Signs (I Series), the FHWA proposes removing all references concerning Adopt-a-Highway signs from the MUTCD. Current State and local practices pertaining to Adopt-A-Highway signs vary widely and, in some cases, include the use of commercial logos for indicating Adopt-A-Highway sponsors. The use of logos has raised deeper policy issues regarding Federal and State laws concerning advertising along the right-of-way, general commercialization of the right-of-way, the safety to motorists and workers, and the ability to raise revenues for activities such as litter removal.

Recent discussions of the signing criteria in the MUTCD, along with dialogue of several American Association of State Highway and Transportation Officials (AASHTO) subcommittees, have highlighted these deeper issues that go beyond the simple standards included in the MUTCD. For example, the AASHTO Subcommittee on Maintenance has argued that several States have existing contracts that allow a commercial entity to exchange maintenance and litter pickup services for signs acknowledging the commercial sponsors who pay for the services. These contracts supplement scarce maintenance resources for these States. The Subcommittee also noted that the use of more experienced crews used in such arrangements is safer than using volunteers.

The AASHTO Subcommittee on Traffic Engineering, on the other hand, has argued that these acknowledgements of the commercial sponsors is an opening for other types of advertising (including electronic advertising on overhead dynamic message signs along freeways and at signalized intersections) and raise serious concerns over driver distraction, confusion, and crash potential and liability. At the request of the Subcommittee on Maintenance, the AASHTO Standing Committee on Highways has established a task force to consider commercialization within the right-of-way, including, but not limited to, signage for the Adopt-A-Highway program.

Until the AASHTO study is completed, the FHWA is proposing the removal of all references to Adopt-A-Highway signs in the MUTCD.

In this section, the FHWA also proposes adding new OPTION, GUIDANCE, and STANDARD statements regarding the use of signs to display safety or transportation-related messages. These messages, such as SEAT BELTS BUCKLED? and DON'T DRINK AND DRIVE, are in common and widespread use in many jurisdictions and they provide valuable reminders to road users of important laws. The proposed additions to this section provide for consistency in application of these types of messages on General Information signs and reduce the possibility of such signs being misused.

Finally, the FHWA proposes in the second STANDARD statement replacing the words "jurisdiction logos" with "boundary" to provide additional flexibility highway agencies to use different colors for political boundary signs.

101. In existing Section 2D.48 (new Section 2D.49) Signing of Named Highways, in the first STANDARD statement the FHWA proposes adding additional requirements for installing memorial signs on the mainline. These requirements prohibit the use of memorial names on the directional guide signs, interference with necessary highway signing, and placement which compromises the safety or efficiency of traffic flow. The proposed STANDARD statement is identical to the STANDARD statement in Section 2E.08. The FHWA proposes this addition for consistency and to clarify the acceptable locations to install memorial signs.

102. The FHWA proposes adding a new section, numbered and titled "Section 2D.52 National Scenic Byways Marker (D6–4)." The FHWA proposes including SUPPORT, OPTION, and STANDARD statements that describe the National Scenic Byways program and the markers that may be placed on roads designated as National Scenic Byways or All-American Roads by the Secretary of Transportation of the U.S. DOT. As of January 2002 there were 72 such designated byways in 32 States. This new section is proposed to provide for uniformity of design and application of markers on designated National Scenic Byways.

103. In Section 2E.10, the FHWA proposes changing the title from "Number of Signs at an Overhead Installation" to "Number of Signs at an Overhead Installation and Sign Spreading" and relocating the SUPPORT and GUIDANCE statements on sign spreading from Section 2E.11 because they are more appropriately associated with sign location installation.

104. In Section 2E.11, the FHWA proposes changing the title from "Sign Spreading and Pull-Through Signs" to "Pull-Through Signs" to reflect the proposed relocation of the sign

spreading SUPPORT and GUIDANCE statements to Section 2E.10.

In the first GUIDANCE statement, the FHWA proposes replacing the words "only when" with "where" to broaden the use of Pull-Through signs. The FHWA proposes this change to recognize that Pull-Through signs can be beneficial in congested traffic for road users, especially older drivers, at many locations. The FHWA also proposes recommending that Pull-Through signs with down arrows be used where alignment of the through lanes is curved and the exit direction is straight ahead, where the number of through lanes is not readily evident, and at multilane exits. This will enhance the information provided to road users.

105. In Table 2E–3 Minimum Letter and Numeral Sizes for Freeway Guide Signs According to Interchange Classification, the FHWA proposes adding dimensions for the "Action Message Word" row and adding a row with dimensions for the sizes of "Numerals and Letter" for Gore signs. These were inadvertently omitted from the current edition.

106. In Section 2E.19 Diagrammatic Signs, the FHWA proposes to adding to item A of the first STANDARD statement the option of showing each individual lane arrangement. Research of the needs of older road users indicates that it is easier to comprehend a diagrammatic sign with one arrow for each lane than one arrow for all lanes as the width of each lane on a single arrow is too small. Additionally, the FHWA proposes adding a second illustration to the Diagrammatic Sign for a Single-Lane Left Exit (Figure 2E–3) which shows two diagrammatic arrows instead of just one.

107. In Section 2E.20 Signing for Interchange Lane Drops, the FHWA proposes clarifying the second STANDARD statement that an EXIT ONLY (down arrow) (E11–1) panel shall not be used on an Exit Direction sign that contains an arrow in its design.

108. In Section 2E.28 Interchange Exit Numbering, the FHWA proposes relocating the second OPTION statement to the first GUIDANCE statement. Because road users might not expect a left exit and have difficulty in maneuvering to the left, the FHWA is recommending that the word LEFT be added to the exit number plaque. The FHWA is proposing this change because of numerous complaints of the difficulty that road users have in knowing when an exit is on the left. Very few road users know that when the exit plaque is installed on the top left edge of the sign, it means the exit is on the left. The FHWA proposes that this new GUIDANCE become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 15 years for existing signs in good condition to minimize any impact on State or local highway agencies.

The FHWA proposes adding a new OPTION statement following the first GUIDANCE statement, which states that the portion of the exit number plaque containing the word LEFT may have a black legend and border on a yellow background. This proposed OPTION statement mirrors other similar uses of the black on yellow color pattern for signs and panel associated with left exits in the MUTCD.

Additionally, the FHWA proposes removing the EXIT 13 sign from Figure 2E–3 to reflect the changes in Section 2E.28.

109. In Section 2E.34 Exit Gore Signs, the FHWA proposes adding an OPTION statement to allow the mounting of a panel under the Exit sign indicating the advisory speed for the ramp. This option provides jurisdictions additional flexibility for reminding road users of the recommended speed for an exit ramp.

110. In Section 2E.49 Signing of Approaches and Connecting Roadways, the FHWA proposes removing the entire text of the section and adding new SUPPORT, GUIDANCE, STANDARD, and OPTION statements, as well as five new figures. The proposed new section addresses sign sequences and sign design for conventional roads with one lane and those with more than one lane of traffic approaching an interchange. The proposed new section also clarifies the use of signs for approaches and connecting roadways in order to better convey to road users the ramp configuration and the maneuver that a road user would have to make to get on the desired connecting roadway.

111. In Section 2E.51 General Service Signs, the FHWA proposes changing from 3 to 2 the number of meals per day for which a food establishment should have a continuous operation to serve in item B.2 in the first GUIDANCE statement. The FHWA proposes this change to accommodate more food businesses.

112. In Section 2E.54, the FHWA proposes changing the title from "Reference Posts" to "Reference Location Signs" to reflect the new enhanced reference location sign and to be consistent with changes in other parts of the MUTCD.

The FHWA proposes clarifying that the sign sizes in the STANDARD statement refer to reference location signs placed on freeways or expressways, and that the abbreviation KM (MILE) shall be in 100 mm (4 in) white letters.

Additionally, the FHWA proposes adding a paragraph to the OPTION statement at the end of the section, which states that intermediate and enhanced reference location signs may also be used on freeways and expressways. It is on those types of facilities where such signs have the most common application.

113. In Section 2E.56 Radio Information Signing, the FHWA proposes adding OPTION and STANDARD statements at the end of the section describing the use and design of a TRAVELER INFO CALL 511 (D12–5) sign. With the adoption of 511 as the nationwide traveler information phone number, a uniform sign design is needed. The proposed changes in this section are consistent with the proposed changes in Section 2D.45.

114. In Section 2E.57 Carpool Information Signing, the FHWA proposes adding to the OPTION statement that Carpool Information signs may include Internet addresses or telephone numbers within the legend. The proposal reflects common current practice and provides for additional information to road users.

Additionally, the FHWA proposes changing the size of the maximum vertical dimension of the logo or symbol in the STANDARD statement from 900 mm (36 in) to 450 mm (18 in), to enhance the legibility of the primary message.

115. Following Section 2E.58, the FHWA proposes adding a new section, numbered and titled "Section 2E.59 High-Occupancy Vehicle (HOV) Signs." This proposed section includes STANDARD, GUIDANCE, OPTION, and SUPPORT statements regarding the use and placement of signs for HOV lanes and facilities. The FHWA also proposes including five figures illustrating examples of HOV signing applications. This proposed section reflects current state-of-the-practice.

116. In Section 2F.01 Eligibility, the FHWA proposes changing from 3 to 2 the number of meals per day for which a food establishment should have a continuous operation to serve in item B.2 of the fourth GUIDANCE statement. The FHWA proposes this change to accommodate more food businesses. This proposed change is consistent with the proposed change in Section 2E.51.

117. In Section 2F.04 Number and Size of Logos and Signs, the FHWA proposes changing the second STANDARD statement to require that a logo panel on signs for conventional roads and ramps not exceed 750 mm (30 in) in width instead of 600 mm (24 in) to be consistent with the proportions of panels for freeways and expressways.

118. In Section 2F.08 Double-Exit Interchanges, the FHWA proposes adding to the OPTION statement that at a double-exit interchange where there are four logo panels displayed for one of the exits and one or two panels to be displayed for the other exit, the logo panels may be arranged in three rows with two panels per row, to make the layout of the sign more logical.

119. In Chapter 2G TOURIST-ORIENTED DIRECTIONAL SIGNS, the FHWA proposes changing from "Typical" to "Examples of" in the titles of Figures 2G–1 and 2G–2 because the information shown is only an example of many acceptable arrangements of signs.

120. In Section 2G.01 Purpose and Application, in the second STANDARD statement, the FHWA proposes prohibiting the placement of tourist-oriented directional signs on conventional roads in urban areas. This proposal will clarify and strengthen the current requirement that such signs shall only be used on rural conventional roads.

Also, the FHWA proposes relocating the current first paragraph of the GUIDANCE statement to become a new second paragraph of the second STANDARD statement. This proposed change would require, rather than recommend, that tourist-oriented directional signs incorporate information from and be used in place of Specific Service signs where both types of signs are needed at an intersection. The FHWA is proposing this change in order to reduce sign clutter at intersections and enhance road user safety.

121. In Section 2G.07 State Policy, the FHWA proposes changing the phrase "State or Federal laws" to "State and Federal laws" in the STANDARD statement, to clarify that both types of laws must be heeded.

122. In Section 2H.09 Destination Guide Signs, the FHWA proposes clarifying the second STANDARD statement that linear parkway-type highways that primarily, rather than merely, function as arterial connectors, even if they also provide access to recreational or cultural interest areas, shall not qualify for the use of white-on-brown destination guide signs. The FHWA proposes this change to improve uniformity of guide signing on these important arterials.

The FHWA also proposes adding illustrations of trapezoidal-shaped directional guide signs to Figure 2H–2 to correspond with the optional use of this shape for recreational or cultural interest area directional signing as provided for in Section 2G.09.

123. In Section 2I.03 EVACUATION ROUTE Sign (EM–1), in the first STANDARD statement, the FHWA proposes changing the design of the EVACUATION ROUTE (EM–1) sign to a rectangle sign with a blue circular symbol with a directional arrow and the legend EVACUATION ROUTE. The proposed minimum size is 600×600 mm (24×24 in) and the proposed circular symbol diameter is 2.54 mm (1 in) smaller than the width of the sign. This change reserves the circular shape sign exclusively for rail grade crossings and enhances the conspicuity and legibility of the EVACUATION ROUTE sign. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

In the second STANDARD statement, the FHWA proposes changing the detail regarding the colors to be used on the EVACUATION ROUTE (EM–1) sign and requiring that the entire sign be retroreflective. This proposed change corresponds with the proposed design changes required by the first STANDARD statement.

The FHWA proposes adding to the second OPTION statement that the legend on the EVACUATION ROUTE sign may be modified to describe the type of evacuation route, such as HURRICANE, to provide additional information to road users.

Additionally, the FHWA proposes adding to Figure 2I–1 illustrations of the HURRICANE EVACUATION ROUTE, AREA CLOSED, TRAFFIC CONTROL POINT, MEDICAL CENTER, and HURRICANE SHELTER signs and illustrations of six new directional signs for EMERGENCY SHELTER, FALLOUT SHELTER, CHEMICAL SHELTER, WELFARE CENTER, REGISTRATION CENTER, and DECONTAMINATION CENTER signs.

Discussion of Proposed Amendments to Part 3—Markings

124. In Section 3A.04 Colors, the FHWA proposes revising the STANDARD statement to clarify the use of black markings. Black markings can be used in conjunction with any other color marking to add contrast to it. The FHWA proposes removing the existing reference to object markers because it was not an appropriate reference.

125. The FHWA proposes changing the title of Section 3A.05 from "Colors of Longitudinal Pavement Markings" to "Colors of Pavement Markings," because this section defines the use of colors for all pavement markings, not just longitudinal line markings. The FHWA also proposes revising this entire section to clarify the function of each color of pavement marking.

126. In Section 3A.06 Widths and Patterns of Longitudinal Pavement Markings, the FHWA proposes removing item A of the STANDARD statement, which states that a solid line prohibits or discourages crossing. This item does not describe the width or pattern of longitudinal lines. The remaining items would be renumbered accordingly.

In existing item D (new item C) of the STANDARD statement, the FHWA proposes replacing the word "normal" with "parallel" to clarify the pattern of a double line.

In existing items D, E, and F (new items C, D, and E) of the STANDARD statement, the FHWA proposes removing the last sentence of each item, since these sentences describe the function of various markings, rather than the width and pattern of longitudinal markings.

The FHWA proposes revising the GUIDANCE statement to clarify that this guidance refers to all roadway types, not just rural highways.

Additionally, the FHWA proposes revising the OPTION statement to differentiate between the dimensions for dotted lines used for line extensions and lane drop/add markings. The dimensions for the line segments and gaps for each are also proposed, for consistency with other sections in Part 3.

127. The FHWA proposes changing the title of Section 3B.01 from "Yellow Centerline and Left Edge Line Pavement Markings and Warrants" to "Yellow Centerline Pavement Markings and Warrants," and moving the fourth STANDARD statement of Section 3B.01 to Section 3B.06 since edge lines are appropriately covered in Section 3B.06.

128. In Section 3B.02 No-Passing Zone Pavement Markings and Warrants, the FHWA proposes revising the second STANDARD statement to clarify that no-passing zone markings on approaches to highway-rail grade crossings shall conform with Section 8B.19, and eliminating the requirement that no passing zone markings be used at other appropriate locations, to be consistent with Part 8 and eliminate overlap with more specific requirements for no passing zone markings elsewhere in Section 3B.02.

Additionally, the FHWA proposes revising the third STANDARD statement

to clarify the dimensions of a no-passing buffer zone, and eliminating the buffer zone dimensions specific to areas where no passing zones are required because of limited passing sight distance. The proposed dimension of "at least 15 m (50 ft) in length" is suitable for all no passing zone buffers regardless of the reason for the buffer.

129. In Section 3B.03 Other Yellow Longitudinal Pavement Markings, the FHWA proposes revising the text in the first paragraph of the first STANDARD statement to substitute the phrase "normal double" for "two double" in the description of the pavement marking requirements for reversible lanes. In the third paragraph of the first STANDARD statement, the FHWA proposes clarifying that the pavement marking requirements for a two-way left turn lane applies to such lanes that are never operated as a reversible lane. The FHWA proposes these changes to improve the clarity of the requirements and for consistency with requirements elsewhere in Chapters 3A and 3B.

130. The FHWA proposes changing the title of Section 3B.04 from "Edge Line Pavement Markings and Warrants" to "White Lane Line Pavement Markings and Warrants," and moving the fourth STANDARD statement of Section 3B.04 to Section 3B.06 since edge lines are appropriately covered in Section 3B.06.

131. In Section 3B.05 Other White Longitudinal Pavement Markings, the FHWA proposes changing the gap length for lane drop markings from 3.6 m (12 ft) gaps to 2.7 m (9 ft) gaps in the third OPTION statement to be consistent with the spacing of other marking gaps.

132. In Section 3B.06 Edge Line Pavement Markings, the FHWA proposes adding to the STANDARD statement text the requirements that are being relocated from Sections 3B.01 and 3B.04 pertaining to left and right edge lines. These proposed changes would result in all edge line pavement marking information being contained within one section.

The FHWA also proposes adding an OPTION statement, which states that wide solid edge line markings may be used for greater emphasis. Wide edge lines can sometimes be useful in reducing run-off-the-road crashes at curves and this proposal will provide additional flexibility for jurisdictions to use these markings where needed.

133. In Section 3B.08 Extensions Through Intersections or Interchanges, the FHWA proposes adding to the GUIDANCE statement on the placement and dimensions of pavement markings that are continued through intersections and interchanges. The FHWA proposes recommending that edge lines not be extended into or continued through intersections or interchanges. This guidance is needed so that pavement marking extensions through intersections and interchanges do not confuse drivers in adjacent or opposing travel lanes.

134. In Section 3B.11 Raised Pavement Markers, the FHWA proposes clarifying in the first SUPPORT statement that the 10 mm (0.4 in) height of a raised pavement marker is for the retroreflective surface and that this height is the actual height or optical height. The FHWA also proposes clarifying the first SUPPORT statement to include marking the position of fire hydrants as one of the uses of raised pavement markings, for consistency with other proposed revisions in this section.

Additionally, the FHWA proposes adding an OPTION statement after the STANDARD statement, which states that blue raised pavement markers may be used to mark the positions of fire hydrants. This is common practice in many jurisdictions.

135. In Section 3B.12 Raised Pavement Markers as Vehicle Positioning Guides with Other Longitudinal Markings, in the first SUPPORT statement, the FHWA proposes revising the spacing used between raised pavement markers along longitudinal line markings from 2N to 3N because this is an acceptable spacing for most applications. The value "N" is equal to the length of one line segment plus one gap.

Additionally, in the second OPTION statement, the FHWA proposes changing from "N or less" to "2N or less" for the reduced spacing that may be used where it is desired to alert the road user to changes in the travel path, because this is an acceptable spacing for most applications.

136. In Section 3B.13 Raised Pavement Markers Supplementing Other Markings, the FHWA proposes revising item B1 of the GUIDANCE statement to indicate that raised pavement markers should not supplement right edge line markings unless they are spaced closely enough (no greater than 3 m (10 ft) apart) to approximate the appearance of a solid line. This proposed exception is needed to give jurisdictions the ability to use raised pavement markers to supplement edge lines in situations where additional wet-night delineation is needed, such as on curves.

In item B.2 of the GUIDANCE statement, the FHWA proposes revising the recommended spacing to be used between raised pavement markers along broken line markings from 2N to 3N because this is an acceptable spacing for most applications.

Additionally, in item B.5 of the GUIDANCE statement, the FHWA proposes revising the recommended spacing to be used between raised pavement markers that supplement edge line extensions through freeway interchanges from N/2 to N because this is an acceptable spacing for most applications.

137. In Section 3B.14 Raised Pavement Markers Substituting for Pavement Markings, in the first STANDARD statement, the FHWA proposes revising the required spacing between raised pavement markers when substituted for broken line markings from N/12 to N/8 and revising the required spacing between raised pavement markers when substituted for solid lane line markings from N/8 to N/4. In the third STANDARD statement, the FHWA proposes revising the required spacing between raised pavement markers when substituted for dotted line markings from N/8 to N/4. The FHWA proposes these changes because these spacings are acceptable for most applications.

The FHWA proposes that these changes become effective immediately for new raised pavement marker installations. The FHWA proposes a phase-in compliance period of 10 years for existing raised pavement markers in good condition to minimize any impact on State or local highway agencies.

138. In Section 3B.15 Transverse Markings, in the first STANDARD statement the FHWA proposes adding "yield lines" and "speed hump" markings to the list of transverse markings required to be white markings.

Additionally, the FHWA proposes changing the second paragraph of the GUIDANCE statement to a STANDARD statement, which requires that pavement marking letters, numerals, and symbols be installed in accordance with the "Standard Alphabets for Highway Signs and Pavement Markings" to correct an oversight in the Millennium Edition of the MUTCD.

139. In Section 3B.16 Stop and Yield Lines, in the second paragraph of the first GUIDANCE statement, the FHWA proposes clarifying that YIELD signs are an exception to the recommendations on the use of stop lines, to be consistent with the intended use of yield lines.

The FHWA also proposes modifying the OPTION statement to clarify that yield lines may also be placed at locations where vehicles are to yield to pedestrians in compliance with a YIELD HERE TO PEDESTRIANS (R1–5 or R1–5a) sign, to correspond with the proposed addition of this new sign to Chapter 2B.

The FHWA proposes revising and adding to the second GUIDANCE statement to clarify the recommended placement of yield lines at unsignalized midblock crosswalks, to enhance pedestrian safety. The FHWA also proposes adding a new paragraph to the second GUIDANCE statement regarding placement of yield lines at midblock crosswalks. The FHWA also proposes adding a new figure numbered and titled "Figure 3B–15 Examples of Yield Lines at Unsignalized Midblock Crosswalks" relating to the new text. All of the following figures in the chapter would be renumbered accordingly.

Additionally, the FHWA proposes adding a new SUPPORT statement at the end of the section to emphasize that drivers who yield too close to crosswalks on multi-lane approaches place pedestrians at risk by blocking other drivers' view of pedestrians. The FHWA proposes this to clarify the reasons for the recommended locations of stop and yield lines.

140. In Section 3B.17 Crosswalk Markings, in the second GUIDANCE statement the FHWA proposes increasing the upper limit of the range for spacing diagonal or longitudinal crosswalk marking lines from 300 to 600 mm (12 to 24 in) to 300 to 1500 mm (12 to 60 in) and to specify the relationship between marking spacing and line width, to provide more flexibility to jurisdictions.

141. In Section 3B.19 Pavement Word and Symbol Markings, the FHWA proposes modifying the third STANDARD statement to allow the use of STOP markings at the ends of aisles in parking lots even though there is no STOP sign. In parking lots, often there is no practical way to install a stop sign at the end of the aisles, so the STOP legend pavement marking is needed to clarify right-of-way.

142. In Section 3B.21 Curb Markings, in the first paragraph of the STANDARD statement, the FHWA proposes clarifying that the requirement for signs to be used with curb markings does not apply if the no parking zone is controlled by statute or local ordinance, to minimize unnecessary sign clutter.

The FHWA also proposes adding a new OPTION statement immediately following the first item in the first GUIDANCE statement to clarify the use of signs and word markings when curb markings are used to convey statutory law.

143. In Section 3B.22 Preferential Lane Word and Symbol Markings, the FHWA proposes adding to the second STANDARD statement that more than one symbol or word marking can be used to mark a preferential lane, that the word message HOV is acceptable as a preferential marking (relocating this from the OPTION statement), and that the "T" marking be the light rail transit preferential lane symbol. Additionally, in the same STANDARD statement, the FHWA proposes requiring that symbol or word markings for each preferential lane use be installed if two or more preferential lane uses are permitted in a single lane. The FHWA proposes these changes to provide uniformity for marking of multi-use preferential lanes and to provide a distinctive symbol for light rail transit.

144. In Section 3B.24 Markings for Roundabouts, the FHWA proposes adding a new STANDARD statement, which prohibits marking bicycle lanes on roundabouts. The FHWA proposes the prohibition to enhance bicyclist safety by avoiding giving bicyclists a false sense of security when traveling through the roundabout with conflicting and turning traffic. This proposed change is consistent with state of the practice for roundabout design.

145. In Section 3C.01 Object Marker Design and Placement Height, the FHWA proposes adding to the first STANDARD statement that the minimum width of both the yellow and black stripes on a Type 3 striped marker shall be 75mm (3 in), to provide for uniformity of appearance of these markers. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

146. In Section 3D.01 Delineators, the FHWA proposes changing the STANDARD statement indicating that delineators are considered guidance devices rather than warning devices to a SUPPORT statement to be consistent with other parts of the MUTCD.

147. In Section 3E.01 General, the FHWA proposes several changes to reflect that red colored pavement is no longer being considered a traffic control device. Accordingly, the FHWA proposes adding to the SUPPORT statement that colored pavement located between the crosswalk lines is not considered to be a traffic control device, removing existing item A of the STANDARD statement concerning when the color red is used, and removing the second GUIDANCE statement concerning how the color red is used. These proposed changes will provide additional flexibility for jurisdictions to use colored pavements as aesthetic treatments, such as in redevelopment areas, as long as the crosswalk is marked by standard, retroreflectorized, white lines.

Additionally, in the first GUIDANCE statement, the FHWA proposes recommending that colors that degrade the contrast of white crosswalk lines, or that might be mistaken by road users as a traffic control application, not be used for colored pavement located between crosswalk lines. This proposed change is needed to reduce the possibility of uses of colored pavements in ways that might confuse road users or reduce pedestrian safety.

Discussion of Proposed Amendments to Part 4—Highway Traffic Signals

148. In Section 4A.02 Definitions Relating to Highway Traffic Signals, the FHWA proposes revising the definition for "Average Day" and "Flashing" and adding a new definition for "Flashing Mode". These definitions would be identical to the proposed revised definitions in Section 1A.13 and are repeated in Section 4A.02 because they are especially pertinent to Highway Traffic Signals.

Additionally, the FHWA proposes revising the definitions for "Backplate" (change to "Signal Backplate"), "Detector," "Louver" (change to "Signal Louver"), "Signal Face," "Signal Head," and "Visibility-Limited Signal Face or Section" to better reflect accepted practice and terminologies.

The FHWA also proposes revising the definition of "Pedestrian Clearance Time" to correspond to proposed changes in the standards contained in Section 4E.10 (formerly 4E.09).

Additionally, the FHWA proposes adding new definitions for "Dual-Arrow Signal Section," "Emergency Beacon," "Moveable Bridge Signal," "Separate Left Turn Signal Face," and "Shared Left Turn Signal Face" because these terms are frequently used in Part 4. The entire list of definitions is renumbered accordingly.

149. In Section 4B.02 Basis of Installation or Removal of Traffic Control Signals, the FHWA proposes revising the first GUIDANCE statement to more specifically define the elements that should be considered as traffic conditions, because vehicles, pedestrians, and bicyclists are all considered to be traffic.

In the SUPPORT statement, the FHWA proposes changing the word "intersections" to "locations," since traffic signals are not always located at intersections. Traffic signals can be at shopping center driveways and other locations that are not legally considered

intersections. This proposed revision is carried throughout Part 4.

The FHWA proposes adding a paragraph to the beginning of the second GUIDANCE statement, which states that engineering judgment should be applied in the review of operating traffic control signals to determine whether the type of installation and the signal timing meet the current requirements of traffic. This information is relocated from Section 4B.03.

Additionally, in item E of the OPTION statement, the FHWA proposes removing the maximum time limit of one year for signal poles and cables to remain in place after removal of the signal heads, since it is too restrictive.

150. In Section 4B.03 Advantages and Disadvantages of Traffic Control Signals, the FHWA proposes revising item B of the second paragraph of the SUPPORT statement, to clarify that signal timing review and updating be conducted if needed and to clarify that every two years is just one of several possible frequencies of review.

151. In Section 4C.01 Studies and Factors for Justifying Traffic Control Signals, the FHWA proposes adding a recommendation to the GUIDANCE statement, which states that a traffic control signal installed under projected conditions should be studied again within one year after placing it in stop-and-go operation to determine if it is still justified and, if it is not justified, it should be taken out of stop-and-go operation or removed. The FHWA proposes this addition because it reflects best practice to prevent continued operation of unjustified signals. Additionally, the FHWA proposes categorizing a wide median (for purposes of signal warrant analysis) as one with a width greater than 9 m (30 ft), for consistency with other parts of the MUTCD.

Additionally, the FHWA proposes adding a paragraph at the beginning of the OPTION statement, which explains the option of using the left-turn volume on the major-street as the minor-street volume and the corresponding single direction of opposing traffic as the major street volume. The proposed change reflects commonly used and accepted practices and provides additional flexibility to practitioners in analyzing a location for a traffic signal.

The FHWA proposes adding an item H to the existing first (new second) paragraph of the OPTION statement to indicate that bicyclists may be counted as either vehicles or pedestrians when studying the need for a traffic control signal. This proposed change provides a more complete listing of recommended data for the engineering study.

Additionally, in item A of the existing second (new third) paragraph of the OPTION statement, the FHWA proposes removing the reference to the Peak Hour Warrant to correct an error in the previous edition.

152. In Section 4C.02 Warrant 1, Eight-Hour Vehicular Volume, in the first OPTION statement, the FHWA proposes changing the phrase "exceeds 70 km/h (40 mph)" to "exceeds 70 km/h or exceeds 40 mph" to clarify that, for purposes of evaluating warrant satisfaction, either 70 km/h or 40 mph (depending on whether metric or English units are used for speeds, and regardless of metric-English conversion factors) is the speed above which the 70% factor may be used. This change is carried throughout the applicable text and figures in Chapter 4C.

The FHWA proposes adding a new GUIDANCE statement following the first OPTION statement, and a new SUPPORT statement at the end of the section to better clarify the intended use of the combination of Conditions A and B under Warrant 1.

Additionally, the FHWA proposes adding a new OPTION statement after the second STANDARD statement to explain the use of 56% traffic volumes under certain conditions and modifying Table 4C–1 to include additional criteria for a combination of Conditions A and B as reflected in the text. These changes will better reflect commonly accepted practice that was implicitly allowed in the 1988 MUTCD.

153. In Section 4C.08 Warrant 7, Crash Experience, the FHWA proposes adding a new OPTION statement at the end of the section to explain the use of 56% traffic volumes. This proposed change is consistent with similar proposed changes in Section 4C.02.

154. In Section 4D.01, General, the FHWA proposes removing from the STANDARD statement the requirement that a traffic control signal be operated in either a steady (stop-and-go) mode or a flashing mode at all times. This change is proposed because it is in conflict with other STANDARD statements in Chapter 4E that require flashing indications (flashing UPRAISED HAND pedestrian signal indications) to be displayed during an otherwise steady mode of traffic control signal operation. This change also allows practitioners the flexibility to use flashing indications along with steady indications where appropriate in a signal sequence to improve the efficiency or safety of the intersection. Additionally, the FHWA proposes reordering the paragraphs in this STANDARD statement so that existing last paragraph will become the first paragraph. This revision is proposed to improve clarity.

The FHWA also proposes adding to the GUIDANCE statement that the location of signalized midblock crosswalks should be at least 30 m (100 ft) away from adjacent stop or yield controlled driveways or streets. The purpose of this proposed change is to reduce potential conflicts and improve safety, and to codify previous official interpretations of the MUTCD on this subject. The FHWA proposes that this guidance become effective immediately for new signalized midblock crosswalks. The FHWA proposes a phase-in compliance period of 10 years for existing signalized midblock crosswalks in good condition to minimize any impact on State or local highway agencies.

155. In Section 4D.04 Meaning of Vehicular Signal Indications, the FHWA proposes removing the phrase "unless otherwise determined by law" from the beginning of the STANDARD statement to conform to the Uniform Vehicle Code.

The FHWA proposes adding to item A.3 that the pedestrian does not automatically have the right of way when starting to cross on a green signal to conform to the Uniform Vehicle Code.

The FHWA proposes adding to item C.2 that a turn on a RED ARROW signal indication after stopping is allowed when a sign is in place permitting the turn on red arrow to conform to the Uniform Vehicle Code. Additionally, the FHWA proposes removing the existing OPTION statement at the end of the section dealing with right-turn on a red arrow to eliminate redundancy with the change in the STANDARD statement.

156. In Section 4D.05 Application of Steady Signal Indications, the FHWA proposes adding protected/permissive mode left-turn operation with separate left-turn signal faces as an exception to when a steady CIRCULAR RED signal indication is required to be displayed with the appropriate GREEN ARROW signal indication. This proposed change clarifies the proper display with the "Dallas" type left turn phasing.

The FHWA proposes adding a new item B.4 to the STANDARD statement to prohibit signal displays that result in what is referred to as the "yellow trap" unless certain ameliorating measures are taken. The "yellow trap" is a potentially adverse safety situation inherent in some signal phasing sequences involving lagging left turns in one direction. A left turning driver, in the intersection waiting for gaps in oncoming traffic in order to turn left on a permissive green signal indication, sees the signals for adjacent through traffic change from green to yellow and mistakenly assumes that oncoming through traffic also has yellow signals at the same time and will be soon coming to a stop. The proposed new text reflects current best practices and addresses the safety concerns. The FHWA proposes that this standard become effective immediately for new or replacement of damaged existing traffic control signal installations. The FHWA proposes a phase-in compliance period of 5 years for existing traffic control signals in good condition to minimize any impact on State or local highway agencies.

The FHWA proposes revising item D of the STANDARD statement to correspond with changes to Section 4D.04 that a turn on a RED ARROW signal indication after stopping is allowed when a sign is in place permitting the turn on red arrow, to conform to the Uniform Vehicle Code.

Additionally, the FHWA proposes adding to item F.2 of the STANDARD statement to require the use of a "U Turn Yield to Right Turn" sign when U-turns on a green arrow signal conflict with right turns on a green arrow signal. This proposed change is necessary to establish right-of-way of one movement over a conflicting movement, and to provide for safe operations.

157. In Section 4D.06 Application of Steady Signal Indications for Left Turns, the FHWA proposes replacing the existing item A in the STANDARD statement with new text that provides for the use of separate or shared left turn signal faces and the use of "Dallas" type displays and sequences for "permissive only" mode of operation. This revision is proposed in order to make this type of solution available to practitioners to eliminate the "yellow trap" situation for "permissive only" mode left turns as well as for "protected-permissive" mode.

Additionally, the FHWA proposes revising the text of item B.2 of the STANDARD statement for clarity and to correct an error from the previous edition. The proposed change reflects the fact that a visibility-limited CIRCULAR RED signal indication is considered not readily visible to drivers in the through lane(s).

Additionally, the FHWA proposes to revise the text of item C of the STANDARD statement to remove the requirement that the left-turn signal face simultaneously display a CIRCULAR RED signal indication with the left-turn GREEN ARROW signal indication during the protected left-turn movement in Protected/Permissive Mode, if a separate left-turn signal face is provided. This proposed change corrects an error from the previous edition.

158. In Section 4D.07 Application of Steady Signal Indications for Right Turns, in item B.2 of the STANDARD statement, the FHWA proposes correcting an error in the previous edition on the proper use of the RIGHT TURN SIGNAL sign and revising the statement for clarity. The proposed change reflects the fact that a visibility-limited CIRCULAR RED signal indication is considered not readily visible to drivers in the through lane(s).

159. In Section 4D.09 Unexpected Conflicts During Green or Yellow Intervals, the FHWA proposes revising item A of the STANDARD statement to add an exception for the situation regarding U-turns as described in item F.2 of Section 4D.05 to the prohibition of displaying a steady GREEN ARROW or YELLOW ARROW signal indication to vehicular movements that conflict with other vehicles moving on a green or yellow signal indication. This proposed change corresponds to the change proposed in Section 4D.05.

160. In Section 4D.12 Flashing Operation of Traffic Control Signals, the FHWA proposes revising the GUIDANCE statement to eliminate the word maximum in describing the duration of six seconds for a steady red clearance interval in the change from red-red flashing mode to steady (stop and go) mode. This change is proposed because six seconds has been found by practitioners to be a reasonable and practical duration to provide for safe operation in the transition of modes. Since this specific duration of six seconds is a recommended condition, this proposed change allows agencies to use longer or shorter durations if justified by unique conditions. The FHWA proposes that this guidance become effective immediately for new or replacement of damaged existing traffic control signal installations. The FHWA proposes a phase-in compliance period of 5 years for existing traffic control signals in good condition to minimize any impact on State or local highway agencies.

161. In Section 4D.13 Preemption and Priority Control of Traffic Control Signals, the FHWA proposes changing the first paragraph of the SUPPORT statement to an OPTION statement to be consistent with similar conditions in other parts of the MUTCD.

The FHWA proposes revising the remaining portions of the SUPPORT statement to clarify that boats and trains are not "vehicles" under accepted definitions. The FHWA proposes adding light rail transit to the list of modes that typically get preemption control, to reflect current typical practice. Additionally, in the last paragraph of the SUPPORT statement, the FHWA proposes switching the first two items in the order of priority from "boat, train" to "train, boat" because trains typically cannot be stopped as easily as boats.

162. In Section 4D.15 Size, Number, and Location of Signal Faces by Approach, the FHWA proposes revising item D in the second STANDARD statement to change from 45 m (150 ft) to 55 m (180 ft) the maximum distance beyond the stop line that a signal face installed to satisfy the requirements of Items B and C in this STANDARD and at least one and preferably both of the signal faces required by item A in this STANDARD be located unless a supplemental near side signal face is provided.

Additionally, the FHWA proposes adding a new item D.2 to the second STANDARD statement to require the use of engineering judgment of the conditions, including worst-case visibility conditions, to determine if the provision of a supplemental near-side signal face would be beneficial, if the nearest signal face is located between 45 and 55 m (150 and 180 ft) from the stop line. The FHWA also proposes changing Figure 4D–2 to reflect the text.

The proposed changes to the second STANDARD statement and to Figure 4D–2 better accommodate signal design at large intersections.

163. In Section 4D.16 Number and Arrangement of Signal Sections in Vehicular Traffic Control Signal Faces, the FHWA proposes revising the seventh paragraph of the STANDARD statement to change the phrase "variable indication" to "dual-arrow" to clarify that single sections that display green and yellow arrows are permissible. Single section heads capable of displaying red, yellow, and green indications in the one section are not allowed due to color blindness and other issues. This proposed change is carried throughout the MUTCD.

164. In Section 4D.18 Design, Illumination, and Color of Signal Sections, the FHWA proposes removing the last GUIDANCE statement concerning the color of signal housings as there is no consensus that yellow signal housings are universally best in all of the various environments. In actual practice, far fewer than 50 percent of the signal heads in the United States are highway yellow. California, New York, and many other very large jurisdictions require signal heads to be other colors, such as green, black, gray, brown, etc. Some states require the front

surfaces of the housings to be black while painting the back surfaces of the housing yellow.

165. In Section 4D.21 Traffic Signal Signs, Auxiliary, the FHWA proposes revising the first paragraph of the STANDARD statement to specify that the required minimum clearance of the total assembly of traffic signal signs is the minimum vertical and horizontal clearances of sign assemblies.

Additionally, the FHWA proposes revising the GUIDANCE statement to clarify that traffic signal signs should be located adjacent to the signal face to which they apply.

166. In Section 4E.02 the FHWA proposes changing the title of the section from "Meaning of Pedestrian Signal Indications" to "Meaning of Pedestrian Signal Head Indications" to make it clear that what is being referred to are the "walk-don't walk" pedestrian signal heads, and not the red-yellow-green signal heads that may serve as indications for pedestrians at some locations. This proposed change is made throughout Chapter 4E.

Additionally, the FHWA proposes revising item A of the STANDARD statement to indicate that a pedestrian does not automatically have the right of way when starting to cross on a WALK signal. This proposed change conforms to the Uniform Vehicle Code.

167. In Section 4E.03 Application of Pedestrian Signal Heads, the FHWA proposes removing item D of the STANDARD statement because it implies that pedestrian signal heads are required at all locations where split phase timing is used without regard to the presence or absence of pedestrian activity. That is not the intent of this section.

168. In Section 4E.04, the FHWA proposes changing the title of the section from "Size, Design, and Illumination of Pedestrian Signal Indications" to "Size, Design, and Illumination of Pedestrian Signal Head Indications" for consistency with the proposed change in Section 4E.02. The FHWA also proposes specifying in the first paragraph of the STANDARD statement that symbolized messages for pedestrian signal heads are required to be solid and disallowing use of "outline style" symbols. The FHWA also proposes changing Figure 4E–1 to reflect the text and to eliminate the illustration of the "outlined symbol." These changes are proposed because of the difficulty that elderly people and people with diminished visual acuity have in seeing the outline style symbols. The outline style symbols are also often occluded when used with egg crate baffles. Solid symbols provide the necessary luminous intensity and can be economically manufactured using light emitting diodes (LEDs) or other technologies. The FHWA proposes that this standard become effective immediately for new or replacement of damaged existing pedestrian signal faces. The FHWA proposes a phase-in compliance period of 10 years for existing pedestrian signal faces in good condition to minimize any impact on State or local highway agencies.

The FHWA also proposes adding a seventh paragraph to the STANDARD statement to specify the flash rate for the flashing upraised hand pedestrian signal head indication. The FHWA proposes this change to be consistent with flash rates specified in other sections of Part 4.

Additionally, the FHWA proposes adding an OPTION statement and a STANDARD statement at the end of the section to allow and describe the use of an animated eyes symbol on pedestrian signal heads. The FHWA proposes adding the animated eyes traffic control device because research has documented benefits to alerting pedestrians to look both ways for approaching vehicles.

169. In Section 4E.06 Accessible Pedestrian Signals, the FHWA proposes adding to the second paragraph of the fourth GUIDANCE statement how sound pressure levels of the accessible walk signal tone should be measured, to reflect typical industry practices.

170. The FHWA proposes adding a new section following Section 4E.06 Accessible Pedestrian Signals. The proposed new section is numbered and titled "Section 4E.07 Countdown Pedestrian Signals" and contains OPTION, STANDARD, and GUIDANCE statements on the design, use, and operation of countdown pedestrian signals. The remaining sections in Chapter 4E would be renumbered accordingly. Countdown pedestrian signals have been shown by research and experimentation to be beneficial to pedestrians by providing additional information to help pedestrians judge the time remaining to cross the street. Uniformity in the design and operation of countdown pedestrian signals is needed to minimize pedestrian confusion. The FHWA proposes that this section become effective immediately for new or replacement of damaged existing countdown pedestrian signal installations. The FHWA proposes a phase-in compliance period of 10 years for existing countdown pedestrian signals in good condition to minimize any impact on State or local highway agencies.

171. In existing Section 4E.07 (new Section 4E.08) Pedestrian Detectors, the FHWA proposes removing from the last STANDARD statement the statement that instructional signs are not required if special purpose pushbuttons are used. The current design of special purpose pushbuttons does not require a sign to make users aware of their intended purpose. Additionally, the FHWA proposes adding to the third GUIDANCE statement comparable text that the special purpose pushbuttons do not need an instructional sign.

The FHWA proposes adding an OPTION statement at the end of the section to allow the use of special pedestrian detectors to provide additional crossing time for pedestrians with special needs. This proposed change reflects the availability of new technology and can improve safety for pedestrians with special needs.

172. In existing Section 4E.08 (new Section 4E.09) Accessible Pedestrian Signal Detectors, the FHWA proposes changing the SUPPORT statement to a STANDARD statement for consistency, since other definitions in the MUTCD are STANDARDS. Additionally, the FHWA proposes relocating the existing first STANDARD statement to become part of the new first STANDARD statement at the beginning of the section.

The FHWA proposes retitling Figure 4E–2 from "Recommended Pushbutton Locations for Accessible Pedestrian Signals" to "Typical Locations for Accessible Pedestrian Signals" to be consistent with terminology used throughout the MUTCD for figures. The FHWA also proposes clarifying the arrows symbolizing push buttons in Figure 4E–2.

173. In existing Section 4E.09 (new Section 4E.10) Pedestrian Intervals and Signal Phases, the FHWA proposes removing from the first OPTION statement the desire to favor the length of an opposing signal phase as a condition for using walk intervals as short as 4 seconds. This change is proposed to encourage enhanced consideration of pedestrian timing needs.

In the second GUIDANCE statement the FHWA proposes increasing the pedestrian clearance time so that it is sufficient to allow the pedestrian to clear the full width of the traveled portion of the roadway. The current pedestrian clearance time is sufficient to allow the pedestrian to clear just to the center of the farthest traveled lane. With the increases in the number of coordinated signal systems, and with platoons of vehicles potentially arriving at the intersection at the start of the green indication, it is a significant safety concern for pedestrians to be given only enough clearance time that they are in the middle of a travel lane when the platoon arrives at the start of green. The proposed change will result in only a very small increase in the pedestrian clearance time but will significantly enhance pedestrian safety. The FHWA proposes that this guidance become effective immediately for new or replacement of damaged existing signal installations. The FHWA proposes a phase-in compliance period of 5 years for existing traffic control signals in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding to the first paragraph of the last OPTION statement the option of containing the pedestrian clearance time within the vehicular green and yellow change intervals. This proposed change reflects common practice of many jurisdictions.

174. In Section 4F.01 Applications of Emergency-Vehicle Traffic Control Signals, the FHWA proposes adding to the OPTION statement the choice of installing an Emergency Beacon instead of an emergency vehicle traffic control signal. This proposed changes corresponds to the proposed new Section 4F.04 that adds Emergency Beacons as an alternative to Emergency Vehicle Traffic Control Signals.

Additionally, the FHWA proposes revising the GUIDANCE statement to recommend following the provisions of Chapter 4D not only if a numerical signal warrant is met, but also if a decision is made to install a signal after an engineering study, for consistency with Chapter 4C.

175. In Section 4F.02 Design of Emergency-Vehicle Traffic Control Signals, the FHWA proposes revising the GUIDANCE statement to indicate that two signal faces are required for each major street approach, and that at least one of those two signal faces should be located over the roadway. This proposed change is for consistency with Chapter 4D.

176. The FHWA proposes adding a new section following Section 4F.03 Operation of Emergency-Vehicle Traffic Control Signals. This proposed new section is numbered and titled "Section 4F.04 Emergency Beacon" and contains STANDARDS, SUPPORT, GUIDANCE, and OPTIONS concerning the design, use, and application of Emergency Beacons. The FHWA proposes adding the Emergency Beacon to the MUTCD to provide for uniformity in the design and operation of this type of device. Research and experimentation has indicated that, under certain circumstances, the Emergency Beacon is more effective than an Emergency Vehicle Traffic Control Signal in terms of capturing the approaching driver's attention and achieving compliance with the requirement to come to a stop when emergency vehicles are egressing. The Emergency Beacon is typically less costly to install and thus imposes less of a burden on jurisdictions in providing safe operations at locations where emergency vehicles cross or enter a major road. The FHWA proposes that this section become effective immediately for new or replacement of damaged existing emergency beacon installations. The FHWA proposes a phase-in compliance period of 10 years for existing emergency beacons in good condition to minimize any impact on State or local highway agencies.

177. In Section 4G.02 Design of Traffic Control Signals for One-Lane, Two-Way Facilities, the FHWA proposes changing the GUIDANCE statement, concerning the applicability of provisions of Chapter 4D to traffic control signals for one-lane two-way facilities and exceptions to these provisions, to a STANDARD statement. This change is proposed to enhance safety and operation for road users, who do not readily distinguish signals for one-lane, two-way facilities from any other type of highway traffic signals.

178. In Section 4I.02 Design and Location of Movable Bridge Signals and Gates, the FHWA proposes removing from item A of the STANDARD statement the explanation that then three-section signal faces with red, yellow and green signal lenses are generally used if movable bridge operation is quite frequent. The FHWA also proposes adding comparable text in a proposed SUPPORT statement, which follows the third paragraph of the STANDARD statement. The FHWA proposes this change because the statement is too vague for a STANDARD.

Additionally, the FHWA proposes removing the phrase "on long bridges or causeways" from the eighth paragraph of the STANDARD statement because two sets of gates may be used on bridges or causeways of any length and what constitutes a long bridge or causeway is not and cannot be readily defined.

179. In Section 4J.03 Design of Lane-Use Control Signals, the FHWA proposes adding to the OPTION statement to allow the use of smaller size lane-use control signal faces for one-way and two-way left turn arrows in areas with minimal visual clutter and low speeds. The FHWA proposes changing the definition of low speeds from 70 km/h (45 mph) or less to 60 km/h (40 mph) or less to be consistent with similar criteria regarding signal lens sizes in Chapter 4D. In these circumstances, the use of smaller sizes provides a cost savings and improves aesthetics without compromising effectiveness.

180. In Section 4K.04 Speed Limit Sign Beacon, the FHWA proposes adding to the STANDARD statement a requirement that a Speed Limit Beacon be used only to supplement a Speed Limit sign. This change is proposed to reinforce proper use of the different types of beacons.

181. In Section 4L.01 Application of In-Roadway Lights, the FHWA proposes revising the SUPPORT statement to include marked crosswalks in advance of roundabouts, highway-rail grade crossings, and highway-light transit rail grade crossings as additional situations for possible use of in-roadway lights. The state-of-the-art in designing modern roundabouts calls for pedestrian crosswalks to be located about one vehicle length in advance of the "yield line" where approaching vehicles enter the roundabout. A crosswalk located in this position operates essentially as a mid-block uncontrolled crosswalk because the yield sign controlling vehicle entry into the roundabout does not also control the vehicles at the crosswalk. The proposed reference to grade crossings is added due to the proposed new Section 4L.03.

182. The FHWA proposes adding a new section following Section 4L.02 In-Roadway Warning Lights at Crosswalks. The proposed new section is numbered and titled "Section 4L.03 In-Roadway Lights at Highway-Rail Grade Crossings and Highway-Light Rail Grade Crossings" and contains STANDARD, GUIDANCE, and OPTION statements describing the design, application, and operation of in-roadway warning lights and in-roadway stop line lights at highway-rail and highway-light rail transit grade crossings. Research and experimentation has indicated that red in-roadway lights at the stop line of an approach to a grade crossing controlled by active grade crossing warning systems can provide effective additional emphasis of the need for road users to stop and remain stopped for the passage of a train or light rail vehicle. Also, the use of yellow in-roadway warning lights in advance of the grade crossing provides further warning of the crossing to approaching road users, supplementing advance warning signs and pavement markings. The FHWA proposes that this section become effective immediately for new or replacement of existing in-roadway lights at highway-rail and highway-light

rail transit grade crossings. The FHWA proposes a phase-in compliance period of 10 years for existing installations of in-roadway lights at highway-rail and highway-light rail transit grade crossings in good condition to minimize any impact on State or local highway agencies.

Discussion of Proposed Amendments to Part 5—Traffic Control Devices for Low-Volume Roads

183. In Section 5A.03 Design, the FHWA proposes revising Figure 5A–1 Minimum Sign Sizes on Low-Volume Roads to reduce the minimum size of the W20–1, W20–7a, W20–7b, W21–1a, and W21–6 signs from 900 × 900 mm (36 × 36 in) to 600 × 600 mm (24 × 24 in) to be consistent with minimum sizes of other signs of comparable design.

184. In Section 5B.03 Speed Limit Signs (R2 Series), the FHWA proposes revising the illustration of the metric speed limit sign to correspond to a similar proposed revision in Chapter 2B. The proposed design of the metric speed limit sign includes the metric speed value within a green circle with the legend "km/h" below it.

185. In Section 5B.04 Traffic Movement and Prohibition Signs (R3, R4, R5, R6, R9, R10, R11, R12, R13, and R14), the FHWA proposes adding an illustration of the PASS WITH CARE, (R4–2), sign to accompany the DO NOT PASS (R4–1) sign, because this sign is commonly used.

186. In Section 5C.05, the FHWA proposes retitling the section from "Narrow Bridge Sign (W5–2a)" to "NARROW BRIDGE Sign (W5–2)" because in Chapter 2C of the MUTCD the FHWA proposes removing the symbol version of this sign and requiring the use of only the word version of the sign.

187. In Section 5C.10 Advisory Speed Plaque (W13–1), the FHWA proposes revising the illustration of the metric advisory speed plaque to correspond to a similar proposed revision in Chapter 2C. The proposed design of the metric advisory speed plaque includes the metric speed value within a black circle with the legend "km/h" below it.

188. In Section 5F.04, STOP and YIELD Signs, FHWA proposes removing the words "State or local" from the OPTION statement, to reflect that jurisdictions responsible for grade crossings may be any level of government or may be quasi-governmental or non-governmental.

189. In Section 5G.03 Channelization Devices, the FHWA proposes replacing the phrase "temporary traffic control zone" with "work space" in the OPTION statement to correspond with the appropriate terminology in Part 6.

191. In Section 5G.05 Other Traffic Control Devices, the FHWA proposes adding a SUPPORT statement referring to Figure 5G–1 for some of the signs that might be applicable in a temporary traffic control zone on a low-volume road. The FHWA also proposes revising Figure 5G–1 Temporary Traffic Control Signs on Low-Volume Roads, to change the W20–7a Flagger sign to conform with the correctly designed sign in Section 6F.29 and to change the metric version of the W13–1 Advisory Speed Plaque to conform to the use of the black circle for metric speed values as proposed in Chapter 2C.

Discussion of Proposed Amendments to Part 6—Temporary Traffic Control

192. In Section 6A.01 General, the FHWA proposes adding to a number of places in this section, and in a number of sections in Part 6, references to ensure that temporary traffic controls involving or impacting pedestrian walkways and paths account for the needs of pedestrians with disabilities. These proposed additions follow the accessibility requirements of the Americans with Disabilities Act of 1990 (ADA) (Public Law 101–366, 104 Stat. 327, July 26, 1990. 42 USC 12101–12213 (as amended)). In this regard FHWA proposes a SUPPORT statement identifying the Act following the first STANDARD statement.

Additionally, the FHWA proposes adding to this section and in a number of sections in Part 6, references to ensuring that the needs of bicyclists through temporary traffic control zones are met, as many temporary traffic control plans affect a substantial amount of bicycle activity.

Additionally, the FHWA proposes adding to a number of places in this section and a number of sections in Part 6 statements that temporary traffic control principles are applicable to managing traffic incidents along the roadway, as incidents are temporary road or lane closures and are one of the major causes of congestion. In this regard the FHWA proposes adding a new chapter titled "Chapter 6I Control of Traffic Through Incident Areas."

193. In Section 6B.01 Fundamental Principles of Temporary Traffic Control, the FHWA proposes adding to a number of places in this section references about accounting for the needs of pedestrians with disabilities, bicyclists, and traffic incident management responders.

Additionally, the FHWA proposes adding to the first and second GUIDANCE statements that the needs of pedestrians with disabilities should be considered when planning, designing and establishing a temporary traffic control zone. This is in accordance with ADA, Title II, paragraph 35.130.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that the needs of operators of commercial vehicles should be assessed and appropriate accommodations made when developing a public relations plan for a temporary traffic control zone.

194. In Section 6C.01 Temporary Traffic Control Plans, the FHWA proposes adding to the first GUIDANCE statement that planning for all road users, including pedestrians (especially those with disabilities) and bicyclists, should be part of the planning and design of the temporary traffic control plan. The FHWA also proposes adding to the first GUIDANCE statement that provisions for effective continuity of accessible circulation paths for pedestrians should be incorporated into the temporary traffic control process.

These proposed changes will enhance the quality of traffic control plans in terms of addressing the needs of all road users.

195. In Section 6C.02 Temporary Traffic Control Zones, the FHWA proposes adding to the SUPPORT statement that the incident area begins at the first warning sign or vehicle with a rotating/strobe light and extends to the last temporary traffic control device or to a point where road users are allowed to return to the original lane alignment. This proposed change is needed to clarify the limits of an incident area.

196. In Section 6C.06 Activity Area, the FHWA proposes adding a new table numbered and titled "Table 6C–2 Stopping Sight Distance as a Function of Speed." This table is identical to Table 6E–1. The current Table 6C–2 is renumbered as Table 6C–3, Taper Length Criteria for temporary Traffic Control Zones. The FHWA also proposes adding a reference to new Table 6C–2 to the second OPTION statement, as these distances may be used to determine the length of a buffer space.

197. In Section 6C.07 Termination Area, the FHWA proposes adding to the OPTION statement that a longitudinal buffer space may be used between the work space and the beginning of the downstream taper, to provide flexibility to jurisdictions.

198. In Section 6D.01 Pedestrian Considerations, the FHWA proposes adding a new GUIDANCE statement at the beginning of the section to indicate that pedestrians of all ages and abilities should be provided a detectable and usable travel path.

Additionally, the FHWA proposes modifying the first SUPPORT statement to include information on other publications that can provide useful data for assisting the planning for, and the design of pedestrian facilities.

Additionally, the FHWA proposes adding to the first STANDARD statement that in addition to visual signage, equivalent information in alternate formats for pedestrians who have visual disabilities shall be provided so that they are not trapped on a closed facility.

Additionally, in the existing first, second, third, fourth, fifth, and sixth GUIDANCE statements the FHWA proposes adding information about the general needs of pedestrians with visual disabilities; the desirability for providing a channelized pedestrian route through or around the activity area as opposed to closing the walkway; the possible need for audible warnings and directions; the need for fencing or barriers with a continuous edging at the bottom for assisting a cane user; the need to minimize abrupt changes in grade or terrain; that temporary traffic control devices and any ballast or mounting equipment should not intrude into the minimum 1500 mm (60 in) width of clear accessible passageway; and that lining a walkway with tape, rope, or plastic chain strung between devices is not detectable to pedestrians with visual limitations.

The FHWA proposes the changes to this section to enhance the consideration of pedestrian needs in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies as they design and advertise new projects, and as they undertake maintenance activities.

199. In Section 6D.02 Worker Considerations, the FHWA proposes adding to the SUPPORT statement information on the need to separate workers on foot from moving construction vehicles.

Additionally, the FHWA proposes adding to the GUIDANCE statement that workers exposed to the risks of moving roadway traffic or construction equipment should wear high visibility apparel meeting the requirements of the American National Standard for High Visibility Safety Apparel [4] and labeled as meeting ANSI 107–1999 Standard Performance for Class 1, 2, or 3 risk exposure. The FHWA proposes a phase-in compliance period of 5 years for this change in order to minimize any impact on State or local highway agencies.

Additionally, in the same GUIDANCE statement, the FHWA proposes adding "Activity Area" and "Worker Safety Planning" to the list of key elements of worker safety and temporary traffic control management that should be considered to improve worker safety. The FHWA proposes that the worker safety plan should be in accordance with the Occupational Safety and Health Act "General Duty Clause" Section 5(a)(1) " Public Law 91–596, 84 Stat. 1590, December 29, 1970, as amended, and with the requirement to assess worker risk exposures for each job site and job classification as per 1926.20(b)(2) of the Occupational Safety and Health Administration (OSHA) Regulations as contained in 29 CFR.

These proposed additions are expected to improve worker safety by reducing the conflicts between vehicles and workers, by making workers more visible to road users, and by recommending a thorough risk exposure analysis as part of the worker safety planning process.

200. In Section 6E.01 Qualifications for Flaggers, the FHWA proposes rewriting the GUIDANCE statement in its entirety to describe in terms more appropriate to a temporary traffic control zone environment the recommended skills and abilities for a flagger. This proposed change is needed to reflect the state of the practice in flagger selection and training.

201. In Section 6E.02 High-Visibility Clothing, the FHWA proposes adding to the first STANDARD statement the requirement that flaggers wear safety apparel meeting the requirements of the American National Standard for High Visibility Apparel and labeled as meeting ANSI 107–1999 Standard Performance for Class 3 risk exposure, to improve worker visibility to approaching road users. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

202. In Section 6E.03 Hand-Signaling Devices, the FHWA proposes adding to the OPTION statement other design configurations for adding white lights to the STOP/SLOW paddle to improve conspicuity. These additional design configurations of white lights will provide additional flexibility in improving visibility of the paddle.

Additionally, the FHWA proposes to add to the second STANDARD statement requirements for the performance of flashing lights that are used on the STOP/SLOW paddle. These flashing rate values are identical to the flashing rate used in other parts of the MUTCD. This is proposed for consistency.

203. In Section 6E.05 Flagger Stations, the FHWA proposes adding a GUIDANCE statement following the first STANDARD statement to indicate that flagger stations should be located so that an errant vehicle has space to stop without entering the work space, to enhance worker safety.

Additionally, the FHWA proposes changing the title of Table 6E–1 from "Distance of Flagger Station in Advance of the Work Space" to "Stopping Sight Distance as a Function of Speed" and changing the distance values to be in agreement with AASHTO's "A Policy on Geometric Design of Highways and Streets" book.

Additionally, the FHWA proposes changing the GUIDANCE statement to a STANDARD statement to indicate that flagger stations shall be preceded by an advance warning sign or signs, and that flagger stations shall be illuminated at night. The FHWA believes that anytime a flagger is active at night, illumination of the flagger station is important to make the flagger more visible to approaching road users.

204. In Section 6F.02 General Characteristics of Signs, the FHWA proposes adding to the first OPTION statement that warning and guide signs used for temporary traffic control of incident management situations may have a black legend and border on a fluorescent coral background. This change is proposed based on research and experimentation conducted in Virginia.

205. In Section 6F.03 Sign Placement, in the first STANDARD statement, the FHWA proposes adding "bicycle movements" to the list of reasons why in urban areas the distance between the bottom of the sign and the top of the near edge of the traveled way shall be at least 2.1 m (7 ft), to enhance safety for bicyclists.

Additionally, the FHWA proposes adding language requiring signs to be mounted and placed in accordance with Section 4.4 of the "Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG)." [5]

[4] American National Standard for High Visibility Safety Apparel," ANSI/ISEA 107–1999, 1999 edition, is available from ISEA—The Safety Equipment Association (ISEA) by telephone (703) 525–1695, facsimile (703) 528–2148, mail ISEA, 1901 North Moore Street, Suite 808, Arlington, VA 22209, or at its web site *http://www.safetycentral.org/isea.*

[5] "American with Disabilities Act Accessibility Guidelines for Buildings and Facilities," as amended through January 1998, is published by the U.S. Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW, Suite 1000, Washington, D.C. 20004–1111. It may be obtained from the Access Board, or viewed electronically at *http://www.access-board.gov.*

Additionally, the FHWA proposes adding to the second GUIDANCE statement that signs mounted lower than 2.1 m (7 ft) should not project more than 100 mm (4 in) into pedestrian facilities, in accordance with the "Americans With Disabilities Act Accessibility Guidelines For Buildings And Facilities (ADAAG)".

Additionally, the FHWA proposes adding to the OPTION statement at the end of the section that sign supports that are approved for use with longer-term signs may be used for shorter-term signs.

206. In Section 6F.06 Regulatory Sign Design, the FHWA proposes changing the first sentence of the SUPPORT statement to become a new STANDARD statement at the beginning of the section, stating that temporary traffic control regulatory signs shall conform to the standards for regulatory signs presented in Part 2 and in the FHWA's "Standard Highway Signs" book. This sentence currently contains a "shall" but is inadvertently in the SUPPORT statement. The remainder of the SUPPORT statement will remain a SUPPORT statement.

Additionally, the FHWA proposes identifying the three existing page images of regulatory signs that follow page 6F–7 as Figures 6F–3, 6F–4, and 6F–5 and titling them as "Regulatory Signs in Temporary Traffic Control Zones," "Additional Regulatory Signs in Temporary Traffic Control Zones," and "Regulatory Signs for Road Closure and Weight Limits in Temporary Traffic Control Zones." Additionally, on the figure proposed to be identified as Figure 6F–4, Regulatory Signs in Temporary Traffic Control Zones, the FHWA proposes to increase the size of the PEDESTRIAN CROSSWALK sign from 600 × 300 mm (24 × 12 in) to 900 × 450 mm (36 × 18 in), increase the size of the SIDEWALK CLOSED sign from 600 × 300 mm (24 × 12 in) to 750 × 450 mm (30 × 18 in), increase the size of the SIDEWALK CLOSED USE OTHER SIDE and SIDEWALK CLOSED CROSS HERE signs from 600 × 300 mm (24 × 12 in) to 1200 × 600 (48 × 24 in), and increase the size of the SIDEWALK CLOSED AHEAD CROSS HERE sign from 600 × 300 mm (24 × 12 in) to 1200 × 900 mm (48 × 36 in), to make it easier for a pedestrian to read these signs from across a wide street.

207. In Section 6F.12 PEDESTRIAN CROSSWALK Sign (R9–8), the FHWA proposes adding a STANDARD statement following the OPTION statement that if a temporary crosswalk is established, it shall be accessible to pedestrians with disabilities. This proposed change reflects the need to provide accessibility for disabled pedestrians.

208. In Section 6F.13, SIDEWALK CLOSED Signs (R9–9, R9–10, R9–11, R9–11a), the FHWA proposes adding to the first GUIDANCE statement that Bicycle/Pedestrian Detour (M4–9a) or Pedestrian Detour (M4–9b) signs should be used where pedestrian flow is rerouted, to provide adequate route guidance information to pedestrians.

Additionally, the FHWA proposes adding to the SUPPORT statement that printed signs are not useful to pedestrians with visual disabilities. Nearby accessible pedestrian signals can provide temporary audible information about closures and alternate routes. Tactile map modules available on some accessible pedestrian signal housings can also provide information about closures and alternate routes. These proposed changes are to enhance the provision of information to pedestrians with visual disabilities.

209. In Section 6F.14 Special Regulatory Signs, the FHWA proposes adding a SUPPORT statement referencing Section 2B.15 for information regarding the use of the FINES HIGHER sign, since this sign can be useful in enhancing speed enforcement in temporary traffic control zones.

210. In Section 6F.15 Warning Sign Function, Design, and Application, the FHWA proposes adding to the first OPTION statement that warning signs used for temporary traffic control incident management situations may have a black legend and border on a fluorescent coral background, as an alternative to black on orange. This is consistent with proposed changes in Section 6F.02 and the proposed new Chapter 6I.

Additionally, the FHWA proposes adding to the GUIDANCE statement that where road users include pedestrians with hearing or visual disabilities, the provision of supplemental audible or tactile warning information should be considered to alert pedestrians.

211. In Section 6F.17 ROAD (STREET) WORK Sign (W20–1), the FHWA proposes adding an OPTION statement indicating that, where traffic can enter a temporary traffic control zone from a crossroad or a major (high volume) driveway, an advance warning sign may be used on the crossroad or major driveway to alert road users. This proposed change allows jurisdictions additional flexibility to provide warning signs when needed.

212. In Section 6F.24 the FHWA proposes changing the title of the section from "Lane Reduction Sign (W4–2)" to "Lane Ends Sign (W4–2)" to reflect the sign's name change and to be consistent with Part 2.

213. In Section 6F.28 EXIT OPEN, EXIT CLOSED Signs (E5–2, E5–2a), the FHWA proposes adding a GUIDANCE statement indicating that when an exit ramp is closed, a black on orange EXIT CLOSED panel should be placed diagonally across the interchange/intersection guide signs, to enhance the information provided to road users.

214. In Section 6F.41, the FHWA proposes changing the title of the section from "SHOULDER DROP–OFF Sign (W8–9a)" to "Shoulder and UNEVEN LANES Signs (W8–4, W8–9, W8–9a, and W8–11)" to reflect the additional signs added to this section.

Additionally, the FHWA proposes adding an OPTION statement to allow the use of the SOFT SHOULDER sign to warn of a soft shoulder condition and the LOW SHOULDER sign to warn of a shoulder condition where there is an elevation difference of less than 75 mm (3 in) between the shoulder and the travel lane. This is proposed to differentiate from shoulder drop-off conditions, which exceed 75 mm (3 in).

Additionally, the FHWA proposes moving the text from Section 6F.42 UNEVEN LANES Sign (W8–11), in its entirety to this section. This information will become a GUIDANCE statement regarding the use of the UNEVEN LANES Sign. With the proposed deletion of Section 6F.42 the remaining sections will be renumbered accordingly.

215. The FHWA proposes adding a new section following existing Section 6F.43 (new Section 6F.42) NO CENTER STRIPE Sign (W8–12). This proposed new section will be numbered and titled "Section 6F.43 Double Reverse Curve Signs (W24 Series)" and will provide information regarding the use of the new Double Reverse Curve signs. The FHWA is proposing these new signs to provide a better depiction of actual roadway conditions when the tangent distance between two reverse curves is insufficient for a second Reverse Curve sign to be placed between the curves.

216. In Section 6F.47 Guide Signs, the FHWA proposes adding to the OPTION statement that guide signs used for temporary traffic control incident management situations may have a black legend and border on a fluorescent coral background, as an alternative to black on orange, to correspond with the proposed change in Section 6F.02.

217. In Section 6F.50 the FHWA proposes changing the title of the section from "Detour Signs and Markers (M4–8, M4–8a, M4–8b, M4–9, and M4–10)" to "Detour Signs and Markers (M4–8, M4–8a, M4–8b, M4–9, M4–9a, M4–9b, M4–9c, and M4–10)" to include signs specifically for detouring pedestrians and bicyclists.

Additionally, the FHWA proposes adding to the first OPTION statement that signs used for temporary traffic control of incident management situations may have a black legend and border on a fluorescent coral background, as an alternative to black on orange, to correspond to proposed changes in Section 6F.02.

Additionally, the FHWA proposes adding a STANDARD statement following the first GUIDANCE statement that the Pedestrian/Bicycle Detour (M4–9a) sign shall be used where a pedestrian/bicycle detour route has been established because of the closing of a pedestrian/bicycle facility to through traffic. If used, the Pedestrian/Bicycle Detour sign shall have an arrow pointing in the appropriate direction.

Additionally, the FHWA proposes adding to the second OPTION statement that an arrow may be on the sign face or on a supplemental plaque. The Pedestrian/Bicycle Detour (M4–9a) sign or Bicycle Detour (M4–9c) sign may be used where a pedestrian or bicycle detour route (not both) has been established because of the closing of that particular facility to through traffic.

218. In Section 6F.52 Portable Changeable Message Signs, the FHWA proposes adding to the first STANDARD statement that each character module shall use at least a five wide and seven high pixel matrix, based on research regarding visibility and legibility of changeable message signs.

Additionally, the FHWA proposes adding to the first GUIDANCE statement that for a trailer or large truck mounted sign, the letter height should be a minimum of 450 mm (18 in). For a service patrol truck mounted sign, the letter height should be a minimum of 250 mm (10 in). The message panel should have adjustable display rates (minimum of 3 seconds per phase) so that the entire message can be read at least twice at the posted speed, the off-peak 85th percentile prior to work starting, or the anticipated operating speed. Since the FHWA is proposing to retain the current guidance that road users should be able to read the entire message twice, there may be a need in some temporary traffic control zones to use more than one portable Changeable Message sign. The FHWA proposes these changes in response to research addressing the needs of older road users.

Additionally, the FHWA proposes moving the GUIDANCE information regarding the factors that should be taken into account when designing changeable messages from the end of the section to the end of the first GUIDANCE statement, for better clarity.

Additionally, the FHWA proposes changing and relocating from the first GUIDANCE statement to the following OPTION statement that smaller letter sizes may be used on a sign mounted on a trailer or large truck provided that the message is legible from a minimum distance of 200 m (650 ft), or a sign mounted on a service patrol truck provided that the message is legible from a minimum distance of 100 m (330 ft). This proposed change will provide flexibility to use smaller letter sizes as long as the legibility distance can be maintained

Additionally, the FHWA proposes adding to the second STANDARD statement to clarify that the mounting of Portable Changeable Message signs on a trailer, a large truck, or a service patrol truck shall be such that the bottom of the message sign panel shall be a minimum or 2.1 m (7 ft) above the roadway in urban areas and 1.5 m (5 ft) in rural areas when it is in the operating mode, to correspond with mounting heights for post-mounted signs.

219. In Section 6F.53 Arrow Panels, the FHWA proposes adding to the first GUIDANCE statement that an arrow panel in the arrow mode should be used to advise approaching road users of a lane closure along major multilane roadways in situations involving heavy traffic volumes, high speeds, and or limited sight distances, or at other locations and under other conditions where road users are less likely to expect such lane closures. This change is proposed to enhance the information provided to road users.

220. In Section 6F.55 Channelizing Devices, following the first SUPPORT statement, the FHWA proposes adding a STANDARD statement, GUIDANCE statement, and another STANDARD statement defining the use of channelizing devices to channelize pedestrians and that they have to be detectable to users of long canes.

Additionally, the FHWA proposes adding a note to Figure 6F–14 (Sheet 1 of 2) that where drums, cones, or tubular markers are used to channelize pedestrians, they shall be located such that there are no gaps between the bases of the devices, in order to create a continuous bottom, and the height of each individual drum, cone, or tubular marker shall be no less than 915 mm (36 in) to be detectable to users of long canes.

Additionally, the FHWA proposes adding a note to Figure 6F–14 (Sheet 2 of 2) that where barricades are used to channelize pedestrians, there shall be continuous detectable bottom and top rails with no gaps between individual barricades to be detectable to users of long canes. The bottom of the bottom rail shall be no higher than 150 mm (6 in) above the ground surface. The top of the top rail shall be no lower than 915 mm (36 in) above the ground surface.

These proposed changes are needed to assure detectability to long cane users of devices used to channelize pedestrians in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

221. In Section 6F.56 Cones, the FHWA proposes adding to the STANDARD statement that retroreflectorization of cones that are more than 900 mm (36 in) in height shall be provided by horizontal, circumferential, alternating orange and white retroreflective stripes that are 100–150 mm (4 to 6 in) wide. Each cone shall have a minimum of two orange and two white stripes with the top stripe being orange. Any non-retroreflective spaces between the orange and white striped shall not exceed 75 mm (3 in) in width. These proposed changes will enhance the visibility of cones and improve safety in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

Additionally, in the first GUIDANCE statement the FHWA proposes adding that cones should not be used for pedestrian channelization or as pedestrian barriers in temporary traffic control zones on or along sidewalks unless they are continuous between individual devices and detectable to users of long canes. Non-continuous, non-detectable series of cones have been found to be safety problems for pedestrians with visual disabilities.

222. In Section 6F.57 Tubular Markers, the FHWA proposes adding to the GUIDANCE statement that tubular markers should not be used for pedestrian channelization or as pedestrian barriers in temporary traffic control zones on or along sidewalks unless they are continuous between individual devices and detectable to users of long canes. . Non-continuous, non-detectable series of tubular marker have been found to be safety problems for pedestrians with visual disabilities.

223. In Section 6F.58 Vertical Panels, the FHWA proposes adding to the first STANDARD statement that vertical panels shall be mounted with the top a minimum of 900 mm (36 in) above the roadway and a minimum of 1050 mm

(42 in) above the pedestrian travel way, so as not to interfere with pedestrians.

219. In Section 6F.59 Drums, the FHWA proposes adding to the GUIDANCE statement that drums should not be used for pedestrian channelization or as pedestrian barriers in temporary traffic control zones on or along sidewalks unless they are continuous between individual devices and detectable to users of long canes. Non-continuous, non-detectable series of drums have been found to be safety problems for pedestrians with visual disabilities.

220. In Section 6F.60 Type I, II, or III Barricades, the FHWA proposes adding a STANDARD statement following the first GUIDANCE statement that barricade supports shall not project into circulation routes more than 100 mm (4 in) from the support between 675 mm (27 in) and 2000 mm (80 in) from the surface, as described in Section 4.4.1 of THE "AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES (ADAAG)", and supports shall not narrow the pedestrian facility to less than 1200 mm (48 in) in width, with a 1500 × 1500 mm (60 × 60 in) passing space at least every 60 m (200 ft), as described in Section 4.3.4 of ADAAG.

Additionally, the FHWA proposes adding to the third existing STANDARD statement that the ballast used with barricades shall not extend into the accessible passage width of 1500 mm (60 in).

These proposed changes will provide for accessible pedestrian passes in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

226. In Section 6F.62 Temporary Traffic Barriers as Channelizing Devices, the FHWA proposes adding SUPPORT and STANDARD statements related to the use of temporary traffic barriers as traffic control devices. These statements are being relocated from Section 6G.04, as they more properly belong in Section 6F.62.

227. The FHWA proposes adding two new sections following Section 6F.62 Temporary Traffic Barriers as Channelizing Devices. The remaining sections will be renumbered accordingly.

Proposed Section 6F.63 Longitudinal Channelizing Barricades, consists of GUIDANCE, OPTION, and SUPPORT statements relating to the use of longitudinal channelizing barricades that are lightweight, deformable devices that can be used singly as Type I, II, or III barricades.

Proposed Section 6F.64 Other Channelizing Devices, consists of an OPTION statement and a GUIDANCE statement that there may be channelizing devices other than those already described in Part 6 that may be used in special situations based on an engineering study. If used, these other channelizing devices should conform to the general size, color stripe pattern, retroreflectivity, and placement characteristics established for the devices described in Chapter 6F. This use of other channelizing devices was included in the 1988 MUTCD but was inadvertently omitted in the Millennium Edition of the MUTCD.

228. In existing Section 6F.63 (new Section 6F.65) Temporary Raised Islands, the FHWA proposes adding a STANDARD statement following the GUIDANCE statement that at pedestrian crossing locations temporary raised islands shall be cut through or reduced in size to provide at least a 1500 mm (60 in) wide pathway for pedestrians, to meet the ADA requirements and to ensure that all pedestrians, including disabled pedestrians, have a clear and useable facility. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

229. In existing Section 6F.64 (new Section 6F.66) Opposing Traffic Lane Divider, the FHWA proposes adding to the STANDARD statement that opposing traffic lane dividers shall not be placed across pedestrian crossings, to ensure that pedestrians have a clear and useable facility.

230. In existing Section 6F.65 (new Section 6F.67) Pavement Markings, the FHWA proposes adding to the STANDARD statement that delineation and channelizing devices for use by pedestrians shall be accessible and detectable to pedestrians who have disabilities and shall be continuous throughout the temporary traffic control zone, to ensure that pedestrians have a useable facility.

Additionally, the FHWA proposes adding a SUPPORT statement at the end of the section that pavement markings alone are generally not sufficient for use by pedestrians who have visual disabilities. Tactile warnings on the roadway surface or audible devices are usually more helpful to these pedestrians.

231. In existing Section 6F.66 (new Section 6F.68) Temporary Pavement Markings, the FHWA proposes modifying the OPTION statement and the second GUIDANCE statement to indicate the acceptable use of DO NOT PASS and PASS WITH CARE signs instead of pavement markings for temporary situations, rather than the NO PASSING ZONE sign, because these signs provide a more effective regulatory message.

232. In existing Section 6F.69 (new Section 6F.71) Lighting Devices, the FHWA proposes adding to the GUIDANCE statement that the maximum spacing for warning lights should be identical to the channelizing device space requirements, for consistency.

Additionally, the FHWA proposes changing the SUPPORT statement to an OPTION statement to more accurately reflect the uses of lighting devices.

233. In existing Section 6F.70 (new Section 6F.72) Floodlights, the FHWA proposes adding a SUPPORT statement at the end of the section that research indicates that 50 lux (5 foot candles) is a desirable nighttime illumination level where workers are active.

234. In existing Section 6F.72 (new Section 6F.74) Warning Lights, the FHWA proposes adding Type D 360-degree warning lights to the first and second STANDARD statements, the third OPTION statement, and the second GUIDANCE statement, to provide more flexibility in the use of lighting devices.

235. In existing Section 6F.74 (new Section 6F.76) Temporary Traffic Control Signals, the FHWA proposes adding to the first GUIDANCE statement that, where pedestrian traffic is detoured to a temporary traffic control signal, engineering judgment should be used to determine if pedestrian signals or accessible pedestrian signals are needed, to enhance consideration of pedestrian needs in temporary traffic control zones.

Additionally, the FHWA proposes adding a new STANDARD statement that indicates that the supports for temporary traffic control signals shall not encroach into the minimum required pedestrian pathway width of 1500 mm (60 in), to meet the ADA requirements and assure a clear pathway for all pedestrians, including disabled pedestrians.

Additionally, the FHWA proposes adding to the second SUPPORT statement a new item, "the nature of adjacent land uses" to the list of factors related to the design and application of temporary traffic control signals. The remaining items will be re-lettered.

236. In existing Section 6F.75 (new Section 6F.77) Temporary Traffic Barriers, the FHWA proposes modifying the first SUPPORT statement by deleting the last two sentences related to the functions of temporary traffic barriers and adding a portion of text from Section 6G.11, to more clearly describe the four primary functions of temporary traffic barriers.

237. In existing Section 6F.76 (new Section 6F.78) Crash Cushions, the FHWA proposes adding a STANDARD statement that damaged crash cushions shall be promptly repaired or replaced, to maintain their crashworthiness.

238. In existing Section 6F.78 (new Section 6F.80) Rumble Strips, the FHWA proposes adding to the SUPPORT statement a definition for longitudinal rumble strips, and clarifying throughout the section which statements refer specifically to longitudinal rumble strips and which statements refer specifically to transverse rumble strips, to clarify which ones go on travel lanes and which ones go on the shoulder.

Additionally, the FHWA proposes adding a STANDARD statement following the SUPPORT statement that, if it is desirable to use a color other than the color of the pavement for a longitudinal rumble strip, the color of the rumble strip shall be the same as the longitudinal line the rumble strip supplements. If the color of a transverse rumble strip used within a travel lane is not the color of the pavement, the color of the rumble strip shall be white. These proposed changes are needed to conform to general principles for colors of pavement markings.

Additionally, the FHWA proposes adding to the GUIDANCE statement that transverse rumble strips should not be placed on roadways used by bicyclists unless a minimum clear path of 1.2 m (4 ft) is provided at the edge or the roadway; that rumble strips should not be placed through pedestrian crossings or on bicycle routes; and that longitudinal rumble strips should not be placed on the shoulder of a roadway that is used by bicyclists unless a minimum clear path of 1.2 m (4 ft) is also provided at each edge of the roadway. These proposed changes will minimize interference caused by rumble strips to bicyclists using the roadway or shoulder.

239. In Section 6G.01 Introduction, the FHWA proposes adding to the SUPPORT statement that temporary traffic control zones are subject to all accessibility requirements for use by all types of pedestrians. This is in accordance with the requirements of the Americans with Disability Act of 1990 (ADA).

Additionally, the FHWA proposes adding a GUIDANCE statement following the second SUPPORT statement that bicyclists and pedestrians should not be exposed to unprotected excavations, open utility access, overhanging equipment, or other hazards.

240. In Section 6G.04 Modifications to Fulfill Special Needs, the FHWA proposes adding throughout the GUIDANCE statement additional information related to the need to take into account pedestrian and bicycle usage.

Additionally, the FHWA proposes moving the SUPPORT and STANDARD statements at the end of the section to Section 6F.62, because this text regarding temporary traffic barriers is more appropriately located there.

241. In Section 6G.05 Work Outside of Shoulder, the FHWA proposes adding to the first GUIDANCE statement that pedestrians should be separated from the worksite by appropriate barriers that maintain the accessibility and detectability for pedestrians with disabilities.

242. In Section 6G.06 Work on the Shoulder with No Encroachment, the FHWA proposes adding to the first STANDARD statement that, where pedestrian routes are closed, alternate pedestrian routes shall be provided.

Additionally, the FHWA proposes adding to the GUIDANCE statement that, where feasible, signs should be placed such that they do not narrow any existing pedestrian passage to less than 1500 mm (60 in).

243. In Section 6G.07 Work on the Shoulder with Minor Encroachment, the FHWA proposes adding to the GUIDANCE statement that, where feasible, pedestrian routes should be protected or alternate accessible and detectable routes should be provided.

244. In Section 6G.09 Work within the Traveled Way of Two-Lane Highways, the FHWA proposes adding to the GUIDANCE statement that pedestrian detours should be avoided, since pedestrians rarely observe them and the cost of providing accessibility and detectability might outweigh the cost of maintaining a continuous route.

Additionally, the FHWA proposes adding to the GUIDANCE statement that, whenever possible, work should be done in a manner that it does not create a need to detour pedestrians from existing routes or crossings.

245. In Section 6G.10 Work Within the Traveled Way of Urban Streets, the FHWA proposes adding to the first STANDARD statement that, if the temporary traffic control zone affects an accessible and detectable pedestrian facility, the accessibility and detectability along the alternate pedestrian route shall be maintained.

Additionally, the FHWA proposes adding to the GUIDANCE statement that work sites within the intersection should be protected against inadvertent pedestrian incursion by providing detectable barriers.

246. In Section 6G.11 Work Within the Traveled Way of Multilane, Nonaccess Controlled Highways, the FHWA proposes adding to the first SUPPORT statement that Chapter 6D contains information regarding the steps to follow when pedestrian facilities are affected by the worksite.

Additionally, the FHWA proposes moving the information in the second SUPPORT statement related to the four primary functions of temporary traffic barriers to existing Section 6F.75 (new Section 6F.77) as they more properly belong in that section.

247. In Section 6G.12 Work Within the Traveled Way at an Intersection, the FHWA proposes adding to the first STANDARD statement and the second GUIDANCE statement regarding contact with the highway agency having jurisdiction at intersections where pedestrian visibility problems are anticipated, to reinforce proper contact procedures.

Additionally, the FHWA proposes adding a STANDARD statement after the second GUIDANCE statement that pedestrian crossings shall be protected with a pedestrian barrier detectable to pedestrians with visual disabilities.

Additionally, the FHWA proposes modifying the third OPTION statement to indicate that flaggers or uniformed law enforcement officers can be used to direct road users when work is within an intersection.

248. In Section 6G.19 Control of Traffic Through Incident Areas, the FHWA proposes moving all of the information in this section to a new chapter, numbered and titled "Chapter 6I Control of Traffic Through Traffic Incident Management Areas." In its place, the FHWA proposes a new Section 6G.19 titled "Temporary Traffic Control During Nighttime Hours." This proposed new section will contain SUPPORT and GUIDANCE statements regarding the temporary traffic control measures appropriate during nighttime hours.

249. In Section 6H.01 Typical Applications, the FHWA proposes changing the Typical Applications to reflect the proposed changes to all parts of the MUTCD with particular reference to Part 6 changes.

Additionally, the FHWA proposes changing the titles of Figure 6H–11 from "Lane Closure on Low-Volume Two-Lane Road" to "Lane Closure on Two-Lane Road with Low Traffic Volumes,"

Figure 6H–15 from "Work in Center of Low-Volume Road" to "Work in Center of Road with Low Traffic Volumes," and Figure 6H–16 from "Surveying Along Centerline of Low-Volume Road" to "Surveying Along Centerline of Road with Low Traffic Volumes." These proposed changes will avoid confusion with material in Part 5 Traffic Control Devices for Low-Volume Roads. Low-volume roads as covered in Part 5 are specifically defined in Section 5A.01 as, among other criteria, being outside a built-up area and having a traffic volume of less than 400 AADT. The Typical Applications in Part 6 that refer to low volume roads are not intended to be limited only to roads meeting the limited definition of Part 5.

Additionally, the FHWA proposes the following changes to the notes to the figures of typical applications:

a. Notes for Figure 6H–1: The FHWA proposes replacing existing item 5 in the STANDARD statement with a new item 5 in the OPTION statement, stating that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 6 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

b. Notes for Figure 6H–3: The FHWA proposes replacing existing item 5 in the STANDARD statement with a new item 5 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 6 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity. Additionally, the FHWA proposes to add a new item 7 to the STANDARD statement at the end of the Notes that when paved shoulders having a width of 2.4 m (8 ft) or more are closed, at least one advance warning sign shall be used. In addition, channelizing devices shall be used to close the shoulder in advance to delineate the beginning of the work space and direct motor vehicle traffic to remain within the traveled way. This change is proposed to enhance safety for road users.

c. Notes for Figure 6H–4: The FHWA proposes replacing existing item 5 in the STANDARD statement with a new item 5 in the OPTION statement, stating that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 6 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

d. Notes for Figure 6H–6: The FHWA proposes replacing existing item 10 in the STANDARD statement with a new item 10 in the OPTION statement, stating that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 11 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

e. Notes for Figure 6H–11: The FHWA proposes removing item 2 of the STANDARD statement because this Typical Application specifically does not involve the use of flaggers. Typical Application 10 covers the temporary traffic control zone applicable to this STANDARD, using flaggers.

f. Notes for Figure 6H–12: The FHWA proposes adding to item 2 of the STANDARD statement that durations of red clearance intervals shall be adequate to clear the one-lane section of conflicting vehicles. Additionally, the FHWA proposes adding a new item 5 to the STANDARD statement that adequate means, such as interconnection, shall be provided to prevent conflicting signal indications at opposite ends of the lane closure. The remaining items would be renumbered. These changes are proposed for consistency with applicable requirements for temporary traffic control signals in Part 4.

g. Notes for Figure 6H–13: The FHWA proposes modifying item 2 of the STANDARD statement to indicate that a flagger or law enforcement officer shall be used during a temporary road closure. Additionally, the FHWA proposes removing item 3 of the OPTION statement, since it is not applicable. The FHWA also proposes adding a new item 3 as a GUIDANCE statement, which states that the law enforcement officer, if used for this application, should follow the procedures of Section 6E.04 and 6E.05. This proposal is to encourage law enforcement officers to use proper flagging devices and procedures for a temporary road closure, if it is practical.

h. Notes for Figure 6H–15: The FHWA proposes adding a new item 2 to the GUIDANCE statement that workers in the roadway should wear high-visibility clothing as described in Section 6D.02. Additionally, the FHWA proposes replacing existing item 6 in the STANDARD statement with a new item 7 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 8 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

i. Notes for Figure 6H–17: The FHWA proposes adding a new item 3 to the STANDARD statement that if an arrow panel is used, it shall be used in the caution mode. The remaining items would be renumbered. Additionally, the FHWA proposes removing existing item 5 of the GUIDANCE statement and moving it to the OPTION statement as part of existing item 9 that the use of a truck mounted attenuator is optional on either a shadow vehicle or a work vehicle. These changes are proposed for clarity.

j. Notes for Figure 6H–21: The FHWA proposes replacing existing item 7 in the STANDARD statement with a new item 7 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 8 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

k. Notes for Figure 6H–22: The FHWA proposes removing item 5, regarding a right-turn island using channelizing devices, from the OPTION statement, since it is inappropriate for the depicted application.

l. Notes for Figure 6H–26: The FHWA proposes replacing existing item 7 in the STANDARD statement with a new item 7 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 8 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

m. Notes for Figure 6H–27: The FHWA proposes replacing existing item 9 in the STANDARD statement with a new item 9 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 10 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

n. Notes for Figure 6H–28: The FHWA proposes adding a new item 3 to the GUIDANCE statement that audible warnings should be considered where midblock closings and changed crosswalk areas cause inadequate communication to be provided to pedestrians who have visual disabilities. The remaining items would be renumbered. Additionally, the FHWA proposes to add the use of Type D 360-degree Steady-Burn warning lights to existing item 6 (new item 7) of the OPTION statement. These changes are proposed for consistency with other sections in Part 6.

o. Notes for Figure 6H–29: The FHWA proposes to add a new item 3 to the GUIDANCE statement that audible warnings should be considered where midblock closings and changed crosswalk areas cause inadequate communication to be provided to pedestrians who have visual disabilities, for consistency. The remaining items would be renumbered.

p. Notes for Figure 6H–32: The FHWA proposes adding a new item 2 to the STANDARD statement that when paved shoulders having a width of 2.4 m (8 ft) or more are closed, at least one advance warning sign shall be used. In addition, channelizing devices shall be used to close the shoulder in advance to delineate the beginning of the work space and direct motor vehicle traffic to remain within the traveled way. The remaining items would be renumbered. The FHWA also proposes removing the word "optional" from the shoulder taper illustrated on Figure 6H–32, to correspond to the proposed addition of new item 2 in the STANDARD statement. These changes are proposed to improve advance warning and channelization for road users approaching the half road closure on multilane high-speed highways.

q. Notes for Figure 6H–33: The FHWA proposes to add a new item 3 to the STANDARD statement that when paved shoulders having a width of 2.4 m (8 ft) or more are closed, at least one advance warning sign shall be used. In addition, channelizing devices shall be used to close the shoulder in advance to delineate the beginning of the work space and direct motor vehicle traffic to remain within the traveled way. These changes are proposed to improve advance warning and channelization for road users approaching a lane closure on a divided highway. Additionally, the FHWA proposes removing existing item 3 of the GUIDANCE statement, since it is not applicable to the application depicted.

r. Notes for Figure 6H–40: The FHWA proposes adding to item 3 that YIELD or STOP lines should be installed, if needed, across the ramp to indicate the point at which road users should YIELD or STOP. Additionally, the FHWA proposes adding a dimension of 7.5 m (25 ft) spacing between channelizing devices shown on Figure 6H–40. This additional guidance, beyond the general guidance in Section 6F.55 about channelizing device spacing, is proposed to help improve channelization specifically in the median crossover by providing a recommended device spacing to minimize the tendency of vehicles to drive between devices.

s. Figure 6H–41: The FHWA proposes adding a dimension of 7.5 m (25 ft) spacing between channelizing devices shown on Figure 6H–41. This additional guidance, beyond the general guidance in Section 6F.55 about channelizing device spacing, is proposed to help improve channelization specifically in the median crossover by providing a recommended device spacing to minimize the tendency of vehicles to drive between devices.

t. Notes for Figure 6H–42: The FHWA proposes removing items 6 and 7 of the OPTION statement since they are not applicable to the specific application depicted on Figure 6H–42. The remaining item would be renumbered.

u. Notes for Figure 6H–44: the FHWA proposes removing item 5 in the GUIDANCE statement since it is too vague and there is no accepted practice to determine how traffic is stabilized. The remaining items would be renumbered.

250. The FHWA proposes adding a new chapter, numbered and titled "Chapter 6I Control of Traffic Through Traffic Incident Management Areas." This proposed new chapter will contain existing Section 6G.19 Control of Traffic Through Incident Areas in its entirety with several modifications and additional information on the use of temporary traffic control devices for traffic incident management zones. The proposed new chapter will contain a general section as well as sections on major, intermediate, and minor traffic incidents, and on use of emergency-vehicle lighting (flashing or rotating beacons or strobes.) The FHWA proposes this new chapter in recognition of the importance of safely and efficiently controlling traffic through traffic incident management areas, and the unique characteristics of incidents and the traffic controls that should be utilized.

Discussion of Proposed Amendments to Part 7—Traffic Controls for School Areas

251. In Section 7B.01 Size of School Signs, the FHWA proposes revising Table 7B–1 to increase the standard and special sizes of the End School Zone (S5–2) sign and the Speed Limit (School Use) (English) (R2–1) sign from 600 × 750 mm (24 × 30 in) and 900 × 1200 mm (36 × 48 in) respectively to 900 × 1125 mm (36 × 45 in) and 1200 × 1500 mm (48 × 60 in) respectively. The FHWA also proposes revising Table 7B–1 to add the School Speed Limit Ahead (S4–5, S4–5a) and the School Speed Limit XX When Flashing (English and Metric) (S5–1) signs. The FHWA also proposes revising Table 7B–1 to revise the standard size of the When Children are Present (S4–2) plaque from 900 × 500 mm (36 × 20 in) to 900 × 375 mm (36 × 15 in), to revise the minimum, standard, and special sizes of the XXX FT (W16–2) plaque from 600 × 450 mm (24 × 18 in), 750 × 600 mm (30 × 24 in), and 750 × 600 mm (30 × 24 in) respectively to 600 × 300 mm (24 × 12 in), 750 × 375 mm (30 × 15 in), and 900 × 450 mm (36 × 18 in) respectively, to revise the minimum, standard, and special sizes of the XXX Feet (W16–2a) plaque from 600 × 300 mm (24 × 12 in), 750 × 450 mm (30 × 18 in), and 750 × 450 mm (30 × 18 in) respectively to 600 × 450 mm (24 × 18 in), 750 × 525 mm (30 × 21 in), and 900 × 600 mm (36 × 24 in) respectively. The FHWA also proposes to revise Table 7B–1 to revise the standard and special sizes of the Ahead (W16–9p) plaque from 900 × 500 mm (36 × 20 in) and 1200 × 750 mm (48 × 30 in) respectively to 900 × 375 mm (36 × 15 in) and 1200 × 500 mm (48 × 20 in) respectively, and to revise the standard and special sizes of the Diagonal Arrow (W16–7) plaque from 750 × 450 mm (30 × 18 in) and 750 × 450 mm (30 × 18 in) respectively to 900 × 375 mm (36 × 15 in) and 1200 × 500 mm (48 × 20 in) respectively. These proposed changes in the table are to reflect proposed changes throughout Part 7 and to make the sizes of supplemental plaques correspond more closely with the sizes of the signs they supplement.

252. In Section 7B.07 Sign Color for School Warning Signs, the FHWA proposes changing item D in the OPTION statement to clarify that only the SCHOOL portion on the School Speed Limit (S5–1) sign may have a fluorescent yellow-green background. The SCHOOL portion of the sign is the warning message.

253. In Section 7B.08 School Advance Warning Sign (S1–1), the FHWA proposes giving the page of sign images a number and title, "Figure 7B–1 School Area Signs" for easier reference.

Additionally, the FHWA proposes adding a new figure to be numbered and titled, "Figure 7B–2 Example of Signing for School Crosswalk Warning

Assembly" to illustrate the placement of these assemblies as described in Section 7B.09.

Additionally, the FHWA proposes renumbering and retitling Figure 7B–1 to "Figure 7B–3 Example of Signing for School Area Traffic Control with School Speed Limits."

254. In Section 7B.11 School Speed Limit Assembly (S4–1, S4–2, S4–3, S4–4, S5–1), the FHWA proposes adding to the OPTION statement that changeable message signs should subscribe to the principles established in Section 2A.07 and other sections of the MUTCD, for consistency with Section 6F.52. The FHWA also proposes adding at the end of the OPTION statement to provide information on the use of the FINES HIGHER (R2–6) sign to advise road users when increased fines are imposed for traffic violations in school zones. This sign can be used to enhance road user compliance with school speed limits.

255. In Section 7C.03 Crosswalk Markings, the FHWA proposes adding a new SUPPORT statement at the beginning of the section to provide information on the use of crosswalk markings. While this SUPPORT statement is identical to that in Section 3B.17, the FHWA believes that it is important to have this information in both parts of the MUTCD.

Additionally, the FHWA proposes adding at the end of the first GUIDANCE statement additional guidance that crosswalks should not be used indiscriminately and that an engineering study should be performed before placing crosswalks at locations away from traffic control signals or STOP signs, for consistency with Section 3B.17.

256. In Section 7C.04 the FHWA proposes revising the title from "Stop Line Markings" to "Stop and Yield Lines" because the FHWA proposes to include both stop and yield lines in this section. The FHWA also proposes revising the entire section to appropriately mirror the STANDARD, GUIDANCE, OPTION, and SUPPORT statements contained in Part 3. The FHWA believes that it is important to have this information in both parts of the MUTCD.

257. In Section 7E.04 Uniform of Adult Guards and Student Patrols, the FHWA proposes adding a STANDARD statement that adult guards shall wear high-visibility retroreflective clothing labeled as ANSI 107–1999 standard performance for Class 2, and that student patrols shall wear high-visibility retroreflective material or clothing labeled as ANSI 107–1999 standard performance for Class 1. This clothing would make the guards and patrols (and the students they are managing) far more visible to approaching road users. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local agencies.

258. In Section 7E.05 Operating Procedures for Adult Guards, the FHWA proposes adding an OPTION statement at the end of the section to allow the STOP paddle to be modified by adding white flashing lights, to enhance conspicuity of the paddle.

Additionally, the FHWA proposes adding a STANDARD statement following the new OPTION statement to define the acceptable flashing rate of the optional flashing lights on STOP paddles. This proposed change is consistent with the flashing rate in other parts of the MUTCD.

Discussion of Proposed Amendments to Part 8—Traffic Controls for Highway-Rail Grade Crossings

259. In Section 8A.01 Introduction, in the STANDARD statement the FHWA proposes revising the definitions for "Advance Preemption and Advance Preemption Time" (change to "Advance Preemption" and "Advance Preemption Time"), "Clear Storage Distance," "Dynamic Envelope Delineation" (change to "Dynamic Envelope"), "Minimum Track Clearance Distance," and "Queue Clearance Time" to reflect accepted practice and terminologies. The FHWA also proposes adding definitions for the following, since they are referred to later in the MUTCD: "Dynamic Exit Lane Gate Operating Mode," "Exit Lane Gate Clearance Time," "Exit Lane Gate Operating Mode," "Flashing-Light Signals," "Timed Exit Gate Operating Mode," "Wayside Equipment," and "Vehicle Intrusion Detection Devices" to reflect accepted practice and terminologies.

260. In Section 8A.02 Use of Standard Devices, Systems, and Practices, the FHWA proposes adding a GUIDANCE statement following the STANDARD statement. This proposed GUIDANCE statement will be identical to the second GUIDANCE statement in Section 10A.02 and reinforces that Part 1 principles of design, placement, operation, maintenance, and uniformity of traffic control devices should be considered for both highway-rail and highway-light rail transit grade crossings.

261. In Section 8A.04 Highway-Rail Grade Crossing Elimination, the FHWA proposes adding a GUIDANCE statement at the beginning of the section. This proposed GUIDANCE statement will be identical to the first GUIDANCE statement in Section 10A.04 and reinforces that both highway-rail and highway-light rail transit grade crossings are a potential source of congestion, and agencies should conduct engineering studies to determine the cost and benefits of eliminating such crossings.

Additionally, the FHWA proposes adding an OPTION statement at the end of the section. This proposed OPTION statement will be identical to the last OPTION statement in Section 10A.04 and reinforces that TRACKS OUT OF SERVICE (R8–9) signs may be temporarily installed at locations where both rail or light rail transit is eliminated at a highway-rail or highway-light rail transit grade crossing until the tracks are removed or paved over.

262. In Section 8A.05 Temporary Traffic Control Zones, the FHWA proposes adding a SUPPORT statement at the beginning of the section. This proposed SUPPORT statement will be identical to the SUPPORT statement in Section 10A.05 and reinforces that temporary traffic control planning provides for continuity of operations when the normal function of a roadway at both a highway-rail and a highway-light rail transit grade crossing is suspended because of temporary traffic control operations.

263. In Section 8B.02, the FHWA proposes changing the title from "Highway-Rail Grade Crossing (Crossbuck) Signs (R15–1, R15–2)" to "Highway-Rail Grade Crossing (Crossbuck) Signs (R15–1, R15–2, R15–9)" to reflect the proposed addition to the OPTION statement for the optional use of a new sign, the Crossbuck Shield (R15–9) sign, that is a wing-shaped sign that may be mounted below the Crossbuck (R15–1) sign or Number of Tracks (R15–2) sign. Experimentation with Crossbuck Shield signs has shown benefits in calling attention to the presence of passive grade crossings, particularly at night. The FHWA is aware that in one of the evaluations of the Crossbuck Shield (R15–9) sign, words (or symbols) to indicate the State law about yielding or stopping at the grade crossing were included on the center panel of the shield. The FHWA is not including such words or symbols as an option as it believes that the Crossbuck Shield (R15–9) sign should be uniform in design and that, if a stop or yield is required either by State law or by regulation at any given crossing, the use of a standard YIELD or STOP sign is more appropriate and will be more universally recognized and complied with by road users than small lettering on the Crossbuck Shield would be. The FHWA proposes that this option

to use a Crossbuck Shield (R15–9) sign become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes revising the second STANDARD statement to clarify the placement of retroreflective white material on the front and back of the supports for highway-rail grade crossing Crossbuck signs, to within 0.3 m (1 ft) of the ground level, except on the side of those supports where a Crossbuck Shield sign or flashing lights have been installed. This proposed change reflects a reasonable distance from the ground level and reflects that such strips are not needed to face approaching traffic when a Crossbuck Shield or flashing lights are on that side of the support.

264. In Section 8B.03 Highway-Rail Grade Crossing Advance Warning Signs (W10 series), the FHWA proposes revising the first STANDARD statement, item A, to better define where Highway-Rail Grade Crossing Advance Warning (W10–1) signs are not required on an approach to a crossing from a T-intersection with a parallel highway.

Additionally, the FHWA proposes revising the second STANDARD statement to clarify the proper use of the W10–2, W10–3, and W10–4 advance warning signs if the distance from the parallel highway to the railroad tracks is less than 30m (100 feet).

265. The FHWA proposes adding two new sections following Section 8B.08 TRACKS OUT OF SERVICE Sign (R8–9). The first proposed new section will be numbered and titled "Section 8B.09 STOP HERE WHEN FLASHING Sign (R8–10)" and will contain an OPTION statement describing the use of the STOP HERE WHEN FLASHING (R8–10) sign as it relates to highway-rail grade crossings.

The second proposed new section will be numbered and titled "Section 8B.10 STOP HERE ON RED Sign (R10–6)" and will contain SUPPORT, OPTION, and GUIDANCE statements describing the use of the STOP HERE ON RED (R10–6) sign at highway-rail grade crossings. The remaining sections would be renumbered accordingly.

266. In existing Section 8B.12 NO SIGNAL Sign (W10–10), the FHWA proposes renumbering and retitling the section as "Section 8B.14 NO SIGNAL Sign (W10–10) or NO GATES OR LIGHTS sign (W10–13)" and adding to the OPTION statement that the NO GATES OR LIGHTS (W10–13) sign may used as an alternate to the NO SIGNAL (W10–10) sign.

267. In existing Section 8B.13 (new Section 8B.15) LOOK Sign (R15–8), the FHWA proposes modifying the OPTION statement by removing the phrase, "that do not have active warning devices" to clarify that the LOOK (R15–8) sign may be mounted at any highway-rail grade crossing.

268. The FHWA proposes adding a new section following existing Section 8B.15 (new Section 8B.17) Storage Space Signs (W10–11, W10–11a, W10–11b). This proposed new section will be numbered and titled "Section 8B.18 Skewed Crossing Sign (W10–12)" and will describe the use of the Skewed Crossing (W10–12) sign at highway-rail grade crossings when railroad tracks are not perpendicular to the highway.

269. In existing Section 8B.18 Dynamic Envelope Delineation, the FHWA proposes renumbering and retitling this section as "Section 8B.21 Dynamic Envelope Markings" to clarify that the text refers to pavement markings.

Additionally, the FHWA proposes adding a second paragraph to the OPTION statement to clarify that dynamic envelope markings may be installed at any highway-rail grade crossing unless a Four-Quadrant Gate system is used.

270. In Section 8C.01 Illumination of Highway-Rail Grade Crossings, the FHWA proposes changing the OPTION statement to a GUIDANCE statement to indicate that illumination should be installed at and adjacent to a highway-rail grade crossing when an engineering study determines such illumination is needed to improve grade crossing safety.

271. In Section 8D.01 Introduction, the FHWA proposes revising the first OPTION statement to clarify that flashing-light signals that are post-mounted or overhead-mounted may be used separately or in combination with each other and that flashing-light signals may be used without automatic gate assemblies as determined by an engineering study.

Additionally, the FHWA proposes adding to the second OPTION statement information that In-Roadway Stop Line Lights and In-Roadway Warning Lights may be installed at highway-rail grade crossings that are controlled by active grade crossing warning systems, as discussed in Chapter 4L.

272. In Section 8D.02 Flashing-Light Signals, Post-Mounted, the FHWA proposes modifying the GUIDANCE statement to clarify the sizes of lenses for use in highway-rail grade crossing flashing-light signals and to provide guidance for choosing the size of background behind the lenses.

273. In Section 8D.05 Four-Quadrant Gate Systems, the FHWA proposes revising and adding to the GUIDANCE statement information to describe the various operating modes of exit lane gates and how they should be used.

Additionally, the FHWA proposes changing the title of Figure 8D–2 from "Typical Location Plan for Flashing-Light Signals and Four-Quadrant Gates" to "Example of Location Plan for Flashing-Light Signals and Four-Quadrant Gates."

274. In Section 8D.07 Traffic Control Signals at or Near Highway-Rail Grade Crossings, following the second paragraph of the second STANDARD statement, the FHWA proposes adding additional GUIDANCE, STANDARD, GUIDANCE, and OPTION statements to better describe the use of pre-signals to improve safety at highway-rail grade crossings at locations in proximity to intersections controlled by traffic control signals.

Additionally, the FHWA is proposing adding to the last OPTION statement that at locations where a highway-rail grade crossing is located more than 15m (50 ft) (or more that 23 m (75 ft) for a highway regularly used by multi-unit vehicles) from an intersection controlled by a traffic control signal, a pre-signal may be used if an engineering study determines a need.

The FHWA proposes that these changes become effective immediately for new installations. The FHWA proposes a phase-in compliance period of 10 years for existing installations in good condition to minimize any impact on State or local highway agencies.

Discussion of Proposed Amendments to Part 9—Traffic Controls for Bicycle Facilities

275. In Section 9A.03 Definitions Relating to Bicycles, the FHWA proposes adding to the first STANDARD statement a definition for "Bicycle Facilities," since the term is frequently used in Part 9. The remaining items would be renumbered accordingly.

276. In Section 9B.01 Application and Placement of Signs, the FHWA proposes removing the first SUPPORT statement as it only references Figure 9B–1. The FHWA proposes referencing Figure 9B–1 in the first STANDARD statement, since the sign installation standards shown in Figure 9B–1 are discussed in this STANDARD.

277. In Section 9B.02 Design of Bicycle Signs, the FHWA proposes replacing the term "shared-use path" with the term "bicycle facilities" in the first STANDARD statement and in the

first SUPPORT statement because the information in these statements relates only to bicycle facilities. Shared-use paths are for the use of pedestrians (with or without disabilities), skaters, joggers, and other non-motorized users in addition to bicyclists.

Additionally, the FHWA proposes changing the title of Table 9B–1 from "Sign Sizes for Shared-Use Paths" to "Minimum Sign Sizes for Bicycle Facilities" and separating the column headed "Minimum Sign Size" into two sub columns headed "Path" and "Roadway," to better distinguish between the applications of signs on paths and roadways and to be consistent with sign sizes used on roadways as described in Part 2. The FHWA also proposes revising Table 9B–1 by adding additional signs to reflect proposed changes elsewhere in Part 9.

278. In Section 9B.03 STOP and YIELD Signs (R1–1, R1–2), the FHWA proposes modifying the first GUIDANCE statement so that it applies to the installation of both STOP and YIELD signs, and not exclusively to STOP signs. This change is proposed because YIELD signs as well as STOP signs may be appropriate for assignment of the right-of-way at a shared-use path/roadway intersection.

279. In Section 9B.04, the FHWA proposes changing the title from "Bicycle Lane Signs (R3–16, R3–17)" to "Bicycle Lane Signs (R3–17, R3–17a, R3–17b)."

Additionally, the FHWA proposes removing existing text in this section in its entirety and replacing it with new text regarding the use of Bicycle Lane signs. This proposed modification will replace the existing Bicycle LANE AHEAD (R3–16), Bicycle LANE ENDS (R3–16a), and RIGHT LANE Bicycle ONLY (R3–17) signs with a redesigned BIKE LANE (R3–17) sign to be used in conjunction with new supplemental AHEAD (R3–17a) and ENDS (R3–17b) plaques. These proposed sign combinations will more clearly provide the information contained on the old R3–16, R3–16a, R3–17, and R3–17a signs, and will reduce road user confusion.

280. The FHWA proposes adding a new section following Section 9B.05 BEGIN RIGHT TURN LANE YIELD TO BIKES Sign (R4–4). The proposed new section will be numbered and titled "Section 9B.06 Bicycle WRONG WAY and RIDE WITH TRAFFIC Signs (R5–1b, R9–3c)" and will standardize the design and placement of Bicycle WRONG WAY Signs. Wrong way travel by bicyclists is a major cause of conflicts and collisions, and should be discouraged at appropriate locations. The remaining sections would be renumbered accordingly.

281. In existing Section 9B.08 (new Section 9B.09), the FHWA proposes changing the title from "No Parking Bicycle Lane Signs (R7–9, R7–9a)" to "No Parking BIKE LANE Signs (R7–9, R7–9a)" and in the first STANDARD statement changing the name of the sign accordingly.

282. The FHWA proposes adding a new section following existing Section 9B.10 (new Section 9B.11) Shared-Used Path Restriction Sign (R9–7). The proposed new section will be numbered and titled "Section 9B.12 Bicycle Signal Actuation Sign (R10–15)" and will provide a new sign giving information to bicyclists on how to best situate themselves within the proposed new Bicycle Detector pavement marking symbol so that they can actuate the traffic signal. The remaining sections would be renumbered accordingly.

283. In existing Section 9B.14 (new Section 9B.16) Bicycle Surface Condition Warning Sign (W8–10), the FHWA proposes revising the first OPTION statement to clarify that BUMP, DIP, Pavement Ends, and any other word message signs are not supplemental plaques used with the W8–10 sign, but are instead standard signs to be used independently.

284. In Section 9C.01 Functions of Markings, the FHWA proposes modifying the SUPPORT statement to remove the first sentence, since it only refers to roadways with a designated bicycle lane and is not broad enough to describe markings used for all types of bicycle facilities.

285. In Section 9C.02 General Principles, the FHWA proposes to add a new STANDARD statement after the GUIDANCE statement. This proposed new STANDARD statement is being moved from Section 9C.03 to Section 9C.02 because this text is applicable to all bicycle facilities, not just shared-use paths and is more appropriate in this section than Section 9C.03.

286. In Section 9C.03 Marking Patterns and Colors on Shared-Use Paths, the FHWA proposes moving the STANDARD statement to Section 9C.02, since this text is applicable to all bicycle facilities, not just shared-use paths and is more appropriate in this section than Section 9C.03.

Additionally, the FHWA proposes removing the first SUPPORT statement since it discourages the use of centerlines. Centerlines may be useful and valuable for user guidance in many applications, and, therefore, should not be discouraged.

Additionally, the FHWA proposes adding to the GUIDANCE statement additional information on the marking of obstructions in a path.

Additionally, the FHWA proposes moving to the OPTION statement the second item of the OPTION statement currently in Section 9C.05, because letter, symbol, and arrow sizes to be used on shared-use paths represent markings rather than markers.

Additionally, the FHWA proposes moving the contents of existing Section 9C.06 in its entirety to Section 9C.03, because this information is more applicable in Section 9C.03 as it clarifies the design and placement of marking patterns and object markers on shared-use paths.

287. In Section 9C.04 Markings For Bicycle Lanes, the FHWA proposes revising the first sentence of the STANDARD statement to remove the specific distance of "not closer than 20 m (65 ft) from the crossroad" from the requirement for placing bicycle lane symbols, to provide jurisdictions with additional flexibility. The specific distance may not be feasible in urban locations, and is not necessary for marking durability.

Additionally, the FHWA proposes adding a new item to the STANDARD statement to prohibit the placement of bicycle lanes to the right of a right turn only lane. A bicyclist continuing straight through an intersection from the right of a right turn lane would be inconsistent with normal traffic behavior and would violate the expectation of right-turning drivers. The FHWA also proposes adding a new item to the STANDARD statement to prohibit the placement of bicycle lanes in the circular roadway of a roundabout, because such markings have been found to cause a false sense of security for bicyclists traveling through the roundabout with conflicting and turning traffic. This proposed change is consistent with state of the practice for roundabout design and is consistent with proposed changes to Section 3B.24.

Additionally, the FHWA proposes adding a new paragraph to the SUPPORT statement describing that a bicyclist continuing straight through an intersection from the right of a right turn lane would be inconsistent with normal traffic behavior and would violate the expectation of right-turning drivers.

Additionally, at the end of this section, the FHWA proposes adding a new GUIDANCE statement to establish guidance for bicycle lane markings at locations where a right through lane becomes an exclusive right turn lane, and at locations where there is a shared through and right turn lane next to a right turn only lane. This guidance is important to ensure that bicycle lanes are not poorly designed at such intersections.

Additionally, the FHWA proposes adding a GUIDANCE statement and a SUPPORT statement to provide guidance on not using posts or raised pavement markers to separate bicycle lanes from adjacent travel lanes, since they can hinder maintenance of the bicycle lane and prevent proper vehicle merging.

288. The FHWA proposes removing Section 9C.05 Word Messages and Symbols Applied to the Pavement, and Section 9C.06 Object Markers on Share-Used Paths, in their entirety. The FHWA proposes incorporating the information from these sections into Section 9C.03 Marking Patterns and Colors on Shared-Use Paths, as this more properly locates the information. The remainder of the sections would be renumbered accordingly.

289. The FHWA proposes adding a new Section 9C.05 Bicycle Detector Symbol, containing an OPTION statement that defines a standard symbol for the marking of detector locations for traffic signals actuated by bicyclists. This symbol marking is shown in a proposed new figure numbered and titled "Figure 9C–7 Example of Bicycle Detector Pavement Marking." This symbol marking, along with the Bicycle Signal Actuation (R10–15) sign, will assist bicyclists at signalized intersections by clearly showing the best location to achieve detection by loops or other vehicle detector equipment.

290. In Section 9D.02 Signal Operations for Bicycles, the FHWA proposes revising the STANDARD statement to require that signal timing and actuation be reviewed and adjusted to consider the needs of bicyclists, instead of simply requiring the consideration of bicyclists' needs when timing signals. This greater emphasis is to ensure that the different operating characteristics of bicyclists are accounted for.

Discussion of Proposed Amendments to Part 10—Traffic Controls for Highway-Light Rail Transit Grade Crossings

291. In Section 10A.01 Introduction, the FHWA proposes adding a SUPPORT statement at the end of the section to reference Section 8A.01 for the definitions applicable to Part 10.

292. In Section 10A.03 Uniform Provisions, the FHWA proposes adding to the STANDARD statement that no sign or signal shall be located in the center of an undivided highway except in an island with non-mountable curbs.

Additionally, the FHWA proposes adding a GUIDANCE statement at the end of the section to reinforce that where the distance between tracks exceeds 30 m (100 ft), additional signs or other appropriate traffic control devices should be used.

293. In Section 10A.04 Highway-Light Rail Transit Grade Crossing Elimination, the FHWA proposes removing from the second GUIDANCE statement and adding to the STANDARD statement that if the existing traffic control devices at a multiple-track highway-light rail transit grade crossing become improperly placed or inaccurate because of the removal of some of the tracks, the existing devices shall be relocated and/or modified.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that, when a roadway is removed from a highway-light rail transit grade crossing, appropriate signs should be placed at the end of roadway and other appropriate locations, to alert road users that the road no longer crosses the light rail transit tracks.

294. In Section 10A.05 Temporary Traffic Control Zones, the FHWA proposes combining the two separate STANDARD statements into one STANDARD statement at the beginning of the section for clarity.

295. In Section 10C.01, the FHWA proposes changing the title from "Introduction" to "Purpose" to more accurately reflect the contents of the section.

Additionally, the FHWA proposes correcting the text in the STANDARD statement to properly indicate that the design and location of signs shall conform to all of Part 2.

296. The FHWA proposes adding a new section following Section 10C.01 Introduction. The proposed new section will be numbered and titled "Section 10C.02 Highway-Light Rail Grade Crossing (Crossbuck) Signs (R15–1, R15–2, R15–9)" and will provide information regarding the use of Crossbuck signs at highway-light rail grade crossings. While this section would be identical to Section 8B.02 (as it is proposed to be revised as described above), the use of Crossbuck signs and the proposed optional Crossbuck Shield signs is applicable to both highway-light rail transit and highway-rail grade crossings, so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

297. In existing Section 10C.03 STOP or YIELD Signs (R1–1, R1–2, W3–1a, W3–2a), the FHWA proposes renumbering and retitling the section as "Section 10C.04 STOP (R1–1) or YIELD (R1–2) Signs at Highway-Light Rail Transit Grade Crossings" to clarify the content of the section.

Additionally, the FHWA proposes revising the last sentence of the STANDARD statement to clarify that Stop Ahead (W3–1a) and Yield Ahead (W3–2a) Advance Warning signs shall also be installed if the criteria for their installation given in Section 2C.26 is met.

Additionally, in the GUIDANCE statement the FHWA proposes adding to the list of characteristics to clarify when STOP or YIELD signs may be used the at highway-light rail transit grade crossings. The FHWA proposes adding the following characteristics to the list: that the determination of what constitutes low traffic volumes and low speed limits of crossing roadways should be made by local agencies, that light rail transit speeds do not exceed 40 km/h (25 mph), that the line of sight for an approaching light rail transit operator is adequate from a significant distance such that the operator can sound an audible signal and bring the vehicle to a stop before arriving at the crossing, and that the light rail transit tracks are located such that vehicles are not likely to stop on the tracks while waiting to enter a cross street or highway.

298. In Section 10C.04 (new Section 10C.05) DO NOT STOP ON TRACKS Sign (R8–8), the FHWA proposes adding to the OPTION statement to clarify that DO NOT STOP ON TRACKS (R8–8) signs may be placed on both sides of the track, to enhance visibility of the signs for road users.

299. Following existing Section 10C.04 (new Section 10C.05) DO NOT STOP ON TRACKS Sign (R8–8), the FHWA proposes adding a new section. This proposed new section will be numbered and titled "Section 10C.06 TRACKS OUT OF SERVICE Sign (R8–9)" and will describe the use of the TRACKS OUT OF SERVICE (R8–9) sign at highway-light rail transit grade crossings. While this section would be identical to Section 8B.08, the use of the TRACKS OUT OF SERVICE (R8–9) sign is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

300. Following existing Section 10C.05 (new Section 10C.07) STOP HERE ON RED Sign (R10–6), the FHWA proposes adding a new section. This proposed new section will be numbered and titled "Section 10C.08 STOP HERE WHEN FLASHING Sign (R8–10)" and will describe the use of the STOP HERE WHEN FLASHING (R8–10) sign at

highway-light rail transit grade crossings. While this section would be identical to proposed new Section 8B.09, the use of the STOP HERE WHEN FLASHING (R8–10) sign is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

301. In existing Section 10C.06 (new Section 10C.09) Light Rail Transit-Activated Blank-Out Turn Prohibition Signs (R3–1a, R3–2a), the FHWA proposes adding a STANDARD statement at the end of the section. This proposed STANDARD statement will be identical to STANDARD statement in Section 8B.05 and reinforces that at both highway-rail and highway-light rail transit grade crossings turn prohibition signs that are associated with preemption shall be visible only when the grade crossing restriction is in effect in order not to cause confusion to road users.

302. Following existing Section 10C.06 (new Section 10C.09) Light Rail Transit-Actuated Blank-Out Turn Prohibition Signs (R3–1a, R3–2a), the FHWA proposes adding a new section. This proposed new section will be numbered and titled "Section 10C.10 EXEMPT Highway-Light Rail Transit Grade Crossing Signs (R15–3, W10–1a)" and will describe the use of the supplemental EXEMPT Highway-Light Rail Transit Grade Crossing (R15–3, W10–1a) signs at highway-light rail transit grade crossings. While this section would be identical to Section 8B.04, the use of these supplemental signs is applicable to both highway-light rail transit and highway-rail grade crossings, so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

303. In existing Section 10C.09 (new Section 10C.13) Light Rail Transit Only Lane Signs (R15–4 Series), the FHWA proposes titling the figure illustrating regulatory sign panels as "Figure 10C–3 Regulatory Signs" and adding to and revising the signs illustrated in the figure, to be consistent with Section 2B.48 Preferential Lane Signs, and to reflect changes elsewhere in Part 10.

304. In existing Section 10C.11 (new Section 10C.15) Highway-Light Rail Advance Warning Signs (W10 Series), the FHWA proposes revising the entire section by replacing it with the STANDARD, OPTION, and GUIDANCE statements contained in Section 8B.03, including the proposed revisions as described above in Part 8. While these sections would be identical, the use of advance warning signs is applicable to both highway-light rail transit and highway-rail grade crossings, and the FHWA believes that it is important to have consistency in the use of these signs so this information is included in both parts of the MUTCD.

The FHWA also proposes titling the figure illustrating predominantly warning sign panels as "Figure 10C–4 Warning Signs and Light Rail Station Sign" and adding to and revising the signs illustrated in the figure, to reflect changes elsewhere in Part 10.

305. Following existing Section 10C.11 (new Section 10C.15) Highway-Light Rail Advance Warning Signs (W10-Series), the FHWA proposes adding a new section. This proposed new section will be numbered and titled "Section 10C.16 Low Ground Clearance Highway-Light Rail Transit Grade Crossing Sign (W10–5)" and will describe the use of the Low Ground Clearance (W10–5) sign at highway-light rail transit grade crossings. While this section would be identical to Section 8B.16, the use of Low Ground Clearance (W10–5) signs is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

306. Following existing Section 10C.12 (new Section 10C.17) Light Rail Transit Approaching-Activated Blank-Out Warning Sign (W10–7), the FHWA proposes adding two new sections. The first proposed new section will be numbered and titled "Section 10C.18, Storage Space Signs (W10–11, W10–11a, W10–11b)" and will describe the use of Storage Space (W10–11) signs at highway-light rail transit grade crossings. The second proposed new section will be numbered and titled "Section 10C.19 Skewed Crossing Sign (W10–12)" and will describe the use of Skewed Crossing (W10–12) signs at highway-light rail transit grade crossings. While these sections would be identical to proposed Sections 8B.17 and 8B.18, respectively, these signs are applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

307. Following existing Section 10C.13 (new Section 10C.20) Light Rail Station Sign (I–12), the FHWA proposes adding a new section. This proposed new section will be numbered and titled "Section 10C.21 Emergency Notification Sign (I–13 or I–13a)" and will describe the use of Emergency Notification (I–13 or I–13a) signs at highway-light rail transit grade crossings. While this section would be identical to Section 8B.14, the use of these signs is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

308. Following existing Section 10C.14 (new Section 10C.22) Illumination at Highway-Light Rail Transit Crossings, the FHWA proposes adding two new sections. The first proposed new section will be numbered and titled "Section 10C.23 Pavement Markings" and will describe the use of pavement markings at highway-light rail transit grade crossings. The second proposed new section will be numbered and titled "Section 10C.24 Stop Lines" and will describe the use of stop lines at highway-light rail transit grade crossings. While these sections would be identical to Sections 8B.19 and 8B.20, respectively, it is important that the use of pavement markings and stop lines at highway-light rail transit and highway-rail grade crossings is consistent so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

309. In existing Section 10C.15, the FHWA proposes renumbering and retitling the section from "Dynamic Envelope Delineation Markings" to "Section 10C.25 Dynamic Envelope Markings" to clarify that the text refers to pavement markings.

Additionally, the FHWA proposes modifying the STANDARD statement to clarify that, if used, the pavement marking used to delineate the dynamic envelope shall be a normal solid white line, contrasting pavement color, and/or contrasting pavement texture. This STANDARD would be identical to that in Section 8B.21.

310. At the end of Chapter 10C, the FHWA proposes adding two new figures. The first proposed new figure will be numbered and titled "Figure 10C–10 Example of Placement of Warning Signs and Pavement Markings at Highway-Light Rail Transit Grade Crossings" and will illustrate the placement of warning signs and pavement markings at highway-light rail transit grade crossings. The second proposed new figure will be numbered and titled "Figure 10C–11 Examples of Highway-Light Rail Transit Grade Crossing Pavement Markings" and will illustrate the use of R X R and associated pavement markings at highway-light rail transit grade crossings. While these figures would be identical to Figures 8B–7 and 8B–8, respectively, it is important that the warning signs and pavement markings at highway-light rail transit and highway-rail grade crossings is consistent so the FHWA believes that it is important to have this information in both parts of the MUTCD.

311. In Section 10D.01 Introduction, the FHWA proposes removing the STANDARD statement since the information is already properly contained in Section 10A.01.

Additionally, the FHWA proposes adding to the OPTION statement that In-Roadway Stop Line Lights and In-Roadway Warning Lights may be installed at highway-light rail transit grade crossings that are controlled by active grade crossing warning systems, as discussed in Chapter 4L.

312. In existing Section 10D.02 Four-Quadrant Gate Systems, the FHWA proposes moving this entire section to follow Section 10D.03 and renumbering it Section 10D.04. This reordering is proposed so that content contained in these sections would appear in the same order as it appears in Part 8.

Additionally, the FHWA proposes revising the STANDARD statement to clarify that the exit lane gate arms shall be designed to fail-safe in the up position except as noted in the OPTION statement, for consistency with Section 8D.05.

Additionally, the FHWA proposes adding to the GUIDANCE statement to make it identical to the GUIDANCE statement in Section 8D.05, to provide information that describes the various operating modes of exit lane gates and how they should be used at both highway-rail and highway-light rail transit grade crossings.

313. In Section 10D.03 Automatic Gates, the FHWA proposes changing the last SUPPORT statement to an OPTION statement to be consistent with the same language contained in Section 8D.04 on how the effectiveness of gates may be enhanced by the use of channelizing devices or raised median islands to discourage driving around lowered automatic gates.

314. In existing Section 10D.04 Flashing Light Signals, the FHWA proposes moving this entire section to follow Section 10D.01 and renumbering it Section 10D.02. This reordering is proposed so that content contained in these sections would appear in the same order as it appears in Part 8.

315. In Section 10D.08 Pedestrian and Bicycle Signals and Crossings, the FHWA proposes changing the first OPTION statement to a GUIDANCE statement to emphasize that if an engineering study shows that flashing-light signals alone would not provide sufficient notice of an approaching light rail transit vehicle, the LOOK (R15–8) sign and/or pedestrian gates should be considered.

Discussion of Proposed Amendments to Appendix A1—Congressional Legislation

316. In Appendix A1 Congressional Legislation, the FHWA proposes to add to the listing of pertinent sections of Public Law 104–59—Nov. 28, 1995 (National Highway System Designation Act of 1995) Section 306. Motorist Call Boxes. This section discusses the uses of motorist call boxes along the National Highway System.

Rulemaking Analysis and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this notice of proposed amendments will not be a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. The proposed standards and other changes in this notice are intended to improve traffic operations and safety, and to provide additional guidance, optional applications, and support clarification for traffic control devices. The FHWA expects that these proposed standards, guidance, optional applications, and support material will create roadway uniformity, and enhance the safety and mobility of the public at little additional expense to public agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this notice of proposed amendments on small entities. This notice of proposed amendments revising standards, guidance, optional applications, and support material wording will improve the design and installation of traffic control devices. The proposed changes are intended to improve traffic operations and safety, expand guidance, and clarify the application of traffic control devices. The FHWA hereby certifies that these revisions would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This notice of proposed amendments would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). This proposed action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 13132 (Federalism)

This notice of proposed amendments has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and the FHWA has determined that this proposed action does not have a substantial direct effect or sufficient federalism implications on States and local governments that would limit the policymaking discretion of the States and local governments. Nothing in this document directly preempts any State law or regulation. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, which requires that changes to the national standards issued by the FHWA shall be adopted by the States or other Federal agencies within two years of issuance. The proposed amendment is in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of highways.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that it would not have substantial direct effects on one or more

Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. While the proposed changes in this notice of proposed amendments revise standards, guidance, optional applications, and support material, they will create roadway uniformity, and enhance the safety and mobility of the public at little additional expense to public agencies. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, to eliminate ambiguity, and to reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This is not an economically significant proposed action and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed action would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this proposed action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Issued on: May 10, 2002.

Mary E. Peters,

Administrator, Federal Highway Administration.

[FR Doc. 02–12269 Filed 5–20–02; 8:45 am]

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Federal Register

Tuesday,
May 21, 2002

Part III

Department of Education

Office of Educational Research and Improvement; Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.215V—State Educational Agencies; CFDA No. 84.215S—Local Educational Agencies]

Office of Educational Research and Improvement; Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of this program is to provide grants to eligible entities to assist them in designing and implementing character education programs that teach students any of the following elements of character: caring, civic virtue and citizenship, justice and fairness, respect, responsibility, trustworthiness, giving, or any other elements deemed appropriate by the eligible entity, having taken into consideration the views of parents and students. The character education programs supported must be programs that can be integrated into classroom instruction, are consistent with State academic content standards, and can be carried out in conjunction with other educational reform efforts.

Eligible Applicants: An eligible applicant under the *84.215V* competition is:

(a) A State educational agency (SEA) in partnership with one or more local educational agencies (LEAs); or

(b) An SEA in partnership with one or more (LEAs) and nonprofit organizations or entities, including an institution of higher education.

An eligible applicant under the *84.215S* competition is:

(a) An LEA or consortium of LEAs; or

(b) An LEA or LEAs in partnership with one or more nonprofit organizations or entities, including an institution of higher education.

In making selections for funding, the Secretary will ensure, to the extent practicable, that the projects are equitably distributed among the geographic regions of the United States, and among urban, suburban and rural areas.

Applications Available: May 23, 2002.

The application package for this competition is available on line at: *http://ed.gov/GrantApps/*. At this site, you may download and print a paper copy of the application package. Using these paper forms, you may submit a paper copy of your application to the Department.

If you want to submit an application electronically, please refer to the instructions, "Pilot Project for Electronic Submission of Applications" later on in this notice. You must use the "e-APPLICATION" process described in these instructions to submit an application electronically.

Deadline for Transmittal of Applications: July 11, 2002.

Deadline for Intergovernmental Review: September 9, 2002.

Estimated Available Funds: $16,000,000.

Estimated Range of Awards: $100,000—$500,000 per year.

Estimated Average Size of Awards: The size of an award will be commensurate with the scope of the activities to be carried out.

Minimum Award: We will reject any application from an SEA that proposes a total budget for the entire project period that is *less* than $500,000. There is no such restriction on applications from LEAs.

Estimated Number of Awards: 40 to 45.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months, of which no more than 12 months may be used for planning and program design.

Budget Period: 12 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. It is strongly suggested that you limit Part III to the equivalent of no more than 25 pages using the following standards:

- A page is 8.5″ × 11,″ on one side only, with 1″ margins at the top, bottom and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative.
- Use a font that is either 12 point or larger or not smaller than 10 pitch (characters per inch).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, 97, 98 and 99.

SUPPLEMENTARY INFORMATION:

Background

Eligible entities awarded grants under this program may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of: (1) Evaluating the program for which the assistance is made available; (2) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and (3) measuring the success of the program in fostering the elements of character selected by the recipient.

Entities receiving grants may also contract with the same types of outside sources, for assistance in: (1) Developing secular curricula, materials, teacher training, and other activities related to character education; and (2) integrating secular character education into the curricula and teaching methods of schools where the program is carried out.

An SEA receiving a grant may use no more than 3 percent of the grant funds, each year, for administrative purposes. The remainder may be used for: (1) Collaborative initiatives with and between LEAs and schools; (2) the preparation or purchase of materials, and teacher training; (3) providing assistance to LEAs, schools, or institutions of higher education; and (4) technical assistance and evaluation.

Each application for a grant under this program must include information that: (1) Demonstrates that the program for which the grant is sought has clear objectives that are based on scientifically based research; (2) describes any partnerships or collaborative efforts among the organizations and entities comprising the eligible entity; (3) describes the activities that will be carried out with the grant funds and how such activities will meet the project objectives, including: (a) How parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program; (b) curriculum and instructional practices that will be used or developed; and (c) methods of teacher training and parent education that will be used or developed; (4) describes how the program for which the grant is sought will be linked to other efforts to improve academic achievement, including: (a) Broader educational reforms that are being instituted by the eligible entity or its partners; and (b) State academic content standards; and (5) describes how the eligible entity will evaluate the success of its program based on the project objectives.

In addition, any application from an SEA must also include information that describes how the SEA: (1) Will provide technical and professional assistance to its LEA partners in the development and implementation of character education programs; and (2) will assist other interested LEAs that are not members of the original partnership in designing and establishing character education programs.

Each eligible entity receiving a grant must provide, to the extent feasible and appropriate, for the participation in the funded programs and activities of students and teachers in private elementary and secondary schools.

Factors that may be considered in evaluating the success of programs funded include the following: Discipline issues, student academic achievement, participation in extracurricular activities, parental and community involvement, faculty and administration involvement, student and staff morale, and overall improvements in school climate for all students, including students with disabilities.

Selection Criteria: In selecting eligible entities to receive grants, the Secretary will use a peer review process that includes the participation of experts in the field of character education and development. Peer reviewers will use the criteria listed below in evaluating applications. The criteria will receive the points indicated.

(1) The extent to which project objectives are significant, clearly identified, measurable, and likely to be achieved. (20 points)

(2) The extent to which the applicant utilizes scientifically based research to select character education program components that are likely to foster character in students and achieve project objectives. (20 points)

(3) The extent to which the character education program activities are integrated into teacher professional development, curricula, materials, and classroom instruction. (20 points)

(4) The extent and ongoing nature of the involvement of students, parents, and community, such as faith-based organizations, in the design, implementation, and evaluation of the project. (20 points)

(5) The extent to which the factors to be considered in evaluating the success of the project will be clearly identified and the quality of the plan for evaluating the project. (20 points)

Priority

This competition focuses on projects designed to meet the following priority. Under 34 CFR 75.105(c)(2)(i), applications will receive up to 20 additional points depending on how well they meet the priority. These points are in addition to any points the application earns under the selection criteria.

Competitive Preference Priority

The project is designed to determine whether the character education program implemented produces meaningful effects on students. In order to do this, the project preferably employs an experimental design with random assignment. If random assignment is not feasible, the project may employ a quasi-experimental design with carefully matched comparison conditions. For experimental designs, random assignment to the character education program being evaluated versus one or more comparison conditions may occur at the level of students, or classrooms, or schools. Alternatively, in a quasi-experimental design, schools or students or classrooms that are receiving the character education program are matched with comparable schools or students or classrooms that are not receiving a character education program. Data from reliable and valid measures of the elements of character that the character education program intends to teach and any other characteristics of school climate that the program intends to influence should be collected before and after participation in the character education program or the comparison condition.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on selection criteria, competitive preference priority, and special application requirements. Section 437(d)(1) of the General Education Provisions Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. This is the first competition under the Fund for the Improvement of Education: Character Education Program, which was substantially revised by the No Child Left Behind Act of 2001. These selection criteria, competitive preference priority, and application requirements will apply to the FY 2002 grant competition only.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Fund for the Improvement of Education (FIE): Partnerships in Character Education Program (84.215V for SEAs and 84.215S for LEAs) is one of the programs included in the pilot project. If you are an applicant under either the SEA competition or the LEA competition for the FIE: Partnerships in Character Education Program, you may submit your application to the Department in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). The Department requests your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary but strongly encouraged.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- On the deadline date, the deadline time for transmitting applications is 4:30 p.m. Washington, DC Time.
- If you wait until the deadline date to submit your application electronically and you are unable to access the e-Application system, you must contact the Help Desk by 4:30 p.m. Washington DC time on the deadline date.
- Keep in mind that e-Application is not operational 24 hours a day every day of the week. Click on Hours of Web Site Operation for specific hours of access during the week.
- You will have access to the e-Application Help Desk for technical support: 1–888–336–8930 (TTY: 1–866–697–2696, local 202–401–8363). The Help Desk hours of operation are limited to: 8 a.m.–6 p.m. Washington, DC time Monday–Friday.
- If you submit your application electronically by the transmittal date but also wish to submit a paper copy of your application, then you must mail the paper copy of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA # 84.305G, 7th and D Streets, SW., Room 3671, Regional Office Building 3, Washington, DC 20202–4725.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application fax a signed copy of the Application for Federal Assistance (ED 424) to the

Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.

2. Make sure that the institution's Authorizing Representative signs this form.

3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

4. Place the PR/Award number in the upper right hand corner of ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the FIE: Partnerships in Character Education Program: 84.215V for SEAs or 84.215S for LEAs at:

http://e-grants.ed.gov.

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Beverly A. Farrar, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502J, Washington, DC 20208–5645. FAX: (202) 219–2053 or via the Internet: *beverly.a.farrar@ed.gov.* If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format, e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities also may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 7247.

Dated: May 16, 2002.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–12693 Filed 5–20–02; 8:45 am]

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H.R. 495/P.L. 107–175
To designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the "Ron de Lugo Federal Building." (May 17, 2002; 116 Stat. 576)

H.R. 819/P.L. 107–176
To designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the "Donald J. Pease Federal Building". (May 17, 2002; 116 Stat. 577)

H.R. 3093/P.L. 107–177
To designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the "William L. Beatty Federal Building and United States Courthouse". (May 17, 2002; 116 Stat. 578)

H.R. 3282/P.L. 107–178
To designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the "Mike Mansfield Federal Building and United States Courthouse". (May 17, 2002; 116 Stat. 579)
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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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Title 3—

The President

Proclamation 7563 of May 17, 2002

National Safe Boating Week, 2002

By the President of the United States of America

A Proclamation

America is blessed with beautiful coastlines, lakes, and waters that offer ample opportunities for boating recreation. More than 70 million recreational boaters use our waters every year and boat registrations continue to increase. Although the number of recreational boats and boaters is growing, the incidence of boating deaths continues to drop, thanks to an increasing emphasis on safety.

Despite this positive trend, much work remains to further reduce boating accidents and fatalities. National Safe Boating Week and the North American Safe Boating Campaign remind us that safety must always remain a top priority when boating on our Nation's waterways.

To further reduce boating deaths, it is vital that both children and adults wear life jackets while boating. Nearly 70 percent of recreational boating deaths are by drowning, and nearly 90 percent of these victims were not wearing life jackets. Many of these fatalities could have been avoided had a Coast Guard-approved life jacket or personal flotation device been worn. Thanks to new technology and designs, life jackets are now less burdensome to wear.

Another major cause of boating accidents is the operation of boats while drunk or otherwise impaired. Boating under the influence of alcohol or drugs is illegal in every State and is a violation of Federal law. According to the United States Coast Guard, the dangerous effects of alcohol on persons operating boats are even greater than for individuals operating land vehicles. The additional factors that can further impair judgment and coordination include motion, vibration, engine noise, wind, sun, and any spray. Boat operators with a blood alcohol concentration above .10 percent are ten times more likely to be killed in a boating accident than boat operators who have not been drinking. During National Safe Boating Week, we must underscore again that to operate a boat or any vehicle while under the influence is never safe.

A less recognized boating hazard involves a silent killer: carbon monoxide. Dangerous or deadly fumes can accumulate in confined spaces on boats, near stern ladders, and under swimming platforms. Swimmers and waterskiers behind running boat engines face the greatest risk of exposure to exhaust fumes, which can build up to deadly levels. Boaters should be aware of the threats posed by carbon monoxide and take steps to avoid them. Individuals may learn more about carbon monoxide and other ways to stay safe while boating by visiting the U.S. Coast Guard's website at www.uscgboating.org.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period prior to Memorial Day weekend as "National Safe Boating Week."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 18 through May 24, 2002, as National Safe Boating Week. I encourage the Governors of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the officials of other areas subject to the jurisdiction of the United States, to join in observing this occasion. I also urge boaters to learn about proper boating practices and to take advantage of programs offered by the U.S. Coast Guard Auxiliary. By taking sensible precautions on the water and learning more about potential dangers, boaters can enjoy boating recreation and help ensure the safety of others.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

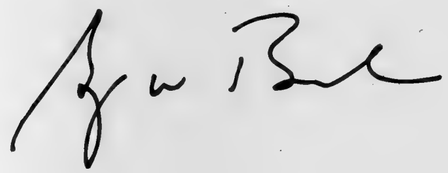

[FR Doc. 02–13029
Filed 5–21–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7564 of May 17, 2002

World Trade Week, 2002

By the President of the United States of America

A Proclamation

Trade plays a vital role in encouraging prosperity and improving the lives of people around the world. It fosters economic growth, ingenuity, and innovation. And it builds high-quality jobs and promotes economic and political stability around the world. During World Trade Week, we recognize the importance of trade to building a brighter future for our Nation and for countries throughout the world.

Over the last decade, U.S. exports have accounted for as much as a quarter of our Nation's economic growth. Most of our exporters are small- and medium-sized firms that have fewer than 100 employees. An estimated 12 million U.S. jobs are supported by our export of manufactured products, agricultural goods, technology, and other goods and services. These jobs are high-quality, high-paying positions that provide good wages.

As the world's largest exporter, the United States is a leader in promoting free trade. Free trade and open markets benefit businesses, employees, and consumers by creating a competitive environment with greater choice and lower prices. We must continue to promote an aggressive trade agenda that opens markets and builds economic opportunity. In support of this goal, my Administration has worked to help secure the entry of China and Taiwan into the World Trade Organization. We also completed trade agreements with Vietnam and Jordan and launched new global trade negotiations in Doha, Qatar. But more remains to be done.

At present, there are about 150 free trade agreements in effect worldwide, nearly 25 percent of which involve countries in the Western Hemisphere. The United States is a party to only three of these pacts. To give U.S. exporters much broader access to markets throughout the hemisphere, our Nation envisions a Free Trade Area of the Americas (FTAA), an area that would be the world's largest open market. The FTAA would include more than 800 million consumers in countries with a combined Gross Domestic Product of around $13 trillion. Our Nation would also benefit from renewal of the Andean Trade Preference Act, which would continue to help create economic alternatives to drug production in Andean region countries.

Economists have calculated that lowering trade barriers by just one-third will strengthen the world's economic welfare by up to $613 billion and that of the United States by $177 billion. For the average American family of four, that amounts to $2500 of annual savings.

Another critical step for U.S. economic growth is successful passage of Trade Promotion Authority. Under this legislation, the Congress grants the President the authority to negotiate trade agreements. Trade Promotion Authority demonstrates to our trading partners the alliance that exists between the executive and legislative branches to help raise living standards through out the world. This is vital to securing new free trade agreements with potential negotiating partners.

Fundamental to free trade is competitive fairness. America's support of an aggressive, forward-looking trade agenda requires that government assist industries' interests when they are challenged by unfair trading practices

or subsidies. We must insist that our trading partners honor their commitments. As we open markets for American companies competing internationally, we need tools to secure a level playing field for American businesses. And we will remain committed to improving both the environment and worldwide labor standards.

In the future, trade will continue to play a crucial role in creating economic and political stability, building democracies, reducing poverty, and contributing to an increased standard of living around the world. Open trade will help ensure a more peaceful and prosperous tomorrow for all people.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 19 through May 25, 2002, as World Trade Week. I encourage all Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of trade to our economy and the global economy.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

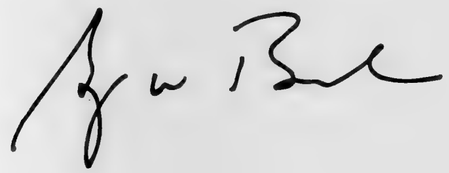

[FR Doc. 02–13030
Filed 5–21–02; 8:45 am]
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Rules and Regulations

Federal Register
Vol. 67, No. 99
Wednesday, May 22, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 614

RIN 3052–AB86

Organization; Loan Policies and Operations; Termination of Farm Credit Status; Effective Date; Correction

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date; correction.

SUMMARY: The Farm Credit Administration (FCA) published a notice of effective date (67 FR 31938, May 13, 2002) that announced the effective date for a final rule amending FCA regulations to allow a Farm Credit System (FCS or System) bank or association to terminate its FCS charter and become a financial institution under another Federal or State chartering authority. This document corrects a typographical error in the notice of effective date.

EFFECTIVE DATE: May 13, 2002.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Technical Editor, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: In preparing the notice for publication in the **Federal Register**, an error was inadvertently made when stating the Code of Federal Regulations parts in the **EFFECTIVE DATE** caption.

Accordingly, the Effective Date caption should read as follows:

EFFECTIVE DATE: The regulation amending 12 CFR parts 611 and 614 published on April 12, 2002 (67 FR 17907) is effective May 13, 2002.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 16, 2002.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 02–12782 Filed 5–21–02; 8:45 am]
BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM218, Special Conditions No. 25–202–SC]

Special Conditions: Dassault Aviation Mystere-Falcon 50; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Dassault Aviation Mystere-Falcon 50 airplanes modified by Garrett Aviation Services. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Electronic Primary Flight Display systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 15, 2002. Comments must be received on or before June 20, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM218, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM218. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received; therefore, good cause exists for making these special conditions effective upon issuance. However, the FAA invites interested persons to participate in this rulemaking by submitting comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On April 12, 2002, Garrett Aviation Services, 1200 North Airport Drive,

Capital Airport, Springfield, IL 62707, applied for a supplemental type certificate (STC) to modify Dassault Aviation Mystere-Falcon 50 airplanes approved under Type Certificate No. A46EU. The Dassault Aviation Mystere-Falcon 50 is a small transport category airplane. The Dassault Aviation Mystere-Falcon 50 airplanes are powered by three Turbofan Engines with a maximum takeoff weight of 40,780 pounds. The aircraft operate with a 2-pilot crew and can hold up to 19 passengers. The modification incorporates the installation of a Rockwell Collins ProLine 21 Display System, a Collins AHS–3000 Attitude-Heading Reference System, and a Goodrich GH–3000 Electronic Standby Display. The ProLine 21 system consists of dual Electronic Primary Flight Display systems that replace the existing Primary Flight Display systems. These systems have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Garrett Aviation Services must show that the Dassault Aviation Mystere-Falcon 50 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A46EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The certification basis for the modified Dassault Aviation Mystere-Falcon 50 airplanes include 14 CFR part 25, dated February 1, 1965, as amended by Amendment 25–1 through Amendment 25–34 except for special conditions and exceptions noted in Type Certificate Data Sheet (TCDS) A46EU.

If the Administrator finds that the applicable airworthiness regulations (that is, 14 CFR part 25, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation Mystere-Falcon 50 airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Dassault Aviation Mystere-Falcon 50 airplanes must comply with the fuel vent and exhaust emission requirement of 14 CFR part 34 and the noise certification requirement of part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Garrett Aviation Services apply at a later date for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design features, these special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

Novel or Unusual Design Features

The Dassault Aviation Mystere-Falcon 50 airplanes modified by Garrett Aviation Services will incorporate dual Electronic Primary Flight Display systems that will perform critical functions. The modification incorporates the installation of a Rockwell Collins ProLine 21 Display System, a Collins AHS–3000 Attitude-Heading Reference System, and a Goodrich GH–3000 Electronic Standby Display. The ProLine 21 system consists of dual Electronic Primary Flight Display systems that replace the existing Primary Flight Display systems. These systems have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane. The current airworthiness standards (14 CFR part 25) do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effect of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Dassault Aviation Mystere-Falcon 50 airplanes modified by Garrett Aviation Services. These special conditions require that new avionics/electronics and electrical systems, which perform critical functions, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1, or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in the table below for the frequency ranges indicated. Both peak and average field strength components from the table below are to be demonstrated.

Frequency	Field Strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1GHz	700	100
1 GHz–2 GHz	2000	200
2GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Dassault Aviation Mystere-Falcon 50 airplanes modified by Garrett Aviation Services. Should Garrett Aviation Services apply at a later date for design change approval to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on Dassault Aviation Mystere-Falcon 50 airplanes modified by Garrett Aviation Services. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Dassault Aviation Mystere-Falcon 50 airplanes modified by Garrett Aviation Services.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, May 15, 2002.

Linda Navarro,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12852 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–123–AD; Amendment 39–12755; AD 2002–10–09]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 airplanes. This action requires repetitive inspections for evidence of fuel accumulation inside of the aft service compartment; and follow-on actions, if necessary. This AD also provides for an optional terminating modification. This action is necessary to prevent such fuel accumulation, which could result in fuel vapors coming into contact with ignition sources and consequent fire. This action is intended to address the identified unsafe condition.

DATES: Effective June 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 6, 2002.

Comments for inclusion in the Rules Docket must be received on or before June 21, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–123–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via the Internet must contain "Docket No. 2002–NM–123–AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D25, Savannah, Georgia 31402. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, recently notified the FAA that an unsafe condition may exist on certain Model Galaxy and Gulfstream 200 airplanes. The CAAI advises that fuel was found on service door 310AB and in the aft service compartment on several airplanes. The cause of the fuel leakage has not yet been determined. This condition, if not corrected, could result in a fire in the aft service compartment of the airplane.

Explanation of Relevant Service Information

Gulfstream has issued GALAXY Alert Service Bulletin GALAXY–28A–130, dated March 22, 2002, which describes procedures for repetitive general visual inspections for evidence of fuel accumulation inside of the aft service compartment; and follow-on actions, if necessary. The follow-on actions

include performing a leak test to identify the source of any fuel leak if there is fuel accumulation; repairing any fuel leak found; or, if the source of the leak cannot be found, performing an engine run-up leak test, and sealing certain drain holes and the access door with speed tape prior to a ferry flight to an authorized service center. The CAAI classified this alert service bulletin as mandatory and issued Israeli airworthiness directive 28–02–03–15, dated March 26, 2002, in order to assure the continued airworthiness of these airplanes in Israel.

Since the issuance of the Israeli airworthiness directive, the manufacturer has issued Gulfstream Service Bulletin 200–53–127, dated May 2, 2002, which describes procedures for modification of the aft fuselage area, which eliminates the need for the repetitive inspections. The modification includes ensuring that certain drain holes are present and are eight millimeters in diameter; installing a diverter around the access door of the aft service compartment; installing grommets on fuselage drain holes; installing an extension to the existing auxiliary power unit diverter; drilling fastener holes, installing, and sealing an angle for tail cone drainage; removing certain fuel vent tubes; repairing or replacing the form in-place gasket between the service door and fuselage, if necessary; and applying finishing treatment. The CAAI classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in Israel.

FAA's Conclusions

These airplane models are manufactured in Israel and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAAI has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between This AD, Service Information, and Foreign Airworthiness Directive

This AD differs from the parallel Israeli airworthiness directive and GALAXY alert service bulletin in that it requires accomplishment of the initial inspection within five flight cycles after the effective date of this AD. The alert service bulletin and the Israeli airworthiness directive recommend accomplishment of the initial inspection prior to further flight. In developing an appropriate compliance time for this AD, the FAA considered not only the CAAI's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, and the average utilization of the affected fleet. In light of these factors, we have determined that requiring the inspection within five flight cycles after the effective date of the AD will not adversely affect safety and allows reasonable time for operators to accomplish the inspection without immediately taking airplanes out of service.

Additionally, operators should note that, although the Israeli airworthiness directive does not reference a modification, this AD mandates modification of the aft fuselage area for conditions where fuel leakage cannot be found.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NM–123–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–09 Gulfstream Aerospace LP (Formerly Israel Aircraft Industries, Ltd.): Amendment 39–12755. Docket 2002–NM–123–AD.

Applicability: Model Galaxy airplanes, having serial numbers 004 through 056 inclusive; and Gulfstream 200 airplanes, having serial numbers 057 through 061 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel accumulation inside of the aft service compartment, which could result in fuel vapors coming into contact with ignition sources and consequent fire, accomplish the following:

Repetitive Inspections/Follow-On Actions

(a) Within 5 flight cycles after the effective date of this AD, do a general visual inspection to detect evidence of fuel accumulation inside of the aft service compartment, per the Accomplishment Instructions of GALAXY (Gulfstream Aerospace Corporation) Alert Service Bulletin GALAXY–28A–130, dated March 22, 2002.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) If no evidence of fuel accumulation is found, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 5 flight cycles until the modification provided by paragraph (b) of this AD has been accomplished. Accomplishment of the modification terminates the requirements of this AD.

(2) If any evidence of fuel accumulation is found, before further flight, accomplish the leak test per paragraph 5.A. of the Accomplishment Instructions of the alert service bulletin.

(i) If no fuel leak is found, before further flight, accomplish the modification provided by paragraph (b) of this AD. Accomplishment of the modification terminates the requirements of this AD.

(ii) If a fuel leak is found, before further flight, repair the leak per paragraph 5. of the Accomplishment Instructions of the alert service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 5 flight cycles until the modification provided by paragraph (b) of this AD has been accomplished. Accomplishment of the modification terminates the requirements of this AD.

Optional Terminating Modification

(b) Accomplishment of the modification of the aft fuselage area (includes ensuring that certain drain holes are present and are 8 millimeters in diameter; installing a diverter around the access door of the aft service compartment; installing grommets on fuselage drain holes, installing an extension to the existing APU diverter, drilling fastener holes), per the Accomplishment Instructions of Gulfstream Service Bulletin 200–53–127, dated May 2, 2002, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided the actions listed in paragraph 6. of the Accomplishment Instructions of GALAXY (Gulfstream Aerospace Corporation) Alert Service Bulletin GALAXY–28A–130, dated March 22, 2002, have been accomplished.

Incorporation by Reference

(e) The actions required by paragraph (a) of this AD, shall be done in accordance with GALAXY (Gulfstream Aerospace Corporation) Alert Service Bulletin GALAXY–28A–130, dated March 22, 2002. The modification provided by paragraph (b) of this AD, if accomplished, shall be done in accordance with Gulfstream Service Bulletin 200–53–127, dated May 2, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D25, Savannah, Georgia 31402. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Israeli airworthiness directive 28–02–03–15, dated March 26, 2002.

Effective Date

(f) This amendment becomes effective on June 6, 2002.

Issued in Renton, Washington, on May 13, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12516 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ANM–17]

Modification of Class E Airspace, Newport, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Newport Municipal Airport, Newport, OR. Newly developed Area Navigation (RNAV) Special Standard Instrument Approach Procedure (SIAP) at the Newport Municipal Airport made this action necessary. Additional Class E 700-feet and 1,200-feet controlled airspace above the surface of the earth is required to contain aircraft executing

the RNAV RWY 16 RNAV SIAP at Newport Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Newport Municipal Airport, Newport, OR.

EFFECTIVE DATE: 0901 UTC, August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 01–ANM–17, 1601 Lind Avenue SW, Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On March 11, 2002, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E Airspace at Newport, OR in order to provide a safer IFR environmental at Newport Municipal Airport, Newport, OR (67 FR 10864). This amendment provides additional Class E5 700 and 1,200 foot controlled Airspace at Newport, OR to contain aircraft conducting instrument flight operations at Newport Municipal Airport. Additionally, this action modifies the effective hours of the Class E–2 Surface Area from part-time to continuous. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) modifies Class E Airspace at Newport, OR, in order to provide adequate controlled Airspace for IFR operations at Newport Municipal Airport, Newport, OR. Newly developed RNAV RWY 16 SIAP at the Newport Municipal Airport and newly installed 24-hour weather reporting equipment made this modification necessary. Additional Class E 700-feet and E 1,200-feet controlled Airspace, above the surface of the earth is required to contain aircraft executing the Instrument Flight Rules (IFR) operations, at Newport Municipal Airport. New weather reporting equipment has been installed and certified; therefore, this action modifies the Class E–2 Airspace at Newport, OR to a 24-hour operation. The FAA establishes Class E Airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable Airspace and to promote safe flight operations under IFR at the Newport Municipal Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this Airspace docket are based on North American Datum 83. Class E Airspace designated as surface area for an airport, are published in Paragraph 6002; Class E Airspace areas extending upward from 700-feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E Airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6002–Class E Airspace designated as surface area for airport.

* * * * *

ANM OR E–2–Newport, OR [Revised]

Newport Municipal Airport, OR
(Lat. 44°34′49″N, long. 124°03′28″W.)
Newport VORTAC
(Lat. 44°34′31″N, long. 124°03′38″W)

Within a 4-mile radius of the Newport Municipal Airport, and within 3.5 miles each side of the Newport VORTAC 357° radial extending from the 4-mile radius to 7.9 miles north of the VORTAC.

* * * * *

Paragraph 6005–Class E Airspace areas extending upward from 700-feet or more above the surface of the earth.

* * * * *

ANM OR E5–Newport, OR [Revised]

Newport Municipal Airport, OR
(Lat. 44°34′49″N, long 124°03′28″W.)
Newport VORTAC
(Lat. 44°34′31″N, long. 124°03′38″W)

That airspace extending upward from 700-feet above the surface within a 5.5 mile radius of Newport Municipal Airport, and within 3.5 miles each side of the 005° bearing from the Newport VORTAC extending from the 5.5 mile radius to 8.7 miles north of the VORTAC, and within 2 miles each side of the Newport VORTAC 044° radial extending from the 5.5 mile radius to 11.4 miles northeast of the VORTAC, and within 3 miles each side of the Newport VORTAC 341° radial extending from the 5.5 mile radius to 7 miles northwest of the VORTAC; and that airspace extending upward from 1,200-feet above the surface, bounded by a line beginning at lat. 44°35′27″N., long. 124°17′15″W.; to lat. 44°47′56″N., long. 124°21′20″W.; to lat. 44°51′32″N., long. 124°21′30″W.; to lat. 44°54′10″N., long. 124°19′50″W.; to lat. 45°05′37″N., long. 124°18′01″W.; to lat. 45°05′37″N., long. 123°52′30″W.; to lat. 44°31′59″N., long. 123°58′04″W., to lat. 44°18′20″N., long. 124°11′55″W., to lat. 44°21′58″N., long. 124°20′30″W.; to lat. 44°25′22″N., long. 124°14′40″W.; thence to point of origin; excluding that airsparce within Federal Airways, the Tillamook and Corvallis, OR, Class E airspace area.

* * * * *

Issued in Seattle, Washington on May 13, 2002.

David B. Johnson,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 02–12854 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–6]

Amendment of Class E5 Airspace; Liberty, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E5 airspace at Liberty, NC. On April 20, 2000, the May Airport, which is included in the Liberty, NC Class E5 airspace, reverted from a public use facility to private use and the Standard Instrument Approach Procedure (SIAP) serving that airport was cancelled. Cancellation of the SIAP at May Airport eliminated the need for Class E5 airspace, therefore, the Liberty, NC Class E5 airspace legal description must be amended to reflect the change.

EFFECTIVE DATE: 0901 UTC, August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

The Liberty, NC Class E5 airspace includes the May Airport Class E5 airspace. On April 20, 2000, the May Airport reverted from a public use facility to private use and cancelled the SIAP serving the airport. Cancellation of the SIAP eliminated the need for Class E5 airspace at the May Airport, and requires that the Liberty, NC Class E5 airspace legal description be amended to delete the May Airport Class E5 airspace. This rule will become effective on the date specified in the **EFFECTIVE DATE** section. Since this action eliminates the impact on controlled airspace on the users of the airspace in the vicinity of the May Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Liberty, NC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 2979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, AND CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g): 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Liberty, NC [Revised]

Liberty Causey Airport, NC
(Lat. 35°54′46″ N, long. 79°37′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Causey Airport.

* * * * *

Issued in College Park, Georgia, on May 15, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–12853 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–003]

RIN 2115–AE47

Drawbridge Operation Regulation; Pelican Island Causeway, Galveston Channel, TX

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is changing the existing drawbridge operation regulation for the draw of the Pelican Island Causeway bridge across Galveston Channel, at Galveston, Texas. The modification will allow for the morning closure period to be moved 20 minutes earlier to better align with the automobile traffic that crosses the bridge. This rule also clarifies the mile mark for the location of the drawbridge.

DATES: This rule is effective June 21, 2002.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–02–003 and are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130–3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at the address given above or telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 21, 2002, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation, Pelican Island Causeway, Galveston Channel, TX in the **Federal Register** (67 FR 7989). We received one response commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

Presently, the draw of the Pelican Island Causeway bridge, Galveston Channel mile 4.5 (GIWW mile 356.1), at Galveston, Texas, shall open on signal; except that, from 7 a.m. to 8:30 a.m., 12 noon to 1 p.m., and 4:15 p.m. to 5:15 p.m. Monday through Friday, except Federal holidays, the draw need not be opened for passage of vessels. Public vessels of the United States and vessels in distress shall be passed at any time. The bridge owner has requested to modify the morning bridge closure periods to allow the bridge to remain closed to navigation from 6:40 a.m. until 8:10 a.m. vice 7 a.m. to 8:30 a.m. Approximately 4,000 vehicles cross the bridge in each direction daily. The adjustment to the morning closure times reflects changes to align the closure periods with the work times of the businesses located on the island. The bridge has been observing the morning closure times of 6:40 a.m. to 8:10 a.m. for several years without properly codifying the times in the regulation. This change will reflect the actual times the bridge remains closed in the morning hours.

Additionally, by this rulemaking, the Coast Guard plans to clarify the published location of the bridge in the Code of Federal Regulations. In 33 CFR 117.977, the section heading is for Galveston Channel. The mile mark for the bridge in that section, 356.1, is for the GIWW. The bridge is actually located at mile 4.5 of the Galveston Channel. This rulemaking will clarify the mile mark for the bridge by including both the Galveston Channel mile mark and the GIWW mile mark.

Discussion of Comments and Changes

One response was received in response to the **Federal Register** notice and the Public Notice. The Gulf Intracoastal Canal Association had no objections to the proposed change.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule allows vessels ample opportunity to transit this waterway with proper notification before and after the peak vehicular traffic periods.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will not have a significant impact on the number of small entities because the bridge has been operating on this revised schedule for several years.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not cause an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.977 is revised to read as follows:

§ 117.977 Pelican Island Causeway, Galveston Channel.

The draw of the Pelican Island Causeway bridge across Galveston Channel, mile 4.5 of the Galveston Channel, (GIWW mile 356.1) at Galveston, Texas, shall open on signal; except that, from 6:40 a.m. to 8:10 a.m., 12 noon to 1 p.m., and 4:15 p.m. to 5:15 p.m. Monday through Friday except Federal holidays, the draw need not be opened for passage of vessels. Public vessels of the United States and vessels in distress shall be passed at any time.

Dated: May 9, 2002.

Roy J. Casto,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 02–12732 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–034]

RIN 2115–AE47

Drawbridge Operation Regulations: Canaveral Barge Canal, Cape Canaveral, Brevard County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating regulations of the Christa McAuliffe, State Road (SR) 3 bridge across the Canaveral Barge Canal at Cape Canaveral, Florida. This temporary rule allows the Christa McAuliffe, SR 3 bridge to remain closed for periods of time during the week and provides a temporary schedule for other times during the week. This rule is necessary to facilitate repairs to the bridge.

DATES: This rule is effective from 6:15 a.m. on May 15, 2002 until 12:01 a.m. on September 1, 2002.

ADDRESSES: Comments and material received from the public as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07–02–034] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, Room 432, 909 S.E. 1st Avenue, Miami, Florida 33131–3050. between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Seventh Coast Guard District, Bridge Branch, telephone 305–415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest because immediate action is needed to facilitate repairs to the bridge.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Christa McAuliffe, SR 3 bridge, mile 1.0, across the Canaveral Barge Canal, is a twin, double bascule leaf bridge, with a vertical clearance of 21.6 feet at mean high water and a horizontal clearance of 90.3 feet between fenders. The existing operating regulations for this bridge in 33 CFR 117.273(a) require the bridge to open on signal from 6 a.m. to 10 p.m. except that, from 6:15 a.m. to 7:45 a.m. and from 3:30 p.m. to 5:15 p.m. Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels. From 10 p.m. to 6 a.m., everyday, the draws shall open on signal if at least three hours notice is given to the bridge tender. The draws shall open as soon as possible for the passage of public vessels of the United States, tugs with tows and vessels in distress.

The Florida Department of Transportation requested that the Christa McAuliffe, SR 3 bridge operations be temporarily changed to allow needed repairs to the structure. This rule temporarily changes the bridge's operating regulations to require the bridge to open on signal, except from 6:15 a.m. to 8:15 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except Federal holidays, the draws need not open for the passage of vessels. From 8:15 a.m. to 3 p.m., Monday through Friday except Federal holidays, the draws need only open on the hour and half hour for the passage of vessels. From 10 p.m. until 6 a.m., everyday, the draws shall open on signal if at least three hours notice is given to the bridge tender. The draws shall open as soon as possible for the passage of public vessels of the United States, tugs with tows and vessels in distress.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because the regulations will only affect an area of limited marine traffic and this temporary rule still provides for scheduled openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered

whether this rule would have a significant economic effect upon a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Canaveral Barge Canal under the Christa McAuliffe, SR 3 bridge between May 15, 2002 and September 1, 2002. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because the regulations will only affect an area of limited marine traffic and this rule still provides for scheduled openings.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The unfunded Mandates Reform Act of 1995 (2 U.S.C. 1521–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard has considered the environmental impact of this rule and has concluded that under figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket we have indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

2. From 6:15 a.m. on May 15, 2002, until 12:01 a.m. on September 1, 2002, in § 117.273, temporarily suspend paragraph (a) and add a new temporary paragraph (c) to read as follows:

§ 117.273 Canaveral Barge Canal.

* * * * *

(c) The draws of the Christa McAuliffe bridge, SR 3, mile 1.0, near Indianola shall open on signal, except from 6:15 a.m. to 8:15 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except Federal holidays the draws need not open. From 8:15 a.m. to 3 p.m., Monday through Friday except Federal holidays, the draws need only open on the hour and half hour for the passage of vessels. From 10 p.m. until 6 a.m., everyday, the draws shall open on signal if at least three hours notice is given to the bridge tender. The draws shall open as soon as possible for the passage of public vessels of the United States, tugs with tows and vessels in distress.

Dated: May 9, 2002.

John E. Crowley, Jr.

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 02–12730 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–056]

Drawbridge Operation Regulations: New Rochelle Harbor, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: On May 10, 2002, the Commander, First Coast Guard District, issued a revised temporary deviation from the drawbridge operation regulations for the Glen Island Bridge, mile 0.8, across New Rochelle Harbor at New Rochelle, New York. This revised deviation replaces the temporary deviation issued on March 21, 2002, and will allow the bridge to operate on scheduled openings daily, and remain closed to navigation from 11 p.m. to 7 a.m., Sunday through Friday, from May 12, 2002 through June 26, 2002. This revised temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This revised deviation is effective from May 12, 2002, through June 26, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: On February 5, 2002, the Westchester County Department of Public Works, requested a temporary deviation from the drawbridge operating regulations for the Glen Island Bridge, mile 0.8, across New Rochelle Harbor, in New York. The purpose of the temporary deviation was to facilitate necessary maintenance, replacement of deteriorated concrete and structural supports, at the bridge. On March 21, 2002, the Commander, First Coast Guard District, issued a temporary deviation from the drawbridge operating regulations for the Glen Island Bridge. A notice of that deviation was published on March 29, 2002 (66 FR 15117).

On April 10, 2002, the bridge owner advised the Coast Guard that some potential problems were discovered concerning the temporary manual bridge opening system that will be utilized to open the bridge. The temporary manual system takes thirty-minutes to fully open and close the bridge compared to the normal ten-minute cycle time for bridge openings. This lengthy operating cycle is expected to cause vehicular traffic delays for vehicles traveling to and from the Glen Island County Park.

As a result of the above information, the Commander, First Coast Guard District issued a revised deviation on May 10, 2002, to help mitigate traffic delays during the effective period of necessary maintenance at the bridge.

The Coast Guard and the owner of the bridge coordinated this schedule with the mariners that normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system and to vehicular traffic.

Under the revised temporary deviation the Glen Island Bridge will operate from May 12, 2002 through June 26, 2002, as follows:

- From 11 p.m. to 7 a.m., Sunday through Friday, the draw need not open for vessel traffic.
- From 7 a.m. to 2 p.m., Monday through Wednesday, the draw shall open on signal, every other hour, on the odd hour and from 2 p.m. to 11 p.m., the draw shall open every hour on the hour.
- From 7 a.m. to 2:30 p.m., Thursday and Friday, the draw shall open on signal every other hour on the odd hour and from 2:30 p.m. to 10:30 p.m. every hour on the half hour.
- The draw shall open on signal, every hour on the hour all day on Saturday and on Sunday until 11 p.m.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: May 10, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–12801 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–033]

RIN 2115–AA97

Safety Zone; Lake Champlain Challenge, Cumberland Bay, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Lake Champlain Challenge Hydroplane race located on Cumberland Bay, NY. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the affected waterway.

DATES: This rule is effective from 11:30 a.m. on Saturday, June 29, until 6:30 p.m. on Sunday, June 30, 2002.

ADDRESSES: The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01–02–033 and are available for inspection or copying at Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. Day, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 2, 2002, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Lake Champlain Challenge, Cumberland Bay, NY in the **Federal Register** (67 FR 15507). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The New England Inboard Racing Association sponsors the Lake Champlain Challenge, a high-speed powerboat race with less than 100 powerboats, propelled by 1.5 to 6 liter engines, at the north end of Cumberland Bay, Plattsburgh, NY. The safety zone includes all waters of Cumberland Bay north of a line drawn from the east end of the old Canal Terminal Pier in approximate position 44°42′26.0″ N 073°26′28.5″ W, to approximate position 44°43′00.8″ N 073°24′37.3″ W (NAD 1983) on Cumberland Head.

Marine traffic will still be able to transit through the Saranac River and southern Cumberland Bay while the safety zone is in effect. Additionally, vessels will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the safety zone. Commercial piers located within the safety zone are no longer used.

The rule will be enforced from 11:30 a.m. to 6:30 p.m. on Saturday, June 29, and Sunday, June 30, 2002. All vessels

and swimmers will be prohibited from transiting the portion of Cumberland Bay designated as a safety zone. This rule is needed to protect the waterway users from the hazards associated with high-speed powerboats racing in confined waters.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to this rulemaking.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This finding is based on the minimal time that vessels will be restricted from the zone, and the relatively small number of vessels that normally operate in the vicinity of the zone. Vessels may transit through the Saranac River and southern Cumberland Bay throughout the safety zone's duration. Vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zone. Advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Cumberland Bay during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: vessel traffic can still transit through the Saranac River and southern Cumberland Bay during the event; vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zone before the effective period. Further, we will ensure wide dissemination of maritime advisories to users of Lake Champlain via Local Notice to Mariners and marine information broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From 11:30 a.m. June 29, 2002, to 6:30 p.m. June 30, 2002, add temporary § 165.T01–033 to read as follows:

§ 165.T01–033 Safety Zone; Lake Champlain Challenge, Cumberland Bay, NY.

(a) *Regulated Area.* The following area is a safety zone: All waters of Cumberland Bay north of a line drawn from the east end of the old Canal Terminal Pier in approximate position 44°42′26.0″ N 073°26′28.5″ W, to approximate position 44°43′00.8″ N 073°24′37.3″ W (NAD 1983) on Cumberland Head.

(b) *Enforcement period.* This section will be enforced from 11:30 a.m. to 6:30 p.m. on Saturday, June 29, and Sunday, June 30, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 14, 2002.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 02–12802 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–059]

RIN 2115–AA97

Safety Zone; Sandy Hook Bay, Highlands, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Clamfest fireworks display located on Sandy Hook Bay, NJ. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the affected waterway.

DATES: This rule is effective from 8:30 p.m. on Friday, June 14, to 10 p.m. on Saturday, June 15, 2002.

ADDRESSES: The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Documents indicated in this preamble as being available in the docket, are part of docket CGD01–02–059 and are available for inspection or copying at Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. Day, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. An annual safety zone has been published for this event in 33 CFR 165.161 effective on the Saturday and Sunday before Father's Day. The date for this year's event has been moved to the Friday before Father's Day. Further, it is an annual local event, recreational vessels may still transit around the zone during the event, the zone is only in effect for 1 and a half hours, and vessels can be given permission to transit the zone for all but about 25 minutes during this time. Any delay encountered in this rule's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with fireworks launched from a barge in the area.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish a temporary final rule (TFR) more than 30 days before the event. An annual safety zone has been published for this event in 33 CFR 165.161 effective on the Saturday and Sunday before Father's Day. The date for this year's event has been moved to the Friday before Father's Day. Further, it is an annual local event, recreational vessels may still transit around the zone during the event, the zone is only in effect for 1½ hours, and vessels can be given permission to transit the zone for all but about 25 minutes during this time. Any delay encountered in this rule's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

The Coast Guard has received an application to hold a fireworks program on the waters of Sandy Hook Bay. This rule establishes a safety zone in all waters of Sandy Hook Bay within a 125-yard radius of the fireworks barge in approximate position 40°24′33.8″ N 073°59′46.2″ W (NAD 1983), about 1,200 yards west of Plum Island. The safety zone is in effect from 8:30 p.m. until 10 p.m. on Friday, June 14, 2002.

Discussion of Rule

This rule prevents vessels from transiting a portion of Sandy Hook Bay and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Recreational traffic will still be able to transit around the safety zone during this event. Other vessels can be given permission to transit the zone for all but about 25 minutes during this time. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 5 inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of

the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This finding is based on the minimal time that vessels will be restricted from the zone. Further, it is an annual local event, recreational vessels may still transit around the zone during the event, the zone is only in effect for 1½ hours, and vessels can be given permission to transit the zone for all but about 25 minutes during this time. Advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Sandy Hook Bay during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: it is an annual local event, recreational vessels may still transit around the zone during the event, the zone is only in effect for 1 and a half hours, and vessels can be given permission to transit the zone for all but about 25 minutes during this time. We will ensure wide dissemination of maritime advisories to users of Sandy Hook Bay via Local Notice to Mariners and marine information broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From 8:30 p.m. June 14, 2002, to 10 p.m. June 15, 2002, add temporary § 165.T01–059 to read as follows:

§ 165.T01–059 Safety Zone; Sandy Hook Bay, Highlands, NJ.

(a) *Regulated Area.* The following area is a safety zone: All waters of Sandy Hook Bay within a 125-yard radius of the fireworks barge in approximate position 40°24′33.8″ N 073°59′46.2″ W, (NAD 1983) approximately 1,200 yards west of Plum Island.

(b) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10 p.m. on Friday, June 14, and Saturday, June 15, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 14, 2002.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 02–12800 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 157

[OPP–2002–0059; FRL–7177–2]

Termite Insecticide Bait Stations; Exemption From Adult Portion of Child-Resistant Testing Specifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Exemption order.

SUMMARY: This exemption order announces EPA's decision to grant an exemption until December 31, 2016, from the child-resistant packaging (CRP) senior-adult test and younger-adult test effectiveness specifications for prefilled, nonrefillable termite insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. Products qualifying for this exemption must still fully comply with all other CRP effectiveness, compatibility, and durability standards. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document. This exemption was requested by FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation, pursuant to EPA's CRP regulations. The basis for this exemption is that a package that does not require opening or activation to put into use should not require adult ease of opening testing.

DATES: This exemption order is effective on May 22, 2002 and expires on December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Rosalind L. Gross, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–7368; fax number: (703) 308–9382; e-mail address: gross.rosalind@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you have a prefilled, nonrefillable termite insecticide bait station not designed or intended to be opened or activated in a manner that exposes the contents to human contact. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Pesticide and Other Agricultural Chemical Manufacturing	325320	Household-type insecticides manufacturing, termite poisons manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 157 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr157_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0059. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What is the Agency's Authority for Taking this Action?

Section 25(c)(3) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes EPA to establish CRP standards that are consistent with those of the Consumer Product Safety Commission (CPSC). Accordingly, EPA's CRP regulations at 40 CFR 157.32 require that CRP for pesticides meet the CPSC packaging standards (effectiveness specifications) and testing procedures set forth in 16 CFR 1700.15(b) and 1700.20. The CPSC Poison Prevention

Packaging Standards in 16 CFR 1700.15(b) provide that CRP, when tested by the method described in 16 CFR 1700.20, shall meet certain child-resistant test, senior-adult test, and younger-adult test effectiveness specifications. In 16 CFR 1700.15(b)(2), the senior-adult test and younger-adult test effectiveness specifications are discussed with reference to the senior-adult panel test of 16 CFR 1700.20(a)(3) and the younger-adult panel test of 16 CFR 1700.20(a)(4), respectively.

EPA's CRP regulations at 40 CFR 157.24(b)(3) provide that exemptions from compliance may be granted on a case-by-case basis for specific products based on technical factors. The regulations further provide that, if granted, any such exemption decision will be published in the **Federal Register**, will be for a specified length of time, and will be applicable to any product with substantially similar composition and intended uses. When EPA's CRP regulations were published in the **Federal Register** on March 9, 1979 (44 FR 13019), the Agency explained that a decision to grant an exemption shall be applicable to any product with identical or substantially similar composition and intended uses "[t]o insure fairness . . . to any product in the identical situation. Some of the factors for consideration in determining whether or not a situation is identical may include the type of formulation and size and type of container."

B. What was the Exemption Requested?

FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation requested an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR1700.15(b)(2) (Ease of adult opening), for prefilled, nonrefillable termite insecticide bait stations that are not designed or intended to be opened or activated in a manner that exposes the contents to human contact.

As support for the exemption request, FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation advanced the following arguments: The purpose of adult testing is to ensure that the package is not difficult for adults to use properly. If CRP is difficult for adults to open, the concern arises that the package may be disabled or left unsecured to eliminate the difficulty of reopening it. Under such circumstances, the contents would be accessible to children. In the case of prefilled, nonrefillable termite insecticide bait stations not designed or intended to be opened, this concern does not arise. There is no risk that an adult will disable or fail to re-secure a difficult to open package, because the packages need not be opened or activated in order to function properly. As there is no concern that an adult will disable or fail to re-secure such a package, there is also no concern that the contents of disabled or unsecured packages will be accessible to children. Instead, from a child safety standpoint, the only relevant question regarding such packages is whether they can prevent a child from gaining access to the bait.

C. What Action is the Agency Taking?

The Agency has considered the FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation exemption requests and the basis therefore and agrees that it is unnecessary to test the ability of a senior-adult or younger-adult to open and properly re-secure a package not designed or intended to be opened or activated. No benefits in terms of improved child safety would be gained by such testing. Therefore, the Agency has decided to grant an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2), for prefilled, nonrefillable termite insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. This exemption order is effective on May 22, 2002 and expires on December 31, 2016. In addition, this exemption applies to any product with substantially similar composition and intended uses. Products that qualify for this exemption must fully comply with all other CRP effectiveness, compatibility, and durability standards, as well as all other requirements of 40 CFR part 157. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document.

III. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects

Environmental protection, Administrative practice and procedure, Infants and children, Packaging and containers, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–12712 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 157

[OPP–2002–0058; FRL–7177–3]

Ant or Roach Insecticide Bait Stations; Exemption From Adult Portion of Child-Resistant Testing Specifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Exemption order.

SUMMARY: This exemption order announces EPA's decision to grant an exemption until December 31, 2016, from the child-resistant packaging (CRP) senior-adult test and younger-adult test effectiveness specifications for prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. Products qualifying for this exemption must still fully comply with all other CRP effectiveness, compatibility, and durability standards. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document. This exemption was requested by S.C. Johnson & Son, Inc., pursuant to EPA's CRP regulations. The basis for this exemption is that a package that does not require opening or activation to put into use should not require adult ease of opening testing.

DATES: This exemption order is effective on May 22, 2002 and expires on December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Rosalind L. Gross, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–7368; fax number: (703) 308–9382; e-mail address: gross.rosalind@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you have a prefilled, nonrefillable ant or roach insecticide bait station not designed or intended to be opened or activated in a manner that exposes the contents to human contact. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Pesticide and Other Agricultural Chemical Manufacturing	325320	Ant poisons manufacturing, household-type insecticides manufacturing, roach poisons manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 157 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr157_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0058. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What is the Agency's Authority for Taking this Action?

Section 25(c)(3) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes EPA to establish CRP standards that are consistent with those of the Consumer Product Safety Commission (CPSC). Accordingly, EPA's CRP regulations at 40 CFR 157.32 require that CRP for pesticides meet the CPSC packaging standards (effectiveness specifications) and testing procedures set forth in 16 CFR 1700.15(b) and 1700.20. The CPSC Poison Prevention Packaging Standards in 16 CFR 1700.15(b) provide that CRP, when tested by the method described in 16 CFR 1700.20, shall meet certain child-resistant test, senior-adult test, and younger-adult test effectiveness specifications. In 16 CFR 1700.15(b)(2), the senior-adult test and younger-adult test effectiveness specifications are discussed with reference to the senior-adult panel test of 16 CFR 1700.20(a)(3) and the younger-adult panel test of 16 CFR 1700.20(a)(4), respectively.

EPA's CRP regulations at 40 CFR 157.24(b)(3) provide that exemptions from compliance may be granted on a case-by-case basis for specific products based on technical factors. The regulations further provide that, if granted, any such exemption decision will be published in the **Federal Register**, will be for a specified length of time, and will be applicable to any product with substantially similar composition and intended uses. When EPA's CRP regulations were published in the **Federal Register** on March 9, 1979 (44 FR 13019), the Agency explained that a decision to grant an exemption shall be applicable to any product with identical or substantially similar composition and intended uses "[t]o insure fairness . . . to any product in the identical situation. Some of the factors for consideration in determining whether or not a situation is identical may include the type of formulation and size and type of container."

B. What was the Exemption Requested?

S.C. Johnson & Son, Inc. requested an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR1700.15(b)(2) (Ease of adult opening), for prefilled, nonrefillable ant or roach insecticide bait stations that are not designed or intended to be opened or activated in a manner that exposes the contents to human contact.

As support for the exemption request, S.C. Johnson &Son, Inc. advanced the following arguments: The purpose of adult testing is to ensure that the package is not difficult for adults to use properly. If CRP is difficult for adults to open, the concern arises that the package may be disabled or left unsecured to eliminate the difficulty of reopening it. Under such circumstances, the contents would be accessible to children. In the case of prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened, this concern does not arise. There is no risk that an adult will disable or fail to re-secure a difficult to open package, because the packages need not be opened or activated in order to function properly. As there is no concern that an adult will disable or fail to re-secure such a package, there is also no concern that the contents of disabled or unsecured packages will be accessible to children. Instead, from a child safety standpoint, the only relevant question regarding such packages is whether they can prevent a child from gaining access to the bait.

C. What Action is the Agency Taking?

The Agency has considered the S.C. Johnson & Son, Inc. exemption request and the basis therefore and agrees that it is unnecessary to test the ability of a senior-adult or younger-adult to open and properly re-secure a package not designed or intended to be opened or activated. No benefits in terms of improved child safety would be gained by such testing. Therefore, the Agency has decided to grant an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2), for

prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. This exemption order is effective on May 22, 2002 and expires on December 31, 2016. In addition, this exemption applies to any product with substantially similar composition and intended uses. Products that qualify for this exemption must fully comply with all other CRP effectiveness, compatibility, and durability standards, as well as all other requirements of 40 CFR part 157. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document.

III. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects

Environmental protection, Administrative practice and procedure, Infants and children, Packaging and containers, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–12711 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0035; FRL–6836–7]

Nicotine; Tolerance Revocations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes specific tolerances for residues of nicotine-containing compounds used as insecticides and for the insecticide nicotine. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions in this document pertain to the revocation of 66 tolerances which are counted among tolerance/exemption reassessments made toward the August, 2002 review deadline.

DATES: This regulation is effective August 20, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0035, must be received by EPA on or before July 22, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0035 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8037; e-mail address: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0035. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

This final rule revokes certain FFDCA tolerances for residues of nicotine-containing compounds used as insecticides and for the insecticide nicotine in or on specified commodities listed in the regulatory text because nicotine is no longer registered under FIFRA for use on those commodities. The tolerances revoked by this final rule

are no longer necessary to cover residues of nicotine or nicotine-containing compounds in or on domestically treated commodities or commodities treated outside but imported into the United States. Nicotine or nicotine-containing compounds are no longer used on those specified commodities within the United States, and no one commented that there was a need for EPA to retain the tolerances to cover nicotine residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

In the **Federal Register** of January 16, 2002 (67 FR 2175) (FRL–6810–3), EPA issued a proposed rule to revoke the tolerances listed in this final rule. Also, the January 16, 2002 proposal invited public comment for consideration and for support of tolerance retention under FFDCA standards. No comments were received by the Agency.

Currently, with the exception of cucumber, lettuce, and tomato, there are no other active food use registrations existing for nicotine-containing compounds or nicotine. Because no active food use registrations have existed since 1994 and because no comments expressed a need to retain these tolerances for import purposes, EPA is revoking 62 tolerances in 40 CFR 180.167 for residues of nicotine-containing compounds used as insecticides in or on apples; apricots; artichokes; asparagus; avocados; beans; beets (with or without tops) or beet greens alone; blackberries; boysenberries; broccoli; brussels sprouts; cabbage; cauliflower; celery; cherries; citrus fruits; collards; corn; cranberries; currants; dewberries; eggplants; gooseberries; grapes; kale; kohlrabi; loganberries; melons; mushrooms; mustard greens; nectarines; okra; onions; parsley; parsnips (with or without tops) or parsnip greens alone; peaches; pears; peas; peppers; plums (fresh prunes); pumpkins; quinces; radishes (with or without tops) or radish tops; raspberries; rutabagas (with or without tops) or rutabaga tops; spinach; squash; strawberries; summer squash; Swiss chard; turnips (with or without tops) or turnip greens; and youngberries. Also, EPA is revoking the four tolerances in 40 CFR 180.167a for residues of the insecticide nicotine in eggs; poultry, fat; poultry, meat; and poultry, meat byproducts by removing section 180.167a in its entirety.

Because some of the tolerances in 40 CFR 180.167 will not be revoked and will remain in the Code of Federal Regulations, EPA is revising the commodity terminology changes for the remaining tolerances to conform with current Agency administrative practice as follows: "cucumbers" to "cucumber" and "tomatoes" to "tomato."

B. What is the Agency's Authority for Taking this Action?

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

C. When Do These Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the Federal Register. EPA has delayed the effectiveness of these revocations for 90 days following publication of this final rule to ensure that all affected parties receive notice of EPA's actions. Consequently, the effective date is August 20, 2002. For this final rule, tolerances that were revoked because registered uses did not exist concerned uses which have been canceled for many years. Therefore, commodities containing these pesticide residues should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticide subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of this pesticide in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2002 to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996. EPA is also required to assess the remaining tolerances by August, 2006. As of May 1, 2002, EPA has reassessed over 4,140 tolerances. For counting purposes, the tolerances depicted as "with or without tops" were each counted as two tolerances. In this rule, EPA is revoking 66 tolerances which count as reassessments toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are There Any International Trade Issues Raised by this Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at http://www.epa.gov/. On the Home Page select "Laws and Regulations," then select "Regulations and Proposed Rules" and

then look up the entry for this document under "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at http://www.epa.gov/fedrgstr/.

IV. Objections and Hearing Requests

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0035 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 22, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Objection/hearing fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IV.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–2002–0035, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

V. Regulatory Assessment Requirements

This final rule will revoke tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104—4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with nicotine-containing compounds used as insecticides or the insecticide nicotine. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 2, 2002.

Joseph J. Merenda,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.167 is revised to read as follows:

§ 180.167 Nicotine-containing compounds; tolerances for residues.

(a) *General.* Tolerances are established for residues of nicotine-containing compounds used as insecticides in or on the following raw agricultural commodities:

Commodity	Parts per million
Cucumber	2.0
Lettuce	2.0
Tomato	2.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.167a [Removed]

3. Section 180.167a is removed.

[FR Doc. 02–12423 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0052; FRL–7178–6]

Trifloxystrobin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for trifloxystrobin regulated as trifloxystrobin and the free form of its acid metabolite CGA–321113 in or on fruit, stone, group; nut, tree, group; pistachio; corn, field, grains; corn, field, forage; corn field stover; corn, field, refined oil; corn, pop, grain; corn, pop, stover; rice, grain; rice, hulls; rice, straw; citrus, dried pulp; citrus oil; fruit, citrus, group; egg; poultry, fat; poultry, meat; and poultry, meat by products. Bayer, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective May 22, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0052, must be received by EPA on or before July 22, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION** section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0052 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–7740 and e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the section **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0052. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of November 14, 2001 (66 FR 57074) (FRL–6806–6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) 0F6121 for tolerances by Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64121–0013. This notice included a summary of the petition prepared by Bayer Corporation, the registrant. No comments were received in response to the amendment.

The petition requested that 40 CFR 180.555 be amended by establishing tolerances for combined residues of the fungicide trifloxystrobin and the free form of its acid metabolite CGA–321113, in or on fruit, stone, group at 2 parts per million (ppm); nut, tree, group at 0.05 ppm; pistachio at 0.05 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.05 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus, oil at 7 ppm; fruit, citrus, group at 0.3 ppm; egg at 0.04 ppm; poultry, fat; and poultry, meat; poultry, kidney; poultry, liver; and poultry, meat by products at 0.05 ppm. Bayer, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of trifloxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of trifloxystrobin and the free form of its acid metabolite CGA–321113 on fruit, stone, group at 2 ppm; nut, tree, group at 0.04 ppm; pistachio at 0.04 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.2 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus oil at 30 ppm; fruit, citrus, group at 0.3 ppm; egg at 0.04 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04 ppm; poultry, meat by products at 0.04 ppm. In examining the data for corn field forage and citrus oil the Agency found that the residue data supports a higher tolerance than was proposed. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by trifloxystrobin and the free form of its acid metabolite CGA–321113 are discussed below as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

1. *Subchronic-feeding study—rat.* The No Observed Adverse Effects Level (NOAEL) was 500 ppm (30.6–32.8 mg/kg/day). Decreased body weight, hypertrophy of hepatocytes in males and pancreatic atrophy were observed at the Lowest Observed Adverse Effects Level (LOAEL) of 2,000 ppm (127–133 mg/kg/day).

2. *Subchronic-feeding study—mouse.* The NOAEL was 500 ppm (76.9–110 mg/kg/day). Increased liver weights and necrosis of hepatocytes were observed at the LOAEL of 2,000 ppm (315–425 mg/kg/day).

3. *Subchronic-feeding study—dog.* The NOAEL was 30 mg/kg/day. Increased liver weight and hepatocyte hypertrophy in males were observed at the LOAEL of 150 mg/kg/day.

4. *28–day dermal toxicity study—rat.* The NOAEL was 100 mg/kg/day. Increased liver and kidney weight were observed at the LOAEL of 1,000 mg/kg/day.

5. *Developmental toxicity study—rat.* The maternal NOAEL was 10 mg/kg/day. Decreased body weight gain and food consumption were observed at the maternal LOAEL of 100 mg/kg/day. The developmental NOAEL was 1,000 mg/kg/day. No developmental effects were observed. The developmental LOAEL was equal to or greater than 1,000 mg/kg/day.

6. *Developmental toxicity study—rabbit.* The maternal NOAEL was 10 mg/kg/day. Decreased mean body weights and decreased mean body weight gain (compared to control), food consumption and efficiency were observed at the maternal LOAEL of 50 mg/kg/day. The developmental NOAEL was 250 mg/kg/day. Skeletal anomolies were observed at the Developmental LOAEL of 500 mg/kg/day.

7. *Reproductive toxicity study—rat.* The parental NOAEL was 50 ppm (3.8 mg/kg/day). Decreased mean body weight and decreased mean weight gain (compared to control), decreased food consumption, and increased incidence of liver, kidney and spleen effects were observed at the parental LOAEL of 750 ppm (55.3 mg/kg/day). The reproductive NOAEL was 1,500 ppm (110.6 mg/kg/day). The reproductive LOAEL was greater than 1,500 ppm (110.6 mg/kg/day).

8. *Chronic-feeding study—dog.* The NOAEL was 5 mg/kg/day. Increased clinical signs, increased liver weight and hepatocellular hypertrophy were observed at the LOAEL of 50 mg/kg/day.

9. *Carcinogenicity study—mouse.* The NOAEL was 300 ppm (39.4 mg/kg/day). Liver effects were observed at the LOAEL of 1,000 ppm (131.1 mg/kg/day).

10. *Chronic toxicity/carcinogenicity study—rat.* The NOAEL was 250 ppm (9.81–11.37 mg/kg/day). Decreased mean body weight and decreased mean body weight gain (compared to control) were observed at the LOAEL of 750 ppm (29.7–34.5 mg/kg/day).

11. *Gene mutation study—Salmonella.* Negative.

12. *Gene mutation study—Chinese Hamster Cultured V–79.* Positive.

13. *Structural chromosome aberration-micronucleus study—mouse.* Negative.

14. *Structural chromosome aberration-cytogenetics study—Chinese Hamster.* Negative.

15. *DNA Repair study-hepatocytes—rat.* Negative.

16. *Acute oral neurotoxicity study—rat.* The NOAEL and LOAEL could not be determined.

17. *Metabolism study—rat.* The tissue half-lives ranged from 13 to 42 hours. The highest residues were found in liver, kidneys, spleen and blood. The parent compound was extensively metabolized to approximately 35 metabolites.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for trifloxystrobin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRIFLOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose(mg/kg/day)	Endpoint	Study
Acute Dietary [a] Females 13–50 only	NOAEL = 250 UF = 100	Increased fetal skeletal anomalies.	Developmental Toxicity - Rabbit

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRIFLOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose(mg/kg/day)	Endpoint	Study
Chronic Dietary [b] General population	NOAEL = 3.8 ..... UF = 100	Decreased pup body weights during lactation.	Reproductive Toxicity - Rat
Short-Term and Intermediate-Term (Dermal)	Dermal NOAEL= 100.	Increases in liver and kidney weights.	28-Day Dermal Toxicity Study in Rats
Long-Term (Dermal)[c]	Oral NOAEL = 5	Increased incidence of clinical signs, increased mean liver weight, and hepatocellular hypertrophy.	Chronic Toxicity - Dog
Short-, Intermediate- and Long-Term (Inhalation)[d]	Oral NOAEL = 3.8 ...	Decreased pup body weights during lactation.	Reproductive Toxicity - Rat
Short-Term and Intermediate-Term (Incidental Oral)	Oral NOAEL = 3.8 ...	Decreased pup body weights during lactation.	Reproductive Toxicity - Rat

[a] Acute RfD=2.5 mg/kg
[b] Chronic RfD=0.038 mg/kg/day
[c] Since an oral NOAEL was selected, a dermal absorption factor of 33% should be used for route-to-route extrapolation.
[d] Since an oral NOAEL was selected, inhalation absorption factor of 100% should be used for route-to-route extrapolation.

C. Exposure assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established for the combined residues of trifloxystrobin and the free form of its acid metabolite CGA–321113 on several commodities; including almonds, bananas, sugarbeets, pomefruit, grapes, peanuts, potatoes, cucurbit vegetables, fruiting vegetables, and wheat. The Agency conducted a new assessment incorporating these commodities and the following additional tolerances: fruit, stone, group at 2 ppm; nut, tree, group at 0.04 ppm; pistachio at 0.04 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.2 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus oil at 30 ppm; fruit, citrus, group at 0.3 ppm; egg at 0.04 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04 ppm; poultry, meat by products at 0.04 ppm. Risk assessments were conducted by EPA to assess dietary exposures from trifloxystrobin in food as follows:

i. *Acute exposure.* The acute dietary exposure analysis for trifloxystrobin is a Tier 1 assessment because no additional data were used to refine the analysis. One hundred percent of proposed and registered crops are assumed treated with trifloxystrobin (100% CT) and tolerance-level residues were used in the analysis. The acute dietary endpoint (increased fetal incidence of fused sternebrae) is only applicable to the population subgroup Females 13–50 years old. An acute dietary endpoint for the general population including infants and children was not identified. The estimated dietary exposure for females 13–50 years old occupies less than 1 percent of the acute PAD and does not exceed EPA's level of concern.

TABLE 2.—RESULTS OF ACUTE DIETARY EXPOSURE ANALYSIS AT THE 95TH PERCENTILE OF EXPOSURE

Population Subgroup	aPAD (mg/kg/day)	Exposure (mg/kg/day)	% aPAD
Females 13–50 years old	2.5	0.011587	0.46

ii. *Chronic exposure.* The chronic dietary exposure analysis for trifloxystrobin is a Tier 1 assessment because no additional data were used to refine the analysis. One hundred percent of proposed and registered crops are assumed treated with trifloxystrobin (100% CT) and tolerance-level residues were used in the analysis. The chronic dietary endpoint applies to all population subgroups including infants and children. A listing of the subgroups with the highest exposure are reported below in Table 3.

The results of the chronic dietary analysis show that risk ranges from 9% of the cPAD for adult males (20 years and older), to 39% of the cPAD for all infants (<1 year). Risk estimates for all population subgroups are below EPA's level of concern (100% of the cPAD).

TABLE 3.—RESULTS OF CHRONIC DIETARY EXPOSURE ANALYSIS

Population Subgroup	cPAD (mg/kg/day)	Exposure (mg/kg/day)	% cPAD
U.S. Population (total)	0.038	0.00503	13
All Infants (< 1 year)	0.038	0.015	39
Children 1–6 years	0.038	0.014	37
Children 7–12 years	0.038	0.0069	18
Females 13–50	0.038	0.0036	9.3
Males 13–19	0.038	0.0035	9.1
Males 20+ years	0.038	0.0034	9.0
Seniors 55+	0.038	0.0039	10

iii. *Cancer.* Trifloxystrobin was classified as a "not likely human carcinogen." Therefore, a cancer risk assessment was not conducted.

2. *Water exposure.* Trifloxystrobin is immobile, degrades and transforms rapidly, in soil (half life is about 2 days) and aquatic environments (half life is about 15–55 days), mostly to a series of isomers and the primary acid metabolite, CGA–321113. The major isomer forms at the average rate of 80% of the applied parent, is persistent, (half life is about 301 days), and soluble, 30.9 ppm and is also mobile. The major degradate minimum Koc is 49, the median Koc is 127 and is also stable to hydrolysis. The major degradate, CGA–321113 is persistent and mobile and has a potential to leach into groundwater. CGA–321113 has been found in the soil profile at the 36 inch depth.

Estimated environmental concentrations (EECs) were calculated for total trifloxystrobin residues (parent trifloxystrobin and its major degradate, CGA–321113) using EPA's FIRST model for surface water and the screeninig concentration in ground water (SCI-GROW) model. EPA's interim method for drinking water estimates for pesticides used in rice paddies was also used to generate EECs. No degradation process of the chemical and no dilution with uncontaminated water outside of the paddy were taking into account. The rice estimates are "expected to vastly exceed the 'true' values found in the environment, especially for trifloxystrobin, since available environmental fate data show that this compound degrades fairly rapidly in water and soil."

EECs were estimated for total trifloxystrobin residues because the environmental fate studies indicated that the parent compound forms transformation compounds (isomers) which are similar in structure to the parent under most conditions. Further, the EPA concluded that both trifloxystrobin and the free form of its acid metabolite CGA–321113 are of concern for both regulatory and risk assessment purposes for plant and livestock commodities.

The use site with the highest application rate is turfgrass, with a maximum label rate of 1.078 pounds active ingredient per acre per year (lbs/ai/ac/yr) (three applications at 0.359 lbs/ai/ac/yr). Drinking water estimates were also provided for rice paddies that may be treated with trifloxystrobin.

Surface water concentrations of trifloxystrobin and its major degradate CGA–321113 are 92 parts per billion (ppb) for the peak value (acute) and 50 ppb for the chronic value using the FIRST model. The groundwater screening concentration to be used for both acute and chronic assessments is 3.4 ppb. These values represent upper-bound estimates of the concentrations of total residues of trifloxystrobin that might be found in surface water and groundwater from the use of trifloxystrobin on turfgrass at the maximum application rate.

3. *Non-dietary exposure.* Trifloxystrobin's residential uses include turfgrass/ornamental disease control (Compass®). Because the FQPA requires consideration of aggregate exposure to all likely non-occupational uses, this assessment uses non-occupational postapplication contact with trifloxystrobin following Compass® use on turfgrass as the most common and worst case contributor to such exposures. The margin of exposure (MOEs) for applicable residential scenarios (i.e., postapplication dermal exposure from pesticide residues on lawns, incidental non-dietary ingestion of pesticide residues on lawns from hand-to-mouth transfer, incidental non-dietary ingestion of residues from pesticide-treated turfgrass from object-to-mouth activities, and incidental non-dietary ingestion of soil from pesticide-treated residential areas) were calculated separately, and then combined.

i. *Residential handler.* This current petition does not propose residential uses for trifloxystrobin. However, the label for the trifloxystrobin product, Compass® , includes residential use on turfgrass and ornamentals. This product may only be applied by a Certified Pest Control Operartor (PCO), not by homeowners directly.

ii. *Postapplication.* There is potential for dermal (adults and children) and oral exposure (children only) during postapplication activities. The following postapplication exposure scenarios resulting from lawn treatment were assessed: (1) Dermal exposure from pesticide residues on lawns, (2) incidental non-dietary ingestion of pesticide residues on lawns from hand-to-mouth transfer, (3) incidental non-dietary ingestion of residues from object-to-mouth activities (pesticide-treated turfgrass), and (4) incidental non-dietary ingestion of soil from pesticide-treated residential areas. Postapplication exposures from various activities following lawn treatment are considered to be the most common and significant in residential settings. Exposure via incidental non-dietary ingestion involving other plant material may occur but is expected to result in much less exposure than the four exposure scenarios listed above.

The exposure and risk estimates for the four residential exposure scenarios are assessed for the day of application (day "0") because it is assumed that adults and toddlers could contact the lawn immediately after application. On

the day of application, it was assumed that 5 percent of the application rate is available from the turfgrass as transferrable residue (20 percent for object-to-mouth activities). Intermediate-term exposure (1 to 6 months) is not expected based on trifloxystrobin's short half-life in soil (about 2 days). Chronic or long-term (continuous exposure over more than 6 months) exposure is not expected. The short-term MOEs for adults and children are above 100, they DO NOT exceed EPA's level of concern.

iii. *Recreational.* Trifloxystrobin may be used on turf at recreational use sites, and, therefore may result in postapplication exposure to adults and children involved in recreational activities. Exposures to adults and children from the use of trifloxystrobin at recreational use sites are assumed to be the same as those assessed for residential use sites. Residential turf exposure assessment results in what are considered upper bound risk estimates. Therefore, it is not expected that the upper bound residential exposure scenario would occur on the same day as an upper bound recreational exposure scenario. Exposure from these two exposure scenarios are not aggregated. Rather, the residential risk estimate should serve as an upper bound for both residential and recreational exposure.

Postapplication exposures from various activities following lawn treatment are considered to be the most common and significant in residential settings. There is potential for dermal (adults and children) and oral exposure (children only) during postapplication activities. Four postapplication exposure scenarios resulting from lawn treatment were assessed. Postapplication exposure and risk estimates for adults and children resulted in MOE's that were above 100 and all risks were considered below EPA's level of concern.

iv. *Other exposure sources.* Spray drift is always a potential source of exposure to residents nearby to spraying operations. This is particularly the case with aerial application, but, to a lesser extent, could also be a potential source of exposure from the groundboom application. The Agency has been working with the Spray Drift Task Force, EPA Regional Offices and State Lead Agencies for pesticide regulation and other parties to develop the best spray drift management practices. The Agency is now requiring interim mitigation measures for aerial applications that must be placed on product labels/labeling. The Agency has completed its evaluation of the new database submitted by the Spray Drift Task Force, a membership of U.S. pesticide registrants, and is developing a policy on how to appropriately apply the data and the AgDRIFT computer model to its risk assessments for pesticides applied by air, orchard airblast and ground hydraulic methods. After the policy is in place, the Agency may impose further refinements in spray drift management practices to reduce off-target drift and risks associated with aerial as well as other application types where appropriate.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." Trifloxystrobin belongs to a new class of fungicides, the MAEs (beta-methoxyacryl esters), which are synthetic analogs of strobilurin A, an antifungal secondary metabolite of the fungus *Strobilurus tenacellus.* Trifloxystrobin works by intetfering with respiration in plant pathogenic fungi. The site of action of strobilurin compounds is located in the mitochondrial respiration pathway between cytochromes b and c1 at the level of the hydroquinone binding site. As a result of this mode of action, trifloxystrobin is a potent inhibitor of fungal spore germination and mycelial growth. Trifloxystrobin can be referred to more specifically as an oximinoacetate.

EPA does not have, at this time, available data to determine whether trifloxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, trifloxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that trifloxystrobin has a common mechanism of toxicity with other substances. For information regarding EPA efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

EPA determined the 10x safety factor for the protection of infants and children should be removed for the following reasons:

1. The toxicology database is complete for FQPA assessment.

2. There is no indication of increased susceptibility of rat or rabbits to trifloxystrobin. In the developmental and reproductive toxicity studies, effects in the fetuses/offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

3. It was determined that a developmental neurotoxicity study in rats is not required.

4. The exposure assessments will not underestimate the potential dietary (food and drinking water) or nondietary exposures for infants and children from the use of trifloxystrobin.

E. Aggregate Risks and Determination of Safety

Acute and chronic aggregate risk estimates were calculated in this risk assessment. Acute aggregate risk was calculated by comparing acute drinking water levels of concern (DWLOCs) to potential drinking water exposure to trifloxystrobin. Similarly, chronic aggregate risk was calculated by comparing chronic DWLOCs to potential drinking water exposure.

Short-term aggregate risk estimates were also calculated. Short-term risk is based on exposures occurring over 1 to 30 days. Short-term aggregate risk was calculated by combining risk estimates for high-end residential oral and/or dermal exposures with chronic food and drinking water risks. Intermediate-term risk is based on 30 to 180 days of exposure (1 to 6 months). Intermediate-term exposure is not expected to occur based on the short soil half-life (about 2 days). Chronic non-dietary aggregate risk was not calculated as chronic dermal and oral exposures (from residential treatment) are not expected.. Cancer aggregate risk was not calculated because trifloxystrobin is classified as "not likely human carcinogen."

1. *Acute risk (food + drinking water).* The acute aggregate risk assessment takes into account exposure estimates from dietary consumption of trifloxystrobin from food and drinking water sources. The acute risk estimate for Females 13–50 years, resulting from aggregate exposure to trifloxystrobin in food and drinking water is below EPA's level of concern. Acute aggregate risk was not calculated for the U.S. population including infants and children or other population subgroups as EPA did not identify an endpoint for risk assessment for those groups.

The surface and groundwater EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments. To calculate the DWLOC for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from DEEM®) was subtracted from the aPAD to obtain the acceptable acute exposure to trifloxystrobin in drinking water. The acute DWLOCs are listed in the following Table 4:

TABLE 4.—DWLOCS FOR ACUTE DIETARY EXPOSURE TO TRIFLOXYSTROBIN

Population Subgroup[1]	Acute PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day)[2]	Rice Surface Water (µg/L)[3]	Ground Water (µg/L)[3]	DWLOC (µg/L)[4]
Females (13–50 years)	2.5	0.012	2.5	48	3.4	75,000

[1] Within each of these subgroups, the subpopulation with the highest (acute) food exposure having an adequately representative number of samples was selected EPA default body weight is 60 kg for females (13+ years old).
[2] Maximum Water Exposure (mg/kg/day) = Acute PAD (mg/kg/day) - Acute Food Exposure.
[3] Estimate for the highest use rate was chosen.
[4] DWLOC (µg/L) = [Maximum water Exposure (mg/kg/day) x body wt (kg)] ÷ [(10^{-3} mg/µg) x water consumed daily (L/day)]. µg/L = parts per billion. EPA default daily drinking rate is 2 L/day for adults.

For the acute aggregate risk scenario, food and drinking water exposures were taken into account. DWLOCs were calculated for females (13–50 years old) the only subgroup to which the acute dietary endpoint applies. The DWLOC was 75,000 ppb for females. This value is well above the EECs for drinking water, and therefore, acute aggregate risk is below EPA's level of concern.

2. *Short-term risk (food + drinking water + residential).* The short-term aggregate risk assessment estimates risks likely to result from 1– to 30–day exposure to trifloxystrobin residues are from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term assessment, while average values are used for food and drinking water exposure (i.e. chronic exposures).

A short-term risk assessment is required for adults because there is a residential exposure scenario (postapplication only). In addition, a short-term risk assessment is required for infants and children because there are residential post-application dermal and oral exposure scenarios. Toddlers' incidental oral exposure is assumed to include hand-to-mouth exposure, object-to-mouth exposure and exposure through incidental ingestion of soil.

Different endpoints were identified by EPA for short-term incidental oral and dermal risk assessment. The basis for the oral endpoint is reduced pup body weights and the dermal endpoint is based on increases in liver and kidney weights. Therefore, it is not possible to combine the exposure from both dietary/oral exposure with that from dermal exposure.

For the short-term aggregate risk scenario, food, drinking water and residential exposures are taken into account. DWLOCs were calculated for the U.S. population, males (13–19 years old), all infants (less than 1 year old) and females (13–50 years old). DWLOCs ranged from 170 ppb for all infants to 1,200 pbb for the U.S. population and males (13–19 years old). These values are above the EECs for drinking water and therefore, short-term aggregate risk is below EPA's level of concern.

3. *Intermediate-term risk.* The intermediate-term aggregate risk assessment estimates risks likely to result from 1 to 6 months of exposure (30 to 180 days) to trifloxystrobin residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term assessment, while average values are used for food and drinking water exposure (i.e. chronic exposures).

Intermediate-term exposure is not expected to occur based on the short soil half-life (about 2 days). Therefore, an intermediate-term aggregate risk assessment was not performed.

4. *Chronic risks.* The chronic aggregate risk assessment takes into account exposure estimates from dietary consumption of trifloxystrobin from food and drinking water sources. Chronic risk estimates resulting from aggregate exposure to trifloxystrobin in food and drinking water are below EPA's level of concern from all population subgroups.

The surface and groundwater EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments. To calculate DWLOCs for chronic exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DEEM®) was subtracted from the cPAD to obtain the acceptable chronic exposure to trifloxystrobin in drinking water. The chronic DWLOCs are listed in the following Table 5:

TABLE 5.—DWLOCS FOR CHRONIC DIETARY EXPOSURE TO TRIFLOXYSTROBIN.

Population Subgroup[1]	Chronic PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day)[2]	Rice Surface Water (µg/L)[3]	Ground Water (µg/L)[3]	DWLOC (µg/L)[4]
U.S. Population	0.038	0.00503	0.033	140	3.4	1,200
Males (13–19 years)	0.038	0.0035	0.035	140	3.4	1,200
All Infants (< 1 year)	0.038	0.015	0.023	140	3.4	230
Females (13–50 years)	0.038	0.0036	0.034	140	3.4	1,000

[1] Within each of these subgroups, the subpopulation with the highest food exposure having an adequately representative number of samples was selected EPA default body weights are: General U.S. Population, 70 kg; Females (13+ years old), 60 kg; and, All Infants/Children, 10 kg.
[2] Maximum Water Exposure (mg/kg/day) = Chronic PAD (mg/kg/day) - Chronic Food Exposure.
[3] Estimate for the highest use rate was chosen.

[4] DWLOC (µg/L) = [Maximum water Exposure (mg/kg/day) x body wt (kg)] ÷ [(10^{-3} mg/µg) x water consumed daily (L/day)]. µg/L = parts per billion. EPA default daily drinking rates are 2 L/day for Adults and 1 L/day for Infants/Children.

Chronic DWLOCs for all population subgroups are above the estimated concentrations of trifloxystrobin and its metabolites in drinking water, and are therefore not of concern.

5. *Aggregate cancer risk.* Not applicable. There is no evidence of carcinogenicity.

6. *Determination of safety.* EPA concludes with reasonable certainty that aggregate exposure from trifloxystrobin will not result in harm to the adult U.S. population or infants and children.

IV. Other Considerations

A. Metabolism in Plants and Animals

1. *For plants.* The qualitative nature of the residue in plants is adequately understood for fruits, fruiting vegetables, cucurbit vegetables and peanuts, based on acceptable metabolism studies conducted on apples, cucumbers, peanuts, and a supplementary study on wheat. For the current petition, Bayer submitted two sugar beet trifloxystrobin metabolism studies. As result of these studies the nature of trifloxystrobin in/on sugar beets is adequately understood. The sugar beet metabolism studies, however, do not fulfill the wheat metabolism data requirement because the two crops are too dissimilar.

2. *For animals.* No livestock data were submitted. The qualitative nature of the residue in livestock is adequately understood based on acceptable studies conducted on goats and laying hens. The EPA has determined that the total toxic residues for livestock, both for regulatory and risk assessment purposes, is trifloxystrobin and the free form of its acid metabolite CGA–321113. Additionally, metabolite L7a (taurine conjugate of trifloxystrobin) in the liver should be included in the risk assessment.

B. Analytical Method for Plants and Livestock

EPA has completed a method validation trial of AG–659A on apples, wet apple pomace, grapes, summer squash, peanut hay, peanuts, cow liver, cow milk and raisins, and concluded that AG–659A is suitable for enforcement of trifloxystrobin and the free form of its acid metabolite in plant and livestock commodities. The enforcement method has been submitted to the Food and Drug Administration for publication in the Pesticides Assessment Manual II.

The analytical methods, AG–659A or AG–659A/REM 177.04, are adequate for collecting data for residues of trifloxystrobin and its acid metabolite CGA–321113 in/on all crops associated with this petition.

C. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits (MRLs) established for trifloxystrobin. Harmonization is thus not an issue at this time.

V. Conclusion

Therefore, tolerances are established for combined residues of trifloxystrobin and the free form of its acid metabolite CGA–321113 in/on fruit, stone, group at 2 ppm; nut, tree, group at 0.04 ppm; pistachio at 0.04 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.2 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus oil at 30 ppm; fruit, citrus, grroup at 0.3 ppm; egg at 0.04 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04 ppm; poultry, meat by products at 0.04 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0052 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 22, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Room M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission be labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A. of this preamble, you should also send a copy of your request to the PIRB for its inclusion in the official record that is described in Unit I.B.2. of this preamble. Mail your copies, identified by docket number OPP–2002–0052, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PRIB described in Unit I.B.2. of this preamble. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.1 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established EPA, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*,added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 13, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 374.

2. Section 180.555 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.555 Trifloxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Citrus, dried pulp	0.8
Citrus, oil	30
Corn, field, forage	0.2
Corn, field, grain	0.05
Corn, field, stover	7
Corn, field, refined oil	0.1
Corn, pop, grain	0.05
Corn, pop, stover	7
* * * * *	
Egg	0.04
Fruit, citrus, group	0.3
Fruit, stone, group	2
* * * * *	
Nut, tree, group	0.04
* * * * *	
Pistachio	0.04
* * * * *	
Poultry, fat	0.04
Poultry, meat	0.04
Poultry, meat byproducts	0.04
* * * * *	
Rice, grain	3.5
Rice, hulls	8
Rice, straw	7.5
* * * * *	

* * * * *

[FR Doc. 02–12850 Filed 5–21–99; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7214–4]

Land Disposal Restrictions: Granting of Two Site-Specific Treatment Variances to U.S. Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is promulgating two site-specific treatment variances from the Land Disposal Restrictions (LDR) standards for wastes generated at U.S. Ecology Idaho, Incorporated (USEII) in Grandview, Idaho, and CWM Chemical Services, LLC (CWM) in Model City, New York. These waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088 (spent potliners from primary aluminum reduction), and differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 non-wastewaters. Accordingly, we are finalizing an alternate treatment standard of 5.0 mg/l for arsenic, measured using the Toxicity Characteristic Leaching Procedure (TCLP), for the K088 derived emission control dust from the USEII facility. We are also, for the CWM facility, finalizing an alternate treatment standard of 5.0 mg/l for arsenic, measured using the Toxicity Characteristic Leaching Procedure, for the K088 derived baghouse dust, incinerator ash, and filtercake.

This treatment variance requires USEII and CWM to dispose of their respective waste in RCRA Subtitle C landfills provided the waste complies with the specified alternate treatment standard for arsenic in K088 non-wastewaters and meets all other applicable LDR treatment standards.

DATES: This rule is effective May 22, 2002.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F–2002–TV3F–FFFFF and is located in the RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $0.15 per page. (The index is available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.)

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). The RCRA Call Center operates Monday-Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this rule, contact Laurie Solomon on 703–308–8443, *solomon.laurie@epa.gov*, or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type *http://www.epa.gov/epaoswer/hazwaste/ldr.*

The official record for this action will be kept in paper form. Accordingly, EPA has transferred any comments received electronically into paper form and placed them in the official record which also includes comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

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I. Why and How Are Treatment Variances Granted?

Under section 3004(m) of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984, EPA is required to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." We have interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in *Hazardous Waste Treatment Council* vs. *EPA*, 886 F. 2d 355 (D.C.Cir.1989).

We recognize that there may be wastes that cannot be treated to levels specified in the regulation (see 40 CFR 268.40) (51 FR 40576, November 7, 1986). For such wastes, a treatment variance exists (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

Treatment variances may be national or site-specific. A national generic variance can result in the establishment of a new treatability group and a corresponding treatment standard that applies to all wastes that meet the criteria of the new waste treatability group (55 FR 22526, June 1, 1990). A site-specific variance applies only to a specific waste from a specific facility. See 62 FR at 64505 (December 5, 1997). Under 40 CFR 268.44(h), a generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance in cases where a waste that is generated under conditions specific to one site cannot or should not be treated to the specified level(s). Under 40 CFR 268.44(h)(1), the applicant for a site-specific variance must demonstrate that because the physical or chemical properties of the waste differ significantly from the waste analyzed in development of the treatment standard, the waste cannot be treated to the specified levels or by the specified method(s). Although there are other grounds for obtaining treatment variances, we will not discuss those in this notice because this is the only provision relevant to the present petitions. U.S. Ecology Idaho, Incorporated (USEII) (Grandview, ID) submitted their request for a treatment variance in September 2000. CWM Chemical Services LLC (CWM) (Model City, NY) submitted their request in December 2000. All information and data used in the development of this proposal can be found in the RCRA docket supporting this rule.

II. Summary of the Proposed Rule

On July 24, 2001 (66 FR 38405), we proposed to grant two site-specific treatment variances from the K088 (spent potliners from primary aluminum reduction) treatment standard for arsenic. The first proposed variance is for arsenic in the K088-derived emission control dust from an air pollution control system from a stabilization and containment building at the USEII facility. The second proposed variance is for arsenic in roll-off boxes of K088-derived baghouse dust and incinerator ash at the CWM Model City facility. This variance also covers wastewater treatment filtercake from the CWM facility (66 FR 38405, July 24, 2001). To date, no K088 filtercake has been generated. At both facilities, these waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088. Under the RCRA regulations, when different hazardous wastes are combined for treatment and there are different treatment standards for a particular hazardous constituent, the treatment residue must meet the most stringent of the applicable treatment standards. Section 268.40 (c). With the advent of the Universal Treatment Standards, this situation does not arise often because most of the treatment standards are identical. However, K088 has a "non-universal" treatment standard for arsenic, which arguably might be considered more stringent than the universal treatment standard. (63 FR 51257, September 24, 1998.) The treatment standard for arsenic in K088 waste is to achieve a total concentration of arsenic of less than 26.1 mg/kg. The wastes which are the subject of these petitions would likely not achieve this treatment standard. The treatment residues, however, feasibly can be treated to meet the arsenic Universal Treatment Standard of 5 ppm measured using the TCLP.

In the proposal, we concluded that an alternative treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, is warranted for the following reasons. First, the chemical properties of the derived-from waste at both facilities differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 non-wastewaters. Second, the alternative standard of 5.0 mg/l TCLP is currently the standard applicable to arsenic in all other hazardous wastes, except K088 non-wastewaters. Third, arsenic concentrations in USEII's K088-derived emission control dust and in CWM's K088-derived baghouse dust, incinerator ash and filtercake cannot be treated to a lower treatment standard based on a total analysis. This is because arsenic, as an element, cannot be destroyed and must be immobilized. In the proposal, we concluded that these reasons meet the criteria for granting a site-specific variance under 40 CFR 268.44(h)(1). (66 FR 38407, July 24, 2001.)

III. Comment Summary and Final Rule

We received three comments on the proposed rule. One commenter supports EPA's decision to grant these variances based on its experiences in meeting the relevant Land Disposal Restrictions. Another commenter requests clarification regarding whether the alternate treatment standard of 5.0 mg/l, measured using the TCLP, is limited to CWM's wastes that are currently managed on-site. Our answer is that the treatment standard granted under today's variance applies to existing and future incinerator residue treated at the facility. It also applies to existing and future baghouse dust generated at the facility, as well as to any K088 derived-from filtercake generated in the future at the facility (since the reasons for granting the treatment variance apply in all of these situations).

A commenter also requested clarification regarding which incinerator residue at CWM's Model City facility is covered by this final regulation. The commenter sought clarification as to whether the variance applies to just those wastes that are received from off-site and treated on-site or to these wastes plus any K088 derived baghouse dust and incinerator ash received from off-site and directly disposed in CWM's Model City Subtitle C landfill without treatment. The variance granted to CWM's Model City facility under this rulemaking is limited to wastes generated or treated at the Model City facility. Facilities other than CWM's Model City facility who believe their wastes meet the criteria for a variance from the KO88 standard can submit their own variance petition to the Agency for consideration.

Two commenters believe that the 26.1 mg/kg arsenic standard should apply only to newly-generated K088 and that all other mixture, derived-from and contained-in K088 should use the 5.0 arsenic TCLP universal treatment standard (UTS). These commenters believe that the cost and time spent by industry and EPA in preparing and responding to petitions for variances would be more than offset by a revised treatment standard. One commenter suggests that the rationale that EPA has used in previous final and proposed variances—that the treatment residues are physically and chemically different

from the waste analyzed in establishing the treatment standard—is applicable in all cases where K088 is treated with other hazardous waste and a K088-derived residue is generated. This commenter believes that, as a result, the most effective course of action is to revise the regulations and adopt a treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, in K088 derived-from waste. Under this suggested approach, the 26.1 ppm total arsenic standard would continue to apply to newly-generated K088 at the primary aluminum facility. EPA would finalize a new standard for all other mixture, derived-from and contained-in K088 wastes; this new standard would use the existing UTS standard of 5.0 ppm arsenic.

Based on the limited number of variance requests we have received, we believe that the existing regulation is sufficient. We disagree with the commenter's cost estimate of revising the regulation versus continuing to use variances. In cases where site-specific variances from this standard are appropriate, EPA's regulations set forth a means by which generators or treaters of hazardous waste can file petitions for variances from the K088 treatment standard. To date, EPA has responded to only four petitions regarding the treatment standard for arsenic in K088. (66 FR 33887, June 26, 2001 and 65 FR 45978, July 26, 2000, plus the two granted today.) There are no outstanding treatment variance petitions.

In conclusion, for USEII, EPA is granting an alternate treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, in existing and future K088 derived-from emission control dust from its air pollution control system. Likewise, at CWM's Model City facility, EPA is granting an alternate treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, for existing and future K088 derived baghouse dust, incinerator ash and filtercake.

IV. Administrative Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because this final rule does not create any new regulatory requirements, it is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. This action, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

EPA has determined that this final rule does not include a Federal mandate that may result in estimated costs of $100 million or more in the aggregate to either State, local, or tribal governments or the private sector in one year. The final rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes, and local governments would have no compliance costs under this rule. EPA has also determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act. Thus, today's final rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule will not significantly or uniquely affect small governments. This final rule will not impose any requirements on small

entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Today's final rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The subject wastes will comply with all other treatment standards and be disposed of in RCRA Subtitle C landfills. Therefore, we have identified no risks that may disproportionately affect children.

E. Environmental Justice Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to the concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's final rule applies to wastes that will be treated and disposed of in a RCRA Subtitle C hazardous waste landfill, ensuring a high degree of protection to human health and the environment. Therefore, the Agency does not believe that today's action will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Paperwork Reduction Act

This rule only changes the treatment standards applicable to a sub-category of K088 wastes at two facilities. It does not change in any way the paperwork requirements already applicable to these wastes. Therefore, this rule is not affected by the requirements of the Paperwork Reduction Act.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards based on new methodologies. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13175 does not apply to this final rule.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13132 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective May 22, 2002.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: May 7, 2002.

Marianne Lamont Horinko,

Assistant Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.44, the table in paragraph (o) is amended by adding in alphabetical order two new entries for "CWM Chemical Services LLC, Model City, New York'; and "U.S. Ecology Idaho, Incorporated, Grandview, Idaho" and Footnotes 9 and 10 to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER SEC. 268.40

Facility name[1] and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
* * *							
CWM Chemical Services, LLC, Model City, New York.	K088[9]	Standards under § 268.40.	Arsenic	1.4	NA	5.0 mg/L TCLP ...	NA
* * *							
U.S. Ecology Idaho, Incorporated, Grandview, Idaho.	K088[10]	Standards under § 268.40.	Arsenic	1.4	NA	5.0 mg/L TCLP ...	NA
* * *							

[1] * * *

* * * * *

[9] This treatment standard applies only to K088-derived bag house dust, incinerator ash, and filtercake at this facility.
[10] This treatment standard applies only to K088-derived air emission control dust generated by this facility.

Note: NA means Not Applicable.

[FR Doc. 02–12768 Filed 5–21–02; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020329075–2124–03; I.D. 031902E]

RIN 0648–AP11

Fisheries of the Northeastern United States; Monkfish Fishery; Framework 1; Emergency Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Disapproval of Framework 1; emergency interim rule; request for comments.

SUMMARY: NMFS notifies the public that it has disapproved proposed Framework 1 to the Monkfish Fishery Management Plan (FMP). NMFS is issuing this emergency interim rule to amend temporarily the monkfish fishing mortality rate (F) criteria in the FMP to be consistent with those recommended by the most recent stock assessment (SAW 34; January 2002). This emergency rule also implements the management measures that were proposed in Framework 1 to the FMP because, with the amendment of the F criteria in the FMP, these measures are consistent with the best available scientific information. The intended effect of this rule is to suspend temporarily the restrictive Year 4 default management measures that became effective May 1, 2002, and to implement management measures for the monkfish fishery based on the best scientific information.

DATES: Effective May 17, 2002 through November 18, 2002. Comments on this emergency rule must be received no later than 5 p.m. EDT June 14, 2002.

ADDRESSES: Comments on the emergency rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope "Comments on Monkfish Emergency Rule." Comments may also be submitted via facsimile (fax) to 978–281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the emergency rule, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR) are available upon request from Patricia A. Kurkul at the address listed above. The EA/RIR is also accessible via the Internet at *http://www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Policy Analyst, (978) 281–9103, fax (978) 281–9135, e-mail Allison.Ferreira@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The monkfish fishery is jointly managed by the New England and Mid-Atlantic Fishery Management Councils (Councils), with the New England Fishery Management Council having the administrative lead. The objectives of the management program established by the FMP are to eliminate overfishing by May 2002 and to rebuild the stock by 2009. In order to ensure the elimination of overfishing by May 2002, the FMP specified that restrictive measures be implemented for Year 4 of the management program (May 1, 2002—April 30, 2003), unless a 3–year review of the stock status indicates that these restrictive measures are not necessary. The Year 4 default measures, which became effective on May 1, 2002, eliminated the directed monkfish fishery by allocating zero monkfish days-at-sea (DAS) and by allowing only incidental landings of monkfish.

As required by the regulations at 50 CFR 648.96(b), a 3–year review of the management program was conducted by the Monkfish Monitoring Committee. Based on the results of this review, the Councils submitted Framework 1, which presented alternative management measures for Year 4. A proposed rule seeking public comment on Framework 1 was published in the **Federal Register** on April 4, 2002 (67 FR 16079). The measures proposed in Framework 1 were as follows: (1) A 1–year delay in implementing the restrictive Year 4 default management measures; (2) a target TAC of 19,595 metric tons (mt), with area-specific TACs of 11,674 mt and 7,921 mt for the Northern Fishery Management Area (NFMA) and the Southern Fishery Management Area (SFMA), respectively; (3) allocation of 40 DAS to limited access monkfish vessels for the 2002 fishing year (May 1, 2002 - April 30, 2003); (4) a revision to the monkfish trip limits in the SFMA to 550 lb (249 kg) (tail weight per DAS) for vessel permit categories A and C, and 450 lb (204 kg) (tail weight per DAS) for vessel permit categories B and D while fishing on a monkfish DAS in the SFMA; and (5) maintenance of all other measures as established for Year 3 of the FMP, including less restrictive incidental catch limits.

Based upon the F criteria recommended by SAW 34 and the 2001 NMFS fall trawl survey, the measures contained in Framework 1 were initially determined to be consistent with the FMP objectives of ending overfishing in 2002. However, that determination was based on the F criteria recommended by SAW 34, not the F criteria in the FMP. Therefore, during a closer review of the F criteria in the FMP, NMFS determined that Framework 1 was not consistent with the FMP because the F criteria in the FMP have not yet been formally amended to reflect the best available information on the monkfish stock. Therefore, NMFS is disapproving Framework 1 because it is inconsistent with the FMP.

The FMP authorizes the Councils to revise the F criteria through framework action. However, the results of SAW 34 were not available until late January 2002, when the Councils approved Framework 1, which was too late to incorporate the new scientific information into the framework action in order to have measures in place before the default measures became effective on May 1, 2002.

The F thresholds defined in the FMP are F=0.05 for the NFMA and F=0.14 for the SFMA. The FMP F targets and thresholds were generated using reference points and estimates of contemporaneous fishing mortality from SAW 23 (March 1997). Estimates of those reference points were recalculated during SAW 31 (October 2000) using updated data and under different hypotheses, which were considered to be more reasonable, regarding the mean length at full selection.[1] This resulted in negative estimates of the F threshold for the NFMA, which is an unrealistic result, indicating that the F reference points in the FMP are not reliable as indicators of stock status with respect to exploitation rates. As a result, the 31st Stock Assessment Review Committee (SARC) concluded that the fishing mortality reference points established in the FMP needed to be reevaluated.

The 34th SARC recognized inherent flaws in the method used to establish the F criteria in the FMP and discussed potential alternatives for establishing revised F criteria. The SARC stated that information now exists to estimate current F rates by age, and that yield per recruit (YPR) analyses could be used to establish revised reference points. Based on a provisional YPR analysis, the SARC recommended F thresholds of F=0.2 and F targets of F=0.14 for the stock units in both the NFMA and the SFMA.

The FMP includes target TAC levels projected to be consistent with the fishing mortality objectives of the FMP. The FMP's planned reductions in the target TACs were based on achieving the F threshold in the fourth year of management. However, when the F thresholds were found to be invalid, the TACs also became invalid.

The current assessment methodology is adequate to estimate the level of F in recent fishing years. In Framework 1, the Councils considered information from SAW 34 that provided a range of F estimates for calendar year 2000. Within the range of estimates, the SAW attached the most significance to those derived from the recent cooperative industry survey, which was conducted in February—April 2001. The most probable estimates of F derived from the cooperative survey ranged from about 0.25 to about 0.4. These estimates include only 7 months of monkfish DAS restrictions and trip limits and, therefore, underestimate the effect of the management measures in reducing F. Furthermore, the results of the 2001 NMFS fall trawl survey indicate that the NFMA component of the stock is no longer overfished and that the SFMA stock biomass is at its highest level since 1986.

NMFS implements this emergency rule to amend temporarily the F criteria in the FMP to be consistent with those recommended by SAW 34. Amendment 2 to the FMP, which is currently under development by the Councils, will permanently amend these F criteria and establish a revised stock rebuilding program using the best scientific information available. Because the measures proposed in Framework 1 were found to be consistent with the F criteria recommended by SAW 34, this temporary revision to the F criteria contained in the FMP provides a clear basis for implementing the management measures proposed in Framework 1. Therefore, this action also enacts the management measures proposed in Framework 1, which are described in the preamble to this emergency rule. These measures achieve the FMP objective of ending overfishing in 2002 since setting the target TACs for the 2002 fishing year based on 2000 landings is consistent with the amended F threshold of F=0.2. Moreover, with stock survey indices showing increasing biomass, F should decrease further if monkfish catch remains stable. To achieve the target TACs recommended for Framework 1, the Councils and NMFS considered combinations of trip limits and DAS. The combination of restrictive trip limits and 40 DAS to keep landings at the 2000 level was selected by the Councils over other (higher) trip limits and a reduced number of DAS based on industry testimony favoring the maintenance of the 40 DAS.

[1] The mean at which monkfish is retained by the fishing gear.

Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of Commerce to implement emergency regulations to address an emergency if the Secretary finds that an emergency exists. These emergency regulations may remain in effect for no more than 180 calendar days after the date of publication in the **Federal Register**, with a possible 180–day extension, provided the public has an opportunity to comment on the measures.

The restrictive Year 4 default measures currently required by the FMP became effective on May 1, 2002. These default measures are expected to have a significant negative economic impact on monkfish vessels and monkfish-dependent communities. In addition, because monkfish are often caught incidentally when vessels target other species, the default measures are likely to cause wasteful bycatch of monkfish in other directed fisheries as a result of reduced incidental trip limits. Furthermore, the results of SAW 34 and the 2001 NMFS fall trawl survey indicate that the restrictive Year 4 default measures are not necessary to eliminate overfishing.

Implementing this action through section 305(c) emergency authority is justifiable because the need to disapprove Framework 1 and immediately amend the FMP to make it consistent with the best scientific information available became discoverable only after NMFS had the time to fully evaluate the framework action after the public comment period had ended. As discussed above, the disapproval of Framework 1 is based on the fact that the framework measures, which are based on the best available scientific information on the monkfish stock, are inconsistent with the F criteria in the FMP. The need for a formal change to the FMP to incorporate the new F criteria was not clearly apparent earlier, given the newness of the scientific information and the extremely compressed timeframe for considering public comments and implementing the framework before the default measures became operative. Moreover, it would not have been possible to incorporate the new scientific information into the FMP through Framework 1 to avoid the default measures because the scientific information necessary to justify the change was not available in time. Disapproval of Framework 1 means that the default measures, which are no longer considered necessary in light of the best scientific information available, must remain in place until the newest science is incorporated into the FMP. To delay the incorporation of the newest science and implementation of the action necessary to avoid the default measures would result in substantial, unwarranted and unnecessary economic harm to the industry and would likely cause wasteful bycatch of monkfish in other fisheries. Because NMFS is constrained to only approve or disapprove a framework action, the only available way to implement this action, without further delay, is through the Magnuson-Stevens Act section 305(c) emergency authority.

Implementing this action through the section 305(c) emergency authority of the Magnuson-Stevens Act is fully consistent with NMFS' Policy Guidelines for the Use of Emergency Rules (Emergency Guidelines) found at 62 FR 44421, *et seq.* (August 21, 1997). The Emergency Guidelines specify "emergency criteria" and "emergency justification" for determining the appropriateness of section 305 (c) rulemaking. Under the "emergency criteria" guidelines, an emergency exists in a situation that: (1) Results from recent, unforeseen events or recently discovered circumstances; (2) presents serious conservation or management problems in the fishery; and (3) can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

As more fully discussed above and in the EA accompanying this action, this emergency action meets all of these criteria. First, the need for the action results from a "recently discovered circumstance" created by the need to disapprove Framework 1. Second, to allow the default measures to remain in place creates serious management problems in that fishers are subject to substantial, unwarranted and unnecessary economic harm if they are not allowed to retain more than an incidental catch of monkfish. It also creates serious conservation problems in that the default measures are likely to cause wasteful bycatch of monkfish in other fisheries. Third, the immediate benefits of relieving the substantial economic harm on the fishers outweigh the value of additional public comment and deliberative consideration, particularly because there has been prior notice and comment on the measures to be implemented in the context of receiving comments on a proposed framework action.

For these same reasons, this emergency action is consistent with the "emergency justification" guidelines which state that an emergency action is justified:

> If the time it would take to complete notice-and-comment rulemaking would result in substantial damage or loss to a living marine resource, habitat, fishery, industry participants or communities, or substantial adverse effect to the public health, emergency action might be justified under one or more of the following situations:
>
> (1) Ecological (A) to prevent overfishing as defined in an FMP, or as defined by the Secretary in the absence of an FMP, or (B) to prevent other serious damage to the fishery resource or habitat; or,
>
> (2) Economic to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone; or,
>
> (3) Social to prevent significant community impacts or conflict between user groups; or,
>
> (4) Public health to prevent significant adverse effects to health of participants in a fishery or to the consumers of seafood products (62 FR 44421).

This emergency action clearly qualifies under the "Economic" situation in that it is intended to relieve unnecessary economic loss to fishers that otherwise would not be able to fish for monkfish under the default measures. It also preserves a significant economic opportunity for those fishers that rely on the monkfish fishery for their livelihood as more fully discussed above and in the EA. In addition, this emergency action addresses the "Social" situation by lessening impacts on fishers in communities more dependent on monkfish and the "Ecological" situation by minimizing wasteful bycatch of monkfish in other fisheries.

Classification

For these reasons, the Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive the requirement to provide prior notice and the opportunity for public comment on the temporary amendment to F thresholds and F targets in the FMP, pursuant to authority set forth at U.S.C. 553(b)(B), as such procedures would be impracticable and contrary to the public interest. This will prevent unnecessary economic harm and biological waste by enacting a temporary suspension of the restrictive Year 4 default management measures and implementing alternative measures consistent with the measures proposed in Framework 1. These reasons are more fully explained in the justification for implementing this emergency action pursuant to section 305(c) of the Magnuson-Stevens Act. It is further noted that the management measures contained in this emergency rule received prior notice and public comment through the Council's framework process and the publication of a proposed rule for Framework 1. The AA is also waiving the 30 day delay in effective date under 5 U.S.C. 553(d)(1), as this rule relieves a restriction.

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment. However, the management measures contained in this emergency rule received prior notice and public comment through the Councils' framework process and the publication of a proposed rule, accompanied by an Initial Regulatory Flexibility Analysis, for Framework 1. A Final Regulatory Flexibility Analysis was prepared for the draft final rule for Framework 1.

A formal section 7 consultation under the Endangered Species Act was initiated for Framework 1. Because the measures contained in this emergency rule are the same as those proposed in Framework 1, the Biological Opinion (BO) prepared as part of that consultation is applicable to this action. In the BO for Framework 1 dated May 14, 2002, the AA determined that fishing activities conducted under the measures contained in Framework 1 are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

The Regional Administrator has determined that fishing activities conducted under this emergency rule will not have an adverse impact on marine mammals.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.92, paragraph (b)(1) is suspended and paragraph (b)(9) is added to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(9) *Limited access monkfish permit holders.* For fishing year 2002, all limited access monkfish permit holders shall be allocated 40 monkfish DAS. Multispecies and scallop limited access permit holders who also qualify for a limited access monkfish permit shall be allocated up to 40 monkfish DAS, depending on whether they have sufficient multispecies and/or scallop DAS to use concurrently with their monkfish DAS, as required by paragraph (b)(2) of this section.

3. In § 648.94, paragraphs (b)(1) through (b)(7) and (c)(2) are suspended, and paragraphs (b)(8) through (b)(11), and (c)(7) are added to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

* * * * *

(b) * * *

(8) *Vessels fishing under the monkfish DAS program in the SFMA.*—(i) *Category A and C vessels.* Category A and C vessels fishing under the monkfish DAS program in the SFMA may land up to 550 lb (249 kg) tail-weight or 1,826 lb (828 kg) whole weight of monkfish per DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor).

(ii) *Category B and D vessels.* Category B and D vessels fishing under the monkfish DAS program in the SFMA may land up to 450 lb (204 kg) tail-weight or 1,494 lb (678 kg) whole weight of monkfish per DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor).

(iii) *Administration of landing limits.* A vessel owner or operator may not exceed the monkfish trip limits as specified in paragraphs (b)(8)(ii) and (iii) of this section per monkfish DAS fished, or any part of a monkfish DAS fished.

(9) *Category C and D vessels fishing during a multispecies DAS.*—(i) *NFMA.* There is no monkfish trip limit for a Category C or D vessel that is fishing under a multispecies DAS exclusively in the NFMA.

(ii) *SFMA.* If any portion of a trip is fished only under a multispecies DAS, and not under a monkfish DAS, in the SFMA, the vessel may land up to 300 lb (136 kg) tail-weight or 996 lb (452 kg) whole weight of monkfish per DAS if trawl gear is used exclusively during the trip, or 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight if gear other than trawl gear is used during the trip.

(10) *Category C and D vessels fishing under the scallop DAS program.* A Category C or D vessel fishing under a scallop DAS with a dredge on board, or under a net exemption provision as specified in § 648.51(f), may land up to 300 lb (136 kg) tail-weight or 996 lb (452 kg) whole weight of monkfish per DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor).

(11) *Category C and D scallop vessels declared into the monkfish DAS program without a dredge on board.* Category C and D vessels that have declared into the monkfish DAS program and that do not fish with or have on board a dredge are subject to the same landing limits as specified in paragraph (b)(9) of this section. Such vessels are also subject to provisions applicable to Category A and B vessels fishing only under a monkfish DAS, consistent with the provisions of this part.

(c) * * *

(7) *Scallop dredge vessels fishing under a scallop DAS.* A scallop dredge vessel issued a monkfish incidental catch permit and fishing under a scallop DAS may land up to 300 lb (136 kg) tail-weight or 996 lb (452 kg) whole weight of monkfish per DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor).

* * * * *

[FR Doc. 02–12774 Filed 5–17–02; 10:37 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 99
Wednesday, May 22, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 00–052–1]

Fruits and Vegetables From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if the fruits and vegetables undergo irradiation treatment at an approved facility. Treatment could be conducted either in Hawaii or in non-fruit-fly-supporting areas of the mainland United States. The fruits and vegetables would also have to meet certain additional requirements, including packaging requirements. This action would relieve restrictions on the movement of these fruits and vegetables from Hawaii while continuing to provide protection against the spread of plant pests from Hawaii to other parts of the United States. We are also proposing to amend the irradiation regulations to require cartons of fruits and vegetables that are being moved interstate in accordance with the regulations to be marked with irradiation indicators. This requirement would provide additional protection against the introduction of plant pests into the United States from Hawaii.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 22, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00–052–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–052–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 00–052–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations, contained in 7 CFR 318.13 through 318.13–17 (referred to below as the regulations), govern, among other things, the interstate movement of fruits and vegetables from Hawaii. Regulation is necessary to prevent the spread of dangerous plant diseases and pests that occur in Hawaii.

The regulations at § 318.13–4f allow abiu, atemoya, carambola, litchi, longan, papaya, rambutan, and sapodilla to be moved interstate from Hawaii if, among other things, the fruits and vegetables undergo irradiation treatment in accordance with that section. We are proposing to allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if treated with irradiation in accordance with these same requirements. We are proposing this action because research by the Department's Agricultural Research Service (ARS) has shown that this irradiation treatment can eliminate infestations of fruit flies and other pests in bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes moving interstate from Hawaii. These fruits and vegetables would be added to the list in § 318.13–4f(a) of fruits and vegetables for which irradiation is an approved treatment.

Section 318.13–4f provides that:

1. Irradiation treatment must be carried out only in Hawaii or in non-fruit-fly-supporting areas of the mainland United States (i.e., States other than Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, or Virginia);

2. The irradiation treatment facility and treatment protocol must be approved by the Animal and Plant Health Inspection Service (APHIS);

3. In order to be approved, a facility must be capable of administering a minimum absorbed ionizing radiation dose of 250 Gray (25 krad), be constructed so as to provide physically separate locations for treated and untreated fruits and vegetables, complete a compliance agreement with APHIS, and be certified by Plant Protection and Quarantine, APHIS, for initial use and annually for subsequent use;

4. Irradiation treatment must be monitored by an inspector, who may be either an APHIS employee or a designated State plant regulatory official;

5. If treated in Hawaii, the fruits and vegetables must be packaged in pest-proof cartons. Then, the pallet-load of pest-proof cartons must be wrapped, before leaving the irradiation facility, in one of the following ways: (1) With polyethylene sheet wrap; (2) with net wrapping; or (3) with strapping so that each carton on an outside row of the pallet-load is constrained by a metal or plastic strap. In addition, pallet-loads must be labeled before leaving the irradiation facility with treatment lot numbers, packing and treatment facility identification and location, and dates of packing and treatment;

6. If moving to the mainland for treatment, the untreated fruits and vegetables must be shipped in shipping containers sealed prior to interstate movement with seals that will visually indicate if the shipping containers have been opened;

7. The fruits and vegetables must receive a minimum absorbed ionizing irradiation dose of 250 Gray (25 krad);

8. Dosimetry systems in the irradiation facility must map, control, and record the absorbed dose;

9. The absorbed dose must be measured by a dosimeter that can accurately measure an absorbed dose of 250 Gray (25 krad);

10. The number and placement of dosimeters must be in accordance with American Society for Testing and Materials standards;

11. The irradiation facility must keep records or invoices for each treatment lot for a period that exceeds the shelf life of the irradiated food product by 1 year and must make those records available to an inspector for inspection; and

12. An inspector will issue a certificate for the interstate movement of fruits and vegetables treated and handled in Hawaii in accordance with the regulations at § 318.13–4f. An inspector will issue a limited permit for the interstate movement of untreated fruits and vegetables from Hawaii for irradiation treatment on the mainland United States.

Paragraphs (c) and (d) of § 318.37–4f set forth procedures for applying for approval and inspection of a treatment facility, and procedures for denial and withdrawal of approval.

Paragraph (e) of § 318.13–4f further provides that the U.S. Department of Agriculture and its inspectors are not responsible for any loss or damage resulting from any treatment prescribed or supervised.

Bell peppers, eggplant, pineapple (other than smooth Cayenne), Italian squash, and tomatoes are currently allowed to move interstate from Hawaii if they are first treated for the Mediterranean Fruit Fly (Medfly, *Ceratitis capitata*), Oriental fruit fly *(Bactrocera dorsalis)*, and melon fly *(B. cucurbitae)* with vapor heat in accordance with the regulations in § 318.13–4b. Tomatoes may also be moved interstate from Hawaii if they are treated with methyl bromide in accordance with the regulations in § 318.13–4c. This proposed rule, if adopted, would provide for an alternative means of treating eggplant, peppers, pineapple (other than smooth Cayenne), Italian squash, and tomatoes from Hawaii for fruit flies.

Mangoes have not previously been allowed to move interstate from Hawaii due to the absence of an approved treatment to control the mango seed weevil *(Sternochetus mangiferae)*, a pest that occurs in Hawaii, but not in the mainland United States. However, ARS research has recently shown that infestations of mango seed weevil in Hawaiian mangoes are eliminated if the host mangoes receive a minimum absorbed ionizing irradiation dose of 100 Gray (10 krad). Since prior research has shown that fruit fly infestations in fruits can be eliminated with a minimum ionizing irradiation dose of 250 Gray (25 krad), we are proposing to allow mangoes to be moved interstate from Hawaii if they are treated at that dosage, which would eliminate both fruit flies and the mango seed weevil.

We believe that the existing requirements in § 318.13–4f (b) through (e) described above would be sufficient to allow the safe interstate movement of bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes from Hawaii to the mainland United States.

Irradiation Indicators

The regulations in § 318.13–4f do not contain any requirements related to irradiation indicator devices. Indicator devices change color, or undergo some other obvious change, when exposed to irradiation in the required dose range for regulated articles, and can be attached to cartons of articles. We are proposing to amend the regulations in § 318.13–4f to require that irradiation indicators be attached to cartons of irradiated fruits and vegetables from Hawaii that move interstate under the regulations in that section. Abiu, atemoya, bell peppers, carambola, eggplant, litchi, longan, mangoes, papaya, pineapple (other than smooth Cayenne), rambutan, sapodilla, Italian squash, and tomatoes moving interstate from Hawaii that are treated with irradiation in either Hawaii or on the mainland United States would be subject to this requirement.

We are proposing this action because carton indicators would be a useful enforcement tool. They could not serve as primary documentation that articles have been irradiated in accordance with the regulations, because such indicators are not as sensitive or accurate as the dosimetry systems required by the regulations, and because it would be relatively easy to produce fraudulent indicators (*e.g.*, by subjecting a large number of indicators to irradiation and then attaching them to cartons that have not been irradiated). However, we believe that such indicators can be useful when used in conjunction with the other safeguards required by the regulations in § 318.13–4f. In particular, they can be a useful "cross check" when personnel at irradiation facilities are distinguishing irradiated cartons from nonirradiated cartons, and when APHIS inspectors are correlating the required interstate movement certificates with the cartons referred to in the documents.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if they are treated with irradiation in accordance with the regulations in § 318.13–4f. Irradiation at certain dosages eliminates infestations of pests in fruits and vegetables. Irradiation also eliminates bacterial or fungal growth that can otherwise cause accelerated spoilage and result in illness. Bacterial contamination can come from soil, insects, bird or rodent droppings, or the water used in processing.

We are also proposing to require that irradiation indicators be attached to cartons of any fruits or vegetables from Hawaii that are eligible to move interstate under the regulations if treated with irradiation in accordance with § 319.13–4f.

Effects on Producers and Shippers of Fruits and Vegetables

Since 1995, the amount of land used for commercial production of mangoes in Hawaii has nearly tripled, and more than 7,500 new mango trees have been planted. However, producers in Hawaii have not been able to ship mangoes to the mainland United States due to the presence of the mango seed weevil in Hawaii (the mango seed weevil is not present in the mainland United States).[1] If this proposal is adopted, the irradiation treatment would be the first approved treatment for the mango seed weevil, thereby opening up the mainland U.S. mango market to Hawaiian mangoes.

U.S. production of mangoes has primarily been in southern Florida, with a smaller quantity grown in Hawaii and a negligible amount produced in California. According to the 1997 Census of Agriculture, there were 218

[1] The mango seed weevil attacks mango seeds, but rarely the fruit, and may cause slight fruit drop in production areas. The mango seed weevil poses no threat to other crops or flora. It is strictly monophagous.

mango farms in Florida, 171 in Hawaii, and 2 in California. The total domestic harvest that year was about 2,829 metric tons, of which about 97 percent was produced in Florida and about 3 percent (approximately 85 metric tons) produced in Hawaii. According to National Agricultural Statistics Service data, Hawaii produced approximately 72 metric tons of mangoes in 1999. It is unlikely that this proposed rule, if adopted, would result in a significant amount of mangoes being moved from Hawaii to the mainland United States because it is expected that nearly all mangoes produced in Hawaii will continue to be consumed within the State. Further, given that the United States imported 219,000 metric tons of mangoes between September 1998 and August 1999, any movements of Hawaii-grown mangoes to the mainland United States would be insignificant in contrast to the volume of annual imports.

Bell peppers, eggplant, pineapple (other than smooth Cayenne), Italian squash, and tomatoes are currently allowed to move interstate from Hawaii if they are first treated for Medfly, Oriental fruit fly, and melon fly with vapor heat in accordance with the regulations in § 318.13–4b. Tomatoes may also be moved interstate from Hawaii if they are treated with methyl bromide in accordance with the regulations in § 318.13–4c. This rule, if adopted, would provide for an alternative means of treating bell peppers, eggplant, pineapple (other than smooth Cayenne), Italian squash, and tomatoes from Hawaii for fruit flies and other pests.

Since 1995, Hawaii's production of bell peppers, eggplant, Italian squash, and tomatoes has increased in value and volume (see tables 1 and 2). Hawaii's production of pineapples (other than smooth Cayenne) has decreased by 4 percent, but its value has increased by 6 percent.

TABLE 1.—PRODUCTION OF SELECTED VEGETABLES IN HAWAII.

	Year			
	1995	1996	1997	1998
Bell Peppers				
Volume (fresh weight in lbs.)	2,400,000	2,600,000	2,000,000	3,000,000
Value	$1,392,000	$1,248,000	$980,000	$1,500,000
Eggplant				
Volume (fresh weight in lbs.)	1,200,000	1,300,000	1,500,000	1,300,000
Value	$984,000	$949,000	$1,185,000	$1,053,000
Pineapples (other than smooth Cayenne)				
Volume (fresh weight in lbs.)	760,594,590	765,003,834	714,297,528	731,934,504
Value	$87,360,000	$95,914,000	$91,721,000	$92,776,000
Italian Squash				
Volume (fresh weight in lbs.)	620,000	700,000	1,400,000	1,500,000
Value	$316,000	$336,000	$700,000	$735,000
Tomatoes				
Volume (fresh weight in lbs.)	6,000,000	7,000,000	10,200,000	10,200,000
Value	$2,910,000	$3,710,000	$5,508,000	$5,610,000

TABLE 2.—CHANGE IN PRODUCTION OF SELECTED VEGETABLES IN HAWAII BETWEEN 1995 AND 1998

	Volume (percent)	Value (percent)
Bell Peppers	−4	+6
Eggplant	+70	+93
Pineapples (other than smooth Cayenne)	+25	+8
Italian Squash	+8	+7
Tomatoes	+142	+96

According to the Hawaii Agricultural Census, there were 27 farms growing pineapples for commercial sale in 1997. Twenty-two (or 82 percent) of those farms harvested between 1 and 14 acres of pineapple. During the same year, 74 farms produced tomatoes for commercial sale (a total of 388 acres harvested). There are no official data with respect to the number of farms in Hawaii producing bell peppers, eggplant, and Italian squash during the same year. However, considering that in 1997 there were 657 farms in Hawaii that harvested fruits and vegetables for sale (90 percent of which had less than 14 acres of crops planted), we believe that the majority of farms producing bell peppers, eggplant, and Italian squash for sale were small according to Small Business Administration (SBA) criteria. It is also likely that the majority of firms shipping bell peppers, eggplant, and Italian squash interstate from Hawaii are small according to SBA criteria.

Regardless of their size, Hawaii's fruit and vegetable producers and shippers who move fruits and vegetables interstate from Hawaii would benefit from the availability of an additional treatment alternative, especially since the proposed treatment is less time-consuming than the presently available vapor heat treatment (see table 3 below).

TABLE 3.—COMPARISON OF IRRADIATION AND VAPOR HEAT TREATMENTS

	Irradiation	Vapor heat
Cost	$0.22 to $0.33/kg (treatment cost) + $0.05 to $0.10/carton (indicator cost)	$0.20 to $0.50/kg.

TABLE 3.—COMPARISON OF IRRADIATION AND VAPOR HEAT TREATMENTS—Continued

	Irradiation	Vapor heat
Treatment Time	40 minutes	1.5 to 7 hours.

Effects on Treatment Facilities

The proposed irradiation treatments for bell peppers, eggplants, mangoes, pineapples (other than smooth Cayenne), Italian squash, and tomatoes would take place mostly at a new facility that was recently built in Hawaii. However, it is possible that some of these fruits and vegetables could be shipped to the mainland United States and treated with irradiation at facilities in Illinois or New Jersey. At present, various other tropical fruits, such as papaya, litchi, rambutan, carambola, and atemoya are shipped from Hawaii to a facility in Illinois for cobalt irradiation treatment.

On August 1, 2000, a new x-ray irradiation facility in Hawaii began treating papayas, which, after their x-ray treatment, are commercially shipped to the mainland United States. This facility treats between 500 to 1,000 boxes of papayas per day, 4 days per week.

This facility would be the primary irradiation facility to treat Hawaii-grown bell peppers, eggplants, mangoes, pineapples (other than smooth Cayenne), Italian squash, and tomatoes before they are moved interstate. However, if there is not enough capacity at the Hawaiian plant for the fruits to be irradiated, the fruits could be sent for treatment to any of the three irradiation treatment facilities on the mainland United States.

According to SBA criteria, the facility in Hawaii mentioned in the previous paragraphs is a small entity (i.e., an entity with annual sales of less than $5 million). Another firm that provides irradiation treatments for fruits and vegetables owns two irradiation facilities in Illinois and one facility in New Jersey. This other firm, which primarily provides irradiation treatment to sanitize medical devices, is not a small entity according to SBA criteria.

This proposed rule, if adopted, would benefit the Hawaiian treatment facility, and may benefit the mainland facilities if the Hawaiian facility cannot keep up with demand for treatment of fruits and vegetables moving interstate from Hawaii. The proposed rule could also potentially benefit U.S. mainland consumers by increasing the mainland's supply of those fruits and vegetables that would be eligible for interstate movement with irradiation treatment.

Additional Effects of Proposed Irradiation Indicator Requirement

Under the proposed regulations, irradiation indicators would be required to be attached to cartons of any fruits or vegetables that are moved interstate from Hawaii and that are irradiated in Hawaii or on the mainland United States. Prototypes of such indicators have already been developed, and are based on dosimeter technology. The indicators would be considerably less expensive to manufacture than dosimeters because no precise measurement is involved only—an indication that irradiation has occurred.

APHIS anticipates that manufacturers of indicators could produce the indicator in large quantities at a low unit cost—$0.05 to $0.10 per indicator. The cost of the indicators, once they are produced in volume, will be negligible compared to the value of the produce shipped.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 00–052–1. Please send a copy of your comments to: (1) Docket No. 00–052–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if the fruits and vegetables undergo irradiation treatment at an approved facility in Hawaii or in non-fruit-fly-supporting areas of the mainland United States. In order for the fruits and vegetables to move interstate to the mainland United States, we would have to issue certificates or limited permits, and we would have to mark and seal shipping containers. We would also require that persons treating fruits and vegetables with irradiation for interstate movement from Hawaii would need to attach irradiation indicators to each carton of irradiated fruits and vegetables. These information collection activities would help ensure that only those fruits and vegetables that have been handled in compliance with the regulations move interstate to the mainland United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.127 minutes per response.

Respondents: Fruit producers, shippers, importers, irradiation facility personnel, and State plant regulatory officials.

Estimated annual number of respondents: 756.

Estimated annual number of responses per respondent: 7,659.

Estimated annual number of responses: 5,790.

Estimated total annual burden on respondents: 736 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, we propose to amend 7 CFR part 318 as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

1. The authority citation for part 318 would continue to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

2. Section 318.13–4f would be amended as follows:

a. By revising paragraph (a).

b. By redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(8) and (b)(9), respectively, and by adding a new paragraph (b)(7).

§ 318.13–4f Administrative instructions prescribing methods for irradiation treatment of certain fruits and vegetables from Hawaii.

(a) *Approved irradiation treatment.* Irradiation, carried out in accordance with the provisions of this section, is approved as a treatment for the following fruits and vegetables: Abiu, atemoya, bell pepper, carambola, eggplant, litchi, longan, mango, papaya, pineapple (other than smooth Cayenne), rambutan, sapodilla, Italian squash, and tomato.

(b) * * *

(7) *Indicators.* Each carton of fruits and vegetables must bear an indicator device, securely attached prior to irradiation, that changes color or provides another clear visual change when it is exposed to radiation in the dose range required by this section for the pests for which the articles are being treated.

* * * * *

Done in Washington, DC, this 16th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12810 Filed 5–21–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 99–032–1]

Importation of Cooked Meat and Meat Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of certain animals, meat, and other animal products to allow meat cooked in plastic in processing establishments located in regions where rinderpest or foot-and-mouth disease exists to be further processed after cooking and before importation. Additionally, we are proposing to allow the pink juice test to be used in determining whether ground meat cooked in such establishments has been adequately cooked. These proposed amendments would provide foreign meat processing establishments with additional processing options while continuing to protect against the introduction of rinderpest and foot-and-mouth disease into the United States.

DATES: We will consider all comments that we receive that are postmarked, delivered, or e-mailed by July 22, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 99–032–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–032–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 99–032–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Masoud Malik, Senior Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–8096.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), bovine spongiform encephalopathy, swine vesicular disease, hog cholera, and African swine fever. These are dangerous and destructive communicable diseases of ruminants and swine.

Under § 94.4 of the regulations, the importation of cured and cooked meat from regions where rinderpest or FMD exists is prohibited unless the cured or cooked meat fulfills the conditions prescribed in that section.

Meat Cut Into Cubes

Currently, § 94.4(b)(8) requires that cooked ruminant or swine meat imported into the United States from regions where rinderpest or FMD exists be inspected at the port of arrival by an inspector of the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) and be found to be thoroughly cooked. For meat that is cooked in plastic, thoroughness of cooking must be determined by a temperature indicator device (TID) registering at least 79.4 °C at the cold spot (the area in a plastic cooking tube or other type of container loaded with meat product that is slowest to reach the required temperature during the cooking process) or, for cubes, slices, and anatomical cuts of meat, by the pink juice test.

A TID is a precalibrated temperature-measuring instrument containing a chemical compound activated at a specific temperature (the melting point of the chemical compound) that is identical to the processing temperature that must be reached by the meat being cooked. Paragraph (b)(6) of § 94.4 requires that any TID used to determine that meat cooked in plastic has been throughly cooked must remain in the meat, as originally inserted, and must accompany the cooked meat whose temperature it has gauged when that meat is shipped to the United States.

When a TID is not used, thoroughness of cooking is determined using the pink juice test. The requirements for providing meat of adequate form and size to allow for the pink juice test are set forth in paragraphs (b)(5)(i), (b)(5)(ii), and (b)(5)(iii) of § 94.4 for cubes of meat, slices of meat, and anatomical cuts of meat, respectively.

Currently, for both cubed and sliced meat, the regulations require that at least 50 percent of the meat pieces or slices per tube be 3.8 centimeters (1.5 inches) or larger in each dimension after cooking or, if more than 50 percent of meat pieces or slices per tube are smaller than 3.8 centimeters in any dimension after cooking and no TID is being used, an indicator piece of sufficient size for a pink juice test to be performed (3.8 centimeters or larger in each dimension after cooking) must have been placed at the cold spot of the tube. For anatomical cuts of meat, the indicator piece must be removed, after cooking, from the center of the cut, farthest from all exterior points, and be 3.8 centimeters or larger in each dimension for performance of the pink juice test.

In order for the FSIS inspector to be able to associate an indicator piece or TID with the tube of meat it came from, meat from multiple tubes may not be commingled before being imported into the United States. This means that meat from various cooking tubes cannot be combined after cooking for further processing at the foreign meat processing establishment before being exported to the United States.

In some cases, the inability of foreign meat processors to combine meat after cooking and still comply with the regulations restricts their ability to process meat into cube sizes that can be readily used in the United States. The most efficient way of cutting meat precisely into cubes of a desired size is to cool the meat close to the freezing point after cooking, then to cut the meat. Cutting the meat before cooking is not as effective, because the cooking process can cause meat cubes to assume irregular sizes and shapes. It is also not possible to cut the meat properly when it is hard frozen at temperatures significantly below freezing, such as when it is frozen for shipment to the United States. While it may be possible for foreign meat processors to further cut the meat after cooking and prior to freezing one cooking tube at a time, it is not economically efficient to cut the meat one tube at a time, as such cutting is done most efficiently in larger quantities.

As a general practice, processors of meat for export to the United States cook the meat to the temperature required under the regulations in large "cookers." These are containers or chambers that cook multiple tubes of meat by means of boiling water or steam. Most facilities that cook meat have multiple cookers. Each day, a cooker may be used several times to cook meat to the required temperature. Each cooking session per cooker is referred to as a "shift."

To allow for the cutting of meat combined from separate tubes from the same shift, while at the same time ensuring that all meat imported from FMD-affected countries can be adequately inspected upon its arrival in the United States, we are proposing certain changes to the regulations regarding meat for which the pink juice test is used to determine adequate cooking. Additionally, we are making a change to update the regulations as to which Federal agency is responsible for approval of plastic containers used for meat that is cooked.

Approval of Containers

Currently, § 94.4(b)(5), regarding meat cooked in plastic, provides that the tube in which the meat is cooked must be constructed of plastic film or other material approved by FSIS. This reference to approval by FSIS is outdated. Currently, all packaging material that comes into direct contact with food must be approved by the U.S. Food and Drug Administration (FDA). In this proposal, we are including that reference change.

Further Processing of Meat Cooked in Plastic

We are proposing to add a new § 94.4(b)(6) that would allow meat cooked in plastic in a single shift to be combined after cooking for further processing, e.g., to be cut into smaller cubes as described above. Once the meat was cooled after cooking, one tube from each shift per cooker would have to be randomly selected by the official of the National Government of the region of origin who is authorized to issue the meat inspection certificate required by the FSIS regulations in 9 CFR 327.4. We would require that a cylindrical or square piece (depending on the shape of the tube) of at least 3.8 centimeters in each dimension be cut from the cold spot of the tube, to be used as the indicator piece for the shift. The indicator piece would have to be sealed in plastic or other material approved by FDA and accompanied by a certificate issued by the official who selected the tube. The certificate would have to provide the cooker and shift number, and the date the tube was selected. As noted, each shift per cooker would be required to have an indicator piece. All indicator pieces would have to be individually sealed, properly labeled, and enclosed together in one sealed box that accompanies the shipment. After the indicator piece was removed, all remaining meat from the same shift could be cut into cubes of the desired size and packed in a box or container approved by FDA. The indicator pieces selected and the cut cubes of the desired size could then be frozen for shipment to the United States. The indicator pieces and cubes of meat would have to be accompanied to the United States by a certificate as provided in § 94.4(b)(8).

Ground Meat

While the current regulations in § 94.4(b)(5) provide for ground meat to be cooked in plastic, the only allowable method of determining whether ground meat cooked in plastic has been cooked to the required temperature is by means of a TID, i.e., the use of an indicator piece is not an option for ground meat as it is for cubes, slices, and anatomical cuts of meat. However, we recognize that if a large enough indicator piece were used when cooking ground meat, that piece would serve as a valid method of determining whether the ground meat had been cooked to the required temperature. Therefore, we are proposing to amend § 94.4(b)(5)(i) to provide that an indicator piece could be used in lieu of a TID for ground meat if the indicator piece is of sufficient size for a pink juice test to be performed (i.e.,

3.8 centimeters or larger in each dimension after cooking). The indicator piece must have been placed at the cold spot of the tube. This proposed change would provide the same options for determining the thoroughness of cooking for ground meat as are currently provided for cubes, slices, and anatomical cuts of meat.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In this document, we are proposing to amend the regulations regarding meat cooked in processing establishments located in regions where rinderpest or FMD exists to allow for further processing of meat after cooking and before importation.

Although these proposed amendments would apply to both ruminant and swine meat, the primary impact of the proposed changes would be on beef. As described previously in this document, the regulations in § 94.4(b)(5) already provide for the importation of cooked ruminant and swine meat prepared under conditions that are largely similar to those that would be provided under this proposed rule, but it is only beef and veal that are currently being imported into the United States under those provisions, primarily from Argentina, Brazil, and Uruguay. The proposed rule would allow for quality improvements in these cubed beef and veal products and, therefore, expand their marketability. However, the potential effect on imports of beef and veal and the overall U.S. supply of beef and veal is expected to be small for several reasons.

The cooked ground meat, cubes of meat, slices of meat, and anatomical cuts of meat that are currently imported are used primarily in the production of other products such as stews and meat pies. This proposed rule would allow for an improvement in the quality of the meat cubes by making them available in more sizes and in a more consistent size and shape. This would allow the products to have expanded marketability. However, cooked cubed beef and veal constitute a small portion of the U.S. beef and veal industry. Imports of prepared beef, including beef cooked in plastic, but not cured, pickled, salted, dried, or made into sausages, account for about 7.8 percent of all U.S. imports of beef and veal, but only about 0.6 percent of total U.S. supply.

In addition, imports into the United States of fresh beef and veal from Argentina and Uruguay are no longer occurring, due to recent FMD outbreaks in those countries. Also, although Argentina, Brazil, and Uruguay are large producers of beef and veal, their total exports are small relative to U.S. supply. The production of beef and veal in these three countries in 1999 was about 79 percent of that of the United States, but their exports of these products to all countries, including the United States, equated to considerably less than 1 percent of the U.S. supply of beef and veal. Thus, the impact on price would be negligible even if these countries were willing and able to redirect all of their beef and veal exports to the production of cooked cubed beef and veal for export to the United States.

Because (1) similar products are already being imported, (2) the proposed amendments would alter only the sizes of these products, and (3) other types of beef and veal imports from Argentina, Brazil, and Uruguay have stopped, we do not expect that the adoption of this proposed rule would greatly increase the volume of beef and veal imports. These proposed amendments may result in a change in the character of the imports, but should not greatly increase the volume of those imports.

Imports of these products would potentially offer competition for producers of ground meat, cubes of meat, slices of meat, and anatomical cuts of meat. Producers of these products are meatpacking plants, both those that slaughter animals directly and those that process purchased meats. In addition, these imports would also compete with domestic ruminant farms that sell to meatpacking facilities.

The Small Business Administration's (SBA) definition of a small entity in the production of cattle is one whose total sales are under $750,000 annually. In 1997, there were 656,181 cattle farms in the United States, of which 99 percent would be considered small entities. However, as was discussed above, we expect the economic impact on these producers would be minimal.

The SBA's guidelines state that a small producer of beef and veal meat that is in the form of cooked ground meat, cubes, slices, or anatomical cuts is one employing fewer than 500 workers. In 1997, 98 percent or 1,297 of the meatpacking establishments processing purchased meats in the United States were small. These small establishments accounted for approximately 78 percent of the total value of shipments of the industry, or approximately $25 billion. Also in 1997, 95 percent of 1,393 animal slaughtering establishments were considered small. These small establishments accounted for approximately 76 percent of the total value of shipments of the industry, or $41.6 billion.

Based on the above information, we do not expect that the proposed amendments would have a significant effect on the volume of imports of ruminant and swine meat, including ground meat, cubes of meat, slices of meat, and cuts of meat. Given that the volume of imports would be unlikely to increase substantially, we do not expect that the economic effects of this proposed rule on domestic producers of these products, whether small or large, would be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

2. In § 94.4, paragraph (b)(5) would be revised to read as follows; paragraphs (b)(6) through (b)(8) would be redesignated as paragraphs (b)(7) through (b)(9), respectively, and a new paragraph (b)(6) would be added to read as follows; and newly redesignated paragraph (b)(8) would be revised to read as follows:

§ 94.4 Cured or cooked meat from regions where rinderpest or foot-and-mouth disease exists.

* * * * *

(b) * * *

(5) *Meat cooked in plastic.* Ground meat, cubes of meat, slices of meat, or anatomical cuts of meat (cuts taken from the skeletal muscle tissue) weighing no more than 11.05 lbs (5 kg) must be loaded into a flexible or semiflexible cooking tube constructed of plastic or other material approved by the U.S. Food and Drug Administration. The meat must then be cooked in boiling water or in a steam-fed oven to reach a minimum internal temperature of 174.92 °F (79.4 °C) at the cold spot after cooking for at least 1.75 hours. Thoroughness of cooking must be determined by a TID registering the target temperature at the cold spot, or as follows:

(i) *Cubes of meat and ground meat.* For cubes of meat, at least 50 percent of meat pieces per tube must be 1.5 in (3.8 cm) or larger in each dimension after cooking or, if more than 50 percent of the cubes of meat pieces per tube are smaller than 1.5 in (3.8 cm) in any dimension after cooking, or if the meat is ground meat, an indicator piece of sufficient size for a pink juice test to be performed (1.5 in (3.8 cm) or larger in each dimension after cooking) must have been placed at the cold spot of the tube.

(ii) *Slices of meat.* At least 50 percent of the slices of meat must be 1.5 in (3.8 cm) or larger in each dimension after cooking or, if more than 50 percent of meat pieces are smaller than 1.5 in (3.8 cm) in any dimension after cooking, an indicator piece of sufficient size for a pink juice test to be performed (1.5 in (3.8 cm) or larger in each dimension after cooking) must be placed at the cold spot of the tube.

(iii) *Anatomical cuts of meat.* An indicator piece removed from an anatomical cut of meat after cooking must be removed from the center of the cut, farthest from all exterior points and be 1.5 in (3.8 cm) or larger in each dimension for performance of the pink juice test.

(6) *Further processing of meat cooked in plastic.* Cubes of meat, slices of meat, or anatomical cuts of meat (cuts taken from the skeletal muscle tissue) cooked in plastic in accordance with paragraph (b)(5) of this section may be cooled after cooking then processed further if the following provisions are met:

(i) For meat that is cooked and then cooled for further processing, one tube or plastic container from each shift per cooker must be randomly selected by the official of the National Government of the region of origin who is authorized to issue the meat inspection certificate required by § 327.4 of this title. A cylindrical or square piece of at least 1.5 in (3.8 cm) in each dimension must be cut from the cold spot of the tube. The cylindrical or square piece will be the indicator piece for the pink juice test. The indicator piece must be sealed in plastic or other material approved by the U.S. Food and Drug Administration, and be accompanied by a certificate issued by the official who selected the tube. The certificate must provide the date the tube was selected, and the cooker and shift number. Each shift per cooker must have an indicator piece. All indicator pieces must be individually sealed, properly labeled, and enclosed together in one sealed box that accompanies the shipment; and

(ii) After removing the indicator piece, all remaining meat from the same shift may be cut into smaller cubes and sealed in plastic or other material approved by the U.S. Food and Drug Administration. The indicator pieces and cubes of meat must be accompanied to the United States by a certificate as provided in paragraph (b)(7) of this section.

* * * * *

(8)(i) The cooked meat must be accompanied by a certificate issued by an official of the National Government of the region of origin who is authorized to issue the foreign meat inspection certificate required under § 327.4 of this title, stating: "This cooked meat produced for export to the United States meets the requirements of title 9, Code of Federal Regulations, § 94.4(b)." Upon arrival of the cooked meat in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(ii) For cooked meat that is further processed in accordance with paragraph (b)(6) of this section, the certificate must include the following statement, in addition to the certification required under paragraph (b)(8)(i) of this section: "One tube or plastic container was randomly selected per shift per cooker for cutting an indicator piece. A piece 1.5 in (3.8 cm) or larger in each dimension was cut from the cold spot of the tube or plastic container, and was sealed and marked with the following date, cooker, and shift: _____. The total number of indicator pieces enclosed in a sealed box is ____."

* * * * *

Done in Washington, DC, this 16th day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12809 Filed 5–21–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–001]

RIN 2115–AA97

Security Zones; Captain of the Port Chicago Zone, Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent security zones on the navigable waters of the Des Plaines River, the Kankakee River, the Rock River, and Lake Michigan in the Captain of the Port Zone Chicago. These security zones are necessary to protect the nuclear power plants, water intake cribs, and Navy Pier from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. These zones are intended to restrict vessel traffic from portions of the Des Plaines River, Rock River, and Lake Michigan.

DATES: Comments and related material must reach the Coast Guard on or before June 21, 2002.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, IL 60521. Marine Safety Office Chicago maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Chicago between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Al Echols, U.S.

Coast Guard Marine Safety Office Chicago, (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–02–001), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office Chicago at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely.

We propose to establish 10 permanent security zones for the following facilities: (1) Jardine Water Filtration Plant; (2) Navy Pier; (3) Dresden Nuclear Power Plant Water Intake; (4) Donald C. Cook Nuclear Power Plant; (5) Palisades Nuclear Power Plant; (6) Byron Nuclear Power Plant; (7) Zion Nuclear Power Plant; (8) 68th Street Water Intake Crib; (9) Dever Water Intake Crib; and (10) 79th Street Water Filtration Plant.

These proposed security zones are necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Chicago, or his authorized representative, are prohibited from entering or moving within the zones with those exceptions described below. The Captain of the Port Chicago may be contacted via VHF Channel 16. The Captain of the Port Chicago's on-scene representative will be the patrol commander. In addition to publication in the **Federal Register**, the public will be made aware of the existence of these security zones, their exact locations, and the restrictions involved via Broadcast Notice to Mariners.

Discussion of Proposed Rule

Following the catastrophic nature and extent of damage realized from the aircraft flown into the World Trade Center towers, this rulemaking is necessary to protect the national security interests of the United States from future strikes against public and governmental targets. The security zones protecting the greater Chicago area water intake systems (Jardine and 79th Street water filtration plants, and the Dever and 68th Street water intake cribs) are necessary to protect the drinking water supply for Chicago and its suburbs. This system is the sole source of drinking water for more than 5 million people. The security zones protecting the nuclear power plants are necessary to safeguard the supply of electricity along Lake Michigan and to protect the public from possible exposure to the radioactive materials that could be released into the environment as a result of a terrorist attack on those facilities.

On December 17, 2001, the Coast Guard issued a temporary rule establishing a security zone around the Navy Pier (66 FR 66749, December 27, 2001). In addition, on March 25, 2002,we issued a temporary rule establishing nine security zones in or near Lake Michigan (67 FR 19676, April 23, 2002).

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons.

Recreational boaters in portions of the Des Plaines River will be impacted, however recreational traffic in those areas is historically quite low. Commercial river traffic, expected to consist of towing vessels and barges transiting through the security zones, will be unimpeded.

The Captain of the Port Chicago will permit those U. S. Coast Guard certificated passenger vessels that regularly, and as part of their normal route, load and unload passengers at Navy Pier to operate in the zone. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those U. S. Coast Guard certificated passenger vessels which normally load and unload passengers at Navy Pier to request permission before leaving or entering the security zones. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone. This proposed rule will not obstruct the regular flow of traffic and will allow vessel traffic to pass around the security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34) (g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.T09–002 [Removed]

2. Remove § 165.T09–002.

3. Add *§ 165.908 to read as follows:*

§ 165.908 Security Zones; Captain of the Port Chicago Zone, Lake Michigan.

(a) *Security zones.* The following areas, defined by coordinates based upon North American Datum 1983, are security zones:

(1) *Jardine Water Filtration Plant.*

(i) *Location.* All waters between the Navy Pier and the Jardine Water Filtration Plant shoreward of a line drawn from the southeast corner of the Jardine Water Filtration Plant at 41° 53′ 36″ N, 87° 36′ 10″ W, to the northeast corner of the Navy Pier at 41° 53′ 32″ N, 87° 35′ 55″ W.

(ii) *Regulations.* The Captain of the Port Chicago will normally permit those U. S. Coast Guard certificated passenger vessels that normally load and unload passengers at Navy Pier to operate in the zone. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those U. S. Coast Guard certificated passenger vessels which normally load and unload passengers at Navy Pier to request permission before leaving or entering the security zones. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before entering or transiting the security zone. As such, vessels who regularly operate within this zone are responsible for monitoring Broadcasts Notice to Mariners for the Chicago area. These broadcasts will be made by U.S. Coast Group Milwaukee.

(2) *Navy Pier Southside.*

(i) *Location.* All waters encompassed by a line commencing at the southeast corner of the Navy Pier at 41° 53′ 29″ N, 87° 35′ 55″ W, then continuing southwesterly to the eastern end of Dime Pier at 41° 53′ 23″ N, 87° 35′ 58″, then westerly along Dime Pier and continuing westerly until the northsouth pier face at 41° 53′ 23″ N, 87° 36′ 35″ W; then north to Navy Pier and east along Navy Pier continuing back to the point of orgin.

(ii) *Regulations.* The Captain of the Port Chicago will permit those U. S. Coast Guard certificated passenger vessels that normally load and unload passengers at Navy Pier to operate in the zone. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those U. S. Coast Guard certificated passenger vessels which normally load and unload

passengers at Navy Pier to request permission before leaving or entering the security zones. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone. As such, vessels who regularly operate within this zone are responsible for monitoring Broadcasts Notice to Mariners for the Chicago area. These broadcasts will be made by U.S. Coast Group Milwaukee.

(3) *Dresden Nuclear Power Plant.* All waters of the Illinois River in the vicinity of Dresden Nuclear Power Plant encompassed by a line starting on the shoreline at 41° 23′ 45″ N, 88° 16′ 18″ W; then east to the shoreline at 41° 23′ 39″ N, 88° 16′ 09″ W; then following along the shoreline back to the beginning.

(4) *Donald C. Cook Nuclear Power Plant.* All waters of Lake Michigan around the Donald C. Cook Nuclear Power Plant encompassed by a line starting on the shoreline at 41° 58.656′ N, 86° 33.972′ W; then northwest to 41° 58.769′ N, 86° 34.525′ W; then southwest to 41° 58.589′ N, 86° 34.591′ W; then southeast to the shoreline at 41° 58.476′ N, 86° 34.038′ W; and following along the shoreline back to the beginning.

(5) *Palisades Nuclear Power Plant.* All waters of Lake Michigan around the Palisades Nuclear Power Plant within a line starting on the shoreline at 42° 19′ 02″ N, 86° 19′ 05″ W; then northwest to 42° 19′ 43″ N, 86° 19′ 52″ W; then north to 42° 20′ 10″ N, 86° 20′ 01″ W; then southeast back to the shoreline at 42° 19′ 26″ N, 86° 18′ 55″ W; then following along the shoreline back to the beginning.

(6) *Byron Nuclear Power Plant.* All waters of the Rock River encompassed by the arc of a circle with a 100-yard radius with its center in approximate position 42° 05′ 01″N, 89° 19′ 27″W.

(7) *Zion Nuclear Power Plant.* All waters of Lake Michigan encompassed by a line starting on the shoreline at 42° 26′ 36″ N, 87° 48′ 03″ W; then southeast to 42° 26′ 20″ N, 87° 47′ 35″ W; then northeast to 42° 26′ 53″ N, 87° 47′ 22″ W; then northwest to the shoreline at 42° 27′ 06″ N, 87° 48′ 00″ W; then following along the shoreline back to the beginning.

(8) *68th Street Water Intake Crib.* All waters of Lake Michigan within the arc of a circle with a 100-yard radius of the 68th Street Crib with its center in approximate position 41° 47′ 10″ N, 87° 31′ 51″ W.

(9) *Dever Water Intake Crib.* All waters of Lake Michigan within the arc of a circle with a 100-yard radius of the Dever Crib with its center in approximate position 41° 54′ 55″ N, 87° 33′ 20″ W.

(10) *79th Street Water Intake Crib.* All waters of Lake Michigan within the arc of a circle with a 100-yard radius of the 79th Street Water Filtration Plant with its center in the approximate position 41° 45′ 30″ N, 87° 32′ 32″ W.

(b) *Regulations.*

(1) Under § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago. Section 165.33 also contains other general requirements.

(2) All persons and vessels shall comply with the instruction of the Captain of the Port Chicago or the designated on-scene U.S. Coast Guard patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zone but must abide by the restrictions imposed by the Captain of the Port.

(3) Persons who would like to transit through a security zone in this section must contact the Captain of the Port at telephone number (630) 986–2175 or on VHF channel 16 (121.5 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: May 13, 2002.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port, Chicago.

[FR Doc. 02–12734 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI02

Endangered and Threatened Wildlife and Plants; Retention of Threatened Status for Argali in Kyrgyzstan, Mongolia, and Tajikistan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Withdrawal of proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), retain threatened status for the argali (*Ovis ammon*), the largest species of wild sheep, in Kyrgyzstan, Mongolia, and Tajikistan under the Endangered Species Act of 1973 (the Act), as amended. The special rule allowing importation of sport-hunted trophies from those countries also is retained. We will not proceed with reclassifying the argali as endangered in these three countries, as proposed on April 27, 1993. That proposal is hereby withdrawn. The withdrawal is based on two factors. First, the two lawsuits challenging the original listing and special rule were defeated or dismissed, thereby eliminating our strong concern over the adequacy of existing regulatory mechanisms related to import of sport-hunted trophies from Kyrgyzstan, Mongolia, and Tajikistan. Second, a review of information compiled over the past eight years (i.e., since the proposed rule was published) in relation to the five listing factors under the Act, indicates that the argali is properly classified as threatened in Kyrgyzstan, Mongolia, and Tajikistan.

ADDRESSES: The complete file for this action is available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Robert R. Gabel, Chief, Division of Scientific Authority; Mail Stop: Arlington Square, Room 750; U.S. Fish and Wildlife Service; Washington, DC 20240 (phone 703–358–1708; fax number 703–358–2276).

SUPPLEMENTARY INFORMATION:

Background

The argali (*Ovis ammon*) is the largest species of wild sheep. Its historic range includes Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, southern Siberia in the Russian Federation, Mongolia, north-central and western China, Bhutan, Nepal, and the Himalayan portions of Afghanistan, Pakistan, and India. In a final rule published pursuant to the Endangered Species Act of 1973 (Act) in the **Federal Register** of June 23, 1992 (57 FR 28014), and becoming effective on January 1, 1993, the Service classified the argali as endangered throughout its range, except in Kyrgyzstan, Mongolia, and Tajikistan, where it was designated as threatened. A special rule, promulgated under Section 4(d) of the Act, provided for issuance of permits pursuant to section17.32 of title 50 of the CFR for certain activities for argali from Kyrgyzstan, Mongolia, and Tajikistan. This rule also provided for importation of sport-hunted argali trophies without

a threatened species permit once we had received from the governments of these same countries properly documented and verifiable information that: (1) Argali populations are sufficiently large to sustain sport hunting; (2) regulating authorities have the capability to obtain sound data on these populations; (3) regulating authorities recognize these populations as a valuable resource and have the legal and practical means to manage them as such; (4) the habitat of these populations is secure; (5) regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations; and (6) funds derived from the involved sport hunting are applied primarily to argali conservation. (For threatened species, Section 4(d) of the Act authorizes the Secretary to promulgate "such regulations as he deems necessary and advisable to provide for the conservation of such species'.)

In connection with the final rule of June 23, 1992, we noted that, with the exception of the subspecies *O. a. hodgsoni*, the argali was listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and thus, until the effective date of the regulation, could be imported into the U.S. upon presentation of a proper CITES export permit from the country of origin in accordance with Section 9(c)(2) of the Act (which provides that the otherwise lawful, noncommercial importation of wildlife that is not an endangered species, but that is on Appendix II of CITES and meets CITES requirements, shall be presumed to be in compliance with provisions of the Act and implementing regulations). There had previously been some question as to whether Section 9(c)(2) of the Act might automatically require us to allow the importation of a species that is both listed as threatened and on Appendix II, and preclude the issuance of more restrictive special rules covering importation. However, in a detailed discussion in the background to the final rule, we concluded that such special rules may be issued to provide for the conservation of the involved species. We emphasized that this interpretation of Section 9(c)(2) was one of the key factors in assigning threatened status to the argali in Kyrgyzstan, Mongolia, and Tajikistan. Had we been unable to issue a special rule restricting importation of trophies from those countries, importation could have proceeded without assurances of adequate population status and management in those countries. Such a situation may have been sufficient to warrant endangered classification of the involved populations under listing factor "D" of Section 4(a)(1) of the Act, "inadequacy of existing regulatory mechanisms."

In promulgating the final rule and special rule, we recognized that there was a reasonable argument for the proposition that controlled sport hunting may provide economic incentives contributing to the conservation of certain wildlife populations. During the periods of review and comment prior to publication of the final rule, various interested groups and individuals had argued that sport hunting programs, with consequent exportation of trophies, might encourage and provide necessary funds for conservation of the argali. Consideration of such interests, and allowance for their development and submission of information supporting their position, was a factor in the unusual length of the argali rulemaking process (almost 3 years). Throughout this process we emphasized that the importation of sport-hunted argali trophies was feasible, provided that substantive data showed that such activity was beneficial to the conservation of the species.

Despite the above considerations, the final rule was challenged in two separate lawsuits on January 4, 1993. The plaintiffs included a number of hunting organizations and businesses. They contended, among other things, that we failed to give adequate notification of the argali rulemaking process, and that Section 9(c)(2) of the Act requires that argali trophies be allowed to enter the United States simply upon presentation of a CITES export permit from the country of origin. Although we believed that our interpretation of Section 9(c)(2) was valid, we were also concerned that this interpretation and the special rule could be set aside in the course of legal proceedings. We might then be placed in the situation for which we had expressed concern in the final rule-not being able to adequately regulate argali importation. The strong potential for such a situation and its implications vis-a-vis listing factor "D" of Section 4(a)(1) of the Act ("the inadequacy of existing regulatory mechanisms"), together with the hunting community's unwillingness to accept the intent of the new argali regulations, and the other problems we perceived with the status of the species, as described in the final rule of June 23, 1992, were deemed sufficient to warrant a proposal to reclassify the argali in Kyrgyzstan, Mongolia, and Tajikistan from threatened to endangered. A proposed rule to such effect was published in the **Federal Register** of April 27, 1993 (58 FR 25595).

In August 1993, the U.S. District Court for the Western District of Texas, ruling on the suit brought by Safari Club International and several supporting plaintiffs, upheld all substantive aspects of the regulations, including our interpretation of Section 9(c)(2) of the Act. Later that same month, the U.S. District Court for the District of Columbia dismissed a suit brought primarily by a group known as Putting People First. The Service's successful defense in the two lawsuits moderated the immediate concern that led to the proposed rule of April 27, 1993, and was the principal factor in the Service's decision to withdraw the proposed reclassification. A notice of withdrawal, which addressed the lawsuits and assessed the threats confronting the argali populations of Kyrgyzstan, Mongolia, and Tajikistan as described in the 1993 proposed rule was prepared in 1995 for **Federal Register** publication, but not finalized. The court decisions had diminished the management concerns for the species, and, with the special rule in place, priorities other than argali emerged and redirected the Service's focus.

An analysis of information on argali in Kyrgyzstan, Mongolia, and Tajikistan generated over the last eight years, including two reports prepared under contract to the Service (Luschekina and Fedosenko 1994 and Fedosenko 1999), has lead us to conclude that the Kyrgyzstan, Mongolia, and Tajikistan distinct population segments of argali are properly classified as threatened, and that the special rule for argali (50 CFR 17.40(j)) is adequate to provide for the conservation of the species. In addition, the Service is continuing its ongoing efforts to encourage range countries to develop and submit the information necessary to "certify" the country under the special rule, thereby eliminating the need for issuance of threatened species permits for sport-hunted trophies. Our analysis of the Act's five listing factors is summarized in the "Summary of Factors Affecting the Species" below. As part of our analysis, we have taken into account efforts made by foreign governments to protect the species (as required by section 4(b)(1) of the Act).

Summary of Comments

In the proposed rule of April 27, 1993, and in associated notifications and the subsequent reopening of the comment period, all interested parties were requested to submit information that

might contribute to development of a final rule. Cables were sent to United States embassies in the involved countries, requesting any new data the embassies could provide and asking them to obtain official comments from the governments of those countries. Twenty-eight (28) parties commented on the proposal, some of them several times. Of these, 5 provided information but did not specifically state an opinion on the proposal, 3 expressed support, and the remainder did not support the proposal (most of these expressed a point of view of hunting interests).

A common theme in statements by opponents of the proposed rule was that the argali was not of conservation concern and should be completely removed from the List of Endangered and Threatened Wildlife. Such an action was not under consideration in the proposed rule, and was at odds with the available information and listing status at that time. The Service still believes that the argali is appropriately listed under the Endangered Species Act.

Likewise, many of the negative comments claimed that the special rule for argali was unworkable and should be eliminated or revised to make importation easier. Although the proposed rule did state that modifications to the special rule were under consideration, there is no scientific or commercial data that support eliminating or substantively moderating the restrictiveness of the special rule. The only supportable options were to keep the existing threatened classification and special rule, finalize the proposed endangered status with elimination of the special rule, or keep the threatened classification, at least in part, and add more restrictions to the special rule. The Service has chosen, based on the best available scientific and commercial information, to retain the existing threatened classification and special rule.

A number of comments dealt with the question of whether the criteria of the special rule may have been met, thereby allowing importation of sport-hunted trophies without a threatened species permit. This question is associated with some of the matters involved in the argali proposed rule. Indeed, the proposed rule stated that receipt of data demonstrating that the criteria had been met could be a reason for withdrawal of the proposal. And the reason for reopening the comment period on March 21, 1994, was receipt of a report of the Service's own survey to gather information that might have helped meet the criteria. We do not believe, based on information currently available to us, that any of the three countries has fully satisfied the criteria of the special rule. That is why threatened species permits continue to be issued on a country-by-country and year-by-year basis.

Remaining major issues brought out by commentors are discussed below.

Issue 1.— Based on numbers, distribution, regulation, and other listing factors, the argali is or is not endangered in Kyrgyzstan, Mongolia, and/or Tajikistan.

Service response.— Different commentors argued either for or against endangered status, based on various listing factors. The relevant question is whether new information or assessment indicates that the status of the argali in the three involved countries is substantively worse or better than at the time of the original final rule, when the threatened classification was assigned. This issue is at the core of the analysis in the following section "Summary of Factors Affecting the Species." Basically, available scientific evidence indicates that habitat conditions and population status has remained stable or improved over the past eight years, and that regulatory mechanisms are at least as adequate as determined at the time of the original final rule. Thus, retention of threatened status is warranted.

Issue 2.— The Service has not demonstrated that sport hunting is a detrimental factor to the argali.

Service response.— The various published notices on the argali have repeatedly recognized the principle that carefully managed sport hunting programs are not necessarily detrimental to overall wildlife populations, and even have the potential to provide benefits under certain conditions. We do not find legal sport hunting to be a factor that currently threatens argali populations in Kyrgyzstan, Mongolia, or Tajikistan; we believe it provides benefits.

Issue 3.— The Service did not consult with appropriate officials in the involved countries.

Service response.— The Service followed all standard procedures, by which the State Department is requested to send telegrams to appropriate U.S. embassies, which in turn are asked to contact government officials and other knowledgeable authorities.

Issue 4.— The lawsuits on the argali were not a proper basis for the proposal, and, in any case, the defeat of the lawsuits should have resulted in withdrawal of the proposal.

Service response.— As explained in detail in the proposal and in the above "Background," the lawsuits posed a threat to the Service's ability to appropriately regulate importation of argali and therefore brought into play factor "D" of Section 4(a)(1) of the Act, "Inadequacy of existing regulatory mechanisms." This problem has been resolved by the legal decisions.

Issue 5.— The issuance of permits for importation of argali trophies is a violation of the special rule of June 23, 1992, or, in any case, shows that current regulation is inadequate.

Service response.— Issuance of threatened species permits is consistent with section 17.40(j)(1) of the special rule. We do not find legal sport hunting to be a factor that currently threatens argali populations in Kyrgyzstan, Mongolia, or Tajikistan; we believe it provides benefits. Therefore, issuance of permits does not show that current regulation is inadequate.

Summary of Factors Affecting the Species

A. Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Kyrgyzstan

Range and Distribution

The argali in Kyrgyzstan occurs in two populations comprising two subspecies, the Marco Polo argali (*O. a. polii*) and the Tien Shan argali (*O. a. karelini*). A third subspecies, *O. a. severtzovi*, is not considered to occur in Kyrgyzstan. The Tien Shan argali is distributed across approximately the northern half of Kyrgyzstan in the Tien Shan Range west of Lake Issyk-Kul, whereas the Marco Polo argali (also called the Pamir argali) is distributed across the Pamir Plateau of southeastern Kyrgyzstan, along the border with China (see map on page 190 of Weinberg et al. 1997). The ranges of the two subspecies apparently overlap—or are not clearly delineated—in the Uzengikush River basin in the north-eastern portion of the Kokshalatau Range, between the city of Kara Say and the Chinese border.

Only very general information is available regarding the historical and current habitat area actually occupied by the Tien Shan argali in Kyrgyzstan. Weinberg et al. (1997) discuss the taxon's general distribution in Kyrgyzstan, but do not give any figures for the total habitat area occupied, either historically or currently. They state that in many places this argali has "disappeared completely," although no details are given.

Few data are available on the habitat area occupied by Pamir argali in Kyrgyzstan prior to the 1970s. Much of the older information is summarized in a report entitled "The Status of Argali in Kirgizstan, Tadjikistan and Mongolia," completed in January 1994 by Dr. Anna Luschekina of the Russian Academy of Sciences and Dr. A. K. Fedosenko under contract to the Service (Luschekina and Fedosenko 1994). The report is a compilation of information derived from direct field observations, interviews, existing literature, and hunting data and other data from government archives. According to the report, Andrienkov (1983) reported that, in the 1940s, the Pamir argali occupied an area of 3 million hectares (ha). Argali lived in the valleys of such rivers as Aksai and Arpa (Luschekina and Fedosenko 1994). Luschekina and Fedosenko (1994), after examining data collected in the late 1970s by Andrienkov (1983), in the early 1990s by the Kyrgyz Institute of Biology, and 1993 by themselves, concluded that the Kyrgyz population of Pamir argali had "undergone considerable changes" over that period of time. In most locations subject to substantial human influence (grazing, poaching, etc.), numbers had "notably declined", while at the same time high numbers persisted in remote locations with difficult access, areas with limited livestock grazing, and areas with rigid border controls (Luschekina and Fedosenko 1994).

Protected Areas

Small numbers of argali are found in the Naryn (24,200 ha) and Besh-Aralsk (45,000 ha) Nature Reserves in Kyrgyzstan, according to Weinberg et al. (1997).

Although few argali occur in designated protected areas in Kyrgyzstan, a large percentage of the Kyrgyz population has been protected, at least until recently, in a "de facto" protected area beyond the line of "engineering works" along the border with China (Luschekina and Fedosenko 1994). These "engineering works," essentially a continuous barrier consisting of razor wire fences, were erected along the border with China during the late 1980s. The "border zone" (i.e., the area between the fences and the border) varies in width from approximately 1 kilometer (km) to several km, and extends the entire length of the Kyrgyz border with China (a distance of 858 km according to the CIA World Factbook 2000). We do not know the total land area within the border zone. However, if we make some conservative assumptions about this zone, we can calculate an approximate area. If we assume that the average width of the zone is 1 km, and the actual length of the fence is 650 km (meaning that various bends and curves in the border have been "straightened" by the fence), then the zone encompasses about 650,000 ha. We understand that the border barriers have not been well maintained in recent years, and may be broken down in places. It is believed that these border areas, which have become more accessible in recent times, may now be subject to greater human pressures including poaching, although Luschekina and Fedosenko (1994) also indicated that the mobility of local peoples is hampered by the expense and scarcity of fuel for vehicles.

Livestock Competition

According to Luschekina and Fedosenko (1994), collective and state farms in Kyrgyzstan had over 8 million sheep and goats in the mid-1960s. Intensive grazing of mountain rangelands led to a reduction in the number of argali, since argali use the same ranges as domestic livestock. Particularly intensely utilized by livestock grazers were the Altai and Aksay valleys and the upper reaches of the Saryjaz; these areas experienced severe declines in argali numbers and in some locations argali disappeared (Luschekina and Fedosenko 1994). However, with the change of government in Kyrgyzstan, many collective and state farms were eliminated and livestock turned over to individual herdsmen. Many of these herders did not have the resources necessary to utilize distant or hard-to-access ranges; livestock use of those areas decreased sharply and some ranges (e.g., Kurumduku) were abandoned altogether by domestic grazers (Luschekina and Fedosenko 1994). Presumably argali populations began to recover in those areas.

Mongolia

Range and Distribution

Two subspecies of argali occur in Mongolia: Altai argali (*O. a. ammon*) and Gobi argali (*O. a. darwini*) (see map on page 199 of Mallon *et al.* 1997). Altai argali inhabit the high Altai Mountain region of western and southwestern Mongolia; along the main ridge of the Hangai Mountains in central Mongolia; and in the mountains of north and northwest Mongolia (Mallon *et al.* 1997). Gobi argali occur in the hills, rocky outcrops, and mountains across the whole of the Transaltai Gobi (the desert and semi-desert zones south of the Altai Range), portions of the Gobi Altai Mountains east almost to 112o E longitude, and also in several isolated ranges of hills in the steppe zone of central Mongolia (Mallon *et al.* 1997). According to Mallon *et al.* (1997), the division between ranges of the two subspecies of argali in Mongolia is poorly known.

Protected Areas

The existence of reserves and hunting restrictions in the modern Mongolian People's Republic can be traced to the 1920s. Sokolov *et al.* (1991) documented at least 14 protected areas and 20 hunting preserves situated throughout the country. In 1994, Mongolia adopted a "Law on Special Protected Areas" that designated four categories of protected areas: (1) Strictly Protected Area (SPA), National Conservation Park (NP), Nature Reserve (NR), and Monument (M). Mallon *et al.* (1997) listed 12 protected areas with Caprinae in Mongolia, as of late 1995. As of July 2000, Mongolia had established 48 "State Special Protected Areas" covering 20.1 million hectares or almost 13 percent of Mongolia's territory, according to S. Banzragch, Director General of Mongolia's Environmental Protection Agency (*in litt.* to Teiko Saito, DMA, August 1, 2000). According to the protected area law, strictly protected areas are divided into three zones: pristine zone, conservation zone, and limited use zone. In 1997, Mongolian Parliament passed a "Law on Buffer Zones of Special Protected Areas" which created a buffer zone council for each special protected area responsible for coordinating activities that could be carried out in the area's buffer zone. As of May 2001, argali occurred in 11 protected areas, according to A. Bolat, Vice Minister of the Mongolian Ministry of Nature and Environment (MNE) (*in litt.* to Tim Van Norman, Branch of Permits, DMA, May 9, 2001).

Livestock Competition

According to Luschekina and Fedosenko (1994), large-scale privatization of domestic livestock in 1991–1994 led to extensive, uncontrolled use of rangelands in Mongolia, resulting in competitive displacement of argali to poorer quality habitats, and increased poaching of argali by herdsmen. Argali populations were thought to have declined as a result. Reading *et al.* (1997) cited a number of recent references (e.g., Shagdarsuren *et al.* 1987) indicating widespread degradation of argali habitats by domestic livestock.

Tajikistan

Range and Distribution

The argali in Tajikistan consists of only one subspecies, the Marco Polo argali (also known as Pamir argali or Pamir arkar) (*O. a. polii*), which occurs in the eastern Pamir Plateau, along the

border with China (see map on page 190 of Mallon *et al.* 1997). This subspecies also occurs on the Pamir Plateau of Kyrgyzstan, the eastern portion of the Wakhan Corridor of Afghanistan, northernmost Pakistan, and the Pamir region of China.

Protected Areas

According to a recent report "Current Population Status of the Pamir Arhar in Tajikistan," completed in 1999 by Dr. A. K. Fedosenko of the Department of Conservation and Rational Use of Game Resources of the Russian Federation, under contract to the Service (Fedosenko 1999), there were three protected areas under administration of the Regional Department of Forestry within the range of argali in the Pamir: Pamirskii zakaznik (50,000 ha), Muzkol'skii zakaznik (66,900 ha), and Zorkul'skii zakaznik (16,500 ha). In 1992, the Pamir National Park was declared, based on the Pamirskii zakaznik, but lack of funding precluded its functioning as a legitimate protected area. Likewise, according to Fedosenko (1999), the other two zakazniks also do not function as real protected areas. More recently (1999), the Tajik National Park was declared in place of the Pamir National Park, and staff have been appointed (Fedosenko 1999).

As in Kyrgyzstan, a large portion of the Tajik argali population has been protected, at least until recently, in a "de facto" protected area beyond the line of "engineering works" along the border with China. These "engineering works," were constructed along the 414-km border with China during the late 1980s. The "border zone" in Tajikistan encompasses about 300,000 ha (assuming the average width is 1 km and the length is 300 km). As in Kyrgyzstan, the border barriers have not been well maintained in recent years, and may have broken down in places.

Livestock Competition

Fedosenko (1999) surveyed argali in several parts of the Eastern Pamir in 1999, and compared his results with data from the mid-1990s. He concluded that the abundance of argali in the central and northern parts of the Eastern Pamir had not changed or had decreased to some extent in recent years, while in the southeastern and especially the southern part of the Pamir, argali abundance had increased by more than three times. Dr. Fedosenko attributed argali population growth in the south to the removal of large numbers of domestic livestock from local pastures during the last several years; he also attributed the lack of population growth or slight decline in the central and northern parts of the Eastern Pamirs to the concentration of domestic livestock in those areas (Fedosenko 1999).

Findings for Factor A

Habitat conditions for argali in Kyrgyzstan appear to have improved over the last decade, largely as a consequence of the change of government. Livestock numbers have increased in some areas (with, presumably, a concomitant decrease in habitat quality for argali as a result of overgrazing), but have been substantially reduced in other, more extensive areas (with, presumably, a concomitant increase in habitat quality for argali as a result of decreased grazing pressure). The "de facto" protected area in the border zone with China has probably improved habitat conditions. While habitat loss and degradation does not endanger the argali throughout all or a significant part of Kyrgyzstan, it remains a factor that threatens certain argali populations in a significant portion of the country.

In Mongolia, argali habitats appear to have degraded over a wide area since the early 1990s as a result of overgrazing by domestic livestock. This may have been offset by the designation of a substantial number of "State Special Protected Areas" covering almost 13 percent of Mongolia's territory, and a new law on buffer zone management in special protected areas. We do not believe that habitat loss and degradation is of sufficient magnitude and extent to endanger the argali throughout all or a significant part of Mogolia, however, habitat degradation and loss continues to threaten certain argali populations in a significant portion of Mongolia.

In Tajikistan, as in Kyrgyzstan, argali habitats have improved in many areas due to removal of large numbers of domestic livestock, but have degraded in other, less extensive areas, due to concentration of domestic livestock there. The "de facto" protected area in the border zone with China has probably improved habitat conditions. As with Kyrgyzstan, it appears that overall habitat conditions for argali have improved in Tajikistan. Thus, while habitat loss and degradation does not endanger the argali throughout all or a significant part of Tajikistan, it remains a factor that threatens certain argali populations in a significant portion of the country.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Kyrgyzstan

Population Status

On the basis of their own field surveys in the Kokshalatau Range in 1993 and surveys conducted by the Kyrgyz Institute of Biology in 1991, Luschekina and Fedosenko (1994) estimated a minimum population of 7,800 Marco Polo (or Pamir) argali for Kyrgyzstan in 1994, distributed as follows: 2,500–3,100 in the Aksai River basin (right-hand tributaries); 500–900 in the Myurduryum area; 1,300 in the Uzengikush area; 700 in the Akshiiryak area; 1,000 in the Sarydzhaz basin; and 1,800 in the Arpa valley. We note that this does not appear to cover the entire range of Marco Polo argali within Kyrgyzstan.

In response to our annual request for information, Mr. C. Omurakunov of the Kyrgyz Central Administrative Board of Hunting and Hunting Supervision (*in litt.* to Michael Carpenter, DMA, June 30, 1998) told us that, in 1997, the total argali population of Kyrgyzstan was estimated to be 20,000–21,000 animals, based on aerial and ground surveys. Of that total, more than 13,000 were estimated to be Marco Polo argali, the subspecies targeted for sport hunting in Kyrgyzstan. Mr. Omurakunov provided some details about survey methods used and results obtained. Ground and aerial surveys were used to cover extensive areas, with helicopters being used in areas that are remote and difficult to access. Population estimates for specific areas with high concentrations of argali were as follows: 6,600 in right-hand tributaries of the Aksai River; 2,400 in the Arpa Valley; 2,900 in Jety-Oguz. These estimates are substantially higher than those made in earlier years (i.e., 1991–1993), and we suspect that the survey methods used may have resulted in slight overestimation, particularly in the Aksai River area. Although some error in counting and/or differences in survey methods may partially account for differences between earlier population estimates and the 1997 estimate, Mr. Omurakunov asserted that the number of argali in Kyrgyzstan had actually increased between years, which he linked directly to sport hunting (although other factors may also be involved).

In a 1999 fax to us, Mr. Omurakunov (*in litt.* to the Service, January 26, 1999) repeated the previous population estimates—a total argali population of 20,000–21,000 and a Marco Polo argali population of 13,000. In 2000, Mr. T. Alykulov, Minister of Environmental Protection of Kyrgyzstan (*in litt.* to Teiko Saito, Chief, DMA, July 7, 2000) told us that the total population estimate for the country in 1999 was 16,600, and 14,000 "live in areas where hunting is conducted," implying that these were Marco Polo argali, because only Marco Polo argali are hunted. These recent survey data suggest that argali numbers in Kyrgyzstan have remained relatively stable in the past few years, with some fluctuation, although a comprehensive survey does not appear to have been undertaken since 1997.

Sport Hunting

Sport hunting of argali by international trophy hunters has been taking place in Kyrgyzstan since at least 1990 (Luschekina and Fedosenko 1994).

Hunting Companies. The number of hunting organizations (companies) leading "hunting tours" for Marco Polo argali in Kyrgyzstan has grown in recent years. The hunting industry was formerly run by one organization—Glavokhota. However, in 2000, six or seven organizations were involved in hunting (including the Society for Hunting and Fishing of the Kyrghyz Republic, the State Enterprise "Kyrghyz Too", and others).

Hunting Locations. In previous years we believe that the entire hunting quota was assigned to the Naryn region, which appears to contain one of the largest concentrations of Marco Polo argali in Kyrgyzstan, and which also does not appear to include any of the Tien Shan argali (DSA 1995). Luschekina and Fedosenko (1994) indicated that there were two hunting camps, one named Atabash, which is in the Aksai River Valley, and one named Przhevalsk, which is in the basin of the Uzengikush River. Subsequently, we received information about a hunting area in what appears to be the Alai Valley in the Osh region. The Alai Valley is an area that contained a concentration of argali estimated at 1,890 animals in the 1996 surveys, and therefore should be able to sustain some offtake of trophy animals. During the 1999–2000 hunting season, hunting areas were in the Narynskaya Oblast and in the mountains systems from the southern portion of Issyk-Kul'skaya Oblast to Borkoldoi-Too and Boz-Dzhalpaka, according to T. Alykulov, Minister of Environmental Protection for Kyrgyzstan (*in litt.* to Teiko Saito, Chief, DMA July 7, 2000).

Harvest Quotas. Harvest quotas for sport-hunted trophies of Marco Polo argali have steadily increased in Kyrgyzstan. The 1995 quota for Marco Polo argali was 15 according to Mr. C. Omurakunov of the Kyrgyz Committee of Nature Protection (*in litt.* to Safari Club International, January 24, 1995). The 1996 quota was 20 (Mr. T. Kulumbaev, Kyrgyz Committee of Nature Conservation *in litt.* to the Service, February 21, 1996), the 1997 quota was 24 (Mr. Omurakunov *in litt.* to DMA, 1997), and the 1998 quota was 25. For 1999, Mr. Omurakunov (*in litt.* to Michael Carpenter, DMA, June 30, 1998) stated that the quota was increased to 40, which, he said, was based on an increasing population trend and expansion of the range of the species within Kyrgyzstan in recent years (although the population appears to have remained relatively stable during that time frame). For 2000, Mr. Alykulov stated that the quota was set at 60.

Based on information provided by the Kyrgyz Government, harvest quotas in previous years appear to have been adhered to, and may not have been met in some years. Only 18 argali were hunted under a quota of 20 in 1996. Mr. Omurakunov stated in his 1998 letter that, based on several years' data, only 70–80% of the annual quota was being used on average.

Biological Impact of Harvest. Luschekina and Fedosenko (1994) stated "we believe that the size of the argali populations is adequate in both Kyrgyzstan and Tajikistan to sustain the pressure of sporting (trophy) hunting within the limits it is currently conducted." At that time, the Marco Polo population of Kyrgyzstan was estimated at 7,800 animals, while the hunting quota was 18.

In our 2000 biological opinion on argali sport hunting in Kyrgyzstan we assessed the biological impact of the harvest quotas for that year (DSA 2001a). We based our assessment on the harvest recommendations of Wegge (1997) and Harris (1993). Wegge (1997) considers that harvesting males within a limit of 10 to 20 percent of the replacement rate for the trophy-sized segment of the population is a safe, conservative level for stable or increasing wild sheep and goat populations. In most cases this is equivalent to less than 4 percent of the total pre-hunting season population (Wegge 1997). Harris (1993) states that a healthy population should be able to sustain an annual "trophy harvest of males, in numbers equivalent to 1–2 percent of the total population size," without negative consequences to the population. For 2000, the harvest quota of 60 argali represented 0.46% of the estimated total Marco Polo argali population of 13,000. Comparing this figure to the harvest recommendations of Wegge (1997) and Harris (1993), and noting that the Marco Polo argali population in Kyrgyzstan appears to be stable or increasing based on recent survey results, we concluded that the total harvest quota of 60 was conservative and sustainable. We further note that as long as Marco Polo argali population estimates for Kyrgyzstan were correct within ± 50% (i.e., the population is at least 6,000), this quota is below 1 percent of the population.

Poaching

Local harvest of argali for sport and/or consumption is prohibited. In previous years illegal hunting was acknowledged to be a persistent problem, especially in remote areas where enforcement is difficult. However, efforts were being made to control poaching, which resulted in poachers being detained and fined. We have been told that the head of the local game management unit accompanies foreign hunters; thus we presume that trophy specimens are legally taken and exported. Some argali populations may suffer locally in areas of military activity or "expeditions," although these seem to be intermittent and isolated events. In previous years we also noted that the Government of Kyrgyzstan had agreed to strengthen and augment reserve areas. Indeed, Mr. Omurakunov indicated in his May 1997 letter that new reserves had been established. Levels of poaching described by Mr. Omurakunov in 1998 appeared to be relatively low. The level of illegal offtake (poaching) appears to be low enough that total harvest mortality (i.e., illegal harvest and legal sport-hunting harvest) has not exceeded sustainable levels and has not caused the Marco Polo argali population to decline.

Mongolia

Population Status

Luschekina and Fedosenko (1994) estimated there to be "no more than 20,000" argali of both subspecies in all of Mongolia, although they also stated that "there are no systematic data on the argali population in Mongolia." Mallon *et al.* (1997) concurred that reliable, country-wide population estimates for each subspecies were not available, although both Mallon *et al.* (1997) and Reading *et al.* (1997) felt that Altai argali were less abundant than Gobi argali.

No comprehensive, rangewide population surveys of Altai argali have been undertaken in Mongolia. Mallon *et al.* (1997) felt that Altai argali were less abundant than Gobi argali, and that

populations were fragmented and disjunct. Amgalanbaatar and his colleagues surveyed several sites in western Mongolia in 1991–1992 and estimated a total population of 3,000 Altai argali for the four westernmost aimags (provinces) (Amgalanbaatar 1993, Amgalanbaatar *et al.* 1993 cited in Reading 1996). In 1995, Amgalanbaatar and Reading revisited several of the earlier survey sites. They did not observe argali in several of the areas and counted a total of only 52 argali (Amgalanbaatar 1995 cited in Reading 1996). However, according to Mallon *et al.* (1997), these recent surveys have not been comprehensive enough to permit estimation of the total population of Altai argali.

Additional surveys have been conducted since the studies cited in Mallon *et al.* (1997) and Reading (1996). Michael Frisina, Wildlife Biologist-Range Coordinator for the Montana Department of Fish, Wildlife & Parks, and his Mongolian colleagues, surveyed argali in Mongolia during 1997, 1998, and 1999 under the auspices of a cooperative project between Argali Conservation International and the Mongolian Ministry for Nature and the Environment (MNE) (Frisina and Boldbaatar 1998, Frisina and Ulziimaa 1999, 2000). Survey areas have included the western Altay Mountains in Bayan Olgiy and Hovd Aimags (Provinces) and the eastern Hangay Mountains (at Oshgog Mountain in Ovorkhangay Aimag-an area where government-regulated trophy hunting has occurred for several years (Frisina and Boldbaatar 1998). The eastern Hangay Mountains appear to be a zone where the two subspecies in Mongolia come together; thus, it is uncertain which subspecies occurs at Oshgog Mountain.

Frisina and colleagues conducted surveys for Altai argali in the western Altay Mountains in 1997 and 1999. In August 1997, Frisina and Boldbaatar conducted ground surveys in three areas in the western Altay Mountains (in Bayan Olgiy and Hovd Provinces) (Frisina and Boldbaatar 1998). They counted 244 argali, 234 of which were rams. This skewed sex ratio reflects the fact that their survey areas were remote alpine valleys, habitats dominated by rams in August. Older rams (Class III and IV) comprised 49% of the rams counted. In July 1999, Frisina and Ulziimaa conducted a less-intense reconnaissance survey of the sites in Bayan Olgiy and Hovd Provinces that had been surveyed in 1997 (Frisina and Ulziimaa 2000). They counted only 65 argali—15 ewes, 5 lambs, 35 rams, and 10 unclassified animals. They suggested that this decrease may have been due to the shorter period of observation in 1999, or the hot and dry daytime conditions in 1999, which may have made the sheep less visible because they were bedded down or in shady areas.

Frisina and colleagues conducted more intensive argali surveys at Oshgog Mountain in the Hangay Mountains (in Ovorkhangay Aimag) in 1997, 1998, and 1999. In August 1997, Frisina and Boldbaatar counted 305 argali at Oshgog, 135 of which were rams, 120 of which were ewes, and 50 of which were lambs (Frisina and Boldbaatar 1998). The observed lamb-to-ewe ratio was 41.7 lambs per 100 ewes. In addition, 63.7% of classified rams were in older age classes (Class III or IV). The relatively high proportion of older rams was interpreted as indicating that "natural mortality is not excessive and poaching of rams is limited." The authors concluded that "argali populations in the areas surveyed are healthy and productive" (Frisina and Boldbaatar 1998).

In October 1998, Frisina and Ulziimaa conducted a second ground survey of the Oshgog Mountain area, and counted 862 argali, including 252 ewes, 159 lambs, 241 rams, and 210 unclassified animals (Frisina and Ulziimaa 1999). They estimated the total argali population for Oshgog Mountain (an area 91,500 ha) to be 901, and considered that to be a conservative estimate. They reported a good lamb-to-ewe ratio (63 lambs per 100 ewes) and high percentages of older age-class males (75.9% of classified rams were Class III or IV), and concluded that trophy hunting of argali at Oshgog Mountain was within sustainable limits (Frisina and Ulziimaa 1999).

In July 1999, Frisina and Ulziimaa conducted a third ground survey of the Oshgog Mountain area (Frisina and Ulziimaa 2000). They counted 339 argali, including 161 ewes, 77 lambs, 69 rams, and 32 unclassified animals. The lamb-to-ewe ratio was 47.8 lambs per 100 ewes, but there was a lower percentage of older age-class males than in previous years (39.1% of classified rams were Class III or IV). Rams made up a smaller percentage of the observed population in 1999 than in either 1997 or 1998, and the percentage of old rams (Class IV) was lower in 1999 than in 1997 or 1998. The authors implied that data comparisons among years should be made cautiously because 1998 data were collected during the rut, when older males would be expected to be more visible, whereas 1999 data were collected during extremely hot and dry conditions, and older males were difficult to see as most were bedded down in shady areas to avoid the heat (Frisina and Ulziimaa 2000).

No comprehensive, rangewide population surveys of Gobi argali have been undertaken in Mongolia. Mallon *et al.* (1997) felt that argali in the Gobi region, particularly in South Gobi Province, are apparently relatively abundant although the distribution is highly fragmented and local populations are often quite small. Recent surveys have been conducted by Frisina and colleagues, and by Reading and colleagues.

Valdez and Frisina (1993) conducted ground surveys for Gobi argali at Ih Nartiin in Dornogobi Aimag (East Gobi) in 1993, while Frisina and Ulziimaa (1999) conducted a second ground survey of Ih Nartiin in 1998. In 1993, 162 argali were counted in the 60,700-ha survey area (Frisina and Ulziimaa 1999). The observed lamb-to-ewe ratio was 44 lambs per 100 ewes, and the percentage of older males in the population was high (61.5% of classified rams were Class III or IV). In 1998, 131 argali were counted in the survey area (Frisina and Ulziimaa 1999). They estimated the total argali population for Ih Nartiin (60,700 ha) to be 632, and considered that to be a conservative estimate. The observed lamb-to-ewe ratio was 40 lambs per 100 ewes, and the percentage of older males in the population was high (60.6% of classified rams were Class III or IV). Frisina and Ulziimaa (1999) concluded that the argali population at Ih Nartiin had remained stable from 1993 through 1998.

Schaller (1994 cited in Mallon *et al.* 1997) surveyed Gobi argali in a 15 million-ha area in the eastern part of South Gobi and the western part of East Gobi in 1994. He estimated that 3,500 to 4,000 Gobi argali occurred in small, fragmented populations throughout the survey area (Mallon *et al.* 1997).

Reading *et al.* (1997) conducted ground and aerial surveys of Gobi argali in a 20.9 million-ha region in Dundgobi, Omnogobi, and Dornogobi aimags in the South Gobi region in 1994 (the same general region that Schaller surveyed). They estimated the overall population size to be 3,900 ± a standard error of 1,130, resulting in a 95% confidence interval of 2,190 to 6,960 animals (Reading *et al.* 1997). Populations were small and fragmented.

Reading *et al.* (1999) surveyed argali populations in Three Beauties of the Gobi National Conservation Park, an area of 21,700 sq. km., in 1995 (ground survey), 1996 (ground survey), and 1997 (aerial survey). They observed 265 argali in 38 groups in Fall 1995, 233 argali in 46 groups in Spring 1996, and 113 argali in 20 groups in Winter 1997. Extrapolating results of the ground surveys, they derived populations estimates of 2,977 argali in Fall 1995, and 3,333 argali (including young) in Spring 1996. Extrapolating aerial survey results, they derived a population estimate of 3,257 ± 1,071 argali in the aerial survey area (the eastern half of the park).

Sport Hunting

Sport hunting of argali by international trophy hunters has been taking place in Mongolia since at least 1967 (Luschekina and Fedosenko 1994).

Hunting Companies. In1994, only 3 companies were authorized by the Government of Mongolia to conduct sport hunts with foreign clients—Juulchin, Mongol An, and Sondor. In 1998, 6 companies were authorized by the Mongolian Government to conduct sport hunts with foreign clients. In 1999, the number of authorized companies jumped to 17 (Juulchin, Mongol Safari, Mongol Tour and Genesis, Mat Outdoor Safaris, Adiya & Altai, Mongol Altai Travel, Mongolyn Zug, Jim Trade, Zereglee, Tsagaan Shonmkhor, Derentsnat, Badan, Power Energy-Environment, Tovshin Tour, New Tour International, Karakorum) according to S. Banzragch, Director General of Mongolia's Environmental Protection Agency (*in litt.* to T. Van Norman, DMA, June 28, 1999). For the 2000 hunting season, 18 companies were authorized to conduct sport hunts with foreign clients; most were the same companies authorized in 1999, but a few new companies appeared and a few old ones disappeared (S. Banzragch, Director General, Environmental Protection Agency, Mongolia *in litt.* to Teiko Saito, August 1, 2000).

Hunting Locations. Since 1971, hunting concessions (otogs) operated by the tourism/hunting companies have been established in various areas for hunting of argali by foreign hunters. Luschekina and Fedosenko (1994) listed these as: Yamaatyn am (Bukhmuren somon of UvsNuur Aimag), Myangan-Ugalzat (Must somon of Kobdo Aimag), Khukh Serkh (Khovd somon of Kobdo Aimag), Akhuunt (Dellum somon of Bayan Ulgi Aimag), Mogoin gol (Tonkhil somon of Gobi-Altai Aimag), Biger (Biger somon of Gobi Altai Aimag), Gobi Altai-Zhinst (Zhinst somon of Bayan-Khongor Aimag), and Ikh-Baga Nomgon (Nomgon somon of Southern Gobi Aimag). Information received in support of permit applications in subsequent years indicated that these general locations remained unchanged (e.g., DSA 1995). The Government of Mongolia previously informed us that, for 3 years beginning in 1998, there was to be a complete ban on hunting in certain areas of Hovd aimag, which lies in the range of the Altai argali in western Mongolia. According to information contained in one hunter report submitted in 1999, these areas may include White Rock Mountain, Mountain of 1,000 Rams, and Bluger Mountain, although we have no corroboration of these locations. This closure was reiterated in the information received from the Government of Mongolia prior to the 1999 hunting season (Director General, Environmental Protection Agency, Mongolia *in litt.* to T. Van Norman, June 28, 1999). We do not know if these closures remain in effect.

According to information in Frisina and Ulziimaa (2000), there has been considerable hunting of argali in the Oshgog Mountain area (in the Hangay Mountains of Ovorkhangay Aimag) in recent years. This area was not previously highlighted as a principal argali hunting area. Since 1994, the trophy ram harvest at Oshgog Mountain has ranged from approximately 1 to 18 (pers. comm. with Jantzen and Luya of Mongol Tours, cited in Frisina and Ulziimaa 2000). In 1998, about 18 trophies were harvested by foreign hunters from three different hunting camps at Oshgog. In 1999, 14 rams were harvested.

Harvest Quotas. The Council of Ministers of Mongolia establishes a quota for argali to be sport-hunted by foreign hunters. Before 1992, annual quotas of up to 100 argali were issued. The 1994 quota for argali was 15, of which 10 were designated for the High Altai and 5 for the Gobi region. The quota was increased to 20 for 1995 and 1996, and to 30 for 1997. For 1998, the quota was increased to 35 animals, with two-thirds of the quota being in the Gobi region and one-third in the Altai region. For 1999, the quota was again increased to 45; approximately two-thirds of the quota is assigned to the Gobi area and one-third in the Altai (Director General, Environmental Protection Agency, Mongolia *in litt.* to T. Van Norman, June 28, 1999). For 2000, the quota was decreased to 40; no mention was made of the distribution of permits between the two subspecies (Director General, Environmental Protection Agency, Mongolia *in litt.* to Teiko Saito, August 1, 2000).

Biological Impacts of Harvest. According to Juulchin, a tourist hunting company, 1,630 argali were taken by sport hunters in Mongolia from 1967–1989, an average of 71 per year (Luschekina and Fedosenko 1994). Over 200 argali were harvested in Kobdo Aimag from 1978 through 1992 (Luschekina and Fedosenko 1994).

In our 1999 and 2000 biological opinions on argali sport hunting in Mongolia we assessed the biological impacts of the harvest quotas for those years (DSA 1999, DSA 2000). As in our analysis for Kyrgyzstan, we based our assessment on the harvest recommendations of Wegge (1997) and Harris (1993). The total sport-hunting quota of 45 represented about 0.45% of the estimated total population of 10,000. The quota of 30 Gobi argali represented about 0.5% of that subspecies' estimated total population, while the quota of 15 Altai argali represented 0.375% of that subspecies' estimated total population. Comparing these figure to the harvest recommendations of Wegge (1997) and Harris (1993), we concluded that the total harvest quota of 45 and the subspecies quotas of 30 and 15, were conservative and sustainable. We further note that as long as Marco Polo argali population estimates for Mongolia were correct within ± 50% (i.e., the population is at least 5,000), this quota is at 1 percent of the population. Giving further consideration to the "trophy" segment of the population (i.e, mature, older males), we believe that recent sport-hunting data indicate that the *number* of animals in older age-classes are not being adversely affected by sport hunting.

Poaching

There is little quantitative information on former or current levels of argali poaching in Mongolia. Mallon *et al.* (1997) states that poaching is a major threat but cites little recent literature other than Luschekina and Fedosenko (1994), although these authors only provide anecdotal information. In a recent communication with us, Mr. A. Bolat, the Vice-Minister of MNE (*in litt.* to Tim Van Norman, DMA, May 9, 2001) indicated that "there is a vague estimate that at least 70–80 argalis are hunted each year by Mongolian citizens illegally for food and medical purposes . . . therefore, measures have been taken to prevent illegal hunting of argali." This could have a substantial impact on argali in Mongolia, especially if poaching is concentrated in certain areas.

Tajikistan

Population Status

Luschekina and Fedosenko (1994) state that the Marco Polo argali population in Tajikistan has undergone considerable changes in recent years. In areas subject to substantial anthropogenic effects (grazing,

poaching, harassment), numbers have declined, and in some areas the species has disappeared altogether. The authors also stated that an estimated 72% of the Tajik argali population were inhabiting protected areas in the Sarykol Mountains along the Chinese border, and especially dense populations occurred within the border barrier zone (Luschekina and Fedosenko 1994).

During the 1960s, argali were considered abundant in Tajikistan, with estimates as high as 70,000–80,000 sheep in the Eastern Pamirs, although such figures are considered an overestimate by some investigators (Luschekina and Fedosenko 1994). Based on estimates of population densities, the northeastern Pamirs were estimated by Sokov to contain about 20,000 argali in the mid-1970s, and this number was further revised by Sokov and Odinashoyev to 10,000–12,000 by the late 1980s (Luschekina and Fedosenko 1994). A decline in the population was attributed to increased access to areas inhabited by argali due to development of roads as well as the increase in domestic stock competing for pasture. Available habitat became fragmented and argali numbers declined (Luschekina and Fedosenko 1994).

In 1991, various governmental, quasi-governmental, and private organizations, including scientists from the Institute of Zoology and Parasitology of the Tajik Academy of Sciences, cooperated in aerial surveys of argali in Tajikistan (Luschekina and Fedosenko 1994). The surveys encompassed 90–95% of suitable argali habitat, and 9,415 animals were counted. The total population was estimated to be 9,900–10,300 animals (Luschekina and Fedosenko 1994).

The report "The Pamirs Argali in Tadjikistan Population State," completed in 1996 by Dr. A.K. Fedosenko (Fedosenko 1996), includes much of the same information as the report by Luschekina and Fedosenko (1994) (i.e., population estimates for the 1960s through 1991). However, Dr. Fedosenko included specific information on field studies of argali conducted by himself in the hunting concession area of MAK, one of the Tajik hunting firms, described as located in the area of the Akbura ridge and the area between the Saluistyk and Aksu Rivers in eastern Tajikistan (Fedosenko 1996). Dr. Fedosenko confirmed that, at the time of his report, about 60 % of the argali in Gorno-Badakhshan Province existed in the border zone (i.e., between the barrier fences and the international boundary with China), where densities were about four times higher than "outside" the barriers on the Tajik side. Outside the barriers, argali numbers were highest in the Saluistyk-Aksu interfluve and Akbura mountains (MAK hunting areas), the Yushno-Alichursky ridge (Tadjik-international hunting area), the Sever-Alichursky ridge, and the Bilyand-Kiik area (part of the area, along with areas around western Lake Karakul, controlled by Badakhshan hunting firm) (Fedosenko 1996).

In response to our annual request for information, Dr. N. Safarov, First Deputy Minister of the Tajik Ministry of Nature Protection (*in litt.* to the Service, October 26, 1998) told us that surveys conducted in February-March 1998 showed a continued increase in the numbers of argali. On six survey plots totaling 2.72 million acres, 6,560 argali were counted. For the entire country, the population was estimated at 10,000–13,000, mostly concentrated in the Murgab Region. Dr. Safarov stated that the population increase may have been due to political instability, civil unrest, and a reduction in the human population (emigration) in the Murgab Region due to the shortage of food and fuel, apparently because of disruption of supplies. According to Dr. Safarov, as the human population decreased, threats to argali (primarily livestock grazing and poaching) also decreased. However, during meetings with Service representatives held October 28–31, 1998, A. Luschekina and A. Fedosenko of the Russian Academy of Science indicated that they thought that the argali population of Tajikistan was in decline, although they still believed there were about 10,000 animals.

In mid-1999, Dr. A. Latifi, First Deputy Minister, Ministry of Nature Protection/ Conservation (in a written summary titled "Information on Marco Polo's Sheep Hunting Conducted with Participation of Foreign Tourists During the Hunting Season of 1998–1999"), told us that the Marco Polo argali population in the Pamirs in 1999 was estimated at 10,000–13,000 animals (the same as in the previous year). Dr. Latifi stated that ground counting conducted by hunting firms during the hunting season supported these estimates. The summary document he provided includes a table with wildlife population figures for 10 "hunting entities" for 1999, but the table also has a caveat that the data are considered to be approximate "because the task of counting them accurately has never been undertaken."

More recently, Fedosenko (1999) surveyed a number of areas in the Eastern Pamir and counted 5,990 argali. Although Fedosenko did not extrapolate these results to a total population estimate for the country, he did state that "Taking into account significant underestimation of arhar (argali) population in the central and in the northern parts of the Eastern Pamirs, we must conclude that the total number of these animals has increased in comparison with mid-90s (1990s). While in the central and northern parts of the Eastern Pamir the abundance of arhars has not changed or has decreased to some extent, in the southeastern and especially the southern part it has increased by more than three times." Dr. Fedosenko attributed argali population growth in the south to the removal of large numbers of domestic livestock from local pastures during the last several years; however, argali numbers remained steady or declined slightly in the central and northern parts of the Eastern Pamirs, because domestic livestock numbers did not decline significantly in those areas (Fedosenko 1999).

Sport Hunting

Luschekina et al. (1994) and Fedosenko (1999) state that, until the mid-1980s, about 100–120 permits were issued annually to local people for shooting argali. Actual legal hunting of argali was terminated in 1987 (Fedosenko 1999). Information received from the Ministry of Nature Conservation and from Safari Outfitters indicates that the hunting of argali is now primarily limited to trophy hunting by foreign nationals only, about 70% of whom are American.

Hunting Companies. In earlier years, we understood that trophy hunting was conducted by three hunting firms in Gorno-Badakhshan: MAK, Tadjikinternational, and Badakhshan (DSA 1998). According to Fedosenko (1996), the area controlled by Tadjikinternational was estimated to contain about 640–760 specimens based on 1992–1993 data, with several males taken annually. The hunting lands of Badakhshan were estimated to contain about 554 argali in 1991 (actual aerial counts), and although 43 males were taken during 1987–1990, Fedosenko indicated that they are now limited to taking five to seven animals annually. The MAK hunting lands were estimated to contain 1,500 argali, which had remained stable from 1990 to 1995. In the years 1992–1995, the number of argali taken each year on MAK lands was 15, 4, 6, and 6. It has been our understanding that none of the hunting concessions includes areas within the border barriers, so the majority of argali in Tajikistan (about 65%) is not subject to sport-hunting pressure, but this also means that sport-hunting pressure is concentrated on a smaller portion of the population.

The number of hunting enterprises apparently increased dramatically in 1998–1999, to around 40. However, by mid-1999, the number apparently dropped back to around 10 hunting companies functioning in the Pamir. According to information provided by Dr. Latifi (*in litt.* to the Service, October 18, 2000), 8 hunting companies had been registered, but only 7 of them hosted sport hunters. Dr. Fedosenko's 1999 report corroborates this number (Fedosenko 1999). He stated that, at present, 8 firms organizing or willing to organize hunting are registered in Eastern Pamir. They are "MAK" ("Asia-Span"), "Obi-Safed", "Badakhshan", "Pamir-Eco", "Pamir", "Mergen", "Turvest" (former "Tajik International"), "Issyk-Bullak". In addition, the forestry-game farm of the Ministry of Forestry was organized in 1998 with the purpose of conducting trophy hunts in its area.

Hunting Locations. Dr. Fedosenko described the hunting areas allocated to each of the 8 firms, but stated that hunting lands and their boundaries are known only to the staffs of the hunting companies and the registering organization, and local people are not well aware of the locations (Fedosenko 1999; pages 20–21).

Harvest Quotas. When Luschekina and Fedosenko prepared their report in 1993, hunting firms were annually allocated 20–25 licenses to shoot argali (Luschekina and Fedosenko 1994). According to Dr. Safarov (*in litt.* to the Service, October 26, 1998), the 1998–1999 quota was 40 argali per season, with two seasons per year: September 1 to December 31 and February 15 to April 1. However, any part of the quota not used during the September-December season could be added to the quota for the February-April season. According to Dr. Latifi's mid-1999 communication with us, the Fall 1999/Spring 2000 quota was set at 70 (no breakdown was given for the individual seasons). In 2000, Dr. Latifi told us that the Fall 2000/Spring 2001 quota has been set at 70, with no breakdown given for the individual seasons. Based on recent hunting information, it appears that the quota has not been reached in recent years, but the number of re-exports (from the Russian Federation) of argali taken in Tajikistan has increased from 10 in 1995 to 63 in 1997.

Biological Impacts of Harvest. Luschekina and Fedosenko (1994) stated "we believe that the size of the argali populations is adequate in both Kirgizia and Tajikistan to sustain the pressure of sporting (trophy) hunting within the limits it is currently conducted." At that time, the Marco Polo population of Tajikistan was estimated at 9,900–10,300 animals, while the hunting quota was 20–25.

In our biological opinion on sport-hunted argali trophies taken in the Fall 2000/Spring 2001 season in Tajikistan (DSA 2001b), we assessed the biological impacts of the harvest quota for that season. We based our assessment on the published recommendations of Wegge (1997) and Harris (1993) (see background discussion of these papers under Kyrgyzstan). The total sport-hunting quota of 70 represented about 0.70% of the total estimated population of 10,000, and about 1.55% of the "huntable" population (that portion of the total population on the Tajik side of the border barriers and therefore subject to sport hunting). Comparing these figure to the harvest recommendations of Wegge (1997) and Harris (1993), we concluded that the quota is conservative and sustainable when compared to the total population of 10,000, but that it is close to the upper limit of 2% mentioned by Harris (1993) when compared to the "huntable" population. This is still conservative, since the border barriers are not absolute and some movement of animals does occur.

Poaching

Luschekina and Fedosenko (1994) and Fedosenko (1999) state that, until the mid-1980s, about 100–120 permits were issued annually to local people for shooting argali. Legal hunting of argali by local people was terminated in 1987 (Fedosenko 1999). According to Luschekina and Fedosenko (1994) and Fedosenko (1999), herdsmen, various expeditions, and military personnel shot upwards of 1,000 argali per year until the late 1980s. Illegal harvest increased in the early 1990s as a result of civil unrest and human population re-location into the Gorno-Badakhshan region, but then began to subside because of a reduction in the number of military personnel, increasing fuel costs, and a local government effort to confiscate weapons (Luschekina and Fedosenko 1994, Fedosenko 1996). More recently, Fedosenko (1999) has implied that poaching continues and may be on the increase. The majority of argali remains (89%) he found were shot by poachers, and many argali skulls were found near herders camps (Fedosenko 1999).

According to N. Safarov, Deputy Minister of the Tajik Ministry of Nature Conservation, and A. Lailibekov, Deputy Chairman of the Nature Conservation Committee of Gorno-Bakakhshan (*in litt.* to the Service, February 16, 1996) sport hunting of argali by foreign hunters prevents poaching of argali due to the contribution of sport hunting to the local economy and the value that the local population then places on argali. In addition to providing a disincentive to poaching, the income generated from sport hunting of argali reduces reliance of local people on domestic livestock, especially sheep, so there are fewer sheep to compete with argali for pasture and water. These arguments were restated in Mr. Safarov's letter to the Service of October 26, 1998.

Findings for Factor B

Argali populations in Kyrgyzstan appear to have remained stable or increased slightly in recent years, although the lack of a comprehensive population survey since 1991 limits interpretation of population trend. Legal sport hunting has not had a detrimental impact on Kyrgyz argali populations in recent years, but poaching is acknowledged to have been a persistent problem until recently. Although overutilization is not a factor that endangers the argali throughout all or a significant portion of its range in Kyrgyzstan, the lingering impact of past poaching continues to be a factor that threatens argali populations in certain parts of Kyrgyzstan.

Argali populations in Mongolia appear to be much reduced from previous years, but the lack of a recent, countrywide population survey inhibits interpretation of population trends. In addition, there is little quantitative information on former or current levels of poaching. Legal sport hunting has impacted argali populations in some areas, resulting in their closure. Because of these factors, overutilization continues to be a factor that threaten argali populations in Mongolia. However, the overutilization is not of sufficient magnitude or extent to endanger the argali throughout all or a significant portion of its range in Mongolia.

Recent population surveys in Tajikistan indicate that the argali population in the Eastern Pamirs has increased since the early 1990s. Legal sport hunting has not had a detrimental impact on Tajik argali populations in recent years, but local experts indicate that poaching has been and continues to be a problem. Thus, we conclude that former and current overutilization in the form of poaching threatens argali population in Tajikistan, but, as with Mongolia, the magnitude and extent of overutilization is not at a level that endangers the argali in all or a significant portion of its range in Tajikistan.

C. Disease or Predation

Kyrgyzstan

Luschekina and Fedosenko (1994) report that the wolf (*Canis lupus*) is a major predator of Pamir argali in Kyrgyzstan. Predation appears to be more substantial in fall and winter, the time of year when the principal prey—the Altai marmot—is hibernating.

In recent years' communication with officials of the Kyrgyz government, we have received information indicating that Kyrgyzstan has embarked on an apparently widespread program of wolf control in an attempt to reduce predation on argali (see, for example, the letter from T. Alykulov, Minister of Environmental Protection of Kyrgyzstan to Teiko Saito, Chief, DMA, July 7, 2000). While selective predator control might help with survival of juvenile and yearling argali in some areas, the Service does not endorse widespread predator control as an acceptable management method for argali.

Diseases transmitted from domestic sheep can be a significant mortality factor for wild sheep, and as long as argali occur in proximity to domestic sheep, there is the possibility of disease transmission. However, we do not consider that this threat is of sufficient magnitude to threaten or endanger argali populations throughout all or a significant portion of the species' range in Kyrgyzstan.

Mongolia

Wolves do not appear to be a major predator of argali in Mongolia (Luschekina and Fedosenko 1994).

We do not consider that the threat of disease is of sufficient magnitude to threaten or endanger argali populations throughout all or a significant portion of the species' range in Mongolia.

Tajikistan

Fedosenko (1999) indicated that wolf predation is a major mortality factor for argali in Tajikistan. We understand that the Tajik Government has embarked on wolf control, but, in his most recent communication, A. Latifi (*in litt.* to Teiko Saito, DMA, October 18, 2000) expressed the opinion that the situation with predators is not alarming. As previously stated for Kyrgyzstan, the Service does not endorse widespread predator control as an acceptable management method for argali.

We do not consider that the threat of disease is of sufficient magnitude to threaten or endanger argali populations throughout all or a significant portion of the species' range in Tajikistan.

Findings for Factor C

Although wolf predation appears to impact argali populations in Kyrgyzstan and Tajikistan, we do not consider predation to be a factor that threatens or endangers argali throughout all or a significant portion of the species' range in Kyrgyzstan, Mongolia, or Tajikistan. Diseases transmitted from domestic sheep can be a significant mortality factor for wild sheep, and as long as argali occur in proximity to domestic sheep, there is the possibility of disease transmission. However, we do not consider that this threat is of sufficient magnitude to threaten or endanger argali populations throughout all or a significant portion of the species' range in Kyrgyzstan, Mongolia, or Tajikistan.

D. Inadequacy of Existing Regulatory Mechanisms

Kyrgyzstan

Legal Protection

The Tien Shan argali is listed in the Kyrghyz Red Data Book as endangered, however we do not know if this status carries any legal authority under Kyrgyz law. In 1999, the Parliament of Kyrgyzstan adopted laws "On Environmental Protection" and "On Wildlife" that regulate resource protection and use (T. Alykulov, Minister of Environmental Protection of Kyrgyzstan *in litt.* to Teiko Saito, Chief, DMA, July 7, 2000).

Trophy Fees and Their Distribution

In previous years' communications to the Service, Mr. C. Omurakunov of the Kyrgyz Central Administrative Board of Hunting and Hunting Supervision stated that implementation of an argali management program depended on revenues generated by sport hunting, and he provided a rough accounting of the total amount of revenue generated by sport hunting and amounts devoted to wildlife conservation and management (which includes activities for argali), for the years 1994–1997. Based on Mr. Omurakunov's comments, we concluded that population monitoring (surveys) and other activities would continue on an annual basis, largely as a result of funding derived from sport hunting. In 1999, Mr. Omurakunov (*in litt.* to the Service, January 26, 1999) indicated again that about 60% of hunting revenues are used for "hunting management, conservation and reproduction of wild aninals," but provided no detail. In 2000, Mr. Alykulov (*in litt.* to the Service, July 7, 2000) stated that: "According to hunting guides conducting tours for foreign hunters, the greatest part of the funds received from hunters in 1999 was spent on protection of hunting areas, biotechnical and propagation activities, and development of the hunting industry; 25% of the revenue from trophies is earmarked for a general fund of protection of nature and is spent on nature preservation measures and financial help for local residents; 10% of the revenue is transferred to organs of the Ministry of Environmental Protection of the Kyrgyz Republic to organize and carry out work on scientific/economic topics, selective censusing, and protection and reproduction of wild animals in the territory of the Kyrgyz Republic."

Argali Conservation Activities

Until recently, we had little information on specific information on specific uses of argali hunting fees for argali conservation activities in Kyrgyzstan. According to T. Alykulov, Minister of Environmental Protection of Kyrgyzstan (*in litt.* to Teiko Saito, Chief, DMA, July 7, 2000), ongoing management activities include: (1) year-round protection of Marco Polo argali habitat; (2) anti-poaching (ranger stations are equipped with radios and vehicles); and (3) wolf control.

Export Control

The exports of sport-hunted argali trophies from Kyrgyzstan are subject to multiple controls. Hunting licenses are issued, consistent with the quota, by the central government. Because Kyrgyzstan has not yet acceded to CITES, the CITES Management Authority of the Russian Federation serves as its Management Authority. This system has been verified with the CITES Secretariat as the currently accepted procedure for CITES-listed species originating from the former Soviet Republics that have not yet acceded to CITES on their own. A CITES re-export certificate is issued by the Russian CITES authorities. U.S. hunters must obtain an endangered species import permit, and must declare their trophy to wildlife inspectors upon entry to the United States. U.S. hunters are required to submit a report with details of their hunting experience, including location where the argali was hunted and length of horns, to the U.S. CITES Management Authority.

Mongolia

Legal Protection

The argali has been "state-protected" in Mongolia since 1953, and hunting has been banned since 1975, except for the hunting of a certain number of species "according to social need," which requires the approval of both the Ministry of Nature and Environment (MNE) and adopting of a government resolution by the Council of Ministers (A. Bolat, Vice-Minister, MNE *in litt.* to Tim Van Norman, DMA, May 9, 2001). In recent years, the "Law of Hunting" of 1995 served as the basis for argali sheep conservation and hunting in Mongolia. The hunting law was amended in 2000 (A. Bolat, Vice-Minister, MNE *in litt.* to Tim Van Norman, DMA, May 9,2001). Paragraph 3 of Article 8 of the hunting law authorizes the Government to establish the number of animals that may be hunted for "special purposes" based on proposals from the State Administrative Central Organizations. The law specifies various penalties for violating its provisions. A new "Law of Fauna" was also adopted in 2000. The Fauna Law lists argali as a "rare species" (however, we do not know the definition of "rare species" in the law).

Since 1971, hunting concessions operated by the tourism/hunting companies have been established in various areas for hunting of argali by foreign hunters. It appears the argali in government-sanctioned hunting areas are afforded greater protection than argali in other areas. For example, we understand that hunting concessionaires are responsible for enforcing the ban on hunting by locals. Also, the MNE informed us that, for 3 years beginning in 1998, there was to be a complete ban on hunting in certain areas of Hovd aimag, which lies in the range of the Altai argali in western Mongolia. This closure was reiterated in information received from the Government of Mongolia prior to the 1999 hunting season (Director General, Environmental Protection Agency, Mongolia *in litt.* to T. Van Norman, June 28, 1999), and in information received in May 2001 (A. Bolat, Vice-Minister, MNE *in litt.* to Tim Van Norman, DMA, May 9, 2001). In 1997, the MNE banned the export of "picked-up" horns (i.e., salvaged horns from sheep that died of causes other than sport hunting).

Trophy Fees and Their Distribution

In response to previous years' requests for information, the Mongolian Government has told us that revenues generated by sport hunting of argali are divided among the Government of Mongolia (70%), the province where the hunt occurs (20%), and the hunting organization (10%) (Director General, Environmental Protection Agency, Mongolia *in litt.* to T. Van Norman, DMA, June 28, 1999). The Government of Mongolia reportedly invests most of its funds into conservation and research programs for argali and other wildlife, however, until recently, the Government has not provided us with a detailed breakdown of how sport-hunting funds are used specifically for argali conservation. In May 2001, Mr. A. Bolat, Vice-Minister, MNE (*in litt.* to Tim Van Norman, DMA, May 9,2001) provided a table with some detail on how argali hunting fees have been used since 1993 (see following section).

Argali Conservation Activities

Until recently, we had little information on specific uses of argali hunting fees for argali conservation activities in Mongolia. We were aware that a portion of the revenue generated from one previous permit was specifically earmarked for a Gobi waterhole project for the benefit of argali (Frisina and Ulziima 1998), but other activities were mentioned in generalities. In May 2001, Mr. A. Bolat, Vice-Minister, MNE (*in litt.* to Tim Van Norman, DMA) provided a table indicating generally how argali hunting fees have been used since 1993 (see following section). Six activity categories are mentioned in the table: (1) Argali habitat and resource surveys; (2) survey of other rare animals; (3) anti-poaching and environmental protection activities; (4) argali habitat management activities (fire prevention, anti-desertification measures, fodder provision, etc.); (5) establishment, management, and protection of strictly protected areas; and (6) administration of the hunting program. By far the greatest percentage of funds went to establishment of the protected areas, followed by anti-poaching activities. According to Mr. A. Bolat, Vice-Minister, MNE (*in litt.* to Tim Van Norman, DMA, May 9, 2001), at present Mongolia has 607 state inspectors, 454 rangers, and 752 volunteer rangers for the purpose of stopping argali poaching.

Export Control

Exports of sport-hunted argali trophies from Mongolia are subject to multiple controls. The Council of Ministers of Mongolia establishes a quota for argali to be sport-hunted by foreign hunters. Hunting licenses are issued, consistent with the quota, by the Mongolian government, and hunting is limited to specific seasons. Mongolia acceded to CITES in 1996. To export a sport-hunted argali trophy from Mongolia, the hunter must obtain a CITES export permit. U.S. hunters must obtain an endangered species import permit, and must declare their trophy to wildlife inspectors upon entry to the United States. U.S. hunters are required to submit a report with details of their hunting experience, including location where the argali was hunted and length of horns, to the U.S. CITES Management Authority.

Tajikistan

Legal Protection

In mid-1999, Dr. A. Latifi, First Deputy Minister, Ministry of Nature Protection/ Conservation (in a written summary titled "Information on Marco Polo's Sheep Hunting Conducted with Participation of Foreign Tourists During the Hunting Season of 1998–1999"), told us that his Ministry is responsible for wildlife protection and use through the national law entitled "On Preservation of Wildlife" (Decree of the Supreme Soviet of the Republic of Tajikistan # 905a of December 27, 1993), the national law entitled "On Protection and Utilization of Wildlife" (Decree of the Supreme Soviet of the Republic of Tajikistan # 990 of July 20, 1994), and "Regulation of Hunting and Hunting Management in the Territory of the Republic of Tajikistan" (Decree of the Government of the Republic of Tajikistan #324 of July 16, 1997).

Trophy Fees and Their Distribution

Regarding trophy fees and their distribution within Tajikistan, Luschekina et al. (1994) stated that foreign hunters spent about US$25,000 for an argali hunt in Tajikistan: $16,000 for the hunting license, $4,000 to firms in Moscow, Russia, who apparently assist in arranging the hunts, and $5,000 to the local hunting outfitters. Of the $16,000 license fee, 70% was allocated to the Executive Committee of the Murgab District Council and 30% to the local hunting firm, supposedly to be used for conducting surveys and for activities directly benefitting argali, such as supplemental feeding, maintenance of salt licks, predator control, and other measures. A portion of the Executive Committee funds (15%) went to the "local nature conservation committee in Khorog" (this appears to refer to the Regional Committee for Nature Protection under the Ministry of Nature Conservation).

In an undated letter (probably 1996), Dr. N. Safarov of the Ministry of Nature Conservation stated that agreements between the hunting firms and local authorities specify that 50–70% of hunting proceeds are allocated to the local budget, which is then distributed according to Decision #220–2s (December 26, 1992) of the Executive Committee of Gorno-Badakhshan. This Decision states that hunting fees should be distributed as follows: 50% to be used for game conservation activities, which would include anti-poaching efforts and other activities directed toward argali; 10% to be placed in a nature conservation fund; 15% to be allocated to the general treasury of

Tajikistan; and 25% to be used for "social development needs," which have been described as providing essential commodities such as coal, kerosene, and wheat flour.

In his October 26, 1998, letter to us, Dr. Safarov described the distribution of funds as follows: 50–70% of hunting proceeds are allocated to the local budget, of which 10% goes to the Fund of Nature Protection of the Republic, 40% is used for social development of the region, and 50% of the money is spent on patrolling the territory of hunting, salaries for inspectors, repair and purchase of vehicles, communication, fuel, inventory work, and wolf predator control. In his mid-1999 communication with us, Dr. A. Latifi repeated Safarov's description of funds distribution: 50–70% of the hunting proceeds are given to local authorities by the hunting firms, and those funds are distributed as follows: 10% to the "Republican Fund of Wildlife Preservation'; 40% for the social development of the region; and 50% spent exclusively for the protection of the territory of the entity (presumably meaning the hunting concession).

Argali Conservation Activities

Regarding argali conservation activities, both Luschekina et al. (1994) and Fedosenko (1996) stated that argali conservation activities were largely the responsibility of the hunting firms, since funding and other support (e.g., transportation) were lacking to support a government game management staff. Prior to 1995, under the supervision of the local Nature Conservation Committee, annual land leases to hunting firms required that the firms provide supplemental feedings to argali, conduct surveys, and control predators and poaching, but inspections revealed that these obligations were not met. However, in 1995, supervision of the hunting firms was transferred to the Regional Nature Conservation Committee (RNCC) by the Gorno-Badakhshan Regional Executive Committee, and there may be stricter control over the hunting firms to conclude their lease obligations, including the transfer of hunting proceeds to the Committee.

In his mid-1999 communication with us, Dr. A. Latifi stated that local authorities enter into agreements (contracts) with hunting firms, to which are allocated certain sectors where international hunting is conducted. The hunting firm is responsible for conducting various activities including conducting an annual accounting of the game population, fighting poaching, and conducting management activities. No details were provided on specific conservation activities undertaken by the hunting firms, or how their compliance is monitored. In this same communication Dr. Latifi stated that a portion of funds allocated for regional social development is used primarily to support the functioning of "important objects," thus ensuring the interest of the local population and administration in the preservation of Marco Polo's sheep. Dr. Latifi further stated that funds spent on "protection of the territory" are used for salaries of inspection personnel, purchase and repair of vehicles, communications equipment, and predator control. Dr. Latifi also stated that in recent years, due to the difficult economic situation, no budget funds have been allocated for conducting wildlife protection activities; the money received from foreign hunters is the only source of financing wildlife protection in the Murgab region.

In his 1999 report, Dr. Fedosenko said that, according to unofficial sources, a foreign hunter spends about $23,000 on an argali trophy hunt in Tajikistan: $5,000 goes to a company in Moscow for arranging the reception in Moscow, providing transportation to the hunting area, and providing an interpreter, while $18,000 is spent in Tajikistan. Of that $18,000, $10,000 goes to local authorities (referred to as the Regional Committee on Nature Conservation) and $8,000 to the firm that organizes the hunting. From the $10,000 given to local authorities, 10% goes to the republican budget, 30% to the regional budget, and 60% to the district budget (that is, directly to the local administration of the Murgab district where most of the hunting takes place). Fedosenko claimed that none of this money actually goes to argali conservation, except to pay the salaries of the Chairman of the Committee and his one employee (Fedosenko 1999; page 21).

As for illegal take (poaching), the Ministry of Nature Protection/ Conservation has provided information on prohibitions and fines for illegal take, which for argali has now been increased to 4,000 times the minimum monthly wage (about US$2.00). Based on previous documentation, we understand that fines increase (double or triple) if animals are taken in protected areas, and are even higher (tenfold) if protected species are illegally taken for commercial purposes. At least within the hunting concession lands, the hunting firms are responsible for enforcement of anti-poaching laws. According to Fedosenko (1996), MAK admitted that they did not impose fines because the poachers lacked the means to pay, but they would confiscate a poacher's firearm. More recently, Fedosenko (1999) stated that, although firms are responsible for protecting their lands and carrying out surveys, in practice the lands for most of the firms are protected only during the period of trophy hunting, while workers only occasionally visit the areas during the rest of the year.

Civil Unrest

One of our concerns about the management and effective control of sport hunting and exports of argali trophies was related to the civil unrest in Tajikistan following the dissolution of the Soviet Union. Luschekina and Fedosenko (1994) indicated that, in 1993–1994, when their report was being written, opportunities for sport hunting by foreign hunters in Tajikistan were tenuous due to an unstable political environment and the threat of military activity in the Gorno-Badakhshan region. They also indicated that, at the time (and up until 1995), the bulk of hunting fees were directed to purchase of transportation, weapons, and equipment, with little directed to conservation activities in support of argali.

While reports of conflict between the central Tajik government and Muslim insurgents in Gorno-Badakhshan continued through 1996 (at least until the time we issued our Section 7 consultation on September 23, 1996), a United Nations-sponsored cease-fire was in effect. In early 1996, N. Safarov, Deputy Minister of the Tajik Ministry of Nature Conservation, and A. Lailibekov, Deputy Chairman of the Nature Conservation Committee of Gorno-Bakakhshan (*in litt.* to the Service, February 16, 1996), reported to the Service that "the situation in Tajikistan has stabilized," but that it was "impossible to finance the conservation agencies and protect the wildlife without international hunting." Dr. Safarov (*in litt.* to the Service, October 26, 1998), stated that sport hunting continues to be a major source of funds for nature conservation in Tajikistan and again acknowledged the difficulties caused by the civil war in that country.

Despite these earlier events, U.S. and other hunters have continued to visit Tajikistan for argali sport hunting. The export of argali trophies has always remained under the control of the central government in Dushanbe and, ultimately, the Russian CITES Management Authority, since the argali is listed in Appendix II of CITES and Tajikistan is not yet a CITES Party with its own Management Authority.

Export Control

The exports of sport-hunted argali trophies from Tajikistan are subject to multiple controls. Hunting licenses are issued, consistent with the quota, by the central government in Dushanbe based on recommendations of the local nature conservation authorities. Hunting is limited to specific seasons, based on recommendations of the Tajik Academy of Sciences. To export a sport-hunted argali trophy from Tajikistan, the hunter must have his license marked by local authorities to verify that a trophy was legally taken. This validated license must then be submitted to the Tajik Ministry of Nature Conservation for the issuance of an export license and a Certificate of Authenticity, which is then submitted to the Russian CITES Management Authority in Moscow for a re-export certificate. Because Tajikistan has not yet acceded to CITES, the CITES Management Authority of the Russian Federation serves as its Management Authority. This system has been verified with the CITES Secretariat as the currently accepted procedure for CITES-listed species originating from the former Soviet Republics that have not yet acceded to CITES on their own. A CITES re-export certificate is issued by the Russian CITES authorities. U.S. hunters must obtain an endangered species import permit, and must declare their trophy to wildlife inspectors upon entry to the United States. U.S. hunters are required to submit a report with details of their hunting experience, including location where the argali was hunted and length of horns, to the U.S. CITES Management Authority.

Findings for Factor D

Existing regulatory mechanisms in Kyrgyzstan, Mongolia, and Tajikistan are adequate to ensure that illegally-hunted trophies cannot be readily exported to other countries, while existing regulatory mechanisms in the United States are adequate to ensure that illegally-hunted trophies cannot be readily imported. We do not consider this factor to threaten or endanger argali populations throughout all or a significant portion of the species' range in Kyrgyzstan, Mongolia, or Tajikistan.

E. Other Natural or Manmade Factors

Kyrgyzstan

Winter Weather

Luschekina and Fedosenko (1994) noted that a harsh winter (1992–1993) and cold Spring (1993) likely affected the survival of newborn argali lambs in their Kurumduk valley study area.

Border Barriers

We previously mentioned this issue under Factor A. Although the border barriers may have been beneficial to argali in the "border zone" (i.e., between the fences and the border), the barriers also may have had detrimental effects on argali populations by cutting off long-established seasonal migration routes and access to winter or summer pastures, and by affecting genetic exchange among local sub-populations. These effects may no longer be occurring in places where the border barriers have broken down.

Mongolia

Winter Weather

Harsh winter weather periodically takes a severe toll on argali populations in Mongolia. For example, according to Luschekina and Fedosenko (1994), a heavy snowfall killed most of the argali at a place called Khentei in 1831–1832. Hundreds of argali died in the winter of 1983–1984 in Kobdo Aimag, while another disastrous snowfall occurred in the Mongolian Altai in the winter of 1992–1993 (Luschekina and Fedosenko 1994).

Tajikistan

Winter Weather

Especially snowy and cold winters in 1985–1986 and 1987–1988 resulted in high mortality among argali in certain portions of Tajikistan (Fedosenko 1999).

Border Barriers

As in Kyrgyzstan, the border barriers may have had detrimental effects on argali populations of Tajikistan by cutting off long-established seasonal migration routes and access to winter or summer pastures, and by affecting genetic exchange among local sub-populations. These effects may no longer be occurring in places where the border barriers have broken down.

Findings for Factor E

Although severe weather can be a significant mortality factor for argali, we do not believe that this factor threatens or endangers argali populations throughout all or a significant portion of the species' range in Kyrgyzstan, Mongolia, or Tajikistan. We do not consider the border barriers to be a factor that threatens or endangers argali populations in those two countries.

Distinct Vertebrate Population Segment

The definition of "species" in section 3(15) of the Act includes ". . . any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature."

Distinct vertebrate population segments for purposes of listing under the Act are defined in the Service's February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment (DPS), three elements are considered: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment, when treated as if it were a species, endangered or threatened?).

In accordance with the DPS Policy, a population segment may be considered discrete if it satisfies one of the following conditions: (1) it is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors; (2) it is delimited by international boundaries within which differences in the control of exploitation, management of habitat, conservation status, or regulatory mechanisms are significant. In accordance with the DPS Policy, a population segment may be considered significant if, among other possibilities: (1) It is important to the persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) there is evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon; (3) there is evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range, or (4) there is evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

All three countries, Kyrgyzstan, Mongolia, and Tajikistan, satisfy the discreteness criterion because they are sovereign nations with defined international boundaries that have implemented national laws to control exploitation and conserve habitats. (Although the genetic distinctiveness of the several argali subspecies remains to be fully elucidated, the existing scientific literature generally recognizes morphological and geographic differences that define approximately eight subspecies. However, because the exact geographic boundaries of the subspecies cannot be delineated precisely, these boundaries are not

useful for defining distinct population segments.)

Kyrgyzstan has adopted laws "On Environmental Protection" and "On Wildlife" that regulate resource protection and use. In Mongolia, the argali has been "state-protected" since 1953, and hunting has been banned since 1975, except for the hunting of a certain number of species "according to social need," which requires the approval of both the Ministry of Nature and Environment and adoption of a government resolution by the Council of Ministers. In recent years, the "Law of Hunting" of 1995 served as the basis for argali sheep conservation and hunting in Mongolia; the hunting law was amended in 2000. A new "Law of Fauna" was also adopted in 2000. In Tajikistan, the Ministry of Nature Protection/Conservation is responsible for wildlife protection and use through the national law entitled "On Preservation of Wildlife" (Decree of the Supreme Soviet of the Republic of Tajikistan #905a of December 27, 1993), the national law entitled "On Protection and Utilization of Wildlife" (Decree of the Supreme Soviet of the Republic of Tajikistan #990 of July 20, 1994), and "Regulation of Hunting and Hunting Management in the Territory of the Republic of Tajikistan" (Decree of the Government of the Republic of Tajikistan #324 of July 16, 1997). Thus, all three countries have significant regulatory mechanisms that differ from each other, and from other countries within the range of the argali.

All three countries, Kyrgyzstan, Mongolia, and Tajikistan, also satisfy the significance criterion because there is evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon. Kyrgyzstan is generally recognized to have two argali subspecies, the Marco Polo argali (*O. a. polii*) and the Tien Shan argali (*O. a. karelini*). The Tien Shan argali is distributed across approximately the northern half of Kyrgyzstan in the Tien Shan Range west of Lake Issyk-Kul, whereas the Marco Polo argali is distributed across the Pamir Plateau of southeastern Kyrgyzstan. Loss of Kyrgyzstan's argali population would create a significant gap in the distribution of both subspecies, but especially the Tien Shan argali, which has the greatest portion of its geographic range within Kyrgystan.

Mongolia is also generally recognized to have two subspecies: Altai argali (*O. a. ammon*) and Gobi argali (*O. a. darwini*). Altai argali inhabit the high Altai Mountain region of western and southwestern Mongolia; along the main ridge of the Hangai Mountains in central Mongolia; and in the mountains of north and northwest Mongolia. Gobi argali occur in the hills, rocky outcrops, and mountains across the whole of the Transaltai Gobi (the desert and semi-desert zones south of the Altai Range), portions of the Gobi Altai Mountains east almost to 112° E longitude, and also in several isolated ranges of hills in the steppe zone of central Mongolia. Loss of Mongolia's argali population would create a significant gap in the distribution of both subspecies, both of which have a significant portion of their range in Mongolia.

The argali in Tajikistan consists of only one subspecies, the Marco Polo argali, which occurs in the eastern Pamir Plateau, along the border with China. Although this subspecies also occurs on the Pamir Plateau of Kyrgyzstan, the eastern portion of the Wakhan Corridor of Afghanistan, northernmost Pakistan, and the Pamir region of China, its most significant populations are in Tajikistan, and loss of that country's argali population would create a significant gap in the distribution of the subspecies.

Because all three countries satisfy both the discreteness and significance criteria as defined above, we recognize the argali populations of Kyrgyzstan, Mongolia, and Tajikistan as three distinct vertebrate population segments for purposes of listing under the ESA. Accordingly, in previous sections, we have evaluated the conservation status of each country's argali population in relation to the Act's standards for listing (*i.e.*, is the population segment, when treated as if it were a species, endangered or threatened?). Our conclusion is that all three of these distinct population segments are properly listed as threatened.

Summary of Findings

In developing this notice, we carefully assessed the best available scientific and commercial information regarding the past, present, and future threats faced by argali in Kyrgyzstan, Mongolia, and Tajikistan. After reviewing the argali populations of Kyrgyzstan, Mongolia, and Tajikistan in terms of the Service's February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments, we have concluded that all three populations are distinct vertebrate population segments for purposes of listing under the ESA. Criteria for reclassification of a threatened or endangered species are found in 50 CFR 424.11(c). Available information indicates that the argali is not endangered under any of the five listing factors throughout all or a significant portion of its range in Kyrgyzstan, Mongolia, or Tajikistan. Available information further indicates that the argali remains threatened in all three countries by Factor A, The present or threatened destruction, modification, or curtailment of its habitat or range and Factor B, Previous or current overutilization. Based upon the findings documented in this notice, we are hereby withdrawing the proposed rule published on April 27, 1993, at 58 FR 25595, that proposed to reclassify the argali in Kyrgyzstan, Mongolia, and Tajikistan from threatened to endangered.

Literature Cited

Amgalanbaatar, S. 1993. Population and ecological status of argali in some locations of the western Altai mountains. Unpublished report to the Forestry and Hunting Institute, Ministry of Nature and the Environment. Ulaanbaatar, Mongolia. [in Mongolian]

Amgalanbaatar, S., B. Battulga, and P. Tsogtsaikhan. 1993. The numbers, distribution, and ecological status of mountain ungulates in Uvs Aimag. Pages 53–54 *in* Kh. Terbish (ed.) Proceedings from a Conference on the Status of Nature and Biological Resources in Western Mongolia and Adjacent Areas, 13–17 April 1993. Hovd Pedagogical University, Orchlon Co., Ulaanbaatar, Mongolia. [in Mongolian]

Amgalanbaatar, S. 1995. Report on argali project in 1995. Unpublished report. Mongolian Biodiversity Project. Ministry for Nature and the Environment. Ulaanbaatar, Mongolia. [in Mongolian]

Andrienkov, V. I. 1983. The problem of the conservation of mountain sheep of the Tien Shan. Pages 155–157 *in* Rare Species of Mammals of the USSR and their Conservation. Materials of the 3rd All-Union Conference, Moscow. [in Russian]

DSA (Division of Scientific Authority, Fish and Wildlife Service). 1995a. Intra-Service Section 7 Consultation, wildlife permit applications PRT–799044, 799230, 799746, 800414, 801012, and 802639. Memorandum from Chief, Office of Scientific Authority to Chief, Office of Management Authority. June 2, 1995.

DSA. 1995b. Intra-Service Section 7 Consultation, wildlife permit application PRT–806617. Memorandum from Chief, Office of Scientific Authority to Chief, Office of Management Authority. September 29, 1995.

DSA. 1998. Intra-Service Section 7 Consultation on wildlife permit applications for import of sport-hunted trophies of argali from Tajikistan taken in 1998. Memorandum from Chief, Office of Scientific Authority to Chief, Office of Management Authority. November 18, 1998.

DSA. 1999. Intra-Service Section 7 Consultation on wildlife permit applications for the import of sport-hunted trophies of argali *(Ovis ammon)* taken in Mongolia during the 1999 hunting season. Memorandum from Chief, Office of Scientific Authority to Chief, Office of Management Authority. August 5, 1999.

DSA. 2000. Intra-Service Section 7 Consultation on wildlife permit applications for the import of sport-hunted trophies of argali *(Ovis ammon)* taken in Mongolia during the 2000 hunting season. Memorandum from Acting Chief, Division of Scientific Authority to Chief, Division of Management Authority. August 30, 2000.

DSA. 2001a. Intra-Service Section 7 Consultation on wildlife permit applications for the import of sport-hunted trophies of argali *(Ovis ammon)* taken in the Kyrghyz Republic during the 2000 hunting season. Memorandum from Chief, Branch of Consultation and Monitoring, Division of Scientific Authority to Chief, Division of Management Authority. May 8, 2001.

DSA. 2001b. Intra-Service Section 7 Consultation on wildlife permit applications for the import of sport-hunted trophies of argali *(Ovis ammon)* taken in Tajikistan during the Fall 2000/Spring 2001 hunting season. Memorandum from Chief, Branch of Consultation and Monitoring, Division of Scientific Authority, to Chief, Division of Management Authority. May 15, 2001.

Fedosenko, A. K. 1996. The Pamirs Argali in Tadjikistan Population State. Unpublished report. Moscow. 29 pp.

Fedosenko, A. K. 1999. Current population status of the Pamir arhar in Tajikistan. Unpublished report prepared under contract to the U.S. Fish and Wildlife Service

Frisina, M. R., and Boldbaatar. 1998. 1997 population surveys for argali *(Ovis ammon)* in Mongolia's Altay and Hangay Mountains. A report to Argali Conservation International & Ministry for Nature and the Environment of Mongolia—August 1998. 12 pp.

Frisina, M. R., and G. Ulziima. 1998. South Gobi argali water project, Mongolia: 1998 field inspection and maintenance. A report to Argali Conservation International & Mongolia Environmental Protection Agency, November 1998. 9 pp.

Frisina, M. R., and G. Ulziimaa. 1999. 1998 argali *(Ovis ammon)* population surveys in Mongolia's East Gobi and Hangay Mountains. Progress Report No. 2. Prepared for Argali Conservation International and Environmental Protection Agency, Ministry for Nature and Environment of Mongolia. 14 pp. + appendix.

Frisina, M. R., and G. Ulziimaa. 2000. Argali *(Ovis ammon)* population surveys in Mongolia, 1997–1999. Prepared for Argali Conservation International and Environmental Protecton Agency, Ministry for Nature and Environment of Mongolia.

Harris, R. B. 1993. Wildlife conservation in Yeniugou, Qinghai China: Executive summary. Unpublished Ph.D. Dissertation. University of Montana, Missoula, MT. 10 pp.

IUCN. 1996. 1996 IUCN red list of threatened animals. IUCN, Gland, Switzerland. 228 pp.

Luschekina, A., and A. Fedosenko. 1994. The status of argali in Kirgizstan, Tadjikistan and Mongolia. Unpublished report to the U.S. Fish and Wildlife Service. 39 pp. + 3 maps.

Mallon, D.P., A. Bold, S. Dulamtseren, R.P. Reading, and S. Amgalanbaatar. 1997. Mongolia. Pages 193–201 *in*: D. S. Shackleton (ed.) Wild sheep and goats and their relatives: Status survey and conservation action plan for Caprinae. IUCN/SSC Caprinae Specialist Group, IUCN, Gland, Switzerland and Cambridge, UK. 390 pp.

Reading, R. P. 1996. The status of argali in Mongolia: Statement prepared for the Office of Management Authority, U.S. Fish and Wildlife Service. 7 pp.

Reading, R. P., S. Amgalanbaatar, H. Mix, and B. Lhagvasuren. 1997. Argali *Ovis ammon* surveys in Mongolia's south Gobi. Oryx 31 (4): 285–294.

Reading, R. P., S. Amgalanbaatar, and L. Lhagvasuren. 1999. Biological assessment of Three Beauties of the Gobi National Conservation Park, Mongolia. Biodiversity and Conservation 8: 1115–1137.

Schaller, G. B. 1994. A preliminary resource survey of the eastern Gobi, August 1994. Unpubl. Rept. UNDP-GEF Mongolia Biodiversity Project and Wildlife Conservation Society, Bronx, NY.

Shagsdarsuren, O., S. Jigj, D. Tsendjav, S. Dulamtseren, A. Bold, Kh. Monkbayar, A. Dulmaa, G. Erdenjav, Kh. Ulziihutag, U. Ligaa, and C. Sanchir. 1987. Red Book of the Mongolian People's Republic. Mongolian State Publishing House. Ulaanbaatar, Mongolia. [in Mongolian]

Sokolov, V. E., V. M. Neronov, and A. Luschekina. 1991. Modern state and protection of mammals in Mongolia. Pages 251–257 in J. McNeely and V. M. Neronov (eds.) Mammals in the Palaearctic deserts: Status and trends in the Sahara-Gobian region. Russian MAB Committee, Moscow.

Valdez, R. 1982. The wild sheep of the world. Wild Sheep & Goat International, Mesilla, New Mexico.

Valdez, R. and M. Frisina. 1993. Wild sheep surveys in eastern and central Gobi Desert and Altai Mountains, Mongolia. Unpublished report to Safari Club International. 10 pp.

Wegge, P. 1997. Appendix 1. Preliminary guidelines for sustainable use of wild caprins. Pages 365–372 in: D. S. Shackleton (ed.) Wild sheep and goats and their relatives: Status survey and conservation action plan for Caprinae. IUCN/SSC Caprinae Specialist Group, IUCN, Gland, Switzerland and Cambridge, UK. 390 pp.

Weinberg, P. I., A. K. Fedosenko, A. B. Arabuli, A. Myslenkov, A. V. Romashin, I. Voloshina, and N. Zheleznov. 1997. The Commonwealth of Independent States (former USSR). Pages 172–193 *in*: D. S. Shackleton (ed.) Wild sheep and goats and their relatives: Status survey and conservation action plan for Caprinae. IUCN/SSC Caprinae Specialist Group, IUCN, Gland, Switzerland and Cambridge, UK. 390 pp.

Author

The primary author of this notice is Dr. Kurt A. Johnson, Division of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 [703–358–1708].

Dated: April 11, 2002.

Steve Williams,

Director.

[FR Doc. 02–12824 Filed 5–21–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 67, No. 99
Wednesday, May 22, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will hold its fifth meeting.

DATES: The meeting will be held on June 13, 2002, and will begin at 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; EMAIL *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Introductions, (2) Presentation of By-Laws for Approval, (3) Fire Safe Council Report (4) Project Presentations w/ Possible Preliminary Selection, (5) General Discussion, (6) Public Comment, (7) Next Agenda. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 16, 2002.

James F. Giachino,

Designated Federal Official.

[FR Doc. 02–12780 Filed 5–21–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Alpine County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Alpine County Resource Advisory Committee (RAC) will meet on June 3, 2002, in Markleeville, California. The purpose of the meeting is to discuss issues relating to implementing the *Secure Rural Schools and Community Self-Determination Act of 2000* (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, and Stanislaus National Forests in Alpine County.

DATES: The meeting will be held June 3, 2002 at 6 p.m.

ADDRESSES: The meeting will be held at the Turtle Rock County Park, Markleeville, CA.

FOR FURTHER INFORMATION CONTACT: Laura Williams, Committee Coordinator, USDA, Humboldt-Toiyabe National Forest, 1536 S Carson St., Carson City, NV 89701, (775) 884–8150, E-mail: *ljwilliams@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Old business; (2) Project Criteria Discussion; (3) Camping in Alpine County; (4) Project Proposals; (5) New business & Public comment.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 13, 2002.

Laura J. Williams,

Carson Acting District Ranger.

[FR Doc. 02–12808 Filed 5–21–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Final Results of Antidumping Duty Administrative Review and Revocation, In-Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2002, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan. *See Mechanical Transfer Presses from Japan: Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke, in-Part,* 67 FR 10363 (March 7, 2002) *(Preliminary Results).* This review was initiated in response to a request by respondents, Komatsu, Ltd. (Komatsu) and Hitachi Zosen Corp. (HZC) and its subsidiary Hitachi Zosen Fukui Corporation, doing business as H&F Corporation (H&F). This review covers shipments of this merchandise to the United States during the period of February 1, 2000 through January 31, 2001.

In the *Preliminary Results,* we found that U.S. sales were not made below normal value (NV) by any of the respondents. We also published our intent to revoke the order, in part, with respect to Komatsu. We gave interested parties an opportunity to comment on our preliminary results. HZC and H&F filed a letter regarding the preliminary results, alleging errors, but stated that they did not wish to challenge the preliminary results. The Department received no other comments and no requests for a hearing. Accordingly, we are affirming the preliminary results in these final results, and will instruct the U.S. Customs Service to liquidate entries for all respondents during the period of review, without regard to antidumping duties, and to terminate the suspension of liquidation for Komatsu, for any merchandise entered, or withdrawn from warehouse, for consumption on or after February 1, 2001.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, Office of Antidumping/Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3148.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001). The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8462.99.8035, 8462.21.8085, and 8466.94.5040. The HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive. The term "mechanical transfer presses" refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (*See* "Final Scope Ruling on Spare and Replacement Parts," U.S. Department of Commerce, March 20, 1992; and "Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.," U.S. Department of Commerce, October 3, 1996.)

Revocation Determination

In its timely submission of February 28, 2001, Komatsu requested, pursuant to 19 CFR 351.222(e)(1), partial revocation of the order with respect to its sales of MTPs. Komatsu certified that (1) it sold the subject merchandise in commercial quantities at not less than NV for a period of at least three consecutive years; (2) in the future, it will not sell the subject merchandise at less than NV; and, (3) it agreed to immediate reinstatement under the order if the Department determines that, subsequent to revocation, it has sold the subject merchandise at less than NV.

Based upon our findings in this review and the final results of the two preceding reviews, Komatsu has demonstrated three consecutive years of sales at not less than normal value. Furthermore, we have determined that Komatsu's aggregate sales to the United States have been made in commercial quantities during these three segments of this proceeding. *See Preliminary Results.* The company also agreed in writing that it will not sell the subject merchandise at less than NV in the future and to the immediate reinstatement of the antidumping order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the partial revocation, Komatsu has sold the subject merchandise at less than normal value. Based on the above facts, the Department determines that partial revocation of the order with respect to Komatsu is warranted. Therefore, in accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after February 1, 2001.

Comments From Interested Parties and Changes Since the Preliminary Results

The Department received a letter from HZC and H&F alleging errors in the preliminary results. More specifically, HZC and H&F alleged that there were methodological errors in the Department's preliminary antidumping margin calculation for H&F. However, according to HZC and H&F, because the correction of these errors would not have altered H&F's zero dumping margin, they did not wish to challenge the preliminary results. The Department has checked these alleged errors and found that, even if we were to agree with HZC's and H&F's allegations, the results of the review would not change. Therefore, we determine that the merits of their arguments need not be addressed.

Final Results of Review

The Department has not altered its determination from the *Preliminary Results.* We determine that the following weighted-average margins exist for the period February 1, 2000 through January 31, 2001:

Manufacturer/exporter	Time period	Margin (percent)
Komatsu, Ltd.	02/01/00—01/31/01	0.00
Hitachi Zosen Corp./Hitachi Zosen Fukui Corp.[1]	02/01/00—01/31/01	0.00

[1]The Department determined to treat HZC and H&F as a single entity under section 351.401(f) of the regulations. *See Preliminary Results,* 67 FR at 10364.

Because the weighted-average dumping margin is zero for all respondents, we will instruct the U.S. Customs Service (Customs) to liquidate entries made during this review period without regard to antidumping duties. Because we have revoked the order with respect to Komatsu, we will order Customs to terminate the suspension of liquidation for Komatsu, for any merchandise entered, or withdrawn from warehouse, for consumption on or after February 1, 2001, and to refund all cash deposits collected.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate shown above (except for Komatsu); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the LTFV investigation, which is 14.51 percent. *See Notice of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Mechanical Transfer Presses from Japan,* 55 FR 5642 (February 16, 1990). These deposit rates shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f)

to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the administrative order itself. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of the administrative review and this revocation, in-part, are issued and published in accordance with sections 751(a)(1), 751(d)(1), and 777(i)(1) of the Act (19 USC 1675(a)(1), 1675(d)(1), and 19 USC 1677f(i)(1)).

Dated: May 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–12862 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–828]

Stainless Steel Butt-Weld Pipe Fittings from Italy; Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the Antidumping Duty Administrative Review for the period August 2, 2000, through January 31, 2002.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Helen Kramer at (202) 482–0405, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department)'s regulations are to 19 CFR part 351 (2001).

Background

On February 1, 2002, the Department published in the Federal Register (67 FR 4945) a notice of opportunity to request an administrative review of the antidumping order regarding stainless steel butt-weld pipe fittings from Italy for the period August 2, 2000, through January 31, 2002. In accordance with 19 CFR 351.213(b)(2), on February 28, 2002, two merged producers/exporters of stainless steel butt-weld pipe fittings requested a joint review of the antidumping duty order on stainless steel butt-weld pipe fittings from Italy (i.e., Union Piping/ Coprosider S.P.A.).

On March 27, 2002, the Department initiated an administrative review for these companies (67 FR 14696) and issued a questionnaire to them. On April 25, 2002, Union Piping/ Coprosider S.P.A. withdrew their request for review.

Rescission of Review

Union Piping/Coprosider S.P.A. timely withdrew their request for an administrative review for the above-referenced period on April 25, 2002. No other interested party filed a request for review of these companies for this period of review. Consequently, in accordance with 19 CFR 351.213(d)(1) and consistent with our practice, we are rescinding this review of the antidumping duty order on stainless steel butt-weld pipe fittings from Italy for the period of August 2, 2000, through January 31, 2002. This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: May 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–12861 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02–013.

Applicant: University of Saskatchewan, 110 Science Place, Saskatoon, SK, Canada, S7N 5C9.

Instrument: Photoelectron Emission Microscope, Model PEEM III.

Manufacturer: ELMITEC GmbH, Germany.

Intended Use: The instrument is intended to be used to study the spatially resolved x-ray absorption spectra for the chemical analysis of complex organic, polymer and environmental materials. Principle experiments to be conducted are: (1) Investigation of protein binding on patterned organic surfaces, (2) tribology—investigation of the anti-wear properties of thin films on metal surfaces, and (3) exploration of the circular dichroism spectroscopy of chiral materials at x-ray wavelengths. The instrument will also be used in the courses CHEM 994 and CHEM 996.

Application accepted by Commissioner of Customs: April 26, 2002.

Docket Number: 02–014.

Applicant: National Renewable Energy Laboratory (NREL), 1617 Cole Boulevard, Golden, CO 80401.

Instrument: Electron Microscope, Model Tecnai G^2 F20 U-TWIN STEM.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to be used to study the structure and physical chemistry of semiconductors used in photovoltaics (solar cells). The goal of the investigations is to better understand the structural and chemical properties and relate them to the optical and electrical performance of thin film devices. In addition, the instrument will also be used to characterize a variety of nano-structured materials such as single walled carbon nano-tubes used for the development of hydrogen fuel cells.

Application accepted by Commissioner of Customs: April 26, 2002.

Docket Number: 02–015.

Applicant: The Regents of the University of California (Riverside Campus), Materiel Management—056, Riverside, CA 92521–0411.

Instrument: Electron Microscope, Model Tecnai 12 TWIN.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to be used in the following research programs: (1) Development and evolution of nematode roundworms, (2) development of nerve function in mammals, (3) developmental processes related to plant reproduction, (4) reproductive processes in mice, and (5) the structure, function and processes of cell membranes in various animals. The instrument will also be used for educational purposes in the courses: (1) Bio/Nem 159, (2) MCLB/Biol 121L, (3) Bio 200A, PP 200, (4) Ent 231, (5) Neuro 211, and (6) Nem 226.

Application accepted by Commissioner of Customs: April 26, 2002.

Docket Number: 02–016.

Applicant: Associated Universities, Inc., National Radio Astronomy Observatory (AUI/NRAO), 520 Edgemont Road, Charlottesville, VA 22903.

Instrument: Atacama Large Millimeter Array (ALMA) Radio Telescope.

Manufacturer: Vertex Antennentechnik GmbH, Germany.

Intended Use: The instrument is intended to serve as a test and evaluation instrument. The results of the evaluation will be used to finalize the design basis for the entire array of radio telescopes which will be located in Chile. The antennas of the Atacama Large Millimeter Array will collect millimeter and submillimeter waves from the cosmos and direct them through a series of mirrors into the cooled detectors. The purpose of the array is to collect the waves in such a fashion as to create an image of their source, cool gas and dust in the Universe. From these images the mechanisms of creation of planets stars and galaxies may be hypothesized and studied by astronomers and students.

Application accepted by Commissioner of Customs: May 3, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–12863 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–807]

Notice of Final Negative Countervailing Duty Determination: IQF Red Raspberries from Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final negative countervailing duty determination.

SUMMARY: The Department of Commerce ("the Department") has made a final determination that countervailable subsidies are not being provided to producers and exporters of individually quick frozen red raspberries in Chile.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Jennifer Jones, Office of AD/CVD Enforcement 1, Import Administration, U.S. Department of Commerce, Room 3096, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1778 or 482–4194, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (April 2001).

Petitioners

The petition in this investigation was filed by the IQF Red Raspberries Fair Trade Committee ("Committee") and its members (collectively referred to hereinafter as "the petitioners"). The Committee is an *ad hoc* association of growers and processors of IQF red raspberries. All of the members of the Committee are producers of IQF red raspberries.

Case History

Since the publication of the preliminary determination in the **Federal Register** (*see Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: IQF Red Raspberries from Chile*, 66 FR 52588 (October 16, 2001) ("*Preliminary Determination*")), the following events have occurred:

We conducted verification of the questionnaire responses of the Government of Chile ("GOC"), Fruticola Olmue S.A. ("Olmue"), Exportadora Frucol Ltda. ("Frucol") and Comercial Fruticola S.A. ("Comfrut") from December 12–19, 2001.

On December 12, 2001, based on a request from Olmue, Frucol and Comfrut (collectively, "the responding companies"), which are also respondents in the companion antidumping duty investigation, the Department postponed the final antidumping determination until May 15, 2002. Because of the alignment of the countervailing duty investigation with the antidumping duty investigation, the final determination in the countervailing duty investigation was also postponed until May 15, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: IQF Red Raspberries from Chile*, 66 FR 67510 (December 30, 2001).

On March 25, 2002, we received a combined case brief from the GOC and the three responding companies. No brief or rebuttal brief was filed by the petitioners. No hearing was held because none was requested.

Scope of Investigation

The products covered by this investigation are imports of IQF whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.*, organic or not), the size of the container in which packed, or the method of packing. The scope of the investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under 0811.20.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period for which we are measuring subsidies (the POI) is calendar year 2000.

Analysis of Comments Received

All issues raised in the case brief submitted are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision*

Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/frn/ under the heading "Chile." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce, Room B–099.

Summary

The total net countervailable subsidy rates for Olmue, Comfrut, and Frucol are 0.01, 0.16 and 0.65 percent, *ad valorem*, respectively. All of these rates are *de minimis*. Therefore, we determine that countervailable subsidies are not being provided to producers or exporters of IQF red raspberries in Chile.

Suspension of Liquidation

In the *Preliminary Determination*, the total net countervailable subsidy rates for all the responding companies were *de minimis* and, therefore, we did not suspend liquidation. For the instant determination, because the rates for all the responding companies remain *de minimis*, we are not directing the Customs Service to suspend liquidation of IQF red raspberries from Chile.

Notification of the International Trade Commission

In accordance with section 705(d) of the Act, we have notified the International Trade Commission of our determination.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to Administrative Protective Order of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

Comment 1: Benchmark Interest Rates
Comment 2: Countervailability of ProChile Export Promotion Assistance Program

[FR Doc. 02–12858 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051702A]

Proposed Information Collection; Comment Request; International Dolphin Conservation Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 22, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cathy Campbell, 562–980–4060 or Cathy.E.Campbell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration (NOAA) collects information to implement the International Dolphin Conservation Program Act. The Act allows entry of yellowfin tuna into the United States, under specific conditions, from nations in the Program that would otherwise be under embargo. The Act also allows U.S. fishing vessels to participate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean on terms equivalent with the vessels of other nations. NOAA collects information to allow tracking and verification of "dolphin safe" and "non-dolphin safe" tuna products from catch through the U.S. market.

NOAA has modified the existing information collection by requiring that any wholesaler or distributer of any tuna or tuna products labeled as "dolphin-safe" produce documentary evidence concerning the origin of the tuna or products within 30 days of receiving a written request from the National Marine Fisheries Service (NMFS). NMFS expects that this will result in an annual information burden on 20 additional respondents.

In addition, NMFS has modified the existing information collection by eliminating the requirement that canneries provide 48 hours notice of receipt of tuna shipment and eliminating the requirement that processors provide NMFS with copies of their receiving reports on a real-time basis. This has resulted in an overall reduction in the number of annual burden hours and the estimated annual cost to the public of this information collection.

II. Method of Collection

Paper forms, other paper records, telephone calls, and radio transmissions.

III. Data

OMB Number: 0648–0387.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations, individuals or households.
Estimated Number of Respondents: 58.
Estimated Time Per Response: 30 minutes for a vessel permit application; 10 minutes for an operator permit application; 30 minutes for a request for a waiver to transit the eastern tropical Pacific Ocean without a permit (and subsequent radio reporting); 10 minutes for a notification of vessel departure; 10 minutes for a change in permit operator; 10 minutes for notification of a net modification; 10 hours for an experimental fishing operation waiver; 15 minutes for a request for a Dolphin Mortality Limit; 10 minutes for notification of vessel arrival; 60 minutes for a tuna tracking form; 10 minutes for a monthly tuna storage removal report; 60 minutes for a monthly tuna receiving report; and 30 minutes for a special report documenting the origin of tuna (if requested by the NOAA Administrator).
Estimated Total Annual Burden Hours: 144.
Estimated Total Annual Cost to Public: $847.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 16, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–12777 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051702B]

Proposed Information Collection; Comment Request; Application for Commission in the NOAA Officer Corps

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 22, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lt. Cecile Daniels, 301–713–3444, ext. 119, or Cecile.Daniels@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The NOAA Corps is the smallest of the seven uniformed services of the United States and is an integral part of NOAA. The NOAA Corps provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines who serve in assignments within the five major Line Offices of NOAA. Persons wishing to obtain a NOAA Corps Commission must submit an application package, including an eye test and five references.

II. Method of Collection

Paper forms are submitted via mail in postage-paid envelopes.

III. Data

OMB Number: 0648–0047.
Form Number: NOAA Forms 56–42, 56–42A, 56–42C, 5—42D.
Type of Review: Regular submission.
Affected Public: Individuals or households.
Estimated Number of Respondents: 130.
Estimated Time Per Response: 2 hours.
Estimated Total Annual Burden Hours: 260.
Estimated Total Annual Cost to Public: $5,850.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 16, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–12778 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050102H]

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of embargo for Peru.

SUMMARY: On May 17, 2002, the Assistant Administrator for Fisheries, NMFS, acted to prohibit the importation into the United States from Peru of yellowfin tuna and yellowfin tuna products harvested by purse seine in the eastern tropical Pacific Ocean (ETP). NMFS is required to take this action because Peru harvests tuna in the ETP with purse seine vessels with greater than 400 short tons (362.8 metric tons) carrying capacity and has not received an "affirmative finding" as required by regulations. This ban remains in effect for Peru until an affirmative finding has been granted by the Assistant Administrator.

DATES: Effective May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Allison Routt, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA, 90802–4213, Phone 562–980–4020, Fax 562–980–4027.

SUPPLEMENTARY INFORMATION: In order to export to the United States yellowfin tuna harvested by purse seine in the ETP, the Marine Mammal Protection Act (MMPA) requires a nation that has purse seine vessels with over 400 short tons (362.8 metric tons) carrying capacity fishing for tuna in the ETP (i.e., a harvesting nation) submit documentary evidence to the Assistant Administrator requesting an affirmative finding. The process for such requests is described in regulations at 50 CFR 216.24(f)(9). Based

upon documentary evidence submitted by the harvesting nation and obtained from the Inter-American Tropical Tuna Commission (IATTC) and/or from the Department of State, the Assistant Administrator will determine whether the nation qualifies for an affirmative finding under section 101(a)(2)(B) of the MMPA. An affirmative finding allows for the importation into the United States of yellowfin tuna and yellowfin tuna products harvested by purse seine in the ETP after March 3, 1999. If a harvesting nation does not provide documentary evidence that shows that the nation meets the standards under section 101(a)(2)(B) of the MMPA, the Assistant Administrator must prohibit imports of yellowfin tuna harvested by purse seine vessels in the ETP.

The application procedures to request an affirmative finding are described in the interim final regulations implementing the International Dolphin Conservation Program Act (65 FR 30, January 3, 2000). Harvesting nations must submit documentary evidence directly to the Assistant Administrator demonstrating that they meet several conditions related to compliance with the International Dolphin Conservation Program (IDCP) and request an affirmative finding. To issue an affirmative finding, NMFS must receive the following information:

1. A statement requesting an affirmative finding;
2. Evidence of membership in the Inter-American Tropical Tuna Commission (IATTC);
3. Evidence that a nation is meeting its obligations to the IATTC, including financial obligations;
4. Evidence that a nation is complying with the IDCP. For example, national laws and regulations implementing the Agreement on the IDCP and information that the nation is enforcing those laws and regulations;
5. Evidence of a tuna tracking and verification program comparable to the U.S. tracking and verification regulations at 50 CFR 216.94;
6. Evidence that the national fleet dolphin mortality limits (DMLs) were not exceeded in the previous calendar year;
7. Evidence that the national fleet per-stock per-year mortality limits, if they are allocated to countries, were not exceeded in the previous calendar year;
8. Authorization for the IATTC to release to the Assistant Administrator complete, accurate, and timely information necessary to verify and inspect Tuna Tracking Forms; and
9. Authorization for the IATTC to release to the Assistant Administrator information about whether a nation is meeting its obligations of membership to the IATTC and whether a nation is meeting its obligations under the IDCP, including managing (i.e., not exceeding) its national fleet DMLs or its national fleet per-stock per-year mortality limits.

To maintain the affirmative finding, the government of a harvesting nation must request an affirmative finding every 5 years and submit the required documentary evidence directly to the Assistant Administrator. A nation may opt to provide this information directly to NMFS on an annual basis or to authorize the IATTC to release the information to NMFS in years when NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f)(9) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP.

Until such time as the Assistant Administrator receives documentary evidence from the Republic of Peru demonstrating that it is in compliance with the IDCP and issues an affirmative finding, the ban on imports of yellowfin tuna harvested by purse seine in the ETP will continue. This action prohibits the importation into the United States of yellowfin tuna and yellowfin tuna products harvested by purse seine vessels in the ETP after March 3, 1999, and exported from the Republic of Peru.

Dated: May 17, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–12870 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051402A]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its Monkfish Oversight Committee and Scallop Oversight and Advisory Panel in June, 2002. Recommendations from these committees will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held between June 5, 2002 and June 11, 2002.

ADDRESSES: The meetings will be held at the Crowne Plaza Hotel at the Crossings 801 Greenwich Avenue, Warwick, RI 02886; telephone: (401) 732-6000.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas:

Wednesday, June 5, 2002 at 10:00 a.m. and Thursday, June 6, 2002 at 8:30 a.m.—Monkfish Oversight Committee Meeting.

The Committee will review the report of the Scientific and Statistical Committee and the Plan Development Team on options for revising the overfishing definition reference points and status determination criteria. The Committee will finalize its recommendations to the Councils for management alternatives to be analyzed in the Amendment 2 Draft Supplemental Environmental Impact Statement. Alternatives designed to achieve the approved goals and objectives include, but are not limited to: Permit qualification criteria for vessels fishing south of 38°N; management program for a deepwater directed fishery in the southern fishery management area (SFMA); separation of monkfish days-at-sea (DAS) from multispecies and sea scallop DAS programs, including counting of monkfish DAS as 24-hour days; measures to minimize impacts of the fishery on endangered sea turtles; measures to minimize bycatch in directed in non-directed fisheries, including mesh size and other gear requirements; an exemption program for vessels fishing for monkfish outside of the exclusive economic zone (in the Northwest Atlantic Fisheries Organization (NAFO) Regulated Area); alternative areas for essential fish habitat (EFH) designation and measures to minimize impacts of the fishery on EFH; measures to improve data collection and research on monkfish, including mechanisms for funding cooperative research programs. The Committee may develop and recommend other management alternatives not included in the list above. On Wednesday, Dr. Chris Chambers, Howard Laboratory, Northeast Fisheries Science Center (Sandy Hook), NMFS will speak on his Group's current research on monkfish. Their focus has been on reproductive ecology and behavior of adult monkfish, and the growth and distribution of young life-stages.

Monday, June 10, 2002 at 9:00 a.m.—Scallop Oversight and Advisory Panel Meeting and *Tuesday, June 11, 2002 at 9:00 a.m.*—Scallop Oversight Committee only.

The Oversight Committee will review analyses of potential impacts associated with Draft Amendment 10 alternatives, consider recommendations from the Advisory Committee, and choose preferred alternatives for recommendation to the Council. They may recommend additional analyses or amendments to the alternatives when the Council approves the documents for public hearing. Due to scheduling conflicts for some Oversight Committee members, the committee meeting on June 10 may run late into the evening and the June 11 meeting would be cancelled or shortened if the committee finishes its business early.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 14, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12871 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051602D]

Marine Mammals; File No.981–1578–01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment to a permit.

SUMMARY: Notice is hereby given that Peter L. Tyack, Ph.D., Woods Hole Oceanographic Institution, Woods Hole, MA 02543, has requested an amendment to scientific research Permit No. 981–1578–01.

DATES: Written or telefaxed comments must be received on or before June 21, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371;

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 981-1578, issued on August 31, 2000 (65 FR 57319) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 981–1578–01 authorizes the permit holder to: tag cetaceans in the Mediterranean and Ligurian Seas, as well as in the Gulf of Mexico and off the coasts of the Azores in the North Atlantic, with an advanced digital sound recording tag that can record the acoustic stimuli an animal hears, and measure vocal, behavioral, and physiological responses to sound played back at maximum received levels of 120–160 dB re 1 micronPa. The permit holder requests authorization to: increase the maximum received level for non-airgun sounds to 180 dB re 1 micronPa; test a whale-finding sonar's ability to detect gray whales migrating past the central California coast, and add playbacks of the coda sounds of sperm whales as a control stimulus for controlled exposure experiments involving human-made sounds.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 17, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12868 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051502D]

Marine Mammals; File Application No. 1004–1656

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Funtime, Inc. d/b/a Six Flags Worlds of Adventure, 1060 North Aurora Road, Aurora, OH 44202, has been issued a permit to import two killer whales (*Orcinus orca*) for the purposes of public display.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Glouster, MA, 01930–2298 (978/281–9116).

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301/713–2289).

SUPPLEMENTARY INFORMATION: On November 30, 2001, notice was published in the **Federal Register** (66 FR 59781) that a request for a public display permit to import two killer whales (*Orcinus orca*) had been submitted by the above-named organization. Based on substantive comments received during the initial comment period, additional information was requested of the applicant. The comment period was reopened on February 25, 2002 (67 FR 8526) and that comment period was extended on March 27, 2002 (67 FR 14699). The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: May 16, 2002:

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12869 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Renew Collection 3038–0021, Regulations Governing Bankruptcies of Commodity Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: None.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA) 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on large trader reports.

DATES: Comments must be submitted on or before July 22, 2002.

ADDRESSES: Comments may be mailed to Lawrence B. Patent, Division of Trading and Markets, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, (202) 418–5439; FAX: (202) 418–5536; email: *lpatent@cftc.gov*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

Regulations Governing Bankruptcies of Commodity Brokers, OMB control number 3038–0021—Extension.

The information collected pursuant to this rule is intended to protect, to the extent possible, the property of the public in the case of the bankruptcy of a commodity broker.

The Commission estimates the burden of this collection of information as follows:

Estimated annual reporting burden

17 CFR section	Annual number of respondents	Total annual responses	Hours per response	Total hours
Part 190	472	7757	0.05	387

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: May 16, 2002.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12812 Filed 5–21–02; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice and Intent to Renew Collection 3038–0015, Copies of Crop and Market Information Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on large trader report.

DATES: Comments must be submitted on or before July 22, 2002.

ADDRESSES: Comments may be mailed to Judith E. Payne, Division of Economic Analysis, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Judith E. Payne, (202) 418–5268; FAX: (202) 418–5527; email: *jpayne@cftc.gov*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

Copies of Crop and Market Information Reports, OMB control number 3038–0015—Extension

The information collected pursuant to this rule, 17 CFR part 140, is in the public interest and is necessary for market surveillance.

The Commission estimates the burden of this collection of information as follows:

Estimated annual reporting burden

17 CFR section	Annual number of respondents	Total annual responses	Hours per response	Total hours
140	30	30	0.16	5

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: May 16, 2002.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12813 Filed 5–21–02; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act

AGENCY: Department of Education.

ACTION: Notice of final requirements.

SUMMARY: We announce final requirements for optional State consolidated applications submitted under section 9302 of the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the No Child Left Behind Act of 2001, Pub. L. 107–110 (NCLB). Submitting a consolidated application will allow a State to obtain funds under many Federal programs through a single application, rather than through separate applications for each program. To receive fiscal year (FY) 2002 program funds on a timely basis, a State educational agency's (SEA's) application will need to be received no later than June 12, 2002.

DATES: These requirements are effective June 21, 2002.

FOR FURTHER INFORMATION CONTACT: Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E213, Washington, DC 20202–6400. Telephone: (202) 260–2199. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person for information identified in the preceding paragraph.

SUPPLEMENTARY INFORMATION: President Bush signed The No Child Left Behind Act of 2001 (Pub. L. 107–110) (NCLB) into law on January 8, 2002. NCLB, which substantially revised the Elementary and Secondary Education Act of 1965 (ESEA), is intended to provide all of America's school children with the opportunity and means to achieve academic success. It embodies the four key principles of the President's education reform plan: (1) Accountability for results, (2) expanded

State and local flexibility and reduced "red tape," (3) expanded choices for parents, and (4) focusing resources on proven educational methods, particularly in reading instruction.

These principles aim to produce fundamental reforms in classrooms throughout America. NCLB provides officials and educators at the school, school district, and State levels substantial flexibility to plan and implement school programs that will help close the achievement gap between disadvantaged and minority students and their peers. At the same time, the reauthorized Act holds school officials accountable—to parents, students, and the public—for achieving results. These and other major changes to the ESEA redefine the Federal role in K–12 education to focus on improving the academic performance of all students.

The full text of this law may be found on the Internet at: *http://www.ed.gov/legislation/ESEA02/.*

On March 6, 2002, the Department published in the **Federal Register** a notice of proposed requirements for optional consolidated State applications (67 FR 10166). That notice explains the general purpose of consolidated State applications that Congress has authorized in ESEA sections 9301 and 9302 as an alternative means for States to receive finding under most ESEA programs. These provisions authorize the State, in consultation with the Governor, to apply for ESEA program funds on the basis of a consolidated State application that conforms to the criteria and procedures the Department establishes, rather than by submitting the individual applications or plans that the ESEA otherwise requires.

The March 6 notice also explained our proposal for using this application and the consolidated performance report that States thereafter annually would submit, as the basis for a core system of ESEA accountability for student achievement. Specifically, we proposed that each State adopt (1) six overall "performance goals" that cut across the ESEA programs, (2) a minimum core of common performance indicators for measuring progress toward these goals, and (3) State-defined performance targets that define when satisfactory progress occurs. We also proposed that each State then would collect reliable data with which it would determine whether it is meeting its performance targets.

As we explained in the March 6 notice, this proposal was guided by a set of basic principles in the ESEA emphasizing that successful academic performance depends upon schools that—

- Provide instruction that, based on rigorous research, will improve student achievement;
- Have highly qualified teachers and principals;
- Provide a learning environment that is safe, drug-free, and conducive to learning; and
- Are accountable to the public for results.

The final requirements for consolidated State applications contain several significant changes from those we had proposed, which we explain in the Analysis of Public Comments that is available on the Department's web site at *http://www.ed.gov/offices/OESE/esea/regsandguidance.html.*

I. Principal Changes From Our March 6, 2002 Proposal

In response to our request for public comment, we received 53 letters of comments and recommendations. On March 28, 2002, the Department also conducted a listening session where State officials from nine States discussed our proposal. After reviewing all of these comments and recommendations, we have made several changes to our proposal. The principal changes are the following:

ESEA Accountability System: Appendix A

We have reduced the number of Goals from six to five, and the number of indicators from 17 to ten. The ESEA Goals are now:

1. By 2013–2014, all students will reach high standards, at a minimum attaining proficiency or better in reading/language arts and mathematics.
2. All limited English proficient students will become proficient in English and reach high academic standards, at a minimum attaining proficiency or better in reading/language arts and mathematics.
3. By 2005–2006, all students will be taught by highly qualified teachers.
4. All students will be educated in learning environments that are safe, drug free, and conducive to learning.
5. All students will graduate from high school.

The changes in goals and indicators reflect the following:

Goal 1

- Modification of Indicators 1.1 and 1.2 to focus on the percentage of students in all schools, rather than in Title I schools, in each subgroup and in the aggregate who gain proficiency in reading/language arts and mathematics.
- Change of definition of subgroups from those identified in section 1111(b)(2)(C)(v) for adequate yearly progress, to those identified in section 1111(h)(1)(C)(i) for reporting State assessment results—thus bringing in reporting by migrant status and gender.
- Withdrawal of proposed Indicators 1.4 and 1.5: "The percentage of migrant students who are enrolled in schools in need of improvement," and "The percentage of students that meet or exceed State standards for student literacy in technology."

Proposed Goal 2

- Withdrawal of proposed Goal 2: "By 2013–2014, all students will be proficient in reading/language arts and mathematics by the end of the third grade," and Indicator 2.1: "The percentage of students in third grade reading/language arts at grade level or above."

Goal 2 (Proposed Goal 3)

- Revision of statement of Goal 2 to include goal of reaching high academic standards, at a minimum attaining proficiency in reading/language arts and mathematics.
- Revision of Indicator 2.1 (proposed 3.1) to clarify that the percentage of limited English proficient students who have attained English language by the end of the year is to be determined on a cohort basis.

Goal 3 (Proposed Goal 4)

- Inclusion of a new Indicator 3.3 that focuses on having all paraprofessionals become qualified consistent with the requirements of ESEA section 1119 (c)–(e).
- Withdrawal of proposed Indicator 4.3: "The percentage of teachers qualified to use technology for instruction."

Goal 4 (Proposed Goal 5)

- Withdrawal of all proposed indicators except Indicator 5.4 (now 4.1): "The number of persistently dangerous schools, as defined by the State."

Goal 5 (Proposed Goal 6)

- Clarification of the two performance indicators, 5.1 and 5.2.

In addition, we have clarified for which indicator States must submit baseline data relative to their performance targets by May 2003, and for which indicators they may do so no later than early September 2003.

State Activities to Implement ESEA Programs: Appendix B

- For item 1 (state system of standards, assessments, and accountability), clarification of information the SEAs must submit consistent with ESEA section 1111, and, for each item, whether the SEA must do so in June of 2002, no later than May 2003, or at some other time.
- For item 2 (non-formula subgranting), inclusion of a description of definition of key ESEA terms that the SEA adopts for each program.
- For item 5a (assistance for schoolwide programs), inclusion of a description of the SEA's actions to modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate Federal, State, and local funds for schoolwide programs.
- For item 5 (teacher quality), inclusion in a new item 5c of the State's need to describe how it will ensure that all paraprofessionals (excluding those working with parents or as translators) attain the qualifications in section 1119(c) and (d) by the 2005–2006 school year.
- For item 6 (state coordination), inclusion of the State's need to describe briefly how SEA officials and staff consulted with the Governor's office in the development of the State application.

Key Programmatic and Fiscal Information: Appendix C

- *Improving Basic Programs Operated by Local Educational Agencies, Title I, Part A:* Clarification that, for purposes of funds that LEAs distribute to schools for supplemental services under ESEA section 1167(e)(7), States will describe how they will inform LEAs of the procedures LEAs must use to distribute these funds, rather than describe how the State will distribute these funds.
- *Teacher and Principal Training and Recruitment Fund, Title II, Part A:* Establishment of a rule that of the one percent available to the State for administration and planning, absent an agreement between the SEA and the State agency for higher education (SAHE) to the contrary, the Department will award the SAHE the greater of—

1. The amount of FY 2001 funds it had received for administration under the predecessor Title II, ESEA Eisenhower Professional Development Program, or
2. Five percent of the amount available each year for subgrants to partnerships under ESEA section 2113(a)(2).

- *Enhancing Education Through Technology, Title II, Part D:* Addition of a new item 5a that SEAs describe program goals, performance indicators, performance objectives, and data sources for use in assessing program effectiveness in improving access to and use of educational technology by students and teachers in support of academic achievement.
- *English Language Acquisition and Language Enhancement, Title III, Part A:* Addition of a new item 6c that SEAs describe the process for making subgrants under section 3114(d) to eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth.
- *Safe and Drug-Free Schools and Communities: Reservation of State Funds for the Governor, Title IV, Part A, Subpart 1, section 4112(a):* Addition of new items 8b and 8c that SEAs describe (1) performance measures, performance indicators, timelines, and baseline data for drug and violence prevention programs and activities to be funded under this program, and (2) steps the State will use to implement the Uniform Management Information and Reporting System (UMIRS) required by ESEA section 4112(c)(3).
- *Safe and Drug-Free Schools and Communities: Community Service Grants (Title IV, Part A, Subpart 2, section 4126):* Adoption of the proposed rule that the Department will award grants only to SEAs, after they have consulted with their Governors.
- *21st Century Community Learning Centers (Title IV, Part B):* Addition of new requirement that the SEA, no later than early September 2003—

1. Identify the percentage of students participating in the 21st Century Community Learning Centers program who meet or exceed the proficient level of performance on State assessments in reading/language arts and mathematics;
2. Collect baseline data for the 2002–2003 school year; and
3. Submit all of these data to the Department.

- *Rural and Low-Income Schools, Title VI, Part B, Subpart 2:* Inclusion of a description identifying specific measurable goals and objectives, and how program funds will help the SEA to meet them.

All of the changes above are reflected in the specific requirements for consolidated State applications that are contained in appendices A–D of this notice.

We also have made the following change to the selection criteria for the Enhanced Assessment Instruments Competitive Grant Program (Title VI, section 6112) announced in appendix E:

- Revision of the first proposed competitive preference for "alternative assessments" so that it is available for applications that can be expected to advance practice *significantly in the area of increasing the accessibility and validity* of assessments for students with disabilities or limited English proficiency, or both.

Finally, we have made the following change to the optional interim application for FY 2002 funds under the Safe and Drug-Free Schools and Communities State Grants Program, Title IV, Part A, Subpart 1 (appendix F):

- Revision of requirements to conform to the revised core set of ESEA performance indicators identified in appendix A.

We have published on the Department's website at *http://www.ed.gov/offices/OESE/esea/regsandguidance.html* the substantive comments we received, our responses to them, and these changes, as well as more minor or technical changes to the requirements for consolidated State applications. Generally, we do not address technical and other minor changes, or suggested changes in proposed requirements that the law does not authorize the Secretary to make.

II. Requirements for Consolidated State Applications

Each consolidated State application will have four principal components: (1) Elements constituting the foundation for a core system of ESEA accountability, State components and baseline data (see appendix A); (2) a description of key strategies States would use to implement the ESEA programs in order to accomplish program purposes; (see appendix B); (3) key programmatic and fiscal information that the Department needs to review before it awards FY 2002 funds (see appendix C); and (4) assurances of the State's adherence to all requirements of the programs included in the application (see appendix D).

Summary of the ESEA Accountability System

A. "*ESEA Performance Goals*" The ESEA performance goals reflect the expectations of the ESEA programs. We have identified in appendix A five ESEA performance goals that each SEA submitting a consolidated application will adopt. These are:

1. By 2013–2014, all students will reach high standards, at a minimum attaining proficiency or better in reading/language arts and mathematics.
2. All limited English proficient students will become proficient in English and reach high academic standards, at a minimum attaining proficiency or better in reading/language arts and mathematics.
3. By 2005–2006, all students will be taught by highly qualified teachers.

4. All students will be educated in learning environments that are safe, drug free, and conducive to learning.

5. All students will graduate from high school.

These performance goals, like the basic purposes of the ESEA programs themselves, fall into three areas: (a) Those that address levels of proficiency that all students would meet; (b) those that address the special needs of certain populations of students, such as limited English proficient students, who are the focus of particular ESEA programs; and (c) those that address such factors as qualified teachers and safety that are critical to a school's success in improving student achievement.

B. "*ESEA Performance Indicators*" States will use performance indicators to measure their progress in meeting the performance goals. Along with adopting the five key performance goals identified above, States that submit a consolidated application will submit a statement that they have adopted, at minimum, a core set of indicators for these five performance goals. For example, as explained in appendix A, relative to the third ESEA performance goal, "By 2005–2006, all students will be taught by highly qualified teachers," all States will adopt and use the following indicator:

EXAMPLE: 3.1. Performance Indicator: "The percentage of classes being taught by "highly qualified" teachers (as the term is defined in ESEA section 9101(23)), in the aggregate and in 'high-poverty' schools (as the term is defined in ESEA section 1111(h)(1)(C)(viii))."

State adoption of the common core indicators listed in appendix A is critical to ensuring that all States are accountable for implementing the ESEA programs in ways that contribute significantly to the achievement of all students. As with the ESEA performance goals, States are free to add their own performance indicators to the core set of indicators that the Department has established.

C. "*Performance targets*" Performance targets define the progress a State expects to make at specified points in time with respect to each indicator. For example, for indicator 3.1, described in the preceding paragraph, a State might adopt as a target: the percentage of classes being taught by highly qualified teachers, in the aggregate and in high-poverty schools, will increase from the baseline of "x" percent in school year 2002–2003 to "y" percent in school year 2003–2004, "z" percent in school year 2004–2005, etc.

While all States submitting a consolidated application must adopt the core set of ESEA performance goals and indicators in appendix A, each State defines and adopts its own performance targets. (See appendix A for some examples of performance targets that States might choose to use.)

Finally, the accountability system relies upon collection of data that document how well States are succeeding in meeting their performance targets. States will describe in their consolidated applications their timelines and benchmarks for securing these data, as well as their data sources. States also will provide their "baseline data." For example, if a State adopted the performance target described above, it would identify as its baseline "the percentage of classes being taught by highly qualified teachers, in the aggregate and in high-poverty schools, in school year 2002–2003." In its annual performance report, a State will provide updated data on its progress in meeting these performance targets.

States may include web site references, electronic files, or other existing documentation to comply with the requirements listed in the application.

Other Requirements for the Consolidated Application

In addition to the framework for ESEA accountability, a State's consolidated application also must include:

A. A description of key strategies States will use to implement the ESEA programs in order to accomplish the purposes of those programs (see appendix B);

B. Key programmatic and fiscal information the Department needs to award FY 2002 funds (see appendix C). The information to be included in the consolidated State application is a small part of what the ESEA program statutes would have a State otherwise provide in individual program plans or applications; and

C. Assurances of the State's adherence to all requirements of the programs included in the application (see appendix D). The final application package for the consolidated application contains a partial list of individual program requirements that are while covered by these general assurances, and that we believe warrant special attention.

III. Documentation of Compliance With Program Requirements

For programs a State chooses to include in a consolidated application, ESEA section 9302(a)(2) relieves the State of the need to either prepare or submit to the Department separate individual State plans or applications that the ESEA would otherwise require in order to receive funding on a program-by-program basis. However, section 9302 contains no authority for the Department to eliminate or waive statutory or regulatory requirements that apply to the funds the Department awards on the basis of a consolidated application.

Therefore, whether or not the ESEA specifies program requirements as elements of a program-specific plan (or application), a State (or LEA) that submits a consolidated application still must (1) comply with all requirements for designing and implementing programs, and (2) maintain documentation of this compliance. These requirements might govern, for example, public input, program implementation, or evaluation. Also, a State must comply with, and maintain records of its compliance with, requirements of the consolidated application announced in this notice.

(**Note:** To the extent consistent with State "open records" statutes, documents demonstrating adherence to ESEA requirements will be available to parents, policymakers, and other members of the public.)

In determining whether the statute, regulations, or requirements governing the consolidated application requires the State to document its plans or planning activities, we suggest that States consider the following:

1. Does the ESEA require the State to develop a plan that is separate from the application for funding? For example, does the ESEA require that the State include a separate plan, or a description of a separate plan, with the application? Or does the ESEA require that a State that has received program funding develop or implement a plan of this kind?

If the answer to any of these questions is yes, the State must develop that plan and maintain it in its written records, even if the State includes the program in its consolidated application.

2. Does the statute require that a State conduct a specified activity? For example, does it require a description of the results of a needs assessment or procedures for consulting with others? If so, it requires that specific activities (expressed as application content requirements) be undertaken—*e.g.*, a needs assessment or consultation, and the State would need to maintain documentation showing that it had conducted the activity.

3. Does the law require that a State's individual program plan or application describe how activities "will" occur only after some precondition, such as a review of scientifically-based research?

If the answer is yes, the State must conduct those program activities after meeting the precondition, and must maintain documentation that it has done so.

IV. Consolidation of Federal Funds

Title VI of the ESEA contains a number of flexibility provisions that permit States and LEAs to treat funds received under some programs as if received under other programs. In addition, sections 9201–9203 continue to permit SEAs and LEAs to consolidate administrative funds under specified programs. However, beyond the flexibility that these provisions offer, our approval of a consolidated State application neither authorizes a State or LEA to combine or commingle program funds nor eliminates State or LEA responsibilities to keep separate records on the use of each program's funds.

V. Data Management Reform

Starting in 2002, we will work with LEAs and SEAs to establish data standards for performance indicators and other information collected from States and districts. Toward that end, we will confer with LEA and SEA officials, the research community, information technology vendors, and other interested parties on ways in which States, LEAs, and schools can collect and record useful baseline and follow-up data through an Internet-based format. The new format will accommodate the measurement of success relative to the various indicators that the Department and States have adopted. Future application and reporting guidelines will encourage electronic reporting and provide States with additional options in fulfilling Federal information requests.

VI. Other Considerations

The requirements for the content of a State's consolidated application recognize that although the NCLB makes significant changes to the ESEA, it also builds upon efforts States had begun under both the ESEA as previously authorized and other Federal and State initiatives. In developing their consolidated applications, States may draw upon relevant information and data gathered through these efforts.

To help States try to save money by working together to implement the core system of ESEA accountability, the Department intends to work with States to see whether development and use of common or consistent data collection systems can reduce costs for each State.

VII. Process for Submitting a Consolidated State Application

As explained in the March 6 notice of proposed requirements (67 FR 10168), we recognize the challenges posed by the January 2002 enactment of the NCLB. States have a limited time to prepare and submit their consolidated applications and to plan for their use of the FY 2002 ESEA program funds the Department will distribute this July. In addition, the ESEA includes a large number of new requirements that govern a State's use of these FY 2002, and the Department needs to ensure that States understand them before it awards these funds.

In balancing thee factors, we have determined that, with the exceptions noted in appendix B, each SEA submitting a consolidated application must provide the Department certain information in the following three stages:

June 2002 No later than June 12, 2002, the State must submit:

A. A statement that it: (a) Has adopted the minimum core ESEA goals and performance indicators that the Department has established, (b) agrees to adopt and include in its May 2003 submission, its own performance targets for these indicators, and (c) agrees to include baseline data for these indicators in May 2003 or September 2003, respectively, as specified in the in the following discussion of the schedule for submissions (appendix A);

B. A description of the key activities and initiatives the State will carry out with State funds or ESEA funds reserved for administration and State-level activities (appendix B) including—

- Activities to help achieve its performance targets, *i.e.*, information about the State's standards, assessments, and accountability system (of which for certain items States will submit only timelines in June 2002);
- Subgranting procedures;
- Technical assistance, monitoring, and professional development, and
- Activities to promote highly-qualified Teachers in all schools, support for schoolwide programs, and effective coordination of Federal programs; and

C. The individual ESEA program descriptions and fiscal information that the Department determines are needed in order to ensure program integrity (appendix C), and the required statutory assurances and certification (appendix D).

May 2003 No later than early May 2003, the State must submit to the Department those performance targets and corresponding baseline data that the ESEA requires the State to establish based on the 2001–2002 school year. The OMB-approved application package identifies those performance indicators for which the State must provide its targets and baseline data in early May 2003. We will announce a specific due date in May 2003 at a later time.

September 2003 No later than early September 2003, the State must submit its performance targets and baseline data that relate to other ESEA requirements. These baseline data must reflect either the 2001–2002 or 2002–2003 school year. The OMB-approved application package identifies those performance indicators for which the State must provide its targets and indicators no later than early September 2003. We will announce a specific due date in September 2003 at a later time.

Other Submission Dates

Appendix B identifies a limited amount of other information that States must submit at a different due date, *e.g.*, submission of the State's definition of adequate yearly progress (AYP), as well as how the State calculated its "starting point" as required for AYP by January 31, 2003.

VIII. Programs That May Be Included in a Consolidated Application

A State may include the following programs in its consolidated application:

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies.

Title I, Part B, Subpart 3: Even Start Family Literacy.

Title I, Part C: Education of Migrant Children.

Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk.

Title I, Part F: Comprehensive School Reform.

Title II, Part A: Teacher and Principal Training and Recruiting Fund.

Title II, Part D: Enhancing Education Through Technology.

Title III, Part A: English Language Acquisition and Language Enhancement.

Title IV, Part A, Subpart 1: Safe and Drug-Free Schools and Communities.

Title IV, Part A, Subpart 2: Community Service Grants.

Title IV, Part B: 21st Century Community Learning Centers.

Title V, Part A: Innovative Programs.

Title VI, Part B, Subpart 2: Rural and Low-Income Schools.

In addition, for reasons states in the March 6 **Federal Register** notice, the Secretary has designated both the

formula and discretionary components of the program supporting development of State assessments, authorized in sections 6111 and 6112 of Title VI, as programs that SEAs may include in their consolidated applications. Section 6111, the State Assessment formula grants program provides grants to States for development of State assessments and related activities. Section 6112, the Enhanced Assessment competitive grants program, provides competitive grants to States for development of "enhanced assessment instruments." These two programs bear a close relationship to the development of a State system of accountability for student achievement that is at the heart of the Title I, Part A program. The Department's selection criteria and other requirements to govern the initial competition under the competitive grant portion of the section 61111 program are contained in appendix E. SEAs that choose to apply for the competitive grant program must submit their applications by September 15, 2002.

IX. Public Participation Requirements

ESEA section 9304(a)(7) provides that a State must provide the public a reasonable opportunity to comment on a consolidated application before it is submitted to the Secretary. The procedures under which SEAs will secure adequate public participation are to be determined under State law. States that are unable to complete their public participation requirements, before the June 12, 2002 deadline for submitting their consolidated applications, must submit appropriate revisions to the applications at the end of the public participation process.

Many of the ESEA program statutes contain provisions that require stakeholder or public input into the process of developing program-specific funding plans or applications. Absent a State's decision to include those programs in its consolidated application, it would have to develop these individual program plans or applications in ways that complied with these public input requirements. The public participation requirement in section 9304(a)(7), rather than those program-specific public or stakeholder participation requirements, govern the development of a consolidated application for all included programs. However, as explained in Section IV, States will still need to comply with those public and stakeholder participation requirements that, under a given program statute, expressly apply to program planning and implementation.

X. Consolidated Local Plans or Applications

ESEA section 9305(a) authorizes LEAs to receive funding from the SEA under more than one "covered program" through consolidated local plans or applications. Section 9305(c) and (d) requires the SEA, in consultation with the Governor, to collaborate with LEAs in establishing procedures for submission of these plans or applications, and to require "only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the [LEA] plan or application."

These provisions mirror provisions in section 9302 that govern the content and procedures for consolidated State applications. Consistent with the statutory language, we believe that SEAs in consultation with the Governor and LEAs have wide discretion in fashioning procedures and content for these plans or applications that focus on increased student achievement and other ESEA goals. However, we stress that LEAs submitting consolidated local plans or applications must still implement all of the statutory requirements—including record-keeping requirements—of the programs included in those plans or applications include. See section IV of this notice, "Documentation of Compliance With All Program Requirements."

XI. Voluntary Submission of Consolidated State Applications

Development of a consolidated State application is voluntary. It is the SEA's decision whether to submit a consolidated application, which of the eligible programs to include in it if one is submitted, and whether to add, in later submissions, programs that are not included in the consolidated application submitted this June for FY 2002 funds. (Should an SEA choose to submit an individual, program specific application under the Safe and Drug-Free Schools and Communities program, the program statute (Title IV, Part A, Subpart 1) permits SEAs to submit an "interim" application in FY 2002, and a comprehensive application by FY 2003. Final rules for this interim program application are included in appendix F.) Moreover, an SEA that submits a consolidated application for FY 2002 funds that does not contain all of the information requested can later decide not to submit that outstanding information and, instead, submit individual program plans or applications that the ESEA, as amended by NCLB, requires.

Executive Order 12866

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice, we have determined that the benefits justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits: We do not anticipate that the application requirements proposed in this notice will impose any significant costs on applicants. These proposed requirements provide a basis for the Secretary to award funds from a number of different Federal programs under a single application. Therefore, the requirements would not impose any unfunded mandates on States. The benefits of the program are described in the **SUMMARY** section of this notice.

Regulatory Flexibility Act Certification

The Secretary certifies that the requirements in this notice would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Considerations

The procedures and requirements contained in this notice relate to the consolidated State application package that the Department has developed under ESEA section 9309. The public may obtain copies of this package by calling or writing the individuals identified at the beginning of this notice as the Department's contact, or through the Department's website: *http://www.ed.gov/offices/OESE/esea/regsandguidance.html.*

As required by the Paperwork Reduction Act, OMB has approved the use of these application packages under the following OMB control number 1810–0576, expiration date November 30, 2002.

Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental

partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document is intended to provide early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in Text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 7842.

Dated: May 16, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

Maria H. Ferrier,

Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

Appendix A: ESEA Performance Goals, Performance Indicators, and State Performance Targets

State and local accountability for the academic achievement of all students is central to the No Child Left Behind Act of 2001. The consolidated State application builds the framework for a system of overall ESEA accountability that is intended to help the public understand how well the State is meeting its student achievement goals for all students. This system is built around with several key elements:

1. ESEA "*Performance goals*" that the Department has established. These goals reflect the basic purposes of the ESEA and the programs included in the consolidated application.

2. ESEA "*Performance indicators*" that the Department has established for each ESEA performance goal. States submitting a consolidated State application will use these indicators to measure their progress in meeting the ESEA performance goals.

3. "*Performance targets*" that each State will establish. The performance targets define the progress a State expects to make at specified points in time with respect to each indicator. For example, for indicator 3.1, described below, a State might adopt as a target: the percentage of classes being taught by highly qualified teachers, in the aggregate and in high-poverty schools, will increase from the baseline of "x" percent in school year 2002–2003 to "y" percent in school year 2003–2004, "z" percent in school year 2004–2005, etc.

We identify the following five ESEA performance goals that are central to the purposes of the ESEA programs, and performance indicators for each of these performance goals. Each State must adopt this set of five performance goals and corresponding performance indicators. However, a State may include additional performance goals and indicators in its application if it desires to do so.

Performance Goal 1: All Students Will Reach High Standards, at a Minimum Attaining Proficiency or Better in Reading/Language Arts and Mathematics by 2013–2014

1.1 Performance indicator: The percentage of students, in the aggregate and for each subgroup, who are at or above the proficient level in reading/language arts on the State's assessment. (Note: These subgroups are those for which the ESEA requires State reporting, as identified in section 1111(h)(1)(C)(i).)

1.1.1 Example of a State performance target: The percentage of students, in the aggregate and in each subgroup, who will be at or above the proficient level in reading/language arts consistent with the State's annual measurable objectives for ensuring that all students reach this level by the end of the 2013–2014 school year.

Note: The State annual measurable objectives for all students in reading/language are the same as those the State includes in its definition of adequate yearly progress.

1.2 Performance indicator: The percentage of students, in the aggregate and in each subgroup, who are at or above the proficient level in mathematics on the State's assessment. (Note: These subgroups are those for which the ESEA requires State reporting, as identified in section 1111(h)(1)(C)(i).)

1.3 Performance indicator: The percentage of Title I schools that make adequate yearly progress.

1.3.1 Example of a State performance target: The percentage of Title I schools that make adequate yearly progress will increase by "x" percent each year from the percentage of schools that made adequate yearly progress in 2001–2002

Performance Goal 2: All Limited English Proficient Students Will Become Proficient in English and Reach High Academic Standards, at a Minimum Attaining Proficiency or Better in Reading/Language Arts and Mathematics

2.1 Performance Indicator: The percentage of limited English proficient students, determined by cohort, who have attained English proficiency by the end of the school year.

2.2 Performance indicator: The percentage of limited English proficient students who are at or above the proficient level in reading/language arts on the State's assessment, as reported for Performance Indicator 1.1.

2.3 Performance indicator: The percentage of limited English proficient students who are at or above the proficient level in mathematics on the State's assessment, as reported for Performance Indicator 1.2.

Performance Goal 3: By 2005–2006, All Students Will Be Taught by Highly Qualified Teachers

3.1 Performance indicator: The percentage of classes being taught by "highly qualified" teachers (as the term is defined in ESEA section 9101(23), in the aggregate and in "high-poverty" schools (as the term is defined in ESEA section 1111(h)(1)(C)(viii)).

3.1.1. Example of a State performance target: The percentage of classes being taught by highly qualified teachers, in the aggregate and in high-poverty schools, will increase from the baseline of "x" percent in 2001–2002 to "y" percent in 2002–2003, "z" percent in 2003–2004, etc.

3.2 Performance indicator: The percentage of teachers receiving high-quality "professional development" as the term is defined in ESEA section 9101(34).

3.3 *Performance Indicator:* The percentage of paraprofessionals (excluding those with sole duties as translators and parental involvement assistants) who are qualified. (See criteria in section 1119(c) and (d).)

Performance Goal 4: All Students Will Be Educated in Learning Environments That Are Safe, Drug Free, and Conducive to Learning

4.1 *Performance indicator:* The number of persistently dangerous schools, as defined by the State.

Note: The lack of other performance indicators from this Goal 4 demonstrates our difficulty in finding good measures that can reliably link indicators of schools that are safe, drug-free, and conducive to quality teaching and academic achievement. Students and teachers plainly need to work in learning environments that are safe and drug-free. Technology, which we had proposed as a subject of performance indicators for this goal, like other instructional tools can be a powerful means of helping teachers and other school staff make a school environment conducive to learning. In determining whether individual States and the Nation as a whole are meeting Goal 4, the Department intends to seek other means of obtaining useful information.

Performance Goal 5: All Students Will Graduate From High School

5.1 Performance indicator: The percentage of students who graduate from high school each year with a regular diploma—disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged—calculated in the same manner as used in National Center

for Education Statistics reports on Common Core of Data.

5.2 Performance indicator: The percentage of students who drop out of high school—disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged—calculated in the same manner as used in National Center for Education Statistics reports on Common Core of Data. (ESEA section 1907 requires States to report all LEA data regarding annual school dropout rates in the State disaggregated by race and ethnicity according to procedures that conform with the National Center for Education Statistics' (NCES') Common Core of Data. Consistent with this requirement, in developing their performance targets for Indicator 5.2 States must use NCES' definition of "high school dropout," *i.e.*, a student in grade 9–12 who—

(a) Was enrolled in the district at some time during the previous school year;

(b) Was not enrolled at the beginning of the succeeding school year;

(c) Has not graduated or completed a program of studies by the maximum age established by a State;

(d) Has not transferred to another public school district or to a nonpublic school or to a State-approved educational program; and

(e) Has not left school because of death, illness, or a school-approved absence.)

Note: As it develops regulations or guidance for the Title I, Part A program, the Department will determine what, if any, modifications to Indicators 5.1 and 5.2 are needed to ensure conformance with Title I requirements.

During 2002, the Department will work with LEAs and SEAs to establish data standards for performance indicators and other information collected from States and districts. Toward that end, the Department will confer with LEA and SEA officials, the research community, information technology vendors, and other interested parties on ways in which States, LEAs, and schools can collect and electronically record useful baseline and follow-up data through an Internet-based format. The new format will accommodate indicators that the Department and States have adopted to measure success. Future application and reporting guidelines will encourage electronic reporting and provide States with additional options in fulfilling federal information requests.

Appendix B: State Activities To Implement ESEA Programs

States will conduct a number of activities to ensure effective implementation of the ESEA programs included in their consolidated applications. Many of the activities may serve multiple programs. For example, a State may develop a comprehensive approach to monitoring and technical assistance that will be used for several (or all) programs. In responding to the items in this section, an SEA will indicate the ESEA programs that will benefit from the activities it describes. Where applicable, States may include web site references, electronic files, or other existing documentation to comply with the requirements listed in the application.

1. Describe the State's system of standards, assessments, and accountability and provide evidence that it meets the requirements of the ESEA. In doing so—

a. In the June 2002 submission, provide a timeline of major milestones for either—

i. Adopting challenging content standards in reading/language arts and mathematics at each grade level for grades 3 through 8, consistent with ESEA section 1111(b)(1), or

ii. Disseminating grade-level expectations for reading/language arts and mathematics for grades 3 through 8 to LEAs and schools if the State's academic content standards cover more than one grade level.

(**NOTE:** This information must be consistent with the final regulations that the Department expects to issue in August 2002.)

By May 1, 2003, provide evidence that the State has adopted standards or disseminated grade-level expectations.

If the State already has content standards or has disseminated grade-level expectations that meet the requirements, provide—

i. A statement to this effect in the June 2002 submission, and

ii. Evidence when the Department requests it, which will likely be in fall 2002 after the Department issues final regulations and guidance.

b. In the June 2002 submission, provide a timeline of major milestones for adopting challenging content standards in science that meet the requirements of section 1111(b)(1).

By May 1, 2003, provide a detailed timeline for the above.

By May 1, 2006, but as soon as available, provide evidence that the State has adopted challenging content standards in science that meet the requirements of section 1111(b)(1).

If the State already has adopted science standards that meet the requirements of section 1111(b)(1), provide—

i. A statement to this effect in the June 2002 submission, and

ii. Evidence when the Department requests it, which will likely be in fall 2002, after the Department issues final regulations and guidance.

c. In the June 2002 submission, provide a timeline of major milestones for the development and implementation, in consultation with LEAs, of assessments that meet the requirements of section 1111(b)(3) in the required subjects and grade levels.

By May 1, 2003, provide a detailed timeline for the above.

No later than indicated in the following schedule, but as soon as available, provide evidence that the State has developed and implemented, in consultation with LEAs, assessments that meet the requirements of section 1111(b)(3) in the required subjects and grade levels.

If the State already has implemented some of these assessments, provide—

i. A statement to this effect in the June 2002 submission, and

ii. Evidence when the Department requests it, which will likely be in the fall of 2002, after the Department issues final regulations and guidance.

Schedule for Assessments

Subject: Mathematics

Grades: 3–8.
Implement by: 2005–06.
Submit evidence by: December 2006.

Subject: Reading/Language Arts

Grades: 3–8.
Implement by: 2005–06.
Submit evidence by: December 2006.

Subject: Science

Grades: Elementary (3–5); Middle (6–9); High School (10–12).
Implement by: 2007–2008.
Submit evidence by: December 2008.

e. By January 31, 2003, describe how the State calculated its "starting point" as required for adequate yearly progress consistent with section 1111(b)(2)(E), including data elements and procedures for calculations.

f. By January 31, 2003, provide the State's definition of adequate yearly progress. The definition must include:

i. For the percentage of students meeting or exceeding the State's proficient level, provide for both reading/language arts and mathematics—

- The starting point percentage;
- The intermediate goals;
- The timeline; and
- Annual objectives.

ii. The definition of graduation rate (consistent with section 1111(b)(2)(c)(vi) and final regulations).

iii. One academic indicator for elementary and for middle schools.

Implement by: 2005–06.
Submit evidence by: December 2006.

Subject: Reading/Language Arts

Grades: 3–8.
Implement by: 2005–06.
Submit evidence by: December 2006.

Subject: Science

Grades: Elementary (3–5); Middle (6–9); High School (10–12).
Implement by: 2007–2008.
Submit evidence by: December 2008.

d. In the June 2002 submission, provide a timeline of major milestones for setting, in consultation with LEAs, academic achievement standards in mathematics, reading/language arts, and science that meet the requirements of section 1111(b)(1).

By May 2003, provide a detailed timeline for the above.

No later than indicated in the following schedule, but as soon as available, provide evidence that the State, in consultation with LEAs, has set academic achievement standards in mathematics, reading/language arts, and science that meet the requirements of section 1111(b)(1).

If the State already has implemented some of these academic achievement standards, provide—

i. A statement to this effect in the June 2002 submission, and

ii. Evidence when the Department requests it, which will likely be in the fall of 2002 after the Department issues final regulations and guidance.

Schedule for Academic Achievement Standards

Subject: Mathematics

Grades: 3–8.
Implement by: 2005–06.
Submit evidence by: December 2006.

Subject: Reading/Language Arts

Grades: 3–8.
Implement by: 2005–06.
Submit evidence by: December 2006.

Subject: Science

Grades: Elementary (3–5); Middle (6–9); High School (10–12).
Implement by: 2007–2008.
Submit evidence by: December 2008.

iv. Any other (optional) academic indicators.

g. By January 31, 2003, identify the minimum number of students that the State has determined, based on sound statistical methodology, to be sufficient to yield statistically reliable information for each purpose for which disaggregated data are used and justify the determination. (**Note:** This information must be consistent with final regulations, which the Department expects to issue in August 2002.)

h. In the June 2002 submission, provide a plan for how the State will implement a single accountability system that uses the same criteria, based primarily on assessments consistent with section 1111(b), for determining whether a school has made adequate yearly progress, regardless of whether the school receives Title I, Part A, or other Federal funds.

By May 2003, provide evidence that the State has implemented a single accountability system consistent with sections 1111(b) and 1116.

i. In the June 2002 submission, identify the languages present in the student population to be assessed, the languages in which the State administers assessments, and the languages in which the State will need to administer assessments. Use the most recent data available and identify when these data were collected.

j. In the June 2002 submission, provide evidence that, beginning not later than the school year 2002–2003, LEAs will provide for an annual assessment of English proficiency that meets the requirements of ESEA sections 1111(b)(7) and 3116(d)(4), including assessment of English proficiency in speaking, listening, reading, writing, and comprehension. Identify the assessment(s) the State will designate for this purpose.

k. In the June 2002 submission, describe the status of the State's effort to establish standards and annual measurable achievement objectives under ESEA section 3122(a) that relate to the development and attainment of English proficiency by limited English proficient children. These standards and objectives must relate to the development and attainment of English proficiency in speaking, listening, reading, writing, and comprehension and be aligned with the State academic content and student academic achievement standards as required by ESEA section 1111(b)(1).

If they are not yet established, describe the State's plan and timeline for completing the development of these standards and achievement objectives. Include in the May 2003 submission the State's annual measurable achievement objectives under ESEA section 3122(a).

(**Note:** Descriptions 2–6 must be included with the State's June 2002 submission.)

2. Describe key procedures, selection criteria, interpretations provided for any key ESEA terms, and priorities the State will use to award competitive subgrants or contracts to the entities and for the activities required by the program statutes of applicable programs included in the consolidated application. States should include a description of how, for each program, these selection criteria and priorities will promote improved academic achievement. Applicable included programs are:

- Even Start Family Literacy (Title I, Part B).
- Education of Migrant Children (Title I, Part C).
- Prevention and Intervention for Children Who Are Neglected, Delinquent, or At-Risk—Local Agency Programs (Title I, Part D, Subpart 2).
- Comprehensive School Reform (Title I, Part F).
- Teacher and Principal Training and Recruiting Fund—subgrants to eligible partnerships (Title II, Part A, Subpart 3).
- Enhanced Education Through Technology (Title II, Part D).
- Safe and Drug-Free Schools and Communities—reservation for the Governor (Title IV, Part A, section 4112).
- Community Service Grants (Title IV, Part A, Section 4126).
- 21st Century Community Learning Centers (Title IV, Part B).

3. Describe how the State will monitor and provide professional development and technical assistance to LEAs, schools, and other subgrantees to help these entities implement their programs and meet the State's (and those entities' own) performance goals and objectives. This description should include the assistance the SEA will provide to LEAs, schools, and other subgrantees in identifying and implementing effective instructional programs and practices based on scientific research.

4. Describe the Statewide system of support under section 1117 for ensuring that all schools meet the State's academic content and student achievement standards, including how the State will provide assistance to low-performing schools.

5. Describe the activities the State will conduct to—

a. Help Title I schools make effective use of schoolwide programs to improve the achievement of all students, including specific steps the SEA is taking and will take to modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate Federal, State, and local funds for schoolwide programs;

b. Ensure that all teachers, particularly those in high-poverty areas and those in schools in need of improvement, are highly qualified. This description should include the help the State will provide to LEAs and schools to—

(i) Conduct effective professional development activities;

(ii) Recruit and hire highly qualified teachers, including those licensed or certified through alternative routes; and

(iii) Retain highly qualified teachers;

c. Ensure that all paraprofessionals (excluding those working with parents or as translators) attain the qualifications in ESEA section 1119(c) and (d) by the 2005–2006 school year;

d. Help LEAs with a high need for technology, high percentages or numbers of children in poverty, and low-performing schools to form partnerships with other LEAs, institutions of higher education (IHEs), libraries, and other private and public for-profit and non-profit entities with technology expertise to improve the use of technology in instruction;

e. Promote parental and community participation in schools; and

f. Secure the baseline and follow-up data for the core ESEA accountability system discussed in appendix A.

6. Describe how—

a. SEA officials and staff consulted with the Governor's office in the development of the State application;

b. State officials will coordinate the various ESEA-funded programs with State-level activities the State administers; and

c. State officials and staff will coordinate with other organizations, such as businesses, IHEs, nonprofit organizations, and other State agencies, and with other State agencies, including the Governor's office, and with other Federal programs (including those authorized by Individuals with Disabilities Education Act, the Perkins Vocational and Technical Education Act, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act).

7. Describe the strategies the State will use to determine, on a regular basis, whether LEAs, schools, and other subgrantees are making satisfactory progress in meeting State and local goals and desired ESEA program outcomes. In doing so, the SEA should also describe how it will use data it gathers from subgrantees on how well they are meeting State performance targets, and the actions the State will take to determine or revise interventions for any LEAs, schools, and other subgrantees that are not making substantial progress.

Appendix C: Key Programmatic and Fiscal Information

The Department has an overall responsibility for ensuring the programmatic and fiscal integrity of the ESEA programs. Therefore, before we can award FY 2002 program funds the Department needs to review and approve information on how the State will comply with a few key requirements of the various ESEA programs that the State includes in the application. In particular, the Department will review the SEA responses to the following:

I. Key Program Requirements

1. Title I, Part B, Subpart 3—Even Start Family Literacy

a. Describe how the SEA will use its indicators of program quality to monitor, evaluate, and improve its Even Start projects, and to decide whether to continue operating them.

b. Describe what constitutes sufficient program progress when the SEA makes continuation awards.

c. Explain how the State's Even Start projects will provide assistance to low-income families participating in the program to help children in those families to achieve to the applicable State content and student achievement standards.

2. Title I, Part C—Education of Migrant Children

a. Describe the process the State will use to develop, implement, and document a

comprehensive needs assessment that identifies the special educational and related needs of migratory children.

b. Describe the State's priorities for the use of migrant education program funds in order to have migratory students meet the State's performance targets for indicators 1.1, and 1.2 in appendix A (as well as 5.1 and 5.2 that expressly include migratory students), and how they relate to the State's assessment of needs for services.

c. Describe how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the statutory priority for service in section 1304(d), and the availability of funds from other Federal, State, and local programs.

d. Describe how the State will promote continuity of education and the interstate and intrastate coordination of services for migratory children.

e. Describe the State's plan to evaluate the effectiveness of its migrant education program and projects.

3. Title I, Part D—Children and Youth Who Are Neglected, Delinquent, or At-Risk

a. Describe the program goals, performance indicators, performance objectives, and data sources that the State has established for its use in assessing the effectiveness of the program in improving the academic and vocational and technical skills of students participating in the program.

b. Describe how the SEA is assisting projects funded under the program in facilitating the transition of children and youth from correctional facilities to locally operated programs.

4. Title I, Part F—Comprehensive School Reform

a. Describe the process the SEA will use to ensure that programs funded include and integrate all eleven required components of a comprehensive school reform program.

b. Describe the process the State will use to determine the percentage of Comprehensive School Reform schools with increasing number of students meeting or exceeding the proficient level of performance on State assessments in reading/language arts and mathematics.

5. Title II, Part A—Teacher and Principal Training and Recruiting Fund

a. If not fully addressed in the State's response to the information on performance goals, indicators, and targets in Appendix A, describe the remainder of the State's annual measurable objectives under ESEA section 1119(a)(2).

b. Describe how the SEA will hold LEAs accountable both for (1) meeting the annual measurable objectives described in ESEA section 1119(a)(2), and (2) ensuring that the professional development the LEAs offer their teachers and other instructional staff is consistent with the definition of "professional development" in ESEA section 9101(34).

Note: This program, and the financial support it provides to States, LEAs, and schools is vitally important to ensure that all students have teachers who are highly qualified, and who can help them to achieve to their maximum capabilities. The two items identified above supplement other information States need to provide in response to items in Appendix A, Goal 3; Appendix B, item 5b and c; and Appendix C, information on Title II, Part D (Enhancing Education Through Technology program) on how they plan to implement key teacher quality activities.

6. Title II, Part D—Enhanced Education Through Technology

a. Describe the program goals, performance indicators, performance objectives, and data sources that the State has established for its use in assessing the effectiveness of the program in improving access to and use of educational technology by students and teachers in support of academic achievement.

b. Provide a brief summary of the SEA's long-term strategies for improving student academic achievement, including technology literacy, through the effective use of technology in the classroom, and the capacity of teachers to integrate technology effectively into curricula and instruction.

c. Describe key activities that the SEA will conduct or sponsor with the funds it retains at the State level. These may include such activities as provision of distance learning in rigorous academic courses or curricula; the establishment or support of public-private initiatives for the acquisition of technology by high-need LEAs; and the development of performance measurement systems to determine the effectiveness of educational technology programs.

d. Provide a brief description of how—

i. The SEA will ensure that students and teachers, particularly those in the schools of high-need LEAs, have increased access to technology, and

ii. The SEA will coordinate the application and award process for State discretionary grant and formula grant funds under this program.

7. Title III, Part A—English Language Acquisition and Language Enhancement

a. Describe how the SEA will ensure that LEAs use program funds only to carry out activities that reflect scientifically based research on the education of limited English proficient children while allowing those grantees flexibility (to the extent permitted under State law) to select and implement such activities in a manner that they determine best reflects local needs and circumstances.

b. Describe how the SEA will hold LEAs accountable for meeting all annual measurable achievement objectives for limited English proficient children, and for making adequate yearly progress that raises the achievement of limited English proficient children.

c. Describe the process that the State will use in making subgrants under section 3114(d) to LEAs that have experienced a significant increase in the percentage or number of immigrant children and youth.

8. Title IV, Part A—Safe and Drug-Free Schools and Communities

a. Describe the key strategies in the State's comprehensive plan for the use of funds by the SEA and the Governor to provide safe, orderly, and drug-free schools and communities through programs and activities that—

i. Complement and support activities of LEAs under ESEA section 4115(b);

ii. Comply with the principles of effectiveness under section 4115(a); and

iii. Otherwise are in accordance with the purpose of Title IV, Part A.

Note: The reauthorized provisions of the Safe and Drug-Free Schools and Communities (SDFSC) Program clearly emphasize well-coordinated SEA and Governor's Program activities. The statute requires that significant parts of the program application be developed for each State's program, not for the SEA and Governors Programs individually. For this reason, each State must submit a single application for SDFSC SEA and Governors Program funds. States may choose to apply for SDFSC funding through this consolidated application or through a program-specific application.)

B. Describe the State's performance measures for drug and violence prevention programs and activities to be funded under Title IV, Part A, Subpart 1.

These performance measures must focus on student behaviors and attitudes. They must consist of (1) performance indicators for drug and violence prevention programs and activities, and (2) levels of performance for each performance indicator. The description must also include timelines for achieving the levels of performance stated, details about what mechanism the State will use to collect data concerning the indicators, and provide baseline data for indicators (if available).

c. Describe the steps the State will use to implement the Uniform Management Information and Reporting System (UMIRS) required by ESEA section 4112(c)(3). The description should include information about which agency(ies) will be responsible for implementing UMIRS, a tentative schedule for implementing UMIRS requirements, as well as preliminary plans for collecting required information.

9. Title IV, Part B, 21st Century Community Learning Centers

Identify the percentage of students participating in 21st Century Community Learning Centers who meet or exceed the proficient level of performance on State assessments in reading/language arts and mathematics. Baseline data is to be collected for the 2002–2003 school year, and submitted to the Department no later than September 2003 by a specific due date the Department will announce.

10. Title IV, Part B—21st Century Community Leaning Centers

Identify the percentage of students who participate in 21st Century Community Learning Centers who meet or exceed the proficient level of performance on State assessments in reading/language arts and mathematics. The State must collect baseline data for the 2002–2003 school year, and submit these data to the Department no later than early September of 2003 by a date the Department will announce.

11. Title VI, Part A, Subpart 1—grants for State Assessment and Related Activities

Describe how the State plans to use formula funds awarded under section 6113(b)(1) for the development and implementation of State assessments in accordance with section 6111 (1) and (2).

12. Title VI, Part B, Subpart 2—Rural and Low-Income School Program

a. Identify the SEA's specific measurable goals and objectives related to increasing student academic achievement; decreasing student dropout rates; or improvement in other educational factors the SEA may elect to measure, and describe how Rural and Low-Income School program funds will help the SEA meet the goals and objectives identified.

b. Describe how the State elects to make awards under the Rural and Low-Income School Program:

i. By formulas proportionate to the numbers of students in eligible districts;

ii. Competitively (please explain any priorities for the competition); or

iii. By a State-designed formula that results in equal or greater assistance being awarded to school districts that serve higher concentrations of poor students.

(**Note:** If a State elects the third option, the formula must be submitted for Department approval. States that elect this option may submit their State-designed formulas for approval as part of this submission.)

I. Key Fiscal Information

Consolidated Administrated Funds

1. Does the SEA Plan To Consolidate State-Level Administrative Funds?

If yes, please provide information and analysis concerning Federal and other funding that demonstrates that Federal funds constitute less than half of the funds used to support the SEA.

If yes, are there any programs whose funds are available for administration that the SEA will not consolidate?

2. Please Describe Your Plans for Any Additional Uses of Funds

Transferability

Does the State plan to transfer non-administrative State-level ESEA funds under the provisions of the State and Local Transferability Act (sections 6121 to 6123 of the ESEA)? If so, please list the funds and the amounts and percentages to be transferred, the program from which funds are to be transferred, and the program into which funds are to be transferred.

(**Note:** If the State elects to notify ED of the transfer in this document, the State's responses to the application's requests for information should reflect the State's comprehensive plan after the transfer. If the State has not elected to transfer funds at this time, it may do so at a later date. To do so, the State must (1) establish an effective date for the transfer, (2) notify the Department (at least 30 days before the effective date of the transfer) of its intention to transfer funds, and (3) submit the resulting changes to the information previously submitted in the State's consolidated application by 30 days after the effective date of the transfer.)

Program Specific Fiscal Information

1. Title I, Part A—Improving Basic Programs Operated by LEAs

a. Identify the amount of the reservation in section 1003(a) for school improvement that the State will use for State-level activities and describe those activities.

b. For the 95 percent of the reservation in section 1003(a) that must be made available to LEAs, describe how the SEA will allocate funds to assist LEAs in complying with the school improvement, corrective action, and restructuring requirements of section 1116 and identify any SEA requirements for use of those funds.

c. Identify what part, if any, of State administrative funds the SEA will use for assessment development under ESEA section 1004, and describe how those funds will be used.

d. Describe how the State will inform LEAs of the procedures LEAs must use to distribute funds for schools to use for supplemental services under section 1167(e)(7) and the procedures for determining the amount to be used for this purpose.

e. Describe how the State will use formula funds awarded under section 6113(b)(1) for the development and implementation of State assessments in accordance with section 6111.

2. Title I, Part B—Even Start Family Literacy

Identify the amount of the reservation under subsection 1233(a) that the State will use for each category of State-level activities listed in that section, and describe how the SEA will carry out those activities.

3. Title I, Part C—Education of Migratory Children

Identify the amount of funds that the SEA will retain from its Migrant Education Program (MEP) allocation, under section 200.41 of the Title I regulations (34 CFR 200.41), to carry out administrative and program functions that are unique to the MEP, and describe how the SEA will use those funds.

4. Title I, Part D—Children and Youth Who Are Neglected, Delinquent, or At-Risk

Describe how the funds reserved under section 1418 will be used for transition services for students leaving institutions for schools served by LEAs, or postsecondary institutions or vocational and technical training programs.

5. Title II, Part A—Teacher and Principal Training and Recruiting Fund

a. If applicable, of the one percent of the State's program allocation that ESEA section 2113(d) makes available to both the SEA and State agency for higher education (SAHE) for the costs of administration and planning, identify the amount the two agencies have agreed each agency will retain.

Note: In the absence of an agreement between the two agencies to apportion the one-percent in another way, of this amount the Department annually will award to the SAHE for administration and planning the greater of—

1. The amount of FY 2001 funds it had received for administration under the predecessor Title II, ESEA Eisenhower Professional Development Program, or

2. Five percent of the amount available each year for subgrants to partnerships under ESEA section 2113(a)(2).

The Department annually will award the remainder of the one-percent of the State allocation to the SEA for its costs of administration and planning. We will provide further guidance on within-State allocations of Title II, Part A funds reserved for administration in the guidance it is developing for the program.

b. Describe how the SEA will use funds reserved for State activities described in ESEA section 2113(c) to meet the teacher professional development and paraprofessional requirements in section 1119.

6. Title III, Part A—English Language Acquisition and Language Enhancement

a. Specify the percentage of the State's allotment that the State will reserve and the percentage of the reserved funds that the State will use for each of the following categories of State-level activities: professional development; planning, evaluation, administration, and interagency coordination; technical assistance; and providing recognition to subgrantees that have exceeded their annual measurable achievement objectives. A total amount not to exceed 5 percent of the State's allotment may be reserved by the State under ESEA section 3111(b)(2) to carry out one or more of these categories of State-level activities.

b. Specify the percentage of the State's allotment that the State will reserve for subgrants to eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth. A total amount not to exceed 15 percent of the State's allotment must be reserved by the State under section 3114(d)(1) to award this type of subgrant.

c. Specify the number of limited English proficient children in the State. (See definitions of "child" in ESEA section 3301(1), and "limited English proficient" in section 9101(25).)

d. Specify the number of immigrant children and youth in the State. (See definition of "immigrant children and youth" in ESEA section 3301(6).)

Note: ESEA section 3111 requires that State allocations for the Language Acquisition State grants be calculated on the basis of the number of limited English proficient children in the State compared to the number of such children in all States (80 percent) and the number of immigrant children and youth in the State compared to the number of such children and youth in all States (20 percent). The Department plans to use data from the 2000 Census to calculate State shares of limited English proficient students. However, these data on limited English proficient students will not be available for all States until September 2002. To ensure that States have access to funds as soon as they are available, the Department will provide, for FY 2002 only, an initial distribution of 50 percent of the funds under the limited

English proficient portion of the formula based on State-reported data. As soon as Census data become available, the Department will recalculate and make final State allocations using 2000 Census data.

For the 20 percent of formula funds distributed to States based on State shares of immigrant children and youth, the Department will use the most recent State-reported data in allocating these funds. Census does not collect data that can be used to calculate State allocations for this part of the formula.

7. Title IV, Part A, Subpart 1, Section 4112(a)—Safe and Drug-Free Schools and Communities: Reservation of State Funds for the Governor

a. The Governor may reserve up to 20 percent of the State's allocation under this program to award competitive grants or contracts. Identify the percentage of the State's allocation that is to be reserved for the Governor's program.

b. The Governor may administer these funds directly or designate an appropriate State agency to receive the funds and administer this allocation. Provide the name of the entity designated to receive these funds, contact information for that entity (the name of the head of the designated agency, address, telephone number) and the "DUNS" number that should be used to award these funds.

8. Title IV, Part A, Subpart 2, Section 4126—Safe and Drug-Free Schools and Communities: Community Service Grants

Describe how the SEA, after it has consulted with the Governor, will use program funds to develop and implement a community service program for suspended and expelled students.

9. Title V, Part A—Innovative Programs

a. In accordance with ESEA section 5112(a)(1), describe the SEA's formula for distributing program funds to LEAs. Include information on how the SEA will adjust its formula to provide higher per-pupil allocations to LEAs that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as —

- Children living in areas with concentrations of economically disadvantaged families;
- Children from economically disadvantaged families; and
- Children living in sparsely populated areas.

b. Identify the amount or percentage the State will reserve for each State-level activity under section 5121, and describe the activity.

Appendix D: Assurances

With its June 2002 submission, an SEA will need to include a signed statement of its agreement to the following sets of assurances and cross cutting declaration:

1. *General and Cross-Cutting Assurances.* Section 9304(a) requires States to have on file with the Secretary, as part of their consolidated application, a single set of assurances, applicable to each program included in the consolidated application, that provide that—

a. Each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

b.i. The control of funds provided under each such program and title to property acquired with program funds will be in a public agency, a nonprofit private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

b.ii. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

c. The State will adopt and use proper methods of administering each such program, including—

i. The enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

ii. The correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

iii. The adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

d. The State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

e. The State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

f. The State will—

i. Make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

ii. Maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

g. Before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

2. *ESEA Specific Assurances and Crosscutting Declaration.* Each SEA also must provide an assurance that it will—

a. Comply with all operational requirements of the ESEA programs included in the consolidated application, whether the program statute identifies these requirements as a description or assurance that States would have addressed, absent this consolidated application, in a program-specific plan or application, and

b. Maintain records of the State's compliance with each of those requirements.

(**Note:** For the Safe and Drug-Free Schools programs, the SEA must have all appropriate assurances from the Governor on record.)

Through the general assurance and assurance (1) in section 9304(a), the SEA agrees to comply with all requirements of the ESEA and other applicable program statutes. While all requirements are important, we have identified in the application package a number of those to which we believe SEAs should pay particular attention in order to ensure the effective use of ESEA program funds in promoting increased student achievement. At the same time we stress that this list of program-specific requirements that the SEA is assuring it will meet is not exhaustive and that States are accountable for all program requirements.

3. *Cross-Cutting Declaration: Certification of Compliance with Unsafe School Choice Option Requirements.*

The State certifies that it has established and implemented a Statewide policy requiring that students attending persistently dangerous public elementary or secondary schools, as determined by the State (in consultation with a representative sample of local educational agencies), or who become victims of violent criminal offenses, as determined by State law, while in or on the grounds of public elementary and secondary schools that the students attend, be allowed to choose to attend a different, safe public elementary or secondary school (which may include a public charter school) within the local educational agency.

Appendix E: Enhanced Assessment Instruments Competitive Grant Program (Title VI, section 6112)—Program Information and Proposed Selection Criteria

Overview. Proficiency on State assessments required under Title I, Part A of the ESEA is the primary indicator in the ESEA of student academic achievement and, hence, the primary measure of State success in meeting the goals of No Child Left Behind. In view of the critical importance of these State assessments, ESEA section 6111 provides formula grants to all SEAs, and section 6112 authorizes the Secretary to make competitive grant awards to State educational agencies (SEAs) to help them enhance the quality of assessment and accountability systems.

Because of the close relationship between this program and Title I, Part A, section 6112 requires States wishing to apply for the competitive portion of the State assessment grants to include their applications for this program in the State plans they prepare under Title I, Part A. For this reason, the Secretary has designated this program for voluntary inclusion in a State's ESEA consolidated application even though it is not a formula grant program. In doing so, the Secretary establishes the following procedures and requirements to govern this competition.

Eligible applicants. By law, all eligible applicants must be SEAs or consortia of SEAs. An application from a consortium of SEAs must designate one SEA as the fiscal agent.

Proposed Award Amounts and Timelines. The statute requires that any funds appropriated in excess of the required amount for State assessment formula allocations (section 6111) be allocated as competitive grants. From the amount appropriated, approximately $17 million is available for the upcoming fiscal year 2002 competition. Subject to the minimum size of award provided in section 6113(b)(2)(A)(ii) (which is based on a State's enrollment of students ages 5–17), the Department estimates that it will make 20 awards ranging from $300,000 to $2,000,000, with an average size of $850,000.

All applications must be submitted on or before September 15, 2002. We expect to issue grant awards by December 1, 2002. Project periods will run until September 30, 2004.

Application requirements. Section 6112(a) requires that all funded applications demonstrate that States (or consortia of States) will—

1. Collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for the assessments described in section 1111(b)(3) of Title I, Part A;

2. Measure student academic achievement using multiple measures of student academic achievement from multiple sources;

3. Chart student progress over time; or

4. Evaluate student academic achievement through the development of comprehensive academic assessment instruments, such as performance and technology-based academic assessments.

Competitive preferences. Enhancing assessment instruments so that they take into consideration alternatives for assessing students with disabilities and limited English proficient students is one of the pressing needs in the area of assessments. In addition, the complexity of improving assessments calls for collaborative efforts between and among states to yield approaches that can be adapted in varied contexts and for effective dissemination of results to increase the likelihood that the projects funded will contribute to ongoing State efforts to improve their assessment systems.

Toward those ends, the Secretary establishes the following competitive preferences, and will award up to 35 points to an applicant based on how well its application meets these preferences. These preference points are in addition to points an applicant earns under the selection criteria.

1. *Accommodations and alternate assessments* (20 points) Applications that can be expected to advance practice significantly in the area of increasing accessibility and validity of assessments for students with disabilities or limited English proficiency, or both, including strategies for test design, administration with accommodations, scoring, and reporting.

2. *Collaborative efforts* (10 points) Applications that are sponsored by a consortium of States.

3. *Dissemination* (5 points) Applications that include an effective plan for dissemination of results.

Selection criteria. The Secretary establishes the following criteria and weights authorized by sections 75.209–210 of the Education Department General Administrative Regulations (EDGAR):

1. Need for the Project (10 points)

- The magnitude and severity of the problem to be addressed by the proposed project;
- The extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure; and
- The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals.

2. Scope (10 points)

- The extent to which the goals and objectives to be achieved by the proposed project are clearly specified and measurable, and
- The extent to which the goals and objectives are sufficiently broad to be likely to result in significant change or improvement of one or more State assessment systems.

3. Significance (15 points)

- The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies;
- The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study;
- The extent to which the proposed project is likely to yield findings that may be used by other appropriate agencies and organizations; and
- The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

4. Quality of Project Design (30 points)

- The extent to which there is a conceptual framework underlying the proposed research or demonstration activities, and the quality of that framework;
- The quality of the proposed design and procedures for documenting project activities and results;
- The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project;
- The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance;
- The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice;
- The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements; and
- The quality of the methodology to be employed by the proposed project.

5. Quality of the Management Plan (5 points)

- The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks; and
- The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

6. Quality of Project Personnel (10 points)

- The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;
- The qualifications, including relevant training and experience, of the project director or principal investigator;
- The qualifications, including relevant training and experience, of key project personnel; and
- The qualifications, including relevant training and experience, of project consultants or subcontractors.

7. Adequacy of Resources (10 points)

- The adequacy of support, including facilities, equipment, supplies, and other resources from the SEA or the lead applicant SEA;
- The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and
- The extent to which the budget is adequate to support the proposed project.

8. Quality of the Evaluation Plan (10 points)

- The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;
- The extent to which the methods of evaluation are appropriate to the context within which the project operates;
- The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible; and
- The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other situations.

Appendix F—Optional Interim Application for FY 2002 Funds Under the Safe and Drug-Free Schools and Communities State Grants Program (Title IV, Part A, Subpart 1)

The Safe and Drug-Free Schools and Communities State Grants program authorizes States that desire to submit a program-specific application for FY 2002 funds to do so in either of two ways. A State may either submit (1) the comprehensive State application described in ESEA section 4113(a) or (2) an interim application that, under section 4113(b), offers the State an opportunity to develop and submit the comprehensive application prior to its receipt of fiscal year 2003 funds under the program.

Section 4113(b)(1) provides that the content of the interim application must be consistent with the requirements of that section of the law and contain the information that "the Secretary may specify in regulations." So that States may understand their various options for applying for Safe and Drug-Free Schools and Communities State Grants program, the

Department is using the vehicle of this notice to announce rules for this interim program application for FY 2002 funds.

States that desire to use this interim application to apply for FY 2002 Safe and Drug-Free Schools and Communities State Grants program funds must submit the following:

- A description of how the SEA will coordinate the agency's activities under this subpart with the chief executive office's drug and violence prevention programs and with the prevention efforts of other State agencies and other programs, as appropriate.
- A statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this grant, which will be focused on student behavior and attitudes, derived from the State's needs assessment in section 4113(a)(9). These indicators must be developed through consultation between the State and local officials, and that consists of performance indicators for drug and violence prevention programs and activities, and levels of performance for each indicator. The description must also include timelines for achieving the levels of performance stated, details about what mechanisms the State will use to collect data concerning the stated indicators, and baseline data for indicators if they are available.

In its statement, the State must submit performance measures for (1) the following indicator: the number of persistently dangerous schools, as defined by the State, and for (2) other indicators that it identifies as appropriate based on its analysis of need and its comprehensive plan for use of funds:

- A description of how the State educational agency will review applications from local educational agencies, including how the agency will receive input from parents in such review.
- A description of how the State educational agency will monitor the implementation of activities and provide technical assistance for local educational agencies, community-based organizations, other public entities, and private organizations.
- A description of how the chief executive officer of the State will award funds under section 4112(a) and implement a plan for monitoring the performance of, and providing technical assistance to, grant recipients.

[FR Doc. 02–12865 Filed 5–21–02; 8:45 am]
BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1571–000]

Big Cajun I Peaking Power LLC; Notice of Issuance of Order

May 16, 2002.

Big Cajun I Peaking Power LLC (Big Cajun) submitted for filing a rate schedule under which (Big Cajun) will engage in the sales of capacity, energy and ancillary services at market-based rates and for the reassignment of transmission capacity. Big Cajun also requested waiver of various Commission regulations. In particular, Big Cajun requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Big Cajun.

On May 13, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Big Cajun should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Big Cajun is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Big Cajun, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Big Cajun's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 12, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12795 Filed 5–21–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1366–000]

Hess Energy Power & Gas Company, LLC; Notice of Issuance of Order

May 16, 2002.

Hess Energy Power & Gas Company, LLC (Hess) submitted for filing a rate schedule under which Hess will engage in the sales of capacity, energy and ancillary services at market-based rates and for the reassignment of transmission capacity. Hess also requested waiver of various Commission regulations. In particular, Hess requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Hess.

On April 29, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-West, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Hess should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Hess is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Hess, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Hess' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 29, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions

may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12793 Filed 5–21–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2114–107]

Pat Kelleher, Complainant, v. PUD No. 2 of Grant County, WA, Respondent; Notice of Complaint

May 15, 2002.

Take notice that on April 29, 2002, Pat Kelleher filed a complaint pursuant to Rule 218 of the Commission's rules of practice and procedure, 18 CFR 385.218 (2002), and Part I of the Federal Power Act, 16 U.S.C. 791, *et seq.*, against PUD No. 2 of Grant County, Washington, licensee of the Priest Rapids Project No. 2114, located on the Columbia River in Washington. Mr. Kelleher alleges that Grant County is failing to provide free public access to licensee fee-owned lands within the project boundary. Copies of the complaint are on file with the Commission and are available for public inspection in the Commission's Public Reference Room. The complaint may also be viewed on the Internet at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before May 28, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before May 28, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests, interventions and answers may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12744 Filed 5–21–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–337–000]

Maritimes & Northeast Pipeline L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 15, 2002.

Take notice that on May 7, 2002 Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 11 to become effective on June 1, 2002.

Maritimes states that it is making this Interim Fuel Retainage Quantity (FRQ) filing, pursuant to section 20 of the General Terms and Conditions of its FERC Gas Tariff. Maritimes is proposing to reduce its Fuel Retainage Percentages for the Summer Period (June 1, 2002—August 31, 2002) and the Fall Shoulder Period (September 1, 2002—October 31, 2002) to 0.90%. Maritimes states that this reduction is necessary to reflect lower compressor fuel gas usage that is occurring on the Maritimes system as a result of lower throughput for the current gas year than that originally projected in Maritimes October 1, 2001 Annual Fuel Retainage Quantity filing in Docket No. RP02–4.

Maritimes also states that pursuant to section 20.5 of the General Terms and Conditions (GT&C), Maritimes is permitted to make interim filings to adjust the fuel retention percentages as appropriate. Maritimes also states that it will make its Annual FRQ filing in October to reflect the anticipated fuel percentages for the gas year commencing November 1, 2002.

Maritimes states that copies of this filing were mailed to all affected customers of Maritimes and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12753 Filed 5–21–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–338–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

May 15, 2002.

Take notice that on May 10, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets wit an effective date of June 10, 2002.

Natural states that the purpose of this filing is to make several minor revisions to its Tariff, including changes to the General Terms and Conditions and to a pro forma service agreement. These changes correct, clarify or simplify various provisions of Natural's Tariff.

Natural requests any waivers which may be required to permit these tariff sheets submitted to become effective on June 10, 2002.

Natural states that copies of the filing are being mailed to its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12754 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–039]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 15, 2002.

Take notice that Northern Natural Gas Company (Northern) on May 8, 2002 tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheet proposed to be effective on May 9, 2002:

Fifth Revised Volume No. 1

Seventeenth Revised Sheet No. 66A

The above sheet is being filed to implement a specific negotiated rate transaction with Dynegy Marketing and Trade in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12750 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–040]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 15, 2002.

Take notice that Northern Natural Gas Company (Northern) on May 9, 2002 tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheet proposed to be effective on May 10, 2002:

Fifth Revised Volume No. 1

Eighteenth Revised Sheet No. 66A

The above sheet is being filed to implement a specific negotiated rate transaction with Dynegy Marketing and Trade in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12751 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No.GT02–23–000]

Questar Southern Trails Pipeline Company; Notice of Tariff Filing

May 15, 2002.

Take notice that on May 7, 2002, Questar Southern Trails Pipeline Company (Southern Trails) tendered for filing as part of its FERC Gas Original Volume No. 1, First Revised Sheet No. 6 and Original Sheet No. 7, to be effective June 1, 2002.

Southern Trails states that the filing is being filed in compliance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Southern Trails states that the tendered tariff sheets identify Southern Trails' Statement of Negotiated Rates to reflect negotiated-rate contracts with Duke Energy Trading and Marketing, L.L.C. and BP Energy Company.

Southern Trails stated that a copy of this filing has been served upon all parties to this proceeding, Southern Trails' customers, and the Public Service Commissions of Utah, New Mexico, Arizona and California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12742 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–080]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 15, 2002.

Take notice that on May 8, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective May 8, 2002:

First Revised Sheet No. 631
Second Revised Sheet No. 632

REGT states that the purpose of this filing is to reflect the implementation of two new negotiated rate transactions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12749 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–106–007]

TransColorado Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 15, 2002.

Take notice that on May 9, 2002, pursuant to 18 CFR 154.7, and in compliance with the April 24, 2002, Commission order (April 24th order) in Docket No. RP99–106–006, TransColorado Gas Transmission Company (TransColorado) tendered for filing and acceptance, the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff.

Original Volume No. 1
First Revised Fifth Revised Sheet No. 20, effective February 1, 2001
First Revised Sixth Revised Sheet No. 20, effective November 1, 2001
First Revised Original Sheet No. 20A, effective November 1, 2001

TransColorado states that the submitted tariff sheets reflect Final Rates approved by the April 24th order. Final Rates are slightly lower than Interim Rates that have been in effect pursuant to the terms of the settlement in Docket No. RP99–106 as approved by the Commission on January 14, 2000, in Docket No. RP99–106–004. For example, TransColorado's interruptible transportation rate drops from the currently effective $0.3340/Dth to $0.3239/Dth.

Article III(F) of the settlement in this proceeding provides that refunds will be required if total revenues exceed the levelized cost of service over the refund period. TransColorado states that it is reviewing its revenues and costs for the refund period but does not anticipate that there will be refunds.

TransColorado states that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12752 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1437–000]

Triton Power Michigan LLC; Notice of Issuance of Order

May 16, 2002.

Triton Power Michigan LLC (Triton Power) submitted for filing a rate schedule under which (Triton Power) will engage in the sales of electric energy and capacity at market-based rates and for the reassignment of transmission capacity. Triton Power also requested waiver of various Commission regulations. In particular, Triton Power requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Triton Power.

On May 14, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Triton Power should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC

20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Triton Power is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Triton Power, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Triton Power's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 13, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12794 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1764–000, et al.]

Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

May 15, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Southern California Edison Company

[Docket No. ER02–1764–000]

Take notice that on May 8, 2002, Southern California Edison Company (SCE) tendered for filing a Service Agreement For Wholesale Distribution Service under SCE's Wholesale Distribution Access Tariff and an Interconnection Facilities Agreement (Agreements) between SCE and Cabazon Wind Partners, LLC (Cabazon).

SCE respectfully requests the Agreements become effective on May 9, 2002. These Agreements specify the terms and conditions under which SCE will interconnect Cabazon's generating facility to its electrical system and provide Distribution Service for up to 42.6 MW of power produced by the generating facility.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Cabazon.

Comment Date: May 29, 2002.

2. Entergy Services, Inc.

[Docket No. ER02–1765–000]

Take notice that on May 8, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Long-Term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Mirant Americas Energy Marketing, LP.

Comment Date: May 29, 2002.

3. Pacific Gas and Electric Company

[Docket No. ER02–1766–000]

Take notice that on May 8, 2002, Pacific Gas and Electric Company (PG&E) tendered for filing, as a change in rate schedule, a revised Appendix A to "Contract No. 88-SAO–40002, United States Department of Energy, Western Area Power Administration, Central Valley Project, California for Sonoma County Water Agency, Contract for Transmission Service with Pacific Gas and Electric Company" (Sonoma Agreement). The Sonoma Agreement, dated March 21, 1989, was accepted with its appendices for filing by the Commission on April 28, 1989, and designated as PG&E Rate Schedule FERC No. 126, and subsequently designated on November 7, 2001, as PG&E First Revised Rate Schedule FERC No. 126 . The revised Appendix A to the Sonoma Agreement eliminates the distribution component of the transmission charge due to an upgrade to Sonoma's distribution system, updating loss factors and providing a reduced transmission rate.

PG&E is requesting certain waivers. Copies of this filing were served upon Sonoma, Western, the California Independent System Operator and the California Public Utilities Commission.

Comment Date: May 29, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[FERC Docket No. ER02–1767–000]

Take notice that on May 8, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing proposed revisions to Attachment K of its Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1, which seek to modify the manner in which (I) the Midwest ISO institutes the redispatch of generation on the Midwest ISO Transmission System (Transmission System) in order to maintain the reliability of the Transmission System and (ii) the costs of the aforementioned reliability redispatch are allocated to and among transmission customers. The Midwest ISO requests an effective date of June 17, 2002.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading Filings to FERC" for other interested parties in this matter.

Comment Date: May 30, 2002.

5. Aquila, Inc.

[Docket No. ES02–38–000]

Take notice that on May 7, 2002, Aquila, Inc. submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue up to an aggregate of $1 billion of the following securities: (1) Long-term debt (and any like instruments issued in exchange therefore or in refinancing thereof) with a final maturity or maturities of not less than twelve months nor more than 30 years; (2) common stock including shares which may be issued upon conversion of other securities; and (3) forward contracts or other financial instruments and associated common stock to be issued at a future date specified in the forward contract.

Comment Date: May 31, 2002.

6. NorthWestern Corporation

[Docket No. ES02–39–000]

Take notice that on May 8, 2002, NorthWestern Corporation (NorthWestern) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue up to and including (1) 15 million shares of common stock, par value $1.75 per share, (2) 500,000 shares of cumulative preferred stock, par value $100 per share, and (3) 500,000 shares of preference stock, par value $50.

NorthWestern also requests waiver of the competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: June 5, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12740 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration Intention and Solicitation of Comments, Motions To Intervene, and Protests

May 15, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI02–3–000.

c. *Date Filed:* April 29, 2002.

d. *Applicant:* AquaEnergy Group, Ltd.

e. *Name of Project:* Makah Bay Project.

f. *Location:* On Makah Bay, near Neah Bay, in Clallam County, Washington, at 48° 19′ 53″ N, 124° 44′ 18″ W. The project will utilize federal and tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825 (r).

h. *Applicant Contact:* Ms Mary Jane Parks, P.O.Box 1276, Mercer Island, WA 98040; telephone: (626) 253–1981, E-Mail address: *aqua@aeg-ltd.com*.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton at (202) 219–2678, or e-mail address: *henry.ecton@ferc.gov*.

j. *Deadline for Filing Comments and/or Motions:* June 17, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments and protests may be filed electronically via the internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov*.

Please include the docket number (DI02–3–000) on any comments or motions filed.

k. *Description of Project:* The proposed project will consist of: (1) Four energy-converting buoys; (2) a sealed power habitat on the floor of Makah Bay, containing a pelton turbine and generator with a maximum output of 1 MW; (3) a 2-mile long transmission cable, connected to a land station containing an inverter and transformer; and (4) appurtenant facilities. The facility will be connected to an interstate grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine whether or not the proposed project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call (202) 208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceedings. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12741 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Petition for Declaratory Order and Solicitation of Comments, Protests, and Motions To Intervene

May 15, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Petition for Declaratory Order.

b. *Project No:* JR00–2–000, P–9100–011.

c. *Date Filed:* January 10, 2000.

d. *Applicant:* James M. Knott, Sr.

e. *Name of Project:* Riverdale Mills Project.

f. *Location:* The project is located on the Blackstone River in Worcester County, Village of Riverdale, Massachusetts. This project will not occupy Federal or Tribal lands.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 USC 817 (b).

h. *Applicant Contact:* Jamy B. Buchanan, Esq., Buchanan & Associates, 33 Mt. Vernon St., Boston, MA 02108, telephone: (617) 227–8410.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton (202) 219–2678, or e-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for Filing Comments, Protests, and/or Motions To Intervene:* June 17, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov.* under the "e-Filing" link.

Please include the docket number (JR00–2–000, P–9100–011) on any comments, protests, or motions to intervene filed.

k. *Description of Project:* The Riverdale Mills Project consists of: (1) A 142-foot-long, 10-foot-high concrete and steel dam with crest elevation of 262.35 feet m.s.l.; (2) a reservoir with a surface area of 11.8 acres; (3) five collapsible stanchion and one modulator gate located on six bays; (4) a 8-foot-wide, 115-foot-long sluiceway that conveys water to the turbine; (5) a 150 kW generator, located in the mill building; (6) a 231-foot-long tailrace; and (7) appurtenant facilities.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act (FPA), 16 U.S.C. 817 (1), requires the Commission to investigate and determine whether or not the project is required to be licensed. Pursuant to Section 23(b)(1) of the FPA, a non-federal hydroelectric project must (unless it has a still-valid pre-1920 federal permit) be licensed if it is located on a navigable water of the United States; occupies lands of the United States; utilizes surplus water or water power from a government dam; or is located on a body of water over which Congress has Commerce Clause jurisdiction, project construction occurred on or after August 26, 1935, and the project affects the interests of interstate or foreign commerce. The purpose of this notice is to gather information to determine whether the existing project meets any or all of the above criteria, as required by the FPA. Copies of "A Supplement to the Navigation Status Report Blackstone River Massachusetts," and "Materials Discovered in Research" are available on RIMS on the Web under JR00–2–000.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12743 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Solicitation of Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

May 15, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2153–012.

c. *Date Filed:* April 30, 2002.

d. *Applicant:* United Water Conservation District.

e. *Name of Project:* Santa Felicia Hydro Project.

f. *Location:* On the Piru Creek in Ventura County, California. The project affects 174.5 acres of federal land within the Los Padres and Angeles National Forests.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Ms. Dana Wisehart, United Water Conservation District, 106 North Eighth Street, Santa Paula, CA 93060.

i. *FERC Contact:* Jim Fargo, (202) 219–2848 or *james.fargo@ferc.gov.*

j. *Deadline for Filing Additional Study Requests:* June 29, 2002.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. This application is not ready for environmental analysis at this time.

l. The existing Santa Felicia Project consists of: (1) A 200-foot-tall, 1200-foot-long earth fill dam; (2) an 88,000 acre-foot reservoir; (3) an ungated spillway and associated works, (4) a powerhouse with two units having a total installed capacity of 1,434-kilowatts and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 1,300 megawatthours.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the CALIFORNIA STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. *Procedural Schedule and Final Amendments:* The application will be processed according to the following milestones, some of which may be combined to expedite processing:

- Notice of application has been accepted for filing
- Notice of NEPA Scoping
- Notice of application is ready for environmental analysis
- Notice of the availability of the draft NEPA document
- Notice of the availability of the final NEPA document
- Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12745 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Variance Request and Solicitation of Comments, Motions To Intervene, and Protests

May 15, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for a Reservoir Drawdown at Centralia Dam.

b. *Project No:* 2255–055.

c. *Date Filed:* March 19, 2002.

d. *Applicant:* Domtar Wisconsin Dam Corp.

e. *Name of Project:* Centralia Dam Project.

f. *Location:* The project is located on the Wisconsin River, in Wood County, Wisconsin.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. David K. Reinke, Domtar Industries Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, phone 715–887–5111.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Robert Fletcher at (202) 219–1206, or e-mail address: *robert.fletcher@ferc.gov.*

j. *Deadline for Filing Comments and/or Motions:* June 17, 2002.

All documents (original and seven copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2255–055) on any comments or motions filed.

k. *Description of Request:* The licensee is requesting to drawdown the Centralia Dam reservoir on the Wisconsin River for the purpose of performing maintenance and structural repairs below the waterline on the forebay and intake structure located upstream of the powerhouse dam, guardlock structure, and gated and flashboard spillways. The licensee will begin the drawdown on July 5, 2002 and anticipates the reservoir being refilled by November 30, 2002. The licensee will publish a notice in the local paper the day prior to the drawdown, start drawing the impoundment down at a rate of 2-inches per hour (in no case to exceed 6-inches per hour) down to a 10-foot lowering of the headwater pool, and complete a biological survey for stranded aquatic life. The licensee has consulted with the U.S. Fish and Wildlife Service, Wisconsin Department of Natural Resources, and the Wisconsin State Historical Society.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12746 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Solicitation of Comments, Recommendations, Terms and Conditions, and Prescriptions

May 15, 2002.

Take notice that the following hydroelectric application have been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major Original License.

b. *Project No.:* 11508–001.

c. *Name of the Project:* Wolf Lake Hydroelectric Project.

d. *Date filed:* March 27, 1998.

e. *Applicant:* Alaska Power & Telephone Company.

f. *Location:* On the east side of Prince of Wales Island, along Wolf Creek, near Hollis, Alaska. The project would affect about 28 acres of the Tongass National Forest, administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Robert S. Grimm, President, Alaska Power & Telephone Company, P.O. Box 3222, 191 Otto Street, Port Townsend, WA 98368, (360) 385–1733

i. *FERC Contact:* Susan O'Brien, E-mail address *susan.obrien@ferc.gov,* or (202) 219–2840.

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the "e-Filing" link.

j. This application has been accepted, and is ready for environmental analysis at this time.

k. The proposed project would consist of the following features: (1) A screened intake structure 50 feet long by 3 feet high with a 20-foot-wide spillway; (2) a 3.5-acre storage impoundment at elevation 1,088 feet mean sea level; (3) a 6,000-foot-long, 22-inch-diameter steel and high-density polyethylene chloride penstock; (4) a 30-by 40-foot-long prefabricated metal powerhouse along the right bank of Wolf Creek, having a single horizontal twin-jet Pelton turbine with an installed capacity of 2.2 megawatts; (5) a 150-foot-long, 10-foot-wide, by 6-foot-deep tailrace channel; (6) a 12.5-kilovolt, 2.3-mile-long overhead transmission line on wooden poles; (7) a 50-foot-wide by 2.3-mile-long transmission line right-of-way, including an access road; and (8) other appurtenances. The proposed run-of-river project would use natural flows from the 100-acre Wolf Lake and ponds just below the lake to generate 2.2 MW of power to serve various communities on Prince of Wales Island. Water diverted to generate power for this project would bypass about 6,000 feet of Wolf Creek. The project would operate continuously to meet a large portion of the spring, summer, and fall load demand.

l. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

m. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12747 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Solicitation of Comments, Motions To Intervene, and Protests

May 16, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Temporary Amendment to License.

b. *Project No.:* 77–117.

c. *Date Filed:* May 13, 2002.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Potter Valley Project.

f. *Location:* The Potter Valley hydroelectric project is located on the Eel River and East Fork Russian River, in Mendocino and Lake Counties, California. The project is partially located within the Mendocino National Forest on federal lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Ms. Rhonda Shiffman, Project Manager, Mail Code N11C, Pacific Gas and Electric Co., P.O. Box 770000, San Francisco, CA 94177–0001, (415) 973–5852.

i. *FERC Contact:* Questions about this notice can be answered by John Mudre at (202) 219–1208 or e-mail address: *john.mudre@ferc.gov.* The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. *Deadline for Filing Comments, Terms and Conditions, Motions To Intervene, and Protests:* 21 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, protests and interventions may be filed electronically via the internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. k. Pacific Gas and Electric Company (PGE) has filed an application to temporarily reduce, between May 15, and September 15, 2002, the minimum flow requirement set forth in Article 38 to help protect the fishery and recreational resources of Pillsbury reservoir during the 2002 summer season, also to ensure the continued minimum flow releases to the Eel and Russian rivers during the 2003 water-year.

Article 38 requires the following minimum flow releases:

	Dry water-year (cfs)	Normal water-year (cfs)
East Branch Russian River:		
September 16 to May 14 ..	35	35
May 15 to September 15	40	75
Eel River Below Scott Dam:		
December 1 to May 31 ..	40	100
June 1 to November 30	40	60

The 2002 water-year is classified as a normal water-year, as defined by Article 38. Specifically, PGE requests a waiver of the 75 cfs minimum flow to the East Branch Russian River from May 15 to September 15, and proposes to release 40 cfs in its place, conserving approximately 8,600 acre-feet of storage, to be used for the protection of fishery and recreational resources in Pillsbury reservoir and help ensure the continued minimum flow releases to the Eel and Russian rivers are met during the 2003 water-year.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at *http://www.ferc.gov.* Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12796 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM93–11–000]

Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992; Annual Change in Producer Price Index for Finished Goods

May 15, 2002.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of annual change in the producer price index for finished goods, minus one percent.

SUMMARY: The Commission is issuing the index that oil pipelines must apply to their July 1, 2001—June 30, 2002 index ceiling levels to compute their index ceiling levels for the period July 1, 2002 through June 30, 2003, in accordance with 18 CFR 342.3(d). This index, which is the percent change (expressed as a decimal) in the annual average Producer Price Index for Finished Goods from 2000 to 2001, minus one percent, is 0.009565. Oil pipelines must multiply their July 1, 2001—June 30, 2002 index ceiling levels by 1.009565 to compute their index ceiling levels for the period July 1, 2002 through June 30, 2003.

FOR FURTHER INFORMATION CONTACT: David Ulevich, Division of Tariffs and Rates Central, Central Group 4, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0678.

SUPPLEMENTARY INFORMATION:

Notice of Annual Change in the Producer Price Index for Finished Goods, Minus One Percent

May 15, 2002.

The Commission's regulations include a methodology for oil pipelines to change their rates through use of an index system that establishes ceiling levels for such rates. The index system as set forth at 18 CFR 342.3 is based on the annual change in the Producer Price Index for Finished Goods (PPI–FG), minus one percent. The regulations provide that each year the Commission will publish an index reflecting the final change in the PPI–FG, minus one percent, after the final PPI–FG is made available by the Bureau of Labor Statistics in May of each calendar year.

The annual average PPI–FG index figure for 2000 was 138.0 and the annual average PPI–FG index figure for

2001 was 140.7.[1] Thus, the percent change (expressed as a decimal) in the annual average PPI–FG from 2000 to 2001, minus one percent, is 0.009565.[2] Oil pipelines must multiply their July 1, 2001—June 30, 2002 index ceiling levels by 1.009565 [3] to compute their index ceiling levels for the period July 1, 2002, through June 30, 2003, in accordance with 18 CFR 342.3(d). For guidance in calculating the ceiling levels for each period beginning January 1, 1995,[4] see Explorer Pipeline Company, 71 FERC 61,416 at n.6 (1995).

Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE, Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (*http://www.ferc.gov*) on CIPS in ASCII and WordPerfect 6.1. User assistance is available at 202–208–2222 or by E-mail to *cips.master@ferc.gov*.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home Page using the RIMS link or the Energy Information online icon. User assistance is available at 202–208–2222, or by E-mail to *rimsmaster@ferc.gov*.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contract; American Electronic Imaging Company, Inc. American Electronic Imaging Company, Inc., is located at 888 First Street, NE., Suite 2A–16, Washington, DC 20426.

Magalie R. Salas

Secretary

[FR Doc. 02–12748 Filed 5–21–02; 8:45 am]

BILLING CODE 6717–01–P

[1] The final figure for the annual average PPI–FG is published by the Bureau of Labor Statistics in mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Price Indexes of the Bureau of Labor Statistics, at (202) 691–7705, and is available in print in August in Table 1 of the annual data supplement to the BLS publication *Producer Price Indexes*. The PPI data are also available via the Internet. The Internet address is *[http://www.bls.gov/ppi]*. To obtain the BLS data, click on Get Detailed Statistics, then click on Commodity Data under the Create Customized Tables (one screen) heading. At step 1, scroll all the way to the bottom and choose SOP. At step 2, scroll and choose SOP3000. At step 3, check the Not Seasonally Adjusted box and then click on Get Data at step 4..

[2] [140.7 – 138.0]/138.0 = 0.019565 – .01 = 0.009565.

[3] 1 + 0.009565 = 1.009565.

[4] For a listing of all prior multipliers issued by the Commission, see the Commission's website, *www.ferc.gov*. The table of multipliers can be found under the headings "Oil" and "Index".

ENVIRONMENTAL PROTECTION AGENCY

[CA077–NOD; FRL–7215–1]

Notice of Deficiency for 34 Clean Air Act Operating Permits Programs in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency.

SUMMARY: Pursuant to our authority at Clean Air Act section 504(i) and the implementing regulations at 40 CFR 70.10(b)(1), EPA is publishing this Notice of Deficiency for the following 34 Clean Air Act title V Operating Permits Programs in the State of California: Amador County Air Pollution Control District (APCD), Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD. The Notice of Deficiency is based upon EPA's finding that the State's agricultural permitting exemption at Health and Safety Code 42310(e) unduly restricts the local districts' ability to adequately administer and enforce their title V programs, which have previously been granted full approval status. Therefore, EPA finds that the 34 districts' title V programs do not meet the minimum requirements required by Federal law. Publication of this notice is a prerequisite for withdrawal of title V program approval for the 34 districts, but does not effect such a withdrawal. Withdrawal of program approval, if necessary, will be accomplished through subsequent rulemaking.

EFFECTIVE DATE: May 22, 2002. Because this NOD is an adjudication and not a final rule, the Administrative Procedure Act's 30-day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Gerardo C. Rios, Chief, Permits Office, Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3974.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," or "our" means EPA.

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I. Description of Action and Identification of Program Deficiency
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I. Description of Action and Identification of Program Deficiency

We are publishing this Notice of Deficiency (NOD) for thirty-four (34) Clean Air Act (CAA or Act) operating permits programs in California. EPA promulgated final full approval of all 34 districts' title V operating permits programs on November 30, 2001. See 66 FR 63503 (December 7, 2001).[1] This document is being published to satisfy 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a title V permitting authority is not adequately administering or enforcing its title V operating permits program.

EPA has determined that all 34 local permitting authorities in California that have fully approved title V operating permit programs are not adequately administering or enforcing their programs because state law at Health and Safety Code 42310(e) exempts from permitting, "equipment used in agricultural operations in the growing of crops or the raising of fowl or animals."

Title V of the Act does not provide for this exemption and requires that all permitting authorities have the authority to "issue permits and assure compliance by all sources required to have a permit under this subchapter with each applicable standard, regulation or requirement under this chapter." CAA 502(b)(5)(A). These requirements are echoed in the operating permit program approval regulations promulgated at 40 CFR part 70. *See* 40 CFR 70.4(b)(3)(i).

[1] Although there are 35 separate permitting authorities in California, one permitting authority, Antelope Valley APCD, was not included in our final action because it only recently obtained its authority to issue part 70 permits and is still under its initial interim approval status granted on December 19, 2000 (65 FR 79314).

II. Effect of Notice of Deficiency

40 CFR 70.10(b) and 70.10(c) provide that EPA may withdraw a 40 CFR part 70 program approval, in whole or in part, whenever the permitting authority's legal authority does not meet the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the notice be published in the **Federal Register**. Today's notice satisfies this requirement and constitutes a finding of program deficiency for each of the 34 districts listed above.

If the State of California has not taken significant action to change state law to provide each of the 34 permitting authorities adequate authority to issue permits and assure compliance by all subject sources within 90 days after publication of this notice of deficiency, then EPA will take action to partially withdraw approval of each of the 34 California districts' title V operating permits programs. Such action would only withdraw the portions of the programs that relate to state-exempt major stationary agricultural sources. Also, if the state does not correct the deficiency during the 90-day period, then EPA has the discretion to apply sanctions under section 179(b). Further, 40 CFR 70.10(b)(3) provides that, if a state has not corrected the deficiency within 18 months after the effective date of this notice, EPA will apply the sanctions under section 179(b) of the Act in accordance with section 179(a) of the Act.[2] CAA § 502(i)(1) and (2), 40 CFR 70.4(k) and 70.10(b)(2)–(4).

This notice of deficiency is not itself a proposal to withdraw approval of the title V operating permits program for the 34 districts in California. Consistent with 40 CFR 70.10(b)(2), this notice provides the State of California 90 days to take significant action to assure adequate administration and enforcement of the local districts' programs. As stated above, EPA has determined that significant action in this instance means the revision or removal of Health and Safety Code 42310(e) so that local air pollution control districts have the required authority to issue title V permits to stationary agricultural sources that are major sources of air pollution. In anticipation that the State of California will not effect the necessary change in state law within 90 days, EPA expects to propose to partially withdraw approval for each of the 34 identified title V operating permits programs before the end of the 90 days provided in this notice; however, consistent with 40 CFR 70.10(b)(4), final action on our proposal will occur only after the 90 days for the state to take significant action has elapsed. EPA will ensure that the public comment period on the proposal to partially withdraw approval will extend beyond the 90-day period for the state to take significant action so that the public will have an opportunity to fully comment on that aspect of our action.

[2] The EPA is developing an Order of Sanctions rule to determine which sanction applies at the end of this 18-month period.

III. Administrative Requirements

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of today's action may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of July 22, 2002.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 14,2002.

Sally Seymour,

Acting Regional Administrator, Region 9.

[FR Doc. 02–12847 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0060; FRL–7178–9]

Organophosphate Pesticides; Reassessment of Certain Non-Contributing Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As part of its ongoing review of existing organophosphate (OP) tolerances under the Food Quality Protection Act (FQPA), EPA has determined that 275 OP tolerances can be reassessed at this time. These "non-contributor" tolerances meet the FQPA safety standard in section 408(b)(2) of the Federal Food, Drug, and Cosmetic Act (FFDCA) and can be reassessed for the purposes of FFDCA section 408(q). EPA has concluded that these tolerances make, at most, a negligible contribution to the cumulative risk from OP pesticides. This Notice discusses the concept and basis for this approach to reassessing selected OP tolerances based on available information relating to the OP cumulative risk assessment. EPA expects that additional tolerances will be appropriate for reassessment based on the kind of approach described in this Notice. This Notice also identifies the first non-contributor tolerances that are considered reassessed (certain tolerances for meat commodities, animal feeds, refined sugars, and other uses), and seeks comment on EPA's approach to the identification of other non-contributors.

DATES: Comments, identified by the docket control number OPP–2002–0060, for approaches for identifying other tolerances that make, at most, a negligible contribution to the cumulative risk from OP pesticides must be received on or before June 21, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify the docket control number OPP–2002–0060 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7805C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general who are interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of this Notice may also be accessed at http: www.epa.gov/pesticides/cumulative under the heading "Tolerance Activities."

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0060. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify the docket control number OPP–2002–0060 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–2002–0060. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

The Food Quality Protection Act of 1996 significantly amended the FFDCA, creating a new safety standard for judging the acceptability of tolerances for pesticide residues in food. The new statutory standard allows EPA to approve a new tolerance or leave an existing tolerance in place only if the tolerance is "safe." The statute defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable data" (FFDCA section 408(b)(2)(A)(ii)). In making the safety determination, EPA "shall consider, among other relevant factors . . . available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity" (FFDCA section 408(b)(2)(D)(v)). The FQPA amendments not only made the new safety standard applicable to new tolerances, but also to tolerances in existence when FQPA became law. FQPA set a 10–year schedule for EPA to reassess all existing tolerances, with interim deadlines for completion of 33% and 66% of tolerance reassessments 3 and 6 years, respectively, after the date of enactment. Pesticide tolerances subject to reassessment under FQPA section 408(q) may only remain in effect without modification if they meet the section 408(b)(2) safety standard. Finally, FQPA instructed EPA to give priority to the review of tolerances which appear to pose the greatest risk to public health.

Consistent with the FQPA mandate, EPA identified OP pesticides as high priority for tolerance reassessment. EPA has determined that the OPs share a "common mechanism of toxicity," the inhibition of cholinesterase, and therefore the Agency will consider the cumulative risks of OPs in making the safety determination for any tolerance for a pesticide in this group. The Agency has reviewed individual OP pesticides to determine whether they meet the current health and safety standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the FFDCA safety standard, and has presented its determinations in documents called "Interim Reregistration Eligibility Decisions" (IREDs). When the pesticide covered by an IRED shares a common mechanism of toxicity with other pesticides, the IRED addresses the aggregate risk of the chemical but does not take a position on the FFDCA standard until the Agency has also considered the potential cumulative risks of the group of pesticides. In addition to its consideration of individual OP pesticides, EPA has also conducted a preliminary cumulative risk assessment (CRA) for all of the OPs and sought public comment on the assessment. The risk assessment documents are available at www.epa.gov/pesticides/cumulative. In addition, EPA presented the assessment to its FIFRA Scientific Advisory Panel (SAP) for expert, independent scientific peer review. The SAP provided a generally favorable review of the preliminary assessment. See http://www.epa.gov/scipoly/sap/index.htm. EPA is in the process of revising the CRA, taking into account public comment and SAP advice.

EPA has raised with stakeholders during a number of public meetings the concept of reassessing selected OP tolerances because, based on available data and assessments, EPA could determine that they make, at most, no more than a negligible contribution to risk. Most recently, the concept of reassessing such "non-contributors" was an agenda topic for the February 2002 meeting of the Committee to Advise on Reassessment and Transition (CARAT).

III. What Action is the Agency Taking?

A. Reassessment of Non-Contributor Tolerances

In this Notice, EPA identifies several categories of non-contributor tolerances and considers these tolerances reassessed for the purposes of FQPA section 408(q) as of today's date. Pesticide tolerances subject to reassessment under FQPA section 408(q) may only remain in effect without modification if it meets the section 408(b) safety standard. This standard is met if EPA finds that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue." In evaluating tolerances under the standard, the FQPA also instructs the Agency to consider the cumulative effects of the pesticide and other substances that have a common mechanism of toxicity. For each of the tolerances being reassessed, the Agency has issued an IRED, which found that, apart from consideration of the potential cumulative risks from all of the OPs, each of the tolerances would meet the FFDCA safety standard. EPA has now considered the impact of these cumulative risks in the reassessment of these tolerance and has determined that these tolerances make, at most, only a negligible contribution to the overall risks from OPs. Therefore, these tolerances will be maintained regardless of the outcome of the OP cumulative assessment and any potential regulatory action taken as a result of that assessment. Accordingly, EPA believes it is appropriate to consider these tolerances reassessed for the purposes of FQPA section 408(q) as of today's date.

EPA has determined that the tolerances identified in this Notice as reassessed contribute negligible, if any, residues and/or risk to the overall risks from OPs. These OP tolerances have been divided into four broad categories: (1) Certain animal commodities, including milk, eggs, poultry, and other meats (cattle, goats, hogs, horses, and sheep); (2) certain crops that are solely used as animal feeds; (3) certain crops that are refined sugars; and (4) certain other tolerances based on the nature of their use pattern.

In making the determination that these tolerances contribute negligible (if any) residues and/or risk, EPA considered, among other things, the nature of the use of the pesticide, the data used in conducting aggregate risk assessments for each individual OP, the potential for drinking water contamination, and other data and analyses available to the Agency (such as food residue monitoring and other information that the Agency is using for the CRA). The Agency concludes that these pesticide uses result in minimal or no detectable residues in food, and have no or negligible effects through drinking water. No tolerances are herein reassessed as a non-contributor unless all of the raw agricultural commodities (food forms) that are part of that tolerance are also considered to be non-contributors (e.g., the animal feed tolerances are solely for crops fed to animals). EPA also considered the potential impacts of future OP risk management decisions and determined that such decisions would be very unlikely to increase the use of the pesticide on these use sites in a manner or to a degree that the potential exposure under the tolerance would no longer be negligible. As part of its preliminary CRA, the Agency developed an estimate of the potential contribution that OP pesticides used in different parts of the country could make to overall risk as a result of the presence of residues of such pesticides in drinking water. Because of the nature of the available data, EPA's estimate employs assumptions that are designed not to understate potential drinking water exposure. The OP preliminary CRA concluded that drinking water was not a significant source of potential exposure. In reaching the determination to reassess these tolerances, EPA has considered this analysis, the public comment and SAP advices, as well as the information developed to assess the aggregate exposure from drinking water for each of the individual pesticides being reassessed. The Agency's assessment of these tolerances is effectively complete and the tolerances are considered reassessed. Nothing in this Notice is intended to modify in any way any determination or requirement set forth in individual pesticide IREDs. Because these tolerances are to remain in effect, all of these pesticide/use pattern combinations that are included in the preliminary CRA will remain in the CRA even though they involve exposures that pose negligible/minimal risk.

No conclusions about reassessment should be drawn about tolerances that are not identified as non-contributors in this Notice. EPA expects that additional tolerances will be appropriate for reassessment based on the kind of approach described here, and that additional tolerances may be reassessed without the need for regulation upon completion of the CRA. In other words, the failure of a tolerance to be identified as a non-contributor in this or any other announcement does not imply that the pesticide/use combination will ultimately be subject to regulatory action. For tolerances reassessed as announced in this Notice or using the approach described herein, EPA has concluded that the decision to reassess these tolerances will have no impact on any subsequent determination or decisions that may be necessary if the CRA were to conclude that cumulative exposure to the OPs poses risks of concern.

Categories 1 and 2—Animal Commodities (Meats, Poultry, Milk, and Eggs), and Animal Feeds

The first two categories, tolerances for human foods derived from animal sources (referred to as animal commodities) and tolerances for commodities consumed by animals (referred to as animal feeds), are discussed together because the same

information was used to evaluate the likelihood of exposure and risk for both categories of tolerances.

EPA has determined that certain OP tolerances, listed later in the Notice, on animal commodities and animal feeds are reassessed at this time. Currently, there are OP tolerances for many animal commodities: milk, eggs, poultry, and other meats (cattle, goats, hogs, horses, and sheep). Human exposure to pesticide residues can occur as a consequence of the use of a pesticide on animals or their feed if the residues transfer to the animal commodities that humans consume. EPA examined the potential for the transfer to such human foods of OP residues from animal feeds, and from the direct application of the OP to an animal (e.g., to control nuisance pests such as biting flies), and concludes that residue transfer generally does not occur, or if it does, the transfer is minimal. The following summarizes the factors that the Agency considered in making the decision to reassess these tolerances.

The Agency examined the available study data for the OPs, which includes extensive livestock feeding/metabolism studies. These study results are confirmed by extensive monitoring data on animal commodities reflecting all registered uses. There are very few detectable residues in the OP monitoring data for animal commodities. The extensive monitoring data are from the U.S. Department of Agriculture's (USDA) Pesticide Data Program (PDP) and the U.S. Food and Drug Administration's (FDA) Total Diet Study (TDS) covering residues of multiple OPs in meats and poultry. The residue monitoring data showed infrequent detections, and those residues were detected at low levels. Out of approximately 400 meat samples analyzed by the TDS for multiple OPs from 1991-1999, only nine samples detected any OP residues (the residues ranged between 0.002 parts per million (ppm) and 0.009 ppm). Out of the approximately 500 poultry samples analyzed by PDP for multiple OPs for 1997 - 2000, only one sample detected an OP residue (0.01 ppm) for a pesticide that currently has a tolerance.

For milk and eggs, extensive monitoring data are available from USDA's PDP and FDA's Surveillance Program. The residue monitoring data show no detectable OP residues in milk (there was only one trace sample detected out of approximately 1,800 samples analyzed by PDP for multiple OPs from 1996-1998). The residue monitoring for eggs also showed no detectable OP residues (only 1 trace sample was detected out of approximately 1,300 samples analyzed by FDA's Surveillance Program for multiple OPs from 1992–1998). In addition to an examination of the meat, poultry, milk, and egg monitoring data, as described above, the potential risk associated with the detected residues was addressed in the Agency's preliminary CRA of the OP pesticides. Although EPA concluded that "OP residues would not be expected to occur in significant amounts" in meat or milk, EPA nonetheless made the conservative assumption that all meat food forms contained OP residues equal to a level that was the highest found in the FDA monitoring program (TDS). Despite the fact that this assumption would overestimate potential exposure, the analysis in the OP preliminary CRA indicated that animal commodities do not significantly contribute to OP dietary exposure and total OP dietary risk.

In light of all these considerations, the 172 OP meats (cattle, goats, hogs, horses, and sheep), poultry, milk, and egg tolerances listed in Table 1 are considered reassessed. In addition, because animal feeding and metabolism studies indicate that residue transfer to foods that humans eat will be minimal, and because the residues of OPs were detected only very rarely in meats, poultry, milk, and eggs, and only at very low levels, EPA concludes that OPs applied to animal feed crops (such as feed, forage, fodder, nut hulls, vines, and hays) will not be present to any significant extent in human food and such residues will make, at most, a negligible contribution to OP risk. Therefore, the 88 OP tolerances for animal feeds (such as feed, forage, fodder, nut hulls, vines, and hays) listed in Table 2 are also considered reassessed. It is important to note that these tolerances are solely for animal feeds, i.e, the tolerances do not include commodities that are also consumed by humans. EPA expects to announce other meat/poultry/egg/milk and animal feed tolerances as reassessed in future notices as appropriate in light of their individual OP assessments.

In addition, some of these tolerances may be revoked in future Notices in the **Federal Register** if EPA determines that the tolerances are no longer needed. The Agency plans to issue a notice announcing the Agency's intention to revoke several animal meat tolerances because they are no longer necessary.

TABLE 1.—MEATS, POULTRY, MILK, AND EGGS

Chemical	Commodity
Acephate (40 CFR part 180.108)	Cattle, fat Cattle, mbyp Cattle, meat Eggs Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Milk Poultry, fat Poultry, mbyp Poultry, meat Sheep, fat Sheep, mbyp Sheep, meat
Chlorpyrifos (40 CFR part 180.342)	Cattle, fat Cattle, mbyp Cattle, meat Eggs Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Milk, fat Milk, whole Poultry, fat (including turkeys) Poultry, mbyp (including turkeys) Poultry, meat (including turkeys) Sheep, fat Sheep, mbyp Sheep, meat
Chlorpyrifos methyl (40 CFR part 180.419)	Cattle, fat Cattle, mbyp Cattle, meat Eggs Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Milk Milk, fat Poultry, fat Poultry, mbyp Poultry, meat Sheep, fat Sheep, mbyp Sheep, meat

TABLE 1.—MEATS, POULTRY, MILK, AND EGGS—Continued

Chemical	Commodity
Coumaphos (40 CFR part 180.189)	Cattle, fat Cattle, mbyp Cattle, meat Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Milk, fat (=N in whole milk) Sheep, fat Sheep, mbyp Sheep, meat
Fenamiphos (40 CFR part 180.349)	Cattle, fat Cattle, mbyp Cattle, meat Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Milk Sheep, fat Sheep, mbyp Sheep, meat
Oxydemeton methyl (40 CFR part 180.330)	Cattle, fat Cattle, mbyp Cattle, meat Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Milk Sheep, fat Sheep, mbyp Sheep, meat
Phosmet (40 CFR part 180.261)	Cattle, fat Cattle, mbyp Cattle, meat Goats, fat Goats, mbyp Goats, meat Hogs, fat Hogs, mbyp Hogs, meat Horses, fat Horses, mbyp Horses, meat Sheep, fat Sheep, mbyp Sheep, meat

TABLE 1.—MEATS, POULTRY, MILK, AND EGGS—Continued

Chemical	Commodity
Pirimiphos methyl (40 CFR part 180.409)	Cattle, fat Cattle, kidney Cattle, liver Cattle, mbyp Goats, fat Goats, kidney Goats, liver Goats, mbyp Hogs, fat Hogs, kidney Hogs, liver Hogs, mbyp Horses, fat Horses, kidney Horses, liver Horses, mbyp Poultry, fat Sheep, fat Sheep, kidney Sheep, liver Sheep, mbyp
Profenofos (40 CFR part 180.404)	Cattle, fat Cattle, mbyp Cattle, meat Goats, fat Goats, mbyp Goats, meat Horses, fat Horses, mbyp Horses, meat Milk Sheep, fat Sheep, mbyp Sheep, meat
Tribufos (40 CFR part 180.272)	Cattle, fat Cattle, mbyp Cattle, meat Goats, fat Goats, mbyp Goats, meat Milk Sheep, fat Sheep, mbyp Sheep, meat
Trichlorfon (40 CFR part 180.198)	Cattle, fat Cattle, mbyp Cattle, meat

TABLE 2.—ANIMAL FEED

Chemical	Commodity
Acephate (formerly 40 CFR part 186.100)	Cotton, seed, hulls Mint, hay (40 CFR part 180.108)
Azinphos methyl (40 CFR part 180.154)	Alfalfa Alfalfa, hay Almonds, hulls Clover Clover, hay Trefoil, birdsfoot Trefoil, birdsfoot, hay

TABLE 2.—ANIMAL FEED—Continued

Chemical	Commodity
Chlorethoxyphos (40 CFR part 180.486)	Corn, field, Fodder (stover) Corn, field, forage Corn, pop, fodder (stover) Corn, sweet, fodder (stover) Corn, sweet, forage
Chlorpyrifos (40 CFR part 180.342)	Alfalfa, green, forage Alfalfa, hay Almonds, hulls Beets, sugar, pulp, dried Beets, sugar, tops Citrus, pulp, dried Corn, fodder Corn, forage Mint, hay Sorghum, fodder Sorghum, forage Soybeans, forage Soybeans, straw Wheat, forage Wheat, straw
Disulfoton (40 CFR part 180.183)	Barley, fodder, green Barley, straw Beets, sugar, tops Peanuts, hay Peas, vines Sorghum, fodder Sorghum, forage Soybeans, forage Soybeans, hay Wheat, fodder, green Wheat, straw
Ethoprop (40 CFR part 180.262)	Corn, fodder Corn, forage Peanuts, hay
Fenamiphos (formerly 40 CFR part 186.295)	Citrus, pulp, dried Pineapples, bran
Methidathion (40 CFR part 180.298)	Alfalfa Alfalfa, hay Almonds, hulls Grasses Grasses, hay Sorghum, fodder Sorghum, forage
Naled (40 CFR part 180.215)	Almonds, hulls Beets, sugar, tops Grasses, forage Legumes, veg foliage

TABLE 2.—ANIMAL FEED—Continued

Chemical	Commodity
Oxydemeton methyl (40 CFR part 180.330)	Alfalfa, green Alfalfa, hay, for seed Beans, lima, forage Beans, snap forage Beets, sugar, tops Clover, chaff, for seed Clover, green Clover, hay, for seed Corn, fodder Corn, forage Mint, hay Sorghum, forage Sorghum, milled fraction (except flour)
Phorate (40 CFR part 180.206)	Beets, sugar, tops Corn, forage Sorghum, fodder Wheat, fodder, green Wheat, straw
Phosmet (40 CFR part 180.261)	Alfalfa Almonds, hulls Peas, forage Peas, hay
Propetamphos (formerly 40 CFR part 186.510)	Animal feed
Terbufos (40 CFR part 180.352)	Beets, sugar, tops Corn, field, fodder Corn, field, forage Corn, pop, fodder Corn, pop, forage Corn, sweet, fodder Corn, sweet, forage Sorghum, fodder Sorghum, forage

Category 3--Refined Sugars

As discussed in the OP preliminary CRA, negligible OP residues are expected to occur for refined sugars produced from beets and sugarcane based on available monitoring data (USDA's PDP and FDA's TDS) and the nature of the refining process. PDP has analyzed high fructose corn syrup and found no pesticide residues. The TDS has analyzed refined sugar and maple sugar and found no OP residues in 26 market basket surveys. Knowledge of the highly refined nature of sugars and syrups also supports the conclusion that negligible residues are expected to occur in refined sugars from sugarcane and sugar beets. The following 10 tolerances listed in Table 3 are considered reassessed:

TABLE 3—REFINED SUGARS

Chemical	Commodity
Chlorpyrifos (40 CFR part 180.342)	Beets, sugar, molasses Beets, sugar, roots
Disulfoton (40 CFR part 180.183)	Beets, sugar, roots Sugarcane
Ethoprop (40 CFR part 180.262)	Sugarcane
Naled (40 CFR part 180.215)	Beets, sugar, roots
Oxydemeton methyl (40 CFR part 180.330)	Beets, sugar
Phorate (40 CFR part 180.206)	Beets, sugar, roots Sugarcane
Terbufos (40 CFR part 180.352)	Beets, sugar, roots

Category 4 -- Use Pattern Consideration

EPA has determined that an additional small number (five) of OP tolerances can be reassessed now based on the way the pesticides are used.

For the following two pesticide active ingredients, cadusafos and propetamphos, negligible, if any, exposures (including in drinking water) are expected due to the nature of their use patterns. Each pesticide has one tolerance, and both are considered reassessed.

- Cadusafos (40 CFR part 180.461): One import tolerance on bananas. Cadusafos is used exclusively on imported bananas. No detectable food residues are expected from this use based on the nature of the use pattern (e.g., when the pesticide is typically applied) and a consideration of the nature of the commodity (i.e., the protective peel of the banana fruit).
- Propetamphos (40 CFR part 180.541): One tolerance for processed food. Propetamphos is used only as a crack and crevice treatment. It is not allowed to be used in structures that children or the elderly occupy, including homes, schools, day-cares, hospitals, and nursing homes with the exception of areas of food service within those structures when food is covered or removed prior to treatment. As the result of these restrictions, exposure is expected to be negligible.

Chlorethoxyfos (40 CFR part 180.486) is a soil insecticide that is applied at planting to corn, and no detectable food residues are expected from this use. The chlorethoxyfos IRED states that field trials showed no residues (less than 0.01 ppm) of the parent in any of the corn raw agricultural commodities analyzed, even after treatment at a 10X rate. Chlorethoxyfos on corn was included in the OP preliminary CRA to assess its potential for contaminating drinking water. In the preliminary CRA, no drinking water risks were indicated even when high relative potency values were used (a screening relative potency factor (RPF) of 25 was used, which is approximately 200 times greater than the recently calculated RPF for this pesticide). Therefore, the following three chlorethoxyfos corn tolerances are considered reassessed: corn, pop, grain; corn, field, grain; and corn, sweet (K+CWHR) (i.e., kernel plus cob with husks removed).

IV. Approach for Identifying Other Non-Contributor Categories

EPA is evaluating other potential non-contributor tolerances. For example, it is possible that non-contributor determinations could be made for certain categories or types of tolerances for foods that are reported to have little or no consumption, or where few or no residues are detected. In evaluating candidate tolerances, EPA would consider all relevant data and factors, including information from the individual OP aggregate risk assessments, before making a reassessment determination.

The Agency seeks comment about the use of the approach described here and the factors that are relevant to reassessment determinations based on this approach. EPA will announce the reassessment of non-contributor tolerances on the Agency's internet website (www.epa.gov/pesticides/cumulative).

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: May 14, 2002.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesicide Programs.

[FR Doc. 02–12713 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0046; FRL–6836–4]

Notice of Filing a Pesticide Petition To Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment of the pesticide petition (PP 6F3344) proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number OPP–2002–0046, must be received on or before June 21, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0046 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" "Regulation and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0046. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0046 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–2002–0046. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material for clarification, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Dow AgroSciences LLC

PP 6F3344

EPA has received an amendment of the pesticide petition (PP 6F3344) from Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by re-establishing the time-limited tolerances for residues of dichlormid in or on the raw agricultural commodity corn (forage, grain, stover) at 0.05 parts per million (ppm). Zeneca Ag Products requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. A Notice of Filing was submitted and published in the **Federal Register** of September 16, 1998 (63 FR 49568) (FRL–6025–8). Based on the data submitted by Zeneca, the Agency determined that only time-limited tolerances for these residues could be established. The final rule was published on March 27, 2000 (65 FR 16143) (FRL–6498–7) with the time-limited tolerances expiring on March 27, 2002. To establish permanent tolerances the following studies are required: (1) Chronic Feeding Study in Dogs, (2) 2-Generation Reproductive Study in Rats, (3) General Metabolism Study, and (4) Subchronic Neurotoxicity Study, (5) various product chemistry data-color, physical state, water solubility; (6) animal metabolism studies, (7) crop field trials, and (8) rotational crop study (Confined Study). Zeneca committed to fulfill these data gaps. These time-limited tolerances expired on March 27, 2002.

On November 9, 2000, Zeneca Ag Products sold certain parts of its business to Dow AgroSciences. In connection with the sale, Zeneca Ag products tranferred all rights, title, and interest in dichlormid to Dow AgroSciences.Dow AgroSciences has petitioned the Agency to re-establish time-limited tolerances to allow for continued data generation. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The qualitative nature of the residue in plants is adequately understood based on a study depicting the metabolism of dichlormid in corn plants. The metabolism of dichlormid in corn is extensive and occurs via two metabolic pathways. In one pathway dichlormid is de-chlorinated and oxidized to generate *N,N*-diallyl glycolamide. An alternative pathway is the loss of an allyl group followed by oxidation to form dichloroacetic acid. There is also extensive incorporation into natural constituents. EPA has previously determined that dichlormid is the residue of concern for tolerance setting purposes.

2. *Analytical method.* An adequate enforcement method for residues of dichlormid in corn has been developed and validated by the Analytical Chemical Laboratory (ACL) of EPA. Analysis is carried out using gas chromatography with nitrogen selective thermionic detection. The limit of determination is 0.01 ppm.

3. *Magnitude of residues.* Fifteen field trials in field corn with dichlormid were submitted and reviewed. The submitted data support the time-limited tolerance level of 0.05 ppm for all corn commodities.

B. Toxicological Profile

1. *Acute toxicity.* Dichlormid has low acute toxicity as indicated by a range of studies including: A rat acute oral study with an LD_{50} of 2,816 milligram/kilogram (mg/kg) for males and 2,146 mg/kg for females, respectively; a rat acute dermal study with an LD_{50} of >2,040 mg/kg and a rabbit acute dermal study with an LD_{50} of >5,000 mg/kg; a rat inhalation study with an LD_{50} of >5.5 mg/L; a primary eye irritation study in the rabbit showing mild ocular irritation; a primary dermal irritation study in the rabbit showing severe skin irritation; and, a skin sensitization study which showed that dichlormid was a mild skin sensitizer in the guinea pig.

2. *Genotoxicity.* Dichlormid was not mutagenic in a range of *in vitro* assays including the *Salmonella*/microsome (Ames) assay, the human lymphocyte cytogenetic assay (both assays with and without metabolic activation) and an unscheduled DNA synthesis (DNA repair) assay in hepatocytes. In the L5178Y mouse lymphoma assay small increases in mutant frequency were observed only at cytotoxic concentrations and were not considered to be significant. *In vivo*, dichlormid was negative in the mouse micronucleus test and in the rat unscheduled DNA synthesis assay when tested at the maximum tolerated dose.

3. *Reproductive and developmental toxicity.* In a developmental toxicity study, rats were dosed orally by gavage with 0, 10, 40, or 160 mg/kg/day. The no observed adverse effect level (NOAEL) for maternal toxicity was 10 mg/kg/day based on a reduction in bodyweight gain and food consumption at 40 and 160 mg/kg/day. The developmental NOAEL was determined

to be 40 mg/kg/day based on marginal fetotoxic effects, including extra 14th ribs probably due to maternal stress, slight sternebra misalignment and some centra unossified, at 160 mg/kg/day.

In a developmental toxicity study, rabbits were dosed orally by gavage with 0, 5, 30, or 180 mg/kg/day. The lowest observed adverse effect level (LOAEL) for both maternal and fetotoxicity was 180 mg/kg/day characterized by reduced body weight gain and food consumption and a small increase in post-implantation loss, an increased number of early resorptions, a decreased number of fetuses per litter and evidence of fetotoxicity (partial ossification and misshapen/fused sternebrae). The NOAEL for both maternal and developmental toxicity was 30 mg/kg/day.

In a 2–generation reproduction study in rats fed diets of 0, 15, 75, and 500 ppm of dichlormid, dietary administration of 500 ppm dichlormid (48.5 mg/kg/day) for two successive generations resulted in decreased bodyweights and increased liver-weights in parents and pups of both generations. There were no effects on reproductive performance or reproductive organs at dose levels up to and including 500 ppm dichlormid. There were no toxicologically significant effects in parents or offspring at a dose level of 75 ppm dichlormid (>7.4 mg/kg/day).

4. *Subchronic toxicity.* In a subchronic toxicity study, groups of 12 male and 12 female Wistar-derived alpk:ApfSD rats were fed diets containing 0, 20, 200, or 2,000 ppm dichlormid for 90 days. Significant reductions in bodyweight gain and food consumption were seen in male and female rats receiving 2,000 ppm dichlormid and, to a lesser degree, in females at 200 ppm. The liver was identified as the principal target organ (enlargement, increased APDM activity in females, centrilobular hypertrophy, increased bile duct pigmentation) in the 2,000 ppm group. The NOAEL was 20 ppm (equivalent to approximately 1.8 mg/kg/day - see discussion under Chronic toxicity in Unit 2.B.5 of this document) and the LOAEL was 200 ppm, based on reduced bodyweight gain and food consumption and a marginal increase in APDM activity in females and liver enlargement in males.

In a 90–day dog feeding study, previously submitted and accepted by EPA, animals were dosed (4 dogs/sex/dose) at 0, 1, 5, 25, and 50 mg/kg/day. The NOAEL was 5 mg/kg/day and the LOAEL 25 mg/kg/day based on reduced bodyweight gain, increased liver weight and degenerative changes in voluntary muscle with an associated increase in plasma creatine kinase and alkaline phosphatase activity between 6 and 10 weeks.

In a 14–week rat inhalation study, groups of 18 male and 18 female Sprague-Dawley CD rats were subjected to a whole body exposure of 0, 2.0, 19.9, or 192.5 mg/m^3 for 6 hours per day, 5 days per week. The NOAEL was 2.0 mg/m^3 based on histopathologic tissue alterations to the nasal olfactory epithelium at 19.9 and 192.5 mg/m^3, suggesting that dichlormid was a mild irritant to the nasal cavity. An increase in relative liver, kidney, and lung weights at 19.9 and 192.5 mg/m^3 was not supported by gross or histopathological observations.

5. *Chronic toxicity.* Rats (64/sex/group) were fed diets containing 0, 20, 100, or 500 ppm dichlormid (0, 1.3, 6.5, 32.8 mg/kg/day for males and 0, 1.5, 7.5, 37.1 mg/kg/day for females) for up to 2 years. At 500 ppm in both males and females, there were treatment-related effects on growth and food consumption, minor reductions in plasma triglycerides and in males, increased liver weights, accompanied by hepatocyte vaculolation and pigmentation effects. In females there was a slight overall increase in malignant tumors, primarily uterine adenocarcinomas, at 500 ppm, but this specific increase was within the spontaneous incidence observed in historical data. It was concluded that there was no evidence of oncogenicity associated with dichlormid treatment. The NOAEL for chronic toxicity was 100 ppm (6.5 and 7.5 mg/kg/day for males and females, respectively).

In an 18-month oncogenicity study, mice (55/sex/group) were fed dichlormid at doses of 0, 10, 50, or 500 ppm (0, 1.4, 7.0, 70.7 mg/kg for males and 0, 1.84, 9.2, 92.4 mg/kg for females). At 500 ppm there was a slight increase in mortality for females from week 64 onwards, and bodyweights and food utilization were reduced in males, and, to a lesser extent in females. Also, mice fed 500 ppm dichlormid showed non-neoplastic changes which were minor and consisted of changes in severity or incidence of common spontaneous findings. Based on these effects, the chronic NOAEL was 50 ppm (7.0 and 9.2 mg/kg/day for males and females, respectively). There was a marginal increase in Harderian gland adenomas in males at 500 ppm, but this was considered to reflect the variable spontaneous tumor rate seen in this strain and sex of mouse. It was concluded there was no evidence of oncogenicity associated with dichlormid treatment.

Based on available chronic toxicity data, the Reference Dose (RfD) for dichlormid is 0.07 mg/kg/day. This RfD is based on the 2–year feeding study in rats with an NOAEL of 7 mg/kg/day. An uncertainty factor of 100 was used to account for interspecies extrapolation and intraspecies variability. The 2–year rat study is consistent with, but supersedes, the 90–day rat study. The 2–year rat NOAEL of 7 mg/kg/day lies between 1.8 and 18 mg/kg/day derived from the NOAEL and LOAEL figures of 20 and 200 ppm, respectively, for the most recent 90-day rat study. Thus, the overall NOAEL in the rat for both chronic and subchronic exposure should be regarded as 7 mg/kg/day. Based on the proposed Guidelines for Carcinogenic Risk Assessment (July 1999), dichlormid is not likely to be a human carcinogen and a margin of exposure (MOE) approach should be used for human risk assessment.

6. *Animal metabolism.* Dichlormid was well absorbed, extensively metabolized and eliminated mainly in the urine within 24 hours. A significant proportion of the dose, up to 11%, was exhaled as CO_2. Two routes of biotransformation have been identified. One route involved the formation of an alcohol *N,N*-diallylglycolamide before subsequent oxidation to *N,N*-diallyloxamic acid, a major metabolite present in the urine and feces of both sexes. *N,N*-diallylglycolamide also undergoes further biotransformation to minor dechlorinated metabolites. In the second metabolic pathway dichloroacetic acid present in the urine of both sexes is formed either directly from dichlormid or indirectly by transformation of *N*-allyl-2,2-dichloro-*N*-(2,3-dihydroxypropyl)acetamide. Entero-hepatic recirculation plays a major role in the distribution, metabolism and excretion of dichlormid. The elimination as CO_2, the even elimination in urine over the first 24 hours, and wide distribution of retained radioactivity indicates some incorporation into endogenous metabolic processes.

7. *Metabolite toxicology.* No unique plant or soil metabolites have been identified that warrant a separate toxicological assessment.

8. *Endocrine disruption.* There is no overall trend in the toxicology database that indicates that dichlormid would have endocrine disrupting activity. The mammalian and ecotoxicology databases do not indicate significant adverse effects associated with endocrine disrupter activity.

C. Aggregate Exposure

1. *Food.* In conducting a chronic dietary risk assessment, reference is made to the conservative assumptions made by EPA: Dichlormid time-limited tolerances (65 FR 16143, March 27, 2000), 100% crop-treated, and that all commodities contain residues at the tolerance or proposed tolerance. The analysis was determined using the Novigen Dietary Exposure Evaluation Model (DEEM Version 6.2) software and the United States Department of Agriculture (USDA) Nationwide Continuing Surveys of Food Intake by Individuals (CSFII) survey that was conducted from 1994 through 1996.

2. *Drinking water.* Dichlormid is very rapidly degraded in soil (laboratory measured aerobic half-life of 8 days) and applied at a maximum rate of 0.5 lb/acre, so despite only exhibiting moderate adsorption to soil (Koc 36-49), the leaching potential for dichlormid to reach ground water is expected to be low. The impact of the interactive processes of adsorption and degradation on leaching have been assessed using EPA mathematical models of pesticide movement in soil. Drinking water estimate concentrations (DWEC) were calculated for ground water using Screening Concentration in Ground Water (SCI-GROW) modeling, and surface water estimate concentrations were calculated using Generic Estimated Environmental Concentration (GENEEC) modeling. These models predict a ground water concentration of 0.05 ppb and surface water concentrations of 27.3 ppb for an instantaneous peak and 26.9 ppb for a 56–day average. However, the interim Agency policy in March 2000, allowed the average 56–day GENEEC values to be divided by 3 (9.0 ppb) to obtain a value for chronic risk assessments. Drinking water levels of concern (DWLOC) were then calculated for both chronic and acute exposure. These DWLOC values are all comfortably below the water exposure estimates obtained from the screening level model GENEEC. Dow AgroSciences does not expect exposure to dichlormid residues in drinking water to be a concern.

3. *Non-dietary exposure.* The general population is not expected to be exposed to dichlormid through non-dietary routes since dichlormid is used only on agricultural crops and is not used in or around the home.

D. Cumulative Effects

The potential for cumulative effects of dichlormid and other substances that have a common mechanism of toxicity have been considered. There is no reliable information to suggest that dichlormid has any toxic effects that arise from toxic mechanisms common to other substances. Therefore, a consideration of common mechanism and cumulative effects with other substances is not appropriate for dichlormid.

E. Safety Determination

1. *U.S. population—i. Chronic risk.* Using the conservative exposure assumptions described earlier, and based on the completeness and reliability of the toxicity data base for dichlormid, the theoretical maximum residue concentration (TMRC) for the general U.S. population is calculated to be 0.00009 mg/kg/day, or 4.1% of the cPAD (0.0022 mg/kg/day). The most highly exposed subgroup are children aged 1-6 years with a TMRC of 0.000211 mg/kg/day, or 9.6% of the cPAD. The RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Dow AgroSciences concludes that there is a reasonable certainty that no harm will result from aggregate exposure to dichlormid residues.

ii. *Acute risk.* The acute toxicity of dichlormid is low and there are no concerns for acute-dietary, occupational, or non-occupational exposures to dichlormid.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of dichlormid, data from developmental toxicity studies in the rat and rabbit have been considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. There was no evidence to suggest that dichlormid was a developmental toxicant in either the rat or rabbit. It was also observed that there was no risk below maternally toxic doses as the NOAEL for developmental effects in the rat was 40 mg/kg/day, compared to the maternal NOAEL of 10 mg/kg/day and, in the rabbit study, the NOAEL for both maternal and developmental effects was 30 mg/kg/day. EPA previously concluded in the March 27, 2000 **Federal Register** that the additional 10x safety factor should be retained due to the qualitative evidence of increased susceptibility demonstrated following *in utero* exposure in the prenatal developmental toxicity in rabbits and an incomplete toxicity data base. It should be noted that in the rabbit developmental toxicity study, the LOAEL for both maternal and developmental toxicity was 180 mg/kg/day. The effects on resorptions at this dose were observed in dams which showed an average weight loss (-3.8 gram) during the treatment period compared with an average weight gain in controls of 272 gram. Also, a multigeneration study has now been completed and, therefore, an additional safety factor should no longer be necessary.

Additional uncertainty factors are not warranted for the safety of infants and children as reliable data support the appropriate use of a 100-fold uncertainty factor (MOE) to account for interspecies extrapolation and intraspecies variability. However, using the conservative exposure assumptions above for the determination in the general population, it is concluded that the percentage of cPAD that will be utilized by aggregate exposure to dichlormid is 9.6% for children aged 1-6 years (the group at highest risk). Therefore, based on the completeness and reliability of the toxicity database and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to dichlormid residues.

F. International Tolerances

A Maximum Residue Level has not been established for dichlormid by the Codex Alimentarius Commission.

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BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0050; FRL–6836–8]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under theFederal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were granted during the period January 1, 2002 to March 31, 2002 to control unforseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption or denial for the name of a contact person. The following information applies to all contact persons: Team Leader, Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366.

SUPPLEMENTARY INFORMATION: EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you petition EPA for authorization under section 18 of FIFRA to use pesticide products which are otherwise unavailable for a given use. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Federal Government	9241	Federal agencies that petition EPA for section 18 pesticide useauthorization
State and Territorial government agencies charged with pesticide authority	9241	State agencies that petition EPA for section 18 pesticide useauthorization

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this unit could also be regulated. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 166. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of thisdocument, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0050. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

Under FIFRA section 18, EPA can authorize the use of a pesticide whenemergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A "specific exemption" authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. "Quarantine" and "public health" exemptions are a particular form of specific exemption issued for quarantine or public health purposes. These are rarely requested.

3. A "crisis exemption" is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in "a reasonable certainty of no harm" to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the "reasonable certainty of no harm standard" of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U. S. States and Territories

Alabama

Department of Agriculture and Industries

Denial: On February 20, 2002, EPA denied the use of norflurazon on bermudagrass meadows to control annual grassy weeds. This request was denied because a registered alternative is now available; a significant economic loss has not been demonstrated to occur if an additional pesticide is not made available; EPA can no longer determine that reasonable progress toward registration is being made; EPA is unable to reach a "reasonable certainty of no harm" finding regarding human health effects which may result if the pesticide use were to occur; and EPA is unable to conclude that use of this product would not result in unacceptable adverse effects to the environment and ground water resources.Contact: (Libby Pemberton).

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; March 22, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of diuron on commercial catfish ponds to control blue-green algae; June 1, 2002 to November 30, 2002. Contact: (Dan Rosenblatt)

Arkansas

State Plant Board

Specific: EPA authorized the use of coumaphos in beehives to control

varroa mites and small hive beetles; February 20, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; March 7, 2002 to July 31, 2002. Contact: (Dan Rosenblatt)
California
Environmental Protection Agency, Department of Pesticide Regulation
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact:.(Barbara Madden)
EPA authorized the use of s-metolachlor on tomato to control weeds; March 12, 2002 to July 31, 2002. Contact: (Andrew Ertman)
EPA authorized the use of tebufenozide on wine grapes to control grape leaffolder (*Desmia funeralis* (*Hubner*)) and Omnivorous leafroller (*Platynota stultana* (*Walshingham*)); April 1, 2002 to October 31, 2002. Contact: (Barbara Madden)
EPA authorized the use of fludioxonil on stone fruit to control brown rot, gray mold and rhizopus rot; May 1, 2002 to November 1, 2002. Contact: (Andrew Ertman)
Colorado
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 26, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of difenoconazole on sweet corn seed to control fungal pathogens; February 28, 2002 to February 28, 2003. Contact: (Andrea Conrath)
EPA authorized the use of s-metolachlor on spinach to control pigweed; March 19, 2002 to September 30, 2002. Contact: (Andrew Ertman)
EPA authorized the use of sulfentrazone on sunflowers to control broadleaf weeds; April 1, 2002 to July 1, 2002. Contact: (Andrew Ertman)
Connecticut
Department of Environmental Protection
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of propiconazole on blueberries to control mummy berry disease; March 19, 2002 to June 15, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of imidacloprid on strawberries to control root feeding beetles; July 1, 2002 to August 7, 2002. Contact: (Andrew Ertman)
Delaware
Department of Agriculture
Denial: On February 14, 2002, EPA denied the use of chloropropham on spinach to control weeds. This request was denied because no progress towards registration has been made and based upon information available to the Agency no progress towards registration will be made for this use. Contact: (Barbara Madden).
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; March 4, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of terbacil on watermelons to control broadleaf weeds; March 27, 2002 to June 15, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of imidacloprid on stone fruit to control aphids; April 1, 2002 to October 15, 2002. Contact: (Andrew Ertman)
Florida
Department of Agriculture and Consumer Services
Specific: EPA authorized the use of pyriproxyfen on legume vegetables to control whiteflies; February 5, 2002 to February 5, 2003. Contact: (Andrea Conrath)
EPA authorized the use of thiophanate methyl on citrus to control Postbloom Fruit Drop; February 22, 2002 to February 22, 2003. Contact: (Andrea Conrath)
EPA authorized the use of fenbuconazole on grapefruit to control greasy spot; March 1, 2002 to November 1, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of tebufenozide on lychee and longan to control Lychee webworm; March 3, 2002 to March 2, 2003. Contact: (Barbara Madden)
Georgia
Department of Agriculture
Specific: EPA authorized the use of fludioxonil on stone fruit to control brown rot; April 15, 2002 to September 1, 2002. Contact: (Andrew Ertman)
Idaho
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of fosetyl-Al on pea seed to control downy mildew; February 4, 2002 to June 30, 2002. Contact: (Andrew Ertman)
EPA authorized the use of oxytetracycline on apples to control fire blight; March 8, 2002 to August 1, 2002. Contact: (Andrea Conrath)
EPA authorized the use of carfentrazone-ethyl on hops to control hop suckers to indirectly control powdery mildew; March 22, 2002 to September 22, 2002. Contact: (Barbara Madden)
EPA authorized the use of myclobutanil on hops to control powdery mildew; March 22, 2002 to September 22, 2002. Contact: (Barbara Madden)
Illinois
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of dimethomorph on squash, cantaloupes, watermelons, cucumbers, and pumpkins to control crown rot,*phytophthora capsici*; March 19, 2002 to September 30, 2002. Contact: (Libby Pemberton)
Indiana
Office of Indiana State Chemist
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 15, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; March 7, 2002 to July 31, 2002. Contact: (Dan Rosenblatt)
Iowa
Department of Agriculture and Land Stewardship
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; March 4, 2002 to February 1, 2003. Contact: (Barbara Madden)
Kansas
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa*mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of fluroxypyr on range and grass pastures to control sericea lespedeza (*Lespedeza cuneata*); March 4, 2002 to August 31, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of sulfentrazone on sunflowers to control kochia and weeds; April 15, 2002 to July 1, 2002. Contact: (Andrew Ertman)
EPA authorized the use of tebuconazole on sunflowers to control rust (*Puccinia helianthi*); June 1, 2002 to September 15, 2002. Contact: (Dan Rosenblatt)
Kentucky
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)
Louisiana
Department of Agriculture and Forestry
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 15, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of 3-chloro-p-touidine hydrochloride on fallow areas to control various birds, including red-winged blackbirds; February 15, 2002 to October 15, 2002. Contact: (Libby Pemberton)
EPA authorized the use of thiophanate methyl on citrus to control Postbloom Fruit Drop; February 22, 2002 to February 22, 2003. Contact: (Andrea Conrath)
EPA authorized the use of coumaphos in beehives to control*varroa* mites and small hive beetles; March 28, 2002 to August 31, 2002. Contact: (Barbara Madden)
Maine
Department of Agriculture, Food, and Rural Resources
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; March 4, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of propiconazole on blueberries to control mummy berry disease; April 15, 2002 to June 15, 2002. Contact: (Dan Rosenblatt)
Maryland
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of dimethomorph on squash, cantaloupes, watermelons, cucumbers, and pumpkins to control crown rot,*phytophthora capsici*; March 19, 2002 to September 30, 2002. Contact: (Libby Pemberton)
EPA authorized the use of imidacloprid on stone fruit to control aphids; April 1, 2002 to November 30, 2002. Contact: (Andrew Ertman)
EPA authorized the use of s-metolachlor on tomatoes to control eastern black nightshade and yellow nutsedge; April 10, 2002 to July 31, 2002. Contact: (Andrew Ertman)
Massachusetts
Massachusetts Department of Food and Agriculture
EPA authorized the use of clopyralid on cranberries to control various weeds; February 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of pronamide on cranberries to control dodder; March 20, 2002 to June 15, 2002. Contact: (Andrew Ertman)
Michigan
Michigan Department of Agriculture
Specific: EPA authorized the use of oxytetracycline on apples to control fire blight; March 8, 2002 to June 30, 2002. Contact: (Andrea Conrath)
EPA authorized the use of coumaphos in beehives to control*varroa* mites and small hive beetles; March 28, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of s-metolachlor on tomatoes to control eastern black nightshade; April 1, 2002 to July 1, 2002. Contact: (Andrew Ertman)
EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; April 1, 2002 to September 1, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of halosulfuron-methyl on asparagus to control yellow nutsedge and pigweed; May 1, 2002 to August 15, 2002. Contact: (Andrew Ertman)
Minnesota
Department of Agriculture
EPA authorized the use of 2,4-D on wild rice to control common waterplantain; February 5, 2002 to July 31, 2002. Contact: (Andrew Ertman)
EPA authorized the use of tetraconazole on sugar beets to control *Cercospora* leafspot; March 7, 2002 to September 30, 2002. Contact: (Andrea Conrath)
EPA authorized the use of sulfentrazone on chickpeas and field peas to control wild buckwheat; April 1, 2002 to June 30, 2002. Contact: (Andrew Ertman)
EPA authorized the use of sulfentrazone on sunflowers to control kochia; April 15, 2002 to June 30, 2002. Contact: (Andrew Ertman)
EPA authorized the use of clopyralid on canola to control Canada thistle and perennial sowthistle; May 1, 2002 to July 31, 2002. Contact: (Libby Pemberton)
Specific: EPA authorized the use of tebuconazole on barley to control *Fusarium* head blight; May 15, 2002 to September 1, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of tebuconazole on wheat to control*Fusarium* head blight; May 15, 2002 to September 1, 2002. Contact: (Dan Rosenblatt)
Mississippi
Department of Agriculture and Commerce
Denial: On February 14, 2002, EPA denied the use of glufosinate-ammonium on blueberries to control broadleaf and grass weeds. This request was denied because the situation was determined to be routine and not urgent because adequate alternatives are available and no change in the weed control situation has been demonstrated. Contact: (Libby Pemberton).
Specific: EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; February 4, 2002 to August 31, 2002. Contact: (Dan Rosenblatt)
EPA authorized the use of diuron on commercial catfish ponds to control blue-green algae; April 1, 2002 to November 30, 2002. Contact: (Dan Rosenblatt)
Missouri
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 26, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of sulfentrazone on sunflowers to control water hemp and morning glory; April 1, 2002 to July 31, 2002. Contact: (Andrew Ertman)
Montana
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 15, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of tetraconazole on sugar beets to control *Cercospora* leafspot; March 7, 2002 to September 30, 2002. Contact: (Andrea Conrath)
EPA authorized the use of sulfentrazone on sunflowers to control kochia;April 15, 2002 to June 30, 2002. Contact: (Andrew Ertman)
EPA authorized the use of dimethenamid on sugar beets to control nightshade, redroot pigweed; May 2, 2002 to July 31, 2002. Contact: (Barbara Madden)
Nebraska
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of sulfentrazone on sunflowers to control broadleaf weeds; April 15, 2002 to June 30, 2002. Contact: (Andrew Ertman)
Nevada
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles: March 22, 2002 to February 1, 2003. Contact: (Barbara Madden)
New Jersey
Department of Environmental Protection
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)
EPA authorized the use of propiconazole on blueberries to control mummy berry disease; March 15, 2002 to June 30, 2002. Contact: (Meredith Laws)

EPA authorized the use of imidacloprid on stone fruit to control aphids; April 1, 2002 to November 30, 2002. Contact: (Andrew Ertman)

New Mexico

Department of Agriculture

Specific: EPA authorized the use of metsulfuron-methyl on sorghum to control pigweed; June 1, 2002 to September 30, 2002. Contact: (Andrew Ertman)

New York

Department of Environmental Conservation

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of dimethomorph on squash, cantaloupes, watermelons, cucumbers, and pumpkins to control *Phytophthora capsici*; March 28, 2002 to September 30, 2002. Contact: (Libby Pemberton)

EPA authorized the use of dimethenamid on dry bulb onions to control yellow nutsedge and other broadleaf weeds; May 1, 2002 to July 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of desmedipham on red (table) beets to control broadleaf weeds; May 15, 2002 to August 15, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of imidacloprid on stone fruit to control aphids; March 22, 2002 to October 15, 2002. Contact: (Andrew Ertman)

North Carolina

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; March 7, 2002 to July 31, 2002. Contact: (Dan Rosenblatt)

North Dakota

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of tetraconazole on sugar beets to control *Cercospora* leafspot; March 7, 2002 to September 30, 2002. Contact: (Andrea Conrath)

EPA authorized the use of sulfentrazone on sunflowers to control kochia; April 15, 2002 to June 30, 2002. Contact: (Andrew Ertman)

EPA authorized the use of clopyralid on canola to control Canada thistle and perennial sowthistle; May 1 to July 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of tebuconazole on sunflowers to control rust (*Puccinia helianthia*; July 5, 2002 to September 5, 2002. Contact: (Dan Rosenblatt)

Ohio

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of sulfentrazone on strawberries to control broadleaf weeds; June 20, 2002 to December 15, 2002. Contact: (Barbara Madden)

Oklahoma

Department of Agriculture

Specific: EPA authorized the use of sulfentrazone on sunflowers to control broadleaf weeds; April 15, 2002 to July 15, 2002. Contact: (Andrew Ertman)

EPA authorized the use of metsulfuron-methyl on sorghum to control pigweed; June 15,2002 to August 15, 2002. Contact: (Andrew Ertman)

EPA authorized the use of s-metolachlor on spinach to control weeds; August 15, 2002 to March 31, 2003. Contact: (Andrew Ertman)

Oregon

Department of Agriculture

Denial: On February 26, 2002 EPA denied the use of tebuconazole on hazelnuts to control eastern filbert blight. This request was denied because an exemption was issued for a different material, triflumizole, to address this situation, and the request for an exemption for a second material was not justified. Additionally, the Agency is currently reviewing recent data regarding the triazole group of pesticides, of which tebuconazole is a member; because of recently discovered toxicity concerns, the Agency is not considering any new uses of triazoles until the review of this data is completed and a conclusion is reached. Contact: (Andrea Conrath).

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of ethoprop on baby and idle hops only to control garden symphylans (*Scutigerella immaculatta*); February 6, 2002 to May 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; February 12, 2002 to May 31, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of triflumizole on hazelnuts to control eastern filbert blight; February 26, 2002 to May 30, 2002. Contact: (Andrea Conrath)

EPA authorized the use of oxytetracycline on apples to control fire blight; March 8, 2002 to August 1, 2002. Contact: (Andrea Conrath)

EPA authorized the use of sulfentrazone on strawberries to control broadleaf weeds; March 15, 2002 to February 28, 2003. Contact: (Barbara Madden)

EPA authorized the use of carfentrazone-ethyl on hops to control hop suckers to indirectly control powdery mildew; March 22, 2002 to September 22, 2002. Contact: (Barbara Madden)

EPA authorized the use of myclobutanil on hops to control powdery mildew; March 22, 2002 to September 22, 2002. Contact: (Barbara Madden)

Pennsylvania

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 15, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of imidacloprid on stone fruit to control aphids; April 15, 2002 to October 15, 2002. Contact: (Andrew Ertman)

EPA authorized the use of metolachlor on tomatoes to control eastern black nightshade, puslane, common lambsquarters, and hairy nightshade; April 15, 2002 to July 15, 2002. Contact: (Andrew Ertman)

EPA authorized the use of s-metolachlor on spinach to control weeds; May 1, 2002 to August 30, 2002. Contact: (Andrew Ertman)

Rhode Island

Department of Environmental Management

Specific: EPA authorized the use of clopyralid on cranberries to control various weeds; February 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of pronamide on cranberries to control dodder; March 20, 2002 to June 15, 2002. Contact: (Andrew Ertman)

South Carolina

Clemson University

Specific: EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; February 4, 2002 to August 31, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)

South Dakota

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of sulfentrazone on sunflowers to control kochia; April 15, 2002 to June 30, 2002. Contact: (Andrew Ertman)

Tennessee

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 6, 2002 to February 1, 2003. Contact: (Barbara Madden)

Texas

Department of Agriculture

Specific: EPA authorized the use of metsulfuron-methyl on sorghum to control triazine-resistant pigweed; February 1, 2002 to August 1, 2002. Contact: (Andrew Ertman)

EPA authorized the use of carbofuran on cotton to control cotton aphid; March 15, 2002 to October 31, 2002. Contact: (Meredith Laws)

EPA authorized the use of sulfentrazone on sunflowers to control weeds; March 20, 2002 to June 30, 2002. Contact: (Andrew Ertman)

EPA authorized the use of s-metolachlor on spinach to control weeds; June 29, 2002 to June 29, 2003. Contact: (Andrew Ertman)

Utah

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of oxytetracycline on apples to control fire blight; March 8, 2002 to August 1, 2002. Contact: (Andrea Conrath)

Vermont

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Virginia

Department of Agriculture and Consumer Services

Specific: EPA authorized the use of s-metolachlor on tomatoes to control eastern black nightshade and yellow nutsedge; March 12, 2002 to August 10, 2002. Contact: (Andrew Ertman)

Washington

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of fosetyl-Al on pea seed to control downy mildew; February 4, 2002 to June 30, 2002. Contact: (Andrew Ertman)

EPA authorized the use of oxytetracycline on apples to control fire blight; March 8, 2002 to August 1, 2002. Contact: (Andrea Conrath)

EPA authorized the use of sulfentrazone on strawberries to control broadleaf weeds; March 15, 2002 to February 28, 2003. Contact: (Barbara Madden)

EPA authorized the use of propiconazole on blueberries to control mummy berry disease; March 19, 2002 to June 15, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of carfentrazone-ethyl on hops to control hop suckers to indirectly control powdery mildew; March 22, 2002 to September 22, 2002. Contact: (Barbara Madden)

EPA authorized the use of myclobutanil on hops to control powdery mildew; March 22, 2002 to September 22, 2002. Contact: (Barbara Madden)

Wisconsin

Department of Agriculture, Trade, and Consumer Protection

Specific: EPA authorized the use of clopyralid on cranberries to control wild bean, narrow-leaved goldenrod, asters, Joe-Pye weed, ragweed, itchfork or Devil's beggar-tick, smartweed, and clover; January 26, 2002 to December 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of dimethenamid on dry bulb onions to control yellow nutsedge and broadleaf weeds; April 1, 2002 to July 31, 2002. Contact: (Barbara Madden)

EPA authorized the use of propiconazole on cranberries to control cottonball disease; April 15, 2002 to July 31, 2002. Contact: (Dan Rosenblatt)

Wyoming

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of tetraconazole on sugar beets to control *Cercospora* leafspot; March 7, 2002 to September 30, 2002. Contact: (Andrea Conrath)

EPA authorized the use of sulfentrazone on sunflowers to control kochia; April 15, 2002 to June 30, 2002. Contact: (Andrew Ertman)

EPA authorized the use of dimethenamid on sugar beets to control nightshade, redroot pigweed and ALS-resistant kochia; May 2, 2002 to July 31, 2002. Contact: (Barbara Madden)

B. Federal Departments and Agencies

Environmental Protection Agency

Office of Solid Waste and Emergency Response

Crisis: On January 2, 2002, for the use of ethylene oxide to determine the efficacy of the ethylene oxide sterilization cycles to decontaminate standard letter mail contaminated or potentially contaminated by *Bacillus anthracis*. This program is expected to end on January 17, 2002. Contact: (Barbara Madden)

On January 30, 2002, for the use of paraformaldehyde to decontaminate a 9,700 square foot area of the Department of Justice Mailroom located at 36001 Pensy Drive, Landover, Maryland as well as machinery and equipment contaminated or potentially contaminated by *Bacillus anthracis*. This program is expected to end on February 14, 2002. Contact: (Barbara Madden)

List of Subjects

Environmental protection, Pesticides and pest.

Dated: May 3, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

FR Doc: 02–12848 Filed 5–21–02; 8:45 am

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7211–1]

Proposed Addition of a New System of Record

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to create a Privacy Act System of record.

SUPPLEMENTARY INFORMATION: The Child Care Tuition Assistance Program. This pilot program was created as the result of Public Law 107–67, Section 630, which allowed executive agencies to use appropriated funds to provide child care services for Federal civilian employees. The purpose of the records maintained in this system-is to establish and verify EPA employee eligibility for child care subsidies to provide monetary assistance to them.

EPA–49

SYSTEM NAME:

Child Care Tuition Assistance Program Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Environmental Protection Agency/Office of Human Resources and

Organizational Services/Employee Services Staff, MC: 3611, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current employees of the Environmental Protection Agency who voluntarily apply for a child care subsidy, their spouses, and children who are enrolled in a licensed Federal and non-Federal center, and licensed home-based care.

(2) Child-care providers of these employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information collected will include the employee's name, spouse's name, employee's title, grade, home and work telephone numbers, home and work addresses, the organization in which the employee works, the employee's social security number, the spouse's social security number, the employee's tax returns, the spouse's tax returns, the name and social security number of the child on whose behalf the parent is applying for a subsidy, the child's date of birth, the date of entry into the Child Care Subsidy Program, and the amount of subsidy received; the name, address, telephone number, employer identification number (EIN), license and accreditation status of the child care center in which the employee's child(ren) is (are) enrolled, and the dates of attendance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 107–67, Section 630 and Executive Order 9397.

PURPOSE(S):

The primary use of the records maintained in this system is to establish and verify Environmental Protection Agency employee's eligibility for child care subsidies in order to provide monetary assistance to them. Other uses of the records in the system include verifying the eligibility of child care and verifying compliance with regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses applicable to more than one system includes: A; E; F; H; J, as stated in the guidelines for preparing notice for a system of records under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored both in file folders, and in electronic form, in computer systems.

RETRIEVABILITY:

Records are retrieved by the names, regional location and social security numbers of employees applying for child care subsidies.

SAFEGUARDS:

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records are password-protected and maintained with safeguards meeting the security requirements of 40 CFR 16.10—Disclosure of record to person(s) other than the individual to whom it pertains.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

National Program Manager/Office of Human Resources and Organizational Services, U.S. Environmental Protection Agency, MC:3611, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records contained in the system should be addressed to the System Manager. The request must be in writing, signed by the requester, include the requester's full name and social security number, and must meet the content requirements of 40 CFR 16.3—Procedures for requests pertaining to individual records in a record system.

RECORD ACCESS PROCEDURES:

A request for access to records contained in the system should be addressed to the System Manager. The request must be in writing, signed by the requester, include the requester's full name and social security number, and meet the content requirements of 40 CFR 16.3—Procedures for requests pertaining to individual records in a record system.

CONTESTING RECORDS PROCEDURES:

A petition for amendment for records contained in the system should be addressed to the System Manager. The request must be in writing, signed by the requester, include the requester's full name and Social Security Number, and meet the content requirements of 40 CFR 16.7—Request for correction or amendment of record.

RECORD SOURCE CATEGORIES:

Applications for child care subsidies and supporting records, which are voluntarily submitted by EPA employees applying for child care subsidies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: May 10, 2002.

Kim Nelson,

Assistant Administrator and Chief Information Officer.

[FR Doc. 02–12769 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010168–018.

Title: New Caribbean Service Rate Agreement.

Parties: CMA CGM S.A., Hapag-Lloyd Container Linie GmbH, P&O Nedlloyd Limited/P&O Nedlloyd B.V., Hamburg-Süd KG, Compania Sud Americana de Vapores, S.A.

Synopsis: The proposed agreement amendment deletes ports in and around the Caribbean from the geographic scope; removes space chartering authority, which is now contained in a separate agreement (FMC Agreement No. 011797); and makes other administrative changes.

Agreement No.: 011701–004.

Title: P&O Nedlloyd/FMC Agreement 232–011694 Cross Space Charter and Sailing Agreement.

Parties: China Shipping Container Lines, CMA CGM, S.A., P&O Nedlloyd Limited, P&O Nedlloyd B.V.

Synopsis: The proposed agreement modification increases the size of the vessels the parties may deploy under the agreement and changes the name of the agreement to The Pacific East Coast Express Agreement. When this modification becomes effective, the CMA CGM/China Shipping Container Line Cross Space Charter, Sailing and Cooperative Working Agreement, FMC Agreement No. 011694, will be terminated.

Dated: May 17, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–12857 Filed 5–21–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 5, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Kenneth A. and Diane M. Hendricks, both of Janesville, Wisconsin; to acquire voting shares of Blackhawk Bancorp, Inc., Beloit, Wisconsin, and thereby indirectly acquire voting shares of Blackhawk State Bank, Beloit, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Terry Lynn Snodgrass, Vienna, Missouri, as General Partner for the Henderson Family Limited Partnership; to retain control of Maries County Bancorp, Inc., Vienna, Missouri, and thereby indirectly retain voting shares of Belle State Bank, Belle, Missouri; The Maries County Bank, Vienna, Missouri, and Progress Bancshares, Inc., Sullivan, Missouri.

Board of Governors of the Federal Reserve System, May 16, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–12739 Filed 5–21–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 13320.5. The following are those information collections recently submitted to OMB.

1. *Protection of Human Subjects:* Assurance Identification/Certification/Declaration—NEW—This form, which will replace Optional Form 310, is a sample format which may be used by some entities to comply with the requirements of Section __.103(f) of the Common Rule, which requires that institutions submitting applications for Federal support of research involving human subjects submit certification of appropriate Institutional Review Board review and approval. The burden for use of this form, estimated to be 5 minutes, is included under total burden for the Common Rule, approved under OMB Clearance Number 0990–0260.

OMB Desk Officer: Allison Herron Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Report Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: May 10, 2002.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 02–12738 Filed 5–21–02; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Robert B. Tracy, Ph.D., University of Southern California and University of California, Davis: Based on Dr. Tracy's admission, the reports submitted by the University of Southern California (USC) and the University of California, Davis (UCD), and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Robert B. Tracy, Ph.D., former doctoral student at UCD, and former postdoctoral student at USC, engaged in scientific misconduct by falsifying and fabricating data in research supported by National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), grant R01 AI18987, "Mechanistic studies of genetic recombination," and National Institute of General Medical Sciences (NIGMS), NIH, grant 1 R01 GM56984, "Mechanism of DNA recombination at class switch sequences."

Dr. Tracy's doctoral research at UCD involved the analysis of the mechanisms used by various enzymes to repair damaged DNA, while his postdoctoral research at USC dealt with the molecular mechanism used by B-lymphocytes when switching from producing one class of immunoglobulin to another.

Specifically, PHS found that:

(1) In 1996 and 1997, Dr. Tracy falsified research supported by NIH grant R01 AI18987, "Mechanistic studies of genetic recombination," while working on his doctoral dissertation at UCD. Dr. Tracy falsified Figure 6.2 of his Ph.D. thesis by adding discrete bands where there actually had only been a uniform smear of radioactivity, the effect being to suggest a result that had not been observed and was, therefore, falsified. The falsified image was not published.

(2) From 1998 to 2000, Dr. Tracy committed additional scientific misconduct while a postdoctoral fellow at USC in research funded by NIH grant R01 GM56984 "Mechanism of DNA recombination at class switch sequences." Dr. Tracy falsified values in

Table 1 of supplemental web material (*http://www.sciencemag.org/features/data/1049221.shl*) that accompanied a report published in Science (Tracy, R.B., Hsieh, C.–L., & Lieber, M.B., "Stable RNA/DNA hybrids in the mammalian genome: Inducible intermediates in immunoglobulin class switch recombination." Science 288:1058–1061, 2000; the "Science paper"). In Table 1, Dr. Tracy misrepresented that lymphocytes from mice transgenic for ribonuclease H underwent significantly lower rates of isotope switching, as determined by the level of surface staining for immunoglobulin classes compared to control mice, when the actual data showed no such difference for IgG_1, IgG_{2b}, and IgE isotope classes. Dr. Tracy also falsified Figures 2 and 4 of the supplemental web material published with the Science paper in that the results were not representative of multiple independent experiments as he claimed. In addition, Dr. Tracy falsified Figure 2C of the Science paper, which represented a crucial control to establish his claim that RNA/DNA hybrids were limited to immunoglobulin switch regions, by publishing a blot that was not representative of his overall results.

Dr. Tracy also falsified Figures 4 and 7 of a second paper (Tracy, R.B., & Lieber, M.R. "Transcription-dependent R-loop formation at mammalian class switch sequences." EMBO J. 19:1055–1067, 2000, "EMBO J. paper"). In both figures, Dr. Tracy used the PhotoShop computer program to move bands or regions of a lane vertically relative to the rest of the gel, thus falsifying the size of molecules described in the paper. Lastly, Dr. Tracy reported these falsified data (as published in the Science and EMBO J. papers) in the progress report for NIH grant 5 R01 56984–03 in May 2000. Dr. Tracy and his coauthors retracted both the Science paper and the EMBO J. paper, in Science 289:1141, 2000, and in EMBO J. 19:4855, 2000, respectively.

Dr. Tracy has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed for a period of four (4) years beginning on May 1, 2002:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR Part 76 (Debarment Regulations); and

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–12729 Filed 5–21–02; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0077]

Agency Information Collection Activities; Announcement of OMB Approval; Emergency Medical Device Shortage Program Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Emergency Medical Device Shortage Program Survey" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 26, 2002 (67 FR 13788), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0491. The approval expires on October 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 14, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12783 Filed 5–21–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1344]

Determination of Regulatory Review Period for Purposes of Patent Extension; COMTAN

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for COMTAN and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3565.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product COMTAN (entacapone). COMTAN is indicated as an adjunct to levodopa/carbidopa to treat patients with idiopathic Parkinson's disease who experience the signs and symptoms of end-of-dose "wearing-off." Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for COMTAN (U.S. Patent No. 5,446,194) from Orion Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 17, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of COMTAN represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for COMTAN is 2,937 days. Of this time, 2,281 days occurred during the testing phase of the regulatory review period, while 656 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: October 6, 1991. The applicant claims November 29, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was October 6, 1991, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: January 2, 1998. FDA has verified the applicant's claim that the new drug application (NDA) for COMTAN (NDA 20–796) was initially submitted on January 2, 1998.

3. *The date the application was approved*: October 19, 1999. FDA has verified the applicant's claim that NDA 20–796 was approved on October 19, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 416 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 22, 2002. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 18, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (see **ADDRESSES**). Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–12784 Filed 5–21–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 01M–0478, 01M–0460, 01M–0454, 01M–0453, 01M–0452, 01M–0456, 01M–0451, 01M–0455, 01M–0578, 01M–0507, 01M–0579, 01M–0535, 01M–0462, 01M–0461, 01M–0536, 01M–0520, 01M–0439, 01M–0509, 01M–0490, 01M–0498, 01M–0479, 01M–0480, 01M–0482, 01M–0508, 01M–0522, 01M–0537, 01M–0523, 01M–0530, 01M–0531, 01M–0534, 01M–0567, 01M–0581]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Dockets Management Branch.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Thinh Nguyen, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule to revise §§ 814.44(d) and 814.45(d) (21 CFR 814.44(d) and 814.45(d)) to discontinue publication of individual PMA approvals and denials in the **Federal Register**. Instead, revised §§ 814.44(d) and 814.45(d) state that FDA will notify the public of PMA approvals and denials by posting them on FDA's home page at http://www.fda.gov on the Internet, by placing the summaries of safety and effectiveness on the Internet and in FDA's Dockets Management Branch, and by publishing in the **Federal Register** after each quarter a list of available safety and effectiveness summaries of approved PMAs and denials announced in that quarter.

FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act.

The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet in accordance with the procedure explained previously from October 1, 2001, through December 31, 2001. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE OCTOBER 1, 2001, THROUGH DECEMBER 31, 2001

PMA No./Docket No.	Applicant	Trade Name	Approval Date
P990050/01M–0478	Spectrascience, Inc.	Optical Biopsy System	November 14, 2000
P000020/01M–0460	C.R. Bard, Inc.	Stinger Ablation Catheter Templink Extension Cable	November 29, 2000
P990043/01M–0454	Diasorin, Inc.	DIASORIN ETI–EBK PLUS Assay	February 8, 2001
P990042/01M–0453	Diasorin, Inc.	DIASORIN ETI–AB–AUK PLUS Assay	March 30, 2001
P990041/01M–0452	Diasorin, Inc.	DIASORIN ETI–AB–EBK PLUS Assay	March 30, 2001
P990045/01M–0456	Diasorin, Inc.	DIASORIN ETI–AB–COREK PLUS Assay	March 30, 2001
P990038/01M–0451	Diasorin, Inc.	DIASORIN ETI MAK–2 PLUS Assay	March 30, 2001
P990044/01M–0455	Diasorin, Inc.	DIASORIN ETI–CORE IGMK PLUS Assay	March 30, 2001
P000040/01M–0578	Bei Medical Systems Co., Inc.	HYDROTHERMABLATOR Endometrial Ablation System	April 20, 2001
P990012/01M–0507	Roche Diagnostics Corp.	Elecsys Hbsag Immunoassay, Elecsys Hbsag Confirmatory, and Precicontrol Hbsag	June 1, 2001
P000053/01M–0579	American Medical Systems, Inc.	AMS SPHINCTER 800 Urinary Control System	June 14, 2001
P930027(S004)/01M–0535	Diagnostic Products Corp.	Immulite PSA, Immulite Third Generation PSA, Immulite 2000	June 19, 2001
P880086(S083)/01M–0462	St. Jude Medical, Inc.	Integrity AFX DR Model 5346 Dual Chamber Pulse Generator and Programmer Software Model 3307, V2.2a	July 11, 2001
P830045(S076)/01M–0461	St. Jude Medical, Inc.	Integrity AFX DR Model 5346 Dual Chamber Pulse	July 11, 2001
P010021/01M–0536	Ortho-Clinical Diagnostics, Inc.	Vitros Immunodiagnostic Products Anti-HCV Reagent Pack and Calibrator	August 30, 2001
P890057(S014)/01M–0520	Sensor Medics Corp.	Model 3100b High Frequency Oscillatory Ventilator (HFOV)	September 24, 2001
P000029/01M–0439	Q-Med Ab	Deflux Injectable Gel Ren	September 24, 2001
P010017/01M–0509	Fisher Imaging Corp.	SENOSCAN Full Field Digital Mammagraphy System	September 25, 2001
P980008(S005)/01M–0490	Lasersight Technologies, Inc.	Lasersight Laserscan Lsx Excimer Laser System For Laser-Assisted In Situ Keratomileusis (LASIK)	September 28, 2001
P000036/01M–0498	Advanced Tissue Sciences	Dermagraft	September 28, 2001
P010019/01M–0479	Ciba Vision Corp.	Focus Night And Day (Lotrafilcon A) Soft Contact Lenses	October 11, 2001
P000030/01M–0480	Ciba Vision Corp.	Focus Night & Day (Lotrafilcon A) Soft Contact Lenses	October 12, 2001
H010002/01M–0482	Stryker Biotech	OP–1 Implant	October 17, 2001
P000052/01M–0508	Guidant Corp.	Galileo Intravascular Radiotherapy System	November 2, 2001
P930016(S014)/01M–0522	VISX, Inc.	VISX STAR Excimer Laser System	November 6, 2001
P010007/01M–0537	Diagnostic Products Corp.	Immulite/Immulite 2000 Afp Assays	November 9, 2001
P990015/01M–0523	Lifecore Biomedical, Inc.	Intergel Adhesion Prevention Solution	November 16, 2001
P000057/01M–0530	Ascension Orthopedics, Inc.	Ascension Mcp	November 19, 2001
P980006(S004)/01M–0531	Bausch & Lomb, Inc.	Purevision (Balafilcon A) Visibility Tinted Contact Lenses	November 20, 2001
P010032/01M–0534	Advanced Neuromodulation System, Inc.	Genesis Neurostimulation (Ipg) System	November 21, 2001
P010003/01M–0567	Cryolife, Inc.	BIOGLUE Surgical Adhesive	December 3, 2001
P010020/01M–0581	American Medical Systems, Inc.	AMS Acticon Neosphincter	December 18, 2001

II. Electronic Access

Persons with access to the Internet may obtain the documents at http://www.fda.gov/cdrh/pmapage.html.

Dated: May 10, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–12728 Filed 5–21–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Community-Based Dental Partnership Program Grant Announcement

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds; correction.

SUMMARY: In notice document FR Doc. 02–9617, Vol. 67, No. 76, Friday, April 19, 2002, make the following correction:

On page 19440 in the second column under OBTAINING APPLICATION GUIDANCE AND KIT, correct the website address to be: *www.hab.hrsa.gov/grant.htm.*

Dated: May 16, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–12786 Filed 5–21–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Title III Early Intervention Services Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds; correction.

SUMMARY: In notice document FR Doc. 02–9814, Vol. 67, No. 78, Tuesday, April 23, 2002, make the following correction:

On page 19761 in the second column under OBTAINING APPLICATION GUIDANCE AND KIT, correct the website address to be: *www.hab.hrsa.gov/grant.htm.*

Dated: May 16, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–12785 Filed 5–21–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: June 6, 2002.

Time: 8:30 AM to 4:30 PM.

Agenda: Topics proposed for discussion include but are not limited to: Science Education and Career Development; Bioterrorism and Emerging Infections; and an Update on Implementation of an Awards Using Human Embryonic Stem Cell Lines.

Place: 31 Center Drive, Building 31, Room 4C32 (NIAMS Conference Room), Bethesda, MD 20892.

Contact Person: Janice C. Ramsden, Committee Mgmt. Officer, Office of the Director, NIH, Building 1, Room 333, Bethesda, MD 20892, 301–496–0959.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/about/director/acd.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12763 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Disparities Research Partnerships Plan.

Date: June 19, 2002.

Time: 8:30 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza North, Conference Room F, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12756 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Highly Active Antiretroviral Therapy (HAART) Cardiovascular Toxicities.

Date: June 27, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Contact Person: Irina Gordienko, PhD, Division of Extramural Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7180, MSC 7924, Bethesda, MD 20892; 301–435–0270.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12757 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel. Special Emphasis Panel/Research Core (P30).

Date: June 19, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency of Bethesda, MD 20814.

Contact Person: Ali A Azadegan, DVM, Phd., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD, NIH, DHHS, Bethesda, MD 20892–7180, (301) 496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institute of Health, HHS)

Dated: May 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12755 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Bioinformatics Integration Support Contract (BISC).

Date: June 12–13, 2002.

Time: 8:00 a.m. to 6:15 p.m.

Agenda: To review and evaluate contract proposals.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Anthony Macaluso, PhD, Scientific Review Administrator, National Institutes of Health, National Institute of Allergy and Infectious Diseases, Scientific Review Program, 6700B Rockledge Drive, Room 2212, Bethesda, MD 20892, 301–496–7465, amacaluso@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12758 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research, Review of Pain and Neurosensory Mechanisms Branch.

Date: May 30–31, 2002.

Open: May 30, 2002, 8:30 a.m. to 12:15 p.m.

Agenda: Branch Presentations by Principal Investigators.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Closed: May 30, 2002, 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate—executive session.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Open: May 31, 2002, 9 a.m. to 10 a.m.

Agenda: Laboratory Walk Through.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Closed: May 31, 2002, 10 a.m. to 1 p.m.

Agenda: To review and evaluate/Interview-Lab Personnel and Lab Chief.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Contact Person: J. Ricardo Martinez, MD, MPH; Assoc. Director for Program Development, Office of the Director, National Institute of Dental & Craniofacial Research, 31 Center Drive, Bldg. 31, Rm. 5B55, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

Information is also available on the Institute's/Center's home page: www.nidcr.nih.gov/discover/bscmtgs.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12759 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIDDK, June 5, 2002, 6:00 PM to June 7, 2002, 5:00 PM, National Institutes of Health, Building 5, Room 127, Bethesda, MD, 20892 which was published in the Federal Register on April 18, 2002, 67 FR 19200.

The meeting will be held June 5, 2002 from 6:00 p.m. until adjournment on June 6, 2002. The meeting is partially Closed to the public.

Dated: May 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12762 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Stantin Clinical Trial.

Date: May 24, 2002.

Time: 8:30 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Tommy L. Broadwater, PHD, Chief, Review Branch, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Building/MSC 6500, 45 Center Drive, Room 5AS–25U, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meetings due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12764 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Population Research Subcommittee.

Date: June 10, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, PHD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Blvd., Rm. 5E01, MSC 7510, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Assistance Program Nos. 93.209, Contraception and infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12765 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the

National Children's Study of Environmental Effects on Health Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study of Environmental Effects on Health Advisory Committee.
Date: June 13–14, 2002.
Time: 9:00 AM to 5:00 PM.
Agenda: Presentations for the second meeting will be made by the Inter-Agency Coordinating Committee and the NCSAC's Working Groups. For additional information, as it becomes available, please visit http://NationalChildrensStudy.gov. An opportunity will be provided for public comments. The time available for each individual to speak will be determined by the Chair.
Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.
Contact Person: Peter M. Scheidt, MD, Medical Officer, Division of Epidemiology, Statistics and Prevention Research, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 7B03, Bethesda, MD 20892, (301) 451–6421, *ncs@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–12766 Filed 5–21–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Brain Disorders and Clinical Neuroscience 1 (01).
Date: June 10–11, 2002.
Time: 8 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: David M. Armstrong, PHD, Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–1253, *armstrda@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Brain Disorders and Clinical Neuroscience 1 (25).
Date: June 10, 2002.
Time: 1:30 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Elliot Postow, PHD, Acting Chief, Division of Clinical and Population-Based Studies, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4160, MSC 7806, Bethesda, MD 20892, (301) 435–0911, *postowe@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 12, 2002.
Time: 2 PM to 5 PM..
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gamil C. Debbas, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 2.
Date: June 13–14, 2002.
Time: 8 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: The Latham Hotel, 3000 M Street, NW, Washington, DC 20007.
Contact Person: Gillian Einstein, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20892, (301) 435–4433.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Prevention and Health Behavior 1.
Date: June 13–14, 2002.
Time: 8 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.
Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–9012, *levin@csr.nih.gov*.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Reproductive Biology Study Section.
Date: June 13–14, 2002.
Time: 8 AM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: Radisson Barcelo, 2121 P. Street, NW, Washington, DC 20037.
Contact Person: Dennis Leszczynski, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Special Study Section–H (01).
Date: June 13–14, 2002.
Time: 8 AM to 2 PM.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue NW, Washington, DC 20037.
Contact Person: George W. Chacko, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892, 301–435–1220, *chackoge@csr.nih.gov*.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Pharmacology Study Section.
Date: June 13–14, 2002.
Time: 8 AM to 1 PM.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW, Washington, DC 20037.
Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, *gibsonj@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 7.
Date: June 13–14, 2002.
Time: 8 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle, 1 Washington Circle, NW, Washington, DC 20037.
Contact Person: Bernard F. Driscoll, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epidemiology and Disease Control—3(01).
Date: June 13–14, 2002.
Time: 8:30 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Madison Hotel, Fifteenth & M Streets NW, Washington, DC 20005.
Contact Person: Mary Ann Guadagno, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892, (301) 451–8011.

Name of Committee: Oncological Sciences Integrated Review Group Experimental Therapeutics Subcommittee 1.
Date: June 13–14, 2002.
Time: 8:30 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.
Contact Person: Philip Perkins, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718, *perskins@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular, Cellular and Developmental Neurosciences 4.
Date: June 13–14, 2002.
Time: 8:30 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Radisson Hotel Old Town Alexandria, 901 North Fairfax Street, Alexandria, VA 22314.
Contact Person: Ann E. Schaffner, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *schaffna@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Risk, Prevention and Health Behaviors—3(01).
Date: June 13–14, 2002.
Time: 8:30 AM to 6:30 PM.
Agenda: To review and evaluate grant applications.
Place: George Washington University Inn, 824 New Hampshire Ave, NW., Washington, DC 20037.
Contact Person: Lee S. Mann, PHD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Visual Sciences A Study Section.
Date: June 13–14, 2002.
Time: 8:30 AM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, *custerm@csr.hih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Microbial Physiology and Genetics Subcommittee 1.
Date: June 13–14, 2002.
Time: 8:30 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.
Contact Person: Alicia J. Dombroski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, 301–435–1149, *dombrosa@scr.nih.gov*.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 3.
Date: June 13–14, 2002.
Time: 8:30 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1022, *ehrenspeckg@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 2, Biobehavioral & Behavioral Processes–2.
Date: June 13–14, 2002.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton Inner Harbor, 300 South Charles Street, Baltimore, MD 21201.
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *tathamt@csr.nih.gov*.

Name of Committee: Genetic Sciences Integrated Review Group, Mammalian Genetics Study Section.
Date: June 13–14, 2002.
Time: 9 a.m. to 1:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Administrator, Genetic Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biobehavioral and Behavioral Processes–5.
Date: June 13–14, 2002.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Jeffrey W. Elias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 435–0913, *eliasj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SSS–9 (38) Shared Instrumentation.
Date: June 14, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Mammalian Genetics (01).
Date: June 14, 2002.
Time: 1:30 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Administrator, Genetic Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Virology (01).
Date: June 14, 2002.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.
Contact Person: Rona L. Hirschberg, PhD, MS, BS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–5 (1) Research Resource.
Date: June 16–17, 2002.
Time: 4 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Nancy Shinowara, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, *shinowan@drg.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 15, 2002.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 02–12761 Filed 5–21–02; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Board of Governors of the Warren Grant Magnuson Clinical Center, Executive Committee.
Date: June 7, 2002.
Time: 9 a.m. to 12 p.m.
Agenda: Updates on organizational planning and budget issues.
Place: National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892.
Contact Person: Maureen E Gormley, Executive Secretary, Warren Grant Magnuson Clinical Center, National Institutes of Health, Building 10, Room 2C146, Bethesda, MD 20892, 301/496–2897.

Information is also available on the Institute's/Center's home page: www.cc.nih.gov/, where an agenda and any additional information for the meeting will be posted when available.

Dated: May 15, 2002.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 02–12760 Filed 5–21–02; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Assessment of Soy Unica Materials—New—By the year 2025 almost one in four children will be of Hispanic/Latino origin. Hispanic girls currently make up 16.2 percent of the total number of American girls. Serious threats to the well-being of American girls—pregnancy, depression, suicide attempts, alcohol and drug abuse, and delinquency—are more prevalent among Hispanic girls than among non-Hispanic White or African-American peers. Hispanic girls also have higher school dropout rates than non-Hispanic White, African-American or Asian-American girls. Studies have shown that depression and low self-esteem are strongly linked to risky behaviors among girls. Despite the fact that threats to health and well-being are highest for Hispanic girls, fewer prevention or treatment services reach them than reach girls in any other racial or ethnic group. Phase II of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Hispanic/Latino Initiative, ¡Soy Unica! ¡Soy Latina!, was developed in response to a need for a national, comprehensive, multimedia bilingual campaign that addresses the mental health needs of Hispanic/Latinas aged 9–14.

The ¡Soy Unica! ¡Soy Latina! campaign is designed to help Latinas ages 9–14 build and enhance their self-esteem, mental health, and decision-making and assertiveness skills, and to prevent the harmful consequences of alcohol, tobacco, and illicit drugs. The secondary target audience are mothers and caregivers of girls ages 9–14. The dissemination of these materials was initiated in October 2001 through SAMHSA's National Clearinghouse for Alcohol and Drug Information (NCADI). This public education campaign has the following components in both English and Spanish: Poster for Latinas ages 9–11 called Rainbow Road; Poster for Latinas ages 12–14 called Hot-Air Balloon; Activity book for Latinas ages 9–11; Activity book for Latinas ages 12–14; Book of advice for mothers of Latinas ages 9–14; Brochure for mothers of Latinas ages 9–14.

The data collection plans include a survey of girls, a survey of mothers/caregivers, and in-depth interviews with representatives of schools or organizations that run programs based on the materials. The findings will be employed by SAMHSA's Center for Substance Abuse Prevention (CSAP) to assess the effectiveness of the materials in helping young girls: to know themselves better; to develop a better appreciation for their heritage; to learn to make positive, healthy decisions for their future; and to enhance their confidence in their power to shape their lives. This information will be instrumental in highlighting areas that should be addressed in future CSAP prevention/education materials targeting Hispanic/Latino audiences.

The adequacy of the prevention messages will be assessed by collecting data on five major areas: (1) The degree to which the materials help girls get to know themselves better and to become comfortable with who they are; (2) the degree to which the materials help girls gain appreciation of their heritage; (3) the degree to which the materials increase awareness in girls of their ability to make sound decisions and plan for the future; (4) the quality of the materials (clarity of the messages, cultural adequacy, and attractiveness of the materials); and (5) whether there are aspects to be modified and/or enhanced in the development of future materials focusing substance use/abuse targeted to Hispanic/Latino audiences. The survey study population will be composed of girls aged 9–14 who have obtained the materials from NCADI via their schools. A separate survey will target mothers of girls ages 9–14 who ordered materials through NCADI. The in-depth interview study population is composed of youth leaders/mentors who deliver the materials and related programs to girls.

The following table presents the response burden for this project.

	No. of Respondents	Responses/respondent	Hours/response	Total burden (hours)
Survey of Girls Ages 9–14	900	1	.25	225
Survey of Mothers/Caregivers	500	1	.25	125
In-Depth Interviews—Youth Leaders/Mentors	5	1	4.0	20
In-depth Interviews—Girls	20	1	.75	15
Total	1,425			385

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 15, 2002.
Richard Kopanda,
Executive Officer, SAMHSA.
[FR Doc. 02–12775 Filed 5–21–02; 8:45 am]
BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4732–N–04]

Statutory and Regulatory Waivers Granted to New York State for Recovery from the September 11, 2001 Terrorist Attacks

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice of waivers granted.

SUMMARY: This notice advises the public of waivers of regulations and statutory provisions granted to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City. As described in the **SUPPLEMENTARY INFORMATION** section of this notice, HUD is authorized by statute to waive statutory and regulatory requirements and specify alternative requirements for this purpose. This notice lists the provisions being waived and alternative requirements specified.

DATES: Effective Date: May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Authority to Grant Waivers

Chapter 13 of division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Publ. L. 107–117, approved January 10, 2002) appropriates $2.0 billion in Community Development Block Grant funds and makes applicable the first six provisos of section 434 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Publ. L. 107–73, approved November 26, 2001). Section 434 provides for the use of CDBG funds made available from the Emergency Response Fund by the fifth proviso under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Publ. L. 107–38, approved September 18, 2001) to New York State for properties and businesses damaged by, and economic revitalization related to, the September 11, 2001 terrorist attacks on New York City. Prior to the $2.0 billion appropriation, $700 million was made available from the Emergency Response Fund. The third proviso of section 434 authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment.

The Department finds that the following waivers and alternative requirements are necessary to facilitate the use of both the $700 million awarded to New York State's Empire State Development Corporation and the $2.0 billion awarded to New York State's Lower Manhattan Development Corporation. This notice of waivers granted and alternative requirements supersede those published on January 28, 2002, at 67 FR 4164, and the correction published on February 7, 2002, at 67 FR 5845. (This notice does not supersede waivers and alternative requirements published on March 18, 2002, at 67 FR 12042, with respect to payment of compensation for economic loss.) The Department also finds that such uses of funds, as described below, are not inconsistent with the overall purpose of the Housing and Community Development Act of 1974, as amended, or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Except as noted by published waivers and alternative requirements, statutory and regulatory provisions governing the Community Development Block Grant program for states, including those at 24 CFR subpart I, shall apply to the use of these funds.

Description and Justification of Requirements Waived or Alternative Requirements Specified and Note of Applicability

1. Waive the requirement that 70% of the CDBG funds received by the state over a one-to-three year period be for activities that benefit persons of low and moderate income. 42 U.S.C. 5301(c) and 5304(b)(3), and 24 CFR 570.484 and 24 CFR 91.325(b)(4)(ii) with respect to the 70% overall benefit requirement are waived with respect to CDBG funds appropriated under the Emergency Response Fund. HUD expects the grantee will make a good faith effort to maximize benefit to low- and moderate-income persons, and maintain documentation of such efforts.

2. Streamline citizen participation requirements. Provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 540.486, and 24 CFR 91.115(b) with respect to citizen participation requirements are waived and replaced by the requirements below. The streamlined requirements do not mandate public hearings, but do provide for a reasonable opportunity for citizen comment and for ongoing citizen access to information about the use of grant funds. The streamlined requirements for this grant are:

a. Before the State adopts the action plan (or a part of an action plan) for this grant or any substantial amendment to this grant, the State will publish the proposed plan or amendment (including the information required in waiver eight (8)). Publication will be carried out in a manner that affords citizens, New York

City and other interested parties a reasonable opportunity to examine the plan or amendment's contents and to submit comments. The State's plans to minimize displacement of persons or entities and to assist any persons or entities displaced must be published with the action plan. Subsequent to publication, the State must provide a reasonable period to receive comments on the plan or substantial amendment.

b. In the action plan, the State will specify the criteria for determining what changes in the State's activities constitute a substantial amendment to the plan. At a minimum, adding or deleting an activity or changing the planned beneficiaries of an activity will constitute a substantial change.

c. The State must consider all comments received on the action plan or any substantial amendment and submit to HUD a summary of these comments and the State's response with the action plan or substantial amendment.

d. The State must make the action plan, any substantial amendments, and all performance reports available to the public, on request. Also on request, the State must make these documents available in a form accessible to persons with disabilities. During the term of this grant, the State will provide citizens, New York City, and other interested parties reasonable and timely access to information and records relating to the action plan and the State's use of this grant.

e. The State will provide a timely written response to every citizen complaint. Such response will be provided within 15 working days of the complaint, if practicable.

3. Modify requirement for consultation with local governments. Currently, the statute and regulations require consultation with affected units of local government in the non-entitlement area of the State regarding the State's proposed method of distribution. HUD is waiving 42 U.S.C. 5306(d)(2)(C)(iv), 24 CFR 91.325(b), and 24 CFR 91.110, with the alternative requirement that the State consult with New York City in determining the use of funds.

4. Remove requirements for consistency with the consolidated plan. Requirements at 42 U.S.C. 12706 and 24 CFR 91.325(a)(6), that require that housing activities undertaken with CDBG, HOME, ESG, and HOPWA funds be consistent with the strategic plan, are waived. Also, 24 CFR 570.903, which requires HUD to annually review grantee performance under the consistency criteria, is also waived.

5. Clarifying note on the process for environmental release of funds when a State carries out activities directly. Usually, a State distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. For this grant, waiver seven (7) below allows New York State to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a State carries out activities directly, the State must submit the certification and request for request of funds to HUD for approval.

6. Allow reimbursement for pre-agreement costs. The provisions of 24 CFR 570.489(b) are applied to permit New York State or New York City to reimburse itself for otherwise allowable costs incurred on or after September 11, 2001.

7. Distribution and use of funds to and in a metropolitan city. Provisions of 42 U.S.C. 5306 currently require a State to distribute CDBG funds to units of general local government in nonmetropolitan areas for use in nonmetropolitan areas rather than carrying activities out directly. These provisions are waived with alternative requirements with respect to CDBG funds appropriated under the Emergency Response Fund to permit the State of New York to carry out activities directly in New York City and to permit the State to distribute these funds to New York City. Additionally, because New York State may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining the State has failed to carry out its certifications so that such basis shall be that the State has failed to carry out its certifications in compliance with applicable program requirements. Also, 24 CFR 570.494 regarding timely distribution of funds is waived. However, HUD expects New York State to expeditiously obligate and expend all funds, including any recaptured funds or program income, in carrying out activities in a timely manner.

8. Action Plan for Disaster Recovery. Current State CDBG requirements for an action plan envision a State using a method for distributing substantially all CDBG funds received to other governments and not carrying out activities directly. This waiver allows the State to submit an action plan that may include activities directly undertaken by the State. With respect to CDBG funds appropriated under the Emergency Response Fund, the last sentence of 42 U.S.C. 5304 (a)(1), and provisions of 42 U.S.C.12705, 24 CFR 570.485, 24 CFR 91.320 and 91.325(a)(5) are waived with alternative requirements that the State submit an action plan for disaster recovery that includes the following:

a. Information specified at 24 CFR 91.220(a), (b), (d) and (g).

b. A description of the activities the state will assist with grant funds. This description of activities shall estimate the number and type of beneficiaries of the proposed activities, proposed accomplishments, and a target date for completion of each activity. This information must be submitted in a form prescribed by HUD.

9. Change the limitations on administrative and planning expenses. The current law and regulations require that 50 percent of any administrative expenses, in excess of $100,000, that do not exceed 2 percent of the grant be paid from the grant. Provisions at 42 U.S.C. 5306(d)(3)(A), 24 CFR 570.489(a)(1)(i) and 24 CFR 570.489(a)(3) are waived to allow use of CDBG disaster grant funds for planning and administrative expenses that do not exceed 10 percent of the grant amount plus program income with respect to the $700 million grant and 5 percent of the grant amount plus program income with respect to the $2.0 billion grant.

10. Administrative costs and reimbursement. To facilitate the use of funds for administrative costs of the Lower Manhattan Development Corporation incurred in relation to revitalization and redevelopment of lower Manhattan in New York City, New York in response to the September 11, 2001 terrorist attacks on New York City including such costs not directly related to this CDBG disaster assistance but related to revitalization of lower Manhattan, section 105(a)(13) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5305(a)(13) is modified solely to the extent necessary for this use of administrative costs. Temporary use of funds under HUD grant number B–01–DW–36–0001 for payment of administrative costs incurred prior to award of HUD grant number B–02–DW–36–0001, and reimbursement of such costs paid from HUD grant number B–01–DW–36–0001 with funds awarded under HUD.grant number B–02–DW–36–0001 is authorized.

11. Permitting a further range of eligible economic revitalization activities. The limitation at 42 U.S.C. 5305(a) on eligible activities in the CDBG program to the list of activities in section 105(a) is waived, in recognition of the requirements of section 434 of

Public Law 107–73 that funds be used, in part, for economic revitalization related to the September 11, 2001 terrorist attacks on New York City for the affected area. This change also establishes an alternative requirement by adding the following to the list of eligible activities:

a. Provision of assistance directly to individuals and entities for purposes of economic revitalization of lower Manhattan by retaining and attracting residents.

b. Provision of assistance to nonprofit organizations for purposes of economic revitalization of lower Manhattan by creating and retaining jobs.

12. Public benefit standards for economic development activities. Currently, grantees are limited in the amount of CDBG assistance per job retained or created, or amount of CDBG assistance per low- and moderate-income person to which goods or services are provided by the activity, that will be considered to meet public benefit standards. Public benefit standards at 42 U.S.C. 5305(e)(3) and 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6) are waived, except that the grantee shall report and maintain documentation on the creation and retention of (a) total jobs, (b) number of jobs within certain salary ranges, and (c) types of jobs. Paragraph (g) of 24 CFR 570.482 is also waived to the extent its provisions are related to public benefit.

13. Underwriting Requirements for Certain Economic Development Activities. To facilitate the use of funds for economic development activities identified in an action plan submitted by the Empire State Development Corporation or the Lower Manhattan Development Corporation as the "WTC Job Creation and Retention Program," "Small Firm Attraction and Retention Grants," and the "WTC Business Recovery Loan Fund" the project cost and financial requirements at section 105(e)(2) of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5305(e)(2)) for eligible activities under section 105(a)(14), (15), and (17) in the CDBG program are waived, and the following alternative requirements are established:

WTC Job Creation and Retention Program

For the WTC Job Creation and Retention Program (JCRP), in determining the amount of assistance, Empire State Development Corporation must consider:

a. Other existing incentive transactions and offers received by the business;

b. Alternative locations the business may be considering;

c. Analysis of the risk that:

- The business if located South of Canal Street at the time of the disaster will not remain within lower Manhattan;
- The business if located South of Canal Street at the time of the disaster and that has temporarily relocated elsewhere because of the disaster would not return;
- The New York City business that suffered significant economic dislocation because substantial numbers of its major customers were businesses south of Canal Street would not remain in New York City; or
- The business seeking to locate new operations and create new jobs in lower Manhattan would not otherwise locate there;

d. Employment and economic benefit/cost analysis; and

e. The fiscal impact on State and city revenues.

Small Firm Attraction and Retention Grants

For the Small Firm Attraction and Retention Grants (SFARG), in determining eligibility and funding level of firms, Empire State Development Corporation's decision shall be based on the location, minimum lease terms, and assistance per full-time equivalent employee, as stated in the action plan for the use of funds under the SFARG program. (A description is available on the web at *www.nylovesbiz.com/wtc/sfarg-program.htm)*

WTC Business Recovery Loan Fund

For the WTC Business Recovery Loan Fund (BRLF), in which financing will be provided by experienced institutional, quasi-public, and nonprofit lenders, the amount, terms, and conditions for CDBG and CDBG-backed loans shall be established through standard, generally accepted underwriting analyses. Such underwriting analysis shall, among other factors, include reasonableness of project costs, and project financial feasibility with recognition of the potential for enhanced levels of risk.

13. Duplication of benefits. The CDBG funds appropriated under the Emergency Response Fund may not be used to provide funds for the same specific uses as disaster loans made available by the Small Business Administration (SBA), in compliance with 15 U.S.C. 636(b)(1)(A). If the needs for assistance are more than the SBA disaster loan amount, CDBG disaster assistance may be used to fund such additional need. New York State should encourage the use of SBA physical damage and economic injury disaster loans; they offer low interest rates and favorable terms. Additionally, CDBG disaster assistance may not be used for the same specific uses as disaster assistance made available by the Federal Emergency Management Agency, e.g., for public works and facilities, in compliance with duplication of benefits prohibitions of 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended).

14. Use of subrecipients. The State CDBG program rule does not make specific provision for the treatment of subrecipients. CDBG entitlement communities frequently use subrecipients and the rule for that program specifically describes the requirements for subrecipient agreements and financial requirements. The waiver allowing the state to carry out activities directly creates a situation in which the state is more likely to use Subrecipients to carry out activities in a manner similar to entitlement communities. Therefore the following alternative requirement applies:

a. 24 CFR 570.503, except that specific references to 24 CFR 85 need not be included in subrecipient agreements.

b. 570.502(b).

15. Recordkeeping. Recognizing that the State will carry out activities directly, 24 CFR 570.490(b) is waived and this provision shall apply:

State records. The State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG funds under § 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the State shall be sufficient to: enable HUD to make the applicable determinations described at § 570.493; make compliance determinations for activities carried out directly by the state; and show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program."

24 CFR 570.490(c) and (d) shall also apply.

16. Performance reports. Generally, grantees submit an annual performance report ninety days after the jurisdiction's program year. The conferees for Public Law 107–73 requested that HUD submit reports to the Committees on Appropriations

quarterly on the obligation and expenditure of the CDBG funds appropriated under the Emergency Response Fund. Therefore, 42 U.S.C. 12708(a)(1) and 24 CFR 91.520 are waived with respect to these funds, and HUD is establishing an alternative requirement that the State must submit a quarterly report, as HUD prescribes, no later than 30 days following each calendar quarter, beginning after the first full calendar quarter after grant award and continuing until all funds have been expended and that expenditure reported. Each quarterly report will include information on the project name, activity, location, national objective, funds budgeted and expended, Federal source and funds (other than CDBG disaster funds), numbers and North American Industry Classification System (NAICS) codes of businesses assisted by activity, total number of jobs created and retained by activity, numbers of such jobs by salary ranges (to be defined by HUD), numbers of properties and housing units assisted; for activities benefiting low- and moderate-income persons, the number of jobs taken by persons of low- and moderate-income, and numbers of low- and moderate-income households benefiting. Quarterly reports must be submitted using HUD's web-based Disaster Recovery Grant Reporting system. Annually (*i.e.*, with every fourth submission), the report shall include a financial reconciliation of funds budgeted and expended, and calculation of the status of administrative costs.

17. Allow flexibility in use of program income during grant and provide for disposition at grant closeout. A combination of CDBG provisions limits the flexibility available to the State and city for the use of program income. Generally, program income earned on disaster grants has been program income to the regular CDBG program of the applicable entitlement or State and has lost its disaster grant identity, thus losing use of the waivers and streamlined alternative requirements. Also, the State CDBG program rule and law are designed for a program in which the State distributes all funds rather than carrying out activities directly and the law specifically provides for local governments receiving grants to retain program income if they use it for additional eligible activities under the regular CDBG program. This waiver and the alternate requirements allow program income to the disaster grant to be governed by the original grant's requirements and waivers and to remain the State's until grant closeout, at which point any program income on hand or received subsequently will become program income to New York City's regular entitlement CDBG program. Therefore, 42 U.S.C. 5304(j), 24 CFR 570.481(a) to the extent it relates to defining program income, and 24 CFR 570.489(e) are waived and the following alternative requirements apply:

a. Program income is defined at 24 CFR 570.500(a);

b. 24 CFR 570.504(a) and (c);

c. Program income received before grant closeout may be retained by the recipient if the income is treated as additional funds under this grant subject to all of this grant's applicable requirements;

d. Substantially all program income other than any held in revolving funds shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury. Program income in the form of repayments to, or interest earned on, a revolving fund as defined in 24 CFR 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity; and

e. Program income on hand at the time of grant closeout and program income received after grant closeout shall be program income to the ongoing CDBG entitlement program of New York City.

18. Modification of the anti-pirating clause to permit assistance to help a business return. 42 U.S.C. 5305(h) is hereby waived only to allow the State to provide assistance under this grant to any business that was operating in the covered disaster area before September 11, 2001, and has since moved in whole or in part from the affected area to continue business.

19. Change of use of real property. This section is written in the context of the regular State CDBG program in which the State distributes funds to units of general local governments and does not carry out activities directly. This change grants a waiver allowing the State to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), "unit of general local government" shall be read as "unit of general local government or State."

20. Responsibility for State review and handling of noncompliance. This change conforms the rule with the waiver allowing the State to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies:

The State shall make reviews and audits including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the Act.

In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences and prevent a recurrence. The State shall establish remedies for noncompliance by any designated public agencies or units of general local governments and for its subrecipients.

Section 434 of Public Law 107–73 requires HUD to publish these waivers in the **Federal Register** no later than five days before their effective date. The effective date of these waivers is May 28, 2002.

Dated: May 14, 2002.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 02–12715 Filed 5–21–02; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Alaska OCS Region

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the final environmental impact statement (EIS) for the proposed Liberty Development and Production Project in Beaufort Sea, Alaska.

SUMMARY: MMS announces the availability of the final EIS prepared by MMS for the Liberty Project in Foggy Island Bay offshore Beaufort Sea, Alaska.

FOR FURTHER INFORMATION CONTACT: Persons interested in reviewing the final EIS "OCS EIS/EA, MMS 2002–19" (Volumes I-IV) can contact the MMS Alaska OCS Region. The documents are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Resource Center, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508–4363, telephone: (907) 271–6070, or (907) 271–6621, or toll free at 1–800–764–2627. Requests may also be sent to MMS at *akwebmaster@mms.gov*. You may obtain single copies of the final EIS, or a CD/ROM version, or the Executive Summary from the same address.

You may look at copies of the final EIS in the following libraries:

Alaska Pacific University, Academic Support Center Library, 4101 University Drive, Anchorage, Alaska;
Alaska Resources Library and Information Service, U.S. Department of the Interior, 3150 C Street, Suite 100, Anchorage, Alaska;
Alaska State Library, Government Publications, State Office Building, 333 Willoughby, Juneau, Alaska;
Canadian Joint Secretariat Librarian, Inuvikon Northwest Territories, Canada;
Department of Indian and Northern Affairs, Yellowknife, Northwest Territories, Canada;
Fairbanks North Star Borough, Noel Wien Library, 1215 Cowles Street, Fairbanks, Alaska;
Ilisaavik Library, Shishmaref, Alaska;
Juneau Public Library, 292 Marine Way, Juneau, Alaska;
Kaveolook School Library, Kaktovik, Alaska;
Kegoyah Kozpa Public Library, Nome, Alaska;
National Oceanic and Atmospheric Administration, Information Services Division, Seattle, Washington;
North Slope Borough School District, Library/Media Center, Barrow, Alaska;
Northern Alaska Environmental Center Library, 218 Driveway, Fairbanks, Alaska;
Tikigaq Library, Point Hope, Alaska;
Tuzzy Consortium Library, Barrow, Alaska;
University of Alaska Anchorage, Consortium Library, 3211 Providence Drive, Anchorage, Alaska;
University of Alaska Fairbanks, Elmer E. Rasmuson Library, Government Documents, 310 Tanana Drive, Fairbanks, Alaska;
University of Alaska Fairbanks, Geophysical Institute, Government Documents, Fairbanks, Alaska;
University of Alaska Fairbanks, Institute of Arctic Biology, 311 Irving Building, Fairbanks, Alaska;
University of Alaska, Southeast, 11120 Glacier Highway, Juneau, Alaska;
U.S. Army Corps of Engineers Library, U.S. Department of Defense, Elmendorf Air Force Base, Anchorage, Alaska;
U.S. Fish and Wildlife Service Library, 1011 East Tudor Road, Anchorage, Alaska;
Valdez Consortium Library, 200 Fairbanks Street, Valdez, Alaska;
Z.J. Loussac Library, 3600 Denali Street, Anchorage, Alaska.

SUPPLEMENTARY INFORMATION: *Proposal.* The British Petroleum Exploration (Alaska) (BPXA) Inc. submitted a proposal to develop the Liberty oil field from a manmade gravel island constructed on the Federal OCS in Foggy Island Bay in approximately 22 feet of water inside the barrier islands. The Liberty Project, which is located approximately 5 miles offshore the central Beaufort coast, is about midway between Point Brower to the west and Tigvariak Island to the east. The proposed island would be located in federal waters between McClure Islands and the coast. The overall project includes a gravel island, associated infrastructure, subsea buried oil pipeline (6.1 miles long), and an above-ground onshore pipeline (approximately 1.5 miles long) south to tie in with the Badami common carrier pipeline system, a new onshore gravel mine site, and ice roads.

The Development and Production Plan (DPP) for the Liberty Project requires approval by MMS, the lead permitting agency, and by the U.S. Army Corps of Engineers (COE), Alaska District Office, and the U.S. Environmental Protection Agency (EPA), Region 10, which are cooperating agencies. Together, these agencies have federal jurisdiction over the development and production of the oil resources, including construction, drilling, production, and transportation from the project to a common carrier pipeline. Additional permits from the State of Alaska and from the North Slope Borough would be required.

MMS held a series of scoping meetings in Alaska. Based on the most significant issues raised in those meetings, MMS identified and evaluated a variety of alternatives in the EIS. Including BPXA's proposal, these alternatives examine: three island locations and pipeline routes; four pipeline designs; two types of upper slope protection for the production island; two gravel mine sites; two pipeline burial depths; and some combinations of these possibilities. The final EIS also examines the No Action alternative. MMS and the cooperating agencies held public hearings in Alaska in February 2000. MMS received both written and oral comments, which were incorporated in the final EIS.

Change in Status

In January 2002, BPXA publicly announced they were putting the Liberty Project on hold pending an ongoing re-evaluation of project configuration and costs. On March 5, 2002, BPXA sent a letter to MMS and other agencies stating that pending completion of project re-evaluation, affected agencies should consider submitted permit applications incomplete and recommended processing of these applications be suspended. Also in March, BPXA indicated informally that submission of a modified DPP for the Liberty Project would likely take 6 months or more.

MMS has decided to publish and file with EPA this final EIS for the Liberty DPP because it includes substantial changes made in response to comments on the draft EIS. Also, MMS expects this final EIS will serve as a reference document for future projects. The COE and EPA, as cooperating agencies, had intended to use this final EIS as the National Environmental Policy Act (NEPA) document supporting permitting decisions by these agencies.

The COE and EPA hereby solicit comments on the adequacy of, and alternatives considered in, this final EIS. Due to the applicant's re-evaluation of the project design, and the incomplete status of permit applications, the COE and EPA are not soliciting comments on their permit decisions at this time. When revised permit applications are received with project changes, the COE and EPA will issue public notices to request comments on the project proposal. Depending on the changes made, comments received, and any new information available, the three agencies will evaluate whether or not to use this final EIS as the primary NEPA documentation, issue a supplemental EIS, or issue new environmental documentation to meet the agencies' respective NEPA compliance and permit evaluation requirements.

Any written comments on this final EIS should be provided to MMS. Address your comments to the Regional Director, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4363. Our practice is to make comments, including the names and home address of respondents, available for public review. An individual commenter may ask that we withhold their name, home address, or both from the public record, and we will honor such a request to the extent allowable by law. If you submit comments and wish us to withhold such information, you must state so prominently at the beginning of your submission. We will not consider anonymous comments, and we will make available for inspection in their entirety all comments submitted by organizations or businesses or by individuals identifying themselves as representatives of organizations or businesses.

Dated: May 16, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 02–12787 Filed 5–21–02; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–417–421 and 731–TA–953, 954, 956–959, 961, and 962 (Final)]

Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, Turkey, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: May 15, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *(http://www.usitc.gov)*. The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: Effective April 10, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigations (67 FR 22105, May 2, 2002) based on the scheduled date of the earliest final determination by the Department of Commerce (Commerce) in the subject investigations. Commerce aligned the final countervailing duty determinations with the earliest final determination in the subject antidumping duty investigations (67 FR 12524, March 19, 2002) and subsequently extended the date for its final determinations in the subject antidumping duty investigations from June 17, 2002, to August 23, 2002 (67 FR 17367, April 10, 2002; 67 FR 17379, April 10, 2002; 67 FR 17389, April 10, 2002; 67 FR 18165, April 15, 2002; 67 FR 20728, April 26, 2002; and 67 FR 32013, May 13, 2002). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than August 19, 2002; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on August 22, 2002; the prehearing staff report will be placed in the nonpublic record on August 14, 2002; the deadline for filing prehearing briefs is August 21, 2002; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on August 27, 2002; the deadline for filing posthearing briefs is September 4, 2002; the Commission will make its final release of information on September 18, 2002; and final party comments are due on September 20, 2002.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: May 17, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12820 Filed 5–21–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–414 and 731–TA–928 (Final)]

Softwood Lumber From Canada

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, [2] pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber, provided for in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Canada and sold in the United States at less than fair value (LTFV). The Commission further determines that it would not have found material injury but for the suspension of liquidation.

Background

The Commission instituted these investigations effective April 2, 2001, following receipt of a petition filed with the Commission and Commerce by the Coalition for Fair Lumber Imports Executive Committee,[3] Washington, DC; the United Brotherhood of Carpenters and Joiners, Portland, OR; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Nashville, TN. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of softwood lumber from Canada were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 26, 2001 (66 FR 59027). The hearing was held in Washington, DC, on March 26, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 16, 2002. The views of the Commission are contained in USITC Publication 3509 (May 2002), entitled Softwood Lumber from Canada: Investigations Nos. 701–TA–414 and 731–TA–928 (Final).

Issued: May 16, 2002.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Bragg not participating.

[3] The Coalition for Fair Lumber Imports Executive Committee is comprised of Hood Industries, International Paper Co., Moose River Lumber Co., New South, Inc., Plum Creek Timber Co., Potlatch Corp., Seneca Sawmill Co., Shearer Lumber Products, Shuqualak Lumber Co., Sierra Pacific Industries, Swift Lumber, Inc., Temple-Inland Forest Products, and Tolleson Lumber Co., Inc.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12788 Filed 5–21–02; 8:45 am]

BILLING CODE 7020–20–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: new collection; technology initiative grant application kit.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 22, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gretchen DePasquale, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Technology Initiative Grant Application Kit.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: U.S. Department of Justice, Office of Community Oriented Policing Services (COPS), *Form Number:* None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State and local law enforcement entities. Other: None. Abstract: The information collected by the Technology Initiative Grant Application Kit is requested to obtain a comprehensive understanding of project objectives in accordance with the Federally appropriated mandate and grant program policies of the COPS Office.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 200 responses. The estimated amount of time required for the average respondent to respond is 25 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: There are estimated 5,200 annual burden hours associated with this information collection:

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: May 16, 2002.

Brenda Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–12832 Filed 5–21–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day Notice of information Collection Under Review; reinstatement, with change, of a previously approved collection for which approval has expired; Budget Detail Worksheet.

The Department of Justice, Office of Justice Programs, Office of the Comptroller, has submitted the following information collection request for review and clearance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 22, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cynthia J. Schwimer, Comptroller (202–307–0623, Office of the Comptroller, Office of Justice Programs, U.S. Department of Justice, 810 7th street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Budget Detail Worksheet.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form: None. Office of Justice Program, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: All potential grantee partners who are possible recipients of our discretionary grant programs. The eligible recipients include state and local government, Indian tribes, profit entities, non-profit entities, educational institutions, and individuals. The form is not mandatory and is recommended as a guide to assist the recipient in preparing the budget narrative as authorized in 28 CFR parts 66 and 70.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2500 respondents will complete a 4-hour form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the forms is 10,000 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW, Washington, DC 20530.

Dated: May 16, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–12833 Filed 5–21–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, FY 2002 Budget

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Occupational Safety and Health Administration (OSHA) awards funds to nonprofit organizations to conduct safety and health training and education in the workplace. This notice announces grant availability for two different categories of Susan Harwood Training Grants. The Targeted Topic grants will support training in occupational safety and health on topics selected by OSHA. The Institutional Competency Building grants will assist organizations in expanding their occupational safety and health training, education and related assistance capacity. The two categories of grants are described below.

1. Targeted Topic Grants

Two topics have been selected for the Targeted Topic grants.

The training topics are:

- Ergonomic hazards
- Homeland security.

Targeted Topic category grants will be awarded for 12 months. There is approximately $1.2 million available for this grant category. The average award will be $150,000.

2. Institutional Competency Building Grants

Grants are available to nonprofit organizations to assist them in expanding their safety and health training, education and related assistance capacity. To be eligible to apply for this grant category, organizations must serve clients nationally or in multi-state areas, and provide safety and health training, education and services to their clients.

Organizations will be expected to institutionalize safety and health training, education, and related assistance in their organization in order to assist workers and employers on an ongoing basis.

Institutional Competency Building grants will be awarded for 12 months. There is approximately $5.4 million available for this grant category and an average Federal award will be $250,000.

This notice describes the scope of the grant program and provides information about how to get detailed grant application instructions. All applicants must obtain the detailed grant application instructions mentioned later in the notice before submitting an application.

Separate grant applications must be submitted by organizations interested in applying under more than one grant category or for more than one training topic.

The Occupational Safety and Health Act of 1970 and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, Pub. L. 107–116, authorize this program.

DUE DATE: Grant applications must be received by 4:30 p.m. central time, Friday, June 21, 2002.

ADDRESS FOR MAILING APPLICATIONS: Submit one signed original and three copies of each grant application to the attention of Grants Officer, U.S. Department of Labor, OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Ernest Thompson, Chief, Division of Training and Educational Programs, or Cynthia Bencheck, Program Analyst, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018, telephone (847) 297–4810. This is not a toll-free number. E-mail: *cindy.bencheck@osha.gov.*

SUPPLEMENTARY INFORMATION:

What Is the Purpose of the Susan Harwood Training Grant Program?

Susan Harwood Training Grants provide funds to train workers and employers to recognize, avoid, and prevent safety and health hazards in their workplaces. The program emphasizes three areas.

- Educating workers and employers in small businesses. A small business has 250 or fewer workers.
- Training workers and employers about new OSHA standards.
- Training workers and employers about high risk activities or hazards identified by OSHA through its Strategic Plan, or as part of an OSHA special emphasis program.

Grantees are expected to provide occupational safety and health training programs, develop safety and health training and/or educational programs, recruit workers and employers for the training, and conduct the training. Grantees are also expected to follow up with people trained by their program to determine what, if any, changes were made to reduce hazards in their workplaces as a result of the training.

What Are the Two Grant Categories Being Announced This Year?

1. Targeted Topic grants.
2. Institutional Competency Building grants.

What Are the Training Topics for the Targeted Topic Grants?

Two training topics were chosen for this grant announcement. Applicants wishing to apply for more than one grant topic must submit a separate grant application for each topic. Each grant application must address one of the following training topics.

1. Ergonomics. Programs that train workers and employers in the recognition and prevention of workplace ergonomic risk factors in industries that have a high incidence rate for ergonomic injuries. The training program should follow established best practices or follow a combination of effective practices for addressing the ergonomic risk factors for the industry being targeted to receive this training. The applicant must demonstrate in the grant application that the industry being targeted for the ergonomics training has a high incidence rate for ergonomic injuries.

2. Homeland Security (emergency preparedness and response). Programs that train workers and employers on preparing to respond to emergency situations at their workplaces. Applicants may propose training programs that address emergency preparedness for any industry covered by the Occupational Safety and Health Act.

Training programs should include information on developing and maintaining comprehensive emergency action plans and focus on occupational safety and health requirements such as egress, evacuation policies and procedures, and fire safety protection plans. Other relevant workplace emergency preparedness topics that can be included or proposed under this topic include biological hazards, chemical hazards, and workplace violence.

What Is the Purpose of the Institutional Competency Building Grants?

These grants are intended to assist nonprofit organizations in expanding their safety and health training, education, and related assistance capacity. To be eligible to apply for this grant program category, organizations must be nonprofit, serve clients nationally or in multi-state areas, and provide safety and health training, education and services to their clients.

Organizations will be expected to institutionalize safety and health training, education, and related assistance in their organization in order to assist workers on an ongoing basis.

Who Is Eligible To Apply for a Grant?

Any nonprofit organization is eligible to apply. Private nonprofit community-based organizations, which may be faith-based, are also eligible to apply. State or local government supported institutions of higher education are eligible to apply in accordance with 29 CFR 97.4(a)(1).

Applicants other than State or local government supported institutions of higher education will be required to submit evidence of nonprofit status, preferably from the Internal Revenue Service (IRS).

What Can Grant Funds Be Spent on?

Grant funds can be spent on the following:

- Conducting training.
- Conducting other activities that reach and inform workers and employers about occupational safety and health hazards and hazard abatement.
- Developing educational materials for use in the training.

Are There Restrictions on How Grant Funds Can Be Spent?

Grant funds may not be used for the following activities.

1. Any activity that is inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.

2. Training involving workplaces that are not covered by the Occupational Safety and Health Act. Examples include State and local government workers in non-State Plan States and workers covered by section 4(b)(1) of the Act.

3. Production, publication, reproduction or use of training and educational materials, including newsletters and instructional programs that have not been reviewed by OSHA for technical accuracy.

4. Activities that address issues other than recognition, avoidance, and prevention of unsafe or unhealthy working conditions. Examples include workers' compensation, first aid, and publication of materials prejudicial to labor or management.

5. Activities that provide assistance to workers or employers in arbitration cases or other actions against employers, or that provide assistance to employers and workers in the prosecution of claims against Federal, State or local governments.

6. Activities that directly duplicate services offered by OSHA, a State under an OSHA-approved State Plan, or consultation programs provided by State designated agencies under section 21(d) of the Occupational Safety and Health Act.

What Other Grant Requirements Are There?

1. OSHA review of educational materials. OSHA will review all educational materials produced by the grantee for technical accuracy during development and before final publication. OSHA will also review training curricula and purchased training materials for accuracy before they are used. Grantees developing training materials must follow all copyright laws and document that their materials are free from copyright infringements.

When grant recipients produce training materials, they must provide copies of completed materials to OSHA before the end of the grant period. OSHA has a lending program that circulates grant-produced audiovisual materials. Audiovisual materials produced by the grantee as a part of its grant program will be included in this lending program. In addition, all materials produced by grantees must be provided to OSHA in hard copy as well as in a digital format (CD Rom) for possible publication on the Internet by OSHA. Three copies of the materials must be provided to OSHA. Acceptable formats for training materials include Microsoft Word 2000 and Microsoft PowerPoint 2000.

2. OMB and regulatory requirements. Grantees are required to comply with the following documents.

- 29 CFR part 95, which covers grant requirements for nonprofit organizations, including universities and hospitals. These are the Department of Labor regulations implementing OMB Circular A–110.
- OMB Circular A–21, which describes allowable and unallowable costs for educational institutions.
- OMB Circular A–122, which describes allowable and unallowable costs for other nonprofit organizations.
- OMB Circular A–133, 29 CFR parts 96 and 99, which provide information about audit requirements.
- 29 CFR parts 31 and 36 as applicable.

3. Certifications. All applicants are required to certify to a drug-free workplace in accordance with 29 CFR part 98, to comply with the New Restrictions on Lobbying published at 29 CFR part 93, to make a certification regarding the debarment rules at 29 CFR part 98, and to complete a special lobbying certification.

4. Students. The training program must serve multiple employers and their employees.

5. Other. In compliance with the President's Executive Orders 12876 as amended, 12928, 13230, and 13021 as amended, the grantee is strongly encouraged to provide subgranting opportunities to Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges and Universities.

6. The restrictions on expenditures of Federal funds in appropriations acts, Pub. L. 107–67 and 107–117, to the extent those restrictions are pertinent to the award.

7. Acknowledgment of Federal Funds. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in the Act, (Pub. L. 107–117), including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) The percentage of the total costs of the

program or project that will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

What Information Must My Application Contain?

To be considered for a Harwood grant, an application must include all of the information listed in this notice. In addition, all applicants should obtain and review the grant application package before preparing and submitting their grant application. A complete application will contain the following forms and narrative.

1. Application for Federal Assistance form (SF 424).
2. Program Summary. The program summary is a short one-to-two page abstract that summarizes the proposed project and provides information about the applicant organization.
3. Budget Information forms (SF 424A).
4. Detailed Budget Backup.
5. Program Narrative, not to exceed 30 pages in length, which includes: Problem Statement/Need for Funds; Managerial Experience; Program Experience; Workplan.
6. Assurances form (SF 424B).
7. Certifications form (OSHA 189).
8. Supplemental Certification Regarding Lobbying Activities form.
9. Organization Chart.
10. Evidence of Non-Profit Status, if applicable.
11. Accounting System Certification, if applicable.

How Are Applications for the Targeted Topic Grants Reviewed and Rated?

OSHA staff will review grant applications and present the results to the Assistant Secretary who will make the selection of organizations to be awarded grants.

The following factors will be considered in evaluating grant applications.

1. Program Design

a. The proposed training and education program addresses one of the two selected training topics. Please refer back to the What are the training topics for the Targeted Topic grants? section for details on the selected training topics.

i. Ergonomics. Programs that train workers and employers in the recognition and prevention of workplace ergonomic risk factors in industries that have a high incident rate for ergonomic injuries. The programs should follow established best practices or follow a combination of effective practices for addressing these ergonomic risk factors for the industry being targeted to receive this training.

ii. Homeland Security (emergency preparedness and response). Programs that train workers and employers on preparing to respond to emergency situations at their workplaces.

OSHA will give preference to applications that:

- Train managers or supervisors in addition to workers.
- Contribute a non-Federal matching share towards the grant. While applicants are not required to do so, preference will be given to organizations that contribute a non-Federal share.

b. The proposal plans to train workers and/or employers and clearly estimates the numbers to be trained, and clearly identifies the types of workers and employers to be trained. The training will reach workers and employers from multiple employers.

c. If the proposal contains a train-the-trainer program, the following information must be provided:

- What ongoing support the grantee will provide to new trainers;
- The number of individuals to be trained as trainers;
- The outline of the course curriculum that will be used by the new trainers to teach their students;
- The estimated number of courses to be conducted by the new trainers;
- The estimated number of students to be trained by these new trainers; and
- A description of how the new trainers will report back to the grantee about their classes and student numbers.

d. The planned activities and training are tailored to the needs and levels of the workers and employers to be trained.

e. There is a plan to recruit trainees for the program.

f. If the proposal includes developing educational materials, there is a plan for OSHA to review the materials during development.

g. There is a plan to evaluate the program's effectiveness and impact to determine if the safety and health services provided resulted in workplace change. This includes a description of the evaluation plan to follow up with trainees to determine the impact the program has had in abating hazards and reducing worker injuries.

h. There is a description of the target population, the hazards that will be addressed, the barriers that have prevented adequate training for the target population, why the program cannot be completed without Federal funds, and why funding sources currently available cannot be used for this purpose.

2. Program Experience

a. The organization applying for the grant demonstrates experience with occupational safety and health. Nonprofit community-based organizations, which may be faith-based, must partner with an established safety and health organization or must demonstrate that their organization has prior experience in providing safety and health training to workers or employers.

b. The organization applying for the grant demonstrates experience in training adults in work-related subjects or in providing services to its target audience.

c. The staff to be assigned to the project has experience in occupational safety and health, the specific topic chosen, and training adults.

d. The organization applying for the grant demonstrates experience in recruiting, training, and working with the population it proposes to serve under the grant.

3. Administrative Capability

a. The applicant organization demonstrates experience managing a variety of programs.

b. The applicant organization has administered, or will work with an organization that has administered, a number of different Federal and/or State grants over the past five years.

c. The application is complete, including forms, budget detail, narrative and workplan, and required attachments.

4. Budget

a. The budgeted costs are reasonable.

b. The budget complies with Federal cost principles (which can be found in applicable OMB Circulars) and with OSHA budget requirements contained in the grant application instructions.

c. The cost per trainee is less than $500 and the cost per training hour is reasonable.

In addition to the factors listed above, the Assistant Secretary will take other items into consideration, such as the geographical distribution of the grant programs and the coverage of populations at risk.

How Are Applications for the Institutional Competency Building Grants Reviewed and Rated?

OSHA staff will review grant applications and present the results to the Assistant Secretary who will make the selection of organizations to be awarded grants.

The following factors will be considered in evaluating grant applications.

1. Program Design

a. The proposed competency building program will provide ongoing safety and health training, education and services.

OSHA will give preference to applications that:

- Train managers or supervisors in addition to workers.
- Contribute a non-Federal matching share towards the grant. While applicants are not required to do so, preference will be given to organizations that contribute a non-Federal share.
- Propose to reach and serve one or more categories of workers within the target audience. The target audience includes non-English speaking workers, small business employers and employees, and workers who are employed in high hazard industries and industries with high fatality rates.
- Propose to develop, validate, and evaluate occupational safety and health training materials for use by employers in traditional classroom settings or workplace settings. OSHA will make these materials available to the public.
- Organizations that plan to institutionalize safety and health training, education, and related assistance in their organization in order to assist workers and employers on an ongoing basis.

b. The proposal plans to train workers and/or employers and clearly estimates the numbers to be trained, and clearly identifies the types of workers and employers to be trained. The training will reach workers and employers from multiple employers.

c. If the proposal contains a train-the-trainer program, the following information must be provided:

- What ongoing support the grantee will provide to new trainers;
- The number of individuals to be trained as trainers;
- The content outline of the course curriculum that will be used by the new trainers to teach their students;
- The estimated number of courses to be conducted by the new trainers;
- The estimated number of students to be trained by these new trainers; and
- A description of how the new trainers will report back to the grantee about their classes and student numbers.

d. The planned activities and training are tailored to the needs and levels of the workers and employers to be trained.

e. There is a plan to recruit trainees for the program.

f. If the proposal includes developing educational materials, there is a plan for OSHA to review the materials during development.

g. There is a plan to validate and evaluate the program's effectiveness and impact to determine if the safety and health services provided resulted in workplace change. This includes a description of the evaluation plan to follow up with trainees to determine the impact the program has had in abating hazards and reducing worker injuries.

h. There is a description of the target population, the hazards that will be addressed, the barriers that have prevented adequate training for the target population, why the program cannot be completed without Federal funds, and why funding sources currently available cannot be used for this purpose.

2. Program Experience

a. The organization applying for the grant demonstrates experience with occupational safety and health. Nonprofit community-based organizations, which may be faith-based, must partner with an established safety and health organization or must demonstrate that their organization has prior experience in providing safety and health training to workers.

b. The organization applying for the grant demonstrates experience in training adults in work-related subjects or in providing services to its target audience.

c. The staff to be assigned to the project has experience in occupational safety and health, the specific topic chosen, and training adults.

d. The organization applying for the grant demonstrates experience in recruiting, training, and working with the population it proposes to serve under the grant.

3. Administrative Capability

a. The applicant organization demonstrates experience managing a variety of programs.

b. The applicant organization has administered, or will work with an organization that has administered, a number of different Federal or State grants over the past five years.

c. The application is complete, including forms, budget detail, narrative and workplan, and required attachments.

4. Budget

a. The budgeted costs are reasonable.

b. The budget complies with Federal cost principles (which can be found in applicable OMB Circulars) and with OSHA budget requirements contained in the grant application instructions.

c. The cost per trainee and the cost per training hour are reasonable.

In addition to the factors listed above, the Assistant Secretary will take other items into consideration, such as the geographical distribution of the grant programs and the coverage of populations at risk.

How Much Money Is Available for Grants?

Targeted Topic grants. There is approximately $1.2 million available for these grants. The Federal award will average $150,000.

Institutional Competency Building grants. There is approximately $5.4 million available for these grants. The Federal award will average $250,000.

How Long Are Grants Awarded for?

Grants are awarded for a twelve-month period. The period of performance begins September 30, 2002, and ends September 30, 2003. The grant applicant's workplan should coincide with these dates.

How Do I Get a Grant Application Package?

Grant application instructions may be obtained from the OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, Illinois 60018. The application instructions are also available at *http://www.osha.gov/fso/ote/training/sharwood/sharwood.html*.

When and Where Are Applications To Be Sent?

The application deadline is 4:30 p.m. central time, Friday, June 21, 2002.

Submit one signed original and three copies of each application to Grants Officer, U. S. Department of Labor, OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, IL 60018.

How Will I Be Told if My Application Was Selected?

Organizations selected as grant recipients will be notified by a representative of the Assistant Secretary, usually from an OSHA Regional Office. An applicant whose proposal is not selected will be notified in writing.

Notice that an organization has been selected as a grant recipient does not constitute approval of the grant application as submitted. Before the actual grant award, OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Assistant

Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 16th day of May, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–12851 Filed 5–21–02; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Number D–11077]

Proposed Amendment to Prohibited Transaction Exemption (PTE) 2000–58 Involving Bear, Stearns & Co. Inc., Prudential Securities Incorporated, et al.

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of a proposed amendment to certain of the Underwriter Exemptions.[1]

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to certain of the Underwriter Exemptions. The Underwriter Exemptions are individual exemptions that provide relief for the origination and operation of certain asset pool investment trusts and the acquisition, holding and disposition by employee benefit plans (Plans) of certain asset-backed pass-through certificates representing undivided interests in those investment trusts. The proposed amendment, if granted, would permit the trustee of the trust to be an affiliate of the underwriter of the certificates. If adopted, the proposed amendment would affect the participants and beneficiaries of the Plans participating in such transactions and the fiduciaries with respect to such Plans.

DATES: Written comments and requests for a public hearing should be received by the Department on or before 45 days from the date of the publication in the **Federal Register** of this notice of proposed amendment. If granted, the amendment will be effective as of March 13, 2002.

ADDRESSES: All written comments and requests for a public hearing (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, 200 Constitution Avenue, NW, Washington, DC 20210, (attention: Application No. D–11077; Proposal to Amend Underwriter Exemptions). Interested persons are also invited to submit comments and/or hearing requests to PWBA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to "*moffittb@pwba.dol.gov*" or by FAX to (202) 219–0204, by the end of the scheduled comment period. The comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Karen E. Lloyd, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 693–8540. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that would amend certain of the Underwriter Exemptions. The Underwriter Exemptions are individual exemptions that provide relief from certain of the prohibited transaction restrictions of sections 406(a), 406(b) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act), as amended, and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code), as amended, by reason of certain provisions of section 4975(c)(1) of the Code. All of the Underwriter Exemptions were amended by Prohibited Transaction Exemption 97–34 (62 FR 39021, July 21, 1997) and by Prohibited Transaction Exemption 2000–58 (65 FR 67765, November 13, 2000).

On March 28, 2002, the Department granted a final exemption to J.P. Morgan Chase & Company (J.P. Morgan Chase) which amended three of the Underwriter Exemptions granted to J.P. Morgan Chase and certain of its affiliates.[2] (See PTE 2002–19, 67 FR 14979). The Department subsequently contacted The Bond Market Association, a trade association which represents securities firms and banks that underwrite, trade and sell debt securities, which confirmed that a majority of its members currently possessing Underwriter Exemptions desire the same relief provided to J.P. Morgan Chase under PTE 2002–19. Accordingly, the Department has determined to amend the remaining Underwriter Exemptions on its own motion.

The Underwriter Exemptions permit Plans to purchase certain securities representing interests in asset-or mortgage-backed investment pools. The securities generally take the form of certificates issued by a trust (the Trust). The Underwriter Exemptions permit transactions involving a Trust (including the servicing, management and operation of the Trust) and certificates evidencing interests therein (including the sale, exchange or transfer of certificates in the initial issuance of the certificates or in the secondary market for such certificates). The entities covered include the sponsor of the Trust as well as the underwriter for the certificates issued by the Trust when the sponsor, servicer, trustee or insurer of the Trust, the underwriter of the certificates issued by the Trust, or an obligor of the receivables contained in the Trust, is a party in interest with respect to an investing Plan.[3]

One of the requirements of the Underwriter Exemptions (except as amended by PTE 2002–19) is that the trustee of the Trust not be an affiliate of any member of what the Underwriter Exemptions define as the "Restricted Group;" i.e., in addition to the trustee, each underwriter, each servicer, each insurer, the sponsor, any more than 5% obligor with respect to receivables included in the Trust, each counterparty in an Eligible Swap Agreement, and any affiliate of such persons.

Like PTE 2002–19, the amendment proposed herein would permit the trustee of a Trust to be an affiliate of the underwriter of the securities issued by the Trust. The Bond Market Association represents that the facts and circumstances presented in the amendment requested by J.P. Morgan Chase are equally relevant and applicable with respect to other situations in which underwriters possessing an Underwriter Exemption may have trustee affiliates.

In connection with its application to amend its Underwriter Exemptions, J.P. Morgan Chase represented that, while the provision requiring an independent trustee was not a major issue in 1989, developments in the banking industry over the past twelve years have caused the requirement to become onerous and disadvantageous to investors, including Plans. As the banking industry has consolidated, the number of banks participating in the corporate trust business has shrunk dramatically. This trend has been due to a number of factors which have made participation in the trust business less attractive to banks. On the income side, these factors include competitive pressure on pricing corporate trust services and loss of transactional fees and traditional float income due to the growth in book entry securities. On the expense side, the cost of entry into the corporate trust business and the cost of remaining in the business have increased dramatically. This increase includes both technological and personnel costs. The cost increase is particularly acute in the structured finance sector of the corporate trust business, where both systems and staff need to have the capability of supporting increasingly complex transactions.

J.P. Morgan Chase represented that the changes in the securities underwriting business are equally significant. These include the increased participation by banks and bank affiliates, and consolidation within the industry. As of the calendar year 2000, four of the top ten underwriters for structured finance transactions had affiliated corporate trust businesses. Eight of the top ten trustees, a group with a combined market share of over 76 percent in 2000, were affiliates of underwriters active in the structured finance sector. The trend in the market to broadly syndicate underwriting exacerbates the problem: the Underwriter Exemptions prohibit affiliation not only between the trustee and the lead underwriter, but between the trustee and any underwriter, without regard to the amount underwritten.

J.P. Morgan Chase stated that currently, most providers of corporate trust and related services in the structured finance marketplace are large banks that have the requisite staff and systems resources to efficiently serve this marketplace. Most of these same banks, particularly those that are profitable and well-capitalized, have expanded into the securities underwriting business, including underwriting of structured finance transactions. Not only will investors (including Plans) be disadvantaged if banks and their affiliates which underwrite securities continue to be precluded from providing trust services, but further, it is clearly not in the best interest of investors, including Plan investors, to eliminate those banks—often the most competent in the servicing of structured finance transactions—from the pool of available corporate trust providers.

A trustee in a structured finance transaction, while involved in complex calculations and reporting, typically does not perform any discretionary functions. Such a trustee operates as a stakeholder and strictly in accordance with the explicit terms of the governing agreements so that the intent of the crafters of the transaction may be carried out. These functions are essentially ministerial, such as establishing accounts, receiving funds, making payments and issuing reports, all in a predetermined manner. Unlike trustees for corporate or municipal debt, there is no need for trustees in structured finance transactions to assume discretionary functions in order to protect the interests of debt holders in the event of default or bankruptcy, because structured finance entities are bankruptcy remote vehicles. There is no "issuer" outside the structured transaction to pursue for repayment of the debt. The trustee's role is defined by a contract, which provides an explicit structure spelling out the action to be taken upon the happening of specified events. There is no opportunity or incentive for the trustee in a structured finance transaction, by reason of its affiliation with an underwriter or otherwise, to take or not to take actions which might benefit the underwriter to the detriment of Plan investors.

J.P. Morgan Chase represented that the role of the underwriter in a structured financing involves, among other things, assisting the sponsor or originator in structuring the contemplated transaction. The trustee becomes involved later in the process, after the principal parties have agreed on the essential components, to review the proposed transaction from the limited standpoints of technical workability and potential trustee liability. After the issuance of securities to the public, in a structured financing, while the trustee performs its role as trustee over the life of the transaction, the underwriter has no further role in the transaction. The trustee has no opportunity to take or not take action, or to use information in ways which might advantage the underwriter to the detriment of Plan investors. In fact, from the point of view of enhancing its reputation, the underwriter clearly wants the transaction to succeed as it was structured, which includes the trustee performing in a manner independent of the underwriter. Accordingly, J.P. Morgan Chase requested a modification to its Underwriter Exemptions in order to permit the trustee of the Trust to be an affiliate of the underwriter.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of

[1] The term "Underwriter Exemptions" refers to the following individual Prohibited Transaction Exemptions (PTEs): PTE 89–88, 54 FR 42582 (October 17, 1989); PTE 89–89, 54 FR 42569 (October 17, 1989); PTE 89–90, 54 FR 42597 (October 17, 1989); PTE 90–22, 55 FR 20542 (May 17, 1990); PTE 90–23, 55 FR 20545 (May 17, 1990); PTE 90–24, 55 FR 20548 (May 17, 1990); PTE 90–28, 55 FR 21456 (May 24, 1990); PTE 90–29, 55 FR 21459 (May 24, 1990); PTE 90–30, 55 FR 21461 (May 24, 1990); PTE 90–31, 55 FR 23144 (June 6, 1990); PTE 90–32, 55 FR 23147 (June 6, 1990); PTE 90–33, 55 FR 23151 (June 6, 1990); PTE 90–36, 55 FR 25903 (June 25, 1990); PTE 90–39, 55 FR 27713 (July 5, 1990); PTE 90–59, 55 FR 36724 (September 6, 1990); PTE 90–83, 55 FR 50250 (December 5, 1990); PTE 90–84, 55 FR 50252 (December 5, 1990); PTE 90–88, 55 FR 52899 (December 24, 1990); PTE 91–14, 55 FR 48178 (February 22, 1991); PTE 91–22, 56 FR 03277 (April 18, 1991); PTE 91–23, 56 FR 15936 (April 18, 1991); PTE 91–30, 56 FR 22452 (May 15, 1991); PTE 91–62, 56 FR 51406 (October 11, 1991); PTE 93–31, 58 FR 28620 (May 5, 1993); PTE 93–32, 58 FR 28623 (May 14, 1993); PTE 94–29, 59 FR 14675 (March 29, 1994); PTE 94–64, 59 FR 42312 (August 17, 1994); PTE 94–70, 59 FR 50014 (September 30, 1994); PTE 94–73, 59 FR 51213 (October 7, 1994); PTE 94–84, 59 FR 65400 (December 19, 1994); PTE 95–26, 60 FR 17586 (April 6, 1995); PTE 95–59, 60 FR 35938 (July 12, 1995); PTE 95–89, 60 FR 49011 (September 21, 1995); PTE 96–22, 61 FR 14828 (April 3, 1996); PTE 96–84, 61 FR 58234 (November 13, 1996); PTE 96–92, 61 FR 66334 (December 17, 1996); PTE 96–94, 61 FR 68787 (December 30, 1996); PTE 97–05, 62 FR 1926 (January 14, 1997); PTE 97–28, 62 FR 28515 (May 23, 1997); PTE 97–34, 62 FR 39021 (July 21, 1997); PTE 98–08, 63 FR 8498 (February 19, 1998); PTE 99–11, 64 FR 11046 (March 8, 1999); PTE 2000–19, 65 FR 25950 (May 4, 2000); PTE 2000–33, 65 FR 37171 (June 13, 2000); PTE 2000–41, 65 FR 51039 (August 22, 2000); and PTE 2000–55 (November 13, 2000).

In addition, the Department notes that it is also proposing individual exemptive relief for: Deutsche Bank A.G., New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc., Final Authorization Number (FAN) 97–03E (December 9, 1996); Credit Lyonnais Securities (USA) Inc., FAN 97–21E (September 10, 1997); ABN AMRO Inc., FAN 98–08E (April 27, 1998); Ironwood Capital Partners Ltd., FAN 99–31E (December 20, 1999); and William J. Mayer Securities LLC, FAN 01–25E (October 15, 2001), which received the approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62.

[2] The exemptions are PTE 90–23 (55 FR 20545, May 17, 1990), PTE 90–31 (55 FR 23144, June 6, 1990), and PTE 90–33 (55 FR 23151, June 6, 1990).

[3] Interested persons should review the Department's regulations at 29 CFR 2510.3–101 (Definition of "plan assets"—plan investments) for the reasons a Plan's investment in certificates issued by a Trust may raise prohibited transaction issues with respect to parties in interest.

the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time frame set forth above, after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), the Department proposes to modify the following individual Prohibited Transaction Exemptions (PTEs), as set forth below: PTE 89–88, 54 FR 42582 (October 17, 1989); PTE 89–89, 54 FR 42569 (October 17, 1989); PTE 89–90, 54 FR 42597 (October 17, 1989); PTE 90–22, 55 FR 20542 (May 17, 1990); PTE 90–24, 55 FR 20548 (May 17, 1990); PTE 90–28, 55 FR 21456 (May 24, 1990); PTE 90–29, 55 FR 21459 (May 24, 1990); PTE 90–30, 55 FR 21461 (May 24, 1990); PTE 90–32, 55 FR 23147 (June 6, 1990); PTE 90–36, 55 FR 25903 (June 25, 1990); PTE 90–39, 55 FR 27713 (July 5, 1990); PTE 90–59, 55 FR 36724 (September 6, 1990); PTE 90–83, 55 FR 50250 (December 5, 1990); PTE 90–84, 55 FR 50252 (December 5, 1990); PTE 90–88, 55 FR 52899 (December 24, 1990); PTE 91–14, 55 FR 48178 (February 22, 1991); PTE 91–22, 56 FR 03277 (April 18, 1991); PTE 91–23, 56 FR 15936 (April 18, 1991); PTE 91–30, 56 FR 22452 (May 15, 1991); PTE 91–62, 56 FR 51406 (October 11, 1991); PTE 93–31, 58 FR 28620 (May 5, 1993); PTE 93–32, 58 FR 28623 (May 14, 1993); PTE 94–29, 59 FR 14675 (March 29, 1994); PTE 94–64, 59 FR 42312 (August 17, 1994); PTE 94–70, 59 FR 50014 (September 30, 1994); PTE 94–73, 59 FR 51213 (October 7, 1994); PTE 94–84, 59 FR 65400 (December 19, 1994); PTE 95–26, 60 FR 17586 (April 6, 1995); PTE 95–59, 60 FR 35938 (July 12, 1995); PTE 95–89, 60 FR 49011 (September 21, 1995); PTE 96–22, 61 FR 14828 (April 3, 1996); PTE 96–84, 61 FR 58234 (November 13, 1996); PTE 96–92, 61 FR 66334 (December 17, 1996); PTE 96–94, 61 FR 68787 (December 30, 1996); PTE 97–05, 62 FR 1926 (January 14, 1997); PTE 97–28, 62 FR 28515 (May 23, 1997); PTE 98–08, 63 FR 8498 (February 19, 1998); PTE 99–11, 64 FR 11046 (March 8, 1999); PTE 2000–19, 65 FR 25950 (May 4, 2000); PTE 2000–33, 65 FR 37171 (June 13, 2000); PTE 2000–41, 65 FR 51039 (August 22, 2000); and PTE 2000–55 (November 13, 2000), each as subsequently amended by PTE 97–34 and PTE 2000–58.

In addition, the Department notes that it is also proposing individual exemptive relief for: Deutsche Bank A.G., New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc., Final Authorization Number (FAN) 97–03E (December 9, 1996); Credit Lyonnais Securities (USA) Inc., FAN 97–21E (September 10, 1997); ABN AMRO Inc., FAN 98–08E (April 27, 1998); Ironwood Capital Partners Ltd., FAN 99–31E (December 20, 1999); and William J. Mayer Securities, FAN 01–25E (October 15, 2001), which received the approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62.

The first sentence of section II.A.(4) of these exemptions is amended to read:

The Trustee is not an Affiliate of any member of the Restricted Group, other than an Underwriter.

If granted, the amendment will be effective as of March 13, 2002.

For a more complete statement of the facts and representations supporting the Department's decision to grant the Underwriter Exemptions, refer to the proposed exemptions and the grant notices that are cited above.

Signed at Washington, DC, this 17th day of May, 2002.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 02–12831 Filed 5–21–02; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–11000]

Prohibited Transaction Exemption 2002–26; Grant of Individual Exemptions; Holt Fleck & Free P.A. Profit Sharing Plan (the Plan), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Holt, Fleck & Free P.A. Profit Sharing Plan (the Plan) Located in Noblesville, Indiana

[Prohibited Transaction Exemption No. 2002–26; Exemption Application No. D–11000]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale (the Sale) by the Plan to a Plan fiduciary of two parcels of improved real property (the Parcels). This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) All terms and conditions of the Sale are at least as favorable to the Plan as those that the Plan could obtain in an arm's-length transaction with an unrelated party;

(b) The Sales price is the greater of $165,000 or the fair market value of the Parcels as of the date of the Sale;

(c) The fair market value of the Parcels has been determined by an independent, qualified appraiser;

(d) The Sale is a one-time transaction for cash; and

(e) The Plan does not pay any commissions, costs or other expenses in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on March 18, 2002 at 67 FR 12064.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 693–8540 (this is not a toll-free number).

Prudential Insurance Company of America and Its Affiliates (collectively, Prudential) Located in Newark, NJ

[Prohibited Transaction Exemption 2002–27; Exemption Application No. D–11051]

Exemption

Section I. Exemption for the Acquisition, Holding and Disposition of Prudential Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and section 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) and (E) of the Code,[1] shall not apply, effective December 13, 2001, to the acquisition, holding and disposition of common stock issued by Prudential Financial, Inc. (the Prudential Financial Stock) and/or common stock issued by a Prudential affiliate (the Prudential Affiliate Stock; together, the Prudential Stock), by Index and Model-Driven Funds that are managed by Prudential, in which client plans of Prudential invest, provided that the following conditions and the General Conditions of Section II are met:

(a) The acquisition or disposition of Prudential Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring Prudential Stock which is intended to benefit Prudential or any party in which Prudential may have an interest.

(b) Whenever Prudential Stock is initially added to an index on which an Index or Model-Driven Fund is based, or initially added to the portfolio of an Index or Model-Driven Fund, all acquisitions of Prudential Stock necessary to bring the Fund's holdings of such stock either to its capitalization-weighted or other specified composition in the relevant index, as determined by the independent organization maintaining such index, or to its correct weighting as determined by the model which has been used to transform the index, occur in the following manner:

(1) Purchases are from, or through, only one broker or dealer on a single trading day;

(2) Based on the best available information, purchases are not the opening transaction for the trading day;

(3) Purchases are not effected in the last half hour before the scheduled close of the trading day;

(4) Purchases are at a price that is not higher than the lowest current independent offer quotation, determined on the basis of reasonable inquiry from non-affiliated brokers;

(5) Aggregate daily purchases do not exceed 15 percent of the average daily trading volume for the security, as determined by the greater of either (i) the trading volume for the security occurring on the applicable exchange and automated trading system on the date of the transaction, or (ii) an aggregate average daily trading volume for the security occurring on the applicable exchange and automated trading system for the previous 5 business days, both based on the best information reasonably available at the time of the transaction;

(6) All purchases and sales of Prudential Stock occur either (i) on a recognized U.S. securities exchange (as defined in Section III(k) below), (ii) through an automated trading system (as defined in Section III(j) below) operated by a broker-dealer independent of Prudential that is registered under the Securities Exchange Act of 1934 (the 1934 Act), and thereby subject to regulation by the Securities and Exchange Commission (the SEC), which provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) through an automated trading system (as defined in Section III(j) below) that is operated by a recognized U.S. securities exchange (as defined in Section III(k) below), pursuant to the applicable securities laws, and provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; and

(7) If the necessary number of shares of Prudential Stock cannot be acquired within 10 business days from the date of the event which causes the particular Fund to require Prudential Stock, Prudential appoints a fiduciary which is independent of Prudential to design acquisition procedures and monitor compliance with such procedures.

(c) Subsequent to acquisitions necessary to bring a Fund's holdings of Prudential Stock to its specified weighting in the index or model pursuant to the restrictions described in Section I(b) above, all aggregate daily purchases of Prudential Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for Prudential Stock occurring on the applicable exchange and automated trading system (as defined below) for the previous 5 business days, or

[1] For purposes of this exemption, references to provisions of the Act refer also to corresponding provisions of the Code.

(2) 15 percent of the trading volume for Prudential Stock occurring on the applicable exchange and automated trading system (as defined below) on the date of the transaction, as determined by the best available information for the trades that occurred on such date.

(d) All transactions in Prudential Stock not otherwise described above in Section I(b) are either—(i) entered into on a principal basis in a direct, arm's length transaction with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of Prudential and is registered under the 1934 Act, and thereby subject to regulation by the SEC, (ii) effected on an automated trading system (as defined in Section III(j) below) operated by a broker-dealer independent of Prudential that is subject to regulation by either the SEC or another applicable regulatory authority, or an automated trading system operated by a recognized U.S. securities exchange (as defined in Section III(k) below) which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) effected through a recognized U.S. securities exchange (as defined in Section III(k) below), so long as the broker is acting on an agency basis.

(e) No transactions by a Fund involve purchases from, or sales to, Prudential (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(f) No more than 5 percent of the total amount of Prudential Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by Prudential.

(g) Prudential Stock constitutes no more than 5 percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(h) A fiduciary of a plan which is independent of Prudential authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds Prudential Stock, pursuant to the procedures described herein.

(i) A fiduciary independent of the Prudential directs the voting of Prudential Stock held by an Index or Model-Driven Fund on any matter in which shareholders of Prudential are required or permitted to vote.

Section II. General Conditions

(a) Prudential maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Section II to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Prudential, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest other than Prudential shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) of this Section II and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of this Section II are unconditionally available at their customary location for examination during normal business hours by —

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the SEC,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or a representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this Section II(b)(1) shall be authorized to examine trade secrets of Prudential or commercial or financial information which is considered confidential.

Section III. Definitions

(a) The term "Index Fund" means any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by Prudential, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile and other characteristics of an independently maintained securities Index, as described in Section III(c) below, by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which Prudential does not use its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold;

(3) That contains "plan assets" subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3–101, Definition of "plan assets"—plan investments); and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit Prudential or any party in which Prudential may have an interest.

(b) The term "Model-Driven Fund" means any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by Prudential, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data, not within the control of Prudential, to transform an independently maintained Index, as described in Section III(c) below;

(2) Which contains "plan assets" subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3–101, Definition of "plan assets"—plan investments); and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit Prudential or any party in which Prudential may have an interest.

(c) The term "Index" means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public stock exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of Prudential; and,

(3) The index is a generally-accepted standardized index of securities which is not specifically tailored for the use of Prudential.

(d) The term "opening date" means the date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(e) The term "Buy-up" means an acquisition of Prudential Stock by an Index or Model-Driven Fund in connection with the initial addition of such stock to an independently maintained index upon which the Fund is based or the initial investment of a Fund in such stock.

(f) The term "Prudential" refers to Prudential Insurance Company of America, its indirect parent and holding company, Prudential Financial, and any current or future affiliates, as defined below in paragraph (h).

(g) The term "Prudential Financial" refers to Prudential Financial, Inc., the indirect parent and holding company of Prudential Insurance Company of America.

(h) An "affiliate" of Prudential includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the person;

(2) Any officer, director, employee or relative of such person, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(i) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(j) The term "automated trading system" means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers, such as an "alternative trading system" within the meaning of the SEC's Reg. ATS [17 CFR Part 242.300], as such definition may be amended from time to time, or an "automated quotation system" as described in Section 3(a)(51)(A)(ii) of the 1934 Act [15 USC 8c(a)(51)(A) (ii)].

(k) The term "recognized U.S. securities exchange" means a U.S. securities exchange that is registered as a "national securities exchange" under Section 6 of the 1934 Act (15 USC 78f), as such definition may be amended from time to time, which performs with respect to securities the functions commonly performed by a stock exchange within the meaning of definitions under the applicable securities laws (e.g., 17 CFR Part 240.3b-16).

EFFECTIVE DATE: This exemption is effective as of December 13, 2001.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 18, 2002 at 67 FR 2692.

Written Comments

The Department received two written comments with respect to the proposed exemption and no requests for a public hearing. The comments, which were submitted by representatives of two Prudential client plans, expressed concern that allowing Index and Model-Driven Funds managed by Prudential to invest in Prudential Stock would create a conflict of interest for Prudential. One of the commenters also referred to the "Enron situation" and the general concerns of the public with respect to conflicts of interest in large company 401(k) plan investments.

In response to these comments, Prudential notes that it applied to the Department for exemptive relief because of the possibility of conflicts of interest where Prudential manages Index and Model-Driven Funds that invest in Prudential Stock. However, Prudential believes that the conditions imposed by the proposed exemption effectively protect investing plans from these conflicts. Prudential points out that at their core, the conditions of the proposed exemption are designed to eliminate any exercise of discretion by Prudential in determining when and how Prudential Stock is bought or sold in connection with Index or Model-Driven Funds. By operating in accordance with these conditions, Prudential states that it has none of the discretion that would permit it to engage in conflicts of interest. Prudential also explains that in the first condition of the proposal, the sole purpose for the acquisition of Prudential Stock is to maintain "strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring Prudential Stock which is intended to benefit Prudential or any party in which Prudential has an interest." Further, Prudential states that the proposed exemption includes numerous other conditions that limit any potential for conflicts of interest.

In addition, Prudential notes that the Department has issued several exemptions to financial institutions permitting the purchase of their own stock by index and model-driven funds they manage, subject to nearly identical conditions. Therefore, Prudential argues that it would be unfair if the Department were not to grant it the same exemptive relief its competitors have received.

Finally, Prudential notes that the proposed exemption does not raise Enron-type concerns because the proposal does not cover investments by Prudential's in-house plans in Prudential Stock. Also, Prudential explains that the proposal does not present the investment diversification issue that was raised in connection with Enron's 401(k) plan since Prudential Stock will always constitute a small portion of the stock held by the Index and Model-Driven Funds and Prudential Stock will always comprise a small fraction of the indexes these Funds track.

Accordingly, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption subject to the clarifications described above. For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–11051) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 693–8556. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the

employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of May, 2002.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 02–12829 Filed 5–21–02; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10987]

Proposed Exemption; Metropolitan Life Insurance Company (MetLife)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration (PWBA), Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. ____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to PWBA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: "*moffittb@pwba.dol.gov*", or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Metropolitan Life Insurance Company (MetLife) Located in New York, NY

[Application No. D–10987]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and section 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective January 20, 2000 until May 18, 2000, to (1) the holding, by MetLife Separate Account R.I. (the Separate Account), an index fund managed by MetLife which holds plan assets, of 523 shares of common stock (the Common Shares), issued by the Conning Corporation (Conning), an affiliate of MetLife; (2) the acquisition, by MetLife, of certain certificates, representing 523 shares of cancelled Conning Common Shares (the Cancelled Conning Shares), from the Separate Account, pursuant to the terms of a tender offer (the Tender Offer) and merger agreement (the Merger Agreement); and (3) the delivery of the certificates representing the 523 Cancelled Conning Shares to ChaseMellon Shareholder Services, LLC (the Disbursing Agent), in exchange for certain cash consideration.

This proposed exemption is subject to the following conditions:

(a) The decision by a Plan to invest in the Separate Account was made by a Plan fiduciary which was independent of MetLife and its affiliates.

(b) At all times, the Conning Common Shares represented less than one percent of the assets of the Separate Account and less than one percent of the value of the assets of the ERISA-covered Plans investing therein.

(c) The exchange of the Cancelled Conning Shares by the Separate Account was a one-time transaction for cash.

(d) The Separate Account and the Plans received the fair market value for each Cancelled Conning Share on the date of the exchange.

(e) The consideration received by the Separate Account for its Cancelled Conning Shares was the same consideration that was received by (i) all shareholders who validly tendered their Conning Common Shares pursuant to a Tender Offer and (ii) all holders of Cancelled Conning Shares.

(f) The Separate Account paid no commissions, fees or other expenses with respect to the exchange of the Cancelled Conning Shares for cash.

(g) After the expiration of the Tender Offer and the consummation of the Merger, the Separate Account delivered certificates representing the Cancelled Conning Shares to the Disbursing Agent to exchange with MetLife and its affiliates for cash.

(h) The terms of the exchange were no less favorable to the Separate Account and the Plans than those obtainable in an arm's length transaction engaged in by other similarly-situated holders of the Cancelled Conning Shares.

Effective Date: If granted, this proposed exemption will be effective from January 20, 2000 until May 18, 2000.

Summary of Facts and Representations

1. The parties to the transactions are described as follows:

a. *MetLife*, which maintains its principal executive offices at One Madison Avenue, New York, New York, is a New York corporation that is subject to supervision and examination by the Superintendent of Insurance of the State of New York. MetLife is a wholly owned subsidiary of MetLife, Inc., a Delaware corporation. Through its subsidiaries and affiliates, MetLife, Inc. is a leading provider of insurance and other financial services to individual and group customers. MetLife and its affiliates serve approximately 9 million households in the U.S. and companies and institutions with 33 million employees and members.

MetLife also has international insurance operations in 12 countries. Among the variety of insurance products and service it offers, MetLife and certain of its affiliates provide funding, asset management and other services for thousands of employee benefit plans subject to the provisions of Title I of the Act.

MetLife maintains pooled and single customer separate accounts in which Title I pension, profit sharing, welfare benefit plans and thrift plans invest. MetLife and/or its affiliates manage all or a portion of the assets of such separate accounts. Additionally, MetLife has a number of subsidiaries and affiliates that provide a variety of financial services, including investment management and brokerage services to Plans.

In their capacities as fiduciaries of Plans, MetLife and its affiliates may be either directed by an independent Plan fiduciary or a Plan participant that has the ability to direct investments in his or her Plan account under the Plan document. Alternatively, in those cases in which a MetLife affiliate manages investments, such as the Separate Account described herein, MetLife represents that the affiliate does not exercise any discretionary authority over the decision to invest the Plan's assets in the Separate Account. Instead, an independent Plan fiduciary is responsible for such investment decisions.

b. *Conning*, a Missouri corporation located in St. Louis, Missouri, provides asset management services primarily to insurance companies and institutional investors. In addition, Conning manages private equity funds investing in insurance and insurance-related companies and it conducts in-depth research on the insurance industry. On April 19, 2000, as a result of a merger, Conning became an indirect, wholly owned subsidiary of MetLife and a privately-held corporation.

c. *CC Merger Sub, Inc. (CC Merger Sub)*, a Missouri corporation, was an indirect, wholly owned subsidiary of MetLife. Through CC Merger Sub, MetLife offered to purchase all of the outstanding Conning Common Shares that were not owned by MetLife or its affiliates under the terms of a Tender Offer and Merger described in detail below. On April 19, 2000, CC Merger Sub was merged with and into Conning. As a result of the merger, CC Merger Sub ceased to exist.

d. *ChaseMellon Shareholder Services, LLC*, otherwise referred to in this proposed exemption as the "Disbursing Agent," was appointed by MetLife and Conning for purposes of receiving certificates representing Cancelled Conning Shares and transmitting cash payments to the holders of the surrendered certificates.

2. MetLife is the investment manager of the Separate Account, which is an insurance company pooled separate account that seeks to replicate the performance of the Russell 2000 Index and is available for investment by Plans subject to the Act. The Separate Account is passively-managed in that the choice of stocks purchased and sold, and the volume purchased and sold, are made according to the Russell 2000 Index rather than according to the active evaluation of investments.

MetLife represents that the process for the establishment and operation of the Separate Account is disciplined in that objective rules are established. Moreover, MetLife states that the Separate Account is managed utilizing an analytical computer program that determines the appropriate rebalancing necessary to meet the investment objective.

3. At the time of the transactions described herein, nine ERISA-covered Plans (none of which were sponsored by MetLife and its affiliates) invested in the Separate Account, along with certain municipal plans that were not subject to ERISA. These Plans held undivided, *pro rata* interests in the Separate Account's assets, including the Conning Common Shares, which were acquired by the Separate Account on January 20, 2000 in an open market transaction. As of April 19, 2000, the Separate Account had total assets of approximately $45.6 million. Of the total assets, the Conning Common Shares represented 0.014 percent of the assets in the Separate Account and 0.075 percent of the value of the ERISA-covered Plans that were invested in such account.

4. The Separate Account acquired the Conning Common Shares in a Nasdaq transaction that was executed by the program trading desk at Credit Suisse First Boston, which acted as broker. The Conning Common Shares were purchased on the same day as part of the regular portfolio rebalance occurring on that day. Of the 73,400 shares of Conning Common Shares traded on January 20, 2000, the Separate Account purchased 523 shares of stock for an acquisition price of $11.239 per share or an aggregate acquisition price of $5,877.98.

MetLife represents that the Conning Common Shares were purchased by the Separate Account in order to avoid a tracking error and to conform the Separate Account with the Russell 2000 Index. MetLife also represents that at no time did the Conning Common Shares represent more than 5 percent of the value of the Russell 2000 Index.

5. MetLife requests an administrative exemption from the Department with respect to the holding of 523 Conning Common Shares (and subsequently, 523 Cancelled Conning Shares) by the Separate Account. As discussed below, MetLife also requests exemptive relief with respect to the delivery of certificates representing 523 Cancelled Conning Shares to the Disbursing Agent in exchange for cash consideration of $12.50 per Cancelled Conning Share, resulting in the acquisition of such shares by MetLife. If granted, the exemption will be effective from January 20, 2000 until May 18, 2000.

MetLife believes that retroactive exemptive relief is appropriate given the beneficial nature of the exchange, the fact that the transaction could not be avoided if applicable provisions of the Federal securities laws and relevant provisions of the Act that are the subject of this application were complied with, and the fact that the Conning Common

Shares held by the Separate Account constituted a *de minimus* portion of the exchange transaction.

6. Prior to the Separate Account's acquisition of the Conning Common Shares, MetLife acquired control of 8.3 million Conning Common Shares when it purchased all of the issued and outstanding shares of capital stock of GenAmerica Corporation from General American Mutual Holding Company, a Missouri mutual holding company. The transaction took place on January 6, 2000. At the time of the transaction, GenAmerica Corporation owned all of the issued and outstanding shares of capital stock of General American Life Insurance Company, which owned all of the issued and outstanding shares of capital stock of GenAm Holding Company, the record owner of the 8.3 million Conning Common Shares. The Conning Common Shares acquired by MetLife represented approximately 60.4 percent of the outstanding Conning Common Shares.

7. In accordance with the terms of the Merger Agreement by and between Conning, MetLife and CC Merger Sub, on March 20, 2000, MetLife (through CC Merger Sub) commenced the Tender Offer to acquire the remaining 39.6 percent of the outstanding Conning Common Shares that MetLife did not control. The purchase price was established at $12.50 per Conning Common Share and the consideration was payable in cash. April 17, 2000 was fixed as the expiration date of the Tender Offer. However, this date could be extended by MetLife.

Under the Merger Agreement, MetLife's acceptance of and payment for all of the Conning Common Shares tendered and not validly withdrawn in the Tender Offer were subject to the condition that Conning shareholder approval of the Merger would be ensured if the number of tendered Conning Common Shares, when combined with the Conning Common Shares that MetLife already controlled, exceeded two-thirds of the outstanding Conning Common Shares. Thus, the objective of the Tender Offer and the Merger was to make Conning an indirect, wholly owned subsidiary of MetLife.

8. MetLife and CC Merger Sub believed that the consideration to be received in the Tender Offer and the Merger was fair (both in terms of price and procedure) to the Conning stockholders that were unaffiliated with MetLife for the following reasons:

- The Conning Special Committee, which concluded that the Tender Offer and the Merger were fair to, advisable and in the best interests of Conning and its stockholders, had approved the Tender Offer and the Merger Agreement, following a thorough review with independent financial and legal advisers.
- Based upon the recommendation of the Conning Special Committee and other considerations, the Conning Board of Directors determined that the Tender Offer and the Merger were fair to, advisable and in the best interests of Conning stockholders and unanimously approved the Tender Offer and the Merger Agreement.
- On March 9, 2000, the Conning Special Committee received a written fairness opinion from Salomon Smith Barney to the effect that, subject to the various assumptions and limitations set forth in that opinion, as of the date thereof, the cash consideration of $12.50 per Conning Common Share which was to be received by Conning stockholders in the Tender Offer and the Merger was fair to Conning stockholders (other than MetLife or Conning and their respective wholly owned subsidiaries) from a financial point of view.
- The Merger Agreement was negotiated at arm's length for over six weeks with the Conning Special Committee, which acted independently, with the assistance of financial and legal advisers and on behalf of Conning stockholders unaffiliated with MetLife.
- Conning's historical financial performance and MetLife's projections of Conning's future financial performance took into account MetLife's assumption of investment management responsibility over the general account assets of General American Life Insurance Company.
- Conning's business and earnings prospects, near- and long-term business risks, the competitive business environment in which Conning operated and business and valuation trends in Conning's business industry were considered.
- The cash consideration of $12.50 per share to be paid in the Tender Offer and the Merger for the Conning Common Shares would represent (a) a premium of approximately 30.7 percent above the closing price of Conning Common Shares on the last trading day before MetLife announced its initial proposal to acquire Conning; (b) a premium of approximately 44 percent above the average of the closing prices for Conning Common Shares over the 20 trading days immediately before MetLife publicly announced the proposal to acquire Conning; and (c) a premium of approximately 48.1 percent above the closing price for Conning Common Shares on each of December 14, 15 and 16, 1999, approximately one month before MetLife announced its initial proposal to acquire Conning.
- The structure of the transaction was designed to result in Conning stockholders, other than MetLife and its affiliates, receiving the consideration in the Tender Offer and the Merger at the earliest possible time; and
- MetLife's internally-prepared financial analysis was considered. This analysis included the development of projections, a review of Credit Suisse First Boston's review of comparable current market prices and historical transaction prices of Conning's peer group, and a discounted cash flow analysis to determine the value of Conning Common Shares as supporting the fairness of the Tender Offer and the Merger to stockholders that were not affiliated with MetLife.

9. At the expiration date of the Tender Offer on April 17, 2000, 5.3 million Conning Common Shares were validly tendered and not withdrawn. When combined with the 8.3 million Conning Common Shares that MetLife already controlled, such shares then gave MetLife control of approximately 98 percent of the outstanding Conning Common Shares. Accordingly, pursuant to the Merger Agreement and Missouri law, on April 19, 2000, MetLife acquired all remaining Conning Common Shares that were the subject of the Tender Offer by consummating the Merger. In this regard, all outstanding Conning Common Shares that were the subject of the Tender Offer (except for those shares where the shareholders asserted their dissenters' rights under Missouri law) were automatically cancelled, retired and converted into the right to receive cash consideration equivalent to $12.50 per former Conning Common Share. (Such cancelled shares are referred to as the "Cancelled Conning Shares.") Also, the separate corporate existence of CC Merger Sub was terminated and Conning, as the surviving corporation in the Merger, became an indirect, wholly owned subsidiary of MetLife.

Moreover, on April 19, 2000, MetLife caused Conning's share transfer books to be closed and all Conning Common Shares to be de-listed from Nasdaq and de-registered under the Securities Exchange Act of 1934, as amended. As a result of these actions, there was no public market for any Conning Common Shares (all of which were now controlled by MetLife) or any Cancelled Conning Shares (523 of which were held by the Separate Account).

10. To comply with applicable provisions of the Federal securities laws, MetLife deemed it inappropriate for the Separate Account to sell its Conning Common Shares on the open market. Instead, the Separate Account continued to hold its 523 Conning Common Shares and it did not tender these shares in the Tender Offer. Subsequently, the 523 Conning Common Shares held by the Separate Account were converted into 523 Cancelled Common Shares.

On May 18, 2000, the Separate Account delivered its 523 Cancelled Conning Shares to the Disbursing Agent in exchange for the same $12.50 per share consideration that was received by all other Conning shareholders in the Tender Offer and the Merger. Thus, the Separate Account received $6,538 in cash from MetLife.[1] The exchange caused the ERISA-covered Plans that were participating in the Separate Account to receive a premium for such shares. Had the Separate Account disposed of the Conning Common Shares on the open market at $8.44 per share approximately one month before MetLife announced its initial proposal to acquire all of the outstanding shares of such stock, the Separate Account would have received only $4,414. MetLife represents that this amount would have been further reduced by sales commissions.

11. In summary, it is represented that the transactions satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The decision by a Plan to invest in the Separate Account was made by a Plan fiduciary which was independent of MetLife and its affiliates.

(b) The Conning Common Shares represented less than one percent of the assets of the Separate Account and less than one percent of the assets of the ERISA-covered Plans investing therein.

(c) The exchange of the Cancelled Conning Shares by the Separate Account was a one-time transaction for cash.

(d) The Separate Account and the Plans received the fair market value for each Cancelled Conning Share on the date of the exchange.

(e) The consideration received by the Separate Account for its Cancelled Conning Shares was the same consideration received by (i) all shareholders who validly tendered their Conning Common Shares pursuant to a Tender Offer and (ii) all holders of Cancelled Conning Shares.

(f) The Separate Account paid no commissions, fees or other expenses in connection with the exchange of the Cancelled Conning shares to MetLife and its affiliates for cash.

(g) After the expiration of the Tender Offer and the consummation of the exchange, the Separate Account delivered certificates to the Disbursing Agent representing the Cancelled Conning Shares.

(h) The terms of the exchange were no less favorable to the Separate Account and the Plans than those obtainable in an arm's length transaction engaged in by other similarly-situated holders of the Cancelled Conning Shares.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 693–8556. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of May, 2002.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 02–12828 Filed 5–21–02; 8:45 am]

BILLING CODE 4510–29–P

[1] The Separate Account had also received $26.15 in dividends from MetLife that were attributable to its ownership of the Conning Common Shares. This meant that the Separate Account's total net earnings with respect to the Conning Common shares was $685.68 (6,537.50 − $5,877.98 + $26.15).

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption (PTE) 2002–21; Exemption Application No. D–11005]

Pacific Investment Management Company LLC (PIMCO), Located in Newport Beach, CA; Employee Benefit Plans: Prohibited Transaction Exemptions

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor (the Department).

ACTION: Notice of technical correction.

On March 28, 2002, the Department published PTE 2002–21 in the **Federal Register** at 67 FR 14988. PTE 2002–21 permits an employee benefit plan (the Plan), whose assets are held by PIMCO, as trustee, investment manager or discretionary fiduciary, to purchase shares of one or more open-end management investment companies registered under the Investment Company Act of 1940, to which PIMCO or any affiliate of PIMCO serves as investment adviser and may provide other services, in exchange for securities held by the Plan in an account or sub-account with PIMCO. PTE 2002–21 is effective as of February 5, 2002.

On page 14989 of the notice granting PTE 2002–21, the Department hereby corrects the last sentence of Section I(g) to read as follows in order to reflect standard industry practice:

* * * Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the day of the Purchase Transaction determined on the basis of reasonable inquiry from at least two market makers or one pricing service that is independent of PIMCO.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 693–8556. (This is not a toll-free number.)

Signed at Washington, DC, this 17th day of May, 2002.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 02–12830 Filed 5–21–02; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–063]

U.S. Centennial of Flight Commission; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the U.S. Centennial of Flight Commission.

DATES: Wednesday, June 19, 2002, 1 p.m. to 5 p.m.

ADDRESSES: Federal Aviation Administration, 3rd Floor Auditorium, 800 Independence Avenue, SW., Washington, DC. Attendees must check in at the Security Desk to be cleared to in at the 3rd floor auditorium.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Farmarco, Code I–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1903.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Opening Comments
—Centennial Partner Applications
—Centennial of Flight Kick-Off Plans
—Centennial Updates
—First Flight Centennial Federal Advisory Board
—Carter Ryley Thomas Update
—Closing Comments
—Adjourn

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 16, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12867 Filed 5–21–02; 8:45 am]

BILLING CODE 7510–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–35870; License No. 29–28358–02; EA–02–103]

In the Matter of United Evaluations Services, Inc. (Formerly Accurate Technologies, Inc.), Beachwood, NJ 08722; Order Suspending License (Effective Immediately) and Demand for Information

I

United Evaluations Services, Inc., formerly Accurate Technologies Incorporated (Licensee) is the holder of byproduct nuclear material license No. 29–28358–02, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 34. Accurate Technologies Incorporated was the holder of Byproduct Nuclear Material License No. 29–28358–01, also issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 34.

License No. 29–28358–01 was originally issued by the NRC on June 16, 1989, and authorized possession and use of certain byproduct material for industrial radiography at temporary job sites of the Licensee anywhere in the United States where the NRC maintains jurisdiction for regulating the use of licensed material. The license was revoked by the NRC on December 12, 2000, for nonpayment of fees, although the Licensee has represented that it never received the Order revoking the license. The Licensee subsequently paid the required fees from the previous year over the period April–August 2001.

The Licensee submitted a new application, with required fees, on November 6, 2001. The new license (No. 29–28358–02) was subsequently issued on November 16, 2001, and is due to expire on November 30, 2011. License No. 29–28358–02 initially authorized possession and use of certain byproduct material for industrial radiography at temporary job sites. Amendment No. 1 to License No. 29–28358–02, issued on December 20, 2001, changed the name of the Licensee from Accurate Technologies Incorporated to United Evaluations Services Inc.

II

On September 25, 2001, an event occurred at the McShane facility in Baltimore, Maryland, involving a radiation injury to one of the Licensee's radiographers. This event was discussed with the Licensee on October 4, 2001. During the discussions, the NRC learned that the radiographer received a very significant radiation exposure to his hands in excess of regulatory limits (at a minimum, approximately 250–300 rem) while performing radiography at that facility. Since the facility was located in Maryland, an NRC Agreement State, the activities related to that exposure were within the jurisdiction of the State of Maryland.

In its discussions with the NRC, the Licensee indicated that the injury occurred when the radiographer, who completed one radiographic exposure of equipment at the facility and was in the process of preparing for another exposure, handled the device's guide tube with the radioactive source located therein. The source remained in the guide tube after failing to fully retract to the shielded position following the first radiographic exposure. The exposure occurred because the radiographer approached the device without a survey meter and without wearing an alarming ratemeter, either of which would have alerted him that the source was not in a shielded position. Although this event occurred while the radiographer was performing activities in an NRC Agreement State, the same equipment is possessed and used pursuant to an NRC license. As a result, the NRC initiated an investigation and inspection into this matter.

Based on the NRC investigation and inspection, which are still ongoing, the NRC has determined that:

1. The radiographer who was exposed in Maryland had not received the annual refresher training as required by 10 CFR 34.43(d), and had not taken an annual refresher training exam. Instead, an assistant radiographer completed the annual refresher exam for that radiographer. In addition, the President/Radiation Safety Officer certified the training record, which was inaccurate, and provided the certified record to the NRC, in violation of 10 CFR 34.79(b) and 30.9. The date listed on the certified record was approximately three weeks before the occurrence of the significant hand exposure that occurred in Maryland. These violations are particularly egregious and may provide, in part, a causal link to the significant exposure that occurred in Maryland on September 25, 2001;

2. The former Operations Manager knowingly transported and used a radiographic device in New Jersey without the required end cap (which ensures proper positioning and shielding of the source in the camera), in violation of 10 CFR 34.31. Records indicate that this occurred in September 2001.

3. The President/Radiation Safety Officer, in a written response to an NRC

October 4, 2001 Confirmatory Action Letter (CAL), and during the inspection, deliberately provided inaccurate information to the NRC, regarding the status and use of equipment at the facility, in violation of 10 CFR 30.9. Specifically, Item 3 of the CAL documented the Licensee's commitment to inspect all radiographic exposure devices and associated equipment to verify they were in good working order. In an October 9, 2001 supplemental response to the CAL, sent to the NRC by facsimile, the Licensee included a document signed by the President/RSO which stated that the locking mechanisms were checked for proper operation and all locks were in proper working condition, and all end caps were checked and cleaned. This statement was deliberately inaccurate in that on October 10, 2001, during an NRC inspection, as well as during the subsequent investigation, the NRC learned that one of the radiographic devices did not have the end cap in place, and it had not been in place since at least September 25, 2001, and consequently the locking mechanism was inoperable. The Licensee was aware that the device did not have the end cap in place prior to its October 9, 2001 supplemental response.

During the October 10, 2001 inspection, the inspector was informed by the President/Radiation Safety Officer, that an end cap for one of the radiographic devices had been missing for three weeks, but that the device had not been used during that time. This statement was also deliberately inaccurate in that radiation reports and testimony show that the device with the missing end cap had been used on more than one occasion during that three week period, including use by the President/Radiation Safety Officer on October 2, 2001.

4. With the acquiescence of Licensee management, an assistant radiographer performed the duties of a radiographer, knowing that he was not certified to do so, as required by 10 CFR 34.43(a)(1).

III

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements and to ensure that radiographers do not perform licensed activities unless they have completed all required training and that radiographic equipment not be used if it is found to be defective. The NRC must also be able to rely upon information provided by the Licensee to be complete and accurate in all material respects. In this regard, it appears that the Licensee has deliberately failed to comply with NRC requirements, as indicated herein, and has deliberately provided inaccurate information to the NRC. These actions by the Licensee have raised serious doubt as to whether the Licensee can be relied upon in the future to comply with NRC requirements.

Consequently, given these findings, and the significant impacts that can result from violations of radiography requirements, as evidence by the significant exposure that occurred in Maryland on September 25, 2001, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 29–28358–02 in compliance with the Commission's requirements, and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the health, safety and interest of the public require that License No. 29–28358–02 be suspended. Furthermore, pursuant to 10 CFR 2.202, I find that, given the safety significance of conducting radiography by personnel who have not completed all required training and certification, the public health, safety, and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 34, *it is hereby ordered, effective immediately, that license* No. 29–28358–02 *is suspended as follows,* pending further Order.

A. All NRC-licensed material in the Licensee's possession shall be placed in secured storage.

B. All activities under License No. 29–28358–02 to use licensed material shall be suspended. All other requirements of the license remain in effect.

C. No material authorized by the license shall be ordered, purchased, received, or transferred by the Licensee while this Order is in effect.

D. All records related to licensed activities and materials shall be maintained in their original form and must not be removed or altered in any way.

The Director of the Office of Enforcement, the Director of the Office of Nuclear Materials Safety and Safeguards, or the Regional Administrator, Region I, may, in writing, relax or rescind this order upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for an extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued.

Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, and to the Licensee if the hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the individual's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest isadversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or a written approval of an

extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. *An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

VI

In addition to issuance of this Order suspending License No. 29–28358–02, the Commission requires further information from the Licensee in order to determine whether the Commission can have reasonable assurance that in the future the Licensee will conduct its activities in accordance with the Commission's requirements.

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR parts 30 and 34, in order for the Commission to determine whether your license should be further modified or revoked, or other enforcement action taken, the Licensee is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 20 days of the date of this Order and Demand for Information, in writing and under oath or affirmation:

1. An explanation as to why, in light of the findings set forth in Section II of this Order and Demand for Information, that License No. 29–28358–02 should not be revoked.

2. If the Licensee believes that the license should not be revoked, the Licensee, in its response, should address at a minimum, why the NRC should have reasonable assurance that the Licensee, in the future, will ensure appropriate management and oversight of licensed activities (this shall include a description of who will be responsible for assuring such activities are conducted in accordance with 10 CFR parts 30 and 34 requirements).

Copies also shall be sent to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

Dated this 14th day of May 2002.

For the Nuclear Regulatory Commission.

Martin Virgilio,

Acting Deputy Executive Director for Materials, Research and State Programs.

[FR Doc. 02–12835 Filed 5–21–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 AND 50–324]

Carolina Power & Light Company, Brunswick Steam Electric Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Rated Thermal Power Level

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License Nos. DPR–71 and DPR–62, issued to Carolina Power & Light Company (CP&L), for operation of the Brunswick Steam Electric Plant, Units 1 and 2 (BSEP), located in Brunswick County, North Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow CP&L, the operator of BSEP, to increase the maximum thermal power level by approximately 15 percent, from 2558 Megawatts-thermal (MWt) to 2923 MWt. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. The original licensed maximum power level was 2436 MWt, and the NRC staff approved an increase in the licensed maximum power level to 2558 MWt (approximately 5 percent increase) on November 1, 1996. This increase in power was implemented at BSEP in 1997. Therefore, this proposed action would result in an increase of approximately 20 percent over the original licensed maximum power level. The amendment would allow the heat output of the reactor to increase, which would increase the flow of steam to the turbine. This would allow the turbine generator to increase the production of power and increase the amount of heat dissipated by the condenser. Moreover, this would result in an increased temperature in the water being released into the Atlantic Ocean.

The NRC previously published a draft environmental assessment of the proposed action in the **Federal Register** (67 FR 16132, April 4, 2002) and offered an opportunity for public comment. No comments were received.

Need for the Proposed Action

CP&L forecasts a 40-percent increase in the demand for electrical power by 2015 in its service area in North Carolina and South Carolina. CP&L can meet this projected increase in power demand by increasing the number of natural gas-fired combustion turbines or by purchasing power from other sources. The cost of adding the additional generating capacity at BSEP is roughly equivalent to the cost of constructing several small combustion turbine units, each producing approximately 50 Megawatts-electrical (MWe). The proposed EPU would increase the electrical output for BSEP Unit 1 from 841 MWe to 958 MWe and for BSEP Unit 2 from 835 MWe to 951 MWe. However, the cost of nuclear power generation is approximately one-third of the cost of natural gas power generation. Therefore, the proposed EPU would increase power production capacity at a lower economic cost than the fossil fuel alternatives, such as natural gas, and would not result in additional land disturbances or other environmental impacts that could result from new plant construction.

Environmental Impacts of the Proposed Action

At the time of issuance of the operating licenses for BSEP, the NRC staff noted that any activity authorized by the license for each unit would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of BSEP, which was issued in January 1974. The original operating licenses allowed a maximum reactor power of 2436 MWt. CP&L was granted amendments to the BSEP licenses to increase maximum reactor power level by approximately 5 percent on November 1, 1996. The NRC staff published an Environmental Assessment and Finding of No Significant Impact (EA) in support of this uprate in the **Federal Register** on October 28,1996 (61 FR 55673). As part of the application dated August 9, 2001, CP&L submitted a supplement to the BSEP Environmental Report supporting the proposed EPU and providing a summary of its conclusions concerning both the radiological and non-radiological environmental impacts of the proposed action. Based on the NRC staff's independent analyses and the information provided by CP&L, the NRC staff concludes that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES because the EPU would not involve extensive changes to plant systems that directly or indirectly interface with the environment. This EA summarizes the non-radiological and radiological impacts on the environment that may result from the proposed amendments.

Non-Radiological Impacts

Land Use Impacts

The proposed EPU would not modify the current land use at the site significantly over that described in the FES. Three small mechanical draft cooling towers would be erected on the roof of the radwaste building to service the new condensate cooling system. No other expansion of buildings, roads, parking lots, equipment storage or laydown areas, or onsite transmission and distribution equipment, including power line rights-of-way, is anticipated to support this action. No new construction outside of the existing facilities would be necessary. The EPU would not significantly affect material storage, including chemicals, fuels, and other materials stored aboveground or underground.

Cooling Tower Impacts

Each of the three new mechanical draft cooling towers, which would service the condensate cooling system, are approximately 7 meters (m) by 7 m [24 feet (ft) by 24 ft], with a height of approximately 5 m (16 ft). They will be installed on the roof of the radwaste building at an elevation of approximately 20 m (64 ft). The cooling towers would not be readily visible offsite, so there would be no visual or aesthetic impact. The towers are modular in design and construction, and a similar kind of construction is performed onsite during almost every refueling outage without noticeable additional impacts from noise, dust, odors, vibration, traffic, or vehicle exhaust. Therefore, there would be no significant impact from construction of the cooling towers. Each cooling tower would be designed to reject a maximum of approximately 15 MWt (51 million BTU/hr). The expected level of noise from operation of a cooling tower fan would be 84 dBA at a distance of 1.5 m (5 ft); however, the towers would be located on a roof top near the middle of the protected area. Therefore, no added impact from noise is expected offsite. Existing cooling towers, similar in design to the condensate cooling towers, have been in operation for years on the roof of the turbine building at BSEP. No significant fogging, icing, or drifting plumes carrying chemicals or particulate matter have been experienced from these existing cooling towers; therefore, no significant impact would be expected from operation of the condensate cooling towers.

Transmission Facility Impacts

The proposed EPU would not require any physical modifications to the transmission lines. Increased current would be the only change in design or operation of the transmission lines needed to support the EPU. CP&L's transmission line right-of-way maintenance practices, including the management of vegetation growth, would not be affected. No new requirements or changes to onsite transmission equipment, operating voltages, or transmission line rights-of-way would be necessary to support the EPU. The main plant transformers will be modified and replaced to support the uprate; however, replacement of the transformers would have been required before the end of plant life as part of the licensee's ongoing maintenance program; therefore, no significant environmental impact beyond that considered in the FES is expected from this kind of replacement of onsite equipment.

The increased electrical current would cause an increased electromagnetic field around the transmission lines, and the potential for chronic effects from these fields continues to be studied and no scientific consensus has been reached. However, since the increase in power level is approximately 15 percent, the impact of exposure to electromagnetic fields from the offsite transmission lines would not be expected to increase significantly over the current impact.

The transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code. Therefore, even with the slight increase in current attributable to the EPU, adequate protection is provided against hazards from electrical shock.

Impacts on Terrestrial Biota

The proposed EPU would not involve any land disturbance; all construction will be on the roof of the pre-existing radwaste building. Also, once construction is completed, the uprate would not increase noise levels outside the plant site or increase the size of the workforce, nor would CP&L's transmission line rights-of-way maintenance practices change. Therefore, the uprate would not disturb the habitat of any terrestrial plant or animal species. In 1998, CP&L conducted a study to update information about the potential existence of sensitive plant and animal species in the plant environs. Two endangered perennial herbs, rough-leaved loosestrife and Cooley's meadowrue, occur in the BSEP transmission line rights-of-way. The red-cockaded woodpecker, an endangered bird, occurs in the mature pine forests in Brunswick County. The uprate would not disturb the habitat of any of these species, and CP&L has instituted measures to protect and manage the two endangered herbs by agreement with the North Carolina Natural Heritage Program. Therefore, no significant impact on terrestrial biota would be expected from the uprate.

Water Use Impacts

BSEP uses a once-through cooling system to remove heat from the reactor coolant in the condensers. An intake canal approximately 5 kilometers (km) (3 miles) in length feeds water from the Cape Fear River to the BSEP intake structure. The water passes through tubes in the condensers removing heat from the reactor coolant. Then the water passes through a discharge canal 10 km (6 miles) in length to Caswell Beach. At Caswell Beach, the water is pumped approximately 600m (2000 ft) offshore and discharged at the bottom of the Atlantic Ocean.

The proposed EPU would not involve any increase in the rate of withdrawal of water from the intake canal or the Cape Fear River. Makeup water for the new condensate cooling system would be obtained from the Brunswick County water system; the maximum anticipated flow of makeup water would be approximately 23.7 liters per second [375 gallons per minute (gpm)]. CP&L consulted with Brunswick County water system management officials, who indicated that the additional water use would be well within the capacity of the County water system. Therefore, the uprate would not have a significant impact on water usage by BSEP and would not create a water use conflict.

Discharge Impacts

Surface water and wastewater discharges at BSEP are regulated by the State of North Carolina via a National Pollutant Discharge Elimination System (NPDES) permit. This permit is periodically reviewed and renewed by the North Carolina Department of Environment and Natural Resources (NCDENR). The EPU would increase the temperature of the water discharged to the Atlantic Ocean. Also, the blowdown from the new cooling towers would be piped to the existing storm drain system and empty into a storm drain basin.

Water from the storm drain basin is pumped into a stabilization pond; discharges from the stabilization pond flow into the BSEP intake canal.

In 2001, CP&L analyzed the effect of the proposed EPU on the water temperatures in the Atlantic Ocean in the area of the BSEP discharge. First, historical data, such as intake temperatures, discharge temperatures, plant operating conditions, and meteorological conditions, were used to develop isothermal distribution maps. Then, isothermal distribution maps were projected using the expected heat rejection rates for the uprate condition. Based on these analyses, CP&L submitted an application to the NCDENR for renewal of the BSEP NPDES permit with the following revisions to support the uprate:

1. Area of surface water temperature increase up to 7 degrees Fahrenheit (F) [3.9 degrees Celsius (C)] in the plume extending from the discharge point in the Atlantic Ocean shall not exceed 120 acres [50 hectares (ha)]. The current limit is approximately 60 acres (24 ha).

2. Area of surface water temperature increase up to 1.44 degrees F (0.8 degrees C) during June–August [3.96 degrees F (2.2 degrees C) during September–May] should not exceed 2000 acres (800 ha). The current limit is 1000 acres (400 ha).

3. Area of bottom water temperature increase up to 7 degrees F (3.9 degrees C) shall not exceed 4 acres (1.6 ha). The current limit is 2 acres (0.8 ha).

4. Bottom water temperature increase shall not exceed 7 degrees F (3.9 degrees C) beyond a distance of 1000 ft (300 m) from the discharge point. The current limit is 500 ft (150 m).

BSEP has been operating within the current limits; therefore, these limits represent an upper bound of the current impact on ocean water temperatures in the vicinity of the discharge. The proposed limits to support the uprate similarly represent the expected upper bound of the impact on ocean water temperatures if the uprate were fully implemented.

The maximum blowdown flow from all three condensate cooling towers into the storm drain system would be approximately 8.2 liters per second (130 gpm). Water treatment chemicals would be added to the condensate cooling system—approximately 409 liters (108 gallons) per year of ChemTreat CL–216 (a biocide) and approximately 1567 liters (414 gallons) per year of ChemTreat CL–4800 (a dispersant). These chemical additions were included in the application to NCDENR for the renewed NPDES permit. The volume of the blowdown would be small compared to the volume of the storm drain basin, and it would be diluted even further in the stabilization pond and the intake canal. The blowdown from the existing cooling towers on the roof of the turbine building follows the same discharge path. Therefore, no significant additional impact would be expected from the blowdown discharged from the condensate cooling system.

Impacts on Aquatic Biota

The flow rate of water being withdrawn from the intake canal at the intake structure would not increase, and no change would be made in the design of the intake structure screens. Therefore, no increase in the entrainment of planktonic organisms or in the impingement of fish, shellfish, or sea turtles would be expected.

CP&L has conducted thermal studies in the Atlantic Ocean in the vicinity of the BSEP discharge for over 25 years; no adverse impacts on fish and shellfish have been observed. The expected increase in water temperature would be expected to be small and limited to a relatively small area in the Brunswick County coastline. The increase in water temperature would not be expected to exceed 4 degrees C (7 degrees F) beyond an area of 50 ha (120 acres) at the surface, and the increase would not be expected to exceed 2 degrees C (4 degrees F) beyond an area of 800 ha (2000 acres). The affected area would be expected to be even smaller near the bottom. There is no critical habitat in the vicinity of the ocean discharge; the ocean floor is sandy flats with no natural features that would attract fish and invertebrates. Some of the more abundant organisms (brown shrimp, white shrimp, and croaker) in the vicinity of the discharge point tolerate temperatures of up to 86 degrees F without experiencing loss of equilibrium, and most organisms could avoid the area of higher water temperature. There is a net westward drift of the near-shore coastal waters in the vicinity of the discharge point; therefore, most larvae would enter the estuary from offshore waters to the east and would not be expected to be affected by the discharge plume. Therefore, the uprate would not be expected to significantly impact aquatic biota in the vicinity of BSEP.

CP&L's 1998 study indicated that three Federally listed aquatic species could be potentially affected by BSEP: loggerhead sea turtle (threatened), green sea turtle (threatened), and Kemp's ridley sea turtle (endangered). Of the three, the loggerhead sea turtle has been most commonly collected in the intake canal, although all three of these turtle species have been collected. CP&L employs protective measures, such as blocker panels in the diversion structure, to prevent turtles from entering the canal and patrols of the intake canal to remove turtles. The National Marine Fisheries Service (NMFS) reviewed data from BSEP on incidental takes of sea turtles and the protective measures employed at BSEP. In January 2000, NMFS concluded that BSEP operation "is not likely to jeopardize the continued existence of the loggerhead, leatherback, green, hawksbill, or Kemp's ridley sea turtles." Since the withdrawal rate of water from the intake canal would not increase due to the EPU and the sea turtles can easily swim around the small higher-temperature discharge plume, no increased impact would be expected for the sea turtles beyond that considered in the NMFS Biological Opinion of January 2000.

Social and Economic Impacts

The NRC staff has reviewed information provided by the licensee regarding socioeconomic impacts. CP&L is a major employer in the community with approximately 750 full-time employees and 235 contract employees. CP&L is also a major contributor to the local tax base. CP&L personnel also contribute to the tax base by paying sales and property taxes. The proposed EPU would not significantly affect the size of the BSEP labor force and would have no material effect upon the labor force required for future outages after all stages of the modifications needed to support the uprate are completed. Because the plant modifications needed to implement the uprate would be minor, any increase in sales tax and additional revenue to local and national business will be negligible relative to the large tax revenues generated by BSEP. The EPU would increase the plant's equalized assessed value, which would result in increased tax revenues for Brunswick County. It is expected that the proposed uprate will reduce incremental operating costs, enhance the value of BSEP as a power-generating asset, and lower the probability of early plant retirement. Early plant retirement would be expected to have a significant negative impact on the local economy and the community as a whole by reducing tax revenues and limiting local employment opportunities, although these effects could be mitigated by decommissioning activities in the short term.

Summary

In summary, the proposed EPU would not result in a significant change in non-radiological impacts in the areas of land use, water use, waste discharges, cooling tower operation, terrestrial and aquatic biota, transmission facility operation, or social and economic factors. No other non-radiological impacts were identified or would be expected. Table 1 summarizes the non-radiological environmental impacts of the proposed EPU at BSEP.

Table 1: Summary of Non-Radiological Environmental Impacts

Land Use: No change in land use or aesthetics; three small cooling towers on top of radwaste building.

Cooling Tower: No change in visual or aesthetic impact; no added impact on noise level; no significant impact from modular construction of the cooling towers; no significant fogging, icing, or drifting plumes.

Transmission Facilities: No physical modifications to the transmission lines and facilities; meet shock safety requirements; no changes to right-of-ways; small increase in electrical current would cause small increase in electromagnetic field around the transmission lines.

Terrestrial Biota: No additional impact on endangered herbs and birds or other terrestrial biota.

Water Use: No increase in the rate of withdrawal of water from the Cape Fear River; up to an additional 23.7 liters per second (375 gpm) of water from Brunswick County supply system, approved by County.

Discharge: Increase in area of plume in Atlantic Ocean with increased water temperature from 400 to 800 ha (from 1000 to 2000 acres) [area of 0.8 degrees C (1.44 degrees F) isotherm in Summer]; up to an additional 8.2 liters per second (130 gpm) of blowdown water discharged to storm drain system with small amount of biocide and dispersant chemicals; application for revised NPDES permit under review by State of North Carolina.

Aquatic Biota: No expected increased impact on endangered sea turtles or other aquatic biota.

Social and Economic: No significant change in size of BSEP workforce.

Radiological Impacts

Radioactive Waste Stream Impacts

BSEP uses waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that discharges are in accordance with the requirements of 10 CFR part 20, "STANDARDS FOR PROTECTION AGAINST RADIATION," and 10 CFR part 50, "DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES," Appendix I. These radioactive waste streams are discussed in the FES. The proposed EPU would not result in changes in the operation or design of equipment in the gaseous, liquid, or solid waste systems. The uprate would not introduce new or different radiological release pathways and does not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled release of radioactive material. The uprate will not affect the environmental monitoring of any of these waste streams or the radiological monitoring requirements contained in licensing basis documents.

Gaseous Radioactive Waste and Offsite Doses

During normal operation, the gaseous effluent treatment systems process and control the release of gaseous radioactive effluents to the environs, including small quantities of noble gases, halogens, particulates, and tritium, such that the doses to individuals offsite are maintained within the limits of 10 CFR part 20 and the dose design objectives of Appendix I to 10 CFR part 50 (10 CFR part 20 includes the requirements of the U.S. Environmental Protection Agency (EPA) regulation 40 CFR Part 190, "ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR NUCLEAR POWER OPERATIONS"). The gaseous waste management systems include the offgas system and various building ventilation systems. CP&L estimates that the resulting increase in gaseous radioactive effluents would be bounded in direct proportion to the increase in power—15 percent. CP&L indicated that a 15-percent increase in the amount of gaseous radioactive material released annually from BSEP in the last several years would still be well below the estimates presented in the FES. The NRC staff has independently reviewed the information presented by the licensee and confirmed the licensee's conclusion.

CP&L also calculated the potential increase in the maximum radiation dose to a member of the public in the environs offsite at BSEP from the proposed EPU. A 15-percent increase applied to the release data for the worst year in the 5-year timeframe from 1996 to 2000 would still result in doses below 1 percent of the dose design objectives of Appendix I to 10 CFR part 50. Therefore, the increased impact of the uprate on offsite doses from gaseous effluents would not be significant.

Liquid Radioactive Waste and Offsite Dose

During normal operation, the liquid effluent treatment systems process and control the release of liquid radioactive effluents to the environs, such that the doses to individuals offsite are maintained within the limits of 10 CFR part 20 and the dose design objectives of Appendix I to 10 CFR part 50. The liquid radioactive waste systems are designed to cleanup and recycle as much water as practicable; the liquid effluents that are released are continuously monitored and discharges terminated if effluents exceed preset levels of radioactive material. CP&L estimates that the amount of radioactive material released in liquid effluents would not increase significantly. CP&L indicated that the amounts of liquid radioactive material that have been released from BSEP in the last several years are well below the estimates presented in the FES. CP&L expects little or no increase in the quantity of radioactive material released in liquid effluents as a result of the uprate. The NRC staff has independently reviewed the information presented by the licensee and confirmed the licensee's conclusions. In addition, the calculated doses to members of the public offsite associated with these levels of release of radioactive liquid are below 1 percent of the dose design objectives of Appendix I to 10 CFR part 50. Therefore, the increased impact of the uprate on offsite doses from liquid effluents would not be significant.

Solid Radioactive Wastes

The solid radioactive waste system collects, processes, packages, and temporarily stores radioactive dry and wet solid wastes prior to shipment offsite and permanent disposal. The largest volume of solid radioactive waste at BSEP is low-level radioactive waste; sources of this low-level waste include spent resins, filters, charcoal, sludges from water processing, oil, and dry active waste, which is essentially contaminated trash. During the last several years, CP&L has implemented waste handling procedures to reduce the volume of low-level waste generated at BSEP. The volume of low-level radioactive waste generated in 2000 was approximately 389 cubic meters (13,877 cubic ft). The proposed EPU would increase the volume of spent resins, filters, and sludges because the uprate would produce more radioactive material that would have to be removed by processing systems such as the

demineralizers in the condensate system. The licensee estimates that the volume of such wastes could increase by as much as 15 percent, consistent with the EPU. Even with such an increase, the expected volume of low-level radioactive waste would be well below the value in the FES. No significant increase would be expected in the production of the other types of low-level waste.

In addition to the low-level wastes, the proposed EPU would result in replacement of 135 control rod blades at each unit. This replacement would occur in stages during the next several refueling outages. The removed control rod blades would be stored in the spent fuel pool, as is commonly done with irradiated reactor components, until they can be prepared for shipping and disposal offsite. These control rod blades would not contribute significantly to the overall volume of solid radioactive waste handled at BSEP.

The proposed EPU would also result in a greater percentage of the fuel assemblies being removed from the reactor core and replaced with new fuel assemblies during each refueling outage. Currently, 212 fuel assemblies (approximately 39 percent) are replaced during each refueling; 256 fuel assemblies (approximately 47 percent) would be replaced each refueling to support the uprated power level. Since CP&L limits the amount of spent fuel stored at BSEP and stores the rest of the spent fuel from BSEP in the spent fuel storage pools at CP&L's Shearon Harris Nuclear Power Plant (SHNPP), no increased volume of spent fuel would be expected to be stored at BSEP as a result of the uprate. By letter dated December 21, 2000, the NRC granted CP&L an amendment to the operating license for SHNPP to allow storage of spent fuel in all four spent fuel storage pools at SHNPP. CP&L has stated that the pools at SHNPP have sufficient storage capacity to handle the additional spent fuel assemblies that would be generated as a result of the proposed EPU at BSEP. An EA was published in the **Federal Register** on December 21, 1999 (64 FR 71514), to address the environmental impact of fully utilizing the storage capacity of all four spent fuel pools at SHNPP. The NRC staff concludes that the 1999 EA bounds the impact of storage of the additional spent fuel assemblies that would be generated by the BSEP uprate in the SHNPP spent fuel pools.

In-Plant Radiation Doses

The proposed EPU would result in the production of more radioactive material and higher radiation dose rates in some areas at BSEP. Potentially, the increase could be as much as 15 percent, consistent with the proposed 15-percent increase in reactor power. However, CP&L expects that the BSEP radiation protection staff will be able to minimize the resultant increase in radiation doses to the plant staff to a level well below the 15-percent upper-bound estimate by using commonly known methods, such as installation of additional shielding or more effective systems to remove more radioactive material from process streams such as the condensate system. BSEP has reduced the amount of radiation dose received by the plant workers over the last several years. The collective occupational dose for year 2000 at BSEP (including both units) was approximately 3.22 person-Sieverts (Sv) (322 person-rem); the average dose for a boiling-water reactor unit in the U.S. in year 2000 was 1.74 person-Sv (174 person-rem). The FES did not discuss occupational dose; however, other FESs published shortly after the BSEP FES estimated the environmental impact from occupational dose to be 500 person-rem (Sievert unit did not exist at that time) of collective occupational dose per year per reactor unit. Therefore, the collective dose at BSEP would not be expected to increase significantly as a result of the uprate and would be well within the impact commonly estimated in FESs in the 1970s.

Direct Radiation Doses Offsite

Direct radiation from radionuclides (mainly nitrogen-16) in the main steam system components in the turbine building is scattered by the air above the site and provides another offsite public dose pathway (skyshine) from an operating boiling-water reactor. CP&L has routinely monitored the whole body dose rate offsite using thermoluminescent dosimeters; the licensee has also performed surveys offsite with pressurized ion chambers. Data from these monitoring methods indicated that the highest annual offsite dose from skyshine at the site boundary from 1999 to 2001 was 7 millirem (mrem) (.07 mSv). Nitrogen-16 production is increased by routine hydrogen gas injection into the reactor feedwater (hydrogen water chemistry) in an effort to prevent intergranular stress corrosion cracking of reactor internals. The annual whole body dose equivalent to a real member of the public (beyond the site boundary) is limited to 25 mrem (0.25 mSv) by 40 CFR part 190. Assuming a 15-percent increase in the doses from skyshine (consistent with a 15-percent EPU), the expected annual dose would be expected to increase to approximately 8 mrem (.08 mSv), still well below the annual dose limit of 40 CFR part 190. The licensee will continue to perform surveys as the proposed EPU is implemented to assess the combined impact of hydrogen water chemistry with the uprate to ensure continued compliance with the requirements of 40 CFR part 190. Therefore, the increased impact of the uprate on offsite doses from direct radiation sources would not be significant.

Postulated Accident Doses

The NRC staff has reviewed the licensee's analyses and performed confirmatory calculations to verify the acceptability of the licensee's calculated doses under accident conditions. As a result of implementation of the proposed EPU, there could be an increase in the source term used in the evaluation of some of the postulated accidents in the FES. The inventory of radionuclides in the reactor core is dependent on power level; therefore, the core inventory of radionuclides could increase by as much as 15 percent. The concentration of radionuclides in the reactor coolant may also increase by as much as 15 percent; however, this concentration is limited by the BSEP Technical Specifications and is more dependent on the degree of leakage occurring through the fuel cladding. The overall quality of fuel cladding has improved since the mid-1970s when the FES was published, and BSEP has been experiencing very little fuel cladding leakage in recent years. Therefore, the reactor coolant concentration of radionuclides would not be expected to increase significantly. This coolant concentration is part of the source term considered in some of the postulated accident analyses. Finally, as previously discussed above, some of the radwaste streams and storage systems evaluated for postulated accidents may contain slightly higher quantities of radionuclides. For those postulated accidents where the source term increased, the calculated potential radiation dose to individuals at the site boundary (the exclusion area) and in the low population zone would be increased over the values presented in the FES. Any such increase in calculated accident doses would not be expected to be more than 15 percent higher, and the calculated doses would still be below the acceptance criteria of 10 CFR part 100, "Reactor Site Criteria," and the Standard Review Plan (NUREG–0800). Also, no modifications in the plant design or operation would be made that would significantly increase the probability of an accident. Therefore, the NRC staff concludes that the uprate would not significantly increase the probability or consequences of accidents and would not result in a significant increase in the radiological environmental impact of BSEP under accident conditions.

After many years of reactor experience and research, the NRC approved an alternative radiological source term methodology for power reactors. The alternative source term is codified in 10 CFR 50.67 and described in Regulatory Guide 1.183, "Alternative Radiological Source Term for Evaluating Design Basis Accidents at Nuclear Power Reactors," which was published in July 2000. This methodology also uses the Total Effective Dose Equivalent methodology, which is recommended by the International Commission on Radiation Protection and the National Council on Radiation Protection and Measurements. CP&L submitted a proposal to the NRC to implement the alternative source term for the BSEP accident analyses; therefore, the application for the proposed EPU assessed the postulated accidents discussed in the FES using the new methodology. CP&L concluded that the new calculated doses for the uprate met all the applicable acceptance criteria of 10 CFR 50.67 and Regulatory Guide 1.183. The results of the NRC staff's calculations will be presented in the safety evaluation to be issued with the license amendments.

Fuel Cycle and Transportation Impacts

The environmental impacts of the fuel cycle and transportation of fuels and wastes are described in Tables S–3 and S–4 of 10 CFR 51.51 and 10 CFR 51.52, respectively. An additional NRC generic EA (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycle and concluded that there is no significant change in environmental impact from the parameters evaluated in Tables S–3 and S–4 for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burnups less than 60,000 megawatt (thermal)-days per metric ton of uranium-235 (MWd/MTU). CP&L has concluded that the fuel enrichment at BSEP will increase to approximately 4.4 percent as a result of the proposed EPU with burnup remaining at approximately 45,000 MWd/MTU. Because the fuel enrichment for the uprate will not exceed 5 weight percent uranium-235 and the rod average discharge burnup for the uprate will not exceed 60,000 MWd/MTU, the environmental impacts of the uprate will remain bounded by the conclusions in Tables S–3 and S–4 and are not significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of accidents, would not introduce any new radiological release pathways, would not result in a significant increase in occupational or public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the proposed EPU at BSEP.

Alternatives to Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (i.e., the "no-action alternative"). Denial of the application would result in no change in the current environmental impacts; however, other fossil-fueled generating facilities would be built in CP&L's service area in North Carolina and South Carolina in order to maintain sufficient power-generating capacity. Construction and operation of a fossil-fueled plant would create impacts in air quality, land use, and waste management. Implementation of the proposed EPU would have less impact on the environment than the construction and operation of a new fossil-fueled generating facility and does not involve environmental impacts that are significantly different from those presented in the 1974 FES and the 1996 EA for BSEP.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the 1974 FES and the 1996 EA for BSEP.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Gaseous Effluents & Doses	Up to 15-percent increase in amount of radioactive material in gaseous effluents; within FES estimate; offsite doses would continue to be well within NRC criteria.
Liquid Effluents & Doses	No significant increase in amount of radioactive material in liquid effluents; within FES estimate; offsite doses would continue to be well within NRC criteria.
Solid Radioactive Waste	Up to 15-percent increase in volume of low-level solid radwaste; increases in amount of spent control rod blades and spent fuel assemblies.
In-plant Dose	No significant increase in collective occupational dose expected.
Direct Radiation Dose	Up to 15-percent increase in dose rate offsite from skyshine; expected annual dose continues to meet NRC/EPA criteria.
Postulated Accidents	Up to 15-percent increase in calculated doses from some postulated accidents; calculated doses within NRC criteria.
Fuel Cycle & Transportation	Fuel enrichment and burnup would continue to be within bounding assumptions for Tables S–3 and S–4 in 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions' conclusions of tables regarding impact would remain valid.

Agencies and Persons Consulted

In accordance with the its stated policy, on March 29, 2002, the NRC staff consulted with the North Carolina State official , Mr. J. James, of the North Carolina Department of Environment, Commerce and Natural Resources, Division of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the EA, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated August 9, 2001, as

supplemented October 17, November 1, 7, 28, and 30, December 4, 10, 17 (2 letters), and 20, 2001, January 20, February 1, 4, 13, 14, 21 (2 letters), and 25 (3 letters), March 4, 5, 7, 14, 20, 22, and 25, and April 26 and 29, 2002. Documents may be examined and/or copied for a fee at the NRC's Public Document Room (PDR), at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at (800) 397–4209, or (301) 415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of May 2002.

For the Nuclear Regulatory Commission.

Brenda L. Mozafari,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Number 030–20681]

E.I. Du Pont de Nemours & Co., Inc., Environmental Assessment and Finding of No Significant Impact, Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental and Assessment and Finding of No Significant Impact for E.I. Du Pont de Nemours & Co., Inc.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the authorization of the use of carbon-14 (C–14) in field studies at the E.I. Du Pont de Nemours & Co., Inc., Stine-Haskell Research Center located in Newark, Delaware.

The NRC contact for this licensing action is Pamela J. Henderson, who may be contacted at (610) 337–6952 or by e-mail at *pjh1@nrc.gov*. for more information about the licensing action.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission is considering amending E.I. Du Pont de Nemours & Co., Inc. Byproduct Materials License Number 07–13441–02 to authorize the use of carbon-14 (C–14) in field studies at the E.I. Du Pont de Nemours & Co., Inc., Stine-Haskell Research Center located in Newark, Delaware.

Environmental Assessment

1.0 Introduction

1.1 Background

This environmental assessment (EA) is being prepared to identify and evaluate the environmental impacts of the proposed amendment to E.I. Du Pont de Nemours & Co., Byproduct Materials License Number 07–13441–02, to permit the use of carbon-14 (C–14) in field studies at the E.I. Du Pont de Nemours & Co., Inc., Stine-Haskell Research Center (hereafter referred to as the Center). The Center is located on Elkton Road (Route 2) in Newark, Delaware.

1.2 Proposed Action

The proposed action is to amend NRC Byproduct Materials License No. 07–13441–02, issued to E.I. Du Pont de Nemours & Co., Inc. on December 23, 1983 (as amended), to allow the performance of outdoor field studies with C–14 labeled radiochemicals having agricultural activity at the Center. The Center proposes to use a maximum of 10 millicuries (mCi) of C–14 labeled radiochemicals per year, applied to one 24.2 meters by 30.5 meters test plot. The objectives of the small-plot field studies is to identify the metabolic pathway, stability and environmental fate of agricultural chemicals and associated products following application to a given crop or the soil in which the crop is grown.

1.3 Need for the Proposed Action

In the current amendment request, the licensee proposes to perform studies at the Center similar to field studies that have been performed by similar Companies. The studies at the Center are required by the Environmental Protection Agency (EPA) in order to make regulatory decisions relative to the registration of biologically active chemicals according to the criteria set forth in the amended Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The use of radiolabeled materials is specifically required in 40 CFR 158.240 and 158.290 to determine (1) the nature of residue in crops after treatment with a biologically active chemical and (2) the uptake of a soil-applied biologically active chemical by crops grown in the treated soil. The analytical sensitivity afforded through the use of radioisotope labels in field studies is essential for isolation and identification of metabolites present in trace amounts in complex biological matrices. In the absence of such radiolabeled molecules, it would be extremely difficult to trace, isolate, and identify a single chemical in these complex matrices. No alternatives are given in the EPA regulations.

1.4 Alternatives to the Proposed Action

As required by Section 102(2)(E) of the National Environmental Policy Act (NEPA), possible alternatives to the final action have been considered. One possible alternative to the field studies is the treatment of greenhouse-grown plants with the radiolabeled chemical. However, this alternative is not feasible because the required studies must evaluate the behavior of the agricultural chemical under normal agricultural conditions. Greenhouse studies provide an unnaturally stable environment without the normal variations in weather and other field conditions, and may lead to non-representative metabolic profiles.

Another alternative considered was the no-action alternative. Under this alternative the NRC would not grant the licensee's request to use radiolabeled C–14 compounds. As discussed below, there are minimal, if any, effects from the proposed action. Additionally, if the licensee does not perform these studies, the Environmental Protection Agency (EPA) will not consider registering the chemicals as required by FIFRA and new products will not be available in that regulated area. Therefore, the no-action alternative is not a viable alternative and is not further considered in this environmental assessment.

2.0 Affected Environment

The Center is located on Elkton Road, in Newark, Delaware. The Center is situated on a five hundred thirty five (535) acre site at approximately 39 degrees and 40 minutes north latitude and 75 degrees and 45 minutes west longitude. Of the 535 acres, 267 acres of open fields and woodlands are in Cecil County, Maryland, with the remaining 268 acres of fields, woods and all buildings are in New Castle County, Delaware. No radiological activities will be carried out in the portion of the site located in the State of Maryland.

Currently, numerous laboratories and greenhouses are located at the site which are used for toxicology and safety testing, and research and development of agricultural products and pharmaceuticals. Agricultural fields surround theses structures and are used for testing experimental herbicides and pesticides under natural climatic conditions. The site currently employs approximately 800 personnel.

The site is bounded to the east and south by woodlands, homes, light industry, and businesses, and to the north and west by the Baltimore & Ohio Railroad tracks. Topographically, the site is at an approximate elevation of 120 feet above mean sea level, although the western portion of the site rises to an elevation of 170 feet above mean sea level.

Surface drainage patterns are controlled regionally by the Delaware River. The site lies within the drainage basin of the Christina River. At the site, surface drainage patterns are controlled by an unnamed tributary of the West branch of the Christina River, which bisects the site and flows in a southerly direction connecting with the West branch south of the property boundary. The East branch of the Christina River meanders briefly through the northeast corner of the site, flows eastwardly before turning southwardly, joins the West branch and discharges into the Delaware River. A surface-water intake located near Smalley's Pond, on the Christina River approximately 8 to 10 miles downstream of the site, is operated by the Wilmington Suburban Water Authority as a potable-water source for nearby communities.

Radiological tests will be conducted in one small test plot, 24.2 meters by 30.5 meters, surrounded by a four (4) foot high fence, located southwest of farm building 250. The location of the closest off-site human dwelling is approximately 182 meters from the test plot.

3.0 Environmental Impacts of the Proposed Action

The objectives of the small-plot outdoor field studies is to identify the metabolic pathway, stability and environmental fate of agricultural chemicals and associated products following application to a given crop or the soil in which the crop is grown. The maximum radioactivity released in one year will be 10 mCi of C–14. Using this information, impact to water supplies and the dose to the maximally exposed individual is calculated. The radiological impact from the performance of field studies with radiolabeled materials at the Center has been calculated using both the EPA's Gaussian Dispersion model, SCREEN 3, and the EPA's COMPLY model. SCREEN 3 is a computer code that employs worst case scenario parameters, including worst case meteorological conditions, to estimate potential concentrations of radionuclides at a specific receptor, the nearest off-site residence, positioned in the downwind direction from the test plot area. COMPLY is a computer code that calculates the maximum dose to an individual residing outside of the facility and considers dose from all pathways including inhalation, ingestion of contaminated food, immersion, and ground deposition to estimate the worst-case dose.

3.1 Impact on Food Chain

The plants grown in radiolabled studies will not be available for incorporation into the food chain. The test area is enclosed by a 4-foot tall chain link fence, and wire mesh or bird netting will be used to restrict bird and small rodent access to the plot. All plant material generated will be used for laboratory research purposes or disposed of as radioactive waste. Soil will be removed from the plot to a level where the soil radioactivity is at background. Removed soil will be disposed of per 10 CFR 20.2001 or in accordance with specific license conditions. Due to the precautions taken during application, the physical barriers in place to prevent wildlife access, and the removal of all soil and plant materials at the conclusion of the study, it is reasonable to assume that the radiolabled plant material will not enter the food chain by the ingestion process

3.2 Groundwater Impacts

The procedure for application results in a very low potential for overspray and contamination of soil. For plants in pots, a plastic bag is placed over the entire setup. The spraying is conducted through a slit in the plastic bag. For plots, plastic is wrapped around stakes, which are placed at each corner of the plot. Any drift will be contained by the plastic.

At the conclusion of the testing, all vegetation is removed and disposed. Core soil samples are taken to depths of 18" and analyzed for C–14. Soil is removed from the plot to a level where the soil radioactivity is at background.

Given the application procedures, and the soil testing at the conclusion of the test, it is not considered likely that the radiolabeled material from the plot will contaminate the groundwater.

3.3 Surface Water Runoff

An unrealistic, worst case of radioactivity released by surface runoff can be estimated based on a severe rain fall event which washes all of the applied activity from the plant and/or soil. The maximum activity used per application will be 10 mCi with no more than 10 mCi total in a year. The annual average rainfall in Newark, Delaware is 45 inches. The largest monthly rainfall from 1972 to 2000 in Newark Delaware, occurred in July 1989, and was 13.58 inches. The plot area plus the surface drainage area immediately around the plot is approximately 109 meters by 91 meters. If 13.58 inches of rain fell over the 109 by 91 meter area, a volume of 2.567×108 milliliters (ml) would runoff the immediate surface area. If 100% of a 10 mCi application were lost to surface runoff during this rainfall, the activity concentration of this surface runoff would be 3×10^{-6} microcuries/milliliters (uCi/ml), below the Appendix B, Table 2, Column 2, Part 20 limits for C–14 water effluent limit of 3×10^{-5} uCi/ml. In addition, the runoff from the area would be significantly diluted, as the complete site drainage area into the tributary is large. Since the concentration values in Appendix B, Table 2, Column 2, of Part 20 are equivalent to concentrations which, if ingested continuously over the course of year, would produce a total effective dose equivalent (TEDE) of 50 millirem or 0.5 millisieverts, and the 3×10^{-6} uCi/ml runoff from the area would be significantly diluted, the TEDE would be considerably less than 50 millirem.

3.4 Dose to the Maximally Exposed Individual

SCREEN 3 modeling was employed using the maximum amount of 10 mCi of C–14 applied in one year, and the specific activity value for C–14 of 4.5×10^{-6} uCi/gram (from 10 CFR Part 71, Appendix A, Table A–1). A worst case annual concentration of 4.872×10^{-7} micrograms/cubic meter (2.19×10^{-12} uCi/ml) is estimated for an individual at the nearest off site receptor location (182 meters). The Appendix B, Table 2, Column 1, of Part 20 limit of 3×10^{-7} uCi/ml, which, if ingested continuously over the course of year, would produce a TEDE of 50 millirems or 0.5 millisieverts. Since 2.19×10^{-12} uCi/ml is a small fraction of the 10 CFR Part 20, Appendix B limit (3×10^{-7} uCi/ml), the TEDE would be considerably less than 50 millirems.

The COMPLY model was also used to evaluate dose to the general public with the assumption that 10 mCi of C–14 was released over one year, at a distance of 182 meters to the nearest residence. The COMPLY program, level 2, calculated the maximum effective whole body dose for the maximally exposed individual to be 0.045 millirem/year. This dose is a very small fraction of the 100 millirem/year dose limit for individual members of the public required by 10 CFR 20.1301.

The results of both the SCREEN 3 and COMPLY codes agree that doses will be considerably less than the dose limit for

individual members of the public required by 10 CFR 20.1301.

3.5 Endangered Species

Due to the small size of the test plot (24.2 meters by 30.5 meters), the precautions taken during application, the physical barriers in place to prevent wildlife access, and the removal of all soil and plant materials at the conclusion of each study, it is considered unlikely that the proposed action would have any impact on threatened and endangered species and therefore no further consultation under Section 7 of the Endangered Species Act is required.

3.6 Historic and Cultural Resources

Due to the small size of the test plot (24.2 meters by 30.5 meters) and previous disturbances of the ground at the site of the proposed action, it is considered unlikely to have any potential effect on historic or cultural properties and therefore no further consultation under Section 106 of the National Historic Preservation Act is required.

4.0 Agencies and Persons Contacted

Letter from Allan C. Tapert, Program Administrator, Office of Radiation Control, Delaware Health and Social Services, dated July 19, 1995, to the Center. Mr. Tapert declined to review the Center's plans for field studies because the radioactive material in question is not NARM rather byproduct material.

U.S. Fish and Wildlife Service was not consulted since the licensing action involves a small plot of land and will not affect endangered or threatened species. The State Historic Preservation Officer was not consulted since there is no potential to affect historic properties.

5.0 List of Preparers

John D. Kinneman, Chief, Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I, Health Physics Review.

Pamela J. Henderson, Senior Health Physicist, Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I, Health Physics Review.

6.0 Identification of Sources Used

Draft NUREG–1748, "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs," published September 2001.

Letter dated March 15, 2002, to the U.S. Nuclear Regulatory Commission, Region I; from Joseph Montovino, Facilities Manager, Stine-Haskell Research Center, DuPont Agricultural Products.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the proposed action to use C–14 labeled radiochemicals in outdoor field studies and amendment of License No. 07–13441–02. On the basis of the assessment, the Commission has concluded that environmental impacts associated with the proposed action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," the Environmental Assessment and the documents related to this proposed action will be available electronically for public inspection from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm.html* (the Electronic Reading Room).

Opportunity for a Hearing

Based on the EA and accompanying safety evaluation, NRC is preparing to issue a FONSI. The NRC hereby provides that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with Section 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

A request for hearing or petition for leave to intervene must be filed with the Office of the Secretary either:

1. By delivery to the Document Control Desk or may be delivered to the Commission's Public Document Room, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Additionally, in accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

1. The applicant, E.I. Du Pont de Nemours & Co., Inc., DuPont Agricultural Products, Stine-Haskell Research Center, Elkton Road, PO Box 30, Newark, Delaware, 19714–0030, ATTN: Norman W. Henry III; or

2. The NRC staff, by delivering to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

A request for hearing, filed by a person other than an applicant, must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h).

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

Dated at King of Prussia, Pennsylvania this 15th day of May, 2002.

For the Nuclear Regulatory Commission,

John D. Kinneman,

Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I.

[FR Doc. 02–12836 Filed 5–21–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Rule 15c2–5, SEC File No. 270–195, OMB Control No. 3235–0198
Rule 15Ba2–5, SEC File No. 270–91, OMB Control No. 3235–0088

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 USC 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 15c2–5 (17 CFR 240.15c2–5) prohibits a broker-dealer from arranging or extending a loan to customers, not subject to Regulation T (12 CFR 220), in connection with the offer or sale of securities unless, before entering the transaction, the broker-dealer: (1) Delivers to the customer a written statement containing specific information concerning the terms, obligations, risks and charges of the loan; (2) obtains from the customer sufficient financial information to determine that the entire transaction is suitable for the customer; and (3) retains on file and makes available to the customer a written statement setting forth the broker-dealer's basis for determining that the transaction was suitable. The collection of information required by the rule is necessary to execute the Commission's mandate under the Securities Exchange Act of 1934 ("Exchange Act") to prevent fraudulent, manipulative, and deceptive acts and practices by broker-dealers.

There are approximately 50 respondents that require an aggregate total of 600 hours to comply with the rule. Each of these approximately 50 registered broker-dealers makes an estimated 6 annual responses, for an aggregate total of 300 responses per year. Each response takes approximately 2 hours to complete. Thus, the total compliance burden per year is 600 burden hours. The approximate cost per hour is $ 24.00 (based on an annual salary of $ 32,050 for clerical labor plus an additional 35% to account for overhead costs, totaling $43,268), resulting in a total compliance cost of $14,400 (600 hours @ $24.00 per hour).

On July 7, 1975, effective July 16, 1975 (*see* 41 FR 28948, July 14, 1975), the Commission adopted Rule 15Ba2–5 (17 CFR 240.15Ba2–5) under the Exchange Act to permit a duly-appointed fiduciary to assume immediate responsibility for the operation of a municipal securities dealer's business. Without the rule, the fiduciary would not be able to assume operation until it registered as a municipal securities dealer. Under the rule, the registration of a municipal securities dealer is deemed to be the registration of any executor, administrator, guardian, conservator, assignee for the benefit of creditors, receiver, trustee in insolvency or bankruptcy, or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such municipal securities dealer, provided that such fiduciary files with the Commission, within 30 days after entering upon the performance of his duties, a statement setting forth as to such fiduciary substantially the same information required by Form MSD or Form BD. The statement is necessary to ensure that the Commission and the public have adequate information about the fiduciary.

There is approximately 1 respondent per year that requires an aggregate total of 4 hours to comply with this rule. This respondent makes an estimated 1 annual response. Each response takes approximately 4 hours to complete. Thus, the total compliance burden per year is 4 burden hours. The approximate cost per hour is $20, resulting in a total cost of compliance for the respondent of approximately $80 (*i.e.*, 4 hours x $20).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW Washington, DC 20549.

Dated: May 15, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12767 Filed 5–21–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Regulation S–T, OMB Control No. 3235–0424, SEC File No. 270–375.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation S–T sets forth the filing requirements relating to the submission of documents in electronic format on the Electronic Data Gathering Analysis and Retrieval ("EDGAR") system.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: May 15, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12803 Filed 5–21–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45943; File No. SR–NASD–2002–46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Rule 6200 Series or the TRACE Rules

May 16, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on April 3, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD submitted Amendment No. 1 to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change on May 13, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend the Rule 6200 Series of the Rules of the NASD, which series provide for the reporting and dissemination of transaction information in eligible corporate debt securities ("TRACE rules"): (1) To extend the reporting period from one hour to one hour and fifteen minutes; (2) to incorporate standards in Rule 6250 regarding Non-Investment Grade securities; [4] (3) to require members to provide information at an earlier time under Rule 6260; (4) to clarify existing provisions in the TRACE rules, especially Rule 6210(a) regarding "TRACE-eligible securities" and certain reporting provisions in Rule 6230(c) and (d); and (5) to make other minor modifications to the existing requirements before the initiation of TRACE. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

6200. Trade Reporting and Compliance Engine (TRACE)

6210. Definitions

The terms used in this Rule 6200 Series shall have the same meaning as those defined in the Association's By-Laws and Rules unless otherwise specified.

(a) The term "TRACE-eligible security" shall mean all United States dollar denominated debt securities that are depository eligible securities under Rule 11310(d); Investment Grade or Non-Investment Grade; issued by United States and/or foreign private corporations; and: (1) registered with the Securities and Exchange Commission; or (2) issued pursuant to Section 4(2) of the Securities Act of 1933 and purchased or sold pursuant to Rule 144A *of the Securities Act of 1933.* The term "TRACE-eligible security" excludes *debt issued by government-sponsored entities,* mortgage- or asset-backed securities, collateralized mortgage obligations, and money market instruments. *For purposes of the Rule 6200 Series, the term "money market instrument" means a debt security that at issuance has a maturity of one year or less.*

(b) The term "Trade Reporting and Compliance Engine" or "TRACE" shall mean the automated system *developed*[owned and operated] by the NASD that, among other things, accommodates reporting and dissemination of transaction reports where applicable in TRACE-eligible securities.[and which may submit "locked-in" trades to National Securities Clearing Corporation for clearance and settlement and provide participants with monitoring and risk management capabilities to facilitate a "locked-in" trading environment.]

(c) The term "reportable TRACE transaction" shall mean any *secondary market* transaction in a TRACE-eligible security *except transactions in TRACE-eligible securities that are listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, when such transactions are executed on, and reported to the exchange and the transaction information is disseminated publicly, or transactions in convertible debt securities that are listed and quoted on the Nasdaq Stock Market, Inc. (Nasdaq), when such transactions are reported to Nasdaq and the transaction information is disseminated publicly.*

(d) The term "time of execution" for a transaction in a TRACE-eligible security shall be the time when the parties to the transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade. The time of execution for transactions involving TRACE-eligible securities that are trading "when issued" on a yield basis shall be when the yield for the transaction has been agreed to by the parties to the transaction. *For a transaction in a TRACE-eligible security in which the actual yield for the transaction is established by determining the yield from one or more designated securities (e.g., a "benchmark security" such as a U.S. Treasury security maturing in 5 years, or a combination of such "benchmark securities") and adding the agreed upon "yield spread" (e.g., 150 basis points above the benchmark security), the "time of execution" occurs when the yield has been agreed to by the parties to the transaction.*

(e) The term "parties to the transaction" shall mean the *introducing broker-dealer, if any, and the executing broker-dealer.*[executing broker/dealer, introducing broker/dealer, and clearing brokers, if any.]

(f) The term "TRACE Participant" shall mean any NASD member that *reports transactions to the TRACE system, directly or indirectly.*[uses the TRACE system.]

(g) The term "Introducing Broker" shall mean the *NASD* member [firm] that has been identified in the TRACE system as a party to the transaction, but does not execute or clear [trades] *the transaction.*

(h) No change.

(i) The term "Non-Investment Grade" shall mean any TRACE-eligible security that is unrated, non-rated, split-rated (where one rating falls below *Investment Grade),*[investment grade),] or *otherwise* does not meet the definition of Investment Grade in paragraph (h) above.

6220. Participation in TRACE

(a) Mandatory Member Participation—No Change.

(b) Participant Obligations in TRACE

[(1) Access to TRACE]

Upon execution and receipt by the Association of the TRACE Participant application agreement, a TRACE Participant may commence input [and validation] of trade information in TRACE-eligible securities. TRACE Participants may access the service via an NASD-approved facility during the hours of operation.

[(2) Clearing Obligations]

[If at any time a TRACE Participant fails to maintain a clearing arrangement, it shall be removed from the TRACE system until such time as a clearing arrangement is re-established and notice of such arrangement is provided to the Association. If, however, the Association finds that the TRACE Participant's failure to maintain a clearing arrangement is voluntary, the withdrawal will be considered voluntary and unexcused. This section shall not apply to TRACE Participants whose trading activity obviates the need for maintaining a clearing relationship.]

6230. Transaction Reporting

(a) When and How Transactions are Reported

A member that is required to report transaction information pursuant to paragraph (b) below must report such transaction information within one hour and fifteen minutes of the time of execution, except as otherwise provided below, or the transaction report will be "late." The member must transmit the report to TRACE during the hours the TRACE system is open ("TRACE system hours"), which are 8:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time. Specific trade reporting obligations during a 24-hour cycle are set forth below.

(1) *Transactions Executed During TRACE System Hours*

[(A) Members that are required to report transaction information pursuant to paragraph (b) below shall, within one hour] *Transactions in TRACE-eligible securities executed on a business day at or after 8:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time must be reported within one hour and fifteen minutes* of the time of execution. *If a transaction is executed on a business day less than one hour and fifteen minutes before 6:30 p.m. Eastern Time, a member may report the transaction the next business day within one hour and fifteen minutes after the TRACE system opens. If reporting the next business day, the member must indicate "as/of" and provide the actual transaction date.* [transmit through TRACE during system hours, or if TRACE is unavailable due to system or transmission failure, by telephone to the TRACE Operations Center, reports of transactions in TRACE-eligible securities executed between 8:00 a.m. and 6:30 p.m. Eastern Time.

Transactions not reported within one hour after the time of execution shall be designated as late; provided, however, that if inadequate time remains prior to system close to allow a timely report, the member may report the transaction the next day at system open designated "as/of."]

[(B) Members have an ongoing obligation to report transaction information promptly, accurately, and completely. The member may employ an agent for the purpose of submitting transaction information; however, the primary responsibility for the timely, accurate, and complete reporting of transaction information remains the non-delegable duty of the member obligated to report the transaction.]

(2) *Transactions Executed At or After*[Transaction Reporting Between] 6:30 *P.M. Through 11:59:59 P.M. Eastern Time*[p.m. and 8:00 a.m. Eastern Time]

[(A) Reports of t]Transactions in TRACE-eligible securities executed [after] *on a business day at or after* 6:30 p.m. Eastern Time [and before 12:00 a.m.] *through 11:59:59 p.m.* Eastern Time [shall] *must* be reported *the next business day within one hour and fifteen minutes after the TRACE system opens. The member must indicate "as/of" and provide the actual transaction date.*[on the next day and be designated "as/of."]

(3) *Transactions Executed At or After 12:00 A.M. Through 7:59:59 A.M. Eastern Time*

[(B)][Reports of t]Transactions in TRACE-eligible securities executed [after] *on a business day at or after* 12:00 a.m. Eastern Time [and before 8:00] *through 7:59:59* a.m. Eastern Time [shall] *must* be reported *the* [that] same day *within one hour and 15 minutes after the TRACE system opens.*[beginning at 8:00 a.m. Eastern Time within the maximum time frame mandated.]

(4) Transactions Executed on a Non-Business Day

Transactions in TRACE-eligible securities executed on a Saturday, Sunday, or a federal or religious holiday on which the TRACE system is closed, at any time during that day (determined using Eastern Time), must be reported the next business day within one hour and fifteen minutes after the TRACE system opens. The transaction must be reported as follows: the date of execution must be the first business day (the same day the report must be made); the execution time must be "12:01:00 a.m. Eastern Time" (stated in military time as "00:01:00"); and the modifier, "special price," must be selected. In addition, the transaction must not be designated "as/of". When the reporting method chosen provides a "special price memo" field, the member must enter the actual date and time of the transaction in the field.

(5) Members have an ongoing obligation to report transaction information promptly, accurately, and completely. The member may employ an agent for the purpose of submitting transaction information; however, the primary responsibility for the timely, accurate, and complete reporting of transaction information remains the non-delegable duty of the member obligated to report the transaction.

(6) A member may be required to report as soon as practicable to the Market Regulation Department on a paper form, the transaction information required under Rule 6230 if electronic submission into TRACE is not possible. Transactions that can be reported into TRACE, including transactions executed on a Saturday, Sunday or holiday as provided in (a)(4) above, and trades that can be submitted on the trade date or on a subsequent date on an "as/of" basis, shall not be reported on a paper form.

(b) Which Party Reports Transaction—No Change.

(c) Transaction Information To Be Reported

Each TRACE trade report shall contain the following information:

(1) CUSIP number or NASD symbol;

(2) Number of bonds as required by paragraph (d) below;

(3) Price of the transaction *(or the elements necessary to calculate price, which are contract amount and accrued interest)* as required by paragraph (d) below;

(4) A symbol indicating whether the transaction is a buy[,] *or a* sell[or cross];

(5) Date of Trade Execution (as/of trades only);

(6) Contra-party's identifier;

(7) Capacity—Principal or Agent (with riskless principal reported as principal) as required by paragraph (d) below;

(8) Time of trade execution;

(9) Reporting side executing broker as "give-up" (if any);

(10) Contra side Introducing Broker in case of "give-up" trade;

(11) Stated commission;

(12) Such trade modifiers as required by either the TRACE rules or the TRACE users guide; and

(13) *The lower of yield to call or yield to maturity.*[Yield as required by SEC Rule 10b–10.] *A member is not required to report yield when the TRACE-eligible security is a security that is in default, a security for which the interest rate is floating; a security for which the interest rate will be or may be increased (e.g., certain "step-up bonds") or decreased (e.g., certain "step-down bonds") and the amount of increase or decrease is an unknown variable; a pay-in-kind security ("PIK"); any other security where the principal or interest to be paid is an unknown variable or is an amount that is not currently ascertainable, or any other security that the Association designates if the Association determines that reporting yield would provide inaccurate or misleading information concerning the price of, or trading in, the security.*

(d) Procedures for Reporting Price, Capacity, Volume

(1) For[agency and] principal transactions, report the price, *which must include the mark-up or mark-down. (However, if a price field is not available, report the contract amount and the accrued interest.)* [including the mark-up, mark-down] *For agency transactions, report the price, which must exclude the commission. (However, if a price field is not available, report the contract amount and the accrued interest.)* [or commission (commission entered separately). Do not include accrued interest.] *Then, report the commission, stated in points per bond, with 1 point equal to $10.00 per bond.*

(2) For agency and principal transactions, report the actual number of

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[3] In Amendment No. 1, the NASD revised the language of the proposed rule change regarding the time frame in which the managing underwriter must deliver CUSIP information to the TRACE Operations Center, and a member's obligations in instances in which the member is not required to report yield data to the NASD. *See* letter from Barbara Z. Sweeney, Senior Vice President and Corporate Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 13, 2002 ("Amendment No. 1").

[4] The term "Non-Investment Grade" is defined in the TRACE rules at Rule 6210(i).

bonds traded[.], *with $1,000 par value equal to 1 bond. If a bond has a par value of less than $1,000 ("baby bond") or the par value is not an even multiple of $1,000, report the fractional portion of $1,000 in decimals.* [Baby bonds (those with a face value of less than $1,000) should be reported as a decimal.]

(3) For in-house cross transactions, *a member must report two transactions, which are the member's purchase transaction and the member's sale transaction.*[report as follows: Agency cross—report once as an agency trade; Principal cross—report twice, once as an individual principal buy and once as an individual principal sell.]

(4)(A) Special Price Modifier

If a transaction is not executed at a price that reflects the current market price, select the modifier, "special price." When the reporting method chosen provides a "special price memo" field, state why the transaction was executed at other than the current market price in the "special price memo" field (e.g., when a debt security is traded conventionally and in the current market does not have a due bill and/or a warrant attached, but in the transaction to be reported is traded with a due bill and/or warrant attached, the price of the transaction is a "special price"). Do not select the modifier, "special price," where the transaction price is determined using a weighted average price.

(B) Settlement Modifiers

If a transaction is to be settled other than the regular way, report the settlement terms by selecting the appropriate modifier. If the parties agree to settlement on the same day the transaction is executed (i.e., cash settlement), select the modifier, ".c." If a trade will be settled the next day, select the modifier, ".nd." If a trade will be settled other than on the date of trade, the next day, or T+3, select the modifier, ".sNN," and enter the appropriate number of days (e.g., if a trade will be settled in 5 business days, the reporting party will enter ".s05" in the data field).

(C) Weighted Average Price Modifier

If the price of the transaction is determined using a weighted average price method, select the modifier, ".w." If one of the settlement modifiers and the weighted average price modifier apply to the transaction, select the modifier, ".w" for weighted average price, and do not report the applicable settlement modifier.

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be required to be reported:

(1) Transactions that are part of a primary distribution by an issuer;

(2) Transactions in[listed] securities that are *listed on a national securities exchange, when such transactions are executed on and reported to the exchange and the transaction information is disseminated publicly, and transactions in convertible debt securities that are listed and quoted on Nasdaq, when such transactions are reported to Nasdaq and the transaction information is disseminated publicly; and* [both executed on, and reported to, a national securities exchange; and]

(3) Transactions where the buyer and the seller have agreed to trade at a price substantially unrelated to the current market for the TRACE-eligible security (*e.g.*, to allow the seller to make a gift).

(f) Compliance With Reporting Obligations—No Change.

6240. Termination of TRACE Service—No Change.

6250. Dissemination of Corporate Bond Trade Information

(a) *General Dissemination Standard*

Immediately upon receipt of transaction reports *received at or after*[between] 8:00 a.m. [and 6:30] *through 6:29:59* p.m. Eastern Time, the Association will disseminate transaction information (except that market aggregate information and last sale information will not be updated after 5:15 p.m. *Eastern Time*) relating to transactions in:

(1) a TRACE-eligible security having an initial issuance size of $1 billion or greater that is Investment Grade at the time of receipt of the transaction report; and

(2) a *TRACE-eligible* security that is [denominated] *designated for dissemination according to the following criteria and is Non-Investment Grade at the time of receipt of the transaction report.* [as a "Fixed Income Pricing System (FIPS)" security under NASD Rules relating to FIPS securities immediately prior to the time that such rules are rescinded.]

(A) *The staff of NASD will designate fifty of the most actively traded Non-Investment Grade securities that are TRACE-eligible securities for dissemination under this rule, based on (i) the security's volume; (ii) the security's price; (iii) the security's name recognition; (iv) the research following of the security; (v) the security having a minimum number of bonds outstanding; (vi) the security being traded routinely by at least two dealers; and (vii) the security contributing to a representation of diverse industry groups in the group of securities designated for dissemination.*

(B) *A Non-Investment Grade security will not be designated, and may be immediately withdrawn from designation, for dissemination under this rule if the security: (i) has matured; (ii) has been called; (iii) has been upgraded to Investment Grade; or (iv) has been downgraded to an extent that the security's trading characteristics do not warrant designation for dissemination.*

(b) *Transactions Excluded From Market Aggregate, Last Sale*

All trade reports in TRACE-eligible securities *that are* approved for dissemination and submitted to TRACE *at or after 8:00 a.m. Eastern Time and* prior to 5:15 p.m. Eastern Time will be included in the calculation of market aggregates and last sale except:

(1) trades reported on an "as/of" basis,

(2) "when issued" trades executed on a yield basis,

(3) trades in baby bonds with a par value of less than $1,000, [or]

(4) trades in which the price is determined by a weighted average *price*[.]; *and*

(5) trades in which the price is a "special price," as indicated by the use of the special price modifier.

(c) *Dissemination of Certain Trades Executed on A Business Day*

(1) Reports of transactions in TRACE-eligible securities *that are subject to dissemination, are* executed *on a business day at or* after 6:30 p.m. Eastern Time [and before 12:00 a.m.]*through 11:59:59 p.m.* Eastern Time, *and are*[that are] reported pursuant to *Rule 6230(a)(2)*[Rule 6230(a)(2)(A)] on the next *business* day and designated "as/of" [will not be included in daily market aggregates and] will be disseminated beginning at 8:00 a.m. Eastern Time on the day of receipt. *The reported information will not be included in the calculation of the day's market aggregates.*

[(d)] *(2)* Reports of transactions in TRACE-eligible securities *that are subject to dissemination, are* executed *on a business day at or* after 12:00 a.m. Eastern Time [and before 8:00]*through 7:59:59* a.m. Eastern Time, and *are* reported *pursuant to Rule 6230(a)(3) on the*[that] same day beginning at 8:00 a.m. Eastern Time [pursuant to Rule 6230(a)(2)(B)] will be *disseminated upon receipt. The reported information will be included in the calculation of the day's market aggregates, except as otherwise provided in Rule 6250(b)(1) through (5).*[included in that day's market aggregates and disseminated upon receipt.]

(d) Dissemination of Trades Executed on Non-Business Days

Reports of transactions in TRACE-eligible securities that are subject to dissemination, are executed on a non-business day at any time during the day, and are reported pursuant to Rule 6230(a)(4) on the next business day will be disseminated upon receipt. The reported information will not be included in the calculation of the day's market aggregates.

6260. [Lead] *Managing* Underwriter [Information] Obligation *To Obtain CUSIP*

In order to facilitate trade reporting of secondary transactions in TRACE-eligible securities, the member that is the [lead] *managing* underwriter of any newly issued TRACE-eligible security shall *obtain the CUSIP number for the TRACE-eligible security and provide it to the TRACE Operations Center not later than 5:00 p.m. on the business day preceding the day that the registration statement will become effective, or, if registration is not required, the day that the securities will be priced initially.*[provide to the TRACE Operations Center the CUSIP number of any debt issue no later than on the effective date of the offering.] *If a managing underwriter is not appointed, the group of underwriters has an obligation to obtain and provide the CUSIP number to the TRACE Operations Center within the time required. A member must make a good faith determination that a security is a TRACE-eligible security before submitting the CUSIP number for such security to the TRACE Operations Center.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Introduction

The proposed amendments to the Rule 6200 Series[5] are intended to extend the reporting period from one hour to one hour and 15 minutes, to incorporate certain FIPS standards in Rule 6250, to require members to provide new CUSIP numbers to TRACE at an earlier time under Rule 6260, to clarify existing provisions in the Rule 6200 Series, especially Rule 6210(a) regarding "TRACE-eligible securities" and certain reporting provisions in Rule 6230(c) and (d), and to make other minor modifications to the existing requirements. Many of these changes are in response to industry requests for additional guidance and extended response times.

Extension of the Reporting Period to One Hour and 15 Minutes

The most significant proposed change is the NASD's proposal to extend the maximum time frame for reporting a transaction. The NASD is proposing to extend the reporting period from one hour to one hour and 15 minutes. Rule 6230(a). The proposed amendment will allow certain portions of the industry to engage a major industry participant as an agent for TRACE reporting. The proposed change will allow the NASD and members to achieve certain short-term operational efficiencies as reporting is initiated. In the future, the NASD expects to reduce the reporting period substantially.

Inclusion of FIPS Standards for Designating Certain Securities for Dissemination

The NASD is proposing to incorporate in Rule 6250(a)(2) the actual standards in the FIPS rules currently used to designate certain securities as "FIPS securities" (which then subjects certain transaction information in such securities to dissemination), and to delete the specific reference in Rule 6250 to "FIPS securities."[6] The NASD proposes this amendment because the standards now in use in the FIPS rules are intended to be the applicable standards under the TRACE rules.

The Association will use the standards, as needed, to designate Non-Investment Grade securities for dissemination under TRACE. On July 1, 2002, the first day of TRACE, approximately 50 securities will already be designated for dissemination because they were previously designated FIPS 50 securities. If, after the FIPS rules are rescinded, there are fewer than 50 Non-Investment Grade (high yield) securities for which transaction information is being disseminated, the NASD will designate additional Non-Investment Grade securities, up to 50, to be disseminated. The NASD will do so using the standards set forth in the FIPS rules, which the NASD proposes to incorporate in the TRACE rules.[7]

The actual standards in the current Rule 6200 Series were not included previously in the TRACE rules because when TRACE was filed originally, the Association planned to release bonds for dissemination on a substantially different timetable and plan. In that environment, standards for designating only 50 Non-Investment Grade securities for dissemination were unnecessary. Under the current rules for

[5] The Rule 6200 Series providing for reporting and dissemination of transaction information in eligible debt securities ("TRACE rules") was approved by the SEC on January 23, 2001. Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001) (approval order) (File No. SR–NASD–1999–65). The Commission approved additional amendments to the TRACE rules on March 5, 2001. Securities Exchange Act Release No. 44039 (March 5, 2001), 66 FR 14234 (March 9, 2001) (approval order) (File No. SR–NASD–2001–04). In addition, on January 3, 2002, the Commission issued a notice stating that certain other amendments to the TRACE rules had become effective on filing. Securities Exchange Act Release No. 45229 (January 3, 2002), 67 FR 1255 (January 9, 2002) (notice of filing and immediate effectiveness of proposed rule change) (File No. SR–NASD–2001–91). As noted above, the TRACE rules will not become effective until July 1, 2002. On that day, members must begin to report transactions in TRACE-eligible securities, and the TRACE system will begin the dissemination of certain reported information. (The Rule 6200 Series that is currently in effect establishes the reporting requirements for members engaged in trading high yield securities, describes the Fixed Income Pricing System ("FIPS"), and requires the dissemination of certain transaction information through FIPS ("FIPS rules").) When the TRACE rules take effect on July 1, 2002, the FIPS rules will be rescinded and the FIPS system will cease operating.

[6] Fifty FIPS securities are selected as representative of the most liquid high yield securities. Certain price and volume information for the 50 securities that are designated is disseminated on an hourly basis and at the end of the day. The list of designated securities is updated and published approximately every four months.

[7] On July 1, 2002, those securities that were designated the FIPS 50 securities prior to the termination of FIPS will be subject to dissemination under TRACE Rule 6250. However, from time to time after July 1, 2002, a security designated may cease trading or may no longer meet the standards for dissemination (*e.g.*, a security that was designated as a FIPS 50 security may mature or may be upgraded to an Investment Grade security, or the issuer may file for bankruptcy or otherwise default on its obligations). When this occurs, the Association staff will replace the security with another Non-Investment Grade security using the standards incorporated in the TRACE rules to maintain dissemination of transaction information relating to 50 Non-Investment Grade securities.

dissemination of certain TRACE-eligible securities transactions, however, the Association believes that it should have transparent standards or criteria for maintaining the list of 50 Non-Investment Grade securities that will be subject to dissemination, and, therefore, is proposing that the standards be incorporated in the TRACE rules.

Requirement To Timely Provide CUSIP Numbers

The Association is proposing to reduce the period during which an underwriter of a security must obtain and notify TRACE of the CUSIP number(s) of newly issued or distributed securities. Rule 6260 currently requires that the lead underwriter provide to the "TRACE Operation Center" the CUSIP number of any debt issue no later than on the effective date of the offering. The NASD proposes to shorten the period to not later than the end of the business day prior to the effective date of the offering, or, if registration is not required, the end of the business day prior to the day the securities will be priced initially. In addition, in those offerings in which there is no lead or managing underwriter, the group of underwriters has an obligation to obtain and provide the CUSIP number to the TRACE Operations Center within the period described above.

"TRACE-Eligible Security"

The Association has received a number of queries concerning the scope of the exclusions to the term, "TRACE-eligible security," in Rule 6210(a). Generally, unless a debt security is excluded from the definition set forth in Rule 6210(a), a transaction in the security must be reported to TRACE by any member that is a party to the transaction. To further clarify which securities are subject to the TRACE rules, the Association proposes to amend Rule 6210(a) to specifically exclude from the definition of "TRACE-eligible security" a debt security issued by a government-sponsored entity ("GSE").

Money Market Instrument. In addition, for purposes of Rule 6210(a), the Association clarifies that "money market instrument" means an instrument that at issuance has a maturity of one year or less. For purposes of the TRACE rules, the term excludes those instruments that were originally issued with longer maturities, but may be treated by certain market participants as short term instruments in certain trading contexts as the instruments approach maturity. For example, a five year security would not be considered a "money market instrument" for purposes of TRACE if there were only 6 months remaining until the instrument matured.[8]

Other Changes

A series of additional, minor proposed changes are explained briefly below, including the Association's proposed clarification of certain defined terms.

Rule 6210 Proposed Changes

Rule 6210(b), "Trade Reporting and Compliance Engine." Previously, the NASD modified the name of the TRACE system to "Trade Reporting and Compliance Engine."[9] The NASD amended the name to more accurately reflect the compliance purposes that TRACE will further and to eliminate references to the functions that are no longer part of the TRACE initiative. In this proposed rule filing, the Association is also deleting those functions that are no longer within TRACE from the definition, "Trade Reporting and Compliance Engine." Rule 6210(b).

Rule 6210(c), "Reportable TRACE Transaction." The Association has proposed amendments to the term, "reportable TRACE transaction," to make clear that a limited class of transactions in certain debt securities will not be subject to reporting (and dissemination) under TRACE. These are transactions in debt securities that are listed on a national securities exchange, when such transactions are executed on and reported to the exchange and the transaction information is disseminated publicly, and transactions in convertible debt securities that are listed and quoted on Nasdaq, when such transactions are reported to Nasdaq and the transaction information is disseminated publicly. The NASD is also proposing parallel changes to Rule 6230(a)(2). The NASD does not intend to capture transactions in debt securities that are listed, currently subject to reporting for regulatory purposes to another self-regulatory organization ("SRO"), and disseminated by such SRO. This is consistent with the underlying purpose of TRACE, which is to increase transparency in those debt securities transactions for which there is currently no regulatory reporting mechanism and no dissemination.

Rule 6210(d), "Time of Execution." The NASD proposes additional language to the definition of "time of execution" to clarify when the time of execution of a transaction occurs for securities that are priced off, or for which yield is determined by, reference to a benchmark security. The NASD proposes that the time of execution for these securities transactions shall be deemed to occur when the yield for the security is agreed upon by the parties to the transaction. For example, if the parties agree to determine the specific yield of Security A based upon a spread that is 150 points "off" (above) or "through" (below) the yield of a comparable U.S. Treasury security, and agree to measure the yield of the comparable U.S. Treasury security at 3:30 p.m. on the day of the transaction, the parties will be expected to agree upon the yield of Security A at 3:30 p.m. when the information becomes available. As of that time, the parties have knowledge of all of the elements of the trade necessary to calculate the dollar price of the trade and are obligated to report the trade within 1 hour and 15 minutes.

TRACE Time Frames

The TRACE rules recognize that transactions in TRACE-eligible securities may occur at any time during a 24 hour period. The times set forth in Rule 6230 and related rules have been clarified. Generally, the business day is broken into three periods for purposes of the reporting provisions in Rule 6230 and the dissemination provisions in Rule 6250. The three periods of a business day are: (a) At or after 8:00 a.m. through 6:29:59 p.m. Eastern Time (the period during a business day that the TRACE system will be "open" and receiving reports); (b) at or after 6:30 p.m. Eastern Time through 11:59:59 p.m. Eastern Time; and (c) at or after 12:00 a.m. Eastern Time (midnight) through 7:59:59 a.m. Eastern Time. Holidays and weekends are treated separately, as discussed further below. Requirements for reporting generally, designation of "late" trades and "as/of" trades, and the timetables for dissemination are governed generally by these three periods. *See, e.g.,* proposed changes to the structure of Rule 6230 in paragraphs (a)(1), (2) and (3).

Reporting Transactions Executed on Weekends and Holidays

In proposed Rule 6230, the Association is proposing an additional paragraph, new paragraph (a)(4), to clarify how to report transactions that are executed during a weekend or on a holiday. At the initiation of TRACE, the TRACE system will not be able to recognize, and would reject a transaction report that included, a calendar date that is a Saturday, Sunday, or a federal or religious holiday on which the TRACE system is closed. In addition, the system would reject a date in the "as/of" field for the same reason. Therefore, the actual date of transactions that are executed on a non-business day cannot be captured electronically at this time. Until the system is revised, the Association proposes to require members to report transactions that are executed on a non-business day as follows under proposed Rule 6230(a)(4). A member must report the transaction on the first business day following the actual date of the transaction, and the transaction must be reported within one hour and fifteen minutes of the opening of the TRACE system. The transaction date must be reported as the first business day after which the transaction occurred (the same day of the report). The time of execution must be reported as "00:01:00" (Eastern Time) (which is the military time for "12:01:00" a.m. Eastern Time). This will distinguish these limited number of weekend and holiday transactions from transactions actually occurring on the business day. The modifier, "special price," must be selected. In addition, when the reporting method chosen provides a "special price memo" field, the member must enter the actual date and time that the transaction occurred. Rule 6230(a)(4).

The Association is also proposing parallel clarifying changes regarding the dissemination of such trades in proposed Rule 6250(d).

Other Clarifications to Rule 6230 Reporting Provisions

The Association made several clarifying changes to Rule 6230 in addition to the changes regarding the reporting extension and periods that are discussed above. Several questions and issues arose with respect to reporting price, mark-ups, mark-downs, and commissions. The changes have been proposed to respond to an operational issue raised by the industry and reduce the industry's costs of participating in TRACE, to clarify the provisions, and answer various questions.

Rule 6230(c)(3), Alternative "Price" Reporting. First, in order to address basic software differences identified in certain external systems in widespread use in the industry, the NASD has agreed to provide an alternative to the reporting of "price" in Rule 6230(c)(3). The proposed change to Rule 6230(c)(3), if approved, will allow a member to report either the "price of the transaction" or "the elements necessary to calculate price, which are contract amount and accrued interest." This change will increase the efficiencies and reduce the costs of complying with TRACE for a substantial number of TRACE participants.

Rule 6230(d)(1), Reporting Price, Capacity and Volume. In addition, the NASD proposes several clarifying changes to Rule 6230(d). None of these changes are substantive. In Rule 6230(d)(1), the NASD proposes changes to describe more clearly how to report principal transaction prices (*i.e.*, the price reported must include the mark-up or mark-down) and agency transaction prices (*i.e.*, the price must exclude a commission, if any, and the commission must be reported in a second, separate field). In addition, where a party will use an external system that does not allow for the reporting of price (as described above), the NASD has clarified the language in paragraph (d)(1) to make it consistent with the proposed changes to Rule 6230(c)(3).

Rule 6230(d), "Special Price," "Weighted Average Price," and "Cash," "T + 1" and Other Settlement Modifiers. In Rule 6230(d)(4)(A) through (C), the NASD has clarified that a member must report transactions using modifiers, if applicable, to report certain aspects of a transaction. The modifiers are used to designate a special price, pricing determined by using weighted average pricing, and settlement that will occur other than regular way.

Special Price. In Rule 6230(d)(4)(A), the Association has specified that a member must indicate on a trade report when a non-market price, *i.e.*, a "special price," applies to the trade (other than when a weighted average price applies to the trade, which is indicated using a different modifier). In addition, the reporting party must explain in the memo field, when available, why the transaction was executed at other than a current market price. For example, if a debt security is traded conventionally and in the current market with neither a due bill nor a warrant attached, but, in the relevant transaction, is traded with a due bill and/or warrant attached, the price of the transaction is a "special price," which reflects the special conditions of the trade.

Weighted Average Price. If the price of a transaction is determined using a weighted average price method, the Association proposes that a member must indicate this with the modifier ".w." in Rule 6230(d)(4)(C). The member is required to select the modifier ".w" and may not select the "special price" modifier. The weighted average price modifier has priority over the modifiers indicating settlement other than regular way, which are discussed below. If both the weighted average price modifier and one of the settlement term modifiers are applicable to the transaction, the weighted average price modifier must be selected when reporting the transaction.

Settlement Other Than Regular Way. If a transaction is to be settled other than regular way, the Association proposes the member must report the settlement term by selecting the appropriate modifier, as set forth in Rule 6230(d)(4)(B). If the transaction will settle the same day (*i.e.*, same day cash settlement), the member must use the modifier ".c"; if the transaction will settle the next day, the member must use the modifer ".nd"; or, if the transaction will settle other than on the same day, the next day or T+ 3, the member must use the modifier ".sNN" and enter the appropriate number of days (*e.g.*, ".s05" indicates that settlement will occur 5 business days after the transaction is executed). Finally, as noted above, if one of the settlement modifiers *and* the weighted average price modifier apply to the transaction, the member must select the modifier, ".w," for weighted average price, and the applicable settlement modifier is not reported.

Rule 6230(c)(13), Yield. The industry sought additional guidance on how to report yield as required in Rule 6230(c)(13). The Association proposes clarifying changes to Rule 6230(c)(13) to eliminate the ambiguity of the prior provision. The Association proposes that a member report the lower of yield to call or yield to maturity.

Reporting the yield is mandatory. However, in response to questions, the Association has identified a number of instances where it is appropriate to provide an exception to the mandatory yield reporting requirement. The exception is stated in the proposed amendment. For example, a member is not required to report yield when the TRACE-eligible security is a security that is in default, a security for which the interest rate is floating or the interest rate will be or may be increased (*e.g.*, certain "step-up bonds") or decreased (*e.g.*, certain "step-down bonds") and the amount of increase or decrease is an unknown variable, the security is a pay-in-kind ("PIK"), or any other security where the principal or interest to be paid is an unknown variable or is an amount that is not currently ascertainable. The NASD has not assumed that the Association may identify, before each occurrence, all the

[8] The term, "TRACE-eligible security," as currently approved, excludes sovereign debt. Also, the Association intends to exclude any debt security that is issued by a supranational organization, such as the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development.

[9] *See* SR–NASD–2001–91.

instances in which it is not appropriate or useful to report yield. Instead, the Association has clarified that in those instances where the reported yield would provide inaccurate or misleading information concerning the price of, or trading in the security, yield is not required to be reported.

There were several other minor amendments to Rule 6230. In paragraph (d)(3) of Rule 6230, the Association proposes to eliminate the reporting of certain transactions as "crosses." A corresponding change is proposed to Rule 6230(c)(4). In addition, in paragraph (d)(2) of Rule 6230, the Association has clarified the term "baby bond" and how to report a fractional par value of a debt instrument.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change, if approved, will amend rules for the reporting of information on eligible debt securities transactions that will provide the NASD, as the self-regulatory organization designated to regulate the over-the-counter markets, with heightened capabilities to regulate the debt securities markets in order to prevent fraudulent and manipulative acts and practices. The proposed rule change, by requiring reporting of such transaction information, will protect investors and the public interest by, among other things, increasing transparency in the fixed income markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

While comments were neither solicited nor received concerning this rule proposal, several commenters on SR–NASD–99–65 indicated that the NASD should consider proposing reporting rules that would allow the members of the fixed income markets to use, with modifications, some of the reporting arrangements and linkages in place for the reporting of municipal securities transactions. In light of these comments, the Association is proposing that the one hour reporting period set forth in Rule 6230(a) be amended to one hour and 15 minutes and an alternative method for reporting "price" be provided in Rule 6230(c)(3) and (d)(1). The proposed extension of the reporting period and the alternative for reporting "price" will allow certain firms that have communication links to a registered clearing agency to report to TRACE using the reporting processes that are in place through the registered clearing agency. Otherwise, written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2002–46 and should be submitted by June 12, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12807 Filed 5–21–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45946; File No. SR–OCC–2001–16]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Clearing Certain Commodity Futures and Options Thereon

May 16, 2002.

I. Introduction

On October 24, 2001, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–OCC–2001–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1]. Notice of the proposal was published in the **Federal Register** on December 20, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

1. Introduction

Pursuant to the proposed rule change being approved, OCC will provide clearance and settlement services for futures on broad-based stock indexes and options on such futures under the same basic rules and procedures currently applicable to the clearance and settlement of other OCC-cleared contracts, including options and security futures.[3] There is no significant difference between the mechanics for the clearance and settlement of a future on a narrow-based stock index (a security future) and the mechanics for the clearance and settlement of a future on a broad-based stock index.[4] Accordingly, many of the changes being made merely expand the provisions applicable to security futures to include commodity futures. Likewise, futures options are substantially similar in most respects to other options cleared and settled by OCC, and accordingly, futures options will be governed by many of the same by-laws and rules applicable to other options. Where special provisions for futures options are needed, they are contained primarily in Article XII of the By-Laws and Chapter XIII of the Rules which, as discussed below, are being amended so that they apply to commodity futures and futures options as well as to security futures.

2. New and Amended Definitions

OCC is adding new definitions for several terms applicable to commodity futures and futures options and is including those terms in Article I of the By-Laws. New futures terms have been adopted and defined to correspond as closely as possible to the terminology used in the existing futures markets while also being consistent with terminology in OCC's rules. Various existing security futures definitions have been amended so that they are applicable to commodity futures as well as to security futures. The new definitions are mostly self-explanatory, but a few terms that are of particular significance are described below.

The term "commodity future" is added to distinguish these products from security futures and is defined as a futures contract within the exclusive jurisdiction of the CFTC that is traded on or through the facilities of a futures market or is subject to the rules of a futures market. The term "future" is defined so that it encompasses both security futures and commodity futures where, as is most often the case, no distinction is needed. A "futures market" is defined to mean a contract market registered with the CFTC as such. OCC does not currently propose to clear commodity futures products traded on markets other than registered contract markets. The definition of "option contract" has been amended to include a "futures option" which is defined as an option to buy or sell any commodity future traded on or through the facilities of a futures market or is subject to the rules of a futures market. The term "cleared contract" is defined as a security, commodity future, or futures option that is cleared by OCC.[5] Changes to the definitions of "commencement time" and "series marker" are discussed below.

3. Clearing Member Qualifications

Section 1 of Article V of OCC's By-Laws is amended to permit futures commission merchants ("FCMs") that are not notice-registered as broker-dealers under Section 15(b)(11)(A) of the Act to become clearing members. Interpretation .06 under Section 1 was added in SR–OCC–2001–07 to provide that OCC may give expedited review and may waive certain non-financial criteria where appropriate in order to admit affiliates of existing clearing members for the purpose of clearing security futures.[6] OCC will extend the same consideration to such affiliates that become clearing members for the purpose of clearing commodity futures and futures options. As stated in SR–OCC–2001–07, OCC believes that it is appropriate to give special consideration to such affiliates to the extent that their affiliation with an existing clearing member provides access to competent and experienced personnel able to assist the affiliate in meeting OCC's operational requirements.

OCC's financial requirements will remain substantially the same for all clearing members whether regulated primarily or exclusively as broker-dealers or as FCMs. In the case of a clearing member regulated primarily or exclusively as an FCM, OCC will permit such FCM to compute its net capital in accordance with the CFTC's regulations. OCC Rules 301(c), 303(c), and 307 have been modified to provide appropriate references to CFTC regulations governing FCM financial requirements in order to provide as nearly as practicable requirements that are parallel to those applicable to clearing members regulated primarily as broker-dealers.

4. Accounts

OCC By-Law Article VI, Section 3, is amended to clarify that commodity futures and futures options positions of futures customers may not be carried in the firm account. Additionally, Interpretation and Policy .01 has been added to require a clearing member carrying a customer account pursuant to Article VI, Section 3(e) (*i.e.*, an account holding positions of securities customers) to be fully registered as a broker-dealer and to require a clearing member carrying a segregated futures account under Article VI, Section 3(f) (*i.e.*, an account holding positions of futures customers) to be fully registered as an FCM. Whether a person is a futures customer or a securities customer is determined by (i) the agreement between the intermediary carrying the customer's account, subject to the provisions of the Act, the CEA, and regulations under either or both of those statutes as applicable to the particular intermediary (*i.e.*, broker-dealer, FCM, or dual registrant), (ii) the types of cleared contracts involved (*i.e.*, securities, security futures, or commodity futures products), and (iii) the identity of the person whose account is carried (including the nature of any affiliation such person has with the intermediary). Article VI, Section 3(a) has been modified to provide that positions in commodity futures and futures options of persons who are not futures customers (and whose accounts are therefore proprietary within the meaning of CFTC Regulation 1.3(y)) may be carried in the firm account regardless of that person's status under the Commission's hypothecation rules or Rule 15c3–3.

5. Amendments to Article XII of the By-Laws

Article XII sets out the basic provisions for security futures, including both physically-settled and cash-settled stock futures. Article XII is amended to apply to commodity futures and futures options as well. The major change is the addition of subparagraph (b) to Section 2, which governs the rights and obligations of buyers and sellers of futures options. When a futures option is exercised, OCC will: (a) in the case of a call, open in the account from which the call was exercised the number of long futures contracts and open in the account to which the exercise was assigned the number of short futures contracts equal to the unit of trading for the option and (b) in the case of a put, open in the account from which the put was exercised the number of short futures contracts and open in the account to which the exercise was assigned the number of long futures contracts equal to the unit of trading for the contract. Futures contracts that are

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45152 (December 12, 2001), 66 FR 65770.

[3] Because such contracts are within the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC"), on October 9, 2001, OCC submitted to the CFTC an application for registration as a derivatives clearing organization ("DCO") under Section 5b(c) of the Commodity Exchange Act ("CEA") and under 17 CFR Part 39 of the CFTC's regulations. The CFTC granted OCC's application for registration on December 10, 2001. The Commission notes that although futures on broad-based stock indexes and options on these futures fall within the exclusive jurisdiction of the CFTC, the Commission retains its authority to inspect and examine OCC with respect to OCC's clearance and settlement of these products by virtue of its status as a registered clearing agency under Section 17A of the Act.

[4] The Commission recently approved OCC's rules and procedures for the clearance and settlement of security futures. Securities Exchange Act Release Nos. 44434 (June 15, 2001), 66 FR 33283 [File No. SR–OCC–2001–05] and 44727 (August 20, 2001), 66 FR 45351 [File No. SR–OCC–2001–07].

[5] While many of the changes made by this ruling have been broadly made to facilitate the clearance and settlement by OCC of transactions in commodity futures and futures options no matter what the underlying interests, this rule filing approves only OCC's proposal to clear and settle futures on broad-based indexes and options thereon. In the event that OCC undertakes a clear additional CFTC-regulated products in the future, OCC will file a proposed rule change under Section 19(b) of the Act regardless of whether OCC needs to amend or add specific language to its By-Laws or Rules.

[6] *Supra* note 4.

opened in settlement of the exercise of a futures option contract will be deemed to have been opened on the day of exercise, and the exercise price for the futures option will be the contract price for the futures contract. After the futures contract is opened, the buyer and seller will have the same rights and obligations as the holders of other futures contracts.

6. Adjustments

As with security futures, adjustments to commodity futures and futures options that are necessary to reflect certain events affecting the underlying index will be determined by OCC. Futures on broad-based stock indexes and futures options thereon will be subject to the same adjustment provisions in Article XII, Sections 3 and 4 of the By-Laws that are applicable to narrow-based stock index futures. These adjustment provisions were patterned after similar provisions in Section 3 of Article XVII which are applicable to index options. Paragraph (b) of Article XII, Section 4 has been modified and new paragraph (c) has been added to update and to conform to changes in the adjustment provisions applicable to index options that were approved by the Commission last year.[7] New paragraph (d) of Article XII, Section 4 has been added in order to provide for appropriate adjustments to outstanding futures options when the underlying index future is adjusted. In that case, the futures option will be adjusted to provide for delivery of the adjusted future. Where appropriate, the exercise prices and the number of outstanding options may be adjusted. Section 6 of Article XII, which provides that the final settlement price for any futures contract at maturity is determined by a method approved by the market listing the future, is made applicable to both security futures and commodity futures. Interpretation .01 is being added to make clear that any such method of determining final settlement prices must be consistent with applicable regulations. This interpretation is added in light of the rules proposed by the Commission and the CFTC that would require that final settlement prices for security futures ordinarily be based on opening prices.[8]

7. Trade Reporting and Matching

Trade reporting and matching will occur for commodity futures in the same manner as for security futures and for futures options in generally the same manner as for other options. OCC however, will not require transactions in commodity futures and futures options to be identified as opening or closing as it requires for security futures and for other options. If a futures market elects to submit trade information without identification as to whether the transaction is opening or closing, OCC will treat all transactions as opening transactions. Each clearing member then will have to submit gross position adjustment information at the end of the day to reduce its positions to reflect the actual open interest in accounts carried by the clearing member. These procedures are consistent with current practice on many futures exchanges. As with security futures, commodity futures and futures options may include, if a futures market so elects, a series marker that prevents contracts traded on that market from being treated as fungible with otherwise identical futures contracts traded on other markets cleared by OCC. The definition of a "series marker" in Article I of the By-Laws has been amended to make clear that a series marker can be shared by mutual consent among more than one exchange or market. As a result, contracts may be fungible when traded on any market within a group but not fungible with contracts traded on markets outside the group. This is intended as a clarification of, rather than a change in, the existing rule.

Rule 401 is also being amended to provide that non-competitively executed transactions, such as block trades and exchange-for-physicals, must be identified as such in the matched trade report.[9] These provisions would apply to futures options as well as commodity futures and security futures. As defined in Article I, Section 1, the "commencement time" for trades designated as non-competitively executed does not occur until OCC has received the premium or initial variation payment on the transaction. This provision would allow OCC to reject the trade if the clearing member fails to make such payment. These trades are treated differently from other trades because when a transaction is effected at a price other than the current market price, OCC's loss may be greater in the event of a clearing member default.

8. Margins

OCC Rule 602, which contains the calculation used to determine the margin required for each account of a clearing member for narrow-based index futures, index options, and other non-equity options, is amended to include commodity futures and futures options. Margin will be calculated for these new products in exactly the same way as for other futures and options subject to OCC Rule 602.

9. Clearing Fund Contributions

Commodity futures and futures options will be covered by the same clearing fund that stands behind all options and security futures cleared by OCC. Clearing activity in commodity futures and futures options will be taken into consideration in calculating the amount of a clearing member's contribution in the same way that activity in other contracts is considered. OCC Rule 1001 provides that affiliates of existing clearing members that become clearing members of OCC solely for the purpose of clearing transactions in broad-based index futures or futures options need not put up an additional $150,000 minimum clearing fund contribution. This merely expands the existing provision applicable to clearing member affiliates that become clearing members solely for the purpose of clearing security futures.

10. Discipline

OCC Rule 1202, dealing with disciplinary proceedings, is amended to provide that if an OCC disciplinary proceeding relates solely to the clearing member's activities as an FCM, OCC must notify the clearing member in writing that it may have a right to appeal under Section 8c of the CEA. As a result of this change, clearing member disciplinary proceedings that relate to violations of customer segregated funds rules and other violations of the CEA or regulations thereunder will be subject to CFTC review.

11. Amendments to Chapter XIII

OCC proposed and the Commission approved a new Chapter XIII of its Rules to govern security futures.[10] With the current filing, OCC is simply amending that Chapter so that it applies to commodity futures and futures options as well.

III. Discussion

In Section 17A of the Act, Congress stated its finding that the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.[11] Congress then directed the Commission to facilitate the establishment of coordinated facilities for the clearance and settlement of transactions in securities, securities options, futures, and options on futures.[12] By providing clearance and settlement services for futures on broad-based stock indexes and options on such futures under the same basic rules and procedures applicable to the clearance and settlement of other OCC-cleared contracts such as options and security futures, OCC is establishing itself as a facility capable of providing coordinated clearance and settlement services for transactions in both securities and futures. Therefore, the Commission finds that the approval of OCC's rule change is consistent with the directive of Congress.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2001–16) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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[7] Securities Exchange Act Release 44184 (April 16, 2001), 66 FR 20342 [File No. SR–OCC–99–12].

[8] Securities Exchange Act Release 44743 (August 24, 2001), 66 FR 45904 [File No. S7–15–01].

[9] CFTC regulations require the identification of non-competitive trades. 17 CFR 1.38(b).

[10] Securities Exchange Act Release No. 44727 (August 20, 2001), 66 FR 45351 [File No. SR–OCC–2001–07].

[11] 15 U.S.C. 78q–1(a)(1)(D).

[12] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45928; File No. SR–Phlx–2001–27]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto Relating to Disengagement of Auto-Ex Due to Extraordinary Circumstances

May 15, 2002.

I. Introduction

On March 7, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to the disengagement of AUTO–X, the automatic execution feature of the Exchange's Automated Options Market ("AUTOM").[3] On March 28, 2001, December 20, 2001, March 1, 2002 and March 8, 2002, Phlx submitted Amendment Nos. 1,[4] 2,[5] 3,[6] and 4,[7] respectively. The proposed rule change, as amended by Amendment Nos. 1, 2, 3, and 4, was published for comment in the **Federal Register** on April 12, 2002.[8] The Commission received no comments on the amended proposed rule change. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to amend Options Floor Procedure Advice ("OFPA") A–13, Auto Execution Engagement/Disengagement Responsibility, and Phlx Rule 1080(e), Extraordinary Circumstances, to provide for a re-evaluation of the disengagement of AUTO–X[9] during extraordinary circumstances. Specifically, when AUTO-X is disengaged due to extraordinary circumstances, the Exchange would be required to review and confirm that such circumstances still exist five minutes after the initial declaration of extraordinary circumstances, and every fifteen minutes thereafter. Additionally, the Exchange proposes to amend Phlx Rule 1080(e) to specify the definition of extraordinary circumstances under which AUTO–X may be disengaged, or operated in a manner other than the normal manner set forth in the Exchange's rules.[10] The Exchange also proposes record keeping requirements to be kept when AUTO-X is disengaged and reengaged.

Currently, in order to obtain AUTO-X disengagement relief for a specific class of option due to extraordinary circumstances, the specialist must promptly notify the Phlx Market Surveillance Department that relief is requested.[11] The specialist must also obtain authorization from two Floor Officials. Currently, OFPA A–13 and Phlx Rule 1080(e) do not provide a specified time frame to re-evaluate the conditions under which a continuation of extraordinary circumstances may continue. Nor do they provide for substantial participation of Market Surveillance staff.

Under the proposed rules, the specialist would be required to notify the Phlx Market Surveillance Department that relief is requested to ensure proper notification to AUTOM users in accordance with Phlx Rule 1080(f)(v). The specialist also would be required to obtain authorization from two Floor Officials for relief. Two Floor Officials would continue to determine if relief is warranted.[12] Under the proposal, five minutes after the initial determination, and every fifteen minutes thereafter, as long as the extraordinary circumstances are in effect, the requesting specialist and two Floor Officials, with the concurrence of a designated Market Surveillance staff person, must re-evaluate whether extraordinary circumstances still exist.

The proposed rule changes, among other things, would codify the Exchange's current practice as described in this paragraph. If at any time the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Exchange filed this proposed rule change pursuant to the requirements of Section IV.B.h.(i)(bb) of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Phlx (as well as the other floor-based options exchanges) to adopt new, or amend existing rules concerning automatic quotation and execution systems which specify the circumstances, if any, by which automated execution systems would be disengaged or operated in any manner other than the normal manner set forth in the exchange's rules; and, requires the documentation of the reasons for each decision to disengage an automatic execution system or operate it in any manner other than the normal manner. See Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282.

[4] See letter from Diana Tenenbaum, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated March 27, 2001 ("Amendment No. 1").

[5] See letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated December 19, 2001 ("Amendment No. 2"). Amendment No. 2 superseded and replaced Amendment No. 1 in its entirety.

[6] See letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated February 28, 2002 ("Amendment No. 3").

[7] See letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 7, 2002 ("Amendment No. 4").

[8] See Securities Exchange Act Release No. 45710 (April 9, 2002), 67 FR 18295 (April 12, 2002).

[9] AUTO–X is a feature of AUTOM, the Exchange's electronic order delivery and reporting system that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options.

[10] See Exchange Rule 1080(c) generally. See also SR-Phlx-2001–24, a proposed rule change to set forth the circumstances in which AUTO–X will be operated in a manner other than the normal manner. Securities Exchange Act Release No. 45436 (February 12, 2002), 67 FR 7728 (February 20, 2002).

[11] See Exchange Rule 1080(f)(v).

[12] If such relief is granted, surveillance staff would announce to the Options Floor, and the AUTOM desk, that the particular option is in extraordinary circumstances.

specialist determines to re-engage AUTO–X, he/she may re-engage the system. The specialist must notify the Market Surveillance staff that the conditions supporting the extraordinary circumstances no longer exist, and that the specialist is re-engaging AUTO–X. This may be done after AUTO–X is re-engaged.

Currently, in the event extraordinary circumstances exist floor-wide, two Exchange Floor Officials and the Chairperson of the Options Committee or his/her designee may determine to disengage the AUTO–X feature floor-wide. Under the proposal, five minutes after the initial declaration and every fifteen minutes thereafter, as long as the extraordinary circumstances are in effect floor wide, two Floor Officials, the Chairperson of the Options Committee or his/her designee, with the concurrence of a designated Market Surveillance staff person, must re-evaluate the circumstances to determine if the floor-wide extraordinary circumstances still exist.

The Exchange also proposes to define "extraordinary circumstances" under which AUTO–X may be disengaged and to specify in the rules the requirement that certain relevant information is documented by the Exchange upon actual disengagement and re-engagement of AUTO–X. Currently, extraordinary circumstances that justify disengagement include "fast market conditions, systems malfunctions, and other circumstances that limit the Exchange's ability to disseminate or update market quotations in a timely and accurate manner." [13] The proposal would amend and clarify this definition, which was used in the original proposed rule change adopting Exchange Rule 1080.[14]

The proposed rule would define extraordinary circumstances to include market occurrences and system malfunctions that impact a specialist's ability to accurately price and disseminate option quotations in a timely manner. Such occurrences include fast market conditions, such as increased volatility, order imbalances, volume surges or significant price variances in the underlying security; internal system malfunctions including the Exchange's Auto-Quote system; or malfunctions of external systems, such as a specialized quote feed, or delays in the dissemination of quotes from the Option Price Reporting Authority; or other similar occurrences.

The proposed rule changes, among other things, would codify the Exchange's current practice as described in this paragraph. With respect to record keeping requirements, the Exchange maintains an electronic audit trail, called an AUTO–X Disengagement Log, that electronically monitors and electronically records every situation in which AUTO–X is disengaged. With respect to any request for AUTO–X disengagement relief, the Exchange currently records: (1) Any action taken to disengage AUTO–X or to operate it in any manner other than normal; (2) the date of the specialist's request to disengage AUTO–X; (3) the time the specialist's request was granted, and the time of re-engagement; (4) the reason for the request to disengage (*e.g.*, extraordinary circumstances or other); (5) whether another market has implemented comparable relief; (6) the specialist's name; (7) the specialist unit's name; (8) the options class (except in a case of floor-wide disengagement); (9) the particular problem that the specialist experienced; and (10) the two Floor Officials' signatures (in case of floor-wide disengagement, the Options Committee Chairperson or his designee's signature is also required). Under the proposed rule, the Exchange would codify its practice of maintaining this documentation pursuant to the Exchange's record retention requirements under Section 17 of the Act.[15]

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended by Amendment Nos. 1, 2, 3, and 4, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [16] and, in particular, the requirements of Section 6 of the Act [17] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act [18] because it provides objective criteria and well-defined procedures for disengaging and reengaging AUTO–X, which should increase the likelihood that AUTO–X will not be disengaged in a discriminatory manner. Moreover, the record keeping requirements and other proposed procedures are not unreasonable.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR-Phlx-2001–27), as amended by Amendment Nos. 1, 2, 3, and 4, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

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[13] *See* Securities Exchange Act Release No. 38792 at note 17 (June 30, 1997), 62 FR 36602 (July 8, 1997).

[14] *Id.*

[15] 15 U.S.C. 78q.

[16] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45942; File No. SR–Phlx–2002–32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Various Option Fees

May 16, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its schedule of dues, fees, and charges for its equity option transaction charges in the following three ways: (1) To reinstate a $.08 per contract Firm/Proprietary Facilitation Transaction charge,[3] (2) to increase the Firm/Proprietary charge [4] from $.08 to $.15 per contract, and (3) to increase the Broker/Dealer charge [5] from $.25 to $.30 per contract.

All three charges continue to be eligible for the monthly credit of up to $1,000 to be applied against certain fees, dues and charges and other amounts owed to the Exchange by certain members.[6]

The proposed amended fees will be implemented for transactions settling on May 1, 2002 and thereafter.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its schedule of dues, fees and charges for its equity option transaction charges in the following three ways: to reinstate the Firm/Proprietary Facilitation Transaction charge, to increase the Firm/Proprietary charge, and to increase the Broker/Dealer charge. The purpose of the proposed rule change is to generate additional revenue.

The Exchange does not currently impose any Firm/Proprietary Facilitation Transaction charge on Floor Brokers that hold an options order for a public customer and a contra-side order for the same option series and, after providing an opportunity for all persons in the trading crowd to participate in the transaction, execute both orders as a facilitation cross. A Floor Broker engaging in a facilitation transaction must announce that he/she holds an order subject to facilitation prior to the execution, and must mark the floor ticket for the public customer's order with a legible "F." The Exchange proposes to reinstate this charge, which it eliminated in 2001, at $.08 per contract.[7]

Currently, the Exchange imposes an $.08 per contract Firm/Proprietary Transaction charge on members for orders for the proprietary account of any member or non-member broker-dealer that derives more than 35 percent of its annual, gross revenues from commissions and principal transactions with customers. Firms are required to verify this amount to the Exchange by certifying that they have reached this threshold and by submitting a copy of their annual report that was prepared in accordance with Generally Accepted Accounting Principles.[8] The Exchange proposes to increase this charge to $.15 per contract.

Currently, the Exchange imposes a $.25 per contract Broker/Dealer equity option transaction charge on members for orders entered from other than the floor of the Exchange, for any account where the holder of beneficial interest is a member or non-member broker-dealer, or where the holder of beneficial interest is a person associated with or employed by a member or non-member broker-dealer.[9] This includes broker/dealer orders for the account of a Registered Options Trader ("ROT") entered from off-floor.[10] The Exchange proposes to increase this charge to $.30 per contract.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in particular, because it is an equitable allocation of reasonable charges among the Exchange's members. The proposal to amend the three charges is intended to generate additional revenue and the Exchange believes the proposal is reasonable and proper.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act [13] and Rule 19b–4(f)(2) thereunder.[14] Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A facilitation transaction occurs when a Floor Broker holds an options order for a public customer and a contra-side order for the same option series and, after providing an opportunity for all persons in the trading crowd to participate in the transaction, executes both orders as a facilitation cross. *See* Securities Exchange Act Release No. 44893 (October 2, 2001), 66 FR 51485 (October 9, 2001) (eliminating Firm/Proprietary Facilitation Transaction charge); Phlx Rule 1064.

[4] The Firm/Proprietary charge applies to members for orders for the proprietary account of any member or non-member broker/dealer that derives more than 35 percent of its annual, gross revenues from commissions and principal transactions with customers. *See* Securities Exchange Act Release No. 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000) (adopting Firm/Proprietary charge).

[5] The Broker/Dealer equity option transaction charge is applied to members for orders, entered from other than the floor of the Exchange, for any account (i) in which the holder of beneficial interest is a member or non-member broker-dealer or (ii) in which the holder of beneficial interest is a person associated with or employed by a member or non-member broker-dealer. *See* Securities Exchange Act Release Nos. 45185 (December 21, 2001), 66 FR 67614 (December 31, 2001) (SR–Phlx–2001–113) (increasing Broker/Dealer equity option transaction charge from $.20 to $.25) and 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000) (adopting Broker/Dealer equity option transaction charge).

[6] *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (adopting monthly credit).

[7] *See* Securities Exchange Act Release No. 44893 (October 2, 2001), 66 FR 51485 (October 9, 2001).

[8] *See* Securities Exchange Act Release No. 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000).

[9] Recently, the Exchange began accepting broker-dealer orders over its Automated Options Market System ("AUTOM"). *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002).

[10] *See* Securities Exchange Act Release Nos. 45185 (December 21, 2001), 66 FR 67614 (December 31, 2001) and 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2002–32 and should be submitted by June 12, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12806 Filed 5–21–02; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 4023]

Determination and Certification Under Section 40A of the Arms Export Control Act

Pursuant to section 40A of the Arms Export Control Act (Public Law 90–629), as added by section 330 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (22 U.S.C. 2771 *et seq.*), and Executive Order 11958, as amended, I hereby determine and certify to the Congress that the following countries are not cooperating fully with United States antiterrorism efforts:

Cuba
Iran
Iraq
Libya
North Korea
Sudan
Syria

This determination and certification shall be transmitted to the Congress and published in the **Federal Register.**

Dated: May 15, 2002.

Richard L. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 02–12826 Filed 5–21–02; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

Overseas Buildings Operations

[Public Notice 3985]

Industry Advisory Panel Meeting Notice

The Industry Advisory Panel of Overseas Buildings Operations will meet on Wednesday, June 19, 2002 from 9:45 until 11:45 a.m. and 1:00 until 3:30 p.m. Eastern Standard Time. The meeting will be held in conference room 1408 at the Department of State, 2201 C Street NW (entrance on 23rd Street), Washington, D.C. The purpose of the meeting is to discuss new technologies and successful management practices for design, construction, security, property management, emergency operations, the environment, and planning and development. An agenda will be available prior to the meeting.

The meeting will be open to the public, however, seating is limited. Prior notification and a valid photo ID are mandatory for entry into the building. Members of the public who plan to attend must notify Sandra Piech at 703/516–1968 before Wednesday, June 12, to provide date of birth, Social Security number, and telephone number.

FOR FURTHER INFORMATION CONTACT: Sandra J. Piech 703/516–1968.

Dated: May 15, 2002.

Charles E. Williams,

Director/Chief Operating Officer, Overseas Buildings Operations, Department of State.

[FR Doc. 02–12825 Filed 5–21–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 4026]

Universal Postal Union Issues

AGENCY: Department of State.

ACTION: Notice of Briefing.

The Department of State will host a briefing on Thursday, June 13, 2002, to provide an update on recent decisions and reform initiatives at the Universal Postal Union (UPU).

The briefing will be held from 2 p.m. until approximately 4 p.m., on June 13, 2002, in Room 1406 of the Department of State in Washington, DC. The briefing will be open to the public up to the capacity of the meeting room.

The briefing will provide information on the results of the recent meetings of the Postal Operations Council and the new UPU private-sector Advisory Group, as well as on the status of UPU terminal dues, extra-territorial offices of exchange (ETOEs), customs issues and postal security coordination with the UPU. The briefing will be chaired by Ambassador E. Michael Southwick of the Department of State.

Entry to the Department of State building is controlled and will be facilitated by advance arrangements. In order to arrange admittance, persons desiring to attend the briefing should, no later than noon on June 11, 2002, notify the Office of Technical and Specialized Agencies, Bureau of International Organization Affairs, Department of State, preferably by fax, providing the name of the meeting and the individual's name, Social Security number, date of birth, professional affiliation, address and telephone number. The fax number to use is (202) 647–8902. Voice telephone is (202) 647–1044. This request applies to both government and non-government individuals.

All attendees must use the Department of State entrance on 23rd Street, between C and D Streets, N.W. For security reasons, C Street is closed to vehicular traffic, but taxis may reach the 23rd Street entrance. One of the following means of identification will be required for admittance: any U.S. driver's license with photo, a passport, or any U.S. Government agency identification card. Questions concerning the briefing may be directed to Mr. Neil Boyer at (202) 647–1044 or via email at *boyerna@state.gov.*

Dated: May 16, 2002.

Margaret C. Jones,

Director, Office of Technical and Specialized Agencies, Bureau of International Organization Affairs, Department of State.

[FR Doc. 02–12827 Filed 5–21–02; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications of Aerodynamics, Inc., for Issuance of New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause Order Dockets OST–01–10985 and OST–01–10986.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders finding Aerodynamics, Inc., fit, willing, and able and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property and mail as a certificated air carrier.

Responses: Objections and answers to objections should be filed in Dockets OST–01–10985 and OST–01–10986 and addressed to the Department of Transportation Dockets, PL–401, 400 Seventh Street, SW., Washington, DC 20590, and should be served on all persons listed in Attachment A to the order. Persons wishing to file objections should do so no later than May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. James Lawyer, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1064.

Dated: May 16, 2002.

Read C. Van De Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 02–12735 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–62–P

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Publication of Index of Administrator's Decisions and Orders in Civil Penalty Actions; Discontinuation Notice

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of discontinuation of publication of index.

SUMMARY: The agency will no longer publish in the **Federal Register** an index of the Administrator's civil penalty decisions and orders. The agency has determined that such publication is unnecessary and impracticable, given that indexes of the decisions and orders are now available on the agency's Internet website and through commercial publishers. The agency will continue to provide copies of the index to members of the public upon request.

FOR FURTHER INFORMATION CONTACT: Vicki Leemon, Manager, Adjudication Branch (AGC–430), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590, Telephone: (202) 366–4118.

SUPPLEMENTARY INFORMATION: In 49 U.S.C. 46301, Congress authorized the FAA Administrator to assess civil penalties against those who violate the FAA's governing status or any regulations issued under that statute. Likewise, in 49 U.S.C. 5123, Congress authorized the Administrator to assess civil penalties against those who violate the Federal hazardous materials transportation statute or the hazardous materials regulations. Under the rules of practice governing hearings and appeals of civil penalty actions (14 CFR part 13, subpart G), the Administrator or the Administrator's delegate is designated as the FAA decisionmaker to review and decide appeals of initial decisions issued by administrative law judge who hold adjudicatory hearings in these civil penalty actions. The Administrator, as the decisionmaker, issues the final decisions and orders of the agency in these cases.

The Administrative Procedure Act (APA) requires Federal agencies to publish, at least quarterly, current indexes of the agencies' final opinions and orders. 5 U.S.C. 552(a)(2)(A) and (E). To this end, since October 31, 1990, the FAA has published indexes of the agency's final opinions and orders in civil penalty cases in the **Federal Register.** The agency published the last index in the **Federal Register** on January 23, 2001. 66 FR 7532, January 23, 2001.

The APA provides one exception to the requirement that agencies publish indexes of final agency orders and decisions. The exception is for situations in which the agency determines by order published in the **Federal Register** that publication of the indexes is unnecessary and impracticable. 5 U.S.C. 552(a)(2)(E).

Since the FAA began publishing indexes of the Administrator's civil penalty decisions and orders in 1990, the agency has created a website on the Internet that contains the indexes and other resources. The address for the website is: *www.faa.gov/agc/cpwebsite.*

The FAA is making available through its website more information than has been included in the quarterly indexes in the **Federal Register.** The website includes all of the Administrator's decisions in FAA civil penalty cases. In addition, the website provides access to cumulative indexes of decisions and orders by: (1) Case name; (2) order number; (3) subject matter; and (4) regulation. The website has information about civil penalty cases appealed to Federal courts of appeals or Federal district courts, as well as information about the FAA Hearing Docket and the Department of Transportation's Docket Management System. The Administrator's delegations of authority to FAA officials, the Rules of Practice in Civil Penalty Cases, and other pertinent information are also available on the website. The FAA updates the website on a monthly basis.

A number of commercial publishers also publish indexes of the Administrator's orders and decisions. Two such publications are *Federal Aviation Decisions,* which is published by Clark Boardman Callaghan, a subsidiary of West Group, 50 Broad Street East, Rochester, NY 14694, Telephone: (716) 546–1490; and *Hawkins Civil Penalty Cases Digest Service,* published by Hawkins Publishing Company, PO Box 480, Mayo, MD 21106, Telephone: (410) 798–1677. The electronic databases LEXIS (TRAN library, FAA file), WestLaw (F–TRAN library), CompuServe, and FedWorld include the Administrator's civil penalty orders and decisions. Finally, the Administrator's civil penalty orders and decisions are available on CD–ROM through Aeroflight Publications, PO Box 854, 433 Main Street, Gruver, TX 79040, Telephone: (806) 733–2483.

Given the time and resources that the agency is now expending in updating the civil penalty website, and given that indexes of the orders and decisions are readily available through the website and other sources, the agency has determined that it is unnecessary and impracticable to continue publishing the indexes in the **Federal Register.** The agency will, however, provide copies of the indexes upon request, as required by 5 U.S.C. 552(a)(2)(E). Persons wishing copies of the indexes should contact Vicki Leemon, Manager, Adjudication Branch (AGC–430), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590, Telephone: (202) 366–4118.

Issued in Washington, DC on May 15, 2002.

David G. Leitch,

Chief Counsel.

[FR Doc. 02–12856 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at East Texas Regional (formerly Gregg County) Airport, Longview, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at East Texas Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 21, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies of the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division,

Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James Loomis, Manager of East Texas Regional Airport at the following address: Mr. James Loomis, Airport Director, East Texas Regional Airport, Route 3, Highway 322, Longview, Texas.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at East Texas Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 8, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 4, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 2002.

Proposed charge expiration date: January 1, 2011.

Total estimated PFC revenue: $699,232.

PFC application number: 02–02–C–00–GGG.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

1. Renovate ARFF Facility, Phase I
2. Reconstruct Terminal Apron, Phase IV
3. Renovate ARFF Facility, Phase II
4. Reconstruct Terminal Apron, Phase V
5. Improve Runway Safety Areas
6. Construct Taxiway M and associated improvements
7. Airfield Electrical Improvements
8. Conduct Pavement Study
9. Convert Runway 4–22 to Taxiway N
10. PFC Administrative Costs

Proposed class or classes of air carriers to be exempted from collecting PFC's: Part 135 AT/CO filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the aplplication in person at East Texas Regional Airport.

Issued in Fort Worth, Texas on May 8, 2002.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 02–12855 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airborne Navigation Sensors Using the Global Positioning System Augmented by the Wide Area Argumentation System

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and requests comments on a revised draft Technical Standard Order (TSO) C–145a, Airborne Navigation Sensors Using the Global Positioning System (GPS) Augmented by the Wide Area Augmentation System (WAAS). The draft TSO tells persons seeking a TSO authorization or letter of design approval what minimum performance standards (MPS) their airborne navigation sensors, using GPS augmented by the WAAS must meet to obtain approval and be identified with the applicable TSO marking.

DATES: Comments submitted must be received on or before July 15, 2002.

ADDRESSES: Send all comments on the proposed technical standard order to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mary Grice, Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–9897, FAX: (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the draft TSO listed in this notice by submitting such written data, views, or arguments, as they desire, to the aforementioned specified address. Comments must be marked "Comments to TSO C–145a." Comments received on the draft TSO may be examined, both before and after the closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

How To Obtain Copies

A copy of the revised draft TSO may be obtained via Internet (*http://www.faa.gov/avr/air/airhome.htm*) or on request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on May 15, 2002.

Brian A. Yanez,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 02–12733 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is herby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before June 21, 2002.

ADDRESSES COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the application See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW. Washington, DC 20590 or at *http://dms.dot.gov.*

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC. on May 16, 2002.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
12988–N	RSPA–02–12215	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.304	To authorize the transportation in commerce of a non-DOT specification cylinder for use in transporting hydrogen chloride, anhydrous, Division 2.3. (modes 1, 3)
12990–N	RSPA–02–12218	Technifab Products, Inc., Brazil, IN.	49 CFR 178.57(1)	To authorize the manufacture, mark, sale and use of cryogenic tanks equipped with alternative openings and testing criteria for use in transporting hazardous materials. (mode 1)
12991–N	RSPA–02–12219	General Plastics Manufacturing Company, Tacoma, WA.	49 CFR 174.64 (i) & (j)	To authorize rail cars to remain connected while standing without the physical presence of an unloader. (mode 2)
12994–N	RSPA–02–12221	Air Liquide American Corporation, Houston, TX.	49 CFR 173.34(d)	To authorize the transportation in commerce of certain DOT specification cylinders and cylinders manufactured to a foreign specification without pressure relief devices. (modes 1, 3)
12995–N	RSPA–02–12220	The Dow Chemical Company, Midland, MI.	49 CFR 173.306(a)(3)(v).	To authorize the transportation in commerce of inner metal receptacles which have been subjected to an alternative testing procedure for use in transporting limited quantities of compressed gases. (modes 1, 2, 3, 4)
12997–N	RSPA–02–12214	Albemarle Corporation, Baton Rouge, LA.	49 CFR 173.24(g)(4)	To authorize the transportation in commerce of hazardous materials in a vented bulk packaging (an intermediate bulk container) when venting is not authorized. (modes 1, 2, 3)
12998–N	RSPA–02–12278	Safety-Kleen Services, Inc., Columbia, SC.	49 CFR 173.12(b)(1)	To authorize the transportation in commerce of non-waste material from one location to another location for various customers in lab packs. (mode 1)
13001–N	RSPA–02–12282	The J.C. Smith Co., San Saba, TX.	49 CFR 178.346	To authorize the transportation in commerce of a non-DOT specification tank similar to a DOT 406 for use in transporting various hazardous materials. (mode 1)
13010–N		Continuum Chemical Corporation, Houston, TX.	49 CFR 173.243	To authorize the manufacture, mark, sale and use of certain non-DOT specification cargo tanks for transporting hazardous wastes. (mode 1)

[FR Doc. 02–12737 Filed 5–21–02; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–4: OTS Nos. H–3728 and 17777]

Brookline Bancorp, Inc., Brookline, Massachusetts; Approval of Conversion Application

Notice is hereby given that on, May 15, 2002, the Director, Examination Policy, Office of Thrift Supervision ("OTS"), or her designee, acting pursuant to delegated authority, approved the application of Brookline Savings Bank, Brookline, Massachusetts, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, OTS, 1700 G Street, NW, Washington DC 20552, and the OTS Northeast Regional Office, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: May 17, 2002.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 02–12792 Filed 5–21–02; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–3: OTS Nos. H–3859 and 15953]

Pacific Trust Bank, Chula Vista, CA; Approval of Conversion Application

Notice is hereby given that on, May 15, 2002, the Director, Examination Policy, Office of Thrift Supervision

("OTS"), or her designee, acting pursuant to delegated authority, approved the application of Pacific Trust Bank, Chula Vista, California, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, OTS, 1700 G Street, NW, Washington, DC 20552, and the OTS West Regional Office, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, California 94014–1976.

Dated: May 17, 2002.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 02–12791 Filed 5–21–02; 8:45 am]

BILLING CODE 6720–01–M

Federal Register

Wednesday,
May 22, 2002

Part II

Department of Commerce

International Trade Administration

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Softwood Lumber Products From Canada

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Constance Handley or Charles Riggle, Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0631 or (202) 482–0650, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations last codified at 19 CFR part 353 (April 1, 2001).

Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (Final Determination) (see comment 53, item D, page 116, and comment 57, item B–7, page 126), available at WWW.IA.ITA.DOC.GOV, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below :

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

(2) *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

(3) *Radius-cut box-spring-frame components*, not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS heading 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) The processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to Customs' satisfaction that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits*,[1] regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, contract decking, trim, drywall and roof shingles specified in the plan, design or blueprint;

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to the U.S. Customs Service upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that

[1] To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that the Customs Service may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90, 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;
2. I-joist beams;
3. Assembled box spring frames;
4. Pallets and pallet kits, properly classified under HTSUS 4415.20;
5. Garage doors;
6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40;
7. Properly classified complete door frames;
8. Properly classified complete window frames;
9. Properly classified furniture.

Amended Final Determination

On March 21, 2002, in accordance with section 735(a) of the Act, the Department made a final determination that certain softwood lumber products from Canada are being, or are likely to be, sold in the United States at less than fair value. *See Final Determination* (April 2, 2002). Five of the six respondents[2] and the petitioners[3] filed timely allegations that the Department had made ministerial errors in its final determination.

We have determined, in accordance with 19 CFR 353.28, that certain ministerial errors were made in the final determination. For Abitibi Consolidated, we re-coded certain grades for the dumping margin computer program (computer program) and corrected our treatment of freight rebates, a mistaken freight figure reported by the company, and the exchange rate conversions for packing expenses, early payment discounts and billing adjustments.

For Slocan Forest Products Limited, we regrouped a grade of structural lumber and adjusted the computer program to prevent it from matching products across grade groupings.

For Tembec Corporation, we corrected a coding error which had prevented price-to-price comparisons of spruce-pine-fir products. We adjusted the computer program to prevent it from matching products across grade groups. We also corrected our treatment of billing adjustments, which affected several data fields, included random width and length sales in the calculation of the final margin, and corrected the company's credit expense.

For West Fraser Mills Ltd., we corrected packing and U.S. inventory carrying costs and certain credit expense ratios. We also adjusted the computer program to prevent it from matching products across grade classifications. Finally, we adjusted the costs allocated to species and grade groupings to remove costs for groupings that were not present in the company's sales file.

For Weyerhaeuser, we excluded sales of merchandise not produced by the company and revised the variable and total cost-of-manufacturing data fields to conform with the costs as recalculated for the final determination. We also disaggregated certain products with different machine stress ratings to give these products different grades. Finally, we corrected the computer program to include Weyerhaeuser's re-packing expenses, to correct the currency conversion for the level-of trade adjustment, and to recalculate certain warehousing expenses.

For a detailed discussion of the Department's analysis of the parties' allegations of ministerial errors, *see* Memorandum to Farrar Shirzad, Assistant Secretary, Import Administration, from Christopher Smith, AD/CVD Office 5, Ministerial Error Allegations, dated April 25, 2002. Therefore, in accordance with 19 CFR 353.28(c), we are amending the final determination of the antidumping duty investigation of certain softwood lumber products from Canada to correct these ministerial errors.

The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Amended weighted-average margin percentage
Abitibi (and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Sciere Opticwan)	14.60	12.44
Canfor (and its affiliated Lakeland Mills Ltd., The Pas Lumber Company Ltd., Howe Sound Pulp and Paper Limited Partnership)	5.96	*5.96
Slocan	7.55	7.71
Tembec (and its affiliates Marks Lumber Ltd., Excel Forest Products)	12.04	10.21
West Fraser (and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.)	2.26	2.18
Weyerhaeuser (and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatchewan Ltd.)	15.83	12.39
All Others	9.67	8.43

*No change.

Antidumping Duty Order

On May 16, 2002, pursuant to section 735(b)(1)(A)(ii) of the Act, the International Trade Commission (ITC) notified the Department of its final determination that the industry in the United States producing softwood lumber products is threatened with material injury by reason of imports of the subject merchandise from Canada.

In accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all entries of softwood lumber products from Canada. In accordance with section 736(b)(2) of the

[2] The six respondents are identified below. Of these companies, only Canfor did not allege that the Department had made ministerial errors.

[3] The petitioners are the coalition for Fair Lumber Imports Executive Committee, the United Brotherhood of Carpenters and Joiners, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union.

Act, duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination if that determination is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's preliminary determination. In addition, section 736(b)(2) of the Act requires the Customs Service to refund any cash deposits or bonds of estimated antidumping duties posted since the Department's preliminary antidumping determination if the ITC's final determination is based on a threat of material injury.

Because the ITC's final determination in this case is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's preliminary determination, section 736(b)(2) is applicable to this order. Therefore, the Department will direct the Customs Service to assess, upon further advice, antidumping duties on all unliquidated entries of softwood lumber products from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination of threat of material injury in the **Federal Register** and terminate the suspension of liquidation for entries of softwood lumber products from Canada entered, or withdrawn from warehouse, for consumption prior to that date. The Department will also instruct the Customs Service to refund any cash deposits made, or bonds posted, between the publication date of the Department's preliminary antidumping determination and the publication of the ITC's final determination.

On or after the date of publication of the ITC's notice of final determination in the **Federal Register**, the Customs Service will require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the amended weighted-average antidumping margins noted above.

Pursuant to section 735(a) of the Act, this notice constitutes the antidumping duty order with respect to Certain Softwood Lumber Products from Canada.

This order is published pursuant to section 736(a) of the Act and 19 CFR 351.211.

Dated: May 17, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–12988 Filed 5–21–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–839]

Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at 202–482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR Part 351 (2000).

Scope of Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (*See* comment 53, item D, page 116, and comment 57, item B–7, page 126), available at WWW.IA.ITA.DOC.GOV, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

(2) *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

(3) *Radius-cut box-spring-frame components*, not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS heading 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cutting that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: 1) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and 2) if the importer establishes to Customs' satisfaction that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits*,[1] regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, contract decking, trim, drywall and roof shingles specified in the plan, design or blueprint;

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to the U.S. Customs Service upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that the Customs Service may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90 , 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;
2. I-joist beams;
3. Assembled box spring frames;
4. Pallets and pallet kits, properly classified under HTSUS 4415.20;
5. Garage doors;
6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40;
7. Properly classified complete door frames;
8. Properly classified complete window frames;
9. Properly classified furniture.

Exclusion of Maritime Products

On July 27, 2001, we amended our *Initiation Notice*, to exempt certain softwood lumber products from the Provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (the Maritime Provinces) from this investigation. This exemption does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other Province. *See Amendment to the Notice of Initiation of Countervailing Duty Investigation: Certain Softwood Lumber Products from Canada*, 66 FR 40228 (August 2, 2001).

Company Exclusions

In the *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545, 15547 (April 2, 2002) (*Final Determination*), we granted exclusions to the following companies: Armand Duhamel et fils Inc., Bardeaux et Cedres, Beaubois Coaticook Inc., Busque & Laflamme Inc., Carrier & Begin Inc., Clermond Hamel, J.D. Irving, Ltd., Les Produits. Forestiers. D.G., Ltee, Marcel Lauzon Inc., Mobilier Rustique, Paul Vallee Inc., Rene Bernard, Inc., Roland Boulanger & Cite., Ltee, Scierie Alexandre Lemay, Scierie La Patrie, Inc., Scierie Tech, Inc., Wilfrid Paquet et fils, Ltee, B. Luken Logging Ltd., Frontier Lumber, and Sault Forest Products Ltd. For further discussion of this issue, *see* the "Company Exclusions" section of the *Issues and Decision Memorandum*.

Amended Final Determination

On March 21, 2002, in accordance with section 705(a) of the Act, the Department made a final determination that countervailable subsidies were being provided with respect to certain softwood lumber products from Canada. *See Final Determination*.

On April 8, 2002, the Coalition for Fair Lumber Imports Executive Committee (petitioners) and the Governments of Canada, Alberta, British Columbia, Manitoba, Ontario, Saskatchewan, and Quebec (collectively, respondents) alleged ministerial errors in the calculations of the *Final Determination*. On April 15, 2002, petitioners and respondents submitted rebuttal comments regarding the allegations.

On April 25, 2002, we issued a memorandum concerning these allegations in which we amended the *ad valorem* rate calculated in the *Final Determination*. These ministerial error allegations and the Department's responses to the allegations are summarized below. For a more detailed discussion of these ministerial error allegations, *see* the April 25, 2002, Memorandum to Faryar Shirzad, Assistant Secretary for Import Administration, through Bernard T. Carreau, Deputy Assistant Secretary for Import Administration (*Ministerial Error Memorandum*), a public document on file in room B–099 of the main Commerce Building.

I. General Allegations

A. Treatment of Company-Specific Sales Data in the Country-Wide Rate Calculations

Respondents explain that the initial version of the Department's final

[1] To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

calculations failed to bracket business proprietary data pertaining to the Province of Ontario. They state that to correct this inadvertent disclosure of business proprietary data, the Department erased the data in question from the final calculations. Respondents argue that rather than remove the business proprietary data from the calculations, the Department should include the information in question with the necessary brackets and recalculate the country-wide rate consistent with the Department's *Final Determination*.

Department's Position: We disagree with respondents. The data in question pertained only to a single cell in our spreadsheet calculations. However, redacting that single cell would not have adequately prevented the general public from deriving the proprietary figure. Therefore, to appropriately protect the proprietary data in question and to provide the general public with a meaningful summary of the country-wide rate section of the final calculations, we determined to remove the proprietary data at issue. We find our decision is the best solution as the removal of the proprietary figure from the calculations did not alter the final, country-wide rate nor did it change the portion of the country-wide rate attributable to Ontario.

B. Inclusion of Sales Values of Excluded Companies From the Yukon Territory in the Country-Wide Rate Calculation

Respondents allege that the Department inadvertently neglected to add the sales of excluded companies from the Yukon Territory in the country-wide rate section of the final calculations. They argue that if the Department did not intend to use the excluded sales from the Yukon Territory, then the Department should add all excluded company shipments in the calculation.

Department's Position: We disagree with respondents that the Department should have included excluded sales of the Yukon Territory and total shipment values for the Yukon and Northwest Territories in the country-wide section of the final calculations. In the March 21, 2002 *Issues and Decision Memorandum* that accompanied the *Final Determination*, we explained that although petitioners alleged that stumpage programs from the Yukon and the Northwest Territories conferred countervailable subsidies upon producers of subject merchandise, we were not examining those programs in the *Final Determination* "because the amount of exports to the United States from the two Territories is insignificant." *See* the "Provincial Stumpage Programs Determined to Confer Subsidies" section of the March 21, 2002, *Issues and Decision Memorandum to Faryar Shirzad, Assistant Secretary, for Import Administration, from Bernard T. Carreau, Deputy Assistant Secretary, for Import Administration* (*Issues and Decision Memorandum*), a public document on file in room B–099 of the main Commerce Building. Consistent with the approach explained in the *Issues and Decision Memorandum*, we did not calculate separate benefits for the two Territories.

C. Inclusion of Sales Values From the Yukon and Northwest Territories in the Country-Wide Rate Calculation

Respondents allege that the Department inadvertently neglected to add the total shipment values of lumber from the Yukon and Northwest Territories in the country-wide rate calculations. Respondents argue that though the Yukon and the Northwest Territories did not provide data from total shipment values of softwood lumber, the Government of Ontario (GOO) did report export shipments for those territories. Respondents assert that the export shipments for the Yukon and the Northwest Territories should be inserted into the total lumber shipment values column (the third column of the table on page 3 of the final calculation memorandum) of the country-wide rate calculations.

Department's Position: As explained above, we determined not to calculate provincial benefits (*i.e.*, numerators) and, thus, provincial rates for the Yukon and Northwest Territories. Consequently, including sales of lumber shipments from the these two territories, which could only be used in the denominator of a provincial rate calculation for each province, cannot mathematically affect the country-wide rate.

D. Inflation Adjustment of Figures Used To Derive the POI Value of Remanufactured Products

In the *Final Determination*, the Department used 1997 figures from Exhibit 15 of the February 15, 2002 Statistics Canada Verification Report to derive the value of remanufactured products during the POI. *See* the "Inclusion of Remanufactured Products in the Denominator of the Subsidy Calculation" section of the *Issues and Decision Memorandum*. Respondents claim that the Department's final calculations indicate that the data were inflation adjusted. They further claim that the final calculations do not adjust for inflation. To correct this error, they argue that the Department should adjust the 1997 values included in Verification Exhibit 15. They further argue that if the Department does not make this correction, then it should strike the words "Inflation Adjusted" from the table on page 5 of its final calculations.[2]

Petitioners also argue that the Department should adjust the values on page 5 of the final calculations. They claim that it is clear that the Department intended to use an inflation-adjusted figure when deriving the value of remanufactured products during the POI.

Department's Position: We disagree that the value of remanufactured products during the POI should be adjusted for inflation. Our intention in the *Final Determination* was not to adjust the values in Verification Exhibit 15 for inflation. This is evident in our description of how we used the values from Verification Exhibit 15: "we determined the percentage relationship between the total value of remanufactured products and the total value of first-mill shipments for the 1997 ASM and applied this percentage to the reported total value of softwood lumber shipments." *See* the "Inclusion of Remanufactured Products in the Denominator of the Subsidy Calculation" section of the *Issues and Decision Memorandum*.

Regarding the calculation of the value of remanufactured products during the POI, we ackowledge that our calculations contain a clerical error. In the *Final Determination*, we intended to use a "percentage relationship" (*i.e.*, the ratio of in-scope merchandise outside of SIC 2512 but inside Group 25 to products inside Group 25) to derive the value of remanufactured lumber products. However, in the final calculations, instead of using the data from Verification Exhibit 15 to derive a percentage relationship, we inadvertently used actual values to derive a remanufactured figure. For an explanation of the formula we used to correct this error, see *Ministerial Error Memorandum* at 5.

E. Value of In-Scope Remanufactured Products as Reported by the Pacific Forestry Center (PFC)

In the *Final Determination*, the Department chose not to use the values from the PFC study to estimate the value of remanufactured lumber shipments produced by Canadian firms during the POI because it found the study flawed in several important respects. *See* the "Use of the Pacific Forestry Center's Study of Remanufactured Products from British Columbia" section in the *Issues and Decision Memorandum*.

Respondents allege that the grounds on which the Department dismissed the study are not supported by the facts on the record and, thus, the Department should amend its *Final Determination* to reflect that the PFC study provides an appropriate estimate of the value of remanufactured products produced in Canada during the POI.

Department's Position: Respondents' allegation does not meet the standard for a ministerial error as defined by section § 351.224(f) of the Department's regulations; rather, the allegation challenges a methodological choice. Therefore, the Department is not addressing respondents' allegations on this matter.

F. *Ad Valorem* Rate Calculations for Federal and Other Non-Stumpage Programs

In the *ad valorem* rate calculations for the federal and other non-stumpage programs, the Department included in the denominator "total lumber shipments, inclusive of remanufactured products." Respondents contend that the values in the calculation inadvertently exclude the value of "by-products" that is in the *ad valorem* rate calculations of the stumpage programs. Respondents argue that the Department should recalculate the *ad valorem* rates for the federal programs and other non-stumpage programs using a divisor that consists of total lumber shipments, inclusive of remanufactured products, and by-products.

Department's Position: We disagree with respondents that the Department inadvertently excluded the value of by-products in the calculation of the federal and other non-stumpage programs. Each of the programs for which we were able to quantify a benefit was designed to benefit lumber producers or sawmill operators. Accordingly, we calculated the provincial rates for these non-stumpage programs by dividing the benefit amounts "by the f.o.b. value of total sales of softwood lumber for the POI * * *" *See e.g.*, the "Forest Renewal B.C." section in the *Issues and Decision Memorandum*. Therefore, the Department's decision to calculate the *ad valorem* rates for these non-stumpage programs using a denominator that did not include by-products was intentional and, thus, does not constitute a ministerial error within the meaning of section § 351.224(f) of the Department's regulations.

II. Province-specific Allegations

A. Alberta

1. Billed Volume and Holding and Protection Charge

Petitioners argue that two ministerial errors were made when the Department calculated the benefit conferred by the stumpage program in Alberta. First, petitioners maintain that on page A–7 of the Calculation Memorandum, the second row of charts incorrectly used the SPF billed volume for each tenure type to calculate the per-unit reforestation levy for all species, while the third row of charts incorrectly used the all-species billed volume for each tenure type to weight the SPF administered stumpage rate calculation.

Second, petitioners argue that on page A–7 of the Calculation Memorandum, the calculation of the per-unit holding and protection charge was derived by dividing the total cash payments as provided by the Government of Alberta (GOA) by the harvested volume in each tenure type when the payments should have been divided by billed volume. Petitioners maintain that when the Department divided the total holding and protection charges by a volume figure to convert the lump sum payment to a per-unit charge, it should have used the same volume that it used when converting the per-unit benefit to a total provincial benefit (*i.e.*, billed volume).

Department's Position: Regarding the first point, we agree with petitioners. We have corrected this error.

Regarding petitioners' second point, we disagree. Holding and protection charges are assessed by the GOA on harvested, not billed, volume (*see* page AB–IV–9 of the GOA's June 28, 2001 questionnaire response), and, therefore, we are correct in dividing by the harvested volume to arrive at the per-unit holding and protection charge.

2. In-kind Costs Relating to DTLs and DTPs

Respondents argue that, with respect to Alberta, the Department made a ministerial error in calculating the total stumpage payments made for coniferous timber harvested under deciduous timber licenses (DTLs) and deciduous timber permits (DTPs). Respondents maintain that the Department inadvertently failed to include the in-kind costs associated with harvesting this wood in its calculations.

Department's Position: We disagree with respondents that we inadvertently failed to include the in-kind costs associated with harvesting coniferous timber under DTLs and DTPs. Although respondents are correct in stating that the GOA supplied the costs applied to DTLs and DTPs, we note that it failed to break out these costs into costs associated with harvesting coniferous timber on deciduous stands and costs associated with harvesting deciduous timber on the same stands. Because these are deciduous timber tenures and most of the timber harvested from them is deciduous timber (*i.e.*, non-subject merchandise), and because respondents did not provide a breakdown of costs, we have chosen not to include the costs associated with harvesting coniferous timber under DTLs and DTPs in our stumpage calculations.

B. British Columbia

1. Calculation of Softwood Logs Used for Sawmilling

Petitioners assert that the Department made a ministerial error in calculating an estimate of the Crown softwood timber harvest used for sawmilling. Petitioners state that the Government of British Columbia (GBC) did not disclose the volume of "sawlogs" used by sawmills and the Department, therefore, attempted to derive the total POI sawlog harvest from the total volume of logs harvested and sent to sawmills in 2000. Petitioners allege the Department "mistakenly" multiplied the harvest for sawlogs by the percentage of total logs harvested, including pulp and veneer, to determine the benefit.

Respondents claim that the Department specifically rejected petitioners' argument in the *Issues and Decision Memorandum*, thus, the Department made no inadvertent mistake in its calculations. *See* the "Calculation of the Subsidy" section for the Province of British Columbia in the *Issues and Decision Memorandum*.

Department's Position: For the *Final Determination*, the Department multiplied the sawlog harvests for the Coast and Interior by the respective percentages of total logs going to sawmills, and multiplied the resulting figures by the calculated price differentials (inclusive of adjustments) to arrive at the benefits, separately for the Coast and Interior. The Department did not mistakenly use the percentage of total logs to determine the sawlog harvest that goes to sawmills. Moreover, the Department clearly stated its approach on this issue in the *Issues and Decision Memorandum*. *Id.*

[2] On this matter, respondents appear to alter their argument in their rebuttal comments. Respondents claim that the *Issues and Decision Memorandum* makes clear that the Department did not intend to adjust for inflation as petitioners suggest. They further argue that nothing in the final calculations indicates that the Department adjusted for inflation. Thus, they contend that the Department did not intend to adjust for inflation.

2. The Department Inadvertently Failed To Include Allocated G&A Expenses in the Adjustment for Coastal Logging Camp Expenses

Respondents assert that the Department inadvertently failed to include an allocation of G&A expenses for logging camps, as evidenced by the fact that there is no line entitled "Allocation of G&A" under the Logging Camp Expenses category in the Calculation Memorandum. Respondents claim that this inadvertent error resulted in the Department understating the logging camp adjustment used in the final calculations.

Petitioners state that the Department declined to make an adjustment for differences in total operating costs between Coastal B.C. and Western Washington, and only made adjustments for particular costs where differences existed (and were quantified to the Department's satisfaction). Further, petitioners argue that the adjustment, attributable to "Camp Operations and Overhead," already includes G&A costs.

Department's Position: It was the Department's intent to allocate G&A expenses only to those cost categories that clearly did not incorporate administrative expenses within the reported costs associated with the activity. For costs associated with logging camps, petitioners correctly note that "overhead" is included within the reported costs, and has therefore been accounted for in the Department's calculations. Thus, respondents' allegation does not constitute a ministerial error.

3. The Department Inadvertently Used the Wrong Denominator When Calculating the Margin for the Forest Renewal Program

Respondents allege that the Department inadvertently excluded sales of by-products from the denominator when it calculated the benefit for the GBC's Forest Renewal program. They claim that the Department's decision not to include by-products in the denominator is inconsistent with its decision to include by-products in the subsidy calculations of B.C.'s stumpage programs.

Department's Position: We disagree with respondents' contention that the Department inadvertently excluded by-products from the denominator of the subsidy calculations for the Forest Renewal program. The Department found in the *Final Determination* that under the Forest Renewal program the GBC provides benefits directly to softwood lumber producers. *See* the "Forest Renewal B.C." section of the *Issues and Decisions Memorandum*. Accordingly, to calculate the benefit under this program, we divided the amount of benefits lumber producers received by B.C.'s f.o.b. value of total sales of softwood lumber for the POI. *Id.* Thus, our decision to use this denominator was intentional and does not constitute a ministerial error.

4. The Department Inadvertently Failed To Include the Prices and Volume for "Other Merchantable" Timber in the Eastern Washington United States Forestry Service (USFS) Data

Respondents allege that the Department, in creating species-specific prices for use as a benchmark, inadvertently failed to include prices and volumes for timber in the "Other Merchantable" category reported in the *Stumpage Price Report* for USFS sales in Eastern Washington. They claim this failure to include these prices resulted in a benchmark price that was overstated.

Petitioners disagree. They contend that there is no way to tell the proportion of species and prices associated with "Other Merchantable" timber and, thus, no way for the Department to use such data to make direct species or species group comparisons.

Department's Position: Respondents' allegation does not constitute a ministerial error. The Department deliberately excluded "Other Merchantable" timber in the *Stumpage Price Report* from consideration for our benchmark data because the record simply does not indicate with any degree of certainty which species are included in this category and because there is no evidence of the prices and volumes associated with particular species.

C. Ontario

1. Conversion of Michigan Volumes From Cords to MBF

Petitioners explain that the Department correctly converted from cords to MBF the pulplog volumes for purposes of calculating the benchmark prices. These volumes were taken from Michigan data sources. However, they argue that the Department improperly did not convert the corresponding prices for those data. They argue that the Department should convert the corresponding pulplog prices by dividing them by the same conversion factor that was used to convert the volumes.

Department's Position: We agree with petitioners. Therefore, we converted the pulplog prices that were used in the calculation of the benchmark prices from USD/cord to USD/MBF by dividing them by the same conversion factor that we used to convert the volumes.

2. Silviculture Overhead Calculation

Respondents argue that the Department erred in the calculation of the Ontario silviculture overhead reimbursement. In the *Final Determination*, we multiplied the total Forest Renewal Trust Fund disbursements during the POI—C$69,707,124.5—by ten percent, calculating that tenure holders were reimbursed 10 percent for silviculture overhead. Respondents argue that we should have calculated the overhead reimbursement according to the following formula: X = Total Silviculture Reimbursement – (Total Silviculture Reimbursement/1.1). Using this formula would result in an overall reimbursement amount of C$6,337,011.32 and an adjustment of C$0.45/m3.

Department's Position: We agree with respondents that a different formula should be used to calculate silviculture overhead reimbursement. Because Ontario tenure holders are reimbursed for 100 percent of eligible silvilculture costs plus an additional 10 percent for silviculture overhead, they are, in effect, reimbursed for 110 percent of their eligible silviculture costs. As such, to derive the 10 percent figure for silviculture overhead reimbursement, we have used the formula above, and derived a new figure for per unit silviculture overhead reimbursement of C$0.45/m3.

3. Total Silviculture Costs Calculation

Respondents argue that the Department should have adjusted for those total silviculture costs incurred by Ontario harvesters, but not reimbursed by the Crown. Respondents claim that in the "Silviculture" section for the Province of Ontario in the *Issues and Decision Memorandum*, we stated that we would make adjustments for silviculture costs actually incurred by Ontario harvesters. Respondents claim that Ontario tenure holders incurred an additional C$0.05 per m3 cost as a result of fulfilling Crown mandates that was not reimbursed by the Crown. Respondents argue that the Department should make this adjustment.

Department's Position: We disagree with respondents. We addressed this issue in the "Silviculture" section for the Province of Ontario in the *Issues and Decision Memorandum*. The Department's decision to reject this adjustment was intentional and, thus, does not constitute a ministerial error within the meaning of section 351.224(f) of the Department's regulations.

4. Forest Management Planning Cost Adjustment

Respondents claim that in the *Issues and Decision Memorandum*, the Department stated its intention to make an adjustment for forest management planning costs actually incurred by harvesters, which they claim are C$0.32 per m3. In the final calculations, however, we made an adjustment of only C$0.16 per m3 for forest management planning costs. Respondents claim that this C$0.16 figure was mistakenly based on an estimate of in-kind revenue to the Crown for such expenses, rather than actual costs incurred by Ontario harvesters.

Department's Position: Respondents' allegation does not meet the standard for a ministerial error as defined by section § 351.224(f) of the Department's regulations; rather, the allegation challenges a methodological choice. As explained in the "Forest Management and Planning" section for the Province of Ontario in the *Issues and Decision Memorandum*, the Department made an upward adjustment of half of the reported forest management planning costs. Therefore, the Department is not addressing respondents' allegations on this matter.

5. Road Cost Adjustment

Respondents claim that we mistakenly adjusted for only half of secondary road construction costs, made no adjustments for tertiary road construction costs, and adjusted for only a portion of the road maintenance costs incurred by Ontario tenure holders. Respondents argue that the road cost data they placed on the record from Michigan and Minnesota was not used by the Department. They claim that the Department should have adjusted the actual road costs faced by Ontario harvesters *net* of the actual road costs incurred in Michigan and Minnesota.

Department's Position: We disagree with respondents. By adjusting for primary and secondary road construction costs, but not for tertiary costs we are adjusting for those road costs borne by Ontario tenure holders as a result of government obligations that purchasers of public stumpage in the benchmark states do not face. The decision to allow 50 percent of secondary road construction and maintenance was based on information contained in Ontario's questionnaire responses and based on information we discussed with GOO personnel at verification. *See* the "Road Construction and Maintenance" section for the Province of Ontario in the *Issues and Decision Memorandum*. The Department's decision to calculate the road cost adjustment in this manner was intentional and, thus, does not constitute a ministerial error within the meaning of section 351.224(f) of the Department's regulations.

D. Alberta, Manitoba, Ontario, and Saskatchewan

1. Use of General Conversion Factor, Rather Than Conversion Factor Derived From Information on Minnesota 2000 Corrected Public Stumpage Price Review and Price Index

Respondents argue that we should have used a conversion factor of 6.25 m3/MBF for the Minnesota stumpage price data based on information contained in the Minnesota 2000 Corrected Public Stumpage Price Review and Price Index (*Minnesota Price Index and Review*). Specifically, they argue that the report contains a conversion factor of 400 board feet per cord for softwoods on the cover. They further argue that because there are 2.5 m3 in a cord, a conversion factor of 400 board feet per cord will yield a m3/MBF conversion factor of 6.25 for softwood sawtimber and 2.5 m3/cord for pulpwood sawtimber.

Respondents acknowledge that the figure of 2.5 m3 in a cord has been challenged by petitioners, but note that petitioners have proposed using a figure of 2.41 m3/cord. *See* Dewey Ballantine, *Legal Memorandum Concerning the Countervailability of the Provincial Stumpage Programs and Subsidy Methodology* at 64 (February 14, 2002). Respondents argue that the choice between these two positions could be viewed as a policy decision, but failure to use one or the other, "as the Department has done," is a ministerial error. *See* Weil, Gotshal, and Manges, *Ministerial Error Comments*, at 8 (April 8, 2002). They add that this information is published information prepared in the ordinary course of business by public agencies and, as such, should be used by the Department.

Petitioners argue that the choice of a conversion factor was heavily debated during the course of the investigation and that the Department's selection of a conversion factor was a methodological choice and, thus, cannot constitute a minesterial error. They further argue that the conversion factor advocated by respondents, (*e.g.*, the factor from the *Minnesota Price Index and Review*) is not appropriate because it was not used in actual transactions and because it is a conversion factor used with sawlogs and sawtimber.

Department's Position: We clearly stated the reasons for our selection of a conversion factor in the *Final Determination*. *See* the "Conversion Factor" section of the *Issues and Decision Memorandum*. Thus, respondents' allegations are methodological and do not identify a ministerial error.

E. Alberta and Saskatchewan

1. Composition of Species Groups in the Benchmark

In the *Final Determination*, Minnesota was used as a benchmark for Alberta, Saskatchewan and Manitoba. The species found in Minnesota were categorized to make direct comparisons to the species groups found in the respective Provinces. Eastern white pine, found in Minnesota, was included in the SPF category for Alberta and Saskatchewan, but excluded from the SP category in Manitoba.

Respondents argue that the Department made a ministerial error by including Eastern white pine in Minnesota's SPF category to compare with the SPF found in Saskatchewan and Alberta. They state that Eastern white pine is not found in either Province, referring to information previously submitted on the record.

Petitioners state that the Department consistently made comparisons between species that were not identical. They further argue that these comparisons constitute deliberate methodological decisions, which are not ministerial errors. Also, petitioners mention that Alberta did not provide the data necessary to make species specific calculations.

Department's Position: We agree with respondents. The methodology we employed, when possible, was to use species-specific comparisons, *see, e.g.*, the "Comparability of U.S. Timber Stands" section of the *Issues and Decision Memorandum*. This resulted in different "species comparison baskets" in each Province because of a different mix of species in each Province and U.S. benchmark state (*see* Calculation Memorandum.) For Alberta and Saskatchewan, we stated that we had constructed an SPF basket. However, white pine is not in the basket of species for which we were attempting to construct a benchmark using Minnesota data. Therefore, the inclusion of white pine in the SPF species mix for the Minnesota benchmark that was used for Alberta and Saskatchewan was inadvertent, and a ministerial error.

Accordingly, we have removed the white pine species from Minnesota's SPF mix for the benchmark used for Alberta and Saskatchewan.

F. Quebec

1. Weighting of Sawlog Prices

In the final calculations, the Department weighted stumpage prices for sawlogs per county in Maine using county-specific, sawlog volume data from the Maine Forest Service (MFS). Respondents allege that weighting stumpage prices for sawlogs in this manner seriously overstates the price of sawlogs in Maine because the volume data from the MFS includes other log types (*i.e.*, veneer, boltwood, studwood, and palletwood). Respondents argue that because the volume data from the MFS includes studwood, palletwood, and other wood categories under the heading "sawlog," the Department must correct its weighting so that the price variable matches the weighting criteria. They assert that the Department can correct this error by incorporating prices for other log types into the country-specific sawlog prices.

Petitioners assert that respondents' allegations do not identify a ministerial error but rather address a methodological decision adopted by the Department in the *Final Determination*.

Department's Position: In the preliminary calculations, we stated that we used weighted-average stumpage prices to derive the benchmark price for each species in Maine. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Softwood Lumber Products from Canada*, 66 FR 43186, 43200 (August 17, 2001)(*Preliminary Determination*). However, though stumpage prices in the MFS Stumpage Price Report are weighted by county, the county-wide prices included in the report are not weighted across all counties. Rather, those county-wide prices are simple averages of the prices in each county. As explained in the "Choice of Maine as Source of Benchmark" section for the Province of Quebec in the *Issues and Decision Memorandum*, we opted to move away from basing the benchmark stumpage prices on a simple average and, instead, chose to weight the prices using volume data, as reported by the MFS. Respondents contest the manner in which we used the volume data from the MFS. But, as we have explained, our decision to use the volume data from the MFS represented a methodological choice and not an inadvertent error. Therefore, we find that respondents' allegation on this point does not meet the standard of a ministerial error.

Countervailing Duty Order

As a result of our corrections, the estimated net countervailable subsidy rate attributable to certain softwood lumber products from Canada is as follows:

Producer/exporter	Original net subsidy rate	Amended net subsidy rate
All Producers/Exporters [3]	19.34 Percent *Ad Valorem.*	18.79 Percent *Ad Valorem.*

[3] Other than exempted or excluded products and/or companies.

On May 16, 2002, pursuant to section 705(d) of the Act, the International Trade Commission (ITC) notified the Department of its final determination that under section 705(b)(1)(A)(ii) of the Act the industry in the United States producing softwood lumber products is threatened with material injury by reason of imports of the subject merchandise from Canada.

In accordance with section 706(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, countervailing duties equal to the amount of the net countervailable subsidy determined to exist for all entries of softwood lumber products from Canada not explicitly exempted or excluded by the Department. In accordance with section 706(b)(2) of the Act, duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination if that determination is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's *Preliminary Determination*. In addition, section 706(b)(2) of the Act requires the refund of any cash deposits and release of any bonds of estimated countervailing duties posted since the Department's *Preliminary Determination* if the ITC's final determination is based on threat of material injury.

Because the ITC's final determination in this case is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's *Preliminary Determination*, section 706(b)(2) of the Act is applicable to this order. Therefore, the Department will direct the Customs Service to assess, upon further advice, countervailing duties on all unliquidated entries of softwood lumber products from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination of threat of material injury in the **Federal Register** and terminate the suspension of liquidation for entries of softwood lumber products from Canada entered or withdrawn from warehouse, for consumption prior to that date. The Department will also instruct the Customs Service to refund any cash deposit made and release any bonds posted, between the publication date of the Department's *Preliminary Determination* and the publication of the ITC's final determination.

On or after the date of publication of the ITC's notice of final determination in the **Federal Register**, the Customs Service will require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the amended net subsidy rate mentioned above. However, as indicated above, the Department exempted certain softwood lumber products from the Maritime Provinces from this investigation. This exemption, however, does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other province. Additionally, as explained above, the following companies are excluded from this order:

- Armand Duhamel et fils Inc.
- Bardeaux et Cedres.
- Beaubois Coaticook Inc.
- Busque & Laflamme Inc.
- Carrier & Begin Inc.
- Clermond Hamel.
- J.D. Irving, Ltd.
- Les Produits. Forestiers. D.G., Ltee.
- Marcel Lauzon Inc.
- Mobilier Rustique.
- Paul Vallee Inc.

- Rene Bernard, Inc.
- Roland Boulanger & Cite. Ltee.
- Scierie Alexandre Lemay.
- Scierie La Patrie, Inc.
- Scierie Tech, Inc.
- Wilfrid Paquet et fils, Ltee.
- B. Luken Logging Ltd.
- Frontier Lumber.
- Sault Forest Products Ltd.

Therefore, we will direct the U.S. Customs Service to exempt from the application of the order only entries of softwood lumber products from Canada which are accompanied by an original Certificate of Origin issued by the Maritime Lumber Bureau (MLB), and those of the excluded companies listed above. The MLB certificate will specifically state that the corresponding entries cover softwood lumber products produced in the Maritime Provinces from logs originating in Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, and the state of Maine.

Pursuant to sections 705(a) and 706(a) of the Act, this notice constitutes the amended *Final Determination* and countervailing duty order with respect to certain softwood lumber products from Canada.

Notice of Review

Pursuant to section 751(a) of the Tariff Act of 1930, as amended, Canadian exporters of subject merchandise to the United States, subject to this order, may submit requests for expedited reviews for the purpose of establishing individual cash deposit rates within 30 days from the date of publication of this order. Each request must be accompanied by a completed application, which will be posted on IA's web site on the internet (*WWW.IA.ITA.DOC.GOV*). The eligibility criteria to request an expedited review of this order are included in the application form.

This order is published pursuant to section 706(a) of the Act and 19 CFR 351.211.

Dated: May 17, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–12989 Filed 5–21–02; 8:45 am]

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–02–11]

Tobacco Inspection; Mandatory Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments and notice of referenda results.

SUMMARY: Pursuant to the requirements of section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for 2002 (Appropriations Act), referenda were conducted during the periods of March 11–15, 2002, and March 18–22, 2002, among producers of each type of tobacco eligible for price support. A majority of producers favored mandatory grading for flue-cured tobacco, types 11, 12, 13, 14; burley tobacco, type 31; Kentucky-Tennessee fire-cured tobacco, types 22 and 23; Virginia fire-cured tobacco, type 21; Virginia sun-cured tobacco, type 37; and dark air-cured tobacco, types 35 and 36. This interim final rule amends the regulations to provide mandatory grading for these types of tobacco. Producers of cigar filler and binder tobacco, types 42, 43, 44, 53, 54, and 55 did not approve mandatory grading. This rule will also reduce the fee for mandatory inspection from $0.01 per pound to $0.009 per pound.

DATES: Effective May 24, 2002; comments received by July 22, 2002 will be considered prior to issuance of a final rule.

ADDRESSES: Send comments to John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), STOP 0280, 1400 Independence Avenue, SW., Washington, DC 20250–0280. Comments will be available for public inspection at this location during regular business hours between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, STOP 0280, 1400 Independence Avenue, SW., Washington, DC 20250–0280; telephone number (202) 205–0567.

SUPPLEMENTARY INFORMATION: In accordance with Section 759 of the Appropriations Act (Pub. L. 107–76; 7 U.S.C. 511s), USDA conducted referenda among producers of each kind of tobacco that is eligible for price support under the Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*) to determine whether a majority of producers of a kind of tobacco voting in the referendum favored the mandatory grading of that kind of tobacco.

A notice of referenda was published in the **Federal Register** on March 5, 2002 (67 FR 9895) together with a final rule establishing procedures for the referenda. The USDA's Farm Service Agency (FSA) certified the results of the referenda on March 27, 2002, and April 3, 2002.

A majority of producers voting in the referenda favored the mandatory grading of flue-cured tobacco, types 11, 12, 13, and 14; burley tobacco, type 31; Kentucky-Tennessee fire-cured tobacco, types 22 and 23; Virginia fire-cured tobacco, type 21; Virginia sun-cured tobacco, type 37; and dark air-cured tobacco, types 35 and 36.

Producers of cigar filler and binder tobacco, types 42, 43, 44, 53, 54, and 55 did not approve mandatory grading.

The Appropriations Act provided that, if a majority of the producers voting in the referenda favored the mandatory grading of that kind, USDA was directed to ensure that the kind of tobacco is graded at the time of sale for the 2002 and subsequent marketing years. The USDA was also directed to establish user fees for any such inspections. To the maximum extent practicable, these fees must be established, collected, and used in the same manner as user fees for the grading of tobacco sold at auction authorized under the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*).

In this interim final rule, AMS is amending 7 CFR part 29, subpart B, regulations, to provide for mandatory grading at places other than designated tobacco auction markets. The regulations prior to the effective date of this interim rule only required grading of tobacco that was sold at auction on designated markets as set forth in § 29.8001. The regulations are amended in this rule to include producer tobacco sold at locations (receiving stations) where tobacco is offered for marketing or shipment into commerce, other than at designated auction markets. Additionally, the regulations are amended, at subpart B, to reference the implementing authority contained in the Appropriations Act. The Tobacco Inspection Act will continue to be referenced for kinds of tobacco sold at auction on designated markets not required under the Appropriations Act.

In the past, producers sold almost all of their tobacco at auction on designated markets. Last year, most producer tobacco was sold under contract and was delivered to receiving stations operated by buying concerns. Some of this tobacco was graded under the permissive grading program.

This rule adds a definition of "receiving station" as meaning "Points at which producer tobacco is offered for marketing (other than sale at auction on a designated market), including tobacco auction warehouses, packing houses, prizeries, or places where tobacco is handled or stored." This definition is intended to be flexible enough to cover the circumstances in which producer tobacco may be marketed.

Also, the regulations are amended to provide for proper display of tobacco, adequate space to perform inspections at receiving stations and the issuance of an inspection certificate. The requirements are similar to those at auction markets but are flexible because conditions will differ at the receiving stations. When the tobacco is inspected or graded by the receiver, the tobacco must be made available for mandatory inspection at the same time and at the same location within the receiving station. In order to provide a meaningful service to growers, who are paying for the inspection service, it is necessary to require the proper display of the tobacco and to require that the mandatory inspection be conducted at the same time and under the same conditions as

any other inspections, and that the results be readily available to the producer. It is also necessary to provide that, as at auction markets, no one may interfere with the inspector in the process of grading tobacco.

The user fee for mandatory inspection of tobacco was increased from $.0083 to $.0100 per pound in 2001 to cover the costs of performing grading services and to maintain an adequate reserve to cover program financial responsibilities. During the 2001 crop-year, the Department only graded 31 percent of the total amount of tobacco marketed. However, with the adoption of mandatory grading of all tobacco, except cigar types, approximately 98 percent of tobacco marketed will require federal grading for the 2002 and subsequent crop years.

As a result of resources being more efficiently utilized over a larger geographical area and the additional revenue generated, the Department will reduce the user fee from $.010 to $.009 per pound. The reduced fee was recommended by the National Advisory Committee for Tobacco Inspection Services at its meeting on April 16, 2002.

The AMS reviews its user fee programs annually to determine if fees are adequate. The most recent review determined that the existing fee schedule was more than adequate for the 2002 crop-year and would exceed the target level for the operating reserve balances.

Due to an estimated 69 percent increase in tobacco to be inspected for the 2002 crop-year, obligations are estimated at $10,152,000 and revenues are expected to be $8,503,000 for a loss of $1,649,000. An analysis of available data indicates that a fee of $.009 per pound would result in maintaining the operating reserve balance at $6,279,000 for the 2002 crop-year and $4,357,000 for the 2003 crop-year which is adequate to meet financial obligations.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the tobacco marketing season will begin on July 1 and this action is needed, as soon as possible, to fulfill the requirements of the statute to implement mandatory grading for the 2002 marketing season. Operators of receiving stations need to know as soon as possible what requirements they must meet so that orderly marketing is not disrupted. Billing systems and programs must be in place at receiving stations and auction markets to apply the reduced fees at the beginning of the marketing season. This interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to the finalization of this rule.

Executive Order 12866 and 12988

This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The rule will not exempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

In conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of "small business" which are defined by the Small Business Administration (13 CFR 12.201) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. There are about 190 tobacco warehouses and about 450,000 tobacco producers. There will also be about 35 receiving stations, most of which will be operated under contract at former tobacco auction warehouses and a few of which will be operated at tobacco auction warehouses. These would also be small businesses. It has been determined that this rule will not have a significant economic impact on a substantial number of small entities. The requirements of this rule are the minimum necessary for the implementation of the requirements of the Appropriations Act for the mandatory inspection of tobacco. The provisions are similar, but somewhat more flexible, that the requirements for the inspection and certification of tobacco sold at auction on designated markets, which have previously been determined not to have a significant economic impact on a substantial number of small entities.

The information collection requirements that appear in Part 29 have been previously approved by the Office of Management and Budget under OMB Control No. 0581–0056.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping procedures, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

Subpart B—Regulations

1. The authority citation for subpart B is revised to read as follows:

Authority: 7 U.S.C. 511m, 511r, and 511s.

2. Section 29.40 is revised to read as follows:

§ 29.40 Mandatory inspection.

Inspection authorized or required under section 5 of the Act or Section 759 of the Appropriations Act.

3. A new § 29.41 is added under the undesignated centerheading "Definitions" to read as follows:

§ 29.41 The Appropriations Act.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for 2002 (Pub. L. 107–76).

4. A new § 29.42 is added under the undesignated centerheading "Definitions" to read as follows:

§ 29.42 Receiving station.

Points at which producer tobacco is offered for marketing (other than sale at auction on a designated market), including tobacco auction warehouses, packing houses, prizeries, or places where tobacco is handled or stored.

5. Section 29.71 is revised to read as follows:

§ 29.71 Mandatory inspection.

Mandatory inspection consists of:

(a) Inspecting and certifying tobacco under the Act on designated markets before it is offered for sale at auction; or

(b) Inspecting and certifying tobacco at receiving stations under the Appropriations Act at the time the tobacco is delivered for sale.

6. Section 29.72 is revised to read as follows:

§ 29.72 Where mandatory inspection is required.

(a) *Auction.* All tobacco offered for sale at auction on a market designated in accordance with the Act and § 29.73 shall be inspected and certificated under the Act upon the date specified by the Secretary in public notice of such designation, and thereafter, except when the requirement of such inspection and certification is temporarily suspended by the Deputy Administrator in accordance with the Act and the regulations in this subpart.

(b) *Other.* Tobacco of the kinds specified below offered for sale by the producers thereof at receiving stations shall be inspected and certificated under the Appropriations Act at the time of delivery and prior to change of ownership. The specified kinds are flue-cured tobacco, types 11, 12, 13, and 14; burley tobacco, type 31; Kentucky-Tennessee fire-cured tobacco, types 22 and 23; Virginia fire-cured tobacco, type 21; Virginia sun-cured tobacco, type 37; and dark air-cured tobacco, types 35 and 36.

7. In § 29.75, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 29.75 Accessibility of tobacco.

(a) All tobacco subject to mandatory inspection shall be made readily accessible for inspection.

* * * * *

(e) Each receiving station operator shall make tobacco accessible to the inspector for proper examination including any necessary display in adequate light for determination of grade, class, type, or other characteristics.

8. A new § 29.75c is added to read as follows:

§ 29.75c Display of tobacco at receiving stations.

Each lot of tobacco delivered for sale at receiving stations and transferred to a conveyor system for unloading shall maintain a distance between adjacent lots of not less than 18 inches during the inspection process. The platform area used for examination with a conveyor system shall be a minimum of 4 × 4 feet. Any lots of tobacco displayed in a manner other than a conveyor system shall maintain a minimum clearance of 18 inches on all sides. If the tobacco is inspected or graded by the recipient, it shall be made available for mandatory inspection at the same time and location within the receiving station.

9. Section 29.81 is revised to read as follows:

§ 29.81 Interference with inspectors.

(a) *Auction.* (1) No person, including the owner, producer, warehouseman, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco on the warehouse auction floor, or ask any question or discuss any matter pertaining to the grading of tobacco while the inspector is grading any tobacco on the warehouse auction floor. While inspectors are engaged in grading the day's sale, all requests for information concerning the grade designation on or requests to review the grade of any lot of tobacco shall be made only to the head grader or to the market supervisor grader.

(2) In the event that the head grader or market supervisor grader determines that a person has violated any provision of this section, inspection ticket(s) if already issued on the lot(s) of unsold tobacco involved shall be null and void and no further inspection shall be performed on such lot(s) offered for sale by the warehouseman in whose premises the violation occurred until the next regularly-scheduled sale for such warehouse: Provided, That if violation consists of talking to the inspector while he/she is grading the tobacco, a warning shall be given on first offense and penalty provisions shall apply on any subsequent offense. A reduction in daily sales for any warehouse resulting from a violation of this section shall not prevent the maximum number of lots or pounds allotted per day per set of buyers from being sold in a designated market.

(b) *Other.* No person, including the owner, producer, receiving station operator, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco.

(c) *Administrative Remedies.* The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the Act.

10. In § 29.123, paragraph (a) is revised to read as follows:

§ 29.123 Fees and charges.

* * * * *

(a) *Mandatory inspection.* The inspection and certification fee is $0.009 per pound. The fee shall be paid by sellers of tobacco and assessed against the warehouse or receiving station operator irrespective of ownership or interest in the tobacco. When the warehouse or receiving station operator pays the Department, it is presumed the fee was collected from the seller. Inspection and related services shall be suspended or denied if the warehouse or receiving station operator fails to pay the fees and charges imposed under this section. The fee shall be based on total poundage of tobacco inspected and sold during each calendar month. The fee shall be due and payable on the first day of the immediately following month and on the day immediately following the last sale each marketing year. Mandatory inspection and certification services shall take precedence over permissive inspections, other than reinspections.

* * * * *

Dated: May 17, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–12892 Filed 5–22–02; 3:21 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–355–AD; Amendment 39–12756; AD 2002–10–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires repetitive inspections to detect cracks in various areas of the fuselage internal structure, and repair, if necessary. This amendment adds new repetitive inspections for cracking of certain areas of the upper chord of the upper deck floor beams, and repair, if necessary. This amendment is prompted by the results of fatigue testing that revealed severed upper chords of the upper deck floor beams due to fatigue cracking. The actions specified by this AD are intended to prevent loss of the structural integrity of the fuselage, which could result in rapid depressurization of the airplane.

DATES: Effective June 27, 2002.

The incorporation by reference of Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000, as listed in the regulations, is approved by the Director of the Federal Register as of June 27, 2002.

The incorporation by reference of Boeing Service Bulletin 747–53–2349, dated June 27, 1991, as listed in the regulations, was approved previously by

the Director of the Federal Register as of June 11, 1993 (58 FR 27927, May 12, 1993).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93–08–12, amendment 39–8559 (58 FR 27927, May 12, 1993), which is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on November 27, 2001 (66 FR 59180). The action proposed to continue to require repetitive inspections to detect cracks in various areas of the fuselage internal structure, and repair, if necessary. The action also proposed to add new repetitive inspections for cracking of certain areas of the upper chord of the upper deck floor beams, and repair, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Clarify Note 3

Two commenters ask that Note 3 of the proposed rule be changed for clarification. The commenters note that the section titled "Differences Between Proposed AD and Revision 1 of the Alert Service Bulletin" states that the proposed AD would not require the high frequency eddy current inspection of the left and right sides of the upper deck floor beam at body station 380 between buttock lines 40 and 76 because it was mandated in AD 2000–04–17, amendment 39–11600 (65 FR 10695, February 29, 2000). The commenters state that Note 3 addresses only inspections that were done before the effective date of this AD, not any subsequent inspections done per AD 2000–04–17.

The FAA agrees that, for this area, the high frequency eddy current inspections required by AD 2000–04–17, done before AND after the effective date of this AD, meet the intent of this AD. Therefore, Note 3 of this final rule has been changed for clarification.

Change Paragraph (d)(2)

One commenter (the manufacturer) asks that paragraph (d)(2) of the proposed rule be changed for clarification. The commenter notes that the inspections for Group 3 airplanes are located in sections 41, 42, AND 44 upper deck floor beams.

We agree with the commenter. The proposed rule specifies inspections of Area 1, and, as information only, included the sections in that area (sections 41 and 42 upper deck floor beams from body stations 380 through 1100 inclusive). However, for Group 3 airplanes, section 44 is also part of Area 1, so we have added that section to paragraph (d)(2) of this final rule for clarification.

Change Paragraph (d)

One commenter asks that the inspection specified in paragraph (d) of the proposed rule be changed to include a provision for airplanes that have been modified to a stretched upper deck configuration. This modification involves installation of new upper deck floor beams from body stations 380 through 1100 inclusive. The commenter states that the initial inspection for these airplanes should not have to be done until 22,000 flight cycles AFTER incorporation of the upper deck modification.

We do not agree with the commenter. Due to the fact that these airplanes have many different configurations, the commenter must provide sufficient technical data justifying that the increased risk associated with extending the compliance time is insignificant. If such data are submitted, we will consider approving the commenter's request as an alternative method of compliance (AMOC), as provided in paragraph (h)(1) of this final rule. No change to the final rule is necessary in this regard.

Change Paragraph (a)

One commenter asks that additional requirements be added following paragraph (d) of the proposed rule to require that, at 22,000 total flight cycles or 3,000 flight cycles after the last inspection required by AD 93–08–12, the next inspection of the locations described in paragraphs (a)(2) through (a)(7) of the proposed rule be done per Revision 1 of the service bulletin. The commenter also asks that, at 25,000 total flight cycles or 3,000 flight cycles after the last inspection required by AD 93–08–12, the next inspection of the location described in paragraph (b) of the proposed rule be done per Revision 1 of the service bulletin. The commenter states that this would terminate all inspections required by paragraphs (a)(1) through (a)(7) and paragraph (b) of the proposed rule. The commenter notes that Revision 1 of the service bulletin adds improvements such as new access procedures to allow better inspections of Area 3, section 46, lower lobe frames, and Area 6, main entry door cutouts.

We do not agree with the commenter. We have determined that the access procedures specified in the original issue of the service bulletin provide for adequate inspections. We also have determined that the improvements in Revision 1 of the service bulletin do not need to be mandated to meet the intent of the proposed rule. It should be noted that Revision 1 has been approved as an AMOC to AD 93–08–12. No change to the final rule is necessary in this regard.

Change Paragraph (h)(2)

One commenter asks that paragraph (h)(2) of the proposed rule be changed to consider AMOCs approved previously in accordance with AD 93–08–12 to be approved for compliance with paragraphs (a) and (b) of the proposed rule ONLY.

We do not agree with the commenter. We have reviewed all existing AMOCs and have determined that continued approval of these AMOCs will not compromise the intent of the proposed rule. No change to the final rule is necessary in this regard.

Change Paragraph (g)

One commenter asks that paragraph (g) of the proposed rule be changed to add a requirement to repair any cracking found during the inspections required by paragraphs (a) and (b) of the proposed rule, in addition to the inspections required by paragraphs (d) and (e), and to include any new paragraphs added.

We do not agree with the commenter. Paragraph (c) of the proposed rule addresses the repairs for paragraphs (a) and (b) of the proposed rule. In addition, no new paragraphs will be added after paragraph (d) of the final rule, as specified in our response in the request to change paragraph (a), above. No change to the final rule is necessary in this regard.

Change Preamble

One commenter asks that certain wording in the preamble of the proposed rule be changed. The commenter states that the wording in the section titled "Explanation of Relevant Service Information" should be changed from "eliminate the need for the existing inspections," to "replace the existing inspections." The commenter also asks that the wording in the section titled "Explanation of Requirements of the Proposed Rule" be changed from "Since an unsafe condition has been identified," to "Since a potential unsafe condition has been identified."

We acknowledge and agree with the commenter's remarks on the preamble of the proposed rule; however, the sections referred to are not restated in this final rule. Therefore, no change to the final rule is necessary in this regard.

Alternative Inspection

One commenter asks that a detailed visual inspection from below the upper deck floor beams between body stations 1020 and 1100 be approved as an alternative inspection method to meet the detailed visual inspection requirements for Group 3 airplanes specified in the proposed rule. The commenter states that this alternative inspection method is specified in Note 1 of Step 1, Figure 2, of the Accomplishment Instructions of Revision 1 of the referenced service bulletin.

We do not agree with the commenter. The note in Step 1, Figure 2, of the service bulletin is limited to floor beams between body stations 260 and 330. We disagree that inspections from below will provide an equivalent level of safety for the floor beams located between body stations 1020 and 1100. However, if data are submitted that provide procedures for an alternative inspection program that will offer an acceptable level of safety, we would consider this under the provisions for an AMOC, as provided in paragraph (h)(1) of this final rule. No change to the final rule is necessary in this regard.

Explanation of Change to Final Rule

Since the issuance of the proposed rule, the FAA has found that the identification of affected airplanes in the preamble of the proposed rule needs further clarification. Therefore, we have changed the preamble to specify "certain Boeing Model 747 series airplanes," instead of listing out each model. This change is made for consistency with the effectivity of the service bulletin, which is listed in the applicability section within the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Interim Action

This is considered to be interim action until similar action for Boeing Model 747–400 series airplanes and 747 freighter airplanes is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 489 airplanes of the affected design in the worldwide fleet.

The FAA estimates that 181 airplanes of U.S. registry are subject to the existing AD. The actions that are currently required by AD 93–08–12 take approximately 1,746 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $104,760 per airplane.

We estimate that 155 airplanes of U.S. registry are subject to the new actions in this AD. The new inspections that are required by this AD action will take approximately 255 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be $2,371,500, or $15,300 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8559 (58 FR 27927, May 12, 1993), and by adding a new airworthiness directive (AD), amendment 39–12756, to read as follows:

2002–10–10 Boeing: Amendment 39–12756. Docket 2000–NM–355–AD. Supersedes AD 93–08–12, Amendment 39–8559.

Applicability: Model 747 series airplanes, as listed in Boeing Service Bulletin 747–53–2349, dated June 27, 1991, or Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h)(1) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the structural integrity of the fuselage, which could result in rapid depressurization of the airplane, do the following:

Restatement of Requirements of AD 93–08–12

Repetitive Inspections

(a) Prior to the accumulation of 22,000 total flight cycles, or within 1,000 flight cycles after June 11, 1993 (the effective date of AD 93–08–12, amendment 39–8559), whichever occurs later, unless accomplished previously within the last 2,000 flight cycles; and thereafter at intervals not to exceed 3,000 flight cycles: Perform a detailed internal inspection to detect cracks in the areas of the fuselage internal structure specified in paragraphs (a)(1) through (a)(7) of this AD; in accordance with Boeing Service Bulletin 747–53–2349, dated June 27, 1991.

(1) Sections 41 and 42 upper deck floor beams.

(2) Section 42 upper lobe frames.

(3) Section 46 lower lobe frames.

(4) Section 42 lower lobe frames.

(5) Main entry door cutouts.

(6) Section 41 body station 260, 340, and 400 bulkheads.

(7) Main entry doors.

(b) Prior to the accumulation of 25,000 total flight cycles, or within 1,000 flight cycles after June 11, 1993, whichever occurs later, unless accomplished previously within the last 2,000 flight cycles; and thereafter at intervals not to exceed 3,000 flight cycles: Perform a detailed internal inspection to detect cracks in the Section 46 upper lobe frames, in accordance with Boeing Service Bulletin 747–53–2349, dated June 27, 1991.

Repair

(c) Prior to further flight, repair any cracks detected during the inspections done per paragraph (a) or (b) of this AD, per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

New Requirements of This AD

Repetitive Inspections

(d) Before the accumulation of 22,000 total flight cycles, or within 3,000 flight cycles after doing the most recent inspection required by paragraph (a) of this AD, whichever occurs later: Do a detailed inspection to find cracking in the areas specified in paragraph (d)(1) or (d)(2) of this AD, as applicable, per Figure 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000. Repeat the inspection after that every 3,000 flight cycles. Doing this inspection terminates the inspections required by paragraph (a) of this AD in the area specified in paragraph (a)(1) of this AD only.

(1) For Groups 1, 2, 4, and 5 airplanes: Do the inspections of Area 1 (sections 41 and 42 upper deck floor beams), including existing repairs and modifications.

(2) For Group 3 airplanes: Do the inspections of Area 1 (sections 41, 42, and 44 upper deck floor beams from body stations 380 through 1100 inclusive), including existing repairs and modifications.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(e) Before the accumulation of 28,000 total flight cycles, or within 3,000 flight cycles after doing the most recent inspection required by paragraph (a) of this AD, whichever occurs later: Do a high frequency eddy current (HFEC) inspection to find cracking of the open holes in the horizontal flanges of the upper chord of each upper deck floor beam in the areas specified in paragraph (e)(1) or (e)(2) of this AD, as applicable, per the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000. Do the inspection per "Inspection Alternatives," as specified in Sheet 7 of Figure 2 of the Accomplishment Instructions of the service bulletin. Repeat the applicable inspection according to the "Repeat Inspection Intervals," specified in Sheet 7 of Figure 2 of the Accomplishment Instructions of the service bulletin.

(1) For Group 1, 2, 4, and 5 airplanes: Do the inspections at the applicable locations (BS 380 through BS 780 inclusive for Groups 1, 2, and 4, BS 380 through BS 860 inclusive for Group 5) as specified in Sheet 7 of Figure 2.

(2) For Group 3 airplanes: Do the inspections as specified in Sheet 7 of Figure 2, at the upper deck floor beams from BS 380 through BS 1100 inclusive.

Note 3: HFEC inspections of the left and right sides of the upper deck floor beam at body station 380, between buttock lines 40 and 76, done per AD 2000–04–17, amendment 39–11600, are considered acceptable for compliance with the applicable inspections specified in paragraph (e) of this AD.

Adjustments to Compliance Time: Cabin Differential Pressure

(f) For the purposes of calculating the compliance threshold and repetitive interval for the actions required by paragraphs (d) and (e) of this AD: For Area 1 only, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less need not be counted when determining the number of flight cycles that have occurred on the airplane, provided that flight cycles with momentary spikes in cabin differential pressure above 2.0 psi are included as full pressure cycles. For this provision to apply, all cabin pressure records must be maintained for each airplane: NO fleet-averaging of cabin pressure is allowed.

Repair

(g) Before further flight, repair any cracking found during the inspections done per paragraphs (d) and (e) of this AD, according to Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000. Where the service bulletin specifies to contact Boeing for repair instructions, repair per a method approved by the Manager, Seattle ACO; or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance and FAA-approved repairs, approved previously in accordance with AD 93–08–12, amendment 39–8559, are approved as alternative methods of compliance with this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(j) Except as provided by paragraphs (c), (f), and (g) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–53–2349, dated June 27, 1991; and Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–53A2349, Revision 1, dated October 12, 2000, as listed in the regulations, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 747–53–2349, dated June 27, 1991, was approved previously by the Director of the Federal Register as of June 11, 1993 (58 FR 27927, May 12, 1993).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(k) This amendment becomes effective on June 27, 2002.

Issued in Renton, Washington, on May 14, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12635 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–359–AD; Amendment 39–12757; AD 2002–10–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that currently requires repetitive inspections for cracking and corrosion of the pressure bulkhead at body station (BS) 1016, and follow-on actions. This amendment expands the applicability of the existing AD, and requires new repetitive inspections to detect cracking and corrosion of the aft pressure bulkhead at BS 1016, and follow-on actions. This action is necessary to detect and correct corrosion or cracking of the aft pressure bulkhead at BS 1016, which could result in loss of the aft pressure bulkhead web and stiffeners and consequent rapid decompression of the fuselage. This action is intended to address the identified unsafe condition.

DATES: Effective June 27, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Fung, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1221; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 84–20–03 R1, amendment 39–5183 (50 FR 51235, December 16, 1985), which is applicable to certain Boeing Model 737 series airplanes, was published in the **Federal Register** on November 19, 2001 (66 FR 57908). The action proposed to expand the applicability of the existing AD and require new repetitive inspections to detect cracking and corrosion of the aft pressure bulkhead at body station 1016, and follow-on actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One commenter has no objection to the proposed rule. One commenter agrees with the intent of the proposed rule.

Extend Compliance Time

One commenter asks that the compliance time specified in paragraph (e)(3) of the proposed rule be extended by adding the following, "Do the inspection within 6 years since airplane's date of manufacture, or within 4 years after doing tasks C53–701–01.01 and C53–202–01 (reference Boeing Documents D6–38528 or D6–38278), or within 2 years after the effective date of this AD, whichever occurs later." The compliance time in paragraph (e)(3) now specifies, "Do the inspection within 6 years since the airplane's date of manufacture, or within 2 years after the effective date of this AD, whichever occurs later." The commenter states that review of the corrosion reports submitted to the manufacturer show very few corrosion findings on the aft pressure bulkhead. The commenter notes that this indicates that the Corrosion Prevention and Control Program (CPCP) is managing corrosion on the bulkhead. The commenter adds that periodic corrosion findings necessitate doing specific inspections; so, due to CPCP requirements for similar inspections, operators should be able to take credit for past inspections per the referenced Boeing documents.

The same commenter asks that the repetitive inspections specified in paragraph (f) of the proposed rule be extended to at least every four years, in lieu of every two years. The commenter states that the primary difference for the aft pressure bulkhead structure between the pre-line number 1043 airplanes and the post-line number 1043 airplanes is the lack of application of corrosion inhibiting compound (CIC) on the drain holes during manufacture. The commenter adds that because the drain hole issue is addressed and CICs are applied per the proposed rule, inspections of all affected airplanes should be repeated at the same 4-year interval.

The FAA does not agree with the commenter's requests, as insufficient supporting data were provided to us to substantiate those requests. In developing an appropriate compliance time for this action, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, and the practical aspect of accomplishing the required inspections within an interval of time that parallels normal scheduled maintenance for the majority of affected operators.

In addition, the comment stating that the primary difference for the aft pressure bulkhead structure between the pre-line number 1043 airplanes and the post-line number 1043 airplanes is the lack of application of corrosion inhibiting compound (CIC) on the drain holes during manufacture is incorrect. Post-line number airplanes have additional drain hole provisions that justify the extended intervals; those provisions do not exist for the pre-line number airplanes. However, under the provisions of paragraph (h)(1) of the final rule, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 2,920 airplanes of the affected design in the worldwide fleet.

We estimate that 337 airplanes of U.S. registry are subject to the existing AD. The inspections that are currently required by AD 84–20–03 R1 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be $40,440, or $120 per airplane, per inspection cycle.

The drain hole enlargement that is currently required by AD 84–20–03 R1 takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required action on U.S. operators is estimated to be $40,440, or $120 per airplane.

We estimate that 1,143 airplanes of U.S. registry will be affected by this AD. The new inspections that are required in this AD action will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these new requirements on U.S. operators is estimated to be $274,320, or $240 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–5183 (50 FR 51235, December 16, 1985), and by adding a new airworthiness directive (AD), amendment 39–12757, to read as follows:

2002–10–11 Boeing: Amendment 39–12757. Docket 2000–NM–359–AD. Supersedes AD 84–20–03 R1, Amendment 39–5183.

Applicability: Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; line numbers (L/N) 1 through 3132 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion or cracking of the aft pressure bulkhead at Body Station (BS) 1016, which could result in loss of the aft pressure bulkhead web and stiffeners and consequent rapid decompression of the fuselage, accomplish the following:

Restatement of Requirements of AD 84–20–03 R1

Initial Inspection

(a) For Model 737 series airplanes with L/N 1 through 929 inclusive, with more than 20,000 hours time-in-service or 7 years since date of manufacture, whichever occurs first: Within 120 days after January 20, 1986 (the effective date of AD 84–20–03 R1, amendment 39–5183), unless already accomplished within the 21 months before January 20, 1986, visually inspect the BS 1016 pressure bulkhead for cracking and corrosion; according to Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. Remove any obstruction to the drain hole in the frame chord and replace any deteriorated leveling compound as noted in the service bulletin. Treat the area of inspection with corrosion inhibitor BMS 3–23, or equivalent.

Drain Hole Enlargement

(b) For airplanes identified in paragraph (a) of this AD: Within 1 year after January 20, 1986, accomplish the drain hole enlargement as shown in Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000.

Corrective Action

(c) If cracking or corrosion is found during any inspection required by paragraph (a) or (d) of this AD, before further flight, repair according to paragraph (c)(1) or (c)(2) of this AD.

(1) According to Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000.

(2) According to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Repetitive Inspections

(d) For airplanes identified in paragraph (a) of this AD: Repeat the visual inspections and corrosion inhibitor treatment in paragraph (a) at intervals not to exceed 2 years, until paragraph (e) of this AD has been done.

New Requirements of This AD

Initial Inspection

(e) Do a detailed inspection for cracking or corrosion of the aft pressure bulkhead at BS 1016 (including the forward and aft sides of the pressure web, forward and aft sides of the pressure chord, pressure chord radius, forward and aft sides of the angle stiffener, forward and aft chord, stringer end fitting, system penetration doublers, channel stiffeners and fasteners, "Z" stiffeners and fasteners, and fasteners common to the pressure chord and pressure web), according to Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Do this inspection at the applicable time shown in paragraph (e)(1), (e)(2), or (e)(3) of this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) For airplanes on which an inspection has previously been done according to the requirements of paragraph (a) of this AD: Do the inspection within 2 years since the most recent inspection according to paragraph (a) or (d) of this AD, as applicable. Inspection according to paragraph (e) of this AD ends the requirement for inspections according to paragraph (d) of this AD.

(2) For airplanes having L/N 930 through 1042 inclusive, on which an inspection has not previously been done according to paragraph (a) of this AD: Do the inspection within 2 years after the effective date of this AD.

(3) For airplanes having L/N 1043 through 3132 inclusive, on which an inspection has not previously been done according to paragraph (a) of this AD: Do the inspection within 6 years since the airplane's date of manufacture, or within 2 years after the effective date of this AD, whichever occurs later.

Repetitive Inspections

(f) Repeat the inspection in paragraph (e) of this AD at the applicable time shown in paragraph (f)(1) or (f)(2) of this AD.

(1) For airplanes having L/N 1 through 1042 inclusive: Repeat the inspection at least every 2 years.

(2) For airplanes having L/N 1043 through 3132 inclusive: Repeat the inspection at least every 4 years.

Repair

(g) If any corrosion or cracking is found during any inspection according to paragraph (e) or (f) of this AD: Before further flight, repair according to Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Exception: If corrosion or cracking of the web and stiffeners is outside the limits specified in the service bulletin, or if corrosion or cracking is found in any structure not covered by the repair instructions in the service bulletin, before further flight, repair according to a method approved by the Manager, Seattle ACO, or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 84–20–03 R1, amendment 39–5183, are approved as alternative methods of compliance with this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(j) Except as provided by paragraphs (c)(2) and (g) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Boeing Alert Service Bulletin 737–53A1075, Revision 2, dated July 13, 1984; or Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(k) This amendment becomes effective on June 27, 2002.

Issued in Renton, Washington, on May 14, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12634 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–394–AD; Amendment 39–12758; AD 2002–10–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. For certain airplanes, this amendment requires a one-time inspection or a review of the maintenance records of the airplane to determine if a particular control rod barrel for the aileron tabs is installed, and follow-on repetitive inspections for cracking of the control rod barrels and replacement of the control rod barrels with new barrels, if necessary. Such replacement terminates the repetitive inspections. For all airplanes, this amendment prohibits installation of a certain control rod barrel for the aileron tabs. The actions specified by this AD are intended to prevent the disconnection of an aileron tab, which could lead to severe airframe vibrations; consequent damage to the aileron tab, aileron, and wing; and possible loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective June 27, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2186; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes was published in the **Federal Register** on September 4, 2001 (66 FR 46247). For certain airplanes, that action proposed to require a one-time inspection or a review of the maintenance records of the airplane to determine if a particular control rod barrel for the aileron tabs is

installed, and follow-on repetitive inspections for cracking of the control rod barrels and replacement of the control rod barrels with new barrels, if necessary. Such replacement would terminate the repetitive inspections. For all airplanes, that action proposed to prohibit installation of a certain control rod barrel for the aileron tabs.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Change Compliance Time

One commenter asks that the compliance time specified in paragraph (b)(1) of the proposed rule be changed from flight cycles to flight hours. That paragraph specifies repeating the inspections of the control rod barrels at least every 3,200 flight cycles, and replacing the affected control rod barrels within 20,000 flight cycles. The commenter states that Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999, specifies repeating those inspections every 3,200 flight HOURS, and replacing affected control rod barrels within 20,000 flight HOURS.

The FAA agrees with the commenter. Our intent in the proposed rule was to mandate the compliance time specified in service bulletin. Since we did not intend to use flight cycles, and did not include a difference paragraph declaring our intent to use flight cycles, this change does not expand the scope of the final rule. We have changed paragraph (b)(1) of this final rule accordingly.

Clarify Paragraph (b)(2)

One commenter asks for clarification of paragraph (b)(2) of the proposed rule. The commenter states that the paragraph specifies replacement of all control rod barrels if any cracking is found. The commenter notes that, per data received from the manufacturer, the gray colored control rod barrels do not need to be replaced even if the white control rod barrels are found cracked.

We agree with the commenter. We have changed paragraph (b)(2) of the final rule for clarification to read, "If any cracking is found, before further flight, replace all AFFECTED control rod barrels * * *."

Extend Repetitive Inspection Interval

One commenter states that the repetitive inspection interval specified in paragraph (b)(1) of the proposed rule would not allow operators sufficient time to first complete the initial inspection of the control rod barrels before doing the repeat inspections without scheduling aircraft down-time. The commenter asks that the interval be extended to 6,000 flight hours.

We do not agree with the commenter because it provided no justification for its request and no data to support that its suggestion would provide an acceptable level of safety were submitted. The specified repetitive interval is based on the recommendation of the manufacturer and on the schedule of the majority of operators. However, the commenter may apply for an approval of an alternate method of compliance, in accordance with paragraph (e) of this AD. No change is made to the final rule in this regard.

Alternate Method of Compliance

One commenter asks that an X-ray or ultrasound inspection be allowed as an alternate to replacing the affected control rod barrels. The commenter states that these inspections would reveal defects without relying on the color of the paint; then, only the control rod barrels with such defects would be replaced, instead of all affected control rod barrels. The commenter adds that the control rod barrels also would be permanently marked after they are inspected, which would eliminate the need for removal and subsequent flight test.

The FAA does not agree with the commenter. No reliable method of inspecting for the defect in the control rod barrels has been submitted to the FAA, so no approval can be given for such inspections. In addition, the commenter did not provide sufficient technical details for the proposed inspections. However, we would consider this option under the provisions for requesting approval of an alternate method of compliance, as provided in paragraph (e) of this final rule, if substantiating data are provided. No change is made to the final rule in this regard.

Change Cost Impact

One commenter states that the labor estimates in the proposed rule do not agree with the estimates in the referenced service bulletin. The commenter notes that there are a large number of fasteners that must be removed before removal of the panel that allows access to the control rod barrels, and a flight test is required if the rods are replaced or the adjustment is changed. The commenter adds that, although incidental costs are not included in the cost basis for rulemaking, the access requirements and flight test are not incidental and should be included in the cost analysis of the final rule.

We do not agree with the commenter. The cost impact information describes only the "direct" costs of the specific actions required by this AD. We recognize that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to "direct" costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time necessary to gain access to the control rod barrels and to perform a flight test. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. Therefore, no change is made to the final rule in this regard. We note that a flight test is only necessary if all four rod barrels are replaced.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 2,900 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,250 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the inspection to determine the color of the control rod barrels for the aileron tabs or the review of maintenance records, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection or review required by this AD on U.S. operators is estimated to be $75,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

If subject control rod barrels are installed, it will take approximately 1 work hour per airplane to accomplish the follow-on inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the follow-on inspections is estimated to be $60 per airplane, per inspection cycle.

If subject control rod barrels are installed, it will take approximately 2 work hours per airplane to replace each control rod barrel, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this replacement is estimated to be $120 per airplane. Up to four control rod barrels (two for each aileron) may need to be replaced on each airplane.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–12 Boeing: Amendment 39–12758. Docket 2000–NM–394–AD.

Applicability: All Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a disconnected aileron tab, which could lead to severe airframe vibrations; consequent damage to the aileron tab, aileron, and wing; and loss of controllability of the airplane; accomplish the following:

One-Time Inspection

(a) Within 3,200 flight hours after the effective date of this AD, do paragraph (a)(1) or (a)(2) of this AD.

(1) Do a one-time general visual inspection to determine whether an aileron tab control rod barrel having part number 69–60083–1 is installed by determining the color of the control rod barrels, according to Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999. No further action is required by this AD for gray-colored control rod barrels. If any white-colored control rod barrel with part number 69–60083–1 is installed, or if the color or part number of any control rod barrel cannot be determined, do paragraph (b) of this AD.

(2) Review the maintenance records for the airplane to determine whether an aileron tab control rod barrel having part number 69–60083–1 is installed. If no control rod barrel with that part number is installed, no further action is required by this AD. If any control rod barrel with that part number is installed, do paragraph (b) of this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Follow-On Actions: Repetitive Inspections and Replacement

(b) For airplanes that have a control rod barrel for the aileron tabs having part number 69–60083–1 or a control rod barrel on which the color or part number cannot be determined: Within 3,200 flight hours after the effective date of this AD, do a detailed inspection for cracking of the affected control rod barrels according to Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999.

Note 3: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If no cracking is found, repeat the inspection for cracking at least every 3,200 flight hours, AND, within 20,000 flight hours after the effective date of this AD, replace all affected control rod barrels for the aileron tabs with new or reworked control rod barrels, according to the service bulletin. Such replacement terminates the repetitive inspections.

(2) If any cracking is found, before further flight, replace all affected (cracked, having part number 69–60083–1 or on which the color or part number cannot be determined) control rod barrels with new or reworked control rod barrels, according to the service bulletin.

Note 4: If any control rod barrel for the aileron tab is cracked, all affected control rod barrels on the airplane must be replaced at the same time because the discrepancy may exist in the entire lot of parts.

Reporting Requirement

(c) If any cracked control rod barrel for the aileron tabs is found during the inspections required by paragraph (b) of this AD, report findings to the FAA Certification Management Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 10 days after performing the inspection required by paragraph (b) of this AD.

(2) For airplanes on which the inspection has been accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Spares

(d) For all airplanes: As of the effective date of this AD, no person may install a control rod barrel for the aileron tab having part number 69–60083–1 on any airplane.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraph (a)(2) of this AD, the actions shall be done in accordance with Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on June 27, 2002.

Issued in Renton, Washington, on May 14, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12633 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–04–AD; Amendment 39–12754; AD 2002–10–08]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80E1 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80E1 series turbofan engines installed on Airbus Industrie A330 series airplanes. This action requires initial and repetitive thrust reverser inspections and checks, and allows extended threshold and repetitive inspection intervals for certain inspections if an optional double p-seal configuration is installed. This amendment is prompted by reports of service-induced hardware deterioration that reduces the overall thrust reverser system protection against inadvertent deployment, which can result in loss of control of the airplane. The actions specified in this AD are intended to prevent inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane.

DATES: Effective June 27, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of June 27, 2002.

Comments for inclusion in the Rules Docket must be received on or before July 22, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–04–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "*9-ane-adcomment@faa.gov*". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220–4295, attn: Warranty Support, telephone: (410) 682–0094, fax: (410) 682–0100. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Office Park; telephone (781) 238–7192; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA has determined that thrust reverser inspections and checks are necessary as precautionary actions, to provide an acceptable level of safety for GE CF6–80E1 series turbofan engines. This determination has been made after reviewing thrust reverser safety analyses following a report of inadvertent thrust reverser deployment on another make and model engine. This amendment is prompted by the following reports:

- The translating cowl inner bondment (bulb) seal can become deformed during use in service, resulting in cuts, tears, nicks, holes, and missing sections that compromise aerodynamic stow retention.
- The forward (Dagmar) fairing and the aft frame assembly can become damaged during use in service, compromising stow retention.
- The center drive unit (CDU) cone brake holding torque can become less than the minimum acceptable value to the extent that the CDU cone brake becomes inoperative.
- The thrust reverser electromechanical brake holding torque can become less than the minimum acceptable value to the extent that the thrust reverser actuation system (TRAS) lock becomes inoperative. This holding torque of less than the minimum acceptable value can also be caused by damage to a flexible shaft assembly.

These conditions, if not corrected, could result in inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Middle River Aircraft Systems alert service bulletin (ASB) No. CF6–80E1 SB 78A5043, Revision 1, dated January 22, 2002 that describes procedures for initial and repetitive thrust reverser inspections and checks.

FAA's Determination of an Unsafe Condition and Required Actions

Although this affected engine model is not used on any airplanes that are registered in the United States, the possibility exists this engine model could be used on airplanes that are registered in the United States in the future. This AD is being issued to prevent inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane. This AD requires initial and repetitive thrust reverser inspections and checks, and allows extended threshold and repetitive inspection intervals for certain inspections if an optional double p-seal configuration is installed. The actions are required to be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since there are currently no domestic operators of this engine model, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NE–04–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–08 General Electric Company: Amendment 39–12754. Docket No. 2000–NE–04–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6–80E1 series turbofan engines. These engines are installed on, but not limited to, Airbus Industrie A330 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane, do the following:

Engines That Do Not Have Improved Double P-Seal Configuration

(a) For engines that do not have the improved double P-seal configuration introduced by Middle River Aircraft Systems (MRAS) service bulletin (SB) 78–5037, original issue or Revision 1, inspect and check each fan thrust reverser half in accordance with 2.B., 2.C., and 2.D. of the Accomplishment Instructions of MRAS alert service bulletin (ASB) No. 78A5043, Revision 1, dated January 22, 2002, as follows:

(1) Perform initial inspections and checks before exceeding 7,000 flight hours time-since-new (TSN) or 1,000 flight hours time-in-service (TIS), whichever occurs later, after the effective date of this AD.

(2) Thereafter, perform inspections and checks at intervals not to exceed 7,000 flight hours TIS since last inspection or check.

Engines That Do Have Improved Double P-Seal Configuration

(b) For engines that do have the improved double P-seal configuration introduced by MRAS SB 78–5037, original issue or Revision 1, inspect and check each fan thrust reverser half in accordance with 2.B. and 2.C. of the Accomplishment Instructions of MRAS ASB No. 78A5043, Revision 1, dated January 22, 2002, as follows:

(1) Perform initial inspections and checks before exceeding 25,000 flight hours TSN or 1,000 flight hours TIS, whichever occurs later, after the effective date of this AD.

(2) Thereafter, perform inspections and checks at intervals not to exceed 25,000 flight hours TIS since last inspection or check.

(c) Also for engines that do have the improved double P-seal configuration introduced by MRAS SB 78–5037, original issue or Revision 1, check each fan thrust reverser half in accordance with 2D. of the Accomplishment Instructions of MRAS ASB No. 78A5043, Revision 1, dated January 22, 2002, as follows:

(1) Perform initial check before exceeding 7,000 flight hours TSN or 1,000 flight hours TIS, whichever occurs later, after the effective date of this AD.

(2) Thereafter, perform checks at intervals not to exceed 7,000 flight hours TIS since last check.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(f) The inspections and checks must be done in accordance with Middle River Aircraft Systems Alert Service Bulletin No. CF6–80E1 SB 78A5043, Revision 1, dated January 22, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220–4295, attn: Warranty Support, telephone: (410) 682–0094, fax: (410) 682–0100. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on June 27, 2002.

Issued in Burlington, Massachusetts, on May 9, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–12631 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–27–AD; Amendment 39–12753; AD 2002–10–07]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–59A, –70A, –7Q, and –7Q3 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Pratt & Whitney (PW) JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines. This amendment requires fluorescent penetrant inspection of the high pressure turbine (HPT) second stage airseal knife edges for cracks, each time the airseal is accessible. This amendment is prompted by reports of cracks found in the knife edges of HPT second stage airseals during HPT disassembly. The actions specified by this AD are intended to prevent failure of HPT second stage airseals due to cracks in the knife edges, which if not detected could result in uncontained engine failure and damage to the airplane.

DATES: Effective June 27, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines was published in the **Federal Register** on November 23, 2001 (66 FR 58691). That action proposed to require fluorescent penetrant inspection of the HPT second stage airseal knife edges for cracks, in accordance with PW service bulletin (SB) JT9D 6409, dated July 27, 2001, each time the airseal is accessible.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Make Removal Wording More Specific

One commenter suggests changing proposed paragraph (a) to be consistent with SB JT9D 6409, dated July 27, 2001. Paragraph (a) proposed that airseals found cracked must be removed from service. The commenter suggests that paragraph (a) should state that airseals that are found cracked must be removed only if the crack is beyond the limit defined in the engine manual inspection section. Another commenter points out that SB JT9D 6409, dated July 27, 2001, refers to the engine manual (EM), but the proposal does not. The EM allows blend repair of cracks that are not located in the pedestal area of the airseal, but the proposal requires removal from service of airseals with any cracks.

The FAA agrees that the wording describing the circumstances that airseals are to be removed from service needs to be more specific. Therefore, the FAA has changed paragraph (a) to reference the return to service criteria as well as the procedures for performing the inspection contained in the Accomplishment Instructions of PW SB JT9D 6409, dated July 27, 2001.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

There are approximately 564 engines of the affected design PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines in the worldwide fleet. The FAA estimates that 176 engines installed on airplanes of U.S. registry would be affected by this AD. The FAA also estimates that it would take approximately 1 work hour per engine to perform the fluorescent penetrant inspection, and that the average labor rate is $60 per work hour. Based on these figures, the total labor cost annually of the AD on U.S. operators is estimated to be $10,560.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–10–07 Pratt & Whitney: Amendment 39–12753. Docket No. 2001–NE–27–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines. These engines are installed on, but not limited to, Airbus Indusrie A300 series, Boeing 747 series, and McDonnell Douglas DC–10 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent failure of high pressure turbine (HPT) second stage airseals due to cracks in the knife edges, which if not detected could result in uncontained engine failure and damage to the airplane, do the following:

Inspections

(a) Perform a fluorescent penetrant inspection of the HPT second stage airseal knife edges for cracks in accordance with procedures and return to service criteria contained in Accomplishment Instructions, Paragraphs 1 through 3, of PW Service Bulletin (SB) JT9D 6409, dated July 27, 2001, each time the HPT stage 1 and stage 2 rotors are separated. Remove from service those airseals that are determined to be unserviceable.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(d) The inspection must be done in accordance with Pratt & Whitney Service Bulletin JT9D 6409, dated July 27, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on June 27, 2002.

Issued in Burlington, Massachusetts, on May 10, 2002.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–12630 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 141 and 385

[Docket No. RM02–9–000; Order No. 626]

Electronic Filing of FERC Form 1, and Elimination of Certain Designated Schedules in FERC Form Nos. 1 and 1–F

Issued: May 16, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations under the Federal Power Act (FPA) to provide for the electronic filing of its Form 1 (Form 1) and the elimination of certain schedules on the Form 1 and Form 1–F (Form 1–F). Commencing with the report for calendar year 2002, due April 30, 2003, only electronic filings will be accepted; the paper filing requirement will be eliminated for the Form 1. Form 1–F respondents must still submit an original and one conformed paper copy of a completed form by March 31, 2003. Also commencing with the report for calendar year 2002, for both the Forms 1 and 1–F, the schedules identified below will be eliminated. This automation of the Form 1 and the elimination of designated schedules to both the Forms 1 and 1–F yield significant benefits to respondents, the Commission and to the electric industry as a whole. These benefits include more timely analysis and publication of the data, increased data analysis capability, reduced cost of data entry and retrieval, and an overall reduction in filing burden.

EFFECTIVE DATE: This final rule is effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT:

Patricia W. Morris (Technical Information), Office of Markets, Tariffs and Rates, FERC, 888 First Street, NE., Washington, DC 20426, (202) 208–6990, *patricia.morris@ferc.fed.us.*

Bolton Pierce (Electronic System), Office of Information Technology, FERC, 888 First Street, NE., Washington, DC 20426, (202) 208–1803, *bolton.pierce@ferc.gov.*

Julia Lake (Legal Information), Office of General Counsel, FERC, 888 First Street, NE., Washington, DC 20426, (202) 208–2019, *julia.lake@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

I. Introduction

This Final Rule revises parts 141 and 385 of the Commission's regulations to require the electronic filing of FERC Form 1 "Annual Report of Major Electric Utilities, Licensees and Others" (Form 1) and the elimination of designated schedules from both the Form 1 and Form 1–F "Annual Report for Nonmajor Public Utilities, Licensees and Others" (Form 1–F). Beginning with reports for the calendar year 2002, due no later than April 30, 2003, there will be no further requirement for a hard copy Form 1 filing. The Commission has thoroughly tested the software and related elements of the electronic filing mechanism and finds that the methodology and mechanics of the system are ready for industry-wide electronic filing of Form 1. In addition, the Commission finds that the schedules designated below should be eliminated.

II. Background

Form 1 and 1–F information is collected pursuant to sections 304 and 309 of the Federal Power Act (FPA), 16 U.S.C. 825c and 825h. The Commission collects general corporate information: summary financial information, balance sheet and income statement supporting information, and electric plant, sales, operating expenses, and statistical data. The information is used in the review of the financial condition of regulated companies, in various rate proceedings and in the Commission's audit program. Form 1 is filed by respondents determined to be "Major Electric Utilities" and certain hydroelectric utilities under the Commission's jurisdiction. A utility is defined as a "Major Electric Utility" if it meets one of the following requirements: (1) At least one million megawatt hours of total annual sales; (2) 100 megawatt hours of annual sales for resale; (3) 500 megawatt hours of annual power exchanges delivered; or (4) 500 megawatt hours of annual wheeling for others (deliveries plus losses). For the Form 1–F, a respondent is defined as a "Nonmajor Public Utility" if it meets the following requirement: Total annual sales of 10,000 megawatt hours or more in the three previous calendar years and is not classified as "Major." The Commission's Form 1 and 1–F filing requirements are found at 18 CFR 141.1 and 141.2.

The Forms 1 and 1–F are annual submissions from approximately 216 and 26, respectively, jurisdictional utilities and licensees.

III. Discussion

Based on a review of the Commission's need for data, and also given requests for reductions in the collections of data, the Commission is eliminating the schedules listed below:

Form 1

- Security Holders and Voting Powers (106–107).
- Construction Overheads-electric (217).
- General Description of Construction Overhead Procedure (218).
- Nonutility Property (221).
- Capital Stock Sub, Cap Stock Liability for Con, Prem. Cap Stock, & Inst Received (252).
- Discount on Capital Stock (254).
- Number of Electric Department Employees (323).
- Particulars Concerning Certain Income Deduction and Interest Charges (340).
- Electric Distribution Meters and Line Transformers (429).
- Environmental Protection Facilities (430).
- Environmental Protection Expenses (431).

Form 1–F

- Data on Security Holders and Voting Powers (Parts X and XI, P. 18).
- Nonutility Property (121, P. 110).
- Capital Stock Sub, Cap Stock Liability for Con, Prem. Cap Stock, & Inst Received (252, P. 112).
- Discount on Capital Stock (254, P. 112).
- Particulars Concerning Certain Income Deduction and Interest Charges (340, P. 117).
- Electric Distribution Meters and Line Transformers (429, lines 63 & 65, P. 206).
- Number of Electric Department Employees (P. 323).
- Construction Overheads—electric (217, P. 8 Allowance for Funds used During Construction).

On August 7, 2001, the Commission issued a Notice of Proposed Information Collection and Request for Comments on the Form 1 in Docket IC01–1–000 in the **Federal Register** proposing that the Form 1 be continued for an additional three years, and that the Form 1 be filed solely electronically (thus eliminating the paper copy), but that certain designated schedules be eliminated.[1] The Commission then issued a Notice of Proposed Information Collection and Request for Comments on the Form 1–F in Docket No. IC01–1F–000 in the **Federal Register**.[2] As it has indicated in the notice for the Form 1, the Commission announced in the Form 1–F notice its proposal to continue the reporting requirements for an additional three years but to eliminate designated schedules. The comments in response to the Form 1 notice commended the Commission's efforts in reducing the burden by providing for electronic submission of the Form 1. Only one commenter objected to the elimination of the schedules. None of the comments in response to the Form 1–F notice addressed the elimination of the schedules. The Office of Management and Budget (OMB) approved the 3-year extension, the electronic filing of Form 1, and the elimination of the schedules from Form 1 on March 29, 2002, and for Form 1–F on April 2, 2002.

This final rule implements those proposed changes as approved by OMB. The rule is part of the Commission's ongoing efforts to revise and streamline the Commission's existing reporting requirements. Electronic filing and elimination of the paper copy of Form 1 will reduce the burden on reporting utilities. Elimination of the designated schedules will also reduce the reporting burden. The final rule also eliminates a cross reference to one of the eliminated schedules in § 35.25.

Further notice and comment procedures are not necessary in this rulemaking docket because the Commission has already provided interested parties with an opportunity to comment on the revisions and responded to those comments in Docket Nos. IC01–1–000 and IC01–1F–000.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[3] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural, or that does not substantially change the effect of legislation or regulations being amended,[4] and also for information gathering, analysis, and dissemination.[5] This Final Rule does not substantially change the effect of the regulation being amended. In addition, the Final Rule involves information gathering, analysis and dissemination. Therefore, this Final Rule falls within categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.

V. Regulatory Flexibility Act

The Commission finds that most filing entities regulated by the Commission do not fall within the Regulatory Flexibility Act's definition of a small entity.[6] Moreover, this Final Rule will reduce the reporting burden and promote consistent reporting practices for all reporting companies. Accordingly, the Commission certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

VI. Information Collection Statement

The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and record keeping (collections of information) imposed by an agency. The information collection requirements in this Final Rule are contained in Form 1, "Annual Report of Major Electric Utilities and Licensees and Others" (OMB Control No. 1902–0021) and Form 1–F "Annual Report for Nonmajor Public Utilities, Licensees and Others" (OMB Control No. 1902–0029). Form 1 most recently received OMB approval on March 29, 2002 for the period through March 2005. Form 1–F received OMB approval on April 2, 2002 for the period through April 2005. As part of the renewal process for both the Form 1 and 1–F, OMB was notified that the Commission was proposing to eliminate the paper submission of the Form 1 and to eliminate the designated schedules. The electronic filing initiative is part of the Commission's ongoing program to reduce reporting requirements. As explained below, the shift to electronic filing of the Form 1 and the elimination of designated schedules will reduce the burden on regulated companies for maintaining and reporting information under the Commission's Form 1 and 1–F regulations.

Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (Attention: Michael Miller, Office of the Chief Information Officer, (202) 208–1415) or from the Office of Management and Budget, Room 10202 NEOB, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, (202) 395–7318, fax: (202) 395–7285).

The regulated entity shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Title: FERC Form 1, "Annual Report of Major Electric Utilities, Licensees and Others"; FERC Form 1–F, "Annual Report for Nonmajor Public Utilities, Licensees and Others".

Action: Revision of Currently Approved Collections of Information.

OMB Control No.: 1902–0021 and 1902–0029.

Respondents: Jurisdictional electric utilities and licensees who have generation, transmission, distribution and/or sell electric energy within the United States and its possessions.

Frequency of Responses: Annually.

Reporting Burden: Form 1: At the time of filing for OMB renewal in January 2002, there were 216 respondents filing annually. This is an increase of 6 respondents from the Commission's last submission in 1998. The Commission's original estimate for filing the Form 1 was 1,217 hours per respondent. With the proposed changes to the Form 1, the Commission estimates that the filing per respondent will be reduced to 1,050 hours. This is a reduction of 167 hours per respondent or 28,770 in the total hours. *Form 1–F:* The changes to the Form 1–F through the elimination of designated schedules are offset by the increase in the number of respondents who now file the report. The increase in respondents is a result of the addition of new companies meeting the 10,000 megawatt hour and not qualifying as a major electric utility threshold. Therefore, as there is an increase in the number of respondents (from 7 to 26), notwithstanding the reduction in hours per respondents, there will be an increase in the total hours (from 224 to 832).

The Commission also estimates there will be burden cost reductions realized by the respondents and the Federal government. Previously the estimated annualized Form 1 costs to respondents was $64,049 per respondents ($13,450,290 total) and with the proposed changes, the costs should be $58,857 ($12,713,112). This should result in a savings of $5,192 per respondent. For the Federal government, the cost for processing Form 1 in 1998 was stated as $193,025 (approximately 1.6 FTE), however with the changes identified above the annual cost is estimated to be $179,828 or a savings of $13,197.

The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. These electronic filing requirements conform to the Commission's plan for efficient information collection, communication and management within the electric power industry. The changes will contribute to well-informed decision-making and streamlined workload processing.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov*.

For the submission of comments concerning the collection of information and the associated burden estimates, please send your comments to the contact listed above or to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–7318, fax: (202) 395–7285).

VII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994
—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading
—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to

[1] *See* 66 FR 41217 (Aug. 7, 2001); *see also* 67 FR 4243 (Jan. 29, 2002).

[2] *See* 66 FR 49945 (Oct. 1, 2001); *see also* 67 FR 4244 (Jan. 29, 2002).

[3] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[4] 18 CFR 380.4(a)(2)(ii).

[5] 18 CFR 380.4(a)(5).

[6] 5 U.S.C. 601(3), citing to seciton 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

VIII. Effective Date and Congressional Notification

This Final Rule will take effect June 24, 2002. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a "major rule" within the meaning of Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[7] The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.[8]

List of Subjects

18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,

Secretary.

In consideration of the foregoing, the Commission amends parts 35,141 and 385, Chapter I, Title 18, of the Code of Federal Regulations, as follows:

[7] 5 U.S.C. 804(2).

[8] 5 U.S.C. 801(a)(1)(A).

PART 35—FILING OF RATE SCHEDULES

1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

§ 35.25 [Amended]

2. In § 35.25, paragraph (c)(1)(ii)(C) is removed, and paragraph (c)(1)(ii)(D) is redesignated as paragraph (c)(1)(ii)(C).

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

3. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

4. In § 141.1, paragraphs (b)(1)(i) and (b)(2) are revised to read as follows:

§ 141.1 FERC No. Form 1, Annual report of Major electric utilities, licensees and others.

* * * * *

(b) *Filing requirements.* (1) *Who must file*–(i) *Generally.* Each Major electric utility (as defined in part 101 of Subchapter C of this chapter) and other entity, *i.e.* each corporation, person or licensee as defined in section 3 of the Federal Power Act (16 U.S.C. 792 *et seq.*), including any agency, authority or other legal entity or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, however produced, throughout the United States and its possessions, having sales or transmission service equal to Major as defined above, whether or not the jurisdiction of the Commission is otherwise involved, shall prepare and file electronically with the Commission the FERC Form 1 pursuant to the General Instructions set out in that form.

* * * * *

(2) *When to file and what to file.* This report shall be filed on or before April 30 of each year for the previous calendar year. This report must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in this form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with the report required to be submitted for the reporting calendar year of 2002, due on or before April 30, 2003.

PART 385—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

6. In § 385.2011, paragraph (c)(3) is revised to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

* * * * *

(c) *What to file.* * * *

(3) With the exception of the Form 1, the electronic media must be accompanied by the traditional prescribed number of paper copies.

* * * * *

[FR Doc. 02–12798 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 141

[T.D. 02–28]

Technical Amendment to the Customs Regulations: Reusable Shipping Devices Arriving From Canada and Mexico

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to include certain reusable shipping devices arriving from Canada or Mexico in the list of merchandise excepted from the requirement that all merchandise imported into the United States be entered. The substantive regulation allowing for these types of devices to be excepted from entry is set forth in § 10.41b(b) of the Customs Regulations. During a periodic review of its regulations to ensure that they are current, correct and consistent, Customs noted that in § 141.4 of the Customs Regulations, the list of merchandise excepted from the entry requirement did not cross-reference § 10.41b(b). This document remedies that omission.

EFFECTIVE DATE: May 23, 2002.

FOR FURTHER INFORMATION CONTACT: Glen Vereb, Office of Regulations and Rulings, 202–927–1327.

SUPPLEMENTARY INFORMATION:

Background

Under § 141.4(a), Customs Regulations (19 CFR 141.4(a)), all merchandise imported into the United States is required to be entered, unless specifically excepted. The exceptions from the general rule that all imported merchandise must be entered are set forth in § 141.4(b), Customs Regulations (19 CFR 141.4(b)). In particular, § 141.4(b)(3) excepts instruments of international trade as described in § 10.41a, Customs Regulations (19 CFR 10.41a). In addition to this exemption from entry, however, certain reusable shipping devices arriving from Canada or Mexico are also exempted from entry pursuant to § 10.41b(b), Customs Regulations (19 CFR 10.41b(b)), as amended by Treasury Decision (T.D.) 96–20 (61 FR 7987) of March 1, 1996.

Accordingly, this document amends § 141.4(b)(3), Customs Regulations (19 CFR 141.4(b)(3)), to include a reference to § 10.41b(b), in order to reflect that reusable shipping devices from Canada or Mexico are also exempted from Customs entry requirements. Furthermore, a reference is added in § 141.4(b)(3) to Chapter 98, Subchapter III, U.S. Note 3, Harmonized Tariff Schedule of the United States (HTSUS), which provides the underlying legal authority for the exemption of the specified shipping devices from Customs entry requirements.

Administrative Procedure Act, the Regulatory Flexibility Act and Executive Order 12866

Because the amendments merely conform with existing law or regulation, notice and public procedure are unnecessary, and for the same reason, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Nor do these amendments meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects In 19 CFR Part 141

Customs duties and inspection, Entry of merchandise, Release of merchandise, Reporting and recordkeeping requirements.

Amendment to the Regulation

Part 141, Customs Regulations (19 CFR 141) is amended as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for Part 141, Customs Regulations, continues to read, and the specific sectional authority for § 141.4 is revised to read, as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Section 141.4 also issued under 19 U.S.C 1202 (General Note 19; Chapter 86, Additional U.S. Note 1; Chapter 89, Additional U.S. Note 1; Chapter 98, Subchapter III, U.S. Notes 3 and 4; Harmonized Tariff Schedule of the United States), 1498;

* * * * *

2. Section 141.4 is amended by revising paragraph (b)(3) to read as follows:

§ 141.4 Entry required.

* * * * *

(b) *Exceptions.*

* * *

(3) Instruments of international traffic described in § 10.41a and § 10.41b(b) of this chapter, under the conditions provided for in those sections. See also Chapter 98, Subpart III, U.S. Notes 3 and 4, HTSUS.

* * * * *

Robert C. Bonner,

Commissioner of Customs.

Approved: May 17, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–12938 Filed 5–22–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Decoquinate and Chlortetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved decoquinate and chlortetracycline Type A medicated articles to make two-way combination Type B and Type C medicated feeds for calves, beef, and nonlactating dairy cattle used for prevention of coccidiosis, treatment of bacterial enteritis, and treatment of bacterial pneumonia.

DATES: This rule is effective May 23, 2002.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578, e-mail: *jmessenh@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–185 that provides for use of DECCOX (decoquinate) and AUREOMYCIN (chlortetracycline) Type A medicated articles to make combination drug Type B and Type C medicated feeds for calves, beef and nonlactating dairy cattle. The combination Type C feeds are used for the prevention of coccidiosis caused by *Eimeria bovis* and *E. zuernii*, for treatment of bacterial enteritis caused by *Escherichia coli*, and for treatment of bacterial pneumonia caused by *Pasteurella multocida* organisms susceptible to chlortetracycline. The NADA is approved as of March 15, 2002, and the regulations are amended in 21 CFR 558.195 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of each application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.195 [Amended]

2. Section 558.195 *Decoquinate* is amended in the table in paragraph (d) in the entry for the combination "Chlortetracycline approximately 400" in the "Limitations" column by removing "Withdraw 24 hours prior to slaughter." and by adding in its place "Withdraw 24 hours prior to slaughter when manufactured from CTC (chlortetracycline) Type A medicated articles under NADA 141–147. Zero withdrawal time when manufactured from AUREOMYCIN (chlortetracycline) Type A medicated articles under NADA 141–185.".

Dated: May 9, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–12873 Filed 5–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–02–022]

RIN 2115–AA97

Security Zones; Port of St. Petersburg, St. Petersburg, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary fixed security zones encompassing all waters around all Coast Guard and waterfront facilities and moorings in St. Petersburg Harbor, St. Petersburg, Florida. These security zones are needed for national security reasons to protect Coast Guard vessels and facilities from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This rule is effective from 7 a.m. on May 1, 2002, until 6 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Tampa 02–022] and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David G. McClellan, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 102.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to Coast Guard Group St. Petersburg or the Army National Guard Base in St. Petersburg Harbor, St. Petersburg, Florida. These security zones will encompass all waters on the north side of channel serving St. Petersburg Harbor, commencing at dayboard "10" in approximate position 27°45.58′ N, 082°37.52′ W, and westward along the seawall 100 feet from the seawall and around all moorings and vessels to the end of the storage facility in approximate position 27°45.68′ N, 082°37.80′ W. The zones will also include the Coast Guard south moorings in St. Petersburg Harbor. This zone will extend 100 feet around the piers commencing from approximate position 27°45.52′ N, 082°37.96′ W to 27°45.52′ N, 082°37.60′ W. All positions noted are fixed using the North American Datum of 1983 (World Geodetic System 1984). The southern boundary of the zone is shoreward of a line between Green Daybeacon 11(LLN 2500) westerly to the entrance to Salt Creek. Entry into this security zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a "significant energy action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 6.04–11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–022 is added to read as follows:

§ 165.T07–022 Security Zones; Port of St. Petersburg, Florida.

(a) *Regulated area.* The Coast Guard is establishing temporary fixed security zones in all waters north of the marked channel in St. Petersburg Harbor, St. Petersburg, Florida. These security zones will encompass all waters on the north side of channel serving St. Petersburg Harbor, commencing at dayboard "10" in approximate position 27°45.58′ N, 082°37.52′ W, and westward along the seawall 100 feet from the seawall and around all moorings and vessels to the end of the storage facility in approximate position 27°45.68′ N, 082°37.80′ W. These zones will also include the Coast Guard south moorings in St. Petersburg Harbor. This zone will extend 100 feet around the piers commencing from approximate position 27°45.52′ N, 082°37.96′ W to 27°45.52′ N, 082°37.60′ W. All positions noted are fixed using the North American Datum of 1983 (World Geodetic System 1984). The southern boundary of the zone is shoreward of a line between Green Daybeacon 11(LLN 2500) westerly to the entrance to Salt Creek.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Broadcast on VHF–FM Channel 16 and 13 (157.1 MHz).

(c) *Dates.* This section is effective from 7 a.m. on May 1, 2002 until 6 p.m. on June 15, 2002.

Dated: April 16, 2002.

A.L. Thompson, Jr.,

Captain, Coast Guard, Captain of the Port, Tampa.

[FR Doc. 02–13005 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

RIN 0651–AB31

Amendment of Rule Regarding Filing of Trademark Correspondence via "Express Mail"

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final Rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) is amending its rules to provide that certain trademark documents sent by United States Postal Service (USPS) "Express Mail Post Office to Addressee" service (Express Mail) will no longer be considered to have been filed with the USPTO on the date of deposit with the United States Postal Service, but will be deemed to have been filed on the date of receipt in the USPTO. This amendment will not apply to documents filed with the Trademark Trial and Appeal Board (TTAB) and the Assignment Branch.

DATE: Effective Date: June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Craig Morris, Office of the Commissioner for Trademarks, (703)

308–8910, extension 136, or e-mail questions to *tmexpressmail@uspto.gov*.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** (66 FR 45792) on August 30, 2001. That notice proposed to amend rule 1.10, 37 CFR 1.10, concerning the use of USPS Express Mail to eliminate the filing of any document by Express Mail for which an electronic form is currently available in Trademark Electronic Application System (TEAS) and included proposals to amend other rules. The present notice pertains solely to the proposal regarding § 1.10.

Written comments regarding the proposal to amend Section 1.10 were submitted by one individual, eight law firms, and one organization.

Effect of Mailing Correspondence via "Express Mail'

Section 1.10 provides that, if the requirements of the rule are met, any correspondence delivered to the USPTO by USPS Express Mail will be considered to have been filed with the USPTO on the date of deposit with the USPS. Section 1.10 is amended to provide that if an electronic form is available in TEAS, but the applicant files a paper document, the filing date of the document will be the date of receipt in the USPTO, even if such document is delivered by Express Mail.

Comment: Two comments suggested that receipts issued by the USPS in connection with Express Mail submissions provide assurance that a document was filed at a particular time, and that the TEAS system cannot provide such assurance.

Response: TEAS provides filers with an assurance that the document submitted was received by the USPTO. Within seconds of completion of the filing process, the following message appears on the user's screen: "Success! We have received your application and assigned the following serial number 78/——." (or if not an initial application, then wording appropriate for the particular filing submitted). Filers can print and retain copies of this message. If the message does not appear within seconds, then the filing was not completed successfully. Hence, there is never any doubt as to whether a document was transmitted successfully.

Additionally, the USPTO provides e-mail acknowledgments as a follow-up courtesy. If, for whatever reason, a filer does not receive this acknowledgment, the filer may request that the acknowledgment be re-sent, so long as the filer has received the "success" message referred to above.

Comment: One comment suggested that Section 1.10 should be amended to provide that correspondence deposited as Express Mail should be considered to have been filed with the USPTO on the date of deposit with the USPS even if a TEAS form exists for transmitting that correspondence electronically, provided that the filer pays a surcharge.

Response: TEAS provides the same benefit provided by use of Express Mail under current § 1.10. A TEAS filer is assured that the document is received by the USPTO, and that the filing date of a document is the date the USPTO receives the transmitted document, provided that all requirements for accordance of a filing date are met. It is therefore unnecessary to continue to treat the date of deposit as Express Mail as the filing date; moreover, filing through TEAS will save applicants Express Mail fees.

Comment: One comment suggested that where correspondence includes specimens that cannot be easily scanned, the USPTO should continue to allow filing under § 1.10.

Response: The USPTO believes that scanning should be feasible in almost all circumstances. Low range scanners and digital cameras are relatively inexpensive. The quality of these scanners and cameras is sufficient for capturing an image that is acceptable for examination purposes.

Comment: In addition to the proposal to amend § 1.10, the Notice of Proposed Rulemaking published in the **Federal Register** (66 FR 45792) on August 30, 2001, also proposed amendments that are not addressed in the present Final Rule. These proposals were to amend various sections of 37 CFR to require mandatory use of TEAS forms, unless either: (1) The pro se applicant or registrant, or an attorney for the applicant or registrant, verifies that he or she lacks access to TEAS or the technical capability to use TEAS; or (2) the applicant or registrant is a person described in 15 U.S.C. 1126(b). One comment suggested that applications mailed via Express Mail should be considered to have been filed on the date of deposit, if the applicant falls within one of the proposed exceptions to the proposed requirement that TEAS must be used in all cases. Another comment asked whether that was the intended result of the proposed amendment to Section 1.10, and suggested that, if so, the language of § 1.10 should be amended to so state.

Response: The USPTO believes that it is unnecessary to amend § 1.10 to provide that correspondence mailed by Express Mail should be considered to have been filed in the USPTO on the date of deposit with the USPS, in cases where the filer would be within one of the proposed exceptions to the proposed rule that TEAS be utilized in all cases. The USPTO believes that it can best meet the needs of its filers by encouraging the widespread use of TEAS. Hence, the USPTO wishes to provide all filers with incentive to use TEAS, including those filers who are persons described in 15 U.S.C. 1126(b). Additionally, the USPTO believes that a very small number of filers will lack access to TEAS or the capability to use TEAS. Even if a filer's computer system becomes temporarily unavailable due to technical problems, most filers can utilize alternative systems, such as ones maintained by commercial vendors. It would be impractical to create an exception to the Express Mail rule that would cover only a small number of filers.

Comment: One comment suggested that computer viruses may at times render the Internet, and hence TEAS, unavailable. The comment maintains that there should be an exception for these circumstances. The comment suggested that if use of Express Mail no longer resulted in the date of mailing being treated as the date of filing, then these filers may not be able to submit correspondence in time to meet certain filing deadlines.

Response: The USPTO believes that filers can avoid the effects of emergencies such as computer viruses by making it a practice not to defer TEAS filings until the last possible hour. The USPTO also believes that if a filer experiences a computer problem, alternatives are available such as the computer services offered by the Patent and Trademark Depository Libraries and commercial vendors.

If the USPTO's TEAS or the Revenue Accounting and Management (RAM) server is unavailable, the applicant or registrant can file a petition under Trademark Rule 2.146(a)(3)(5), 37 CFR 2.146(a)(5), requesting that its submission be deemed to have been filed on the day that it attempted to use TEAS. The petition should include an explanation of the petitioner's efforts to file using TEAS, any relevant evidence of such efforts, and a statement that according to the petitioner's knowledge TEAS was unavailable. The petition should be filed within two business days of the attempt(s) to file a document using TEAS. The USPTO is closely monitoring the operation of the TEAS and RAM servers and will routinely grant petitions in the instances where either of these USPTO servers are down.

Comment: One comment asked whether a TEAS application that does not identify a filing basis and/or is unsigned would be accepted. This comment suggested that if such applications are not accepted by TEAS, and if use of TEAS is made mandatory in most cases, then filers who wish to file such applications should be allowed to do so using paper. This comment further suggested that in such cases, these paper filings, if mailed by Express Mail, should be considered filed on the date of deposit as Express Mail.

Response: There is no need to provide an exception for these applications since TEAS accepts both submissions that are unsigned and submissions that do not identify a filing basis.

Comment: One comment stated that converting from one system to another always entails costs, and that users whose filing systems use Express Mail would therefore incur costs if the benefits of Express Mail were no longer available.

Response: Those who use TEAS instead of Express Mail will save the cost of using Express Mail. Of course, filers may continue to use Express Mail if they wish to do so. The date of receipt of such mail will be its actual date of receipt in the USPTO.

Rulemaking Requirements

The USPTO has determined that the rule change has no federalism implications affecting the relationship between the National Government and the State as outlined in Executive Order 12612.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration, that the rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)).

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). The comments received did not establish that the rule would have a significant impact under the Regulatory Flexibility Act. The changes have been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person is required to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This final rule contains collections of information requirements that have been approved by OMB under OMB Control Number 0651–0009. The public reporting burden for this collection of information is estimated to average as follows: Seventeen minutes for applications to obtain registrations based on an intent to use the mark under 15 U.S.C. 1051(b), if completed using paper forms; fifteen minutes for applications based on 15 U.S.C. 1051(b), if completed using electronic forms; twenty-three minutes for applications to obtain registrations based on use of the mark in commerce under 15 U.S.C. 1051(a), if completed using paper forms; twenty-one minutes for applications to obtain registrations based on 15 U.S.C. 1051(a), if completed using electronic forms; twenty minutes for applications to obtain registrations based on an earlier-filed foreign application under 15 U.S.C. 1126(d), if completed using paper forms; nineteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(d), if completed using electronic forms; twenty minutes for applications to obtain registrations based on registration of a mark in a foreign applicant's country of origin under 15 U.S.C. 1126(e), if completed using paper forms; eighteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(e), if completed using electronic forms; thirteen minutes for allegations of use of the mark under §§ 2.76 and 2.88 if completed using paper forms; twelve minutes for allegations of use under §§ 2.76 and 2.88 if completed using electronic forms; ten minutes for requests for extensions of time to file statements of use under § 2.89 if completed using paper forms; nine minutes for requests for extensions of time to file statements of use if completed using electronic forms; eleven minutes for Section 8 affidavits if completed using paper forms; ten minutes for Section 8 affidavits if completed using electronic forms; fourteen minutes for combined Sections 8 and 9 filings if completed using paper forms; thirteen minutes for combined Sections 8 and 9 filings if completed using electronic forms; fourteen minutes for combined Sections 8 and 15 affidavits if completed using paper forms; thirteen minutes for combined Sections 8 and 15 affidavits if completed using electronic forms; eleven minutes for Section 15 affidavits if completed using paper forms; and ten minutes for Section 15 affidavits if completed using electronic forms. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202–3513 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: PTO Desk Officer).

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Patents.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 1123, as amended, the Patent and Trademark Office is amending part 1 of title 37 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for part 1 continues to read as follows:

Authority: 35 U.S.C. 2, unless otherwise noted.

2. Revise § 1.10(a) to read as follows:

§ 1.10 Filing of correspondence by "Express Mail."

(a)(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS, except for documents described in the following paragraphs (a)(1)(i) and (ii) of this section:

(i) Trademark applications filed under section 1 or 44 of the Trademark Act, 15 U.S.C. 1051 and 1126.

(ii) Other documents for which a Trademark Electronic Application System (TEAS) form exists:

(A) Amendment to allege use under section 1(c) of the Trademark Act, 15 U.S.C. 1051(c);

(B) Statement of use under section 1(d) of the Trademark Act, 15 U.S.C. 1051(d);

(C) Request for extension of time to file a statement of use under section 1(d) of the Trademark Act, 15 U.S.C. 1051(d);

(D) Affidavit of continued use under section 8 of the Trademark Act, 15 U.S.C. 1058;

(E) Renewal request under section 9 of the Trademark Act, 15 U.S.C. 1059; and

(F) Requests to change or correct addresses.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. *See* § 1.6(a).

* * * * *

Dated: May 15, 2002.

Jon W. Dudas,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 02–12878 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AI98

Board of Veterans' Appeals: Rules of Practice—Attorney Fee Matters

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Rules of Practice of the Board of Veterans' Appeals (Board) by establishing safeguards in the case of "disinterested third-parties" who pay a veteran's attorney fees and by simplifying certain notice procedures. We have carefully considered the comments submitted in response to our notice of proposed rulemaking (NPRM), and have decided to adopt the amendments we proposed concerning those two matters, but not to adopt the provisions relating to payment of attorney fees from past-due benefits.

DATES: *Effective Dates:* This rule is effective June 24, 2002, except for § 20.609(i) which is effective July 22, 2002.

Applicability Date: Amendments to 38 CFR 20.609(i) will apply to third-party agreements received at the Board of Veterans' Appeals on or after July 22, 2002. Third party fee agreements received prior to that date will be subject to the pre-existing rules, which require that all fee agreements—including third-party agreements—be filed with the Board.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–5978.

SUPPLEMENTARY INFORMATION: On December 9, 1997, VA published in the **Federal Register** at 62 FR 64790 a Notice of Proposed Rulemaking (NPRM) which would (1) discontinue VA's practice of paying attorney fees from past-due benefits; (2) establish safeguards in the case of "disinterested third-party" payers; and (3) simplify certain notice procedures. We provided a 60-day comment period that ended February 9, 1998.

We received more than 80 comments from attorneys, individuals, local veterans' groups, Vietnam Veterans of America, Veterans' Due Process, National Organization of Veterans' Advocates, a county bar association, and members of Congress.

Most of the comments related to the issue of paying attorney fees from past-due benefits. Some comments addressed the "third-party" issue. None of those comments supported either change.

There were no comments relating to the notice procedures.

In this document, we will consider the notice procedures, the fee payment procedures, and the third-party procedures, in that order. We will also separately discuss the effective date provisions of this rule.

Based on the rationales given in the NPRM and in this document, we adopt as a final rule the provisions of the proposed rule with the changes discussed below.

I. Simplifying Notice Procedures

In our NPRM, we proposed to amend Rule 609(i) (38 CFR 20.609(i)), relating to motions to review attorney fee agreements, and Rule 610(d) (38 CFR 20.610(d)), relating to motions challenging expenses. The amendments would eliminate the requirement of mailing by certified mail and replace it with a certification by the mailer.

We received no comments on this proposal. For the reasons set forth in the NPRM, we adopt it as published.

II. Taking VA Out of the Business of Paying Attorney Fees

In our NPRM, we proposed to end VA's discretionary practice of paying attorney fees out of a veteran's past-due benefits. No commenter supported this proposal.

We have decided not to adopt the proposed amendments as a final rule.

III. Third-Party Agreements

Eleven commenters, all attorneys, commented on the "third-party payer" rule. Those comments fell into eight categories:

1. VA has no business examining contracts where fees are not to be paid from past-due benefits.

2. VA has no business examining contracts where the veteran does not pay the fee.

3. Without a contingency agreement, third-party payers would have unlimited liability.

4. Prohibiting third-party contingency agreements will discourage attorneys from representing veterans.

5. The additional requirements VA proposed on third-party fee agreements will increase the administrative burden VA is trying to reduce.

6. Include in the presumption of "not disinterested" only dependent parents.

7. Do not adopt the proposed amendments because people will violate the law anyway.

8. Without third-party contingent fee agreements, claimants will not be able to afford attorneys.

As discussed below, we find none of these arguments persuasive and publish the rule as proposed.

A. VA Has No Business Examining Contracts Where Fees Are Not To Be Paid from Past-Due Benefits

Some commenters said that VA has no business examining agreements where fees are not to be paid from past-due benefits. The law itself permits the Board to review fee agreements for reasonableness regardless of whether or not they call for payment of fees from past-due benefits. 38 U.S.C. 5904(c)(2). We make no change based on the commenters' argument.

B. VA Has No Business Examining Contracts Where the Veteran Does Not Pay the Fee

Some commenters stated that VA has no authority to examine a fee agreement when the claimant is not paying the fee.

VA is the part of the Executive Branch charged with enforcing, among other things, the provisions of 38 U.S.C. 5904. *Id.* 501(a) (Secretary has authority to prescribe all rules and regulations necessary or appropriate to carry out the laws administered by the Department). VA is neither required nor expected to turn a blind eye to attempts to evade the law. Indeed, it is a criminal offense to charge a fee in VA cases except as provided by statute. 38 U.S.C. 5905.

It has been our experience that the majority of third-party agreements are rather blatant attempts to avoid the restriction, imposed by the Veterans' Judicial Review Act (VJRA), Public Law 100–687, Div. A, 102 Stat. 4105 (1988), that attorneys may not charge veterans for services which are rendered prior to the first final Board decision on an issue. The Congress was quite clear that attorneys should not be paid until the veteran had gone through the system once using the free representation provided by veterans service organizations (VSOs). That clarity is shown in this statement by the Chairman of the Senate Committee on Veterans' Affairs during the 1988 debate on the VJRA:

> The compromise agreement before us today prohibits attorneys fees until after the BVA makes its first final decision, thus contemplating that the current practice of veterans being assisted by skilled veterans' service officers throughout the VA and initial BVA administrative processes would continue to operate exactly as it does now.

134 Cong. Rec. S16632, 16646 (daily ed. Oct. 18, 1988) (debate on the VJRA) (remarks of Sen. Cranston). *See also id.* at H10333, H10344 (daily ed. Oct. 19, 1988) (remarks of Rep. Montgomery, Chairman of the House Committee on Veterans' Affairs) (VJRA was designed to permit VSOs to continue to have the predominant role in helping veterans get the benefits they deserve).

In addition, the disinterested third-party exception to the restriction on payment of attorney fees is just that: an exception. Not any third party may pay a veteran's legal bills—only a "disinterested" third party. VA cannot know if an arrangement meets this criterion unless it is able to examine the agreement.

VA has the authority to review agreements, so we make no change based on the argument to the contrary.

C. Without a Contingency Agreement, Third—Party Payers Would Have Unlimited Liability

In our NPRM, we proposed barring any contingent fee agreements by third parties. The primary basis for this proposal was that contingent fee agreements function as a financing device that enables a client to assert and prosecute an otherwise unaffordable claim. If a third party agrees to pay an attorney to represent a veteran (or other claimant) because the law bars the attorney from charging the veteran a fee, the issue of "financing" the cost of the litigation through a successful outcome is moot: By definition, a disinterested third party will receive no benefit from any award to the veteran, so that the outcome can generate no funds with which to pay the attorney. 62 FR at 64792.

Some commenters argued that contingent fee agreements were useful because such agreements would limit the liability of the payer.

We make no change based on the commenters' argument. Agreeing to pay a percentage of an award does not, in any real sense, limit the liability of the third-party payer. Such a payer still has no idea at the outset how much that award will be. Some past-due benefits amount to a few hundred dollars, some to hundreds of thousands. In many cases, there is simply no way to predict what that amount will be.

D. Prohibiting Third-Party Contingency Agreements Will Discourage Attorneys from Representing Veterans

Some commenters argued that prohibiting third-party contingency agreements will discourage attorneys from representing veterans. For the reasons discussed above and in the Supplementary Information to our NPRM, we do not believe that contingency agreements make any sense in the third-party context. Their use encourages evasion of the law. The only attorneys who will be "discouraged" will be those who rely on the veteran to reimburse the so-called "disinterested" third party. We make no change on the commenters" argument.

E. The Additional Requirements VA Proposed on Third-Party Fee Agreements Will Increase the Administrative Burden VA is Trying to Reduce

Three commenters argued that our proposed increased requirements relating to third-party agreements will increase the administrative burden that VA is attempting to reduce by this rulemaking. While that is true as far as it goes, it is also true that these changes are necessary to help enforce statutory limitations on payment that are being violated. As discussed above and in the Supplementary Information to our NPRM, it is our experience that third-party agreements are being used to evade those limitations. We cannot quantify the effect of the increased requirements, but, since the number of cases involving attorney representation is relatively small—2,132 of 34,028 appeals in FY 2000 (6.3%)'and since we assume that most attorneys follow the law and regulations relating to filing fee agreements, we have no reason to believe that the overall cost to VA will be high. We make no change based on the commenters' argument.

F. Include in the Presumption of "not disinterested" Only Dependent Parents

One commenter suggested that we amend 38 CFR 609(d)(2)(ii), which provides that a parent is presumed not to be a disinterested third party, to provide that only dependent parents would be so presumed. As we discussed in our NPRM, one of our concerns in third-party issues is the creation of "straw men," i.e., individuals who nominally pay the attorney fee, but who in fact are, at best, mere conduits for the client's money. We note that the same regulation permits a person who is presumed not to be disinterested to demonstrate, by clear and convincing evidence, that he or she has no financial interest in the success of the claim. Accordingly, we reject this suggestion.

G. We Should Not Publish the Rules Because People Will Violate the Law Anyway

One commenter suggested that we abandon our third-party rules because people will violate the law anyway. We do not find this a persuasive argument.

H. Without Third-Party Contingent Fee Agreements, Claimants will not be Able to Afford Attorneys

One commenter suggested that, without third-party contingent agreements, claimants will not be able to afford attorneys. As we discussed above and in our NPRM, if an attorney's fee is being paid by a disinterested third party, the represented claimant's ability to pay is simply irrelevant. The whole point of payment by a disinterested third party is that someone other than the claimant pays the attorney's fee. Accordingly, we make no change based on this argument.

IV. Effective Dates

Most of the amendments made by this notice are effective June 24, 2002. However, the amendments to 38 CFR 20.609(i) requiring specific information and certifications in the case of third-party fee agreements will apply only to third-party agreements received at the Board of Veterans' Appeals on or after July 22, 2002. Third-party fee agreements received prior to that date will be subject to the pre-existing rules which, since 1992, have required that all fee agreements—including third-party agreements—be filed with the Board. Rule 609(g), 38 CFR 20.609(g). We are delaying the applicability date of the third-party changes to give attorneys time to modify their contracts with clients, if necessary.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect only the processing of claims by VA and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: March 1, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. In subpart A, § 20.3, paragraphs (n), (o), and (p) are redesignated as paragraphs (o), (p), and (q), respectively; and a new paragraph (n) is added to read as follows:

§ 20.3 Rule 3. Definitions.

* * * * *

(n) *Past-due benefits* means a nonrecurring payment resulting from a benefit, or benefits, granted on appeal or awarded on the basis of a claim reopened after a denial by the Board of Veterans' Appeals or the lump sum payment which represents the total amount of recurring cash payments which accrued between the effective date of the award, as determined by applicable laws and regulations, and the date of the grant of the benefit by the agency of original jurisdiction, the Board of Veterans' Appeals, or an appellate court.

* * * * *

3. In subpart G, § 20.609, paragraphs (d)(2), (f), (g), and (i) are revised and paragraph (j) is added to read as follows:

§ 20.609 Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

* * * * *

(d) * * *

(2) *Payment of fee by disinterested third party.* (i) An attorney-at-law or agent may receive a fee or salary from an organization, governmental entity, or other disinterested third party for representation of a claimant or appellant even though the conditions set forth in paragraph (c) of this section have not been met. In no such case may the attorney or agent charge a fee which is contingent, in whole or in part, on whether the matter is resolved in a manner favorable to the claimant or appellant.

(ii) For purposes of this part, a person shall be presumed not to be disinterested if that person is the spouse, child, or parent of the claimant or appellant, or if that person resides with the claimant or appellant. This presumption may be rebutted by clear and convincing evidence that the person in question has no financial interest in the success of the claim.

(iii) The provisions of paragraph (g) of this section (relating to fee agreements) shall apply to all payments or agreements to pay involving disinterested third parties. In addition, the agreement shall include or be accompanied by the following statement, signed by the attorney or agent: "I certify that no agreement, oral or otherwise, exists under which the claimant or appellant will provide anything of value to the third-party payer in this case in return for payment of my fee or salary, including, but not limited to, reimbursement of any fees paid.".

* * * * *

(f) *Presumption of reasonableness.* Fees which total no more than 20 percent of any past-due benefits awarded, as defined in Rule 20.3(n) (§ 20.3(n) of this part), will be presumed to be reasonable.

(g) *Fee agreements.* All agreements for the payment of fees for services of attorneys-at-law and agents (including agreements involving fees or salary paid by an organization, governmental entity or other disinterested third party) must be in writing and signed by both the claimant or appellant and the attorney-at-law or agent. The agreement must include the name of the veteran, the name of the claimant or appellant if other than the veteran, the name of each disinterested third-party payer (see paragraph (d)(2) of this section), the applicable Department of Veterans Affairs file number, and the specific terms under which the amount to be paid for the services of the attorney-at-law or agent will be determined. A copy of the agreement must be filed with the Board of Veterans' Appeals within 30 days of its execution by mailing the copy to the following address: Office of the Senior Deputy Vice Chairman (012), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420.

* * * * *

(i) *Motion for review of fee agreement.* The Board of Veterans' Appeals may review a fee agreement between a claimant or appellant and an attorney-at-law or agent upon its own motion or upon the motion of any party to the agreement and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable in light of the standards set forth in paragraph (e) of this section. Such motions must be in writing and must include the name of the veteran, the name of the claimant or appellant if other than the veteran, and the applicable Department of Veterans Affairs file number. Such motions must set forth the reason, or reasons, why the fee called for in the agreement is excessive or unreasonable; must be accompanied by all evidence the moving party desires to submit; and must include a signed statement certifying that a copy of the motion and any evidence was sent by first-class mail, postage prepaid, to each other party to the agreement, setting forth the address to which each such copy was mailed. Such motions (other than motions by the Board) must be filed at the following address: Office of the Senior Deputy Vice Chairman (012), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420. The other parties may file a response to the motion, with any accompanying evidence, with the Board at the same address not later than 30 days following the date of receipt of the copy of the motion and must include a signed statement certifying that a copy of the response and any evidence was sent by first-class mail, postage prepaid, to each other party to the agreement, setting forth the address to which each such copy was mailed. Once there has been a ruling on the motion, an order shall issue which will constitute the final decision of the Board with respect to the motion. If a reduction in the fee is ordered, the attorney or agent must credit the account of the claimant or appellant with the amount of the reduction and refund any excess payment on account to the claimant or appellant not later than the expiration of the time within which the ruling may be appealed to the United States Court of Appeals for Veterans Claims.

(j) In addition to whatever other penalties may be prescribed by law or regulation, failure to comply with the requirements of this section may result in proceedings under § 14.633 of this chapter to terminate the attorney's or agent's right to practice before the Department of Veterans Affairs and the Board of Veterans' Appeals.

* * * * *

4. In subpart G, § 20.610, paragraph (d) is revised, and paragraph (e) is added to read as follows:

§ 20.610 Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

* * * * *

(d) *Expense charges permitted; motion for review of expenses.* Reimbursement for the expenses of a representative may be obtained only if the expenses are reasonable. The Board of Veterans' Appeals may review expenses charged by a representative upon the motion of the claimant or appellant and may order a reduction in the expenses charged if it finds that they are excessive or unreasonable. Such motions must be in writing and must include the name of the veteran, the name of the claimant or appellant if other than the veteran, and the applicable Department of Veterans Affairs file number. Such motions must specifically identify which expenses charged are unreasonable; must set forth the reason, or reasons, why such expenses are excessive or unreasonable; must be accompanied by all evidence the claimant or appellant desires to submit; and must include a signed statement certifying that a copy of the motion and any evidence was sent by first-class mail, postage prepaid, to the representative. Such motions must be filed at the following address: Office of the Senior Deputy Vice Chairman (012), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420. The representative may file a response to the motion, with any accompanying evidence, with the Board at the same address not later than 30 days following the date of receipt of the copy of the motion and must include a signed statement certifying that a copy of the response and any evidence was sent by first-class mail, postage prepaid, to the claimant or appellant, setting forth the address to which the copy was mailed. Factors considered in determining whether expenses are excessive or unreasonable include the complexity of the case, the potential extent of benefits recoverable, whether travel expenses are in keeping with expenses normally incurred by other representatives, etc. Once there has been a ruling on the motion, an order shall issue which will constitute the final decision of the Board with respect to the motion.

(e) In addition to whatever other penalties may be prescribed by law or regulation, failure to comply with the requirements of this section may result in proceedings under § 14.633 of this chapter to terminate the attorney's or agent's right to practice before the Department of Veterans Affairs and the Board of Veterans' Appeals.

* * * * *

[FR Doc. 02–12866 Filed 5–22–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA247–0325a; FRL–7201–6]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from solvent usage and graphic arts operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 22, 2002 without further notice, unless EPA receives adverse comments by June 24, 2002. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington D.C. 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765–4182; and,

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4111.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	442	Usage of Solvents	12/15/00	05/08/01
VCAPCD	74.19	Graphic Arts	4/10/01	10/30/01

EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V on the following dates: on July 20, 2001 for SCAQMD Rule 442; and on January 18, 2002 for VCAPCD Rule 74.19. These completeness criteria must be met before formal EPA review may begin.

B. Are there Other Versions of These Rules?

We approved a version of SCAQMD Rule 442 into the SIP on November 16, 1983. We approved a version of VCAPCD Rule 74.19 into the SIP on April 19, 2001. Between these dates and today's action, California has not made an intervening submittal of these rules.

C. What Is the Purpose of the Rule Revisions?

SCAQMD Rule 442 specifies emission limits for organic materials used in operations not governed by SCAQMD Regulation 11 rules. These emission limits take the form of daily and monthly facility wide emission caps. A facility may meet these caps by installing emission control equipment, changing product formulation, or modifying manufacturing operations.

SCAQMD's December 15, 2000 amendments to Rule 442 revised the 1983 version within the SIP. Now, Rule 442 is formatted similar to other SCAQMD prohibitory rules. Consequently, the rule now incorporates the following sections: purpose, applicability, definitions, requirements, control equipment, test methods, recordkeeping, storage and disposal of VOC containing materials, and exemptions. Most of the 1983 rule language has been incorporated within this new format. The most significant addition to Rule 442 is the emission requirements that apply upon January 1, 2003. Here, daily VOC emission caps are replaced by a monthly emission cap of 833 pounds per facility.

VCAPCD Rule 74.19 is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in graphics arts operations such as flexographic printing, gravure printing, and lithographic printing. VOCs are emitted during the surface preparation, cleaning, printing, and drying phases of these processes.

VCAPCD's September 10, 1996 version of Rule 74.19 was amended as follows:

—The required ROC (reactive organic compound) content of adhesives used for printing operations was lowered;
—The required ROC content of flexographic inks on porous substrates was lowered;
—The required ROC content of fountain solutions used by lithographic printing operations was lowered;
—The required ROC content or vapor pressure of cleaning solvents used for printing operations was reduced; and
—The exemption limit of the rule was lowered from 175 pounds of ROC emissions per month to 200 pounds of ROC emissions per year.

Each rule's TSD has more information on these changes.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). Both the SCAQMD and VCAPCD regulate an ozone nonattainment area (see 40 CFR part 81), so both Rule 442 and Rule 74.19 must fulfill RACT.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Document," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
3. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VIII: Graphic Arts—Rotogravure and Flexography," USEPA, December 1978, EPA–450/2–78–033. A second draft CTG was published along with a companion Alternative Control Technique (ACT) document:
4. "Guideline Series, Control of Volatile Organic Compound Emissions from Offset Lithographic Printing," Draft, USEPA, OAQPS, September 1993; and,
5. "Alternative Control Techniques Document: Offset Lithographic Printing," USEPA, OAQPS, June 1994, EPA 453/R–94–054.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

Within SCAQMD Rule 442, daily VOC emission caps are replaced by a monthly emission cap of 833 pounds per facility. This monthly emissions cap of 833 pounds per month is approximately equivalent to the daily cap for photochemically reactive solvents assuming 22 working days a month. Furthermore, the 833 pound monthly limit is more stringent than the 600 pound daily emissions cap for non-photochemically reactive organic solvents that will be removed. As a result, the submitted Rule 442 does not interfere with reasonable further progress or attainment.

VCAPCD Rule 74.19's coating limits and exemption limit have been made more stringent. VCAPCD staff estimate that the April 10, 2001 changes to Rule 74.19 will reduce ROC emissions from graphics arts operations by 20 tons per year. In sum, the SIP is not weakened by the April 2001 changes to Rule 74.19.

The TSD for each rule has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSD for VCAPCD Rule 74.19 describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by June 24, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 22, 2002. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 22, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 29, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(284)(i)(B)(*3*) and (c)(288)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(284) * * *

(i) * * *

(B) * * *

(*3*) Rule 442 adopted on May 7, 1976 and amended on December 15, 2000.

* * * * *

(288) * * *

(i) * * *

(C) Ventura County Air Pollution Control District.

(*1*) Rule 74.19 adopted on August 11, 1992 and amended on April 10, 2001.

* * * * *

[FR Doc. 02–12839 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA183–4192a; FRL–7211–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Bethlehem Steel Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for Bethlehem Steel Corporation. Bethlehem Steel Corporation is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in Dauphin County, Pennsylvania. EPA is approving this revision to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on July 22, 2002 without further notice, unless EPA receives adverse written comment by June 24, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Branch Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182 or Betty Harris at (215) 814–2168 or via e-mail at *quinto.rose@epa.gov* or *harris.betty@epa.gov*. Please note that while questions may be posed via e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

II. Summary of the SIP Revision

On December 21, 2001, PADEP submitted formal revisions to its SIP to establish and impose RACT for several major sources of VOC and NO_X. This rulemaking pertains to one of those sources. The other sources are the subject of separate rulemaking actions. The RACT determinations and requirements are included in plan approvals or operating permits issued by PADEP.

Bethlehem Steel Corporation (BSC) manufactures steel materials. This facility is located in Dauphin County, Pennsylvania and is considered a major VOC and NO_X emitting facility. In this instance, RACT has been established and imposed by PADEP in an operating permit. On December 21, 2001, PADEP submitted operating permit No. OP 22–02012 to EPA as a SIP revision. This permit requires BSC sources and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. This permit also contains a facility-wide NO_X emission limit of 1,206 tons per year based on a 12-month rolling total, and includes NO_X emissions generated by BSC's steel production sources, combustion units of rated capacity greater than 50 million British Thermal Units per hour (mmbtu/hr), and combustion sources of rated capacity between 20–50 mmbtu/hr. Additionally, VOC emissions from this facility shall not exceed 210 tons per year based on a 12-month rolling total. The annual capacities of BSC's Boilers 2 and 5; 20-inch Mill Reheat Furnace; 35-inch Mill Reheat Furnaces 3 and 4; and Soaking Pit Batteries 1 through 6, shall not exceed the aforementioned facility-wide VOC emission limit. This permit also requires BSC to perform stack testing in accordance with 25 Pa Code Chapter 139 and approved by PADEP. BSC must comply with the recordkeeping requirements of 25 Pa Code, section 129.95, and shall consist of records pertaining to fuel usage, steel production throughput, and operating hours for NO_X sources. For the VOC sources, BSC shall maintain records pertaining to operating hours and usage of coatings, isopropylene, quench oil, and safety kleen. These records shall be retained for two years, and made available to PADEP upon request.

III. EPA's Evaluation of the SIP Revisions

EPA is approving this SIP submittal because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

IV. Final Action

EPA is approving a revision to the Commonwealth of Pennsylvania's SIP which establishes and requires RACT for Bethlehem Steel Corporation located in Dauphin County, Pennsylvania. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This direct final rule will be effective on July 22, 2002 without further notice unless we receive adverse comment by June 24, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for Bethlehem Steel Corporation.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 22, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from Bethlehem Steel Corporation may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(191) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(191) Revisions pertaining to VOC and NO_X RACT determinations for a major source submitted by the Pennsylvania Department of Environmental Protection on December 21, 2001.

(i) *Incorporation by reference.*

(A) A letter submitted on December 21, 2001 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO_X RACT determinations.

(B) Operating permit (OP) for Bethlehem Steel Corporation, Dauphin County, 22–02012, effective April 9, 1999.

(ii) *Additional material.* Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(191)(i)(B) of this section.

[FR Doc. 02–12837 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7216–8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA, also the Agency or we in this preamble) today is granting a petition submitted by Weirton Steel Corporation (Weirton) to exclude (or delist), on a one-time basis, a wastewater treatment sludge from the lists of hazardous wastes.

After careful analysis, we have concluded the petitioned waste does not present an unacceptable risk when disposed of in a Subtitle D (nonhazardous waste) landfill. This exclusion applies to wastewater treatment sludge previously generated at the Weirton facility in Weirton, West Virginia, which is contained in an inactive surface impoundment (the East Lagoon) and two tanks (the Figure 8 tanks). Accordingly, this final rule conditionally excludes a specific volume of the petitioned waste from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when the petitioned waste is removed from the units in which it currently resides for disposal in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

EFFECTIVE DATE: May 23, 2002.

ADDRESSES: The RCRA regulatory docket for this final rule is located at the offices of U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103–2029, and is available for you to view from 8:30 a.m. to 5 p.m., Monday through Friday, except on Federal holidays. Please call David M. Friedman at (215) 814–3395 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, please contact David M. Friedman at the address above or at (215) 814–3395.

SUPPLEMENTARY INFORMATION:

Official Record

The official record for this action is kept in a paper format. The official record is maintained at the address in the **ADDRESSES** section at the beginning of this document.

Preamble Outline

I. Overview Information
II. Background
A. What is a delisting petition?
B. What regulations allow hazardous waste generators to delist waste?
C. What information must the generator supply?
III. Weirton's Delisting Petition
A. What waste is the subject of Weirton's petition?
B. What information did Weirton submit to support this petition?
IV. EPA's Evaluation and Final Decision
A. Why is EPA approving this petition?
B. What limitations are associated with this exclusion?
C. When is the final rule effective?
D. How does this action affect States?
V. Public Comments Received on the Proposed Exclusion
A. Who submitted comments on the proposed rule?
B. What were the comments?
VI. Administrative Assessments

I. Overview Information

On February 26, 2002, we proposed to grant a petition submitted by Weirton to exclude (or delist) from the definition of hazardous waste on a one-time basis, a wastewater treatment sludge currently contained in several onsite units. Today we are finalizing the decision to grant a conditional exclusion as described in the February 26, 2002, proposed rule.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a formal request from a generator to exclude from the lists of hazardous waste regulated by RCRA, a waste that the generator believes should not be considered hazardous.

In order for a petition to succeed, a petitioner must first show that a waste generated at its facility does not meet any of the criteria for which the waste was listed. The criteria which we use to list wastes are found in 40 CFR 261.11. An explanation of how these criteria apply to a particular waste is contained in the background document for that listed waste.

In addition, the petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics defined in subpart C of 40 CFR part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity), and must present sufficient information for us to determine whether any other factors (including additional constituents) warrant retaining the waste as a hazardous waste.

A generator remains obligated under RCRA to confirm that its waste remains non-hazardous based on the hazardous waste characteristics defined in subpart C of 40 CFR part 261, even if EPA has delisted its waste.

B. What Regulations Allow Hazardous Waste Generators To Delist Waste?

Under 40 CFR 260.20 and 260.22, a generator may petition EPA to remove its waste from hazardous waste control by excluding it from the lists of hazardous wastes contained in 40 CFR 261.31, 261.32 and 261.33. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273 of Title 40 of the Code of Federal Regulations. 40 CFR 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

C. What Information Must the Generator Supply?

A petitioner must provide sufficient information to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine that the waste is not hazardous for any other reason.

III. Weirton's Delisting Petition

A. What Waste Is the Subject of Weirton's Petition?

Weirton owns and operates an integrated steel mill, including the C&E wastewater treatment plant, occupying approximately 1300 acres on the banks of the Ohio River in Weirton, WV. On March 3, 1999, Weirton petitioned EPA to exclude, on a one-time basis, 18,000 cubic yards of wastewater treatment sludge contained in an inactive surface impoundment (the East Lagoon) and two tanks (the Figure 8 tanks) from the list of hazardous wastes contained in 40 CFR 261.31. The wastewater treatment sludge (known as the C&E sludge) is described in Weirton's petition as a mixture of small quantities of EPA Hazardous Waste Numbers F007 (spent cyanide plating bath solutions from electroplating operations) and F008 (plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process) with nonhazardous solids that settled during treatment of process wastewater, cooling water, quench water, and stormwater entering Weirton's C&E outfall area.

B. What Information Did Weirton Submit To Support This Petition?

To support its petition, Weirton submitted (1) detailed descriptions of its manufacturing and wastewater treatment processes, including Material Safety Data Sheets (MSDS) for commercial products used in its processes; (2) detailed analytical results from representative samples of its wastewater treatment sludge collected both by the United States Army Corps of Engineers and by Weirton; and (3) environmental monitoring data from a groundwater investigation being conducted as part of an ongoing RCRA Facility Investigation at its site.

IV. EPA's Evaluation and Final Decision

A. Why Is EPA Approving This Petition?

Weirton petitioned EPA to exclude or delist on a one-time basis, the wastewater treatment sludge contained in an inactive surface impoundment (the East Lagoon) and two tanks (the Figure 8 tanks) because Weirton believes that the petitioned waste does not meet the criteria for which it was listed as a hazardous waste. Weirton also believes that the waste does not contain other constituents in concentrations that would render it hazardous.

Review of this petition included consideration of the original listing criteria, as well as factors (including additional constituents) other than those for which the waste was listed, as required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See, section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(a)(1) and (2).

On February 26, 2002, we proposed to conditionally exclude Weirton's C&E sludge from the list of hazardous wastes in 40 CFR 261.31, and requested public comment on the proposed rule. (See, 67 FR 8762). For reasons stated in both the proposed rule and this document, we believe that Weirton's C&E sludge should be excluded from hazardous waste control.

B. What Limitations Are Associated With This Exclusion?

This exclusion applies only to a maximum volume of 18,000 cubic yards of C&E sludge, the estimated amount currently contained in the East Lagoon and the Figure 8 tanks as described in Weirton's petition. Any volume of sludge exceeding this amount cannot be managed as nonhazardous waste under this exclusion.

This exclusion will be effective only when the sludge is removed from the units in which it currently resides. That is, the C&E sludge remains a hazardous waste until it is removed from the East Lagoon and the Figure 8 tanks for transportation and subsequent disposal in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage municipal or industrial solid waste.

Furthermore, Weirton must provide a one-time notification to any State regulatory agency to which or through which the delisted waste will be transported for disposal at least 60 calendar days prior to commencing these activities.

C. When Is the Final Rule Effective?

This rule is effective May 23, 2002. HSWA amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. For these same reasons, this rule can become effective immediately (that is, upon publication in the **Federal Register**) under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How Does This Action Affect States?

Because EPA is issuing today's exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be directly affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received EPA's authorization to make their own delisting decisions. We describe these two situations below.

We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's under Section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the State, or that prohibits a Federally issued exclusion from taking effect in the State until the State approves the exclusion through a separate State administrative action. Because a dual system (that is, both Federal and State programs) may regulate a petitioner's waste, we urge petitioners to contact the applicable State regulatory authorities or agencies to establish the status of their waste under that State's program.

We have also authorized some States to administer a delisting program in place of the Federal program; that is, to make State delisting decisions. Therefore, this exclusion does not necessarily apply within those authorized States. If Weirton transports the petitioned waste to, or manages the waste in, any State with delisting authorization, Weirton must obtain delisting approval from that State before it can manage the waste as nonhazardous in that State.

V. Public Comments Received on the Proposed Exclusion

A. Who Submitted Comments on the Proposed Rule?

We received public comments on the February 26, 2002, proposed exclusion from one interested party which was Weirton, the petitioner.

B. What Were the Comments?

Weirton expressed its support for the proposed exclusion.

VI. Administrative Assessments

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a rule of general applicability and therefore is not a "regulatory action" subject to review by the Office of Management and Budget. Because this action is a rule of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because the rule will affect only one facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of Indian tribal governments, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). For the same reason, this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Section 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: May 13, 2002.

Donald S. Welsh,

Regional Administrator, Region III.

For the reasons set forth in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

Appendix IX of Part 261—[Amended]

2. Table 1 of appendix IX of part 261 is amended to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
•	•	•
Weirton Steel Corporation ..	Weirton, West Virginia	Wastewater treatment sludge (known as C&E sludge) containing EPA Hazardous Waste Numbers F007 and F008, subsequent to its excavation from the East Lagoon and the Figure 8 tanks for the purpose of transportation and disposal in a Subtitle D landfill after May 23, 2002. This is a one-time exclusion for a maximum volume of 18,000 cubic yards of C&E sludge. (1) Reopener language. (a) If Weirton discovers that any condition or assumption related to the characterization of the excluded waste which was used in the evaluation of the petition or that was predicted through modeling is not as reported in the petition, then Weirton must report any information relevant to that condition or assumption, in writing, to the Regional Administrator and the West Virginia Department of Environmental Protection within 10 calendar days of discovering that information. (b) Upon receiving information described in paragraph (a) of this section, regardless of its source, the Regional Administrator and the West Virginia Department of Environmental Protection will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health or the environment. (2) Notification Requirements. Weirton must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 calendar days prior to the commencement of such activities. Failure to provide such notification will be deemed to be a violation of this exclusion and may result in revocation of the decision and other enforcement action.
•	•	•

[FR Doc. 02–12964 Filed 5–22–02; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; FCC 02–120]

Enhanced 911 Emergency Calling; Use of Non-Initialized Wireless Phones

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses issues associated with the inability of a public safety answering point to call back an emergency caller for further critical information when that caller is dialing 911 using a non-service-initialized wireless telephone. The document requires that non-service-initialized handsets donated through carrier-sponsored programs and newly manufactured "911-only" phones be programmed with an identifying code, and that wireless carriers complete any network programming necessary to deliver this code. The document also requires that such phones be labeled to alert the user to the lack of call-back capability. Finally, the document requires that public education programs be instituted to inform users of the limitations of non-initialized phones. The Commission takes these steps to alert all parties involved in a wireless 911 call originating from an non-initialized phone of the need for quick information as to the caller's exact location, thus increasing the likelihood that emergency services can be dispatched quickly to save lives.

DATES: Effective October 1, 2002. Public comment on the information collection is due July 22, 2002. Written comment by the Office of Management and Budget (OMB) must be submitted on or before September 20, 2002.

ADDRESSES: A copy of any comments on the information collection contained herein should be submitted to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*, and to Jeanette Thornton; at *JThornto@omb.eop.gov*. OMB Desk Officer, 10236 NEOB, 725–17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Patrick Webre, Attorney, 202–418–1310. Details regarding the information collection contained in this Report and Order, are available from Judith Boley Herman, Federal Communications Commission, 202–418–0214, or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in CC Docket No. 94–102; FCC 02–120, adopted April 17, 2002, and released April 29, 2002. The complete text of this R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail at *qualexint@aol.com*. Alternative formats (computer diskette, large print, audio cassettes, and Braille) are available to persons with disabilities by contacting Brian Millin at 202–418–7426, TTY 202–418–7365, or at *bmillin@fcc.gov*.

Synopsis of the Report and Order

1. In this Report and Order (R&O) the Commission takes further steps to improve the ability of public safety answering points (PSAPs) to respond quickly and efficiently to calls for emergency assistance made from a wireless mobile telephone. Specifically, the Commission addresses the issues associated with the inability of a PSAP to call back a 911 caller who is disconnected prematurely when that caller is using a non-service initialized wireless telephone (non-initialized phone). Non-initialized phones are handsets that are not registered for service with any Commercial Mobile Radio Service carrier. Because carriers generally assign a dialable number to a handset only when a customer enters into a service contract, a non-initialized phone lacks a dialable number. This presents a problem for PSAPs when a caller using a non-initialized phone fails to provide critical information, such as precise location information, before the call is terminated. Because the PSAP cannot call a non-initialized phone back to obtain further information from the user, delays in response time can occur. The Further Notice of Proposed Rulemaking (FNPRM) regarding this issue may be found at 66 FR 31878, June 13, 2001.

2. The Commission, in the R&O, first requires that non-service-initialized handsets donated through carrier-sponsored programs and newly manufactured "911-only" phones be programmed with the code 123–456–7890 as the "telephone number" to alert PSAPs that a 911 call is being made from a wireless phone that lacks call-back capability. The Commission also requires that carriers complete any network programming necessary to deliver the 123–456–7890 telephone number to PSAPs, and not reject this number when a 911 call from a non-initialized phone programmed with this number is placed. The coding and software requirements are described in paragraphs 26 through 37 of the R&O.

3. The Commission also requires that non-initialized phones be labeled to alert the user to the lack of call-back capability. This will place users on notice that in using non-initialized or "911-only" phones, the caller must be sure to disclose all relevant information which might help the PSAP locate and resolve the emergency situation before the call is disconnected. The labeling requirement is detailed in paragraphs 38 through 41 of the R&O.

4. Finally, the Commission requires that carriers donating non-initialized phones and manufacturers of "911-only" phones must institute education programs to further inform users of the limitations of non-initialized phones. As indicated in paragraph 42 of the R&O, part of their programs must include a notice, in addition to the label affixed to the phone, which is provided at the time the phone is transferred to the user. The notice should give a more detailed explanation of the limitations of non-initialized phones, including distinctions between service-initialized phones and non-initialized phones.

5. The Commission will implement these rules for manufacturers of 911-only phones, which are not capable of receiving incoming calls, through an equipment manufacturing requirement and our equipment authorization process. As of October 1, 2002, each mobile unit manufactured as a 911-only phone must have installed 123–456–7890 as its telephone number/mobile identification number as we have described herein. It must also have affixed a prominently displayed and legible label which will alert the user that the phone can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible. The Commission finds that notice of more than five months constitutes sufficient time to enable manufacturers of 911-only phones to effect those design and production modifications that will be necessary to comply with our rule. The Commission will consider the incorporation of modifications to existing authorized equipment to be Class I permissive changes that do not require a filing with the Commission.

6. The Commission finds that the requirements adopted in the R&O strike a fair balance between the interests of PSAPs and consumers in minimizing response delays in emergency situations, and carriers and manufacturers who share the concerns of PSAPs and consumers, but also must consider financial and technological realities. The Commission, in paragraphs 8 through 24 of the R&O, considers a number of alternative solutions to the inability of PSAPs to return calls from non-initialized phones used to dial 911 in emergency situations, including technical solutions. Briefly, the Commission concludes that it cannot require carriers to develop and implement a call-back solution at this stage. The Commission indicates that this conclusion reflects both the dearth of information received regarding the scope of the problem generated by the use of non-initialized phones, as well as the dearth of record evidence regarding the viability and feasibility of possible technical solutions to provide call-back capability to non-initialized phones.

7. The Commission will continue to monitor this issue and any data forwarded regarding the number of non-initialized calls received by PSAPs which require call-back. The Commission will also monitor the technical aspects of the issue. If a technologically feasible approach for call-back capability to non-initialized phones becomes available, the Commission reserves the ability to impose a call-back requirement on carriers and manufacturers of 911-only phones.

Paperwork Reduction Act

8. This R&O contains a revised information collection. As part of the Commission's continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget to take this opportunity to

comment on the information collections contained in this R&O, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due July 22, 2002. Written comments from the Office of Management and Budget are due September 20, 2002. Comments should address: (a) Whether the new collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0987.

Title: Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Non-Initialized Phones.

Form No.: N.A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for profit, State, local government.

Number of Respondents: 3,137.

Estimated Time Per Response: 1 to 3 hours.

Total Annual Burden: 4,660 one-time burden hours.

Cost to Respondents: $661,125.

Needs and Uses: The labeling requirement, education requirement, and software/coding requirement are all needed to make all parties involved in emergency calls originating from non-initialized and "911-only" phones aware that the calling party cannot be reached for further information if necessary. Thus, complete, critical location information must be supplied to the PSAP as quickly as possible in the originating call.

Regulatory Flexibility Act

9. This is a summary of the Final Regulatory Flexibility Act Analysis. The full text of the Analysis may be found in Appendix C of the full Report and Order.

10. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the FNPRM in CC Docket No. 94–102. The Commission sought written public comment on the proposals in the FNPRM, comments on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

11. The actions adopted in the Report and Order (R&O) are intended to respond to the problems arising from the inability of non-initialized phones used for emergency purposes, to receive incoming calls from Public Safety Answering Points (PSAPs) seeking further information to assist in servicing E911 emergency callers. Non-initialized wireless phones are not registered with a carrier and thus lacks a dialable number. The important steps adopted in this R&O will alert the parties involved in a wireless 911 call of the need for quick information as to the caller's exact location, thus increasing the likelihood that emergency services can be dispatched quickly to save lives, while imposing limited burdens on wireless carriers and manufacturers of "911-only" telephones.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

12. Although no comments were filed in direct response to the IRFA, comments were filed discussing issues of interest to small entities. PSAPs, wireless carriers, and equipment manufacturers generally agree that the ability of a PSAP to return a wireless 911 call if the originating call is dropped or the caller hangs up prematurely is important is ensuring a prompt emergency response. Public safety entities generally disagree with wireless carriers and equipment manufacturers regarding the availability and feasibility of a technical solution to the problem. Comments supporting the position that a technical solution to provide call-back capability to non-initialized phones is not feasible are discussed in paragraphs thirteen through twenty-four of the R&O. Individual proposals as to how to solve the call-back problem of non-initialized phones are further discussed elsewhere in this FRFA.

13. The Commission also received comment a proposed requirement that all carrier-sponsored wireless phone donation programs be service initialized so that call-back from the PSAPs will be available if needed. These comments, as well as the Commission's decision not to impose a mandate that all carrier-sponsored programs donate service-initialized phones, are discussed in paragraphs twenty-five through thirty-seven of the R&O.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

14. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. Nationwide, there are 4.44 million small business firms, according to SBA reporting data. The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000. There are 85,006 governmental jurisdictions in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities. In this regard, we note that there are approximately 5,000 primary PSAPs, most of whom qualify as small entities because they are either small organizations or small governmental jurisdictions.

15. Throughout this analysis, the Commission uses the closest applicable definition under the SBA rules, the North American Industry Classification System (NAICS) standards for "Cellular and Other Wireless Telecommunications" and "Wired Telecommunications Carriers." According to both of these standards, a small entity is one with no more than 1,500 employees. To determine which of the affected entities in the affected services fit into the SBA definition of small business, the Commission has consistently referred to Table 5.3 in Trends in Telephone Service (Trends), a report published annually by the Commission's Wireline Competition Bureau.

16. We have included small incumbent local exchange carriers in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

Local Exchange Carriers. According to the most recent data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, or are not independently owned. However, 1,037 local exchange carriers report that, in combination with their affiliates, they have 1,500 or fewer employees, and would thus be considered small businesses as defined by NAICS. Also included in the number of local exchange carriers is the rural radio telephone service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the NAICS definition.

Competitive Access Providers and Competitive Local Exchange Carriers (CAPs and CLECs). Trends indicates that 349 CAPs and CLECs, 87 local resellers, and 60 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services. The Commission does not have data specifying the number of these carriers that are not independently owned and operated. However, 297 CAPs and CLECs, 86 local resellers, and 56 other local exchange carriers report that, in combination with their affiliates, they have 1,500 or fewer employees, for a total of 439 such entities qualified as small entities.

Fixed Local Service Providers and Payphone Providers. Trends reports that there are 1,831 fixed local service providers and 758 payphone providers. Using the NAICS standard for small entity of fewer than 1,500 employees, Trends estimates that 1,476 fixed local service providers, in combination with affiliates, have 1,500 or fewer employees and thus qualify as small entities. In addition, 755 payphone providers report that, in combination with their affiliates, they employ 1,500 or fewer individuals.

Wireless Telephone Including Cellular, Personal Communications Service (PCS) and SMR Telephony Carriers. There are 806 entities in this category as estimated in Trends, and 323 such licensees in combination with their affiliates have 1,500 or fewer employees, and thus qualify, using the NAICS guide, as small businesses.

Other Mobile Service Providers. Trends estimates that there are 44 providers of other mobile services, and again using the NAICS standard, 43 providers of other mobile services utilize with their affiliates 1,500 or fewer employees, and thus may be considered small entities.

Toll Service Providers. Trends calculates that there are 738 toll service providers, including 204 interexchange carriers, 21 operator service providers, 21 pre-paid calling card providers, 21 satellite service carriers, 454 toll resellers, and 17 carriers providing other toll services. Trends further estimates that 656 toll service providers with their affiliates have 1,500 or fewer employees and thus qualify as small entities as defined by NAICS. This figure includes 163 interexchange carriers, 20 operator service providers, 20 pre-paid calling card providers, 16 satellite service carriers, 423 toll resellers, and 15 carriers providing other toll services.

Offshore Radiotelephone Service. This service operates on several TV broadcast channels that are not otherwise used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications. The Commission assumes, for purposes of this FRFA, that all of the 55 licensees are small entities, as that term is defined by NAICS.

Cellular Equipment Manufacturers. The labeling requirement will affect manufacturers of 911-only phones. The Commission does not know how many total cellular equipment manufacturers are in the current market. The 1994 County Business Patterns Report of the Bureau of the Census estimates that there are 920 companies that make communications subscriber equipment. This category includes not only cellular equipment manufacturers, but television and AM/FM radio manufacturers as well. Thus, the number of cellular equipment manufacturers is considerably lower than 920. Under SBA regulations, such a communications equipment manufacturer, which includes not only U.S. cellular equipment manufacturers but also firms that manufacture radio and television broadcasting and other communications equipment, must have a total of 750 or fewer employees in order to qualify as a small business concern. This R&O only affects manufacturers of 911-only phones. We are aware of only one manufacturer of 911-only phones, SecureAlert, which may be classified as a small entity. The Commission therefore estimates that our current action will affect fewer than ten small cellular equipment manufacturers.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. As indicated in paragraphs two and twenty-six of the R&O, carriers participating in non-initialized phone donation programs and manufacturers of 911-only phones have to program each handset with 123–456–7890 as its telephone number/mobile identification number. This will involve a one-time modification. Software adjustments for wireless and wireline carriers to accept and disperse the number to PSAPs to identify the calls as coming from phones which cannot be called back will also involve a one-time modification. As also indicated, carriers participating in non-initialized phone donation programs and manufacturers of 911-only phones have to label each handset and institute education programs so that users of non-initialized phones will be apprised of their limitations. The labeling requirement is also a one-time modification. Education requirements for carriers and manufacturers are described in paragraph forty-two of the R&O.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

18. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives, among

others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) any exemption from coverage of the rule, or any part thereof, for such small entities.

19. The issue of providing a solution to the non-initialized phone dilemma is of interest to small entities representing the public service community, and the wireless carrier and equipment manufacturing industries. As noted, most PSAPs are small entities and many carriers and equipment manufacturers are small entities. Public service entities, representing the views of PSAPs, on the one hand, are justifiably concerned with eliminating the possibility of delays in emergency response time due to their inability to contact callers using non-initialized phones to request vital location information. This incapability strains the already limited resources of PSAPs. Carriers and equipment manufacturers share PSAP concerns with impaired response time in emergency situations, but are also concerned with the practicalities of whether a technical solution is readily available at a cost that will not discourage the sale or the donation of non-initialized phones.

20. The Commission, in reaching a decision, carefully weighed the possible negative impact on all the small entities involved in the problem of non-initialized phone use in emergency situations, and found that a network-based technical solution to provide call-back capability to all non-initialized phones is not presently feasible. Instead, the Commission requires that non-initialized handsets donated through carrier-sponsored programs and newly manufactured 911-only phones be programmed with 123–456–7890 as their "telephone number," to alert a PSAP that the 911 call is originating from a wireless phone that lacks call-back capability. This will necessitate minor software modifications on the carriers' equipment. Additionally, the Commission requires that these phones be labeled to alert the user of the lack of call-back capability, and that public education programs be instituted to more fully inform non-initialized phone users of their limitations. The Commission finds that these requirements place limited, one-time burdens on carriers and manufacturers of 911-only phones while alerting all the parties involved in an emergency 911 call to the need for quick, precise and complete caller location information, thus reducing the likelihood that emergency response will be delayed and limited PSAP resources misused.

21. The Commission considered a number of alternative solutions to the predicament raised by non-initialized phones used in emergency situations, ranging from the possibility of developing and implementing a technical solution applicable to all non-initialized phones, to the use of labeling and public education programs. Paragraphs eight through twenty-four of the R&O discuss possible technical solutions proposed in the comments. The most widely-discussed technological possibilities involve using either temporary local directory numbers (TLDNs), which are currently used to deliver calls to roamers, or pseudo-mobile identification numbers (pseudo-MINs). In the former instance, it is suggested that TLDNs could be temporarily assigned, via a network mechanism, to non-initialized phones so that a PSAP would have a number to call back if prematurely disconnected. The latter instance would require the use of pseudo-MINs—a string of numbers and/or symbols, unique to each handset, which would be programmed into each non-initialized phone and used by the PSAP to effectuate a call-back. As stated in paragraphs eight through twelve of the R&O, the Commission concluded that the development and implementation of either proposed theory would likely require extensive changes to the networks and would be cost prohibitive. Mandating a call-back solution at this stage would be especially difficult to justify considering the dearth of information received regarding the scope of the problem of PSAPs' inability to contact callers using non-initialized phones for further location information. No data has been provided in this proceeding to show the volume of 911 traffic generated by non-initialized phones, nor the percentage of non-initialized calls which require a call-back to effect an adequate emergency response. Comments regarding the use of TLDNs and pseudo-MINs are summarized in paragraphs sixteen through nineteen of the R&O. A variation of the pseudo-MIN theory was proposed by Richard Levine of Beta Scientific Laboratory, Inc., and is considered in paragraph twenty of the R&O.

22. Paragraphs twenty-two through twenty-three of the R&O consider the possibility of providing call-back to non-initialized wireless phones which use GSM technology. Some commenters argue against this option, maintaining that the elements of this solution have not been put together in a manner to support this capability, and that even if they were, the operator's network would be at risk of being deluged by calls from closed handsets receiving the same call-back page, which could effectively take down the entire network or a portion of the network. There would be no way for an operator to prevent calls from being placed by a handset, so, these commenters claim, there would be a serious risk of fraud and or terrorist activities.

23. Paragraphs twenty-five through thirty-three of the R&O discuss options regarding carrier-donated handsets. One alternative raised in the FNPRM is a requirement that all carrier-sponsored wireless phone donation programs be service initialized, so that call-back from the PSAPs will available if needed. The Commission instead concluded that it would be more beneficial to needful individuals if carriers were allowed to continue to choose which program best serves their communities. While call-back may not be available in some instances, the Commission does not find that mandating service-initialization requirements on voluntary industry-led donation programs would be in the best interests of public safety. Many carriers are already participating in service-initialized donation programs, where a dialable telephone number is delivered to the PSAP and is available if a call-back is required. In addition, various service-initialized programs can be tailored by the carriers to provide users with the best available emergency access, while minimizing potential abuse of their programs.

24. In recognition of the concerns of public service entities, while the Commission does not impose a mandate that all carrier-sponsored programs donate only service-initialized phones, we do place requirements on those programs where non-initialized phones are donated. Additionally, in paragraph twenty-seven, the Commission adopts a labeling requirement for programs where a carrier donates service-initialized handsets, but blocks all call-backs to the phone. The label must notify the user that the called party will not be able to call the user back, and that in the event of an emergency, the user should convey the exact location of the emergency to the called party as soon as possible.

25. Finally, the Commission, as stated in paragraphs thirty-eight through forty-two of the R&O, mandates that labels be affixed to each non-initialized phone and that carriers and manufacturers institute public education programs to alert users of non-initialized phones that call-back is unavailable and that the user should convey exact location information to the 911 operator as soon as possible.

26. *Report to Congress:* The Commission will send a copy of this R&O, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of this R&O, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses:

27. The Public Safety Entities' Petition is granted as provided herein and part 20 of the Commission's rules is amended accordingly.

28. The rules promulgated in this R&O shall become effective on October 1, 2002.

29. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this R&O, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carrier, Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, The Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

2. Section 20.18 is amended by revising paragraph (d)(2) and by adding paragraph (l) to read as follows:

§ 20.18 911 Service.

* * * * *

(d) * * *

(2)When the directory number of the handset used to originate a 911 call is not available to the serving carrier, such carrier's obligations under the paragraph (d)(1) of this section extend only to delivering 911 calls and available call party information, including that prescribed in paragraph (l) of this section, to the designated Public Safety Answering Point.

Note to paragraph (d): With respect to 911 calls accessing their systems through the use of TTYs, licensees subject to this section must comply with the requirements in paragraphs (d)(1) and (d)(2) of this section, as to calls made using a digital wireless system, as of October 1, 1998.

* * * * *

(l) *Non-service-initialized handsets.* (1) Licensees subject to this section that donate a non-service-initialized handset for purposes of providing access to 911 services are required to:

(i) Program 123–456–7890 as the telephone number/mobile identification number into each handset;

(ii) Affix to each handset a label which is designed to withstand the length of service expected for a non-service-initialized phone, and which notifies the user that the handset can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(iii) Institute a public education program to provide the users of such handsets with information regarding the limitations of non-service-initialized handsets.

(2) Manufacturers of 911-only handsets that are manufactured on or after October 1, 2002, are required to:

(i) Program each handset with 123–456–7890 as its telephone number/mobile identification number;

(ii) Affix to each handset a label which is designed to withstand the length of service expected for a non-service-initialized phone, and which notifies the user that the handset can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(iii) Institute a public education program to provide the users of such handsets with information regarding the limitations of 911-only handsets.

(3) *Definitions.* The following definitions apply for purposes of this paragraph.

(i) *Non-service-initialized handset.* A handset for which there is no valid service contract with a provider of the services enumerated in paragraph (a) of this section.

(ii) *911-only handset.* A non-service-initialized handset that is manufactured with the capability of dialing 911 only and that cannot receive incoming calls.

[FR Doc. 02–12993 Filed 5–22–02; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 67, No. 100
Thursday, May 23, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Packaging and Transportation of Radioactive Material; Announcement of Public Meetings

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcements of public meetings.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting two public meetings on June 4 and June 24, 2002, to obtain stakeholder comments on its proposed rule that would revise the NRC's regulations on the packaging and transportation of radioactive material to make them compatible with the latest revision of the International Atomic Energy Agency (IAEA) standards and to codify other NRC-initiated changes. The Department of Transportation (DOT) also published its proposed rule to harmonize its regulations with the same IAEA standards, and will be participating in the meetings. The public is invited to the meetings to discuss the two rules.

DATES: The first meeting will be held on June 4, 2002. The second meeting will be held on June 24, 2002.

ADDRESSES: The June 4, 2002, meeting will be held at the Hyatt Regency, 151 East Wacker Drive, Chicago, Illinois 60601. The June 24, 2002 will be held at U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852, Room: TWFN Auditorium. Written comments on the proposed rule may be submitted at the meetings, or sent by mail to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemaking and Adjudications Staff. Comments can also be delivered to NRC, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide electronic comments via the NRC's interactive rulemaking website at *http://ruleforum.llnl.gov*. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher at (301) 415–5905 (e-mail: *CAG@nrc.gov*).

You may access documents related to this proposed rule via the NRC's rulemaking website at *http://ruleforum.llnl.gov*. Documents related to this rule may be also examined at the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD. Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or email to *pdr@nrc.gov*.

Latest information about the meetings will also be posted at NRC's web site at *http://www.nrc.gov*; click on "Public Meeting Schedule."

FOR FURTHER INFORMATION CONTACT: For questions related to the proposed rule, contact: Naiem S. Tanious, Office of Nuclear Materials Safety and Safeguards, Division of Industrial and Medical Nuclear Safety, Rulemaking and Guidance Branch, Mail Stop T9–C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–6103; E-mail: *NST@nrc.gov*. Questions about the public meeting process should be directed to Francis Cameron; Office of the General Counsel, USNRC, Washington DC 20555–0001; E-mail: *FXC@nrc.gov*; telephone:(301) 415–1642.

SUPPLEMENTARY INFORMATION: On April 30, 2002 (67 FR 21390), the NRC published a proposed rule for revising 10 CFR Part 71 "Packaging and Transportation of Radioactive Material" for compatibility with IAEA transportation standards [TS–R–1], and for making other NRC-initiated changes.

In addition to the compatibility of Part 71 with the IAEA regulations (TS–R–1), this rulemaking would also address, in part, the unintended economic impact of NRC's emergency final rule entitled "Fissile Material Shipments and Exemptions" (February 10, 1997; 62 FR 5907) and a petition for rulemaking submitted by International Energy Consultants, Inc. (PRM–71–12: February 19, 1998; 63 FR 8362).

The Commission is soliciting cost-benefit and exposure data from the public and industry to help quantify the impact of the Part 71 proposed amendments. The NRC believes that this data will assist the Commission in: (1) Making a truly informed decision regarding the proposed IAEA compatibility changes, and (2) avoiding the promulgation of amendments that may result in unforeseen and unintended negative impacts. Specifically, the Commission is soliciting: (1) Quantitative information and data on the cost and benefits which might occur if these proposed changes were adopted; (2) operational data on radiation exposures (increased or decreased) that might occur from implementing the proposed changes; (3) whether the changes are adequate to protect the public health and safety; (4) whether other changes should be considered, including providing cost-benefit and exposure data for these suggested changes; and (5) how should specific risk considerations (i.e., data on what can happen, how likely is it, what are the consequences) be factored into the proposed amendments. For more information on this request for data, please review Section III of the Supplementary Information Section of the April 30, 2002, proposed rule (67 FR 21390).

The NRC is holding public meetings to solicit public comment on this proposed rule in Chicago, Illinois on June 4, 2002, and at the NRC's Offices in Rockville, Maryland on June 24, 2002.

The agenda for the June 4, 2002, meeting is Afternoon Session: 1 p.m.–4 p.m, Open House: 12 noon–1 p.m. Evening Session: 7 p.m.–10 p.m., Open House: 6 p.m.–7 p.m.

The agenda for the June 24, 2002 meeting is 9 a.m.–5 p.m., Open House: 8 a.m.–9 a.m.

The intent of the open house session is to present the opportunity for informal interactions between attendees, both NRC and DOT staff and members of the public.

The first meeting will be conducted as townhall discussions between attending

stakeholders representing a broad spectrum of interests that may be affected by this proposed rule and the NRC and DOT staff. The second meeting will be conducted as roundtable discussions among invited participants representing a broad spectrum of interests that may be affected by this proposed rule. The interests in both meetings include the regulated transportation community, non-regulated entities (that may be affected by this proposed rule, e.g. petroleum and mineral industries), citizen and environmental groups, Agreement States, the Department of Energy (DOE), DOT, and other Federal and State Agencies. Although the focus in the second meeting is on the discussions among the invited participants, the meeting is open to the public, and the public is welcome to make comments at the meeting. Individuals interested in participating in roundtable discussions should contact Mr. Cameron (as indicated in the **FOR FURTHER INFORMATION CONTACT** section). A list of participants will be available at the meetings.

Dated at Rockville, Maryland, this 16th day of May, 2002.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–12991 Filed 5–22–02; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–398–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A330 and A340 series airplanes. This proposal would require revising the Limitations Section of the FAA-approved Airplane Flight Manual to ensure the flightcrew is advised of the proper procedures in the event of uncommanded movement of a spoiler during flight. Such uncommanded movement could result in reduced controllability of the airplane, and consequent significant increased fuel consumption during flight, which could necessitate an in-flight turn-back or diversion to an unscheduled airport destination. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 24, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–398–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–398–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–398–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–398–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes equipped with any spoiler servo control having part number (P/N) 1386A0000–01 or 1386B0000–01, or P/N 1387A0000–01 or 1387B0000–01. The DGAC advises that it has received several reports of incidents where a spoiler servo control was not locked in the retracted position during flight. These failures were caused by the loosening of an insert screw in the pressure relief valve located in the spoiler servo control. The DGAC attributes this defect to the assembly process of the pressure relief valve. A loose insert screw in the pressure relief valve, if not corrected, could prevent the servo control of that spoiler from locking in the retracted position and cause uncommanded movement of the spoiler during flight. Such uncommanded movement could result in reduced controllability of the

airplane, and consequent increase in fuel consumption during flight, which could result in an in-flight turn-back or diversion to an unscheduled airport destination.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type designs registered in the United States, the proposed AD would require revising the Limitations Section of the of the FAA-approved Airplane Flight Manual (AFM) to ensure the flightcrew is advised of in-flight procedures in the event of uncommanded movement of the spoiler during flight.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 5 Model A330 and A340 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $300, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the 1 Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus: Docket 2001–NM–398–AD.

Applicability: Model A330 and A340 series airplanes, certificated in any category; equipped with any spoiler servo control (SSC) having part number (P/N) 1386A0000–01 or 1386B0000–01, or P/N 1387A0000–01 or 1387B0000–01.

Compliance: Required as indicated, unless accomplished previously.

To ensure the flightcrew is advised of the proper procedures in the event of uncommanded movement of a spoiler during flight, which could result in reduced controllability of the airplane and consequent significant increased fuel consumption during flight, and could result in an in-flight turn-back or diversion to an unscheduled airport destination, accomplish the following:

Revision to Airplane Flight Manual (AFM)

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by including the procedures listed in Figure 1 of this AD. This revision may be done by inserting a copy of Figure 1 into the AFM.

BILLING CODE 4910–13–P

Figure 1

"PROCEDURE:

- **If "F/CTL SPLR FAULT" is triggered**
  - F/CTL S/D page.....CHECK

- **If the affected spoiler is not indicated extended amber:**
  The spoiler is faulty in the retracted position. In such a case, the specific OEB procedure does not apply.

  - LDG DIST PROC.....APPLY
  Multiply the landing distance by 1.1 for 3 or 4 spoilers lost per wing.
  Multiply the landing distance by 1.2 for 5 or 6 spoilers lost per wing.

- **If the affected spoiler is indicated extended amber, apply the following procedure:**

IN CRUISE

CAUTION

Disregard FMGC fuel predictions, as they do not take the increase in fuel consumption into account.

- FUEL CONSUMPTION INCREASE.....APPLY
Apply 18.5% increase in the fuel consumption.

- IN-FLIGHT TURN BACK/DIVERSION.....CONSIDER
In-flight turn back or diversion may have to be considered due to this fuel penalty.

- MAX ACHIEVABLE ALTITUDE DECREASE.....CONSIDER
With the maximum spoiler deflection, the maximum altitude in ISA conditions may decrease by 4,500 feet.

FOR LANDING

- FOR LDG.....USE FLAP 3
Use CONF 3 for landing to avoid possible buffeting, which, however, may be high depending on the failed spoiler.

-VAPP.....NORM

- LDG DIST.....x 1.1"

BILLING CODE 4910–13–C

Note 1: When the procedure in paragraph (a) of this AD has been incorporated into the FAA-approved general revisions of the AFM, the general revisions may be incorporated into the AFM, provided the statement in this AD and the general revisions are identical.

This AD may then be removed from the AFM.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directives 2001–608(B) and 2001–609(B), both dated December 12, 2001.

Issued in Renton, Washington, on May 15, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12948 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–045]

RIN 2115–AA97

Safety and Security Zones; Portsmouth Harbor, Portsmouth, NH

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety and security zones in the Captain of the Port, Portland, Maine zone, 1 mile ahead, ½ mile astern, and 1000-yards on either side of any vessel capable of carrying Liquefied Petroleum Gas (LPG). This rulemaking also proposes to establish safety and security zones of 500-yards around any LPG vessel while it is moored at the LPG receiving facility located on the Piscataqua River in Newington, New Hampshire. Entry or movement within these zones, without the express permission of the Captain of the Port, Portland, Maine or his authorized patrol representative, is strictly prohibited.

DATES: Comments and related materials much reach the U. S. Coast Guard on or before July 22, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office, Portland, 103 Commercial Street, Portland, Maine 04101. The Port Operations Department maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) W. W. Gough, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD01–02–045, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland, Maine at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts, and flown into the World Trade Center in New York, New York, inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks are possible. Due to these heightened security concerns, safety and security zones are prudent for Liquefied Petroleum Gas (LPG) tank vessels, which may be likely targets of terrorist attacks due to the flammable nature of LPG and the serious impact on the Port of Portsmouth, New Hampshire and surrounding areas that may be incurred if an LPG vessel was subjected to a terrorist attack.

On November 20, 2001, a temporary final rule (TFR) entitled "Safety and Security Zones; LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone" was published in the **Federal Register** (66 FR 58064). This TFR, effective from November 9, 2001 until June 21, 2002, suspended 33 CFR 165.103 and temporarily established the safety and security zone being permanently proposed by this Notice of Proposed Rulemaking (NPRM). The TFR has been extended until August 15, 2002 to allow time to develop the permanent rule being proposed (67 FR 30807, May 8, 2002).

Discussion of Proposed Rule

This rulemaking proposes to establish safety and security zones in a radius around LPG vessels while the vessels are moored at the LPG receiving facility on the Piscataqua River in Newington, New Hampshire. It would also create moving safety and security zones any time a LPG vessel is within the Captain of the Port, Portland, Maine zone, as defined in 33 CFR 3.05–15, in the internal waters of the United States and the navigable waters of the United States. Under the Ports and Waterways Safety Act, the navigable waters of the United States include all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988. This Presidential Proclamation declared that the territorial sea of the United States extends to 12 nautical miles from the baseline of the United States determined in accordance with international law.

This rulemaking proposes to establish safety and security zones with identical boundaries covering the following areas of the Captain of the Port, Portland, Maine zone: (a) All waters of the Piscataqua River within a 500-yard radius of any Liquefied Petroleum Gas vessel while it is moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire; and (b) except as provided in paragraph (a) of this section, in the waters of the Captain of the Port, Portland, Maine zone, all waters one mile ahead, one half mile astern, and 1000-yards on either side of any Liquefied Petroleum Gas vessel.

This proposed rulemaking would revise a current safety zone for transits of tank vessels carrying Liquefied Petroleum Gas in Portsmouth Harbor, Portsmouth, New Hampshire. Title 33 CFR 165.103 currently provides for a safety zone during the transit of loaded LPG vessels as follows: The waters bounded by the limits of the Piscataqua River Channel and extending 1000-yards ahead and 500-yards astern of tank vessels carrying LPG while the vessel transits Bigelow Bight, Portsmouth Harbor, and the Piscataqua River to the LPG receiving facility at Newington, New Hampshire until the vessel is safely moored and while the vessel transits outbound from the receiving facility through the Piscataqua River, Portsmouth Harbor and Bigelow Bight until the vessel passes the Gunboat Shoal Lighted Bell Buoy "1" (LLNR 185). Title 33 CFR 165.103 recognizes the safety concerns with transits of large tank vessels, but is inadequate to protect LPG vessels from possible terrorist attack, sabotage or other subversive acts. National security and intelligence officials warn that future terrorist attacks against civilian targets are possible. Due to the flammable nature of LPG vessels and the impact ignition of this cargo would have on Portsmouth Harbor, areas along the Piscataqua River and surrounding areas, increased protection of these vessels is necessary.

In comparison to 33 CFR 165.103, this proposed rulemaking would provide increased protection for LPG vessels as follows: It would establish 500-yard safety and security zones around LPG vessels while moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire. It would also provide continuous protection for LPG vessels by establishing safety and security zones 1 mile ahead, ½ mile astern, and 1000-yards on each side of LPG vessels anytime a vessel is within the waters of the Captain of the Port, Portland, Maine zone rather than limiting the protection to vessels carrying LPG that are transiting to and from the facility. It would also extend the zones to 1000-yards on either side of the vessel rather than limiting the zone to the limits of the Piscataqua River Channel.

The increased protection provided in this proposed rulemaking also recognizes the safety concerns associated with an unloaded LPG vessel. Currently, 33 CFR 165.103 only establishes a safety zone around a loaded LPG tank vessel or while the vessel is transferring its cargo. This proposed rulemaking would establish safety and security zones around any LPG vessel, loaded or unloaded, any time a LPG vessel is located in the Captain of the Port, Portland, Maine zone, including the internal waters and out to 12 nautical miles from the baseline of the United States. These proposed zones would provide necessary protection to unloaded vessels, which continue to pose a safety and security hazard due to ignition of the vapor material. This proposed rulemaking also recognizes the continued need for safety zones around LPG vessels, which are necessary to protect persons, facilities, vessels and others in the maritime community, from the hazards associated with the transit and limited maneuverability of a large tank vessel.

No person or vessel would be able to enter or remain in the proposed safety and security zones at any time without the permission of the Captain of the Port, Portland, Maine. Each person or vessel in a safety and security zone would be required to obey any direction or order of the Captain of the Port, Portland, Maine. The Captain of the Port, Portland, Maine would be able to take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person would be able to board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port, Portland, Maine.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions.

Regulatory Evaluation

This proposed rulemaking is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: (a) The proposed safety and security zones would encompass only a portion of the Captain of the Port, Portland, Maine zone around the transiting LPG vessel, allowing vessels to safely navigate around the zones without delay (b) while the LPG vessel is transiting the Piscataqua River, maritime advisories would be broadcast to advise the maritime community of the safety and security zones, allowing vessels to plan their safe navigation around the zones (c) the proposed safety and security zones while the vessel is moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire, would be small enough to allow vessels to navigate safely around the zones without delay.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons enumerated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605 (b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. There is no indication the present rule has been burdensome on the maritime public. No letters commenting on the present rule have been received from the public.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how, and to what degree, this rule would economically affect it.

Assistance for Small Entities

Under section 213 (a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant

(Junior Grade) W. W. Gough, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

Energy Effects

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Revise § 165.103 to read as follows:

§ 165.103 Safety and Security Zones; LPG Vessel Transits in Captain of the Port Portland, Maine Zone, Portsmouth Harbor, Portsmouth New Hampshire.

(a) *Location.* The following areas are safety and security zones: (1) All waters of the Piscataqua River within a 500-yard radius of any Liquefied Petroleum Gas (LPG) vessel while it is moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire; and (2) except as provided in paragraph (a)(1) of this section, in the waters of the Captain of the Port, Portland, Maine zone, all waters one mile ahead, one half mile astern, and 1000-yards on either side of any Liquefied Petroleum Gas vessel.

(b) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless previously authorized by the Captain of the Port (COTP), Portland, Maine.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zone, but must abide by restrictions imposed by the Captain of the Port, Portland, Maine.

(3) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Portland, Maine or his authorized patrol representative.

Dated: May 13, 2002.

M.P. O'Malley,

Commander, Coast Guard, Captain of the Port, Portland, ME.

[FR Doc. 02–13006 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0067; FRL–7215–9]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver PM_{10} Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 30, 2001, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision for the purpose of establishing a redesignation for the Denver, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM_{10}) under the 1987 standards. The Colorado Air Pollution Control Division's submittal, among other things, documents that the Denver area has attained the PM_{10} national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the PM_{10} NAAQS for thirteen years. EPA is proposing to approve the redesignation request and maintenance plan because the State has met the applicable requirements of the Clean Air Act, as amended. This action is being taken under sections 107, 110, and 175A of the Clean Air Act (Act).

DATES: Written comments must be received on or before June 24, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "us," or "our" are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Proposed Action

A. What Action Is EPA Proposing To Take?

We are proposing to approve the Governor of Colorado's submittal of July 30, 2001, that requests a redesignation for the Denver nonattainment area to attainment for the 1987 PM_{10} standards. We are using 1998–2000 ambient air quality data from the Denver nonattainment area as the basis for our decision. We are also proposing to approve the maintenance plan for the Denver PM_{10} nonattainment area, which was submitted with the State's July 30, 2001 redesignation request. In conjunction with the maintenance plan, the Governor also submitted revisions to Colorado's Regulation No. 1, "Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides," and Colorado's Regulation No. 16, "Street Sanding Emissions." We are proposing to approve this request, the maintenance plan and its accompanying regulation revisions because the Colorado Air Pollution Control Division (Colorado) has adequately addressed all of the requirements of the Act for redesignation to attainment applicable to the Denver PM_{10} nonattainment area. Upon the effective date of a subsequent final action, the Denver area's designation status under 40 CFR part 81 will be revised to attainment. By using "Denver" or the "Denver area," we mean Denver, Jefferson, and Douglas Counties, as well as part of Boulder, Adams and Arapahoe Counties.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

II. Summary of Redesignation Request and Maintenance Plan

A. What Requirements Must Be Followed for Redesignations to Attainment?

In order for a nonattainment area to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the Clean Air Act (CAA) must be met:

(i) We must determine that the area has attained the NAAQS;

(ii) The applicable implementation plan for the area must be fully approved under section 110(k) of the Act;

(iii) We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such area must meet all requirements applicable to the area under section 110 and part D of the CAA.

Our September 4, 1992 guidance entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" (referred to in this action as the Calcagni Memorandum) outlines how to assess the adequacy of redesignation requests against the conditions listed above.

On July 30, 2001, the Governor of Colorado submitted a revision to the SIP for the Denver area and a request that we redesignate the area to attainment for PM_{10}. The following is a brief discussion of how Colorado's redesignation request and maintenance plan meets the requirements of the Act for redesignation of the Denver area to attainment for PM_{10}.

B. Does the Denver Redesignation Request and Maintenance Plan Meet the CAA Requirements?

i. Attainment of the PM_{10} NAAQS

Whether an area has attained the PM_{10} NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. A State must demonstrate that an area has attained the PM_{10} NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum PM_{10} concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, three consecutive years of complete air quality data must be used.

Between 1998 and 2000, Colorado operated thirteen PM_{10} monitors, which were either State and Local Air Monitoring Stations (SLAMS) or National Air Monitoring Sites (NAMS), in the Denver PM_{10} nonattainment area. As part of the redesignation request for Denver, Colorado submitted ambient air quality data from the monitoring sites which demonstrates that the area has attained the PM_{10} NAAQS. This air quality data had been quality-assured and placed in AIRS on a quarterly basis. Only one exceedance of the 24-hour PM_{10} NAAQS was measured between 1998 and 2000. In 1999, the Adams City monitor recorded a 24-hour value of 160 µg/m3, which is an exceedance. Because data collection was less than 100% at this monitoring site, the expected exceedance rate, as calculated according to 40 CFR part 50, appendix K, for 1999 at this site was 1.16. For 1998 and 2000, it was 0.0. Thus, the three-year average was less than 1.0, which indicates the Denver area attained the 24-hour PM_{10}

NAAQS. All other sites had expected exceedance rates of 0 for this three-year period. In addition, there have been no reported exceedances of the PM_{10} NAAQS so far in 2001. Review of the annual standard for calendar years 1998, 1999 and 2000 reveals that the Denver area is also in attainment with the annual PM_{10} NAAQS. There was no violation of the annual standard for the three year period from 1998 through 2000. Further information on PM_{10} monitoring is presented in Chapter 3, section B of the redesignation request and maintenance plan. We have evaluated the ambient air quality data and believe that Colorado has adequately demonstrated that the PM_{10} NAAQS has been attained in the Denver area.

ii. State Implementation Plan Approval

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

Those States containing initial moderate PM_{10} nonattainment areas were required to submit a SIP by November 15, 1991 which demonstrated attainment of the PM_{10} NAAQS by December 31, 1994. However, under section 188(d) of the CAA, moderate PM_{10} nonattainment areas are eligible for up to two one-year extensions of their attainment dates if they meet the requirements of the Act. Colorado requested an attainment date extension for Denver and it was granted on October 6, 1995 (60 FR 52312). The Denver nonattainment area subsequently attained the NAAQS by December 31, 1995, which was the area's applicable attainment date following the granting of the attainment date extension. Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k). We approved the PM_{10} contingency measures for the area on September 23, 1996 (61 FR 49682). We approved the PM_{10} SIP for Denver on April 17, 1997 (62 FR 18716) as meeting those moderate PM_{10} nonattainment plan requirements that were due to EPA on November 15, 1991. The transportation budgets required under the transportation conformity rule were approved on March 31, 1998 (63 FR 15294).

iii. Improvement in Air Quality Due to Permanent and Enforceable Measures

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The control measures in the Denver PM_{10} element of the Colorado SIP were adopted by the AQCC on October 19, 1995, and were approved by the EPA on April 17, 1997 (62 FR 18716). The SIP element's emission control plan was based on emission reductions from stationary source controls, re-entrained road dust controls, woodburning restrictions, and mobile source emission control programs. These permanent and enforceable control measures are explained in more detail below.

As part of the PM_{10} SIP, Denver has been implementing the requirements of Colorado Regulation No. 1 "Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides." The portion of this regulation for which PM_{10} emission reduction credits are used provides stationary source emission control regulations. These control measures include regulation limits on specific units for precursor emissions (NO_X and SO_2) at Public Service Company of Colorado's Cherokee, Arapahoe and Valmont Electric Generating Stations. There are also restrictions on the use of oil as a backup fuel for natural gas to control particulate emissions from the following stationary sources in the Denver area: Public Service Company of Colorado's Valmont and Zuni Electric Generating Stations, Public Service Company of Colorado's Delegany Steam Generating Station, University of Colorado Health Sciences Center (Fitzsimmons), U.S. Department of Energy's Rocky Flats Plant, Gates Rubber Company, and Trigen-Colorado Energy Corporation [1] (this requirement only applies to the company's Golden, Colorado facility). This regulation requires that natural gas is the only fuel oil to be used from November 1 to March 1 of each year except under certain circumstances that are explained in the regulation. In addition, there are limitations on primary PM_{10} emissions from fuel burning equipment that apply to the boiler units at Public Service Company of Colorado's Arapahoe, Cherokee, and Zuni Electric Generating Stations, as well as Trigen-Colorado Energy Corporation. There are also particulate limitations on all sources with incinerators, limitations on all stationary sources with manufacturing processes (as defined in Colorado's Common Provisions Regulation), and regulations for any source of fugitive particulates. (See Colorado's Regulation No. 1 for more details on these restrictions.)

Denver has also been implementing the requirements of Colorado Regulation No. 4 "New Wood Stoves and the use of Certain Woodburning Appliances During High Pollution Days." The primary strategy of Regulation No. 4 is the mandatory wood burning curtailment program that prohibits most wood burning activity on "high pollution days" between November 1st and March 31st of each year in the Denver metropolitan area. Regulation No. 4 also requires all new wood burning stoves and fireplace inserts sold in Colorado to meet both State and Federal emission control standards. In addition to this State regulation, our April 17, 1997 approval of the PM_{10} SIP incorporated 19 local woodburning ordinances and resolutions.

Colorado's Regulation No. 16 covers street sanding and sweeping requirements. Under this regulation, street sand is required to meet stringent specifications to reduce the amount of fines and increase the durability of the sanding materials. With the implementation of this regulation, most of the Denver area governments were required to reduce the amount of street sand applied to their roadways by 20 percent from a base sanding amount (as defined in Colorado Regulation No. 16, this is an average amount of street sanding material applied per lane mile driven by maintenance trucks during snow and ice removal operations according to 1989 data), with the exception of the City of Denver. Denver was required to reduce the amount of street sanding materials applied by 30 percent from the base sanding amount. Emissions in the Central Denver area and the Interstate 25 Corridor area were to be reduced by 50 percent from the base sanding amounts. The street sweeping requirements for the Denver nonattainment area include additional street sweeping in the Denver central business district and the Interstate 25 Corridor area after each sanding event.

[1] The federally approved version of Regulation No. 1 lists this source as Coors Brewing Company, Coors Brewery, Golden, CO; the boiler units at the brewery were sold to Trigen-Colorado Energy Corporation since that version of the regulation was approved. Colorado has subsequently made revisions to this regulation, which include changing the name for this facility. Colorado will submit these revisions to EPA in the future in order for them to be federally approved.

The mobile source control measures implemented with the PM_{10} SIP include Colorado's Regulation No. 11, "Motor Vehicle Emissions Inspection Program," Regulation No. 12 "Diesel Inspection/ Maintenance Program," and Regulation No. 13 "Oxygenated Fuels Program."

Stationary source construction permits for Public Service Company of Colorado's Cherokee Electric Generating Station, Purina Mills, Electron Corporation, Trigen-Colorado Energy Corporation, Rocky Mountain Bottle Company (which includes earlier permits that were issued in 1993 under the former name of Coors Brewing Company), and Conoco Refinery were incorporated by reference in our April 17, 1997 approval of the PM_{10} SIP. Thus, EPA also viewed these permits as enforceable control measures under the SIP.

Colorado Regulation No. 3 "Air Contaminant Emissions Notices" and No. 6 "Standards of Performance for New Stationary Sources" also provide for stationary source controls. The federally approved portions of these regulations are part of the state-wide SIP and weren't approved specifically with the Denver PM_{10} SIP.

We have evaluated the various State and Federal control measures, the original 1989 base year emission inventory and the original 1995 attainment year emission inventory, and believe that the improvement in air quality in the Denver nonattainment area has resulted from emission reductions that are permanent and enforceable.

iv. Fully Approved Maintenance Plan Under Section 175A of the Act

Section 107(d)(3)(E) of the Act requires that, for a nonattainment area to be redesignated to attainment, we must fully approve a maintenance plan which meets the requirements of section 175A of the Act. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, the State must submit a revised maintenance plan demonstrating attainment for the 10 years following the initial 10 year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of the NAAQS. (*See* sections 175A(b) and (d).) Our September 4, 1992 guidance outlines 5 core elements that are necessary to ensure maintenance of the relevant NAAQS in an area seeking redesignation from nonattainment to attainment. Those elements, as well as guidelines for subsequent maintenance plan revisions, are explained in detail below.

a. Attainment Inventory

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble (*see* 57 FR 13498, April 16, 1992) and the September 4, 1992, Calcagni Memorandum referenced above. Under our interpretations, PM_{10} maintenance plans should include an attainment emission inventory to identify the level of emissions in the area which is sufficient to maintain the NAAQS.

An emissions inventory was developed and submitted with the PM_{10} maintenance plan for the Denver area on July 30, 2001. This submittal contains a 1995 attainment year inventory as well as interim-year projection inventories for 2002, 2003, 2005, 2010 and 2015. The 1995 attainment inventory is an updated version of the attainment inventory submitted on March 30, 1995 with the PM_{10} SIP. Due to the nature of Denver's past 24-hour PM_{10} problems, these inventories reflect emission estimates for an average winter weekday after a snow event. The inventories include emissions from all sources of PM_{10} and PM_{10} precursor emissions (nitrogen oxides and sulfur dioxide (NO_X and SO_2)) within the modeling domain for the Denver area. (This modeling domain is actually smaller than the Denver nonattainment area due to technical modeling limitations, but does include all areas with the expected maximum PM_{10} concentrations.) The precursor emissions are important because filter analyses performed in conjunction with chemical mass balance modeling, for the attainment SIP, indicated that a significant portion (35%) of the PM_{10} on the filters consisted of secondary ammonium sulfate and nitrate.

Emission estimates for the inventories were updated based on the most recent demographic and vehicle miles traveled (VMT) estimates from the Denver Regional Council of Governments' November 2000 conformity analysis. This includes population, household, employment and daily VMT estimates. The major contributors identified in the attainment year and projection inventories were on-road mobile source emissions (including vehicle exhaust and re-entrained road dust), fugitive dust emissions from unpaved roads, residential heating emissions, primary PM_{10} emissions from stationary sources, and secondary emissions of NO_X and SO_2 from stationary sources and on-road and off-road mobile sources. More detailed descriptions of the 1995 attainment year inventory and the 2002, 2003, 2005, 2010 and 2015 projected inventories are documented in the maintenance plan in Chapter 4, sections B and C, and in Colorado's technical support documentation. Colorado's submittal contains detailed emission inventory information that was prepared in accordance with EPA emission inventory guidance.[2] Summary emission figures from the 1995 attainment year and the interim projected years are provided in Table II. 1, 2 and 3 below.

TABLE II. 1.—SUMMARY OF PRIMARY PM_{10} EMISSIONS IN TONS PER DAY FOR DENVER

	1995	2002	2003	2005	2010	2015
Stationary Sources	7.7	26.1	25.2	25.5	26.1	26.7
Residential Heating*	5.1	4.7	4.7	4.6	4.6	4.5
Other Area Sources**	11.8	12.1	12.1	12.3	12.2	12.1
Non-Road Mobile Sources***	1.2	1.1	1.1	1.0	1.2	1.2
On-Road Mobile Sources****	41.2	42.3	43.3	44.8	48.5	51.1
Total	66.9	86.3	86.5	88.1	92.5	95.6

*Residential Heating includes natural gas, woodstove and fireplace emissions
**Other Area Sources includes fugitive dust from construction and unpaved roads as well as charbroiler emissions
***Non-Road Mobile Sources includes emissions from all airports, railroads, and industrial and construction equipment

[2] EPA's current guidance on the preparation of PM_{10} emission inventories includes, "PM_{10} Emission Inventory Requirements," September 1994, "Emission Inventory Improvement Program Technical Report Series, Volumes I–VII," July 1997 and September 1999, "Revised 1999 Naitonal Emission Inventory Preparation Plan," February 2001.

**** On-Road Mobile Sources includes exhaust and re-entrained road dust

TABLE II. 2.—SUMMARY OF NO_X EMISSIONS IN TONS PER DAY FOR DENVER

	1995	2002	2003	2005	2010	2015
Stationary Sources	137.8	151.2	133.9	128.8	130.4	132.2
Mobile Exhaust	119.4	137.7	130.4	109.6	104.0	87.8
Non-Road Mobile Sources*	22.3	24.9	25.0	27.7	30.3	33.4
Residential Heating**	33.2	39.5	40.5	42.6	46.7	49.8
Total	312.7	353.3	329.8	308.7	311.4	303.2

* Non-Road Mobile Sources includes airport and other non-road emissions
** Residential Heating includes natural gas and woodburning emissions

TABLE II.3.—SUMMARY OF SO_2 EMISSIONS IN TONS PER DAY FOR DENVER

	1995	2002	2003	2005	2010	2015
Stationary Sources	175.5	200.2	180.5	181.1	182.0	183.1
Mobile Exhaust	2.5	5.6	5.8	6.1	2.1	2.2
Non-Road Mobile Sources*	1.9	2.3	2.5	2.5	2.8	3.1
Residential Heating**	0.2	0.3	0.3	0.4	0.4	0.4
Total	180.1	208.4	189.1	190.1	187.3	188.8

* Non-Road Mobile Sources includes airport and other non-road emissions
** Residential Heating includes natural gas and woodburning emissions

We note that these tables show significant changes in some source categories and in most cases this is the result of changes to control strategies that will be implemented in future years. This is explained in the following section. Other minor changes in emission categories can be explained by demographics, as explained above. The projected reductions in the residential heating category are from Colorado's estimates for less woodburning in future years. We believe this projection of less woodburning is reasonable.

There have also been several changes made to the stationary source emissions inventory since the development of the PM_{10} SIP for the area. One source, Brannan Sand and Gravel, was treated as a major source of primary particulates in the SIP and modeled at an allowable emission level of 180 tons per year of PM_{10}. Since the development of the PM_{10} SIP, Brannan Sand and Gravel replaced its existing asphalt plant with a new, lower emitting asphalt plant and retained a new permit reflecting this reduction. The result of this reduction was that Brannan Sand and Gravel's emissions now fall below the major source threshold of 100 tons per year primary PM_{10}, as its new allowable emissions under the permit are 4.2 tons per year of PM_{10}. The source is now treated as an area source in the maintenance plan and modeled at its actual emission rate with a growth factor for future years. A correction was also made to the emission inventory to resolve an error made in the emission inventory for the nonattainment SIP which underestimated emissions from the Conoco petroleum refinery.

In addition to the above changes, a new major source of primary particulates (Robinson Brick) was added to the emissions inventory with the maintenance plan because its emissions of PM_{10} were found to be over 100 tons per year. Robinson Brick was then modeled using the sources' allowable emission rates for primary PM_{10}. Following our review, we have determined that Colorado prepared an adequate attainment inventory for the area.

b. Maintenance Demonstration

The September 4, 1992, Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan is to contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan is to identify and describe the dispersion model or other air quality model used to project ambient concentrations. The maintenance demonstration for the Denver area uses area-wide dispersion modeling for primary PM_{10} and roll-forward modeling for secondary particulate concentrations, which was the same level of modeling used in the original attainment demonstration for the moderate PM_{10} SIP for Denver. The regional air model (RAM) was used for primary PM_{10} area, mobile and minor point sources, and an industrial source complex model (ISC) was used for primary PM_{10} from major point sources modeled at allowable emission levels. Secondary particulate concentrations are projected from measured concentrations during high concentration periods between 1987 and 1992. The projected change in total NO_X and SO_2 emissions from the baseline to future years is also factored into the analysis.

The maintenance plan delineates between the stationary sources considered as major under the SIP and those sources which are considered as minor. The same methodology was used for the Denver PM_{10} maintenance plan as was used in the nonattainment SIP. All sources emitting over 100 tons per year of primary PM_{10} were identified as major stationary sources and modeled in the maintenance demonstration using either the sources' allowable emission limit as specified in the maintenance plan, or that sources' maximum emission potential (PTE). All other sources with primary PM_{10} emissions were treated as area sources in the SIP context and modeled using the sources' current actual emissions with a projected growth factor. The major stationary sources of primary PM_{10} identified in the maintenance plan are: Conoco Denver Refinery, Public Service Company of Colorado's Cherokee, Arapahoe and Zuni Electric Generating Stations, Robinson Brick, Trigen-Colorado Energy Corporation, and the Ultramar Diamond Shamrock refinery.

The methodology used for the stationary sources of secondary emissions (NO_X and SO_2) is also the same as that used in the nonattainment SIP. Sources were modeled using actual emission rates of NO_X and SO_2 if they

met two criteria. The first criteria is that the difference between modeling the source at anticipated actual emission rates versus the allowable emission levels must be less than 1 $\mu g/m^3$ using the secondary particulate roll-forward model. The second criteria was that the cumulative difference for all the sources modeled using actual emissions must be no more than 2 $\mu g/m^3$. The sources modeled as major sources of precursor emissions in the maintenance demonstration are: Public Service Company of Colorado's Cherokee, Arapahoe and Valmont Electric Generating Stations, Trigen-Colorado Energy Corporation, and Rocky Mountain Bottle Company.

Since the modeling process is based on five years of meteorological data, the highest 6th highest 24-hour PM_{10} value from all receptors is used to determine if the PM_{10} standard will be maintained in future years. After an analysis, Colorado concluded that the Adams City ambient air quality monitor (located north of Cherokee Electrical Generating Station in Adams County) had the highest 6th highest 24-hour PM_{10} concentration for 2002. For all other projection years (2003, 2005, 2010, and 2015) the Continuous Air Monitoring Project (CAMP) monitor, located at the intersection of Broadway and Champa Street in downtown Denver, was the maximum concentration monitor. This analysis is further detailed in Chapter 4, section C of the maintenance plan and in the Colorado's TSD and is reproduced in Table II.—4 below.

TABLE II.4.—DENVER PM_{10} MODELING RESULTS IN $\mu G/M^3$:

Sources	2002 (Adams City)	2003 (CAMP)	2005 (CAMP)	2010 (CAMP)	2015 (CAMP)
Area/Mobile/Minor Point Sources (RAM)	80.9	81.1	75.7	80.5	84.7
Major Point Sources (ISC)	0.64	0.01	0.32	0.32	0.32
Secondary Roll-forward	52.6	48.4	46.6	46.6	46.1
Background	14.4	15.4	17.7	17.7	17.7
Total Concentration	148.6	144.9	140.3	145.2	148.8

Since Colorado's submittal of the maintenance plan, Colorado has made some minor technical corrections to the maintenance demonstration. Colorado has now factored maximum potential primary PM_{10} emissions for the Conoco and Ultramar Diamond Shamrock petroleum refineries into the modeling analysis to show maintenance of the PM_{10} standard. In the official July 30, 2001 submittal of the maintenance plan, Colorado had calculated maximum potential to emit for the fluid catalytic cracking units (FCCUs) by using the most conservative AP–42 emission factor and adding an 85% control efficiency to that factor. After the submittal of the maintenance plan, we discovered that this was an inappropriate calculation because the AP–42 emission factors for FCCUs already take into account the 85% control efficiency for internal cyclones that are inherent to the functioning of the units. On April 5, 2002, Colorado submitted a technical correction to the maintenance plan modeling analysis which removed credits for an 85% control efficiency for the FCCU at the two refineries. Colorado re-ran the modeling analysis and found that they could still demonstrate maintenance for the duration of the maintenance plan while modeling the sources at maximum potential to emit.

However, because future year projections in the maintenance plan were below the PM_{10} standard of 150 $\mu g/m^3$, under 40 CFR 93.124, Colorado was allowed to allocate the difference or "safety margin" (1.1 $\mu g/m^3$ in 2015), to the NO_X emissions budget. This worked out to be equivalent to 13 tons per day of NO_X. Therefore, the 101 tons/day NO_X emissions budget includes this "safety margin" of 13 tons/day. (The mobile source budgets are explained in more detail later in this proposed action.)

Colorado's correction to the maintenance demonstration for Conoco and Ultramar Diamond Shamrock only resulted in a 0.3 $\mu g/m^3$ impact for 2005, 2010 and 2015 [3], and did not increase the maintenance demonstration to a level above 150 $\mu g/m^3$. However, because the entire "safety margin" from 2015 was allocated to the mobile source emission budget for NO_X, it appeared that either the resulting emission budget would need to be changed, or another source in the SIP would need to be reduced to offset the 0.3 $\mu g/m^3$ increase. But, a recent federal consent decree will require significant emission reductions at the Conoco facility before 2015.

On December 20, 2001, a proposed Complaint and Consent Decree in United States v. Conoco Inc. was lodged with the United States District Court for the Southern District of Texas. (See 67 FR 107 for the notice of lodged consent decree.) Under the proposed consent decree, Conoco Denver Refinery's FCCU is required to comply with a New Source Performance Standard (NSPS), Subpart J, emissions limit for PM of 1 pound per 1000 pounds of coke burned by no later than June 30, 2006. This restriction will limit Conoco to approximately 67 tons per year of primary PM_{10}, which is far less than the 1233 tons per year which Colorado used to re-model Conoco's emissions and less than the 185 tons per year Colorado used in the maintenance plan; this new limit will more than offset the 0.3 $\mu g/m^3$ increase which would have affected the year 2015 "safety margin" allocation. Because it is based on an NSPS requirement, this new PM limit at Conoco will be permanent. We anticipate court approval of the Conoco consent decree in the near future. In the event court approval is not forthcoming, we may need to reevaluate this proposal.

[3] The State determined that the entire 0.3 $\mu g/m^3$ impact results from emission inventory increases at the Conoco FCCU; no impacts result from re-calculation of values for Ultramar Diamond Shamrock.

i. Control Strategy

According to the Calcagni memorandum, any assumptions concerning emission rates must reflect permanent, enforceable measures. A State can't take credit in the maintenance demonstration for reductions unless there are regulations in place requiring those reductions or the reductions are otherwise shown to be permanent. States are expected to maintain implemented control strategies despite redesignation to attainment, unless such measures are shown to be unnecessary for maintenance or are replaced with measures that achieve equivalent reductions. Emission reductions from source shutdowns can be considered permanent and

enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly.

In preparing the Denver PM_{10} maintenance plan, Colorado has chosen to make revisions to its control strategy. However, as demonstrated above, the Denver area is expected to maintain the PM_{10} NAAQS into the future despite these changes. The control strategy which is being approved with this action is explained here. As explained previously, Colorado Regulation No. 4, "New Wood Stoves and the use of Certain Woodburning Appliances During High Pollution Days," along with local woodburning ordinances was approved with the PM_{10} SIP. There are no changes being made to this control program with this action. There are also no changes approved with this action for Regulation No. 11, the Automobile Inspection and Readjustment Program. Changes to this regulation were approved in a **Federal Register** action on December 14, 2001 (66 FR 64751) as part of the carbon monoxide maintenance plan. No further changes to this program were made for the PM_{10} maintenance plan.

As with the PM_{10} attainment SIP, part of the PM_{10} control strategy in the maintenance plan relies on the Federal Motor Vehicle Control Program (FMVCP). In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles ("fleet turnover"), emission reductions are realized for a particular area such as Denver. The control program that Colorado uses in the PM_{10} maintenance plan includes emission reduction credits from our Tier II motor vehicle emissions standards and sulfur in gasoline. The new vehicle emission standards lower the average emission standards to 0.07 grams per mile of NO_X and begin in 2004 with a 3 year phase in period. The sulfur in gasoline standards require reductions from 300 parts per million to 30 parts per million of sulfur and begin in 2004 with a 3 year phase in period for Colorado and other Western states (most areas around the country are under a 2 year phase in requirement). When these new requirements are fully implemented (this will be 2030 due to fleet turnover), they will reduce NO_X emissions nationally by 74% or 2 million tons per year by 2020 and 3 million tons per year by 2030.

The maintenance plan includes a revised version of Colorado's Regulation No. 16, "Street Sanding Emissions." The changes to this regulation were adopted by the Colorado Air Quality Control Commission with the PM_{10} maintenance plan on April 19, 2001. In addition to the existing portions of Regulation No. 16, these revisions require additional emission reductions in the Denver area. These reductions are: 30% emission reductions region-wide, excluding the Foothills Area which is subject to 20% emission reductions (the Foothills Area is specifically defined in Colorado Regulation No. 16), 50% emission reductions in the central Denver area (bounded by 38th Avenue, Federal Boulevard, Louisiana Avenue, and Downing Street), 54% reductions on I–25 between University and 6th Avenue; and 72% emission reductions in the central business district (bounded by Colfax Avenue, Broadway, 20th Street, Wynkoop and Speer Boulevard). The maintenance plan commits to implement these new requirements during the winter 2001/2002 season. It should be noted that a portion of these additional reductions in street sanding, de-icing and sweeping reflect a study contracted by the Denver Regional Air Quality Council (RAQC) that found increased benefits from de-icing and sweeping beyond what has historically been assumed for the Denver area (previous assumptions for Denver were consistent with recommendations from EPA guidelines). Based on the recommendations of the "Emissions Benefit Study and Analysis," the RAQC decided to increase the emission reductions from street sweeping using mechanical or combination equipment to 37% and the percent emission reductions from vacuum and regenerative air equipment was increased to 61%. We have reviewed this study and found it to be technically accurate and therefore we also approve the resulting emission reduction credits assumed for these activities.

Colorado Regulation No. 1 "Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides," will remain in the PM_{10} maintenance plan, with a few important changes that will bring further emission reductions. The revisions to Regulation No. 1 affect Public Service Company of Colorado's Cherokee, Arapahoe and Valmont Electric Generating Stations as well as the restrictions on the use of fuel oil as a backup fuel. One revision requires a 0.88 pounds per million British Thermal Unit (lb/mmBTU) SO_2 limit for the Cherokee boiler units 1 and 4 and Arapahoe boiler unit 4, based on a 30-day rolling average from November 1 to March 1 of each year. This limit is in addition to the existing 1.1 lb/mmBTU SO_2 limit with an additional 20% annual tonnage reduction that applies to Arapahoe boiler unit 4. Another revision to Regulation No. 1 is that the January 1, 2003 planned retirement of Arapahoe boiler units 1 and 2 is being made federally enforceable in order for those emission reductions to be used in the maintenance demonstration. In addition, a 30-day rolling average NO_X limit of 0.60 lb/mmBTU for Cherokee boiler unit 1 will be effective on January 1, 2005. These emission reduction credits are used accordingly in the maintenance demonstration for 2005 and beyond. Language was added to the specific sections for Cherokee, Arapahoe and Valmont to specify that the sources' continuous emissions monitoring equipment would be certified and operated in accordance with 40 CFR 60.13 for measuring opacity, SO_2, NO_X, and either O_2 or CO_2 on all the boiler units for these sources that are included in the regulation. Lastly, there is a revision to the fuel oil restrictions which ensures that these restrictions will continue to apply in the Denver PM_{10} area after the area is redesignated to attainment.

We note here that any source modeled at its maximum emission potential (PTE) was not required to have short-term emission limits in the maintenance plan. These sources cannot emit more than the maximum PTE which was used in the maintenance plan's modeling analysis absent a physical modification, or a change in operational method, either of which would require a permit revision. Any such permitting action would require an analysis of potential impacts on the Denver PM_{10} area. Please see Colorado's technical support documentation for more detailed information on each source.

In addition to these improved control measures which are being added to the PM_{10} maintenance plan, there are also certain control measures which are being removed from the control strategy with this maintenance plan. This is acceptable under the Calcagni Memorandum as long as the area can still demonstrate maintenance of the PM_{10} standard. Regulation No. 12, the "Diesel Inspection/Maintenance Program" will be removed from the PM_{10} SIP with the final approval of this maintenance plan. This program only achieved small emission reductions and therefore, Colorado demonstrated maintenance of the standard without taking credit for the regulation. Regulation No. 12 will remain as a state-only requirement. Likewise, Regulation No. 13 "Oxygenated Fuels Program" will also be removed from the PM_{10} SIP with the approval of this plan due to its minor emission reductions for PM_{10}. This regulation is a part of the carbon monoxide maintenance plan, which we approved on December 14, 2001 (66 FR 64751).

As explained previously, the control strategy for the PM_{10} SIP included permits for seven stationary sources through our incorporation of these permits in the final approval of the SIP. These permits will be removed from the SIP with our final approval of this maintenance plan. We have evaluated this action and decided that the integrity of the control strategy will be preserved for the following reasons. All major emissions from Public Service Company's Cherokee Electric Generating Station, Trigen-Colorado Energy Corporation, Rocky Mountain Bottle Company and the Conoco Refinery are covered either by existing or new provisions in Regulation No. 1. As noted previously, Conoco will be subject to NSPS Subpart J limits on FCCU PM emissions once the federal consent decree is final. In addition, some of the sources, such as the Ultramar Diamond Shamrock refinery, were modeled at PTE, demonstrating that even at the sources' maximum emission rates, the Denver area would still maintain the PM_{10} standard. The permits for Purina Mills and Electron Corporation were included in the PM_{10} SIP because these sources had opted for synthetic minor permits during the development of the SIP. This was part of an agreement we made with Colorado in order for the Denver area to show attainment of the PM_{10} standard. Accordingly, Colorado modeled these sources at their actual emissions plus a growth factor for purposes of the nonattainment area SIP attainment demonstration. Although these sources have potentials to emit greater than 100 tons per year, they are no different than other synthetic minor sources in the Denver area that were modeled at actual emissions plus a growth factor in the original nonattainment area SIP, and there is no reason the permits for these sources need to be specifically incorporated by reference into the SIP. Thus, the maintenance plan removes the permits for Purina Mills and Electron Corporation from the SIP, and lists them as possible contingency measures should the NAAQS be violated.

Since no violations of the annual PM_{10} NAAQS have ever occurred in Denver and since the maintenance demonstration clearly shows maintenance of the 24-hour PM_{10} NAAQS in Denver through the year 2015, it is reasonable to assume that protection of the 24-hour standard will be sufficient to protect the annual standard as well. Thus, EPA believes Colorado has adequately demonstrated that the Denver area will maintain the PM_{10} NAAQS for at least the next thirteen years.

c. Monitoring Network

Once a nonattainment area has been redesignated to attainment, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Colorado will continue to operate a core network of PM_{10} monitoring sites for the purposes of tracking PM_{10} in the Denver area. We approve these sites annually, and any future change would require discussion with us. In its July 30, 2001 submittal, Colorado committed to continue to operate the PM_{10} monitoring stations in Denver, in accordance with 40 CFR part 58.

d. Verification of Continued Attainment

Colorado's maintenance plan submittal must indicate how the State will track the progress of the maintenance plan. This is necessary due to the fact that the emissions projections made for the maintenance demonstration depend on assumptions of point and area source growth. In Chapter 4, section E of the maintenance plan, Colorado has committed to the continued operation of the ambient air monitoring network and to conduct an annual review of the network to verify that the system continues to meet EPA monitoring objectives and the area continues to attain the PM_{10} NAAQS.

In Chapter 4, section F.2, Colorado commits to track and document changes in new and modified stationary source permits. Also, in Chapter 4, sections E and F.2, the State commits to track mobile source emissions that contribute to PM_{10}, through the ongoing regional transportation planning process that is done by DRCOG. Since revisions to Denver's transportation improvement programs are prepared every two years, and must go through a transportation conformity finding, the State will use this process to periodically review the Vehicle Miles Traveled (VMT) and mobile source emissions projections used in the maintenance plan. This regional transportation process is conducted by DRCOG in coordination with the Denver Regional Air Quality Council (RAQC), the State's Air Pollution Control Division (APCD), the Air Quality Control Commission (AQCC), and EPA. If any significant changes appear, Colorado will perform studies to determine whether additional or re-sited monitors are necessary and whether the emission projections for future years are on target. If the future year projections appear to be lower than actual growth, Colorado will address the situation accordingly.

e. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. For the purposes of section 175A, a State is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously once they are triggered. The plan should discuss the measures to be adopted and a schedule and procedure for adoption and implementation. The contingency plan must require that the State will implement all measures contained in the Part D nonattainment plan for the area prior to redesignation. The State should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

As stated in Chapter 4, section F of the maintenance plan, the contingency measures for the Denver area will be triggered by a violation of the PM_{10} NAAQS. (However, the maintenance plan does note that an exceedance of the PM_{10} NAAQS may initiate a voluntary, local process by the RAQC and APCD to identify and evaluate potential contingency measures.)

The RAQC, in coordination with the APCD and AQCC, will initiate a subcommittee process to begin evaluating potential contingency measures no more than 60 days after being notified by the APCD that a violation of the PM_{10} NAAQS has occurred. The subcommittee will present recommendations to the RAQC within 120 days of notification and the RAQC will present recommended contingency measures to the AQCC within 180 days of notification. The AQCC will then hold a public hearing to consider the contingency measures recommended by the RAQC, along with any other contingency measures that the AQCC believes may be appropriate to

effectively address the violation of the PM_{10} NAAQS. The necessary contingency measures will be adopted and implemented within one year after the violation occurs.

The potential contingency measures that are identified in Chapter 4, section F of the Denver PM_{10} maintenance plan include the control measures from the Part D nonattainment plan that are being removed with this maintenance plan as well as additional potential measures. The potential contingency measures which are the result of relaxations to the nonattainment plan control measures are: (1) The repeal of certain sections of Regulation No. 11 "Motor Vehicle Emissions Inspection Program," (2) Regulation No. 12, "Diesel Inspection/Maintenance Program," (3) Regulation No. 13 "Oxygenated Fuels Program,'and (4) the stationary source permits that were incorporated into the Denver PM_{10} nonattainment SIP. The contingency plan also includes other potential contingency measures that would bring additional reductions in particulates to the Denver area. These measures are: (1) Increased street sweeping requirements, (2) expanded, mandatory use of alternative de-icers, (3) more stringent street sand specifications, (4) road paving requirements, (5) further woodburning restrictions, (6) re-establishing nonattainment area new source review permitting requirements for stationary sources, (7) NO_X RACT for stationary sources, (8) transportation control measures designed to reduce vehicle miles traveled, (9) an improved diesel inspection/maintenance program, (10) a retrofit program for heavy-duty diesel truck engines, and (11) other emission control measures appropriate for the area based on the consideration of cost-effectiveness, PM_{10} emission reduction potential, economic and social considerations, or other factors that the State deems appropriate. A more complete description of the triggering mechanism and these contingency measures can be found in Chapter 4, section F of the maintenance plan.

Based on the above, we find that the contingency measures provided in the Denver PM_{10} maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

f. Subsequent Maintenance Plan Revisions

As mentioned above, this maintenance plan uses credits from the EPA Tier II standards beginning in 2004, but this is based on adjustments made to the MOBILE5 model and not the new MOBILE6 emissions model since the latter had not been officially released when the maintenance plan was developed. Due to the fact that the Tier II assumptions using MOBILE5 may not be as accurate as they would be if MOBILE6 were used, Colorado has committed to revise the maintenance plan within one year of the later of the official release of: (1) MOBILE6, (2) the MOBILE6 particulate emissions replacement for PART5, or (3) the MOBILE6 guidance to enable Colorado to model its vehicle inspection/maintenance program for the model years after 1995.

In accordance with section 175A(b) of the Act, Colorado is required to submit a revision to the maintenance plan eight years after the redesignation of the Denver area to attainment for PM_{10}. This revision is to provide for maintenance of the NAAQS for an additional ten years following the first ten year period. In the Denver redesignation request, Colorado committed to submit a revised maintenance plan eight years after the approval of the redesignation request and maintenance plan.

v. Meeting Applicable Requirements of Section 110 and Part D of the Act

In order for an area to be redesignated to attainment, section 107(d)(3)(E) requires that it must have met all applicable requirements of section 110 and part D of the Act. We interpret this to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to, or at the time of, submitting a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

a. Section 110 Requirements

Section 110(a)(2) contains general requirements for nonattainment plans. For purposes of redesignation, the Colorado SIP was reviewed to ensure that all applicable requirements under the amended Act were satisfied. These requirements were met with the Colorado's March 30, 1995, November 17, 1995, and December 22, 1995 submittals for the Denver PM_{10} nonattainment area. We approved these submittals on September 23, 1996 (61 FR 49682) and April 17, 1997 (62 FR 18716).

b. Part D Requirements

Before a PM_{10} nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes the general requirements applicable to all nonattainment areas, while subpart 4 of part D establishes specific requirements applicable to PM_{10} nonattainment areas. The General Preamble (see 57 FR 13530, *et seq.*) provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5)(new source review permitting program), 172(c)(7)(the section 110(a)(2) air quality monitoring requirements)), and 172(c)(9) (contingency measures). It is also worth noting that we interpreted the requirements of sections 172(c)(2) (reasonable further progress—RFP) and 172(c)(6)(other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, "Procedures for Processing Requests to Redesignate Areas to Attainment", and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4)(identification of certain emissions increases) and 172(c)(8)(equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

The requirements of sections 172(c) and 189(a) regarding attainment of the PM_{10} NAAQS, and the requirements of section 172(c) regarding reasonable further progress, imposition of RACM, the adoption of contingency measures, and the submission of an emission inventory, have been satisfied through our September 23, 1996 (61 FR 49682) and April 17, 1997 (62 FR 18716) approvals of the Denver PM_{10} SIP and the demonstration that the area is now attaining the NAAQS.

Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

We approved the requirements of the part D new source review permit program for Colorado on August 18, 1994 (59 FR 42506). Once the Denver area is redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the Act will apply. We must ensure that the State has made any needed modifications to its PSD regulations so that Colorado's PSD regulations will apply in the Denver area after redesignation. Colorado's PSD regulations, which we approved as meeting all applicable Federal requirements (59 FR 42500, August 18, 1994), apply to any area designated as unclassifiable or attainment and, thus, will become fully effective in the Denver area upon redesignation of the area to attainment.

C. Have the Transportation Conformity Requirements Been Met?

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–62196) and in the sections of the rule referenced above.

According to 40 CFR 93.118(b)(2), when a maintenance plan has been submitted, emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan, and for any other years for which the maintenance plan establishes motor vehicle emissions budgets. If the maintenance plan does not establish motor vehicle emissions budgets for any years other than the last year of the maintenance plan, the demonstration of consistency with the motor vehicle emissions budget(s) must be accompanied by a qualitative finding that there are no factors which would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. For years after the last year of the maintenance plan, emissions must be less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the maintenance plan; and if an approved control strategy implementation plan has established motor vehicle emissions budgets for years in the timeframe of the transportation plan, emissions in these years must be less than or equal to the control strategy implementation plan's motor vehicle emissions budget(s) for these years.

In the Denver PM_{10} nonattainment plan, Colorado had previously adopted a mobile source emissions budget for PM_{10} for the years 1998–2005 of 54 tons/day and an emissions budget for 2006 and beyond of 60 tons/day. A 119.4 tons/day NO_X emissions budget was established for analysis years 1998 and beyond. In the Denver PM_{10} maintenance plan, Colorado indicated that it would adopt a new mobile source emissions budget of 51 tons/day for PM_{10} and a 101 tons/day NO_X emissions budget for the years 2015 and beyond. Because future year projections in the maintenance plan were below the PM_{10} standard of 150 $\mu g/m^3$, under 40 CFR 93.124, Colorado was allowed to allocate the "safety margin" (the difference between the 24-hour PM_{10} standard and the concentration projected for the maintenance year 2015), to the NO_X emissions budget. This safety margin is 1.1 $\mu g/m^3$ and equates to 13 tons/day of NO_X. Therefore, the 101 tons/day NO_X emissions budget includes this "safety margin" of 13 tons/day. EPA's approval of the emissions budgets means that emissions projections (in a conformity analysis) for years 2015 and beyond must be less than or equal to 51 tons/day PM_{10} and 101 tons/day NO_X.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* vs. *the Environmental Protection Agency*, No. 97–1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the court decision, we are making most submitted SIP revisions containing a control strategy plan available for public comment and responding to these comments before announcing our adequacy determination. (We do not perform adequacy determinations for SIP revisions that only create new emission budgets for years in which an EPA-approved SIP already establishes a budget, because these new budgets cannot be used for conformity until they are approved by EPA.) We make SIP revisions available for comment by posting notification of their availability on our web site (currently, these notifications are posted at *www.epa.gov/oms/transp/conform/adequacy.htm*). The adequacy process is discussed in greater detail in a May 14, 1999 memorandum from Gay MacGregor entitled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision," also available on our web site (www.epa.gov/oms/transp/traqconf.htm).

EPA reviewed the Denver PM_{10} budgets for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budgets were adequate for conformity purposes. Notice of the availability of this SIP was posted on our adequacy web site on August 12, 2001, and a 30-day comment period for adequacy was provided following the procedures described in the May 14, 1999 Gay MacGregor memorandum referenced above. No comments were received. EPA's adequacy determination was made in a letter to the Colorado APCD on September 20, 2001, and was announced in the **Federal Register** on October 12, 2001 (66 FR 52129). As a result of this adequacy finding, the emissions budgets took effect for conformity determinations in the Denver metro area on October 29, 2001. However, we are not bound by that determination in acting on the maintenance plan.

D. Did Colorado Follow the Proper Procedures for Adopting This Action?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The Act also requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

We also must determine whether a submittal is complete and therefore warrants further review and action (see section 110(k)(1) of the Act and 57 FR 13565, April 16, 1992). Our completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. We attempt to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) of the Act if a completeness determination is not made within six months after receipt of the submission.

Copies of the proposed changes were made available to the public and the AQCC held a public hearing on April 19, 2001 to entertain public comment on the redesignation request and maintenance plan for the Denver PM_{10} nonattainment area. Colorado did not receive any adverse comments and

therefore, the redesignation request and maintenance plan were subsequently adopted by the AQCC on April 19, 2001. The request was formally submitted to us for approval with a Governor's letter dated July 30, 2001. Supplementary documentation necessary for our completeness determination was submitted on September 5, 2001, September 10, 2001 and September 13, 2001. We reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that Colorado's submittal was administratively and technically complete under section 110(a)(2) of the CAA. Thus, pursuant to section 110(k)(1)(B) of the Act, the submittal was deemed administratively and technically complete with a September 24, 2001 letter from Jack McGraw, Acting Regional Administrator to Governor Bill Owens. Additional documentation was also submitted by Colorado on November 27, 2001. This information was necessary in order to complete our review of the maintenance plan and technical support information.

III. Background

To implement our 1987 revisions to the particulate matter NAAQS, on August 7, 1987 (52 FR 29383), we categorized areas of the nation into three groups based on the likelihood that protection of the PM_{10} NAAQS would require revisions of the existing SIP. We identified the Denver area as a PM_{10} "Group I" area of concern, i.e., an area with a strong likelihood of violating the PM_{10} NAAQS and requiring a substantial SIP revision. The Denver area was among several Group I PM_{10} areas, all of which were designated and classified as moderate PM_{10} nonattainment areas by operation of law upon enactment of the Clean Air Act Amendments of 1990 (November 15, 1990). See 56 FR 56694 at 56705–56706 (November 6, 1991).

By November 15, 1991, States containing initial moderate PM_{10} nonattainment areas were required to submit most elements of their PM_{10} SIPs. (See sections 172(c), 188, and 189 of the Act.) Some provisions, such as PM_{10} contingency measures required by section 172(c)(9) of the Act and nonattainment new source review (NSR) provisions, were due at later dates. In order for a nonattainment area to be redesignated to attainment, the above mentioned conditions in section 107(d)(3)(E) of the Act must be met. We approved the PM_{10} contingency measures for the area on September 23, 1996 (61 FR 49682). We approved the PM_{10} SIP for Denver on April 17, 1997 (62 FR 18716) as meeting those moderate PM_{10} nonattainment plan requirements that were due to EPA on November 15, 1991. The PM_{10} SIP's transportation budgets required under the transportation conformity rule were approved on March 31, 1998 (63 FR 15294).

On July 30, 2001, the Governor of Colorado submitted a request to redesignate the Denver moderate PM_{10} nonattainment area to attainment for the 1987 PM_{10} NAAQS along with a maintenance plan for the area. On July 18, 1997, we promulgated new NAAQS for PM_{10} and $PM_{2.5}$. However, on May 18, 1999, the United States Court of Appeals for the D.C. Circuit in *American Trucking Associations, Inc. et al.*, v. *United States Environmental Protection Agency* vacated the 1997 PM_{10} standard. Because of the Court ruling, we are continuing to implement the pre-existing PM_{10} standard, and are therefore approving redesignations to qualified PM_{10} nonattainment areas.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control.

Dated: May 14, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 02–12965 Filed 5–22–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket#: AK–02–003; FRL–7216–7]

Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Fairbanks Carbon Monoxide Nonattainment Area, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to find that the Fairbanks nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) as of December 31, 2001.

DATES: Written comments must be received on or before June 24, 2002.

ADDRESSES: Written comments should be mailed to Connie Robinson, Office of Air Quality, Mail code OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of documents relevant to this action are available for public review during normal business hours (8 a.m. to 4:30 p.m.) at this same address.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality, Mail Code OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document, the words "we," "us," or "our" means the EPA.

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I. Background

A. Designation and Classification of CO Nonattainment Areas

The Clean Air Act Amendments (CAAA) of 1990 authorized EPA to designate areas across the country as nonattainment, and to classify these areas according to the severity of the air pollution problem. Pursuant to section 107(d) of the CAAA, following enactment on November 15, 1990, States were requested to submit lists, within 120 days, which designated all areas of the country as either attainment, nonattainment, or unclassifiable for CO. The EPA was required to promulgate these lists of areas no later than 240 days following enactment of the CAAA (See 56 FR 56694, (November 6, 1991)).

On enactment of the CAAA, a new classification structure was created for CO nonattainment areas, pursuant to section 186 of the CAAA, which included both a moderate and a serious area classification. Under this classification structure, moderate areas with a design value of 9.1–16.4 ppm, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 1995. CO nonattainment areas designated as serious, with a design value of 16.5 ppm and above, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 2000. Fairbanks did not have the two years of clean data required to attain the standard by December 31, 2000, the required attainment date for CO serious areas, and under section 186(a)(4) of the CAAA. Alaska requested and EPA granted a one year extension of the attainment date deadline to December 31, 2001(See 66 FR 28836, (May 25, 2001)).

States containing areas classified as either moderate or serious for CO had the responsibility of developing and submitting to EPA State Implementation Plans (SIPs) which addressed the nonattainment air quality problems in those areas. The EPA issued general guidance concerning the requirements for SIP submittals, which included requirements for CO nonattainment area SIPs, pursuant to Title I of the CAAA (See generally, 57 FR 13498 (April 16, 1992), and 57 FR 18070 (April 28, 1992)). The air quality planning requirements for moderate and serious CO nonattainment areas are addressed in sections 186–187 respectively of the CAAA, which pertain to the classification of CO nonattainment areas as well as to the requirements for the submittal of both moderate and serious area SIPs.

The EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date.[1] In this case the EPA is required to make determinations concerning whether serious CO nonattainment areas attained the NAAQS by their attainment date. Pursuant to the CAAA, the EPA is required to make an attainment determination for this area by June 30, 2002, no later than 6 months following the attainment date for the area. Therefore, this action is being taken to make a determination of attainment for a serious CO nonattainment area with a December 31, 2001 attainment date.

[1] See sections 172(C), 179(c) and 186(b)(2) of the CAAA.

B. How Does EPA Make Attainment Determinations?

Section 179(c)(1) of the CAAA provides that attainment determinations are to be based upon an area's "air quality as of the attainment date," and section 186(b)(2) is consistent with this requirement. EPA will make the determination as to whether an area's air quality is meeting the CO NAAQS based upon air quality data gathered at CO monitoring sites in the nonattainment area which have been entered into the Aerometric Information Retrieval System (AIRS). This data is reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR 50.8, and in accordance with EPA policy and guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations," dated June 18, 1990.

The 8-hour CO design value is used to determine attainment of CO areas, and is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at a monitoring site for the most recent 2 years of air quality data. Then the maximum value of the second high values is used as the design value for the monitoring site. The CO NAAQS requires that not more than one 8-hour average per year can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and are not considered exceedances). CO attainment is evaluated and determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. If an area has a design value that is greater than 9.0 ppm, this means that a monitoring site in the area, where the second highest (non-overlapping) 8-hour average was measured, was greater than 9.0 ppm in at least 1 of the 2 years being reviewed to determine attainment for the area. Then this indicates that there were at least two values which measured above the NAAQS for CO. Thus, the standard was not met in the area.

C. What Is the Attainment Date for the Fairbanks CO Nonattainment Area?

As stated above, the Fairbanks CO nonattainment area was designated nonattainment for CO by operation of law upon enactment of the CAAA of 1990. Under 186(a) of the CAAA, each CO area designated nonattainment was also classified by operation of law as

either "moderate" or "serious" depending on the severity of the area's air quality problem. States containing areas that were classified as moderate nonattainment were required to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. On March 30, 1998, EPA made a finding that Fairbanks did not attain the CO NAAQS by the December 31, 1995 attainment date for the moderate nonattainment area. This finding was based on EPA's review of monitored air quality data for compliance with the CO NAAQS. As a result of this finding the Fairbanks CO nonattainment area was reclassified as a serious CO nonattainment area by operation of law [See 63 FR 9945, (February 27, 1998)]. Fairbanks did not have the two years of clean data required to attain the standard by December 31, 2000, the required attainment date for CO serious areas, and under section 186(a)(4) of the CAAA, Alaska requested and EPA granted a one year extension of the attainment date deadline to December 31, 2001.

II. EPA's Proposed Action

EPA is, by today's action, making the determination that the Fairbanks serious CO nonattainment area did attain the CO NAAQS by the attainment date of December 31, 2001. As explained below, the Fairbanks nonattainment area remains classified a serious CO nonattainment area, and today's action does not redesignate the Fairbanks nonattainment area to attainment.

III. Basis for EPA's Action

Alaska has three CO monitoring sites in the Fairbanks CO nonattainment area. The air quality data in AIRS for these monitors show that, for the 2-year period from 2000 through 2001, there were no violations of the annual CO standard. The second highest 8-hour average measured during this 2-year period was at the Second and Cushman monitoring site in 2000 when the site measured 8.9 ppm. Based on this information, EPA has determined that the area attained the CO NAAQS standard as of the attainment date of December 31, 2001.

In summary, EPA proposes to find that the Fairbanks CO nonattainment area attained the CO NAAQS as of the attainment date of December 31, 2001. If we finalize this proposal, consistent with CAAA section 188, the area will remain a serious CO nonattainment area with the additional planning requirements that apply to serious CO nonattainment areas. This proposed finding of attainment should not be confused with a redesignation to attainment under CAAA section 107(d). Alaska has not submitted a maintenance plan as required under section 175A(a) of the CAAA or met the other CAAA requirements for redesignation to attainment. The designation status in 40 CFR part 81 will remain serious nonattainment for the Fairbanks CO nonattainment area until such time as EPA finds that Alaska has met the CAAA requirements for redesignations to attainment.

IV. Request for Public Comments

We are soliciting public comments on EPA's proposal to find that the Fairbanks CO nonattainment area has attained the CO NAAQS as of the December 31, 2001, attainment date. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 14, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–12966 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA247–0325b; FRL–7201–7]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from solvent usage and graphic arts operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 24, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765–4182; and,
Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (Air-4), U.S. Environmental Protection Agency, Region IX, (415) 947–4111.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SCAQMD 442—Usage of Solvants and VCAPCD 74.19—Graphics Arts. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments on the direct final rule, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of the direct final rule and if that provision may be severed from the remainder of the direct final rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final rule.

Dated: April 15, 2002.

Keith A. Takata,

Associate Regional Administrator, Region IX.

[FR Doc. 02–12840 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA183–4192b; FRL–7211–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Bethlehem Steel Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania to establish and require reasonably available control technology (RACT) for Bethlehem Steel Corporation. Bethlehem Steel Corporation is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in Dauphin County, Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 24, 2002.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182 or Betty Harris at (215) 814–2168, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov* or *harris.betty@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action of the Commonwealth's source-specific RACT requirements to control VOC and NO_X from Bethlehem Steel Corporation, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 8, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 02–12838 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1099, MB Docket No. 02–104, RM–10390]

Digital Television Broadcast Service; Dawson, Pelham, Savannah, Waycross, & Wrens, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by the Georgia Public Telecommunications Commission, licensee of stations WCES–TV, WVAN–TV, WXGA–TV, WACS–TV, and WABW–TV, requesting the substitution of DTV channel *2 for DTV channel *36 at Wrens; DTV channel *13 for DTV channel *46 at Savannah; DTV channel *9 for DTV channel *18 at Waycross; DTV channel *8 for DTV channel *26c at Dawson; and DTV channel *5 for DTV channel DTV *20 at Pelham. DTV channels *2, *13, *9, *8 and *5 can be allotted to

Wrens, Savannah, Waycross, Dawson, and Pelham, Georgia, in compliance with the principle community coverage requirements of Section 73.625(a). DTV Channel *2 can be allotted with a power of 4.9, (HAAT) of 436 meters; DTV channel *13 with a power of 10, (HAAT) of 293; DTV channel *9 with a power of 4.6 and (HAAT) of 286 meters; DTV channel *8 with a power of 4.9 and (HAAT) of 331 meters; and DTV channel *5 with a power of 0.75 and (HAAT) of 474 meters.

DATES: Comments must be filed on or before July 8, 2002, and reply comments on or before July 23, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (except in broadcast allotment proceedings). *See Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Donald T. Stepka, Arnold & Porter, 555 Twelfth Street, NW, Washington, DC 20004–1206 (Counsel for Georgia Public Telecommunications Commission).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–104, adopted May 10, 2002, and released May 17, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Georgia, is amended by removing DTV Channel *26c and adding DTV Channel *8c at Dawson.

3. Section 73.622(b), the Table of Digital Television Allotments under Georgia, is amended by removing DTV Channel *20 and adding DTV Channel *5 at Pelham.

4. Section 73.622(b), the Table of Digital Television Allotments under Georgia, is amended by removing DTV Channel *46 and adding DTV Channel *13 at Savannah..

5. Section 73.622(b), the Table of Digital Television Allotments under Georgia, is amended by removing DTV Channel *18 and adding DTV Channel *9 at Waycross.

6. Section 73.622(b), the Table of Digital Television Allotments under Georgia, is amended by removing DTV Channel *36 and adding DTV Channel *2 at Wrens.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–13028 Filed 5–22–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, and 177

[Docket No. RSPA–02–12064 (HM–232)]

RIN 2137–AD66

Hazardous Materials: Security Requirements for Offerors and Transporters of Hazardous Materials; Correction and Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); correction and extension of comment period.

SUMMARY: On May 2, 2002, the Research and Special Programs Administration proposed new requirements to enhance the security of hazardous materials transported in commerce. In response to requests by members of the regulated community, the comment period for the proposed rule is extended until July 3, 2002. In addition, we are correcting a citation in the proposed regulatory text.

DATES: Submit comments by July 3, 2002. To the extent possible, we will consider late-filed comments as we develop a final rule.

ADDRESSES: Submit comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify Docket Number RSPA–02–12064 (HM–232) and be submitted in two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. You may also submit comments by e-mail by accessing the Dockets Management System web site at "*http://dms.dot.gov/*" and following the instructions for submitting a document electronically.

The Dockets Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You can also review comments on-line at the DOT Dockets Management System web site at "*http://dms.dot.gov/*."

FOR FURTHER INFORMATION CONTACT: Susan Gorsky, (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

I. Background

On May 2, 2002, the Research and Special Programs Administration (RSPA, we) published a notice of proposed rulemaking (NPRM) proposing regulations to enhance the security of hazardous materials shipments (67 FR 22028). The NPRM proposed to revise requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) applicable to registration certificates, shipping documentation, and training. We also proposed to establish a new requirement for certain hazardous materials shippers and carriers to have plans in place to assure the security of shipments during transportation. We provided for a 30-day comment period, until June 3, 2002.

Since publication of the NPRM, we received 9 requests from representatives of the regulated industry requesting an extension of the 30-day comment period provided in the NPRM. Commenters suggest that the issues addressed in the NPRM require "significant" and "rigorous" analysis and substantial industry outreach to accurately assess the impact of the proposals on the industry. Commenters request a 60-day extension of the comment period to thoroughly review the proposals and provide constructive input to the rulemaking process.

As we stated in the NPRM, the threat to this Nation's security posed by possible intentional misuse of hazardous materials transported in commerce is ongoing and significant. Hazardous materials shippers and carriers must take action to enhance hazardous materials transportation security. However, we agree that commenters need more time than initially provided to consider the proposals in the NPRM. Therefore, we are extending the comment period for the NPRM an additional 30 days, until July 3, 2002.

In addition, two commenters discovered an incorrect reference in the NPRM. On page 22034, under the proposed regulatory text language for § 172.704(a)(4)(ii), the reference "§ 173.14 of this subchapter" should read "§ 172.802".

Accordingly, we are correcting the HM–232 NPRM as follows:

Correction

PART 172—[CORRECTED]

§ 172.704 [Corrected]

In proposed rule FR Doc. 02–10405, beginning on page 22028 in the issue of May 2, 2002, make the following correction to the proposed regulatory text:

On page 22034, in the third line of the second paragraph of column 3, in § 172.704(a)(4)(ii), correct "§ 173.14 of this subchapter" to read "§ 172.802".

Issued in Washington, DC on May 20, 2002 under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration.

[FR Doc. 02–13003 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010710173–2088–04; I.D. 032102A]

RIN 0648–AO91

Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries Fishing Year 2002

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments; proposed technical correction.

SUMMARY: NMFS proposes recreational measures for the 2002 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Public comments must be received on or before June 7, 2002.

ADDRESSES: Comments on the proposed recreational specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.nmfs.gov/ro/doc/nero.html*.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978) 281–9279, fax (978)281–9135, e-mail *rick.a.pearson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) and its implementing regulations (50 CFR part 648, subparts G, H, and I) describe the process for specifying annual recreational measures that apply in the Federal Exclusive Economic Zone (EEZ). The states manage these fisheries within three miles of their coast, under the Commission's Interstate FMP. The Federal regulations govern vessels fishing in the EEZ, which extends beyond three miles, as well as vessels possessing a Federal fisheries permit, regardless of where they fish. The FMP established Monitoring Committees (Committees) for each of the three fisheries, consisting of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Fishery Management Councils, and NMFS.

The FMP and its implementing regulations require the Committees to review scientific and other relevant information annually and to recommend measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries. The FMP limits these measures to minimum fish size, possession limit, and closed seasons.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP.

Final specifications for the 2002 summer flounder, scup and black sea bass fisheries were published at 66 FR 66348, December 26, 2001. These specifications include a coastwide recreational harvest limit of 9.72 million lb (4.40 million kg) for summer flounder, 2.71 million lb (1.23 million kg) for scup, and 3.43 million lb (1.55 million kg) for black sea bass. Those specifications do not establish recreational measures, since final recreational catch data were not available when the Council made its recreational harvest limit recommendation to NMFS.

Summer Flounder

The 2002 final specifications established Total Allowable Landings (TAL) for summer flounder of 24.3 million lb (11.02 million kg), consistent with the FMP's target fishing mortality rate (F) of 0.26. The specifications divided the summer flounder TAL into a commercial quota of 14.58 million lb (6.61 million kg) and a recreational harvest limit of 9.72 million lb (4.40 million kg).

In 2000, recreational landings were 15.82 million lb (7.17 million kg), the highest landings since 1987. In 2001, the Council and the Board implemented a recreational harvest limit of 7.16 million lb (3.25 million kg), the lowest recreational limit since the FMP went into effect in 1992. To achieve the 2001 recreational harvest limit, most coastal states from Maine through North Carolina established measures in state waters that were significantly more restrictive than the 2000 recreational summer flounder measures. NMFS similarly implemented restrictive measures for the EEZ (66 FR 39288, July 30, 2001). Despite these measures, 2001 Marine Recreational Statistics Survey (MRFSS) data project recreational summer flounder landings to be 11.54 million lb (5.23 million kg). Thus, assuming recreational fishing effort in 2002 will be similar to that in 2001, a 16 percent reduction in recreational landings is needed to achieve the recreational harvest limit of 9.72 million lb (4.40 million kg) established for 2002. However, in 2001, some states implemented higher minimum size limits and possession limits than the proposed limits in 2002. In addition, most states implemented differing seasons. Taking into consideration state-specific measures implemented in 2001, adjusted projected landings would be 13.22 million lb (5.99 million kg). As such, the overall percent reduction required to achieve the 2002 harvest limit of 9.72 million lb (4.41 million kg) would be 27 percent for 2002.

On July 11, 2001, NMFS published a final rule in the **Federal Register** to implement Framework Adjustment 2 to the FMP (66 FR 36208). This framework implemented a process that makes conservation equivalency a management option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limit, minimum fish size, and season time and duration) as long as the combined effect of all of the states' management measures achieve the same level of conservation as Federal coastwide measures developed to achieve the recreational harvest limit would, if implemented by all of the states (i.e., both would have equivalent Fs).

If NMFS approves and implements conservation equivalency, then NMFS would waive Federal recreational measures that would otherwise apply in the EEZ. Federally permitted vessels as well as vessels fishing in the EEZ, would be subject to the recreational fishing measures implemented by the state in which the fish are landed. The Council and Board recommend annually either conservation equivalency (whereby states develop state-specific measures) or coastwide management measures (whereby all states adopt the same measures as the Federal measures) for the summer flounder recreational fishery to ensure that the recreational harvest limit will not be exceeded.

If the Council and the Board recommend conservation equivalency, they must also recommend coastwide management measures that would be implemented if, following NMFS review and public comment, conservation equivalency is not implemented in the final rule. In addition, the Council and the Board must recommend precautionary default measures that would apply in states that either do not submit conservation equivalency proposals to the Board, or whose management proposals are not approved by the Board. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

For 2002, the Council and Board voted to recommend conservation equivalency to achieve the required 16–percent reduction in total landings for the recreational summer flounder fishery.

As required when conservation equivalency is recommended, the Council and Board also specify precautionary default measures. Precautionary default measures are defined as measures that would achieve at least the overall required reduction in landings for each state. The Precautionary Approach Alternative adopted by the Council and Board consists of an 18 inch (45.72 cm) total length (TL) minimum fish size, a possession limit of one fish per person, and no closed season. Because the precautionary default must be restrictive enough to achieve the necessary reductions in the state requiring the greatest reductions, in most states application of the precautionary default would achieve higher than necessary reductions. The precautionary default measures would reduce state specific landings by 41 (Delaware) to 88.2 percent (North Carolina). As specified in Framework 2 to the Summer Flounder, Scup and Black Sea Bass FMP, specific states that fail to implement conservation equivalent measures would be required to implement precautionary default measures.

Finally, the coastwide alternative recommended by the Council and Board to be implemented in the EEZ if conservation equivalency is not implemented, includes a possession limit of eight fish/person, a minimum fish size of 17 inches (43.18 cm) TL, and no closed season. The recommended coastwide alternative would reduce recreational landings by 30 percent, assuming the coastwide regulations are implemented by all states. For comparative purposes, the existing coastwide summer flounder measures include a 15.5–inch (39.37 cm) minimum fish size, a 3-fish possession limit and an open season from May 25 through September 4.

The Commission has established conservation equivalency guidelines that require each state, using state-specific tables, to determine and implement an appropriate possession limit, size limit, and closed season to achieve the landings reduction necessary for each state. The state-specific tables are adjusted to account for the past effectiveness of the regulations in each state. As specified by the guidelines adopted by the Atlantic States Marine Fisheries Commission (ASMFC) and put forth in Addendum III to the Summer Flounder, Scup, and Black Sea Bass FMP, based upon the number of fish landed in 1998 (the control year) and projected to have been landed in 2001, the percent reduction in landings required by the states for 2002 (relative to 2001) are: Rhode Island: 5 percent; New Jersey: 16.7 percent; Delaware: 3.5 percent; Maryland: 5.3 percent; Virginia: 43.8 percent; and North Carolina: 28.4 percent. Massachusetts, Connecticut and New York do not require any reductions in recreational summer flounder landings if their current regulations are maintained.

1998 landings data were used to establish baseline state-by-state share ratios because this was the last year that all states had the same management regulations in place. Then, 2000 and 2001 landings data were used to set the landings reduction requirements for the 2002 recreational fishing year. Based on these data, it was concluded that 2001 landings were higher than the target for 2002, thus the 2002 quota is a reduction over 2001.

The Board required each state to submit its conservation equivalency proposal to the Commission by January 15, 2002. The Commission's Summer Flounder Technical Committee has since evaluated the proposals and advised the Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. After the Technical Committee evaluation, the Board met on February 21, 2002 to approve or disapprove each state's proposal. The Commission invited public participation in its review process by holding public meetings and offering the public the opportunity to comment on the state proposals. During the comment period, the Commission will notify NMFS as to which state proposals have been approved or disapproved. Although the public is not formally advised of the Commission's recommendation regarding conservation equivalency during the comment period on this proposed rule, the information is available from the Commission or NMFS, after such notification.

If, at the final rule stage, the Commission recommends and NMFS accepts conservation equivalency, then NMFS would waive the Federal recreational measures that would otherwise apply in the EEZ. Federally permitted vessels as well as vessels fishing in the EEZ, would be subject to the recreational fishing measures implemented by the state in which it lands. States that do not submit proposals or whose proposals were disapproved by the Commission would be required by the Commission to adopt the precautionary default measures. The Commission would allow states that had been assigned the precautionary default measures to resubmit revised management measures and ASMFC would notify NMFS of any resubmitted proposals that were approved after publication of the final rule implementing the recreational specifications. Afterwards, NMFS would publish a notice in the **Federal Register** to notify the public of any changes in the state's management measures.

NMFS is proposing to either approve and defer to the state conservation equivalency measures approved and recommended by the Commission or to implement the coastwide alternative in this proposed rule. If conservation equivalency is approved, the final rule would waive Federal recreational summer flounder measures (possession limit, size limit, and season) for federally permitted, charter/party permit holders and recreational vessels fishing for summer flounder in the Exclusive Economic Zone (EEZ). Those vessels would be required to abide by the requirements enacted by the state in which they land summer flounder.

Scup

The 2002 specifications for scup implemented a recreational harvest limit of 2.71 mlb (1.23 million kg), consistent with the FMP target exploitation rate for scup, of 21 percent for the 2002 fishing year. The 2001 MRFSS data projected 2001 recreational scup landings to be 4.97 million lb (2.25 million kg). Assuming the same level of fishing effort will exist in 2002, the MRFSS data indicate that a reduction in landings will be necessary.

However, the landings data alone were not used to determine the necessary reductions for 2002. The effectiveness of the measures was also investigated and the Commission and Council found that they were not 100 percent effective due to discrepancies in landings data, which did not comply with the management measures set by the regulations. For example, some fish were landed over or under the bag limit and possession limit. These data were removed from the analyses and the data were re-analyzed to obtain more accurate estimates of landings that fall within the required measures. Likewise, any discrepancies that occurred as a result of landings obtained outside the closed season of the previous year were removed. As a result, the projected 2001 recreational landings increased to 6.37 million lb (2.89 million kg) and the estimated reduction in landings necessary for 2002 increased to 57.4 percent.

The Council voted to recommend the following measures: A 10-inch (25.40–cm) TL minimum fish size, a 50–fish per person possession limit, and open seasons from January 1 through February 28 and from July 1 through October 31. For comparative purposes, the current scup recreational measures in the EEZ are a 9–inch (22.86 cm) minimum fish size, a 50–fish possession limit and an open season from August 15 through October 31. It was estimated that the Council's recommended scup measures would reduce recreational landings by only 30 percent, although a 57.4–percent reduction is necessary. The Council believes, however, that their recommended measures would have more impact than the analysis of the MRFSS data indicates, based on industry comment at the December 2001 Council meeting.

The Commission postponed action on scup at its December meeting and advised its staff to prepare an addendum to its Interstate FMP for Scup that would include state-by-state conservation equivalency and other measures. On February 21, 2002, the Commission approved Addendum VII to the Commission's Interstate Scup FMP, which allows states from Massachusetts through New York to develop state-specific management measures. For New Jersey, which has limited recreational scup landings data, the Commission approved a 10-inch (25.40-cm) TL minimum size, a 50-fish possession limit, and an open season from July 1 through October 31.

Due to low scup landings in more southern states, the Commission approved the retention of existing recreational scup measures in Delaware, Maryland, Virginia, and North Carolina. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum VII to the Commission's Interstate FMP, it is likely that state and Federal recreational scup measures will differ for the 2002 season.

Disapproval of Council's Preferred Scup Alternative and Request for Public Comment

After careful review, NMFS has decided to disapprove the Council's scup recommendation (i.e Council's

Preferred Scup Alternative) because the analysis indicates that accepting this recommendation would result in landings of approximately 4.46 million lb (2.02 million kg), which is well above the scup recreational harvest limit of 2.71 million lb (1.23 million kg) established for 2002. Thus, the Council's recommended measures are not consistent with the requirements of the FMP.

The Council submission also analyzed the following three alternatives that could reduce recreational landings by the required 57.4 percent: (1) A 10–inch (25.4–cm) TL minimum fish size, a 20–fish per person possession limit, and open seasons from January 1 through February 28 and from July 1 through October 2; (2) a 9–inch (22.86–cm) TL minimum fish size, a 20–fish per person possession limit, and open seasons from January 1 through February 28 and from September 2 through October 31; and (3) a 9–inch (22.86–cm) TL minimum fish size, a 50–fish possession limit, and open seasons from January 1 through February 28 and from October 8 through October 31. NMFS is hereby requesting public comment on the first two of these alternatives (defined later in this document and referred to as NMFS Scup Alternatives 1 and 2) for possible implementation in the final rule. These two alternatives have been determined by the Council to achieve the landings reductions needed to achieve the FMP's target exploitation rate. The third alternative (Scup Alternative 3), which would allow only a 24–day open season during the prime fishing period, is not being further considered for implementation by NMFS. The impacts associated with NMFS Scup Alternatives 1 and 2 are described in the Council's submission and are summarized in the Classification section of this proposed rule.

NMFS is proposing NMFS Scup Alternative 2 for publication in the proposed regulatory text. However, depending upon public comment, NMFS may instead implement Scup Alternative 1. Should Scup Alternative 1 ultimately be chosen, NMFS will publish the corresponding regulations in the final rule.

Black Sea Bass

The 2002 specifications implemented a black sea bass recreational harvest limit of 3.43 mlb (1.56 million kg), consistent with the FMP's target exploitation rate of 37 percent established for the 2002 fishing year. The 2001 MRFSS data projected recreational scup landings during 2001 to be 3.64 million lb (1.65 million kg). As in the case of scup, landings data were adjusted using the method devised by the Council's and Commission's Technical Committee to reflect the effectiveness of the various measures in 2001. Using this method, the projected 2001 recreational black sea bass landings increased to 3.88 million lb (1.76 million kg). Therefore, a 12–percent reduction in landings is estimated to be necessary for 2002.

The Council recommended the following black sea bass measures for the 2002 fishery: An 11.5–inch (29.21–cm) TL minimum fish size, a 25–fish per person possession limit, and no closed season. For comparative purposes, the current black sea bass regulations include an 11–inch (27.94 cm) minimum fish size, a 25–fish possession limit, and a March 1 through May 9 closed season. The Commission's Black Sea Bass Board adopted the same measures for 2002 as the Council at its December 2001 meeting. These measures should reduce recreational landings by 16 percent, if they are in compliance with the 85 percent criteria as adopted by the Black Sea Bass Monitoring Committee. NMFS has reviewed the Council's analyses of these measures and is publishing its preferred alternative in this proposed rule without modification.

Correction

This proposed rule contains a proposed technical correction. In a recent final rule (67 FR 6877, February 14, 2002), the existing introductory text to § 648.100 was inadvertently removed. This proposed rule contains the introductory text that was inadvertently removed.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council and NMFS prepared an IRFA that describes the economic impact this proposed rule would have on small entities, if adopted. A copy of the complete IRFA can be obtained from the Council (see **ADDRESSES**) or via the Internet at *http://www.nero.nmfs.gov*. A summary of the analysis follows.

This preamble includes a description of the proposed action, why it is being considered, and the legal basis for this proposed action. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in the Preferred Alternative or any of the alternatives considered for this action. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule.

The Council's IRFA examined the economic impacts of alternative sets of recreational management measures for the summer flounder, scup and black sea bass fisheries. The economic impacts are fully described in the EA/RIR/IRFA. The proposed action could affect any recreational angler who fishes for summer flounder, scup or black sea bass. However, this summary of the IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or in state waters. Although other recreational fishers are likely to be impacted, they are not considered small entities nor is there a permit requirement to participate in these fisheries.

In the IRFA, NMFS estimated that the proposed measures could affect any of the 738 vessels possessing a Federal charter/party permit for summer flounder, scup and/or black sea bass in 2000, the most recent year for which complete permit data are available. Only 393 of these vessels reported actively participating in the recreational summer flounder, scup, and/or black sea bass fisheries in 2000.

The effects of the various management measures were analyzed by employing quantitative approaches to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although Regulatory Flexibility Act guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead assessed using changes in party/charter vessel revenues as a proxy. This is because reliable cost data is not available for these fisheries. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process. The analysis estimated changes in revenues for party/charter vessels participating in the summer flounder, scup and/or black sea bass fisheries by employing the following method. First, 2001 MRFSS data were used to project the number of recreational party/charter vessel trips made in each state. The MRFSS data indicate that an estimated 1.778 million total trips were taken by anglers aboard party/charter vessels in 2001 in the Northeast Region. Anglers fishing in New Jersey, North Carolina, Massachusetts, New York, and Virginia made 75 percent of those trips. The number of trips in each state ranged from a high of 621,700 in New Jersey to a low of 18,000 trips in Rhode Island.

Second, the number of trips that targeted summer flounder, scup and/or black sea bass was identified as appropriate for each measure. Then, the number of trips that would be impacted by the proposed measures was estimated. This information was presented as an absolute number and as a percentage of the total trips taken in each state.

Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the Northeast Region in 2001. That value of $39.84 was used to calculate the statewide party/charter vessel revenue losses associated with the impacted trips (by multiplying the number of impacted trips in each state by $39.84). Then, the revenue impacts on individual vessels were estimated by dividing the statewide revenue impact by the number of vessels affected in each state. This method presumes that the number of party/charter vessels participating in each fishery in 2002 will be the same as in 2000. Also, the analysis assumes that angler effort and catch rates in 2002 will be similar to 2001.

The analysis noted that this method is likely to result in an over-estimation of the revenue losses because the analysis assumes that all trips that are affected by the measures would not be taken in 2002. However, it is very likely that some anglers would continue to take party/charter vessel trips even if the restrictions limit their landings. Also, some may engage in catch and release fishing and others may target other species of fish. It was not possible to estimate the sensitivity of anglers to specific management measures. In addition, revenue impacts may be overestimated because the states may implement different measures in state waters.

Impacts of Summer Flounder Alternatives

The proposed action for the summer flounder recreational fishery would limit coastwide catch to 9.72 million lb (4.40 million kg) and reduce landings by at least 27 percent compared to 2001 by either deferring management to the states or imposing coastwide Federal measures throughout the EEZ. The precautionary default provision that is included in the conservation equivalency proposal was not analyzed as a separate provision because it was assumed that, if conservation equivalency is approved in the final rule, the states would use this opportunity to tailor less restrictive measures specifically to their state fisheries.

Precautionary default measures are defined as measures that would achieve at least the overall required reduction in landings for each state. The Precautionary Approach Alternative adopted by the Council and Board consists of an 18 inch (45.72 cm) total length minimum fish size, a possession limit of one fish per person, and no closed season. The precautionary default measures would reduce state specific landings by 41 (Delaware) to 88.2 percent (North Carolina). As specified by Framework 2 to the Summer Flounder, Scup and Black Sea Bass FMP, specific states that fail to implement conservation equivalent measures would be required to implement precautionary default measures.

The state-specific landings reductions associated with the precautionary default measures are substantially higher than the reductions that would be implemented using conservation equivalency. As such, it is expected that states will avoid the impacts of precautionary approach measures by establishing conservation equivalent management measures.

There is very little information available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. It is possible that the proposed management measures could restrict the recreational fishery for 2001 and cause a decrease in recreational satisfaction (i.e. low bag limit, larger fish size or closed season). It is also possible that, given the popularity of summer flounder among some anglers, the more restrictive time frame of the seasonal closures could affect angler satisfaction and/or demand for party/charter trips. Due to lack of data on angler satisfaction, these effects cannot be quantified. However, it is probable that the negative impacts to party/charter boat anglers under the precautionary default alternative would be substantially higher than those under the preferred alternative (conservation equivalency).

Comparatively, the impact of the proposed summer flounder conservation equivalency recommendation among states is likely to be similar to the level of landings reductions that are required of each state. Based upon the number of fish landed in 1998 and projected to have been landed in 2001, the percent reduction in landings required by the states for 2002 (relative to 2001) are: Rhode Island: 5 percent; New Jersey: 16.7 percent; Delaware: 3.5 percent; Maryland: 5.3 percent; Virgina: 43.8 percent; and North Carolina: 28.4 percent. Massachusetts, Connecticut and New York do not require any reductions in recreational summer flounder landings if their current regulations are maintained. If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP.

The impacts of the non-preferred summer flounder coastwide alternative, which proposes a 17–inch (43.2 cm) TL minimum fish size and a possession limit of eight fish/person, were assessed using the quantitative method described above. Impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one summer flounder that was smaller than 17 inches (43.2 cm) TL or that landed more than eight summer flounder. NMFS concluded through the analysis that the measures would affect less than 1 percent of party/charter trips in any of the states, with impacts identified only in New Jersey ($64,381), Virginia ($20,199), Delaware ($7,530), Rhode Island ($1,872), and Maryland ($558). The statewide revenue losses associated with these impacts are shown in parentheses.

The average maximum gross revenue loss per party/charter vessel was estimated to be $1,506 in Delaware, $961 in New Jersey, $808 in Virginia, $186 in Maryland, and $67 in Rhode Island. For the reasons noted above (alternative species, catch and release fishing, etc), it is very likely that some anglers would continue to take party/charter vessel trips even if the restrictions limit their landings. Therefore, this method is likely to overestimate the potential revenue impacts of the proposed measures. In addition, only 12 percent of recreational summer flounder landings were derived from the EEZ in 2000. Federal coastwide measures would apply to federally permitted vessels wherever they fish. However, the states could potentially implement different recreational measures for summer flounder.

Impacts of Scup Alternatives

The proposed action for scup is to impose Federal management measures in the EEZ that, in combination with management measures in place in state

waters, would achieve the coastwide harvest limit of 2.71 million lb (1.23 million kg). The proposed action would achieve this goal by implementing one of two alternative management regimes (i.e., NMFS Scup Alternative 1 and NMFS Scup Alternative 2).

The impacts of the Council's disapproved Preferred Scup alternaitve were assessed using the quantitative method described above. Impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one scup smaller than 10 inches (25.4 cm) TL, that landed more than 50 scup, or that landed at least one scup during the proposed closed seasons of March 1 to June 30 and November 1 to December 31. The analysis concluded that the measures would affect 2.1 percent or less of the party/charter trips in any of the states, with impacts identified in Massachusetts ($110,197), Delaware ($15,976), New Jersey ($6,574), Rhode Island ($2,590), Connecticut ($1,195) and New York ($478). The statewide revenue losses associated with these impacts are shown in parentheses.

The average maximum gross revenue loss per party/charter vessel associated with the Council's Preferred Scup Alternative was estimated to be $7,988 in Delaware, $1,900 in Massachusetts, $219 in New Jersey, $185 in Rhode Island, $149 in Connecticut, and $17 in New York. This analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips even if the restrictions limit their landings. In addition, although the Federal coastwide measures would apply to federally permitted vessels wherever they fish, state-only permitted vessels will likely be fishing under different recreational measures for scup, because the Commission has adopted a conservation equivalency addendum.

The impacts associated with NMFS Scup Alternative 1 are as follows: Impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one scup smaller than 10 inches (25.4 cm) TL, that landed more than 20 scup, or that landed at least one scup during the proposed closed seasons of March 1 to June 30 and October 3 to December 31. The analysis concluded that the measures in Alternative 1 would affect 4 percent or less of the party/charter trips in any of the states, with impacts identified in New York($375,890), Massachusetts($180,635), Rhode Island ($29,163), New Jersey ($26,972), Connecticut ($20,199), and Delaware ($16,534). The statewide revenue losses associated with these impacts are shown in parentheses.

The average maximum gross revenue loss per party/charter vessel associated with NMFS Scup Alternative 1 was estimated to be $13,425 in New York, $8,267 in Delaware, $3,114 in Massachusetts, $2,525 in Connecticut, $2,083 in Rhode Island, and $899 in New Jersey. This method of analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips even if the restrictions limit their landings. Although the Federal coastwide measures would apply to federally permitted vessels wherever they fish, state-only permitted vessels will likely be fishing under different recreational measures for scup because the Commission has adopted a scup conservation equivalency addendum.

For NMFS Scup Alternative 2, impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one scup smaller than 9 inches (22.86 cm) TL, that landed more than 20 scup, or that landed at least one scup during the proposed closed seasons of March 1 to September 1 and November 1 to December 31. The analysis concluded that the measures in Alternative 2 would affect 7.3 percent or less of the party/charter trips in any of the states, with impacts identified in New York ($434,256), Massachusetts ($388,838), New Jersey ($314,856), Rhode Island ($50,278), Delaware ($23,466), and Connecticut ($22,032). The statewide revenue losses associated with these impacts are shown here in parentheses.

The average maximum gross revenue loss per party/charter vessel associated with NMFS Scup Alternative 2 was estimated to be $15,509 in New York, $11,733 in Delaware, $10,495 in New Jersey, $6,704 in Massachusetts, $3,591 in Rhode Island, and $2,754 in Connecticut. These estimates are likely to be high because some anglers would likely continue to take party/charter vessel trips even if the restrictions limit their landings. Also, state-only permitted vessel will potentially be fishing under different recreational measures for scup due to the adoption of conservation equivalency by Commission.

For non-preferred Scup Alternative 3, impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one scup smaller than 9 inches (22.86 cm) TL, that landed more than 50 scup, or that landed at least one scup during the proposed closed seasons of March 1 to October 7 and November 1 to December 31. The analysis concluded that the measures in Alternative 3 would affect 9.6 percent or less of the party/charter trips in any of the states, with impacts identified in New York ($538,318), Massachusetts ($481,506), New Jersey ($325,453), Rhode Island ($69,043), Connecticut (48,804), and Delaware ($41,195).

The average maximum gross revenue loss per party/charter vessel associated with Scup Alternative 3 was estimated to be $20,597 in Delaware, $19,226 in New York, $10,848 in New Jersey, $8,302 in Massachusetts, $6,101 in Connecticut, and $4,932 in Rhode Island. These estimates are likely to be high because some anglers would likely continue to take party/charter vessel trips even if the restrictions limit their landings. Also, state-only permitted vessels will potentially be fishing under different recreational measures for scup due to the adoption of conservation equivalency by the Commission.

Impacts of Black Sea Bass Alternatives

The proposed black sea bass alternative is designed to achieve the 3.43 million lb (1.55 million kg) harvest limit and to reduce landings by at least 16 percent, compared to 2001. Although only a 12-percent reduction in landings (relative to 2001) is required, it was not possible to develop precise measures using only a minimum fish size and a possession limit. Impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one black sea bass smaller than 11.5 inches (29.21 cm) TL or that landed more than 25 black sea bass. NMFS concluded through the analysis that the proposed alternative would affect 1.8 percent or less of the party/charter trips in any of the states, with impacts identified in New Jersey ($178,324), Maryland ($78,365), Delaware ($55,457), Virginia ($39,999), North Carolina ($13,785), and Rhode Island ($1,355). The statewide revenue losses associated with these impacts are shown in parentheses.

The average maximum gross revenue loss per party/charter vessel associated with the proposed black sea bass alternative was estimated to be $26,122 in Maryland, $11,091 in Delaware, $3,075 in New Jersey, $1,818 in Virginia, $1,378 in North Carolina, and $54 in Rhode Island. As stated above, these estimates represent maximum potential losses because it is likely that anglers will continue to take party/charter trips rather than quit altogether, due to the new restrictions.

For black sea bass non-preferred Alternative 1, impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one black sea bass smaller than 11 inches (27.94 cm) TL, that landed more than 25 black sea bass, or that landed at least one black sea bass during the closed season (December 1 - May 18). The analysis concluded that the proposed alternative would affect 5.5 percent or less of the party/charter trips in any of the states, with impacts identified in New Jersey ($238,920), Maryland ($81,792), Delaware ($64,342), Virginia ($44,501), Rhode Island (39,442), North Carolina ($15,418), and Massachusetts ($3,426). The statewide revenue losses associated with these impacts are shown in parentheses.

The average maximum gross revenue loss per party/charter vessel associated with black sea bass non-preferred Alternative 1, was estimated to be $27,264 in Maryland, $12,868 in Delaware, $4,119 in New Jersey, $2,023 in Virginia, $1,578 in Rhode Island, $1,542 in North Carolina, and $36 in Massachusetts.

For black sea bass non-preferred Alternative 2, impacted trips were defined as trips taken aboard party/charter vessels in 2001 that landed at least one black sea bass smaller than 11 inches (27.94 cm) TL, that landed more than 15 black sea bass, or that landed at least one black sea bass during the closed seasons (March 1–April 31 and December 27–December 31). NMFS concluded through the analysis that the proposed alternative would affect 5.5 percent or less of the party/charter trips in any of the states, with impacts identified in New Jersey ($1,360,775), Maryland ($110,317), Delaware ($52,908), Virginia ($41,115), North Carolina ($13,785), Rhode Island ($4,582), New York ($3,307), and Massachusetts ($518). The statewide revenue losses associated with these impacts are shown in parentheses.

The average maximum gross revenue loss per party/charter vessel associated with non-preferred Alternative 2 was estimated to be $36,772 in Maryland, $23,462 in New Jersey, $10,582 in Delaware, $1,869 in Virginia, $1,378 in North Carolina, $183 in Rhode Island, $59 in New York, and $5 in Massachusetts.

Potential revenue losses in 2002 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. In Rhode Island, for example, losses could reach $6,481 for each vessel that lands all three species in 2002, compared to 2001. However, in Maryland, a vessel that lands all three species could potentially lose up to a maximum of $32,151 in 2002. On average, the largest potential losses were projected for party/charter vessels operating out of New York, New Jersey, Delaware, and Maryland in 2002.

It is important to re-emphasize that the revenue losses discussed above represent the maximum potential gross revenue losses per vessel. These losses were calculated by assuming that all of the angler trips constrained by the proposed measures would no longer occur. Because anglers would continue to have the ability to engage in catch-and-release fishing for summer flounder, scup, and black sea bass and because of the numerous alternative target species available to anglers, the reduction in effort and associated expenditures should be substantially lower than indicated in this summary. The lack of demand models limits the ability to empirically estimate how sensitive the affected anglers might be to the proposed regulations. Because the proposed measures affect the number and size of the fish that may be kept and do not prohibit anglers from engaging in catch and release fishing or fishing up to the possession limit, demand and revenues for party/charter vessels are expected to remain relatively stable.

The RIR/IRFA is available from the Council (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.100(d), as a proposed correction, introductory text is added to read as follows:

§ 648.100 Catch quotas and other restrictions.

* * * * *

(d) *Commercial measures.** * *

3. Section 648.102 is revised to read as follows:

§ 648.102 Time restrictions.

Unless otherwise specified pursuant to § 648.107, vessels that are not eligible for a moratorium permit under § 648.4(a)(3) and fishermen subject to the possession limit may fish for summer flounder from January 1 through December 31. This time period may be adjusted pursuant to the procedures in § 648.100.

4. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) Unless otherwise specified pursuant to § 648.107, the minimum size for summer flounder is 17 inches (43.18 cm) TL for all vessels that do not qualify for a moratorium permit, and charter boats holding a moratorium permit if fishing with more than three crew members, or party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members.

* * * * *

5. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) Unless otherwise specified pursuant to § 648.107, no person shall possess more than eight summer flounder in, or harvested from the EEZ, unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. ***

* * * * *

6. § 648.107 is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

For 2002, the Regional Administrator has determined that conservation equivalent measures shall be implemented by the states for the recreational summer flounder fishery. Therefore:

(a) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels harvesting summer flounder in or from the EEZ and subject to the recreational fishing measures of this part, landing summer flounder in a state whose fishery management measures are determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission shall not be subject to the more restrictive Federal measures pursuant to the provisions of § 648.4(b). Those vessels shall be subject

to the recreational fishing measures implemented by the state in which they land.

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in states and subject to the recreational fishing measures of this part, whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season–January 1 through December 31; minimum size–18 inches (45.72 cm); and possession limit–one fish.

7. In § 648.122, paragraph (g) is revised to read as follows:

§ 648.122 Time and area restrictions.

* * * * *

(g) *Time restrictions.* Vessels that are not eligible for a moratorium permit under § 648.4(a)(6) and fishermen subject to the possession limit may not possess scup, except from January 1 through February 28 and from September 2 through October 31. This time period may be adjusted pursuant to the procedures in § 648.120.

8. In § 648.124, paragraph (b) is revised to read as follows:

§ 648.124 Minimum fish sizes.

* * * * *

(b) The minimum size for scup is 9 inches (22.86 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

* * * * *

9. In § 648.125, the first sentence of paragraph (a) is revised to read as follows:

§ 648.125 Possession limit.

(a) No person shall possess more than 20 scup in, or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit.***

* * * * *

10. Section 648.142 is revised to read as follows:

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7) and fishermen subject to the possession limit may not possess black sea bass, except from January 1 through December 31. This time period may be adjusted pursuant to the procedures in § 648.140.

11. In § 648.143, paragraph (b) is revised to read as follows:

§ 648.143 Minimum sizes.

* * * * *

(b) The minimum size for black sea bass is 11.5 inches (29.21 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats holding a moratorium permit if fishing with more than three crew members. The minimum size may be adjusted for recreational vessels pursuant to the procedures in § 648.140.

* * * * *

[FR Doc. 02–12779 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 100
Thursday, May 23, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of rescheduled resource advisory meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Sierra and Sequoia National Forests' Resource Advisory Committee (RAC) for Fresno County will meet on July 16, 2002, 6:30–9:30 p.m. instead of June 18, 2002. The meeting is rescheduled due to the completion of the voting for projects recommended for 2001 funds at the May 14th meeting. The Fresno County Resource Advisory Committee will meet at the Districts Ranger's office, Prather, CA. The purpose of the meeting is for the Resource Advisory Committee to receive project proposals for recommendations to the Forest Supervisor for expenditures of Fresno County Title II funds.

DATES: The Fresno RAC meeting will be held on July 16, 2002. The meeting will be held from 6:30 p.m. to 9:30 p.m.

ADDRESSES: The Fresno County RAC meeting will be held at the Sierra National Forest, High Sierra District Ranger office, 29688 Auberry Road, Prather, CA.

FOR FURTHER INFORMATION CONTACT: Sue Exline, USDA, Sierra National Forest, 1600 Tollhouse Road, Clovis, CA 93611, (559) 297–0706 ext. 4804; e-mail *skexline@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review and approve the May 14, 2002 meeting notes; (2) Discuss new business of the RAC if applicable; (3) Discuss the status of the 2001 projects' funds; (4) Discuss the Board of Supervisors meeting of June 4th; (5) Consideration of Title II Project proposals from the public and/or the RAC members; (6) Determine the date and location of the next meeting; (7) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 14, 2002.

Ray Porter,

District Ranger.

[FR Doc. 02–12884 Filed 5–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold a meeting on May 30, 2002, in Quincy, California. The purpose of the meeting is to evaluate final proposals for recommendation to the Plumas National Forest Supervisor for funding/implementation under the Title 2 provisions of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES AND ADDRESSES: The meeting will take place from 9–4 p.m., in the Mineral Building at the Plumas-Sierra County Fairgrounds, 204 Fairgrounds Road, Quincy, California.

FOR FURTHER INFORMATION CONTACT: Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, P.O. Box 11500/159 Lawrence Street, Quincy, CA 95971; (530) 283–7850; or by e-mail *eataylor@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items for the meeting include: (1) Review applicable sections of the Secure Rural Schools and Community Self-Determination Act of 2000, regarding project recommendations; (2) Discuss & approve project selection process, (3) Discuss & select projects to recommend to the Forest Supervisor for funding; (4) Discuss & confirm logistics for forwarding recommended projects to Forest Supervisor (FS) and to project proponents following FS approval; and (5) Future meeting schedule/logistics/agenda.

The meeting is open to the public and individuals may address the Committee after being recognized by the Chair.

Dated: May 10, 2002.

Fred J. Krueger,

Public Services Staff Officer.

[FR Doc. 02–12930 Filed 5–22–02; 8:45 am]

BILLING CODE 3410–11–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

The U.S. Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 10 a.m. local time on June 4, 2002, at 2175 K Street, NW., Suite 400 Conference Room, Washington DC. The Board will discuss and deliberate on staff evaluation of responses from recipients of CSB recommendations. The Board will also hear a status report on the investigation of a chemical plant fire at Third Coast Packaging Company in Friendswood, Texas on May 1 and an explosion and fire incident at the Kaltech Company facility in the Chelsea section of New York City on April 25. In addition, the Board will hear an update on the Reactive Chemical Hazards Investigation.

At the meeting CSB staff will present to the Board proposed status assignments to recommendations resulting from several completed investigations. The assignments include categories that specify if the recommendation was successfully adopted and if it is open or closed. The Board will discuss the proposals presented by the staff.

Recommendations are issued by a vote of the Board. They address an identified safety deficiency uncovered during an investigation, and specify how to correct the situation. Safety recommendations are the primary tool used by the Board to motivate implementation of safety improvements and prevent future incidents. CSB recommendations may be directed to government entities, safety organizations, corporations, trade associations, labor unions, and others. With the issuance of a final report and recommendations, the Board begins the

process that promotes saving lives and property.

All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the relevant issues and factors. No factual analyses, conclusions, or findings should be considered final. Only after the Board has analyzed and reviewed the staff proposal, and voted to approve the status will there be a final record of board action.

The meeting is open to the public. Please notify CSB if a translator or interpreter is needed, 10 business days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of Prevention, Outreach, and Policy, (202)–261–7600, or visit our website at: *www.csb.gov*.

Christopher W. Warner,

General Counsel.

[FR Doc. 02–13169 Filed 5–21–02; 3:18 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and request for revocation in part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: May 23, 2002.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2001), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on Certain Steel Concrete Reinforcing Bars from Turkey.

Initiation of Reviews: In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2003.

	Period to be reviewed
Antidumping Duty Proceedings	
The People's Republic of China:	
Brake Rotors,* A–570–846	4/1/01–3/31/02
China National Machinery and Equipment Import & Export (Xianjiang) Corporation, and manufactured by any company other than Zibo Botai Manufacturing Co., Ltd	
China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Laizhou CAPCO Machinery Co., Ltd	
Laizhou CAPCO Machinery Co., Ltd. and manufactured by any company other than* Laizhou CAPCO Machinery Co., Ltd	
Laizhou Luyuan Automobile Fittings Co., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co., or Shenyang Honbase Machinery Co., Ltd	
Shenyang Honbase Machinery Co., Ltd., and manufactured by any other company other than Shenyang Honbase Machinery Co., Ltd., or Laizhou Luyuan Automobile Fittings Co	
Beijing Concord Auto Technology, Inc	
China National Machinery Import & Export Company	
Laizhou Auto Brake Equipment Co., Ltd	
Qingdao Gren Co	
Yantai Winhere Auto-Part Manufacturing Co., Ltd	
Longkou Haimeng Machinery Co., Ltd	
Zibo Luzhou Automobile Parts Co., Ltd	
Laizhou Hongda Auto Replacement Parts Co., Ltd	
Hongfa Machinery (Dalian) Co., Ltd	
Qingdao Meita Automotive Industry Co., Ltd	
Shangdong Laizhou Huanri Group General	
* If one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part	
Turkey:	
Certain Steel Concrete Reinforcing Bars A–489–807	4/1/01—3/31/02
Ekinciler Holding, A.S./Ekinciler Demir Celik A.S	
Colakoglu Metalurji A.S./Colakoglu Dis Ticaret	
ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S	
Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik	
Sanayi ve Ticaret A.S./Diler Dis Ticaret A.S	
Habas Sinai ve Tibbi Gazler Istihsal Endustrisi A.S	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under §351.211 or a determination under §351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 16, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 02–13008 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823; A–834–807; A–307–820]

Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of amended final determination of sales at less than fair value and antidumping duty orders.

EFFECTIVE DATE: May 23, 2002.

FOR FURTHER INFORMATION CONTACT: Brett Royce (India), Cheryl Werner (Kazakhstan), and Deborah Scott (Venezuela) at (202) 482–4106, (202) 482–2667, and (202) 482–2657, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 C.F.R. part 351 (2001).

Background

On April 2, 2002, the Department published its final determinations in the antidumping duty investigations of silicomanganese from Kazakhstan, India, and Venezuela. *See Notice of Final Determination of Sales at Less than Fair Value and Final Negative Critical Circumstances Determination: Silicomanganese from India*, 67 FR 15531 (April 2, 2002); *Notice of Final Determination of Sales at Less than Fair Value: Silicomanganese from Kazakhstan*, 67 FR 15535 (April 2, 2002); and *Notice of Final Determination of Sales at Less than Fair Value: Silicomanganese from Venezuela*, 67 FR 15533 (April 2, 2002).

On May 16, 2002, the International Trade Commission ("ITC") notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from India, Kazakhstan, and Venezuela.

Scope of the Orders

For purposes of these orders, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, our written description of the scope remains dispositive.

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Amended Final Determination: Silicomanganese from India

On April 8, 2002, we received a submission from Eramet Marietta Inc. (Eramet) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639 (collectively, petitioners) alleging two ministerial errors in the final determination calculations in the investigation of imports from India. The allegations concerned the Department's calculations for one respondent, Universal Ferro and Allied Chemicals, Ltd (Universal). *See Analysis for Universal Ferro & Allied Chemicals, Ltd. (Universal) for the Final Determination in the Investigation of Silicomanganese from India for the Period April 1, 2000 Through March 31, 2001*, (*India Final Analysis*) (March 25, 2002). The allegations were timely filed pursuant to

section 351.224(c)(2) of the Department's regulations. On April 16, 2002, we received a rebuttal submission from Universal. These two allegations are addressed below.

We did not receive any timely submissions alleging ministerial errors in the India investigation with respect to the other respondent, Nava Bharat. *See Memorandum on Disclosure of Final Determination Documents in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Javier Barrientos, through Sally C. Gannon, to the File (April 26, 2002). No ministerial allegations were received concerning the final determinations for Kazakhstan or Venezuela.

Ministerial Allegation 1: Cost of Slag

Petitioners contend that the Department made a ministerial error in calculating the cost of slag included in Universal's total cost of manufacture (COM). Petitioners argue that the Department claimed that, for the final calculations, it was assuming that all slag was used for non-conversion products. *See India Final Analysis*, at 3 ("For these final calculations we are assuming that all slag was used for non-conversion products."). Petitioners argue that the Department's calculation of the amount of slag costs to be included in COM is inconsistent with its statement that all slag costs were presumed to be consumed in the production of non-conversion silicomanganese. Specifically, petitioners maintain that the Department allocated only a portion of the total cost of slag to non-conversion silicomanganese. As per the Department's stated presumption that all slag was used for non-conversion products, petitioners claim that no allocation between conversion and non-conversion products was necessary.

Accordingly, petitioners request that the Department amend its final calculations to include all slag costs in Universal's COM.

In regard to the above allegation, the respondent maintains that petitioners selectively extracted parts of the Department's *India Final Analysis* to substantiate their ministerial error claim regarding the calculation of slag costs. Specifically, the respondent argues that the petitioners disregarded Department references in which the Department explicitly stated its intention to use a ratio of silicomanganese production in order to allocate slag costs. *See India Final Analysis*, at 2 ("We then multiplied this amount by the ratio of silicomanganese production quantity ... to total production quantity ... to derive an amount attributable to subject merchandise.") Thus, according to the respondent, the Department's calculation method was intentional, and, therefore, there is no ministerial error.

According to the respondent, these statements by the Department regarding the use of an allocation ratio are contradicted by other statements made by the Department presuming that all slag was used for non-conversion products. According to the respondent, the Department only made this assumption as a result of its inability to locate the amount of slag used in the conversion products in Exhibit 5 of the verification exhibits. The respondent contends that it could have directed the Department to the subject information, if asked. Under these conditions, the respondent contends that there is no ministerial error, and that the Department would likely end up "confessing error before the Court of International Trade and seeking a remand."

Department's Position:

We agree with petitioners that the Department's objective was to assume slag was used only for non-conversion silicomanganese products. We made this assumption in applying adverse facts available, given our conclusion that the respondent had not provided the proper information. However, as the respondent has verified information on the record confirming its use of slag in conversion products (Verification Exhibit 5), the application of adverse facts available is no longer warranted. Therefore, the existing allocation of slag costs used in our calculations, which is between non-conversion and conversion silicomanganese products, is correct and no correction to the final determination calculations in this regard is necessary.

Ministerial Allegation 2: Interest Expense Ratio

Petitioners argue that the Department committed a ministerial error in its calculation of the ratio used to calculate the interest expense component of Universal's cost of production (COP). According to petitioners, based on the data in the *India Final Analysis*, the Department incorrectly calculated the revised interest expense ratio. As a result, they state that the Department should amend its final calculations to incorporate the correct interest expense ratio in the calculation of Universal's total COP. Respondent did not comment on this allegation.

Department's Position:

The Department agrees with petitioners in that, based on the data in the *India Final Analysis*, the ratio used to calculate the interest expense component of Universal's COP was calculated inaccurately as a result of an arithmetic error. The Department is revising its final calculations to incorporate the correct interest expense ratio in Universal's total COP for this amended final determination. *See Analysis for Universal Ferro & Allied Chemicals, Ltd. (Universal) for the Amended Final Determination in the Investigation of Silicomanganese from India for the Period April 1, 2000 Through March 31, 2001* (May 17, 2002). As a result of this modification to the interest expense ratio, the margin for Universal has changed along with the "all others" rate, which was based on the average of the rates for Nava Bharat and Universal. Universal's margin has increased from 20.42 percent to 20.53 percent, and the "all others" rate has increased from 17.69 percent to 17.74 percent.

Antidumping Duty Orders

In accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of silicomanganese from India, Kazakhstan, and Venezuela. The antidumping duties will be assessed on all unliquidated entries of silicomanganese from India, Kazakhstan, and Venezuela entered, or withdrawn from warehouse, for consumption on or after November 9, 2001, the date on which the Department published its notices of preliminary determination in the Federal Register. Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "all others" and "Kazakhstan-wide" rates apply to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin
India	
Nava Bharat Ferro Alloys, Ltd.	15.32%
Universal Ferro and Allied Chemicals, Ltd.	20.53%
All Others	17.74%
Kazakhstan	
Alloy 2000, S.A.	247.88%
Kazakhstan-Wide	247.88%
Venezuela	
Hornos Electricos de Venezuela, S.A.	24.62%
All Others	24.62%

This notice constitutes the antidumping duty orders with respect to silicomanganese from India, Kazakhstan, and Venezuela, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of Act and 19 C.F.R. 351.211.

Dated: May 17, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–13007 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–804]

Sulfanilic Acid From Hungary: Postponement of Final Determination and Extension of Provisional Measures of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of final antidumping duty determination and extension of provisional measures: Sulfanilic acid from Hungary.

SUMMARY: The Department of Commerce is postponing the final determination of the antidumping duty investigation of sulfanilic acid from Hungary. This postponement is made pursuant to section 735 (a)(2) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act. Suspension of liquidation will be extended accordingly.

EFFECTIVE DATE: May 23, 2002.

FOR FURTHER INFORMATION CONTACT: Craig Matney at (202) 482–1778, AD/CVD Enforcement, Office 1, DAS Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Postponement of Final Determination and Extension of Provisional Measures

On April 26, 2001, the Department of Commerce, ("the Department") issued its preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Hungary*, 67 FR 30358 (May 6, 2002) ("*Preliminary Determination*"). The *Preliminary Determination* notice indicated that the final determination would be made by not later that 75 days after the date of the *Preliminary Determination*.

Pursuant to section 735(a)(2) of the Tariff Act of 1930, as amended ("the Act"), on May 13, 2002, Nitrokemia 2000 Rt. ("Nitrokemia 2000"), the sole participating respondent in this investigation, requested that the Department postpone its final determination to no later than 135 days after the date of publication of the preliminary determination in the **Federal Register**.[1] Nitrokemia 2000 further requested that the Department extend to not more than six months the application of the provisional measures prescribed under paragraphs (1) and (2) of section 733(d) of the Act. In accordance with section 735(a) of the Act and 19 CFR 351.210(b), because (1) the preliminary determination in this case is affirmative, (2) the request for postponement was submitted in writing by an exporter who accounts for a significant proportion of exports of the subject merchandise in this investigation, and (3) no compelling reason for denial exists,[2] we are postponing the final determination until not later than 135 days after the publication of the preliminary determination in the **Federal Register** (*i.e.*, until not later than September 18, 2002). Suspension of liquidation will be extended accordingly.

This extension is in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2).

[1] Nitrokemia had previously requested a postponement of the final determination on April 8, 2002. However, that request was subsequently withdrawn on April 11, 2002.

[2] We note that, in response to Nitrokemia's original request for postponement of the final determination, on April 12, 2002, the petitioner submitted a letter objecting to Nitrokemia's request. The petitioner objected because, in light of the alignment of the concurrent countervailing duty investigation with the instant proceeding, Nitrokemia would not have to deposit countervailing duties once the provisional measures period in that investigation expires. However, we did not consider this objection to constitute a compelling reason to deny Nitrokemia's request for a postponement.

Dated: May 17, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–13009 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041602B]

Small Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities at Vandenberg Air Force Base, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals by harassment incidental to harbor activities related to the Delta IV/Evolved Expendable Launch Vehicle (EELV) at south Vandenberg Air Force Base, CA (VAFB) has been issued to The Boeing Company (Boeing).

DATES: Effective from May 20, 2002, until May 20, 2003.

ADDRESSES: The application is available by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Simona Perry, (301) 713–2322, ext. 106 or Christina Fahy, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission for incidental takings may be granted if NMFS finds that the taking

will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines "harassment" as:

...any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild ["Level A harassment"]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering ["Level B harassment"].

Subsection 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On January 28, 2001, NMFS received an application from the 30th Space Wing on behalf of Boeing requesting an authorization for the harassment of small numbers of Pacific harbor seals, and other marine mammal species, incidental to harbor activities related to the Delta IV/EELV, including: wharf modification, transport vessel operations, cargo movement activities, and harbor maintenance dredging. The harbor where activities will take place is on south VAFB approximately 4 kilometers (km) (2.5 miles, mi) south of Point Arguello, CA, and approximately 1.6 km (1 mi) north of the nearest marine mammal pupping site (i.e., Rocky Point).

Specified Activities

Modifications to the existing wharf are needed to accommodate the specially designed transport vessel, the Delta Mariner, that will be used for delivering the Delta IV/EELV's common booster core (CBC). These modifications involve removing portions of the wharf surface, re-surfacing the wharf with concrete and stainless steel rub-rails, and construction of a ramp on the seaward portion of the wharf. Equipment to be used includes: a skip-loader, concrete saw, concrete ready-mix truck, and dump truck. Measured noise levels of equivalent heavy equipment ranged from 61 dB A-weighted (quietest measurement from clamshell dredge measurement) to 81 dB A-weighted (loudest measurement from roll-off truck transporter) at a distance of 76.2 meters (m) (250 feet, ft). (Acentech, 1998). These wharf modifications will take approximately 6 weeks.

Delta Mariner CBC off-loading operations and associated cargo movement activities will occur a maximum of 6 times per year, with the first Mariner visit scheduled for spring of 2002 and the first off-load operation for August 2002. The Delta Mariner is a 95.1 m (312 ft) long, 25.6 m (84 ft) wide steel hull ocean-going vessel capable of operating at a 2.4 m (8 ft) draft. For the first few visits to the south VAFB harbor, tug boats will accompany the Mariner. Sources of noise from the Delta Mariner vessel include ventilating propellers used for maneuvering into position and the cargo bay door when it becomes disengaged. Removal of the CBC from the Mariner requires use of an Elevating Platform Transporter (EPT). The EPT is an additional source of noise, with sound levels measured at a maximum of 82 dB A-weighted 6.1 m (20 ft) from the engine exhaust (Acentech, 1998). EPT operation procedures require 2 short (approximately 1/3 seconds) beeps of the horn prior to starting the ignition. At 60.9 m (200 ft) away, the sound level of the EPT horn ranged from 62–70 dB A-weighted. Containers containing flight hardware items will be towed off the Mariner by a tractor tug that generates a sound level of approximately 87 dB A-weighted at 15.2 m (50 ft) while in operational mode. Total time of Mariner docking and cargo movement activities is estimated at between 14 and 18 hours in good weather.

To accommodate the Delta Mariner, the harbor will need to be dredged to a working depth of approximately 3.0 m (10 ft) mean lower low water level plus a 0.61 m (2 ft) over-dredge. Dredging of the harbor will involve the use of heavy equipment, including a clamshell dredge, dredging crane, a small tug, dredging barge, dump trucks, and a skip loader. Measured sound levels from this equipment are roughly equivalent to those estimated for the wharf modification equipment: 61–81 dB A-weighted at 76.2 m (250 ft). Dredge operations, from set-up to tear-down, would continue 24-hours a day for 3–5 weeks. The frequency of maintenance dredging will be based on fill rate surveys conducted periodically during the first year following the initial dredge to determine the sedimentation rate. Boeing expects maintenance dredging would likely be required every 2–3 years.

A more detailed description of the work proposed for 2002 is contained in the application which is available upon request (see ADDRESSES) and in the Final US Air Force Environmental Assessment for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base (ENSRI, 2001).

Comments and Responses

On March 4, 2002 (67 FR 9702), NMFS published a notice of receipt and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Marine Mammal Commission (MMC), Boeing, The Otter Project, and two private citizens. NMFS has not addressed in this document those comments and/or information that are contained in, and not in disagreement with, statements made in either the Boeing application or the notice of proposed authorization (67 FR 9702, March 4, 2002).

Activity Concerns

Comment 1: Has any work actually begun on this application (meaning physical work at the harbor) without NMFS benefit of public comment?

Response: None of the actions covered in the permit application have begun.

Comment 2: Why hasn't the noise from the jackhammer been included in Boeing's application?

Response: Boeing's application includes an initial list of equipment required for the wharf modification that was requested from the construction contractor. A jackhammer was not listed on this initial list. The contractor has since informed Boeing that a jackhammer will be required for approximately a week. National Institute for Occupational Safety and Health (NIOSH) data shows that a jackhammer will generate between 102-111 dB measured at the operator's ear.

Comment 3: Where was the EPT noise level of 85 dB measured from? What is the noise level when the EPT engine is under a load condition? Is the EPT engine diesel, gasoline, or powered by some other source?

Response: The EPT noise level of 85 dB was measured less than 6.1 m (20 ft) from the engine exhaust. The measurement provided in the application was the noise level of the EPT with the engine revved. The engine runs at a constant speed with power to the drive train regulated by a hydraulic pump. The noise level of the EPT under load would be comparable to, but not precisely the same as, the noise measurements provided. The engine powering the EPT is a Diesel engine, manufactured by Daimler Chrysler AG (Mercedes), model OM442A, 340 HP. It conforms to 2000 U.S. EPA California and Canada regulations for large non-road compression-ignition engines. It is certified to be operated on diesel fuel.

Comment 4: Is the "tractor tug" electric, diesel, or gasoline powered? Is the tractor tug actually the roll-off truck transporter listed in the application? Define the "operational mode" of the "tractor tug." For example, what is the noise level when the "tractor tug" engine is under a load condition?

Response: The tractor tug is more accurately referred to as a standard diesel truck tractor. It has yet to be purchased, but the selected manufacturer is Peterbilt. The noise level will meet OSHA standards. Operational mode is the condition of operation under a load. The noise level under a load condition under load would be comparable to but not precisely the same as the noise measurements provided in the application.

Comment 5: How much dredge material will be generated? Where is the National Environmental Policy Act (NEPA) documentation to support placement of this dredged material?

Response: 3,000–5,000 cubic yards of dredge material will be generated. All dredge activities, including the maintenance dredging, were described and evaluated in the final Environmental Assessment (EA) for Harbor Activities at VAFB, dated July 2001. In the future, dredged material will either be used for beach replenishment at a site about 3.2 km (2 mi) south of the harbor, or will be used to refill an old quarry at Point Pedernales (Honda Point) back to its original profile. Beach replenishment would entail placing the sediments in the shallow sub-tidal where it will be re-entrained in the long-shore current.

Comment 6: Who makes the determination that the crew and captain of the Delta Mariner are capable of approaching and successfully mooring at the wharf? Will the same crew and captain that the tug boats accompany for these first few visits be present for all other visits?

Response: Both captain and vessel are licensed by the United States Coast Guard (USCG). The USCG also issues the Certificate of Inspection that gives a vessel the operational endorsement for conducting "voyages" in the Coastwise Registry. This includes the necessary arrival and departure from wharves or docks.

The captains and crew of the Delta Mariner were selected by their professional skill and experience operating large tankers on the U.S. West Coast. The captains will have been operating the Mariner for over 2 years prior to visiting VAFB harbor during the latter half of 2002. The experience of the captains and the crew operating the Mariner includes constrained inland water passages and open ocean voyages over a wide spectrum of environmental conditions.

Foss, the tug boat company, is aware that greater caution is required for mooring and cargo operations at VAFB than at other Delta IV ports. Foss will put safety before schedule and approach the VAFB wharf in weather, tide, and sea conditions that reduce risk. After the first arrival of the Delta Mariner at the VAFB harbor, Foss intends to have a captain aboard the vessel that has previously called at VAFB.

Foss will use tug boats local to the ports of Hueneme or Los Angeles requesting officers with VAFB harbor experience. Neither Foss nor Boeing can control who is assigned to operate the tug boat, but it is not a sound business decision to send the inexperienced operator.

Comment 7: Where are the noise contour charts of the 10-fold increase to the ambient background to support the application?

Response: The EPT horn maximum noise level is 112 dB. A jackhammer maximum noise level is 111 dB. Ambient noise measured at the VAFB harbor is between 35 and 48 dB on a typical day (ENSRI, 2001). Given that 35 dB x 10 = 350 and 48 dB x 10 = 480, 112 dB is only 2–3 times higher than the measured ambient background noise.

Comment 8: Regarding the initial dredging, is the responsible entity NMFS (for the initial dredging details listed in the public notice but not in the application), VAFB or Boeing? If NMFS authorizes Boeing as stated in the **Federal Register**, then will NMFS issue a separate authorization to VAFB for the VAFB harbor maintenance dredging? Based on the NEPA documents referenced, who has responsibility as the action proponent for the actions listed in the application?

Response: In accordance with agreements signed by the Air Force and Boeing, Boeing is responsible for payment of all fines or penalties imposed as a result of administrative or judicial enforcement actions or citizens' suits for violations of federal, state, or local laws or regulations arising out of the conduct or activities related to the agreement. Boeing is the action proponent.

Comment 9: Is the previous harbor dredging required to support April 2002 operations? If so, was there an incidental harassment authorization application for this initial dredging?

Response: The previous dredging was to allow for the delivery of the launch table, an oversized steel structure that is part of the launch pad. The launch table was built in Washington State and moved down the coast by barge, as it was far too large to go by road. It required the use of the VAFB harbor and resulted in the 2001 dredging. There was no application for a marine mammal incidental harassment authorization since NMFS was of the opinion at the time that MMPA coverage was not necessary for the dredging operation because few marine mammals were likely to occur in the project area and harassment was unlikely. However, to ensure that NMFS' opinion was correct, monitoring was required during initial dredging, and this monitoring showed that there were small numbers of harbor seals hauled out on rocks 180 m (591 ft) from the dock. Since these seals could potentially be harassed by harbor activities, Boeing decided to apply for the requisite MMPA authorization.

Comment 10: Has NMFS unilaterally determined these initial dredging requirements to support Delta Mariner operations in the absence of any request in the application? Is NMFS asking the public to comment on an action in an application that has already begun without NMFS authorization?

Response: NMFS was of the opinion at the time of initial dredging that a permit was not necessary for the operation. None of the actions covered in Boeing's authorization application have begun.

Marine Mammal Impact Concerns

Comment 11: Is leaving out impacts on the dolphins mentioned in the application an oversight on the part of NMFS or a technical deficiency of the application?

Response: The dolphins referenced in the application are a cluster of concrete piles topped with a bollard and used for mooring a vessel.

Comment 12: Where is the scale navigational chart showing current depths, proposed depths for the initial dredging (if included in this application), area to be dredged, and location of seal haul-outs? At what distance are the marine mammals expected to be during these periods of vessel activity in harbor)?

Response: This application does not include the initial dredging. As addressed in Comment 9, there was no MMPA authorization during initial dredging. The application contains a photo with an outline of the dredge area. This same photo also indicates where the harbor seals haul out during low tide. The distance is 180 m (591 ft) from the main seal haul-out to the southern edge of the dock.

Comment 13: Where are the analyses to address air quality impacts on marine mammals from the operation of the Delta Mariner, the heavy equipment involved with wharf modifications, and the heavy equipment involved with launch vehicle/cargo handling? Where are the impact analyses on marine mammals to support Delta Mariner discharges from shipboard hotel services as well as the typical in-port maintenance that is conducted?

Response: Analysis of air quality in general was addressed in the Supplemental EIS, dated March of 2000. However, this air quality analysis did not address potential impacts to marine mammals. There will be no discharge from shipboard hotel service or in-port maintenance while the Delta Mariner is in the harbor. The Delta Mariner will be making deliveries, and will minimize time spent at VAFB.

Comment 14: Where are the analyses of the resultant harassment associated with loss of bottom flora and fauna in the food chain for marine mammals, impacts on water quality (e.g., turbidity, pollutants), and other potentially adverse impacts in this application to support the conclusions cited in the public notification that there is at worst only temporary modification to behavior?

Response: As discussed in other responses, the re-dredging activity will be limited to those areas that had been dredged in the past. Based on studies conducted over the past two decades and cited in the EA (ENSRI, 2001), benthic resources in the dredge footprint consist of small infaunal invertebrates. Harbor seals foraging in the area around the harbor do not feed on these small organisms directly. Fish that could feed on these organisms and that could be a potential food source for the seals are sufficiently wide ranging that they would not be substantially affected by this temporary loss of a food source. The benthic community has developed over the past 18 years since the current harbor configuration was created. Because this community is adapted to this very dynamic environment of moving sands, it is expected to recover quickly after dredging events. Thus, the continued periodic dredging of the harbor is not expected to directly or indirectly affect the food resources of the adjacent seals.

Comment 15: Based on recent NMFS concerns over US Navy, commercial, and private water-borne noise issues and their significant adverse affects on marine mammals, where are the analyses to address water-borne noise impacts from the operation of the Delta Mariner in such shallow water, the heavy equipment involved with wharf modifications, and the heavy equipment involved with vehicle/cargo handling?

Response: There have been very few studies on the effects of water-borne noise from dredging or other construction operations on marine mammals. NMFS is currently in the process of determining safety criteria for marine species exposed to underwater sound, including impulsive and continuous noise. Until the agency publishes these criteria, however, NMFS has preliminarily determined that marine mammals may risk incurring a temporary threshold shift when exposed to underwater impulsive sound pressure levels of 180 dB re 1 micro-Pa for cetaceans and 190 dB re 1 micro-Pa for pinnipeds. Marine mammals have also shown behavioral changes when exposed to impulse sound pressure levels of 160 dB re 1 micro-Pa and continuous sound pressure levels of 120 dB. NMFS does not believe that the underwater noise emanating from this project will be loud enough to harm marine mammals in the area. However, harbor seals may be temporarily displaced from the area due to a combination of disturbances: auditory exposure to underwater sound, and the visual exposure to boats, heavy equipment and people.

Comment 16: The MMC suggests that NMFS consider providing authorization for the disturbance of a small number of individuals of other marine mammal species that are uncommon, yet could possibly be disturbed, in the south VAFB area, including California sea lions, northern elephant seals, and northern fur seals.

Response: NMFS, in considering MMC's suggestion, has reviewed previous authorizations issued to VAFB as well as monitoring reports submitted as part of the reporting requirements of these authorizations. Based on review of these reports, NMFS has concluded that this IHA to Boeing should include authorization to incidentally harass small numbers of California sea lions, northern elephant seals, and northern fur seals. This conclusion is based on reports that California sea lions haul out in small numbers on South Rocky Point (approximately 3 km or 1.9 mi from the boat dock area) and Point Sal (northern limit of VAFB) during the fall, and that northern elephant seal pups and juveniles sporadically haul out for short periods during the spring on both north and south VAFB. According to the IHA issued to Boeing, a maximum of 10 California sea lions, 10 northern elephant seals, and five northern fur seals may be incidentally harassed during Boeing's harbor activities on south VAFB.

Habitat Concerns

Comment 17: What impact will the placement of dredged materials have on marine mammals?

Response: Beach replenishment with dredged materials would entail placing the sediments in the shallow sub-tidal where it will be re-entrained in the long-shore current. Because marine mammals do not use this beach for hauling out, there will be no impacts from this disposal option. Disposal of dredged materials at Honda Point would entail activities essentially the same as those covered in the Final EA of July 2001. Regardless of which action is taken, the proper Air Force approval forms will be submitted to the 30th Space Wing for review, and a Supplemental EA for this activity will be prepared if it is deemed necessary.

Comment 18: Where are the elevation drawings showing the ramp modification with respect to typical tidal fluctuations, particularly high tides where the lower ramp may induce haul out of marine mammals onto it?

Response: Marine mammals do not currently use the wharf as a high tide haul-out location. Only 0.19 m (7.5 in) are being removed from the overall height of the wharf, which is unlikely to make the surface low enough to induce marine mammals to start using it for a high tide haul-out site. Based on the as-built drawings, the surface of the dock is approximately +12 ft (+3.7 m) mean lower, low water (MLLW). Since maximum high tides in the harbor are no more than about 8 ft (2.4 m) MLLW, harbor seals would be unable to and have not been observed to haul out on the dock.

Cumulative Impacts

Comment 19: What is the cumulative impact of harassing these marine mammals over this extended period of time (14 hours) over repeated potential haul-out periods?

Response: Over 14 hours there are usually only two low tide periods and whether seals do or do not haul-out near the dock depends on how high the low tide is and how low the high tide is. For example: On a given day at VAFB, there was a low tide at 07:52 PST at -0.03 ft (-0.009 m)(seals could haul-out), high tide at 14:43 PST at 2.96 ft (0.9 m)(seals can not haul-out), low tide at 18:45 PST at 2.33 ft (0.7 m)(seals can not haul-out), and high tide at 01:22 PST at 4.68 feet (1.4 m)(seals can not haul-out). Out of this period of 17.5 hours there were only 2 low tides but only one low tide that seals would be able to haul-out at the harbor. Some seals may leave and haul-out someplace else or not come back until the next day. Depending on the tides, some seals may haul-out again after the initial disturbance from the vessel. Because the vessel operations are only for 14 hours on 1 day, it is expected that the seals will continue to use that site as they did during the dredging operations so there should be no cumulative impact problems.

Mitigation and Monitoring Concerns

Comment 20: Has NMFS unilaterally determined more detailed mitigation measures than are found in the application? If additional information was provided to NMFS to supplement the original application, why wasn't the application modified and the additional information resubmitted in a more accurate and complete application?

Response: The mitigation measures proposed in the **Federal Register** notice of March 4, 2002, follow mitigation NMFS has previously incorporated into IHAs for similar activities to ensure that marine mammal takes remain negligible. NMFS saw no reason to have such information re-submitted by the applicant.

Comment 21: How is NMFS dealing with the unanswered question associated with timing of harbor activities (with breeding, molting, or pupping seasons) and the inconsistent treatment of this issue in the mitigation plan?

Response: Harbor seals do not typically breed, molt, or pup in the south VAFB area where Boeing will be conducting harbor activities. The nearest pupping site is at Rocky Point, approximately 1.6 km (1 mi) north of the project area. However, the IHA monitoring plan requires Boeing to observe and record the age class and gender of all marine mammals before, during, and after harbor activities in order to verify that no breeding, molting, or pupping takes place in the project area.

Comment 22: The MMC recommends that NMFS, if it has not already done so, assess whether the monitoring required as a condition of this and possible future incidental harassment authorizations will be adequate to detect possible non-negligible cumulative effects and, if not, what additional steps need to be taken to ensure that any such effects will be detected before they reach significant levels.

Response: NMFS believes that the monitoring requirements, along with the requirement of all IHA holders to report their monitoring results in a timely manner, will allow NMFS to assess the potential for cumulative effects on marine mammals and modify the conditions of the authorization if necessary.

Comment 23: Boeing requests that the mitigation measures proposed by NMFS in the **Federal Register** on March 4, 2002 (67 FR 9702), be modified to allow for the continuation of activities while seals are present, as this is consistent with NMFS' conclusion that there will be no more than a negligible impact on these marine mammals as a result of harbor activities.

Response: NMFS concurs and has thus modified the mitigation measures contained in the authorization to allow for continuation of activities while seals are present. The mitigation measures still require marine mammal monitoring during all Boeing activities in the harbor and reporting of any possible disturbance of the harbor seals associated with those activities.

MMPA Concerns

Comment 24: In the event of untoward impacts, injury to marine mammals, or violations of the permit which entity is held accountable and legally liable?

Response: In accordance with agreements signed by the Air Force and Boeing, Boeing is responsible for payment of all fines or penalties imposed as a result of administrative or judicial enforcement actions or citizens' suits for violations of federal, state, or local laws or regulations arising out of the conduct or activities related to the agreement.

Comment 25: Does VAFB have carte-blanche authorization to perform maintenance dredging at anytime for as long as it deems necessary?

Response: No, NMFS is not granting VAFB "carte-blanche" to perform maintenance dredging anytime for as long as it deems necessary. First, this authorization will be issued to Boeing not VAFB. And, second, the incidental harassment authorization is only valid for 1 year and must be re-applied for annually. Boeing is responsible for re-application and subsequent maintenance dredging.

National Environmental Policy Act (NEPA) Concerns

Comment 26: Why hasn't NMFS challenged the legal sufficiency of the segmented actions of the NEPA analysis/documents referenced as supporting this application when in fact the cumulative actions (particularly those that will be conducted concurrently) in the application are not those analyzed in the NEPA analyses/documents?

Response: Before issuance of incidental harassment authorizations under the MMPA, NMFS must ensure that the environmental impacts of its decision to issue or deny such authorizations are in compliance with NEPA. A programmatic NEPA assessment conducted on the impact of NMFS' rulemaking for the issuance of IHAs (61 FR 15884; April 10, 1996) stated that for issuance of an IHA, NMFS must first determine that the taking (by harassment) would not result in any serious injury or death to a marine mammal, would have no more than a negligible impact on marine mammals and their habitat, and would not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. Therefore, NMFS' decision-making process for IHA issuance or denial independently and separately analyzes factors similar to those suggested under section 6.01 of National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999) for determining the significance of agency actions for the purposes of NEPA. On a case-by-case basis, NMFS determines whether the issuance of an IHA will individually or cumulatively have a significant impact on the quality of the human environment.

NMFS has responsibility for insuring that its own actions are in compliance with NEPA. Except in regards to how Federal actions may impact resources protected under the MMPA, Endangered Species Act, or other marine resource laws and regulations, NMFS has no authority over the actions of other Federal agencies. NMFS reviewed all NEPA documents related to Boeing's request for a marine mammal authorization and found that these documents were sufficient to satisfy the

requirements of its decision-making process.

Boeing's January 28, 2001, request for an incidental harassment authorization was specifically for the incidental and unintentional take of marine mammals during a one-year period of harbor activities and does not account for future maintenance dredging and other operations in the harbor. Incidental takes of marine mammals as a result of these future activities must be covered under subsequent authorizations that Boeing must request and NMFS must send out for public comment.

Endangered Species Act Concerns

Comment 27: Possible impacts to the southern sea otter population have been overlooked and may need to be addressed. Decision on the incidental take permit request received by NMFS should be coordinated with U.S. Fish and Wildlife Service (FWS) officials to insure that impacts to southern sea otters are adequately addressed. In addition, applicants for marine mammal incidental take permits should be encouraged to apply for consultation and permits through both agencies.

Response: Because the southern sea otter is designated threatened under the Endangered Species Act and management authority for this marine mammal species lies with FWS, VAFB initiated a formal Section 7 consultation with the FWS in 1998 on Boeing's harbor activities. A Biological Opinion was written and Incidental Take Statement issued in August 2001. Southern sea otters were discussed in these documents and FWS recognized that Boeing will restore sea otter habitat (i.e., kelp beds) in the vicinity of the harbor to replace kelp destroyed during dredging. In addition, the FWS noted that VAFB has committed to a southern sea otter monitoring program designed to detect the presence and possible disturbance at the VAFB harbor area during dredging activities. NMFS expects Boeing to fulfill its obligations for sea otter habitat restoration and cooperate in VAFB's southern sea otter monitoring program.

Description of Habitat and Marine Mammals Affected by the Activity

The only marine mammal species likely to be harassed incidental to harbor activities at south VAFB is the Pacific harbor seal (*Phoca vitulina richardsi*). The most recent estimate of the Pacific harbor seal population in California is 30,293 seals (Forney *et al.*, 2000). From 1979 to 1995, the California population increased at an estimated annual rate of 5.6 percent. The total population of harbor seals on VAFB is now estimated to be 1,040 (775 on south VAFB) based on sighting surveys and telemetry data (SRS Technologies 2001).

The daily haul-out behavior of harbor seals along the south VAFB coastline is dependent on time of day rather than tide height. The highest number of seals haul-out at south VAFB between 1100 through 1700 hours. In addition, haul-out behavior at all sites seems to be influenced by environmental factors such as high swell, tide height, and wind. The combination of all three may prevent seals from hauling out at most sites. The number of seals hauled out at any site can vary greatly from day to day based on environmental conditions. Harbor seals occasionally haul out on rocks outside the harbor breakwater where Boeing will be conducting wharf modification, Delta Mariner operations, cargo loading, and dredging activities. The maximum number of seals present during past dredging of the harbor was 23, with an average of 7 seals sighted per day. The harbor seal pupping site closest to south VAFB harbor is at Rocky Point, approximately 1.6 kilometers (km) (1 mile, mi) north.

Several factors affect the seasonal haul-out behavior of harbor seals including environmental conditions, reproduction, and molting. Harbor seal numbers at VAFB begin to increase in March during the pupping season (March to June) as females spend more time on shore nursing pups. The number of hauled-out seals is at its highest during the molt which occurs from May through July. During the molting season, tagged harbor seals at VAFB increased their time spent on shore by 22.4 percent; however, all seals continued to make daily trips to sea to forage. Molting harbor seals entering the water because of a disturbance by a space vehicle launch or another source are not adversely affected in their ability to molt and do not endure thermoregulatory stress. During pupping and molting season, harbor seals at the south VAFB sites expand into haul-out areas that are not used the rest of the year. The number of seals hauled out begins to decrease in August after the molt is complete and reaches the lowest number in late fall and early winter.

Three other marine mammal species are known to occur infrequently along the south VAFB coast during certain times of the year and are unlikely to be harassed by Boeing's activities. These three species are: the California sea lion (*Zalophus californianus*), northern elephant seal (*Mirounga angustirostris*) and northern fur seal (Callorhinus ursinus). Descriptions of the biology and local distribution of these species can be found in the application as well as other sources such as Stewart and Yochem (1994, 1984), Forney *et al.* (2000), Koski *et al.* (1998), Barlow *et al.* (1993), Stewart and DeLong (1995), and Lowry *et al.* (1992). Please refer to those documents for information on these species.

Potential Effects of Activities on Marine Mammals

Acoustic and visual stimuli generated by the use of heavy equipment during the wharf modifications, Delta Mariner and off-loading operations, and dredging, as well as the increased presence of personnel, may cause short-term disturbance to harbor seals hauled out along the beach and rocks in the vicinity of the south VAFB harbor. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities. Based on the measured sounds of construction equipment, such as might be used during Boeing's activities, sound levels from all equipment drops to a maximum level of 95 dB A-weighted within 15.2 m (50 ft) of the sources. In contrast, the ambient background noise measured approximately 76.2 m (250 ft) from the beach was estimated to be 35–48 dB A-weighted (Acentech, 1998; EPA, 1971).

Pinnipeds sometimes show startle reactions when exposed to sudden brief sounds. An acoustic stimulus with sudden onset may be analogous to a "looming" visual stimulus (Hayes and Saif, 1967), which may elicit flight away from the source (Berrens et al., 1988). The onset of operations by a loud sound source, such as the EPT during CBC off-loading procedures may elicit such a reaction. In addition, the movements of cranes and dredges may represent a "looming" visual stimulus to marine mammals hauled out in close proximity. Marine mammals exposed to such acoustic and visual stimuli may either exhibit a startle response or leave the haul-out site.

According to the MMPA, when harbor activities disrupt the behavioral patterns of marine mammals, they are considered to be taken by harassment. In general, if the received level of the noise stimulus exceeds both the background (ambient) noise level and the auditory threshold of the animals, and especially if the stimulus is novel to them, then there may be a behavioral response. The probability and degree of response will also depend on the season, the group composition of the marine mammals, and the type of activity in which they are engaged. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to result in disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering (i.e., Level B harassment) and will not cause serious injury or mortality to marine mammals. On the other hand, startle and alert reactions accompanied by large-scale movements, such as stampedes into the water, may have adverse effects on individuals and would be considered a take by harassment due to disruption of behavioral patterns. In addition, such large-scale movements by dense aggregations of marine mammals or on pupping sites, could potentially lead to takes by serious injury or death. However, there is no potential for large-scale movements leading to serious injury or mortality near the south VAFB harbor, since on average the number of marine mammals hauled out near the site is less than 30 and there is no pupping at nearby sites. The effects of the harbor activities are expected to be limited to short-term startle responses and localized behavioral changes (i.e., Level B harassment).

For a further discussion of the anticipated effects of the planned activities on marine mammals in the area, please refer to the application and ENSRI's 2001 Final EA. Information in the application and referenced sources is adopted by NMFS as the best information available on this subject.

Numbers of Marine Mammals Expected to Be Harassed

Boeing estimates that a maximum of 30 harbor seals per day may be hauled out near the south VAFB harbor, with a daily average of 7 seals sighted during previous dredging operations in the harbor. Using the maximum and average number of seals hauled out per day, assuming that half of the seals will use the site at least twice, assuming that half of the seals hauled out will react to the activities, and using a maximum total of 83 operating days in 2002–2003, NMFS calculates that between 623 and 145 Pacific harbor seals may be subject to Level B harassment, as defined in 50 CFR 216.3. Although not likely to be present at the south VAFB harbor, NMFS is also authorizing the incidental harassment of 10 California sea lions, 10 northern elephant seals, and 5 northern fur seals and requires that marine mammal monitors note the presence and behavior of these marine mammal species in the project area.

Possible Effects of Activities on Marine Mammal Habitat

Boeing anticipates no loss or modification to the habitat used by Pacific harbor seals that haul out near the south VAFB harbor. The harbor seal haul-out sites near south VAFB harbor are not used as breeding, molting, or mating sites; therefore, it is not expected that the activities in the harbor will have any impact on the ability of Pacific harbor seals in the area to reproduce.

Possible Effects of Activities on Subsistence Needs

There are no subsistence uses for Pacific harbor seals, California sea lions, northern elephant seals, and northern fur seals in California waters, and, thus, there are no anticipated effects on subsistence needs.

Mitigation

No pinniped mortality and no significant long-term effect on the stocks of pinnipeds hauled out near south VAFB harbor are expected based on the relatively low levels of sound generated by the equipment to be used during Boeing's harbor activities (maximum level of 95 dB A-weighted within 50 ft (15.2 m)) and the relatively short time periods over which the project will take place (totaling approximately 83 days). However, Boeing expects that the harbor activities may cause disturbance reactions by some of the harbor seals hauled out on the adjacent beach and rocks. To reduce the potential for disturbance from visual and acoustic stimuli associated with the activities Boeing will undertake the following marine mammal mitigating measures:

(1) If activities occur during nighttime hours, lighting will be turned on before dusk and left on the entire night to avoid startling marine mammals at night.

(2) Activities should be initiated before dusk.

(3) Construction noises must be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while marine mammals are present.

(4) If activities cease for longer than 30 minutes and marine mammals are in the area, start-up of activities will include a gradual increase in noise levels.

(5) A qualified marine mammal observer will visually monitor marine mammals on beaches and on rocks for any flushing or other behaviors as a result of Boeing's activities.

(6) The Delta Mariner and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks.

(7) As alternate dredge methods are explored, the dredge contractor may introduce quieter techniques and equipment.

Monitoring

As part of its application, Boeing provided a proposed monitoring plan for assessing impacts to marine mammals from the activities at south VAFB harbor and for determining when mitigation measures should be employed.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for marine mammals during all harbor activities. During nighttime activities, the harbor area will be lit and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of marine mammals in the project area prior to initiating project activities.

(2) Conducting and recording observations on harbor seals in the vicinity of the harbor for the duration of activities occurring when tides are low enough for harbor seals to haul out (+ 2 ft. or less).

(3) Conducting post-construction observations of marine mammal haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

As required by the MMPA, this monitoring plan will be subject to a review by technical experts prior to formal acceptance by NMFS.

Reporting

Boeing will notify NMFS 2 weeks prior to initiation of each activity. After each activity is completed, Boeing will provide a report to NMFS within 90 days. This report will provide dates and locations of specific activities, details of marine mammal behavioral observations, and estimates of the amount and nature of all takes of marine mammals by harassment or in other ways. In the unanticipated event that any cases of pinniped mortality are judged to result from these activities, this will be reported to NMFS immediately.

Consultation

Boeing has not requested the take of any listed species nor is any take of listed species expected. Therefore, NMFS has determined that a section 7 consultation under the Endangered Species Act is not required at this time.

Although sea otters are not within the jurisdiction of NMFS, VAFB formally consulted with FWS in 1998 on the possible take of southern sea otters during Boeing's harbor activities at south VAFB. A Biological Opinion was written and Incidental Take Statement issued in August 2001. Southern sea otters were discussed in these documents and FWS recognized that Boeing will restore sea otter habitat (i.e., kelp beds) in the vicinity of the harbor to replace kelp destroyed during

dredging. In addition, the FWS noted that VAFB has committed to a southern sea otter monitoring program designed to detect the presence and possible disturbance at the VAFB harbor area during dredging activities.

NEPA

In accordance with section 6.01 of the National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has analyzed both the context and intensity of this action and determined based on a programmatic NEPA assessment conducted on the impact of NMFS' rulemaking for the issuance of IHAs (61 FR 15884; April 10, 1996), the content and analysis of Boeing's request for an IHA, and the Final EA for Harbor Activities Associated with the Delta IV Program at VAFB (ENSRI 2001) that the proposed issuance of this IHA to Boeing by NMFS will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27. Therefore, based on analysis of all relevant environmental documents, this action is exempted from further environmental review and meets the definition of a "Categorical Exclusion" as defined under NOAA Administrative Order 216–6.

Determinations

NMFS has determined that the impact of harbor activities related to the Delta IV/EELV at VAFB, including: wharf modification, transport vessel operations, cargo movement activities, and harbor maintenance dredging, will result, at worst, in a temporary modification in behavior by Pacific harbor seals. California sea lions, northern elephant seals, and northern fur seals, while not likely to occur in the project area, may potentially experience the same temporary modification in behavior if they wander into the project area. While behavioral modifications may be made by these species to avoid the resultant acoustic and visual stimuli, there is no potential for large-scale movements, such as stampedes, since pinniped species haul out in such small numbers near the site (maximum number of Pacific harbor seals hauled out in one day estimated at 30 seals). The effects of the harbor activities are expected to be limited to short-term and localized behavioral changes. Therefore, NMFS concludes that the effects of the planned activities will have no more than a negligible impact on marine mammals.

Due to the localized nature of these activities, the number of potential takings by harassment are estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is unlikely given the low noise levels and will be entirely avoided through the incorporation of appropriate mitigation measures. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near south VAFB harbor.

In summary, NMFS has determined that the proposed activity would result in the harassment of only small numbers of harbor seals, California sea lions, northern elephant seals, and northern fur seals; would have no more than a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses.

Authorization

NMFS has issued an IHA to Boeing for harbor activities related to the Delta IV/EELV to take place at south Vandenberg Air Force Base, CA, (VAFB) over a 1–year period. The issuance of this IHA is contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: May 15, 2002.

David Cottingham,

Deputy Office Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–13020 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051602E]

Endangered Species; File No. 1346

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Thomas McCormick (Principal Investigator), Channel Islands Marine Resource Institute (CIMRI), P.O. Box 1627, Port Hueneme, California 93044, has been issued a permit to take white abalone (*Haliotis sorenseni*) for purposes of scientific research and enhancement.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Lillian Becker or Jennifer Skidmore (301)713–2289.

SUPPLEMENTARY INFORMATION: On August 31, 2001, notice was published in the **Federal Register** (66 FR 45971) that a request for a scientific research permit to take species listed above had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA: 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The Holder was issued five-year permit to maintain captively bred white abalone for scientific research and enhancement at the CIMRI Hatchery. Research Activities include feeding studies, propagation studies and studies identified as goals for the long term recovery of the white abalone. The action only covers the propagation of animals collected before June 28, 2001.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 17, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–13019 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 020515123–2123–01]

RIN 0660–XX15

Notice, Public Safety Communications Interoperability Summit

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) and the Public Safety Wireless Network (PSWN) Program will co-host a two-day summit on Current and Emerging Solutions to Public Safety Communications Interoperability, on June 11–12, 2002. The summit will be open to the public. The purpose of the interoperability summit is to educate the public about current and emerging technologies that will help to address wireless communications interoperability challenges faced by public safety land mobile radio communications systems.

DATES: The Interoperability Summit will be held from 7 a.m–4 p.m. on Tuesday, June 11, 2002, and from 7 a.m.–3:30 p.m on Wednesday, June 12, 2002.

ADDRESSES: The meetings will take place at the Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, DC. Meetings on both days are open to the public. Seating is limited and is available on a first-come, first-served basis. For updated information, a copy of the agenda and audio webcasting information, please refer to NTIA's webpage at <*http://www.ntia.doc.gov*> or PSWN's webpage at <*http://www.pswn.gov*>. Directions to the Ronald Reagan International Trade Center and meeting room locations can also be accessed through the Trade Center's webpage at <*http://www.itcdc.com*>.

FOR FURTHER INFORMATION CONTACT: Derrick Owens, Office of Spectrum Management, NTIA, telephone (202) 482–1920, or electronic mail: <*dowens@ntia.doc.gov*>; or Richard Orsulak, Public Safety Program, NTIA, telephone (202) 501–5487, or electronic mail: <*rorsulak@ntia.doc.gov*>. Media inquiries should be directed to the Office of Public Affairs, NTIA, at (202) 482–7002.

SUPPLEMENTARY INFORMATION: NTIA serves as the principal adviser to the President on telecommunications policies as they pertain to the Nation's technological and economic advancement. NTIA is the primary Executive Branch agency responsible for developing and articulating domestic and international telecommunications policies. NTIA also manages use of the radio frequency spectrum by all federal agencies. PSWN is a jointly sponsored initiative which is comprised of the Department of Justice and Department of the Treasury to specifically addresses public safety wireless communications interoperability. Federal, State and local government agencies are working to improve their ability to share information and to use current and emerging technology to ensure that they are better prepared for emergency response, regardless of the type of incident. Furthermore, government leaders are being challenged to better understand their current security and emergency response capabilities and, to implement services and technologies to improve emergency response, ensuring citizen safety during a time of increased national threat.

The Interoperability Summit will provide the platform for attendees to share information addressing current and emerging technology solutions, implementation, lessons learned, and current funding activities. The information will focus on technical solutions, but will be presented in an easy to understand format for attendees. Manufacturers of land mobile radio equipment and commercial providers of other wireless communications technologies will also have an opportunity to brief attendees of their interoperability products, the status of their research and development activities, and compliance with published standards. A Federal Business Opportunities Notice will be published and vendors will be accepted on a first-come, first-served basis. Vendors desiring to send a representative to participate in the presentations and/or the tabletop exhibits should review the Federal Business Opportunities Notice or make their request via electronic mail (preferred), by fax, or in writing to: Mrs. Carole Kirsch, PSWN Program, P.O. Box 3926, Fairfax, VA 22038, (electronic mail: <*cakirsch@earthlink.net*>, telephone: (703) 279–2006, facsimile: (703) 279–2032).

The audio of the Interoperability Summit will be webcast over the Internet and made available from NTIA's webpage (<*http://www.ntia.doc.gov*>) during the two-day event.

Public Participation

These meetings will be open to the public and will be physically accessible to people with disabilities. Any member of the public wishing to attend and requiring special services, such as sign language interpretation or other ancillary aids, should contact Derrick Owens or Richard Orsulak at least three (3) days prior to the meeting via the contact information provided above. All persons entering the Ronald Reagan International Trade Center must go through the security screening, therefore, please have photo identification available and/or a U.S. Government building pass, if applicable.

Dated: May 20, 2002.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 02–12937 Filed 5–22–02; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.363A]

Office of Elementary and Secondary Education, School Leadership Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The School Leadership Program is designed to assist high-need local educational agencies (LEAs) in the development, enhancement, or expansion of innovative programs to recruit, train and mentor principals (including assistant principals) to serve in high-need schools.

For FY 2002, the competition focuses on projects designed to meet the priority that appears in the "Requirements for FY 2002 Competition: Competitive Preference" section of this notice.

Eligible Applicants: High-need LEAs, consortia of high-need LEAs, or partnerships that consist of at least one high-need LEA and at least one nonprofit organization or institution of higher education. *See* the "Requirements for FY 2002 Competition: Eligibility" section of this notice for the definition of high-need LEA.

Applications Available: May 23, 2002.

Deadline for Transmittal of Applications: July 8, 2002.

Deadline for Intergovernmental Review: September 5, 2002.

Estimated Available Funds: $10,000,000 for the first 12 months of the 36-month project period. Funding for the second and third 12-month project periods is subject to the availability of funds and to a grantee's meeting the requirements for receipt of continuation awards contained in 34 CFR 75.253.

Estimated Range of Awards: $150,000–$750,000.

Estimated Average Size of Awards: $450,000.

Estimated Number of Awards: 22.

Note: The Department is not bound by any estimates in this notice. The Administration has not requested funding for this program for FY 2003.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in

34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99. (b) The special rules announced in this notice.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the narrative to the equivalent of no more than 50 pages, using the following standards:

- A page is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references and captions, as well as all text in charts, tables, figures and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Standard Form 424; the project abstract; the budget section, including the narrative budget justification; the assurances and certifications; or the resumes, bibliography, or letters of support.

Our reviewers will not read any pages of your applications that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

SUPPLEMENTARY INFORMATION: Research has shown that what principals do on a daily basis makes a difference in how well students learn. Principals influence teaching and classroom practice through such activities as formulating school goals, setting and communicating high achievement expectations, organizing resources for instruction, supervising and evaluating teachers' performance, and monitoring student progress. The primary responsibility of the principal is to create an environment that will enable all students to achieve.

It is clear that strong leadership is essential for effective school reform. However, fewer and fewer eligible candidates appear willing to accept the role of school administrator. Two hundred superintendents surveyed by Education Research Service in 1998 reported difficulties filling principal vacancies in their districts. The challenge does not rest with recruiting and training future principals. Attention must also focus on providing professional development to current administrators who, according to a 1997 report by the National Center for Education Statistics, are on average 48 years old and nearly a decade past their original training.

In this regard, section 2151(b) of Title II, Part A of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001, authorizes a new competitive grant program to assist high-need LEAs in recruiting, training and retaining principals (including assistant principals). The School Leadership program will fund applicants that effectively address the competitive priority and selection criteria while demonstrating to the satisfaction of reviewers that receipt of a grant award will enable them to do one or both of the following:

(1) Hire, train, and mentor highly qualified individuals to become principals (and assistant principals) in high-need schools.

(2) Provide current principals (and assistant principals) who serve in high-need school districts with sustained professional development that is standards-focused and job-embedded.

Waiver of Proposed Rulemaking

It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed rules, including competitive preferences. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards. These requirements will apply to the FY 2002 grant competition only.

Requirements for FY 2002 Competition

Selection Criteria. The Secretary uses the following criteria to evaluate an application. The maximum score for each criterion is indicated in parenthesis.

(a) *Need for project.* (15 points)

In determining the need for the proposed project, the Secretary considers:

(i) The magnitude of the need for recruiting and training highly qualified principals by the proposed project.

(ii) The extent to which the proposed project will prepare personnel to be highly qualified principals in which shortages have been demonstrated.

(b) *Quality of project design.* (25 points)

In determining the quality of project design of the proposed project, the Secretary considers:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address the need to improve student achievement through effective school leadership.

(iii) The extent to which the proposed activities constitute a coherent, sustained program of training for principals in instructional leadership, community leadership, and systems management.

(iv) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(c) *Quality of project services.* (25 points)

In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the principal candidates or current principals to be served or both.

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in school leadership.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(iv) The extent to which the services to be provided by the proposed project are focused on high-need schools.

(d) *Quality of project personnel.* (10 points)

In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of resources.* (5 points)

In determining the adequacy of resources for the proposed project, the Secretary considers the following:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(f) *Quality of the management plan.* (10 points)

In determining the quality of the management plan for the proposed project, the Secretary considers:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(g) *Quality of the project evaluation.* (10 points) In determining the quality of the evaluation, the Secretary considers:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Competitive Preference. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on how well the application meets this competitive preference. The priority points are in addition to any points an application earns under the selection criteria for the program.

To promote sustained gains in student achievement, principals today need to be strong leaders and managers. Principals must effectively serve as leaders of the instructional school staff; leaders of the school, family, and business communities; and managers of the human, financial, and material resources of the school. In addition, the very purpose of this program is to help those schools and LEAs most in need of improved school leadership.

Therefore, a competitive preference is awarded to applications whose projects would both—

(1) Provide comprehensive and sustained training or professional development to current or prospective principals or assistant principals in each of the following three key areas: Instructional leadership, community leadership, and systems management; and,

(2) Support a district-wide effort to improve the academic achievement of students attending schools that are most in need of strong school leaders. For purposes of this program, schools most in need of strong leaders are "high-need schools" as defined in section 2312(3) of the ESEA, i.e., a school that—

(A) Is either located in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more; *or*

(B)(i) Is located in an area with a high percentage of out-of-field teachers, as defined in section 2102 of the ESEA;

(ii) Is within the top quartile of elementary schools and secondary schools statewide, as ranked by the number of unfilled, available teacher positions at the school;

(iii) Is located in an area in which there is a high teacher turnover rate; or

(iv) Is located in an area in which there is a high percentage of teachers who are not certified or licensed.

Eligibility. An eligible application must propose a project directly benefits one or more named "high-need LEA(s)". If the applicant is not the LEA(s), the application must contain a letter of support from the LEA(s). As this term is defined in section 2102 (3) of the ESEA, a high-need LEA is an LEA—

1. (a) That serves not fewer than 10,000 children from families with incomes below the poverty line, or (b) for which not less than 20 percent of the children in the area served by the LEA are from families with incomes below the poverty line; and

2. For which there is (a) a high percentage of teachers not teaching in the academic subjects or grade levels the teachers were trained to teach, or (b) a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

Applicants will need to include information in their applications that demonstrates that they, or the LEA(s) with which they will work, meet this definition.

Note: For purposes of the four elements of this statutory definition of "high-need LEA":

1.a. The total number of children in poverty, as referenced above, can be found on the Census Bureau Web site at: *http://www.census.gov/housing/saipe/sd97/*. This site reports the number of children in poverty for every school district in the United States. See the file for your State's data, and find your LEA. The sixth column provides the number of children in poverty.

1.b. LEA poverty rates referenced in 1(b) can be accessed on the Department's Web site at the following address: *www.ed.gov/offices/OESE/reap.html*. See at this address "Instructions and Tools for Submitting Data," and find "Its Own State Spreadsheet." Column 11 identifies the percentage of an LEA's children from families below the poverty line. These poverty rates are available for LEAs that are included in the National Center for Education Statistics (NCES) Common Core of Data (CCD).

An LEA not included in the CCD must provide other data, such as the adjusted poverty data that its State used to make its Title I allocations, to demonstrate its eligibility.

2.a. The Department does not have available to it suitable data with which to define a "high percentage" of teachers not teaching in the academic subjects or grade levels the teachers were trained to teach. Therefore, to be eligible to receive an award, LEAs unable to meet the definition immediately below for "high percentage of teachers with emergency, provisional, or temporary certification or licensing" will need to demonstrate to the Department's satisfaction that they have a high percentage of teachers not teaching in the academic subjects or grade levels the teachers were trained to teach. The Department will review this aspect of the applications on a case-by-case basis.

2.b. The best data available to the Department on the percentage of teachers with emergency, provisional, or temporary certification or licensing comes from the reports on the quality of teacher preparation that States provided to the Department in October 2001 under section 207 of the Higher Education Act. Specifically, States provided the percentage of teachers in their LEAs teaching on waivers, both on a statewide basis and in high-poverty LEAs. Based on data from these reports, the national average of teachers on waivers in high-poverty LEAs is approximately 11 percent. The Secretary has determined that it is reasonable to use a percentage that meets or exceeds 11 percent in defining high-need LEA in Title II of the ESEA (under which this program is authorized) to reflect a "high percentage" of teachers teaching with emergency, provisional, or temporary certification or licensing.

Services for Private School Principals and Assistant Principals

The uniform provisions in Title IX, Part E of the ESEA apply to this program. Among other things, this means that an LEA receiving financial assistance under the School Leadership Program must, after timely and meaningful consultation with private school officials, provide to private school staff professional development

that is equitable to professional development provided with program funds to public school principals and assistant principals (or other public school staff whom the project serves). See section 9501 of the ESEA.

Limitation on Indirect Cost

The success of the School Leadership Program will depend upon how well grantees produce highly qualified principals and assistant principals who will work and stay in high-need schools. If the program is to achieve its purposes, we need to ensure that the $10 million appropriation is used as effectively as possible. To do so, it is necessary to place a reasonable limitation on the amount of program funds that grant recipients may use to reimburse themselves for the "indirect costs" of program activities. Therefore, the Secretary has decided to establish a reasonable limit of eight percent on the indirect cost rate that all program recipients may charge to funds provided under this program.

The School Leadership Program does not fund activities that are strictly "educational training projects" within the meaning of section 75.562 of EDGAR, to which this eight-percent limitation already expressly applies. However, for reasons we have provided in a limited number of other competitive grant programs that focus on improving teacher quality or helping students in high-need schools achieve academically, we believe that a similar limitation on a recipient's indirect costs is necessary here to ensure that program funds are used to secure the school leaders that Congress had intended. See, e.g., (1) the analysis of EDGAR for proposed 34 CFR 611.61 that governs the Teacher Quality Enhancement Grant programs, authorized by Title II, Part A of the Higher Education Act (65 FR 6936, 6940 (February 11, 2000)); and (2) requirements for the FY 2001 grants competition under the Transition to Teaching program authorized in the FY 2001 Department of Education Appropriations Act, Pub. L. 106–554 (66 FR 19673, 19676–77(April 16, 2002)).

For Applications Contact: Education Publications Center (ED Pubs), PO Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD) you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/about/ordering.jsp.*

Or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.363A.

For Technical Assistance Contact: Susan Toy, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E224, Washington, DC 20202–6140. Telephone: (202) 260–0995 or via Internet: *Susan.Toy@ed.gov.*

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Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request using the contact information provided under *For Applications Contact.*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C 6651(b).

Dated: May 17, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13022 Filed 5–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.330C]

Office of Elementary and Secondary Education—Advanced Placement Incentive (API) Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002 for the API Program

Purpose of Program: The API program, funded under section 1705 of Title I, Part G of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA), awards competitive grants designed to increase the successful participation of low-income students in pre-advanced placement and advanced placement courses and tests. Through increased access to and participation in pre-advanced placement and advanced placement courses and tests, the program provides greater opportunities for low-income students to achieve to high standards in English, mathematics, science, and other core subjects. Additional long-term goals of the program are to demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs and to increase the numbers of low-income and other disadvantaged students who receive baccalaureate and advanced degrees.

Eligible Applicants: (a) State educational agencies (SEAs); (b) local educational agencies (LEAs); or (c) national nonprofit educational entities with expertise in advanced placement services. In the case of an eligible entity that is an SEA, the SEA may use API grant funds to award subgrants to LEAs to enable those LEAs to carry out activities authorized under this program.

Note: The Bureau of Indian Affairs is considered an SEA for purposes of this program.

Applications Available: May 23, 2002.

Deadline for Transmittal of Applications: July 8, 2002.

Deadline for Intergovernmental Review: September 5, 2002.

Estimated Available Funds: Approximately $2,000,000.

Note: In accordance with statutory requirements, this amount is based on the amount of funds the Secretary estimates will be available after the Department has awarded grants under the Advanced Placement Test Fee program competition, which is being announced separately under CFDA No. 84.330B.

Estimated Range of Awards: $100,000 to $600,000 per year.

Estimated Average Size of Awards: $350,000 per year.

Estimated Number of Awards: 5–15.

Note: These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

E-Mail Notification of Intent to Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant for the API program to notify the Department by e-mail that it intends to submit an application for funding. The Secretary requests that this e-mail notification be sent no later than June 24, 2002. The e-mail notification should be sent to Ms. Madeline Baggett at *madeline.baggett@ed.gov.* Applicants that do not provide this e-mail notification may still apply for funding.

SUPPLEMENTARY INFORMATION: The API program promotes greater access to, and participation in, advanced placement courses and tests for low-income and other disadvantaged students. The API program is an important component of the Department's commitment to ensuring that "no child is left behind." In order to improve academic achievement for all students, the expectations for low-income children must be raised. Therefore, in addition to improving reading and mathematics achievement for all children in the early grades, the Secretary supports more rigorous middle and high school curricula in English, mathematics, science, and other core subjects. The development, enhancement, and expansion of advanced placement courses in all core subjects are key strategies for enabling low-income students to achieve to high academic standards.

Since the original authorization of the Advanced Placement program in 1998, funding for the program has increased from $3 million to the current appropriation of $22 million. In May 2001, low-income students took 114,112 advanced placement tests administered by the College Board, an 11 percent increase compared to 2000. Nevertheless, there is still a significant gap between the level of participation of low-income students in advanced placement courses and tests and the level of participation of students from more affluent backgrounds. Further, recent data released by the College Board indicate a continued under-representation of minority students taking advanced placement exams generally, and of female students taking calculus and physics advanced placement exams.

The API program supports activities that enable greater numbers of low-income and other disadvantaged students to benefit from advanced placement courses and exams (ultimately increasing the likelihood that these students will receive college degrees) through increased access to, and participation in, pre-advanced placement and advanced placement courses. These courses will be developed, enhanced, and expanded in high-poverty schools, which are least likely to offer advanced placement courses. In addition, pre-advanced placement and advanced placement teachers in the schools served will participate in sustained, high-quality professional development activities designed to: (1) Improve teacher content area knowledge; (2) increase utilization of research-based classroom practices that foster student achievement for low-income students; and (3) strengthen the alignment of pre-advanced placement and advanced placement curricula through vertical team training and other strategies. Applicants approved for funding under this program will be required to submit disaggregated data (by race, ethnicity, sex, English proficiency status, and socio-economic status) on individuals taking advanced placement courses and tests.

Allowable Activities: Under the API program, eligible entities implement programs designed to expand access for low-income individuals to advanced placement incentive programs through:

(1) Teacher training; (2) pre-advanced placement course development; (3) coordination and articulation between grade levels to prepare students for academic achievement in advanced placement courses; (4) providing books and supplies; (5) activities to increase the availability of, and participation in, on-line advanced placement courses; and (6) any other activity directly related to expanding access to and participation in advanced placement programs, particularly for low-income individuals.

Note: Applicants approved for funding under this competition are required to attend a two-day Project Directors' meeting in Washington, D.C. during the first year of the grant. The cost of attending this meeting may be paid from API program grant funds or State or local resources.

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Ordinarily, this practice might have applied to one or more of the priorities in this notice. Section 437(d)(1) of the General Education Administrative Provisions Act (GEPA), however, exempts rules that apply to the first competition under a new or substantially revised program from this requirement. As this competition is the first API program competition under the newly reauthorized ESEA, it qualifies as a new competitive grants program and is exempt from notice and comment rulemaking. The Secretary, in accordance with section 437(d)(1) of GEPA, to ensure timely awards, has decided to forgo public comment. These rules will apply to the FY 2002 competition only.

Absolute Priorities: Under 34 CFR 75.105(c)(3), the Secretary is establishing three separate absolute priorities as described below. We have chosen these priorities from the authorized activities and priorities specified in the authorizing statute for this program (see sections 1705(c) and (d) of Title 1, Part G of the ESEA). To implement the priorities, the Secretary will fund under this competition only applications that meet all three absolute priorities, except that priority (b) below applies only to eligible applicants that are LEAs.

(a) The Secretary gives an absolute priority to applications that demonstrate an intent to carry out activities that target schools, or LEAs serving schools, with a high concentration of low-income students. For a definition of *high concentration of low-income students,* see the Definitions section of this notice.

(b) For eligible applicants that are LEAs, the Secretary gives an absolute priority to applications that assure that the LEA serves schools with a high concentration of low-income students. For a definition of *high concentration of low-income students,* see the Definitions section of this notice.

(c) The Secretary gives an absolute priority to applications that propose to develop, enhance, or expand pre-advanced placement courses in English, mathematics, science, and other core academic areas at the middle or high school level. Proposals may include activities designed to develop, enhance, or expand advanced placement courses in conjunction with pre-advanced placement courses. Effective projects must be designed to enable low-income students to enroll and succeed in advanced placement courses and taking tests in core academic areas, and must include activities for coordination of curriculum design and development between middle and high school teachers as well as teacher training activities necessary for effective implementation of such programs.

Selection Criteria: The Secretary will use the following selection criteria in 34 CFR 75.210 to evaluate applications under this competition. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is indicated in parenthesis with the criterion. The criteria are as follows:

(a) *Significance* (20 points). The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(1) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(2) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

(3) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of the Project Design* (20 points). The Secretary considers the quality of the project design of the proposed project. In determining the quality of the project design, the Secretary considers the following factors:

(1) The extent to which the proposed project represents an exceptional approach for meeting the priority or priorities established for the competition.

(2) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(3) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(c) *Quality of Project Services* (20 points). The Secretary considers the quality of project services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practices.

(2) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(d) *Quality of Project Personnel* (10 points). The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been under represented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director;

(2) The qualifications, including relevant training and experience, of key project personnel.

(3) The qualification, including relevant training and experience, of project consultants or subcontractors.

(e) *Adequacy of Resources* (10 points): The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(2) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(3) The potential for incorporation of project purposes, activities or benefits into the ongoing program of the agency or organization at the end of Federal funding.

(f) *Quality of the Management Plan* (10 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(g) *Quality of the Project Evaluation* (10 points). The Secretary considers the quality of the project evaluation. In determining the quality of the project evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation include objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(2) The extent to which the methods of evaluation will performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Priority Points: In accordance with statutory and regulatory requirements, the Secretary will award a total of twenty (20) additional priority points for applications based on the following criteria: (a) Pervasive need for access to API programs, including a focus on serving or otherwise addressing the needs of disadvantaged individuals—two (2) points;

(b) involvement of business and community organizations in the activities assisted—two (2) points; (c) availability of matching funds from State, local, or other sources to pay for the cost of activities to be assisted—two (2) points; (d) focus on developing or expanding advanced placement programs in the core academic areas of English, mathematics, or science—two (2) points; (e) intent to carry out activities to increase the availability of, and participation in, on-line advanced placement courses—two (2); and (f) serve schools where 75 percent or more of the students enrolled are from low-income families—ten (10) points.

These priorities are specified in the authorizing statute for the API Program. The priority points are in addition to any points the applicant earns under the selection criteria listed below. The Secretary may select an application that meets a priority over an application of comparable merit that does not meet the priority.

Applicable Regulations and Statute: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, and 99. Title I, Part G of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Pub. L. 107–110.

General Requirements: The following requirements must be met for any application submitted under this program: (a) The program narrative is limited to no more than 50 pages; (b) each "page" is 8.5″ x 11″ (on one side only) with one inch margins (top, bottom, and sides); and (c) all text in the application narrative is double-spaced (no more than three lines per vertical inch), including titles, headings, footnotes, quotations, captions, as well as all text in charts, tables, figures, and graphs. The page limit applies to the narrative section only. However, all of the application narrative must be included in the narrative section. If the narrative section of an application exceeds the page limit, the application will not be reviewed.

Definitions

The following definitions and other provisions are taken from the API program authorizing statute, in Title I, Part G of the ESEA. They are repeated in this application notice for the convenience of the applicant.

As used in this section:

(a) The term *advanced placement test* means an advanced placement test administered by the College Board or approved by the Secretary.

Note: In addition to advanced placement tests administered by the College Board, the Department has approved advanced placement tests administered by the International Baccalaureate Organization. As part of the grant application process, applicants may request approval of tests from other educational entities that provide comparable programs of rigorous academic courses and testing through which students may earn college credit.

(b) The term *high concentration of low-income students*, used with respect to a school, means a school that serves a student population at least 40 percent or more of whom are low-income individuals.

(c) The term *low-income individual* means an individual who is determined by a State educational agency or local educational agency to be a child, ages 5 through 17, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 1124 of the ESEA, data on children eligible for free or reduced lunches under the National School Lunch Act, data on children in families receiving assistance under part A of title IV of the Social Security Act, or data on children eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act, or through an alternate method that combines or extrapolates from those data.

Supplement, Not Supplant Rule

Funds provided under this program must be used to supplement and not supplant other non-Federal funds that are available to assist low-income individuals in paying advanced placement test fees.

For Applications or Information Contact: Madeline E. Baggett, U.S. Department of Education, School Improvement Programs, 400 Maryland Avenue, SW., Room 3C153, Washington, DC 20202–6140. Telephone (202) 260–2669. Internet address: *Madeline.Baggett@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) upon request to the contact person listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: Pub. L. 107–110.

Dated: May 20, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13023 Filed 5–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.330B]

Office of Elementary and Secondary Education—Advanced Placement (AP) Test Fee Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The AP Test Fee program provides grants to States to enable them to pay advanced placement test fees on behalf of eligible low-income students who (1) are enrolled in an advanced placement course; and (2) plan to take an advanced placement exam. The program is designed to increase the number of low-income students who take advanced placement tests and receive scores for which college academic credit is awarded. Further, the program seeks to increase the number of low-income students who achieve a baccalaureate or advanced degree. Therefore, through participation in this program, low-income students will have greater opportunities to achieve to higher standards in English, mathematics, science, and other core subjects.

Eligible Applicants: State educational agencies (SEAs) in any State, including the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

Note: For purposes of this program, the Bureau of Indian Affairs is treated as an SEA.

Applications Available: May 23, 2002.

Deadline for Transmittal of Applications: July 8, 2002.

Deadline for Transmittal Review: September 5, 2002.

Estimated Available Funds: Up to $1,000,000.

Estimated Range of Awards: $50,000 to $400,000 per year.

Estimated Average Size of Awards: $225,000 per year.

Estimated Number of Awards: 5–20.

Note: These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

E-Mail Notification of Intent to Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant for the AP Test Fee program to notify the Department by e-mail that it intends to submit an application for funding. The Secretary requests that this e-mail notification be sent no later than June 24, 2002. The e-mail notification should be sent to Ms. Madeline Baggett at *madeline.baggett@ed.gov.* Applicants that fail to provide this e-mail notification may still apply for funding.

Allowable Activities

States receiving grants under this program may use the grant funds to pay part or all of the cost of advanced placement test fees for low-income individuals who (1) are enrolled in an advanced placement class; and (2) plan to take an advanced placement test.

Priority

In accordance with statutory requirements, in allocating funds appropriated for Title I, Part G

Advanced Placement programs, the Department gives priority to funding proposals to use grant funds to pay advanced placement test fees on behalf of eligible low-income individuals. To implement this priority, the Department intends to fund, at some level, all applications that meet the minimum Requirements for Approval of Applications as described in the application package.

Award Basis

In determining grant award amounts, the Department will consider, among other things, the number of children in the State eligible to be counted under section 1124(c) of Title I of the ESEA in relation to the number of such children so counted in all the States. Complete budget data must be submitted for each year of funding requested.

Applicable Regulations and Statute

The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, and 99. Title I, Part G of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, Public Law 107–110.

The following definitions and other provisions are taken from the Advanced Placement Programs authorizing statute, in Title I, Part G of the ESEA. They are repeated in this application notice for the convenience of the applicant.

Definitions

As used in this section:

(a) The term *advanced placement test* means an advanced placement test administered by the College Board or approved by the Secretary of Education.

Note: In addition to advanced placement tests administered by the College Board, the Department has approved advanced placement tests administered by the International Baccalaureate Organization. As part of the grant application process, applicants may request approval of tests from other educational entities that provide comparable programs of rigorous academic courses and testing through which students may earn college credit.

(b) The term *low-income individual* means an individual who is determined by an SEA or local educational agency to be a child, ages 5 through 17, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 1124 of Title I of the ESEA, data on children in families receiving assistance under part A of title IV of the Social Security Act, or data on children eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act, or through an alternate method that combines or extrapolates from those data.

Information Dissemination

An SEA awarded a grant under the AP Test Fee program shall disseminate information regarding the availability of advanced placement test fee payments under this program to eligible individuals through secondary school teachers and guidance counselors.

Supplement, Not Supplant Rule

Funds provided under this program must be used to supplement, and not supplant, other non-Federal funds that are available to assist low-income individuals in paying advanced placement test fees.

For Applications or Information Contact: Madeline E. Baggett, U.S. Department of Education, School Improvement Programs, 400 Maryland Avenue, SW., Room 3E228, Washington, DC 20202–6140. Telephone (202) 260–2669. Internet address: *Madeline.Baggett@ed.gov*

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Note: The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: Pub. L. 107–110.

Dated: May 20, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13024 Filed 5–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection Submitted for OMB Review and Comment

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy (DOE) has submitted the proposed collection of information described in this Notice to the Office of Management and Budget (OMB) for review and approval, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). This electronic form will certify to DOE that respondents who wish to purchase DOE high risk personal property will comply with the International Traffic in Arms Regulations (ITAR), under 22 CFR 120 *et seq.*, Export Administration Regulations (EAR), under 15 CFR 730 *et seq.*; Office of Foreign Asset Controls (OFAC), under 31 CFR 500 *et seq.*; and the United States Customs Service rules and regulations.

DATES: Comments regarding this collection must be received on or before July 22, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the time period allowed by this Notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–7318. In addition, please notify the DOE contact listed in this Notice.

ADDRESSES: Address comments to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503. (Comments should also be addressed to Susan L. Frey, Director, Records Management Division [IM–11], Office of Records and Business Management, Office of the Chief Information Officer, U.S. Department of Energy, Germantown, MD 20874–1290, and to Faye Zimmerman, Office of Resource Management, Office of Procurement and Assistance Management (ME–632), Room 4H–023, U.S. Department of Energy, Washington, DC 20585. Ms. Zimmerman will receive requests for copies of this collection proposal.)

SUPPLEMENTARY INFORMATION: This package contains: (1) *OMB No. 1910–New;* (2) *Package Title:* End-User Certificate; (3) *Type of Request:* New Collection; (4) *Purpose:* When acquiring High Risk Property from the Department of Energy, the End-Use Certificate (EUC) will be used to check respondents to determine if they are responsible, not debarred bidders, Specially Designated Nationals or Blocked Persons, or have not violated U.S. export laws and to advise recipients that when property is to be exported, they must comply with the International Traffic in Arms Regulations (ITAR), 22 CFR 120 *et seq.*; Export Administration Regulations (EAR), 15 CFR 730 *et seq.*; Office of Foreign Asset Controls (OFAC), 31 CFR 500 *et seq.*; and the United States Customs Service rules and regulations; (5) *Respondents:* 5,000 perspective purchasers; (6) *Estimated Number of Burden Hours:* 1,650.

Statutory Authority: Paperwork Reduction Act of 1995, P.L. No. 104–13, 44 U.S.C. Section 3507(a).

Issued in Washington, DC on May 17, 2002.

Susan L. Frey,

Director, Records Management Division, Office of Records and Business Management, Office of the Chief Information Officer.

[FR Doc. 02–12977 Filed 5–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–16–000]

Calpine Texas Pipeline, L.P.; Notice of Petition for Rate Approval

May 17, 2002.

Take notice that on May 2, 2002, Calpine Texas Pipeline, L.P. (Calpine) filed, pursuant to section 284.224(c)(7) and section 284.123(b)(1)(ii) of the Commission's regulations, a petition for rate approval, requesting that the Commission approve the following maximum rates for transportation under Section 311 of the Natural Gas Policy Act. Calpine proposes rates of $0.0121/MMBtu for the Baytown System and $0.0218/MMBtu for the Freestone System.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed with the Secretary of the Commission on or before May 29, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12945 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2142–031]

FPL Energy Maine Hydro LLC; Notice Revising Processing Schedule and Issuing an Environmental Assessment

May 17, 2002.

On December 14, 2001, the Federal Energy Regulatory Commission (Commission) issued a Scoping Document 2 (SD2) for the Indian Pond Project (FERC No. 2142–031). The SD2 included a schedule for processing the application for a new license for the Project. The schedule estimated issuing a draft environmental assessment (EA) during the Spring-Summer 2002 and a final EA during the Fall-Winter 2002.

The Commission staff will issue one EA rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application. The application will be processed according to the following milestones. Revisions to these milestones will be made when the Commission determines it is necessary to do so.

Environmental Assessment Fall—Winter 2002
Order on License Decision Spring—2003

Magalie R. Salas,

Secretary.

[FR Doc. 02–12943 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG02–3–000]

Gulfstream Natural Gas System, L.L.C.; Notice of Filing

May 17, 2002.

On May 2, 2002, Gulfstream Natural Gas System, L.L.C. filed its initial standards of conduct under Part 161 of the Commission's regulations, 18 CFR Part 161.

Gulfstream Natural Gas System, L.L.C. states that it served copies of the filing on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure. (18 CFR 385.211 or 385.214) All such motions to intervene or protest should be filed on or before (15 days after date of notice) 2002. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18

CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12942 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2652–007]

PacifiCorp; Notice of Meeting to Discuss Section 10(j) and Endangered Species Act Issues

May 17, 2002.

a. *Date and Time of Meeting:* June 19, 2002; 10:00 a.m. Mountain Standard Time.

b. *Place:* Conference Call.

c. *FERC Contact:* Steve Hocking at *steve.hocking@ferc.gov* or (202) 219–2656.

d. *Purpose of Meeting:* Commission staff and the U.S. Fish and Wildlife Service will have a conference call to discuss the U.S. Department of the Interior's recommendation for water quality monitoring under Section 10(j) and any Endangered Species Act issues for the Bigfork Project, P–2652–007. The project is located in Bigfork, Montana.

e. *Proposed Agenda:* (1) Introduction, (2) Recognize Participants, (3) Meeting Procedures, (4) Section 10(j) Discussion on Water Quality Monitoring, (5) ESA Discussion, (6) Close Meeting.

f. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to join the conference call. Please call Steve Hocking at (202) 219–2656 at least one day in advance for instructions on how to join the conference call.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12944 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–114–001]

Tennessee Gas Pipeline Company; Notice of Technical Conference

May 17, 2002.

Take notice that a technical conference will be convened to address issues raised by the filing in the above reference proceeding. The technical conference will be held on Monday June 24, 2002 at 1 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and staff are permitted to attend.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12947 Filed 05–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3022–003, et al.]

Cinergy Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 16 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Cinergy Services, Inc.

[Docket No. ER01–3022–003]

Take notice that on May 10, 2002, Cinergy Services, Inc., as agent for PSI Energy, Inc. (PSI), tendered for filing a Second Revised executed Interconnection Agreement by and between Cinergy Services, Inc. (Cinergy) and Mirant Sugar Creek, LLC (Mirant).

The Second Revised executed Interconnection Agreement between the parties provides for the interconnection of a generating station with the transmission system of PSI, a Cinergy utility operating company, and further defines the continuing responsibilities and obligations of the parties with respect thereto.

Consistent with the Commission's April 10, 2002 Order in this Docket, Cinergy requests an effective date of September 8, 2001 for the Second Revised executed Interconnection Agreement. Cinergy states that it has served a copy of its filing upon the Indiana Utility Regulatory Commission and Mirant.

Comment Date: May 31, 2002.

2. Select Energy New York, Inc.

[Docket No. ER02–556–001]

Take notice that on May 13, 2002, Select Energy New York, Inc. (SENY) tendered for filing with the Federal Energy Regulatory Commission (Commission), revisions to its Rate Schedule No. 1 in compliance with the Commission's letter order issued on February 11, 2002 in the above-captioned proceeding.

Comment Date: June 3, 2002.

3. Exelon Generation Company, LLC

[Docket No. ER02–1768–000]

Take notice that on May 8, 2002 Exelon Generation Company, LLC, tendered for filing a transaction agreement under its market-based rate wholesale power sales tariff under which it will provide Full Requirements Service to Fox Islands Electric Cooperative, Inc.

Comment Date: May 29, 2002.

4. New England Power Pool

[Docket No. ER02–1769–000]

Take notice that on May 8, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include the UBS AG, acting through its London Branch (UBS AG). The Participants Committee requests a May 8, 2002 effective date for the commencement of participation in NEPOOL by UBS AG.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: May 29, 2002.

5. Cinergy Services, Inc.

[Docket No. ER02–1770–000]

Take notice that on May 8, 2002, Cinergy Services, Inc. (Cinergy) on behalf of the Cincinnati Gas and Electric Company tendered for filing a Wholesale Market-Based Service Agreement under its Wholesale Market-Based Power Sales Standard Tariff, No. 9 –MB (the Tariff) entered into with Ameren Energy, Inc. as agent for and on behalf of Union Electric company d/b/a AmerenUE and Ameren Energy Generating Company.

Cinergy and Ameren Energy, Inc. are requesting an effective date of May 1, 2002.

Comment Date: May 29, 2002.

6. Cinergy Services, Inc.

[Docket No. ER02–1771–000]

Take notice that on May 8, 2002, Cinergy Services, Inc. (Cinergy) and Energy USA—TPC Corp. filed a Notice of Cancellation of Service Agreement No. 267, under Cinergy Operating Companies, FERC Market-Based Power Sales, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of May 10, 2002.

Comment Date: May 29, 2002.

7. New York Independent System Operator, Inc.

[Docket No. ER02–1772–000]

Take notice that on May 8, 2002, the New York Independent System Operator, Inc. (NYISO) filed proposed revisions to its Market Administration and Control Area Services Tariff that would improve the ability of its Balancing Market Evaluation to call on potential providers of Thirty-Minute Reserves. The NYISO has requested a waiver of the Commission's usual sixty-day notice period so that the proposed revisions may become effective on May 30, 2002.

The NYISO has mailed a copy of this compliance filing to all persons that have executed Service Agreements under the NYISO's Market Administration and Control Area Services Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: May 28, 2002.

8. Public Service Company of New Mexico

[Docket No. ER02–1773–000]

Take notice that on May 8, 2002, Public Service Company of New Mexico (PNM) submitted for filing an executed interconnection agreement, dated January 21, 2002, with Celerity Energy of New Mexico, LLC (Celerity), under the terms of PNM's Open Access Transmission Tariff. The interconnection agreement governs the interconnection of various back-up generators (facilities) located at various sites in the Albuquerque area and elsewhere in New Mexico, to the PNM distribution system, pursuant to which the energy generated by the facilities will be sold to PNM's Wholesale Merchant function (PNMM) for use as a peaking resource under a separate wholesale power sale agreement. PNM requests an effective date of January 21, 2002 for the interconnection agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Celerity, PNMM, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: May 29, 2002.

9. Energy Services Inc.

[Docket No. ER02–1774–000]

Take notice that on May 8, 2002, Energy Services Inc. filed a Notice of Cancellation of Electric Service Rate Schedule No. 1 to be effective no later than July 1, 2002.

Comment Date: May 29, 2002.

10. Consumers Energy Company

[Docket No. OA96–77–001]

Take notice that on May 13, 2002, Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission (Commission), the following tariff sheets as part of its FERC Electric Tariff, Original Volume No. 1 in compliance with the Commission's March 27, 2002 order issued in the above proceeding:

First Revised Sheet Nos. 38, 58, 59, 75 through 81, 84 through 89 and 115 and Second Revised Sheet Nos. 38, 58, 59, 86, 88 and 115.

All of the First Revised Sheets except for Nos.87 and 89 are to become effective July 9, 1996; the rest of the sheets being filed are to become effective January 1, 1999. Copies of the filing were served upon those on the official service list in this proceeding.

Comment Date: June 12, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12899 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1173–000, ER00–2998–001, ER00–2999–001, ER00–3000–001, and ER00–3001–001]

Front Range Power Company, LLC; Notice of Issuance of Order

May 17, 2002.

Front Range Power Company, LLC (Front Range) submitted for filing a rate schedule and two long-term power purchase agreements with Colorado Public Service Company under which Front Range will engage in wholesale electric power and energy transactions at market-based rates and for the reassignment of transmission capacity. Front Range also requested waiver of various Commission regulations. In particular, Front Range requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Front Range.

On April 22, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-West, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Front Range should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Front Range is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Front Range, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Front Range's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 28, 2002.

Copies of the full text of the Order are available from the Commission's Public

Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. 02–12941 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions

May 16, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–2177.

c. *Applicant:* Georgia Power Company.

d. *Name of Project:* Middle Chattahoochee Hydroelectric Project.

e. *Location:* On the Chattahoochee River, in Harris and Muscogee Counties, Georgia and Lee and Russell Counties, Alabama.

f. *Applicant Contact:* Chris M. Hobson, Vice President, Environmental Affairs, Georgia Power Company, 241 Ralph McGill Boulevard NE, Bin 10221, Atlanta, GA 30308.

g. *FERC Contact:* Ronald McKitrick, (770) 452–2272, E-mail: *ronald.mckitrick@ferc.gov.*

h. Georgia Power Company mailed a copy of the PDEA to interested parties on May 14, 2002. The Commission received a copy of the PDEA on May 15, 2002.

i. *Status of Project:* With this notice the Commission is soliciting (1) preliminary terms, conditions, and recommendations on the PDEA, and (2) comments on the PDEA and the Draft Application.

j. *Deadline for filing:* August 13, 2002.

All comments on the PDEA and Draft Application should be sent to the addresses noted above in Item (f), with one copy filed with FERC at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. All comments must include the project name and number and bear the heading Preliminary Comments, Preliminary Recommendations, Preliminary Terms and Conditions, or Preliminary Prescriptions.

Comments and preliminary recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lie of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (http://www.ferc.gov) under the "e-Filing" link.

k. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Georgia Power Company has mailed a copy of the Preliminary DEA and Draft Application to interested entities and parties. Copies of these documents are available for review at Georgia Power Company Relicensing Public Library, or by calling (404) 506–1357 or by e-mailing *gamartin@southernco.com.*

l. With this notice, we are initiating consultation with the STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by Section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12962 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–10–000]

Standards of Conduct for Transmission Providers; Notice of Agenda for Technical Conference

May 17, 2002.

This notice provides additional information concerning the May 21, 2002 technical conference to be held in this docket to discuss the proposed revisions to the gas and electric standards of conduct governing transmission providers and their energy affiliates. *See* April 25, 2002 Notice of Technical Conference and Staff Analysis of the Major Issues Raised in the Comments. The conference will begin at 9:30 a.m. at the Commission's offices, 888 First Street NE., Washington, DC in the Commission's Meeting Room. All interested persons are invited to attend.

Tentative Agenda

This agenda has been organized to reflect the interests of those who expressed an interest in participating in the discussions. The topics that had the greatest interest have been placed first on the agenda.

Participation in the Discussions

Those who have contacted Commission staff about participating in the discussions will be seated in the Commission Meeting Room. See attachment to this Notice. Observers will be accommodated in the Commission Meeting Room on a space available basis, but seating will also be available in an overflow room, which will have a broadcast of the discussion. For those seated in the Commission Meeting Room, standing microphones will be available to enable those in the audience to participate in the discussion as issues arise. All visitors must check in at the First Street entrance. All visitors should have picture identification readily available to ensure a quick check-in.

Procedures To File Additional Comments

Interested persons may file additional comments on the issues discussed at the conference, or other matters relevant to this proceeding, including alternative proposals by June 14, 2002. Comments should include a one-page single spaced position summary. Comments may be filed either in paper format or electronically. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 and should refer to Docket No. RM01–10–000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website (*www.ferc.gov*) and clock on "Make an e-filing," and then follow the instructions for each screen. First-time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of the comments.

User assistance for electronic filing is available at 202–208–0258 or by E-mail to *efiling@ferc.gov.* Comments should not be submitted to the e-mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426 during regular business hours. Additionally, all comments may be viewed, printed or downloaded remotely via Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by E-mail to *rimsmaster@ferc.gov.*

Questions about the conference should be directed to: Demetra Anas, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–208–0178, *Demetra.Anas@ferc.gov.*

Magalie R. Salas,

Secretary.

Standards of Conduct Affiliate Conference, May 21, 2002, Agenda

The times listed herein are approximate. The discussion of particular topics may take more or less time.

9:30–12:30 Discussion of Separation of Functions Issues

9:30–11:30 Separation of the transmission function from affiliated producers, gatherers, & LDCs.

- What is the impact on current operations of separating LDCs, producers, gatherers from the transmission function?
- What are the one-time and annual costs associated with the separation of these function?
- Are there other ways to achieve the purposes of the NOPR in requiring a separation of the transmission function?

11:30–12:30 Separation of the transmission function from the bundled sales function for retail native load.

- Where do the transmission and bundled sales functions currently fit in the corporate structure?
- What is the impact of the proposed rule; can the costs and benefits of this proposed change be quantified?

12:30–1:30 Lunch Break

1:30–3:00 Information Disclosure Issues

- What is the impact of the automatic imputation rule on corporate governance?
- Would the no-conduit rule adequately achieve the Commission's purposes of avoiding preferential information flow?
- What are the types of operational and reliability information that transmission providers should be allowed to share with their energy affiliates?

3:00–4:30 Discussion of the staff's proposed revisions to the regulatory text.

- Is the definition of an energy affiliate drafted appropriately to achieve the Commission's purposes?
- What alternative language should be considered for the definition or other provisions?

Discussion Participants

I. Separation of Transmission function from affiliated producers, gatherers & LDCs, representatives of:
British Petroleum-Amoco
Cinergy
CMS Energy Corp.
Dominion Resources Inc.
Duke Energy
Duke Energy Gas Transmission Co.
Dynegy
El Paso Corporation
El Paso Energy Partners
ExxonMobil
Independent Petroleum Association of America
Interstate Natural Gas Association of America
Lockheed Martin Missions System
Midstream Gas and Liquids, Williams Energy Services
National Fuel Gas Distribution Company
National Gas Supply Association
National Rural Electric Cooperatives
Nisource Energy Distribution Group
Questar Pipeline Company and Questar Gas Company
Shell Gas Transmission Co.

II. Separation of Transmission function from the bundled sales function for retail native load discussion, representatives of:
Electric Power Supply Association
Louisville Gas and Electric Company
National Association of State Utility Consumer Advocates
National Energy Marketers Association
National Rural Electric Cooperatives
Ontario Power Generators
Pinnacle West
Southern Companies
Transmission Access Policy Study Group

III. Information Disclosure Issues, Representatives of:
Ad Hoc Marketers
British Petroleum-Amoco
Duke Energy Co.
Duke Energy Gas Transmission Co.
El Paso Corporation
Entergy
Exxon-Mobil
Interstate Natural Gas Association of America
Midstream Gas and Liquids, Williams Energy Services
NISource
Natural Gas Supply Association
National Fuel Gas Supply Corporation

IV. Discussion of staff's proposed revisions to the regulatory text
AdHoc Marketers
Duke Energy Gas Transmission Co.
Dynegy Co.
Entergy Services, Inc.
ExxonMobil
IPAA
National Fuel Gas Supply Corporation
National Grid
National Association of State Utility Consumer Advocates
Independent Petroleum Association of America
Shell Gas Transmission

[FR Doc. 02–12946 Filed 5–22–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7216–6]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. Seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby at (202) 566–1672, or e-mail at *Auby.susan@epa.gov.* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1847.02; Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994; in 40 CFR part 62, subpart FFF; was approved 03/04/2002; OMB No. 2060–0390; expires 03/31/2003.

EPA ICR No. 1363.11; Toxic Chemical Release Reporting Recordkeeping, Supplier Notification and Petitions

Under Section 313 of the Emergency Planning and Community Right-to-know Act (EPCRA); in 40 CFR part 372; was approved 03/07/2002; OMB No. 2070–0093; expires 01/31/2003.

EPA ICR No. 2067.01; Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act; was approved 04/11/2002; OMB No. 2040–0246; expires 07/31/2002.

EPA ICR No. 1506.09; NSPS Municipal Waste Combustors (MWC) for subpart Ea and subpart Eb; was approved 04/09/2002; OMB No. 2060–0210; expires 04/20/2005.

EPA ICR No. 1750.03; National Volatile Organic Compound Emission Standards for Architectural Coatings; was approved 04/16/2002; OMB No. 2060–0393; expires 04/20/2005.

EPA ICR No. 1637.05; General Conformity of Federal Actions to State Implementation Plan; in 40 CFR part 51, subpart W, and part 93, subpart B; was approved on 04/09/2002; OMB No. 2060–0279; expires 04/30/2005.

EPA ICR No. 1573.08; Part B Permit Application, Permit Modifications and Special Permits (Corrective Action Management Final Rule); was approved 03/18/2002; OMB No. 2050–0184; expires 03/31/2005.

EPA ICR No. 2013.01; Protection of Stratospheric Ozone: Request for Applications for Critical Use Exemptions from the Phaseout of Methyl Bromide; was approved 05/02/2002; OMB No. 2060–0482; expires 05/31/2005.

EPA ICR No. 0959.11; Facility Ground-water Monitoring Requirements; was approved 01/28/2002; OMB No. 2050–0033; expires 01/31/2005.

EPA ICR No. 0229.15; NPDES and Sewage Sludge Monitoring Reports; was approved 02/04/2002; OMB No. 2040–0004; expires 02/28/2005.

EPA ICR No. 1759.03; Worker Protection Standard Training and Notification; was approved 02/25/2002; OMB No. 2070–0148; expires 02/28/2005.

Short Term Extensions

EPA ICR No. 1601.04; Air Pollution Regulations for Outer Continental Shelf Activities; OMB No. 2060–0249; on 03/13/2002 OMB extended the expiration date through 05/31/2002.

EPA ICR No. 1755.05; Regulatory Reinvention Pilot Projects Under Project XL; Pre-Treatment Program; OMB No. 2010–0026; on 02/26/2002 OMB extended the expiration date through 05/31/2002.

EPA ICR No. 0277.11; Application for New or Amended Pesticide Registration; OMB No. 2070–0060; on 04/20/2002 OMB extended the expiration date through 05/31/2002.

Notice of Change

EPA ICR No. 1888.01; National Roster for Environmental Dispute Resolution and Consensus-Building Professionals; OMB No. 2010–0030; on 03/11/2002 OMB changed the expiration date to 03/31/2002.

Comment Filed

EPA ICR No. 2029.01; National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Rooting Manufacturing (40 CFR Part 63, Subpart LLLLL) Proposed Rule; on 01/03/2002 OMB filed comment.

Dated: May 13, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–12967 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7216–9]

Process for Designing a Watershed Initiative

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: This notice solicits comments and suggestions from stakeholders and other interested parties on the potential design of EPA's new Watershed Initiative. The Agency is specifically seeking ideas and possible approaches to the nomination and selection processes. On January 25, 2002, EPA announced a proposal to include $21 million in its fiscal year 2003 budget for the new Watershed Initiative. Pending appropriations for this purpose, EPA will call for nominations and select up to 20 watershed organizations to receive grants to support innovative watershed based approaches to preventing, reducing, and eliminating water pollution. The Initiative will also support local communities in their efforts to expand and improve existing protection measures with tools, training, and technical assistance, and provide for ten Federal liaison positions. The primary component of the Initiative will be in the form of a competitive grant program. In addition, throughout the upcoming months, EPA will be working cooperatively with the States, Tribes, local governments, and community groups to develop the proposed program.

DATES: Comments, identified by the document control number W–02–05 must be received no later than July 8, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in section I of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Carol Peterson, Environmental Protection Agency, Office of Wetlands, Oceans, and Watersheds (4501T), 1200 Pennsylvania Ave. NW, Washington, DC 20460. Telephone: 202–566–1304; e-mail: *peterson.carol@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to You?

You may be interested in this notice if you are involved in water quality, aquatic habitat, and sustainable land management issues at the Regional, State, Tribal, local, or community level. This notice is intended to solicit ideas and comments from an array of organizations and individuals across the country who have an interest in achieving clean and healthy watersheds. Interested individuals and organizations may include farmers, private landowners, commercial businesses, watershed and environmental interest groups, academicians, community leaders, county/city planners, commissioners, engineers, recreational water users, and members of the general public. This list is not intended to be exhaustive, nor is it intended to exclude entities that may be ineligible for Watershed grants, but rather provides a guide for readers. To determine whether you, your company or organization may be interested in responding to this notice, you should carefully examine its contents. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically.* You may obtain electronic copies of this document and various support documents from the EPA home page at the **Federal Register** *http://www.epa.gov/fedrgstr/*, or on EPA's watershed homepage at *http://www.epa.gov/owow/watershed.*

2. *In person.* The complete administrative record for this action has been established under docket number W–02–05 and includes supporting documentation as well as printed, paper versions of electronic comments. Copies of information in the record are available upon request. A reasonable fee may be charged for copying. The records are available for inspection and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, at the Water Docket, EPA, East Tower Basement, 401 M Street, SW, Washington, DC. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

C. How and To Whom Do I Submit Comments?

EPA invites you to provide your views on those items outlined in *Section IV, Design of the Watershed Initiative,* approaches it has not considered, the potential impacts of the various options (including possible unintended consequences), and any other information that you would like the Agency to consider. You may submit comments by mail, in person, or electronically:

1. *By mail.* Submit written comments on this notice to: Comment Clerk for the Watershed Initiative Competitive Grant program, Water Docket (W–02–05), Environmental Protection Agency, Ariel Rios Bldg. 1200 Pennsylvania Ave. NW, Washington, DC 20460. The Document Control Office telephone number is 202–260–3027. To ensure proper identification of your comments, include in the subject line the docket control number, together with the name, date and **Federal Register** citation of this notice.

2. *In person.* Deliver written comments to EPA's Water Docket located in Room EB–57 (East Tower Basement), 401 M Street, SW, Washington, DC 20460.

3. *Electronically.* Submit your comments electronically to: *ow-docket@epa.gov.* Electronic comments must be submitted as an ASCII or WordPerfect file avoiding the use of special characters and any form of encryption. Comments will also be accepted on disks in WordPerfect or ASCII file format sent or delivered to the addresses above. All comments and data in electronic form must be identified by the docket control number W–02–05. Electronic comments on this notice may also be filed online at many Federal Depository Libraries. No confidential business information should be sent via e-mail.

II. Authority

EPA expects to award these grants under the authority of section 104(b)(3) of the Clean Water Act (CWA) which authorizes grants to conduct and promote the coordination and acceleration of research, investigations, experiments, training, education, demonstrations, surveys, and studies relating to the causes, effect, extent, prevention, reduction, and elimination of water pollution. EPA is also considering awarding grants under the authority in the Clean Water Act for Wet Weather Watershed Pilot Projects (33 U.S.C. 1274) or National Estuary Program projects (33 U.S.C. 1330).

III. Background

A. Introduction

Americans depend on clean water to drink, manufacture their products, irrigate their crops, and support a healthy habitat for wildlife. Water resources also provide opportunities for recreation, such as fishing, boating and swimming. Wetlands afford protection from floods, filter pollutants, and are home to a wide diversity of plants and animals. Estuaries serve as both birthplace and nursery for many species of fish and shellfish. Today, a majority of watersheds have water quality problems such as habitat loss, nutrient enrichment, pathogens, toxic chemicals, and invasive species. These problems continue to impair watersheds nationwide and prohibit the attainment of State/Tribal water quality standards and other water quality goals. The problems are complex and vary from region to region. Governments working alone can not solve all of them.

State and Federal water protection programs along with volunteer and private sector efforts, have been successful in reversing or preventing damage to the nation's waters over the past 30 years. Nevertheless, nearly 40 percent of the nation's waters that have been assessed are still not considered safe for swimming and fishing, or are impaired in other ways. Further, many lakes, rivers, streams, wetlands, and estuaries have yet to be adequately assessed. The nation remains far from realizing the goals of the Clean Water Act.

B. The Watershed Approach

To address water resource problems more effectively, water resource managers at all levels have been adopting a more comprehensive approach—one that considers all threats to a watershed. A watershed can be large or small. It can encompass the entire Mississippi River basin or a small stream in western Georgia. The "watershed approach" addresses natural resource issues that cross geographic, jurisdictional and political boundaries. This approach recognizes needs for water supply, water quality, flood control, navigation, hydropower generation, fisheries, biodiversity, habitat preservation and recreation—and it recognizes that these needs often compete. It establishes local priorities in the context of national goals, coordinates public and private actions, encourages partnerships to affect change, and enlists the support and knowledge base of the public at the local level.

Effective solutions to restoring water quality across the country will typically require cooperative efforts. Over the years, many communities around the country have joined forces to protect their watersheds, often using innovative and novel approaches that are geared toward solving the problems that make sense for their locality. In recent years, governments, non-profit organizations, businesses, and citizens have employed watershed based approaches to refocus their efforts to protect and restore the nation's waters. These refocused efforts have brought positive results and attainment of State/Tribal water quality standards in some areas.

C. The Watershed Initiative

The Watershed Initiative, if approved by Congress, would build on the watershed approach, encouraging innovative approaches for attaining water quality standards and improving water resource protection and restoration. It would also further EPA's goal to meet the mandate of the Clean Water Act. The Initiative will focus on highly valued watershed resources such as those that support human health, wildlife diversity, ecosystem integrity, economic stability, recreational opportunity, and natural or cultural significance.

The Administration has requested an additional $21 million in EPA's 2003 budget to spearhead this effort. The investment will capitalize on lessons learned from current protection efforts and build upon proven successful approaches to protect valued watershed resources. The Initiative will have several kinds of assistance. One part would direct cooperative agreements and demonstration funds to up to 20 watersheds. The grants would range from $300,000 to $1,300,000, depending on the amount requested and the overall size and need of the project.

A smaller portion of the funds could be used to respond to the recommendations of last year's National Watershed Forum (*http://www.epa.gov/owow/forum*), by supporting the development of tools, training, data and information, and technical assistance that can be provided to all watershed

activities across the country, including projects which are nominated for selection under this Initiative but are not selected. The Initiative will also establish ten Federal liaison positions in EPA's Regional Offices. These watershed liaisons will serve as a vital link between the Federal government and the groups funded under the Initiative. This liaison will work to support cooperation and communication among all affected stakeholders of the project.

This notice only focuses on the competitive grant component of the Watershed Initiative described in section IV below.

D. Eligibility

If EPA awards these grants under section 104(b)(3) of the Clean Water Act, the funds may be used to conduct and promote the coordination and acceleration of research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effect, extent, prevention, reduction, and elimination of water pollution. Eligible activities under Wet Weather Watershed Pilot Project grants include pilot projects relating to watershed management of wet weather discharges and storm water best management practices. If EPA awards Watershed Initiative grants under the authority for National Estuary Program grants (section 320 of the Clean Water Act), the funds may be used for the development and implementation of a comprehensive management plan that has been developed under section 320.

E. Tentative Schedule

EPA has begun the process of devising a strategy to implement the Initiative. Work is underway both within EPA and with outside parties to solicit ideas. Over the next few months, the Agency will consult with Congress, Governors, States, Tribes, local governments, and community groups to seek their help in developing the program.

Plans are to complete the design of the program this summer and to call for nominations of projects soon thereafter. The Agency wants to make its selections as soon as possible after the fiscal year 2003 appropriation act is enacted. Project selections could be made as early as December 2002 and implementation could be underway by next summer.

IV. Design of the Watershed Initiative—the Nomination and Selection Process

The Agency is interested in the public's views on several key aspects of the Initiative.

Who Is Eligible?

EPA will award grants through a competitive process. Under section 104(b)(3) of the CWA, the following entities are eligible to receive grants: State and Tribal water pollution control agencies, interstate or intertribal agencies, other public or non-profit private agencies, institutions, organizations, and individuals. Grants authorized under section 320 of the CWA (National Estuary Program Grants) may be awarded to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals. For-profit entities are not eligible for grants under either section 104(b)(3) or 320 of the CWA. There is no limitation on the types of entities eligible for Wet Weather Watershed Pilot Project grants. The Agency invites the public to address whether the Initiative should be limited to certain groups and why.

How Will a Watershed Be Selected?

The Agency is interested in the views of interested parties on the selection process. One option is for the Governors or Tribal Leaders to nominate watershed projects to EPA. Under this option candidates representing a watershed that is wholly within a State's or Tribe's boundaries submit their proposals to the Governor or Tribal Leader of that State or Tribe, who in turn, would formally nominate selected watersheds to the EPA Administrator. This process is used by the Agency's National Estuary Program (NEP). Nominations for NEP funding can only be made by a Governor or by the EPA Administrator, on her own initiative. The Governor /Tribal Leader could serve as a screening step to the selection process and nominate only those watersheds in its State/Tribal land that most merit Federal funding. If the Governors or Tribal Leaders make the nominations, should they be restricted to a limited number of nominations?

Other programs take somewhat different approaches. For instance, to receive funding under EPA's Brownfields Showcase Communities Program, nominations are solicited through a notice in the **Federal Register** and are accepted from any party but must be submitted in partnership with a government entity. Other government granting programs, such as the Large-scale Watershed Restoration Program (LWRP), and the Community-Based Restoration Program (CBRP), do not require a State role *per se*. Nominations for these programs are submitted directly to the U.S. Forest Service and the National Marine Fisheries Service, respectively.

What About Regional Watersheds That Include More Than One State or Tribe?

Some of the most significant management and environmental challenges the nation faces involve water bodies that straddle State and Tribal boundaries. If Governors and Tribal Leaders nominate watershed projects that are wholly within their jurisdiction as described above, should interstate or inter-tribal watershed projects go through a different nomination process? EPA could require that nominations for these trans-boundary watershed projects be screened by EPA's Regional Administrators or be submitted directly to the Administrator. In light of limited time to prepare nominations, and the increased difficulty of developing the proposal for multi-jurisdictional projects, would requiring Governor or Tribal Leader level nomination put these larger projects at a disadvantage?

What Should Be the Criteria for Selecting a Watershed?

EPA is requesting comment on the criteria it should use to select watershed projects for funding. Below is a list of criteria that are utilized in various other Federal programs. EPA would like comments on the appropriateness of each criterion to this Initiative, and which criteria (and/or others not on the list) should be used in the selection process.

1. Value of the Resource at Risk and Extent of Impairment or Threat. The cornerstone of the Watershed Initiative is to foster the protection, preservation, and restoration of the country's water bodies. To what degree should successful candidates demonstrate that the watershed provides a high value of services to human health, economic stability, ecosystem integrity, recreational opportunity, natural or cultural significance or any other important services? For water bodies which are impaired, how should the nature, extent, and severity of the impairment be weighed? Are there other aspects of resource value that should be considered, and if so, what are they?

2. Focus on Success. To what extent should selections be based on readiness to proceed and the likelihood of achieving positive environmental outcomes? EPA is considering giving preference to nominations that (1) demonstrate a knowledge of priority water resource problems, (2) have substantially completed planning for the project, and (3) are ready to begin. The reasoning behind this is that these types of projects would have the greatest likelihood of attaining tangible environmental results in the near, rather than distant, future.

EPA is considering establishing a requirement that nominations be supported by a clearly articulated set of success or progress measures and a description of how these measures would be tracked. The Agency is also considering criteria which would address the capability of nominees to manage the project. Should each project be required to have a coordinator and a developed infrastructure for carrying out the project? While a grant may be awarded to an individual watershed group, an institution, or to a consortium of groups, it seems likely that a project leader would be needed to oversee the plan and take fiscal and practical responsibility for implementing the project. For example, should candidates be required to submit a detailed business plan? Should there be a cost-share requirement to demonstrate a real commitment to the project? And if so, how much? Should applicants that commit to provide a larger share of the project's cost be given preference?

Finally, one additional aspect of this category of potential criteria is the ability to transfer the experience gained from a project selected for the Initiative to other watersheds across the country. The goal of this criterion would be to develop and document restoration models that can be applied nationally. For this criterion, EPA would consider whether the success of the particular project could be repeated in other impaired or threatened watersheds.

3. Innovation. To what extent does the project test novel or unique approaches, concepts, or techniques? A key objective of the Initiative is to foster innovative and novel approaches to achieving environmental results. The designated watersheds are expected to serve as models of the most creative, economically successful and ecologically sustainable approaches to restoration and protection. A wide array of progressive and forward-thinking actions, such as pollutant trading, third-party total maximum daily loads (TMDLs), National Pollutant Discharge Elimination System (NPDES) watershed permits under the Clean Water Act, enforcement programs, and demonstration projects could be advanced. The public is invited to comment on this criterion and how it should be applied in the selection process.

4. Broad Support. The most successful watershed communities have attained a local commitment, established stakeholder partnerships, and forged effective working relationships among State and local authorities. EPA is seeking comment on the extent to which partnerships should be demonstrated by the nominees for this Initiative. Should EPA have nominees submit letters of support, or affidavits, attesting to the establishment of partnerships and collaboration efforts? And, should one or more of the entities have a proven track record with respect to implementing environmental protection and restoration projects?

Another aspect to consider is what role, if any, should the Interagency Regional Coordination Teams play? These teams of representatives of Federal agencies that share common concerns about water quality are spread around the country to strengthen cross-agency communications and implementation activities. These regional teams were created to link the Federal government with on-the-ground water protection, restoration, and conservation efforts. As a result, they could be helpful in enhancing partnerships and leveraging resource possibilities.

5. Accountability. Performance expectations and attaining measurable results are a fundamental part of the Initiative. The progress of each watershed project must be measurable by scientifically sound ways that can also be understood and appreciated by the general public. Monitoring should be designed to show progress in the short term. Questions arising from this criterion are: should the nominee be required to provide a "Watershed Plan" as part of the nomination package and if so, what should be the key elements of that plan? What are the most appropriate measures of success for this Initiative? How could EPA and other affected stakeholders monitor the progress of each selected project and report on the results?

6. Integrated Application of EPA Programs. The Agency is also considering linking the goals of the Watershed Initiative with its programmatic goals and solicits comments on whether and how to apply such a criterion. For example, the Agency could give priority consideration to those watershed projects that incorporate an integrated approach to using regulatory and nonregulatory tools (*e.g.*, water quality standards, source water protection, TMDLs, permits, financial incentives) to address a diversity of aquatic resources (*e.g.*, rivers, streams, lakes, wetlands, riparian areas, and/or estuaries). A linkage could be applied to national goals as well. In this case, special consideration could be given to watershed projects with national prominence, such as the Gulf Hypoxia Action Plan or the Pacific Northwest Salmon Recovery Program. The Agency is specifically seeking comment on whether, and if so how, watersheds that include estuaries should be linked to the National Estuary Program.

Should the Criteria Be Weighted?

Once the nomination materials have been submitted, EPA must determine how it will make its selections. EPA must decide whether any particular criterion should be "checked off" if met, or given more weight in the selection process than the others. For example, those nominations addressing the aquatic resources of greatest ecological or human health value could be considered first, or be scored higher by being assigned more "points." EPA is exploring these and other questions regarding how much information will be needed to select the best projects.

Should There Be a Minimum or Maximum Size Established for These Targeted Watersheds?

EPA is inclined to support a variety of watershed scales and geographic locations. The appropriate size and location of the watershed and/or project area may depend on the local circumstances, the level of impairment, and other factors. Funds may be awarded based on the scale of the project, the anticipated need, and the amount requested. While EPA is leaning toward not specifying the scale or location of the watershed, it invites additional thoughts and comments on this issue.

V. Request for Comments

This **Federal Register** notice is meant to solicit public participation in an initiative designed to encourage the building of partnerships in an effort to protect, preserve, and restore watersheds across the country. The goal of the Watershed Initiative is to provide funding and other types of assistance to communities with a broad spectrum of affected interests in attaining clean and healthy waterways. EPA invites constructive and insightful comments on the subject of this notice. The Agency is especially seeking the public's input and suggestions on the qualifying and selection criteria and other topics outlined in section IV. Commentors should feel free to deviate from the scope of this notice and provide comments on other possible innovative approaches to designing the Watershed Initiative.

Dated: May 16, 2002.

Diane C. Regas,

Acting Assistant Administrator for Water.

[FR Doc. 02–12968 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7217–2]

National Environmental Justice Advisory Council, Indigenous Peoples Subcommittee; Notification of Meeting

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, we now give notice that the National Environmental Justice Advisory Council (NEJAC), Indigenous Peoples Subcommittee (IPS) will meet on the dates and times described below. All times noted are Mountain Time. All meetings are open to the public. Due to limited space, seating at the NEJAC/IPS meeting will be on a first-come basis. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are not available from the NEJAC. The IPS meetings will take place at the John Ascuaga's Nugget, 1100 Nugget Avenue, Sparks, Nevada 89431. The meeting date and time is as follows: June 6 (1:30 PM–6:00 PM), 2002. The IPS will be focusing on the development of its two year strategic plan, and will discuss recommendations for EPA on support for tribes seeking to address environmental justice issues. Any member of the public wishing additional information on the subcommittee meeting, or who plans on attending the meeting should contact Mr. Daniel Gogal, IPS Designated Federal Officer, EPA Office of Environmental Justice, (202) 564–2576.

Dated: May 14, 2002.

Barry E. Hill,

Director, Office of Environmental Justice.

[FR Doc. 02–12970 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0034; FRL–6834–9]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number OPP–2002–0034, must be received on or before June 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0034 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8380; e-mail address: gandhi.bipin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0034. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0034 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–2002–0034. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 10, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by MeadWestaco Corporation, and represents the view of MeadWestaco. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

PP 2E6411

EPA has received a pesticide petition (2E6411) from MeadWestaco Corporation, 3950 Faber Place Drive, N. Charleston, SC 29405 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt (CAS Reg. No. 55989–05–4) when used as an inert ingredient (encapsulating agent, dispensers, resins, fibers and beads) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest, under 40 CFR 180.1001(c) and applied to animals under 40 CFR 180.1001(e). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

Analytical method. MeadWestvaco is petitioning that 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt be exempt from the requirement of a tolerance based upon the definition of a low risk polymer under 40 CFR 723.250(e). Therefore, an analytical method to determine residues of 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt in raw agricultural commodities (RACs) is not required.

B. Toxicological Profile

Acute toxicity. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies that would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without the data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. MeadWestvaco believes that the data and information described below is adequate to ascertain the toxicology and characterize the risk associated with the use of 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt (CAS Reg. No. 55989–05–4) as an inert ingredient in pesticide formulations applied to growing crops and raw agricultural commodities after harvest, and animals.

In the case of certain chemical substances that are defined as "polymers," EPA has established a set of criteria that identify categories of

polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. EPA believes that polymers meeting the criteria noted below will present minimal or no risk.

2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt (CAS Reg. No. 55989–05–4) conforms to the definition of polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers:

1. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt contains as an integral part of its composition the atomic elements carbon, hydrogen, oxygen, and nitrogen.

3. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt copolymer is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt is not manufactured or imported from monomers and/or other reactants that are not already included on the Toxic Substance Control Act (TSCA) Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt is not a water-absorbing polymer.

7. 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt does not contain any group as reactive functional groups.

8. The minimum number-average molecular weight of the 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate is listed as 18,914 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

9. The 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate has a number-average molecular weight of 18,914 and contains less than 10% oligomeric material below molecular weight 500 and less than 25% oligomeric material below 1,000 molecular weight.

In addition, 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate is acceptable for use, with limitations, under 21 CFR for contact with food as a component in adhesives (21 CFR 175.105), coatings (21 CFR 175.300), and paper and paperboard (21 CFR 176.170). The ammonium hydroxide utilized to form the ammonium salt is listed in 21 CFR 184.1139 under the section, "Direct food substances affirmed as generally recognized as safe."

C. Aggregate Exposure

1. *Dietary exposure.* Exposure to 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt may occur through dietary (e.g., food wrapping containing copolymer) and non-occupational (e.g., printed articles) sources. The chemical characteristics of 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt lead to the conclusion that there is a reasonable certainty of no harm from aggregate exposure to the polymer.

2. *Non-dietary exposure.* 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt formulations have been in commerce since the mid 1970's. The copolymer is ubiquitous in our every day environment and as it is commonly used in flexographic printing inks and coatings, such as on newspapers, corrugated boxes (e.g., pizza boxes), and disposable drinking cups.

Given the existing widespread and historic use of 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt, any additional exposure resulting from the approval of the copolymer as an inert ingredient in pesticide formulations for use on growing crops or to raw agricultural commodities after harvest should not be of concern.

D. Cumulative Effects

At this time there is no information to indicate that any toxic effects produced by 2-propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt would be cumulative with those of any other chemical. Given the compound's categorization as a "low risk polymer" (40 CFR 723.250) and its proposed use as an inert ingredient in pesticide formulations, there is no reasonable expectation of increased risk due to cumulative exposure.

E. Safety Determination

1. *U.S. population.* 2-Propenoic acid, 2-methyl-, polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt formulations have been in commerce since the mid 1970's. The copolymer is ubiquitous in our every day environment and as it is commonly used in flexographic printing inks and coatings, with no known adverse effects.

F. International Tolerances

There are no CODEX Maximum Residue Limits established for 2-Propenoic acid, 2-methyl-,polymer with ethyl 2-propenoate and methyl 2-methyl-2-propenoate, ammonium salt in/on any crop commodities at this time.

[FR Doc. 02–12976 Filed 5– 22–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0038; FRL–6835–9]

Notice of Filing Pesticide Petitions to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number OPP–2002–0038, must be received on or before June 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0038 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Thomas C. Harris, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency , 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9423; e-mail address: harris.thomas@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules", and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP2002–0038. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0038 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–2002–0038. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the Federal Food, Drug, and Cosmetic Act (FFDCA). The summaries of the petitions were prepared by Sankyo Company, Ltd., and represent the views of the Sankyo Company. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Sankyo Company, Ltd.

PP 0F6134 and 1F6317

EPA has received pesticide petitions (0F6134 and 1F6317) from Sankyo Company, Ltd., c/o Rockwell Enterprises, Inc., 1720 Savannah Drive NE, Rio Rancho, NM 87124–5700 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of milbemectin (a mixture of milbemycins containing greater than or equal to 70% milbemycin A_4 [(6R, 25R)- 5-O-demethyl-28-deoxy-6, 28-epoxy-25-ethyl-milbemycin B] and less than or equal to 30% milbemycin A_3 [(6R, 25R)-5-O-demethyl-28-deoxy-6, 28-epoxy-25-methyl-milbemycin B]) in or on the raw agricultural commodities citrus crop group at 0.02 parts per million (ppm); citrus pulp, dried at 0.2 ppm; citrus oil at 0.1 ppm; cotton, undelinted seed at 0.02 ppm (CA only); cotton gin by-products at 0.08 ppm (CA only); pome fruit crop group at 0.02 ppm; apple pomace, wet at 0.15 ppm; stone fruit crop group at 0.03 ppm (CA only); strawberry at 0.04 ppm; tree nut crop group at 0.02 ppm; and almond hulls at 0.2 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of milbemectin in apples, oranges and strawberries has been studied. The parent molecules (Milbemycin A_3 and Milbemycin A_4) are the only metabolites found at significant levels in plant metabolism studies or in field residue studies under conditions of use, and are the only expected metabolites of toxicological concern in plants. The photolytic metabolites of milbemectin (8,9Z-$M.A_3$ and 8,9Z-$M.A_4$) were not found at toxicologically significant levels in these metabolism studies or in field residue studies limit of quantitation (LOQ) (Method LOQ = 0.01 ppm), but were included as part of the tolerance expression at the request of EPA.

2. *Analytical method.* An adequate analytical method high performance liquid chromotography using ultra-violet detection (HPLC with UV fluorescence detection at 460 nm) is available for enforcement purposes. The parent compounds, milbemycin A_3 and milbemycin A_4, and their respective 8,9Z metabolites are converted to common moieties by derivatization before analysis. A successful Independent Laboratory Validation has been submitted.

3. *Magnitude of residues—*i *Cotton.* A total of 3 individual trials were conducted in California during the 1999 and 2000 crop season. Due to the limited geographical distribution of the crop residue trials for this crop grouping, a geographical restriction of California only is being requested. Applications were made at 1X the maximum labeled rate of 2 applications of 0.0192 lb. active ingredient/acre (a.i./acre) per crop season. Analyzed samples of undelinted cotton seed were < 0.01 ppm for both total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue levels in undelinted cotton seed is 0.02 ppm (0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)). Analyzed samples of cotton gin by-products were < 10 to 22.8 µg a.i./kg (0.023 ppm) of total $M.A_3$ ($M.A_3$ + 8,9Z- $M.A_3$) and < 10 to 54.9 µg a.i./kg (0.055 ppm) of total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue levels in cotton gin by-products is 0.08 ppm total milbemectin ($M.A_3$ + 8,9Z-$M.A_3$) + ($M.A_4$ + 8,9Z-$M.A_4$).

ii. *Strawberries.* A total of 8 individual field trials were conducted over a period of two crop seasons (1997, 1998) in 6 states. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 1. Applications were made at 1X (3 trials), 1.5X (1 trial) and 2X (4 trials) the maximum labeled rate of 4 applications of 0.019 lb. ai/acre, or 0.076 lb. ai/acre per crop season. After applying a correction factor of 0.5X to 0.75X where appropriate to the mean residue levels found in the samples, total residues of milbemectin (total $M.A_3$ + total $M.A_4$) in strawberries fell within a range of 0.012 ppm to 0.035 ppm. The method LOQ was 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). The photolytic metabolites of milbemectin (8,9Z-$M.A_3$ and 8,9Z-$M.A_4$) were not present in any samples where a separate analysis was conducted (LOQ = 0.01 ppm). Based on these findings, the expected maximum residue levels in strawberries is 0.04 ppm total milbemectin ($M.A_3$ + 8,9Z-$M.A_3$) + ($M.A_4$ + 8,9Z-$M.A_4$).

iii. Citrus Crop Group: The representative crops for this grouping as specified by 40 CFR 180.41 are sweet oranges, lemons and grapefruit.

a. *Oranges.* A total of 12 individual field trials were conducted over a period of two crop seasons (1997, 1998) in the states of California, Florida and Texas. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X (5 trials), 1.3X (3 trials) and 2X (4 trials) the maximum labeled rate of 3 applications of 0.024 lb. ai/acre, or 0.072 lb. ai/acre per crop season. All analyzed samples of the raw agricultural commodities (RAC) were less than the method LOQ of 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on these findings, the expected maximum residue levels in oranges is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

b. *Grapefruit.* A total of 6 individual field trials were conducted over a period of two crop seasons (1997, 1998) in the states of California, Florida and Texas. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X (3 trials), 1.3X (2 trials) and 2X (1 trial) the maximum labeled rate of 3 applications of 0.024 lb. ai/acre, or 0.072 lb. ai/acre per crop season. All analyzed samples of the RAC were less than the method LOQ of 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on these findings, the expected maximum residue levels in grapefruit is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

c. *Lemons* A total of 5 individual field trials were conducted over a period of two crop seasons (1997, 1998) in the states of Arizona, California and Florida. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X (2 trials) and 2X (3 trials) the maximum labeled rate of 3 applications of 0.024 lb. ai/acre, or 0.072 lb. ai/acre per crop season. After applying a correction factor of 0.5X where appropriate to residue levels found in the samples, all analyzed samples of the RAC were less than the method LOQ of 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on these findings, the expected maximum residue levels in lemons is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

d. *Processed oranges.* The study was comprised of a single trial located in east central Florida. The test substance was applied to the treated plot once at 60 days prior to normal maturity at 0.120 lb. ai/acre and an additional two times at 30 and 7 days prior to normal maturity at 0.240 lb. ai/acre, or 8.33X the maximum labeled rate. After processing, samples of orange juice, dried pulp and orange oil were analyzed for total $M.A_3$ and total $M.A_4$. Reported mean values for total milbemectin (total $M.A_3$ + total $M.A_4$) were as follows: RAC - 0.011 ppm, dry pulp - 0.107, juice - <0.01 ppm and oil - 0.0541 ppm. The method LOQ in each commodity was 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). The concentration factors were determined to be 9.7X for dry pulp and 4.9X for oil. Based on these findings, the expected maximum residue levels in dry citrus pulp is 0.20 ppm and in citrus oil is 0.10 ppm.

iv. *Pome Fruit Crop Group.* The representative crops for this grouping as specified by 40 CFR 180.41 are apples and pears.

a. *Apples.* A total of 12 validated individual field trials were conducted over a period of two crop seasons (1997, 1998) in the states of California, Colorado, Michigan, North Carolina, New York, Pennsylvania, and Washington. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X (2 trials) and 2X (10 trials) the maximum labeled rate of 2 applications of 0.024 lb. ai/acre, or 0.048 lb. ai/acre per crop season. After applying a correction factor of 0.5X where appropriate to residue levels found in the validated samples, all residues were less than or equal to the method LOQ of 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$, and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on these findings, the expected maximum residue levels in apples is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A4$ + 8,9Z-$M.A_4$)).

b. *Pears:* A total of 6 individual field trials were conducted over a period of two crop seasons (1997, 1998) in the states of California, New York, Oregon and Washington. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X (3 trials) and 2X (3 trials) the maximum labeled rate of 2 applications of 0.024 lb. ai/acre, or 0.048 lb. ai/acre per crop season. After applying a correction factor of 0.5X where appropriate to residue levels found in the samples, all residues were less than or equal to the method LOQ of 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z- $M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on these findings, the expected maximum residue levels in pears is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

c. *Processed apples.* The study was comprised of a single trial located in eastern Washington. The test substance was applied to the treated plot twice at 28 and 7 days prior to normal maturity at 0.240 lb. ai/acre, or 10X the maximum labeled rate. After processing, samples of apple juice and wet pomace were analyzed for total $M.A_3$ and total $M.A_4$. Reported mean values for total milbemectin (total $M.A_3$ + total $M.A_4$) were as follows: RAC - 0.168 ppm, juice - < 0.01 ppm and wet pomace - 1.067 ppm. The method LOQ in each commodity was 0.01 ppm each for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). The concentration factors were determined to be 6.4X for wet pomace and 0.06X for juice. Based on these findings, the expected maximum residue levels in wet apple pomace is 0.15 ppm. No residues in excess of the established tolerances in pome fruit juice, including apple juice, are expected.

v. *Stone Fruit Crop Group.* The representative crops for this grouping as specified by 40 CFR 180.41 are cherries, peaches and plums. Due to the limited geographical distribution of the crop residue trials for this crop grouping, a geographical restriction of California only is being requested.

a. *Cherries.* A total of 2 individual field trials were conducted during the 1999 crop season in the state of California. Applications were made at 1X the maximum labeled rate of 2 applications of 0.024 lb. ai/acre per crop season. Analyzed samples of the RAC were < 0.01 ppm for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and < 0.01 to 0.0117 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue levels in cherries is 0.03 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.02 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

b. *Peaches.* A total of 3 individual field trials were conducted during the 1999 crop season in the state of California. Applications were made at 1X the maximum labeled rate of 2 applications of 0.024 lb. ai/acre per crop season. All analyzed samples of the RAC were < 0.01 ppm for total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and < 0.01 to 0.0145 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue levels in peaches is 0.03 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.02 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

c. *Plums.* A total of 5 individual field trials were conducted during the 1999 crop season in the state of California. Applications were made at 1X the maximum labeled rate of 2 applications of 0.024 lb. ai/acre per crop season. All analyzed samples of the RAC were < 0.01 ppm for both total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue levels in plums is 0.02 ppm (0.01 ppm total $M.A_3$ (($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

d. *Prunes.* The study was comprised of a single trial located in California. Applications were made at 5X the maximum labeled rate as 2 applications of 0.12 lb. ai/acre, 21 and 14 days respectively before crop harvest. After processing, samples of prunes were analyzed for total $M.A_3$ and total $M.A_4$. The mean residue levels in plums were

< 0.01 ppm of total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and 0.0193 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). The mean residue levels in the prunes were < 0.01 ppm of total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and 0.0179 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, no concentration of residues is expected in the processed commodity, prunes.

vi. *Tree Nut Crop Group*. The representative crops for this grouping as specified by 40 CFR 180.41 are almonds and pecans.

a. *Almonds*. A total of 5 individual field trials were conducted during the 1999 crop season in the state of California. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X the maximum labeled rate of 2 applications of 0.024 lb. ai/acre per crop season. Analyzed samples of the almond nut meat samples were < 0.01 ppm for both total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). In almond hull samples the residue levels were < 0.01 to 0.0388 ppm of total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and < 0.01 to 0.0911 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue level in almonds is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)) and the expected maximum residue level in almond hulls is 0.2 ppm ((0.05 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.15 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

b. *Pecans*. A total of 5 individual field trials were conducted during the 1999 crop season in the states of Arkansas, Georgia and Texas. Number, type and location of trials were in accordance with those specified by Guideline OPPTS 860.1500, Table 2. Applications were made at 1X the maximum labeled rate of 2 applications of 0.024 lb. ai/acre per crop season. Analyzed samples of the pecan meat samples were < 0.01 ppm for both total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) and total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$). Based on analysis of the findings, the expected maximum residue levels in pecans is 0.02 ppm ((0.01 ppm total $M.A_3$ ($M.A_3$ + 8,9Z-$M.A_3$) + 0.01 ppm total $M.A_4$ ($M.A_4$ + 8,9Z-$M.A_4$)).

A metabolism study in goats was conducted using 14C-labeled . milbemycin A_4. In this study it was determined that the primary route of elimination of milbemectin in the goat was the feces and urine. Only very low levels of total radioactive residues were found in meat or meat by-products, fat, and milk. Based on the total radioactive residue levels in meat, meat by-products and milk found in the goat metabolism study and analysis of the expected feeding levels from consumption of the feed commodities, the registrant has determined that finite residues in fed ruminants are not expected, therefore, no tolerances in meat or meat by-products, fat, and milk are required in accordance with 40 CFR 180.6.

The feed commodities, dried citrus pulp, wet apple pomace and almond hulls, are not utilized as a poultry feed stuff. The feed commodity, cotton meal, is utilized as a poultry feed stuff at 20% of the diet. Since applications of milbemectin at 5X the labeled rate resulted in no detectable residues in cotton seed of total $M.A_3$ or $M.A_4$ at the LOQ of 0.01 ppm, no detectable residues are expected to occur in poultry tissues including meat, fat, meat by-products and eggs. Therefore, no tolerances are required under the provisions of 40CFR 180.6.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral LD_{50} in rats was 762 mg/kg for males and 456 milligrams/kilogram (mg/kg) for females, the dermal LD_{50} of technical milbemectin is greater than 5,000 mg/kg, and the 4–hour acute inhalation LC_{50} in rats is 1.9 milligrams per liter (mg/L) in males and 2.8 mg/L in females. It is not a dermal irritant or sensitizer and is a mild eye irritant. In a 28–day dermal study in rabbits, the no observed effect level (NOEL) was 1,000 mg/kg/day, the highest dose tested. No effects on mortality, general or specific toxic effects, gross pathology, clinical signs or other measured parameters at 1,000 milligrams/kilogram/day (mg/kg/day). The gross necropsy and histopathological evaluation revealed no apparent compound-related effects.

2. *Genotoxicty*. The following genotoxicity tests were all negative: Ames gene mutation, CHL chromosome aberration, mouse lymphoma cell mutation and *in vivo* mouse bone marrow micronucleus.

3. *Reproductive and developmental toxicity*. No reproductive or teratologic effects were observed in any study with milbemectin. Maternal NOEL's of 20 and 50 milligrams/kilogram/day (mg/kg/day) were observed in rat and rabbit teratogenicity studies but no teratogenic effects were observed at the highest doses tested, 60 and 1,000 mg/kg/day respectively. In a rat reproduction study the NOEL for both parents and offspring was observed to be 200 ppm, equivalent to consumption up to 26.4 mg/kg/day for males and 27.0 mg/kg/day for females. There were no reproductive effects at the highest dose tested, 800 ppm.

4. *Subchronic toxicity*. A NOEL of 3 mg/kg/day was derived from the dog 90–day feeding study. The NOEL derived from the rat 90–day study was 375 ppm for males. No NOEL was determined for females, however the NOEL from the chronic rat study for females was 150 ppm, equivalent to 8.77 mg/kg/day. The NOEL derived from the dog subchronic study is therefore the lowest of those derived from the studies.

5. *Chronic toxicity*. A NOEL of 3 mg/kg/day was derived from the dog 12–month feeding study. The NOEL derived from the rat 24–month chronic and oncogenicity study was 150 ppm, equivalent to 6.81 mg/kg/day for males and 8.77 mg/kg/day for females. The NOEL derived from the 96–week mouse oncogenicity study was 200 ppm, equivalent to 18.9 mg/kg/day for males and 19.6 mg/kg/day for females. The NOEL derived from the dog chronic study is, therefore, the lowest of those derived from the chronic studies. Milbemectin did not produce an oncogenic effect in either the rat or mouse study.

6. *Neurotoxicity*. The NOEL for acute neurotoxicity is 20 mg/kg with no neuropathological effects were noted at a dose levels of 100 mg/kg/day in female and 500 mg/kg/day in males. No histopathological evidence of central or peripheral neuropathology was associated with a single oral gavage dose at 500 mg/kg/day (males) or 100 mg/kg/day (females). The NOEL for subchronic neurotoxicity is the highest dose tested, 750 ppm (equivalent to 59.357 mg/kg/day for males and 72.416 mg/kg/day for females), based on a 13–week rat dietary neurotoxicity study. None of the observations noted during the functional observation battery (FOB) were considered to be related to exposure to the test substance. There were no statistically significant or otherwise notable differences between the mean motor activity counts of the control and treated rats during weeks 4, 8, and 13. There was no macroscopic or microscopic evidence central or peripheral neurotoxicity associated with 13 weeks of dietary administration to rats.

7. *Animal metabolism*. In a rat metabolism study conducted in Japan, more than 98% of the applied dose was excreted within 7 days, mostly in the feces. Radioactivity in blood reached maximum levels within 3 hours, with a half-life of 7–8 hours. In tissues, maximum levels were reached in 6 hours in the intestines, followed by the liver, fat and stomach. Residues in rats underwent extensive oxidation. Metabolites identified were hydroxy-, epoxy- and dehydrogenated

milbemectins, followed by a number of polar metabolites. No metabolite exceeded 5% of the dose. Excretion, tissue distribution and metabolic profile after multiple day dosing was essentially the same as the single dose suggesting that none of the residues accumulate in any tissue.

In a more recent US study, no overt signs of toxicity were associated with 14C-$M.A_4$ following oral administration to male and female rats at 2.5 and 25 mg/kg. No significant gender-related differences were noted in the excretion, adsorption or distribution of 14C-$M.A_4$. In analysis of tissues other than the gastroentestinal (GI) tract, the highest concentrations of total radioactive residue (TRR) was found in the liver for both genders at all time points. The lowest concentrations were found in the brain, eyes, *uterus* and *testes* of males and/or females. Excretion of TRR was rapid with most excreted within 24 hours post dose. Total recovery of radioactivity in feces through 168 hours post dose was from 84.8% to 100% for the low dose, and 81.5% to 92.8% for the high dose. Biliary excretion played a significant role in elimination of 14C-$M.A_4$ in rats. Based on TRR in bile and urine, ca 47% of the dose was absorbed in both sexes at the low dose level, and 40% and 30% were absorbed in males and females respectively at the high dose. Based on pharmacokinetic parameters of TRR in plasma, 14C-$M.A_4$ reaches maximum concentrations at 2 to 3 hours post dose and is eliminated slowly in the high dose groups. The metabolic pathway of 14C-$M.A_4$ in rats consists mainly of primary metabolism by hydroxylation, with the major metabolite, 13-hydroxy-$M.A_4$, found in all plasma, liver and kidney samples. The unchanged parent compound was detected in the high dose group in all liver samples, except the 24–hour liver samples, all analyzed kidney samples and in the early time points of the plasma samples. It was also found in the 2–hour liver samples of the low dose group. A minor glucuronidation pathway was identified in the bile. Excretion, tissue distribution, and metabolic profiles were the same for single and multiple-dosing suggesting that residues do not accumulate.

8. *Metabolite toxicology*. There is no evidence that the metabolites of milbemectin as identified in either the plant, or animal metabolism studies are of any toxicological significance.

9. *Endocrine disruption*. There is no evidence from the developmental/chronic studies that milbemectin induces any estrogenic or other endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*. Milbemectin is not currently registered as a pesticide in the U.S. and no tolerances have been previously established for food or feed commodities. Analysis of dietary exposure for proposed tolerances was made using Novigen Sciences DEEM software Version 7.62 using the USDA Continuing Survey of Food Intakes by Individuals.

i. *Food*. Tolerances are proposed for the combined residues of the miticide/insecticide milbemectin (a mixture of milbemectins containing greater than or equal to 70% milbemycin A_4 [(6R, 25R)-5-O-demethyl-28-deoxy-6, 28-epoxy-25-ethyl-milbemycin B] and less than or equal to 30% milbemycin A_3 [(6R, 25R)-5-O-demethyl-28-deoxy-6, 28-epoxy-25-methyl- milbemycin B] and their 8,9-Z isomers (expressed as parts per million of the parent compound) in or on the following agricultural commodities: citrus crop group - 0.02 ppm, citrus pulp, dried - 0.20 ppm, citrus oil - 0.10 ppm, cotton, undelinted seed (CA only) - 0.02 ppm, cotton gin by-products (CA only) - 0.08 ppm, pome fruit crop group - 0.02 ppm, apple pomace, wet - 0.15 ppm, stone fruit crop group (CA only) - 0.03 ppm, strawberries - 0.04 ppm, tree nut crop group - 0.02 ppm and almond hulls - 0.20 ppm.

a. *Acute dietary risk analysis*. An acute reference dose (aRfD) of 0.20 mg/kg/day was used in a acute dietary risk analysis. The aRfD is based on oral no observed adverse effects levels (NOAEL's) of 20 mg/kg/day in the acute neurotoxicity and teratology studies in rats, divided by an uncertainty factor of 100 (interspecies safety factor = 10, intraspecies safety factor = 10). There was no evidence from the developmental or chronic studies that milbemectin induces any estrogenic or other endocrine effects. Therefore, the Food Quality Protection Act (FQPA) additional 10X uncertainty factor was not used. In the Tier 1 analysis it was assumed that all residues would be equal to the pending tolerances on cotton seed of 0.02 ppm, strawberries of 0.04 ppm, citrus, pome fruit, tree nuts of 0.02 ppm, and stone fruit of 0.03 ppm. It was assumed that 100% of the nation's acreage would be treated. Based on the review of data from the reproduction and teratology studies, no additional FQPA safety factor was applied to infants, since no additional toxicity to or sensitivity of the fetal or nursing infant test animals was seen during exposure to the test material. Based on this tier 1 analysis, the acute dietary exposure of all infants and nursing infants (<1 yr. old) would be only 0.58% at the 99.9th percentile of the proposed aRfD. The percentage of the proposed aRfD for the U.S. population and all other subgroups are below this amount.

b. *Chronic dietary risk analysis*. A reference dose(RfD) of 0.03 mg/kg/day was used in a chronic dietary risk analysis. The RfD is based on a NOEL of 3 mg/kg/day derived from the dog 90–day and 12–month feeding studies, the lowest of those derived from the chronic feeding studies. In view of the fact that no special sensitivity in offspring were observed in any test and that no reproductive or teratogenic effects were observed, an uncertainty factor of 100 (interspecies safety factor = 10, intraspecies safety factor = 10) was used for milbemectin. In the Tier 1 analysis it was assumed that all residues would be equal to the pending tolerances on cotton seed of 0.02 ppm, strawberries of 0.04 ppm, citrus, pome fruit, tree nuts of 0.02 ppm, and stone fruit of 0.03 ppm. It was assumed that 100% of the nation's acreage would be treated. Based on the review of data from the reproduction and teratology studies, no additional FQPA safety factor was applied to infants, since no additional toxicity to or sensitivity of the fetal or nursing infant test animals was seen during exposure to the test material. Based on this tier 1 analysis, the dietary exposure of non-nursing infants would be only 0.4% of the proposed RfD. The percentage of the proposed RfD for the U.S. population and all other subgroups are below this amount.

c. *Carcinogenic risk analysis*. Not applicable. Milbemectin did not produce an oncogenic effect in two animal feeding studies.

ii. *Drinking water*. A screening level drinking water assessment for milbemectin was conducted using a maximum use scenario. Potential drinking water concentrations were estimated using models generated by GENEEC (surface water) and SCIGROW (ground water). Input parameters for the use models were those which maximized concentrations in water.

Dietary exposures were modeled with DEEM version 7.62 using the USDA Continuing Survey of Food Intakes by Individuals. It was assumed that all residues would be equal to the pending tolerances on cotton seed of 0.02 ppm, strawberries of 0.04 ppm, citrus, pome fruit, tree nuts of 0.02 ppm, and stone fruit of 0.03 ppm. It was assumed that 100% of the nation's acreage would be treated. Both acute and chronic exposures were modeled. For the acute assessment, the 99.9th percentile of exposure was used. The most highly

exposed subpopulations representing children, adult males, and adult females were evaluated. There are no residential exposures to consider at this time.

a. *Acute exposure and risk.* An aRfD of 0.20 mg/kg/day was used in an acute dietary risk analysis. The aRfD is based on oral NOAEL's of 20 mg/kg/day in the acute neurotoxicity and teratology studies in rats, divided by an uncertainty factor of 100 (interspecies safety factor = 10, intraspecies safety factor = 10). There was no evidence from the developmental or chronic studies that milbemectin induces any estrogenic or other endocrine effects. Therefore, the FQPA additional 10X uncertainty factor was not used.

The estimated screening level water concentrations of milbemectin in surface and ground water are 0.813 µg/L (peak EEC from GENEEC) and 0.005 µg/L (from SCIGROW), respectively. The acute DWLOCs for milbemectin for the most susceptible populations were calculated to be 6,990.83 µg/L, 5,985.45 µg/L and 1,987.55 µg/L for males, 13–19 years; females, 13+ years, nursing; and all infants, respectively.

Since the screening level water concentrations were orders of magnitude less than the acute drinking water levels of concerns (DWLOC's), the Agency should have no concern about exposures from drinking water.

b. *Chronic exposure and risk.* A RfD of 0.03 mg/kg/day was used in a chronic dietary risk analysis. The RfD is based on NOAEL of 3 mg/kg/day derived from the dog 90–day and 12–month feeding studies, the lowest of those derived from the chronic feeding studies. In view of the fact that no special sensitivity in offspring were observed in any test and that no reproductive or teratogenic effects were observed, an uncertainty factor of 100 (interspecies safety factor = 10, intraspecies safety factor = 10) was used for milbemectin. Based on the review of data from the reproduction and teratology studies, no additional FQPA safety factor was applied to infants, since no additional toxicity to or sensitivity of the fetal or nursing infant test animals was seen during exposure to the test material.

The estimated screening level water concentrations of milbemectin in surface and ground water are 0.434 µg/L (56 day average EEC from GENEEC) and 0.005 µg/L (from SCIGROW), respectively. The chronic DWLOCs for milbemectin for the most susceptible populations were calculated to be 1,049.30 µg/L, 899.13 µg/L and 299.08 µg/L for males, 13–19 years; females, 13+ years, nursing; and non-nursing infants, respectively.

Since the screening level water concentrations were orders of magnitude less than the chronic DWLOC's, the Agency should have no concern about exposures from drinking water.

2. *Non-dietary exposure.* There are no current non-food uses for milbemectin registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. No non-dietary exposures are expected for the general public. Secondary exposure would not be expected since milbemectin is not expected to be taken up by plants from the soil. The low application rates and short soil half-life are not conductive to buildup in the environment.

D. Cumulative Effects

At this time, the Agency has not reviewed available information concerning the potentially cumulative effects of milbemectin and other substances that may have a common mechanism of toxicity. For purposes of this petition only, the Agency is considering only the potential risks of milbemectin in its aggregate exposure.

E. Safety Determination

1. *U.S. population.*. As pointed out above in dietary exposure-food, the acute dietary exposure of all infants and non-nursing infants (<1 yr. old) would be only 0.58% at the 99.9th percentile of the proposed aRfD and the chronic dietary exposure of non-nursing infants would be only 0.4% of the proposed RfD. The percentages of aRfD and chronic RfD for the U.S. population and all other subgroups are below these amounts.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of milbemectin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. No developmental or reproductive effects have been observed in any study with milbemectin. The calculation of safety margins with respect to these segments of the population were taken into consideration in the tolerance method validation (TMRC) estimates with respect to the risk associated with the percentage of the reference dose being consumed. It is concluded that there is a reasonable certainty of no harm to infants and children from aggregate exposure to milbemectin residues.

F. International Tolerances

No Codex maximum residue levels have been established for residues of milbemectin. Milbemectin is not yet registered for use on any crop in Canada or Mexico. National maximum residue levels (MRL's) for milbemectin in Japan are as follows: Apple, Pear, Peach, Citrus, Melon, Watermelon, Cucumber, Eggplant, Adzuki-bean - 0.2 ppm, Strawberry, Cherry, Grape - 0.5 ppm, and Tea - 2 ppm. National MRL's for milbemectin in Taiwan are as follows: Small berry (Grape, Strawberry, Star fruit, etc.), Tree fruit (Pear, Apple, Cherry, Peach, Plum, etc.), Vegetables (Eggplant, Cucumber, Tomato, etc.), Melon (Watermelon, Muskmelon, etc.) - 0.2 ppm; Tea - 2 ppm. In general, where national MRL's differ from those proposed to EPA, they are associated with agricultural and regulatory practices that differ from those common in the U.S.

[FR Doc. 02–12975 Filed 5–22–02; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7216–3]

Public Water System Supervision Program Revision for the State of South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of South Carolina is revising its approved Public Water System Supervision Program. South Carolina has adopted drinking water regulations revising the interim enhanced surface water treatment rule and disinfection by-product rule. EPA has determined that the interim enhanced surface water treatment rule and disinfection by-product rule revisions meet all minimum federal requirements, and are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted by June 24, 2002 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by June 24, 2002, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on June 24, 2002. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

South Carolina Department of Health and Environmental Control, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201.

Environmental Protection Agency, Region 4, Drinking Water Section, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Janine Morris, EPA Region 4, Drinking Water Section at the Atlanta address given above (telephone 404–562–9480).

Authority: (Section 1401 and section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142).

Dated: May 7, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–12969 Filed 5–22–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7216–5]

Public Water Supervision Program Revision for the State of Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Tennessee is revising its approved Public Water System Supervision Program. Tennessee has adopted drinking water regulations which incorporate the requirements of the Interim Enhanced Surface Water Treatment Rule and the Stage 1 Disinfection/Disinfectants Byproducts Rule. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve this State program revision.

All interested parties may request a public hearing. A request for a public hearing must be submitted by June 24, 2002 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by June 24, 2002, a public hearing will be held. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on June 24, 2002. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; (3) The signature of the individual making the request, or, if the request is made on the behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Tennessee Department of Environment and Conservation, Division of Water Supply, 401 Church Street, L&C Tower, Sixth Floor, Nashville, Tennessee, 37243–1549, or at the Environmental Protection Agency, Region 4, Drinking Water Section, 61 Forsyth Street Southwest, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Fred Hunter, EPA Region 4, Drinking Water Section at the Atlanta address given above, or by telephone at (404) 562–9477.

Authority: Sections 1401 and 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR parts 141 and 142.

Dated: May 7, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–12971 Filed 5–22–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7216–4]

Public Water Supervision Program Revision for the State of Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Tennessee is revising its approved Public Water System Supervision Program. Tennessee has adopted drinking water regulations which provide minor revisions to the Lead and Copper Rule. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve this State program revision.

All interested parties may request a public hearing. A request for a public hearing must be submitted by June 24, 2002 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by June 24, 2002, a public hearing will be held. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on June 24, 2002. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; (3) The signature of the individual making the request, or, if the request is made on the behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Tennessee Department of Environment and Conservation, Division of Water Supply, 401 Church Street, L&C Tower, Sixth Floor, Nashville, Tennessee 37243–1549, or at the Environmental Protection Agency, Region 4, Drinking Water Section, 61 Forsyth Street Southwest, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Fred Hunter, EPA Region 4, Drinking Water Section at the Atlanta address given above, or by telephone at (404) 562–9477.

Authority: Sections 1401 and 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR parts 141 and 142.

Dated: May 10, 2002.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 02–12972 Filed 5–22–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to guarantee $13.95 million of equipment, and other goods and services on behalf of a U.S. exporter to a buyer in Mexico. The U.S. exports will enable the Mexican company to increase aluminum engine block output by 550,000 units per year. This new production will be exported to the United States and Canada. Interested parties may submit comments on this transaction by email to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW, Room 1238, Washington, DC 20571, within 14 days of this notice appears in the **Federal Register.**

Export-Import Bank of the US Economic Impact Policy.

Helen S. Walsh,

Director, Policy Oversight and Review.

[FR Doc. 02–12951 Filed 5–22–02; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 02–35; FCC 02–147]

Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., Pursuant to Section 271 of the Telecommunications Act of 1996, For Provision of In-Region, InterLATA Services in the States of Georgia and Louisiana

AGENCY: Federal Communications Commission

ACTION: Notice.

SUMMARY: In the document, the Federal Communications Commission grants the section 271 application of BellSouth Corporation, *et al.* (BellSouth) for authority to enter the interLATA telecommunications market in the states of Georgia and Louisiana. The Commission grants BellSouth's application based on its conclusion that BellSouth has satisfied all of the statutory requirements for entry, and opened its local exchange markets to full competition.

DATES: Effective May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Rene Crittendon, Senior Attorney Advisor, Wireline Competition Bureau, at (202) 418–1580 or via the Internet at *rcrittendon@fcc.gov*. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order (MO&O) in CC Docket No. 02–35, FCC 02–147, adopted May 15, 2002, and released May 15, 2002. This full text may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. It is also available on the Commission's website at *http://www.fcc.gov/Bureaus/Common_Carrier/in-region__applications/bellsouth__gala/welcome.html*.

Synopsis of the Order

1. *History of the Application.* On February 14, 2002, BellSouth filed a joint application, pursuant to section 271 of the Telecommunications Act of 1996, with the Commission to provide in-region, interLATA service in Georgia and Louisiana.

2. *The Georgia and Louisiana Public Service Commissions' Evaluations.* Both the Georgia Public Service Commission (Georgia Commission) and the Louisiana Public Service Commission (Louisiana Commission) advised the Commission, following an extensive review process, that BellSouth met the checklist requirements of section 271 and has taken the statutorily required steps to open its local markets to competition. Consequently, the Georgia Commission and the Louisiana Commission recommended that the Commission approve BellSouth's in-region, interLATA entry in its March 4, 2002 evaluation of the Georgia and Louisiana Application.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation of BellSouth's Georgia/Louisiana Application on March 19, 2002. It recommended approval of the application subject to the Commission's review of improvements in BellSouth's operations support systems (OSS).

Primary Issues in Dispute

4. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that BellSouth has provided "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2.

5. The Commission finds that BellSouth UNE rates in Georgia and Louisiana are just, reasonable, and nondiscriminatory, and are based on cost plus a reasonable profit as required by section 252(d)(1). Thus, BellSouth UNE rates in Georgia and Louisiana satisfy checklist item 2. Because the Commission has not previously approved a section 271 application of BellSouth, it conducts a stand-alone analysis of BellSouth's rates, in which it reviews the rates from the "bottom up" to ensure they comply with our TELRIC standards rather than engaging in any benchmarking or other state comparisons. The Commission has previously noted that different states may reach different results that are each within the range of what a reasonable application of TELRIC would produce. After reviewing commenters' criticism of loop rate issues (including use of Universal Digital Loop Carrier and Integrated Digital Loop Carrier, loading factors and fill factors), switching rate issues and Daily Usage File (DUF) rates, the Commission concludes that the Georgia and Louisiana Commissions followed basic TELRIC principles and there is insufficient evidence to demonstrate that the state commissions committed clear error.

6. The Commission also concludes that BellSouth meets it obligation to provide access to its OSS—the systems, databases, and personnel necessary to support the network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with BellSouth regarding basic activities such as placing orders and providing maintenance and repair services for customers. The Commission finds that, for each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, and billing, as well as change management and technical assistance), BellSouth provides access that enables competing carriers to perform the functions in substantially the same time and manner as BellSouth or, if there is not an appropriate retail analogue in BellSouth's systems, in a manner that permits an efficient competitor a meaningful opportunity to compete.

7. Pursuant to this checklist item, BellSouth must also provide nondiscriminatory access to network elements in a manner that allows other carriers to combine such elements. Based on the evidence in the record, and upon BellSouth's legal obligations under interconnection agreements, BellSouth demonstrates that it provides to competitors combinations of already-combined network element as well as nondiscriminatory access to unbundled network elements in a manner that allows competing carriers to combine those elements themselves.

Other Checklist Items

8. *Checklist Item 1—Interconnection.* Based on the evidence in the record, the Commission concludes that BellSouth demonstrates that it provides interconnection in accordance with the requirements of section 251(c)(2) and as specified in section 271 and applied in the Commission's prior orders. Pursuant to this checklist item, BellSouth must allow other carriers to interconnect their networks to its network for the mutual exchange of traffic, using any available method of interconnection at any available point in BellSouth's network.

9. BellSouth also demonstrates that its collocation offerings in Georgia and Louisiana satisfy the requirements of sections 251 and 271 of the Act and are in compliance with the Commission's recent *Collocation Remand Order.* BellSouth demonstrates that it offers interconnection in Georgia and Louisiana to other telecommunications carriers at just, reasonable, and nondiscriminatory rates, in compliance with checklist item 1.

10. *Checklist Item 4—Unbundled Local Loops.* BellSouth has adequately demonstrated that it provides unbundled local loops as required by section 271. More specifically, BellSouth establishes that it provides access to loop make-up information in compliance with the *UNE Remand Order* and nondiscriminatory access to stand alone xDSL-capable loops and high-capacity loops. Also, BellSouth provides voice grade loops, both as new loops and through hot-cut conversions, in a nondiscriminatory manner. Finally, BellSouth has demonstrated that it has a line-sharing and line-splitting provisioning process that affords competitors nondiscriminatory access to these facilities.

11. *Checklist Item 5—Unbundled Local Transport.* Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." The Commission concludes, based upon the evidence in the record, that BellSouth demonstrates that it provides unbundled local transport, in compliance with the requirements of checklist item 5.

12. *Checklist Item 6—Unbundled Local Switching.* Based on the Commission's review of the record, it concludes that BellSouth provides (1) line-side and trunk side facilities; (2) basic switching function; (3) vertical features; (4) customized routing; (5) shared trunk ports; (6) unbundled tandem switching; (7) usage information for billing exchange access; and (8) usage information for billing for reciprocal compensation in compliance with checklist item 6.

13. *Checklist Item 7—911/E911 Access and Directory Assistance/Operation Services.* Based on the Commission's review of the record, it finds that BellSouth provides non-discriminatory access to 911 and E911 services and access to directory assistance services to allow the other carrier's customers to obtain telephone numbers and operator call completion services in compliance with checklist item 7.

14. *Checklist Item 8—White Pages.* Based on the record, the Commission finds that BellSouth provides white page directory listings for customers of the other carrier's telephone exchange service and permits competitive providers of telephone exchange service and toll service to have access to directory listings in compliance with checklist item 8.

15. *Checklist Item 11—Number Portability.* The Commission finds that BellSouth complies with checklist item 11 in that it provides, to the extent technically feasible, number portability.

16. *Checklist Item 12—Local Dialing Parity.* Based on the evidence in the record, the Commission concludes that BellSouth provides nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Act in compliance with checklist item 12.

17. *Checklist Item 13—Reciprocal Compensation.* The Commission finds that BellSouth demonstrates that it provides reciprocal compensation as required by checklist item 13.

18. *Checklist Item 14—Resale.* Based on the evidence in the record, the Commission concludes that BellSouth demonstrates that it makes telecommunications services, including DSL resale, available in Georgia and Louisiana for resale, in accordance with sections 251(c)(4) and 252(d)(3), and thus satisfies the requirements for checklist item 14.

19. *Checklist Items 3, 9 and 10.* An applicant under section 271 must demonstrate that it complies with checklist item 3 (poles, ducts, conduits, and rights of way), item 9 (numbering administration), and item 10 (databases and associated signaling). Based on the evidence in the record, and in accordance with Commission rules and orders concerning compliance with section 271 of the Act, the Commission concludes that BellSouth demonstrates that it is in compliance with checklist items 3, 9, and 10 in Georgia and Louisiana. Both the Georgia Commission and the Louisiana Commission also conclude that BellSouth complies with the requirements of each of these checklist items.

Other Statutory Requirements

20. *Compliance with Section 271(c)(1)(A).* The Commission concludes that BellSouth demonstrates that it satisfies the requirements of section 271(c)(1)(A) based on the interconnection agreements it has implemented with competing carriers in Georgia and Louisiana. The record demonstrates that competitive LECs serve some business and residential customers using predominantly their own facilities.

21. *Section 272 Compliance.* BellSouth has demonstrated that it complies with the requirements of section 272.

22. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. It views the public interest requirement as an opportunity to review the circumstances presented by the applications to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. While no one factor is dispositive in this analysis, the Commission's overriding goal is to ensure that nothing undermines its conclusion that markets are open to competition.

23. The Commission finds that, consistent with its extensive review of the competitive checklist, barriers to competitive entry in the local market have been removed and the local exchange market today is open to competition. The Commission also finds that the record confirms our view that a BOC's entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.

24. The Commission also finds that the performance monitoring and enforcement mechanisms developed in Georgia and Louisiana, in combination with other factors, provide meaningful assurance that BellSouth will continue to satisfy the requirements of section 271 after entering the long distance market.

25. *Section 271(d)(6) Enforcement Authority.* Working with the Georgia and Louisiana Commissions, the Commission intends to monitor closely post-entry compliance and to enforce the provisions of section 271 using the various enforcement tools Congress provided us in the Communications Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12978 Filed 5–22–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

[File No. 0110174]

Aurora Associated Primary Care Physicians, L.L.C., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle those allegations.

DATES: Comments must be received on or before June 12, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Brennan, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act. 38 Stat. 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC home page (for May 13, 2002), on the World Wide Web, at "*http://www.ftc.gov/os/2002/05/index.htm.*" A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPrefect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Aurora Associated Primary Care Physicians, L.L.C. ("AAPCP"), Richard A. Patt, M.D., Gary L. Gaede, M.D., and Marcia L. Brauchler ("Respondents"). The agreement settles charges that Respondents violated section 5 of the Federal Trade Commission Act. 15 U.S.C. 45, by facilitating and implementing agreements among AAPCP's members to fix prices and other terms of dealing with health insurance firms and other third-party payors (hereinafter, "payors"), and to refuse to deal with payors except on collectively determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondent violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

AACP has approximately 45 primary care physicians in its membership. A board of managers operates AAPCP, and Dr. Patt is the board's chairman. Except to the extent that competition has been restrained as alleged in the proposed complaint, AAPCP's members compete with each other as internists, pediatricians, family physicians, or general practitioners, in offices located in the Aurora, Colorado, area. To be competitively marketable to employers and other purchasers in the Aurora areas, a payor's health insurance plan must include in its network of participating physician a large number of primary care physicians who practice in the Aurora area.

The physicians formed AAPCP as a vehicle collectively to negotiate contracts with payors, and thereby to achieve contracts containing higher fees and other, more advantageous terms than the individual physicians could obtain unilaterally. AAPCP members authorized AAPCP to negotiate for this purpose. Members also agreed to accept "non-risk" contracts, which are contracts that do not involve sharing among physicians of financial risk, through arrangements such as capitation or fee withholds. Further, before the entire organization could accept a proposed payor contract, AAPCP's board had to approve it.

In or about May 2000, AAPCP retained Ms. Brauchler, a non-physician consultant, after she had made a board presentation showing how AAPCP could collect fee information from members and use that information to reach a consensus on an initial fee level to demand from payors on the collective membership's behalf.

Sometimes a network of competing physicians uses an agent to convey to payors information obtained individually from the physicians about fees or other significant contract terms that they are willing to accept. The agent may also convey to the physicians all payor contract offers, which the physicians then unilaterally decide whether to accept or reject. Such a "messenger model" arrangement, which is described in the 1996 Statements of Antitrust Enforcement Policy in Health Care jointly issued by the Federal Trade Commission and U.S. Department of Justice (*see http://www.ftc.gov/reports/hlth3s.htm.*), can facilitate and minimize the costs involved in contracting between physicians and payors, without fostering an agreement among competing physicians on fees or fee-related terms.

AAPCP purported to operate as a messenger, but, in practice, it did not do so. Rather, in 2000 and 2001, Dr. Patt and Ms. Brauchler, together with Dr. Gaede, who is an *ex-officio* member of the board, and other physicians designated by Respondent AAPCP, on behalf of Respondent AAPCP's members, used the information gathered from members to negotiate fees and other competitively significant terms collectively on behalf of AAPCP's members. Only if a payor offered a contract containing sufficiently high fees did Drs. Patt and Gaede and Ms. Brauchler recommend that the board approve the contract and that the members accept it. The Respondent's refused to recommend to the board, or convey to AAPCP's members, contract offers containing price and other terms that they deemed to be deficient. Instead, they demanded, and received, contract terms that were more economically advantageous, from the physicians' perspective, than the physicians themselves could have obtained by negotiating individually rather than collectively.

AAPCP functioned as its members' *de facto* exclusive representative. Drs. Patt and Gaede and Ms. Brauchler told payors that AAPCP had the authority to negotiate and sign contracts on behalf of all of its members, and AAPCP's members themselves sent letters to payors, asserting that they would deal with payors only through AAPCP and not unilaterally. Respondents also successfully applied coercive tactics. For example, they advised AAPCP members to terminate, or threaten to terminate, their pre-existing, individual contracts with payors. Many AAPCP members complied, to pressure payors into offering a new contract to AAPCP that paid fees at or above the level that the physicians, through AAPCP, collectively demanded. The terminations and threats of termination left payors in the untenable position of having to pay higher fees to AAPCP members, or being denied such members' inclusion in the payors' respective provider networks. As a consequence of this conduct, AAPCP or its members contracted with various payors for fees that were higher than the fees such payors had agreed to pay other primary care physicians in the area.

Respondents' joint negotiation of fees and other competitively significant terms has not been reasonably related to any efficiency-enhancing integration. AAPCP members have not financially or clinically integrated their practices to create sufficiently substantial potential efficiencies. Respondents' actions have restrained price and other forms of competition among the members, caused fees for physician services to rise, and harmed consumers, including health plans, employers, and individual patients.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of these illegal concerted actions, while allowing Respondents to engage in legitimate conduct that does not impair competition. The proposed order's core prohibitions are contained in Paragraph II and III.

Paragraph II is intended to prevent the Respondents from participating in, or creating, future unlawful physician agreements.

Paragraph II.A prohibits, AAPCP, Drs. Patt and Gaede, and Ms. Brauchler from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, not to deal, or threaten not to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or not to deal with any payor through an arrangement other than AAPCP.

Paragraph II.B prohibits these Respondents from facilitating exchanges of information between physicians concerning whether, or on what terms, to contract with a payor. Paragraph II.C prohibits them from attempting to engage in any action prohibited by Paragraph II.A or II.B. Paragraph II.D prohibits them from inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

Paragraph II also contains three provisos intended to clarify certain types of agreements that Paragraph II does not prohibit. The first proviso applies to Ms. Brauchler, the second to Drs. Patt and Gaede, and the third to AAPCP. Each provides that nothing in Paragraph II prohibits the applicable Respondent from engaging in conduct that is reasonably necessary to form, participate in, or act in furtherance of, a "qualified risk-sharing joint arrangement" or a "qualified clinically-integrated joint arrangement." The proviso applies to AAPCP only if the physicians who participate in the arrangement are available to enter into payor contracts outside the arrangement, *i.e.*, the arrangement is not exclusive.

As defined in the proposed order, a "qualified risk-sharing joint arrangement" must satisfy two conditions. First, all physician participants must share substantial financial risk through the arrangement and thereby create incentives for the physician participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. The definition of financial risk-sharing tracks the discussion of that term contained in the Health Care Statements.

As defined in the proposed order, a "qualified clinically-integrated joint arrangement" also must satisfy two conditions. First, all physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of interdependence and cooperation among physicians, in order to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. This definition also reflects the analysis contained in the Health Care Statements.

Paragraph II's provisos, as they apply to Drs. Patt and Gaede and Ms. Brauchler, also provide that Paragraph II

does not prohibit them from facilitating an agreement solely between physicians who are part of the same medical group practice. The proposed order defines such a practice as a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, members, or employees, or in which only one physician practices medicine.

Paragraph III prohibits Ms. Brauchler, for a period of three years, from negotiating with any payor on behalf of any current or past member of AAPCP, and from advising any current or past member of AAPCP to accept or reject any term, condition, or requirement of dealing with any payor.

Ms. Brauchler is not prohibited from performing legitimate "messenger" services, including with respect to AAPCP. As noted above, a properly constituted messenger can efficiently facilitate the establishment of physician-payor contracts and avoid fostering unlawful agreements among the participating physicians. As set forth in the proposed complaint, however, while Ms. Brauchler purported to operate as a legitimate messenger, in practice she fostered anticompetitive physician agreements by negotiating directly with payors for higher fees on behalf of AAPCP's entire membership, and by advising AAPCP's members collectively to reject various payor offers and to engage in concerted refusals to deal. For this reason, Paragraph III is a necessary and appropriate supplement to Paragraph II's provisions. Under the proposed order, Ms. Brauchler may serve as AAPCP's messenger, but, pursuant to Paragraph III, may not negotiate for or advise any AAPCP member with respect to payor contracts.

Paragraph IV.C requires AAPCP to terminate, without penalty at any payor's request, current contracts with payors with respect to providing physician services. This provision is intended to eliminate the effects of Respondents' anticompetitive concerted actions. The remaining provisions of Paragraph IV and Paragraphs V through VIII of the proposed order impose obligations on Respondents with respect to distributing the proposed complaint and order to AAPCP's members and to other specified persons, and reporting information to the Commission.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–12954 Filed 5–22–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0173]

Physician Integrated Services of Denver, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 12, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Brennan, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 13, 2002), on the World Wide Web, at "*http://www.ftc.gov/os/2002/05/index.htm.*" A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Physician Integrated Services of Denver, Inc. ("PISD"), Michael J. Guese, M.D., and Marcia A. Brauchler ("Respondents"). The agreement settles charges that Respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by facilitating and implementing agreements among PISD's members to fix prices and other terms of dealing with health insurance firms and other third-party payors (hereinafter, "payors"), and to refuse to deal with payors except on collectively determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondents violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

PISD has approximately 41 primary care physicians in its membership. Dr. Guese is PISD's president and sole director. Ms. Branchler is a consultant and advisor to PISD. Except to the extent that competition has been restrained in the manner set forth in the proposed complaint, PISD's members compete with each other as internists, pediatricians, family physicians, or general practitioners, in offices located in the southern part of the Denver, Colorado, metropolitan area ("South Denver area"). To be competitively marketable to employers and other purchasers in the South Denver area, a payor's health insurance plan must include in its network of participating physicians a large number of primary care physicians who practice in the South Denver area.

The physicians formed PISD as a vehicle collectively to negotiate contracts with payors, and thereby to achieve contracts containing higher fees and other, more advantageous terms than the individual physicians could obtain unilaterally. PISD members authorized PISD to negotiate for this purpose. They also authorize PISD to negotiate "non-risk" contracts, which are contracts that do not involve sharing among physicians of financial risk, through arrangements such as capitation or fee withholds. Further, before the entire organization can accept a proposed mayor contract, a majority of PISD's members must approve it.

Sometimes a network of competing physicians uses an agent to convey to payors information obtained individually from the physicians about fees or other significant contract terms that they are willing to accept. The agent may also convey to the physicians all payor contract offers, which the physicians then unilaterally decide whether to accept or reject. Such a "messenger model" arrangement, which is described in the 1996 Statements of Antitrust Enforcement Policy in Health Care jointly issued by the Federal Trade Commission and U.S. Department of Justice (see *http://www.ftc.gov/reports/hlth3s.htm.*), can failitate and minimize the costs involved in contracting between physicians and payors, without fostering an agreement amont competing physicians on fees or fee-related terms.

PISD purported to operate as a messenger, but, in practice, it did not do so. Rather, from 1999 through 2001, Dr. Guese and Ms. Brauchler negotiated fees and other competitively significant terms collectively on behalf of PISD's members. Only if a payor offered a contract containing sufficiently high fees did Dr. Guese and Ms. Brauchler recommend to the members that they accept the contract. Dr. Guese and Ms. Brauchler refused to convey to PISD's members contract offers containing price and other terms that Dr. Guese and Ms. Brauchler deemed to be deficient. Instead, they demanded, and received, contract terms that were more economically advantageous, from the physicians' perspective, than the physicians themselves could have obtained by negotiating individually rather than collectively.

PISD functioned as its members' *de facto* exclusive representative. Respondents told payors that PISD had the authority to negotiate and sign contracts on behalf of all of its members, and members themselves sent letters to payors, asserting that they would deal with payors only through PISD, Dr. Guese, or Ms. Brauchler, and not unilaterally. Respondents also successfully applied coercive tactics. For example, they advised PISD members to terminate, or threaten to terminate, their pre-existing, individual contracts with payors. Many PISD members complied, to pressure payors into offering a new contract to PISD that paid fees at or above the level that the physicians, through PISD, collectively demanded. The terminations and threats of termination left payors in the untenable position of having to pay higher fees to PISD members, or being denied such members' inclusion in the payors' respective provider networks. As a consequence of this conduct, PISD or its members contracted with various payors for fees that were higher than the fees such payors had agreed to pay other primary care physicians in the area.

Respondents' joint negotiation of fees and other competitively significant terms has not been reasonably related to any efficiency-enhancing integration. PISD refused to consider any form of financial risk-sharing, and its members have not clinically integrated their practices to create sufficiently substantial potential efficiencies. Respondents' actions have restrained price and other forms of competition among the members, caused fees for physician services to rise, and harmed consumers, including health plans, employers, and individual patients.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of these illegal concerted actions, while allowing Respondents to engage in legitimate conduct that does not impair competition. The proposed order's core prohibitions are contained in Paragraphs II and III.

Paragraph II is intended to prevent the Respondents from participating in, or creating, future unlawful physician agreements.

Paragraph II.A prohibits PISD, Dr. Guese, and Ms. Brauchler from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, not to deal, or threaten not to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or not to deal with any payor through an arrangement other than PISD.

Paragraph II.B prohibits these Respondents from facilitating exchanges of information between physicians concerning whether, or on what terms, to contract with a payor. Paragraph II.C prohibits them from attempting to engage in any action prohibited by Paragraph II.A or II.B. Paragraph II.D prohibits them from inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

Paragraph II also contains three provisos intended to clarify certain types of agreements that Paragraph II does not prohibit. The first proviso applies to Ms. Brauchler, the second to Dr. Guese, and the third to PISD. Each provides that nothing in Paragraph II prohibits the applicable Respondent from engaging in conduct that is reasonably necessary to form, participate in, or act in furtherance of, a "qualified risk-sharing joint arrangement" or a "qualified clinically-integrated joint arrangement." The proviso applies to PISD only if the physicians who participate in the arrangement are available to enter into payor contracts outside the arrangement, *i.e.*, the arrangement is not exclusive.

As defined in the proposed order, a "qualified risk-sharing joint arrangement" must satisfy two conditions. First, all physician participants must share substantial financial risk through the arrangement and thereby create incentives for the physician participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms of conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. The definition of financial risk-sharing tracks the discussion of that term contained in the Health Care Statements.

As defined in the proposed order, a "qualified clinically-integrated joint arrangement" also must satisfy two conditions. First, all physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of

interdependence and cooperation among physicians, in order to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. This definition also reflects the analysis contained in the Health Care Statements.

Paragraph II's provisos, as they apply to Dr. Guese and Ms. Brauchler, also provide that Paragraph II does not prohibit them from facilitating an agreement solely between physicians who are part of the same medical group practice. The proposed order defines such a practice as a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, members, or employees, or in which only one physician practices medicine.

Paragraph III prohibits Ms. Brauchler, for a period of three years, from negotiating with any payor on behalf of any current or past member of PISD, and from advising any current or past member of PISD to accept or reject any term, condition, or requirement of dealing with any payor.

Ms. Brauchler is not prohibited from performing legitimate "messenger" services, including with respect to PISD. As noted above, a properly constituted messenger can efficiently facilitate the establishment of physician-payor contracts and avoid fostering unlawful agreements among the participating physicians. As set forth in the proposed complaint, however, while Ms. Brauchler purported to operate as a legitimate messenger, in practice she fostered anticompetitive physician agreements by negotiating directly with payors for higher fees on behalf of PISD's entire membership, and by advising PISD's members collectively to reject various payor offers and to engage in concerted refusals to deal. For this reason, Paragraph III is a necessary and appropriate supplement to Paragraph II's provisions. Under the proposed order, Ms. Brauchler may serve as PISD's messenger, but, pursuant to Paragraph III, may not negotiate for or advise any PISD member with respect to payor contracts.

Paragraph IV.C requires PISD to terminate, without penalty at any payor's request, current contracts with payors with respect to providing physician services. This provision is intended to eliminate the effects of Respondent's anticompetitive concerted actions. The remaining provisions of Paragraph IV and Paragraphs V through VIII of the proposed order impose obligations on Respondents with respect to distributing the proposed complaint and order to PISD's members and to offer specified persons, and reporting information to the Commission.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–12953 Filed 5–22–02; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

GSA Standard Tender of Service (STOS), GSA National Rules Tender No. 100–D, Item 1300 Fuel Related General Rate Adjustment (FRGRA)

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of amendment to STOS with request for comments.

SUMMARY: The General Services Administration (GSA), in compliance with 41 U.S.C. 418b, is publishing for comment in the attachment to this notice an amendment to Item 1300, Fuel Related General Rate Adjustment (FRGRA), of the GSA National Rules Tender No. 100–D, a part of the GSA STOS. Item 1300 offers transportation service providers (TSP's) that participate in GSA's STOS, a means to recover operating cost increases as a result of sudden and unforeseen increases in the price of diesel fuel. Correspondingly, the item provides for a downward adjustment when the price of diesel fuel suddenly or unexpectedly decreases. Without this provision, TSP's could compensate for operating expenses changes due to sudden and unforeseen fuel cost increases or decreases only twice yearly when GSA implements new transportation rates solicited under its semiannual Request for Rates Offers.

DATES: Please submit your comments by June 24, 2002.

ADDRESSES: Mail comments to the General Services Administration, Travel and Transportation Management Division (FBL), Crystal Mall Bldg. 4, Rm. 812, 1941 Jefferson Davis Highway, Arlington, VA 22202, Attn: Raymond Price (Re: Item 1300, Fuel Related General Rate Adjustment, Federal Register Notice).

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Price, Transportation Programs Branch, by phone at 703–305–7536 or by e-mail at *raymond.price@gsa.gov.*

SUPPLEMENTARY INFORMATION: Item 1300 inadvertently was omitted when the currently effective version of the STOS was implemented upon publication in the **Federal Register** (66 FR 63061, December 4, 2001). This **Federal Register** publication of Item 1300 serves to correct omission of Item 1300 from the December 4, 2001, version of the STOS, and to incorporate this item in the STOS in amended version that provides TSP's a means of compensating for operating expenses changes due to sudden and unforeseen fuel cost increases or decreases.

Dated: May 16, 2002.

Tauna T. Delmonico,

Director, Travel and Transportation, Management Division.

Section 3—Fuel Related General Rate Adjustment

Item 1300 Fuel Related General Rate Adjustment (FRGRA)

The provisions of subsections A through E of this section govern a Fuel Related General Rate Adjustment (FRGRA) that a Transportation Service Provider (TSP) participating in this STOS (including revisions to or reissues thereof) makes to its line-haul charge.

A. *General.* The FRGRA provides a TSP flexibility to obtain reasonable relief from sudden and unforeseen increases in diesel fuel prices. Additionally, the FRGRA requires a TSP to correspondingly discount its line-haul charge when there are sudden and unforeseen decreases in diesel fuel prices. Since fuel related rate adjustments for gradual changes in a TSP's fuel related costs over a longer period of time are beyond the purpose of this provision, a TSP should consider gradual fuel price changes when it submits or supplements its STOS rates during a rate filing open window if such changes significantly affect the TSP's operating costs.

B. *Application.* The FRGRA is applicable to all GSA negotiated/accepted rate offers as well as rate offers negotiated/accepted by a Federal agency that participates in the STOS. The FRGRA may be waived or altered only by the Freight Program Management Office (FPMO) or appropriate Federal agency that negotiated/accepted the rate offer.

C. *Setting Baseline.* Diesel fuel price ranges and corresponding applicable percent rate adjustment levels were collaboratively established with the motor TSP industry as of November 2000. The levels specified in this section reflect current standard industry practice and will be reviewed and revised on an as-needed basis.

D. *Computation.*

1. *Determination of Adjustment.* Each Monday, or first working day thereafter if the Monday falls on a Federal Holiday (hereinafter referred to as "Monday"), the Department of Energy, Energy Information Administration (EIA), posts the National U.S. Average diesel fuel price. If a FRGRA is justified under subsection D of this section based on each Monday's posting, the FRGRA applies to shipments picked up the ensuing Wednesday through the following Tuesday (Note: shipment pickup date is controlling for FRGRA purposes). A TSP is responsible for monitoring diesel fuel prices each Monday using one of the sources identified below to determine whether a FRGRA will apply for the one-week period beginning the upcoming Wednesday through Tuesday of the following week.

- EIA Web site: *http://www.eia.doe.gov/*
- EIA Weekly Petroleum Status Report
- EIA Hotline: (202) 586–6966

2. *Amount of Adjustment.* If on any given Monday National U.S. Average disease fuel prices, as published in one of the sources identified in subsection D1, exceed or fall below the neutral range specified in the table under subsection D2c, a TSP will compute its FRGRA under subsection D2a or b, as appropriate.

a. If the National U.S. Average diesel fuel prices exceed the neutral range, the TSP may increase its line-haul charge by the appropriate percentage specified in the table under subsection D2c; or

b. If the National U.S. Average diesel fuel prices fall below the neutral range, the TSP must decrease its line-haul charge by the percentage specified in the table under subsection D2c.

c. *Increase/Decrease Schedule:* The following table specifies the percentage FRGRA to be applied based on diesel fuel cost per gallon:

Cost per gallon	Percent decrease	Percent increase
	[1]	[2]
Neutral range:		
$1.00–$1.10		0
$1.11–$1.15		0.5
$1.16–$1.20		1.0
$1.21–$1.25		1.5
$1.26–$1.30		2.0
$1.31–$1.35		2.5
$1.36–$1.40		3.0
$1.41–$1.45		3.5
	[2]	

[1] For each 5 cents per gallon below $1.00, subtract 0.5%.

[2] For each 5 cents per gallon above $1.45, add 0.5%.

E. *Billing Procedures.* A TSP must clearly show the amount of any diesel fuel rate adjustment, either an increase or a decrease (discount), as a separate line item on all affected freight bills, Transportation Service Orders (TSO's), or bills of lading.

[FR Doc. 02–12901 Filed 5–22–02; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

The Health Care Policy and Research Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct, on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not meet regularly and do not serve for fixed terms or long periods of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for Resource Related Research Project Awards are to be reviewed and discussed at this meeting. These discussions are likely to include personal information concerning individuals associated with these applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: AHRQ Minority Research Infrastructure Support Program.

Date: June 20–21, 2002 (Open on June 20, from 2 p.m. to 2:15 p.m. and closed for remainder of the meeting).

Place: Doubletree Hotel, 1750 Rockville Pike, Monroe Room, Rockville, MD 20852.

Contact Person: Anyone wishing to obtain a roster of members or minutes of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1846.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: May 16, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–13021 Filed 5–22–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02127]

Grants for Acute Care, Rehabilitation and Disability; Prevention Research Notice of Availability of Funds; Amendment

A notice announcing the availability of Fiscal Year (FY) 2002 funds for Grants for Acute Care, Rehabilitation, and Disability Prevention Research was published in the **Federal Register** on May 8, Volume 67, Number 89, pages 30932–30935. The notice is amended as follows:

On page 30932, third column, under Section C. Availability of Funds, Paragraph 1, line 1, should be changed to read "Approximately $900,000 is available in FY 2002* * *"

On page 30932, third column, under Section C. Availability of Funds, Paragraph 1, line 2, should be changed to read "* * * to fund approximately three to four awards"

On page 30932, third column, under Section C. Availability of Funds, Paragraph 2, line 6 through line 8, should be changed to read "The maximum funding level will not exceed $300,000 (including both direct and indirect costs) per year or $900,000 for the three-year project period."

On page 30933, third column, under Section f. Submission and Deadline, Paragraph 1, line 1 to 2, should be changed to read "* * * June 24, 2002, submit the application* * *"

Dated: May 17, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12932 Filed 5–22–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02126]

Grants for Dissemination Research of Effective Interventions to Prevent Unintentional Injuries Notice of Availability of Funds; Amendment

A notice announcing the availability of Fiscal Year (FY) 2002 funds for Grants for Dissemination Research of Effective Interventions to Prevent Unintentional Injuries was published in the **Federal Register** on May 8, Volume 67, Number 89, pages 30935–30938. The notice is amended as follows:

On page 30936, first column, under Section C. Availability of Funds, Paragraph 1, line 1, should be changed to read "Approximately $900,000 is available in FY 2002* * *"

On page 30936, first column, under Section C. Availability of Funds, Paragraph 1, line 2, should be changed to read "* * * to fund approximately three to four awards* * *"

On page 30936, first column, under Section C. Availability of Funds, Paragraph 1, lines 13 through 15, should be changed to read "* * * will not exceed $300,000 (including both direct and indirect costs) per year* * *"

On page 30936, first column, under Section C. Availability of Funds, Paragraph 1, line 15, should be changed to read "* * * $900,000 for a three year project period."

On page 30937, first column, under Section F. Submission and Deadline, Paragraph 2, line 2, should be changed to read "* * * June 24, 2002, submit the application* * *"

Dated: May 17, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12934 Filed 5–22–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02163]

Support for Civil Society Organizations Responding to HIV/AIDS in Zimbabwe; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a Cooperative Agreement program to Support Civil Society Organizations Responding to HIV/AIDS in Zimbabwe.

The purpose of this cooperative agreement is to provide support to civil society organizations responding to the HIV/AIDS epidemic in Zimbabwe. Civil society in Zimbabwe can and does play a critical role in strengthening the national response to the HIV/AIDS epidemic. AIDS Service Organizations (ASOs), communities of faith, educational and theatre groups and other non-governmental organizations have the ability to efficiently reach target audiences and to effectively provide education, training, prevention, clinical care and psychosocial support services.

Specifically, CDC intends to focus its support on: (1) AIDS Service Organizations (ASO) with national or regional missions and activities or cross-cutting activities that are not compatible with the District AIDS Action Committee (DAAC) Initiative; (2) ASO infrastructure or administrative support that is needed to complement a unique, supporting role that the ASO is playing as a member of a DAAC, or to complement a situation in which the ASO has received funding for program services but not for administrative support needed to properly manage those resources; and (3) faith organizations implementing activities that involve progressive involvement in major HIV/AIDS programs already underway in Zimbabwe.

B. Eligible Applicants

Applications may be submitted by nonprofit voluntary organizations, including faith-based organizations, responding to or working with HIV/AIDS in Zimbabwe and are registered under the laws of Zimbabwe.

C. Availability of Funds

Approximately $300,000 is available in FY 2002 to fund multiple awards averaging from $30,000 to $50,000 per award. It is expected that the awards will begin on or about September 30, 2002, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Antiretroviral Drugs

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapine in the prevention of mother to child transmission (PMTCT) cases and with prior written approval), occupational exposures and non-occupational exposures, and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements; however, applicants must perform a substantial portion of the activities, including program management and operations and delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Federal law requires that no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient(s) will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

a. Strengthen the Operational Capacity of Civil Society Organizations Responding to HIV/AIDS in Specific Districts and/or Regions in Zimbabwe.

For AIDS Service Organizations

Expand and improve the capacity of ASOs and other organizations vis-a-vis operational systems (e.g., physical plant, personnel, budgeting, proposal writing, disbursement, financial oversight, reporting, evaluation) to increase the agency responsiveness to clients, donors and other constituents. For ASOs, this requested operations support should be proposed in one of four contexts:

(1) The ASO has received substantial funding to provide services, but has not been allowed funding for administrative and operational support.

(2) The ASO has been asked to play an important role in a District AIDS Action Committee (DAAC), but has not been provided with additional or sufficient resources to support those duties.

(3) The ASO has been taking on or has identified for itself a key role in mentoring or training other ASOs, DAACs, or other agents of the local response to HIV/AIDS.

(4) The ASO is playing a key role in the national response to HIV/AIDS at either a provincial or national level and, as such, is not currently meeting funding priorities of NAC or other donor agencies.

For Faith-Based Organizations

Expand and improve the capacity of pastors, ministers, priests, laity, or other members of the Denomination to effectively provide scientifically correct information that goes beyond awareness on HIV/AIDS to the populations they serve. Proposals will promote behavior change and reduction in stigma for HIV/AIDS, and reconciling accurate information with religious values while using the modes of communication that are best-accepted and most effective for the population in question. Such proposals should be linked to a source of correct information and technical assistance on HIV/AIDS, such the Zimbabwe Council of Churches' AIDS Program, CDC Zimbabwe Office, Modeling and Reinforcement to Combat HIV/AIDS (MARCH), or other sources that should be referenced in the application.

b. Expand Prevention, Care and Support Services Provided Through Civil Society Organizations.

Strengthen key organizations at district and/or regional level to provide expanded prevention, care and support services to persons with HIV/AIDS.

2. CDC Activities

a. Collaborate with the Recipient on designing and implementing the activities listed above, including but not limited to the provision of technical assistance to develop and implement program activities, analyses, and capacity building assistance.

b. When necessary, procure specific services, equipment and supplies, as well as other materials required to support implementation of activities covered under this agreement.

c. Monitor project and budget performance.

E. Content

Letter of Intent (LOI)

A LOI is required for this program. The narrative should be no more than two (2) double-spaced pages, printed on one side, with one-inch margins, and 12 point font. Your letter of intent will be used to help plan the review process, and should include the following information: (a) Principal organization, (b) Partners, Districts, Regions Involved, (c) 500 word (or less) abstract outlining "Central Concepts" to be developed more fully in the complete application, (d) 300 word (or less) statement of qualifications and capacity to estimate the amount of funds to be requested.

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should not be more than 20 double-spaced pages, printed on one side, with one-inch margins, and 12 point font.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget.

F. Submission and Deadline

Letter of Intent (LOI)

On or before June 15, 2002, submit the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428) Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before August 15, 2002, submit the application to: Technical Information Management, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Deadline: Letters of Intent and final Applications shall be considered as meeting the deadline if they are received on or before the deadline date.

Late: Letters of Intent and Applications which do not meet the above criteria will be returned to the applicant.

G. Evaluation Criteria

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of Effectiveness must relate to the performance goals as stated in section "A. Purpose" of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness shall be submitted with the application and shall be an element of evaluation.

The criteria used to evaluate the application will include all of the criteria outlined in the recipient requirements inclusive of a plan, objectives, methods, evaluation, and budget. Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

Capacity (40 points)

Strengthening operational capacity of civil service organizations. (20 points)

Expanding prevention, care and support services provided by civil society organizations. (20 points)

Understanding the Purpose of the Overall Plan of the Application (15 points)

A cogent, brief summary of critical issues; succinct, coherent understanding of the purpose of the program announcement; and cross-cutting, cost-effective approaches to responding to the announcement.

Objectives (15 points)

Compile a translation of the general purposes of the program announcement into no more than four specific objectives, products, or outputs of the cooperative agreement.

Methods (15 points)

Enunciation of a methodology appropriate for accomplishing the objectives outlined above.

Evaluation (15 points)

A brief explanation of how internal monitoring and evaluation of this program will contribute to strengthening and institutionalization of this program during the period of the cooperative agreement.

Budget and Cost-Effectiveness (Not Scored)

Creative and convincing approaches to resource utilization (financial, personnel, computing, *etc.*) to lead to a major impact of available resources.

Human Subjects (Not Scored)

The extent to which the application adequately addresses the requirements listed in the 45 CFR part 46 for the protection of human subjects.

H. Other Requirements

Technical Reporting Requirements

1. Provide CDC with original plus two copies of the quarterly progress reports.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial report and performance report, no more than 90 days after the end of the project period
4. Measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant/cooperative agreement. Measures must be objective/quantitative and must measure the intended outcome. These Measures of Effectiveness shall be submitted with your application and shall be an element of evaluation.

Obtain annual audit of these CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in country and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by CDC.

A fiscal Recipient Capability Assessment may be required with the potential awardee, prior or post award, in order to review their business management and fiscal capabilities regarding the handling of U.S. Federal funds.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, *see* Attachment I of the announcement.

—1AR–1 Human Subjects Requirements
—1AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
—1AR–4 HIV/AIDS Confidentiality Provisions
—1AR–12 Lobbying Restrictions
—1AR–14 Accounting System Requirements
—1AR–15 Proof of Non-Profit Status
—1AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 307 of the Public Health Service Act, (42 U.S.C. 2421), as amended. The Catalog of Federal Domestic Assistance number is 93.118.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement number of interest.

To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement & Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: (770) 488–2782. E-mail: *dpr7@cdc.gov.*

For program technical assistance, contact: Mark D. Fussell, Global AIDS Program (GAP), Zimbabwe Country Team, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), Zim-CDC AIDS Project Team, 38 Samora Machel Avenue, 2nd Floor, Harare, Zimbabwe. Telephone: 263 4 796040, 796048. Fax: 263 4 796032. E-mail: *fussellm@zimcdc.co.zw.*

Dated: May 17, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12931 Filed 5–22–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02060]

National Cancer Prevention and Control Program: Notice of Availability of Funds; Amendment

A notice announcing the availability of Fiscal Year 2002 funds for cooperative agreements for the National Cancer Prevention and Control Program was published in the **Federal Register** on April 23, 2002, (67 FR 19932). The notice is amended as follows:

Page 19933, Column 1, Paragraph "C. Availability of Funds," the following clarification is added: "Note: Awards under this program announcement will be on or about September 30, 2002 and will be made for a nine-month budget period for the first year which will end on June 29, 2003. As a result, the budget for the first year will reflect work for nine months, and subsequent years budgets will be for 12 months. As programs are funded on an annual basis, grantees under NCCCP and NBCCEDP may consider requesting additional funds in an amount equivalent to a 12-month award. The itemized budget for the first year must include a description and justification for the request. Breast and Cervical Cancer Programs are cautioned that the request must comply with the 60/40 distribution required under the program. This statement does not apply to NPCR programs since 3 month cost extensions under current grants for the period July 1, 2002 through September 29, 2002 were already funded with current year funding."

Page 19933, Column 1, continuation of "Eligible Applicants" Section "B.2.a NCCP" is amended to read: "Federally recognized Indian Tribal governments and Tribal organizations, urban Indian organizations and inter-tribal consortia (hereafter referred to as Tribes) whose primary purpose is to improve American Indian/Alaska Native health and which represent the Native population in their catchment area."

Page 19939, Column 2, Section "H.2. Availability of Funds" is amended to add: "Pending availability of funds, each year of the project period for this overall program announcement (September 30, 2002 to June 29, 2007) will incorporate an open season for competitive applications for the NBCCEDP component with applications due on or about February 28th. (Specific guidance with exact dates, will be provided in future years.) At that time, eligible applicants may apply."

Page 19940, Columns 2 and 3, under Section "H.3.a. Recipient Activities" is amended to add: Section H.3a(6) "If funded to provide WISEWOMAN services to NBCCEDP clients, work collaboratively across programs to ensure that each program is maximally effective and supportive of the other."

Page 19943, Column 1, Section "H.4.a.(8)(k), paragraph 2", is amended to read: In addition, programs must provide the CPT codes and schedule of fees for breast and cervical cancer screening and diagnostic services to be used by the program. In States/Tribes/Territories where there are multiple Medicare rates and a single reimbursement rate is proposed, the applicant must provide justification for approval."

Page 19943, Column 3, Section I.2. Availability of Funds is amended to add: "Pending availability of funds, each year of the project period for this overall program announcement (September, 30, 2002 to June 29, 2007) will incorporate an open season for competitive applications for the NPCR component with applications due on or about February 28th. (Specific guidance with exact dates will be provided in future years.) At that time, eligible applicants may apply for Part I Enhancement or Part II Planning dollars but not both."

Page 19945, Column 1, continuation of Section I.3.a.(2) (1st sentence) is amended to read: "published in "Standards for Cancer Registries", Volume II, North American Association of Central Cancer Registries (NAACCR), Spring 2002 (NAACCR record layout version 9.1)."

Page 19947, Column 2, Section "I.4.a.(7) Operational Plan" is deleted. Clarification added: "Applications should address Section I.4.a.(9) Workplan."

Page 19947, Column 3, Section I.4.a(9)(g) is deleted. Clarification added: "Applications should address Section I.4.a.(5) Management and Staffing Plan."

Page 19949, Column 3, Section J.2.(a) is amended to add: AAR–8".

Page 19949, Column 3, Section J.2.(b) is amended to delete: AAR–2".

Page 19949, Column 3, Section J.2.(c) is amended to delete: AAR–2".

The following clarification is for information that appeared only on the CDC website. See www.cdc.gov "Funding Opportunities."

Attachment D—Screening Projections Matrix in the Appendices

The title of the second matrix is amended to read: "Number of Women to be Screened in FY 2002–2003 by Characteristics."

Dated: May 17, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12933 Filed 5–22–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01P–0447]

Determination That Ardeparin Sodium Injection Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that ardeparin sodium injection (Normiflo) was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for ardeparin sodium injection.

FOR FURTHER INFORMATION CONTACT: David Read, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5605.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products with Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

Ardeparin sodium injection (Normiflo) was the subject of approved NDA 20–227, formerly held by Wyeth-Ayerst and then by Pharmacia & Upjohn. Normiflo is a low molecular weight heparin indicated for the prevention of deep vein thrombosis which may lead to pulmonary embolism following knee replacement surgery. FDA received a request from Pharmacia & Upjohn, dated May 22, 2001, to withdraw approval of NDA 20–227 for Normiflo injection in accordance with 21 CFR 314.150(c). Following Pharmacia & Upjohn's request, Normiflo was moved from the prescription drug product list to the "Discontinued Drug Product List" section of the Orange Book. Approval of the application was withdrawn on February 11, 2002 (67 FR 6264).

In a citizen petition dated September 19, 2001 (Docket No. 01P–0447/CP1), submitted under 21 CFR 10.30, John W. Herr requested that the agency determine whether ardeparin sodium injection was withdrawn from sale for reasons of safety or effectiveness.

The agency has determined that Normiflo was not withdrawn from sale for reasons of safety or effectiveness. The petitioner identified no data or other information suggesting that Normiflo was withdrawn from sale as a result of safety or effectiveness concerns. FDA has independently evaluated relevant literature and data for possible postmarketing adverse event reports, but has found no information that would indicate this product was withdrawn for reasons of safety or effectiveness.

After considering the citizen petition and reviewing its records, FDA determines that, for the reasons outlined in this notice, ardeparin sodium injection approved under NDA 20–227 was not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list Normiflo (ardeparin sodium injection) in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to Normiflo (ardeparin sodium

injection) may be approved by the agency.

Dated: May 15, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12874 Filed 5–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1563]

Guidance for Industry on Carcinogenicity Study Protocol Submissions; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Carcinogenicity Study Protocol Submissions." This document is intended to provide guidance on the types of information the Center for Drug Evaluation and Research (CDER) relies on when evaluating protocols for animal carcinogenicity studies.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Robert E. Osterberg, Center for Drug Evaluation and Research (HFD–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5476.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled "Carcinogenicity Study Protocol Submissions." In conjunction with the reauthorization of the Prescription Drug User Fee Act of 1992 (PDUFA), FDA agreed to specific performance goals (PDUFA goals) for activities associated with the development and review of products in human drug applications. The PDUFA goals related to special protocol assessment and agreement provide that, upon request, FDA will evaluate within 45 calendar days certain protocols and issues relating to the protocols to assess whether they are adequate to meet scientific and regulatory requirements identified by the sponsor. Protocols for animal carcinogenicity studies are eligible for this special protocol assessment. This guidance is intended to facilitate the agency's review of protocols for animal carcinogenicity studies by informing sponsors of the types of information the agency relies on during its evaluation of such protocols. A draft guidance of the same name was made available for public comment in a notice published in the **Federal Register** of November 7, 2000 (65 FR 66757). This guidance contains only minor changes for clarification.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on carcinogenicity study protocol submissions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: May 15, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12872 Filed 5–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: General Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year 2002 competitive Cooperative Agreements for health workforce research.

Purpose

The purpose of these Cooperative Agreements is to conduct research that will contribute to: (1) The development of information describing the current status of the health professions workforce and (2) the analysis of fundamental health workforce related issues. These Cooperative Agreements will support a wide range of projects designed to address health workforce issues at the National, Regional and State levels.

Authorizing Legislation

These Cooperative Agreements are governed by section 761 of Title VII of the Public Health Service Act, as amended, which authorizes the development of information describing the health professions workforce and analysis of workforce related issues and necessary information for decision-making regarding future direction in health professions and nursing programs in response to societal and professional needs. Section 761 also authorizes the development of a non-Federal analytic and research infrastructure for health workforce data collection and analysis.

Federal Role

The Federal role in the conduct of these cooperative agreements allow for substantial Federal programmatic involvement in the planning and development of and the reports resulting from these studies. The Bureau of Health Professions (BHPr) program officer may be assisted in this effort by program staff of the BHPr divisions. The Federal Government involvement will include:

(a) Participation in the approval of study protocols and methodologies;

(b) Providing information about issues that are relevant to Federal policy makers or issues of particular national interest;

(c) Consultation regarding sub-contracts awarded under these cooperative agreements;

(d) Assistance in supplying data relevant to the studies or in identifying sources of such data, including other Federal agencies, or other public and private organizations; and

(e) Assistance in the dissemination of the results and, if appropriate, participation in their publication in peer-reviewed journals.

Eligible Applicants

Eligible applicants are State or local governments, health professions schools, schools of nursing, academic health centers, community-based health facilities, and other appropriate public or private non-profit entities, including faith-based organizations.

Review Criteria

The specific review criteria used to review and rank applications are included in the individual guidance material provided with the application kits and are listed below. Applicants should pay strict attention to addressing these criteria, as they are the basis upon which their applications will be judged by the reviewers and are as follows:

1. The degree to which an applicant specializes in health workforce research. An applicant will be considered as specializing in health workforce research through identification of it's mission, health workforce research accomplishments, and dedicated staff to health workforce research.

2. The degree to which the applicant demonstrates State and National experience and accomplishments in health workforce issues and research directly supporting the BHPr National Center for Health Workforce Analysis and the BHPr priorities: Health workforce distribution, racial/ethnic diversity of the health workforce, geriatrics, and genetics. Experience and accomplishments can be demonstrated through past or currently funded research.

3. The degree to which the applicant has health workforce research experience relevant to the proposed research project. For example, for a proposed research project that focuses on a given geographic area such as the US-Mexico border, the applicant should demonstrate experience in conducting US-Mexico border health workforce research. In terms of workforce discipline-specific studies, the applicant should demonstrate experience in conducting research on the given discipline.

4. The degree to which the applicant's proposed research includes:

a. A well-developed background statement

b. Clearly stated research objectives

c. Clearly stated project activities and methodology

d. A well-developed, reasonable management plan that will enable the successful completion of the project.

Application Requests, Availability, Dates and Adresses

Application kits will be available upon request on May 1, 2002. Applicants may request the application kits by contacting the HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, Maryland, 20879, by calling at 1–877–477–2123, by fax at 1–877–477–2345, or by e-mail at *hrsaga@hrsa.gov*. Application materials will also be available for downloading via the World Wide Web at: http://www.hrsa.gov/grants.htm. In order to be considered for competition, applications must be received by mail or delivered to the HRSA Grants Application Center by no later than June 19, 2002. Applications received after the deadline or sent to any address other than the address above, will be returned to the applicant and not processed.

Estimated Project Period

The estimated project period for each of the Cooperative Agreements is one year with an approximate award date of September 30, 2002.

Project Descriptions

Understanding International Medical Graduates (IMGs) 93.900

The purpose of this cooperative agreement is to collect data and information that will describe IMGs-who they are, where they came from, their visa status, role in addressing needs for healthcare providers in HPSA's and how long they stay in underserved areas. It will also study the impact of September 11 on the number of J–1 waivers.

Estimated award: $250,000.

Role and Limitations of Telemedicine in Improving "Access" 93.900

The purpose of this cooperative agreement is to conduct a comprehensive analysis of telemedicine in rural and other underserved areas. It will also identify the issues and barriers in the implementation of telemedicine and evaluate and research sucessful models to identify best practices.

Estimated award: $200,000.

Supply, Demand and Workforce Issues for 25 Allied Health Occupations 93.900

The purpose of this cooperative agreement is to provide projections of supply and demand for and an analysis of allied health occupations, including Diagnostic Medical Sonographer, Dietetic Technician, EMT-Paramedics, Medical Assistant, Nuclear Medicine Technologist, and Surgical Technologist. Applicant may propose and justify additional disciplines to be included.

Estimated award: $275,000.

Clinical Laboratory Sciences Workers Shortage Study 93.900

The purpose of this cooperative agreement is to analyze data on medical laboratory personnel including demographics, employment, education, employment issues, and assess supply and demand for shortages. The study will define the magnitude of laboratory personnel shortage and identify major contributing factors influencing the supply and demand of laboratory personnel. The study will describe impact of shortage on the health care system.

Estimated award: $160,000.

Supply, Demand, Use of Licensed Practical Nurses (LPNs) 93.900

The purpose of this cooperative agreement is to provide a better understanding of the supply, demand, distribution and utilization of LPNs (including their ability to substitute for registered nurses) and to develop recommendations for the education and utilization of LPNs.

Estimated award: $275,000.

Develop National Database on Nurse Practitioners 93.900

The purpose of this cooperative agreement is to design and promote the development of a national nurse practitioner database that documents the number and characteristics of nurse practitioners, including demographic, job activity, and work-setting data. The database should be designed to provide the basic research information needed to analyze the nurse practitioner workforce.

Estimated award: $125,000.

Adequacy of Current and Future Dental Workforce 93.900

The purpose of this cooperative agreement is to: (1) assess the adequacy of the current dental workforce supply and expected demand and (2) project the demand of dental workforce.

Estimated award: $100,000.

Assessing Variations in Retirement Plans of Physicians by Gender, Race, Specialty, Age and Other Factors 93.900

The purpose of this cooperative agreement is to assess variations in the retirement plans of physicians by: gender, race specialty, age, practice location (urban, suburban and rural) and by location of medical school (International Medical Graduate versus U.S. Medical Graduate).

Estimated award: $50,000.

Assessing Disparities of the Health Workforce Distribution in Underserved Areas of Texas and New Mexico Border Regions 93.900

The purpose of this cooperative agreement is to determine the applicability of recent developments in Geographic Information Systems (GIS) technology and studies to more clearly assess and monitor shortages and health workforce needs in underserved areas of the U.S./Mexico Border region of Texas and New Mexico. Estimated award: $148,000.

Genetic Issues of the Hispanic Border Population 93.900

The purpose of this cooperative agreement is to: (1) Characterize testable genetic issues along the border, (2) characterize genetic services in rural and underserved areas of the Texas and U.S./Mexico border region, and (3) identify the roles of health professionals in providing genetic services in rural areas of Texas and border regions.

Estimated award: $100,000.

Improving Health Professions Education Programs Planning in New York 93.900

The purpose of this cooperative agreement is to develop a model collaboration between a Regional Workforce Study Center and a university to better plan health professions/nursing education programs. The Regional Workforce Center will use it knowledge about health workforce supply, demand and issues to advise educational program planners.

Estimated award: $50,000.

The Workforce Investment Act of 1998: Are States Targeting the Health Workforce? 93.900

The purpose of this cooperative agreement is to identify and enumerate the goals and strategies that State Workforce Reinvestment Boards have identified or employed in an effort to develop the health care workforce. The analysis should include all States and Territories.

Estimated award: $100,000.

Health Workforce Needs in the U.S. Virgin Islands 93.900

The purpose of this cooperative agreement is to evaluate the health workforce needs in the U.S. Virgin Islands as a first step in assuring access to high quality health care.

Estimated award: $50,000.

Additional Information

For programmatic information, please contact Sarah Richards (phone 301–443–5452 or via email at *srichards@hrsa.gov*) or Lou Kuta (phone 301–443–6634 or via e-mail at *lkuta@hrsa.gov*).

Paperwork Reduction Act

The Standard application form PHS 398, PHS Grant Application, has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0925–0001.

The Cooperative agreements described in this announcement will not involve data collection activities that fall under the purview of the Paperwork Reduction Act of 1995.

Dated: May 17, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–12928 Filed 5–22–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Rural Access to Emergency Devices Grant Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that approximately $12,500,000 will be available for fiscal year (FY) 2002 grants, technical assistance, and program evaluation for the purchase, placement and training in the use of automated external defibrillators (AEDs) and related activities in eligible rural areas. HRSA estimates that approximately 50 awards will be made to community partnerships, in collaboration with State Offices of Emergency Medical Services, for FY 2002. These grants will be awarded under the authority of Public Law 106–505, Title IV—Cardiac Arrest Survival, Subtitle B—Rural Access to Emergency Devices, 42 U.S.C. 254c note. The Office of Rural Health Policy will administer the Rural Access to Emergency Devices Grant Program.

DATES: All applicants interested in applying for funding under this program are to fax or mail a letter of intent to the Office of Rural Health Policy by May 27, 2002, at fax number (301) 443–2803. A copy of this letter of intent must also be faxed or mailed to the State Office of Emergency Medical Services by this same date. The letter of intent need only include the lead applicant's organizational name, proposed number of AEDs requested and a proposed listing of those in their community partnership. The deadline for receipt of applications is July 15, 2002. Applications will be considered on time if they are either received on or before the deadline date in the HRSA Grants Application Center or postmarked on or before the deadline date. Any changes to the aforementioned dates will be posted on the Office of Rural Health Policy homepage at *http://www.ruralhealth.hrsa.gov*.

ADDRESSES: To receive an application kit, applicants may telephone the HRSA Grants Application Center at (877) 477–2123 (877–HRSA–123) or the application forms can be downloaded via the Web at *http://www.ruralhealth.hrsa.gov/funding.htm*. The instructions for preparing the applications will be included with the grant guidance as part of the grant application kit. The Rural Access to Emergency Devices Grant Program uses PHS Forms 424 and 5161 for applications. Applicants must use the formal title "Rural Access to Emergency Devices Grant Program" and CFDA number 93.259 when requesting applications. The CFDA is a Government-wide compendium of enumerated Federal programs, projects services, and activities that provide assistance. All applications must be mailed or delivered to the Grants Management Officer, Office of Rural Health: HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, MD 20879: telephone (877) 477–2123. This notice will appear in the **Federal Register** at *http://www.gpo.gov/su_docs/aces/aces140.html* and the Office of Rural Health Policy homepage at *http://www.ruralhealth.hrsa.gov/*.

FOR FURTHER INFORMATION CONTACT: Evan Mayfield, Office of Rural Health Policy, HRSA, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, or email address *ruralaed@hrsa.gov*, telephone number (301) 443–0835 and fax number (301) 443–2803.

SUPPLEMENTARY INFORMATION:

(1) Program Background and Objectives

Rural Access to Emergency Devices Act, 42 U.S.C. 254c note, authorizes grants to community partnerships to provide for the purchase, placement, and training in the use of automated external defibrillators (AEDs) and related activities in eligible rural areas. An applicant must be a multi-county, regional or Statewide consortium of rural community organizations applying as a community partnership. Each community partnership must have a designated lead applicant to apply as the grantee of record and act as a fiscal agent for the partnership. Funding preference [1] will be granted to applications that are Statewide in scope. Additional funding priority [2] will be given to Statewide community partnerships that identify their State Office of Emergency Medical Services as the lead applicant and/or include emergency first response entities (*e.g.*, EMS, law enforcement and fire departments) that are currently operating without AEDs. In order to qualify as a Statewide community partnership, not every eligible county within a State need apply but must have a State Office as the lead applicant. Selected locations around the State should be identified by the lead applicant to achieve fair geographical, organizational (*e.g.*, first response verses public access placement) and resource allocation.

The State Office of Emergency Medical Services is a logical lead applicant to disseminate funding to individual entities within the partnership given their statutory role in medical direction and regulation. Other State Offices eligible to accept these Federal grant funds include the State Office of Rural Health or a division within the Department of Health. The State Office of Rural Health is a valuable resource for consulting in public access AED placement for those areas that lack EMS services, or are located too far away to be of practical benefit to a community. Community partnerships that apply without their State Office of Emergency Medical Services as the lead applicant must work with the State Office of Emergency Medical Services on issues related to medical direction and integration and placement of AEDs into existing EMS systems.

(2) Eligible Applicants

Applicants must apply in the form of a community partnership. Interested eligible entities are encouraged to collaborate with a wide range of other providers in developing a broad-based consortium that will make up their community partnerships. These partnerships will include local first response entities (*e.g.*, EMS, law enforcement and fire departments). In addition, local for- and non-profit entities may be included (that have a demonstrated concern about cardiac arrest survival rates) such as, but are not limited to, community hospitals or clinics, nursing homes and senior citizen day care facilities, governmental facilities, athletic facilities, faith based organizations and schools.

All services provided by the community partnership must be provided in an eligible rural county or Rural-Urban Commuting Area zip code. All State Offices, acting on behalf of the community partnerships within their State, will be required to demonstrate how its services will be directed to the eligible rural areas. A complete listing of these eligible rural areas is available on the Web. Eligible rural counties can be found at *(http://www.ruralhealth.hrsa.gov/ruralcol.htm)* and Rural-Urban Commuting Area zip codes can be found at *(http://www.ruralhealth.hrsa.gov/ruralcoZIPII.htm)*. Each is sorted by State.

(3) Review Criteria

The HRSA Grants Application Center will screen applications for completeness and responsiveness to the program guidance. Applications that are complete and responsive to the guidance will be evaluated for technical merit by a peer review group convened specifically for this solicitation and in accordance with HRSA grants management policies and procedures. As part of the initial merit review, all applications will receive a written critique. Applications recommended for funding will be discussed fully by the ad hoc peer review group and assigned a priority score for funding. Technical merit will be assessed using the following criteria:

(a) Need for AED equipment and training with documentation using any local standard enumerating average response [3] and transport times (noting mileage to stabilizing and/or definitive care) for the response area and cardiovascular mortality prevalence rates;

(b) Plan for a need-based placement of AEDs and accessibility plan to those AEDs;

(c) Estimated AED purchasing, training, and maintenance costs (include maintenance schedule);

(d) How the grant award will be distributed within the community partnership, with identified names of who will receive funding for each entity within the partnership;

(e) An identified and approved CPR and AED training entity;

(f) Who will use the AEDs, and reference State laws regulating AED usage;

(g) Integration into local EMS systems ensuring medical direction for documented protocols of care and legal oversight; and

(h) A well-defined data collection and reporting mechanism via their State Office of Emergency Medical Services or the State Office of Rural Health should the former be unable to participate.

A further explanation of these criteria will be included in the grant guidance.

Paperwork Reduction Act

The application for the Rural Access to Emergency Devices Grant Program has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0920–0428.

Public Health System Impact Statement

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprized of proposed health services grant applications submitted by community-based organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit the following information to their State Office of Emergency Medical Services no later than the Federal application receipt due date of July 15, 2002:

(a) A copy of the face page of the application (SF 424)

(b) An abstract of the project not to exceed one page, which provides:

(1) A description of the population to be served,

(2) The proposed number of AEDs to be purchased and how many people

[1] (Preference) moves those approved applicants carrying the preference ahead of approved applicants without the preference.

[2] (Priority) gives an application additional points during the scoring process of approved applications.

[3] If there are no pre-existing records of response times, a plan on how these times will be recorded must be included.

will be trained within the community partnership,

(3) A description of the coordination planned with the appropriate State agencies (ranging from required notification of AED placement to such agency agreeing to being the lead applicant and/or fiscal agent of a Statewide community partnership should they choose to).

Executive Order 12372

This grant program is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate State and local officials as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which will be included in the application kit, as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. All SPOC recommendations should be submitted to Larry Poole, Office of Grants Management, Bureau of Primary Health Care, 4350 East West Highway, 11th Floor, Bethesda, Maryland 20814, (301) 594–4260. The due date for State process recommendations is 60 days after the application deadline of July 15, 2002, for competing applications for the Rural Access to Emergency Devices Grant Program. The granting agency does not guarantee to "accommodate or explain" State process recommendations it receives after that date. See part 148 of the PHS Grants Administration Manual, Intergovernmental Review of PHS Programs under Executive Order 12372, and 45 CFR part 100 for a description of the review process and requirements.

Dated: May 12, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–12481 Filed 5–16–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Extramural Research; Proposed Collection; Comment Request NIH Customer/Partner Satisfaction Survey of Modifications in Procedures for Application and Award of Research Project Grants

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of Extramural Research will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: NIH Customer/Partner Satisfaction Survey of Modifications in Procedures for Application and Award of Research Project Grants. *Type of Information Collection Request:* New Request. *Need and Use of Information Collection:* The Customer/Partner Satisfaction Surveys focus on the respondent's perceptions, preferences, and related opinions. The information collected in the surveys will be used by the Office of Extramural Research to evaluate procedures for the application and award of research project grants. A single study under the clearance would be a sequential review of the Modular Application/Grant process. At the outset of its implementation, the community was advised that the process would focus the efforts of investigators, institutional officials, and National Institutes of Health (NIH) staff on the science of the application and reduce administrative burden. The Modular Grant Application Process has been in effect for two years. The NIH now believes it is an appropriate time to determine how these objectives have been met. *Frequency of Response:* On occasion. *Affected Public:* Institutional Officials, Principal Investigators (PIs), Peer Reviewers, Program and Grants Management Staff, Institute Budget Officers. The annual reporting burden is as follows: *Estimated Number of Respondents:* 1,000; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* .334, and *Estimated Total Burden Hours Requested:* 334. Each year we may repeat the same survey with different respondents. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments

Written comments/and or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Anthony Demsey, OD, NIH, Building 1, Room 154, Bethesda, MD 20892, or call the non-toll-free number (301) 496–5127, or e-mail your request, including your address to: *Demseya@OD.NIH.GOV.*

Comment Due Date

Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: May 16, 2002.

Regina H. White,

Director, OPERA/OER/OD/NIH.

[FR Doc. 02–13015 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods for Predicting Properties of Molecules

Richard Beger, Jon G. Wilkes (FDA).
DHHS Reference No. E–297–01/0 filed 07 Mar 2002.
Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: *berkleyd@od.nih.gov.*

The invention is a method for predicting the biological, chemical, and physical properties of molecules from their chemical shift data using through-bond and spatial distance connectivity patterns. In this method, predicted NMR chemical shift data that has already been structurally assigned in the process of developing the spectral predictions is used to construct a model that predicts biological, chemical and physical properties of the molecule. Since the structural assignments are only used to established molecular distance connectivity relationships, models can be developed for sets of molecules that do not share a common backbone geometry. In model development and use there is no molecular docking step. These models correlate particular molecules with desired "endpoints," including receptor-ligand binding, cancer effects, drug absorption and others. The new technique is a three dimensional Quantitative Structure Data-Activity Relationship (QSDAR) based on the spectrum-activity leg in the triangular structure-spectrum-activity relationship. The invention provides a quantitative relationship between spectra and certain properties or activities of the molecule, and will have important implications in the search for new therapeutic drugs. 3D-QSDAR Modelling is a very rapid objective process compared to conventional predictive methods. In comparable published results, the 3D-QSDAR model quality consistently exceeds that of conventional QSAR predictive methods.

GP41 Inhibitor

G. Marius Clore et al. (NIDDK).
DHHS Reference No. E–252–01/0 filed 17 Dec 2001.
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: *salatac@od.nih.gov.*

The technology relates to a chimeric molecule, N_{CCG}-gp41, in which the internal trimeric helical coiled-coil of the ectodomain of gp41 is fully exposed and stabilized by both fusion to a minimal ectodomain core of gp41 and by engineered intersubunit disulfide bonds. N_{CCG}-gp41 inhibits HIV envelope mediated cell fusion at nonomolar concentrations with an IC_{50} of 16 nM. It is proposed that N_{CCG}-gp41 targets the exposed C-terminal region of the gp41 ectodomain in its pre-hairpin intermediate state, thereby preventing the formation of the fusogenic form of the gp41 ectodomain that comprises a highly stable trimer of hairpins arranged in a six-helix bundle. N_{CCG}-gp41 has potential as (a) an HIV therapeutic agent that inhibits cell entry; (b) as an AIDS vaccine and; (c) as a component of a high throughput screening assay for small molecule inhibitors of HIV envelope mediated cell fusion. Antibodies have been raised against N_{CCG}-gp41 that inhibit HIV envelope mediated cell fusion. This invention is further described in J. Biol. Chem. 2001 Aug 3;276(31):29485–9.

Immunization for Ebola Virus Infection

Gary Nabel (NIAID/VRC), Anthony Sanchez.
Serial No. 60/068,655 filed 23 Dec 1997; Serial No. 09/913,909 filed 17 Aug 2001.
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: *salatac@od.nih.gov.*

The Ebola viruses, and the genetically related Marburg virus, are filoviruses associated with outbreaks of highly lethal hemorrhagic fever in humans and primates in North America, Europe and Africa. This invention relates to Ebola virus vaccines comprising nucleic acid molecules encoding Ebola viral proteins (including the transmembrane form of the viral Glycoprotein (GP), the secreted form of the viral Glycoprotein (sGP) and the viral nucleoprotein (NP)). The nucleic acid molecules of the vaccines of the invention encode structural gene products of any Ebola viral strain including the Zaire, Sudan, Ivory Coast and Reston strains as well as the genetically related Marburg virus strains. The invention relates to the nucleic acid vaccines as well as the corresponding protein vaccines. The invention also provides methods for immunizing a subject against disease caused by infection with Ebola virus.

Dated: May 3, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–13018 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology and Infectious Diseases Research Committee, MIDRC.

Date: June 13–14, 2002.

Time: 9 AM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Radison Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Gary S Madonna, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–3528, *gm12w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 17, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13010 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given on the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel loan repayment program.
Date: May 16, 2002.
Time: 1 PM to 4 PM.
Agenda: To review and evaluate loan repayment program.
Place: 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mary Nekola, PhD, Chief of the Scientific Review Office, National Institute on Aging, Gateway Building, room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814–9692, 301–496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: May 17, 2002.
Time: 11 AM to 2 PM.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Initial Review Group Biological Aging Review Committee.
Date: June 3–4, 2002.
Time: 6 PM to 6 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666, *hardwoodj@mail.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group Neuroscience of Aging Review Committee.
Date: June 3–4, 2002.
Time: 7 PM to 11 AM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn–Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Pane, Resource Centers and Coordinating Center for Minority Aging Research (RCMARS).
Date: June 4–6, 2002.
Time: 6 PM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: June 11, 2002.
Time: 1 PM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin Avenue, Gateway Building Rm 2C212, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group. Clinical Aging Review Committee.
Date: June 13–14, 2002.
Time: 8 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Marriott, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *markowsa@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: July 1–2, 2002.
Time: 4 PM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency McCormick Place, 2233 S. Martin Luther King Drive, Chicago, IL 60616.
Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: June 10–11, 2002.
Time: 5 PM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 17, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13011 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council, NACHHD Council Session.
Date: June 3–4, 2002.
Open: June 3, 2002, 9:45 a.m. to 3 p.m.; Closed 03:15 p.m. to 5 p.m.
Agenda: The agenda includes: Report of the Director, NICHD; presentation by the Developmental Biology, Genetics and Teratology Branch, NICHD, and other business of the council.
Place: 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

Closed: June 4, 2002, 8:30 a.m. to Adjournment.
Agenda: To review and evaluate grant applications and/or proposals.
Contact Person: Yvonne T. Maddox, PhD., Deputy Director, National Institute of Child Health and Human Development, NJH, 9000 Rockville Pike MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: www.nichd.nih.gov/about/nachhd.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 17, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13012 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Mental Retardation Research Subcommittee; Mental Retardation Research Subcommittee Meeting.
Date: June 6–7, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M St. NW., Washington, DC 20037.
Contact Person: Norman Change, PhD., Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 17, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13013 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, "Mouse Phenotyping: Developmental & Fertility Defects".
Date: June 14, 2002.
Time: 9 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: The Madison Hotel, 15th and M Street, NW., Washington, DC 20005.
Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892. (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistant Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS).

Dated: May 17, 2002.

LaVerne Y. Springfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13014 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Adenosine A3 Agonists for Use as Therapeutic Agents

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in U.S. Patent Number 5,773,423 entitled "A3 adenosine receptor agonists", filed July 13, 1994, issued June 30, 1998 and corresponding foreign applications to CanFite BioPharma, Ltd having a place of business in Petah-Tikva, Israel. The patent rights in these inventions have been assigned to the United States of America.

The contemplated exclusive license may be limited to the use of specific compositions of matter disclosed and claimed in the invention for myeloprotection, the treatment of cancer, stem cell mobilization, viral infection and arthritis.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before July 22, 2002, will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed

to: Norbert J. Pontzer, J.D., Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; telephone: (301) 496–7736, ext. 284; facsimile: (301) 402–0220, e-mail: *np59n@ott.nih.gov*. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: Current cancer treatment with chemotherapy or radiation is often accompanied by serious side effects related to cytotoxicity at non-cancerous tissue sites. Depression of bone marrow function is one of the most serious side effects in terms of patient morbidity and mortality. CanFite discovered that Adenosine A3 agonists had both a protective action in preventing neutropenia after cancer therapy and in mobilizing bone marrow stem cells for harvest. They found that these agonists also appear to have direct anti-cancer actions.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 13, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–13016 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Treatment of Central Nervous System Disorders With a Combination of Dopaminergic and Adrenergic Antagonists

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Numbers 5,492,907, filed December 9, 1992, issued February 20, 1996 and 5,663,167, filed June 7, 1995, issued September 2, 1997, both entitled "Antipsychotic composition and method of treatment" to Potomac Pharma, Inc., having a place of business in Cabin John, Maryland. The patent rights in these inventions have been assigned to the United States of America.

The contemplated exclusive license may be limited to the use of methods disclosed and claimed in the invention and treatment of human central nervous system disorders.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before July 22, 2002, will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Norbert J. Pontzer, J.D., Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; telephone: (301) 496–7736, ext. 284; facsimile: (301) 402–0220, e-mail: *np59n@ott.nih.gov*. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: A significant number of patients suffering from schizophrenia prove resistant to treatment with typical neuroleptics. Scientists at the NIH discovered that the administration of an alpha$_2$-adrenergic receptor antagonist unexpectedly enhances the therapeutic effect of typical antipsychotic neuroleptics. The present invention provides an improved treatment for patients suffering from serious psychotic mental illness who have proven resistant to treatments with known typical antipsychotic neuroleptics alone.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 13, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–13017 Filed 5–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2002 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Ecstasy, Other Club Drugs, Methamphetamine and Inhalant Prevention Intervention Cooperative Agreements (SP 02–001); and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2002	Est. number of awards	Project period
Ecstasy, Other Club Drugs, Methamphetamine and Inhalant Prevention Intervention Cooperative Agreements.	July 10, 2002	$4,000,000	12	1 year.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), PO Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: Congress has authorized the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention to announce the availability of Fiscal Year 2002 funds for cooperative agreements for developing, implementing and pilot testing Ecstasy, and other Club Drugs and Methamphetamine and Inhalant Prevention Interventions.

Applicants may address either one of the following topics:

- Ecstasy and other club drug prevention interventions.
- Methamphetamine and/or inhalant prevention interventions.

Eligibility: Units of State and local governments or Indian tribes and tribal organizations, and domestic private non-profit organizations may apply. These organizations can include:

- Community-based organizations
- Managed care and other health care delivery systems
- Universities and colleges
- Faith-based organizations
- City/county government units
- Local law enforcement agencies
- Other public and non-profit private entities

Availability of Funds: Approximately $4 million will be available for one year. Approximately 12 awards will be made in total costs (direct and indirect) for up to $350,000 for one year.

- About $2 million for 6 awards will be allocated to ecstasy and other club drug prevention interventions.
- About $2 million for 6 awards will be allocated to methamphetamine and/or inhalant prevention interventions.

Period of Support: Awards may be requested for one year.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Soledad Sambrano, Ph.D. Or Pamela C. Roddy, Ph.D., Center for Substance Abuse Prevention, Substance Abuse and Mental Health, Services Administration, Rockwall II, Suite 1075, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9110, E-Mail: *ssambran@samhsa.gov, proddy@samhsa.gov*.

For questions regarding cooperative agreement management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: *shudak@samhsa.gov*.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2002 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products.

In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as

implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 9, 2002.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–13026 Filed 5–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2002 funds for a cooperative agreement for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, State Mental Health Data Infrastructure Grants(SM 02–015), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2002	Est. number of awards	Project period
State Mental Health Data Infrastructure Grants	July 24, 2002	$550,000	7	3 years.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: Knowledge Exchange Network, P.O. Box 42490, Washington, DC 20015, 800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), announces the availability of fiscal year (FY) 2002 funds for State Mental Health Data Infrastructure Grants for State Uniform Reporting.

The purpose of this program is to develop and sustain State and community data infrastructure that helps promote comprehensive, community-based systems of care for all children and adults with mental illness or at risk of developing mental illness. Information systems are important tools to improve accountability, increase access, target resources, and continuously improve quality of care.

In this announcement, four grants to State Mental Health Authorities (SMHAs) and three grants to the Mental Health Authority in U.S. Territories are available for developing infrastructure for future data compilation of the Uniform Data Reporting under the Block Grant Program, to be reported as part of the CMHS Block Grant Application. Developing data capacity for the CMHS 16-State Indicator Pilot Grant program is also part of the effort for States that can complete Uniform Reporting Measures. The grant project is a collaborative effort of the Survey and Analysis Branch and the State Planning and Systems Development Branch, within the Division of State and Community Systems Development.

Eligibility: The following are eligible to apply:

- Applicants must be State Mental Health Authorities or the equivalent in the District of Columbia.
- Applicants must be State Mental Health Authority equivalents in U.S. Territories.
- Previous grantees in this program are not eligible to apply, as they are already conducting the activities supported by the grant.

Availability of Funds: Approximately $550,000 will be available for seven awards. The average annual award will be $100,000 for each State Mental Health Authority and $50,000 for each U.S. Territory (direct and indirect).

An award may be made * * * "only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 50 percent of such costs * * * Non-Federal contributions * * * may be in cash or in kind, fairly evaluated, including plant, equipment, or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such contributions." Sec 3404, Data Infrastructure Projects, Part C of title XIX of the Public Health Service Act (42 U.S.C.) 300y et. seq., amended Sec 1971, Data Infrastructure Development.

Period of Support: Annual awards may be requested for 3 years, contingent upon the availability of funds and progress achieved.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions on the Mental Health Block Grant Program, contact: Nainan Thomas, Ph.D., Public Health Adviser, Room 15C–26, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4257, E-mail: *nthomas@samhsa.gov.*

For questions on Measures and the GFA Application, contact: Olinda Gonzalez, Ph.D., Public Health Adviser, Room 15C–04, 5600 Fishers Lane, Rockville, MD 20857, E-mail: *ogonzale@samhsa.gov.*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, Substance Abuse and Mental Health Services Administration, Room 13–103, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: *shudak@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep state and local health officials apprized of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products.

In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 13, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–12935 Filed 5–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2002 funds for a cooperative agreement for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreement to Establish a Suicide Prevention Technical Resource Center (SM 02–012), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2002	Est. number of awards	Project period
Cooperative agreement to establish a suicide prevention technical resource center.	July 24, 2002	$2,500,000	1	3 years

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

GENERAL INSTRUCTIONS: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: Knowledge Exchange Network, P.O. Box 42490, Washington, DC 20015, 800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), announces the availability of fiscal year (FY) 2002 funds for one cooperative agreement to establish a national suicide prevention technical resource center.

The National Suicide Prevention Technical Assistance Resource Center will facilitate outreach to stakeholders (survivors, clinicians, advocates, scientists, and Federal, State, local, and tribal organizations) through provision of information and technical assistance in suicide prevention program planning and in implementation and identification of best practices.

Eligibility: Applications may be submitted by public organizations, such as units of State, county, or local governments; by Indian tribes or tribal organizations (as defined in Section 4(b) and Section 4(c) of the Indian Self-Determination and Education Assistance Act); and by domestic private nonprofit organizations such as community-based organizations, faith-based organizations, universities, colleges, and hospitals. These may include consortiums/partnerships of organizations brought together for the purposes of this GFA; however, only one organization may apply and be legally and fiscally responsible for the grant.

Availability of Funds: Approximately $2,500,000 will be available per year for one award (including direct and indirect costs).

Period of Support: The project period will be for 3 years.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Robert DeMartino, M.D., Associate Director for Program in Trauma and Terrorism, Division of Program Development, Special Populations and Projects, Room 17C–26, Center for Mental Health Services, SAMHSA, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2940, *E-mail: Rdemarti@samhsa.gov*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 630, 5515 Security Lane, Rockville, MD 20852, (301) 443–9666, E-Mail: shudak@samhsa.gov

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep state and local health officials apprized of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information: a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 13, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–12936 Filed 5–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Targeted Capacity Expansion Grant Program Funding Decisions

AGENCY: Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice regarding SAMHSA/CSAT's funding decision-making process, interest in making grant awards to eligible entities in States that do not currently have CSAT Targeted Capacity Expansion funding, and intent to revise Program Announcement.

This notice is to inform the public that it is SAMHSA/CSAT's intent to ensure the broadest possible distribution of Targeted Capacity Expansion program funds across the United States. Therefore, the number of awards to applicants from any one State may be limited in order to ensure that applicants from States with few or no grant awards will have an opportunity to receive funding for proposed projects that are deemed worthy of funding via the peer and National Advisory Council review processes.

This notice is also to inform the public that SAMHSA/CSAT is interested in receiving applications from units of local (cities, towns, counties) governments and Indian Tribes and tribal organizations in States that do not currently have a Targeted Capacity Expansion award. States in which no eligible entities currently have an award are: Delaware; Georgia; Hawaii; Kansas; Minnesota; Nevada; Utah; U.S. Virgin Islands; and Vermont.

Eligibility and programmatic requirements for the Targeted Capacity Expansion program are included in the funding announcement (PA 00–001) published in the **Federal Register** on January 18, 2000. However, potential applicants should be aware that SAMHSA/CSAT intends to revise the program guidelines and reissue the Targeted Capacity Expansion funding announcement immediately following the May 10, 2002, receipt date for applications. The revised guidelines will be announced in the **Federal Register** and will be available for downloading from SAMHSA's Web site-*www.samhsa.gov*.

Copies of the current Part I—Programmatic Guidance for Targeted Capacity Expansion (PA 00–001) and Part II—General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements may be downloaded from SAMHSA's Web site-*www.samhsa.gov*, or may be ordered from the National Clearinghouse for Alcohol and Drug Information (NCADI), phone number 800–729–6686.

The program contact for additional information is: James M. Herrell, Ph.D., Center for Substance Abuse Treatment/SAMHSA, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2376.

Dated: May 20, 2002.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–13025 Filed 5–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board to be held in June 2002.

A portion of the meeting will be open and will include a Department of Health and Human Services drug testing program update, a Department of Transportation drug testing program update, and an update on the draft guidelines for alternative specimen testing and on-site testing. If anyone needs special accommodations for persons with disabilities, please notify the Contact listed below.

The meeting will include developing the final requirements for specimen validity testing that had been published in the **Federal Register** on August 21, 2001 (66 FR 43876), and evaluation of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator in accordance with Title 5 U.S.C. 552b(c)(9)(B) and 5 U.S.C. App.2, section 10(d).

A roster of the board members may be obtained from: Mrs. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014. The transcript for the open session will be available on the following website: *http://workplace.samhsa.gov*. Additional information for this meeting may be obtained by contacting the individual listed below.

Committee Name: Center for Substance Abuse Prevention, Drug Testing Advisory Board.

Meeting Date: June 4, 2002; 8:30 a.m.–4:30 p.m.

June 5, 2002; 8:30 a.m.–Noon

Place: Residence Inn by Marriott, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Type: Open: June 4, 2002; 8:30 a.m.–10 a.m.

Closed: June 4, 2002; 10 a.m.–4:30 p.m.

Closed: June 5, 2002; 8:30 a.m.–Noon

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014, and FAX: (301) 443–3031.

Dated: May 17, 2002.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–13027 Filed 5–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–14]

Notice of Proposed Information Collection: Comment Request; Information Collection for Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of

Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 22, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, L'Infant Plaza Building, Room 8003, Washington, DC 20410; *Wayne_Eddins@hud.gov;* telephone (202) 708–2374 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Sandra Fostek, Director, Office of Government Sponsored Enterprises Oversight, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, telephone (202) 708–2224 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department is submitted the proposed information collection to OMB review; as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Mortgage Corporation (Freddie Mac).

OMB Control Number, if applicable: 2502–0514.

Description of the need for the information and proposed use: HUD's collection of information on Fannie Mae's and Freddie Mac's (collectively referred to as the "GSEs") business activities is needed to measure and monitor their compliance with statutorily mandated housing goals and other statutory requirements; and to foster a continuing dialogue between HUD, the GSEs, Congress, and the public on the activities of the GSEs with respect to affordable housing and underserved mortgage market issues.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 2; the total annual number of responses is about 87; the frequency of the responses are on occasion, quarterly, semi-annually, and annually; and the total annual hours of responses are estimated at 5,632.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: May 14, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–12887 Filed 5–22–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

National Wildlife Refuge System

National Wildlife Refuge System Centennial Commission Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Meeting of National Wildlife Refuge Centennial Commission.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App1, section 10), notice is hereby given that the National Wildlife RefugeSystem Centennial Commission will hold its second meeting.

SUPPLEMENTARY INFORMATION: The Centennial Commission was established by Title III, Section 303 of the Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000 (H.R. 3671). The purpose of the Commission is to prepare, in cooperation with Federal, State, local, and nongovernmental partners, a plan to commemorate the centennial of the National Wildlife Refuge System beginning on March 14, 2003. They are also charged with planning a conference for the Centennial year.

The meeting will be open to the public, however, facilities and space of accommodating members of the public are limited and persons will be accommodated on a first-come first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. We will make attempts to meet any request(s) received after that date, however, the requested auxiliary aid or service may not be available due to insufficient time.

Anyone may file with the Commission a written statement concerning matters to be discussed. The Commission may also permit attendees to address the Commission but may restrict the length of the presentations, as necessary, to allow the Commission to complete its agenda within the allotted time.

Interested persons may file written statements with the Commission prior to the business meeting. Written statements may be sent to the Director, U.S. Fish and Wildlife Service, attention: Centennial Commission Coordinator at least 7 days prior to the meeting. Further information regarding the meeting may be obtained from the Division of Visitor Services and Communications, National Wildlife Refuge System, 4401 N. Fairfax Drive, Arlington, VA 22203. Telephone: 703–358–2035.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting in Room 600, 4401 N. Fairfax Drive, Arlington, VA 22203.

Matters To Be Considered

Major topics for discussion during this meeting include:

Welcome
Objectives of the meeting
Minutes of the last meeting
Addition and corrections to the agenda
Business:
1. Centennial Events and Plans
2. Conference Proposal
3. Funding opportunities and partnerships

Closing remarks (including summary of accomplishments of the meeting, date

of next proposed meeting, assignment of tasks). The Commission will also discuss organizational and administrative needs.

DATES: The meeting will be held June 18 and 19, 2002 in Washington, DC. The meeting will convene at 12 noon on June 18 and end at approximately 4:30 p.m., begin again at 9 a.m. on the June 19 and conclude at 12 noon.

ADDRESSES: The meeting is scheduled to be held at : The Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Laurie Shaffer, 703–358–2035.

Dated: May 8, 2002.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 02–12955 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–917–02–1430–EU; AZA–32028]

Arizona, Notice of Application for Public Lands for State Indemnity Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application.

SUMMARY: Under the provisions of Sections 2275 and 2276 of the Revised Statutes, (43 U.S.C. Sections 851, 852), the State of Arizona has filed application AZA–32028 to acquire public lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. Pursuant to the provisions of 43 CFR 2091.3–1 the lands described below are segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act, as applicable to each of the following:

Group I: Application for Oil and Gas Only

Gila and Salt River Meridian, Arizona

T. 9 N., R. 30 E.
Sec. 13, SW¼SW¼;
Sec. 24, NE¼.
T. 9 N., R. 31 E.
Sec. 3, Lots 1–3, inclusive, Lots 5–7, inclusive, SW¼NE¼, SE¼NW¼;
Sec. 10, Lots 1–4, inclusive, W½E½, E½W½;
Sec. 15, Lots 1–4, inclusive, W½NE¼;
Sec. 22, Lots 3 and 4, SW¼SE¼, SE¼SW¼;
Sec. 27, Lots 1–3, inclusive, W½NE¼, NE¼NW¼, NW¼SE¼.
T. 10 N., R. 30 E.
Sec. 25, All.

The areas described aggregate approximately 1,852.98 acres, more or less.

Group II: Application for All Minerals, including Oil and Gas

Gila and Salt River Meridian, Arizona

T. 10 N., R. 30 E.
Sec. 11, SE¼, SE¼SW¼;
Sec. 14, All;
Sec. 23, All;
Sec. 33, W½NE¼, W½, NW¼SE¼, S½SE¼.
T. 11 N., R. 29 E.
Sec. 21, E½SE¼;
Sec. 22, NW¼SW¼;
Sec. 23, NW¼SW¼.
T. 11 N., R. 31 E.
Sec. 30, Lots 1–4, inclusive, E½, E½W½.
T. 12 N., R. 29 E.
Sec. 24, All.
T. 12 N., R. 30 E.
Sec. 19, Lots 2–4, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 20, S½N½, S½;
Sec. 24, All;
Sec. 25, All;
Sec. 27, W½, SE¼.
T. 12 N., R. 31 E.
Sec. 18, Lots 1–4, inclusive, E½, E½W½;
Sec. 19, Lots 1–4, inclusive, E½, E½W½;
Sec. 20, All;
Sec. 29, All;
Sec. 30, Lots 1–4, inclusive, E½, E½W½;
Sec. 31, Lots 1–4, inclusive, E½, E½W½.

The areas described aggregate approximately 9,963.62 acres, more or less.

Group III: Application for Surface and Subsurface (Minerals and Oil and Gas)

Gila and Salt River Meridian, Arizona

T. 12 N., R. 29 E.
Sec. 32, E½E½.
T. 12 N., R. 30 E.
Sec. 8, S½S½;
Sec. 21, All;
Sec. 28, All;
Sec. 29, All;
Sec. 34, All;
Sec. 35, W½, SE¼.

The areas described aggregate approximately 3,360.00 acres, more or less.

Group IV: Application for Surface Only

Gila and Salt River Meridian, Arizona

T. 12 N., R. 28 E.
Sec. 14, E½NE¼, NW¼NE¼, W½NW¼, NW¼SW¼, W½SE¼, SE¼SE¼.
T. 12 N., R. 29 E.
Sec. 12, N½NE¼, SW¼NE¼, W½NW¼;
Sec. 18, Lots 2–4, inclusive, SW¼NE¼, E½SW¼, SE¼;
Sec. 20, SE¼SE¼;
Sec. 21, NE¼, N½NW¼, SE¼NW¼, S½;
Sec. 27, All;
Sec. 28, All.
T. 12 N., R. 30 E.
Sec. 1, Lots 1–16, inclusive, SW¼;
Sec. 3, Lots 1–12, inclusive;
Sec. 4, Lots 1–12, inclusive;
Sec. 5, Lots 1 & 2, Lots 5–8, inclusive;
Sec. 9, E½;
Sec. 10, All;
Sec. 11, Lots 1–16, inclusive;
Sec. 12, NW¼;
Sec. 13, S½;
Sec. 14, NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, E½SE¼;
Sec. 17, N½N½;
Sec. 23, E½NE¼, SW¼NE¼, NW¼NW¼, S½SW¼, SE¼;
Sec. 26, NE¼, N½NW¼, S½SW¼.
T. 12 N., R. 31 E.
Sec. 21, All;
Sec. 22, Lots 1–4, inclusive, W½NE¼, W½, W½SE¼;
Sec. 27, Lots 1–4, inclusive, W½E½, W½;
Sec. 28, All;
Sec. 33, All;
Sec. 34, Lots 1–4, inclusive, W½E½, W½.

The areas described aggregate approximately 11,870.55 acres, more or less.

Group V: Application for Surface and/or Subsurface (Minerals and/or Oil and Gas)

Gila and Salt River Meridian, Arizona

T. 10 N., R. 29 E.
Sec. 18, E½.
T. 11 N., R. 28 E.
Sec. 14, E½E½, NW¼NE¼, SW¼SE¼.
T. 12 N., R. 28 E.
Sec. 10, NW¼SE¼;
Sec. 12, NW¼NE¼, NE¼NW¼, W½SW¼.
T. 12 N., R. 31 E.
Sec. 15, Lots 1–4, inclusive, W½E½, W½.

The areas described aggregate approximately 1,305.82 acres, more or less.

The segregation of the above described public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation or the expiration of 2 years from the date of the filing of the selection application, whichever occurs first. However, where administrative appeal or review actions have been sought pursuant to Part 4 or Subparts 2450 of 43 CFR, the segregative period shall continue in effect until publication of a notice of termination of the segregation in the **Federal Register**.

Under the provisions Sections 2275 and 2276 of the Revised Statutes (43 U.S.C. Sections 851, 852), the State of Arizona has filed application AZA–32028 to acquire public lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. Pursuant to the provisions of 43 CFR 2091.3–1 the lands described below are segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act. Inquiries concerning the segregation of the lands referenced above should be addressed to the Bill

Ruddick, Project Manager, Arizona State Office, Bureau of Land Management, 222 North Central Avenue, Phoenix, Arizona 85004.

Dated: April 25, 2002.

Carl Rountree,

Associate State Director.

[FR Doc. 02–12909 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–EL, WYW155708]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for coal exploration license

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201 (b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with Jacobs Ranch Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 44 N., R. 70 W., 6th P.M., Wyoming

Sec. 18: Lots 17, 18;
Sec. 19: Lots 5–20;
Sec. 20: Lots 1–16;
Sec. 21: Lots 1–16;
Sec. 22: Lots 1–3, 5–10, 12–15;

T. 44 N., R. 71 W., 6th P.M., Wyoming

Sec. 13: Lots 15, 16;
Sec. 23: Lots 1–16;
Sec. 24: Lots 1–16.
Containing 3962.58 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain coal quality data.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW155708): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in *The News-Record* of Gillette, WY, once each week for two consecutive weeks beginning the week of June 10, 2002, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Jacobs Ranch Coal Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Jacobs Ranch Coal Company, Attn: Darryl Maunder, Caller Box 3013, Gillette, WY 82717–3013, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: April 26, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02–12913 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–EL, WYW155709]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for coal exploration license

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201 (b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with Powder River Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 42 N., R. 70 W., 6th P.M., Wyoming
Sec. 28: Lots 1–16.
Containing 661.57 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to delineate the location of a coal split.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW155709): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in *The News-Record* of Gillette, WY, once each week for two consecutive weeks beginning the week of June 10, 2002, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Powder River Coal Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Powder River Coal Company, Attn: Karen Lohkamp, Caller Box 3034, Gillette, WY 82717–3034, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: April 26, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02–12914 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–923–1320–EL–25–2W]

Notice of Availability of Record of Decision.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Record of Decision, Flat Canyon Coal Tract.

SUMMARY: U.S. Department of Interior, Bureau of Land (BLM), Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155. Notice is hereby given that the BLM has completed a Record of Decision (ROD) and has decided to offer a Federal coal lease tract known as "The Flat Canyon Coal Tract" through a competitive process.

The potential impacts of this decision were analyzed in a Final Environmental Impact Statement on the Pines Tract Project, which was released on January 03, 2002 by the United States Forest Service, Manti-La Sal National Forest. The lease area is located in the Manti-LaSal National Forest in Sanpete County, Utah, approximately 10 miles South West of Scofield, Utah. According to 43 CFR 3400.3–1 BLM may issue a Federal Coal lease with the consent of the National Forest with appropriate terms and conditions on the lease. BLM will issue the lease in accordance with the consent decision by the Manti-La Sal National Forest. A copy of the BLM ROD can be obtained at the BLM Utah State Office, and at the BLM Price Field Office, 125 South 600 West, Price, Utah 84501.

Dated: April 16, 2002.

Roy Turner,

Acting State Director.

[FR Doc. 02–12950 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–02–1610–JP–064B]

Extension of the Scoping Phase Public Comment Period for an Amendment to the California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Extend the Scoping Phase Public Comment Period from May 17, 2002 to May 31, 2002 for an Amendment to the California Desert Conservation Area (CDCA) Plan and Environmental Assessment (EA) in the Western Colorado section of Imperial County, CA. The Notice of Intent with the original end of the public comment period was published in the **Federal Register** on March 15, 2002 (Volume 67, Number 57, Pages 13648–13649).

DATES: The time period for accepting written comments on the scope of the proposed plan amendment has been extended from May 17, 2002 to May 31, 2002.

ADDRESSES: Comments should be sent to Greg Thomsen, Field Manager, Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243–4561. Comments, including names and addresses of respondents, will be available for public review at the El Centro Field Office during normal working hours (7:45 AM to 4:30 PM, except holidays), and may be published as part of the EA or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of you comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Arnold F. Schoeck, Lead Outdoor Recreation Planner, at the above address, telephone number (760) 337–4441, or e-mail at *Arnold_Schoeck.ca.blm.gov*.

Dated: May 2, 2002.

Greg Thomsen,

Field Manager.

[FR Doc. 02–12919 Filed 5–22–02; 8:45 am]

BILLING CODE 1610–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–00–1020–24]

Sierra Front-Northwestern Great Basin Resource Advisory Council; Notice of Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting location and time for the Sierra Front-Northwestern Great Basin Resource Advisory Council (Nevada).

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Sierra Front-Northwestern Great Basin Resource Advisory Council (RAC), Nevada, will be held as indicated below. Topics for discussion will include manager's reports of field office activities; RAC subcommittee report on the planning effort for the Black Rock-High Rock Emigrant Trail National Conservation Area; RAC review and recommendations on BLM land acquisition proposals under Round III of the Southern Nevada Public Lands Management Act; RAC review and recommendations on the Walker River Basin EIS; and other topics the council may raise.

DATE & TIME: The RAC will meet on Thursday, July 25, 2002, from 8 a.m. to 5 p.m., and Friday, July 26, 2002, from 8 a.m. to 12 p.m., at the Bridgeport Ranch, Barns & Terrace Facility, 68 Twin Lakes Road off U.S. Highway 395, Bridgeport, California. All meetings will be outdoors under a tent pavilion and are open to the public. A general public comment period will be held on Thursday, July 25, 2002, at 11 a.m. A field trip to the upper portions of the Walker River Basin may be scheduled for the afternoon of Thursday, July 25, 2002, starting from the Bridgeport meeting location; details will be listed in the agenda no later than July 5, 2002.

A detailed agenda will be available on the internet by July 5, 2002, at *www.nv.blm.gov/rac;* hard copies can also be mailed or sent via FAX. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish a hard copy of the agenda, should contact Mark Struble, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, telephone (775) 885–6107 no later than July 17, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Struble, Public Affairs Officer, BLM Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701. Telephone (775) 885–6107.

Dated: April 12, 2002.

John O. Singlaub,

Field Manager, Carson City Field Office.

[FR Doc. 02–12908 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–1020–PG; G 02–0217]

Meeting Notice for the Southeast Oregon Resource Advisory Council

AGENCY: Bureau of Land Management (BLM), Vale District, Interior.

SUMMARY: The Southeast Oregon Resource Advisory Council (SEORAC) will meet at the Community Center, Christmas Valley, OR 97641 from 8 a.m. to 5 p.m., Pacific Time (PT), on Monday, July 22, 2002, and conduct a field tour to discuss Off Road Vehicle (OHV) issues, on Tuesday, July 23, 2002. Contact the BLM office listed below for exact time as the tour date approaches.

The meeting topics to be discussed by the Council will include a discussion of issues within southeast Oregon related to Steens Mountain Resource Advisory Council, North Lake Recreation Plan, Burns Steens/Andrews Resource Management Plan, Birch Creek, Fire Interface, OHV and Rangeland Assessment. Federal officials' updates, and other matters as may reasonably come before the Council. The entire

meeting is open to the public. Information to be distributed to the Council members is requested in written format 10 days prior to the start of the Council meeting. Public comment is scheduled for 11:15 a.m. to 11:45 a.m., Pacific Time on Monday, July 22, 2002.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SEORAC may be obtained from Peggy Diegan, Support Services Supervisor/Webmaster, Vale District Office, 100 Oregon Street, Vale, OR 97918 (541) 473–3144, or *Peggy_Diegan@or.blm.gov* or from the following web site: *<http://www.or.blm.gov/SEOR–RAC>*.

Dated: May 2, 2002.

David R. Henderson,

District Manager.

[FR Doc. 02–12918 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–02–1120–PG–24–1A]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Utah Resource Advisory Council (RAC) meeting.

SUMMARY: The purpose of this notice is to announce a Resource Advisory Council Meeting scheduled for June 4–5, 2002, in Price, Utah.

Primary agenda items for this meeting will include a field tour of the coal bed methane fields discussing well placement and raptor nests, artificial nests (examples in the field), current guidance and policy, USFWS recommendations, effects of efficient field development, and other related topics. We will be leaving (June 4, 8 a.m. until 5 p.m.), from the Price Field Office of the Bureau of Land Management, 125 South 600 West, Price, Utah.

A follow-up meeting will then be held on June 5, from 8 a.m.—noon, at the Holiday Inn, Conference Room, 838 Westwood Blvd., Price, Utah. We will discuss the rules and recommendations of Resource Management Plan (RMP) guidelines, RMP updates, OHV management, and a review of the FWS guidelines. From 11:30 until noon, a public comment period is scheduled where members of the public may address the Council. Written comments may be mailed to the Bureau of Land Management at the address listed below. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, 84111; phone (801) 539–4195.

Dated: April 23, 2002.

Linda Colville,

Acting State Director.

[FR Doc. 02–12921 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1220–DD]

Supplementary Rules

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim designation of roads and trails open to motor vehicle use within certain areas of the Sacramento River Bend Area of Critical Environmental Concern (ACEC).

SUMMARY: Road and trail designations and restrictions are made to implement the land use allocations for the Sacramento River Bend ACEC contained in the Redding Resource Management Plan and Record of Decision. Motor vehicles operating on public land within certain areas within the Sacramento River Bend ACEC may utilize designated roads and trails. All roads and trails on public land within one mile North of Battle Creek between Gover Road and the Coleman Forebay will be closed to motorized vehicles with the exception of the Coleman County Road. The affected public lands include all BLM managed lands within:

T.29N.R.2W.
Sec. 6 (N½);
T.30N.R.2W.
Sec. 31 S½,
Sec. 32 S½.

In accordance with 43 CFR 8341.2, notice is hereby given that all roads that are not designated for use by official BLM signs will be closed unless otherwise marked. Exceptions to this rule will be emergency vehicles, fire suppression and rescue vehicles, BLM operation and maintenance vehicles, and other motorized vehicles on official business specifically approved by an officer of the Bureau of Land Management.

The purpose of this designation is to provide a means by which the BLM can effectively control visitor activities which jeopardize public safety, lands and resources.

DATES: These designations and restrictions are effective no sooner than 30 days after the date of publication and will remain in effect until modified or rescinded by the authorizing officer.

FOR FURTHER INFORMATION CONTACT: Charles Schultz, Field Manager, Redding Field Office, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002 (530) 224–2100.

For a period of 30 days from the date of publication of this notice, interested parties may submit written comments or objections to the Field Manager, Redding Field Office at the above address.

SUPPLEMENTARY INFORMATION: Authority for these designations and restrictions is contained in CFR Title 43 Chapter II, Parts 8342. Any person who violates or fails to comply with this designation and restriction order may be subject to a fine not to exceed $1000 and/or imprisonment not to exceed 12 months under the authority of 43 CFR 8340.0–7. The Redding Resource Management Plan and Record of Decision, approved July 1993, provides management direction for lands in the area of the Redding Field Office including the Sacramento River Bend ACEC. Additionally, the Coleman Road Vehicle Control and Riparian Protection EA# RE–99–35 (12–19–2000) and the associated decision record provided guidance and decision regarding designation and restrictions of roads and trails.

Dated: March 19, 2002.

J. Anthony Danna,

Deputy State Director, Natural Resources.

[FR Doc. 02–12927 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1220–EA]

Extension of Special Rule Regarding Operation of Motorized Vehicle Designation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of two year extension.

SUMMARY: Public notice is hereby given that implementation of a Special Rule regarding the operation of motorized vehicle designations within the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch areas will remain in effect and is extended for two years. The change in vehicle designation for these areas became effective May 22, 2001 (66 FR 28198). These four areas, totaling 16,355 acres, will remain in the "limited to existing roads and trails" designation until interdisciplinary planning with all affected interests occurs to determine the appropriate designated travel routes in these areas. Interdisciplinary planning is currently underway for the Penrose area and planning will begin for the other three areas in 2003. The BLM has determined that it is necessary for the current designation of "limited to existing roads and trails" to remain in affect in order to prevent unacceptable impacts to public lands and to provide management consistency to these areas while planning efforts are underway.

DATES: The extension of this Special Rule goes into effect with the publication of this notice and shall remain in effect for two years. At the end of the two year period it may be reviewed and extended, or revoked.

ADDRESSES: You may obtain additional information by any of several methods. You may mail, hand deliver, or call in your requests to: Field Manager, Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, CO 81212, (719) 269–8500. You may also make requests via e-mail to: *rgfo_comments@blm.gov*.

FOR FURTHER INFORMATION CONTACT: Roy L. Masinton, Field Manager or Diana Kossnar, Outdoor Recreation Planner, at the address and phone number listed above, or John Nahomenuk, Outdoor Recreation Planner, 307 W. Sackett Ave., Salida, CO 81201, 719–539–7289.

SUPPLEMENTARY INFORMATION: The Special Rule provision of 43 CFR 8341.2 allows the authorized officer to close certain areas to specific types of OHV use. In the case of the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV "Open" areas, the authorized officer closed these areas to all forms of OHV use that goes off of existing travel routes. This changed the OHV designation for the areas to "limited to existing roads and trails", the same designation that is found on the surrounding public lands. The Special Rule was implemented to prevent a continuation of unacceptable impacts to soils, vegetation, wildlife, and wildlife habitat. The Royal Gorge Field Office will follow implementation of this Special Rule with amendments to the Royal Gorge Resource Management Plan. The plan amendments will be completed with full public involvement, interagency coordination and consultation as required by the BLM planning regulations (43 CFR part 1600).

This Special Rule does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fines and/or imprisonment as defined in 18 U.S.C. 3571. Notice of this Special Rule and detailed maps of the four affected areas are posted at the Royal Gorge Field Office in Canon City and the Arkansas Headwaters Recreation Area Office in Salida.

John L. Carochi,

Associate Field Manager.

[FR Doc. 02–12912 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–013–02–1210–AA WSAS]

Limited Use Designation within Elko Field Office Wilderness Study Areas; Elko, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of Limited Use designation for mechanical transport, including all motorized devices as well as trail and mountain bikes, in Wilderness Study Areas under the jurisdiction of the Elko Field Office, Nevada.

SUMMARY: The following Wilderness Study Areas are designated as Limited Use. Cedar Ridge WSA (NV–010–088); Red Spring WSA (NV–010–091); Little Humboldt WSA (NV–010–132); Rough Hills WSA (NV–010–151); South Fork Owyhee River WSA (NV–010–103A); Owyhee Canyon WSA (NV–010–106); Bluebell WSA (NV–010–027); Goshute Peak WSA (NV–010–033); South Pequop WSA (NV–010–035); and Bad Lands WSA (NV–010–184). Persons operating mechanical transport, including all motorized devices, as well as trail and mountain bikes, are limited to accessing only those boundary roads or ways existing inside a Wilderness Study Area, which were identified during the inventory phase of the wilderness review. Maps depicting those open roads within each Wilderness Study Area are available at the Elko Field Office. All other ways and roads are assumed closed. Persons with authorization to utilize the area by BLM regulations, contracts, leases or permits, may use the area described in accordance with those authorizations. Nothing in this closure effects the exercise of valid existing rights created by a contract, right of way, lease, permit or mining claim that is carried out in accordance with the regulations under which the rights were established.

Exemptions to this order are granted for these purposes only:

(a) In emergencies and search and rescue operations;

(b) for official purposes by the BLM and other Federal, State, and local agencies and their agents when necessary and specifically authorized the BLM for protection of human life, safety, and property; for protection of the lands and their resources; and

(c) to build or maintain structures and installations authorized as grandfathered uses or valid existing rights in the Interim Management Policy for Lands under Wilderness Review, as long as such use of vehicles is determined to satisfy the nonimpairment criteria and is only along routes authorized and specified by the BLM.

EFFECTIVE DATE: This designation is official on March 1, 2002 and will remain in effect until either rescinded by the authorizing official, or until Resource Management Plans for both Elko and Wells Resource Areas are amended, or until such time as Congress either designates the WSA as Wilderness or releases it for other purposes.

FOR FURTHER INFORMATION CONTACT: Helen Hankins, Elko Field Office Manager, 3900 Idaho Street, Elko, NV 89801. Telephone (775) 753–0200.

SUPPLEMENTARY INFORMATION: The BLM's Off Road Vehicle Regulations, 43 CFR 8342.1., require that the BLM establish off-road vehicle designation of areas and trails that meet the non-impairment mandate. It is the BLM's policy that cross-country vehicle use in the WSAs does cause the impairment of wilderness suitability. The BLM policy establishing what is necessary to prevent such impairment is set forth in BLM Manual Handbook H–8550–1, Interim Management Policy for Lands Under Wilderness Review.

The Limited Use designation is established to comply with the "nonimpairment" mandate established in the Interim Management Policy for Lands Under Wilderness Review, BLM Manual Handbook H–8850–1.

Helen M. Hankins,

Field Manager.

[FR Doc. 02–12904 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–056–1220–DG; GP–02–0088]

Closure Notice; Notice of Permanent Motor Vehicle Restriction on Public Lands; Deschutes/Crook Counties, OR

AGENCY: Bureau of Land Management, Prineville District, Deschutes Resource Area/Field Office.

ACTION: Notice is hereby given that all motorized use within the Badlands Wilderness Study Area (WSA), Crook and Deschutes County, Oregon, is restricted to designated routes only. The Badlands WSA is located approximately 15 miles east of Bend, Oregon, in Crook and Deschutes Counties. Specifically, this closure order applies to all public lands within the following perimeter description described below.

Perimeter Description: Beginning at the intersection of Alfalfa Market and Dodds County Roads, then south on Dodds Road to State Highway 20, then southwesterly on Highway 20, to its intersection with BLM Road #6521 then north easterly on road #6521, to its intersection with BLM road #6520–B, then continuing northeasterly on road #6520–B, to its intersection with a high voltage electrical transmission line with steel support towers, then north along this power line to its intersection with another power line supported by double wood poles, then northwesterly along this power line to its intersection with Alfalfa Market Road, then west on Alfalfa Market Road to point of beginning.

SUMMARY: The BLM is required to restrict motorized use to designated routes on public lands within the Badlands Wilderness Study Area. This restriction is necessary for BLM to comply with a federal consent judgment between the *Central Oregon Forest Issues Committee et al.* v. *James Kenna, Deschutes Area Manager, Bureau of Land Management et al.*, Civil Action No. 98–29–ST (D. OR.), that was lodged with the United States District Court for the District of Oregon on November 23, 1999.

This 1999 federal consent judgement resulted from a settlement of a lawsuit between the Central Oregon Forest Issues Committee and other environmental organizations who took BLM to federal court in 1998, regarding its environmental assessment/management plan for the Millican Valley Off-Highway Vehicle Trail System. In December, 1999, the federal court requested BLM obtain public comments regarding the proposed federal court consent judgement, which included specific motorized vehicle restrictions within the Badlands Wilderness Study Area.

Public comments were considered and reviewed by the federal court judge before the consent judgement was finalized. Routes 4,5,6,7 and 8 were specifically identified by the plaintiffs and approved by the federal court in the consent judgement. This judgement stated that motorized use in the Badlands WSA was limited to routes 4,5,6, and 7, from May 1st through November 30th, annually. Route 8 was open to motorized use year-round.

DATES: This closure will take effect on the date this notice is published in the **Federal Register**. The closure will remain in effect until BLM modifies or rescinds this order.

ADDRESSES: Bureau of Land Management, Deschutes Resource Area, 3050 N.E. 3rd Street., Prineville, OR 97754.

FOR FURTHER INFORMATION CONTACT: Berry Phelps, Recreation Planner, 3050 NE Third Street, Prineville, Oregon 97754. Phone: (541) 416–6723.

Discussion of the Rules: The public lands affected by this proposed motorized vehicle restriction are all lands administered by the BLM within the Badlands WSA. Signs will be posted to identify designated routes. Motorized designated routes will be identified on user maps that will be available at key entrances into the Badlands WSA. A map of the proposed motorized restriction area is available from the Prineville District BLM office, 3050 N.E. 3rd. Street, Prineville, Oregon, 97754.

Prohibited Acts: Under 43 CFR 8364.1. The Bureau of Land Management will enforce the following rules within the Badlands Wilderness Study Area:

a. Operation of a motorized vehicle off of designated routes 4,5,6,7 and 8 is prohibited.

b. Operation of a motorized vehicle on routes 4,5,6, and 7, from December 1st through April 30th is prohibited.

Exemptions: This closure notice does not effect the following public lands:

1. Public land west of wood pole power line in Sections 20 and 29, T. 17S, R15E, W.M., and

2. Public lands north and/or west of the Central Oregon Irrigation District Canal in Sections 3 and 4, T. 18S, R. 14E., and Sections 26,33,34, and 35 in T. 17S, R14E, W.M.

This closure does not apply to persons who are exempt from these rules that include any Federal, State, or local officer or employee in the scope of his or her duties, members of any organized rescue or fire-fighting force in performance of an official duty, and any person authorized in writing by the Bureau of Land Management.

Penalties: The authorities for this closure are section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8364.1). Any person who violates this closure may be fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the higher fines provided for by 18 U.S.C. 3571.

Dated: January 31, 2002.

A. Barron Bail,

District Manager.

[FR Doc. 02–12917 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU–75667]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease UTU–75667 for lands in Emery County, Utah, was timely filed and required rentals accruing from October 1, 2001, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16–2/3 percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease UTU–75667, effective October 1, 2001, subject to the original terms and conditions of the lease and the increased rental and royalty rate cited above.

Robert Lopez,

Chief, Branch of Minerals Adjudication.

[FR Doc. 02–12922 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; N–74293]

Termination of Segregation; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of termination of segregation.

SUMMARY: This action terminates a portion of the segregation known as the Woodhills Land Exchange. The land will be opened to the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: June 24, 2002.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, Jeffrey A. Weeks, Assistant Field Manager, Nonrenewable Resources, HC 33, Box 33500, Ely, NV 89301–9408.

FOR FURTHER INFORMATION CONTACT: Doris Metcalf, Realty Specialist, at the above address or telephone (775) 289–1852.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by appendix 1 of Bureau of Land Management Manual 1203 dated November 25, 1998, that portion identified below as being part of the Woodhills Exchange is hereby terminated in its entirety:

Mount Diablo Meridian, Nevada

T. 9 N., R. 67 E., Section 12 S½
13 All
24 E½
25 E½
T. 8 N., R. 68 E. Section
6 All
7 All
T. 9 N., R. 68 E. Section
6 W½
7 All
18 All
19 All
30 W½
31 All

The area described contains 4,480 acres in Lincoln County.

The classification made pursuant to the Act of October 21, 1976, amended, and segregated the public land from all other forms of appropriation under the public land laws, including location under the United States mining laws and the mineral leasing laws. The segregation request has been withdrawn, therefore, is no longer needed. At 9 a.m. on June 24, 2002, the lands described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 11, 2002.

Jeffrey A. Weeks,

Assistant Field Manager, Nonrenewable Resources.

[FR Doc. 02–12903 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[AK–024–5440–L015; F–07357; F–93209]

Airport Conveyance; Fairbanks, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: On February 1, 2001, the Federal Aviation Administration (FAA) determined that public land adjacent to the Fairbanks International Airport is necessary for airport operations and requested that the Bureau of Land Management (BLM) convey the land to the State of Alaska Department of Transportation and Public Facilities. BLM proposes to convey title to the State as requested. This Notice of Realty Action is necessary pursuant to BLM regulations.

DATES: Comments regarding the proposed conveyance may be submitted on or before July 8, 2002.

ADDRESSES: Written comments may be submitted to the Field Manager, Northern Field Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709.

FOR FURTHER INFORMATION CONTACT: Betsy Bonnell, at (907) 474–2336, or by e-mail at *Betsy_Bonnell@blm.gov*.

SUPPLEMENTARY INFORMATION: The parcel proposed for conveyance is described as follows:

Fairbanks Meridian, Alaska

T. 1 S., R. 2 W., Sec. 23, NE¼ NE¼, and Sec. 24, W½ NW¼ NW¼

Containing 55.31 acres.

The land is located at the corner of Anderson and Dale Roads, adjacent to the airport post office.

The FAA has determined that this public land is reasonably necessary for airport purposes. The State intends to lease the land and possibly use it for parking expansion. BLM has notified the FAA that conveyance of the land to the State of Alaska is not inconsistent with the needs of the Department of the Interior and that BLM proposes to convey title to the State under section 516 of the Airport and Airway Improvement Act of September 3, 1982 and the regulations at 43 CFR part 2640.

The above-described lands have been and remain segregated from all appropriation under the public land laws, including the mining and mineral leasing laws, by Public Land Order 2550, dated December 6, 1961, for use by the FAA.

Rights-of-way for existing roads will not be reserved as title will merge. However, conveyance of the land will be subject to valid existing rights and the following terms and conditions:

1. A right-of-way for ditches or canals will be reserved to the United States;

2. All minerals shall be reserved to the United States.

A complete list of the terms and covenants requested by the FAA administrator and those required for the protection of the Department of the Interior is available for review by interested persons at the address listed above.

Authority: 49 U.S.C. 2215.

Dated: April 10, 2002.

Robert W. Schneider,

Field Manager.

[FR Doc. 02–12905 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–170–1430–EQ; COC 64592]

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, closure of public land.

SUMMARY: The following lands have been temporarily closed to public use under Federal regulations at Title 43 Code of Federal Regulations § 8364.1.

A portion of Federal lands within sections 20, 21, 27, 28, 29, 30, 31, 32, 33, 34, of protracted Township 42 N., R.7 W., New Mexico Principal Meridian. Further described as: beginning at a

point 0.5 mile north of Cascade Gulch and extending northeasterly along the east side of Colorado State Highway #110A to the junction of San Juan County #52, thence southeasterly along the Middle Fork of Cement Creek to the divide between the Middle Fork Cement Creek and the South Fork of the Animas River, thence south along the ridge line forming the Colorado Basin to Storm Peak, thence west along a descending ridge line to the tree line between Grassy Gulch and Cascade Gulch, thence northwest to the point of beginning.

The described lands are closed to general public use until June 15th, 2002.

FOR FURTHER INFORMATION CONTACT: Charlie Higby, BLM Realty Specialist, (970) 385–1374; San Juan Public Lands Center, 15 Burnett Court, Durango, Colorado 81301.

SUPPLEMENTARY INFORMATION: The following are exempt from the closure: the San Juan County Sheriff; members of San Juan County Search and Rescue on official business, Colorado Department of Transportation and; Core Mountain Enterprises, LLC performing avalanche data collection work under BLM permit number *COC 64592.*

Persons with valid existing rights may continue to exercise those rights under the terms and conditions of their contract, lease, permit, right-of-way grant, or mining claim and, must notify Core Mountain Enterprises of their plans to be in the closure area prior to exercising those rights.

The access closure is necessary to protect the general public during periods of avalanche data collection work as authorized under BLM permit *COC 64592.*

Any person who fails to comply with a closure or restricted use order issued under this subpart may be subject to penalties provided for at Title 43 Code of Federal Regulations § 8360.0–7, including a fine not to exceed $10,000 and/or imprisonment not to exceed 12 months.

Calvin N. Joyner,

Center Manager, San Juan Public Lands Center.

[FR Doc. 02–12926 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ES; N–63278]

Notice of Realty Action; Recreation and Public Purposes Act Classification; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land in Elko County, Nevada, has been examined and identified as suitable for classification for lease, with the option to purchase after development, under the provisions of the Recreation and Public Purpose (R&PP) Act of June 14, 1926, as amended, (43 U.S.C. 869 *et seq.*). The Elko County School District proposes to use the land for construction of a middle school facility.

Mount Diablo Meridian, Nevada

T. 34 N., R. 55 E.
Section 8, E½NE¼SW¼, NE¼NW¼SE¼, S½NW¼NW¼SE¼, S½NW¼SE¼.
Containing 55.00 acres, more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest. The land would not be offered for lease until at least 60 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The Elko County School District has made application to acquire the land to construct a new middle school facility. Due to the dramatic growth over the last few years, all four of the existing elementary schools and Elko Junior High School are experiencing overcrowding. The action to build a new school would help to alleviate that situation. The lease/patent, when issued, would be subject to the provisions of the Recreation and Public Purpose Act, applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under application law and such regulations as the Secretary may prescribe.

Upon publication of this Notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws except for lease or conveyance under the Recreation and Public Purpose Act, the general mining laws, and leasing under the mineral leasing laws. The segregative effect will terminate upon issuance of a patent or as specified in an opening order to be published in the **Federal Register**, whichever comes first.

For a period of 45 days from the date of this publication in the **Federal Register**, interested persons may submit comments regarding the proposed classification or conveyance of the land to the District Manager, Elko Field Office, 3900 E. Idaho St., Elko, Nevada, 89801. The State Director, who may sustain, vacate or modify this realty action, will evaluate any objections. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Classification of Comments: Interested parties may submit comments involving the suitability of the construction of a new middle school. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a middle school facility.

Dated: April 16, 2002.

David L. Stout,

Associate Field Manager, Elko Field Office.

[FR Doc. 02–12902 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–040–1430–EU; UTU–79247]

Notice of Intent and Notice of Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent for a proposed plan amendment and Notice of Realty Action (NORA) for conveyance of public lands.

SUMMARY: This Notice of Intent is to advise the public that the Bureau of Land Management (BLM), Cedar City Field Office intends to consider a proposal which would require amending an existing planning document. The BLM is proposing to amend the Cedar, Beaver, Garfield, Antimony Resource Management Plan, approved October 1, 1986. The purpose of the proposed plan amendment would be to identify certain public land as suitable for disposal by direct sale under the provisions of Section 203 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701, 1713). The public lands identified for direct sale are comprised of 20 acres located in Beaver County and are described as follows:

Salt Lake Meridian

T. 29 S., R. 8 W.,
Sec. 20, E½W½SW¼SE¼;
Sec. 29, E½W½NW¼NE¼.
Containing 20 acres.

This publication also constitutes a Notice of Realty Action for the conveyance of a patent for the public lands described above to Eric R. and Lisa A. Jessup by direct non-competitive sale at not less than appraised market value. The sale includes the surface estate only.

The patent, when issued, will reserve to the United States: A right-of-way (ROW) thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945) and all mineral deposits, including oil and gas, with the right to prospect for, mine, and remove the same under applicable law and such regulations as the Secretary may prescribe.

DATES: The comment period for this proposed plan amendment will commence with publication of this notice. Comments must be received on or before July 8, 2002.

ADDRESSES: All comments concerning this proposed sale should be addressed to A.J. Meredith, Cedar City Field Office Manager, 176 East D.L. Sargent Drive, Cedar City, Utah 84720.

Comments, including names and address of respondents will be available for public review at the BLM Cedar City Field Office and may be published as part of the Environmental Assessment and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written request. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the land sale may be obtained from the Cedar City Field Office at the above address. Telephone calls may be directed to Ervin Larsen at (435) 865–3081.

SUPPLEMENTARY INFORMATION: The existing plan does not identify these lands for disposal. However, because of the resource values, public values and objectives involved, the public interest may well be served by sale of these lands. An environmental assessment will be prepared by an interdisciplinary team to analyze the impacts of this proposal and alternatives.

Publication of this notice in the **Federal Register** segregates the public lands from appropriations under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first. The sale will be conducted no sooner than July 22, 2002.

Dated: April 8, 2002.

Sally Wisely,

State Director.

[FR Doc. 02–12907 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–080–1430–EU, WYW–115003, WYW–148855]

Notice of Realty Modified Competitive Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Modified Competitive Sale of Public Lands in Weston County, WY.

SUMMARY: The following public surface estate has been determined to be suitable for disposal by modified competitive sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, (90 STAT. 2750; 43 U.S.C. 1713) and the Federal Land Transaction Facilitation Act of 2000, Public Law No. 106–248, July 25, 2000. The Bureau of Land Management (BLM) is required to receive fair market value for the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if the sale would not be consistent with FLPMA or other applicable law.

Sixth Principal Meridian

Parcel Number 1 (WYW–115003)
T. 48 N., R. 60 W.,
Sec. 7, lot 4.
39.56 acres.
Parcel Number 2 (WYW–148855)
T. 48 N., R. 60 W.,
Sec. 18, lot 5.
42.44 acres.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Field Manager, BLM Newcastle Field Office, 1101 Washington Blvd., Newcastle, WY 82701, 307–746–6600.

SUPPLEMENTARY INFORMATION: This sale is consistent with BLM policies and the Newcastle Resource Management Plan. In accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, the described lands are hereby classified for disposal by sale. The purpose of this sale is to dispose of two isolated parcels of public lands that have no legal access. The fair market values, planning document, and environmental assessment covering the proposed sale will be available for review at the BLM Newcastle Field Office, Newcastle, WY.

The parcels will be offered by modified competitive sale to only the adjoining landowners. The adjoining landowners will be required to submit proof of adjoining landownership before a bid can be accepted.

The publication of this Notice of Realty Action in the **Federal Register** shall segregate the above public lands from appropriation under the public land laws, including the mining laws. Any subsequent application shall not be accepted, shall not be considered as filed and shall be returned to the applicant if the Notice segregates the land from the use applied for in the application. The segregative effect of this Notice will terminate upon issuance of a conveyance document, 270 days from the date of publication of this Notice, or when a cancellation Notice is published, whichever occurs first.

Sale Procedures

1. All bidders must be U.S. citizens, 18 years of age or older, corporations authorized to own real estate in the State of Wyoming, a state, state instrumentality or political subdivision authorized to hold property, or an entity

legally capable of conveying and holding land or interests in WY.

2. Sealed bidding is the only acceptable method of bidding. A bid must be received in the BLM Newcastle Field Office by 2 p.m., July 24, 2002, at which time the sealed bid envelopes will be opened and the high bid announced. The high bidder will be notified in writing within 30 days whether or not the BLM can accept the bid. The sealed bid envelope must be marked on the front lower left-hand corner with the words "Public Land Sale, (WYW–115003) or (WYW–148855), Sale held July 24, 2002."

3. All sealed bids must be accompanied by a payment of not less than 10 percent of the total bid. Each bid and final payment must be accompanied by certified check, money order, bank draft, or cashier's check made payable to: Department of the Interior-BLM.

4. Failure to pay the remainder of the full bid price within 180 days of the sale will disqualify the bidder and the deposit shall be forfeited and disposed of as other receipts of the sale.

5. If 2 or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental biddings. The designated high bidders shall be allowed to submit oral or sealed bids as designated by the Authorized Officer.

6. If any parcels fail to sell, they will be reoffered for sale under competitive procedures. For reoffered land, bids must be received in the Newcastle Field Office by 2 p.m. on the fourth Wednesday of each month beginning August 28, 2002. Reoffered land will remain available for sale until sold or until the sale action is canceled or terminated. Reappraisals of the parcel will be made periodically to reflect the current fair market value. If the fair market value of the parcel changes, the land will remain open for competitive bidding according to the procedures and conditions of this notice.

Patent Terms and Conditions

Any patent issued will be subject to all valid existing rights.

Specific patent reservations include:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals will be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated into the patent document, is available for review at the BLM Newcastle Field Office.

3. Harry Borgialli is the grazing lessee (GR–498041) on parcel WYW115003 and parcel WYW148855. Any conveyance will be subject to the existing grazing use of Harry Borgialli. The rights of Harry Borgialli to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. GR–498041 shall cease on September 25, 2003. The successful bidder is entitled to receive annual grazing fees from Harry Borgialli in an amount not to exceed that which would be authorized under the Federal grazing fee published in the **Federal Register**.

Classification Comments: Interested parties may submit comments regarding the classification of the land as suitable for disposal through sale.

Application Comments: For a period of 45 days from the date of this notice, interested parties may submit comments to the Field Manager, BLM Newcastle Field Office, 1101 Washington Blvd., Newcastle, WY 82701. Any adverse comments will be evaluated by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: April 19, 2002.

Bill Hill,

Field Manager.

[FR Doc. 02–12906 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–1430–ES; WYW–153960,WYW–154495]

Notice of Realty Action; Recreation and Public Purposes Act Classification; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following two parcels of public land located near Big Piney and Pinedale, Wyoming, have been examined and found suitable for classification for conveyance to Sublette County under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Sublette County intends to use the lands for the existing and to expand Big Piney's shooting sports complex and to expand Pinedale's public shooting sports complex.

Sixth Principal Meridian

T. 30 N., R. 112 W.,
Section 31, Lots 3 and 4., SW¼NE¼SW¼, W½SE¼SW¼, SE¼SE¼SW¼.
T. 33 N., R. 109 W.,
Section 7, Lot 3.

The lands described above comprise a total of 104.33 acres.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Pinedale Field Office, Bureau of Land Management, 432 East Mill ST., P.O. Box 768, Pinedale, WY 82941, or contact John Besse at (307) 367–5313.

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest. The conveyances, when completed, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. A right-of-way for ditches and canals constructed under the authority of the United States. Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mining leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed conveyance or classification of the lands to the Field Manager, Bureau of Land Management, Pinedale Field Office, P.O. Box 768, Pinedale, WY 82941.

The analysis may identify that an amendment to the Pinedale RMP is needed. If a plan amendment is needed, other notices, mailings, or media releases will announce a 30 day protest period on the proposed amendment.

Classification Comments

Interested parties may submit comments involving the suitability of the lands for shooting sports complexes. Comments on the classification should address only whether the lands are physically suited for the specified purpose, whether the use will maximize the future use or uses of the lands and whether the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific uses proposed in the conveyance applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decisions, or any other factor not directly related to the suitability of the land for shooting sports complexes. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: May 1, 2002.

Bill Wadsworth,

Acting Field Manager.

[FR Doc. 02–12910 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–ES–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1430–ES; WYW–138016]

Realty Action; Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; classification of public lands for recreation and public purposes, (R&PP), Sweetwater County, Wyoming.

SUMMARY: The following public lands have been examined and found suitable for classification for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Sweetwater County intends to use the land for construction of a county jail facility.

Sixth Principal Meridian

T. 18 N., R. 105 W.
Lot 7, NE¼SW¼, NW¼SE¼

The land described above contains 105 acres.

FOR FURTHER INFORMATION CONTACT: Judy Mueller, Rock Springs Field Office, Bureau of Land Management, 280 Highway 191 North, Rock Springs, Wyoming 82901, (307–352–0243).

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Lease or conveyance is consistent with the Green River Resource Area Resource Management Plan dated August 8, 1997 and would be in the public interest. The conveyance, when completed, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior. As a result of an investigation of the lands covered by this application the United States has determined, that no hazardous substances are present on the property. The land conveyed under § 2743.2 of this part shall revert to the United States unless substantially all of the lands have been used in accordance with the plan and schedule of development.

If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and the plan of development, the patentee shall pay the Bureau of land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. There will be a decrease of 105 Federal acres within the rock Springs Grazing Allotment. The ten (10) animal Use Months (AUMs) associated with the 105 acre parcel will be canceled. Mr. Leonard Hay, on behalf of the Rock Springs Grazing Association, has signed a waiver allowing for cancellation of the ten (10) Federal AUMs from this allotment.

Upon publication of this notice in the **Federal Register** the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of issuance of this notice, interested parties may submit comments regarding the proposed lease conveyance or classification of the lands to the Assistant Field Manager, Minerals & Lands, 280 Highway 191 North, Rock Springs, Wyoming 82901.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a county jail facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of land Management followed proper administrative procedures in reaching the decision; or any other factor not directly related to the suitability of the land for a county jail facility. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: April 19, 2002.

John S. McKee,

Field Manager.

[FR Doc. 02–12925 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(NV–014) (9211)]

Notice of Availability of a Draft Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of a draft amendment to the Elko and Wells Resource Management Plans and preliminary environmental assessment to address fire management.

SUMMARY: Public meetings will be held to obtain public comment on the draft amendment and preliminary environmental assessment of the Elko and Wells Resource Management Plans to address fire management. The Elko and Wells Resource Management Plans address management of public lands in Elko and portions of Eureka and Lander Counties, Nevada.

DATES: Public meetings will be announced in the local news media at least 15 days before the scheduled meetings and meeting notices will be sent to persons and parties on the mailing list. Comments not presented at these meetings are due in the Elko Field Office by June 24th.

FOR FURTHER INFORMATION CONTACT: Comments not made at the public meetings can be made by contacting Joe Freeland, Fire Management Officer, by telephone at 775–753–0200, by e-mail at *Joe—Freeland@nv.blm.gov*, or by mail at Bureau of Land Management, Elko Field

Office, 3900 Idaho Street, Elko, Nevada 89801. Comments can also be made by contacting Melissa Petersen, Fire Information Officer, at 775–748–4141 or by e-mail at *Melissa_Petersen@nv.blm.gov*. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION: Copies of the Draft Resource Management Plan Amendment and Preliminary Environmental Assessment can be obtained by contacting Joe Freeland or Melissa Petersen at the Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada 89801. Copies of the draft plan amendment will also be available at the public meetings.

Dated: March 25, 2002.

Helen Hankins,

Elko Field Office Manager.

[FR Doc. 02–12924 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–02–1430–FM; AZA 31808]

Notice of Intent To Amend the Lower Gila South Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to amend the Lower Gila South Resource Management Plan (RMP), Arizona.

SUMMARY: Pursuant to the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM), Yuma Field Office, Arizona will prepare an environmental assessment (EA) to consider an amendment to the Lower Gila South Resource Management Plan (RMP) (June 1988). The proposed plan amendment will assess impacts of proposed changes in land tenure classification and management of Federal lands in La Paz County in southwestern Arizona. It will also assess a proposed land exchange pursuant to Section 206 of FLPMA, and the regulations found at 43 CFR part 2200. Currently, the Lower Gila South RMP does not designate the public lands in La Paz County as suitable for disposal.

DATES: Written comments will be accepted for 30 days from the date of publication of this notice in the **Federal Register**.

ADDRESSES: Comments should be send to Bureau of Land Management, Yuma Field Office, 2555 East Gila Ridge Road, Yuma, Arizona, 85365. Comments should address issues to be considered, whether the planning criteria are adequate for the issues, reasonable alternatives to examine, and relevant information on the proposed plan amendment. Comments, including names and street addresses of respondents, will be available for public review at the Yuma Field Office, during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Contact Stephen Fusilier at 928–317–3296 or Micki Bailey 928–317–3215.

SUPPLEMENTARY INFORMATION: The proposed plan amendment is required to allow BLM to consider a land exchange proposal submitted by Allegheny Energy Supply, LLC. the proposal involves exchanging 480.80 acres of Federal land located in the Harquahala Valley near the intersection of Interstate 10 and Avenue 75E (Exit 69) in La Paz County for approximately 1,500 acres of privately owned land within or adjacent to the Gila River. Cultural Area of Critical Environmental Concern (ACEC), also known as Sears Point located near Aztec in Yuma county. The Federal lands proposed for land exchange are described as follows:

Gila and Salt River Meridian, La Paz County, Arizona

T. 2 N., R. 11 W.,
Sec. 1 lots 1 to 4, inclusive, S½N½, SE¼.

The area described contains 480.80 acres. The non-Federal lands will be determined from the following described pool of lands:

Gila and Salt River Meridian, Yuma County, Arizona

T. 6 S., R. 11 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, N½S½, SE¼SW¼;
Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, SW¼, N½SE¼;
Sec. 4, lots 2 to 4, inclusive, SW¼NE¼, S½NW¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 6, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼;
Sec. 8, W½W½, E½SE¼;
Sec. 9, W½SW¼;
Sec. 10, S½NW¼, SE¼SE¼;
Sec. 11, S½S½NE¼, S½SE¼NW¼, S½S½;
Sec. 12, N½NE¼, N½S½NE¼, SW¼SW¼NE¼, E½NW¼, S½SW¼NW¼, SW¼, S½S½NE¼SE¼, NW¼NW¼SE¼, S½NW¼SE¼, S½SE¼;
Sec. 13, NW¼, S½;
Sec. 14, all;
Sec. 17, NE¼, SE¼SE¼;
Sec. 23, N½NE¼, SE¼NE¼SE¼, E½SE¼SE¼;
Sec. 24, NE¼, N½NW¼, S½.
T. 7 S., R. 11 W.,
Sec. 1, lots 3 and 4, S½NW¼, S½.

The areas described aggregate 6,091.51 acres. The proposed plan amendment to the Lower Gila South RMP will be integrated with the proposed Sears Point-North Harquahala Valley land exchange, and the impact will be analyzed in a single EA. Tentative planning issues include (1) the proposed change in land ownership; (2) management of the Gila River Cultural ACEC; and (3) social and economic impacts on the counties. This action would allow BLM to further develop its management strategy at the Gila River Cultural ACEC. The following planning criteria are proposed to guide the resolution of the issues: (1) actions must comply with laws, executive orders, and regulations; (2) the long-term benefits to the public in relation to short-term benefits must be considered; (3) alternatives must be reasonable; and (4) evaluation must use the interdisciplinary approach to land management.

Dated: April 15, 2002.

Tom Zale,

Assistant Field Manager.

[FR Doc. 02–12923 Filed 5–22–02; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NMNM 91985, NMNM 91986]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed applications to withdraw approximately 240.00 acres of National Forest System lands to protect the area and future investment of existing microwave electronic sites. This notice closes the National Forest System lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to mineral leasing and to all other uses which may be made of National Forest System lands.

DATES: Comments must be received by August 21, 2002.

ADDRESSES: Comments should be sent to the U.S. Department of Agriculture, Forest Service, Cibola National Forest, 2113 Osuna Road, NE, Suite A, Albuquerque, New Mexico 87113–1001.

FOR FURTHER INFORMATION CONTACT: Sue McHenry, Cibola National Forest, 505–346–2650.

SUPPLEMENTARY INFORMATION: On April 26 and 27, 2001, the United States Department of Agriculture, Forest Service, filed applications to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

1. NMNM 91985, (Gallinas Peak Electronic Site)

New Mexico Principal Meridian

Cibola National Forest
T. 1 S., R. 11 E.,
Sec. 4, S½SW¼NW¼SE¼, N½SW¼SE¼, S½NE¼SE¼SE¼, and W½SE¼SE¼;
Sec. 9, NW¼NE¼NE¼.

The area described contains 60.00 acres in Lincoln County.

2. NMNM 91986 (West Turkey Cone Electric Site)

New Mexico Principal Meridian

T. 1 S., R. 11 E.,
Sec. 4, S½S½NE¼SW¼, N½SW¼SW¼, N½S½SW¼SW¼, and W½NW¼SE¼SW¼;
Sec. 5, S½S½NE¼SE¼, E½SE¼SE¼, and N½NW¼SE¼SE¼.

The area described contains 80.00 acres in Lincoln County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Cibola National Forest Supervisor at the above address.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Cibola National Forest Supervisor, at the above address, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The applications will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the applications are denied or canceled or the withdrawals are approved prior to that date. The temporary uses which will be permitted during this segregative period are land uses permitted by the Forest Service under existing laws and regulations including, but not limited to, construction and operation of the electronic sites.

Dated: November 16, 2001.

Edwin L. Roberson,

Field Manager.

[FR Doc. 02–12916 Filed 5–22–02; 8:45 am]

BILLING CODE 3410–11–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–457]

Certain Polyethylene Terephthalate Yarn and Products Containing Same; Notice of Commission Determination to Reverse the Decision of the Presiding Administrative Law Judge on the Issue of Indefiniteness; Termination of the Investigation With a Finding of No Violation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to reverse the decision of the presiding administrative law judge (ALJ) contained in ALJ Order No. 61, which issued on February 4, 2002, that the patent claims at issue of were not shown to be invalid as indefinite under 35 U.S.C. 112, second paragraph, by clear and convincing evidence. The Commission has previously determined not to review an initial determination (ID), contained in Order No. 61, that found that the patent claims at issue were not infringed. 67 FR 14975 (March 26, 2002). The investigation has been terminated with a finding of no violation of section 337 of the Tariff Act of 1930.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3104. Copies of the public version of Order No. 61 and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TTD terminal on 202–205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: On May 17, 2001, the Commission instituted this patent-based investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain polyethylene terephthalate yarn and products containing same that allegedly infringed certain claims of U.S. Letters Patent 5,630,976 ("the "976 patent"). 66 FR 27586. The complainant in this investigation is Honeywell International Inc. of Morristown, New Jersey. The respondents are Hyosung Corp. of Seoul, Korea and Hyosung America, Inc., a wholly-owned U.S. subsidiary of Hyosung Corp. (collectively, Hyosung).

On December 13, 2001, respondent Hyosung moved for summary determination of patent invalidity and

non-infringement. The motion was opposed by Honeywell and supported by the Commission investigative attorney (IA). On February 4, 2002, the ALJ issued Order No. 61, a portion of which was an ID granting Hyosung's motion for summary determination of no infringement, and a portion of which was an order denying Hyosung's motion as to patent invalidity. The ALJ found that respondents had failed to prove by clear and convincing evidence that the claims at issue of the "976 patent were invalid due to indefiniteness, lack of enablement, or failure to provide an adequate written description. Respondents filed a petition for review of the ID on February 19, 2002. Complainant and the IA filed appeals of the order denying summary determination on the same date.

On March 21, 2002, the Commission determined to review only the ALJ's decision on the issue of indefiniteness under 35 U.S.C. 112, second paragraph. The issues not under review became the Commission's final determination under Commission rule 210.42(h)(2).

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 190, as amended, 19 U.S.C. 1337, and in sections 210.24 and 210.45 of the Commission's Rules of Practice and Procedure, 19 CFR 210.24, 210.45.

By order of the Commission.

Issued: May 17, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12880 Filed 5–22–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–015]

Sunshine Act Meeting

Agency Holding the Meeting: United States International Trade Commission.

Time and Date: June 3, 2002 at 2 p.m.

Place: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

Status: Open to the public.

Matters To Be Considered:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–1006–1009 (Preliminary) (Urea Ammonium Nitrate from Belarus, Lithuania, Russia, and Ukraine)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on June 3, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before June 10, 2002.)
5. Outstanding action jackets:

(1) Document No. EC–02–005: Approval of final report in Inv. No. 332–325 (The Economic Effects of Significant U.S. Import Restraints: Third Update).

(2) Document No. GC–02–057: Concerning Inv. Nos. 731–TA–919–920 (Final) (Certain Welded Large Diameter Line Pipe from Japan and Mexico).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: May 20, 2002.

By order of the Commission:

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–13117 Filed 5–21–02; 2:13 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Partial Consent Decree ("Decree") in *United States* v. *Centel Corporation, et al.*, Civil Action No. 02–4090 was lodged with the United States District Court for the District of South Dakota on May 9, 2002.

The Decree resolves the United States' claims against the City of Sioux Falls, South Dakota (the City) under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 106 and 107, Section 311 of the Clear Water Act (CWA), 33 U.S.C. 1321, and Section 1002 of the Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2702, for past and future response costs incurred at the Fawick Park site in Sioux Falls, South Dakota. The Decree requires the City to provide the United States with access to the Site and to waive any claims it might have against the United States relating to removal activities at the Site. The Decree does not, however, require the City to pay any response costs to the United States.

The Department of Justice will accept written comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication . Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Centel Corporation, et al.*, Civil Action No. 02–4090, D.J. Ref. 90–5–1–1–07686/1.

The Consent Decree may be examined at the Office of the United States Attorney for the District of South Dakota, 230 South Phillips, Suite 600, Sioux Falls, South Dakota 57104, and at U.S. EPA Region VIII, 999 Eighteenth Street, Suite 500, Denver, Colorado 80202–2466. A copy of the Consent Decree may also be obtained by mail from the Consent Decree, Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by fax from Tonia Fleetwood, fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $3.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–12876 Filed 5–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that, on May 13, 2002, a proposed Stipulation of Settlement and Order of Dismissal (the Stipulation and Order) in *United States, Allegheny County Health Department and Group Against Smog and Pollution* v. *LTV Steel Company, Inc. (LTV Steel-Pittsburgh)*, Civil No. 98–570 (W.D. Pa.), and *United States* v. *LTV Steel Company, Inc. (LTV Steel-Cleveland)*, Civil No. 1: 98CV3012 (N.D. Ohio), was lodged with the United States District Courts in the Western District of Pennsylvania and the Northern District of Ohio.

The Stipulation and Order resolves claims for civil penalties pursuant to the Clean Air Act arising out of the past operation of LTV Steel facilities in Pittsburgh and Cleveland. Pursuant to the Stipulation and Order, the parties stipulate and agree to entry of a judgment in the LTV Steel-Pittsburgh case as specified below:

a. $3,450,000 in civil penalties to the United States;

b. $2,300,000 in civil penalties to the Allegheny County Health Department; and

c. $100,000 in favor of the Group Against Smog and Pollution (GASP) for an environmental project developed by the Hazelwood Initiative to rejuvenate the Hazelwood, Pennsylvania community;

and in LTV Steel-Cleveland for $1.25 in civil penalties to the United States. On December 29, 2000, LTV Steel filed for bankruptcy protection in In re: LTV Steel Company, Inc. (the LTV Bankruptcy), Bankruptcy No. 00–43866 (N.D. Ohio). The Stipulation and Order also provides that plaintiffs shall have allowed general unsecured claims against LTV Steel for the amounts specified above and that LTV Steel will use its best efforts to obtain approval by the Bankruptcy Court of its entry into the Stipulation and Order. Because of the pendency of the LTV Bankruptcy, it is unclear whether the specified amounts will be available after payments to other, secured creditors.

For thirty (30) days following this publication, the Department of Justice will receive comments relating to the proposed Stipulation and Order. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, United States Department of Justice, Post Office Box 7611, Washington, D.C. 20044–7611, and should refer to *United States, ACHD and GASP* v. *LTV Steel Company, Inc.*, Civil No. 98–570 (W.D. Pa.), and *United States* v. *LTV Steel Company, Inc.*, Civil No. 1: 98CV3012 (N.D. Ohio), DOJ nos. 90–5–2–1–2193 and 90–7–1–919. Alternatively, because of potential mail delays associated with recent events, comments may be sent by facsimile to (202) 514–4180, with attention to the Environmental Enforcement Section.

The Stipulation and Order may be examined at the offices of the United States Attorney for the Western District of Pennsylvania, 633 U.S. Post Office and Courthouse, Pittsburgh, Pennsylvania 15219, and the offices of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue, East, Cleveland, Ohio 44114–2600. A copy of the Stipulation and Order may be obtained by mail from the United States Department of Justice Consent Decree Library, Post Office Box 7611, Washington, D.C. 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please reference the Stipulation of Settlement and Order of Dismissal in *United States, ACHD and GASP* v. *LTV Steel Company, Inc.*, Civil No. 98–570 (W.D. Pa.), and *United States* v. *LTV Steel Company, Inc.*, Civil No. 1: 98CV3012 (N.D. Ohio), DOJ nos. 90–5–2–1–2193 and 90–7–1–919, and enclose a check made payable to the United States Treasury in the amount of $3.75 (25 cents per page reproduction cost).

Bruce S. Gelber,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 02–12877 Filed 5–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed partial consent decree in *United States and State of California* v. *Oil & Solvent Process Company, Chemical Waste Management, Inc., Fairchild Holding Corporation, and R. H. Peterson Company*, Consolidated Cases: CV 98–0760, CV 97–8230, CV 96–6634 TJH was lodged on April 22, 2002, with the United States District Court for Central District of California. The proposed Consent Decree would resolve certain claims against Oil & Solvent Process Company, Chemical Waste Management, Inc., and R. H. Peterson Company under Sections 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9606 & 9607, as amended brought against all of the above captioned defendants to recover response costs incurred by the Environmental Protection Agency in connection with the release of hazardous substances at the San Gabriel Valley Superfund Sites, Suburban Operable Unit ("Site") in Los Angeles, California. The United States alleges that Settling Defendants are liable as persons who currently own or owned a portion of the Site at the time of disposal of a hazardous substance. Under the proposed partial Consent Decree, the Settling Defendants will pay $950,000, of which $47,500 will be paid to the State of California and $902,500 will be paid to the Hazardous Substances Superfund to reimburse the United States for response costs incurred and to be incurred at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20530, and should refer to *United States and State of California* v. *Oil & Solvent Process Company, Chemical Waste Management, Inc., Fairchild Holding Corporation, and R. H. Peterson Company.*, Consolidated Cases: CV 98–0760, CV 97–8230, CV 96–6634 TJH, DOJ Ref. # 90–11–3–1691.

The Consent Decree may be examined at the Region 9 Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105 and the United States Attorney's Office for the Central District of California, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012 c/o Assistant United States Attorney Suzette Clover. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, Post Office Box 7611, Washington, D.C. 20044. In requesting copies please refer to the referenced case and enclose a check in the amount of $12.00 (25 cents per page reproduction costs), payable to the United States Treasury.

Ellen Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–12875 Filed 5–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day notice of information collection under review: Reinstatement, without change, of a previously approved collection for which approval has expired; Crime Victim Compensation State Certification Form.

The Department of Justice, Office of Justice Programs, Office of Victims of Crime, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 22, 2002.

If you have written comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact

Jeff Kerr, Program Specialist, 202–616–3581, Department of Justice, Office of Justice Programs, Office for Victims of Crime, 810 7th Street, NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information of those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Crime Victim Compensation State Certification Form.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is OJP Administrative Form 7390/5, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local and Tribal Governments. The Victim of Crime Act (VOCA) as amended and the Victim Compensation Program Guidelines require each crime victim compensation program to submit an annual Crime Victim Compensation Certification Form. Information received for each program will be used to calculate the annual formula/block grant amount for the VOCA state crime victim compensation programs. The information is aggregated and serves as supporting documentation for the Director's biennial report to the Congress.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 54 respondents will each complete a one hour annual report.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 54 total hour burden associated wit this collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW., Washington, DC 20530;

Dated: May 17, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–12900 Filed 5–22–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request; Correction

May 15, 2002.

On Monday, May 5, 2002, the Department of Labor (DOL) published a notice in the **Federal Register** (67 FR 30400, May 6, 2002) announcing an opportunity to comment on an information collection request (ICR) that was submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The notice announced an opportunity to comment on the ICR for ESA's OFCCP Recordkeeping and Reporting Requirements—Supply and Service (OMB control number 1215–0072).

The corrections are as follows:

On page 30400 in the table, the average hours per response for Standard Form 100, should read "3.7" instead of "3.8".

On page 30400, column one, the Total Burden Hours should read "9,967,675" instead of "9,967.675"

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–12956 Filed 5–22–02; 8:45 am]

BILLING CODE 4510–CM–M

DEPARTMENT OF LABOR

Office of the Secretary

Combating Child Labor Through Education in Bolivia and Peru

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for Cooperative Agreement Applications (SGA 02–04).

SUMMARY: The U. S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), will award up to US $3 million through a cooperative agreement(s) to an organization or organizations to develop and implement educational and vocational programs as a means to combat the worst forms of child labor as defined in International Labor Organization (ILO) Convention No. 182. The programs, to take place in the Department of Potosí in Bolivia and the Department of Puno in Perú, should complement as appropriate USDOL-funded child labor programs being implemented by the ILO's International Program on the Elimination of Child Labor (IPEC) in artisan mining communities. ILAB is seeking applications from qualified organizations for implementation of an educational initiative to improve access to basic quality education for children working or at risk of working. The programs should include components of awareness raising, teacher training, development and distribution of locally relevant educational materials, vocational training, institutional strengthening, and mobilization of resources for education. Applicants may submit applications for implementation in one or both countries.

DATES: The closing date for receipt of applications is July 9, 2002. Applications must be received by 4:45 p.m. (Eastern Time) at the address below. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted.

ADDRESSES: Application forms will not be mailed. They are published in this **Federal Register** Notice, and in the **Federal Register** that may be obtained from your nearest U.S. Government office or public library or online at *http://www.nara.gov/fedreg/nfpubs.html.*

Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW, Room N–5416, Attention: Lisa Harvey, Reference: SGA 02–04, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted, however, the applicant bears the responsibility for timely submission.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey. E-mail address: All applicants are advised that U.S. mail delivery in the Washington, DC area has been slow and erratic due to the recent concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application by contacting Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free number), prior to the closing deadline. All inquiries should reference SGA 02–04. See Section III.C for additional information.

SUPPLEMENTARY INFORMATION: The Bureau of International Labor Affairs, USDOL, announces the availability of funds to be granted by cooperative agreement to one or more qualifying organizations for the purpose of preventing and combating the worst forms of child labor through primary, secondary, and/or vocational education in Bolivia and Perú. The cooperative agreement(s) will be managed by ILAB's International Child Labor Program (ICLP) through its Child Labor Education Initiative (EI), to assure achievement of the stated goals. Applicants are encouraged to be creative in proposing cost-effective interventions that will have a demonstrable impact in improving education for children working or at risk of working in the target areas.

I. Background and Program Scope

A. USDOL Global Support to Eliminate Child Labor and Expand Access to Education

Since 1995 as mandated by the U.S. Congress, USDOL has supported a worldwide technical assistance program implemented by the International Labor Organization's International Program on the Elimination of Child Labor (ILO/IPEC). Recently, funding has gone to assist countries in the implementation of ILO Convention 182 on the Worst Forms of Child Labor. USDOL/ILAB contributions to date to ILO/IPEC have amounted to some US $112 million, making the United States the program's largest donor and a leader in global efforts to combat child labor. In USDOL's FY 2001 and FY 2002 appropriations, in addition to US $90 million in funds earmarked for ILO/IPEC, ILAB received US $74 million for EI that will fund programs to increase access to quality, basic education in areas with a high incidence of child labor. The cooperative agreement(s) awarded under this solicitation will be funded by this new initiative.

ILAB's EI nurtures the development, health, safety and enhanced future employability of children around the world by increasing access to basic education for children removed from child labor or at risk of entering it. Child labor elimination will depend in part on improving access to, quality of, and relevance of education. Without improving educational quality and relevance, children withdrawn from child labor may not have viable alternatives and could resort to other forms of hazardous work.

The Child Labor Education Initiative has the following four goals:

1. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;

2. Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school;

3. Strengthen national institutions and policies on education and child labor; and

4. Ensure the long-term sustainability of these efforts.

B. USDOL/ILAB Efforts to Combat Child Labor in Bolivia and Peru

In 2000, USDOL/ILAB, through ILO/IPEC, funded the *Program to Prevent and Progressively Eliminate Child Labor in Small-scale Traditional Gold Mining in South America* (hereafter referred to as "ILAB/IPEC South America Small-scale Mining Project"—see Appendix E) that includes Perú and Bolivia as implementing countries. The project targets mining, a worst form of child labor as defined by ILO Convention No.182, because it harms the health and safety of children under 18. In determining the types of work likely to harm the health and safety of children, ILO Convention No. 182 considers work that exposes a child to physical abuse; work underground, underwater, at dangerous heights or in confined workplaces; work with dangerous machinery, equipment and tools or handling or transporting heavy loads; work in an unhealthy environment including exposure to hazardous substances, agents or processes, or to temperatures, noise levels or vibrations damaging to the health; and work for long hours or night work where the child is unreasonably confined to the premises.

A second phase of the ILAB/IPEC South America Small-scale Mining project is planned, but not yet confirmed. At this time, the applicant is not required to account for this project in the application, however, USDOL/ILAB reserves the right to modify any project which may duplicate the second phase of this ILAB/IPEC project.

The education activities that would be undertaken by the applicant awarded the cooperative agreement (hereafter referred to as "Grantee") need to address the major obstacles and gaps that currently serve as barriers to the education of children living in the areas of the ILAB/IPEC South America Small-scale Mining Project. In addressing the obstacles and barriers to quality basic education, the Grantee will work within the parameters of the broader implementing environment including the national educational reforms operating in each country (described in more detail in Appendices C and D). In preparing responses to this solicitation, applicants should show a thorough understanding of the realities and constraints operating in the mining communities that are being targeted.

In Bolivia, the education program funded under this cooperative agreement should build on activities begun by the USDOL-funded ILAB/IPEC project in the Department of Potosí, in the communities of Llallagua and Potosí. This area has been chosen because it has the largest known concentration of children working in mine-related activities. The 1992 National Census projected that in 1998 there would be approximately 124,000 inhabitants in the city of Potosí, more than 35,000 (29 percent) of which belong to the local mining community (*Study on Cerro Rico*, Potosí, 2001). Of these 35,000, more than 6,000 are children involved in mine-related labor, but exact data on their school attendance or educational needs are not fully known. The same study shows that Potosí has a 51 percent level of poverty, which is above the national average. In the mining areas, the poverty level is significantly higher.

In Perú, the focus should be in the Department of Puno, Province of San Antonio de Putina, in the district of Ananea and the surrounding mining communities of Ananea/La Rinconada/Cerro Lunar, and selected areas in the districts of Putina and/or Sandia. The project should build on activities begun by the USDOL-funded ILAB/IPEC project in La Rinconada. Some of the communities are located at an altitude of 5,400 meters (17,550 feet), and the Grantee will be confronted with limited services and a challenging work environment. This area has been chosen because it has one of the largest populations of child miners in the country. It is estimated that there are 26,264 children working in gold mining in the Ananea area of Puno where several mining communities are located

(Piazza, *Children Working in Small-scale Traditional Gold Mining in Perú, 2001*). It is also estimated that of approximately 5,000 children living in La Rinconada, only about 1,000 attend school.

C. Barriers to Quality Education for Child Laborers

Experts agree that improvements in the quality of education are an essential component in the variety of interventions that can be successful in eliminating child labor. Whereas the USDOL-funded ILAB/IPEC project aims to address many of the *causes of child labor*, the activities funded under this solicitation should complement and supplement them by addressing the numerous *barriers to education* confronted by the children. Although ongoing efforts exist in Bolivia and Perú to withdraw current and prevent future generations of children and adolescents from leaving school and entering the work force (see Appendices C and D), many of these efforts are isolated, or fail to directly address the needs of the children targeted by this project. Most of these barriers are common to both countries, and they have been categorized relative to the broad goals of the Child Labor Education Initiative.

1. Insufficient awareness on the importance of education for all children and inadequate mobilization of a wide array of actors to improve and expand education infrastructures

There are a number of barriers and challenges in efforts to raise awareness which include:

- Parents/families in the Andean highlands, often as a byproduct of cultural beliefs and societal norms, view work as a better option than school. This view can become more ingrained when the quality of education is poor, classes are irrelevant and few alternative recreational opportunities exist for children.
- Teachers, health providers and authorities often do not understand the social, educational, nutritional, emotional, and/or health needs of child laborers. If these needs were satisfied, children would have more of a chance to attend school.
- Child labor laws are not known and therefore not enforced. In addition, some children believe in the need and the right to work as minors, and have organized to demand better working conditions.

2. Low quality formal and transitional education systems that discourage working children and those at risk of working from attending school

The low quality of education found in project target areas is a result of many factors. These include:

- Poorly trained, poorly paid and poorly motivated teachers with little understanding of the realities of working children.
- Curricula that are irrelevant to children living in these regions.
- Lack of learning and teaching materials.
- Limited budget earmarks for education.
- Poor educational infrastructure in remote rural areas such as those of this project.
- Lack of understanding by teachers of the goals and strategies of education reform, and/or lack of willingness of teachers to accept it.
- Few opportunities for vocational education and training, particularly for adolescents and families of adolescents working in the worst forms of child labor. In addition, existing vocational training programs are not always based on an analysis of future employment opportunities.

3. Inadequate National Institutions and Policies on Education and Child Labor

There are a number of gaps that contribute to the weaknesses of institutions. These in turn affect the quality of implementation of policies and/or programs on education and child labor. Institutional and policy constraints include:

- Lack of national, departmental and local level data/information on the extent/nature of child/adolescent labor. The collection of reliable data is hampered by differing definitions of what constitutes work, limited candor in discussing a sensitive topic, and limited funds and/or political will for in-depth studies.
- Lack of baseline information on education achievement and needs of child/adolescent labor population in target areas. For example, the link between child labor, formal school dropout, and access to and attendance in non-formal school is still not well understood. Studies to date on working and night school students present contradictory evidence. A study conducted by UNICEF in 2001, *La Escuela Nocturna: Educación Nocturna para Niños y Adolescentes en El Alto* (Night School: Night Education for Children and Adolescents in El Alto), found, contrary to expectation that only about 56% of students were working, while Gottret, *et al.*, in *La Escuela: Educación para niños y adolescentes trabajadores en Bolivia* (A study on education for children and adolescent workers in Bolivia), reported that 80% of night school students were working.
- Lack of methods to gauge the educational achievement of working children.
- Lack of information on community demographics, which limits local officials in their ability to program and distribute scarce budget resources for many social services including education. Additions to existing infrastructure or teacher appointments are often denied by regional authorities that maintain that the need is non-existent or smaller than that estimated by local residents.
- Missing linkages between health and education services. Children who go to school hungry have trouble concentrating on their lessons, and children who work in mine-related labor face specific threats and side-effects to their health that are not being addressed (including exposure to mercury, dust, and damp and cold working spaces) and the possible effect of these exposures to their cognitive development and educational performance.
- Community institutions have inherent weaknesses that hamper their effectiveness or potential impact. For example, school committees have proven to be good at making improvements to education infrastructure but have not developed any expertise in the area of oversight and monitoring of quality education.
- Inexperienced municipal organizations are becoming increasingly responsible for making education-related decisions as education decentralization strategies take hold. With little prior experience or training, decisions are often not cost-effective or do not follow good educational principles.

4. Challenges to Achieving Long-Term Sustainability of Efforts

Sustainability is ultimately linked to project impact and the ability of individuals, communities and a nation to ensure that the activities or changes implemented by a project endure. A project's impact is manifested at the level of individuals, organizations, and systems. For individual children and their families this would mean a positive and enduring change in their life conditions as a result of project interventions. At the level of organizations and systems, sustained impact would involve continued commitment and ability (including financial commitment and policy change) to continue the actions generated by the project as long as they are still needed, including enforcement of existing policies that target child labor and school attendance. In both Bolivia and Peru, there are a number of factors that affect the ability of a project to achieve sustainable impact at these multiple levels:

- Poverty of families and lack of other income alternatives to child labor.
- Insufficient organizational commitment due to lack of skills, resources or ability to raise resources.
- Lack of enforcement of child labor and education laws, and related policy reforms.
- Low levels of exchange and use of "lessons learned" from current and previously implemented projects.

II. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Act, 2001, Public Law 106–554, 114 Stat. 2763A–10 (2000).

III. Application Process

A. Eligible Applicants

Any commercial, international or non-profit organization capable of successfully developing and implementing education programs for child laborers or children at risk is eligible to apply for this cooperative agreement(s). Partnerships of more than one organization are also eligible, and applicants are strongly encouraged to work with organizations already undertaking projects in Bolivia and Perú, including local NGOs and faith-based organizations (see Appendices C and D). The capability of an applicant or applicants to perform necessary aspects of this solicitation will be determined under Section V.B Rating Criteria.

Please note that eligible cooperative agreement applicants must not be classified under the Internal Revenue Code as a 501(c)(4) Entity. See 26 U.S.C. 501(c)(4). According to section 18 of the Lobbying Disclosure Act of 1995, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities, will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) ink-signed original, complete application in English per country plus two (2) copies of the application(s), must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW, Room N–5416, Washington, DC 20210, not later than 4:45 p.m. ET, July 9, 2002. Accompanying documents must also be in English. To aid with review of applications, USDOL also encourages applicants to submit two (2) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

An application for each country must consist of two (2) separate parts. Part I of an application must contain the Standard Form (SF) 424, "Application for Federal Assistance" (Appendix A) (The entry on SF 424 for the Catalog of Federal Domestic Assistance Number [CFDA] is 17.700) and sections A–F of the Budget Information Form SF 424A (Appendix B). Part II must contain a technical application that demonstrates capabilities in accordance with the Statement of Work and the selection criteria.

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 25 single-sided (8½ inches x 11 inches), double-spaced, 10 to 12 pitch typed pages per country, for which a response is submitted. *ANY APPLICATIONS THAT DO NOT CONFORM TO THESE STANDARDS MAY BE DEEMED NON-RESPONSIVE TO THIS SOLICITATION AND MAY NOT BE EVALUATED.* Standard forms and attachments are *not* included in the page limit. Each application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. These pages are also *not* included in the page limits. Additional supporting materials should also be in English.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 4:45 pm EST, July 9, 2002, will not be considered unless it is received before the award is made and:

1. It was sent by registered or certified mail not later than the fifth calendar day before July 9, 2002;
2. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or
3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to July 9, 2002.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation "bull's-eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation "bull's-eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted, however, the applicant bears the responsibility for timely submission. Because of delay in the receipt of mail in the Washington, DC area, it is recommended that you confirm receipt of your application by contacting Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free number), prior to the closing deadline. All inquires should reference SGA 02–04.

D. Funding Levels

Up to US $3 million is available for implementation in the two countries, approximately US $1.5 million for Perú, and US $1.5 million for Bolivia. USDOL/ILAB will award up to two cooperative agreements, one for each country, but if one organization submits the best applications for both countries, then only one cooperative agreement will be awarded. An organization may apply for one or both projects. Partnerships of more than one organization may also apply to implement one or both programs.

E. Length of Cooperative Agreement Period

The duration of the program(s) funded by this SGA is four (4) years. The start date of program activities will be negotiated upon awarding of grant.

IV. Requirements

The applicant will propose innovative and cost-effective approaches that will meet the education needs of children living in the communities targeted by the project in each country. In proposing approaches, applicants should support the goals of USDOL/ILAB's EI: (1) Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures; (2) Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school; (3) Strengthen national institutions and policies on education and child labor; and (4) Ensure the long-term sustainability of these efforts.

Project key personnel should work closely with the ILO/IPEC's project manager of the USDOL-funded ILAB/IPEC project. The requirements listed below are the basis from which the Grantee(s) will develop a project document after award. In developing responses, applicants should take into account information available in Appendices C and D, and project documents and supporting documentation available on-line (and listed in Appendix E). Below is a listing of country-specific requirements to guide applicants in the development of responses to this solicitation.

A. Statement of Work

For each country which the applicant is submitting an application, the application should suggest approaches to address the barriers to quality education for child laborers identified in Section I.C above, while taking into account the implementing environment and resources available from programs or activities already existing in the country. Activities in general should not duplicate existing efforts in target communities but rather, should complement them. Also, the education activities proposed in this solicitation should coordinate closely with and complement, but not duplicate, activities of the ILAB/IPEC South America Small-scale Mining Project in Bolivia and Perú.

Bolivia

The EI project should build on initial work done by ILO/IPEC in Potosí and Llallagua. The applicant should propose creative and innovative approaches to improve access, quality, and relevance of education for working children, especially child/adolescent miners and children at risk of working in mining-related activities in the Department of Potosí.

The proposed project should aim to improve education access and quality. Project interventions should try to increase enrollment and attendance in target schools, reduce dropout rates, and increase promotion to the next grade. The project could include a number of interventions such as awareness raising, school management/teacher training, school committee strengthening, and educational materials to target schools in rural areas (see Appendix C for implementing environment in Bolivia).

Because of the limited resources available to this project, the applicant might consider improving the quality of night schools in the Department of Potosí, where most working children/adolescents who study receive their education. At the same time, the applicant is encouraged to suggest other ways to improve educational quality for this target population.

In developing proposed project interventions, where relevant, applicants may consider suggesting innovative approaches to work with local communities, faith-based organizations, and governmental organizations at the local and national level.

Perú

The applicant should propose creative and innovative approaches to improve access, quality, and relevance of primary and secondary education for working children, especially child/adolescent miners and children at risk of working in mining in the Department of Puno in the area surrounding the mining communities of Ananea/La Rinconada/Cerro Lunar and including selected schools in the districts of Putina and/or Sandia. Project interventions should increase enrollment and attendance in target schools, reduce dropout, and increase promotion.

The applicant should suggest a strategy and logistics for improving the quality of education in the target mining communities and other nearby rural communities in the Department of Puno. The application should elaborate on how schools will be selected, how collaboration with local educational authorities will be undertaken, and the number of teachers to be included in the intervention. Target schools should be strategically selected to balance the project's goal of making sustainable improvements in the quality of education for working children. By the end of the project, improvements in the achievement levels of students in target schools should be evident in scores on standardized (preferably Ministry of Education) achievement tests.

In developing interventions, where relevant, applicants may consider suggesting innovative approaches to work with local communities, faith-based organizations, and governmental organizations at the local and national level.

B. Deliverables

Unless otherwise indicated, the Grantee(s) must submit copies of all required reports to ILAB by the specified due dates.

1. *Project Designs.* A project document in a format to be established by ILAB in the logical framework format will be used, and will include a background/justification section, project strategy (objectives, outputs, activities, indicators, means of verification), project implementation timetable and project budget. The project design will be drawn from the application written in response to this solicitation. The document will also include sections that address coordination strategies, project management and sustainability. The time for delivery of this document will be negotiated at the time of the award.

2. *Technical and Financial Progress Reports.* The Grantee(s) must furnish a typed technical report to ICLP on a quarterly basis by 31 March, 30 June, 30 September, and 31 December. The Grantee must also furnish a separate financial report (SF 272) to ICLP on the quarterly basis mentioned above. The format for the technical progress report will be the format developed by ICLP and must contain the following information:

a. For each project objective, an accurate account of activities carried out under that objective during the reporting period;

b. An accounting of staff and any subcontractor hours expended;

c. An accounting of travel performed under the cooperative agreement during the reporting period, including purpose of trip, persons or organizations contacted, and benefits derived;

d. A description of current problems that may impede performance, and proposed corrective action;

e. Future actions planned in support of each project objective;

f. Aggregate amount of costs incurred during the reporting period, and

g. Progress on indicators (to be reported annually).

3. *Annual Work Plan.* An annual work plan will be developed within 2 months of project award and approved by ILAB so as to ensure coordination with other relevant government and social actors in the two countries. Subsequent annual work plans will be delivered no later than one year after the previous one.

4. *Monitoring and Evaluation Plan.* A monitoring and evaluation plan will be developed, in collaboration with ILAB, including beginning and ending dates for the project, planned and actual dates for mid-term review, and final end of project evaluations. The monitoring plan will be prepared after completion of baseline surveys, including revision of indicators provided in project document, targets, and means of verification. Progress on indicators will be reported semi-annually.

5. *Evaluation Reports.* The Grantee(s) and the Grant Officer's Technical Representative (GOTR) will determine on a case-by-case basis whether mid-term evaluations will be conducted by an internal or external evaluation team. All final evaluations will be external in nature. The Grantee(s) must respond to any comments and recommendations resulting from the review of the mid-term report.

C. Production of Deliverables

1. *Materials Prepared Under the Cooperative Agreement.* The Grantee(s) must submit to ILAB all media-related and educational materials developed by it or its sub-contractors before they are reproduced, published, or used. ILAB considers that education materials include brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the program. ILAB will review materials for technical accuracy. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this cooperative agreement. All materials produced by Grantee(s) must be provided to ILAB in a digital format for possible publication by ILAB.

2. *Acknowledgment of USDOL Funding.* In all circumstances the following must be displayed on printed materials:

"Preparation of this item was funded by the United States Department of Labor under Cooperative Agreement No. E–9–X–X–XXXX."

When issuing statements, press releases, requests for applications, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds, including State and local governments and recipients of Federal research grants, must clearly state:

a. The percentage of the total costs of the program or project, which will be financed with Federal money;

b. The dollar amount of Federal funds for the project or program; and

c. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

In consultation with ILAB, USDOL's role will be identified as one of the following:

a. The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) will consult with USDOL on whether the logo should be used on any such items prior to final draft or final preparation for distribution. In no event will the USDOL logo be placed on any item until USDOL has given the Grantee(s) written permission to use the logo, after obtaining appropriate internal USDOL approval for use of the logo on the item.

b. If ILAB determines the logo is not appropriate and does not give written permission, the following notice must appear on the document:

"This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government."

D. Administrative Requirements

1. *General.* Grantee organizations are subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. The cooperative agreement(s) awarded under this SGA are subject to the following administrative standards and provisions, if applicable:

29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

29 CFR Part 93—New Restrictions on Lobbying.

29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 98—Federal Standards for Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants).

29 CFR Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

2. *Sub-contracts.* Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928 and 13021 as amended, the Grantee(s) is strongly encouraged to provide sub-contracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

3. *Key Personnel.* The applicant shall list individual(s) who has (have) been designated as having primary responsibility for the conduct and completion of all work in project(s) it proposes (see Section V.B.3). The applicant will submit written proof that key personnel will be available to begin work on the project no later than three weeks after award. The Grantee(s) agrees to inform the (GOTR) whenever it appears impossible for these individual(s) to continue work on the project as planned. The Grantee(s) may nominate substitute personnel and submit the nominations to the GOTR; however, the Grantee(s) must obtain prior approval from the Grant Officer for all key personnel. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the cooperative agreement.

4. *Encumbrance of Cooperative Agreement Funds.* Cooperative agreement funds may not be encumbered/obligated by the Grantee(s) before or after the cooperative agreement period of performance. Encumbrances/obligations outstanding as of the end of the cooperative agreement period may be liquidated

(paid out) after the end of the cooperative agreement period. Such encumbrances/obligations shall involve only specified commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee(s) purchasing procedures and incurred within the cooperative agreement period. All encumbrances/obligations incurred during the cooperative agreement period shall be liquidated within 90 days after the end of the cooperative agreement period, if practicable.

5. *Site Visits.* USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee(s) or a sub-contractor(s) under this cooperative agreement(s), the Grantee(s) shall provide and shall require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations shall be performed in a manner that will not unduly delay the work.

V. Review and Selection of Applications for Grant Award

A. The Review Process

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A technical panel will objectively rate each complete application against the criteria described in this announcement. Applicants are advised that the panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select a Grantee(s) on the basis of the initial application submission; or, the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of applications, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make final selection determination based on what is most advantageous to the Government, considering factors such as: Panel findings and the availability of funds. The Grant Officer's determination for award under this SGA 02–04 is final.

Note: Selection of an organization as a cooperative agreement recipient does not constitute approval of the cooperative agreement application as submitted. Before the actual cooperative agreement is awarded, ILAB will enter into negotiations about such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

B. Rating Criteria and Selection

The technical panel will review applications against the various criteria on the basis of 100 points with an additional five points available for non-federal or leveraged resources.

The factors are presented in the order of emphasis that they will receive.

1. Approach, Understanding of the Issue, and Budget Plan (40 points)

a. *Overview.* This section of the application must explain:

(1) The applicant's proposed innovative methods for performing all the specific areas of work requirements presented in this solicitation.

(2) The expected outcomes over the period of performance for each of the tasks; and

(3) The approach for producing the expected outcomes.

The applicant should describe in detail the proposed approach to comply with each requirement in Section IV.A of this solicitation, including all tasks and methods to be utilized to implement the project. Also, the applicant should explain the rationale for using this approach. In addition, this section of the application should demonstrate the applicant's thorough knowledge and understanding of the issues involved in providing education to working children; best-practice solutions to address their needs; and the implementing environment in Bolivia and/or Perú.

b. *Implementation Plan.* The applicant should submit an implementation plan, preferably with a visual such as a Gantt chart, for the project. The implementation plan must list the outcomes, objectives and activities during the life of the project, and scheduling of time and staff starting with the execution of the cooperative agreement and ending with the final report. In describing the implementation plan, the applicant should address the following points:

(1) Describe the use of existing or potential infrastructure and use of qualified personnel, including qualified nationals, to implement the project. The applicant also should include a project organizational chart, demonstrating management structure, key personnel positions, and indicating proposed links with Government, civil society leaders, educators, and other significant local actors.

(2) Develop a list of activities and explain how each relates to the overall development objective of reducing child labor through education.

(3) Explain how appropriate awareness raising, training, and pedagogic materials will be developed.

(4) Demonstrate how the applicant will strengthen national institutions and policies on education and combating child labor.

(5) Demonstrate how the applicant would systematically report on project performance to measure the achievement of the project objective(s).

(6) Demonstrate how the applicant would build national and local capacity to ensure that project efforts to reduce child labor and the effects of child labor through the provision of education are sustained after completion of the project.

c. *Budget Plan.* Develop a country-specific budget of up to US $1.5 million for the Bolivia project and US $1.5 million for the Peru project. This section of the application must explain the costs for performing all of the requirements presented in this solicitation and for producing all required reports and other deliverables presented in this solicitation; costs must include labor, equipment, travel, and other related costs. Preference may be given to applicants with lower administrative costs.

d. *Management and Staff Loading Plan.* This section also must include a management and staff-loading plan. The management plan is to include the following:

(1) A project organization chart and accompanying narrative which differentiates between elements of the applicant's staff and sub-contractors or consultants who will be retained;

(2) A description of the functional relationship between elements of the project's organization;

(3) The identity of the individual responsible for project management and the lines of authority between this individual and other elements of the project; and

(4) A description of how the implementation plan will be integrated into and support the projects being financed by USDOL through ILAB/IPEC.

The staff-loading plan must identify all key tasks and the person-days required to complete each task. Labor estimates for each task must be broken down by individuals assigned to the task, including subcontractors and consultants. All key tasks must be charted to show time required to perform them by months or weeks.

This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation.

2. Experience and Qualifications of the Organization (35 points)

The evaluation criteria in this category are as follows:

a. The applicant has international experience in the Latin American region implementing basic and vocational education programs that address issues of access and quality for disadvantaged children including working children. The applicant should provide ILAB with a listing of all its offices in the region and country or how the applicant plans to establish the necessary field presence for the projects.

b. The applicant must show ability to support a field office through infrastructure, communication systems, technical assistance, and other systems that enhance capacity to perform in a difficult field environment. The applicant should also establish an office that gives it the capability to work directly with government ministries, educators, civil society leaders, and other local organizations, *e.g.*, community-based or faith-based groups; the applicant can document that it has already established relations of this nature in the target country or can show that it has the capacity to readily establish such relations.

The application should include information about previous grants or contracts relevant to this solicitation including:

a. The organization for which the work was done;

b. A contact person in that organization with their current phone number;

c. The dollar value of the grant, contract, or cooperative agreement for the project;

d. The time frame and professional effort involved in the project;

e. A brief summary of the work performed; and

f. A brief summary of accomplishments.

This information on previous grants and contracts shall be provided in appendices and will not count in the 25-page maximum page requirement.

3. Experience and Qualifications of Key Personnel (25 points)

This section of the application must include sufficient information to judge the quality and competence of staff proposed to be assigned to the project to assure that they meet the required qualifications. Successful performance of the proposed work depends heavily on the qualifications of the individuals who will be working on this project. Accordingly, in its evaluation of the applicant's application, USDOL will place emphasis on the applicant's commitment of personnel qualified for the work involved in accomplishing the assigned tasks. Information provided on the experience and educational background of personnel must indicate the following:

a. The identity of key personnel assigned to the project. "Key personnel" are staff who are essential to the successful operation of the project and completion of the proposed work and, therefore, may not be replaced or have their hours reduced without the approval of the Grant Officer.

b. The educational background and experience of all staff to be assigned to the project.

c. The special capabilities of staff that demonstrate prior experience in organizing, managing and performing similar efforts.

d. The current employment status of staff and availability for this project. The applicant must also indicate whether the proposed work will be performed by persons currently employed or is dependent upon planned recruitment or subcontracting. Note that management and professional technical staff members comprising the applicant's proposed team should be individuals who have prior experience with organizations working in similar efforts, and are fully qualified to perform work specified in the Statement of Work. Where sub-contractors or outside assistance are proposed, organizational control must be clearly delineated to ensure responsiveness to the needs of USDOL. Key personnel must sign letters of agreement to serve on the project, and indicate availability to commence work within three weeks of grant award.

The following information must be furnished:

a. The applicant must designate a regionally located Project Director for each country (Key Personnel) to oversee the project and be responsible for implementation of the requirements of the cooperative agreement in each country. The Project Director must have an FRS 4 written and spoken level of Spanish and English as translation/interpretation services are scarce in targeted communities. The Project Director must also have a minimum of three years of professional experience in a leadership role in implementation of complex education or training programs in developing countries in areas such as education policy; improving educational quality and access; teacher training and materials development; educational assessment of disadvantaged students; development of community participation in the improvement of basic education; and monitoring and evaluation of education or training (or similar) projects. Preferred candidates will also have knowledge of child labor eradication.

b. The applicant must also designate an Education Specialist (Key Personnel) who will provide leadership in developing the technical aspects of this project in collaboration with the Project Director. Given the scarce availability of translation/interpretation services in the targeted communities, this person must have at least an advanced working knowledge of Spanish and English. The Education Specialist must also have at least three years experience in basic education projects in developing countries in areas including student assessment, teacher training, educational materials development, educational management, and educational monitoring and information systems. This person must have experience in working successfully with ministries of education, networks of educators, employers' organizations and trade union representatives or comparable entities. Additional experience with child labor, psychosocial counseling, and education monitoring and evaluation is an asset.

c. The applicant must specify other personnel proposed to carry out the requirements of this solicitation.

d. The applicant must include a description of the roles and responsibilities of all personnel proposed for this project and a resume for each professional person to be assigned to the program. Resumes will be attached in an appendix. At a minimum, each resume must include: the individual's current employment status and previous work experience, including position title, duties performed, dates in position, and employing organizations and educational background. Duties must be clearly defined in terms of role performed, *e.g.*, manager, team leader, consultant, etc. It should be whether the individual is currently employed by the applicant, and (if so) for how long.

e. The applicant must indicate whether proposed personnel are currently employed by the organization or are dependent upon planned recruitment or sub-contracting. Note that management and professional technical staff members comprising the applicant's proposed team should be

individuals who have prior experience with organizations working in similar efforts, and are fully qualified to perform work specified in the Statement of Work. Where sub-contractors or outside assistance are proposed, organizational control must be clearly delineated to ensure responsiveness to the needs of USDOL.

4. Leverage of Funding (5 points)

The Department will give up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the dollar amount, size and scope of the application. Of special interest is an applicant(s)'s ability to provide school health and food assistance, and income-generation and/or credit or vocational education programs in support of adults in the families of target children, or for older children who complete education programs and are ready for self-employment. These programs will not be financed by the project, but can supplement and enhance project objectives. The applicant may include any leveraging or co-funding anticipated. To be eligible for the additional points in the criterion, the applicant must list the source(s) of funds, the nature, and possible activities anticipated with these funds under this cooperative agreement and any partnerships, linkages or coordination of activities, cooperative funding, etc.

Signed at Washington, DC, this 17th day of May, 2002.

Lawrence J. Kuss,

Grant Officer.

Appendix A: SF 424—Application Form
Appendix B: SF 424A—Budget Information Form
Appendix C: Implementing Environment in Bolivia
Appendix D: Implementing Environment in Perú
Appendix E: Background Material Available on the Web

Appendix A: SF 424 - Application Form.

APPLICATION FOR FEDERAL ASSISTANCE

APPENDIX "A"

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED / Applicant Identifier
	3. DATE RECEIVED BY STATE / State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY / Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name, telephone number and fax number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): □□-□□□□□□□	7. TYPE OF APPLICANT: (enter appropriate letter in box) □
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): □ □ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____	A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____

	9. NAME OF FEDERAL AGENCY:
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 00-000 TITLE:	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):	

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
a. Federal	$ .00	
b. Applicant	$ .00	
c. State	$ .00	
d. Local	$ .00	
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No
g. TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		
a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

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Appendix B: SF 424A—Budget Information Form

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

Note: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

Instructions for Part II—Budget Information

Section A—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid for project personnel which you are required to provide with W2 forms.

2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits.

3. *Travel:* Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.

4. *Equipment:* Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more. Also include a detailed description of equipment to be purchased including price information.

5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period.

6. *Contractual:* Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.

7. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. *Total, Direct Costs:* Add lines 1 through 7.

9. *Indirect Costs:* Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.

10. *Training /Stipend Cost:* (If allowable)

11. *Total Federal Funds Requested:* Show total of lines 8 through 10.

Section B—Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

Note: Please include a detailed cost analysis of each line item.

Appendix C: Implementing Environment in Bolivia

I. Legal Framework

Child Labor Laws

In Bolivia, children less than 14 years of age may not legally work except as apprentices. Children less than 18 years of age are prohibited from work that could retard their physical growth, that requires great strength, or that is dangerous (*Ley General del Trabajo, del 8 de diciembre de 1942, Decreto Supremo del 4 de agosto de 1940*).

Education Laws and Structure

As part of the education reform of 1994, compulsory education was defined as eight years and was divided into three cycles: three years of basic learning, three years of essential skills, and two years of applied learning. These cycles are for children of approximately six to 14 years of age. Pre-school education is not yet obligatory because the government is not in a position to offer it nationally. Among other things, the Law of Education Reform calls for the introduction of an intercultural focus at all levels of education and the application of a bilingual component. The reform has survived through three different administrations and is the first experience of continuity of any social policy in Bolivia. (For a more extensive review of the education reform, please see link to *UNESCO: Education For All Country Reports* in Appendix E).

The education system is decentralized and overseen by the following institutions:

- The *Prefectura* (Prefecture), as the representative of the central government, is responsible for hiring personnel at the district level.
- The *Servicio Departamental de Educación (SEDUCA) is under the control of the Prefectura* and is responsible for the administration of public education and the supervision of private education at the departmental level. The Director of *SEDUCA* is responsible for formulating the Departmental education plan, for supervising and evaluating district education directors, and for the completion of annual goals and objectives.
- The *Direcciones Distritales de los Municipios* (Municipal District Offices) are responsible for buildings and equipment.
- The *alcaldes* (mayors), supported by the *consejos municipales* (municipal councils), administer education at the local level.
- The *Direcciones de Núcleos Escolares* (Offices of School Networks) administer groups or networks of schools, organized according to geographic, cultural, and linguistic criteria, that include at least one school with all educational levels and are supported by one *asesor pedagógico*.
- The *Direcciones de Unidades Escolares* (Individual School Offices) administer individual schools.

For more information on the Bolivian education system, see Ministry of Education link in Appendix E.

II. Extent and Nature of Child Labor

Statistics

- In the most recent national census (1992), it was estimated that 32 percent of Bolivian children/adolescents between seven and 19 years of age were in the workforce. Twenty-nine percent of this group is located in cities and 71 percent in rural areas (*Plan Nacional de Acción por la Niñez y Adolescencia en situación de Riesgo en Bolivia 2001–2005*).
- More recently, the World Bank (*World Development Indicators* 2000 CD Rom, the World Bank, Washington DC, 2000) reported that 12.6 percent of Bolivian children ages 10–14 are working (although it is likely that the above figures underestimate the number of child laborers since most child labor takes place in the informal sector).
- For child/adolescent workers who work during the day, night schools have become one of the only educational alternatives. In 1997 there were 523 night schools in Bolivia, the majority of them (62.72 percent) concentrated in the country's three largest cities of La Paz, Cochabamba, and Santa Cruz.

Type of Work in Which Children Are Engaged

The worst forms of child labor in Bolivia have been identified as mining, commercial sexual exploitation, sugar cane harvest, Brazil nut harvest, and domestic work (in houses other than one's own) by children less than 14 years old.

III. Efforts

Government

Rural education has been designated a priority area in the education reform, and the *Ministerio de Educación, Cultura y Deportes's* (Ministry of Education, Culture and Sports') Plan Huascarán has promised to put computers and parabolic disks for Internet connection in 5,000 rural communities to help improve rural education in the most isolated areas.

The *Viceministro de Educación Alternativa* (Viceministry for Alternative Education), established by the reform (Law 1565), develops programs to benefit children and adolescents whose needs are not met by the formal education system. *Educación Juvenil Alternativa (EJA)* is in the process of developing a curriculum for *educación nocturna* (night school) that will respond to the needs and interests of the night school population, estimated to be 80 percent working and street children (Gottret, *et al., La Escuela: Educación para niños y adolescentes trabajadores en Bolivia).*

The Ministry of Labor (MOL) has expressed interest in working with other ministries to implement existing laws in the Labor Code in 2002 regarding adolescents between the ages of 14 and 17, including working with Bolivia's main technical training program (INFOCAL) and also including working children/adolescents in its departmental scope.

The *Comisión Interinstitucional para la Erradicación del Trabajo Infantil* (Interinstitutional Comisión for the Eradication of Child Labor), headed by the MOL, is composed of representatives from government institutions, civil society, and international organizations and is the author of a 10-year (2000–2010) plan for the progressive eradication of child labor. There is also a mining sub-committee made up of 15 institutions, eight of which participate regularly.

Preliminary national studies have been completed in three of the sectors considered to be worst forms: Mining, sugar cane, and Brazil nuts. Studies of two other worst forms, child sexual exploitation and domestic workers, are underway.

International Donors

The education reform is financed by World Bank and Inter-American Development Bank credit, and by donations and technical assistance from European donors. ILO/IPEC is implementing the USDOL Eradication of Child Labor in Artisan Gold Mining Project described in the context of the solicitation. UNICEF has conducted various child labor studies and has implemented awareness raising workshops in all departments. UNICEF also works in both basic and alternative education and has trained teachers in basic bilingual education.

International NGOs

CARE has worked in recent years on girls' education, developing a curriculum to make education more targeted to girls. They have also sponsored a Saturday program covering topics such as human rights, children's rights, and alternative math courses for working girls. They are working in eight evening schools in La Paz and El Alto.

Fe y Algeria (Faith and Happiness) is working nation-wide in Bolivia, including in 14 schools in the Department of Potosí. Fe y Alegria teachers are employed by the Ministry of Education, but Fe y Alegría provides the administration of the schools and teacher training.

Save the Children has a basic education program called Primary Education Now! in Oruro. The program works to improve the quality of education in peri-urban schools by training teachers and renovating and constructing classrooms, bathrooms or kitchens and providing computers, audio-visual equipment, children's literature and didactic material. The program also provides health and nutrition services to children and strengthens parent associations and school boards.

Non-Governmental Organizations

Centro Boliviano de Investigación y Acción Educativas (CEBIAE—Bolivian Center for Research and Education Action) has been addressing education issues for over 26 years, and for the past three years has been working on education quality at the school level, and incorporating greater social participation in public education.

CEBIAE is currently working with local education officials to train teachers in reform methods in Potosi within the framework of the institutional plan "Education for Local Development in Municipal Districts, 2001–2004." See Appendix E for more information on CEBIAE.

Confederacion de Trabajadores de Educación Urbana (Confederation of Urban Education Workers). According to a union representative, Bolivian teachers make about 600 Bolivianos (a little less than $100) per month. Teachers prefer to work for private schools because the remuneration is better than in the public system. According to the Confederation, the Ministry of Education is not willing to negotiate with teachers, so there will likely be strikes within the lifetime of the project. Night school teachers are members of the Association of Adult Education, a network of the Confederation.

Cruz Roja (The Red Cross) in Potosí is providing a vocational training program for 60 adolescents. The program is structured in three modules of three months each, one theoretical, one practical, and one a combination of theory and practice. Thirty of the 60 participants have been placed in jobs.

El Centro de Investigación y Apoyo Campesino (CIAC—The Center for Research and Rural Aid), located in the southern Andean region (Potosí and Tarija) of Bolivia, was founded to design and execute programs in support of rural communities. In the field of education, CIAC provides teacher training and training for juntas escolares in rural schools. CIAC and three other NGOs (Caritas, ACLO, and Causnanchispaj) are running rural boarding schools for children whose community schools include only the first three grades.

Programa Alternativo de Prevención Integral de la Marginalidad en la Población Urbana Infanto-Juvenil de y en la Calle (ENDA—Alternative Social Program to Prevent Marginality in Urban Youth and Street Children). ENDA's goals are: Reducing risk to working and street children, improving their socialization, and supporting their re-integration into the family and community. To accomplish these goals the organization provides safe houses, training/job placement, health services, and performs research.

Fundación de la Primera Dama. The Foundation of the First Lady of the Republic of Bolivia's mission is to develop support programs for high-risk social groups. The First Lady's Office has developed programs and projects for street children, rural and marginal urban students, people with disabilities, and the elderly. See Appendix E for more information.

Qharuru has 13 years of experience providing education, health, and other basic services, as well as vocational training, to working children in a center owned by the organization in La Paz. In addition to the center, Qharuru implements other projects that have included research, a program with shoeshine children, development of night school curricula, and a theater program to prevent drug use.

Appendix D: Implementing Environment in Perú

I. Legal Framework

Child Labor Laws

In Perú, the legal minimum age of employment is 14; however, children between 12 and 14 may obtain permission from the Ministry of Labor to work four hours a day in light work. Adolescents aged 15–17 may work for six hours a day provided they are attending school regularly. In more hazardous sectors, such as mining, the legal minimum work age is 15. Work that can harm a child's physical, mental, or emotional health and development, including underground work, heavy lifting/carrying, and work that interferes with school attendance is prohibited under the age of 18.

Education Laws and Structure

In 1993, the Peruvian Congress extended the years of obligatory schooling to 13: three pre-school years (starting at age three) and a total of 10 years of primary and secondary school, to be phased in progressively. In order to phase in the additional years, it was planned to add one school year, each calendar year, over several years.

As part of the national education reform, the Ministry of Education has developed a model that moves away from teaching/instruction and puts emphasis on learning/training. It involves:

- A curriculum that takes local realities (including multiculturalism) into account.
- Flexibility for one third of the curriculum to be developed locally.
- An emphasis on solving concrete problems of every day life and improving the quality of life.

In the short run, the new approach will focus on factors affecting educational quality such as teacher training; production and distribution of free educational materials; expansion, improvement and maintenance of infrastructure; school director training, and social support programs such as distribution of food, furniture, and clothing.

In the medium run, the goal will be to expand the coverage of the education system (especially in the pre-school and secondary areas) in disperse rural areas, and to improve teaching methodology.

Goals in alternative education include modification of the primary and secondary curricula to be appropriate for the adolescent/adult population, a flexible, contextual, competency-based, modular curriculum, radio learning, day-care programs, supplemental nutrition programs, and the establishment of an accreditation system for technical education.

II. Extent and Nature of Child Labor

Statistics

- According to the Yearbook of Labor Statistics, in 1999, 5.5 percent of children in Perú between the ages of 10 and 14 and 44 percent of children between the ages of 15–19 were working (ILO, Geneva, 2000, Table 1A).
- On tests conducted by the Ministry of Education in 1998, of 25 departments, the Department of Puno (location of the proposed projects) was among the six with the lowest scores on three of the four tests.
- In most rural schools in Perú, class contact hours are inadequate (an estimated 200 hours/year compared with an average 1,050 hours/year for Latin America), many students are over-age for their grade, and there are high levels of absenteeism, repetition and dropout.

Type of Work in Which Children Are Engaged

The worst forms of child labor in Perú have not been formally identified, but children are most commonly found working in the agricultural sector, in garbage scavenging, in the loading and unloading of produce in markets, in fireworks factories, in urban centers working as shoe shiners, and in stone quarries. Working children and adolescents are also found making bricks, participating in informal mining-related activities, and being commercially exploited and exploited for sexual means.

III. Efforts

Government

The Ministry of Labor implements the *Projoven* (Proyouth) Program which helps low income youth enter the labor market through training and apprenticeship programs. The program, begun in 1996, has trained almost 25,000 youths in such technical areas as sewing/tailoring, administration, tourism, mechanics, carpentry, construction, bread making, shoe repair, agro-industry, and fishing.

The Ministry of Education has developed the *Intercultural Bilingual Education Program* to provide universal access to quality education, and nearly 5,000 teachers are being trained to address close to 100,000 students in eight languages. The Ministry of Education's Plan Huascarán will provide Internet access to all schools including rural schools.

PROMUDEH is promoting a new initiative, *Plan de Acción para la Infancia 2002–2006*. The plan will include efforts to protect child workers with a goal of the eventual elimination of child labor.

The National Plan to Eliminate Child Labor, developed by the *Comité Nacional para la Erradicación del Trabajo Infantil y Protección de Adolescentes que Trabajan* (National Committee for the Eradication of Child Labor and the Protection of Working Adolescents), has not yet been approved. In 2001, the Committee set up a number of sector sub-committees, including one on mining and one on education. The Committee has since become inactive, but the sub-committees continue to function and the sub-committee on mining has successfully brought the issue of child labor in the mining sector to national attention. Its members have formed a separate entity, the *Red de Minería Artesanal* (the Small-scale Mining Network) which has developed its own one-year action plan.

Ministerio de Promoción de la Mujer y Desarrollo Humano (PROMUDEH—Ministry for the Promotion of Women and Human Development). Through the National Institute of Family Well-being, PROMUDEH addresses populations at risk, such as children, adolescents, women and older adults living in poverty. PROMUDEH's *Educadores de Calle* Program (Street Educators) is made up of a team of young professionals who attend to at-risk populations, among them working children, to reintegrate them into family, school, and community.

International Donors

Through CARE, USAID began to work in education with the objective of improving opportunities for rural girls. Important accomplishments were raising social awareness, building a national network for girls' education called FLORECER, and passing a girls' education law. In 2002, USAID will implement pilot programs with new approaches to rural education, and in 2003, the World Bank will adapt lessons learned from the pilot projects to the remaining rural areas.

The International Labor Organization's International Program on the Elimination of Child Labor is implementing the USDOL-funded Program to Prevent and Progressively Eliminate Child Labor in Small-scale Traditional Gold Mining in Bolivia, Ecuador and Perú (referred to in this solicitation). In Perú, the project is working in Mollehuaca, Puno and Santa Filomena, focusing on awareness raising, institutional strengthening, education improvement, and withdrawal of children from mining.

UNICEF's program for 2001–2005 focuses on extremely poor and excluded children with a goal of equitable and inclusive public policies. Two programs have been developed:

(1) The *Initiatives for Social Inclusion Program* operates at the local level and emphasizes equitable access to health care, especially in early childhood; quality education; exercise of citizenship; and adolescent participation.

(2) The *Promotion and Monitoring of Rights Program*, at the national level, strengthens access to information and knowledge through three national projects.

UNICEF also implements the USAID-funded *Abriendo Puertas* (Opening Doors to Rural Girls' Education), a project initiated in 1999 to address the issues of rights, gender equality, bilingual/intercultural education and citizenship.

Private Sector

During the 1990s a "Law to Promote Investment in Education" (Legislative Decree 882) served as the legal framework to promote private sector support for education. The Ministry of Education has signed contracts with a number of large private corporations/companies and there is an increasing amount of private and municipal participation in education.

Generally, Peruvians invest a high level of personal income in education (*Perúvian Education at the Crossroads: Challenges and Opportunities for the 21st Century, World Bank, 2001*). One community that is part of the USDOL/ILAB South America Small-scale Mining Project has conducted a fundraiser for school improvement, and members of another community have provided the labor to construct new classrooms. These investments reflect a national commitment to education as the path to development. Another positive sign for sustainability of interventions in Perú are nascent private sector (BellSouth) contributions for education programs and scholarships.

International NGOs in Perú

CARE-Perú, through the USAID project *Nuevos Horizontes para la Educación de las Niñas* (New Horizons for Girls' Education), organized the National Network for Girls Education and achieved congressional approval for the Law to Promote Education for Rural Girls. The law mandated universal school enrollment for rural girls; gender equity in teaching, infrastructure, and school management; and training for girls and families on psychosocial and reproductive health.

Save the Children (SAVE) has also implemented various studies involving education and child labor. In addition, *School Municipality* is a SAVE project in which children and adolescents participate democratically in school, and *Parent School* is a community school that helps raise parent awareness on child and human rights.

SAVE also works to integrate the goals of the Municipal Child and Adolescent Defense Offices (DEMUNA) with communities. These offices protect and promote the rights of children and adolescents, solve conflicts through conciliation, and promote strengthening of the family.

National NGOs in Perú

AIDECA offers technical improvements to eliminate the need for child labor in the USDOL/ILAB South America Small-scale Mining Project in Mollehuaca.

Centro Proceso Social (Social Process Center) is an organization in Lima working to help child trash pickers in the northern cone of Lima. The project has developed an approach for reinserting trash-picking children in school by using social educators to help with academic reinforcement and to conduct consciousness raising for parents.

Centro de Estudios Sociales y Publicaciones (CESIP), Programa Derechos de Niños y Adolescentes (Social Studies and Publications Center, Program on Children's and Adolescents' Rights). CESIP's mission is to reduce social inequality and inequity stemming from factors of gender, age, social class, and ethnic origin. CESIP has implemented part of the USDOL/ILAB South America Small-scale Mining Project in Mollehuaca with interventions covering such issues as school furniture, teacher training, and development of didactic material. Other CESIP programs address the prevention of child/adolescent labor through: School participation; child labor awareness raising with kids, teachers, parents groups, and community; improvement of educational quality through extracurricular activities; Saturday schools; and alternative income generation programs.

In a program for Bell South, CESIP developed a *mochila escolar* (school bag) initiative called PRO NIÑO (Pro-Child) which supplies materials and resources to a selected group of children. The program's aim is to reintegrate children who have left school or to support those at risk of failing. The program includes a revolving fund for mothers of target children in exchange for reducing work hours or removing children from work and reenrolling them in school.

A new program *Beca Semilla* (Seed scholarship), also sponsored by Bell South, reinforces the participation of adolescents, promoting technical skills to enable participants to make occupational changes and leave the worst forms of work.

Centro de Investigación y Desarrollo de la Educación (Center for Education Research and Development) specializes in development research/publication and teaching innovations.

Confederación Nacional de Instituciones Empresariales Privadas (CONFIEP—National Confederation of Private Business Institutions). A special committee within this organization convened to look at social conscience issues and eventually became "Perú 2021." It is now an independent organization that serves as a model for involving the private sector in eradication of child labor.

Cooperacción (Cooperation) is the NGO responsible for the USDOL/ILAB South America Small-scale Mining Project in Santa Filomena, Peru, where its representatives have focused on education and health as the most important elements in helping children attend and remain in school.

Cooperacción has been successful in improving the quality of teaching. Before the intervention of the USDOL/ILAB South America Small-scale Mining Project, no high school existed and only 45 percent of children in the community attended school. Now, with the addition of a high school, 85 percent of children attend. Also in Santa Filomena, the high school and health posts constructed by the community have been adopted and taken over by the state. Cooperacción used diagnostics and study results to leverage requests for support to regional government offices.

In Santa Filomena, Cooperaccioón has incorporated local topics into the curriculum and developed a one-day per month "school for parents" that sensitizes parents to child labor issues. Cooperaccioón has also taken advantage of "Seguro Escolar" (School Insurance), a program that provides health services to children up to age 17 if teachers verify they are attending school classes.

Foro Educativo (Education Forum) is an education think tank that generates applications through participative processes, then seeks to create consensus on the ideas to influence educational policy.

EDUCA. Instituto de Fomento de una Educación de Calidad (Institution for the Promotion of Quality Education). EDUCA's mission is the improvement of educational quality through creative approaches. EDUCA is an organization of teachers and other professionals committed to training other teachers and communities in how to transform institutions and practice to create Peruvian entrepreneurs.

Grupo de Iniciativa Nacional por los Derechos del Niño (GIN—National Initiative

Group for Children's Rights) is a network of 30 institutions, formed in the 1980s, to work in favor of children's rights. GIN performs follow-up on the implementation of the *Convenio de los Derechos del Niño* (Convention on the Rights of the Child) and conducts awareness raising campaigns against child labor.

Red por un Futuro sin Trabajo Infantil. (Network for a Future without Child Labor). This network includes fifteen institutions working on the eradication of child labor.

Red Titicaca, Instituto de Educación y Comunicación Puno (Titicaca Network, Education and Communication Institute, Puno) is implementing the DOL/ILAB South America Small-scale Mining Project in Puno. Its approach involves the entire community, including parents, leaders, authorities, and teachers. It emphasizes working with teachers who are discouraged and unmotivated. Workshops have improved the teachers' commitment and additional training is planned for the coming year. Awareness raising with parents increased their motivation to work for education and as a result they provided the labor for the construction of six classrooms.

Sindicato Unitario de Trabajadores en la Educación del Perú (SUTEP—Peruvian Teachers Union). Only 10,000 of Perú's public school teachers are not members of SUTEP, a union that counts 295,000 public school teachers in its membership. SUTEP has worked through the ILO using promoters to raise awareness on the eradication of child labor.

Tarea (Task) specializes in improving public education through policy, local development, and awareness raising.

Warma Tarinakuy developed a project in 1996 in a red-light district of Lima where children worked in the streets, semi-abandoned by their working parents. The project attempted to fill gaps in the continuity of schooling through non-formal education. Warma Tarinakuy also works with the children of gang members, on issues including cultural identity, self-confidence, and capacity building.

Appendix E: Background Material Available on the Web

Applicants desiring additional information and documents that can assist in the preparation of responses to this solicitation can find the following documents on the USDOL web site at http://www.dol.gov/dol/ilab/public/programs/iclp/ or at the following web addresses:

1. Project Document for "Program to Prevent and Progressively Eliminate Child Labor in Small-scale Traditional Gold Mining in South America."
2. Bolivia Country Report.
3. Perú Country Report.
4. Programa IPEC-Minería Artesanal en América del Sur, "El Trabajo Infantil en la Minería Artesanal del Oro."
5. Estudios sobre el Trabajo Infantil en la Minerúa: Caso Potosí.
6. Piazza, Maria del Carmen, "Children Working in Small-scale Traditional Gold-Mining in Perú", 2001.
7. Zamora and Barrera, "Rendimiento escolar y estado nutricional," Ministerio de Educacioón, Cultura y Deportes, (www.vieps.gov.bo).
8. Bolivia. CEBIAE. Centro Boliviano (http://www.cebiae.edu.bo).
9. UNESCO: Education for All Country Reports, (http://www2.unesco.org/wef/countryreports/country—all.html).
10. Bolivian Ministry of Education, (www.veips.gov.bo).
11. Fundación de la Primera Dama, (hftp://www.pridama.gov.bo/despacho/despacho.htm).

[FR Doc. 02–12960 Filed 5–22–02; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Child Labor in Pakistan Through Education

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for Cooperative Agreement Applications (SGA 02–05).

This Notice Contains All of the Necessary Information and Forms Needed To Apply for Cooperative Agreement Funding.

SUMMARY: The U.S. Department of Labor, Bureau of International Labor Affairs, will award up to U.S. $5 million in funds through a cooperative agreement to an organization or organizations to develop and implement an education project in Punjab province, Pakistan as a means to combat child labor. The education project will work towards reducing child labor by increasing school attendance, reducing school dropout rates and developing labor skills for older children in areas of high prevalence of working children. The program will integrate children removed from child labor into educational settings, and support improvements in the quality of transitional and non-formal education that precedes integration into the formal school system or vocational training. The program will build capacity and mobilize resources to complement the Government of Pakistan's National Plan to Combat Child Labor and Education Sector Reforms Action Plan.

DATES: The closing date for receipt of applications is July 9, 2002. Applications must be received by 4:45 p.m. (Eastern Standard Time) at the address listed below. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be allowed. Applications that do not meet the conditions set forth in this notice will not be honored. Facsimile (FAX) applications will not be honored.

ADDRESSES: Application forms will not be mailed. They are published in this **Federal Register** Notice, and in the **Federal Register** which may be obtained from your nearest U.S. Government office or public library or online at *http://www.nara.gov/fedreg/nfpubs.html*. Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, References: SGA 02–05, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey. E-mail address: harvey-lisa@dol.gov. All inquires should reference SGA 02–05. All applicants are advised that U.S. mail delivery in the Washington, DC area has been slow and erratic due to the recent concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application by contacting Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free number), prior to the closing deadline. All inquiries should reference SGA 02–05.

SUPPLEMENTARY INFORMATION: The Bureau of International Labor Affairs (ILAB), U.S. Department of Labor (USDOL or Department), announces the availability of funds to be granted by cooperative agreement to expand access to education in Punjab province, Pakistan to children engaged in child labor or at risk of entering the work force. The cooperative agreement will be managed by ILAB's International Child Labor Program (ICLP), to assure achievement of the stated goals. Applicants are encouraged to be creative in proposing cost-effective interventions that will have a demonstrable impact in using education as a means of reducing child labor in Pakistan.

I. Background and Program Scope

A. USDOL Support of the Global Elimination of Child Labor

The International Labor Organization estimates that there are 250 million working children between the ages of five and 14 in developing countries, about half of whom work full-time. Full-time child workers are generally unable to attend school, and from an early age part-time child laborers must balance economic survival with schooling, often to the detriment of their education.

The existence of child labor has many implications for a country. Education is a key investment that has been linked to the acceleration of a nation's productivity and socioeconomic development. Poorly educated workers tend to earn less, live in poverty, and may need to send their own children to work at a young age.

Since 1995, as mandated by the U.S. Congress, USDOL has supported a worldwide technical assistance program by the International Labor Organization's International Program on the Elimination of Child Labor (ILO/IPEC). USDOL contributions to date to ILO/IPEC have amounted to some $112 million, making the United States the program's largest donor and a leader in global efforts to combat child labor. In USDOL's FY 2001 and FY 2002 appropriations, in addition to $90 million in funds earmarked for ILO/IPEC, the Department received $74 million for an Education Initiative that will fund programs that increase access to quality, basic education in areas with a high incidence of child labor. The cooperative agreement awarded under this solicitation will be funded by this new initiative.

USDOL's Child Labor Education Initiative nurtures the development, health, safety and enhanced future employability of children around the world by increasing access to basic education for children removed from child labor or at risk of entering it. Child labor elimination will depend in part on improving access to, quality of, and relevance of education. Without improving educational quality and relevance, children withdrawn from child labor may not have viable alternatives and could resort to other forms of hazardous work.

The Education Initiative has the following four goals:

1. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;
2. Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school;
3. Strengthen national institutions and policies on education and child labor; and
4. Ensure the long-term sustainability of these efforts.

B. USDOL Involvement in Combating Child Labor in Pakistan

USDOL's ICLP has been involved in combating child labor in Pakistan since 1997. Appendix C highlights some of the projects that USDOL has supported in the country. In June 2001, the ICLP engaged in consultations with the Pakistan Ministries of Education and Labor to discuss means by which the Department could further support efforts to combat child labor with funding from the USDOL's Child Labor Education Initiative. These discussions led to an agreement between USDOL and the Ministry of Education to finance a U.S. $5 million project to support the education of child laborers and children at risk of entering the child labor market in the province of Punjab, with interventions focusing on districts with a high incidence of child labor.

The USDOL project will operate within a complex implementing environment that is described in Appendix D. Key considerations within this implementing environment are the barriers to education that working children and those at risk of entering the work force must confront. Other significant factors are Government of Pakistan policy frameworks including the National Policy and Action Plan to Combat Child Labor and the Education Sector Reforms Action Plan, both of which identify strategies and support emerging approaches to addressing the issues of child labor and barriers to education.

The objective of USDOL's continued involvement in Pakistan and the funding provided under this solicitation is to: (1) Address barriers to education faced by working children or those at risk of working; (2) complement the Child Labor and Education Sector Reform Action Plans of the Government of Pakistan, and (3) build on the achievements and lessons learned by child labor and education projects that have already been implemented in that country. It is USDOL's intent that Child Labor Education Initiative funding be used to support the education component of child labor projects of organizations already combating child labor in Punjab province. It is also USDOL's intent to encourage innovative ideas from other organizations that would bring more of the targeted children into educational settings and prevent them from reentering the labor force.

C. Barriers to Quality Education for Working Children in Pakistan

Within the context of the implementing environment described in Appendix D, there are a number of obstacles and barriers that affect the decisions or ability of Pakistani families, and in particular families of working children, to send their children to school. The barriers have an impact on the high rate of dropout from school and entry of children into the labor force at an early age also described in Appendix D. The applicant needs to consider these barriers in the development of responses to this solicitation. Some of the major *barriers to education* in Pakistan include:

1. Lack of Knowledge and Awareness

There are a number of factors in this category that act as impediments for working children to gain access to school. These include:

- Parents' illiteracy and resignation

Parents of working children in Pakistan are often themselves uneducated or illiterate. Because of the multiple economic and social constraints that they and their children face, they are often reluctant to send their children to school rather than to work. Furthermore, they may also feel powerless to changing conditions that have reproduced themselves for generations, and that promote child labor. Given few other social or economic options, some families, including children themselves, may also highly value the contribution that children make to family survival.

- Lack of awareness by social partners of their potential role in reducing child labor and promoting school attendance

Many social partners including NGOs, the media, the military, the corporate sector, faith-based organizations and religious leaders, local authorities, Pakistani expatriates, and even private individuals may be generally aware of child labor or the lack of access of these children to school, but certain partners may not understand or have enough information on the effects of child labor on society, and on the specific deficiencies that manifest themselves in individual communities. They may also not know how they could contribute to concrete actions to reduce child labor and promote school attendance in those communities. Often more knowledge of specific needs may be a catalyst that enables social partners to act and to mobilize their respective networks to combat the problem and propose viable solutions.

- Lack of awareness of new child labor and education policies and strategies

National Child Labor and Education policies and action plans, and those of the President Musharraf's Task Force on Human Development (TFHD), are relatively new and may not be well known or understood by individuals, local leaders and communities. This knowledge includes the practical aspects of decentralization promoted in education sector reform, and the targets

and strategies that the government has chosen to reduce child labor and achieve Education for All Targets (to which the Government of Pakistan committed as part of the 2000 World Education Forum's Dakar Framework for Action). This lack of knowledge may inhibit effective implementation at the local level of national policies and plans.

2. Education System Constraints

There are a number of barriers of the education system that lead children to drop out of school and join the work force. These include:

• Lack of knowledge on children's education needs

Children have different learning styles and abilities. If these differences are not understood, teachers and the school system may not be able to improve and maximize learning outcomes. For example, preliminary research by UNICEF in Punjab indicates that some children may drop out early and enter the labor force because of learning disabilities. Girls and boys, particularly those who work or who have been removed from work, may need specific approaches to ensure their more effective attendance and participation in school. Yet many teachers and school administrators in Pakistan may not fully understand these factors that would lead to a more successful integration or reintegration of children into school settings.

• Irrelevant curriculum

A recent study in Pakistan indicated that irrelevant curriculum and harsh conditions of learning contribute to a low completion rate and a high drop out rate (SPARC, *The State of Pakistan's Children, 1999,* Islamabad, January, 2000, p. 19). A common method of teaching in Pakistan is based on the rote memorization of lessons with little or no attention given to the student's cognitive development and skills associated with reading, writing, math and science, and their eventual practical application to life and work. With school having such little relevance to the improvement of their lives, many parents may feel that it is unnecessary to send their children to school because the education they are receiving is not preparing them for a productive future. The children are then removed from school and enter the work force.

• Inadequately trained teachers with low motivation

Teachers in government-sponsored schools (where many working children or children at risk of working attend) are largely untrained, under-paid and have little or no previous classroom experience before being hired. In Pakistan, hiring of teachers and school administrators may be based on favoritism rather than skills. Many teachers are not familiar with curriculum development or basic classroom instruction. Even teachers working for NGOs involved in child labor projects have had relatively little training. Furthermore, many rural teachers face difficult working conditions with large class sizes in one room requiring the teacher to be involved in multi-grade instruction. At the same time lack of supervision, training and motivation by school administrators exacerbates high teacher absenteeism. Under these conditions, it is not surprising that child labor may appear to be a better option for families.

• Limited access to quality vocational education

The parents of many older children and the children themselves often realize that they cannot or will not finish primary school and continue onto secondary or university education. Often technical or vocational education is a preferred option. In Pakistan there are many challenges to obtaining good vocational education. Government programs are not sufficient relative to need, are not necessarily of high quality, nor do they lead to employment in leading sectors. They also tend to focus on preparing boys. Programs run by the private sector or employers associations, such as the Skills Development Council of Punjab, tend to be of higher quality and lead to better employment after completion. This is in part because of the labor market research done by the private sector before launching skills training programs. Yet working children may not be able to gain access to these programs because they are unaffordable, or because they do not meet minimum literacy and numeracy requirements. If they are school dropouts, they likely do not meet the minimum age or prerequisite academic standards. Ill prepared academically and unable to obtain more desirable and marketable skills, older children, although still below legal working age, may have little recourse than to enter into less attractive apprenticeships or employment that may be exploitative and abusive.

3. Institutional and Policy Challenges

• Lack of data on educational access and performance to inform policy

There are many challenges to estimating the number of children engaged in child labor, and even less is known about their education needs, and the correlations among school attendance and performance, drop out and child labor. This is one reason why Government of Pakistan action plans on child labor and education identify database and information collection as areas of need. Lack of data is a major gap to developing improved policies and programs.

• Limited coordination among social actors

Pakistan's National Policy and Action Plan to Combat Child Labor highlights the importance of coordination among social actors. The experience of the National Steering Committee formed as part of ILO/IPEC efforts to address child labor show that it is a continuing challenge to achieve and sustain coordination, particularly at both national and provincial levels, among different government agencies, non-governmental organizations and employers.

• Limited local government capacity to implement devolution and decentralization of education

Although decentralization of education has begun as part of the sector's reform, it will test the abilities of local government structures. These organizations may not have experience or capacity in many areas such as educational planning, resource allocation, monitoring, and accountability to communities for educational quality.

• Limited community capacity to implement decentralization and improve monitoring and performance of education

The education reform counts on community structures and organizations to improve educational quality and performance. For example, the Local Government Ordinance of 2001 calls for the establishment of Citizen Community Boards and Monitoring Committees in order to ensure effective community participation. Other community organizations include School Management Committees (SMCs), School Councils, Community Public Partnerships (CPPs), Parent Teacher Associations (PTAs) and mother's groups. Yet in many communities in Punjab province these organizations are non-existent, embryonic or weak.

The level of inequality found in the rural areas of Punjab also affects community capacity to monitor the quality of education. The rural population tends to be marginalized from the county's mainstream economy and political influence. A majority of children in rural areas in Punjab enroll in government-sponsored schools, many of which are not suited to deliver quality education. Those at the bottom of the social ladder may also feel powerless to influence the quality of the education received by their children. This phenomenon explains the

emphasis that Child Labor and Education Sector Reform Action Plans give to community mobilization and empowerment.

4. Resource Constraints

• Poverty and the inability to pay fees associated with school attendance

One reason for the high school dropout rate is that parents with low wages are unable to cover the fees associated with paying for textbooks, supplies and other school costs. In Pakistan these direct costs can reach up to 20 percent of a family's income, making education unaffordable to many families. When these fees are compounded with the lost wages of the child removed from labor, the costs are prohibitive and are a disincentive to school attendance.

• Nonexistent or poor school infrastructure

The abject condition of Pakistan's physical school infrastructure due to misappropriation or lack of resources has also seriously weakened the county's education system. According to the U.S. Embassy in Islamabad (U.S. Embassy, Pakistan, "*The Dismal State of Education in Pakistan,*" p. 3), it is estimated that in Pakistan there are 19,000 schools that do not have any type of formal structure and are simply known as "shelter-less" schools. Furthermore, in some places there are no schools or "ghost schools" that should have been constructed but were not because of misappropriation of resources. The Embassy also reports that approximately 93,000 schools have no electricity, 68 percent lack running water, and 70 percent lack latrines. The lack of proper hygienic facilities has played a key role in parents not allowing their daughters to attend school.

In the case of child workers or children removed from labor, there may not be alternative schools or infrastructure to support non-formal or transitional education that precedes their integration into formal or vocational school. For these children the Ministry of Education has encouraged the use of government school facilities. The infrastructure at these facilities is often deficient. Also, since classes are often held outside of normal school hours children may be too tired after work to fully concentrate. Children may thus not even complete non-formal and transitional programs and return to child labor.

• Limited resources for education

Although the public sector resources devoted to education have dramatically increased under the education sector reform plan, they are still insufficient relative to need and the Government of Pakistan has admitted that the public sector cannot do it alone. In the case of resources devoted to the education of child laborers, these resources have also been limited when compared to needs. Schools that have opened under child labor projects have tended to generate demand for education by families of children not included in the project. For example, many of the beneficiaries of the schools for child carpet weavers are girls. Although parents have enthusiastically enrolled them in project-sponsored schools, they also complain that there are no similar facilities for their boys who may not be able to go to school at all. Because of resource constraints the government has encouraged other alternatives that mobilize resources for education. These include those that bring in the private sector and civil society as detailed in Appendix D.

All of the above-cited barriers to school attendance manifest themselves acutely in the province of Punjab where this project will be implemented. Punjab has one of the largest populations in Pakistan and one of its most widespread problems is illiteracy. A 1998 government census reported the total literacy rate for rural areas in Punjab to be just above 40 percent, while the literacy rate in urban areas of the province is nearly 65 percent. The recent National Literacy Campaign, which is being sponsored by the government and will run from 2001–2004, is aimed at increasing literacy and granting access to quality education.

II. Authority

ILAB is authorized to award and administer this program as set forth in the Consolidated Appropriations Act, 2001, Public Law 106–554, 114 Stat. 2763A–10 (2000).

III. Application Process

A. Eligible Applicants

Any commercial, international, or non-profit organization capable of successfully developing and implementing education programs for child labor is eligible for this cooperative agreement. Although only one cooperative agreement will be awarded, partnerships of more than one organization are also eligible, and applicants are strongly encouraged to consider working with organizations already in Pakistan (See Appendix E). In the case of partnerships, a lead organization must be identified. The capability of an applicant or applicants to perform necessary aspects of this solicitation will be determined under the Rating Criteria.

Please note that eligible cooperative agreement applicants must not be classified under the Internal Revenue Code as a 501(c)(4) Entity. See 26 U.S.C. 501 (c)(4). According to section 18 of the Lobbying Disclosure Act of 1995, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) ink-signed original, complete application in English plus two (2) copies of the application, must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, not later than 4:45 p.m. Eastern Time, July 9, 2002. Accompanying documents must also be in English. To aid with review of applications, USDOL also encourages applicants to submit two additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, "Application for Federal Assistance" (Appendix A) (The entry on SF 424 for the Catalog of Federal Domestic Assistance Number (CFDA) is 17.700) and sections A-F of the Budget Information Forms SF 424A (Appendix B). Part II must contain a technical proposal that demonstrates capabilities in accordance with the Statement of Work and the selection criteria.

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate parts, not to exceed 30 single-sided (8 ½" x 11"), double-spaced, 10–12 pitch typed pages. *ANY APPLICATIONS THAT DO NOT CONFORM TO THESE STANDARDS MAY BE DEEMED NON-RESPONSIVE TO THIS SOLICITATION AND MAY NOT BE EVALUATED.* Standard forms and attachments are not included in the page limit. Each application must include a table of contents and an abstract summarizing the proposal in not more than two (2) pages. These pages are also not included in the page limits.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by

the date and time specified or it will not be considered. Any application received at the Office of Procurement Services at 4:45 pm Eastern Time, July 9, 2002, will not be considered unless it is received before the award is made and:

1. it was sent by registered or certified mail not later than the fifth calendar day before July 9, 2002;

2. it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

3. it was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 pm at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to July 9, 2002.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation "bull's-eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation "bull's-eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted, however, the applicant bears the responsibility for timely submission. Because of delay in the receipt of mail in the Washington, DC area, it is recommended that you confirm receipt of your application by contacting Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free number), prior to the closing deadline. All inquiries should reference SGA 02–05.

D. Funding Levels

Up to US $5 million is available for this program. Although USDOL will award only one cooperative agreement (hereafter referred to as "grant"), a partnership of more than one organization may apply to implement the program. (See Section III.B, Submission of Applications).

E. Program Duration

The duration of the activities funded by this SGA is four (4) years. The start date of activities will be negotiated upon awarding of grant.

IV. Requirements

A. Statement of Work

The applicant will propose creative and innovative approaches aimed at reducing child labor in Pakistan by increasing school attendance and developing youth labor skills in areas of high prevalence of economically active children. In proposing approaches the applicant should explain how the activities or services provided under this grant will address the barriers to education cited in Section I.C above and, where relevant, suggest ways to use emerging approaches to address these barriers (see Appendix D). The project's geographical target area is the province of Punjab, which has a high incidence of child labor and low educational access. The project may include the districts of Faisalabad, Kasur, Gujranwala, Sheikhupura and other districts to be determined with the Ministries of Education and Labor during the first three months of the project. The exact number of communities and children to benefit from this Education Initiative project will be identified in collaboration with local authorities, and will support Pakistan's decentralization and devolution strategies, the federal Ministry of Education's Education Sector Reforms Action Plan, and the Ministry of Labor's Action Plan on Child Labor. The number of communities and beneficiaries chosen should correspond to the budget proposed for the major activities deemed essential to desired project outcomes.

In developing a proposal, the applicant should take into account the challenges to preventing child labor, reintegrating working children into educational settings, promoting school attendance, addressing the high dropout rate, and improving school relevance. They should also consider the implementing environment in Pakistan outlined in Appendix D of this solicitation, and background information (See Appendix F) available from Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free number), e-mail address: *harvey-lisa@dol.gov*. All inquires should reference SGA 02–05.

The applicant will propose approaches that will meet the education needs of the identified target beneficiaries in Pakistan: (1) Children of primary school age (ages five-ten) through grade 5 at risk of dropping out of school and entering child labor, (2) children under age 10 not attending school and already engaged in child labor, and (3) older youth (ages 10–18) requiring pre-vocational and vocational education to enhance job and self-employment skills. The approach suggested by the applicant will include actions that promote an enabling environment at the national and provincial levels, and specific interventions at the local level in support of the education of target children. The expected outcomes of the project will be to: (1) Decrease school dropout of primary school aged children who are at risk of entering the labor force by increasing the quality of education; (2) increase educational opportunities (including mainstreaming into the formal school or vocational system) for primary school age children who have dropped out of school and have entered the labor force; and (3) increase access of older children (above age ten) to skills and vocational education leading to improved employment at legal working age. Within these groups, special attention should be given to children in the worst forms of child labor. The applicant is also encouraged to include as project beneficiaries children in areas where USDOL-funded IPEC project are operating. (See Appendix C).

The project shall support the goals of USDOL's Child Labor Education Initiative: (1) Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures; (2) Strengthen formal and transitional education systems that

encourage working children and those at risk of working to attend schools; (3) Strengthen national institutions and policies on education and child labor; and (4) Ensure the long-term sustainability of these efforts.

In order to *avoid duplication, enhance collaboration, expand impact, and develop synergies*, the organization(s) awarded the cooperative agreement (hereafter referred to as "Grantee") will consult with Pakistani stakeholders in developing project interventions. The Federal Ministry of Education is the lead ministry for this initiative, but close coordination and consultation will also be required with the federal Ministry of Labor, Secretary of Labor and Manpower-Punjab, Punjab Commission for Child Welfare and Development, the village, local and District Coordination Officer, non-governmental organizations, national steering/advisory committees on child labor and education, and child laborers, those at risk and their families.

Below is a summary of specific requirements to guide applicants in the development of responses to this solicitation. Although the USDOL is open to all proposals for innovative solutions to address the challenges of providing access to education to the target population, the applicant must at the minimum propose approaches to address barriers to education in the following areas of implementation:

1. *Awareness raising to reduce child labor and promote school attendance*

This component aims to use awareness raising campaigns to inform and mobilize strong local and national commitment to support concrete actions that reduce child labor and promote school attendance.

a. *Development of communication strategy.* The applicant should propose an approach to develop a communication strategy to raise awareness and influence behavior of multiple key actors to promote school attendance and reduce child labor. On the basis of the strategy, the applicant should propose key audiences for awareness raising campaigns.

b. *Approaches to community mobilization.* The applicant should suggest approaches to mobilize local communities to increase parental participation and encourage the establishing and strengthening of community structures. The approach can include ideas to promote the development of working and task-oriented multi-sectoral or public-private partnerships at the community and regional levels to combat child labor, promote school attendance, and improve education infrastructure in areas of high incidence of child labor. The suggested approach should support Pakistan's decentralization and devolution process, and Local Government Ordinance of 2001.

c. *Mobilization of Pakistani expatriates.* The applicant should propose how to support the Ministry of Education's newly developed initiative aimed at facilitating support to education in target areas of project intervention by Pakistani expatriates. The applicant should propose how to coordinate this strategy with the Ministry of Labor and Overseas Pakistanis.

2. *Strengthening of education systems to reduce child labor, promote school attendance, and reintegrate child laborers into education settings*

Strategies to strengthen the education systems to address needs of target children should focus on: (1) Younger children still within the formal education system to prevent their dropout into child labor and increase their completion of primary school; (2) out-of-school children of primary school age who are working, and (3) older children (above age 10) to either reintegrate them into school, or improve their job and self-employment skills once they reach legal working age. The latter approach may have to vary depending on the age of the children and their former experience in the education system. As part of its proposed strategies the applicant should suggest activities in the areas listed below and, if deemed important, alternate innovative areas not identified in this solicitation.

a. *Identification of beneficiaries.* The applicant should propose an approach to identify the number and location of target communities, interventions and the numbers of children to be targeted. The applicant should propose an approach to collect baseline data on these beneficiaries.

b. *Professional development for teachers and administrators.* The applicant should identify how to improve the knowledge, skills, morale and professionalism of teachers and education administrators so that they may better address the education needs of the target population, especially children who have dropped out to work or have never been to school. To encourage sustainability, suggested approaches to teacher training should indicate what links might be forged with existing teacher training institutions in Pakistan.

c. *Methods to assess learning, aptitudes and skills.* The applicant should suggest a simple, yet effective approach to assess the learning, aptitudes and skills of children to be targeted by the project. In developing the approach, the applicant should indicate how it would design the program so that it relates to the goals of Pakistan's National Education Assessment System (NEAS). The applicant should also identify what instruments it might use for data collection, how the data would be synthesized, and how it would be fed back to educators and planners working in the areas of education and child labor.

d. *Development of targeted vocational education programs.* The applicant should suggest approaches to develop and implement pre-vocational and vocational training skills for employment and self-employment that lead to enhanced future employability of youth. The applicant should also suggest what approaches might be used for job placement or self-employment after training.

e. *Development of school enrichment programs.* The applicant should suggest means to develop school enrichment programs or other programs that would motivate parents to send their children to school. The approaches suggested should be innovative and can include public-private partnerships, development of volunteer programs, or other incentives.

3. *Strengthening of institutions and policies to reduce child labor, promote school attendance, and reintegrate child laborers into education settings.*

This component should promote approaches to create accountability mechanisms to document the problem and monitor (in partnerships with civil society organizations) the progress in reaching target communities in the prevention of child labor through school retention, and reintegration of children into education settings in lieu of work. The purpose of institutional strengthening would be to develop responsive, participatory and accountable systems of educational governance and management that directly impact the education of target children. Specifically the applicant should propose approaches to implementation in the following areas:

a. *Data Collection and Policy Analysis.* The applicant should suggest an approach to improve the capacity of governmental and non-governmental organizations to collect data to inform policy on education and child labor and allocate government resources to further increase the quality of education. These data could include correlations among school attendance, performance, dropout and child labor. The approach should take into consideration data

collection systems of the Ministries of Education and Labor.

b. *Strengthening Capacity to Implement Decentralization.* The applicant should suggest which major institutions and individuals could be targeted, and what types of capacity building activities could be undertaken to enable them to engage in actions that benefit target children and their families and support the Ministry of Education's decentralization strategy. As part of this approach the applicant should propose how the project could provide assistance to strengthen the capacity of community organizations or form new ones that would effectively advocate for quality education for target children.

c. *Strengthening of Monitoring Capacity.* The applicant should suggest approaches to strengthen the capacity of government and key civil society and community organizations to monitor and follow up on the education of child laborers and children at risk of being recruited into the work force. The applicant should suggest how community monitoring would complement and strengthen government monitoring, and how this capacity would be developed.

d. *Facilitation of Inter-Institutional Coordination.* The applicant should suggest what approaches could be used to facilitate and enhance inter-institutional coordination capacity of major actors working in education and child labor. These would include governmental and non-governmental organizations. Specifically, the applicant will identify what would be the expected outcome of the improved coordination (e.g., improved implementation of existing policies and laws on school attendance and child labor in target areas of project intervention; coordinated planning, etc.).

4. *Resource Mobilization.*

This component will build capacity to mobilize resources for public or other schools in areas of high child labor where project interventions are located.

a. *Internal Resource Mobilization.* The applicant should suggest ways to mobilize resources for education within Pakistan such as through public-private partnerships like the Adopt-a-School programs (see Appendix D), corporate and private sector contributions and philanthropy, volunteer programs, and resource mobilization by community and faith-based organizations. These resources would be used specifically to address the education needs of child laborers and children at risk of entering child labor. The approach suggested should include ways in which gaps and barriers to the education of target children would be identified; how education infrastructure might be built and/or repaired; what incentives would be provided for training and professional development of school staff members, and how schools supported by these efforts would make education relevant and inclusive of those children who have been traditionally excluded from quality education.

b. *Cost of Schooling.* Since the direct cost of schooling is a major problem for families of working children in Pakistan, the applicant will propose approaches to address this impediment.

c. *Mobilizing Resources from Overseas Pakistanis.* The applicant should propose a mechanism to support and implement the Ministry of Education's newly developed initiative aimed at facilitating support to education by Pakistani expatriates. The applicant should show how the proposed approach would be linked to the awareness-raising strategy previously proposed, and how it would be targeted specifically to schools benefiting from the project interventions.

In implementing the proposed scope of work, the applicant should design approaches that encourage sustainability of impact on individuals, organizations and system-wide.

In addition to meeting these requirements, the Grantee also will be expected to monitor the implementation of the program, report to USDOL on a quarterly basis, and evaluate program results. The grant will include funds to plan, implement and evaluate programs and activities, conduct various studies pertinent to project implementation, and to establish education baselines to measure program results. The Grantee must develop annual work plans that will be approved by USDOL. Corresponding indicators of performance will also be developed by the Grantee and approved by USDOL.

B. Deliverables

Unless otherwise indicated, the Grantee must submit copies of all required reports to ILAB by the specified due dates. Other documents, such as project design documents, are to be submitted by mutually agreed upon deadlines.

1. *Project Design.* A project document to be established by ILAB in the logical framework format will be used, and will include a background/justification section, project strategy (objectives, outputs, activities, indicators, means of verification), project implementation timetable and project budget. The project design will be drawn from the proposal written in response to this solicitation and negotiations with ILAB on final design. The document will also include sections that address coordination strategies, project management and sustainability. The time for delivery of this document will be negotiated at the time of the award.

2. *Technical and Financial Progress Reports.* The Grantee must furnish a typed technical report to ILAB on a quarterly basis by 31 March, 30 June, 30 September, and 31 December. The Grantee must also furnish a separate financial report (SF 272) to ILAB on the quarterly basis mentioned above. The format for the technical progress report will be the format developed by ILAB and must contain the following information:

a. For each project objective, an accurate account of activities carried out under that objective during the reporting period;

b. An accounting of staff and any subcontractor hours expended;

c. An accounting of travel performed under the cooperative agreement during the reporting period, including purpose of trip, persons or organizations contacted, and benefits derived;

d. A description of current problems that may impede performance, and proposed corrective action;

e. Future actions planned in support of each project objective;

f. Aggregate amount of costs incurred during the reporting period; and

g. Progress on indicators (to be reported annually).

3. *Annual Work Plan.* An annual work plan will be developed within two months of project award and approved by ILAB so as to ensure coordination with other relevant actors in Pakistan. Subsequent annual work plans will be delivered no later than one year after the previous one.

4. *Monitoring and Evaluation Plan.* A monitoring and evaluation plan will be developed, in collaboration with ILAB, including beginning and ending dates for the project, planned and actual dates for mid-term review, and final end of project evaluations. The plan will identify indicators of performance to be reported annually. The monitoring plan will be prepared after completion of baseline surveys, including revision of indicators provided in project document, targets, and means of verification.

5. *Evaluation Reports.* The Grantee and the Grant Officer's Technical Representative (GOTR) will determine on a case-by-case basis whether mid-term evaluations will be conducted by an internal or external evaluation team. All final evaluations will be external in nature. The Grantee must respond to any comments and recommendations resulting from the review of the mid-term report.

C. Production of Deliverables

1. *Materials Prepared Under the Cooperative Agreement.* The Grantee must submit to ILAB all media-related and educational materials developed by it or its sub-contractors before they are reproduced, published, or used. ILAB considers that educational materials include brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the program. ILAB will review materials for technical accuracy. The Grantee must obtain prior approval from the Grant Officer from all materials developed or purchased under this cooperative agreement. All materials produced by Grantee must be provided to ILAB in a digital format for possible publication by ILAB.

2. *Acknowledgement of USDOL Funding.* In all circumstances the following must be displayed on printed materials:

"Preparation of this item was funded by the United States Department of Labor under Cooperative Agreement No. E–9–X–X–XXXX."

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds, including State and local governments and recipients of Federal research grants, must clearly state:

1. The percentage of the total costs of the program of project which will be financed with Federal money;

2. The dollar amount of Federal funds for the project or program; and

3.The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

In consultation with ILAB, USDOL's role will be identified as one of the following:

a. The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee will consult with USDOL on whether the logo should be used on any such items prior to final draft or final preparation for distribution. In no event will the USDOL logo be placed on any item until USDOL has given the grantee written permission to use the logo, after obtaining appropriate internal USDOL approval for use of the logo on the item.

b. If ILAB determines the use of the logo is not appropriate and does not give written permission, the following notice must appear on the document:

"The document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government."

D. Administrative Requirements

1. *General.* Grantee organizations are subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. The cooperative agreement awarded under the SGA is subject to the following administrative standards and provision, if applicable:

29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

29 CFR Part 93—New Restrictions on Lobbying.

29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 98—Federal Standards for Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

29 CFR Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

2. *Sub-contracts.* Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928 and 13021 as amended, the Grantee is strongly encouraged to provide sub-contracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

3. *Key Personnel.* The applicant shall list individual(s) who has (have) been designated by the Grantee as having primary responsibility for the conduct and completion of all project work. The applicant will submit written proof that key personnel will be available to begin work on the project no later than three weeks after award. The Grantee agrees to inform the GOTR whenever it appears impossible for these individual(s) to continue work on the project as planned. The Grantee may nominate substitute personnel and submit the nominations to the GOTR; however, the Grantee must obtain prior approval from the Grant Officer for all key personnel. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the cooperative agreement.

4. *Encumbrance of Cooperative Agreement Funds.* Cooperative agreement funds may not be encumbered/obligated by the Grantee before or after the cooperative agreement obligations period may be liquidated (paid out) after the end of the cooperative agreement period. Such encumbrances/obligations shall involve only specified commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the cooperative agreement period. All encumbrances/obligations incurred during the cooperative agreement period shall be liquidated within 90 days after the end of the grant period, if practicable.

5. *Site Visits.* USDOL, through its authorized representatives, has the right at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of a Grantee or sub-contractor(s) under this grant, the Grantee shall provide and shall require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations shall be performed in a manner that will not unduly delay the work.

V. Review and Selection of Applications for Grant Award

A. The Review Process

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. Each complete application will be objectively rated by a technical panel against the criteria described in this announcement. Applications are advised that the panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select a Grantee(s) on the basis of the

initial proposal submission; or, the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make final selection determination based on what is most advantageous to the Government, considering factors such as: panel findings and the availability of funds, and other factors. The Grant Officer's determination for award under this SGA 02–05 is final.

Note: Selection of an organization as a cooperative agreement recipient does not constitute approval of the cooperative agreement application as submitted. Before the actual cooperative agreement is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the proposal.

B. Rating Criteria and Selection

The technical panel will review applications against the various criteria on the basis of 100 points with an additional five points available for non-federal or leveraged resources.

The factors are presented in the order of emphasis that they will receive.

1. *Approach, Understanding of the Issue, and Budget Plan (40 points).*

a. *Overview.* This section of the proposal must explain:

(1) The applicant's proposed innovative method for performing all the specific areas of work requirements presented in this solicitation.

(2) The expected outcomes over the period of performance for each of the tasks; and

(3) The approach for producing the expected outcomes.

The applicant must describe in detail the proposed approach to comply with each requirement in Section IV.A of this solicitation, including all tasks and methods to be utilized to implement the project. Also, the applicant must explain the rationale for using the approach. In addition, this section of the application must demonstrate the applicant's thorough knowledge and understanding of the issues involved in providing education to children engaged in child labor or those at risk of being recruited into the labor force; best-practice solutions to address their needs; and the implementing environment in Pakistan.

b. *Implementation Plan.* The applicant must submit an implementation plan, preferably with a visual such as a Gantt chart for the project in Pakistan. The implementation plan should list the outcomes, objectives and activities during the life of the project, and scheduling of time and staff starting with the execution of the grant and ending with the final report. In describing the implementation plan, the applicant must address the following points:

(1) Describe the use of existing or potential infrastructure and use of qualified personnel, including qualified nationals, to implement the project. The applicant also must include a project organizational chart, demonstrating management structure, key personnel positions, and indicating proposed links with Government, civil society leaders, educators, and other significant local actors.

(2) Develop a list of activities and explain how each relates to the overall development objective of reducing child labor in Pakistan through education.

(3) Explain how appropriate awareness raising, training and pedagogic materials will be developed.

(4) Demonstrate how the organization will strengthen national institutions and policies on education and to combat child labor.

(5) Demonstrate how the organization would systematically report on project performance to measure the achievement of the project objective(s).

(6) Demonstrate how the organization would build national and local capacity to ensure project efforts to reduce child labor and the effects of child labor through the provision of education are sustained after completion of the project.

c. *Budget Plan.* Develop a country-specific budget of up to US $5 million for the implementation of the project in Pakistan. This section of the proposal must explain the costs for performing all of the requirements presented in this solicitation and for producing all required reports and other deliverables presented in this solicitation; costs must include labor, equipment, travel, and other related costs. Preference may be given to applicants with lower administrative costs.

d. *Management and Staff Loading Plan.* This section also must include a management and staff loading plan. The management plan is to include the following:

(1) A project organization chart and accompanying narrative which differentiates between elements of the applicant's staff and sub-contractors or consultants who will be retained;

(2) A description of the functional relationship between elements of the project's organization; and

(3) The identity of the individual responsible for project management and the lines of authority between this individual and other elements of the project.

The staff loading plan must identify all key tasks and the person-days required to complete each task. Labor estimates for each task must be broken down by individuals assigned to the task, including sub-contractors and consultants. All key tasks must be charted to show time required to perform them by months or weeks.

This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation.

2. *Experience and Qualifications of the Organization (35 points).*

The evaluation criteria is this category are as follows:

a. The organization applying for the award has experience in basic, non-formal and vocational education programs that address issues of access, quality and policy reform for working children.

b. The organization has a field presence in Pakistan, or could rapidly establish an office that gives it the capability to work directly with government ministries, educators, civil society leaders, and other local organizations, e.g., community-based or faith-based groups; the organization can document that it has already established relations of this nature in Pakistan or can show that it has the capacity to readily establish such relations.

The proposal must include information about previous grants or contracts relevant to this solicitation including:

a. The organization for which the work was done;

b. A contact person in that organization with their current phone number;

c. The dollar value of the grant, contract, or cooperative agreement for the project;

d. The time frame and professional effort involved in the project;

e. A brief summary of the work performed; and

f. A brief summary of accomplishments.

This information on previous grants and contracts shall be provided in

appendices and will not count in the 30-page maximum page requirement.

3. *Experience and Qualifications of Key Personnel (25 points).*

This section of the application must include sufficient information to judge the quality and competence of staff proposed to be assigned to the project to assure that they meet the required qualifications of the individuals committed to the project. Accordingly, in its evaluation of the applicant's application, USDOL will place emphasis on the applicant's commitment to personnel qualified for the work involved in accomplishing the assigned tasks. Information provided on the experience and educational background of personnel must indicate the following:

a. The identity of Key Personnel assigned to the project. "Key Personnel" are staff who are essential to the successful operation of the project and completion of the proposed work and, therefore, may not be replaced or have their hours reduced without the approval of the Grant Officer.

b. The educational background and experience of all staff to be assigned to the project.

c. The special capabilities of staff that demonstrate prior experience in organizing, managing and performing similar efforts.

d. The current employment status of staff and availability for this project. The applicant must also indicate whether the proposed work will be performed by persons currently employed or is dependent upon planned recruitment or subcontracting. Key Personnel must sign letters of agreement to serve on the project, and indicate availability to commence work within three weeks of grant award.

The following information must be furnished:

a. The applicant must designate a Project Director (Key Personnel) to oversee the project and be responsible for implementation of the requirements of the cooperative agreement. The Project Director must have a minimum of three years of professional experience in a leadership role in implementation of complex basic education programs in developing countries in areas such as education policy; approaches to decentralization of education; improving educational quality and access; teacher training and materials development; education assessment of disadvantaged students; development of community participation in the improvement of basic education; and monitoring and evaluation of basic education projects. Points will be given for candidates with additional years of experience. Preferred candidates will also have knowledge of child labor issues and experience in the development of non-formal, formal, and vocational education of children removed from child labor.

b. The applicant must designate an Education Specialist (Key Personnel) who will provide leadership in developing the technical aspects of this project in collaboration with the Project Director. This person shall have at least three years experience in basic education projects in developing countries in areas including student assessment, teacher training, educational materials development, educational management, and educational monitoring and information systems. This person shall have experience in working successfully with ministries of education, networks of educators, employers' organizations and trade union representatives or comparable entities. Additional experience with child labor, psychosocial counseling, education statistics, vocational education of child removed from child labor, and education monitoring and evaluation is an asset.

c. The applicant must specify other personnel proposed to carry out the requirements of this solicitation.

d. The applicant must include a description of the roles and responsibilities of all personnel proposed for this project and a résumé for each professional person to be assigned to the program. Résumés will be attached in an appendix. At a minimum, each résumé must include: The individual's current employment status and previous work experience, including position title, duties performed, dates in position, and employing organizations and educational background. Duties must be clearly defined in terms of role performed, *i.e.,* manager, team leader, consultant, etc. Indicate whether the individual is currently employed by the applicant, and (if so) for how long.

e. The applicant must indicate whether proposed personnel are currently employed by the organization or are dependent upon planned recruitment or sub-contracting. Note that management and professional technical staff members comprising the applicant's proposed team should be individuals who have prior experience with organizations working in similar efforts, and are fully qualified to perform work specified in the Statement of Work. Where sub-contractors or outside assistance are proposed, organizational control must be clearly delineated to ensure responsiveness to the needs of USDOL.

4. *Leverage of Federal Funding (5 points).*

The Department will give up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the dollar amount, size and scope of the proposal. Of special interest is organizations' ability to provide income-generation and/or credit programs or other material incentives to benefit families of target children, or for older children who complete education programs and are ready for self-employment. These programs will not be financed by the project, but can supplement and enhance project objectives. The applicant may include any leveraging or co-funding anticipated. To be eligible for the additional points in the criterion, the applicant must list the source(s) of funds, the nature, and possible activities anticipated with these funds under this cooperative agreement and any partnerships, linkages or coordination of activities, cooperative funding, *etc.*

Signed at Washington, DC, this 17th day of May 2002.

Lawrence J. Kuss,

Grant Officer.

List of Appendices

Appendix A. SF 424—Application Form.

Appendix B. SF 424A—Budget Information Form.

Appendix C. Background Information on USDOL-Funded Projects in Pakistan.

Appendix D. Implementing Environment in Pakistan.

Appendix E. Organizations Involved in Education and/or Child Labor in Pakistan.

Appendix F. List of Background Materials Available Upon Request.

BILLING CODE 4510–28–P

Appendix A: SF 424 - Application Form.

APPLICATION FOR FEDERAL ASSISTANCE

APPENDIX "A"

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name, telephone number and fax number of the person to be contacted on matt this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): □□-□□□□□□□	7. TYPE OF APPLICANT: (enter appropriate letter in box) □ A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipa J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): □ □ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____	9. NAME OF FEDERAL AGENCY:
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: □□-□□□ TITLE:	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):	

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (RE

Authorized for Local Reproduction

APPENDIX B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B – Cost Sharing/Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing/ Match (Rate %)			

NOTE: Use Column (A) to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column (B) to record changes to Column (A) (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

BILLING CODE 4510-28-C

Instructions for Part II—Budget Information

Section A—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid for project personnel which you are required to provide with W2 forms.
2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits.
3. *Travel:* Indicate the amount requested for staff travel. Include funds to cover at least on trip to Washington, DC for project director of designee..
4. *Equipment:* Indicate the cost of non-expanded personal property that has a useful life of more than one year with a per unit cost of $5,000 or more. Also include a detailed description of equipment to be purchased including price information.
5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period.
6. *Contractual:* Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub contracts/grants.
7. *Other:* Indicate all direct costs not clearly covered by line 1 through 6 above, including consultants.
8. *Total, Direct Costs:* Add lines 1 through 7.
9. *Indirect Costs:* Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.
10. *Training/Stipend Cost:* (If allowable)
11. *Total Federal Funds Requested:* Show total of lines 8 through 10.

Section B—Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e., other Federal source or other Non-Federal source.

Note: Please include a detailed cost analysis of each line item.

Appendix C: Background Information on USDOL-Funded Projects in Pakistan

The United States Department of Labor has funded several child labor projects in Pakistan, which are detailed below.

Elimination of Child Labor in the Soccer Ball Industry in Sialkot (US $1.8 million, 1997). The primary objective of the project is to prevent and eliminate child labor in the production of soccer balls in Sialkot through workplace monitoring and provision of alternatives to children and their families. The project, which is a result of an agreement between the Sialkot Chamber of Commerce and Industry (SCCI), ILO and UNICEF, has achieved several important results. Manufacturers who participate in the project have shifted their production of soccer balls from homes to stitching centers that are registered and monitored by the ILO/IPEC. Over 90 percent of the soccer ball export production is being monitored through this program. IPEC monitors conduct unannounced inspections of the centers to ensure that children are not stitching soccer balls.

The project has succeeded in removing more than 6,000 children from soccer ball stitching and providing them with non-formal education and/or skills training. Over 1,900 of these children have been mainstreamed into the formal education system. The project, currently in its second phase, continues to provide education to former child laborers, as well as any new children found working in the industry. In addition, 2,000 parents of former child stitchers will benefit from income generating activities. One of the objectives of the second phase of the project is to plan for a sustainable phase out strategy for IPEC. To that end, the project will work to establish a local independent monitoring body to succeed the current IPEC monitoring system. This project has benefited from the continued support and active participation of the SCCI in addressing the issue of child labor in the soccer ball industry. The industry has contributed about US $400,000 to project activities. They have also established the Child and Social Development Program within SCCI to ensure that child labor and other social issues are addressed effectively in the industry.

Combating Child Labor in the Carpet Industry (US $2 million, 1999). This three-year project seeks to reduce the incidence of child labor in the carpet sector in Punjab. Working in partnership with the Pakistan Carpet Manufactures and Exporters Association (PCMEA), the project has established a monitoring system to identify working children and ensure their gradual withdrawal from carpet weaving. Approximately 8,000 carpet-weaving children aged 14 and below and 2,000 of their younger siblings are targeted for non-formal education. Children will also benefit from other support services including health, recreation, and counseling. In addition, 2,000–3,000 parents of carpet-weaving children will receive training and access to micro-credit to start their own income-generating enterprises.

To date the project has managed to provide nearly 8,000 children with non-formal education and prevented about 1,000 younger siblings from entering work. More than 100 children have been mainstreamed into the formal education system. Based on surveys conducted in the two districts, the number of carpet weaving children far exceeds the project's target group. USDOL is exploring funding a second phase to the project, which would expand services provided to include additional carpet weaving children in the two current districts of Sheikhupura and Gujranwala, as well as expanded program activities to cover additional areas in Punjab where carpet-weaving takes place.

Appendix D: Implementing Environment in Pakistan

Although Pakistan's Employment of Children Act of 1991 prohibits the employment of children less than 14 years of age in occupations deemed to be hazardous to their health, according to Pakistan's National Policy and Action Plan to Combat Child Labor a National Child Labor Survey conducted in 1996 found about 3 million children aged five to 14 engaged in child labor in Pakistan (see Government of Pakistan, The Child Labour Unit of the Ministry of Labor, Manpower and Overseas Pakistanis, *National Policy and Action Plan to Combat Child Labor*, Islamabad, n.d., p. 10). Punjab province alone accounts for about 59 percent of the total child labor in Pakistan. Most of these children worked on a full-time basis. In 1999, the ILO estimated that 16 percent of children between the ages of 10 to 14 in Pakistan were working.

In Pakistan, children are most commonly found working in the agricultural and manufacturing sectors, in the manufacture of soccer balls, surgical instruments, textiles and bricks. They also work in automobile workshops, and tanneries. There are reports that some children and their families are part of a system of debt bondage in the brick kilns. Children also engage in garbage scavenging and carpet weaving, and are used in the smuggling of contraband and drugs.

In the province of Punjab, where this project will be implemented, a survey by the Punjab Labor and Manpower found that 54 percent of children enter the workforce to assist household enterprises; 27 percent enter to supplement household income; and 14 percent are the family's sole income earners. The majority of children have been employed in the surgical instruments industry, football-manufacturing sector, steel furnace and spare parts sector, as well as in auto repair workshops and brick kilns. At home, girls are generally employed in work such as carpet weaving. About 80 percent of Pakistan's carpet production takes place in the province of Punjab. Since poverty is so widespread in the rural areas there is little opportunity for children to attend school and a majority must turn to carpet weaving as a source of income. The children, mostly young girls, work an average of six to 10 hours per day and earn less than a dollar a day.

The extent of child labor in Pakistan has engaged Pakistani and international organizations to take action to reduce and/or eliminate it. In March 1998, the Government of Pakistan established a Task Force on Child Labor to formulate policies on the elimination of child and bonded labor. Following task force recommendations, the Federal Cabinet approved a National Policy and Action Plan to Combat Child Labor. This action plan targets children in the age group five to 14, who are economically active and part of the labor force, and who generally are not in school.

Pakistan's National Action Plan for the elimination of child labor focuses on the following components: awareness raising; withdrawal of child engaged in the worst

forms of child labor; community mobilization; situational analysis and development of a database on child labor; law enforcement; capacity building of relevant ministries/departments; enhancing education and skills training opportunities for children; empowerment of poor families, and promoting coordination with functional and social partners (*National Policy and Action Plan to Combat Child Labor*, p. 11).

Members of the international community such as the ILO have also been involved on the child labor issue in Pakistan. In 1994, the Government of Pakistan signed a Memorandum of Understanding with the ILO that allowed ILO/IPEC to launch child labor eradication activities in collaboration with several government ministries, NGOs, employers, trade unions and a National Steering Committee. IPEC child labor programs, including USDOL-funded projects (see Appendix C), can be found throughout the country and cover multiple sectors including soccer ball manufacturing, domestic work, leather tanning, automobile work, and occupations in the informal sector. The ILO is in the process of designating Timebound status to Pakistan. A Timebound program is a set of integrated approaches and policies to prevent and eliminate a country's worst forms of child labor within a defined period of time. These programs place emphasis on social mobilization, and economic and social policies to combat poverty and promote universal basic education.

Although no single intervention can eradicate child labor, one critical component of a comprehensive strategy is to make education accessible to working children as is emphasized in Pakistan's National Plan to Combat Child Labor. Unfortunately, the education system in Pakistan is in a poor state with current indicators for literacy, enrollment, and retention rates far below those found in much of the developing world. A survey of Pakistan's education system conducted by the Social Policy and Development Center reported the following alarming statistics (Social Policy and Development Center, *Social Development in Pakistan, Annual Report*, Karachi, 1999 as cited in SPARC, *The State of Pakistan's Children*, 1999, Islamabad, January 2000, pp. 31–38). The nation's literacy rate is 45 percent, with a 50 percent literacy rate for males and 24 percent for females. Currently, Pakistan accounts for nearly 27 percent of the dropout rate in South Asia and it is estimated that by the year 2005, Pakistan will account for nearly 40 percent of the dropout rate in the entire region. Furthermore, 37 percent of boys and 55 percent of girls of primary age are not in school. More seriously, 70 percent of students drop out in the first five years of school. Dropping out of school makes them prime candidates to enter the labor market, which they often do. Overall, the average number of years of schooling in Pakistan is 1.9, compared to 3.9 years in developing countries. In Punjab the mean number of years of schooling is 2.3 (3.4 years for boys, and 1.1 years for girls). The primary enrollment ratio in Punjab is 69.4 for males, and 58.1 for females.

Emerging Approaches To Address Barriers to Education in Pakistan

A number of potential solutions have emerged to address the challenge of the education sector in Pakistan including the emergence of private schools, public-private partnerships, community and religious schools. Through existing child labor projects, NGOs and employers have also developed models for non-formal and formal schools for children engaged in child labor. Among the models that are currently being used or may be further developed to address the education needs of working children or those at risk of dropping out of school and entering the labor force are the following:

Public-private partnerships (Adopt-a-School). Capacity building and the strengthening of education institutions are integral to the emergence of public-private partnerships. In Pakistan, members of the private sector have taken the responsibility of overseeing the daily operations of several government schools. This initiative has led to the active participation of the private sector in the Adopt-a-School program that is implemented mainly in the rural areas of the nation. The adoption of schools by the private sector has relieved pressure on the government by developing sustainable education options, building and repairing infrastructure, improving transparency and accountability as well as providing incentives, training and professional development for staff members. The proposed package of incentives for the private sector, particularly in rural areas and also urban slums include provisions of land free of cost and or at concessional rates. Private sector institutions, which are involved in educational partnerships, will also receive exemption of custom duties on import of educational equipment and exemption of 50 percent income tax for faculty, support and administrative staff. Government reports estimate that the private sector supplements 40 percent of the nation's education.

Community-based schools. Community-based schools have also been established by members of NGOs or Community Based Organizations. Many of the schools have been successful in raising the literacy rate in the northern rural areas of the country by establishing a community-based social and economic approach. This method includes improvement in physical infrastructure, adult education classes, and skills training. A majority of NGO-sponsored schools have concentrated their efforts on expanding the availability of universal primary education (UPE), which includes increasing access, quality, sustainability, research, and policy advocacy. Many of the community-based schools also implement and promote interventions in maternal and child health, nutrition, microcredit finance, and skills training.

Non-formal school programs. These programs have been implemented by NGOs or employers as part of an ILO or other donor child labor project. They often run on the premises of government schools at times when formal school is not in session, or they may also hold classes in separate locales. They vary in instructional quality, the level of training provided to teachers and other incentives provided to children and families to promote school attendance. Some employer-sponsored schools such as in the carpet sector allow children to combine work with school. Employer sponsored schools include those of the SCCI (soccer ball production), Carpet Manufacturer's and Exporters Association, and Surgical Instruments Manufacturer Association of Pakistan.

Religious schools (madrassas). Madrassas are religious schools where a body of knowledge is passed down from teacher to student encouraging the memorization of religious text. While the curriculum in the school may be limited, its attraction is that students receive an education while being provided housing, food, and clothing. There are 8,000 madrassas registered with the government and some have tended to foster a conservative education that has sometimes resulted in religious extremism across parts of Pakistan and Afghanistan.

Private schools. The demand for private schools has increased in the last few years because of the quality of education they are able to provide. Students who attend private schools are usually from Pakistan's social elite. Most private schools are not supervised by any government agency and therefore free to establish their own curriculum, teaching methods and hiring practices. Education experts feel that involvement by the government would stifle the progress made by private schools and the institutions would lose their advantage of being able to provide quality education.

The development of these different approaches to improve school access and quality support Pakistan's Ministry of Education's education reform that has been in development since 1999. In November 2001, the Minister of Education announced the educational policies and reforms through which, for the first time in the history of Pakistan, the education budget would be increased by 150 percent. The bulk of the budget will be spent on literacy in formal and non-formal schools, technical and skills training, teacher training, development of school infrastructure and the establishment of public-private partnerships.

In January 2002, the Government of Pakistan Ministry of Education published *Education Sector Reforms. Action Plan 2002–2004* (Government of Pakistan, Ministry of Education, *Education Sector Reforms. Action Plan 2002–2004*, Jan. 2002, p. 75). As part of the strategy the government will make educational programs available for children above age 10 who are at risk of dropping out of school, involved in child labor or living in remote areas of the country. To address weak education indicators, the Government of Pakistan is giving priority to UPE and has recently passed a regulation making primary education compulsory. Content areas of the reform include literacy in formal and non-formal schools, technical and skills training, teacher training, development of school infrastructure and the establishment of public-private partnerships.

This plan specifically addresses the education needs of child laborers. Its strategies are similar to those of the Child Labor Action Plan and include awareness-raising, development and dissemination of information, community mobilization, situation analysis, establishment of monitoring and evaluation system, withdrawal of children from exploitative labor on a priority basis, and special protection to the most vulnerable groups of child labor (*Education Sector Reforms. Action Plan 2002–2004*, Jan. 2002, p. 75).

As part of its educational reform plan, the Government of Pakistan has attached special importance to decentralization of the education sector. Through devolution of administrative authority, local government will undertake educational development. The devolution plan was launched in 2001 and actions are being developed to ensure that the process is successful.

As part of the decentralization and devolution process all provinces will become more active in education planning and implementation. Under Local Government Ordinance 2001, the province of Punjab has been assigned the responsibility of establishing Citizen Community Boards (CCBs). The function of the CCB is to ensure effective participation at the community level. The boards can form stakeholders associations such as Parent-Teacher Associations or Community Public Partnerships for community involvement in the improvement and maintenance of educational programs. Under this plan the local community will be involved in such issues as hiring of local teachers, involvement in the schools' annual development plan, and management and operation of school-related funds. The government ordinance also calls for the establishment of School Management or Monitoring Committees, which will ensure accountability and transparency at the district level.

The education reform plan also aims to encourage Pakistani expatriates to support the education sector in needy areas of Pakistan. Many overseas Pakistanis are economically prosperous and are a source of remittances that improve the social and economic conditions in their country of origin. Since the portfolio of the Ministry of Labor also includes Overseas Pakistanis, this approach could lead to interesting synergies between the Ministries of Education and Labor.

President Musharraf has also been instrumental in initiating educational reforms and poverty alleviation programs. This commitment to implement social change led to the creation of a Task Force on Human Development in June 2001. The task force is comprised of representatives from civil society, NGOs, academics, government, and field practitioners who are working to complete the reforms initiated by the government in various social sectors. The vision of the task force is to enable the people of Pakistan to reach their maximum potential by approaching development issues through a holistic approach. In January 2002, the Government of Pakistan and international donors including USDOL met at the Human Development Forum that included participation by President Musharraf and U.N. Secretary General Kofi Annan. At this forum practitioners presented innovative approaches to education and human resource development in Pakistan including many of the models cited above.

Appendix E: Organizations Working on Education and Child Labor in Pakistan

A number of organizations work on education and child labor programs in Pakistan. If partnerships are envisioned, the Applicant should not limit consideration to what is listed below.

The Aga Khan Foundation

The Aga Khan Foundation is a private, non-denominational development agency. Its mission is to promote creative and effective solutions to problems that impact social development. As part of the government curriculum reform initiative, the Aga Khan Foundation has started a Teacher Resource Center, which is focused on early childhood education that works with public and government schools.

The Ali Institute of Education

The Ali Institute was established in 1992 with a grant from the UNDP to improve quality education. The Institute is currently involved in the Adopt-a-School program, and is working to raise educational standards through teacher training for underprivileged communities at nine Training and Resource Centers.

The Asia Foundation

The Asia Foundation is a private, nonprofit, nongovernmental organization dedicated to advancing the mutual interest of the United States and the Asia Pacific region and has been operating in Pakistan since 1954. Working in close partnerships with Pakistani NGOs and individuals, the Foundation has sought to develop sustainable models of community participation for a wide variety of services and contribute to an agenda for institutional reform and long-term good governance. The Foundation focuses on five key issues related to universal primary education: quality, access, sustainability, research and policy advocacy. In December 2000, the Asia Foundation co-sponsored a policy dialogue to present research findings and suggest policy initiatives on basic education. The Asia Foundation has also been instrumental in conducting comparative analysis of government, private and NGO schools to identify policy lessons.

International Labor Organization (ILO)

The ILO brings together governments, workers, and employers in a common endeavor to improve social protection and conditions of life and work throughout the world. The ILO, through the work done by the International Program to Eliminate Child Labor (IPEC), has implemented a large number of programs and activities aimed at combating child labor by creating awareness, promoting education and integrating social and economic development policies.

Save the Children-UK

Save the Children-UK is the leading charity in the United Kingdom working to create a better world for children. Save the Children works in over 70 countries helping the children in the most impoverished communities. In Pakistan, Save the Children is involved in alternative education projects such as night schools for working children and credit and savings programs for the parents of working children. It has been the lead agency in combating child labor in the carpet industry in the Tharparkar district of southern Pakistan.

Skill Development Council of Punjab

The Council was established in June 1995 because of the lack of highly trained employees needed to run technical and skilled manpower projects. One of its first initiatives was to create advocacy groups that would lobby organizations to provide funds to support basic skills training. The Council is a tripartite organization with employers taking the lead and members of the government and council taking active roles. Currently, the Council supports 30 Non-Formal Education (NFE) and Skill Training Centers. The Skill Training Centers allow older youth to be better equipped and have the knowledge necessary to find employment in more technically advanced labor sectors. Members of the Council are also active in conducting seminars and raising awareness on the child labor situation in Pakistan.

Society for the Protection of the Rights of the Child (SPARC)

SPARC is a Pakistani NGO working for the rights of the child and for the worldwide promotion of human rights. SPARC is instrumental in raising public awareness and producing research on child laborers in Pakistan through books, newsletters, brochures, and reports.

SUDHARR

SUDHARR is a Pakistani NGO that established NFE programs in 1995. Since then the organization has had great success mainstreaming urban children into formal school settings. SUDHARR cites grassroots mobilization as its foundation for success using the concept of Family Education and Village Education Committees. Through its approach, the school becomes the center of community life. Current programs also focus on training and motivating teachers and district school administrators.

Technical Training Institute-Lahore

The Technical Training Institute is focused on improving training for those in the industrial sector. The institute has two areas of focus, which include technical training and apprenticeship training. Students interested in pursuing careers as electricians or other science/math-based careers must have matriculated before being accepted into the institute. Currently there are 11,000 students in the full-time training program (two years) and nearly 3,000 in the apprenticeship program a three-year program. The institute has initiated short courses, which are between six months to one year. Recent additions to the curriculum include graphic/fine arts, medical assistant and computer training.

UNESCO

UNESCO action in education strategy is shaped by three objectives which include promoting education as a fundamental human right; improving the quality of education for all children; and promoting experimentation, innovation and the diffusion and sharing of information and best practices as well as policy dialogue in education. The Government of Pakistan has responded favorably to UNESCO's Education For All commitment. Current UNESCO projects in Pakistan focus on street and working children as well as children working in the carpet industry in Lahore. UNESCO has also undertaken a teacher-training program that incorporates using the resources and infrastructure of national and regional teacher training colleges and has also been involved in the development and improvement of student assessment tools.

UNICEF

UNICEF operates in over 161 countries, areas and territories on solutions to problems facing children and their families and on ways to realize their rights. Work is carried out in partnership with governments, civil society organizations and communities to offer children the best possible start in life. Programs focus on policies, legislation and programmatic support to protect children in vulnerable situations. Their work reaches out to those who have been traditionally forgotten, including child laborers. In the last three years, UNICEF has worked with the Department of Education, Government of the Punjab to implement the Universal Primary Education Project. This project has worked in several districts and has fully involved communities and teachers in combating child labor and increasing enrollment. The project's major objectives have been: (1) To enroll every child in the age group of five to seven years and retain them for the entire primary cycle; (2) to provide quality education, and (3) to bring attitudinal change among communities to make them supportive of UPE. In Pakistan, UNICEF is interested in vocational skills training for older youth involved in work.

Appendix F: List of Background Materials Available Upon Request

The following additional background materials are available from USDOL upon request.

Government of Pakistan. *Education Sector Reforms: Action Plan 2001–2004.*

Government of Pakistan. *National Policy and Action Plan to Combat Child Labor.*

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL1–88]

MET Laboratories, Inc., Renewal and Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the application of MET Laboratories, Inc., for renewal of its recognition as a Nationally Recognized Testing Laboratory, under 29 CFR 1910.7, and the related application of MET Laboratories, Inc., for expansion of its recognition to include additional test standards.

EFFECTIVE DATE: The renewal is effective on May 23, 2002 and will be valid until May 23, 2007, unless terminated or modified prior to that date, in accordance with 29 CFR 1910.7. The renewal incorporates the expansion.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet or Sherrey Nicolas, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the renewal and expansion of recognition of MET Laboratories, Inc., (MET) as a Nationally Recognized Testing Laboratory (NRTL). MET's expansion covers the use of two additional test standards. The NRTL's scope of recognition may be found in the following OSHA informational web page: *http://www.osha-slc.gov/dts/otpca/nrtl/met.html.* The information on this page will be updated in the very near future to include the recognitions granted in this notice.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in §1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products "properly certified" by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational web page for each NRTL, which details its scope of recognition. These pages can be accessed from our web site at *http://www.osha-slc.gov/dts/otpca/nrtl/index.html.*

MET Laboratories, formerly known as MET Electrical Testing Company, applied to OSHA for recognition as a Nationally Recognized Testing Laboratory in April 1988. On May 16, 1989 (54 FR 21136), it received this initial recognition. MET applied for its first renewal in August 1993, which OSHA announced, along with other MET applications on August 6, 1996 (61 FR 41661) and granted on November 20, 1996 (61 FR 59114). The Agency granted MET's renewal for a period of five years ending on November 20, 2001.

Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. MET submitted a request, dated February 9, 2001 (see Exhibit 28), to renew its recognition within the time allotted, and MET retains its recognition pending OSHA's final decision in this renewal process. MET's existing scope of recognition consists of the facility already recognized and the supplemental programs, as listed below, and the test standards listed under *Renewal of Recognition* below.

MET also submitted a request, dated February 13, 2002 (see Exhibits 28–1), to expand its recognition to include the two additional test standards listed below. The OSHA NRTL Program staff determined that the two test standards, listed below under *Expansion of Recognition*, are appropriate within the meaning of 29 CFR 1910.7(c) and can be included in MET's scope of recognition. The staff makes such determinations in processing applications from any NRTL.

In processing MET's renewal request, OSHA NRTL Program staff performed an on-site review of MET's facility on October 1 and 3, 2001. In the on-site review report (see Exhibit 29), the staff recommended a "positive finding," which means a positive recommendation to the Assistant Secretary regarding the renewal. In processing MET's expansion request to include the additional standards, OSHA NRTL Program staff did not perform an on-site review but reviewed documentation pertinent to the request and in a memo (see Exhibit 29–1) recommended the expansion of MET's recognition to include the additional test standards listed below.

OSHA published the required notice in the **Federal Register** on April 11, 2002 (67 FR 17722), to announce MET's renewal and expansion requests. This notice included a preliminary finding that MET could meet the requirements in 29 CFR 1910.7 for renewal and expansion of its recognition and invited public comment by April 26, 2002. OSHA received no comments concerning this notice.

The previous notice published by OSHA for MET's recognition covered an expansion of recognition to include additional standards, which became effective on September 26, 2001 (66 FR 49211). The other **Federal Register** notices related to MET's recognition that OSHA has published since MET's previous renewal addressed an expansion for additional standards, which OSHA announced on November 10, 1998 (63 FR 63085) and granted on March 9, 1999 (64 FR 11502). The renewal incorporates all of these recognitions granted to MET, including the expansion being granted in this notice.

You may obtain or review copies of all public documents pertaining to the MET applications by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N2625, Washington, DC 20210. You should refer to Docket No. NRTL1–88, the permanent record of public information on the MET recognition.

The current address of the MET facility (site) already recognized by OSHA is: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230.

Programs and Procedures

The renewal of recognition includes MET's continued use of the following supplemental programs and procedures based upon the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs), eight of which an NRTL may use to control and audit, but not actually to generate, the data relied upon for product certification. An NRTL's initial recognition will always include the first or basic program, which requires that all product testing and evaluation be performed in-house by the NRTL that will certify the product. OSHA has already recognized MET for these programs. See *http://www.osha-slc.gov/dts/otpca/nrtl/met.html.*

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 3: Acceptance of product evaluations from independent organizations, other than NRTLs.

Program 4: Acceptance of witnessed testing data.

Program 5: Acceptance of testing data from non-independent organizations.

Program 6: Acceptance of evaluation data from non-independent organizations (requiring NRTL review prior to marketing).

Program 7: Acceptance of continued certification following minor modifications by the client.

Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC–CB) Scheme.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents.

OSHA developed these programs to limit how an NRTL may perform certain aspects of its work and to permit the activities covered under a program only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, these programs help to define the scope of that recognition.

Final Decision and Order

The NRTL Program staff has examined the applications, the assessor's report and memo, and other pertinent information. Based upon this examination and the assessor's recommendations, OSHA finds that MET Laboratories, Inc., has met the requirements of 29 CFR 1910.7 for renewal and expansion of its NRTL recognition. The renewal and expansion apply to the site listed above. In addition, the renewal and expansion cover the test standards listed below and are subject to the limitations and conditions, also listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby renews and expands the recognition of MET, subject to these limitations and conditions.

Limitations

Renewal of Recognition

OSHA limits the renewal of recognition of MET to the site listed above. OSHA further limits the renewal of recognition of MET to testing and certification of products for demonstration of conformance to the following 102 test standards, which OSHA has previously recognized for MET. Except as explained below (see paragraph immediately following listing of standards), all these standards are "appropriate," within the meaning of 29 CFR 1910.7(c).

ANSI C12.1 Code for Electricity Meters
ANSI/IEEE C57.13 Terminology and Test Code for Instrument Transformers
ANSI/UL 5 Surface Metal Raceways and Fittings
ANSI/UL 22 Electric Amusement Machines
UL 45 Portable Electric Tools
ANSI/UL 50 Enclosures for Electrical Equipment
ANSI/UL 65 Electric Wired Cabinets
ANSI/UL 73 Electric Motor-Operated Appliances
ANSI/UL 122 Electric Photographic Equipment
ANSI/UL 130 Electric Heating Pads
ANSI/UL 153 Portable Electric Lamps
ANSI/UL 187 X-Ray Equipment
ANSI/UL 197 Commercial Electric Cooking Appliances
ANSI/UL 201 Garage Equipment
ANSI/UL 231 Electrical Power Outlets
UL 416 Refrigerated Medical Equipment
ANSI/UL 469 Musical Instruments and Accessories
ANSI/UL 471 Commercial Refrigerators and Freezers
ANSI/UL 482 Portable Sun/Heat Lamps
ANSI/UL 484 Room Air Conditioners
ANSI/UL 499 Electric Heating Appliances
UL 506 Specialty Transformers
ANSI/UL 507 Electric Fans
ANSI/UL 508 Electric Industrial Control Equipment
ANSI/UL 514A Metallic Outlet Boxes, Electrical
UL 544 Electric Medical and Dental Equipment
UL 664 Commercial Dry-Cleaning Machines (Type IV)
ANSI/UL 676 Underwater Lighting Fixtures
ANSI/UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations

ANSI/UL 705 Power Ventilators
UL 745–1 Portable Electric Tools
UL 745–2–1 Particular Requirements of Drills
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches
UL 745–2–3 Particular Requirements for Grinders, Polishers, and Disk-Type Sanders
UL 745–2–4 Particular Requirements for Sanders
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives
UL 745–2–6 Particular Requirements for Hammers
UL 745–2–8 Particular Requirements for Shears and Nibblers
UL 745–2–9 Particular Requirements for Tappers
UL 745–2–11 Particular Requirements for Reciprocating Saws
UL 745–2–12 Particular Requirements for Concrete Vibrators
UL 745–2–14 Particular Requirements for Planers ≤
UL 745–2–17 Particular Requirements for Routers and Trimmers
UL 745–2–30 Particular Requirements for Staplers
UL 745–2–31 Particular Requirements for Diamond Core Drills
UL 745–2–32 Particular Requirements for Magnetic Drill Presses
UL 745–2–33 Particular Requirements for Portable Bandsaws
UL 745–2–34 Particular Requirements for Strapping Tools
UL 745–2–35 Particular Requirements for Drain Cleaners
UL 745–2–36 Particular Requirements for Hand Motor Tools
UL 745–2–37 Particular Requirements for Plate Jointers
ANSI/UL 751 Vending Machines
UL 763 Motor-Operated Commercial Food Preparing Machines
UL 775 Graphic Arts Equipment
ANSI/UL 813 Commercial Audio Equipment
ANSI/UL 859 Personal Grooming Appliances
UL 869A Standard for Service Equipment
ANSI/UL 886 * Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations
ANSI/UL 913 Intrinsically Safe Apparatus and Associated apparatus for Use in Class I, II, and III, Division 1, Hazardous Locations
ANSI/UL 923 Microwave Cooking Appliances
UL 935 Fluorescent-Lamp Ballasts
ANSI/UL 982 Motor-Operated Household Food Preparing Machines
ANSI/UL 1012 Power Supplies
ANSI/UL 1017 Vacuum Cleaning Machines and Blower Cleaners
ANSI/UL 1018 Electric Aquarium Equipment
UL 1026 Electric Household Cooking and Food Serving Appliances
UL 1028 Hair Clipping and Shaving Appliances
ANSI/UL 1042 Electric Baseboard Heating Equipment
ANSI/UL 1054 Special-Use Switches
ANSI/UL 1069 Hospital Signaling and Nurse-Call System
UL 1083 Household Electric Skillets and Frying-Type Appliances
ANSI/UL 1203 * Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations
UL 1236 Battery Chargers for Charging Engine-Starter Batteries
UL 1244 Electrical and Electronic Measuring and Testing Equipment
UL 1248 Engine-Generator Assemblies for Use in Recreational Vehicles
ANSI/UL 1262 Laboratory Equipment
ANSI/UL 1270 Radio Receivers, Audio Systems, and Accessories
ANSI/UL 1310 Direct Plug-In Transformer Units
ANSI/UL 1409 Low-Voltage Video Products Without Cathode-Ray-Tube Displays
ANSI/UL 1410 Television Receivers and High-Voltage Video Products
ANSI/UL 1411 Transformers and Motor Transformers for Use in Audio-, Radio-, and Television-Type Appliances
UL 1431 Personal Hygiene and Health Care Appliances
UL 1449 Transient Voltage Surge Suppressors
UL 1459 Telephone Equipment
UL 1492 Audio-Video Products and Accessories
ANSI/UL 1570 Fluorescent Lighting Fixtures
ANSI/UL 1571 Incandescent Lighting Fixtures
UL 1598 Luminaries
ANSI/UL 1573 Stage and Studio Lighting Units
UL 1585 Class 2 and Class 3 Transformers
UL 1604 Electrical Equipment for Use In Class I and II, Division 2, and Class III Hazardous (Classified) Locations
ANSI/UL 1638 Visual Signaling Appliances—Private Mode Emergency and General Utility Signaling
ANSI/UL 1647 Motor-Operated Massage and Exercise Machines
UL 1778 Uninterruptible Power Supply Equipment
UL 1786 Nightlights
UL 1950 Safety of Information Technology Equipment, Including Electrical Business Equipment
UL 1993 Self-Ballasted Lamps and Lamp Adapters
UL 1995 Heating and Cooling Equipment
UL 2601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety
UL 3101–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements
UL 3111 Electrical Measuring and Test Equipment; Part 1: General Requirements
UL 6500 Audio/Visual and Musical Instrument Apparatus for Household, Commercial, and Similar General Use

Note: Testing and certification of gas operated equipment is limited to Class I to equipment for use with "liquefied petroleum gas" ("LPG" or "LP-Gas")

* Testing and certification of products under this test standard is limited to Class I locations. Explosion testing is also limited to current test chamber capabilities.

At the time of preparation of the preliminary notice, some of the test standards for which OSHA currently recognizes MET, and which are listed above, have been withdrawn or replaced by the standards developing organization. Under OSHA policy regarding such withdrawn or replaced test standards, OSHA can no longer recognize the NRTL for the test standards, but the NRTL may request recognition for comparable test standards, i.e., other appropriate test standards covering similar types of product testing. However, a number of other NRTLs also are recognized for these withdrawn or replaced standards. As a result, OSHA will publish a separate notice to make the appropriate substitutions for MET and the other NRTLs that were recognized for these standards.

OSHA's recognition of MET, or any NRTL, for a particular test standard is limited to equipment or materials (i.e., products) for which OSHA standards require third party testing and certification before use in the workplace. Consequently, an NRTL's scope of recognition excludes any product(s) falling within the scope of a test standard for which OSHA has no NRTL testing and certification requirements.

Many of the test standards listed above, and listed later in this notice, are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we use the designation of the standards developing organization (e.g., UL 1012) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1012). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site (*http://www.ansi.org*) and click "NSSN" to find out whether or not a test standard is currently ANSI-approved.

Expansion of Recognition

OSHA limits the expansion to testing and certification of products for demonstration of conformance to the following two test standards, and, as indicated above, OSHA has determined the standards are "appropriate."

UL 924 Emergency Lighting and Power Equipment
UL 1008 Transfer Switch

Conditions

MET Laboratories, Inc., must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to the MET facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If MET has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the organization that developed the test standard of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

MET must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, MET agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

MET will continue to meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and MET will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, DC this 14th day of May, 2002.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 02–12957 Filed 5–22–02; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–02–1]

American Boiler and Chimney Co. and Oak Park Chimney Corp.; Application for Permanent Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of an application for a permanent variance; request for comment.

SUMMARY: The American Boiler and Chimney Co. and Oak Park Chimney Corp. are applying for a permanent variance from the Occupational Safety and Health Administration (i.e., "OSHA" or "the Agency") provision that regulates the tackle used for boatswain's chairs (§ 1926.452 (o)(3)), as well as the requirements specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. The variance application covers the use of boatswain's chairs in chimney construction work.

DATES: Submit written comments and requests for a hearing by June 24, 2002.

ADDRESSES: Submit comments in quadruplicate, or one hard copy and one diskette (3-½ inches) in a Word, WordPerfect, or ASCII format, to: Docket Office, Docket No. S–778–A, Room N–2634, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350). Submit any information not contained on a disk (e.g., studies, articles) in quadruplicate to the Docket Office. Commenters may transmit written comments of 10 pages or less by fax to (202) 693–1698, provided they send an original and three copies of these comments to the Docket Office by the submission date.

Send requests for a hearing to Ms. Veneta Chatmon, Office of Information and Consumer Affairs, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

FOR FURTHER INFORMATION: For general information and press inquiries, contact Ms. Bonnie Friedman, Office of Information and Consumer Affairs, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999. Make technical inquiries to Mr. Mike Turner, Acting Director, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2110; fax (202) 693–1644. You can obtain additional copies of this **Federal Register** notice from the Office of Publications, Room N–3101, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210; telephone (202) 693–1888. For electronic copies of this notice contact OSHA on the Internet at *http://www.osha.gov*, and select "**Federal Register**," "Date of Publication," and then "2002."

Information about this variance application is also available from the following OSHA Regional Offices:

U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203, Telephone: (617) 565–9860, Fax: (617) 565–9827.

U.S. Department of Labor, OSHA, 201 Varick St., Room 670, New York, NY 10014, Telephone: (212) 337–2378, Fax: (212) 337–2371.

U.S. Department of Labor, OSHA, The Curtis Center, Suite 740 West, 170 South Independence Mall West, Philadelphia, PA 19106, Telephone: (215) 861–4900, Fax: (215) 861–4904.

U.S. Department of Labor, OSHA, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303, Telephone: (404) 562–2300, Fax: (404) 562–2295.

U.S. Department of Labor, OSHA, 230 South Dearborn St., Room 3244, Chicago, IL 60604, Telephone: (312) 353–2220, Fax: (312) 353–7774.

U.S. Department of Labor, OSHA, 525 Griffin St., Room 602, Dallas, TX 75202, Telephone: (214) 767–4731, Fax: (214) 767–4137.

U.S. Department of Labor, OSHA, City Center Square, 1100 Main St., Suite 800, Kansas City, MO 64105, Telephone: (816) 426–5861, Fax: (816) 426–2750.

U.S. Department of Labor, OSHA, 1999 Broadway, Suite 1690, Denver, CO 80201, Telephone: (303) 844–1600, Fax: (303) 844–1616.

U.S. Department of Labor, OSHA, 71 Stevenson St., Room 420, San Francisco, CA 94105, Telephone: (415) 975–4310, Fax: (415) 975–4319.

U.S. Department of Labor, OSHA, 1111 Third Ave., Suite 715, Seattle, WA 98101, Telephone: (206) 553–5930, Fax: (206) 553–6499.

Notice of Application

The following companies (i.e., "applicants") submitted requests for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11: American Boiler and Chimney Co., 3401 Grand Ave., Neville Island, Pennsylvania; and Oak Park Chimney Corp., 1800 Des Plaines Ave., Forest Park, Illinois 60130. The applicants seek a permanent variance from § 1926.452(o)(3), which provides the tackle requirements for boatswain's chairs. The applicants also request a variance from paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. These latter paragraphs specify the following requirements:

- (c)(1)—Construction requirements for hoist towers outside a structure.
- (c)(2)—Construction requirements for hoist towers inside a structure.
- (c)(3)—Anchoring a hoist tower to a structure.
- (c)(4)—Hoistway doors or gates.
- (c)(8)—Electrically interlocking entrance doors or gates to the hoistway and cars.
- (c)(13)—Emergency stop switch located in the car.
- (c)(14)(i)—Using a minimum of two wire ropes for drum hoisting.
- (c)(16)—Material and component requirements for construction of personnel hoists.

The applicants contend that the permanent variance would provide their employees with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions.

The places of employment affected by this variance application are the present and future projects where the applicants construct chimneys, including States under Federal jurisdiction, as well as States having safety and health plans approved by OSHA under section 18 of the OSH Act (29 U.S.C. 667) and 29 CFR part 1952 ("Approved State Plans for Enforcement of State Standards") (i.e., "State-plan States"). The applicants certify that they have provided each current employee affected by the permanent variance, as well as employee representatives, with a copy of their variance requests, and also have posted a copy of these requests in a prominent location in their corporate offices and at each job site where they normally post notices. In addition, the applicants have informed employees and their representatives of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on this variance application.

Multi-State Variance

The applicants perform chimney work in a number of geographic locations in the United States; these locations are likely to include one or more locations in State-plan States. Consequently, OSHA would issue any permanent variance granted as a result of this variance application according to the requirements specified by § 1952.9 ("Variances affecting multi-state employers") and § 1905.14(b)(3) ("Action on applications"). Under these regulations, a permanent variance granted by the Agency would become effective in State-plan States to the extent that the pertinent State standards are the same as the Federal OSHA standards from which the applicants are seeking the permanent variance. This notice provides State-plan States with an opportunity to comment on this variance application.

SUPPLEMENTARY INFORMATION:

I. Table of Contents

The following Table of Contents identifies the major sections under "Supplementary Information." To understand fully the information presented in the following sections, we recommend reviewing the general and specific conditions of the permanent variance listed below under section III ("Conditions of the Application for a Permanent Variance").

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II. Background

A. Overview

The applicants construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work, which occurs throughout the United States, requires applicants to transport employees and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it requires frequent relocation of, and adjustments to, the work platforms and scaffolds so that they will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport employees to various heights inside and outside a chimney, the applicants propose to use a hoist system that would lift and lower personnel-transport devices that include personnel cages, personnel platforms, or boatswain's chairs. The applicants would also attach a hopper or concrete bucket to the hoist system to raise or lower material inside or outside a chimney. Applicants would use personnel cages, personnel platforms, or boatswain's chairs solely to transport employees with the tools and materials necessary to do their work, and not to transport only materials or tools in the absence of employees.

The applicants would use a hoist engine located and controlled outside the chimney, to power the hoist system. The system would also consist of a wire rope that: Spools off the hoist drum into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to the personnel or material transport. The cathead, which is a superstructure at the top of a derrick, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the derrick as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The applicants would use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

The applicants would implement additional conditions to improve employee safety, including:

- Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;
- Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;
- Ensure that material hoisting does not endanger employees by providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of § 1926.552(c), including canopies and shields to protect employees located at the bottom of the chimney from material that may fall during hoisting and other overhead activities;
- Providing falling-object protection for scaffold platforms as specified by § 1926.451(h)(1);

- Conducting tests and inspections of the hoist system as required by §§ 1926.20(b)(2) and 1926.552(c)(15);
- Establishing an accident-prevention program that conforms to § 1926.20(b)(3);
- Ensuring that employees who use a personnel platform or boatswain's chair wear full body harnesses and lanyard; and
- Securing the lifelines (used with a personnel platform or boatswain's chair) to the rigging at the top, and to a weight at the bottom, of the chimney to provide maximum stability to the lifelines.

B. Previous Variances From §§ 1926.452(o)(3) and 1926.552(c)

Since 1973, ten chimney-construction companies have demonstrated to OSHA that several of the hoist-tower requirements of § 1926.552(c) present access problems that pose a serious danger to their employees. These companies received permanent variances from these hoist-tower requirements, and they have effectively used the same alternate apparatus and procedures that the applicants are now proposing to use in this variance application. The Agency published the permanent variances for the ten companies at 38 FR 8545 (April 3, 1973), 50 FR 40627 (October 4, 1985), and 52 FR 22552 (June 12, 1987). Five of these permanent variances are still in effect; the remaining five variances are not in effect because the companies are no longer in business.

In deciding whether or not to grant the earlier permanent variances from the hoist-tower requirements of § 1926.552(c), OSHA asked the chimney-construction industry to conduct tests to determine the effectiveness of the new equipment, procedures, and training proposed in the applications. The Agency also evaluated these alternatives by observing them at various chimney-construction sites. In doing so, OSHA found that the alternatives were generally safe industry practices. If the Agency identified alternatives that did not adequately protect employees, it revised the conditions of the variance applications to require additional safeguards to address these discrepancies. On the basis of this experience and knowledge, OSHA finds that the applicants' requests for a permanent variance are consistent with the permanent variances that the Agency has granted previously to other employers in the chimney-construction industry. Therefore, the Agency believes that the conditions specified in these variance applications will provide the employees of the applicants with at least the same level of safety that they would receive from § 1926.452(o)(3) and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552.

C. Requested Variance From § 1926.452(o)(3)

The applicants state that it is necessary, on occasion, to use a boatswain's chair to transport employees to and from a bracket scaffold on the outside of an existing chimney during flue installation or repair work, or to and from an elevated scaffold located inside a chimney that has a small or tapering diameter. Paragraph (o)(3) of § 1926.452, which regulates the tackle used to rig a boatswain's chair, states that this tackle must "consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8") inch diameter first-grade manila rope (or equivalent rope)."

The primary purpose of this paragraph is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswain's chair. However, the applicants note that the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall because of space limitations. Therefore, as an alternative to complying with the tackle requirements specified by § 1926.452(o)(3), the applicants propose to use the hoisting system described in paragraph I.A ("Overview") of this notice, both inside and outside a chimney, to raise or lower employees in a personnel cage to work locations. The applicants would use a personnel cage for this purpose to the extent that adequate space is available; they would use a personnel platform if using a personnel cage is infeasible because of limited space. If available space makes using a personnel platform infeasible, the applicants would use a boatswain's chair to lift employees to work locations. The applicants would limit use of the boatswain's chair to elevations above the last work location that the personnel cage and personnel platform can reach; under these conditions, they would attach the boatswain's chair directly to the hoisting cable only if the structural arrangement precludes the safe use of the block and tackle required by § 1926.452(o)(3).

D. Requested Variance From § 1926.552(c)

Paragraph (c) of § 1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during the construction, alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting personnel to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a small-diameter or tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes employees to additional fall hazards because they need to install extra bridging and bracing to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of § 1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The applicants assert that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes employees to a serious fall hazard. Additionally, the applicants note that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the employees involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of § 1926.552 requires that employers enclose all four sides of a hoist tower even if the tower is located inside a chimney; the enclosure must extend the full height of the tower. The applicants contend that it is hazardous for employees to erect and brace a hoist tower inside a chimney, especially small-diameter or tapered chimneys, or chimneys with sublevels, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (e.g., tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of § 1926.552(c)(1) and (c)(2), the applicants propose to use the rope-guided hoist system proposed above in

section II.A ("Overview") of this application to transport employees to and from work locations inside and outside chimneys. Use of the proposed hoist system would eliminate the need for the applicants to comply with other provisions of § 1926.552(c) that specify requirements for hoist towers. Therefore, they are requesting a permanent variance from several other closely-related provisions, as follows:

- (c)(3)—Anchoring the hoist tower to a structure.
- (c)(4)—Hoistway doors or gates.
- (c) (8)—Electrically interlocking entrance doors or gates that prevent hoist movement if the doors or gates are open.
- (c)(13)—Emergency stop switch located in the car.
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting.
- (c)(16)—Construction specifications for personnel hoists, including materials, assembly, structural integrity, and safety devices.

The applicants assert that the proposed hoisting system would protect their employees at east as effectively as the hoist-tower requirements of § 1926.552(c). The following section of this application describes the general and specific conditions that would apply to the proposed hoisting system.

III. Conditions of the Application for a Permanent Variance

A. General Conditions

During chimney construction, the applicants propose to use a rope-guided hoist system to safely transport their employees between the bottom landing of a chimney and the elevated work location instead of complying with § 1926.552(c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i) and (c)(16). The hoist system includes the hoist machine, personnel- or material-transport device, safety cables, and additional safety measures (e.g., limit switches to prevent overrun of a personnel- or material-transport device at the top and bottom landings, and safety clamps that grip the safety cables if the main hoist line fails).

The applicants propose to use the hoist system inside and outside a chimney to raise or lower employees in a personnel cage to work locations. If available space makes using a personnel cage for this purpose infeasible, the applicants would use a personnel platform or a boatswain's chair. The applicants would limit use of the boatswain's chair to elevations above the last work location that the personnel cage and personnel platform can reach; under these conditions, they would attach the boatswain's chair directly to the hoisting cable only if the spatial arrangement makes safe use of the block and tackle required by § 1926.452(o)(3) infeasible. For the purpose of enforcing the variance, the applicants would assume the burden of demonstrating infeasibility if they use either a personnel platform or a boatswain's chair to transport employees to a work location, or substitute the hoisting cable for the required block and tackle in lifting the boatswain's chair.

Except for the provisions identified above in this section (i.e., "General conditions"), the applicants acknowledge that they would comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926 if OSHA grants their variance applications. Moreover, the applicants would comply fully with the specific conditions listed in the following section (i.e., "Specific conditions").

B. Specific Conditions

The applicants propose to implement the following specific conditions as an alternative to tackle requirements provided for boatswain's chairs by § 1926.452(o)(3), and to the personnel-hoist requirements of paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552:

1. Qualified Competent Person

The applicants would:

(a) Provide a qualified competent person, as specified in paragraphs (f) and (m) of § 1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system complies with the conditions of this proposed alternative and to the appropriate requirements of 29 CFR part 1926 ("Safety and Health Regulations for Construction").

(b) Whenever the hoist system is raising or lowering employees, ensure that the qualified competent person is present at ground level to assist in an emergency.

2. Hoist Machine

(a) Type of hoist. The applicants would designate the hoist machine as a portable personnel hoist.

(b) Raising or lowering a transport. The applicants would ensure that the hoist machine includes a base-mounted drum hoist designed to control line speed, and that the hoist system does not use belt drives. Whenever they raise or lower a personnel or material hoist (e.g., a personnel cage, personnel platform, boatswain's chair, hopper, concrete bucket) using the hoist system, the applicants would:

(i) Continuously engage the drive components if they are lowering an empty or occupied transport (i.e., no "freewheeling").

(ii) Interconnect, on a continuous basis, the drive system through a torque converter or mechanical (or equivalent) coupling.

(iii) If using a forward-reverse coupling or shifting transmission, ensure that the braking mechanism applies automatically when the transmission is in the neutral position.

(c) Source of power. The applicants would have the option to power the hoist machine by an air, electric, hydraulic, or internal-combustion drive mechanism.

(d) Constant pressure control switch. The applicants would:

(i) Equip the hoist machine with a hand-or foot-operated constant-pressure control switch (i.e., a "deadman control switch") that would stop the hoist immediately upon release.

(ii) Protect the control switch to prevent it from activating if it is struck by a falling or moving object.

(e) Line-speed indicator. The applicants would equip the hoist machine with a line-speed indicator maintained in good working order, and that is in clear view of the hoist operator during hoisting operations.

(f) Braking systems. The applicants would equip the hoist machine with two (2) independent braking systems (i.e., one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) Slack-rope switch. The applicants would equip the hoist machine with a slack-rope switch to prevent rotation of the hoist drum under slack-rope conditions.

(h) Frame. The applicants would ensure that the frame of the hoist machine is a self-supporting, rigid, welded steel structure, with holding brackets for anchor lines and legs for anchor bolts being integral components of the frame.

(i) Stability. The applicants would secure hoist machines in position to prevent movement shifting or dislodgement.

(j) Location. The applicants would locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum. In this regard, the applicants would ensure that the fleet angle remains between one-half degree (½°) and one and one-half degrees (1–1½°) for smooth drums, and between one-half degree (½°) and two degrees (2°) for grooved drums, with the lead sheave centered on the drum.[1]

(k) Drum and flange diameter. The applicants would provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting, with a flange diameter that is at least one and one-half (1–1½) times the rope-drum diameter.

(l) Spooling of the rope. The applicants would never spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the hoist-drum flange.

(m) Electrical system. The applicants would ensure that all electrical equipment is weatherproof.

(n) Limit switches. The applicants would equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswain's chair, or material-transport device at the top of the supporting structure, and at the bottom of the hoistway or lowest landing level.

3. Methods of Operation

(a) Operator. The applicants would ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine.

(b) Speed limitations. The applicants would not operate the hoist at a speed in excess of:

(i) One hundred (100) feet (30.5 m) per minute if they use a personnel platform or boatswain's chair to transport employees.

(ii) Two hundred and fifty (250) feet (76.9 m) per minute if they are using a personnel cage to transport employees.

(iii) If they are hoisting only material, a line speed that is consistent with the design limitations of the system.

(c) Communication. The applicants would:

(i) Use a voice-mediated intercommunication system to maintain communication between the hoist operator and employees located in or on moving personnel cages, personnel platforms, and boatswain's chairs.

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively. Hoisting would resume only when the an applicant's site superintendent determines that it is safe to do so.

[1] This proposal adopts the definition of, and specifications for, fleet angle from *Cranes and Derricks*, H. I. Shapiro, et al. (eds.); New York McGraw-Hill. Accordingly, the fleet angle is "[t]he angle the rope leading onto a rope drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange."

4. Hoist Rope

(a) Grade. The applicants would use a wire rope for the hoist system (i.e., "hoist rope") that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) Safety factor. The applicants would maintain a safety factor of at least eight (8) throughout the entire length of hoist rope.

(c) Size. The applicants would use a hoist rope that is at least one-half (½) inch (1.3 cm) in diameter.

(d) Installation, removal, and replacement. The applicants would also:

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup.

(ii) Remove and replace the wire rope with new wire rope if any of the conditions specified by § 1926.552(a)(3) occurs.

(e) Attachments. The applicants would attach the rope to a personnel cage, personnel platform, or boatswain's chair with a keyed-screwpin shackle or positive-locking link.

(f) Wire-rope fastenings. If the applicants use clip fastenings (e.g., U-bolt wire-rope clips) with wire ropes, they would:

(i) Use table H–20 of § 1926.251 to determine the number and spacing of clips.

(ii) Use at least three (3) drop-forged clips at each fastening.

(iii) Install the clips with the "U" of the clips on the dead end of rope.

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

5. Footblocks

(a) Type of block. The applicants would use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings.

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting.

(iii) Designed with a guard that contains the wire rope within the sheave groove.

(iv) Bolted rigidly to the base.

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical as required by the direction of rope travel.

(b) Directional change. The applicants would ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is about 90°.

(c) Diameter. The applicants would ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope. To ensure this diameter-to-diameter ratio, the applicants would inspect the hoist rope regularly, and immediately discard the rope if they find evidence of any condition specified by § 1926.552(a)(3).

6. Cathead and Sheaves

(a) Qualified competent person. The applicants would use a qualified competent person to design and maintain the cathead (i.e., "overhead support").

(b) Support. The applicants would use a cathead that consists of a wide-flange beam or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

(c) Installation. The applicants would ensure that all sheaves revolve on shafts that rotate on bearings, and they would mount the bearings securely to maintain the proper bearing position at all times.

(d) Sheave safeguards. The applicants would provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves if the rope vibrates or swings abnormally.

(e) Diameter. The applicants would use a cathead sheave with a diameter that is at least 24 times the diameter of the wire rope. To ensure this diameter-to-diameter ratio, the applicants would inspect the rope regularly, and immediately discard the rope if they find evidence of any condition specified by § 1926.552(a)(3).

7. Guide ropes

(a) Number of cables. The applicants would affix two (2) guide ropes by swivels to the cathead. The guide ropes would:

(i) Consist of steel safety cables not less than one-half (½) inch (1.3 cm) in diameter.

(ii) Be free of damage or defect at all times.

(b) Cable fastening and alignment tension. The applicants would fasten one end of each cable securely to the overhead support, with appropriate tension applied at the foundation.

(c) Safety clamps. The applicants would fit appropriately designed and constructed safety clamps to the guide ropes.

(d) Application of tension. The applicants would never use safety clamps that damage the ropes.

(e) Height. The applicants would rig the guide ropes along the entire height of the hoist-machine structure.

8. Personnel Cage

(a) Construction. The applicants would use a personnel cage that:

(i) Is of steel-frame construction, and permanently enclosed on the top and sides (except for the entrance and exit).

(ii) Has a floor securely fastened in place. The floor would have a loading factor that is four (4) times its maximum rated load capacity.

(iii) Has walls that consist of 14-gauge, one-half (½) inch (1.3 cm) expanded metal mesh, or an equivalent material. The walls would cover the full height of the personnel cage between the floor and the overhead covering.

(iv) Has a sloped roof constructed of one-eighth (⅛) inch (0.3 cm) aluminum, or an equivalent material.

(v) Has safe handholds (e.g., rope grips—but not rails or hard protrusions—that accommodate each occupant).

(b) Overhead weight. The applicants would provide a personnel cage that has:

(i) An overhead weight (e.g., a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and footblock. This weight would be capable of preventing line run.

(ii) A means to restrain the movement of the overhead weight so that it does not interfere with safe personnel hoisting.

(c) Types of gates. The applicants would provide gates that guard the full height of the entrance openings and have a functioning mechanical lock that prevents accidental gate opening.

(d) Operating procedures. The applicants would post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) Capacity. The applicants would hoist no more than four (4) people in the cage, and the rated load capacity of the cage would be at least 250 pounds (113.4 kg) for each person so hoisted (e.g., the rated load capacity would be at least 500 pounds (227.3 kg) for two people or 1000 pounds (454.5 kg) for four people).

(f) Employee notification. The applicants would post a sign in each personnel cage notifying employees of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by paragraph (g) below.

(ii) The reduced rated load for the specific job.

(g) Static drop tests. The applicants would:

(i) Conduct static drop tests of each personnel cage that comply with the definition of "static drop test" specified by section 3 ("Definitions") and the static drop test procedures provided in section 13 ("Inspections and Tests") of American National Standards Institute (ANSI) standard A10.22–1990 ("American National Standard for Rope-Guided and Nonguided Worker's Hoists—Safety Requirements").

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load.

(iii) Use only personnel cages for which no damage occurred to components as a result of the static drop tests.

9. Safety Clamps

(a) Attachment and operation. The applicants would attach safety clamps to each personnel cage for gripping the guide ropes. The safety clamps would:

(i) Operate on the "broken rope principle" defined in section 3 ("Definitions") of ANSI standard A10.22–1990.

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load and traveling at its maximum allowable speed if the hoist rope breaks at the footblock.

(iii) For each hoist system, use a pre-determined and pre-set clamping force (i.e., the "spring compression force").

(b) Maintenance. The applicants would keep the safety-clamp assemblies clean and functional at all times.

10. Overhead Protection

To protect employees located at the base of the chimney (i.e., both inside and outside the chimney) from material and debris that may fall from above, the applicants would install a canopy or shield that is made of steel plate at least three-sixteenth (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, and that slopes to the outside.[2]

11. Emergency-Escape Device

(a) Location. The applicants would provide an emergency-escape device, with operating instructions attached to it, in the personnel cage or at the bottom landing. If the device is:

(i) In the personnel cage, the applicants would ensure that it is long enough to reach the bottom landing from the highest possible escape point.

(ii) At the bottom landing, the applicants would provide a means in the personnel cage for the occupants to raise the device to the highest possible escape point.

(b) Training. The applicants would instruct each employee who uses a personnel cage:

(i) On how to operate the emergency-escape device prior to the employee using a personnel cage for transportation.

(ii) Periodically, and as necessary, in the operation of the hoist system and the emergency-escape system.

12. Personnel Platforms and Boatswain's Chairs

(a) Personnel platform. The applicants would:

(i) Be permitted to attach the hoisting cable to a personnel platform under the conditions specified above by section III. A ("General conditions") of this application.

(ii) Ensure that an enclosure surrounds the platform that is at least 42 inches (106.7 cm) above the platform's floor.

(iii) Provide overhead protection if an overhead hazard is, or could be, present.

(iv) Comply with the applicable scaffolding strength requirements specified by § 1926.451(a)(1).

(b) Boatswain's chair. If using a boatswain's chair, the applicants would be permitted to substitute a hoisting cable for the block and falls required by § 1926.452(o)(3) under the conditions specified above by section III. A ("General conditions") of this application.

(c) Body harnesses and lifelines. Before employees use work platforms or boatswain's chairs, the applicants would equip employees with, and ensure that they use, fall-protection equipment as specified by § 1926.104 and the applicable requirements of § 1926.502(d).

13. Inspections, Tests, and Accident Prevention

The applicants would:

(a) Conduct inspections of the hoist system as required by § 1926.20(b)(2). These inspections would include a daily visual inspection of the system.

(b) Inspect and test the hoist system as specified by § 1926.552(c)(15).

(c) Comply with the accident-prevention requirements of § 1926.20(b)(3).

14. Welding

The applicants would use only qualified welders to weld components used in the hoisting system who are familiar with the weld grades, types, and materials specified in the design of the system.[3] The welders would perform such welding as specified by 29 CFR part 1926, subpart J ("Welding and Cutting").

[2] Adapted from OSHA's Underground Construction Standard (§ 1926.800(t)(4)(iv)).

[3] Adapted from OSHA's Cranes and Derricks Standard (§ 1926.550(g)(4)(ii)(H)).

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice under the authority specified by section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 29 CFR part 1905.

Signed at Washington, DC on May 9, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–12959 Filed 5–22–02; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station); Order Approving Transfer of License and Conforming Amendment

I

Vermont Yankee Nuclear Power Corporation (VYNPC or the licensee) is the holder of Facility Operating License No. DPR–28, which authorizes the operation of Vermont Yankee Nuclear Power Station (Vermont Yankee or the facility) at steady-state power levels not in excess of 1,593 megawatts thermal. The facility is located at the licensee's site in the Town of Vernon, Windham County, Vermont. The license authorizes VYNPC to possess, use, and operate the facility.

II

Under cover of a letter dated October 5, 2001, Entergy Nuclear Vermont Yankee, LLC (Entergy Nuclear VY), Entergy Nuclear Operations, Inc. (ENO), and VYNPC jointly submitted an application requesting approval of the transfer of Facility Operating License No. DPR–28 for Vermont Yankee from VYNPC to Entergy Nuclear VY and ENO. The licensee, Entergy Nuclear VY, and ENO also jointly requested approval of a conforming amendment to reflect the transfer. The application was supplemented by submittals dated November 7 and 8, 2001, and January 23 and April 30, 2002, collectively referred to as the "application" herein unless otherwise indicated.

Entergy Nuclear VY, a Delaware limited liability company, is an indirect wholly owned subsidiary of Entergy Corporation and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3. ENO, a Delaware corporation, is an indirect wholly owned subsidiary of Entergy Corporation and a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2. According to the application, Entergy Nuclear VY will assume title to the facility, while ENO will operate and maintain Vermont Yankee. The conforming license amendment would remove references to VYNPC from the license and add references to Entergy Nuclear VY and ENO, as appropriate, and make other administrative changes to reflect the proposed transfer.

VYNPC, Entergy Nuclear VY, and ENO requested approval of the transfer of the license and a conforming license amendment pursuant to 10 CFR 50.80 and 50.90. Notice of the requests for approval and an opportunity to request a hearing or submit written comments was published in the **Federal Register** on December 7, 2001 (66 FR 63566). The Commission received no requests for hearing or written comments.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information submitted in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the Nuclear Regulatory Commission (NRC) staff has determined that Entergy Nuclear VY and ENO are qualified to be the holders of the license to the extent proposed in the application, and that the transfer of the license to Entergy Nuclear VY and ENO is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by the staff's safety evaluation dated May 17, 2002.

III

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the transfer of the license as described herein to Entergy Nuclear VY and ENO is approved, subject to the following conditions:

(1) Before the completion of the sale and transfer of Vermont Yankee, Entergy Nuclear VY and ENO shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Entergy Nuclear VY and ENO have obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) On the closing date of the transfer of Vermont Yankee, Entergy Nuclear VY shall obtain from VYNPC all of the accumulated decommissioning trust funds for the facility, and ensure the deposit of such funds into a decommissioning trust for Vermont Yankee established by Entergy Nuclear VY. If the amount of such funds does not meet or exceed the minimum amount required for the facility pursuant to 10 CFR 50.75, Entergy Nuclear VY shall at such time deposit additional funds into the trust and/or obtain a parent company guarantee (to be updated annually) and/or obtain a surety pursuant to 10 CFR 50.75(e)(1)(iii) in a form acceptable to the NRC and in an amount or amounts which, when combined with the decommissioning trust funds for the facility that have been obtained and deposited as required above, equals or exceeds the total amount required for the facility pursuant to 10 CFR 50.75. To the extent Entergy Nuclear VY will obtain a parent company guarantee and/or surety to comply with the requirements of this Order, specific documentation of (a) the form of the guarantee and/or surety, and (b) the satisfaction of applicable financial tests

and requirements for such guarantee and/or surety under NRC regulations shall be provided to the Director of the Office of Nuclear Reactor Regulation no later than 30 days prior to the closing of the transfer of the facility. The decommissioning trust, and surety if utilized, shall be subject to or be consistent with the following requirements, as applicable:

a. Decommissioning Trust

(i) The decommissioning trust agreement must be in a form acceptable to the NRC.

(ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation and its affiliates, successors, or assigns shall be prohibited. In addition, except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(iii) The decommissioning trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director of the Office of Nuclear Reactor Regulation.

(iv) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(v) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

b. Surety

(i) The surety agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.

(ii) The surety company providing any surety obtained to comply with this Order shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of *Circular 570* and shall have a coverage limit sufficient to cover the amount of the surety.

(iii) Entergy Nuclear VY shall establish a standby trust to receive funds from the surety, if a surety is obtained, in the event that Entergy Nuclear VY defaults on its funding obligations for the decommissioning of Vermont Yankee. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement.

(iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(3) Entergy Nuclear VY shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application and the requirements of this Order, and consistent with the safety evaluation supporting this Order.

(4) Entergy Nuclear VY and ENO shall take no action to cause Entergy Global Investments, Inc., or Entergy International Holdings Ltd. LLC, or their parent companies to void, cancel, or modify the lines of credit to provide funding for Vermont Yankee as represented in the application without prior written consent of the Director of the Office of Nuclear Reactor Regulation.

(5) After receipt of all required regulatory approvals of the transfer of Vermont Yankee, Entergy Nuclear VY, ENO, and VYNPC shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days, and of the closing date of the sale and transfer of Vermont Yankee no later than 7 business days prior to the date of closing. If the transfer of the license is not completed by May 30, 2003, this Order shall become null and void, provided, however, on written application and for good cause shown, this date may, in writing, be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject license transfer is approved. The amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 5, 2001, supplemental letters dated November 7 and 8, 2001, and January 23 and April 30, 2002, and the safety evaluation dated May 17, 2002, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically through ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 17th day of May 2002.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 02–12990 Filed 5–22–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–1014]

Holtec International; Issuance of Environmental Assessment and Finding of No Significant Impact

Introduction

By letters dated January 17 and April 10, 2002, Holtec International (Holtec or applicant) requested an exemption, pursuant to 10 CFR 72.7, from the requirement of 10 CFR 72.248(c)(6). This requirement requires certificate holders to file an updated Final Safety Analysis Report (FSAR) to the Nuclear Regulatory Commission (NRC or the Commission) every 24 months from the date of issuance of a Certificate of Compliance (CoC) for a spent fuel storage cask design. Holtec, located in Marlton, New Jersey, is the holder of CoC Number 1014 for the HI-STORM 100 storage cask system, and is seeking NRC approval to delay filing of an updated FSAR for the cask design. The HI-STORM 100 storage cask system is approved for use under the general license provisions of subpart K of 10 CFR part 72, and is designed for the dry storage of spent nuclear fuel at U.S. nuclear power facilities. NRC issued the CoC for the HI-STORM 100 storage cask system on May 31, 2000, (effective date). Holtec is currently required to file an updated FSAR by May 31, 2002, in accordance with 10 CFR 72.248(c)(6).

Environmental Assessment (EA)

Identification of Proposed Action

The applicant is seeking Commission approval to delay filing of an updated FSAR for the HI-STORM 100 storage cask system to the NRC within 24 months after the HI-STORM 100 CoC was issued. The applicant requests an exemption from the requirement of 10 CFR 72.248(c)(6), which states that "Updates [of the FSAR] shall be filed every 24 months from the date of issuance of the CoC." NRC issued the CoC for the HI-STORM 100 cask system on May 31, 2000, (CoC effective date), which would require filing by May 31, 2002, to satisfy 10 CFR 72.248(c)(6). The proposed action before the Commission is whether to approve a delay in the filing of the updated FSAR, and whether to grant this exemption pursuant to 10 CFR 72.7.

Need for the Proposed Action

Holtec requested the exemption to 10 CFR 72.248(c) to allow sufficient time to incorporate the FSAR changes that are associated with its license application to amend the CoC for the HI-STORM 100 storage cask system. This license application and amendment was designated as Amendment No. 1 to CoC Number 1014. The Commission issued a direct final rule and a proposed rule to amend its regulations to include Amendment No. 1 to the CoC for the HI-STORM 100 in its list of approved spent fuel storage casks on March 27, 2002, (67 FR 14627 and FR 14662). A final effective rule is not expected to be in place prior to May 31, 2002. Therefore, Holtec has requested to file an updated FSAR within 60 days after Amendment No. 1 is issued (effective date of final rule), in lieu of May 31, 2002. Holtec stated that approval of this delay will allow the compilation of FSAR changes related to Amendment No. 1, with other FSAR changes that are allowed under 10 CFR 72.48.

Otherwise, an update to the FSAR by May 31, 2002, would not include FSAR changes associated with Amendment No. 1.

Environmental Impacts of the Proposed Action

The Environmental Assessment for the final rule, "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites" (55 FR 29181 (1990)), considered the potential environmental impacts of storage casks that are used to store spent nuclear fuel under a CoC, and concluded that there would be no significant environmental impacts. The proposed action now under consideration would not affect the use of the HI-STORM 100 cask system to store spent nuclear fuel under the approved CoC, and in accordance with the regulations of 10 CFR part 72. Filing an updated FSAR to the NRC by a certificate holder is an administrative requirement and does not involve any radioactive materials or use of natural resources. Therefore, there are no radiological impacts or non-radiological impacts from a delay in filing an updated FSAR. Based upon this information, a delay in filing will have no significant impact on the environment.

Alternative to the Proposed Action

Since there is no environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed actions would be to deny approval of the exemption and not allow a delay in the filing of the updated FSAR. This alternative would have the same environmental impact.

Given that there are no significant differences in environmental impact between the proposed action and the alternative considered, and that the applicant has a legitimate need to delay the filing of an updated FSAR, the Commission concludes that the preferred alternative is to grant the exemption to 10 CFR 72.248(c)(6).

Agencies and Persons Consulted

Ms. Alyse Peterson, Project Manager, New York State Energy Research and Development Authority, was contacted about the Environmental Assessment for the proposed action and had no comments.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing Environmental Assessment, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.248(c)(6) will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption, and has made a finding of no significant impact on the environment for the proposed exemption.

Conclusion

The proposed exemption requested by Holtec will not authorize use of the HI-STORM 100 storage cask design specified in Amendment No. 1 to the CoC . Authorization will only occur if and when Amendment No.1 to the CoC, is issued by the NRC (effective date of final rule). In addition, NRC approval or denial of this exemption request should not be construed as an NRC predisposition to favorably or unfavorably consider any comments received on the proposed rule for Amendment No. 1 to the CoC.

For further details with respect to the exemption request, see the letters dated January 17 and April 10, 2002, which are available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Nos. ML020520212 and ML021070603. The NRC maintains ADAMS, which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 15th day of May 2002.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–12992 Filed 5–22–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25577; 812–12190]

SA Funds—Investment Trust and Assante Asset Management Inc.; Notice of Application

May 17, 2002.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

Summary of the Application: Applicants, SA Funds—Investment Trust (the "Trust") and Assante Asset Management Inc. ("Adviser"), request an order to permit them to enter into and materially amend subadvisory agreements without shareholder approval.

Filing Dates: The application was filed on July 24, 2000 and amended on May 7, 2002.

Hearing or Notification of Hearing: An order granting the application will be

issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 11, 2002, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Stephanie M. Nichols, Esq., State Street Corporation, One Federal Street, 9th Floor, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company. The Trust is currently comprised of eight series, each with its own investment objectives, policies and restrictions (each a "Fund" and collectively, the "Funds"). The Adviser, an indirect wholly-owned subsidiary of Assante Corporation, is registered under the Investment Advisers Act of 1940 ("Advisers Act") and serves as the investment adviser to each of the Funds.[1]

2. The Trust, on behalf of each Fund, and the Adviser have entered into an investment advisory and administrative services agreement ("Advisory Agreement") that was approved by the board of trustees of the Trust (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees") and the initial shareholder of each Fund. Under the terms of the Advisory Agreement, the Adviser, subject to Board oversight, has overall supervisory responsibility for the investment program for each Fund. The Adviser and each Fund have entered into separate investment subadvisory agreements ("Subadvisory Agreements") with one or more subadvisers ("Subadvisers") pursuant to which the Subadviser makes the specific investment decisions for the Fund. Each Subadviser is registered or exempt from registration under the Advisers Act.

3. Pursuant to the Advisory Agreement, the Adviser continuously evaluates the performance of each Subadviser, recommends to the Board the appointment of new Subadvisers as circumstances warrant, and negotiates and renegotiates the terms of the Subadvisory Agreements, including the subadvisory fees, with the Subadvisers. The Adviser selects Subadvisers based on the Adviser's continuing evaluation of their skills in managing assets pursuant to particular investment styles. The Adviser also recommends to the Board the termination of Subadvisers. Each Fund pays the Adviser a fee payable monthly at an annual rate based on the Fund's average daily net assets. The Trust also pays to the Adviser the subadvisory fees of the Subadvisers at a rate that has been negotiated between the Adviser and Subadvisers, subject to approval by the Board. The Adviser then pays the Subadvisers the subadvisory fees.

4. Applicants request an order to permit the Adviser, subject to the oversight of the Board, to enter into and materially amend Subadvisory Agreements without shareholder approval. Applicants state that shareholder approval of a Subadvisory Agreement with a Subadviser that would be an "affiliated person," as defined in section 2(a)(3) of the Act, of the Trust or the Adviser (other than by reason of serving as a Subadviser to one or more of the Funds (an "Affiliated Subadviser") will be obtained. None of the current Subadvisers is an Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act and rule 18f–2 under the Act to permit them to enter into and materially amend Subadvisory Agreements without shareholder approval.

3. Applicants assert that the shareholders are relying on the Adviser and the Board to select Subadvisers to manage the Fund's portfolio. Applicants assert that, from the perspective of the investor, the role of the Subadvisers with respect to the Funds is comparable to that of individual portfolio managers employed by traditional investment advisory firms. Applicants believe that permitting the Adviser to perform those duties for which the shareholders of the Funds are paying the Adviser—the selection, supervision and evaluation of Subadvisers—without incurring unnecessary delay or expense is appropriate in the interests of the Funds' shareholders and will allow each Fund to operate more efficiently. Applicants note that the Advisory Agreement will remain subject to section 15(a) of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval. Applicants also note that shareholders of a Fund will approve any change to a Subadvisory Agreement if such change would result in an increase in the overall management and advisory fees payable by the Fund that have been approved by the shareholders of the Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

[1] Applicants also request relief with respect to any future Funds, and any other registered open-end management investment company and its series that in the future (a) are advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser, (b) operates in substantially the same manner as the Funds with regard to the Adviser's responsibility to select, evaluate and supervise Subadvisers, as defined below, and (c) complies with the terms and conditions in this application ("Future Funds," and together with the Funds, the "Funds"). The only existing investment company that currently intends to rely on the requested order is named as an applicant. No Fund will contain in its name the name of any Subadviser, as defined below.

1. Before a Fund may rely on the order requested in this application, the operation of the Fund in the manner described in this application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or by its initial shareholder, provided that, in the case of approval by the initial shareholder, the pertinent Fund's shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below.

2. Each Fund relying on the requested relief will disclose in its prospectus the existence, substance and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. At all times, a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Trust's Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Subadviser, the Fund shareholders will be furnished all information about a new Subadviser that would be contained in a proxy statement, including any change in such disclosure caused by the addition of a new Subadviser. Each Fund will meet this condition by providing shareholders with an information statement meeting the disclosure requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934 within 90 days of the hiring of a Subadviser.

7. The Adviser will provide management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and, subject to review and approval by the Board, will: (a) Set each Fund's overall investment strategies; (b) select Subadvisers; (c) monitor and evaluate the performance of Subadvisers; (d) ensure that Subadvisers comply with each Fund's investment objectives, policies, and restrictions by, among other things, implementing procedures reasonably designed to ensure compliance; and (e) allocate and, where appropriate, reallocate a Fund's assets among its Subadvisers when a Fund has more than one Subadviser.

8. No trustee or officer of the Trust, or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser except for: (a) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

9. Any change to a Subadvisory Agreement that would result in an increase in the overall management and advisory fees payable by the Fund will be approved by the shareholders of the Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12980 Filed 5–22–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45929; File No. SR–Amex–2001–74]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change as Amended by Amendment Nos. 1 and 2 and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 to Proposed Rule Change Relating to the Codification of the Exchange's Auto-Ex Policy and Calculation of the NBBO for Use in Auto-Ex

May 15, 2002.

I. Introduction

On September 10, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change[3] relating to disengagement of the Exchange's automatic execution system ("Auto-Ex"), and declaring quotes from away markets unreliable. On January 31, 2002 and April 8, 2002, Amex submitted Amendment Nos. 1[4] and 2[5] to the proposed rule change, respectively. The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on April 15, 2002.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Exchange filed this proposed rule change pursuant to the requirements of Section IV.B.h.(i)(bb) of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Amex (as well as the other floor-based options exchanges) to adopt new, or amend existing rules concerning automatic quotation and execution systems which specify the circumstances, if any, by which automated execution systems would be disengaged or operated in any manner other than the normal manner set forth in the exchange's rules; and, requires the documentation of the reasons for each decision to disengage an automatic execution system or operate it in any manner other than the normal manner. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282.

[4] *See* letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division of Market Regulation ("Division"), Commission, dated January 30, 2002 ("Amendment No. 1"). Amendment No. 1 supersedes and replaces the original filing in its entirety.

[5] *See* letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission, dated April 1, 2002 ("Amendment No. 2").

[6] *See* Securities Exchange Act Release No. 45711 (April 9, 2002), 67 FR 18274 (April 15, 2002).

The Commission received no comments on the amended proposal. On May 10, 2002, Amex submitted Amendment No. 3 to the proposed rule change.[7] This order approves the proposed rule change, as amended by Amendment Nos. 1 and 2. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 3 from interested persons, and approving Amendment No. 3 on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to codify in Amex Rule 933(c) its current practices and policies by specifying (i) the circumstances under which Auto-Ex can be disengaged or operated in a manner other than the normal manner set forth in Exchange rules and policies; and (ii) the required documentation of the reasons for any actions to disengage Auto-Ex or to operate in a manner other than normal. The following are specific instances where Auto-Ex may be disengaged or operated in other than the normal manner.

Temporary Disengagement of Auto-Ex During Market Data Delays

The Exchange's Market Operations Division reviews on a case-by-case basis, in consultation with the Exchange's Floor Governors, when deciding to disengage Auto-Ex due to market data delays either at the Options Price Reporting Authority ("OPRA") or internally at the Amex. Market Operations can disengage Auto-Ex for one option class, a group of option classes, or all option classes floor-wide. Market data delays can include delays in: (i) The Exchange disseminating quotations or last sale information to OPRA; (ii) receiving information from OPRA to be displayed on the trading floor or used to calculate the best bid or offer; or (iii) receiving market information regarding the underlying security. Senior Market Operations staff, together with the Floor Governors, review each market data delay individually and make a determination to disengage Auto-Ex based on specific facts. Auto-Ex is re-engaged as soon as the market data delay has ended.

Disengagement of Auto-Ex due to market data delays is documented in each instance in the Systems Support Log. The Log notes the class(es) affected by the market data delay, time the disengagement started and ended, the reason for the determination and the Floor Governor(s) involved in the determination. If Auto-Ex is re-engaged during that trading day, the time of re-engagement is noted on the Log and if the re-engagement is for a reason other than the cessation of the market data delay, the reason is also noted in the Log.

Temporary Disengagement of Auto-Ex Pursuant to the Unusual Market Exception

Rule 11Ac1–1(b)(3) under the Act[8] and Exchange Rule 948A(d) ("Firm Quote Rules") provide that if the Exchange determines that the level of trading activity or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing and making available quotation data in a manner that accurately reflects the current state of the market, the Firm Quote Rule obligations imposed on the Exchange and its member shall be suspended (an "Unusual Market Exception"). The Market Operations staff, in consultation with a Floor Official, may determine to disengage Auto-Ex for the duration of the Unusual Market Exception. Documentation of this disengagement of Auto-Ex must be maintained in either the Systems Support Log or the Service Desk Log depending on the cause of the unusual market condition. The Log notes the class(es) affected by the Unusual Market Exception, the time the disengagement started and ended, the reason for the determination, and the Floor Official involved in the determination. If Auto-Ex is re-engaged during that trading day, the time of re-engagement is noted on the Log and if the re-engagement is for a reason other than the cessation of the Unusual Market Exception, the reason is also noted in the Log.

Temporary Disengagement of Auto-Ex During Unusual Market Conditions or Systems Malfunctions

The Market Operations Division, with Floor Governor or Senior Supervisory Official approval, may disengage Auto-Ex during unusual market conditions in respect of an option class(es) or their underlying security(ies). Unusual market conditions may include (i) significant or market disruptive order imbalances in the option class or series, or the underlying security;[9] or (ii) unusually wide or market disrupting spreads between the bid and the offer in the underlying security. Documentation of the disengagement of Auto-Ex due to unusual market conditions is made in the Service Desk Log.

In Amendment No. 3, Amex proposes to clarify that unusual market conditions will vary, depending upon trading conditions in the option and/or its underlying security. There are no rules in the markets for the underlying securities requiring spreads between the bid and offer to be within specific parameters, however, depending upon the volatility and liquidity of the underlying security, its spread is usually within a specific range, which can be considered normal for that security. A decision to disengage Auto-Ex would occur when the spreads between the bid and the offer in a specific underlying security are wider than normal. Given the subjective nature of this determination, Market Operations will not be able to disengage Auto-Ex in this situation unless they have obtained approval of either the Senior Supervisory Officer (the Vice Chairman of the Exchange's Board of Governors), one of the four Floor Governors (members of the Exchange's Board of Governors) or one of the three Senior Floor Officials (former Governors who have remained active on the trading floor).

With respect to systems malfunctions that affect the Exchange's ability to (i) disseminate or update market quotes; or (ii) deliver orders to the trading floor in a timely manner, senior Market Operations staff determines whether to disengage Auto-Ex. Documentation of the disengagement of Auto-Ex due to systems malfunctions is made in the Systems Support Log. Both documentation Logs indicate the class(es) affected, the reason(s) for the disengagement, approval by the appropriate official (with respect to disengagement for unusual market conditions) and the time the disengagement started and ended. If Auto-Ex is re-engaged during that trading day, the time of re-engagement is noted on the Log and if the re-engagement is for a reason other than the cessation of the Unusual Market Exception, the reason is also noted in the Log.

[7] See letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission, dated May 9, 2002 ("Amendment No. 3"). In Amendment No. 3, Amex proposes to clarify the following: (1) The Exchange's procedures for disengaging Auto-Ex pursuant to the unusual market exception, and (2) the role of the Auto-Ex Enhancement Committee with respect to the by-pass feature of Auto-Ex.

[8] 17 CFR 240.11Ac1–1(b)(3).

[9] Pursuant to Exchange Rules 958A and 115 and New York Stock Exchange Rule 60, at 3:40 p.m. each trading day order imbalances are required to be publicly announced. On occasion, these order imbalances are significant and may necessitate the disengagement of Auto-Ex.

Automatic By-Pass of Auto-Ex Due to an Influx of Order Executions

In certain option classes (generally the less active classes) the Exchange allows Auto-Ex to be by-passed when a specified number of automatic executions in that option class occur. The specialist determines the number of executions that can occur before this by-pass feature is activated. The specialist's determination depends on a number of factors, such as the volatility of the underlying security and amount of activity in the option class or series. However, in order to set the number of automatic executions at one, the specialist must receive the approval of a Floor Governor. Use of this feature does not relieve the specialist or registered options traders, as the responsible broker or dealer, from their obligations under Exchange Rule 958A or under Rule 11Ac1–1 under the Securities Exchange Act of 1934.[10] Once the disengagement occurs, the specialist and Post Supervisor are notified immediately and Auto-Ex is generally turned back on shortly thereafter. Any extended use of the by-pass feature will need Floor Official approval and must meet the standards for either a market data delay, an Unusual Market Exception, unusual market conditions or systems malfunctions. Pursuant to the firm quote rule (Rule 958A(c)(ii)), the responsible broker or dealer, when in the process of effecting a transaction in an option class or series, is not obligated to execute a transaction when he has revised or is in the process of revising the bid, offer or quotation size. This by-pass feature provides the responsible broker or dealer with the ability to react to automatic executions in the option series or class by allowing the responsible broker or dealer to execute the order, if appropriate under the firm quote rule, at the revised bid or offer or in the amount of the revised quotation size.

In Amendment No. 3, Amex clarified that the Auto-Ex Enhancement Committee, which is comprised of the Exchange's four Floor Governors and the Chairman (or their designee) of the Specialists Association, the Options Market Makers Association and the Floor Brokers Association, will, upon the request of a specialist, review and designate which option classes or series are eligible for this by-pass feature. When making this designation, the Committee may consider such factors as the amount of trading activity in the option class or series, the average daily trading volume of the option; volatility of the underlying security; and any other factors as the Committee deems appropriate. The Committee will determine the number of executions that can occur before this by-pass feature is activated. In additional, Market Operations staff will re-engage Auto-Ex within three minutes unless the specialist has obtained additional approvals.

Automatic By-Pass of Auto-Ex in Response to Certain Market Activity

The automatic by-pass feature provides in certain market situations for orders that are otherwise eligible for Auto-Ex to by-pass Auto-Ex and be sent to the Amex Options Display Book ("AODB") for execution handling by the specialist. Auto-Ex is by-passed in the following situations: (i) Whenever the bid or offer in a specific option series represents a limit order on the specialist's book; (ii) whenever a crossed or locked market causes an inversion in the quote; and (iii) whenever a better bid or offer is being disseminated by another options exchange.[11] The Amex Order File, the Exchange's host order processing system, keeps a record of each instance an otherwise eligible Auto-Ex order by-passes Auto-Ex and is sent to the AODB for execution by the specialist. This information is used by the Trading Analysis Division to monitor appropriate use of this by-pass feature.

Calculation of the NBBO for Use in Auto-Ex

A Floor Governor or Exchange Official may determine that the quotes being disseminated by another options exchange are not reliable and exclude those quotes from the calculation of the National Best Bid or Offer ("NBBO") based on one of the following circumstances: (i) The other options exchange's quotes are not firm based upon direct communication from that exchange or the dissemination through OPRA of a message indicating the quotes are not firm; or (ii) the other options exchange has directly communicated or otherwise confirmed that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.

In all cases where a Floor Governor or Exchange Official excludes an exchange or any of its quotes from the Auto-Ex determination of the NBBO due to quote unreliability, Market Operations staff will promptly notify the exchange of the action, continue to monitor the reliability of the excluded quotes in consultation with the Floor Governor or Exchange Official, and maintain records showing the date, time, duration, and reasons for each such action, as well as the identity of the Floor Governor or Exchange Official who authorized the action. Any determination to exclude a market or any of its quotes from the Auto-Ex determination of the NBBO will expire at the end of the trading day, or at such time as the quotes are confirmed by the exchange to be reliable again " whichever occurs first. Exclusion of an exchange or its quotes from the Auto-Ex determination of the NBBO will be reported to Exchange member firms.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended by Amendment Nos. 1, 2, and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[12] and, in particular, the requirements of Section 6 of the Act[13] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[14] because it provides objective criteria and well-defined procedures for: (1) Disengaging and reengaging Auto-X, which should increase the likelihood that Auto-X will not be disengaged in a discriminatory manner; and (2) excluding another market's quote from the Amex's NBBO, which should increase the likelihood that Amex's NBBO will more accurately reflect the actual state of the market at a given time. Specifically, the Commission notes that the determination of a Floor Governor or Exchange Official to exclude unreliable quotes is limited to circumstances in which the away market has either directly communicated or confirmed that its quotes are unreliable. In this way, the discretion afforded to Amex

[10] 17 CFR 240.11Ac1–1.

[11] In February 2001, the Exchange received Commission approval to eliminate the Auto-Ex by-pass feature in certain circumstances. See Securities Exchange Act Release No. 44013 (February 28, 2001), 66 FR 13816 (March 7, 2001). Commentary .01 to Amex Rule 933 now provides for the matching of the best bid or offer displayed by a competing market by allowing customer market and marketable limit orders to be automatically executed at that best bid or offer provided it is within the specified number of trading increments or ticks of the Amex's displayed bid or offer, and the order is within the established order size parameters. Thus, orders will no longer by-pass Auto-Ex when they can be automatically executed at the better bid or offer being disseminated by another options exchange.

[12] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

officials to determine that another market's options quotes are unreliable is appropriately limited. Moreover, the record keeping requirements and other proposed procedures are not unreasonable.

The Commission finds good cause for approving proposed Amendment No. 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 clarifies the limits on the discretion of the Exchange to disengage or operate Auto-Ex in any manner other than the normal manner and thus, raises no novel issues of regulatory concern.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3, including whether Amendment No. 3 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–74 and should be submitted by June 13, 2002.

V. Conclusion

It is Therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–Amex–2001–74), as amended by Amendment Nos. 1, and 2, is approved, and Amendment No. 3 is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12897 Filed 5–22–02; 8:45 am]

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[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45934; File No. SR–CBOE–2002–09]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders for Appointed Market-Makers in Index FLEX Options

May 15, 2002.

I. Introduction

On February 15, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the allocation of orders for Appointed Market-Makers ("AMMs") in Index FLEX Options. On March 18, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change. The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on April 2, 2002.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposal

The CBOE is proposing to amend CBOE Rule 24A.5, concerning the allocation of orders in FLEX Index Options. The proposed rule change was submitted by the CBOE pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000,[4] which requires that respondent options exchanges adopt new, or amend existing, rules to make express any practice or procedure "whereby market makers trading any particular option class determine by agreement * * * the allocation of orders in that option class."

CBOE Rule 24A.9 provides for the appointment of Appointed Market-Makers ("AMMs") in FLEX Index Options and assigns these AMMs certain specified obligations in the trading of such options. The proposed rule change would amend CBOE Rule 24A.5, which relates to trading procedures for FLEX Options, to permit the appropriate Floor Procedure Committee—in this case, the SPX Floor Procedure Committee—to establish a participation entitlement formula for such AMMs.

The proposed rule change would also amend the participation entitlement of a "Submitting Member," *i.e.*, the Exchange member that initiates FLEX bidding and offering by submitting a FLEX Request for Quotes ("RFQ"). Currently, a Submitting Member who has indicated an intention to cross or act as principal on a FLEX Index Options trade, and has matched or improved the best bid or offer given in response to its RFQ, is granted priority to execute the contra side of the trade—but only to the extent of the largest of 25% of the trade, a proportional share of the trade, $1 million Underlying Equivalent Value, or the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million. The proposed rule change would reduce the percentage participation entitlement, where it applies, from 25% to 20%.

As part of the proposed rule change, the CBOE submitted a draft Regulatory Circular with which the SPX Floor Procedure Committee would exercise its authority to set the participation entitlement formula for AMMs.[5] Specifically, the Regulatory Circular would state that the Submitting Member is entitled to cross up to 20% of the contracts in an order that occurs as a result of the Submitting Member's RFQ when all conditions of such percentage are met. The Regulatory Circular would state further that the AMM(s) is (are) entitled to the contracts remaining in the order up to an aggregate of 40% of the order, but that the Submitting Member and the AMM(s) could not receive an entitlement that collectively equals more than 40% of the order. The remaining contracts in the order would then be allocated according to the relevant Exchange rules.[6]

The CBOE believes that it is just and equitable for AMMs in FLEX Index Options to receive a participation entitlement in return for the obligations that are imposed upon them. The CBOE believes that such an entitlement is important to encourage members of the Exchange to become AMMs, because FLEX Index Options are customized and do not have the same liquidity as standardized options, and AMMs are subject to greater risk when quoting such options.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45633 (March 22, 2002), 67 FR 15643 (April 2, 2002) ("Notice"). Although the Notice stated that the date of filing of Amendment No. 1 was March 18, 2002, the amendment was deemed filed on March 15, 2002.

[4] Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[5] The Exchange has stated that changes to this Regulatory Circular, including changes to the participation entitlement formula, will be submitted to the Commission pursuant to Section 19(b) of the Act. *See* Notice.

[6] The CBOE has stated that AMM(s) would not be entitled to a share in these remaining contracts unless all other participants have been satisfied. *See* Notice.

III. Discussion

After careful consideration, the Commission has determined to approve the proposed rule change.[7] For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.[8]

The Commission believes that it is reasonable for the Exchange to offer AMMs a participation guarantee to encourage Exchange members to become AMMs and provide liquidity in FLEX Index Options. The Commission notes that the proposed entitlement of the AMM together with any guaranteed participation granted to the Submitting Member could not exceed 40 percent of an order. The Commission has found with respect to participation guarantees in other contexts that a maximum combined guarantee of 40 percent is not inconsistent with statutory standards of competition and free and open markets.[9]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CBOE–2002–09) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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[7] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange, among other things, be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[9] *See, e.g.*, Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) at 11398; and 43100 (July 31, 2000), 65 FR 48778 (August 9, 2000) at notes 96–99 and accompanying text.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45935; File No. SR–CBOE–2002–08]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders

May 15, 2002.

I. Introduction

On February 15, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the allocation of orders. On March 22, 2002, and March 27, 2002, the CBOE submitted Amendment Nos. 1 and 2, respectively, to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on April 8, 2002.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposal

CBOE Rule 6.45, to be retitled "Priority of Bids and Offers—Allocation of Trades," includes provisions that govern the allocation of an order on the Exchange when more than one market participant is bidding or offering at the best price to fill that order. As described below, the CBOE is proposing to amend Rule 6.45 by adding a number of provisions concerning specific aspects of the allocation process, and by clarifying how an order is to be allocated in certain situations where the rule currently is silent.

The CBOE is also proposing to amend Rule 6.45 by adding a clause that stipulates that the rule's provisions apply except as provided by certain other CBOE rules concerning the allocation of orders and the participations of various market participants. These other rules include, but are not limited to, CBOE Rule 6.2A ("Rapid Opening System"), CBOE Rule 6.8 ("RAES Operations"), CBOE Rule 6.9 ("Solicited Transactions"), CBOE Rule 6.47 ("Priority on Split Price Transactions"), CBOE Rule 6.74 ("Crossing Orders") and CBOE Rule 8.87 ("Participation Entitlement of DPMs"), as well as CBOE Regulatory Circulars approved by the Commission concerning participation rights.[4]

The proposed rule change was submitted by CBOE pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000,[5] which requires that the options exchanges adopt new, or amend existing, rules to make express any practice or procedure "whereby Market-Makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class, or the allocation of orders in that option class."

CBOE Rule 6.45 currently requires that the highest bid or lowest offer ("best bid or offer") shall have priority. The rule also provides that, with limited exceptions set forth in 6.45(c) and (d), an order representing the best bid or offer in the customer limit order book receives priority over another order at the same best price. The proposed rule change would add CBOE Rule 6.45(a)(i) to provide that if more than one public customer order is represented in the customer limit order book at the best price, priority will be afforded to such orders in the sequence in which they were received by the OBO or DPM.

CBOE is also proposing to add CBOE Rule 6.45(a)(ii) to apply with respect to bids or offers for orders represented by a Floor Broker, a Designated Primary Market-Maker ("DPM") acting as agent under CBOE Rule 8.85(b), or an Order Book Official ("OBO"), or bids or offers made in response to a specific request from a Market-Maker. In these instances, the proposed rule change would provide that the Floor Broker, DPM, OBO, or Market-Maker will determine which market participants responded at the best market at the time the market was established. This provision would further state that the Floor Broker, DPM, OBO, or Market-Maker will determine the sequence in which bids (offers) were made, subject to the following:

(1) If there are two or more bids (offers) at the best price, and an order in the customer limit order book is not involved, priority is afforded to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45670 (March 28, 2002), 67 FR 16782 (April 8, 2002) ("Notice").

[4] The current participation rights of Designated Primary Market-Makers ("DPMs") under CBOE rules are detailed in CBOE Regulatory Circular RG 00–193, dated December 28, 2000. *See* Securities Exchange Act Release No. 43750 (December 20, 2000), 65 FR 82420 (December 28, 2000).

[5] Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

orders in the sequence in which they were made.

(2) If the bids (offers) were made at the same time, or in the event the Floor Broker, DPM, OBO, or Market-Maker cannot reasonably determine the sequence in which the bids (offers) were made, priority will be apportioned equally.

(3) If the Floor Broker, DPM, OBO, or Market-Maker cannot reasonably determine the sequence in which the bids (offers) were made beyond a certain number of market participants, the Floor Broker, DPM, OBO, or Market-Maker will provide for the remaining contracts, if any, to be apportioned equally among those market participants who bid (offered) at the best price at the time the market was established.

(4) In the event a market participant declines to accept any portion of the available contracts, the proposed rule change would provide that any remaining contracts will be apportioned equally among the other market participants who bid (offered) at the best price at the time the market was established until all contracts have been apportioned.

The CBOE is also proposing to add CBOE Rule 6.45(iii) to provide that any contracts remaining in an order after the operation of CBOE Rule 6.45(ii) will be apportioned equally between any other market participants in the trading crowd who bid (offered) at the best price in a reasonably prompt manner subsequent to the time the market was established.

CBOE Rule 6.45(iv) would further provide that whenever a member requests from members of a trading crowd a single bid in excess of the RAES order eligibility size for that option class, as provided for in Interpretation .11 to CBOE Rule 8.7, each member of the trading crowd will be apportioned a share of the executed order based on an approximate pro rata percentage, to the extent practicable, of the crowd member's portion of the size of the original single bid. The new rule provision also would provide that the member requesting the single bid will determine what constitutes an approximate pro rata percentage of the order that is executed with respect to each member of the trading crowd who participated in making the single bid.

Finally, the proposed rule change would add Interpretation and Policy .02 to CBOE Rule 6.45, to clarify that the provisions of CBOE Rule 6.45 are subject to the operation of CBOE Rules 8.7, Interpretation and Policy .05,[6] and CBOE Rule 8.51 ("Firm Disseminated Market Quotes").

III. Discussion

After careful consideration, the Commission has determined to approve the proposed rule change.[7] For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[8]

The Commission believes that the provision of the proposed rule change specifying the allocation sequence where more than one public customer order is represented in the customer limit order book clarifies that priority in such situations is established according to the sequence in which the orders were received by the OBO or DPM and is consistent with other Exchange rules that reflect the principle of time priority.

The Commission also believes that other provisions of the proposed rule change better specify the Exchange's priority rules by setting forth how an order is to be allocated among market participants bidding or offering at the best price in situations when: (1) Their competing bids or offers are made simultaneously; (2) the sequence in which their bids or offers were made cannot be reasonably determined; or (3) the sequence cannot be reasonably determined beyond a certain number of participants. The Commission believes that the proposed amendment establishes a fair and equitable manner of apportioning an order in these situations by providing that the bids or offers have equal priority, so that each participant receives an equal share of the order.

In the Commission's view, the proposed rule change further provides important clarification as to who is responsible, in any given trade, to determine which market participants responded with bids or offers at the best market at the time a market was established, and to allocate the trade according to the applicable priority rules. As discussed above, the proposed rule change assigns this responsibility to the Floor Broker, the DPM acting as agent, the OBO that is representing the order to which market participants are responding, or to a market maker with respect to bids made in response to his specific request. The Commission believes that this is a reasonable method of assigning responsibility for allocating a trade, particularly because the market participant representing the order or initiating the trade generally is in the best position to determine the identity and sequence of who responded. The CBOE has represented that it has the ability to determine the identity of the individual who allocated a particular trade,[9] and the Commission believes that the ability to identify such individual is important to the Exchange's ability to monitor for any violation of Exchange allocation rules.

The proposed rule change further specifies how participation in a trade is allocated in the situation where a member requests a single bid from members of a trading crowd and the trade is effected pursuant to Interpretation .11 to CBOE Rule 8.7.[10] The Commission believes that the proposed amendment, which would provide that the order be allocated based on an approximate pro rata percentage, to the extent practicable, of the respective sizes that crowd participants have indicated they are willing to buy or sell, is a reasonable way to apportion participation in such trades. The Commission believes that it is reasonable, as provided by the proposed rule change, to assign the member who requested the single bid the responsibility to determine what constitutes an approximate pro rata percentage of the order for each participant.

The proposed rule change also would make clear that in the event a market participant declines to accept a portion of the contracts to which he or she is entitled, the remainder is to be apportioned equally among the participants who bid or offered at the best price when the market was established. The Commission notes, in this connection, that the CBOE's proposed Interpretation and Policy .02 to CBOE Rule 6.45 provides that the provisions of CBOE Rule 6.45 are subject to CBOE Rule 8.7, Interpretation and Policy .05, and CBOE Rule 8.51, which set forth market maker responsibilities and firm quote requirements.

The Commission further notes that the CBOE has made clear that a DPM that already has been allocated its DPM participation entitlement amount would not receive a share of the declined contracts unless the other market participants do not wish to participate in the declined contracts.[11] The Commission believes that this will help assure fair allocation of orders and maintain a competitive environment on the Exchange.

The Commission also finds reasonable CBOE's proposal to apportion equally among any other market participants in the trading crowd who bid at the best price in a reasonably prompt manner subsequent to the time the market was established, any contracts that remain in an order after giving effect to the priority rules described above.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2002–08) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12982 Filed 5–22–02; 8:45 am]

BILLING CODE 8010–01–P

[6] Interpretation and Policy .05 to CBOE Rule 8.7 provides: Unless an options class is exempted by the appropriate Market Performance Committee, under normal market conditions a Market-Maker's bid or offer for a series of options of unspecified size is for five contracts except that a Market-Maker may be compelled to buy or sell a specific number of contracts at the disseminated bid or offer pursuant to his obligations under Rule 8.51.

[7] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5). Section 6(b)(5) of the Act requires that the rules of an exchange, among other things, be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[9] *See* Notice, *supra* note 3, at n.6.

[10] *See* Securities Exchange Act Release No. 45800 (April 22, 2002), 67 FR 21305 (April 30, 2002) (SR–CBOE–2001–65).

[11] *See* Notice, *supra* note 3, at n.8.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45936; File No. SR–CBOE–2002–10]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders for Lead Market-Makers and Supplemental Market-Makers Logged On to the Exchange's Rapid Opening System

May 15, 2002.

I. Introduction

On February 15, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the allocation of orders for Lead Market-Makers ("LMMs") and Supplemental Market-Makers ("SMMs") logged on to the Exchange's Rapid Opening System ("ROS"). On March 15, 2002 and March 22, 2002, CBOE submitted Amendment Nos. 1 and 2, respectively, to the proposed rule change. The proposed rule change and Amendment Nos. 1 and 2 were published for comment in the **Federal Register** on April 2, 2002.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposal

CBOE is proposing changes to Interpretation and Policies .01 of CBOE Rule 6.2A ("Interpretation .01"), relating to the allocation of orders for LMMs and SMMs logged onto ROS.[4] The proposed rule change was filed by the CBOE pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000, which requires that respondent options exchanges adopt new, or amend existing, rules to make express any practice or procedure "whereby market makers trading any particular option class determine by agreement * * * the allocation of orders in that option class."[5]

Currently, Interpretation .01 limits the use of ROS to LMMs and SMMs in S&P 100 ("OEX") Options. The proposed rule change would establish that ROS may be used by LMMs and SMMs appointed pursuant to CBOE Rule 8.15 to conduct rotations in any options class. The proposed rule change would also clarify that despite CBOE Rule 6.2A(b), which assigns ROS contracts to trade to participating market-makers, ROS contracts to trade will be assigned only to the LMMs and SMMs logged onto ROS in crowds to which LMMs and SMMs are appointed.

The proposed rule change would also permit the appropriate Floor Procedure Committee to establish a participation right for the LMM who determines the formula for generating automatically updated market quotations during the trading day and provides the primary quote feed for an option class during the current expiration month. This participation right would apply only to ROS contracts to trade, and would be subject to the following conditions: (1) The LMM would receive this participation right only during the time it is actually providing the primary quote feed for an option class; and (2) the LMM must log onto ROS the minimum number of times established by the appropriate Floor Procedure Committee.

As part of the proposed rule change, the CBOE also submitted the draft text of a Regulatory Circular that would establish a specific entitlement formula for qualifying LMMs, and would be used by the appropriate Floor Procedure Committee to adopt the participation entitlement. The formula provides for participation entitlements that range from 34 percent to 40 percent for the LMM providing the primary quote feed, depending on the total number of appointed LMMs and SMMs in the option, when the number is three or more. If the number is two, each of the two will be assigned an equal portion of ROS contracts, and if there is only one, all ROS contracts to trade will be assigned to the appointed LMM or SMM.[6]

In explaining the purpose of the participation guarantee, the CBOE stated that it has introduced a vendor quote program in OEX to replace the Autoquote system. The vendor system accepts a quote stream from a firm's proprietary quote system and then sends this quote information to the Trading Support System to be disseminated as market quotes. The CBOE believes that the LMM that provides the primary quote feed for an option class during the current expiration cycle provides a valuable service that ensures that the quotes are being updated in timely fashion to reflect the current state of the market.

III. Discussion

After careful consideration, the Commission has determined to approve the proposed rule change.[7] For the reasons discussed below, the Commission finds that the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45640 (March 25, 2002), 67 FR 15644 (April 2, 2002) ("Notice").

[4] ROS is the Exchange's automated system for opening classes of options at the beginning of the trading day or for re-opening classes of options during the trading day. *See* CBOE Rule 6.2A.

[5] *See* Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000).

[6] The Exchange has stated that changes to this Regulatory Circular, including changes to a participation entitlement formula, will be submitted to the Commission pursuant to Section 19(b) of the Exchange Act. *See* Notice.

[7] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.[8]

In the Commission's view, it is reasonable to expand the use of ROS to all options classes in which LMMs and SMMs conduct rotations. The Commission also believes that it is reasonable to assign ROS contracts to trade only to the LMMs and SMMs logged onto ROS in crowds in which LMMs and SMMs are appointed. The Commission notes that when Interpretation .01 was first adopted to permit the use of ROS under the LMM system (at the time, for OEX options), the CBOE stated that ROS was not meant to supplant the LMM system, which the Exchange believed had added accountability to openings, but to be used as a tool by the LMM to facilitate openings.[9]

The Commission further believes that it is reasonable to grant a participation entitlement to the LMMs who provide the primary quote feed for an option class during an option cycle is reasonable, in view of the service such LMMs provide. The Commission notes that the proposed entitlement would never be greater than 40 percent. The Commission has found with respect to participation guarantees in other contexts that 40 percent is not inconsistent with statutory standards of competition and free and open markets.[10]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CBOE–2002–10) be, and hereby is, approved.

[8] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange, among other things, be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[9] *See* Securities Exchange Act Release No. 4366 (December 4, 2000), 65 FR 77943 (December 13, 2000). The CBOE also stated at the time that "to the extent that market-makers want to participate in the opening of a series in which they do not hold LMM or SMM appointments, they will continue to be able to transmit written non-cancelable proprietary and market-makers orders to the LMM in the appropriate zone ten minutes prior to the opening of trading, pursuant to the terms of Interpretation .02 to CBOE Rule 24.13." *Id.*

[10] *See, e.g.,* Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) at 11398; and 43100 (July 31, 2000), 65 FR 48778 (August 9, 2000) at notes 96–99 and accompanying text.

[11] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12984 Filed 5–22–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45933; File No. SR–NASD–2002–27]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto Amending NASD Rule 3070 Concerning the Reporting of Criminal Offenses by Members and Persons Associated With a Member to the NASD

May 15, 2002.

On February 21, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Conduct Rule 3070 to limit reporting under this category to any felony, certain types of misdemeanors, and substantially equivalent activity in a domestic, foreign or military court. According to NASD Regulation, this proposed rule change would conform NASD Rule 3070(a)(5) to a proposed rule change by the New York Stock Exchange, Inc. ("NYSE") to amend NYSE Rule 351(a)(5).[3] The proposed rule change was published for comment in the **Federal Register** on March 8, 2002.[4] The Commission received one comment letter on the proposal,[5] which supports the proposed rule change. On May 14, 2002, NASD Regulation filed Amendment No. 1 to the proposed rule change with the Commission.[6] This order approves the proposed rule change, as amended.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[7] and, in particular, the requirements of Section 15A of the Act[8] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 15A(b)(6) of the Act[9] because narrowing the scope of reportable criminal offenses that members and member organizations would be required to report to the NASD is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling and facilitating transactions in securities. In particular, by continuing to require that every felony be reported, but only the proposed misdemeanors, would in effect, minimize the number of immaterial filings and maximize the effective use of resources committed to fulfilling self-regulatory responsibilities at the Association. Moreover, the proposed rule change would continue to capture the reporting of arrests for which any subsequent conviction would subject the individual to a statutory disqualification under Section 3(a)(39) of the Act.[10]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change and Amendment No. 1 thereto (File No. SR–NASD–2002–27) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12983 Filed 5–22–02; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45869 (May 3, 2002), 67 FR 31398 (May 9, 2002) (approving SR–NYSE–2002–06).

[4] *See* Securities Exchange Act Release No. 45493 (March 1, 2002), 67 FR 10783.

[5] *See* letter to Jill M. Peterson, Assistant Secretary, Commission, from Selwyn J. Notelovitz, Senior Vice President, Global Compliance, Charles Schwab & Co., Inc., dated March 21, 2002 ("Schwab Letter").

[6] *See* letter to Katherine England, Assistant Director, Division of Market Regulation, Commission, from Shirley Weiss, Associate General Counsel, NASD Regulation, dated May 14, 2002 ("Amendment No. 1"). In Amendment No. 1, NASD Regulation amended the proposed rule change to require that an arrest, arraignment, or conviction before a *military* court of any of the enumerated crimes be reported to the NASD. In addition, NASD Regulation added the conspiracy to commit any one of the enumerated misdemeanors under NASD Conduct Rule 3070(a)(5) to the list of crimes that must be reported to the NASD. This is a technical amendment and is not subject to notice and comment.

[7] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78*o*–3.

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78c(a)(39).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45954; File No. SR–NASD–2002–12]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Establishment of a Subordination Agreement Investor Disclosure Document

May 17, 2002.

On January 17, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly-owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require, as part of a subordination agreement, the execution of a Subordination Agreement Investor Disclosure Document ("Disclosure Document"). On March 21, 2002, NASD Regulation filed Amendment No. 1 to the proposed rule change with the Commission.[3] The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on April 16, 2002.[4] The Commission received no comment letters on the proposal. This order approves the proposed rule change, as amended.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of section 15A of the Act[5] and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with section 15A(b)(6) of the Act,[6] which, among other things, requires that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the Disclosure Document should provide investors with an understanding of the key risks associated with loaning money or securities to a broker-dealer under a subordination agreements.[7]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change and Amendment No. 1 thereto (File No. SR–NASD–2002–12) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland

Deputy Secretary

[FR Doc. 02–12986 Filed 5–22–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, NASD Regulation made certain clarifications to the Disclosure Document ("Amendment No. 1"). Letter from Patrice M. Gliniecki, Vice President and Acting General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 21, 2002.

[4] Securities Exchange Act Release No. 45721 (April 10, 2002), 67 FR 18661.

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45930; File No. SR–PCX–2001–13]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to its Auto-Ex System

May 15, 2002.

I. Introduction

On January 30, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change[3] relating to disengagement of the Exchange's Automatic Execution System for Options ("Auto-Ex"), increasing or decreasing Auto-Ex order size, and declaring quotes from away markets unreliable. PCX submitted Amendment No. 1 to the proposed rule change on April 9, 2002.[4] The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on April 15, 2002.[5] The Commission received no comments on the amended proposal. This order approves the proposed rule change, as amended by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to modify PCX's Automatic Execution System Rule (Rule 6.87) to include provisions regarding: (1) Disengaging Auto-Ex and increasing or decreasing the Auto-Ex eligible order size, (2) declaring quotes from away markets unreliable, and (3) documenting these actions. The Exchange also proposes to clarify PCX Rule 6.28.

Disengaging Auto-Ex and Increasing or Decreasing the Auto-Ex Eligible Order Size

The Exchange proposes to define the unusual market conditions that may permit suspending Auto-Ex or increasing or decreasing the size of orders that may be automatically executed over the Auto-Ex as follows: (1) High volatility (when a stock or the entire market is experiencing rapid and extreme price fluctuations usually accompanied by doublewide spreads); (2) large influx of orders (when volume is two or more times the average daily volume in an issue, or when an extraordinarily large options order is executed on the PCX and reported); or (3) unreliable quote feed (when the Exchange is unable to accurately collect, process and/or disseminate quotation data). Such unusual market conditions may be caused by news announcements (*e.g.*, announcements relating to earnings speculation, economic news, reports of mergers or takeovers, or disasters).

The Exchange's current Rules 6.87(h)(1) and (2) permit suspension of Auto-Ex in the event of floor-wide and non-floor wide Pacific Options Exchange Trading System ("POETS")[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed this proposed rule change pursuant to the requirements of Section IV.B.h.(i)(bb) of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the PCX (as well as the other floor-based options exchanges) to adopt new, or amend existing rules concerning automatic quotation and execution systems which specify the circumstances, if any, by which automated execution systems would be disengaged or operated in any manner other than the normal manner set forth in the exchange's rules; and, requires the documentation of the reasons for each decision to disengage an automatic execution system or operate it in any manner other than the normal manner. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282.

[4] *See* letter from Cindy Sink, Senior Attorney, Regulatory Policy, PCX, to Deborah L. Flynn, Assistant Director, Division of Market Regulation, Commission, dated April 8, 2002 ("Amendment No. 1").

[5] *See* Securities Exchange Act Release No. 45712 (April 9, 2002), 67 FR 18285 (April 15, 2002).

[6] POETS is the Exchange's automated trading system comprised of an options order routing system, an automatic execution system, an on-line

Continued

malfunction. Current PCX Rule 6.87(h)(3) permits the suspension of Auto-Ex in other unusual situations not involving POETS malfunction. For consistency and clarity, the Exchange proposes to move current PCX Rule 6.28(c)(6) concerning suspension of Auto-Ex and place it in PCX Rule 6.87(h)(3)(B). PCX Rule 6.28(c)(6) provides that if there are unusual market conditions not involving a POETS System malfunction, two Floor Officials may suspend Auto-Ex for a period of time not to exceed five minutes if, because of unusual market conditions or circumstances, the Floor Officials determine that such action is appropriate in maintaining a fair and orderly market. Whenever such action is taken, Floor Officials or senior Exchange Staff must immediately notify a Floor Governor. Thereafter, the suspension of Auto-Ex may be ended, or may be continued for more than five minutes, based on a determination of two Floor Officials and one Floor Governor (or a senior operations officer if no Floor Governor is available).

For consistency and clarity, the Exchange proposes to move and revise current PCX Rule 6.28(c)(8) (concerning the procedure for increasing the permissible size of orders that may be automatically executed over Auto-Ex up to 100 contracts) and place it in PCX Rule 6.87(h)(3)(C). The Exchange also proposes new PCX Rule 6.87(h)(3)(C) which addresses the procedure for decreasing the size of orders that may be automatically executed over Auto-Ex. The proposed procedure provides that two Floor Officials would be permitted to: (1) Increase the size of orders that may be automatically executed over the Auto-Ex system up to 100 contracts; or (2) decrease the size of orders eligible for automatic execution. Such an increase or decrease would be permitted to be approved by two Floor Officials in one or more option issues when they believe that unusual market conditions exist, provided that the decision is made for no more than one trading day. To the extent the conditions exist on the following trading day, two Floor Officials would be required to review the situation again and make an independent decision of whether to increase or decrease the Auto-Ex eligible order size for that subsequent day. Any decisions made by two Floor Officials to increase or decrease the Auto-Ex eligible order size for a particular option issue for two or more consecutive days would be reviewed by the Options Floor Trading Committee at its next regularly scheduled meeting. Whenever two Floor Officials decrease the size of orders eligible for automatic execution, the lowest number of contracts that would be permitted to be established would be five.

Additionally, the Exchange proposes to amend PCX Rule 6.87(h)(2) to provide for decreasing the guaranteed Auto-Ex size in one or more option issues when a non floor-wide POETS malfunction occurs but the Exchange is able to process and disseminate quotes accurately. In such circumstances, two Floor Officials would be permitted to decrease the guaranteed Auto-Ex size in one or more option issues pursuant to the procedures set forth in PCX Rule 6.87(h)(3)(C).

Declaring Away Markets Unreliable

The Exchange proposes PCX Rule 6.87(h)(4), which would provide a Floor Official discretion to determine that quotes in one or more particular options classes in a market are not reliable only when: (1) A market's quotes in a particular options class are not firm based upon direct communication to the Exchange from the market or the dissemination through OPRA of a message indicating that disseminated quotes are not firm; or (2) a market has directly communicated to the Exchange or otherwise confirmed that the market is experiencing systems or other problems affecting the reliability of its disseminated quotes.

If one or more of these factors occurs, then the following procedures would be required to be followed. First, an LMM would contact an Order Book Official ("OBO") and request that the away market be declared unreliable. Second, the OBO would contact the control room and request a declaration that the away market is unreliable. Third, if the control room confirmed that an away market is unreliable, then the OBO would contact a Floor Official and request a declaration that the away market is unreliable. Fourth, the Floor Official would review and verify the circumstances and determine whether the away market should be declared unreliable. The OBO would notify the control room that the away market is unreliable and should be removed from the NBBO calculation. Fifth, the Floor Surveillance Unit would contact the away exchange, and notify the away market that one or more of its quotes have been removed from the NBBO calculation. Sixth, the Floor Official would continue to monitor the away market that has been declared unreliable and notify the control room to return to firm mode when appropriate.

Any determination to exclude a market or any of its quotes from the Auto-Ex determination of the NBBO pursuant to the proposed rule would expire at the end of the trading day, or at the time that the quotes are confirmed by the market to be reliable again, whichever occurs first. Exclusion of a market or its quotes from the Auto-Ex determination of the NBBO would be reported to Exchange member firms.

Documentation

The Exchange proposes to require documentation of any action taken to suspend Auto-Ex, increase or decrease the size of Auto-Ex eligible orders or to operate Auto-Ex in a manner other than the usual manner with an Unusual Activity Report ("UAR"). The UAR would be required to be signed by two Floor Officials and would be required to state the system problem or market activity that led to the Floor Officials' ruling. The UAR information would be recorded in the Floor Surveillance log, which would document the option issues affected by the action, the time the action was taken, the Exchange officials who undertook the action, and the reasons why the action was taken.

Specifically, the following documentation would be required when an away market is declared unreliable: (1) The OBO would be required to log the issues(s) and time of the LMM's request for a declaration that the away market was unreliable; (2) the OBO would be required to prepare a UAR documenting the facts giving rise to the LMM's request, the date, time, and duration of the exclusion and the reasons for placing the away market back into the NBBO calculation; (3) the Floor Official would be required to sign the UAR; and (4) the control room would maintain a log of the time the away market was taken out of the NBBO calculation and the time that the away market was placed back into the NBBO calculation.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[7] and, in particular, the requirements of Section 6 of the Act[8] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[9] because it provides objective criteria and well-defined procedures for: (1) Disengaging and reengaging AUTO–X, which should increase the likelihood that AUTO–X will not be disengaged in a discriminatory manner; and (2) excluding another market's quote from the PCX's NBBO, which should increase the likelihood that PCX's NBBO will more accurately reflect the actual state of the market at a given time. Specifically, the Commission notes that the determination of a Floor Official to exclude unreliable quotes is limited to circumstances in which the away market has either directly communicated or confirmed that its quotes are unreliable. In this way, the discretion afforded to PCX officials to determine that another market's options quotes are unreliable is appropriately limited. Moreover, the record keeping requirements and other proposed procedures are not unreasonable.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–PCX–2001–13), as amended by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12895 Filed 5–22–02; 8:45 am]

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limit order book system, and an automatic market quote update system.

[7] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] See Securities Exchange Act Release No. 45634 (March 22, 2002), 67 FR 15649 (April 2, 2002) ("Notice"). Although the Notice stated that the date of filing of the proposed rule change was February 19, 2002, the proposal was deemed filed on February 15, 2002.

[3] See Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000).

[4] See Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–45937; File No. SR–PCX–2002–13)

Self-Regulatory Organization; Order Approving Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Priority of Bids and Offers on the Options Floor and the Manner in Which Orders Must Be Allocated in Connection With Options Transactions

May 15, 2002.

I. Introduction

On February 15, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to priority of bids and offers on the options floor and the manner in which orders must be allocated in connection with options transactions. On March 12, 2002, the PCX submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the FEDERAL REGISTER on April 2, 2002.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposal

The PCX is proposing to adopt new rules, and to amend existing rules, to include practices and procedures whereby option orders are allocated on the Exchange's Options Trading Floor to address situations where the rules are currently silent. This rule filing is being submitted to the Commission pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000.[4]

The proposed rule change includes provisions that concern several areas, as described below:

a. Obligations of Market Makers

The Exchange is proposing to adopt new PCX Rule 6.37(e)(2), which would prohibit any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue.

b. Simultaneous Bids and Offers

Currently, PCX Rule 6.75(a) provides that the highest bid has priority, but where two or more bids for the same option contract represent the highest price and one is displayed by the Order Book Official, that bid receives priority over any other bid at the post. If two or more bids represent the highest price and a bid displayed by an Order Book Official is not involved, the rule provides that priority is afforded to those bids in the sequence in which they are made. PCX Rule 6.75(b) applies the same priority principles to offers.

The Exchange is now proposing to adopt new PCX Rule 6.75(c), entitled "Simultaneous Bids an Offers." This proposed provision states that, except as otherwise provided, if the bids (or offers) of two or more members are made simultaneously, or if it is impossible to determine clearly the order of time in which they were made, such bids (or offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.

c. Order Allocation Procedures

1. In General: Determination of Priority Sequence

Proposed PCX Rule 6.75(f)(1) states that a Floor Broker is responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor Broker's bid, offer, or call for a market. It further states that my disputes regarding a Floor Broker's bid, offer, or call for a market. It further states that any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Order Book Official, provided that such determinations of the Order Book Official are subject to further review by two Floor Officials, pursuant to PCX Rule 6.77.

Proposed PCX Rule 6.75(f)(2) provides that when a Floor Broker's bid or offer has been accepted by more than one member, that Floor Broker must designate the members who were first, second, third, and so forth. It further states that, except as otherwise provided, the member with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. if there are any contracts remaining, the member with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely.

Proposed PCX Rule 6.75(f)(3) provides that a Market Maker is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to that Market Maker's bid, offer, or call for a market. Likewise, an Order Book Official is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to the Order Book Official's bid, offer, or call for a market. The proposed rule further provides that the order allocation procedures for Market Makers and Order Book Officials, including the determination of time priority sequence, are the same as those for Floor Brokers as set forth in proposed PCX Rule 6.75(f)(1) as described above.

2. LMM Guaranteed Participation

Proposed PCX Rule 6.75(f)(4)(A) provides that if a Lead Market Maker ("LMM") establishes first priority during the vocalization process, the LMM will be entitled to buy or sell as many contracts as the Floor Broker may have available to trade. However, if the LMM does not establish first priority during the vocalization process, but does establish second, third, or some other time priority sequence, the LMM will be entitled to buy or sell the number of contracts equal to the LMM's guaranteed participation level (pursuant to PCX Rule 6.82(d)(2)) plus any contracts the Floor Broker has remaining after the bids or offers of other members with higher time priority than the LMM have been satisfied.

Proposed PCX Rule 6.75(f)(4)(B) provides that if one or more orders in the limit order book have priority over an LMM's bid or offer, then the LMM's guaranteed participation level will apply only to the number of contracts remaining after all contracts in the limit order book that are at, or better than, the LMM's bid or offer have first been satisfied.

Proposed PCX Rule 6.75(f)(4)(C) provides that LMMs may waive some or all of their guaranteed participation on particular trades, but only to the extent that doing so is permissible under PCX Rule 6.86 ("Firm Quotes"). In such circumstances, if the LMM has waived the right to trade a certain number of option contracts, those option contracts will then become available for execution by the member (or members) who are next in priority sequence.

Proposed PCX Rule 6.75(f)(4)(D) provides that LMMs may direct some or all of their guaranteed participation to competing public orders in the trading crowd pursuant to PCX Rule 6.82(d).

Proposed PCX Rule 6.75(f)(4)(E) provides that bid and offering prices that are disseminated by an automatic quotation system are presumed to be the bid and offering prices of the LMM for purposes of PCX Rule 6.86 ("Firm Quotes") and PCX Rule 6.82(d)(2) ("Guaranteed Participation"). Nevertheless, LMMs must vocalize all of their bids and offers in response to a call for a market and in acceptance of another member's bid or offer. If a Floor Broker enters the trading crowd and vocalizes acceptance of a bid or offer that is then being disseminated, the LMM will be entitled to guaranteed participation on that transaction.

3. Parity Due to Simultaneous Bidding or Offering

Proposed PCX Rule 6.75(f)(5)(A) states that if the bids or offers of more than one member are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis, pursuant to PCX Rule 6.75(c). Accordingly, the proposed rule change states that efforts will be made to assure that each member on parity receives an equal number of contracts, to the extent mathematically possible. One or more members on parity may waive their rights to some of their share (or shares) of contracts, but only to the extent that doing so is permissible under PCX Rule 6.86 ("Firm Quotes"). In such circumstances, the remaining number of contracts will be allocated, to the extent practicable, on an equal basis. However, an LMM who has received guaranteed participation on a transaction may not participate in the waived portion of the order unless there are contracts remaining to be allocated after all other members have been satisfied.

Proposed PCX Rule 6.75(f)(5)(B) provides that if the bids and offers of more than one member, including the LMM, are on parity, then the LMM's guaranteed participation will first be applied to the entire order and the remainder of the order will be allocated, to the extent practicable, on an equal basis among the members other than the LMM who are on parity. The LMM may participate in such remainder of the order only if there are contracts remaining after all members other than the LMM have first been satisfied.

Proposed PCX Rule 6.75(f)(5)(C) states that if the LMM waives priority or guaranteed participation when the LMM and one or more other members are on parity, then the portion of the order that the LMM has waived will be made available to the other members who are on parity.

4. Size Pro Rata Allocations (Collective Response Situations)

Proposed Rule 6.75(f)(6) states that if the members of the trading crowd provide a collective response to a member's request for a market in order to fill a large order, pursuant to PCX Rule 6.37(f)(2), then if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the members of the trading crowd will each receive a share of the order that is equal to the size of their respective bids or offers. However, if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size rata basis, with the members of the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of all bids or offers.

d. Procedures of Lead Market Makers

PCX Rule 6.82(d)(2) currently provides, in part, that LMMs at their own discretion may direct their guaranteed participation to competing public orders in the crowd. The Exchange is proposing to modify this provision to provide that LMMs may direct "some or all" of their guaranteed participation to competing public orders (*i.e.*, competing orders for the accounts of non-broker-dealers) in the crowd.

PCX Rule 6.82(d)(2) currently provides, in part, that LMMs "shall be allocated 50% participation in transactions occurring at their disseminated bids and/or offers in their allocated issue(s)." The Exchange is proposing to amend this rule so that it provides that LMMs "shall be allocated 50% participation (or such lesser percentage as the Options Allocation Committee may establish in allocating an issue to an LMM) in transactions occurring at their disseminated bids and/or offers in their allocated issues."

Finally, PCX Rule 6.82(e)(2)(a) currently provides, in part, that LMMs "shall have a right to participate pro rata with the trading crowd in trades that take place at the LMM's principal bid or offer." The Exchange is proposing to modify this provision to state that LMMs "have a right to participate with the trading crowd in trades that take place at the LMM's principal bid or offer, pursuant to the priority rule set forth in PCX Rule 6.75."

III. Discussion

After careful consideration, the Commission has determined to approve the proposed rule change.[5] For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.[6]

[5] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5). Section 6(b)(5) of the Act requires that the rules of an exchange, among other things, be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed provision concerning "Obligations of Market Makers," which prohibits agreements among Market Makers with respect to the allocation of trades, should help to preclude anti-competitive conduct and prevent fraudulent and manipulative acts and practices.

The Commission believes further that the proposed provision concerning "Simultaneous Bids and Offers" fills a significant gap in the Exchange's current rules by setting forth the method for allocating an order among market participants in situations when their competing bids or offers are made simultaneously, or when the sequence in which their bids or offers were made cannot be clearly determined. In the Commission's view, the proposed rule change establishes a fair and equitable manner of apportioning an order in these situations by providing that the bids or offers will be deemed to be an parity, so that each maker receives, as far as practicable, an equal share of the order.

With respect to "Order Allocation Procedures," the Commission believes that the proposed rule change provides an important clarification by specifying the market participant with responsibility for determining the time priority sequence of bids and offers vocalized on the Trading Floor in response to a bid, offer, or call for a market. As discussed above, the proposed rule change assigns this duty to the Floor Broker, the Order Book Official, or Market Maker to whose bid, offer, or call for a market the participants responded. The Commissions believes that this is a reasonable method of assigning responsibility for allocating a trade, particularly because the market participant who initiated the bid, offer, or call for a market is the best position to determine the identity and sequence of who responded.

The Commission notes that the proposal also provides for the resolution of disputes regarding the determination of time priority sequence, which should contribute to fair allocation of orders. The PCX also has represented that is has the ability to determine the identity of the individual who allocated a particular trade,[7] and the Commission believes that the ability to identify such individuals is important to the Exchange's ability to monitor for violation of Exchange allocation rules.

The Commission notes that the provisions of the proposed rule change concerning the "LMM Guaranteed Participation" provide a more specific description of how this guaranteed participation is to be applied than that provided in the PCX's current rules. Among other things, the proposal specifies that the LMM Guaranteed Participation applies only to the number of contracts remaining after all customer orders in the limit order book have first been satisfied. Although PCX Rule 6.82(d)(2) already provides that public order placed in the book take priority over the LMM guarantee, the Commission believes that the new provision is an important clarification of the Exchange's rules regarding application of the LMM guarantee.

Existing PCX Rule 6.82(d)(2) provides that the LMM Guaranteed Participation applies in "transaction occurring at the [LMMs'] disseminated bids and/or offers." The proposal fills in a significant gap in the Exchange's current rules, in the Commission's view, by clarifying that prices disseminated by an automatic quotation system are presumed to be the prices of the LMM so as to qualify the LMM for the Guaranteed Participation. The proposed rule change also establishes that the prices disseminated by an automatic quotation system are presumed to be the bid and offer of the LMM for purposes of PCX Rule 6.86 on "Firm Quotes."[8] The proposal further states that LMMs must nevertheless vocalize all their bids or offers in response to a call for a market or in acceptance of a bid or offer that is being disseminated. In the Commission's view, this requirement is appropriate to harmonize the proposed rule change with the PCX's other rules on vocalization.

The Commission also believes that it is reasonable to permit members and LMMs to waive all or some of their share of contracts, as provided in the proposed provisions concerning "Parity Due to Simultaneous Bidding or Offering," consistent with the PCX's rule on firm quote obligations. THe Commission further believes that it is fair and equitable to allocate such waived contracts among the other members on parity on an equal basis, to the extent practicable, as the proposed rule change provides.[9]

The Commission notes that, as made clear by the proposal, an LMM who has received a guaranteed participation may not participate in the waived portion of an order unless there are remaining contracts to be allocated after all other members have been satisfied. Similarly, the proposed rule change clarifies generally that when one or more members are on parity with the LMM, after the LMM receives its Guaranteed Participation, the LMM is not entitled to a share in the remainder of the order with the other members unless all such other members have been satisfied. The Commission believes that these provisions will help assure fair allocation of orders and maintain a competitive environment on the Exchange.

As detailed above, the proposed rule change also clarifies how orders are allocated in the situation where members of the trading crowd provide a collective response to a member's request for a market in order to fill a large order pursuant to PCX Rule 6.37(f)(2).[10] In the Commission's view, allocating participating members their respective sizes when their aggregate size is less than or equal to the size of the order, and allocating them their shares on a pro rata basis when their aggregate size exceeds the size of the order, is a reasonable way to apportion participation in such trades.

With respect to "Procedures of Lead Market Makers," the Commission believes that it is reasonable to amend PCX Rule 6.82(d)(2) to give the Options Allocation Committee the ability to reduce the LMM Guaranteed Participation percentage from the maximum permitted under PCX Rule 6.82(d) when it allocates an issue to an LMM. The Commission notes that subparagraphs (A) and (B) of Rule 6.82(d)(2) already permit the Committee to reduce the LMM guarantee under certain conditions.

The additional amendment clarifying that an LMM may direct *some* of its participation to a public order in the crowd—not just all of it, as the current rules implies—is reasonable, in the

[7] See Notice, *supra* note 3, at n.6.

[8] The Commission notes that PCX Rule 6.86 provides that "with respect to any bid or offer for any listed option made available by the Exchange to quotation vendors, the Lead Market Maker and any registered Market Makers constituting the trading crowd in such option series will collectively be the Responsible Broker or Dealer to the extent of the aggregate quotation size specified." Accordingly, if the Exchange's quotation is established by an automatic quotation system, such quotation is the quotation of all members of the crowd.

[9] The Commission notes that the proposed rules on the LMM Guaranteed Participation provide that if the LMM waives some of that participation, the contracts will become available to the members who are next in the priority sequence. The Commission believes this, too, is a reasonable allocation method that conforms with the time priority principles reflected elsewhere in the PCX's rules.

[10] *See* Securities Exchange Act Release No. 45578 (March 15, 2002), 67 FR 13393 (March 22, 2002) (SR–PCX–2001–50).

Commission's view, as it conforms with the original purpose of this provision.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that proposed rule change (SR–PCX–2002–13) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12985 Filed 5–22–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45931; File No. SR–Phlx–2001–35]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval To Proposed Rule Change, As Amended By Amendment Nos. 1, 2, 3, 4, and 5 Thereto, Relating To Providing Automatic Executions For Public Customer Orders When Another Market Is Disseminating Quotes Deemed Not To Be Reliable

May 15, 2002.

I. Introduction

On March 12, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change[3] relating to providing automatic executions for public customer orders at the national best bid or offer ("NBBO"). On September 19, 2001, January 11, 2002, March 1, 2002, March 8, 2002, and April 3, 2002, Phlx submitted Amendment Nos. 1,[4] 2,[5] 3,[6] 4,[7] and 5,[8] respectively. The proposed rule change, as amended by Amendment Nos. 1, 2, 3, 4, and 5, was published for comment in the **Federal Register** on April 15, 2002.[9] The Commission received no comments on the amended proposal. This order approves the proposed rule change, as amended by Amendment Nos. 1, 2, 3, 4, and 5.

II. Description of the Proposal

The Phlx proposes to permit the Exchange to exclude from the calculation of the NBBO certain quotes from other markets that are deemed not to be reliable.[10] Upon the request of a specialist, the Chairman of the Options Committee or his designee[11] (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials) would be authorized to determine that quotes in specified options or series of options or in respect of specified markets are not reliable under any of the following circumstances: notification from another market that its quotes are not firm or are unreliable; administrative message from OPRA indicating that another market's quotes are unreliable; receipt of quotes from another market designated as "not firm" using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm.

The Exchange would be permitted to determine to exclude quotes from its calculation of the NBBO on a series-by-series basis or issue-by-issue basis, or would be permitted to determine to exclude all options quotes from an exchange, where appropriate.[12]

Phlx also proposes to amend the rule text to require the Exchange to maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of the NBBO, and to notify such other exchange that its quotes have been so excluded.[13]

In addition, Phlx proposes to amend the rule text to provide that documentation of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO shall include: identification of the option(s) affected by such action; the date and time such action was taken and concluded; identification of the other exchange(s) whose quotes were excluded from the Exchange's calculation of NBBO; identification of the Chairman of the Options Committee, his designee, or two Floor Officials (as applicable) who approved such action; the reasons for which such action was taken; and identification of the specialist and the specialist unit. The Exchange would maintain these documents pursuant to the record retention requirements of the Act and the rules and regulations thereunder.[14] The Chairman of the Options Committee or his designee (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials), would be authorized to determine that quotes in options on the Exchange or other markets previously deemed not to be reliable are again reliable, and such quotations would again be included in the calculation of NBBO for such options.

Such determination would be permitted to be made by way of notification from another market that its quotes are firm; administrative message from OPRA indicating that another market's quotes are no longer unreliable; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm. AUTOM customers would be duly notified via electronic message from AUTOM that such quotes are again included in the calculation of NBBO.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended by Amendment Nos. 2, 3, 4, and 5, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[15] and, in particular, the requirements of Section 6 of the Act[16] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[17] because it provides objective criteria and well-defined procedures for excluding another market's quote from the Phlx's determination of the NBBO, which should increase the likelihood that Phlx's NBBO will more accurately reflect the actual state of the market at a given time. Specifically, the Commission notes that the determination of the Chairman of the Options Committee or his designee (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials) to exclude unreliable quotes is limited to circumstances in which the away market has either directly communicated or confirmed that its quotes are unreliable. In this way, the discretion afforded to Phlx officials to determine that another market's options quotes are unreliable is appropriately limited. Moreover, the record keeping requirements and other proposed procedures are not unreasonable.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–Phlx–2001–35), as amended by Amendment Nos. 1, 2, 3, 4, and 5, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12894 Filed 5–22–02; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed this proposed rule change pursuant to the requirements of Section IV.B.h.(i)(bb) of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Phlx (as well as the other floor-based options exchanges) to adopt new, or amend existing, exchange rules concerning automatic quotation and execution systems which specify the circumstances, if any, by which automatic execution systems would be disengaged or operated in any manner other than the normal manner set forth in the exchange's rules; and, requires the documentation of the reasons for each decision to disengage an automatic execution system or operate it in any manner other than the normal manner. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282.

[4] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated September 18, 2001 ("Amendment No. 1").

[5] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated January 11, 2002 ("Amendment No. 2"). Amendment No. 2 supersedes and replaces Amendment No. 1 in its entirety.

[6] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated February 28, 2002 ("Amendment No. 3").

[7] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 7, 2002 ("Amendment No. 4").

[8] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated April 2, 2002 ("Amendment No. 5").

[9] *See* Securities Exchange Act Release No. 45713 (April 9, 2002), 67 FR 18292 (April 15, 2002).

[10] Under current Exchange rules, certain AUTO–X eligible orders may be automatically executed at the NBBO disseminated by another options exchange, provided that the NBBO is not better than the specialist's best bid/offer by a predetermined "step-up parameter." The enhancement is known as the "NBBO Step-Up Feature." The NBBO Step-Up Feature would execute AUTO–X eligible orders at the NBBO for certain options designated by the Options Committee as eligible for the NBBO Step-Up Feature, called "automatic step-up options." *See* Exchange Rule 1080(c)(i). This proposal would apply to all situations in which the NBBO Step-Up Feature was not engaged. The Commission, in a separate order, is approving a related proposed rule change regarding the exclusion of certain quotes from the Phlx's calculation of the NBBO when the NBBO Step-Up Feature is engaged. *See* Securities Exchange Act Release No. 45932 (May 15, 2002) (File No. SR–Phlx–00–93).

[11] Such designee must be a member of the Options Committee.

[12] *See* Amendment No. 3, *supra* note 6.

[13] *See* Amendment No. 4, *supra* note 7.

[14] *See* Amendment No. 5, *supra* note 8.

[15] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45932; File No. SR–Phlx–00–93]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to that Portion of Proposed Rule Change Not Previously Granted Accelerated Approval, as Amended by Amendment Nos. 4, 5, 6, and 7 thereto, Relating to Providing Automatic Executions for Public Customer Orders at the NBBO

May 15, 2002.

I. Introduction

On September 18, 2001, January 15, 2002, March 1, 2002, March 8, 2002, and April 3, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] Amendment Nos. 3,[3] 4,[4] 5,[5] 6,[6] and 7,[7] respectively, to a proposed rule change[8] relating to providing automatic executions for public customer orders at the national best bid or offer ("NBBO"). The Commission published for comment the proposed rule change, along with Amendment Nos. 1 and 2, in the **Federal Register** on December 14, 2000,[9] and granted partial accelerated approval to those portions of the proposed rule change and Amendment Nos. 1 and 2 relating to the automatic execution of eligible orders at the NBBO, provided that the NBBO is not better than the specialist's best bid or offer ("BBO") by a predetermined "step-up parameter." Amendment Nos. 4, 5, 6, and 7, were published for comment in the **Federal Register** on April 15, 2002.[10] The Commission received no comments on Amendment Nos. 4, 5, 6, and 7. This order approves that portion of the proposed rule change not previously granted accelerated approved, as amended by Amendment Nos. 4, 5, 6, and 7.

II. Description of the Proposal

In the Original Filing, the Phlx proposed an enhancement to AUTO-X, the automatic execution feature of the Exchange's Automated Options Market ("AUTOM") System, that would allow AUTO-X eligible orders to be automatically executed at the NBBO, provided that the NBBO is not better than the specialist's BBO by a predetermined "step-up parameter."[11] This enhancement is known as the "NBBO Step-Up Feature." The Commission granted accelerated approval to this part of the Original Filing. In addition, in the Original Filing, the Phlx proposed to permit the Chairman of the Options Committee or his designee (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials) to determine that, if the NBBO Step-Up Feature was activated and quotes in certain automatic step-up options on the Exchange or other markets were deemed not to be reliable, such unreliable quotes would be excluded from the calculation of NBBO and customers would receive an automatic execution at NBBO based

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated September 18, 2001 ("Amendment No. 3").

[4] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated January 15, 2002 ("Amendment No. 4). Amendment No. 4 superseded and replaced Amendment No. 3 in its entirety.

[5] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated February 28, 2002 ("Amendment No. 5").

[6] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 7, 2002 ("Amendment No. 6").

[7] *See* letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated April 2, 2002 ("Amendment No. 7").

[8] The Exchange filed this proposed rule change pursuant to the requirements of Section IV.B.h.(i)(bb) of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Phlx (as well as the other floor-based options exchanges) to adopt new, or amend existing, exchange rules concerning automatic quotation and execution systems which specify the circumstances, if any, by which automatic execution systems would be disengaged or operated in any manner other than the normal manner set forth in the exchange's rules; and, requires the documentation of the reasons for each decision to disengage an automatic execution system or operate it in any manner other than the normal manner. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282.

[9] *See* Securities Exchange Act Release No. 43684 (December 6, 2000), 65 FR 78237 (December 14, 2000) ("Original Filing"). The Commission received one comment letter on the Original Filing. *See* letter from Edward J. Joyce, President and Chief Operating Officer, Chicago Board Options Exchange, Inc. ("CBOE"), to Mr. Jonathan G. Katz, Secretary, Commission, dated February 8, 2001. In its comment letter, CBOE recommended that the Phlx amend its rule to require the Exchange to make and keep a written record of decisions to remove an exchange from the Phlx's calculation of the National Best Bid or Offer ("NBBO") and to notify an exchange when its markets have been removed from the Phlx's NBBO calculation. In response to CBOE's comments, Phlx proposed Amendment Nos. 5 and 6.

[10] *See* Securities Exchange Act Release No. 45757 (April 9, 2002), 67 FR 19605 (April 15, 2002).

[11] For a full discussion of Phlx's proposal, see the Original Filing.

on the remaining markets whose quotes were not deemed to be unreliable. The Original Filing proposed that quotes would be determined to be unreliable due to Exchange communications or systems problems; fast markets; delays in the dissemination of quotes because of queues on the Options Price Reporting Authority ("OPRA") which would likely render such quotes stale; or if the Exchange is advised by another exchange that it is experiencing communication or system problems that would cause its disseminated quotes to be unreliable. The Commission did not approve this part of the Original Filing and the Phlx subsequently filed Amendment Nos. 3, 4, 5, 6, and 7 with the Commission.[12]

In Amendment No. 4, the Phlx proposed to limit the factors that the Chairman of the Options Committee or his designee[13] (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials), may rely upon to determine that quotes in options on the Exchange or another market or markets are unreliable.[14] Such determination could be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority ("OPRA") indicating that another market's quotes are unreliable; quotes received from another market designated as "not firm" using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm.[15] In addition, AUTOM customers would be duly notified via electronic message from AUTOM that such quotes are excluded from the calculation of NBBO.[16]

Further, where the Chairman of the Options Committee or his designee (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials), determines that responsible brokers or dealers on the Exchange or another market or markets previously relieved of their obligations under the Commission's Quote Rule[17] are no longer subject to such relief, the quotations of such responsible broker or dealer would be included in the calculation of the NBBO for such options. Such determination would be permitted to be made by way of notification from another market that its quotes are firm; administrative message from OPRA indicating that another market's quotes are no longer unreliable; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.[18] AUTOM customers would be duly notified via electronic message from AUTOM that such quotes are again included in the calculation of NBBO.[19]

In Amendment No. 5, the Exchange: (1) Clarified that pursuant to the proposed rule change it would be permitted to determine to exclude quotes from its calculation of the NBBO on a series-by-series basis or class-by-class basis, or to determine to exclude all options quotes from an exchange, where appropriate; (2) represented that it maintains, on a daily basis, records of each instance in which it determines to exclude quotes from another exchange from the Exchange's calculation of the NBBO on a daily basis; and (3) stated that it would notify other exchanges of the determination to exclude its quotes from the Exchange's calculation of the NBBO and of any determination to re-include such exchange's quotes in the Exchange's calculation of the NBBO.[20]

In Amendment No. 6, the Phlx proposed to require the Exchange to maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of the NBBO, and to notify such other exchange that its quotes have been so excluded.[21]

In Amendment No. 7, the Phlx proposed to amend the rule text to provide that documentation of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO would include: identification of the option(s) affected by such action; the date and time such action was taken and concluded; identification of the other exchange(s) whose quotes were excluded from the Exchange's calculation of NBBO; identification of the Chairman of the Options Committee, his designee, or two Floor Officials (as applicable) who approved such action; the reasons for which such action was taken; and identification of the specialist and the specialist unit. The Exchange would maintain these documents pursuant to the record retention requirements of the Act and the rules and regulations thereunder.[22]

III. Discussion

After careful review, the Commission finds that the portion of the proposed rule change not previously granted accelerated approval, as amended by Amendment Nos. 4, 5, 6, and 7, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[23] and, in particular, the requirements of Section 6 of the Act[24] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[25] because it provides objective criteria and well-defined procedures for excluding another market's quote from the Phlx's determination of the NBBO, which should increase the likelihood that Phlx's NBBO will more accurately reflect the actual state of the market at a given time. Specifically, the Commission notes that the determination of the Chairman of the Options Committee or his designee (or if the Chairman of the Options Committee or his designee is unavailable, two Floor Officials) to exclude unreliable quotes is limited to circumstances in which the away market has either directly communicated or confirmed that its quotes are unreliable. In this way, the discretion afforded to Phlx officials to determine that another market's options quotes are unreliable is appropriately limited. Moreover, the record keeping requirements and other proposed procedures are not unreasonable.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the portion of the proposed rule change not previously granted accelerated approval (SR-Phlx-00-93), as amended by Amendment Nos. 4, 5, 6, and 7, is approved.

[12] This proposal would apply to all situations in which the NBBO Step-Up Feature was engaged. The Commission, in a separate order, is approving a related proposed rule change regarding the exclusion of certain quotes from the Phlx's calculation of the NBBO when the NBBO Step-Up Feature is not engaged. See Securities Exchange Act Release No. 45931 (May 15, 2002) (File No. SR-Phlx-2001-35).

[13] Such designee must be a member of the Options Committee.

[14] *See* Amendment No. 4, *supra* note 3.

[15] *Id.*

[16] *Id.*

[17] Rule 11Ac1-1 under the Act, 17 CFR 240.11Ac1-1.

[18] *Id.*

[19] *Id.*

[20] *See* Amendment No. 5, *supra* note 4.

[21] *See* Amendment No. 6, *supra* note 5.

[22] *See* Amendment No. 7, *supra* note 6.

[23] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f.

[25] 15 U.S.C. 78f(b)(5).

[26] Id.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-12896 Filed 5-22-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45927; File No. SR-Phlx-2001-24]

Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change and Amendment No. 4 and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 5 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Manual Handling of Certain AUTOM Orders by Specialists

May 15, 2002.

On March 2, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] relating to the manual handling of certain Exchange Automated Options Market ("AUTOM") orders by Exchange specialists.[3] The Phlx filed Amendment Nos. 1,[4] 2,[5] 3,[6] and 4[7] to the proposed rule change, respectively. The proposed rule change, as amended, was published for public comment in the **Federal Register** on February 20, 2002.[8] The Commission received no comments on the proposal. On May 15, 2002, the Phlx filed Amendment No. 5 to the proposed rule change.[9] This order approves the proposed rule change, as amended.

I. Description of the Proposal

The Phlx proposes to adopt Phlx Rule 1080(c)(iv) to codify that an options order otherwise eligible for the Exchange's Automated Execution System ("AUTO-X") will instead be manually handled by the specialist in certain circumstances. The Exchange also proposes to cross-reference Phlx Rule 1080(c)(i), "AUTO-X on the NBBO (NBBO Feature)," in cases in which AUTO-X will not execute at the Exchange's disseminated quotation.

Currently, Phlx Rule 1080 governs the operation of AUTOM and AUTO-X. AUTO-X is addressed primarily in Phlx Rule 1080(c), which provides that only certain order types are eligible for AUTO-X. Phlx Rule 1080(c) also provides that AUTO-X is a feature of AUTOM that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise.

According to the Phlx, AUTO-X automatically executes eligible orders using the Exchange disseminated quotation and then automatically routes execution reports to the originating member organization. In all other circumstances, AUTOM orders that are not eligible for AUTO-X would be executed manually in accordance with Exchange rules. Phlx Rule 1080 currently enumerates some of the situations where an order may not be automatically executed.

The Phlx proposes to codify nine additional situations in which an otherwise AUTO-X eligible order would not automatically execute. The first case is when the Exchange's disseminated market crosses or locks the disseminated market of another options exchange. Second, stop, stop limit, market on closing, market on opening, and all-or-none orders do not automatically execute because these orders consist of contingencies, such as price, time, or size that the AUTOM system cannot address. Third, pre-market orders received when the AUTOM system is not open for trading are not eligible for automatic execution. Fourth, when the disseminated market is produced during an opening or other rotation, incoming orders will not automatically execute.[10] Fifth, when the specialist posts a bid or offer that is better than the specialist's own bid or offer, incoming orders will not automatically execute.[11] Sixth, because certain options are subject to the NBBO Feature, as described in Phlx Rule 1080(c)(i), when the NBBO Feature is

[27] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Exchange filed this proposed rule change pursuant to the requirements of Section IV.B.h.(i)(bb) of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Phlx (as well as the other floor-based options exchanges) to adopt new, or amend existing rules concerning automatic quotation and execution systems which specify the circumstances, if any, by which automated execution systems would be disengaged or operated in any manner other than the normal manner set forth in the exchange's rules; and, requires the documentation of the reasons for each decision to disengage an automatic execution system or operate it in any manner other than the normal manner. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3-10282.

[4] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 12, 2001 ("Amendment No. 1"). Amendment No. 1 designates the proposed rule change as filed pursuant Section 19(b)(2) of the Act, and the Exchange requests that the proposed rule change is given accelerated effectiveness. 15 U.S.C. 78s(b)(2).

[5] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated July 2, 2001 ("Amendment No. 2"). Amendment No. 2 corrects technical errors to the proposed rule text.

[6] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 7, 2001 ("Amendment No. 3"). Amendment No. 3 updates the proposed rule text that refers to a pilot program that permits the Exchange to automatically execute option contracts within a 15 second period. In addition, Amendment No. 3 corrects technical errors to the proposed rule text.

[7] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated December 10, 2001 ("Amendment No. 4"). Amendment No. 4 replaces the original filing in its entirety and modifies earlier revisions by: (1) Clarifying the calculation of a zero bid by the Exchange's Autoquote System; (2) clarifying the Exchange's audit trail and other documentation in cases which AUTO-X is disengaged; (3) clarifying the authority of the Exchange's Options Committee to restrict the use of AUTO-X on the Exchange; and (4) updating the proposed rule text that refers to the pilot program that permits the Exchange to automatically execute option contracts within a 15 second period.

[8] *See* Securities Exchange Act Release No. 45436 (February 12, 2002), 67 FR 7728.

[9] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated May 14, 2002 ("Amendment No. 5"). Amendment No. 5: (1) Deletes references in the purpose section of the proposed rule change regarding the AUTO-X Disengagement Log, which does not apply to the nine codified circumstances under which an incoming order would be manually handled by an Exchange specialist; (2) amends proposed rule text to provide that any restriction by the Options Committee on the use of Auto-X will be clearly communicated to its membership and users of the Exchange's Automated Options Market ("AUTOM") via an electronic message and an information circular; and (3) amends the proposed rule text to provide that, to the extent one of the nine codified circumstances under proposed Phlx Rule 1080(c)(iv) occur, the Exchange's AUTO-X system has the ability to identify inbound orders that are not eligible for automatic execution.

[10] The Phlx notes that AUTO-X is engaged promptly after an option's opening, once there is an established price against which an automatic execution can occur.

[11] According to the Phlx, the bid or offer could represent a customer order or a price-improving bid or offer by a Registered Options Trader ("ROT").

not engaged and the Exchange's bid or offer is not the NBBO, incoming AUTOM orders will not automatically execute.[12] Seventh, when the price of a limit order is not in the appropriate minimum trading increment pursuant to Phlx Rule 1034, the order will not automatically execute. Eighth, an incoming AUTOM sell order would not automatically execute if the bid price for a particular option series is zero.[13] Lastly, the Phlx represents that certain options are subject to a pilot program which provides that when the number of contracts automatically executed within a 15 second period exceeds the AUTO–X guarantee, a 30 second period ensues during which subsequent orders are handled manually.[14]

In any of these situations, the Phlx would disseminate a message to its quotation vendors that indicates to users on a series-by-series basis, whether or not such series is AUTO–X eligible. In addition to the nine aforementioned situations in which an order may not automatically execute, Phlx Rule 1080 provides that the Options Committee may for any period restrict the use of AUTO–X on the Exchange in any option or series.[15] The Phlx proposes that any restriction on the use of AUTO–X on the Exchange in any option or series approved by the Options Committee would be clearly communicated to its membership and AUTOM users through an electronic message via AUTOM, and through an Exchange information circular. The Phlx also proposes that such restriction would not take effect until after such communication has been made.

Because in the nine proposed circumstances that an Exchange specialist would manually execute an incoming AUTOM order, the AUTO–X system will not be disengaged,[16] in Amendment No. 5,[17] the Phlx proposes to delete references to the AUTO–X disengagement log, which records every situation in which AUTO–X is disengaged. Instead, the Exchange's systems would be able to determine that the otherwise AUTO–X eligible order cannot automatically execute because of the existence of one of the nine aforementioned circumstances. As a result, an Exchange specialist would manually execute the order. Further, Amendment No. 5 clarifies in the proposed rule text that the Options Committee will clearly communicate to its membership and AUTOM users through an electronic message via AUTOM and an Exchange information circular, any restrictions to the use of AUTO–X in any option or series approved by the Options Committee. Amendment No. 5 also clarifies in the proposed rule text that, to the extent one of the nine codified circumstances under proposed Phlx Rule 1080(c)(iv) occurs, the Exchange's systems are able to identify inbound orders that were not eligible for automatic execution.

II. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act, and the rules and regulations thereunder, applicable to a national securities exchange.[18] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[19] which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

The Commission finds that the proposal is consistent with the Act because, by codifying the situations in which an otherwise eligible AUTO–X order is handled manually by the specialist, it enhances the transparency of the operation of the Phlx market, to the benefit of all market participants, including investors.

Specifically, the Phlx codifies nine particular instances in which Exchange specialists would handle incoming AUTOM orders manually. The Exchange disseminates a message to its quotation vendors that indicates to a user on a series-by-series basis, whether or not such series is AUTO–X eligible. The Phlx rules also provide for the Options Committee to restrict for any period the use of AUTO–X on the Exchange in any option or series. The Commission notes that any restriction on the use of AUTO–X in any option or series approved by the Options Committee will be clearly communicated to its membership and AUTOM users through an electronic message via AUTOM, and through an Exchange information circular. Such restriction would not take effect until after such communication has been made. The Commission believes that this provision should provide Phlx members and AUTOM users with adequate notice of any changes to the availability of AUTO–X in any option or series. The Commission also notes that Exchange systems dictate, and Exchange specialists do not have discretion over, which otherwise AUTO–X eligible orders are manually handled. The Commission finds good cause for approving Amendment No. 5 of the proposed rule change prior to the thirtieth day after notice of the publication in the **Federal Register**. In addition to deleting inapplicable language regarding the AUTO–X disengagement log, an internal electronic audit trail system that records every situation in which AUTO–X is disengaged, Amendment No. 5 clarifies the proposed rule text in response to concerns of Commission staff. The Commission believes Amendment No. 5 is consistent with Section 6(b)(5) of the Act,[20] and therefore the approval of Amendment No. 5 on an accelerated basis is appropriate.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 5, including whether the proposed amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements

[12] The Phlx represents that certain options are subject to the NBBO Feature, which automatically executes eligible orders at the National Best Bid or Offer ("NBBO") provided that the NBBO does not differ from the specialist's best bid or offer by more than the "step-up parameter," which is determined by the Options Committee. *See* Phlx Rule 1080(c)(i). According to the Phlx, participation on an option-by-option basis in the NBBO Feature is voluntary. If the specialist elects not to engage the NBBO Feature, or disengages it pursuant to the Exchange rule, and the Exchange's disseminated bid or offer is inferior to the NBBO, an incoming AUTOM order would not automatically execute. Thus, to prevent AUTO–X from creating a trade-through, such an order would be handled manually.

[13] According to the Phlx, a "zero" bid price is typically calculated by Auto-Quote, the Exchange's automatic pricing system, when an option that is well out-of-the-money approaches expiration, and thus has neither intrinsic value nor time value. In such circumstance, as stated above, an incoming order to sell would not be AUTO–X eligible, since an automatic execution is not possible at a "zero" bid.

[14] *See* Securities Exchange Act Release No. 45862 (May 1, 2002), 67 FR 30990 (May 8, 2002) (SR–Phlx–2002–22).

[15] *See* Phlx Rule 1080(c). The Commission has also approved Phlx's proposal to provide in Phlx Rule 1080(c) that the effectiveness of restrictions to the use of AUTO–X shall be conditioned upon its having been approved by the Commission pursuant to Section 19(b) of the Act and the rules and regulations thereunder. *See* Securities Exchange Act Release No. 45928 (May 15, 2002) (SR–Phlx–2001–27).

[16] Telephone conversation among Richard S. Rudolph, Counsel, Phlx, and Deborah Lassman Flynn, Assistant Director, and Lisa Jones, Attorney, Division, Commission (May 8, 2002).

[17] *See* note 8, *supra*.

[18] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 15. U.S.C. 78f(b)(5).

[20] 15. U.S.C. 78f(b)(5).

with respect to the proposed amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–24 and should be submitted by June 13, 2002.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–Phlx–2001–24), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12898 Filed 5–22–02; 8:45 am]

BILLING CODE 8010–01–P

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: *Agency Clearance Officer:* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: 25–Model Corp. Resol. or GP Certif., 33–Model Letter to Selling Agent. 34-Bank ID, 1085–Appl. Lic Assure of Compliance.

Form No: 2115. 2116, 2117.

Frequency: New Collection.

Description of Respondents: Applicants for SBA-guaranteed leverage.

Annual Responses: 125.

Annual Burden: 110.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 02–12883 Filed 5–22–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3415]

Commonwealth of Kentucky (Amendment #2)

In accordance with a notice received from the Federal Emergency Management Agency, dated May 10, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on April 27, 2002 and continuing through May 10, 2002.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 6, 2002, and for economic injury the deadline is February 7, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 15, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–12882 Filed 5–22–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3409]

Commonwealth of Virginia (Amendment # 1)

In accordance with a notice received from the Federal Emergency Management Agency, dated May 15, 2002, the above numbered declaration is hereby amended to include Bedford, Campbell, Cumberland, Greensville, Prince Edward and Shenandoah Counties and the Independent City of Bedford in the Commonwealth of Virginia as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring on April 28, 2002 through May 3, 2002.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Amelia, Amherst, Appomattox, Botetourt, Brunswick, Buckingham, Charlotte, Dinwiddie, Fluvanna, Franklin, Frederick, Goochland, Halifax, Lunenburg, Nottoway, Page, Pittsylvania, Powhatan, Roanoke, Rockbridge, Rockingham, Southampton, Sussex and Warren Counties in Virginia; Northampton County in North Carolina; and Hardy County in West Virginia.

The economic injury number assigned to North Carolina is 9P7500.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 4, 2002, and for economic injury the deadline is February 5, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–12881 Filed 5–22–02; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503.

(SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Application for Parent's Insurance Benefits—0960–0012.* The information collected on form SSA–7 is used by the Social Security Administration to determine entitlement of an individual to parent's social security insurance benefits. The respondents are parents who were dependent on the worker for at least one-half of their support.

Number of Respondents: 1,400.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 350 hours.

2. *The Census Bureau Survey of Income and Program Participation (SIPP) on Behalf of the Social Security Administration (SSA)—0960-NEW.* SSA has requested the Census Bureau to include in its SIPP interviews scheduled for January 2003 a sample of social security disabled insurance beneficiaries and supplemental security income recipients. SSA will use these data to conduct statistical research of recipients of SSA-administered programs. The *SIPP for SSA Beneficiaries* is a household-based survey molded around a central "core" of labor force and income questions. The core is supplemented with questions designed to address specific needs, such as obtaining information about assets and liabilities, as well as expenses related to work, health care, child support and real estate/dependent care. These supplemental questions are included with the core and are referred to as "topical modules."

The survey is currently scheduled for one month and will include approximately 1,000 households. We estimate that each household will average 2.1 people, yielding 2,100 interviews. Interviews take 30 minutes on average. The total burden for the *SIPP for SSA Beneficiaries* would be 1,050 hours.

The topical modules for the *SIPP for SSA Beneficiaries* collect information about:

- Medical Expenses and Utilization of Health Care (Adults and Children)
- Work Related Expenses, Child Support Paid and Child Care Poverty
- Assets, Liabilities, and Eligibility
- Real Estate and Dependent Care

The survey interviews will be conducted from January 1, 2003 through January 31, 2003.

Number of Respondents: 2,100.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,050 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to the address listed above.

1. *Application for Benefits Under a U.S. International Social Security Agreement—0960–0448.* The information collected on form SSA–2490 is used by SSA to determine a claimant's eligibility for U.S. Social Security benefits under the provisions of an international social security agreement. It is also used to take an application for benefits from a foreign country under an agreement. The respondents are individuals who are applying for benefits from either the United States and/or a foreign country with which the United States has an agreement. The United States currently has 17 such agreements.

Number of Respondents: 22,000.

Frequency of response: 1.

Average Burden per response: 30 minutes.

Estimated Annual Burden: 11,000 hours.

2. *Request for Workers' Compensation/Public Disability Information—0960–0098.* Form SSA–1709 is used by SSA to request and/or to verify information about worker's compensation or public disability benefits given to Social Security disability insurance benefit recipients so that their monthly benefit adjustments are properly made. The respondents are State and local governments and/or businesses that administer workers' compensation or other disability benefits.

Number of Respondents: 140,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 35,000 hours.

3. *Government Pension Questionnaire—0960–0160.* The Social Security Act and Regulations provide that an individual receiving spouse's benefits and concurrently receiving a Government pension, based on the individual's own earnings, may have the Social Security benefit amount reduced by two-thirds of the pension amount. The data collected on Form SSA–3885 is used by the Social Security Administration (SSA) to determine if the individual's Social Security benefit will be reduced, the amount of reduction, the effective date of the reduction and if one of the exceptions in SSA regulations applies. The respondents are individuals who are receiving (or will receive) Social Security spouse's benefits and also receive their own Government pension.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 12.5 minutes.

Estimated Annual Burden: 6,250 hours.

Dated: May 17, 2002.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–12879 Filed 5–22–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4024]

Foreign Service Institute; 60–Day Notice of Proposed Information Collection: Form DS–3083, Training Registration Form (for Non-U.S. Government Persons); OMB Control Number 1405–xxxx

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB)approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: New collection.

Originating Office: Foreign Service Institute (M/FSI).

Title of Information Collection: Training Registration Form (for Non-U.S. Government Persons).

Frequency: Continuously (as needed for covered individuals to enroll in training courses provided by the Foreign Service Institute, Department of State).

Form Number: DS–3083.

Respondents: Respondents are non-U.S. Government persons and/or their eligible family members, authorized by Public Law 105–277 to receive training delivered by the Foreign Service Institute on a reimbursable or advance of funds basis.

Estimated Number of Respondents: Approximately 100 to 200 persons per year.

Average Hours Per Response: 0.5 hours (one-half hour).

Total Estimated Burden: Approximately 50 to 100 hours/year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

For Additional Information: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Wayne A. Oshima, who may be reached on (703) 302–6730.

Dated: April 29, 2002.

Catherine J. Russell,

Executive Director, Foreign Service Institute, Department of State.

[FR Doc. 02–12999 Filed 5–22–02; 8:45 am]

BILLING CODE 4710–34–P

DEPARTMENT OF STATE

[Public Notice 4027]

Bureau of Political-Military Affairs; 30-Day Notice of Information Collections

In the matter of: Form DS–2032, Statement of Registration (OMB No. 1405–0002); Form DSP–5, Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data (OMB No. 1405–0003); Form DSP–61, Application/License for Temporary Import of Unclassified Defense Articles (OMB No. 1405–0013); Form DSP–73, Application/License for Temporary Export of Unclassified Defense Articles (OMB No. 1405–0023); Form DSP–85, Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data (OMB No. 1405–0022); Form DSP–83, Non-Transfer and Use Certificate (OMB No. 1405–0021); Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services (OMB No. 1405–0025); Form DSP–119, Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data (OMB No. 1405–0092); Form DSP–94, Authority to Export Defense Articles and Services Sold under the Foreign Military Sales (FMS) Program (OMB No. 1405–0051); Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements (OMB No. 1405-0093); Maintenance of Records by Registrants (OMB No. 1405–0111); Prior Approval for Brokering Activity (New Collection); and Brokering Activity Reports (New Collection).

ACTION: 30-Day Notice of Collections.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the pubication of this notice.

The following summarizes the information collection proposals submitted to OMB:

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Statement of Registration.

Frequency: Every one to four years.

Form Number: DS–2032.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 10,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.

Frequency: On occasion.

Form Number: DSP–5.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 30,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Temporary Import of Unclassified Defense Articles.

Frequency: On occasion.

Form Number: DSP–61.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 1,000.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 500 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Temporary Export of Unclassified Defense Articles.

Frequency: On occasion.

Form Number: DSP–73.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 2,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 2,500 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Permanent/ Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data.

Frequency: On occasion.

Form Number: DSP–85.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 250.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 250 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Non-Transfer and Use Certificate.
Frequency: On occasion.
Form Number: DSP–83.
Respondents: Business and non-profit organizations.
Estimated Number of Respondents: 4,500.
Average Hours Per Response: 1 hour.
Total Estimated Burden: 17,000 hours.
(Total Estimated Burden based on number of forms received per year.)
Type of Request: Extension of Currently Approved Collection Without Change.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services.
Frequency: On occasion.
Form Number: none.
Respondents: Business organizations.
Estimated Number of Respondents: 4,500.
Average Hours Per Response: 1 hour.
Total Estimated Burden: 12,000 hours.
(Total Estimated Burden based on number of forms received per year.)
Type of Request: Extension of Currently Approved Collection Without Change.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data.
Frequency: On occasion.
Form Number: DSP–119.
Respondents: Business and non-profit organizations.
Estimated Number of Respondents: 5,000.
Average Hours Per Response: 30 minutes.
Total Estimated Burden: 4,500 hours.
(Total Estimated Burden based on number of forms received per year.)
Type of Request: Extension of Currently Approved Collection Without Change.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Authority to Export Defense Articles and Services Sold under the Foreign Military Sales (FMS) Program.
Frequency: On occasion.
Form Number: DSP–94.
Respondents: Business and foreign government representatives.
Estimated Number of Respondents: 2,500.
Average Hours Per Response: 30 minutes.
Total Estimated Burden: 1,250 hours.
(Total Estimated Burden based on number of forms received per year.)
Type of Request: Extension of Currently Approved Collection Without Change.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements.
Frequency: On occasion.
Form Number: none.
Respondents: Business organizations.
Estimated Number of Respondents: 5,000.
Average Hours Per Response: 2 hours.
Total Estimated Burden: 10,000 hours.
(Total Estimated Burden based on number of forms received per year.)
Type of Request: Extension of Currently Approved Collection Without Change.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Maintenance of Records by Registrants.
Frequency: On occasion.
Form Number: none.
Respondents: Business organizations.
Estimated Number of Respondents: 5,000.
Average Hours Per Response: 20 hours per year.
Total Estimated Burden: 100,000 hours.
Type of Request: New Collection.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Prior Approval for Brokering Activity.
Frequency: On occasion.
Form Number: none.
Respondents: Business organizations.
Estimated Number of Respondents: 30.
Average Hours Per Response: 2 hours.
Total Estimated Burden: 60 hours.
(Total Estimated Burden based on number of requests received per year.)
Type of Request: New Collection.
Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.
Title of Information Collection: Brokering Activity Reports.
Frequency: Annual.
Form Number: none.
Respondents: Business organizations.
Estimated Number of Respondents: 500.
Average Hours Per Response: 2 hours.
Total Estimated Burden: 1,000 hours.
(Total Estimated Burden based on number of forms received per year.)

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection od information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

For Additional Information: Copies of the proposed information collection and supporting documents may be obtained from William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, SA–1, Room 12th Floor, H1200, 2401 E Street, NW., Washington, DC 20522–0112 (202) 663–7000. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–3897.

Dated: March 20, 2002.

Robert W. Maggi,

Acting Deputy Assistant Secretary for Security Operations, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 02–13000 Filed 5–22–02; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4029]

Culturally Significant Objects Imported for Exhibition Determinations: "Michael Sweerts (1618–1664)"

DEPARTMENT: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that certain of the objects to be included in the exhibition "Michael Sweerts (1618–1664)," imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of these exhibit objects at the Fine Arts Museums of SanFrancisco, San Francisco, CA, from on or about June 15, 2002, to on or about August 25, 2002, at the Wadsworth Atheneum Museum of Art, Hartford, CT, from on or about September 19, 2002, to on or about December 1, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 16, 2002.

Stephen T. Hart,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State..

[FR Doc. 02–13002 Filed 5–22–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Party War Risk Liability Insurance

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of extension.

SUMMARY: This notice contains the text of a memo from the Secretary of Transportation to the President regarding the extension of the provision of aviation insurance coverage for U.S. flag commercial air carrier service in domestic and international operations.

DATES: Dates of extension from May 19, 2002 through June 18, 2002.

FURTHER INFORMATION: Helen Kish, Program Analyst, APO–3, or Eric Nelson, Program Analyst, APO–3, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, telephone 202–267–9943 or 202–267–3090. Or online at FAA Insurance Website: *http://api.hq.faa.gov/911policies/inscover.html.*

SUPPLEMENTARY INFORMATION: On May 14, 2002, the Secretary of Transportation authorized a 30-day extension of aviation insurance provided by the Federal Aviation Administration as follows:

MEMORANDUM TO THE PRESIDENT

"Pursuant to the authority delegated to me in paragraph (3) of Presidential Determination No. 01–29 of September 23, 2001, I hereby extend that determination to allow for the provision of aviation insurance and reinsurance coverage for U.S. Flag commercial air carrier service in domestic and international operations for an additional 30 days.

Pursuant to section 44306(c) of chapter 443 of 49 U.S.C.—Aviation Insurance, the period for provision of insurance shall be extended from May 20, 2002, through June 18, 2002."

/s/ Norman Y. Mineta.

Affected Public: Air Carriers who currently have Third Party War-Risk Liability Insurance with the Federal Aviation Administration.

Issued in Washington, DC on May 20, 2002.

Nan Shellabarger,

Deputy Director, Office of Aviation Policy and Plans.

[FR Doc. 02–13004 Filed 5–22–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34200]

PSAP Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.

PSAP Operating Company, Inc. (PSAP), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 153.3 miles of rail lines in Washington. Specifically, PSAP will acquire and operate: (1) 83.5 miles of rail lines of ParkSierra Corporation (ParkSierra) [1] consisting of (a) the Centralia-Hoquiam Line, between milepost 0.6 at Centralia, and milepost 74.1 at Hoquiam, including the Horn Spur Track, which connects to the Centralia-Hoquiam Line at milepost 72.5 and extends northward to the end of the track at approximately milepost 2.0, and (b) the Elma-Shelton Line, between milepost 0.0 (connecting to the Centralia-Hoquiam Line at about milepost 46.7) at Elma, and milepost 25.1 at Shelton; (2) approximately 58.0 miles of ParkSierra's trackage rights (a) over Union Pacific Railroad Company's (UP) line between milepost 68.9 and milepost 69.4, and milepost 70.3 and milepost 72.0, near Aberdeen, a distance of about 2.2 miles, (b) over The Burlington Northern and Santa Fe Railway Company's (BNSF) line between milepost 0.6 and milepost 0.4, at or near Centralia, a distance of about 0.2 miles, (c) under a December 11, 1994 agreement with the United States of America, to provide service on a government-owned line from its connection with the Elma-Shelton Line to Bangor, a distance of approximately 44 miles, and a branch line to Bremerton Navy Yard, a distance of approximately 4.6 miles, and (d) over The City of Tacoma d/b/a Tacoma Rail's (TR) lines between Lakeside Siding near Blakeslee Junction, milepost 60.0, southwest six miles and the interchange with BNSF at Chehalis, milepost 66.0 (the TR/BNSF Interchange), and from the TR/BNSF Interchange one mile to milepost 67.0, where TR's rail lines connect with rail line owned by the Port of Chehalis, for a total distance of approximately 7.0 miles; (3) approximately 1.8 miles of line under ParkSierra's lease with UP from UP milepost 53.83 to UP milepost 54.23, and from UP milepost 55.28 to UP milepost 56.70, in Aberdeen and Hoquiam Counties; and (4) a 10-mile line under a modified certificate of public convenience and necessity between milepost 0.0 at Chehalis, and milepost 10.0 at Curtis.

[1] On January 8, 2002, RailAmerica, Inc. (RailAmerica), acquired control of ParkSierra. *See RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001). ParkSierra has three operating divisions: Arizona & California Railroad Company Limited Partnership; California Northern Railroad Company, L.P.; and Puget Sound & Pacific Railroad. RailAmerica has determined that the three operating divisions of ParkSierra should be operated as separate corporations, eliminating the need for ParkSierra as a consolidated holding company. To accomplish that goal, this transaction and two other notices of exemption under 49 CFR 1150.31 were filed on April 23, 2002, one for each of the operating divisions. The applicants are: ARZC Operating Company, Inc. (ARZC); CFNR Operating Company, Inc. (CFNR); and PSAP. The related proceedings are: STB Finance Docket No. 34198, *ARZC Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, and STB Finance Docket No. 34199, *CFNR Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.* In addition, a notice of exemption under 49 CFR 1180.2(d)(3) was filed on April 23, 2002, in STB Finance Docket No. 34197, *RailAmerica, Inc., et al.—Corporate Family Reorganization Exemption*, wherein ParkSierra will be merged into CFNR, and ARZC, CFNR, and PSAP will become direct railroad subsidiaries of RailAmerica.

Once PSAP becomes a carrier, its revenues are expected to exceed $5 million per year. "If the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds $5 million, applicant must, at least 60 days before the exemption becomes effective, post a notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so." 49 CFR 1150.32(e). PSAP filed a request on April 22, 2002, for waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of ParkSierra, by decision served on May 14, 2002, the Board granted PSAP's request and waived the requirements of 49 CFR 1150.32(e). The transaction was expected to be consummated as of April 30, 2002, or the date the related waiver request was granted, whichever was later. The waiver decision had the effect of making the exemption in this proceeding effective on May 14, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34200 must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, *Esq.*, Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV*."

Decided: May 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12995 Filed 5–22–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34198]

ARZC Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.

ARZC Operating Company, Inc. (ARZC), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 300 miles of rail lines in California and Arizona. Specifically, ARZC will acquire and operate: (1) Rail lines of ParkSierra Corporation (ParkSierra) [1] (a) between, milepost 190.18 at Cadiz, CA, and milepost 105.8 at Parker, AZ, (b) between milepost 105.8 at Parker and milepost 0.08 at Matthie, including "Y" Track Number 1 near milepost 134.92 near Matthie, and (c) between milepost 0 at Rice, CA, and milepost 49.4 at Ripley, CA, at the end of the Ripley Subdivision, a distance of approximately 240 miles; and (2) ParkSierra's trackage rights over the lines of The Burlington Northern and Santa Fe Railway Company (BNSF) (a) between BNSF's Cadiz Subdivision milepost 190.18 and BNSF's Needles Subdivision milepost 647.99 on Track Nos. 2 and 36 at Cadiz, and (b) between BNSF's Parker Subdivision milepost 0.08 (also Phoenix Subdivision milepost 135.03) and BNSF's Phoenix Subdivision milepost 191.91, including all yard track in the Mobest Yard in Phoenix, AZ, a distance of approximately 60 miles.

[1] On January 8, 2002, RailAmerica, Inc. (RailAmerica), acquired control of ParkSierra. *See RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001). ParkSierra has three operating divisions: Arizona & California Railroad Company Limited Partnership; California Northern Railroad Company, L.P.; and Puget Sound & Pacific Railroad. RailAmerica has determined that the three operating divisions of ParkSierra should be operated as separate corporations, eliminating the need for ParkSierra as a consolidated holding company. To accomplish that goal, this transaction and two other notices of exemption under 49 CFR 1150.31 were filed on April 23, 2002, one for each of the operating divisions. The applicants are: ARZC; CFNR Operating Company, Inc. (CFNR); and PSAP Operating Company, Inc. (PSAP). The related proceedings are: STB Finance Docket No. 34199, *CFNR Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, and STB Finance Docket No. 34200, *PSAP Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.* In addition, a notice of exemption under 49 CFR 1180.2(d)(3) was filed on April 23, 2002, in STB Finance Docket No. 34197, *RailAmerica, Inc., et al.—Corporate Family Reorganization Exemption*, wherein ParkSierra will be merged into CFNR, and ARZC, CFNR, and PSAP will become direct railroad subsidiaries of RailAmerica.

Once ARZC becomes a carrier, its revenues are expected to exceed $5 million per year. "If the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds $5 million, applicant must, at least 60 days before the exemption becomes effective, post a notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so." 49 CFR 1150.32(e). ARZC filed a request on April 22, 2002, for waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of ParkSierra, by decision served on May 14, 2002, the Board granted ARZC's request and waived the requirements of 49 CFR 1150.32(e). The transaction was expected to be consummated as of April 30, 2002, or the date the related waiver request was granted, whichever was later. The waiver decision had the effect of making the exemption in this proceeding effective on May 14, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34198 must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV*.

Decided: May 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12997 Filed 5–22–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34199]

CFNR Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.

CFNR Operating Company, Inc. (CFNR), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 248.5 miles of rail lines in California. Specifically, CFNR will: (1) Succeed to ParkSierra Corporation's (ParkSierra) [1] lease rights and operate over the lines owned by Union Pacific Railroad Company (UP) consisting of (a) the Schellville Branch, between Suisun, milepost 48.97 at the east leg of the wye and milepost 48.93 at the west leg of the wye, and milepost 63.40 at Lombard, (b) the Napa Branch, between milepost 62.00 at Lombard and milepost 67.50 at Rocktram, (c) the Vallejo Branch, between milepost 61.80 at Napa Jct., and milepost 68.90 at Vallejo, (d) the West Valley Line, between Davis, milepost 75.66 at the east leg of the wye and milepost 75.58 at the west leg of the wye, and Tehema, milepost 186.37 at the east leg of the wye toward Portland and milepost 186.33 at the west leg of the wye toward Roseville, (e) the Hamilton Branch, between milepost 180.40 at Wyo, and milepost 169.00 at Hamilton, (f) the Los Banos Branch, between milepost 83.00 at Tracy, and milepost 140.07 at Los Banos, and (g) the Vineburg Lead, between milepost NWP 40.38 near Schellville and the end of the line, formerly NWP milepost 44.25, a distance of approximately 210 miles; and (2) acquire ParkSierra's right to operate under trackage rights (a) over a portion of UP's (i) Sacramento Line between milepost 75.4 at Davis, and milepost 47.8 at Suisun-Fairfield, (ii) West Valley Line between milepost 75.58 and milepost 75.4 at Davis, and (iii) Schellville Branch between milepost 48.97 and milepost 47.8, a distance of approximately 28 miles; and (b) over a line of the North Coast Railroad Authority from milepost 62.0, at or near Lombard to milepost 72.5, near Schellville, a distance of approximately 10.5 miles.

Once CFNR becomes a carrier, its revenues are expected to exceed $5 million per year. "If the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds $5 million, applicant must, at least 60 days before the exemption becomes effective, post a notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so." 49 CFR 1150.32(e). CFNR filed a request on April 22, 2002, for waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of ParkSierra, by decision served on May 14, 2002, the Board granted CFNR's request and waived the requirements of 49 CFR 1150.32(e). The transaction was expected to be consummated as of April 30, 2002, or the date the related waiver request was granted, whichever was later. The waiver decision had the effect of making the exemption in this proceeding effective on May 14, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34199 must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: May 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12998 Filed 5–22–02; 8:45 am]

BILLING CODE 4915–00–P

[1] On January 8, 2002, RailAmerica, Inc. (RailAmerica), acquired control of ParkSierra. *See RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001). ParkSierra has three operating divisions: Arizona & California Railroad Company Limited Partnership; California Northern Railroad Company, L.P.; and Puget Sound & Pacific Railroad. RailAmerica has determined that the three operating divisions of ParkSierra should be operated as separate corporations, eliminating the need for ParkSierra as a consolidated holding company. To accomplish that goal, this transaction and two other notices of exemption under 49 CFR 1150.31 were filed on April 23, 2002, one for each of the operating divisions. The applicants are: ARZC Operating Company, Inc. (ARZC), CFNR; and PSAP Operating Company, Inc. (PSAP). The related proceedings are: STB Finance Docket No. 34198, *ARZC Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, and STB Finance Docket No. 34200, *PSAP Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.* In addition, a notice of exemption under 49 CFR 1180.2(d)(3) was filed on April 23, 2002, in STB Finance Docket No. 34197, *RailAmerica, Inc., et al.—Corporate Family Reorganization Exemption*, wherein ParkSierra will be merged into CFNR, and ARZC, CFNR, and PSAP will become direct railroad subsidiaries of RailAmerica.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34197]

RailAmerica, Inc., ARZC Operating Company, Inc., CFNR Operating Company, Inc., and PSAP Operating Company, Inc.—Corporate Family Reorganization Exemption

RailAmerica, Inc. (RailAmerica), and its subsidiaries, ARZC Operating Company, Inc. (ARZC), CFNR Operating Company, Inc. (CFNR), and PSAP Operating Company, Inc. (PSAP) (collectively, applicants), are making certain changes to their corporate structure and have filed a verified notice of the transaction under the Board's intracorporate family class exemption.[1]

RailAmerica directly controls Palm Beach Rail Holding, Inc. (Palm Beach), which directly controls RailAmerica Transportation Corp. (RTC), which directly controls ParkSierra. RailAmerica and Palm Beach will continue to control RTC, which in turn

[1] On January 8, 2002, RailAmerica acquired control of ParkSierra Corporation (ParkSierra). *See RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001). ParkSierra has three operating divisions: Arizona & California Railroad Company Limited Partnership; California Northern Railroad Company, L.P.; and Puget Sound & Pacific Railroad. RailAmerica has determined that the three operating divisions of ParkSierra should be operated as separate corporations, eliminating the need for ParkSierra as a consolidated holding company. To accomplish that goal, this transaction and three notices of exemption under 49 CFR 1150.31 were filed on April 23, 2002, one for each of the operating divisions. The applicants are ARZC, CFNR, and PSAP. The related proceedings are: STB Finance Docket No. 34198, *ARZC Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, STB Finance Docket No. 34199, *CFNR Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, and STB Finance Docket No. 34200, *PSAP Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.* Also, three separate requests for waiver of the 60-day labor notice requirements under 49 CFR 1150.32(e) were filed in those dockets on April 22, 2002.

will directly control ARZC, CFNR, and PSAP when they become Class III rail carriers. ParkSierra will be merged into CFNR.

Consummation of this transaction was scheduled to occur on May 14, 2002.[2]

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that, as a result of this transaction, there will not be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States. The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Although applicants do not expect any employees to be adversely affected by this transaction, under 49 U.S.C. 11326(b), the appropriate level of labor protection to be imposed is that set forth in *Wisconsin Central Ltd.—Acquisition Exem.—Union Pac. RR*, 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34197 must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV*.

Decided: May 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12996 Filed 5–22–02; 8:45 am]

BILLING CODE 4915–00–P

[2] Consummation was intended to occur on April 30, 2002, or the date the related waiver requests were granted, whichever was later. Because the waiver requests were granted after April 30, the date the waiver requests were granted, May 14, 2002, became the operative date.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 395X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Cherokee County, KS, and Jasper County, MO

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon and discontinue service over a 28.25-mile line of railroad between milepost 343.55 in Columbus, Cherokee County, KS, and milepost 315.30 in Carthage, Jasper County, MO. The line traverses United States Postal Service Zip Codes 66725, 66728, 64834, 64835 and 64836.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 22, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 3, 2002.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 12, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Michael Smith, Freeborn & Peters, 311 S. Wacker Dr., Suite 3000, Chicago, IL 60606–6677.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 28, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by May 23, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: May 17, 2002.

By the Board, Beryl Gordon, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12994 Filed 5–22–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).

[3] The City of Carl Junction and the Joplin Trail Coalition filed a request for issuance of a notice of interim trail use (NITU) for Missouri portion of the line (milepost 331.23 to milepost 315.30) pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address the trail use request, and any others that may be filed in a subsequent decision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–601X]

Pine Belt Southern Railroad Company, Inc.-Abandonment Exemption-in Russell, Bullock, and Macon Counties, AL

Pine Belt Southern Railroad Company, Inc. (PBRR) has filed a notice of exemption under 49 CFR Part 1152 Subpart F-*Exempt Abandonments* to abandon a 25-mile line of railroad between milepost S–304.00 at Nuckols and milepost S–329.00 at Hurtsboro, in Russell, Bullock, and Macon Counties, AL. The line traverses United States Postal Service Zip Codes 36860, 36875 and 36858.

PBRR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 22, 2002,[1] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 3, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 12, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: G. Richard Abernathy, President, Pine Belt Southern Railroad Company, Inc., P.O. Box 1317, Shelbyville, TN 37162.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

PBRR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 28, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. (TDD for the hearing impaired is available at 1–800–877–8339.) Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PBRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PBRR's filing of a notice of consummation by May 23, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV*.

Decided: May 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12818 Filed 5–22–02; 8:45 am]

BILLING CODE 4915–00–P

[1] While applicant initially indicated a proposed consummation date of June 20, 2002, because the verified notice was filed on May 3, 2002, consummation may not take place prior to June 22, 2000. Applicant's representative has subsequently confirmed that consummation cannot occur before June 22, 2002.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which, as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 15, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 24, 2002 to be assured of consideration.

Departmental Offices/International Portfolio Investment Data Systems

OMB Number: 1505–0024.

Form Number: International Capital Forms CQ–1 and CQ–2.

Type of Review: Extension.

Title: Treasury International Capital Forms CQ–1 and CQ–2, Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

Description: Forms CQ–1 and CQ–2 are required by law to collect timely information on international portfolio capital movements, including data on financial and commercial liabilities to, and claims on, unaffiliated foreigners held by non-banking enterprises in the U.S. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position and for the formulation of U.S. International financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 6,400 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–12888 Filed 5–22–02; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 16, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 24, 2002, to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0017.

Form Number: ATF Form 6 (5330.3A) Part I.

Type of Review: Extension.

Title: Application and Permit for Importation of Firearms, Ammunition and Implements of War.

Description: This information collected is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. Used to secure authorization to import such articles. All persons who desire to import such articles except for person who are members of the U.S. Armed Forces must complete this form.

Respondents: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 11,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,500 hours.

OMB Number: 1512–0078.

Form Number: ATF F 1533 (5000.18).

Type of Review: Extension.

Title: Consent of Surety.

Description: A consent of surety is executed by both the bonding company and a proprietor and acts as a binding legal agreement between the two parties to extend the terms of a bond. A bond is necessary to cover specific liabilities on the revenue produced from untaxpaid commodities. This consent of surety is filed with ATF and a copy is retained by ATF as long as it remains current and in force.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion, other (with application and permit change).

Estimated Total Reporting Burden: 2,000 hours.

OMB Number: 1512–0100.

Form Number: ATF F 5000.29 and ATF F 5000.30.

Type of Review: Extension.

Title: ATF F 5000.29: Environmental Information; ATF F 5000.30: Supplemental Information Water Quality Considerations Under 33 U.S.C. 1341(a).

Description: "Environmental impact statements, Water Pollution Environmental evaluation" ATF F 5000.29 and ATF F 5000.30 implement regulations of the Clean Water Act and the National Environmental Policy Act (NEPA authorizes ATF through ATF F 5000.29 to require a license or permit application to state the location of existing or proposed activities concerned with land, air pollution, water and activities related to ATF.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 8,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,400 hours.

OMB Number: 1512–0418.

Form Number: ATF F 1533 (5000.18).

Type of Review: Extension.

Title: Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.

Description: Application to practice before the Bureau of Alcohol, Tobacco and Firearms is necessary so that the Bureau may evaluate the qualification of applicants in order to assure only competent, reputable persons are authorized to represent claimants.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (initial application and renewal every 5 years).

Estimated Total Reporting Burden: 2 hours.

Clearance Officer: Jacqueline White, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, (202) 395–7860.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–12889 Filed 5–22–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 15, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 24, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0058.

Form Number: IRS Form 1028.

Type of Review: Extension.

Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

Description: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code (IRC) section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 50.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 44 hr., 14 min.

Learning about the law or the form: 1 hr., 43 min.

Preparing the form: 4 hr., 23 min.

Copying, assembling, and sending the form to the IRS: 32 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 2,545 hours.

OMB Number: 1545–0922.

Form Number: IRS Forms 8329 and 8330.

Type of Review: Extension.

Title: Form 8329: Lender's Information Return for Mortgage Credit Certificates (MCCs); and Form 8330: Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

Description: Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to report on mortgage credit certificates (MCCs) authorized under Internal Revenue Code (IRC) section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Respondents: Business or other for-profit, State, Local or Tribal Institutions.

Estimated Number of Respondents/ Recordkeepers: 10,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8329	Form 8330
Recordkeeping	3 hr., 35 min.	4 hr., 32 min.
Learning about the law or the form.	1 hr., 0 min.	1 hr., 17 min.
Preparing and sending the form to the IRS.	1 hr., 6 min.	1 hr., 25 min.

Frequency of Response: Quarterly (8330), Annually (8329).

Estimated Total Reporting/ Recordkeeping Burden: 71,320 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, (202) 395–7860.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–12890 Filed 5–22–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 16, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 24, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0723.

Regulation Project Number: LR–115–72 Final.

Type of Review: Extension.

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

Description: Chapters 31 and 31 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a credit or refund of the tax manufacturers in certain cases. Section 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Farms, State, Local or Tribal Governments.

Estimated Number of Respondents/ Recordkeepers: 1,500,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 19 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 475,000 hours.

OMB Number: 1545–1647.

Revenue Procedure Number: Revenue Procedure 2001–21.

Type of Review: Extension.

Title: Debt Roll-Ups.

Description: This revenue procedure provides for an election that will facilitate the consolidation of two or more outstanding debt instruments into a single debt instrument. Under the election, taxpayers can treat certain exchanges of debt instruments as realization events for federal income tax purposes even though the exchanges do not result in significant modifications under § 1.1001–3 of the Income Tax Regulations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper: 45 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 75 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, (202) 395–7860.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–12891 Filed 5–22–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Customs Service

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Textile Slippers

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party requesting the reclassification of certain imported slippers with uppers of textile materials and outer soles that consist of durable rubber/plastic, the surface of which is covered with a thin layer of textile material. Customs has classified this footwear under subheading 6405.20.90, Harmonized Tariff Schedule of the United States (HTSUS), which has a column one rate of duty of 12.5 percent *ad valorem*. The petitioner contends that the footwear should be classified under subheading 6404.19.35, HTSUS, which has a column one rate of duty of 37.5 percent *ad valorem*. The petitioner argues that the textile material adhered to the rubber/plastic is not plausible soling material, does not come into contact with the ground over the life-span of the slipper and constitutes a disguise or artifice. This document invites comments with regard to the correctness of the current classification.

DATES: Comments must be received on or before July 22, 2002.

ADDRESSES: Written comments may be addressed to, and inspected at, the U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, NW., Room 3.4A, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joe Freeman Shankle, Textiles Branch (202) 927–2379.

SUPPLEMENTARY INFORMATION:

Background

This document concerns the tariff classification of certain imported footwear. The imported footwear is a slipper that has an upper of textile material and an outer sole composed of unit-molded rubber/plastics with nubs measuring ¼ inch in diameter evenly spaced across its surface, over which is adhered a thin layer of textile fabric.

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of an American manufacturer of slippers, requesting that Customs reclassify the imported slippers. Customs has classified this footwear under subheading 6405.20.90, Harmonized Tariff Schedule of the United States (HTSUS), as "Other footwear: With uppers of textile materials: Other" which has a column one rate of duty of 12.5 percent *ad valorem*. The petitioner contends that the footwear should be classified under subheading 6404.19.35, HTSUS, as "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6404.19.20 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other," which has a column one rate of duty of 37.5 percent *ad valorem*.

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System, Explanatory Notes (EN), represent the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings and the GRI. The EN, although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 FR 35127, 35128 (August 23, 1989).

Classification of footwear is essentially based upon the composition of the outer soles and uppers. Determinations regarding the constituent material of the outer sole of footwear are governed by Note 4(b), Chapter 64, HTSUS, which states that:

> The constituent material of the outer sole shall be taken to be the material having the greatest surface area in contact with the ground, no account being taken of accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments.

General EN (C) to Chapter 64 states that:

> The term "outer sole" as used in headings 64.01 to 64.05 means that part of the footwear (other than an attached heel) which, when in use, is in contact with the ground. The constituent material of the outer sole for purposes of classification shall be taken to be the material having the greatest surface area in contact with the ground. In determining the constituent material of the outer sole, no account should be taken of attached accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments which partly cover the sole (see Note 4(b) to this Chapter).

In New York Ruling Letter (NY) G89205, dated April 19, 2001, and NY G89960, dated April 19, 2001, Customs took the position that even though the purpose of the textile material on the surface of the soles was not explained, it is plausible soling material for footwear of this type, i.e., for indoor use exclusively. The textile material was found to have the greatest surface area in contact with the ground when the slipper is in use. In accordance with Note 4(b) to Chapter 64, HTSUS and with the guidance of the EN to Chapter 64, Customs classified the slippers under subheading 6405.20.90, HTSUS, as having outer soles of material other than rubber, plastics, leather or composition leather.

The petitioner claims that the footwear should be classified in subheading 6404.19.35, HTSUS, as footwear having rubber or plastic outer soles. The petitioner asserts that the textile material applied to the sole of the slipper is not plausible soling material and constitutes impermissible tariff engineering.

The petitioner conducted a "wear test" and an "abrasion test" to determine the durability of the textile material that comes into contact with the ground. The results of the wear test revealed that the textile material frayed and wore off of the nubs located at the ball and heel of the slipper after 30 days of normal use. The abrasion test revealed that the textile material first began to wear off after 10 cycles. After 100 cycles, approximately 60% of the textile material was worn off. After 200 cycles, approximately 90% of the textile material was worn off. In contrast, the rubber/plastic that is covered by the textile material showed minimal wear when subjected to 200 cycles.

The petitioner relies upon the EN to Chapter 64 which state that the outer sole "means that part of the footwear * * * which, when in use, is in contact with the ground." (Emphasis in original). The petitioner asserts that because the textile material wears off in a relatively short period of time, the constituent material that is in contact with the ground over the life of the slippers is the rubber/plastic, not the textile material.

The petitioner further contends that the textile material overlying the rubber/plastic soles should be excluded from consideration when determining the constituent material of the outer sole. This argument is based on that portion of the EN to Chapter 64, restated here:

> * * * In determining the constituent material of the outer sole, no account should be taken of attached accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments which partly cover the sole * * *.

The petitioner maintains that the thin layer of textile material overlying the "rubber soles" of the slippers is akin to an accessory or reinforcement and, therefore, cannot be considered as the constituent material of the outer sole.

The petitioner also argues that the textile material on the outer soles of the slippers is not genuine soling material, but is an "artifice" that must be disregarded. In support of this argument, the petitioner cites to *United States* v. *Citroen*, 223 U.S. 407 (1911), for the proposition that although articles are to be classified in the condition in which they are imported, this does not mean that a rate of duty can be escaped by resort to disguise or artifice. The petitioner also cites *Heartland By-Products, Inc.* v. *United States*, 264 F.3d 1126 (Fed. Cir. 2001), in support of the argument that the application of the textile material to the rubber/plastic sole is disguise and artifice. The petitioner further states that it is the rubber/plastic that gives the sole its rigidity and strength, thereby imparting the commercial identity of the slippers. Despite the adherence of the textile material, it is said that the footwear "is not commercially considered a fabric soled slipper." Lastly, the petitioner contends that the textile material does not contribute to the salability or functionality of the slippers and should be ignored for classification purposes.

Comments

Pursuant to Section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on the matter, Customs invites written comments on the petition from interested parties.

The domestic party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552, 1.4, Treasury Department Regulations (31 CFR 1.4), and Section 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9 a.m. to 4:30 p.m. on regular business days, at the U.S. Customs Service, Office of Regulations and Rulings, Commercial Ruling Division, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Authority

This notice is published in accordance with Section 175.21(a), Customs Regulations (19 CFR 175.21(a)), 19 U.S.C. 1516.

Approved: May 17, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

Robert C. Bonner,

Commissioner of Customs.

[FR Doc. 02–12939 Filed 5–22–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Advisory Committee for Veterans' Employment and Training; Notice of Open Meeting

The Secretary's Advisory Committee for Veterans' Employment and Training was established under section 4110 of title 38, United States Code, to bring to the attention of the Secretary, problems and issues relating to veterans' employment and training.

Notice is hereby given that the Secretary of Labor's Advisory Committee for Veterans' Employment and Training will meet on Tuesday, June 18, 2002, beginning at 9 am at the U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–1229G, Washington, DC, 20210.

Written comments are welcome and may be submitted by addressing them to: Mr. John Muckelbauer, Designated Federal Official, Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–1313, Washington, DC, 20210.

The primary items on the agenda are:

Assessment of the employment and training needs of veterans; Discussion of programs and activities designed to meet the employment and training needs of veterans;

Discussion of legislation pertaining to employment and training needs of veterans;

Other matters of interest to the Committee.

The meeting will be open to the public.

Persons needing special accommodations should contact Mr. John Muckelbauer at telephone number 202/693–4700 no later than June 12, 2002.

Signed at Washington, DC, this May 17, 2002.

Frederico Juarbe Jr.,

Assistant Secretary of Labor for Veterans' Employment and Training.

[FR Doc. 02–12958 Filed 5–22–02; 8:45 am]

BILLING CODE 4510–79–P

Federal Register

Thursday,
May 23, 2002

Part II

Department of Housing and Urban Development

24 CFR Part 888
Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program—Fiscal Year 2003; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4741–N–01]

Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program—Fiscal Year 2003

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of proposed fiscal year (FY) 2003 fair market rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, and to determine initial rents for housing assistance payments (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program. Other programs may require use of FMRs for other purposes. Today's notice proposes revised FMRs that reflect estimated 40th and 50th percentile rent levels trended to April 1, 2003.

DATES: *Comments Due Date:* July 22, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding HUD's estimates of the FMRs as published in this notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Communications should refer to the above docket number and title and should contain the information specified in the "Request for Comments" section. To ensure that the information is fully considered by all of the reviewers, each commenter is requested to submit two copies of its comments, one to the Rules Docket Clerk and the other to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, telephone (202) 708–0477, responsible for decisions on how fair market rents are used. For technical information on the methodology used to develop fair market rents or a listing of all fair market rents, please call HUD USER at 1–800–245–2691 or access the information on the HUD Web site, *http://www.huduser.org/datasets/fmr.html*. Further questions on the methodology may be addressed to Marie Lihn, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0590, (e-mail: *marie_l._lihn@hud.gov*). Hearing-or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the "800" TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the Housing Choice Voucher program, the FMR is used to determine the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family (see § 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Electronic Data Availability: This **Federal Register** notice is available electronically from the HUD news page: *http://www.hudclips.org/cgi/index.cgi*. **Federal Register** notices also are available electronically from the U.S. Government Printing Office web site: *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

Publication of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. HUD's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment and, publish final FMRs after evaluating public comments (see 24 CFR 888.115).

Schedule B of the proposed FY 2003 FMR schedules at the end of this document lists the fair market rents for existing housing, including housing assisted under the housing choice voucher program. Schedule D lists FMRs for the rental of manufactured home spaces in the Housing Choice Voucher program for areas where HUD has approved modifications for the manufactured home space FMR greater than 40 percent of the 2-bedroom FMR, based on public comments.

In the Moderate Rehabilitation Single Room Occupancy (SRO) program, the fair market rent is 90 percent of the 0-bedroom fair market rent in Schedule B. (This is equivalent to 75 percent of 120 percent of the "Existing Housing Fair Market Rent". See 24 CFR 882.408(a).) The FMR for the moderate rehabilitation SRO program is the maximum initial gross rent (gross rent at the beginning of the HAP contract term).

Units are no longer developed under the regular moderate rehabilitation program. For the purpose of determining renewal gross rents for a HAP contract under the regular moderate rehabilitation program, the applicable FMR is 120 percent of the Schedule B published FMR.

Method Used To Develop FMRs

FMR Standard: FMRs are gross rent estimates, FMRs include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to participants in the voucher program. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent for most areas, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units that are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

The interim rule establishing 50th percentile FMRs was published on October 2, 2000 (65 FR 58870) and became effective on December 1, 2000. HUD set fair market rents for 39 areas at the 50th percentile rent (i.e., the median rent) effective January 2, 2001 (66 FR 162). HUD set the 50th percentile FMRs to give lower-income families who participate in the Housing Choice Voucher program access to a broader range of housing opportunities throughout a metropolitan area. FMRs have been increased to the 50th percentile rent in those 39 metropolitan areas based on the criteria established in the interim rule which seeks to promote residential choice, help families moves closer to areas for job growth, and deconcentrate poverty.

The interim rule provided a new paragraph (c) of § 888.113, which states:

(c) *Setting FMRs at the 50th percentile rent to provide a broad range of housing opportunities throughout a metropolitan area.*

(1) HUD will set the FMRs at the 50th percentile rent for all unit sizes in each metropolitan FMR area that meets all of the following criteria at the time of annual publication of the FMRs:

(i) The FMR area contains at least 100 census tracts;

(ii) 70 percent or fewer of the census tracts with at least 10 two bedroom rental units are census tracts in which at least 30 percent of the two bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile rent; and

(iii) 25 percent or more of the tenant-based rental program participants in the FMR area reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(2) If the FMRs are set at the 50th percentile rent in accordance with paragraph (c)(1) of this section, HUD will set the FMRs at the 50th percentile rent for a total of three years.

(i) At the end of the three-year period, HUD will continue to set the FMRs at the 50th percentile rent only so long as the concentration measure for the current year is less than the concentration measure at the time the FMR area first received an FMR set at the 50th percentile rent. HUD will publish FMRs based on the 40th percentile rent for FMR areas that do not qualify for continued use of the 50th percentile rent.

(ii) For purposes of this section, the term "concentration measure" means the participants in the FMR area who reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(iii) FMR areas that do not meet the test for continued use of FMRs set at the 50th percentile will be ineligible to use FMRs set at the 50th percentile for a period of three years.

(iv) A PHA whose jurisdiction includes one or more FMR areas that are no longer eligible to use FMRs set at the 50th percentile may be eligible for a higher payment standard under § 982.503 (f).

Schedule B of this document lists the proposed 2002 FMRs for all areas including FMRs for the 39 FMR areas where the FMR is set at the 50th percentile rent level (as specified in § 888.113 (c)), and other areas, where the FMR is set at the 40th percentile rent. An asterisk in Schedule B identifies the 39 FMR areas for which HUD has set 50th percentile FMRs.

HUD has set 50th percentile FMRs for the following metropolitan FMR areas:

Albuquerque, NM
Atlanta, GA
Austin-San Marcos, TX
Baton Rouge, LA
Bergen-Passaic, NJ
Buffalo-Niagara Falls, NY
Chicago, IL
Cleveland-Lorain-Elyria, OH
Dallas, TX
Denver, CO
Detroit, MI
Fort Lauderdale, FL
Fort Worth-Arlington, TX
Grand Rapids-Muskegon-Holland, MI
Houston, TX
Kansas City, MO–KS
Las Vegas, NV–AZ
Miami, FL
Minneapolis-St. Paul, MN–WI
Newark, NJ
Norfolk-Virginia Beach-Newport News, VA–NC
Oakland, CA
Oklahoma City, OK
Orange County, CA
Philadelphia, PA–NJ
Phoenix-Mesa, AZ
Richmond-Petersburg, VA
Sacramento, CA
Salt Lake City-Ogden, UT
San Antonio, TX
San Diego, CA
San Jose, CA
St. Louis, MO–IL
Tampa-St. Petersburg-Clearwater, FL
Tulsa, OK
Ventura, CA
Washington, DC–MD–VA
West Palm Beach-Boca Raton, FL
Wichita, KS

Data Sources

HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) The 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) The Bureau of the Census' American Housing Survey (AHS), which is used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI contract rent and residential utility cost data are available individually for 96 metropolitan FMR areas and for the four Census Regions. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The utility component of RDD surveys is updated using CPI regional utility cost change factors. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

State Minimum FMRs

FMRs are established at the higher of the local 40th percentile rent level or the statewide average of nonmetropolitan counties, subject to a ceiling rent cap. These State minimums have the affect of increasing FMRs for a number of nonmetropolitan areas plus a small number of metropolitan areas.

Bedroom Size Adjustments

FMRs have been calculated separately for each bedroom size category. For areas where FMRs are based on the State minimums, the rents for each bedroom size are the higher of the rent for the area or the statewide average of nonmetropolitan counties for that bedroom size. For all other FMR areas, the bedroom intervals are based on 1990 Census rent relationships for the specific area.

Exceptions have been made for some areas with local bedroom size rent intervals below an acceptable range. For those areas the intervals selected were the minimums determined after outliers had been excluded from the distribution of bedroom intervals for all metropolitan areas. Higher ratios continue to be used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units.

The FMRs for unit sizes larger than a 4 bedroom are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4-bedroom FMR. FMRs for single room occupancy (SRO) units are 0.75 times the 0-bedroom FMR.

Random Digit Dialing (RDD) Rent Surveys

RDD surveys are used to obtain statistically reliable FMR estimates for selected FMR areas. This telephone survey technique involves drawing random samples of renter units occupied by recent movers. RDD surveys exclude public housing units, other assisted units for which the market rent cannot be determined, units built in the past two years, seasonal units, non-cash rental units, and those owned by relatives. A HUD analysis has shown that the slight downward RDD

survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slight upward bias that results from surveying only units with telephones.

Approximately 15,000–20,000 telephone numbers need to be contacted to achieve the target survey sample level of 200 eligible recent mover responses. RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the estimates are within 5 percent of the actual value.

Today's notice includes proposed FMR revisions based on RDD surveys conducted in early September 2001 and February/March 2002 for the following areas:

Proposed FMR Increases Above Normal Update Factor

Baltimore, MD PMSA
Cincinnati, OH–KY–IN PMSA
Des Moines, IA MSA
Jersey City, NJ PMSA
Norfolk-Virginia Beach-Newport News, VA–NC MSA
Orlando, FL MSA
Richmond-Petersburg, VA MSA
Scranton-Wilkes-Barre-Hazelton, PA MSA

Proposed FMR Decrease Below Normal Update Factor:

Monmouth-Ocean, NJ PMSA

Survey Supports Increasing FMRs by Normal Update Factor

Bergen-Passaic, NJ PMSA
El Paso, TX MSA
Houston, TX PMSA
Rochester, NY MSA
Seattle-Bellevue-Everett, WA PMSA
Tampa-St. Petersburg-Clearwater, FL MSA
Worcester, MA–CT MSA

Manufactured Home Space FMRs

In the tenant-based voucher program, a family that owns a manufactured home may receive assistance for the rental of a manufactured home space. The FMRs used to calculate the housing assistance payment for rental of a manufactured home space are generally 40 percent of the applicable Section 8 existing housing FMRs for two-bedroom units. Cost of utilities is now included in the manufactured home space rent (see 24 CFR 888.113(e)).

HUD will consider modifications of manufactured home space FMRs where public comment demonstrates that the 40 percent FMRs are not adequate. In order to be accepted as a basis for revising the manufactured home space FMRs, comments must contain statistically valid survey data that show the 40th percentile space rent for the entire FMR area.

The published manufactured home space FMRs are updated annually using the same data used to update the other FMRs.

Request for Comments

HUD seeks public comments on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the rental housing survey methodology used) to justify any proposed changes. Changes may be proposed in all or any one or more of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

HUD recommends the use of professionally conducted Random Digit Dialing (RDD) telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of about $15,000. Areas with 500 or more program units usually meet this cost criterion, and areas with fewer units may meet it if actual two-bedroom rents are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. HUD must approve all county-grouped surveys in advance. PHAs are cautioned that the resulting FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that counties whose FMRs are based on the State minimum will not have their FMRs revised unless the grouped survey results show a revised FMR above the State minimum level.

PHAs that plan to use the RDD survey technique should obtain a copy of the appropriate survey guide. Larger PHAs should request HUD's survey guide entitled "Random Digit Dialing Surveys: A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments." Smaller PHAs should obtain a guide entitled "Rental Housing Surveys: A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments." These guides are available from HUD USER on 1–800–245–2691, or from HUD's Worldwide Web site, in Microsoft Word or Adobe Acrobat format, at the following address: http://www.huduser.org/datasets/fmr.html.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the survey guide intended for small PHAs along with the simplified RDD methodology. Other survey methodologies are acceptable as long as the surveys submitted provide statistically reliable, unbiased estimates of the gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means to verify whether the sample is representative of the FMR area's rental housing stock.

Local rental housing surveys conducted with alternative methods must include the following documentation:

—Identification of the 40th percentile or 50th gross rent (gross rent is rent including the cost of utilities) and the actual distribution (or distributions, if more than one bedroom size is surveyed) of the surveyed units, rank-ordered by gross rent.
—An explanation of how the rental-housing sample was drawn and a copy of the survey questionnaire, transmittal letter, and any publicity materials.
—An explanation of how the contract rents of the individual units surveyed were converted to gross rents. (For RDD-type surveys, HUD requires use of the Section 8 utility allowance schedule.)
—An explanation of how the survey excluded units built within two years prior to the survey date.
—The date the rent data was collected so that HUD can apply a trending factor to update the estimate to the midpoint of the applicable fiscal year. If the survey has already been trended to this date, the date the survey was conducted and a description of the trending factor used.
—Copies of all survey sheets.

Since FMRs are based on standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, HUD will accept surveys of all rental units and apply appropriate adjustments.

Most surveys cover only one- and two-bedroom units, in which case HUD will make the adjustments for other size units consistent with the differentials established on the basis of the 1990 Census data for the FMR area. When three- and four-bedroom units are surveyed separately to determine FMRs for these unit size categories, the commenter should multiply the 40th percentile survey rents by 1.087 and 1.077, respectively, to determine the FMRs. The use of these factors will produce the same upward adjustments in the rent differentials as those used in the HUD methodology.

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are proposed to be amended as follows:

Dated: May 15, 2002.

Mel Martinez,

Secretary.

Fair Market Rents

Schedules B and D—General Explanatory Notes

1. *Geographic Coverage.* a. *Metropolitan Areas.*—FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. The FMRs shown in Schedule B are determined for the same areas as the Office of Management and Budget's (OMB) most current definitions of metropolitan areas, with the exceptions discussed in paragraph b. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions.

b. *Exceptions to OMB Definitions.*—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the "Metropolitan FMR Areas" listing:

Metropolitan Area and Counties Deleted

Chicago, IL
  DeKalb, Grundy and Kendall Counties
Cincinnati—Hamilton, OH–KY–IN
  Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana
Dallas, TX
  Henderson County
Flagstaff, AZ–UT:
  Kane County, UT
New Orleans, LA
  St. James Parish
Washington, DC–MD–VA–WV
  Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren Counties in Virginia

c. *Nonmetropolitan Area FMRs.*—FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states, and for FMR areas in Puerto Rico, the Virgin Islands, and the Pacific Islands. Nonmetropolitan area FMRs are set at the higher of the local 40th percentile rent level or the statewide average of nonmetropolitan counties. (The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.)

d. *Virginia Independent Cities.*—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan county. The complete definitions of these areas including the independent cities are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED

County	Cities
Alleghany	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Southhampton	Franklin.

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED—Continued

County	Cities
Wise	Norton.

2. *Bedroom Size Adjustments.*—Schedule B shows the FMRs for 0-bedroom through 4-bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0-bedroom FMR.

3. *FMRs for Manufactured Home Spaces.*—FMRs for manufactured home spaces in the housing choice voucher program are 40 percent of the two-bedroom existing housing program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the existing housing FMRs. The FMR area definitions used for the rental of manufactured home spaces in the housing choice voucher program are the same as the area definitions used for other FMRs.

4. *Arrangement of FMR Areas and Identification of Constituent Parts.*—a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	278	329	412	574	650	Calhoun
Auburn-Opelika, Al MSA	277	387	497	646	817	Lee
Birmingham, AL MSA	424	479	557	756	837	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	376	418	501	654	710	Russell
Decatur, AL MSA	369	373	469	609	728	Lawrence, Morgan
Dothan, AL MSA	334	342	425	584	593	Dale, Houston
Florence, AL MSA	314	360	462	577	647	Colbert, Lauderdale
Gadsden, AL MSA	278	340	392	509	627	Etowah
Huntsville, AL MSA	387	454	559	745	887	Limestone, Madison
Mobile, AL MSA	406	454	521	701	822	Baldwin, Mobile
Montgomery, AL MSA	424	453	535	729	878	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	366	391	521	715	756	Tuscaloosa

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	261	311	370	480	550
Bullock	261	311	370	480	550
Chambers	261	311	370	480	551
Chilton	271	311	370	480	550
Clarke	261	311	370	480	550
Cleburne	261	311	370	480	550
Conecuh	261	311	370	480	550
Covington	261	311	370	480	550
Cullman	261	311	370	492	598
Dekalb	261	311	370	480	550
Fayette	261	311	370	480	550
Geneva	261	311	370	480	550
Hale	261	311	370	480	550
Jackson	282	311	370	480	589
Lowndes	261	311	370	480	550
Marengo	261	311	370	480	550
Marshall	300	311	378	522	619
Perry	261	311	370	480	550
Pike	313	364	434	563	656
Sumter	261	311	370	480	550
Tallapoosa	262	311	370	480	550
Washington	261	311	370	480	550
Winston	261	311	370	480	550

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bibb	261	311	370	500	599
Butler	261	311	370	480	550
Cherokee	261	311	370	480	550
Choctaw	261	311	370	480	550
Clay	261	311	370	480	550
Coffee	261	367	477	663	744
Coosa	261	311	370	480	550
Crenshaw	261	311	370	480	550
Dallas	261	311	370	480	550
Escambia	261	311	370	480	550
Franklin	261	311	370	480	550
Greene	261	311	370	480	550
Henry	261	311	370	480	550
Lamar	261	311	370	480	550
Macon	285	320	427	535	599
Marion	261	311	370	480	550
Monroe	261	311	370	480	550
Pickens	261	311	370	480	550
Randolph	261	311	370	480	550
Talladega	261	311	370	480	550
Walker	261	322	380	491	624
Wilcox	261	311	370	480	550

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	537	635	842	1171	1383	Anchorage

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	552	622	703	877	1148
Bethel	714	892	1131	1416	1584
Dillingham	690	701	932	1166	1306
Haines	514	637	725	986	1016
Kenai Peninsula	468	596	718	996	1177
Kodiak Island	734	807	1049	1311	1701
Matanuska-Susitna	494	668	752	1021	1206
North Slope	825	845	1045	1452	1692
Pr.Wales-Outer Ketchikan	385	612	705	978	1034
Skagway-Yakutat-Angoon	472	480	621	779	874
Valdez-Cordova	577	707	785	1002	1195
Wrangell-Petersburg	420	619	753	958	1053

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	474	536	600	753	843
Bristol Bay	572	661	742	1033	1122
Fairbanks North Star	435	592	777	1068	1259
Juneau	768	887	1130	1502	1561
Ketchikan Gateway	564	691	924	1286	1354
Lake & Peninsula	441	715	803	1002	1126
Nome	726	898	1009	1405	1585
Northwest Arctic	874	983	1103	1535	1811
Sitka	607	722	810	1128	1330
Southeast Fairbanks	484	508	612	767	861
Wade Hampton	413	621	701	876	981
Yukon-Koyukuk	550	620	700	875	1012

A R I Z O N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	611	660	857	1149	1380	Coconino
*Las Vegas, NV-AZ MSA	585	694	827	1150	1359	Mohave
*Phoenix-Mesa, AZ MSA	530	641	806	1121	1320	Maricopa, Pinal
Tucson, AZ MSA	428	513	683	949	1119	Pima
Yuma, AZ MSA	412	478	636	884	890	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	391	411	522	682	810
Gila	391	411	522	682	810
Greenlee	391	411	522	682	810
Navajo	391	411	522	682	810
Yavapai	415	432	578	806	887

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cochise	391	411	522	682	810
Graham	391	411	522	682	810
La Paz	391	411	522	682	810
Santa Cruz	391	432	538	682	810

A R K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	329	415	545	736	761	Benton, Washington
Fort Smith, AR-OK MSA	358	362	477	637	669	Crawford, Sebastian
Jonesboro, AR MSA	388	422	496	683	722	Craighead
Little Rock-North Little Rock, AR MSA	405	450	536	740	864	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	456	532	624	867	910	Crittenden

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

ARKANSAS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	310	368	484	611	792	Jefferson
Texarkana, TX-Texarkana, AR MSA	330	403	493	650	690	Miller

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	279	303	388	530	575
Baxter	255	324	431	554	675
Bradley	255	303	388	514	575
Carroll	300	327	388	514	614
Clark	279	303	393	514	621
Cleburne	288	303	388	514	582
Columbia	255	303	388	514	575
Cross	265	335	388	521	615
Desha	255	303	388	514	575
Franklin	267	303	388	514	575
Garland	255	324	434	606	716
Greene	273	303	388	514	575
Hot Spring	255	303	388	514	575
Independence	268	310	388	514	575
Jackson	264	303	388	514	575
Lafayette	267	303	388	514	575
Lee	280	303	388	514	575
Little River	255	303	394	547	645
Madison	292	303	394	514	575
Mississippi	291	314	421	555	623
Montgomery	255	303	388	514	575
Newton	255	303	388	514	575
Perry	255	303	388	514	575
Pike	255	303	388	514	575
Polk	255	303	388	514	575
Prairie	255	303	388	514	575
St. Francis	255	309	388	525	617
Searcy	255	303	388	514	575
Sharp	255	303	388	514	575
Union	319	337	405	544	665
White	255	303	388	531	575
Yell	265	303	388	514	575

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	255	303	388	514	608
Boone	302	307	408	568	669
Calhoun	255	303	388	514	575
Chicot	255	303	388	514	575
Clay	255	303	388	514	575
Cleveland	255	303	388	514	575
Conway	255	314	421	526	589
Dallas	255	303	388	514	575
Drew	255	330	440	609	620
Fulton	264	303	388	514	575
Grant	265	314	388	514	580
Hempstead	255	303	388	514	575
Howard	255	303	388	514	575
Izard	255	303	388	514	575
Johnson	255	303	388	514	575
Lawrence	255	303	388	514	575
Lincoln	275	303	394	527	575
Logan	267	303	388	514	575
Marion	255	303	388	514	575
Monroe	259	303	388	514	575
Nevada	255	303	388	531	575
Ouachita	298	303	388	535	631
Phillips	255	303	388	514	575
Poinsett	255	303	388	514	575
Pope	255	333	421	584	673
Randolph	255	303	388	514	575
Scott	255	303	388	514	575
Sevier	278	303	388	514	575
Stone	255	303	388	514	575
Van Buren	255	303	388	514	634
Woodruff	255	303	388	514	575

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CALIFORNIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	407	457	575	798	883	Kern
Chico-Paradise, CA MSA	372	479	637	874	1045	Butte
Fresno, CA MSA	423	473	564	786	906	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	571	683	865	1167	1394	Los Angeles
Merced, CA MSA	444	501	608	841	992	Merced
Modesto, CA MSA	530	569	694	968	1142	Stanislaus
*Oakland, CA PMSA	905	1095	1374	1883	2249	Alameda, Contra Costa
*Orange County, CA PMSA	855	934	1155	1607	1788	Orange
Redding, CA MSA	423	469	587	815	960	Shasta
Riverside-San Bernardino, CA PMSA	507	564	690	957	1130	Riverside, San Bernardino
*Sacramento, CA PMSA	530	597	747	1037	1222	El Dorado, Placer, Sacramento
Salinas, CA MSA	598	700	844	1172	1231	Monterey
*San Diego, CA MSA	766	875	1095	1524	1796	San Diego
San Francisco, CA PMSA	1185	1535	1940	2661	2816	Marin, San Francisco, San Mateo
*San Jose, CA PMSA	1250	1425	1760	2412	2709	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA	619	699	886	1232	1454	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	696	773	980	1364	1540	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	816	972	1298	1805	2114	Santa Cruz
Santa Rosa, CA PMSA	767	869	1126	1566	1849	Sonoma
Stockton-Lodi, CA MSA	504	569	731	1018	1200	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	784	891	1086	1508	1779	Napa, Solano
*Ventura, CA PMSA	743	854	1081	1437	1675	Ventura
Visalia-Tulare-Porterville, CA MSA	412	439	572	798	911	Tulare
Yolo, CA PMSA	532	607	752	1040	1230	Yolo
Yuba City, CA MSA	367	429	551	769	888	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine	332	498	563	782	842
Calaveras	401	464	618	861	1013
Del Norte	339	465	618	862	1015
Humboldt	342	474	621	867	1025
Inyo	344	464	595	781	842
Lake	373	475	635	799	1041
Mariposa	359	456	586	768	905
Modoc	363	406	522	728	842
Nevada	415	568	757	1052	1218
San Benito	571	672	841	1172	1371
Siskiyou	348	406	522	728	842
Trinity	372	406	522	728	842

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Amador	458	504	673	937	1045
Colusa	363	406	522	728	842
Glenn	332	406	522	728	842
Imperial	374	469	577	804	842
Kings	384	448	558	777	914
Lassen	406	411	534	728	842
Mendocino	459	553	679	945	952
Mono	506	607	807	1123	1327
Plumas	366	406	522	728	842
Sierra	332	446	548	761	898
Tehama	347	406	522	728	842
Tuolumne	367	501	668	930	1096

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

COLORADO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	626	750	962	1341	1580	Boulder
Colorado Springs, CO MSA	482	518	690	962	1135	El Paso
*Denver, CO PMSA	595	710	945	1311	1548	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	476	588	727	1010	1193	Larimer
Grand Junction, CO MSA	438	456	570	768	914	Mesa
Greeley, CO PMSA	526	581	731	1014	1200	Weld
Pueblo, CO MSA	462	478	598	805	961	Pueblo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	414	429	537	724	863
Baca	414	429	537	724	863
Chaffee	414	429	537	724	863
Clear Creek	414	484	546	760	895
Costilla	414	429	537	724	863
Custer	414	429	537	724	863
Dolores	414	429	537	724	863
Elbert	458	506	580	724	950
Garfield	481	515	651	813	1065
Grand	492	496	628	786	952
Hinsdale	414	438	537	724	863
Jackson	414	429	537	724	863
Kit Carson	414	429	537	724	863
La Plata	541	598	788	1098	1296
Lincoln	414	429	537	724	863
Mineral	414	429	537	724	863
Montezuma	414	429	537	724	863
Morgan	414	429	537	724	863
Ouray	414	429	543	724	879
Phillips	414	429	537	724	863
Prowers	414	429	537	724	863
Rio Grande	414	429	537	724	863
Saguache	414	429	537	724	863
San Miguel	761	1100	1209	1510	1950
Summit	533	638	819	1139	1402
Washington	414	429	537	724	863

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	495	542	641	865	1028
Bent	414	429	537	724	863
Cheyenne	414	429	537	724	863
Conejos	414	429	537	724	863
Crowley	414	429	537	724	863
Delta	414	429	537	724	863
Eagle	556	607	809	1126	1328
Fremont	414	429	537	724	863
Gilpin	414	550	700	923	1020
Gunnison	414	429	537	724	863
Huerfano	414	429	537	724	863
Kiowa	414	429	537	724	863
Lake	414	429	537	724	863
Las Animas	414	443	537	724	863
Logan	414	429	537	724	863
Moffat	414	429	537	724	863
Montrose	414	429	543	753	887
Otero	414	429	537	724	863
Park	414	459	597	829	943
Pitkin	621	850	1132	1493	1698
Rio Blanco	414	429	537	724	863
Routt	414	500	661	919	1083
San Juan	414	429	537	724	863
Sedgwick	414	429	537	724	863
Teller	414	491	654	909	917
Yuma	414	429	537	724	863

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	517	673	810	1013	1263	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	699	835	1044	1378	1589	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town. New Milford town, Roxbury town, Washington town
Hartford, CT MSA	481	599	766	962	1166	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	597	733	905	1160	1344	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	532	643	784	980	1121	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	1006	1178	1436	1925	2126	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT PMSA	507	685	849	1058	1186	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT PMSA	521	629	785	980	1099	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	393	635	717	996	1174	Hartland town
Litchfield	457	622	830	1035	1179	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	676	766	1023	1424	1679	Chester town, Deep River town, Essex town Westbrook town
New London	573	702	797	1028	1305	Lyme town, Voluntown town
Tolland	393	635	717	996	1003	Union town
Windham	453	553	717	898	1126	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

DELAWARE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	523	579	659	855	973	Kent
Wilmington-Newark, DE-MD PMSA	490	645	752	1022	1235	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	460	489	624	820	876

DIST. OF COLUMBIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Washington, DC-MD-VA	748	851	999	1360	1642	District of Columbia

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

FLORIDA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	418	490	626	830	882	Flagler, Volusia
*Fort Lauderdale, FL PMSA	547	644	798	1110	1305	Broward
Fort Myers-Cape Coral, FL MSA	449	516	623	871	908	Lee
Fort Pierce-Port Lucie, FL MSA	499	547	709	922	994	Martin, St. Lucie
Fort Walton Beach, FL MSA	435	475	540	733	863	Okaloosa
Gainesville, FL MSA	435	475	578	792	936	Alachua
Jacksonville, FL MSA	499	559	673	889	990	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	418	457	516	640	700	Polk
Melbourne-Titusville-Palm Bay, FL MSA	418	489	611	818	953	Brevard
*Miami, FL PMSA	518	652	813	1116	1293	Dade
Naples, FL MSA	465	656	790	1098	1223	Collier
Ocala, FL MSA	435	475	540	709	831	Marion
Orlando, FL MSA	604	685	817	1072	1308	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	435	475	540	689	739	Bay
Pensacola, FL MSA	435	475	540	721	850	Escambia, Santa Rosa
Punta Gorda, FL MSA	435	500	666	923	1088	Charlotte
Sarasota-Bradenton, FL MSA	437	555	706	907	988	Manatee, Sarasota
Tallahassee, FL MSA	445	494	650	849	1024	Gadsden, Leon
*Tampa-St. Petersburg-Clearwater, FL MSA	505	601	745	989	1199	Hernando, Hillsborough, Pasco, Pinellas
*West Palm Beach-Boca Raton, FL MSA	568	663	820	1088	1348	Palm Beach

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	410	449	508	630	684
Calhoun	410	449	508	630	684
Columbia	410	449	508	630	684
Dixie	410	449	508	630	684
Gilchrist	410	449	508	630	684
Gulf	410	449	508	630	684
Hardee	410	449	508	630	684
Highlands	410	449	508	632	707
Indian River	410	513	660	826	924
Jefferson	410	449	508	630	684
Levy	410	449	508	630	684
Madison	410	449	508	630	684
Okeechobee	410	449	508	630	690
Sumter	410	449	508	630	684
Taylor	410	449	508	630	685
Wakulla	410	449	508	630	684
Washington	410	449	508	630	684

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bradford	410	449	508	630	684
Citrus	410	449	508	630	684
Desoto	410	449	508	630	684
Franklin	410	449	508	630	684
Glades	410	449	508	630	684
Hamilton	410	449	508	630	684
Hendry	410	449	522	656	735
Holmes	410	449	508	630	684
Jackson	410	449	508	630	684
Lafayette	410	449	508	630	684
Liberty	410	449	508	630	684
Monroe	588	663	852	1174	1397
Putnam	410	449	508	630	684
Suwannee	410	449	508	630	684
Union	410	449	508	630	684
Walton	410	449	508	654	818

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

GEORGIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	325	381	464	634	687	Dougherty, Lee
Athens, GA MSA	400	431	558	761	918	Clarke, Madison, Oconee
*Atlanta, GA MSA	714	795	927	1236	1495	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA	410	491	578	785	928	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	392	458	550	711	811	Catoosa, Dade, Walker
Columbus, GA-AL MSA	376	418	501	654	710	Chattahoochee, Harris, Muscogee
Macon, GA MSA	420	467	544	750	772	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA	391	487	566	762	793	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling	298	359	439	569	648
Bacon	298	359	439	569	648
Baldwin	298	382	465	597	652
Ben Hill	298	359	439	569	656
Bleckley	298	359	439	569	648
Brooks	298	359	439	569	648
Burke	298	359	439	569	648
Calhoun	298	359	439	569	648
Candler	298	359	439	569	648
Chattooga	298	359	439	569	648
Clinch	298	359	439	569	648
Colquitt	298	359	439	569	648
Crawford	298	359	439	569	648
Dawson	298	389	516	647	796
Dodge	298	359	439	569	648
Early	298	359	439	569	648
Elbert	298	359	439	569	648
Evans	298	359	439	569	648
Floyd	298	359	440	580	648
Gilmer	298	359	439	569	648
Glynn	416	465	526	708	867
Grady	304	359	439	569	648
Habersham	320	359	439	569	653
Hancock	298	359	439	569	648
Hart	298	359	439	569	648
Irwin	298	359	439	569	648
Jasper	298	359	445	604	648
Jefferson	298	359	439	569	656

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Atkinson	298	359	439	569	648
Baker	298	359	439	569	648
Banks	298	359	439	569	648
Berrien	298	359	439	569	648
Brantley	298	359	439	569	648
Bulloch	359	365	468	604	767
Butts	298	395	523	702	735
Camden	418	472	528	735	869
Charlton	298	359	439	569	648
Clay	298	359	439	569	648
Coffee	298	359	439	569	656
Cook	298	359	439	569	648
Crisp	302	359	439	569	648
Decatur	298	359	439	569	648
Dooly	298	359	439	569	648
Echols	298	359	439	569	648
Emanuel	298	359	439	569	648
Fannin	298	359	439	569	648
Franklin	298	359	439	569	648
Glascock	298	359	439	569	648
Gordon	353	359	448	577	738
Greene	298	359	439	569	648
Hall	316	480	564	707	788
Haralson	298	359	439	569	648
Heard	298	359	439	569	648
Jackson	332	359	451	569	742
Jeff Davis	298	359	439	569	648
Jenkins	298	359	439	569	648

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

GEORGIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	298	359	439	569	648
Lanier	298	359	439	569	648
Liberty	371	414	471	655	660
Long	298	389	439	569	648
Lumpkin	298	402	452	605	742
Macon	298	359	439	569	648
Meriwether	298	359	439	569	648
Mitchell	298	359	439	569	648
Montgomery	298	359	439	569	648
Murray	298	359	439	569	648
Pierce	298	359	439	569	648
Polk	298	359	439	595	648
Putnam	298	359	439	569	656
Rabun	298	359	439	569	648
Schley	298	359	439	569	648
Seminole	298	359	439	569	648
Stewart	298	359	439	569	648
Talbot	298	359	439	569	648
Tattnall	298	359	439	569	648
Telfair	298	359	439	569	648
Thomas	298	370	439	569	648
Toombs	298	359	439	569	648
Treutlen	298	359	439	569	648
Turner	298	359	439	569	648
Upson	309	359	439	569	648
Warren	298	359	439	569	648
Wayne	309	359	439	569	648
Wheeler	298	359	439	569	648
Whitfield	298	392	471	602	710
Wilkes	298	359	439	569	648
Worth	298	359	439	569	648

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lamar	298	369	439	569	696
Laurens	305	359	439	569	648
Lincoln	298	359	439	569	648
Lowndes	334	404	489	685	759
Mcintosh	298	359	439	569	648
Marion	298	359	439	569	648
Miller	298	359	439	569	648
Monroe	298	359	439	578	648
Morgan	298	359	455	569	648
Oglethorpe	298	359	439	569	648
Pike	346	375	476	662	666
Pulaski	298	359	439	569	648
Quitman	298	359	439	569	648
Randolph	298	359	439	569	648
Screven	298	359	439	569	648
Stephens	298	359	439	569	648
Sumter	298	365	439	569	648
Taliaferro	298	359	439	569	648
Taylor	298	359	439	569	648
Terrell	298	359	439	569	648
Tift	298	359	439	569	648
Towns	298	359	439	569	648
Troup	298	406	457	571	648
Union	298	359	458	574	648
Ware	330	370	439	569	683
Washington	298	359	439	569	648
Webster	298	359	439	569	648
White	298	359	439	569	662
Wilcox	298	359	439	569	648
Wilkinson	298	359	439	569	648

HAWAII

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	599	717	844	1142	1235	Honolulu

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	466	608	699	929	1145
Maui	753	934	1140	1472	1667
Kauai	595	889	1084	1434	1551

I D A H O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	419	477	580	805	952	Ada, Canyon
Pocatello, ID MSA	301	347	447	609	720	Bannock

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	296	344	443	588	696
Benewah	296	344	443	588	696
Blaine	458	505	672	938	1104
Bonner	341	422	524	724	833
Boundary	296	344	443	588	696
Camas	296	344	443	588	696
Cassia	296	344	443	588	696
Clearwater	296	344	443	588	696
Elmore	296	344	443	588	696
Fremont	296	344	443	588	696
Gooding	296	344	443	588	696
Jefferson	306	344	443	588	696
Kootenai	377	443	580	807	954
Lemhi	296	344	443	588	696
Lincoln	296	344	443	588	696
Minidoka	296	344	443	588	696
Oneida	297	344	443	588	696
Payette	296	344	443	588	696
Shoshone	296	344	443	588	696
Twin Falls	296	344	448	592	696
Washington	296	344	443	588	696

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bear Lake	296	344	443	588	696
Bingham	316	344	443	588	696
Boise	296	382	443	588	696
Bonneville	303	380	524	703	868
Butte	296	344	443	588	696
Caribou	296	344	443	588	696
Clark	296	344	443	588	696
Custer	296	344	443	588	696
Franklin	296	344	443	588	696
Gem	296	344	443	588	696
Idaho	296	344	443	588	696
Jerome	296	344	443	588	696
Latah	296	344	443	588	705
Lewis	296	344	443	588	696
Madison	296	344	443	588	696
Nez Perce	303	344	443	588	696
Owyhee	296	344	443	588	696
Power	296	344	443	588	696
Teton	323	344	443	600	710
Valley	309	344	443	588	696

I L L I N O I S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	364	443	594	825	871	Mclean
Champaign-Urbana, IL MSA	400	492	636	872	1046	Champaign
*Chicago, IL	649	778	928	1160	1298	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	300	414	512	662	718	Henry, Rock Island

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Decatur, IL MSA	290	376	482	652	675	Macon
De Kalb County, IL	498	579	733	1020	1182	Dekalb
Grundy County, IL	433	501	665	879	934	Grundy
Kankakee, IL PMSA	394	477	634	811	891	Kankakee
Kendall County, Il	601	684	825	1148	1154	Kendall
Peoria-Pekin, IL MSA	403	444	596	794	975	Peoria, Tazewell, Woodford
Rockford, IL MSA	387	496	603	758	885	Boone, Ogle, Winnebago
*St. Louis, MO-IL MSA	415	505	655	853	942	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	334	414	551	733	834	Menard, Sangamon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	277	311	400	525	638
Bond	277	311	400	525	589
Bureau	277	350	409	525	589
Carroll	277	311	400	525	589
Christian	298	311	402	528	589
Clay	277	311	400	525	589
Crawford	277	311	400	525	589
De Witt	281	311	400	530	589
Edgar	277	311	400	525	589
Effingham	277	320	400	525	589
Ford	263	370	481	618	675
Fulton	285	319	411	540	607
Greene	277	311	400	525	589
Hancock	277	311	400	525	589
Henderson	277	311	400	525	589
Jackson	335	336	426	604	676
Jefferson	278	326	407	555	589
Johnson	277	311	400	525	589
La Salle	335	394	525	710	796
Lee	308	317	425	531	595
Logan	310	329	439	549	688
Macoupin	277	311	400	525	589
Marshall	277	311	400	525	589
Massac	278	311	400	525	589
Montgomery	277	311	400	525	589
Moultrie	277	311	400	539	589
Piatt	277	336	438	596	614
Pope	277	311	400	525	589
Putnam	277	311	400	525	589

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alexander	277	311	400	525	589
Brown	277	311	400	525	589
Calhoun	277	311	400	525	589
Cass	278	311	400	525	589
Clark	277	311	400	525	589
Coles	292	349	463	616	727
Cumberland	277	311	400	525	589
Douglas	296	311	400	525	589
Edwards	277	311	400	525	589
Fayette	277	311	400	525	589
Franklin	277	311	400	525	589
Gallatin	277	311	400	525	589
Hamilton	277	312	400	525	589
Hardin	277	311	400	525	589
Iroquois	277	311	400	525	589
Jasper	277	313	400	525	589
Jo Daviess	306	331	400	525	589
Knox	277	311	400	525	610
Lawrence	277	311	400	525	589
Livingston	277	341	456	587	641
Mcdonough	277	316	400	525	631
Marion	282	311	400	525	589
Mason	277	311	400	525	596
Mercer	277	311	400	525	589
Morgan	277	352	466	622	655
Perry	278	311	400	525	589
Pike	277	311	400	525	589
Pulaski	277	311	400	525	589
Randolph	277	311	400	525	589

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Richland	277	311	400	525	589
Schuyler	277	311	400	525	589
Shelby	277	311	400	525	589
Stephenson	292	334	424	530	593
Vermilion	277	354	441	551	618
Warren	292	311	400	525	589
Wayne	277	311	400	525	589
Whiteside	292	332	443	554	625
Saline	277	311	400	525	589
Scott	277	311	400	525	589
Stark	277	311	400	525	589
Union	277	311	400	525	589
Wabash	277	311	400	525	623
Washington	277	331	442	553	719
White	277	311	400	525	589
Williamson	277	311	402	558	589

I N D I A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	395	511	680	946	1118	Monroe
Cincinnati, OH-KY-IN	386	495	662	887	958	Dearborn
Elkhart-Goshen, IN MSA	399	456	575	736	846	Elkhart
Evansville-Henderson, IN-KY MSA	342	407	529	660	739	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	342	435	542	698	757	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	440	579	721	907	1012	Lake, Porter
Indianapolis, IN MSA	390	489	588	736	825	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	368	434	567	729	794	Howard, Tipton
Lafayette, IN MSA	373	473	630	876	1035	Clinton, Tippecanoe
Louisville, KY-IN MSA	368	473	581	801	845	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	383	477	566	767	905	Delaware
Ohio County, IN	322	363	464	598	658	Ohio
South Bend, IN MSA	343	457	599	749	841	St. Joseph
Terre Haute, IN MSA	309	361	462	575	642	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	425	457	551	688	906
Blackford	299	336	444	555	623
Carroll	299	336	432	554	611
Crawford	299	336	432	554	611
Decatur	299	365	466	604	657
Fayette	316	357	456	586	689
Franklin	299	336	432	554	682
Gibson	299	336	432	554	611
Greene	299	336	432	554	611
Jackson	367	385	475	628	675
Jay	299	336	432	554	611
Benton	299	336	432	554	611
Brown	299	397	523	726	752
Cass	299	336	432	554	611
Daviess	299	336	432	554	611
Dubois	299	336	432	554	639
Fountain	299	336	432	554	611
Fulton	329	346	432	580	611
Grant	315	336	432	556	611
Henry	328	369	472	610	668
Jasper	299	363	432	554	611
Jefferson	299	336	432	554	611

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jennings	312	336	432	554	611
Kosciusko	299	396	478	620	669
La Porte	304	368	493	631	689
Marshall	355	360	478	601	669
Miami	299	336	432	554	611
Newton	312	336	432	554	611
Orange	299	336	432	554	611
Parke	299	336	432	554	638
Pike	299	336	432	554	611
Putnam	325	378	465	625	630
Ripley	299	336	432	564	639
Spencer	299	336	432	554	611
Steuben	366	412	494	618	689
Switzerland	299	336	432	554	611
Wabash	299	336	432	554	611
Washington	299	336	432	554	611
White	299	336	432	554	674
Knox	329	364	472	600	662
Lagrange	304	352	447	582	677
Lawrence	299	336	432	558	611
Martin	299	336	432	554	611
Montgomery	431	452	565	717	793
Noble	346	353	438	565	625
Owen	299	336	432	554	639
Perry	299	336	432	554	611
Pulaski	299	336	432	554	611
Randolph	299	336	432	554	611
Rush	307	336	432	554	639
Starke	299	336	432	554	611
Sullivan	299	336	432	554	611
Union	299	336	432	554	611
Warren	299	336	432	554	611
Wayne	361	405	520	668	734

I O W A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	293	413	531	738	793	Linn
Davenport-Moline-Rock Island, IA-IL MSA	300	414	512	662	718	Scott
Des Moines, IA MSA	416	525	649	841	884	Dallas, Polk, Warren
Dubuque, IA MSA	311	380	489	624	762	Dubuque
Iowa City, IA MSA	367	473	610	846	1000	Johnson
Omaha, NE-IA MSA	359	492	621	814	914	Pottawattamie
Sioux City, IA-NE MSA	365	439	547	682	779	Woodbury
Waterloo-Cedar Falls, IA MSA	342	438	547	728	856	Black Hawk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	282	349	437	556	612
Allamakee	282	349	437	562	643
Audubon	282	349	437	556	612
Boone	282	370	437	562	666
Buchanan	296	349	437	556	612
Butler	299	349	437	556	612
Carroll	282	349	437	556	612
Cedar	282	354	437	556	612
Cherokee	282	349	437	556	612
Adams	282	349	437	556	612
Appanoose	282	349	437	556	616
Benton	289	349	437	556	612
Bremer	282	349	437	556	651
Buena Vista	297	349	437	556	612
Calhoun	282	349	437	556	612
Cass	282	349	437	556	612
Cerro Gordo	282	369	457	609	640
Chickasaw	282	349	437	556	612

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clarke	289	349	437	556	612
Clayton	282	349	437	556	612
Crawford	282	349	437	556	612
Decatur	282	349	437	556	612
Des Moines	282	360	463	579	647
Emmet	282	349	437	556	647
Floyd	307	349	437	556	612
Fremont	310	349	437	556	645
Grundy	282	349	437	556	630
Hamilton	322	365	442	556	619
Hardin	282	349	437	556	612
Henry	282	358	454	568	643
Humboldt	282	349	437	556	612
Iowa	282	349	437	556	612
Jasper	282	358	453	566	635
Jones	291	349	437	556	612
Kossuth	282	349	437	556	612
Louisa	282	349	437	556	612
Lyon	282	349	437	556	612
Mahaska	282	349	437	556	612
Marshall	311	385	482	611	676
Mitchell	282	349	437	556	612
Monroe	282	367	437	556	645
Muscatine	322	399	529	705	739
Osceola	282	349	437	556	612
Palo Alto	282	349	437	556	612
Pocahontas	282	349	437	556	612
Ringgold	282	349	437	556	612
Shelby	282	349	437	556	612
Story	367	446	527	728	835
Taylor	282	349	437	556	613
Van Buren	282	349	437	556	612
Washington	282	349	437	556	645
Webster	282	349	444	559	622
Winneshiek	282	349	437	556	612
Wright	282	349	437	556	612

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clay	282	349	437	556	612
Clinton	282	349	444	556	621
Davis	282	349	437	556	612
Delaware	282	349	437	556	612
Dickinson	282	349	437	556	612
Fayette	282	349	437	556	612
Franklin	289	349	437	556	612
Greene	282	349	437	556	612
Guthrie	282	349	437	556	644
Hancock	282	349	437	556	612
Harrison	282	349	437	556	612
Howard	282	349	437	556	640
Ida	289	349	437	556	612
Jackson	282	349	440	556	616
Jefferson	282	357	474	617	780
Keokuk	282	349	437	556	612
Lee	282	349	451	565	634
Lucas	282	349	437	556	612
Madison	282	349	455	582	639
Marion	282	388	474	594	666
Mills	282	377	445	559	624
Monona	282	349	437	556	612
Montgomery	310	351	437	556	612
O'Brien	282	349	437	556	612
Page	282	349	437	556	612
Plymouth	282	349	457	571	640
Poweshiek	297	370	474	594	666
Sac	282	349	437	556	612
Sioux	282	349	437	556	612
Tama	282	349	437	556	612
Union	282	349	437	556	645
Wapello	282	349	441	556	617
Wayne	282	349	437	556	612
Winnebago	282	355	437	556	612
Worth	282	349	437	556	622

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Kansas City, MO-KS MSA	463	582	701	970	1075	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	378	453	580	808	930	Douglas
Topeka, KS MSA	354	408	531	718	809	Shawnee
*Wichita, KS MSA	370	444	594	804	868	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	287	326	418	539	600
Atchison	287	326	418	539	643
Barton	287	326	418	539	600
Brown	287	326	418	539	600
Chautauqua	287	326	418	539	600
Cheyenne	287	326	418	539	600
Clay	287	326	418	539	600
Coffey	296	326	418	539	627
Cowley	307	326	418	553	600
Decatur	287	326	418	539	600
Doniphan	287	326	418	539	600
Elk	287	326	418	539	600
Ellsworth	287	326	418	539	600
Ford	330	391	486	612	689
Geary	354	371	465	600	650
Graham	287	326	418	539	600
Gray	287	326	418	539	600
Greenwood	287	326	418	539	600
Harper	287	326	418	539	600
Hodgeman	287	326	418	539	600
Jefferson	287	326	426	565	600
Kearny	320	326	430	578	636
Kiowa	287	326	418	539	600
Lane	287	326	418	539	600
Linn	287	326	418	539	600
Lyon	287	326	418	539	640
Marion	287	326	418	539	600
Meade	287	326	418	539	600
Montgomery	287	326	418	539	600
Morton	287	351	418	539	600
Neosho	287	326	418	539	600
Norton	287	326	418	539	600
Osborne	287	326	418	539	601
Pawnee	287	326	418	539	600

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	287	326	418	539	600
Barber	287	326	418	539	600
Bourbon	287	326	418	539	600
Chase	287	326	418	539	600
Cherokee	287	326	418	539	600
Clark	287	326	418	539	600
Cloud	287	326	418	539	600
Comanche	287	326	418	539	600
Crawford	287	326	426	539	600
Dickinson	287	326	418	539	600
Edwards	287	326	418	539	600
Ellis	287	326	418	539	600
Finney	377	402	516	672	849
Franklin	323	339	437	560	682
Gove	287	326	418	539	600
Grant	297	378	433	593	646
Greeley	287	326	418	539	600
Hamilton	287	326	418	539	600
Haskell	287	333	418	539	600
Jackson	287	326	418	539	600
Jewell	287	326	418	539	600
Kingman	287	326	418	539	600
Labette	287	326	418	539	600
Lincoln	287	326	418	539	600
Logan	287	326	418	539	600
Mcpherson	289	326	418	539	600
Marshall	287	326	418	539	600
Mitchell	287	326	418	539	600
Morris	287	326	418	539	600
Nemaha	287	326	418	539	600
Ness	287	326	418	539	600
Osage	287	326	418	539	600
Ottawa	287	326	418	539	600
Phillips	287	326	418	539	600

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

KANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie	287	326	418	539	613
Rawlins	287	326	418	539	600
Republic	287	326	418	539	600
Riley	357	393	523	652	793
Rush	287	326	418	539	600
Saline	376	389	512	708	716
Seward	347	378	502	630	702
Sherman	287	326	418	539	600
Stafford	287	326	418	539	600
Stevens	287	327	418	539	616
Thomas	287	326	418	539	600
Wabaunsee	287	326	418	539	600
Washington	287	326	418	539	600
Wilson	287	326	418	539	600
Pratt	287	326	418	551	600
Reno	287	326	418	539	651
Rice	287	326	418	539	600
Rooks	287	326	418	539	600
Russell	287	326	418	539	600
Scott	287	326	418	551	633
Sheridan	287	326	418	539	600
Smith	287	326	418	539	600
Stanton	287	326	418	539	600
Sumner	287	326	418	565	600
Trego	287	326	418	539	600
Wallace	287	326	418	539	600
Wichita	287	326	430	539	670
Woodson	287	326	418	539	600

KENTUCKY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	386	495	662	887	958	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	364	407	479	652	671	Christian
Evansville-Henderson, IN-KY MSA	342	407	529	660	739	Henderson
Gallatin County, KY	290	395	484	607	792	Gallatin
Grant County, KY	289	344	455	635	752	Grant
Huntington-Ashland, WV-KY-OH MSA	325	381	469	598	659	Boyd, Carter, Greenup
Lexington, KY MSA	369	459	563	766	866	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	368	473	581	801	845	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	322	333	438	587	615	Daviess
Pendleton County, KY	291	338	448	564	631	Pendleton

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	265	324	383	507	557
Anderson	292	310	401	501	562
Barren	265	321	383	495	557
Bell	265	310	387	495	557
Bracken	265	310	383	495	557
Breckinridge	265	310	383	495	557
Caldwell	265	310	383	495	557
Carlisle	265	310	383	495	557
Casey	265	310	383	495	557
Clinton	265	310	383	495	557
Allen	265	310	383	495	557
Ballard	265	310	383	495	557
Bath	265	310	383	495	557
Boyle	316	320	427	535	599
Breathitt	265	310	383	495	557
Butler	265	310	383	495	557
Calloway	265	310	383	495	557
Carroll	265	310	383	495	557
Clay	265	310	383	495	557
Crittenden	265	310	383	495	557

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

KENTUCKY continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cumberland	265	310	383	495	557
Elliott	265	310	383	495	557
Fleming	265	310	383	495	557
Franklin	265	391	479	618	780
Garrard	265	310	383	495	557
Grayson	265	310	383	495	557
Hancock	265	310	383	500	592
Harlan	265	403	459	600	708
Hart	265	310	383	495	557
Hickman	265	310	383	495	557
Jackson	265	310	383	495	557
Knott	265	310	383	495	557
Larue	265	310	383	495	557
Lawrence	265	310	383	495	557
Leslie	265	310	383	495	557
Lewis	265	310	383	495	557
Livingston	307	310	412	573	577
Lyon	265	310	383	495	557
Mccreary	265	310	383	495	557
Magoffin	265	310	383	495	557
Marshall	265	316	383	495	596
Mason	265	310	383	495	557
Menifee	265	310	383	495	557
Metcalfe	265	310	383	495	557
Montgomery	265	310	383	495	557
Muhlenberg	265	310	383	495	557
Nicholas	265	310	383	495	557
Owen	265	310	383	495	570
Perry	297	310	399	499	559
Powell	265	310	383	495	557
Robertson	265	310	383	495	557
Rowan	265	310	383	495	577
Shelby	266	350	393	548	557
Spencer	265	316	383	495	557
Todd	265	310	383	495	557
Trimble	265	310	383	495	557
Warren	265	343	458	572	662
Wayne	265	310	383	495	557
Whitley	265	310	383	495	557
Edmonson	265	310	383	495	557
Estill	265	310	383	495	557
Floyd	280	340	383	532	610
Fulton	265	310	383	495	557
Graves	265	310	383	495	557
Green	265	310	383	495	557
Hardin	330	339	424	570	676
Harrison	265	311	393	495	606
Henry	265	310	383	495	557
Hopkins	265	310	383	495	562
Johnson	265	310	383	495	557
Knox	265	367	469	589	723
Laurel	346	392	464	626	650
Lee	265	310	383	495	557
Letcher	265	310	383	495	557
Lincoln	265	310	383	495	557
Logan	265	310	383	505	557
Mccracken	301	323	404	517	664
Mclean	265	310	383	495	557
Marion	265	310	383	495	557
Martin	265	310	383	495	557
Meade	275	341	393	518	647
Mercer	265	310	383	505	557
Monroe	265	310	383	495	557
Morgan	265	310	383	495	557
Nelson	291	310	395	495	557
Ohio	265	310	383	495	557
Owsley	265	310	383	495	557
Pike	285	325	395	495	585
Pulaski	291	310	393	496	557
Rockcastle	265	310	383	495	557
Russell	265	310	383	495	557
Simpson	265	332	389	496	557
Taylor	320	379	424	567	642
Trigg	265	310	383	495	557
Union	265	310	383	495	557
Washington	265	314	383	495	557
Webster	265	310	383	495	557
Wolfe	265	310	383	495	557

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	301	376	471	653	664	Rapides
*Baton Rouge, LA MSA	346	429	533	739	873	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	297	347	445	617	731	Lafourche, Terrebonne
Lafayette, LA MSA	314	362	430	592	701	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA	346	402	510	668	836	Calcasieu
Monroe, LA MSA	325	364	485	654	679	Ouachita
New Orleans, LA	461	529	659	896	1085	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	296	335	446	555	622	St. James
Shreveport-Bossier City, LA MSA	366	417	522	699	858	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	287	312	385	504	562
Avoyelles	287	312	385	504	565
Bienville	287	312	385	511	604
Cameron	287	312	385	504	562
Claiborne	287	312	385	504	562
De Soto	287	312	385	504	567
East Feliciana	287	312	385	504	562
Franklin	287	312	385	504	567
Iberia	304	316	393	504	562
Jackson	287	312	385	504	562
La Salle	287	312	385	504	567
Madison	287	312	385	504	562
Natchitoches	307	314	407	563	567
Red River	287	312	385	504	567
Sabine	287	320	385	504	593
St. Mary	314	337	423	577	602
Tensas	287	312	385	504	562
Vermilion	287	312	385	504	562
Washington	287	312	385	504	562
West Feliciana	287	375	501	626	703

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Assumption	314	338	401	504	562
Beauregard	350	382	452	590	651
Caldwell	287	312	385	504	562
Catahoula	287	312	385	504	562
Concordia	287	312	385	504	562
East Carroll	287	312	385	504	562
Evangeline	287	312	385	504	562
Grant	287	312	385	504	562
Iberville	287	312	385	504	579
Jefferson Davis	287	312	385	504	571
Lincoln	338	340	424	582	698
Morehouse	287	312	385	504	562
Pointe Coupee	287	312	385	504	610
Richland	287	312	385	504	567
St. Helena	287	312	385	504	562
Tangipahoa	308	320	412	540	575
Union	287	312	385	504	567
Vernon	330	368	419	543	641
West Carroll	287	312	385	504	562
Winn	287	312	385	504	562

M A I N E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	376	459	588	769	825	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Lewiston-Auburn, ME MSA	346	418	537	672	763	Waldo county towns of Winterport town Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	498	642	845	1058	1184	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	573	686	882	1132	1388	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	348	431	571	714	800	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	348	409	524	666	767	
Cumberland	510	520	692	940	1080	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	355	409	524	666	767	
Hancock	375	460	569	717	796	
Kennebec	362	453	543	683	767	
Knox	348	448	582	777	817	
Lincoln	454	504	573	797	940	
Oxford	348	409	524	666	767	
Penobscot	348	409	524	666	767	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Piscataquis	348	409	524	666	767	
Sagadahoc	490	560	692	921	1136	
Somerset	365	416	524	666	787	
Waldo	348	409	524	666	767	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	348	409	524	666	767	
York	431	492	659	824	923	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	566	691	844	1117	1278	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	608	817	952	1259	1572	Columbia
Cumberland, MD-WV MSA	359	432	535	707	807	Allegany
Hagerstown, MD PMSA	382	459	573	749	855	Washington
*Washington, DC-MD-VA	748	851	999	1360	1642	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	490	645	752	1022	1235	Cecil

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	396	427	534	700	795
Garrett	354	474	534	696	877
St. Mary's	577	685	790	1102	1259
Talbot	468	496	660	827	1084
Worcester	354	427	535	742	795
Dorchester	354	457	534	696	795
Kent	358	441	589	735	886
Somerset	422	473	534	740	876
Wicomico	398	460	594	755	832

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	532	712	951	1192	1334	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	953	1074	1343	1680	1972	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	536	705	865	1075	1227	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	418	588	764	982	1067	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA	579	700	881	1100	1353	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA	588	759	917	1149	1285	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA PMSA	562	686	781	976	1096	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA	347	493	607	762	943	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA MSA	407	555	667	837	1032	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	432	535	674	843	1037	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT PMSA	521	629	785	980	1099	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city
NONMETROPOLITAN COUNTIES	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**Towns within non metropolitan counties**
Barnstable	519	712	947	1185	1328	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	413	502	592	812	973	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	700	713	948	1186	1331	
Franklin	445	552	706	884	1068	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	449	613	817	1087	1341	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	630	637	850	1067	1193	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	796	1067	1423	1778	1991	
Worcester	501	523	696	872	975	Athol town, Hardwick town, Hubbardston town New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

MICHIGAN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	526	635	785	1030	1155	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	404	410	538	671	753	Berrien
*Detroit, MI PMSA	470	638	771	964	1080	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	410	464	584	744	816	Genesee
*Grand Rapids-Muskegon-Holland, MI MSA	442	517	632	791	886	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	318	428	543	677	759	Jackson
Kalamazoo-Battle Creek, MI MSA	377	455	572	717	801	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	424	499	645	843	973	Clinton, Eaton, Ingham

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	371	408	543	677	759	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	308	353	446	580	661
Alpena	308	353	446	580	665
Arenac	308	353	446	580	661
Barry	308	380	506	636	712
Branch	358	366	449	615	661
Charlevoix	375	379	481	654	677
Chippewa	308	353	446	580	661
Crawford	337	353	456	623	661
Dickinson	308	379	468	585	661
Gladwin	308	353	446	580	661
Grand Traverse	408	438	584	730	820
Hillsdale	308	353	446	580	661
Huron	308	353	446	580	661
Iosco	308	353	446	580	700
Isabella	346	368	493	665	808
Keweenaw	308	353	446	580	661
Leelanau	419	452	530	691	868
Mackinac	308	353	446	580	661
Marquette	308	353	446	580	661
Mecosta	308	353	446	604	717
Missaukee	325	353	446	580	661
Montmorency	308	353	446	580	661
Oceana	329	353	446	580	661
Ontonagon	308	353	446	580	661
Oscoda	308	353	446	580	661
Presque Isle	308	353	446	580	661
St. Joseph	308	360	446	582	661
Schoolcraft	308	353	446	580	661
Tuscola	335	366	488	611	682

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alger	308	353	446	580	661
Antrim	308	370	446	580	661
Baraga	308	353	446	580	661
Benzie	322	353	446	599	661
Cass	308	353	448	613	661
Cheboygan	325	353	446	580	678
Clare	320	353	446	580	661
Delta	308	353	446	580	661
Emmet	346	412	488	641	682
Gogebic	308	353	446	580	661
Gratiot	322	353	446	580	661
Houghton	308	353	446	580	661
Ionia	378	384	480	597	673
Iron	308	353	446	580	661
Kalkaska	308	353	447	582	735
Lake	312	353	446	580	661
Luce	308	353	446	580	661
Manistee	308	353	446	580	661
Mason	308	353	446	580	661
Menominee	308	353	446	580	661
Montcalm	369	416	528	685	781
Newaygo	356	380	447	580	661
Ogemaw	321	354	446	580	661
Osceola	308	353	446	580	661
Otsego	316	384	483	672	777
Roscommon	341	353	446	580	661
Sanilac	308	363	446	582	661
Shiawassee	308	388	466	649	695
Wexford	308	357	462	606	717

M I N N E S O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	300	386	496	662	771	St. Louis
Fargo-Moorhead, ND-MN MSA	366	504	609	846	905	Clay
Grand Forks, ND-MN MSA	379	451	594	819	914	Polk

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	304	391	498	666	807	Houston
*Minneapolis-St. Paul, MN-WI MSA	554	713	912	1233	1397	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	349	490	641	887	996	Olmsted
St. Cloud, MN MSA	347	450	531	670	855	Benton, Stearns

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aitkin	287	372	496	622	693
Beltrami	283	363	485	636	679
Blue Earth	387	466	581	745	944
Carlton	283	346	438	548	627
Chippewa	283	346	438	548	627
Cook	335	346	450	616	641
Crow Wing	283	346	460	576	723
Douglas	283	346	438	548	627
Fillmore	283	346	438	548	627
Goodhue	327	421	560	716	785
Hubbard	289	346	438	548	627
Jackson	283	346	438	548	627
Kandiyohi	350	441	537	673	810
Koochiching	343	350	464	580	760
Lake	283	346	438	548	627
Le Sueur	283	346	438	548	676
Lyon	283	346	438	548	649
Mahnomen	283	346	438	548	627
Martin	283	346	438	548	627
Mille Lacs	370	425	541	753	887
Mower	283	346	438	548	627
Nicollet	356	379	505	670	710
Norman	283	346	438	548	627
Pennington	283	346	438	585	627
Pipestone	283	346	438	548	627
Red Lake	283	358	438	548	627
Renville	283	346	438	548	627
Rock	283	346	438	548	627
Sibley	283	346	438	548	627
Stevens	322	407	460	576	645
Todd	283	346	438	548	627
Wabasha	306	373	472	592	677
Waseca	369	405	514	645	737

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Becker	283	406	457	572	641
Big Stone	283	346	438	548	627
Brown	283	366	438	548	627
Cass	283	346	438	548	627
Clearwater	283	346	438	548	627
Cottonwood	283	346	438	548	627
Dodge	283	346	438	548	627
Faribault	283	346	438	548	627
Freeborn	283	346	446	587	629
Grant	283	346	438	548	627
Itasca	363	367	479	597	670
Kanabec	350	442	572	714	801
Kittson	283	346	438	548	627
Lac qui Parle	283	346	438	548	627
Lake of the Woods	283	346	438	548	627
Lincoln	283	346	438	548	627
Mcleod	336	434	578	718	806
Marshall	283	346	438	548	627
Meeker	337	397	503	632	722
Morrison	314	346	438	548	627
Murray	283	346	438	548	627
Nobles	283	346	438	548	627
Otter Tail	283	346	438	548	627
Pine	359	396	503	633	720
Pope	283	346	438	548	627
Redwood	283	346	438	548	627
Rice	335	459	613	763	855
Roseau	343	350	458	590	643
Steele	335	390	519	648	726
Swift	283	346	438	548	627
Traverse	[illegible]				
Wadena	283	346	438	548	627
Watonwan	283	346	438	548	627

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wilkin	283	346	438	548	627
Yellow Medicine	283	346	438	548	627
Winona	330	431	545	681	763

M I S S I S S I P P I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	423	496	571	795	938	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	319	390	478	642	765	Forrest, Lamar
Jackson, MS MSA	421	480	587	781	824	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	456	532	624	867	910	Desoto

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	264	314	391	500	636
Amite	264	314	389	500	562
Benton	264	314	389	500	562
Calhoun	264	314	389	500	562
Chickasaw	264	314	389	500	562
Claiborne	264	314	389	500	562
Clay	264	314	389	500	567
Copiah	264	314	389	500	562
Franklin	267	314	389	500	562
Greene	264	314	389	500	562
Holmes	264	314	389	500	562
Issaquena	278	382	507	634	711
Jasper	264	314	389	500	562
Jefferson Davis	264	314	389	500	562
Kemper	266	314	389	500	562
Lauderdale	264	341	429	557	602
Leake	264	314	389	500	562
Leflore	264	314	389	501	601
Lowndes	326	351	418	522	590
Marshall	264	314	389	500	570
Montgomery	264	314	389	500	562
Newton	264	314	389	500	562
Oktibbeha	324	338	412	573	677
Pearl River	278	314	389	502	562
Pike	268	314	389	500	562
Prentiss	267	314	389	500	562
Scott	264	314	389	500	562
Simpson	267	314	389	500	562

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcorn	264	314	389	500	562
Attala	264	314	389	500	562
Bolivar	301	314	404	505	576
Carroll	264	314	389	500	562
Choctaw	264	314	389	500	562
Clarke	264	314	389	500	562
Coahoma	308	314	414	519	580
Covington	264	314	389	500	562
George	264	314	389	500	562
Grenada	264	315	389	531	562
Humphreys	264	314	389	500	562
Itawamba	264	314	389	500	562
Jefferson	264	314	389	500	562
Jones	264	314	389	500	562
Lafayette	267	367	489	613	684
Lawrence	264	314	389	500	562
Lee	331	355	429	537	602
Lincoln	264	314	389	500	562
Marion	264	314	389	500	562
Monroe	264	314	389	500	562
Neshoba	264	314	389	500	562
Noxubee	268	314	389	500	562
Panola	274	314	389	500	562
Perry	264	314	389	500	562
Pontotoc	264	314	389	500	562
Quitman	264	314	389	500	562
Sharkey	268	314	389	500	562
Smith	264	314	389	500	562

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Stone	264	314	389	500	562
Tallahatchie	264	314	389	500	562
Tippah	264	314	389	500	562
Tunica	264	314	389	500	562
Walthall	264	314	389	500	562
Washington	286	340	454	587	647
Webster	266	314	389	500	562
Winston	264	314	389	500	562
Yazoo	268	314	389	500	562
Sunflower	292	318	389	500	597
Tate	264	357	412	517	679
Tishomingo	264	314	389	500	562
Union	264	314	389	500	562
Warren	264	345	431	596	714
Wayne	264	314	389	500	562
Wilkinson	264	314	389	500	562
Yalobusha	266	314	389	500	562

M I S S O U R I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	278	392	510	709	836	Boone
Joplin, MO MSA	271	314	417	549	590	Jasper, Newton
*Kansas City, MO-KS MSA	463	582	701	970	1075	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	261	316	422	533	592	Andrew, Buchanan
*St. Louis, MO-IL MSA	415	505	655	853	942	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	385	361	467	646	671	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	254	318	421	531	637
Audrain	272	292	377	509	589
Barton	254	292	377	489	562
Benton	286	292	390	489	562
Butler	254	292	377	489	562
Callaway	299	305	405	515	667
Cape Girardeau	262	322	428	570	699
Carter	254	292	377	489	562
Chariton	254	292	377	489	562
Cole	254	335	447	597	626
Crawford	279	335	378	498	562
Dallas	254	292	377	489	562
Dekalb	263	292	377	495	562
Douglas	254	292	377	489	562
Gasconade	254	292	377	489	562
Grundy	254	292	377	489	562
Henry	289	294	394	493	647
Holt	254	292	377	489	562
Howell	254	292	377	489	562
Atchison	254	292	377	489	562
Barry	254	303	377	489	562
Bates	254	292	377	489	572
Bollinger	254	292	377	489	562
Caldwell	254	294	397	496	562
Camden	334	338	451	627	737
Carroll	254	292	377	489	562
Cedar	254	292	377	489	562
Clark	254	292	377	489	562
Cooper	254	292	377	489	562
Dade	254	292	377	489	562
Daviess	254	292	377	489	562
Dent	254	292	377	489	562
Dunklin	254	292	377	489	562
Gentry	254	292	377	489	562
Harrison	254	292	377	489	562
Hickory	254	292	377	489	562
Howard	254	292	377	489	564
Iron	254	292	377	489	562

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	306	341	445	590	697
Laclede	254	292	377	493	562
Lewis	254	292	377	489	562
Livingston	254	292	378	489	562
Macon	274	315	404	526	603
Maries	254	292	377	489	562
Mercer	254	292	377	489	562
Mississippi	254	292	377	489	562
Monroe	254	292	377	489	562
Morgan	254	292	377	489	562
Nodaway	269	325	400	508	612
Osage	254	292	377	489	562
Pemiscot	254	292	377	489	562
Pettis	273	320	428	538	644
Pike	254	292	377	489	591
Pulaski	254	357	400	530	591
Ralls	254	292	377	489	562
Reynolds	254	292	377	489	562
St. Clair	254	292	377	489	562
St. Francois	279	351	444	557	730
Schuyler	254	292	377	489	562
Scott	306	308	412	556	640
Shelby	254	292	377	489	562
Stone	294	314	391	498	562
Taney	287	318	416	562	660
Vernon	254	292	377	501	562
Wayne	254	292	377	489	562
Wright	254	292	377	489	562

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	254	292	377	489	562
Lawrence	270	299	377	489	562
Linn	254	292	377	489	562
Mcdonald	254	292	377	489	562
Madison	254	292	377	489	562
Marion	254	292	377	489	562
Miller	279	335	377	493	582
Moniteau	254	292	377	489	562
Montgomery	270	310	398	518	594
New Madrid	254	292	377	489	562
Oregon	254	292	377	489	562
Ozark	254	292	377	489	562
Perry	308	313	418	557	586
Phelps	263	316	404	549	596
Polk	254	293	377	489	589
Putnam	254	292	377	489	562
Randolph	254	292	377	489	562
Ripley	254	292	377	489	562
Ste. Genevieve	254	303	390	498	632
Saline	254	292	388	489	562
Scotland	254	292	377	489	562
Shannon	254	292	377	489	562
Stoddard	254	292	377	489	562
Sullivan	254	292	377	489	562
Texas	254	292	377	489	562
Washington	296	360	403	504	565
Worth	254	292	377	489	562

M O N T A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	357	415	554	745	904	Yellowstone
Great Falls, MT MSA	357	413	544	708	843	Cascade
Missoula, MT MSA	357	419	557	719	914	Missoula

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M O N T A N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	321	370	489	634	741
Blaine	321	370	489	634	741
Carbon	365	427	555	723	843
Chouteau	321	370	489	634	741
Daniels	321	392	489	634	741
Deer Lodge	321	370	489	634	741
Fergus	321	370	489	634	741
Gallatin	394	461	618	793	1014
Glacier	321	370	489	634	741
Granite	321	370	489	634	741
Jefferson	338	370	489	634	741
Lake	348	370	489	634	741
Liberty	321	370	489	634	741
Mccone	321	390	489	634	741
Meagher	321	392	489	634	741
Musselshell	326	370	489	634	741
Petroleum	321	370	489	634	741
Pondera	321	391	489	634	741
Powell	326	370	489	634	741
Ravalli	321	370	489	634	741
Roosevelt	335	370	489	634	741
Sanders	321	370	489	634	741
Silver Bow	321	370	489	634	741
Sweet Grass	345	370	489	634	741
Toole	328	370	489	634	741
Valley	321	370	489	634	741
Wibaux	321	392	489	634	741

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn	321	370	489	634	741
Broadwater	321	370	489	634	790
Carter	321	392	489	634	741
Custer	321	370	489	634	741
Dawson	321	370	489	634	741
Fallon	321	370	489	634	741
Flathead	321	371	496	693	814
Garfield	321	370	489	634	741
Golden Valley	321	391	489	634	741
Hill	331	370	489	634	741
Judith Basin	321	392	489	634	741
Lewis and Clark	357	417	554	770	913
Lincoln	348	370	489	634	741
Madison	328	370	489	634	741
Mineral	321	370	489	634	757
Park	321	370	489	634	750
Phillips	321	370	489	634	741
Powder River	321	375	489	634	741
Prairie	321	370	489	634	741
Richland	321	400	489	634	741
Rosebud	321	370	489	634	741
Sheridan	330	370	489	634	741
Stillwater	328	370	489	634	741
Teton	321	370	489	634	741
Treasure	321	370	489	634	741
Wheatland	321	370	489	634	741

N E B R A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	334	427	564	748	874	Lancaster
Omaha, NE-IA MSA	359	492	621	814	914	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	365	439	547	682	779	Dakota

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEBRASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	264	354	467	586	701
Arthur	253	326	416	532	605
Blaine	253	326	416	532	605
Box Butte	275	326	416	533	629
Brown	253	326	416	532	617
Burt	253	326	416	532	605
Cedar	253	326	416	532	605
Cherry	253	343	416	535	630
Clay	253	326	416	532	605
Cuming	253	344	416	532	605
Dawes	271	326	416	536	633
Deuel	253	326	416	532	605
Dodge	253	326	429	565	605
Fillmore	253	326	416	532	605
Frontier	284	326	416	532	605
Gage	253	327	424	539	605
Garfield	253	326	416	532	605
Grant	253	326	416	532	605
Hall	304	400	533	701	786
Harlan	253	326	416	533	605
Hitchcock	253	326	416	532	605
Hooker	253	341	416	533	605
Jefferson	253	326	416	532	605
Kearney	253	326	416	532	633
Keya Paha	253	326	416	532	605
Knox	253	338	416	532	605
Logan	253	326	416	532	634
Mcpherson	253	326	416	533	605
Merrick	253	326	416	532	605
Nance	253	326	416	532	605
Nuckolls	253	326	416	532	605
Pawnee	253	326	416	536	605
Phelps	283	326	416	533	633
Platte	253	326	416	580	605
Red Willow	253	326	416	532	615
Rock	253	333	416	532	605
Saunders	253	326	416	532	605
Seward	314	326	425	532	605
Sherman	253	328	416	532	634
Stanton	253	326	416	532	605

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Antelope	253	343	416	535	605
Banner	253	326	416	533	605
Boone	253	326	416	532	630
Boyd	253	340	416	532	605
Buffalo	273	395	495	617	747
Butler	253	326	416	532	605
Chase	253	344	416	532	635
Cheyenne	283	326	416	532	605
Colfax	276	339	416	532	605
Custer	283	328	416	532	629
Dawson	278	339	416	536	605
Dixon	282	326	416	532	605
Dundy	253	326	416	532	605
Franklin	253	326	416	537	605
Furnas	253	326	416	532	630
Garden	253	339	416	535	633
Gosper	253	326	416	532	612
Greeley	253	326	416	532	615
Hamilton	253	326	416	536	605
Hayes	253	341	416	532	630
Holt	253	326	416	532	605
Howard	253	326	416	532	605
Johnson	253	330	416	532	605
Keith	253	326	416	532	605
Kimball	253	326	416	533	633
Lincoln	259	339	416	532	605
Loup	253	326	416	532	632
Madison	259	341	451	584	712
Morrill	253	328	416	532	630
Nemaha	253	326	416	532	605
Otoe	253	326	416	532	634
Perkins	253	326	416	532	605
Pierce	253	326	416	532	605
Polk	253	326	416	532	605
Richardson	253	326	416	532	605
Saline	253	340	416	532	605
Scotts Bluff	257	338	429	532	630
Sheridan	253	326	416	532	606
Sioux	253	326	416	532	633
Thayer	253	343	416	532	605

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEBRASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Thomas	253	326	416	532	605
Valley	253	326	416	532	605
Webster	253	326	416	532	605
York	253	326	421	532	605

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Thurston	253	326	416	532	605
Wayne	289	326	416	532	630
Wheeler	253	326	416	533	605

NEVADA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Las Vegas, NV-AZ MSA	585	694	827	1150	1359	Clark, Nye
Reno, NV MSA	537	622	800	1114	1317	Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill	476	484	646	890	1057
Elko	432	495	659	870	1083
Eureka	351	573	645	803	898
Lander	355	549	645	806	1056
Lyon	419	502	645	897	1057
Pershing	488	495	659	824	943
White Pine	352	485	645	870	914

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Douglas	427	623	782	1086	1207
Esmeralda	459	573	645	804	901
Humboldt	516	542	653	857	915
Lincoln	352	529	645	807	903
Mineral	357	487	648	850	1063
Storey	495	501	659	917	1083
Carson City	370	506	677	941	1110

NEW HAMPSHIRE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	953	1074	1343	1680	1972	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	579	700	881	1100	1353	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	588	759	917	1149	1285	Hillsborough county towns of Pelham town
Manchester, NH PMSA	473	675	842	1053	1180	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	557	777	963	1310	1558	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	573	686	882	1132	1388	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW HAMPSHIRE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town
						Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city
NONMETROPOLITAN COUNTIES	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**Towns within non metropolitan counties**
Belknap	467	540	710	960	1166	
Carroll	390	535	714	895	1115	
Cheshire	485	575	736	959	1136	
Coos	335	409	524	684	809	
Grafton	431	520	692	895	1130	
Hillsborough	459	573	764	1010	1216	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	482	577	719	922	1028	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	501	586	785	1089	1256	Deerfield town, Northwood town, Nottingham town
Strafford	443	602	803	1006	1127	Middleton town, New Durham town, Strafford town
Sullivan	466	473	615	808	862	

NEW JERSEY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	548	624	830	1039	1188	Atlantic, Cape May
*Bergen-Passaic, NJ PMSA	763	930	1090	1452	1791	Bergen, Passaic
Jersey City, NJ PMSA	742	876	1020	1297	1427	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	760	832	1038	1410	1629	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	642	769	976	1297	1521	Monmouth, Ocean
*Newark, NJ PMSA	616	788	949	1195	1509	Essex, Morris, Sussex, Union, Warren
*Philadelphia, PA-NJ PMSA	573	704	871	1089	1366	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	551	768	936	1268	1531	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	529	644	776	968	1089	Cumberland

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW MEXICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Albuquerque, NM MSA	450	537	671	925	1092	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	314	395	469	643	758	Dona Ana
Santa Fe, NM MSA	455	644	795	1068	1210	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron	292	340	422	568	641
Cibola	303	331	422	568	641
Curry	292	338	442	568	641
Eddy	299	330	422	568	660
Guadalupe	292	330	422	568	645
Hidalgo	292	330	422	568	641
Lincoln	330	338	446	587	735
Mckinley	292	365	465	579	650
Otero	292	330	422	588	641
Rio Arriba	340	348	428	568	641
San Juan	329	352	439	610	723
Sierra	292	330	422	568	641
Taos	500	506	675	844	1111
Union	292	355	422	568	641

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Chaves	292	331	436	601	641
Colfax	292	338	422	568	641
Debaca	292	331	422	568	641
Grant	345	393	503	675	762
Harding	292	330	422	568	641
Lea	292	330	422	568	641
Luna	320	352	451	605	683
Mora	292	330	422	568	641
Quay	292	421	474	594	664
Roosevelt	292	330	422	568	641
San Miguel	322	330	435	568	641
Socorro	292	330	422	568	658
Torrance	319	345	422	568	641

NEW YORK

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	418	515	633	794	887	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	375	421	526	667	749	Broome, Tioga
*Buffalo-Niagara Falls, NY PMSA	436	516	623	777	872	Erie, Niagara
Dutchess County, NY PMSA	646	819	1014	1317	1539	Dutchess
Elmira, NY MSA	375	421	517	655	780	Chemung
Glens Falls, NY MSA	375	488	595	745	833	Warren, Washington
Jamestown, NY MSA	375	421	507	655	749	Chautauqua
Nassau-Suffolk, NY PMSA	868	1045	1275	1775	1902	Nassau, Suffolk
New York, NY PMSA	815	907	1031	1289	1445	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	782	1020	1242	1613	1926	Westchester
Newburgh, NY-PA PMSA	518	671	823	1043	1190	Orange
Rochester, NY MSA	404	526	638	819	894	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	402	484	599	765	848	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	375	421	507	655	749	Herkimer, Oneida

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW YORK continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany	375	421	507	655	749
Chenango	400	421	507	655	749
Columbia	469	493	633	828	886
Delaware	375	421	507	655	805
Franklin	375	421	507	655	749
Greene	375	487	584	753	919
Jefferson	404	476	560	701	786
Otsego	375	444	511	659	838
Schuyler	406	433	514	715	843
Steuben	389	442	507	662	749
Tompkins	490	527	677	946	1114
Wyoming	375	421	507	655	749

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	375	421	507	655	749
Clinton	375	421	546	682	764
Cortland	375	448	561	701	830
Essex	375	427	536	671	749
Fulton	375	421	507	655	749
Hamilton	375	451	519	655	749
Lewis	375	421	507	655	749
St. Lawrence	375	421	507	655	749
Seneca	401	431	520	672	749
Sullivan	487	546	665	919	932
Ulster	460	641	770	1003	1262
Yates	375	421	507	655	749

NORTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	368	445	580	756	816	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	547	617	695	917	1097	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	403	458	513	711	845	Cumberland
Goldsboro, NC MSA	366	422	511	659	771	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	437	498	593	818	831	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	453	459	595	802	981	Pitt
Hickory-Morganton, NC MSA	417	454	527	665	787	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	377	439	497	689	815	Onslow
*Norfolk-Virginia Beach-Newport News, VA-NC MSA	558	628	743	1037	1218	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	559	678	796	1069	1260	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	352	381	462	613	676	Edgecombe, Nash
Wilmington, NC MSA	484	530	649	888	1060	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	312	365	436	562	665
Ashe	312	359	436	562	637
Beaufort	312	359	436	562	637
Bladen	312	359	436	562	637
Carteret	352	387	471	655	739
Cherokee	312	359	436	562	637
Clay	312	359	436	562	637
Columbus	312	359	436	562	637
Dare	323	512	590	809	827
Gates	312	359	436	562	637

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anson	312	359	436	562	637
Avery	347	392	477	598	667
Bertie	312	359	436	562	637
Camden	312	398	531	663	744
Caswell	312	359	436	562	637
Chowan	312	359	436	562	637
Cleveland	397	465	556	736	813
Craven	312	390	468	614	657
Duplin	312	359	436	562	637
Graham	312	359	436	562	637

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Granville	329	359	436	577	654
Halifax	312	359	436	562	637
Haywood	324	369	449	603	656
Hertford	312	359	436	562	637
Hyde	312	359	436	562	637
Jackson	383	442	537	751	981
Lee	312	398	471	610	661
Mcdowell	312	380	455	622	737
Martin	312	359	436	562	637
Montgomery	312	359	436	562	637
Northampton	312	359	436	562	637
Pasquotank	359	385	479	665	672
Perquimans	312	359	436	562	637
Polk	404	513	574	729	828
Robeson	312	367	436	562	637
Rutherford	386	440	535	689	782
Scotland	312	359	436	562	637
Surry	312	359	436	562	637
Transylvania	360	386	488	647	690
Vance	330	373	436	562	637
Washington	312	359	436	562	637
Wilkes	353	399	449	621	697
Yancey	312	366	436	562	658

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Greene	312	359	436	562	637
Harnett	351	406	493	637	720
Henderson	403	415	513	682	786
Hoke	312	359	436	562	637
Iredell	421	431	568	711	794
Jones	312	359	436	562	637
Lenoir	312	359	436	562	637
Macon	312	372	436	562	637
Mitchell	312	407	467	638	667
Moore	358	432	516	706	846
Pamlico	312	359	436	562	637
Pender	376	455	525	678	828
Person	312	359	467	610	715
Richmond	312	359	436	562	637
Rockingham	312	359	436	562	637
Sampson	312	359	436	562	637
Stanly	312	359	443	598	637
Swain	312	359	436	562	637
Tyrrell	312	359	436	562	637
Warren	312	359	436	562	637
Watauga	406	488	617	839	1012
Wilson	325	359	442	562	637

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	374	418	556	775	918	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	366	504	609	846	905	Cass
Grand Forks, ND-MN MSA	379	451	594	819	914	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	246	309	399	518	605
Benson	280	309	399	518	605
Bottineau	246	309	399	518	605
Burke	267	309	399	518	605
Dickey	267	309	399	518	605
Dunn	246	309	399	518	605
Emmons	246	309	399	518	605
Golden Valley	246	318	421	527	605

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barnes	246	311	412	539	605
Billings	267	309	399	518	605
Bowman	246	309	399	518	605
Cavalier	246	319	423	528	652
Divide	246	309	399	518	605
Eddy	246	309	399	518	605
Foster	246	309	401	518	605
Grant	246	309	399	518	605

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Griggs	246	309	399	518	605
Kidder	246	309	399	518	605
Logan	246	309	399	518	605
Mcintosh	246	309	399	518	605
Mclean	261	309	399	518	605
Mountrail	272	309	399	518	605
Oliver	246	309	399	518	605
Pierce	246	309	399	534	605
Ransom	252	309	399	518	605
Richland	259	309	407	518	605
Sargent	246	309	399	518	605
Sioux	246	309	399	518	605
Stark	246	309	399	518	605
Stutsman	294	309	403	561	662
Traill	259	330	399	518	605
Ward	246	339	452	611	728
Williams	246	309	399	518	605
Hettinger	246	309	399	518	605
Lamoure	267	309	399	518	605
Mchenry	246	309	399	518	605
Mckenzie	246	309	399	518	605
Mercer	246	309	399	518	605
Nelson	246	309	399	518	605
Pembina	246	309	399	526	625
Ramsey	254	339	452	567	739
Renville	285	309	399	521	617
Rolette	266	340	410	518	605
Sheridan	246	309	399	518	605
Slope	246	309	399	518	605
Steele	246	309	399	518	605
Towner	282	318	421	527	695
Walsh	329	350	435	545	610
Wells	262	309	399	518	605

OHIO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	422	511	656	821	920	Portage, Summit
Brown County, OH	322	379	472	612	675	Brown
Canton-Massillon, OH MSA	307	399	509	637	716	Carroll, Stark
Cincinnati, OH-KY-IN	386	495	662	887	958	Clermont, Hamilton, Warren
*Cleveland-Lorain-Elyria, OH PMSA	481	603	748	951	1070	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	419	496	636	808	929	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	410	459	585	755	848	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	350	497	638	798	892	Butler
Huntington-Ashland, WV-KY-OH MSA	325	381	469	598	659	Lawrence
Lima, OH MSA	307	368	483	617	676	Allen, Auglaize
Mansfield, OH MSA	307	368	468	584	654	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	327	392	449	582	631	Washington
Steubenville-Weirton, OH-WV MSA	307	361	454	578	645	Jefferson
Toledo, OH MSA	384	467	570	734	797	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	335	367	454	578	645	Belmont
Youngstown-Warren, OH MSA	359	424	531	667	759	Columbiana, Mahoning, Trumbull

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

OHIO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	297	353	439	559	627
Athens	410	463	544	714	875
Clinton	339	435	522	727	733
Darke	326	353	442	559	627
Erie	297	396	494	666	808
Gallia	297	353	439	559	627
Hancock	376	380	482	616	674
Harrison	297	353	439	559	627
Highland	297	353	439	559	627
Holmes	297	353	439	559	627
Jackson	297	353	439	559	627
Logan	349	354	456	614	639
Meigs	297	353	439	559	627
Monroe	297	353	439	559	627
Morrow	297	353	439	559	627
Noble	297	353	439	559	636
Paulding	297	353	439	559	627
Pike	312	371	461	590	659
Putnam	307	353	439	559	627
Sandusky	297	386	494	623	688
Seneca	298	353	439	565	627
Tuscarawas	297	353	460	576	645
Van Wert	297	357	439	559	627
Wayne	297	393	483	614	676
Wyandot	297	353	439	559	627
Ashland	297	353	463	579	648
Champaign	297	362	470	587	658
Coshocton	297	353	439	559	627
Defiance	353	401	529	666	739
Fayette	322	353	439	559	627
Guernsey	297	353	439	559	627
Hardin	297	353	439	559	627
Henry	342	378	472	611	693
Hocking	297	353	439	559	627
Huron	344	374	466	616	655
Knox	350	385	493	637	704
Marion	297	353	439	559	627
Mercer	297	353	439	559	645
Morgan	297	358	439	559	627
Muskingum	297	353	439	559	627
Ottawa	297	439	504	686	733
Perry	297	353	439	559	627
Preble	304	361	449	576	643
Ross	344	359	439	559	627
Scioto	297	353	439	559	627
Shelby	297	362	483	603	676
Union	297	410	542	678	784
Vinton	297	353	439	559	627
Williams	329	368	459	586	656

OKLAHOMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	318	323	428	595	681	Garfield
Fort Smith, AR-OK MSA	358	362	477	637	669	Sequoyah
Lawton, OK MSA	394	396	504	700	767	Comanche
*Oklahoma City, OK MSA	412	448	581	807	903	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
*Tulsa, OK MSA	380	454	593	826	975	Creek, Osage, Rogers, Tulsa, Wagoner

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	266	305	381	506	580
Atoka	266	305	381	506	580
Beckham	270	305	381	506	580
Bryan	266	305	381	506	580
Carter	266	307	384	534	580
Choctaw	266	305	381	506	580
Coal	266	305	381	506	580
Craig	266	305	381	519	614
Delaware	266	305	381	506	590
Ellis	266	305	381	506	580
Grady	292	305	394	536	648
Greer	266	305	381	506	580
Harper	266	305	381	506	580
Hughes	266	305	381	506	580
Jefferson	266	305	381	506	580
Kay	295	311	410	571	668
Kiowa	266	305	381	506	580
Le Flore	266	305	381	506	580
Love	266	305	385	506	580
Mcintosh	266	305	381	506	580
Marshall	266	305	381	506	580
Murray	266	305	381	506	580
Noble	266	305	381	506	580
Okfuskee	266	305	381	506	580
Ottawa	285	305	381	506	580
Payne	359	424	543	750	841
Pontotoc	266	305	381	506	580
Roger Mills	266	305	381	506	580
Stephens	270	305	381	506	604
Tillman	266	305	381	506	580
Washita	266	305	381	506	580
Woodward	266	305	381	506	580

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	266	305	381	506	580
Beaver	266	309	381	506	580
Blaine	266	305	381	506	580
Caddo	266	305	381	506	580
Cherokee	278	314	381	506	588
Cimarron	266	305	381	506	580
Cotton	266	305	381	506	580
Custer	266	305	390	543	626
Dewey	266	305	381	506	580
Garvin	266	305	381	506	584
Grant	266	305	381	506	580
Harmon	266	305	381	506	580
Haskell	266	305	381	506	580
Jackson	266	345	420	552	623
Johnston	266	305	381	506	580
Kingfisher	266	313	389	510	580
Latimer	266	305	381	506	580
Lincoln	284	305	381	506	580
Mccurtain	266	305	381	506	580
Major	266	319	381	528	580
Mayes	266	309	412	519	580
Muskogee	287	323	381	526	580
Nowata	266	305	381	506	580
Okmulgee	270	305	381	506	580
Pawnee	300	305	394	507	580
Pittsburg	266	305	381	506	580
Pushmataha	266	305	381	506	580
Seminole	266	305	381	506	580
Texas	266	315	381	507	580
Washington	266	364	443	588	688
Woods	266	305	381	506	580

O R E G O N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Corvallis, OR MSA	422	548	695	1045	1109	Benton
Eugene-Springfield, OR MSA	359	492	641	894	1033	Lane
Medford-Ashland, OR MSA	368	482	645	897	999	Jackson

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O R E G O N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Portland-Vancouver, OR-WA PMSA	508	625	771	1073	1164	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	431	508	650	895	938	Marion, Polk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	331	392	509	701	781
Coos	331	404	537	748	781
Curry	331	450	598	766	942
Douglas	331	392	509	701	834
Grant	331	392	509	701	781
Hood River	389	438	595	774	916
Josephine	331	402	517	701	817
Lake	331	392	509	701	781
Linn	398	473	612	843	940
Morrow	331	392	509	701	781
Tillamook	331	392	509	701	781
Union	331	392	509	701	781
Wasco	403	500	559	761	856

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clatsop	382	452	593	809	909
Crook	331	392	509	701	781
Deschutes	409	471	629	877	1015
Gilliam	331	418	509	701	781
Harney	331	392	509	701	781
Jefferson	331	392	509	701	781
Klamath	331	392	509	701	829
Lincoln	402	408	544	757	823
Malheur	331	392	509	701	781
Sherman	331	392	509	701	781
Umatilla	331	392	509	701	781
Wallowa	331	392	509	701	781
Wheeler	331	392	509	701	781

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	398	541	643	838	940	Carbon, Lehigh, Northampton
Altoona, PA MSA	304	387	463	604	676	Blair
Erie, PA MSA	308	402	474	612	684	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	366	468	600	757	844	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	308	392	471	612	684	Cambria, Somerset
Lancaster, PA MSA	406	497	620	809	870	Lancaster
Newburgh, NY-PA PMSA	518	671	823	1043	1190	Pike
*Philadelphia, PA-NJ PMSA	573	704	871	1089	1366	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	413	505	608	762	851	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	321	474	585	730	823	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	326	456	546	681	823	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	338	392	471	612	684	Mercer
State College, PA MSA	443	543	672	880	941	Centre
Williamsport, PA MSA	308	394	474	612	684	Lycoming
York, PA MSA	344	471	585	729	816	York

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

PENNSYLVANIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	304	409	542	703	889
Bedford	304	387	462	604	674
Cameron	304	387	462	604	674
Clearfield	304	387	462	604	674
Crawford	304	387	462	604	674
Forest	304	387	462	604	674
Fulton	304	387	462	604	674
Huntingdon	304	387	462	604	674
Jefferson	304	387	462	604	674
Lawrence	304	387	462	604	674
Mifflin	338	387	462	604	674
Montour	359	387	486	674	797
Potter	304	387	462	604	674
Snyder	365	387	463	604	674
Susquehanna	363	387	462	604	717
Union	366	487	609	761	850
Warren	304	387	462	604	674

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Armstrong	308	408	462	604	759
Bradford	308	391	476	623	683
Clarion	304	387	462	604	674
Clinton	304	387	462	604	674
Elk	304	387	462	604	674
Franklin	304	387	469	646	674
Greene	304	387	462	604	674
Indiana	348	389	462	604	674
Juniata	304	387	462	604	674
Mc Kean	304	389	462	604	674
Monroe	486	580	716	977	1092
Northumberland	320	406	496	658	733
Schuylkill	304	387	481	604	674
Sullivan	304	387	462	604	674
Tioga	304	387	462	604	674
Venango	304	387	462	604	674
Wayne	305	471	555	707	909

RHODE ISLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	532	643	784	980	1121	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA MSA	407	555	667	837	1032	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

RHODE ISLAND continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	605	705	905	1133	1268	Middletown town, Newport city, Portsmouth town
Washington	715	805	904	1166	1284	New Shoreham town

SOUTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	410	491	578	785	928	Aiken, Edgefield
Charleston-North Charleston, SC MSA	432	502	576	765	892	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	547	617	695	917	1097	York
Columbia, SC MSA	463	510	586	776	892	Lexington, Richland
Florence, SC MSA	351	390	507	633	710	Florence
Greenville-Spartanburg-Anderson, SC MSA	417	504	569	716	843	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	455	462	592	741	829	Horry
Sumter, SC MSA	371	412	466	638	758	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville	307	357	434	558	637
Bamberg	307	357	434	558	637
Beaufort	437	537	618	771	864
Chester	307	357	434	558	637
Clarendon	307	357	434	558	637
Darlington	307	357	434	558	637
Fairfield	307	410	467	582	654
Greenwood	308	357	434	558	637
Jasper	307	357	434	558	637
Lancaster	321	358	434	558	637
Lee	307	357	434	558	637
Marion	307	357	434	558	637
Newberry	307	357	434	558	637
Orangeburg	307	357	434	558	637
Union	307	357	434	558	637

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allendale	307	357	434	558	637
Barnwell	322	357	436	558	637
Calhoun	307	357	434	558	637
Chesterfield	307	357	434	558	637
Colleton	307	357	434	558	637
Dillon	307	357	434	558	637
Georgetown	307	390	437	558	664
Hampton	307	357	434	558	637
Kershaw	307	357	434	558	637
Laurens	307	357	434	558	637
Mccormick	307	357	434	558	679
Marlboro	307	357	434	558	637
Oconee	307	357	434	558	637
Saluda	307	357	434	558	637
Williamsburg	307	357	434	558	637

SOUTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	386	460	612	832	1008	Pennington
Sioux Falls, SD MSA	374	516	655	828	952	Lincoln, Minnehaha

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora	273	366	455	602	698
Bennett	273	363	455	602	698
Brookings	292	464	514	696	820
Brule	273	363	455	602	698
Butte	316	429	572	747	880
Charles Mix	273	363	455	602	698
Clay	304	403	506	671	832
Corson	273	363	455	602	698
Davison	305	386	486	650	743
Deuel	273	363	455	602	698
Douglas	303	363	455	602	698
Fall River	311	363	455	602	698
Grant	273	363	455	602	698
Haakon	273	371	455	602	698
Hand	273	363	455	602	698
Harding	273	371	455	602	698
Hutchinson	273	363	455	602	698
Jackson	273	368	455	602	698
Jones	273	363	455	602	698
Lake	273	368	455	602	698
Lyman	273	363	455	602	698
Mcpherson	273	363	455	602	698
Meade	384	433	578	756	892
Miner	273	368	455	602	698
Perkins	273	363	455	602	698
Roberts	273	363	455	602	698
Shannon	273	368	455	602	698
Stanley	273	371	455	602	698
Todd	301	363	455	602	698
Turner	273	363	455	602	698
Walworth	273	371	455	602	698
Ziebach	273	363	455	602	698

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beadle	273	363	455	602	698
Bon Homme	303	363	455	602	698
Brown	301	399	501	663	767
Buffalo	273	363	455	602	704
Campbell	273	363	455	602	698
Clark	273	363	455	602	698
Codington	315	417	525	695	803
Custer	273	363	455	602	698
Day	305	363	455	602	698
Dewey	273	363	455	602	698
Edmunds	273	363	455	602	698
Faulk	273	363	479	602	698
Gregory	275	363	455	602	698
Hamlin	273	363	455	602	698
Hanson	278	380	505	635	711
Hughes	310	375	497	654	775
Hyde	273	369	455	602	698
Jerauld	273	366	455	602	698
Kingsbury	297	363	455	602	698
Lawrence	313	451	568	777	879
Mccook	273	363	455	602	698
Marshall	323	363	455	602	698
Mellette	326	368	455	602	698
Moody	273	363	455	602	698
Potter	273	363	455	602	698
Sanborn	273	363	455	602	698
Spink	296	363	463	602	698
Sully	273	363	455	602	698
Tripp	273	363	455	602	698
Union	287	363	455	602	698
Yankton	273	363	455	602	698

T E N N E S S E E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	392	458	550	711	811	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	364	407	479	652	671	Montgomery
Jackson, TN MSA	282	372	499	690	694	Madison, Chester

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	327	390	484	627	743	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	327	402	505	674	809	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	456	532	624	867	910	Fayette, Shelby, Tipton
Nashville, TN MSA	458	548	676	921	1033	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford	254	326	399	503	559
Bledsoe	254	297	375	494	553
Campbell	256	297	375	494	553
Carroll	254	309	375	494	553
Clay	258	297	375	494	553
Coffee	254	353	398	553	630
Cumberland	267	297	390	543	553
Dekalb	254	297	375	494	553
Fentress	254	297	375	494	553
Gibson	254	297	375	494	553
Grainger	258	297	375	494	553
Grundy	254	297	375	494	553
Hancock	254	297	375	494	553
Hardin	254	297	375	494	553
Henderson	254	297	375	494	553
Hickman	300	304	403	532	564
Humphreys	254	310	375	494	553
Jefferson	277	297	386	494	613
Lake	254	297	375	494	553
Lawrence	254	297	375	494	553
Lincoln	254	297	380	494	553
Mcnairy	254	297	375	494	553
Marshall	298	325	424	536	596
Meigs	254	297	375	494	553
Moore	254	297	375	494	553
Obion	294	298	382	506	553
Perry	254	300	375	494	553
Polk	254	297	375	494	553
Rhea	254	317	375	500	553
Scott	254	297	375	494	553
Smith	254	297	375	494	553
Trousdale	254	312	414	519	680
Warren	282	297	385	494	553

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Benton	274	312	375	494	553
Bradley	254	320	427	577	703
Cannon	254	297	375	494	553
Claiborne	254	297	375	494	553
Cocke	254	297	375	494	553
Crockett	254	297	375	494	553
Decatur	254	297	375	494	553
Dyer	317	321	428	536	667
Franklin	265	297	375	516	607
Giles	254	323	400	501	560
Greene	254	297	375	494	553
Hamblen	254	298	392	520	553
Hardeman	254	297	375	494	553
Haywood	266	310	412	516	577
Henry	254	297	375	494	553
Houston	254	297	375	494	553
Jackson	254	297	375	494	553
Johnson	254	297	375	494	553
Lauderdale	254	297	379	494	553
Lewis	254	297	375	494	553
Mcminn	254	297	375	496	553
Macon	254	297	375	494	553
Maury	364	371	494	619	689
Monroe	254	297	375	494	553
Morgan	254	297	375	494	553
Overton	254	297	375	494	553
Pickett	254	297	375	494	553
Putnam	309	312	400	550	592
Roane	274	297	375	505	607
Sequatchie	254	297	375	494	553
Stewart	254	297	375	494	553
Van Buren	254	297	375	494	553
Wayne	254	297	375	494	553

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Weakley	275	297	375	494	553
White	258	297	375	494	553

T E X A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	359	399	515	695	845	Taylor
Amarillo, TX MSA	304	384	477	665	784	Potter, Randall
*Austin-San Marcos, TX MSA	565	684	911	1265	1496	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	346	419	510	675	714	Hardin, Jefferson, Orange
Brazoria, TX PMSA	519	578	722	1006	1183	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	318	401	501	628	784	Cameron
Bryan-College Station, TX MSA	404	470	594	829	978	Brazos
Corpus Christi, TX MSA	379	465	593	808	955	Nueces, San Patricio
*Dallas, TX	575	662	850	1176	1391	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	427	479	567	785	931	El Paso
*Fort Worth-Arlington, TX PMSA	525	572	741	1035	1219	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	510	524	656	912	1077	Galveston
Henderson County, TX	314	374	457	622	747	Henderson
*Houston, TX PMSA	514	578	747	1042	1227	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	426	444	561	781	858	Bell, Coryell
Laredo, TX MSA	345	397	521	652	734	Webb
Longview-Marshall, TX MSA	342	386	472	644	703	Gregg, Harrison, Upshur
Lubbock, TX MSA	327	415	538	747	828	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	296	393	450	561	631	Hidalgo
Odessa-Midland, TX MSA	327	378	504	701	813	Ector, Midland
San Angelo, TX MSA	304	388	470	645	761	Tom Green
*San Antonio, TX MSA	424	489	633	880	1041	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	304	416	501	640	766	Grayson
Texarkana, TX-Texarkana, AR MSA	330	403	493	650	690	Bowie
Tyler, TX MSA	380	420	512	709	751	Smith
Victoria, TX MSA	376	380	480	666	751	Victoria
Waco, TX MSA	330	404	533	708	746	Mclennan
Wichita Falls, TX MSA	364	406	491	653	770	Archer, Wichita

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	355	400	448	624	630
Angelina	322	375	421	584	689
Armstrong	296	341	446	559	630
Austin	296	341	412	565	630
Bandera	316	341	412	559	630
Bee	296	341	412	552	630
Borden	296	341	412	552	630
Brewster	296	341	412	556	666
Brooks	296	341	412	552	630
Burleson	296	341	432	584	712
Calhoun	315	341	412	570	673
Camp	400	405	506	633	708
Cass	296	341	412	552	630
Cherokee	330	342	419	552	630
Clay	296	348	412	552	643
Coke	296	341	412	552	630
Collingsworth	296	341	412	552	630
Comanche	296	341	412	552	630
Cooke	320	341	433	588	654
Crane	296	341	412	552	630
Crosby	296	341	412	552	630
Dallam	296	341	412	552	630
Deaf Smith	296	341	412	552	641
Dewitt	296	341	412	552	630
Dimmit	296	341	412	552	630
Duval	296	341	412	552	630
Edwards	296	341	412	552	630
Falls	296	341	412	552	630
Fayette	296	341	412	552	630
Floyd	296	341	412	552	630
Franklin	296	341	412	570	630
Frio	296	341	412	552	630
Garza	296	341	412	552	630
Glasscock	296	341	412	552	630
Gonzales	296	341	412	552	630
Grimes	296	341	412	556	657
Hall	296	341	412	552	630
Hansford	296	341	412	552	648
Hartley	296	341	412	552	630
Hemphill	296	381	425	594	630

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Andrews	296	341	412	552	630
Aransas	296	363	485	673	679
Atascosa	296	341	412	552	630
Bailey	296	341	412	552	630
Baylor	296	341	412	552	630
Blanco	296	341	435	607	640
Bosque	296	341	412	552	630
Briscoe	296	341	412	552	630
Brown	296	341	413	554	678
Burnet	376	434	534	742	868
Callahan	296	341	412	552	630
Carson	296	341	412	552	630
Castro	298	341	412	552	630
Childress	296	341	412	552	630
Cochran	296	341	412	552	630
Coleman	296	341	412	552	630
Colorado	296	341	412	552	630
Concho	296	341	412	552	630
Cottle	296	341	412	552	630
Crockett	296	341	412	552	630
Culberson	296	341	412	552	630
Dawson	296	341	412	552	630
Delta	296	354	412	552	630
Dickens	296	341	412	552	630
Donley	296	341	412	552	630
Eastland	296	341	412	552	630
Erath	306	347	448	580	630
Fannin	300	341	412	554	630
Fisher	296	341	412	552	630
Foard	296	341	412	552	630
Freestone	296	341	412	552	630
Gaines	302	341	412	552	630
Gillespie	296	373	481	663	676
Goliad	296	341	412	552	630
Gray	323	341	438	552	652
Hale	296	341	412	552	630
Hamilton	296	341	412	552	630
Hardeman	296	341	412	552	630
Haskell	296	341	412	552	630
Hill	296	341	412	552	630

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hockley	302	352	412	557	630
Houston	296	341	412	552	630
Hudspeth	356	402	448	563	739
Irion	296	341	412	552	630
Jackson	296	342	412	552	630
Jeff Davis	296	341	412	552	630
Jim Wells	296	341	412	552	639
Karnes	296	341	412	552	630
Kenedy	296	341	412	552	630
Kerr	296	383	477	665	785
King	296	341	412	552	630
Kleberg	359	373	453	633	745
Lamar	296	366	431	603	712
Lampasas	296	341	412	559	661
Lavaca	296	341	412	552	630
Leon	296	380	424	552	699
Lipscomb	296	341	412	552	630
Llano	296	381	506	634	832
Lynn	296	341	412	552	630
Mcmullen	296	341	412	552	630
Marion	296	341	412	552	654
Mason	296	341	412	552	630
Maverick	296	341	412	552	630
Menard	296	341	412	552	630
Mills	296	341	412	552	630
Montague	296	341	412	552	630
Morris	296	341	412	552	630
Nacogdoches	311	377	488	609	720
Newton	296	341	412	552	630
Ochiltree	296	341	412	552	630
Palo Pinto	296	341	412	552	656
Parmer	296	341	412	552	630
Polk	330	360	419	565	685
Rains	296	383	463	642	648
Real	296	341	412	552	630
Reeves	296	341	412	552	630
Roberts	296	345	412	552	630
Runnels	296	341	412	552	630
Sabine	296	341	412	552	630
San Jacinto	309	349	412	552	645

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hopkins	345	371	435	607	654
Howard	314	341	412	556	630
Hutchinson	296	341	425	594	701
Jack	296	341	412	552	630
Jasper	296	341	420	559	687
Jim Hogg	296	341	412	552	630
Jones	296	341	412	552	630
Kendall	296	431	485	673	797
Kent	296	341	412	552	630
Kimble	296	341	448	562	630
Kinney	296	341	412	552	630
Knox	296	341	412	552	630
Lamb	296	341	412	552	630
La Salle	296	341	412	552	630
Lee	335	377	422	589	662
Limestone	296	341	412	552	630
Live Oak	296	341	412	552	630
Loving	296	341	412	552	630
Mcculloch	304	341	412	552	630
Madison	296	351	412	552	650
Martin	296	341	412	552	630
Matagorda	341	374	463	642	648
Medina	296	341	412	552	630
Milam	296	341	412	552	630
Mitchell	296	341	412	552	630
Moore	296	347	412	552	641
Motley	296	341	412	552	630
Navarro	354	373	447	568	630
Nolan	304	341	412	552	630
Oldham	296	341	446	559	655
Panola	296	348	412	552	630
Pecos	296	341	412	556	657
Presidio	296	341	412	552	630
Reagan	377	383	508	639	835
Red River	296	381	425	552	630
Refugio	296	341	412	552	630
Robertson	296	391	436	552	630
Rusk	308	341	412	552	630
San Augustine	296	341	412	552	630
San Saba	296	341	412	552	630

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Schleicher	296	341	412	552	630
Shackelford	296	341	412	552	630
Sherman	296	341	412	552	630
Starr	296	341	412	552	630
Sterling	296	341	412	552	630
Sutton	296	341	412	552	630
Terrell	296	341	412	552	630
Throckmorton	296	341	412	552	630
Trinity	307	347	412	552	630
Upton	296	341	412	552	630
Val Verde	296	392	462	576	680
Walker	398	423	518	688	726
Washington	366	375	500	624	820
Wheeler	296	341	412	552	630
Willacy	296	341	412	552	630
Wise	296	345	414	577	630
Yoakum	296	389	477	597	785
Zapata	296	341	412	552	630

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Scurry	296	341	426	596	704
Shelby	296	341	412	552	630
Somervell	338	381	425	584	630
Stephens	296	341	412	552	630
Stonewall	296	341	412	552	630
Swisher	296	341	412	552	630
Terry	296	341	412	552	630
Titus	313	390	441	610	630
Tyler	296	341	439	552	724
Uvalde	296	341	412	552	630
Van Zandt	315	341	426	582	704
Ward	296	341	412	552	630
Wharton	296	341	412	552	630
Wilbarger	296	341	412	552	651
Winkler	296	341	412	552	630
Wood	296	341	425	594	701
Young	296	341	412	552	639
Zavala	296	341	412	552	630

UTAH

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	339	417	521	699	841	Kane
Provo-Orem, UT MSA	469	495	612	849	1004	Utah
*Salt Lake City-Ogden, UT MSA	506	586	744	1036	1213	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver	321	392	492	658	791
Cache	358	440	550	736	885
Daggett	348	476	632	793	888
Emery	321	392	492	658	791
Grand	321	392	492	658	791
Juab	321	392	492	658	791
Morgan	321	392	492	658	791
Rich	321	392	492	658	791
Sanpete	321	392	492	658	791
Summit	474	585	730	986	1199
Uintah	321	392	492	658	791
Washington	394	487	645	863	1055

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Box Elder	358	395	496	663	800
Carbon	344	392	492	658	791
Duchesne	321	392	492	658	791
Garfield	321	392	492	658	791
Iron	328	446	554	695	816
Millard	321	392	492	658	791
Piute	321	392	492	658	791
San Juan	321	392	492	658	791
Sevier	325	392	492	658	791
Tooele	397	504	609	815	979
Wasatch	321	408	492	658	791
Wayne	321	392	492	658	791

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V E R M O N T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	512	627	836	1140	1376	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	457	551	641	894	1002	
Bennington	412	521	669	850	992	
Caledonia	398	475	580	730	838	
Chittenden	419	677	764	1062	1251	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	379	458	565	713	817	
Franklin	457	518	634	805	925	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	394	473	586	738	847	Alburg town, Isle La Motte town, North Hero town
Lamoille	365	506	604	828	948	
Orange	378	496	612	808	905	
Orleans	351	424	524	660	757	
Rutland	417	541	661	830	928	
Washington	393	487	657	821	922	
Windham	453	523	694	880	969	
Windsor	487	551	688	883	1047	

V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	459	543	693	922	1033	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	352	496	642	882	900	Clarke
Culpeper County, VA	411	598	695	920	1102	Culpeper
Danville, VA MSA	313	394	463	622	750	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	327	390	484	627	743	Scott, Washington, Bristol city
King George County, VA	426	567	636	884	891	King George
Lynchburg, VA MSA	372	411	473	622	750	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
*Norfolk-Virginia Beach-Newport News, VA-NC MSA	558	628	743	1037	1218	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Richmond-Petersburg, VA MSA	592	669	780	1084	1279	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	315	394	512	656	817	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	344	471	629	823	1028	Warren
*Washington, DC-MD-VA	748	851	999	1360	1642	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	365	395	461	613	738
Amelia	308	389	456	613	738
Augusta	308	399	485	639	776
Bland	308	389	456	613	738
Buchanan	308	389	456	613	738
Caroline	436	442	591	784	826
Charlotte	308	389	456	613	738
Cumberland	308	423	490	613	738
Essex	308	433	511	712	841
Franklin	308	389	456	613	738
Giles	308	389	456	613	738
Greensville	308	399	456	613	738
Henry	308	389	456	613	738
King and Queen	308	442	498	622	738
Lancaster	386	432	488	650	792
Louisa	308	401	495	687	738
Madison	309	459	516	648	848
Middlesex	308	391	456	613	738
Nelson	308	389	456	613	738
Northumberland	308	389	456	613	738
Orange	342	464	622	866	1016
Patrick	308	389	456	613	738
Pulaski	308	389	456	613	738
Richmond	308	412	460	613	757
Rockingham	308	427	540	740	868
Shenandoah	406	417	512	710	807
Southampton	308	389	456	613	738
Sussex	308	389	456	613	738

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	320	389	456	613	738
Appomattox	308	389	456	613	738
Bath	308	389	456	613	738
Brunswick	308	389	456	613	738
Buckingham	308	389	456	613	738
Carroll	308	389	456	613	738
Craig	308	389	456	613	738
Dickenson	308	389	456	613	738
Floyd	308	389	456	613	738
Frederick	419	483	581	795	952
Grayson	308	389	456	613	738
Halifax	308	389	456	613	738
Highland	308	389	456	613	738
King William	308	423	473	613	738
Lee	308	389	456	613	738
Lunenburg	308	389	456	613	738
Mecklenburg	308	389	456	613	738
Montgomery	316	417	489	679	803
Northampton	308	389	456	613	738
Nottoway	308	389	456	613	738
Page	358	403	456	613	738
Prince Edward	345	391	456	613	738
Rappahannock	312	506	570	790	932
Rockbridge	308	389	456	613	738
Russell	308	389	456	613	738
Smyth	308	389	456	613	738
Surry	319	389	456	613	738
Tazewell	308	389	456	613	738

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	308	417	553	696	900
Wythe	321	389	456	613	738
Wise	308	389	456	613	738

W A S H I N G T O N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	424	550	731	1011	1198	Whatcom
Bremerton, WA PMSA	509	587	761	1027	1249	Kitsap
Olympia, WA PMSA	523	643	802	1104	1302	Thurston
Portland-Vancouver, OR-WA PMSA	508	625	771	1073	1164	Clark
Richland-Kennewick-Pasco, WA MSA	529	605	724	1009	1183	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	584	710	899	1249	1476	Island, King, Snohomish
Spokane, WA MSA	339	461	557	757	847	Spokane
Tacoma, WA PMSA	451	539	717	997	1127	Pierce
Yakima, WA MSA	382	470	583	781	815	Yakima

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	336	402	524	691	766
Chelan	336	402	524	691	766
Columbia	336	402	524	691	766
Douglas	392	415	524	691	766
Garfield	336	402	524	691	766
Grays Harbor	343	402	529	712	822
Kittitas	336	402	524	691	766
Lewis	336	402	524	691	766
Mason	381	473	581	764	822
Pacific	336	402	524	691	766
San Juan	415	566	755	994	1184
Skamania	336	402	524	691	766
Wahkiakum	336	402	524	691	766
Whitman	362	412	548	761	901
Asotin	336	402	524	691	766
Clallam	391	484	615	792	866
Cowlitz	377	421	543	754	766
Ferry	336	402	524	691	766
Grant	361	402	524	691	766
Jefferson	336	434	534	723	766
Klickitat	336	402	524	691	766
Lincoln	336	402	524	691	766
Okanogan	336	402	524	691	766
Pend Oreille	336	402	524	691	919
Skagit	457	559	660	824	921
Stevens	336	402	524	691	766
Walla Walla	336	402	524	700	827

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	462	494	581	726	816	Berkeley
Charleston, WV MSA	306	416	527	724	792	Kanawha, Putnam
Cumberland, MD-WV MSA	359	432	535	707	807	Mineral
Huntington-Ashland, WV-KY-OH MSA	325	381	469	598	659	Cabell, Wayne
Jefferson County, WV	467	518	641	834	945	Jefferson

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	327	392	449	582	631	Wood
Steubenville-Weirton, OH-WV MSA	307	361	454	578	645	Brooke, Hancock
Wheeling, WV-OH MSA	335	367	454	578	645	Marshall, Ohio

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	274	347	389	500	582
Braxton	274	334	389	500	582
Clay	274	334	389	500	582
Fayette	274	334	389	500	582
Grant	274	334	389	500	582
Hampshire	274	334	391	513	582
Harrison	301	370	427	533	640
Lewis	274	365	389	500	582
Logan	280	334	389	503	595
Marion	274	345	426	545	629
Mercer	274	334	389	500	582
Monongalia	344	382	463	640	756
Morgan	372	420	470	590	657
Pendleton	274	334	389	500	582
Pocahontas	274	334	389	500	582
Raleigh	315	372	433	558	653
Ritchie	274	334	389	500	582
Summers	274	334	389	500	582
Tucker	274	334	389	500	582
Upshur	274	334	391	500	582
Wetzel	309	334	420	524	660
Wyoming	274	334	389	500	582
Boone	274	334	389	500	582
Calhoun	274	334	389	500	582
Doddridge	283	334	389	500	582
Gilmer	301	334	389	500	582
Greenbrier	274	377	402	502	582
Hardy	274	334	389	500	582
Jackson	274	342	389	532	582
Lincoln	274	334	389	500	582
Mcdowell	274	334	389	500	582
Mason	274	334	389	500	597
Mingo	274	334	389	500	589
Monroe	274	334	389	500	582
Nicholas	274	334	389	500	582
Pleasants	282	334	389	500	596
Preston	274	350	389	500	582
Randolph	274	334	389	500	582
Roane	274	334	389	500	582
Taylor	335	361	395	500	582
Tyler	274	334	409	511	582
Webster	274	334	389	500	582
Wirt	274	334	389	500	582

W I S C O N S I N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	342	421	536	674	778	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	300	386	496	662	771	Douglas
Eau Claire, WI MSA	369	401	527	675	761	Chippewa, Eau Claire
Green Bay, WI MSA	404	445	572	795	800	Brown
Janesville-Beloit, WI MSA	377	475	588	736	825	Rock
Kenosha, WI PMSA	443	549	674	926	1043	Kenosha
La Crosse, WI-MN MSA	304	391	498	666	807	La Crosse
Madison, WI MSA	468	588	711	986	1164	Dane

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

WISCONSIN continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	408	533	670	839	937	Milwaukee, Ozaukee, Washington, Waukesha
*Minneapolis-St. Paul, MN-WI MSA	554	713	912	1233	1397	Pierce, St. Croix
Racine, WI PMSA	363	450	594	766	838	Racine
Sheboygan, WI MSA	326	420	512	640	795	Sheboygan
Wausau, WI MSA	400	415	517	707	783	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	294	343	437	556	628	Ashland	320	356	437	556	628
Barron	294	343	437	556	628	Bayfield	294	343	437	556	628
Buffalo	294	343	437	556	628	Burnett	294	343	437	556	628
Clark	294	343	437	556	628	Columbia	294	350	459	601	675
Crawford	294	343	437	556	628	Dodge	372	377	496	622	693
Door	294	364	451	581	705	Dunn	294	343	448	599	739
Florence	294	343	437	556	628	Fond du Lac	341	462	547	745	767
Forest	294	343	437	556	628	Grant	298	343	437	556	628
Green	299	343	437	587	628	Green Lake	294	343	437	556	628
Iowa	304	343	437	574	628	Iron	294	343	437	556	628
Jackson	294	343	437	556	628	Jefferson	294	390	505	654	715
Juneau	300	343	437	556	628	Kewaunee	294	343	437	556	628
Lafayette	299	343	437	556	628	Langlade	294	343	437	556	628
Lincoln	294	343	437	556	628	Manitowoc	297	343	437	556	628
Marinette	294	343	437	556	628	Marquette	294	343	437	556	628
Menominee	294	343	437	556	628	Monroe	294	343	437	582	628
Oconto	294	343	437	556	628	Oneida	294	344	437	560	673
Pepin	294	343	437	556	628	Polk	294	343	444	556	628
Portage	358	377	489	612	756	Price	294	343	437	556	628
Richland	294	343	437	556	628	Rusk	294	343	437	556	628
Sauk	344	356	474	590	662	Sawyer	294	343	437	556	628
Shawano	299	343	437	556	628	Taylor	294	343	437	556	628
Trempealeau	294	343	437	556	628	Vernon	294	343	437	556	628
Vilas	294	343	437	556	628	Walworth	306	432	559	729	820
Washburn	294	343	437	556	628	Waupaca	294	343	437	556	660
Waushara	294	343	437	556	628	Wood	318	365	452	568	638

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

WYOMING

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	350	406	519	711	841	Natrona
Cheyenne, WY MSA	395	496	662	847	1029	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany	332	415	553	768	909	Big Horn	316	363	465	617	709
Campbell	341	363	465	619	730	Carbon	316	363	465	617	709
Converse	316	363	465	617	709	Crook	316	363	465	617	709
Fremont	316	363	465	617	709	Goshen	316	363	465	617	709
Hot Springs	316	363	465	617	709	Johnson	316	363	465	617	709
Lincoln	316	363	465	617	709	Niobrara	316	363	465	617	709
Park	316	363	465	617	716	Platte	316	363	465	617	709
Sheridan	316	363	465	617	716	Sublette	350	394	465	617	709
Sweetwater	329	363	465	619	730	Teton	420	535	711	957	1043
Uinta	331	363	465	618	747	Washakie	316	363	465	617	709
Weston	316	363	465	617	709						

PACIFIC ISLANDS

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	739	888	1052	1319	1483						

PUERTO RICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	226	276	328	407	459	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	245	297	349	438	493	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	287	344	406	511	569	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	269	328	389	485	545	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	266	327	385	483	541	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	360	439	517	648	728	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 042202

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

PUERTO RICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR
NONMETROPOLITAN COUNTIES					
Adjuntas Municipio	213	263	309	390	431
Arroyo Municipio	213	263	309	390	431
Ciales Municipio	213	263	309	390	431
Culebra Municipio	213	263	309	390	431
Guayama Municipio	213	263	309	390	431
Jayuya Municipio	213	263	309	390	431
Lares Municipio	213	263	309	390	431
Maricao Municipio	213	263	309	390	431
Orocovis Municipio	213	263	309	390	431
Quebradillas Municipio	213	263	309	390	431
Salinas Municipio	213	263	309	390	431
Santa Isabel Municipio	213	263	309	390	431
Vieques Municipio	213	263	309	390	431

V I R G I N I S L A N D S

METROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
NONMETROPOLITAN COUNTIES					
St. Croix	509	618	729	909	1019

METROPOLITAN FMR AREA	Counties of FMR AREA within STATE
Aguadilla MSA	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo MSA	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas MSA	Caguas Municipio, Gurabo Municipio, Juncos Municipio, Las Piedras Municipio, San Lorenzo Municipio
Mayaguez MSA	Hormigueros Municipio, Mayaguez Municipio, San German Municipio
Ponce MSA	Guayanilla Municipio, Juana Diaz Municipio, Penuelas Municipio, Ponce Municipio, Villalba Municipio, Yauco Municipio
San Juan MSA	Aguas Buenas Municipio, Aibonito Municipio, Bayamon Municipio, Canovanas Municipio, Carolina Municipio, Catano Municipio, Ceiba Municipio, Cidra Municipio, Comerio Municipio, Corozal Municipio, Dorado Municipio, Fajardo Municipio, Florida Municipio, Guaynabo Municipio, Gurabo Municipio, Humacao Municipio, Juncos Municipio, Las Piedras Municipio, Loiza Municipio, Luquillo Municipio, Manati Municipio, Morovis Municipio, Naguabo Municipio, Naranjito Municipio, Rio Grande Municipio, San Juan Municipio, Toa Alta Municipio, Toa Baja Municipio, Trujillo Alto Municipio, Vega Alta Municipio, Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio	213	263	309	390	431
Barranquitas Municipio	213	263	309	390	431
Coamo Municipio	213	263	309	390	431
Guanica Municipio	213	263	309	390	431
Isabela Municipio	213	263	309	390	431
Lajas Municipio	213	263	309	390	431
Las Marias Municipio	213	263	309	390	431
Maunabo Municipio	213	263	309	390	431
Patillas Municipio	213	263	309	390	431
Rincon Municipio	213	263	309	390	431
San Sebastian Municipio	213	263	309	390	431
Utuado Municipio	213	263	309	390	431

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas	654	792	934	1167	1307

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

042202

SCHEDULE D - FY 2003 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

State	Area Name	Space Rent
CALIFORNIA	Los Angeles-Long Beach, CA PMSA	$438
	Orange County, CA PMSA	$532
	Riverside-San Bernardino, CA PMSA	$349
	San Diego, CA MSA	$539
	Vallejo-Fairfield-Napa, CA PMSA	$468
COLORADO	Boulder-Longmont, CO PMSA	$414
	Denver, CO PMSA	$394
MARYLAND	Hagerstown, MD PMSA	$245
	ST. MARYS	$376
NEVADA	Reno, NV MSA	$430
NEW YORK	Newburgh, NY-PA PMSA	$381
	Rochester, NY MSA	$258
	Utica-Rome, NY MSA	$232
OREGON	Portland-Vancouver, OR-WA PMSA	$314
	Salem, OR PMSA	$388
	DESCHUTES	$276
WASHINGTON	Olympia, WA PMSA	$462

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Thursday,
May 23, 2002

Part III

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards; Final Rule, Finding of No Significant Impact Energy Conservation Program for Consumer Products; Notice

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number EE–RM–98–440]

RIN 1904–AA77

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today amends the existing energy conservation standards for central air conditioners and heat pumps by raising the minimum energy efficiency levels by 20 percent for most central air conditioners and heat pumps, with somewhat lower levels for certain space-constrained products. DOE also today withdraws a final rule, published on January 22, 2001, that would have established even higher standards. DOE has determined that the standards in the January 22 final rule, which never became effective, are not economically justified under the Energy Policy and Conservation Act (EPCA). Finally, DOE adopts provisions that clarify the point in time at which DOE's discretion to amend standards becomes limited under EPCA.

DATES: The final rule amending 10 CFR part 430 published January 22, 2001 (66 FR 7170) is withdrawn as of May 23, 2002. The effective date of the amendments to the Code of Federal Regulations in this rule is August 6, 2002.

ADDRESSES: You may read copies of the public comments, the Technical Support Document for Energy Efficiency Standards for Consumer Products: Central Air Conditioners and Heat Pumps (TSD), the transcript of the public hearing, workshop transcripts in this proceeding, the petition for reconsideration submitted by the Air-Conditioning and Refrigeration Institute, and other post-promulgation submissions at the DOE Freedom of Information (FOI) Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202–586–3142), between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may obtain copies of the TSD and analysis spreadsheets from the Office of Energy Efficiency and Renewable Energy's (EERE) Web site at: *http://www.eren.doe.gov/buildings/codes_standards/applbrf/central_air_conditioner.html.*

FOR FURTHER INFORMATION CONTACT: Michael Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–0854, e-mail: *michael.raymond@ee.doe.gov,* or Michael Bowers, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507, e-mail: *mike.bowers@hq.doe.gov.*

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I. Introduction

DOE today publishes three final rulemaking determinations with respect to amended central air conditioner and heat pump energy conservation standards under section 325 of the Energy Policy and Conservation Act (42 U.S. Code (U.S.C.) Section 6295). First, for reasons described in detail in Section IV of this Supplementary Information, DOE hereby withdraws the January 22, 2001 final rule that would have established 13 as the mandatory Seasonal Energy Efficiency Rating (SEER) [1] for most central air conditioners and central air conditioning heat pumps (heat pumps). DOE withdraws the final rule because it: (1) Was promulgated without consulting with the Attorney General on potential anti-competitive effects, (2) contained a material defect in the statement of basis and purpose required by the Administrative Procedure Act (APA), (3) contained an effective date in conflict with the Congressional Review Act's lie-before-the-Congress requirement for major rules, and (4) was based on an assessment of benefits and burdens that resulted in an erroneous conclusion that a 13 SEER standard for both central air conditioners and central air conditioning heat pumps would be economically justified under title III, part B of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291 *et seq.*). Second, DOE adopts regulatory provisions that implement section 325(o)(1) of EPCA, including definitions of the statutory terms "maximum allowable energy use" and "minimum required energy efficiency," and thereby pinpoints the point in time at which DOE's discretion to alter an amended standard becomes limited. The basis for this determination is discussed in Section III of this Supplementary Information. Third, DOE finalizes 12 SEER and 7.4 Heating System Performance Factor (HSPF) [2] as the amended energy conservation standard for most central air conditioners and central air conditioning heat pumps and adopts lower standards for certain space-constrained products. The basis for these determinations is discussed in Sections V through VII of this Supplementary Information

[1] The Seasonal Energy Efficiency Ratio or SEER is DOE's measure of energy efficiency for the seasonal cooling performance of central air conditioners and central air conditioning heat pumps.

[2] The Heating Seasonal Performance Factor is DOE's measure of energy efficiency for the seasonal heating performance of heat pumps.

II. Rulemaking History

The existing standards for residential central air conditioners and heat pumps were prescribed by the National Appliance Energy Conservation Act of 1987 (NAECA) (Pub. L. 100–12) and have been in effect since 1992. The current central air conditioner and heat pump efficiency standards are as follows:

—Split system air conditioners and heat pumps—10 SEER/6.8 HSPF
—Single package air conditioners and heat pumps—9.7 SEER/6.6 HSPF

On September 8, 1993, DOE published an Advance Notice of Proposed Rulemaking (ANOPR) announcing DOE's intention to revise the existing central air conditioner and heat pump efficiency standard pursuant to section 325(d) of EPCA, as amended by NAECA. 58 FR 47326. The fiscal year (FY) 1996 appropriations legislation for DOE imposed a moratorium on proposed and final energy conservation standards. Public Law 104–134. During the moratorium, DOE responded to congressional concern about how the appliance standards program was working by consulting with a broad spectrum of interested persons on possible improvements. As a result, on July 15, 1996, DOE published a new policy on how it would conduct appliance standards rulemaking (61 FR 36974). The new policy, "Procedures for Consideration of New or Revised Energy Conservation Standards for Consumer Products," is commonly referred to as the Process Improvement Rule and is codified at 10 CFR part 430, subpart C, Appendix A. Under this new policy, DOE presented for comment an analytical framework for the central air conditioner and heat pump standards rulemaking during a workshop on June 30, 1998. The analytical framework described the different analyses that DOE would conduct, the methods for conducting them, the use of new spreadsheets, and the relationship of the various analyses. On November 24, 1999, DOE published a Supplemental ANOPR for central air conditioners and heat pumps and invited additional comment on issues raised following publication of the original ANOPR. 64 FR 66306.

DOE published a notice of proposed rulemaking on October 5, 2000 (October 5, 2000 NOPR). 65 FR 59590. The energy efficiency standards that DOE proposed for residential central air conditioners and heat pumps were as follows:

—Split-system and single-package air conditioners—12 SEER
—Split-system and single package heat pumps—13 SEER/7.7 HSPF
—Through-the-wall air conditioners and heat pumps—11 SEER/7.1 HSPF.

In addition to the increase proposed in SEER and HSPF, DOE requested comments on a proposal to adopt a standard for steady-state cooling efficiency, denominated EER (or Energy Efficiency Ratio). The proposal of an EER was designed to ensure more efficient operation at high outdoor temperatures, during periods when electricity use by air conditioners is at its peak. A public hearing was held in Washington, D.C. on November 16, 2000, to hear oral views, data and arguments on the proposed rule.

On January 22, 2001, at the close of the Clinton Administration, DOE published a final rule that would have required a SEER of 13 for all classes of central air conditioners, except for "niche" products which were omitted from the rule, and a corresponding HSPF of 7.7 for central air conditioning heat pumps (Final Rule, "Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pump Energy Conservation Standards," 61 FR 7170).

Pursuant to President Bush's Regulatory Review Plan,[3] DOE conducted an internal review of the final, not-yet-effective rules issued under section 325 of EPCA that DOE published at the end of the Clinton Administration, including final rules concerning energy conservation standards for clothes washers, water heaters, and central air conditioners and central air conditioning heat pumps. Consistent with the EPCA criteria for determining whether a standard level is economically justified under section 325 (42 U.S.C. 6295(o)(2)(B)), DOE examined each of these three rules to determine, among other things, whether the rulemaking record was complete and whether the affirmative determination of economic justification was based on adequate findings with regard to the statutorily required considerations that make up the test of economic justification.

While DOE examined the three appliance energy conservation standards rulemakings under the President's Regulatory Review Plan, DOE received petitions for reconsideration for each final rule. In addition, DOE received notice that the Gas Appliance Manufacturers Association (with regard to the water heater rule) and the Air-Conditioning and Refrigeration Institute (ARI) and certain manufacturers (with regard to the central air conditioner rule) had filed petitions for review in the United States Court of Appeals for the Fourth Circuit.

Ultimately, DOE decided that neither the clothes washer rule nor the water heater rule warranted further rulemaking action and denied the related petitions for reconsideration. See 66 FR 19714 (April 17, 2001). With regard to central air conditioners and central air conditioning heat pumps, DOE concluded that ARI had raised

[3] This Plan was set forth in a memorandum from Assistant to the President and Chief of Staff Andrew H. Card, dated January 20, 2001, and published in the Federal Register on January 24, 2001 (66 FR 7702).

substantial questions as to the legal sufficiency of and basis for the January 22, 2001 final rule and that the interests of justice therefore dictated that DOE further postpone the rule's effective date in light of the pendency of ARI's petition for judicial review in the Fourth Circuit and its related petition for reconsideration. 66 FR 20191 (April 20, 2001). At that time DOE indicated that it would likely resolve these issues through supplemental rulemaking that would be forthcoming shortly.

On June 19, 2001, the State of New York, several other states, the Natural Resources Defense Council, Consumer Federation of America, and the Public Utility Law Project sued DOE in Federal court challenging its actions delaying the effective date of the January 22 final rule. The cases were consolidated, with the states of California, Connecticut, Vermont, Maine, New Jersey and Nevada joining the lawsuit (*State of New York et al.* v. *Abraham*, 01 Civ. 5499 (LTS) and 01 Civ. 5500(LTS)(SDNY);[4] a petition for review was also filed with the Court of Appeals for the Second Circuit (Docket No. 01–4103).

On July 25, 2001, DOE granted ARI's petition and published a three part supplemental proposal with regard to energy conservation standards for central air conditioners and central air conditioning heat pumps. 66 FR 38822. First, DOE proposed regulatory provisions to clarify that section 325(o)(1), which qualifies DOE's rulemaking authority to prescribe amended energy conservation standards, applies as of an effective date for modifying the Code of Federal Regulations (CFR) set forth in the notice of final rulemaking and established consistent with the Congressional Review Act (5 U.S.C. 801–804). Second, in order to correct arguable legal errors and policy shortcomings, DOE proposed to withdraw the January 22 final rule. Third, based on a re-assessment of factual information and analyses already in the record, DOE proposed to determine that elevation of the currently enforceable central air conditioner and central air conditioning heat pump energy conservation standards by 20 percent is the maximum increase that is economically justified. For product classes other than through-the-wall products, DOE proposed a SEER of 12 with a corresponding HSPF of 7.4 which would apply to products manufactured in 2006. With respect to through-the-wall product classes, DOE proposed somewhat lower standards. DOE conducted a public hearing in Washington, D.C. on October 2, 2001, to hear oral views, data and arguments on the proposed rule.

[4] On April 25, 2002, the district court dismissed the consolidated actions on the ground that the court lacked subject matter jurisdiction to consider the matters raised by the plaintiffs.

III. Authority of DOE To Reconsider and Withdraw the January 22, 2001 Final Rule and Adopt a 12 SEER Standard for Central Air Conditioners

The issue of DOE's authority to withdraw the January 22 final rule and propose a 12 SEER standard was first raised in ARI's March 23, 2001 petition for reconsideration (ARI, No. 138) and in a responding letter submitted to Secretary Abraham by various environmental organizations on April 6, 2001 (Alliance to Save Energy (ASE), *et al.*, ASE, No. 183). ARI contended that section 325(o)(1) of EPCA, which prohibits DOE from decreasing the maximum allowable energy use or minimum required energy efficiency of covered products, did not apply to reconsideration of the January 22 final rule because DOE had suspended the effective date of the rule (ARI, No. 138 at p. 3, n. 2). This provision has been referred to in the rulemaking as EPCA's "anti-backsliding provision." The environmental advocates took a contrary position, arguing that the anti-backsliding provision did apply and, thus, that DOE was precluded from reconsidering the rule and proposing a less stringent standard (ASE *et al.*, No. 183 at p. 5). In the April 20, 2001, notice postponing the effective date of the January 22 final rule, DOE stated its intention to issue a further notice of proposed rulemaking that would propose a 12 SEER/7.4 HSPF standard for central air conditioners and heat pumps, and stated that it would invite public comment on its explanation of the statutory authority to make such a proposal upon reconsideration of the January 22 final rule (66 FR 20101). Subsequently in the notice of supplemental proposed rulemaking published on July 25, 2001 (July 25 SNOPR), DOE included a detailed explanation of its interpretation of section 325(o)(1) of EPCA. We repeat much of the July 25 SNOPR explanation here as a preface to a discussion of public comments received on this issue. (Repeating DOE's analysis of section 325(o)(1) here also will assist readers who otherwise would have to look back at a copy of the July 25 SNOPR.)

A. DOE's Analysis of EPCA's Anti-Backsliding Provision

The starting point for the analysis of DOE's authority to reconsider the January 22 final rule and propose 12 SEER standards is the text of the statute. Section 325(o)(1) of EPCA provides as follows:

> The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or, in the case of showerheads, faucets, water closets, or urinals, water use, or decreases the minimum required energy efficiency, of a covered product.

42 U.S.C. 6295(o)(1).

The critical term in section 325(o)(1), as it relates to the rulemaking on central air conditioners and heat pumps, is "minimum required energy efficiency." EPCA does not define this term. However, in context, it is clear that a SEER and an HSPF are benchmarks of "minimum required energy efficiency" for central air conditioners and heat pumps. *See* 42 U.S.C. 6295(d)(1) and (d)(2). The key question, however, is which SEER and HSPF represent the "minimum required energy efficiency" for central air conditioners and heat pumps that may not be decreased by an amended standard.

Had the new SEER and HSPF set out in the January 22, 2001, final rule been allowed to take effect, but (as the rule set forth) been made applicable only to appliances manufactured on or after January 23, 2006, we think this would be a close question. A reasonable argument could be made that the new SEER and HSPF became "required" immediately as to such appliances provided they were manufactured on or after January 23, 2006. A reasonable argument could also be made that the new SEER and HSPF would not be "required" until January 23, 2006, when appliances manufactured after that date would have had to comply with them. We address this question, and other considerations bearing on the answer to it, at greater length below.

In fact, however, the January 22, 2001 final rule expressly stated that the amendments it set out to existing standards in the Code of Federal Regulations would not take effect until 30 days after publication in the **Federal Register**. Well before that date arrived, on February 2, 2001, DOE postponed that effective date for an additional 60 days. Before that 60-day period had passed, on April 18, 2001, DOE further postponed the amendments' effective date pending the outcome of petitions by ARI for reconsideration and for judicial review.

As a result, the new SEER and HSPF, though set out in a final rule, never in any sense achieved the status of being the "required" "minimum energy efficiency" benchmarks. There has never been a single moment under any understanding of the word "required" at which any central air conditioner or heat pump, including one manufactured after January 23, 2006, could even arguably have been legally required to be manufactured in conformity with them. Hence, whatever might have been the case had the January 22 final rule been allowed to take effect, we do not see how the publication of a final rule that would have changed those standards, but was prevented by later agency action from doing so, could possibly establish "minimum required energy efficiency" benchmarks.

This interpretation of "minimum required energy efficiency" is reinforced by the rest of the sentence in section 325(o)(1) of which the phrase is a part. That sentence establishes a limitation on the "amended standards" the Secretary may prescribe. That wording strongly suggests that the "minimum required energy efficiency" levels below which the Secretary may not go are the ones established *by the standards being amended*. Because of the various actions postponing the effective date of the amendments to the standards it proposed, the January 22, 2001 rule never actually effectuated any amendment to the prior standards. Therefore, the standards that DOE proposed to amend are not the ones that would have been in place had the amendments set out in the January 22 rule actually been made. Rather, they are the standards prescribed by NAECA (SEER of 10.0 and HSPF of 6.8 for split systems manufactured after January 1, 1992, SEER of 9.7 and HSPF of 6.6 for single package systems manufactured after January 1, 1993), unamended until now by anything, including the never-made-effective amendments set out in the January 22, 2001 rule.

Notwithstanding public comments (discussed below), DOE continues to believe the foregoing analysis establishes that EPCA is unambiguous on the question of whether standards that are published in the **Federal Register**, but not yet effective, represent the "minimum required energy efficiency" benchmarks for central air conditioners and heat pumps for purposes of section 325(o)(1). We think it is clear from the statutory text that such standards do not represent the benchmarks for "minimum required energy efficiency." We also believe that even if the statute were found to be ambiguous, for the reasons set out in the discussion that follows, that would not be the interpretation that we should select as a matter of policy.

If published but not yet effective standards are not the benchmarks for "minimum required energy efficiency" in section 325(o)(1), the question remains whether DOE should construe the term "minimum required energy efficiency" to mean (A) energy efficiency standards that are not yet enforceable against the manufacturers, but that have been prescribed in a final rule amending prior standards, which amendments have been made to the CFR pursuant to an effective date that has passed; or (B) energy efficiency standards that are currently enforceable against the manufacturers if they manufacture and sell a non-compliant product.

DOE believes that alternative (A) is the preferable construction of the term, but only if the effective date selected for the final rule is consistent with other applicable laws and regulations and allows the Secretary an opportunity promptly to correct legal and policy errors that may have been contained in the final rule. If that precondition is satisfied, DOE believes alternative (A) will better advance the relevant statutory and policy considerations underlying section 325(o)(1): To promote greater energy efficiency while providing greater certainty to manufacturers who must plan and make the expenditures necessary to comply with an amended energy conservation standard—which is often a multi-year endeavor with substantial costs. We note that the relative certainty the interpretation set out in alternative (A) produces for manufacturers, which is a key comparative advantage of this interpretation over the competing one, is intimately tied to a proper effective date choice that facilitates prompt error correction, thereby potentially avoiding litigation that would seriously undermine the certainty sought to be achieved.

DOE believes that this resolution of the ambiguities in the statute is consistent with the statute's text, structure, legislative history, and the fundamental policy choices it makes. We believe that on balance this approach better accomplishes the statute's objectives than either adopting alternative (A) without the qualification set out above, thereby establishing a set of procedures that could have the effect of preventing the Secretary, within a short period after publication of a final rule that would modify such standards, from correcting defects in them that come to his attention; or adopting alternative (B), thereby reading the phrase "minimum required energy efficiency" to encompass only energy efficiency standards as of the date upon which manufacturers have to comply with those standards. Although at least the latter approach may well be a permissible interpretation of section 325(o)(1), DOE believes that the view set out in our proposed rule is the better one.

The latter view—that a standard is only covered by section 325(o)(1) after manufacturers are required to comply with it—does at first blush appear to be the most natural reading of the phrase. This view, however, is in tension with the rest of the sentence, which, as explained above, suggests that the relevant point of comparison is the standard being amended, regardless of whether manufacturers actually have to comply with it. Moreover, if adopted, this view would allow the Secretary to change the energy efficiency standards right up to the minute before the compliance date. This seems to slight important reliance interests given significant weight in other respects by EPCA's provisions on central air conditioner standards. For example, section 325(d) provides that with respect to central air conditioners, any amended standard contained in a final rule published on January 1, 1994, can apply only to products manufactured on or after January 1, 1999. It similarly provides that any amended standard contained in a final rule published between January 1, 1994, and January 1, 2001, can apply only to products manufactured on or after January 1, 2006. The purpose of these delays is plainly to give manufacturers a significant amount of time to develop and manufacture new products after a new standard is adopted but before it becomes enforceable. These delays also suggest that a change of standard on the eve of the manufacture of a product would be quite disruptive—which stands to reason given the lead-time necessary to be in a position to manufacture a compliant product. Thus, to allow a standard to be blocked at the last minute before the compliance deadline would potentially leave a rather large residual uncertainty difficult to reconcile with the central purpose of establishing a climate of regulatory stability served by these closely related portions of EPCA.

The legislative history of section 325(o)(1), although sparse, also suggests that this interpretation may not be the one best suited to accomplish the statute's objectives. In discussing this provision in the House bill, the House report states:

> DOE may not prescribe an amended standard that increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. The purpose of this requirement is to prevent the Secretary from weakening any energy conservation standard

for a covered product, whether established in this Act or subsequently adopted. *This serves to maintain a climate of relative stability with respect to future planning by all interested parties* * * *

House Report No. 100–11 at p. 22 (emphasis added).

This language suggest that section 325(o)(1) was specifically expected, at least in the view of the House Committee, to act harmoniously with the other provisions of EPCA discussed above in facilitating regulatory certainty. The latter purpose is better accomplished by construing the provision to become applicable at a point well before the compliance date.

On the other hand, the reliance interests at stake also are not best served in the long run by taking the opposite course and adopting the view that section 325(o)(1) becomes applicable at the earliest possible moment. Let us imagine, for example, that DOE were routinely to make final rules containing standards potentially subject to section 325(o)(1) effective as soon as possible under the Administrative Procedure Act (APA). This would likely result in its making such rules effective 30 days after publication. DOE also could refuse to reconsider any aspect of such a rule relevant to the standard (unless it could complete its consideration and correct any errors within that 30-day time period), no matter how serious or legitimate a question might be raised, since to do so effectively, it would have to prevent the standard from going into effect.

This approach, however, would not be the best way for DOE to promote regulatory certainty either. It is common for agencies to entertain petitions for reconsideration at least for a short period after issuance of a final rule as well as to correct errors on their own motion during that time. Moreover, there is good reason why agencies follow this course, since otherwise such errors would have to await the completion of judicial review before they could be corrected, thereby creating substantial delay and uncertainty. Accordingly, this approach too, in addition to running counter to ordinary administrative practices that there is no reason to believe section 325(o)(1) was intended to abrogate, is not the best way to advance the regulatory stability sought by section 325(o)(1) and the other related EPCA provisions discussed above.

With respect to major rules, this approach also would create unnecessary conflict between section 325(o)(1) and the Congressional Review Act (CRA) (5 U.S.C. 801–804) enacted in 1996. Under the CRA, before a final rule can become "effective," DOE must send a report to Congress (5 U.S.C. 801(a)(1)(A) and (B)). With respect to a "major rule" within the meaning of 5 U.S.C. 804(2), the CRA provides for the passing of a 60-calendar-day-lie-before-the-Congress period, after submission of the agency report, at the end of which a final rule could become effective in the absence of a Congressional resolution of disapproval (5 U.S.C. 801(a)(3)). CRA allows for an exception to the 60-day-lie-before requirement only if the President determines that a major rule should take effect before the end of that period because of an imminent health or safety threat or other emergency; because it is necessary to the enforcement of criminal laws or national security; or if it is issued pursuant to a statute implementing an international trade agreement (5 U.S.C. 801(c)).

In DOE's view, this last set of considerations also points the way to the answer to the question of at what time amendments to an energy-efficiency-setting-standard should best be viewed as having set "minimum required energy efficiency" benchmarks. For the reasons explained at the beginning of this section, that time must be after the final rulemaking the amendments to the standard is in effect. But, consistent with the objective of section 325(o)(1) and the other closely related EPCA provisions of promoting regulatory certainty, and to harmonize section 325(o)(1) with common administrative practice and the CRA, such final rules should ordinarily be made effective only after a reasonable hiatus after the date of publication has elapsed, allowing for prompt use of ordinary administrative error correction procedures and completion of congressional review under CRA. This is the earliest that manufacturer planning in reliance on a final major rule to amend appliance energy conservation standards can realistically be expected to begin. The certainty of the regulatory regime sought to be achieved therefore cannot occur until that time.

Accordingly, DOE believes it should construe section 325(o)(1) as applying to standards designed to set "minimum required energy efficiency" benchmarks at the point in time a final rule containing such a standard becomes effective. It also believes, however, that it should take care to select effective dates for final rules containing such standards that are consistent with the CRA and any other applicable law. This approach will best promote the regulatory certainty sought by section 325(o)(1) and its companion provisions and also comports well with the ordinary understanding of when a rule containing such standards has established "require[ments]."

DOE's decision to exercise its discretion to adopt this interpretation of section 325(o)(1) is not meant to intimate a view with respect to or suggest how anti-backsliding provisions in other statutes should be interpreted. Decisions of that type would of course turn on the specific language and policy of those provisions, just as today's decision did here.

Based on this consideration of the meaning of section 325(o)(1), DOE proposed to adopt a series of amendments to the EPCA rules intended to address these general issues. First, it proposed definitions of the terms "maximum allowable energy use" and "minimum required energy efficiency" as energy conservation standards established by a final rule that has become effective in the sense that it has modified the Code of Federal Regulations. It further proposed to include in its definition that to qualify, the final rule has to have made that modification on a date selected consistent with the CRA and other applicable law. Finally, in order to avoid confusion, it proposed a technical amendment adding a definition of the EPCA term "effective date," which EPCA, inconsistently with the Office of Federal Register guidance, treats as synonymous with "compliance date."

B. Discussion of Public Comments on the Anti-Backsliding Provision

DOE's analysis of section 325(o)(1) and related proposals were the subject of comment by the environmental advocates and by ARI. Their comments elaborated upon the basic positions each had taken in connection with ARI's petition for reconsideration. The environmental advocates prefaced their comments with the observation that ultimately the question whether the anti-backsliding provision prevents DOE from withdrawing the January 22 final rule and proposing a 12 SEER standard would likely be resolved in the Federal litigation previously mentioned (*see* "Rulemaking History.").

1. Environmental Advocates" Views

The environmental advocates, led by the Natural Resources Defense Council (NRDC) and several states, argue that EPCA's anti-backsliding provision applies upon publication of final standards in the **Federal Register**, and that DOE is powerless thereafter to entertain and grant a petition for reconsideration that requests lower amended standards. (NRDC, No. 250; Attorneys General of New York and Massachusetts, No. 277; State of Vermont, No. 268; Attorney General of California, No. 249).

The NRDC commented that the APA contains no provision for "withdrawing" a final rule, and that if DOE wishes to change the rule, it may propose to "amend, revise or revoke" the rule consistent with the APA. NRDC also states there is no statutory or regulatory provision allowing interested persons to "petition for reconsideration" of a final rule. DOE does not believe these arguments have merit. DOE chose to use the word "withdraw" at the suggestion of staff in the Office of the Federal Register. "Withdraw" is the term that Office uses to describe the action of an agency in pulling back a rule document before it is officially filed and published in the **Federal Register**. (Document Drafting Handbook, Chapter 4, p. 4–2 (Oct. 1998)). The Office of the Federal Register decided that the word "withdraw" also is apt when an agency proposes to rescind a published final rule before it becomes effective, thus pulling it back before it modifies the Code of Federal Regulations. (Document Drafting Handbook, Chapter 2, p. 2–33 (Oct. 1998)). By proposing to withdraw the January 22 final rule and proposing a 12 SEER standard, DOE was proposing actions that, if adopted and implemented in a future final rule, would rescind or repeal the January 22 final rule. This course of action is entirely consistent with the APA. While an agency generally has inherent authority to reconsider its decisions, as the comments of ARI state (ARI, No. 259, at p. 6), the APA specifically gives interested persons the right to petition for rulemaking (5 U.S.C. 553(e)).

NRDC further believes DOE has misconstrued section 325(o)(1) by placing undue weight on the word "required" in the term "minimum required energy efficiency." (Several state officials submitted comments similar in most respects to the NRDC views summarized here and in the discussion that follows.) NRDC faults DOE for ignoring the terms "maximum allowable energy use" and "maximum water use" in the same provision. All of these terms, NRDC argues, are simply measurements of energy conservation and do not refer in any way to compliance dates or requirements for manufacturers. NRDC, therefore, concludes that the word "require" is ambiguous and that one needs to look to the entire statutory scheme to determine when the anti-backsliding provision applies.

NRDC argues that the key word in section 325(o)(1) is "prescribe," which it states occurs when a final rule is published in the **Federal Register**, and that it is the act of "prescribing" a final rule that triggers application of the anti-backsliding provision. NRDC finds supports for this interpretation of "prescribe" in section 325(p), which includes publication of a final rule as the last step in the procedure for prescribing a new or amended standard, and in the deadlines for various amendments of product standards that are determined by reference to the date of publication of the previous standard. NRDC also points to House Report language stating that section 325(o)(1) prevents DOE from weakening any energy conservation standard for a product "whether established in this Act or subsequently adopted," and states that use of the word "adopted" confirms its view that the anti-backsliding provision applies when a rule is published in the **Federal Register**. Thus, under NRDC's interpretation, once DOE published the January 22 final rule, it was powerless to reconsider it and propose a lower energy conservation standard.

DOE agrees that the term "minimum required energy efficiency" is not the only descriptor of energy or water efficiency used in section 325(o)(1), but it is the only descriptor that applies to standards for central air conditioners and heat pumps. That is why DOE's analysis focuses on the word "required." It is true that for other covered products, the applicable descriptor would be "maximum allowable energy use" or "maximum allowable water use." For those products, the key word would be "allowable." But for the same reasons why, as explained in DOE's analysis above, the SEER and HSPF levels set out in the January 22 final rule never in any sense achieved the status of being the "required" "minimum energy efficiency" benchmarks, it is not much easier to see how a rule that never became effective could set "maximum allowable" amounts of water or energy use. At least until a new rule establishing maximum allowable energy or water use became effective, the "maximum allowable energy" or "maximum allowable water use" for a product subject to one of these standards would remain the preexisting standard. Accordingly, today's rule contains definitions of "maximum allowable energy use" and "maximum allowable water use" that parallel the definition of "maximum required energy efficiency" that DOE adopts.

DOE also thinks NRDC's view of the importance of the word "prescribe" in section 325(o)(1) is wrong. The word "prescribe" is nowhere defined in EPCA, but it does not necessarily mean "publication." For example, section 325(p), concerning the procedure for prescribing any new or amended standard, provides that "[a] final rule prescribing an amended or new energy conservation standard or prescribing no amended or new standard for a type (or class) of covered products shall be published as soon as practicable * * *" 42 U.S.C. 6295(p)(4). The use of the word "prescribe" in the same provision in which the word "publish" is used is a clear indication that Congress may have considered the two words to have different meanings. It is not necessary to resolve the question of the meaning to the word "prescribe" because it begs the critical question of what DOE may not prescribe under section 325(o)(1). With respect to central air conditioners and heat pumps, the what that DOE may not prescribe under section 325(o)(1) is any amended standard "which increases the * * * minimum required energy efficiency" of a central air conditioner or heat pump. We continue to believe that standards in a published rule that have never become effective are in no sense "required" energy efficiency levels, and therefore cannot be the baseline for determining whether the amended standards increase the minimum required energy efficiency.

Finally, DOE disagrees with NRDC's conclusion that the structure and language of EPCA point to the date of publication of amended standards as the time at which section 325(o)(1) applies. More specifically, DOE does not think the statutory intervals for issuance of amended standards, which reference to the date the previous amendment is published, are relevant to the question of when the anti-backsliding provision applies. The fact that Congress required DOE to periodically review and publish amendments to standards does not seem to have any bearing on the question of what point in time standards are required for purposes of section 325(o)(1).

The Attorneys General of the States of New York and Massachusetts attacked the legality of DOE's February 2, 2001, and April 20, 2001, notices delaying the effective date of the January 22 final rule (Attorneys General of New York and Massachusetts, No. 277). In their view, DOE lacked good cause for not proposing the delays for public comment: They dismiss DOE's analysis of, and provisions for, implementing the anti-backsliding provision as a *post hoc* attempt to justify its allegedly illegal

delays of the January 22 final rule. Implicit in their comment is the view that the January 22 final rule actually became effective and, thus, became the required standards for purposes of section 325(o)(1). Based on this understanding of the anti-backsliding provision, the States of New York and Massachusetts consider DOE's action to withdraw the January 22 final rule and adopt 12 SEER standards to be a "rollback" of established standards.

As explained in the February 2, 2001, notice, DOE temporarily delayed the effective date of the January 22 final rule in conjunction with Executive branch wide direction from the Assistant to the President and Chief of Staff. DOE explained that seeking public comment would be impracticable and contrary to the public interest, and further that the imminence of the effective date in the rule constituted good cause for making the temporary delay effective upon publication. 66 FR 8745–46. The further postponement of the effective date on April 20, 2001, was based in part on several reasons why seeking public comment and delaying the effective date of the action were impracticable, unnecessary, and contrary to the public interest. 66 FR 20191. These reasons are not repeated in full here, but DOE explained why in light of ARI's petition for reconsideration and its lawsuit in the Court of Appeals for the Fourth Circuit, DOE concluded there was good cause for further delaying the January 22 final rule's effective date pending consideration of ARI's petition and judicial review. Thus, DOE thinks the short-term delays of the January 22 final rule's effective date to deal with substantial legal questions were lawful, and it rejects the characterization of DOE's proposals as a "rollback" of the energy conservation standards.

The Attorneys General of the States of New York and Massachusetts and the American Council for an Energy-Efficient Economy (ACEEE) argued that choosing an effective date for purposes of section 325(o)(1) other than the date of publication of amended standards would lead to delay and cause uncertainty with respect to when manufacturers must make investments needed to comply with amended standards. (Attorneys General of New York and Massachusetts, No. 277 at p. 9; ACEEE, No. 284 at p. 3). The Northeast Energy Efficiency Partnerships, Inc. (NEEP) argued DOE's proposed approach would give stakeholders another opportunity to try to influence decision makers and would "politicize" the standard setting process. (NEEP, No. 273 at p. 3). As explained above, DOE does not believe section 325(o)(1) can be reasonably interpreted to apply upon the publication of final standards in the **Federal Register**. However, assuming DOE had the discretion to adopt such an interpretation, DOE would not choose the date of publication as the date for purposes of section 325(o)(1). As explained previously, a practice of routinely making published standards effective in the shortest time after publication (normally 30 days after publication under the APA) is not likely to provide greater certainty about the point in time when standards would take effect. If DOE were unable to respond to legitimate requests for reconsideration and correction of errors, then the only avenues available to aggrieved stakeholders would be lawsuits in Federal courts or efforts to obtain a legislative reversal under the CRA. This would not lead to expeditious correction of errors or resolution of issues and would not advance the goal of regulatory certainty. Such a practice also would create needless conflict with the CRA's 60-day lie-before-the-Congress provision for major rules.

2. ARI's Views

ARI agrees with DOE that the existing "minimum required energy efficiency" levels for central air conditioners and heat pumps, which DOE may not lower, are the standards established by NAECA, effective on January 1, 1992 (*i.e.*, 10 SEER/6.8 HSPF for split systems and 9.7 SEER/6.6 HSPF for single package systems). However, ARI believes the term "minimum required energy efficiency" should be understood to mean the existing efficiency standard as of the effective date under EPCA, *i.e.*, the date on which the standard is required to be complied with (ARI, No. 259 at p. 19). ARI believes its interpretation would avoid the risk of having the anti-backsliding provision apply unreasonably early, which could prevent DOE from taking appropriate administrative action to correct a promulgated standard or to respond to extraordinarily changed circumstances.

DOE acknowledged in its analysis of section 325(o)(1) that the view that a standard is only covered by the anti-backsliding provision after manufacturers are required to comply with it is an arguable one. This view, however, is in tension with the rest of the sentence, which suggests that the relevant point of comparison is the standard being amended, regardless of whether manufacturers actually have to comply with it. Moreover, by allowing the Secretary to change the energy efficiency standards at any point in time before the compliance date, this view would slight important reliance interests that, as DOE explained in its analysis, are given significant weight by other provisions and the legislative history of EPCA. For these reasons, DOE continues to believe that section 325(o)(1) should be construed as applying to standards designed to set "minimum required energy efficiency" benchmarks at the point in time a final rule containing such a standard becomes effective for purposes of revising the Code of Federal Regulations, as long as the effective date that is selected is consistent with the CRA and any other applicable law. In today's rule, DOE adopts provisions that implement this approach.

ARI stated that if DOE adopted the approach it proposed in the July 25 SNOPR, then it would like the definitions of "minimum required energy efficiency" and "maximum allowable energy use" revised to ensure that DOE has sufficient time to complete any administrative action it takes in response to a petition for reconsideration. ARI recommended adding to each definition the words "or the date on which DOE completes action on any timely-initiated administrative reconsideration, whichever is later." (ARI, No. 259 at pp. 20–21). We think ARI's suggested language is a useful addition to the definitions. Therefore, we have revised the proposed definitions of "maximum allowable energy use" and "minimum required energy efficiency," to be added to section 430.2, accordingly. In addition, DOE adds a similar definition of "maximum allowable water use," which was inadvertently omitted in the July 25 SNOPR.

Under the provisions adopted in today's final rule, DOE will select a date for the "Effective Date" line of the notice of final rulemaking that in most instances will be 60 to 80 days after the date of publication. (DOE has chosen 75 days after the date of publication for the effective date of today's rule.) DOE would expect that any petition for reconsideration, to be considered timely, ordinarily would be submitted to DOE before the effective date specified in the notice of final rulemaking.

DOE did not receive any public comments on the proposed definition of the term "effective date" as used in EPCA and 10 CFR 430.32. This definition clarifies that for purposes of construing the term under EPCA (but not for purposes of determining the point at which amendments to a standard qualify for protection under section 325(o)(1)), the "effective date" is the date on which an amended energy conservation standard becomes enforceable. DOE also did not receive comments on proposed section 430.34, which tracks the language of section 325(o)(1). Therefore, DOE today adopts these provisions without substantive change.

IV. Basis for DOE's Decision To Withdraw the January 22, 2001, Final Rule

In the July 25 SNOPR, DOE discussed possible legal errors in the promulgation of the January 22 final rule and economic issues that DOE believed had not been adequately considered in determining the energy efficiency levels that are the maximum technologically feasible and economically justified (66 FR 38827–29). On the basis of these possible legal and policy errors, DOE proposed to withdraw the January 22 final rule and proposed to adopt a 12 SEER standard for most central air conditioners and heat pumps, rather than the 13 SEER standard in the January 22 final rule (66 FR 38842). DOE today finally withdraws the January 22 final rule and amends the energy conservation standards for central air conditioners and heat pumps at the 12 SEER level except for two types of space-constrained products (through-the-wall products and small duct, high velocity systems) that are subject to lower standards. In taking this action, DOE corrects the legal and policy errors that were the basis for DOE's decision to withdraw the January 22 final rule.

A. Legal Issues

In the July 25 SNOPR, DOE acknowledged that to comply with section 325(o)(2)(B)(i) of EPCA, DOE arguably should have invited the Department of Justice to submit a supplemental statement of its views on the potential anti-competitive impact of a 13 SEER standard for both central air conditioners and heat pumps which was included in the January 22 final rule (66 FR 38827–28).

Section 325(o)(2)(B)(i) requires DOE to determine whether the benefits of a new or amended energy conservation standard exceed its burdens by considering "to the greatest extent practicable" seven factors, including: "(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard" (42 U.S.C. 6295(o)(2)(B)(i)). Section 325(o) also provides that:

> For purposes of clause (i)(V), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the **Federal Register**.

42 U.S.C. 6295(o)(2)(B)(ii).

In context, it is clear that the term "the standard" in section 325(o)(2)(B)(i) refers to any new or amended energy conservation standard finally prescribed by DOE under section 325(o) of EPCA. Because the Department of Justice must transmit its determination to DOE within 60 days after the publication of a proposed rule, EPCA contemplates that the Department of Justice's determination on the anti-competitive effects of a proposed rule usually will enable DOE to fulfill its substantive obligation to consider the Department's expert opinion on the anti-competitive impact of a final standard. However, as the following discussion shows, this will not always be the case.

DOE submitted the October 5, 2000, NOPR to the Attorney General for review pursuant to the foregoing provisions. The NOPR described the range of potential trial standards considered by DOE, and proposed adoption of Trial Standard Level 3, *i.e.*, a minimum SEER of 12 for central air conditioner product classes and a SEER of 13, with a corresponding HSPF of 7.7, for central air conditioning heat pumps. The Department of Justice, consistent with its past practice, confined its response to the proposed standards, corresponding to Trial Standard Level 3.

The Department of Justice had several concerns about the proposed rule's potential impact on competition (*see* December 4, 2000, letter in the Appendix to this notice). First, the Department of Justice was concerned the proposed rule would have a disproportionate impact on small manufacturers. Second, it was concerned that the proposed standard for heat pumps, and in some instances the standard for air conditioners, would have an adverse impact on some manufacturers of equipment to be used to retrofit existing housing and used in manufactured housing. Third, it was concerned that the proposed 13 SEER for central air conditioning heat pumps could cause consumers to shift from heat pumps to other systems that include resistance heat systems, reducing the competition that presently exists between manufacturers of heat pumps and manufacturers of those other heating systems. The Department of Justice urged DOE to take these concerns into account and consider "setting a lower SEER standard for heat pumps, such as the standard included in Trial Standard Level 2, and a lower SEER standard for air conditioners for retrofit markets where there are space constraints and for manufactured housing." 66 FR 7200.

DOE published a final rule on January 22, 2001, that adopted standards that corresponded to Trial Standard Level 4 (the next higher level) and prescribed a minimum SEER of 13 for all the product classes, except for niche products, with a corresponding 7.7 HSPF. While the preamble to the final rule addressed the Department of Justice's specific concerns about the proposed 12 SEER standards for central air conditioners/13 SEER/7.7 HSPF standard for central air conditioning heat pump systems (66 FR 7192–93), DOE did not have the benefit of the Department of Justice's views on the potential anti-competitive impact of the final 13 SEER standards for both air conditioners and heat pumps. This is particularly of concern in light of information in the TSD indicating that standards at Trial Standard Level 4 (uniform 13 SEER standards) could cause several major manufacturers to consider selling their production assets rather than make the investment required to meet the new standard or face the loss of profits caused by the absence of premium products in the marketplace (*see* July 25 SNOPR at 38827). Therefore, DOE believes the Department of Justice's views on the potential of the standards in the January 22 final rule to accelerate consolidation in the industry should have been obtained.

As part of its review of the January 22 final rule pursuant to the President's Regulatory Review Plan, DOE on March 20, 2001, requested the views of the Department of Justice on the 13 standards for central air conditioners and heat pumps. The Department of Justice's letter responding to our request is published in the Appendix to this notice. While some commenters were critical of the substance of the Department of Justice's determinations about the anti-competitive impact of 13 SEER standards (*see* Section VI below), none of the comments disputed DOE's view that it should have obtained the Department of Justice's views on 13 SEER standards for both central air conditioners and heat pumps.

A second legal error that DOE considered in deciding to propose withdrawal of the January 22 final rule was the absence of any discussion of cumulative regulatory burden in the

statement of basis and purpose for the January 22 final rule. One aspect of the assessment of manufacturer burden required by EPCA (42 U.S.C. 6295(o)(2)(B)(i)(I)) is the cumulative impact of multiple DOE standards and the regulatory actions of other Federal agencies and States that affect the manufacture of a covered product. The preamble to the January 22 final rule contained an assertion that DOE considered cumulative burdens, but it did not discuss the magnitude of the burden or how DOE took it into account in evaluating manufacturer impact (*see* 66 FR 7174). In light of the evidence of cumulative regulatory burdens on manufacturers documented in the TSD, DOE thinks the mere assertion that DOE considered the cumulative burdens on manufacturers was not an adequate statement of basis and purpose for DOE's determination on manufacturer impact resulting from a 13 SEER standard. *See* July 25 SNOPR at 38828.

Finally, as explained in DOE's analysis of EPCA's anti-backsliding provision, the effective date included in the January 22 final rule (*i.e.*, the date 30 days after the date of publication of the notice) was in direct conflict with the CRA requirement that a major rule may not take effect until the later of the date occurring 60 days after the date Congress receives the agency's report under 5 U.S.C. 801 or the date the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3)(A)).

B. Policy Issues

DOE also based its decision to propose withdrawal of the January 22 final rule and to propose 12 SEER standards on its review of the analysis of benefits and burdens that underpinned the January 22 determination that 13 SEER is the maximum efficiency level that is technologically feasible and economically justified. As a result of its review of the January 22 rule, DOE tentatively concluded that a 13 SEER standard was not economically justified, and therefore DOE proposed to withdraw the January 22 final rule and proposed to adopt a 12 SEER standard (66 FR 38828–29).

As explained in the July 25 SNOPR (66 FR 38828) DOE believed that in issuing the January 22 final rule, the previous Administration had given inadequate consideration to the fraction of consumers, and especially low income consumers, who would incur significant increases in life-cycle cost as a result of the 13 SEER standard. DOE decided to propose a 12 SEER standard, instead of 13 SEER, because the analysis showed it would result in a lower fraction of consumers who would incur significant life-cycle cost increases (25 percent and 34 percent of average and low income consumers, respectively, at 12 SEER versus 39 percent and 50 percent, respectively, at 13 SEER).

DOE also based its decision to propose the withdrawal of the January 22 final rule on its conclusion that DOE, in determining whether 13 SEER was economically justified, had not adequately assessed the potential regulatory burden and financial impacts on manufacturers of central air conditioners and heat pumps. *See* July 25 SNOPR at 38828–29. First, DOE concluded that the cumulative regulatory burden on manufacturers was not given sufficient weight in the determination of economic justification. As discussed previously, the statement of basis and purpose for the final rule did not explain how DOE considered the cumulative impact on manufacturers of the costs of complying with various new regulatory actions. DOE also concluded that inadequate consideration was given in the January 22 determination to the effect of 13 SEER standards on industry net cash flow and the maldistribution of regulatory burden on the two major types of manufacturers (66 FR 38829).

DOE's tentative conclusions in the July 25 SNOPR about the appropriate weight to give to the benefits and burdens of 13 SEER versus 12 SEER standards, and the resulting conclusion about which level is economically justified, were the subject of extensive public comment. These comments are discussed in Section VI of this Supplementary Information, and the analysis that supports DOE's determination that 12 SEER is the maximum efficiency level that is technologically feasible and economically justified is set forth in Section VII.

V. Amended Energy Conservation Standards

A. Overview

The amended standards in today's rule take into account a decade of technological advancements and will save consumers and the nation money, significant amounts of energy, and have substantial environmental and economic benefits. When they go into effect, the amended standards will raise the energy efficiency standards to 12 SEER for new central air conditioners and to 12 SEER/7.4 HSPF for new central air conditioning heat pumps. The standards will apply to products manufactured for sale in the United States, as of January 23, 2006. The standard for split-system air conditioners, the most common type of residential air conditioning equipment, represents a 20 percent improvement in energy efficiency. For split-system heat pumps, the new standard represents a 20 percent improvement in cooling efficiency and a 9 percent improvement in heating efficiency. The standard will increase the cooling efficiency of single-package air conditioners and single-package heat pumps by 24 percent and the heating efficiency of single-package heat pumps by 12 percent. DOE has determined that the new standards are the highest efficiency levels that are technologically feasible and economically justified as required by law.

DOE adopts somewhat lower amended standards for through-the-wall central air conditioner and heat pump products to ensure that more efficient versions remain available for this application. DOE establishes 10.9 SEER and 7.1 HSPF as the standard for through-the-wall split systems, and 10.6 SEER and 7.0 HSPF for through-the-wall single package systems.

Finally, DOE creates a new class for small duct, high velocity central air conditioners and heat pumps. These products are designed for retrofit applications and have special requirements that make it unlikely they can meet the efficiency standards that DOE today establishes for conventional equipment. As discussed in Section VI, DOE received public comments that supported creation of a separate class for these products. While DOE includes a definition of "small duct, high velocity system" in the final rule and creates a separate class for them, DOE retains the NAECA prescribed standard levels for small duct, high velocity products in today's final rule because DOE has not yet conducted the analysis required to determine whether higher levels are technologically feasible and economically justified. DOE in the near future intends to begin a rulemaking to determine if a higher standard is warranted.

Several aspects of today's standards warrant highlighting, as follows.

1. Central Air Conditioner and Heat Pump Features

The efficiency levels in today's final rule can be met by central air conditioner and heat pump designs that are already available in the market. DOE fully expects variations of these models to exist under the new standards, offering all the features and utility that are found in currently available products.

2. Consumer Benefits

Table 1 summarizes the "characteristics" of today's typical central air conditioners and heat pumps. Table 2 presents the implications for the average consumer of the standards becoming effective in 2006.

TABLE 1.—CHARACTERISTICS OF TODAY'S TYPICAL CENTRAL AIR CONDITIONERS AND HEAT PUMPS [1]

	Split system air conditioner	Split system heat pump	Single package air conditioner	Single package heat pump
Average Installed Price	$2,236	$3,668	$2,607	$3,599
Annual Utility Bill [2]	189	453	189	453
Life Expectancy	18.4 years	18.4 years	18.4 years	18.4 years
Energy Consumption per year	2,305 kWh	6,549 kWh	2,305 kWh	6,549 kWh

[1] "Typical" equipment have cooling and heating efficiencies of 10 SEER and 6.8 HSPF, respectively.
[2] Utility bill pertains to the energy cost of operating the air conditioner or heat pump.

TABLE 2.—IMPLICATIONS OF NEW STANDARDS FOR THE AVERAGE CONSUMER

	Split system air conditioner	Split system heat pump	Single package air conditioner	Single package heat pump
Year Standard Comes into Effect	2006	2006	2006	2006
New Average Installed Price	$2,449	$3,812	$2,765	$3,748
Estimated Price Increase	213	144	158	149
Annual Utility Bill Savings	31	50	31	50
Average Net Saving over Equipment Life	113	365	163	421
Energy Savings per Year	384 kWh	768 kWh	384 kWh	768 kWh

The most typical air conditioner (*i.e.*, split system air conditioner which comprises approximately 65 percent of today's central air conditioning and heat pump market) has an installed price of $2,236 and an annual utility costs of $189. In order to meet the 2006 standard, DOE estimates that the installed price of a typical air conditioner would be $2,449, an increase of $213.[5] This price increase would be offset by an annual energy savings of about $31 on the utility bills. The most typical heat pump (*i.e.*, split system heat pump) currently has an installed price of $3,668 and annual utility costs of $453. In order to meet the 2006 standard, DOE estimates that the installed price of a typical heat pump would be $3,812, an increase of $144.[6] This price increase would be offset by an annual energy savings of about $50 on the utility bills.

DOE recognizes that most consumers pay energy prices that are higher or lower than the "typical" consumer and operate their equipment more or less often. Consequently, DOE has investigated the effects of the different energy prices across the nation and different air-conditioning usage patterns. DOE estimates that 75 percent of all consumers purchasing a new typical air conditioner would either save money or would be negligibly impacted as a result of the 2006 standard.[7] In the case of a new typical heat pump, all consumers either would save money or be negligibly impacted.[8]

DOE also investigated how these standards might affect low income consumers. On average, DOE estimates that it is likely that low income air conditioner and heat pump consumers would also save money over the life of the equipment as a result of the standard.

3. National Benefits

The standards in today's rule will provide benefits to the nation. DOE estimates the standards will save approximately 3 quads of energy over 25 years (2006 through 2030). This is equivalent to all the energy consumed by nearly 17 million American households in a single year. In 2020, the standards will avoid the construction of three 400 megawatt coal-fired plants and nineteen 400 megawatt gas-fired plants. These energy savings would result in cumulative greenhouse gas emission reductions of approximately 24 million metric tons (Mt) of carbon, or an amount equal to that produced by approximately 2 million cars every year. Additionally, air pollution would be reduced by the elimination of approximately 80 thousand metric tons (kt) of nitrous oxides (NO_x) from 2006 through 2020. In total, DOE estimates this standard will have a net benefit to the nation's consumers of $2 billion over the period 2006 through 2030.[9]

B. Statutory Framework

Part B of Title III of EPCA provides for the Energy Conservation Program for Consumer Products other than Automobiles (42 U.S.C. 6291 *et seq.*). The consumer products subject to this program include central air conditioners and heat pumps. Under the Act, the program consists essentially of three parts: testing, labeling, and Federal energy conservation standards.

As previously stated, NAECA prescribed initial Federal energy conservation standards for central air conditioners and heat pumps (42 U.S.C. 6295(d)). NAECA further specified that DOE is to review and publish amended standards by January 1, 1994 (42 U.S.C. 6295(d)(3)(A)). Under EPCA, any new or amended standard must be designed so as to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)).

Section 325(o)(2)(B)(i) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a

[5] Based on estimates supplied by the industry trade association, the Air-Conditioning and Refrigeration Institute (ARI), the installed price is estimated to be $2,510, an increase of $274.

[6] Based on estimates supplied by ARI, the installed price is estimated to be $3,933, an increase of $265.

[7] Based on estimates supplied by ARI, 61 percent of all consumers purchasing a new typical air conditioner will either save money or will be negligibly impacted as a result of the 2006 standard.

[8] Based on estimates supplied by ARI, 97 percent of all consumers purchasing a new typical heat pump will either save money or will be negligibly impacted as a result of the 2006 standard.

[9] Net benefit assumes NAECA efficiency scenario. Net benefit would be $3 billion for Roll-up efficiency scenario.

proposed standard (42 U.S.C. 6295(o)(2)(B)(i)). That section further provides that, after reviewing the comments, DOE must determine whether the benefits of the standard exceed its burdens, based, to the greatest extent practicable, on a weighing of the following seven factors:

(i) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(ii) The savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(iii) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(iv) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(v) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(vi) The need for national energy conservation; and

(vii) Other factors the Secretary considers relevant.

In addition, section 325(o)(2)(B)(iii) establishes a rebuttable presumption of economic justification in instances where the Secretary determines that "the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy * * * savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure * * *." (42 U.S.C. 6295(o)(2)(B)(iii)). The rebuttable presumption test is an alternative path to establishing economic justification.

C. Methodology Used in DOE Analyses

For this final rule, the methodologies used to evaluate the seven factors described above are unchanged from those used in the analyses that DOE relied on for the October 5 proposed rule and the January 22 final rule. DOE's methodology is discussed in the October 5, 2000 NOPR (65 FR 59594–97) and the January 22 final rule (66 FR 7173–74). Additionally, the TSD that accompanies this rulemaking provides a detailed description of every aspect of the various analytical methodologies used.

D. General Discussion of DOE's Consideration of Statutory Criteria

1. Technological Feasibility

Pursuant to section 325(p)(2) of EPCA, and as discussed in the October 5, 2000 NOPR (65 FR 59593, 59612) and January 22 final rule (66 FR 7172), DOE determined that 18 SEER is the maximum technologically feasible level (Max Tech Level) for cooling efficiency for all product classes and capacities covered by this rulemaking. The Max Tech Level for heating efficiency is 9.4 HSPF, which is the highest HSPF rating currently available in residential heat pumps. DOE's determinations of technological feasibility for central air conditioners and heat pumps have not been disputed in the written and oral comments of interested persons in the rulemaking.

2. Economic Justification Factors

DOE has considered the seven statutory factors for determining whether a conservation standard is economically justified. This section briefly summarizes DOE's consideration of these factors. More detailed consideration of these factors is provided in the discussion of comments in Section VI and the discussion of analytical results in Section VII of this Supplementary Information.

a. Economic Impact on Manufacturers and Consumers

The record for this rulemaking contains several discussions of the economic impact on manufacturers and consumers *See* 66 FR 7174–78, 7185–7191, and 66 FR 38828–29, 38834–35. In the July 25 SNOPR, DOE identified deficiencies in the assessment of manufacturer and consumer impacts that was the basis for adoption of the January 22 final rule. Later sections of this Supplementary Information address the public comments received and DOE's conclusions on these subjects.

b. Life-Cycle Costs and Rebuttable Presumption

DOE considered life-cycle costs, as discussed in the January 22 final rule. 66 FR 7173, 7175, 7187–90. DOE calculated the installed price and operation and maintenance costs for a range of consumers around the nation to estimate the range in life-cycle cost benefits that consumers would expect to receive due to new standards. DOE has made no change in its assumptions and analysis of life-cycle costs in making the determinations in today's notice of final rulemaking.

Section 325(o)(2)(B)(iii) of EPCA provides that if, according to the applicable test procedure, the increase in initial price of an appliance due to a conservation standard would repay itself to the consumer in energy savings in less than three years, then DOE is to presume that such standard is economically justified. This presumption of economic justification can be rebutted upon a proper showing.

Using the reverse engineering manufacturing costs, the standards DOE adopts today for split heat pumps and packaged heat pumps can be shown to have satisfied the rebuttable presumption requirements in section 325(o)(2)(B)(iii).[10] Therefore, DOE presumes that the standards adopted for split system and single package heat pumps are economically justified. The analysis, however, shows that split system air conditioners and single package air conditioners do not meet the standard for use of the rebuttable presumption of economic justification. Therefore, DOE does not presume them to be economically justified. If the rebuttable presumption does not apply, DOE must perform additional analysis to determine economic justification. As discussed in Section VII, DOE has performed an analysis for all classes of central air conditioner and heat pump products that shows the standards in today's rule are indeed economically justified.

c. Energy Savings

EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from revised standards. DOE forecasted energy savings through the use of a national energy savings (NES) spreadsheet, as discussed in the October 5, 2000 NOPR (65 FR 59590, 59593). DOE relies on the same spreadsheets and assumptions for its estimate of the NES that would result from implementation of today's standards.

As discussed in the October 5, 2000 NOPR, section 325(o)(3)(B) of EPCA prohibits DOE from adopting a standard for a product if that standard would not result in "significant" energy savings. The energy savings for the standard levels DOE is adopting today are non-trivial—indeed they are substantial—and therefore we consider them "significant" within the meaning of section 325 of the Act as construed by the court in *Natural Resources Defense Council* v. *Herrington*, 768 F.2d 1355 (D.C. Cir. 1985).

[10] To avoid confusion, DOE points out that the statute requires DOE to use "the applicable test procedure" to calculate the payback periods for purposes of the rebuttable presumption. As explained in the October 5, 2000 NOPR (65 FR 59596), the annual cooling and heating energy consumption calculations based on DOE's test procedure are significantly greater than the weighted-average values from DOE's life-cycle cost analyses based on the 1997 Residential Energy Consumption Survey, used in other DOE analyses. For this reason, the payback periods presented in Section VII of this portion of the preamble, entitled "Analytical Results and Conclusions," are significantly longer than those calculated to determine whether the rebuttable presumption applies to these products.

d. Lessening of Utility or Performance of Products

This factor cannot be quantified. In establishing classes of products, DOE has attempted to eliminate any degradation of utility or performance in the products covered by today's rule. Attributes that affect utility include the product's ability to cool and dehumidify. In some applications, noise levels may also be an aspect of utility. Product size or configuration can also be considered utility if a change in size would cause the consumer to install the product in a location or in a manner inconsistent with the consumer's preferences. The separate treatment of through-the-wall products and small duct, high velocity systems in today's rule is based in part on utility and performance considerations.

e. Impact of Lessening of Competition

This economic justification factor has two aspects: On the one hand, it assumes that there could be some lessening of competition as a result of standards; on the other hand, it directs the Attorney General to gauge the impact, if any, of that effect and DOE must consider the Attorney General's views in determining whether an efficiency level is economically justified.

In order to assist the Attorney General in making such a determination, DOE provided the Attorney General with copies of the October 5, 2000, NOPR and the TSD for review. The Attorney General's determination, in a letter dated December 4, 2000, was discussed in the preamble to the January 22 final rule. 66 FR 7176, 7199–200. The Attorney General's December 4, 2000, determination is included in the Appendix to this notice of final rulemaking.

During the review conducted pursuant to the President's Regulatory Review Plan, DOE invited the Attorney General to submit supplemental views on the January 22 final rule. The Department of Justice, in a letter dated April 5, 2001, provided comments on whether the final rule effectively removed its concerns regarding possible lessening of competition that could result from the October 5 proposed standards. The Department of Justice's April 5, 2001, letter is also included in the Appendix to this notice. The Department of Justice concluded that the 13 SEER standards for heat pumps and air conditioners in the January 22 final rule still presented anti-competitive concerns. More specifically, the Department of Justice concluded that while the final rule's exclusion of niche products might alleviate competitive problems for manufacturers of those products, the Department of Justice remained concerned about the impact of the final rule on manufacturers of standard equipment who could not make 13 SEER equipment that would fit into space-constrained sites. The Department of Justice also concluded the January 22 final rule would have a disproportionate impact on smaller manufacturers of heat pumps. Finally, the Department of Justice was of the view that the 13 SEER standard for air conditioners presents the same kinds of anti-competitive problems as the 13 SEER standard for heat pumps, and urged DOE to adopt a 12 SEER standard for all products covered by the rule.

DOE submitted the July 25, 2001, supplemental proposed rule to the Department of Justice for comment. The Assistant Attorney General, Antitrust Division, responded in a letter dated October 19, 2001, (*see* Appendix to this notice) that the Department of Justice had concluded that the proposed 12 SEER standards would not adversely affect competition. This factor is discussed further in Section VI.E of this Supplementary Information.

f. Need of the Nation To Conserve Energy

DOE recognizes that energy conservation benefits the nation in several important ways. Enhanced energy efficiency improves the nation's energy security, strengthens the economy, and reduces the environmental impacts of energy production. As part of the analysis supporting today's rule, DOE estimated energy savings and the national consumer benefits and estimated reduction in emissions of pollutants and greenhouse gases resulting from those energy savings. *See* the October 5, 2000 NOPR for a qualitative discussion of how these standards affect energy savings and those benefits. 65 FR 59622–3. The amount of energy savings ultimately associated with a particular standard level is also affected by the effect of a given standard on competition and consumer cost. Selecting a standard level should take into account manufacturer—and therefore inevitably consumer—costs, in order to encourage robust competition and heightened introduction of newer, more efficient units into the inventory of units available for purchase and use by consumers.

g. Other Factors

Section 325(o) of EPCA allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant (42 U.S.C. 6295(o)(2)(B)(i)(VI)). Under this provision, DOE considered the potential improvement to the reliability of the electrical system and health effects caused by foregone air conditioner purchases. These issues are discussed in the October 5, 2000 NOPR (65 FR 59605); the January 22 final rule (66 FR 7195); and in the Discussion of Comments that follows. The Utility Impacts Analysis in Chapter 11 of the TSD describes the technical analysis used in estimating the effects of adopting new efficiency standards on installed generation capacity. As will be described in the Discussion of Comments, the Utility Impacts Analysis has been revised. Updated results are provided in Appendix M of the TSD.

VI. Discussion of Comments

A. Impact on Consumers

The record for this rulemaking includes numerous discussions of the distributions, extent, and type of burdens on the typical consumer as well as on low-income consumers. *See* 65 FR 59623–59624, 66 FR 7189–7190, and 66 FR 38834. In the January 22 notice of final rulemaking, DOE determined that most consumers, including low-income consumers, would likely benefit financially over the life of the equipment, but that all consumers would bear higher initial costs, and many consumers, though not the majority, would never recover the higher first costs in the form of savings in their utility bills. However, the previous Administration concluded that the national energy savings and the slight financial benefit to the typical consumer overrode any negative and maldistributed consumer impacts. Upon review undertaken in conjunction with President Bush's Regulatory Review Plan, DOE focused on analytical results showing that the benefits of the standards adopted in the January 22 final rule would accrue to a much smaller fraction of consumers, particularly low-income consumers, than is the case for recent standards for other products. Therefore, DOE sought to mitigate those burdens by proposing on July 25 a 12 SEER standard, which would reduce the increase in equipment cost compared to the 13 SEER requirements issued on January 22. *See* July 25 SNOPR, 66 FR 38828, 38834. DOE received extensive public

comments on this subject in response to the July 25 SNOPR.

1. Low-Income Consumers

As stated in the July 25 SNOPR, DOE is particularly concerned that new standards be designed to distribute their burdens and benefits as fairly as practical. Although some disparity is expected in any national standard, the disparity in impacts between low-income and typical consumers is of greater concern at more stringent efficiency standards because increases in first cost and increases in life cycle costs are felt more sharply by lower income consumers.

Many advocates of a 13 SEER standard argued that because a majority of low-income central air conditioner and heat pump consumers are renters, most would not bear the first cost increases associated with more efficient equipment. These comments asserted that landlords would have to absorb any first cost increase because rental prices are dictated by housing availability, real estate prices, and a number of other market forces as opposed to first cost increases in any single appliance. The comments also asserted that because landlords typically purchase the least expensive, and in turn, the least efficient equipment, stringent efficiency standards are one of the few options provided to renters to protect them from unduly high energy bills. (ACEEE, No. 284 at p. 3; Appliance Standards Awareness Project (ASAP), No. 244 at pp. 1–2; Austin Energy, No. 243 at p. 2; Consumer Federation of America (CFA), No. 246 at p. 2; NEEP, No. 273 at p. 3; State of Vermont, No. 268 at p. 3; Goodman Global Holdings (Goodman), No. 269 at p. 4; ASE, No. 282 at p. 4; California Energy Commission (CEC), No. 263 at p. 2; NRDC, No. 250 at pp. 17–18; Environmental Ministries of Southern California, No. 263 at p. 4; Texas Ratepayers' Organization to Save Energy (Texas ROSE), No. 241–SS at pp. 15–16; National Consumer Law Center (NCLC), No. 241–NN at p. 1; Texas Natural Resource Conservation Commission (TNRCC), No. 286 at pp. 1–2; American Geothermal DX, No. 241–HH at p. 1; EPA, No. 276 at p. 5). Goodman, Oregon Office of Energy (OOE), National Grid, and Texas ROSE stated that low-income consumers in general would benefit from stringent efficiency standards. Goodman argued that any first cost increase would be made up through lower energy bills, while Texas ROSE asserted that the stringency of the efficiency standard is immaterial as most low-income households would find buying a new central air conditioning unit a prohibitive expense at any efficiency level. (OOE, No. 275 at pp. 4–5; Goodman, No. 269 at p. 4; National Grid, No. 241–OO at p. 2; Texas ROSE, No. 241–SS at pp. 12–16).

Countering the above comments, York International (York), Trane Company and American Standard Heating and Air Conditioning (Trane), Southern Company, ARI, Edison Electric Institute (EEI), Rheem Manufacturing (Rheem), Carrier Corporation (Carrier), and George Mason University Mercatus Center (Mercatus Center) all argued that the increased cost of more efficient air-conditioning equipment cannot be afforded by those consumers living on fixed or low incomes. For those low-income consumers that are elderly or of ill-health, Carrier and Mercatus Center stated that the increased first cost associated with more efficient equipment could cause these consumers to forego the purchase of new equipment leading to potential adverse health effects for this sub-population. With regard to low-income renters, both Trane and Southern Company maintained that landlords will pass on the higher first costs associated with more efficient equipment to renters. Southern Company elaborated by stating the "renters get it free" argument only has validity in the very short-term. In the long term, higher costs experienced by landlords will inevitably result in higher costs to their tenants. Southern Company asserts that DOE would be better served looking at cost-effectiveness from a direct-cost, societal viewpoint, and avoid speculating on changes in landlord profit margins decades from now. (York, No. 270 at pp. 2–3; Trane, No. 262 at pp. 4–5; Southern Company, No. 257 at p. 2; ARI, No. 259 at p. 2; EEI, No. 253 at p. 4; Rheem, No. 248 at p. 2; Carrier, No. 280 at p. 2; Mercatus Center, No. 242 at p. 11).

DOE believes roughly half of low income households are renters. The 1997 Residential Energy Consumption Survey (RECS) that was used as the basis for determining the impacts of increased efficiency standards on households estimates that 49.8 percent of low-income households with central air-conditioners or heat pumps are renters. What is at issue is the extent to which increased equipment costs will be borne by occupants of these households or by the building owners.

DOE examined existing literature on the economics of rental markets to determine whether any previous analyses might help resolve the disagreements on this issue.[11] The literature provides expressions for determining the renter and landlord pass-through-fractions as a function of elasticities for long-run housing supply and demand. The renter pass-through-fraction defines that portion of a landlord's investment cost (such as the cost associated with more efficient air-conditioning equipment) that gets passed through to the renter in the form of an increased rental price. The renter pass-through-fraction is defined by the following expression:

Where,

$$\text{Pass-thru-Fraction}_{\text{Renter}} = \frac{e_s}{e_s - e_d}$$

e_s = elasticity of long-run housing supply and
e_d = elasticity of long-run housing demand.

The landlord pass-through-fraction defines that portion of a renter's benefit due to a landlord's investment (such as utility bill savings associated with more efficient air-conditioning equipment) that get passed back through to the landlord in the form of an increased rental price. The landlord pass-through-fraction is defined by the following expression:

$$\text{Pass-thru-Fraction}_{\text{Landlord}} = \frac{-e_d}{e_s - e_d}$$

The existing literature provides a range of elasticities for long-run housing supply (0.3 to 0.7) and demand (−0.1 to −1.0). The literature suggests that there will always be some form of renter pass-though but not necessarily some form of landlord pass-through. As a result, the minimum and maximum pass-through-fractions are 23 percent and 121 percent, respectively, of a landlord's investment cost. As shown above, the literature suggests that it is possible that some landlords will not be able to pass on all investment costs, while other landlords may actually pass on more than 100 percent of these costs. Those landlords who are unable to pass on all of these added costs will, of course, be adversely affected by this rulemaking (unless they are directly responsible for the utility bills associated with air conditioning use), although their renters are much more likely to benefit. Landlords that would be adversely affected may be more likely to seek alternatives, such as small capacity units or even delayed replacement of failed units. Those landlords that pass on more than 100 percent of the costs of new equipment could benefit from efficiency standards, but their renters are much more likely to be adversely affected. Since no study could be found that addressed the specific population of renters likely to be affected by this rulemaking, DOE believes there is insufficient basis to change its analytical methods or conclusions regarding the likely effects of central air conditioner and heat pump standards on low-income renters.

[11] Pindyckk, R. and D. Rubinfeld, Microeconomic Theory, 2001, provides equations for renter and landlord pass-through fractions as a function of elasticities for long-run housing supply and demand. Typical supply elasticities can be found in Pindykck, R. and D. Rubinfeld, Microeconomics, 2001, Prentice Hall (citing de Leeuw, F. and N. Ekanen, "The Supply of Rental Housing", AER, Vol. 61, 1971, pp. 806–817). Typical demand elasticities can be found in Hanushek, E.A. and J.M. Quigley, "The Determinants of Housing Demand", Research in Urban Economics, Vol. 2, 1982, pp. 221–242.

2. Electricity Prices

In proposing a 12 SEER standard in the July 25 SNOPR, DOE stated that a lower fraction of consumers would be negatively impacted in terms of life-cycle cost than under a 13 SEER standard. *See* 66 FR 28828.

Several comments disagreed with DOE's life-cycle cost conclusions, claiming that DOE's analysis significantly underestimates the benefits of the 13 SEER rule due to its failure to account for recent increases in electricity prices. The comments note that DOE based its seasonal price forecasts on electricity price data from 1996–97 that were adjusted downward using Energy Information Administration (EIA) projections of future annual electricity prices. Citing recent residential rate data from areas of the country that have undergone some form of electricity deregulation (e.g., Massachusetts, California, and the Northwest), the comments assert that DOE's electricity cost projections fail to recognize the significant summertime consumer price increases that are accompanying restructuring of the electric utility industry. For additional support, some comments refer to an analysis conducted by Synapse Energy Economics that demonstrated that summer daytime wholesale electric prices across the country averaged approximately 2½ ¢/kWh (kilowatt-hour) more than annual average wholesale prices. These comments conclude that if DOE's analysis were revised to include more recent electricity prices, the results would indicate that a 13 SEER standard represents a better choice for consumers and the Nation. (ACEEE, No. 284 at pp. 8–11; CFA, No. 246 at p. 2; Attorneys General of New York and Massachusetts, No. 277 at pp. 15–16; OOE, No. 275 at p. 3; Pacific Gas & Electric Company (PG&E), No. 274 at pp. 1–2; ASE, No. 282 at p. 4; Goodman, No. 269 at p. 2; National Rural Electric Cooperative Association (NRECA), No. 278 at pp. 1–2; Environmental Ministries of Southern California, No. 236 at pp. 2–3; Texas ROSE, No. 241–SS at pp. 7–8; NCLC, No. 255 at pp. 2–4; Northwest Power Planning Council (NWPPC), No. 287 at pp. 1–3; Environmental Protection Agency (EPA), No. 276 at p. 4). Some comments further argue that the costs of electricity price increases due to air-conditioning are passed, in the form of higher rates, onto all consumers for all end uses, regardless of the importance of their role in creating the price increase. Thus, DOE's analysis should account for how lower air-conditioning consumption lowers electricity bills for all consumers and not only those that utilize air conditioners. (NEEP, No. 273 at pp. 2–3; NRDC, No. 250 at pp. 14–17).

Trane, ARI, and EEI all disagree that recent price increases due to electricity deregulation will lead to higher electricity rates in the long-term. For example, Trane asserts that competition will cause energy prices to consumers to remain stable. EEI adds that price collapses have recently occurred in some of the same regional markets which experienced rate increases. EEI also states that retail price caps have been instituted in many areas of the country that have been deregulated in order to shield residential consumers from the price fluctuations in the wholesale market. (Trane, No. 262 at pp. 14–16; ARI, No. 259 at pp. 33–34; EEI, No. 253 at p. 3).

Rather than speculate on how current volatility in energy markets will impact future electricity prices, DOE has consistently relied on EIA energy price forecasts and has used other forecasts, including the various EIA scenarios, to bound the energy prices used in the standards analysis. EIA's most recent Annual Energy Outlook (AEO) for the year 2002 recognizes that over the past year energy markets have been extremely volatile.[12] Recent energy market volatility as well as the economic slowdown and lower prices following the September 2001 terrorists' attacks in the United States have been incorporated in the short-term projections of the AEO2002. To be more specific regarding the AEO2002 assumptions, its projections assume a transition to full competitive pricing of electricity in States with specific deregulation plans. Other States are assumed to continue cost-of-service pricing. Price projections include the contracts entered into by California to guarantee electricity supplies in the State. Increased competition in electricity markets is also represented through changes in the financial structure of the industry and efficiency and operating improvement. The impact of EIA's assumptions are evidenced from the average residential electricity price estimated by AEO2002 for the year 2001. The average rate estimated by AEO2002 for 2001 is 4.2 percent greater (or 0.3 ¢/kWh) than that estimated by the AEO2000. Although the AEO2002 short-term projections have taken into account recent events, EIA estimates that long-term volatility in energy markets will not occur from recent events or from the impacts of such future events as supply disruptions or severe weather. Again, this is evidenced from the average residential electricity price forecasts from the AEO2002. Starting in the year 2003 average rates are projected to drop below those forecasted by the AEO2000 and remain that way until 2010. After 2010 the rates forecasted by both the AEO2002 and AEO2000 are essentially the same. In terms of the consumer analysis, this means that the life-cycle results based on the AEO2000 price projections would remain virtually unchanged if the AEO2002 projections were to be substituted in their place.

With regard to Synapse Energy Economics' wholesale electricity price analysis, DOE does recognize that wholesale summertime electricity prices are on average 2½ ¢/kWh greater than average wholesale rates. But as was stated in the January 22 final rule, DOE cannot speculate as to how wholesale prices will be translated into retail prices to residential consumers. It is possible that this difference in wholesale rates will ultimately result in higher marginal energy prices for the operation of central air conditioners. However, several other assumptions about future electricity prices are equally reasonable. It is possible that increased competition will result in higher fixed charges for utility service and higher fixed charges would lower marginal rates. That is, under competition, utilities may recover more of their costs of supplying electricity to consumers from fixed charges on utility bills, thereby reducing the cost consumers have to pay for electricity being supplied at the margin. It is also possible that higher peak load prices for electricity would cause consumers to significantly alter the times at which they use air conditioning, thus reducing projected electricity costs (and cost savings). Finally, it is possible that the

[12] U.S. Department of Energy-Energy Information Administration (EIA). Early Release of the Annual Energy Outlook 2002. EIA website: <http:www.eia.doe.gov/oiaf/aeo/>.

recent trend toward increased retail level competition will slow or even stop. DOE recognizes that the Nation's electric utility systems are in the midst of major regulatory, structural and technological changes which are likely to have important effects on the marginal prices for electricity use that are charged to residential customers and that these effects may be particularly pronounced during periods of especially high (or low) electricity demand. However, given the many possible scenarios affecting the costs of operating central air conditioners, DOE has decided to retain for this rulemaking the existing method for estimating future marginal electricity prices. This analysis method utilizes the most current, comprehensive data available on the actual marginal rates paid by consumers and uses price forecasts that closely parallel the most current assessment published by DOE.

During the coming years, DOE intends to monitor carefully the actual changes in the marginal electricity rates being paid by consumers and other electricity users, and to look for any trends in these changes that could help improve DOE's analysis. For future efficiency standards rulemakings, DOE intends to use the most recent data available on marginal rates, considering emerging trends in such rates that result from significant changes in electricity rate design (such as fixed and variable charges, or time-of-use rates), metering and demand management technologies, equipment use load shapes, or in the allocations of costs among sectors.

Within approximately five years of the current rulemaking, DOE expects to complete another review of the efficiency standards for central air conditioners and heat pumps. During this period DOE hopes that sufficient data will become available to enable it to forecast with greater confidence the marginal rates for residential electricity users. If available, DOE expects to use such rates to support modified standards.

3. Installation Costs

The potential increase in installation costs associated with 13 SEER equipment was cited by DOE as one of the reasons for not proposing a 13 SEER standard in its July 25 SNOPR. *See* 66 FR 38836. Several comments disagreed with DOE's conclusion that installation costs could be significantly different between 12 and 13 SEER equipment. Goodman claims that because their 12 and 13 SEER equipment are similar in size, there is almost no difference in the installation costs associated with their 12 and 13 SEER systems. (Goodman, No. 269 at p. 3). American Geothermal DX, an HVAC contractor, asserts that, based on its experience, any cost difference between installing a 13 SEER unit over a 12 SEER unit would be minimal. (American Geothermal DX, No. 241–HH at pp. 1–2). Several other comments, in particular those from ACEEE, assert that DOE's treatment of the "footprint" issue is speculative, *i.e.*, DOE provides no evidence that installation costs will actually increase for 13 SEER equipment. With regard to space-constrained equipment, ACEEE adds that because DOE has already moved to isolate this type of equipment as separate product classes, it effectively dismisses any arguments asserting that the impact of space constraints would result in higher installation costs for "mainstream" 13 SEER equipment. (ACEEE, No. 284 at pp. 13–14; ASE, No. 282 at p. 5; NRDC, No. 250 at p. 23; National Grid, No. 241–OO at p. 2).

Trane, ARI, and Rheem all argue that 13 SEER equipment is significantly larger than 12 SEER systems. As a result, installation costs are significantly greater for 13 SEER units than for 12 SEER units. In particular, they state there will be many instances where it will be very difficult to physically fit larger indoor coils, needed to match outdoor 13 SEER condensing units, without retrofitting the air handler originally designed for a smaller, lower SEER indoor coil. (ARI, No. 259 at pp. 25–26; Trane, No. 262 at pp. 5–9; Rheem, No. 248 at p. 3).

Throughout the analysis DOE has assumed that installation costs would remain constant as efficiency increased. As stated in the January 22 final rule, DOE believes that even if installation costs do generally rise as the size and weight of equipment increases, manufacturers will have the incentive under new standards to reduce the size of 13 SEER equipment using various approaches, such as adopting variable speed and modulating capacity technologies, converting to microchannel heat exchangers, increasing the size of the unconstrained outdoor unit or indoor unit only, or changing the footprint or elevation of the unit. *See* January 22 final rule, 66 FR 7180. Although DOE still maintains that installation costs generally are unlikely to increase due to the above reason, as stated in the July 25 SNOPR, there is the possibility that substantial increases in installation costs due to larger and heavier 13 SEER systems may materialize for some consumers, especially for those replacing 10 SEER systems. *See* July 25 SNOPR, 66 FR 38836. As a result, DOE continues to believe the possibility of increased installation costs is a factor that supports adopting the less costly 12 SEER standard.

4. Manufactured Housing Owners

York, ARI, and Nordyne Inc. (Nordyne) stated that consumers living in manufactured homes are especially vulnerable to the increased first costs associated with more efficient equipment. They asserted that manufactured homes are typically "starter" homes for low-to-middle income families where any increases in household expenses, including those associated with more efficient space-conditioning equipment, are difficult to afford. Because the life-cycle cost analysis made no explicit mention of this sub-population, they are concerned that DOE did not consider manufactured-home owners in its analysis. (York, No. 270 at pp. 2–3; ARI, No. 259 at p. 9; Nordyne, No. 264 at pp. 1–2).

DOE considered all household types utilizing central air conditioners or heat pumps in its consumer life-cycle cost analysis, including manufactured homes. Of the households with central air conditioners analyzed in the consumer life-cycle analysis, 4.5 percent were manufactured homes. For households with heat pumps, 6.1 percent were manufactured homes.

In its decision to propose 12 SEER standards for conventional products, DOE took into consideration the first cost impacts of higher efficiency standards to manufactured home owners. In particular, DOE was concerned that the 13 SEER standards issued in the January 22 final rule could cause manufactured home consumers to shift from heat pumps to other systems that include resistance heat systems. *See* July 25 SNOPR, 66 FR 38836.

B. Life-Cycle Cost and Payback Period

Although a majority of the comments concerning consumer impacts addressed either low-income impacts or the effect that electricity prices have on the number of consumers either benefitting or being burdened by increased standards, several comments expressed concerns over other elements of the consumer life-cycle cost analysis.

1. Product Lifetime

Energy Market & Policy Analysis, Inc. (EMPA) stated that DOE incorrectly used estimates of the full lifetime of the equipment rather than the time that the equipment may remain in the ownership and use of the initial owner. (EMPA, No. 241–LL at pp. 5–6).

In analyzing increases in efficiency standards, DOE is required by section 325(o)(2)(B)(i) of EPCA to use the full lifetime of the equipment for establishing the operating cost savings resulting from higher efficiency standards. The second factor in section 325 to be considered for determining whether the benefits of the standard exceed its burdens is "the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard." 42 U.S.C, 6295(o)(2)(B)(i)(II).

A retirement function with an average 18.4-year equipment lifetime was used in the life-cycle cost analysis for central air conditioners and heat pumps. As stated in the January 22 final rule, the basis of the 18.4-year equipment lifetime was a survey conducted on more than 2,100 heat pumps in a seven state region of the U.S.[13] *See* 66 FR 7179–7180.

The survey determined not only the lifetime of a complete heat pump system, but the life of the original compressor as well. Although the system lifetime is on average over 18 years, the survey also showed that the original compressor lifetime was, on average, 14 years. Thus, the survey indicated that essentially all heat pump owners replaced their original compressor once in the lifetime of system.

Since the heat pump survey clearly indicates that the original compressor is replaced once in a system's life, DOE's analysis was based on the inclusion of a repair cost for the compressor. Conducting the analysis in this manner retains the average system lifetime of 18.4 years but explicitly addresses the replacement cost of the compressor, which is the most expensive component of a system. As indicated by the survey data, the compressor was assumed to be replaced in the 14th year of the system's life. Although a shorter equipment lifetime is possible, DOE has not been provided with more substantive data to support discontinuing its use of the above mentioned survey data. DOE believes that the survey data provides an accurate representation of central air conditioner and heat pump life. Although the survey was conducted only on heat pumps, the retirement function was also used as the basis for estimating central air conditioner product lifetime. Because heat pumps are used during both the cooling and heating seasons, they generally incur more operating hours and more wear during the course of a year than air conditioners. Thus, the use of a heat pump retirement function for air conditioners likely underestimates their lifetime. Although heat pump and air conditioner lifetimes likely differ, DOE was unable to obtain any well substantiated data to determine whether air conditioner lifetimes are longer than those for heat pumps. Without such data, the heat pump retirement function was assumed valid for air conditioners.

[13] Bucher, M.E., Grastataro, C.M., and Coleman, W.R. "Heat Pump Life and Compressor Longevity in Diverse Climates." ASHRAE Transactions, 1990. 96(1): pp. 1567–1571.

2. Warranty, Maintenance, and Service Costs

EMPA stated that DOE made no attempt to collect or include warranty, maintenance, and service costs in the consumer analysis. (EMPA, No. 241–LL at pp. 5–6). On the issue of warranty costs, Mercatus Center adds that the reliability patterns of new components that are part of high efficiency products are less known, so warranty accruals may be significantly higher for these products (*i.e.*, 12 to 13 SEER equipment). (Mercatus Center, No. 242 at p. 8).

With regard to maintenance and service (or repair) costs, DOE did collect data or make reasonable assumptions to establish both types of costs.

Maintenance costs are costs to the consumer of maintaining equipment operation such as checking and maintaining refrigerant charge levels and cleaning heat exchanger coils. For the life-cycle cost analysis, maintenance costs were based on data from Service Experts, an HVAC service company. *See* TSD, Chapter 5. Maintenance costs were assumed not to change with increased efficiency, the rationale being that the general maintenance of more efficient products would not be impacted by the more sophisticated components that they contain.

Service or repair costs are costs to the consumer for replacing or repairing components which have failed. For baseline equipment (*i.e.*, 10 SEER) and equipment with efficiencies greater than 13 SEER, annualized repair costs were assumed to equal one-half the equipment price divided by the average lifetime (18.4 years). Equipment with efficiencies of 11 through 13 SEER were assumed to incur a one percent increase in repair cost over the baseline level. Because systems with efficiencies up to and including 13 SEER generally do not include sophisticated electronic components, repair costs were assumed to remain essentially flat from 10 to 13 SEER. As noted above in the discussion of equipment lifetime, compressor replacement costs were also included in the analysis.

With regard to warranty costs, these costs were essentially considered by incorporating repair costs into the analysis. As noted above, a product that is less reliable or contains more expensive components was assumed to have a higher cost of repair over its lifetime. As stated in the October 5, 2000 NOPR, either the consumer or the warranty provider will bear that added cost directly through more frequent service calls or higher repair costs. *See* 65 FR 59599–59600. If the cost is covered by warranty, however, the warranty provider passes it back to future warranty holders in the form of slightly higher warranty prices. DOE believes the incremental increase in the price of the warranty is equal to, or just slightly higher, than the discounted present value of the incremental repair costs over the life of the warranty. Over the long term then, the average consumer always incurs higher repair costs, either directly or through higher warranty prices. Since the life-cycle cost analysis considers the present value of consumer life cycle costs on the average consumer, incremental repair costs and incremental warranty costs are the same, and interchangeable.

3. Markups

ARI, Trane, and York all believe that DOE greatly underestimated the manufacturer, distributor, and contractor markups used to derive consumer purchase prices. ARI maintains that the manufacturer markup should be approximately 1.35, as verified by a survey ARI conducted in the fall of 2000. Furthermore, ARI continues to believe that the distributor and contractor markups should be approximately 1.37, as determined by DOE in the 1999 Supplemental Advance Notice of Proposed Rulemaking (SANOPR). (ARI, No. 259 at pp. 23–25; Trane, No. 262 at pp. 10–11; York, No. 270 at p. 3).

As stated in the January 22 final rule, DOE did assume for the Manufacturer Impact Analysis that markups increase with increasing efficiency under a given standard level. However, for the consumer economic analyses, as the minimum standard level increases, DOE determined that the distributor and contractor markups on more efficient products do decrease. *See* January 22 final rule, 66 FR 7180.

DOE's analysis of distributor cost data revealed a measurable difference between the average aggregate markup on the entire set of direct business costs and the incremental markup on only

direct equipment costs. In other words, for an incremental increase in the cost of the equipment, the markup required to cover the incremental cost increase is distinctly different than the average markup required to cover all business costs. The average aggregate distributor markup was determined to be 1.36 and is assumed to cover the direct business costs that are present at the current baseline (*i.e.*, 10 SEER) level. Note that the average aggregate distributor markup of 1.36 is approximately equal to the value used in DOE's analysis for the SANOPR. The incremental distributor markup was determined to be 1.11 and is assumed to cover incremental equipment cost increases, such as those associated with increases in equipment efficiency.

DOE's analysis of contractor cost data revealed a significant difference between the markup required for covering labor and equipment expenses and the markup required for covering only equipment expenses. The markup covering all business expenses was determined to be 1.53 while the markup for only equipment expenses was determined to have a mean value of 1.27. The 1.53 markup value covering all business expenses is approximately equal to the value used in DOE's analysis for the SANOPR. Because the life-cycle cost analysis breaks out the contractor's installation cost (*i.e.*, the cost to install the equipment) from the cost which is charged for the equipment, only the markup value of 1.27 is applicable for marking up the equipment. As with the distributor markup, a contractor markup associated only with an incremental increase in equipment cost was also determined. Since the incremental markup was shown to be close to the average value of 1.27, only the average markup value was used in the analysis.

As a result of determining lower distributor and contractor markups on incremental equipment cost increases, such as those associated with more efficient equipment, the overall markups decrease as efficiency increases. Although comments argued that overall distributor and contractor markups should not decrease, no data was offered to counter DOE's approach. Thus, DOE has retained its methodology for estimating both distributor and contractor markups. Appendix D of the TSD provides more detailed information on this issue.

4. Energy Use

a. Residential Energy Consumption Survey

EMPA asserted that DOE violated well-established statistical principles by basing the proposed standards on small subsets of data from EIA's Residential Energy Consumption Survey (RECS). As a result, EMPA concludes that DOE simply has no reasonable claim of validity for either the calculations or its analytical conclusions. (EMPA, No. 241–LL at pp. 2–4).

As stated in the January 22 final rule, as part of the process to improve the energy efficiency standards analysis, DOE is committed to use of sensitivity analysis tools to evaluate the potential distribution of impacts among different subgroups of consumers. DOE believes that RECS provides a nationally representative household data set which is suited for conducting the type of sensitivity analyses suggested by the Process Improvement Rule. Limiting the RECS households to those equipped with either central air conditioners or heat pumps, the life-cycle cost analysis performs a household-by-household analysis that predicts the percentage of households that will incur net life-cycle cost savings or costs from an increased efficiency standard. *See* January 22 final rule, 66 FR 7178–7179.

b. Rebound Effect

Mercatus Center alludes to what it termed the "rebound effect" when stating that more efficient air-conditioning due to higher SEER standards would cause consumers to use their equipment more often, thereby negating some of the energy savings realized from the more efficient equipment. (Mercatus Center, No. 242 at pp. 9–10). Assumed under the rebound effect is that consumers will use more efficient equipment more often because of the greater utility bill savings they will realize relative to less efficient equipment.

Although DOE recognizes that consumers may utilize more efficient equipment more often, the LCC analysis did not attempt to account for the possible reduction in energy savings due to a rebound effect. As a result, the LCC impacts detailed in today's final rule may overestimate actual consumer cost and energy savings that result from an increase in the minimum energy efficiency standards for central air conditioners and heat pumps.

5. Rebuttable Payback Period

NWPPC asserts that 13 SEER, at least for split system heat pumps, is economically justified. NWPPC states the DOE has not justified why it should not adopt the HSPF 7.7 and SEER 13 standards for split system heat pumps since this level of efficiency satisfies the "rebuttable presumption" requirements of the law. (NWPPC, No. 287 at p. 3).

As noted in the July 25 SNOPR, DOE recognizes some standard levels for some product classes satisfy the rebuttable presumption requirements in section 325(o)(2)(B)(iii). But DOE points out that the statute requires DOE to use "the applicable test procedure" to calculate the payback periods for purposes of the rebuttable presumption. As explained in the October 5, 2000 NOPR, the annual cooling and heating energy consumption calculations based on DOE's test procedure are significantly greater than the weighted-average values from DOE's life-cycle cost analyses based on the 1997 Residential Energy Consumption Survey, used in other DOE analyses, including evaluation of consumer impacts. 65 FR 59596. For this reason, the payback periods presented in Section VII of this portion of the preamble, entitled "Analytical Results and Conclusions," are significantly longer than those calculated to determine whether the rebuttable presumption applies to these products. More importantly, DOE's economic justification analysis for a particular class of covered product involves consideration of factors other than the payback period. For example, as discussed in the July 25 SNOPR (66 FR 38837), one reason DOE did not propose Trial Standard Level 3 (12 SEER for air conditioners and 13 SEER for heat pumps) was the potential of those standards to cause heat pump owners to switch to resistance heating, and possibly adversely affect competition.

C. Shipments/National Energy Savings

1. Shipments Forecasts

Mercatus Center asserts that DOE's shipment model does not account for the reduced equipment sales that occur when consumers forego purchases due to the increased equipment prices resulting from higher efficiency standards. As a result of delayed consumer purchases, the energy savings to the nation would build up more slowly than forecasted by DOE. (Mercatus Center, No. 245 at p. 5). This is effectively an argument that the price elasticity for the air conditioner and heat pump market should be higher than what was assumed.

DOE has used historical saturation trends to establish price elasticities for the overall air conditioner and heat pump market. Higher saturation levels

are assumed to decrease price elasticity, which makes sales volume less sensitive to price increases. Over the past twenty years household saturation levels of central air-conditioning have increased, primarily due to the steady increase in real household incomes. In order to capture the effect that increased equipment price and household income have on equipment sales, the shipments model breaks the air conditioner market into the following segments: New construction, early (discretionary) replacements, regular replacements, extra repairs, and remodels. In the new construction market, the price of air conditioning has dropped over time relative to household income resulting in a corresponding increase in saturation to its current value of approximately 80 percent. Because of the high saturation in the new construction market, the purchase price elasticity for the new housing market is small relative to the early replacement market. But although the price elasticity is small, a decrease in shipments to the new construction market will still be likely when equipment prices increase (as we expect to occur under a new efficiency standard). As a result, for the case of a 13 SEER standard for split system air conditioners for example, shipments to the new construction market drop by approximately 3 percent. For comparison purposes, shipments to the early replacement market drop much more significantly (approximately 15 percent) as this market is far less saturated and the resulting purchase price is much more elastic. With regard to the other market segments, the regular replacement and extra repair market price elasticities are dependent on the age of the equipment in addition to price. Thus, the price elasticity for a relatively new air conditioner is much more elastic than that for a relatively old air conditioner. With regard to the remodel market (otherwise known as the market of stock homes without air-conditioning), historical data reveals that a relatively low number of non-air conditioned households purchase new air-conditioning equipment. Thus, like the early replacement market, the remodel market's price elasticity is relatively sensitive to first cost increases.

Because the price elasticities in the shipments model are based on actual historical data, DOE has retained the price elasticities developed for the central air conditioner and heat pump standards analysis.

2. Heat Rates

ACEEE asserts that DOE has severely underestimated the national energy savings resulting from more efficient standards due to the marginal heat rates which were used to convert electrical energy savings at the site (*i.e.*, at the household or commercial building) into fuel savings at the source (*i.e.*, at the power plant). ACEEE contends that the value assumed by DOE in 2018 and beyond (5519 Btu/kWh) is well below the heat rate estimates provided by EIA (e.g., 9617 Btu/kWh in 2020). Using the EIA heat rate estimate would lead to about a 2-fold increase in energy savings and reduction in pollution for 2020, with progressively smaller differences earlier. (ACEEE, No. 284 at pp. 9–10).

The standards analysis has used marginal heat rates calculated by using a version of EIA's National Energy Modeling System (NEMS–BRS) [14] to translate end use electricity savings to primary energy savings. The marginal heat rate is calculated by imposing a load reduction to the appliance end-use being analyzed in NEMS–BRS and observing the change in primary energy use. As noted by ACEEE, the marginal heat rates used in the central air-conditioning analysis are lower than expected. One would expect the central air-conditioning marginal heat rate to be higher than those of more base load appliances (like clothes washers or electric water heaters) because this peak-use appliance displaces more expensive, less efficient generation. Further, this marginal displaced plant should be not unlike the inefficient plant in place today because most rapid technological change occurs in the base load. The key to understanding this apparent paradox is that this conversion rate does not represent a specific marginal generator or combination of generators, but is actually a conversion factor that incorporates several simulated effects resulting from the standard.

The primary reason as to why the marginal heat rate is lower than expected is that the overall rate of efficiency improvement of the power system with the standard in place is slower than estimated by EIA in the AEO Reference Case. While there are many effects of the standard, DOE's analysis shows the two major components of the standard's impact on the power sector are: (1) The direct reduction in fuel burned in power plants and (2) the indirect effect whereby the slowing of electricity demand growth slows new investment, thereby impeding the rate of overall improvement in power sector efficiency. While this latter effect would seem to be trivial relative to the first, it grows significantly over time because fewer and fewer of more efficient generating plants are added to the power system. By the end of the forecast period, this effect becomes a significant drag on the primary energy savings of the standard, which explains why the marginal heat rate is less than that attributed to new technology. Further, it is a bigger drag on the benefits of peaking end-use efficiency improvements. These reduce peak demand more and slow investment more because the rate of new construction is heavily dependent on growth in peak demand. A more detailed discussion of this effect can be found in Appendix M of the TSD.

3. Fuel Switching

As discussed in the July 25 SNOPR, potential equipment switching from heat pumps to electric resistance heating due to high heat pump prices was cited as one of the reasons for not proposing a 13 SEER standard. The energy savings resulting from 13 SEER heat pumps would be eliminated if only a small fraction of heat pump owners (4 percent) switched to electric resistance heating. *See* July 25 SNOPR, 66 FR 38836.

ACEEE, NRDC, and NWPPC all disagreed that more efficient heat pump standards would cause consumers to switch to electric resistance heating. Both ACEEE and NRDC stated that if equipment switching was truly a concern, DOE should prevent such action not by lowering heat pump efficiency standards, but by promoting revisions to building energy codes to minimize the use of resistive heat. (ACEEE, No. 284 at p. 14; NRDC, No. 250 at pp. 18–20). ACEEE adds that DOE failed to account for the impact that electric resistance heating has on consumer energy bills (nearly doubling average annual heating bills) in their assessment of the potential of equipment switching. NWPPC claims that DOE overstated the potential of equipment switching if split system heat pump SEER standards were set higher than those for split system air conditioners. NWPPC states that the price difference between a heat pump and an air conditioner at the same SEER level is already very high (approximately $1400). The extra price associated with a more efficient heat pump (approximately $150 between 13

[14] EIA approves use of the name *NEMS* to describe only an AEO version of the model without any modification to code or data. Because our analysis entails some minor code modifications and the model is run under various policy scenarios that deviate from AEO assumptions, the name NEMS–BRS refers to the model as used here. For more information on NEMS, please refer to the National Energy Modelling System: An Overview 1998. DOE/EIA–0581 (98), February 1998. BRS is DOE's Office of Building Research and Standards.

and 12 SEER) is not enough to alter consumer purchase decisions. (NWPPC, No. 287 at p. 3).

York agrees with DOE that there is potential for equipment switching if the standards for heat pumps are set too high. York states that the higher price associated with more efficient heat pumps would force consumers to choose either resistance heat and the resulting higher utility bills, or fossil fuel furnaces that may have to operate on higher cost fuels with more volatile prices such as oil or propane. (York, No. 270 at pp. 3–4).

As stated in the January 22 final rule, a significant number of households use electric resistance heat, indicating the potential for equipment switching from heat pumps to resistance heat. *See* 66 FR 7180. Based on data from the 1997 RECS, a little over 14 percent of households with room or central air conditioning have either baseboard or forced air electric resistance heating compared to almost 10 percent of households which have heat pumps. The fact that such a large percentage of households currently use a combination of central or room air-conditioning with resistance heat to meet their space-conditioning needs supports DOE's view that there is a real possibility that some purchasers would choose to switch to resistance heat from heat pumps rather than pay the consumer prices associated with 13 SEER heat pumps. DOE has not attempted to estimate the number of consumers that might actually switch from heat pumps to resistance heating. Rather, DOE has determined that a mere 4 percent of heat pump households would need to switch to central air conditioners and electric resistance heating to negate the energy savings achieved from increasing the heat pump standard from 12 SEER/7.4 HSPF to 13 SEER/7.7 HSPF. Because such a small fraction of heat pump owners would need to switch to electric resistance heating to negate the energy savings realized from 13 SEER heat pumps, DOE believes the possibility of equipment switching is real enough to warrant its inclusion as a factor supporting a 12 SEER/7.4 HSPF standard.

D. Impact on Manufacturers

1. Cumulative Regulatory Burden

DOE considers that a standard level is not economically justified if it contributes to an unacceptable cumulative regulatory burden. The TSD contains information on cumulative regulatory burden (section 8.6 of the TSD), although as previously discussed, DOE did not explain how it considered this information in promulgating the 13 SEER standard on January 22, 2001. The TSD shows that the burden on manufacturers due to all other recent or imminent Federal regulations exceeds $479 million. DOE estimates the 13 SEER amendments to the standards for central air conditioners and heat pumps would contribute up to an additional $303 million in manufacturer costs, bringing the total cumulative regulatory burden to as high as $782 million. In light of that heavy burden, the July 25 SNOPR proposed 12 SEER standards that DOE estimates will reduce the expected financial burden on manufacturers from all new Federal and State regulations by $144 million compared to the 13 SEER final rule of January 22.

ACEEE, NRDC, and EPA all argued that DOE overestimated the impacts to the industry due to cumulative regulatory burden. EPA focused on the impacts due to the phase out of HCFC–22 (the hydrochlorofluorocarbon used as a refrigerant) and cited its own analysis as well as an estimate from Goodman Manufacturing to claim that DOE's estimate of $50 million per company is at least twice as high as warranted based on prior industry transitions and more recent trends. Referring to the costs incurred by the refrigerator industry in the mid-1980's to convert from CFCs to HCFCs, EPA suggests that a more reasonable estimate to phase out HCFC–22 is $20 to $30 million per company. EPA also cites Goodman's estimate that the combined cost of meeting a 13 SEER standard and transitioning from HCFC–22 is approximately $25 million per company, half of DOE's $50 million estimate for just converting to a new refrigerant. (EPA, No. 276 at pp. 2–4).

Because the industry has known for well over a decade of the impending phase out of HCFC–22, both ACEEE and NRDC claim that the costs for converting to a new refrigerant should be lower than DOE's estimate. ACEEE states that DOE seems to treat the costs of redesign for efficiency and redesign for refrigerants as additive, as though manufacturers would first redesign for efficiency (2006) and then for replacement refrigerants (2010). ACEEE believes this assumption would be demonstrably false as there is every reason to accomplish the two goals with a single re-engineering effort, both saving capital and improving time-to-market. ACEEE adds that since there is already fairly widespread use of an alternative refrigerant, R–410A, this strongly suggests that component manufacturers of compressors, coils, valves, lubricants, and all other critical components are already geared up and supplying the manufacturers with the necessary pieces to assemble non-HCFC-based heat pumps and air conditioners. With regard to the costs to be incurred by the industry to comply with Clean Air Act amendments for coating large appliances, ACEEE asserts that much more data are needed before any definitive estimates can be made. (ACEEE, No. 284 at pp. 11–13; NRDC, No. 250 at pp. 13–14).

Counter to the above arguments, ARI states that DOE is correct to give greater weight to cumulative burden. ARI asserts that the cost impacts due to cumulative regulatory burdens will exceed DOE's estimate of $479 million. ARI notes that various additional burdens to the industry were not quantified by DOE including: (1) Recently revised DOE efficiency standards for room air conditioners; (2) on-going DOE review of possible new minimum efficiency standards for residential furnaces; (3) DOE's adoption of standard levels related to ASHRAE 90.1–1999 (American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., Standard 90.1 as revised in October 1999); (4) EPA's Metal Products and Machinery (MP&M) effluent guidelines and standards; and (5) EPA's allowance system for controlling production, import, and export of HCFCs. ARI states that DOE's own estimate that a 12 SEER standard would have $144 million less cumulative burden than a 13 SEER standard warrants adoption of a 12 SEER standard. (ARI, No. 259 at pp. 10–13).

In reaching its conclusion on manufacturer impacts, DOE considered the cumulative regulatory cost imposed on air conditioner manufacturers under the various standards scenarios, including manufacturers' investment to meet the new standard. As noted above, DOE estimated the cumulative regulatory impacts on manufacturers to likely exceed $782 million if a 13 SEER standard were adopted. This includes the $303 million reduction in industry value due to a 13 SEER standard and $479 million in other regulatory burdens, including costs associated with the HCFC phase out. It does not include other major Federal and State regulations that we listed but did not quantify.

The comments submitted by ACEEE, NRDC, and, in particular, EPA do not address the cumulative manufacturer impacts. Rather, the comments were limited to manufacturer's investment required to transition away from HCFC refrigerant. DOE's estimated $50 million per company investment to comply with the HCFC phase out was based on

interviews with all seven major air conditioner manufacturers during 1998 and 1999 when the firms were asked specific questions regarding the costs of replacing HCFCs in their equipment. In contrast, ICF Consulting, in its analysis for the EPA, refers to mid-1980's estimated costs associated with phasing CFCs out of the refrigerator industry, without explaining the link between those costs estimates and ICF's estimated $20 to $30 million per company to phase HCFCs out of the air conditioner industry.

DOE believes that the cost to convert from CFC refrigerants used in residential refrigerators is substantially less than the cost to convert from HCFC–22 refrigerant used in central air conditioners and heat pumps. For example, compressor capacity and power input for central air conditioners and heat pumps is an order of magnitude larger than compressor capacity and power input needed for home refrigerators (2 to 5 horsepower for central air conditioners versus one-quarter horsepower for home refrigerators). For this reason alone, significantly higher conversion costs would be expected. Further, central air conditioner or heat pump components (compressors, coils and air handlers) comprise almost the entire product cost. In contrast, over 50 percent of the cost of a home refrigerator is embodied in such non-refrigerant components as the insulated cabinet, shelves and other storage components, and other accessories such as icemakers and through the door ice and drink dispensers.

DOE also believes refrigerant related design changes will result in greater impact on the overall product cost and competitive position for air conditioner manufacturers than will be the case for refrigerator manufacturers. Since HFC–410A refrigerant operates at substantially higher operating pressures than HCFC–22 refrigerant, a major system redesign is necessary with HFC–410A refrigerant to take advantage of the beneficial aspects of the 40 to 50 percent higher pressure and to minimize any deleterious effects. With the alternative replacement refrigerant HFC–407C, system efficiency is reduced by 5 to 10 percent compared to use of HCFC–22 refrigerant in the same system. Significant resizing and reconfiguring of components is required to restore efficiency levels.

Replacing CFC–12 refrigerant in refrigerators with HFC–134a refrigerant reduces system efficiency by only 1 to 2 percent, which is easily offset by higher the higher efficiency compressors available at the time of CFC to HFC conversion. In contrast, replacing air conditioner compressors, whose efficiencies are already close to thermodynamic limits, with higher efficiency units to offset the impact of refrigerant related efficiency loss is not a viable option. Finally, there are fewer models in a typical appliance manufacturer's refrigerator product line than the number of residential central air conditioner and heat pump models (multiple efficiency level products) produced by a typical unitary air conditioner manufacturer. As a result, significantly more redesign and product validation is necessary for the unitary air conditioner manufacturers to convert their product lines and production from R–22 to either of the HFC blends.

ACEEE states that the rational approach to meeting the two regulatory requirements—new efficiency levels in 2006 and the phase out of HCFCs in 2010—is to do so simultaneously, rather than sequentially, 3 to 4 years apart. If both changes could be accomplished simultaneously, the investment would indeed be less than the cost of making the two changes separately. Although the characteristics of the new refrigerant, with significantly higher operating pressures, will add to the scope and cost of the development effort for the increased efficiency product families, in principle, product validation testing and retooling would occur only once, saving substantial resources.

The difficulty with this scenario is the competitive reality of the industry. Competition in the U.S. air conditioning industry is especially vigorous, with seven major manufacturers competing for business. Consumers have benefitted significantly from this, with real (inflation adjusted) prices having fallen steadily over the past 20 years, even during periods of rapid market growth. In addition, this level of competition in the domestic industry has provided no opportunity for foreign competition to displace main line HVAC products, preserving traditional manufacturing jobs in the U.S.

In 2006, in this environment of vigorous competition, each manufacturer will be faced with the choice of producing a cost optimized product line using HCFC–22 refrigerant or of also making the additional investment to convert to an HFC refrigerant, combined with meeting the increased efficiency standard level. It is clear that either HFC blend (R–407C or R–410A) will result in increased product cost (at comparable efficiency and performance level). If HFC refrigerant use would result in lower cost compared to HCFC–22, it is likely that manufacturers would already have voluntarily converted. In fact, hardware cost increases are readily identifiable and the higher cost HFC refrigerant alone will add $20 to $30 to the direct manufacturing cost of each unit. Therefore, it is highly likely that one or more manufacturers will opt to use HCFC–22 in the majority of their product line between 2006 and 2009. In that situation, the resulting cost advantage will force the other manufacturers to follow suit to remain competitive and avoid market share loss. While most manufacturers produce 12 and 13 SEER HFC air conditioners, they are typically low volume products and the tooling for full scale mass production does not exist. To increase production of 12 SEER or 13 SEER units, manufacturers will need expanded tooling to produce those models. To obtain the least cost, manufacturers will need to use designs that are better optimized for mass production. Consequently, DOE believes that much of the redesign, validation, and retooling effort faced by the industry is likely to happen once for efficiency standards in 2006 and a second time for the HCFC phase out in 2010.

2. Financial Burdens Associated With New Efficiency Standards

As explained in the July 25 SNOPR (66 FR 38829), the 13 SEER standards in the January 22 final rule were projected by the TSD to result in a negative cash flow for the industry in the year preceding the new standards' enforcement. Moreover, DOE's analysis shows that 13 SEER standards would impose far greater financial burdens on manufacturers whose operating costs exceed the industry average. Those manufacturers typically engage in more research and development or provide additional sales or service support than do their lower operating cost competitors. Consequently, DOE proposed the 12 SEER standard to reduce the maldistribution of financial impacts on manufacturers and allow manufacturers to maintain a positive cash flow.

Trane concurred with DOE's action to reduce the maldistribution of financial impacts on manufacturers. Trane asserted that as efficiency is increased, a larger commodity market is created. This in turn reduces the market opportunities for companies that focus on value-added systems and services. Thus, the "volume" manufacturers (*i.e.*, lower operating cost manufacturers) benefit disproportionately. Trane also noted that under a 13 SEER standard, manufacturers who invest heavily in

research and development (R&D) would dedicate less funding to innovative programs, resulting in the entire industry focusing on the development of designs that address the absolute lowest commodity product. Trane's opinion was shared by Equipment Distributors. (Trane, No. 262 at pp. 2–4, 13–14; Equipment Distributors, Inc., No. 266 at p. 1).

NRDC disputed DOE's interpretation of the financial impacts to manufacturers by pointing out that DOE's own analysis undercuts the contention that the industry is impacted more severely under a 13 SEER standard. Referring to the TSD, NRDC notes that under two different scenarios (NAECA and Roll-up) lowering the standard from 13 to 12 SEER actually increases the burden to the industry (as measured by the industry net present value). (NRDC, No. 250 at pp. 20–22).

DOE disagrees with this comment. In its interpretation of manufacturer impacts, NRDC overlooks the important role that the efficiency mix assumptions play in the financial projections. In Section 8.4.8 of the TSD, we described the dynamics by which the profits of manufacturers with higher operating costs depend on the sale of premium products, and how those products are differentiable only at efficiency levels higher than the baseline. The closer the baseline unit is to the technological limit, the fewer consumers will "buy up" to a higher efficiency. For more and more consumers, the baseline will be the cost-effective option, and those consumers who wish to "buy up" will have fewer options and less financial incentive to do so. For these reasons, DOE assumed the Roll-up efficiency scenario to be the most probable for 13 SEER standard levels and the NAECA efficiency scenario most probable at 12 SEER standard levels. The resulting cumulative change in industry net present value (NPV) is negative $300 million at 13 SEER levels compared to negative $199 million at 12 SEER levels.

NRDC's interpretation of manufacturer impacts also overlooks short-run cash flow impacts of the standards. While NPV is useful for evaluating the long-term effects of new standards, short-term changes in cash flow are also important indicators of the industry's financial situation. The annual cash flow impacts at 13 SEER are $31 million more than at 12 SEER and turn the absolute cash flow negative. Depressed cash flow can strain the industry's access to capital or cause investors to flee.

OOE, Goodman, and ACEEE all claim that the industry impacts due to 13 SEER standards cannot be too severe as the technologies required to comply with the standard are conventional and well known. (OOE, No. 275 at p. 3; Goodman, No. 269 at p. 3; ACEEE, No. 284 at p. 7). Goodman specifically states that the only difference between a 10 SEER, 12 SEER, and 13 SEER units is a little more copper and aluminum used in manufacturing different sized coils.

DOE believes it is erroneous to conclude from the fact that technologies required to comply with standards are conventional and well known that it is a trivial exercise to increase production volumes to a level capable of satisfying the entire U.S. demand for air conditioners. Sales of 13 SEER equipment and higher are only 3 percent of all equipment sold and large investments would be required to convert all production to these levels. Furthermore, as previously described, much of the industry's financial health today depends on sales of 12 SEER equipment.

3. Small Manufacturers

The issue of how higher efficiency standards impact small manufacturers also drew several comments. The Department of Justice's April 5, 2001, letter to DOE regarding the potential effect on competition of new central air conditioner and heat pump efficiency standards stated that some small manufacturers would be disproportionately impacted under a 13 SEER standard, and noted that 100 percent of their current product line would fail to comply with the new efficiency requirement. The Department of Justice also stated that manufacturers of equipment for space-constrained installation sites (such as manufactured housing) would also be disproportionately impacted by a 13 SEER standard (DOJ, No. 285 printed in Appendix of this notice).

Goodman asserted that moving to a 13 SEER would not be a hardship to small manufacturers. Goodman claims that 13 SEER technology has been available to both large and small manufacturers for approximately 15 years. Goodman also points to the fact that Goettl Air Conditioning, a small manufacturer based in Arizona, supports the 13 SEER standard. (Goodman, No. 269 at p. 3). PG&E concurs with Goodman's statements. (PG&E, No. 274 at p. 4). NRDC asserts that higher efficiency standards encourage competition by shaking up the cozy arrangements that the bigger companies have drifted into, requiring manufacturers either to invest in building new components or to purchase new components from other suppliers. They claim that this provides smaller, nimble manufacturers an opportunity to unseat large but slow-adapting competitors. (NRDC, No. 250 at p. 31).

Both ARI and Rheem agree with the Department of Justice's statements regarding small manufacturers. Rheem states that small manufacturers will most likely not be able to afford the redesign and retooling of their equipment and manufacturing facilities to meet the 13 SEER standard. ARI quotes DOE's TSD in stating that "small manufacturers engaged in the production of conventional equipment would find it difficult to overcome the financial and technical burdens associated with the transition, and could decide to exit the market." (ARI, No. 259 at pp. 10–11; Rheem, No. 248 at p. 3).

With regard to the manufacturers of equipment for the manufactured housing industry, both ARI and Goodman agree that products for markets like manufactured housing, where space constraints limit efficiency gains achieved with conventional technology, should be granted an exemption from higher efficiency standards. (ARI, No. 259 at p. 8; Goodman, No. 269 at p. 3).

The Department of Justice's concerns relate to disproportionate impacts on small manufacturers. Most small manufacturers produce only indoor coils or niche product lines. For small manufacturers who produce coils only, there are no intensive incremental technological or capital requirements for them to increase the efficiency of their products and DOE does not expect them to face any incremental burden as a result of the new standards. However, DOE has documented that manufacturers of niche air conditioning products, such as through-the-wall equipment and small duct, high velocity systems, face special technological and financial considerations compared to those faced by the major air conditioner producers. Consequently, new efficiency standards could be more detrimental to the financial situation of niche product manufacturers than of major manufacturers. Technical considerations are typically more important for certain niche manufacturers than for major manufacturers and have more severe consequences related to increased production costs or loss of sales volume due to increased price. Overall, if provisions were not made in the standard for niche products that face severe technological constraints, we would expect their impacts to be disproportionate to those on the industry as a whole. In today's rule, DOE is establishing separate product classes for through-the-wall equipment and small duct, high velocity systems, which will be required to meet a lower SEER. DOE believes this meets the Department of Justice's concern regarding the impact of more stringent standards on small manufacturers.

DOE recognizes that products used for manufactured housing and modular housing also face space constraints. In its decision to propose 12 SEER standards for conventional products, DOE took into consideration the impacts of higher efficiency standards on the manufacturers of manufactured housing and modular housing products. For these applications, products at the 12 SEER level are currently on the market. DOE has concluded that, at the 12 SEER level, there is no need for a separate class for products used mainly in manufactured or modular housing.

4. Manufacturer Cost Estimates

Several comments asserted that DOE's manufacturing cost estimates derived from the reverse engineering analysis were too high. The comments stated that economies of scale in production and competitive forces will result in lower costs for the more efficient equipment as compared to pre-implementation estimates. (ACEEE, No. 284 at p. 2; CFA, No. 246 at p. 1; NCLC, No. 241–NN at p. 1). OOE specifically states that the cost of the commodity product at a minimum standard level cannot be appropriately characterized by looking at the mean or median manufacturer cost estimates from the reverse engineering analysis. (OOE, No. 275 at p. 3). Goodman states that their incremental cost for producing a 13 SEER unit is $100 and is comparable to DOE's estimate. (Goodman, No. 269 at pp. 3–4).

The reverse engineering analysis does in fact take into account economies of scale by considering larger production volumes for more efficient products after implementation of the new standards. In its production modeling, DOE also considered that manufacturers would cost-optimize their production at the new level because of more intense competition at that level. We expect this competitive pressure to drive manufacturing costs and this is illustrated by the results of the reverse engineering analysis which fall within the ARI range and nearer to the ARI minimum.

ARI, Trane, York, and EEI disagree with the above comments and assert that DOE's manufacturing cost estimates are too low. Trane states that the reverse engineering analysis was based on too small of a sample of units and eliminated units which fell out of the range of costs bounded by the manufacturers' submission. Trane nevertheless thinks that, despite its shortcomings, the reverse engineering analysis essentially confirmed cost levels submitted by ARI. However, Trane recommends that DOE utilize the cost data submitted by ARI. EEI concurs with this conclusion. (Trane, No. 262 at 9–10; EEI, No. 253 at p. 2). ARI states that it surveyed its manufacturer members after DOE issued its January 22 final rule. The results of the survey indicate that: (1) DOE has underestimated the baseline manufacturer costs by approximately 30 percent and (2) the additional cost of a 13 SEER split air conditioner over a 12 SEER is not $122 as estimated by DOE, but is at least approximately $305. ARI also refutes Goodman's claim that the amount of copper and aluminum needed for a 13 SEER unit is insignificant. In reviewing Goodman's current technical literature, ARI states that on average a Goodman 13 SEER split air conditioner weighs 44 pounds (18 percent) more than a 12 SEER system. More specifically, Goodman's 13 SEER condenser and evaporator coils are on average 20.2 percent and 11.5 percent heavier than the condenser and evaporator coils from their 12 SEER unit, respectively. (ARI, No. 259 at pp. 23–25). York states that the reverse engineering analysis is flawed because it focused on one size of equipment, a 3-ton unit and they believe that the whole range of equipment should have been analyzed, as size becomes much more problematic and costly at higher capacities. (York, No. 270 at p. 3).

DOE believes that the reverse engineering analysis is based on a sufficient equipment sample size to capture variability in design, manufacturing practices and costs across the range of products that would be subject to new standards. The equipment models were selected to be representative of the costs to manufacture existing baseline models and to capture the costs to manufacture products at potential new standards levels. To select representative equipment samples for the reverse engineering analysis, DOE requested that manufacturers identify equipment in their product lines most appropriate for this purpose. Four major manufacturers submitted design data for split cooling-only equipment, and three of those submitted design data for the other classes as well. This submission process yielded information on 62 models. DOE selected an additional nine models from catalogs of those and other manufacturers and also used the ARI Product Attribute Database and technical literature to describe the efficiency-related attributes of those products. Additionally, from the group of manufacturer submittals, three units were purchased for extensive disassembly and inspection. In their comment ARI does not explain how it derived baseline costs (estimation method, models included, product features, etc.), making an assessment or comparison to DOE's costs impossible. In contrast, the reverse engineering derivation method and resulting disaggregated baseline data are transparent and have been reviewed extensively by stakeholders.

Several comments also focused on the issue of productivity gains and asserted that these gains would lower manufacturing costs below the levels estimated by DOE. ACEEE, ASE, and OOE all refer to historic changes as shown by the U.S. Census Bureau's Current Industrial Reports series and state that air conditioner costs to the manufacturer have declined at a rate of 1.7 percent annually over the 1994–1998 period. They assert that DOE should include this rate of cost reductions in its analysis. They add that the Census figures are probably conservative as they ignore the fact that manufacturers tend to find ways to substantially increase productivity when standards take effect in order to reduce the impact of standards-induced cost increases. In making this claim, the comments cite DOE's cost estimates from the 1980's for meeting the 10 SEER standards that took effect in 1992. Rather than having any cost impacts, they assert that the 1992 standards resulted in essentially no change in product costs. (ACEEE, No. 284 at pp. 4–8; OOE, No. 275 at p. 3; ASE, No. 282 at pp. 3–4).

Although NRDC recognizes that the reverse engineering model accounts for economies of scale, it states that it does not account for any "learning-curve" effect. Thus, as cumulative production of high efficiency units increases, the reverse engineering model merely scales up the costs rather than factoring the downward effect that "learning" has on production costs. (NRDC, No. 250 at pp. 31–32). Goodman also alludes to the "learning-curve" when it states that when a unit meeting a new standard is produced in volume, it allows the manufacturer to run its plant more efficiently and pass the resulting cost savings on to the consumer. (Goodman, No. 269 at pp. 4–5). Trane, Rheem, and Lennox International, Inc. (Lennox)) all refute the contention that productivity gains will materialize. Trane asserts that earlier hard won productivity gains

were produced by the industry through untold millions spent on R&D. These expenditures reduced the cost to produce the entire product line, but did little to reduce the material-driven incremental costs of efficiency upgrades. Likewise, any cost reductions likely to occur in the next decade will have significantly greater impact on the overall consumer cost structure than on the cost and price increment between successively higher efficiency levels. Rheem states that under a 13 SEER standard only industry profits will be reduced, lessening the money available for research and design of new products to meet other upcoming standards, *i.e.*, HCFC phase-out, new commercial standards, new gas and oil furnace standards. (Trane, No. 262 at pp. 10–11; Rheem, No. 248 at p. 3; Lennox, No. 272 at p. 2).

DOE has not included unspecified productivity improvements or "learning-curve" cost reductions in its analysis. DOE does not believe historical price trends for unitary air conditioners, or other products, can be applied to forecast equipment costs where there are no data to indicate what factors resulted in the observed trends or that the trends will continue. Furthermore, without specific cost information, it is impossible to tell if productivity improvements would apply equally to baseline costs and standards induced incremental costs. Therefore, without specific data on the nature and magnitude of cost impacts, DOE will not apply a productivity improvement factor in this rulemaking or other rulemakings.

E. Effect on Competition

Several comments argued that DOE was unduly concerned that 13 SEER standards would lead to industry consolidation. NRDC claimed that the 13 SEER standards would actually enhance competition relative to the existing 10 SEER standards because economic losses imposed on higher-cost producers would force them to be more competitive. (NRDC, No. 250 at pp. 20–22). OOE adds that industry consolidation occurs regularly in all sectors of the economy. In the context of the various factors that influence industry consolidation, OOE asserts that it is unreasonable for DOE to claim that the incremental effects of efficiency standards can have any measurable effect on the industry. (OOE, No. 275 at pp. 3–4). PG&E cites third party coil manufacturers' response to PG&E's high efficiency rebate programs as support for the view that these small coil manufacturers can supply the efficiency combinations needed to meet new standards. By extension, PG&E asserts that 13 SEER standards would foster manufacturing diversity by providing the coil manufacturers more business. (PG&E, No. 274 at p. 3).

Countering the above claims, ARI, Trane, and the U.S. Small Business Administration (U.S. SBA) asserted that a 12 SEER standard would have less of an anti-competitive impact than the 13 SEER standard. (ARI, No. 259 at pp. 3–4, 25; Trane, No. 262 at pp. 2–4, 13–14; U.S. SBA, No. 234 at p. 1). Both ARI and Trane cited the Department of Justice's April 5, 2001 letter to DOE regarding the anti-competitive impacts of 13 SEER standards in claiming that the industry impacts due to 13 SEER standards are too severe. ARI additionally stated that DOE's failure to obtain a determination by the Attorney General of the anti-competitive impact of the 13 SEER standard prior to issuing the January 22 final rule is an appropriate basis to withdraw the 13 SEER decision. The Department of Justice (DOJ) submitted comments on DOE's July 25, 2001 SNOPR which concluded that the 12 SEER proposal would not adversely affect competition. (DOJ, No. 285 printed in the Appendix to this notice).

In establishing the new standards, DOE considered several factors which have a potential bearing on industry competition and consolidation. For each trial standard level DOE considered: Changes in manufacturer net present value; cumulative regulatory burden; and changes in annual cash flow. To further capture competitive effects, DOE considered differential impacts on three sub-groups of manufacturers, since higher efficiency standards will affect each group of manufacturers differently. "Low Operating Cost Manufacturers" observe a low cost, commodity-product strategy and achieve a higher operating profit margin on their baseline equipment. DOE's analysis indicates that this group of manufacturers will likely benefit from higher standards. "High Operating Cost" manufacturers typically place more of an emphasis on product differentiation than cost leadership. For this group of manufacturers, higher standards reduce opportunities for product differentiation and lower profitability. Finally "Small Manufacturers" fall into two groups; manufacturers of equipment for niche markets and manufactures of indoor coils and fancoil units. As previously stated in Section VI (D) (3), we do not expect coil manufacturers to face any incremental burden as a result of new standards. Also we stated that impacts on niche manufacturers have been largely addressed through the creation of separate product classes for products used in space contained applications.

In arriving at today's decision to adopt a 12 SEER standard, DOE relied on the Department of Justice's expert opinion that a 13 SEER air conditioner and heat pump standard raises competitive concerns (April 5, 2001 letter), and that a 12 SEER standard would not adversely affect competition (October 19, 2001 letter). DOE also factored into consideration the serious concerns regarding potential anti-competitive effects at higher trial standard levels presented in the TSD. DOE's analysis demonstrates that both High and Low Operating Cost Manufacturer groups would experience negative cash flows in the years leading up to the new standard under TSL3 and TSL4, but only the higher operating cost group is expected to suffer a long term decline in value, cash flow, and return on invested capital. Since Low Operating Cost Manufacturers would likely benefit from 13 SEER standards, most of the total financial burden due to the standards would need to be borne by High Operating Cost Manufacturers. The differential impact between the subgroups is $238 million at 12 SEER and rises to $429 million at 13 SEER. Due to this probable maldistribution of industry impacts at 13 SEER, DOE was particularly concerned that either accelerated industry consolidation (*i.e.*, less competitive market) or the stifling of innovation could occur.

F. Effect on Utility or Performance

1. Dehumidification

The only comments regarding product utility pertained to the impacts that more stringent standards may have on the ability of air-conditioning equipment to properly dehumidify. Both Southern Company and Mercatus Center claim that the lower latent cooling capacity inherent in larger, more efficient single speed equipment would result in dehumidification problems in humid climates. (Southern Company, No. 257 at pp. 3–4; Mercatus Center, No. 242 at p. 8).

As stated in the October 5, 2000 NOPR, ARI research has demonstrated for hundreds of systems that latent heat removal is not obviously impacted by increases in equipment efficiency at rated conditions (*i.e.*, 95°F outdoor temperature).[15] *See* 65 FR 59611–59612. Nonetheless, DOE recognizes the humidity control problems that exist in the southern region of the U.S. For the excessive humidity conditions commonly experienced in the South, the equipment may very likely not provide adequate dehumidification. Equipment efficiency should not be viewed as the sole source of the problem, however. Proper installation and maintenance practices also likely play a large role in the equipment's performance, as well as other factors, such as the duct system and the building shell characteristics. All these factors play a role in how a system dehumidifies. For these reasons, DOE does not believe the 12 SEER standard adopted today will have an appreciable effect on the performance of central air conditioners, and any problem with dehumidification can be dealt with in a variety of ways other than lowering the energy efficiency standard.

[15] D. Godwin. 1998. "Latent Capacity of Unitary Equipment." ASHRAE Transactions 98(2).

G. Electric System Reliability/Peak Power

1. Peak Power

As part of its analysis to determine the impacts of amended efficiency standards, DOE quantified how increased standards affected installed generation capacity, *i.e.*, reduction in electrical power demand. In response to DOE's proposal to withdraw the January 22 final rule, several comments expressed concern that the 12 SEER standard would have less of an impact on peak power demand than the 13 SEER standard. (Austin Energy, No. 243 at p. 1; State of Connecticut, No. 279 at p. 1; Attorneys General of New York and Massachusetts, No. 277 at pp. 15–16; New York State Energy Research and Development Authority (NYSERDA), No. 252 at p. 1; State of Vermont, No. 268 at p. 3; PG&E, No. 274 at p. 3; State of Nevada, No. 271 at p. 2; National Grid, No. 241–OO at p. 3).

Regardless of SEER level, ACEEE asserted that DOE significantly underestimated the peak demand impacts of more efficient air conditioners. Specifically, ACEEE states that DOE's model to estimate peak power impacts, NEMS–BRS, uses load shapes that underestimate the effect that residential central air conditioners have on peak power by a factor of more than two. To correct this problem, ACEEE recommends correcting NEMS–BRS with load shape data that is more nationally representative of central air conditioner power consumption. ACEEE specifically recommends load shape data that has a Conservation Load Factor (CLF) of 0.104. (ACEEE, No. 284 at pp. 8–11).

Both EEI and Southern Company assert that a 13 SEER standard could actually increase peak power demand. EEI states that for units rated at 13 SEER and higher, there is no correlation between SEER and EER.[16] So if the standard was raised to 13 SEER, EEI believes it is likely that the manufacturers would use technologies to raise SEER values and lower EER values, assuming it would lower their production costs. Thus, the higher SEER values could very easily lead to lower EER values, resulting in reduced energy savings in warmer climates, increased peak demands associated with residential systems in all climates, and increased need for peaking power plants. (EEI, No. 253 at pp. 2–3). Southern Company adds that the reduction in peak demand from higher efficiency standards is so long-term as to have no bearing on current problems. Thus, it is entirely possible that the higher efficiency levels could exacerbate a supply glut in the regions now experiencing shortages ten to fifteen years from now. (Southern Company, No. 257 at p. 3). Mercatus Center believes that higher SEER standards would cause more people to use their air conditioners more due to their lower operating costs. The result during a heat wave could increase overall air conditioning usage, increasing peak demand and the risk of a blackout, and leaving everyone without air conditioning. (Mercatus Center, No. 242 at pp. 9–10).

First, in response to the comments submitted by EEI and Southern Company, DOE has demonstrated in its technical analysis (*See* TSD, Chapter 4) that in the efficiency range of 10 to 13 SEER, the EER, on average, increases proportionally to the SEER. Thus, DOE maintains that higher standards of up through 13 SEER will yield progressively greater peak demand reductions. Mercatus Center's claims regarding increased equipment sales leading to higher overall air conditioner use are not substantiated. As presented earlier in the shipments forecasts discussion, due to higher consumer purchase prices, DOE's shipments model forecasts declining rather than increasing sales due to more efficient standards. Thus, DOE concludes that there is a very low probability that increased standards could actually lead to an increase in peak demand.

As stated in the January 22 final rule regarding peak demand impacts, DOE recognized that more research was needed to resolve the issue of whether NEMS–BRS accurately estimates the peak demand reductions resulting from air conditioner efficiency standards. *See* 66 FR 7182. To resolve this outstanding issue as well as address those comments submitted by ACEEE in response to the July 25 SNOPR, DOE conducted a comprehensive review of the end-use load shapes used by NEMS–BRS, not only for the residential sector, but for the commercial, industrial, and transportation sectors as well.[17] DOE discovered a number of problems associated with the specific load shapes. In the case of the residential air-conditioning end-use, DOE determined that a non-representative load shape was assigned to it. This non-representative load shape peaks in October and has a correspondingly high CLF. As discussed in the January 22 final rule, the CLF was first introduced by researchers at Lawrence Berkeley National Laboratory to allow for the straightforward calculation of the peak demand avoided from a given amount of energy savings.[18] The CLF is defined as:

$$CLF = \frac{\text{Annual Site Energy Savings (kWh)}}{\text{Peak Load Savings (kW)} \cdot 8760 \text{ hours}}$$

Thus, a conservation technology that saves a constant amount of power on a continuous basis has a CLF of 1.0. Because air conditioning use occurs most often during times of peak demand, the CLF is significantly lower. The lower the CLF, the greater the amount of peak load savings achieved

[16] EER, Energy Efficiency Ratio, is a steady-state measure of energy efficiency which determines efficiency at a prescribed outdoor temperature (95°F), and is one of the test conditions in the DOE test procedure used to develop the SEER. EER is generally thought of as an efficiency descriptor that indicates the level of performance during periods when electricity use by air conditioners is at its peak.

[17] *Alternative Sectoral Load Shapes for NEMS*, Department of Energy-Energy Information Administration, Washington, D.C., August 2001.

[18] *Conservation Screening Curves to Compare Efficiency Investments to Power Plants: Applications to Commercial Sector Conservation Programs*, Lawrence Berkeley National Laboratory, Berkeley, CA, August 1990, published in the Proceedings of the 1990 ACEEE Summer Study on Energy Efficiency in Buildings. Authors: J. Koomey, A. Rosenfeld, and A. Gadgil.

for a given amount of annual energy savings. *See* 66 FR 7181.

As a result of discovering several problems with the load shapes within NEMS–BRS, an alternative set of sectoral end-use load shapes were assigned to the 2002 version of NEMS–BRS that were distinctly different than the load shapes used in prior versions of the model (including the 2000 and 2001 versions). For example, in the case of the residential air-conditioning end-use, the alternative version consists of thirteen regional load shapes based on regions defined by the North American Electric Reliability Council (NERC) as compared to the single national load shape used in prior versions. Depending on the region of the country, the thirteen air-conditioning load shapes have CLFs ranging from 0.063 to 0.183 and generally peak in either July or August. Although the alternative load shapes specific to the residential air-conditioning end-use are more representative (e.g., the loads peak during the summer months), switching to the entire set of alternative sectoral end-use load shapes results in smaller peak-to-average system loads. As a consequence, the overall built-up system load shapes using the alternative sectoral end-use load shapes have less pronounced peaks than those that are used in prior versions of NEMS–BRS. Because the built-up system loads within the 2002 version of NEMS–BRS have less pronounced peaks, the impact of reducing the energy use on a relatively peaky end-use like residential air-conditioning (such as through increased efficiency standards) will have less of an affect on overall system capacity.

New NEMS–BRS standard case runs were conducted with the entire set of alternative sectoral end-use load shapes, including the updated residential air-conditioning load shapes, to determine their impact on system capacity. These new runs were conducted with the 2000 version of NEMS–BRS by replacing the existing set of sectoral load shapes with the alternative versions. As expected, the installed generation capacity reductions based on the new NEMS–BRS runs are lower than those produced for the January 22 final rule. In the case of today's final rule, the installed generation capacity reduction is now estimated to be 8.7 GW as opposed to the 10.6 GW provided in the January 22 final rule. A complete set of updated installed generation capacity reduction impacts can be found in Appendix M of the TSD.

2. Reliability

As stated in the July 25 SNOPR, DOE has considered as a benefit the potential of the proposed standards to improve the reliability of the electric generation and distribution system by reducing the need for installed generation capacity. *See* July 25 SNOPR, 66 FR 38841.

Several comments, while not disputing DOE's conclusion that air conditioner standards would improve electric system reliability, argued that the potential for improving reliability would be reduced by going forward with the proposed standards (12 SEER) instead of those standards issued in the January 22 final rule (13 SEER). (ACEEE, No. 284 at p. 2; NRDC, No. 250 at p. 23; NEEP, No. 273 at p. 1; ASE, No. 282 at p. 2; CEC, No. 263 at p. 1; National Association of Regulatory Utility Commissioners (NARUC), No. 260 at p. 2).

Southern Company, which states that raising the standard from 12 to 13 SEER will have minimal effect on peak demand growth, believes this efficiency increase will have even less effect on reliability, because there is not a direct relationship between peak demand growth and reduced electric system reliability. The Southern Company claims that the reduction in peak demand from higher efficiency standards is so long-term as to have no bearing on current problems. It is entirely possible that the higher efficiency levels could exacerbate a supply glut in the regions now experiencing shortages ten to fifteen years from now. (Southern Company, No. 257 at p. 3). For different reasons, Mercatus Center also argues that higher efficiency standards would not improve and could possibly reduce electric system reliability. As stated in their arguments pertaining to peak demand impacts, they believe higher standards could lead to increased use of air-conditioning products due their lower operating costs. During periods of peak demand this could lead to an overall increase in air-conditioning. The resulting increase in peak demand heightens the risk of blackouts. (Mercatus Center, No. 242 at pp. 9–10).

DOE agrees with the assertion of the Southern Company that the primary effects of the proposed efficiency standards are so long term (more than 10 years in the future) that they are very unlikely to have any significant effect on electric system reliability. While DOE still believes that near term improvements in energy efficiency can help improve the reliability of systems that now have inadequate generating or transmission capacity (e.g., California), the primary effect of energy efficiency standards is likely beyond the long-term planning horizon of most electric systems. This means that long term electric system reliability is determined primarily by how well system planners (generators, utilities, regulators) anticipate future loads, not by how large those loads will be. In other words, planners in most areas of the country generally do not attempt to provide enough generating capacity to satisfy peak loads as the marginal cost for satisfying peak loads is generally cheaper using means other than the construction of large generating facilities (e.g., the use of relatively small "peaker" plants or the purchase of supply from outside the planning region). DOE knows of no analysis which has found a correlation between system load factor and system reliability over the long term. Nor is DOE aware of any analysis that found a correlation between the long term rate of growth of electricity demand and system reliability.

Higher efficiency standards for central air conditioners and heat pumps are expected to reduce significantly the peak loads of electric systems in the future, thus enabling a reduction in the number of new power plants and transmission lines required to meet future demand. Electric system planners will take these efficiency improvements and other factors affecting future electricity demand into account when estimating how many new plants and transmission lines will be required to meet future demand, while maintaining or improving system reliability. Long term system reliability will be determined by how accurately system planners anticipate electricity demand and whether they take steps to ensure the addition of sufficient electricity generating, transmission and distribution capacity to meet this expected demand, while maintaining adequate reserve margins. For example, EIA's Annual Energy Outlook 2001 forecast that the cumulative requirements for additional electricity generating capacity by 2020 might range from roughly 350 gigawatts, assuming a low rate of economic growth, to nearly 500 gigawatts, assuming a comparatively high rate of economic growth. This compares to a difference of approximately 4 gigawatts between the estimated effects on capacity requirements of a SEER 12 standard and those of a SEER 13 standard. The range of estimated requirements for additional electricity generating capacity that result from varying assumptions about the rate of change in end-use technology (in all sectors) and the rate of economic growth is even greater.

H. Other Issues

1. Minimum EER Requirement

Several comments were in support of a minimum EER requirement to ensure more efficient operation at high outdoor temperatures during periods when electricity use by air conditioners is at its peak. (ACEEE, No. 284 at p. 3; Austin Energy, No. 243 at p. 1; PG&E, No. 274 at p. 1). NARUC passed a resolution in July, 2000, urging DOE to raise the standard by 30 percent (*i.e.*, to 13 SEER) with a minimum peak efficiency performance requirement. (NARUC, No. 260 at p. 2). NEEP also supports a standard of at least 13 SEER with a corresponding minimum EER of 11.6. (NEEP, No. 273 at p. 2). NRDC believes that DOE cannot set a standard at the highest level that is technologically feasible and economically justified if it does not include in that standard a minimum EER requirement. NRDC adds that this recommendation does not mean that EER would drop as SEER increases; it simply reflects NRDC's concern that EER might not rise as quickly without a separate regulation than it would with one. (NRDC, No. 250 at p. 32).

York and Southern Company are both opposed to a minimum EER requirement. York asserts that an EER standard could be counter-productive by discouraging variable speed and modulating equipment, which could save consumers substantial amounts of money over the cooling season. (York, No. 270 at p. 4). Southern Company believes that, regardless of cost-effectiveness, DOE does not possess regulatory authority to specify performance measures necessary to insure cost savings to consumers (SEER) and peak demand benefits to electricity suppliers (EER). (Southern Company, No. 257 at p. 4).

As stated in the January 22 final rule, DOE is still convinced that the stringent physical relationship between EER and SEER in equipment rated through the adopted standard of 12 SEER, which is comprised exclusively of non-modulating equipment, will remain intact for the foreseeable future. Thus, there is no strong need for a minimum EER requirement in addition to a minimum SEER standard. *See* January 22 final rule, 66 FR 7183.

With regard to the use of variable speed or modulating technologies, even if these technologies eventually predominate, and thereby reduce EERs in typical equipment, they would still reduce peak demand compared to today's 10 SEER baseline equipment. Furthermore, because variable speed and modulating equipment mitigate the cyclic losses that are due to widespread oversizing, the aggregated peak demand of a group of modulating air conditioners with lower EERs will likely be lower than that of a similar group of non-modulating air conditioners with higher EERs at the same SEER level. Also, utilities have the opportunity with modulating equipment to offer customers the option to allow the utility to "lock" the equipment into low-capacity operation in return for a lower electricity price.

Although DOE is interested in reducing peak demand, the primary purpose of appliance efficiency standards is to save energy. An EER standard could be counterproductive by discouraging variable speed and modulation, which can save substantial amounts of energy over the cooling season while providing consumers with additional benefits not found in single speed and non-modulating equipment.

Finally, although DOE believes that EPCA permits adoption of an EER standard, for the foregoing reasons, we do not believe that the Act requires or suggests that we establish such a standard under the circumstances here. Given the adopted standard levels, a national EER standard is both unnecessary and undesirable. Most benefits accruing from an EER standard will likely accrue from the SEER standards alone, without the associated burdens on manufacturers and the disincentives to apply energy-saving modulating technologies. Therefore, we have not adopted an EER standard in this rule.

2. TXV Requirement

ACEEE and PG&E were both in support of a prescriptive requirement for adaptive expansion devices such as thermostatic expansion valves (TXV). (ACEEE, No. 284 at p. 3; PG&E, No. 274 at p. 1). NEEP was more expansive on the topic by stating that the evidence in the record supports a TXV requirement. NEEP claims that TXVs provide additional efficiency benefits, over and above the benefits captured in the SEER rating procedure. They assert that central air conditioners with TXVs suffer lower efficiency degradation when a unit is improperly installed. The result is that TXVs can provide 12 percent energy savings over and above the energy savings associated with increasing SEERs. (NEEP, No. 273 at pp. 2, 4).

York agrees with DOE's decision in the both the January 22 final rule and the July 25 SNOPR not to impose a TXV requirement. York claims that imposing a TXV requirement in this rule would circumvent the test procedure. Also, it asserts that key data for evaluating the impacts of TXVs on system performance have not been thoroughly reviewed by all interested parties. (York, No. 270 at p. 4).

As stated in the January 22 final rule, a performance-based approach is also our preference and is certainly in the spirit of EPCA. *See* 66 FR 7183–7184. As such, the SEER test procedure, not a TXV requirement, appears to be the most appropriate vehicle for assuring that an equipment's efficiency rating is based on its performance characteristics. In fact, TXVs already receive credit in the test procedure because of their superior cyclic performance. DOE is not eager to circumvent the test procedure, particularly when the key data either are not available or have not been thoroughly reviewed by all interested parties. That said, DOE favors a SEER test procedure that fairly evaluates equipment performance under conditions that represent those encountered in the field. DOE prefers to encourage correct charging or proper airflow but recognizes that practical barriers exist. Although no immediate action will be taken to address field equipment performance in the test procedure currently under revision, attempts may be made in future test procedure revisions to evaluate whether the SEER test procedure can and should be amended to better reflect equipment performance under improper charge or airflow.

In sum, this rulemaking does not adopt a TXV requirement. Any alterations in the SEER test procedure further to encourage the use of TXVs may be undertaken in a separate rulemaking process after proposed revisions to the test procedure have been finalized. We also encourage parties interested in encouraging the broader application of TXVs to pursue other avenues. These include voluntary programs like Energy Star, tax incentives, and other State and local initiatives, which can all be tied to the presence of a device like a TXV. States also have the opportunity to apply to us for an exemption from preemption that would allow them to implement their own requirements based on their own unique circumstances.

3. State Exemption From DOE Standards

The Council of State Governments, Eastern Regional Conference (ERC) states that if DOE fails to implement a 13 SEER standard, then ERC member States will seek a waiver from the Federal standard and implement the

higher standard at the State level, as the States of California and Oregon are currently doing. ERC goes on to quote 42 U.S.C. 6297(d) "Waiver of Federal Preemption" where it states that "Any state * * * which provides for any energy conservation standard for any type of covered product for which there is a Federal energy conservation standard * * * may file a petition with the Secretary (of Energy) requesting that such State regulation become effective with respect to such covered product." (ERC, No. 241–JJ at p. 1).

DOE will promptly act upon any petition for waiver that may be submitted by a State pursuant to section 327(d) of EPCA (42 U.S.C. 6297(d)). Section 327(d) provides that DOE must prescribe a rule granting a waiver from Federal preemption if the State establishes by a preponderance of the evidence that a State regulation is needed to meet "unusual and compelling State or local energy or water interests," as that phrase is defined by the statute (42 U.S.C. 6297(d)(1)(B)). Section 327(d) further provides that DOE may not grant a waiver if interested persons establish by a preponderance of the evidence that the State regulation would significantly burden manufacturing, marketing, distribution, sale, or servicing of the covered product on a national basis (42 U.S.C. 6297(d)(3)). Finally, section 327(d) establishes the timetable and procedure that must be followed for acting upon petitions for waiver from Federal preemption.

4. Effective Date

DOE received written and oral comments with regard to DOE's proposed effective date (*i.e.*, the date when the covered products must comply with the new standards for the proposed amended standards contained in the July 25 SNOPR). In written comments, NRDC notes that the proposed effective date in the July 25 SNOPR is approximately six months later than that in the January 22 final rule, and claims that any delay in the effective date of new standards would reduce their benefits. NRDC adds that section 325(d) of EPCA (42 U.S.C. 6295(d)) does not require DOE to provide a five-year lead time for compliance by manufacturers after publication of a final rule. (NRDC, No. 250 at p. 34). TNRCC recommends that rather than making the proposed standards effective in 2006, DOE should accelerate the effective date of the standards from the year 2006 to 2004, thereby providing improved energy efficiency and resultant air quality benefits as soon as reasonably practicable. (TNRCC, No. 286 at p. 2). At the public hearing on the July 25 SNOPR, representatives of the California Energy Commission, PG&E, and Goodman also urged DOE to establish an earlier effective date if a 12 SEER standard was adopted. (Hearing Transcript, at pp. 142–144 and 164–165). In initial written comments, ARI stated a willingness to consent to the proposed 5-years-from-date-of-publication effective date for the proposed 12 SEER standard. (ARI, No. 259 at p. 36). In supplemental comments submitted after the close of the comment period, ARI responded to the comments that requested an earlier effective date by stating that ARI would accept a compliance date of January 23, 2006, the same effective date as provided in the January 22 final rule (ARI, No. 289). ARI stated that any agreement on its part to an earlier effective date should not be deemed as a precedent by DOE or concession by ARI with respect to future rulemaking proceedings.

Although section 325(d) of EPCA does not specifically state that initial amended standards become applicable to the manufacture of covered products after a certain number of years elapse following publication of a notice of final rulemaking, it provides a schedule of specific dates for the promulgation of a final rule and of specific dates on which an initial amended SEER and an initial amended HSPF established by a final rule would apply to the manufacture of new central air conditioners and new central air conditioning heat pumps. In the past, in circumstances where DOE was unable to publish a final rule by a deadline date established by a statute with scheduled compliance dates, DOE has had a practice of adjusting the statutorily scheduled date such a rule becomes enforceable to allow for the same amount of lead time as provided in the original statutory schedule. However, the application of this practice in any particular rulemaking is subject to public comment and to exceptions in special circumstances. *See*, e.g., 61 FR 10622, 10625 (March 14, 1996) (final rule establishing the Alternative Fuel Vehicle Acquisition Program with a compliance schedule that varied from the statutory schedule established by the Energy Policy Act of 1992 and that was subject to case-by-case exceptions). In this rulemaking, all interested persons who have an interest in the date that the final rule becomes enforceable—including representatives of all of the manufacturers who would have to comply with that rule—agree that the full amount of time between date of publication and the dates on which the rule applies in the statutory schedule is not needed for central air conditioner and central air conditioning heat pump manufacturers to come into compliance with a 12 SEER standard. Moreover, if, as a result of unforeseen circumstances, a particular manufacturer can show hardship, inequity, or unfair distributions of burdens, the standard would be subject to case-by-case exception pursuant to the authority of the DOE Office of Hearing and Appeals under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. On the basis of the foregoing, DOE has decided to fix January 23, 2006, as the date on which the amended standards set forth in today's final rule apply to the manufacture of central air conditioners and central air conditioning heat pumps.

5. Environmental Impacts

Several comments stated that there would be greater environmental benefits under a 13 SEER standard. (Goodman, No. 269 at p. 2; Austin Energy, No. 243 at p. 1; State of Connecticut, No. 279 at p. 2; State of Maine, No. 254 at pp. 1–2). The Attorneys General from the States of New York and Massachusetts asserted that DOE's assessment of environmental impact used the wrong "no action" scenario; in their view, the correct "no action" scenario or baseline for measuring impacts is the SEER 13 standard in the January 22 rule (Attorneys General of New York and Massachusetts, No. 277 at p. 11). In addition to the carbon and NO_X emissions, the Attorneys General state that coal-fired power plants are dominant sources of mercury and particulate pollution nationwide and that by ignoring these impacts of its SNOPR, DOE violated the National Environmental Policy Act (NEPA). (Attorneys General of New York and Massachusetts, No. 277 at pp. 14–15).

DOE disagrees with the comment that DOE failed to comply with NEPA in proposing 12 SEER standards in the July 25 SNOPR. As previously discussed, DOE does not believe the standards in the January 22 final rule constitute the baseline for assessing the impact of today's final rule because those standards never became effective. The correct baseline, and the one used for the "no action" alternative in the EA, are the currently effective NAECA standards.

DOE's environmental assessment (EA) examined the environmental impacts of all trial standard levels being considered. *See* Section VIII.A. of this

Supplementary Information. All of the alternatives considered in DOE's analysis were found to have beneficial environmental impacts compared to the "no action" alternative. Under the "no-action" or base case alternative, the minimum efficiency requirements would remain at their current levels: a cooling efficiency of 10 SEER for split system air conditioners and heat pumps, a cooling efficiency of 9.7 SEER for single package system air conditioners and heat pumps, a heating efficiency of 6.8 HSPF for split system heat pumps, and a heating efficiency of 6.6 HSPF for single package system heat pumps. The primary focus of the EA is the effect of alternative efficiency standards on air resources resulting from decreased emissions from fossil-fueled electricity generation. For each of the trial standard levels, DOE used the NEMS–BRS model to calculate total power sector emissions of nitrogen oxide, sulfur dioxide, and carbon. As explained in Section VIII.A. of this Supplementary Information, on the basis of the EA, DOE determined that the environmental effects associated with the standard levels in today's final rule are not significant.

DOE has corrected an error that DOE discovered in the NEMS–BRS, the model used by DOE to estimate both peak power and power plant emission impacts due to appliance standards. As discussed earlier (see Peak Power), DOE conducted a comprehensive review of the end-use load shapes used by NEMS–BRS, not only for the residential sector and, specifically, the air-conditioning end-use, but for the commercial, industrial, and transportation sectors as well. Several problems were discovered with the load shapes and, as a result, an alternative set of sectoral end-use load shapes were assigned to NEMS–BRS. By implementing a new set of sectoral load shapes, NEMS–BRS estimates greater power plant emission impacts (in the form of reduced CO_2 and NO_X emissions) from increased central air conditioner and heat pump standards. With regard to NO_X emissions, the actual reductions that result from more stringent efficiency standards are likely to be less than the original DOE estimates because some provisions of the Clean Air Act (CAA) were not explicitly modeled in the version of NEMS–BRS used for this analysis (AEO2000). Some of these provisions have been incorporated in subsequent AEOs. In addition, EPA is expected to promulgate regulations during the analytic period in question that are likely to further constrain NO_X emissions and reduce the impact that efficiency standards would have on NO_X and other environmental emissions. Appendix M of the TSD includes an updated set of power plant emission impacts. The changes resulting from this NEMS–BRS error correction do not affect DOE's finding of no significant impact.

6. Employment Impacts

With regard to the impact that amended central air conditioner and heat pump standards have on national employment, both ARI and Rheem are concerned that high efficiency standards can lead to job losses in the air-conditioning industry's manufacturing sector. Rheem states that fewer units will be sold due to the higher purchase prices associated with more efficient equipment. Fewer equipment sales will in turn reduce the need for personnel in manufacturing facilities and design groups. (Rheem, No. 248 at p. 3). ARI states that DOE's decision to issue 13 SEER standards in its January 22 final rule was in part based on the fact that unemployment was then at the lowest rate in 30 years. Because the current state of the national economy is certainly worse than when DOE issued its January 22 final rule, ARI claims that 13 SEER standards would have a much worse impact on the air-conditioning industry than initially forecasted by DOE. In any case, ARI points out that DOE's analysis demonstrates that 12 SEER standards would have approximately 50 percent fewer job losses compared to 13 SEER standards. ARI asserts that this difference in job losses is significant and demonstrates that the proposed 12 SEER standards are a much better choice. (ARI, No. 259 at pp. 11–12, 31–32).

OOE has a much different perspective on DOE's employment impact analysis. OOE states that it is purely speculative to claim that there is a distinguishable difference between the impacts that 12 SEER and 13 SEER standards have on the national economy. The accuracy of the macroeconomic model used by DOE to estimate employment impacts does not allow for such a distinction. (OOE, No. 275 at pp. 3–4).

As stated in the January 22 final rule, DOE estimated the impacts of the new standards on national labor demand using an input/output model of the U.S. economy. *See* 66 FR 7192. The model characterizes the interconnections between 35 economic sectors using data from the Bureau of Labor Statistics. For some years after the new standards go into effect, new consumer expenditure on air conditioners and heat pumps each year outpaces their annual energy savings. This activity redirects expenditures into the manufacturing sector, which is less labor intensive than other sectors of the economy,[19] producing a gain of jobs in the manufacturing sector that is less than the loss of jobs in other sectors of the economy. Also, a loss of jobs results in the utility sector due to its loss of revenues. As annual consumer energy savings begin to exceed annual new expenditures on air conditioners, eventually the new standards will produce a net gain in national employment.

The increases or decreases in the net demand for labor in the economy estimated by the input/output model due to air conditioner and heat pumps standards are likely to be very small relative to total national employment. The following reasons were given in the January 22 final rule for the conclusion that any modest changes in employment were in doubt (66 FR 7192):

- Unemployment is now at the lowest rate in 30 years. If unemployment remains very low during the period when the standards are put into effect, it is unlikely that the standards alone could result in any change in national employment levels;
- Neither the BLS data nor the input-output model used by DOE include the quality or wage level of the jobs. The losses or gains from any potential employment change may be offset if job quality and pay also change; and
- The net benefits or losses from potential employment changes are a result of the estimated net present value of benefits or losses likely to result from air conditioner and heat pump standards. It may not be appropriate to identify and consider separately any employment impacts beyond the calculation of net present value.

Although, as noted by ARI, unemployment is no longer as low as it was at the time the January 22 final rule was issued, the annual unemployment rate in 2001, (4.8 percent) is only slightly higher than the annual rates for 1998, 1999, and 2000 and still less than the annual rates for all other years in the 1990's.[20] Thus, after discounting the first factor cited above, and considering the other two legitimate concerns regarding the interpretation and use of the employment impacts analysis, DOE cannot conclude that the central air conditioner and heat pump standards issued in today's final rule are likely to

[19] Bureau of Economic Analysis. Regional Multipliers: A user Handbook for the Regional Input-Output Modeling System (RIMS II).

[20] U.S. Department of Labor—Bureau of Labor Statistics (BLS). Labor Force Statistics from the Current Population Survey. BLS Web site *http://stats.bls.gov:80/cps/home.htm*.

result in appreciable job losses to the nation.

7. Space-Constrained Products

a. Through-the-Wall Products

All parties commenting on DOE's proposed standards for through-the-wall products supported the proposed standards—10.9 SEER and 7.1 HSPF for split system air conditioners and heat pumps and 10.6 SEER and 7.0 HSPF for single package air conditioners and heat pumps. (Austin Energy, No. 243 at p. 3; OOE, No. 275 at p. 4; Lennox, No. 272 at p. 3; ASE, No. 282 at p. 4; ACEEE, No. 284 at pp. 13–14).

Thus, DOE is adopting as minimum efficiency standards for the through-the-wall products the standards proposed in the July 25 SNOPR.

b. Small Duct, High Velocity Systems

DOE received information in the rulemaking that indicated that the special characteristics of small duct, high velocity (SDHV) air conditioner and heat pump systems make it unlikely such systems could meet the 12 SEER/7.4 HSPF standard established for conventional products. Spacepak, Unico, and ARI all support the creation of a separate product class for SDHV systems and the development of technologically feasible and economically justified standards for this product. Although all three comments are in agreement with regard to the establishment of a new product class for SDHV systems, Unico and ARI are in disagreement over how these systems should be tested. While ARI recommends that no special consideration be given for SDHV systems and, therefore, no changes be made to the test procedures for central air conditioners and heat pumps, Unico proposes three options for amending the test procedure to rate SDHV systems. The three options include: (1) A coil-only test with a higher allowable coil pressure drop and use of a default fan power; (2) coil and blower tested with a 1.2 inch minimum external static pressure; and (3) coil-only testing with existing coil pressure drop allowance and default fan power without mention of the blower. (Spacepak, No. 267 at p. 1; Unico, No. 251 at pp. 3–4; ARI, No. 259 at p. 35).

While DOE agrees with public comments stating that these systems should not be subject to the standards set for conventional products, DOE does not currently have an analytical basis for setting a new standard for SDHV systems. DOE is currently in the process of amending the test procedure for rating the performance of central air conditioners and heat pumps and will take the above comments into consideration when determining the appropriate testing requirements for SDHV systems. DOE has started the research needed to propose amended standards for SDHV systems and it intends to initiate a rulemaking shortly for this product class.

8. Basis for HSPF Level

ARI stated in its comments that if a 12 SEER standard is adopted for central air conditioning heat pumps, the HSPF should be no higher than 7.3. ARI believes the HSPF should be based on an analysis of the SEER–HSPF relationships across equipment of varying capacity ratings. It faults DOE's analysis for relying on an analysis of only 3-ton equipment to determine the HSPF. (ARI, No. 259 at p. 4).

As DOE explained in the preamble to the January 22 final rule, DOE established the SEER–HSPF pairings in order to maintain the offset between the minimum SEER and the minimum HSPF in the current standards. Because heating energy is a large fraction of total heat pump energy consumption, DOE stated it would not relax the HSPF level in the absence of sound evidence regarding the burdens that would be mitigated (66 FR 7184). DOE continues to think an HSPF of 7.4 is the appropriate level for 12 SEER, and today adopts that level. DOE's decision is supported by data discussed in the TSD (Section 4.6.2.1) which shows that most models of equipment below 3-tons meet or exceed an HSPF of 7.4, and almost a third of models available below 20,000 BTU/hr meet or exceed an HSPF of 7.4.

9. Non-Regulatory Approaches

ARI, Carrier, and Mercatus Center contended that DOE did not adequately evaluate the national impacts of non-regulatory programs for improving the efficiency of central air conditioners and heat pumps. ARI claimed that by combining several non-regulatory alternatives, such as consumer tax credits, consumer rebates and low-income subsidies, the amount of energy saved could increase to 3.5 quads while the net present value would remain relatively unchanged. (ARI, No. 259 at pp. 15–16). Carrier points out that DOE overlooked the energy saving benefits due to the proper installation and maintenance of air-conditioning equipment. Carrier claims that the total energy savings from these actions far exceed those limited to increasing the SEER of the equipment. In stating the proposed 12 SEER standards represent an appropriate level for the entire nation, Carrier recognizes that there are some regions of the country that could benefit from higher efficiency for unique climate or electrical supply reasons. In these instances, government agencies and utilities should provide incentives to encourage the use of higher efficiency equipment. (Carrier, No. 280 at p. 3). Mercatus Center states that DOE does not evaluate non-regulatory programs adequately because it assumes their effects rather than estimating them based on any credible data or evidence. (Mercatus Center, No. 242 at p. 13).

DOE disagrees with this comment. In determining the base case for the analysis of the highest efficiency standards that are technologically feasible and economically justified (i.e., the energy consumption likely to occur in the absence of amended standards), DOE gave adequate consideration to all non-regulatory market forces likely to occur in the absence of amended standards. Additionally, the Regulatory Impact Analysis estimated the national energy savings and net present value that would result from non-regulatory approaches including: (1) Consumer product labeling, (2) public education, (3) prescriptive standards, (4) consumer tax credits, (5) manufacturer tax credits, (6) consumer rebates, (7) low income subsidies, (8) voluntary efficiency targets, and (9) mass government purchases. The analysis found that none of them would save an equivalent amount of energy as energy conservation standards.

10. Energy Policy

On the issue of energy policy, several comments claimed that DOE's action of withdrawing the 13 SEER standards issued in the January 22 final rule is not consistent with the current Administration's own National Energy Policy. ASAP, ASE, CEC, and NRDC all note that the Administration calls for appliance standards as way to moderate growth in electricity demand and limit consumer energy bills. (ASAP, No. 244 at p. 1; ASE, No. 282 at p. 2; CEC, No. 263 at p. 2; NRDC, No. 250 at p. 28). NRDC also states that the relaxation of the 13 SEER standard is inconsistent with the obligations of the United States under the United Nations Framework Convention on Climate Change (UNFCCC), to which our country became a Party with the advice and consent of the Senate in 1992. (NRDC, No. 250 at pp. 29–30).

DOE disagrees that its action to finalize 12 SEER standards for central air conditioners and heat pumps is inconsistent with either the Administration's National Energy Policy or with the United States' obligations under the UNFCCC. The 12 SEER standards being finalized today significantly increase the minimum efficiency requirements for central air conditioners and heat pumps. Thus, the policy to amend the standards is consistent with the Administration's call to use appliance standards as a method to moderate growth in electricity demand and limit consumer energy bills.

VII. Analytical Results and Conclusions

A. Overview of Analytical Results

1. General

Although DOE reassessed the benefits and burdens of the trial standard levels in arriving at the determinations in today's rule, the underlying analyses are unchanged from those presented in the January 22 final rule except for additional analysis of through-the-wall product classes included as Appendix L to the TSD. Briefly, DOE examined five standard levels. Table 3 presents the trial standards levels analyzed and the corresponding efficiency level for each class of product. Trial Standard Level 5 is the Max Tech Level for each class of product. Trial Standard Level 4 was the one DOE adopted for the standards set forth in the January 22 final rule. Trial Standard Level 2 is the one DOE today determines to be the maximum efficiency that is technologically feasible and economically justified.

TABLE 3.—TRIAL STANDARDS LEVELS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS (SEER)

Trial standard level	Split air conditioners	Packaged air conditioners	Split heat pumps	Packaged heat pumps
1	11	11	11	11
2	12	12	12	12
3	12	12	13	13
4	13	13	13	13
5	18	18	18	18

For each trial standard examined, several different scenarios were analyzed consisting of variations on: (1) Electricity price and housing projections; (2) equipment efficiency distributions; (3) manufacturer cost estimates; and (4) societal discount rate. Electricity price and housing projections were based on three different forecasts from the Energy Information Agency's 2000 Annual Energy Outlook (AEO): (1) Reference Case, (2) High Growth Case, and (3) Low Growth Case. DOE analyzed three efficiency scenarios, each of which assumed a different efficiency distribution after new standards would take effect: (1) NAECA scenario, (2) Roll-up scenario, and (3) Shift scenario. *See* October 5, 2000 NOPR for an explanation of the three scenarios (65 FR 59596, notes 10 through 12 and accompanying text). Under the standard levels in today's rule, DOE believes that the NAECA scenario most closely represents the likeliest impact of the new standards, as explained in Chapter 8 of the TSD. DOE analyzed two manufacturer cost scenarios: (1) Based on reverse engineering estimates, and (2) based on ARI-provided mean cost estimates. For the reasons given in the preamble to the January 22 final rule (66 FR 7177–78), DOE expects manufacturer costs under the amended standards will lie closer to the estimates produced through DOE's reverse engineering analysis, which lie between ARI's minimum and ARI's mean cost values. DOE assumed a societal discount rate of 7 percent for calculating net present value (NPV). However, a 3 percent value was investigated as an alternative scenario in accordance with the Office of Management and Budget's (OMB) *Guidelines to Standardize Measures of Costs and Benefits and the Format of Accounting Statements.*

2. Through-the-Wall Products

In response to comments on the October 5, 2000 NOPR, DOE conducted additional analysis on the cost and technical issues related to through-the-wall air conditioner and heat pump products. The analysis is described in detail in Appendix L of the TSD and is summarized here.

DOE performed a design assessment on two split through-the-wall systems and one packaged through-the-wall system. All systems are designed primarily for the replacement market and fit the physical definition of through-the-wall equipment proposed in the October 5, 2000 NOPR and July 25 SNOPR. The design assessment sought to identify the cost and efficiency impacts of employing commonly applied techniques to improve efficiency including reduction of air leakage and improvement in airflow, utilizing more efficient compression and fan motors, and increasing heat exchanger surface area. Emerging technologies and modulating technologies were not considered since they are not likely to be applied in conventional baseline equipment.

The cost estimation for the analysis was based on a modified version of the reverse engineering cost models developed as part of this rulemaking for conventional products. The performance impacts of employing various design options were estimated utilizing a spreadsheet model populated with actual performance data and engineering guidelines.

The analysis concluded that utilizing commonly applied technologies and designs, the most constrained through-the-wall split-system analysis could increase its SEER rating from 10.0 SEER to as high as 11.4 SEER, and the packaged system analysis could increase its SEER rating from 9.7 SEER to 10.6 SEER. Employing all improvements would add $106 and $129 to the retail price of the equipment, respectively, comparable to the increases expected in conventional equipment moving to a 12 SEER standard.

To explore the effects that more stringent standards for through-the-wall products would have on consumers, DOE performed a life-cycle cost analysis. The life-cycle cost analysis for through-the-wall consumers used a subset of consumers identified as living in multi-family dwellings, which are the predominate application for through-the-wall products.

In the July 25 SNOPR, DOE proposed, based on its analysis, a 10.9 SEER/7.1 HSPF standard for through-the-wall split systems and a 10.6 SEER/7.0 HSPF standard for through-the-wall single package system products. After considering public comments, all of which supported the proposed levels, DOE today adopts those levels as final standards for through-the-wall products.

3. Small Duct, High Velocity Systems

In response to comments on the July 25, 2001 SNOPR, DOE has determined that additional analysis on the cost and technical issues related to SDHV air conditioner and heat pump products are

needed to determine appropriate minimum efficiency standards for this class of product. The analysis plan for establishing the manufacturing cost and efficiency relationship for SDHV systems has yet to be developed, but DOE intends to involve the manufacturers that produce these products (Spacepak and Unico) in the planning process.

To explore the effects that more stringent standards for SDHV systems have on consumers, DOE intends to perform a life-cycle cost analysis. The life-cycle cost analysis for SDHV consumers will use a subset of consumers identified as probable candidates for the application of SDHV products.

Although DOE has concluded that SDHV systems warrant their own product class, it has yet to determine an appropriate minimum efficiency standard for them. Therefore, this final rule provides that the NAECA-prescribed minimum efficiency standards covering all product types (e.g., 10 SEER/6.8 HSPF for split system air conditioners) will remain applicable to SDHV systems. DOE intends to conduct a separate rulemaking for SDHV systems to establish appropriate minimum efficiency standards for this class of product.

B. Conclusions Regarding Conventional Products

EPCA specifies that any new or amended energy conservation standard for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)). In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens (42 U.S.C. 6295(o)(2)(B)(i)). The amended standard must "result in significant conservation of energy" (42 U.S.C. 6295(o)(3)(B)).

In conducting its analysis, DOE considers the impacts of standards beginning with the Max Tech Level, *i.e.*, Trial Standard Level 5 in this rulemaking. DOE then considers less efficient levels until it reaches the level which is both technologically feasible and economically justified.

To aid the reader in the discussion of the benefits and burdens of the trial standard levels, DOE includes a summary of the analysis results for all of the levels in Table 4.[21] Table 4 presents a summary of quantitative analysis results for each trial standard level based on the assumptions DOE considers most plausible. These include manufacturing cost estimates from the reverse engineering, an 18.4-year equipment lifetime with one compressor replacement at 14 years, and electricity prices based on the AEO2000 Reference Case.

TABLE 4.—SUMMARY OF QUANTITATIVE RESULTS [1]

	Trial Std 1	Trial Std 2	Trial Std 3	Trial Std 4	Trial Std 5
SEER levels for most products	11	12	12 for CAC/ 13 for HP.	13	18
Primary Energy Saved (quads)	1.7	3.0	3.5	4.2	8.8
Generation Capacity Offset (GW)	4.4	8.7	10.1	12.6	21.9
NPV ($billion)					
7% Discount Rate	2	2	1	1	(10)
Industry Impacts (million $) [2]					
Cumulative Change in Industry NPV	(30)	(159)	(171)	(303)	—
Differential impact between Industry Sub-groups [3]	75	238	261	429	—
Cumulative Regulatory Burden on Industry	(>509)	(>638)	(>650)	(>782)	—
Minimum net cash flow	62	31	18	(3)	—
Life-Cycle Cost Savings ($) [4]					
Split AC	75	113	113	113	(137)
Packaged AC	78	163	163	29	(276)
Split HP	209	365	372	372	(41)
Packaged HP	207	421	353	353	166
Equipment Price Increase ($)					
Split AC	91	213	213	335	754
Packaged AC	89	158	158	425	859
Split HP	55	144	332	332	1039
Packaged Heat Pump	92	149	435	435	985
Fraction of all Consumers with Net LCC Losses >2% (%)					
Split AC	2	25	25	39	68
Packaged AC	1	9	9	52	73
Split HP	0	0	6	6	57

[21] All cumulative effects that are not monetary are not discounted. Monetary effectgs are discounted to 1998 dollars.

TABLE 4.—SUMMARY OF QUANTITATIVE RESULTS [1]—Continued

	Trial Std 1	Trial Std 2	Trial Std 3	Trial Std 4	Trial Std 5
Packaged Heat Pump	0	0	12	12	48
Fraction of Low Income Consumers with Net LCC Losses >2% (%)					
Split AC	5	34	34	50	77
Packaged AC	2	14	14	61	80
Split HP	0	0	12	12	75
Packaged Heat Pump	0	0	20	20	66

[1] Parentheses indicate negative (−) values. Unless otherwise noted, Trial Standard Levels 1–3 refer to the NAECA efficiency scenario, and Trial Standard Levels 4 and 5 refer to the Roll-up efficiency scenario.
[2] Not calculated at Trial Standard Level 5.
[3] The benefit accruing to the Higher Operating Cost subgroup compared to the Lower Operating Cost subgroup.
[4] Negative values indicate LCC increases.

In addition to the quantitative results, DOE also considers other burdens and benefits that might affect the economic justification.

The potential to improve the reliability of the electricity system is considered by some to be the major benefit that DOE had not quantified explicitly. In areas where the occurrence of blackouts (and brownouts) can be reduced through expansion of system capacity, the economic value of avoided blackouts associated with reductions in peak load cannot exceed the value of the avoided capacity expansion. That value is already captured in DOE's analysis as savings in consumer utility bills. However, in areas that are unable to maintain adequate capacity reserves, the value of avoided blackouts associated with reductions in peak demand often far exceed the normal costs of capacity expansion.[22] DOE has reexamined claims that the energy efficiency standards under consideration could improve significantly electric system reliability over the long term (see discussion at Section VI.G.2).

DOE also recognizes that the adopted standards could result in additional unquantifiable benefits and burdens. These include the avoidance of environmental impacts associated with the siting of some powerplants, a possible increase in health problems caused by consumers foregoing air conditioner purchases, a possible reduction in the ability of the product to dehumidify, a possible lessening of competition, and possible difficulty in installing the new baseline products into replacement applications.

First DOE considered Trial Standard Level 5, the Max Tech Level for each of four classes of products, representing uniform 18 SEER requirements. The manufacturing cost DOE assumes for Trial Standard Level 5 is equal to the cost of 15 SEER equipment, rather than the cost of 18 SEER equipment, since manufacturer cost data were not available for the 18 SEER efficiency levels. Because of that assumption, DOE expects that its estimate of the cost and price of the product at Trial Standard Level 5 are understated. Trial Standard Level 5 would likely save 8.8 quads of energy between 2006 and 2030 which DOE considers significant. The energy savings through 2020 would result in the avoidance of approximately 22 gigawatts (GW) of installed generation capacity in 2020. For comparison, the generating capacity is equivalent to roughly 55 large, 400 megawatt, power plants, and reduced emissions would range up to 73 Mt of carbon equivalent and up to 279 kt of NO_X.[23] Furthermore, for the nation as a whole, Trial Standard Level 5 is estimated to result in a net cost in excess of $10 billion. DOE did not calculate manufacturer impacts at this trial standard level, determining based on preliminary evaluation that they would be severe and unacceptable.

At Trial Standard Level 5, the average consumer would experience an increase in life-cycle cost. Compared to today's standards, purchasers of split central air-conditioners, the predominate class of central air conditioner with 65 percent of the sales of central air conditioners and heat pumps, would most likely lose in excess of $137 over the life of the appliance. Purchasers of split heat pumps, the predominant class of heat pump, would most likely lose in excess of $41. These life-cycle cost estimates represent lower bounds to the actual costs because they do not include the additional price the consumer would pay over the price of a 15 SEER product, which would increase the life-cycle cost considerably.

DOE concludes that at Trial Standard Level 5, the benefits of energy and energy cost savings, and emission reductions would be outweighed by the negative economic impacts to the nation, to the vast majority of consumers and to the manufacturers. Consequently, DOE has determined that Trial Standard Level 5, the Max Tech Level, is not economically justified.

Next, DOE considered Trial Standard Level 4, the level that the previous Administration determined to be economically justified in the January 22 final rule. This level specifies 13 SEER equipment for all product classes. In considering Trial Standard Level 4, DOE assumed the Roll-up efficiency scenario and reverse engineering cost estimates to be the most probable. Under the Roll-up scenario, equipment that in the base case was forecast to be less efficient than the trial standard level is assumed to move up to the standard level, and equipment forecasted to be at or above the trial standard level is assumed not to increase in efficiency. (*See* Section 8.4.8 of the TSD for the reasons DOE considers the Roll-up efficiency scenario most probable above Trial Standard Level 3 and the NAECA efficiency scenario most probable at Trial Standard Levels 1, 2, and 3; *see* Section 7.2.2.5 of the TSD for the current efficiency distribution for each product class and for the assumed efficiency distributions after new standards.)

Primary energy savings between 2006 and 2030 is estimated to be 4.2 quads, which DOE considers significant. The estimated energy savings through 2020 would result in avoidance of approximately 12.6 GW in installed

[22] For instance, if capacity-related blackouts cost a region $1 billion, society would be willing to pay up to $1 billion to prevent them. If those blackouts can be prevented through either a capacity expansion or a reduction in peak demand, and the new capacity would cost $100 million, the value of the reduction in peak demand can be no more than $100 million. If the region is short on capacity and cannot add new capacity quickly, however, the same reduction in peak demand then can equal the value of the avoided blackout ($1 billion) since there is no feasible alternative.

[23] Generating capacity, carbon, and NO_X reductions are based on Roll-up efficiency scenario.

generating capacity in 2020. For comparison, the generating capacity is equivalent to avoiding the need for 32 large 400 megawatt power plants, and reduced emissions would range up to 33 Mt of carbon equivalent and up to 111 kt of NO_X.[24] Trial Standard Level 4 would lower peak electricity demand compared to the base case. That would allow utility service areas to build less new capacity, with attendant environmental benefits.

A measure of an efficiency standard's economic benefit to the nation is the increase in net present value, which is the difference in total cost, both initial cost and discounted operating cost, between the base case (without a new standard) and the case with a new standard. For Trial Standard Level 4, the increase in national net present value is estimated to be $1 billion.[25]

Since DOE expects the Roll-up efficiency scenario to result from standards adopted at Trial Standard Level 4, the burdens of Trial Standard Level 4 on manufacturers are likely to be severe. Not only does DOE expect the average loss in industry NPV to be around 20 percent, but impacts on most manufacturers would reach almost 30 percent. Their long term drop in return on investment and short term drop in cash flow suggest that standards adopted at Trial Standard Level 4 could accelerate the consolidation trend, possibly resulting in fewer choices for consumers and in a slowing of the pace of innovation well into the future. Furthermore, the cumulative impact on the industry of all new Federal and State regulations is estimated to exceed $782 million.

For Trial Standard level 4, the average purchaser of a split system air conditioner, the predominant class with 65 percent of all shipments, would see the installed price of $2236 rise to $2571, an increase of $335. Lower utility bills from the energy savings would repay this increase in 11.3 years and produce a total saving with a net present value of $113 over the 18.4 year life of the product. The average purchaser of a single package air conditioner, which represents 10 percent of all shipments, would see the average installed price of $2607 rise to $3032, an increase of $425. Lower utility bills from the energy savings would repay this increase in 14.5 years and produce a total saving with a net present value of $29 over the 18.4 year life of the product.

The average purchaser of a split system heat pump, which represents 22 percent of all shipments, would see the average installed price of $3668 rise to $4000, an increase of $332. Lower utility bills from the energy savings would repay this increase in 6.4 years and produce a total saving with a net present value of $372 over the 18.4 year life of the product. The average purchaser of a single package heat pump, which represents 4 percent of all shipments, would see the average installed price of $3599 rise to $4034, an increase of $435. Lower utility bills from the energy savings would repay this increase in 8.4 years and produce a total saving with a net present value of $353 over the 18.4 year life of the product. While the average consumer purchasing a 13 SEER air conditioner or heat pump would experience a net saving over the lifetime of the product, a substantial fraction of all households would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units. Thirty-nine percent of the households with split system air conditioners, 52 percent with single package air conditioners, 6 percent with split system heat pumps and 12 percent with single package heat pumps would experience a net cost. The percentage of low-income consumers who would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units is greater than that of the average household; 50 percent of low-income households with split system air conditioners, 61 percent with single package air conditioners, 12 percent with split system heat pumps and 20 percent with single package heat pumps. Also, the possibility that many consumers would incur substantial installation costs is great because 13 SEER equipment often will not fit in the same space as current 10 SEER equipment. In light of the higher purchase cost increase experienced by all consumers and the percentage of households that experience life-cycle cost increases, in particular low-income households, which experience life-cycle cost increases, consumer burdens are particularly acute under Trial Standard Level 4.

DOE concludes that at Trial Standard Level 4, the benefits of energy savings, generating capacity and emission avoidance, and net benefit to the nation's consumers would be outweighed by the maldistribution of consumer benefits, the potential increase in installation costs for some consumers related to installing potentially larger equipment, and the cost to manufacturers taking into account the cumulative regulatory burden. Trial Standard Level 4 introduces the serious concern that prospective owners of air conditioning heat pump systems would instead purchase less costly air conditioner resistance heater combinations because of the substantial purchase price differential between heat pumps and air conditioners. As discussed in the January 22 notice of final rulemaking (66 FR 7196), the energy savings from the more efficient heat pumps would be eliminated if only a small fraction of heat pump owners (4 percent) switched to resistance heating. Those households residing in manufactured housing, which is often shipped from the factory without an air conditioning system but with a resistance furnace, might be inclined to simply add a lower cost air conditioner and retain the resistance furnace instead of replacing the resistance furnace with a heat pump. In short, the large financial burdens of Trial Standard Level 4 are not outweighed by the expected financial benefits. Other potential burdens include possible health effects caused indirectly by foregone air conditioning purchases and possible lessening of competition, as determined by DOJ in its letter of April 5, 2001 to DOE regarding the January 2001 final rule. Consequently, DOE determines that Trial Standard Level 4 is not economically justified.

Next, DOE considered Trial Standard Level 3. This level specifies 12 SEER equipment for air conditioners and 13 SEER equipment for heat pumps. In considering Trial Standard Level 3, DOE assumed the NAECA efficiency scenario and reverse engineering cost estimates to be the most probable. (*See* Section 8.4.8 of the TSD for the reasons DOE considers the Roll-up efficiency scenario most probable at Trial Standard Levels 4 and 5 and the NAECA efficiency scenario most probable at Trial Standard Levels 1, 2 and 3.)

For Trial Standard Level 3, primary energy savings between 2006 and 2030 are estimated to be 3.5 quads, which DOE considers significant. The energy savings through 2020 would result in avoidance of approximately 10.1 GW in installed generating capacity in 2020. For comparison, the generating capacity is equivalent to avoiding the need for 25 large 400 megawatt power plants, and reduced emissions would range up to 28 Mt of carbon equivalent and up to 97 kt of NO_X.[26] Trial Standard Level 3 would lower peak electricity demand compared to the base case. That would allow utility service areas to build less new capacity, with attendant environmental benefits.

For Trial Standard Level 3, the increase in national net present value is estimated to be $1 billion.[27] Since DOE expects the NAECA efficiency scenario to result from standards adopted at Trial Standard Level 3, the burdens of Trial Standard Level 3 on manufacturers are likely to be less severe than at Trial Standard Level 4. DOE expects the average loss in industry NPV to be around 11 percent, but impacts on most manufacturers would be around 17 percent. Their long term drop in return on investment and short term drop in cash flow suggest that standards adopted at Trial Standard Level 3 could accelerate the consolidation trend, possibly resulting in fewer choices for consumers and in a slowing of the pace of innovation well into the future. Furthermore, the cumulative impact of all new Federal and State regulations would exceed $650 million.

At Trial Standard Level 3, the average purchaser of a split system air conditioner, the predominant class with 65 percent of all shipments, would see the installed price of $2236 rise to $2449, an increase of $213. Lower utility bills from the energy savings would repay this increase in 9.8 years and produce a total saving with a net present value of $113 over the 18.4 year life of the product. The average purchaser of a single package air conditioner, which represents 10 percent of all shipments, would see the average installed price of $2607 rise to $2765, an increase of $158. Lower utility bills from the energy savings would repay this increase in 7.5 years and produce a total saving with a net present value of $163 over the 18.4 year life of the product.

The average purchaser of a split system heat pump, which represents 22 percent of all shipments, would see the average installed price of $3668 rise to $4000, an increase of $332. Lower utility bills from the energy savings would repay this increase in 6.4 years and produce a total saving with a net present value of $372 over the 18.4 year life of the product. The average purchaser of a single package heat pump, which represents 4 percent of all shipments, would see the average installed price of $3599 rise to $4034, an increase of $435. Lower utility bills from the energy savings would repay this increase in 8.4 years and produce a total saving with a net present value of $353 over the 18.4 year life of the product.

Like Trial Standard Level 4, Trial Standard Level 3 raises the serious concern that prospective owners of air conditioning heat pump systems would purchase less costly air conditioner resistance heater combinations. In this case there is a potential loss of energy savings because of the lower standards for air conditioners compared to heat pumps, which could eliminate all energy savings from the more efficient heat pumps if only a small fraction of heat pump owners (4 percent) switched to resistance heating. Trial Standard Level 3 poses a serious concern regarding potential anti-competitive effects because the size and cost of the higher efficiency heat pumps could reduce competition between manufacturers of heat pumps and manufacturers of resistance heating and other lower cost heating systems.

DOE concludes that, at Trial Standard Level 3, the benefits of energy savings, generating capacity and emission avoidance, and net benefit to the nation's consumers would be outweighed by the maldistribution of consumer benefits and manufacturer costs, the likelihood of higher installation costs resulting from potentially larger equipment, and the net impact on the industry in light of the cumulative regulatory burden. The most serious concern is the possibility of equipment switching that would likely substantially reduce the calculated energy savings, drastically reducing the potential benefits. Other possible burdens include lessening of competition, as determined by DOJ in its April 5, 2001 letter to DOE regarding the January 2001 final rule, and adverse health effects caused by forgone air conditioner purchases. Consequently, DOE determines that Trial Standard Level 3 is not economically justified.

Next, DOE considered Trial Standard Level 2. This level specifies 12 SEER equipment for all product classes, and this is the level that DOE has determined is the maximum efficiency level that is economically justified. In considering Trial Standard Level 2, DOE assumed the NAECA efficiency scenario and reverse engineering cost estimates to be the most probable. Primary energy savings between 2006 and 2030 is estimated to be 3 quads, which DOE considers significant. The energy savings through 2020 would result in avoidance of approximately 8.7 GW in installed generating capacity in 2020. For comparison, the generating capacity is equivalent to avoiding the need for 22 large 400 megawatt power plants, and reduced emissions would range up to 24 Mt of carbon equivalent and up to 83 kt of NO_X.[28] Trial Standard Level 2 would lower peak electricity demand compared to the base case. That would allow utility service areas to either avoid build less new capacity, with attendant environmental benefits. For Trial Standard level 2, the increase in national net present value is estimated to be $2 billion, which represents the highest level for all the standard levels considered.[29]

Since DOE expects the NAECA efficiency scenario to result from standards adopted at Trial Standard Level 2, the burdens of Trial Standard Level 2 on manufacturers are likely to be moderate. DOE expects the average loss in industry NPV to be around 10 percent, with impacts on most manufacturers around 16 percent. Their long term drop in return on investment and short term drop in cash flow are moderate, suggesting that standards adopted at Trial Standard Level 2 would not accelerate the consolidation trend, and could result in more choices for consumers and raise the pace of innovation. Furthermore, the cumulative impact of all new Federal and State regulations is estimated to exceed $638 million.

For Trial Standard Level 2, the average purchaser of a split system air conditioner, the predominant class with 65 percent of all shipments, would see the installed price of $2236 rise to $2449, an increase of $213. Lower utility bills from the energy savings would repay this increase in 9.8 years and produce a total saving with a net present value of $113 over the 18.4 year life of the product. The average purchaser of a single package air conditioner, which represents 10 percent of all shipments, would see the average installed price of $2607 rise to $2765, an increase of $158. Lower utility bills from the energy savings would repay this increase in 7.5 years and produce a total saving with a net present value of $163 over the 18.4 year life of the product.

The average purchaser of a split system heat pump, which represents 22 percent of all shipments, would see the average installed price of $3668 rise to $3812, an increase of $144. Lower utility bills from the energy savings would repay this increase in 3.9 years and produce a total saving with a net

[24] Generating capacity, carbon, and NO_X reductions are based on Roll-up efficiency scenario.

[25] Under the NAECA efficiency scenario, the increase in national net present value would be zero.

[26] Generating capacity, carbon, and NO_X reductions are based on NAECA efficiency scenario.

[27] Under the Roll-up efficiency scenario, the increase in national net present value would be $2 billion.

[28] Generating capacity, carbon, and NO_X reductions are based on NAECA efficiency scenario.

[29] Under the Roll-up efficiency scenario, the increase in national net present value would be $3 billion.

present value of $365 over the 18.4 year life of the product. The average purchaser of a single package heat pump, which represents 4 percent of all shipments, would see the average installed price of $3599 rise to $3748, an increase of $149. Lower utility bills from the energy savings would repay this increase in 4 years and produce a total saving with a net present value of $421 over the 18.4 year life of the product.

While the average consumer purchasing a 12 SEER air conditioner or heat pump would experience a net saving over the lifetime of the product, some households would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units. Thus, 25 percent of the households with split system air conditioners and 9 percent with single package air conditioners would experience a net cost. No households with heat pumps would experience a net cost. The percentage of low-income consumers who would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units is greater than that for an average household. Thus, 34 percent of low-income households with split system air conditioners and 14 percent with single package air conditioners would experience a net cost. No low-income households with heat pumps would experience a net cost. Also, the possibility that consumers would incur substantial installation costs is less than that with a 13 SEER standard because 12 SEER equipment is more likely to fit in the same space as current 10 SEER equipment. In light of the moderate purchase cost increase experienced by all consumers, the percentage of households, in particular low-income households, which experience life-cycle cost increases, consumer burdens are substantially less severe under Trial Standard Level 2 than Trial Standard Level 4.

After carefully reconsidering the analyses and comments, and giving appropriate weight to consumer impacts and cumulative regulatory burden in the assessment of the benefits and burdens, DOE today amends the energy conservation standards for central air conditioners and central air conditioning heat pumps at Trial Standard Level 2. DOE concludes this standard saves a significant amount of energy and is technologically feasible and economically justified. In determining economic justification, DOE concludes that the benefits of energy savings, the projected amount of avoided power plant capacity, consumer life-cycle cost savings, national net present value increase, and emission reductions resulting from the standards outweigh the burdens. The burdens include the loss of manufacturer net present value, taking into account the cumulative regulatory burden and annual cash flow, increases in life-cycle cost for some users of products covered by today's rule, any possible increase in health problems caused by consumers foregoing air conditioner purchases, any possible reduction in the ability of the product to dehumidify, any possible effect on competition (addressed by DOJ in its October 19, 2001 letter to DOE), and any possible difficulty in installing the new baseline products into replacement applications.

C. Conclusions Regarding Space-Constrained Products

If a 12 SEER minimum requirement for air conditioners and heat pumps is implemented, DOE's analysis shows that of all potential space-constrained products, only those with through-the-wall condensers and small duct, high velocity systems need special consideration.

1. Through-the-Wall Products

The TSD contains a new Appendix L describing the results of our recent re-evaluation of those products. They demonstrate that split through-the-wall equipment can attain 10.9 SEER using designs and technologies that are commonly applied or available, with price impacts similar to those that conventional equipment would experience in meeting the proposed 12 SEER standard. The packaged equipment analyzed was demonstrated to be capable of attaining only a 10.6 SEER rating, although comments received indicate that one manufacturer of packaged through-the-wall equipment, Armstrong, expects their equipment to be capable of attaining 11 SEER.

Based on this evaluation, DOE adopts new product classes for products that have through-the-wall condensers and are intended for replacement applications. The new classes are required to meet minimum efficiencies lower than those of the other classes: 10.9 SEER and 7.1 HSPF for through-the-wall air conditioner and heat pump split-systems, and 10.6 SEER and 7.0 HSPF for through-the-wall air conditioner single-package systems. DOE's analysis suggests those products can attain these levels without substantial redesign or price increases that would result in a loss of market share to conventional products. Also, the life-cycle cost analysis confirms that, on average, consumers of split through-the-wall equipment would not incur an increase in life-cycle cost, and that consumers of packaged through-the-wall equipment would incur an increase of $52 over the life of the equipment. In no case would any consumer of split through-the-wall products be expected to incur life-cycle costs greater than 2 percent of the total life-cycle cost, and only 17 percent of consumers of packaged through-the-wall equipment would be expected to incur cost increases greater than 2 percent of the total life-cycle cost.

DOE concludes that standard levels higher than 10.9 SEER (split through-the-wall) and 10.6 SEER (packaged through-the-wall) are technologically feasible, but are not economically justified. DOE's analysis on three through-the-wall models suggests that those products could attain efficiencies as high as 11.4 SEER, but the results are not conclusive and cannot be confidently applied to all through-the-wall products. DOE's analysis does not provide enough evidence to convince us that levels higher than 10.9 SEER (10.6 SEER for packaged through-the-wall) will be technologically feasible during the five year period during which manufacturers would prepare to meet the new requirements. DOE's analysis does indicate that opportunities for efficiency improvement do exist, and that manufacturers of those products should continue to investigate those opportunities.

A serious concern that DOE has considered is that the lower through-the-wall standards might encourage purchasers of conventional equipment to shift to through-the-wall products, undermining the benefits of the 12 SEER standard for conventional products. DOE is therefore limiting the new through-the-wall classes to products manufactured before January 23, 2010. *See* definition of "through-the-wall air conditioner and heat pump." Thus, these classes will exist only for a period of four years following the compliance date established for the new standards for conventional products. During that time, the availability of suitable high-efficiency components will likely increase and the manufacturers of through-the-wall products will be able to investigate options for meeting the more stringent 12 SEER level. Both will make it easier for through-the-wall products to attain the 12 SEER minimum efficiency required of other products, thereby making 12 SEER a technologically feasible and economically justified level. The sunset provision will help to ensure that other manufacturers will not make the investment required to market through-the-wall products heavily for conventional applications during the four year period. It will also limit the time during which lower efficiency through-the-wall equipment is installed, ensuring that additional energy savings associated with the 12 SEER level are realized in a certain time period.

To further limit the application of the through-the-wall class, products in these classes may not exceed 30,000 BTU/hr in cooling capacity, may not contain special weatherization features that would allow them to be installed totally outdoors, and must be marked for installation only through an exterior wall. DOE also limits the size of the area used for condenser air exchange in order to limit these classes to those products intended primarily for replacement applications.

2. Small Duct, High Velocity Systems

In today's final rule, DOE establishes a separate product class for SDHV systems and retains the NAECA standards for these products pending further study to establish appropriate higher standard levels. DOE intends to publish a final rule for the test procedure in the near future. Any future work to establish appropriate minimum efficiency standards for SDHV systems will be based on the testing requirements developed for SDHV systems in the test procedure revision currently being finalized, or in a future revision specifically aimed at SDHV products.

VIII. Procedural Issues and Regulatory Review

A. Review Under the National Environmental Policy Act

DOE prepared an Environmental Assessment (EA) (DOE/EA–1352) available from: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–0854. DOE found the environmental effects associated with various standard efficiency levels for central air conditioners and heat pumps, including 12 SEER, to be not significant. Therefore DOE is publishing, elsewhere in this issue of the **Federal Register** a Finding of No Significant Impact (FONSI) pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), and DOE's regulations for compliance with NEPA (10 CFR Part 1021).

As previously discussed (Section VI.G.1, "Peak Power"), the model used by DOE to estimate both peak power and power plant emission impacts due to appliance standards was updated to include a more representative set of end-use load shapes for the residential, commercial, industrial, and transportation sectors. As a result of this update, NEMS–BRS estimates somewhat greater power plant emission impacts (in the form of reduced CO_2 and NO_x emissions) from increased central air conditioner and heat pump standards. Appendix M of the TSD includes an updated set of power plant emission impacts. These changes, which are discussed in the FONSI, do not affect DOE's finding of no significant impact.

The comments of some environmental advocates argue that DOE is required to prepare an environmental impact statement for today's final rule because, in their view, DOE is "rolling back" 13 SEER standards, and that constitutes a major agency action significantly affecting the quality of the environment. As explained in Section VI.H.5 of this Supplementary Information, DOE believes these comments are based on an erroneous premise, namely, that the January 22 final rule attained permanent status even though the rule never became effective. Instead, the correct baseline for assessing the impacts of today's rule, in DOE's view, are the existing energy conservation standards established by NAECA (*i.e.*, SEER of 10.0 and HSPF of 6.8 for split systems manufactured after January 1, 1992, SEER of 9.7 and HSPF of 6.6 for single package systems manufactured after January 1, 1993). The 12 SEER standard in today's rule will increase the energy efficiency of the most common type of central air conditioners by approximately 20 percent.

B. Review Under Executive Order 12866

Today's regulatory action has been determined to be an "economically significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review." 58 FR 51735 (October 4, 1993). Accordingly, today's action was subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget.

The draft submitted to OIRA and other documents submitted to OIRA for review have been made a part of the rulemaking record and are available for public review in DOE's Freedom of Information Reading Room, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, telephone (202) 586–3142.

The October 5, 2000 NOPR contained a summary of the Regulatory Analysis which focused on the major alternatives considered in arriving at the approach to improving the energy efficiency of consumer products. 65 FR 59627–29. The alternatives considered in DOE's analysis are consumer product labeling, consumer education, prescriptive standards, consumer tax credits, consumer rebates, manufacturer tax credits, voluntary efficiency targets, low income subsidy, mass government purchases, and performance standards. The reader is referred to the complete "Regulatory Impact Analysis," which is contained in the TSD, available as indicated at the beginning of this notice or from the contact person named at the beginning of this notice. The TSD provides: (1) A statement of the problem addressed by this regulation, and the mandate for government action; (2) a description and analysis of the feasible policy alternatives to this regulation; (3) a quantitative comparison of the impacts of the alternatives; and (4) the national economic impacts of the proposed standard.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a Federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. Such an assessment of the impact of regulations on small businesses is not required if the agency certifies that the rule would not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). To be categorized as a "small" air conditioning and warm air heating equipment manufacturer, a firm must employ no more than 750 employees.

In the October 5, 2000 NOPR, DOE discussed the potential impacts on small businesses of the October 5 proposed rule (corresponding to Trial Standard Level 3), and certified that the proposed standard levels would not have a significant economic impact on a substantial number of small entities. 65 FR 59629–30. DOE reported that nearly all small businesses engaged in the manufacture of central air conditioners and heat pumps produce products that DOE has called "niche" products. To avoid adversely impacting manufacturers of niche products, DOE proposed a separate product class for through-the-wall equipment, much of which is manufactured by small

manufacturers. *See* 65 FR 59609–11. In the preamble to the January 22 final rule, DOE addressed comments regarding the impacts more stringent standards might have on the availability of niche products, and although the final rule adopted the higher Trial Standard Level 4 standards, DOE deferred setting an amended standard for niche products. 66 FR 7175, 7196–97. The omission of niche products from the January 22 final rule also addressed the concern expressed by the Department of Justice about the impact of the October 5, 2000, proposed rule on small manufacturers (*see* preamble to January 22 final rule at 66 FR 7192). Because the final rule excluded most products made by small manufacturers, DOE affirmed its certification.

Today DOE publishes energy conservation standards for central air conditioners and heat pumps that correspond to Trial Standard Level 2. Primarily because of severe size constraints, DOE is establishing separate product classes for through-the-wall equipment and small duct, high velocity systems, which will be required to meet a lower SEER and HSPF. In light of these product class exceptions and after considering the information in the TSD and public comments, including the views of the Department of Justice (*see* October 19, 2001, letter in the Appendix to this notice), DOE has concluded that the 12 SEER standards in today's final rule will not have a disproportionate adverse impact on a substantial number of small entities. In its comments, the Office of Advocacy of the U.S. Small Business Administration stated that the proposed 12 SEER standard would substantially improve energy efficiency while preserving competition, innovation and jobs, and, therefore, it strongly supports the 12 SEER standard. On this basis, DOE certifies that today's rule will not have a significant impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis.

DOE's certification is based on an assessment of the impact the standards will have on small entities that would be directly affected by their implementation, which is all the Regulatory Flexibility Act requires. The assertion by ARI, in its petition for consideration (ARI, No. 138, at section m), that DOE is required to assess the indirect effects of proposed standards is contrary to established case law interpreting the Act.

D. Review Under the Paperwork Reduction Act

No new information or record keeping requirements are imposed by this rulemaking. Accordingly, no Office of Management and Budget clearance is required under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's rule under the standards of section 3 of the Executive Order and determined that, to the extent permitted by law, this rule meets the relevant standards.

F. Review Under Executive Order 12630

DOE has determined pursuant to Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 52 FR 8859 (March 18, 1988), that this rule will not result in any takings that might require compensation under the Fifth Amendment to the United States Constitution.

G. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. Agencies also must have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. DOE published its intergovernmental consultation policy on March 14, 2000. 65 FR 13735. DOE has examined today's rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. State regulations that may have existed on the products that are the subject of today's rule were preempted by the Federal standards established in NAECA. As discussed in Section VI.H.3, States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in section 327 of EPCA (42 U.S.C. 6297).

H. Review Under the Unfunded Mandates Reform Act of 1995

With respect to a proposed regulatory action that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of $100 million or more, section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires a Federal agency to publish estimates of the resulting costs, benefits and other effects on the national economy. 2 U.S.C. 1532(a), (b). UMRA also requires each Federal agency to develop an effective process to permit timely input by state, local, and tribal governments on a proposed significant intergovernmental mandate. DOE's consultation process is described in a notice published in the **Federal Register** on March 18, 1997. 62 FR 12820. Today's rule will impose expenditures of $100 million or more on the private sector. It does not contain a Federal intergovernmental mandate.

Section 202 of UMRA authorizes an agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The "Regulatory Impact Analysis" section of the TSD for this rule responds to those requirements.

Under section 205 of UMRA, DOE is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise or the selection of such an alternative is inconsistent with law. As required by section 325(o) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)), today's rule would establish energy conservation standards for central air conditioners and heat pumps that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the "Regulatory Impact Analysis" section of the TSD for today's rule.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. No. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE did not prepare a Family Policymaking Assessment.

J. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposed action be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's rule would not have any adverse effects on the supply, distribution, or use of energy in the near term because it would not have any effect on the manufacture of central air conditioners and heat pumps until 2006. In the longer term, beginning in 2006, the standards in this rule would have a small positive impact on the electricity supply in the United States. The standards that DOE is adopting would represent a 20 percent improvement in the energy efficiency of split-system central air conditioners, and a 9 percent improvement in heating efficiency for heat pumps. The standards would improve the cooling efficiency of single-package heat pumps by 24 percent and the heating efficiency of single-package heat pumps by 12 percent.

As explained in Section VII of this Supplementary Information, DOE estimates the standards would save approximately 3 quads of energy over 25 years (2006 through 2030). Also, in determining whether these standards are economically justified, DOE considered as a benefit the potential of the standards to improve the reliability of the electric generation and distribution system or to reduce the environmental impacts associated with new power plants and transmission lines. *See* Section VI.G. of this Supplementary Information. DOE's analysis predicts today's standards would result in an estimated reduction in installed generation capacity in the year 2020 of approximately 8.7 gigawatts. This would be the equivalent of three 400 megawatt coal-fired plants and nineteen 400 megawatt gas-fired plants.

DOE disagrees with the NRDC's view that the levels in the January 22 final rule are the appropriate baseline for determining whether today's rule is likely to have a significant adverse effect on the supply, distribution, or use of energy and, thus, subject to the Executive Order's analysis requirement. (NRDC, No. 250 at p. 9). For reasons stated in Section III, we think the proper baseline is the currently effective standards (*i.e.*, the standards prescribed by NAECA). In any case, section 325 of EPCA requires DOE to weigh all of the significant costs and benefits associated with standard levels that are being considered and not just avoided electricity costs. DOE has set forth its evaluation of costs and benefits elsewhere in this notice (*see* Section VII). DOE has also considered various regulatory and non-regulatory alternatives to today's proposed standard (*see* Section VIII.B., "Review Under Executive Order 12866," and the Regulatory Impact Analysis portion of the TSD). DOE has concluded that the costs associated with elevating the current standard to the standard level set forth in the January 22, 2001, final rule exceed the associated benefits, including the benefit of avoided electricity consumption.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. DOE also will submit the supporting analyses to the Comptroller General (GAO) and make them available to each House of Congress. The report will state that it has been determined that the rule is a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, D.C., on May 14, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended, as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

2. The final rule amending 10 CFR part 430 published January 22, 2001 (66 FR 7170) is withdrawn.

3. Section 430.2 is amended by adding definitions for "effective date," "maximum allowable energy use," "maximum allowable water use," "minimum required energy efficiency," "small duct, high velocity system," and "through-the-wall air conditioner and heat pump" in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Effective date means the date on and after which a manufacturer must comply with an energy conservation standard in the manufacture of a covered product.

* * * * *

Maximum allowable energy use means an energy conservation standard for a covered product, expressed in terms of a maximum amount of energy that may be consumed, which is established by statute or by a final rule that has modified this part pursuant to a date DOE has selected consistent with the Congressional Review Act (5 U.S.C. 801–804) and any other applicable law, or the date on which DOE completes action on any timely-initiated administrative reconsideration, whichever is later.

* * * * *

Maximum allowable water use means an energy conservation standard for a covered product, expressed in terms of a maximum amount of water that may be consumed, which is established by statute or by a final rule that has modified this part pursuant to a date DOE has selected consistent with the Congressional Review Act (5 U.S.C. 801–804) and any other applicable law, or the date on which DOE completes action on any timely-initiated administrative reconsideration, whichever is later.

* * * * *

Minimum required energy efficiency means an energy conservation standard for a covered product, expressed in terms of a minimum efficiency quotient, which is established by statute or by a final rule that has modified this part pursuant to a date DOE has selected consistent with the Congressional Review Act (5 U.S.C. 801–804) and any other applicable law, or the date on which DOE completes action on any timely-initiated administrative reconsideration, whichever is later.

* * * * *

Small duct, high velocity system means a heating and cooling product that contains a blower and indoor coil combination that:

(1) Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and

(2) When applied in the field, uses high velocity room outlets generally greater than 1000 fpm which have less than 6.0 square inches of free area.

* * * * *

Through-the-wall air conditioner and heat pump means a central air conditioner or heat pump that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and:

(1) Is manufactured prior to January 23, 2010;

(2) Is not weatherized;

(3) Is clearly and permanently marked for installation only through an exterior wall;

(4) Has a rated cooling capacity no greater than 30,000 Btu/hr;

(5) Exchanges all of its outdoor air across a single surface of the equipment cabinet; and

(6) Has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface described in paragraph (5) of this definition.

* * * * *

6. Section 430.32 of Subpart C is amended by revising paragraph (c) to read as follows:

§ 430.32 Energy and water conservation standards and effective dates.

* * * * *

(c) *Central air conditioners and central air conditioning heat pumps.* (1) Split system central air conditioners and central air conditioning heat pumps manufactured after January 1, 1992, and before January 23, 2006 , and single package central air conditioners and central air conditioning heat pumps manufactured after January 1, 1993, and before January 23, 2006 , shall have Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor no less than:

Product class	Seasonal energy efficiency ratio	Heating seasonal performance factor
(i) Split systems	10.0	6.8
(ii) Single package systems	9.7	6.6

(2) Central air conditioners and central air conditioning heat pumps manufactured on or after January 23, 2006 , shall have Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor no less than:

Product class	Seasonal energy efficiency ratio (SEER)	Heating seasonal performance factor (HSPF)
(i) Split system air conditioners	12	—
(ii) Split system heat pumps	12	7.4
(iii) Single package air conditioners	12	—
(iv) Single package heat pumps	12	7.4
(v)(A) Through-the-wall air conditioners and heat pumps—split system	10.9	7.1
(v)(B) Through-the-wall air conditioners and heat pumps—single package	10.6	7.0
(vi) Small duct, high velocity systems	10.0	[1] 6.8

[1] NAECA-prescribed value subject to amendment.

* * * * *

5. Section 430.34 is added to Subpart C to read as follows:

§ 430.34 Energy and water conservation standards amendments

The Department of Energy may not prescribe any amended standard which increases the maximum allowable energy use or, in the case of showerheads, faucets, water closets or urinals, the maximum allowable water use, or which decreases the minimum required energy efficiency of a covered product.

Appendix

[The following letters from Department of Justice will not appear in the Code of Federal Regulations.]

Department of Justice

Antitrust Division
A. Douglas Melamed
Acting Assistant Attorney General, Main Justice Building, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001, (202) 514–2401/ (202) 616–2645 (f), antitrust@justice.usdoj.gov (internet), http://www.usdoj.gov (World Wide Web)
December 4, 2000.

Mary Anne Sullivan, General Counsel
Department of Energy
Washington, D.C. 20585

Dear General Counsel Sullivan: I am responding to your October 16, 2000 letter seeking the views of the Attorney General about the potential impact on competition of two proposed energy efficiency standards: one for clothes washers and the other for residential central air conditioners and heat pumps. Your request was submitted pursuant to Section 325(o)(2)(B)(i) of the Energy Policy and Conservation Act, 42 U.S.C. 6291, 6295 ("EPCA"), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy efficiency standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

We have reviewed the proposed standards and the supplementary information published in the **Federal Register** notices and submitted to the Attorney General, which include information provided to the Department of Energy by manufacturers. We have additionally conducted interviews with members of the industries.

We have concluded that the proposed clothes washer standard would not adversely affect competition. In reaching this conclusion, we note that the proposed standard is based on a joint recommendation submitted to the Department of Energy by manufacturers and energy conservation advocates. That recommendation states that virtually all manufacturers of clothes washers who sell in the United States participated in arriving at the recommendation through their trade association, that the recommendation was developed in consultation with small manufacturers, and that the manufacturers believe the new standard would not likely reduce competition. We note further that, as the industry recommended, the proposed standard will be phased in over six years, which will allow companies that do not already have products that meet the proposed standard sufficient time to redesign their product lines.

With respect to the proposed residential central air conditioner and heat pump standard, we have concluded that there could be an adverse impact on competition. The proposed standard, Trial Standard Level 3, is expressed in terms of two industry measurements: SEER (Seasonal Energy Efficiency Ratio) and HSPF (Heating Seasonal Performance Factor).[1] These standards would change from the current central air conditioner and heat pump efficiency standards of 10 SEER/6.8 HSPF for split system air conditioners and heat pumps and 9.7 SEER/6.6 HPSF for single package air conditioners and heat pumps to 12 SEER for air conditioners and 13 SEER/7.7 HPSF for heat pumps.

We have identified three possible competitive problems presented by the proposed standards. First, the proposed 13 SEER heat pump standard would have a disproportionate impact on smaller manufacturers. Currently less than 20 percent of the total current product lines meet the proposed standards, but for some small manufacturers, 100 percent of their product lines fail to satisfy the proposed standard.

[1] The **Federal Register** notice also requested comments on a proposal to adopt a standard for steady-state cooling efficiency (EER) and discussed several options the Department of Energy is considering. The proposed rule set forth in the notice does not, however, include a provision regarding an EER standard, and the views of Department of Justice expressed in this letter are limited to the impact of any lessening of competition * * * that is likely to result from the imposition of the [proposed] standard," as required by EPCA. If the Department of Energy proposes a rule in the future incorporating an EER standard, DOE will then evaluate that proposed rule and express its views about the competitive impact of that standard.

Second, the proposed standard for heat pumps, and in some instances for air conditioners, would have an adverse impact on some manufacturers of these products (including those products referred to in the **Federal Register** notice as "niche products") used to retrofit existing housing and used in manufactured housing. These manufacturers could not make units that comply with the rule and fit into the available space.

Third, the proposed heat pump standard of 13 SEER could make heat pumps less competitive with alternative heating and cooling systems. Because the standard will result in increases in the size and cost of heat pumps, it is possible that purchasers will shift away from heat pumps to other systems that include electric resistance heat, reducing the competition that presently exists between heat pumps and those other systems.

Department of Justice urges the Department of Energy to take into account these possible impacts on competition in determining its final energy efficiency standard for air conditioners and heat pumps. The Department of Energy should consider setting a lower SEER standard for heat pumps, such as the standard included in Trial Standard Level 2, and a lower SEER standard for air conditioners for retrofit markets where there are space constraints (such as markets served by niche products) and for manufactured housing.

Sincerely,
A. Douglas Melamed

Department of Justice

Antitrust Division
John M. Nannes
Acting Assistant Attorney General,
Main Justice Building, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001, (202) 514–2401/ (202) 616–2645 (f), antitrust@justice.usdoj.gov (internet) http://www.usdoj.gov (World Wide Web)
April 5, 2001.

Eric J. Fygi,
Acting General Counsel, Department of Energy, Washington, DC 20585

Dear Acting General Counsel Fygi: I am responding to your letter dated March 20, 2001, seeking the views of the Attorney General about the potential effect on competition of the final rule published on January 22, 2001, setting forth new energy efficiency standards for central air conditioners and heat pumps. You specifically asked for our views about the impact on competition of the rule's prescription of a 13 SEER (Seasonal Energy Efficiency Rating) standard for all product classes, except for niche products, and the desirability of reducing the standard to a 12 SEER level for all subcategories. Your letter requested our views by March 30, but your staff agreed to extend the response date to April 6.

As you noted in your letter to the Attorney General, the Antitrust Division had earlier expressed its views on the proposed rule, which provided for a 12 SEER standard for air conditioners and a 13 SEER standard for heat pumps. The Division had concluded that the 13 SEER standard for heat pumps could have an adverse effect on competition and urged the Department of Energy to adopt a 12 SEER standard for heat pumps. We noted only minor concerns about the proposed 12 SEER standard for air conditioners.

We have reviewed the final rule and determined that the 13 SEER heat pump standard still raises competitive problems. We have further determined that the 13 SEER standard for air conditioners also raises competitive concerns.

In our earlier letter, we identified and described three competitive problems resulting from the proposed 13 SEER standard for heat pumps, including a disproportionate impact on smaller manufacturers [2] and an adverse effect on manufacturers of specialized equipment (the niche product manufacturers) and manufacturers of equipment for space-constrained installation sites (such as manufactured housing, which accounts for a significant percentage of the country's housing starts). The exception made in the final rule for niche product manufacturers may alleviate competitive problems for their products, but the exception does not eliminate the difficulties for manufacturers of standard equipment who could not make equipment that complied with the 13 SEER standard and still fit into space-constrained sites. The final rule also continues to have a disproportionate impact on smaller manufacturers of heat pumps. The 13 SEER standard for air conditioners raises the same kinds of competitive problems as the 13 SEER standard does for heat pumps.

We urge the Department of Energy to consider the impact on competition and to adopt a 12 SEER standard for all products covered by the rule.

Sincerely,
John M. Nannes

Department of Justice

Antitrust Division
Charles A. James
Assistant Attorney General,
Main Justice Building, 950 Pennsylvania Avenue, NW., Washington, DC 20530–0001, (202) 514–2401 / (202) 616–2645 (f) antitrust@justice.usdoj.gov (internet) http://www.usdoj.gov (World Wide Web)
October 19, 2001

Lee Liberman Otis,
General Counsel, Department of Energy, Washington, DC 20585

Dear General Counsel Otis: I am responding to your August 15, 2001 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy efficiency standards for residential central air conditioners and central air conditioning heat pumps. Your request was submitted pursuant to Section 325(o)(2)(B)(i) of the Energy Policy and Conservation Act, 42 U.S.C. 6291, 6295 ("EPCA"), which requires the Attorney General to make a determination of the impact of any lessening of competition that

[2] We noted in our previous letter that less than 20 percent of the total current heat pump product lines meet the new standard, but for some small manufacturers, 100 percent of their product lines failed to satisfy the standard. The same is true for air conditioner manufacturers when the standard is 13 SEER.

is likely to result from the imposition of proposed energy efficiency standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR 0.40(g).

The proposal provides for 12 SEER standards for all types of residential central air conditioners and central air conditioning heat pumps, except those that are installed through an exterior wall. We have reviewed the materials that accompanied your August 15 letter, the materials that you previously provided, and the comments submitted to DOE, as well as the results of our industry interviews. Based on that review, we have concluded that the proposal would not adversely affect competition.

Sincerely,
Charles A. James

[FR Doc. 02–12680 Filed 5–22–02; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Finding of No Significant Impact: Energy Conservation Program for Consumer Products

AGENCY: Department of Energy.

ACTION: Finding of no significant impact for amended energy conservation standard for residential central air conditioners and heat pumps.

SUMMARY: The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act and the National Appliance Energy Conservation Act, and the National Appliance Energy Conservation Amendments, prescribes energy conservation standards for certain major household appliances, and requires the Department of Energy (DOE) to administer an energy conservation program for these products. Based on an Environmental Assessment (EA), DOE/EA–1352, and revisions to the EA as documented in Appendix M of the Residential Central Air Conditioner and Heat Pump Technical Support Document (TSD), DOE has determined that the adoption of energy efficiency Trial Standard Level (TSL) 2 for residential central air conditioners and heat pumps, as adopted by the Final Rule entitled the "Energy Conservation Program for Consumer Products: Residential Central Air Conditioners and Heat Pumps Energy Conservation Standards," would not be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). Therefore, an environmental impact statement (EIS) is not required, and the Department is issuing this Finding of No Significant Impact (FONSI).

ADDRESSES: *Public Availability:* Copies of the EA and the TSD are available from: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9127.

FOR FURTHER INFORMATION CONTACT: Michael Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611.

For further information regarding the DOE NEPA process contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), 1000 Independence Avenue, SW., Washington, DC 20585–0119, (202) 586–4600.

SUPPLEMENTARY INFORMATION:

Description of the Proposed Action: The proposed action is the establishment of a revised energy conservation standard (TSL 2) for residential central air conditioners and heat pumps.

Environmental Impacts: The EA and TSD evaluate the environmental impacts of a range of new energy conservation standards for residential central air conditioners and heat pumps. The results are presented for each potential trial standard level. Each potential trial standard level is an alternative action, and the environmental impacts of each alternative are compared to what would be expected to happen if no new standard were adopted, i.e., the "no action" alternative.

The main environmental impact is decreased emissions from fossil-fueled electricity generation. All of the minimum efficiency levels considered for this appliance product category would result in decreased electricity use and, therefore, a reduction in power plant emissions. The proposed efficiency standard would generally decrease air pollution by decreasing future energy demand. The environmental analysis considers two pollutants, nitrogen oxides (NO_X) and sulfur dioxide (SO_2), and one emission, carbon. The results of the analysis show an estimated cumulative reduction of 24.2 million tons of carbon equivalent emissions and 83.2 thousand tons NO_X for TSL 2 through the year 2020. This would be a national reduction of 0.17% of carbon equivalent emissions, and 0.08% of NO_X. Because emissions of SO_2 from power plants are capped by clean air legislation, physical emissions of this pollutant from electricity generation will be only minimally affected by residential central air conditioners and heat pumps standards. The maximum SO_2 allowed by law will most likely still be produced, but because SO_2 emissions are traded, and if SO_2 emissions are lowered due to less power generation, then the cost of SO_2 emission credits may decrease slightly. Therefore, the EA did not consider changes in power sector SO_2 emissions because they will be negligible.

Determination

Based upon the EA, DOE has determined that the adoption of the proposed energy efficiency standard for residential central air conditioners and heat pumps would not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Therefore, an EIS is not required, and the Department is issuing this FONSI.

Issued in Washington, DC, on May 14, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 02–12681 Filed 5–22–02; 8:45 am]
BILLING CODE 6450–01–P

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Federal Register

Thursday,
May 23, 2002

Part IV

Postal Service

Changes in Domestic Rates, Fees, and Mail Classifications; Notice

POSTAL SERVICE

Changes in Domestic Rates, Fees, and Mail Classifications

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to domestic rates, fees, and the Domestic Mail Classification Schedule.

SUMMARY: This notice sets forth the changes to domestic rates, fees, and the Domestic Mail Classification Schedule to be implemented as a result of the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2001–1 (April 8, 2002).

EFFECTIVE DATE: June 30, 2002, unless otherwise noted.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., (202) 268–2989.

SUPPLEMENTARY INFORMATION: On September 24, 2001, pursuant to its authority under 39 U.S.C. 3621, et seq., the Postal Service filed with the Postal Rate Commission (PRC) a Request for a Recommended Decision on Proposed Changes in Rates of Postage and Fees for Postal Services (Request). The PRC designated the filing as Docket No. R2001–1. On March 22, 2002, pursuant to its authority under 39 U.S.C. 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on April 8, 2002. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2001–1 (April 8, 2002). The Governors approved the classification, fee, and rate changes recommended by the Commission. The attachments to the Governors' Decision, setting forth the classification, fee, and rate changes ordered into effect by the Governors, are set forth below.

In accordance with the Decision of the Governors and Resolution No. 02–7 of the Board of Governors, the Postal Service hereby gives notice that the classification, fee, and rate changes set forth below will become effective at 12:01 a.m. on June 30, 2002, with the exception of the changes to Fee Schedule 945 related to the electronic option for return receipt service. Changes to schedule 945 related to the electronic option for return receipt service will become effective as soon as possible, at a time and date to be determined subsequently by the Board of Governors. Implementing regulations also become effective on June 30, 2002, as noted in a separate notice in the **Federal Register**. Also, in the future, the Postal Service will undertake to request a change to DMCS section 443.1a to delete the words "of ten cents", since the appropriate postage (12.4 cents) is specified in Rate Schedules 421 note 6 and 423 note 2.

Attachment A to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes

[Docket No. R2001–1]

April 8, 2002.

EXPRESS MAIL SCHEDULES 121, 122 AND 123

Weight (lbs.)	Schedule 121 same day airport service	Schedule 122 custom designed	Schedule 123 next day & second day PO to PO	Schedule 123 next day & second day PO to addressee
0.5		$10.70	$10.40	$13.65
1		14.90	14.60	17.85
2		14.90	14.60	17.85
3		18.10	17.80	21.05
4		21.25	20.95	24.20
5		24.35	24.05	27.30
6		27.45	27.15	30.40
7		30.50	30.20	33.45
8		31.80	31.50	34.75
9		33.25	32.95	36.20
10		34.55	34.25	37.50
11		36.25	35.95	39.20
12		38.90	38.60	41.85
13		40.80	40.50	43.75
14		41.85	41.55	44.80
15		43.15	42.85	46.10
16		44.70	44.40	47.65
17		46.20	45.90	49.15
18		47.60	47.30	50.55
19		49.05	48.75	52.00
20		50.50	50.20	53.45
21		51.95	51.65	54.90
22		53.40	53.10	56.35
23		54.90	54.60	57.85
24		56.30	56.00	59.25
25		57.70	57.40	60.65
26		59.20	58.90	62.15
27		60.60	60.30	63.55
28		62.10	61.80	65.05
29		63.55	63.25	66.50
30		65.00	64.70	67.95
31		66.45	66.15	69.40
32		67.95	67.65	70.90
33		69.30	69.00	72.25
34		70.85	70.55	73.80
35		72.20	71.90	75.15
36		73.75	73.45	76.70

EXPRESS MAIL SCHEDULES 121, 122 AND 123—Continued

Weight (lbs.)	Schedule 121 same day airport service	Schedule 122 custom designed	Schedule 123 next day & second day PO to PO	Schedule 123 next day & second day PO to addressee
37		75.40	75.10	78.35
38		77.20	76.90	80.15
39		78.95	78.65	81.90
40		80.75	80.45	83.70
41		82.55	82.25	85.50
42		84.40	84.10	87.35
43		86.10	85.80	89.05
44		87.85	87.55	90.80
45		89.45	89.15	92.40
46		90.80	90.50	93.75
47		92.45	92.15	95.40
48		93.90	93.60	96.85
49		95.30	95.00	98.25
50		96.80	96.50	99.75
51		98.40	98.10	101.35
52		99.80	99.50	102.75
53		101.35	101.05	104.80
54		102.80	102.50	105.75
55		104.30	104.00	107.25
56		105.85	105.55	108.80
57		107.30	107.00	110.25
58		108.85	108.55	111.80
59		110.45	110.15	113.40
60		112.20	111.90	115.15
61		114.10	113.80	117.05
62		115.85	115.55	118.80
63		117.55	117.25	120.50
64		119.50	119.20	122.45
65		121.20	120.90	124.15
66		123.10	122.80	126.05
67		124.80	124.50	127.75
68		126.70	126.40	129.65
69		128.45	128.15	131.40
70		130.25	129.95	133.20

Schedules 121, 122 and 123 Notes
1. The applicable ½-pound rate is charged for matter sent in a flat-rate envelope provided by the Postal Service.
2. Add $12.50 for each pickup stop.
3. Add $12.50 for each Custom Designed delivery stop.

FIRST-CLASS MAIL RATE SCHEDULE 221

[Letters and Sealed Parcels]

	Rate
Single-Piece:	
First Ounce	$0.370
Additional ounces	0.230
Nonmachinable surcharge	0.120
Qualified Business Reply Mail	0.340
Presorted:	
First ounce	0.352
Additional ounces	0.225
Nonmachinable surcharge	0.055
Heavy piece discount, per-piece	0.041
Automation Letters:	
Mixed AADC	0.309
AADC	0.301
3-digit	0.292
5-digit	0.278
Carrier route	0.275
Additional ounces	0,225
Heavy piece discount, per-piece	0.041
Automation Flats:	
Mixed ADC	0.341

FIRST-CLASS MAIL RATE SCHEDULE 221—Continued

[Letters and Sealed Parcels]

	Rate
ADC	0.333
3-digit	0.322
5-digit	0.302
Additional ounces	0.225
Nonmachinable surcharge	0.055
Heavy piece discount, per-piece	0.041

Schedule 221 Notes

1. A mailing fee of $150.00 must be paid once each year at each office of mailing by any person who mails at presorted or automation rates. Payment of the fee allows the mailer to mail at any First-Class Mail rate. For presorted or automation pieces weighing more than 2 ounces, subtract 4.1 cents per-piece.

2. First-Class Mail rates apply through 13 ounces. Heavier pieces are subject to Priority Mail rates.

FIRST-CLASS MAIL RATE SCHEDULE 222

[Cards]

	Rate
Regular:	
Single-piece cards	$0.230
Qualified Business Reply Mail	0.200
Presorted:	0.212
Automation:	
Mixed AADC	0.194
AADC	0.187
3-digit	0.183
5-digit	0.176
Carrier route	0.170

Schedule 222 Notes

1. A mailing fee of $150.00 must be paid once each year at each office of mailing by any person who mails at presorted or automation rates. Payment of the fee allows the mailer to mail at any First-Class Mail rate.

First-Class Mail Schedule 223

[Priority Mail]

Weight (lbs.)	Local, Zones 1, 2 & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.85	$3.85	$3.85	$3.85	$3.85	$3.85
2	3.95	4.55	4.90	5.05	5.40	5.75
3	4.75	6.05	6.85	7.15	7.85	8.55
4	5.30	7.05	8.05	8.50	9.45	10.35
5	5.85	8.00	9.30	9.85	11.00	12.15
6	6.30	8.85	9.90	10.05	11.30	12.30
7	6.80	9.80	10.65	11.00	12.55	14.05
8	7.35	10.75	11.45	11.95	13.80	15.75
9	7.90	11.70	12.20	12.90	15.05	17.50
10	8.40	12.60	13.00	14.00	16.30	19.20
11	8.95	13.35	13.75	15.15	17.55	20.90
12	9.50	14.05	14.50	16.30	18.80	22.65
13	10.00	14.75	15.30	17.50	20.05	24.35
14	10.55	15.45	16.05	18.60	21.25	26.05
15	11.05	16.20	16.85	19.75	22.50	27.80
16	11.60	16.90	17.60	20.85	23.75	29.50
17	12.15	17.60	18.35	22.05	25.00	31.20
18	12.65	18.30	19.30	23.15	26.25	32.95
19	13.20	19.00	20.20	24.30	27.50	34.65
20	13.75	19.75	21.15	25.35	28.75	36.40
21	14.25	20.45	22.05	26.55	30.00	38.10
22	14.80	21.15	22.95	27.65	31.20	39.80
23	15.30	21.85	23.90	28.80	32.45	41.55
24	15.85	22.55	24.85	29.90	33.70	43.25
25	16.40	23.30	25.75	31.10	34.95	44.95
26	16.90	24.00	26.60	32.25	36.20	46.70
27	17.45	24.70	27.55	33.35	37.45	48.40
28	18.00	25.40	28.50	34.50	38.70	50.15
29	18.50	26.15	29.45	35.60	39.95	51.85
30	19.05	26.85	30.35	36.80	41.20	53.55
31	19.55	27.55	31.20	37.85	42.40	55.30
32	20.10	28.25	32.15	39.00	43.65	57.00
33	20.65	28.95	33.10	40.10	44.90	58.70
34	21.15	29.70	34.00	41.25	46.15	60.45
35	21.70	30.40	34.95	42.40	47.40	62.15
36	22.25	31.10	35.85	43.55	48.65	63.85
37	22.75	31.95	36.80	44.65	49.90	65.60
38	23.30	32.65	37.70	45.85	51.15	67.30
39	23.75	33.50	38.65	47.00	52.40	69.05
40	24.25	34.30	39.60	48.10	53.60	70.75
41	24.70	35.00	40.45	49.25	54.85	72.45
42	25.20	35.85	41.35	50.30	56.15	74.20
43	25.65	36.60	42.30	51.50	57.40	75.90
44	26.15	37.40	43.25	52.60	58.70	77.60
45	26.60	38.20	44.15	53.75	59.95	79.35
46	27.10	39.00	45.05	54.85	61.20	81.05
47	27.55	39.75	46.00	56.05	62.50	82.75
48	28.05	40.60	46.95	57.20	63.75	84.50
49	28.50	41.35	47.80	58.30	65.05	86.20
50	28.95	42.15	48.75	59.45	66.30	87.95
51	29.45	42.95	49.65	60.55	67.55	89.65
52	29.90	43.75	50.60	61.75	68.80	91.35
53	30.40	44.50	51.50	62.85	70.05	93.10
54	30.85	45.25	52.45	63.95	71.30	94.80
55	31.35	46.10	53.40	65.05	72.50	96.50
56	31.80	46.85	54.25	66.25	73.75	98.25
57	32.30	47.65	55.15	67.35	75.00	99.95
58	32.75	48.45	56.10	68.50	76.25	101.65
59	33.25	49.25	57.05	69.60	77.50	103.40
60	33.70	50.00	58.00	70.80	78.75	105.10
61	34.20	50.85	58.85	71.95	80.00	106.85
62	34.65	51.55	59.80	73.05	81.25	108.55
63	35.15	52.40	60.75	74.20	82.50	110.25
64	35.60	53.20	61.70	75.35	83.70	112.00
65	36.10	53.90	62.50	76.45	84.95	113.70
66	36.55	54.75	63.45	77.55	86.20	115.40
67	37.05	55.60	64.40	78.70	87.45	117.15
68	37.50	56.30	65.35	79.80	88.70	118.85
69	38.00	57.10	66.25	81.00	89.95	120.55

First-Class Mail Schedule 223—Continued

[Priority Mail]

Weight (lbs.)	Local, Zones 1, 2 & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
70	38.45	57.95	67.15	82.10	91.20	122.30

Schedule 223 Notes

1. The 1-pound rate is charged for matter sent in a flat-rate envelope provided by the Postal Service.
2. Add $12.50 for each pickup stop.
3. EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.
4. Pieces presented in mailings of at least 300 pieces or at least 500 pounds and meeting applicable Postal Service regulations for Priority Mail ADC, 3-digit and/or 5-digit presorts receive the applicable discounts of 12, 16, or 25 cents per-piece, respectively (experimental). A $150.00 annual presort fee applies.

Standard Mail Rate Schedule 321A

[Regular Presorted Categories]

	Rate
Letter, minimum piece rate:	
Piece Rate.	
Basic	$0.268
3/5-digit	0.248
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Nonletters, minimum piece rate:	
Piece Rate.	
Basic	0.344
3/5-digit	0.288
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Nonletters, piece and pound rate:	
Piece Rate.	
Basic	0.198
3/5-digit	0.142
Pound Rate	0.708
Destination Entry Discounts (off pound rate).	
BMC	0.100
SCF	0.125

Schedule 321A Notes

1. A fee of $150.00 must be paid each 12-month period for each bulk mailing permit.
2. Residual shape pieces are subject to a surcharge of $0.23 per-piece. For parcel barcode discount, deduct $0.03 per-piece (machinable parcels only).
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.
4. Nonmachinable letters are subject to a $0.04 nonmachinable surcharge.

Standard Mail Rate Schedule 321B

[Regular Automation Categories]

	Rate
Letters, minimum piece rate:	
Piece Rate.	
Mixed AADC	$0.219
AADC	0.212
3-digit	0.203
5-digit	0.190
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Flats, minimum piece rate:	
Piece Rate.	
Basic	0.300
3/5-digit	0.261
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Flats, piece and pound rate:	
Piece Rate.	
Basic	0.154
3/5-digit	0.115
Pound Rate	0.708
Destination Entry Discounts (off pound rate).	
BMC	0.100
SCF	0.125

Schedule 321B Notes

1. A fee of $150.00 must be paid once each 12-month period for each bulk mailing permit.
2. Letters that weigh more than 3.3 ounces but not more than 3.5 ounces pay the nonletter piece and pound rate but receive a discount off the piece rate equal to the applicable nonletter minimum piece rate minus the applicable letter minimum piece rate corresponding to the correct presort tier.
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.

Standard Mail Rate Schedule 322

[Enhanced Carrier Route]

	Rate
Letters, minimum piece rate:	
Piece Rate.	
Basic	$0.194
High density	0.164
Saturation	0.152
Automation Basic	0.171
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
DDU	0.032
Nonletters, minimum piece rate:	
Piece Rate.	
Basic	0.194
High density	0.169
Saturation	0.160
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
DDU	0.032

Standard Mail Rate Schedule 322—Continued

[Enhanced Carrier Route]

	Rate
Nonletters, piece and pound rate:	
Piece Rate.	
Basic	0.068
High density	0.043
Saturation	0.034
Pound Rate	0.610
Destination Entry Discounts (off pound rate).	
BMC	0.100
SCF	0.125
DDU	0.157

Schedule 322 Notes

1. A fee of $150.00 must be paid each 12-month period for each bulk mailing permit.
2. Residual shape pieces are subject to a surcharge of $0.20 per-piece.
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.
4. Pieces that otherwise meet the requirements for basic automation, high density, and saturation letter rates that weigh more than 3.3 ounces but not more than 3.5 ounces pay the nonletter piece and pound rate but receive a discount off the piece rate equal to the applicable nonletter minimum piece rate minus the applicable letter minimum piece rate corresponding to the correct presort tier.
5. For letter-size pieces, not meeting the automation requirements specified by the Postal Service, the mailer pays the nonletter rate for the applicable density tier.

Standard Mail Rate Schedule 323A

[Nonprofit Presorted Categories]

	Rate
Letters, minimum piece rate	
Piece Rate.	
Basic	$0.165
3/5-digit	0.153
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Nonletters, minimum piece rate	
Piece Rate.	
Basic	0.230
3/5-digit	0.183
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Nonletters, piece and pound rate	

STANDARD MAIL RATE SCHEDULE 323A—Continued

[Nonprofit Presorted Categories]

	Rate
Piece Rate.	
Basic	0.110
3/5-digit	0.063
Pound Rate	0.584
Destination Entry Discounts (off pound rate).	
BMC	0.100
SCF	0.125

Schedule 323A Notes

1. A fee of $150.00 must be paid each 12-month period for each bulk mailing permit.
2. Residual shape pieces are subject to a surcharge of $0.23 per-piece. For parcel barcode discount, deduct $0.03 per-piece (nonmachinable parcels only).
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.
4. Nonmachinable letters are subject to a $0.02 nonmachinable surcharge.

STANDARD MAIL RATE SCHEDULE 323B

[Nonprofit Automation Categories]

	Rate
Letters, minimum piece rate:	
Piece Rate.	
Mixed AADC	$0.144
AADC	0.136
3-digit	0.129
5-digit	0.114
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Flats, minimum piece rate:	
Piece Rate.	
Basic	0.189
3/5-digit	0.166

STANDARD MAIL RATE SCHEDULE 323B—Continued

[Nonprofit Automation Categories]

	Rate
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
Flats, piece and pound rate:	
Piece Rate.	
Basic	0.069
3/5-digit	0.046
Pound Rate	0.584
Destination Entry Discounts (off pound rate).	
BMC	0.100
SCF	0.125

Schedule 323B Notes

1. A fee of $150.00 must be paid each 12-month period for each bulk mailing permit.
2. Letters that weigh more than 3.3 ounces but not more than 3.5 ounces pay the nonletter piece and pound rate but receive a discount off the piece rate equal to the applicable nonletter minimum piece rate minus the applicable letter minimum piece rate corresponding to the correct presort tier.
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 324

[Nonprofit Enhanced Carrier Route]

	Rate
Letters, minimum piece rate:	
Piece Rate.	
Basic	$ 0.126
High density	0.102
Saturation	0.095
Automation Basic	0.111
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
DDU	0.032

STANDARD MAIL RATE SCHEDULE 324—Continued

[Nonprofit Enhanced Carrier Route]

	Rate
Nonletters, minimum piece rate:	
Piece Rate.	
Basic	0.126
High density	0.110
Saturation	0.104
Destination Entry Discounts.	
BMC	0.021
SCF	0.026
DDU	0.032
Nonletters, piece and pound rate:	
Piece Rate.	
Basic	0.050
High density	0.034
Saturation	0.028
Pound Rate	0.370
Destination Entry Discounts (off pound rate).	
BMC	0.100
SCF	0.125
DDU	0.157

Schedule 324 Notes

1. A fee of $150.00 must be paid each 12-month period for each bulk mailing permit.
2. Residual shape pieces are subject to a surcharge of $0.20 per-piece.
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.
4. Pieces that otherwise meet the requirements for basic automation, high density, and saturation letter rates that weigh more than 3.3 ounces but not more than 3.5 ounces pay the nonletter piece and pound rate but receive a discount off the piece rate equal to the applicable nonletter minimum piece rate minus the applicable letter minimum piece rate corresponding to the correct density tier.
5. For letter-size pieces, not meeting the automation requirements specified by the Postal Service, the mailer pays the nonletter rate for the applicable density tier.

PERIODICALS RATE SCHEDULE 421

[Outside County (Including Science of Agriculture)]

	Postage rate unit	Rate
Outside County Advertising:		
Destinating delivery unit	Pound	$0.158
Destinating SCF	Pound	0.203
Destinating ADC	Pound	0.223
Zones 1 & 2	Pound	0.248
Zone 3	Pound	0.267
Zone 4	Pound	0.315
Zone 5	Pound	0.389
Zone 6	Pound	0.466
Zone 7	Pound	0.559
Zone 8	Pound	0.638
Nonadvertising		0.193
Science of Agriculture Advertising:		
Delivery unit	Pound	0.119
SCF	Pound	0.152
DADC	Pound	0.167
Zones 1 & 2	Pound	0.186
Zone 3	Pound	0.267
Zone 4	Pound	0.315
Zone 5	Pound	0.389
Zone 6	Pound	0.466
Zone 7	Pound	0.559

PERIODICALS RATE SCHEDULE 421—Continued

[Outside County (Including Science of Agriculture)]

	Postage rate unit	Rate
Zone 8	Pound	0.638
Nonadvertising		0.193
Outside County and Science of Agriculture Basic:		
Nonautomation	Piece	0.373
Automation letter	Piece	0.281
Automation flat	Piece	0.325
3-Digit:		
Nonautomation	Piece	0.324
Automation letter	Piece	0.249
Automation flat	Piece	0.283
5-Digit:		
Nonautomation	Piece	0.256
Automation letter	Piece	0.195
Automation flat	Piece	0.226
Carrier Route:		
Basic	Piece	0.163
High density	Piece	0.131
Saturation	Piece	0.112
Discounts:		
Percentage editorial discount	Piece	0.00074
Worksharing discount DDU	Piece	0.018
Worksharing discount DSCF	Piece	0.008
Worksharing discount DADC	Piece	0.002
Worksharing discount pallets	Piece	0.005
Worksharing dropship pallet discount		0.010

Schedule 421 Notes

1. The rates in this schedule also apply to Nonprofit (DMCS Section 422.2) and Classroom rate categories. These categories receive a 5 percent discount on all components of postage except advertising pounds. Moreover, the 5 percent discount does not apply to commingled nonsubscriber, nonrequestor, complimentary, and sample copies in excess of the 10 percent allowance under DMCS sections 412.34 and 413.42, or to Science of Agriculture mail.
2. Rates do not apply to otherwise Outside County mail that qualifies for the Within County rates in Schedule 423.
3. Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising pound portion and the advertising pound portion, as applicable.
4. For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.
5. Advertising pound rate is not applicable to qualifying Nonprofit and Classroom publications containing 10 percent or less advertising content.
6. For a Ride-Along item enclosed with or attached to a periodical, add $0.124 per copy.

PERIODICALS RATE SCHEDULE 423

[Within County]

	Postage rate unit	Rate
Delivery Unit	Pound	$0.112
All Other Zones	Pound	0.146
Basic:		
Nonautomation	Piece	0.106
Automation letter	Piece	0.050
Automation flat	Piece	0.077
3-Digit:		
Nonautomation	Piece	0.097
Automation letter	Piece	0.048
Automation flat	Piece	0.073
5-Digit:		
Nonautomation	Piece	0.087
Automation letter	Piece	0.046
Automation flat	Piece	0.067
Carrier Route:		
Basic	Piece	0.050
High density	Piece	0.034
Saturation	Piece	0.028
Discounts:		
Worksharing discount DDU	Piece	0.006

Schedule 423 Notes

1. Charges are computed by adding the appropriate per-piece charge to the appropriate pound charge.
2. For a Ride-Along item enclosed with or attached to a periodical, add $0.124 per copy.

PACKAGE SERVICES RATE SCHEDULE 521.2A

[Parcel Post Inter-BMC Rates]

Weight (lbs.)	Zones 1&2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.69	$3.75	$3.75	$3.75	$3.75	$3.75	$3.75
2	3.85	3.85	4.14	4.14	4.49	4.49	4.49
3	4.65	4.65	5.55	5.65	5.71	5.77	6.32
4	4.86	5.20	6.29	6.93	7.14	7.20	7.87
5	5.03	5.71	6.94	7.75	8.58	8.64	9.43
6	5.63	6.01	7.44	8.50	9.52	9.90	11.49
7	5.80	6.28	7.91	9.20	10.35	11.39	12.83
8	5.98	6.53	8.30	9.84	11.11	12.54	15.04
9	6.11	6.76	8.74	10.45	11.83	13.38	17.04
10	6.28	7.57	9.10	11.01	12.50	14.17	18.14
11	6.41	7.80	9.47	11.54	13.13	14.92	19.15
12	6.54	8.01	9.80	12.04	13.72	15.62	20.10
13	6.67	8.19	10.12	12.51	14.28	16.27	20.99
14	6.80	8.42	10.43	12.95	14.81	16.90	21.84
15	6.92	8.61	10.73	13.38	15.31	17.49	22.64
16	7.02	8.79	11.00	13.78	15.79	18.05	23.41
17	7.15	8.94	11.28	14.16	16.24	18.59	24.13
18	7.25	9.11	11.52	14.52	16.68	19.09	24.82
19	7.37	9.28	11.77	14.87	17.09	19.58	25.48
20	7.46	9.43	11.98	15.20	17.48	20.05	26.12
21	7.57	9.59	12.20	15.52	17.86	20.49	26.72
22	7.66	9.72	12.42	15.82	18.22	20.92	27.30
23	7.76	9.89	12.65	16.11	18.57	21.32	27.85
24	7.83	10.01	12.83	16.39	18.90	21.72	28.39
25	7.93	10.14	13.03	16.66	19.22	22.09	28.90
26	8.01	10.27	13.21	16.92	19.53	22.46	29.39
27	8.11	10.40	13.38	17.17	19.83	22.81	29.87
28	8.18	10.52	13.58	17.41	20.11	23.14	30.32
29	8.27	10.65	13.75	17.64	20.39	23.47	30.76
30	8.35	10.76	13.90	17.87	20.65	23.78	31.19
31	8.44	10.86	14.06	18.08	20.91	24.08	31.60
32	8.50	10.99	14.22	18.29	21.16	24.37	32.00
33	8.58	11.10	14.38	18.49	21.40	24.65	32.38
34	8.66	11.18	14.51	18.69	21.63	24.93	32.75
35	8.74	11.30	14.66	18.88	21.85	25.19	33.11
36	8.80	11.39	14.82	19.06	22.07	25.45	33.45
37	8.87	11.48	14.93	19.23	22.28	25.69	33.79
38	8.94	11.60	15.07	19.41	22.48	25.93	34.12
39	9.02	11.67	15.19	19.57	22.68	26.17	34.43
40	9.09	11.78	15.32	19.73	22.87	26.39	34.74
41	9.17	11.88	15.44	19.89	23.06	26.61	35.04
42	9.23	11.96	15.56	20.04	23.24	26.82	35.33
43	9.28	12.05	15.68	20.19	23.41	27.03	35.61
44	9.35	12.12	15.79	20.33	23.58	27.23	35.88
45	9.41	12.22	15.91	20.47	23.75	27.43	36.14
46	9.48	12.30	16.02	20.61	23.91	27.62	36.40
47	9.56	12.39	16.12	20.74	24.06	27.80	36.65
48	9.61	12.47	16.24	20.86	24.22	27.98	36.89
49	9.66	12.55	16.34	20.99	24.36	28.15	37.13
50	9.72	12.61	16.42	21.11	24.51	28.32	37.36
51	9.79	12.70	16.54	21.23	24.65	28.49	37.59
52	9.84	12.78	16.63	21.34	24.79	28.65	37.80
53	9.91	12.84	16.70	21.45	24.92	28.81	38.02
54	9.96	12.94	16.81	21.56	25.05	28.96	38.22
55	10.01	12.97	16.91	21.67	25.17	29.11	38.43
56	10.09	13.08	16.99	21.77	25.30	29.25	38.62
57	10.14	13.14	17.09	21.87	25.42	29.39	38.82
58	10.19	13.21	17.16	21.97	25.53	29.53	39.00
59	10.26	13.27	17.26	22.07	25.65	29.67	39.19
60	10.31	13.34	17.35	22.16	25.76	29.80	39.36
61	10.39	13.43	17.42	22.25	25.87	29.92	39.54
62	10.44	13.48	17.50	22.34	25.97	30.05	39.71
63	10.47	13.56	17.59	22.43	26.08	30.17	39.87
64	10.52	13.61	17.66	22.51	26.18	30.29	40.03
65	10.58	13.68	17.74	22.60	26.28	30.41	40.19
66	10.65	13.75	17.81	22.68	26.37	30.52	40.35
67	10.71	13.81	17.89	22.76	26.47	30.63	40.50
68	10.75	13.87	17.98	22.84	26.56	30.74	40.64
69	10.80	13.92	18.05	22.91	26.65	30.84	40.79
70	10.86	14.00	18.12	22.98	26.74	30.95	40.93

PACKAGE SERVICES RATE SCHEDULE 521.2A—Continued

[Parcel Post Inter-BMC Rates]

Weight (lbs.)	Zones 1&2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Oversized	41.70	46.73	54.12	65.84	79.69	92.81	120.72

Schedule 521.2A Notes

1. For Origin Bulk Mail Center (OBMC) Presort Discount, deduct $1.17 per-piece.
2. For BMC Presort discount, deduct $0.28 per-piece.
3. For barcode discount, deduct $0.03 per-piece (machinable parcels only).
4. For nonmachinable parcels, add $2.75 per-piece.
5. Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.
6. Pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15-pound parcel for the zone to which the parcel is addressed.
7. For each pickup stop, add $12.50.

PACKAGE SERVICES RATE SCHEDULE 521.2B

[Parcel Post Intra-BMC Rates]

Weight (lbs.)	Local Zone	Zones 1&2	Zone 3	Zone 4	Zone 5
1	$2.81	$2.96	$2.99	$3.05	$3.14
2	3.13	3.53	3.56	3.63	3.74
3	3.44	4.08	4.11	4.20	4.32
4	3.73	4.28	4.62	4.72	4.86
5	3.99	4.45	5.02	5.15	5.35
6	4.23	4.61	5.38	5.51	5.80
7	4.36	4.76	5.69	5.84	6.21
8	4.46	5.33	5.98	6.14	6.60
9	4.56	5.46	6.22	6.45	6.95
10	4.66	5.63	6.53	6.74	7.28
11	4.74	5.76	6.74	7.00	7.58
12	4.84	5.91	6.94	7.26	7.87
13	4.92	6.04	7.10	7.50	8.13
14	5.00	6.16	7.22	7.75	8.38
15	5.08	6.27	7.39	7.96	8.62
16	5.17	6.38	7.56	8.16	8.84
17	5.23	6.51	7.72	8.38	9.05
18	5.30	6.60	7.87	8.57	9.24
19	5.36	6.72	8.02	8.75	9.43
20	5.46	6.82	8.16	8.91	9.60
21	5.51	6.91	8.30	9.06	9.77
22	5.57	7.02	8.42	9.20	9.92
23	5.64	7.10	8.58	9.34	10.07
24	5.70	7.19	8.70	9.46	10.22
25	5.77	7.27	8.82	9.58	10.35
26	5.82	7.37	8.93	9.71	10.48
27	5.88	7.45	9.06	9.82	10.60
28	5.94	7.52	9.18	9.91	10.72
29	6.01	7.61	9.30	10.02	10.83
30	6.08	7.69	9.40	10.12	10.93
31	6.13	7.77	9.48	10.21	11.04
32	6.18	7.86	9.60	10.31	11.13
33	6.25	7.92	9.70	10.39	11.23
34	6.30	8.00	9.78	10.47	11.31
35	6.35	8.06	9.89	10.55	11.40
36	6.40	8.13	9.97	10.62	11.48
37	6.44	8.22	10.06	10.70	11.56
38	6.49	8.28	10.15	10.77	11.63
39	6.56	8.36	10.25	10.83	11.70
40	6.61	8.41	10.32	10.89	11.77
41	6.67	8.50	10.43	10.95	11.84
42	6.72	8.55	10.50	11.02	11.90
43	6.77	8.61	10.58	11.08	11.95
44	6.84	8.68	10.66	11.14	12.00
45	6.88	8.73	10.73	11.30	12.05
46	6.92	8.82	10.82	11.35	12.10
47	6.98	8.89	10.88	11.40	12.15
48	7.03	8.94	10.97	11.44	12.20
49	7.07	9.01	11.04	11.49	12.25
50	7.12	9.04	11.11	11.53	12.30
51	7.18	9.13	11.17	11.58	12.35
52	7.21	9.19	11.27	11.62	12.40
53	7.26	9.22	11.32	11.65	12.45

PACKAGE SERVICES RATE SCHEDULE 521.2B—Continued

[Parcel Post Intra-BMC Rates]

Weight (lbs.)	Local Zone	Zones 1&2	Zone 3	Zone 4	Zone 5
54	7.32	9.28	11.36	11.70	12.50
55	7.37	9.34	11.40	11.75	12.55
56	7.40	9.40	11.44	11.79	12.60
57	7.45	9.47	11.46	11.81	12.65
58	7.50	9.52	11.50	11.85	12.70
59	7.55	9.57	11.53	11.89	12.75
60	7.57	9.64	11.56	11.91	12.80
61	7.66	9.70	11.59	11.95	12.85
62	7.68	9.75	11.62	12.01	12.90
63	7.73	9.80	11.64	12.08	12.95
64	7.78	9.86	11.66	12.13	13.00
65	7.82	9.91	11.70	12.19	13.05
66	7.85	9.98	11.72	12.26	13.10
67	7.92	10.04	11.75	12.33	13.15
68	7.96	10.06	11.76	12.37	13.20
69	7.97	10.13	11.78	12.44	13.25
70	7.98	10.18	11.81	12.50	13.30
Oversized	23.78	34.47	34.79	35.48	36.53

Schedule 521.2B Notes

1. For barcode discount, deduct $0.03 per-piece (machinable parcels only).
2. For nonmachinable parcels, add $1.35 per-piece.
3. Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.
4. Pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15-pound parcel for the zone to which the parcel is addressed.
5. For each pickup stop, add $12.50.

PACKAGE SERVICES RATE SCHEDULE 521.2C

[Parcel Post Parcel Select Destination Bulk Mail Center Rates]

Weight (lbs.)	Zone			
	1&2	3	4	5
1	$2.01	$2.26	$2.49	$3.09
2	2.24	2.76	3.19	3.69
3	2.49	3.27	3.84	4.28
4	2.72	3.75	4.41	4.81
5	2.94	4.20	4.82	5.30
6	3.15	4.60	5.16	5.75
7	3.34	4.96	5.47	6.18
8	3.53	5.32	5.76	6.56
9	3.71	5.64	6.05	6.91
10	3.88	5.97	6.71	7.24
11	4.04	6.27	6.96	7.54
12	4.20	6.56	7.22	7.84
13	4.35	6.80	7.46	8.10
14	4.50	6.92	7.71	8.35
15	4.64	7.08	7.92	8.58
16	4.77	7.24	8.13	8.81
17	4.91	7.39	8.35	9.01
18	5.03	7.54	8.53	9.21
19	5.16	7.68	8.72	9.40
20	5.28	7.82	8.88	9.56
21	5.40	7.96	9.02	9.73
22	5.51	8.08	9.17	9.89
23	5.62	8.23	9.31	10.05
24	5.73	8.34	9.43	10.18
25	5.84	8.46	9.55	10.32
26	5.94	8.56	9.67	10.45
27	6.05	8.69	9.78	10.57
28	6.14	8.81	9.88	10.68
29	6.24	8.92	10.00	10.79
30	6.34	9.02	10.09	10.90
31	6.43	9.10	10.17	11.01
32	6.52	9.21	10.27	11.11
33	6.61	9.30	10.36	11.19
34	6.70	9.39	10.43	11.28

PACKAGE SERVICES RATE SCHEDULE 521.2C—Continued

[Parcel Post Parcel Select Destination Bulk Mail Center Rates]

Weight (lbs.)	Zone			
	1&2	3	4	5
35	6.78	9.49	10.52	11.37
36	6.87	9.94	10.60	11.45
37	6.95	10.03	10.66	11.53
38	7.03	10.12	10.74	11.60
39	7.11	10.21	10.80	11.68
40	7.19	10.29	10.86	11.74
41	7.27	10.40	10.92	11.80
42	7.34	10.47	10.99	11.87
43	7.42	10.56	11.05	12.16
44	7.49	10.63	11.11	12.45
45	7.56	10.69	11.26	12.76
46	7.63	10.79	11.31	13.06
47	7.70	10.85	11.36	13.37
48	7.77	10.94	11.41	13.69
49	7.84	11.01	11.46	14.01
50	7.91	11.08	11.50	14.35
51	7.97	11.15	11.55	14.68
52	8.04	11.23	11.59	15.02
53	8.10	11.28	11.63	15.38
54	8.16	11.33	11.68	15.74
55	8.23	11.37	11.73	15.89
56	8.29	11.40	11.75	15.96
57	8.35	11.43	11.78	16.06
58	8.41	11.47	11.82	16.14
59	8.47	11.50	11.85	16.21
60	8.52	11.53	11.88	16.30
61	8.58	11.56	11.92	16.38
62	8.64	11.59	11.98	16.44
63	8.69	11.61	12.05	16.52
64	8.75	11.64	12.10	16.59
65	8.80	11.67	12.16	16.65
66	8.86	11.70	12.24	16.74
67	8.91	11.72	12.29	16.79
68	8.96	11.73	12.34	16.86

PACKAGE SERVICES RATE SCHEDULE 521.2C—Continued

[Parcel Post Parcel Select Destination Bulk Mail Center Rates]

Weight (lbs.)	Zone			
	1&2	3	4	5
69	9.01	11.75	12.40	16.93
70	9.06	11.77	12.47	16.99
Oversized	18.14	24.33	32.81	34.10

Schedule 521.2C Notes

1. For barcode discount, deduct $0.03 per-piece (machinable parcels only). Barcode discount is not available for DBMC mail entered at an ASF, except at the Phoenix, AZ, ASF.
2. For nonmachinable parcels, add $1.45 per-piece.
3. Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.
4. Pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15-pound parcel for the zone to which the parcel is addressed.
5. A mailing fee of $150.00 must be paid once each 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 521.2D

[Parcel Post Parcel Select Destination Sectional Center Facility Rates]

Weight (lbs.)	Rate
1	$1.53
2	1.71
3	1.85
4	1.99
5	2.12

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Parcel Select Destination Sectional Center Facility Rates]

Weight (lbs.)	Rate
6	2.24
7	2.35
8	2.45
9	2.56
10	2.65
11	2.74
12	2.83
13	2.92
14	3.00
15	3.10
16	3.19
17	3.28
18	3.36
19	3.45
20	3.53
21	3.61
22	3.68
23	3.76
24	3.83
25	3.90
26	3.97
27	4.04
28	4.11
29	4.17
30	4.24
31	4.30
32	4.36
33	4.42
34	4.48
35	4.54
36	4.59
37	4.65
38	4.70
39	4.76
40	4.81
41	4.86
42	4.91
43	4.96
44	5.01
45	5.06
46	5.11
47	5.16
48	5.20
49	5.25
50	5.29
51	5.34
52	5.38
53	5.42
54	5.46
55	5.51
56	5.55
57	5.59
58	5.63
59	5.67
60	5.71
61	5.74
62	5.78

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Parcel Select Destination Sectional Center Facility Rates]

Weight (lbs.)	Rate
63	5.82
64	5.86
65	5.89
66	5.93
67	5.97
68	6.00
69	6.04
70	6.07
Oversized	11.95

Schedule 521.2D Notes

1. Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.
2. Pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15-pound parcel for the zone to which the parcel is addressed.
3. A mailing fee of $150.00 must be paid once each 12-month period for Parcel Select.
4. For nonmachinable parcels sorted to 3-digit ZIP code areas, add $1.09 per-piece.

PACKAGE SERVICES RATE SCHEDULE 521.2E

[Parcel Post Parcel Select Destination Delivery Unit Rates]

Weight (lbs.)	Rate
1	$1.23
2	1.28
3	1.33
4	1.38
5	1.43
6	1.47
7	1.51
8	1.55
9	1.58
10	1.62
11	1.65
12	1.68
13	1.71
14	1.74
15	1.77
16	1.79
17	1.82
18	1.85
19	1.87
20	1.89
21	1.92
22	1.94
23	1.96
24	1.98
25	2.00
26	2.02

PACKAGE SERVICES RATE SCHEDULE 521.2E—Continued

[Parcel Post Parcel Select Destination Delivery Unit Rates]

Weight (lbs.)	Rate
27	2.04
28	2.06
29	2.07
30	2.09
31	2.10
32	2.11
33	2.12
34	2.13
35	2.14
36	2.15
37	2.16
38	2.17
39	2.18
40	2.19
41	2.20
42	2.21
43	2.22
44	2.23
45	2.24
46	2.25
47	2.26
48	2.27
49	2.28
50	2.29
51	2.30
52	2.31
53	2.32
54	2.33
55	2.34
56	2.35
57	2.36
58	2.37
59	2.38
60	2.39
61	2.40
62	2.41
63	2.42
64	2.43
65	2.44
66	2.45
67	2.46
68	2.47
69	2.48
70	2.49
Oversized	6.98

Schedule 521.2E Notes

1. Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.
2. Pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15-pound parcel for the zone to which the parcel is addressed.
3. A mailing fee of $150.00 must be paid once each 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 522A

[Bound Printed Matter Single-Piece Rates]

Weight (pounds)	Zones						
	1&2	3	4	5	6	7	8
1.0	$1.87	$1.92	$1.96	$2.04	$2.11	$2.20	$2.37
1.5	1.87	1.92	1.96	2.04	2.11	2.20	2.37
2.0	1.94	2.00	2.06	2.16	2.26	2.38	2.60

PACKAGE SERVICES RATE SCHEDULE 522A—Continued

[Bound Printed Matter Single-Piece Rates]

Weight (pounds)	Zones						
	1&2	3	4	5	6	7	8
2.5	2.01	2.09	2.16	2.29	2.41	2.56	2.84
3.0	2.08	2.17	2.26	2.41	2.56	2.74	3.07
3.5	2.15	2.26	2.36	2.54	2.71	2.92	3.31
4.0	2.22	2.34	2.46	2.66	2.86	3.10	3.54
4.5	2.29	2.43	2.56	2.79	3.01	3.28	3.78
5.0	2.36	2.51	2.66	2.91	3.16	3.46	4.01
6.0	2.50	2.68	2.86	3.16	3.46	3.82	4.48
7.0	2.64	2.85	3.06	3.41	3.76	4.18	4.95
8.0	2.78	3.02	3.26	3.66	4.06	4.54	5.42
9.0	2.92	3.19	3.46	3.91	4.36	4.90	5.89
10.0	3.06	3.36	3.66	4.16	4.66	5.26	6.36
11.0	3.20	3.53	3.86	4.41	4.96	5.62	6.83
12.0	3.34	3.70	4.06	4.66	5.26	5.98	7.30
13.0	3.48	3.87	4.26	4.91	5.56	6.34	7.77
14.0	3.62	4.04	4.46	5.16	5.86	6.70	8.24
15.0	3.76	4.21	4.66	5.41	6.16	7.06	8.71

Schedule 522A Notes
1. For barcode discount, deduct $0.03 per-piece (machinable parcels and automatable flats only).
2. For flats, deduct $0.08 per-piece.

PACKAGE SERVICES RATE SCHEDULE 522B

[Bound Printed Matter Presorted and Carrier Route Rates Flats, Parcels, and Irregular Parcels]

	Zones						
	1&2	3	4	5	6	7	8
Flats:							
Per-Piece:							
Presorted	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078
Carrier Route	.978	.978	.978	.978	.978	.978	.978
Per-Pound	.090	.112	.149	.198	.248	.308	.419
Parcels and Irregular Parcels:							
Per-Piece:							
Presorted	1.155	1.155	1.155	1.155	1.155	1.155	1.155
Carrier Route	1.055	1.055	1.055	1.055	1.055	1.055	1.055
Per-Pound	.090	.112	.149	.198	.248	.308	.419

Schedule 522B Notes
1. For barcode discount, deduct $0.03 per-piece (machinable parcels and automatable flats only). Barcode discount is not available for Carrier Route rates.

PACKAGE SERVICES RATE SCHEDULE 522C

[Bound Printed Matter Presorted Rates, Destination Entry Flats, Parcels, and Irregular Parcels]

	DDU	DSCF	DBMC			
			Zone 1&2	Zone 3	Zone 4	Zone 5
Flats:						
Per-Piece	$0.532	$0.603	$0.818	$0.818	$0.818	$0.818
Per-Pound	0.030	0.060	0.073	0.102	0.139	0.187
Parcels and Irregular Parcels:						
Per-Piece	0.609	0.680	0.895	0.895	0.895	0.895
Per-Pound	0.030	0.060	0.073	0.102	0.139	0.187

Schedule 522C Notes
1. For barcode discount, deduct $0.03 per-piece (machinable parcels and automatable flats only). Barcode discount is not available for DDU or DSCF rates or DBMC mail entered at an ASF (except Phoenix, AZ, ASF).
2. A mailing fee of $150.00 must be paid once each 12-month period to mail at any destination entry Bound Printed Matter rate.
3. The DDU rate is not available for flats that weigh 1 pound or less.

PACKAGE SERVICES RATE SCHEDULE 522D

[Bound Printed Matter Carrier Route Rates, Destination Entry Flats, Parcels, and Irregular Parcels]

	DDU	DSCF	DBMC			
			Zone 1&2	Zone 3	Zone 4	Zone 5
Flats:						
Per-Piece	$0.432	$0.503	$0.718	$0.718	$0.718	$0.718
Per-Pound	0.030	0.060	0.073	0.102	0.139	0.187
Parcels and Irregular Parcels:						
Per-Piece	0.509	0.580	0.795	0.795	0.795	0.795
Per-Pound	0.030	0.060	0.073	0.102	0.139	0.187

Schedule 522D Notes
1. A mailing fee of $150.00 must be paid once each 12-month period to mail at any destination entry Bound Printed Matter rate.

PACKAGE SERVICES RATE SCHEDULE 523

[Media Mail]

	Rate
First Pound:	
Single-Piece	$1.42
5-Digit Presort	0.80
Basic Presort	1.12
Each additional pound, through 7 pounds	0.42
Each additional pound, over 7 pounds	0.30

Schedule 523 Notes
1. A mailing fee of $150.00 must be paid once each 12-month period to mail at any Media Mail presorted rate.
2. For barcode discount, deduct $0.03 per-piece (machinable parcels only). Barcode discount is not available for pieces mailed at the 5-digit rate.

PACKAGE SERVICES RATE SCHEDULE 524.

[Library Mail]

	Rate
First Pound:	
Single-Piece	$1.35
5-Digit Presort	0.76
Basic Presort	1.06
Each additional pound, through 7 pounds	0.40
Each additional pound, over 7 pounds	0.29

Schedule 524.
1. A mailing fee of $150.00 must be paid once each 12-month period to mail at any Library Mail presorted rate.
2. For barcode discount, deduct $0.03 per-piece (machinable parcels only). Barcode discount is not available for pieces mailed at the 5-digit rate.

FEE SCHEDULE 911

[Address Corrections]

Description	Fee
Manual correction, each	$0.70
Electronic correction, each	0.20

FEE SCHEDULE 912

Description	Fee
Zip Coding of Mailing Lists	
Per 1,000 addresses, or fraction	$100.00
Correction of Mailing Lists	
Per submitted address	$0.30
Minimum charge per list (30 items)	9.00
Address Changes for Election Boards and Registration Commissions	
Per change of address	$0.27
Sequencing of Address Cards	
Per correction	$0.30
Insertion of blanks	0.00

Schedule 912 Notes.
1. When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the routes involved.

FEE SCHEDULE 921

[Post Office Boxes and Caller Service]

Box Size	Fee group							
	1	2	3	4	5	6	7	E
I. Post Office Boxes:								
Semi-annual Box Fees:								
1	$35.00	$29.00	$24.00	$19.00	$13.00	$12.00	$9.00	$0.00
2	50.00	45.00	38.00	34.00	22.00	18.00	13.00	0.00
3	100.00	80.00	68.00	63.00	34.00	33.00	23.00	0.00
4	205.00	170.00	118.00	110.00	65.00	60.00	40.00	0.00
5	330.00	315.00	209.00	175.00	125.00	97.00	70.00	0.00

1. A customer ineligible for carrier delivery may obtain a post office box at Group E fees, subject to administrative decisions regarding customer's proximity to post office.
2. Box Size 1=under 296 cubic inches; 2=296–499 cubic inches; 3=500–999 cubic inches; 4=1000–1999 cubic inches; 5=2000 cubic inches and larger.

KEY DUPLICATION AND LOCK CHARGES

Description	Fee
Key duplication or replacement	$4.40
Post office box lock replacement	11.00

KEY DUPLICATION AND LOCK CHARGES—Continued

Description	Fee
II. Caller Service:	

KEY DUPLICATION AND LOCK CHARGES—Continued

Description	Fee
Semi-annual Caller Service Fee	412.00

KEY DUPLICATION AND LOCK CHARGES—Continued

Description	Fee
Annual Call Number Reservation Fee	32.00

FEE SCHEDULE 931

[Business Reply Mail]

Description	Fee
Regular (no accounting fee):	
Permit fee (per year)	$150.00
Per-piece charge	0.60
Regular (with accounting fee):	
Permit fee (per year)	150.00
Accounting fee (per year)	475.00
Per-piece charge	0.10
Qualified Business Reply Mail, low-volume	
Permit fee (per year)	150.00
Accounting fee (per year)	475.00
Per-piece charge, basic	0.06
Qualified Business Reply Mail, high-volume	
Permit fee (per year)	150.00
Accounting fee (per year)	475.00
Quarterly fee	1,800.00

FEE SCHEDULE 931—Continued

[Business Reply Mail]

Description	Fee
Per-piece charge, high-volume	0.008
Bulk Weight Averaged Permit fee (per year)	150.00
Accounting fee (per year)	475.00
Per-piece charge, bulk weight averaged	0.01
Monthly maintenance fee	750.00

FEE SCHEDULE 932

[Merchandise Return Service]

Description	Fee
Permit fee (per year)	$150.00
Accounting fee (per year)	475.00
Per-piece charge	0.00

FEE SCHEDULE 933

[On-Site Meter Service]

Description fee	Fee
Per employee, per visit	$35.00
Per meter reset or examined	5.00
Per meter checked into or out of service	4.00

Schedule 933 Notes

1. Fee for checking meters into or out of service does not apply if a Postal Service-approved automated process is used to check a secured meter into and out of service.

Fee Schedule 934

[Reserved]

FEE SCHEDULE 935

[Bulk Parcel Return Service]

Description	Fee
Permit fee (per year)	$150.00
Accounting fee (per year)	475.00
Per-piece charge	1.80

FEE SCHEDULE 936

[Shipper Paid Forwarding]

Description	Fee
Accounting fee (per year)	$475.00

FEE SCHEDULE 941

[Certified Mail]

Description	Fee
Fee per-piece, in addition to postage	$2.30

FEE SCHEDULE 942

[Registered Mail]

Declared value	Fee (in addition to postage)	Handling charge
$0.00	$7.50	
0.01 to 100	8.00	
100.01 to 500	8.85	
500.01 to 1,000	9.70	
1,000.01 to 2,000	10.55	
2,000.01 to 3,000	11.40	
3,000.01 to 4,000	12.25	
4,000.01 to 5,000	13.10	
5,000.01 to 6,000	13.95	
6,000.01 to 7,000	14.80	
7,000.01 to 8,000	15.65	
8,000.01 to 9,000	16.50	
9,000.01 to 10,000	17.35	
10,000.01 to 11,000	18.20	
11,000.01 to 12,000	19.05	
12,000.01 to 13,000	19.90	
13,000.01 to 14,000	20.75	
14,000.01 to 15,000	21.60	
15,000.01 to 16,000	22.45	
16,000.01 to 17,000	23.30	
17,000.01 to 18,000	24.15	
18,000.01 to 19,000	25.00	
19,000.01 to 20,000	25.85	
20,000.01 to 21,000	26.70	
21,000.01 to 22,000	27.55	
22,000.01 to 23,000	28.40	
23,000.01 to 24,000	29.25	
24,000.01 to 25,000	30.10	
25,000.01 to $1 million	30.10	plus $0.85 handling charge for each $1,000 or fraction thereof over $25,000.00.

FEE SCHEDULE 942—Continued

[Registered Mail]

Declared value	Fee (in addition to postage)	Handling charge
Over $1 million to $15 million	858.85	plus $0.85 handling charge for each $1,000 or fraction thereof over $1,000,000.00.
Over $15 million	12,758.85	plus amount determined by the Postal Service based on weight, space, and value.

Schedule 942 Notes

1. Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

FEE SCHEDULE 943

[Insurance]

Description	Fee
Express Mail Insurance	
Merchandise coverage:	
$0.01 to 100.00	$0.00
Fee per $100 or fraction over $100, up to $5,000	1.00
Document reconstruction coverage:	
$0.00 to 100.00	0.00
Regular Insurance	
Amount of coverage:	
$0.01 to 50.00	1.30
$50.00 to 100.00	2.20
100.01 to 5,000.00	$2.20 plus $1.00 for each $100 or fraction thereof over $100.
Bulk Insurance	
Amount of coverage:	
$0.01 to 50.00	0.70
50.01 to 100.00	1.40
100.01 to 5,000.00	$1.40 plus $1.00 for each $100 or fraction thereof over $100.

Schedule 943 Notes

1. Fees for bulk insurance represent a discount of $0.60 per-piece for coverage between $0.01 and $50.00 and a discount of $0.80 for coverage between $50.01 and $5,000.00.

FEE SCHEDULE 944

[Collect on Delivery]

Description	Fee
Amount to be collected:	
$ 0.01 to $ 50	$4.50
50.01 to 100	5.50
100.01 to 200	6.50
200.01 to 300	7.50
300.01 to 400	8.50
400.01 to 500	9.50
500.01 to 600	10.50
600.01 to 700	11.50
700.01 to 800	12.50
800.01 to 900	13.50
900.01 to 1000	14.50
Notice of nondelivery	3.00
Alteration of COD changes	3.00
Designation of new addressee	3.00
Registered COD	4.00

FEE SCHEDULE 945
[Return Receipts]

Description	Fee
I. Return Receipt:	
Requested at time of mailing:	
Original signature	$1.75
Copy of signature (electronic)	1.30
Requested after mailing	3.25
II. Return Receipt for Merchandise:	
Requested at time of mailing	$3.00
Delivery record	3.25

FEE SCHEDULE 946
[Restricted Delivery]

Description	Fee
Per-piece	$3.50

FEE SCHEDULE 947
[Certificate of Mailing]

Description	Fee
Individual Pieces:	
Original certificate of mailing for listed pieces of all classes of ordinary mail	$0.90
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest	0.30
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	0.90
Bulk:	
Identical pieces of First-Class and Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:	
Up to 1,000 pieces (one certificate for total number)	4.50
Each additional 1,000 pieces or fraction	0.50
Duplicate copy	0.90

FEE SCHEDULE 948
[Delivery Confirmation]

Description	Fee
First-Class Mail Letters and Sealed Parcels:	
Electronic	$0.13
Retail	0.55
Priority Mail:	
Electronic	0.00
Retail	0.45
Standard Mail:	
Electronic	0.13
Package Services Parcel Select:	
Electronic	0.00
Other Package Services:	
Electronic	0.13
Retail	0.55

FEE SCHEDULE 949
[Signature Confirmation]

Description	Fee
First-Class Mail Letters and Sealed Parcels:	
Electronic	$1.30
Retail	1.80
Priority Mail:	
Electronic	1.30
Retail	1.80
Package Services:	
Electronic	1.30
Retail	1.80

FEE SCHEDULE 951
[Parcel Air Lift]

Description	Fee
For pieces weighing:	
Not more than 2 pounds	$0.45
Over 2 but not more than 3 pounds	0.85
Over 3 but not more than 4 pounds	1.25
Over 4 but not more than 30 pounds	1.70

FEE SCHEDULE 952
[Special Handling]

Description	Fee
For pieces weighing:	
Not more than 10 pounds	$5.95
More than 10 pounds	8.25

FEE SCHEDULE 961
[Stamped Envelopes]

Description	Fee
Plain Stamped Envelopes:	
Basic, size 6¾, each	$0.08
Basic, size 6¾, 500	12.00
Basic, over size 6¾, each	0.08
Basic, over size 6¾, 500	14.00
Personalized Stamped Envelopes:	
Basic, size 6¾, 50	3.50
Basic, size 6¾, 500	17.00
Basic, over size 6¾, 50	3.50
Basic, over size 6¾, 500	20.00

FEE SCHEDULE 962
[Stamped Cards]

Description	Fee
Single card	$0.02
Double reply-paid card	0.04
Sheet of 40 cards (uncut)	0.80

FEE SCHEDULE 971
[Money Orders]

Description	Fee
Domestic ($0.01 to $500.00)	$0.90
Domestic ($500.01 to $1,000.00)	1.25
APO/FPO ($0.01 to $1,000.00)	0.25
Inquiry, including a copy of paid money order	3.00

FEE SCHEDULE 981
[Netpost Mailing Online]

Description	Fee
Fees are calculated by multiplying 1.52 times the sum of printer contractual costs for the particular mailing and 0.5 cents per impression for other Postal Service costs	1.52 x (P + 0.5 x I)
P = Printer Contractual Costs. I = Number of Impressions.	
Certification of a system as functionally equivalent to Net Post Mailing Online	$150.00

This provision expires the later of:

a. three years after the implementation date specified by the Postal Service Board of Governors, or

b. if, by the expiration date specified in (a), a proposal to make Net Post Mailing Online permanent is pending before the Postal Rate Commission, the later of:

1. three months after the Commission takes action on such proposal under section 3624 of Title 39, or

2. —if applicable—on the implementation date for a permanent Net Post Mailing Online.

FEE SCHEDULE 1000
[Miscellaneous Fees]

Description	Fee
First-Class Presorted Mailing Fee (per year)	$150.00
Standard Mail Mailing Fee (per year)	150.00
Periodicals.	
A. Original Entry	375.00
B. Additional Entry	60.00
C. Re-entry	40.00
D. Registration for News Agents	40.00
Parcel Select Mailing Fee (per year)	150.00
Bound Printed Matter: Destination Entry Mailing Fee (per year)	150.00
Media Mail Presorted Mailing Fee (per year)	150.00
Library Mail Presorted Mailing Fee (per year)	150.00
Authorization to Use Permit Imprint (one-time only)	150.00
Accounting Fee (per year)	475.00
Permit Fee (per year)	150.00

Attachment B to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes

[Docket No. R2001–1]

April 8, 2002.

Changes to the Domestic Mail Classification Schedule Amend the Domestic Mail Classification Schedule By Inserting Underlined Text and Deleting Bracketed Text as Follows:

Expedited Mail

Classification Schedule

110 Definition

Expedited Mail is mail matter entered as Express Mail under the provisions of this Schedule. Any matter eligible for mailing may, at the option of the mailer, be mailed as Express Mail. Insurance is either included in Express Mail postage or is available for an additional charge, depending on the value and nature of the item sent by Express Mail.

120 Description of Services

121 Same Day Airport Service

Same Day Airport service is available between designated airport mail facilities.

122 Custom Designed Service

122.1 General

Custom Designed service is available between designated postal facilities or other designated locations for mailable matter tendered under a service agreement between the Postal Service and the mailer. Service under a service agreement shall be offered in a manner consistent with 39 U.S.C. 403(c).

122.2 Service Agreement

A service agreement shall set forth the following:

a. The scheduled place for each shipment tendered for service to each specific destination;

b. Scheduled place for claim, or delivery, at destination for each scheduled shipment;

c. Scheduled time of day for tender at origin and for claim or delivery at destination.

122.3 Pickup and Delivery

Pickup at the mailer's premises, and/or delivery at an address other than the destination postal facility is provided under terms and conditions as specified by the Postal Service.

122.4 Commencement of Service Agreement

Service provided pursuant to a service agreement shall commence not more than 10 days after the signed service agreement is tendered to the Postal Service.

122.5 Termination of Service Agreement

122.51 Termination by Postal Service

Express Mail service provided pursuant to a service agreement may be terminated by the Postal Service upon 10 days prior written notice to the mailer if:

a. Service cannot be provided for reasons beyond the control of the Postal Service or because of changes in Postal Service facilities or operations, or

b. The mailer fails to adhere to the terms of the service agreement or this schedule.

122.52 Termination by Mailers

The mailer may terminate a service agreement, for any reason, by notice to the Postal Service.

123 Next Day Service and Second Day Service

123.1 Availability of Services

Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times specified by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

123.2 Pickup Service

Pickup service is available for Next Day and Second Day Services under terms and conditions as specified by the Postal Service. Service shall be offered in a manner consistent with 39 U.S.C. 403(c).

130 Physical Limitations

Express Mail may not exceed 70 pounds or 108 inches in length and girth combined.

140 Postage and Preparation

Except as provided in Rate Schedules 121, 122 and 123, postage on Express Mail is charged on each piece. For shipments tendered in Express Mail

pouches under a service agreement, each pouch is a piece.

150 Deposit and Delivery

151 Deposit

Express Mail must be deposited at places designated by the Postal Service.

152 Receipt

A receipt showing the time and date of mailing will be provided to the mailer upon acceptance of Express Mail by the Postal Service. This receipt serves as evidence of mailing.

153 Service

Express Mail service provides a high speed, high reliability service. Same Day Airport Express Mail will be dispatched on the next available transportation to the destination airport mail facility. Custom Designed Express Mail will be available for claim or delivery as specified in the service agreement.

154 Forwarding and Return

When Express Mail is returned, or forwarded, as specified by the Postal Service, there will be no additional charge.

160 Ancillary Services

The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

Service	Schedule
a. Address correction	911
b. Return receipts	945
c. COD	944
d. Express Mail Insurance	943
e. *Netpost* Mailing Online	981

170 Rates and Fees

The rates for Express Mail are set forth in the following rate schedules:

	Schedule
a. Same Day Airport	121
b. Custom Designed	122
c. Next Day Post Office-to-Post Office	123
d. Second Day Post Office-to-Post Office	123
e. Next Day Post Office-to-Addressee	123
f. Second Day Post Office-to-Addressee	123

180 Refunds

181 Procedure

Claims for refunds of postage must be filed within the period of time and under terms and conditions specified by the Postal Service.

182 Availability

182.1 Same Day Airport

Except as provided in 182.5,[T]the Postal Service will refund the postage for Same Day Airport Express Mail not available for claim by the time specified.[, unless the delay is caused by:

a. Strikes or work stoppage;

b. Delay or cancellation of flights; or

c. Governmental action beyond the control of Postal Service or air carriers.]

182.2 Custom Designed

Except where a service agreement provides for claim, or delivery, of Custom Designed Express Mail more than 24 hours after scheduled tender at point of origin, the Postal Service will refund postage for such mail not available for claim, or not delivered, within 24 hours of mailing, *except as provided in 182.5.*[unless the item was delayed by strike or work stoppage.]

182.3 Next Day

[Unless the item was delayed by strike or work stoppage,]*Except as provided in 182.5,* the Postal Service will refund postage for Next Day Express Mail not available for claim or not delivered:

a. By 10:00 a.m., or earlier time(s) specified by the Postal Service, of the next delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) specified by the Postal Service, of the next delivery day in the case of Post Office-to-Addressee service.

182.4 Second Day

[Unless the item was delayed by strike or work stoppage,] *Except as provided in 182.5,* the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

a. By 10:00 a.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

182.5 Limitations

182.51

Refunds may not be available if delivery was attempted within the times required for the specific service, or if the delay was caused by:

a. Proper detention for law enforcement purposes;

b. Strike or work stoppage;

c. Late deposit of shipment, forwarding, return, incorrect address, or incorrect ZIP code;

d. Delay or cancellation of flights;

e. Governmental action beyond the control of the Postal Service or air carriers;

f. War, insurrection, or civil disturbance;

g. Breakdowns of a substantial portion of the USPS transportation network resulting from events or factors outside the control of the Postal Service; or

h. Acts of God.

First-Class Mail

Classification Schedule

210 Definition

Any matter eligible for mailing may, at the option of the mailer, be mailed as First-Class Mail. The following must be mailed as First-Class Mail, unless mailed as Express Mail or exempt under title 39, United States Code, or except as authorized under sections 344.12, 344.23 and 443:

a. Mail sealed against postal inspection as set forth in section 5000;

b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 312, 313, 520, 544.2, and 446;

c. Matter having the character of actual and personal correspondence except as specifically permitted by sections 312, 313, 520, 544.2, and 446; and

d. Bills and statements of account.

220 Description of Subclasses

221 Letters and Sealed Parcels Subclass

221.1 General

The Letters and Sealed Parcels subclass consists of First-Class Mail weighing 13 ounces or less that is not mailed under section 222 or 223.

221.2 Regular Rate Categories

The regular rate categories consist of Letters and Sealed Parcels subclass mail not mailed under section 221.3.

221.21 Single-Piece Rate Category

The single-piece rate category applies to regular rate Letters and Sealed Parcels subclass mail not mailed under section 221.22 or 221.24.

221.22 Presort Rate Category

The presort rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service; and

c. Meets the addressing and other preparation requirements specified by the Postal Service.

221.23 Reserved

221.24 Qualified Business Reply Mail Rate Category

The qualified business reply mail rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;

b. Bears the recipient's preprinted machine-readable return address, a barcode representing not more than 11 digits (not including "correction" digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the letter machinability and other preparation requirements specified by the Postal Service.

221.25 Reserved

221.26 [Nonstandard Size] *Nonmachinable* Surcharge

Regular rate category Letters and Sealed Parcels subclass mail is subject to a surcharge if it is [nonstandard size]*nonmachinable* mail, as defined in section 232.

221.27 Presort Discount for Pieces Weighing More Than Two Ounces

Presort rate category Letters and Sealed Parcels subclass mail is eligible for an additional presort discount on each piece weighing more than two ounces.

221.3 Automation Rate Categories—Letters and Flats

221.31 General

The automation rate categories consist of Letters and Sealed Parcels subclass mail weighing 13 ounces or less that:

a. Is prepared in a mailing of at least 500 pieces, or is provided for entry as mail using *Netpost* Mailing Online or a functionally equivalent service, pursuant to section 981;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

221.32 Letter Categories

221.321 [Basic]*Mixed AADC* Rate Category

The [basic]*Mixed AADC* rate category applies to letter-size automation rate category mail not mailed under section 221.322, 221.323,[or] 221.324, *or 221.325.*

221.322 AADC Rate Category

The AADC rate category applies to letter-size automation rate category mail presorted to automated area distribution center destinations as specified by the Postal Service.

221.32[2]*3* Three-Digit Rate Category

The three-digit rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

221.32[3]*4* Five-Digit Rate Category

The five-digit rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

221.32[4]*5* Carrier Route Rate Category

The carrier route rate category applies to letter-size automation rate category mail presorted to carrier routes. It is available only for those carrier routes specified by the Postal Service.

221.33 Flats Categories

221.331 [Basic]*Mixed ADC* Flats Rate Category

The [basic]*Mixed ADC* flats rate category applies to flat-size automation rate category mail not mailed under section 221.332[or], 221.333, *or 221.334.*

221.332 ADC Flats Rate Category

The ADC flats rate category applies to flat-size automation rate category mail presorted to area distribution center destinations as specified by the Postal Service.

221.33[2]*3* Three-Digit Flats Rate Category

The three-digit flats rate category applies to flat-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

221.33[3]*4* Five-Digit Flats Rate Category

The five-digit flats rate category applies to flat-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

221.33[4]*5* [Nonstandard Size]*Nonmachinable* Surcharge

Flat-size automation rate category pieces are subject to a surcharge if they are [nonstandard size]*nonmachinable* mail, as defined in section 232.

221.34 Presort Discount for Pieces Weighing More Than Two Ounces

Presorted automation rate category mail is eligible for an additional presort discount on each piece weighing more than two ounces.

222 Cards Subclass

222.1 Definition

222.11 Cards

The Cards subclass consists of Stamped Cards, defined in section 962.1, and postcards. A postcard is a privately printed mailing card for the transmission of messages. To be eligible to be mailed as a First-Class *Mail* postcard, a card must be of uniform thickness, *prepared as specified by the Postal Service,* and must not exceed any of the following dimensions:

a. 6 inches in length;

b. 4¼ inches in width;

c. 0.016 inch in thickness.

222.12 Double Cards

Double Stamped Cards or double postcards may be mailed as Stamped Cards or postcards. Double Stamped Cards are defined in section 962.1. A double postcard consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single postcard.

222.2 *Reserved*[Restriction

A mailpiece with any of the following characteristics is not mailable as a Stamped Card or postcard unless it is prepared as specified by the Postal Service:

a. Numbers or letters unrelated to postal purposes appearing in the address portion of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.]

222.3 Regular Rate Categories

222.31 Single-Piece Rate Category

The single-piece rate category applies to regular rate Cards subclass mail not mailed under section 222.32 or 222.34.

222.32 Presort Rate Category

The presort rate category applies to Cards subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service; and

c. Meets the addressing and other preparation requirements specified by the Postal Service.

222.33 Reserved

222.34 Qualified Business Reply Mail Rate Category

The qualified business reply mail rate category applies to Cards subclass mail that:

a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;

b. Bears the recipient's preprinted machine-readable return address, a barcode representing not more than 11 digits (not including "correction" digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the card machinability and other preparation requirements specified by the Postal Service.

222.4 Automation Rate Categories

222.41 General

The automation rate categories consist of Cards subclass mail that:

a. Is prepared in a mailing of at least 500 pieces, or is provided for entry as mail using *Netpost* Mailing Online or a functionally equivalent service, pursuant to section 981;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

222.42 [Basic]*Mixed AADC* Rate Category

The [basic]*Mixed AADC* rate category applies to automation rate category cards not mailed under section 222.43, 222.44,[or] 222.45, *or 222.46*.

222.43 AADC Rate Category

The AADC rate category applies to automation rate category cards presorted to automated area distribution center destinations as specified by the Postal Service.

222.4[3]*4* Three-Digit Rate Category

The three-digit rate category applies to automation rate category cards presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

222.4[4]*5* Five-Digit Rate Category

The five-digit rate category applies to automation rate category cards presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

222.4[5]*6* Carrier Route Rate Category

The carrier route rate category applies to automation rate category cards presorted to carrier routes. It is available only for those carrier routes specified by the Postal Service.

223 Priority Mail Subclass

223.1 General

The Priority Mail subclass consists of:

a. First-Class Mail weighing more than 13 ounces; and

b. Any mailable matter which, at the option of the mailer, is mailed for expeditious mailing and transportation.

223.2 Single-Piece Priority Mail Rate Category

The single-piece Priority Mail rate category applies to Priority Mail subclass mail not mailed under section 223.3.

223.3 Presorted Priority Mail Rate Categories

223.31 General

The presorted Priority Mail rate categories apply to Priority Mail subclass mail that:

a. Is prepared in a mailing of at least 300 pieces or at least 500 pounds;

b. Is presorted, marked, and presented as specified by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

223.32 ADC Rate Category

The ADC rate category applies to Priority Mail presorted to single or multiple Area Distribution Center destinations as specified by the Postal Service.

223.33 Three-Digit Rate Category

The three-digit rate category applies to Priority Mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

223.34 Five-Digit Rate Category

The five-digit rate category applies to Priority Mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

223.35 Duration of Experimental Service Period

The provisions of section 223 expire the later of:

a. Two years after the implementation date specificed [sic] by the Board of Governors, or

b. If, by the expiration date specified above, a request for the establishment of permanent presorted Priority Mail classifications or rates is pending before the Postal Rate Commission, the later of:

(1) three months after the Commission takes action on such request under 39 U.S.C. § 3624 or, if applicable[.],

(2) on the implementation date for permanent presorted Priority Mail classifications or fees.

223.4 Reserved

223.5 Flat Rate Envelope

Priority Mail subclass mail sent in a "flat rate" envelope provided by the Postal Service is charged the [two] one-pound rate.

223.6 Pickup Service

Pickup service is available for Priority Mail subclass mail under terms and conditions specified by the Postal Service.

223.7 Bulk[y] Parcels

Priority Mail subclass mail weighing less than 15 pounds, and measuring over 84 inches in length and girth combined, is charged a minimum rate equal to that for a 15-pound parcel for the zone to which the piece is addressed.

230 Physical Limitations

231 Size and Weight

First-Class Mail may not exceed 70 pounds or 108 inches in length and girth combined. Additional size and weight limitations apply to individual First-Class Mail subclasses.

232 [Nonstandard Size] *Nonmachinable* Mail

Letters and Sealed Parcels subclass mail weighing one ounce or less is [nonstandard size] *nonmachinable* if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; [or]

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

ii. 6.125 inches in width; or

iii. 0.25 inch in thickness[.]; *or*

c. For letter-sized pieces:

i. it does not meet the machinability requirements of the Postal Service; or

ii. manual processing is requested.

240 Postage and Preparation

Postage on First-Class Mail must be paid as set forth in section 3000. Postage is computed separately on each piece of mail. Pieces not within the same postage rate increment may be mailed at other than a single-piece rate as part of the same mailing only when specific methods approved by the Postal Service for determining and verifying postage are followed. All mail mailed at other than a single-piece rate must have postage paid in a manner not requiring cancellation.

250 Deposit and Delivery

251 Deposit

First-Class Mail must be deposited at places and times designated by the Postal Service.

252 Service

First-Class Mail receives expeditious handling and transportation, except that when First-Class Mail is attached to or enclosed with mail of another class, the service of that class applies.

253 Forwarding and Return

First-Class Mail that is undeliverable-as-addressed is forwarded or returned to the sender without additional charge.

260 Ancillary Services

The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

Service	Schedule
a. Address Correction	911
b. Business Reply Mail	931
c. Certificates of Mailing	947
d. Certified Mail	941
e. COD	944
f. Insurance	943
g. Registered Mail	942
h. Return Receipt (limited to merchandise sent by Priority Mail	945
i. Merchandise Return	932
j. Delivery Confirmation (limited to *parcel-shaped Letters and Sealed Parcels and Priority Mail*)	948
k. [Reserved]*Signature Confirmation (limited to parcel-shaped Letters and Sealed Parcels and Priority Mail)*	*949*
l. *Netpost* Mailing Online	981

270 Rates and Fees

271 First-Class Mail

The rates and fees for First-Class Mail are set forth in the following rate schedules:

	Schedule
a. Letters and Sealed Parcels	221
b. Cards	222
c. Priority Mail	223

272 Keys and Identification Devices

Keys, identification cards, identification tags, or similar identification devices that:

a. weigh no more than 2 pounds;

b. are mailed without cover; and

c. bear, contain, or have securely attached the name and address information, as specified by the Postal Service, of a person, organization, or concern, with instructions to return to the address and a statement guaranteeing the payment of postage due on delivery; are subject to the following rates and fees:

i. the applicable single-piece rates in schedules 221 or 223;

ii. the fee set forth in fee schedule 931 for payment of postage due charges if an active business reply mail advance deposit account is not used, and

iii. if applicable, the surcharge for [nonstandard size]*nonmachinable* mail, as defined in section 232.

280 Authorizations and Licenses

The mailing fee set forth in schedule 1000 must be paid once each year at each office of mailing or office of verification, as specified by the Postal Service, by or for mailers of other than single-piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.

Standard Mail

Classification Schedule

310 Definition

311 General

Any mailable matter weighing less than 16 ounces may be mailed as Standard Mail except:

a. Matter required to be mailed as First-Class Mail;

b. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail (currently Periodicals class mail) forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

312 Printed Matter

Printed matter, including printed letters which according to internal evidence are being sent in identical terms to several persons, but which do not have the character of actual [or] *and* personal correspondence, may be mailed as Standard Mail. Printed matter does not lose its character as Standard Mail when the date and name of the addressee and of the sender are written thereon. For the purposes of the Standard Mail Classification Schedule, "printed" does not include reproduction by handwriting or typewriting.

313 Written Additions

Standard Mail may have the following written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article:

a. Marks, numbers, name, or letters descriptive of contents;

b. "Please Do Not Open Until Christmas," or words of similar import;

c. Instructions and directions for the use of an article in the package;

d. Manuscript dedication or inscription not in the nature of personal correspondence;

e. Marks to call attention to any word or passage in text;

f. Corrections of typographical errors in printed matter;

g. Manuscripts accompanying related proof sheets, and corrections in proof sheets to include: corrections of typographical and other errors, alterations of text, insertion of new text, marginal instructions to the printer, and rewrites of parts if necessary for correction;

h. Handstamped imprints, except when the added matter is itself personal or converts the original matter to a personal communication;

i. An invoice.

320 Description of Subclasses

321 Regular Subclass

321.1 General

The Regular subclass consists of Standard Mail that is not mailed under sections 322, 323, or 324.

321.2 Presort Rate Categories

321.21 General

The presort rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as specified by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

321.22 Basic Rate Categories

The basic rate categories apply to presort rate category mail not mailed under section 321.23.

321.23 Three- and Five-Digit Rate Categories

The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

321.3 Automation Rate Categories

321.31 General

The automation rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces, or is provided for entry as mail using *Netpost* Mailing Online or a functionally Innequivalent service, pursuant to section 981;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service;

d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

321.32 [Basic Barcoded]*Mixed AADC* Rate Category

The [basic barcoded]*Mixed AADC* rate category applies to letter-size automation rate category mail not mailed under section 321.33, [or] 321.34, *or 321.35.*

321.33 AADC Rate Category

The AADC rate category applies to letter-size automation rate category mail presorted to automated area distribution center destinations as specified by the Postal Service.

321.34[3] Three-Digit Barcoded Rate Category

The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

321.35[4] Five-Digit Barcoded Rate Category

The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

321.36[5] Basic Barcoded Flats Rate Category

The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.37[6].

321.37[6] Three- and Five-Digit Barcoded Flats Rate Category

The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

321.4 Destination Entry Discounts

The destination entry discounts apply to Regular subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.5 Residual Shape Surcharge

Regular subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.6 Barcode Discount

The barcode discount applies to Regular Subclass mail that is subject to the residual shape surcharge in 321.5, is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service, and meets all other preparation and machinability requirements of the Postal Service.

321.7 Nonmachinable Surcharge

The nonmachinable surcharge applies to Regular presort category letter-sized pieces (i) that do not meet the machinability requirements specified by the Postal Service; or (ii) for which manual processing is requested.

322 Enhanced Carrier Route Subclass

322.1 Definition

The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321, 323, or 324, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is prepared, marked, and presented as specified by the Postal Service;

c. Is presorted to carrier routes as specified by the Postal Service;

d. Is sequenced as specified by the Postal Service;[and]

e. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service; *and*[.]

f. For high-density and saturation category letters, bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service.

322.2 Basic Rate Category

The basic rate category applies to Enhanced Carrier Route subclass mail not mailed under section 322.3, 322.4 or 322.5.

322.3 Basic Pre-Barcoded Rate Category

The basic pre-barcoded rate category applies to letter-size Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

322.4 High Density Rate Category

The high density rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements specified by the Postal Service. *High density rate category letters must meet the applicable automation requirements specified by the Postal Service, and must bear a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service.*

322.5 Saturation Rate Category

The saturation rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements specified by the Postal Service. *Saturation rate category letters must meet the applicable automation requirements specified by the Postal Service, and must bear a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service.*

322.6 Destination Entry Discounts

Destination entry discounts apply to Enhanced Carrier Route subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

322.7 Residual Shape Surcharge

Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

323 Nonprofit Subclass

323.1 General

The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321, 322, or 324, and that is mailed by authorized nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009,

i. Qualified political committees,

j. State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.

323.11 Qualified Political Committees

The term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee:

a. The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

b. The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

323.12 Limitation on Authorization

An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at nonprofit Standard rates to any other person, organization or association.

323.2 Presort Rate Categories

323.21 General

The presort rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as specified by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

323.22 Basic Rate Categories

The basic rate categories apply to presort rate category mail not mailed under section 322.23.

323.23 Three- and Five-Digit Rate Categories

The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

323.3 Automation Rate Categories

323.31 General

The automation rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces, or is provided for entry as mail using *Netpost* Mailing Online or a functionally equivalent service, pursuant to section 981;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service;

d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

323.32 [Basic Barcoded] *Mixed AADC* Rate Category

The [basic barcoded]*Mixed AADC* rate category applies to letter-size automation rate category mail not mailed under section 323.33,[or] 323.34, *or 323.35.*

323.33 AADC Rate Category

The AADC rate category applies to letter-size automation rate category mail presorted to automated area distribution center destinations as specified by the Postal Service.

323.34[3] Three-Digit Barcoded Rate Category

The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

323.35[4] Five-Digit Barcoded Rate Category

The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

323.36[5] Basic Barcoded Flats Rate Category

The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 323.37[6].

323.36 Three- and Five-Digit Barcoded Flats Rate Category

The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

323.4 Destination Entry Discounts

Destination entry discounts apply to Nonprofit subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility) or sectional center facility (SCF) at which it is entered, as defined by the Postal Service.

323.5 Residual Shape Surcharge

Nonprofit subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

323.6 Barcode Discount

The barcode discount applies to Nonprofit subclass mail that is subject to the residual shape surcharge in 323.5, is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service and meets all other preparation and machinability requirements of the Postal Service.

323.7 Nonmachinable Surcharge

The nonmachinable surcharge applies to Nonprofit presort category letter-sized pieces (i) that do not meet the machinability requirements specified by the Postal Service; or (ii) for which manual processing is requested.

324 Nonprofit Enhanced Carrier Route Subclass

324.1 Definition

The Nonprofit Enhanced Carrier Route subclass consists of Standard Mail [weighing less than 16 ounces] that is not mailed under section 321, 322, or 323, that is mailed by authorized nonprofit organizations or associations (as defined in section 323) under the terms and limitations stated in section 323.12, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is prepared, marked, and presented as specified by the Postal Service;

c. Is presorted to carrier routes as specified by the Postal Service;

d. Is sequenced as specified by the Postal Service;[and]

e. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service; *and*[.]

f. For high-density and saturation letters, bears a barcode representing not more than 11 digits (not including "correction: digits) as specified by the Postal Service.

324.2 Basic Rate Category

The basic rate category applies to Nonprofit Enhanced Carrier Route subclass mail not mailed under section 324.3, 324.4, or 324.5.

324.3 Basic Pre-Barcoded Rate Category

The basic pre-barcoded rate category applies to letter-size Nonprofit Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

324.4 High Density Rate Category

The high density rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements specified by the Postal Service. *High density rate category letters must meet the applicable automation requirements specified by the Postal Service, and must bear a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service.*

324.5 Saturation Rate Category

The saturation rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements specified by the Postal Service. *Saturation rate category letters must meet the applicable automation requirements specified by the Postal Service, and must bear a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service.*

324.6 Destination Entry Discounts

Destination entry discounts apply to Nonprofit Enhanced Carrier Route subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

324.7 Residual Shape Surcharge

Nonprofit Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

330 Physical Limitations

331 Size

Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual rate categories. The maximum size for mail in the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness, except that merchandise samples mailed with detached address cards, prepared as specified by the Postal Service, may exceed those dimensions.

332 Weight

Standard Mail may not weigh more than 16 ounces.

340 Postage and Preparation

341 Postage

Postage must be paid as set forth in section 3000. When the postage is higher than the rate prescribed in any of the Package Services subclasses for which the piece also qualifies, the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

342 Preparation

All pieces in a Standard mailing must be separately addressed. All pieces in a Standard mailing must be identified as specified by the Postal Service, and must contain the ZIP Code of the addressee when specified by the Postal Service. All Standard mailings must be prepared and presented as specified by the Postal Service. Two or more Standard mailings may be commingled and mailed only when specific methods approved by the Postal Service for determining and verifying postage are followed.

343 Non-Identical Pieces

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for determining and verifying postage are followed.

344 Attachments and Enclosures

344.1 General

First-Class Mail may be attached to or enclosed in Standard Mail [containing books, catalogs, and merchandise]. The piece must be marked as specified by the Postal Service. Except as provided in section 344.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

344.2 Incidental First-Class Attachments and Enclosures

First-Class Mail, as defined in subsections b through d of section 210, may be attached to or enclosed with Standard Mail containing merchandise, including books, but excluding merchandise samples, with postage paid on the combined piece at the applicable Standard rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

350 Deposit and Delivery

351 Deposit

Standard Mail must be deposited at places and times designated by the Postal Service.

352 Service

Standard Mail may receive deferred service.

353 Forwarding and Return

Undeliverable-as-addressed Standard Mail will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard Mail pieces will be returned as specified by the Postal Service. Except as provided in section 935, the applicable First-Class Mail rate is charged for each piece receiving return only service. Except as provided in section 936, charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in sections 935 and 936, the charge for those returned pieces is the appropriate First-Class Mail rate for the piece plus that rate multiplied by a factor equal to the number of Standard Mail pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

360 Ancillary Services

361 All Subclasses

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	911
b. Certificates of mailing indicating that a specified number of pieces have been mailed	947

Certificates of mailing are not available for Standard Mail when postage is paid with permit imprint.

362 Regular and Nonprofit

362.1

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	935
b. Shipper-Paid Forwarding	936

362.2

Regular and Nonprofit subclass mail subject to the residual shape surcharge in 321.5 and 323.6, respectively, will receive the following additional services upon payment of the [approrpriate]*appropriate* fees.

Service	Schedule
a. Bulk Insurance	943
b. Return Receipt (merchandise only)	945
c. Delivery Confirmation	948

Bulk insurance may not be used selectively for individual pieces in a multi-piece Standard Mail mailing unless specific methods approved by the Postal Service for determining and verifying postage are followed.

363 Regular

Regular subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. *Netpost* Mailing Online	981

365 Nonprofit

Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. *Netpost* Mailing Online (starting on a date to be specified by the Postal Service)	981

370 Rates and Fees

The rates and fees for Standard Mail are set forth as follows:

	Schedule
a. Regular subclass.	
Presort category	321A
Automation category	321B
b. Enhanced Carrier Route subclass	322
c. Nonprofit subclass.	
Presort category	323A
Automation category	323B
d. Nonprofit Enhanced Carrier Route subclass	324
e. Fees	1000

380 Authorizations and Licenses

The mailing fee set forth in Schedule 1000 must be paid once each year at each office of mailing or office of verification, as specified by the Postal Service, by or for mailers of Standard Mail. Payment of the fee allows the mailer to mail at any Standard Mail rate.

Periodicals

Classification Schedule

410 Definition

411 General Requirements

411.1 Definition

A publication may qualify for mailing under the Periodicals Classification Schedule if it meets all the requirements in sections 411.2 through 411.5 and the requirements for one of the qualification categories in sections 412 through 415. Eligibility for specific Periodicals rates is prescribed in section 420.

411.2 Periodicals

Periodicals class mail is mailable matter consisting of newspapers and other periodical publications. The term "periodical publications" includes, but is not limited to:

a. Any catalog or other course listing including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

411.3 Issuance

411.31 Regular Issuance

Periodicals class mail must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively.

411.32 Separate Publication

For purposes of determining Periodicals rate eligibility, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication when the following conditions exist:

a. The issue is published at a regular frequency more often than once a month either on (1) the same day as another regular issue of the same publication; or (2) on a day different from regular issues of the same publication, and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of any other issue distributed to nonsubscribers or nonrequesters on that same day, or, if no other issue that day, any other issue distributed during the same period. "During the same period" shall be defined as the periods of time ensuing between the distribution of each of the issues whose eligibility is being examined. Such separate publications must independently meet the qualifications for Periodicals eligibility.

411.4 Office of Publication

Periodicals class mail must have a known office of publication. A known office of publication is a public office where business of the publication is transacted during the usual business hours. The office must be maintained where the publication is authorized original entry.

411.5 Printed Sheets

Periodicals class mail must be formed of printed sheets. It may not be reproduced by stencil, mimeograph, or hectograph processes, or reproduced in imitation of typewriting. Reproduction by any other printing process is permissible. Any style of type may be used.

412 General Publications

412.1 Definition

To qualify as a General Publication, Periodicals class mail must meet the requirements in section 411 and in sections 412.2 through 412.4.

412.2 Dissemination of Information

A General Publication must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry.

412.3 Paid Circulation

412.31 Total Distribution

A General Publication must be designed primarily for paid circulation. At least 50 percent or more of the copies of the publication must be distributed to persons who have paid above a nominal rate.

412.32 List of Subscribers

A General Publication must be distributed to a legitimate list of persons who have subscribed by paying or promising to pay at a rate above nominal for copies to be received during a stated time. Copies mailed to persons who are not on a legitimate list of subscribers are nonsubscriber copies.

412.33 Nominal Rates

As used in section 412.31, nominal rate means:

a. A token subscription price that is so low that it cannot be considered a material consideration;

b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail value, or the represented value, whichever is highest.

412.34 Nonsubscriber Copies

412.341 Up to Ten Percent

Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to subscribers during the calendar year are mailable at the rates that apply to subscriber copies provided that the nonsubscriber copies would have been eligible for those rates if mailed to subscribers.

412.342 Over Ten Percent

Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to subscribers during the calendar year which are presorted and commingled with subscriber copies are charged the applicable rates for Outside County Periodicals, but are not eligible for preferred rate discounts. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to subscribers during the calendar year.

412.35 Advertiser's Proof Copies

One complete copy of each issue of a General Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to subscriber copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as subscriber copies.

412.36 Expired Subscriptions

For six months after a subscription has expired, copies of a General Publication may be mailed to a former subscriber at the rates that apply to copies mailed to subscribers, if the publisher has attempted during that six months to obtain payment, or a promise to pay, for renewal. These copies do not count as subscriber copies.

412.4 Advertising Purposes

A General Publication may not be designed primarily for advertising purposes. A publication is "designed primarily for advertising purposes" if it:

a. Has advertising in excess of 75 percent in more than one-half of its issues during any 12-month period;

b. Is owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it;

c. Consists principally of advertising and editorial write-ups of the advertisers;

d. Consists principally of advertising and has only a token list of subscribers, the circulation being mainly free;

e. Has only a token list of subscribers and prints advertisements free for advertisers who pay for copies to be sent to a list of persons furnished by the advertisers; or

f. Is published under a license from individuals or institutions and features other businesses of the licensor.

413 Requester Publications

413.1 Definition

A publication which is circulated free or mainly free may qualify for Periodicals class as a Requester Publication if it meets the requirements in sections 411, and 413.2 through 413.4.

413.2 Minimum Pages

It must contain at least 24 pages.

413.3 Advertising Purposes

413.31 Advertising Percentage

It must devote at least 25 percent of its pages to nonadvertising and not more than 75 percent to advertisements.

413.32 Ownership and Control

It must not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it.

413.4 Circulated to Requesters

413.41 List of Requesters

It must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for, including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration, provided that mere receipt of the publication is not material consideration.

413.42 Nonrequester Copies

413.421 Up to Ten Percent

Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to requesters during the calendar year are mailable at the rates that apply to requester copies provided that the nonrequester copies would have been eligible for those rates if mailed to requesters.

413.422 Over Ten Percent

Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to requesters during the calendar year which are presorted and commingled with requester copies are charged the applicable rates for Outside County Periodicals, but are not eligible for preferred rate discounts. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to requesters during the calendar year.

413.43 Advertiser's Proof Copies

One complete copy of each issue of a Requester Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to requester copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as requester copies.

414 Publications of Institutions and Societies

414.1 Publisher's Own Advertising

Except as provided in section 414.2, a publication which meets the requirements of sections 411 and 412.4, and which contains no advertising other than that of the publisher, qualifies for Periodicals class as a publication of an institution or society if it is:

a. Published by a regularly incorporated institution of learning;

b. Published by a regularly established state institution of learning supported in whole or in part by public taxation;

c. A bulletin issued by a state board of health or a state industrial development agency;

d. A bulletin issued by a state conservation or fish and game agency or department;

e. A bulletin issued by a state board or department of public charities and corrections;

f. Published by a public or nonprofit private elementary or secondary institution of learning or its administrative or governing body;

g. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof, or by a nonprofit educational radio or television station;

h. Published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;

i. Published by or under the auspices of a trade(s) union;

j. Published by a strictly professional, literary, historical, or scientific society; or,

k. Published by a church or church organization.

414.2 General Advertising

A publication published by an institution or society identified in sections 414.1 h through k, may contain advertising of other persons, institutions, or concerns, if the following additional conditions are met:

a. The publication is originated and published to further the objectives and purposes of the society;

b. Circulation is limited to:

i. Copies mailed to members who pay either as a part of their dues or assessment or otherwise, not less than 50 percent of the regular subscription price;

ii. Other actual subscribers; and

iii. Exchange copies.

c. The circulation of nonsubscriber copies, including sample and complimentary copies, does not exceed 10 percent of the total number of copies referred to in 414.2b.

415 Publications of State Departments of Agriculture

A publication which is issued by a state department of agriculture and which meets the requirements of sections 411 qualifies for Periodicals class as a publication of a state department of agriculture if it contains no advertising and is published for the purpose of furthering the objects of the department.

416 Foreign Publications

Foreign newspapers and other periodicals of the same general character as domestic publications entered as Periodicals class mail may be accepted on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

420 Description of Subclasses

421.1 Outside County Subclass

421.1 Definition

The Outside County subclass consists of Periodicals class mail that is not mailed under section 423 and that:

a. Is presorted, marked, and presented as specified by the Postal Service; and

b. Meets machinability, addressing, and other preparation requirements specified by the Postal Service.

421.2 Outside County Pound Rates

An unzoned pound rate applies to the nonadvertising portion of Outside County subclass mail. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge.

421.3 Outside County Piece Rates

421.31 Basic Rate Category

The basic rate category applies to all Outside County subclass mail not mailed under section 421.32, 421.33, or 421.34.

421.32 Three-Digit [City and Five-Digit]Rate Category

The three-digit rate category applies to Outside County subclass mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

421.33 Five-Digit Rate Category

The five-digit rate category applies to Outside County subclass mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

421.34 Carrier Route Rate Category

The carrier route rate category applies to Outside County subclass mail presorted to carrier routes as specified by the Postal Service.

421.4 Outside County Subclass Discounts

421.41 Barcoded Letter Discounts

Barcoded letter discounts apply to letter size Outside County subclass mail mailed under sections 421.31, 421.32, and 421.33 which bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

421.42 Barcoded Flats Discounts

Barcoded flats discounts apply to flat size Outside County subclass mail mailed under sections 421.31, 421.32, and 421.33 which bear a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

421.43 High Density Discount

The high density discount applies to Outside County subclass mail mailed under section 421.34, presented in walk sequence order, and meeting the high density and preparation requirements specified by the Postal Service.

421.44 Saturation Discount

The saturation discount applies to Outside County subclass mail mailed under section 421.34, presented in walk-sequence order, and meeting the saturation and preparation requirements specified by the Postal Service.

421.45 Destination Entry Discounts

Destination entry discounts apply to Outside County subclass mail which is *prepared as specified by the Postal*

Service and addressed [destined] for delivery within the service area of the *destination area distribution center (ADC),* destination sectional center facility (SCF) or the destination delivery unit (DDU) *at*[in] which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

421.46 Nonadvertising Discount

The nonadvertising discount applies to all Outside County subclass mail and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

421.47 Preferred Rate Discount

Periodicals Mail qualifying as Nonprofit or Classroom mail under sections 422.2 and 422.3 is eligible for the Preferred rate discount set forth in Rate Schedule 421.

421.48 Pallet Discount

The pallet discount applies to Outside County subclass nonletter mail that is presented on pallets and meets the preparation requirements specified by the Postal Service.

421.49 Dropship Pallet Discount

The dropship pallet discount applies to Outside County subclass nonletter mail under section 421.45, that is presented on pallets and meets the preparation requirements specified by the Postal Service.

422 Preferred Qualification Categories

422.1 Definition

Preferred Qualification Outside County Subclass Periodicals consist of Periodicals Mail, other than publications qualifying as Requester Publications, that meets applicable requirements in sections 422.2, 422.3, or 422.4.

422.2 Nonprofit

The Periodicals Outside County Subclass Nonprofit category consists of publications entered by authorized nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009, and

i. Associations of rural electric cooperatives, and the publications of the following types:

j. one publication, which contains no advertising (except advertising of the publisher) published by the official highway or development agency of a state,

k. program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station, or

l. one conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

422.3 Classroom

The Periodicals Outside County Subclass Classroom rate category consists of religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes.

422.4 Science of Agriculture

422.41 Definition

Science of Agriculture mail consists of Periodicals class mail devoted to the science of agriculture if the total number of copies of the publication furnished during any 12-month period to subscribers residing in rural areas amounts to at least 70 percent of the total number of copies distributed by any means for any purpose.

422.42 Rates

Science of Agriculture mail is subject to pound rates, piece rates, and piece rate discounts (except for the discount set forth in section 421.47) for Outside County Subclass Periodicals Mail, except for DDU, DSCF and Zone 1 & 2 pound rates. Rates for Science of Agriculture are set forth in Rate Schedule 421.

422.43 Nonadvertising Discount

The nonadvertising discount for Outside County Subclass Periodicals Mail applies to Science of Agriculture Periodicals, and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

422.44 Destination Entry Discounts

Destination entry discounts apply to Science of Agriculture Periodicals *mail which is prepared as specified by the Postal Service, and addressed* [which are destined] for delivery within the service area of the *destination area distribution center (ADC),* destination sectional center facility (SCF) or the destination delivery unit (DDU) [in]*at* which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

423 Within County Subclass.

423.1 Reserved

423.2 General

423.21 Definition

Within County mail consists of Periodicals class mail, other than publications qualifying as Requester Publications, mailed in, and addressed for delivery within, the county where published and originally entered, from either the office of original entry or additional entry. In addition, a Within County publication must meet one of the following conditions:

a. The total paid circulation of the issue is less than 10,000 copies; or

b. The number of paid copies of the issue distributed within the county of publication is at least one more than one-half the total paid circulation of such issue.

423.22 Entry in an Incorporated City

For the purpose of determining eligibility for Within County mail, when a publication has original entry at an independent incorporated city which is situated entirely within a county or which is contiguous to one or more counties in the same state, such incorporated city shall be considered to be within the county with which it is principally contiguous. Where more than one county is involved, the publisher will select the principal county.

423.23 Pound Rate

One pound rate applies to Within County pieces presorted to carrier routes to be delivered within the delivery area of the originating post office, and another pound rate applies to all other pieces.

423.3 Within County Piece Rates

423.31 Basic Rate Category

The basic rate category applies to Within County Periodicals not mailed under section 423.32, 423.33, or 423.34.

423.32 Three-[d]*D*igit Rate Category

The three-digit rate category applies to Within County Periodicals that are presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

423.33 Five-Digit Rate Category

The five-digit rate category applies to Within County Periodicals presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

423.34 Carrier Route Rate Category

The carrier route rate category applies to Within County Periodicals presorted to carrier routes as specified by the Postal Service.

423.4 Within County Discounts

423.41 Barcoded Letter Discounts

Barcoded letter discounts apply to letter size Within County Periodicals mailed under sections 423.31, 423.32, and 423.33 which bear a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

423.42 Barcoded Flats Discounts

Barcoded flats discounts apply to flat size Within County Periodicals mailed under sections 423.31, 423.32, and 423.33 which bear a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

423.43 High Density Discount

The high density discount applies to Within County Periodicals mailed under section 423.34, presented in walk sequence order, and meeting the high density and preparation requirements specified by the Postal Service. Alternatively, Within County mail may qualify for such discount also by presenting otherwise eligible mailings containing pieces addressed to a minimum of 25 percent of the addresses per carrier route.

423.44 Saturation Discount

The saturation discount applies to Within County Periodicals mailed under section 423.34, presented in walk sequence order, and meeting the saturation and preparation requirements specified by the Postal Service.

423.45 Destination Entry Discount

A destination delivery unit discount applies to Within County carrier route category mail which is destined for delivery within the destination delivery unit (DDU) in which it is entered, as defined by the Postal Service.

430 Physical Limitations

Periodicals Mail may not weigh more than 70 pounds or exceed 108 inches in length and girth combined. Additional size limitations apply to individual Periodicals rate categories.

440 Postage and Preparation

441 Postage

Postage must be paid on Periodicals class mail as set forth in section 3000.

442 Presortation

Periodicals class mail must be presorted as specified by the Postal Service.

443 Attachments and Enclosures

443.1 General

First-Class Mail or Standard Mail may be attached to or enclosed with Periodicals class mail. The piece must be marked as specified by the Postal Service. Except as provided in section 443.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the appropriate First-Class *Mail,*[or] Standard Mail, *or Package Services* rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

443.1a "Ride-Along" Attachments and Enclosures

A limit of one Standard Mail piece, not exceeding the weight of the host copy and weighing a maximum of 3.3 ounces, from any of the subclasses listed in section 321 (Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed with an individual copy of Periodicals Mail for an additional postage payment of ten cents. Periodicals containing "Ride-Along" attachments or enclosures must maintain uniform thickness as specified by the Postal Service. The Periodicals piece with the "Ride-Along" must maintain the same shape and automation compatibility as it had before addition of the "Ride-Along" attachment or enclosure and meet other preparation requirements as specified by the Postal Service.

[This provision expires on the effective date to be set by the Board of Governors for Rate Schedules 421 and 423 resulting from Docket No. R2001–1.]

443.2 Incidental First-Class Mail Attachments and Enclosures

First-Class Mail that meets one or more of the definitions in section 210 b through d may be attached to or enclosed with Periodicals class mail, with postage paid on the combined piece at the applicable Periodicals rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

444 Identification

Periodicals class mail must be identified as required by the Postal Service. Nonsubscriber and nonrequester copies, including sample and complimentary copies, must be identified as required by the Postal Service.

445 Filing of Information

Information relating to Periodicals class mail must be filed with the Postal Service under 39 U.S.C. 3685.

446 Enclosures and Supplements

Periodicals class mail may contain enclosures and supplements as specified by the Postal Service. An enclosure or supplement may not contain writing, printing or sign thereof or therein, in addition to the original print, except as authorized by the Postal Service, or as authorized under section 443.2.

450 Deposit and Delivery

451 Deposit

Periodicals class mail must be deposited at places and times designated by the Postal Service.

452 Service

Periodicals class mail is given expeditious handling insofar as is practicable.

453 Forwarding and Return

Undeliverable-as-addressed Periodicals class mail will be forwarded or returned to the mailer, as specified by the Postal Service. Undeliverable-as-addressed combined First-Class and Periodicals class mail pieces will be forwarded or returned, as specified by the Postal Service. Additional charges when Periodicals class mail is returned will be based on the applicable First-Class Mail rate.

470 Rates and Fees

The rates and fees for Periodicals class mail are set forth as follows:

	Schedule
a. Outside County	421
b. Within County	423
c. Science of Agriculture	421
d. Fees	1000

480 Authorizations and Licenses

481 Entry Authorizations

Prior to mailing at Periodicals rates, a publication must be authorized for entry as Periodicals class mail by the Postal Service. Each authorized publication will be granted one original entry authorization at the post office where the office of publication is maintained. An authorization for the establishment of an account to enter a publication at an additional entry office may be granted by the Postal Service upon application by the publisher. An application for re-entry must be made whenever the publisher proposes to change the publication's title, frequency of issue or office of original entry.

482 Nonprofit, Classroom and Science of Agriculture Authorization

Prior to entering Nonprofit, Classroom, and Science of Agriculture Periodicals Mail, a publication must obtain an additional Postal Service entry authorization to mail at those rates.

483 Mailing by Publishers and News Agents

Periodicals class mail may be mailed only by publishers or registered news agents. A news agent is a person or concern engaged in selling two or more Periodicals publications published by more than one publisher. News agents must register at all post offices at which they mail Periodicals class mail.

484 Fees

Fees for original entry, additional entry, re-entry, and registration of a news agent are set forth in Schedule 1000.

Package Services

Classification Schedule

510 Definition

511 General

Any mailable matter may be mailed as Package Services mail except:

a. Matter required to be mailed as First-Class Mail;

b. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail (currently Periodicals class mail) forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

512 Written Additions

Package Services mail may have the following written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article:

a. Marks, numbers, name, or letters descriptive of contents;

b. "Please Do Not Open Until Christmas," or words of similar import;

c. Instructions and directions for the use of an article in the package;

d. Manuscript dedication or inscription not in the nature of personal correspondence;

e. Marks to call attention to any word or passage in text;

f. Corrections of typographical errors in printed matter;

g. Manuscripts accompanying related proof sheets, and corrections in proof sheets to include: corrections of typographical and other errors, alterations of text, insertion of new text, marginal instructions to the printer, and rewrites of parts if necessary for correction;

h. Handstamped imprints, except when the added matter is itself personal or converts the original matter to a personal communication;

i. An invoice.

520 Description of Subsclasses

521 Parcel Post Subclass

521.1 Definition

The Parcel Post subclass consists of Package Services mail that is not mailed under sections 522, 523, or 524.

521.2 Description of Rate Categories

521.21 Inter-BMC Rate Category

The inter-BMC rate category applies to all Parcel Post subclass mail not mailed under sections 521.22, 521.23, 521.24, [or]521.25, *or 521.26*.

521.22 Intra-BMC Rate Category

The intra-BMC rate category applies to Parcel Post subclass mail originating and destinating within a designated BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.

521.23 Parcel Select—Destination Bulk Mail Center (DBMC) Rate Category

The Parcel Select—DBMC rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces entered at a designated destination BMC, auxiliary service facility, or other equivalent facility, as specified by the Postal Service.

521.24 Parcel Select—Destination Sectional Center Facility (DSCF) Rate Category

The Parcel Select—DSCF rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces sorted to five-digit destination ZIP Codes as specified by the Postal Service *(except as described in Section 521.25)* and entered at a designated destination processing and distribution center or facility, or other equivalent facility, as specified by the Postal Service.

521.25 Surcharge for Parcel Select—Destination Sectional Center Facility (DSCF) Rate Nonmachinable Parcels Sorted to 3-digit Zip Codes

The Parcel Select—DSCF Surcharge applies, in addition to the appropriate DSCF Parcel Select Rate, to mail that does not meet the machinability criteria specified by the Postal Service and is prepared in a mailing of at least 50 pieces sorted to three-digit destination ZIP Codes as specified by the Postal Service and entered at a designated destination processing and distribution center or facility, or other equivalent facility, as specified by the Postal Service.

521.2[5]*6* Parcel Select—Destination Delivery Unit (DDU) Rate Category

The Parcel Select—DDU rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces, and entered at a designated destination delivery unit, or other equivalent facility, as specified by the Postal Service.

521.3 Bulk Parcel Post

Bulk Parcel Post mail is Parcel Post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined or pieces measuring over 108 inches in length and girth combined are not mailable as Bulk Parcel Post mail.

521.31 Barcode Discount

The barcode discount applies to Bulk Parcel Post mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service, and meets all other preparation and machinability requirements of the Postal Service.

521.4 Bulk Mail Center (BMC) Presort Discounts

521.41 BMC Presort Discount

The BMC presort discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of 50 or more pieces, entered at a facility authorized by the Postal Service, and sorted to destination BMCs, as specified by the Postal Service.

521.42 Origin Bulk Mail Center (OBMC) Discount

The origin bulk mail center discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of at least 50 pieces, entered at the origin BMC, and sorted to destination BMCs, as specified by the Postal Service.

521.5 Barcode Discount

The barcode discount applies to Inter-BMC, Intra-BMC, and Parcel Select—DBMC Parcel Post subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

521.6 Oversize Parcel Post

521.61 Excessive Length and Girth

Parcel Post subclass mail pieces exceeding 108 inches in length and girth combined, but not greater than 130 inches in length and girth combined, are mailable.

521.62 Balloon Rate

Parcel Post subclass mail pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

521.7 Nonmachinable Surcharges

a. Inter-BMC, Intra-BMC, and Parcel Select—DBMC Parcel Post mail that does not meet machinability criteria specified by the Postal Service is subject to a nonmachinable surcharge.

b. Parcel Select—DSCF Parcel Post mail that does not meet machinability criteria specified by the Postal Service, and which is sorted to three-digit destination ZIP Codes as specified by the Postal Service, is subject to a nonmachinability surcharge for 3-digit nonmachinable DSCF Parcel Post.

521.8 Pickup Service

Pickup service is available for Parcel Post subclass mail under terms and conditions specified by the Postal Service.

522 Bound Printed Matter Subclass

522.1 Definition

The Bound Printed Matter subclass consists of Package Services mail weighing not more than 15 pounds, which:

a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching; loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence;

e. Is not stationery, such as pads of blank printed forms.

522.2 Description of Rate Categories

522.21 Single-Piece Rate Category

The single-piece rate category applies to Bound Printed Matter subclass mail which is not mailed under section 522.3 or 522.4.

522.22 Basic Presort Rate Category

The basic presort rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces, prepared and presorted as specified by the Postal Service.

522.23 Carrier Route Presort Rate Category

The carrier route presort rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces of carrier route presorted mail, prepared and presorted as specified by the Postal Service.

522.24 Destination Bulk Mail Center (DBMC) Rate Category

The destination bulk mail center rate category applies to Basic Presort Rate or Carrier Route Presort Rate Bound Printed Matter subclass mail prepared as specified by the Postal Service in a mailing entered at a designated destination BMC, auxiliary service facility, or other equivalent facility, as specified by the Postal Service.

522.25 Destination Sectional Center Facility (DSCF) Rate Category

The destination sectional center facility rate category applies to Basic Presort Rate or Carrier Route Presort Rate Bound Printed Matter subclass mail prepared as specified by the Postal Service in a mailing sorted to five-digit destination ZIP Codes as specified by the Postal Service and entered at a designated destination processing and distribution center or facility, or other equivalent facility, as specified by the Postal Service.

522.26 Destination Delivery Unit (DDU) Rate Category

The destination delivery unit rate category applies to Basic Presort Rate or Carrier Route Presort Rate Bound Printed Matter subclass mail prepared as specified by the Postal Service in a mailing entered at a designated destination delivery unit, or other equivalent facility, as specified by the Postal Service.

522.3 Barcode Discount

The *parcel* barcoded discount *or flats barcoded discount apply*[applies] to single-piece rate and Basic Presort Rate Bound Printed Matter subclass *parcel or flat* mail, *respectively*, that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

522.4 Flats Differential

Flats-shaped single-piece rate, Basic Presort Rate, and Carrier Route Presort Rate Bound Printed Matter subclass mail that meets the preparation criteria specified by the Postal Service is eligible for a rate reduction in the form of a flats differential.

523 Media Mail Subclass

523.11 Definition

The Media Mail subclass consists of Package Services mail of the following types:

a. Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a postcard. These order forms are in addition to and not in lieu of order

forms which may be enclosed by virtue of any other provision;

b. 16 millimeter or narrower width films which must be positive prints in final form for viewing, and catalogs of such films, of 24 pages or more, at least 22 of which are printed, except when sent to or from commercial theaters;

c. Printed music, whether in bound form or in sheet form;

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests and other mental and personal qualities with or without answers, test scores or identifying information recorded thereon in writing or by mark;

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a postcard. These order forms are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

f. Playscripts and manuscripts for books, periodicals and music;

g. Printed educational reference charts, permanently processed for preservation;

h. Printed educational reference charts, including but not limited to

i. Mathematical tables,

ii. Botanical tables,

iii. Zoological tables, and

iv. Maps produced primarily for educational reference purposes;

i. Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; and

j. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

523.2 Description of Rate [Catagories]*Categories*

523.21 Single-Piece Rate Category

The single-piece rate category applies to Media Mail not mailed under section 523.22 or 523.23 prepared as specified by the Postal Service.

523.22 [Level A]*Five-Digit* Presort Rate Category

The [Level A]*Five-Digit* presort rate category applies to mailings of at least [500]300 pieces [of]*in any* Media Mail *subclass presorted category*, prepared and presorted to five-digit destination ZIP Codes as specified by the Postal Service.

523.23 [Level B]*Basic* Presort Rate Category

The [Level B]*Basic Presort*[presort] rate category applies to mailings of at least [500]*300* pieces [of]*in any* Media Mail *subclass presorted category*, prepared and presorted [to destination Bulk Mail Centers], as specified by the Postal Service, *other than to five-digit destination ZIP Codes.*

523.3 Barcode Discount

The barcode discount applies to single-piece rate and [Level B]*Basic Presort* [presort] rate Media Mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

524 Library Mail Subclass

524.1 Definition

524.11 General

The Library Mail subclass consists of Package Services mail of the following types:

a. Matter designated in section 524.13, loaned or exchanged (including cooperative processing by libraries) between:

i. Schools or colleges, or universities;

ii. Public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, or between such organizations and their members, readers or borrowers.

b. Matter designated in section 524.14, mailed to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations; or

c. Matter designated in section 524.15, mailed from a publisher or a distributor to a school, college, university or public library.

524.12 Definition of Nonprofit Organizations and Associations

Nonprofit organizations or associations are defined in section 1009.

524.13 Library subclass mail under section 524.11.a

Matter eligible for mailing as Library Mail under subsection a of section 524.11 consists of:

a. Books consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books;

b. Printed music, whether in bound form or in sheet form;

c. Bound volumes of academic theses in typewritten or other duplicated form;

d. Periodicals, whether bound or unbound;

e. Sound recordings;

f. Other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

g. Museum materials, specimens, collections, teaching aids, printed matter and interpretative materials intended to inform and to further the educational work and interest of museums and herbaria.

524.14 Library Mail under section 524.11.b

Matter eligible for mailing as Library Mail under subsection b of section 524.11 consists of:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing;

b. Sound recordings;

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria;

d. Scientific or mathematical kits, instruments or other devices;

e. Catalogs of the materials in subsections a through d of section 524.14 and guides or scripts prepared solely for use with such materials.

524.15 Library Mail under section 524.11.c

Matter eligible for mailing as Library subclass mail under subsection c of section 524.11 consists of books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books.

524.2 Description of Rate Categories

524.21 Single-Piece Rate Category

The single-piece rate category applies to Library Mail not mailed under section 524.22 or 524.23 prepared as specified by the Postal Service.

524.22 [Level A]*Five-Digit* Presort Rate Category

The [Level A]*Five-Digit Presort*[presort] rate category applies to mailings of at least [500]*300* pieces [of]*in any* Library Mail *subclass presorted category*, prepared and presorted to five-digit destination ZIP Codes as specified by the Postal Service.

524.23 [Level B]*Basic* Presort Rate Category

The [Level B]*Basic Presort*[presort] rate category applies to mailings of at least [500]*300* pieces [of]*in any* Library Mail *subclass presorted category*, prepared and presorted [to destination Bulk Mail Centers] as specified by the Postal Service, *other than to five-digit destination ZIP Codes.*

524.3 Barcode Discount

The barcode discount applies to Single-Piece Rate and [Level B]*Basic* Presort Rate Library Mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

530 Physical Limitations

531 Size

Except as provided in section 521.61, Package Services mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Package Services mail subclasses.

532 Weight

Package Services mail may not weigh more than 70 pounds. Additional weight limitations apply to individual Package Services mail subclasses.

540 Postage and Preparation

541 Postage

Postage must be paid as set forth in section 3000. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

542 Preparation

All pieces in a Package Services mailing must be separately addressed. All pieces in a Package Services mailing must be identified as specified by the Postal Service, and must contain the ZIP Code of the addressee when specified by the Postal Service. All Package Services mailings must be prepared and presented as specified by the Postal Service. Two or more Package Services mailings may be commingled and mailed only when specific methods approved by the Postal Service for determining and verifying postage are followed.

543 Non-Identical Pieces

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for determining and verifying postage are followed.

544 Attachments and Enclosures

544.1 General

First-Class Mail or Standard Mail may be attached to or enclosed in Package Services mail. The piece must be marked as specified by the Postal Service. Except as provided in sections 544.2 and 544.3, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class,[or] Standard Mail, *or Package Services* rate for which it qualifies unless the rate applicable to the host piece is higher.

544.2 Specifically Authorized Attachments and Enclosures

Package Services mail may contain enclosures and attachments as specified by the Postal Service and as described in subsections a and e of section 523.1, with postage paid on the combined piece at the Package Services rate applicable to the host piece.

544.3 Incidental First-Class Attachments and Enclosures

First-Class Mail that meets one or more of the definitions in subsections b through d of section 210, may be attached to or enclosed with Package Services mail, with postage paid on the combined piece at the Package Services rate applicable to the host piece, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

550 Deposit and Delivery

551 Deposit

Package Services mail must be deposited at places and times designated by the Postal Service.

552 Service

Package Services mail may receive deferred service.

553 Forwarding and Return

Undeliverable-as-addressed Package Services mail will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer. Pieces which combine Package Services mail with First-Class Mail or Standard Mail will be forwarded if undeliverable-as-addressed, and returned if undeliverable, as specified by the Postal Service. When Package Services mail is forwarded or returned from one post office to another, additional charges will be based on the applicable single-piece Package Services mail rate.

560 Ancillary Services

Package Services mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	911
b. Certificates of mailing	947
c. COD	944
d. Insurance	943
e. Special handling	952
f. Return receipt (merchandise only)	945
g. Merchandise return	932
h. Delivery Confirmation (*limited to parcel-shaped Package Services Mail*)	948
i. Shipper Paid Forwarding	936
j. Signature Confirmation *limited to parcel-shaped Package Services Mail*	949
k. Parcel Airlift	951

Insurance, special handling, and COD services may not be used selectively for individual pieces in a multi-piece Package Services mailing unless specific methods approved by the Postal Service for determining and verifying postage are followed.

570 Rates and Fees

The rates and fees for Package Services Mail are set forth as follows:

	Schedule
a. Parcel Post subclass.	
Inter-BMC	[522.2A]*521.2A*
Intra-BMC	[522.2B]*521.2B*
Parcel Select.	
Destination BMC	[522.2C]*521.2C*
Destination SCF	[522.2D]*521.2D*
Destination Delivery Unit	[522.2E]*521.2E.*
b. Bound Printed Matter subclass.	
Single-Piece	522A
Basic Presort and Carrier Route	522B
Destination Entry Basic Presort	522C
Destination Entry Carrier Route Presort	522D
c. Media Mail subclass	[323.1]*523*
d. Library Mail subclass	[323.2]*524*
e. Fees	*1000*

580 Authorizations and Licenses

581 Parcel Post Subclass

The mailing fee set forth in Schedule 1000 must be paid once each 12-month period at each office of mailing or office of verification, as specified by the Postal Service, by or for mailers of any Parcel Select rate category mail in the Parcel

Post subclass. Payment of the fee allows the mailer to mail at any Parcel Select rate.

582 Bound Printed Matter Subclass

The mailing fee set forth in Schedule 1000 must be paid once each 12-month period at each office of mailing or office of verification, as specified by the Postal Service, by or for mailers of Destination BMC, Destination SCF or Destination Delivery Unit rate category mail in the Bound Printed Matter subclass. Payment of the fee allows the mailer to mail at any destination entry Bound Printed Matter rate.

583 Media Mail Subclass

The mailing fee set forth in Schedule 1000 must be paid once each 12-month period at each office of mailing or office of verification, as specified by the Postal Service, by or for mailers of presorted Media Mail. Payment of the fee allows the mailer to mail at any presorted Media Mail rate.

584 Library Mail Subclass

The mailing fee set forth in Schedule 1000 must be paid once each 12-month period at each office of mailing or office of verification, as specified by the Postal Service, by or for mailers of presorted Library Mail. Payment of the fee allows the mailer to mail at any presorted Library Mail rate.

Special Services

Classification Schedule

910 Addressing

911 Address Correction Service

911.1 Definition

911.11

Address Correction Service provides a mailer both an addressee's former and current address, if the correct address is known to the Postal Service. If the correct address is not known to the Postal Service, Address Correction Service provides the reason why the Postal Service could not deliver the mailpiece as addressed.

911.2 Availability

911.21

Address Correction service is available to mailers of postage prepaid mail of all classes, except for mail addressed for delivery by military personnel at any military installation. Address Correction Service is mandatory for Periodicals class mail.

911.22

Automated Address Correction Service is available to mailers who can receive computerized address corrections and meet the requirements specified by the Postal Service.

911.3 Mailer Requirements

911.31

Mail, other than Periodicals class mail, sent under this section must bear a request for Address Correction service.

911.4 Other Services

911.41

Address Correction Service serves as a prerequisite for Shipper Paid Forwarding.

911.5 Fees

911.51

The fees for Address Correction Service are set forth in Fee Schedule 911. These fees do not apply when the correction is provided incidental to the return of the mailpiece to the sender.

912 Mailing List Services

912.1 Definition

912.11

Mailing List services enable an eligible mailer to obtain the following services:

a. Correction of Mailing Lists;

b. Change-of-Address Information for Election Boards and Registration Commissions;

c. ZIP Coding of Mailing Lists; and

d. Sequencing of Address Cards.

912.2 Description of Services

a. Correction of Mailing Lists. This service provides current information concerning name and address mailing lists or correct information concerning occupant mailing lists. New names will not be added to a name and address mailing list, and street address numbers will not be added or changed for an occupant mailing list.

(1) The Postal Service provides the following corrections to name and address lists:

i. Deletion of names to which mail cannot be delivered or forwarded;

ii. Correction of incorrect house, rural, or post office box numbers; and

iii. Furnishing of new addresses, including Zip Codes, when permanent forwarding orders are on file for customers who have moved.

This service does not include the addition of new names.

(2) The Postal Service provides the following corrections to occupant lists:

i. Deletion of numbers representing incorrect or non-existent street addresses;

ii. Identification of business addresses and rural route addresses, to the extent known; and

iii. Grouping of corrected cards or sheets by route.

c. Change-of-Address Information for Election Boards and Registration Commissions. This service provides election boards and voter registration commissions with the current address of a resident addressee, if known to the Postal Service.

d. ZIP Coding of Mailing Lists. This service provides sortation of addresses to the finest possible ZIP Code level.

e. Sequencing of Address Cards. This service provides for the removal of incorrect addresses, notation of missing addresses and addition of missing addresses.

912.3 Requirements of Customer

912.31

Correction of Mailing List service is available only to the following owners of name and address or occupant mailing lists:

a. Members of Congress

b. Federal agencies

c. State government departments

d. Municipalities

e. Religious organizations

f. Fraternal organizations

g. Recognized charitable organizations

h. Concerns or persons who solicit business by mail

912.32

A customer desiring correction of a mailing list or arrangement of address cards in sequence of carrier delivery must submit the list or cards as specified by the Postal Service.

912.33

Gummed labels, wrappers, envelopes, Stamped Cards, or postcards indicative of one-time use will not be accepted as mailing lists.

912.4 Fees

912.41

The fees for Mailing List services are set forth in Fee Schedule 912.

920 Delivery Alternatives

921 Post Office Box and Caller Service

921.1 Post Office Box Service

921.11 Definition

921.111

Post Office Box service provides the customer with a private, locked receptacle for the receipt of mail during the hours specified by the Postal Service.

921.12 Limitations

921.121

The Postal Service may limit the number of post office boxes occupied by any one customer.

921.122

Post Office Box service is not available to a customer whose sole purpose for using this service is to obtain free forwarding or transfer of mail by filing change-of-address orders.

921.13 Fees

921.131

Fees for Post Office Box service are set forth in Fee Schedule 921.

921.132

In postal facilities primarily serving academic institutions or the students of such institutions, fees for post office boxes are:

Period of box use	Fee
95 days or less	½ semiannual fee.
96 to 140 days	¾ semiannual fee.
141 to 190 days	Full semiannual fee.
191 to 230 days	1¼ semiannual fee.
231 to 270 days	1½ semiannual fee.
271 days to full year	Twice semiannual fee.

921.133

No refunds will be made for post office box fees paid under section 921.132.

921.134

Two box keys are available upon payment of a refundable deposit, as specified by the Postal Service. Additional keys, including replacement keys, will be provided, as specified by the Postal Service, only upon payment of the key fee set forth in Fee Schedule 921. Changing the lock on a box is available upon request of the primary box customer and payment of the lock replacement fee set forth in Fee Schedule 921.

921.2 Caller Service

921.21 Definition

921.211

Caller service provides a means for receiving mail, and enables an eligible customer to have properly addressed mail delivered through a call window or loading dock.

921.22 Availability

921.221

Caller service is provided to customers at the discretion of the Postal Service, based on mail volume received and capacity and utilization of post office boxes at any one facility.

921.222

Caller service is not available to a customer whose sole purpose for using this service is to obtain free forwarding or transfer of mail by filing change-of-address orders.

921.23 Fees

921.231

Fees for Caller service are set forth in Fee Schedule 921.

930 Payment Alternatives

931 Business Reply Mail

931.1 Definitions

931.11

Business Reply Mail service enables a Business Reply Mail permit holder, or the permit holder's authorized representative, to distribute Business Reply Mail cards, envelopes, cartons and labels, which can then be used by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. The permit holder guarantees payment on delivery of postage and fees for the Business Reply Mail pieces that are returned to the addressee, including any pieces that the addressee refuses.

931.2 Mailer Requirements

931.21

Business reply cards, envelopes, cartons and labels must meet the addressing and preparation requirements specified by the Postal Service. Qualified Business Reply Mail must in addition meet the requirements presented in sections 221.24 or 222.34 for the First-Class Mail Qualified Business Reply Mail rate categories.

931.22

To qualify for the advance deposit account per-piece fees, the customer must maintain sufficient money in an advance deposit account to cover postage and fees due for returned Business Reply Mail.

931.23

To qualify for the nonletter-size weight-averaging per-piece and monthly fees set forth in Fee Schedule 931, the permit holder must be authorized for weight averaging, and receive Business Reply Mail pieces that meet the addressing and other preparation requirements specified by the Postal Service, but do not meet the machinability requirements specified by the Postal Service for mechanized or automation letter sortation.

931.3 Other Services

931.31 Reserved

931.4 Fees

931.41

Fees for Business Reply Mail are set forth in Fee Schedule 931.

931.42

[The]*To qualify for any service level except regular (no accounting fee) Business Reply Mail, the* annual accounting fee set forth in Fee Schedule 1000 must be paid each year for each business reply advance deposit account at each facility where the mail is to be received.

931.43

The nonletter-size weight averaging monthly fee set forth in Fee Schedule 931 must be paid each month during any part of which the permit holder is authorized to use the weight averaging fees.

931.5 Authorizations and Licenses

931.51

In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in Fee Schedule 1000.

931.52

Except as provided in section 931.53, the license to distribute business reply cards, envelopes, cartons, or labels must be obtained at each office from which the mail is offered for delivery.

931.53

If the Business Reply Mail is to be distributed from a central office to be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all Business Reply Mail.

931.54

The license to mail Business Reply Mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes that do not conform to prescribed form, style or size.

931.55

Authorization to pay nonletter-size weight-averaging Business Reply Mail fees as set forth in Fee Schedule 931 may be canceled for failure of a Business Reply Mail advance deposit trust account holder to meet the standards specified by the Postal Service for the weight averaging accounting method.

932 Merchandise Return Service

932.1 Definition

932.11

Merchandise Return service enables a Merchandise Return service permit holder to authorize its customers to return a parcel with the postage paid by the permit holder.

932.2 Availability

932.21

Merchandise Return service is available to all Merchandise Return service permit holders who guarantee payment of postage and fees for all returned parcels.

932.22

Merchandise Return service is available for the return of any parcel under the following classification schedules:

a. First-Class Mail
[b. Standard Mail]
[c.]*b.* Package Services

932.3 Mailer Requirements

932.31

Merchandise return labels must be prepared as specified by the Postal Service, and be made available to the permit holder's customers.

932.4 Other Services

932.41

The following services may be purchased in conjunction with Merchandise Return Service:

Service	Fee schedule
a. Certificate of Mailing	947
b. Insurance	943
c. Registered Mail	942
d. Special Handling	952

932.5 Fees

932.51

The permit holder must pay the accounting fee specified in Fee Schedule 1000 once each 12-month period for each advance deposit account.

932.6 Authorizations and Licenses

932.61

A permit fee as set forth in Schedule 1000 must be paid once each 12-month period by shippers utilizing Merchandise Return service.

932.62

The merchandise return permit may be canceled for failure to maintain sufficient funds in a trust account to cover postage and fees on returned parcels or for distributing merchandise return labels that do not conform to Postal Service specifications.

933 On-Site Meter Service

933.1 Definition

933.11

On-Site Meter service enables a mailer or meter manufacturer to obtain the following meter-related services from the Postal Service at the mailer's or meter manufacturer's premises:

a. checking a meter in or out of service; and

b. setting or examining a meter.

933.2 Availability

933.21

On-Site Meter service is available on a scheduled basis, and meter setting may be performed on an emergency basis for those customers enrolled in the scheduled on-site meter setting or examination program.

933.3 Fees

933.31

The fees for On-Site Meter service are set forth in Fee Schedule 933. The basic meter service fee is charged whenever a postal employee is available to provide a meter-related service in section 933.11 at the mailer's or meter manufacturer's premises, even if no particular service is provided.

934 Reserved

935 Bulk Parcel Return Service

935.1 Definition

935.11

Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have machinable Standard Mail parcels returned to designated postal facilities for pickup by the mailer at a predetermined frequency specified by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency specified by the Postal Service. Such parcels are being returned because they:

a. are undeliverable-as-addressed;

b. have been opened, resealed, and redeposited into the mail for return to the mailer using the return label described in section 935.36 below; or

c. are found in the mailstream, having been opened, resealed, and redeposited by the recipient for return to the mailer, and it is impracticable or inefficient for the Postal Service to return the mailpiece to the recipient for payment of return postage.

935.2 Availability

935.21

Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

935.3 Mailer Requirements

935.31

Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

935.32

To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

935.33

Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

935.34

Mail for which Bulk Parcel Return Service is requested must bear endorsements specified by the Postal Service.

935.35

Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

935.36

Mailers of parcels endorsed for Bulk Parcel Return Service may furnish the recipient a return label, prepared at the mailer's expense to specifications set forth by the Postal Service, to authorize return of opened, machinable parcels at the expense of the original mailer. There is no additional fee for use of the label.

935.4 Other Services

935.41

The following services may be purchased in conjunction with Bulk Parcel Return Service:

Service	Fee schedule
a. Address Correction Service	911
b. Certificate of Mailing	947
c. Shipper-Paid Forwarding	936

935.5 Fees

935.51

The per return fee for Bulk Parcel Return Service is set forth in Fee Schedule 935.

935.52

The permit holder must pay the accounting fee specified in Fee Schedule 1000 once each 12-month period for each advance deposit account.

935.6 Authorizations and Licenses

935.61

A permit fee as set forth in Schedule 1000 must be paid once each 12-month period by mailers utilizing Bulk Parcel Return Service.

935.62

The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on returned parcels or for failure to meet the specifications of the Postal Service, including distribution of return labels that do not conform to Postal Service specifications.

936 Shipper-Paid Forwarding

936.1 Definition

936.11

Shipper-Paid Forwarding enables mailers to have undeliverable-as-addressed machinable Standard Mail parcels forwarded at applicable First-Class Mail[or Package Service mail] rates for up to one year from the date that the addressee filed a change-of-address order. If Shipper-Paid Forwarding is elected for a parcel that is returned, the mailer will pay the applicable First-Class Mail[or Package Service mail] rate, or the Bulk Parcel Return Service fee, if that service was elected.

936.2 Availability

936.21

Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

936.22

Shipper-Paid Forwarding is available only if automated Address Correction Service, as described in section 911, is used.

936.3 Mailer Requirements

936.31

Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

936.32

Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

936.33

Mail for which Shipper-Paid Forwarding is requested must bear endorsements specified by the Postal Service.

936.4 Other Services

936.41

The following services may be purchased in conjunction with Shipper-Paid Forwarding:

Service	Fee schedule
a. Certificate of Mailing	947
b. Bulk Parcel Return Service	935

936.5 Applicable Rates and Fees

936.51

Except as provided in section 935, single-piece rates under the Letters and Sealed Parcels subclass or the Priority Mail subclass of First-Class Mail, [or the Parcel Post subclass of Package Services,] as set forth in Rate Schedules 221, and 223, [and 521.2A, and 521.2B] apply to pieces forwarded or returned under this section.

936.52

The accounting fee specified in Fee Schedule 1000 must be paid once each 12-month period for each advance deposit account.

940 Accountability and Receipts

941 Certified Mail

941.1 Definition

941.11

Certified Mail service provides a mailer with evidence of mailing *and, upon request, electronic confirmation that an article was delivered or that a delivery attempt was made,* and guarantees retention of a record of delivery by the Postal Service for a period specified by the Postal Service.

941.2 Availability

941.21

Certified Mail service is available for matter mailed as First-Class Mail.

941.3 Included Services

941.31

If requested by the mailer, the Postal Service will indicate the time of acceptance on the mailing receipt. *A mailer may obtain a copy of the mailing receipt on terms specified by the Postal Service.*

941.32

If the initial attempt to deliver the mail is not successful, a notice of attempted delivery is left at the mailing address, *and the date and time of the attempted delivery is made available to the mailer.*

941.33

[A mailer may obtain a copy of the mailing receipt on terms specified by the Postal Service.] *The date and time of delivery is made available to the mailer electronically.*

941.4 Mailer Requirements

941.41

Certified Mail must be deposited in a manner specified by the Postal Service.

941.42

The mailer must mail the article at a post office, branch, or station, or give the article to a rural carrier, in order to obtain a mailing receipt.

941.5 Other Services

941.51

The following services may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. Restricted Delivery	946
b. Return Receipt	945

941.6 Fees

941.61

The fee for Certified Mail service is set forth in Fee Schedule 941.

942 Registered Mail

942.1 Definition

942.11

Registered Mail service provides added protection to mail sent under this section and indemnity in case of loss or damage. The amount of indemnity depends upon the actual value of the article at the time of mailing, up to a maximum of $25,000, and is not available for articles of no value.

942.2 Availability

942.21

Registered Mail service is available for prepaid First-Class Mail of any value, if the mail meets the minimum requirements for length and width specified by the Postal Service.

942.22

Registered Mail service is not available for:

a. All delivery points because of the high security required for Registered Mail; in addition, liability is limited in some geographic areas;

b. Mail of any class sent in combination with First-Class Mail;

c. Two or more articles tied or fastened together, unless the envelopes are enclosed in the same envelope or container.

942.3 Included Services

942.31

The following services are provided as part of Registered Mail service at no additional cost to the mailer:

a. A mailing receipt;

b. Electronic confirmation, upon request, that an article was delivered or that delivery attempt was made;

[b.]c. A record of delivery, retained by the Postal Service for a specified period of time;

[c.]*d.* A notice of attempted delivery, left at the mailing address if the initial delivery attempt is unsuccessful; and

[d.]*e.* A notice of nondelivery, when Registered Mail is undeliverable-as-addressed and cannot be forwarded.

942.32

Registered Mail is forwarded and returned without additional registry charge.

942.4 Mailer Requirements

942.41

Registered Mail must be deposited in a manner specified by the Postal Service.

942.42

Indemnity claims for Registered Mail must be filed within a period of time, specified by the Postal Service, from the date the article was mailed. A claim concerning complete loss of registered articles may be filed by the mailer only. A claim concerning damage to or partial loss of registered articles may be filed by either the mailer or addressee.

942.5 Other Services

942.51

The following services may be obtained in conjunction with mail sent under this section upon payment of applicable fees:

Service	Fee schedule
a. Collect on Delivery	944
b. Restricted Delivery	946
c. Return Receipt	945
d. Merchandise Return (shippers only)	932

942.6 Fees

942.61

The fees for Registered Mail are set forth in Fee Schedule 942.

942.62

There are no additional Registered Mail fees for forwarding and return of Registered Mail.

943 Insurance

943.1 Express Mail Insurance

943.11 Definition

943.111

Express Mail Insurance provides the mailer with indemnity for loss of, rifling of, or damage to items sent by Express Mail.

943.12 Availability

943.121

Express Mail Insurance is available only for Express Mail.

943.13 Limitations and Mailer Requirements

943.131

Insurance coverage is provided, for no additional charge, up to [$500]*$100* per-piece for document reconstruction, up to $5,000 per occurrence, regardless of the number of claimants. *Insurance coverage for merchandise is also provided, for no additional charge, up to $100 per-piece. Additional merchandise insurance coverage may be purchased for a fee.* The maximum liability for merchandise is $5,000 per-piece. For negotiable items, currency, or bullion, the maximum liability is $15.

943.132

Indemnity claims for Express Mail must be filed within a specified period of time from the date the article was mailed.

943.133

Indemnity will be paid under terms and conditions specified by the Postal Service.

943.134

Among other limitations specified by the Postal Service, indemnity will not be paid by the Postal Service for loss, damage or rifling:

a. Of nonmailable matter;

b. Due to improper packaging;

c. Due to seizure by any agency of government; or

d. Due to war, insurrection or civil disturbances.

[913]*943.14* Other Services

943.141 Reserved

943.15 Fees

943.151

The fees for Express Mail Insurance service are set forth in Fee Schedule 943.

943.2 General Insurance

943.21 Definition

943.211

General Insurance provides the mailer with indemnity for loss of, rifling of, or damage to mailed items. General Insurance provides a bulk option for mail meeting the conditions described below and specified further by the Postal Service.

943.22 Availability

943.221

General Insurance is available for mail sent under the following classification schedules:

a. First-Class Mail, if containing matter that may be mailed as Standard Mail or Package Services;

b. Package Services;

c. Regular and Nonprofit subclasses of Standard Mail, for Bulk Insurance only, for mail subject to residual shape surcharge.

943.222

General Insurance is not available for matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

943.223

The Bulk Insurance option of General Insurance service is available for mail entered in bulk at designated facilities and in a manner specified by the Postal Service, including the use of electronic manifesting.

943.23 Included Services

943.231

For General Insurance, the mailer is issued a receipt for each item mailed. For items insured for more than $50, a record of delivery is retained by the Postal Service for a specified period.

943.232

For items insured for more than $50, a notice of attempted delivery is left at the mailing address when the first attempt at delivery is unsuccessful.

943.233

Mail undeliverable as addressed will be returned to the sender as specified by the sender or by the Postal Service.

943.24 Limitations and Mailer Requirements

943.241

Mail insured under section 943.2 must be deposited as specified by the Postal Service.

943.242

Bulk Insurance must bear endorsements and identifiers specified by the Postal Service. Bulk Insurance mailers must meet the documentation requirements of the Postal Service.

943.243

By insuring an item, the mailer guarantees forwarding and return postage.

943.244

General Insurance, other than Bulk Insurance, provides indemnity for the actual value of the article at the time of mailing. Bulk Insurance provides indemnity for the lesser of (1) the actual value of the article at the time of mailing, or (2) the wholesale cost of the contents to the sender.

943.245

For General [*i*]Insurance, other than Bulk Insurance, a claim for complete loss may be filed by the mailer only, and a claim for damage or for partial loss may be filed by either the mailer or addressee. For Bulk Insurance, all claims must be filed by the mailer.

943.246

Indemnity claims must be filed within a specified period of time from the date the article was mailed.

943.25 Other Services

943.251

The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. Parcel Airlift	951
b. Restricted Delivery (for items insured for more than $50)	946
c. Return Receipt (for items insured for more than $50)	945
d. Special Handling	952
e. Merchandise Return (shippers only)	932

943.26 Fees

943.261 The fees for General Insurance are set forth in Fee Schedule 943.

944 Collect on Delivery

944.1 Definition

944.11

Collect on Delivery (COD) service allows a mailer to mail an article for which full or partial payment has not yet been received and have the price, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

944.2 Availability

944.21

COD service is available for collection of $1,000 or less upon the delivery of postage prepaid mail sent under the following classification schedules:

a. Express Mail

b. First-Class Mail

c. Package Services

944.22

Service under this section is not available for:

a. Collection agency purposes;

b. Return of merchandise about which some dissatisfaction has arisen, unless the new addressee has consented in advance to such return;

c. Sending only bills or statements of indebtedness, even though the sender may establish that the addressee has agreed to collection in this manner; however, when the legitimate COD shipment consists of merchandise or bill of lading, the balance due on a past or anticipated transaction may be included in the charges on a COD article, provided the addressee has consented in advance to such action;

d. Parcels containing moving-picture films mailed by exhibitors to moving-picture manufacturers, distributors, or exchanges;

e. Goods that have not been ordered by the addressee.

944.3 Included Services

944.31

COD service provides the mailer with insurance against loss, rifling and damage to the article as well as failure to receive the amount collected from the addressee. This provision insures only the receipt of the instrument issued to the mailer after payment of COD charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order.

944.32

A receipt is issued to the mailer for each piece of COD mail. Additional copies of the original mailing receipt may be obtained by the mailer.

944.33

Delivery of COD mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a delivery attempt is unsuccessful, a notice of attempted delivery will be left at the mailing address.

944.34

The mailer may receive a notice of nondelivery if the piece mailed is endorsed appropriately.

944.35

The mailer may designate a new addressee or alter the COD changes by submitting the appropriate form and by paving the appropriate fee as set forth in Fee Schedule 944.

944.4 Limitations and Mailer Requirements

944.41

The mailer must identify COD mail as COD mail, as specified by the Postal Service.

944.42

COD mail must be deposited in a manner specified by the Postal Service.

944.43

A mailer of COD mail guarantees to pay any return postage, unless otherwise specified on the piece mailed.

944.44

For COD mail sent as Package Services mail, postage at the applicable rate will be charged to the addressee:

a. When an addressee, entitled to delivery to the mailing address under Postal Service regulations, requests delivery of COD mail that was refused when first offered for delivery;

b. For each delivery attempt, to an addressee entitled to delivery to the mailing address under Postal Service regulations, after the second such attempt.

944.45

A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

944.46

COD indemnity claims must be filed within a specified period of time from the date the article was mailed, and meet the requirements specified by the Postal Service.

944.5 Other Services

944.51

The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fee:

Service	Fee schedule
a. Registered Mail, if sent as First-Class	942
b. Restricted Delivery	946
c. Special Handling	952

944.6 Fees

944.61

Fees for COD service are set forth in Fee Schedule 944.

945 Return Receipt

945.1 *Regular Return Receipt*

945.11 Definition

945.[11]*111*

Return Receipt service provides evidence to the mailer that an article has been received at the delivery address, *including an original or copy of the recipient's signature.* Mailers requesting Return Receipt service at the time of mailing will be provided, as appropriate, *an original or copy of* the signature of the [addressee or addressee's agent] *recipient,* the date delivered, and the address of delivery, if different from the address on the mailpiece. Mailers requesting Return Receipt service after mailing will be provided *a copy of the recipient's signature,* the date of delivery, and the name of the person who signed for the article.

945.[2]*12* Availability

945.[21]*121*

Return Receipt service is available for mail sent under the following sections or classification schedules:

Service	Fee schedule
a. Certified Mail	941
b. COD Mail	944
c. Insurance (if insured for more than $50)	943
d. Registered Mail	942
e. Express Mail.	
[f. Priority Mail (merchandise only).	
g. Standard Mail (limited to merchandise subject to residual shape surcharge and sent by Regular and Nonprofit subclasses).	
h. Package Services].	

945.[22]*122*

Return Receipt service is available at the time of mailing or, when purchased in conjunction with Certified Mail, COD, Insurance (if for more than $50), Registered Mail, or Express Mail, after mailing.

945.[3]*13* Included Services

945.[31]*131*

If the mailer does not receive a return receipt within a specified period of time from the date of mailing, the mailer may request evidence of delivery from the delivery record, at no additional fee.

945.[4]*14* Other Services

945.[41]*141* Reserved

[945.5 Fees]

[945.51

The fees for Return Receipt service are set forth in Fee Schedule 945.]

945.2 Return Receipt For Merchandise

945.21 Definition

945.221

Return Receipt for Merchandise service provides evidence to the mailer that an article has been received at the delivery address. A Return Receipt for Merchandise also supplies the recipient's actual delivery address if it is different from the address used by the sender. A Return Receipt for Merchandise may not be requested after mailing.

945.22 Availability

945.221

Return Receipt for Merchandise is available for merchandise sent under the following sections or classification schedules:

a. Priority Mail

b. Standard Mail pieces subject to the residual shape surcharge

c. Package Services

945.23 Mailer Requirements

945.231

Return Receipt for Merchandise must be deposited in a manner specified by the Postal Service.

945.232

Return Receipt for Merchandise mail may be addressed for delivery only in the United States and its territories and possessions, through Army/Air Force (APO) and Navy (FPO) post offices, or through the United Nations Post Office, New York.

945.24 Other Services

945.241 Reserved

945.3 Fees

945.31

The fees for Return Receipt service are set forth in Fee Schedule 945.

946 Restricted Delivery

946.1 Definition

946.11

Restricted Delivery service enables a mailer to direct the Postal Service to limit delivery to the addressee or to someone authorized by the addressee to receive such mail.

946.2 Availability

946.21

This service is available for mail sent under the following sections:

Service	Fee schedule
a. Certified Mail	941
b. COD Mail	944
c. Insurance (if insured for more than $50)	943
d. Registered Mail	942

946.22

Restricted Delivery is available to the mailer at the time of mailing or after mailing.

946.23

Restricted Delivery service is available for delivery only to natural persons specified by name.

946.3 Included Services

946.31

A record of delivery will be retained by the Postal Service for a period specified by the Postal Service.

946.4 Other Services

946.41 Reserved

946.5 Fees

946.51

The fee for Restricted Delivery service is set forth in Fee Schedule 946.

946.52

The fee (or communications charges) will not be refunded for failure to provide restricted delivery service when

requested after mailing, due to prior delivery.

947 Certificate of Mailing

947.1 Definition

947.11

Certificate of Mailing service furnishes evidence that mail has been presented to the Postal Service for mailing.

947.2 Availability

947.21

Certificate of Mailing service is available for matter sent using any class of mail.

947.3 Included Service

947.31

The mailer may obtain a copy of a Certificate of Mailing on terms specified by the Postal Service.

947.4 Limitations

947.31

The service does not entail retention of a record of mailing by the Postal Service and does not provide evidence of delivery.

947.5 Other Services

947.51

The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

Service	Fee schedule
a. Parcel Airlift	951
b. Special Handling	952

947.6 Fees

947.61

The fees for Certificate of Mailing service are set forth in Fee Schedule 947.

948 Delivery Confirmation

948.1 Definition

948.11

Delivery Confirmation service provides, *upon request,* electronic confirmation to the mailer that an article was delivered or that a delivery attempt was made.

948.2 Availability

948.21

Delivery Confirmation service is available for *First-Class Letters and Sealed Parcels subclass mail that is parcel-shaped, as specified by the Postal Service;* Priority Mail; *Standard Mail, in the Regular and Nonprofit subclasses, that is subject to the residual shape surcharge;* and Package Services mail[, as well as mail subject to the residual shape surcharge in the Regular and Nonprofit subclasses of Standard Mail] *that is parcel-shaped, as specified by the Postal Service.*

948.3 Mailer Requirements

948.31

Delivery Confirmation service may be requested only at the time of mailing.

948.32

Mail for which Delivery Confirmation service is requested must meet preparation requirements specified by the Postal Service, and bear a Delivery Confirmation barcode specified by the Postal Service.

948.33

Matter for which Delivery Confirmation service is requested must be deposited in a manner specified by the Postal Service.

948.4 Other Services

948.41 Reserved

948.5 Fees

948.51

The fees for Delivery Confirmation service are set forth in Fee Schedule 948.

949 Signature Confirmation

949.1 Definition

949.11

Signature Confirmation service provides, *upon request,* electronic confirmation to the mailer that an article was delivered or that a delivery attempt was made, and a copy of the signature of the recipient.

949.2 Availability

949.21

Signature Confirmation is available for *Letters and Sealed Parcels subclass mail that is parcel-shaped, as specified by the Postal Service;* Priority Mail; and Package Services mail *that is parcel-shaped, as specified by the Postal Service.*

949.3 Mailer Requirements

949.31

Signature Confirmation service may be requested only at the time of mailing.

949.32 Mail for which Signature Confirmation service is requested must meet preparation requirements specified by the Postal Service, and bear a Delivery Confirmation barcode specified by the Postal Service.

949.33

Matter for which Signature Confirmation is requested must be deposited in a manner specified by the Postal Service.

949.4 Other Services

949.41 Reserved

949.5 Fees

949.51

The fees for Signature Confirmation service are set forth in Fee Schedule 949.

950 Parcel Handling

951 Parcel Airlift (PAL)

951.1 Definition

951.11

Parcel Airlift service provides for air transportation of parcels on a space available basis to or from military post offices outside the contiguous 48 states.

951.2 Availability

951.21

Parcel Airlift service is available for mail sent under the Package Services Classification Schedule.

951.3 Mailer Requirements

951.31

The minimum physical limitations established for the mail sent under the classification schedule for which postage is paid apply to Parcel Airlift mail. In no instance may the parcel exceed 30 pounds in weight, or 60 inches in length and girth combined.

951.32

Mail sent under this section must be endorsed as specified by the Postal Service.

951.33

Parcel Airlift mail must be deposited in a manner specified by the Postal Service.

951.4 Forwarding and Return

951.41

Parcel Airlift mail sent for delivery outside the contiguous 48 states is forwarded as set forth in section 2030 of the General Definitions, Terms and Conditions. Parcel Airlift mail sent for delivery within the contiguous 48 states is forwarded or returned as set forth in section 353 as appropriate.

951.5 Other Services

951.51

The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. Certificate of Mailing	947
b. Insurance	943
c. Restricted Delivery (if insured for more than $50)	946
d. Return Receipt (if insured for more than $50)	945
e. Special Handling	952

951.6 Fees

951.61

The fees for Parcel Airlift service are set forth in Fee Schedule 951.

952 Special Handling

952.1 Definition

952.11

Special Handling service provides preferential handling to the extent practicable during dispatch and transportation.

952.2 Availability

952.21

Special Handling service is available for mail sent under the following classification schedules:

a. First-Class Mail

b. Package Services

952.3 Mailer Requirements

952.31

Mail sent under this section must be identified as specified by the Postal Service.

952.32

Mail sent under this section must be deposited in a manner specified by the Postal Service.

952.33

Special Handling service is mandatory for matter that requires special attention in handling, transportation and delivery.

952.4 Forwarding and Return

952.41

If undeliverable as addressed, Special Handling mail that is forwarded to the addressee is given special handling without requiring payment of an additional handling fee. However, additional postage at the applicable Standard Mail rate is collected on delivery.

952.5 Other Services

952.51

The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. COD Mail	944
b. Insurance	943
c. Parcel Airlift	951
d. Merchandise Return (shippers only)	932

952.6 Fees

952.61

The fees for Special Handling service are set forth in Fee Schedule 952.

960 Stamped Paper

961 Stamped Envelopes

961.1 Definition

961.11

Plain Stamped Envelopes and printed Stamped Envelopes are envelopes with postage thereon offered for sale by the Postal Service.

961.2 Availability

961.21

Stamped Envelopes are available for:

a. First-Class Mail within the first rate increment.

b. Standard Mail mailed at a minimum per-piece rate as specified by the Postal Service.

961.22

Printed Stamped Envelopes may be obtained by special request.

961.3 Fees

961.31

The fees for Stamped Envelopes are set forth in Fee Schedule 961.

962 Stamped Cards

962.1 Definition

962.11

Stamped Cards are cards with postage imprinted or impressed on them, and supplied by the Postal Service for the transmission of messages. Double Stamped Cards consist of two attached cards, one of which may be detached by the receiver and returned by mail as a single Stamped Card.

962.2 Availability

962.21

Stamped Cards are available for First-Class Mail.

962.3 Fees

962.31

The fees for Stamped Cards are set forth in Fee Schedule 962.

970 Postal Money Orders

971 Money Order Service

971.1 Definition

971.11

Money Order service provides the customer with an instrument for payment of a specified sum of money.

971.2 Limitations

971.21

The maximum value for which a domestic postal money order may be purchased is [$700]*$1,000*. Other restrictions on the number or dollar value of postal money order sales, or both, may be imposed by law or under regulations prescribed by the Postal Service.

971.3 Included Services

971.31

A receipt of purchase is provided at no additional cost.

971.32

The Postal Service will replace money orders that are spoiled or incorrectly prepared, regardless of who caused the error, without charge if replaced on the date originally issued.

971.33

If a replacement money order is issued after the date of original issue because the original was spoiled or incorrectly prepared, the applicable money order fee may be collected from the customer.

971.34

Inquiries or claims may be filed by the purchaser, payee, or endorsee.

971.4 Other Services

971.41 Reserved

971.5 Fees

971.51

The fees for Money Order service are set forth in Fee Schedule 971.

980 Acceptance Alternatives

981 *Netpost* Mailing Online

981.1 Definition

Netpost Mailing Online is a service that allows mailers to submit electronic documents, with address lists, for subsequent conversion into hard copy form, entry as mail, and delivery.

981.2 Availability

981.21

Netpost Mailing Online is available for documents submitted in an electronic form, along with an address list, to be entered under the following classification schedules:

a. Express Mail;

b. First-Class Mail;

c. Regular and Nonprofit subclasses of Standard Mail.

981.22

Except as provided in section 981.23, documents presented through *Netpost* Mailing Online are eligible for only the following rate categories:

a. Express Mail Next Day Service and Second Day Service

b. First-Class Mail Letters and Sealed Parcels Automation Letters [Basic] *Mixed AADC*

c. First-Class Mail Letters and Sealed Parcels Automation Flats [Basic] *Mixed ADC*

d. First-Class Mail Cards Automation [Basic] *Mixed AADC*

e. First-Class Mail Single-Piece Priority Mail

f. Standard Mail Regular Automation [Basic] *Letters Mixed AADC*

g. Standard Mail Regular Automation Basic Flats

h. Standard Mail Nonprofit Automation [Basic] *Letters Mixed AADC* (starting on a date to be specified by the Postal Service)

i. Standard Mail Nonprofit Automation Basic Flats (starting on a date to be specified by the Postal Service)

981.23

That portion of a *Netpost* Mailing Online mailing consisting of pieces with addresses that cannot be made to meet Postal Service addressing requirements is not eligible for any Automation [Basic] rate categories, but instead may be sent, at the option of the *Netpost* Mailing Online customer, at the applicable single-piece rates for First-Class Mail Letters and Sealed Parcels, First-Class Mail Cards, or Priority Mail.

981.3 Mailer Requirements

981.31

Documents and address lists must be presented in electronic form, as specified by the Postal Service, through the Internet site specified by the Postal Service. Documents must be prepared using application software approved by the Postal Service.

981.4 Other Special Services

Other special services [that are] *may be* available in conjunction with[the subclass of mail chosen by the] *Netpost* Mailing Online[customer are available for Mailing Online pieces only], as specified by the Postal Service.

981.5 Fees

981.51

The fees for *Netpost* Mailing Online are described in Fee Schedule 981.

981.6 Functionally Equivalent Systems

981.61 General

Mailpieces created by a system certified by the Postal Service to be functionally equivalent to *Netpost* Mailing Online are eligible for the same rate categories as *Netpost* Mailing Online mailpieces. Mailpieces created by a certified, functionally equivalent service are in no case eligible for rate categories providing larger discount than *Netpost* Mailing Online mailpieces would receive.

981.62 Definition

A functionally equivalent system is one which is capable of all of the following, comparable to *Netpost* Mailing Online, as specified by the Postal Service:

a. accepting documents and mailing lists from remote users in electronic form, such as via the Internet or converting documents and mailing lists to electronic form;

b. using the electronic documents, mailing lists, and other software including sortation software certified by the Postal Service that sorts to the finest level of sortation possible, to create barcoded mailpieces meeting the requirements for automation category mail, with 100 percent standardized addresses on all pieces claiming discounted rates;

c. commingling mailpieces from all sources without diversion to any other system and batching them according to geographic destination prior to printing and mailing; and

d. generating volumes that exceed on average any otherwise applicable volume minimums.

981.63 Certification

981.631 General

Functionally equivalent systems must meet the requirements for certification specified by the Postal Service.

981.632 Fee

Functionally equivalent systems are subject to the annual certification fee set forth in Fee Schedule 1000.

981.633 Cancellation

Certification can be canceled by the Postal Service for failure to continue to meet the requirements of this section and those specified by the Postal Service.

981.7 Duration of Experimental Service Period

981.71

The provisions of section 981 expire the later of:

a. Three years after the implementation date specified by the Postal Service Board of Governors, or

b. If, by the expiration date specified in (a), a proposal to make Netpost Mailing Online permanent is pending before the Postal Rate Commission, the later of:

i. Three months after the Commission takes action on such proposal under section 3624 of Title 39, or

ii. —If applicable—on the implementation date for a permanent *Netpost* Mailing Online.

General Definitions, Terms and Conditions

1000 General Definitions

As used in this Domestic Mail Classification Schedule, the following terms have the meanings set forth below.

1001 Advertising

Advertising includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. If an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be advertising. Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be advertising. If a publisher advertises his own services or publications, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be advertising.

1002 Aspect Ratio

Aspect ratio is the ratio of width to length.

1003 Bills and Statements of Account

1003.1

A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.

1003.2

A statement of account is the assertion of the existence of a debt in a definite amount but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

1003.3

A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount he is required for acquittal of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

1003.4

A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

1004 Girth

Girth is the measurement around a piece of mail at its thickest part.

1005 Invoice

An invoice is a writing showing the nature, quantity, and cost or price of items shipped or sent to a purchaser or consignor.

1006 Permit Imprints

Permit imprints are printed indicia indicating postage has been paid by the sender under the permit number shown.

1007 Preferred Rates

Preferred rates are the reduced rates established pursuant to 39 U.S.C. 3626.

1008 ZIP Code

The ZIP Code is a numeric code that facilitates the sortation, routing, and delivery of mail.

1009 Nonprofit Organizations and Associations

Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations that may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;

ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;

ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations that are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agriculture pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization that meets all the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

2000 Delivery of Mail

2010 Delivery Services

The Postal Service provides the following modes of delivery:

a. Caller service. The fees for caller service are set forth in Fee Schedule 921.

b. Carrier delivery service.

c. General delivery.

d. Post office box service. The fees for post office box service are set forth in Fee Schedule 921.

2020 Conditions of Delivery

2021 General

Except as provided in section 2022, 2030, and 3030, mail will be delivered as addressed unless the Postal Service is instructed otherwise by the addressee in writing.

2022 Refusal of Delivery

The addressee may control delivery of his mail. The addressee may refuse to accept a piece of mail that does not require a delivery receipt at the time it is offered for delivery or after delivery by returning it unopened to the Postal Service. For mail that requires a delivery receipt, the addressee or his representative may read and copy the name of the sender of registered, insured, certified, COD, return receipt, and Express Mail prior to accepting delivery. Upon signing the delivery receipt the piece may not be returned to the Postal Service without the applicable postage and fees affixed.

2023 Receipt

If a signed receipt is required, mail will be delivered to the addressee (or competent member of his family), to persons who customarily receive his mail or to one authorized in writing to receive the addressee's mail.

2024 Jointly Addressed Mail

Mail addressed to several persons may be delivered to any one of them. When two or more persons make conflicting orders for delivery for the same mail, the mail shall be delivered as determined by the Postal Service.

2025 Commercial Mail Receiving Agents

Mail may be delivered to a commercial mail receiving agency on behalf of another person. In consideration of delivery of mail to the commercial agent, the addressee and the agent are considered to agree that:

a. No change-of-address order will be filed with the post office when the agency relationship is terminated;

b. When remailed by the commercial agency, the mail is subject to payment of new postage.

2026 Mail Addressed To Organizations

Mail addressed to governmental units, private organizations, corporations, unincorporated firms or partnerships, persons at institutions (including but not limited to hospitals and prisons), or persons in the military is delivered as addressed or to an authorized agent.

2027 Held Mail

Mail will be held for a specified period of time at the office of delivery upon request of the addressee, unless the mail:

a. Has contrary retention instructions;

b. Is perishable; or

c. Is registered, COD, insured, return receipt, certified, or Express Mail for which the normal retention period expires before the end of the specified holding period.

2030 Forwarding and Return

2031 Forwarding

Forwarding is the transfer of undeliverable-as-addressed mail to an address other than the one originally placed on the mailpiece. All post offices will honor change-of-address orders for a period of time specified by the Postal Service.

2032 Return

Return is the delivery of undeliverable-as-addressed mail to the sender.

2033 Applicable Provisions

The provisions of sections 150, 250, 350, 450, 550, 935 and 936 apply to forwarding and return.

2034 Forwarding for Postal Service Adjustments

When mail is forwarded due to Postal Service adjustments (such as, but not limited to, the discontinuance of the post office of original address, establishment of rural carrier service, conversion to city delivery service from rural, readjustment of delivery districts, or renumbering of houses and renaming of streets), it is forwarded without charge for a period of time specified by the Postal Service.

3000 Postage and Preparation

3010 Packaging

Mail must be packaged so that:

a. The contents will be protected against deterioration or degradation;

b. The contents will not be likely to damage other mail, Postal Service employees or property, or to become loose in transit;

c. The package surface must be able to retain postage indicia and address markings;

d. It is marked by the mailer with a material that is neither readily water soluble nor easily rubbed off or smeared, and the marking will be sharp and clear.

3020 Envelopes

Paper used in the preparation of envelopes may not be of a brilliant color. Envelopes must be prepared with paper strong enough to withstand normal handling.

3030 Payment of Postage and Fees

Postage must be fully prepaid on all mail at the time of mailing, except as authorized by law or this Schedule. Except as authorized by law or this Schedule, mail deposited without prepayment of sufficient postage shall be delivered to the addressee subject to payment of deficient postage, returned to the sender, or otherwise disposed of as specified by the Postal Service. Mail deposited without any postage affixed will be returned to the sender without any attempt at delivery.

3040 Methods for Paying Postage and Fees

Postage for all mail may be prepaid with postage meter indicia, adhesive stamps, permit imprint, or other payment methods specified by the Postal Service. Prior authorization for use of certain payment methods may be required, as specified by the Postal Service. A fee is charged for authorization to use a permit imprint, as set forth in Schedule 1000.

3050 Reserved

3060 Special Service Fees

Fees for special services may be prepaid in any manner appropriate for the class of mail indicated or as otherwise specified by the Postal Service.

3070 Marking of Unpaid Mail

Matter authorized for mailing without prepayment of postage must bear markings identifying the class of mail service. Matter so marked will be billed at the applicable rate of postage set forth in this Schedule. Matter not so marked will be billed at the applicable First-Class rate of postage.

3080 Refund of Postage

When postage and special service fees have been paid on mail for which no service is rendered for the postage or fees paid, or collected in excess of the lawful rate, a refund may be made. There shall be no refund for registered, COD, general insurance, and Express Mail Insurance fees when the article is withdrawn by the mailer after acceptance. In cases involving returned articles improperly accepted because of excess size or weight, a refund may be made.

3090 Calculation of Postage

When a rate schedule contains per-piece and per-pound rates, the postage shall be the sum of the charges produced by those rates. When a rate schedule contains a minimum per-piece rate and a pound rate, the postage shall be the greater of the two. When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

4000 Postal Zones

4010 Geographic Units of Area

In the determination of postal zones, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones.

4020 Measurement of Zone Distances

The distance upon which zones are based shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP coded post offices, but this shall not cause two post offices to be regarded as within the same local zone.

4030 Definition of Zones

4031 Local Zone

The local zone applies to mail mailed at any post office for delivery at that office; at any city letter carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.

4032 First Zone

The first zone includes all territory within the quadrangle of entry in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately 50 miles from the center of a given unit of area. The first zone also applies to mail between two post offices in the same sectional center.

4033 Second Zone

The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately 150 miles from the center of a given unit of area.

4034 Third Zone

The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately 300 miles from the center of a given unit of area.

4035 Fourth Zone

The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius approximately 600 miles from the center of a given unit of area.

4036 Fifth Zone

The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately 1,000 miles from the center of a given unit of area.

4037 Sixth Zone

The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately 1,400 miles from the center of a given unit of area.

4038 Seventh Zone

The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately 1,800 miles from the center of a given unit of area.

4039 Eighth Zone

The eighth zone includes all units of area outside the seventh zone.

4040 Zoned Rates

Except as provided in section 4050, rates according to zone apply for zone-rated mail sent between Postal Service facilities including armed forces post offices, wherever located.

4050 APO/FPO Mail

4051 General

Except as provided in section 4052, the rates of postage for zone-rated mail transported between the United States, or the possessions or territories of the United States, on the one hand, and Army, Air Force and Fleet Post Offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet Post Office concerned.

4052 Transit Mail

The rates of postage for zone-rated mail that is mailed at or addressed to an Armed Forces post office and is transported directly to or from Armed Forces post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate; provided, however, that if the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word "transiting" does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

5000 Privacy of Mail

5010 First-Class and Express Mail

Matter mailed as First-Class Mail or Express Mail shall be treated as mail which is sealed against postal inspection and shall not be opened except as authorized by law.

5020 All Other Mail

Matter not paid at First-Class Mail or Express Mail rates must be wrapped or secured in the manner specified by the Postal Service so that the contents may be examined. Mailing of sealed items as other than First-Class Mail or Express Mail is considered consent by the sender to the postal inspection of the contents.

6000 Mailable Matter

6010 General

Mailable matter is any matter which:

a. Is not mailed in contravention of 39 U.S.C. Chapter 30, or of 17 U.S.C. 109;

b. While in the custody of the Postal Service is not likely to become damaged itself, to damage other pieces of mail, to cause injury to Postal Service employees or to damage Postal Service property; and

c. Is not mailed contrary to any special conditions or limitations placed on transportation or movement of certain articles, when imposed under law by the U.S. Department of the Treasury; U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Health and Human Services; U.S. Department of Transportation; and any other Federal department or agency having legal jurisdiction.

6020 Minimum Size Standards

The following minimum size standards apply to all mailable matter:

a. All items must be at least 0.007 inch thick, and

b. all items, other than keys and identification devices, which are 0.25 inch thick or less must be

i. rectangular in shape,

ii. at least 3.5 inches in width, and

iii. at least 5 inches in length.

6030 Maximum Size and Weight Standards

Where applicable, the maximum size and weight standards for each class or subclass of mail are set forth in sections 130, 230, 330, 430, 521.6, and 530.

Additional limitations may be applicable to specific subclasses, and rate and discount categories as provided in the eligibility provisions for each subclass or category.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–12864 Filed 5–22–02; 8:45 am]

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Federal Register

Thursday,
May 23, 2002

Part V

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–7215–5]

RIN 2060–AH13

National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplement to proposed rule.

SUMMARY: This action is a supplemental proposal to the national emission standards for hazardous air pollutants (NESHAP) for municipal solid waste (MSW) landfills. On November 7, 2000, EPA proposed NESHAP for MSW landfills and requested comments on bioreactors. Based on comments to the proposed rule and additional information and analyses, EPA is adding a definition of bioreactors to the proposed rule and is proposing timely control for bioreactors located at MSW landfills with a design capacity greater than or equal to 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3).

DATES: *Comments.* Comments are requested only on information and proposed requirements for bioreactors presented in this action. Submit comments on or before June 24, 2002. If a public hearing is held, written comments must be received by July 8, 2002.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by June 3, 2002, a public hearing will be held on June 6, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–98–28, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–98–28, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will begin at 10 a.m. and will be held at EPA's Office of Administration Auditorium in Research Triangle Park, North Carolina, or an alternate site nearby. You should contact JoLynn Collins, Waste and Chemical Processes Group, Emission Standard Division, U.S. EPA (C439–03), Research Triangle Park, NC 27711, telephone (919) 541–5671 to request a public hearing, to request to speak at a public hearing, or to find out if a hearing will be held.

Docket. Docket No. A–98–28 for this regulation and associated Docket No. A–88–09 contain supporting information used in developing the standards. These dockets are located at the U.S. EPA, 401 M Street SW, Washington, DC 20460, in Room M–1500, Waterside Mall (ground floor, central mall), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. Copies of docket materials may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Laur at Waste and Chemical Processes Group, Emission Standards Division (C439–03), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5256, facsimile number (919) 541–0246, electronic mail address "*laur.michele@epa.gov.*"

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® file format. All comments and data submitted in electronic form must note the docket number: (Docket No. A–98–28). No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it "Confidential Business Information." Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention Ms. Michele Laur, c/o OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711.

The EPA will disclose information identified as CBI only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. JoLynn Collins at the Emission Standards Division (C439–03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541–5671, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Collins to verify time, date, and location of the hearing. The public hearing will provide interested parties the opportunities to present data, views, or arguments concerning this supplemental proposal.

Docket. The docket is an organized an complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket, or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's supplemental proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of today's supplemental proposal will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action:

Category	NAICS code	SIC code	Examples of potentially regulated entities
Industry: Air and water resource and solid waste management.	924110	9511	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	4953	Solid waste landfills.
State, local, and Tribal government agencies	562212 924110	4953	Solid waste landfills; Air and water resource and solid waste management.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should carefully examine the applicability criteria in §§ 63.1935 and 63.1940 of the landfills proposed rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this supplemental proposal is organized as follows:

I. Statutory Authority
A. What is the source of authority for development of NESHAP?
B. What criteria are used in the development of NESHAP?
II. Background
III. Summary of Supplemental Proposed Requirements for Bioreactors
IV. Rationale for the Proposed Requirements for Bioreactors
A. Why is EPA proposing supplemental requirements for bioreactors at MSW landfills?
B. How did EPA determine the bioreactor portion of the MSW landfill MACT floor?
C. How did EPA consider beyond-the-floor options?
D. How did EPA determine the standard for bioreactor operations at area source MSW landfills?
E. What is EPA's rationale for the specific requirements for bioreactors?
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V. Summary of Environmental, Energy, and Economic Impacts of the Proposed Requirements for Bioreactors
VI. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act

I. Statutory Authority

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of hazardous air pollutants (HAP), and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by today's supplemental proposal was on our initial list of HAP emission source categories as published in the **Federal Register** on July 16, 1992 (52 FR 31576). For "major" source MSW landfills (those that have the potential to emit 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP), the CAA requires us to develop standards that require the application of maximum achievable control technology (MACT).

Under section 112(k) of the CAA, EPA developed a strategy to control emissions of HAP from area sources in urban areas, identifying 33 HAP that present the greatest threat to public health in the largest number of urban areas as the result of emissions from area sources. Municipal solid waste landfills were listed as one of the 29 area source categories on July 19, 1999 (64 FR 38706) because 13 of the listed HAP are emitted from MSW landfills.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

Finally, the CAA allows NESHAP to reflect an alternative standard for area sources. The alternative standard provides for the use of generally available control technologies (GACT) or management practices to reduce emissions of HAP.

II. Background

On November 7, 2000, we proposed NESHAP for MSW landfills (65 FR 66680). When final, the rule will fulfill the requirements of section 112(d) of the CAA, which requires the Administrator to regulate emissions of HAP, and help implement the Urban Air Toxics Strategy developed under section 112(k) of the CAA.

In the November 7, 2000 proposed landfills NESHAP, we described differences in emissions rates over time from landfills operated as bioreactors as opposed to conventional landfills. We also requested additional information on emissions from bioreactors. We solicited comments on requiring installation of collection and control systems sooner after waste is deposited in bioreactor cells.

We received five public comments addressing bioreactors. The commenters agreed that because of the enhanced biodegradation of waste in bioreactors, they generate landfill gas, including organic HAP, at higher rates soon after waste placement. The industry commenters stated that research is ongoing and there is insufficient information to precisely estimate emissions from bioreactors. They recommended timely collection and

control of bioreactors, but strongly suggested that EPA issue guidance rather than rules until additional data are collected. Other commenters representing State agencies commented that many bioreactors had installed collection and control systems prior to initiating liquids addition, and that the landfills NESHAP should require installation of collection and control systems prior to initiating liquids addition for all bioreactors, regardless of landfill size.

We reviewed the public comments and other recent literature. We also gathered additional information on the number of bioreactors, their control levels, and the timing of collection and control system installation. This supplemental proposal describes the available information, presents a supplement to the November 7, 2000 proposed landfills NESHAP, and describes the rationale for the proposed supplemental requirements. The additional information and analyses are contained in Docket No. A–98–28.

III. Summary of Supplemental Proposed Requirements for Bioreactors

We are proposing timely installation of collection and control systems in bioreactors located at landfills with a total landfill design capacity of greater than or equal to 2.5 million Mg and 2.5 million m^3. These requirements would apply to bioreactors within landfills at both major and area sources if the landfills meet the design capacity criteria. The proposed supplemental control requirements apply only to active landfills (i.e., existing and new landfills that are still accepting waste as of the date of publication of the final rule or have the capacity to accept additional waste and are not permanently closed). The requirements would not apply to bioreactors at permanently closed landfills.

The supplemental proposal would require the same level of control for the bioreactor portions of landfills as would be required in the proposed landfills NESHAP (65 FR 66680, November 7, 2000) for conventional MSW landfills (i.e., a well-designed and operated gas collection system and a control device achieving 98 percent reduction or 20 parts per million by volume (ppmv) of nonmethane organic compounds (NMOC) as is required in the final new source performance standards/emission guidelines (NSPS/EG) at 40 CFR part 60, subparts Cc and WWW. However, if you own or operate a bioreactor at a landfill that is a new affected source, then you would be required to install the gas collection and control system in the bioreactor prior to initiating liquids addition, regardless of whether the landfill emissions rate equals or exceeds the 50 Mg/yr emissions rate criteria in the NSPS/EG. Startup of the collection and control system would be required within 90 days after initiating liquids addition. If the bioreactor is located at a landfill that is an existing affected source, then you must install and begin operating a collection and control system for the bioreactor within 3 years after publication of the final landfills NESHAP unless earlier control is already required by the NSPS/EG. You would be required to conduct a performance test and report the results within 180 days after startup of the bioreactor collection and control system.

The proposed timing for extending the collection and control system into new cells or areas of the bioreactor is also different from conventional landfills. Once control of your bioreactor is required, you would need to install collection and control systems in new areas or cells of the bioreactor prior to initiating liquids addition to that area, cell, or group of cells. Under the supplemental proposal, controls could be removed from the bioreactor portion of the landfill either: (1) When the criteria for control removal specified in the landfills NSPS/EG are met; or (2) when the bioreactor is permanently closed, liquids addition has ceased, and liquids have not been added to the bioreactor for at least 1 year.

At some landfills, a portion of the landfill is a bioreactor, and the remainder is designed and operated as a conventional landfill. In these situations, the control requirements and the timing of control installation for the conventional portion of the landfill would not change. We are not proposing to revise the NSPS/EG. Thus, you would continue to use the equations and factors in the NSPS/EG to calculate the annual uncontrolled NMOC emissions rate for your landfill as a whole (including the total waste placed in the bioreactor area and the conventional area). When your calculated uncontrolled NMOC emissions equal or exceed 50 Mg/yr, then you would install a collection and control system for the conventional portions of the landfill according to the schedule in the NSPS, or the applicable State, Tribal, or Federal plan that implements the EG.

IV. Rationale for the Proposed Requirements for Bioreactors

A. Why Is EPA Proposing Supplemental Requirements for Bioreactors at MSW Landfills?

Based on review of public comments and other available information, we have concluded that bioreactors are a distinct operation within MSW landfills, and that the appropriate timing of control for bioreactors is different from that for conventional landfills. The design and method of operation of bioreactors is different from conventional landfills, resulting in different emissions characteristics.

Conventional landfills are typically operated as "dry tombs" by minimizing the infiltration of liquids into the landfill. This can be accomplished by placement of bottom and side liners and by placement of a low permeability final cap over the waste. In addition, many sites install and operate leachate collection systems to remove leachate and thus minimize groundwater contamination. That method also results in a slower biodegradation process and a reduced rate of landfill gas generation. Some conventional landfills recirculate some or all of the collected leachate. A typical moisture content of the waste in a conventional landfill is approximately 20 percent, but it may be lower in arid areas or where all collected leachate is removed and infiltration is minimized.

A bioreactor is defined as an MSW landfill or portion of an MSW landfill where any liquid other than leachate is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste. The minimum 40 percent moisture level is based on literature that suggests the moisture content of the waste should remain in the range of 40 to 70 percent to optimize bioreactor operation. Comments on the moisture level used in the bioreactor definition are requested. The EPA also requests comments on the proposed exclusion of the definition of landfills that recirculate leachate but do not add any other liquids. If you know of situations where leachate recirculation alone can reach a 40 percent moisture level and start and sustain bioreactor operation, please provide information.

The proposed definition of bioreactor includes hybrid bioreactors, which are managed so that the waste undergoes a short (e.g., 60 day) aerobic stage, after which the waste is covered over and operated as an anaerobic bioreactor for several years. The long-term operation, emissions pattern, and applicable control techniques for hybrid bioreactors are similar to anaerobic bioreactors. The rapid biodegradation of waste in a bioreactor leads to more rapid generation of landfill gas compared to a conventional landfill.

The vast majority of bioreactors are anaerobic or hybrid bioreactors, with at least 24 operating as of 2001. The EPA expects a large number of anaerobic bioreactors to start operation in the next few years because of their economic benefits and potential environmental benefits. For example, operating a landfill as a bioreactor extends the use of current sites and reduces the need for new sites, reducing land use and associated environmental impacts, and land purchase costs. Preliminary information suggests that bioreactors also improve the quality of leachate potentially resulting in reduced environmental impacts if any groundwater contamination were to occur. Economic benefits include avoiding the costs of leachate treatment, transport, and disposal. In addition, bioreactors emit a similar total amount of gas as conventional landfills but emit it more quickly over a shorter amount of time, thus owners and operators can convert landfill gas to energy more economically.

Because of the rapid biodegradation of waste, landfill gas (including methane, NMOC, and organic HAP) is generated at a significantly greater rate in the first couple of years after waste placement in anaerobic and hybrid bioreactors compared to conventional landfills. For example, one study indicates that in approximately 90 days, bioreactor landfills generate gas at a rate similar to what a conventional MSW landfill generates at 2 years. Public comments and published studies confirm the greater landfill gas generation rates early in the life of anaerobic and hybrid bioreactors. Emissions rates cited in the comments and literature range from 2 to 10 times as much as conventional landfills. After peaking at a higher generation rate near the time of landfill closure, bioreactor landfill gas generation declines more rapidly than conventional landfill gas generation. The total long-term amount of landfill gas from an anaerobic bioreactor is expected to be approximately the same as from a conventional landfill with the same amount of waste because the total potential landfill gas generation depends primarily on the amount of material in the waste that can eventually be decomposed. However, bioreactor landfill gas generation is significantly higher than conventional landfill gas generation prior to and shortly after closure and significantly lower in the later years. References indicate that a bioreactor shortens the period of waste degradation and stabilization, and thus the period of most of the gas generation, from 30 to 50 years for a conventional landfill to 5 to 10 years for an anaerobic bioreactor.

Because bioreactors generate significantly more landfill gas, including organic HAP, earlier in their life than conventional landfills, the methods used in the proposed rule to calculate uncontrolled emissions and the required timing for collection and control system installation that apply to conventional landfills are not appropriate for bioreactors. The November 2000 proposed landfills NESHAP, which refer to the NSPS control requirements, would require landfills to estimate their NMOC emissions using specified equations and procedures. After landfills reach or exceed 50 Mg/yr of NMOC, they must install collection and control systems within 30 months. Gas collection must then be extended into each cell or area within the landfill within 2 years after waste is first placed in that cell or area if the area is at final grade or within 5 years if the area is still active.

For bioreactors, the 50 Mg/yr NMOC uncontrolled emissions rate would be reached sooner than calculated by the procedures in the NSPS/EG. Furthermore, because landfill gas generation rates from bioreactors are significantly higher in the early years after waste placement, allowing 30 months after uncontrolled estimated emissions reach 50 Mg/yr to install controls would allow a much higher proportion of total bioreactor emissions, including HAP, to be released uncontrolled. Modeling of a landfill in a non-arid location with a design capacity of 2.5 million Mg and a 20-year life indicates that the NSPS/EG Tier 1 procedures would not require control installation for 5 years. In this time, a bioreactor accepting the same amount of waste would have potentially emitted a total of 130 Mg of HAP and 680 Mg of NMOC. (This is based on a k value of 0.1 for the bioreactor, which may be conservatively low, so bioreactor emissions could be higher.) If the same landfill were in an arid climate, Tier 1 procedures would not require control installation for 8 years. In this time, a bioreactor accepting the same amount of waste would have potentially emitted 310 Mg of HAP and 1,600 Mg of NMOC. Due to the different emissions pattern of bioreactors, it is appropriate to require control at the start of bioreactor operation (initiation of liquids addition).

The timing of control system removal for conventional landfills also may not be appropriate for bioreactor landfills. Because emissions decline more rapidly, a bioreactor would require control for a shorter length of time than a conventional landfill.

Because of the differences in technical design, operation, and emissions pattern over time, we have examined bioreactors as a distinct type of operation within an MSW landfill affected source, evaluated the MACT floor and MACT for bioreactor operations within MSW landfills, and are proposing supplemental requirements for bioreactors.

B. How Did EPA Determine the Bioreactor Portion of the MSW Landfill MACT Floor?

A landfill that is an affected source under the MSW landfills NESHAP may include an area designed and operated as a bioreactor and an area designed and operated as a conventional landfill. When there are distinct operations that have different emissions characteristics within an affected source, EPA often examines these operations separately in determining the MACT floor for the source as a whole. Details of the bioreactor analysis are contained in Docket No. A–98–28. The conventional landfill component of the MACT floor for existing landfills remains as described in the November 2000 proposed landfills NESHAP.

First, we reviewed the information available to identify specific bioreactors, determined which are located at major sources, and determined the level of control and the timing of installation of control systems at these bioreactors. We then determined the control level for the average (or median) of the best-performing five bioreactors, because there are fewer than 30 bioreactors at MSW landfills that are major sources. Under the CAA, the MACT floor for existing sources is based on the best performing 12 percent of sources in a category, or the best five sources if there are fewer than 30 sources in the category.

Based on the available data, we identified 24 anaerobic bioreactors. We used information from the landfills NESHAP database and other data provided by contacts familiar with these landfills to determine which of the bioreactors are located at landfills with maximum uncontrolled emissions equal to or greater than major source levels for HAP. We used the population of ten bioreactors to determine the MACT floor for bioreactors. The population includes

both major and "synthetic area" sources. A synthetic area source is a source which would otherwise be a major source, if not for enforceable emissions controls that have been installed. For example, some landfills with uncontrolled emissions above major source levels have installed controls to comply with the landfills NSPS/EG. Synthetic area sources are included in the population used to determine the MACT floor because to exclude synthetic area sources from the MACT floor determination would exclude the best-controlled sources in the industry. The CAA does not suggest that we should exclude a control technology from consideration in the MACT floor because it is so effective that it reduces emissions from a source such that the source is no longer a major source of HAP.

We identified the controls in use at the ten bioreactors with uncontrolled emissions at major source levels and determined the installation date for the controls. We found that all ten of the bioreactors have gas collection and control systems meeting the control levels in the NSPS/EG. We also found that at least five of the gas collection and control systems were installed or are being installed prior to initiating liquids addition to the bioreactors. The control systems were installed in the bioreactors sooner than required by the NSPS/EG. Therefore, we determined that the MACT floor level of control for bioreactor operations within existing MSW landfills at major sources is installation of a collection and control system that meets NSPS/EG requirements, and that these controls be installed prior to initiation of liquids addition.

Under the CAA, the new source MACT floor is based on the best-controlled similar source. We reviewed the information to determine the best control technology in use at the ten bioreactors at major and synthetic area sources, and we looked at when the control systems were installed. The best-controlled bioreactor installed a collection and control system that meets NSPS/EG requirements prior to initiation of liquids addition; therefore, this is the MACT floor level of control for bioreactor operations within new MSW landfills at major sources.

C. How Did EPA Consider Beyond-the-Floor Options?

The NSPS/EG requirements for landfill gas collection and emissions reductions are the best available control for organic HAP emissions from bioreactors. Requiring control system installation before the initiation of liquids addition to the bioreactor is the earliest possible time to install these controls. Therefore, there were no options to consider that were more stringent than the MACT floor. The gas collection system required by the NSPS/EG (described in 40 CFR 60.753) is designed to capture as much landfill gas as possible and requires several parameters to be monitored to ensure that capture, including pressure, nitrogen or oxygen concentration, temperature, and surface methane concentration. There are no data indicating that collection systems are in use that are more effective than those required by the NSPS/EG. Similarly, there are no known technologies that can regularly achieve organic HAP reduction efficiencies greater than those specified in the NSPS/EG. The NSPS/EG rules require 98 percent reduction efficiency for NMOC, or a maximum outlet concentration of 20 ppmv if an enclosed combustion device is used. The reduction efficiencies can be regularly achieved by several types of control technologies with proper operation. Because there are no more stringent collection and control technologies or other emissions reduction techniques available, and this supplemental proposal requires installation and operation of the floor level of control as soon as possible, no options beyond-the-floor currently exist for new or existing sources.

D. How Did EPA Determine the Standard for Bioreactor Operations at Area Source MSW Landfills?

As described earlier in this preamble, MSW landfills were listed as one of 29 area source categories under section 112(k) of the CAA. Area sources can be controlled using MACT or GACT. In the proposed landfills NESHAP (65 FR 66677, November 7, 2000), we concluded that GACT is the same as MACT (the NSPS/EG level of control) for area source landfills that meet the NSPS/EG design capacity and uncontrolled NMOC emissions rate criteria. We also found that landfills below these criteria do not warrant control.

For the supplemental proposal, we have examined what constitutes GACT for area source bioreactors. We determined that for bioreactors at landfills with design capacities greater than or equal to 2.5 million Mg and 2.5 million m^3, GACT is the same as MACT (i.e., timely installation of gas collection and control systems that meet NSPS/EG requirements). In reaching GACT decisions, we considered the control techniques that are generally available for area sources and factors such as the emissions reductions, environmental impacts, and costs of these controls. Since bioreactors generate landfill gas at a faster rate, significant HAP emissions reductions will be achieved by requiring timely control of bioreactor operations at MSW landfills with design capacities greater than or equal to 2.5 million Mg and 2.5 million m^3. The reductions in HAP will reduce health risks and environmental impacts associated with the HAP present in landfill gas.

The costs of requiring timely control for bioreactor operations at area source landfills with design capacities equal to or greater than 2.5 million Mg and 2.5 million m^3 were also considered in reaching the decision that GACT is the same as MACT for these area sources. These landfills would, at some point in their life, be required to install controls required by the NSPS/EG because the estimated uncontrolled NMOC emissions rates would reach the 50 Mg/yr emissions rate criteria. Requiring timely control of bioreactor operations means that costs will be incurred sooner and emissions reductions benefits realized earlier. An analysis of net present value (NPV) costs shows that timely control of bioreactors at a landfill with a design capacity of 2.5 million Mg is generally not more costly than controlling a conventional landfill according to the NSPS/EG schedule. If the landfill gas is used for energy, the NPV control costs for bioreactors are lower than for conventional landfills and result in greater HAP emissions reductions. For these reasons, GACT for bioreactor operations at area source landfills with design capacities greater than or equal to 2.5 million Mg and 2.5 million m^3 was determined to be the same as MACT.

For bioreactor operations at area source landfills with design capacities less than 2.5 million Mg or 2.5 million m^3, EPA determined that GACT does not require control. Requiring bioreactors at landfills below the design capacity cutoff to install controls would result in additional control costs because they are not otherwise required to install control by the NSPS/EG. The 2.5 million Mg and 2.5 million m^3 capacity exemption excludes those landfills that can least afford the costs of collection and control systems, including small businesses and, particularly, municipalities. Furthermore, the analysis for the NSPS/EG found that a more stringent design capacity exemption level would greatly increase the number of landfills required to apply control while only achieving 25 percent additional emissions reductions. The selected design capacity criteria required control

of less than 5 percent of all landfills (at the time of the NSPS/EG promulgation), but reduced NMOC emissions by approximately 53 percent. While bioreactors have a significantly increased landfill gas generation rate early in their life, it is expected that their overall lifetime total landfill gas generation potential would not be significantly greater than that of a conventional landfill accepting the same amount of waste. Therefore, the previous analyses of potential long-term emissions reductions from control of small landfills would also apply to bioreactors based on data currently available on bioreactor operations. We request comment on exemption of small/area source landfills with bioreactor operations from this supplemental proposal. If information is submitted that shows these small/area source landfills with bioreactor operations have emission characteristics that are significantly different than conventional small/area source landfills, the data will be considered.

Other reasons for exempting small landfills are described in the proposed landfills NESHAP (65 FR 66677, November 7, 2000), and they also apply to bioreactors. For example, most existing area source landfills are closed, and their emissions are already declining. Most newer landfills are much larger than the design capacity cutoff and would be subject to the GACT control requirements. Therefore, requiring timely control of bioreactor operations at these large, open landfills would achieve significant HAP reductions at those landfills where it will be most cost effective.

E. What Is EPA's Rationale for the Specific Requirements for Bioreactors?

1. How Did EPA Select the Affected Source?

Selection of the affected source defines the boundary of the unit to which a proposed rule applies. This definition is used in combination with the date "construction" or "reconstruction" is "commenced," as defined in 40 CFR 63.2, to determine whether an affected source is an existing source or a new source.

The supplemental proposal would not substantially alter the affected source definition in the November 7, 2000 proposed landfills NESHAP. The affected source for the proposed landfills NESHAP remains the entire municipal solid waste landfill. The bioreactor is not a separate affected source, but is an operation within the affected source (the landfill). Defining the affected source broadly maintains consistency with the NSPS/EG and the proposed landfills NESHAP. As defined in section 112 of the CAA, a new source is one that commences construction or reconstruction after the Administrator first proposes NESHAP applicable to a source. Therefore, a bioreactor is subject to the new source requirements if the landfill where it is located commences construction or reconstruction after November 7, 2000, the date of the original proposal. A bioreactor is subject to the existing source requirements if the landfill where it is located commenced construction or reconstruction on or before that date. The definition of new and existing source is consistent with the definition in the November 7, 2000 proposed landfills NESHAP. Note that the control requirements for bioreactors at new and existing sources are the same, but the initial compliance date is different.

2. How Did EPA Determine When Collection and Control Systems Must Be Installed and When They Must Start Operation?

For bioreactors that are located at landfills that are new affected sources, the proposed changes would require gas collection and control systems to be installed in the bioreactor prior to liquids addition because this has been determined to be the MACT and GACT level of control for bioreactors at landfills with design capacities greater than or equal to 2.5 million Mg and 2.5 million m^3. However, it may not be feasible to begin operation of the control system on the day that liquids addition begins. It can take a few weeks for the biodegradation process to generate large amounts of gas, for the gas flow and composition to stabilize, to tune the gas collection system, and to achieve stable operation of a combustion control device. In recognition of this time period, we propose to require that bioreactor gas collection and control systems begin operation within 90 days after the first date of liquids addition. Bioreactors have been able to begin operation of control systems on this schedule. Furthermore, studies indicate that after 90 days of operation, a bioreactor may generate as much landfill gas as a conventional landfill does in 2 years of operation. The NSPS/EG and the November 7, 2000 proposed landfills NESHAP require gas collection and control systems to be installed and begin operation in new cells or areas of a controlled conventional landfill within 2 years after waste is first placed in that cell or area for areas that are at final grade (5 years for active areas that are still accepting waste). Since bioreactors may reach similar gas flows in 90 days, it is consistent to require the control system in the bioreactor to begin operation within 90 days of liquids addition.

Bioreactors that are located at landfills that are existing affected sources will need time to design and install a control system. For these bioreactors, we propose to allow 3 years from the date the final landfills NESHAP are published to install and begin operating a collection and control system. This allows time for the bioreactor owner/operator to design, install, and begin operating the gas collection and control system. The 3-year period is consistent with the maximum time section 112 of the CAA allows for existing sources to achieve compliance with NESHAP. Note that if an existing source landfill is required by the NSPS/EG to install control in a bioreactor before the 3-year date, the supplemental proposal would not change the control installation date.

If an existing source landfill installs and begins to operate a bioreactor at a date later than 3 years after the final landfills NESHAP are published, then a collection and control system for the bioreactor would be required to be installed before the initiation of liquids addition. The control system would be required to begin operation within 90 days after the first date of liquids addition. The control system installation date is consistent with the CAA section 112 requirements that existing sources must be in compliance by 3 years after the effective date of the rule and must maintain continuous compliance after that date. It is also consistent with the findings of the MACT floor determination that the best performing existing sources control bioreactors from the time they initiate liquids addition. It is also reasonable because existing source landfills that choose to begin operating bioreactors more than 3 years in the future will know the bioreactor control requirements and will have sufficient time to plan for compliance by the date they initiate liquids addition. The requirement to begin operating the bioreactor control system within 90 days of initiating liquids addition is based on the rationale described in the previous paragraph for new sources.

An initial performance test to demonstrate compliance with the emissions limits would be conducted, and the results submitted within 180 days after the date the collection and control system must begin operation. This 180-day time period is generally consistent with the performance test requirements for conventional landfills

in the November 7, 2000 proposed landfills NESHAP and the NSPS/EG.

As with conventional landfills, as one area of the bioreactor is filled to capacity, waste will be placed in new cells or areas of the bioreactor over time. Conventional landfills must extend collection and control systems into new cells or areas of the landfill within 2 years of when waste is first placed in that area for areas that are at final grade, or within 5 years of when the waste is first placed in that area for active areas that are still accepting waste. For bioreactors, we propose that starting on the date control of your bioreactor is required, collection and control be extended into each new cell or area of the bioreactor prior to initiating liquids addition in that area. Timely control of each area within the bioreactor is necessary to control the higher HAP emission rates in the first 2 to 5 years of bioreactor operation. As previously noted, a bioreactor cell can very quickly (within about 90 days of operation) reach the same gas generation rate as a conventional landfill cell does in 2 years of operation. A bioreactor shortens the time of waste degradation and stabilization and, thus, the period of most of the gas generation, from 30 to 50 years for a conventional landfill to a period of 5 to 10 years for a bioreactor. Since significantly greater emissions occur in the first 5 years of bioreactor operation, controls should be extended into new bioreactor areas more quickly than in new areas of conventional landfills. This requirement is consistent with the way bioreactors are designed. Typically, horizontal gas collection systems are installed in the same area as the leachate recirculation system as the bioreactor is being filled. When the waste has been placed in the area and the leachate recirculation is started, the gas collection system will already be in place and can begin operation.

3. Why Are There Different Criteria for When Collection and Control Systems Can Be Removed From Bioreactors?

We propose to allow more timely removal of controls from bioreactor operations because bioreactor emissions rates decline more rapidly after closure than conventional landfill emissions rates. The NSPS/EG and proposed landfills NESHAP allow capping or removal of the collection and control system from a conventional landfill after it meets three criteria: The landfill is permanently closed, measured uncontrolled emissions are less than 50 Mg/yr, and the control system has been in place for at least 15 years, as contained in 40 CFR 60.752(b)(5). The NSPS/EG and proposed landfills NESHAP also allow for nonproductive areas of a landfill to be excluded from control if these areas contribute less than 1 percent of the total amount of NMOC emissions from the landfill, as described in 40 CFR 63.759(a)(3).

We are proposing that you can choose to cap or remove controls from the bioreactor when either (1) the criteria in the NSPS/EG are met; or (2) the bioreactor is permanently closed (as defined in the NSPS/EG), liquids addition to the bioreactor has permanently ceased, and no liquids have been added to the bioreactor for at least 1 year. We are proposing this option because the 15-year control period may not be appropriate for bioreactors because bioreactor emissions are highest during the period of liquids addition, which generally stops when most biodegradation has occurred and the waste is stabilized. After this point, gas generation declines rapidly. As gas flows and HAP emissions rates decline, methane concentrations may also decline, thus requiring supplemental fuel to combust landfill gas. Waiting to remove controls until 1 year after liquids addition has ceased will ensure that the period of maximum emissions is controlled.

Our analyses show that even allowing timely removal, the total mass of emissions controlled from a bioreactor will be greater than from a conventional landfill accepting the same amount of waste. Improved control of landfill gas emissions will occur because the requirement for timely installation of controls in bioreactors is concurrent with the period when bioreactor emissions are concentrated over a shorter period of time. The timing of this requirement results in a higher proportion of emissions being collected, which allows for better control of landfill gas emissions.

If a bioreactor complies with the requirements for collection and control system removal in the proposed landfills NESHAP, it will also be considered in compliance with the NSPS or the Federal plan that implements the EG. This will avoid conflicting requirements where the proposed landfills NESHAP allow timely removal of control systems from bioreactors, whereas the NSPS or Federal plan requirements include the 15-year criterion for all landfills and could appear to continue to require bioreactor control for a longer period of time than the proposed landfills NESHAP.

4. How Did EPA Determine When the Initial Semiannual Compliance Report for Bioreactors Must Be Submitted?

The date for submittal of the initial semiannual compliance report including performance test results depends on the date that control system startup is required. For conventional landfills, the first report must be submitted within 180 days of installation and startup of the collection and control system per 40 CFR 60.757(f). For conventional landfills, the date of installation and startup are the same date. For bioreactors at new sources, and bioreactors that begin operating at existing sources after the 3-year compliance date, the proposed bioreactor provisions specify that the collection and control system must be installed by the date of liquids addition. However, the control system would not be required to start operation on the date of liquids addition. The control system must start operation within 90 days after the date liquids addition begins. The first semiannual compliance report containing the performance test results is therefore due within 180 days of the required date for control system startup (i.e., 270 days after the initiation of liquids addition). This allows the same 180-day period from the date of control system startup that is allowed for other landfills. It also allows time for the source to gain familiarity with operating the new control device, schedule and conduct a performance test, receive the analytical results, and prepare a report. After the initial report, semiannual reports will be submitted every 6 months, the same as proposed for conventional landfills.

For bioreactors at existing sources, the landfill has 3 years from the date the final rule is published to install and begin operating a gas collection and control system. For these bioreactors, the proposed date for control system installation and startup are the same date, so the initial compliance report including performance test results is due within 180 days of installation and startup of the collection and control system. This is the same as required for conventional landfills under 40 CFR 60.757(f).

The date for submitting the initial semiannual compliance report for some bioreactors is different for conventional versus bioreactor landfills, however, an owner or operator may elect to streamline subsequent semiannual reporting. The EPA expects that a number of owners or operators may be required to submit semiannual reports for both the bioreactor and the conventional portion of their landfill.

To streamline reporting for such owners or operators, EPA is proposing to allow them to delay submitting the subsequent semiannual report for the bioreactor until the initial or subsequent semiannual report is due for the conventional portion of the landfill. The owner or operator cannot delay submittal of the subsequent semiannual report for the bioreactor by more than 12 months after submittal of the initial semiannual report. For example, if the initial compliance report for the bioreactor were submitted on December 30, 2002, then the subsequent semiannual report for the bioreactor would be due on June 30, 2003. Suppose the semiannual report for the conventional portion of the landfill is due on September 30, 2003 (but no later than December 30, 2003). The owner or operator may delay submitting the semiannual report for the bioreactor from June 30 until September 30, when the report is due for the conventional portion of the landfill. Subsequent semiannual reporting for the bioreactor and the conventional portion of the landfill would be on the same schedule.

5. Why Are Moisture Content Records Needed and How Can Percent Moisture Be Determined?

To be considered a bioreactor, a liquid other than leachate must be added, and the waste must have a minimum average moisture content of 40 percent by weight. We expect that most landfills where liquid other than leachate is added will meet the definition of a bioreactor. If a landfill owner and/or operator complies with the bioreactor control requirements, they do not need to keep records of percent moisture content. If a landfill owner and/or operator adds liquid other than leachate but the portion of the landfill into which the liquid is added does not meet the 40 percent moisture criterion, they do not need to comply with the bioreactor control requirements. They must, however, keep a record of their percent moisture calculation to show that the landfill is not a bioreactor.

The proposed landfills NESHAP allow landfills to use site-specific procedures to calculate moisture content, rather than prescribing one specific method. Because of differences in climate, rainfall, waste composition, bioreactor design, and other factors, a single calculation method would not be appropriate for all landfills. Furthermore, allowing site-specific approaches minimizes the recordkeeping burden by allowing landfills to use calculations they already have available, assuming the procedures and assumptions are documented and appropriate.

A range of appropriate methods for calculation of landfill moisture content exists. For example, a simplified mass balance approach can be used. A landfill can track the amount of incoming waste, estimate the incoming moisture content of the waste, track the amount of liquids added, and the water removed as leachate. They would then calculate the in-situ moisture content based on the initial moisture content plus the liquids added minus the liquids removed. In some cases, a more complex mass balance that considers the addition of moisture from rain and snow and the loss of moisture from evaporation is used. For example, a more complex mass balance would be appropriate where rainfall is high and the landfill cover and drainage system is not designed to prevent rain from penetrating into the waste.

Another estimation option for existing landfills that are already adding liquids includes measuring the moisture content of the waste in the landfill. However, given the heterogeneity of the waste, sampling in only one or a small number of locations may not provide a representative moisture level. For this reason, some sites may use a more intricate method of estimation, such as taking a large number of moisture content samples from throughout the landfill and analyzing them using a computer software package such as Geographical Information System. A statistical analysis of the results could provide an average percent moisture for the portion of the landfill to which liquid is added. However, it is expected that in most cases, a mass balance approach will be adequate to determine whether moisture content is below 40 percent, and comprehensive sampling will not be needed. For a landfill that has not yet started liquids addition, the sampling approach is not possible so a mass balance approach would be used.

6. Why Don't the Proposed Bioreactor Provisions Apply to Landfills That Are Closed?

It is unlikely that bioreactors would be created in landfills that are already closed. If a bioreactor were built in such a landfill, the NSPS/EG should already require control of the entire landfill, including the bioreactor if the landfill is larger than 2.5 million Mg and 2.5 million m^3, because landfills larger than the design capacity cutoff would reach 50 Mg/yr NMOC emissions before their closure date based on emissions calculation procedures in the NSPS/EG. Because these closed landfills will already have installed or be in the process of installing controls for the NSPS/EG, it is not necessary to require more timely control of bioreactors. In the less likely event that a closed landfill meeting the design capacity criteria never reached 50 Mg/yr uncontrolled NMOC emissions and never had to install controls, its emissions are already in decline so the bioreactor control provisions are not warranted.

F. What Other Issues Did EPA Consider?

The proposed bioreactor requirements apply to only those areas within a landfill that are being operated as anaerobic (including hybrid) bioreactors. The landfill continues to be subject to the NSPS or the applicable State, Tribal, or Federal plan that implements the EG and would also be subject to the landfills NESHAP requirements proposed on November 7, 2000 when they become final. This means that landfills would continue to comply with the NSPS/EG by calculating their annual NMOC emissions rates and installing collection and control systems in the conventional portions of a landfill within 30 months of the first annual emissions rate report showing that uncontrolled emissions have reached the 50 Mg/yr NMOC emissions rate cutoff.

To calculate annual emission rates for the NSPS/EG and the proposed landfills NESHAP and determine when to install control in the conventional portion of the landfill, the landfill should continue to include the entire mass of waste accepted in the landfill (including the bioreactor and the conventional areas of the landfill) when using the NSPS/EG emissions equations. This is the procedure currently required under the NSPS/EG, and it is not our intent to change the NSPS/EG requirements or to change the timing of when the conventional portions of a landfill would require control.

We considered two other options. The first option would be to require a landfill that includes both bioreactor and conventional areas to use a higher k value for the bioreactor or to measure uncontrolled emissions from the bioreactor and add them to emissions from the conventional portion of the landfill when calculating NSPS/EG control applicability. This would cause the landfill as a whole to reach 50 Mg/yr uncontrolled emissions sooner than calculated by the NSPS/EG procedures. It would, therefore, have the effect of requiring the conventional portion of the landfill to control emissions before the NSPS/EG would require control, thus penalizing landfills that use bioreactors in combination with

conventional areas. Therefore, this option was rejected. By requiring the bioreactor at such a landfill to install controls at the start of liquids addition and by not changing the emissions calculation procedure in the NSPS/EG, the proposed procedures address the problem of the increased landfill gas generation rate from the bioreactor without affecting when the conventional portion of the landfill is required to install controls.

The second option was to exclude the bioreactor from the annual NMOC emissions rate calculations required by the NSPS/EG. This would have the effect of changing the number of landfills that require control and the emissions reduction expected under the NSPS/EG. For example, a large landfill where half the area was operated as a bioreactor and half as a conventional landfill could escape control because emissions estimates from the amount of waste placed in just the conventional portion might not reach 50 Mg/yr NMOC, whereas emission estimates from the landfill as a whole would be well above 50 Mg/yr NMOC. The NSPS/EG envisioned controlling such landfills, and their control has been shown to be reasonable and cost effective. Therefore, the proposed landfills NESHAP provisions for bioreactors do not change the calculation procedures in the NSPS/EG and will have no effect on which landfills require control by the NSPS/EG, or the date that controls must be installed in the conventional portions of a landfill.

Aerobic bioreactors are a relatively new concept, and EPA knows of no full scale aerobic bioreactors in operation in the United States. A limited amount of information is available. In aerobic bioreactors, air and liquids promote aerobic decomposition of waste. The waste decomposes rapidly due to the presence of oxygen and moisture. The aerobic decomposition produces large amounts of gases including carbon dioxide. Compared to conventional landfills, the increased temperature and increased air flow through the waste may result in increased emissions rates of organic compounds (including organic HAP) soon after the aerobic bioreactor begins operation. However, aerobic landfill data are insufficient to characterize HAP emissions from this type of operation. In addition, the gas composition from a landfill operated only as aerobic bioreactor is expected to have higher levels of carbon dioxide, nitrogen, and oxygen, and significantly lower levels of methane. This may result in the gas being more difficult to safely combust, unless it is combined with a large flow of higher-methane gas from anaerobic areas of the landfill or with other fuels.

The EPA is not expecting a significant number of aerobic bioreactors to be built in the next several years (in contrast to the trend for anaerobic bioreactors). Concerns over the increased potential for landfill fires and added power costs have deterred use of aerobic bioreactor technology. Some pilot projects have created odor concerns and in some cases are no longer being operated. Given the fact that EPA knows of no full scale aerobic bioreactors in operation in the United States and that very few pilot projects are in operation or expected to startup in the near future, EPA has concluded that it is not necessary for the supplemental proposal to address aerobic bioreactors.

Portions of a landfill that are operated as aerobic bioreactors would continue to be subject to the NSPS/EG and the proposed landfills NESHAP. requirements. If a landfill that includes an aerobic bioreactor meets the design capacity and uncontrolled NMOC emissions rate criteria in the NSPS/EG, a collection and control system must be installed in the landfill, including the aerobic bioreactor area, according to the schedule in the NSPS/EG. Landfills with pilot scale aerobic bioreactors have had some success in routing emissions from the aerobic bioreactor with other landfill area emissions for control in flares.

Section 112(f) of the CAA requires EPA to evaluate residual risks and promulgate standards to address residual risks within 8 years of promulgation of the NESHAP. At that time, we will consider any new information on the prevalence and emissions of aerobic bioreactors and determine if any additional requirements are appropriate.

V. Summary of Environmental, Energy, and Economic Impacts of the Proposed Requirements for Bioreactors

We expect a positive environmental impact and negligible economic impacts from the requirements of the supplemental proposal. One reason for the small economic impact is that the supplemental proposal would require gas collection and control for only the same landfills that are already required to install collection and control systems under the NSPS/EG and the proposed landfills NESHAP. It will not change the number of landfills that must apply controls.

In the previous analyses for the NSPS/EG and proposed landfills NESHAP, it was assumed that all landfills are conventional landfills and install and remove control systems according to the schedule in the NSPS/EG. To see if the supplemental proposal would increase emissions reductions, environmental, cost and economic impacts relative to those previously calculated, we compared the emissions reductions and costs for timely control of a bioreactor according to the schedule proposed in the supplemental proposal with the emissions reductions and costs for controlling a conventional landfill that accepts the same amount of waste and installs controls according to the NSPS/EG schedule. We found that greater emissions reductions are achieved by timely control of the bioreactor landfill. A bioreactor landfill with a design capacity of 2.5 million Mg achieves an emissions reduction of 1,770 Mg of HAP over the period of control, compared to 1,630 Mg of HAP reduction for a conventional landfill receiving the same amount of waste. The bioreactor is controlled for 13 years less than the conventional landfill, yet achieves greater emissions reductions. Similarly, a bioreactor landfill with a design capacity of 10 million Mg achieves emissions reductions of 7,300 Mg of HAP, compared to 7,040 Mg of HAP reductions for a conventional landfill receiving the same amount of waste. The bioreactor is controlled for 30 years less than the conventional landfill, yet achieves greater emissions reductions. This analysis leads to the conclusion that implementation of the supplemental proposal would achieve additional HAP emissions reductions, which will minimize any health impacts from exposure to HAP in landfill gas emissions and lead to other environmental benefits associated with reduction of other landfill gas constituents including NMOC, which contribute to photochemical formation of smog, and methane, a potent greenhouse gas. Odor problems will also be minimized.

The energy impacts of the supplemental proposal would be positive. Many bioreactors are expected to comply with the proposed rules by recovering landfill gas to generate energy. Our analysis shows that a bioreactor with a design capacity of 2.5 million Mg can generate a greater profit than a similar conventional landfill from sale of landfill gas for direct use (such as combustion in nearby boilers to provide steam to an industrial process or to heat a building). Similarly, using a combustion control device, such as an internal combustion engine, that generates electricity from the landfill gas is profitable for a 10 million Mg bioreactor, where it may not be profitable for a similar size conventional landfill. The number of landfill gas direct use and electricity generation projects has grown in recent years, and industry commenters stated in the public comments that bioreactors provide an opportunity for economically feasible use of landfill gas to generate energy. To the extent that these energy recovery options are used instead of flares to comply with the supplemental proposal, this will result in the generation of additional electricity, offset the use of fossil fuels, and have a beneficial energy impact.

To determine if the cost of the supplemental proposal would increase the control costs previously predicted for the NSPS/EG and proposed landfills NESHAP, we analyzed the cost of control for bioreactors installing controls according to the schedule in the supplemental proposal compared to the costs for control of conventional landfills according to the schedule in the NSPS/EG. We examined costs for flares and energy generation options. The costs included capital, operating, and maintenance costs. For energy recovery options, revenues from the sale of landfill gas or electricity were included. Costs were expressed on a NPV basis because the costs of the landfill gas collection and control systems are highly variable over the life of the landfill. In addition, the timing of control system installation and the length of the control period will vary greatly based on landfill size, design, landfill gas flow rates, and gas composition. For fluctuating costs over a variable but long life of the landfill control system, this cost analysis compares the costs between various landfills and control options based on a NPV analysis. The NPV analysis removes the effects of the varying costs and lifetimes by converting them into a single present cost that is equal to the string of costs that the landfill would experience over its full lifetime.

For the flare control options, the NPV costs to control the bioreactor were slightly greater than the costs to control a conventional landfill. This is because the bioreactor would have to install control sooner, and the NPV calculation weighs earlier expenditures more heavily to account for the time value of money. However, the bioreactor NPV control cost is only about 10 percent greater than the conventional landfill control cost for all but one of the smaller landfill cases examined. For example, a bioreactor landfill with a design capacity of 2.5 million Mg, the NPV costs for a gas collection and flare system were estimated to be $1.5 million, compared to $1.3 million for a conventional landfill with the same design capacity. Furthermore, bioreactors experience cost savings compared to conventional landfills due to factors such as the reduced amount of land space needed to hold the same mass of waste, and reduced leachate treatment, transportation, and disposal costs. When such differences are considered, it is significantly less costly to build a bioreactor, even with the more timely control requirements, than to build a conventional landfill. This was true for all cases examined.

The examination of energy recovery NPV costs showed that the bioreactors are less costly, or more profitable, to control than conventional landfills in all of the cases examined. In many cases, timely control of a bioreactor using an energy generation option will result in a net profit rather than a net cost. For a bioreactor landfill with a design capacity of 10 million Mg that controls emissions by using an internal combustion engine that generates electricity for sale to the power grid, the revenues from the sale of electricity balance the costs of the gas collection and control system resulting in an estimated NPV cost savings (or net revenue) of approximately $0.1 million. A conventional landfill with the same design capacity is estimated to incur an NPV cost of approximately $5 million. Smaller bioreactors that can control emissions by collecting landfill gas and delivering it to a nearby industry, commercial establishment, or institution for direct use in a boiler, process heater, or other energy recovery system can also realize a greater net revenue than similar size conventional landfills.

Given these results, we conclude that the supplemental proposal would not increase the costs of control for most landfills compared to the previous cost analyses, and some landfills with bioreactors will experience reduced control costs. We expect the number of bioreactors to increase over the next few years given their potential environmental and economic benefits and pending regulatory clarifications. Overall, the supplemental proposal would have minimal economic impacts and may in fact have an overall beneficial economic impact. Additional information on this analysis, including additional cases examined, HAP emissions reductions, and NMOC emissions reductions are contained in Docket No. A–98–28.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant," and therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the supplemental proposal is not a "significant regulatory action" because it will not have an annual effect on the economy of $100 million or more.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue

a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed regulation.

The supplemental proposal for MSW landfills will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The EPA has concluded that the supplemental proposal may create a mandate on a number of city and county governments, and the Federal government would not provide the funds necessary to pay the direct costs incurred by these city and county governments in complying with the mandate. However, the supplemental proposal does not impose any additional control costs or result in any additional control requirements above those considered during promulgation of the 1996 EG/NSPS. In developing the 1996 EG/NSPS, EPA consulted extensively with State and local governments to enable them to provide meaningful and timely input in the development of that rulemaking. Because the control requirements of the supplemental proposal are substantially the same as those developed in 1996, these previous consultations still apply. For a discussion of EPA's consultations with State and local governments, the nature of the governments' concerns, and EPA's position supporting the need for the specific control requirements included in both the EG/NSPS and the supplemental proposal, see the preamble to the 1996 EG/NSPS (60 FR 9918, March 12, 1996). Thus, the requirements of section 6 of the Executive Order do not apply to the supplemental proposal.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000) took effect on January 6, 2001, after publication of the proposed landfills NESHAP. Executive Order 13175 requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes."

The supplemental proposal does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes as specified in Executive Order 13175. Thus, the requirements of Executive Order 13175 do not apply to the supplemental proposal.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on the supplemental proposal from tribal officials.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation.

The supplemental proposal is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, the supplemental proposal has been determined to be not "economically significant" as defined under Executive Order 12866.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The supplemental proposal is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the supplemental proposal does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The EPA expects the requirements in the supplemental proposal to have a negligible economic impact. Thus, the supplemental proposal is not subject to the requirements of section 202 and 205 of the UMRA. In addition, the EPA has determined that the supplemental proposal contains no regulatory requirements that might significantly or uniquely affect small governments because the burden is small and the supplemental proposal does not unfairly apply to small governments. Therefore, the supplemental proposal is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA) As Amended By the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's supplemental proposal on small entities, small entity is defined as: (1) A small business that is primarily engaged in the collection and disposal of refuse in a landfill operation as defined by NAICS codes 562212 and 924110 with annual receipts less than 10 million dollars; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's supplemental proposal for MSW landfills on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities (SISNOSE). The supplemental proposal will not impose any requirements on small entities. In gathering available data on the owners of the ten bioreactor projects that are the population of sources used to identify the MACT floor for the supplemental proposal, we found that none of the ten projects were owned by small entities that met the SBA definition. Given that the landfill capacity of no other bioreactor project from the available data was identified to be larger than the landfill capacity exemptions, these data provide evidence to support the determination that there is no SISNOSE associated with this action.

Although no small entities were identified, the supplemental proposal would impose minimal economic impact on small entities because controls for bioreactor operations would be applied sooner than under the NSPS/EG. In addition, there may be cost savings for most of the sources that install bioreactors as compared to using conventional landfill operations. Also, the design capacity exemptions of 2.5 million Mg and 2.5 million m^3 excludes smaller landfills that can least afford the costs of collection and control systems, which will include many landfills owned by small businesses and small municipalities.

We continue to be interested in the potential impacts of the supplemental proposal on small entities and welcome comments on issues related to such impacts. For more information on potential impacts to small entities, please consult the economic impact analysis for the proposed landfills NESHAP in the public docket.

H. Paperwork Reduction Act

An Information Collection Request (ICR) document has been prepared for the November 7, 2000 proposed landfills NESHAP by EPA (ICR No. 1938.01) and submitted to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* A copy may be obtained from Sandy Farmer by mail at the Office of Environmental Information, Collection Strategies Division, U.S. EPA (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.*

Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, all Federal agencies are required to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to the OMB, with explanations when an agency does not use available and applicable VCS.

The supplemental proposal uses the same technical standards as the proposed rule and does not introduce new standards. Therefore, the requirements of the NTTAA do not apply to the supplemental proposal.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

2. Section 63.1935, as proposed at 65 FR 66683 on November 7, 2000, is amended by designating the existing paragraph in this section as paragraph (a) and adding new paragraph (b) to read as follows:

§ 63.1935 Am I subject to this subpart?

* * * * *

(b) If you own or operate a major or area source MSW landfill with a design capacity greater than or equal to 2.5

million Mg and 2.5 million m^3 that includes a bioreactor, as defined in § 63.1990, then you are subject to this subpart.

3. Subpart AAAA, as proposed at 65 FR 66684 on November 7, 2000, is amended by adding § 63.1947 to read as follows:

§ 63.1947 When do I have to comply with this subpart if I own or operate a bioreactor?

If you own or operate a bioreactor located at a landfill that is not permanently closed as of the date of publication of the final rule in the **Federal Register** and has a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3, then you must install and operate a collection and control system that meets the criteria in 40 CFR 60.752(b)(2), subpart WWW; the Federal plan; or EPA-approved and effective State plan according to the schedule specified in paragraph (a) or (b) of this section.

(a) If your bioreactor is at a new affected source, then you must meet the requirements in paragraphs (a)(1) and (2) of this section:

(1) Install the gas collection and control system for the bioreactor before initiating liquids addition.

(2) Begin operating the gas collection and control system within 90 days after initiating liquids addition.

(b) If your bioreactor is at an existing affected source and your bioreactor is not already required to install a gas collection and control system under 40 CFR part 60, subpart WWW; the Federal plan; or EPA-approved and effective State plan, then you must install and begin operating the gas collection and control system for the bioreactor within 3 years after the date of publication of the final rule in the **Federal Register**.

(c) If your bioreactor is at an existing affected source and you do not initiate liquids addition to your bioreactor until later than 3 years after the date of publication of the final rule in the **Federal Register**, then you must meet the requirements in paragraphs (c)(1) and (2) of this section:

(1) Install the gas collection and control system for the bioreactor before initiating liquids addition.

(2) Begin operating the gas collection and control system within 90 days after initiating liquids addition.

4. Subpart AAAA, as proposed at 65 FR 66684 on November 7, 2000, is amended by adding § 63.1952 to read as follows:

§ 63.1952 When am I no longer required to comply with the requirements of this subpart if I own or operate a bioreactor?

If you own or operate a bioreactor, you are no longer required to comply with the requirements of this subpart provided you meet the conditions of either paragraph (a) or (b) of this section.

(a) Your affected source meets the control system removal criteria in 40 CFR 60.752(b)(v), subpart WWW, or the bioreactor meets the criteria for a nonproductive area of the landfill in 40 CFR 60.759(a)(3)(ii), subpart WWW.

(b) The bioreactor portion of the landfill is a closed landfill as defined in 40 CFR 60.751, subpart WWW, you have permanently ceased adding liquids to the bioreactor, and you have not added liquids to the bioreactor for at least 1 year. A closure report for the bioreactor must be submitted to the Administrator as provided in 40 CFR 60.757(d), subpart WWW.

(c) Compliance with the bioreactor control removal provisions in this section constitute compliance with 40 CFR part 60, subpart WWW, or the Federal plan, whichever applies to your bioreactor.

5. Section 63.1955, as proposed at 65 FR 66684 on November 7, 2000, is amended by adding paragraph (c) to read as follows:

§ 63.1955 What requirements must I meet?

* * * * *

(c) If you own or operate a bioreactor that is located at an MSW landfill that is not permanently closed and has a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3, then you must meet the requirements of paragraph (a) and the additional requirements in paragraphs (c)(i) and (ii) of this section.

(i) You must comply with the general provisions specified in Table 1 of this subpart and in § 63.1960 through § 63.1985 starting on the date you are required to install the gas collection and control system.

(ii) You must extend the collection and control system into each new cell or area of the bioreactor prior to initiating liquids addition in that area instead of the schedule in 40 CFR 60.752(b)(2)(ii)(A)(2).

6. Section 63.1980, as proposed at 65 FR 66684 on November 7, 2000, is amended by adding new paragraphs (c) through (g) to read as follows:

§ 63.1980 What records and reports must I keep and submit?

* * * * *

(c) For bioreactors at new affected sources, you must submit the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f), subpart WWW, within 180 days after the date you are required to begin operating the gas collection and control system by § 63.1947(a)(2).

(d) For bioreactors at existing affected sources, you must submit the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f), subpart WWW, within 180 days after the compliance date specified in § 63.1947(b), unless you have previously submitted a compliance report for the bioreactor required by 40 CFR part 60, subpart WWW; the Federal plan; or an EPA-approved and effective State plan.

(e) For bioreactors that are located at existing affected sources but do not initiate liquids addition until later than the compliance date in § 63.1947(b), you must submit the initial semiannual compliance report and performance tests results described in 40 CFR 60.757(f), subpart WWW, within 180 days after the date you are required to begin operating the gas collection and control system by § 63.1947(c) of this subpart.

(f) If you must submit a semiannual compliance report for a bioreactor as well as a semiannual compliance report for a conventional portion of the same landfill, you may delay submittal of a subsequent semiannual compliance report for the bioreactor according to paragraphs (f)(1) through (3) of this section so that the reports may be submitted on the same schedule.

(1) After submittal of your initial semiannual compliance report and performance test results for the bioreactor, you may delay submittal of the subsequent semiannual compliance report for the bioreactor until the date the initial or subsequent semiannual compliance report is due for the conventional portion of your landfill.

(2) You may delay submittal of your subsequent semiannual compliance report by no more than 12 months after the due date for submitting the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f), subpart WWW, for the bioreactor. The report shall cover the time period since the previous semiannual report for the bioreactor, which would be a period of at least 6 months and no more than 12 months.

(3) After the delayed semiannual report, all subsequent semiannual reports for the bioreactor must be submitted every 6 months on the same date the semiannual report for the conventional portion of the landfill is due.

(g) If you add any liquids other than leachate in a controlled fashion to the waste mass, and you do not comply with the bioreactor requirements in §§ 63.1947, 63.1955(c) and 63.1980(c) through (f), you must keep a record of calculations showing that the percent moisture by weight expected in the waste mass to which liquid is added is less than 40 percent. The calculation must consider the waste mass, moisture content of the incoming waste, mass of water added to the waste including leachate recirculation and other liquids addition, and the mass of water removed through leachate or other water losses. Moisture level sampling or mass balances calculations can be used. You must document the calculations and the basis of any assumptions.

7. Section 63.1990, as proposed at 65 FR 66685 on November 7, 2000, is amended by adding in alphabetical order the definition of "bioreactor" as follows:

§ 63.1990 What definitions apply to this subpart?

* * * * *

Bioreactor means a municipal solid waste landfill or portion of a municipal solid waste landfill where any liquid other than leachate is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of 40 percent by weight or greater.

* * * * *

[FR Doc. 02–12845 Filed 5–22–02; 8:45 am]

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Federal Register

Thursday,
May 23, 2002

Part VI

Environmental Protection Agency

40 CFR Part 60
Standards of Performance for Municipal Solid Waste Landfills; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7215–4]

RIN 2060–AJ41

Standards of Performance for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: The EPA is proposing clarifications to the final rule entitled "Standards of Performance for Municipal Solid Waste Landfills" (61 FR 9905, March 12, 1996). We propose to clarify who is responsible for compliance activities conducted on-site; to clarify what constitutes treated landfill gas; to correct omission of an exemption for specific boilers and process heaters from the initial performance test; and to address compliance activities conducted by third parties with systems located off-site.

The proposed amendments will not change the basic control requirements of the final rule or the level of health protection it provides, but will improve implementation, compliance, and regulatory flexibility while reducing unnecessary regulatory burden.

While the proposed amendments would amend the "Standards of Performance for Municipal Solid Waste Landfills," they would also serve to amend the emission guidelines (EG) for existing municipal solid waste (MSW) landfills because the EG incorporate the provisions of the "Standards of Performance for Municipal Solid Waste Landfills."

DATES: *Comments.* Submit comments on or before July 22, 2002.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing by June 12, 2002, a public hearing will be held on June 24, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–88–09, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–88–09, U.S. EPA, 401 M Street, SW, Washington DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will begin at 10:00 a.m. and will be held at EPA's Office of Administration Auditorium in Research Triangle Park, North Carolina, or an alternate site nearby. You should contact JoLynn Collins, Waste and Chemical Processes Group, Emission Standards Division (C439–03), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541–5671 to request a public hearing, to request to speak at a public hearing, or to find out if a hearing will be held.

Docket. Docket No. A–88–09 contains supporting information used in developing the new source performance standards (NSPS). The docket is located at the U.S. EPA, 401 M Street SW, Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. Copies of docket materials may be obtained by request from the Air and Radiation Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Laur, Waste and Chemical Processes Group, Emission Standards Division (C439–03), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5256, facsimile number (919) 541–0246, electronic mail (e-mail) address: *laur.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. Comments may be submitted by e-mail to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® Corel 8 file format. All comments submitted in electronic form must note the docket number: Docket No. A–88–09. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration and retain the confidentiality of that information must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention Ms. Michele Laur, c/o OAQPS Document Control Officer, U.S. EPA, (C404–02), 4930 Old Page Road, Research Triangle Park, 27709.

The EPA will disclose information identified as CBI only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. JoLynn Collins, Emission Standards Division (C439–03), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541–5671, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also contact JoLynn Collins to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed amendments.

Docket. The docket is an organized and complete file of all the information considered by EPA in the development of the NSPS. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act.) The regulatory text and other materials related to this action are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of today's proposed amendments will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by today's proposed amendments include:

Category	NAICS code	SIC code	Examples of potentially regulated entities
Industry: Air and water resource and solid waste management.	924110	9511	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	4953	Solid waste landfills.
State, local, and Tribal government agencies	562212 924110	4953	Solid waste landfills; Air and water resource and solid waste management.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 60.32c of subpart Cc, or in § 60.750 of subpart WWW. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Background

On March 12, 1996 (61 FR 9905), the U.S. EPA promulgated the emission guidelines (EG) for existing municipal solid waste (MSW) landfills and the NSPS for new or modified MSW landfills as subparts Cc and WWW of 40 CFR part 60. The expressed goal of the EG and NSPS is to control landfill gas emissions from the largest landfills to protect human health and the environment.

The control of landfill gas results in emissions reductions of over 30 volatile organic compounds and air toxics such as toluene, benzene, and vinyl chloride. The reduction of these emissions has direct and indirect health benefits as well as environmental benefits. In addition, the control of landfill gas results in reductions of methane gas emissions which not only reduces the potential for fires and explosions near landfills but also reduces the potential for global climate change related to methane gas emissions. Another benefit is the reduction of odor problems which reduces the potential for local property de-valuation and poorer quality of life for local residents.

The EG and NSPS require large landfills (at least 2.5 million megagrams and 2.5 million cubic meters in size) with estimated nonmethane organic compound (NMOC) emissions at or above a specified limit (at least 50 megagrams per year) to collect and control or treat landfill gas. The NSPS and EG provide landfill owners or operators with some degree of flexibility to achieve compliance, allowing them to incorporate site specific factors into the design of the collection and control or treatment systems, as long as the systems meet specific performance standards.

Recent implementation activity has shown a need for clarification of some issues. Today's proposed amendments are submitted to resolve those issues.

II. What Amendments Are We Making and Why?

A. Definition of Landfill Owner/Operator

The NSPS do not contain a specific definition for MSW landfill owners/operators. In the absence of a specific definition, relevant definitions in the NSPS and in the general provisions apply. This lack of a specific definition for MSW landfill owners/operators may have confused some with regard to who is responsible for compliance when collection and control or treatment of landfill gas is performed on-site.

To facilitate implementation and improve compliance, we propose to amend § 60.751 of the NSPS by adding a landfill-specific definition for MSW landfill owners/operators. This landfill-specific definition will identify the MSW landfill owners/operators as entities that own or operate the landfill or any stationary equipment located at the landfill that is used in the collection, control, or treatment of landfill gas. The inclusion of owners/operators of landfill gas collection, control, or treatment equipment located on-site in the definition of "MSW landfill owner/operator" is consistent with our historical approach and with the "owner/operator" and "affected facility" definitions found in the general provisions to 40 CFR part 60. Today's proposed amendments should help to more clearly identify entities responsible for compliance with the NSPS.

B. Definitions for Treated Landfill Gas, Treatment System, and Untreated Landfill Gas, and Clarification of the Treatment Standard

The NSPS allow landfill owners/operators the option of achieving compliance by routing collected landfill gas to a treatment system prior to subsequent sale or use. Once landfill gas is treated, facilities that buy or use the gas have no further obligations related to the NSPS.

The NSPS do not clearly define landfill gas treatment. In the absence of a clear definition, a range of activities has been construed as constituting treatment. This absence of a clear treatment definition may have hindered implementation of this option, reduced rule flexibility, and reduced full use of this option.

We propose to amend § 60.751 of the NSPS by adding a definition for treatment system. The proposed definition for treatment system specifies that the system must filter, de-water and compress landfill gas. At a minimum, the system must filter landfill gas using a dry filter or similar device (e.g., impaction, interception or diffusion device). The filter should reduce particulate matter in the gas stream. This will prolong the life of the combustion device and decrease the buildup of material on combustion device internals, which will support good combustion. Good combustion is essential to ensuring the proper destruction of NMOC. In addition, the system must de-water landfill gas using chillers or other dehydration equipment. The de-watering equipment should reduce moisture content of the gas, which will maintain low water content in the gas and will prevent degradation of combustion efficiencies. Finally, the system must compress landfill gas using gas blowers or similar devices. Compression should further reduce the moisture content of the gas and raise gas pressure to the level required by the end use combustion device. This definition of treatment was chosen because we believe it cleans up the gas to the extent it can be readily combusted in gas-to-energy projects. It also reflects current practices at many facilities and fosters expanded beneficial combustion of landfill gas.

We recognize that some landfill gas-to-energy projects may use a different definition of treatment than we are proposing. We request data from them

that show achievement of the expected emissions reductions using a different treatment definition. If these facilities submit data that show different approaches to treatment, or different levels of treatment will sufficiently clean up the landfill gas so it is readily combustible, the data will be considered in development of the final rule.

Today's proposed amendment to § 60.751 of the NSPS reduces burden on States and Regions currently performing case-by-case determinations related to the adequacy of treatment options being employed across the Nation. It also serves to clarify the treatment issue for the regulated community so better informed decisions can be made about compliance options. It fosters the use of treated landfill gas, a renewable energy source, as an alternative to combustion of fossil fuels which can generate greater emissions. It will improve implementation and compliance, as well as increase regulatory flexibility.

To implement the proposed treatment definition, we also propose to amend § 60.751 of the NSPS by adding definitions for treated landfill gas and untreated landfill gas. The proposed definitions for treated and untreated landfill gas differentiate treated landfill gas, a gas that is not subject to requirements in the landfills NSPS, from untreated landfill gas. In addition, we propose to amend § 60.752(b)(2)(iii)(C) of the NSPS to specify that to achieve compliance with this section, landfill gas must be processed in a system that meets the treatment system definition in today's proposed amendment. We also propose to amend this section to clarify that venting of treated landfill gas to the ambient air is not permitted under this regulation.

C. Boiler and Process Heater Performance Test Exemption

The NSPS currently require landfill owners/operators to conduct an initial performance test on all enclosed combustion devices used to control landfill gas emissions. The purpose of that test is to verify control device compliance with the standard and to determine the control device operating temperature that corresponds to compliance with the standard. Following the performance test, landfill owners/operators must monitor and maintain the control device operating temperature within a specified range to ensure continuous compliance.

Requiring a performance test on boilers and process heaters with design heat input capacities of 44 megawatts (MW) or greater represents an unnecessary burden resulting in additional cost to industry without additional emissions reductions or other environmental benefits. This conclusion is based on our determination that large boilers and process heaters consistently achieve the required level of control. Therefore, such units have historically been exempt from performance tests. In addition, the NSPS do not require temperature monitoring to evaluate continuous compliance for these large boilers and process heaters.

We propose to amend § 60.752(b)(2)(iii)(B) to exempt owners/operators of boilers and process heaters with design input capacities of 44 MW or greater from the requirement to conduct an initial performance test.

D. Allowance for Off-Site Control or Treatment Option

At the time the NSPS were developed, off-site control or treatment of landfill gas was not considered as an option. Therefore, the NSPS do not address off-site control or treatment of landfill gas.

Since development and implementation of the NSPS, landfill owners/operators have sought new and innovative ways to operate landfills while maintaining compliance with the NSPS. Some of these innovative approaches involve the control or treatment of landfill gas by entities operating equipment located off-site. Since these operations are currently not addressed, the flexibility to engage in innovative control and use of landfill gas is hindered.

In developing the NSPS, we wanted to allow landfill owners/operators the flexibility to achieve compliance taking into account site-specific conditions. The option to transfer landfill gas for off-site control or treatment by a third party would provide landfill owners/operators greater flexibility in complying with the rule. The proposed option would allow transfer of control or treatment responsibility in specified circumstances without holding the landfill owners/operators responsible for the actions of another party. This approach is consistent with our historical approach to similar waste stream transfers in other rules such as the National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater. It would also facilitate the use of landfill gas as a renewable energy source while achieving emission reductions of methane, a global climate change gas, which would benefit public health, the environment, and the regulated community.

We propose to amend § 60.752 of the NSPS to allow landfill owners/operators to transfer untreated landfill gas off-site for control or treatment provided the transferee certifies to EPA (and provides a copy to the owner/operator) that it will control or treat the landfill gas in accordance with the NSPS provisions, including providing for either a backup control device should the primary control or treatment system malfunction or shutdown, or a mechanism for shutoff of landfill gas flow to the off-site facility. During times when landfill gas flow to the off-site facility is shutdown, the owner/operator of the landfill is responsible for complying with the rule.

III. What Are the Administrative Requirements for This Rule?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant," and therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that today's proposed amendments are not a "significant regulatory action" because they will not have an annual effect on the economy of $100 million or more and they do not impose any additional control requirements above the 1996 NSPS. The EPA considered the 1996 NSPS to be "significant" because they were expected to have an annual effect on the economy in excess of $100 million, and we submitted the 1996 NSPS to OMB for review. Today's proposed amendments are projected to have no impact above the 1996 NSPS. Consequently, today's proposed amendments were not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Today's proposed amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

Today's proposed amendments do not impose additional costs or result in additional control requirements above those considered during promulgation of the 1996 landfills NSPS. In developing the 1996 landfills NSPS, EPA consulted extensively with State and local governments to enable them to provide meaningful and timely input in the development of that rulemaking. Because the control requirements of today's proposed amendments are the same as those developed in 1996, these previous consultations still apply. For a discussion of EPA's consultations with State and local governments, the nature of the governments' concerns, and EPA's position supporting the need for the specific control requirements included in the NSPS, see the preamble to the 1996 NSPS (61 FR 9905, March 12, 1996). Thus, Executive Order 13132 does not apply to today's proposed amendments.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on these proposed amendments from State and local officials.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and the Indian tribes."

Today's proposed amendments do not have tribal implications. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's proposed amendments do not impose additional costs or result in additional control requirements above those considered during promulgation of the 1996 NSPS. In addition, today's proposed amendments do not significantly or uniquely affect the communities of Indian tribal governments. Thus, the requirements of Executive Order 13175 do not apply to today's proposed amendments.

In the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on today's proposed amendments from tribal officials.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation.

Today's proposed amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health and safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. In addition, today's proposed amendments are not economically significant as defined in Executive Order 12866.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Today's proposed amendments are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in

the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's proposed amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, today's proposed amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that today's proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they consist of new definitions and clarifications and do not impose new costs on government entities or the private sector. Therefore, today's proposed amendments are not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed amendments, small entities are defined as: (1) A small business that is primarily engaged in the collection and disposal of refuse in a landfill operation as defined by NAICS codes 562212 and 924110 with annual receipts less than $10 million; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's proposed amendments. Today's proposed amendments clarify the applicability of control requirements in the NSPS and do not include provisions that create a new burden for regulated entities.

Today's proposed amendments do not increase the stringency of the NSPS, nor do they add additional control requirements. Today's proposed amendments reduce the control, monitoring, recordkeeping, and reporting requirements of the promulgated rule under specific conditions for some entities.

H. Paperwork Reduction Act

An Information Collection Request (ICR) document was prepared for the landfills NSPS and was submitted to and approved by OMB. A copy of this ICR (OMB control number 1557.03) may be obtained from Sandy Farmer, by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; by calling (202) 260–2740; or by email at: *farmer.sandy@epa.gov*. You may also download a copy from the policy website at *http://www.epa.gov/icr*.

Today's proposed amendments to the NSPS will have no impact on the information collection burden estimates made previously. Today's proposed amendments consist of new definitions and clarifications of requirements. Consequently, the ICR has not been revised.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113; 15 U.S.C. 272 note), all Federal agencies are required to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable VCS.

Today's proposed amendments do not involve new technical standards; thus, the requirements of section 12(d) of the NTTAA do not apply.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart WWW—[AMENDED]

2. Section 60.751 is amended by adding in alphabetical order the definitions of MSW landfill owner/operator, treated landfill gas, treatment system and untreated landfill gas, to read as follows:

§ 60.751 Definitions.

* * * * *

Municipal solid waste landfill owner/operator means any entity that owns or operates a municipal solid waste landfill or any stationary equipment located on the same property as a municipal solid waste landfill facility that is used to collect, control or treat landfill gas.

* * * * *

Treated landfill gas means landfill gas processed in a treatment system according to this subpart.

Treatment system means a system that filters, de-waters and compresses landfill gas.

Untreated landfill gas means any landfill gas that is not treated landfill gas.

* * * * *

3. Section 60.752 is amended by revising paragraphs (b)(2)(iii)(B) and (C), and by adding paragraphs (b)(2)(iii)(D), (D)(*1*) through (*4*) to read as follows:

§ 60.752 Standards for air emissions from municipal solid waste landfills.

* * * * * * *

(b) * * *

(2) * * *

(iii) * * *

(B) A control system designed and operated to reduce NMOC by 98 weight percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or to reduce the outlet NMOC concentration to less than 20 parts per million by volume (ppmv), dry basis as hexane at 3 percent oxygen. The reduction efficiency or ppmv shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in § 60.754(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this subpart.

(*1*) * * *

(*2*) * * *

(C) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or use as a fuel for combustion. Landfill gas sold or used as a fuel for combustion shall be treated in a treatment system as defined in § 60.751. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of paragraph (b)(2)(iii)(A) or (B) of this section. For purposes of this rule, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of paragraph (b)(2)(iii)(A) or (B) of this section. The owner/operator of the landfill gas treatment system must ensure compliance with these requirements. The owner/operator of a combustion device who uses or purchases treated landfill gas for fuel in a combustion device shall be exempt from further compliance with this subpart. Since the treatment option is only valid when treated landfill gas is sold or used as a fuel in a combustion device, the gas must be used as a fuel, and venting of treated landfill gas to the ambient air is not allowed under this option.

(D) The landfill owner/operator who routes untreated landfill gas for sale or use shall be exempt from the requirements of paragraphs (b)(2)(iii)(A) and (B) of this section if the conditions in paragraphs (b)(2)(iii)(D)(*1*) through (*4*) of this section are met:

(*1*) The landfill owner/operator transferring or selling untreated landfill gas to an off-site operation owned or operated by a third party for treatment or for combustion as a fuel must include a notice with the transfer or sale of the untreated landfill gas. The notice must state that the untreated landfill gas is to be treated or combusted in accordance with the provisions of this subpart. When the transfer or sale is continuous or ongoing, the notice must be submitted to the third party operator initially and whenever there is a change in the required treatment or combustion standards. These notices must be retained by the landfill owner/operator as specified in § 60.758(g).

(*2*) The landfill owner/operator may not transfer or sell the untreated landfill gas unless the transferee has submitted to EPA a written certification that the transferee will manage and treat or combust the untreated landfill gas received from the affected facility subject to the requirements of this subpart in accordance with the requirements in §§ 60.752 through 60.758. The certifying entity may revoke the written certification by sending a written statement to EPA and the landfill owner/operator giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the regulatory provisions listed in this paragraph (b)(2)(iii)(D)(*2*). Upon expiration of the notice period, the landfill owner/operator may not transfer or sell the untreated landfill gas to the third party operation.

(*3*) The third party/certifying entity must provide written certification to EPA that it accepts responsibility for compliance with the regulatory provisions listed in paragraph (b)(2)(iii)(D)(*2*) of this section with respect to any transfer or sale of untreated landfill gas covered by the written certification. Failure to abide by any of the provisions with respect to such transfers or sales may result in enforcement action by EPA against the certifying entity in accordance with the enforcement provisions applicable to violations of the provisions by owners or operators of affected facilities.

(*4*) Written certification and revocation statements to EPA from the transferees of untreated landfill gas must be signed by a responsible official of the certifying entity, provide the name and address of the certifying entity, and be sent to the appropriate EPA Regional Office. Such written certifications are not transferable by the third party.

* * * * *

4. Section 60.758 is amended by adding paragraph (g) to read as follows:

§ 60.758 Recordkeeping requirements.

* * * * *

(g) The landfill owner or operator transferring or selling untreated landfill gas in accordance with § 60.752(b)(2)(iii)(D)(*1*) shall keep a record of the notice sent to the third party operator stating that the untreated landfill gas is required to be managed and treated or combusted in accordance with the provisions of this subpart. This record shall be maintained for as long as the third party continues to accept landfill gas as specified in the third party's certification. Upon termination of the certification by the third party, this record must be maintained for 5 years.

* * * * *

[FR Doc. 02–12844 Filed 5–22–02; 8:45 am]

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Federal Register

Thursday,
May 23, 2002

Part VII

Federal Trade Commission

16 CFR Part 314
Standards for Safeguarding Customer Information; Final Rule

FEDERAL TRADE COMMISSION

16 CFR Part 314

RIN 3084 AA87

Standards for Safeguarding Customer Information

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") is issuing a final Safeguards Rule, as required by section 501(b) of the Gramm-Leach-Bliley Act ("G–L–B Act" or "Act"), to establish standards relating to administrative, technical and physical information safeguards for financial institutions subject to the Commission's jurisdiction. As required by section 501(b), the standards are intended to: Ensure the security and confidentiality of customer records and information; protect against any anticipated threats or hazards to the security or integrity of such records; and protect against unauthorized access to or use of such records or information that could result in substantial harm or inconvenience to any customer.

EFFECTIVE DATE: This rule is effective on May 23, 2003.

FOR FURTHER INFORMATION CONTACT: Laura D. Berger, Attorney, Division of Financial Practices, (202) 326–3224.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

A. Background
B. Overview of Comments Received
C. Section-by-Section Analysis
D. Paperwork Reduction Act
E. Regulatory Flexibility Act

Section A. Background

On November 12, 1999, President Clinton signed the G–L–B Act (Pub. L. 106–102) into law. The purpose of the Act was to reform and modernize the banking industry by eliminating existing barriers between banking and commerce. The Act permits banks to engage in a broad range of activities, including insurance and securities brokering, with new affiliated entities. Subtitle A of Title V of the Act, captioned "Disclosure of Nonpublic Personal Information," limits the instances in which a financial institution may disclose nonpublic personal information about a consumer to nonaffiliated third parties, and requires a financial institution to disclose certain privacy policies and practices with respect to its information sharing with both affiliates and nonaffiliated third parties. On May 12, 2000, the Commission issued a final rule, Privacy of Consumer Financial Information, 16 CFR part 313, which implemented Subtitle A as it relates to these requirements (hereinafter "Privacy Rule").[1] The Privacy Rule took effect on November 13, 2000, and full compliance was required on or before July 1, 2001.

Subtitle A of Title V also requires the Commission and other federal agencies to establish standards for financial institutions relating to administrative, technical, and physical safeguards for certain information.[2] *See* 15 U.S.C. 6801(b), 6805(b)(2). As described in the Act, the objectives of these standards are to: (1) Ensure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer. *See* 15 U.S.C. 6801(b)(1)–(3). The Act does not require all of the agencies to coordinate in developing their safeguards standards, and does not impose a deadline to establish them.[3] Although the Act permits most of the agencies to develop their safeguards standards by issuing guidelines, it requires the SEC and the Commission to proceed by rule.[4]

On September 7, 2000, the Commission issued for publication in the **Federal Register** a Advanced Notice of Proposed Rulemaking ("the ANPR") on the scope and potential requirements of a Safeguards Rule for the financial institutions subject to its jurisdiction.[5] The Commission received thirty comments in response to the ANPR. Based on these comments, as well as the safeguards standards already issued by the other GLB agencies, the Commission issued a Notice of Proposed Rulemaking respecting Standards for Safeguarding Customer Information ("the proposal" or "the Proposed Rule") on August 7, 2001.[6] In response to the proposal, the Commission received forty-four comments from a variety of interested parties. The Commission now issues a final rule governing the safeguarding of customer records and information for the financial institutions subject to its jurisdiction ("Safeguards Rule").

Like the proposal, the Final Rule requires each financial institution to develop a written information security program that is appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue. As described below, each information security program must include certain basic elements to ensure that it addresses the relevant aspects of a financial institution's operations and that it keeps pace with developments that may have a material impact on its safeguards. In developing the Final Rule, the Commission carefully weighed the comments, including concerns expressed about the ability of smaller and less sophisticated financial institutions to meet the Rule's requirements. It also sought to ensure that the Rule mirrored the requirements of the guidelines already established by the NCUA and the other banking agencies (collectively, "the Banking Agency Guidelines"),[7] with adjustments as needed to clarify the Rule's scope and accommodate the diverse range of entities covered by the Commission's Rule. The Commission believes that the Final Rule strikes an appropriate balance between allowing flexibility to financial institutions and establishing standards for safeguarding customer information that are consistent with the Act's goals. As described below, the Commission will issue educational materials in connection with the Rule in order to assist businesses—and in particular, small entities—to comply with its requirements without imposing undue burdens.

[1] The rule was published in the **Federal Register** at 65 FR 33646 (May 24, 2000).

[2] The other agencies responsible for establishing safeguards standards are: the Office of the Comptroller of the Currency ("OCC"); the Board of Governors of the Federal Reserve System ("Board"); the Federal Deposit Insurance Corporation ("FDIC"); the Office of Thrift Supervision ("OTS"); the National Credit Union Administration ("NCUA"); the Secretary of the Treasury ("Treasury"); and the Securities and Exchange Commission ("SEC").

[3] By contrast, section 504 of the Act required the Agencies to work together to issue consistent and comparable rules to implement the Act's privacy provisions.

[4] The NCUA and the remaining banking agencies—the OCC, the Board, the FDIC, and OTS—have already issued final guidelines that are substantively identical. 66 FR 8152 (Jan. 30, 2001); 66 FR 8616 (Feb. 1, 2001). The SEC also adopted a final safeguards rule as part of its Privacy of Consumer Financial Information Final Rule (hereinafter "SEC rule"). *See www.sec.gov/rules/final/34–42974.htm* (June 29, 2000).

[5] 65 FR 54186.

[6] 66 FR 41162. In addition to considering the Banking Agency Guidelines, the Commission also considered the Final Report that was issued by the Federal Trade Commission Advisory Committee on Online Access and Security on May 15, 2000 ("Advisory Committee's Report" or "ACR"). Although the Advisory Committee's Report addressed security only in the online context, the Commission believes that its principles have general relevance to information safeguards.

[7] *See supra* n.4.

Section B. Overview of Comments Received

The comments received were submitted by a variety of interested parties:[8] twenty-eight were from trade or other associations or companies related to financial or Internet-related services;[9] six were from corporations or associations related to higher education or the funding of student loans;[10] five were from individuals;[11] three were from information security companies;[12] two were from consumer reporting agencies;[13] and one was from a non-profit association of consumer agencies.[14]

The majority of commenters supported the proposal overall, citing its flexibility[15] and similarity to the Banking Agency Guidelines.[16] However, as discussed below, commenters expressed different views on issues concerning the Rule's scope—in particular, whether financial institutions should be responsible for the safeguards of their affiliates and service providers and whether the Rule should apply to a financial institution that has no customer relationship but receives customer information from another financial institution. In addition, a number of commenters asked that compliance with alternative standards be deemed compliance with the Rule and/or sought to exclude certain entities from the Rule's definition of "service provider." Finally, numerous commenters urged that the Commission provide guidance to businesses—particularly smaller businesses—on how to comply with the Rule without incurring undue expense.[17] As discussed in detail below, comments on all of these issues were instrumental in shaping the Final Rule.

Additional comments, and the Commission's responses thereto, are discussed in the following Section-by-Section analysis.

Section C. Section-by-Section Analysis

Consistent with the proposal, the Safeguards Rule will be part 314 of 16 CFR, to be entitled "Standards for Safeguarding Customer Information." This Part will follow the Privacy Rule, which is contained in part 313 of 16 CFR. The following is a section-by-section analysis of the Final Rule.

Section 314.1: Purpose and Scope

Paragraph 314.1(a) states that the Rule is intended to establish standards for financial institutions to develop, implement and maintain administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information. This paragraph also states the statutory authority for the proposed Rule. No comments addressed this provision, and the Commission has made no changes to it.

Paragraph 314.1(b) sets forth the scope of the Rule, which applies to the handling of customer information by all financial institutions over which the FTC has jurisdiction. Because, as noted below, "financial institution" is defined as it is in section 509(3)(A) of the Act and the Privacy Rule, the Rule covers a wide range of entities, including: non-depository lenders; consumer reporting agencies; debt collectors; data processors; courier services; retailers that extend credit by issuing credit cards to consumers; personal property or real estate appraisers; check-cashing businesses; mortgage brokers, and any other entity that meets this definition.[18] Consistent with the proposal, the Safeguards Rule covers any financial institution that is handling "customer information"—*i.e.*, not only financial institutions that collect nonpublic personal information from their own customers, but also financial institutions that receive customer information from other financial institutions.

Comments were split on whether the Rule should apply to customer information that a financial institution receives from another financial institution. A number of commenters agreed that such recipients should be required to maintain safeguards, citing the added protections provided by this requirement.[19] However, one of these commenters expressed concern that a recipient financial institution could be subject to multiple safeguards standards or even required to prepare multiple written safeguards plans if that financial institution also acts as a service provider or is subject to other laws, such as the Fair Credit Reporting Act, that impose confidentiality requirements.[20] In addition, some commenters opposed covering recipients on the grounds that such coverage is: (1) Beyond the intent of section 501(a), which refers to a financial institution's obligation to "its customers;" (2) unnecessary in light of the Rule's separate treatment of service providers and affiliates; and/or (3) too burdensome.[21]

After considering the comments, the Commission has determined that covering recipient financial institutions is consistent with the purpose and language of the Act. The Commission believes that imposing safeguards obligations as to customer information that a financial institution receives about another institution's customers is the most reasonable reading of the statutory language and clearly furthers the express congressional policy to

[8] These comments are available on the Commission's Web site, at www.ftc.gov.

[9] ACA International ("ACA"); America's Community Bankers ("ACB"); Associated Credit Bureaus, now renamed the Consumer Data Industry Association ("CDIA"); BITS/Financial Services Roundtable ("BITS"); Commerce Bankshares, Inc.; Credit Union Nat'l Ass'n ("CUNA"); Council of Ins. Agents and Brokers; Debt Buyers Ass'n ("DBA"); Ernst & Young LLP ("Ernst & Young"); Financial Planning Ass'n ("FPA"); Household Finance Corporation ("Household"); Independent Community Bankers of America ("ICB"); Independent Ins. Agents of America ("Indep. Ins. Agents"); Intuit Inc. ("Intuit"); Information Technology Ass'n of America ("ITAA"); MasterCard International ("MasterCard"); Nat'l Ass'n of Indep. Insurers ("NAII"); Nat'l Ass'n of Mutual Ins. Cos. ("NAMIC"); Nat'l Automotive Dealers Ass'n ("NADA"); Nat'l Retail Federation ("NRF"); Navy Federal Credit Union ("NFCU"); Nat'l Indep. Automobile Dealers Ass'n ("NIADA"); Navy Federal Financial Group ("NFFG"); North American Securities Administrators Ass'n, Inc. ("NASAA"); Ohio Credit Union League ("OCUL"); Oracle Corporation ("Oracle"); Software & Information Industry Ass'n ("SIIA"); Visa USA, Inc. ("Visa").

[10] American Council on Education ("ACE"); Education Finance Council and the National Council of Higher Education Loan Programs; Nat'l Council of Higher Educ. Loan Programs, Inc.; USA Education, Inc. & Student Loan Marketing Ass'n (collectively "Sallie Mae"); Texas Guaranteed Student Loan Corp. ("TGSL"); United Student Aid Funds, Inc. ("USA Funds").

[11] Forest Landreth ("Landreth"); Lou Larson ("Larson"); Sheila Musgrove ("Musgrove"); David Paas ("Paas"); Norman Post ("Post").

[12] Portogo, Inc. ("Portogo"); Tiger Testing; VeriSign, Inc. ("VeriSign").

[13] Equifax, Inc ("Equifax"); Experian Information Solutions, Inc. ("Experian").

[14] Nat'l Ass'n of Consumer Agency Administrators ("NACAA").

[15] *See, e.g.*, Household at 1; Intuit at 2; ITAA at 1; NRF at 2; Sallie Mae at 2; SIIA at 3; TGSL at 1; Verisign at 2.

[16] See, e.g., Visa at 1.

[17] *See, e.g.*, ICB at 2; Musgrove at 2; NADA at 2; NIADA at 9; Paas at 4–6.

[18] Under section 313.3(k)(1) of the Privacy Rule, "financial institution" means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). An institution that is significantly engaged in financial activities is a financial institution.

Additional examples of financial institutions are provided in section 313.3(k)(2) of the Privacy Rule.

[19] *See, e.g.*, Equifax at 1–2; Intuit at 2; NIADA at 2; TGSL at 1.

[20] Equifax at 2.

[21] *See, e.g.*, ACA at 2–3; CDIA at 3; Experian at 2; Mastercard at 2–3; NAMIC at 2–3; NRF at 3. In addition, one comment stated that numerous financial institutions that do not have customer relationships of their own could be swept into the Rule in this fashion (Visa at 4). Although no commenters identified the types of financial institutions that are likely to be so affected, the Commission envisions that such entities could include consumer reporting agencies, debt collectors, independent check cashers, automated teller machine operators, and other businesses that obtain customer information from other financial institutions to process customer data, facilitate customer transactions, or carry out transactions in a consumer context.

respect the privacy of these customers and to protect the security and confidentiality of their nonpublic personal information. Covering recipients will ensure that all financial institutions over which the Commission has jurisdiction safeguard customer information and that such safeguards are not lost merely because information is shared with a third-party financial institution.[22] The Commission also believes that the Rule's provisions for affiliates and service providers, discussed below, are not sufficient to address circumstances where information is transferred to another financial institution in the absence of a service or affiliate relationship, such as for use in debt collection or consumer reporting. Without imposing safeguards in such cases, customer information would be insufficiently protected and Congressional intent to safeguard such information would be undermined. Finally, the flexible requirements of the Rule—which allow the safeguards to vary according to the size and complexity of a financial institution, the nature and scope of its activities, and the sensitivity of any customer information at issue—permit entities to develop safeguards appropriate to their operations and should minimize any burdens on recipient entities.

Nevertheless, the Commission recognizes that financial institutions covered by its Rule also may simultaneously be subject to the Rule's requirements for service providers or affiliates.[23] For example, check printers, data processors, and real property appraisers that receive customer information as service providers for a financial institution will also be directly subject to the rule because they are themselves financial institutions.[24] However, the obligations the Rule creates for financial institutions are entirely consistent with the standard it requires them to impose on their affiliate or service provider, so that each entity ultimately is required to maintain safeguards that are appropriate in light of the relevant circumstances. Thus, a financial institution that develops an information safeguards program according to the Rule will not be faced with additional or conflicting requirements merely because it also received customer information as an affiliate or service provider.

As under the proposal, the Safeguards Rule does not cover recipients of customer information that are not financial institutions, and are also neither affiliates nor service providers as defined by the Rule. However, the Commission encourages each financial institution to take reasonable steps to assure itself that any third party to which it discloses customer information has safeguards that are adequate to fulfill any representations made by the financial institution regarding the security of customer information or the manner in which it is handled by third parties.[25]

In addition, as under the proposal, the Safeguards Rule only applies to information about a consumer who is a "customer" of a financial institution within the meaning of the Rule.[26] This approach is consistent with the Banking Agency Guidelines and the majority of comments that addressed this issue.[27] Although the Commission believes that limiting the Rule to information about customers is warranted by the plain language of section 501 of the Act, the Commission notes, as it did in the proposal, that protecting information about consumers may be a part of providing reasonable safeguards to "customer information" where the two types of information cannot be segregated reliably. Further, consistent with its mandate under section 5 of the FTC Act, the Commission expects that, as with customers, any information that a financial institution provides to a consumer will be accurate concerning the extent to which safeguards apply to them. Finally, the Commission expects that each financial institution will have in place at least the administrative or other safeguards necessary to honor any "opt-out" requests made by consumers under the Privacy Rule.

Other comments on the Rule's scope urged that compliance with various alternative standards should constitute compliance with the Safeguards Rule. Several such commenters urged that the Rule permit compliance with another agency's safeguards standard in lieu of the FTC's. Specifically, commenters urged that: (1) Compliance with the SEC's rule constitute compliance with the FTC Rule, so that state investment advisors covered by the FTC Rule would be subject to the same standards as federal investment advisors, which are subject to the SEC's jurisdiction; [28] (2) non-federally-insured credit unions be permitted to comply with the NCUA's guidelines instead of the FTC's Rule, so that they would be subject to the same standards as federally-insured credit unions, which are under the NCUA's jurisdiction; [29] and (3) compliance with the Banking Agency Guidelines [30] be deemed compliance for service providers that may be engaged by banks as well as by entities under the FTC's jurisdiction. In addition, other commenters requested that compliance with other laws be deemed compliance with the Rule, such as the Fair Credit Reporting Act ("FCRA"); [31] the Health Insurance Portability and Accountability Act ("HIPAA"); [32] and the Fair Debt Collection Practices Act ("FDCPA").[33]

As discussed above in connection with recipient financial institutions and others, the Commission does not intend to impose undue burdens on entities that already are subject to comparable safeguards requirements. In particular, the Commission envisions that any entity that can demonstrate compliance with the Banking Agency Guidelines (including the substantively identical NCUA Guidelines) will also satisfy the Rule. With respect to other rules and laws that may contain some safeguards, the Commission notes that the adoption of safeguards in furtherance of such rules or laws will be weighted heavily in assessing compliance with the Rule. However, because such other rules and laws do not necessarily provide comparable protections in terms of the safeguards mandated, data covered, and range of circumstances to which protections apply, compliance with such standards will not automatically ensure compliance with the Rule. For example, an entity's compliance with the FCRA, which limits the purposes for which certain financial information may be disclosed, will not guarantee that an entity has adopted a comprehensive information security plan as described in the Rule.

Section 314.2: Definitions

This section defines terms used in the Safeguards Rule. As under the proposal, paragraph (a) makes clear that, unless otherwise stated, terms used in the Safeguards Rule bear the same meaning as in the Commission's Privacy Rule. The remaining paragraphs (b)-(d) of this section define the terms "customer information," "information security program," and "service provider," respectively.

In addressing this section generally, several commenters expressed concern that the definitions would be confusing to the extent that they differ from those set forth in the Privacy Rule or the Banking Agency Guidelines.[34] In response, the Commission notes that, the terms used in the Rule are consistent with those used in the Privacy Rule, and differ from those used in the Guidelines only as needed to clarify the Rule's scope and make its terms more understandable and appropriate to the diverse range of non-bank financial institutions subject to the Commission's jurisdiction. Thus, as described below, the Rule defines "customer information" to include information handled by affiliates. Similarly, the Rule omits definitions found in the Guidelines, such as "Board of Directors" or "subsidiary," that are not universally applicable to entities that will be subject to the Rule.

Proposed paragraph (b) defined "customer information" as any record containing nonpublic personal information, as defined in paragraph 313.3(n) of the Privacy Rule, about a customer of a financial institution, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of a financial institution or its affiliates." Thus, to the extent that a financial institution shares customer information with its affiliates, the proposal required it to ensure that the affiliates maintain appropriate safeguards for the customer information at issue.

Commenters expressed varying views on whether a financial institution should be responsible for its affiliates' safeguards. Some commenters agreed that customer information held by affiliates should be protected by the Rule.[35] However, some commenters requested that affiliates that are financial institutions subject to the jurisdiction of another agency be permitted to comply with the safeguards standards of that agency in lieu of the Commission's Rule.[36] Finally, several commenters stated that the Rule should not cover affiliates at all because (1) the Act was not meant to cover any entity that is not a financial institution and some affiliates may not be financial institutions [37] or (2) the fact that the Act permits financial institutions to disclose nonpublic personal information to affiliates without providing any notice or opt out indicates that no affiliates were intended to be covered by the Act's safeguards provisions.[38]

The Commission agrees that section 501 of the Act focuses on the obligations of financial institutions. It also notes, however, that the purpose of the Act is to protect customer information, and that such information easily may be shared with companies that are affiliated and under common control with such financial institutions. Therefore, the Rule imposes obligations only on financial institutions, but gives them duties with respect to customer information shared with their affiliates. The Commission does not believe that the unrestricted sharing that the Act permits among affiliates—including affiliates that are not financial institutions—shows an intent to exclude affiliates from safeguards obligations. To the contrary, the free sharing the Act permits among affiliates warrants a coordinated and consistent approach to security. The Commission notes, however, that the duty to ensure appropriate safeguards by affiliates arises only if a financial institution shares customer information with its affiliates; therefore this obligation can, and need only be, addressed as part of such sharing arrangements. In addition, the flexible standards of the Rule permit entities to develop safeguards appropriate to their operations and the sensitivity of the information at issue and should therefore minimize burdens on affiliates. Finally, as noted above, the Commission agrees that compliance with the Banking Agency Guidelines should satisfy the safeguards standards under the Commission's Rule. Therefore, any financial institution that can demonstrate its compliance with the Guidelines will not be subject to additional requirements merely because it is an affiliate of a financial institution that is covered by the Rule.

Proposed paragraph (c) defined "information security program" as "the administrative, technical, or physical safeguards" that a financial institution uses "to access, collect, process, store, use, transmit, dispose of, or otherwise handle customer information." This definition is virtually identical to the Banking Agency Guidelines' definition of "customer information systems." *See* Banking Agency Guidelines, section I.C.2.d. Few comments were received on this definition. In response to one commenter who urged that this term should better describe all of the ways that "customer information" can be provided to others, the Commission has added the words "distribute" and "protect" to this definition.[39] At the same time, the Commission notes that the words "otherwise handle" are intended to cover other ways that customer information is dealt with that are not specifically mentioned in the definition. Thus, the definition is adopted with only the minor changes noted above.

Proposed paragraph (d) defined the term "service provider" to mean "any person or entity that receives, maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to a financial institution that is subject to the rule." This definition is virtually identical to the definition set forth in the Banking Agency Guidelines. *See* Banking Agency Guidelines, section I.C.2.e. Several commenters urged that this definition be amended to exclude particular entities from the definition of service providers, namely: (1) Accountants and auditors [40] (2) financial institutions that also provide services to banks, and are subject to examination under the Bank Service Company Act (BSCA); [41] (3) any service provider that is also an affiliate of a financial institution; [42] and (4) any service provider that receives information under the Privacy Rule's general exceptions in Sections 313.14 and 313.15, and is therefore permitted access to nonpublic personal information without need for a specific agreement concerning its reuse and redisclosure.[43]

The Commission notes that the Banking Agency Guidelines do not contain exceptions to the definition of service provider. Thus, some of the recommended exceptions could result

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[22] Under the Act, the Commission has jurisdiction over "any other financial institution or other person that is not subject to the jurisdiction of any agency or authority." 15 U.S.C. Section 6805(7). Thus, the Commission does not have jurisdiction over any financial institution that is subject to another Agency's authority by the Act, including national banks, bank holding companies and savings associations the deposits of which are insured by the FDIC. *See id.* at Section 6805(a)(1)–(6).

[23] As discussed below, the FTC Rule requires financial institutions to ensure the safeguards of their affiliates and take steps to oversee their service providers' safeguards. *See* sections 314.2(b) and 314.4(d), below. What safeguards would be appropriate for an affiliate or service provider depends on the facts and circumstances, just as it would for a financial institution that is directly covered by the Rule.

[24] It should be noted that this potential overlap exists for all financial institutions that are affiliates or service providers of other financial institutions, not just recipient entities.

[25] Misrepresentations regarding these issues could violate the Privacy Rule and Section 5 of the FTC Act.

[26] The Rule incorporates the definition of "customer" set forth in section 313(h) of the Privacy Rule. *See* section 314.2(a).

[27] *See, e.g.*, ACA at 4; DBA at 1; Mastercard at 1–2; *but see* Intuit at 3–4; NACAA at 1.

[28] NASAA at 2.

[29] CUNA at 1; OCUL at 3.

[30] Indep. Ins. Agents at 2.

[31] CDIA at 2–3; NIADA at 3.

[32] NIADA at 3.

[33] ACA at 4–5.

[34] *See, e.g.*, Intuit at 4; NADA at 2; NIADA at 2, 4.

[35] Equifax at 2–4; Household at 1–2; NACAA at 1; NIADA at 4; SIIA at 2. *See also* NCHELP at 1.

[36] *See, e.g.*, Household at 1–2; NCHELP at 2; OCUL at 2; USA Funds at 1. *See also* Equifax at 2.

[37] Mastercard at 4–5. *See also* NRF at 4.

[38] NAMIC at 5–6.

[39] Equifax at 4.

[40] Ernst & Young at 1–2.

[41] Visa at 4.

[42] NIADA at 5.

[43] NIADA at 6 (but stating that the Rule's obligations for service providers are for the most part consistent with the Privacy Rule).

in disparate treatment of entities performing services for a bank and entities performing services for a financial institution under the FTC's jurisdiction. In addition, no commenters demonstrated that the confidentiality requirements that apply to auditors and accountants (or other professionals) would address unauthorized access to information by third parties, fraud, or any other security issues contemplated by the Rule. Further, given the Rule's flexibility, the Commission is aware of no duplicative burdens that will result from application of the Rule to auditors, accountants, or other professionals, or to service providers to, or affiliates of, banks. Finally, the Commission has determined that the Rule should apply to all service providers, even those that the Privacy Rule does not require to enter into agreements concerning reuse and redisclosure of the relevant information. Although the Privacy Rule allows certain service providers to receive information without entering into confidentiality agreements, these confidentiality provisions do not address the range of security issues that are contemplated by the Safeguards Rule.

Other comments sought minor clarifications of the definition of service provider. Specifically, commenters asked (1) whether a student loan organization is covered where the tasks it performs—passing along updated contact information to schools, lenders, loan servicers, and others involved in the funding of student loans—could not be carried out by financial institutions directly;[44] and (2) whether subservicers, employees and independent contractors of service providers are required to maintain separate safeguards.[45] These concerns are addressed as follows: First, although outsourcing often involves functions that may be performed in-house, the Commission sees no reason to exclude from the Rule service providers that are specifically authorized to perform services that a financial institution cannot perform itself. Thus, such entities are covered to the extent that they meet the definition. Second, the focus of the Rule's service provider provisions is clearly on the original service provider—the entity that provides services "directly to a financial institution"— and not on subservicers or employees or independent contractors of these service providers. Although the original service provider should address the practices of these individuals and entities in its own security plan, the Rule does not specifically require these individual entities to maintain their own safeguards.

For the reasons discussed, the definition of service provider is adopted as proposed.

Section 314.3: Standards for Safeguarding Customer Information

Proposed paragraph (a) of this section set forth the general standard that a financial institution must meet to comply with the Rule, namely to "develop, implement, and maintain a comprehensive written information security program that contains administrative, technical, and physical safeguards" that are appropriate to the size and complexity of the entity, the nature and scope of its activities, and the sensitivity of any customer information at issue. This standard is highly flexible, consistent with the comments, the Banking Agency Guidelines, and the Advisory Committee's Report, which concluded that a business should develop "a program that has a continuous life cycle designed to meet the needs of a particular organization or industry."[46] *See* ACR at 18. Paragraph (a) also requires that each information security program include the basic elements set forth in proposed section 314.4 of the Rule, and be reasonably designed to meet the objectives set forth in section 314.3(b). For the reasons discussed below, this standard is adopted with only minor changes.

As noted above, commenters were generally supportive of the proposed standard, citing both its flexibility and its similarity to the Banking Agency Guidelines.[47] In addition, the numerous commenters who addressed whether the information security program should be in writing were supportive of this requirement,[48] stating that such a requirement is reasonable[49] and essential to the effective implementation and management of safeguards.[50] At the same time, two commenters suggested that the term "comprehensive" be deleted to avoid implying that the writing itself should be comprehensive.[51] One commenter urged that the Final Rule explicitly state—as was stated in the section-by-section analysis of the Proposed Rule[52]—that the writing need not be contained in a single document. In response, the Commission has amended the standard slightly, so that each financial institution must "develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards" that are appropriate to the size and complexity of the entity, the nature and scope of its activities, and the sensitivity of any customer information at issue. *See* paragraph (a). The Commission believes that this standard will ensure a comprehensive, coordinated approach to security while emphasizing the flexibility of the writing requirement.

One commenter requested that the Rule specify that a financial institution need not disclose its information security plan to any third party other than law enforcers. In response, the Commission notes that the Rule itself creates no obligation for a financial institution to disclose its information security program. Moreover, the Privacy Rule requires a financial institution to disclose to consumers only the most general information about its safeguards. *See* 16 CFR 313.6(a)(8) and (c)(6). However, the Safeguards Rule leaves private parties free to negotiate disclosure of any safeguards information that may be relevant to the business at hand. Further, neither the G–L–B Act nor the Rule provides a shield to disclosure that is sought by law enforcement or pursuant to court order, subpoena or other legal process.

Section 314.4: Elements

This section sets forth the general elements that a financial institution must include in its information security program. The elements create a framework for developing, implementing, and maintaining the required safeguards, but leave each financial institution discretion to tailor its information security program to its own circumstances. Subject to the changes to paragraphs (d) and (e) that are set forth below, these elements are adopted as proposed.

1. Paragraph (a)

Paragraph (a) requires each financial institution to designate an employee or employees to coordinate its information security program in order to ensure accountability and achieve adequate safeguards. This requirement is similar to the Banking Agency Guidelines'

[44] TGSL at 2.

[45] Equifax at 4.

[46] The adaptability of the standard according to "the sensitivity of information" mirrors the Advisory Committee's finding that "different types of data warrant different levels of protection." *Id.*

[47] *See supra* nn.15 and 16, and accompanying text.

[48] CDIA at 4; Equifax at 5; Intuit at 4; NFCU at 1; NFFG at 1; NCHELP at 3; NASAA at 2.

[49] *See, e.g.*, NCHELP at 3.

[50] *See, e.g.*, Intuit at 4.

[51] CDIA at 4; Equifax at 5.

[52] 66 FR at 41165.

requirement that each institution involve and report to its Board of Directors (*see* 66 FR 41166, *citing* Paragraphs III.A. and III.F., respectively), but allows designation of any employee or employees to better accommodate entities that are not controlled by Boards of Directors. Nearly all commenters on this paragraph expressed support, noting the importance of establishing a point of contact and citing the provision's flexibility.[53] However, some commenters requested minor changes, namely: (1) That the Rule state that a financial institution need not designate an employee for each of its subsidiaries; (2) that the words "as appropriate" be added to the requirement; and (3) that the Rule make clear that financial institutions may outsource safeguards procedures.[54] By contrast, one commenter opposed requiring financial institutions to designate any individual employee(s), based on a concern that customers might attempt to hold such designee(s) individually liable for any breach of security that occurs.[55]

The Commission recognizes the importance of reserving to financial institutions the flexibility to select and designate the employee(s) that are needed to ensure accountability and achieve adequate safeguards. The Commission is particularly concerned that small institutions not be burdened disproportionately by this paragraph (or by other requirements) of the Rule. For these reasons, the paragraph allows each financial institution to determine which employee(s) to designate, including whether to designate additional employees to handle different subsidiaries. Further, there is nothing in the Rule to prevent a financial institution from outsourcing safeguards functions as appropriate, provided that at least one of its own employees is designated to see that such functions are properly carried out. At the same time, the Commission declines to add the words "as appropriate" to this paragraph because such language would only repeat the Rule's overarching requirement that each financial institution develop, implement and maintain "appropriate" safeguards. Lastly, the Commission notes that this Rule does not address or alter traditional principles of corporate liability and, therefore, should neither create nor limit individual liability for a financial institution's designated employee(s). Thus, paragraph (a) is adopted as proposed.

2. Paragraph (b)

Proposed paragraph (b) required each financial institution to "identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks." The proposal further required each financial institution to consider risks in each area of its operations, including three areas that the Commission believes are particularly relevant to information security: (1) Employee training and management; (2) information systems, including information processing, storage, transmission and disposal; and (3) detecting, preventing and responding to attacks, intrusions, or other systems failures. This paragraph is similar to the Banking Agency Guidelines requirement to assess risks.[56]

Commenters who addressed the issue generally supported including a risk assessment requirement within the Rule.[57] Some of these commenters supported the paragraph as proposed, stating that its benefits are appropriate relative to its burdens, and that it provides the proper level of guidance on how risk assessment should be carried out.[58] Commenters that supported the paragraph's general description of the types of risks to be considered—including the proposed areas of operation—emphasized that the threats to information security are ever changing, and therefore can only be described in general terms.[59] By contrast, other commenters urged that the paragraph be made more specific in a variety of ways, namely by: (1) Defining specific categories of threats and hazards, such as "risks to physical security;" (2) including more concrete and extensive guidance on how small businesses might perform the required assessment; or (3) including a procedure by which the FTC will conduct reviews or audits of the security practices of financial institutions under its jurisdiction.[60]

The Commission notes the importance of providing guidance to financial institutions, particularly small businesses, on how to comply with this and other aspects of the Rule. The Commission therefore intends to issue educational materials to help businesses identify risks and comply with the various other provisions of the Rule. Because of the ever-changing nature of the relevant risks, however, the Commission does not find it appropriate to delineate risks more specifically within the Rule. In addition, to retain appropriate flexibility, the Commission will rely on its discretion in enforcing the Rule, and not describe any particular schedule or methods for enforcement.[61] At the same time, the Commission has amended slightly the areas of operation, in order to better describe the activities that financial institutions should consider in developing, implementing and maintaining their information security programs. Specifically, the Commission has added (1) the item "network and software design" to the examples of information systems a financial institution should examine; and (2) the term "detecting" to the requirement that each financial institution consider means of "preventing and responding" to attacks, intrusions and other systems failures. In all other respects, paragraph (b) is adopted as proposed.

3. Paragraph (c)

Proposed paragraph (c) required each financial institution to "design and implement information safeguards to control the risks [identified] through risk assessment, and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures." The proposal further required each financial institution to consider its areas of operation in fulfilling this requirement. As with proposed paragraph (b), above, commenters generally supported this provision, citing its flexibility and the appropriateness of its benefits relative to its burdens.[62] However, one commenter

[53] *See, e.g.*, Intuit at 4; Mastercard at 6–7; NACAA at 1–2; NCHELP at 3; Sallie Mae at 3; SIIA at 2; Visa at 2.

[54] Sallie Mae at 3; Equifax at 6; NRF at 5, respectively.

[55] NIADA at 6.

[56] *See* Banking Agency Guidelines, Paragraph III. B.

[57] *See, e.g.*, Equifax at 7; Intuit at 5; Mastercard at 7; NASAA at 2; NCHELP at 3; Portogo at 1; SIAA at 4; VeriSign at 1.

[58] *See, e.g.*, Intuit at 5; Mastercard at 7; SIAA at 2.

[59] Oracle at 2; Mastercard at 7.

[60] NACAA comment on the ANPR, at 2; Paas at 3; Musgrove at 2, respectively.

[61] By contrast to the Banking Agencies, the Commission is not authorized to conduct regular audits and review of entities under its jurisdiction.

[62] Intuit at 5; NCHELP at 4; SIIA at 2. In addition, as elsewhere, commenters urged that the paragraph include more guidance, so that businesses—particularly smaller entities, such as sole proprietorships—will better understand what safeguards are sufficient to comply with the Rule. *See* NIADA at 7–8; Paas at 4–5. As discussed above, the Commission agrees that educating businesses

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asked that the provision be revised to require only such safeguards as are "commercially reasonable," [63] while another urged that the paragraph require each financial institution to keep specific written records of its particular safeguards procedures, such as its employee training activities and records retention schedules, to demonstrate compliance with the Rule.[64]

The Commission recognizes that each financial institution must focus its limited resources on addressing those risks that are most relevant to its operations. However, because the Rule already contains flexible standards that take a variety of factors into account, the Commission does not believe it is necessary or appropriate to revise the Rule to require only such safeguards as are "commercially reasonable." At the same time, to preserve flexibility and minimize burdens, the Commission declines to revise this paragraph to require that financial institutions document specific aspects of their risk control activities. For these reasons, paragraph (c) is adopted as proposed.

4. Paragraph (d)

Proposed paragraph (d) required each financial institution to oversee its service providers by selecting and retaining service providers that are "capable of maintaining appropriate safeguards" for the customer information at issue (paragraph (d)(1)), and requiring its service providers by contract to "implement and maintain such safeguards" (paragraph(d)(2)). For the reasons discussed below, paragraph (d)(1) is revised slightly, while paragraph (d)(2) is adopted as proposed.

Commenters supported requiring oversight of service providers' safeguards by financial institutions, particularly when, as one coalition of financial services organizations noted, the financial services industry increasingly relies on third parties to support core functions and online delivery.[65] However, in commenting on proposed paragraph (d)(1), some commenters expressed concern about the ability of businesses—particularly smaller entities—to evaluate a service provider's capabilities.[66] At the same time, other commenters supported adding to the Rule various standards for financial institutions to use in selecting service providers, specifically: (1) That financial institutions have "reason to believe" their service providers are capable of maintaining appropriate safeguards; [67] (2) that they use a "due diligence" review, as under the Banking Agency guidelines; [68] or (3) that they select service providers that are "capable of maintaining appropriate safeguards." [69]

The Commission agrees that businesses cannot be expected to perform unlimited evaluation of their service providers' capabilities. Thus, the Commission has amended the provision to state that each financial institution must "take reasonable steps" to select and retain appropriate service providers. This added language more closely parallels the Banking Agency Guidelines, as well as the Rule's requirement to assess risks that are "reasonably foreseeable." The steps that are reasonable under the Rule will depend upon the circumstances and the relationship between the financial institution and the service provider in question. At a minimum, the Commission envisions that each financial institution will (1) take reasonable steps to assure itself that its current and potential service providers maintain sufficient procedures to detect and respond to security breaches, and (2) maintain reasonable procedures to discover and respond to widely-known security failures by its current and potential service providers.

Proposed paragraph (d)(2) required financial institutions to enter into contracts that require service providers to implement and maintain appropriate safeguards. Most comments that addressed this requirement supported it.[70] Nevertheless, as discussed above, some commenters urged that certain service providers be exempt from the Rule, or be permitted to comply with the safeguards standards of another agency, such as their own functional regulator in the case of financial institution service providers. These comments already have been addressed above. In addition, two commenters urged that the Rule give examples of appropriate language or specifically require the inclusion of certain clauses in the contract,[71] while other commenters stated that no such specifications are needed or desirable.[72] The Commission believes that financial institutions are well positioned to develop and implement appropriate contracts with their service providers. Further, keeping the contract provision flexible should allow financial institutions and their service providers to develop arrangements that do not impose undue or conflicting burdens on service providers that may be subject to other standards and/or agreements concerning safeguards. Therefore, the Commission declines to include specific contract language within the Rule. However, the Commission intends to provide education for businesses on how to comply with the Rule, and will include general guidance concerning oversight of service providers as part of this effort. For these reasons, paragraph (d)(2) is adopted as proposed.

5. Paragraph (e)

Proposed paragraph (e) required each financial institution to "evaluate and adjust [its] information security program in light of any material changes to [its] business that may affect [its] safeguards." The preamble to the proposed section offered examples of such material changes, namely changes in technology; changes to its operations or business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, or changes to the services provided; new or emerging internal or external threats to information security; or any other circumstances that give it reason to know that its information security program is vulnerable to attack or compromise. *See* 66 FR 41167. Several commenters supported this requirement as proposed.[73] However, a few commenters recommended certain revisions to the paragraph's description of the types of changes that may warrant evaluation and adjustment of an entity's safeguards. Specifically, one commenter urged that although changes in the sensitivity of customer information or the nature of any threats will warrant evaluation, changes to a business's internal organization may be irrelevant to its safeguards, and therefore should not necessitate a review.[74] Similarly, another commenter urged that the paragraph be revised to require that a financial institution "take reasonable steps so that the information security program continues to be appropriate" for the financial institution.[75]

Consistent with the intent of the Proposed Rule, as well as the concerns reflected in these comments, the Commission believes that the bases for a financial institution to adjust its information security program will vary depending on the circumstances and may include a wide range of factors. Accordingly, paragraph (e) has been amended to more clearly reflect the fact-specific nature of the inquiry and to better encompass the broad range of factors that a financial institution should consider. Under the revised paragraph, each financial institution must evaluate and adjust its information security program "in light of the results of the testing and monitoring required by paragraph (c); any material changes to [its] operations or business arrangements; or any other circumstances that you know or have reason to know may have a material impact on [its] information security program." The Commission believes that the Rule allows a financial institution sufficient flexibility as to how to adjust its safeguards, and therefore finds it unnecessary to limit the responsibility of financial institutions to taking "reasonable steps" to make any adjustments. Thus, paragraph (e) is adopted with the changes noted above.

Section 314.5: Effective Date

Proposed section 314.5 required each financial institution covered by the Rule to implement an information security program not later than one year from the date on which a Final Rule is issued. In addition, the proposal requested comment on whether the Rule should contain a transition period to allow the continuation of existing contracts with service providers, even if the contracts would not satisfy the Rule's requirements.

Many commenters supported as adequate an effective date of one year from the date on which the Final Rule is issued.[76] A few commenters urged that a longer time be given, such as 18 months,[77] or that an additional year be allowed for businesses—particularly small entities—to comply.[78] In addition, all commenters who addressed the issue urged that the Rule allow a transition period for service provider contracts.[79] Most of these commenters requested that financial institutions be given two years to make service provider contracts comply,[80] while a few commenters sought a slightly longer time.[81]

Consistent with the majority of comments, the Rule will take effect one year from the date on which the Final Rule is published in the **Federal Register**, except that there will be a transition rule for contracts between financial institutions and nonaffiliated third party service providers. Under the transition Rule, set forth in section 314.5(b) of the Rule, financial institutions will be given an additional year to bring these service provider contracts into compliance with the Rule, as long as the contract was in place 30 days after the date on which the Final Rule is published in the **Federal Register**. The transition rule parallels the two-year grandfathering of service contracts that was permitted under both the Privacy Rule and the Banking Agency Guidelines. The Commission believes that the effective date and transition rule will provide businesses appropriate flexibility in complying with the Rule.

Section D. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA"), 44 U.S.C. Chapter 35, requires federal agencies to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons. 44 U.S.C. 3502(3)(a)(i). Under the PRA, a rule creates a "collection of information" where ten or more persons are asked to report, provide, disclose, or record information" in response to "identical questions." *See* 44 U.S.C. 3502(3)(A). Applying these standards, the Rule does not constitute a "collection of information." The Rule calls upon affected financial institutions to develop or strengthen their information security programs in order to provide reasonable safeguards. Under the Rule, each financial institution's safeguards will vary according to its size and complexity, the nature and scope of its activities, and the sensitivity of the information involved. For example, a financial institution with numerous employees would develop and implement employee training and management procedures beyond those that would be appropriate or reasonable for a sole proprietorship, such as an individual tax preparer or mortgage broker. Similarly, a financial institution that shares customer information with numerous affiliates would need to take steps to ensure that such information remains protected, while a financial institution with no affiliates would not need to address this issue. Thus, although each financial institution must summarize its compliance efforts in one or more written documents, the discretionary balancing of factors and circumstances that the Rule allows—including the myriad operational differences among businesses that it contemplated—does not require entities to answer "identical questions," and therefore does not trigger the PRA's requirements. *See* "The Paperwork Reduction Act of 1995: Implementing Guidance for OMB Review of Agency Information Collection," Office of Information and Regulatory Affairs, OMB (August 16, 1999), at 20–21.

Section E. Regulatory Flexibility Act

In its ANPR, the Commission stated its belief that, under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 604(a), it was not required to issue an Initial Regulatory Flexibility Analysis ("IRFA") because the Commission did not expect that the Proposed Rule would have a significant economic impact on a substantial number of small entities within the meaning of the Act. *See* 66 FR at 41167. The Commission nonetheless issued an IRFA with the Proposed Rule in order to inquire into the possible impact of the Proposed Rule on small entities, and to provide information to small businesses, as well as other businesses, on how to implement the Rule. *Id.*

Although the Commission specifically sought comment on the costs to small entities of complying with the Rule, no commenters provided specific cost information. Some commenters generally praised the proposal's flexibility [82] or noted that given its flexible standards, it was appropriate for the Rule to apply equally to businesses of all sizes.[83] However, other commenters suggested that small entities may be disproportionately burdened by the Rule because they lack expertise (relative to larger entities) in developing, implementing and maintaining the required safeguards.[84] In light of these comments, the Commission has carefully considered whether to certify that the Rule will not have a significant impact on a

and others is critical to achieving the Rule's objectives, and plans to issue educational materials in connection with the Rule.

[63] Equifax at 8.

[64] Musgrove at 2.

[65] BITS at 1. *See also* CDIA at 6; ITAA at 3; VeriSign at 2 (Rule appropriately places on financial institutions the burden to select appropriate service providers).

[66] Paas at 5. *See also* NRF at 5 (expressing concern that Rule could make financial institutions strictly liable for safeguards breaches by their service providers).

[67] NRF at 5; TGSL at 2.

[68] Household at 1; ICBA at 1; NIADA at 6.

[69] Mastercard at 7.

[70] Equifax at 8; Indep. Ins. Agents 3; Intuit at 5; Mastercard at 7; NACAA at 2; NCHELP at 4; Navy Federal Financial Group at 1–2; NIADA at 7; Sallie Mae at 3; SIIA at 2.

[71] NADA at 3; Navy Federal Financial Group at 1–2.

[72] Intuit at 5; Sallie Mae at 3.

[73] NACAA at 2; NCHELP at 5; SIIA at 2.

[74] Intuit at 6.

[75] Equifax at 9.

[76] *See, e.g.*, Equifax at 10; Intuit at 6; Mastercard at 8; NIADA at 8; OCUL at 3; Sallie Mae at 3; SIIA at 2; USA Funds at 1–2.

[77] NADA at 2–3; NIADA at 8. *See also* NFFG at 2 (2 years).

[78] ACA at 6–7.

[79] *See, e.g.*, CDIA at 5; NIADA at 8; OCUL at 3; SIIA at 2; TGSL at 2; Visa at 5.

[80] *See, e.g.*, Equifax at 10; NRF at 5; NFFG at 2; OCUL at 3.

[81] Sallie Mae at 3; Visa at 5.

[82] *See, e.g.*, Household at 1; SIIA at 1; TGSL at 1; VeriSign at 1.

[83] Intuit at 2; NASAA at 2.

[84] *See, e.g.*, NADA at 2; NIADA at 9; Musgrove at 2 (stating that small financial institutions may need to hire outside consultants to comply with Rule).

substantial number of small entities. The Commission continues to believe that the Rule's impact will not be substantial in the case of most small entities. However, the Commission cannot quantify the impact the Rule will have on such entities. Therefore, in the interest of thoroughness, the Commission has prepared the following Final Regulatory Flexibility Analysis ("FRFA") with this Final Rule. 5 U.S.C. 605.

1. Succinct Statement of the Need for, and Objectives of, the Rule

The Final Rule is necessary in order to implement section 501(b) of the G–L–B Act, which requires the FTC to establish standards for financial institutions subject to its jurisdiction relating to administrative, technical, and physical standards. According to section 501(b), these standards must: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer. These objectives have been discussed above in the statement of basis and purpose for the Final Rule.

2. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA; Summary of the Assessment of the Agency of Such Issues; and Statement of Any Changes Made in the Rule as a Result of Such Comments

As stated above, no comments were received concerning specific costs that will be imposed on small entities by the Rule. However, some commenters stated that the Rule and/or certain of its requirements would impose high costs on businesses, including small entities.[85] In addition, as stated, a few commenters suggested that small entities may be disproportionately burdened by the Rule because they lack expertise (relative to larger entities) in developing, implementing and maintaining the required safeguards.[86] Finally, as stated above, many commenters urged that the Commission provide guidance on how to comply with the Rule to assist entities—particularly smaller businesses—to comply without incurring undue expense.[87] In addition, some commenters specifically requested guidance on how to assess risks as required by section 314.4(b);[88] develop, implement and maintain safeguards as required by section 314.4(c);[89] and oversee service providers as required by section 314.4(d).

The Commission took comments respecting the Rule's impact on small entities into account by designing flexible safeguards standards (section 313.3(a)). Similarly, the Commission took smaller entities into account in allowing each financial institution to decide for itself what employees to designate to handle safeguards (section 314.4(a)), in order to give businesses, particularly smaller entities, flexibility in complying with the Rule. Lastly, because some commenters expressed concern about the ability of businesses—particularly smaller entities—to evaluate a service provider's capabilities,[90] the Commission amended the relevant paragraph to state that each financial institution must "take reasonable steps" to select and retain appropriate service providers.

In addition to the above changes, the Commission has taken into account those comments that stated the importance of educating businesses and others on how to implement and maintain information safeguards. The Commission agrees that such education is critical to achieving the Rule's objectives and to minimizing burdens on businesses. Thus, as stated in the Rule's preamble, the Commission plans to provide educational materials on or near the date on which compliance is required. As part of this effort, the Commission intends to perform outreach to inform small entities, such as individual tax preparers or other sole proprietors, of the Rule and its requirements.

In addition to the forthcoming educational materials, the Commission has given guidance in the Rule and its Preamble that is intended to assist businesses, particularly small entities, to comply with the Rule. Specifically, as discussed above, the Commission has included within the Rule a brief description of those areas of a business' operations that the Commission believes are most relevant to information security: (1) Employee training and management; (2) information systems, including network and software design, as well as information processing, storage, transmission and disposal; and (3) detecting, preventing and responding to attacks, intrusions, or other systems failures. *See* section 314.3(b).

3. Description and Estimate of the Number of Small Entities to Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

As previously discussed in the IRFA accompanying the Proposed Rule, it is difficult to estimate accurately the number of small entities that are financial institutions subject to the Rule. The definition of "financial institution," as under the Privacy Rule, includes any institution the business of which is engaging in a financial activity, as described in section 4(k) of the Bank Holding Company Act, which incorporates by reference the activities listed in 12 CFR 225.28 and 12 CFR 211.5(d), consolidated in 12 CFR 225.86. *See* 65 FR 14433 (Mar. 17, 2000).

The G–L–B Act does not specify the categories of financial institutions subject to the Commission's jurisdiction; rather, section 505(a)(5) vests the Commission with enforcement authority with respect to "any other financial institution or other person that is not subject to the jurisdiction of any [other] agency or authority [charged with enforcing the statute]." Financial institutions covered by the Rule will include many of the same lenders, financial advisors, loan brokers and servicers, collection agencies, financial advisors, tax preparers, real estate settlement services, and others that are subject to the Privacy Rule. Many of these financial institutions will not be subject to the Safeguards Rule to the extent that they do not have any "customer information" within the meaning of the Safeguards Rule. The Commission did not receive comments that helped it to identify in any comprehensive manner the small entities that will be affected by the rule. However, one commenter, the National Association of Automobile Dealers Association ("NADA") submitted 1999 data showing that, at that time, 5,292 franchised new automobile dealers had 30 or fewer employees; 1,706 had 20 or fewer employees; and 575 had 10 or fewer employees.[91] In addition, the Commission is aware that many small businesses, such as individual tax preparers or mortgage brokers, will be covered by the Rule.

[85] FPA at 3; Paas at 2; *see also* OCUL (stating that the NCUA's safeguards rule is very burdensome for credit unions); Post at 1 (stating that Privacy Rule is very burdensome).

[86] *See supra* n. 81.

[87] *See, e.g.*, ICB at 2; Musgrove at 2; NADA at 2; NIADA at 9; Paas at 4–6.

[88] Paas at 3.

[89] *See* NIADA at 7; Paas at 4–5.

[90] Paas at 5; *see also* NRF at 5 (expressing concern that Rule could make financial institutions strictly liable for safeguards breaches by their service providers).

[91] NADA at 1.

4. Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

As explained in the Commission's IRFA and the Paperwork Reduction Act discussion that appears elsewhere in this document, the Safeguards Rule does not impose any specific reporting or recordkeeping requirements. Accordingly, compliance with the Rule does not entail expenditures for particular types of professional skills that might be needed for the preparation of such reports or records.

The Rule, however, requires each covered institution to develop a written information security program covering customer information that is appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue. The institution must designate an employee or employees to coordinate its safeguards; identify reasonably foreseeable risks and assess the effectiveness of any existing safeguards for controlling these risks; design and implement a safeguards program and regularly monitor its effectiveness; require service providers (by contract) to implement appropriate safeguards for the customer information at issue; and evaluate and adjust its program to material changes that may affect its safeguards, such as new or emerging threats to information security. As discussed above, these requirements will apply to institutions of all sizes that are subject to the FTC's jurisdiction pursuant to the Rule, including small entities, although the Commission did not receive comments that would enable a reliable estimate of the number of such small entities.

In light of concerns that compliance with these requirements might require the use of professional consulting skills that could be costly, the Commission, as explained in its IRFA, fashioned the Rule's requirements to be as flexible as possible consistent with the purposes of the G–L–B Act, so that entities subject to the Rule, including small entities, could simplify their information security program to the same extent that their overall operations are simplified. Furthermore, the Commission invited comments on the costs of establishing and operating an information security program for such entities, particularly any costs stemming from the proposed requirements to: (1) Regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures, and (2) develop a comprehensive information security program in written form. In response to comments that raised concerns that many businesses would not possess the required resources or expertise to fulfill the Rule's requirements, the Commission notes that the Rule is not intended to require that entities hire outside experts or consultants in order to comply. Further, the Commission has noted that it intends to provide educational materials that will assist such entities in compliance. In addition, in response to concerns that the preparation of a written plan could be burdensome, the Commission amended this requirement slightly to emphasize the flexibility of the writing requirement and make clear that the writing need not be contained in a single document.

5. Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities, Consistent with the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each of the Other Significant Alternatives to the Rule Considered by the Agency That Affect the Impact on Small Entities Was Rejected

The G–L–B Act requires the FTC to issue a rule that establishes standards for safeguarding customer information. The G–L–B Act requires that standards be developed for institutions of all sizes. Therefore, the Rule applies equally to entities with assets of $100 million or less, and not just to larger entities.

As previously noted, the Commission does not believe the Safeguards Rule imposes a significant economic impact on a substantial number of small entities. Nonetheless, to the extent that small entities are subject to the Rule, it imposes flexible standards that allow each institution to develop an information security program that is appropriate to its size and the nature of its operations. In this way, the impact of the Rule on small entities and any other entities subject to the Rule is no greater than necessary to effectuate the purposes and objectives of the G–L–B Act, which requires that the Commission adopt a rule specifying procedures sufficient to safeguard the privacy of customer information protected under the Act. To the extent that commenters suggested alternative regulatory approaches—such as that compliance with alternative standards be deemed compliance with the Rule—that could affect the Rule's impact on small entities, those comments and the Commission's responses are discussed above in the statement of basis and purpose for the Final Rule.

List of Subjects for 16 CFR Part 314

Consumer protection, Credit, Data protection, Privacy, Trade practices.

Final Rule

For the reasons set forth in the preamble, the Federal Trade Commission amends 16 CFR chapter I, subchapter C, by adding a new part 314 to read as follows:

PART 314—STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

Sec.
314.1 Purpose and scope.
314.2 Definitions.
314.3 Standards for safeguarding customer information.
314.4 Elements.
314.5 Effective date.

Authority: 15 U.S.C. 6801(b), 6805(b)(2).

§ 314.1 Purpose and scope.

(a) *Purpose.* This part, which implements sections 501 and 505(b)(2) of the Gramm-Leach-Bliley Act, sets forth standards for developing, implementing, and maintaining reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

(b) *Scope.* This part applies to the handling of customer information by all financial institutions over which the Federal Trade Commission ("FTC" or "Commission") has jurisdiction. This part refers to such entities as "you." This part applies to all customer information in your possession, regardless of whether such information pertains to individuals with whom you have a customer relationship, or pertains to the customers of other financial institutions that have provided such information to you.

§ 314.2 Definitions.

(a) *In general.* Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set forth in the Commission's rule governing the Privacy of Consumer Financial Information, 16 CFR part 313.

(b) *Customer information* means any record containing nonpublic personal information as defined in 16 CFR 313.3(n), about a customer of a financial institution, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of you or your affiliates.

(c) *Information security program* means the administrative, technical, or physical safeguards you use to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

(d) *Service provider* means any person or entity that receives, maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to a financial institution that is subject to this part.

§ 314.3 Standards for safeguarding customer information.

(a) *Information security program.* You shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to your size and complexity, the nature and scope of your activities, and the sensitivity of any customer information at issue. Such safeguards shall include the elements set forth in § 314.4 and shall be reasonably designed to achieve the objectives of this part, as set forth in paragraph (b) of this section.

(b) *Objectives.* The objectives of section 501(b) of the Act, and of this part, are to:

(1) Insure the security and confidentiality of customer information;

(2) Protect against any anticipated threats or hazards to the security or integrity of such information; and

(3) Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

§ 314.4 Elements.

In order to develop, implement, and maintain your information security program, you shall:

(a) Designate an employee or employees to coordinate your information security program.

(b) Identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks. At a minimum, such a risk assessment should include consideration of risks in each relevant area of your operations, including:

(1) Employee training and management;

(2) Information systems, including network and software design, as well as information processing, storage, transmission and disposal; and

(3) Detecting, preventing and responding to attacks, intrusions, or other systems failures.

(c) Design and implement information safeguards to control the risks you identify through risk assessment, and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures.

(d) Oversee service providers, by:

(1) Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and

(2) Requiring your service providers by contract to implement and maintain such safeguards.

(e) Evaluate and adjust your information security program in light of the results of the testing and monitoring required by paragraph (c) of this section; any material changes to your operations or business arrangements; or any other circumstances that you know or have reason to know may have a material impact on your information security program.

§ 314.5 Effective date.

(a) Each financial institution subject to the Commission's jurisdiction must implement an information security program pursuant to this part no later than May 23, 2003.

(b) Two-year grandfathering of service contracts. Until May 24, 2004, a contract you have entered into with a nonaffiliated third party to perform services for you or functions on your behalf satisfies the provisions of § 314.4(d), even if the contract does not include a requirement that the service provider maintain appropriate safeguards, as long as you entered into the contract not later than June 24, 2002.

By direction of the Commission.

Donald S. Clark,

Secretary.

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S. 378/P.L. 107–182
To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago,

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The President

Proclamation 7565 of May 21, 2002

National Maritime Day, 2002

By the President of the United States of America

A Proclamation

Our commercial maritime tradition dates back to the founding of our Nation; and it continues to play an important role today, moving passengers and freight, protecting our freedom, and linking our citizens to the world.

Merchant mariners have served America with distinction throughout our history, but especially at critical moments. Before World War II, they made dangerous and difficult voyages carrying vital supplies to Europe. During that war, more than 700 United States merchant ships were lost to attack, and more than 6,000 merchant mariners lost their lives. Merchant mariners played a vital role in the Korean Conflict, especially in the rescue of 14,000 Korean civilians by the SS MEREDITH VICTORY. During the Vietnam War, ships crewed by civilian seamen carried 95 percent of the supplies used by our Armed Forces. Many of these ships sailed into combat zones under fire. In fact, the SS MAYAGUEZ incident involved the capture of mariners from the American merchant ship SS MAYAGUEZ.

More recently, during the Persian Gulf War merchant mariners were vital to the largest sealift operation since D-Day. And after the tragic attacks of September 11th, professional merchant mariners and midshipmen from the United States Merchant Marine Academy transported personnel and equipment and moved food and supplies to lower Manhattan. Their efforts enhanced rescue operations and helped save many lives.

Today, the men and women of the United States Merchant Marine and thousands of other workers in our Nation's maritime industry continue to make immeasurable contributions to our economic strength and our ongoing efforts to build a more peaceful world. We must ensure our maritime system can meet the challenges of the 21st century. As cargo volume is expected to double within the next 20 years, a viable maritime network will help our country compete in our global economy.

Accordingly, my Administration is working with government agencies, the shipping industry, labor, and environmental groups to ensure that our waterways remain a sound transportation option that complements our overland transportation network.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by joint resolution approved on May 20, 1933, as amended, has designated May 22 of each year as "National Maritime Day," and has authorized and requested that the President issue an annual proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 22, 2002, as National Maritime Day. I call upon the people of the United States to celebrate this observance and to display the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

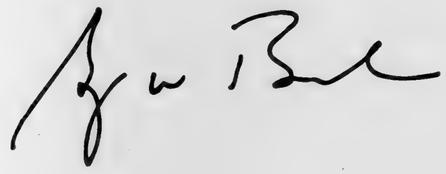

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Presidential Documents

Proclamation 7566 of May 21, 2002

National Missing Children's Day, 2002

By the President of the United States of America

A Proclamation

On May 25, 1979, 6-year old Etan Patz disappeared on his way to school in New York City. The ensuing search focused national attention on the tragedy of missing children, as well as the lack of resources and information available to help locate and recover missing children. Since that time, many high-profile cases and the dedicated efforts of parents, the law enforcement community, and others concerned with children's well-being have generated even greater awareness about the need to protect children from criminals and other predators.

During this year, we mark the 20th anniversary of the passage of the Missing Children Act, originally signed into law by President Reagan. Over the past two decades, the Department of Justice, along with many important community and faith-based partners, have made great progress in raising public awareness, improving public safety, locating and recovering missing children, and protecting children from exploitation on the Internet.

Americans must continue to work together to ensure the safety of our children. The Department of Justice will commemorate National Missing Children's Day by presenting six awards that recognize outstanding efforts to safeguard our youngest citizens. The recipients deserve our heartfelt thanks and appreciation for their dedicated work. As they are honored for their contributions, I urge all Americans to take an active role in upholding the safety of our communities and in defending the well-being of our children.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 25, 2002, as National Missing Children's Day. I call upon Americans to join me in commemorating this observance and to remember those young people who are missing. I also call on our citizens to recognize and thank those who work on behalf of missing children and their families. By renewing our commitment to protect our children from harm, we can save lives and prevent untold suffering and grief among the most vulnerable of our society.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

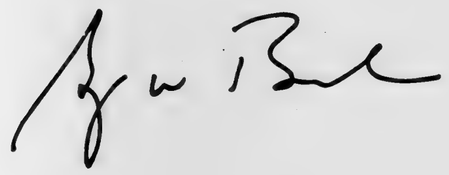

[FR Doc. 02–13268
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Presidential Documents

Proclamation 7567 of May 21, 2002

Prayer for Peace, Memorial Day, 2002

By the President of the United States of America

A Proclamation

Every Memorial Day, Americans remember the debt of gratitude we owe to our veterans who gave their lives for our country. On this important day, communities across our Nation stop to remember and to honor the great sacrifices made by our men and women in uniform.

Since its beginnings, our country has faced many threats that have tested its courage. From war-torn battlefields and jungle skirmishes to conflicts at sea and air attacks, generations of brave men and women have fought and died to defeat tyranny and protect our democracy. Their sacrifices have made this Nation strong and our world a better place.

Upwards of 48 million Americans have served the cause of freedom and more than a million have died to preserve our liberty. We also remember the more than 140,000 who were taken prisoner-of-war and the many others who were never accounted for. These memories remind us that the cost of war and the price of peace are great.

The tradition of Memorial Day reinforces our Nation's resolve to never forget those who gave their last full measure for America. As we engage in the war against terrorism, we also pray for peace. When America emerged from the Civil War, President Abraham Lincoln called on all Americans to "cherish a just and lasting peace." In these extraordinary times, our Nation has once again been challenged, and Lincoln's words remain our guiding prayer.

We continue to rely on our brave and steadfast men and women in uniform to defend our freedom. United as a people, we pray for peace throughout the world. We also pray for the safety of our troops. This new generation follows an unbroken line of good, courageous, and unfaltering heroes who have never let our country down.

As we commemorate this noble American holiday, we honor those who fell in defense of freedom. We honor them in our memory through solemn observances, with the love of a grateful Nation.

In respect for their devotion to America, the Congress, by a joint resolution approved on May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated the minute beginning at 3:00 p.m. local time on that day as a time for all Americans to observe the National Moment of Remembrance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby designate Memorial Day, May 27, 2002, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day. I

urge the press, radio, television, and all other media to participate in these observances.

I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

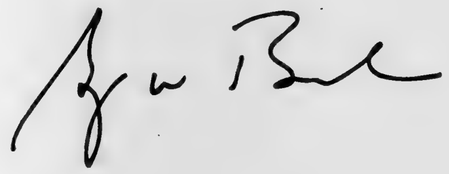

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Rules and Regulations

Federal Register
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Friday, May 24, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[Doc. # CN–02–001]

RIN 0581–AC04

Revision of User Fees for 2002 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is raising user fees for cotton producers for 2002 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 2001 user fee for this classification service was $1.35 per bale. This final rule would raise the fee for the 2002 crop to $1.45 per bale. The fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision. Also because of insufficient demand, computer punch cards would be eliminated as an optional method of disseminating classing data to producers.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Norma McDill, Deputy Administrator, Cotton Program, AMS, USDA, Room 2641–S, STOP 0224, 1400 Independence Avenue, SW, Washington, DC 20250–0224. telephone (202) 720–2145, facsimile (202) 690–1718, or e-mail *norma.mcdill@usda.gov*.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on April 19, 2002. (67 FR 19357). A 15-day comment period was provided for interested persons to respond to the proposed rule. No comments were received, and no changes have been made in the provisions of the final rule.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866; and, therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 35,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR § 121.201). The increase above the 2001 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee increase represents a very small portion of the cost-per-unit currently borne by those entities utilizing the services. (The 2001 user fee for classification services was $1.35 per bale; the fee for the 2002 crop is increased to $1.45 per bale; the 2002 crop is estimated at 16,504,065 bales).

(2) The fee for services will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 2001 crop, 20,100,000 bales were produced; and, virtually all of these bales were voluntarily submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 2000 crop of 49.8 cents per pound, 500 pound bales of cotton are worth an average of $249 each. The user fee for classification services, $1.45 per bale, is less than one percent of the value of an average bale of cotton.

(5) Due to insufficient demand, computer punch cards would be eliminated as an optional method of disseminating classing data to producers.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this final rule have been previously approved by OMB and were assigned OMB control number 0581–0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.35 per bale during the 2001 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision. These changes will be made effective July 1, 2002, as provided by the Cotton Statistics and Estimates Act.

This final rule establishes the user fee charged to producers for HVI classification at $1.45 per bale during the 2002 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 2001. Therefore, the 2002

producer's user fee for classification service is based on the 2001 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 2001 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $2.22 per bale. An increase of 2.51 percent, or 6 cents per bale increase due to the implicit price deflator of the gross domestic product added to the $2.22 would result in a 2002 base fee of $2.28 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2002 crop is estimated at 16,504,065 bales. The 2002 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 35 cents per bale reduction and was subtracted from the 2002 base fee of $2.28 per bale, resulting in a fee of $1.93 per bale.

With a fee of $1.93 per bale, the projected operating reserve would be 51.3 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $1.93 must be reduced by 48 cents per bale, to $1.45 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This would establish the 2002 season fee at $1.45 per bale.

Accordingly, § 28.909, paragraph (b) would be revised to reflect the increase of the HVI classification fee from $1.35 to $1.45 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909 (c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 would remain at 5 cents per bale. Computer punched cards would be eliminated as an optional method of disseminating classing data to producers for the 2002 and subsequent crops because there is an insufficient demand for the use of this method. Accordingly, this change would be reflected in § 28.910 (a). The fee in § 28.910 (b) for an owner receiving classification data from the central database would remain at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910 (c) concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 would be increased from $1.35 to $1.45 per bale.

The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and record keeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is amended as follows:

PART 28—[AMENDED]

1. The authority citation for 7 CFR Part 28, Subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.45 per bale.

* * * * *

3. In § 28.910, paragraph (a) (3) is removed:

* * * * *

4. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.45 per bale.

* * * * *

Dated: May 21, 2002.

Kenneth C. Clayton,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–13230 Filed 5–22–02; 2:06 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE184; Special Condition 23–118–SC]

Special Conditions; Avidyne Corporation on the Cirrus Design Corporation Model SR20/SR22; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Avidyne Corporation, 55 Old Bedford Road, Lincoln, Massachusetts, 01773 for a Supplemental Type Certificate for the Cirrus Design Corporation SR20/SR22 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of an electronic flight instrument system (EFIS) display Model 700–00006–XXX–( ) manufactured by Avidyne Corporation for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to this airplane.

DATES: The effective date of these special conditions is May 7, 2002. Comments must be received on or before June 24, 2002.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE184, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE184. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE184." The postcard will be date stamped and returned to the commenter.

Background

On April 20, 2001, Avidyne Corporation, 55 Old Bedford Road, Lincoln, Massachusetts, 01773, made an application to the FAA for a new Supplemental Type Certificate for the Cirrus Design Corporation Models SR20/SR22 airplanes. The Cirrus SR20/SR22 are currently approved under TC No. A00009CH. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Avidyne Corporation must show that the Cirrus SR20/SR22 aircraft meet the following provisions, or the applicable regulations in effect on the date of application for the change to the Cirrus SR20/SR22.

Model SR20: Part 23 of the Federal Aviation Regulations effective February 1, 1965, as amended by 23–1 through 23–47, except as follows: 14 CFR part 23, §§ 23.573, 23.575, 23.611, 23.657, 23.673 through Amendment 23–48; 14 CFR §§ 23.783, 23.785, 23.867, 23.1303, 23.1307, 23.1309, 23.1311, 23.1321, 23.1323, 23.1329, 23.1361, 23.1383, 23.1401, 23.1431, 23.1435 through Amendment 23–49; 14 CFR part 23, §§ 23.3, 23.25, 23.143, 23.145, 23.155, 23.1325, 23.1521, 23.1543, 23.1555, 23.1559, 23.1567, 23.1583, 23.1585, 23.1589 through Amendment 23–50; 14 CFR part 23, §§ 23.777, 23.779, 23.901, 23.907, 23.955, 23.959, 23.963, 23.965, 23.973, 23.975, 23.1041, 23.1091, 23.1093, 23.1107, 23.1121, 23.1141, 23.1143, 23.1181, 23.1191, 23.1337 through Amendment 23–51; 14 CFR part 23, § 23.1305 through Amendment 23–52.

Model SR22: Part 23 of the Federal Aviation Regulations effective February 1, 1965, as amended by 23–1 through 23–53, except as follows: § 23.301 through Amendment 47; §§ 23.855, 23.1326, 23.1359, not applicable. 14 CFR part 36 dated December 1, 1969, as amended by current amendment as of the date of type certification.

Equivalent Levels of Safety finding (ACE–96–5) made per the provisions of 14 CFR part 23, § 23.221; Refer to FAA ELOS letter dated June 10, 1998 for models SR20, SR22. Equivalent Levels of Safety finding (ACE–00–09) made per the provisions of 14 CFR part 23, §§ 23.1143(g) and 23.1147(b); Refer to FAA ELOS letter dated September 11, 2000, for model SR22. Equivalent Levels of Safety finding (ACE–01–01) made per the provisions of 14 CFR part 23, §§ 23.1143(g) and 23.1147(b); Refer to FAA ELOS letter dated February 14, 2000, for model SR20.

Special Condition (23–ACE–88) for ballistic parachute; Refer to FAA letter November 25, 1997, for models SR20, SR22.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with 14 CFR part 21 § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Carpenter Avionics Inc. plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane.

Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values over the complete modulation period.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts rms per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to Cirrus Design Corporation SR20/SR22 airplanes. Should Avidyne Corporation apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR part 21, § 21.16 and § 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cirrus Design Corporation SR20/SR22 airplanes modified by Avidyne Corporation to add an EFIS.

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on May 7, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13131 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE183, Special Condition 23–117–SC]

Special Conditions; S–TEC Corporation Mirage PA–46–350P With Single Sided EFIS Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to S–TEC Corporation, One S–TEC Way, Mineral Wells TX 76067 for a Supplemental Type Certificate for a single sided Electronic Flight Instrument System (EFIS) installed in the Mirage PA–46–350P airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) "Magic" display manufactured by Meggitt for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to this airplane.

DATES: The effective date of these special conditions is May 7, 2002. Comments must be received on or before June 24, 2002.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE183, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE183. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE183." The postcard will be date stamped and returned to the commenter.

Background

On March 12, 2001, S–TEC Corporation, One S–TEC Way, Mineral Wells, TX 76067 made an application for a supplementary Type Certificate for a single sided EFIS installed in the Piper Mirage PA–46–350P airplane. The Piper Mirage PA–46–350P airplane is currently approved under TC No. A25SO. The modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, S–TEC Corporation, One S–TEC Way, Mineral Wells, TX 76067 must show that the single-sided EFIS installed in the Piper Mirage PA46–350P airplane meets the following provisions, or the applicable regulations in effect on the date of application for the change to the Mirage PA–46–350P.

14 CFR part 23, effective February 1, 1965, as amended by Amendment 23–25, effective March 6, 1980: FAR 25.783(e) as amended by Amendment 25–54, effective October 14, 1980; 14 CFR part 25, § 25.831(c) and (d) as amended by Amendment 25–41, effective September 1, 1977, and 14 CFR part 36, Appendix F through Amendment 36–15, effective May 6, 1988, when equipped with a 2-bladed propeller or 14 CFR part 36, Appendix G through Amendment 36–16, effective December 18, 1988, when equipped with optional 3-blade propeller; Special Conditions No. 23–ACE–53, Docket No. 082CE; 14 CFR part 23, §§ 23.1309 and 23.1311 as amended by Amendment 49; and the special conditions adopted by this rule making action.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

S–TEC plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced

components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz ...	100	100
200 MHz–400 MHz ...	100	100
400 MHz–700 MHz ...	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to Piper Mirage PA–46–350P. Should S–TEC apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Piper Mirage PA–46–350P airplane modified by S–TEC Corporation to add an EFIS.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on May 7, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13133 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM221, Special Conditions No. 25–203–SC]

Special Conditions: Israel Aircraft Industries (IAI) Model 1124 Airplane; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued Israel Aircraft Industries (IAI) Model 1124 airplanes modified by Duncan Aviation, Inc. These modified airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of an air data display unit that displays critical flight parameters to the flightcrew. The applicable airworthiness standards do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 16, 2002. Comments must be received on or before June 24, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM221, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM221. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected airplanes. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On April 12, 2002, Duncan Aviation, Inc., 15745 South Airport Road, Battle Creek, MI, 49015, applied for a supplemental type certificate (STC) to modify the Israel Aircraft Industries (IAI) Model 1124 airplane listed on Type Certificate No. A2SW. The Model 1124 is a twin engine, small transport airplane. It is capable of carrying two flightcrew members and up to ten passengers. The modification incorporates the installation of an air data display system. The air data display system displays critical flight parameters to the flightcrew. These systems can be susceptible to disruption to command and/or response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and announcement functions or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Duncan Aviation must show that the Israel Aircraft Industries Model 1124 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A2SW, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The certification basis for the modified Israel Aircraft Industries Model 1124 airplane includes Civil Aviation Regulations (CAR) 4b, effective 31 December 1953, including amendments through 4b–11, 4b–12, paragraphs 4b.132(e), 4b.151(a), 4b.155, 4b.156, 4b.157, 4b.158, 4b.160, 4b.162, 4b.191, 4b.210(b)(5), 4b.603(k), 4b.711, and paragraphs pertaining to engine fire shielding 14 CFR part 25, dated February 1, 1965, including Amendments 25–1 through 25–20, as listed in the Type Certificate Data Sheet (TCDS) No. A2SW.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Israel Aircraft Industries Model 1124 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 1124 airplane

must comply with the part 25 fuel vent and exhaust emission requirements of 14 CFR part 34 and the part 25 noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Duncan Aviation, Inc. apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Israel Aircraft Industries Model 1124 airplane will incorporate an air data display unit that displays critical flight parameters to the flightcrew. These systems can be susceptible to disruption to command and/or response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and announcement functions or present misleading information to the pilot. The current airworthiness standards (14 CFR part 25) do not contain adequate or appropriate safety standards that address protecting this equipment from the adverse effects of HIRF. Accordingly, these instruments are considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionic/electronic and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Israel Aircraft Industries Model 1124, as modified by Duncan Aviation, Inc. These special conditions require that new avionic/electronic and electrical systems such as the air data display unit, which perform critical functions, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 OR paragraph 2, below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in the table below for the frequency ranges indicated. Both peak and average field strength components from the table below are to be demonstrated.

TABLE 1

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Israel Aircraft Industries Model 1124 airplane modified by Duncan Aviation, Inc. to include the air data display unit. Should Duncan apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Israel Aircraft Industries Model 1124 airplanes modified by Duncan Aviation, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Israel Aircraft Industries Model 1124 airplanes modified by Duncan Aviation, Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 16, 2002.

Linda Navarro,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13132 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–32–AD; Amendment 39–12759; AD 2002–10–13]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 58P, 60, A60, B60, and 65–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Model 58P, 60, A60, B60, and 65–88 airplanes. This AD requires you to install new exterior operating instruction placards for the exit doors. This AD is the result of Raytheon improving the visibility and understandability of the door operating instruction placards. This was done as a result of difficulty opening the emergency exits of a similar type design airplane. The actions specified by this AD are intended to assure that clear and complete operating instructions are visible for opening the emergency exit doors. If not visible and understandable, this could result in the inability to open the exit door during an emergency situation.

DATES: This AD becomes effective on July 8, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 8, 2002.

ADDRESSES: You may get the service information referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–32–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven E. Potter, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA believes that the instructions for opening the exit doors are either not visible or not easy to understand on Raytheon Model 58P, 60, A60, B60, and 65–88 airplanes. This is based on an accident involving a similar type design airplane that resulted in the issuance of AD 97–04–02. AD 97–04–02 was later superseded by AD 98–21–20 to incorporate more visible and understandable instructions.

What Is the Potential Impact if FAA Took No Action?

If the exterior door operating instruction placards are not visible and understandable, this could result in the inability to open the exit doors during an emergency situation.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Model 58P, 60, A60, B60, and 65–88 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 14, 2002 (67 FR 1670). The NPRM proposed to require you to install new exterior operating instruction placards for the exit doors.

Was the Public Invited to Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 850 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120.	$40	$120 + $40 = $160	$160 × 850 = $136,000.

The manufacturer will provide warranty credit for parts to the extent noted under *Material Information* in Raytheon Mandatory Service Bulletin SB 11–3404, Issued: June, 2001.

Compliance Time of This AD

What Will Be the Compliance Time of This AD?

The compliance time of this AD is "within the next 100 hours time-in-service (TIS) after the effective date of this AD or within the next 12 calendar months after the effective date of this AD, whichever occurs first, unless already accomplished."

Why Is the Compliance Time of This AD Presented in Both Hours TIS and Calendar Time?

The unsafe condition on these airplanes is not a result of the number of times the airplane is operated. Airplane operation varies among operators. For example, one operator may operate the airplane 50 hours TIS in 3 months while it may take another operator 12 months or more to accumulate 50 hours TIS. For this reason, the FAA has determined that the compliance time of this AD should be specified in both hours TIS and calendar time in order to assure this condition is not allowed to go uncorrected over time.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–10–13 Raytheon Aircraft Company: Amendment 39–12759; Docket No. 2001–CE–32–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial numbers
58P	TJ–3 through TJ–497.
60	P–4 through P–122 and P–124 through P–126.
A60	P–123 and P–127 through P–246.
B60	P–247 through P–596.
65–88	LP–1 through LP–26, LP–28, and LP–30 through LP–47.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to assure that clear and complete operating instructions are visible for opening the exit doors. If not visible and understandable, this could result in the inability to open the exit door during an emergency situation.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
Modify the exterior door operating procedures by installing the applicable placard as specified in the service bulletin.	Within the next 100 hours time-in-service (TIS) after July 8, 2002 (the effective date of this AD) or within the next 12 calendar months after July 8, 2002 (the effective date of this AD), whichever occurs first, unless already accomplished.	In accordance with the Accomplishment Instructions section of Raytheon Aircraft Mandatory Service Bulletin SB 11–3404, Issued: June, 2001.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Raytheon Aircraft Mandatory Service Bulletin SB 11–3404, Issued: June, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on July 8, 2002.

Issued in Kansas City, Missouri, on May 16, 2002.

Terry L. Chasteen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12885 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30309; Amdt. No. 3005]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, and 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective no less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May 10, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective June 13, 2002*

Huntsville, AL, Madison County Executive, VOR/DME–B, Amdt 6
Huntsville, AL, Madison County Executive, GPS RWY 18, Orig, CANCELLED
Huntsville, AL, Madison County Executive, RNAV (GPS) RWY 18, Orig
Oakland, CA, Metropolitan Oakland Intl, VOR RWY 9R, Amdt 7D
Oakland, CA, Metropolitan Oakland Intl, ILS RWY 11, Amdt 5
Oakland, CA, Metropolitan Oakland Intl, ILS RWY 27R, Amdt 34
Oakland, CA, Metropolitan Oakland Intl, ILS RWY 29, Amdt 24
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 9L, Orig
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 9R, Orig
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 11, Orig
Oakland, CA, Metropolitan Oakland Intl, GPS RWY 11, Orig-A, CANCELLED
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 27L, Orig
Oakland, CA, Metropolitan Oakland Intl, GPS RWY 27L, Orig, CANCELLED
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 27R, Orig
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 29, Orig
Oakland, CA, Metropolitan Oakland Intl, GPS RWY 29, Orig, CANCELLED
Indianapolis, IN, Indianapolis Intl, VOR RWY 14, Amdt 26
Indianapolis, IN, Indianapolis Intl, NDB RWY 5R, Amdt 2
Indianapolis, IN, Indianapolis Intl, NDB RWY 23L, Amdt 2
Indianapolis, IN, Indianapolis Intl, NDB RWY 32, Amdt 15
Indianapolis, IN, Indianapolis Intl, ILS RWY 5L, Amdt 2
Indianapolis, IN, Indianapolis Intl, ILS RWY 5R, Amdt 3
Indianapolis, IN, Indianapolis Intl, ILS RWY 23L, Amdt 3
Indianapolis, IN, Indianapolis Intl, ILS RWY 23R, Amdt 2
Indianapolis, IN, Indianapolis Intl, RNAV (GPS) RWY 5L, Orig
Indianapolis, IN, Indianapolis Intl, RNAV (GPS) RWY 5R, Orig
Indianapolis, IN, Indianapolis Intl, RNAV (GPS) RWY 14, Orig
Indianapolis, IN, Indianapolis Intl, RNAV (GPS) RWY 23L, Orig
Indianapolis, IN, Indianapolis Intl, RNAV (GPS) RWY 23R, Orig
Indianapolis, IN, Indianapolis Intl, RNAV (GPS) RWY 32, Orig
Norton, KS, Norton Muni, NDB OR GPS RWY 35, Amdt 2A, CANCELLED
Norton, KS, Norton Muni, NDB OR GPS RWY 17, Amdt 2A, CANCELLED
Omaha, NE, Eppley Airfield, ILS RWY 36, Orig
Andrews, NC, Andrews-Murphy, RNAV (GPS) RWY 8, Orig
Raleigh-Durham, NC, Raleigh-Durham Intl, VOR RWY 32, Amdt 3B
Raleigh-Durham, NC, Raleigh-Durham Intl, NDB RWY 5R, Amdt 20B
Ponca City, OK, Ponca City Muni, LOC RWY 17, Orig

** * * Effective August 8, 2002*

Alabaster, AL Shelby County, NDB OR GPS RWY 33, Orig, CANCELLED
Jacksonville, FL, Craig Muni, VOR/DME OR GPS RWY 32, Amdt 1
Orlando, FL Orland Intl, GPS RWY 36L, Amdt 1B
Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RADAR–1, Amdt 6
Greenville, NC, Pitt-Greenville, VOR/DME RNAV RWY 26, Amdt 3C, CANCELLED
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, VOR RWY 13, Amdt 1

Note: The FAA published the following amendments in Docket No. 30304, Amdt. No. 3001 to Part 97 of the Federal Aviation Regulations (67 FR 19667–19669; dated April 23, 2002) under section 97.27 effective 13 June 2002, which are hereby rescinded:

Grant, NE, Grant Muni, VOR/DME RWY 15, Orig
Norfolk, VA, Norfolk Intl, NDB/DME RWY 23 Orig
Norfolk, VA, Norfolk Intl, NDB/DME OR GPS RWY 23, Orig B, CANCELLED

The FAA published the following amendment in Docket No. 30306; Amdt. No. 3003 to Part 97 of the Federal Aviation Regulations (67 FR 21990–21992; dated May 2, 2002) under section 97.27 effective 13 June 2002, which is hereby amended as follows:

Monroe City, MO, Monroe City Regional, VOR/DME RNAV RWY 27, Amdt 1

The FAA published an Amendment in Docket No. 30306, Amdt No. 3003 to Part 97 of the Federal Aviation Regulations (67 FR 21990–21992; dated May 2, 2002) under section 97.33 effective 13 June 2002, which is hereby rescinded:

Richfield, UT, Richfield Muni, RNAV (GPS) RWY 19, Orig

[FR Doc. 02–12286 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pharmacia & Upjohn Co. The supplemental NADA provides for the use of lincomycin in swine feed for the control of porcine proliferative enteropathies (ileitis).

DATES: This rule is effective May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7584, e-mail: svaughn@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed a supplement to NADA 97–505 that provides for use of LINCOMIX 20 (lincomycin hydrochloride) and LINCOMIX 50 Feed Medications in medicated swine feeds for the control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis*. The supplemental application is approved as of February 28, 2002, and the regulations are amended in 21 CFR 558.325 to reflect the approval. Section 558.325 is also being revised to reflect a current format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning February 28, 2002, because the application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.325 is amended in paragraph (a) by removing "paragraph (c)" and in its place adding "paragraph (d)"; by revising paragraphs (a)(1), (a)(5), and (a)(13); in paragraph (b) by removing "*in edible products*"; and by revising paragraph (d) to read as follows:

§ 558.325 Lincomycin.

(a) * * *

(1) No. 000009 for 20 and 50 grams per pound.

* * * * *

(5) No. 043733 for 8 and 20 grams per pound.

* * * * *

(13) No. 017800 for 2.5 and 8 grams per pound.

* * * * *

(d) *Conditions of use*—(1) *Chickens.* It is used in feed as follows:

Lincomycin grams/ton	Indications for use	Limitations	Sponsor
(i) 2	Broilers: For control of necrotic enteritis caused by *Clostridium* spp. or other susceptible organisms.	As lincomycin hydrochloride monohydrate.	000009
(ii) 2 to 4	Broilers: For increased rate of weight gain and improved feed efficiency.	As lincomycin hydrochloride monohydrate.	000009

(2) *Swine.* It is used in feed as follows:

Lincomycin grams/ton	Indications for use	Limitations	Sponsor
(i) 20	Growing-finishing swine: For increased rate of weight gain.	Feed as sole ration. Not to be fed to swine that weigh more than 250 pounds (lb).	000009
(ii) 40	1. For control of swine dysentery.	Feed as sole ration; for use in swine on premises with a history of swine dysentery but where symptoms have not yet occurred, or following use of lincomycin at 100 grams (g)/ton for treatment of swine dysentery. Not to be fed to swine that weigh more than 250 lb.	000009 017800 043733
	2. For control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis.*	Feed as sole ration, or following use of lincomycin at 100 g/ton for control of porcine proliferative enteropathies (ileitis). Not to be fed to swine that weigh more than 250 lb.	000009
(iii) 100	1. For treatment of swine dysentery.	Feed as sole ration for 3 weeks or until signs of disease disappear. Not to be fed to swine that weigh more than 250 lb.	000009 017800 043733
	2. For control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis.*	Feed as sole ration for 3 weeks or until signs of disease disappear. Not to be fed to swine that weigh more than 250 lb.	000009
(iv) 200	For reduction in the severity of swine mycoplasmal pneumonia caused by *Mycoplasma hyopneumoniae.*	Feed as sole ration for 3 weeks. Not to be fed to swine that weigh more than 250 lb.	000009 017800

(3) Lincomycin may also be used in combination with:

(i) Amprolium and ethopabate or amprolium and ethopabate with roxarsone in accordance with § 558.58.

(ii) Clopidol in accordance with § 558.175.

(iii) Decoquinate in accordance with § 558.195.

(iv) Fenbendazole as provided in § 558.258.

(v) Halofuginone in accordance with § 558.265.

(vi) Ivermectin as in § 558.300.

(vii) Lasalocid alone or with roxarsone in accordance with § 558.311.

(viii) Monensin alone or with roxarsone in accordance with § 558.355.

(ix) Nicarbazin alone or with narasin or roxarsone as in § 558.366.

(x) Pyrantel as in § 558.485.

(xi) Robenidine in accordance with § 558.515.

(xii) Roxarsone in accordance with § 558.530.

(xiii) Salinomycin with or without roxarsone as in § 558.550.

(xiv) Zoalene in accordance with § 558.680.

Dated: May 14, 2002.

Acting Director,

Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 02–13164 Filed 5–23–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[OK–029–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule, approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Oklahoma Department of Mines (Department or Oklahoma) proposed revisions to its rules about areas designated by act of congress as unsuitable for mining and coal exploration operations. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning Oklahoma's program and program amendments at 30 CFR 936.15 and 936.16.

II. Submission of the Amendment

By letter dated November 20, 2001 (Administrative Record No. OK–988.02), Oklahoma sent us an amendment to its approved regulatory program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment in response to an August 23, 2000, letter (Administrative Record No. OK–988) that we sent to Oklahoma in accordance with 30 CFR 732.17(c).

We announced receipt of the amendment in the December 21, 2001, **Federal Register** (66 FR 65858). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on January 22, 2002. We received comments from one Federal agency and one State agency.

During our review of the amendment, we identified concerns relating to definitions at OAC 460:20–7–3, procedures at OAC 460:20–7–5, and various editorial errors. We notified Oklahoma of the concerns by letters dated December 13, 2001, January 16, 2002, and March 6, 2002 (Administrative Record Nos. OK–988.06, OK–988.08, and OK–988.12).

On February 21 and March 26, 2002, Oklahoma sent us revisions to its amendment (Administrative Record Nos. OK–988.10 and OK–988.14). Based upon Oklahoma's revisions, we reopened the public comment period in the April 5, 2002, **Federal Register** (67 FR 16341). The public comment period ended on April 22, 2002. We did not receive any comments.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

A. Minor Revisions to Oklahoma's Rules

Oklahoma proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously-approved rules:

OAC 460:20–7–5(b)(2), rights determination and OAC 460:20–7–5(g), applicability to lands designated as unsuitable by Congress.

Because these changes are minor, we find that they will not make Oklahoma's rules less effective than the Federal regulations.

B. OAC 460:20–7–3 Definitions

Oklahoma deleted its definition of "surface coal mining operations which exist on the date of enactment" because this term no longer appears in its rules.

We are approving Oklahoma's deletion because it is consistent with OSM's deletion of the Federal counterpart definition of "surface coal mining operations which exist on the date of enactment." *See* 64 FR 70766, dated December 17, 1999.

C. Revisions To Oklahoma's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

The State rules listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations.

Topic	State rule	Federal counterpart regulation
Authority	OAC 460:20–7–2	30 CFR 761.3.
Definition of Community or Institutional Building	OAC 460:20–7–3	30 CFR 761.5.
Definition of Valid Existing Rights	OAC 460:20–7–3	30 CFR 761.5.
Areas Where Surface Coal Mining Operations are Prohibited or Limited	OAC 460:20–7–4 Introductory paragraph, (2), (3), and (4)(B).	30 CFR 761.11 Introductory paragraph, (b), (c), (d)(2).
Exception for Existing Operations	OAC 460:20–7–4.1	30 CFR 761.12(a).
Procedures—Obligations at Time of Permit Application Review	OAC 460:20–7–5(a), (b)(1), (f)(1) and (3).	30 CFR 761.17(a), (b), (d)(1) and (3).

Topic	State rule	Federal counterpart regulation
Procedures—Compatibility Findings for Surface Coal Mining Operations on Federal Lands in National Forests.	OAC 460:20–7–5(c)	30 CFR 761.13.
Procedures—Relocating or Closing a Public Road or Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of a Public Road.	OAC 460:20–7–5(d)	30 CFR 761.14.
Procedures—Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of an Occupied Dwelling.	OAC 460:20–7–5(e)	30 CFR 761.15.
Procedures—Submission and Processing of Requests for Valid Existing Rights Determinations.	OAC 460:20–7–5(h)	30 CFR 761.16.
Permit Requirements for Exploration Removing More Than 250 Tons of Coal.	OAC 460:20–13–5(b)(14), (d)(2)(D).	30 CFR 772.12(b)(14), (d)(2)(iv).

Because Oklahoma's proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On December 5, 2001, and February 26, 2002, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Oklahoma program (Administrative Record Nos. OK–988.03 and OK–988.11). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Nos. OK–988.03 and OK–988.11). EPA responded on January 2, 2002 (Administrative Record No. OK–988.04), that it had no comments.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On December 5, 2001, and February 26, 2002, we requested comments on Oklahoma's amendment (Administrative Record Nos. OK–988.03 and OK–988.11). The SHPO responded on January 3, 2002 (Administrative Record No. OK–988.05). The SHPO was concerned that several of Oklahoma's proposed rules did not consider properties that are "eligible for inclusion on the National Register of Historic Places."

On January 29, 2002 (Administrative Record No. 988.09), we sent a letter telling the SHPO that Oklahoma's proposed rules are consistent with Section 522(e)(3) of SMCRA and the Federal regulations. We also explained that even though SMCRA and the Federal regulations do not require consideration of properties eligible for listing on the National Register of Historic Places when making a determination of whether a person has valid existing rights to mine in areas where surface coal mining operations are normally prohibited or limited, the permit application requirements and other provisions of the Oklahoma rules and the Federal regulations do require this consideration for these areas.

V. Director's Decision

Based on the above findings, we approve the amendment Oklahoma sent to us on November 20, 2001, and as revised on February 21 and March 26, 2002.

We approve the rules proposed by Oklahoma with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 936, which codify decisions concerning the Oklahoma program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this final rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

In this rule, the State is adopting valid existing rights standards that are similar to the standards in the Federal definition at 30 CFR 761.5. Therefore, this rule has the same takings implications as the Federal valid existing rights rule. The takings implications assessment for the Federal valid existing rights rule appears in Part XXIX.E of the preamble to that rule. See 64 FR 70766, 70822–27, December 17, 1999.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 26, 2002.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 936 is amended as set forth below:

PART 936—OKLAHOMA

1. The authority citation for Part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 936.15 Approval of Oklahoma regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
•	•	•
November 20, 2001	May 24, 2002	OAC 460:20–7–2; 20–7–3; 20–7–4 Introductory paragraph, (2), (3), and (4)(B); 20–7–4.1; 20–7–5(a), (b)(1) and (2), (c), (d), (e), (f)(1) and (3), (g), (h); 20–13–5(b)(14), (d)(2)(D).

[FR Doc. 02–13105 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

RIN 1510–AA45

Indorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends 31 CFR Part 240, which governs the indorsement and payment of checks drawn on the United States Treasury (Treasury), by incorporating procedures relating to the implementation of the Debt Collection Improvement Act of 1996 (DCIA). In particular, this rule describes Treasury Check Offset, a new debt collection tool established by the DCIA. The DCIA authorizes the Secretary of the Treasury to collect certain debts, owed to the Treasury by financial institutions presenting Treasury checks to a Federal Reserve Bank, by directing Federal Reserve Banks to withhold credit from such presenting banks. This rule also renumbers certain sections and updates various addresses provided in 31 CFR Part 240.

DATES: Effective May 24, 2002. Comments will be accepted until June 24, 2002.

ADDRESSES: All comments concerning this interim rule should be addressed to Lester Smalls, Reclamation Branch Manager, Financial Processing Division, Financial Management Service, Prince Georges Center II Building, 3700 East-West Highway, Room 724–D, Hyattsville, Maryland 20782. Comments also may be emailed to: Lester.Smalls@fms.treas.gov.

FOR FURTHER INFORMATION CONTACT: Lester Smalls, Reclamation Branch Manager, Financial Processing Division, at (202) 874–7945; Ronda Kent or Randall S. Lewis, Senior Attorneys, at (202) 874–6680.

SUPPLEMENTARY INFORMATION:

Background

This interim rule revises 31 CFR Part 240 by adding new provisions in a new § 240.9 relating to TCO, a debt collection tool authorized by the DCIA, Pub. L. 104–134, Title III, § 31001(d)(4), codified at 31 U.S.C. 3712(e). The DCIA authorizes the Secretary to collect amounts owed to the Treasury by financial institutions presenting Treasury checks to the Federal Reserve for payment by the United States ("presenting banks"). Under TCO, the Department of the Treasury (Department) will direct a Federal Reserve Bank to withhold credit from such presenting banks and apply the funds to satisfy a presenting bank's debt to the Treasury. In accordance with the DCIA, the Department will collect by means of TCO only if reclamation demand and protest as described in 31 CFR 240.7 and administrative offset as described in 31 CFR 240.8 are unsuccessful. This interim rule is unrelated to the Notices of Proposed Rulemaking published on September 21, 1995 (60 FR 48940) and May 30, 1997 (62 FR 29314).

Regulatory Analyses

Executive Order 12866, Regulatory Planning and Review

It has been determined that this regulation is not a significant regulatory action. This interim rule will not have an annual effect of $100 million or more on the economy, and will not adversely affect in a material way the economy, productivity, competition, jobs, environment, public health or safety, or State, local, or tribal governments or communities. Further, this interim rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, nor will it materially alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients. This interim rule does not raise novel legal or policy issues.

Clarity of Regulations

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. We invite your comments on how to make this interim rule easier to understand. For example:

- Have we organized the material in this interim rule to suit your needs?
- Are the requirements in the interim rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- What else could we do to make this interim rule easier to understand?

Please send any comments you have on the clarity of this interim rule to the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, a regulatory flexibility analysis is not required. The revisions to part 240 in this interim rule incorporate statutory changes, and do not create, in and of themselves, a new debt collection tool or otherwise create a new limit on the rights of affected parties, including small entities. Moreover, the revisions to part 240 concern the collection of delinquent debts by means of TCO, and are in furtherance of specific authority established by the DCIA. In particular, the DCIA provides that, "by presenting Treasury checks for payment a presenting bank is deemed to authorize this offset." 31 U.S.C. 3712(e)(1). Consequently, any economic impact on small entities will be the result of specific statutory authority, rather than a direct result of this interim rule.

Administrative Procedure Act

We find good cause for issuing this interim rule without prior notice and comment. Under the Administrative Procedure Act, an agency is permitted to issue a rule without prior notice and comment when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest. 5 U.S.C. 553(b)(B). The provisions of the DCIA codified at 31 U.S.C. 3712(e) authorize the collection of amounts owed by presenting banks by means of the withholding of credit from financial institutions presenting Treasury checks for ultimate charge to the account of the Treasury. This rule merely incorporates the TCO provisions of the DCIA into 31 CFR part 240, and clarifies the interaction between the TCO provisions and pre-existing provisions relating to reclaiming amounts owed to the Treasury by presenting banks and collection of such amounts by means of administrative offset. With one exception, this interim rule does not substantively amplify the plain language of the DCIA. The only substantive revision to 31 CFR part 240 that is not included in the TCO provisions of the DCIA is the provision codified at 31 CFR 240.9(d) which provides that TCO does not apply to claims based on reclamations that have been outstanding for more than 10 years. Given that this provision limits the application of the TCO provisions of the DCIA and, therefore, in itself does not adversely affect presenting banks, we find that it is unnecessary to require prior notice and comment for that provision. Nevertheless, the public is invited to submit comments on the interim rule. Comments received will be

taken into account before a final rule is issued.

For the same reasons, it has been determined that a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

List of Subjects in 31 CFR Part 240

Banks, Banking, Checks, Counterfeit checks, Federal Reserve system, Forgery, Guarantees.

Authority and Issuance

For the reasons set out in the preamble, 31 CFR Part 240 is amended as follows.

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

1. The authority citation for part 240 is revised to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3328, 3331, 3343, 3711, 3712, 3716, 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

§§ 240.9–240.15 [Redesignated as §§240.10–240.16]

2. Sections 240.9–240.15 are redesignated as §§ 240.10–240.16.

3. Section 240.7 is amended by revising paragraphs (a)(1), (b), and (c)(1) to read as follows:

(a) * * *

(1) That Treasury intends to collect the debt through administrative offset in accordance with § 240.8 if the reclamation is not paid within 120 days of the reclamation date, and if administrative offset is unsuccessful, that Treasury intends to collect the debt through Treasury Check Offset in accordance with § 240.9; * * *

(b) Requests for an appointment to inspect and copy Treasury's records with respect to a reclamation and requests to enter into repayment agreements should be sent in writing to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation Branch, Room 700–D, P.O. Box 1849, Hyattsville, MD 20788.

(c)(1) If a presenting bank wishes to contest its liability for the principal amount demanded, it shall send a protest, i.e., a written statement and copies of all documentary evidence (e.g., affidavits, account agreements, signature cards) and other written information raising a question of law or fact which, if resolved in the presenting bank's favor, would show that the presenting bank is not liable, to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation Branch, Room 700–D, P.O. Box 1849, Hyattsville, MD 20788. The Director, Financial Processing Division, who has supervisory authority over the Reclamation Branch, or his/her authorized subordinate, shall consider and decide any protest properly submitted under this paragraph. Neither the Director, Financial Processing Division, nor any of his/her subordinates, shall have any involvement in the process of making findings or demands under § 240.6(a). In order to be considered, and to be timely, a protest must be received not later than 90 days after the reclamation date. Treasury will refrain from collection in accordance with § 240.8 or § 240.9 while a timely protest is being considered. Unresolved protested items will be appropriately annotated on the monthly summary of debt statement.

* * * * *

4. Section 240.8(c) is revised to read as follows:

§ 240.8 Offset.

* * * * *

(c) If Treasury is unable to collect an amount owed by use of the offset described in paragraph (a) of this section, Treasury shall take such action against the presenting bank as may be necessary to protect the interests of the United States, including Treasury Check Offset in accordance with § 240.9 or referral to the Department of Justice.

* * * * *

5. New § 240.9 is added to read as follows:

§ 240.9 Treasury Check Offset.

(a) If Treasury is unable to effect collection pursuant to § 240.7 or § 240.8 of this part, it will collect the principal amount of the reclamation, accrued interest, penalty, and administrative costs through Treasury Check Offset. Treasury Check Offset occurs when, at the direction of Treasury, a Federal Reserve Bank withholds, that is, offsets, credit from a presenting bank (e.g., a financial institution presenting a Treasury check for ultimate charge to the account of the United States Treasury). The amount of credit offset is applied to the principal amount of the reclamation, accrued interest, penalties, and administrative costs owed by the presenting bank. As provided by the provisions of 31 U.S.C. 3712(e), by presenting Treasury checks for payment, the presenting bank is deemed to authorize Treasury Check Offset.

(b) If Treasury effects offset under this section and it is later determined that the presenting bank paid the principal amount of the reclamation and accrued interest, penalties, and administrative costs thereon, or that a presenting bank was not liable for the amount of the reclamation, Treasury will promptly refund to the presenting bank the amount of its payment. Treasury may refund the amount either by applying the amount to another reclamation debt in accordance with this Part or other applicable law, or by returning the amount to the presenting bank.

(c) Treasury Check Offset is used for the purpose of collecting debt owed by a presenting bank to the Federal Government. As a consequence, presenting banks shall not be able to use the fact that Treasury checks presented for payment have not been paid as the basis for a claim against Treasury, a Federal Reserve Bank, or other persons or entities, including payees or other indorsers of checks, for the amount of the credit offset pursuant to 31 U.S.C. 3712(e) and this section.

(d) This section does not apply to a claim based upon a reclamation that has been outstanding for more than 10 years from the date of delinquency.

6. Redesignated § 240.13(a)(2)(ii) is revised to read as follows:

§ 240.13 Checks issued to incompetent payees.

(a) * * *

(2) * * *

(ii) Was issued in payment of principal or interest on U.S. securities, it shall be forwarded to the Bureau of the Public Debt, Division of Customer Service, P.O. Box 426, Parkersburg, WV 26106.

* * * * *

Dated: May 16, 2002.

Richard L. Gregg,

Commissioner.

[FR Doc. 02–13033 Filed 5–23–02; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–02–022]

Special Local Regulations for Marine Events; Severn River, College Creek, and Weems Creek, Annapolis, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.518 for the U.S. Naval Academy Crew Races, a marine event to be held May 26, 2002, on the waters of the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.518 is effective from 5 a.m. to 8 a.m. on May 26, 2002.

FOR FURTHER INFORMATION CONTACT: Ron Houck, Marine Information Specialist, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, at (410) 576–2674.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy will sponsor crew races on the waters of the Severn River at Annapolis, Maryland. The event will consist of intercollegiate crew rowing teams racing along a 2000-meter course on the waters of the Severn River. A fleet of spectator vessels is expected to gather near the event site to view the competition. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.518 will be in effect for the duration of the event. Under provisions of 33 CFR 100.518, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: May 16, 2002.

James D. Hull,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 02–13139 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–02–021]

Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.501 for the Portsmouth 250th Birthday Party Fireworks, to be held May 26, 2002, over the waters of the Elizabeth River between Norfolk and Portsmouth, Virginia. This action is necessary to provide for the safety of life on navigable waters during the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators, participants and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.501 is effective from 6:30 p.m. to 9:30 p.m. EDT on May 26, 2002.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Jerry Saffold, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703, at (757) 483–8521.

SUPPLEMENTARY INFORMATION: On Saturday, May 26, 2002, Ports Events, Inc. will sponsor the Portsmouth 250th Birthday Party Fireworks over the waters of the Elizabeth River, between Norfolk and Portsmouth, Virginia. The event will consist of a pyrotechnics display lasting approximately 45 minutes. A fleet of spectator vessels is expected to gather near the event site to view the fireworks. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.501 will be in effect for the duration of the event. Under provisions of 33 CFR 100.501, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: May 16, 2002.

James D. Hull,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 02–13135 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Huntington–02–004]

RIN 2115–AA97

Safety Zone; Ohio River Miles 355.5 to 356.5, Portsmouth, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the Ohio River beginning at mile 355.5 and ending at mile 356.5, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from the potential safety hazards associated with a fireworks display. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Huntington or his designated representative.

DATES: This rule is effective from 9:30 p.m. to 11 p.m. on July 4, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Huntington-02–004] and are available for inspection or copying at Marine Safety Office Huntington, 1415 6th Avenue, Huntington, West Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer, Rick Leffler, Marine Safety Office Huntington, Marine Event Coordinator at (304) 529–5524.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Information was made available to the Coast Guard in insufficient time to publish a NPRM. Publishing a NPRM with a comment period would be contrary to public interest since action is needed to protect vessels and mariners from the hazards associated with a fireworks display.

Background and Purpose

The Captain of the Port Huntington, is establishing a safety zone between mile 355.5 and 356.5 of the Ohio River, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from the potential safety hazards associated with a fireworks display. All vessels are prohibited from transiting within this safety zone unless authorized by the Captain of the Port, Huntington or his designated representative.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This regulation will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Ohio River from mile 355.5 to 356.5, from 9:30 p.m. to 11 p.m. on July 4, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only a short period of time and mariners will be notified in advance of the zone through broadcast notice to mariners.

If you are a small business entity and are significantly affected by this regulation please contact Chief Petty Officer Rick Leffler, Marine Safety Office Huntington at (304) 529–5524.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we so discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08–048 is added to read as follows:

§ 165.T08–048 Ohio River Miles 355.5 to 356.5, Portsmouth, Ohio.

(a) *Location.* The following area is a safety zone: the waters of the Ohio River from mile 355.5 to mile 356.5 extending the entire width of the river.

(b) *Effective date.* This section is effective from 9:30 p.m. to 11 p.m. on July 4, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Huntington or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington, or his designated representative. They may be contacted via VHF–FM Channel 13 or 16 or via telephone at (304) 529–5524.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 13, 2002.

L. D. Stroh,

Commander, U.S. Coast Guard, Captain of the Port Huntington.

[FR Doc. 02–13140 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Huntington–02–002]

RIN 2115–AA97

Safety Zone; Kanawha River Miles 56.0 to 57.0, Charleston, West Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the certain waters of the Kanawha River. This safety zone is needed to protect spectators and vessels from the potential safety hazards associated with a fireworks display. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Huntington or his designated representative.

DATES: This rule is effective from 9:15 p.m. to 9:45 p.m. on June 2, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Huntington–02–002] and are available for inspection or copying at Marine Safety Office Huntington, 1415 6th Avenue, Huntington, West Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer, Rick Leffler, Marine Safety Office Huntington, Marine Event Coordinator at (304) 529–5524.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Information was made available to the Coast Guard in insufficient time to publish a NPRM or to have a Temporary final rule published in the **Federal Register** 30 days prior to the event. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with a fireworks display.

Background and Purpose

The Captain of the Port Huntington, is establishing a safety zone between mile 56.0 and 57.0 of the Kanawha River, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from the potential safety hazards associated with a fireworks display. All vessels are prohibited from transiting within this safety zone unless authorized by the Captain of the Port, Huntington or his designated representative.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This regulation will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Kanawha River from mile 56.0 to 57.0, from 9:15 p.m. to 9:45 p.m. on June 2, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only a short period of time and mariners will be notified in advance of the zone through broadcast notice to mariners.

If you are a small business entity and are significantly affected by this regulation please contact Chief Petty Officer Rick Leffler, Marine Safety Office Huntington at (304) 529–5524.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise

determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we so discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08–046 is added to read as follows:

§ 165.T08–046 Kanawha River Miles 56.0 to 57.0, Charleston, West Virginia.

(a) *Location.* The following area is a safety zone: the waters of the Kanawha River from mile 56.0 to mile 57.0 extending the entire width of the river.

(b) *Effective date.* This section is effective from 9:15 p.m. to 9:45 p.m. on June 2, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Huntington or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington, or his designated representative. They may be contacted via VHF–FM Channel 13 or 16 or via telephone at (304) 529–5524.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 13, 2002.

L.D. Stroh,

Commander, U.S. Coast Guard, Captain of the Port, Huntington.

[FR Doc. 02–13138 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–021]

Safety Zone; Captain of the Port Detroit Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during June 2002. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

DATES: Effective from 12:01 a.m.(Eastern Time) on June 1, 2002 to 11:59 p.m.(Eastern Time) on June 30, 2002.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, MI at (313) 568–9580.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zones in 33 CFR 165.907 (66 FR 27868, May 21, 2001), for fireworks displays in the Captain of the Port Detroit Zone during June 2002. The following safety zones are in effect for fireworks displays occurring in the month of June 2002:

(1) *Bay-Rama Fishfly Festival, New Baltimore, MI.* Location: All waters off New Baltimore City Park, Lake St. Clair-Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41′ N, 082°44′ W, on June 26, 2002, from 9 p.m. to 11 p.m.

(2) *St. Clair Shores Fireworks, St. Clair Shores, MI.* Location: All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32′ N, 082°51′ W, about 1000-yards east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores, MI on June 28, 2002, from 10 p.m. to 10:30 p.m.

(3) *Port Huron 4th of July Fireworks, Port Huron, MI.* Location: All waters of the Black River within a 300-yard radius of the fireworks barge in approximate position 42°58′ N, 082°25′ W about 300-yards east of 223 Huron Ave., in the Black River on June 30, 2002, from 10 p.m. until 11 p.m.

(4) *Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI.* Location: All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°23′ N, 082°52′ W, about 300-yards east of Grosse Pointe Farms on June 29, 2002 from 9:30 p.m. to 10:30 p.m.

(5) *Sigma Gamma Assoc., Grosse Pointe Farms, MI.* Location: The waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27′ N, 082°52′ W on June 24, 2002 from 6 p.m. to 10 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by case basis. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on channel 16, VHF–FM.

Dated: May 16, 2002.

P.G. Gerrity,

Commander, U.S. Coast Guard Captain of the Port Detroit.

[FR Doc. 02–13136 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Huntington–02–003]

RIN 2115–AA97

Safety Zone; Ohio River Miles 307.0 to 308.0, Huntington, West Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the Ohio River beginning at mile 307.0 and ending at mile 308.0, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from the potential safety hazards associated with a fireworks display. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Huntington or his designated representative.

DATES: This rule is effective from 9:30 p.m. to 10:45 p.m. on June 29, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Huntington–02–003] and are available for inspection or copying at Marine Safety Office Huntington, 1415 6th Avenue, Huntington, West Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer, Rick Leffler, Marine Safety Office Huntington, Marine Event Coordinator at (304) 529–5524.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Information was made available to the Coast Guard in insufficient time to publish a NPRM. Publishing a NPRM with a comment period would be contrary to public interest since action is needed to protect vessels and mariners from the hazards associated with a fireworks display.

Background and Purpose

The Captain of the Port Huntington, is establishing a safety zone between mile 307.8 and 308.0 of the Ohio River, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from the potential safety hazards associated with a fireworks display. All vessels are prohibited from transiting within this safety zone unless authorized by the Captain of the Port, Huntington or his designated representative.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10 (e) of the regulatory policies and procedures of DOT is unnecessary. This regulation will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Ohio River from mile 307.0 to 308.0, from 9:30 p.m. to 10:45 p.m. on June 29, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only a short period of time and mariners will be notified in advance of the zone through broadcast notice to mariners.

If you are a small business entity and are significantly affected by this regulation please contact Chief Petty Officer Rick Leffler, Marine Safety Office Huntington at (304) 529–5524.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we so discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08–047 is added to read as follows:

§ 165.T08–047 Ohio River Miles 307.0 to 308.0, Huntington, West Virginia.

(a) *Location.* The following area is a safety zone: the waters of the Ohio River from mile 307.0 to mile 308.0 extending the entire width of the river.

(b) *Effective date.* This section is effective from 9:30 p.m. to 10:45 p.m. on June 29, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Huntington or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington, or his designated representative. They may be contacted via VHF–FM Channel 13 or 16 or via telephone at (304) 529–5524.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 13, 2002.

L.D. Stroh,

Commander, U.S. Coast Guard, Captain of the Port Huntington.

[FR Doc. 02–13141 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

United States Navy Restricted Area, Port Gardner and East Waterway, Washington

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending its regulations to establish a restricted area in waters adjacent to the Everett Naval Base at Everett, Washington. This action will effectively establish a 300-foot restricted zone around moored vessels and major piers of Naval Station Everett, and lesser distances from the other piers, basins, and shorelines of the installation. The regulations are necessary to ensure public safety and meet the Navy's security, safety, and operational requirements pertaining to the moorage and movement of major combatants and other vessels at a major naval base.

EFFECTIVE DATE: June 24, 2002.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Jack Kennedy, Corps of Engineers, Seattle District, Regulatory Branch, at (206) 764–6907.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding a new section 334.1215 which establishes a restricted area in waters adjacent to Naval Station Everett at Everett, Washington.

Procedural Requirements

A. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

B. Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the economic impact of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal will have no significant economic impact on small entities.

C. Review Under the National Environmental Policy Act

The Seattle District has prepared an Environmental Assessment (EA) for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Seattle District office listed at the end of **FOR FURTHER INFORMATION CONTACT,** above.

D. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

E. Submission to Congress and the General Accounting Office

Pursuant to Section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This Rule is not a major Rule within the meaning of Section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR Part 334 as follows:

PART 334–DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Add § 334.1215 to read as follows:

§ 334.1215 Port Gardner, Everett Naval Base, Naval Restricted Area, Everett, Washington.

(a) *The area.* The waters of Port Gardner and East Waterway surrounding Naval Station Everett beginning at Point 1, a point near the northwest corner of Naval Station Everett at latitude 47°59′40″ North, longitude 122°13′23.5″ West and thence to latitude 47°59′40″ North, longitude 122°13′30″ West (Point 2); thence to latitude 47°59′20″ North, longitude 122°13′33″ West (Point 3); thence to latitude 47°59′13″ North, longitude 122°13′38″ West (Point 4); thence to latitude 47°59′05.5″ North, longitude 122°13′48.5″ West (Point 5); thence to latitude 47°58′51″ North, longitude 122°14′04″ West (Point 6); thence to latitude 47°58′45.5″ North, longitude 122°13′53″ West (Point 7); thence to latitude 47°58′45.5″ North, longitude 122°13′44″ West (Point 8); thence to latitude 47°58′48″ North, longitude 122°13′40″ West (Point 9); thence to latitude 47°58′59″ North, longitude 122°13′30″ West (Point 10); thence to latitude 47°59′14″ North, longitude 122°13′18″ West (Point 11); thence to latitude 47°59′13″ North, longitude 122°13′12″ West (Point 12); thence to latitude 47°59′20″ North, longitude 122°13′08″ West (Point 13); thence to latitude 47°59′20″ North, longitude 122°13′02.5″ West (Point 14), a point upon the Naval Station's shore in the northeast corner of East Waterway.

(b) *The regulation.* (1) All persons and vessels are prohibited from entering the waters within the restricted area for any reason without prior written permission from the Commanding Officer of the Naval Station Everett.

(2) Mooring, anchoring, fishing and/or recreational boating shall not be allowed within the restricted area without prior written permission from the Commanding Officer, Naval Station Everettt.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding Officer, Naval Station Everett and such agencies and persons as he/she shall designate.

Dated: May 9, 2002.

Karen Durham-Aguilera,

Acting Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 02–13061 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0021; FRL–6834–2]

Pesticides; Tolerance Exemptions for Polymers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final rule action to add a new section which lists the pesticide chemicals that are exempt from the requirement of a tolerance

because they meet the criteria established by the Agency to identify certain polymers that are of low risk. This section contains those polymers whose tolerance exemptions were established post-Food Quality Protection Act (FQPA) of 1996 and are based on the polymer's meeting the criteria described in 40 CFR 723.250. The Agency is acting on its own initiative.

DATES: This direct final rule is effective on September 23, 2002, without further notice, unless EPA receives a relevant adverse comment by July 23, 2002. If EPA receives a relevant adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. It is imperative that you identify docket ID number OPP–2002–0021 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6304; fax number: (703) 305–0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, pesticide manufacturer, or antimicrobial pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532 32561	Crop production Animal production Food manufacturing Pesticide manufacturing Antimicrobial pesticides

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0021. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0021 in the subject line on the first page of your response. EPA also encourages you to submit your comments electronically, if at all possible, which will facilitate timely receipt by the Agency and avoid potential delays associated with the processing of government mail.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0021. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the direct final rule.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Authority

A. What is the Agency's Authority for Taking this Action?

This direct final rule is issued pursuant to section 408(e) of the Federal Food, Drug, and Comestic Act (FFDCA), as amended by FQPA (21 U.S.C. 346a(e)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342 (a)).

B. Why is EPA Issuing this as a Direct Final Rule?

EPA is issuing this action as a direct final rule without prior proposal because the Agency believes that this action is not controversial and is not likely to result in any adverse comments, inasmuch as this action simply shifts existing tolerance exemptions for certain polymers from one paragraph of 40 CFR 180.1001 to a new section in 40 CFR part 180. It will not alter the quantity or nature of residues that might lawfully be present in food or feed.

This direct final rule is effective on September 23, 2002, without further notice, unless EPA receives a relevant adverse comment by July 23, 2002. If however, EPA receives a relevant adverse comment during the comment period, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the direct final rule will not take effect. EPA will also publish a proposed rulemaking in a future edition of the **Federal Register**. EPA will address the comments on the direct final rule as part of that proposed rulemaking.

III. What Action is the Agency Taking?

EPA is establishing a new § 180.960 to contain exemptions from the requirement of a tolerance for polymers that under reasonably foreseeable circumstances will pose no appreciable risks to human health. The Agency has established a set of criteria to identify categories of polymers that should present low or no risk. The definition of a polymer is given in 40 CFR 723.250(b). The criteria for molecular weight (MW) and oligomeric material are specified in 40 CFR 723.250(e). The following exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d).

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the Toxic Substances Control Act (TSCA) Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average MW greater than or equal to 10,000 daltons.

IV. Why are the Recodified Polymers Expressed in a Different Manner in the New Section?

These polymers were approved for use in pesticide products using criteria that identify low-risk polymers. Given the use of these criteria for approving certain polymers, defining appropriate limitations or use patterns is unnecessary. All polymers approved using these criteria can be used as an inert ingredient in any pesticide chemical product, including antimicrobial pesticide products, provided that such use is in accordance with good agricultural or manufacturing practices. In fact, creation of the new section will streamline the tolerance exemptions in 40 CFR part 180 since low-risk polymers need only be listed once, instead of being separately listed in multiple sections.

V. Regulatory Assessment Requirements

EPA is taking direct final action to add a new section to part 180, subpart D which lists the pesticide chemicals that are polymers approved for use in pesticide products using the criteria in 40 CFR 723.250 that identify a low-risk polymer. This section contains those polymers whose tolerance exemptions were established post-FQPA based on the criteria described in 40 CFR 723.250 . Since this direct final rule does not impose any new requirements, it is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), or Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This direct final rule directly regulates food processors, food handlers, and food retailers, but does not affect States, local, or Tribal governments directly. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal government and States, or Indian tribes, or on the distribution of power and responsibilities between the Federal government and States or Indian tribes. As a result, this action does not require any action under Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Nor does it

impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Nor does it require special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that the creation of a new § 180.960 will not have significant negative economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. This direct final rule does not impose any requirements; rather, it simply reorganizes requirements currently existing in EPA regulations. No existing tolerance exemptions are lost by the creation of the new section.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 14, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346 (a) and 374.

2. A new § 180.960 is added to subpart D of part 180 to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

Residues resulting from the use of the following substances, that meet the definition of a polymer and the criteria specified for defining a low-risk polymer in 40 CFR 723.250, as an inert ingredient in a pesticide chemical formulation, including antimicrobial pesticide chemical formulations, are exempted from the requirement of a tolerance under FFDCA section 408, if such use is in accordance with good agricultural or manufacturing practices.

Polymer	CAS No.
Acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt, minimum number average molecular weight (in amu), 1,250	89678–90–0
Acrylic acid terpolymer, partial sodium salt, minimum number average molecular weight (in amu), 2,400	151006–66–5
Acrylic polymers composed of one or more of the following monomers: Acrylic acid, methyl acrylate, ethyl acrylate, butyl acrylate, hydroxyethyl acrylate, hydroxypropyl acrylate, hydroxybutyl acrylate, carboxyethyl acrylate, methacrylic acid, methyl methacrylate, ethyl methacrylate, butyl methacrylate, isobutyl methacrylate, hydroxyethyl methacrylate, hydroxypropyl methacrylate, hydroxybutyl methacrylate, lauryl methacrylate, and stearyl methacrylate; with none and/or one or more of the following monomers: Acrylamide, N-methyl acrylamide, N-octylacrylamide, maleic anhydride, maleic acid, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate; and their corresponding sodium potassium, ammonium, isopropylamine, triethylamine, monoethanolamine, and/or triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1,200	None
α-alkyl (C_{12}–C_{15}) - ω- hydroxypoly(oxypropylene)poly(oxyethylene)copolymers (where the poly(oxypropylene) content is 3–60 moles and the poly(oxyethylene) content is 5–80 moles), the resulting ethoxylated propoxylated (C_{12}–C_{15}) alcohols having a minimum molecular weight (in amu), 1,500	68551–13–3
Butene, homopolymer minimum number average molecular weight (in amu), 1,330	9003–29–6
Butyl acrylate-vinyl acetate-acrylic acid copolymer, minimum number average molecular weight (in amu), 18,000	65405–40–5
Dimethylpolysiloxane minimum number average molecular weight (in amu), 6,800	63148–62–9
Dimethyl silicone polymer with silica, minimum number average molecular weight (in amu), 1,100,000	67762–90–7
1, 2-Ethanediamine, polymer with methyl oxirane and oxirane, minimum number average molecular weight (in amu), 1,100	26316–40–5
Hexamethyl disilizane, reaction product with silica, minimum number average molecular weight (in amu), 645,000	68909–20–6
12-Hydroxystearic acid-polyethylene glycol copolymer, minimum number average molecular weight (in amu), 3,690	70142–34–6
Maleic anhydride-diisobutylene copolymer, sodium salt, minimum number average molecular weight (in amu) 5,0007–18,000	37199–81–8
Maleic anhydride-methylstyrene copolymer sodium salt, minimum number average molecular weight (in amu), 15,000	60092–15–1

Polymer	CAS No.
Methacrylic acid-methyl methacrylate-polyethylene glycol methyl ether methacrylate copolymer, minimum number averge molecular weight (in amu), 3,700	100934–04–1
Methacrylic copolymer, minimum number average molecular weight (in amu), 15,000	63150–03–8
Methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer,) minimum number average molecular weight (in amu), 2,730	119724–54–8
Oxirane, methyl-, polymer with oxirane, mono[2-(2-butoxyethoxy) ethyl] ether, minimum number average molecular weight (in amu), 2,500	85637–75–8
Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer, minimum number average molecular weight (in amu), 2,960	68650–28–2
Polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight (in amu), 1,300	None
Polyvinyl chloride, minimum number average molecular weight (in amu), 29,000	9002–86–2
Polyvinyl acetate, copolymer with maleic anhydride, partially hydrolyzed, sodium salt, minimum number average molecular weight (in amu), 53,000	None
Polyvinylpyrrolidone butylated polymer, minimum number average molecular weight (in amu), 9,500	26160–96–3
2-Propene-1-sulfonic acid sodium salt, polymer with ethenol and ethenyl acetate, number average molecular weight (in amu) 6,000–12,000	None
2-Propenoic acid, polymer with 2-propenamide, sodium salt, minimum number average molecular weight (in amu), 18,000	25085–02–3
2-Propenoic acid, sodium salt, polymer with 2-propenamide, minimum number average molecular weight (in amu), 18,000	25987–30–8
Silane, dichloromethyl- reaction product with silica minimum number average molecular weight (in amu), 3,340,000	68611–44–9
Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers: Acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, and/or hydroxyethyl acrylate; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1,200	None
Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer, minimum number average molecular weight (in amu), 4,200	30795–23–4
Tetraethoxysilane, polymer with hexamethyldisiloxane, minimum number average molecular weight (in amu), 6,500	104133–09–7
Vinyl acetate polymer with none and/or one or more of the following monomers: Ethylene, propylene, N-methyl acrylamide, acrylamide, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate, maleic anhydride, maleic acid, octyl acrylate, butyl acrylate, ethyl acrylate, methyl acrylate, acrylic acid, octyl methacrylate, butyl methacrylate, ethyl methacrylate, methyl methacrylate, methacrylic acid, carboxyethyl acrylate, and diallyl phthalate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine and/or triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1,200	None
Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-o-sodium sulfonate condensate, minimum number average molecular weight (in amu), 20,000	None
Vinyl pyrrolidone-acrylic acid copolymer, minimum number average molecular weight (in amu), 6,000	28062–44–4

§ 180.1001 [Amended]

3. Section 180.1001 is amended as follows:

i. The table in paragraph (c) is amended by removing the entries listed below:

Inert ingredients	Limits	Uses
• •	• • •	• •
Acrylic acid, styrene, α-methyl styrene Copolymer, ammonium salt (CAS Reg. No. 89678–90–0), minimum number average molecular weight (in amu) 1250.	.....	Encapsulating agent, dispensers, resins, fibers and beads
Acrylic acid terpolymer, partial sodium salt (CAS Reg. No. 151006–66–5), minimum number average molecular weight (in amu) 2,400.	.....	Dispersant

Inert ingredients	Limits	Uses
Acrylic polymers composed of one or more of the following monomers: Acrylic acid, methyl acrylate, ethyl acrylate, butyl acrylate, hydroxyethyl acrylate, hydroxypropyl acrylate, hydroxybutyl acrylate, carboxyethyl acrylate, methacrylic acid, methyl methacrylate, ethyl methacrylate, butyl methacrylate, isobutyl methacrylate, hydroxyethyl methacrylate, hydroxypropyl methacrylate, hydroxybutyl methacrylate, lauryl methacrylate, and stearyl methacrylate; with none and/or one or more of the following monomers: Acrylamide, *N*-methyl acrylamide, *N*-octylacrylamide, maleic anhydride, maleic acid, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine,and/or triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu) 1,200.		Components of films, binders, carriers, adhesives, or related adjuvants
α-alkyl (C_{12}–C_{15})-ω-hydroxypoly (oxypropylene)poly (oxyethylene)copolymers (where the poly(oxypropylene) content is 3–60 moles and the poly(oxyethylene) content is 5–80 moles), the resulting ethoxylated propoxylated (C_{12}-C_{15}) alcohols having a minimum molecular weight (in amu) of 1,500, CAS Reg. No. 68551–13–3.	Not to exceed 20% of pesticide formulations	Surfactant
Butene, homopolymer minimum number average molecular weight (in amu) 1,330 (CAS Reg. No. 9003–29–6).		Sticker, surfactant and related adjuvant
Butyl acrylate-vinyl acetate-acrylic acid copolymer (CAS Reg. No. 65405–40–5), minimum number average molecular weight 18,000 daltons.		Surfactants, related adjuvants of surfactants
Dimethyl silicone polymer with silica, Minimum number average molecular weight (in amu) 1,100,000 daltons, CAS Reg. No. 67762–90–7.		Moisture barrier, anti-caking agent, anti-settling agent, thickening agent
Dimethylpolysiloxane minimum number average molecular weight (in amu) 6,800 (CAS Reg. No. 63148–62–9).		Defoaming agent
1,2-Ethanediamine, polymer with methyl oxirane and oxirane, 1,100 minimum number average molecular weight (in amu) (CAS Reg. No. 26316–40–5).		Surfactant, dispersing agent
Hexamethyldisilizane, reaction product with silica, minimum number average molecular weight (in amu) 645,000 daltons, CAS Reg. No. 68909–20–6.		Moisture barrier, anti-caking agent, anti-settling agent, thickening agent
12-Hydroxystearic acid-polyethylene glycol copolymer (CAS Reg. No. 70142–34–6) minimum number average molecular weight (in amu) 3,690.		Surfactant, dispersing agent, suspending agent, related adjuvant.
Maleic anhydride- diisobutylene copolymer, sodium salt (CAS Reg. No. 37199–81–8), minimum number average molecular weight (in amu) 5,000–18,000.		Suspending agent and dispersing agent
Maleic anhydride-α-methylstyrene copolymer sodium salt, minimum number average molecular weight (in amu) is 15,000 (CAS Reg. No. 60092–15–1).		Surfactant
Methacrylic acid-methyl methacrylate-polyethylene glycol methyl ether methacrylate copolymer, minimum number average molecular weight (in amu) is 3,700 (CAS Reg. No. 100934–04–1).		Surfactant
Methacrylic Copolymer (CAS Reg. No. 63150–03–8), minimum number average molecular weight (in amu) 15,000.		Inert
Methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer (CAS Reg. No. 119724–54–8) minium number average molecular weight (in amu) 2,730.		Surfactant, dispersing agent, suspending agent, related adjuvant.

Inert ingredients	Limits	Uses
Oxirane, methyl-, polymer with oxirane, mono[2-(2-butoxyethoxy) ethyl]ether CAS Reg. No. 85637–75–8), minimum number average molecular weight (in .amu) 2,500.	15% Max	Emulsifier, dispersant, Surfactant or related adjuvant of surfactant.
Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer (CAS Reg. No. 68650–28–2) minimum number average molecular weight (in amu) 2,960.		Surfactant, dispersing agent, suspending agent, related adjuvant.
Polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum MW (in amu) of 1,300.		Dispersants, emulsifiers, surfactants, related adjuvants of surfactants.
Polyvinyl acetate, copolymer with maleic anhydride, partially hydrolyzed, sodium salt, minimum number average MW (in amu), 53,000.		Component of water soluble films
Polyvinyl chloride (CAS Reg. No. 9002–86–2), minimum number average molecular weight (in amu) 29,000.		Carrier
Polyvinylpyrrolidone butylated polymer (CAS Reg. No. 26160–96–3), minimum number average molecular weight (in amu) 9,500.		Surfactants, related adjuvant of surfactants and binder
2-Propene-1-sulfonic acid sodium salt, polymer with ethenol and ethenyl acetate, number average molecular weight (in amu) 6,000–12,000.		Binding agent
2-Propenoic acid, polymer with 2-propenamide, sodium salt, minimum number average molecular weight (in amu), 18,000; CAS Reg. No. 25085–02–3.		Carrier
2-Propenoic acid, sodium salt, polymer with 2-propenamide, minium number average molecular weight (in amu), 18,000; CAS Reg. No. 25987–30–8.		Carrier
Silane, dichloromethyl-, reaction product with silica minimum number average molecular weight (in amu) 3,340,000 daltons, CAS Reg. No. 68611–44–9.		Moisture barrier, anti-caking agent, anti-settling agent, thickening agent
Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795–23–4), minimum number average molecular weight (in amu) 4,200.		Encapsulating agent, dispensers, resins, fibers and beads
Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, and/or hydroxy-ethyl acrylate; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu) of 1,200.	Not to exceed 25% in formulated product	Carriers, adhesives, binders, suspending and dispersing agents, related adjuvants in pesticide formulations
Tetraethoxysilane, polymer with hexamethyldisiloxane, 6,500 minimum number average molecular weight (in amu) (CAS Reg. No. 104133–09–7).		Antifoam agent

Inert ingredients	Limits	Uses
• •	• • •	• •
Vinyl acetate polymer with none and/or one or more of the following monomers: ethylene, propylene, N-methyl acrylamide, acrylamide, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate, maleic anhydride, maleic acid, octyl acrylate, butyl acrylate, ethyl acrylate, methyl acrylate, acrylic acid, octyl methacrylate, butyl methacrylate, ethyl methacrylate, methyl methacrylate, methacrylic acid carboxyethyl acrylate, and diallyl phthalate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine and/or triethanolamine salts; the resulting polymer having a minium number average molecular weight (in amu) 1200..		Components of films, binders, carriers, adhesives, or related adjuvants
Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-o-sodium sulfonate condensate, minimum number average molecular weight (in amu) 20, 000.		Water soluble resin
Vinyl pyrrolidone-acrylic acid copolymer (CAS Reg. No. 28062–44–4), minimum number average molecular weight (in amu) 6,000.		Adhesive, dispersion stabilizer and coating for sustained release granules
• •	• • •	• •

ii. The table in paragraph (e) is amended by removing the entries listed below:

Inert ingredients	Limits	Uses
•	• • • • • •	
Acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt (CAS Reg. No. 89678–90–0), minimum number average molecular weight (in amu) 1250.		Encapsulating agent, dispensers, resins, fibers and beads
Acrylic acid terpolymer, partial sodium salt (CAS Reg. No.151006–66–5), minimum number average molecular weight (in amu) 2,400.		Dispersant
Acrylic polymers composed of one or more of the following monomers: Acrylic acid, methyl acrylate, ethyl acrylate, butyl acrylate, hydroxyethyl acrylate, hydroxypropyl acrylate, hydroxybutyl acrylate, carboxyethyl acrylate, methacrylic acid, methyl methacrylate, ethyl methacrylate, butyl methacrylate, isobutyl methacrylate, hydroxyethyl methacrylate, hydroxypropyl methacrylate, hydroxybutyl methacrylate, lauryl methacrylate, and stearyl methacrylate; with none and/or one or more of the following monomers: Acrylamide, *N*-methyl acrylamide, *N*-octylacrylamide, maleic anhydride, maleic acid, monoethyl maleate, dietyl maleate, monooctyl maleate, dioctyl maleate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine, and/or triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu) 1,200..		Components of films, binders, carriers, adhesives, or related adjuvants
•	• • • • • •	
α-alkyl (C_{12}-C_{15})-ω-hydroxypoly (oxypropylene)poly (oxyethylene)copolymers (where the poly(oxypropylene) content is 3-60 moles and the poly(oxyethylene) content is 5-80 moles), the resulting ethoxylated propoxylated (C_{12}-C_{15}) alcohols having a minimum molecular weight (in amu) of 1,500, CAS Reg. No. 68551–13–3.	Not to exceed 20% of pesticide formulations	Surfactant
•	• • • • • •	
Butene, homopolymer minimum number average molecular weight (in amu) 1,330 (CAS Reg. No. 9003–29–6).		Sticker, surfactant and related adjuvant
Butyl acrylate-vinyl acetate-acrylic acid copolymer (CAS Reg. No. 65405–40–5), minimum number average molecular weight 18,000 daltons.		Surfactants, related adjuvants or surfactants

Inert ingredients	Limits	Uses
•	• • • • • • •	
Dimethyl silicone polymer with silica, Minimum number average molecular weight (in amu) 1,100,000 daltons, CAS Reg. No. 67762–90–7.		Moisture barrier, anti-caking agent, anti-settling agent, thickening agent
•	• • • • • • •	
Hexamethyldisilizane, reaction product with silica, Minimum number average molecular weight (in amu) 645,000 daltons, CAS Reg. No. 68909–20–6.		Moisture barrier, anti-caking agent, anti-settling agent, thickening agent
•	• • • • • • •	
12-Hydroxystearic acid-polyethylene glycol copolymer) (CAS Reg. No. 70142–34–6) minimum number average molecular weight (in amu) 3,690.		Surfactant, dispersing agent, suspending agent, related adjuvant.
•	• • • • • • •	
Maleic anhydride-diisobutylene copolymer, sodium salt (CAS Reg. No. 37199–81–8), minimum number average molecular weight (in amu) 5,000–18,000.		Suspending agent and dispersing agent
•	• • • • • • •	
Methacrylic Copolymer (CAS Reg. No. 63150–03–8), minimum number average molecular weight (in amu) 15,000.		Inert
•	• • • • • • •	
Methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer (CAS Reg. No.119724–54–8) minium number average molecular weight (in amu) 2,730.		Surfactant, dispersing agent, suspending agent, related adjuvant.
•	• • • • • • •	
Oxirane, methyl-, polymer with oxirane, mono[2-(2-butoxyethoxy) ethyl]ether CAS Reg. No. 85637–75–8), minimum number average molecular weight (in amu) 2,500.	15% Max	Emulsifier, dispersant, Surfactant or related adjuvant of surfactant.
•	• • • • • • •	
Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid (CAS Reg. No. 68650–28–2) minimum number average molecular weight (in amu) 2,960.		Surfactant, dispersing agent, suspending agent, related adjuvant.
•	• • • • • • •	
Polyoxyethylated Sorbitol Fatty Acid Esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight (in amu) of 1,300.		Dispersants, emulsifiers, surfactants, related adjuvants of surfactants
•	• • • • • • •	
Polyvinylpyrrolidone butylated polymer (CAS Reg. No. 26160–96–3), minimum number-average molecular weight (in amu) 9,500.		Surfactants, related adjuvant of surfactants and binder
•	• • • • • • •	
2-Propene-1-sulfonic acid sodium salt, polymer with wthanol and ethenyl acetate, number average molecular weight (in amu) 6,000–12,000.		Binding agent
•	• • • • • • •	
Silane, dichloromethyl-, reaction product with silica, Minimum number average molecular weight (in amu) 3,340,000 daltons, CAS Reg. No. 68611–44–9.		Moisture barrier, anti-caking agent, anti-settling agent, thickening agent
•	• • • • • • •	
Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795–23–4), minimum number average molecular weight (in amu) 4200.		Encapsulating agent, dispensers, resins, fibers and beads

Inert ingredients	Limits	Uses
Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, and/or hydroxyethyl acrylate; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu) of 1,200.	Not to exceed 25% in formulated product	Carriers, adhesives, binders, suspending and dispersing agents, related adjuvants in pesticide formulations.
* * * * * * *		
Tetraethoxysilane, polymer with hexamethyldisiloxane, 6,500 minimum number average molecular weight (in amu) (CAS Reg. No. 104133–09–7).	.....	Antifoam agent
* * * * * * *		
Vinyl acetate polymer with none and/or one or more of the following monomers: ethylene, propylene, N-methyl acrylamide, acrylamide, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate, maleic anhydride, maleic acid, octyl acrylate, butyl acrylate, ethyl acrylate, methyl acrylate, acrylic acid, octyl methacrylate, butyl methacrylate, ethyl methacrylate, methyl methacrylate, methacrylic acid carboxyethyl acrylate, and diallyl phthalate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine and/or triethanolamine salts; the resulting polymer having a minium number average molecular weight (in amu) of 1200..	.....	Components of films, binders, carriers, adhesives, or related adjuvants
Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-o-sodium sulfonate condensate, minimum number average molecular weight (in amu) 20,000.	.....	Water soluble resin
Vinyl pyrrolidone-acrylic, acid copolymer (CAS Reg. No. 28062–44–4), minimum number average molecular weight (in amu) 6,000.	.....	Adhesive, dispersion stabilizer and coating for sustained release granules
* * * * * * *		

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0030; FRL–6834–8]

RIN 2070–AC18

Pesticides; Tolerance Exemptions for Minimal Risk Active and Inert Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding a new section which lists the pesticide chemicals that are exempted from the requirement of a tolerance based on the Agency's determination that these chemicals are of "minimal risk." The pesticide chemicals listed in the new section include both active and inert ingredients. Development of the new section will be accomplished over time in a multi-step process. As the first step, the existing tolerance exemptions for commonly consumed food commodities, animal feed items, and edible fats and oils are recodified in the newly created section, albeit in a different format. This new format provides greater clarification in defining a minimal risk pesticide chemical as well as increasing the number of substances that are currently considered to be minimal risk.

With the creation of the new section, the existing tolerance exemptions (in other sections of the CFR) for these chemical substances are no longer necessary. Therefore, this document revokes the tolerance exemptions for 40 inert ingredients. The Agency is acting on its own initiative.

DATES: This final rule is effective on May 24, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0030, must be received on or before July 23, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0030 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6304; fax number: (703) 305–0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you formulate or market pesticide products. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing
Producers	32561	Antimicrobial pesticides

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0030. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of January 15, 2002 (67 FR 1925) (FRL–6807–8), EPA issued a proposal pursuant to FFDCA section 408, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170) to amend 40 CFR by creating a new paragraph (g) in 40 CFR 180.1001. This new paragraph would contain a listing of pesticide chemicals that are considered to be of minimal risk. No comments were received at the OPP docket in response to this proposed rule. However, the Agency did receive three e-mails requesting additional information on the Agency's proposed action. Discussions with these individuals indicated support for the Agency's proposal but some confusion on language used to describe the excluded substances. The confusion resulted from the placement of the language describing the excluded substances, not the language itself. Based on the need for additional clarification, the Agency moved this language which provided greater clarity.

However, since publication of the proposed rule the Agency has determined instead to create a new section, 40 CFR 180.950, to hold these tolerance exemptions.

Based on the reasons set forth in the preamble to the proposed rule, EPA is creating a new section in 40 CFR part 180, subpart D. All commonly consumed food items and all animal feed items with the exception of the exclusions discussed in this document, are exempt from the requirement of a tolerance under the newly established 40 CFR 180.950.

The following 40 tolerance exemptions are revoked:

1. In 40 CFR 180.1001 (c): Almond shells; apple pomace; citrus meal; cocoa shells; coconut oil; corn cobs; corn meal; corn oil; cornstarch; corn syrup; cottonseed oil; dextrose; fish oil; grape pomace, dried; lard; lactose; molasses; oatmeal; oats; orange pomace; peanut shells; rice bran; soybean oil; starch (potato, tapioca, and wheat); and sucrose.

2. In 40 CFR 180.1001 (d): Cinnamon; clove; coffee; corn; corn gluten meal, hydrolyzed; fenugreek; low erucic acid rapeseed oil, conforming to 21 CFR 184.1555(c) (CAS Reg. No. none); oat hulls; wheat; and wheat flour.

3. In 40 CFR 180.1001 (e): Corn syrup; dextrose, and sucrose.

4. Also, 40 CFR 180.1164 and 180.1194 are revoked.

However, only 39 can be counted toward tolerance reassessment.

The Agency is placing expiration dates on nine existing tolerance exemptions for known allergen-containing food commodities. At this time, the Agency cannot consolidate the overlapping and duplicative tolerance exemptions for allergen-containing commodities that currently exist in 40 CFR part 180.

These regulatory actions are part of the tolerance reassessment requirements of the FFDCA section 408(q), as amended by FQPA. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. These regulatory actions, the reassessment of 39 tolerance exemptions, would be counted toward the August 2002 deadline.

B. What is the Agency's Authority for Taking this Action?

This final rule is issued under FFDCA section 408, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170). Section 408(e) of FFDCA authorizes EPA to establish, modify, or revoke tolerances, or exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities and processed foods.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new FFDCA section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0030 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 23, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0030 to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

The Agency is acting on its own initiative under FFDCA section 408(e) in revoking these 40 tolerance exemptions and in establishing a new section in 40 CFR part 180, subpart D. Under Executive Order 12866 entitled, *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

This final rule simply establishes a new section in 40 CFR part 180, subpart D that contains a list of minimal risk pesticide chemicals. Under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that reorganizing 40 CFR part 180 does not have significant negative economic impact on a substantial number of small entities. Creating a new section does not have a substantive effect and hence causes no impact.

This final rule places expiration dates on nine existing tolerance exemptions for various known allergen-containing food commodities. Currently, the Agency's regulatory approach as written in various CFR paragraphs and sections is inconsistent. This 3–year transition period will allow sufficient time to examine the uses of these food commodities, and discuss product re-formulation with affected registrants. At the completion of this process there will be a single consistent approach for all food commodities used as pesticide chemicals.

This final rule also revokes 40 tolerance exemptions, including:

1. Revoking duplicative and overlapping tolerance exemptions for commonly consumed (non-allergen) food commodities.

2. Revoking and consolidating the existing tolerance exemptions for animal feed items.

Further the final rule allows the use of additional minimal risk animal feed items not previously exempted for use in pesticide products, and establishes a tolerance exemption for the use of edible oils derived from allergens since the available information indicates that the use of these oils is not of concern.

Pursuant to the RFA, the Agency hereby certifies that establishing new tolerance exemptions for edible oils derived from allergens and animal feed items not previously exempted does not have significant negative economic impact on a substantial number of small entities. By contrast, the amendments and revisions that expand tolerance exemptions are beneficial to the regulated community by increasing the number of minimal risk inert ingredients for use in pesticide formulations.

Pursuant to the RFA, the Agency previously assessed whether revocations of tolerances or tolerance exemptions for pesticide products no longer in use in the United States might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020) (FRL–5753–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, the available information concerning the pesticide chemicals listed in this final rule, the transition time for the known allergen containing commodities and considering that all of the revoked tolerance exemptions are covered in the established 40 CFR 180.950, the Agency certifies that this action does not have a significant economic impact on a substantial number of small entities. Furthermore, the Agency knows of no extraordinary circumstances that exist that change EPA's previous analysis.

In addition, the Agency has determined that this action does not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this final rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This final rule does not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule"as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 14, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to readas follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. A new § 180.950 is added to read as follows:

§ 180.950 Tolerance exemptions for minimal risk active and inert ingredients.

Unless specifically excluded, residues resulting from the use of the following substances as either an inert or an active ingredient in a pesticide chemical formulation, including antimicrobial pesticide chemicals, are exempted from the requirement of a tolerance under

FFDCA section 408, if such use is in accordance with good agricultural or manufacturing practices.

(a) *Commonly consumed food commodities.* Commonly consumed food commodities means foods that are commonly consumed for their nutrient properties. The term commonly consumed food commodities shall only apply to food commodities (whether a raw agricultural commodity or a processed commodity) in the form the commodity is sold or distributed to the public for consumption.

(1) Included within the term commonly consumed food commodities are:

(i) Sugars such as sucrose, lactose, dextrose and fructose, and invert sugar and syrup.

(ii) Spices such as cinnamon, cloves, and red pepper.

(iii) Herbs such as basil, anise, or fenugreek.

(2) Excluded from the term commonly consumed food commodities are:

(i) Any food commodity that is adulterated under 21 U.S.C. 342.

(ii) Both the raw and processed forms of peanuts, tree nuts, milk, soybeans, eggs, fish, crustacea, and wheat.

(iii) Alcoholic beverages.

(iv) Dietary supplements.

(b) *Animal feed items.* Animal feed items means meat meal and all items derived from field crops that are fed to livestock excluding both the raw and processed forms of peanuts, tree nuts, milk, soybeans, eggs, fish, crustacea, and wheat. Meat meal is an animal feed composed of dried animal fat and protein that has been sterilized. Other than meat meal, the term animal feed item does not extend to any item designed to be fed to animals that contains, to any extent, components of animals. Included within the term animal feed items are:

(1) The hulls and shells of the commodities specified in paragraph (a)(2)(ii) of this section, and cocoa beans.

(2) Bird feed such as canary seed.

(3) Any feed component of a medicated feed meeting the definition of an animal feed item.

(c) *Edible fats and oils.* Edible fats and oils means all edible (food or feed) fats and oils, derived from either plants or animals, whether or not commonly consumed, including products derived from hydrogenating (food or feed) oils, or liquefying (food or feed) fats.

(1) Included within the term edible fats and oils are oils (such as soybean oil) that are derived from the commodities specified in paragraph (a)(2)(ii) of this section when such oils are highly refined via a solvent extraction procedure.

(2) Excluded from the term edible fats and oils are plant oils used in the pesticide chemical formulation specifically to impart their characteristic fragrance and/or flavoring.

3. Section 180.1001 is amended as follows:

(a) In the table in paragraph (c) remove the entries for: Almond shells; apple pomace; citrus meal; cocoa shells; coconut oil; corn cobs; corn meal; corn oil; cornstarch; corn syrup; cottonseed oil; dextrose; fish oil; grape pomace, dried; lard; lactose; molasses; oatmeal; oats; orange pomace; peanut shells; rice bran; soybean oil; starch (potato, tapioca, and wheat); and sucrose.

(b) In the table in paragraph (d) remove the entries for: Cinnamon; clove; coffee; corn; corn gluten meal, hydrolyzed; fenugreek; low erucic acid rapeseed oil, conforming to 21 CFR 184.1555(c) (CAS Reg. No. None); oat hulls; wheat; and wheat flour.

(c) In the table in paragraph (e) remove the entries for: Corn syrup; dextrose, and sucrose.

4. Section 180.1001 is further amended by:

(a) Revising the following entries in the tables to paragraphs (c), (d), and (e) and

(b) Adding the entry "wheat, including flour, bran, and starch" to the table in paragraph (c).

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
*	*	*
Casein	Expires May 24, 2005.	Surfactant, emulsifier, wetting agent
*	*	*
Fish meal	Expires May 24, 2005.	Solid diluent, carrier
*	*	*
Soy protein, isolated	Expires May 24, 2005	Adhesive
Soybean flour	Expires May 24, 2005.	Surfactant
*	*	*
Wheat, including flour, bran, and starch	Expires May 24, 2005.	Solid diluent carrier, attractant
*	*	*

(d) * * *

Inert ingredients	Limits	Uses
*	*	*
Sodium caseinate	Expires May 24, 2005.	Suspending agent and binder
*	*	*

(e) * * *

Inert ingredients	Limits	Uses
*	*	*
Soy protein, isolated	Expires May 24, 2005.	Adhesive
*	*	*
Wheat shorts	Expires May 24, 2005.	Solid diluent
*	*	*

5. Section 180.1071 is revised to read as follows:

§ 180.1071 Egg solids (whole); time-limited exemption from the requirement of a tolerance.

A time-limited tolerance exemption expiring May 24, 2005, is established for residues of whole egg solids (of at least feed grade quality) when used as an animal repellent in or on almonds and applied to the growing crop in accordance with good agricultural practices.

§ 180.1164 [Removed]

6. Section 180.1164 is removed.

§ 180.1194 [Removed]

7. Section 180.1194 is removed.

[FR Doc. 02–12973 Filed 5–23–02; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Chapter I

Centers for Medicare & Medicaid Services

42 CFR Chapters IV and V

[CMS–3088–FC]

RIN 0938–AL38

Office of Inspector General—Health Care; Medicare and Medicaid Programs; Peer Review Organizations: Name and Other Changes—Technical Amendments

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule with comment period.

SUMMARY: In accordance with the Secretary's announcement of his quality initiative, this technical regulation revises all references to "peer review organization" and "PRO" in chapters I, IV, and V of title 42 of the Code of Federal Regulations. This regulation also makes conforming changes to the general definitions section.

DATES: *Effective date:* May 24, 2002.

Comment date: Comments will be considered if we receive them no later than 5 p.m. on July 23, 2002, at the appropriate address, as provided below.

ADDRESSES: In commenting, please refer to file code CMS–3088–FC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3088–FC, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received timely in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Valerie Mattison-Brown, (410) 786–5958.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Monday through Friday from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, call (410) 786–9994.

I. Background

Currently, the Social Security Act uses the term "utilization and quality control peer review organizations" to describe those entities which contract with CMS for the performance of the functions prescribed by title XI of the Social Security Act. The CMS regulations at 42 CFR 400.200, currently define a "peer review organization as an organization that has a contract with CMS, under part B of title XI of the Social Security Act, to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare beneficiaries."

In November 2001, the Secretary of the Department of Health and Human Services (HHS) launched a quality initiative to provide Medicare and Medicaid beneficiaries and their families with easy to understand, comparative information for selecting quality sources of healthcare such as nursing homes and hospitals. The peer review organizations will be instrumental in promoting this initiative. In accordance with the Secretary's quality initiative to provide Medicare and Medicaid beneficiaries and their families with user friendly quality information, we are changing the name of peer review organizations to quality improvement organizations to better reflect their responsibilities. The definition and function of these organizations will remain the same. Therefore, we are revising all references to "peer review organization" and "PRO" in chapters I, IV, and V of title 42 of the Code of Federal Regulations (CFR).

II. Provisions of the Final Rule with Comment Period

In 42 CFR chapters I, IV, and V we are revising all references to—

- "Peer review organization" to read "quality improvement organization";
- "Peer review organizations" to read "quality improvement organizations";
- "PRO" to read "QIO";
- "PRO's" to read "QIO's"; and
- "PROs" to read "QIOs".

In addition, we are making the following conforming changes in § 400.200 (General definitions):

- Removing the definition of "peer review organization";
- Removing the definition of "PRO";
- Adding the definition of "quality improvement organization"; and
- Adding the definition of "QIO".

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and times specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule such as this take effect. We note that such a notice is not required when

applied to rules of agency organization, procedure, or practice. As this rule merely reflects the nomenclature change of an organization that contracts with the agency, no notice is required. We can also waive this procedure if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and its reasons in the rule issued. We believe it is unnecessary to undertake notice and comment rulemaking as the changes made by this regulation are technical in nature and update certain existing regulations without substantive change. There is also no impact on program costs. Therefore, for good cause, we waive prior notice and comment procedures. As indicated previously, we are, however, providing a 60-day comment period for public comment.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

VI. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Orders 12866 and 13132. We have also examined the impacts of this notice according to the criteria set forth in the Unfunded Mandate Reform Act of 1995 (Public Law 104–4), the Regulatory Flexibility Act (RFA) (Public Law 96–354), and section 1102(b) of the Social Security Act.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of $100 million or more annually (major rules). We have reviewed this rule and have determined that it is not a major rule. Therefore, we are not required to perform an assessment of the costs and benefits. We have also determined that it does not otherwise constitute significant regulatory action.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million to $25 million or less annually (see 65 FR 69432). Individuals and States are not included in the definition of a small entity. We generally prepare a regulatory flexibility analysis that is consistent with the RFA unless we certify that a rule will not have a significant impact on a substantial number of small entities. We have not prepared an analysis for the RFA because we have determined, and certify, that this final rule with comment period would have no significant economic impact on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102 (b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We have not prepared an analysis for section 1102(b) of the Act because we have determined that this final rule with comment period would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandate Reform Act of 1995 also requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million or more. We have determined that this final rule with comment period would not result in such an expenditure.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 400

Grant programs-health, Health facilities, Health maintenance organizations (HMOs), Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapters I, IV, and V to read as follows:

1. In 42 CFR chapters I, IV, and V revise all references to "Peer review organization" to read "Quality improvement organization"; revise all references to "Peer review organizations" to read "Quality improvement organizations"; revise all references to "PRO" to read "QIO"; revise all references to "PRO's" to read "QIO's"; and revise all references to "PROs" to read "QIOs".

2. The authority citation for part 400 continues to read as follows:

Authority: Secs 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

3. In § 400.200, remove the definitions of "Peer review organization" and "PRO" and add the definitions of "QIO" and "Quality improvement organization" in alphabetical order to read as follows:

§ 400.200 General definitions.

* * * * *

QIO stands for quality improvement organization.

* * * * *

Quality improvement organization means an organization that has a contract with CMS, under part B of title XI of the Act, to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare beneficiaries, formerly known as a peer review organization.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)
(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 12, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare and Medicaid Services.

Approved: April 5, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–12242 Filed 5–23–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 051702C]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2002 bycatch allowance of red king crab specified for the trawl yellowfin sole fishery category in Zone 1.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 21, 2002, until 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 red king crab bycatch allowance specified for Zone 1 of the BSAI trawl yellowfin sole fishery category, which is defined at § 679.21(e)(3)(iv)(B)(1), is 16,664 animals (67 FR 956, January 8, 2002).

In accordance with § 679.21(e)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 bycatch allowance of red king crab specified for the trawl yellowfin sole fishery in Zone 1 of the BSAI has been reached. Consequently, the Regional Administrator is closing directed fishing for yellowfin sole by vessels using trawl gear in Zone 1 of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the red king crab bycatch allowance for the trawl yellowfin sole fishery category in Zone 1 of the BSAI constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the red king crab bycatch allowance for the trawl yellowfin sole fishery category in Zone 1 of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 21, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13118 Filed 5–21–02; 3:41 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 101
Friday, May 24, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710 and 1717

RIN 0572–AB68

Exceptions of RUS Operational Controls Under Section 306E of the RE Act

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: In an effort to continually look for ways to streamline requirements of borrowers and make regulations simple and direct, the Rural Utilities Service (RUS) proposes to eliminate regulations on Exceptions of RUS Operational Controls under Section 306E of the RE Act in its entirety. Because borrowers are now afforded the same exemptions from RUS operational controls by way of other provisions, RUS has determined that the regulations can now be removed.

DATES: Written comments must be received by RUS or carry a postmark or equivalent no later than June 24, 2002.

ADDRESSES: Written comments should be addressed to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Patrick R. Sarver, Management Analyst, Rural Utilities Service, Electric Program, Room 4024 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250–1560, Telephone: 202–690–2992, FAX: 202–690–0717, E-mail: psarver@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) advising that RUS loans and loan guarantees from coverage were not covered by Executive Order 12372.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule, and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912 (e)), administrative appeals procedures, if any are required, must be exhausted before and action against the Department or its agencies.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities. The RUS electric loan program provides loans and loan guarantees to borrowers at interest rates and terms that are more favorable than those generally available from the private sector. Small entities are not subjected to any requirements, which are not applied equally to large entities. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

This rule contains no additional information collection or recordkeeping requirements under OMB control number 0572–0032 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Unfunded Mandates

This proposed rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this proposed rule will not significantly affect the quality of human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Background

RUS currently treats the general subject of operational controls for recipients of electric loans and guarantees in three separate places, namely in RUS loan documents, in 7 CFR part 1717, subpart M, and in 7 CFR 1710.7. In the interests of eliminating confusion and to continue in its ongoing program to streamline RUS regulations, RUS is proposing to remove 7 CFR 1710.7. An understanding of how RUS treatment of operational controls evolved in the 1990's is essential to understanding this action.

In November of 1993, Congress enacted sec. 306e of the Rural Electrification Act of 1936 (RE Act)(7 U.S.C. 936e), directing RUS to be "guided by the practices of private lenders" to "minimize the approval rights, requirements and restrictions, and prohibitions that the Secretary otherwise may establish with respect to the operations" of any electric borrower whose net worth exceeds 110 percent of the outstanding principal balance on loans made or guaranteed by RUS (Pub. L. 103–129 2(c)(7)). In December 1993, Congress made technical corrections to the act and effectively directed the Administrator to issue "interim final regulations" to implement sec. 306e within 180 days (Pub. L. 103–201). RUS did so on January 28, 1994 (59 FR 3982), thereby creating 7 CFR 1710.7. Members of the class of electric borrowers subject to this regulation are commonly referred to as "110 percent borrowers."

On December 29, 1995 (60 FR 67395), RUS published a final rule substantially revising the forms of its loan documents to extend the benefits of the treatment of 110 percent borrowers to virtually all RUS borrowers. That exercise made the most comprehensive changes to RUS loan documents in over 20 years and was guided by the practices of private lenders. Consequently, regardless of whether they were entitled to treatment as 110 percent borrowers, all borrowers using the updated forms of loan documents enjoyed their more contemporary treatment of the subject of operational controls. That treatment closely followed the treatment of 110 percent borrowers in 7 CFR 1710.7. In the same rulemaking, RUS promulgated 7 CFR part 1717, subpart M, which also treated the subject of operational controls. Subpart M was intended to manage the transition from old style loan documents to the more contemporary new forms in an orderly and equitable way. RUS was concerned that all of its borrowers would simultaneously request replacement of their existing loan documentation with the new forms. Constraints on RUS resources necessitated the phasing in of the new loan documents. RUS managed its concerns by promulgating subpart M to conform the requirements for existing loan documents to those being used in the new forms. Borrowers who have not yet replaced their loan documents with the new forms are referred to as "legacy" borrowers.

In the preamble to that 1995 rulemaking, RUS explained the relationship between these three separate treatments of the subject of operational controls: "The provisions of the new mortgage and loan contract and 7 CFR part 1717, subpart M, in many cases provide greater latitude to borrowers than established originally in 7 CFR 1710.7 for 110 percent borrowers. Therefore, § 1710.7 has been revised to reflect the greater latitude provided in the new loan documents and Subpart M."

RUS also concluded that in its "judgement" and citing "prudent private lending practices," the further relaxation of operational controls for 110 percent borrowers was not justified beyond what was provided for every borrower in the new loan documents and in subpart M for "legacy" borrowers. In other words, by changing 7 CFR 1710.7 only so far as necessary to avoid the anomaly of 110 percent borrowers being subjected to more restrictive covenants under 7 CFR 1710.7 then they otherwise would have been as a typical borrower operating under the new documents and regulations, RUS made operational controls for 110 percent borrowers coextensive with the relaxed operational controls in the new loan documents and subpart M. Thus, for all intents and purposes, on December 29, 1995, the treatment of operational controls for all three categories of electric borrowers converged around the less intrusive approach adopted by the new loan documents reflecting private lending practices.

Since 1995, almost all RUS electric borrowers have executed the new loan documents. About 100 electric borrowers still have the old forms, but the distinctions in operational controls have been eliminated by subpart M. It should also be noted that every 110 percent electric borrower either now has the new form of loan documents or has "legacy" loan documents, which have been modified by the promulgation of subpart M. Accordingly, the subject of operational controls is now treated essentially the same way for all distribution borrowers regardless of their 110 percent borrower status. In all instances, that treatment has been guided by the practices of private lenders. Since that treatment of operational controls conforms to the requirements of sec. 306e of the RE Act, 7 CFR 1710.7 now appears to be an anachronism that no longer serves any useful purpose.

RUS notes that sec. 306e of the RE Act also treats the subject of lien accommodations and subordinations for 110 percent borrowers. Although this remains important, the subject of lien accommodations and subordinations for 110 percent borrowers is separately treated in 7 CFR 1717.860 and 7 CFR 1717.904. Although 7 CFR 1717.904 contains some cross-references to 7 CFR 1710.7(c), these appear to be merely reader's aids. Accordingly, RUS proposes to amend 7 CFR 1717.904 by eliminating paragraphs (c) and (d) thereof and redesignating the existing paragraph (e) as paragraph (c). RUS considers these changes in 7 CFR 1717.904 to be of a conforming nature and no substantive change in the existing treatment of requests for lien accommodations or subordinations by 110 percent borrowers is intended. No changes in 7 CFR 1717.860 are necessitated by the proposed action and so none are being made.

For all of the above reasons, it appears that 7 CFR 1710.7 has become an anachronism because the subsequent promulgation of new loan documents and subpart M effectively conferred the benefits of 7 CFR 1710.7 to all borrowers. Borrowers who are relying on subpart M are encouraged to switch to the new forms of loan documents so that subpart M itself can eventually be removed at a later date once the universe of legacy borrowers has sufficiently contracted to the point that any remaining legacy borrowers could be dealt with either informally or on a case-by-case basis. RUS does not believe this proposed action will diminish or abrogate any rights or privileges conferred upon 110 percent borrowers by sec. 306e of the RE Act, and no such consequences are intended.

List of Subjects

7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric power rates, Electric utilities, Intergovernmental relations, Investments, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter X of title 7 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

Subpart A—General

§ 1710.7 [Removed and Reserved]

2. Section 1710.7 is removed and reserved.

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

3. The authority citation for part 1717 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

Subpart S—Lien Accommodations for Supplemental Financing Required by 7 CFR 1710.110

§ 1717.904 [Amended]

4. Section 1717.904 is amended by removing paragraphs (c) and (d) and redesignating paragraph (e) as paragraph (c).

Dated: May 20, 2002.

Curtis M. Anderson,

Acting Administrator, Rural Utilities Service.

[FR Doc. 02–13102 Filed 5–23–02; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Regulation A; Docket No. R–1123

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors is publishing for comment a proposed amendment to Regulation A that would replace the existing adjustment and extended credit programs with new discount window programs called primary credit and secondary credit, respectively. This proposed restructuring of Federal Reserve credit programs is designed to improve the functioning of the discount window and does not represent a change in the stance of monetary policy. The proposed rule also would reorganize and streamline existing provisions of Regulation A. The Board solicits comment on all aspects of the proposal.

DATES: Comments on the proposed rule must be received not later than August 22, 2002.

ADDRESSES: Comments should refer to docket number R–1123 and should be sent to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC, 20551 or mailed electronically to *regs.comments@federalreserve.gov*. Comments addressed to Ms. Johnson also may be delivered between 8:45 a.m. and 5:15 p.m. to the Board's mail facility in the west courtyard of the Eccles Building, located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in accordance with the Board's Rules Regarding the Availability of Information (12 CFR part 261) in Room MP–500 of the Martin Building on weekdays between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Brian Madigan, Deputy Director (202/452–3828) or William Nelson, Senior Economist (202/452–3579), Division of Monetary Affairs; or Stephanie Martin, Assistant General Counsel (202/452–3198) or Adrianne Threatt, Senior Attorney (202/452–3554), Legal Division; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION:

Background

Current Credit Programs of Reserve Banks and Their Relationship to Monetary Policy and Open Market Operations

Under existing Regulation A, the Reserve Banks may make credit available to depository institutions at the discount window by making advances secured by acceptable collateral or by discounting paper that meets the requirements of the Federal Reserve Act. Reserve Bank credit usually takes the form of an advance.

Reserve Banks make credit available at the discount window through three credit programs: adjustment credit, seasonal credit, and extended credit. Adjustment credit is available for short periods of time at a basic discount rate that, over the past decade, typically has been 25 to 50 basis points below the market rates that apply to overnight loans, as indexed by the federal funds rate. Reserve Banks also extend seasonal credit for longer periods than permitted under the adjustment credit program to help smaller depository institutions meet funding needs that result from expected patterns in their deposits and loans. Finally, Reserve Banks may provide extended credit to depository institutions where similar assistance is not reasonably available from other sources. The rates applied to seasonal and extended credit are at or above the basic discount rate.

When implementing monetary policy, the Federal Reserve relies primarily on open market operations to supply reserves to the banking system and currency to the public and to make short-run adjustments in reserves. However, lending to depository institutions through the discount window aids the Federal Reserve's open market operations in two important ways. First, discount window lending provides additional reserves to the overall banking system when the supply of reserves provided through open market operations falls short of demand. Second, discount window lending provides a temporary source of reserves and funding to financially sound individual depository institutions that have experienced an unexpected shortfall in reserves or funding. Discount window credit permits such an institution to make payments without incurring an overdraft in its Federal Reserve account or failing to meet its reserve requirements. Historically the Federal Reserve System has relied on the adjustment credit program to accomplish these two objectives.

The discount window also can, at times, serve as a useful tool for promoting financial stability by providing temporary funding to depository institutions that are experiencing significant financial difficulties. The provision of credit to a troubled depository institution can help to prevent the sudden collapse of the institution by easing liquidity strains while the institution is making a transition to more sound footing, or by facilitating an orderly closure of the institution. An institution obtaining credit in such a situation must be monitored appropriately to ensure that it does not take excessive risks in an attempt to return to profitability and does not use central bank credit in a manner that would increase costs to the deposit insurance fund of resolving the institution if resolution were to become necessary. Historically, the Federal Reserve System has relied on extended credit to aid depository institutions experiencing significant financial difficulties.

The Rationale for Changing the Basic Framework Through Which Reserve Banks Extend Credit

A below-market discount rate creates incentives for institutions to obtain adjustment credit to exploit the spread between the discount rate and the market rates for short-term loans. Regulation A therefore provides that a Reserve Bank cannot extend adjustment credit to a depository institution until the institution exhausts other sources of funds. Regulation A also provides that recipients may not use adjustment credit to finance sales of federal funds.

Because of the restrictions necessitated by a below-market discount rate, a substantial degree of Reserve Bank administration is associated with adjustment credit. In particular, the Reserve Bank may need to review each prospective borrower's funding situation to establish that the borrower has exhausted other reasonably available sources of funds and that the reason for borrowing is appropriate. Because that evaluation necessarily is subjective, achieving a reasonable degree of consistency in credit administration across the System is difficult.

The administration of and restrictions on discount window credit create a burden on depository institutions that reduces their willingness to seek credit at the discount window. In addition, the rules governing discount window credit have proved difficult to explain, and depository institutions often have cited uncertainty about their borrowing privileges as a disincentive to seek credit. Depository institutions also have expressed concern about the requirement that borrowers fully utilize other sources of funds before borrowing adjustment credit. Institutions have expressed concern that turning to the window after signaling in the market their need for funds could be interpreted as a sign of weakness, particularly during periods of financial stress. Concerns such as these have limited the willingness of depository institutions to borrow at the discount window, even in circumstances of extremely tight money markets where such borrowing would have been appropriate. The reluctance to borrow in turn has limited the discount window's effectiveness in buffering shocks to money markets.

In light of the drawbacks associated with the current below-market discount window programs, the Board believes that the interests of depository institutions, the Federal Reserve System, and the economy more generally would be served more effectively by an above-market lending program. Under the Board's proposed rule, Reserve Banks would extend credit under the primary credit program to institutions the Reserve Banks determine to be generally sound. Primary credit usually would be extended at an above-market rate, which should essentially eliminate the incentive for institutions to seek discount window credit simply to exploit the usual spread between the discount rate and short-term market rates. Eliminating this incentive would reduce sharply the need for administration regarding the extension and use of Federal Reserve credit. The streamlined eligibility criteria also should encourage greater uniformity in administration of the discount window across Federal Reserve districts. By minimizing a Reserve Bank's need to question potential borrowers, not requiring that an institution first attempt to borrow elsewhere, making the borrowing program significantly more transparent, and limiting extensions of primary credit to generally sound financial institutions, the proposed above-market lending program should reduce depository institutions' reluctance to borrow when money markets tighten sharply. As a result, the discount window should become a more effective policy instrument.

The Board reiterates that replacing the current below-market adjustment credit program with an above-market program would not signal a shift in the stance of monetary policy. Rather, the proposed changes represent a broad structural change that should enable the discount window to operate more efficiently as a source of funds for individual depository institutions and as a mechanism for implementing the policy objectives of the Federal Reserve System. The proposed structure of providing credit at the margin at above-market interest rates also would be similar to mechanisms adopted by other major central banks.

Section-by-Section Analysis

The Proposed Changes to the Discount Lending Framework—§§ 201.4 and 201.51

The Board proposes to replace the adjustment credit with a new lending program called primary credit and the extended credit program with a new program known as secondary credit. Although the proposed regulation retains the seasonal credit program with minor revisions, as discussed in more detail below the Board specifically requests comment on whether a seasonal credit program remains necessary and, if so, whether the interest rate on seasonal credit would more appropriately be set at the primary discount rate. As required by the Federal Reserve Act, all advances made under the proposed discount lending programs would have to be adequately collateralized. The Reserve Banks' collateral policies would be unchanged and they would continue to accept a broad range of financial assets as collateral for discount window loans.

The substantive changes to the lending programs are contained in § 201.4 of the proposed rule, which replaces existing § 201.3. The rates that apply to the proposed lending programs are described in § 201.51, which combines and replaces existing §§ 201.51–201.52.

Primary Credit

Primary credit would replace adjustment credit, would be extended on a very short-term basis (usually overnight) at an above-market rate, and ordinarily would be available to generally sound depository institutions with little or no administrative burden on the borrower or the Reserve Banks. A Reserve Bank also could extend primary credit with maturities up to a few weeks to a depository institution if the Reserve Bank finds that the institution is in generally sound condition and cannot obtain such credit in the market on reasonable terms. The Board expects that institutions receiving longer-term primary credit would be relatively small institutions that lack access to national money markets.

Although the primary credit program is designed to make short-term credit available as a backup source of liquidity to generally sound institutions, a Reserve Bank is not obligated to extend primary credit. A Reserve Bank therefore may choose not to lend to a generally sound depository institution if the Reserve Bank determines that doing so would be inconsistent with the purposes of the primary credit program.

Section 201.4(a) of the proposed rule describes the primary credit program, and § 201.51(a) sets forth the rate that applies to primary credit.

1. Interest Rate Applicable to Primary Credit

The interest rate on primary credit ordinarily would be above short-term market interest rates, including the target federal funds rate, and would be set by the boards of directors of the Reserve Banks subject to review and determination by the Board of Governors. A substantial spread between the discount and market rates would encourage depository institutions to use primary credit only to meet short-term, unforeseen needs. If the spread were too wide, however, the primary discount rate would not cap the federal funds rate at a reasonable level above the rate targeted by the Federal Open Market Committee (FOMC).

The Board proposes to recommend that the boards of directors of the Reserve Banks, subject to the Board's review and determination, initially establish a primary discount rate that is

100 basis points above the FOMC's then-prevailing target for the federal funds rate. A spread of 100 basis points would be similar to the spreads employed by other central banks and likely would place the primary discount rate somewhat above the alternative cost of overnight funds for eligible depository institutions. The Board believes that public comment could help inform the Federal Reserve System's choice of the initial spread between the federal funds and discount rates and assist the boards of directors of the Reserve Banks when they establish rates subsequently. The Board therefore specifically solicits comment regarding the interest rate spread.

After establishment of the initial primary discount rate, the Federal Reserve System would change that rate through a process identical to the existing discretionary procedure for changing the basic discount rate. The boards of directors of the Federal Reserve Banks would establish a primary discount rate and other discount rates every two weeks subject to review and determination by the Board of Governors, as required by the Federal Reserve Act. The primary discount rate presumably would move broadly in line with the target federal funds rate, much as the basic discount rate does currently.

2. Eligibility for Primary Credit

Under the proposed regulation, only depository institutions deemed generally sound in the judgment of the Reserve Bank would be eligible to obtain primary credit. Reserve Banks would classify depository institutions with borrowing agreements already on file as either eligible or ineligible for primary credit before a primary credit program takes effect and would notify each such institution of its status. A new applicant for Federal Reserve credit would be notified of its eligibility after filing borrowing documents with the appropriate Federal Reserve Bank. The Reserve Banks would notify an institution promptly of any change in the institution's eligibility status. An institution's eligibility status, which would be based in part on that institution's confidential supervisory and examination information, would be considered confidential information and the Federal Reserve System would handle it accordingly.

The Board expects that the Reserve Banks would adopt on a System-wide basis uniform guidelines for judging the degree of an institution's financial soundness and thus its eligibility for primary credit. The Board envisions that the guidelines for determining eligibility would be based primarily on supervisory ratings, but supplementary information, such as ratings issued by major rating agencies, spreads on subordinated debt, and information from supervisory exams in progress, also would be considered. The Board further expects that the majority of depository institutions would be eligible for the primary credit program under such guidelines.

The Board anticipates that Reserve Banks initially would adopt guidelines under which domestically chartered depository institutions with composite CAMELS ratings of 1 or 2 and U.S. branches and agencies of foreign banking organizations with Strength of Support Assessment (SOSA) composite rankings of 1 would be eligible for primary credit, unless supplementary information suggested that the financial condition of the depository institution had deteriorated since the most recent exam. Similarly, the Board expects that under the initial guidelines institutions rated CAMELS 3 or SOSA 2 would be eligible for primary credit if supplementary information suggested that they were generally sound. However, the funding situation of such institutions seeking credit would be reviewed and monitored more closely than that of stronger institutions. The Board expects that institutions rated CAMELS 4 or SOSA 3 would be ineligible for primary credit except in rare circumstances, such as an ongoing examination that indicated a substantial improvement in condition. The Board further anticipates that institutions rated CAMELS 5 would in no case be eligible for primary credit and could obtain only secondary credit.

Because lending to troubled institutions would be subject to careful monitoring, the expected eligibility criteria would be consistent with the intent of the guidelines for discount window lending included in section 10B(b) of the Federal Reserve Act, as added by the Federal Deposit Insurance Corporation Improvement Act. The criteria also would be consistent with the guidelines used by Federal Reserve Banks to determine institutions' access to daylight credit in the Payments System Risk policy. In general, the depository institutions that qualify for access to daylight credit would qualify for primary credit, and those that would not qualify for daylight credit would be restricted to secondary credit.

A depository institution that meets the eligibility criteria adopted by the Reserve Banks would not be required to exhaust other reasonable available sources of funds before obtaining primary credit. The removal of this requirement is consistent with the overall reduction in discount window administration under the proposed new discount window structure. In addition, depository institutions that receive primary credit would be free to sell federal funds to others. This would enhance the ability of the primary credit rate to serve as a cap on the federal funds rate when money markets tighten. The Board would encourage financially sound institutions to use primary credit to fund sales of federal funds if such transactions were in their financial interest.

3. Benefits of a Primary Credit Program

Because of the reduced administration and corresponding reduction in the reluctance of depository institutions to borrow, the Board expects that primary credit would serve as a more effective safety valve for the banking system and a backup source of liquidity for individual depository institutions that are financially sound.

The proposal to adopt a primary credit program also is an aspect of the Federal Reserve's ongoing planning for contingencies. The Federal Reserve System expects to establish special procedures through which the System could lower discount rates quickly in an emergency. If, as the Board intends, the availability of primary credit significantly reduces the reluctance of depository institutions to use the discount window, the System should be able to cap the federal funds rate near the target during a crisis by reducing the primary discount rate to a level close to the federal funds target rate. During a financial market crisis, the proposed discount window structure therefore would provide a means of preventing an undue tightening of money markets if depository institutions' demands for excess reserves rose sharply, if disruptions inhibited the flow of funds through the banking system, or if the Federal Reserve's ability to carry out open market operations were impaired.

In addition, the Board expects that moving to an above-market primary credit program would be beneficial to the Federal Reserve System as the mechanisms by which the Board implements monetary policy evolve. For example, if Congress authorizes the Federal Reserve Banks to pay interest on reserve balances, an above-market lending program would allow the Reserve Banks to avoid lending to depository institutions at a below-market rate while paying interest to those institutions at a market-related rate. Also, if the level of required operating balances resumes the substantial downward decline experienced for much of the last decade, a lending program with appreciably less administration could enhance the day-to-day implementation of monetary policy. A decline in operating balances could lead to increased volatility in the federal funds rate, and the availability of reserves from an above-market lending facility would serve to limit the increase in volatility.

Secondary Credit

Secondary credit would replace extended credit and would be available to depository institutions that do not qualify for primary credit. Because some institutions that currently are eligible for adjustment credit would not qualify for primary credit, secondary credit potentially would be used more often than has the extended credit program. The text of the proposed regulation therefore seeks to eliminate the focus on longer-term credit extensions in the existing extended credit program and to recognize the somewhat broader class of borrowing situations that a Reserve Bank may handle under the secondary credit program.

Section 201.4(b) of the proposed rule describes the secondary credit program, and § 201.51(b) describes the interest rate that applies to secondary credit.

Under the proposal, Federal Reserve Banks may extend secondary credit to meet temporary funding needs of an institution if such a credit extension would be consistent with the institution's timely return to a reliance on market funding sources. A Reserve Bank also may extend secondary credit if it determines that such credit would facilitate the orderly resolution of serious financial difficulties of the borrowing institution. When extending secondary credit to an undercapitalized or critically undercapitalized depository institution, a Reserve Bank also must observe the requirements set forth at proposed § 201.5. The interest rate on secondary credit would be set by formula 50 basis points above the primary discount rate. This higher rate reflects the less-sound condition of borrowers of secondary credit.

Seasonal Credit

Section 201.4 of the proposed rule makes only minor revisions to the existing seasonal credit provisions of Regulation A. The seasonal credit interest rate is based on short-term market rates, and historical interest rate relationships suggest that the rate for seasonal credit usually will be below the primary credit rate. Sections 201.4 and 201.51(c) of the proposed rule, which discuss the rate applicable to seasonal credit, would not contain existing language requiring the seasonal credit rate to be at least as high as the primary credit rate. In addition, the System for some time has not required that a seasonal credit borrower demonstrate that it could not obtain similar assistance from special industry lenders, and the proposed rule accordingly deletes this requirement.

The seasonal credit program originally was designed to address the difficulties that relatively small banks with substantial intra-yearly swings in funding needs faced because of a lack of access to the national money markets. Reserve Banks traditionally have extended seasonal credit to small institutions that demonstrate significant seasonal swings in their loans and deposits. However, funding opportunities for smaller depository institutions appear to have expanded significantly over the past few decades as a result of deposit deregulation and the general development of financial markets. The Board therefore specifically solicits comment on whether small depository institutions still lack reasonable access to funding markets; on the desirability of eliminating the seasonal lending program; and on the appropriate setting of the seasonal lending rate, particularly in view of the proposed establishment of a primary credit program with an above-market rate. Depending on the comments received, the Board may decide to adjust the rate applicable to seasonal credit or to eliminate the seasonal credit program altogether.

Reorganization of and Proposed Changes to Other Provisions of Regulation A

In addition to replacing the adjustment and extended credit programs with primary and secondary credit programs, respectively, the Board also proposes to reorganize much of existing Regulation A in order to streamline the text of the rule and make it easier to read and understand. In addition, the Board proposes to delete certain provisions of existing Regulation A that are obsolete or superfluous.

Deletion of Provisions Concerning the Century Date Change Special Liquidity Facility (SLF)

The Board previously amended Regulation A so that depository institutions would have access to an SLF from October 1, 1999, to April 7, 2000, to ease liquidity pressures unique to the century date change period. The SLF for U.S. depository institutions is described at existing § 201.3(e), and the circumstances under which a U.S. branch or agency of a foreign bank could use the facility are described at existing § 201.7(b). Sections 201.2(j)–(k) define two terms—"eligible institution" and "targeted federal funds rate," respectively—that pertain only to the SLF provisions. Because the SLF is no longer in effect, the Board proposes to delete each of the four provisions discussed above. As discussed in more detail in connection with proposed § 201.3(d), the Board proposes to delete a portion of existing § 201.6(d) that allows a depository institution to use credit obtained from the SLF to fund sales of federal funds.

Section 201.1 Authority, Purpose and Scope

The Board proposes to amend the existing authority citations at § 201.1(a) to include sections 11(i)–11(j) and 14(d) of the Federal Reserve Act. Sections 11(i)–(j) provide the Board with rulemaking authority and general supervisory authority over the Reserve Banks, respectively, and section 14(d) authorizes the Reserve Banks, subject to the review and determination of the Board, to establish discount rates.

As in the existing regulation, § 201.1(b) of the proposed rule describes the purpose and scope of the Regulation A and states that the regulation governs lending by Reserve Banks to depository institutions and others. To gather all the provisions concerning the scope of Regulation A into one section, the proposed rule incorporates language from existing § 201.7(a) regarding the circumstances under which U.S. branches and agencies of foreign banks are subject to the regulation.

Section 201.2—Definitions

This section would remain unchanged except for the deletion of five definitions. As discussed above, §§ 201.2(j)–(k) contain definitions that are unnecessary because they relate only to the SLF. The other three terms the Board proposes to delete are liquidation loss, increased loss, and excess loss, found at existing §§ 201.2(d)–(f), respectively.

Liquidation loss and increased loss are used to derive the term excess loss, which is the amount the Board would owe the FDIC under section 10B(b) of the Federal Reserve Act if outstanding Reserve Bank advances to a critically undercapitalized depository institution increased the FDIC's cost of liquidating that institution. Excess loss, the only one of these three terms used elsewhere in the regulation, appears in existing § 201.4(c). That section states that the Board would assess a Reserve Bank for any excess loss attributable to advances made by that Reserve Bank and

discusses the procedure by which the Board would calculate the amount to be assessed.

The Board believes the regulation would be less cumbersome but no less accurate if the assessment section incorporated the concept of excess loss by simply cross-referencing section 10B(b) of the Federal Reserve Act. Although the existing definitions explain accurately and in detail how the Board would calculate the excess loss, they produce the same result required by section 10B(b) of the statute.

Section 201.3 General Requirements Governing Extensions of Credit

This section would prescribe the Board's rules governing a Federal Reserve Bank's extension of credit. This section would permit Federal Reserve Banks to extend credit in the form of an advance or discount and would discuss requirements that both the Reserve Banks and the depository institutions receiving credit must observe. The text of proposed § 201.3 combines in one place all the existing provisions of Regulation A that relate to each of these topics.

Proposed paragraph (a) of § 201.3 would consolidate all the existing provisions of Regulation A concerning a Reserve Bank's authority to extend credit. Proposed § 201.3(a) mostly contains existing text from § 201.5 and provides that a Reserve Bank may extend credit to a depository institution in the form of an advance or a discount of certain types of paper described in the Federal Reserve Act. Like existing § 201.5, the proposed section states that credit to depository institutions generally will take the form of an advance but preserves a Reserve Bank's discretion to lend through discounting eligible paper if the Reserve Bank determines that a discount would be more appropriate for a particular depository institution. The proposed rule would delete existing § 201.8, which provides that a Reserve Bank may discount paper for an institution that is part of the farm credit system, and instead would discuss that authority at proposed § 201.3(a)(3). Rather than providing the lengthy discussion at existing § 201.8, proposed § 201.3(a)(3) simply cross-references section 13A of the Federal Reserve Act, which authorizes Reserve Banks to discount paper for such institutions.

Proposed § 201.3(b) contains the text of existing § 201.9, which states that a Reserve Bank has no obligation to make, increase, renew, or extend any advance or discount to a depository institution.

Proposed § 201.3(c) gathers in one place the existing provisions of Regulation A concerning the requirements a Reserve Bank must observe when it does extend credit. Section 201.3(c)(1) contains text from existing § 201.4(d) providing that a Reserve Bank should ascertain whether an institution is undercapitalized or critically undercapitalized before extending credit to that institution. This section adds text stating that, if the institution is undercapitalized or critically undercapitalized, the Reserve Bank must follow special lending procedures. These procedures are specified in proposed § 201.5, which contains the text of current § 201.4 and is discussed in more detail below.

Proposed §§ 201.3(c)(2)–(3) include text from existing §§ 201.6(b)–(c) regarding a Reserve Bank's duty to require any information it deems appropriate to ensure the acceptability of assets tendered as collateral or for discount, to ensure that credit is used consistent with Regulation A, and to keep itself informed of the general character and amount of loans and investments of a depository institution as required by section 4(8) of the Federal Reserve Act.

Proposed § 201.3(d) consists of existing § 201.6(d), with revisions, regarding how a depository institution may use Federal Reserve credit. In existing Regulation A, only depository institutions that received credit under the century date change SLF were permitted to use Federal Reserve credit to fund sales of federal funds without permission of the Reserve Bank extending the credit. Because the SLF no longer is in effect, the Board would delete the language that pertains to credit obtained through that facility. Instead, as explained more fully above in the section discussing primary credit, proposed § 201.3(d) would permit an institution that receives primary credit to use that credit to fund sales of federal funds without Reserve Bank permission. Recipients of secondary or seasonal credit would continue to need Reserve Bank permission to use Reserve Bank credit to fund sales of federal funds.

The Board proposes to delete existing § 201.6(a), which provides that a depository institution may not use Federal Reserve credit as a substitute for capital. Although the Board continues to believe this to be an appropriate policy, the Board believes that other provisions of the statutes and regulations that it administers address this issue. Thus, the Board sees no need to retain this provision in Regulation A.

Section 201.5 Limitations on Availability and Assessments

The existing text of § 201.4 would be redesignated as § 201.5, with technical revisions. This section incorporates the limitations on advances to an undercapitalized or critically undercapitalized depository institution set forth in section 10B(b) of the Federal Reserve Act and also applies those limitations to discounts for such institutions. In addition, § 201.5 discusses section 10B(b)'s requirement that the Board pay a specified amount to the FDIC if a Reserve Bank advance to a critically undercapitalized depository institution increases the loss the FDIC incurs when liquidating that institution. The existing regulation explains in detail through the definitions of "liquidation loss," "increased loss," and "excess loss" how the Board would calculate that amount. The proposed rule, by contrast, would delete these three definitions and simply provide that the Board will assess the Federal Reserve Banks for any amount the Board pays to the FDIC in accordance with section 10B(b) of the Federal Reserve Act.

Regulatory Flexibility Act

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a)) the Board must publish an initial regulatory flexibility analysis with this proposed regulation. As discussed above, the proposed above-market discount rate structure is designed to enable the discount window to operate more efficiently as a back-up source of funds for individual depository institutions and as a mechanism for implementing the policy objectives of the Federal Reserve System. By limiting primary credit eligibility to generally sound institutions, minimizing a Reserve Bank's need to question potential borrowers, and making the borrowing programs more transparent, the proposal seeks to eliminate current disincentives for depository institutions to seek Federal Reserve credit when money markets tighten. The Board knows of no other regulations that overlap or conflict with, or duplicate, the proposed rule.

The proposed rule would apply to all depository institutions that are eligible to borrow at the discount window, including approximately 16,000 small depository institutions, and would not add any recordkeeping, reporting, or compliance requirements associated with discount window borrowing. The requirements of the proposed rule would be the same for all depository institutions regardless of their size.

However, if the Board altered the seasonal credit program in response to public comments, small depository institutions, which are the primary users of that program, would be affected more than larger institutions. Because the Board estimates that fewer than 5 percent of eligible small depository institutions typically receive seasonal credit each year, the Board does not expect changes to or elimination of the seasonal credit program to have a large impact in the aggregate.

The Board solicits comment on the likely impact the proposed rule would have on depository institutions, including those that are small business concerns. The Board particularly is interested in the public's view on how the increase in the discount rate relative to money market interest rates and the corresponding reduction in administrative burden would affect depository institutions of different sizes.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. The proposed rule contains no new collections of information and proposes no substantive changes to existing collections of information pursuant to the Paperwork Reduction Act.

List of Subjects in 12 CFR Part 201

Credits.

For the reasons set forth in the preamble, the Board revises part 201 of subchapter A of Chapter II, Title 12 of the Code of Federal Regulations to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

Sec.

201.1 Authority, purpose and scope.
201.2 Definitions.
201.3 Extensions of credit generally.
201.4 Availability and terms of credit.
201.5 Limitations on availability and assessments.
201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.

Authority: 12 U.S.C. 248(i)–(j), 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

§ 201.1 Authority, purpose and scope.

(a) *Authority.* This part is issued under the authority of sections 10A, 10B, 11(i), 11(j), 13, 13A, 14(d), and 19 of the Federal Reserve Act (12 U.S.C. 248(i)–(j), 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 357, 374, 374a, and 461).

(b) *Purpose and scope.* This part establishes rules under which a Federal Reserve Bank may extend credit to depository institutions and others. Except as otherwise provided, this part applies to United States branches and agencies of foreign banks that are subject to reserve requirements under Regulation D (12 CFR part 204) in the same manner and to the same extent as this part applies to depository institutions. The Federal Reserve System extends credit with due regard to the basic objectives of monetary policy and the maintenance of a sound and orderly financial system.

§ 201.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Appropriate federal banking agency* has the same meaning as in section 3 of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1813(q)).

(b) *Critically undercapitalized insured depository institution* means any insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)) that is deemed to be critically undercapitalized under section 38 of the FDI Act (12 U.S.C. 1831o(b)(1)(E)) and its implementing regulations.

(c)(1) *Depository institution* means an institution that maintains reservable transaction accounts or nonpersonal time deposits and is:

(i) An *insured bank* as defined in section 3 of the FDI Act (12 U.S.C. 1813(h)) or a bank that is eligible to make application to become an insured bank under section 5 of such act (12 U.S.C. 1815);

(ii) A *mutual savings bank* as defined in section 3 of the FDI Act (12 U.S.C. 1813(f)) or a bank that is eligible to make application to become an insured bank under section 5 of such act (12 U.S.C. 1815);

(iii) A *savings bank* as defined in section 3 of the FDI Act (12 U.S.C. 1813(g)) or a bank that is eligible to make application to become an insured bank under section 5 of such act (12 U.S.C. 1815);

(iv) An *insured credit union* as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or a credit union that is eligible to make application to become an insured credit union pursuant to section 201 of such act (12 U.S.C. 1781);

(v) A *member* as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); or

(vi) A *savings association* as defined in section 3 of the FDI Act (12 U.S.C. 1813(b)) that is an insured depository institution as defined in section 3 of the act (12 U.S.C. 1813(c)(2)) or is eligible to apply to become an insured depository institution under section 5 of the act (12 U.S.C. 15(a)).

(2) The term "*depository institution*" does not include a financial institution that is not required to maintain reserves under § 204.1(c)(4) of Regulation D (12 CFR 204.1(c)(4)) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public.

(d) *Transaction account* and *nonpersonal time deposit* have the meanings specified in Regulation D (12 CFR part 204).

(e) *Undercapitalized insured depository institution* means any insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)) that:

(1) Is not a critically undercapitalized insured depository institution; and

(2)(i) Is deemed to be undercapitalized under section 38 of the FDI Act (12 U.S.C. 1831o(b)(1)(C)) and its implementing regulations; or

(ii) Has received from its appropriate federal banking agency a composite CAMELS rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by its appropriate federal banking agency under a comparable rating system) as of the most recent examination of such institution.

(f) *Viable*, with respect to a depository institution, means that the Board of Governors or the appropriate federal banking agency has determined, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution is not critically undercapitalized, is not expected to become critically undercapitalized, and is not expected to be placed in conservatorship or receivership. Although there are a number of criteria that may be used to determine viability, the Board of Governors believes that ordinarily an undercapitalized insured depository institution is viable if the appropriate federal banking agency has accepted a capital restoration plan for the depository institution under 12 U.S.C. 1831o(e)(2) and the depository institution is complying with that plan.

§ 201.3 Extensions of credit generally.

(a) *Advances to and discounts for a depository institution.* (1) A Federal Reserve Bank may lend to a depository institution either by making an advance secured by acceptable collateral under § 201.4 of this part or by discounting certain types of paper. A Federal

Reserve Bank generally extends credit by making an advance.

(2) An advance to a depository institution must be secured to the satisfaction of the Federal Reserve Bank that makes the advance. Satisfactory collateral generally includes United States government and federal-agency securities, and, if of acceptable quality, mortgage notes covering one-to four-family residences, state and local government securities, and business, consumer, and other customer notes.

(3) If a Federal Reserve Bank concludes that a discount would meet the needs of a depository institution or an institution described in section 13A of the Federal Reserve Act (12 U.S.C. 349) more effectively, the Reserve Bank may discount any paper indorsed by the institution, provided the paper meets the requirements specified in the Federal Reserve Act.

(b) *No obligation to make advances or discounts.* A Federal Reserve Bank shall have no obligation to make, increase, renew, or extend any advance or discount to any depository institution.

(c) *Information requirements.* (1) Before extending credit to a depository institution, a Federal Reserve Bank should determine if the institution is an undercapitalized insured depository institution or a critically undercapitalized insured depository institution and, if so, follow the lending procedures specified in § 201.5.

(2) Each Federal Reserve Bank shall require any information it believes appropriate or desirable to ensure that assets tendered as collateral for advances or for discount are acceptable and that the borrower uses the credit provided in a manner consistent with this part.

(3) Each Federal Reserve Bank shall:

(i) Keep itself informed of the general character and amount of the loans and investments of a depository institution as provided in section 4(8) of the Federal Reserve Act (12 U.S.C. 301); and

(ii) Consider such information in determining whether to extend credit.

(d) *Indirect credit for others.* Except for depository institutions that receive primary credit as described in § 201.4(a), no depository institution shall act as the medium or agent of another depository institution in receiving Federal Reserve credit except with the permission of the Federal Reserve Bank extending credit.

§ 201.4 Availability and terms of credit.

(a) *Primary credit.* A Federal Reserve Bank may extend primary credit on a very short-term basis, usually overnight, to a depository institution that is in generally sound condition in the judgment of the Reserve Bank. Such primary credit ordinarily is extended with minimal administrative burden on the borrowing institution. A Federal Reserve Bank also may extend primary credit with maturities up to a few weeks to a depository institution if the Reserve Bank determines that the institution is in generally sound condition and that the institution cannot obtain such credit in the market on reasonable terms. Credit extended under the primary credit program is granted at the primary discount rate.

(b) *Secondary credit.* A Federal Reserve Bank may extend secondary credit to meet temporary funding needs of a depository institution that is not eligible for primary credit if, in the judgment of the Reserve Bank, such a credit extension would be consistent with the institution's timely return to a reliance on market funding sources. A Reserve Bank also may extend secondary credit if the Reserve Bank determines that such credit would facilitate the orderly resolution of serious financial difficulties of a depository institution. Credit extended under the secondary credit program is granted at a rate above the primary discount rate.

(c) *Seasonal credit.* A Federal Reserve Bank may extend seasonal credit for periods longer than those permitted under primary credit to assist a smaller depository institution in meeting regular needs for funds arising from expected patterns of movement in its deposits and loans. An interest rate that varies with the level of short-term market interest rates is applied to seasonal credit.

(1) A Federal Reserve Bank may extend seasonal credit only if:

(i) The depository institution's seasonal needs exceed a threshold that the institution is expected to meet from other sources of liquidity (this threshold is calculated as a certain percentage, established by the Board of Governors, of the institution's average total deposits in the preceding calendar year); and

(ii) The Federal Reserve Bank is satisfied that the institution's qualifying need for funds is seasonal and will persist for at least four weeks.

(2) The Board may establish special terms for seasonal credit when depository institutions are experiencing unusual seasonal demands for credit in a period of liquidity strain.

(d) *Emergency credit for others.* In unusual and exigent circumstances and after consultation with the Board of Governors, a Federal Reserve Bank may extend credit to an individual, partnership, or corporation that is not a depository institution if, in the judgment of the Federal Reserve Bank, credit is not available from other sources and failure to obtain such credit would adversely affect the economy. If the collateral used to secure emergency credit consists of assets other than obligations of, or fully guaranteed as to principal and interest by, the United States or an agency thereof, credit must be in the form of a discount and five or more members of the Board of Governors must affirmatively vote to authorize the discount prior to the extension of credit. Emergency credit will be extended at a rate above the highest rate in effect for advances to depository institutions.

§ 201.5 Limitations on availability and assessments.

(a) *Lending to undercapitalized insured depository institutions.* A Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be an undercapitalized insured depository institution, only:

(1) If, in any 120-day period, advances or discounts from any Federal Reserve Bank to that depository institution are not outstanding for more than 60 days during which the institution is an undercapitalized insured depository institution; or

(2) During the 60 calendar days after the receipt of a written certification from the chairman of the Board of Governors or the head of the appropriate federal banking agency that the borrowing depository institution is viable; or

(3) After consultation with the Board of Governors. In unusual circumstances, when prior consultation with the Board is not possible, a Federal Reserve Bank should consult with the Board as soon as possible after extending credit that requires consultation under this paragraph (a).

(b) *Lending to critically undercapitalized insured depository institutions.* A Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be a critically undercapitalized insured depository institution only:

(1) During the 5-day period beginning on the date the institution became a critically undercapitalized insured depository institution; or

(2) After consultation with the Board of Governors. In unusual circumstances, when prior consultation with the Board is not possible, a Federal Reserve Bank should consult with the Board as soon as possible after extending credit that requires consultation under this paragraph (b).

(c) *Assessments.* The Board of Governors will assess the Federal Reserve Banks for any amount that the Board pays to the FDIC due to any excess loss in accordance with section 10B(b) of the Federal Reserve Act (12 U.S.C. 347b(b)). Each Federal Reserve Bank shall be assessed that portion of the amount that the Board of Governors pays to the FDIC that is attributable to an extension of credit by that Federal Reserve Bank, up to 1 percent of its capital as reported at the beginning of the calendar year in which the assessment is made. The Board of Governors will assess all of the Federal Reserve Banks for the remainder of the amount it pays to the FDIC in the ratio that the capital of each Federal Reserve Bank bears to the total capital of all Federal Reserve Banks at the beginning of the calendar year in which the assessment is made, provided, however, that if any assessment exceeds 50 percent of the total capital and surplus of all Federal Reserve Banks, whether to distribute the excess over such 50 percent shall be made at the discretion of the Board of Governors.

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.

(a) *Primary credit.* The rates for primary credit provided to depository institutions under § 201.4(a) are: [The chart will appear in the final rule.]

(b) *Secondary credit.* An interest rate 50 basis points above the rate for primary credit in § 201.51 will apply to secondary credit extended to depository institutions under § 201.4(c).

(c) *Seasonal credit.* The rate for seasonal credit extended to depository institutions under § 201.4(b) is a flexible rate that takes into account rates on market sources of funds.

By order of the Board of Governors of the Federal Reserve System, May 16, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–12781 Filed 5–23–02; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission ("Commission") solicits comments on whether to amend Rule 7(m) of the Rules and Regulations Under the Textile Fiber Products Identification Act ("Textile Rules") to establish a new generic fiber subclass name and definition as an alternative to the generic name "olefin" for a specifically proposed subclass of olefin fibers manufactured by the Dow Chemical Company ("Dow"), of Midland, Michigan. Dow suggested the name "lastol" for the fiber, which it described as an elastic, cross-linked olefin fiber capable of retaining its shape at high temperatures and referred to as "CEF."

DATES: Comments will be accepted through August 12, 2002.

ADDRESSES: Comments should be submitted to: Office of the Secretary, Federal Trade Commission, Room 159, 600 Pennsylvania Ave., NW., Washington DC 20580. Comments should be identified as "16 CFR Part 303—Textile Rule 8 Dow Comment—P948404."

FOR FURTHER INFORMATION CONTACT: Neil Blickman, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580; (202) 326–3038.

SUPPLEMENTARY INFORMATION:

I. Background

Rule 6 of the Textile Rules (16 CFR 303.6) requires manufacturers to use the generic names of the fibers contained in their textile products in making fiber content disclosures on labels, as required by the Textile Fiber Products Identification Act ("Textile Act"), 15 U.S.C. 70b(b)(1). Rule 7 of the Textile Rules (16 CFR 303.7) sets forth the generic names and definitions that the Commission has established for synthetic fibers. Rule 8 (16 CFR 303.8) describes the procedures for establishing new generic names.

Dow applied to the Commission on October 18, 2001, for a new olefin fiber subclass name and definition, and supplemented its application with additional information and test data on December 12, 2001, January 16, 2002, and March 19, 2002.[1] Dow stated that its new cross-linked elastic fiber, CEF, is a manufactured olefin textile fiber with a cross-linked polymer network structure. Dow stated that CEF meets the broad definition of olefin fiber in the Textile Rules, 16 CFR 303.7(m). According to Dow, however, CEF differs from commercially available olefin fibers because of its elasticity and wide temperature tolerance, which make it a good choice for easy-care stretch apparel applications.

As a result of CEF's fiber structure, Dow maintained that CEF has the following distinctive properties: (1) Stretch and recovery power that is far superior to that of any olefin fiber; (2) shape retention at temperatures in excess of 170°C, which enables CEF to survive rigorous manufacturing and consumer care processes; and (3) chemical resistance to solvents that typically dissolve conventional olefins. Dow asserted that olefin, widely recognized as a dependable carpet fiber that has no stretch or elastic recovery and poor high temperature stability, is an inappropriate categorization for the elastic olefin fiber, CEF, which is targeted for apparel applications. According to Dow, CEF will offer consumers a wider choice in garments containing stretch fabric. Dow contends, in essence, that it would be confusing to consumers if CEF is called simply "olefin."

Dow, therefore, petitioned the Commission to establish the generic name "lastol" as an alternative to, and a subclass of, "olefin." In addition, Dow proposed that the Commission add the following sentence to the current definition of olefin in Rule 7(m) to define CEF and similar fibers as a subclass of olefin:

> Where the fiber is a manufactured cross-linked elastic fiber in which a) the fiber-forming substance is a synthetic polymer, with low but significant crystallinity, composed of at least 99 percent by weight of ethylene and at least one other olefin unit, and b) the fiber exhibits substantial elasticity and heat resistance properties not present in traditional olefin fibers, the term lastol may be used as a generic description of the fiber.

The effect of Dow's proposed amendment would be to allow use of the name "lastol" as an alternative to the generic name "olefin" for the subcategory of olefin fibers meeting the further criteria contained in the sentence added by the proposed amendment.

After an initial analysis with the assistance of a textile expert, the Commission has determined that Dow's proposed new fiber technically falls within Rule 7(m)'s definition of

[1] Dow's petition and supplements thereto are on the rulemaking record of this proceeding. This material, as well as any comments filed in this proceeding, will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and the Commission's Rules of Practice, 16 CFR 4.11, at the Consumer Response Center, Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. Any comments that are filed will be found under the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 CFR Part 303, Matter No. P948404, "Dow Generic Fiber Petition Rulemaking." The comments and petition also may be viewed on the Commission's website at www.ftc.gov.

"olefin." [2] The Commission has further determined that Dow's application for a new subclass name and definition merits further consideration. Accordingly, the Commission has issued Dow the designation "DCC 0001" for temporary use in identifying CEF fiber pending a final determination on the merits of the application for a new generic fiber subclass name and definition. A final determination will be based on whether the record in this proceeding indicates that Dow meets the Commission's criteria for issuing new fiber subclass names and definitions, as described in Part II, below.

II. Invitation to Comment

The Commission is soliciting comment on Dow's application generally, and on whether the application meets the Commission's criteria for granting applications for new generic fiber subclass names.

The Commission first articulated standards for establishing a new generic fiber "subclass" in the proceeding to allow use of the name "lyocell" as an alternative generic description for a specifically defined subcategory of "rayon" fiber, pursuant to 16 CFR 303.7(d).[3]

In its recent notice of proposed rulemaking regarding DuPont's proposal to establish a generic fiber subclass of "polyester," 67 FR 7104 (Feb. 15, 2002), the Commission further articulated that a new generic fiber subclass may be appropriate in cases where the proposed subclass fiber: (1) Has the same general chemical composition as an established generic fiber category; (2) has distinctive properties of importance to the general public as a result of a new method of manufacture or substantially differentiated physical characteristics, such as fiber structure; and (3) the distinctive feature(s) make the fiber suitable for uses for which other fibers under the established generic name would not be suited, or would be significantly less well suited.[4]

Within the established 24 generic names for manufactured fibers, there are three cases where such generic name alternatives may be used: (1) Pursuant to Rule 7(d), 16 CFR 303.7(d), within the generic category "rayon," the term "lyocell" may be used as an alternative generic description for a specifically defined subcategory of rayon fiber; (2) pursuant to Rule 7(e), 16 CFR 303.7(e), within the generic category "acetate," the term "triacetate" may be used as an alternative generic description for a specifically defined subcategory of acetate fiber; and (3) pursuant to Rule 7(j), 16 CFR 303.7(j), within the generic category "rubber," the term "lastrile" may be used as an alternative generic description for a specifically defined subcategory of rubber fiber.[5]

Dow's application may describe a subclass of generic olefin fibers with distinctive features resulting from physical characteristics of the fiber and its method of manufacture, which meets the above standard for allowing designation by the subclass name "lastol." Alternatively, CEF may fit within the current definition of olefin in Rule 7(m), with or without need for clarification. This notice of proposed rulemaking, therefore, suggests three approaches to resolve the situation, and requests comment from the public on the relative merits of each:

1. Amend Rule 7(m) to broaden its definition for olefin to better describe the allegedly unique molecular structure and physical characteristics of CEF and any similar fibers (without creating a new subclass for CEF);

2. Amend Rule 7(m)'s definition for olefin by creating a separate subclass name and definition for CEF and other similar qualifying fibers within the olefin category; or

3. Deny Dow's application because CEF fiber fits within Rule 7(m)'s definition of olefin without need for any change.

In today's notice of proposed rulemaking, the Commission is soliciting comments on all aspects of the appropriateness of Dow's proposed amendment to Rule 7(m)'s definition of olefin. Although the Commission initially has determined that Dow's new fiber technically falls within the existing Rule 7(m), 16 CFR 303.7(m), definition of "olefin," the Commission believes it is in the public interest to solicit comments on whether it should amend Rule 7(m) by creating a subclass to recognize CEF's characteristics, or otherwise address the petition. Before deciding whether to amend Rule 7, the Commission will consider any comments submitted to the Secretary of the Commission within the above-mentioned comment period.

III. Dow's Petition

Dow's petition and supplemental filings described in detail the CEF fiber. The following subsections are excerpted substantially verbatim.

A. CEF's Chemistry, Structure, and Manufacturing Process

According to Dow, CEF is the first manufactured olefin fiber founded on metallocene-based polyolefin elastomer chemistry. Dow's CEF fiber is manufactured using a melt spinning process. After spinning, the fiber is crosslinked in order to prevent dissolution and impart high-temperature dimensional stability. After the crosslinking process, the polymer chains in the fiber are linked to one another via covalent bonds.

[2] Rule 7(m) defines "olefin" as "[a] manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85 percent by weight of ethylene, propylene, or other olefin units, except amorphous (noncrystalline) polyolefins qualifying under paragraph (j)(1) of this section." 16 CFR 303.7(m). Rule 7(j)(1) defines "rubber," in part, as "[a] manufactured fiber in which the fiber-forming substance is comprised of natural or synthetic rubber, including the following categories: (1) [a] manufactured fiber in which the fiber-forming substance is a hydrocarbon such as natural rubber, polyisoprene, polybutadiene, copolymers of dienes and hydrocarbons, or amorphous (noncrystalline) polyolefins. 16 CFR 303.7(j)(1). In its petition, Dow stated that CEF is not a rubber because CEF fibers have a low but significant level of crystallinity, whereas rubber fibers are not crystalline. In addition, CEF exhibits much higher tensile set (lower elastic recovery) than rubber when extended to greater than 100% elongation.

[3] There, the Commission noted that: where appropriate, in considering applications for new generic names for fibers that are of the same general chemical composition as those for which a generic name already has been established, rather than of a chemical composition that is radically different, but that have distinctive properties of importance to the general public as a result of a new method of manufacture or their substantially differentiated physical characteristics, such as their fiber structure, the Commission may allow such fiber to be designated in required information disclosures by either its generic name or, alternatively, by its "subclass" name. The Commission will consider this disposition when the distinctive feature or features of the subclass fiber make it suitable for uses for which other fibers under the established generic name would not be suited, or would be significantly less well suited.

60 FR 62352, 62353 (Dec. 6, 1995).

[4] The criteria for establishing a new generic subcategory are different from the criteria to establish a new generic category. The Commission's criteria for granting applications for new generic names are as follows: (1) The fiber for which a generic name is requested must have a chemical composition radically different from other fibers, and that distinctive chemical composition must result in distinctive physical properties of significance to the general public; (2) the fiber must be in active commercial use or such use must be immediately foreseen; and (3) the granting of the generic name must be of importance to the consuming public at large, rather than to a small group of knowledgeable professionals such as purchasing officers for large Government agencies. The Commission believes it is in the public interest to prevent the proliferation of generic names, and will adhere to a stringent application of these criteria in consideration of any future applications for generic names, and in a systematic review of any generic names previously granted that no longer meet these criteria. The Commission announced these criteria on Dec. 11, 1973, 38 FR 34112, and later clarified and reaffirmed them on Dec. 6, 1995, 60 FR 62353, on May 23, 1997, 62 FR 28343, on Jan. 6, 1998, 63 FR 447 and 63 FR 449, on Nov. 17, 2000, 65 FR 69486, and on Feb. 15, 2002, 67 FR 7104.

[5] In a fourth case under consideration, DuPont has proposed that pursuant to Rule 7(c), 16 CFR 303.7(c), within the generic category "polyester," the term "elasterell-p" be used as an alternative generic description for a specifically defined subcategory of polyester fiber.

The interpolymer [6] in CEF has been made from ethylene and, typically, octene in excess of 30 weight percent using a constrained geometry catalyst, a member of the metallocene family. The catalyst allows precise control of the molecular architecture of the polymer, which prior to crosslinking has a narrow molecular weight distribution. As a result, the molecules in CEF are very similar in size and composition to each other. In contrast, Dow states that typical olefin fiber manufactured today results from conventional multi-site catalyst technology (such as Ziegler-Natta catalysts). Consequently, typical olefin fiber has a broad compositional molecular weight distribution, and low or no comonomer content.

As a result of CEF's unique chemical structure, its high comonomer content, CEF has lower crystallinity and density than conventional olefin fibers. Unlike conventional olefin fiber where the polymer crystals are in lamellae form,[7] the crystals in the CEF fiber-forming substance are in fringe micelle form.[8] According to Dow, the fringed micellar crystalline morphology and the low, but significant, level of crystallinity in CEF impart elastic properties not seen in typical olefin fibers. The unique morphology of the CEF polymer results in high stretch and elasticity. In contrast, Dow asserts that conventional olefin fiber, such as drawn polypropylene fiber, is highly crystalline and dense. Additionally, conventional olefin fiber has low stretch and no significant elasticity.

B. CEF's Distinctive Properties as a Result of a New Method of Manufacture or Substantially Differentiated Physical Characteristics, Such as Fiber Structure

1. Elasticity

According to Dow, the most notable characteristic (and of greatest importance to consumers) of CEF is its elasticity, which is far superior to that of any conventional olefin fiber. This property is a direct result of CEF's fiber structure. Dow states that CEF's favorable stretch (at least five times its original length before breaking) and elasticity (stretching to twice its length and, when released, recovering to within 25 percent of its original length) are a consequence of its low but significant level of crystallinity. As a result, CEF can be successfully used in clothing applications where stretch is desirable.

In contrast, Dow states that conventional olefin fiber is highly crystalline, with a degree of crystallinity greater than 50 percent. The crystals of conventional olefin fiber are in lamellae form, unlike crystals in the CEF fiber-forming substance, which are in a fringe micelle form. As a result, conventional olefin fiber manufactured today is stiff and inelastic. According to Dow, typical olefin fibers (in their manufactured, "drawn," form) exhibit very low elongation before breaking (typically less than 50%) and, therefore, cannot be used successfully in today's apparel markets for stretch clothing.

2. High Temperature Stability

Dow states that CEF's covalent crosslinks connect adjacent polymer chains into a contiguous three-dimensional polymer network. This crosslinked polymer network structure allows CEF to maintain its shape and mechanical integrity above its crystalline melting temperature. In fact, Dow asserts that CEF retains its shape at temperatures up to 220°C, well in excess of conventional olefin's melting point, which occurs at or below 170°C.

According to Dow, CEF's ability to withstand high temperatures has compelling advantages for textile manufacturers who can use more efficient dye and process methods requiring temperatures in excess of 170°C. Dow states that CEF also has advantages for consumers who can repeatedly wash, dry, and iron fabrics containing CEF at typical temperatures (up to 210°C) without destroying CEF's stretch properties. In contrast, Dow asserts that since conventional olefin fiber manufactured today loses its shape and mechanical integrity at temperatures ranging from 105–170°C, it cannot withstand the rigors of high heat and repeated launderings. Consequently, conventional olefin fiber is not widely used in apparel applications today where the consumer seeks easy wash and wear care.

3. Chemical Resistance

Dow states that CEF's crosslinked polymer network structure also allows CEF to maintain its integrity in solvents that typically dissolve the starting polymer. In contrast, according to Dow, conventional olefin fiber is not crosslinked and, therefore, loses shape and mechanical integrity and/or dissolves above its crystalline melting temperatures which range up to about 170°C.

4. Summary of CEF's Physical Properties

The physical properties of CEF and conventional olefin fiber are summarized in the table below.

Property	CEF	Conventional Olefin
Crystallinity, wt%	12–16	>50
Elongation, %	>400	<15—200
Breaking Strength (gm/den)	>0.9	1.7–6.8
Initial Modulus	0.3	34–56
Density (gm/cc)	0.87–0.875	0.90–0.91
Dissolution Characteristics	Does not dissolve	Dissolves
Temperature Stability	Up to >220°C	Up to 170°C
Manufacturing Method	Melt spinning followed by crosslinking.	Melt spinning

[6] Interpolymer refers to polymers prepared by the polymerization of at least two different types of monomers, typically ethylene and octene.

[7] In lamellae form, the polymer chains are folded in the crystalline or ordered regions.

[8] In fringe micelle form, the polymer chains are parallel to each other in the crystalline regions.

C. CEF's Distinctive Feature(s) Allegedly Make the Fiber Suitable for Uses for Which Other Olefin Fibers Would Not Be Suited, or Would Be Significantly Less Well Suited

Dow asserted that CEF is suitable for uses for which olefin fibers are not suited, or not as well suited. Dow's petition stated:

> Today's olefin—largely seen in carpet, thermal underwear, and socks—does not offer the consumer stretch or the easy-care characteristics gained through high temperature tolerance. To textile mill producers, CEF enables process economies and the production of new products with atypical stretch and performance properties. To the consumer, CEF offers a wider choice in garments containing stretch fabric plus the benefit of easy-care laundering at higher temperatures without degradation of the stretch fiber.[9]

With respect to its commercialization plans, Dow stated that beginning in 1999, it identified and began working with developmental partners who are leaders in the fiber manufacturing and apparel industry around the world. Since the second quarter of 2001, CEF has been successfully made on commercial-scale spinning equipment, with resulting quantities subsequently produced and used in a wide range of fabrics, including both knits and wovens. These fabrics have been used to make a variety of goods, most notably for the apparel market. The market testing process of garments with leading retailers is presently underway, with completion expected within the near future. Dow expects commercialization of CEF to begin at the end of the second quarter of 2002. In effect, therefore, Dow has argued that granting the petition would facilitate the use of CEF fiber in consumer applications, and using a new generic term (like lastol) would help consumers identify products made from CEF. Thus, Dow has maintained that a new generic fiber subclass name would be important to the public at large, not just knowledgeable professionals.

IV. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial regulatory analysis (5 U.S.C. 603–604) are not applicable to this proposal, because the Commission believes that the amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities. The Commission has tentatively reached this conclusion with respect to the proposed amendment, because the amendment would impose no additional obligations, penalties or costs. The amendment simply would allow covered companies to use a new generic name for a new fiber that may not appropriately fit within current generic names and definitions. The amendment would impose no additional labeling requirements.

To ensure that no substantial economic impact is being overlooked, however, the Commission requests public comment on the effect of the proposed amendment on costs, profits, and competitiveness of, and employment in, small entities. After receiving public comment, the Commission will decide whether preparation of a final regulatory flexibility analysis is warranted. Accordingly, based on available information, the Commission certifies, pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendment, if promulgated, would not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act

This proposed amendment does not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (PL 104–13, 109 Stat. 163) and its implementing regulations. (5 CFR 1320 *et seq.*) The collection of information imposed by the procedures for establishing generic names (16 CFR 303.8) has been submitted to OMB and has been assigned control number 3084–0101.

List of Subjects in 16 CFR Part 303

Labeling, Textile, Trade Practices.

Authority: Sec. 7(c) of the Textile Fiber Products Identification Act (15 U.S.C. 70e(c)).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–13151 Filed 5–23–02; 8:45 am]

BILLING CODE 6750–01–P

[9] See Dow's petition dated March 19, 2002, at page 16.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–006]

RIN 2115–AA97

Security Zone; Lake Erie, Perry, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent security zone on the navigable waters of Lake Erie in the Captain of the Port Zone Cleveland for the Perry Nuclear Power Plant. This security zone is necessary to protect the Perry Nuclear Power Plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. This security zone is intended to restrict vessel traffic from a portion of Lake Erie.

DATES: Comments and related material must reach the Coast Guard on or before June 24, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–02–006 and are available for inspection or copying at U.S. Coast Guard Marine Safety Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44126 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at telephone number (216) 937–0111.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–02–006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to submit comments and related materials, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them. You may mail comments and related material to U.S. Coast Guard Marine Safety Office Cleveland, 1155 East 9th Street, Cleveland, OH 44115. Marine Safety Office Cleveland maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Cleveland between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely. This regulation proposes to establish a permanent security zone for the Perry Nuclear Power Plant. The security zone consists of all navigable waters of Lake Erie bound by a line drawn between the following coordinates: beginning at 41°48.187′ N, 081°08.818′ W; due north to 41°48.7′ N, 081°08.818′ W; due east to 41°48.7′ N, 081°08.455′ W; due south to the south shore of Lake Erie at 41°48.231′ N, 081°08.455′ W; thence westerly following the shoreline back to the beginning. These coordinates are based upon North American Datum 1983 (NAD 83). Entry into, transit through or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Cleveland or his designated on-scene representative.

Discussion of Proposed Rule

Following the catastrophic nature and extent of damage realized from the attacks of September 11, this proposed rulemaking is necessary to protect the national security interests of the United States against potential future attacks.

On October 12, 2001 we published a temporary final rule establishing a security zone on the waters around Perry Nuclear Power Plant (66 FR 52043). The current rulemaking proposes to establish a permanent security zone in place of that temporary security zone. The size of the zone currently being proposed, however, is smaller than that of the original temporary security zone.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Cleveland (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the

Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.T09–111 [Removed]

2. Remove § 165.T09–111.

3. Add § 165.912 to read as follows:

§ 165.912 Security Zone: Lake Erie, Perry, OH.

(a) *Location:* The following area is a security zone: all navigable waters of Lake Erie bounded by a line drawn between the following coordinates beginning at 41°48.187′ N, 081°08.818′ W; then due north to 41°48.7′ N, 081°08.818′ W; then due east to 41°48.7′ N, 081°08.455′ W; then due south to the south shore of Lake Erie at 41°48.231′ N, 081°08.455′ W; thence westerly following the shoreline back to the beginning (NAD 83).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Cleveland, or the designated on-scene representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: May 20, 2002.

R.J. Perry,

Commander, U.S. Coast Guard, Captain of the Port, MSO Cleveland.

[FR Doc. 02–13137 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020508113–2113–01; I.D. 090501D]

RIN 0648–AP12

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid and Butterfish Fisheries; Framework Adjustment 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes measures contained in Framework Adjustment 2 (Framework 2) to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). This action would extend the limited entry program for the *Illex* squid fishery for an additional year; modify the *Loligo* squid overfishing definition and control rule; allow for the roll-over of the annual specifications for these fisheries (with the exception of total allowable landings of foreign fishing (TALFF)) in the event annual specifications are not published prior to the start of the fishing year; and allow *Loligo* squid specifications to be set for up to 3 years, subject to annual review. NMFS has disapproved the proposed framework measure to allow *Illex* squid vessels an exemption from the *Loligo* squid trip limit during an August or September closure of the directed *Loligo* squid fishery. This action is necessary to address issues and problems that have developed relative to the management of these fisheries and is intended to further the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on June 10, 2002.

ADDRESSES: Copies of Framework 2, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available on request from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904–6790. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.gov/ro/doc/nr.htm*.

Comments on Framework 2 should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Please mark the envelope, "Comments-SMB Framework Adjustment 2." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail Paul.H.Jones@noaa.gov.

SUPPLEMENTARY INFORMATION: In 1997, Amendment 5 to the FMP established a limited entry program for the *Illex* squid fishery in response to a concern that fishing capacity could otherwise expand to over exploit the stock. At the time the program was established, there were concerns that the capacity of the limited entry vessels might prove, over time, to be insufficient to fully exploit the annual quota. In response to this concern, a 5–year sunset provision was placed on the *Illex* squid limited entry program, and it is currently scheduled to end July 1, 2002. However, in recent years the limited entry fleet has demonstrated that it has sufficient capacity to harvest the long-term potential yield from this fishery. The Mid-Atlantic Fishery Management Council (Council) must prepare an amendment to the FMP to evaluate whether or not the limited entry program should be extended permanently. In the meantime, this action would extend the Illex squid moratorium through July 1, 2003, to prevent overcapitalization while the amendment is being prepared and considered by the Council. This extension complies with the criteria in section 303(b)(6) of the Magnuson-Stevens Fishery Conservation and Management Act. The extension will allow the Council additional time to consider long-term management for the Illex squid fishery, including the limited entry program. Vessels that took small quantities of Illex squid in the past may continue to do so under the incidental catch provision of the FMP.

This action would also authorize the roll-over of the annual specifications for the Atlantic mackerel, squid, and butterfish fisheries. In recent years, publication of the annual specifications for those fisheries has occurred after the start of the fishing year on January 1, resulting in inefficient management and industry uncertainty. In particular, late publication has affected business entities interested in conducting Joint Venture Processing (JVP) operations for Atlantic mackerel, because such operations cannot be authorized until there is a final rule that includes a JVP allocation. This action would allow the annual Atlantic mackerel, squid, and butterfish specifications from the previous fishing year to roll-over into the next fishing year (excluding TALFF), in the event that annual specifications for that year have not been published. The rolled-over specifications would be superceded by the publication of the current year's annual specifications.

While the primary components of the overfishing definition for *Loligo* squid (the maximum fishing mortality rate threshold and the minimum biomass threshold) remain unchanged, this proposed action would modify the control rules that guide the Council in making harvest recommendations based upon those definitions. The fishing mortality rate (F) control rule adopted for *Loligo* squid in Amendment 8 to the FMP specified that the target fishing mortality rate (F_{msy}) must be reduced to zero if biomass falls below 50 percent of the biomass target (B_{msy}). The target fishing mortality rate increases linearly to 75 percent of F_{msy} as biomass increases to B_{msy}. However, the 29th Stock Assessment Workshop (SAW 29) indicated that the control rule was not appropriate for the stock, and that the target F of zero at 50 percent of the biomass target could be overly conservative. SAW 29 concluded that the apparent resilience of the stock is high, suggesting that it can rebuild quickly from low stock sizes at low to moderate F's. Estimates of biomass based on NMFS' Northeast Fisheries Science Center (NEFSC) fall 1999, spring 2000, and fall 2000 survey indices for *Loligo* squid indicate that the stock is currently at or near B_{msy}. The stock is also no longer listed as overfished in NMFS' Report to Congress: Status of the Fisheries of the United States (January 2001). However, projections of the 29th SAW indicated that if the *Loligo* quid stock were overfished, the biomass could be rebuilt from the minimum biomass threshold ($\frac{1}{2}$ B_{msy}) to levels approximating B_{msy} in as little as 3 years, if F were reduced to 75 percent of F_{msy}. Based on the above information, the Council concluded that the control rule adopted in Amendment 8, requiring an F of zero at $1/2B_{msy}$ was too conservative.

This proposed action would allow specification of an annual quota associated with a target F of up to 90 percent of F_{msy} to be specified if stock biomass is greater than one-half B_{msy}. If stock biomass falls below, or is expected to fall below, one-half B_{msy}, measures to control fishing mortality would be implemented to insure that the stock is rebuilt to B_{msy} in a time period consistent with the requirements of the Magnuson-Stevens Act. NMFS is publishing the proposed definition and also reviewing it in light of the updated Loligo stock assessment conducted in January 2002.

This action also proposes to allow maximum optimum yield (Max OY), allowable biological catch (ABC), optimum yield (OY) and domestic annual harvest (DAH) for Loligo squid to be specified for up to 3 years. If the annual review conducted by the Council through its Monitoring Committee indicates that it is necessary, such a multi-year specification would be revised in the annual specification process.

This action also proposes an outline for a timeframe to be followed for in-season adjustments to the annual specifications for *Loligo* squid. The Council's Monitoring Committee will meet in late spring each year to review available NEFSC survey data and to develop recommendations for the annual harvest for the following year. In addition, at that meeting, the Monitoring Committee will make recommendations regarding inseason adjustments to the annual *Loligo* squid specifications for consideration by the Atlantic Mackerel, Squid, and Butterfish Committee and the Council. Based on an evaluation of the most recent NEFSC spring and fall trawl survey data, the OY, DAH, and ABC specifications may be adjusted to be consistent with the control rule. Upon review of the recommendations from the Council, the Administrator, Northeast Region, NMFS (Regional Administrator) may make inseason adjustments through publication of notification in the **Federal Register**, to be followed by a 30–day comment period, as specified in the current regulations. Inseason adjustment actions may include increases or decreases in the OY, DAH and ABC specifications and may result in opening or closing the directed fishery for *Loligo* squid.

Disapproved Measure

NMFS has disapproved the proposed measure to allow *Illex* squid vessels an exemption from the *Loligo* squid trip limit during an August or September closure of the directed *Loligo* squid fishery. The proposed measure would have allowed vessels fishing in the directed *Illex* squid fishery during a closure of the *Loligo* fishery to land Loligo squid harvested seaward of the 50–fathom (91–m) curve in an amount not to exceed 10 percent of the total weight of *Illex* squid on board the vessel. Currently, all vessels are limited to an incidental catch allowance of 2,500 lb (1,134 kg) of *Loligo* squid per trip during a closure of the directed *Loligo* fishery.

This provision is being disapproved at the proposed rule stage because it has been found to be inconsistent with national standards 2 and 7 under the Magnuson-Stevens Act. Because this action would limit vessels to a *Loligo* squid bycatch of 10 percent of the amount of *Illex* squid on board the vessel, and because of the high-volume nature of the Illex fishery, NMFS believes it would be impossible to enforce the proposed provision. In addition, under this provision, vessels would only be permitted to retain an increased bycatch of *Loligo* squid while directing on *Illex* squid seaward of the 50–fathom (91–m) curve. However, it would be difficult for enforcement agents to determine if a vessel's Loligo squid bycatch was legally taken, or occurred landward of the 50–fathom (9–m) curve. Such a provision would create significant enforcement costs and, therefore, would be inconsistent with national standard 7.

Additionally, the Council did not consider the best scientific data available to it when it defined the exemption measure; thus the measure has been found to be inconsistent with national standard 2. The data examined by NMFS indicates that there are factors contributing to the *Loligo* squid bycatch that were not considered by the Council. NMFS is also concerned that the analysis of the proposed measure did not use a sufficiently long time-series of data to account for the fact that the overlap of the *Illex* and *Loligo* squid stocks is quite variable from year to year. Preliminary review of available data also shows that the Council analysis may have under-estimated the amount of *Loligo* squid that could be landed as incidental catch by vessels other than those fishing under the *Illex* squid exemption. As a result, the analysis of the measure appears not to properly assess the impact on the *Loligo* squid quota management program.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at in the **SUPPLEMENTARY INFORMATION** section of the preamble. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in the Preferred Alternatives or any of the alternatives considered for this action. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see **ADDRESSES**) or via the Internet at *http://www.nero.nmfs.gov*. A summary of the analysis follows.

In addition to the measures described above, the Council considered several alternatives. The non-preferred *Illex*permit alternatives considered were: (1) To extend the moratorium on entry to the *Illex* fishery for an additional 5 years (through June 30, 2007); and (2) to allow the moratorium on entry to the *Illex* fishery to expire in 2002 (no action).

The alternative specification measures were: (1) If annual specifications are not published prior to the start of the fishing year, the fisheries would operate without specifications and Joint Ventures could not be conducted until specifications were published (no action/status quo); (2) if annual specifications are not published prior to the start of the fishing year, a set of default specifications would apply until the specifications are published; (3) if annual specifications are not published prior to the start of the fishing year, the fisheries would be closed until the final specifications are published; (4) if annual specifications for Atlantic mackerel are not published prior to the start of the fishing year, the previous year's specifications for Atlantic mackerel (excluding TALFF) would apply, until final specifications are published; and (5) if annual specifications for Atlantic mackerel are not published prior to the start of the fishing year, a set of default specifications (excluding TALFF) would apply until the specifications are published.

The alternative *Loligo* overfishing definitions were: (1) An annual quota specified consistent with a target F of up to 90 percent F_{msy} if stock biomass is greater than the minimum biomass threshold (½ B_{msy}). If stock biomass was expected to fall below the minimum biomass threshold (½ Bmsy), measures would be implemented to rebuild the stock to Bmsy in 3 to 5 years; (2) an annual quota specified consistent with a target F of up to 90 percent Fmsy if stock biomass is greater than the minimum biomass threshold (½ B_{msy}). If stock biomass was below the minimum biomass threshold (½ B_{msy}), measures would be implemented to rebuild the stock to B_{msy} in 3 to 10 years, but no longer than 10 years; (3) maintain current control rule and quota setting procedure for *Loligo* (no action/status quo).

Illex **Moratorium Extension**

The proposed action would extend the moratorium on entry of new vessels into the Illex fishery for one year; therefore no impact is expected on vessels in the fishery in 2002 (and the first half of 2003), compared to individual vessel revenues in 2001. The Council assumed that the market and prices are expected to remain stable. Any changes in individual vessel revenues would be the result of factors outside the scope of the moratorium (e.g., change in fishing practices for individual vessels, or changes in abundance and distribution of *Illex* squid).

New vessels entering the fishery would limit per vessel share of the *Illex* squid quota and reduce revenues for the existing moratorium vessels proportionally. Computing the negative impacts of revenue losses for the existing moratorium vessels is impossible due to the redirection of effort into the *Illex* squid fishery. Therefore, the Council decided to assume three scenarios that presumed revenues derived from landings of *Illex* squid would be reduced by 75, 50, and 25 percent due to an assumed increase in vessels that have not participated in the *Illex* squid fishery.

Under alternative 2, the IRFA review of revenue impacts examined the landings of vessels in the existing moratorium fishery and presumed that revenues derived from landing *Illex* for these vessels would be reduced by 75 percent due to an assumed increase in effort of 75 percent. A total of 109 vessels were projected to be impacted by revenue losses that ranged from less than 5 percent for 79 vessels, to a maximum of 40–49 percent for 2 vessels. There were no impacted vessels home-ported in Maryland, New Hampshire, or Virginia; a high of 15 vessels had home ports in New Jersey. Other impacted vessels were home ported in Massachusetts, Rhode Island, New York, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Under alternative 3, the IRFA review of revenue impacts presumed that vessel revenues derived from landing *Illex* would be reduced by 50 percent due to an assumed increase in effort of 50 percent. A total of 109 vessels were projected to be impacted by revenue losses that ranged from less than 5 percent for 84 vessels, to a maximum of 30–39 percent for one vessel. There were no impacted vessels home-ported in Maryland, New Hampshire, or Virginia; a high of 11 vessels had home ports in New Jersey. Others were in Massachusetts, Maine, Rhode Island, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Under alternative 4, the IRFA review of revenue impacts presumed that vessel revenues derived from landing *Illex* would be reduced by 25 percent due to an assumed increase in effort of 25 percent. A total of 109 vessels were projected to be impacted by revenue losses that ranged from less than 5 percent, for 88 vessels, to a maximum of 10-19 percent for 8 vessels. The number of impacted vessels by home state ranged from none in Maryland, New Hampshire, New York, and Virginia, to a high of 11 in New Jersey. Other impacted vessels were home ported in Massachusetts, Maine, Rhode Island, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Specifications Process

The only alternative considered concerning quota specifications that would be expected to change gross vessel revenues would be the option that would close the fisheries if the final specifications are not published by the start of the fishing year. This measure would have significant negative economic consequences for vessels operating in the Atlantic mackerel, *Loligo* and butterfish fisheries because landings of these three species would be prohibited until NMFS publishes the final rule for new specifications and significant landings occur early in the fishing year. The IRFA analysis assumed that these fisheries would most likely be closed during the months of January and February under this alternative. The total value of the landings of these three species during the first 2 months of 1999 represented about 20 percent of the annual revenue generated for all three species in 1999. For Atlantic mackerel, 291 vessels landed 12.1 million lb of mackerel valued at $1.7 million. A closure in January and February would result in a loss of mackerel revenue of $5,842 per vessel under this alternative. For *Loligo*, 281 vessels landed 6.5 million lb of *Loligo* valued at $5.1 million. A closure in January and February would result in a loss of *Loligo* revenue of $18,361 per vessel under this alternative. For butterfish, 228 vessels landed 1.4 million lb of butterfish valued at $0.9 million. A closure in January and February would result in a loss of butterfish revenue of $4,067 per vessel under this alternative. This measure would be expected to have little or no economic impact on the *Illex* fishery since the directed fishery occurs during the summer.

Loligo **Overfishing Definition**

None of the alternatives considered concerning the *Loligo* control rule and in-season adjustment are expected to change gross revenues. Therefore, the IRFA concluded that neither the preferred nor the non-preferred alternative represents catch constraints on vessels in these fisheries in aggregate or individually. Without such catch constraints, there is no impact on revenues.

However, the no action alternative could have severe economic consequences if the stock biomass falls below ½ B_{msy}. If the Council had followed the control rule implemented in Amendment 8 for the 2000 fishery, the *Loligo* fishery would have been closed for the entire year. Thus failure to replace the control rule could have unwarranted negative economic and social consequences. The best example is for fishing year 2000. If the Council had followed the control rule, the fishery would have been closed, with significant impacts in participant vessels. Preliminary NMFS data show that 525 vessels landed 34.9 million lb of *Loligo* in 2000, valued at $27.3 million. A complete closure of the fishery in 2000 would have resulted in an economic loss of $52,000 per vessel due to loss of *Loligo* revenue.

It has been determined that this proposed rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 22, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.4, paragraph (a)(5)(i), the introductory text is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) * * *

(i) *Loligo squid/butterfish and Illex squid moratorium permits.* (*Illex* squid moratorium is applicable from July 1, 1997, until July 1, 2003).* * *

* * * * *

3. In § 648.20, paragraph (b) is revised to read as follows:

§ 648.20 Maximum optimum yields (OYs).

* * * * *

(b) *Loligo*—the catch associated with a fishing mortality rate of F_{msy}, or the best available proxy for F_{msy}.

* * * * *

4. In § 648.21, paragraphs (a)(1) and (d)(1) are revised and paragraphs (a)(4) and (a)(5) are added to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

(a) * * *

(1) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for *Illex* squid;

* * * * *

(4) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for *Loligo* squid, which, subject to annual review, may be specified for a period of up to 3 years;

(5) Inseason adjustment, upward or downward, to the specifications for *Loligo* squid as specified in paragraph (e) of this section.

* * * * *

(d) * * *

(1) The Squid, Mackerel, and Butterfish Committee will review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment received thereon, the Squid, Mackerel, and Butterfish Committee must recommend to the MAFMC appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC will review these recommendations and, based on the recommendations and any public comment received thereon, must recommend to the Regional Administrator appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator will review the recommendations and, on or about November-1 of each year, will publish notification in the **Federal Register** proposing specifications and any measures necessary to assure that the specifications will not be exceeded and providing a 30–day public comment period. If the proposed specifications differ from those recommended by the MAFMC, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The MAFMC's recommendations will be available for inspection at the office of the Regional Administrator during the public comment period. If the annual specifications for squid, mackerel, and butterfish are not published in the **Federal Register** prior to the start of the fishing year, the previous year's annual specifications, excluding specifications of TALFF, will remain in effect. The previous year's specifications will be superceded as of the effective date of the final rule implementing the current year's annual specifications.

[FR Doc. 02–13240 Filed 5–22–02; 2:44 pm]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 101
Friday, May 24, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. #CN–02–003]

Advisory Committee on Universal Cotton Standards; Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) announces a forthcoming meeting of the Advisory Committee on Universal Cotton Standards.

DATES: The meeting dates are: June 13, 2002, at 9 a.m. to 5 p.m., Memphis, Tennessee. June 14, 2002, at 9 a.m. until the review is complete, Memphis, Tennessee.

ADDRESSES: The meeting locations are: June 13 at Peabody Hotel, 149 Union Avenue, Memphis, Tennessee 38103. June 14 at USDA, AMS, Cotton Programs offices at 3275 Applying Road, Memphis, Tennessee 38133. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Mail comments to James Knowlton, Standardization and Engineering Branch, Cotton Programs, AMS, USDA, 3275 Applying Road Memphis, Tennessee 38133, or send comments by electronic mail to: *james.knowlton@usda.gov*.

SUPPLEMENTARY INFORMATION: The committee includes representatives of all segments of the U.S. cotton industry and the twenty-four overseas associations that are signatories to the Universal Cotton Standards Agreement, which is authorized under the United States Cotton Standards Act (7 U.S.C. 51–65). The purpose of the meeting is for the Committee to review the American Upland Cotton Standards, which are prepared by the United States Department of Agriculture (USDA), and to make recommendations to USDA concerning establishment and revision of the standards. The marketing of U.S. cotton is supported and enhanced through the committee's participation in the development of standards for U.S. Upland Cotton.

Thursday June 13, 2002, at 9 a.m. with opening remarks and introductions the Advisory Committee convenes and the standards review and approval process is initiated. Friday June 14, 2002, at 9 a.m. the Committee reconvenes for the drawing of sets for the Arbitration Boards, discussion of proposals, and concludes the matching and approval process of remaining universal standards.

Dated: May 20, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–13123 Filed 5–23–02; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–023–2]

Risk Management Analysis for the Importation of Clementines From Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for a risk management analysis prepared by the Animal and Plant Health Inspection Service relative to a proposed rule currently under consideration that would allow the importation of clementines from Spain to resume. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments we receive on the risk management analysis that are postmarked, delivered, or e-mailed by June 14, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–023–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–023–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02–023–1" on the subject line.

You may read any comments that we receive on Docket No. 02–023–1 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Ron A. Sequeira, Center for Plant Health Science and Technology, PPQ, APHIS, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606–5202; (919) 513–2663.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 2002, we published in the **Federal Register** (67 FR 18578–18579, Docket No. 02–023–1) a notice advising the public that a risk management analysis has been prepared by the Animal and Plant Health Inspection Service relative to a proposed rule currently under consideration that would allow the importation of clementines from Spain to resume. In that notice, we stated that we were making the risk management analysis available to the public for review and comment.

Comments on the risk management analysis were required to be received on or before May 16, 2002. We are reopening and extending the comment period on Docket No. 02–023–1 until June 14, 2002. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between May 17, 2002 (the day after the close of the original comment period) and the date of this notice.

Authority: 7 U.S.C. 166, 450, 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 21st day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–13067 Filed 5–21–02; 12:05 pm]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Intermountain Region; Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR 215 and 36 CFR 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after June 1, 2002. The list of newspapers will remain in effect until December 1, 2002 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Barbara Schuster, Regional Appeals Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, and Phone (801) 625–5301.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures 36 CFR 215 and 36 CFR 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho: *The Idaho Statesman*, Boise, Idaho
For decisions made by the Regional Forester affecting National Forests in Nevada: *The Reno Gazette-Journal*, Reno, Nevada
For decisions made by the Regional Forester affecting National Forests in Wyoming: *Casper Star-Tribune*, Casper, Wyoming
For decisions made by the Regional Forester affecting National Forests in Utha: *Salt Lake Tribune*, Salt Lake City, Utah
If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in: *Salt Lake Tribune*, Salt Lake City, Utah

Ashley National Forest

Ashley Forest Supervisors decisions: *Vernal Express*, Vernal, Utah
Vernal District Ranger decisions: *Vernal Express*, Vernal, Utah
Flaming Gorge District Ranger for decisions affecting Wyoming: *Casper Star Tribune*, Casper, Wyoming
Flaming Gorge District Ranger for decisions affecting Utah: *Vernal Express*, Vernal, Utah
Roosevelt and Duchesne District Ranger decisions: Uintah Basin Standard, Roosevelt, Utah

Boise National Forest

Boise Forest Supervisor decisions: *The Idaho Statesman*, Boise, Idaho
Mountain Home District Ranger decisions: *The Idaho Statesman*, Boise, Idaho
Idaho City District Ranger decisions: *The Idaho Statesman*, Boise, Idaho
Cascade District Ranger decisions: *The Long Valley Advocate*, Cascade, Idaho
Lowman District Ranger decisions: *The Idaho World* Garden Valley, Idaho
Emmett District Ranger decisions: *The Messenger-Index*, Emmett, Idaho

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions: *Casper Star-Tribune*, Casper, Wyoming
Jackson District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming
Buffalo District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming
Big Piney District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming
Pinedale District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming
Greys River District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming
Kemmerer District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming

Caribou-Targhee National Forest

Caribou-Targhee Forest Supervisor decisions for the Caribou portion: *Idaho State Journal*, Pocatello, Idaho
Soda Springs District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho
Montpelier District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho
Westside District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho
Carbiou-Targhee Forest Supervisor decisions for the Targhee Portion: *The Post Register*, Idaho Falls, Idaho
Dubois District Ranger decisions: *The Post Register*, Idaho Falls, Idaho
Island Park District Ranger decisions: *The Post Register*, Idaho Falls, Idaho
Ashton District Ranger decisions: *The Post Register*, Idaho Falls, Idaho
Palisades District Ranger decisions: *The Post Register*, Idaho Falls, Idaho
Teton Basin District Ranger decisions: *The Post Register*, Idaho Falls, Idaho

Dixie National Forest

Dixie Forest Supervisor decisions: *The Daily Spectrum*, St. George, Utah
Pine Valley District Ranger decisions: *The Daily Spectrum*, St. George, Utah
Cedar City District Ranger decisions: *The Daily Spectrum*, St. George, Utah
Powell District Ranger decisions: *The Daily Spectrum*, St. George, Utah
Escalante District Ranger decisions: *The Daily Spectrum*, St. George, Utah
Teasdale District Ranger decisions: *The Daily Spectrum*, St. George, Utah

Fishlake National Forest

Fishlake Forest Supervisor decisions: *Richfield Reaper*, Richfield, UT
Loa District Ranger decisions: *Richfield Reaper*, Richfield, UT
Richfield District Ranger decisions: *Richfield Reaper*, Richfield, UT
Beaver District Ranger decisions: *Richfield Reaper*, Richfield, UT

Fillmore District Ranger decisions: *Richfield Reaper*, Richfield, UT

Humboldt-Toiyabe National Forests

Humboldt-Toiyabe Forest Supervisor decisions for the Humboldt portion: *Elko Daily Free Press*, Elko, Nevada
Humboldt-Toiyabe Forest Supervisor decisions for the Toiyabe portion: *Reno Gazette-Journal*, Reno, Nevada
Sierra Ecosystem Coordination Center (SECO):
Carson District Ranger decisions: *Mammoth Times*, Mammoth Lakes, California
Bridgeport District Ranger, decisions: *The Review-Herald*, Mammoth Lakes, California
Spring Mountains National Recreation Area Ecosystem (SMNRAE):
Spring Mountains National Recreation Area District Ranger decisions: *Las Vegas Review Journal*, Las Vegas, Nevada
Central Nevada Ecosystem (CNECO):
Austin District Ranger decisions: *Reno Gazette-Journal*, Reno, Nevada
Tonopah District Ranger decisions: *Tonopah Times Bonanza-Goldfield News*, Tonopah, Nevada
Ely District Ranger decisions: *Ely Daily Times*, Ely, Nevada
Northeast Nevada Ecosystem (NNECO):
Mountain City District Ranger decisions: *Elko Daily Free Press*, Elko, Nevada
Ruby Mountains District Ranger decisions: *Elko Daily Free Press*, Elko, Nevada
Jarbidge District Ranger decisions: *Elko Daily Free Press*, Elko, Nevada
Santa Rosa District Ranger decisions: *Humboldt Sun*, Winnemucca, Nevada

Manti-LaSal National Forest

Manti-LaSal Forest Supervisor decisions: *Sun Advocate*, Price Utah
Sanpete District Ranger decisions: *The Pyramid*, Mt. Pleasant, Utah
Ferron District Ranger decisions: *Emery County Progress*, Castle Dale, Utah
Price District Ranger decisions: *Sun Advocate*, Price Utah
Moab District District Ranger decisions: *The Times Independent*, Moab, Utah
Monticello District Ranger decisions: *The San Juan Record*, Monticello, Utah

Payette National Forest

Payette Forest Supervisor decisions: *Idaho Statesman*, Boise, Idaho
Weiser District Ranger decisions: *Signal American*, Weiser, Idaho
Council District Ranger decisions: *Council Record*, Council, Idaho
New Meadows, McCall, and Krassel District Ranger decisions: *Star News*, McCall, Idaho

Salmon-Challis National Forests

Salmon-Challis Forest Supervisor decisions for the Salmon portion: *The Recorder-Herald*, Salmon, Idaho
Salmon-Challis Forest Supervisor decisions for the Challis portion: *The Challis Messenger*, Challis, Idaho
North Fork District Ranger decisions: *The Recorder-Herald*, Salmon, Idaho
Leadore District Ranger decisions: *The Recorder-Herald*, Salmon, Idaho
Salmon/Cobalt District Ranger decisions: *The Recorder-Herald*, Salmon, Idaho
Middle Fork District Ranger decisions: *The Challis Messenger*, Challis, Idaho
Challis District Ranger decisions: *The Challis Messenger*, Challis, Idaho
Yankee Fork District Ranger decisions: *The Challis Messenger*, Challis, Idaho
Lost River District Ranger decisions: *The Challis Messenger*, Challis, Idaho

Sawtooth National Forest

Sawtooth Forest Supervisor decisions: *The Times New*, Twin Falls, Idaho
Burley District Ranger decisions: *Ogden Standard Examiner*. Ogden, Utah, for those decisions on the Burley District involving the Raft River Unit. *South Idaho Press*, Burley, Idaho, for decisions issued on the Idaho portions of the Burley District
Twin Falls District Ranger decisions: *The Times News*, Twin Falls, Idaho
Ketchum District Ranger decisions: *Idaho Mountain Express*, Ketchum, Idaho
Sawtooth National Recreation Area: *Challis Messenger*, Challis, Idaho
Fairfield District Ranger decisions: *The Times News*, Twin Falls, Idaho

Uinta National Forest

Uinta Forest Supervisor decisions: *The Daily Herald*, Provo, Utah
Pleasant Grove District Ranger decisions: *The Daily Herald*, Provo, Utah
Heber District Ranger decisions: *The Daily Herald*, Provo, Utah, and
Spanish Fork District Ranger decisions: *The Daily Herald*, Provo, Utah

Wasatch-Cache National Forest

Wasatch-Cache Forest Supervisor decisions: *Salt Lake Tribune*, Salt Lake City, Utah
Salt Lake District Ranger decisions: *Salt Lake Tribune*, Salt Lake City, Utah
Kamas District Ranger decisions: *Salt Lake Tribune*, Salt Lake City, Utah
Evanston District Ranger decisions: *Uintah County Herald*, Evanston, Wyoming
Mountain View District Ranger decisions: *Uintah County Herald*, Evanston, Wyoming
Ogden District Ranger decisions: *Ogden Standard Examiner*, Ogden, Utah
Logan District Ranger decisions: *Logan Herald Journal*, Logan, Utah

Dated: May 17, 2002.

Elizabeth G. Close,

Acting Deputy Regional Forester.

[FR Doc. 02–13070 Filed 5–23–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Health and Restoration Project, National Forests in Alabama, Bankhead National Forest, Winston, Lawrence and Franklin Counties, Alabama

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Forest Service will prepare an Environmental Impact Statement on a proposal to emphasize forest health initiatives across the Bankhead National Forest in a systematic five-year program involving:

1. Intermediate thinning of approximately 13,200 acres of loblolly pine forest to favor conversion to native upland dry and very dry (xeric) oak forest and woodland communities, reduce short-term risks to Southern Pine Beetle (SPB) infestations, and reduce future forest fuel buildups.

2. Intermediate thinning of approximately 5,200 acres of loblolly pine forest to favor conversation to native shortleaf/bluestem woodland communities or very dry (xeric) pineoak forest and woodlands; reduce short-term risks to SPB infestations; and reduce future forest fuel buildups.

3. Intermediated thinning of approximately 3,200 acres of loblolly pine forest to favor conversion to native longleaf/bluestem woodland communities; reduce short-term risks to SPB infestations; and reduce future forest fuel buildups.

4. Natural reforestation and associated site preparation on approximately 4,700 acres of areas impacted by SPB to restore these areas to native upland dry and very dry (xeric) oak forest and woodland communities.

5. Artificial reforestation and associated site preparation on approximately 2,200 acres of ares impacted by SPB to restore these areas to native shortleaf/bluestem woodland communities.

6. Artificial reforestation and associated site preparation on approximately 800 acres of areas impacted by SPB to restore these areas to native longleaf/bluestem woodland communities.

DATES: Comments concerning this analysis should be received in writing by July 6, 2002.

ADDRESSES: Send written comments to: District Ranger, Bankhead NF, P.O. Box 278, Double Springs, AL 35553.

FOR FURTHER INFORMATION CONTACT: Glen Gaines, District Ranger, John Creed, EIS Team Leader, Kathy Wallace, Silviculturist, Tom Counts, Wildlife Biologist, Telephone number: 205–489–5111, FAX Number: 205–489–3427.

SUPPLEMENTARY INFORMATION:

A. The Proposal

The Forest Service proposes to implement a five-year schedule of work to emphasize sustaining short- and long-term forest health and the restoration of six (6) native upland forest community types, including all associated plant and wildlife species, on the Bankhead National Forest located in Winston, Lawrence, and Franklin Counties, Alabama. The proposed actions will focus on (1) areas that are currently occupied by loblolly pine forest that are between the ages of 15 and 45 years old and (2) areas 10 acres and larger impacted by recent SPB infestations. The actions will include intermediate thinning in loblolly pine forest, natural and artificial restoration to reforest SPB impacted areas, and silvicultural site preparation of SPB impacted areas to better insure successful reforestation efforts. Actions proposed include:

1. Intermediate thinning of approximately 13,200 acres of loblolly pine forest to favor conversion to native upland dry and very dry (xeric) oak forest and woodland communities, reduce short-term risks to SPB infestations, and reduce future forest fuel buildups.

2. Intermediate thinning of approximately 5,200 acreas of loblolly pine forest to favor conversion to native shortleaf/bluestem woodland communities or very dry (xeric) pine-oak forest and woodlands, reduce short-term risks to SPB infestations, and reduce future forest fuel buildups.

3. Intermediate thinning of approximately 3,200 acres of loblolly pine forest to favor conversion to native longleaf/bluestem woodland communities, reduce short-term risks to SPB infestations, and reduce future forest fuel buildups.

4. Natural reforestation and site preparation with hand tools on approximately 4,700 acres of areas impacted by SPB to restore these areas to native upland dry and very dry (xeric) oak forest and woodland communities. Prescribed firm may be used as a site preparation tool on some of these areas. Site specific information is available at the Bankhead Ranger District office in Double Springs, AL.

5. Artificial reforestation and site preparation by roller drum chopping and prescribe fire on approximately 2,000 acres of areas impacted by SPB to restore theses areas to native shortleaf/bluestem woodland communities. Site specific information is available at the Bankhead Ranger District office in Double Springs, AL.

6. Artificial reforestation and site preparation by roller drum chopping and prescribe fire on approximately 800 acres of areas impacted by SPB to restore these areas to native longleaf/bluestem woodland communities. Site specific information is available at the Bankhead Ranger District office in Double Springs, AL.

B. Needs for the Proposal

1. Begin the process of returning loblolly pine plantations to longleaf/bluestem, shortleaf/bluestem, or upland hardwood ecosystems by thinning.

2. Thinning will reduce the risk of SPB attack (Final Environmental Impact Statement For the Suppression of the Southern Pine Beetle).

3. Restore areas heavily impacted by SPB to longleaf/bluestem, shortleaf/bluestem, or upland hardwood by site preparation and planting or by natural regeneration with or without site preparation.

C. Nature and Scope of the Decision to be Made

The Bankhead National Forest is in a unique position to implement natural resource management actions aimed at sustaining a representation of nine (9) forest community types that are native to the Southern Cumberland Plateau physiographic region. Emphasis will be placed on maintaining forest and plant community types not abundant on private lands. These communities include fire dependent upland pine/bluestem and oak woodland ecosystems, mid-to late-successional deciduous forests (including cove) hardwood/eastern hemlock forests), old-growth representation of all nine (9) forest community types, and eight (8) rare plant community types.

After the ice age receded approximately 10,000 years ago, the composition of deciduous and pine forests in eastern North America prior to European settlement was largely influenced by climate, natural events (both large-scale and small-scale) and the use of fire by Native Americans. There is increasing evidence that humans actively used woodland fires on a regular basis for a variety of reasons and the forests European settlers first encountered were a result of regular occurrence of fire. This included both upland hardwood forests/woodlands and pine woodlands.

Over the last 100–200 years, fire has been effectively excluded from forests throughout the southern Cumberland Plateau, including the area that is now the Bankhead National Forest. without fire, the range of native, fire dependent forest communities has not been maintained and is now very uncommon across the North Alabama landscape. These communities include the shortleaf/bluestem woodlands, very dry (xeric) oak-pine woodlands, dry and very dry (xeric) oak forest and woodlands, and the northern extent of longleaf/bluestem woodlands. The absence of fire, in combination with major land use changes, has also resulted in a decline of native grassland and shrub conditions that should be common in some of the upland forests. In turn, a decline in native plant and animal diversity across the region has occurred.

The Alabama National Forest (now the northern portion of the Bankhead National Forest) was established in 1914 as a result of the Weeks Act, for the primary purpose of helping to protect the nations watersheds and streams. During the early years the emphasis of the Forest Service was land acquisition and custodial responsibilities. Beginning in the 1930s, the Civilian Conservation Corp provided the labor needed to reestablish forests on abandoned farmland and previously cutover land, which was mostly in the uplands. The primary species used to reestablish forest conditions was loblolly pine. Beginning in the 1960s, the Forest Service initiated new efforts to improve forest economic yields by replacing some upland hardwood forests with faster growing loblolly pine. At the time, loblolly pine offered the best chance of high survival and success in reforestation. These efforts, along with some natural establishment of loblolly pine, have resulted in approximately 68,000 acres typed as loblolly pine on the Bankhead. While loblolly pine is a native tree species, the dominance of pure stands of loblolly pine is probably not typical of native, fire dependent woodlands occurring in the uplands.

Over the past decade, the Bankhead National Forest has been experiencing Southern Pine Beetle infestations at epidemic levels, primarily in loblolly pine forests. The epidemic peaked in the summer of 2000 and continued at

very high levels through 2001. An estimate 21,000 acres of pine forest have been killed by this epidemic. Most of the mortality occurred within the Sipsey Wilderness, Proposed Thompson Creek Back Country Area, Kinlock Study Area, High Town Path Study Area, Indian Tomb Hollow Study Area, and Proposed Flint Creek Botanical area where suppression efforts did not take place. The epidemic has resulted in large acres of standing dead trees that are a public safety hazard along trails/roads and these areas have increased forest fuel loads that escalate the risk of catastrophic wildfires in the future.

Approximately 47,000 acres typed as loblolly pine remain on the Bankhead. Of these acres, there are approximately 22,100 acres of loblolly pine forest between the age of 15 and 45 years old with an immediate need for intermediate thinning to reduce the risk of SPB attack (Final Environmental Impact Statement for the Suppression of the Southern Pine Beetle).

This proposal will restore and sustain six (6) upland forest and woodland communities on approximately 29,100 acres currently types as loblolly pine. The restoration will be initiated with intermediate commercial thinning on approximately 21,800 acres and reforestation actions on approximately 7,500 acres included within the scope of this decision.

Existing Forest Communities Not Within the Scope of This Decision

1. Six (6) of the deciduous community types currently exist on approximately 85,295 acres throughout the Bankhead National Forest and are not within the scope of this decision. These areas will be characterized as mid- to late-successional deciduous forests. These forests will have a continuous dominant canopy of large trees, with occasional small gaps up to ½ acre in size. Fire has not significantly influenced the composition of these communities, so most have a well-developed shrub and mid-story canopy. The communities and approximate acres include:

Community type	Estimated existing acres
Northern Hardwood Forest	1,455
Mixed Mesophytic (Cove-Hemlock) Forest	14,365
Eastern Riverfomt Forest	4,381
Moderately moist (mesic) Oak Forest	46,131
Dry and Moderately moist (mesic) Oak-Pine Forest	15,041
Dry and Very dry (xeric) Oak Forest	3,922

These forests will contribute a range of habitat conditions that vary from suitable to optimal for those species of plants and animals typically found in association with forests of these successional stages. Some representatives of the species typically found within this range of habitat conditions in the mid to late successional stages of bottomland and other deciduous forest include the hooded warbler, cerulean warbler, summer tanager, wood thrush, Louisiana water thrush, Acadian flycatcher, white-tailed deer, eastern wild turkey, Indiana bat and the eastern gray squirrel.

2. Additional pine community types currently exist on approximately 61,532 acres throughout the Bankhead National Forest and are not within the scope of this decision. The conditions of these areas range from early successional (0–10 years of age) forests to mid- and late-successional forests. The early successional pine forests are in grass/shrub to seedling/sapling conditions. Some of these grass/forb areas contain sparse over-story pine. The mid-late successional forest have continuous dominant canopy of medium to large-sized trees of moderate tree density. The frequency of fire has not significantly influenced the composition of these communities so most have a well-developed shrub and/or mid-story canopy. The communities and approximate acres include:

Community type	Estimated existing acres
Longleaf Pine and Longleaf-Hardwood	1,549
Dry and very dry (xeric) Pine and Pine-Oak Forest	8,777
Loblolly Pine, Mixed Pine, and Loblolly-Hardwood	51,206

These forests will contribute suitable and optimal habitat for southern pine plant and animal associates, mixed very dry (xeric) forest associates, early successional plant and animal associates, game species, and cave species (those requiring forest conditions for summer maternity/roosting).

D. Proposed Scoping Process

The scoping period associated with this Notice of Intent (NOI) will be thirty (30) days in length, beginning the day after publication of this notice. Preliminary scoping for this proposal began in November 2001 when information was shared with the public on the proposal and plans to document the analysis in an Environmental Impact Statement (EIS). Public meetings will be held on June 27, and June 29,2002, from 9 a.m. to 1 p.m. to discuss the proposal and visit some selected areas that may be treated.

The Bankhead National Forest is seeking additional information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations that may be interested in or affected by the proposed action. This input will be used in preparation of the Draft Environmental Impact Statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those, which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives.

E. Preliminary Issues Identified to Date Include

1. Protection of soil and water resources.
2. Impacts of the proposed treatments on Federally listed species of plants and wildlife, which are defined by the Endangered Species Act of 1973 as amended, Forest Service Regional Forester's Sensitive Species list, and upon locally rate species.
3. Short and long term impacts on recreational experiences on the Bankhead National Forest.
4. Protection of cultural resources.
5. Effects on management indicator species.

F. Possible Alternatives Identified to Date Include

1. No Action: This alternative will serve as a baseline for comparison of alternatives. Present management activities will continue but the proposed project will not be done. This alternative will be fully developed and analyzed.
2. Proposed Action:

Restoration Activities for Native Upland Deciduous Forests and Woodlands

There will be intermediate thinning of approximately 13,200 acres of loblolly pine forest to favor conversion to dry and very dry (xeric) oak forest and woodlands, moderately moist (mesic) oak forests, and dry and moderately moist (mesic) oak-pine forests, reduce short-term risks to SPB infestations, and reduce forest fuel buildups.

The loblolly pine thinning program will reduce basal area to between 50 to 70 square feet per acre. Trees favored for retention in order of priority in these areas will include (1) dominant hardwood trees, (2) co-dominant hardwood trees, and (3) dominant/co-dominant pine. The favored hardwood species will include a variety of oak and hickory species. Consultation will be conducted with the U.S. Fish and Wildlife Service regarding coordination of restoration activities with Recovery Plans for Federally listed species. The top priority stands for thinning will be those between 15–45 years old, with high tree densities. It is proposed that all timber sale harvest options be available for this program.

The thinning will allow the development of young oak, hickory, and other associated hardwood species in the understory that are intolerant of shade. In some cases, the thinning will actually shift the forest condition from predominantly pine forest to a predominatly deciduous forest condition.

Natural reforestation, with or without site preparation, as well as the possibility of artificial reforestation, will be conducted on approximately 4,700 acres of former loblolly pine forest impacted by SPB infestations. Site preparation may include mechanical treatment, prescribed burning or a combination of both. Some areas may be left to regenerate naturally without site preparation. These activities will restore these sites to dry and very dry (xeric) oak forest and woodlands, moderately moist (mesic) oak forests, and dry and moderately moist (mesic) oak-pine forests.

Desired Outcome for Upland Deciduous forest Restoration Effort

1. Dry and Very dry (xeric) Oak Forest and Woodland Community

The dry and very dry (xeric) oak forest and woodland community type will be restored on the northern portion of the Bankhead National Forest. These areas will be characterized as mid- to late-successional forests. These forests are characterized as having canopies ranging from closed forest conditions to open woodland conditions, with occasional small gaps up to ½ acre in size. Dominant over story trees will include white oak, black oak, chestnut oak, scarlet oak, and post oak. The occurrence of dormant season fire in these areas, 1 or 2 times per decade, will restrict tree density and promote the growth of shade intolerant grasses, forbs, and shrubs in some areas and in other areas these forests will have a well developed shrub and mid-story canopy.

These forests will contribute a range of habitat conditions that vary from suitable to optimal for those species of plants and animals typically found in association with forests of these successional stages. Some representatives of the species typically found within this range of habitat conditions in the mid to late successional stages of deciduous forest include the hooded warbler, pileated woodpecker, cerulean warbler, white-tailed deer, eastern wild turkey and the eastern gray squirrel.

2. Moderately Moist (Mesic) Oak Forest and Dry and Moderately Moist (Mesic) Oak-Pine Forest Community

The moderately moist (mesic) oak forest and dry and moderately moist (mesic) oak-pint forest community types will be restored on the northern portion of the Bankhead National Forest. These areas will be characterized as mid- to late-successional forests.

These forests will have a continuous dominant canopy of medium-sized trees, with occasional small gaps up to ½ acre in size. Dominant over story trees will include northern hardwood, chestnut oak, black oak, scarlet oak, pignut hickory, mockernut hickory, shagbark hickory, loblolly pine, and shortleaf pine. American chestnut historically was a major species in this forest community. On dry sites, the occurrence of low intensity fire in these areas, 1 or 2 times per decade, will help maintain the oak component by eliminating fire-sensitive competitors and stimulate oak regeneration. On moderately moist (mesic) sites these forests will have a well-developed shrub and mid-story canopy.

These forests will contribute a range of habitat conditions that vary from suitable to optimal for those species of plants and animals typically found in association with forests of these successional stages. Some representatives of the species typically found within this range of habitat conditions in the mid to late successional stages of deciduous forest include the hooded warbler, pileated woodpecker, cerulean warbler, white-tailed deer, eastern wild turkey and the eastern gray squirrel.

Restoration Activities for Native Shortleaf/Bluestem Woodlands

There will be intermediate thinning of approximately 5,200 acres of loblolly pine forest to favor conversion to very dry (xeric) shortleaf/bluestem woodlands and very dry (xeric) pine-oak forest and woodlands. This action will also reduce short-term risks to SPB infestations and reduce forest fuel buildups.

The loblolly pine thinning program will reduce basal area to between 60 to 70 square feet per acre. Trees favored for retention in order of priority in these areas will include (1) shortleaf pine, (2) longleaf pine, (3) loblolly pine, and (4) dominant/codominant oaks/hickory. The favored hardwood species will include a variety of oak and hickory species. Consultation will be conducted with the U.S. Fish and Wildlife Service regarding coordination of restoration activities with Recovery Plans for Federally listed species. The top priority stands for thinning will be those between 15–45 years old, with high tree densities. It is proposed that all timber sale harvest options be available for this program.

The thinning will lower tree densities that will allow the development of understory, fire-dependent grasses and shrubs that are intolerant of shade. This thinning will precede future restoration activities that will gradually replace the existing loblolly pine with shortleaf pine as predominant species.

Artificial reforestation and site preparation will be conducted on approximately 2,000 acres of former loblolly pine forest impacted by SPB infestations. Site preparation may include mechanical treatment, prescribed burning or a combination of both. Shortleaf seedlings will be planted artificially to assure adequate stocking. In addition, prescribed burning will be utilized as an intermediate to help achieve the desired restoration. These activities will restore these sites to very dry (xeric) shortleaf/bluestem woodlands.

Desired Outcome of Shortleaf/Bluestem Woodland Community Restoration Effort

The very dry (xeric) shortleaf/bluestem woodland and very dry (xeric) pine-oak forest and woodland community types will be restored on the central portion of the Bankhead National Forest. These areas will be characterized as mid- to late-successional forests. These forests are characterized as having open woodland conditions, with occasional small gaps up to ½ acre in size. The dominant over story tree will be shortleaf pine. Other trees species that will be found at lower densities are: Virginia pine, loblolly pine, scarlet oak, chestnut oak, southern red oak, white oak, blackjack oak, and pignut hickory. The occurrence of dormant and growing season fire in these areas, 2 or 3 times per decade, will restrict tree density and promote the

growth of shade intolerant native grasses, forbs, and shrubs.

If maintained by fire, this portion of the forest will contribute a range of habitat conditions that vary from suitable to optimal for those species of plants and animals typically found in association with forests of these open conditions. Some representatives of the species typically within this range of habitat conditions in the native shortleaf and bluestem woodland include the prairie warbler, orchard oriole, northern bobwhite quail, white-tailed deer, and eastern wild turkey.

Restoration Activities for Native Longleaf/Bluestem Woodlands

There will be intermediate thinning of approximately 3,200 acres of loblolly pine forest to favor conversion to longleaf/bluestem woodlands, to reduce short-terms risks to SPB infestations, and to reduce forest fuel buildups.

The loblolly pine thinning program will reduce basal area to between 60 to 70 square feet per acre. These favored for retention in order of priority in these areas will include (1) longleaf pine, (2) shortleaf or loblolly pine, and (3) dominant/codominant oaks/hickory. The favored hardwood species will include a variety of oak and hickory species. Consultation will be conducted with the U.S. Fish and Wildlife Service regarding coordination of restoration activities with Recovery Plans for Federally listed species. The top priority stands for thinning will be those between 15–45 years old, with high tree densities. It is proposed that all timber sale harvest options be available for this program.

The thinning will lower tree densities that will allow the development of understory, fire-dependent grasses and shrubs that are intolerant of shade. This thinning will precede future restoration activities that will gradually replace the existing loblolly pine with longleaf pine as predominant species.

Artificial reforestation and site preparation will be conducted on approximately 800 acres of former loblolly pine forest impacted by SPB infestations. Site preparation may include mechanical treatment, prescribed burning or a combination of both. Longleaf seedlings will be planted artificially to assure adequate stocking. In addition, prescribed burning will be utilized as an intermediate treatment to help achieve the desired future conditions. These activities will restore these sites to very dry (xeric) longleaf/bluestem woodlands.

Desired Outcome of Longleaf/Bluestem Woodland Community Restoration Effort

The longleaf/bluestem woodland community types will be restored on the southern portion of the Bankhead National Forest. These areas will be characterized as mid- to late-successional forests. These forests are characterized as having open woodland conditions, with occasional small gaps up to ½ acre in size. The dominant over story tree will be longleaf pine. Other trees species that will be found at lower densities are: Virginia pine, loblolly pine, scarlet oak, chestnut oak, southern red oak, white oak, blackjack oak, and pignut hickory. The occurrence of dormant and growing season fire in these areas, 2 or 3 times per decade, will restrict tree density and promote the growth of shade intolerant native grasses, forbs, and shrubs.

These areas of the forest will contribute a range of habitat conditions for native species of plants and wildlife. This range of conditions will vary from suitable to optimal for those species of plants and animals typically found in association with forests of these open conditions. Maintenance by prescribed fire is necessary to have the optimal conditions. Some representatives of the wildlife species typically found within this range of habitat conditions in the native longleaf pine and bluestem woodlands include the prairie warbler, brown-headed nuthatch, red-cockaded woodpecker, northern bobwhite quail, white-tailed deer and eastern wild turkey.

G. Special Permit Needs

There are no special permits required from any State or Federal agencies in order to implement this project. Consultation with U.S. Fish and Wildlife Service as required by section 7 of the Endangered Species Act of 1973, as amended, will be conducted for all needed activities.

H. Lead Agency

The USDA Forest Service is the lead agency for this project. The Bankhead Ranger District requests that comments be as specific as possible for this proposal, and be sent to: District Ranger Glen Gaines, USDA, Forest Service, P.O. Box 278, Double Springs, AL 35553.

It is estimated that the draft EIS will be available for public comment by July 31, 2003. It is very important that those interested in this proposed action participate at this time. To be helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3)

In addition, Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewers' position and contentions: *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS). *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningful consider them and respond to them in the FEIS.

I. Estimated date for FEIS

After the comment period ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the Final Environmental Impact Statement (FEIS). The FEIS is scheduled to be completed by November 17, 2003. The responsible official will consider the comments, responses, environmental consequences discussed in the final supplement, applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 215. The responsible official for this project will be Glen Gaines, District Ranger for the Bankhead Ranger District, National Forests in Alabama at: P.O. Box 278, Double Springs, AL 35553.

Dated: May 17, 2002.

Glen D. Gaines,

District Ranger.

[FR Doc. 02–13069 Filed 5–23–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee (RAC) Meeting

AGENCY: Forest Service, USDA.

ACTION: Meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RAC) will meet on Friday, June 21, 2002. The meeting is scheduled to begin at 9 a.m. and will conclude at approximately 4 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management Office; 1717 Fabry Road SE; Salem, Oregon; (503) 375–5646. The tentative agenda includes: (1) Report on status of 2002 projects; (2) decision on overhead rate for 2003 projects; (3) presentation of 2003 Projects; and (4) public forum.

The Public Forum is tentatively scheduled to begin at 11 p.m. Time allowed for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the June 21st meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: May 15, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–13039 Filed 5–23–02; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: June 23, 2002.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the product and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following product and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Product

Product/NSN: Pad, Scouring; 7920–00–171–1534.
NPA: Beacon Lighthouse, Inc., Wichita Falls, TX.
Contract Activity: General Services Administration.

Services

Service Type/Location: CD-ROM Replication—Program A890–M, Government Printing Office, Washington, DC.
NPA: Association for the Blind &Visually Impaired & Goodwill Industries of Greater Rochester,Rochester, NY.
Contract Activity: Government Printing Office, Washington, DC.
Service Type/Location: Commissary Shelf Stocking, Custodial & Warehousing, Eglin Air Force Base, FL.
NPA: Brevard Achievement Center, Inc., Rockledge, FL.
Contract Activity: Department of the Air Force, Eglin Air Force Base, FL.
Service Type/Location: Janitorial/Custodial, The Dalles Dam, The Dalles, OR.
NPA: Hood River Sheltered Workshop, Inc., Hood River, OR.
Contract Activity: Army Corps of Engineers, Portland, OR.
Service Type/Location: Packaging Service, Crane Division, Naval Surface Warfare Center, Crane, IN.
NPA: Knox County Association for Retarded Citizens, Inc., Vincennes, IN.
Contract Activity: Naval Surface Warfare Center, Crane, IN.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–13125 Filed 5–23–02; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 23, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 15, and March 29, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 F.R. 7130, and 15175) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Grounds Maintenance, Naval Undersea Warfare Center Division, Keyport, WA.
NPA: Skookum Educational Programs, Port Townsend, WA.
Contract Activity: Naval Undersea Warfare Center Division, Keyport, WA.
Service Type/Location: Switchboard Operation, Veterans Affairs Medical Center, Iowa City, IA.
NPA: Goodwill Industries of Southeast Iowa, Iowa City, IA.
Contract Activity: Veterans Affairs Medical Center, Iowa City, IA.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–13126 Filed 5–23–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request—Special Notice

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau, Commerce.

Title: American Community Survey.

Information: On May 1, 2002, the Census Bureau published a notice in the **Federal Register** notifying the public of its plans to conduct the American Community Survey starting in November 2002. In that notice, written comments and recommendations for the proposed information collection were to be sent within 30 days of publication to the desk officer's regular mail address at OMB. Because OMB is still experiencing delays in receiving regular mail (including first class and express mail) due to the events of last fall, comments on this proposed information collection request should be faxed to Susan Schechter, OMB desk officer, at (202) 395–7245. The due date for these comments to be faxed to OMB has been extended to June 7, 2002.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202)482–3129, Department of Commerce, room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent via fax by June 7, 2002 to Susan Schechter, OMB Desk Officer, (202) 395–7245.

Dated: May 20, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13083 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2002 Economic Census Covering the Manufacturing Sector.

Form Number(s): MA–10000, MC–31000 thru MC–33000.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 940,200 hours in FY 2003.

Number of Respondents: 260,000.

Avg Hours Per Response: 3 hours and 37 minutes.

Needs and Uses: The 2002 Economic Census Covering the Manufacturing Sector will use a mail canvass, supplemented by data from Federal administrative records, to measure the economic activity of approximately 400,000 establishments in this sector of the economy classified in the North American Industry Classification System (NAICS). The manufacturing sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified in Sector 23, Construction. The economic census will produce basic statistics by industry for number of establishments, payroll, employment, value of shipments, value added, capital expenditures, depreciation, materials consumed, selected purchased services, electric energy used and inventories held.

The economic census is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business, and the general public. The Federal Government (*i.e.*, Bureau of Economic Analysis, Bureau of Labor Statistics) uses information from the economic census as an important part of the framework for the national income and product accounts, input-output tables, economic indexes, and other composite measures that serve as the factual basis for economic policymaking, planning, and program administration. Further, the census provides sampling frames and benchmarks for current surveys which track short-term economic trends, serve as economic indicators, and contribute critical source data for current estimates of the gross domestic product. State and local governments rely on the economic census as a unique source of comprehensive economic statistics for small geographic areas for use in policymaking, planning, and program administration. Finally, industry, business, academia, and the general public use information from the economic census for evaluating markets, preparing business plans, making business decisions, developing economic models and forecasts, conducting economic research, and establishing benchmarks for their own sample surveys.

Affected Public: Businesses or other for-profit.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131 and 224.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 20, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13084 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

2002 Business Expenses Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Sheldon G. Ziman, U. S. Census Bureau, Room 1183, Building 3, Washington DC 20233–6400 (301–457–3315), or via the Internet at *sheldon.g.ziman@census.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The business expenses survey is conducted as part of the economic census, which is required by law to be taken every five years under Title 13 of the United States Code. The 2002 Business Expenses Survey will be conducted on a sample basis for the collection of data on business operating expenses to complement data on sales and inventories compiled in current surveys. Together, these data are benchmarked to the economic census and are used to compile measures of value produced for selected industries. The collection of business expenses data is required for reliable measurement of the United States economy. As such, the Bureau of Economic Analysis (BEA), producer of gross domestic product estimates, is the primary user of these data. The BEA uses the expenses data for developing the national income and product accounts, input-output tables, and economic indexes, and to fill previously identified critical gaps in underlying data in these accounts.

Industrial sectors covered by the survey include wholesale trade, retail trade, and most of the transportation and service sectors, as based on the 1997 North American Industry Classification System (NAICS).

The information collected will produce statistics by kind of business on operating expenses such as labor costs, depreciation, rent, materials and supplies, utilities, and purchased services such as advertising, repairs, legal, accounting, and computer services. The primary strategy for minimizing burden in this survey is the use of sampling and sub-sampling, and where possible, supplementing the Census Bureau's business annual surveys as the data collection vehicle.

II. Method of Collection

The 2002 Business Expenses Survey will be conducted using mailout/mailback procedures, where possible supplementing the Census Bureau's business annual surveys. The sample to be used was previously created for the business current surveys, covering wholesale trade, retail trade, and most of the transportation and service industrial sectors. Most multi-location companies included in the sample will receive a separate form to consolidate their data for each unique kind of business operated. Only employer businesses will be mailed. Data for non-employers for selected industries will be estimated based on administrative records. The questionnaires will be mailed from the Census Bureau's National Processing Center in Jeffersonville, Indiana. Three periodic mail follow-ups and a telephone follow-up will be conducted to minimize statistical error due to nonresponse. Upon closeout of data collection, the response data will be edited and reviewed.

III. Data

OMB Number: Not available.

Form Number: Not available. Some of the forms to be used to collect information for the 2002 Business Expenses Survey will be associated with concurrent business annual surveys of wholesale, retail, and selected service businesses. For industries not covered in the annual surveys, such as selected finance, insurance, real estate, transportation, and education services, unique forms will be used. Requests for information on the proposed content of the forms should be directed to Sheldon G. Ziman, U. S. Census Bureau, Room 1183, Building 3, Washington DC 20233–6400 (301–457–3315) or via the Internet at *sheldon.g.ziman@census.gov*.

Type of Review: Regular review.

Affected Public: Incorporated and non-incorporated businesses, and for profit and not for profit institutions or organizations

Estimated Number of Respondents: 90,000 employer reporting units.

Estimated Time Per Response: The average for multi-location firms is 2.2 hours and the average for single-location firms is 1.2 hours.

Estimated Total Annual Burden Hours: 160,000 hours.

Estimated Total Annual Cost to Respondents: $3.1 million.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 131, 193, 195, and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 20, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13085 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–832]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil; Correction

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 24, 2002.

SUMMARY: The notice appearing in 67 FR 18586, on Tuesday, April 16, 2002, should be disregarded because it duplicates the notice appearing in 67 FR 18165, on Monday, April 15, 2002. Therefore, the effective date of the preliminary determination is April 15, 2002.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker or Christopher Smith, at (202) 482–1756 or (202) 482–1442, respectively; AD/CVD Enforcement Group II Office 5, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Dated: May 20, 2002

Bernard T. Carreau,

Deputy Assistant Secretary for Group II, Import Administration.

[FR Doc. 02–13150 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–870]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or Amy Ryan at (202) 482–3208 and (202) 482–0961, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 C.F.R. Part 351 (2001).

Final Determination

We determine that certain circular welded carbon-quality steel pipe ("pipe") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

The preliminary determination in this investigation was published on December 31, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe From the People's Republic of China*, 66 FR 67500 ("*Preliminary Determination*"). This investigation covers three mandatory respondents, WeiFang East Steel Pipe Co., Ltd. ("WeiFang"); Tianjin Shuang Jie Steel Pipe Co., Ltd. ("Shuang Jie"); and Baosteel Group International Trade Corporation ("Baosteel"). In addition, there are five voluntary respondents, Tai Feng Qiao Metal Products Co. ("Tai Feng Qiao"); Pangang Group International Economic and Trade Corporation ("Pangang International"); ZheJiang JingZhou HuaLong Petroleum Corrosion-Resistant Steel Pipe Co., Ltd. (Jinzhou"); Walsall Steel Pipe Industrial Co., Ltd. ("Walsall"); China MinMetals ZhuHai Co., Ltd. ("ZhuHai"). Petitioners in this investigation are Allied Tube & Conduit Corporation, Century Tube Corporation, IPSCO Tubulars, Inc., Laclede Steel, LTV Copperweld, Maverick Tube Corporation, Northwest Pipe Company, Sharon Tube Company, Western Tube & Conduit Corporation, Wheatland Tube Company and the United Steelworkers of America, AFL-CIO (collectively, "Petitioners").

On January 16, 2002, pursuant to a request from Shuang Jie, the Department postponed the final determination until May 15, 2002. *See Notice of Postponement of Final Determination of Antidumping Duty Investigation: Certain Circular Welded Carbon-Quality Steel Pipe From the People's Republic of China*, 67 FR 2189 (January 16, 2002). The Department verified the responses to the antidumping questionnaire of Baosteel and one of its suppliers from January 16–19, 2002; WeiFang from February 3–5, 2002; and Shuang Jie from February 7–9, 2002. After releasing verification reports, we invited parties to comment on these reports and our *Preliminary Determination*. We received comments from petitioners and all three mandatory respondents on March 20, 2002 and rebuttal briefs from the same parties on March 25, 2002. At the requests of Shuang Jie and petitioners, a hearing was held on April 15, 2002.

Based on our analysis of verification findings and the comments received, we have made changes in the margin calculation. Therefore, the final determination differs from the *Preliminary Determination*.

Period of Investigation

The period of investigation ("POI") is October 1, 2000 through March 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.* May 24, 2001). *See* 19 C.F.R. 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are certain welded carbon-quality steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other), generally known as standard pipe and structural pipe.

Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. It may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells, and for structural applications in general construction. It primarily is made to American Society for Testing and Materials (ASTM) A–53, A–135, and A–795 specifications, but can also be made to the British Standard (BS)-1387 specification.

Structural pipe is intended for use in the construction of bridges and buildings, and general structural applications. It also can be used for making steel scaffolding and for piling applications. It primarily is made to ASTM A–500 and A–252 specifications.

Hence, specifically included within the scope of this investigation are products stenciled to the ASTM standards A–53, A–135, A–795, A–120, A–500, A–252, or their equivalents. Standard and structural pipe products may also be produced to proprietary specifications rather than to industry standard. This is often the case with fence tubing, for example.

The scope does not include boiler tubes, pressure tubing, mechanical tubing, finished conduit, oil country tubular goods (OCTG), and line pipe. However, with regard to these excluded products, if petitioners or other interested parties provide to the Department reasonable grounds to believe or suspect that the products are being used in a standard or structural application, the Department may instruct the U.S. Customs Service to require end-use certifications. In addition, line pipe meeting the American Petroleum Institute (API) line pipe is excluded from the scope of this investigation, and any resultant antidumping duty order, if covered by the scope of another antidumping duty order from the same country.

The standard pipe products that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.30.10 and 7306.30.50. This investigation also covers dual-certified A–53/API or single certified pipe that enters the United States if its is used in, or intended for use in, standard pipe or structural pipe applications. Such certified pipe may include API–5L or API–5L X–42 pipe. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Non-Market Economy

The Department has treated the PRC as a non-market economy ("NME") country in all its past antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 50608 (October 4, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 58115 (November 20, 2001). A designation as a NME country remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. The respondents in this investigation have not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as a NME in this investigation. For further details, see the *Preliminary Determination*.

Separate Rates

In our *Preliminary Determination*, we found that the mandatory respondents, Baosteel, Shuang Jie and WeiFang, as well as the voluntary respondents, ZhuHai, Tai Feng Qiao, Walsall, Pangang International and Jinzhou met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separates rates determination with respect to these companies. For a complete discussion of the Department's determination that the respondents are entitled to separate rates, see the *Preliminary Determination*.

The PRC-Wide Rate

In the *Preliminary Determination*, we found that the use of adverse facts available for the PRC-wide rate was appropriate for other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Baosteel International, Tianjin Shuang Jie, WeiFang, Zhuhai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou. We received no comments on this decision and for this final determination, we continue to believe that use of adverse facts available for the PRC-wide rate is appropriate. For further discussion, *see Preliminary Determination*.

Margins for Cooperative Exporters Not Selected

For our final determination, consistent with our *Preliminary Determination*, we have calculated a weight-averaged margin for ZhuHai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou based on the rates calculated for those exporters that were selected to respond in this investigation, excluding any rates that are zero, *de minimis* or based entirely on adverse facts available. *See Preliminary Determination*. Companies receiving this rate are identified by name in the "Continuation of Suspension of Liquidation" section of this notice.

Surrogate Country

For purposes of the final determination, we continue to find that India remains the appropriate surrogate country for the PRC. We received comments from a respondent in its brief, which are discussed in the accompanying *Issues and Decision Memorandum for the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China: 10/1/00–03/31/01* at Comments 1 and 2 (May 15, 2002) ("*Issues and Decision Memorandum*"). For further discussion and analysis regarding the surrogate country selection for the PRC, see the *Preliminary Determination* and the *Memorandum to Edward C. Yang from Robert Bolling on Surrogate Country Selection*, on file in the Department's Central Records Unit, Room B–099 of the Main Department of Commerce Building.

Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum*, which is adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the *Issues and Decision Memorandum*, is attached to this notice as an Appendix. A complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, is on file in the Central Records Unit. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made corrections to certain respondents' reported factor usage rates and surrogate values . We have also corrected certain clerical errors in our *Preliminary Determination*. These changes are discussed in the relevant sections of the *Issues and Decision Memorandum*, the *Memorandum to the File: Factors Valuation for Baosteel, Shuang Jie and WeiFang* and the respective Analysis Memoranda for the Final Determination for Shuang Jie, Baosteel and Weifang (May 15, 2002).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the mandatory respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the *Preliminary Determination* as a result of verification, see the respective analysis memoranda.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of subject merchandise from the PRC (except certain merchandise exported by Baosteel and Weifang) that are entered, or withdrawn from warehouse, for consumption on or after December 31, 2001. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

Under the Department's NME methodology, the rate for each mandatory exporter is based on a comparison of the exporter's U.S. price and NV based on the factors of production of a specific producer (which may be a different party). Therefore, the exclusion of the above mentioned companies from an antidumping duty order (should one be issued) applies only to subject merchandise exported by Baosteel and produced by its suppliers during the period of investigation and to subject merchandise produced and exported by Weifang. As Baosteel's supplier names are proprietary, they have been identified as Supplier A and Supplier B for this public document. However, the supplier names have been identified in *Analysis Memo for the Preliminary Determination of Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China ("PRC"): Baosteel* (May 15, 2002). Merchandise that is exported by Baosteel or Weifang, but manufactured by producers not noted below for that exporter will be subject to the order, if one is issued. *See Notice of Fin. l Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China*, 62 FR 916 (February 28, 1997). Entries of such merchandise will be subject to the "China-wide" rate.

CERTAIN CIRCULAR WELDED CARBON-QUALITY STEEL PIPE

Producer/Manufacturer/Exporter	Weight-Averaged Margin (Percent)
Baosteel/Supplier A or Supplier B	0
Shuang Jie	3.87
WeiFang	0
Tai Feng Qiao	3.87
ZhuHai	3.87
Pangang International	3.87
Jinzhou	3.87
Walsall	3.87
PRC-Wide	36.42

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Comment 1: Market Economy Purchases from Country X and Country Y

Comment 2: Valuing a Respondent's Factors of Production using the other Respondent's Market Economy Purchases

Comment 3: Surrogate Value for Hot-Rolled Coil

Comment 4: Calculation of Zinc Usage Ratio

Comment 5: Surrogate Companies used for the Financial Ratios Calculation

Comment 6: Iran's Market Status in the Surrogate Value Calculation

Comment 7: Treatment of Foreign Inland Freight and Brokerage and Handling in Normal Value Calculation

[FR Doc. 02–13147 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine from the People's Republic of China: Initiation of Antidumping New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received a timely request from Tianjin Tiancheng Pharmaceutical Co., Ltd. (Tiancheng) to conduct a new shipper review of the antidumping duty order on glycine from the People's Republic of China (PRC). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 351.214(d) of the Department's regulations, we are initiating this new shipper review.

EFFECTIVE DATE: May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2312.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (2002).

Background

On March 29, 2002, the Department received a timely request from Tiancheng, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(c), for a new shipper review of this antidumping duty order on glycine from the People's Republic of China ("PRC"), which has a March anniversary date. On April 29, 2002, the Department returned the submission because it did not meet the filing requirements of section 351.304(c) of the Department's regulations. See the Memorandum to the File entitled "Initiation of New Shipper Review of Glycine from the People's Republic of China," (May 17, 2002), which is on file in the Central Records Unit of the Department of Commerce. We requested that Tiancheng refile its request within two days in accordance with section 351.304(c) of the regulations. On May 1, 2002, Tiancheng properly filed its request for a new shipper review.

As required by 19 CFR 351.214(b)(2)(i), (ii), and (iii)(A), Tiancheng has certified that it is both an exporter and producer of glycine. It has also certified that it did not export glycine to the United States during the period of investigation ("POI"), and that it has never been affiliated with any exporter or producer which exported glycine to the United States during the POI. *See* "Glycine from the People's Republic of China; Request for New Shipper Administrative Review," Exhibit 1, (March 29, 2002). Tiancheng has further certified that its export activities are not controlled by the central government of the PRC, pursuant to the requirements of 19 CFR 351.214(b)(2)(iii)(B). *See Id.* Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv)(A), Tiancheng submitted documentation establishing the date of its first and only shipment of the subject merchandise to the United States, the date of entry of that first shipment, the volume of that shipment, and the date of the first sale to an unaffiliated customer in the United States. *See Id.* at Exhibit 2.

Initiation of Review

Because Tiancheng has provided the required certifications and documentation under section 351.303(g) of the regulations, we are initiating a new shipper review of the antidumping duty order on glycine from the PRC in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d).

In accordance with 19 CFR 351.214(g)(1)(i)(A) of the Department's regulations, the period of review (POR) for a new shipper review, filed in the the annual anniversary month, will be the one-year period immediately preceding the anniversary month. Therefore, the POR for this new shipper review is:

Antidumping duty proceeding	Period to be reviewed
Glycine from the PRC: ... Tianjin Tiancheng Pharmaceutical Tiancheng) Co., Ltd	03/01/01–02/28/02

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by Tiancheng. This action is in accordance with 19 CFR 351.214(e).

The interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: May 17, 2002

Joseph A. Spetrini,

Deputy Assistant Secretaryfor Import Administration, Group III.

[FR Doc. 02–13149 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–856]

Synthetic Indigo from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 7, 2002, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China with respect to China Jiangsu International Economic Technical Cooperation Corp., and Wonderful Chemical Industrial Ltd./ Jiangsu Taifeng Chemical Industry. The period of review is September 15, 1999, through May 31, 2001. No interested party submitted comments on and we have made no changes to our preliminary results. Therefore, the final results do not differ from the preliminary results. The final margin is listed below in the "Final Results of Review" section of this notice.

EFFECTIVE DATE: May 24, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136.

SUPPLEMENTARY INFORMATION:

The Applicable Statute:

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the "Department's") regulations are to 19 CFR Part 351 (2001).

Background

This review covers the exporters China Jiangsu International Economic Technical Cooperation Corp. (CJIETCC) and Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry (Wonderful/Jiangsu Taifeng).

On March 7, 2002, the Department of Commerce published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China (PRC) (67 FR 10386) (*Preliminary Results*).

We invited parties to comment on the preliminary results of the review. No interested party submitted comments. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Order

The products subject to this order are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as "Vat Blue 1." Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (*e.g.*, powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this order are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the *Harmonized Tariff Schedule of the United States*(HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Period of Review

The period of review covers the period September 15, 1999, through May 31, 2001.

Final Results of the Review

Our final results remain unchanged from the preliminary results. As discussed in the *Preliminary Results*, neither CJIETCC or Wonderful/Jiangsu Taifeng responded to the Department's questionnaire. Accordingly, neither of these companies established their entitlement to a separate rate in this review and, therefore, are presumed to be part of the PRC non-market economy (NME) entity and, as such, are subject to the PRC country-wide rate. Thus, the following margin applies for the period September 15, 1999, through May 31, 2001, for those imports where the exporter is CJIETCC or Wonderful/Jiangsu Taifeng:

Manufacturer/producer/exporter	Margin Percent
PRC-wide Rate	129.60

Assessment Rates and Cash Deposit Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. The cash deposit rate for all shipments by CJIETCC or Wonderful/Jiangsu Taifeng of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, will be the PRC-wide rate of 129.60 percent, as provided for by section 751(a)(1) of the Act. The cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding for which there was no request for administrative review will continue to be the rate assigned in that segment of the proceeding. The cash deposit rate for the PRC NME entity will continue to be 129.60 percent, and the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will continue to be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

Dated: May 17, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–13148 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 020503108–2108–01]

Notice of Intent To Update Existing Electron Ionization Mass Spectral Library

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The National Institute of Standards and Technology announces its intent to update its electron ionization mass spectral library. The update will increase the number of spectra from 130,000 to approximately 175,000. Interested parties are invited to submit comments to the address below.

DATES: Comments must be received by June 24, 2002.

ADDRESSES: Comments should be sent to the attention of Dr. Stephen Stein at the National Institute of Standards and Technology, Mail Stop 8380, 100 Bureau Drive, Gaithersburg, MD, 20899–8520.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Stein by writing to the above address or by e-mail at *stephen.stein@nist.gov* or by telephone at (301) 975–2444.

SUPPLEMENTARY INFORMATION: As part of its responsibilities under Title 15 U.S.C. 290 to collect, evaluate and publish high quality Standard Reference Data (SRD), NIST creates and maintains evaluated SRD databases. One such database is the Mass Spectral Database which is an evaluated data collection containing electron ionization mass spectra for discrete chemical substances. The database is primarily used to aid in the identification of chemical compounds by providing a source for reference spectra for comparison to spectra acquired by commercial instruments, especially spectra generated by gas chromatography/mass spectrometry. For each spectrum, auxiliary information for chemical identification is provided, including chemical names, formulas, chemical structures and related information. The planned update will increase the number of spectra from 130,000 to approximately 175,000 spectra, representing a wide variety of substances. The updated spectra will provide wider coverage of compounds and a higher level of accuracy. This will increase the confidence of users of the library in identifying chemical substances. We invite comments concerning this update

Dated: May 20, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–13167 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Computer System Security And Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board (CSSPAB) will meet Tuesday, June 11, 2002, from 9 a.m. until 4 p.m., Wednesday, June 12, 2002, from 8:30 a.m. until 4 p.m. and on Thursday, June 13, 2002, from 8:30 a.m. until 3 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the Board's activities are available at *http://csrc.nist.gov/csspab/*.

DATES: The meeting will be held on June 11, 2002, from 9 a.m. until 4 p.m., June 12, 2002, from 8:30 a.m. until 4 p.m., and June 13, 2002, from 8:30 a.m. until 3 p.m.

ADDRESSES: The meeting will take place at the National Security Agency's National Cryptologic Museum, Colony 7 Road, Annapolis Junction, Maryland.

Agenda

—Welcome and Overview

—Review and Approval of CSSPAB Privacy Report

—Updates on Recent Computer Security Legislation

—Update by OMB on Privacy and Security Issues

—Briefing on Good Baseline Security Practices

—Briefing on Digital Millennium Copyrights Act

—Review of CSSPAB Work Plan Priorities for 2002 and Planning for Beyond

—Public Participation

—Agenda Development for September 2002 CSSPAB meeting

—Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the CSSPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than June 7, 2002. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Dr. Fran Nielsen, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–3669.

Dated: May 20, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–13168 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051502B]

Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT); Summer Workshop

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Advisory Committee to the U.S. Section to ICCAT announces a summer workshop to evaluate historical landings of Atlantic bigeye, albacore, and yellowfin tunas and to assist in developing a program to improve statistical reporting for these species. The Advisory Committee will also meet with the Status Review Team (SRT) for the petition to list white marlin under the Endangered Species Act (ESA) and to provide information to the SRT relative to the five ESA listing criteria.

DATES: The workshop will be open to the public and will be held on June 10, 2002, from 10 a.m. to 4:15 p.m. and on June 11, 2002, from 8:45 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held at the Hilton Hotel Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Erika Carlsen at (301) 713–2276.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in open session to review and discuss (1) NMFS efforts to-date to address bigeye, albacore, and yellowfin tunas data issues, (2) data inventories for bigeye, yellowfin, and albacore tunas on a state-by-state basis, (3) approaches to data monitoring and reporting for bigeye, albacore, and yellowfin tunas, (4) the process and timeline associated with the petition to list white marlin on the ESA, (5) white marlin stock assessment results, and (6) information relating to white marlin with respect to the ESA listing factors.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Erika Carlsen at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: May 20, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13146 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

May 20, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59409, published on November 28, 2001.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 20, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 21, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 24, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	732,265 dozen.
335	393,605 dozen.
336/636	689,167 dozen.
341	3,591,911 dozen.
347/348	3,773,933 dozen.
363	39,883,802 numbers.
638/639	2,637,039 dozen.
641	1,601,978 dozen.
645/646	619,279 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–13079 Filed 5–23–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

May 20, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 67 FR 870, published on January 8, 2002.

J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 20, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 3, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 29, 2002, you are directed to adjust the limits for the following categories, as provided for in the agreement between the Governments of the United States and Cambodia:

Category	Adjusted twelve-month limit [1]
331/631	1,045,003 dozen pairs.
334/634	232,844 dozen.
335/635	89,028 dozen.
338/339	3,855,021 dozen.
340/640	1,027,252 dozen.
345	128,748 dozen.
347/348/647/648	4,323,388 dozen.
352/652	756,852 dozen.
445/446	90,050 dozen.
638/639	1,232,701 dozen.
645/646	243,660 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13080 Filed 5–23–02; 8:45 a.m.

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

Time and Date: 10 a.m., Thursday, May 30, 2002.
Place: 1155 21st Street, NW., Washington, DC, Room 1000.
Status: Open.
Matters to be Considered: Securities Futures Products Rulemakings.

CONTACT PERSON FOR FURTHER INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 02–13194 Filed 5–21–02; 4:58 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming working group meeting:

Name of Committee: Armed Forces Epidemiological Board (AFEB).
Dates of Meeting: June 18, 2002.
Time: 7:30 a.m.–4:30 p.m.
Proposed Agenda: The purpose of the meeting is to make recommendations on the health risk of low-level phased array radio frequency energy emissions, specifically risk associated with the PAVE PAWS radar site at the Massachusetts Military Reservation.

As part of the deliberations, the working group of the AFEB will travel to the Massachusetts Military Reservation. The meeting location will be at the Massachusetts Military Reservation, Building 1204, Camp Edwards, MA 02542.

FOR FURTHER INFORMATION CONTACT: Lt. Col. James R. Riddle, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/3.

SUPPLEMENTARY INFORMATION: Any interested person may file statements with the committee to be considered at the time and in the manner permitted by the committee.

Luz D. Ortiz,
Army Federal Register Liaison Officer.

[FR Doc. 02–13041 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Reserve Officers' Training Corps Program Subcommittee; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) The Federal Advisory Committee Act (5 U.S.C., App. 2), announcement is made of the following meeting:

Name of Committee: Reserve Officers' Training Corps (ROTC) Program Subcommittee.
Dates of Meeting: June 25–28, 2002.
Time: 8 a.m.–5 p.m. (June 25, 2002), 8 a.m.–12 p.m. (June 26, 2002), 8 a.m.–5 p.m. (June 27, 2002).
Location: Fort Lewis, Tacoma, WA.
Proposed Agenda: Review and discuss status of Army ROTC since the July 2001 meeting, held at the Pentagon, Washington, DC, and tour and observe ROTC cadet training at the National Advanced Leadership Camp (NALC), Fort Lewis, WA.

FOR FURTHER INFORMATION CONTACT: Commander, U.S. Army Cadet Command, ATTN: ATCC–TT (Mrs. Johnson), Fort Monroe, VA 23651. Telephone number is (757) 788–4586.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee.

Luz D. Ortiz,
Army Federal Register Liaison Officer.

[FR Doc. 02–13047 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Lateral Visual Field Testing Device

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the invention described in U.S. Patent Application no. 60/288,925 entitled "Lateral Visual Field Testing Device (LVFT)," filed May 7, 2001. The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The LVFT is intended to test peripheral visual awareness of the lateral visual fields in a complex environment where multitasking is the norm.

Luz D. Ortiz,
Army Federal Register Liaison Officer.

[FR Doc. 02–13046 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Antibodies Against Type A Botulinum Neurotoxin

AGENCY: Department of the Army, DOD

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 09/465,276 entitled "Antibodies Against Type A Botulinum Neurotoxin," filed December 16, 1999. The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Antibodies for binding epitopes of BoNT/A and hybridomas which produce such antibodies are described. The antibodies of the present invention can be used in a method for detecting BoNT/A in a sample and/or in a method for purifying BoNT/A from an impure solution. In addition, the antibodies can to be used for passive immunization against BoNT/A intoxication or as intoxication therapy. Another aspect of the invention is a kit for detecting BoNT/A in a sample.

Luz D. Ortiz,
Army Federal Register Liaison Officer.

[FR Doc. 02–13045 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement for the ACME Basin B Discharge Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Jacksonville District intends to prepare an integrated Project Implementation Report/Draft Environmental Impact Statement (PIR/DEIS) for the ACME Basin B Discharge Project. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperating agency for this DEIS. One of the recommendations of the final report of the Central & South Florida (C&SF) Comprehensive Review Study (Restudy) was the implementation of Other Project Elements (OPE) including the ACME Basin B Discharge Project. This project is intended to provide water quality treatment and possible temporary storage of stormwater for the Acme basin within the Village of Wellington prior to discharge to the Arthur R. Marshall Loxahatchee National Wildlife Refuge. Excess water may be used to meet water supply demands in central and southern Palm Beach County. This project is a component of the Comprehensive Everglades Restoration Plan, a multi-year effort to restore the greater Everglades ecosystem while providing water supply and other water-related benefits to South Florida over many decades.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Tarr, U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL, 32232–0019, by email *bradley.a.tarr@usace.army.mil*, or by telephone at 904–232–3582.

SUPPLEMENTARY INFORMATION:

a. Authorization: The authority for this project is contained within the Water Resources Development Act (WRDA) 2000. The "Design Agreement between the Department of the Army and the SFWMD for the Design of Elements of the Comprehensive Plan for the Everglades and South Florida Ecosystem Restoration Project" contains additional guidance.

b. Study Area: The study are, including the wetland and/or chemical treatment area and/or storage impoundment area, includes the entire 8,680-acre Acme Basin B, located adjacent to the Loxahatchee National Wildlife Refuge in Palm Beach County.

c. Project Scope. The Acme Bsasin B project may include the construction of a wetland or chemical treatment area and a storage reservoir adjacent to the Refuge located in Palm Beach County. The final size, depth and configuration of these facilities will be determined through more detailed planning and design.

The purpose of this feature is to provide water quality treatment and possible stormwater attenuation for runoff from Acme Basin B prior to discharge to the Arthur R. Marshall Loxahatchee National Wildlife Refuge or an alternative location. In the event that excess water (above the amount needed by the natural system) is available, an alternative discharge location will be determined.

The study will evaluate alternatives based on their ability to improve water deliveries to the natural system, manage agricultural and urban water supplies, protect and conserve water resources, protect or restore fish and wildlife and their associated habitat, restore and manage wetland and associated upland ecosystems, sustain economic and natural resources, improve water quality, and other performance criteria being developed by the Project Delivery Team.

d. Preliminary Alternatives: Formulation of alternative plans will involve the selection of the most suitable size, depth, and configuration of facilities through detailed planning and design.

The Environmental Impact Statement (EIS) evaluation of the project will include an evaluation of adverse environmental impacts, including but not limited to, water quality, socio-economic, archaeological and biological. In addition to adverse impacts, the evaluation will also focus on how well the plans perform with regard to specific performance measures.

e. Issues: The EIS will address the impacts of pumping stormwater runoff from ACME Basin B into a wetland treatment area, then into a storage reservoir prior to discharging into the Loxahatchee National Wildlife Refuge. If water quality treatment criteria is not met then water will be discharged into one of two alternative locations: the Palm Beach County Agricultural Reserve Reservoir or the combination above ground and in-ground reservoir area located adjacent to the L–8 Borrow Canal and north of the C–51 Canal.

The EIS will also address environmental issues, water quality; impacts to the estuaries; flood protection; aesthetics and recreation; fish and wildlife resources, including protected species; cultural resources; and other impacts identified through scoping, public involvement, and interagency coordination.

f. Scoping: A scoping letter and public workshops will be used to invite comments on alternatives and issues from federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals. The next public workshop is scheduled for 22 May 2002; at the South Florida Water Management District headquarter, located at 3301 Gun Club Road, West Palm Beach, Florida. The meeting will begin at 6:30 p.m. and continue to 10 p.m.

Other public meetings will be held over the course of the study; the exact location, dates, and times will be announced in public notices and local newspapers.

g. DEIS Preparation: The integrated draft PIR, which will include a DEIS, is currently scheduled for publication in May 2003.

Dated: May 8, 2002.

George M. Strain,

Acting Chief, Planning Division.

[FR Doc. 02–13043 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–AS–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Montauk Point Storm Damage Reduction Project, Town of East Hampton, Suffolk County, Long Island, NY

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE), New York District, is preparing a Draft Environmental Impact Statement (DEIS) to ascertain compliance with and to lead to the production of a National Environmental Policy Act (NEPA) document in accordance with the President's Council of Environmental Quality (CEQ) Rules and Regulations, as defined and amended in 40 Code of Federal Regulations (CFR), parts 1500–1508, USACE principals and guidelines as defined in Engineering Regulation (ER) 1105–2–100, and other applicable Federal and State environmental laws for the proposed Storm Damage Reduction Project at the Montauk Point Lighthouse in Montauk, New York. The study area consists of the Montauk Point Lighthouse bluff in the Town of East Hampton, Long Island, New York.

FOR FURTHER INFORMATION CONTACT: Christopher Ricciardi, Project Archaeologist, Planning Division, U.S. Army Corps of Engineers, New York District, 26 Federal Plaza, Room 2131, New York, New York, 10278–0090 at (212) 264–0204 or at *christopher.g.ricciardi@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This study is authorized by a U.S. House of Representatives Resolution adopted May 15, 1991 to provide, in part, storm damage protection for the bluff and lighthouse.

1. A public scoping meeting was held in November of 2001 and the results were collected in the Public Scoping Document. These results are available for review and additional scoping comments. All results from public and agency scoping coordination will be addressed in the DEIS. Parties interested in receiving the Scoping Document should contact Christopher Ricciardi at the above address.

2. A DEIS is due for completion by March 2003.

3. Federal agencies interested in participating as a Cooperating Agency are requested to submit a letter of intent to COL John B. O'Dowd, District Engineer, at the above address.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–13042 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for a Dredged Material Management Plan for the Port of Baltimore, Chesapeake Bay, MD

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, the Baltimore District, U.S. Army Corps of Engineers (USACE) will conduct a study to evaluate the dredged material placement needs and opportunities for the Port of Baltimore, Maryland and develop a Dredged Material Management Plan (DMMP). The study area encompasses the Baltimore Harbor and the Chesapeake Bay approach channels, which extend from the mouth of the Bay in Virginia to Chesapeake and Delaware Canal, in the upper Bay, Maryland/Delaware. The purpose of the plan is to develop a long-term strategy for providing viable placement alternatives that meet the dredging needs of the Port of Baltimore Federal channels and include consideration of state and local dredging needs. The DMMP study will be evaluated through the preparation of a tiered EIS. As part of the process, the goals and objectives of the study will be clearly determined by all study participants. The DMMP will identify the quantity of material to be dredged from the Federal channels and how the dredged material can be managed in an economically and environmentally acceptable manner. Priority will be given to beneficial uses of the material. Beneficial uses include, but are not limited to, restoration of underwater grasses, islands, wetlands, shorelines, or fish and shellfish habitat. The DMMP will identify,evaluate, screen, prioritize, and ultimately optimize placement alternatives resulting in the recommendation of a plan for the placement of dredged materials for at least the next 20 years. The Baltimore District is actively seeking public opinion and advice to be incorporated into the plan. To this end, three public scoping meetings are planned throughout the study area. The meetings are tentatively scheduled at 7:00 p.m. for the following dates, in the following locations: Wednesday, June 12, 2002 at Queen Anne's County Library in Stevensville, MD; Tuesday, June 18, 2002 at Community College of Baltimore County, Dundalk Campus, Campus Community Center, in Baltimore, MD; and Thursday, June 20, 2002 at Anne Arundel Community College, Lecture Hall 101, in Arnold, MD.

The study will be conducted in compliance with Section 404 and Section 401 of the Clean Water Act, Section 7 of the Endangered Species Act, the Clear Air Act, the U.S. Fish and Wildlife Coordination Act, Section 106 of the National Historic Preservation Act, Prime and Unique Farmlands, the Magnuson-Stevens Fishery Conservation and Management Act, and National Pollutant Discharge Elimination System Act. All appropriate documentation (i.e., Section 7, section 106 coordination letters, and public and agency comments) will be obtained and included as part of the Environmental Impact Statement (EIS).

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft EIS can be addressed to Ms. Michele Bistany, U.S. Army Corps of Engineers, ATTN: CENAB–PL, 10 South Howard Street, PO Box 1715, Baltimore, MD 21203–1715, telephone 410–962–4934; e-mail address: *michele.a.bistany@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. The Baltimore District Corps of Engineers is responsible for the maintenance of navigation channels in the Chesapeake Bay and Patapsco River known as the Baltimore Harbor and Channels project. Maintenance of these channels requires the annual placement of approximately 4.5 million cubic yards of dredged material. The DMMP study will include an associated programmatic tiered EIS to allow for identification of a suite of options or projects for future detailed study in order to provide for long-term optimized capacity of dredged material. The tiered EIS allows all interested parties the opportunity to participate in the process from inception. It also includes adequate environmental analysis so that future NEPA documentation can be based on a solid foundation.

2. The USACE, Engineering Regulation (ER) 1105–2–100 mandates that the Corps Districts develop DMMP plans for all Federal harbor projects where there is an indication of insufficient capacity to accommodate maintenance dredging for the next 20 years. The ER further states that the Districts are encouraged to consider options that provide opportunities for beneficial uses of dredged material for environmental purposes including habitat restoration. The DMMP process began with a Preliminary Assessment that was completed in September 2001. The Preliminary Assessment identified placement option shortfalls within the next 8–10 year time frame.

3. As part of the EIS process, recommendations of placement sites and options for dredged material management will be based on an evaluation of the probable impact of the proposed activity on the public interest. The decision will reflect the national concern for the protection and utilization of important resources. The benefit, which may reasonably be expected to accrue from the proposal, will be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, among there are wetlands; fish and wildlife resources; cultural resources; land use; water and air quality; hazardous, toxic, and radioactive substances; threatened and endangered species; regional geology; aesthetics; environmental justice; and the general needs and welfare of the public.

4. The draft EIS for the DMMP is expected for public release in late 2004.

Mr. Kevin Bunker,

Assistant Chief, Planning Division.

[FR Doc. 02–13048 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Integrated Draft Project Implementation Report/ Environmental Impact Statement for the Southern Golden Gate Estates Hydrologic Restoration

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Jacksonville District intends to prepare an integrated Draft Project Implementation Report/ Environmental Impact Statement (DPIR/ EIS) for the Southern Golden Gate Estates Hydrologic Restoration (SGGEHR). This DPIR/EIS is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD). The SGGEHR planning process is authorized

under Section 601 of the Water Resources Development Act (WRDA) of 2000 as part of the Central and Southern Florida (C&SF) Comprehensive Everglades Restoration Plan (CERP). The objective of this project is to restore the hydrology of Southern Golden Gate Estates (SGGE) to that which existed prior to the 1960's real estate subdivision. Development of SGGE created approximately 20,000 separate parcels of land, 70 miles of drainage canals, and 290 miles of roads. Elimination of the home sites, plugging of the canals, reduction in the number of miles of roadway, and the reestablishment of a more natural hydrology are expected to restore native plant communities and improve habitat for fish and wildlife resources.

FOR FURTHER INFORMATION CONTACT: John Kremer, U.S. Army Corps of Engineers, Planning Division, Environmental Branch, PO Box 4970, Jacksonville, FL, 32232–0019, by e-mail *john.g.kremer@usace.army.mil*, or by telephone at 904–232–3551.

SUPPLEMENTARY INFORMATION:

a. *Authorization:* The Southern Golden Gate Estates Hydrologic Restoration PMP and PIR planning process is authorized under Section 601 of the Water Resources Development Act (WRDA) of 2000 as part of the Central and Southern Florida (C&SF) Comprehensive Everglades Restoration Plan (CERP).

b. *Study Area:* Southern Golden Gate Estates encompasses an area of approximately 94 square miles (60,160 acres) in southwestern Collier County, Florida. It is located between Interstate 75 and U.S. Highway 41. SGGE is located southwest of the Florida Panther National Wildlife Refuge, north of the Ten Thousand Islands Aquatic Preserve and the Ten Thousand Islands National Wildlife Refuge, east of the Belle Meade State Conservation and Recreation Lands Project Area, and west of the Fakahatchee Strand State Preserve. In combination with the Belle Meade tract SGGE will be managed as the Picayune Strand State Forest. Northern Golden Gate Estates (NGGE) lies across Interstate 75 to the north of SGGE.

c. *Project Scope:* Implementation of this project would restore a more natural hydrology in Southern Golden Gate Estates by reintroducing sheet flow, reestablishing historic flow ways, reducing runoff through increased evaporation and groundwater recharge, and by replacing point source discharges from the Faka Union Canal with distributed flow to tidal coastal marshes along U.S. highway 41. The proposed project would plug the canals, reduce the number of miles of roadway, and reestablish a more natural hydrology. Accomplishment of these objectives is expected to restore historic native plant communities and improve habitat for fish and wildlife resources.

d. *Preliminary Alternatives:* The DPIR/EIS will evaluate alternative structural and non-structural measures to modify the existing water management system of SGGE to accomplish the following objectives: Establish more uniform freshwater flows to estuaries, restore historic hydro patterns, restore wetland and upland communities, reduce habitat for invasive non-native species, increase aquifer recharge, restore ecological connectivity among public lands, restore habitat for listed species, increase fish and wildlife resources, restore the natural fire regime, remediate or remove chemical contaminants, maintain existing level of flood protection, and maintain appropriate access for managing agencies and public users of the state forest.

e. *Issues:* The integrated DPIR/EIS will address the following issues: restoration of wetlands and upland ecosystems; water flows; future environmental and urban water demand and supply; socio-economic resources; aquifer recharge; water quality; impacts to the estuaries; flood protection; aesthetics and recreation; fish and wildlife resources, state and federal protected species; cultural resources; and other impacts identified through further scoping, public involvement, and interagency coordination.

f. *Scoping:* The SGGE project has had a long history of public and interagency involvement dating back to the 1978 Congressional authorization for the Corps to prepare a Golden Gate Estates (GGE) Feasibility Study. The Corps published the GGE Feasibility Study in 1986. In February of 1996 the Big Cypress Basin/South Florida Water Management District submitted the "Hydrologic Restoration of Southern Golden Gate Estates—Conceptual Plan" to the Governor of Florida. In January 1997 the Interagency Technical Advisory Committee (ITAC) convened with respresetatives from the Corps, U.S. Fish and Wildlife Service, U.S. Geological Survey, FDEP, Florida Game and Fresh Water Fish Commission and others, to provide input and assistance for the Cooperative Watershed Planning Assistance Study led by USDA–NRCS and SFWMD. NRCS published this study in September 2001. In September 2000, utilizing the expertise of the ITAC, the Corps and SFWMD jointly initiated the development of a Project Management Plan (PMP) for the SGGE restoration project. The PMP was presented to the Big Cypress Basin Board of Directors at a public meeting in February of 2001. During the past 24 years local and state agencies have held numerous meetings to gather input on issues and opportunities involving the restoration of SGGE.

g. *DPIR/EIS Preparation:* The integrated DPIR/EIS is scheduled for publication in June 2005.

Dated: May 8, 2002.

George M. Strain,

Acting Chief, Planning Division.

[FR Doc. 02–13044 Filed 5–23–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

[CFDA 84.184B]

Mentoring Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: This program provides assistance to promote mentoring programs for children with greatest need that: (1) Assist these children in receiving support and guidance from a mentor; (2) improve the academic performance of the children; (3) improve interpersonal relationships between the children and their peers, teachers, other adults, and family members; (4) reduce the dropout rate of the children; and (5) reduce the children's juvenile delinquency and involvement in gangs.

Eligible Applicants: (1) Local educational agencies (LEAs); (2) nonprofit, community-based organizations (CBOs), which may include faith-based organizations; and (3) a partnership between an LEA and a CBO.

Note: We strongly encourage partnerships between LEAs and CBOs that propose school-based mentoring programs.

Applications Available: May 24, 2002.

Deadline for Transmittal of Applications: July 2, 2002.

Deadline for Intergovernmental Review: September 2, 2002.

Estimated Available Funds: $17,500,000.

Estimated Range of Awards: $100,000–$200,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 115.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; and (b) the final priorities, selection criteria and definitions for this grant competition as published in this notice.

Priorities

Statutory Priority: This competition focuses exclusively on projects designed to meet the statutory priority in section 4130(b)(5)(B) of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001.

To be eligible for funding, a project must propose mentoring programs and activities to serve children with the greatest need living in rural areas, high-crime areas, troubled home environments, or who attend schools with violence problems.

For FY 2002 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

Competitive Preference Priority: Within the statutory priority for this competition for FY 2002, we will award five additional points to novice applicants. These points are in addition to any points the application earns under the selection criteria for this program.

Note: The total number of points an application may earn is 105.

Requirements

Projects funded under this priority must—

(A) Link children with mentors who—

(i) Have received training and support in mentoring;

(ii) Have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

(iii) Are interested in working with children with greatest need;

(B) Be designed to achieve one or more of the following goals with respect to children with greatest need:

(i) Provide general guidance.

(ii) Promote personal and social responsibility.

(iii) Increase participation in, and enhance the ability to benefit from, elementary and secondary education.

(iv) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity.

(v) Encourage participation in community service and community activities.

(vi) Encourage setting goals and planning for the future, including encouragement of graduation from secondary school and planning for postsecondary education or training.

(vii) Discourage involvement in gangs.

Grant funds must be used for activities that establish or implement a mentoring program, which may include:

1. Hiring of mentoring coordinators and support staff;

2. Providing for the professional development of mentoring coordinators and support staff;

3. Recruitment, screening, and training of mentors;

4. Reimbursement to schools, if appropriate, for the use of school materials or supplies in carrying out the mentoring program;

5. Dissemination of outreach materials; and

6. Evaluation of the mentoring program using scientifically based methods.

Participation by Private School Children and Teachers

LEAs that receive a Mentoring Programs grant are required to provide for the equitable participation of eligible private school students and their teachers or other educational personnel. In order to ensure that grant program activities address the needs of private school children, timely and meaningful consultation with appropriate private school officials must occur during the design and development of the program. Administrative direction and control over grant funds must remain with the grantee.

Maintenance of Effort

An LEA may receive a grant under Mentoring Programs only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

Prohibited Uses of Funds

Grant funds may not be used to (1) directly compensate mentors; (2) obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the grantee's operations; or (3) support litigation of any kind.

Participation of Faith-based Organizations

Faith-based organizations are eligible to apply for grants under this competition provided they meet all statutory and regulatory requirements.

General Information

The Assistant Secretary may take into consideration the geographic distribution of the projects, including urban and rural locations, in addition to the rank order of applicants. To the extent practicable, the Assistant Secretary will select not less than one grant recipient from each State for which there is an eligible entity that submits an application of sufficient quality. Contingent upon the availability of funds, the Assistant Secretary may make additional awards in FY 2003 from the rank-ordered list of unfunded applications from this competition.

Application Requirements

Applications submitted under this program must include the following:

(1) A description of the plan for the mentoring program the eligible entity proposes to carry out;

(2) Information on the children expected to be served by the mentoring program;

(3) A description of the mechanism the eligible entity will use to match children with mentors based on the needs of the children;

(4) Information regarding how mentors and children will be recruited to the mentoring program;

(5) Information regarding how prospective mentors will be screened;

(6) Information on the training that will be provided to mentors; and

(7) Information on the system that the eligible entity will use to manage and monitor information relating to the mentoring program's:

(i) Reference checks;

(ii) Child and domestic abuse record checks;

(iii) Criminal background checks; and

(iv) Procedure for matching children with mentors.

Assurances

Applicants must provide the following assurances:

(1) An assurance that no mentor will be assigned to mentor so many children that the assignment will undermine the mentor's ability to be an effective mentor or the mentor's ability to establish a close relationship (a one-to-one relationship, where practicable) with each mentored child;

(2) An assurance that the mentoring program will provide children with a variety of experiences and support, including—

(i) Emotional support;

(ii) Academic assistance; and

(iii) Exposure to experiences that the children might not otherwise encounter on their own;

(3) An assurance that the mentoring program will be monitored to ensure that each child assigned a mentor benefits from that assignment and that the child will be assigned a new mentor if the relationship between the original mentor and the child is not beneficial to the child;

(4) An assurance from each CBO submitting an application that it is eligible under the definitions provided.

Definitions

(1) The term "*child with greatest need*" means a child who is at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or who lacks strong positive role models.

(2) The term "*mentor*" means a responsible adult, a postsecondary school student, or a secondary school student who works with a child to—(a) Provide a positive role model for the child; (b) Establish a supportive relationship with the child; and (c) Provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

(3) The term "*non-profit*" refers to a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term "*community-based organization*" means a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational or related services to individuals in the community.

(5) The term "*novice applicant*" means any applicant for a grant from the U.S. Department of Education that:

(a) Has never received a grant or subgrant under the program from which it seeks funding;

(b) Has never been a member of a group application, submitted in accordance with 34 CFR 75.127–75.129, that received a grant under the program from which it seeks funding; and

(c) Has not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications under the program. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In the case of a group application submitted in accordance with 34 CFR 75.127–75.129, to qualify as a novice applicant a group includes only parties that meet the requirements listed above.

Selection Criteria: The Assistant Secretary will use the following selection criteria to evaluate applications under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(1) *Need for project.* (10 points)

In determining the need for the proposed project, the following factors are considered:

(a) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (10 points)

(2) *Quality of the project design.* (55 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; (5 points)

(b) The extent to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the proposed mentoring program; (5 points)

(c) The quality of the system that will be used to manage and monitor mentor reference checks, including child and domestic abuse record checks and criminal background checks; (15 points)

(d) The quality of the training that will be provided to mentors, including follow-up and support of each match between mentor and child; (10 points)

(e) The quality of the mechanism that will be used to match children with mentors, based on the needs of the children, and ensure that mentors will develop longstanding relationships with the children they mentor; (5 points)

(f) The extent to which the proposed project will serve children with the greatest need in the 4th and 8th grades, and continue to serve children from the 9th grade through graduation from secondary school, as needed; (5 points)

(g) The capability of the applicant to effectively implement its mentoring program; (5 points)

(h) The resources that will be dedicated to providing children with opportunities for job training or postsecondary education. (5 points)

(3) *Quality of project personnel.* (20 points)

In determining the quality of project personnel, the Secretary considers:

(a) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability; (5 points)

(b) The qualifications, including relevant training and experience, of key project personnel; (5 points)

(c) The quality of the plan to recruit mentors. (10 points)

(4) Quality of the project evaluation. (15 points)

In determining the quality of the evaluation, the following factors are considered:

(a) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project; (10 points)

(b) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Secretary generally offers interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. This is the first competition under the Mentoring Programs grant competition. These rules will apply to this FY 2002 grant competition only.

For Applications and Other Information Contact: Copies of the application for this competition are available from EDPubs at 1–877–4EDPubs, and on the Internet at *http://www.ed.gov/offices/OESE/SDFS*. For all other questions, please contact Bryan Williams, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E259, Washington, DC 20202–6123. Telephone: (202) 260–2391. Email address: *bryan.williams@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document, or an application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed at the beginning of this section. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*.

To use PDF, you must have the Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at (888) 293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Pilot Project for Electronic Submission of Applications

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Mentoring Program is one of the programs included in the pilot project. If you are an applicant under this grant competition, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We will continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic of paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs, (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorized Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right corner of the ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for Mentoring Programs at *http://e-grants.ed.gov*.

We have included additional information on the e-APPLICATION pilot project (*see* Parity Guidelines between Paper and Electronic Applications) in the application package.

If you want to apply for a grant and be considered for funding, you must meet the deadline requirements listed above.

Program Authority: 20 U.S.C. 7140.

Dated: May 16, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13161 Filed 5–23–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.206A]

Office of Elementary and Secondary Education; Jacob K. Javits Gifted and Talented Students Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002 and Establishing Two Absolute Priorities

Purpose of Program: The purpose of the Javits program is to carry out a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary and secondary schools nationwide to meet the special educational needs of gifted and talented students.

Eligible Applicants: State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations and Native Hawaiian organizations). Under the first priority in this competition, all of these entities are eligible to apply. Under the second priority, only State educational agencies in collaboration with one or more local educational agencies are eligible to apply.

Applications Available: May 24, 2002.

Deadline for Transmittal of Applications: July 8, 2002.

Deadline for Intergovernmental Review: June 24, 2002.

Available Funds: Priority 1—$5,100,000, Priority 2—$3,750,000.

Estimated Number of Awards: Priority 1—10, Priority 2—12.

Estimated Size of Awards: Priority 1—$400,000–$600,000, Priority 2—$200,000–$300,000.

Estimated Average Size of Awards: Priority 1—$500,000, Priority 2—$250,000.

(Note: These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.)

Project Period: Up to 60 months for the first priority and up to 36 months for the second priority.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Elementary and Secondary Education invites applications for new grant awards for FY 2002 for the Jacob K. Javits Gifted and Talented Students Education program (Javits program). The Javits program has been rewritten in its entirety by P.L. 107–110, the No Child Left Behind Act, and is now located in Title V, Part D, Subpart 6 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), under which these grants are authorized (20 U.S.C. 7253 *et seq.*). The Jacob K. Javits Gifted and Talented Students Education Act of 2001 supports a coordinated program of research, demonstration projects, and other activities to build and enhance the ability of schools nationwide to serve gifted and talented students.

The Assistant Secretary also announces two final absolute priorities and final selection criteria to govern this competition and the FY 2002 awards of these grants. In accordance with § 5465(a) and (b) of the statute, the Assistant Secretary intends to give

priority to projects designed to develop new information that improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students and to projects that identify and serve students from underrepresented groups, including economically disadvantaged, limited English speaking, and disabled students. The Secretary also will implement § 5464(c) of the statute, requiring funding of certain projects when appropriation levels for the Javits program in a given year exceed the appropriation in FY 2001.

Accordingly, the Assistant Secretary will make awards under the following two absolute priorities to encourage activities that will contribute to an understanding of the most effective ways to educate gifted and talented students who are economically disadvantaged, limited English proficient, or who have disabilities. These priorities will help to target funds to high-needs populations within the general program purpose of assisting States and local school districts to better serve gifted and talented students.

The Assistant Secretary's first priority implements section 5465(a) of the statute and focuses on projects that propose to develop, conduct, scale up, and evaluate programs that identify and serve gifted and talented students who are economically disadvantaged or limited English proficient, or who have disabilities and who may not be identified and served through traditional assessment methods. According to a 2002 report by the National Research Council titled "Minority Students in Special and Gifted Education," these groups of students remain significantly under-represented at the highest levels of performance. Over the past decade, small-scale model projects and intervention strategies have produced some evidence of effectiveness in raising student achievement to high levels. The goal of this first priority is to expand upon, field test, and evaluate research-based interventions that have existing evidence of success in increasing the proportion of economically disadvantaged, limited English proficient, or disabled students performing at high levels of achievement. Based on the experience of previous grant recipients, the Assistant Secretary believes that these projects will be most successful if they are carried out by applicants that can demonstrate an expertise in: education research and program evaluation, one or more of the core academic subject areas (English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography), the needs of disadvantaged or other under-represented students, and gifted and talented education. In order to meet the absolute priority, projects must: (1) Build on successful interventions and strategies that show evidence that they have increased student achievement, (2) draw on expertise in research and program evaluation, disciplinary knowledge in the core subject areas, the needs of underrepresented groups, and gifted and talented education, (3) expand upon the intervention as it is carried out in multiple sites, and (4) propose a careful research and evaluation plan.

The Assistant Secretary establishes this first priority after having reviewed the relevant research base and the evaluations of previously funded projects, holding discussions with project directors, and consulting with experts in the field.

The Assistant Secretary's second absolute priority implements the "Special Rule" in § 5464(c) of the authorizing legislation that requires any funds available in a fiscal year that exceed the amount that was available in FY 2001 to be awarded to State educational agencies or local educational agencies, or both, to carry out such activities as: research and development on gifted and talented education and how it may be used to improve the education of all students, program evaluations and information collection activities, model projects and innovative strategies, technical assistance and information dissemination, distance learning opportunities, and professional development. Because the FY 2001 appropriation was $7.5 million and the FY 2002 appropriation is $11.25 million, $3.75 million is therefore available in FY 2002 for these purposes. To ensure the most effective use of funds for the above-stated purposes, under this second priority the Assistant Secretary will only fund projects submitted by State educational agencies that propose to collaborate with one or more local educational agencies to carry out a coordinated set of activities to build statewide capacity to serve gifted and talented students.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Secretary generally offers interested parties the opportunity to comment on proposed regulations. However, to make timely awards in FY 2002, the Secretary has decided to issue these final priorities without first publishing them as proposals for public comment. These priorities will apply to the FY 2002 grant competition only. The Secretary takes this action under section 437(d)(1) of the General Education Provisions Act.

Absolute Priorities: Under 34 CFR 75.105(c)(3) and the Jacob K. Javits Gifted and Talented Students Education Act, the Assistant Secretary gives absolute priority to applications that meet one of the following priorities and funds only applications that meet one of the absolute priorities. Each application must address one of these two priorities. Applicants cannot address both priorities in the same application. Applicants eligible to apply under both priorities must submit separate applications to address each of the priorities and the applications will be reviewed separately.

Absolute Priority 1—Javits Demonstration Programs: Under this absolute priority, applicants must propose projects to plan, implement, scale up, and evaluate models designed to close the achievement gap for students in underrepresented groups, including economically disadvantaged, limited English proficient, or disabled students, performing at the highest levels.

To meet this priority each project must include all of the following:

(1) Evidence from one or more scientifically based research and evaluation studies indicating the efficacy of the proposed approach in raising achievement of underrepresented groups to high levels of achievement in one or more core subject areas.

(2) Evidence that the applicant has significant expertise in research and program evaluation, knowledge in one or more core academic subject areas, experience working with underrepresented groups, and knowledge about gifted and talented education.

(3) A sound plan for implementing the model in multiple settings.

(4) A research and evaluation plan that will yield both formative and summative information on the effectiveness of the model, including student achievement data.

Absolute Priority 2—Javits State Capacity-Building Grants: Under this absolute priority, State educational agencies (SEAs), in collaboration with one or more local educational agencies (LEAs), must propose projects to improve services to gifted and talented students and develop the capacity of the States and LEAs to serve these students more effectively. Under this priority, applications must propose to carry out one or more of the following activities:

(1) Conducting scientifically based research on methods and techniques for identifying and teaching gifted and talented students and for using gifted and talented programs and methods for serving all students, and conducting program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the proposed project.

(2) Conducting professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

(3) Establishing and operating model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs (such as summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education).

(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

(5) Providing programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

(7) Providing challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that would not otherwise have the resources to provide such course work.

Other Requirements

The Assistant Secretary directs the applicants' attention to the requirements in section 5464(a)(2) of the statute, stating that each applicant requesting support under the Javits program must describe how:

(1) The proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students, and

(2) The proposed programs can be evaluated.

Definitions: The definitions contained in the Jacob K. Javits Gifted and Talented Students Education Act of 2001, at Title IX, Part A of the ESEA, apply to the Javits program and this competition. In particular, the Assistant Secretary directs applicants' attention to the following definition:

Core Academic Subjects. The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (20 U.S.C. 7801(11)).

Selection Criteria: The Assistant Secretary uses the following selection criteria to evaluate applications for new grants under this competition. Each of the two absolute priorities in this competition has separate selection criteria tailored to the specific requirements of the priority. These selection criteria are drawn from EDGAR § 75.210. In both sets of selection criteria, the maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

Selection Criteria for Priority 1 (Javits Demonstration Programs)

(1) *Significance.* (15 points)

In determining the significance of the proposed project, the following factors are considered:

(i) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study.

(ii) The potential for generalizing from the findings or results of the proposed project.

(2) *Quality of the project design.* (20 points)

In determining the quality of the project design of the proposed project, the following factors are considered:

(i) The extent to which the proposed activities constitute a coherent, sustained program of research and development in the field, including, as appropriate, a substantial addition to an ongoing line of inquiry.

(ii) The extent to which the proposed project represents an exceptional approach to the priority established for the competition.

(iii) The quality of the methodology to be employed in the proposed project.

(3) *Quality of project services.* (20 points)

In determining the quality of the services to be provided by the proposed project, the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability is considered. In addition, the following factors are considered:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The likelihood that the services to be provided will lead to improvements in the achievement of students as measured against rigorous academic standards.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(4) *Quality of project personnel.* (10 points)

In determining the quality of project personnel, the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability is considered. In addition, the following factors are considered:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(5) *Adequacy of resources.* (10 points)

In determining the adequacy of resources for the proposed project, the following factors are considered:

(i) The adequacy of support, including facilities, equipment, supplies and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(6) *Quality of project evaluation* (25 points)

In determining the quality of the project evaluation, the following factors are considered:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Section Criteria for Priority 2 (Javits State Capacity—Building Grants)

(1) *Need for the project.* (15 points)

In determining the need for the project, the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses, is considered.

(2) *Quality of the project design.* (20 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project represents an exceptional approach to the priority established for the competition.

(3) *Quality of project services.* (15 points) In determining the quality of the services to be provided by the proposed project, the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability is considered. In addition, the following factors are considered:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(ii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(4) *Quality of project personnel.* (10 points)

In determining the quality of the project personnel, the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, is considered. In addition, the following factors are considered:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of the key project personnel.

(5) *Adequacy of resources.* (10 points)

The adequacy of resources for the proposed project is considered.

(6) *Quality of the management plan.* (10 points)

In determining the quality of the management plan for the proposed project, the following factors are considered:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of the procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(7) *Quality of the project evaluation.* (20 points) In determining the quality of the evaluation, the following factors are considered:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Emily McAdams, U.S. Department of Education, Room 5W252, 400 Maryland Ave., SW., Washington, DC 20202. Telephone: (202) 260–8753 or the following email or Internet address: *emily.mcadams@ed.gov*

If you use a telecommunications devise for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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Program Authority: 20 U.S.C. 7253 *et seq.*

Dated: May 21, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13160 Filed 5–23–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity, (National Advisory Committee); Notice of Meeting Changes

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

SUMMARY: This notice advises interested parties of changes concerning the upcoming meeting of the National Advisory Committee and amends information provided in the original meeting notice published in the March 21, 2002 **Federal Register** (67 FR 13131).

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie LeBold, the Executive Director of the National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, room 7007, MS 7592, 1990 K St., NW., Washington, DC 20006, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov*.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The changes to the agenda are as follows:

(1) The National Advisory Committee meeting originally scheduled from 8:30 a.m. until 3 p.m. on Wednesday, June 5, 2002, as indicated in the March 21, 2002 **Federal Register** (67 FR 13131), will conclude at approximately 12:30 p.m.

(2) The agency listed below, which was originally scheduled for review during the National Advisory Committee's June 2002 meeting, will be postponed for review until a future meeting.

• Teacher Education Accreditation Council (Requested scope of recognition: the accreditation of professional education programs in institutions offering baccalaureate and graduate degrees for the preparation of teachers K–12)

Any third-party written comments regarding this agency that were received by March 18, 2002, in accordance with the **Federal Register** notice published on February 1, 2002, will become part of the official record, and those comments will be considered by the National Advisory Committee when it reviews the agency's petition for initial recognition at a future meeting. In addition, prior to the meeting, another opportunity to provide written comments on the agency will be announced in a **Federal Register** notice.

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Authority: 5 U.S.C. Appendix 2.

Dated: May 16, 2002.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 02–13068 Filed 5–23–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Envrionmental Management; Site-Specific Advisory Board Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (Public Law No. 92–463), in accordance with Title 41 of the Code of Federal Regulations, section 102–3.65(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Site-Specific Advisory Board has been renewed for a two-year period beginning May 16, 2002. The Environmental Management Site-Specific Advisory Board will provide advice and recommendations to the Assistant Secretary for Environmental Management, appropriate Site Manager(s), and other U. S. Department of Energy officials the Assistant Secretary shall designate.

The Board provides information, advice and recommendations concerning issues affecting the Environmental Management program at various sites. These site-specific issues include clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use; long-term stewardship; risk assessment and management; and science and technology activities.

The renewal of the Environmental Management Site-Specific Advisory Board has been determined to be essential to the conduct of Department of Energy business and to be in the public interest in connection with the performance of duties imposed on the Department of Energy by law and agreement. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act, and rules and regulations issued in implementation of this Act.

Further information regarding this Advisory Board may be obtained from Ms. Martha S. Crosland at (202) 586–5944.

Issued in Washington, DC, on May 20, 2002.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 02–13104 Filed 5–23–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register.**

DATES: Wednesday, June 12, 2002, 6 p.m.–9:30 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Presentation to be Determined.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on May 20, 2002.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 02–13103 Filed 5–23–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX02–2–000; ER02–1654–000]

Kiowa Power Partners, LLC, Oncor Electric Delivery Company; Notice of Filing

May 14, 2002.

Take notice that on May 6, 2002, Reliant Energy HL&P (Reliant) filed a pleading entitled "Motion to Intervene and Comments," stating that it does not oppose the Application filed in these dockets by Kiowa Power Partners, LLC and Oncor Electric Delivery Company (Oncor). Reliant explains that its' position is based on the understanding that certain changes will be made to

incorporate Reliant into the proposed Order under Sections 210, 211, and 212 requiring interconnections and transmission service. Reliant states that the Order requested by Kiowa would effectively require Reliant, as well as Oncor, to provide transmission service.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: May 23, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13093 Filed 5–23–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–23–000, et al.]

Trans-Elect, Inc. et al.; Electric Rate and Corporate Regulation Filings

May 17, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Trans-Elect, Inc., Michigan Transco Holdings, Limited Partnership, Consumers Energy Company, and Michigan Electric Transmission Company

[Docket Nos. EC02–23–000 and ER02–320–004]

Take notice that on May 13, 2002, Consumers Energy Company (Consumers) submitted the compliance filing required by the Federal Energy Regulatory Commission's (Commission) order of February 13, 2002 in the above-referenced proceedings. The filing includes First Revised Consumers Rate Schedule Nos. 116 and 117.

The filing was served on all parties on the Commission's official service list in these proceedings.

Comment Date: June 3, 2002.

2. Trans-Elect, Inc., Michigan Transco Holdings, Limited Partnership, Consumers Energy Company, and Michigan Electric Transmission Company

[Docket Nos. EC02–23–000 and ER02–320–005]

Take notice that on May 13, 2002, Michigan Electric Transmission Company, LLC (Michigan Transco LLC) submitted the compliance filing required by the Federal Energy Regulatory Commission's (Commission) order of February 13, 2002 in the above-referenced proceedings.

Copies of the transmittal letter included as part of this filing were served on all parties on the Commission's official service list in these proceedings and on all affected state commissions.

Comment Date: June 3, 2002.

3. Thermo Cogeneration Partnership, L.P

[Docket No. EG02–135–000]

Take notice that on May 9, 2002, Thermo Cogeneration (Thermo Cogeneration), a Delaware limited liability partnership, with its principal place of business at 6811 Weld County Road, Ft. Lupton, Colorado 80621, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations

Thermo Cogeneration states that it will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, a 272 MW gas-fired combined cycle power generation facility located in Ft. Lupton, Colorado (Facility). Under power purchase agreements with Public Service Co. of Colorado, Thermo Cogeneration will sell the capacity exclusively at wholesale.

A copy of the filing was served upon the Securities and Exchange Commission, the Public Utilities Commission of the State of Colorado.

Comment Date: June 7, 2002.

4. Wisconsin Power and Light Company

[Docket Nos. EL02–47–002 and EL02–52–002]

Take notice that on May 14, 2002, Wisconsin Power and Light Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a Refund Report in response to the Commission's Order dated March 15, 2002 in the above named dockets.

A copy of this filing has been served upon all affected customers and the Public Service Commission of Wisconsin.

Comment Date: June 4, 2002.

5. Entergy Services, Inc.

[Docket No. ER00–1743–004]

Take notice that on May 14, 2002, Entergy Services, Inc., submits for filing with the Federal Energy Regulatory Commission (Commission) on behalf of the five Entergy Operating Companies: Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (together Entergy), this compliance filing is in response to the Commission's April 29, 2002 Order in the above-captioned docket. A copy of this filing has been served upon the state regulators of the Entergy operating companies.

Comment Date: June 4, 2002.

6. Central Maine Power Company

[Docket No. ER02–1223–001]

Please take notice that on May 14, 2002 , Central Maine Power Company (CMP) tendered for filing an executed Local Network Operating Agreements (LNOA) and executed service agreements for Local Network Transmission Service (LNSA) entered into with United American Hydro, L.P. (UAH–Hydro Kennebec Limited Partnership). These agreements supersede agreements previously filed on March 4, 2002. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP–FERC Electric Tariff, Fifth Revised Volume No. 3, under the following Service Agreement Numbers:

United American Hydro LNSA–First Revised Service Agreement No. 147

United American Hydro LNOA–First Revised Service Agreement No. 148

Comment Date: June 4, 2002.

7. Tri-State Power, LLC

[Docket No. ER02–1263–001]

Take notice that on May 10, 2002, Tri-State Power, LLC (TSP) tendered for filing with the Federal Energy Regulatory Commission (Commission) corrected copies of the long-term contract under which (TSP) will sell electricity under Rate Schedule FERC No. 1 to Tri-State Generation & Transmission Association, Inc. (TSGTA) in compliance with the April 25, 2002 letter from Michael A. Coleman, Director, Division of Tariffs and Rates—West. TSP also filed a corrected short-term agreement under which it will sell start-up test energy to TSGTA..

Comment Date: June 4, 2002.

8. Commonwealth Edison Company

[Docket No. ER02–1775–000]

Take notice that on May 9, 2002, Commonwealth Edison Company (ComEd) submitted for filing a service agreement for non-firm point-to-point transmission service, a service agreement for short-term firm point-to-point transmission service, and a Network Operating Agreement between ComEd and Sempra Energy Solutions (Sempra) as well as a service agreement for firm point-to-point transmission service between ComEd and Edison Mission Marketing & Trading, Inc. (Edison Mission) (collectively the Agreements) under ComEd's FERC Electric Tariff, Second Revised Volume No. 5.

ComEd seeks an effective date of April 9, 2002 for the Agreements and, accordingly, seeks waiver of the Commission's notice requirements. ComEd states that a copy of this filing has been served on Sempra, Edison Mission and the Illinois Commerce Commission.

Comment Date: May 29, 2002.

9. Arthur Kill Power LLC

[Docket No. ER99–2161–003]

Take notice that on May 13, 2002, Arthur Kill Power LLC tendered for filing its triennial review in compliance with the Commission's order in Rocky Road Power LLC, et al. Docket No. ER99–2157–000, *et al.*, 87 FERC ¶ 61, 163 (1999).

Comment Date: June 3, 2002.

10. Huntley Power LLC

[Docket No. ER99–2162–003]

Take notice that on May 13, 2002, Huntley Power LLC tendered for filing its triennial review in compliance with the Federal Energy Regulatory Commission's (Commission) Order in Rocky Road Power LLC, et al. Docket No. ER99–2157–000, *et al.*, 87 FERC ¶ 61, 163 (1999).

Comment Date: June 3, 2002.

11. Dunkirk Power LLC

[Docket No. ER99–2168–003]

Take notice that on May 13, 2002, Dunkirk Power LLC tendered for filing its triennial review in compliance with the Federal Energy Regulatory Commission's (Commission) Order in Rocky Road Power LLC, et al. Docket No. ER99–2157–000, *et al.*, 87 FERC ¶ 61, 163 (1999).

Comment Date: June 3, 2002.

12. Astoria Gas Turbine Power LLC

[Docket No. ER99–3000–001]

Take notice that on May 13, 2002, Astoria Gas Turbine Power LLC tendered for filing its triennial review in compliance with the Commission's order in Rocky Road Power LLC, *et al.* Docket No. ER99–2157–000, *et al.*, 87 FERC ¶ 61, 163 (1999).

Comment Date: June 3, 2002.

13. Go Green, Inc.

[Docket No. QF02–65–000]

Take notice that on April 26, 2002, Go Green, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission), an Application for Certification of a Qualifying Facility.

Comment Date: May 28, 2002.

Standard Paragraph:

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13052 Filed 5–23–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Solicitation of Comments, Motions To Intervene, and Protests

May 20, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 3342–013.

c. *Date Filed:* May 8, 2002.

d. *Applicants:* New Hampshire Hydro Associates (Transferor) and Briar Hydro Associates (Transferee).

e. *Name of Project:* Penacook Lower Falls Project.

f. *Location:* On the Contoocook River, in Merrimack County, New Hampshire. The project would not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicants Contacts:* Elizabeth W. Whittle, Esq., Nixon Peabody LLP, 401 9th Street, NW., Suite 900, Washington, DC 20004; Richard A. Norman, New Hampshire Hydro Associates, c/o Essex Hydro Associates, L.L.C., 55 Union Street, Fourth Floor, Boston, MA 02108

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Deadline for filing comments or motions:* June 11, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2008(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the project number (P–3342–013) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the

Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

k. *Description of Transfer:* The transferee owns two other operating projects located immediately upstream of the Penacook Lower Falls Project. The transfer is being undertaken to restructure the current ownership and to consolidate and simplify the ownership and operation of the three projects.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions ((202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13090 Filed 5–23–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–000]

Viking Gas Transmission Company; Notice of Informal Settlement Conference

May 20, 2002.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10 a.m. on Wednesday, June 5, 2002, and continuing at 10 a.m. on Thursday, June 6, 2002, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at (202) 208–2161 or Carmen Gastilo at (202) 208–2182.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13091 Filed 5–23–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–000]

Viking Gas Transmission Company; Notice of Informal Settlement Conference

May 20, 2002.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m. on Wednesday, May 29, 2002, and continuing at 10:00 a.m. on Thursday, May 30, 2002, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at (202) 208–2161 or Carmen Gastilo at (202) 208–2182.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13092 Filed 5–23–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2001–1; FRL–7217–5]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Caldwell Tanks Alliance, LLC; Newnan (Coweta County), Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated April 1, 2002, denying a petition to object to a State operating permit issued by the Georgia Environmental Protection Division (Georgia EPD) to Caldwell Tanks Alliance, LLC, for its facility, located in Newnan, Coweta County, Georgia. This order constitutes final action on the petition submitted by Georgia Center for Law in the Public Interest on behalf of the Sierra Club. Pursuant to section 505(b)(2) of the Clean Air Act any person may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this document under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/caldwelltanks_decision2001.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air, Pesticides and Toxics Management Division, EPA, Region 4, telephone (404) 562–9115, e-mail *hofmeister.art@epa.gov.* Interested parties may also contact the Air Protection Branch, Georgia Environmental Protection Division, 4244 International Parkway, Atlanta, Georgia 30354.

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA or the Act) affords EPA a 45-day period to review, as appropriate, operating permits proposed by State permitting authorities under Title V of the CAA, 42 U.S.C. 7661–7661f (Title V). Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a Title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Section 505(b)(2) provides that the Administrator shall grant or deny such a petition within 60 days after it is filed, and that the Administrator shall object to the permit within that period if the petitioner demonstrates that the permit is not in compliance with the requirements of the CAA. Section 505(b)(2) further provides that the Administrator's duties under that paragraph may not be delegated to another officer. In addition, section 505(e) of the CAA authorizes the Administrator to terminate, modify, or revoke and reissue a permit for cause at any time. In accordance with EPA's regulations at 40 CFR 70.7(f) and 70.7(g), any person may petition EPA to reopen a permit for cause. However, there is no deadline by which EPA is required to respond to such petitions.

Georgia Center for Law in the Public Interest submitted a petition on behalf of the Sierra Club (GCLPI or Petitioner) to the Administrator on May 9, 2001, requesting that EPA object to a state Title V operating permit, issued by the Georgia Environmental Protection Division (Georgia EPD) to Caldwell Tanks Alliance, LLC (Caldwell Tanks) for its facility located in Newnan, Georgia.

GCLPI's petition was not filed within the statutory time period for filing a section 505(b)(2) petition for objection to a Title V permit. Petitioner claims that it relied upon erroneous information provided by the Georgia EPD which indicated that the permit had been re-proposed to EPA. Reproposal of the permit would have re-started EPA's review period and, in turn, extended the time allowed for filing petitions for objection to the permit. Because the petition was untimely, EPA informed Petitioner that EPA intended to treat it as a petition to reopen the permit for cause in accordance with 40 CFR 70.7(f) and 70.7(g) and to respond on the merits.

Accordingly, EPA sent a letter, dated January 28, 2002, from Winston A. Smith, Director of Region 4's Air, Pesticides & Toxics Management Division, to Petitioner's counsel, stating that the petition was not timely filed under section 505(b)(2) and 40 CFR 70.8(d) and that EPA was treating it as a petition to reopen the permit for cause in accordance with 40 CFR 70.7(f) and 70.7(g). EPA also denied the petition to reopen on the merits.

Because EPA had not responded to the petition within the statutory 60-day period for responding to section 505(b)(2) petitions for objection, the Petitioner filed a nondiscretionary duty suit pursuant to section 304(a)(2) of the CAA in the United States District Court for the District of Columbia to compel EPA to grant or deny its petition. Two days after EPA responded to the Petitioner's petition, the court held that the doctrine of equitable tolling applies to that 60-day limitations period generally and applied against EPA in the Caldwell Tanks case to render the Petitioner's petition timely under section 505(b)(2). The court ordered the Administrator to consider the petition pursuant to section 505(b)(2) and to grant or deny the petition within 60 days of the court's order. *See Sierra Club* v. *Whitman*, Civil Action No. 01–01991 (ESH) (D.D.C. Jan. 30, 2002) (order and memorandum opinion). In light of the court's holding that the Petitioner's petition was timely under section 505(b)(2), the Administrator responded to the petition pursuant to that statutory provision in an order, dated April 1, 2002.

The Petitioner requested that EPA object to the Caldwell Tanks permit on the grounds that the permit is inconsistent with the Clean Air Act because the permit failed to: (1) Require the submittal of reports of any required monitoring at least every six months, as required under 40 CFR 70.6(a)(3)(iii)(A); (2) allow all persons to enforce violations of the permit; (3) go through proper public notice procedures because it stated only that the permit is enforceable by EPA and the Georgia EPD without also stating that the permit is enforceable by members of the public; and (4) include an emission limit or require monitoring to assure that no visible emissions result from a shot blasting and baghouse operation that the permit classifies as an insignificant activity.

The order denying this petition explains the reasons behind EPA's conclusion that the Petitioner failed to demonstrate that the Caldwell Tanks permit is not in compliance with the requirements of the Clean Air Act on the grounds raised.

Dated: May 13, 2002.

J. I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 02–13119 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6629–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–AFS–J65359–MT Rating EC2, Lolo National Forest Post Burn -Management Activities, Implementation, Ninemile, Superior and Plains Ranger Districts, Mineral Missoula and Sanders Counties, MT.

Summary: EPA expressed environmental concerns with water quality proposed management actions in the 303(d) listed Ninemile Creek and Trout Creek drainages and suggested coordinating with the State's TMDL development efforts. EPA recommends that the final EIS should include a summary of major actions in the project area (and including adjacent lands) which may contribute to cumulative effects.

ERP No. D–FHW–F40405–IL Rating EC2, US 34/FAP 313 Transportation Facility Improvement Project, US 34 from the Intersection of Carman Road east of Gulfport to Monmouth, Funding and US Army COE Section 404 and NPDES Permits Issuance, Henderson and Warren Counties, IL.

Summary: EPA has identified issues, and expressed environmental concerns, relating to characterization of existing water quality, impacts to impaired waters and impacts to Botanical Site #3, a small sand hill prairie with a diverse mixture of grasses and forbs. Accordingly, EPA has requested additional information.

Final EISs

ERP No. F–AFS–J65348–CO Bark Beetle Analysis, Proposal to Reduce Infestation of Trees by Tree-Killing Bark Beetles, Medicine Bow-Routt National Forests, Hahans Peak/Bears Ears Ranger District, Routt, Grand, Jackson and Moffat Counties, CO.

Summary: EPA generally supports the suppression and control actions; however, EPA expressed environmental concerns regarding impacts from 15.3 miles of new roads and the effectiveness of preventative thinning to avert a predicted beetle epidemic.

ERP No. F–FHW–F40388–WI US–14/61 Westby—Virogua Bypass Corridor Study, Transportation Improvements, Funding and US Army COE Section 404 Permit, Cities of Virogua and Westby, Vernon County, WI.

Summary: EPA has no objection to the proposed action.

ERP No. F–NPS–J65346–WY Devil's Tower National Monument General Management Plan, Implementation, Crook County, WY.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–UAF–J11019–MT Montana Air National Guard Air-to-Ground Training Range Development for Use by the 120th Fighter Wing (120th FW), Implementation, Phillips and Blaine Counties, MT.

Summary: EPA continues to express environmental concerns regarding impacts to people and wildlife from noise and visual stimuli from low altitude F–16 flights and other range activities.

ERP No. F–USA–J13000–CO Pueblo Chemical Depot, Destruction of Chemical Munitions, Design, Construction, Operation and Closure of a Facility, Pueblo County, CO.

Summary: No formal comment letter was sent to the preparing agency.

Dated: May 21, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–13154 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6629–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/compliance/nepa.*

Weekly receipt of Environmental Impact Statements

Filed May 13, 2002 Through May 17, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020191, Draft EIS, AFS, MT, Black Ant Salvage Project, To Salvage 739 Acres of Dead Merchantable Trees from the Lost Fork Fire of 2001, Lewis and Clark National Forest, Meagher Basin County, MT, *Comment Period Ends:* July 08, 2002, *Contact:* Scott Hill (406) 566–2292.

EIS No. 020192, Draft EIS, FHW, WY, US 287/26 Improvements Project, From Moran Junction to 12 Miles West of Dubois, the Roadway Traverses thru the Bridger-Teton and Shoshone National Forests and Grand Teton National Park, NPDES and COE Section 404 Permits, Teton and Fremont Counties, WY, *Comment Period Ends:* August 28, 2002, *Contact:* Galen W. Hesterberg (307) 772–2012.

EIS No. 020193, Final EIS, TPT, CA, Presidio Trust Implementation Plan (PTIP), An Updated Plan for the Area B of the Presidio of San Francisco, Implementation, San Francisco Bay Area, Marin County, CA, *Wait Period Ends:* June 24, 2002, *Contact:* John Pelka (415) 561–5300.

EIS No. 020194, Final EIS, FAA, IL, South Suburban Airport, Proposed Site Approval and Land Acquisition, For Future Air Carrier Airport, Will and Kankakee Counties, IL, *Wait Period Ends:* June 24, 2002, *Contact:* Denis Rewerts (847) 294–7195.

EIS No. 020195, Final EIS, HUD, NY, 1105–1135 Warburton Avenue, River Club Apartment Complex Development and Operation, Funding, City of Yonkers, Westchester County, NY, *Wait Period Ends:* June 24, 2002, *Contact:* Lee Ellman (914) 377–6557.

EIS No. 020196, Draft EIS, FHW, WI, US 10 Highway Improvements between Marshfield and Appleton, Trestik Road—CTH "K" (Stevens Point Bypass), Funding and COE Section 404 Permit, Portage County, WI, *Comment Period Ends:* July 08, 2002, *Contact:* Wesley Shemwell (608) 829–7521.

EIS No. 020197, Draft EIS, FRC, ID, C.J. Strike Hydroelectric Project (FERC NO. 2055), Application for a new License, Located on the Snake River and Bruneau River, Owyhee and Elmore Counties, ID, *Comment Period Ends:* July 08, 2002, *Contact:* John Blair (202) 219–2845.

EIS No. 020198, Draft Supplement, NRC, SC, Generic EIS—Catawba Nuclear Station, Unit 1 and 2 (Catawba), Renew the Operating Licenses (OLs) for an Additional 20-Year Period, Supplement 9 to NUREG–1437, York County, SC, *Comment Period Ends:* August 23, 2002, *Contact:* James Wilson (301) 415–1108.

EIS No. 020199, Draft EIS, BLM, WY, Pittsburg and Midway Coal Mining Proposal (WYW148816), Exchange Private Owned Land P&M for Federally-Owned Coal, Lincoln, Carbon and Sheridan Counties, WY, *Comment Period Ends:* July 23, 2002, *Contact:* Nancy Doelger (307) 261–7627. This document is available on the Internet at: (*www.wy.blm.gov*).

EIS No. 020200, Draft EIS, DOE, Programmatic EIS—Hanford Site Solid (Radioactive and Hazardous) Waste Program (DOE/EIS–0286D), Proposal to Enhance Waste Management Practices, Low-Level Radioactive; Low-Level Mixed; Transuranic Radioactive; Richland, Benton County, WA *Comment Period Ends:* August 22, 2002, *Contact:* Michael S. Collins (509) 376–6536.

EIS No. 020201, Final EIS, MMS, AK, Liberty Development and Production Plan, Beaufort Sea Oil and Gas Development, Implementation, To Transport and Sell Oil to the U.S. and World Markets, Right-of-Way Application, Offshore Beaufort Sea Marine Environment and Onshore North Slope of Alaska Coastal Plan, AK, *Wait Period Ends:* June 24, 2002, *Contact:* George Valiulis (703) 787–1662.

EIS No. 020202, Final Supplement, FHW, CA, Devil's Slide Bypass Improvement, CA–1 from Half Moon Bay Airport to Linda Mar Boulevard, Preferred Alternative Estimated Future Project—Generated Noise Study, Funding, Pacifica and San Mateo Counties, CA, *Wait Period Ends:* June 24, 2002, *Contact:* Bill Wong (916) 498–5042.

EIS No. 020203, Final EIS, SFW, NV, Stillwater National Wildlife Refuge Complex Comprehensive Conservation Plan and Boundary Revision, Implementation, Churchill and Washoe Counties, NV, *Wait Period Ends:* June 24, 2002, *Contact:* Kim Hanson (775) 423–5128.

EIS No. 020204, Draft EIS, NRC, NC Generic EIS—McGuire Nuclear Power Station, Units 1 and 2, Supplement 8 to NUREG–1437, Located on the Shore of Lake Norman, Mecklenburg County, NC, *Comment Period Ends:* August 02, 2002, Andrew Kugler (301) 415–2828. The above NRC EIS should have appeared in the 05/17/2002 **Federal Register**. The 75 day Comment Period Request by the Agency will end on August 02, 2002.

Amended Notices

EIS No. 0210305, Draft Supplement, FAA, MN, Flying Cloud Airport, Substantive Changes to Alternatives and New Information, Extension of the Runways 9R/27L and 9L/27R, Long-Term Comprehensive Development, In the City of Eden Prairie, Hennepin County, MN, *Comment Period Ends:* June 19, 2002, *Contact:* Glen Orcutt (612) 713–4354. Revision of FR Notice Published on 08/24/2001: CEQ Review Period Ending on 08/17/2001 has been Extended to 06/19/2002.

EIS No. 020181, Draft EIS, NRC, VA, Generic EIS—North Anna Power Station, Units 1 and 2, Supplement 7 to NUREG–1437, License Renewal, VA, *Comment Period Ends:* August 01, 2002, *Contact:* Andrew Kugler (301) 415–2828. Revision of FR Notice Published on 05/17/2002: CEQ Comment Date has been corrected from 07/01/2002 to 08/01/2002.

EIS No. 020141, Draft EIS, COE, WV, Spruce Mine Number 1 Surface Mining Construction Project, US Army COE Section 404 and NPDES Permits Issuance, Blair, Logan County, WV, *Comment Period Ends:* May 28, 2002, *Contact:* James M. Richmond (304) 529–5210. Revision of FR Notice Published on 04/12/2002: Officially Withdrawn by letter date 04/11/2002.

EIS No. 020184, Final Supplement, GSA, CA, San Diego—United States Courthouse Annex Street Project, Site Selection and Construction, New Information concerning Addition of the Union Street with Hotel San Diego Facade and Lobby Alternative, Central Business District (CBD), City of San Diego, San Diego County, CA, *Wait Period Ends:* June 17, 2002, *Contact:* Rosanne Nieto (415) 522–3490. Revision of FR Notice Published on 05/17/2002: Wait Period Ends is Corrected from 06/07/2002 to 06/17/2002.

Dated: May 21, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–13155 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7217–8]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Drinking Water Committee (DWC) of the US EPA Science Advisory Board (SAB) will meet via public teleconference on the date and at the time noted below. All times noted are Eastern Time. The meeting is open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

The Drinking Water Committee of the US EPA Science Advisory Board (SAB), will conduct a public teleconference meeting on June 11, 2002. The meeting will begin at 1 pm and adjourn no later than 4 p.m. the same day. The meeting will be coordinated through a conference call connection in Room 6013 in the USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The public is encouraged to attend the meeting in the conference room noted above, however, the public may also attend through a telephonic link if lines are available. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Mary Winston at (202) 564–4538, or via e-mail at *winston.mary@epa.gov*. Presentation slides will be placed on the SAB Web site (*www.epa.gov/sab/*) prior to the start of the meeting.

Purpose of the Meeting—The primary purpose of this meeting will be for staff from EPA's Office of Water to provide background briefings sufficient for the Committee to develop a systematic plan for responding to the agency request on two topics: (1) Six-Year Review of Existing Regulations Notice of Intent on Review Decisions (6-YR) and (2) Contaminant Candidate List Notice of Intent on Regulatory Determinations (CCL1). The review will NOT be conducted on this conference call. A draft agenda for this meeting will be available from the DFO or Management Assistant approximately one week before the meeting.

Background Information about the 6-Year Review of Existing Regulations: EPA recently announced its preliminary revise/not revise decisions for 68 chemical National Primary Drinking Water Regulations (NPDWRs) and the Total Coliform Rule (TCR) (67 FR 19030; April 17, 2002). The Safe Drinking Water Act (SDWA) requires EPA to periodically review existing NPDWRs and, if appropriate, revise them [Section 1412(b)(9) of SDWA, as amended in 1996]

The primary goal of the Six Year Review is to identify, prioritize and target candidates for regulatory revision that are most likely to result in an increased level of public health protection and/or a substantial cost savings while maintaining the level of public health protection. To address this goal, EPA, in consultation with the National Drinking Water Advisory Council (NDWAC) and other stakeholders, developed a systematic approach, or protocol, for the review of existing NPDWRs. The protocol focused on several key elements, including: (i) Health effects (to identify potential changes in the Maximum Contaminant Level Goal (MCLG or health effects goal) and perhaps to the maximum contaminant level (MCL)); (ii) analytical feasibility (to identify potential changes in analytical feasibility for those contaminants where the Maximum Contaminant Level (MCL) was limited by the measurement feasibility and to review analytical feasibility limitations for contaminants that may have potential changes in the MCLG); (iii) treatment (to evaluate treatment feasibility if potential changes in MCLG/MCL are likely and to evaluate if there is an indication that the best available technology (BAT) or treatment technique (TT) requirements need review); (iv) other regulatory changes (to identify any potential non-MCLG/MCL or non-TT types of changes that apply to public water systems, are ready for rulemaking and are not being addressed under alternative mechanisms); (v) occurrence and exposure (to evaluate the extent of occurrence and exposure where a potential change in health or technology provides a potential basis for revising the regulation); and (vi) economics (to qualitatively consider economic impacts where a health or

technology basis may exists for revising the regulation). After receiving public comments and conducting a stakeholders meeting, EPA intends to publish final revise/not revise decisions by Fall of 2002.

Tentative Charge for 6 Year Review of Existing Regulations—EPA is interested in having the EPA Science Advisory Board's advice on: (1) Whether EPA consistently applied its protocol for making determinations of whether or not to revise existing regulations, and (2) whether, in the SAB's view, EPA appropriately documented its analyses in support of the March announcement.

Background Information on the Contaminant Candidate List Regulatory Determinations—The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA to publish a list of contaminants (referred to as the Contaminant Candidate List, or CCL) to assist in priority-setting efforts. SDWA also requires the Agency to select five or more contaminants from the current CCL and determine, by August 2001, whether or not to regulate these contaminants with a National Primary Drinking Water Regulation (NPDWR). EPA intends to announce its preliminary determination decisions in the **Federal Register** prior to June 11, 2002.

The CCL was developed with considerable input from the scientific community and stakeholders and published in March of 1998. The CCL contains 60 contaminants (50 chemicals and 10 microbes) that are not subject to any current or proposed NPDWRs. In 1998, 20 of the 60 contaminants were classified as priorities for regulatory determination because EPA believed at that time that there were sufficient data to evaluate both exposure and risk to public health, and to support a determination of whether or not to proceed to promulgation of an NPDWR. Since then, 12 of the 20 priority contaminants were found to have insufficient information to support a regulatory determination. In addition, sodium was added to the list of regulatory determination priorities.

There are 9 contaminants that have sufficient data and information to consider a determination of whether or not to regulate: (i) Acanthamoeba (microscopic amoeba commonly found in the environment); (ii) aldrin and dieldrin (banned insecticides, used primarily on corn and cotton); (iii) hexachlorobutadiene (used primarily to make rubber compounds); (iv) manganese (essential nutrient, occurs naturally, and has a variety of uses); (v) metribuzin (herbicide used primarily on soybeans, potatoes, and alfalfa); (vi) naphthalene (intermediary manufacturing product and moth repellent; (vii) sodium (essential nutrient, naturally occurring element); and (viii) sulfate (present in the diet, naturally occurring element). After receiving public comments and conducting a stakeholders meeting EPA intends to publish a final determination (Fall of 2002). If EPA determines that regulations are necessary, they must be proposed within two years and promulgated eighteen months after the proposal.

SDWA requires consideration of three areas when EPA makes a determination to regulate: (i) Projected adverse health effects, (ii) extent of contaminant occurrence, and (iii) whether regulation would present a meaningful opportunity for health risk reduction (see SDWA section 1412(b)(1)(A)) when EPA makes a determination to regulate.

EPA's evaluation approach is based on recommendations from National Research Council (NRC) and the National Drinking Water Advisory Council (NDWAC). For each of the nine contaminants, EPA evaluated: (i) The sufficiency of current analytical and treatment methods; (ii) the best available peer reviewed data on health effects; and (iii) analytical records on contaminant occurrence. For those contaminants with adequate methods, as well as health effects and occurrence data, EPA employed an approach to assist in making preliminary regulatory determinations that follows the themes recommended by the NRC and NDWAC to satisfy the three SDWA requirements under section 1412(b)(1)(A)(i)–(iii).

Specifically, EPA characterized the human health effects that may result from exposure to a contaminant found in drinking water, and based on this characterization, estimated a health-related bench-mark level for each contaminant. Then, for a given contaminant EPA estimated the number of public water systems and population served by those systems above these bench-mark values, and the geographic distribution using a large number of state occurrence data that broadly reflect national occurrence. Use and environmental release information, and ambient water quality data, were used to augment the State data and evaluate the likelihood of contaminant occurrence. The findings from these evaluations were used to make a preliminary determination on whether to regulate a contaminant based on the three SDWA statutory requirements.

Tentative Charge for Contaminant Candidate List (CCL) Regulatory Determinations—EPA is interested in having the SAB's advice on (i) whether the protocol used by EPA in making regulatory determinations appear to be reasonable, appropriate and consistently applied, in light of limitations of available data and information, and (ii) if the data set used for both health assessments and occurrence assessments is adequate for responding to the 3 statutory requirements for determinations of whether or not to regulate a contaminant on the CCL.

Availability of Review Materials: The availability of background materials for these topics is as follows: a) Six-Year project; contact Wynne Miller by telephone at (202) 564–4887 or by email at *miller.wynne@epa.gov*; b) CCL1 project; contact Karen Wirth by telephone at (202) 564–5246 or by email at *wirth.karen@epa.gov*.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (3 minutes or less) must contact Thomas Miller, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4558; FAX (202) 501–0582; or via e-mail at *miller.tom@epa.gov*. Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Mr. Miller no later than noon Eastern Time on Tuesday, June 4, 2002.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments*: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Web site (*http://www.epa.gov/sab*) and in The FY2001 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our Web site.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Miller at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 20, 2002.

A. Robert Flaak,

Acting Staff Director, EPA Science Advisory Board.

[FR Doc. 02–13120 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0084; FRL–7180–9]

Pesticides; Draft Guidance for Pesticide Registrants on False or Misleading Pesticide Product Brand Names; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Extension of comment period.

SUMMARY: In the **Federal Register** of March 28, 2002, EPA published a document announcing the availability of and sought public comment on a draft Pesticide Registration (PR) Notice titled, "False or Misleading Pesticide Product Brand Names." PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. The draft PR Notice provides guidance to registrants, applicants, and the public as to what product brand names may be false or misleading, either by themselves or in association with company names or trademarks. In response to a request from stakeholders, EPA is extending the comment period for 60 days, until August 1, 2002.

DATES: Comments, identified by docket ID number OPP–2002–0084, must be received on or before August 1, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0084 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5448; fax number: (703) 308–6467; e-mail address: kempter.carlton@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general although this action may be of particular interest to those persons who are required to register pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

You may obtain an electronic copy of all PR Notices, both final and draft, at http://www.epa.gov/opppmsd1/PR_Notices.

2. *Fax-on-demand*. You may request a faxed copy of the draft PR Notice titled, "False or Misleading Pesticide Product Brand Names," by using a faxphone to call (202) 564–3119 and selecting item 6146. You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0084. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0084 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through

Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0084. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is EPA Taking?

In the **Federal Register** of March 28, 2002 (67 FR 14941) (FRL–6809–9), EPA announced the availability of a draft PR Notice titled, "Pesticides; Draft Guidance for Pesticide Registrants on False or Misleading Pesticide Product Brand Names." The Agency provided a 60–day comment period, which was scheduled to end May 28, 2002. EPA is extending the comment period for the draft PR Notice for an additional 60 days, until August 1, 2002.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 20, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 02–13109 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0075; FRL–7178–2]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amended filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number OPP–2002–0075, must be received on or before June 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0075 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Stanton, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6100; e-mail address: stanton.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**" —Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0075. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0075 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–2002–0075. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by Bayer Corporation and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Bayer Corporation

PP 0F6084

In the **Federal Register** of March 1, 2000 (65 FR 11052) (FRL–6489–9), EPA published a Notice of Filing of a Pesticide Petition (PP 0F6084) from Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120-0013, proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of cyfluthrin, cyano (4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl cyclopropane carboxylate, in or on the raw agricultural commodity mustard greens, greens at 7.0 parts per million (ppm); lettuce, leaf at 3.0 ppm; lettuce, head at 2.0 ppm; and Head and Stem Brassica (Subgroup 5A) at 2.0 ppm. EPA has received an amendment to pesticide petition 0F6084 from Bayer Corporation, increasing the proposed tolerance for Head and Stem Brassica (Subgroup 5A) to 2.5 ppm. The proposed tolerances for mustard greens, leaf lettuce and head lettuce remain unchanged. EPA has determined that the amended petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the

petition. Additional data may be needed before EPA rules on the petition.

Summary information on cyfluthrin residue chemistry, toxicological profile, aggregate exposure, cumulative effects, safety determination and international tolerances was published in the original Notice of Filing of Pesticide Petition 0F6084 (65 FR 11052, March 1, 2000) and most recently in the **Federal Register** of May 17, 2001 (66 FR 27465) (FRL–6781–8).

[FR Doc. 02–13122 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7217–9]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act, Utah Transit Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given that a proposed Prospective Purchaser Agreement ("PPA") was executed by the U.S. Environmental Protection Agency on March 18, 2002, subject to final approval by the U.S. Department of Justice. The proposed PPA would resolve potential claims under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606 and 9607, against the Utah Transit Authority ("UTA"), a public transit district and a political subdivision of the State of Utah, which is acquiring a railroad corridor and related property from the Union Pacific Railroad in order to construct a public transit "light-rail" system serving the greater Salt Lake area (the "Property"). By entering into the PPA, UTA agrees to provide EPA access to the Property, complete an environmental audit and conduct environmental sampling of the Property, to characterize soil which is excavated to construct the "light-rail" system, and to properly handle or dispose of soils which are found to be contaminated.

For Fifteen (15) days following the date of publication of this document, the Agency will receive written comments relating to the proposed settlement. Comments should be addressed to Richard Sisk (8ENF–L), Attorney, U.S. Environmental Protection Agency, Region 8, Suite 300, 999 18th Street, Denver, Colorado 80202. and should refer to *In the Matter of Utah Transit Authority.*

Availability: The proposed settlement is available for public inspection at the EPA Library, U.S. Environmental Protection Agency, Region 8, First Floor, 999 18th Street, Denver, Colorado 80202. A copy of the proposed Agreement may be obtained from Richard Sisk (8ENF–L), Attorney, U.S. Environmental Protection Agency, Region 8, Suite 300, 999 18th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Richard Sisk (8ENF–L), Attorney, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Denver, Colorado 80202. (303) 312–6638.

It is so agreed:

Dated: May 9, 2002.

Carol Rushin,

Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, Region 8.

[FR Doc. 02–13121 Filed 5–23–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

[No. 2002–N–5]

Notice of Public Hearing on Federal Home Loan Banks of Cincinnati and Chicago Capital Plans

AGENCY: Federal Housing Finance Board.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Federal Housing Finance Board (Finance Board) will hold the following public hearing:

Time and Date of Hearing: Wednesday, June 5, 2002 at 10 am EDT.

Place: Cleveland Airport Marriott, 4277 West 150th Street, Cleveland, OH 44135.

Agenda: The boards of directors of the Cincinnati and Chicago FHLBanks have submitted proposed capital plans which differ from most other plans. The Finance Board wishes an opportunity to better understand the judgments and decisions made by the boards of each Bank in designing the proposed plans. In particular, the Finance Board expects to learn more about: The business strategies embodied in the plans; the methods used by each board to solicit member views; how the details of the proposed plans will be disclosed to members; and how each plan will operate, if approved and implemented. The Finance Board also hopes to learn how each Bank's board of directors will monitor and maintain capital sufficiency, if its proposed plan is approved.

Only members of the board of directors of each Bank, as designated by the chair of each board, may testify in the hearing. Written submissions are welcome from all other interested parties. All testimony, including the written statements of each Bank, must be submitted in electronic format to the Finance Board no later than 48 hours before the hearing. In addition, 100 copies of testimony submitted for the record and of each Bank's statement must be delivered to the Cleveland Airport Marriott, Attention: Federal Housing Finance Board/June 5, 2002, before the start of the hearing.

Status: This hearing will be open to the public.

ADDRESSES: Send testimony and comments to Elaine L. Baker, Secretary to the Board, by electronic mail to bakere@fhfb.gov, or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address. The 100 copies of testimony for the hearing must be delivered to the Cleveland Airport Marriott, Attention: Federal Housing Finance Board/June 5, 2002.

FOR FURTHER INFORMATION CONTACT: Elaine L. Baker, Secretary to the Board, 202–408–2837, or Thomas D. Casey, Counsel to the Chairman, 202–408–2957.

Dated: May 22, 2002.

James L. Bothwell,

Managing Director.

[FR Doc. 02–13281 Filed 5–23–02; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 7, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Kettering Family, Steven Kettering, Lake View, Iowa; Michael Kettering, Lake View, Iowa; and June Kettering Manary, Livingston, Texas; to acquire voting shares of JEMS, Inc., Lake View, Iowa, and thereby indirectly acquire voting shares of Farmers State Bank, Lake View, Iowa.

Board of Governors of the Federal Reserve System, May 20, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–13031 Filed 5–23–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 17, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309-4470:

1. First Georgia Holding, Inc., Brunswick, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First Georgia Bank, Brunswick, Georgia.

2. Peoples Community BancShares, Inc., Sarasota, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Community Bank of the West Coast, Sarasota, Flordia.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Metropolitan Bank Group, Inc., Chicago, Illinois; to retain more than 5 percent of the voting shares of Upbancorp, Inc., Chicago, Illinois, and thereby indirectly retain voting shares of Uptown National Bank of Chicago, Chicago, Illinois.

Board of Governors of the Federal Reserve System, May 20, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–13032 Filed 5–23–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary, Assistant Secretary for Planning and Evaluation

Notice of Funding Availability for Policy and Research Grants (State Innovation Grants)

AGENCY: The Office of the Assistant Secretary for Planning and Evaluation (ASPE), HHS.

ACTION: Announcement of the availability of funds and request for applications from States for innovation grants.

SUMMARY: ASPE invites state agencies to submit competitive grant applications for financial assistance in order to plan for, or implement, innovative approaches for the delivery of health and human services. This announcement has 2 tracks. Track 1 is for demonstration grants; track 2 is for planning grants. States may submit applications to either or both tracks. There is no limit on the number of applications that a state may submit.

The Catalog of Federal Domestic Assistance Number: The CFDA number is 93.239.

Closing Date: The closing date for submitting applications under this announcement is July 23, 2002. Please e-mail Brenda Benesch at *Brenda.Benesch@hhs.gov* by June 13, 2002, to inform the government of your intent to submit an application. Please include the proposed title of the project and the name of the agency submitting the application. Please put "intent to submit—track 1" or "intent to submit—track 2" in the subject line of your email. Providing notice of intent to submit is not a requirement for submitting an application. However, a notice of intent to submit will help the federal government in the planning for the review process.

Mailing Address: Applications should be submitted to Michael J. Loewe, Deputy Grants Management Officer, Grants Management Branch, National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 6100 Executive Boulevard, Room 8A01, Bethesda Maryland 20892–7510 (Regular Mail), Rockville Maryland 20852 (Express Mail). Phone: (301) 435–6995. Administrative questions will be accepted and responded to up to ten working days prior to closing date of receipt of applications.

You will receive e-mail confirmation to notify you that your application was received within 14 days of the closing date. If you do not receive confirmation within 14 days of the closing date, please contact: Michael J. Loewe at the address above.

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the information on the ASPE World Wide Web Page is accurate and complete, it is provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete. Any amendments to this announcement will be published in the **Federal Register** as well as on the ASPE World Wide Web Pages at *http://aspe.hhs.gov/funding.htm.* We encourage applicants to check periodically to see if any amendments have been published. We will also post answers to questions that we receive about the announcement that are of general interest at the above address.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to the Michael Loewe at the National Institute of Child and Human Development (NICHD) at the address or phone number listed above. Technical

questions should be directed to Brenda Benesch, either by telephone (202–260–0382), fax (202–690–6562), e-mail (*Brenda.Benesch@hhs.gov*) or in writing at the following address. Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 450G, Hubert H. Humphrey Building, Washington, DC 20201. If you send your question(s) in writing, please call to confirm receipt. Technical questions will be accepted and responded to up to ten working days prior to the closing date of receipt of applications.

ADDRESSES: Application materials are included in this package and are also available from the ASPE World Wide Web site: *http://aspe.hhs.gov/funding.htm* or by calling Michael Loewe at (301) 435–6995.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts: Part I: Background—Legislative authority, Background information, Purpose, Technical assistance and process evaluation; Part II: Project and Applicant Eligibility—Eligible applicants, Available funds, Budget and project period, and Matching requirements; Part III: The Review Process—Intergovernmental review, Initial screening, and Competitive review and evaluation criteria; Part IV: The Application—Application development, and Application submission, Disposition of applications, and Components of a complete application; Part V: Questions and Answers; and Part VI: Appendix.

Part I. Background

A. Legislative Authority

This announcement is authorized by section 1110 of the Social Security Act (42 U.S.C. 1310) and section 301 of the Public Health Service Act and awards will be made from funds appropriated under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Pub. L. 107–116).

B. Background Information

New approaches to integrating diverse funding streams, expanding services to new populations, or redesigned service delivery systems often emerge from innovations at the state or local level. Secretary Thompson initiated this grant program to stimulate states to develop new and creative approaches to program planning and health and human service delivery.

As laboratories for innovation, states are uniquely positioned to develop approaches for providing health and human services more efficiently. This grant program will encourage such creativity. It will build on activities already taking place at the state and local levels to devise better coordinated systems and programs tailored to the needs of specific populations. There are a broad array of interesting models focusing on particular issues, such as enhancing gateways to services (*e.g.*, schools); promoting family formation, responsible fatherhood, and responsible child-rearing in the context of marriage; improving outcomes for children and youth; facilitating the involvement of faith-based and community-based groups in the delivery of health and social services; consumer-directed approaches to home and community-based long-term care services; and providing culturally competent services. These, and like models, could be considered.

The grants will be administered by ASPE in conjunction with the National Institute of Child Health and Human Development. We will also facilitate information exchange among grantees, other States, and others interested in new and creative ways to deliver health and/or human services. This could be in the form of technical assistance, a conference, a website, and/or briefings.

C. Purpose

This competitive grant program will allow selected States to design and/or demonstrate new models for delivering health care, long-term care, and/or human services to low-income adults, families, and children. We are interested in funding applicants that demonstrate their interest in implementing innovative ideas. The goals of this initiative are twofold: to increase the effectiveness of health and human services by fostering innovative approaches to service delivery; and to share information gained through this program with other state agencies and interested parties so that they may learn about, and potentially replicate, innovative approaches.

There are two "tracks" under this announcement. Track 1 applicants are expected to be those state agencies that are ready to implement proposed innovations or expand existing innovative strategies. Track 1 applicants likely will have innovative strategies developed and most or all aspects of the programs or services will have been piloted, if not fully implemented. Track 2 applicants are expected to be those state agencies that have innovative ideas, but need time for further planning to fully develop or finalize operational plans.

We are particularly interested in multi-disciplinary projects that seek to better coordinate healthcare, long-term care, and human services systems and services. We encourage states to submit ideas of their own choosing, but we have noted some examples below and in the appendix. States are not required to use any of the suggested ideas.

A. Streamlined Access to Health Care and/or Human Services and Benefits

B. State Data Enhancements

C. Comprehensive Support Services for Children and Families

D. Long-Term Care Services and Resources

By participating in this grant program, states will help to provide much-needed, credible information to government officials and others about how their programs affect families and children. HHS hopes that its sponsorship of this grant program will provide an opportunity for states to learn from one another's successes and experiences.

D. Technical Assistance and Process Evaluation

ASPE will fund an independent contractor to provide technical assistance. We expect that the contractor will provide on-site technical assistance and develop technical assistance and training materials for States. An independent process evaluation will also be conducted with ASPE funds. The process evaluation will, at a minimum, address key research questions:

1. What are the issues and challenges associated with implementing and operating the funded projects?
2. What are the expected short and long-term implications of this intervention for clients, as well as for agencies involved?
3. What other innovative ideas/projects may grow out of each funded project and the program as a whole?

The evaluation will address:

- Strategies undertaken to implement the innovation (*e.g.* participation of community representatives, client participation, partnerships with local and state government agencies, *etc.*)
- Process and other outcomes for clients
- Changes in communication/collaboration between local agencies, states, and providers
- Potential organizational changes resulting from ideas generated through the design or implementation process (*i.e.* state or local policy changes, new programs initiated, fostering of community collaboration)
- Potential for further research and evaluation on outcomes for service population

We expect that the work undertaken through this evaluation will result in important operational lessons and sound information about implementing innovative approaches. ASPE expects that this investment will benefit low-income clients and families, state and local health and human service administrators, others who work with low-income people, and the general public.

Part II. Project and Applicant Eligibility

A. Eligible Applicants

The District of Columbia and any of the 50 states are eligible to apply for funding.

In order to be considered under this announcement, applicants under either Track 1 or 2 should indicate their willingness and intention to participate in a process evaluation, under the direction of and with assistance from HHS and its contractor.

B. Available Funds

Approximately $2.5 million is expected to be available from ASPE funds appropriated for fiscal year 2002. We estimate that this level of funding will support between 4–6 Track 1 demonstration grants and between 10 and 20 Track 2 planning grants.

C. Budget and Project Period

Awards made under this announcement for Track 1 will be for up to 12-month budget periods. States may propose projects up to 36 months in duration. Subject to the availability of funds, grantees with projects which last longer then 12 months will be allowed to submit subsequent applications for additional funding, at a lower level, for the additional budget period(s). Decisions on subsequent funding will be made on a noncompetitive basis based on the availability of funds, the adequate progress of the grantee, and such other similar criteria as the Department determines. Any requested additional funding will be reviewed to determine that the continuation of the project is consistent with the purposes of the announcement. Awards made under this announcement for Track 2 will be for up to 12-month budget periods and 17 month project periods.

After award, any purchase of computer hardware or software needs to be requested in writing by the grantee and approved in writing by the ASPE project officer and the grants officer. Purchases of computer hardware or software for routine uses will not be considered. *See* section Part IV, Section II for more information on review criteria for MIS/Data System proposals.

No funds may be paid as profit to grantees or subgrantees, i.e., any amount in excess of allowable direct and indirect costs of the recipient (45 CFR 74.81). Grant monies can be used for services to the extent that the cost of the services cannot be covered under existing programs.

D. Matching Requirements

Grantees must provide at least 10 percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. For example, a state with a project with a total budget (both direct and indirect costs) of $500,000 may request up to $450,000 in federal funds. Matching requirements cannot be met with funds from other federally-funded programs.

If a proposed project activity has approved funding support from other funding sources, the amount, duration, purpose, and source of the funds should be indicated in materials submitted under this announcement. If completion of the proposed project activity is contingent upon approval of funding from other sources, the relationship between the funds being sought elsewhere and from ASPE should be discussed in the budget information submitted as a part of the abstract. In both cases, the contribution that ASPE funds will make to the project should be clearly presented.

Part III. The Review Process

A. Intergovernmental Review

State Single Point of Contact (E.O. No. 12372)

DHHS has determined that this program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. 12372.

B. Initial Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement (2) the applicant is eligible for funding, (3) must include assurance that they and other relevant participating organizations will be willing to field test strategies and to participate in a process evaluation (this must be indicated on the page with the project abstract—see part IV, section E, 8(a)), and (4) is within the page limit (*see* part III, section C). Note that applications exceeding the page limit will not be reviewed further and will be ineligible for funding.

C. Competitive Review and Evaluation Criteria

Applications that pass the initial ASPE pre-review screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria are designed to assess the quality of the proposed project and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria as provided in this program announcement.

In order to ensure that the interests of the Federal Government are met, in making the final selections, ASPE may consider additional factors, in addition to the review criteria identified below such as the applicants' capacity for innovation (we encourage states with historically limited capacity to apply for grants), the potential impact of the innovation on the target population, the potential for building upon funded activities, the extent of partnerships with local entities, the overall diversity of program activities within the applicant pool, and the overall diversity of geographic areas within the applicant pool.

Although the review criteria are the same for applications submitted under either Track 1 or Track 2, the level of detail contained in the application is expected to be greater for Track 1 applications given that the applicant has likely progressed further in formulating the proposed approach (*e.g.*, identifying questions to be addressed, developing and implementing retention and/or advancement strategies, identifying data sources) and that more funds are available. Track 1 applications should be 10–20 pages, and Track 2 applications should be 5–10 pages. Applications exceeding the page limit will not be reviewed. Applicants are requested to be concise. More information about application submission is provided under Part IV, below.

Proposed projects will be reviewed using the following evaluation criteria:

(1) *Approach:* (40 POINTS)

The application will be judged on the extent to which the proposed approaches to project activities are

adequate and appropriate to meet the objectives for projects in this program as set out in this announcement. As a part of the proposed approach, the application should identify the key, relevant organizations that will be involved in project activity and describe operational relationships that exist or will be put into place among the state, local public, private and non-profit agencies, and any other entities. Plans for cross-agency collaboration should be clearly explained.

Track 1 applicants should include a discussion of the proposed approach for implementing and operating the innovative strategies identifying specific steps to be undertaken. Track 2 applicants should discuss the approach for implementing planning activities. If alternative strategies are already operating, the discussion should indicate how long they have been in place and ways in which they will be affected by the proposed innovation. For track 1, the approach should include a discussion of the time frame and action steps necessary before the project becomes operational (*e.g.*, staff must be trained over the next six months; partnerships with local agencies, non-profits, employers, *etc.* must be established, *etc.*) The application will be judged based on the extent to which the proposed project demonstrates a firm commitment of State, and/or local, and/or private funding and /or in-kind contributions dedicated to sustainability of the project, on the extent to which it is innovative, and on its potential for improving outcomes either in target populations or management of state programs.

The application should include a brief discussion of the location of the proposed project. Maps or other graphic aids may be attached. Applications should include appropriate information about the size of the target population in the proposed site/area and other data or information available that relate to the project activity.

It may be necessary for agencies to provide data to an evaluation contractor. The types of data likely to be required under this project include administrative data, including data on program attendance, or other participation data. Data may also be collected from program managers and staff and from individuals participating in the demonstration program. The proposed approach should indicate the availability of such data, the source of the data, the extent to which it can be obtained or accessed by the applicant organization, the existence of data exchange agreements with other agencies that are the source of needed data, and the willingness of the applicant agency to obtain data needed for the evaluation. Any limitations regarding data availability or access should be discussed, including any fees for data.

Any application for a project involving the use of personally-identifiable information about patients or clients that grantees collect should describe how the project intends to address the privacy and confidentiality issues presented by the data collection. The description should not include details of collection, consent, security and the like. It should describe the organizational and planning approaches that will ensure that the project addresses these issues in a thoughtful way, respectful of the patients' and clients' privacy and dignity, in accord with all applicable law, and, if appropriate, taking particular account of the special privacy issues created by systems that integrate or link administrative data across several programs that serve the same population.

Management Information Systems/ Data Enhancement—If one of the project's components includes the development of a management information system (MIS) or enhancement of data systems, please append a supplemental description of the existing system and the proposed enhancements (*If applicable, this section should be included as an appendix and should not be more than 3 pages. The appendix does not count toward the page limit*).

This supplemental information on MIS/data system development will be reviewed separately by a technical review panel. The supplemental descriptions should also include the following:

- The goals of the MIS/data project and how they fit into the overall goals and needs of the applicant's current system.
- The current and intended system, including plans to manage data and create or purchase software; connectivity such as wide area networks, web-based access, smart cards and expanded connections to existing mainframe systems; compliance with Health Insurance Portability and Accountability Act (HIPAA) requirements for patient privacy and confidentiality, and security plans.
- The implementation steps, the current status of implementation, and planned training for users of the system.
- The decision-making process for MIS including how the proposed activities were selected, who was consulted, and how ongoing decisions related to data elements and definitions will be reached.
- What is expected to be funded under the grant (hardware, software, personnel, consultants)?
- How system maintenance and upgrades will be sustained after the grant.

(2) Objectives and Need for Assistance: (15 points)

The applications should describe (1) issues and challenges which the applicant has considered and dealt with to date in designing and/or implementing strategies for system improvements, including an assessment of the current delivery system and the most urgent needs of the project's target population or system, and (2) the proposed innovation strategy and ways in which it will significantly enhance performance. A description of existing resources and programs for the target population, barriers in the current delivery system, and gaps in service delivery should also be included. The applicant should include any supporting data or available information which suggest why the innovation is needed. Applications will be judged on the relevance of the discussion to the program objectives set out within this announcement. The application will also be judged on the extent to which the innovation proposed will help to address the target population's needs, build the knowledge base, and have applicability to a range of states and localities.

(3) Results or Benefits Expected: (15 points)

The application should describe how the proposed innovation will address the identified needs and improve the delivery of services or activities. The application should identify specific outcome measures (goals) to be achieved through the innovation (Examples of innovative strategies are attached).

Goals should be tied to discrete, measurable objectives. Examples include: Increase in the proportion of participants entering jobs at higher wage levels; increased partnerships between agencies and employers to support working families; increased access to health and human services benefits; increased integration of programs or services targeting clients with multiple barriers; increased innovation related to "consumer-directed" approaches to home and community-based long-term care services; more rapid access to program and client date; etc. The application will be judged on the extent to which the proposed program design

or policies can be expected to achieve the stated project goals.

In committing to participate in a process evaluation, applicants should be able to report baseline information, including the size of the target population and the expected number of individuals or families to be served by the project, as appropriate. Interim and final program reports will be required.

(4) Staff and Position Data: (10 Points)

The application should include a listing of key individuals who will oversee and work on the project, specifically identifying the key individuals from the applicant agency who will serve as the primary contacts for ASPE and contractor staff, indicating their positions, areas of responsibility and authority, and the proportion of time that will be available for project activity.

Applications will be judged on the extent to which individuals with appropriate authority, positions, and experience will work on the project and the adequacy of time allocated for key staff to the project. In addition, the application will be judged on the extent to which there is a commitment to the project evidenced by the participation of senior state and local officials and managers and on the adequacy of the proposed plans for obtaining advice and direction regarding project work and involvement and assistance to resolve issues or problems, as appropriate.

(5) Adequacy of Workplan (10 points)

Track 1 applicants should provide details about how demonstration projects will be implemented, and Track 2 applicants should provide details about how the planning processes will evolve. Applications should delineate tasks for completing the work, indicate staff assignments for each task, and provide a schedule for completing each task. Applicants should also describe mechanisms that will be put in place to maintain quality control over the project. The application will be judged on the appropriateness and timeliness of the work schedule and tasks, staff assignments, and quality assurance plan.

(6) Budget Appropriateness: (10 points)

The application must include a narrative description and justification for proposed budget line items and demonstrate that the project's costs are adequate, reasonable and necessary for the activities or personnel to be supported. The budget and narrative should have a clear relationship to the approach. The budget must include 2 trips to Washington, DC. The application will be judged on the extent to which adequate staffing and other resources will be provided as required to successfully carry out the tasks and activities proposed. (Applicants should refer to the budget information presented in the Standard Forms 424 and 424A, which can be found at *http://aspe.hhs.gov/funding.htm*).

Part IV. The Application

A. Application Development

In order to be considered for an award under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ASPE. Application materials including forms and instructions are attached to this announcement. Additional copies are available from Brenda Benesch or may be obtained electronically from the ASPE World Wide Web site: *http://aspe.hhs.gov/funding.htm*

Applicants should refer to the attached application kit for instructions regarding which forms, certifications and assurances are required and for instructions on completing the forms and preparing and submitting the application. Each application package must include an *original and two copies* of the complete application. All pages of the narrative must be sequentially numbered and unbound.

Applications must be received in the following format:

- 12 point font size
- Single line spacing
- 1 inch top, bottom, left, and right margins
- Applications under Track 1 should be 10–20 pages. Applications submitted under Track 2 applications should be 5–10 pages. Page limits apply to items Section IV, E, 8(b–e) only; page limits do not include standard forms, certificates, and the like. Forms are available from Brenda Benesch or may be obtained electronically from the ASPE world Wide Web site: *http://aspe.hhs.gov/funding.htm*. Applications that are not received in the format described above and/or exceed the page limit, will not be reviewed. Applicants are requested to be concise. Applicants are encouraged not to attach or include bound reports or other documents.

B. Application Submission

1. Mailed applications postmarked after the closing date will be classified as late.

2. *Deadline.* The closing (deadline) date for submission of applications under Track 1 is July 23, 2002, and under Track 2 is July 23, 2002. Please e-mail Brenda Benesch at *Brenda.Benesch@hhs.gov* by June 13, 2002, to inform the government of your intent to submit an application. Please include the proposed title of the project and the name of the agency submitting the application. Please put "intent to submit—track 1" or "intent to submit—track 2" in the subject line of your email. Providing notice of intent to submit is not a requirement for submitting an application. However, a notice of intent to submit will help the federal government in the planning for the review process. U.S.P.S. mailed applications shall be considered as meeting the announced deadline if they are either received on or before the deadline date or postmarked on or before the deadline date and received by ASPE in time for the independent review to: Michael J. Loewe, Deputy Grants Management Officer, Grants Management Branch National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 6100 Executive Boulevard, Room 8A01, Bethesda Maryland 20892–7510 (Regular Mail), Rockville Maryland 20852 (Express Mail), Phone: (301) 435–6995 Fax: (301) 402–0915.

If applicants use a commercial mail service, they must ensure that a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application. To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m. EST, at the U.S. Department of Health and Human Services, Grants Management Branch National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 6100 Executive Boulevard, Room 8A01 Bethesda Maryland 20892–7510 (Regular Mail), Rockville Maryland 20852 (Express Mail)) The address must appear on the envelope/package containing the application with the note "Attention: (Michael J. Loewe, Deputy Grants Management Officer "

(Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

An application sent via the U.S. Postal Service will be considered as having met the deadline if it is postmarked before midnight three days prior to July 23, 2002, and received in time to be considered during the competitive review process (within two weeks of the deadline).

Applications transmitted by fax or through other electronic means will not be accepted regardless of date or time of submission or receipt.

3. *Late applications.* Applications that do not meet the criteria above are considered late applications. NICHD shall notify each late applicant that its application will not be considered in the current competition.

4. *Extension of deadlines.* NICHD may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of the mail service, or in other rare cases. Determinations to extend or waive deadline requirements rest with Michael J. Loewe , Deputy Grants Management Officer, Grants Management Branch, National Institute of Child Health and Human Development.

C. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application as a whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary for Planning and Evaluation will notify the applicants of the disposition of their applications. If approved, a signed notification of the award will be sent to the business office named in the ASPE checklist.

3. *The Assistant Secretary's Discretion.* Nothing in this announcement should be construed as to obligate the Assistant Secretary for Planning and Evaluation to make any awards whatsoever. Awards and the distribution of awards among the priority areas are contingent on the needs of the Department at any point in time and the quality of the applications that are received.

D. Components of a Complete Application

A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424);

2. Budget Information—Non-construction Programs (Standard Form 424A);

3. Assurances—Non-construction Programs (Standard From 424B);

4. Table of Contents;

5. Budget Justification for Section B Budget Categories;

6. Proof of Non-profit Status, if appropriate;

7. Copy of the applicant's Approved Indirect Cost Rate Agreement, if necessary;

8. Project Narrative Statement, organized in six sections, addressing the following topics (b through e are limited to twenty (20) single-spaced pages for Track 1 and ten (10) pages single-spaced pages for Track 2):

(a) Abstract (must include assurance of willingness to participate in a process evaluation),

(b) Goals, Objectives and Usefulness of the Project,

(c) Methodology and Design,

(d) Background of the Personnel and Organizational Capabilities,

(e) Work plan (timetable), and

(f) Budget narrative.

9. Any appendices or attachments;

10. Certification Regarding Drug-Free Workplace;

11. Certification Regarding Debarment, Suspension, or other Responsibility Matters;

12. Certification and, if necessary, Disclosure Regarding Lobbying;

13. Supplement to Section II—Key Personnel;

14. Application for Federal Assistance Checklist.

Standard forms are available from Brenda Benesch or may be obtained electronically from the ASPE World Wide Web site: *http://aspe.hhs.gov/funding.htm*

Part V. Questions and Answers

1. Should We Apply Under Track 1 or Track 2?

There are two "tracks" under this announcement. Track 1 applicants are expected to be those state agencies that are ready to implement proposed innovations or expand existing innovative strategies. Track 1 applicants likely will have innovative strategies developed and most or all aspects of the programs or services will have been piloted, if not fully implemented. Track 2 applicants are expected to be those state agencies that have innovative ideas, but need time for further planning to fully develop or finalize operational plans.

ASPE expects that approved applications under Track 1 will be for a period of 1 year (with the possibility of an additional 2 years of funding at a lower level) and applications under Track 2 will be for a period of 17 months.

2. Which Agency May Submit the Application Under This Announcement?

Any state agency may apply. However, refer to Section I, part C, regarding the purpose of the program.

ASPE expects that the project will be conducted in a defined geographic area (*e.g.*, county, city, selected districts, or the state).

As indicated in the announcement, the state can propose more than one project and can apply under either Track 1 or 2, or under both tracks (for different projects).

3. How Much Money is Available Per Applicant Under This Announcement?

Track 1: ASPE anticipates that awards under Track 1 may be up to $500,000 per year.

Track 2: ASPE anticipates that awards under Track 2 may be up to $50,000 for the 17-month period.

4. How Many Awards Will Be Made or How Many Applications Will Be Approved?

Track 1: ASPE anticipates awarding 4–6 grants under Track 1.

Track 2: ASPE anticipates awarding up to 20 grants under Track 2, under this announcement.

5. May a State Submit More Than One Application (e.g., Under Either Track 1 or 2 or Submit Applications Under Each Track)?

Yes. If the state agency wishes to propose and apply to have more than one project awarded under either Track 1 or 2, they should submit an application for each proposed project. Sufficient budget detail must be provided to allow ASPE to determine the costs associated with *each* project proposed.

If the state agency wishes to submit applications under both Track 1 and Track 2 for different projects, separate applications for each track must be submitted. (Note: there are different submission deadlines for each track).

6. Can More Than One Agency From a State Apply?

Yes.

7. Are There Page Limits or Other Page Guidelines for the Narrative Section of the Application?

Yes, there are page limits for the applications. Applicants are requested to be concise. The announcement indicates that applications are not expected to be lengthy (*see* Part III, Section C). Track 1 applications must be no longer than 20 pages, and Track 2 applications must be no longer than 10 pages, excluding required forms, certificates, etc. Applications must be typed in 12 point font size, with single line spacing, and 1 inch top, bottom, right, and left margins. Applications that exceed the page limits and other guidelines will not be considered.

8. Where Should Applications Be Sent?

An original and two copies of the complete application should be sent: to Michael J. Loewe, Deputy Grants Management Officer, Grants Management Branch, National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 6100 Executive Boulevard, Room 8A01, Bethesda, Maryland 20892–7510 (Regular Mail), Rockville, Maryland 20852 (Express Mail) , Phone: (301) 435–6995.

9. What Is the Application Submission Deadline?

For Track 1: applications must be received or postmarked by July 23, 2002.

For Track 2: applications must be received or postmarked by July 23, 2002.

10. What Is the Deadline for Applications Sent Via Overnight Courier Services?

Applications that are hand-carried will be considered as meeting the deadline if they are *received on or before the deadline date between the hours of 8 a.m. and 4:30 p.m. EST* at Grants Management Branch, National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 6100 Executive Boulevard, Room 8A01, Bethesda, Maryland 20892–7510 (Regular Mail), Rockville, Maryland 20852 (Express Mail), Phone: (301) 435–6995, Fax: (301) 402–0915. The address must include the designation: "Attention: Michael Loewe". (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

11. May Applications Be Faxed or Sent Electronically?

Applications transmitted by fax or through other electronic means will not be accepted regardless of date or time of submission or receipt.

12. Where Can Additional Copies of the Announcement and/or Forms Be Obtained?

The complete package, announcement and standard forms, are available on the ASPE Web site at: *http://aspe.hhs.gov/funding.htm* or by calling Michael Loewe at (301) 435–6995.

Part VI: Appendix

Examples of Activities for State Innovation Grants

The following are intended as examples that States may pursue through innovation grants. Although we have grouped the examples into subcategories, several of them describe cross-cutting issues. States are encouraged to submit ideas of their choosing, and are not required to use one of the ideas suggested below.

Access to Health Care and/or Human Services and Benefits

- Many states are interested in expanding access to private health insurance for low-income workers. Funds from state innovation grants could be used for the design or infrastructure development of programs such as the following:
- *Premium assistance programs for low-income workers who cannot afford to purchase insurance offered by their employers*—states could subsidize premiums or other cost-sharing requirements for workers deemed eligible;
- *A private insurance product for small employers who do not now offer insurance coverage to their employees*—states could target certain employers for this type of insurance, including daycare and long-term care providers and other service-oriented businesses.
- States could adopt a number of strategies to address lack of access to dental care and affordable dental insurance, which is particularly a problem among the poor, racial and ethnic minorities, and people living in rural areas. For example, states could form public/private partnerships to increase the number of providers or the availability of dental insurance.
- Coordination between adequate income, food, social services, and health care is especially important in rural communities and areas with high concentration of poverty where services and providers are limited. Although health and social welfare are strongly associated with one another, Federal, State, and local planning efforts continue to address primary health care, behavioral health care, and social services separately. States could use innovation grants to improve coordination and compatibility of services, processing requirements, eligibility, and financial accountability.
- Many states are interested in providing coverage for personal care and other community-based services to be provided to Medicaid beneficiaries in assisted living facilities (ALFs). However, in order to serve Medicaid beneficiaries in ALFs, financing sources must be found to pay the room and board components of the cost of care since Medicaid law prohibits such coverage. The Department of Housing and Urban Development has a grants program specifically for conversion of Section 202 housing to assisted living, and HUD is interested in working with State Medicaid agencies. States may choose to apply for a State Innovation Grant to do some preliminary interagency planning to come up with new approaches that will enable them to access HUD funds for 202 conversions to ALFs.

State Data Enhancements

- States could enhance their data management systems to integrate or link administrative data across a range of programs that serve similarly situated families; expand eligibility screening processes; application of Geographic Information System (GIS) techniques for program planning and operations; or expand use of new technologies, such as Personal Digital Assistants.
- States and providers often face burdensome, duplicative, inconsistent data collection and reporting requirements in their health and long-term care systems. States may elect to use a State Innovation Grant to work on the development of an electronic health information system that will support effective clinical management of patients; improve quality of care; enhance, expand, and support the role of patients in health care decision making; and reduce regulatory burden imposed on providers.

Comprehensive Support Services for Children and Families

- Many states are developing a comprehensive set of early childhood services and family support programs to promote school-readiness in all young children. To support high-risk families, working families, and children with special needs, states could integrate federal support systems that address different facets of early childhood (*i.e.*, Medicaid, SCHIP, mental health, child care, Head Start and Early Head Start, *etc.*); or link key services that address the various components of early childhood development (for example, promoting reading readiness and healthy development in child care settings).
- States are beginning to realize that there is tremendous overlap between adults in the criminal justice system and the adults and children served in many of the health and human services programs targeting low-income families. States could build connections between support programs for families of prisoners, prisoner/re-entry programs, and health and social service delivery systems.
- There is growing recognition of the critical importance of primary and secondary prevention of youth risk behavior through approaches and supports targeting all youth, and particularly high-risk youth. States can make a significant effort to provide program interventions to compensate for those that may be missing within the current system by: involving multiple youth serving sectors to develop core indicators and encouraging state data agencies to monitor these indicators; providing cross-training to facilitate interagency education and

communication; or developing a state youth coordinating council.

• State or local agencies might partner with employers to support low-income working families by matching the employer's provision of paid release time to take job-related classes. Agencies could also partner with employers to offer lunchtime classes on such topics as choosing a child care provider, conflict resolution, or repairing bad credit.

Long-Term Care Services and Resources

• States interested in experimenting with "consumer-directed" approaches to home and community-based long-term care services could undertake a variety of innovative practices, for example: developing the specialized infrastructure needed for consumers to recruit and manage home care workers directly, without having to take on the business-related tasks of issuing paychecks and making required tax filings; providing consumer-directed service options within managed care structures; providing options for particular constituencies, such as elders with Alzheimer's disease and their families; or growing small pilot programs to scale and adapting those originally funded with state revenues to conform to Medicaid requirements.

• States could develop campaigns to make residents aware of their risk for long-term care and their options for planning ahead, including purchasing private long-term care insurance. States could use their existing aging infrastructure to ensure that persons nearing retirement age are offered the resources and assistance necessary for successful planning, or they could use the grant resources to investigate the best and most cost-effective mechanisms for educating citizens so that future resources will be well targeted.

• Allegations of poor quality, abuse, and neglect in nursing homes are giving rise to an increasing number of private lawsuits and, as a result, liability insurance premiums for facilities in a number of states have gone sky high. States may choose to apply for state innovation grants to develop working partnerships with private liability insurers to identify "best practices" for nursing homes that, if adopted by facilities, can be linked to liability premium discounts.

• States, providers, consumers and others are increasingly struggling with a serious crisis in recruiting and retaining a quality, committed workforce to provide long-term care services in institutional and home and community-based settings. States may opt to use state innovation funds to develop and implement programs to address the shortage. For example, states could experiment with providing new training programs, establishing alternative approaches to management and supervision, improving benefits for direct care workers, or creating career ladders.

Dated: May 15, 2002.

William F. Raub,

Principal Deputy Secretary for Planning and Evaluation.

[FR Doc. 02–13034 Filed 5–23–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Public comments on EPC Report "Systems to Rate the Strength of Scientific Evidence"

AGENCY: The Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for public comments.

SUMMARY: To inform its response to a legislative mandate to develop and disseminate methods or systems to rate scientific evidence found in health care research studies (*see Background* section, below), AHRQ commissioned the Research Triangle Institute-University of North Carolina Evidence-based Practice Center (RTI/UNC EPC) to undertake a study on systems to rate the quality of scientific evidence. The goals of the EPC study were to describe systems to rate the strength of scientific evidence, including evaluating the quality of individual articles that make up a body of evidence on a specific scientific question in health care, and to provide some guidance as to current "best practices" with respect to rating scientific evidence regrading a particular clinical treatment or technology.

The RTI/UNC EPC completed their study and submitted to AHRQ the report "Systems to Rate the Strength of Scientific Evidence". The report includes the EPC's methodological approach (*e.g.*, search strategy, data collection, analysis of findings) and discusses identification of systems, factors important in developing and using rating systems, and a "best practices" orientation to selecting systems for use. The report also includes recommendations for future research.

The comprehensive report "Systems to Rate the strength of Scientific Evidence, is available on AHRQ's web page at *http://www.ahrq.gov/clinic/evrptfiles.htm#strength*". The report also is available, without charge, from the AHRQ Clearinghouse by calling 800–358–9295.

There are a variety of audiences for the guidance that the Agency will disseminate on this subject, who we hope will be interested in evaluating the usefulness of this EPC report for their purposes and who will also describe the type of guidance that would be most helpful to them. Obtaining comment on how the AHRQ can best fulfill its legislative mandate to identify and disseminate guidance on systems to rate the strength of scientific evidence, is essential to fulfill its commitment to inform all segments of the health care community. We are interested in receiving comments on the report's overall clarity, usefulness, and thoroughness, and we also welcome suggestions on the type of guidance that would be most helpful to researchers, policymakers, provider systems, professional societies, practitioners, patients, and others. For example, what do professional societies, practitioners, payors, policymakers need to know about grading scientific evidence? What parts of the EPC report will be used in day-to-day health care decision making? Is some part this information useful to patients? What are the most useful format(s) for the guidance that AHRQ should use for its dissemination strategy with particular audiences or users?

DATES: For particular audiences or uses, or explanation of particular rating systems to be considered for incorporation and discussion in the guidance AHRQ will provide in the near future in accordance with its legislative mandate, written comments must be received by August 22, 2002. Comments should be sent to Jacqueline Besteman (e-mail attached file preferred), at *jbestema@ahrq.gov*; or faxed to 301–594–4027.

FOR FURTHER INFORMATION CONTACT: Jacqueline Besteman, J.D., M.A., Director, EPC Program, Center for Practice and Technology Assessment AHRQ, 6010 executive Blvd., Suite 300, Rockville, MD 20852; Phone: (301) 594–4017; Fax: (301) 594–4027; e-mail: *jbestema@ahrq.gov*.

SUPPLEMENTARY INFORMATION:

Background

AHRQ is the lead Federal agency for enhancing the quality, appropriateness, and effectiveness of healthcare services and access to such services. In carrying out this mission, AHRQ conducts and funds research that develops and presents evidence-based information on healthcare outcomes, quality, cost, use and access. Included in AHRQ's legislative mandate is support of syntheses of scientific clinical and behavioral studies on particular treatments and technologies, and wide-spread dissemination of the resultant evidence reports and technology assessments. The mandate includes dissemination of guidance on methods or systems for rating the strength of scientific evidence. These research findings, syntheses, and guidance are intended to assist providers, clinicians, payers, patients, and policymakers in making evidence-based decisions

regarding the quality and effectiveness of health care.

Section 911(a), part B, Title IX, Healthcare Research and Quality Act of 1999, requires in part that AHRQ, in collaboration with experts from the public and private sectors, identify methods or systems to assess health care research results, particularly "methods or systems to rate the strength of the scientific evidence underlying health care practice, recommendations in the research literature, and technology assessments." The Agency is to make methods or systems for rating evidence, widely available. To inform its response to this mandate, AHRQ invites public comments on the RTI/UNC EPC study noted above.

Dated: May 17, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–13152 Filed 5–23–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–56]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of Customer Satisfaction of the Centers for Disease Control and Prevention (CDC) and Agency for Toxic Substances and Disease Registry (ATSDR) Internet Home Page and Links (OMB. No. 0920–0449)—Extension—CDC and ATSDR proposes to continue to conduct consumer satisfaction research around its Internet site in order to determine whether the information, services, and materials on this web site are presented in an appropriate technological format and whether it meets the needs, wants, and preferences of visitors or "customers" to the Internet site. The re-authorized survey will be conducted over the next three years and survey results will be analyzed and interpreted semiannually. Customers on the web site will only be asked to respond once.

Information on the site focuses on disease prevention, health promotion, and epidemiology. The site is designed to serve the general public, persons at risk for disease, injury, and illness, and health professionals. This research will ensure that these audiences have the opportunity to provide "customer feedback" regarding the value and effectiveness of the information, services, and products of the CDC and ATSDR Web site and whether these materials are easy to access, clear and informative. There are no costs to respondents.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Visitors to CDC Internet Site	13,000	1	10/60	2,166
Total				2,166

Dated: May 17, 2002.

John Moore,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13040 Filed 5–23–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect, Centers for Disease Control and Prevention of the Department of Health and Human Services, has been renewed for a 2-year period extending through May 17 2004.

For further information, contact Dixie E. Snider, Jr., M.D., Acting Executive Secretary, National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect, 1600 Clifton Road, NE, m/s D–50, Atlanta, Georgia 30333. Telephone 404/639–7240, or fax 404/639–7341.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 17, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13071 Filed 5–23–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02136]

Reducing Sexual Risk for HIV Transmission in Substance-Using Men Who Have Sex With Men; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program to support research on interventions to reduce sexual risk for HIV transmission in substance-using men who have sex with men (MSM). This program addresses the "Healthy People 2010" focus HIV.

The purpose of the research is to develop and test behavioral interventions that focus on reducing risk for HIV transmission by altering the sexual risk behavior of substance using and abusing MSM. Under this program, the primary outcome of the project will be the development of effective interventions for substance-using MSM which may then be adapted and replicated by community-based HIV prevention and substance abuse agencies among sub-populations of substance-using MSM throughout the U.S. This announcement addresses goals of CDC's HIV Prevention Strategic Plan.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for HIV, STD & TB Prevention. Through the implementation of HIV prevention programs, reduce the number of cases of HIV infection and AIDS: 1. acquired heterosexually, 2. related to injecting drug use, 3. associated with male-to-male homosexual contact, and 4. acquired perinatally.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, faith-based organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: *Title 2 of United States Code Section 1611* states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Availability of Funds

Approximately $1,200,000 is expected to be available in FY 2002 to fund up to four awards for the first year of project activities. It is expected that the average award will be approximately $300,000 in the first year to support development of an intervention in additional years and will begin on or before September 30, 2002. The award will be made for a 12-month budget period, within a project period of up to five years. Funding estimates are expected to increase once recruitment and intervention activities begin. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports, satisfactory participant accrual, and the availability of funds. The Catalog of Federal Domestic Assistance number is 93.943.

Funding Preference

Funding decisions will attempt to achieve regional diversity of the four sites (e.g., Northeast, South, Central, West). Funding decisions will also take into consideration geographical locations that afford sufficient numbers of men from which to sample.

D. Program Requirements

In conducting activities to achieve the purpose of these programs, the recipient will be responsible for the activities listed under Recipient Activities, and CDC will be responsible for conducting activities listed under CDC Activities:

1. Recipient Activities

The program will support four sites to work collaboratively with each other and with Federal investigators in conducting an intervention study to reduce sexual risk-taking among substance abusing MSM. At each site, it is expected that grantees will newly enroll a minimum of 375 men, including non-injection drug and other substance-using (including alcohol) gay identified and non-gay identified MSM.

The interventions to be tested should be theory-based, group-level interventions appropriate for use among a culturally-diverse population of MSM who reside within a challenging socio-cultural context. Intervention strategies should be sufficiently brief and of a technical level that would facilitate rapid dissemination among community-based organizations. Approximately one-third of the men should identify as African American, one-third as Hispanic/Latino and one-third as Caucasian at each study site. Men who are recruited into the study must currently use drugs and/or alcohol at a heavy level and have been sexually active within the past three months. Men recruited into the study can be poly-drug users (including alcohol), but without current intravenous drug use. Men can be recruited from a variety of venues, including drug using venues, bars, public sex environments known also to be sites for drug/alcohol use as well as substance abuse treatment organizations. The design of the study should include an attention control strategy, so that men randomized to the control condition are invited to equivalent time spent in groups that focus on an issue of interest to this population.

Applicants should develop (1) sampling and recruitment strategies that ensure that the study includes a demographically diverse group of MSM, (2) culturally-sensitive measures of antecedent and outcome variables, including both quantitative and qualitative assessments, (3) an intervention plan that relates directly to an identified theoretical model of sexual risk reduction, (4) a core set of measures that will facilitate assessment of substance use and sexual risk behavior, (5) a sampling plan that will successfully recruit and retain a large number of research participants whose substance use is associated with high risk sexual behavior at some level, and (6) stringent safeguards for protecting confidentiality of participants.

Applicants must develop protocols and assessment instruments that will increase understanding of a broad array of sociocultural, structural, psychological, and behavioral factors as they relate to HIV infection risk in substance-using MSM. These factors must be addressed in the design of intervention activities, so that the forces that are promoting high risk sexual activity within these populations are addressed in the intervention. Clear hypotheses should be developed to test how these variables—and drug and alcohol use themselves—mediate or moderate target risk behaviors. After sites are funded, but before research activities begin, grantees and Federal investigators will work collaboratively to refine the protocols so that they fit together across sites and address behavioral intervention research issues in a scientifically rigorous manner.

Collaborate with other Federally sponsored researchers, including developing and using common data collection instruments and data management procedures, as determined in post-award grantee planning conferences.

Recipients will be required to pool data for analysis and publication, but can also conduct independent site-specific analyses, as agreed to by the multi-site study group. Recipients are also required to work collaboratively as a study group to:

a. Attend meeting(s) at CDC to develop collaborative research protocol.

b. Develop the research study protocols and standardized data collection forms across sites, including standardized measures of drug and alcohol use and high risk sexual behaviors.

c. Prepare an IRB protocol for approval at the local and CDC levels.

d. Identify, recruit, obtain informed consent from, and newly enroll an adequate number of study participants as determined by the study protocols and the program requirements.

e. Follow study participants as determined by the study protocols.

f. Develop the intervention and intervention procedures in collaboration with the other funded investigators and implement the intervention as defined in study protocols.

g. Establish procedures to maintain the rights and confidentiality of all study participants.

h. Perform laboratory tests (when appropriate) and data analysis as determined in the study protocols.

i. Collaborate and share data (when appropriate) with other collaborators to answer specific research questions.

j. Conduct data analysis with all collaborators.

k. Present and publish research findings.

l. Participate in conference calls with all collaborators.

m. Attend scheduled meetings with other funded grantees.

2. CDC Activities

a. Provide technical assistance as needed in intervention development and in the design and conduct of research.

b. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

c. Assist as needed in designing a data management system.

d. Assist as needed in performance of selected laboratory tests.

e. Work collaboratively with investigators to help facilitate research activities across sites involved in the same research project.

f. Analyze data and present findings at meetings and in publications.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop your application. Your application will be scored based on the criteria listed in the Evaluation Criteria, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side with one inch margins in a 12-point font or greater. Follow the directions for completing the application that are found in the Public Health Service (PHS) 398 kit.

F. Submission and Deadline

Submit the original and two copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before July 31, 2002 submit the application to:

Technical Information Management Section, PA #02136, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are:

Received on or before the deadline date.

Late Applications: Applications which do not meet the criteria above will be returned to the applicant.

G. Evaluation Criteria

Application

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement. Measures of Effectiveness must relate to the performance goal (or goals) as stated in section "A. Purpose" of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC. Applications will be ranked on a scale of 100 maximum points. Applications will be reviewed and evaluated based on the evidence submitted and the applicant's abilities to meet the following criteria:

1. Familiarity With and Access to the Study Population (25 points)

a. Extent of the applicant's knowledge of issues faced by study population, including substance use and sexual risk behaviors, access to the study population and experience in working with the population.

b. Existence of linkages to facilitate recruitment from and referral to community-based programs providing services for the study population, including letters of support given in an appendix.

c. Feasibility of plans to involve the study population, their advocates, or service providers in the development of research activities and to inform them of research results.

d. Feasibility of plans for recruitment and outreach to new study participants (e.g. not men currently enrolled in an ongoing study).

2. Description and Justification of an Intervention and Research Plan (40 points)

a. Quality of the review of the scientific literature pertinent to the proposed study, including the theoretical basis for the investigation and relevance of research questions.

b. The originality of the research, including the extent to which it addresses important gaps in knowledge and has strong relevance for guiding behavioral interventions.

c. Applicant's understanding of the research objectives as evidenced by the quality of the proposed research plan, specific study design and the choice of the theory to guide the intervention activities as well as the quality of the plan to operationalize intervention activities.

d. Feasibility of plan to sample, recruit, obtain informed consent and newly enroll 375 study participants in a culturally and linguistically appropriate manner. This includes plans for achieving a demographically diverse sample within the African-American and Hispanic populations, conducting multi-venue sampling.

e. Feasibility of plan for collecting both quantitative and qualitative formative research data and to follow research participants over time.

f. Comprehensiveness of the plan to protect the rights and confidentiality of all participants.

g. Thoroughness of statistical analysis plans, including data cleaning, management, and substantive analyses, and plans for timely provision of data for pooled analyses.

h. Extent to which study proposal demonstrates agreement to comply with multi-site research requirements (e.g., common protocol, data collection, and computer and data management systems).

i. The degree to which the applicant has met the HHS Policy requirements regarding the inclusion of ethnic and racial groups in the proposed research. This includes: (1) the proposed plan for the inclusion of racial and ethnic minority populations for appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted;

j. Provide a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

k. Provide general time line for conducting the research and a detailed time line for the first year of the study, including measurable process objectives for the first year of the study.

3. Demonstration of Staff's Capability to Conduct Research (20 points)

a. Applicant's ability to carry out the proposed research as demonstrated by the training, experience, and expertise of the principal investigator and the proposed research team and organizational setting, including demonstration of ability to collect, manage, and analyze accurate data in a timely manner.

b. Evidence of plan for establishing a partnership with at least one community based organization to link participants with prevention and medical services as needed, and to consult on study procedures as needed.

c. Demonstration of epidemiologic, behavioral intervention, clinical, administrative, and management expertise needed to conduct the proposed research.

d. Demonstration that principal investigator and staff have experience working with the targeted population of study participants.

e. Demonstration that investigative team includes a staff member with expertise in qualitative formative data analysis.

4. Staffing, Facilities, and Time-Line (15 points)

a. Availability of qualified personnel with realistic and sufficient percentage-time commitments (including an estimated staffing plan for years in which intervention activities will occur); clarity of the described duties and responsibilities of project personnel including clear lines of authority and supervisory capacity over the behavioral, epidemiologic, clinical, administrative, data management, and statistical aspects of the research.

b. Adequacy of the facilities, equipment, data processing and analysis capacity, and systems for management of data security and participant confidentiality.

c. Adequacy of base staff to keep pace with anticipated workload.

d. Adequacy of time-line for conducting the research.

5. Other (not scored)

a. Budget: The extent to which it is reasonable, clearly justified, consistent with the intended use of funds, and allowable. All budget categories should be itemized.

b. Human Subjects: The application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. annual progress reports;
2. financial status report, no more than 90 days after the end of the budget period; and
3. final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in section J ("Where to Obtain Additional Information") of this document.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1 in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–6 Patient Care
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 (k)(2)of the Public Health Service Act, [42 U.S.C. section 241(a) and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.943.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov* Click "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Lynn Mercer, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Announcement #02136, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd. Room 3000, Mailstop E–15, Atlanta, GA 30341, Telephone: (770) 488–2810, E-mail address: *lzm2@cdc.gov*.

For program technical assistance, contact: Craig Studer, Deputy Chief, Behavioral Intervention Research Branch, Division of HIV/AIDS Prevention—IRS, National Center for HIV, STD, TB Prevention ,Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–37, Atlanta, Georgia 30333, Telephone: (404) 639–1900, E-mail address: *CStuder@cdc.gov*.

Dated: May 20, 2002.

Edward J. Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–13075 Filed 5–23–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Safety and Health Research Advisory Committee Meeting: Cancelled.

NAME: Mine Safety and Health Research Advisory Committee (MSHRAC) Meeting—Cancelled.

TIME AND DATE: 11 a.m.–2 p.m., May 22, 2002.

PLACE: Teleconference call will originate at the Centers for Disease Control and Prevention, National Institutes for Occupational Safety and Health, Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the teleconference.

STATUS: Meeting cancelled. Published in the **Federal Register:** April 17, 2002, Volume 67, Number 74, page 18911.

FOR FURTHER INFORMATION CONTACT: Dr. Lewis Wade, Executive Secretary, MSHRAC, NIOSH, CDC, HHHB HHH 715H, P12, Washington, DC 20201–0004, telephone 202/401–2192.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 20, 2002.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13073 Filed 5–23–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Times and Dates: 8:30 a.m.–5:30 p.m., June 27, 2002. 8 a.m.—5 p.m., June 28, 2002.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC, telephone 202/797–2000.

Status: Open 8:30 a.m.—9:30 a.m., June 27, 2002. Closed 9:30 a.m.—5:30 p.m., June 27, 2002. Closed 8 a.m.—5 p.m., June 28, 2002.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health, and allied areas. It is the intent of the NIOSH to support broad-based research endeavors in keeping with the Institute's program goals. This will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects, which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters to be Discussed: The meeting will convene in open session from 8:30–9:30 a.m. on June 27, 2002, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for the SOHSS to consider safety and occupational health-related grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6) title 5 U.S.C., and the Determination of the Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Charles N. Rafferty, Ph.D., NIOSH Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, Maryland 20892, telephone 301/435–3562, fax 301/480–2644.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 17, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13072 Filed 5–23–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2141–PN]

RIN 0938–ZA35

Medicare and Medicaid Programs; Application by the American Osteopathic Association (AOA) for Approval of Deeming Authority for Ambulatory Surgical Centers (ASCs)

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice announces the receipt of an application from the American Osteopathic Association (AOA), for recognition as a national accreditation program for ambulatory surgical centers that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing at least a 30-day public comment period.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on June 24, 2002.

ADDRESSES: In commenting, please refer to file code CMS–2141–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2141–N, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Laura A. Weber, (410) 786–0227.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7197.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration

date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The website address is: *http://www.access.gpo.gov/nara/index.html.*

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in an ambulatory surgical center (ASC) provided that the ASC meets certain requirements. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) includes requirements that an ASC have an agreement in effect with the Secretary and that it meet health, safety, and other standards specified by the Secretary in regulations. Requirements concerning supplier agreements are located in 42 CFR part 489 and those pertaining to the survey and certification of facilities are set forth in 42 CFR part 488.

In 42 CFR part 416, we specify the conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for facility services.

For an ASC to enter into an agreement, a State survey agency must first certify that the ASC complies with our conditions or requirements. Following that certification, the ASC is subject to routine monitoring by a State survey agency to ensure continuing compliance. As an alternative to surveys by State agencies, section 1865(b)(1) of the Act provides that, if the Secretary finds that, through accreditation by a national accreditation body, a provider entity demonstrates that all of our applicable conditions and requirements are met or exceeded, the Secretary will deem that the provider entity has met the applicable Medicare requirements.

Section 1865(b)(2) of the Act further requires that the Secretary's findings consider the applying accreditation organization's—

- Requirements for accreditation;
- Survey procedures;
- Ability to provide adequate resources for conducting required surveys;
- Ability to supply information for use in enforcement activities;
- Monitoring procedures for provider entities found out of compliance with the conditions or requirements; and
- Ability to provide the Secretary with necessary data for validation.

Section 1865(b)(3)(A) of the Act requires that the Secretary publish a notice within 60 days of receipt of a completed application; the notice must—

- Identify the national accreditation body making the request;
- Describe the nature of the request; and
- Provide at least a 30-day public comment period.

In addition, we must publish a finding of approval or denial of the application within 210 days from the receipt of the completed request.

The American Osteopathic Association (AOA) previously applied to us for deeming authority which we announced in the **Federal Register** on March 14, 2001 (66 FR 14906). However, the organization withdrew its application before a final decision was made. We received a revised complete application from AOA on April 18, 2002.

II. Determining Compliance—Surveys and Deeming

A national accrediting organization may request the Secretary to recognize its program. The Secretary then examines the national accreditation organization's requirements to determine if they meet or exceed Medicare standards. If the Secretary recognizes an accreditation organization in this manner, any provider accredited by the national accrediting body's program that we have approved for that service will be "deemed" to meet the Medicare conditions of coverage. To date, three such organizations have been recognized to have deeming authority for their ambulatory surgical programs: The Joint Commission on Accreditation of Health Organizations, the Accreditation Association for Ambulatory Health Care, and the American Association for Accreditation of Ambulatory Surgery Facilities, Inc.

The purpose of this notice is to notify the public of the request of the AOA for approval of its request that the Secretary find that its accreditation program for ASCs meets or exceeds Medicare conditions and requirements. This notice also solicits public comments on the ability of this organization to develop and apply standards that meet or exceed the Medicare conditions for coverage to ASCs. Our regulations concerning approval of accrediting organizations are set forth in 42 CFR § 488.4, 488.6, and 488.8.

III. Ambulatory Surgical Center Conditions for Coverage and Requirements

The regulations specifying the Medicare conditions for coverage for ASCs are located in 42 CFR part 416. These conditions implement section 1832(a)(2)(F)(i) of the Act, which provides for Medicare Part B coverage of facility services furnished in connection with surgical procedures specified by the Secretary under section 1833(i)(1)(a) of the Act.

Under section 1865(b)(2) of the Act and our regulations in 42 CFR 488.8 (Federal review of accreditation organizations) our review and evaluation of a national accreditation organization will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of an accreditation organization's requirements for an entity to our comparable requirements for that entity.
- The organization's survey process to determine the following:
  + The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
  + The comparability of its processes to that of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
  + The organization's procedures for monitoring providers or suppliers found by the organization to be out of compliance with program requirements. These monitoring procedures are used only when the organization identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified in 42 CFR 488.7(d).
  + The ability of the organization to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
  + The ability of the organization to provide us with electronic data in ASCII comparable code, and reports necessary for effective validation and assessment of the organization's survey process.
  + The adequacy of staff and other resources, and its financial viability.
  + The organization's ability to provide adequate funding for performing required surveys.
  + The organization's policies with respect to whether surveys are announced or unannounced.
- The accreditation organization's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including our review of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the results of our evaluation.

V. Response to Public Comments

Because of the large number of comments we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble and will respond to them in a forthcoming rulemaking document.

VI. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity).

The RFA requires agencies to analyze options for regulatory relief for small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million to $25 million or less in any 1 year (for details, see the Small Business Administration's publication that set forth size standards for health care industries at 65 FR 69432). For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This notice merely recognizes AOA as a national accreditation organization that has requested approval for deeming authority for ambulatory surgical centers that are participating in the Medicare program. Since these provider entities must be routinely monitored to determine compliance with Medicare requirements, we believe that this organization's accreditation program has the potential to reduce both the regulatory and administrative burdens associated with the Medicare program requirements.

This notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this proposed notice would not result in a significant impact on small entities and would not have an effect on the operations of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This notice would have no consequential effect on State, local, or tribal governments. We believe the private sector costs of this notice would fall below this threshold as well.

In accordance with Executive Order 13132, this notice would not significantly affect the rights of States and would not significantly affect State authority. This notice describes only processes that must be undertaken to fulfill our obligation to enforce our regulations as required by the April 8, 1997 (62 FR 16985) regulation.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 1865(b)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(b)(3)(A)).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 17, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02–12929 Filed 5–23–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0159]

Agency Information Collection Activities; Proposed Collection; Comment Request; Focus Groups as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on focus groups as used by FDA. These focus groups gauge public opinion, and policymakers can use focus group findings to test and refine their ideas so they can conduct further research whose findings can be used to adopt new policies and to allocate or redirect significant resources to support these policies.

DATES: Submit written or electronic comments on the collection of information by July 23, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests

or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Focus Groups as Used by the Food and Drug Administration

FDA will collect and use information gathered through the focus group vehicle. This information will be used to develop programmatic proposals, and as such complements other important research findings to develop these proposals. Focus groups do provide an important role in gathering information because they allow for a more indepth understanding of consumers' attitudes, beliefs, motivations, and feelings than do quantitative studies.

Also, information from these focus groups will be used to develop policy and redirect resources, when necessary, to our constituents. If this information is not collected, a vital link in information gathering by FDA to develop policy and programmatic proposals will be missed causing further delays in policy and program development.

FDA estimates the burden for completing the forms for this collection of information as follows:

The total annual estimated burden imposed by this collection of information is 2,884 hours annually.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Center	Subject	No. of Focus Groups per Study	No. of Focus Groups Sessions Conducted Annually	No. of Participants per Group	Hours of Duration for Each Group (includes screening)	Total Hours
Center for Biologics Evaluation and Research	May use focus groups when appropriate	1	5	9	1.58	71
Center for Drug Evaluation and Research	Varies (e.g., direct-to-consumer Rx drug promotion, physician labeling of Rx drugs, medication guides, over-the-counter drug labeling, risk communication)	10	100	9	1.58	1,422
Center for Devices and Radiological Health	Varies (e.g., FDA Seal of Approval, patient labeling, tampons, online sales of medical products, latex gloves)	5	25	9	2.08	468
Center for Food Safety and Applied Nutrition	Varies (e.g., food safety, nutrition, dietary supplements, and consumer education)	8	32	9	1.58	455
Center for Veterinary Medicine	Varies (e.g., food safety, labeling, cosmetic safety and labeling)	5	25	9	2.08	468
Total		29	187		1.71	2,884

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Annually, FDA projects about 29 focus group studies using 187 focus groups lasting an average of 1.71 hours each. FDA has allowed burden for unplanned focus groups to be completed so as not to restrict the agency's ability to gather information on public sentiment for its proposals in its regulatory as well as other programs.

Dated: May 14, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13163 Filed 5–23–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 11, 2002, from 8 a.m. to 6 p.m.

Location: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Thomas H. Perez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: perezt@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: Beginning at 8 a.m., the subcommittee will discuss and receive comments on the "written request template" for the proton pump inhibitors in the treatment of gastroesophageal reflux disease in pediatric patients. Starting at 1 p.m., the subcommittee will discuss a "preliminary priority list" of drugs for which: (1) Additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population and (2) the drug has no remaining marketing exclusivity or patent protection. This list is mandated by the Best Pharmaceuticals for Children Act and the National Institutes of Health is the designated lead. At 4:30 p.m., representatives from Europe will provide information to the subcommittee on the ongoing pediatric initiatives in the European Union. Following this at 5 p.m., the agency will provide an update to the subcommittee on the pediatric labeling that has resulted from the exclusivity initiative under the FDA Modernization Act and the annual update on the pediatric rule, completed studies, deferrals, and waivers. The background material for this meeting will be posted on the Internet when available or one working day before the meeting on the Internet at www.fda.gov/ohrms/dockets/ac/menu.htm.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by June 3, 2002. Oral presentations from the public will be scheduled between approximately 9:15 a.m. and 9:45 a.m. and 2 p.m. and 2:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 3, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please notify Thomas H. Perez at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 20, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13106 Filed 5–23–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Process Analytical Technologies Subcommittee of the Advisory Committee for Pharmaceutical Science; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Process Analytical Technologies Subcommittee of the Advisory Committee for Pharmaceutical Science.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 12, 2002, from 8:30 a.m. to 5:30 p.m., and June 13, 2002, from 8 a.m. to 5 p.m.

Location: Hilton DC North—Gaithersburg, The Ballrooms, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Kathleen Reedy and Jayne Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or e-mail: reedyk@cder.fda.gov, petersonj@cder.fda.gov or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12539. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 12, 2002, the subcommittee will: (1) Identify and define technology and regulatory uncertainties/hurdles, possible solutions, and strategies for the successful implementation of process analytical technologies (PATs) in pharmaceutical development and manufacturing; (2) discuss general principles for regulatory application of PATs including principles of method validation, specifications, and feasibility of the parametric release concept; and (3) discuss necessary general FDA

guidance to facilitate the implementation of PATs. On June 13, 2002, the focus will be on the following two working groups: (1) Product and process development, and (2) process and analytical validation. The two working groups will be formed from the merging of the previous four PAT working groups, which included: (1) Product and process development; (2) process and analytical validation; (3) chemometrics; and (4) process analytical technologies, applications, and benefits.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by May 31, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 31, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Carolyn Jones at 301–827–7001 at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 20, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13107 Filed 5–23–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Pub. L. 92–463), announcement is made of the following National Advisory Committee scheduled to meet during the month of June 2002.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: June 24, 2002, 8:30 a.m.–5 p.m., June 25, 2002, 8 a.m.–4 p.m.

Place: The Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting is open to the public.

Agenda items will include, but not be limited to: Welcome; plenary discussion of the role of the grant programs under Title VII, Part D, Public Health Service Act in meeting Public Health Preparedness objectives; status reports on the FY 2002 grant awards for the Area Health Education Centers, Health Education and Training Centers, Geriatric Education and Training Programs, Quentin N. Burdick Programs for Rural Interdisciplinary Training, Allied Health, Psychology, Chiropractic and Podiatric Medicine programs; report on the Multidisciplinary *Summit:* Changing Health Professions Education and Practice—A Focus on Quality for the 21st Century; presentations by speakers representing: the Division of State, Community and Public Health, Bureau of Health Professions, Health Resources and Services Administration; and Committee members. Meeting content will address the preparation of the Committee's annual report to the Secretary and the Congress and the scheduling of topics for the next Committee meeting in August 2002.

Public comment will be permitted before lunch and at the end of the Committee meeting on June 25, 2002. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Bernice A. Parlak, Executive Secretary, Division of State, Community, and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1898.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of State, Community and Public Health will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file a request in advance for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel, Rockville, Maryland on June 24, 2002. These persons will be allocated time as the Committee meeting agenda permits.

Anyone requiring information regarding the Committee should contact Bernice A. Parlak, Division of State, Community, and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105,5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1898.

Proposed agenda items are subject to change as priorities dictate.

Dated: May 21, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13165 Filed 5–23–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: April 2002

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of April 2002, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
Program-Related Convictions	
Ahmed, Amir	05/20/2002

Subject city, state	Effective date
Richmond, VA	
ARG Associates	05/20/2002
Ellicott City, MD	
Beckerman, Joseph F	05/20/2002
Georgetown, KY	
Borja, Cuauhtemoc	05/20/2002
San Diego, CA	
Caldwell, Regina	05/20/2002
Columbus, OH	
Camiolo, Christopher	05/20/2002
Montverde, FL	
Carolina Urological Consultant	07/11/2001
Conway, SC	
Chyorny, Leonid	05/20/2002
Los Angeles, CA	
Cichanowski, Doris Ann	05/20/2002
Brooklyn Park, MN	
Davila-Aponta, Wanda	05/20/2002
Tosa Alta, PR	
Der Gregorian, Alain Avans	05/20/2002
Glendale, CA	
Donahue, Thomas P	05/20/2002
Lafollette, TN	
Dzhragatspanyan, Arsen	05/20/2002
Panorama City, CA	
Eason, Darrin Dwight	05/20/2002
Detroit, MI	
Espinoza, Carlos Antonio	05/20/2002
Gardena, CA	
Ferrer, Annilie Arcangel	05/20/2002
Chowchilla, CA	
Gasisyan, Arsen	05/20/2002
Glendale, CA	
Halas, John	05/20/2002
Voorhees, NJ	
Kabrin, Marta	05/20/2002
Mequon, WI	
Kirkland, Mattie	05/20/2002
Catonsville, MD	
Mardin, Rober S	05/20/2002
Granada Hills, CA	
Martin, Elizabeth	05/20/2002
Marianna, FL	
McClatchy, Jessica Warren	05/20/2002
Fergus Falls, MN	
Mkrtchyan, Ovsep	05/20/2002
Los Angeles, CA	
Muniz, Ivette T	05/20/2002
San Juan, PR	
Nicholson, Jennifer L	05/20/2002
Columbus, OH	
Novosel, Mark Eugene	05/20/2002
FT Lauderdale, FL	
Nunez, Perla	05/20/2002
Victorville, CA	
Perez, Daisy	05/20/2002
Miami, FL	
Pham, Michael Q	05/20/2002
Long Beach, CA	
Pisarevsky, Yevgeny	05/20/2002
Brooklyn, NY	
Plasencia, Daniel	05/20/2002
Miami, FL	
Ramos, Daniel M	05/20/2002
Miami, FL	
Ruiz, Reyna Isabel	05/20/2002
South Gate, CA	
Santos, Fredesvinda	05/20/2002
Miami Beach, FL	
Sosa, Lysette	04/10/2001
Miami, FL	
Toman, John S	05/20/2002
Mclean, VA	
Vargas, Laura Astor	05/20/2002
Yakima, WA	
Washington, Patty	05/20/2002
Columbus, OH	
Wellman, Mary Lou	05/20/2002
Westlake, OH	
Felony Conviction for Health Care Fraud	
Campos, Lucy B	05/20/2002
Pleasanton, CA	
Caudle, Joel P	05/20/2002
Brentwood, TN	
Funk, Dawn E	05/20/2002
Broadalbin, NY	
Lepko, Ervin E	05/20/2002
Englewood Cliffs, NJ	
Steward, Dwight	05/20/2002
Washington, DC	
Straface, Eugene	05/20/2002
Limerick, PA	
Felony Control Substance Conviction	
Amar, John Jason	05/20/2002
Victorville, CA	
Boyd, Darryl	05/20/2002
Fort Dix, NJ	
Connoyer, Caryl V	05/20/2002
Bethalto, IL	
Hendricks, Jeffrey Phillip	05/20/2002
Holland, MI	
Hennessey, Sandra J	05/20/2002
Plainfield, VT	
Hill, Pamela Jane	05/20/2002
Broken Arrow, OK	
Keenan, Patricia A	05/20/2002
Twin Lakes, WI	
Landreth Serrano, Regina	05/20/2002
Gatesville, TX	
Leonard, Elaine W	05/20/2002
Newport News, VA	
Mchugh-Reiner, Jean ELIZA-BETH	05/20/2002
St Charles, MO	
Mohrhardt, Debra Ann	05/20/2002
Spring Lake, MI	
Newman, Jean M	05/20/2002
Wilkes-Barre, PA	
Patient Abuse/Neglect Convictions	
Allaman, Mary	05/20/2002
Billings, MT	
Bishop, Katherine M	05/20/2002
Oxford, MS	
Bivins, Loretha	05/20/2002
State Line, MS	
Deloach, Terrance	05/20/2002
Ellisville, MS	
Eaton, Brian James	05/20/2002
Grass Valley, CA	
Hankins, Ronald E	05/20/2002
Milwaukee, WI	
Harris, Daphne D	05/20/2002
Louin, MS	
Hatfield, Billie	05/20/2002
Falls of Rough, KY	
Joiner, Cynthia	05/20/2002
Clarksdale, MS	
Mosely, Beverly	05/20/2002
Meridian, MS	
Perez, Yolanda	05/20/2002
Baltimore, MD	
Perrin, Douglas M	05/20/2002
Lindenwold, NJ	
Rinehart, Jeffrey Paul	05/20/2002
Blackwell, OK	
Rudd, Tonya L	05/20/2002
Memphis, TN	
Sabate, Neonita	05/20/2002
Clinton, NJ	
Smith-Owens, Joyce Francine	05/20/2002
Canton, OH	
Stowell, Kevin B	05/20/2002
Cleveland, OH	
Street, Eugenia A	05/20/2002
N Charleston, SC	
Stubbs, Darryl	05/20/2002
Temple Hills, MD	
Taylor, Tosha L	05/20/2002
Sandusky, OH	
Tyson, Kuyana S	05/20/2002
Syracuse, NY	
Conviction for Health Care Fraud	
Gunnoe, Eliza T	05/20/2002
Newbury, MA	
Conviction-Obstruction of an Investigation	
Leggett, Bethaney Moreau	05/20/2002
Lafayette, LA	
License Revocation/Suspension/ Surrendered	
Abraham, Annalyn	05/20/2002
Richfield, UT	
Angel, David Lewis Jr	05/20/2002
Greenwood, IN	
Arbanas, Gregory Christopher	05/20/2002
Mountain View, CA	
Baber, Karly Robyn	05/20/2002
Abilene, TX	
Batsford, Edgar W	05/20/2002
Smithfield, RI	
Berryhill, Wesley Eugene	05/20/2002
Batesville, AR	
Blackwood-Day, Jane A	05/20/2002
St Johnsbury Ctr, VT	
Boales, Jerry Lee	05/20/2002
Eager, AZ	
Borland, Melissa G	05/20/2002
Pawtucket, RI	
Breaux, Davina	05/20/2002
Lafayette, LA	
Bretton, Kimberly A	05/20/2002
S Easton, MA	
Brown, Elizabeth Anne	05/20/2002
Oklahoma City, OK	
Brown, Jimmy William	05/20/2002
De Witt, AR	
Calhoon, Dawn Marie	05/20/2002
Austin, TX	
Callagy, Patti J	05/20/2002
N Andover, MA	
Carson, Mallory D	05/20/2002
Mesa, AZ	
Cascio, Daniel	05/20/2002
Dover, NJ	
Castleberry, Sheila R	05/20/2002
Brookport, IL	
Cheng, Samuel K	05/20/2002
Woodland Hills, CA	
Chervenka, Mary Kopriva	05/20/2002

Subject city, state	Effective date
Lake Ridge, VA	
Chiaverelli, Patricia Groves Philadelphia, PA	05/20/2002
Ciell, Michael P Safety Harbor, FL	05/20/2002
Cochara, John R Twin Lakes, WI	05/20/2002
Cook, Paul Allen Whitaker, PA	05/20/2002
Crockett, Karen H Deerfield Beach, FL	05/20/2002
Cullison, David John Huntingdon Valley, PA	05/20/2002
Daines, Lori S Logan, UT	05/20/2002
Dane, Mellissa L Bennington, VT	05/20/2002
Danko, Rose M Branford, CT	05/20/2002
Daruka, Patricia A Warwick, RI	05/20/2002
David, Ruth Richter Cedar Rapids, IA	05/20/2002
Decarlo, Roselle Hoffman Estates, IL	05/20/2002
Dichter, Terry A Huntington Park, CA	05/20/2002
Dirks, Holly E Barrington, RI	05/20/2002
Dixon, Leonaine Wells Claremont, CA	05/20/2002
Dodge, David Child III Denver, CO	05/20/2002
Dyman, Katharine E Middletown, RI	05/20/2002
Everett, Steven Tyler Port St Luce, FL	05/20/2002
Figoten, Bruce Barry Woodland Hills, CA	05/20/2002
Fletcher, Roberta Brattleboro, VT	05/20/2002
Fortin, Jacqueline Annette Benton, AR	05/20/2002
Fruhwirth, Kathleen H Harrisburg, PA	05/20/2002
Funicella, Karen Lynn, MA	05/20/2002
Gibson, Kimberly G St James, MO	05/20/2002
Gilbert, Scott E Tulsa, OK	05/20/2002
Godard, Elaine Burns E Stroudsburg, PA	05/20/2002
Gomes, Clarisse D Pawtucket, RI	05/20/2002
Green, Gregory Neill St Louis, MO	05/20/2002
Greenhill Delong, Edith Jefferson, TX	05/20/2002
Grove, Patricia M Rutland, VT	05/20/2002
Gruer, Barry Howard San Diego, CA	05/20/2002
Hall, Lisa Michelle Mesquite, TX	05/20/2002
Hanzlik, Renata Maria New York, NY	05/20/2002
Harris, Candie L Broadview Hgts, OH	05/20/2002
Harris, Juanita Chicago, IL	05/20/2002
Heard, Lisa Bossier City, LA	05/20/2002
Henriques, Gavin Anthony Los Angeles, CA	05/20/2002
Henson, Kathy Vaughn Bristol, VA	05/20/2002
Holbert, Roschell W Chicago, IL	05/20/2002
Holland, Pamela Harrisonburg, LA	05/20/2002
Hopkins Freeman, April C Lubbock, TX	05/20/2002
Horne, Kathleen M Woodsville, NH	05/20/2002
Howarter, Brandon G Canton, IL	05/20/2002
Howe, Mary A Rockford, IL	05/20/2002
Hughes, Cathy A Chicago, IL	05/20/2002
Hulet, Geoffrey A Chicago, IL	05/20/2002
Hulse, Marlene Brown Blackfoot, ID	05/20/2002
Hutchinson, Christine E S Burlington, VT	05/20/2002
Jackson, Kelly M White Hall, IL	05/20/2002
Jackson, Dedire L Chicago, IL	05/20/2002
Jasmine, Annetta Lake Charles, LA	05/20/2002
Jones, Sharon Chicago, IL	05/20/2002
Joo, Young Hwa Cyrpress, CA	05/20/2002
Jordan, Maria A Calumet City, IL	05/20/2002
Karp, Cherie F Oakdale, NY	05/20/2002
Kaswan, Malcolm Water Mill, NY	05/20/2002
Kellis, Donald Leroy Boise, ID	05/20/2002
Kemp, Anita Kay Roanoke, TX	05/20/2002
Kennedy, Janis Elaine Palmdale, CA	05/20/2002
King, Paula Houma, LA	05/20/2002
Kline, Brandy D Knoxville, IA	05/20/2002
Kofman, Glenn Wheeling, IL	05/20/2002
Krajnc, Sidnee L Price, UT	05/20/2002
Larvey, Kathleen M Kingston, MA	05/20/2002
Latawiec, Andrea Clark, NJ	05/20/2002
Leafgreen, Becky A Galesburg, IL	05/20/2002
Leth, Ida Kelly St Edward, NE	05/20/2002
Lichter, Debra Gabbard Philadelphia, PA	05/20/2002
Manno, Fred Monroeville, PA	05/20/2002
Marecic, Judith A Pittsburgh, PA	05/20/2002
McCusker, Charles Murray, UT	05/20/2002
McGuire, Patricia J Oak Lawn, IL	05/20/2002
McLaughlin, Vicky D Mount Vernon, IL	05/20/2002
McPherson, Madeleine T Rochester, NY	05/20/2002
Missildine, Pamela S Eufaula, AL	05/20/2002
Morales, Carmen L Chicago, IL	05/20/2002
Morgan, Jeanette M Swansea, IL	05/20/2002
Mulfinger, George L Pasadena, CA	05/20/2002
Murphy, Ronda F Carterville, IL	05/20/2002
Nielsen, Laura Joan Pocatello, ID	05/20/2002
Oberlender, Sheri Lynn Craig Sandpoint, ID	05/20/2002
Oswald, Thomas Allen Wadsworth, OH	05/20/2002
Ott, Richard M St Petersburg, FL	05/20/2002
Owens, Rhonda A Chicago, IL	05/20/2002
Pansegrau, Mary Catherine Correctionville, IA	05/20/2002
Parris, Russell Aurora, CO	05/20/2002
Pierce, Grant M Rockford, IL	05/20/2002
Pille, Mary Knight Herman, NE	05/20/2002
Plachy, Robert Thomas Jr Amagansett, NY	05/20/2002
Provenzano, Frank J Uniontown, PA	05/20/2002
Quevedo, Ranona Dale Rockford, IL	05/20/2002
Rachel Pharmacy Discount, Inc Hialeah, FL	05/20/2002
Ratcliff, Michelle Lee Henderson, TX	05/20/2002
Reardon, Richard R Phoenix, AZ	05/20/2002
Reber, Mary Ann S Lytle, TX	05/20/2002
Reed, Lorraine New Hope, PA	05/20/2002
Reid, Kendall A Chicago, IL	05/20/2002
Rheinheimer, Heide M Atlanta, GA	05/20/2002
Ripley, Elizabeth Middleburg, FL	05/20/2002
Rizzo, Michael J Flinton, PA	05/20/2002
Robinson, Susan Brooks St Petersburg, FL	05/20/2002
Rogers, Johnna E Warrenton, MO	05/20/2002
Rogers, Jason A Miamesburg, OH	05/20/2002
Rooke, Jacki M Earlysville, VA	05/20/2002
Rothermel, Julie A N Providence, RI	05/20/2002
Rouse, Judy L Cuba, MO	05/20/2002
Rusch, Beverly Beulah, ND	05/20/2002
Rust, Gretchen Louise Miles City, MT	05/20/2002
Ryan, Derald L Glendale, AZ	05/20/2002
Sanders, Dawn Catrese University Park, IL	05/20/2002
Schlossman, David Craig Overland Park, KS	05/20/2002
Schnoor, Tami S Kansas City, MO	05/20/2002
Schoenhoeft, Joseph Susanville, CA	05/20/2002
Sefter, Anne H Appomattox, VA	05/20/2002
Shadrick, Lisa B Salt Lake City, UT	05/20/2002
Shaffer Beard, Debra Michelle Oklahoma City, OK	05/20/2002
Shodeinde, Diana F Corona, CA	05/20/2002
Silfies, Jayne Waynesburg, PA	05/20/2002
Soukup, Richard A Riverside, IA	05/20/2002
Sporn, Alexander L Rego Park, NY	05/20/2002
Stacy, Daniel Franklin Coronado, CA	05/20/2002
Stanford, Samuel R Midlothian, VA	05/20/2002
Staple, Andrea Read San Bernadino, CA	05/20/2002
Stapley, Susan Ilene Buchanan Atascadero, CA	05/20/2002
Stephenson, Melanie Ann Gallipolis, OH	05/20/2002
Stevens, Ami Rosemarie Zanesville, OH	05/20/2002
Suliveres, Sara-Jane St Johnsbury, VT	05/20/2002
Sutherland Ebel, Amy Jo Enid, OK	05/20/2002
Thomas, Adriese Chicago, IL	05/20/2002
Tilghman, James E Cape Girardeau, MO	05/20/2002
Tillery, Merlene E St Louis, IL	05/20/2002
Torres, Wilhelmina C Oak Lawn, IL	05/20/2002
Travelstead-Russell, Lorie A Galatia, IL	05/20/2002
Tummillo, Marie E Manakin Sabot, VA	05/20/2002
Turner, John Melton Menlo Park, CA	05/20/2002
Ty, Blandina F Closter, NJ	05/20/2002
Vangraefschepe, Laurie June Billings, MT	05/20/2002
Vespe, John Robert Phoenix, AZ	05/20/2002
Visacki, Miodrag Sarasota, FL	05/20/2002
Volpez, Pablo Enriquez Oakland, CA	05/20/2002
Vu, Hong T Chicago, iL	05/20/2002
Watson, Lesa Shreveport, LA	05/20/2002
Wechling, Clare Deane O'Fallon, MO	05/20/2002
Weremeichik, Jessica L S Burlington, VT	05/20/2002
Wexler, Harold Mark Chatsworth, CA	05/20/2002
White, Tracy Lyons Phoenix, AZ	05/20/2002
White, Karrey Lee Stone Meridian, ID	05/20/2002
Wilber, Harold Syracuse, NY	05/20/2002
Wilhelm, Melissa J Chicago, IL	05/20/2002
Williams, Vickie E Alton, IL	05/20/2002
Wilson, Andrea Acra, NY	05/20/2002
Witter, Deborah Sue Mesa, AZ	05/20/2002
Woodruff, Holly Lynn Fabricus Gering, NE	05/20/2002
Wright, Cecelia R Chicago, IL	05/20/2002
Wyatt-Riley, Sharon L Princeton, IN	05/20/2002
Yates, Debra Lynne Costa Mesa, CA	05/20/2002
Yavel, Robert Paul Jamaica, NY	05/20/2002
Yemat, Alex Alberto Miami, FL	05/20/2002
Young, Hui Kim Alcoa, TN	05/20/2002

Federal/State Exclusion/Suspension

Pates, Rosemary St Louis, MO	05/20/2002

Fraud/Kickbacks

Bulgeron, Richard San Antonio, TX	11/16/2000
Centafanti, Gary D Naples, FL	04/03/2001
Centafanti, Cathy T Naples, FL	04/03/2001
Lopez, Anthony R El Paso, TX	02/14/2002
Mejia, Manuel Lytle, TX	10/24/2000
Salerno, James G Ahoskie, NC	12/19/2001
Sanvito, Anthony V Coraopolis, PA	12/13/1999

Owned/Controlled by Convicted Entities

Memorial Medical Center Mountain Home, ID	05/20/2002
Neurodiagnostic Systems, Inc Montverde, FL	05/20/2002
Rozenberg Chiropractic Hicksville, NY	05/20/2002

Default on Heal Loan

Lewis, Stuart Todd Boynton Beach, FL	05/20/2002
Mercado, Rafael L San Antonio, TX	04/02/2002
Rosales, Anna Marie San Antonio, TX	04/02/2002
Winfrey, Brian K Astoria, NY	05/20/2002
Wisk, Duane F Gross Pointe, MI	03/12/2002

Dated: May 15, 2002.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 02–13051 Filed 5–23–02; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities (OBA); Recombinant DNA Research: Notice Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice.

SUMMARY: The NIH is announcing that Appendix M–I–C–3 and Appendix M–I–C–4 of the *NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines)* became effective on January 24, 2002, the date of OMB approval of those information collection requirements. Also, the NIH is correcting the date for filing annual reports with the NIH, per Appendix M–I–C–3, to be within 60 days of the anniversary date that the IND went into effect. Finally, notice is given that a new version of the *NIH Guidelines* is available on the OBA Web site, which includes these changes as well as other non-substantive corrections, updates, and navigational enhancements.

FOR FURTHER INFORMATION CONTACT: Allan C. Shipp, NIH Office of Biotechnology Activities by phone at 301–435–2152, by e-mail at *shippa@od.nih.gov*, or by mail at NIH OBA, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892–7985.

SUPPLEMENTARY INFORMATION: On November 19, 2001, NIH OBA published a notice of amendments to the *NIH Guidelines* in the **Federal Register** (66 FR 57970). Those amendments became effective on December 19, 2001, except for the amendments to Appendix M–I–C–3 (Annual Reports) and Appendix M–I–C–4 (Safety Reporting), which were published for public comment to OMB regarding the paperwork burden of those information collection requirements. It was stated that those Appendices would take effect upon OMB approval. That approval was given on January 24, 2002.

Further, Appendix M–I–C–3 as published in the **Federal Register** on November 19, 2001 (66 FR 57970, specifically 57975), stated that the annual report to OBA is to be filed within 60 days of the date that the IND

was filed. Appendix M–I–C–3 has been corrected to state that annual reports are to be filed with OBA at the same time that they are filed with the Food and Drug Administration (FDA)—within 60 days of the anniversary of the date the IND went into effect. This filing requirement becomes effective with respect to the first annual safety report filed after January 24, 2002.

Other minor, non-substantive changes have been made to the *NIH Guidelines*, as warranted. In addition, for ease in navigating the document, the *NIH Guidelines* have been fully indexed. The electronic version includes hyperlinks from the index to relevant portions of the body of the document. Thus, when users identify a section of interest in the index, by simply clicking on the title of that section, they will be immediately brought to the corresponding portion of the *NIH Guidelines*.

All of these changes are listed in detail in a Summary of Amendments and Corrections that can be accessed, along with the new version of the *NIH Guidelines*, at: *http://www4.od.nih.gov/oba/rac/guidelines/guidelines.html*.

Dated: May 17, 2002.

Ruth L. Kirschstein,

Acting Director, National Institutes of Health.

[FR Doc. 02–13057 Filed 5–23–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); Availability of Data From Preliminary Studies and Proposed Study Protocols for Cancer Bioassays of Hexavalent Chromium in Rats and Mice; Request for Public Comment and Notice of Public Meeting

Summary

Hexavalent chromium (CAS number 18540–29–9) was nominated to the NTP for study of its potential toxicity and carcinogenicity when administered to animals in drinking water (*see* **Federal Register:** May 7, 2001, Vol. 66, No. 88, pages 23037–23039). Members of the California legislative delegation, the California Environmental Protection Agency, and the California Health and Human Services Agency nominated hexavalent chromium to the NTP for study. The basis for the nomination is a document prepared by the California Environmental Protection Agency's (EPA) Office of Environmental Health Hazard Assessment titled "Public Health Goal for Chromium in Drinking Water", a copy of which is available on the NTP's Web site *http://ntp-server.niehs.nih.gov* (*see* NTP Studies of Hexavalent Chromium Compounds under What's New?).

The purpose of this notice is to announce:

(1) The availability of data from studies designed to assess the absorption of chromium by rats, mice and guinea pigs receiving hexavalent chromium, as sodium dichromate dihydrate, in drinking water;

(2) The design and availability of data from 90-day oral toxicity studies in rats and mice receiving hexavalent chromium in drinking water;

(3) A proposed design for 2-year rodent cancer studies of hexavalent chromium in drinking water;

(4) A public meeting to discuss these data and the proposed design for 2-year studies; and

(5) A request for public comments on these data and the proposed design for the 2-year studies.

Public Meeting

A public meeting will be held July 24, 2002 in the Rodbell Auditorium, Rall Building, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 AM and is open to the public. Attendance at this meeting is limited only by the space available. Individuals who plan to attend are asked to register with the NTP executive secretary (*see* contact information below). The names of those registered to attend will be given to the NIEHS Security Office in order to gain access to the campus. Persons attending who have not pre-registered may be asked to provide pertinent information about the meeting, *i.e.*, title or host of meeting before gaining access to the campus. All visitors will need to be prepared to show 2 forms of identification (ID), *i.e.*, driver's license and one of the following: company ID, government ID, or university ID. Also those planning to attend who need special assistance are asked to notify the NTP executive secretary in advance of the meeting (*see* contact information below).

A tentative agenda is provided below and includes opportunity for oral public comment. A scientific panel of experts ("the Panel") will discuss the data, to date, obtained from NTP studies of hexavalent chromium administered as sodium dichromate dihydrate and the proposed study design for 2-year rodent cancer studies (*see* below, NTP Studies). The agenda and roster of the Panel will be available prior to the meeting on the NTP Web site (*http://ntp-server.niehs.nih.gov*) and upon request to the executive secretary at the address given below. Following the meeting, summary minutes will be available electronically on the NTP Web site and in hardcopy upon request to the executive secretary.

Tentative Agenda

8:30 AM
- Welcome and introductions

8:40 AM
- Overview of the NTP
- Hexavalent chromium nomination
- NTP studies on hexavalent chromium
- Proposed design for 2-year studies
- Public comments

Noon
- Lunch

1:00 PM
- Presentation of remarks by scientific expert panel
- General discussion

3:30 PM
- Adjourn

Request for Public Comment

The NTP meeting on hexavalent chromium is open to the public and public comment is welcome on the data from the 21-day and 90-day studies, the proposed NTP 2-year study plans, and any other issues related to the evaluation of the toxicity and carcinogenicity of hexavalent chromium in drinking water. Time will be provided at the meeting for oral public comments and persons requesting time for an oral presentation are asked to contact the NTP Executive Secretary Dr. Mary S. Wolfe, (P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709, phone: 919–541–0530, fax: 919–541–0295, e-mail: *liaison@starbase.niehs.nih.gov*). Persons registering to make oral comments are asked to provide contact information, including name, affiliation, mailing address, phone, fax, e-mail, and supporting organization (if any). Each speaker is also asked to provide, if possible, a written copy of the statement by July 15, 2002, to enable review by the Panel and NTP staff prior to the meeting. The written statement can supplement and may expand the oral presentation. At least seven minutes will be allotted to each speaker, and if time permits, may be extended to ten minutes. Each organization is allowed one time slot for an oral presentation. Registration for making public comments will also be available on-site. If registering on-site to speak and reading comments from printed copy, the speaker is asked to provide 15 copies of the statement. These copies will be distributed to the Panel and NTP staff and will be used to supplement the record.

Written comments, in lieu of an oral presentation, are also welcome. The comments should include contact information, including name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) and preferably be received by July 15, 2002, to enable review by the Panel and NTP staff prior to the meeting as well as to supplement the record.

NTP Studies

Hexavalent chromium (CAS number 18540–29–9) was nominated to the NTP for study of its potential toxicity and carcinogenicity when administered to animals in the drinking water. Hexavalent chromium is a known human carcinogen (*http://ntp-server.niehs.nih.gov*, see Report on Carcinogens). It has been proposed that the reduction of hexavalent chromium to the trivalent form in the gut provides a physiological barrier such that when exposure to hexavalent chromium occurs from drinking water, the absorption of hexavalent chromium would not be sufficient to cause cancer. Public comments received in response to the earlier **Federal Register** notice (*see* above) suggested that this reductive mechanism would be expected to be more effective in humans and other animals lacking an anatomical forestomach than in rats and mice that have a forestomach.

To address these considerations, the NTP carried out studies in which rats, mice and guinea pigs (which lack a forestomach) received drinking water containing sodium dichromate dihydrate for 21 days. After that time, the animals were sacrificed and blood, kidney and bone were collected and analyzed for total chromium. The complete protocol and data from these studies are available on the NTP Web site (*http://ntp-server.niehs.nih.gov*).

Additionally, the NTP has completed 90-day toxicity studies of standard design in which F344/N rats and B6C3F1 mice of both sexes received control water or one of 5 concentrations (62.5, 125, 250, 500, or 1000 mg/L) of hexavalent chromium in their drinking water. The studies included measurements of clinical chemistry indices and the animals received a complete histopathological evaluation. The protocol outline for these studies is also available on the NTP Web site and data from the 90-day studies are anticipated to be available on the NTP Web site approximately one month prior to the meeting.

Also available on the NTP Web site is a draft protocol that outlines 2-year toxicity and carcinogenicity studies of hexavalent chromium in rats and mice. The NTP will establish the final design for these studies following completion and evaluation of the 90-day studies, evaluation of the data for total chromium tissue concentration from the 21-day studies, and consideration of input from the Panel, all written received in response to this notice, and oral public comments received at the public meeting.

Background

Chromium is a naturally occurring element, present in several valence states. The most common valence states are trivalent (Chromium III), hexavalent (Chromium VI), and elemental chromium (0). Chromium III is an essential nutrient forming part of a complex known as the glucose tolerance factor. Chromium compounds are stable in the trivalent state and occur in nature most commonly at this oxidation level. Hexavalent chromium compounds are the next most stable forms, although these rarely occur in nature and are typically associated with anthropogenic (human activities) sources.

Hexavalent chromium is more toxic than trivalent chromium, and is absorbed from the gut more readily than trivalent chromium. Hexavalent chromium is an oxidant and it reduces to trivalent chromium, passing through the intermediate reactive V and IV valence states. The toxicity of hexavalent chromium is thought to result from either direct binding of these intermediates to cellular constituents or through the generation of free radicals.

Prolonged inhalation of hexavalent chromium is an established cause of occupational lung cancer in chromate production workers and people engaged in the manufacture of chromate pigments. This finding is supported by inhalation studies in rats and mice that have shown lung tumors following exposure to calcium chromate or sodium dichromate.

Orally administered chromium compounds are relatively poorly absorbed, with most estimates in the range of 0.5 to 2%. The absorption of trivalent chromium is approximately one quarter that of the hexavalent form. Hexavalent chromium reduces to trivalent chromium in the stomach, and this reduction may potentially limit its systemic availability. This "protective" mechanism is not complete, however, because studies have shown that orally administered hexavalent chromium, when given at doses far below those where trivalent chromium showed no adverse effect, caused liver and kidney toxicity. Other concerns with hexavalent chromium given orally involve gastrointestinal effects. Acute gastritis is a common finding in humans who accidentally or intentionally ingested various hexavalent chromium compounds. Also, in a study reported in 1968, a small increase in primarily benign forestomach papillomas was seen in mice exposed to potassium chromate in the drinking water at 9 mg/kg Chromium VI for three generations over 880 days.

Dated: May 16, 2002.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 02–13059 Filed 5–23–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Announcement of Availability of Background Documents for Substances Nominated for Listing in the Report on Carcinogens, Eleventh Edition

Availability of Background Documents

The National Toxicology Program (NTP) announces the availability of the background documents for four nominations under consideration for listing in the Report on Carcinogens (RoC), Eleventh Edition ("the Eleventh RoC"). The background documents are available for the nominations: *Cobalt Sulfate, Diethanolamine, Nitromethane*, and *4,4'-Thiodianiline*. They can be obtained electronically on the NTP Web site: *http://ntp-server.niehs.nih.gov* (select Report on Carcinogens) or in hardcopy by contacting Dr. C. W. Jameson at the following address: National Toxicology Program, Report on Carcinogens, 79 Alexander Drive, Building 4401, Room 3118, P.O. Box 12233, Research Triangle Park, NC 27709; phone: (919) 541–4096, fax: (919) 541–0144, e-mail: *jameson@niehs.nih.gov*.

The background documents for these four nominations are the first to be released for nominations under consideration for the Eleventh RoC. These documents are being made available at this time in response to the October, 1999 public meeting that discussed the preparation and review of the Report on Carcinogens where concerns were expressed regarding the need to increase the time allotted for public review and comment on the RoC

background documents. The NTP will make all future RoC background documents available as soon as they are completed. All future notifications about the availability of background documents for other nominations under consideration for the Eleventh RoC will be provided through NTP list-server announcements. Individuals or groups can subscribe to the NTP list-server in several ways: (1) By registering online at *http://ntp-server.niehs.nih.gov*, (2) by sending an e-mail to *ntpmail-request@list.niehs.nih.gov* with the word "subscribe" as the body of the message, or (3) by contacting the NTP Office of Liaison and Scientific Review (919–541–0530 or *liaison@starbase.niehs.nih.gov*). Individuals or groups who have already subscribed to the NTP list-server do not need to subscribe again.

The NTP has identified the nominations under consideration for listing in the Eleventh RoC in previous **Federal Register** notices (**Federal Register:** July 24, 2001 (Vol. 66, No. 142) pages 38430–38432 and **Federal Register:** March 28, 2002 (Vol. 67, No. 60) page 14957). The NTP follows a formal process for the review of nominations that includes multiple phases of scientific peer review and several opportunities for public comments. Additional information about the review of nominations for the Eleventh RoC, including the date and location of the public meeting of the NTP Board of Scientific Counselors RoC Subcommittee and the deadline for submission of public comments for consideration at that review, will be announced through future **Federal Register** and NTP list-server notices.

Background Information about the RoC

The RoC is an informational, scientific, and public health document that identifies and discusses agents, substances, mixtures, and exposure circumstances that may pose a carcinogenic hazard to human health. The report is prepared biennially in response to section 301 of the Public Health Service Act, as amended. The NTP welcomes nominations for listing in or changing the current listing in the RoC at any time. Additional information about the nomination process, the criteria for listing a nomination in the RoC, and the formal multi-step review process for nominations is available on the NTP Web site (*http://ntp-server.niehs.nih.gov*, select Report on Carcinogens) or from Dr. Jameson at the address provided above.

Dated: May 9, 2002.

Samuel H. Wilson,

Deputy Director, National Toxicology Program.

[FR Doc. 02–13058 Filed 5–23–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. CFDA 93.598]

ORR Announcement for Services To Victims of a Severe Form of Trafficking

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Request for Applications for projects to increase awareness about human trafficking and to support services for individuals determined to be victims of a severe form of trafficking. This notice supersedes the notice published in the **Federal Register** on February 8, 2002 (67 FR 6048).

SUMMARY: This ORR announcement invites submission of grant applications for funding, on a competitive basis, in three categories: Category 1—Local/Community Outreach and/or Services for Victims of a Severe Form of Trafficking; Category 2—Technical Assistance and Training; and Category 3—Information Discovery for National Outreach/Educational Campaign.

DATES: July 31, 2002 is the closing date for all categories. Please note that all applications must be received (as opposed to postmarked) in ACF by this date or they will be considered late.

Announcement Availability: The program announcement and the application materials are available from Jay Womack and Neil Kromash, Office of Refugee Resettlement (ORR), 370 L'Enfant Promenade SW, Washington, DC 20447 and from the ORR website at: *www.acf.hhs.gov/programs/orr*

FOR FURTHER INFORMATION CONTACT: For all categories, contact Jay Womack, (202) 401–5525, jwomack@acf.hhs.gov or Neil Kromash, (202) 401–5702, *nkromash@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background, legislative authority, funding availability, CFDA Number, eligible applicants, project and budget periods, and for each of the three categories—program purpose and objectives, allowable and non-allowable activities, and review criteria.

Part II: The Review Process—intergovernmental review, initial ACF screening, and competitive review.

Part III: The Application—application forms, application submission and deadlines, certifications, general instructions for preparing a full project description, and length of application.

Part IV: Post-award—applicable regulations, treatment of program income, and reporting requirements.

Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collections are included in the program announcement for categories 1–3: OMB Approval No. 0970–0139, ACF UNIFORM PROJECT DESCRIPTION (UPD) attached as Appendix A, which expires 12/30/03 and OMB Approval No. 0970–0036, ORR Quarterly Performance Report (QPR) and Schedule C which expire 7/31/02. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I: Background

Since 1994, ORR has provided assistance for social services to meet the needs of newly arriving refugees through a standing announcement. In May 2001, ORR modified that announcement to include services to victims of a severe form of trafficking. However, in February 2002, ORR further modified Category 3 of the existing standing announcement by removing services to victims of a severe form of trafficking in order to proceed with a new and separate announcement specifically aimed at promoting awareness about human trafficking and addressing the service needs of victims of a severe form of trafficking. That notice of modification was published in the **Federal Register** on February 8, 2002 (67 FR 6048).

This new Announcement establishes a new set of three categories designed to increase awareness about trafficking in persons and provide assistance to victims of a severe form of trafficking.

Legislative Authority

These grants are authorized by three provisions of law: section 107(b)(1)(B) of the Trafficking Victims Protection Act of 2000 (TVPA), section 412(c)(1)(A) of the Immigration and Nationality Act (INA) (8 U.S.C. 1522(c)(1)(A)), as amended, and section 106(b) of the TVPA.

Section 107(b)(1)(B) of the TVPA, Pub. L. 106–386, Division A, 114 Stat. 1464 (2000), provides that "[federal agencies] shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims." Section 107(b) of the TVPA also provides that individuals who are determined to be victims of a severe form of trafficking will be issued a certification letter (for adults) or eligibility letter (for minors under the age of 18) from the U.S. Department of Health and Human Services (HHS). In conducting a benefits eligibility determination for a victim of a severe form of trafficking, benefit-granting agencies should accept the HHS certification letter or HHS eligibility letter for minors in lieu of documentation from the Immigration and Naturalization Service and as proof of a status that confers eligibility for benefits.

Section 412(c)(1)(A) of the INA authorizes the Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other re-certification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services."

Section 106(b) of the TVPA provides: "The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

Funding Availability

In FY 2002, ORR expects to award an estimated $3.9 million in funds that were appropriated to carry out the Trafficking Victims Protection Act of 2000. ORR expects to make approximately 8–10 grants under Category 1—Local/Community Outreach and/or Services for Victims of a Severe Form of Trafficking ranging from $50,000 to $250,000 for a total of up to $2,500,000; renewable on a yearly basis for up to 3 years, subject to availability of funds; one grant under Category 2—Technical Assistance and Training ranging from $300,000 to $500,000 for a total of up to $500,000 per year, renewable on a yearly basis for up to 3 years, subject to availability of funds; and one grant under Category 3—Information Discovery for National Outreach/Educational Campaign for a total of up to $900,000 per year, renewable on a yearly basis for up to 3 years, subject to availability of funds.

The Director reserves the right to award less or more than the funds described in this announcement. In the absence of worthy applications the Director may decide not to make an award if deemed in the best interest of the government. Funding availability for future years is at the Director's discretion.

CFDA Number—93.598

Eligible Applicants

In Categories 1 and 2 public and private nonprofit organizations, including faith-based organizations, are eligible to apply for these grants (see § 412(c) of the INA). ORR expects that applicants will coordinate with other local organizations in considering projects and proposing services. In Category 3, any entity is eligible to apply (see section 106(b) of the TVPA), although HHS funds may not be paid as profit to any recipients even if the recipient is a commercial organization (45 CFR 74.81).

Any private nonprofit organization submitting an application must submit proof of its nonprofit status at the time of submission. A nonprofit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate.

An applicant may submit more than one application under this announcement, but must apply separately for each category.

Project and Budget Periods

This announcement is inviting applications in Categories 1, 2, and 3 for project periods of up to three years. Awards, on a competitive basis, will be for a one-year budget period although project periods may be up to three years. Applications for continuation grants funded under these awards, beyond the one-year budget period but within the three-year project period, will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

Category 1—Local/Community Outreach and/or Services for Victims of a Severe Form of Trafficking

Purpose and Objectives

The purpose of Category 1, Local/Community Outreach and/or Services for Victims of a Severe Form of Trafficking, is multifaceted. It combines the need to increase local/community awareness about the burgeoning problem of human trafficking with the need to provide resources that will address the needs of individuals determined to be victims of a severe form of trafficking. Category 1 applications may choose to concentrate exclusively on one of these two areas, or focus more comprehensively on a combination of activities that incorporates both.

Local/Community Outreach

The emphasis on Category 1 is to provide state and local law enforcement, public and private service providers, non-governmental organizations, immigrant and refugee communities, and individual community members with opportunities to learn about the Trafficking Victims Protection Act of 2000 (TVPA). The TVPA has presented an unprecedented opportunity to address the previously hidden problem of human trafficking. However, knowledge of the TVPA is limited among service professionals, law enforcement agencies, and the general public. Knowledge of benefits available to victims is similarly limited, especially among groups that do not normally access benefits or have connections with benefit-providing agencies and organizations.

Educational opportunities need to be extended to these groups to allow them to learn about the existence of human trafficking within the United States and to recognize trafficking, particularly in their local communities. Integral in these outreach activities should be familiarity with the legal definition of "severe forms of trafficking in persons" as described in the TVPA. Subsequently, a clear understanding should be established of the criteria necessary to qualify as a victim of a severe form of trafficking for benefits and services purposes.

Once trafficking victims have been identified, organizations must be empowered to provide victims with additional information and resources to access services available to them. Law enforcement agencies that have contact with immigrant or refugee populations must also be educated to look below the surface of people's circumstances in such areas as prostitution and immigrant labor. Service providers need to learn about the varied backgrounds from where the victims come and most importantly the unique issues that trafficking victims will present following their emancipation.

Organizations must establish that within their geographic locality/area there is a reasonable expectation that victims of a severe form of trafficking may be identified. Successful applicants will consider which services need to be enhanced or increased in light of increased community awareness of trafficking.

ORR is interested in providing resources for organizations to cover the costs of reaching out to community-based organizations so that victims are identified where they have the best chance for receiving assistance. In turn, communities where outreach and educational opportunities are being extended may experience an increase in the numbers of victims being identified and requesting services.

Services to Victims of a Severe Form of Trafficking

Through Category 1, Services to Victims of a Severe Form of Trafficking, ORR seeks to provide resources that will address the needs of individuals determined to be victims of a severe form of trafficking. Victims must be the recipients of a certification or eligibility letter from HHS in order to gain access to this assistance. We believe that enhanced case management, education, culturally and linguistically appropriate linkages and coordination with other service providers contribute to the overall well-being of trafficking victims. Victims may also require initial assistance accessing refugee and/or mainstream services for which they are eligible. The services funded through Category 1 should enhance the likelihood of victims of a severe form of trafficking receiving needed support as they work with the criminal justice system to assist in the investigation and prosecution of trafficking crimes. In all instances, activities must be designed to supplement, rather than supplant, the existing array of refugee services available in the community.

An applicant should provide anecdotal evidence that there have been victims of a severe form of trafficking within their community and/or a reasonable assumption that there may be additional unidentified victims in that community.

This grant program is intended to support services that address the special conditions of victims of a severe form of trafficking. ORR's expectation is that victims of trafficking will most likely, after a brief period of time, access mainstream services. Therefore, grantees should view these resources as a temporary solution.

According to post award requirements, grantees are expected to file periodic program reports. In the last two Program Performance Reports, grantees will discuss the transition of services indicating whether the services are now supported by the State, other public or private resources, or are no longer needed. These reports must provide supporting information on the impact of the services provided to the target population.

Allowable Activities

Local/Community Outreach

Allowable activities for local/community outreach include hosting community forums (including coordination and facilitation of outreach events) to raise general awareness about the problem of trafficking in their local community. In addition, applicants should emphasize the development of advertising and marketing anti-trafficking materials that reflect the broad scope of the various forms of trafficking (including debt bondage, peonage, forced labor and forced prostitution) and that are linguistically and culturally accessible, appropriate, and sensitive.

Applications focusing on Local/Community Outreach should indicate approximate timelines for development, dissemination, and review of actions presented to measure the effectiveness of the communication.

Services to Victims of a Severe Form of Trafficking

Allowable activities for Services to Victims of a Severe Form of Trafficking are restricted solely to individuals who are the recipients of a certification (for adults) or eligibility (for minors) letter from HHS. Some of the services needed for victims of a severe form of trafficking might include:

- Special medical care that is not otherwise available to the individual;
- Assistance with temporary transportation needs;
- Temporary housing;
- Temporary housing for young adults with limited experience living in families;
- Independent living skills and cultural orientation;
- Access to appropriate educational programs;
- Legal assistance/referrals and administrative costs (excluding T-visa application fees and/or attorney fees).
- Case management, to include information and referral to needed services in the community, either funded refugee services or mainstream services as appropriate;
- Special mental health services, such as trauma counseling, and
- Other services needed to bridge the time between the certification or eligibility date indicated directly on the Department's letter, and the receipt of public benefits and support services.

Applicants focusing on Services to Victims of a Severe Form of Trafficking should indicate how they will ensure that services are appropriate and accessible both linguistically and culturally.

Non-Allowable Activities

Funds will not be awarded to applicants for the purpose of engaging in activities of a distinctly political nature, activities designed exclusively to promote the preservation of a specific cultural heritage, or activities with an international objective (i.e., activities related to events in the refugees' country of origin).

Review Criteria

1. *Objectives and Need—Local/Community Outreach*—The applicant demonstrates a clear understanding of the population to be served. The conditions in proposed communities are clearly described, including the reasonable expectation of identifying trafficking victims within the community. The need for additional information leading to enhanced acknowledgment of trafficking is documented. The applicant provides anecdotal evidence that there are enough people and/or organizations that would benefit from this type of outreach/educational opportunity. *Services for Victims of a Severe Form of Trafficking*—The applicant demonstrates a clear understanding of the population to be served. The number of projected victims of trafficking to be served is reasonable in light of the organization's capacity. The application proposes to address a program of services for victims of trafficking. (25 points)

2. *Results or Benefits Expected*—The applicant clearly describes the results and benefits to be achieved. The application clearly describes how the specific target population will benefit from proposed services, e.g., enhanced case management, special medical care, referrals and follow-up with culturally and linguistically appropriate mainstream providers. Results or benefits are described also in terms of the opportunities provided for victims, benefit-providing agencies, and law enforcement. The application describes how the impact of the funds will be measured on key indicators associated with the purpose of the project. Proposed outcomes are measurable and achievable within the grant project period, and the proposed monitoring and information collection is adequately planned. (25 points)

3. *Approach*—The strategy and plan, including a description of each proposed community and an assessment of appropriateness of activities, are likely to achieve proposed results. The proposed activities and timeframes are reasonable and feasible. The plan describes in detail how the proposed activities will be accomplished as well as the potential for the project to generate additional interest in outreach to victim populations and coordination with other services. The application includes a clear and comprehensive description of the communities proposed and how they will be impacted by this project. Assurance is provided that proposed services will be delivered in a manner that is linguistically and culturally appropriate to the target population. The applicant has described the planning consultation efforts undertaken. Where coalition partners are proposed, the applicant describes each partner agency's respective role and financial responsibilities and describes how the coalition will enhance the accomplishment of the project goals. Evidence of commitment of coalition partners in implementing the activities is demonstrated, i.e., by Memoranda of Understanding (MOUs) among participants. Assurance is provided that proposed services will be delivered in a manner that is linguistically and culturally appropriate to the target population. (25 points)

4. *Organizational Profiles*—The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity and planning activities, are described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, management of affiliates, and a staffing chart of affiliate network. The qualifications of project staff, both applicant and affiliate agencies, as well as any volunteers, are documented. The applicant has provided a copy of its most recent audit report. (10 points)

5. *Budget and Budget Justification*—The budget and narrative justification are reasonable, clearly presented, and cost-effective in relation to the proposed activities and anticipated results. The applicant clearly indicates how awarded funds will complement other community outreach efforts and/or social services to achieve the objectives. Planning for continuation of services beyond the project period is realistic. (15 points)

Category 2—Technical Assistance and Training

Purpose and Objectives

This program is to provide technical and issue-specific assistance and training to organized groups, organizations, and individuals regarding the background and impact of the TVPA, with specific emphasis on the provision of benefits as it relates to the needs of trafficking victims. The program is also aimed at providing and disseminating research and resources for benefit-issuing agencies, law enforcement agencies, and others relating to issues of trafficking in persons.

We believe that strong technical assistance for the provision of benefits is needed by organizations and individuals that have limited experience working with victims of a severe form of trafficking. Victims of a severe form of trafficking have distinct and acute needs for assistance that may differ from the needs of other refugees. Programs targeted at domestic victims of crime are not necessarily prepared to address the specific needs of trafficking victims (e.g., culturally appropriate and sensitive trauma counseling, language translation, legal and immigration process referrals). Likewise, many refugee benefit-issuing organizations do not have experience in identifying the needs of a trafficking victim as distinct from the needs of other refugee populations.

The target audience requires guidance on: The types of benefits and services available to victims; barriers to victims receiving benefits; successful methodologies to ensure that victims access benefits and services available to them; and how to provide case assessments (needs assessments) of victims, including how to conduct clinical assessments.

Organizations and individuals also need to learn more about the TVPA including the legislative background, programmatic impact, technical details of the Act, and the processes that enable victims to receive certain types of benefits. Additional background regarding the history of trafficking prior to the TVPA, including precipitating factors to the enactment of the law, will also provide a better understanding of the potential impact of the TVPA for both victims and service providers.

To ensure that service organizations, law enforcement agencies and others have all the necessary information that enables them to provide assistance to victims, the development of research and background materials is critical. As resources and information continue to be developed, these resources need to be disseminated to ensure that the growing base of knowledge can be used to create effective and lasting programmatic advances for victim assistance.

We expect that applicants to this program category will have strong knowledge of and demonstrate significant experience working with victims of a severe form of trafficking in areas including direct services, legal assistance referrals, and case management.

Allowable Activities

ORR will accept applications under this announcement for projects that propose services that enhance the knowledge base and service ability of other potential grantees, current grantees, law enforcement agencies, benefit-issuing agencies and other concerned populations who are working with or may be working with victims of a severe form of trafficking.

Specific activities may include:

- *Educational outreach.* Serving as a consulting partner to other ORR trafficking grantees. Providing technical guidance to other agencies regarding benefits and services available to victims of a severe form of trafficking and the travel associated with this activity.
- *Meetings and conferences.* Hosting educational events to disseminate information on victim services and methodologies. Participation in national or international meetings and conferences that may contribute to capacity development and knowledge base on trafficking, and otherwise enhance collaborative activities.

(Note—all international travel must be approved in advance by ORR project officer.)

- *Clearing house of information.* Development of a library of resources to be made available to other organizations and individuals. Development of an internet web site which could include

chat, resources, links, or community bulletin boards. Providing and facilitating information exchange among various contributors.

• *Consultation/mentoring services.* Providing specific issue guidance/advice to other agencies working on anti-trafficking initiatives.

• *Curriculum development and dissemination.* Development of written protocols for handling trafficking cases and directing victims to available benefits.

Acceptable applications will include the development of curricula that can be disseminated to other organizations. Curricula should follow the above objectives and address the provision of benefits, methodologies for successful implementation, as well as follow-up resource development. Included in the development process should be allowances for training other organizations on the curricula and follow-up as needed.

Non-Allowable Activities

Funds will not be awarded to applicants for the purpose of engaging in activities of a distinctly political nature, activities designed exclusively to promote the preservation of a specific cultural heritage, or activities with an international objective (i.e., activities related to events in the trafficking victims' country of origin).

Review Criteria

1. *Objectives and Need*—The applicant demonstrates a clear understanding of the population to be served through significant/extensive experience working with victims of a severe form of trafficking. The applicant demonstrates clear training and advocacy experience through quantitatively demonstrated experience with trafficking victims of various cultural, linguistic, and experiential background. The applicant has experience with case assessment and creating links to law enforcement agencies, benefit issuing agencies, non-profit organizations and others. The application proposes to address a program of services for victims of trafficking. (25 points)

2. *Results or Benefits Expected*—The application clearly describes how the specific target population will benefit from proposed services, *e.g.*, enhanced case management ability, increased capacity to create referrals, and follow-up with culturally and linguistically appropriate mainstream providers. Any curricula developed can be used as key resource to be shared throughout the country and provided in conjunction with at least three (3) training sessions within the first year of the grant. Proposed quantitative outcomes are tangible and achievable within the grant project period and the proposed monitoring and information collection are adequately planned. (25 points)

3. *Approach*—The strategy and plan are likely to achieve the proposed results; the proposed activities and timeframes are reasonable and feasible. The plan describes in detail how the proposed activities will be accomplished as well as the coordination with any other services. Assurance is provided that proposed services will be delivered in a manner that is linguistically and culturally appropriate to the target population. Where coalition partners are proposed, the applicant describes each partner agency's respective role and financial responsibilities; and describes how the coalition will enhance the accomplishment of the project goals. The applicant has described the planning consultation efforts undertaken. Evidence of commitment of coalition partners in implementing the activities is demonstrated, *i.e.*, by Memoranda of Understanding (MOUs) among participants. (25 points)

4. *Organizational Profiles*—Individual organization staff including volunteers are well qualified. The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity, are described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart. The applicant has provided a copy of its most recent audit report. (15 points)

5. *Budget and Budget Justification*—The budget and narrative justification are reasonable, clearly presented, and cost-effective in relation to the proposed activities and anticipated results. Planning for any costs for publication, printing, dissemination, and similar costs are reasonable and comprehensive. (10 points)

Category 3—Information Discovery for National Outreach/Educational Campaign

Purpose and Objectives

The purposes of this project are: (A) To determine the extent of community awareness regarding the problem of human trafficking among both the general United States population and the organizations that serve victims; and (B) to better understand the successful approaches that might encourage victims to come forward for identification and assistance. The resultant information will be used as the basis for an array of culturally appropriate Public Service Announcements (PSAs) designed to increase the number of victims identified and encourage the development and implementation of additional programs intended to protect and care for victims of severe forms of trafficking.

There is a critical need for information discovery regarding public awareness of trafficking, of provisions of the Trafficking Victims Protection Act of 2000 (TVPA), and identification of factors that encourage victims to come forward to access protection and services. Given the relatively recent passage of this legislation and the TVPA's impact upon the welfare of trafficking victims, ORR believes it is important for this information to be gathered and analyzed without delay in order to identify and assist additional victims.

In comparison to other immigrant populations (*i.e.*, refugees or asylees) trafficking victims are a population about whom relatively little is known. Due to the nascent nature of the TVPA, there is a relatively small number of victims who have been made eligible to receive certain federal or state funded or administered benefits. While there is a growing amount of anecdotal evidence about the needs of trafficking victims and their access to benefits, this evidence may not accurately reflect the range of victim needs. For example, trafficking victims may require immediate, secure, and confidential contact with law enforcement agencies while other immigrant populations may not. We need more information to fully estimate the level of public awareness of trafficking and the factors that may encourage victims to come forward to utilize available benefits and services.

It is also important to describe how victims interact with community organizations and service providers. Many of these organizations currently play a vital role in identifying and providing support to trafficking victims and may be called upon for additional support. For example, organizations that are the front line service providers at hospitals, clinics, or domestic violence shelters may not realize that many of the people they have assisted are actually trafficking victims. Similarly, community organizations (e.g., mutual assistance associations) and religious institutions can play an important role in the lives of trafficking victims. This project will seek to improve our understanding of those roles and how they are affected by the TVPA.

Allowable Activities

Grantee Responsibilities

1. The Grantee should propose a project work plan that describes conditions within the topic areas underlined below. The project should explore the knowledge and relationships among trafficking victims (including child and elderly victims), service providers, and community organizations within each topic. Questions listed next to each topic suggest the type of information in which ORR has particular interest.

• *Trafficking Awareness.* What level of awareness does the general community exhibit? How are communities and individual community members currently being educated about the existence of trafficking? How are trafficking victims being educated about the crime of human trafficking? What information has been disseminated? What have community members identified as areas in need of increased knowledge or awareness? What are the successful approaches to encouraging victims to come forward?

• *Victim Identification.* Who are the first to come into contact with victims? How are victims identified as victims (*e.g.*, victim determination) and who does this? How much information do these organizations/groups have regarding the TVPA? What connection, if any, do they have with other providers?

• *Victim Assistance.* To what extent is the community aware of assistance that may be made available to victims? How are services being directed to victims? What actions have been taken or are planned to expand these services? What is the demand for community-based assistance (including food, medical, and mental health services)? To what sources do victims turn in order to meet their needs?

• *Employment.* What type of employment do victims pursue following their emancipation? How long do they stay in their jobs? What level of wages do victims receive and how much do they receive in total earnings? What fringe benefits do victims receive from their employers? What are the child care arrangements for employed trafficking victims?

• *Victims' Income.* What are victims' sources of income following their emancipation and how much do they receive from each source? What is the ratio of assistance to total income? What types of assistance and services are received and from whom (e.g., public or private service providers, friends, family)?

• *Role of Community Organizations.* What role(s) do community organizations have in identifying trafficking victims? What type (e.g., housing, security, medical, clothing, etc.) and how much assistance do trafficking victims receive from those community organizations, including religious institutions? How have these organizations helped victims access public benefits to which victims may be eligible under the TVPA?

Special consideration will be given to applications that demonstrate a concerted effort to examine organizations and individuals who are reaching out to victims of severe forms of trafficking and pursuing actions that encourage victims to come forward. Applicants should focus on at least two communities with high densities of trafficking victims.

The applicant's proposal should also seek to answer the relevant questions above from the standpoint of victims, service providers, and community organizations. The methodology for accomplishing this approach is at the discretion of the grantee; however, many organizations that initially come into contact with victims may be excellent sources of information. These could include, but are not limited to, hospitals, clinics, police and other law enforcement agencies, immigrant-serving community-based organizations, social service providers, child care facilities, and public health authorities. Information from these organizations should describe the relationship between trafficking victims and the community, the types of support community organizations provide to immigrant families, and, to the extent possible, any outreach efforts being undertaken.

2. Category three of this announcement is the only category that will be a cooperative agreement. In the spirit of the cooperative agreement, the Grantee should provide monthly updates to inform the Federal Project Officer of research developments and the status of project activities.

3. With input from the Federal Project Officer, the Grantee should select an Advisory Panel to provide guidance in project development. The Advisory Panel may participate in subsequent meetings between the Federal Project Officer and the Grantee. The Grantee may be responsible for the Advisory Panel's travel and related expenses, if any.

4. Prior to completion of the work plan (analysis plan), the Grantee should meet with relevant Federal personnel in Washington, DC to discuss the preliminary methodology and design of the research project including what research questions will be answered and what methodology the Grantee will employ to answer the questions. Federal personnel will have the opportunity to provide input and suggestions in these areas. If applicable, the Federal Project Officer should be invited to participate in other meetings in which the Grantee is involved during discussions regarding critical aspects of the project with other funding sources.

5. After consultation, the Grantee should submit a final work plan that is based on any updates to the work plan submitted in the original application. The plan should:

(a) Include a complete list of research questions the project will answer and the variables that will be used to answer each question. These variables could include (but are not limited to) immigration status and demographic information for all victims, including income level and source; type of victimization; benefit eligibility and history, employment history; and health status.

(b) Identify and describe the methodology used to gather information on trafficking with respect to these variables and the analysis to be performed.

(c) Identify how the proposed variables and data sets will be used by the Grantee to answer the research questions described in the work plan.

(d) Identify important questions/issues for which data currently are not available, and strategies for dealing with this lack of data when it pertains to the research questions in the work plan.

(e) Identify how the confidentiality will be protected of any research subjects involved in the project.

(f) Describe the results that will be produced and construct examples of tables illustrating how these results will be presented.

(g) Identify steps to coordinate with any federal or contractor staff assigned responsibility for designing and implementing the national outreach/educational campaign.

6. Once initial analyses have been conducted, the Grantee should meet with relevant federal personnel in Washington, DC to discuss preliminary findings and the format for the final report. In the spirit of a cooperative agreement, the Grantee should work with federal personnel to determine the need for additional collection or analysis of information.

7. After completing their analysis, the Grantee will prepare a final report describing the procedures used to gather information and conduct the analysis, barriers encountered in completing the

project and the results of their analysis. A draft of this report should be delivered to the Federal Project Officer before the completion of the project. The Federal Project Officer will return comments on the draft report to the Grantee and a final report that reflects the comments of the Federal Project Officer should be delivered to the Grants Officer before the completion of the project. The report should be provided to the Grants Officer both in hard copy and on 3.5″ floppy disk in a format that is agreed upon by both parties.

8. Following the completion of the final report, the Grantee should conduct a briefing in Washington, DC for federal personnel regarding the results of the analyses. The Grantee should be responsible for assembling and copying any necessary briefing materials. The briefing should take place before the completion of the project.

9. The Grantee will make data and analysis completed as a result of this project available to the research community and the government.

ORR Responsibilities

ORR will:

1. Provide input into the final work plan, including methodology, analysis, and dissemination plan.

2. Provide consultation and technical assistance in planning and operating program activities.

3. Work with the Grantee to resolve any methodological or analytical issues.

4. Assist in the transfer of information to appropriate federal, state and local entities, including any PSA developer(s).

5. Review Grantee activities and provide feedback to ensure that objectives and award conditions are being met. ORR retains the right to withhold future year funding if technical performance requirements are not met.

Non-Allowable Activities

Funds will not be awarded to applicants for the purpose of engaging in activities of a distinctly political nature, activities designed exclusively to promote the preservation of a specific cultural heritage, or activities with an international objective (i.e., activities related to events in the refugees' country of origin).

Review Criteria

1. *Objectives and Need for Assistance*—The objectives and anticipated results of the proposed project will advance policy knowledge and development. The proposed research questions address the required topics listed in this announcement and answers to these questions will effectively describe the status of trafficking victims, their communities and the organizations that serve them. The applicant demonstrates a clear understanding of the populations to be researched through significant/extensive knowledge of the issues of severe forms of trafficking in persons and the effect upon victims. The applicant demonstrates clear research experience through quantitatively demonstrated experience with trafficking victims of various cultural, linguistic, and experiential backgrounds. The applicant has experience with creating links to law enforcement agencies, benefit issuing agencies, non-profit organizations and others. The application proposes to develop information to be used to design and execute a national outreach and educational program with the goal of increasing public awareness about human trafficking. (25 points)

2. *Results or Benefits Expected*—Information and data are developed and provided that will allow PSA creator(s) to choose and target specific geographic media markets on the problem of human trafficking. (25 points)

3. *Approach*—Information gathering supplements (rather than duplicates) studies already underway by the federal government, including research on current and/or effective public awareness strategies for victims of trafficking. Methodology is appropriate, sound, and cost-effective, including the research design, statistical techniques, analytical strategies, selection of existing data sets, and other procedures. Sites selected for the study have a concentration of previously identified trafficking victims, diverse demographic victim populations (i.e. country of origin, types of identified trafficking crimes—sexual exploitation, involuntary domestic servitude, forced labor, etc.), and diverse levels of local service provision.

The proposed methodology accurately describes victims' status as suggested by the topics listed in this announcement, as well as the interaction between victims, their communities and service providers. To the extent that projects seek to examine the impact of the TVPA, the applicant's proposed methodology reliably attributes impacts. (20 points)

4. *Organizational Profiles*—Project personnel are well qualified to conduct the proposed research, as evidenced by their professional training and experience. The capacity of the organization to provide the infrastructure and support necessary for the project is suitable. The applicant has experience coordinating and sequencing tasks with other organizations. Special consideration will be given to applicants that collaborate with organizations that frequently work with immigrant populations. The applicant has pledged and shown ability to work in collaboration with other organizations in search of similar goals. The applicant has demonstrated capacity to work with a range of government agencies. The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity, are described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart. The applicant has provided a copy of its most recent audit report. (20 points)

5. *Budget and Budget Justification*—The budget and narrative justification are reasonable, clearly presented, and cost-effective in relation to the proposed activities and anticipated results. Planning for any costs for information research, dissemination, and similar costs (e.g., travel) are reasonable and comprehensive. Applications should include separate estimates for each of the three years, if funding levels are expected to be substantially different in subsequent years. (10 points)

Part II: The Review Process

Intergovernmental Review—This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed federal assistance under covered programs.

• All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, and Palau have elected to participate in the Executive Order process. Applicants from these twenty-seven jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Applicants should contact their Single-Points-of-Contact (SPOC) as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants from participating jurisdictions must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (the date of contact) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Grants Management Officer, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW., 4th floor, Washington DC 20447.

A list of the Single Points of Contact for each participating State and Territory can be found on the web at: *http://www.whitehouse.gov/omb/index.html*.

Initial ACF Screening—Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date of July 31, 2002 and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

Competitive Review and Evaluation Criteria—Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of evaluation criteria specified in Part I. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement.

Applications received for each Category will be scored and ranked only within the Category designated on the SF 424, e.g. in one of the three program areas.

Part III: The Application

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Selected elements of the ACF Uniform Project Description (UPD) relevant to this program announcement are attached as Appendix A.

Application Forms—Applicants requesting financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF 424A, Budget Information—Non-construction Programs; SF 424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Application materials including forms and instructions are also available from the Contact named in the preamble of this announcement.

Application Submission and Deadlines—An application with an original signature and two clearly identified copies are required. Applicants must clearly indicate on the SF 424 the Category under which the application is submitted.

The closing date for receipt of applications is (4:30 p.m. Eastern Time Zone) July 31, 2002. Please note that all applications must be received in ORR (as opposed to postmarked) by the closing date. Mailed and hand-carried applications received after the 4:30 p.m. (Eastern Time Zone) deadline on the closing date will be classified as late.

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline time and date at the: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Grants Management Officer, 370 L'Enfant Promenade SW., 4th Floor, Washington, DC 20447. Applicants are responsible for mailing applications well in advance to ensure that applications are received on or before the deadline time and date.

Applications hand-carried by applicants, applicant couriers, overnight/express mail couriers, or by other representatives on behalf of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Grants Management Officer, 4th Floor, Aerospace Building, 901 D Street, SW., Washington, DC 20447 between Monday and Friday (excluding federal holidays). The address must appear on the envelope/package containing the application with the note "Attention: Grants Management Officer." (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

The federal government has experienced periodic delays in mail delivery through the U.S. Postal Service since fall 2001. In some instances, mail has been delayed up to or over four months. To ensure that ACF receives your application by the (4:30 p.m. Eastern Time Zone) July 31, 2002 deadline, you may wish to send your application via an express mailing service. Also, please send an electronic notification that you have sent an application to Jay Womack at *jwomack@acf.hhs.gov* and Neil Kromash at *nkromash@acf.hhs.gov*.

Late applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (e.g. floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

For Further Information on Application Deadlines Contact: Grants Management Officer, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th Floor, Washington, DC 20447. Telephone: (202) 401–4577.

Certifications, Assurances, And Disclosure Required For Non-Construction Programs—Applicants must sign and return the disclosure form, if applicable, with their applications. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, "Assurances: Non-Construction Programs." Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a signed certification regarding lobbying with their applications, when applying for an

award in excess of $100,000. Applicants who have used non-federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying.

Applicants must make the appropriate certification of their compliance with the Drug Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

General Instructions for Preparing a Full Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested. Please refer to the UPD sections in the appendix.

Length of Applications—Each application narrative should not exceed 20 pages in a 12-pitch font. Attachments and appendices should not exceed 25 pages and should be used only to provide supporting documentation such as administration charts, position descriptions, resumes, and letters of intent or partnership agreements. A table of contents and an executive summary should be included but will not count in the page limitations. Each page should be numbered sequentially, including the attachments and appendices. This limitation of 20 pages per category should be considered as a maximum, and not necessarily a goal. Application forms are not to be counted in the page limit.

Please do not include books or videotapes as they are not easily reproduced and are, therefore, inaccessible to the reviewers.

Part IV: Post-Award

Applicable Regulations—Applicable DHHS regulations can be found in 45 CFR part 74 or 92.

Treatment of Program Income—Program income from activities funded under this program may be retained by the recipient and added to the funds committed to the project, and used to further program objectives.

Reporting Requirements—Grantees are required to file the Financial Status Report (SF–269) semi-annually and the Program Performance Reports quarterly, along with the Schedule C of the ORR Quarterly Performance Report. Category Three grantees should note the additional requirements for the final report noted under Category Three Grantee Responsibilities above.

Funds awarded must be accounted for, and reported under, the distinct grant number ascribed. Although ORR does not expect the proposed projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes and expenditures. The official receipt point for all reports and correspondence is the Grants Management Officer, Administration for Children and Families/Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th Floor, Washington, DC 20447, Telephone: (202) 401–4577. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Office of Grants Management.

A Final Financial and Program Report shall be due 90 days after the project expiration date or termination of federal budget support.

Dated: May 13, 2002.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

Appendix A—Uniform Project Description OMB No. 0970–0139

The project description is approved under OMB control number 0970–0139 which expires 12/31/03.

Part I: The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Cross referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.

Pages should be numbered and a table of contents should be included for easy reference.

Part II: General Instructions for Preparing a Full Project Description

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application *OR* by application deadline.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, "Federal resources" refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) currently set at $100,000. Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may

include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application that contain this information.

Nonfederal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

[Self-explanatory]

[FR Doc. 02–13089 Filed 5–23–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Microenterprise Development Program

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice of availability of FY 2002 social services discretionary funds for refugee microenterprise development projects.

SUMMARY: The Office of Refugee Resettlement (ORR) invites eligible entities to submit competitive grant applications for microenterprise development projects for refugees.[1] Applications will be accepted pursuant to the Director's discretionary authority under section 412(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1522), as amended. Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is July 8, 2002. *See* Part IV of this announcement for more information on submitting applications.

Announcement Availability: The program announcement and the application materials are available on the ORR website at *www.acf.dhhs.gov/programs/orr.*

FOR FURTHER INFORMATION CONTACT: Henley Portner, Division of Community Resettlement, Office of Refugee Resettlement, Administration for Children and Families, at (202) 401–5363 or *HPortner@ACF.DHHS.GOV.*

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background, legislative authority, funding availability, CFDA Number, applicant eligibility, project and budget periods, program purpose and scope, client eligibility, allowable activities, and treatment of program income.

Part II: General instructions for preparing a full project description.

Part III: The Review Process—Intergovernmental review, initial ACF screening, competitive review, and review criteria.

Part IV: The Application—Application materials, application submission information, regulations, and reporting.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 25 hours, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collections are included in the program announcement: OMB Approval No. 0970–0139, ACF Uniform Project Description (UPD) which expires 12/31/2003. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I: Background

The Office of Refugee Resettlement (ORR) has supported the field of microenterprise development since 1991 with discretionary grants to various State governments, community economic development agencies, community action and other human service agencies, local mutual assistance associations, and voluntary agencies. Organizations with successful programs have typically been those with a long-term commitment to microenterprise and to its adaptation to the refugee experience. They have committed agency resources to support refugee programs; and their work in refugee microenterprise has been consistent with the overall agency mission. A public or private non-profit agency interested in receiving funding under this announcement must analyze its organizational capacity to work with refugees who are economically poor, who have limited English language proficiency, and who have neither assets nor American business experience. Many newly arrived refugees do not qualify for commercial loans or for admission into mainstream microenterprise development programs for these reasons.

Refugees bring positive attributes to microenterprise development projects, including a diverse and rich array of business ideas, skills, experiences, and ambitions. These characteristics have been largely responsible for the success of the ORR initiative. During the last ten years, refugees have started or expanded over 800 micro-businesses; and over 89 percent of these businesses have survived. ORR grantees have provided over $3 million in financing to these entrepreneurs; and the loan repayment rate is close to 100 percent. By commonly accepted measures of performance (business survival rates, loan default rates, etc.), the ORR-funded programs have excelled and frequently led the field in achievement. More important, over 4,000 refugees have gained new entrepreneurial skills and knowledge; and the additional business income is helping refugee families to achieve economic self-sufficiency.

Building on the experience of the last ten years, ORR seeks in this announcement to continue support to this field, particularly on behalf of those refugees who, because of language and cultural barriers, are unlikely to gain access to commercial loans or business training through other programs. To be successful in this competition, refugee-serving organizations must demonstrate their agency's capacity to provide the technical expertise to help refugees start or expand businesses. Economic development agencies must show how they will modify their existing programs to serve refugees effectively.

Legislative Authority: Section 412(c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522(c)(1)(A)) authorizes the Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services."

Funding Availability: ORR expects to make available approximately $2.5 million for Microenterprise Development projects for about 12 to 20 awards in amounts ranging from $100,000–$200,000.

The Director reserves the right to award less, or more, than the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government. Applicants may be required to reduce the scope of projects based on the amount of the approved grant award.

CFDA Number: The Catalog of Federal Domestic Assistance number for this program is 93.576. The title of the program is the Refugee Microenterprise Development Program.

Applicant Eligibility: Eligible applicants are public and private non-profit organizations and agencies of State governments that are responsible for the refugee program under 45 CFR 400.5. Faith-based organizations are eligible to apply for these grants.

Project and Budget Periods: This announcement invites applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the three-year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Refugee Microenterprise Development Program Purpose and Scope: The purpose of microenterprise development is to assist refugees in becoming economically self-sufficient and to help refugee communities in developing employment and capital resources.

Applicants may request funds for microenterprise development projects to include business technical assistance or short-term training, credit in the form of microloans, the administrative costs of managing the project, and, if applicable, a revolving microloan fund. Projects should be designed in a manner that is culturally and linguistically appropriate for the refugee population.

Projects should be designed to be appropriate for the characteristics of the local refugee populations, including characteristics such as employment rates, welfare status, length of time in the U.S., interest in micro-businesses, and English language proficiency. Applicants should also be familiar with the capital needs and capital market gaps for refugee entrepreneurs and should demonstrate how refugees will gain access to business credit.

Successful applicants will demonstrate an understanding of the economic opportunities in the community for refugees and will have established working partnerships with the communities' refugee resettlement services network, with existing microenterprise organizations (where they are present), and with financial institutions.

ORR will not fund applicants who propose to subgrant or contract all or most of the proposed activities under this initiative to an unrelated entity. This does not bar subgranting or contracting for specific services or activities.

Client Eligibility: Eligible clients are refugees who aspire to establish, expand, or stabilize a microenterprise but who lack the financial resources, credit history, or personal assets to qualify for business loans or assistance through commercial institutions. Refugees may participate regardless of their date of arrival in the U.S. Grantees will be responsible for documenting refugee client eligibility.

Allowable Activities: Project components may include one-on-one business consultation and training, training in classroom settings, access to business credit, individual or peer group lending, and follow-up technical assistance to refugee businesses. ORR funds may also be used for the administrative costs associated with a loan loss reserve fund or with managing a revolving loan fund.

Microloans consist of small amounts of credit that are less than $15,000 and are extended to low-income entrepreneurs for start-ups of microenterprises or for expansion or stabilization of existing microenterprises. Applicants may elect to establish cooperative relationships with one or more of the community's financial institutions to obtain access to commercial loan funds. Alternatively, ORR funds may be used for microloans to individual refugee entrepreneurs in sums not to exceed $15,000 (of ORR monies). These funds may be disbursed through individual loans or through peer lending mechanisms, through a revolving loan fund. Requests for ORR grant funds for a revolving loan fund may not exceed $50,000 in the first budget period. Grantees will be responsible for establishing written lending policies and procedures and for collecting and servicing loan repayments.

ORR supports the use of commercial lending institutions for refugee borrowers to leverage the limited amount of ORR funds available for this purpose and to provide borrowers with the opportunity to establish credit-worthy histories with traditional lenders. To that end, ORR does not encourage the use of below-market rates of interest for the loan funds. Conversely, grantees may not charge refugees interest rates that exceed four

[1] In addition to persons who meet all requirements of 45 CFR 400.43, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, as included in FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1989 (Pub. L. 10–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons.

percentage points above the New York prime lending rate at the time of loan approval.

Microloans will have a maximum maturity of three years. They may be used for working capital, inventory, supplies, furniture, fixtures, machinery, tools, equipment, building renovation, and/or leasehold improvements.

Microloan funds may not be used for the following types of businesses:

- As venture capital for established businesses that are attempting major expansion;
- For enterprises engaged in gambling or speculation;
- For any illegal activity or production or for the service or distribution of illegal products;
- For purposes not related to microenterprise development; e.g., for the purchase of a personal-use automobile.

Treatment of Program Income: Projects with revolving loan funds may earn and retain program income in the form of interest (on individual loans or from loan loss reserves). Specifically, program income funds may be retained by the project to expand the pool of credit in accordance with 45 CFR 74.24 (b)(1), (b)(2) and (e) for non-profit organizations and 45 CFR 92.25 (g)(2) for governmental entities. Similarly, repaid loan principal is to be treated as program income and placed in the revolving loan fund for re-lending. Program income may be retained by the grantee so long as the use of these funds furthers the objectives of the grant and is consistent with the Federal statute under which the grant was made.

Any fees or charges imposed on refugee clients by the grantee or its subcontractors or affiliates (e.g., loan processing or training fees) must be disclosed in the application and pre-approved by ORR.

Successful grantees will be expected to coordinate their policies and procedures for developing and administering refugee microenterprise projects with the existing refugee microenterprise services network. To ensure an exchange of technical and training information among programs, all grantees are encouraged to attend two ORR training meetings during each year of their participation in this program area. Grant funds may be used to offset the cost of attendance.

Part II: General Instructions for Preparing a Full Project Description

The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix. Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, ORR is particularly interested in the number of businesses established, expanded, or stabilized; the employment generated by the businesses; the number and size of loans provided to refugees; the amount of additional funds leveraged by the ORR funds for microenterprise loans, and the impact of the businesses assisted on the refugees' movement toward self-sufficiency.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports, or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses, and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, "Federal resources" refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and subrecipients, other than States that are required to use part 92 procedures, must justify any anticipated procurement

action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description, and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application that contain this information.

Nonfederal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Part III: The Review Process

Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

The following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions need take no action in regard to E.O. 12372: Alabama, Alaska, American Samoa, Colorado, Connecticut, Kansas, Hawaii, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, etc., does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations, which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Attention: Daphne Weeden, Grants Officer, 370 L'Enfant Promenade, SW., Fourth Floor West, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included with the application materials for this program announcement.

Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was mailed by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

Competitive Review

Applications, which pass the initial ACF screening, will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria were designed to assess the quality of a proposed project and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement.

Review Criteria

Applications will be reviewed using the following evaluation criteria:

1. *Objectives and Need for Assistance.* Quality of the description of the prospective refugee communities' profile with respect to welfare utilization, English language proficiency, length of time in the U.S.,

interest in microbusiness, and the description of local capital needs and capital market gaps for refugee microentrepreneurs. (15 points).

2. *Approach.* Adequacy and appropriateness of the program approach or design, including project goals and structure (policies, procedures, activities); training and technical assistance; loan funds, lending criteria, and fees, if included in the design; whether the business targets are start-ups, expansions, or both; partner agencies; and credit enhancements, such as loan loss reserves. (30 points).

3. *Organization Profiles.* Demonstrated organizational and management capacity including bilingual/bicultural competent services and experience serving refugees and other economically disadvantaged populations; description of experience in organizational management, including copies of the last two fiscal year financial statements, with balance sheets and income statements; description of experience in management of loan funds, including a projected monthly cash flow chart for the loan fund for the three-year period beginning October 1, 2002; and experience in collaboration with the specific refugee community(ies) and coalition building among refugee and non-refugee service providers. (20 points).

4. *Results and Expected Benefits.* Extent to which the expected outcomes and unit costs of the project are appropriate, consistent with reported nationwide performance in microenterprise projects, and reasonable in relation to the proposed activities. Results may include the impact of loan funds, business income, and business assets on clients' welfare status, if applicable, as well as projected outcomes for business income, employment, and survivability. (20 points).

5. *Budget and Budget Justification.* Appropriateness and reasonableness of the proposed budget, including the relative distribution of funds for administrative costs, training or technical assistance, and loan capital. The application should include project timelines and a narrative justification supporting each budget line item. (15 points).

Part IV: The Application

Application Materials: In order to be considered for a grant under this program announcement, an application must be submitted on the Standard Form 424 and in the manner prescribed by ACF. Application materials including forms and instructions are available from the ORR website at *www.acf.dhhs.gov/programs/orr/funding.* Application materials including forms and instructions are available from the contact named under the **FOR FURTHER INFORMATION CONTACT** section in the preamble of this announcement.

Application Submission Information

1. Mailed applications postmarked after the closing date will be classified as late.

2. *Deadline.* Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Attention: Daphne Weeden, Grants Officer, 370 L'Enfant Promenade, SW., Washington, DC 20447. Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine-produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) Applications handcarried by applicants, by applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, ACF Mailroom, Second Floor (near loading dock), Aerospace Center, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note "Attention: Daphne Weeden, Grants Officer." ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

3. *Late applications.* Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

4. *Extension of deadlines.* ACF may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there is widespread disruption of the mail service, or in other rare cases. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Regulations: Applicable U.S. Department of Health and Human Services regulations can be found at 45 CFR part 74 or part 92.

Reporting: Grantees are required to file the Financial Status Report (SF–269) and Program Performance Reports on a semi-annual basis. Funds issued under these awards must be accounted for, and reported upon, separately from all other grant activities. Although ORR does not expect the proposed projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes. The official receipt point for all reports and correspondence is Ms. Daphne Weeden, Grants Officer, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th Floor West, Washington, DC 20447, Telephone: (202) 401–4577. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Grants Officer. The mailing address is: Ms. Daphne Weeden, Grants Officer, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade SW., 4th Floor West, Washington, DC 20447. A final Financial Status Report and Program Performance Report shall be due 90 days after the budget expiration date or termination of grant support.

Dated: May 9, 2002.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

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BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, *Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities: Planning Grants (SP 02–004)*, and Part II, *General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements*, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2002	Est. number of awards	Project period
Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP)and HIV Prevention (HIVP) in Minority Communities: Planning Grants.	July 24, 2002	$7,500,000	70–75	1 year.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: SAMHSA's Center for Substance Abuse Prevention (CSAP) announces that funding is available for Fiscal Year 2002 for Planning Grants through the Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities Program.

This program responds to the health emergency in African-American, Hispanic/Latino, American Indian/Alaska Native, and Asian-American/Pacific Islander communities described by the Congressional Black and Hispanic Caucuses. It includes two initiatives:

- Planning Grants
- Services Grants

Funds under this Planning Grant initiative are available to establish the infrastructure and leadership necessary to be able to provide effective Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) and other related services to the minority communities they serve. Funds will also support efforts and activities that will build awareness and consensus, and develop action plans for services to help ensure access to effective SAP and HIVP interventions in their communities.

Eligibility: Funding will be directed to activities designed to deliver services specifically targeting racial and ethnic minority populations impacted by HIV/AIDS. Eligible entities may include: not for profit community-based organizations, national organizations, colleges and universities, clinics and hospitals, research institutions, and tribal government and tribal/urban Indian entities and organizations. Faith-based and community-based organizations are eligible to apply. In addition, health care delivery organizations, Historically-Black Colleges (HBCUs), Tribal Colleges and Universities (TCUs), Hispanic Serving Institutions (HSIs), Hispanic Association of Colleges and Universities members (HACUs), are also eligible to apply. Note: State and local government agencies are not eligible under this GFA.

Availability of Funds: Approximately $7.5 million is available to fund planning grants. CSAP expects to award funding to 70–75 applicants, in the amount of $90,000 to $125,000. Your budget should not exceed $125,000 in total costs (direct and indirect). Actual funding levels will depend on the availability of funds.

CSAP's Minority SAP and HIVP programs include two separate funding opportunities in FY 2002:

- This GFA provides instructions on applying for Planning Grants
- A separate GFA is available to provide instructions on applying for Services Grants.

Period of Support: Awards may be requested for up to 1 year.

Criteria for Review and Funding:

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Francis C. Johnson, M.S.W., Rockwall II, Suite 1075, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6612, E-Mail: *fjohnson@SAMHSA.gov*.

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: *shudak@samhsa.gov*.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

(a) A copy of the face page of the application (Standard form 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2002 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 22, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–13209 Filed 5–22–02; 12:03 pm]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, *Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities: Services Grants (SP 02–005)*, and Part II, *General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements*, before preparing and submitting an application.

Activity	Application deadliine	Est. funds FY 2002	Est. number of awards	Project period
Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities; Services Grants.	July 24, 2002	$15,100,000	40–45	3 year.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov*.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: SAMHSA's Center for Substance Abuse Prevention (CSAP) announces that funding is available for Fiscal Year 2002 for Planning Grants through the Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities Program.

This program responds to the health emergency in African-American, Hispanic/Latino, American Indian/Alaska Native, and Asian-American/Pacific Islander communities described by the Congressional Black and Hispanic Caucuses. It includes two initiatives:

Funds under this Services Grant initiative are available to support effective, integrated Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) services for youth and other at-risk populations.

Eligibility: Funding will be directed to activities designed to deliver services specifically targeting racial and ethnic minority populations impacted by HIV/AIDS. Eligible entities may include: not for profit community-based organizations, national organizations, colleges and universities, clinics and hospitals, research institutions, and tribal government and tribal/urban Indian entities and organizations. Faith-based and community-based organizations are eligible to apply. In addition, health care delivery organizations, Historically-Black Colleges (HBCUs), Tribal Colleges and Universities (TCUs), Hispanic Serving Institutions (HSIs), Hispanic Association of Colleges and Universities members (HACUs), are also eligible to apply. Note: State and local government agencies are not eligible under this GFA.

Availability of Funds: Approximately $15.1 million is available to fund planning grants. CSAP expects to award funding to 40–45 applicants, in the amount of $250,000 to $350,000. Your budget should not exceed $350,000 in total costs (direct and indirect). Actual funding levels will depend on the availability of funds. CSAP's Minority SAP and HIVP programs include two separate funding opportunities in FY 2002:

- This GFA provides instructions on applying for Services Grants
- A separate GFA is available to provide instructions on applying for Planning Grants.

Period of Support: Awards may be requested for up to 3 years.

Criteria for Review and Funding:

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

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Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 22, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–13210 Filed 5–22–02; 12:03 pm]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of SAMHSA Special Emphasis Panels I in June, July, August and September 2002.

A summary of the meetings and a roster of the members may be obtained from: Ms. Coral Sweeney, Review Specialist, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–2998.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 3–7, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: June 3, 2002 to Adjournment.
Panel: Childrens Mental Health Initiative, SM 02–00272, Committees.
Contact: Diane McMenamin, Director, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 3–7, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: June 3, 2002 to Adjournment.
Panel: Partnerships for Effective Youth Transition, SM 02–00372, Committees.
Contact: Diane McMenamin, Director, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 10—14, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: June 10, 2002 to Adjournment.
Panel: CMHS, Community Action Grants, PA 02–001.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: June 10–14, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: June 10, 2002 to Adjournment.
Panel: CSAT, Targeted Capacity Expansion TI 02–009 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: July 15–19, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: July 15, 2002 to Adjournment.
Panel: State Incentive Grants.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: July 15, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: July 15, 2002.
Panel: Consumer Support Technical Assistance Center.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: July 15–19, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: July 15, 2002 to Adjournment.
Panel: Youth Violence Technical Assistance Center.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: July 22–26, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: July 22, 2002 to Adjournment.
Panel: American Indian/American Native Rural Planning Grants 2 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: July 22–26, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: July 22, 2002 to Adjournment.
Panel: Criminal Justice 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I)
Meeting Date: July 29–August 2, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road Bethesda, Maryland 20814.
Closed: July 29, 2002 to Adjournment.
Panel: Treatment for Homeless 4 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I)
Meeting Date: July 29–August 2, 2002. 2 Committees.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: July 29 to Adjournment.

Panel: First Responders/Public Safety Workers.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 5–9, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814
Closed: August 5, 2002 to Adjournment.
Panel: Adult Juvenile Family Drug Courts 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 5–9, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Closed: August 5, 2002.
Panel: Elderly Mental Health Outreach & Treatment 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 12–16, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: August 12, 2002 to Adjournment.
Panel: Partnerships for Effective Youth Transitions, 4 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 12–16, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: August 12, 2002.
Panel: Workforce Training, 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 19–23, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: August 19, 2002 to Adjournment.
Panel: Targeted Capacity Expansion/HIV, 5 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMHSA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 26–30, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: August 26, 2002 to Adjournment.
Panel: Youth Violence Prevention, 5 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review,

Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: August 26–30, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: August 26, 2002 to Adjournment.
Panel: Adolescent Residential Treatment, 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 9–13, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 9, 2002 to Adjournment.
Panel: Child Trauma/Post Traumatic Stress TA Center.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 2–9, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 2, 2002 to Adjournment.
Panel: National Suicide Prevention Resource Center.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 2–6, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 2, 2002 to Adjournment.
Panel: MH Violence Coordinating Center.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 2–6, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 2, 2002 to Adjournment.
Panel: Anti-Drug Coalitions.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857..

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 9–13, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 9, 2002.
Panel: HIV/AIDS Planning & HIV/AIDS Services, 8 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 16–20, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 16, 2002.
Panel: Methadone/Ecstasy Implementation and Infrastructure, 3 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Committee Name: SAMSHA Special Emphasis Panel 1 (SEP I).
Meeting Date: September 16–20, 2002.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: September 16, 2002 to Adjournment.
Panel: State Treatment Needs Assessment Program, 2 Committees.
Contact: Diane McMenamin, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Dated: May 20, 2002.

Coral Sweeney,

Review Specialist, Division of Extramural Activities and Review, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–13108 Filed 5–23–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–21]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 24, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 17, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 02–12886 Filed 5–23–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Information Quality Guidelines Pursuant to Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of Availability of Proposed Information Quality Guidelines.

SUMMARY: The U.S. Department of the Interior, is issuing these proposed Information Quality Guidelines in order to comply with the guidance published by the Office of Management and Budget in the **Federal Register**, Vol., 2, No. 67, dated January 2, 2002, and re-issued February 22, 2002, Vol. 67, No. 36, for implementing section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554; H.R. 5658).

FOR FURTHER INFORMATION CONTACT: Persons interested in reviewing the proposed Information Quality Guidelines issued by the Office of the Secretary, U.S. Department of the Interior, are encouraged to contact the Office of the Chief Information Officer (Attn: Nancy Trent) 1849 C Street, NW., Mail Stop 5312, Washington, DC 20240, phone: 202–208–6051. The guidelines may also be reviewed at Web site: *www.mms.gov/whatsnew.*

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior, its offices, and its eight component bureaus disseminate a wide variety of information to the public regarding the Nation's Federal lands, National Parks, natural resources, geographic and spatial data, wildlife and fisheries, and Indian lands. This document is the basis for Department policy to ensure quality of information disseminated. Interested parties may submit comments not later than 30 days from the date of this notice. Bureaus and offices are directed to publish by July 1, 2002, a notice of availability of their guidelines in the **Federal Register** for public comment, with at least a 30-day comment period.

Dated: May 10, 2002.

P. Lynn Scarlett,

Assistant Secretary for Policy, Management and Budget.

[FR Doc. 02–13158 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–RK–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to sections 10(a)(1)(A) and 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE023664

Applicant: Virgil Brack, Jr., Cincinnati, Ohio.

The applicant currently possesses a permit to take (survey and hold) Gray bat (*Myotis grisecens*), Indiana bat (*Myotis sodalis*), Ozark big-eared bat (*Corynhorhinus townsendii ingens*), and the Virginia big-eared bat (*Corynhorhinus townsendii virginianus*) throughout the majority of the species ranges in 27 States. The applicant requests to expand activities into the States of Connecticut, Delaware, Florida, and Nebraska. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number TE056081

Applicant: EnviroScience, Inc., Stow, Ohio.

The applicant requests a permit to take (capture and release) the following listed unionid mussel species: fanshell (*Cyprogenia stegaria*), purple catspaw (*Epioblasma obliquata obliquata*), white catspaw (E. o. perobliqua), northern riffleshell (*E. torulosa rangiana*), pink mucket pearlymussel (Lampsilis abrupta), Higgins' eye pearlymussel (*L. higginsi*), white wartyback (*Plethobasus cicatricosus*), orange-foot pimpleback pearlymussel (*P. cooperianus*), clubshell (*Pleurobema clava*), rough pigtoe (*P. plenum*), fat pocketbook (*Potamilus capax*), and winged mapleleaf mussel (*Quadrula fragosa*). Activities are proposed within the States of Ohio, Indiana, Michigan, Iowa, Wisconsin, Minnesota, Illinois, and Missouri. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number TE056264

Applicant: John Shuey, Indianapolis, Indiana.

The applicant requests a permit to take male Mitchell's satyr (*Neonympha mitchellii mitchellii*) in Indiana for genetic analysis. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who requests a copy from the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, peter_fasbender@fws.gov, Telephone (612) 713–5343, or Fax (612) 713–5292.

Dated: May 2, 2002.

T.J. Miller,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 02–13077 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Assessment for the Delta Management at Fort St. Philip Project, Plaquemines Parish, Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of the draft Environmental Assessment (EA) for the Delta Management at Fort St. Philip Project. A more detailed description of the project is outlined in the Supplementary Information section below. A copy of the draft EA may be obtained by sending a written request to our Louisiana Field Office (see **ADDRESSES** section). Requests must be made in writing to be processed. This notice is provided pursuant to National Environmental Policy Act regulations (40 CFR 1506.6).

We specifically request information, views, and opinions from the public through this Notice on the Federal action, including the identification of any other aspects of the human environment not already identified in the our EA.

DATES: Written comments on the draft EA must be received on or before June 24, 2002.

ADDRESSES: Persons wishing to review the draft EA may obtain a copy by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 646 Cajundome Boulevard, Suite 400, Lafayette, Louisiana 70506. If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Louisiana Field Office at the address listed above. You also may comment via the Internet to "*kevin_roy@fws.gov*". Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at the telephone numbers listed below (*see* **FURTHER INFORMATION CONTACT** section). Finally, you may hand deliver comments to the Louisiana Field Office. Data or comments regarding the draft EA should be submitted in writing to the Louisiana Field Office to be adequately considered in the our decision-making process. Documents will be available for public inspection by appointment during normal business hours at our Louisiana Field Office (Attn: Kevin Roy).

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Roy, Fish and Wildlife Biologist, (*see* **ADDRESSES** section), telephone: 337/291–3120 or 337/291–3100, facsimile: 337/291–3139.

SUPPLEMENTARY INFORMATION:

Background

The Delta Management at Fort St. Philip Project, is being funded through the Coastal Wetlands Planning, Protection and Restoration Act on the Tenth Priority Project List. The project purpose is to promote the formation of emergent marsh through the construction of artificial crevasses and earthen terraces. The project is located near the east bank of the Mississippi River adjacent to Fort St. Philip in Plaquemines Parish, Louisiana. The project area has experienced extensive marsh loss since the mid 1970s, with loss rates as high as 8 percent per year.

However, many areas are experiencing marsh growth as sediment introduced from the Mississippi River through a natural crevasse is causing infilling of open water areas. The preferred alternative is to construct earthen terraces and artificial crevasses to enhance the natural processes of marsh building now occurring in the project area.

Public Comments Solicited

We solicit written comments on the draft EA described. All comments received by the date specified above will be considered in our decision-making process.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Author

The primary author of this document is Kevin Roy (*see* **ADDRESSES** Section).

Authority

The authority for this action is the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*) and CEQ Regulations 40 CFR 1506.6.

Dated: May 6, 2002.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 02–13078 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Low-Effect Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for Construction of a Single-Family Residential Home Site on the Dahle Property, Colorado Springs, Colorado

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice advises the public that Lee J. Dahle has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended. The proposed permit would authorize the incidental take of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*), federally listed as threatened, through loss and modification of its habitat associated with construction and occupation of a residential home site at the Dahle Property, Colorado Springs, Colorado. The duration of the permit would be 5 years from the date of issuance.

We announce the receipt of the applicant's incidental take permit application that includes a proposed Low-Effect Habitat Conservation Plan (HCP) for the Preble's meadow jumping mouse for the Dahle Property. The proposed HCP is available for public comment. It fully describes the proposed project and the measures the applicant would undertake to minimize and mitigate project impacts to the Preble's meadow jumping mouse. All comments on the HCP and permit application will become part of the administrative record and will be available to the public.

DATES: Written comments on the permit application, and Habitat Conservation Plan should be received on or before June 24, 2002.

ADDRESSES: Comments regarding the permit application and HCP should be addressed to LeRoy Carlson, Field Supervisor, U.S. Fish and Wildlife Service, Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Linder, Fish and Wildlife Biologist, Colorado Field Office, telephone (303) 275–2370.

SUPPLEMENTARY INFORMATION:

Document Availability

Individuals wishing copies of the HCP and associated documents for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 9 of the Act and Federal regulation prohibit the "take" of a species listed as endangered or threatened. Take is defined under the Act, in part, as to kill, harm, or harass a federally listed species. However, the Service may issue permits to authorize "incidental take" of listed species under limited circumstances. Incidental Take is defined under the Act as take of a listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity under limited circumstances. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32.

The Dahle Property is located at 17 El Dorado Lane, Lot 5, Block 4 in Thunderbird Estates Subdivision, along Monument Creek, in the Section 6, Township 13 South, Range 66 West, Southwest ¼ in the Pikeview quandrangle, in the Town of Colorado Springs, El Paso County, State of Colorado. The project will involve 0.65 acres, but will directly impact a maximum of 0.15 acres that may result in incidental take of the Preble's meadow jumping mouse. The site will impact upland areas only.

Alternatives considered in addition to the Proposed Action were awaiting approval of the El Paso County Regional Habitat Conservation Plan, and no action. The last alternative eliminated potential take of Preble's. The onsite, offsite, and cumulative impacts of the proposed Project and all associated development and construction activities and mitigation activities proposed by the HCP will have no significant impact on other threatened or endangered species, vegetation, wildlife, wetlands, geology/soils, land use, water resources, air and water quality, or cultural resources. None of the proposed impacts occur within the riparian corridor. All of the proposed impacts are in upland areas inside the 100-year floodplain. Utilizing the mouse protection habitat definition, the proposed development could impact up to 0.15 acre of potential mouse habitat for the residential lot. The mitigation will likely provide a net benefit to the Preble's mouse and other wildlife by improving or creating new riparian areas, planting of native grasses, and protecting existing habitat along Monument Creek from any future development.

Only one federally listed species, the threatened Preble's meadow jumping mouse, occurs onsite and has the potential to be adversely affected by the project. To mitigate impacts that may result from incidental take, the HCP provides mitigation for the residential site by protection of the Monument Creek corridor onsite and its associated riparian areas from all future development through the enhancement of 0.5 acre through native grass planting, shrub planting, weed control, preservation in a native and unmowed condition, and the placement of the proposed building site closer to the road and farther away from mouse habitat. Measures will be taken during construction to minimize impact to the habitat including limited site access and the placement of spoils piles only at the front end of the lot, away from the creek. All of the proposed mitigation area is within the boundaries of the Dahle property, all of which is included in the drainage basin of Monument Creek.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the Preble's meadow jumping mouse in conjunction with the construction and occupation of a single-family residential lot on the Dahle Property. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: May 8, 2002.

David E. Heffernan,

Acting Regional Director, Region 6.

[FR Doc. 02–13076 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Availability, Assessment Plan for Natural Resources Injured by Releases of Hazardous Substances From the Leviathan Mine

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs, on behalf of the Washoe Tribe of Nevada and California, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the California Department of Fish and Game, and the Nevada Division of Environmental Protection, announces the release for public review of the Leviathan Mine Natural Resource Damage Assessment Plan—Public Release Draft (Assessment Plan). The Plan was developed by the Leviathan Mine Council Natural Resource Trustees, consisting of representatives of the Tribe and agencies listed above, to assess injuries to natural resources resulting from releases of hazardous substances from the Leviathan Mine in Alpine County, California. The Assessment Plan describes the proposed approach for determining and quantifying natural resource injuries and calculating damages associated with these injuries.

DATES: Comments on the Assessment Plan must arrive by June 24, 2002.

ADDRESSES: You may mail or hand deliver written comments to Mr. Wayne Nordwall, Regional Director, Bureau of Indian Affairs, Western Regional Office, P.O. Box 10, Phoenix, AZ 85001; or 400 N. Fifth Street, Phoenix, AZ 85004; or by facsimile (602) 379–4413.

The Assessment Plan is available for review, by appointment and during normal business hours, at the office locations of the following officials: (1) Curtis Milsap, Bureau of Indian Affairs, Western Nevada Agency, 1677 Hot Springs Road, Carson City, Nevada 89706, telephone (775) 887–3570; (2) John Krause, Bureau of Indian Affairs, Western Regional Office, 400 N. Fifth Street, Phoenix, Arizona 85004, telephone (602) 379–3723; (3) Robert Greenbaum, Washoe Tribe of Nevada and California, 919 U.S. Hwy. 395 South, Gardnerville, Nevada 89410, telephone (775) 265–4191 ext. 155; (4) Stan Wiemeyer, U.S. Fish & Wildlife Service, Nevada Fish & Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502, telephone (775) 861–6300; and (5) Melanie Markin, U.S. Fish & Wildlife Service, 2800 Cottage Way, W–2605, Sacramento, California 95825, telephone (916) 414–6638. In addition, the Assessment Plan is available for review at the Alpine County Library, 270 Laramie Street, Markleeville, California 96120, telephone (530) 694–2120; and on the Nevada Division of Environmental Protection Web site at *http://ndep.state.nv.us/ admin/ leviathan.htm.*

FOR FURTHER INFORMATION CONTACT: Robert Greenbaum, (775) 265–4191 ext. 155.

SUPPLEMENTARY INFORMATION: In 1951, the Anaconda Copper Mining Company purchased the Leviathan Mine property, the former site of small copper sulfate and sulfur underground mining operations, in Alpine County, California. Anaconda developed the former underground mine into an open pit sulfur mine and operated the Mine through 1962. Anaconda sold the Mine in early 1963, but no further mining operations took place thereafter.

Releases of hazardous substances from the Mine began in the 1950s and continue today. Infiltration of precipitation into and through the adits (tunnels from the former underground mine), open pit, and overburden piles, along with direct contact of mine wastes with surface waters, has created acid mine drainage (AMD), which has been released, and continues to be released into the environment. AMD, which contains arsenic, copper, sulfuric acid, and other hazardous substances, has continued to be released into groundwater and into the surface waters and sediments in Aspen and Leviathan Creeks, and from there into Bryant Creek and the East Fork Carson River. Bryant Creek begins in California and crosses into Nevada, passing through several Indian Trust Allotments. Bryant Creek then flows into the East Fork Carson River. Releases of AMD from the Mine have resulted in fish kills in Leviathan and Bryant Creeks and the East Fork Carson River.

From the early 1980s, when the State of California acquired ownership of the Mine, through the late 1990s, the Lahontan Regional Water Quality Control Board (LRWQCB) constructed and operated the Leviathan Mine Pollution Abatement Project. However, this project did not eliminate the releases of hazardous substances, and it redirected several sources of AMD to new discharge points. Despite additional efforts by the LRWQCB, the U.S. Environmental Protection Agency (EPA), and the Atlantic Richfield Company (ARC), the successor in interest to its wholly owned subsidiary, Anaconda, to reduce the release of hazardous substances from the Mine, releases of AMD continued to have deleterious effects on natural resources at the Mine and downstream.

In May 2000, EPA added the Leviathan Mine Superfund Site to the National Priorities List [65 FR 30482]. Also in 2000, EPA issued separate orders to the LRWQCB and ARC pursuant to section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) [42 U.S.C. 9606(a)] to engage in hazardous waste removal actions. EPA's order to ARC also requires ARC to develop long-term response plans, including a

Remedial Investigation/ Feasibility Study.

Pursuant to section 107(f) of CERCLA [42 U.S.C. 9607(f)], the Leviathan Mine Council Natural Resource Trustees (Trustees) are representatives of federal, state, and tribal government entities with trust authority over natural resources potentially injured by releases of hazardous substances from the Leviathan Mine. While EPA's focus is protecting human health and the environment, the Trustees have the authority to seek compensation from potentially responsible parties (PRPs) for past, present, and future injuries to trust natural resources caused by releases from the Mine. Such resources include, but are not limited to, groundwater, surface water, sediment, fish (including Lahontan Cutthroat Trout) and other aquatic biota, floodplain soils, riparian vegetation, and wildlife in and around the Leviathan Creek and Bryant Creek drainages, and a portion of the East Fork Carson River drainage. The assessment area includes the area surrounding and downstream from the Leviathan Mine in Alpine County, California; the Toiyabe National Forest; Indian Trust Allotments; Douglas County, Nevada; and the Washoe Indian Community of Dresslerville.

The Assessment Plan developed by the Trustees is intended to assess injuries to natural resources resulting from releases of hazardous substances from the Leviathan Mine. The Assessment Plan describes the proposed approach for determining and quantifying natural resource injuries and calculating damages associated with these injuries. By developing an Assessment Plan, the Trustees can ensure that the natural resource damage assessment will be completed at a reasonable cost. The Trustees also intend for the Assessment Plan to communicate proposed assessment methods to PRPs and to the public in an effective manner so that they can productively participate in the assessment process. The ultimate goal of the assessment is to seek damages from PRPs for the purpose of developing projects which will restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources and the services they previously provided [43 CFR 11.81(a)(1)]. The Trustees may amend the Assessment Plan, but any significant amendments will be made available for public review [43 CFR 11.32(e)].

Public Comment Availability

Comments, including names and home addresses of respondents, will be available for public review at the mailing addresses shown in the **ADDRESSES** section, during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: May 14, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–13060 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA.

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA, that meet the definition of "sacred objects" under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

Between 1915 and 1929, these cultural items were recovered from several locations at Pecos Pueblo, NM, during excavations conducted by the Phillips Academy under the direction of Alfred Vincent Kidder. The 63 objects are 16 pipes, fragments of 3 ceramic vessels, 4 effigies, 25 whole and fragmented shell beads, 1 shell pendant, 8 bird bone flutes, 3 fragments of quartz, 2 fragments of mica, and 1 fragment of turquoise.

Based on the ceramic types recovered from this site, Pecos Pueblo was occupied between A.D. 1300 and 1700. Historic records document occupation at the site until 1838 when the last inhabitants left the pueblo and went to the Pueblo of Jemez. In 1936, an Act of Congress recognized the Pueblo of Jemez as a "consolidation" and "merger" of the Pueblo of Pecos and the Pueblo of Jemez; this act further recognizes that all property, rights, titles, interests, and claims of both pueblos were consolidated under the Pueblo of Jemez.

In consultation with members of the Eagle Watcher's Society, as well as other traditional religious leaders of the Pueblo of Jemez, it has been determined by officials of the Robert S. Peabody Museum of Archaeology that these objects are integral to present-day religious practice at the Pueblo.

Based on the above-mentioned information, officials of the Robert S. Peabody Museum of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(3), these cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Robert S. Peabody Museum of Archaeology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these sacred objects and the Pueblo of Jemez, New Mexico.

This notice has been sent to officials of the Pueblo of Jemez, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these sacred objects should contact Malinda Blustain, Interim Director, Robert S. Peabody Museum, Phillips Academy, Andover, MA, telephone (978) 749-4496 before June 24, 2002. Repatriation of these sacred objects to the Pueblo of Jemez, New Mexico, may begin after that date if no additional claimants come forward.

Dated: April 16, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–13162 Filed 5–23–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be practical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issues, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or government agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
- CT020002 (Mar. 1, 2002)
- CT020005 (Mar. 1, 2002)

Volume II

District of Columbia
- DC020001 (Mar. 1, 2002)
- DC020003 (Mar. 1, 2002)

Delaware
- DE020002 (Mar. 1, 2002)
- DE020005 (Mar. 1, 2002)
- DE020009 (Mar. 1, 2002)

Maryland
- MD020001 (Mar. 1, 2002)
- MD020002 (Mar. 1, 2002)
- MD020010 (Mar. 1, 2002)
- MD020017 (Mar. 1, 2002)
- MD020031 (Mar. 1, 2002)
- MD020035 (Mar. 1, 2002)
- MD020036 (Mar. 1, 2002)
- MD020043 (Mar. 1, 2002)
- MD020048 (Mar. 1, 2002)
- MD020057 (Mar. 1, 2002)
- MD020058 (Mar. 1, 2002)

Pennsylvania
- PA020059 (Mar. 1, 2002)

West Virginia
- WV020002 (Mar. 1, 2002)
- WV020010 (Mar. 1, 2002)

Volume III

None

Volume IV

Indiana
- IN020006 (Mar 1, 2002)

Volume V

None

Arkansas
- AR020008 (Mar. 1, 2002)
- AR020023 (Mar. 1, 2002)
- AR020027 (Mar. 1, 2002)

Missouri
- M0020001 (Mar. 1, 2002)
- M0020003 (Mar. 1, 2002)
- M0020004 (Mar. 1, 2002)
- M0020006 (Mar. 1, 2002)
- M0020007 (Mar. 1, 2002)
- M0020010 (Mar. 1, 2002)
- M0020015 (Mar. 1, 2002)
- M0020019 (Mar. 1, 2002)
- M0020020 (Mar. 1, 2002)
- M0020041 (Mar. 1, 2002)
- M0020043 (Mar. 1, 2002)
- M0020047 (Mar. 1, 2002)
- M0020049 (Mar. 1, 2002)
- M0020051 (Mar. 1, 2002)
- M0020052 (Mar. 1, 2002)
- M0020053 (Mar. 1, 2002)
- M0020055 (Mar. 1, 2002)
- M0020056 (Mar. 1, 2002)
- M0020057 (Mar. 1, 2002)
- M0020059 (Mar. 1, 2002)

Volume VI

None

Volume VII

California
- CA020009 (Mar. 1, 2002)
- CA020033 (Mar. 1, 2002)
- CA020036 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S.

Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 16th day of May 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–12811 Filed 5–23–02; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of the "Current Population Survey (CPS) Volunteer Supplement." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section of this notice on or before July 23, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (*See* **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The September 2002 CPS Volunteer Supplement will be conducted at the request of the USA Freedom Corps. The Volunteer Supplement will provide information on the total number of individuals in the U.S. involved in unpaid volunteer activities, factors that motivate volunteerism, measures of the frequency or intensity with which individuals volunteer, types of organizations that facilitate volunteerism, and activities in which volunteers participate.

Because the Volunteer Supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available on respondents to the Supplement. Comparisons of volunteer activities will be possible across characteristics such as sex, race, age, and educational attainment of the respondent. It is intended that the Supplement will be conducted with some regularity in order to gauge changes in volunteerism.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the CPS Volunteer Supplement.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics.

Title: CPS Volunteer Supplement.

OMB Number: 1220–NEW.

Affected Public: Households.

Total Respondents: 58,000.

Frequency: On occasion.

Total Responses: 116,000.

Average Time Per Response: 3 minutes.

Estimated Total Burden Hours: 5,800 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 20th day of May, 2002.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 02–13094 Filed 5–23–02; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Teleconference

AGENCY: National Council on Disability (NCD).

TIMES AND DATES: 4 p.m., EDT, June 13, 2002 (teleconference); 4 p.m. EDT, July 24, 2002 (meeting); 4 p.m. EDT, September 18, 2002 (teleconference).

PLACE: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC.

STATUS: All parts of these meetings will be open to the public. Those interested in participating in either the meeting or the conference call should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for the conference call.

MATTERS TO BE CONSIDERED: Roll call, announcements, reports, new business, adjournment.

CONTACT PERSON FOR MORE INFORMATION: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *ghawkins@ncd.gov* (e-mail).

Youth Advisory Committee Mission: The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

Dated: May 7, 2002.

Ethel D. Briggs,

Executive Director.

[FR Doc. 02–13050 Filed 5–23–02; 8:45 am]

BILLING CODE 8820–MA–P

NUCLEAR REGULATORY COMMISSION

[License No. 50–483, Docket No. NPF–30, EA–01–005]

In the Matter of AmerenUE, Callaway Nuclear Plant; Order Imposing Civil Monetary Penalty

I

AmerenUE (Licensee) is the holder of License No. NPF–30 issued by the Nuclear Regulatory Commission (NRC or Commission) on October 18, 1984. The license authorizes the Licensee to operate the Callaway Nuclear Plant in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed in November 2000. The results of the investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated May 14, 2001. The Notice stated the nature of the violation, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated January 22, 2002. In its response, the Licensee denied the violation, requesting withdrawal of the violation and remission of the proposed civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violation occurred as stated in the May 14, 2001 Notice of Violation and Proposed Imposition of Civil Penalty. Therefore, the NRC has determined that the civil penalty proposed for this violation should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $55,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment is made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be: Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice of Violation referenced in Section II, and whether on the basis of such violation, this Order should be sustained.

Dated this 16th day of May, 2002.

For the Nuclear Regulatory Commission.

William F. Kane,

Deputy Executive Director for Reactor Programs.

Appendix to Order Imposing Civil Penalty; NRC Evaluation and Conclusion of Licensee's Requests

On May 14, 2001, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation of 10 CFR 50.7 identified during an NRC investigation. The Licensee responded to the Notice in a letter dated January 22, 2002. In its response, the Licensee denied the violation, requesting withdrawal of the violation and remission of the proposed civil penalty. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

Restatement of Violation

10 CFR 50.7(a) prohibits discrimination by a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. Under 10 CFR 50.7(a)(1)(i), the activities that are protected include, but are not limited to, the reporting by an employee to his employer information about alleged regulatory violations.

Contrary to the above, The Wackenhut Corporation (TWC), a contractor of Union Electric, a 10 CFR part 50 licensee, and Union Electric discriminated against a security officer and a training instructor for having engaged in protected activity. Specifically, on October 27, 1999, the security officer and the training instructor identified to TWC a violation of NRC requirements at the Callaway Nuclear Plant, namely that TWC had hired and assigned an individual to the security organization when that individual did not have a high school diploma or equivalent. The hiring of this individual was in violation of 10 CFR part 73, Appendix B, Section I.A.1.a, which provides that prior to employment or assignment to a security organization, an individual must possess a high school diploma or pass an equivalent performance examination. Based at least, in part, on this protected activity, TWC unfavorably terminated the security officer's employment for lack of trustworthiness and gave a written reprimand to the training instructor on November 19, 1999, and Union Electric revoked the security officer's unescorted access authorization for lack of trustworthiness.

This is a Severity Level III violation (Supplement VII). Civil Penalty—$55,000

Summary of Licensee's Response to Violation

The Licensee denied the violation, asserting that there is no evidence that decisions made by AmerenUE's Access Control Supervisor were motivated by an intent to retaliate against the security officer. AmerenUE stated that based on the information known to the Access Control Supervisor at the time these decisions were made, the Access Control Supervisor acted reasonably and in good faith. The Licensee's specific arguments were:

(1) AmerenUE did not knowingly rely on a biased investigation and report by TWC to revoke the security officer's Access Authorization because the Access Control Supervisor had no reason to suspect that the TWC Investigation was biased. The Access Control Supervisor spoke to the TWC Project Manager on November 20, 1999, to inquire about the security officer's termination. The TWC Project Manager informed her that TWC discovered during the course of an investigation that the security officer misrepresented herself as a representative of Callaway when the security officer called the high school principal. The Access Control Supervisor was informed that the investigation was independent and was conducted by an off-site auditor. The Access Control Supervisor reasoned that an individual whose employment was terminated due to her lack of trustworthiness should not maintain her unescorted access authorization, and therefore the security officer's unescorted access authorization was revoked. The Access Control Supervisor did not see the TWC report until after the security officer's access was revoked and did not have cause to suspect the TWC investigation was biased. Accordingly, she could not have knowingly relied on a biased investigation report. AmerenUE could not have violated 10 CFR 50.7 unless the preponderance of the evidence shows that the Access Control Supervisor revoked the security officer's access authorization with the intention of retaliating against the security officer for her protected activity.

(2) The Access Control supervisor made a good faith effort to determine whether a temporary watchman knowingly misrepresented his educational qualifications by interviewing the high school principal on December 2, 1999. The principal stated his belief that the temporary watchman likely did not know he had not graduated, and "cited circumstances from the high school program to support this view." When AmerenUE subsequently became aware of information suggesting that the temporary watchman likely knew he had not graduated from high school, his access was revoked. The Access Control Supervisor's failure to discover particular information in her initial investigation does not amount to bad faith. The Access Control Supervisor had no motive to treat the temporary watchman more favorably than she treated the security officer.

NRC Evaluation of Licensee's Response to Violation

AmerenUE's principal argument is that AmerenUE, and the Access Control Supervisor in particular, were not motivated by an intent to retaliate against the security officer. AmerenUE then argues that there can be no violation of 10 CFR 50.7 on the part of AmerenUE without showing such intent. AmerenUE provides many facts in support of its arguments. The central issues are whether a violation of 10 CFR 50.7 occurred, and whether AmerenUE is responsible for that violation.

AmerenUE has provided no new information regarding whether a violation of 10 CFR 50.7 occurred, and did not address whether its contractor, TWC, engaged in discriminatory action. The NRC has reviewed the information in AmerenUE's January 22, 2002 response, as well as the information TWC provided in response to this violation in a January 23, 2002 letter, and concludes that a violation of 10 CFR 50.7 occurred. As stated in the Notice of Violation, the security officer and the training instructor engaged in protected activity, each was subjected to adverse action, and the adverse action occurred, at least in part, because of the protected activity.

AmerenUE's argument that the NRC must show retaliatory intent on the part of AmerenUE personnel is mistaken. Discriminatory intent on the part of its Access Control Supervisor is not necessary for AmerenUE to have violated 10 CFR 50.7. A violation of 10 CFR 50.7 by a licensee's contractor may be grounds for imposition of a civil penalty upon the licensee. 10 CFR 50.7(c)(2). *See Atlantic Research Corporation*, CLI–80–7, 11 NRC 413, 419–424 (1980). The fact that AmerenUE delegated a portion of its responsibilities to a contractor, *i.e.*, The Wackenhut Corporation (TWC), does not relieve AmerenUE of its responsibility to maintain compliance with NRC requirements at Callaway. AmerenUE participated in this matter by revoking the security officer's access to the facility, an adverse action, and in doing so AmerenUE relied upon biased information provided by its contractor, who thereby participated in taking this action. AmerenUE could have, and should have, exercised more care in implementing adverse action against an individual who was known to have raised a concern about compliance with security requirements at Callaway.

NRC Conclusion

The NRC has concluded that this violation occurred as stated, and that AmerenUE has not provided a basis for withdrawal of the Notice of Violation or the civil penalty. Consequently, the proposed civil penalty in the amount of $55,000 should be imposed.

[FR Doc. 02–13081 Filed 5–23–02; 8:45 am]
BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information, Services Washington, DC 20549

Extension:
Rule 17a–22, SEC File No. 270–202, OMB Control No. 3235–0196

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 USC 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

sbull Rule 17a–22 Supplemental Material of Registered Clearing Agencies

Rule 17a–22 under the Securities Exchange Act of 1934 ("Exchange Act")[1] requires all registered clearing agencies to file with the Commission three copies of all materials they issue or make generally available to their participants or other entities with whom they have a significant relationship. The filings with the Commission must be made within ten days after the materials are issued, and when the Commission is not the appropriate regulatory agency, the clearing agency must file one copy of the material with its appropriate regulatory agency. The Commission is responsible for overseeing clearing agencies and uses the information filed pursuant to Rule 17a–22 to determine whether a clearing agency is implementing procedural or policy changes. The information filed aids the Commission in determining whether such changes are consistent with the purposes of Section 17A of the Exchange Act. Also, the Commission uses the information to determine whether a clearing agency has changed its rules without reporting the actual or prospective change to the Commission as required under Section 19(b) of the Exchange Act.

The respondents to Rule 17a–22 generally are registered clearing agencies.[2] The frequency of filings made by clearing agencies pursuant to Rule 17a–22 varies, but on average there are approximately 200 filings per year per clearing agency. Because the filings consist of materials that have been prepared for widespread distribution, the additional cost to the clearing agencies associated with submitting copies to the Commission is relatively small. The Commission staff estimates that the cost of compliance with Rule 17a–22 to all registered clearing agencies is approximately $5,220. This represents one dollar per filing in postage, or a total of $3,600. The remaining $1,620 (or approximately 31% of the total cost of compliance) is the estimated cost of additional printing, envelopes, and other administrative expenses. (The estimated total cost per response is $1.45 per page representing $1.00 per page in postage plus $0.45 for printing, envelopes, and other administrative expenses.)

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: May 16, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13100 Filed 5–23–02; 8:45 am]
BILLING CODE 8010–01–P

[1] 15 U.S.C. 78a *et. seq.*

[2] Respondents include temporarily registered clearing agencies. Respondents also may include clearing agencies granted exemptions from the registration requirements of Section 17A, conditioned upon compliance with Rule 17a–22.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45945; File No. SR–CBOE–2002–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. To Allow for $0.50 Strike Price Intervals for Options Based on Certain Exchange-Traded Funds

May 16, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange submitted Amendment No. 1 to the proposed rule change on May 15, 2002.[3] The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing Amendment No. 1 with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange represents that CBOE has the necessary systems capacity to support any additional series of options that may be added pursuant to the proposed rule change. The Exchange also attached a letter from the Options Price Reporting Authority ("OPRA"), in which OPRA represents that OPRA has the capacity to support any additional series of options that may be added pursuant to the proposed rule change. *See* letter from Angelo Evangelou, Senior Attorney, Legal Division, CBOE, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, dated May 14, 2002 ("Amendment No. 1").

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6). In its filing, the CBOE requested that the Commission waive the rule's requirements of a five-day pre-filing notice and a 30-day operative delay.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to allow for $0.50 strike price intervals for options based on certain exchange-traded funds. The text of the proposed rule change follows. Proposed new language is italicized.

Rule 5.5. Series of Option Contracts Open for Trading

(a)–(c) No change.

* * * Interpretations and Policies:

.01 The interval between strike prices of series of options on individual stocks will be:

(a) $2.50 or greater where the strike price is $25.00 or less; less, or where the stock represents an interest in a registered investment company that satisfies the criteria set forth in Interpretation and Policy .06 under Rule 5.3 and where the strike price is $200.00 or less;

(b) $5.00 or greater where the strike price is greater than $25.00, or where the stock represents an interest in a registered investment company that satisfies the criteria set forth in Interpretation and Policy .06 under Rule 5.3 and where the strike price is more than $200.00;

(c) $10.00 or greater where the strike price is greater than $200.00;

.02–.05 No change.

.06 Notwithstanding Interpretation and Policy .01 above, the interval between strike prices may be $0.50 or greater for options based on IPSs that correspond generally to the price and yield performance of 1/10th the value of the S&P 100 Index, *and for options based on a security that represents an interest in a registered investment company that corresponds generally to the price and yield performance of 1/100th the value of the Dow Jones Industrial Average.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish $0.50 strike price intervals for options based on DIAMONDS®, an exchange-traded fund that represents ownership in a unit investment trust established to hold a portfolio of stocks replicating the Dow Jones Industrial Average. DIAMONDS® currently trade on several national securities exchanges. The Exchange intends to list options on DIAMONDS® pursuant to existing listing standards set forth in CBOE Rule 5.3, Interpretation and Policy .06.

The Exchange believes that it is appropriate to amend CBOE Rule 5.5 (Series of Option Contracts Open for Trading) to provide that options on DIAMONDS® be set to $0.50 or greater strike price intervals. These ½ point increments are needed to correspond to CBOE Rule 24.9, Interpretation and Policy .01(b) which provides that DJX index options (index options based on 1/100th of the value of the Dow Jones Industrial Average) may trade in strike intervals as narrow as $0.50. Because DJX and DIAMONDS® are both based on 1/100th of the value of the Dow Jones Industrial Average, the significant difference between DJX and options on DIAMONDS® will be that DJX options are cash-settled and DIAMONDS® options will be physically-settled. CBOE is listing options on DIAMONDS® recognizing that customers may prefer one settlement type over the other, but providing customers such an alternative would not be meaningful if the two products could not trade in the same strike price intervals. Thus, CBOE believes that to effectively compliment CBOE's DJX index option product and to help ensure efficient trading of options on the DIAMONDS®, adopting $0.50 strike price intervals for DIAMONDS® options is necessary.

CBOE notes that the Commission has previously approved a similar rule change filing adopting $0.50 strike price intervals for options on the iShares S&P 100 Index Fund (ticker symbol OEF).[6]

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(5),[8] in particular, because it will permit trading in options based on DIAMONDS® pursuant to strike intervals designed to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional product.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest; provided that the Exchange has provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The CBOE has requested that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[12] The Commission has determined to make the proposed rule change operative as of the date of this notice.[13]

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b–4(6)(iii)[15] permits the Commission to designate a shorter time. The CBOE seeks to have the five-business-day pre-filing requirement waived with respect to the proposed rule change.[16] The Commission has determined to waive the five-business-day pre-filing requirement with respect to this proposal.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File Number SR–CBOE–2002–25 and should be submitted by June 14, 2002.

[6] *See* Securities Exchange Act Release No. 41995 (February 15, 2001), 66 FR 11341 (February 23, 2001).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See supra* note 4.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12987 Filed 5–23–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45957; File No. SR–NASD–2002–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by National Association of Securities Dealers, Inc. Relating to Continuous Operation of the Nasdaq National Market System During Market Hours

May 17, 2002.

Pursuant to section 19(b)(1) of the Act,[1] notice is hereby given that on February 14, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed Amendment No. 1 on May 17, 2002.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will allow the continued operation of the National Market Execution System ("NNMS" or "SuperSoes") so as to trade through the inside quotations of market participants that are inaccessible through the SuperSoes system. Below is the text of the proposed rule change. Proposed deletions are in brackets.

* * * * *

4710. Participant Obligations in NNMS

(a) through (b)(9)

[(10) In the event that there are no NNMS Market Makers at the best bid (offer) disseminated by Nasdaq, market orders to sell (buy) entered into NNMS will be held in queue until executable, or until 90 seconds has elapsed, after which such orders will be rejected and returned to their respective order entry firms.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In July of 2001, Nasdaq implemented SuperSoes, which provides for automatic execution against most market participant quotes in Nasdaq National Market Securities. While a great improvement over the order-delivery environment prevalent in Nasdaq before its adoption, the current operation and functionality of SuperSoes can, in a specific instance, inappropriately inhibit the smooth functioning of the Nasdaq market. This occurs when non-SuperSoes, and thus non-auto-executable, Electronic Communications Networks ("ECNs") that link to the market via Nasdaq's SelectNet order-delivery system are alone in posting the best price to buy or sell a particular security. SuperSoes will automatically execute only at the best-displayed bid or offer. If an ECN is alone in displaying either the best price to buy or sell a particular security, all SuperSoes orders entered into the system on the opposite side of the market where the ECN's best price remains alone are held by the SuperSoes system for up to 90 seconds, or until the ECN moves its quote, or until a market participant accessible via SuperSoes also moves to the inside price. During the period an ECN remains alone at the best price, the SuperSoes system, in effect, shuts down. The suspension of the SuperSoes system's operation in this circumstance prevents other-market participants from automatically accessing liquidity at and near the inside and significantly degrades market quality and functionality for the overwhelming majority of Nasdaq market participants, including public investors. These negative impacts are borne out by a recent analysis by Nasdaq's Economic Research Department of execution times in the SuperSoes system. That analysis is summarized below.

First, the analysis indicates approximately 42% of total SuperSoes orders are significantly slowed down (taking over ½ second to execute) because an ECN that does not accept automatic execution is alone at the inside.[3] In Nasdaq 100 securities, approximately 47% of SuperSoes orders are similarly delayed. The sheer length of these delays is also troublesome, with the average execution time of SuperSoes orders in Nasdaq 100 securities when an ECN is alone at the inside taking over 5 times as long (1.03 seconds) to execute, than when an auto-ex participant is at the inside and the SuperSoes system operates without restriction (0.19 seconds).

These delays are also related to just how often SuperSoes is prevented from performing at all. In Nasdaq 100 stocks, ECNs that do not take automatic execution are alone at either the bid or offer an average 70% of the time (for the median stock, 75% of the time). This means that Nasdaq's SuperSoes system is not processing normally on either the bid or offer side of market the majority of the time in one or more of Nasdaq's most active securities.

Not surprisingly, these delays also have a material impact on the execution that a party entering a SuperSoes order can expect. Nasdaq's analysis indicates that a party entering an order into SuperSoes when an ECN is alone at the inside has just a 33% chance that its order will be executed in full. When SuperSoes has an auto-ex participant at the inside, the system continues to operate, and the chance of getting an order executed in full rises dramatically to over 70%. In short, Nasdaq's analysis shows that the continuous shutting down of Nasdaq's primary execution facility has dramatic detrimental consequences for the investing public.

In response, Nasdaq has determined to modify the operation of SuperSoes as it relates to the processing of orders where an ECN is alone at the best price. In short, SuperSoes will be modified so as to not automatically shut down when an ECN is alone at the inside. Market participants will be able, consistent with ongoing best execution obligations, to continue to send market orders, or marketable limit orders, to SuperSoes

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (May 17, 2002).

[3] A portion of this delay is also attributable to processing queues in the SuperSoes system itself. It is Nasdaq's view that many of these queues form as the direct result of orders not being allowed to execute automatically because SuperSoes suspends operation when an ECN that does not take automatic execution is alone at the inside.

for execution. Firms not wishing to bypass ECNs alone at the inside quote will continue to have the option to direct Nasdaq to attempt to access the ECN's quote via SelectNet if they so desire.

By enhancing SuperSoes to allow it to automatically access liquidity on an ongoing basis, Nasdaq market participants will be given the maximum amount of flexibility to protect and service their customers. In addition, the removal of the potential single point of failure represented by a single ECN quote at the inside market which is accessible only through a separate, and non-automatic, execution linkage ensures that the main trading system of the Nasdaq market continues to operate throughout the day without the potential for disruptive, intermittent suspensions that negatively impact both the price-discovery and trading process for the vast bulk of the Nasdaq market community.

Based on the above, Nasdaq believes this proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[4] in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–23 and should be submitted by June 14, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–13055 Filed 5–23–02; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78*o*–3(b)(6).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45960; File No. SR–NASD–2002–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Proposed Fees for the Trade Reporting and Compliance Engine (TRACE) for Corporate Bonds

May 17, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 6, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD submitted Amendment No. 1 to the proposed rule change on May 16, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is filing with the Commission a proposed structure for fees to be charged in connection with the NASD's creation of a corporate bond trade reporting and transaction dissemination facility. The facility is currently referred to as the Trade Reporting and Compliance Engine or "TRACE." TRACE replaces Nasdaq's Fixed Income Pricing System ("FIPS"). The proposed rule change is in addition to the NASD's Rule 6200 Series for TRACE.[4] The current text of NASD Rule 7010 (k) Fixed Income Pricing System (FIPS) will be deleted in its entirety and replaced by the proposed new TRACE fees. Below is the text of the proposed rule change. Proposed new language is in *italics*, proposed deletions are in [brackets].

* * * * *

Rule 7010. System Services

[(k) Fixed Income Pricing System (FIPS)]

[(1) The following charges shall apply to the operation of Full Function and Limited Function FIPS terminals. Charges for Full Function and Limited Function FIPS terminals will also include equipment related charges as detailed in Rule 7020.

(A) Full Function FIPS terminals: $1,000/month for the first terminal plus $350/month for each additional terminal.

Full Function FIPS terminals provide access to the full range of quotation and trade reporting capabilities of FIPS through dedicated communication circuits.

(B) Limited Function FIPS terminals: $300/month for each terminal plus dial-up communication charges assessed based on actual costs incurred.

Limited Function FIPS terminals provide access to the full range of quotation and trade reporting capabilities of FIPS through a dial-up service.]

[(2) For each transaction in a high-yield security that is reportable to the Association pursuant to Rule 6240 of the FIPS Rules, there shall be a $1 charge assessed against the member responsible for reporting the transaction under paragraphs (a)(3) or (b)(3) thereof.]

[(3) There shall be a $50 monthly charge assessed against members using the FIPS service desk. Pursuant to Rule 6240(a)(2)(B), members that do not have access to a FIPS terminal and average five or fewer trades per day in high yield securities, inclusive of FIPS securities, during the previous calendar quarter may utilize the FIPS service desk to report trades in high yield bonds effected in the over-the-counter market.]

[(4) Bond Quotation Data Service (BQDS)

(A) Full BQDS

The charge to be paid by the subscriber for each interrogation or display device receiving Full BQDS information is $50 per month. Full BQDS information includes the bids and offers of all FIPS participants registered in each FIPS security, the inside bid/ask quotation for each FIPS security, and hourly summary transaction information on FIPS securities.

(B) Limited BQDS

The charge to be paid by the subscriber for each interrogation or display device receiving Limited BQDS information is $5 per month. Limited BQDS information includes the inside bid/ask quotation for each FIPS security and hourly summary transaction information of FIPS securities.]

Rule 7010(k) Trade Reporting and Compliance Engine (TRACE)[5]

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine ("TRACE"):

System fees	Transaction reporting fees	Market data fees
Web Browser Access: $85/month for 1 user ID; $75/month for 2–9 user IDs; $70/month for 2–10+ user IDs.	*Trades up to and including $0 to $200,000 par value—$0.50/trade; Trades up to and including $201,000 to $999,999 par value—$0.0025 times the number of bonds traded/trade; Trades of $1,000,000 par value or more—$2.50/trade.*	*BTDS Professional Display—$60/month per terminal.*
CTCI—$25/month/line	*Cancel/Correct—$3/trade*	*BTDS Internal Usage Authorization—$500/month per organization.*
Third Party—$25/month	*"As of" Trade Late—$3/trade*	*BTDS External Usage Authorization—$1,000/month per organization.*
PDN Adminsitrative—$100/month/line	*Browse & Query—$0.05 after first page*	*BTDS Non-Professional Display—$1/month per terminal.*
		Daily List Fax—$15/month per fax number/addressee.

(1) System Related Fees. There are three methods by which a member may report corporate bond transactions that are reportable to the Association pursuant to the Rule 6200 Series. A member may choose among the following methods to report data to the Association: (a) a TRACE web browser (either over the Internet or a secure private data network ("PDN")); (b) a Computer-to-Computer Interface ("CTCI") (either one dedicated solely to TRACE or a multi-purpose line); or (c) a third-party reporting intermediary. Fees will be charged based on the reporting methodology selected by the member.

(A) *Web Browser Access*

The charge to be paid by a member that elects to report TRACE data to the Association via a TRACE web browser shall be as follows: for the first user ID registered, a charge of $85 per month; for the next two through nine user IDs registered, a charge of $75 per month, per such additional user ID; and for ten or more user IDs registered, a charge of $70 per month, per user ID from two to ten or more. In addition, a member that elects to report TRACE data to the Association via a web browser over a secure PDN rather than over the Internet shall pay an additional administrative charge of $100 per month, per line.[6]

(B) *Computer-to-Computer Interface Access*

The charge to be paid by a member that elects to report TRACE data to the Association via a CTCI line shall be $25 per month, per line, regardless of whether the line is or is not dedicated exclusively for TRACE.[7]

(C) *Third Party Access—Indirect Reporting*

A member may elect to report TRACE data indirectly to the Association via third-party reporting intermediaries, such as vendors, service bureaus, clearing firms, or the National Securities Clearing Corporation ("NSCC"). The charge to be paid by a member shall be $25 per month, per firm. Nothing in this Rule shall prevent such third-party intermediaries from charging additional fees for their services.

(2) *Transaction Reporting Fees*

For each transaction in corporate bonds that is reportable to the Association pursuant to the Rule 6200

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Barabara Z. Sweeney, Senior Vice President and Corporate Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), dated May 16, 2002.

[4] The Commission approved the Rule 6200 Series on January 23, 2001. *See* SR–NASD–99–65 and Amendments No. 1 through 4 thereto, approved in Securities Exchange Act Release NO. 43873 (January 23, 2001), 66 FR 811 (January 29, 2001) ("TRACE Approval Order"). On December 21, 2001, the NASD filed SR–NASD–2001–91 to establish July 1, 2002 as the effective date of the Rule 6200 Series (*see* SR–NASD–2001–91). On January 3, 2002, the Commission issued a notice that the proposed rule change had become effective on filing. Securities Exchange Act Release No. 45229 (January 3, 2002), 67 FR 1255 (January 9, 2002). On April 3, 2002, the NASD filed SR–NASD–2002–46 to make certain technical amendments to the new Rule 6200 Series.

[5] In an unrelated filing with the Commission, the NASD filed notice of proposed rule changes relating to the separation of Nasdaq from the NASD and the establishment of the NASD Alternative Display Facility. Such filing proposes to modify certain NASD rules to effectuate this separation. The Rule 7000 Series is proposed to be modified as part of that rule filing. Such filing may require that subsection (k) referenced herein be renumbered to be consistent with the modifications proposed therein. *See* SR–NASD–2991–90 filed on December 7, 2001; *see also*, SR–NASD–2002–28 filed on February 20, 2002.

[6] *Charges that may be imposed by third parties, such as network providers, are not included in these fees.*

[7] *Charges that may be imposed by third parties, such as CTCI line providers, are not included in these fees.*

Series, the following charges shall be assessed against the member responsible for reporting the transaction:

(A) *Trade Reporting Fee*

A member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from $0.50 to $2.50 per transaction based on the size of the reported transaction. Trades up to and including $200,000 par value will be charged a $0.50 fee per trade; trades between $201,000 par value and $999,000 par value will be charged a fee of $0.0025 multiplied by the number of bonds traded ; and trades of $1,000,000 par value or more will be charged a fee of $2.50 per trade.

(B) *Cancel or Correct Trade Fee*

A member shall be charged a Cancel or Correct Trade Fee of $3.00 per canceled or corrected transaction. To provide firms with time to adjust to the new reporting system, the Cancel or Correct Trade Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE.

(C) *"As of" Trade Late Fee*

A member shall be charged an "As of" Trade Late Fee of $3.00 per transaction for those transactions that are not timely reported "As of" as required by these rules. To provide firms with time to adjust to the new reporting system, the "As of" Trade Late Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE.

(D) *Browse and Query Fee*

Members may review their own previously reported transaction data through a Browse and Query function. A member shall be charged $0.05 for each returned page of the query beyond the first page.

(3) *Market Data Fees*

Professionals and non-professionals may subscribe to receive real-time TRACE data disseminated by the Association in one or more of the following ways for the charges specified. Members, vendors and other redistributors shall be required to execute appropriate agreements with the Association.

(A) *Professional Fees. Professionals may subscribe for the following:*

(i) *Bond Trade Dissemination Service ("BTDS") Professional Display Fee of $60 per month, per terminal charge for each interrogation or display device receiving real-time TRACE transaction data.*

(ii) *BTDS Internal Usage Authorization Fee of $500 per month, per organization charge for internal dissemination of real-time TRACE transaction data used in one or more of the following ways: internal operational and processing systems, internal monitoring and surveillance systems, internal price validation, internal portfolio valuation services, internal analytical programs leading to purchase/sale or other trading decisions, and other related activities.*[8]

(iii) *BTDS External Usage Authorization Fee of $1,000 per month, per organization charge for dissemination of real-time TRACE transaction data used in one or more of the following ways: repackaging of market data for delivery and dissemination outside the organization, such as indices or other derivative products.*[9]

(A) *Non-Professional Fees*

The charge to be paid by a non-professional for each terminal receiving all or any portion of real-time TRACE transaction data disseminated through TRACE shall be $1.00 per month, per terminal.

(B) *Non-Professional Defined*

A "non-professional" is a natural person who is neither:

(i) *registered nor qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; or*

(ii) *engaged as an "investment adviser" as that term is defined in Section 201(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act);*

(iii) *employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; nor*

(iv) *engaged in, or has the intention to engage in, any redistribution of all or any portion of the information disseminated through TRACE.*

[8] *Under this service, real-time TRACE transaction data may not be used in any interrogation display devices, any systems that permit end users to determine individual transaction pricing in real-time, or disseminated to any external source.*

[9] *Under this service, real-time TRACE transaction data may not be used in any interrogation display devices or any systems that permit end users to determine individual transaction pricing in real-time.*

(4) *Daily List Fax Service*

Each subscriber for the Association's Daily List Fax Service shall be charged $15 per month, per fax number/addressee.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD proposed, and the Commission approved, in a separate filing with the Commission, the adoption of the new Rule 6200 Series relating to the creation of TRACE and the elimination of Nasdaq's FIPS high yield reporting system.[10] In this filing, the NASD is proposing to establish fees for participants and users of the TRACE facility and to rescind the FIPS fees.

Background

In 1998, the SEC, in recognition of the relative lack of transparency in the corporate debt market, called upon the NASD to do the following: (1) Adopt rules requiring NASD members to report all transactions in corporate bonds to the NASD and to develop systems to receive and distribute transaction prices on an immediate basis; (2) create a database of transactions in corporate bonds to enable regulators to take a proactive role in supervising the corporate debt market; and (3) create a surveillance program, in conjunction with the development of a database to better detect fraud and foster investor confidence in the fairness of the corporate bond market.

Since the SEC mandate, the NASD has developed TRACE, which is a reporting facility developed by the NASD that, among other things, accommodates reporting and dissemination of transaction reports in TRACE-eligible

[10] *See supra* note 4.

securities.[11] The NASD represents that, after extensive consultation with industry professionals, it filed SR–NASD–99–65 [12], and amendments thereto to implement the TRACE system.

Participation in TRACE is mandatory for all NASD members that transact business in eligible corporate debt securities. Market participants have specified obligations for the use of the TRACE system when entering, or correcting trade details on TRACE. Under proposed rule 6230(a), SR–NASD–2002–46, participants are obligated to report transaction information within one hour and fifteen minutes after trade execution. The participant may use, among other means, a web browser (either over the Internet or a private data network ("PDN")), Computer-to-Computer Interface ("CTCI"), or a third-party intermediary.[13]

The NASD represents that the purpose of the proposed rule change is to establish a TRACE fee structure. The NASD represents that developmental costs of TRACE, to date, are approximately $7.2 million. In addition, the NASD represents that total operating costs for the TRACE system are estimated to be approximately $6 million annually. The NASD represents that the proposed fees are intended to help the NASD recover the development costs of the new system, fund ongoing operational costs, and fund the regulatory activities necessary for surveillance of the market, all with a view towards making TRACE financially self-sustaining.

The proposed fees are divided into three general categories: (1) System fees paid by member firms based on the method chosen by the member to report corporate bond transactions to the NASD (members will have several options on how to report trades and the fees will vary accordingly); (2) transaction reporting fees paid by members to file trade reports and cancel or correct trade reports; and (3) market data fees paid by members and non-members that use or distribute the data collected through the TRACE system and disseminated by the NASD.

System Fees. The NASD states that TRACE offers participants multiple options to comply with the transaction reporting requirements. The NASD proposes to charge fees to members who use the TRACE system based on the method the member selects to input transaction information to the NASD. Under the proposed rules, members will have three means by which to input transaction information directly to the NASD: (1) A web browser through the Internet, which will be useful primarily for low-volume firms; (2) a web browser using a PDN; or (3) a CTCI, which the Association anticipates will be used primarily by high volume firms. Members may also choose to report transactions indirectly to the NASD through third parties, such as vendors, service bureaus, clearing firms, or the NSCC, which will in turn report to the NASD through one of the approved methods described above.

Members may report transaction information manually through a web browser using their own Internet provider.[14] Members using a web browser will be charged a monthly access fee as follows: for the first user ID registered, a charge of $85 per month; for the next two through nine user IDs registered, a charge of $75 per month, per such additional user ID; and for ten or more user IDs registered, a charge of $70 per month, per user ID from two to ten or more. Members reporting through a web browser may elect to report transaction information through a PDN that is owned and operated by Nasdaq's designated network provider, which is currently WorldCom, Inc. Members choosing to report transaction information directly to the NASD using a PDN will be charged a $100 per line administration fee per month by the NASD. Members should be aware that this fee does not include fees that will be charged by Nasdaq for services provided by its designated network provider that will be billed directly by Nasdaq.

Members also may report transaction data through the CTCI operated by Nasdaq for most of its transaction reporting facilities. Nasdaq currently leases dedicated lines from WorldCom, Inc. and provides direct connection from a member firm to the NASD. The NASD monthly charge for reporting through a CTCI is $25 per month, per line, whether or not such line is used exclusively for TRACE, and does not include Nasdaq charges for its designated network provider.

The NASD believes the fees set forth above are reasonably related to the costs of developing the new facility and to meeting the estimated operating expenses of the TRACE system. The NASD represents that the fees are also designed to fund the regulatory activities necessary to survey the market. In addition, the NASD believes the proposed fees are non-discriminatory because members may select the technology link that best suits their particular needs. Further, the NASD states that the proposed fees are consistent with similar fees that are being charged by other transaction reporting facilities.

Transaction Reporting Fees. Members will be charged fees to file transaction reports and cancel or correct transaction reports. The NASD proposes to charge a trade reporting fee using a sliding scale, based upon the size of the transaction reported, in an effort to distribute the fees more equitably between retail oriented firms and institutionally oriented firms. A member shall be charged a Trade Reporting Fee on a sliding scale ranging from $0.50 to $2.50 per trade based on the size of the reported transaction. For trades up to and including $200,000 par value, members will be charged a fee of $0.50 per trade; for trades between $201,000 par value and $999,000 par value, members will be charged a fee of $0.0025 multiplied by the number of bonds traded; and for trades of $1,000,000 par value or more, members will be charged a fee of $2.50 per trade.

The NASD proposes to charge a cancel or correct trade fee of $3.00 per trade. The NASD also proposes to charge an "As of" trade late fee of $3.00 per trade. Under proposed rule 6230(a)(2), SR–NASD–2002–46, a transaction that is executed after the close of the market must be reported within the first 1 hour and 15 minutes after the open of the market on the following business day to be reported on time "As of." [15] A member shall be charged an "As of" trade late fee of $3.00 per transaction for those transactions reported beyond such time frame. To provide firms time to adjust to the new reporting system, the cancel or correct trade fee and "As of" trade late fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. In addition, NASD proposes a browse and query fee of $0.05 for each returned page of query beyond the first page. This feature will allow members to review their own previously reported data.

In order to standardize corporate bond reporting obligations and minimize industry technology burdens, NASD has

[11] The term "TRACE-eligible security" is defined in Rule 6210(a) of the TRACE rules.

[12] *See* Securities Exchange Act Release No. 43616; File No. SR–NASD–99–65.

[13] *See* SR–NASD–2002–46. In such filing, the NASD has proposed to increase the reporting time from 1 hour to 1 hour and 15 minutes.

[14] The cost of the Internet service is not included in NASD's fee. A member must obtain Internet access independently.

[15] As noted previously, the NASD has proposed generally to amend the reporting period from 1 hour to 1 hour and 15 minutes, and this period would apply to transctions executed after the close of the market and reported the next morning.

proposed (as part of the TRACE filing with the Commission) the elimination of the separate FIPS system and its related rules and costs. The TRACE trade reporting fee will replace the flat fee of $1.00 per trade currently charged to report corporate bonds through FIPS. The NASD believes the proposed TRACE trade reporting fee structure, which replaces the FIPS flat fee structure with a sliding scale, is reasonable and more equitably distributes the fees between retail-oriented firms and institutional-oriented firms. The NASD represents that the fees are designed to help the NASD recover its development costs, estimated operating costs, and the costs of related regulatory activities. In addition, the cancel or correct trade fee and the "As of" trade late fee are proposed to encourage the correct reporting of transaction data, as well as to cover the additional costs incurred by the NASD to correct the historical record and notify members and the vendor community. The NASD notes these fees are consistent with those charged by other self-regulatory organizations for reporting requirements.

Market Data Fees. The NASD represents that it is committed to delivering real-time market data from the TRACE system to market participants in the broadest and most efficient manner possible. NASD proposes to charge market professionals who subscribe to receive real-time market data as follows: (i) BTDS Professional Display Fee of $60 per month, per terminal charge for each interrogation or display device receiving real-time TRACE transaction data; (ii) BTDS Internal Usage Authorization Fee of $500 per month, per organization charge for internal dissemination of real-time TRACE transaction data used in one or more of the following ways: internal operational and processing systems, internal monitoring and surveillance systems, internal price validation, internal portfolio valuation services, internal analytical programs leading to purchase/sale or other trading decisions, and other related activities; [16] (iii) BTDS External Usage Authorization Fee of $1,000 per month, per organization charge for dissemination of real-time TRACE transaction data used in one or more of the following ways: repackaging of market data for delivery and dissemination outside the organization, such as indices or other derivative products.[17] Non-professionals that subscribe to receive real-time TRACE transaction data will be charged $1.00 per month, per terminal. In addition, the NASD proposes a fee of $15.00 per month, per subscriber for the daily list fax service that will contain all of the daily additions, deletions, modifications to the list of TRACE-eligible securities.

The NASD believes that the proposed market data fees are reasonable. The NASD represents that the various fee levels of proposed market data fees are intended to provide market participants with the flexibility to select the usage level that best meets their needs. In determining the proposed market data fees, the NASD represents that its staff reviewed comparable industry fees for market data. The NASD states that the proposed market data fees are designed to allow the NASD to recover its developmental and operational costs of the TRACE system and the costs of related regulatory activities, while still allowing vendors to resell the data at competitive prices.

Market participants and others who wish to receive real-time TRACE data directly from the NASD will be required to enter into appropriate agreements with the NASD. For example, a vendor or broker/dealer firm that wishes to distribute TRACE real-time data externally will be required to enter into a vendor agreement, which among other things will standardize display facilities and require the vendor to collect specified dissemination fees from its end users for remittance to the NASD. Vendors or broker/dealer firms that wish to receive real-time TRACE data directly from the NASD and subsequently disseminate real-time TRACE data internally will also be required to execute agreements with the NASD, which among other things, will require firms to represent that the TRACE real-time data will not be disseminated externally.

In determining the proposed fees the NASD represents that its staff reviewed the existing FIPS fees, Nasdaq fees, and other comparable industry fees. The NASD states that its staff also consulted with members of the industry. In addition, the NASD established the Bond Transaction Reporting Committee ("BTRC") that has ten members, one-half of whom are recommended by the NASD, and the other half of whom are recommended by The Bond Market Association. The NASD states that its staff presented the proposed TRACE fees to the BTRC for additional industry input, and modified certain aspects of the initial fee proposal in response to concerns raised by the BTRC. The NASD represents that, with such modifications, the BTRC voted to approve the proposed TRACE fees, subject to a commitment by the NASD staff to reassess the proposed TRACE fees after TRACE is effective.[18] Such reassessment may result in certain fees being reduced or certain new fees being assessed based on the actual usage of the new system. The NASD represents that the BTRC recommended that the NASD staff review the TRACE fees based on actual TRACE data collected within the first six months of the system's operation and adjust the fees if actual revenues are substantially greater than projected.[19]

The NASD represents that, as part of the initiative by the Commission to create price transparency in the corporate bond market, the NASD has worked diligently to develop the TRACE system. Overall, the NASD believes that the proposed fees are necessary to achieve a practical, market-driven system for processing and disseminating reliable and uniform corporate bond data. The NASD believes that the TRACE system will allow the NASD to take a proactive role in supervising the corporate bond market and promote investor confidence in the fairness of the corporate bond market generally.

Based on the above, the NASD believes the proposed rule change is consistent with the provisions of Section 15A(b)(5) [20] of the Act in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and other persons using any facility or system which the association operates or controls.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the

[16] Under this service, real-time TRACE transaction data may not be used in any interrogation display devices, any systems that permit end users to determine individual transaction pricing in real-time, or disseminated to any external source.

[17] Under this service, real-time TRACE transaction data may not be used in any interrogation display devices or any systems that permit end users to determine individual transaction pricing in real-time.

[18] The NASD represents that the BTRC did not vote on or approve the Internal Usage Authorization Fee and the External Usage Authorization Fee because the committee did not have sufficient time prior to this filing to appropriately consider these fees.

[19] Generally, the staff believes that a reassessment of the proposed fee structure would not be valid unless it were based on at least 6 months of historical TRACE data (or full TRACE operatiosn and the related revenue stream and costs). However, with respect to certain fees, the Association may require additional historical data, or, conversely, may be able to reassess fees based on data collected over a shorter period. In addition, based on the data collected, the NASD may assess certain internal dissemination fees, including index fees, administration fees, or distributor fees.

[20] 15 U.S.C. 78o–3(b)(5).

provisions of Section 15A(b)(6) [21] of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Based on a mandate by the SEC, the Association has developed a corporate bond reporting facility to create transparency in the debt market and allow for surveillance to better detect fraud and foster investor confidence in the fairness of the corporate bond market. In addition, the NASD believes that the proposed rule is consistent with Section 15A(b)(5) [22] of the Act which requires that a national securities association have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using any facility or system which the association operates or controls.[23]

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the NASD believes that the proposal allows for competition in the collection of trade reports, and limits the NASD's role to: (1) Collecting trade reports directly only from members that choose to report directly to the NASD; (2) consolidating trade reports for regulatory purposes; and (3) disseminating the consolidated data to broker-dealers and those interested in reselling the data but not competing in the market for resale of these data. The NASD notes that the proposed fees which the NASD is seeking to impose for performing these functions are subject to Commission review and approval under the standards set forth for these purposes under Sections 11A and 15A of the Exchange Act.

[21] 15 U.S.C. 78o–3(b)(6).

[22] 15 U.S.C. 78o–3(b)(5).

[23] The NASD represents that it has generally submitted proposed rule changes relating to member dues, fees and charges pursuant to Rule 19b–4(f)(2) of the Act and Section 19(b)(3)(A) thereunder which would make such a proposed rule change effective immediately upon filing with the Commission. However, because the TRACE system is new, the NASD is recommending that the Commission solicit comments on the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action [24]

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–63 and should be submitted by June 14, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–13056 Filed 5–23–02; 8:45 am]

BILLING CODE 8010–01–P

[24] The NASD proposes to make the proposed rule change effective on the same date that the NASD Rule 6200 Series relating to TRACE is made effective and FIPS is eliminated.

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45965; File No. SR–NASD–2002–56]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Establishing a Uniform Process for Opening Daily Trading in Nasdaq's Upcoming SuperMontage System

May 20, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 22, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On May 17, 2002, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD, through Nasdaq, proposes to establish a uniform process for opening daily trading in Nasdaq's future Order Display and Collector Facility ("SuperMontage").

The text of the proposed rule change, as amended, is available at the Office of the Secretary, Nasdaq and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This notice, representing Amendment No 1, replaces the original Rule 19b–4 filing in its entirety.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of its ongoing preparation for the launch of SuperMontage, Nasdaq is engaging in a continuing review of the system's functionality and rules with a view to constant improvement. As a result of this review, and in consultation with industry professionals, Nasdaq has determined to alter the method originally approved for opening daily trading in SuperMontage. Through a combination of rules and system processing, Nasdaq's proposed new opening process proposes to cure, and thereafter prevent, locked and crossed market conditions immediately prior to the 9:30 a.m. market open, while allowing the continued execution of pre-market priced orders during that same time period.

Specifically, Nasdaq proposes to:

(1) Clarify that the system will accept market orders prior to 9:30 a.m. Eastern Time;

(2) Modify the opening process by providing for the automatic clearing of locked/crossed quotes beginning at 9:29:30 a.m. Eastern Time, and by matching off of locked/crossed quotes between the most aggressive orders, at the price of the newest of those orders; and

(3) Amend its Trade-or-Move Rule to conform to the changes in the opening process.

a. Expansion of Order Entry During Pre-Market Hours

Currently, the SuperMontage system rules do not explicitly permit the entry of Non-Directed market orders prior to 9:30 a.m. Eastern Time. Under the approved SuperMontage rules, market participants may enter Non-Directed limit orders prior to the market open, subject to certain qualifiers.[4] Nasdaq proposes to clarify that *all* market participants in SuperMontage may enter both limit orders and market orders prior to 9:30 a.m. Market orders and priced orders designated as IOC, will be held in queue until 9:30 a.m., at which time they will be executed or returned back to the entering firm if non-marketable.

b. SuperMontage Pre-Open Clearing of Locking and Crossing Quotes and Orders

Currently, SuperMontage's opening process resolves locked and crossed markets by pairing off the oldest in time sell quote/order with the oldest in time buy quote/order, and then executing the buying/selling interest at the price of the oldest quote/order. Under approved SuperMontage rules, this process begins at 9:30 a.m. Eastern Time, and is repeated until an unlocked and uncrossed inside market in Nasdaq is generated.

Nasdaq proposes to change and streamline the above process as follows. At 9:29:30 a.m. Eastern Time, the system will begin an automated process to clear any locked or crossed markets that then exists, using a new matching and pricing formula. First, the system will pair off the most aggressively priced buy quote/order against the most aggressively priced sell quote/orders. Once this "best-priced pair" is determined, the system will execute the two identified orders at the price of the newer order until the older order is fully satisfied. Nasdaq represents that, in essence, price improvement accrues to the older order. If the displayed size becomes exhausted at that price level, SuperMontage will continue to execute against available reserve size at that price level. This process will be repeated until an unlocked and uncrossed market results. Non-Attributable Orders that are displayed under SIZE will also participate in this process and will be subject to execution logic described above.

Once the lock/cross is cleared, any additional locking or crossing quotes/orders entered between 9:29:30 a.m. and 9:30:00 a.m. will be turned into an order and will be executed against the quote/order in Nasdaq that it would lock/cross. The execution will occur at the price of the quote/order that would be locked/crossed consistent with the locking/crossing process applicable during market hours.[5] Non-Attributable Orders that are displayed under SIZE will also participate in this process and will be subject to execution logic described above.

Since these trades will be executed prior to the 9:30 a.m. market open, these trades will be designated as ".T" to reflect that they were executed outside of normal market hours.[6] Nasdaq notes that if a market maker or ECN receives an order and its customer has indicated that it does not wish the order to be executed prior to 9:30 a.m., the market participant can enter the order into SuperMontage prior to the open but enter it as either a market order or as an IOC limit order. These orders would not drive a quote, would not participate in the pre-market lock/cross clearing process, and would be held in queue until 9:30 a.m., at which time they will be executed (or canceled if not marketable).

c. Modifications to "Trade-or-Move" Rule Timeframes

Nasdaq proposes to amend its Trade-or-Move Rule to reflect that the system will begin the unlocking/uncrossing process at 9:29:30 a.m., thus market participants would be required to send Trade-or-Move Directed Orders[7] between 9:20 a.m. and 9:29:29 a.m. (as opposed to 9:29:59 a.m.). Under the proposal the Trade-or-Move will operate as follows. Market participants will have an obligation to send Trade-or-Move Directed Orders beginning at 9:20:00 a.m. to all quotes they would lock/cross (except for SIZE) using a SuperMontage Directed Order. Currently, a market participant will be required to send a Trade-or-Move Directed Order to the party it would lock/cross contemporaneous to entering an Attributable quote/order or Non-Attributable quote/order into SIZE.[8] Thus, under the proposal if a market participant would actively lock or cross the market by posting an Attributable quote/order or Non-Attributable quote/order in SIZE during 9:20 a.m. and 9:29:30 a.m., that market participant will be required to send a Trade-or-Move Directed Order to the party it would lock or cross. However, if at or after 9:20 a.m. there is an order being displayed in SIZE, a market participant will not be obligated to send a Trade-or-Move Directed Order to SIZE if they would actively lock/cross SIZE because the system currently cannot route a Trade-or-Move Directed Order to the market participant representing the Non-Attributed Order behind SIZE.[9] As noted above, Non-Attributable Orders that are represented under SIZE will participate in the lock/cross clearing process that commences at 9:29:30 a.m., and thus will be subject to execution prior to the market's open.

Accordingly, Nasdaq believes that its proposed process will significantly improve the Nasdaq market opening by ensuring that quotes in Nasdaq securities are not locked or crossed at the start of normal trading. In addition, Nasdaq believes that its proposed approach of basing pre-market executions on the prices of individual quotes/orders provides maximum flexibility for market participants to price and potentially execute their own trading interest, while still maintaining an orderly market going into the open.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,[10] in general and with Section 15A(b)(6) of the Act,[11] in particular, in that the proposal is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as removing impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–56 and should be submitted by June 14, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13101 Filed 5–23–02; 8:45 am]

BILLING CODE 8010–01–P

[4] Order-entry firms may enter Non-Directed limit (priced) orders before 9:30 a.m. Eastern Time but these orders must be designated as Immediate or Cancel ("IOC"). Quoting market participants (*e.g.*, registered market makers and ECNs in a security) may enter limit orders, but are not required to designate them exclusively as IOC orders. Accordingly, limit orders from quoting market participants that are not IOC are displayed in the Nasdaq system both during market hours and the pre-market period.

[5] *See* NASD Rule 4710(b)(3).

[6] If at any time a market participant enters a quote that would lock/cross the market in the SuperMontage, the Nasdaq system will send the market participant a warning message. If the market participant chooses to override the warning message, the quote will participate in the unlocking/uncrossing process described above. This is, a locking/crossing quote entered between 9:20 a.m. and 9:29:30 a.m. will be turned into an order and become executable at 9:29:30 a.m. A locking/crossing quote entered at or after 9:29:30 a.m., but before market close, will be turned into an order that will be subject to immediate execution. Quotes entered at or after market close will receive the warning message but will not be subject to execution until 9:29:30 a.m. the following market day.

[7] Nasdaq proposes to change the term "Trade-or-Move Message" to "Trade-or-Move Directed Order." *See* proposed NASD Rule 4613(e)(1)(C).

[8] Under another proposal pending before the Commission, ECNs would be required to send a Trade-or-Move Message before entering a locking or crossing quotation and market makers would be required to send a Trade-or-Move Message immediately after entering a locking or crossing quote. *See* Securities Exchange Act Release No. 45508 (March 5, 2002), 67 FR 10956 (March 11, 2002) (Notice of Amendment Nos. 2 and 3 for File No. SR–NASD–00–76). This proposal would not alter that aspect of the Trade-or-Move rule, if approved.

[9] The Commission notes that Nasdaq is developing the capability to send a Trade-or-Move Directed Order to SIZE and would have to submit a proposed rule change to the Commission to implement this as a SuperMontage feature.

[10] 15 U.S.C. 78o–3.

[11] 15 U.S.C. 78o–3(b)(6).

[12] Nasdaq has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act to approve the proposed rule change prior to the 30th day after publication in the **Federal Register**. *See* Amendment No. 1, *supra* note 3.

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 24, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Economic Impact Survey of SBA Technical Assistance Clients.

No: 2214.

Frequency: On Occasion.

Description of Respondents: Small Business Client (small business owners & employees, prospective entrepreneurs and other students of enterprise).

Responses: 17,000.

Annual Burden: 2,226.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 02–13086 Filed 5–23–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3414]

State of New York

As a result of the President's major disaster declaration on May 16, 2002, I find that Clinton and Essex Counties in the State of New York constitute a disaster area due to damages caused by an earthquake occurring on April 20, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 15, 2002 and for economic injury until the close of business on February 17, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Franklin, Hamilton, Warren and Washington Counties in the State of New York; and Addison, Chittenden and Grand Isle Counties in the State of Vermont.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including Non-Profit Organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341402. For economic injury the number is 9P7600 for New York; and 9P7700 for Vermont.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–13087 Filed 5–23–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4025]

Bureau of Educational and Cultural Affairs; 60-Day Notice of Proposed Information Collection: Form DS–3036, Exchange Visitor Program Application and Form DS–3037, Update of Information on Exchange Visitor Program Sponsor; OMB Control Number 1405–0120

ACTION: Notice.

SUMMARY: The Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs; 60-Day Notice of Proposed Information Collection: Exchange Visitor Program Application—Form DS–3036; Update of Information on Exchange Visitor Program Sponsor—Form DS–3037. OMB Approval Number 1405–0120.

Action: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice. The following summarizes the information collection proposal submitted to OMB:

Type of Request: Comment.

Originating Office: Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs.

Title of Information Collection: Exchange Visitor Program Application—Form DS–3036; Update of Information on Exchange Visitor Program Sponsor—DS–3037.

Frequency: Form DS–3036—Approximately 150 new organizations submit applications to be designated as Exchange Visitor Program sponsors each year. DS–3037—The Department has approximately 1500 currently designated sponsors. It is estimated that each designated organization makes two submissions annually to update information on their Program or to order Form DS–2019, brochures and supplies to administer their Program.

Form Number: Forms DS–3036 and DS–3037.

Respondents: U.S. government, and public and private organizations wishing to become designated sponsors and Department of State designated sponsors.

Estimated Number of Respondents: DS–3036—150; DS–3037—3,000.

Average Hours per Response: DS–3036—20 minutes; DS–3037—8 hours.

Total Estimated Burden: DS–3036—1200 hours; DS–3037—1,000 hours.

Public comments are being solicited to permit the Department to:

—Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the Department, including whether the proposed information collection is necessary for the proper performance of the functions of the Department.

• Evaluate the accuracy of the Department's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

—Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Sally J. Lawrence, Chief, Private Sector Division, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, U.S. Department of State, 301 Fourth Street, SW, Room 734, Washington, DC 20547; telephone 202–401–9810. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: April 4, 2002.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–13144 Filed 5–23–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–3584]

Proposed Modernization of the Coast Guard National Distress and Response System

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent to prepare a Supplemental Program Environmental Assessment.

SUMMARY: The U.S. Coast Guard intends to prepare a Supplemental Program Environmental Assessment (SPEA) for the National Distress and Response System Modernization Project (NDRSMP). The SPEA will supplement our July 1998 Programmatic Environmental Assessment (PEA) with respect to modernizing and deploying the National Distress and Response System (NDRS) and it will examine reasonable alternatives for the deployment of dual mode VHF/UHF radio equipment to either an existing NDS antenna tower site, antenna tower space leased from a commercial provider, or new construction of an antenna tower site. We are requesting early public input on these alternatives and the potential for environmental impacts as a result of implementing them.

DATES: Comments and related material must reach the Docket Management Facility on or before June 24, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–1998–3584), U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

In choosing among these means, please give due regard to recent difficulties and delays associated with delivery of mail through the U.S. Postal Service to Federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as this notice, will become part of this docket and will be available for inspection or copying at Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Web Site at *http://www.dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, the proposed project, or the associated assessment, call Donna M. Meyer, Environmental Program Manager, National Distress and Response System Modernization Project, U.S. Coast Guard Headquarters, 202–267–1496 or e-mail her at *dmeyer@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related material on our Supplemental Program Environmental Assessment. If you do so, please include your name and address, identify the docket number for this notice (USCG–1998–3584), and provide background support for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. When submitting by mail or hand delivery, submit your comments or material in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know if the comments and/or material were received by the facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the comment period.

Public Hearing

We do not now plan to hold a public hearing. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid us in preparing the SPEA, and would significantly aid in our environmental review and analysis for the proposal, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

The National Distress and Response System forms the backbone of the Coast Guard's Short Range Communication System (SRCS) that supports Coast Guard Activity, Group, Marine Safety Office (MSO), Vessel Traffic Service (VTS), Air Station, Cutter and Station operations. As part of the SRCS, the NDRS incorporates the use of VHF–FM radios to provide two-way voice communications coverage for the majority of Coast Guard missions in coastal areas and navigable waterways where commercial and recreational traffic exists. The system, consisting of approximately 300 remotely controlled VHF transceiver sites, monitors the international VHF–FM maritime distress frequency (Channel 16), and is the primary command and control network to coordinate Coast Guard search and rescue (SAR) response activities. The secondary function is to provide command, control, and communications for the Coast Guard missions of national security, maritime safety, law enforcement, and marine environmental protection.

In July 1998, the Coast Guard published a Programmatic Environmental Assessment that considered general concepts to modernize the current obsolete and nonstandard system. The alternatives we considered included:

Alternative A—Status quo.

Alternative B—Upgrade status quo by systematically upgrading the existing network with modern analog transceivers. This alternative replaces old equipment with new equipment and adds additional radio capability. It is expected this alternative would require additional antenna sites.

Alternative C—Dual mode VHF and/or UHF network replaces existing analog network with dual mode (digital and analog) transceivers. It is expected this alternative would require additional antenna sites. And,

Alternative D—Multi-mode: Satellite, cellular, VHF and/or UHF network. This alternative replaces the existing network with multi-mode equipment that utilizes satellite, cellular, and VHF/UHF communications. It is expected that this alternative would require additional antenna sites.

Alternatives B, C, and D would all require approximately the same number of additional antenna sites. Since 1998, new circumstances and relevant information regarding the deployment of the system to an existing antenna site, or leasing an antenna site, or constructing a new antenna site as well as the Coast Guard's preference for

Alternative C, call for a Supplemental Program Environmental Assessment to consider any environmental impacts that were previously not taken into account.

Supplemental Programmatic Environmental Assessment

Pursuant to the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR parts 1500–1508), we intend to prepare a Supplemental Program Environmental Assessment for the National Distress and Response System Modernization Project.

Information, data, and comments obtained throughout the course of the Scoping process may be used in the preparation of the SPEA. The purpose of this notice of intent is to inform the public, local, State, and Federal government agencies that a Supplemental PEA will be prepared.

In addition, the SPEA will provide those interested with an opportunity to present their comments, information, or other relevant observations concerning alternatives and potential environmental impacts relating to the deployment and installation of the NDRSMP. Alternatives under consideration include: (1) Taking no action; (2) deployment to existing antenna tower sites; (3) leasing antenna space on an existing tower; and (4) new construction of a tower site.

Our efforts to coordinate with appropriate Federal, State and local agencies, and private organizations and citizens who have expressed interest in this proposal will continue. The SPEA will be made available for public and agency review and comment. To ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified, we invite your comments and suggestions.

Dated: May 17, 2002.

C.D. Wurster,

RADM, U.S. Coast Guard, Assistant Commandant for Acquisitions.

[FR Doc. 02–13130 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Forum In Capabilities of the Global Positioning System (GPS) Wide Area Augmentation System (WAAS) and Local Area Augmentation System (LAAS)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

Name: FAA SOIT Forum on GPS/WAAS/LAAS Capabilities.

Time and Date: 9 a.m.–5 p.m., June 3–4, 2002.

Place: Holiday Inn Fair Oaks Hotel, 11787 Lee Jackson Memorial Hwy, Fairfax, Virginia 22033.

Status: Open to the aviation industry with attendance limited to space available.

Purpose: The FAA SOIT will be hosting a public forum to discuss the FAA's GPS approvals and WAAS/LAAS operational implementation plans. This meeting will be held in conjunction with a regularly scheduled meeting of the FAA SOIT and in response to aviation industry requests to the FAA Administrator. Formal presentations by the FAA will be followed by question and answer sessions. Those planning to attend are invited to submit proposed discussion topics.

Registration: Participants are requested to register their intent to attend this meeting by May 31, 2002. Names, affiliations, email addresses, telephone and facsimile numbers should be sent to the point of contact listed below.

Point of Contact: Registration and submission of suggested discussion topics may be made to Mr. Steven Albers, phone (202) 267–7301, fax (202) 267–5086, or email at *steven.CTR.albers@faa.gov.*

Issued in Washington DC on May 3, 2002.

Hank Cabler,

SOIT Co-Chairman.

[FR Doc. 02–13134 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12317]

Notice of Receipt of Petition for Decision that Nonconforming 1997–2000 Mercedes Benz SL Class (W129) Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1997–2000 Mercedes Benz SL Class (W129) passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1997–2000 Mercedes Benz SL Class (W129) passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is June 24, 2002.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Automobile Concepts, Inc. of North Miami, Florida ("AMC") (Registered Importer 01–278) has petitioned NHTSA to decide whether 1997–2000 Mercedes Benz SL Class (W129) passenger cars are eligible for importation into the United States. The vehicles which AMC believes are substantially similar are 1997–2000 Mercedes Benz SL Class (W129) passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1997–2000 Mercedes Benz SL Class (W129) passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

AMC submitted information with its petition intended to demonstrate that non-U.S. certified 1997–2000 Mercedes Benz SL Class (W129) passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1997–2000 Mercedes Benz SL Class (W129) passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 Transmission Shift Lever Sequence * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Inscription of the word "brake" on the dash in place of the international ECE warning symbol; (b) recalibration of the speedometer to read in miles per hour and inscription of the letters "MPH" on the speedometer face, or replacement of the entire instrument cluster with the U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps; (b) installation of U.S.-model side markers; (c) installation of U.S.-model tail lamp assemblies which incorporate rear sidemarker lights; (d) installation of a U.S.-model high mounted stop light assembly if the vehicle is not already so equipped.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component, or inscription of the required warning statement on that mirror.

Standard No. 114 *Theft Protection:* activation of the warning buzzer.

Standard No. 118 *Power Window Systems:* reprogramming of the power window system so that the windows will not operate with the ignition off.

Standard No. 201 *Occupant Protection in Interior Impact:* inspection of each vehicle to ensure that appropriate components have been installed to meet the requirements of the standard, and replacement of any component that is not a U.S.-model part. The petitioner states that the manufacturer has identified the vehicle as meeting the upper interior head impact requirements of the standard.

Standard No. 208 *Occupant Crash Protection:* (a) Activation of the seat belt warning buzzer by reprogramming the unit; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. Petitioner states that the front outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton. Petitioner further states that the vehicles are equipped with a seat belt warning lamp that is identical to the lamp installed on U.S.-certified models.

Standard No. 214 *Side Impact Protection:* inspection of all vehicles to ensure that they are equipped with door bars identical to those in the U.S. certified model and installation of those components on vehicles that are not already so equipped.

The petitioner states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 21, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–13143 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions.

SUMMARY: In accordance with the procedures governing the application

for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before June 10, 2002.

ADDRESSES: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 21, 2002.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

Application number'	Docket number	Applicant	Modification of exemption
7657–M		Welker Engineering Company, Sugar Land, TX (See Footnote 1)	7657
8125–M		Bristol Bay Contractors, Inc., King Salmon, AK (See Footnote 2) ..	8125
8915–M		E.I. DuPont de Nemours and Company, Wilmington, DE (See Footnote 3).	8915
9508–M		Callery Chemical Company, Pittsburgh, PA (See Footnote 4)	9508
10882–M		Espar Products, Inc., Mississauga, Ontario L5T 1Z8, CN (See Footnote 5).	10882
12102–M	RSPA–98–4005	Onyx Environmental Services, L.L.C., Ledgewood, NJ (See Footnote 6).	12102
12882–M	RSPA–01–11125	Eagle-Picher Technologies, LLC, Joplin, MO (See Footnote 7)	12882

(1) To modify the exemption to authorize the transportation of additional Division 2.1, 2.2, 2.3 and Class 3 materials in a non-DOT specification stainless steel cylinder.
(2) To modify the exemption to authorize the installation of a nozzle for a roto gage in the non-DOT specification IMO Type 5 portable tank for the transportation of certain Division 2.1, 2.2 and Class 3 materials.
(3) To modify the exemption to authorize the transportation of an additional Division 2.1 material in a manifolded DOT Specification cylinder.
(4) To modify the exemption to authorize the transportation of an additional Division 4.3 material in DOT Specification cylinders.
(5) To modify the exemption to authorize the use of additional temperature controlled systems for use in motor vehicles transporting Division 2.1 and Class 3 materials.
(6) To modify the exemption to authorize the transportation of an additional Division 1.1D explosive material desensitized in an appropriate solvent to be shipped as a Class 3 material.
(7) To reissue the exemption originally issued on an emergency basis for the transportation of a Division 2.1 material in a non-DOT specification pressure vessel.

[FR Doc. 02–13129 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Notice to Operators of Natural Gas and Hazardous Liquid Pipelines To Encourage Continued Implementation of Safe Excavation Practices

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice: Protecting buried pipelines by using safe excavation practices.

SUMMARY: RSPA is issuing this advisory notice to operators of natural gas and hazardous liquid pipelines to remind them of the importance of safe excavation practices. We have also asked our partners in the Common Ground Alliance, a new national non-profit damage prevention organization, and the Associated General Contractors of America and the National Utility Contractors Association, to help distribute this advisory.

I. Supplementary Information

Several recent incidents have provided the impetus to remind the pipeline operators of the importance of safe excavation practices. Increase in construction activity coincides with the arrival of spring in many parts of the country and extends through the summer months. Construction activity requires excavators to work around buried pipelines and other underground facilities, such as water, sewer, electrical and phone lines. Many private citizens also undertake excavation projects in the spring and summer months such as gardening, installing mailboxes, outdoor lights and other projects that require digging. Figures for excavation damage from RSPA's Office of Pipeline Safety (OPS) show an upward trend in the warmer months.

To protect construction workers and the general public and to guard the integrity of the nation's underground infrastructure, RSPA has implemented several damage prevention programs.

These programs were developed in partnership with pipeline operators, excavators, one-call centers, locators, state pipeline safety agencies, and others involved in damage prevention for underground facilities.

The Common Ground Study, issued by OPS, contains best practices for all phases of damage prevention. In particular, pipeline operators need to provide accurate maps of their facilities to one-call centers; these maps must be updated regularly to reflect any changes. When locate requests are received, facility operators need to be sure that their facilities are marked in a timely and accurate manner whether this is done by operator staff or by contract locators. When facility operators are excavating, they need to call for locates of other facilities, observe the markings of those facilities and take care to avoid coming into contact with other lines while digging. RSPA urges pipeline operators to review the procedures identified in this study and to implement them.

The Common Ground Study can be viewed on line at *www.commongroundalliance.com.*

These best practices have been adopted by many professional associations including the Associated General Contractors, the National Utility Contractors Association, National Utility Locating Contractors Association and others in the damage prevention community. Promotion of these practices is now under the auspices of the Common Ground Alliance (CGA) which represents virtually every segment of the damage prevention community. CGA has also assumed responsibility for promotion of the Dig Safely Campaign launched by DOT in 1999 which identified four key steps in safe excavation:

—Call Before You Dig
—Wait the Required Time in Your State for Operators to Mark Their Facilities
—Observe Marks Indicating the Presence of Facilities When You Dig
—Dig With Care–protect both yourself and the facilities where you are digging.

The National Transportation Safety Board has recommended an important additional step, that excavators should notify the pipeline operator immediately if their work damages a pipeline and that excavators should call 911 immediately if the damage results in a release of natural gas or other hazardous substances or potentially endangers, life, health or property.

II. Advisory Bulletin (ADB–02–01)

To: Owners and Operators of Natural Gas and Hazardous Liquid Pipeline Systems

Subject: Notification to Stress the Importance of Safe Excavation Practices

Advisory: The arrival of warmer weather coincides with a significant increase in construction activity both by professional excavators and home owners and renters. To protect excavators and private citizens from injury and to guard the integrity of buried pipelines and other underground facilities, OPS reminds all concerned to implement the best practices of the Common Ground Study and the four steps of the Dig Safely Campaign.

—Call Before You Dig
—Wait the Required Time in Your State for Operators to Mark Their Facilities
—Observe Marks Indicating the Presence of Facilities When You Dig
—Dig With Care–protect both yourself and the facilities where you are digging.

We ask pipeline operators to undertake the following steps as part of their damage prevention efforts:

—increasing their vigilance on right-of-way inspections;
—reviewing their own procedures for following up on locate requests;
—ensuring that operator employees and contract employees follow Best Practices; and
—increasing outreach efforts to the excavator community during the spring season.

Issued in Washington, DC, on May 17, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–13142 Filed 5–23–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–598X]

BHP Nevada Railroad Company—Discontinuance of Service Exemption—In Elko and White Pine Counties, NV

BHP Nevada Railroad Company (BHP Nevada) filed a notice of exemption under 49 CFR part 1152 Subpart F-*Exempt Abandonments and Discontinuances* to discontinue service over 146 miles of railroad between milepost 0.0 in Cobre and milepost 146.1 in Keystone, in Elko and White Pine Counties, NV. The line traverses United States Postal Service Zip Codes 89835, 89301, 89315 and 89318.

BHP Nevada certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 25, 2002, unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)[1] must be filed by June 3, 2002.[2] Petitions to reopen[3] must be filed by June 13, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Edward D. Greenberg, Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C., Canal Square, 1054 Thirty-First Street, NW., Suite 200, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 15, 2002.

[1] Each offer of financial assistance must be accompanied by the filing fee, which, as of April 8, 2002, is currently set at $1,100. *See* 49 CFR 1002.2(f)(25).

[2] While applicant initially indicated a proposed consummation date of June 22, 2002, and because applicant failed to publish notice in the newspaper as required, and a new filing date of May 6, 2002, was entered when proof of publication was received. Because the verified notice was not complete until May 6, 2002, and hence was not deemed filed until then, the earliest possible date for consummation is 50 days from May 6, 2002 (June 25, 2002). Applicant's representative has confirmed that the correction consummation date is on or after June 25, 2002.

[3] Because this is a discontinuance proceeding and abandonment is not proposed, trail use/rail banking or public use conditions are not appropriate. Likewise, no environmental or historic documentation is required because the circumstances here are similar to those for which exceptions are provided under 49 CFR 1105.6(c)(6) and 1105.8.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12819 Filed 5–23–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–101 (Sub-No. 17X)]

Duluth, Missabe and Iron Range Railway Company—Abandonment Exemption—in St. Louis County, MN

On May 7, 2002, Duluth, Missabe and Iron Range Railway Company (DM&IR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 2-mile portion of the line known as the Sliver Branch, between milepost S–0.0 and milepost S–2.0, in the City of Virginia in St. Louis County, MN. The line traverses United States Postal Service Zip Code 55792.

The line does not contain any federally granted rights-of-way. Any documentation in DM&IR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 23, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which is currently set at $1,100. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 13, 2002. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–101 (Sub-No. 17X) and must be sent to: (1) Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Thomas R. Ogoreuc, 135 Jamison Lane, Monroeville, PA 15146. Replies to the DM&IR petition are due on or before June 13, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition.

The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: May 21, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13157 Filed 5–23–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 167X)]

Union Pacific Railroad Company—Abandonment and Discontinuance Exemption—in Cook County, IL

On May 7, 2002, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–05 [1] to abandon an 8.06-mile portion of a line of railroad, known as the Skokie Industrial Lead (the line), extending from milepost 12.60 south of Oakton Street to the north side of Dempster Street at milepost 13.64 (South Segment) and to discontinue service over a 1.04-mile portion of the line from milepost 13.64 to milepost 21.70 near Northfield (North Segment), a total distance of 9.10 miles, in Cook County, IL.[2] The line traverses U.S. Postal Service Zip Codes 60076 and 60077 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 23, 2002.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the South Segment of the line, it may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 13, 2002.[3] Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 167X) and must be sent to: (1) Surface Transportation Board, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606. Replies to the UP petition are due on or before June 13, 2002.

[1] UP seeks exemptions from the offer of financial assistance (OFA) provisions of 49 U.S.C. 10904 and the public use provisions of 49 U.S.C. 10905. These exemption requests will be addressed in the final decision.

[2] *In Union Pacific Railroad Company—Discontinuance of Service—In Cook County, IL*, STB Docket No. AB–33 (Sub-No. 167) (STB served Mar. 28, 2001) (*Waiver Decision*), UP was granted a waiver from certain regulations requiring the filing of specific information in a discontinuance of service application. UP has elected instead to file this petition for exemption seeking to abandon the South Segment and to discontinue service on the North Segment. UP seeks to use the waiver only for the North Segment.

[3] Because UP seeks to discontinue rail service over the North Segment of the line and not to abandon that segment, the trail use/rail banking and public use conditions are not applicable. *See Waiver Decision*. Therefore, a public use condition and trail use/rail banking may be requested only for the South Segment of the line (milepost 12.60 to milepost 13.64).

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at "WWW.STB.DOT.GOV."

Decided: May 21, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13156 Filed 5–23–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network Privacy Act of 1974; Systems of Records

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice of alterations to two Privacy Act systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Financial Crimes Enforcement Network (FinCEN), Department of the Treasury (Treasury), gives notice of proposed alterations to existing systems of records entitled the "Suspicious Activity Reporting System—Treasury/DO .212" and the "Bank Secrecy Act Reports System—Treasury/DO .213". The systems of records were last published in their entirety on February 19, 2002, at 67 FR 7496, and 67 FR 7498, respectively.

DATES: Comments must be received no later than June 24, 2002. The revised systems of records will be effective as of July 3, 2002, unless comments are received that result in a contrary determination and notice is published to that effect.

ADDRESSES: Written comments should be sent to: FinCEN, P.O. Box 39, Vienna, VA 22183–0039, Attention: Revisions to PA Systems of Records—Comments. Comments may also be submitted by electronic mail to the following Internet address—regcomments@fincen.treas.gov—with the above caption in the body of the text. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400.

FOR FURTHER INFORMATION CONTACT: Albert R. Zarate, Senior Regulatory Counsel, Office of Chief Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION: The systems of records contain information collected under the authority of the Bank Secrecy Act, the popular name for Titles I and II of Public Law 91–508, as amended, and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5331. The regulations implementing the authority contained in the Bank Secrecy Act are found at 31 CFR part 103. The authority to administer 31 CFR part 103 has been delegated to FinCEN.

The systems of records are being revised to reflect certain changes in the law made by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107–56 (October 26, 2001). The USA PATRIOT Act, among other things, provides the Treasury with additional authorities relating to the collection, use, and dissemination of information, including Bank Secrecy Act information, to help prevent, detect, and prosecute money laundering and the financing of terrorism.

Specifically, the routine uses for the systems of records are being amended, consistent with section 358 of the USA PATRIOT Act, to make clear that Bank Secrecy Act information may be provided to United States intelligence agencies for the purpose of conducting intelligence or counterintelligence, including analysis, to protect against international terrorism.

The Suspicious Activity Reporting System also is being altered, consistent with section 314 of the USA PATRIOT Act, to reflect that it may contain information relating to individuals, entities, and organizations reasonably suspected of engaging in terrorist and other criminal activities, including information provided to FinCEN from financial institutions regarding such individuals, entities, and organizations. Existing routine use (7) for the Suspicious Activity Reporting System would permit FinCEN to disclose information within that System to financial institutions to the extent necessary to elicit information pertinent to the investigation, prosecution, or enforcement of civil or criminal statutes, rules, regulations, or orders.

The Bank Secrecy Act Reports System also is being amended, consistent with section 358 of the USA PATRIOT Act, to reflect that BSA reports may be provided to appropriate self-regulatory organizations when relevant to the responsibilities of those organizations. Existing routine use (3) for the Suspicious Activity Report System already contains similar language.

Finally, the Bank Secrecy Act Reports System also is being amended to clarify that FinCEN Form 8300 information reported under the Bank Secrecy Act and its implementing regulations, as authorized by section 365 of the USA PATRIOT Act, is covered by that system. For purposes of clarity, other technical changes to the systems of records are being made, as indicated later in this document.

Because information in the systems of records may be retrieved by personal identifier, the Privacy Act of 1974 requires the Treasury to give general notice and seek public comments when making substantive changes to these Systems.

The altered system of records report, as required by 5 U.S.C. 552a(r), has been submitted to the Committee on Government Reform in the House of Representatives, the Committee on Governmental Affairs in the Senate, and Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," November 30, 2000.

For the reasons set forth above, FinCEN proposes to alter the Suspicious Activity Reporting System and the Bank Secrecy Act Reports System as follows:

TREASURY/DO .212

SYSTEM NAME:

Suspicious Activity Report System (the "SAR System")—Treasury/DO.

SYSTEM LOCATION:

Description of change: Delete the existing sentence in this paragraph and in its place add the following language:

The Internal Revenue Service Detroit Computing Center, 985 Michigan Avenue, Detroit, Michigan 48226–1129 and the Financial Crimes Enforcement Network ("FinCEN"), P.O. Box 39, Vienna, VA 22183–0039."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

* * * * *

Description of change: In category (2)(b) of this paragraph, replace the words "31 U.S.C. 5311, *et seq.*" with the words "31 U.S.C. 5311–5331." The word "and" at the end of category (8) is removed. The period "." at the end of category (9) is replaced with a semicolon (;) and categories (10), (11) and (12) are added to read as follows:

"(10) Individuals, entities and organizations suspected of engaging in terrorist and other criminal activities and any person who may be affiliated with such individuals, entities or organizations;

(11) Individuals or entities named by financial institutions as persons to be contacted for further assistance by government agencies in connection with individuals, entities or organizations suspected of engaging in terrorist or other criminal activities;

(12) Individuals or entities involved in evaluating or investigating any matters in connection with individuals, entities or organizations suspected of engaging in terrorist or other criminal activity."

CATEGORIES OF RECORDS IN THE SYSTEM:

Description of change: Delete the first sentence of this paragraph and in its place add the following language to read as follows:

"The SAR System contains information reported to FinCEN by a financial institution (including, but not limited to, a depository institution, a money services business, a broker-dealer in securities, and a casino) on a Suspicious Activity Report ("SAR") that is filed voluntarily or as required under the authority of FinCEN, one or more of the Federal Supervisory Agencies, or under any other authority. The SAR System also may contain information that may relate to terrorist or other criminal activity that is reported voluntarily to FinCEN by any individual or entity through any other means, including through FinCEN's Financial Institutions Hotline. The SAR System also may contain information relating to individuals, entities, and organizations reasonably suspected based on credible evidence of engaging in terrorist or other criminal activities, including information provided to FinCEN from financial institutions regarding such individuals, entities, and organizations."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Description of change: Replace the words "Department of the Treasury Order 105–08" with the words "31 U.S.C. 310".

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Description of change: The word "and" at the end of routine use (11) is removed. The period "." at the end of routine use (12) is replaced with a semicolon (;), and routine use (13) is added to read as follows:

"(13) Disclose information to United States intelligence agencies in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism."

* * * * *

TREASURY/DO .213

SYSTEM NAME:

Bank Secrecy Act Reports System—Treasury/DO.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Description of change: The first sentence of this paragraph is revised to read as follows:

"Persons identified in reports filed under the Bank Secrecy Act and its implementing regulations (31 CFR part 103) including, but not limited to, reports made on IRS Form 4789 (Currency Transaction Report), IRS Form 8362 (Currency Transaction Report by Casinos), forms filed by casinos located in the State of Nevada in lieu of Form 8362, FinCEN Form 8300 (Report of Cash Payments Over $10,000 Received in a Trade or Business), Customs Form 4790 (Report of International Transportation of Currency or Monetary Instruments), Treasury Form TDF 90–22.1 (Report of Foreign Bank and Financial Accounts), Treasury Form TDF 90–22.53 (Designation of Exempt Person), and Treasury Form TDF 90–22.55 (Registration of Money Services Businesses)."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Description of change: The first sentence of this paragraph is revised to read as follows:

"Information or reports filed under the Bank Secrecy Act and its implementing regulations (31 CFR Part 103) including, but not limited to, reports made on IRS Form 4789 (Currency Transaction Report), IRS Form 8362 (Currency Transaction Report by Casinos), forms filed by casinos located in the State of Nevada in lieu of Form 8362, FinCEN Form 8300 (Report of Cash Payments Over $10,000 Received in a Trade or Business), Customs Form 4790 (Report of International Transportation of Currency or Monetary Instruments), Treasury Form TDF 90–22.1 (Report of Foreign Bank and Financial Accounts), Treasury Form TDF 90–22.53 (Designation of Exempt Person), and Treasury Form TDF 90–22.55 (Registration of Money Services Businesses)."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Description of change: Replace the words "31 U.S.C. 5311–5314, 5316 *et seq.*" with the words "31 U.S.C. 5311–5331" and replace the words "Treasury Department Order No. 105–08" with the words "31 U.S.C. 310".

PURPOSES:

Description of Change: In the first sentence of this paragraph, replace the words "31 U.S.C. 5311–5314, 5316, et seq" with the words "31 U.S.C. 5311–5331" and add the words ", or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism" before the period.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Description of changes: a. Delete the current text of routine use (4) and in its place add the following to read as follows:

"Provide information or records to any appropriate domestic or non-United States governmental agency or self-regulatory organization charged with the responsibility of administering law or investigating or prosecuting violations of law, or charged with the responsibility of enforcing or implementing a statute, rule, regulation, order, or policy, when relevant to the responsibilities of these agencies or organizations;"

* * * * *

b. The word "and" at the end of routine use (7) is removed. The period "." at the end of routine use (8) is replaced with a semicolon (;), and routine use (9) is added to read as follows:

"(9) Provide information or records to United States intelligence agencies in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism."

* * * * *

Dated: April 8, 2002.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 02–13053 Filed 5–23–02; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before July 23, 2002.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *www.ots.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Nadine Washington, Information Systems, Administration & Finance, (202) 906–6706, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Voluntary Dissolution.

OMB Number: 1550–0066.

Form Number: OTS Form 1499, also known as Form DV.

Regulation Requirement: 12 CFR 546.4.

Description: 12 CFR 546.4 provides for Federal associations to voluntarily dissolve through the submission of a statement of reasons and plan of dissolution. Approval is required by the board of directors, OTS, and the association's members. Plans for dissolution may be denied if OTS believes the plan is not in the best interests of concerned parties.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 4.

Estimated Frequency of Response: Event-generated.

Estimated Burden Hours Per Response: Plan for dissolution—80 hours; disclosure to customers—10 minutes per customer.

Estimated Total Burden: 3,080.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 16, 2002.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. 02–13066 Filed 5–23–02; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates and income limitations. These COLAs affect the pension, parents' dependency and indemnity compensation (DIC), and spina bifida, and birth defects programs. These adjustments are based on the rise in the Consumer Price Index (CPI) during the one-year period ending September 30, 2001. VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in Fiscal Year 2002, which began on October 1, 2001.

DATES: These COLAs are effective December 1, 2001. The headstone or marker allowance rate is effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service (212B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 2306(d), VA may provide reimbursement for the cost of non-Government headstones or markers at a rate equal to the actual cost or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less.

Section 8041 of Pub. L. 101–508 amended 38 U.S.C. 2306(d) to eliminate the payment of the monetary allowance in lieu of VA-provided headstone or

marker for deaths occurring on or after November 1, 1990. However, in a precedent opinion (O. G. C. Prec. 17–90), VA's General Counsel held that there is no limitation period applicable to claims for benefits under the provisions of 38 U.S.C. 2306(d).

The average actual cost of Government-furnished headstones or markers during any fiscal year is determined by dividing the sum of VA costs during that fiscal year for procurement, transportation, and miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for Fiscal Year 2001 under the above computation method was $109. Therefore, effective October 1, 2001, the maximum rate of reimbursement for non-Government headstones or markers purchased during Fiscal Year 2002 is $109.

Cost of Living Adjustments

Under the provisions of 38 U.S.C. 5312 and section 306 of Pub. L. 95–588, VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations are also required to be published in the **Federal Register**.

The Social Security Administration has announced that there will be a 2.6 percent cost-of-living increase in Social Security benefits effective December 1, 2001. However, the actual increase reflected in this document will be slightly greater than 2.6% to compensate for an error in the calculation of the 1999 Consumer Price Index (CPI). The 2.6% COLA effective December 1, 2001, has been recalculated on the basis of a 2.5% (as opposed to 2.4%) December 1, 1999, COLA. This adjustment was mandated by the Consolidated Appropriations Act, 2001 (Pub. L. 106–554) which requires that each Federal agency that administers an applicable Federal benefit program compensate beneficiaries for the shortfall caused by the December 1, 1999 CPI error. Therefore, applying the COLA factors as indicated above and rounding up in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA pension and parents' DIC programs will be effective December 1, 2001:

TABLE 1.—IMPROVED PENSION
[Maximum annual rates]

(1) Veterans permanently and totally disabled (38 U.S.C. 1521):	
Veteran with no dependents	$9,556
Veteran with one dependent	12,516
For each additional dependent	1,630
(2) Veterans in need of aid and attendance (38 U.S.C. 1521):	
Veteran with no dependents	15,945
Veteran with one dependent	18,902
For each additional dependent	1,630
(3) Veterans who are housebound (38 U.S.C. 1521):	
Veteran with no dependents	11,679
Veteran with one dependent	14,639
For each additional dependent	1,630
(4) Two veterans married to one another, combined rates (38 U.S.C. 1521):	
Neither veteran in need of aid and attendance or housebound	12,516
Either veteran in need of aid and attendance	18,902
Both veterans in need of aid and attendance	24,628
Either veteran housebound	14,639
Both veterans housebound	16,763
One veteran housebound and one veteran in need of aid and attendance	21,022
For each dependent child	1,630

TABLE 1.—IMPROVED PENSION—Continued
[Maximum annual rates]

(5) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 1541):	
Surviving spouse alone	6,407
Surviving spouse and one child in his or her custody	8,389
For each additional child in his or her custody	1,630
(6) Surviving spouses in need of aid and attendance (38 U.S.C. 1541):	
Surviving spouse alone	10,243
Surviving spouse with one child in custody	12,221
Surviving Spouse of Spanish-American War veteran alone	10,905
Surviving Spouse of Spanish-American War veteran with one child in custody	12,882
For each additional child in his or her custody	1,630
(7) Surviving spouses who are housebound (38 U.S.C. 1541):	
Surviving spouse alone	7,832
Surviving spouse and one child in his or her custody	9,810
For each additional child in his or her custody	1,630
(8) Surviving child alone (38 U.S.C. 1542)	1,630

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541 and 1542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this table shall be increased by $2,166. (38 U.S.C. 1521(g))

Parents' DIC

DIC shall be paid monthly to parents of a deceased veteran in the following amounts (38 U.S.C. 1315):

TABLE 2.

[*One parent.* If there is only one parent, the monthly rate of DIC paid to such parent shall be $457 reduced on the basis of the parent's annual income according to the following formula:]

For each $1 of annual income		
The $457 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	$0	$800
.08	800	10,871

No DIC is payable under this table if annual income exceeds $10,871.

One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under Table 2 or under Table 4, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in Table 3 apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $329 reduced on the basis of each parent's annual income, according to the following formula:

TABLE 3.

For each $1 of annual income		
The $329 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.06	800	900
.07	900	1,100
.08	1,100	10,871

No DIC is payable under this table if annual income exceeds $10,871.

Two parents living together or remarried parents living with spouses. The rates in Table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $309 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

TABLE 4.

For each $1 of annual income		
The $309 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$1,000
.03	1,000	1,500
.04	1,500	1,900
.05	1,900	2,400
.06	2,400	2,900
.07	2,900	3,200
.08	3,200	14,612

No DIC is payable under this table if combined annual income exceeds $14,612.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in Table 2 for one parent.

Aid and attendance. The monthly rate of DIC payable to a parent under Tables 2 through 4 shall be increased by $246 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate. The monthly rate of DIC payable to any parent under Tables 2 through 4 shall not be less than $5.

TABLE 5.—SECTION 306 PENSION INCOME LIMITATIONS

(1) Veteran or surviving spouse with no dependents	$10,871	(Pub. L. 95–588, section 306(a)).
(2) Veteran with no dependents in need of aid and attendance	11,371	(38 U.S.C. 1521(d) as in effect on December 31, 1978).
(3) Veteran or surviving spouse with one or more dependents	14,612	(Pub. L. 95–588, section 306(a)).
(4) Veteran with one or more dependents in need of aid and attendance	15,112	(38 U.S.C. 1521(d) as in effect on December 31, 1978).
(5) Child (no entitled veteran or surviving spouse)	8,886	(Pub. L. 95–588, section 306(a)).
(6) Spouse income exclusion (38 CFR 3.262)	3,468	(Pub. L. 95–588, section 306(a)(2)(B)).

TABLE 6.—OLD-LAW PENSION INCOME LIMITATIONS

(1) Veteran or surviving spouse without dependents or an entitled child	$9,516	(Pub. L. 95–588, section 306(b)).
(2) Veteran or surviving spouse with one or more dependents	13,719	(Pub. L. 95–588, section 306(b)).

Spina Bifida Benefits

Section 421 of Public Law 104–204 added a new chapter 18 to title 38, United States Code, authorizing VA to provide certain benefits, including a monthly monetary allowance, to children born with **spina bifida** who are natural children of veterans who served in the Republic of Vietnam during the Vietnam era. Pursuant to 38 U.S.C. 1805(b)(3), **spina bifida** rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et*

seq.). Effective December 1, 2001, **spina bifida** monthly rates are as follows:
Level I—$228
Level II—$792
Level III—$1,354

Birth Defects Benefits

Section 401 of Public Law 106–419 authorizes the payment of monetary benefits to, or on behalf of, children of female Vietnam veterans born with certain birth defects. Rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). Effective December 1, 2001, birth defects monthly rates are as follows:
Level I—$100
Level II—$228
Level III—$792
Level IV—$1,354

Dated: May 16, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 02–13095 Filed 5–23–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development Service; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development Service will be held at the Crowne Plaza Hotel, 14th and K Streets, NW., Washington, DC, from June 19 through 21, 2002. The Nursing Research Initiative review will convene on June 19, from 1 p.m. until 5 p.m. The investigator Initiated Research review will convene on June 19, from 7 p.m. until 9 p.m., on June 20, from 8 a.m. until 5 p.m. and on June 21, from 8 a.m. until 4 p.m. The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care services and with testing new methods of health care delivery and management, and nursing research. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are prepared for the Chief Research and Development Officer.

This meeting will be open to the public at the start of the June 19 session for approximately one half-hour to cover administrative matters and to discuss the general status of program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to frustrate significantly the implementation of proposed agency action regarding such research projects). As provided by the subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552(c)(6) and (9)(B).

Those who are planning to attend the open session or wishing further information should contact Dr. Martha Bryan, Assistant Director, Scientific Review (124F), Health Services Research and Development Service, Department of Veterans Affairs, 1400 Eye Street, NW., Suite 780, Washington, DC at (202) 408–3665.

Dated: May 20, 2002.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–13099 Filed 5–23–02; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the National Research Advisory Council will meet at the Hyatt Dulles, 2300 Dulles Corner Boulevard, Herndon, VA 20171, on June 20, 2002, from 8:30 a.m. until 4 p.m. The meeting is open to the public. The purpose of the Council is to provide external advice and review for VA's research mission.

The meeting will begin with opening remarks and an overview by the Council Chairman. The Council will receive informational briefings on the VA Health Services Research Program, human subjects protection issues in VA and the peer review process.

Any member of the public wishing to attend the meeting or further information should contact Ms. Karen Scott, Department of Veterans Affairs, Office of Research and Development (12C2), 801 I Street, NW., Washington, DC at (202) 565–8381.

Dated: May 20, 2002.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–13098 Filed 5–23–02; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

President's Task Force To Improve Health Care Delivery for Our Nation's Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans is scheduled for Wednesday, June 5, 2002, beginning at 9 a.m. and adjourning at 4 p.m. and Thursday, June 6, 2002, beginning at 8:30 a.m. and adjourning at 11:30 a.m. The June 5 session will be held in the Horizon Ballroom of the Ronald Reagan Building International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The June 6 session will be held in the First Floor Conference Room of the VFW Memorial Building, 200 Maryland Avenue, NE., Washington, DC. Both sessions are open to the general public.

The purpose of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans is to:

(a) Identify ways to improve benefits and services for Department of Veterans Affairs (VA) beneficiaries and Department of Defense (DoD) military retirees who are also eligible for benefits from VA, through better coordination of the activities of the two departments;

(b) Identify opportunities to remove barriers that impede VA and DoD coordination, including budgeting processes, timely billing, cost accounting, information technology, and reimbursement; and

(c) Identify opportunities through partnership between VA and DoD, to maximize the use of resources and infrastructure, including buildings, information technology and data sharing systems, procurement of supplies, equipment and services.

On the morning of June 5, the Vision Work Group and the Leadership Work Group will brief the Committee. During the afternoon session, the Benefits and Services Work Group, Resources and Budgeting Work Group, and Pharmaceuticals Work Group will brief the Committee. On the morning of June 6, the Acquisition and Procurement Work Group, Facilities Work Group, and Information Management/Information Technology Work Group will brief the Committee.

Interested parties can provide written comments to Mr. Dan Amon, Communications Director, President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, 1401 Wilson Boulevard, 4th Floor, Arlington, Virginia 22209.

Dated: May 20, 2002.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Office.

[FR Doc. 02–13096 Filed 5–23–02; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on Thursday, June 6, 2002, from 10 a.m. until 5 p.m., and on Friday, June 7, 2002, from 9 a.m. until 12:30 p.m., in Room 460, Export Import Bank, 811 Vermont Avenue, NW., Washington, DC. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of facilities as prescribed under Section 8105 of Title 38, United States Code.

On June 6, the Committee will review developments in the field of structural design, as they relate to seismic safety of buildings, and fire safety issues. On June 7, the Committee will vote on structural and fire safety issues for inclusion in VA's standards.

Those wishing to attend should contact Kristna K. Banga, Senior Structural Engineer, Facilities Quality Service, Office of Facilities Management, Department of Veterans Affairs, at (202) 565–9370.

Dated: May 17, 2002.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–13097 Filed 5–23–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 67, No. 101
Friday, May 24, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles

Correction

Rule document 01-31797 was inadvertently published in the Proposed Rules section in the issue of Thursday, December 27, 2001, appearing on page 66867. It should have appeared in the Rules and Regulations Section.

[FR Doc. C1–31797 Filed 5–23–02; 8:45 am]
BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 74

[WT Docket No. 02–68; RM–9718; FCC 02–101]

Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS")

Correction

In proposed rule document 02–12429 beginning on page 35083 in the issue of Friday, May 17, 2002, make the following correction:

On page 35083, in the second column, under the heading **DATES:**, "June 17, 2002" should read, "July 16, 2002".

[FR Doc. C2–12429 Filed 5–23–02; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[INS No. 2185-02]

RIN 1115-AG55

Retention and Reporting of Information for F, J, and M Nonimmigrants; Student and Exchange Visitor Information System (SEVIS)

Correction

In proposed rule document 02–12022 beginning on page 34865 in the issue of Thursday, May 16, 2002, make the following correction:

On page 34865, first column, fifth line, "not" should read "now".

[FR Doc. C2–12022 Filed 5–23–02; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8987]

RIN 1545–AY69, 1545–AY70

Required Distributions From Retirement Plans

Correction

In rule document 02–8963 beginning on page 18988 in the issue of Wednesday, April 17, 2002, make the following corrections:

§ 1.401(a)(9)-9 [Corrected]

On page 19016, in the "JOINT AND LAST SURVIVOR TABLE", the table is corrected in part to read as follows.

JOINT AND LAST SURVIVOR TABLE

Ages	20	21	22	23	24	25	26	27	28	29
*	*	*	*	*						
25	67.9	67.3	66.7	66.2	65.6	65.1	64.6	64.2	63.7	63.3
*	*	*	*	*						
63	63.2	62.3	61.3	60.3	59.4	58.4	57.5	56.5	55.6	54.6
*	*	*	*	*						

[FR Doc. C2–8963 Filed 5–23–02; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
May 24, 2002

Part II

Securities and Exchange Commission

17 CFR Part 230 et al.

Mandated EDGAR Filing For Foreign Issuers; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232, 239, 240, 249, and 269

[Release Nos. 33–8099, 34–45922, International Series Release No. 1259; File No. S7–18–01]

RIN 3235–AI08

Mandated EDGAR Filing For Foreign Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting amendments to the rules that govern our Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. These amendments will require foreign private issuers and foreign governments to file electronically through the EDGAR system most of their securities documents, including registration statements under the Securities Act of 1933 and registration statements, reports and other documents under the Securities Exchange Act of 1934. By mandating the electronic filing of foreign issuers' securities documents on EDGAR, we hope to realize the same investor benefits and the same efficiencies in information transmission, dissemination, retrieval and analysis achieved since we mandated EDGAR filing for domestic issuers in 1993. We also are adopting rule amendments to clarify when an electronic or paper filer may submit an English summary instead of an English translation of a foreign language document. We are further eliminating the current requirement that any first-time EDGAR filer, domestic or foreign, submit a paper copy of its electronic filing to the Commission. Finally, we are permitting a national securities exchange to file voluntarily on EDGAR a Form 25, which reports the delisting of a class of a company's securities.

DATES: *Effective Date:* November 4, 2002, except for § 232.101(d), § 232.101(b)(10), and § 232.101(c)(9), which are effective May 24, 2002.

Comments Due: Comments on the "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 should be received by June 24, 2002.

ADDRESSES: Please submit three copies of your comments to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. You also may submit your comments electronically at the following e-mail address: rule-comments@sec.gov. Your comment letter should refer to File No. S7–18–01; include this file number in the subject line if you use electronic mail. We will make comment letters available for public inspection and copying in our Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. We will post electronically submitted comment letters on our Internet web site (http://www.sec.gov).[1]

FOR FURTHER INFORMATION CONTACT: Elliot B. Staffin, Special Counsel, Office of International Corporate Finance, Division of Corporation Finance, by telephone at (202) 942–2990, or in writing at U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are adopting rule amendments that will rescind Rule 601[2] under Regulation S–T[3] and revise the following rules and forms: Rules 403 and 493[4] under the Securities Act of 1933 ("Securities Act"); [5] Rules 100, 101, 303, 306, and 311[6] under Regulation S–T; Rule 12b–12[7] under the Securities Exchange Act of 1934 ("Exchange Act"); [8] and Forms F–1, F–2, F–3, F–4, F–6, F–7, F–8, F–9, F–10, F–80, F–X, and CB under the Securities Act; [9] and Forms 20–F, 40–F, and 6–K,[10] and Schedules 13E–4F, 14D–1F, and 14D–9F[11] under the Exchange Act.

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I. Executive Summary and Background

EDGAR is the electronic data gathering, analysis and retrieval system[12] of the Securities and Exchange Commission ("Commission") that enables registered companies and other persons to file their securities documents with the Commission in electronic format.[13] Filings submitted on EDGAR are available to the public on our web site as well as through many other information providers. Registrants and other persons submitted over 326,600 filings on EDGAR in fiscal 2001 and 305,000 filings in fiscal 2000.

When we launched the operational phase of EDGAR in 1993,[14] we imposed electronic filing requirements only on domestic issuers.[15] We based the initial exclusion of foreign issuers from the mandated EDGAR regime in part on our belief that foreign issuers would incur higher costs from the implementation of EDGAR than those faced by domestic filers.[16] While we encouraged foreign issuers to file their securities documents on EDGAR, we have not generally required these issuers to file electronically until now, although many foreign issuers file their securities documents on EDGAR on a voluntary basis.[17]

A. Our Reasons for Adopting Mandated EDGAR Filing for Foreign Issuers

We expect EDGAR filing requirements for foreign issuers to result in the following benefits:

- More rapid dissemination of, and easier access to, financial and other material information about foreign issuers than under our current paper filing system, which will facilitate the following of foreign filers' securities by investors, analysts and others while enhancing market exposure for these securities;
- Increased efficiencies in the filing process, which will significantly reduce the filing time required under traditional methods of paper delivery, while offering foreign filers a secure and reliable method of delivery; and
- More efficient storage, retrieval, and analysis of financial and other material information about foreign filers than under the current paper and microfiche regime, which will not only facilitate staff review of a particular foreign issuer's registration statement or report but also enhance the Commission's ability to study and address issues that confront foreign issuers.

In the initial operational phase of EDGAR, with the Internet relatively undeveloped compared to today, electronic filers could only transmit their documents directly to the Commission over long distance telephone lines and not over the Internet.[18] As a result, foreign filers that attempted to transmit directly their electronic documents to the Commission faced higher long distance transmission costs than those borne by domestic companies. Depending on their location, foreign filers also faced potential shortages of long distance lines and proper telecommunications equipment, such as compatible modems. Foreign filers also faced the widespread local unavailability of necessary computer hardware and software and trained personnel capable of transforming their documents into EDGAR compatible files.

Since that time, many advances in information and telecommunications technology have occurred that have dramatically increased Internet use by businesses, consumers, investors, and government agencies. These advances have transformed the Internet into one of the principal means for the rapid dissemination and retrieval of information. Because of these advances, most foreign private issuers that are Exchange Act reporting companies already have electronically formatted their financial statements and other material information either for presentation on their web sites or to comply with the requirements of their home country securities commissions.[19] These advances in information technology also have increased the number of foreign private issuers that have chosen to file voluntarily their securities documents with the Commission on EDGAR.[20]

In addition, today a foreign issuer that seeks to file electronically with the Commission is likely to be able to transmit its electronically formatted documents to us over the Internet through the use of an Internet service provider, thereby saving in long distance telecommunications transmission costs. Moreover, a foreign issuer wanting filing assistance is now more likely to be able to use a local filing agent, thanks to the global expansion of financial printers and consulting firms that are knowledgeable about the Commission's EDGAR requirements.

Furthermore, many foreign filers should today experience reduced EDGAR start-up costs because they have already achieved a level of technological proficiency. These initial costs include the costs associated with hiring an information technology team or training existing employees to be technologically proficient, hiring a filing agent, hiring an Internet service provider, and preparing the documents for electronic formatting. Many foreign companies have already assembled an information technology team to present their financial and business information on their web sites. Many of these employees or agents are likely to be familiar with HTML, which is a dominant language of the Internet. Because EDGAR now accepts documents formatted in a version of HTML as well as in ASCII, this familiarity with HTML should reduce the time it takes for the information technology teams of many foreign issuers to learn the EDGAR system.[21]

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[1] We do not edit personal, identifying information, such as names or electronic mail addresses, from electric submissions. Submit only information that you wish to make publicly available.

[2] 17 CFR 232.601.

[3] 17 CFR 232.10 *et seq.*

[4] 17 CFR 230.403 and 230.493.

[5] 15 U.S.C. 77a *et seq.*

[6] 17 CFR 232.100, 232.101, 232.303, 232.306 and 232.311.

[7] 17 CFR 240.12b–12.

[8] 15 U.S.C. 78a *et seq.*

[9] 17 CFR 239.31, 239.32, 239.33, 239.34, 239.36, 239.37, 239.38, 239.39, 239.40, 239.41, 239.42, and 239.800. Forms F–X and CB are also authorized as Exchange Act forms under 17 CFR 249.250 and 249.480. Form F–X is further authorized under the Trust Indenture Act of 1939 ("Trust Indenture Act") [15 U.S.C. 77aaa *et seq.*] under Trust Indenture Act Rule 269.5 [17 CFR 269.5].

[10] 17 CFR 249.220f, 249.240f, and 249.306.

[11] 17 CFR 240.13e–102, 240.14d–102, and 240.14d–103.

[12] We encourage foreign issuers and others who are unfamiliar with our EDGAR system to review the document entitled *Electronic Filing and the EDGAR System: A Regulatory Overview* ("*EDGAR Overview*"), which is available on our web site located at www.sec.gov/info/edgar/shtml. The EDGAR Filer Manual, v. 8.2, which contains recently updated instructions for electronic filing, is also available on this web site.

[13] Filers can currently submit documents in electronic format by direct transmission, either by using a dial-up modem or Internet service provider, or on magnetic cartridge. EDGAR filers may submit documents formatted either in American Standard Code for Information Interchange ("ASCII") or a version of HyperText Markup Language ("HTML"). Filers also may choose to provide an unofficial copy of a filing in Portable Document Format ("PDF").

[14] We initially launched EDGAR as a pilot program in 1984, which enabled companies to participate voluntarily in the EDGAR system until 1993. Release No. 33–6977 (February 23, 1993) [58 FR 14628].

[15] Following adoption of the operational EDGAR rules in 1993, we phased in the electronic filing requirements for domestic issuers in discrete groups. The last group of domestic issuers became mandated EDGAR filers in May 1996. Release No. 33–7369 (December 6, 1996) [61 FR 65440].

[16] Currently, we require a foreign issuer or person to file a document on EDGAR only if it jointly files a registration statement or some other document with a domestic issuer or if it files a document, such as a Schedule 13D or tender offer schedule, that pertains to a registered domestic issuer. See Rules 101(c) [17 CFR 232.101(c)] and 601(a) of Regulation S–T [17 CFR 232.601(a)].

[17] Regulation S–T currently provides for the voluntary participation of foreign issuers in the EDGAR system under Rules 100(a) [17 CFR 232.100(a)] and 601(a) and (b) [17 CFR 232.601(a) and (b)]. However, until recently, some foreign issuer filings could not be made on EDGAR due to the lack of corresponding electronic form types. As of April 8, 2002, programming for these form types has been completed so that foreign issuers may now voluntarily file these forms electronically.

[18] Following amendments in 2000, EDGAR filers have been able to use direct transmission by either dial-up modem or the Internet as well as magnetic cartridges as means of transforming filings electronically to the Commission. Release No. 33–7855 (April 24, 2000) [65 FR 27488]

[19] Approximately 81% of the foreign private issuers that were Exchange Act reporting companies as of December 31, 2000, and nearly 78% of the foreign private issuers that became Exchange Act reporting companies in calendar year 2001, had electronically formatted their financial statements and other material information for posting on their web sites or for their sovereign securities commission or other authorities. See Part IV of this release for further discussion.

[20] Approximately 18% and 20% of the foreign private issuers that were Exchange Act reporting companies at the end of, respectively, calendar years 2000 and 2001 elected to file their securities documents on EDGAR. See Part IV below for further discussion. See also *Foreign Companies Registered and Reporting With the U.S. Securities and Exchange Commission December 31, 2001*, published by the Office of International Corporate Finance, Division of Corporation Finance ("*Reporting Foreign Issuers List*") which is available on our web site at www.sec.gov/divisions/corpfin/internatl/companies.shtml. The comparable list of Exchange Act reporting foreign private issuers as of December 31, 2000 is also available on our web site.

[21] As part of an ongoing modernization of the EDGAR system, in addition to enabling issuers to transmit their electronic filings directly via the Internet, we have sought to expand the range of electronic languages recognized by the EDGAR system. Since June 28, 1999, electronic filers have been able to submit their securities documents in either HTML or ASCII. See Release No. 33–7684 (May 17, 1999) [64 FR 27888]. Since May 30, 2000, EDGAR filers have been able to submit HTML documents that include graphic and image files and

Continued

Investors have also come to expect electronic access to financial and business information about public companies, regardless of their country of origin, and to financial information about foreign governments.[22] Because of these developments, we believe that the time is right to adopt rules mandating EDGAR filing for foreign issuers.

B. Comments Received

On September 28, 2001, we proposed rule amendments that would require foreign private issuers[23] and foreign governments[24] to file their securities documents with the Commission on EDGAR.[25] We received 32 comment letters in response to our proposed rule amendments mandating EDGAR filing for foreign issuers.[26] Many commenters expressed general approval of the proposal. Several of these commenters agreed that foreign issuers, investors, and members of the financial community would reap the same benefits from these rules as those achieved by mandated filing for domestic issuers. The benefits cited were the more rapid dissemination of information about, facilitation of research and data analysis concerning, and increased market exposure for the securities of foreign issuers.

However, a number of commenters also expressed concern about one or more aspects of the proposed amendments. The issues that generated the most discussion were:

- The proposed elimination of the option to provide an English summary or version in lieu of a full English translation of a foreign language document required as an exhibit or other attachment to a filing;
- The requirement that an officer or official of an issuer, whether foreign or domestic, certify in writing that an English translation is a fair and accurate one;
- The proposed mandated EDGAR filing of Form 6–K reports except for Form 6–K reports submitted to furnish a foreign issuer's annual report to security holders;
- The proposed four month transition period; and
- Whether the Commission should expand its EDGAR filing hours beyond the current 8:00 A.M. to 10:00 P.M. ET period.[27]

C. Summary of the Amendments

Most of the rule amendments are adopted as proposed. For example, most of the same Securities Act and Exchange Act forms that were the subject of mandated EDGAR filing under the proposed rules will be the subject of mandated EDGAR filing under the adopted rules as well. However, we have responded to a number of comments and made significant changes to the proposed requirements.

The adopted amendments will require the electronic filing of:

- Foreign private issuers' Securities Act registration statements and Exchange Act registration statements and reports, including Form 6–K except as discussed below; [28]
- Foreign governments' Securities Act registration statements and Exchange Act registration statements and reports;
- Multijurisdictional Disclosure System ("MJDS") forms and schedules filed by Canadian issuers;
- Statements of beneficial ownership on Schedules 13D and 13G and tender offer schedules that pertain to the securities of a foreign issuer, whether filed by a foreign or domestic person;
- Form CB, the form used for cross-border rights offers, exchange offers and business combinations that are exempt from the tender offer rules or Securities Act registration, if the filer is an Exchange Act reporting company; [29] and
- Most Trust Indenture Act forms.

The adopted amendments will permit either the electronic or paper filing of:

- A Form 6–K report if the sole purpose of the Form 6–K is to submit the foreign private issuer's attached annual report to security holders, or an attached "statutory" report under specified circumstances, as discussed below; [30]
- Form CB if the filer is not an Exchange Act reporting company; [31] and
- Reports that specified supranational entities, such as the World Bank, must file with the Commission.[32]

The adopted amendments will also: [33]

- Continue to require documents submitted under Exchange Act Rule 12g3–2(b) to be in paper only; and
- Eliminate the requirement that a domestic or foreign filer must submit a paper copy of its first electronic filing.[34]

We adopted the following principal changes to the proposed rules at the request of commenters:

- We have amended both the electronic and paper filing rules to permit the use of an English summary for specified categories of foreign language documents included in Division of Corporation Finance filings and submissions instead of requiring an English translation for all foreign language documents.[35]
- We have adopted a rule that provides guidance regarding what constitutes an acceptable English summary.[36]
- We have eliminated the proposed written certification requirement regarding the fairness and accuracy of an English translation for both foreign and domestic filers.[37]

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expanded use of hyperlinks. See Release No. 33–7855 (April 24, 2000) [65 FR 24788].

[22] See Release No. 33–8016, 34–44868 (September 28, 2001) [66 FR 50744] ("Proposing Release"), Part I.B, the text surrounding n. 34, for further discussion of information about foreign governments that is currently available on the Internet.

[23] "Foreign private issuer" is defined in Securities Act Rule 405 [17 CFR 230.405] and Exchange Act Rule 3b–4 [17 CFR 240.3b–4].

[24] "Foreign government" refers to any issuer that is eligible to register securities under Schedule B of the Securities Act, including political subdivisions and some quasi-governmental entities.

[25] See Proposing Release.

[26] Because three of the letters each represented multiple entities, the 32 comment letters represented a total of 57 distinct entities, including 24 corporations, 12 financial printers and filing agents, 10 law firms and one individual attorney, four accounting and consulting firms, three banks, and three professional associations. These comment letters and a summary of comments ("Comment Summary") prepared by our staff are available for public inspection in our Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549, in File No. S7–18–01. Public comments submitted electronically are also available on our web site located at http://www.sec.gov/rules/proposed/s71801/shtml. The Comment Summary is also available on our web site.

[27] We solicited comment on the adequacy of the current EDGAR filing hours without making a specific proposal about them. See the Proposing Release at Part II.C.

[28] New Regulation S–T Rule 100(a) and (c) [17 CFR 232.100(a) and (c)].

[29] New Regulation S–T Rule 101(a)(vi) [17 CFR 232.101(a)(vi)].

[30] New Regulation S–T Rules 101(b)(1) and 101(b)(7) [17 CFR 232.101(b)(1) and 101(b)(7)]. See also Part II.B.2, below.

[31] New Regulation S–T Rule 101(b)(8) [17 CFR 232.101(b)(8)].

[32] New Regulation S–T Rule 101(b)(6) [17 CFR 232.101(b)(6)].

[33] To lessen paperwork burdens for national securities exchanges, the amendments will also permit national securities exchanges to file Form 25 ("Notification of the Removal From Listing and Registration of Matured, Redeemed or Retired Securities") [17 CFR 249.25] via the EDGAR system on a voluntary basis. See new Regulation S–T Rule 101(b)(10) [17 CFR 232.101(b)(10)] and new Regulation S–T Rule 101(c)(9)]. Currently, Regulation S–T requires the filing of Form 25 with the Commission in paper format only. See the current version of Regulation S–T Rule 101(c)(9).

[34] Regulation S–T Rule 101(d) [17 CFR 232.101(d)] currently codifies this paper filing requirement for first-time EDGAR filers. The adopted amendments will remove this provision in its entirety.

[35] New Regulation S–T Rule 306(a) [17 CFR 232.306(a)], new Securities Act Rule 403(c)(3) [17 CFR 230.403(c)(3)], and new Exchange Act Rule 12b–12(d)(3)]. We have also amended Form 6–K to specify further which foreign language documents require the submission of an English translation and which may be the subject of an English summary. New paragraph D of the General Instructions to Form 6–K.

[36] New Regulation S–T Rule 306(a), new Securities Act Rule 403(c)(3)(ii) [17 CFR 230.403(c)(3)(ii)], and new Exchange Act Rule 12b–12(d)(3)(ii) [17 CFR 240.12b–12(d)(3)(ii)].

[37] Regulation S–T Rule 306(a) currently provides for this written certification requirement.

- We are permitting the submission of the unabridged foreign language document in paper to accompany an English summary or translation or when permitted by the applicable form;
- We are permitting either the electronic or paper submission of a "statutory" report, as discussed below, or other document by a foreign private issuer under cover of Form 6–K as long as the report or other document is not a press release, is not required to be and has not been distributed to the foreign private issuer's security holders, and, if discussing a material event, including the disclosure of annual audited or interim consolidated financial results, has already been the subject of a Form 6–K submission or other Commission filing on EDGAR.[38]
- We have amended Form 6–K to clarify that a foreign private issuer is not required to submit under cover of Form 6–K an offering circular or prospectus that pertains solely to a foreign offering, even when an English translation or English summary is available, if the issuer has already submitted on EDGAR a Form 6–K, Form 20–F, or other Commission filing that reported material information disclosed in the offering circular or prospectus.[39]
- We are permitting an MJDS filer to include in an electronic filing that is an HTML document both French and English text in an exhibit to or part of a registration statement, annual report, or tender offer schedule if the filer included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority.[40]

In addition, in response to commenters who urged a transition period longer than the proposed four months, we are providing a transition period of almost six months. The rules will take effect on Monday, November 4, 2002.

II. Discussion

A. Amendments to Regulation S–T Sections 100 and 601

We are adopting as proposed the amendments to Regulation S–T that will generally require foreign private issuers and foreign governments to file their Securities Act and Exchange Act documents with us on EDGAR.[41] Currently Regulation S–T Rules 100 and 601 are the provisions that exclude foreign private issuers and foreign governments from the Commission's electronic filing requirements. The amendments will eliminate the foreign issuer exception primarily by revising Rules 100(a) and (c) and removing Rule 601 in its entirety. The amendments will:

- Revise Rule 100(a) by removing the phrase "except for foreign private issuers and foreign governments" to state that Regulation S–T applies to all registrants whose filings are subject to review by the Division of Corporation Finance; [42]
- Eliminate the phrase "foreign private issuers and foreign governments" in Rule 100(c) to clarify that mandated electronic filing applies to any party that files a document jointly with, or as a third party filer with respect to, a registrant that is subject to mandated electronic filing; [43] and
- Eliminate as unnecessary Rule 601 in its entirety since the adopted amendments will generally extend electronic filing requirements to foreign private issuers and foreign governments, and since we have programmed the EDGAR system to provide an electronic form type for any foreign form that currently lacks one.[44]

Upon the effectiveness of these amendments, mandated EDGAR filing will apply to a foreign issuer's documents filed or submitted under the Securities Act and Exchange Act unless otherwise provided by Regulation S–T. Moreover, because these amendments will generally subject foreign private issuers and foreign governments to Regulation S–T's electronic filing requirements, both domestic and foreign entities will have to file on EDGAR any joint or third party filing that relates to a foreign issuer.[45]

B. Foreign Issuer Forms and Documents Under the Amendments

1. Securities Act Registration Statements and Exchange Act Registration Statements and Annual Reports of Foreign Private Issuers

As proposed, the adopted amendments will require foreign private issuers [46] to file electronically their Securities Act registration statements on Forms F–1, F–2, F–3, and F–4,[47] and their Exchange Act registration statements and annual reports on Form 20–F. The amendments also will mandate the filing on EDGAR, as proposed, of Form F–6,[48] the Securities Act registration statement pertaining to depositary shares evidenced by American Depositary Receipts ("ADRs").

Two commenters opposed extending EDGAR filing requirements to Form F–6 registration statements. Both stated that the Form F–6 registration statement contains little issuer information and principally consists of the attached depositary agreement, which tends to be fairly standard from one registration statement to the next. Consequently, according to these commenters, mandated EDGAR filing would increase the preparation costs of depositaries and foreign private issuers while yielding little benefit to investors.

We disagree with this conclusion. While the Form F–6 registration statement may principally consist of the depositary agreement, this document is the governing instrument that sets forth the rights of ADR holders concerning

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[38] New Regulation S–T Rule 101(b)(7).

[39] New paragraph D of the General Instructions to Form 6–K.

[40] New Regulation S–T Rule 306(a), new Securities Act Rule 403(c)(5) [17 CFR 230.403(c)(5)]. and new Exchange Act Rule 12b–12(d)(6) [17 CFR 240.12b–12(d)(6)].

[41] Regulation S–T also requires the electronic filing of any related correspondence and supplemental information pertaining to a document that is the subject of mandated EDGAR. Regulation S–T Rule 101(a)(1) [17 CFR 232.101(a)(1)]. These materials are not disseminated publicly but are available to the Commission staff.

[42] Rule 100(a) currently provides that the electronic filing requirements of Regulation S–T apply to "[r]egistrants whose filings are subject to review by the Division of Corporation Finance except for foreign private issuers and foreign governments."

[43] 17 CFR 232.100(c). Rule 100(c) currently provides that the electronic filing requirements of Regulation S–T apply to "[a]ny party (including natural persons, foreign private issuers and foreign governments) that files a document jointly with, or as a third party filer with respect to a registrant that is subject to mandated electronic filing requirements." For example, a foreign issuer named as a guarantor and co-registrant on a registration statement that pertains to a domestic issuer must currently file the registration statement and related documents on EDGAR.

[44] Rule 601(a) currently excepts foreign private issuers and foreign governments from the mandated EDGAR filing rules unless the foreign issuer is filing a document jointly with, or with respect to, a party that is the subject of mandated electronic filing. Rule 601(b) [17 CFR 232.601(b)] provides that a foreign private issuer or foreign government may choose to file electronically any document not required to be filed under Regulation S–T as long as the EDGAR Filer Manual contains an appropriate electronic form type. Rule 601(c) [17 CFR 232.601(c)] provides that if a foreign private issuer engages in an exchange offer, merger or other business combination with a domestic registrant, and the foreign private issuer files a Securities Act registration statement regarding this transaction, the foreign private issuer may file this registration statement in paper as long as the domestic registrant will not be subject to Exchange Act reporting requirements following the transaction.

[45] See Part II.B.5 below.

[46] See Part II.B.4 below for a discussion of MJDS forms.

[47] Foreign persons may also register securities on Form S–8 [17 CFR 239.16b] and S–11 [17 CFR 239.18] as well as on other registration statement forms normally used by U.S. issuers. Mandated EDGAR filing applies to these registration statements when filed by foreign issuers.

[48] Because Regulation S–T Rule 101(c)(15) [17 CFR 232.101(c)(15)] currently lists Form F–6 as a form to be filed in paper only, the adopted amendments will remove this provision and renumber the remaining provisions in Rule 101(c) accordingly.

voting, receipt of dividends and other distributions, and deposit and withdrawal of shares, and other material information such as the ratio of ordinary shares to ADRs and the amount of depositary fees. Mandated EDGAR filing of the Form F–6 registration statement will ensure the expeditious dissemination of this material information to investors and other interested parties.

We are revising the General Instructions to the Securities Act forms and Form 20–F to reference Regulation S–T and provide Commission telephone numbers that a foreign private issuer may call to obtain EDGAR access codes or to obtain assistance with EDGAR technical concerns or EDGAR rules.[49]

The Division of Corporation Finance ("Division") currently permits first-time foreign registrants, upon request, to submit paper drafts of their initial Securities Act or Exchange Act registration statements for staff review on a non-public basis.[50] Although we did not discuss this policy in the Proposing Release, we received four comment letters that addressed the issue. All four urged the Division to continue its policy following the new rules' effective date.

In response to the above comments, the mandated electronic filing rules for foreign issuers will not affect the Division's confidential submission policy. Confidential submissions under the policy must be in paper format. When a foreign issuer later publicly files its registration statement under the Securities Act or the Exchange Act, the public filing must be in electronic format. At that time, the Division also will require a foreign issuer to file in electronic format as correspondence all letters in response to staff comments on the draft materials and other related correspondence.[51] The electronic filing of this correspondence with Division staff will facilitate further staff analysis and review of the foreign issuer's registration statements and reports filed with the Commission.

2. Form 6–K Reports

The adopted rule amendments will require the electronic submission of most reports on Form 6–K,[52] the Exchange Act form used by foreign issuers to submit periodic and current reports with the Commission.[53] As proposed, a foreign issuer will be able to submit in paper a Form 6–K with its annual report to security holders attached as an exhibit if the sole purpose of the Form 6–K was to deposit a copy of this report with the Commission.[54] We are also adopting another exception to mandated EDGAR filing of Form 6–K in response to comments received on this issue.

We have amended Form 6–K to permit a foreign issuer to submit a home country report or other document in paper under cover of a Form 6–K as long as the report or other document:

- Is not a press release;
- Is not required to be and has not been distributed to the foreign issuer's security holders; and
- If discussing a material event, including disclosure of annual audited or interim consolidated financial results, has already been the subject of a Form 6–K submission or other Commission filing on EDGAR.[55]

We added this exception in response to comments noting that a foreign issuer must submit a Form 6–K to report material information that the foreign issuer:

- Makes public or is required to make public under the laws of its home country;
- Files or is required to file with its home country stock exchange and which is made public by that exchange; or
- Distributes or is required to distribute to its security holders.[56]

According to these commenters, because of their home country regulations and customs, during any given year, most foreign issuers submit numerous Form 6–K reports, only some of which are the equivalent of the domestic company Form 10–Q reports that disclose interim financial information. Because foreign issuers must submit these home country "statutory" reports and other documents on Form 6–K promptly after they are made public in the home country,[57] these commenters believe that there is not enough preparation or "lead" time to translate these documents into English or prepare them for EDGAR submission. We believe that the additional exception described above will substantially address this concern and assist in reducing a foreign issuer's EDGAR costs while ensuring the rapid dissemination of all material information about a foreign issuer in U.S. capital markets.

We are also amending Form 6–K to provide a box for each of the permitted paper filing rules that a foreign issuer must check in order to facilitate the processing of the paper Form 6–K. The amended Form 6–K further references the requirements of Regulation S–T and provides telephone numbers that a foreign issuer may call for assistance concerning EDGAR.[58]

3. Securities Act Registration Statements and Exchange Act Registration Statements and Reports of Foreign Governments

The amendments will require foreign governments to file on EDGAR their Securities Act registration statements on Schedule B.[59] Foreign governments will further have to file electronically their Exchange Act registration statements on Form 18, their annual reports on Form 18–K, and any amendments to these Forms.[60]

Two commenters opposed extending mandated EDGAR filing to foreign governments primarily on the grounds that, because of language barriers, time zone differences, and cumbersome internal approval procedures, foreign governments face logistical and other difficulties in meeting their disclosure and reporting obligations under the U.S. federal securities laws. One of the commenters also noted that foreign governments have no experience in filing on EDGAR since they have not been able to do so even voluntarily. Accordingly, these two commenters urged the Commission to permit but not require foreign governments to file their securities documents on EDGAR.

After considering these comments, we have determined to adopt mandated EDGAR filing for foreign governments as proposed. We do not believe that the cited difficulties faced by foreign governments are significantly different than those that foreign private issuers may face when preparing their Securities Act and Exchange Act documents for filing with the Commission. Moreover, the same technological advances discussed above should serve to reduce the costs of EDGAR as much for foreign governments as for foreign private issuers. In addition, other accommodations for foreign issuers adopted or discussed in this release should further serve to diminish any difficulties confronted by foreign governments.

We are also adopting, as proposed, a requirement that a foreign government provide the following "electronic filing" information in its Schedule B registration statement:[61]

- The foreign filer must state that the SEC maintains an Internet site that contains reports, statements and other information regarding issuers that file electronically with the SEC; and
- The foreign filer must disclose the address for the SEC Internet site at (http://www.sec.gov).[62]

The instruction will also encourage the foreign filer to provide its own Internet address, if available.[63]

4. Multijurisdictional Disclosure System ("MJDS") Forms

The adopted amendments will apply to MJDS filers as proposed. Under the new rule amendments, Canadian issuers that choose to use the MJDS must file electronically:

- Their Securities Act registration statements on Forms F–7, F–8, F–9, F–10, and F–80;
- Their Exchange Act registration statements and annual reports on Form 40–F; and
- Schedules 13E–4F, 14D–1F and 14D–9F, the tender offer forms under the MJDS.[64]

5. Schedules 13D and 13G and Tender Offer Schedules

Adopted as proposed, the amendments will mandate the filing on EDGAR of third party forms, whether filed by a domestic or foreign company, that pertain to a foreign private issuer, since a third party filer will no longer be able to claim an EDGAR exemption based on the underlying EDGAR exemption for foreign private issuers. Thus, domestic or foreign persons will have to file on EDGAR their Schedules 13D or 13G that pertain to the securities of foreign private issuers. Similarly, domestic and foreign bidders will have to file on EDGAR their Schedules TO[65] with respect to tender offers for securities of foreign private issuers. Foreign private issuers that are subject to tender offers, whether by domestic or foreign companies, will have to file their Schedules 14D–9[66] on EDGAR.

6. Form CB

Form CB is an exemptive form that both foreign and domestic persons must file when engaging in specified rights offerings, exchange offers or business combinations with respect to a foreign private issuer.[67] We proposed to require the EDGAR submission of Form CB[68] in two instances:

- If the party filing or submitting the Form CB is an Exchange Act reporting company; or
- If the foreign company that is the subject of the Form CB transaction is an Exchange Act reporting company.[69]

Most commenters that addressed this proposal urged that we generally permit rather than require the EDGAR filing of Form CB in order to encourage the use of the Form CB and the consequent participation of U.S. security holders in a cross-border transaction. After considering these comments, we have determined to require EDGAR filing for Form CB only when the party filing or submitting the Form CB is an Exchange Act reporting company. In most instances the party filing or submitting the Form CB will be the issuer, acquiror or bidder in the Form CB transaction. In some instances, however, the subject company of an exchange offer, business combination, or tender offer may elect to file or submit the Form CB in conjunction with or on behalf of the acquiror or bidder. In any of these instances, because the filer will already be familiar with EDGAR filing requirements, mandating the filing or submission of the Form CB on EDGAR should not pose an undue burden.

The amendments, as adopted, will also provide that a party that is not an Exchange Act reporting company may at its option file or submit the Form CB on

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[49] See the new General Instruction II.C to Forms F–1 and F–2, new General Instruction II.D to Form F–3, new General Instruction II.4 to Form F–4, new General Instruction III.C to Form F–6, and new General Instruction D to Form 20–F. We have also slightly modified the General Instructions to Forms F–6 and 20–F to clarify that the pre-existing paragraphs that outline requirements concerning number of copies, paper, printing, or pagination, pertain solely to paper filings under hardship exemptions or as otherwise permitted. See also Regulation S–T Rule 309(a) [17 CFR 232.309(a)]. We have referenced the signature requirements for both electronic and paper filings in General Instruction D to Form 20–F. We also have revised each of the above forms to include a new instruction regarding the treatment of foreign language documents. See Part II.C.7, below.

[50] See the Division of Corporation Finance's ("Division's") *Current Issues and Rulemaking Projects Quarterly Update*, Section V (March 31, 2001), which is located at www. sec.gov/divisions/corpfin/cfcrrq032001.htm. See also the Division's *International Financial Reporting and Disclosure Issues*, Section III(B) (May 1, 2001), which is available at www.sec.gov./divisions/corpfin/internatl/issues0501.htm.

[51] Domestic issuers submit responses to comment letters electronically on an ongoing basis. Materials electronically furnished as correspondence become part of a non-public database to which only the Commission's staff has access unless the materials become subject to a successful request under the Freedom of Information Act. See 17 CFR 200.80.

[52] We have added a note to Regulation S–T Rule 101(a)(1)(iii) [17 CFR 101(a)(1)(iii)], which generally mandates EDGAR filing for Exchange Act documents, to clarify that foreign private issuers must file or submit their Form 6–K reports in electronic format, except as otherwise permitted by new Regulation S–T Rules 101(b)(1) and 101(b)(7).

[53] In addition to an annual report, Exchange Act reporting foreign companies must submit to the SEC on an ongoing basis, under cover of a Form 6–K, press releases, shareholder reports and other materials that contain information that is material to an investment decision. See Form 6–K, General Instruction B. Foreign companies publish these materials in their home countries in accordance with home market law or custom. By requiring foreign companies to file most Form 6–Ks on EDGAR, we will improve public access to these home market materials as well as all SEC-mandated reports, prospectuses and other documents.

[54] See new Regulation S–T Rule 101(b)(1).

[55] See new Regulation S–T Rule 101(b)(7) and the revised General Instruction C to Form 6–K.

[56] See General Instruction B to Form 6–K.

[57] See the third paragraph of the current Form 6–K General Instruction B.

[58] As discussed in Part II.C.2 below, we are further amending Form 6–K to explain the newly amended rules concerning the treatment of foreign language documents. We also are amending Form 6–K to provide that an issuer that is or will be incorporating by reference all or part of an annual or other report to security holders, or of a paper Form 6–K, into an electronic filing must file the incorporated portion in electronic format as an exhibit to the filing in accordance with new Regulation S–T Rule 303(b) [17 CFR 232.303(b)]. See Part II.B.10, below.

[59] 15 U.S.C. 77a *et seq.*, Schedule B.

[60] 17 CFR 249.218 and 249.318.

[61] The required electronic filing instruction serves to inform an investor about the location of a foreign issuer's electronic filings with the Commission and possibly of a foreign issuer's web address as well. This information is particularly useful when a filer incorporates documents by reference into a registration statement. Because there is no form for a Schedule B registration statement, Division staff has outlined procedures for a Schedule B filer that seeks to incorporate by reference. A Schedule B filer that seeks to incorporate by reference must follow the staff's procedures outlined in a no-action letter that relates specifically to that filer. See, for example, the following no-action letters: *Province of Nova Scotia* (November 1, 1999); *Republic of Turkey* (October 19, 1999); and *Republic of South Africa* (October 4, 1999).

[62] New Securities Act Rule 493(b) and (c) [17 CFR 230.493(b) and (c)]. As discussed in greater detail in the Proposing Release, Part II.E. the adopted electronic filing instruction is substantially similar to that on Forms F–2, F–3, and F–4, each of which permits a filer to incorporate by reference other securities documents or exhibits into the registration statement. Regulation S–K Rule 101(e) [17 CFR 229.101(e)] further requires a registrant to provide this electronic filing information in any Securities Act registration statement. Since Regulation S–K [17 CFR 229.10–229.1016] generally does not apply to foreign issuers, and since there is no form that corresponds to the Schedule B registration statement, we have revised Rule 493 to provide for this electronic filing instruction. The adopted rule will also reference Regulation S–T's electronic filing requirements.

[63] New Securities Act Rule 493(c). See the Commission's interpretive release entitled "Use of Electronic Media," Release No. 33–7856 (April 28, 2000) [65 FR 25843] for guidance on matters arising from the use of hyperlinks in connection with securities documents posted on an issuer's web site.

[64] We have amended the MJDS forms to reference Regulation S–T and to add conforming instructions similar to those added to the other Securities Act registration statements and Exchange Act Form 20–F. See also Parts II.C.6 and 7 below for revisions to the MJDS forms concerning the treatment of foreign language documents.

[65] 17 CFR 240.14d–100.

[66] 17 CFR 240.14d–101.

[67] See Securities Act Rules 801(a)(4) and 802(a)(3) [17 CFR 230.801(a)(4) and 230.802(a)(3)] and Exchange Act Rules 13e–4(h)(8)(iii), 14d–1(c)(3)(iii), and 14e–2(d) [17 CFR 240.13e–4(h)(8)(iii), 240.14d–1(c)(3)(iii), and 240.14e–2(d)].

[68] Similar to our treatment of Form 6–K reports (see Form 6–K General Instruction B), our rules currently treat information and documents furnished under Form CB as not "filed" with the Commission or otherwise subject to the liabilities of Exchange Act Section 18 [15 U.S.C. 78r]. See Form CB General Instructions I.B. The proposed amendments would not alter this treatment.

[69] See Proposing Release, Part II.B.4, discussing proposed Regulation S–T Rule 101(a)(1)(vi).

EDGAR.[70] A company that electronically files a Form CB, whether as a voluntary or mandated electronic filer, must file on EDGAR the home jurisdiction documents that are attached to the Form CB as well.

We are amending the cover page of Form CB to require a filer to indicate whether it is filing the Form CB in paper as permitted by the newly adopted rule. This will facilitate the proper processing of Form CB.[71]

7. Forms F–X and F–N

The amendments also will require that foreign private issuers file electronically, as proposed, two auxiliary forms, Forms F–X and F–N. Form F–X is the form for designating a U.S. agent for service of process that is required for an MJDS filer and specified other foreign filers.[72] Form F–N is the form for designating a U.S. agent for service of process by foreign banks and foreign insurance companies when they file registration statements under the Securities Act.[73]

There are two exceptions to the electronic filing requirement adopted for Form F–X. The first pertains to foreign issuers that must file Form F–X because they are Form CB filers. Since the amendments only require the filing or submission of Form CB on EDGAR when the filer is an Exchange Act reporting company, we have adopted the same requirement for the Form F–X that a foreign company must file along with a Form CB.[74] The amendments permit, but do not require, the filing or submission of Form F–X on EDGAR by a party that is not an Exchange Act company.[75]

The second Form F–X exception pertains to the requirement that a Canadian issuer submit a Form F–X when qualifying an offering statement pursuant to the provisions of Regulation A.[76] Because Regulation S–T currently requires the submission of Regulation A filings in paper only, the adopted amendments will permit a Canadian Regulation A filer to submit the required Form F–X in paper.[77]

As with Form CB, we are amending Form F–X to require the filer to indicate whether it is filing the Form F–X in paper as permitted by the new rule amendments. This will facilitate the proper processing of the Form F–X.

8. Trust Indenture Act Forms

The amendments, adopted as proposed, will require the filing on EDGAR of the following statements and applications regarding trustee eligibility and indenture qualification[78] under the Trust Indenture Act:[79]

- Forms T–1 and T–2[80] statements of trustee eligibility if submitted in connection with an indenture for which a foreign issuer is the obligor;
- Form T–3[81] to qualify an indenture covering a foreign issuer's securities sold in offerings that are exempt from registration under the Securities Act;[82] and
- Form T–6[83] used by foreign corporations and other foreign business entities to obtain authorization to act as a sole trustee under an indenture qualified or to be qualified under the Trust Indenture Act.

9. Reports of Supranational Entities

We proposed to permit, but not require, the submission on EDGAR of the reports that designated supranational entities are required to file with the Commission. Currently Regulation S–T permits only one of the supranational entities, the International Bank for Reconstruction and Development ("World Bank"), to file on EDGAR its annual and periodic reports and its reports concerning proposed distributions of its primary obligations.[84] As proposed, we are extending permissive electronic filing to the following five additional supranational entities that are also required to file reports with the Commission:[85]

- The Inter-American Development Bank;[86]
- The Asian Development Bank;[87]
- The African Development Bank;[88]
- The International Finance Corporation;[89] and
- The European Bank for Reconstruction and Development.[90]

10. Exhibits Incorporated by Reference

As proposed, the adopted amendments will afford to foreign filers the same treatment given to domestic filers regarding exhibits under Rule 102 of Regulation S–T.[91] We currently do not require a domestic filer to file electronically an exhibit previously filed in paper that is being incorporated by reference into the electronically filed document. As under the current rules, a foreign filer may voluntarily refile the exhibit on EDGAR.[92] Upon amending its articles of incorporation or bylaws, a foreign filer will have to restate these documents in electronic format.[93]

We are also adopting the amendment to Regulation S–T Rule 303(b),[94] which provides that if a foreign private issuer incorporates by reference into an electronic filing any portion of an annual or other report to security holders, or of a paper Form 6–K, it must file the incorporated portion in electronic format as an exhibit to the filing. Again, this comports with the treatment afforded to domestic companies.[95] A foreign private issuer should consider this provision when determining whether to submit a Form 6–K report in paper.

11. Hardship Exemptions

The adopted amendments do not alter the provisions governing the availability of hardship exemptions under Regulation S–T, as proposed. A foreign issuer that meets the requirements of Section 201 or 202 of Regulation S–T[96] may obtain a temporary or continuing hardship exemption from the EDGAR filing requirements.[97]

As is the case with domestic filers, we expect to grant hardship exemptions for foreign issuers infrequently.[98] Moreover, as is the case with domestic filers, our filing desk will not accept in paper format any filing submitted by a foreign issuer that must be filed electronically pursuant to Regulation S–T Items 100 and 101 unless the filing satisfies the requirements for a temporary or continuing hardship exemption under Regulation S–T.[99]

12. Documents Submitted Pursuant to Exchange Act Rule 12g3–2(b)

We proposed to continue our current practice of requiring foreign private issuers to submit on paper their applications and supporting documents for the exemption pursuant to Exchange Act Rule 12g3–2(b).[100] While two commenters favored either permissive or mandated EDGAR filing of these documents, we continue to believe that a "paper filing only" rule for Exchange Act Rule 12g3–2(b) documents is the correct approach. A foreign company that has received a Rule 12g3–2(b) exemption is afforded only limited access to U.S. capital markets. It also is not subject to the Commission's disclosure requirements for Exchange Act reporting companies. Consequently, there is less need for electronic access to the submissions that a Rule 12g3–2(b) company must make to the Commission in order to maintain its exempt status. This treatment is consistent with, and analogous to, our current treatment of applications for an exemption from Exchange Act reporting obligations filed pursuant to Exchange Act Section 12(h).[101] Accordingly, the adopted amendments, as proposed, will not affect Exchange Act Rule 12g3–2(b) submissions.

C. Treatment of Foreign Language Documents

Regulation S–T Rule 306 governs the treatment of foreign language documents for electronic filings. This rule currently prohibits the filing of foreign language documents in electronic format. It also requires the electronic submission of a fair and accurate English translation of any document, required as an exhibit or attachment to a filing, that is in a foreign language.[102] Thus, under Rule 306, an electronic filer currently does not have the option afforded to paper filers of submitting an English summary or "version" of a foreign language document instead of an English translation.[103] The proposed amendments would have subjected foreign issuers filing or submitting their securities documents on EDGAR to Rule 306's English translation requirement and prohibition against foreign language documents. We further proposed to eliminate the option of providing an English summary or version instead of an English translation of a foreign language document under the paper filing rules in order to keep the electronic and paper requirements consistent.[104]

We received the largest number of comments on this proposed treatment of foreign language documents of all the issues raised by the proposing release. Nineteen commenters generally opposed the elimination of the English summary or version option on the grounds that the costs of translating into English every foreign language document required as an exhibit or attachment to a filing would be excessive and constitute an undue burden on foreign issuers. Several of these commenters also stated that the elimination of the English summary or version option would cause delays in the completion, and preclude the timely filing, of registration statements and reports.

However, many of these commenters also agreed with our position that, as reflected in current Commission practice, some exhibits are too important to be the subject of an English summary or version. Most of these commenters urged us to adopt a rule that would codify this position by specifying those documents that could and could not be the subject of an English summary or version. Several of these commenters also agreed with our examples of exhibit categories that are too important to be the subject of an English summary or version.

1. The Adopted "English Summary" Option

After consideration of the above comments, we have determined to adopt a limited English summary option for Division of Corporation Finance filings and submissions that is the same for both electronic and paper filers and provides guidance on which exhibits may be summarized. We are amending Regulation S–T Rule 306(a) to provide that all electronic filings or submissions must be in the English language, except as otherwise provided by this rule.[105] We are further amending this rule to provide that if a filing or submission requires the inclusion of a document that is in a foreign language, a party

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[70] New Regulation S–T Rule 101(b)(8) [17 CFR 232.101(b)(8)].

[71] Similar to our amendments of other Securities Act and Exchange Act forms, we also are amending Form CB to reflect the new EDGAR filing rules. The revisions to Form CB include clarifying that the instructions pertaining to number of copies, printing, pagination, and manual signatures apply solely to paper filings. For additional revisions to Form CB concerning the treatment of foreign language documents, see Part II.C.7 below.

[72] In addition to an MJDS filer, the following persons must file a Form F–X: a non-U.S. person filing tender offer documents on Schedule 13E–4F, 14D–1F, or 14D–9F; a foreign trustee regarding securities registered on an MJDS Securities Act registration statement; a Canadian issuer filing an offering statement under Regulation A [17 CFR 230.251–230.263] or a Form SB–2 registration statement [17 CFR 239.10]; and a foreign issuer or other non-U.S. person filing Form CB in connection with a tender offer, rights offering or business combination. See 17 CFR 239.42(d), (e), (f), and (g). In addition, under the Trust Indenture Act, specified Canadian trust companies acting as trustees under an indenture qualified or to be qualified under the Trust Indenture Act must file a Form F–X with the Commission. Trust Indenture Act Rule 260.10a–5(b) [17 CFR 260.10a–5(b)].

[73] Securities Act Rule 489 [17 CFR 230.489].

[74] New Regulation S–T Rules 101(a)(vii) [17 CFR 232.101(a)(vii)] and 101(b)(9) [17 CFR 232.101(b)(9)].

[75] New Regulation S–T Rule 101(b)(9)(i) [17 CFR 232.101(b)(9)(i).]

[76] 17 CFR 239.42(f) and 17 CFR 230.263(a).

[77] New Regulation S–T Rule 101(b)(9)(ii) [17 CFR 232.101(b)(9)(ii)].

[78] Regulation S–T Rule 101(a)(1)(ii) [17 CFR 232.101(a)(1)(ii)].

[79] 15 U.S.C. 77aaa *et seq.* In contrast, Regulation S–T Rule 101(c)(5) [17 CFR 232.101(c)(5)] currently requires the filing on paper of applications for exemptive relief pursuant to Sections 304 and 310 of the Trust Indenture Act 15 U.S.C. 77ddd and 77jjj, respectively]. This provision applies to both domestic and foreign filers and will remain the same under the adopted amendments.

[80] 17 CFR 269.1 and 269.2.

[81] 17 CFR 269.3.

[82] Rule 7a–1 [17 CFR 260.7a–1] under Trust Indenture Act Section 307(a) [15 U.S.C. 77ggg] authorizes the use of Form T–3.

[83] 17 CFR 269.9.

[84] Regulation S–T Rule 101(b)(6) [17 CFR 232.101(b)(6)]. The World Bank must submit these reports under the Rules and Regulations Pursuant to Section 15(a) of the Bretton Woods Agreements Act [17 CFR 285] and, in particular, 17 CFR 285.2 and 285.3.

[85] New Regulation S–T Rule 232.101(b)(6)(i) through (vi) [17 CFR 232.101(b)(6)(i) through 232.101(b)(6)(vi)].

[86] See General Rules and Regulations Pursuant to Section 11(a) of the Inter-American Development Bank Act [17 CFR 286].

[87] See General Rules and Regulations Pursuant to Section 11(a) of the Asian Development Bank Act [17 CFR 287].

[88] See General Rules and Regulations Pursuant to Section 9(a) of the African Development Bank Act [17 CFR 288].

[89] See General Rules and Regulations Pursuant to Section 13(a) of the International Finance Corporation Act [17 CFR 289].

[90] See General Rules and Regulations Pursuant to Section 9(a) of the European Bank for Reconstruction and Development Act [17 CFR 290].

[91] 17 CFR 232.102.

[92] Rule 102(a) of Regulation S–T [17 CFR 232.102(a)].

[93] This is consistent with the treatment of domestic issuers. Regulation S–T Rule 102(c) [17 CFR 232.102(c)].

[94] New Regulation S–T Rule 303(b) [17 CFR 232.303(b)].

[95] See the current version of Regulation S–T Rule 303(b) and Note 2 of General Instruction G to the Form 10–K annual report. We are adding a similar Note to Form 6–K.

[96] 17 CFR 232.201 or 232.202. An EDGAR filer may obtain a temporary hardship exemption if it experiences unanticipated technical difficulties that prevent the timely preparation and submission of an electronic filing. See 17 CFR 232.201(a). An EDGAR filer may apply for a continuing hardship exemption if it cannot file all or part of a filing without undue burden or expense. See 17 CFR 232.202(a).

[97] A filer obtains a temporary hardship exemption by filing a properly legended paper copy of the filing under cover of Form TH pursuant to Regulation S–T Rule 201. In contrast to this self-executing process, a filer can only obtain a continuing hardship exemption by submitting a written application pursuant to Regulation S–T Rule 202, upon which the Commission staff must then act pursuant to delegated authority.

[98] In addition to pursuing a hardship exemption, a filer that has in good faith attempted to submit a filing in a timely manner but has experienced a delay due to technical conditions beyond its control may request a filing date adjustment pursuant to Regulation S–T Rule 13(b) [17 CFR 232.13(b)].

[99] Rule 14 of Regulation S–T [17 CFR 232.14]. We have amended Forms 6–K, CB, and F–X to state that if filing the form under a hardship exemption, the filer must include the legend required by Regulation S–T Rule 201 or 202 on the form's cover page.

[100] 17 CFR 240.12g3–2(b). This rule provides an exemption from Section 12(g) of the Exchange Act [15 U.S.C. 78*l*(g)] for foreign private issuers that have not chosen to access the U.S. capital markets. After providing the Commission with information about its home country disclosure requirements and U.S. shareholder information, a qualifying applicant receives an exemption from Exchange Act reporting upon the condition that it furnish to the Commission on an ongoing basis its securities documents required to be furnished or that it furnishes voluntarily in its home country.

[101] 15 U.S.C. 78*l*(h). We require the filing of Section 12(h) exemptive applications in paper pursuant to Regulation S–T Rule 101(c)(17) [17 CFR 232.101(c)(17)]. Although the basis for Exchange Act Rule 12g3–2(b) is Exchange Act Section 12(g)(3) [15 U.S.C. 78*l*(g)(3)], this statutory section is analogous to Exchange Act Section 12(h).

[102] Regulation S–T Rule 306(a) [17 CFR 232.306(a)].

[103] See current Securities Act Rule 403(c) and Exchange Act Rule 12b–12(d).

[104] See Proposing Release, Parts II.D.1 and 2 for a discussion of, and reasons for, this proposal.

[105] New Regulation S–T Rule 306(a).

must submit a fair and accurate English translation of the foreign language document in accordance with the rules governing the treatment of foreign language documents.[106] The amended rule further provides that, alternatively, if the foreign language document is an exhibit or attachment to a filing or submission to the Division of Corporation Finance, a party may provide a fair and accurate English summary of the foreign language document if permitted by the foreign language rules.[107]

We also are amending the foreign language rules to provide that a Division of Corporation Finance filer must not summarize the following documents (and their amendments):[108]

- Articles of incorporation, memoranda of association, bylaws, and other comparable documents, whether original or restated;
- Instruments defining the rights of security holders, including indentures qualified or to be qualified under the Trust Indenture Act of 1939;
- Voting agreements, including voting trust agreements;
- Contracts to which directors, officers, promoters, voting trustees or security holders named in a registration statement are parties;
- Contracts upon which a filer's business is substantially dependent;
- Audited annual and interim consolidated financial information; and
- Any document that is or will be the subject of a confidential treatment request under Securities Act Rule 406[109] or Exchange Act Rule 24b–2.[110]

This list largely comprises the examples of important foreign language documents mentioned in the proposing release. However, we have added to this list two categories of material contract exhibits: contracts upon which a filer's business is substantially dependent and related party contracts.[111] We believe that agreements falling into these categories should not be summarized. While a filer may provide a detailed summary of these contracts in the body of the registration statement or report, their importance requires the filing or submission of a corresponding full English translation as an exhibit to which an investor or other interested party can refer for further information.

We have narrowed the scope of one exhibit category on the "mandatory English translation" list in response to comments. In the proposing release, we included exhibits containing financial statements on this list.[112] Although some commenters agreed with us, others pointed out that some "statutory report" exhibits may contain unconsolidated financial information about a parent company that is of questionable materiality. These comments have persuaded us to require the English translation only of exhibits disclosing annual audited or interim consolidated financial information. This requirement will ensure that investors have electronic access to full English translations of financial information about foreign issuers that is comparable to the financial information required by domestic issuers in their periodic reports.

We are further amending the foreign language rules to provide that a Division of Corporation Finance filer may submit an English summary instead of an English translation of a foreign language document as an exhibit or attachment to a filing as long as the foreign language document does not consist of any of the proscribed subject matter enumerated in these rules[113] or the applicable form permits the use of an English summary.[114] These rules will also provide that any English summary submitted must:

- Fairly and accurately summarize the terms of each material provision of the foreign language document; and
- Fairly and accurately describe the terms that have been omitted or abridged.[115]

These conditions are consistent with current staff practice.[116]

Under these amendments, electronic and paper filers must provide either an English translation or English summary, if permitted, of a foreign language document. A filer will no longer be able to provide an English "version" or something that falls short of being a fair and accurate English summary as required by the above rules. Although some commenters requested that we retain the English "version" option, we have decided to eliminate it because of the vagueness of the term "version" and the general lack of utility that has characterized those abbreviated English "versions" of foreign language documents that foreign issuers have occasionally submitted.[117]

2. The Amended Form 6–K

Under the proposed amendments, a foreign private issuer would have to provide an English translation of any report or other document that was in a foreign language and required to be submitted under Form 6–K whether in electronic or paper format. Some commenters objected to this proposal because it would eliminate a foreign issuer's ability to submit under Form 6–K:

- An English summary or version of a foreign language press release or communication distributed directly to shareholders; and
- A brief description of any other foreign language report or document, such as a statutory report or an offering circular or prospectus relating solely to an offering outside the United States (a "foreign" offering), if no English language translation, summary or version is available.[118]

Noting that a foreign issuer typically submits several Form 6–Ks annually, these commenters expressed concern that an "English translation only" requirement would cause a foreign issuer to incur excessive translation expenses and delay the filing of a Form 6–K. Accordingly, these commenters requested that we retain the current version of Form 6–K's instructions regarding the treatment of foreign language documents in their entirety.

[106] Securities Act Rule 403(c) and Exchange Act Rule 12b–12(d) (referred to as the "foreign language rules"). The sole exception relates to the treatment of a foreign government's annual budget. See new Regulation S–T Rule 306(c) and Part II.C.5, below, for further discussion.

[107] Accordingly, we will continue to require investment companies and other persons making filings or submissions to the Division of Investment Management to submit full English translations of foreign language prospectuses or other foreign language documents included in their filings or submissions.

[108] New Securities Act Rule 403(c)(2) [17 CFR 230.403(c)(1)] and new Exchange Act Rule 12b–12(d)(2) [17 CFR 240.12b–12(d)(1)].

[109] 17 CFR 230.406.

[110] 17 CFR 240.24b–2.

[111] See Form 20–F Exhibit Instructions 4(b)(i) and (ii), respectively, for a description of related party contracts and substantial dependency contracts. As used in the foreign language rules, these two categories of contracts have the same meaning as the contracts described in the above Form 20–F exhibit instructions.

[112] See Proposing Release, Part II.D.2., the text following n.111.

[113] New Securities Act Rule 403(c)(2) and Exchange Act Rule 12b–12(d)(2).

[114] New Securities Act Rule 403(c)(3)(i) [17 CFR 230.403(c)(2)(i)] and new Exchange Act Rule 12b–12(d)(3)(i) [17 CFR 240.12b–12(d)(2)(i)].

[115] New Securities Act Rule 403(c)(3)(ii) and new Exchange Act Rule 12b–12(d)(3)(ii). A filer will also have to identify a submission as either an English summary or English translation of a foreign language document. New Securities Act Rule 403(c)(4) [17 CFR 230.403(c)(4)] and new Exchange Act Rule 12b–12(d)(4) [17 CFR 240.12b–12(d)(4)].

[116] See, for example, Telephone Interpretation No. M.6. in the Division of Corporation Finance Manual of Publicly Available Telephone Interpretations (July 1997), which is available on our web site located at http://www.sec.gov/interps/telephone/1997manual.txt. This telephone interpretation provides that an English summary must summarize each section of an exhibit just as an English translation must translate each section.

[117] We discussed these reasons in Proposing Release, Part II.D.2, the text following n.110.

[118] Current General Instruction D to Form 6–K.

However, we received other comments that distinguished between types of documents regularly submitted under Form 6–K. For example, one foreign firm stated that, because press releases are typically short and are already made available in English by many foreign private issuers as a matter of course, it would not object to a requirement to provide a full English translation for a press release submitted under Form 6–K. Another commenter noted the important distinction that General Instruction D made between press releases and direct shareholder communications on the one hand, and statutory reports and other "public information" documents on the other, when urging us to require the EDGAR submission of the former but not the latter category of documents.

After considering these comments, we have determined to retain the English summary option for some of the documents submitted under Form 6–K. Therefore, we are amending Form 6–K General Instruction D to provide that a foreign private issuer must submit a full English translation of the following documents under Form 6–K whether submitted electronically or in paper:[119]

- Press releases;
- Communications and other documents distributed directly to security holders for each class of securities for which a reporting obligation under the Exchange Act exists, except for offering circulars and prospectuses that relate entirely to foreign offerings; and
- Documents disclosing annual audited or interim consolidated financial information.[120]

We have included direct shareholder communications in the "English translation only" group of documents because when a foreign company determines to communicate with its shareholders, the communication is presumably of sufficient importance to warrant requiring electronic access to that document. Moreover, like press releases, a foreign private issuer will more likely than not prepare an English translation of direct shareholder communications for its U.S. shareholders as a matter of course.

New Instruction D to Form 6–K further permits an issuer to furnish under cover of a Form 6–K,[121] whether submitted electronically or in paper, an English summary instead of a full English translation of a report required to be furnished and made public under the laws of the issuer's home country or the rules of the issuer's home country stock exchange, so long as it is not a press release and is not required to be and has not been distributed to the issuer's security holders. Such a document may include a report disclosing unconsolidated financial information about a parent company.[122]

A few commenters expressed their concern that, by eliminating the "English summary, version or brief description" option, we would be requiring the full English translation of offering circulars or prospectuses that pertained solely to foreign offerings. In response to these comments, we are further amending Form 6–K General Instruction D to clarify that a foreign private issuer is not required to submit under cover of Form 6–K an offering circular or prospectus that pertains solely to a foreign offering, even when an English translation or English summary is available, if the issuer has already submitted a Form 6–K, Form 20–F or other Commission filing on EDGAR that reported material information disclosed in the offering circular or prospectus. If an issuer has not previously submitted such a filing, the issuer may submit in electronic format under a Form 6–K an English translation or English summary of the portion of the foreign offering circular or prospectus that discloses new material information.[123]

Under the adopted amendments, a foreign private issuer may no longer submit a brief description of a foreign language document under cover of Form 6–K. We have determined to eliminate the "brief description" option for the same reasons that we are eliminating the "English version" option.[124] Moreover, the above revisions to Form 6–K should eliminate much of the previous need for the "brief description" option while providing useful information, since a foreign private issuer will only have to submit an English summary of that portion of a foreign offering circular or statutory report that contains new material information instead of the entire document.

3. Submission of Unabridged Foreign Language Documents

We solicited comment on whether we should enable a foreign issuer to submit a paper copy of the unabridged foreign language document under cover of Form SE when electronically filing an English summary of the document. Several commenters supported this option, noting the legal importance of the unabridged foreign language version.

Accordingly, we are amending Regulation S–T Rule 306 to provide that a party may at its option submit a paper copy of the unabridged foreign language document under cover of Form SE when electronically submitting an English summary or English translation of that document.[125] We also encourage filers to put these foreign language documents on their own corporate web sites in order for this information to be readily available to public investors. However, the filing or submission of an unabridged foreign language document with the Commission or the posting of this document on a company's web site will not correct an incomplete or inaccurate English summary or translation included in an EDGAR filing or submission.

4. Elimination of Written Representation Requirement

Regulation S–T Rule 306 currently requires a designated officer of an electronic filer to certify in writing that a filed English translation is a fair and accurate translation of a foreign language document.[126] We proposed to

[119] This is in addition to the list of documents specified in Exchange Act Rule 12b–12(d)(2).

[120] See the new General Instruction D to the Form 6–K attached to this release. We have listed annual audited and interim consolidated financial information on Form 6–K even though it is also listed under Exchange Act Rule 12b–12(d)(2) for ease of use.

[121] This is in addition to the documents specified in Exchange Act Rule 12b–12(d)(2) [17 CFR 240.12b–12(d)(2)].

[122] Under the newly revised Form 6–K, a parent foreign private issuer will be able to submit in paper an English summary of a statutory report that contains, for example, unconsolidated financial information, as long as it has already electronically submitted a press release disclosing any new, material information contained in the statutory report. See new Regulation S–T Rule 101(b)(7) and new General Instruction C to Form 6–K.

[123] New General Instruction D to Form 6–K. For example, if a foreign issuer making a foreign offering that is material uses an offering circular containing material information about the issuer that is reflected in an already filed Form 20–F or Form 6–K, the issuer could submit on Form 6–K a summary of the offering. This instruction further provides that any submitted English summary under Form 6–K must meet the requirements of Exchange Act Rule 12b–12(d)(3)(ii).

[124] See Part II.C.1 above, the text preceding n. 117.

[125] New Regulation S–T Rule 306(b) [17 CFR 232.306(b)]. We are also amending Regulation S–T Rule 311, which governs the use of Form SE, to reflect this amendment. New Regulation S–T Rule 311(f) [17 CFR 232.311(f)]. We are further amending Securities Act Rule 403(c) and Exchange Act Rule 12b–12(d) to permit a paper filer to submit a copy of the unabridged foreign language document along with an English summary or English translation. New Securities Act Rule 403(c)(4) [17 CFR 230.403(c)(4)] and new Exchange Act Rule 12b–12(d)(4) [17 CFR 240.12b–12(d)(4)]. Finally, as proposed, we are amending the above paper filing rules and Regulation S–T Rule 306 to state that a filer must provide a copy of any foreign language document upon the request of Commission staff.

[126] Current Regulation S–T Rule 306(a).

extend this written representation requirement to foreign issuers filing electronically as well as to any paper filing that included an English translation exhibit or attachment.

Ten commenters opposed this proposal, primarily on the grounds that the written representation requirement is unnecessary because of the signature requirements and liability provisions under the Securities Act and the Exchange Act. We generally agree with these commenters and are eliminating the written representation requirement for both foreign and domestic issuers, whether filing electronically or in paper.[127] The antifraud and signature provisions of the Securities Act and Exchange Act should afford sufficient deterrence and protection against the making of misleading and fraudulent misrepresentations in securities documents as a result of false or misleadingly incomplete translations or summaries of foreign language documents.[128] Of course, we expect foreign and domestic issuers and their advisors to continue to be responsible for translations and to take adequate steps to assure the accuracy of translations to their satisfaction.

5. Submission of a Foreign Government's Annual Budget

As proposed, newly adopted Regulation S–T Rule 306 will continue to require a foreign government or its political subdivision to file electronically a fair and accurate English translation of its latest annual budget as Exhibit B in Form 18 or Exhibit (c) in Form 18–K, but only if an English translation is available. If an English translation is not available, the adopted amendment will require a foreign government or political subdivision to submit a copy of the foreign language version of its latest annual budget in paper under cover of Form SE,[129] so that any interested party may examine it, as proposed.[130]

6. Permitted Inclusion of French and English Text in MJDS Forms

Some commenters generally expressed their interest in being able to file foreign language documents on EDGAR.[131] One commenter requested that we at least permit the filing on EDGAR of a document that contains provisions in both English and a foreign language when the home country requires a document to be prepared in both languages.

Currently EDGAR official filings can only use foreign language characters that are recognized by HTML version 3.2.[132] At this time we have determined to permit the use of a foreign language in an electronic filing only when a Canadian issuer includes in an MJDS filing that is electronically formatted as an HTML document both French and English text because this dual language use is necessary to comply with the requirements of the Canadian securities administrator or other Canadian authority. This limited acceptance of foreign language text in EDGAR documents meets the demands of the MJDS system, which permits qualified Canadian issuers to use their home country securities documents to meet U.S. disclosure and reporting requirements. Accordingly, we are adopting an amendment to Regulation S–T Rule 306 to permit the electronic filing of a document containing both French and English text in this case.[133]

7. Conforming Amendments to Securities Act and Exchange Act Forms

In order to reflect the amended treatment of foreign language documents, we are amending the Securities Act and Exchange Act forms by adding explanatory paragraphs stating that:

- The registration statement or report must be in the English language, as required by the foreign language rules discussed above;
- If the registration statement or report requires the inclusion, as an exhibit or attachment, of a document that is in a foreign language, the issuer must provide instead either an English translation or an English summary of the foreign language document in accordance with the foreign language rules; and
- The issuer may submit a copy of the unabridged foreign language document along with the English translation or English summary as permitted by the foreign language rules.[134]

We are similarly amending the MJDS forms and schedules[135] by inserting comparable explanatory paragraphs.[136]

Form CB currently permits the submission of English summaries of documents that, under the home jurisdiction requirements, must be made public but need not be disseminated to security holders.[137] It also requires the furnishing to the Commission of any documents incorporated by reference into the home jurisdiction documents.[138] The issuer, acquiror, bidder or subject company submitting the Form CB need not publicly disseminate the incorporated documents to security holders.[139] While the home jurisdiction documents that are disseminated to security holders must be in English, documents that are incorporated by reference into the home jurisdiction documents may be in a foreign language.[140]

We are amending Form CB to conform it to the adopted rules concerning the treatment of foreign language documents. We are also amending Regulation S–T Rule 311 to provide that a party may submit a copy of an unabridged foreign language document under cover of Form SE if permitted by the applicable form as well as when submitting an English translation or summary.[141] This amendment will enable the paper submission of a foreign language document that has been incorporated by reference into an electronically submitted Form CB or that is the subject of an English summary permitted by Form CB.[142]

D. Transition Period

We proposed that the amendments would become effective for filings or submissions made four months from their date of adoption. Eleven commenters responded that this four month transition period was too short. In response to these comments, we have determined to adopt an effective date of Monday, November 4, 2002. The new rule amendments will apply to any securities documents filed or submitted on or after November 4, 2002. We believe that approximately six months is a more than sufficient period to enable a foreign issuer to prepare itself to use the EDGAR system and electronically format a document for the foreign issuer's first EDGAR submission or hire a filing agent to conduct or assist in the EDGAR submission.[143] We encourage foreign issuers to file their securities documents voluntarily during the transition period or to submit test filings during this period.[144]

We also proposed to permit registrants that have filed their registration statements in paper before the proposed rules' effective date to continue to file their pre-effective amendments in paper for a limited period of time, for example, one month, following the proposed rules' effective date until their registration statements are effective.[145] One commenter opposed this proposal on the grounds that a registrant filing in paper before the rules' effective date should have an indefinite period in which to complete its paper filing. While we do not believe that an indefinite period of time is justified, we have determined to permit a registrant filing its registration statement in paper before the rules' effective date to complete its filing in paper through Tuesday, December 31, 2002. If the registration statement becomes effective before then, a filer could also file in paper its prospectus submitted pursuant to Securities Act Rule 430A[146] or Rule 424[147] through December 31, 2002. However, on or after Wednesday, January 1, 2003, a registrant will have to file any amendment, whether pre-effective or post-effective, or prospectus supplement in electronic format.

E. The Commission's Electronic Filing Hours

The Commission currently accepts EDGAR filings by direct transmission from 8:00 a.m. until 10:00 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is in effect, every day except for Saturdays, Sundays and federal holidays.[148] In contrast, paper and magnetic cartridge filings must be submitted by 5:30 p.m.[149] Most EDGAR filings submitted by direct transmission after 5:30 p.m. receive the next day's date as the official date of filing.[150]

Although we did not propose to change the Commission's filing hours for electronic filings made by direct transmission, we solicited comment regarding the adequacy of the Commission's EDGAR filing hours.[151] We received eleven comment letters that requested us to extend EDGAR's filing hours. Eight of these commenters requested that we extend the EDGAR filing hours either to 24 hours a day, seven days a week, or to 24 hours a day, Monday through Friday. Other commenters requested that we extend EDGAR's filing hours by at least a few hours. Most of these commenters justified extended EDGAR filing hours on the grounds that the business hours of many foreign issuers overlap minimally or not at all with the EDGAR filing hours.

In consideration of these comments, we are currently assessing the feasibility of extending the EDGAR filing hours for direct transmission filings. While we are aware that many foreign issuers use the assistance of filing agents based in the United States to submit their filings in a timely fashion, we also understand that this option may not be as readily available to other foreign issuers. We hope in the future to address further the issue of extending the EDGAR filing hours as part of our ongoing efforts to improve the EDGAR system.

F. Elimination of the Paper Filing Requirement for First-Time EDGAR Filers

As part of an ongoing assessment of some technical aspects of the EDGAR rules and the EDGAR system, we have determined to eliminate the requirement that an EDGAR filer must submit a paper copy of its first electronic filing to the Commission.[152] It appears that this requirement imposes an expense upon EDGAR filers without yielding any tangible benefits. Therefore, upon the publication of the rule amendments in the **Federal Register**, a first-time EDGAR filer, whether domestic or foreign, will not have to submit a paper copy of its EDGAR filing.[153]

III. Paperwork Reduction Act Analysis

The amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction

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[127] New Regulation S–T Rule 306(a), new Securities Act Rule 403(c), and new Exchange Act Rule 12b–12(d).

[128] The primary antifraud provisions are in Securities Act Sections 11, 12(a)(2), 15, and 17 [15 U.S.C. 77k, 77*l*(a)(2), 77o, and 77q] and Exchange Act Sections 10, 18, and 20 [15 U.S.C. 78j, 78r, and 78t]. The primary signature provisions are in Securities Act Section 6(a) [15 U.S.C. 77f(a)] and in Securities Act Rule 402(e), Exchange Act Rule 12b–11(d), and Regulation S–T Rule 302.

[129] Accordingly, we are amending Rule 311 to allow the paper filing of the foreign language annual budget exhibit under cover of Form SE. New Regulation S–T Rule 311(h) [17 CFR 232.311(h)]. We are further amending Exchange Act Rule 12b–12(d)(5) to require the submission of the foreign language annual budget exhibit with a paper filing when no English translation is available. New Exchange Act Rule 12b–12(d)(5) [17 CFR 240.12b–12(d)(4)].

[130] New Regulation S–T Rule 306(c). As explained in the Proposing Release, Form 18–K instructs a foreign government to submit its annual budget in the foreign language if no English translation is available. Form 18–K, Exhibit Instructions, paragraph (c) as discussed in Proposing Release, Part II.D.1., the text accompanying n. 104.

[131] For the most part, these commenters urged us to permit the filing of foreign language documents in PDF. Others requested that we permit the submission of unabridged foreign language documents in paper under specified circumstances. See Part II.C.3 above.

[132] See current Regulation S–T Rule 306(b). See also Release No. 33–7855.

[133] New Regulation S–T Rule 306(d) [17 CFR 230.306(d)]. We also are adopting conforming amendments to the corresponding Securities Act and Exchange Act rules in order to permit the same dual language use in MJDS documents filed in paper. New Securities Act Rule 403(c)(5) [17 CFR 230.403(c)(5)] and new Exchange Act Rule 12b–12(d)(6) [17 CFR 240.12b–12(d)(6)].

[134] See new General Instructions II.D. to Forms F–1 and F–2, new General Instruction II.E. to Form F–3, new General Instruction D.5. to Form F–4, new General Instruction D. and Instructions as to Exhibits to Form 20–F, and General Instruction D to Form 6–K.

[135] See new General Instruction II.G. to Form F–7, new General Instruction IV.I. to Form F–8, new General Instructions II. I to Forms F–9 and F–80, new General Instruction II.J. to Form F–10, new General Instruction II.E. to Schedules 13E–4F and 14D–1F, and new General Instruction II.C. to Schedule 14D–9F.

[136] Unlike the other Securities Act and Exchange Act documents, the MJDS instructions state that a filer may provide an English translation or summary of a foreign language document if permitted by the rules of the applicable Canadian securities adminsitrator. Since the Canadian requirements govern most of the form and content of the MJDS documents, we have determined that the Canadian rules should govern the treatment of foreign language documents as well.

[137] Form CB, Part II(1).

[138] Form CB, Part II (2).

[139] Form CB, Part I, Item 1(a).

[140] Compare Part I, Item 1(a) with Part II (2).

[141] New Regulation S–T Rule 311(f).

[142] See the New Note following Part II (2) of Form CB and new Part II(1) of Form CB.

[143] The effective date of the new rules will occur over one year and one month from the date that we first proposed them on September 28, 2001. Foreign issuers have had since the proposing date to begin learning about the EDGAR requirements. The length of time that will have elapsed between the dates of the proposing and adopting releases reinforces our view that the six month transition period is sufficient.

[144] See Section 5.11.4 of the EDGAR Filer Manual (Release 8.2), Volume I for further information about test filings on EDGAR.

[145] See Proposing Release, Part II.H.

[146] 17 CFR 230.430A.

[147] 17 CFR 230.424.

[148] Regulation S–T Rule 12(c) [17 CFR 232.12(c)]. See also Securities Act Rule 110(c) [17 CFR 230.110(c)] and Exchange Act Rule 0–2(c) [17 CFR 240.0–2(c)].

[149] Regulation S–T Rule 12(b) [17 CFR 232.12(b)]. See also Securities Act Rule 110(b) [17 CFR 230.110(b)] and Exchange Act Rule 0–2(b) [17 CFR 240.0–2(b)].

[150] Regulation S–T Rule 13(a)(2) [17 CFR 232.13(a)(2)]. The one exception pertains to filings made pursuant to Securities Act Rule 462(b) [17 CFR 230.462(b)], which automatically become effective upon filing. If made between 5:30 p.m. and 10 p.m., these Rule 462(b) filings are deemed filed on the same business day. See Regulation S–T Rule 13(a)(3) [17 CFR 232.13(a)(3)].

[151] Proposing Release, Part II.C.

[152] This requirement is set forth in Regulation S–T Rule 101(d) [17 CFR 232.101(d)].

[153] The rule amendments will remove Regulation S–T Rule 101(d) in its entirety. This amendment will become effective on the date of publication in the **Federal Register**. Under the Administrative Procedure Act ("APA"), notice of proposed rulemaking is not required for "rules of agency * * * procedure." 5 U.S.C. 553(b)(A). The requirement that an EDGAR filer submit a paper copy of its first electronic filing to the Commission was solely for the Commission's benefit. Under the APA, the Commission may establish an effective date of less than 30 days after the publication of the amendments if the amendment "relieves a restriction." 5 U.S.C. 553(d)(1). Since eliminating the requirement of a paper filing "relieves a restriction," the amendment is effective upon publication in the **Federal Register**. For similar reasons, we are adopting new Regulation S–T Rules 101(b)(10) and 101(c)(9), which concern the voluntary EDGAR filing of Form 25, without notice and comment. These rules are also effective upon publication in the **Federal Register**.

Act of 1995 ("PRA").[154] We published a notice requesting comment on the collection of information requirements in the Proposing Release, and submitted these requirements to the Office of Management and Budget ("OMB") for review.[155] Subsequently, OMB approved the proposed information collection requirements.

As discussed in Part II above, we received several comment letters regarding the proposed amendments. We have revised the amendments in response to these comments. In particular, the adopted amendments permit the submission of an English summary of specified foreign language documents whereas the proposed amendments would have required a full English translation of any foreign language document required to be submitted as an exhibit or attachment to Securities Act and Exchange Act forms.[156] We are revising our previous burden estimates primarily because of this change. We are submitting the revised estimates to the OMB for approval.

The titles of the information collections affected by the proposed amendments were the EDGAR Forms ID, ET, SE and TH;[157] Securities Act Form F–1,[158] and Exchange Act Form 20–F.[159] The changes made to the proposed amendments do not alter the burden estimates for Forms ID, ET, SE and TH previously submitted to and approved by the OMB.[160] The changes do affect the burden estimates for Securities Act Form F–1 and Exchange Act Form 20–F. In addition, because several commenters stated that the elimination of the "English version or brief description" requirement would increase their burdens when submitting statutory reports and other documents under cover of Form 6–K, we have prepared and are submitting burden estimates for this information collection to the OMB as well.

We have based our estimates of the effects that the amendments will have on these information collections primarily on our review of actual filings of these forms, the forms' requirements, and on the most recently completed Paperwork Reduction Act submissions for these forms. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Form F–1 (OMB Control No. 3235–0258) is used by a foreign private issuer to register its initial public offering or a subsequent offering of securities under the Securities Act. In addition to requiring the disclosure of material information about the registrant, Form F–1 also requires the attachment of numerous exhibits, including copies of the registrant's memoranda of association, articles of incorporation, and material contracts.

Form 20–F (OMB Control No. 3235–0288) is used by a foreign private issuer both to register a class of securities under the Exchange Act as well as to provide its annual report required under the Exchange Act. Like the Form F–1, Form 20–F also requires the filing of numerous exhibits.

Form 6–K (OMB Control No. 3235–0116) is used by a foreign private issuer to report material information that it:

- Makes or is required to make public under the laws of the jurisdiction of its incorporation, domicile or organization (its "home country");
- Files or is required to file with its home country stock exchange that is made public by that exchange; or
- Distributes or is required to distribute to its security holders.

A foreign private issuer may attach annual reports to security holders, statutory reports, press releases and other documents as exhibits or attachments to the Form 6–K.

As a result of the adopted English summary provision described above, the reporting and cost burden estimates for Forms F–1 and 20–F have changed. Accordingly, we have revised the estimated information collection requirements that we initially submitted to the OMB. Regarding Form F–1, we have decreased by 39 hours our estimate of the total annual burden incurred by registrants in the preparation of a Form F–1 to 65,880 hours (from the previously estimated 65,919 hours). We also have decreased by $3435 the total annual costs attributed to the preparation of a Form F–1 by outside firms to $34,567,031 (from the previously estimated $34,570,466).

We have derived these estimates from the following revised assumptions. First, we have decreased by two our estimate of the number of registrants (five from the previously estimated seven) that will incur additional burden hours and costs for services pertaining to translating into English either all or some of a foreign language document for submission as either an English translation or English summary exhibit instead of an English "version" or "brief description." Second, we have decreased by 12 our estimate of the number of additional burden hours (36 hours from the previously estimated 48 hours) that each of the five registrants will incur when preparing English translations or English summaries in accordance with the adopted amendments (for a total of 180 additional burden hours instead of the 336 hours previously estimated). We continue to expect that registrants will incur 25% of these additional burden hours (45 hours instead of the previously estimated 84 hours). Third, we have decreased by 5 the number of additional pages per filing (13 pages compared to the previously estimated 18 pages) that each registrant must translate at a cost of $75 per page. We continue to expect that outside firms will account for 75% of the translation costs resulting in $3656 of costs attributable to outside firms (rather than the previously estimated $7,091).

Regarding Form 20–F, we have decreased by 174 hours the total annual burden incurred by foreign private issuers in the preparation of a Form 20–F to 501,763 hours (from the previously estimated 501,937 hours). We further have decreased by $16,341 the total annual costs attributed to the preparation of the Form 20–F by outside firms to $263,194,113 (from the previously estimated $263,210,454).

We have derived these estimates from the following revised assumptions. First, while our estimate of the number (58) of foreign private issuers affected by the amendments remains the same, we have decreased by 12 our estimate of the number of additional burden hours (36 hours from the previously estimated 48 hours) that each of the affected issuers will incur when preparing English translations or English summaries in accordance with the adopted amendments (for a total of 2088 additional burden hours instead of the 2784 hours previously estimated). We continue to expect that foreign private issuers will incur 25% of these additional burden hours (522 hours instead of the previously estimated 696 hours). Second, we have decreased by five the number of additional pages per filing (13 pages compared to the previously estimated 18 pages) that each issuer must translate at a cost of $75 per page. We continue to expect that outside firms will account for 75% of the translation costs resulting in $42,413 of costs attributable to outside firms (rather than the previously estimated $58,754).

Regarding Form 6–K, we estimate that the amendments will cause an increase of 2477 burden hours resulting in a total of 25,477 hours (from the previous 23,000 hours). We further estimate that the adopted amendments will cause foreign private issuers to incur an aggregate increase of $165,150 in translation costs when preparing an English translation or summary exhibit for a Form 6–K, resulting in total costs of $12,240,150 (compared to the previous $12,075,000).

We have based our Form 6–K estimates on the following assumptions. First, we have increased the number of Form 6–K responses by 3161 to 14,661 (from the previous 11,500).[161] Second, we estimate that 367 of the total number of Form 6–Ks filed or submitted would incur additional English translation expenses as a result of the amendments. Third, we estimate that for each of the affected Form 6–K filings or submissions, there will occur an additional 27 burden hours. We continue to expect that issuers will incur 25% of these additional burden hours, resulting in 2477 additional burden hours for the Form 6–K respondents. Finally, we expect that each affected issuer will have to translate an additional 8 pages at a cost of $75 per page. We continue to expect outside firms to incur 75% of these English translation costs, resulting in an additional $165,150 of costs attributable to outside firms.

We are soliciting comment on the expected Paperwork Reduction Act effects of the adopted amendments. In particular, we solicit comment on the accuracy of our additional burden hour and cost estimates expected to result from the adopted amendments. We further request comment on whether the expected effects of the amendments discussed in this section are necessary for the proper performance of the Commission's functions, including whether the additional information garnered will have practical utility. In addition, we solicit comment on whether there are ways to enhance the quality, utility, and clarity of the information to be collected. We further solicit comment on whether there are ways to minimize the burden of information collection on those foreign filers who will file the above forms, including through the use of automated collection techniques or other forms of information technology. Finally, we solicit comment on whether the amendments will have any effects on any other collection of information not previously identified in this section.

If you would like to submit comments on the collection of information requirements and expected effects, please direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503. You should also send a copy of the comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, with reference to File No. S7–18–01. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–18–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street NW, Washington, DC 20549. OMB must make a decision concerning the affected collections of information between 30 and 60 days after publication of this release. Consequently, in order to ensure that your comments achieve their fullest effect, you should submit comments to OMB within 30 days of this release's publication.

IV. Cost-Benefit Analysis

A. Background

In the Proposing Release, we stated our expectation that the proposal would achieve the same benefits for investors, foreign issuers and others realized when we adopted the mandated EDGAR filing system for domestic filers in 1993. We further noted that we excluded foreign filers from mandated EDGAR filing in 1993 because we believed that they would incur higher costs from the implementation of EDGAR than those faced by domestic filers. As we explained, since then significant technological advances have occurred that, together with the recent modernization of EDGAR, should reduce EDGAR costs for foreign filers. Because of these developments, we believe that it is now appropriate to include foreign filers in our mandated EDGAR system.[162]

We solicited comment on the expected benefits and costs and on any others that could result from adoption of EDGAR filing requirements for foreign issuers. We also requested data to quantify the costs and value of the benefits identified.[163] We received 19 comment letters that expressed general approval of the proposed amendments because of the benefits expected to result from them. Several of these commenters agreed that the expected benefits would be the same as those achieved by mandated EDGAR filing for domestic issuers as described in the Proposing Release. None of these commenters provided data to quantify the value of the benefits identified.

Most of the commenters expressed concern about specific aspects of the proposed amendments because of their expected costs that, according to these commenters, would pose an undue burden on foreign issuers.[164] The aspects that received the most expressions of concern were:

- The proposed elimination of the "English summary or version" option that would require both an electronic and paper filer to provide a full English translation of a foreign language document required as an exhibit or other attachment to a filing or submission; and
- The proposed mandated EDGAR submission of all Form 6–K reports other than the Form 6–K submitted to deposit a foreign private issuer's attached annual report to security holders.

Only three of these commenters provided data to quantify the costs identified.[165] All of the data provided concerned the expected costs that would result from the proposed elimination of the option to provide an English summary or version of a foreign language document. One commenter noted that the elimination of this option would cause a foreign issuer to incur additional English translation costs ranging from $2,250 to $4,375 for each 50 page document, such as a material contract, depending on the level of difficulty of the foreign language required to be translated.[166] Another commenter stated that elimination of the "English summary" option would

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[154] 44 U.S.C. 3501 *et seq.*

[155] Publication and submission were in accordance with 44 U.S.C. § 3507(d) and 5 CFR 1320.11.

[156] The adopted amendments still eliminate the "English version" option under Securities Act Rule 403(c) and Exchange Act Rule 12b–12(d), as proposed. They also still eliminate the "brief description" option in General Instruction D to Form 6–K, as proposed.

[157] 17 CFR 239.63, 239.62, 239.64 and 239.65. These forms are also promulgated as Exchange Act forms under 17 CFR 249.446, 249.444, 249.445, and 249.447.

[158] 17 CFR 239.31.

[159] 17 CFR 249.220f.

[160] See Proposing Release, Part V for a description of and the burden estimates for Forms ID, ET, SE and TH.

[161] 14,661 is the number of Form 6–Ks filed in calendar 2001.

[162] Proposing Release, Part III.

[163] Proposing Release, Part III.C.

[164] Of the 26 commenters that expressed such concerns, 14 also noted the benefits that would result from the adoption of the proposal.

[165] *Comment Summary* at Part III.B.3.

[166] This commenter further stated that, for each foreign language document required to be translated because of the proposed amendments, a foreign issuer would have to pay a bilingual attorney to proofread the translated document since professional translators generally lack the legal or technical expertise to understand much of the text that they are asked to translate. Although we believe that many foreign companies rely on in-house counsel to perform at least some of this review, according to this commenter, the cost of this legal layer of review would exceed the cost of the translation services themselves in most cases.

cause it to incur $5,800 to translate each quarterly or annual report to security holders and an additional $100,000 to translate a foreign offering circular. One other commenter stated that it would incur approximately $200,000 and take two to three months to obtain English translations of Japanese language statutory reports and other documents that it currently does not translate.

In response to these comments, we have reconsidered and revised the aspects of our rule proposal that have generated the most concern. In particular, we have:

- Amended both the electronic and paper filing rules to permit the use of an English summary for some foreign language documents instead of requiring an English translation for all foreign language documents; [167]
- Eliminated the written certification requirement regarding the fairness and accuracy of an English translation for both domestic and foreign filers; [168]
- Amended the electronic filing rules to permit either the electronic or paper submission of a foreign issuer's "statutory" report under Form 6–K in specified circumstances; [169]
- Amended Form 6–K to permit the submission of an English summary of a statutory report or other foreign language document in specified circumstances in addition to those specified in the electronic and paper filing rules; [170] and
- Amended Form 6–K to clarify that a foreign private issuer is not required to submit under cover of Form 6–K an offering circular or prospectus that pertains solely to a foreign offering, even when an English translation or English summary is available, if the issuer has already submitted a Form 6–K that reported material information disclosed in the offering circular or prospectus. [171]

Several commenters also expressed concern regarding our proposed mandated EDGAR filing of Form CB when either the filer or the subject company of the Form CB transaction is an Exchange Act reporting company. These commenters noted that, because this proposal would require the EDGAR submission of a Form CB by a foreign filer that was not an Exchange Act reporting company if the subject company was an Exchange Act reporting company, it would discourage the use of the Form CB. Because we found merit in these comments, we have revised our rule amendment to require the electronic filing of a Form CB only when the filer is an Exchange Act reporting company, regardless of the reporting status of the subject company. [172]

The above revisions address most of the cost concerns expressed by the commenters. Consequently, while some foreign issuers will incur costs as a result of the adopted amendments, these costs will be less than those that would have resulted under the rule proposal. We further expect that the benefits of the adopted amendments will justify the resulting costs.

B. Benefits

We expect that the adopted amendments will benefit investors, financial analysts and others by increasing the efficiency of retrieving and disseminating information about foreign issuers that file registration statements, periodic reports and other documents with the Commission, to the extent that these documents are not currently available through EDGAR. [173] The mandated electronic transmission of foreign issuers' securities documents will enable investors to access more quickly registration statements, annual and periodic reports and other filings containing detailed information about foreign issuers. Instead of having to come in person or through an agent to the Commission's public reference room [174] to conduct a search for a particular foreign issuer filing that is in paper or microfiche, an investor will be able to find and review a foreign issuer filing on any computer with an Internet connection by accessing the EDGAR system through the Commission's web site or through a third party web site that links to EDGAR. The adopted amendments will also enable financial analysts and others to retrieve, analyze and disseminate more rapidly information about reporting foreign issuers. As a result, not only should an investor be able to form more efficient investment decisions about particular foreign issuers, but foreign issuers should benefit from increased market exposure for their securities in the United States.

Foreign issuers should further benefit from the increased efficiencies in the filing process resulting from the adopted amendments. By electronically transmitting their securities documents directly to the Commission, foreign issuers will avoid the uncertainties and delays that can occur with the manual delivery of paper filings. Foreign issuers also will benefit from no longer having to submit multiple copies of paper documents to the Commission. Foreign issuers will further benefit from the Commission's longer filing hours for the direct electronic transmission of documents, which will enable foreign issuers to file their securities documents directly via EDGAR until 10 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is in effect.

Both foreign issuers and investors should benefit from increased efficiencies in the Commission's storage, retrieval, and analysis of foreign issuer filings, which are expected to result from the adopted amendments. Because the Commission's staff will be able to retrieve and analyze information about foreign filers more readily than under our current paper system, mandated electronic filing for foreign issuers should facilitate both the staff's review of a particular foreign issuer's registration statement or report and its study of issues affecting most foreign filers. For example, the adopted amendments should enable Commission staff to access quickly a foreign registrant's Exchange Act reports that have been incorporated by reference into a Securities Act registration statement that is the subject of review. Because Commission staff must review these incorporated reports when conducting a full review of the Securities Act document, electronic access to all relevant reports should facilitate the timely completion of the review process for a foreign registrant.

The adopted amendments will also enable Commission staff to access rapidly registration statements, reports and related correspondence pertaining to other foreign issuers that are in the same geographic region or industry group as a foreign registrant. This electronic access should foster the development of consistent comments on issues that are common to foreign registrants. This should result in better disclosure to the benefit of foreign issuers and the investing public alike.

Investors and members of the financial community will also benefit from the adopted amendments' requirement that foreign issuers provide full English translations of specified documents because of their importance in understanding the business and financial condition of, and corporate governance matters pertaining to, an issuer. Investors and others will also benefit from the adopted amendments' requirement that a foreign issuer disclose under cover of a Form 6–K new material information mentioned also in a statutory report, foreign offering circular, or other foreign language document before it may submit an English summary of the statutory report or offering circular. This requirement will serve to ensure the prompt dissemination of all material information about a foreign issuer in U.S. capital markets.

We are aware that many foreign issuers already post their financial statements in electronic format on their web sites. Nevertheless, we believe that mandated EDGAR filing for foreign issuers is beneficial to investors for the following reasons.

- Mandated EDGAR filing for foreign issuers will result in the Commission's creation of a central electronic repository for foreign filings that is free to anyone that has access to a computer linked to the Internet.
- Some foreign issuers have only posted on their web sites financial statements that meet their home country requirements and not the Commission's requirements.
- Many foreign issuers have electronically formatted their financial statements only in PDF for viewing on their web sites. PDF's search capabilities are not as extensive as those provided by the version of HTML that EDGAR filers may use to format electronically their documents. [175] Moreover, since HTML is a dominant language of the Internet, Commission staff will be able to upgrade EDGAR data formatting requirements to keep current with Internet standards and to take advantage of improvements in Internet data formats.

C. Costs

We expect that the adopted amendments will result in some costs to foreign issuers. However, for the following reasons, we also expect that only a minority of foreign issuers will bear the full range of costs resulting from adoption of the amendments.

The expected costs consist of both initial and ongoing costs. Initial costs are those associated with the purchase of compatible computer equipment and software, including EDGAR software if obtained from a third-party vendor and not from the Commission's web site. [176] Initial costs also include those resulting from the training of existing employees to be EDGAR proficient or the hiring of additional employees or agents that are already skilled in EDGAR processing. Initial costs further include those associated with the formatting and transmission of a foreign issuer's first document filed on EDGAR. These transmission costs may include those related to subscribing to an Internet service provider.

Ongoing costs are those associated with the electronic formatting and transmission of subsequent EDGAR filings, including amendments to a foreign issuer's initial EDGAR filing. An issuer may also incur future costs resulting from the training or hiring of employees regarding updated EDGAR filing requirements.

The magnitude of these costs for a foreign issuer will depend on its level of technological proficiency and its previous familiarity with EDGAR filing requirements.

For example, of the 1,310 foreign private issuers that were Exchange Act reporting companies as of December 31, 2000, [177] 244 (approximately 19%) not only did not voluntarily file on EDGAR, but also did not electronically present their financial statements on their web sites or otherwise for public use. Similarly, of the 161 foreign private issuers that became Exchange Act reporting companies during calendar year 2001, 36 (approximately 22%) lacked an informational web site in addition to not filing on EDGAR. These foreign private issuers will incur the full range of initial and other costs associated with electronic filing. Some may have to purchase compatible computer equipment. Some may also have to upgrade their operating and word processing software in addition to obtaining the EDGARLink software. They all will have to hire information technology employees or agents that are knowledgeable about the EDGAR process. Then they will incur the costs associated with formatting and transmitting their documents on EDGAR, which may include the cost of subscribing to an Internet service provider.

A much larger segment of Exchange Act reporting foreign private issuers already currently electronically format their financial statements in some fashion for public use. Of the total number of Exchange Act reporting companies as of December 31, 2000, 1,066 (approximately 81%) had electronically formatted their financial statements and other material information either for posting on their web site or to meet the requirements of their sovereign securities commission. [178] Similarly, of the 161 foreign private issuers that became Exchange Act reporting companies in calendar year 2001, 125 (approximately 78%) had electronically formatted their financial statements and other material information for public consumption. [179]

These foreign issuers have already incurred initial costs associated with the preparation of disclosure materials in an electronic format. They have already trained their employees or hired an in-house information technology team or a third party agent, such as an Internet services company or financial printer, to format electronically their financial statements and other documents of interest to investors. After obtaining the EDGAR software, [180] these persons should be capable of electronically processing reporting foreign issuers' securities documents for the EDGAR system. Consequently, for approximately four-fifths of Exchange Act reporting foreign issuers, the mandated EDGAR requirements should

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[167] New Regulation S–T Rule 306(a), new Securities Act Rule 403(c)(1) and (3), and new Exchange Act Rule 12b–12(d)(1) and (3).

[168] Ten commenters specifically objected to this written certification requirement, which is currently codified at Regulation S–T Rule 306(a).

[169] New Regulation S–T Rule 101(b)(7). The specified circumstances are that the report cannot be a press release, cannot have been or required to be circulated to the foreign private issuer's security holders, and, if discussing a material event, must have already been the subject of a Form 6–K filed on EDGAR.

[170] New paragraph D of the General Instructions to Form 6–K. The specified circumstances are that the report cannot be a press release and cannot have been or required to be circulated to the foreign private issuer's security holders. At the request of commenters, we have further amended Form 6–K to clarify that a statutory report that discloses only unconsolidated financial information of a parent company may be the subject of an English summary.

[171] New paragraph D of the General Instructions to Form 6–K.

[172] New Regulation S–T Rule 101(a)(1)(vi).

[173] Approximately 20% of Exchange Act reporting foreign issuers voluntarily filed their securities documents on EDGAR in calendar 2001.

[174] The Commission's public reference room is located in its Washington, D.C. headquarters.

[175] PDF is based on a proprietary data format for which only a few software programs with search capabilities are commercially available. In contrast, there are a variety of methods, languages and software available for searching a HTML document.

[176] Once a first-time EDGAR filer has filed a Form ID to obtain its EDGAR access codes, it can download for free the EDGARLink software from the Commission's web site. The EDGAR filing manual is also available for downloading at our web site. Filers may also purchase the EDGARLink software and filer manual through the Commission's Public Reference Room and from certain third party vendors. See the *EDGAR Overview* at Section C(1).

[177] See *Reporting Foreign Issuers List*.

[178] This amount includes the 481 Canadian public companies (approximately 37% of reporting foreign private issuers as of December 31, 2000) that are required by the Canadian Securities Administrators to file their securities documents electronically on Canada's System for Electronic Document Analysis and Retrieval ("SEDAR"). This amount further includes 585 non-Canadian foreign private issuers (approximately 45% of reporting foreign private issuers as of calendar year 2000 year-end) that have chosen to post on their web sites their most recent and historical financial statements either as part of their annual or periodic reports or standing alone. The 80% figure also includes the foreign private issuers that were Exchange Act reporting companies as of December 31, 2000 and had filed their securities documents on EDGAR.

[179] Approximately 56% of the 125 reporting foreign issuers were Canadian.

[180] As previously mentioned, since the EDGARLink software is now available on the Commission's web site, for most new EDGAR filers, the cost of obtaining the EDGAR software will be insignificant.

result only in costs related primarily to the electronic formatting of their securities documents in a format compatible with EDGAR and transmission of the EDGAR formatted documents to the Commission.

Currently EDGAR only accepts documents formatted in HTML 3.2 or in ASCII. Many Exchange Act reporting foreign issuers have formatted their financial statements only in PDF for presentation on their web sites or for submission to foreign securities commissions.[181] These foreign issuers may incur both initial and ongoing costs associated with presenting their financial statements in an EDGAR-compatible format.

However, other reporting foreign issuers have presented their financial statements in some version of HTML on their web sites. These foreign issuers have already trained employees or an agent familiar with formatting in HTML. This previous familiarity with HTML should help to reduce the initial EDGAR costs for these reporting foreign private issuers.[182] This previous expertise in HTML may also help to lessen the ongoing costs related to updated EDGAR training that incorporates improvements in HTML.

Moreover, since HTML is a dominant language used to present information on Internet web sites, reporting foreign issuers that have formatted their financial statements thus far only in PDF may already have trained employees or an agent familiar with formatting in HTML. If so, these foreign issuers should also face reduced initial and ongoing EDGAR costs.[183]

During the calendar year ended December 31, 2000, 232 (approximately 18%) of reporting foreign private issuers voluntarily chose to file their annual reports, registration statements and other securities documents on EDGAR. This segment of voluntary EDGAR filers increased to 269 (approximately 20%) during the calendar year ended December 31, 2001.[184] For these reporting foreign private issuers, the adopted amendments should result in no initial costs and little or no ongoing costs in addition to those that the foreign issuer had already decided to expend.

For the minority of foreign issuers that have not yet electronically presented their financial statements for public use,[185] as well as for other foreign issuers affected by the adopted amendments, we expect that technological advances regarding the Internet and recent modernization of the EDGAR system will help reduce the initial and ongoing costs resulting from mandated EDGAR filing for foreign issuers. For example, today foreign issuers are able to transmit directly their securities documents to the Commission through the Internet with the assistance of an Internet services provider. A foreign issuer should find that this method is less expensive than using a direct dial modem to connect to the EDGAR system with the resultant long distance charges.

Today there also are numerous financial printers and other information technology specialists that are capable of electronic document processing, including for the EDGAR system, and available on an international basis.[186] No longer must a foreign issuer rely on a filing agent located in a major city in the United States for its EDGAR needs. This closer proximity of EDGAR knowledgeable agents should reduce the travel, long distance and other initial and ongoing costs shouldered by reporting foreign issuers when preparing their documents for the EDGAR system.

The adopted amendments require that both electronic and paper filers obtain full English translations for specified foreign language documents while permitting the submission of English summaries for other documents. We do not expect these provisions to increase materially the costs of document preparation and filing for foreign issuers and other affected persons, since the adopted amendments largely codify existing Commission practice regarding the treatment of foreign language documents. Moreover, in response to commenters' concerns, we have adopted amendments that permit the submission of an English summary instead of a full English translation of a statutory report or other foreign language document in specified circumstances. We also have adopted amendments that permit the filing of a statutory report in paper and eliminate the need to submit a foreign offering circular in specified circumstances. These amendments should prevent the incurrence of excessive costs that many commenters feared would result from the proposed requirement to provide a full English translation of all foreign language documents.

Nevertheless, some foreign issuers may incur costs from our requirement to provide an English translation instead of an English summary of some of the specified documents. Some foreign issuers may also incur costs from our elimination of the option to file a "version" or "brief description" of a foreign language document instead of an English summary or translation for both electronic and paper filings.[187] Because there has been only limited use of the summary, version or brief description option, we do not expect the above amendments to affect many filers.[188] Moreover, many agents, including some with EDGAR expertise, provide translation services. The globalization of these agents in recent years should serve to lessen the costs of obtaining their translation services.[189]

The amendments will cause some domestic persons to file on EDGAR their Schedule TOs, Form CBs and Schedule 13D/Gs in connection with tender offers, exchange offers and other transactions involving the securities of foreign private issuers. However, we expect the number of affected domestic persons to be small. During calendar years 2000 and 2001, out of a total number of 245 and 599 Schedule TOs filed, respectively, with the Commission, only 11 (approximately 4%) and 15 (approximately 2.5%) were filed in paper. Of these 11 and 15 paper Schedule TOs filed, respectively, in 2000 and 2001, none and only three (approximately 0.5% out of the total filed) were filed by domestic entities.

Similarly, for calendar years 2000 and 2001, out of a total of 13,282 and 12,439 Schedule 13Ds and 13Gs filed, only 279 (approximately 2%) and 284 (approximately 2%) were filed in paper. Of these Schedule 13D/G paper filings, only 7 (approximately .1% of the total filed) and 9 (approximately .1% of the total filed) were filed by domestic companies and pertained to the securities of foreign issuers.[190]

Furthermore, during calendar years 2000 and 2001, of the 95 and 32 Form CBs filed with the Commission, 32 (approximately 34%) and 13 (approximately 41%) were filed by Exchange Act reporting companies. Only four (4%) and five (16%) out of the total number of Form CBs filed, respectively, in calendar years 2000 and 2001 were filed by domestic Exchange Act reporting companies.

Some domestic persons may incur costs resulting from the electronic formatting of their securities documents as a result of the amendments. Since domestic persons are already subject to mandated EDGAR filing, they already have trained employees or agents capable of readily electronically formatting their Form TOs, Form CBs or Schedule 13D/Gs for the EDGAR system. This previous familiarity with EDGAR should reduce the costs incurred by these domestic persons as a result of the adopted amendments.

Based on the foregoing, and as further explained below, we expect that the amendments will result in total costs for foreign issuers of between $8,037,005 to $23,070,333. We have derived this range of costs based on the following assumptions and estimates.

First, we expect that the amendments will affect 81% of foreign private issuers filing Exchange Act reports because these foreign private issuers have not already voluntarily filed their reports on EDGAR. Conversely, for the 19% of reporting foreign private issuers that already are EDGAR filers, the amendments should result in no additional costs.[191]

Second, we expect that all of the 81% of affected reporting foreign private issuers will incur costs associated with the electronic formatting and electronic transmission of their Exchange Act reports. We also expect that many of these foreign private issuers will also incur similar costs regarding the electronic formatting and filing of their Securities Act documents.

Third, we expect that, for 62% of reporting foreign private issuers (or 77% of those affected), the amendments will result primarily in electronic formatting and filing costs. This segment already has achieved technical proficiency based on their past experience electronically formatting their financial and other documents for presentation on their web sites or to meet the requirements of their sovereign securities commissions.[192]

Fourth, for the remaining 19% of reporting foreign private issuers (or 23% of those affected) that have little to no computer, Internet or related technical experience, if they choose to outsource to a financial printer or other filing agent all of the work associated with producing an EDGAR compatible document, we do not expect any significant costs to result other than the electronic formatting and filing costs.[193] However, if these foreign private issuers attempt to perform much of the EDGAR preparation, filing, and related tasks themselves, the amendments may result in the incurrence of additional, significant costs associated with the purchase or upgrading of computer hardware and software, the subscribing to an Internet service provider, and the hiring of at least one technically proficient employee.

Fifth, we expect that all of the foreign governments that have Exchange Act reporting obligations will incur electronic formatting and filing costs.

Sixth, we expect the cost of electronic formatting for all of the affected foreign issuers to be $15 a page regardless of the particular filing. We also expect a filing agent to charge an electronic filing fee of $150 per filing.[194]

Seventh, we expect that the elimination of the "English version and brief description" option and adoption of a limited English summary option will result in additional costs to between 2–5% of foreign private issuers when filing their Form 20–Fs, Form 6–Ks, and Form F–1s, depending on the particular form.[195]

Based on these assumptions, we expect the amendments to result in the following costs for the following forms:[196]

FORM 20–F ANNUAL REPORTS

81% of 1327 foreign private issuers[197] = 1075	
240 pages (including exhibits)[198] × $15 per page × 1075 =	$3,870,000
$150 (filing fee) × 1075 =	+161,250
	4,031,250

[181] For example, the Canadian Securities Administrators require that Canadian public companies file their securities documents in PDF on SEDAR. See Canada's National Instrument 13–101 (September 7, 1999).

[182] Even if foreign issuers are unfamiliar with HTML, there are many software packages available that will translate their documents into ASCII or HTML.

[183] Furthermore, since under Regulation S–T Rule 104 [17 CFR 232.104], we allow EDGAR filers to file a PDF version of a document as an unofficial copy, foreign issuers that present their financial statements in PDF for non-EDGAR purposes will not incur additional formatting costs when exercising the option to file an unofficial PDF version on EDGAR.

[184] The total number of foreign private issuers that were Exchange Act reporting companies as of December 31, 2001 was 1344.

[185] This minority would include foreign individuals who only file Schedules 13D or 13G.

[186] The web sites of each of three large financial printers reveal that, either directly or through affiliates, these financial printers maintain offices in 20–40 different countries.

[187] The brief description option appears in the current version of General Instruction D to Form 6–K.

[188] During calendar years 2000 and 2001, out of 940 filings by non-English speaking, reporting foreign issuers examined, depending on the type of filing, only 2%–5% used the English summary, version or brief description option.

[189] For example, the web sites of the three large financial printers referred to in the preceding footnote advertise their translation services as an integral part of their businesses.

[190] We also expect that the amendments will not have a significant impact on affected domestic entities. According to two large financial printers, the average cost of electronically formatting and transmitting a Schedule 13D or 13G on EDGAR is $250.

[191] These figures are based on the averages of the percentages of foreign private issuers filing on EDGAR in calendar years 2000 and 2001.

[192] This segment increases to 81% of foreign private issuers when including those reporting foreign private issuers that already file their securities documents on EDGAR.

[193] According to a representative of a large financial printer, most companies elect to hire a filing agent to perform most or all of the work required to produce a Securities Act or Exchange Act document, including typesetting the initial document, EDGAR formatting and filing, and related tasks such as printing and document distribution. For these companies, the cost of preparing a document for EDGAR filing is included in the amount charged for EDGAR formatting.

[194] According to a representative of a large financial printer, $15 per page is the typical rate charged for most companies. These companies have elected to hire the filing agent to perform most of the document production tasks, including EDGAR formatting. This representative further stated that $150 was the typical EDGAR filing fee charged for most types of Securities Act and Exchange Act documents.

[195] Based on an examination of 940 documents filed by non-English speaking issuers in 2000 and 2001, 5.0% of Form 20–F filers, 3.5% of Form F–1 filers, and 2.5% of Form 6–K filers used the "English summary, version or brief description" option.

[196] We expect these forms to generate most of the EDGAR costs for foreign issuers. We have not included Schedules TO, 13D and 13G in this list because, as discussed above, based on the small percentage of these documents filed in paper in calendar years 2000 and 2001, we expect the costs incurred in electronically formatting and filing these documents to be relatively insignificant. We also have not included Form CB in this list since a majority of the Form CBs filed in 2000 and 2001 were by non-Exchange Act reporting companies, which are not subject to mandated EDGAR filing. Similarly, we have not quantified the EDGAR costs that domestic issuers are expected to incur as a result of the amendments due to the insignificant number of domestic filings expected to be affected.

[197] 1327 is the average of the number of reporting foreign private issuers in calendar years 2000 and 2001.

[198] This estimate of the average number of pages of a Form 20–F annual report, as well as the average page estimates of Forms 6–K, F–1, F–2, F–3, F–4, Schedule B, and Form 18–K, are based on an examination of actual filings.

FORM 6–K REPORTS

1075 foreign private issuers × 10 Form 6–Ks per issuer = 10,750 Form 6–Ks.	
10,750 × 10 pages per Form 6–K × $15 =	$1,612,500
Filing fees =	+161,250
	1,773,750

FORM F–1

71% × 96 filings [199] = 68 filings affected	
450 pages (including exhibits) per filing × $15 × 68 =	$459,000
Filing fees =	+10,200
	469,200

[199] 96 is the average of the number of Form F–1s filed in 2000 and 2001. 71% of these Form F–1s were paper filings.

FORM F–2

71% × 4 filings [200] = 3 filings affected	
125 pages (including exhibits) per filing × 3 × $15 =	$5,625
Filing fees =	+450
	6,075

[200] Four is the average of the number of Form F–2s filed in 2000 and 2001. 71% of these Form F–1s were paper filings.

FORM F–3

77% × 158 filings [201] = 122 filings affected	
70 pages (including exhibits) per filing × 122 × $15 =	$128,100
Filing fees =	+18,300
	146,400

[201] 158 is the average of the Form F–3s filed in 2000 and 2001. 77% of these Form F–3s were paper filings.

FORM F–4

78% × 238 filings [202] = 186 filings affected	
375 pages (including exhibits) per filing × 186 × $15 =	$1,046,250
Filing fees =	+27,900
	1,074,150

[202] 238 is the average of the Form F–4s filed in 2000 and 2001. 78% of these Form F–4s were paper filings.

SCHEDULE B

28 foreign governments × 150 pages (including exhibits) per filing × $15 =	$63,000
Filing fees =	+4,200
	67,200

FORM 18–K

24 filings × 500 pages (including exhibits) per filing × $15 =	$180,000
Filing fees =	+3,600
	183,600
Total above electronic formatting and filing costs =	7,751,625

We also expect the elimination of the "English version or brief description" option and the adoption of a limited English summary option to result in the following additional translation costs for a small percentage of foreign private issuers when filing their Form 20Fs, Form 6Ks, and Form F–1s:

FORM 20–F

13 additional pages to be translated per filing × $76 per page [203] =	$988 per filing
58 affected filings × $988 =	57,304

[203] The rate of $76 per page assumes that an outside firm performs 75% of the English translation work at a rate of $75 per page. The $75 per page rate is an average of English translation rates for different foreign language documents that attorneys representing foreign clients have stated are typical. The $76 per page rate also assumes that a company's in-house counsel performs 25% of the English translation work at a rate of $80 per hour. The $80 per hour rate derives from a median salary of $106,500 for a company associate or assistant general counsel in the New York City metropolitan area, according to the *Report On Management & Professional Earnings in the Securities Industry*, published by the SIA, October 2001. We have multiplied $106,500 by 1.35 to derive the annual cost to a company of employing an associate or assistant general counsel. We then have divided this annual cost ($143,775) by 1800 to derive a per hour cost of $80. Finally, we have added .75 × $75 and .25 × $80 to derive a blended rate of $76 per page.

FORM 6–K

8 additional pages to be translated per filing × $76 per page = $608	
367 affected filings × $608 =	$223,136

FORM F–1

13 additional pages to be translated per filing × $76 per page = $988	
5 affected filings × $988 =	$4,940
Total above additional "English translation" costs =	285,380

Based on the foregoing, we expect the amendments to result in approximately $8,037,005 of costs for most reporting foreign issuers.[204] However, 19% of reporting foreign private issuers expected to be affected by the amendments may incur additional costs because of their lack of technical proficiency. If these foreign private issuers outsource most or all of the work required to prepare a document for EDGAR formatting to a financial printer or other filing agent, we expect that little to no additional costs will result.[205]

However, many of these foreign private issuers may decide to perform some or all of the work required for preparing a document for EDGAR formatting and filing. These filers may also eventually choose to perform some of the tasks related to document printing and distribution. If so, they may incur significant additional charges associated with purchasing or upgrading computer hardware and software, subscribing to an Internet service provider, and hiring at least one technically proficient employee to assist in word processing, Internet, and EDGAR preparation tasks, as follows:

244 affected foreign private issuers × $1,000 to purchase or upgrade a computer system [206] =	$244,000
244 × $240 [207] to subscribe to an Internet service provider per year =	58,560
244 × $60,372 [208] the annual cost of employing a computer operator =	14,730,768
	15,033,328

[204] This figure ($7,751,625 + $285,380) applies to the 81% of reporting foreign private issuers and all of the reporting foreign governments expected to be affected.

[205] See n. 193, above.

[206] The $1,000 cost is based on suggested prices for basic computer systems stated in computer publications.

[207] The $240 rate derives from a monthly rate of $20 for one year, which is typical of the subscription fees quoted for Internet service providers in computer publications.

[208] According to the *Report on Office Salaries in the Securities Industry*, published by the SIA, in October 2001, the mean annual salary for a senior computer operator in the New York City metropolitan area is $44,720. We have multiplied this amount by 1.35 to derive the cost to a company of employing a senior computer operator for a year.

We do not expect each of the 244 affected foreign private issuers to incur all of the above additional costs. It is likely that many filers will choose to hire outside firms to handle some or most of the EDGAR preparation, formatting, transmission, and related tasks. Therefore, we expect the total costs of the amendments to be within the range of $8,037,005 [209] to $23,070,333.[210]

V. Promotion of Efficiency, Competition and Capital Formation Analysis

Section 23(a)(2) of the Exchange Act requires the Commission, when adopting rules under the Exchange Act, to consider the anti-competitive effects of any rules it adopts. Furthermore, Section 2(b) of the Securities Act and Section 3(f) of the Exchange Act require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition and capital formation.

In the Proposing Release, we considered the amendments in light of the standards set forth in the above statutory sections. We solicited comment on whether, if adopted, the proposed amendments would result in any anti-competitive effects or promote efficiency, competition and capital formation. We further encouraged commenters to provide empirical data or other facts to support their views on any anti-competitive effects or any burdens on efficiency, competition or capital formation that might result from adoption of the proposed amendments.[211]

While several commenters stated that various aspects of the proposed amendments would result in excessive costs and impose undue burdens on foreign issuers, only one commenter specifically addressed whether the proposed rules would cause anti-competitive effects in the U.S. economy and its capital markets. According to this commenter, the proposed elimination of the English summary option and the proposed mandated EDGAR filing of most Form 6–K reports would result in additional costs for foreign issuers. Given the increased

[209] This amount assumes that the 19% of foreign private issuers lacking technical proficiency will outsource most or all of the EDGAR preparation, formatting, filing, and related tasks.

[210] This amount assumes that, in addition to the $8,037,005 of costs, the 19% of foreign private issuers lacking technical proficiency will incur the maximum of estimated additional costs of $15,033,328.

[211] We also requested empirical information regarding the potential impact of the proposed amendments on the economy on an annual basis for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996. We received no comment letters that addressed this issue.

competitiveness among global capital markets, these additional costs could cause foreign issuers to avoid obtaining financing and listing in U.S. capital markets. Consequently, participants in the U.S. financial community and U.S. investors would respectively lose financing and investment opportunities in these foreign companies.

In response to this concern and others raised by commenters, we have revised the proposed rules to permit the use of an English summary for specified foreign language documents and the paper submission of a statutory report under cover of a Form 6–K in specified circumstances. Because of these changes, among others, the adopted amendments should not result in excessive costs or undue burdens on foreign issuers or cause them to avoid U.S. capital markets.

The adopted amendments will enable investors and other interested parties to have the same access to financial and other material information about foreign issuers that have registered securities with the Commission as they currently enjoy with domestic reporting companies. By facilitating the more efficient transmission, retrieval, analysis and dissemination of information contained in foreign issuers' and related third party securities filings with the Commission, the adopted amendments will enhance an investor's ability to make an informed investment decision about a foreign issuer's securities. They also should increase the market access of a reporting foreign issuer's securities in the United States.

In addition, the adopted amendments will subject foreign issuers to the same or substantially similar electronic filing costs shouldered by domestic issuers, thereby placing foreign issuers on a more equal footing, and encouraging competition with domestic issuers. We recognize that the adopted amendments may disparately impact some foreign issuers depending on their level of technological proficiency.

VI. Regulatory Flexibility Act Certification

Under Section 605(b) of the Regulatory Flexibility Act,[212] our Chairman certified that, when adopted, the proposed amendments would not have a significant economic impact on a substantial number of small entities. We attached this certification as Appendix A to the Proposing Release. While we encouraged written comments regarding this certification, none of the commenters responded to this request. Since the changes made to the proposed amendments will reduce the costs of the amendments for foreign issuers, the adopted amendments should lessen any economic impact on small entities.

VII. Statutory Basis and Text of Rule Amendments

We are adopting Securities Act Rule 493b and the amendments to Securities Act Rule 403, the rescission of Regulation S–T Rule 601, the amendments to Regulation S–T Rules 100, 101, 303, 306 and 311, the amendments to Exchange Act Rule 12b–12, and the amendments to the Securities Act and Exchange Act forms, under the authority in Sections 6, 7, 10 and 19(a) of the Securities Act,[213] and Sections 3, 12, 13, 14, 15(d), 23(a) and 35A of the Exchange Act.[214] We are further adopting the amendment to Form F–X under Sections 304, 305, 307, 310 and 319 of the Trust Indenture Act.[215]

List of Subjects in 17 CFR Parts 230, 232, 239, 240, 249, and 269

Reporting and recordkeeping requirements, Securities.

Text of Rule Amendments

In accordance with the foregoing, we are amending Title 17, Chapter II of the Code of Federal Regulations as follows.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 77z–3, 78c, 78d, 78l, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Amend § 230.403 by removing the authority citation following § 230.403 and by revising paragraph (c) to read as follows:

§ 230.403 Requirements as to paper, printing, language and pagination.

* * * * *

(c)(1) All Securities Act filings and submissions must be in the English language, except as otherwise provided by this section. If a registration statement or other filing requires the inclusion of a document that is in a foreign language, the filer must submit instead a fair and accurate English translation of the entire foreign language document, except as provided by paragraph (c)(3) of this section.

(2) If a registration statement or other filing or submission subject to review by the Division of Corporation Finance requires the inclusion of a foreign language document as an exhibit or attachment, the filer must submit a fair and accurate English translation of the foreign language document if consisting of any of the following, or an amendment of any of the following:

(i) Articles of incorporation, memoranda of association, bylaws, and other comparable documents, whether original or restated;

(ii) Instruments defining the rights of security holders, including indentures qualified or to be qualified under the Trust Indenture Act of 1939;

(iii) Voting agreements, including voting trust agreements;

(iv) Contracts to which directors, officers, promoters, voting trustees or security holders named in a registration statement are parties;

(v) Contracts upon which a filer's business is substantially dependent;

(vi) Audited annual and interim consolidated financial information; and

(vii) Any document that is or will be the subject of a confidential treatment request under § 230.406 or § 240.24b–2 of this chapter.

(3)(i) A filer may submit an English summary instead of an English translation of a foreign language document as an exhibit or attachment to a filing subject to review by the Division of Corporation Finance as long as:

(A) The foreign language document does not consist of any of the subject matter enumerated in paragraph (c)(2) of this section; or

(B) The applicable form permits the use of an English summary.

(ii) Any English summary submitted under paragraph (c)(3) of this section must:

(A) Fairly and accurately summarize the terms of each material provision of the foreign language document; and

(B) Fairly and accurately describe the terms that have been omitted or abridged.

(4) When submitting an English summary or English translation of a foreign language document under this section, a filer must identify the submission as either an English summary or English translation. A filer may submit a copy of the unabridged foreign language document when including an English summary or English translation of a foreign language document in a filing. A filer must provide a copy of any foreign language document upon the request of Commission staff.

[212] 5 U.S.C. 605(b).

[213] 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

[214] 15 U.S.C. 78c, 78*l*, 78m, 78n, 78o(d), 78w, and 78*ll*.

[215] 15 U.S.C. 77ddd, 77eee, 77ggg, 77jjj and 77sss.

(5) A Canadian issuer may file an exhibit or other part of a registration statement on Form F–7, F–8, F–9, F–10, or F–80 (§§ 239.37, 239.38, 239.39, 239.40, or 239.41 of this chapter), that contains text in both French and English if the issuer included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S-T Rule 11(§ 232.11).

* * * * *

3. Section 230.493 is revised to read as follows:

§ 230.493 Additional Schedule B disclosure and filing requirements.

(a) The copy of the opinion or opinions of counsel required by paragraph (14) of Schedule B shall be filed either as a part of the registration statement as originally filed, or as an amendment to the registration statement.

(b) A foreign government or political subdivision of a foreign government must file a registration statement submitted under Schedule B of the Act on the Commission's Electronic Data Gathering and Retrieval System (EDGAR) unless it has obtained a hardship exemption under § 232.201 or § 232.202 of this chapter (Regulation S–T).

(c) A foreign government or political subdivision must disclose in its Schedule B registration statement:

(1) That the Commission maintains an Internet site that contains reports and other information regarding issuers that file electronically with the Commission; and

(2) The address for the Commission Internet site (http://www.sec.gov). A foreign government or political subdivision filing on EDGAR is further encouraged to give its Internet address, if available.

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

4. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

5. Amend § 232.100 by revising paragraphs (a) and (c) to read as follows:

§ 232.100 Persons and entities subject to mandated electronic filing.

* * * * *

(a) Registrants whose filings are subject to review by the Division of Corporation Finance;

* * * * *

(c) Any party (including natural persons) that files a document jointly with, or as a third party filer with respect to, a registrant that is subject to mandated electronic filing requirements.

6. Amend § 232.101:

a. By designating the Note to paragraph (a)(1)(iii) as Note 1. and adding Note 2.;

b. By removing the word "and" at the end of paragraph (a)(1)(iv);

c. By removing the period at the end of paragraph (a)(1)(v) and in its place adding a semicolon;

d. By adding paragraphs (a)(1)(vi), (a)(1)(vii) and (a)(1)(viii);

e. By revising paragraphs (b)(1) and (b)(6);

f. By adding paragraphs (b)(7), (b)(8), (b)(9), and (b)(10);

g. By removing the period at the end of each of paragraphs (c)(5), (c)(6), and (c)(14) and in its place adding a semicolon;

h. By revising paragraph (c)(9);

i. By removing paragraph (c)(15);

j. By redesignating paragraphs (c)(16) and (c)(17) as paragraphs (c)(15) and (c)(16);

k. By adding the word "and" at the end of newly redesignated paragraph (c)(15);

l. By removing the semicolon and the word "and" at the end of newly redesignated paragraph (c)(16) and adding a period in its place; and

m. By removing paragraph (d).

The additions and revisions read as follows:

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(iii) * * *

Notes to Paragraph (a)(1)(iii).

Note 1. * * *

Note 2. Foreign private issuers must file or submit their Form 6-K reports (§ 249.306 of this chapter) in electronic format, except as otherwise permitted by paragraphs (b)(1) and (b)(7) of this section.

* * * * *

(vi) Form CB (§§ 239.800 and 249.480 of this chapter) filed or submitted under § 230.801 or 230.802 of this chapter or § 240.13e–4(h)(8), 240.14d–1(c), or 240.14e–2(d) of this chapter if the party filing or submitting the Form CB is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d));

(vii) Form F–X (§ 239.42 of this chapter) except as otherwise provided by § 232.101(b)(9); and

(viii) Form F–N (§ 239.43 of this chapter) filed by foreign banks and insurance companies and certain of their holding companies and finance subsidiaries under § 230.489 of this chapter.

* * * * *

(b) * * *

(1) Annual reports to security holders furnished for the information of the Commission under § 240.14a–3(c) of this chapter or § 240.14c–3(b) of this chapter, under the requirements of Form 10–K or Form 10–KSB (§§ 249.310 or 249.310b of this chapter) filed by registrants under Exchange Act Section 15(d) (15 U.S.C. 78o(d)), or by foreign private issuers filed on Form 6–K (§ 249.306 of this chapter) under § 240.13a–16 of this chapter or § 240.15d–16 of this chapter;

* * * * *

(6) Periodic reports and reports with respect to distributions of primary obligations filed by:

(i) The International Bank for Reconstruction and Development under Section 15(a) of the Bretton Woods Agreements Act (22 U.S.C. 286k–1(a)) and Part 285 of this chapter;

(ii) The Inter-American Development Bank under Section 11(a) of the Inter-American Development Bank Act (22 U.S.C. 283h(a)) and Part 286 of this chapter;

(iii) The Asian Development Bank under Section 11(a) of the Asian Development Bank Act (22 U.S.C. 285h(a)) and Part 287 of this chapter;

(iv) The African Development Bank under Section 9(a) of the African Development Bank Act (22 U.S.C. 290i–9(a)) and Part 288 of this chapter;

(v) The International Finance Corporation under Section 13(a) of the International Finance Corporation Act (22 U.S.C. 282k(a)) and Part 289 of this chapter; and

(vi) The European Bank for Reconstruction and Development under Section 9(a) of the European Bank for Reconstruction and Development Act (22 U.S.C. 290*l*–7(a)) and Part 290 of this chapter;

(7) A report or other document submitted by a foreign private issuer under cover of Form 6–K (§ 249.306 of this chapter) that the issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer's "home country"), or under the rules of the home country exchange on which the issuer's securities are traded, as long

as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, has already been the subject of a Form 6–K or other Commission filing or submission on EDGAR;

(8) Form CB (§§ 239.800 and 249.480 of this chapter) if the party filing or submitting the Form CB is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d));

(9) Form F–X (§ 239.42 of this chapter) if:

(i) The party filing or submitting a Form CB (§§ 239.800 and 249.480 of this chapter) is not subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act (15 U.S.C. 78m or 15 U.S.C. 78o(d)); or

(ii) Filed by a Canadian issuer when qualifying an offering statement pursuant to the provisions of Regulation A (§§ 230.251–230.263 of this chapter); and

(10) Form 25 (§ 249.25 of this chapter).

* * * * *

(c)(9) Exchange Act filings submitted to the Division of Market Regulation, except for Form 25 (§ 249.25 of this chapter).

* * * * *

7. Amend § 232.303 by revising paragraph (b) to read as follows:

§ 232.303 Incorporation by reference.

(a) * * *

(b) If a filer incorporates by reference into an electronic filing any portion of an annual or quarterly report to security holders, it must also file the portion of the annual or quarterly report to security holders in electronic format as an exhibit to the filing, as required by Regulation S–K Item 601(b)(13) (§ 229.601(b)(13) of this chapter) and Regulation S–B Item 601(b)(13) (§ 228.601(b)(13) of this chapter). If a foreign private issuer incorporates by reference into an electronic filing any portion of an annual or other report to security holders, or of a Form 6–K report (§ 249.306 of this chapter) filed or submitted in paper, it also must file the incorporated portion in electronic format as an exhibit to the filing. The requirements of this paragraph do not apply to incorporation by reference by an investment company from an annual or quarterly report to security holders.

8. Amend § 232.306:

a. By revising paragraph (a);

b. By removing the Note following paragraph (a);

c. By redesignating paragraph (b) as paragraph (e); and

d. By adding new paragraphs (b), (c), and (d).

The additions and revisions read as follows:

§ 232.306 Foreign language documents and symbols.

(a) All electronic filings and submissions must be in the English language, except as otherwise provided by paragraph (d) of this section. If a filing or submission requires the inclusion of a document that is in a foreign language, a party must submit instead a fair and accurate English translation of the foreign language document in accordance with § 230.403(c) or § 240.12b–12(d) of this chapter, except as otherwise provided by paragraph (c) of this section. Alternatively, if the foreign language document is an exhibit or attachment to a filing or submission subject to review by the Division of Corporation Finance, a party may provide a fair and accurate English summary of the foreign language document if permitted by § 230.403(c)(3) or § 240.12b–12(d)(3) of this chapter.

(b) When including an English summary or English translation of a foreign language document in an electronic filing or submission, a party may also submit a copy of the unabridged foreign language document in paper under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter) in accordance with § 232.311 of this chapter. A filer must provide a copy of any foreign language document upon the request of Commission staff.

(c) A foreign government or its political subdivision must electronically file a fair and accurate English translation, if available, of its latest annual budget as presented to its legislative body, as Exhibit B to Form 18 (§ 249.218 of this chapter) or Exhibit (c) to Form 18–K (§ 249.318 of this chapter). If no English translation is available, a foreign government or political subdivision must submit a copy of the foreign language version of its latest annual budget in paper under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter).

(d) A Canadian issuer may file an HTML document, as defined in § 232.11 of this chapter, that contains text in both French and English if the issuer included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority, and the French text is in an exhibit to or part of:

(1) A registration statement on Form F–7, F–8, F–9, F–10, or F–80 (§§ 239.37, 239.38, 239.39, 239.40, and 239.41 of this chapter);

(2) A registration statement or annual report on Form 40–F (§ 249.240f of this chapter); or

(3) A Schedule 13E–4F (§ 240.13e–102 of this chapter), Schedule 14D–1F (§ 240.14d–102), or Schedule 14D–9F (§ 240.14d–103).

* * * * *

9. Amend § 232.311 by redesignating paragraphs (f), (g) and (h) as paragraphs (h), (i) and (j) and by adding new paragraphs (f) and (g) to read as follows:

§ 232.311 Documents submitted in paper under cover of Form SE.

* * * * *

(f) A party may submit a copy of an unabridged foreign language document in paper under cover of Form SE if the electronic filing or submission includes an English summary or English translation of the foreign language document in accordance with § 232.306(b) or if permitted by the applicable form.

(g) A foreign government or political subdivision that is not filing in electronic format an English translation of its latest annual budget submitted as Exhibit B to Form 18 (§ 249.218 of this chapter) or Exhibit (c) to Form 18–K (§ 249.318 of this chapter) must file a copy of the foreign language version of its latest annual budget in paper under cover of Form SE in accordance with § 232.306(c) of this chapter.

* * * * *

§ 232.601 [Removed and Reserved]

10. § 232.601 is removed and reserved.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

11. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

12. Amend Form F–1 (referenced in § 239.31), General Instructions II., by adding paragraphs C. and D. to read as follows:

(**Note:** The text of Form F–1 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0258
Expires: January 31, 2005
Estimated average burden hours per response: 471.0

Securities and Exchange Commission, Washington, D.C. 20549

Form F–1—Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

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II. Application of General Rules and Regulations

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C. A registrant must file the Form F–1 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

D. The Form F–1 registration statement must be in the English language, as required by Regulation S–T Rule 306 (17 CFR 232.306) for electronic filings and Securities Act Rule 403(c) (17 CFR 230.403(c)), generally. If the registration statement requires the inclusion, as an exhibit or attachment, of a document that is in a foreign language, the registrant must provide instead either an English translation or an English summary of the foreign language document in accordance with Securities Act Rule 403(c) (17 CFR 230.403(c)) for both electronic and paper filings. The registrant may submit a copy of the unabridged foreign language document along with the English translation or English summary as permitted by Regulation S–T Rule 306(b) (17 CFR 232.306(b)) for electronic filings or by Securities Act Rule 403(c)(4) (17 CFR 230.403(c)(4)) for paper filings.

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13. Amend Form F–2 (referenced in § 239.32), General Instructions II., by adding paragraphs C. and D. to read as follows:

(**Note:** The text of Form F–2 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0257
Expires: September 30, 2003
Estimated average burden hours per response: 140.0

Securities and Exchange Commission, Washington, D.C. 20549

Form F–2—Registration Statement Under the Securities Act of 1933

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General Instructions

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II. Application of General Rules and Regulations

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C. A registrant must file the Form F–2 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

D. The Form F–2 registration statement must be in the English language, as required by Regulation S–T Rule 306 (17 CFR 232.306) for electronic filings and Securities Act Rule 403(c) (17 CFR 230.403(c)), generally. If the registration statement requires the inclusion, as an exhibit or attachment, of a document that is in a foreign language, the registrant must provide instead either an English translation or an English summary of the foreign language document in accordance with Securities Act Rule 403(c) (17 CFR 230.403(c)) for both electronic and paper filings. The registrant may submit a copy of the unabridged foreign language document along with the English translation or English summary as permitted by Regulation S–T Rule 306(b) (17 CFR 232.306(b)) for electronic filings or by Securities Act Rule 403(c)(4) (17 CFR 230.403(c)(4)) for paper filings.

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14. Amend Form F–3 (referenced in § 239.33), General Instructions II., by adding paragraphs D. and E. to read as follows:

(**Note:** The text of Form F–3 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0256
Expires: May 31, 2003
Estimated average burden hours per response: 41.5

Securities and Exchange Commission

Form F–3—Registration Statement Under the Securities Act of 1933

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General Instructions

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II. Application of General Rules and Regulations

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D. A registrant must file the Form F–3 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

E. The Form F–3 registration statement must be in the English language, as required by Regulation S–T Rule 306 (17 CFR 232.306) for electronic filings and Securities Act Rule 403(c) (17 CFR 230.403(c)), generally. If the registration statement requires the inclusion, as an exhibit or attachment, of a document that is in a foreign language, the registrant must provide instead either an English translation or an English summary of the foreign language document in accordance with Securities Act Rule 403(c) (17 CFR 230.403(c)) for both electronic and paper filings. The registrant may submit a copy of the unabridged foreign language document along with the English translation or English summary as permitted by Regulation S–T Rule 306(b) (17 CFR 232.306(b)) for electronic filings or by Securities Act Rule 403(c)(4) (17 CFR 230.403(c)(4)) for paper filings.

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15. Amend Form F–4 (referenced in § 239.34), General Instructions D., by adding paragraphs 4. and 5. to read as follows:

(**Note:** The text of Form F–4 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0325
Expires: October 31, 2004
Estimated average burden hours per response: 1311

Securities and Exchange Commission, Washington D.C. 20549

F–4—Registration Statement Under the Securities Act of 1933

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General Instructions

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D. Application of General Rules and Regulations

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4. A registrant must file the Form F–4 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

5. The Form F–4 registration statement must be in the English language, as required by Regulation S–T Rule 306 (17 CFR 232.306) for electronic filings and Securities Act Rule 403(c) (17 CFR 230.403(c)), generally. If the registration statement requires the inclusion, as an exhibit or attachment, of a document that is in a foreign language, the registrant must provide instead either an English

translation or an English summary of the foreign language document in accordance with Securities Act Rule 403(c) (17 CFR 230.403(c)) for both electronic and paper filings. The registrant may submit a copy of the unabridged foreign language document along with the English translation or English summary as permitted by Regulation S–T Rule 306(b) (17 CFR 232.306(b)) for electronic filings or by Securities Act Rule 403(c)(4) (17 CFR 230.403(c)(4)) for paper filings.

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16. Amend Form F–6 (referenced in § 239.36), General Instructions III, by revising paragraph C. to read as follows:

(Note: The text of Form F–6 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0292
Expires: October 31, 2002
Estimated average burden hours per response: 1.0

Securities and Exchange Commission, Washington D.C. 20549

Form F–6—Registration Statement Under the Securities Act of 1933 for Depositary Shares Evidenced by American Depositary Receipts

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General Instructions

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III. Application of General Rules and Regulations

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C. You must file the Form F–6 registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, you must file the number of copies of the registration statement and of each amendment required by Securities Act Rules 402 and 472 (17 CFR 230.402 and 230.472), except that you need only file three additional copies instead of the ten referred to in Rule 402(b) (17 CFR 230.402(b)). You may also file only three additional copies instead of the eight referred to in Securities Act Rule 472(a) (17 CFR 230.472(a)).

* * * * *

17. Amend Form F–7 (referenced in § 239.37), General Instructions II, by revising paragraphs C., E., G., and H. to read as follows:

(Note: The text of Form F–7 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0383
Expires: May 31, 2003
Estimated average burden hours per response: 1.0

Securities and Exchange Commission, Washington D.C. 20549

Form F–7—Registration Statement Under the Securities Act of 1933

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General Instructions

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II. Application of General Rules and Regulations

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C. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the registration statement or amendment without exhibits to the Commission.

* * * * *

E. An electronic filer must provide the signatures required for the registration statement or amendment in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A registrant filing in paper must have at least one copy of the registration statement or amendment signed in accordance with Securities Act Rule 402(e) (17 CFR 230.402(e)) by the persons whose signatures are required for this registration statement. A registrant must also conform the unsigned copies.

* * * * *

G. A registrant must file the registration statement or amendment in electronic format in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306). A registrant may file part of the prospectus or exhibit or other attachment to the registration statement or amendment in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a registrant may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.

H. For a paper filing, one signed original of the registration statement or amendment must be numbered sequentially (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the registration statement or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered registration statement or amendment.

* * * * *

18. Amend Form F–8 (referenced in § 239.38), General Instructions IV, by revising paragraphs C., E., I., and J. to read as follows:

(Note: The text of Form F–8 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0378
Expires: May 31, 2003
Estimated average burden hours per response: 0.5

Securities and Exchange Commission, Washington D.C. 20549

Form F–8—Registration Statement Under the Securities Act of 1933

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General Instructions

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IV. Application of General Rules and Regulations

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C. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the

registration statement or amendment without exhibits to the Commission.

* * * * *

E. An electronic filer must provide the signatures required for the registration statement or amendment in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A registrant filing in paper must have at least one copy of the registration statement or amendment signed in accordance with Securities Act Rule 402(e) (17 CFR 230.402(e)) by the persons whose signatures are required for this registration statement. A registrant must also conform the unsigned copies.

* * * * *

I. A registrant must file the registration statement or amendment in electronic format in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306). A registrant may file part of the prospectus or exhibit or other attachment to the registration statement or amendment in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a registrant may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.

J. A paper filer must number sequentially one signed original of the registration statement or amendment (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the registration statement or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered registration statement or amendment.

* * * * *

19. Amend Form F–9 (referenced in § 239.39), General Instructions II, by revising paragraphs D., F., I., and J. to read as follows:

(Note: The text of Form F–9 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0377
Expires: April 30, 2003
Estimated average burden hours per response. 6.0

Securities and Exchange Commission Washington D.C. 20549

Form F–9—Registration Statement Under the Securities Act of 1933

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General Instructions

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II. Application of General Rules and Regulations

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D. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the registration statement or amendment without exhibits to the Commission.

* * * * *

F. An electronic filer must provide the signatures required for the registration statement or amendment in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A registrant filing in paper must have at least one copy of the registration statement or amendment signed in accordance with Securities Act Rule 402(e) (17 CFR 230.402(e)) by the persons whose signatures are required for this registration statement. A registrant must also conform the unsigned copies.

* * * * *

I. A registrant must file the registration statement or amendment in electronic format in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306). A registrant may file part of the prospectus or exhibit or other attachment to the registration statement or amendment in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a registrant may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.

J. A paper filer must number sequentially one signed original of the registration statement or amendment (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the registration statement or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered registration statement or amendment.

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20. Amend Form F–10 (referenced in § 239.40), General Instructions II. by revising paragraphs D., F., J., and K. to read as follows:

(Note: The text of Form F–10 does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB number: 3235–0380
Expires: April 30. 2003
Estimated average burden hours per response: 6.0

Securities and Exchange Commission Washington D.C. 20549

Form F–10—Registration Statement Under the Securities Act of 1933

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General Instructions

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II. Application of General Rules and Regulations

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D. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the registration statement or amendment without exhibits to the Commission.

* * * * *

F. An electronic filer must provide the signatures required for the registration statement or amendment in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A registrant filing in paper must have at least one copy of the registration statement or amendment signed in accordance with Securities Act Rule 402(e) (17 CFR 230.402(e)) by the persons whose signatures are required for this registration statement. A registrant must also conform the unsigned copies.

* * * * *

J. A registrant must file the registration statement or amendment in electronic format

in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306). A registrant may file part of the prospectus or exhibit or other attachment to the registration statement or amendment in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a registrant may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.

K. A paper filer must number sequentially one signed original of the registration statement or amendment (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the registration statement or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered registration statement or amendment.

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21. Amend Form F–80 (referenced in § 239.41), General Instructions IV, by revising paragraphs C., E., I., and J. to read as follows:

(**Note:** The text of Form F–80 does not and the amendments will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0404
Expires: October 31, 2003
Estimated average burden hours per response: 0.5

Securities and Exchange Commission
Washington D.C. 20549

Form F–80—Registration Statement Under the Securities Act of 1933

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General Instructions

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IV. Application of General Rules and Regulations

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C. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the registration statement or amendment without exhibits to the Commission.

* * * * *

E. An electronic filer must provide the signatures required for the registration statement or amendment in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A registrant filing in paper must have at least one copy of the registration statement or amendment signed in accordance with Securities Act Rule 402(e) (17 CFR 230.402(e)) by the persons whose signatures are required for this registration statement. A registrant must also conform the unsigned copies.

* * * * *

I. A registrant must file the registration statement or amendment in electronic format in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306). A registrant may file part of the prospectus or exhibit or other attachment to the registration statement or amendment in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a registrant may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.

J. A paper filer must number sequentially one signed original of the registration statement or amendment (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the registration statement or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered registration statement or amendment.

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PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

22. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

23. Amend § 240.12b–12 by removing the authority citation following § 240.12b–12 and by revising paragraph (d) to read as follows:

§ 240.12b–12 Requirements as to paper, printing and language.

* * * * *

(d)(1) All Exchange Act filings and submissions must be in the English language, except as otherwise provided by this section. If a filing or submission requires the inclusion of a document that is in a foreign language, a party must submit instead a fair and accurate English translation of the entire foreign language document, except as provided by paragraph (d)(3) of this section.

(2) If a filing or submission subject to review by the Division of Corporation Finance requires the inclusion of a foreign language document as an exhibit or attachment, a party must submit a fair and accurate English translation of the foreign language document if consisting of any of the following, or an amendment of any of the following:

(i) Articles of incorporation, memoranda of association, bylaws, and other comparable documents, whether original or restated;

(ii) Instruments defining the rights of security holders, including indentures qualified or to be qualified under the Trust Indenture Act of 1939;

(iii) Voting agreements, including voting trust agreements;

(iv) Contracts to which directors, officers, promoters, voting trustees or security holders named in a registration statement, report or other document are parties;

(v) Contracts upon which a filer's business is substantially dependent;

(vi) Audited annual and interim consolidated financial information; and

(vii) Any document that is or will be the subject of a confidential treatment request under § 240.24b–2 or § 230.406 of this chapter.

(3)(i) A party may submit an English summary instead of an English translation of a foreign language document as an exhibit or attachment to a filing or submission subject to review by the Division of Corporation Finance, as long as:

(A) The foreign language document does not consist of any of the subject matter enumerated in paragraph (d)(2) of this section; or

(B) The applicable form permits the use of an English summary.

(ii) Any English summary submitted under paragraph (d)(3) of this section must:

(A) Fairly and accurately summarize the terms of each material provision of the foreign language document; and

(B) Fairly and accurately describe the terms that have been omitted or abridged.

(4) When submitting an English summary or English translation of a foreign language document under this section, a party must identify the submission as either an English summary or English translation. A party may submit a copy of the unabridged foreign language document when including an English summary or English translation of a foreign language document in a filing or submission. A party must provide a copy of any foreign language document upon the request of Commission staff.

(5) A foreign government or its political subdivision must provide a fair and accurate English translation of its latest annual budget submitted as Exhibit B to Form 18 (§ 249.218 of this chapter) or Exhibit (c) to Form 18–K (§ 249.318 of this chapter) only if one is available. If no English translation is available, a filer must provide a copy of the foreign language version of its latest annual budget as an exhibit.

(6) A Canadian issuer may file an exhibit, attachment or other part of a Form 40–F registration statement or annual report (§ 249.240f of this chapter), Schedule 13E–4F (§ 240.13e–102), Schedule 14D–1F (§ 240.14d–102), or Schedule 14D–9F (§ 240.14d–103), that contains text in both French and English if the issuer included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11).

* * * * *

24. Amend § 240.13e–102 by revising paragraphs A., B., E., and F. of General Instructions II of Schedule 13E–4F to read as follows:

§ 240.13e–102 Schedule 13E–4F. Tender offer statement pursuant to section 13(e)(1) of the Securities Exchange Act of 1934 and § 240.13–4 thereunder.

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General Instructions

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II. Filing Instructions and Fees

A.(1) The issuer must file this Schedule and any amendment to the Schedule (see Part I, Item 1.(b)), including all exhibits and other documents filed as part of the Schedule or amendment, in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

(2) If filing the Schedule in paper under a hardship exemption in 17 CFR 232.201 or 232.202 of Regulation S–T, or as otherwise permitted, the issuer must file with the Commission at its principal office five copies of the complete Schedule and any amendment, including exhibits and all other documents filed as a part of the Schedule or amendment. The issuer must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The issuer must further bind the Schedule or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The issuer must provide three additional copies of the Schedule or amendment without exhibits to the Commission.

B. An electronic filer must provide the signatures required for the Schedule or amendment in accordance with 17 CFR 232.302 of Regulation S–T. An issuer filing in paper must have the original and at least one copy of the Schedule and any amendment signed in accordance with Exchange Act Rule 12b–11(d) (17 CFR 12b–11(d)) by the persons whose signatures are required for this Schedule or amendment. The issuer must also conform the unsigned copies.

* * * * *

E. The issuer must file the Schedule or amendment in electronic format in the English language in accordance with 17 CFR 232.306 of Regulation S–T. The issuer may file part of the Schedule or amendment, or exhibit or other attachment to the Schedule or amendment, in both French and English if the issuer included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in 17 CFR 232.11 of Regulation S–T. For both an electronic filing and a paper filing, the issuer may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the Schedule or amendment as permitted by the rules of the applicable Canadian securities administrator.

F. A paper filer must number sequentially the signed original of the Schedule or amendment (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the Schedule or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered Schedule or amendment.

* * * * *

25. Amend § 240.14d–102 by revising paragraphs A., B., E., and F. of General Instructions II of Schedule 14D–1F to read as follows:

§ 240.14d–102 Schedule 14D–1F. Tender offer statement pursuant to rule 14d–1(b) under the Securities Exchange Act of 1934.

* * * * *

General Instructions

* * * * *

II. Filing Instructions and Fees

A.(1) The bidder must file this Schedule and any amendment to the Schedule (see Part I, Item 1.(b)), including all exhibits and other documents filed as part of the Schedule or amendment, in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

(2) If filing the Schedule in paper under a hardship exemption in 17 CFR 232.201 or 232.202 of Regulation S–T, or as otherwise permitted, the bidder must file with the Commission at its principal office five copies of the complete Schedule and any amendment, including exhibits and all other documents filed as a part of the Schedule or amendment. The bidder must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The bidder must further bind the Schedule or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The bidder must provide three additional copies of the Schedule or amendment without exhibits to the Commission.

B. An electronic filer must provide the signatures required for the Schedule or amendment in accordance with 17 CFR 232.302 of Regulation S–T. A bidder filing in paper must have the original and at least one copy of the Schedule and any amendment signed in accordance with Exchange Act Rule 12b–11(d) (17 CFR 12b–11(d)) by the persons whose signatures are required for this Schedule or amendment. The bidder must also conform the unsigned copies.

* * * * *

E. The bidder must file the Schedule or amendment in electronic format in the English language in accordance with 17 CFR 232.306 of Regulation S–T. The bidder may file part of the Schedule or amendment, or exhibit or other attachment to the Schedule or amendment, in both French and English if the bidder included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in 17 CFR 232.11 of Regulation S–T. For both an electronic filing and a paper filing, the bidder may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the Schedule or amendment as permitted by the rules of the applicable Canadian securities administrator.

F. A paper filer must number sequentially the signed original of the Schedule or amendment (in addition to any internal

numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the Schedule or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered Schedule or amendment.

* * * * *

26. Amend § 240.14d–103 by revising General Instructions II of Schedule 14D–9F to read as follows:

§ 240.14d–103 Schedule 14D–9F. Solicitation/recommendation statement pursuant to section 14(d)(4) of the Securities Exchange Act of 1934 and rules 14d–1(b) and 14e–2(c) thereunder.

* * * * *

General Instructions

* * * * *

II. Filing Instructions

A.(1) The subject issuer must file this Schedule and any amendment to the Schedule (see Part I, Item 1.(b)), including all exhibits and other documents filed as part of the Schedule or amendment, in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

(2) If filing the Schedule in paper under a hardship exemption in 17 CFR 232.201 or 232.202 of Regulation S–T, or as otherwise permitted, the subject issuer must file with the Commission at its principal office five copies of the complete Schedule and any amendment, including exhibits and all other documents filed as a part of the Schedule or amendment. The subject issuer must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The subject issuer must further bind the Schedule or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The subject issuer must provide three additional copies of the Schedule or amendment without exhibits to the Commission.

B. An electronic filer must provide the signatures required for the Schedule or amendment in accordance with 17 CFR 232.302 of Regulation S–T. A subject issuer filing in paper must have the original and at least one copy of the Schedule and any amendment signed in accordance with Exchange Act Rule 12b–11(d) (17 CFR 12b–11(d)) by the persons whose signatures are required for this Schedule or amendment. The subject issuer must also conform the unsigned copies.

C. The subject issuer must file the Schedule or amendment in electronic format in the English language in accordance with 17 CFR 232.306 of Regulation S–T. The subject issuer may file part of the Schedule or amendment, or exhibit or other attachment to the Schedule or amendment, in both French and English if the bidder included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in 17 CFR 232.11 of Regulation S–T. For both an electronic filing and a paper filing, the subject issuer may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the Schedule or amendment as permitted by the rules of the applicable Canadian securities administrator.

D. A paper filer must number sequentially the signed original of the Schedule or amendment (in addition to any internal numbering that otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of the Schedule or amendment, including any exhibits or attachments. A paper filer must disclose the total number of pages on the first page of the sequentially numbered Schedule or amendment.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

27. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

28. Amend Form 20–F (referenced in § 249.220f) by revising General Instruction D. and the first three paragraphs of the Instructions as to Exhibits to read as follows:

(**Note:** The text of Form 20–F does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0288
Expires: January 31, 2005
Estimated average burden hours per response: 431.0

United States Securities and Exchange Commission

Washington, D.C. 20549

Form 20–F

* * * * *

General Instructions

* * * * *

D. How To File Registration Statements and Reports on This Form

(a) You must file the Form 20–F registration statement or annual report in electronic format via our Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). The Form 20–F registration statement or annual report must be in the English language as required by Regulation S–T Rule 306 (17 CFR 232.306). You must provide the signatures required for the Form 20–F registration statement or annual report in accordance with Regulation S–T Rule 302 (17 CFR 232.302). If you have technical questions about EDGAR or want to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. If you have questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

(b) If you are filing the Form 20–F registration statement or annual report in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, you must file with the Commission (i) three complete copies of the registration statement or report, including financial statements, exhibits and all other papers and documents filed as part of the registration statement or report, and (ii) five additional copies of the registration statement or report, which need not contain exhibits. Whether filing electronically or in paper, you must also file at least one complete copy of the registration statement or report, including financial statements, exhibits and all other papers and documents filed as part of the registration statement or report, with each exchange on which any class of securities is or will be registered. When submitting the Form 20–F in paper, you must sign at least one complete copy of the registration statement or report filed with the Commission and one copy filed with each exchange in accordance with Exchange Act Rule 12b–11(d) (17 CFR 12b–11(d)). You must conform the unsigned copies when submitting the Form 20–F registration statement or report in paper. When submitting the Form 20–F in electronic format to the Commission, you may submit a paper copy containing typed signatures to each United States stock exchange in accordance with Regulation S–T Rule 302(c) (17 CFR 302(c)). See also Exchange Act Rule 12b–12(d) and Form 20–F's Instructions as to Exhibits for requirements concerning use of the English language and treatment of foreign language documents.

(c) When registration statements and reports are permitted to be filed in paper, they are filed with the Commission by sending or delivering them to our File Desk between the hours of 9 a.m. and 5:30 p.m., Washington, DC time. The File Desk is closed on weekends and federal holidays. If you file a paper registration statement or report by mail or by any means other than hand delivery, the address is U.S. Securities and Exchange Commission, Attention: File Desk, 450 Fifth Street, NW., Washington, DC 20549. We consider documents to be filed on the date our File Desk receives them.

* * * * *

Instructions as to Exhibits

File the exhibits listed below as part of an Exchange Act registration statement or report. Exchange Act Rule 12b–32 explains the circumstances in which you may incorporate exhibits by reference. Exchange Act Rule 24b–2 explains the procedure to be followed in requesting confidential treatment of information required to be filed.

Previously filed exhibits may be incorporated by reference. If any previously filed exhibits have been amended or modified, file copies of the amendment or modification or copies of the entire exhibit as amended or modified.

If the Form 20–F registration statement or annual report requires the inclusion, as an exhibit or attachment, of a document that is in a foreign language, you must provide instead either an English translation or an English summary of the foreign language document in accordance with Exchange Act Rule 12b–12(d) (17 CFR 240.12b–12(d)) for both electronic and paper filings. You may submit a copy of the unabridged foreign language document along with the English translation or summary as permitted by Regulation S–T Rule 306(b) (17 CFR 232.306(b)) for electronic filings or by Exchange Act Rule 12b–12(d)(4) (17 CFR 240.12b–12(d)(4)) for paper filings.

Include an exhibit index in each registration statement or report you file, immediately preceding the exhibits you are filing. The exhibit index must list each exhibit according to the number assigned to it below. If an exhibit is incorporated by reference, note that fact in the exhibit index. For paper filings, the pages of the manually signed original registration statement should be numbered in sequence, and the exhibit index should give the page number in the sequential numbering system where each exhibit can be found.

* * * * *

29. Amend Form 40–F (referenced in § 249.240f) by revising paragraph (4) of General Instruction B. and paragraphs (7) and (8) of General Instruction D. to read as follows:

(**Note:** The text of Form 40–F does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0381
Expires: March 31, 2003
Estimated average burden hours per response: 0.5

U.S. Securities and Exchange Commission

Washington, D.C. 20549

Form 40–F

* * * * *

General Instructions

* * * * *

B. Information To Be Filed on This Form

* * * * *

(4) A filer must file the Form 40–F registration statement or annual report in electronic format in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306). A filer may file part of an exhibit or other attachment to the Form 40–F registration statement or annual report in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S–T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a filer may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.

* * * * *

D. Application of General Rules and Regulations

* * * * *

(7) A filer must file the Form 40–F registration statement or annual report in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

If filing the Form 40–F registration statement or annual report in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a filer must file with the Commission at its principal office five copies of the complete registration statement or annual report, including exhibits and all other documents filed as a part of the registration statement or annual report. The filer must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The filer must further bind the registration statement or annual report on the side or stitching margin in a manner that leaves the reading matter legible. The filer must provide three additional copies of the registration statement or annual report without exhibits to the Commission.

* * * * *

(8) An electronic filer must provide the signatures required for the Form 40–F registration statement or annual report in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A paper filer must have at least one copy of the Form 40–F registration statement or annual report signed by an officer authorized to sign the registration statement or annual report. A paper filer must also conform the unsigned copies.

* * * * *

30. Amend Form CB (referenced in § 239.800 and § 249.480) by revising the cover page, paragraphs A., B., and D. of General Instructions II, and paragraphs (1), (2), and (3) of Part II to read as follows:

(**Note:** The text of Form CB does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0518 Expires: March 31, 2005 Estimated average burden hours per response: 2.0

United States Securities and Exchange Commission

Washington, D.C. 20549

Form CB—Tender Offer/Rights Offering Notification Form (Amendment No. ____)

Please place an X in the box(es) to designate the appropriate rule provision(s) relied upon to file this Form:

Securities Act Rule 801 (Rights Offering) ☐
Securities Act Rule 802 (Exchange Offer) ☐
Securities Act Rule 13e–4(h)(8) (Issuer Tender Offer) ☐
Exchange Act Rule 14d–1(c) (Third Party Tender Offer) ☐
Exchange Act Rule 14e–2(d) (Subject Company Response) ☐
Filed or submitted in paper if permitted by Regulation S–T Rule 101(b)(8) ☐

Note: Regulation S–T Rule 101(b)(8) only permits the filing or submission of a Form CB in paper by a party that is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.

* * * * *

General Instructions

* * * * *

II. Instructions for Submitting Form

A. (1) If the party filing or submitting the Form CB has reporting obligations under Exchange Act Section 13 or 15(d), Regulation S–T Rule 101(a)(1)(vi) (17 CFR 232.101(a)(1)(vi)) requires the submission of the Form CB in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

(2) If the party filing or submitting the Form CB is not an Exchange Act reporting company, Regulation S–T Rule 101(b)(8) (17 CFR 232.101(b)(8)) permits the submission of the Form CB either via EDGAR or in paper. When filing or submitting the Form CB in electronic format, either voluntarily or as a mandated EDGAR filer, a party must also file or submit on EDGAR all home jurisdiction documents required by Parts I and II of this Form, except as provided by the Note following paragraph (2) of Part II.

(3) A party may also file a Form CB in paper under a hardship exemption provided by Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202). When submitting a Form CB in paper under a hardship exemption, a party must provide the legend required by Regulation S–T Rule 201(a)(2) or 202(c) (17 CFR 232.201(a)(2) or 232.202(c)) on the cover page of the Form CB.

(4) If filing the Form CB in paper in accordance with Rule 101(b)(8) or a hardship exemption, you must furnish five copies of this Form and any amendment to the Form (see Part I, Item 1.(b)), including all exhibits and any other paper or document furnished as part of the Form, to the Commission at its principal office. You must bind, staple or otherwise compile each copy in one or more parts without stiff covers. You must make the binding on the side or stitching margin in a manner that leaves the reading matter legible.

B. When submitting the Form CB in electronic format, the persons specified in Part IV must provide signatures in accordance with Regulation S–T Rule 302 (17 CFR 232.302). When submitting the Form CB in paper, the persons specified in Part IV

must sign the original and at least one copy of the Form and any amendments. You must conform any unsigned copies. The specified persons may provide typed or facsimile signatures in accordance with Securities Act Rule 402(e) (17 CFR 230.402(e)) or Exchange Act Rule 12b–11(d) (17 CFR 240.12b–11(d)) as long as the filer retains copies of signatures manually signed by each of the specified persons for five years.

* * * * *

D. If filing in paper, in addition to any internal numbering you may include, sequentially number the signed original of the Form and any amendments by handwritten, typed, printed or other legible form of notation from the first page of the document through the last page of the document and any exhibits or attachments. Further, you must set forth the total number of pages contained in a numbered original on the first page of the document.

* * * * *

Part II—Information Not Required To Be Sent to Security Holders

* * * * *

(1) Furnish to the Commission either an English translation or English summary of any reports or information that, in accordance with the requirements of the home jurisdiction, must be made publicly available in connection with the transaction but need not be disseminated to security holders. Any English summary submitted must meet the requirements of Regulation S–T Rule 306(a) (17 CFR 232.306(a)) if submitted electronically or of Securities Act Rule 403(c)(3) (17 CFR 230.403(c)(3)) or Exchange Act Rule 12b–12(d)(3) (17 CFR 240.12b–12(d)(3)) if submitted in paper.

(2) Furnish copies of any documents incorporated by reference into the home jurisdiction document(s).

Note to paragraphs (1) and (2) of Part II: In accordance with Regulation S–T Rule 311(f) (17 CFR 232.311(f)), a party may submit a paper copy under cover of Form SE (17 CFR 239.64, 249.444, 259.603, 269.8, and 274.403) of an unabridged foreign language document when submitting an English summary in electronic format under paragraph (1) of this Part or when furnishing a foreign language document that has been incorporated by reference under paragraph (2) of this Part.

(3) If any of the persons specified in Part IV has signed the Form CB under a power of attorney, a party submitting the Form CB in electronic format must include a copy of the power of attorney signed in accordance with Regulation S–T Rule 302 (17 CFR 232.302). A party submitting the Form CB in paper must also include a copy of the signed power of attorney.

* * * * *

31. Amend Form 6–K (referenced in § 249.306) by revising the cover page and General Instructions C. and D. to read as follows:

(Note: The text of Form 6–K does not and the amendments will not appear in the Code of Federal Regulations.)

OMB Approval

OMB Number: 3235–0116
Expires: March 31, 2003
Estimated average burden hours per response: 2.0

Form 6–K

Securities and Exchange Commission

Washington, D.C. 20549

Report of Foreign Private Issuer

Pursuant to Rule 13a–16 or 15d–16 Under the Securities Exchange Act of 1934

For the month of _____, 20 ___
Commission File Number _____

_____
(Translation of registrant's name into English)

_____
(Address of principal executive offices)

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20–F or Form 40–F:
Form 20–F ___ Form 40–F ___

Indicate by check mark if the registrant is submitting the Form 6–K in paper as permitted by Regulation S–T Rule 101(b)(1):
___

Note: Regulation S–T Rule 101(b)(1) only permits the submission in paper of a Form 6–K if submitted solely to provide an attached annual report to security holders.

Indicate by check mark if the registrant is submitting the Form 6–K in paper as permitted by Regulation S–T Rule 101(b)(7):
___

Note: Regulation S–T Rule 101(b)(7) only permits the submission in paper of a Form 6–K if submitted to furnish a report or other document that the registrant foreign private issuer must furnish and make public under the laws of the jurisdiction in which the registrant is incorporated, domiciled or legally organized (the registrant's "home country"), or under the rules of the home country exchange on which the registrant's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the registrant's security holders, and, if discussing a material event, has already been the subject of a Form 6–K submission or other Commission filing on EDGAR.

Indicate by check mark whether by furnishing the information contained in this Form, the registrant is also thereby furnishing the information to the Commission pursuant to Rule 12g3–2(b) under the Securities Exchange Act of 1934.

Yes ___ No ___

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3–2(b): 82–___

* * * * *

General Instructions

* * * * *

C. Preparation and Filing of Report. (1) The Form 6–K report shall consist of a cover page, the report or document furnished by the issuer, and a signature page. An issuer must submit the Form 6–K report in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR Part 232) except as discussed below. An issuer submitting the Form 6–K in electronic format must provide the signatures required for the Form 6–K report in accordance with Regulation S–T Rule 302 (17 CFR 232.302). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

(2) An issuer may submit a Form 6–K in paper under:

- Regulation S–T Rule 101(b)(1) (17 CFR 232.101(b)(1)) if the sole purpose of the Form 6–K is to furnish an annual report to security holders;
- Regulation S–T Rule 101(b)(7) to provide a report or other document that the issuer must furnish and make public under the laws of the jurisdiction in which it is incorporated, domiciled or legally organized (the issuer's "home country"), or under the rules of the home country exchange on which the issuer's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, including the disclosure of annual audited or interim consolidated financial results, has already been the subject of a Form 6–K submission or other Commission filing on EDGAR; or
- A hardship exemption provided by Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202).

Note to paragraph (2): An issuer that is or will be incorporating by reference all or part of an annual or other report to security holders, or of any part of a paper Form 6–K, into an electronic filing must file the incorporated portion in electronic format as an exhibit to the filing in accordance with Regulation S–T Rule 303(b) (17 CFR 232.303(b)).

(3) When submitting a Form 6–K in paper under one of the above rules, an issuer must check the appropriate box on the cover page of the Form 6–K. When submitting a Form 6–K in paper under a hardship exemption, an issuer must provide the legend required by Regulation S–T Rule 201(a)(2) or 202(c) (17 CFR 232.201(a)(2) or 232.202(c)) on the cover page of the Form 6–K.

(4) An issuer furnishing the Form 6–K in paper under one of the above rules, or as otherwise permitted by the Commission, must deposit with the Commission eight complete copies of the Form 6–K report. An issuer must also file at least one complete copy of the Form 6–K with each United States stock exchange on which any security of the issuer is listed and registered under Section 12(b) of the Exchange Act. The issuer must have signed at least one of the paper copies deposited with the Commission and one filed with each United States stock exchange in accordance with Exchange Act Rule 12b–11(d) (17 CFR 240.12b–11(d)) when submitting the Form 6–K in paper to the Commission. An issuer submitting the Form 6–K in paper must also conform the unsigned copies. When submitting the Form 6–K in electronic format to the Commission, an issuer may submit a paper copy containing typed signatures to each United States stock exchange in accordance with Regulation S–T Rule 302(c) (17 CFR 232.302(c)).

D. Treatment of Foreign Language Documents. (1) An issuer must submit the Form 6–K report in electronic format in the English language in accordance with Regulation S–T Rule 306 (17 CFR 232.306) and Exchange Act Rule 12b–12(d) (17 CFR 240.12b–12(d)), as referenced in Regulation S–T Rule 306(a) (17 CFR 232.306(a)), except as otherwise provided by this Form. An issuer submitting the Form 6–K in paper must meet the requirements of Exchange Act Rule 12b–12(d) (17 CFR 240.12b–12(d)). In accordance with, or in addition to, the list of documents specified in Exchange Act Rule 12b–12(d)(2) (17 CFR 240.12b–12(d)(2)), an issuer must provide a full English translation of the following documents furnished under cover of Form 6–K whether submitted electronically or in paper:

- Press releases;
- Communications and other documents distributed directly to security holders for each class of securities to which a reporting obligation under Exchange Act Section 13(a) or 15(d) pertains, except for offering circulars and prospectuses that relate entirely to securities offerings outside the United States ("foreign offerings"); and
- Documents disclosing annual audited or interim consolidated financial information.

(2) In addition to the documents specified in Exchange Act Rule 12b–12(d)(3) (17 CFR 240.12b–12(d)(3)), an issuer may furnish under cover of Form 6–K, whether submitted electronically or in paper, an English summary instead of a full English translation of a report required to be furnished and made public under the laws of the issuer's home country or the rules of the issuer's home country stock exchange, as long as it is not a press release and is not required to be and has not been distributed to the issuer's security holders. Such a document may include a report disclosing unconsolidated financial information about a parent company.

(3) An issuer is not required to submit under cover of Form 6–K an offering circular or prospectus that pertains solely to a foreign offering, even when an English translation or English summary is available, if the issuer has already submitted a Form 6–K or filed a Form 20–F or other Commission filing on EDGAR that reported material information disclosed in the offering circular or prospectus. If an issuer has not previously disclosed this material information to the Commission, it may submit in electronic format under cover of Form 6–K an English translation or English summary of the portion of the foreign offering circular or prospectus that discusses the new material information.

(4) Any submitted English summary must meet the requirements of Exchange Act Rule 12b–12(d)(3)(ii) (17 CFR 240.12b–12(d)(3)(ii)). An issuer may submit the unabridged foreign language report or other document along with the English summary or English translation as permitted by Regulation S–T Rule 306(b) (17 CFR 232.306(b)) for electronic filings and Exchange Act Rule 12b–12(d)(4) (17 CFR 240.12b–12(d)(4)) for paper filings.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

32. The authority citation for Part 269 continues to read as follows:

Authority: 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jj, 77sss, 78*lll*(d), unless otherwise noted.

33. Amend Form F–X (referenced in §§ 239.42, 249.250 and 269.5), General Instructions II, by revising paragraph B. to read as follows:

(Note: The text of Form F–X does not and the amendment will not appear in the Code of Federal Regulations.)

OMB Approval
OMB Number: 3235–0379
Expires: June 30, 2003
Estimated average burden hours per response: 2.0

United States

Securities and Exchange Commission
Washington, D.C. 20549

Form F–X—Appointment of Agent for Service of Process and Undertaking

* * * * *

General Instructions

* * * * *

II.

* * * * *

B. (1) This is [check one]:

☐ An original filing for the Filer
☐ An amended filing for the Filer

(2) Check the following box if you are filing the Form F–X in paper in accordance with Regulation S–T Rule 101(b)(9) ☐.

Note: Regulation S–T Rule 101(b)(9) only permits the filing of the Form F–X in paper:

(a) If the party filing or submitting the Form CB is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act; or

(b) If filed by a Canadian issuer when qualifying an offering statement pursuant to the provisions of Regulation A (230.251—230.263 of this chapter).

(3) A filer may also file the Form F–X in paper under a hardship exemption provided by Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202). When submitting the Form F–X in paper under a hardship exemption, a filer must provide the legend required by Regulation S–T Rule 201(a)(2) or 202(c) (17 CFR 232.201(a)(2) or 232.202(c)) on the cover page of the Form F–X.

* * * * *

Dated: May 14, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12566 Filed 5–23–02; 8:45am]

BILLING CODE 8010–01–P

Federal Register

Friday,
May 24, 2002

Part III

Securities and Exchange Commission

17 CFR Part 230, et al.
Proposed Amendments to Investment Company Advertising Rules; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33–8101; 34–45953; IC–25575; File No. S7–17–02]

RIN 3235–AH19

Proposed Amendments to Investment Company Advertising Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing rule and form amendments under the Securities Act of 1933 and the Investment Company Act of 1940 to provide registered investment companies and business development companies with the ability to disclose more timely information in advertisements and to reinforce the antifraud protections that apply to investment company advertisements. The proposed amendments would implement a provision of the National Securities Markets Improvement Act of 1996 by permitting the use of a prospectus under section 10(b) of the Securities Act with respect to securities issued by an investment company that includes information the substance of which is not included in the investment company's statutory prospectus. The proposed amendments also would require enhanced disclosure in investment company advertisements and are designed to encourage advertisements that convey balanced information to prospective investors, particularly with respect to past performance.

DATES: Comments must be received on or before July 31, 2002.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7–17–02; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549–0102. Electronically submitted comment letters will also be posted on the Commission's Internet site (*http://www.sec.gov*).[1]

FOR FURTHER INFORMATION CONTACT: Christopher P. Kaiser, Attorney, David S. Schwartz, Attorney, or Paul G. Cellupica, Assistant Director, at (202) 942–0721, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is proposing for comment amendments to rule 134 [17 CFR 230.134], rule 156 [17 CFR 230.156], and rule 482 [17 CFR 230.482] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] ("Securities Act") and rule 34b-1 [17 CFR 270.34b-1] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] ("Investment Company Act"). The Commission also is proposing for comment technical amendments to Form N–1A [17 CFR 239.15A and 274.11A], Form N–3 [17 CFR 239.17a and 274.11b], Form N–4 [17 CFR 239.17b and 274.11c], and Form N–6 [17 CFR 239.17c and 274.11d], registration forms used by investment companies to register under the Investment Company Act and to offer their securities under the Securities Act.

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[1] We do not edit personal, identifying information, such as names or E-mail addresses, from electronic submissions. Submit only information that you wish to make publicly available.

I. Introduction and Background

Like most issuers of securities, when an investment company ("fund") offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act. Congress imposed these restrictions so that investors would base their investment decisions on the full disclosures contained in the "statutory prospectus," which Congress intended to be the primary selling document.[2] The advertising restrictions of the Securities Act cause special problems for many investment companies, particularly for open-end management investment companies ("mutual funds") and other investment companies that continuously offer and sell their shares.[3] For these funds, the advertising restrictions apply continuously because the offering process, in effect, is continuous.

In recognition of these problems, the Commission has adopted special advertising rules for investment companies. The most important of these is rule 482 under the Securities Act, which permits investment companies to advertise investment performance data, as well as other information.[4] Rule 482 advertisements are "prospectuses" under section 10(b) of the Securities Act (so-called "omitting prospectuses"),[5] which means that, historically, they could only contain information the "substance of which" is included in the statutory prospectus.[6] In the National Securities Markets Improvement Act of 1996 ("NSMIA"), Congress amended the Investment Company Act to permit, subject to rules adopted by the Commission, the use of prospectuses under section 10(b) of the Securities Act that include information the substance of which is not included in the statutory prospectus.[7] Today, we are proposing to amend rule 482 and make other related rule and form changes to implement this legislation, which will provide funds with the ability to include more timely information in their advertisements, *e.g.*, information about current economic conditions that normally would not be included in a fund's prospectus. The proposed amendment will also permit funds to eliminate from the statutory prospectus boilerplate disclosure that clutters the statutory prospectus and obscures other important information.

At the same time, we are proposing amendments to the fund advertising rules that are intended to reinforce antifraud protections and encourage the provision of information to investors that is more balanced and informative, particularly in the area of investment performance. Many funds experienced extraordinary performance during 1999 and 2000, particularly funds investing in technology and Internet stocks.[8] Eager to attract new investors, many of these funds engaged in advertising campaigns focusing on past performance.[9] We became concerned that some funds, when advertising their performance, may resort to techniques that create unrealistic investor expectations or may mislead potential investors.

The Commission has undertaken a series of initiatives to address trends in the area of performance advertising. We have engaged in education efforts to caution investors against the dangers of chasing fund performance and focusing only on short-term asset growth.[10] Our staff has conducted a special review of fund marketing materials, as well as examinations of funds that have employed aggressive marketing practices.[11] And we have instituted enforcement actions based on misleading fund advertising.[12] Today's proposed amendments are part of our continuing efforts to raise the bar for fund performance advertising so that investors are informed, and not misled, by that advertising.

A. Fund Advertising Rules

Section 5 of the Securities Act contains prohibitions regarding the dissemination of written selling material to investors during the offering period. Section 5(b)(1) makes it unlawful to use interstate commerce to transmit any prospectus relating to a security with respect to which a registration statement has been filed unless the prospectus meets the requirements of section 10 of the Securities Act.[13] "Prospectus" is broadly defined in section 2(a)(10) to include any advertisement or other communication, "written or by radio or television, which offers any security for sale or confirms the sale of any security."[14] Thus, advertisements are considered prospectuses under the Securities Act if they offer a security for sale. Because the term "offer" is defined and interpreted broadly to encompass any attempt to procure orders for a security, written and radio or television advertisements relating to a security, or aiding in the selling effort with respect to a security, generally must be in the form of a section 10 prospectus.[15]

There is a limited exception to the general requirement that written and radio or television offers after the filing of a registration statement must be in the form of a section 10 prospectus. So-called "supplemental sales literature" may be used after the effective date of a registration statement if accompanied or preceded by the statutory prospectus.[16] In addition, the use of "tombstone" advertisements is permitted under limited circumstances without prior delivery of the statutory prospectus.[17]

The advertising restrictions of the Securities Act cause special problems for many investment companies. Unlike typical corporate issuers that generally offer their shares only periodically, mutual funds typically offer and sell their shares continuously to provide an ongoing flow of capital into their portfolios and to enable them to meet redemption requests from outgoing shareholders. Unit investment trusts ("UITs") typically have active secondary markets in which the trusts' sponsors are continuously purchasing and selling the trusts' units. For mutual funds and UITs, the advertising restrictions apply continuously because the offering process, in effect, is continuous. In recognition of this issue, the Commission has adopted special advertising rules for investment companies.

Rule 482

The Commission adopted rule 482 under the authority of section 10(b) of the Securities Act, which permits the Commission to adopt rules that provide for a prospectus that "omits in part" or "summarizes" information contained in the statutory prospectus.[18] Rule 482

[2] "Statutory prospectus" refers to the full prospectus required by Section 10(a) of the Securities Act. 15 U.S.C. 77j(a).

[3] An open-end management investment company ("mutual fund") is an investment company, other than a unit investment trust or face-amount certificate company, that offers for sale or has outstanding any redeemable security of which it is the issuer. Sections 4 and 5(a)(1) of the Investment Company Act [15 U.S.C. 80a–4 and 80a–5(a)(1)]. Mutual funds typically offer and sell their shares continuously to provide an ongoing flow of capital into their portfolios and to enable them to meet redemption requests from outgoing shareholders.

A unit investment trust ("UIT") is "an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities; but does not include a voting trust." Section 4(2) of the Investment Company Act [15 U.S.C. 80a–4(2)]. UITs typically have active secondary markets in which the trusts' sponsors are continuously purchasing and selling the trusts' units.

A face-amount certificate is a security that obligates the issuer to pay a stated (or determinable) amount on a fixed (or determinable) date or series of dates more than twenty-four months after the date of issuance. Section 2(a)(15) of the Investment Company Act [15 U.S.C. 80a–2(a)(15)]. A face-amount certificate company is an investment company that engages or proposes to engage in the business of issuing certain face-amount certificates. Section 4(1) of the Investment Company Act [15 U.S.C. 80a–4(1)].

[4] 17 CFR 230.482.

[5] 15 U.S.C. 77j(b).

[6] 17 CFR 230.482(a)(2).

[7] National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290, 110 Stat. 3416, 3428, Section 204.

[8] In 1999, for example, more than 200 funds had returns of more than 200 percent. Gavin Daly, *SEC Reviewing Performance-Based Ads* (Mar. 29, 2000) (visited June 13, 2000) http://www.ignites.com/. In particular, funds investing in technology and Internet stocks achieved unusually high returns. Humberto Cruz, *Don't Let Numbers Mislead*, Sun-Sentinel, Feb. 13, 2000, at 5F.

[9] *See* Cruz, *supra* note 8 (stating that "[y]ou can't pick up a financial magazine these days or tune in to financial television without running into mutual fund ads like * * * 'Heavenly,' 'We're Still Celebrating,' 'With Performance Like This,' [and] 'Operators Are Standing By.' "); Tony Lystra, *Fund Advertising Spending Jumped in 2000*, Mutual Fund Market News, Apr. 23, 2001 ("Mutual fund companies spent 22 percent more on advertising [in 2000] than in 1999 as they touted their products' improved performance in a bull market."); Simon London, *The Managers Who Mislead Us: Controls Are Needed to Stop Absolute Performance Statistics Being Quoted Out Of Context*, The Financial Times, Mar. 11, 2000, at 6 ("[T]he strength of world equity markets over the past decade has given managers some unusually eye-catching statistics to play with.").

[10] *See* Securities and Exchange Commission, *Mutual Fund Investing: Look at More Than a Fund's Past Performance* (last modified Jan. 24, 2000) http://www.sec.gov/investor/pubs/mfperform.htm.

[11] Securities and Exchange Commission, *Supplementary News Material: Special Review of Fund Advertising Fact Sheet* (last modified Feb. 23, 2001) http://www.sec.gov/news/extra/funadfct.htm; Paul F. Roye, Director, Division of Investment Management, "Challenges for the Mutual Fund Industry in the Competitive Frontier," Remarks at the 2000 Mutual Funds and Investment Management Conference, Palm Desert, Ca. (Mar. 27, 2000) (transcript available at http://www.sec.gov/news/speech/speecharchive/200speech.shtml).

[12] For a discussion of these enforcement actions, see note 39 *infra* and accompanying text.

[13] 15 U.S.C. 77e(b)(1).

[14] 15 U.S.C. 77b(a)(10).

[15] Section 2(a)(3) of the Securities Act defines the term "offer" to include "every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value." 15 U.S.C. 77b(a)(3).

[16] Under section 2(a)(10) of the Securities Act, supplemental sales literature is not considered to be a prospectus and, as a result, is not subject to section 5(b)(1) of the Securities Act.

[17] "Tombstone" advertisements are permitted by section 2(a)(10)(b) of the Securities Act, which provides that an advertisement or other communication in respect of a security shall not be deemed a prospectus: If it states from whom a written prospectus meeting the requirements of section 10 may be obtained and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed, and contain such other information as the Commission, by rules or regulations deemed necessary or appropriate in the public interest and for the protection of investors * * * may permit. 15 U.S.C. 77b(a)(10)(b).

[18] 15 U.S.C. 77j(b). *See also* Investment Company Act Release No. 10852 (Aug. 31, 1979) [44 FR 52816

Continued

permits registered investment companies and business development companies to advertise any information "the substance of which" is included in the statutory prospectus.[19] The theory behind the "substance of which" requirement is that an advertisement cannot be one that "omits" information from the statutory prospectus unless all of the information in the advertisement is derived from information in the statutory prospectus.[20] Significantly, rule 482 provides a means for mutual funds to advertise performance information according to standardized formulas.[21]

Because a rule 482 advertisement is a prospectus under section 10(b) of the Securities Act, a rule 482 advertisement is subject to section 12(a)(2) of the Securities Act, which imposes liability for materially false or misleading statements in a prospectus or oral communication, subject to a reasonable care defense.[22] Rule 482 advertisements are also subject to the antifraud provisions of the federal securities laws.[23] Mere compliance with the terms of rule 482 is not a safe harbor against antifraud liability.[24]

Rule 134

In contrast to rule 482, rule 134 is a content-based rule that specifies certain categories of information that a fund may advertise. The Commission adopted rule 134 under the authority of section 2(a)(10)(b) of the Securities Act.[25] Section 2(a)(10)(b) excepts a communication from the definition of "prospectus" if the communication states from whom an investor may obtain a written prospectus meeting the requirements of section 10 of the Securities Act and, in addition, does no more than identify the security, state its price and by whom orders will be executed, and contain any other information that the Commission permits by rule. Originally, rule 134 communications, known as "tombstone advertisements," were intended merely to announce the existence of a public offering and serve as a simple means for soliciting inquiries for the statutory prospectus.[26] Over the years, however, the Commission has amended rule 134, broadening the permissible categories of information that a fund may include in its tombstone advertisements.[27] Today, funds may advertise a broad range of information under rule 134, other than performance information.

Because the Commission adopted rule 134 under section 2(a)(10)(b) of the Securities Act, rule 134 advertisements are not considered prospectuses. As a result, rule 134 advertisements do not create liability under section 12(a)(2) of the Securities Act, which by its terms applies only to prospectuses and oral communications.[28] Rule 134 advertisements, however, are subject to the antifraud provisions of the federal securities laws.[29]

Rule 34b–1

Rule 34b–1 under the Investment Company Act applies to supplemental sales literature, *i.e.*, sales literature that is preceded or accompanied by the statutory prospectus.[30] Under rule 34b–1, any performance data included in supplemental sales literature must be accompanied by performance data computed using the standardized formulas for advertising performance under rule 482.[31] The Commission adopted rule 34b–1 to ensure that performance claims in supplemental sales literature would not be misleading and to promote comparability and uniformity among supplemental sales literature and rule 482 advertisements.[32] Supplemental sales literature is subject to the antifraud provisions of the federal securities laws. Mere compliance with the terms of rule 34b–1 is not a safe harbor against antifraud liability.[33]

Rule 156

Rule 156 under the Securities Act provides guidance on the types of information that could be misleading in fund sales literature.[34] It applies to all advertisements and supplemental sales literature.[35] Under rule 156, whether a statement involving a material fact is misleading depends on an evaluation of the context in which it is made. Rule 156 indicates that representations about past performance could be misleading in situations where portrayals of past performance convey an impression of net investment results that would not be justified under the circumstances.[36]

B. Performance Advertising Practices

Although there are many factors other than performance that an investor should consider in deciding whether to invest in a particular fund, many investors consider performance to be one of the most significant factors when selecting or evaluating mutual funds.[37] Eager to attract new investors, many funds have, from time to time, engaged in advertising campaigns focusing on past performance. As a result of advertising that focused on extraordinary fund performance during 1999–2000, there have been increasing concerns that some funds, when advertising their performance, may resort to techniques that create unrealistic investor expectations or may mislead potential investors.[38] As discussed more fully below, we have particular concerns about the following practices:

- Advertising performance without providing adequate disclosure of unusual circumstances that have contributed to performance;
- Advertising performance without providing adequate disclosure of the performance period, that more current performance information is available, or that more current performance may be lower than advertised performance; and
- Advertising performance based on selective dates or time periods in order to showcase fund performance as of those specific dates or time periods without providing disclosure that would permit an investor to evaluate the significance of the performance.

Unusual Circumstances That Contribute to Fund Performance

Mutual fund performance advertisements may be materially misleading when they fail to adequately disclose that unusual circumstances contributed to the fund's advertised performance. In each of two enforcement actions, an investment adviser had marketed a relatively small fund's unusually high return without disclosing that a significant percentage of the fund's return was attributable to its investments in securities issued in initial public offerings.[39] Given the substantial growth in the funds' assets as a result of sales of the funds' shares to the public, to the point where the funds were no longer experiencing, by investing in additional initial public offerings, substantially similar performance as they previously experienced, the Commission found that the failure to disclose the contribution to the funds' performance of the initial public offering investments was materially misleading.

To address these concerns, some mutual fund advertisements supplement their presentations of performance information with narrative disclosure that is designed to inform investors that the funds' performance was achieved through the use of particular investment strategies under specified circumstances that are not likely to recur. For example, one fund advertisement disclosed that a significant portion of the fund's advertised performance was attributable to the allocation of initial public offering securities to the fund but indicated that such allocation would not likely continue in the future.

Currentness of Performance Information

Rule 482 requires all performance data contained in any mutual fund advertisement to be as of the most recent practicable date, provided that any advertisement containing total return quotations is considered to have complied with this requirement if the total return quotations are current to the most recent calendar quarter ended prior to submission of the advertisement for publication.[40] As a result, total return quotations may be up to three months old at the time that an advertisement is submitted for publication. We are concerned that, in some cases, an advertisement that complies with these requirements of rule 482 may nonetheless confuse, or even mislead, investors regarding the fund's current performance, particularly when the fund's performance has declined significantly after the period reflected in an advertisement.

We questioned this practice in an enforcement action where we found that the failure to disclose the large impact of initial public offerings on a fund's performance during the fund's first fiscal year made the fund's performance advertisements materially false and misleading.[41] One of the significant facts in that case was that the fund's advertisements publicized extraordinary first-year returns at a time when the fund's more current returns had become negative.[42] While the fund advertisements complied with rule 482, we noted that rule 482 advertisements remain "subject to the general antifraud

(Sept. 10, 1979)] ("1979 Advertising Adopting Release") (initially adopting rule 482 as rule 434d).

[19] Rule 482(a)(2) under the Securities Act [17 CFR 230.482(a)(2)]. Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act. *See* Section 2(a)(48) of the Investment Company Act [15 U.S.C. 80a–2(a)(48)] (defining "business development company").

[20] Investment Company Act Release No. 9811 (June 8, 1977) [42 FR 30379, 30380 (June 14, 1977)] ("1977 Advertising Proposing Release") (proposing rule 434d, subsequently renumbered as rule 482).

[21] Rule 482 provides mutual funds with an opportunity to advertise, according to standardized formulas, their current yield, tax-equivalent yield, total return, and after-tax return. Mutual funds also may advertise other historical measures of fund performance, subject to certain limitations, provided that the standardized total return is also included. Rule 482(e) under the Securities Act [17 CFR 230.482(e)]. The Commission adopted the use of standardized formulas in order to permit prospective investors to compare the performance claims of competing funds and to prevent misleading performance claims by funds. Investment Company Act Release No. 16245 (Feb. 2, 1988) [53 FR 3868 (Feb. 10, 1988)] ("1988 Advertising Adopting Release").

[22] 15 U.S.C. 77l(a)(2). An action under section 12(a)(2) does not require proof of scienter (*i.e.*, an intent to defraud investors), *e.g.*, *Wigand* v. *Flo-Tek, Inc.*, 609 F.2d 1028, 1034 (2d Cir. 1979), or investor reliance on a misleading statement or omission, *e.g.*, *MidAmerica Fed. S. & L. Assoc.* v. *Shearson/American Express, Inc.*, 886 F.2d 1249, 1256 (10th Cir. 1989); *Sanders* v. *John Nuveen & Co.*, 619 F.2d 1222, 1225 (7th Cir. 1980), *cert. denied*, 450 U.S. 1005 (1981). In contrast, claims under the antifraud provisions of section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b)] reqire proof of scienter and investor reliance. Under either type of claim, however, the plaintiff must establish that the misrepresentation or omission is material.

[23] *See, e.g.*, Section 17(a) of the Securities Act [15 U.S.C. 77q]; section 10(b) of the Exchange Act [15 U.S.C. 78j(b)]; section 34(b) of the Investment Company Act [15 U.S.C. 80a–33]; section 206 of the Investment Advisers Act of 1940 [15 U.S.C. 80b–6] ("Investment Advisers Act").

Members of the National Association of Securities Dealers, Inc. ("NASD") also must comply with rule 2210 of the NASD Conduct Rules when sponsoring fund advertisements. Rule 2210 provides NASD members with general standards outlining what may constitute misleading fund advertising and specific standards reflecting requirements for advertising communications. Rules 2210(d)(1) and (2) of the NASD Conduct Rules.

[24] 1988 Advertising Adopting Release, *supra* note 21, at 3878 n. 51. *See also* Investment Company Act Release No. 24832 (Jan. 18, 2001) [66 FR 9002, 9008 (Feb. 5, 2001)] ("After-Tax Adopting Release") (compliance with rule 482 is not a safe harbor from antifraud liability); Investment Company Act Release No. 15315 (Sept. 17, 1986) [51 FR 34384, 34391 (Sept. 26, 1986)] ("1986 Advertising Proposing Release") (in proposing amendments to rule 482 to require the inclusion of a legend on advertisements, Commission stated that it was "not suggesting that the legend information contains all the material information necessary to prevent an ad from being misleading * * * [and] that whoever sponsors the ad, be it the fund, the underwriter, or the dealer, bears the primary responsibility for assuring that the ad is not false or misleading"); 1977 Advertising Proposing Release, *supra* note 20, at 30380 (advertisements made pursuant to rule 434d (subsequently renumbered as rule 482) would be subject to the antifraud provisions of the securities laws); *In the Matter of The Dreyfus Corporation and Michael L. Schonberg*, Investment Advisers Act Release No. 1870 (May 10, 2000) ("Dreyfus Order") (advertisements that comply with rule 482 are subject to the general antifraud provisions of the securities laws).

[25] 15 U.S.C. 77b(a)(10)(b).

[26] *See* Division of Investment Management, Securities and Exchange Commission, Protecting Investors Study: A Half Century of Investment Company Regulation (1992) ("Protecting Investors Study") at 358. *See also* T. Lemke, G. Lins, A. Smith III, Regulation of Investment Companies, Vol. 1, ch. 14, § 14.02, at 14–3 (2001).

[27] *See* Securities Act Release No. 5250 (May 9, 1972) [37 FR 10071 (May 19, 1972)] (permitting tombstone advertisement to include general description of mutual fund); Investment Company Act Release No. 8568 (Nov. 4, 1974) [39 FR 39868 (Nov. 12, 1974)] (permitting tombstone advertisement to include description of certain special attributes of mutual fund, *e.g.*, discussion of a fund's investment objectives); Investment Company Act Release No. 8824 (June 16, 1975) [40 FR 27442 (June 30, 1975)] (extending the expanded tombstone advertising contents to UITs and permitting certain kinds of pictorial illustrations, such as logos, to be used in investment company tombstone advertising).

[28] *See supra* note 22 and accompanying text (discussing liability under section 12(a)(2) of the Securities Act).

[29] *See supra* note 23 (noting various antifraud provisions under the federal securities laws).

[30] 17 CFR 270.34b–1. Under section 2(a)(10)(a) of the Securities Act [15 U.S.C. 77b(a)(10)(a)], a communication sent or given after the effective date of the registration statement is not deemed a "prospectus" if it is proved that prior to or at the same time with such communication a written statutory prospectus was sent or given to the person to whom the communication was made.

[31] Rule 34b–1 applies to supplemental sales literature that is required to be filed with the Commission under section 24(b) of the Investment Company Act [15 U.S.C. 80a–24(b)], *i.e.*, supplemental sales literature of registered open-end companies, unit investment trusts, and face-amount certificate companies.

[32] 1986 Advertising Proposing Release, *supra* note 24, at 34393.

[33] After-Tax Adopting Release, *supra* note 24, at 9008.

[34] 17 CFR 230.156.

[35] 17 CFR 230.156(c).

[36] 17 CFR 230.156(b)(2)(i). *See* Investment Company Act Release No. 10915 (Oct. 26, 1979) [44 FR 64070 (Nov. 6, 1979)] (adopting rule 156).

[37] *See* Investment Company Institute, *Understanding Shareholders' Use of Information and Advisers* (Spring 1997), at 21 and 24 (Total return information was frequently considered by investors before a purchase, second only to the level of risk of the fund. Eighty-eight percent of fund investors surveyed said that they considered total return before their most recent purchase of a mutual fund. Eighty percent of fund owners surveyed reported that they followed a fund's rate of return at least four times per year.). *See also* Securities and Exchange Commission, *Mutual Fund Investing: Look at More Than a Fund's Past Performance*, *supra* note 10 (cautioning investors to consider factors other than performance, such as fees, risks, volatility, and recent changes in the fund's operations, when evaluating mutual funds).

[38] Paul F. Roye, Director, Division of Investment Management, "Success and Survival of the Mutual Fund Industry in a Changing World," Remarks before the ICI General Membership Meeting, Washington, DC (May 19, 2000) (discussing Commission concerns with fund advertising). (transcript available at http://www.sec.gov/news/speech/spch373.htm).

[39] Dreyfus Order, *supra* note 24 (investment adviser violated antifraud prohibitions of section 206(2) of the Investment Advisers Act [15 U.S.C. 80b–6(2)] and section 17(a)(3) of the Securities Act [15 U.S.C. 77q(a)(3)]); *In the Matter of Van Kampen Investment Advisory Corp. and Alan Sachtleben*, Investment Advisers Act Release No. 1819 (Sept. 8, 1999) (investment adviser violated antifraud prohibitions of section 206(2) of the Investment Advisers Act [15 U.S.C. 80b–6(2)] and section 34(b) of the Investment Company Act [15 U.S.C. 80a–33(b)]).

See also NASD Regulation, Inc. ("NASDR"), *Inaccurate Performance Graphs Result In Formal Action* (last modified Summer 2000) http://www.nasdr.com/rca_summer00_adv.htm (warning against misleading performance graphs in fund advertising); NASD Notice to Membes No. 00–21 (Apr. 2000) ("NASD Notice 00–21") (advising members to be careful when advertising extraordinary fund performance because prospective investors may believe that these unusually high returns will continue and warning that material disclosures, which may balance an advertisement's overall message, should not be relegated to footnotes).

[40] Rule 482(g) under the Securities Act [17 CFR 230.482(g)].

[41] *See* Dreyfus Order, *supra* note 24.

[42] *Id.* (81.92% total return for the one-year period ended September 30, 1996, publicized in October through December 1996 when total returns for the three-month periods ended August 30, September 30, October 31, November 29, and December 31, 1996, were negative 17.03%, 7.71%, 7.79%, 16.25%, and 13.37%, respectively).

provisions of the federal securities laws and must not be false and misleading."[43]

To address this concern, some mutual fund advertisements supplement their presentations of performance information with narrative disclosure that is designed to inform investors that the advertised performance is not the fund's current performance. Some advertisements disclose that, due to market volatility or other factors, the fund's performance changes over time or that the fund's current performance may be lower than the advertised performance. Other advertisements direct investors to other sources where they may find more up-to-date performance information, such as the fund's toll-free telephone number or website or the mutual fund section of the newspaper in which the advertisements appear. In addition, some advertisements include performance information that is more current than the information required by rule 482.

Selective Use of Performance Figures

A mutual fund advertisement may be materially misleading when it showcases a fund's performance for a certain time period without providing sufficient information to permit an investor to evaluate the significance of the performance data. Rule 482, by its terms, permits a mutual fund to advertise its performance for any period so long as it is accompanied by performance for 1-, 5-, and 10-year periods (or, if shorter, for the life of the fund) current to the most recent quarter.[44] Nonetheless, if a fund selectively advertises performance that is unusually high and not representative of the fund's historical performance, investors potentially may be misled. Selectively advertising performance as of a particular date may be particularly problematic where performance has declined after the chosen date but before the advertisement is submitted for publication. To address these concerns, some mutual fund advertisements supplement their performance presentations with narrative disclosure to the effect that the fund's performance may be volatile, that the performance information shown is not current, or that the advertised performance is not representative of the fund's historical performance.

II. Discussion

We are proposing to amend rule 482 to permit rule 482 advertisements to include information that is not included in the statutory prospectus, in accordance with NSMIA. In light of the proposed amendments to rule 482, we are also proposing to rescind the provisions in rule 134 that apply to funds. At the same time, however, and in light of our concerns about fund advertising practices, we believe that it is appropriate to reinforce the antifraud protections in the fund advertising rules. Our proposals would require enhanced disclosure of information in fund advertisements and are designed to encourage advertisements that convey balanced information to prospective investors.

A. Eliminating the "Substance of Which" Requirement From Rule 482 and Rescinding Rule 134 for Funds

In 1992, the Division of Investment Management recommended to the Commission that the Securities Act be amended to permit investment companies to advertise a wide range of information in the form of an "advertising prospectus," including information that is not included in the statutory prospectus required by section 10(a).[45] Congress embraced this recommendation in NSMIA when it added new section 24(g) to the Investment Company Act. Section 24(g) directs the Commission to adopt rules or regulations that permit registered investment companies to use prospectuses that (i) include information the substance of which is not included in the statutory prospectus, and (ii) are deemed to be permitted by section 10(b) of the Securities Act.[46]

Today we are proposing to implement this provision of NSMIA by amending rule 482 to remove the requirement that a rule 482 advertisement contain only information the "substance of which" is included in the statutory prospectus.[47] Eliminating this requirement will permit investment companies to include more information in rule 482 advertisements on a real-time basis, *e.g.*, information about current economic conditions that normally would not be included in a fund's prospectus. The proposed amendment will also permit funds to eliminate from the statutory prospectus information, such as boilerplate disclosure about the methods used to calculate performance in fund advertising, that clutters the statutory prospectus and obscures other important information. As a result, investors should receive better, more understandable, and more timely information in both the statutory prospectus and fund advertisements. In addition, the costs of regulatory compliance will be reduced for funds and, ultimately, for investors.

Elimination of the "substance of which" requirement from rule 482 should not diminish investor protection. The "substance of which" requirement is a technical requirement that does not, in itself, prevent misleading statements because it does not require an advertisement to use the same words as the statutory prospectus or prohibit the use of advertising techniques that are not included in the statutory prospectus.[48] Importantly, rule 482 advertisements, as "prospectuses," will remain subject to section 12(a)(2) liability and the antifraud provisions of the federal securities laws. Also, rule 482 advertisements, as section 10(b) prospectuses under the Securities Act, are subject to the summary suspension provisions of section 10(b), which permit the Commission to suspend the use of a materially false or misleading prospectus.[49] In addition, fund advertising materials must continue to be filed with NASD Regulation, Inc. ("NASDR") or the Commission, and NASDR rules relating to fund advertising will continue to apply.[50]

[43] *Id.* at n. 16. Similarly, NASDR warned its members about performance advertising when a security's performance has been negatively affected by sudden changes in market conditions. NASDR advised its members "that if a security experiences an abrupt negative change in performance, member firms should amend their historical performance communications to add either updated performance figures or clear disclosure that current performance is less than the figures shown." NASD Regulation, Inc., *Sudden Performance Changes May Require More Information* (last modified Summer 1999) http://www.nasdr.com/3085_9906. htm.

[44] Rule 482(e)(5)(ii) [17 CFR 230.482(e)(5)(ii)].

[45] Protecting Investors Study, *supra* note, at 370.

[46] 15 U.S.C. 80a–24(g). *See also* S. REP. No. 293, 104th Cong., 2d Sess. 8 (1996) (stating that the "bill improves fund advertising by giving the Commission express authority to create a new investment company 'advertising prospectus' ").

[47] The "substance of which" requirement is presently contained in rule 482(a)(2) [17 CFR 230.482(a)(2)]. We are also proposing to revise the language in the current note to paragraph (a)(3) of rule 482, which states that "[t]he fact that the statements included in the advertisement are included in the section 10(a) prospectus does not relieve the issuer, underwriter, or dealer of the obligation to ensure that the advertisement is not false or misleading." The proposed removal of the "substance of which" requirement makes the reference to the section 10(a) prospectus unnecessary. The revised language of this note is incorporated into the proposed note to proposed paragraph (a) of rule 482. *See* Section II.B., *infra*, "Applicability of Antifraud Provisions to Fund Advertising."

[48] *See* 1977 Advertising Proposing Release, *supra* note 20, at 30380.

[49] 15 U.S.C. 77j(b).

[50] Section 24(b) of the Investment Company Act [15 U.S.C. 80a–24(b)] requires the filing with the Commission of "any advertisement, pamphlet, circular, form letter, or other sales literature" for any registered investment company other than a closed-end fund. Rule 24b–3 under the Investment Company Act [17 CFR 270.24b–3] relieves funds of the obligation to file advertisements and other sales materials with the Commission if that material is filed with NASDR. *See supra* note 23 (discussion of NASD advertising rules).

[51] See discussion in Section II.B., "Applicability of Antifraud Provisions to Fund Advertising," and Section II.C., "Enhanced Disclosure under Rule 482," *infra*.

[52] Section 28 of the Securities Act [15 U.S.C. 77z–3]. Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act. *See* Section 2(a)(48) of the Investment Company Act [15 U.S.C. 80a–2(a)(48)] (defining "business development company").

[53] The Protecting Investors Study recommended rescinding the provisions of rule 134 applicable solely to funds. Protecting Investors Study, *supra* note 26, at 363.

[54] Rule 134 advertisements are subject to the antifraud provisions under the federal securities laws but do not create liability under section 12(a)(2) of the Securities Act. *See supra* note 22 and accompanying text (discussing section 12(a)(2) liability) and note 28 and accompanying text (discussing rule 134 advertisements and section 12(a)(2)).

[55] *See, e.g.*, Bloomberg News, *SEC Reviewing Funds Ads That May Mislead*, Los Angeles Times, July 13, 1999, at C5 (stating that the Commission's position that advertisements complying with the four corners of rule 482 may still be misleading under the federal securities laws "has drawn criticism from the fund sector").

[56] 1977 Advertising Proposing Release, *supra note* 20, at 30380.

[57] 1988 Advertising Adopting Release, *supra* note 21 at 3878 n. 51. See also discussion in note 24, *supra*.

[58] Proposed rule 156(b)(2)(i). Currently, rule 156 states that portrayals of past performance may be deemed misleading if they convey an impression about the investment results that would not be justified under the circumstances. Rule 156(b)(2)(i) under the Securities Act [17 CFR 230.156(b)(2)(i)].

[59] *See supra* 39 note and accompanying text (discussing Commission enforcement cases sanctioning fund advisers for lack of disclosure regarding the impact of investments in initial public offerings on advertised performance).

[60] *See supra* notes 40–43 and accompanying text (discussing concerns that advertisements that comply with rule 482 may nonetheless mislead investors regarding the fund's current performance).

Finally, we are today proposing additional amendments to rule 482 to reinforce antifraud protections, particularly in the area of fund performance.[51]

We are using our exemptive authority under the Securities Act to eliminate the "substance of which" requirement from rule 482 for the securities of business development companies ("BDCs") as well as registered investment companies.[52] Currently, BDCs and registered investment companies are treated similarly under rule 482. We believe that it is appropriate to extend the benefits that would result from elimination of the "substance of which" requirement to BDCs, given that elimination of this requirement should not diminish investor protection. We note, however, that BDCs, unlike mutual funds, do not continuously offer and sell their shares and do not make extensive use of advertisements.

We request comment on the elimination of the "substance of which" requirement from rule 482.

- Are the proposed amendments to rule 482 to eliminate the "substance of which" requirement the appropriate means for implementing the authority provided to the Commission in NSMIA?
- Are other restrictions or conditions necessary in rule 482 for the protection of investors in the absence of the "substance of which" requirement?
- What concerns should be addressed by any such restrictions or conditions?
- Should the "substance of which" requirement be eliminated for BDCs?

With the proposed elimination of the "substance of which" requirement, we believe that funds will no longer need to rely on rule 134.[53] We are therefore proposing to remove the provisions of rule 134 that apply specifically to funds and to exclude both registered investment companies and business development companies from relying on rule 134. Rule 134 will remain available to other issuers. Rule 482, as we propose to amend it, will provide funds with sufficient flexibility to discuss topics, such as current economic conditions, that are currently discussed in rule 134 advertisements but generally not in the statutory prospectus. We believe that investor protection will be increased if fund advertisements including this information are subject to rule 482 and, as a result, to section 12(a)(2) liability.[54]

We request comment on the elimination of the rule 134 provisions that apply to funds.

- Should funds be excluded from relying on rule 134?
- If funds should continue to be permitted to rely on rule 134, how, if at all, should rule 134 be amended?
- In the alternative, should only certain types of funds (*e.g.*, closed-end funds or business development companies) be able to use rule 134 advertisements? If so, why?

B. Applicability of Antifraud Provisions to Fund Advertising

The Commission proposes to amend the fund advertising rules in order to reemphasize that fund advertisements are subject to the antifraud provisions of the federal securities laws. We understand that questions have been raised regarding whether compliance with the terms of rule 482 satisfies all of the obligations of a fund with respect to its advertisements.[55] When we initially proposed rule 482 in 1977, we indicated that rule 482 advertisements would be subject to section 12(a)(2) of the Securities Act and the antifraud provisions of the federal securities laws.[56] Since then, we have reiterated that compliance with the "four corners" of rule 482 does not alter the fact that funds, underwriters, and dealers are subject to the antifraud provisions of the federal securities laws with respect to fund advertisements.[57]

To emphasize this principle, we propose adding a note to proposed paragraph (a) of rule 482 that would state that an advertisement that complies with rule 482 does not relieve the fund, underwriter, or dealer of the obligation to ensure that the advertisement is not false or misleading. We also propose adding a similar note to the introductory paragraph of rule 34b–1 under the Investment Company Act with respect to supplemental sales literature. We are proposing to add the note to rule 34b–1 to make clear that, as with rule 482, compliance with the rule does not relieve the fund, or its underwriter or dealer, from the obligation to ensure that an advertisement is not false or misleading, whether due to an affirmative misstatement or omission. These proposed notes also would cross-reference rule 156 under the Securities Act, which provides guidance about the factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in fund advertisements and sales literature are misleading.

In addition, we are proposing to amend rule 156 to provide further guidance regarding the factors to be weighed in considering whether a statement involving a material fact in investment company sales materials is or might be misleading. As discussed above, we are concerned that the advertisement of past performance without an adequate explanation of other facts may create unrealistic investor expectations or even mislead potential investors. For that reason, we are modifying the language of rule 156 to state more explicitly that portrayals of past income, gain, or growth of assets may be misleading where the portrayals omit explanations, qualifications, limitations, or other statements necessary or appropriate to make these portrayals of past performance not misleading.[58] This language is intended to address our concerns with fund performance advertisements that do not provide adequate disclosure (i) of unusual circumstances that have contributed to fund performance; [59] (ii) that more current performance may be lower than advertised performance; [60] or

(iii) that would permit an investor to evaluate the significance of performance that is based on selective dates.[61] We remind funds and their underwriters and dealers, however, that this language would address other circumstances that we have not specifically enumerated and that each fund, and its underwriters and dealers, is responsible for analyzing the facts and circumstances concerning its advertisements and determining whether its advertisements may be fraudulent.

We request comment on the proposed amendments reemphasizing the applicability of the antifraud provisions.

• Are there additional amendments to rule 482, rule 34b–1, and rule 156 that would help to emphasize the obligations under the antifraud provisions of funds and their underwriters and dealers?

C. Enhanced Disclosure Under Rule 482

We are also proposing additional amendments to rule 482 that would require enhanced disclosure of certain information designed to encourage advertisements that convey balanced information to prospective investors. Our proposed amendments would require that funds that advertise performance information make available to investors total returns that are current to the most recent month-end. They also would require that fund advertisements include improved narrative information and present explanatory information more prominently.

Availability of Month-End Performance Information

As discussed above, Rule 482 requires all performance data contained in any mutual fund advertisement to be as of the most recent practicable date, provided that any advertisement containing total return quotations is considered to have complied with the requirement if the total return quotations are current to the most recent calendar quarter ended prior to submission of the advertisement for publication.[62] As a result, total return quotations may be up to three months old at the time that an advertisement is submitted for publication. We are concerned that, in some cases, an advertisement that complies with these requirements of rule 482 may nonetheless confuse, or even mislead, investors, particularly when performance has declined significantly after the period reflected in an advertisement.

In order to address this concern, we are proposing to add a second condition for a fund advertisement to be considered to have complied with the requirement of rule 482 that performance be as of the most recent practicable date. Specifically, total return quotations current to the most recent month-end, and available to investors within three calendar days of the most recent month-end, must be provided at a toll-free (or collect) telephone number.[63]

This proposal would ensure that investors who are provided advertisements touting a fund's performance will have ready access to performance that is current to the most recent month-end and will not be forced to rely on performance data that may be more than three months old at the time of use by the investor. Outdated fund performance that is relied on by an investor when, for example, the markets have generally entered a period of lower performance, may cause the investor to have an overly optimistic view of the fund's ability to outperform the markets. We believe that today's proposal will help to address this problem by making more recent performance data available to investors in any fund that advertises its performance.

We note that the proposed amendments would require the availability of month-end performance information even if the advertisement itself included performance current as of the most recent month-end at the time of submission for publication. The availability of month-end information would be useful to investors in these circumstances if, for example, the advertisement continued to be used subsequent to the end of the following month, or if the investor referred to the advertisement at a later date.

Finally, we note that the availability of month-end information by telephone does not alter the application of the antifraud provisions to an advertisement. The month-end information obtained through a telephone call would not be considered part of the advertisement itself.

We considered amending the requirements of rule 482 to provide that an advertisement would be considered to have complied with the "most recent practicable date" requirement if the total return quotations are current to the most recent calendar month ended prior to submission of the advertisement for publication. This approach would have the advantage of providing more current performance information to investors in advertisements rather than placing the burden on investors to seek out this information through a telephone call. We were not, however, persuaded that the benefits to investors from this approach would outweigh the costs it would impose.

First, a month-end standard for rule 482 performance data could result in an increase in the number of instances in which performance information for different periods appeared concurrently as a result of different lead times for different publications. One advantage of the quarter-end approach is that it tends to result in the publication of comparable numbers by different funds. Second, requiring all funds to publish data as of the most recent month-end in all cases, without regard to the materiality of this information, would perhaps accord very recent performance greater status than it deserves and could contribute to investors' tendency to focus excessively on short-term performance.[64]

A month-end standard would also impose costs on funds and, indirectly, on investors. While a month-end standard might be fairly simple to comply with for advertisements in some publications (*e.g.*, newspapers), it might be difficult for other forms of advertisement. For example, mutual fund distributors frequently supply sales material in bulk to third-party intermediaries, such as broker-dealers, and to retirement plan sponsors, who then distribute it to investors. If month-end numbers were required, the "shelf life" of this material would be abbreviated, which could result in significant additional printing and compliance costs associated with preparing updated material and providing it to all distribution channels.

We also considered whether to provide funds greater flexibility in determining the medium through which to make month-end numbers available, so that a fund could, for example, meet this obligation through website access. We concluded that, at this time, requiring telephone availability would ensure the most widespread access to this information by all investors. While the percentage of households with Internet access has increased considerably in recent years, it remains substantially lower than the percentage with access to telephones.[65] We note, however, that we have taken steps to encourage issuers and market intermediaries to communicate with and deliver information to investors through the Internet.[66] The increased availability of information through this medium has helped to promote transparency, liquidity, and efficiency by making information available to investors quickly and in a cost-effective manner. We encourage each fund to make its month-end performance information available to its investors on its website, if it has one. We applaud the efforts already being made by many funds to provide access to performance and other information, such as prospectuses, cost information, and portfolio holdings, through their websites. We encourage other funds to make similar efforts.

We also note that nothing in rule 482 or our proposed amendments would preclude a fund from using (and disclosing in a rule 482 advertisement) other methods for providing updated performance information, such as broker-dealers, investment advisers, and other financial intermediaries. We would encourage funds to use any means to make this information more accessible. Our proposals reflect our view, however, that updated performance information should be available from the fund itself through a telephone call to an identified number and that other forms of distribution of this updated information should supplement availability from the fund itself.

We request comment on the proposed requirement that funds make available month-end performance numbers through a toll-free (or collect) telephone number in order to comply with the currentness requirements of rule 482.

• Is our proposed requirement appropriate, or should we, instead, require funds to provide more current performance information in all advertisements? If so, how current should the information be, *e.g.*, month-end, week-end, or some other period?

• Should we require funds to provide more current performance information in certain types of publications, *e.g.*, websites or newspapers and other publications where there is a short lead time between submission and publication and a short shelf life? If so, how current should the performance information be, *e.g.*, month-end, week-end, or some other period? To what types of publications should this requirement apply?

• If we require funds to provide more current performance information through a toll-free telephone number or other means, is month-end data current enough or should this information be updated more frequently than monthly (*e.g.*, weekly or daily)?

• Should we require month-end performance data to be available at a toll-free (or collect) telephone number where the advertisement itself includes performance data current to the most recent month ended prior to submission of the advertisement for publication?

• Should we require that updated performance information available through a telephone number be current as of the most recent practicable date (rather than specifying a particular date, such as month-end), and, if so, should we provide guidance regarding what would satisfy that requirement (*e.g.*, month-end data)?

• Is three calendar days an appropriate period of time after each month-end in which to require funds to make available month-end performance information on a telephone line? If not, should funds be allowed more or less time, and, if so, how much time is needed, *e.g.*, 1 day, 5 days, or some other amount of time? Should the time period be based on calendar days or business days?

• Is telephone access to updated performance information the best alternative, or is another alternative, such as website access, better?

• Should funds have flexibility to choose the medium for communicating updated performance information?

• What would be the cost of requiring access to month-end performance information by toll-free telephone number for funds that do not currently provide this access?

• A number of daily newspapers of national circulation, such as *The Wall Street Journal* and *The New York Times*, publish returns for a significant number of mutual funds on a daily basis.[67] Should funds that advertise performance information, and for which daily performance information is available in the press, be required to refer to the availability of the daily information in their performance advertisements?

Improved Narrative Disclosure

As discussed above, there have been increasing concerns, arising from the period of extraordinary market performance in 1999 and 2000, that some funds, when advertising their performance, may resort to techniques that create unrealistic investor expectations or may mislead potential investors. As a result, we are proposing changes to the narrative disclosure that is required to accompany performance advertisements in order to help investors understand the limitations of past performance data and enhance the ability of investors to obtain updated performance information. At present, rule 482 requires advertisements to disclose (i) a source from which an investor may obtain a prospectus containing more complete information about the fund; (ii) that the performance data quoted represents past performance; and (iii) in the case of a non-money market fund, that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost.[68] Our proposed amendments would also require funds to include the following information in rule 482 advertisements that contain performance figures: (i) A statement that past performance does not guarantee future results; (ii) a statement that current performance may be lower or higher than the performance data quoted; and (iii) a fund toll-free (or collect) telephone number and, if available, a Web site where an investor

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[61] *See supra* 44 note and accompanying text (discussing concerns about selective advertisement of performance that is unusually high and not representative of a fund's historical performance).

[62] Rule 482(g) under the Securities Act [17 CFR 230.482(g)].

[63] Proposed paragraph (g)(2) of rule 482. Our understanding is that funds typically calculate performance daily so that making month-end performance numbers available within three calendar days of the most recent month-end should not be burdensome.

[64] *See* Securities and Exchange Commission, *Mutual Fund Investing: Look at More Than a Fund's Past Performance*, *supra* note (cautioning investors to look beyond short-term performance records).

[65] Economics and Statistics Administration & National Telecommunications and Information Administration, *A Nation Online: How Americans Are Expanding Their Use of the Internet*, at 3 (Feb. 2002) (50.5% of households had Internet access as of Sept. 2001); Federal Communications Commission, *Telephone Subscribership In the United States*, at 1 (Feb. 2002) (95.1% of households had telephone service as of July 2001).

[66] *See, e.g.*, Securities Act Release No. 8089 (April 12, 2002) [67 FR 19896, 19902 (April 23, 2002)] (proposing to require companies to include disclosure in their annual reports on Form 10–K about the availability on company websites of reports on Forms 10–K, 10–Q, and 8–K).

[67] *See* NASD Manual § 6800 (CCH) at 6551 (March 2001) (describing Mutual Fund Quotation Service which disseminates prices for mutual funds). A mutual fund may choose to be included in the news media list released by The NASDAQ Stock Market through the Mutual Fund Quotation Service if it has at least 1,000 shareholders or $25 million in net assets. *Id.* at § 6800(c)(1)(A).

[68] Rule 482(a)(3)(i) and (6) [17 CFR 230.482(a)(3)(i) and (6)]. Rule 482(a)(3)(ii) [17 CFR 230.482(a)(3)(ii)] requires that an advertisement used with a profile under rule 498 under the Securities Act [17 CFR 230.498] indicate that information is available in the profile about the fund, the procedures for investing in the fund, and the availability of the fund's prospectus. In addition, rule 482(a)(4) requires the "subject to completion" legend required by rule 481(b)(2) under the Securities Act if the advertisement is used prior to effectiveness of the fund's registration statement, or, in the case of a registration statement that becomes effective omitting certain information from the prospectus contained in the registration statement in reliance upon rule 430A, when the advertisement is used prior to determination of the public offering price. Rule 481(b)(2); rule 430A [17 CFR 430.481(b)(2); 430.430A].

may obtain performance data current to the most recent month-end.[69]

These statements should help investors to understand the limitations of past performance presentations, namely, that they represent historical information that may not repeat in the future and may even be somewhat outdated at the time an investor is reviewing them. In addition, provision of a toll-free (or collect) telephone number and, if the fund has month-end performance information available on its Web site, the Web site where an investor may obtain performance data current to the most recent month-end will provide investors ready access to a fund's more current performance.

We are also proposing an amendment to rule 482 that would direct prospective investors' attention to a fund's charges and expenses. The proposed amendment would require a fund to note in its rule 482 advertisements that information about charges and expenses is contained in the statutory prospectus.[70] The many fund advertisements highlighting fund performance have focused investor attention on fund returns.[71] Investors, however, may be overlooking other important fund features, particularly charges and expenses, that may diminish a fund's return.[72]

Mutual fund fees and expenses are extremely important to shareholders. The United States General Accounting Office ("GAO"), in a recent report to Congress on mutual fund fees, stressed the importance of heightening "investors" awareness and understanding of the fees they pay."[73] We believe that the amendment we are proposing today, which will ensure that fund advertisements remind fund shareholders about the availability of information about fund charges and expenses, will help to address the GAO's concerns. Although rule 482 already requires that fund advertisements that contain performance data include standardized performance information net of fees and charges,[74] we agree with the GAO that the level of charges and expenses of a mutual fund is an independent factor that should be given serious consideration by a mutual fund investor.

We request comment on the proposed requirement for disclosure about charges and expenses.

- Will the proposed disclosure about charges and expenses be helpful to investors?
- Is there other disclosure with respect to charges and expenses that should be required in fund advertisements? Are there fund features, in addition to charges and expenses, that a rule 482 advertisement should highlight?

Presentation of Explanatory Information

We are also proposing that funds present certain information in their rule 482 advertisements more prominently. Funds often present required disclosure in small print and relegate it to a footnote at the bottom of a print advertisement or the end of a television advertisement.[75] At present, rule 482 requires that the statement regarding the availability of the prospectus be "conspicuous" and that quotations of standardized performance be given no less prominence than other performance quotations.[76] In addition, rule 482 print advertisements are required by rule 420(a) under the Securities Act to be in roman type at least as large and as legible as 8-point modern type.[77] Under rule 420(b), rule 482 advertisements distributed through an electronic medium may satisfy legibility requirements applicable to printed documents by presenting all required information in a format readily communicated to investors, and, where indicated, in a manner reasonably calculated to draw investor attention to specific information.[78]

The proposed amendments would require print advertisements to present required narrative disclosures in a size type at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisement.[79] This requirement would apply to the required narrative disclosures about the prospectus and the performance data.[80] A radio or television advertisement would be required to give the required narrative disclosures emphasis equal to that used in the major portion of the advertisement.[81] These prominence requirements are intended to prevent advertisements from marginalizing or minimizing the presentation of the required disclosure.

In addition, we are proposing that the narrative disclosures that specifically relate to fund performance be presented in close proximity to the performance data in both print and radio and television advertisements.[82] In a print advertisement, this information also would be required to be in the body of the advertisement and not in a footnote. Rule 482 currently requires that performance advertisements identify the dates during which quoted performance occurred.[83] We propose to require this information to be adjacent to, and have no less prominence than, the performance quotation itself.[84] These proximity requirements are intended to help investors more readily find information and disclosure necessary to understand and evaluate the performance data shown, and to remind investors of the limitations of performance data.

We solicit comment on the proposed presentation requirements.

- Are the proposed presentation requirements appropriate to encourage important explanatory information to be given sufficient prominence?
- Are there alternative methods for encouraging important explanatory information to be given sufficient prominence in a rule 482 advertisement?
- Which required disclosures should be covered by any such presentation requirements?
- Should we require a font size larger than the 8-point type required under rule 420 for these required disclosures?
- Are the proposed presentation requirements feasible for radio and television advertisements, given the inherent time limitations associated with the use of these media?
- Are there specific presentation requirements that should apply to the use of electronic media?
- Are there any other requirements that should apply to fund performance advertisements in order to help ensure that performance is presented in a manner that is accurate, balanced, and not misleading?

D. Reorganization of Rule 482 and Technical Form Amendments

We also propose to reorganize rule 482 to make it easier to use. To do this, we have added headings to the rule and have simplified certain provisions, without changing their content, to make the rule easier to understand. In addition, we have reordered provisions within the rule and grouped the provisions by topic.

We request comment on the reorganization of rule 482.

- Would these proposed changes make the rule more comprehensible?
- Are there other changes that would be helpful?
- Would these amendments inadvertently change the meaning of any provisions within the rule?

We also propose to amend Item 21 of Form N–1A, Item 25 of Form N–3, and Item 21 of Form N–4, and to delete Item 4(c) of Form N–3, Item 4(b) of Form N–4, and Item 25 of Form N–6 to reflect the proposed removal of the "substance of which" requirement in rule 482.[85] These items require funds that advertise performance data to provide in their prospectuses or statements of additional information ("SAI") certain explanatory disclosure about the methods by which the performance data is calculated.[86] This information is included in the prospectus or SAI to satisfy the "substance of which" requirement in connection with performance advertising.[87] The proposed removal of the "substance of which" requirement renders this disclosure unnecessary. As a result, we are revising these items in Forms N–1A, N–3, and N–4 to prescribe the methods of calculation to be used if performance data is included in the prospectus,[88] and to eliminate the requirements for information intended to satisfy the "substance of which" requirement. Form N–6, the newly adopted registration form for variable life insurance, will not contain any item concerning performance data because we have not prescribed any particular method for calculating variable life insurance performance.[89]

We also note that we are proposing to delete requirements in Forms N–1A, N–3, and N–4 that specifically require disclosure of the method of calculating performance, and the length of and the last day of the base period used in calculating a performance quotation, and requirements in Form N–1A that require disclosure of the income tax rate used in a performance calculation.[90] We emphasize, however, that if a fund chooses to include any performance information in its prospectus or SAI that is not required to be included by the applicable registration form, the fund is responsible for ensuring that the information is not incomplete, inaccurate, or misleading.[91] Thus, a fund should include any disclosure, including the method of calculating performance, and the dates of the performance and tax rates used, that is required to meet this responsibility.

We request comment on the proposed amendments to Forms N–1A, N–3, N–4, and N–6.

- If we eliminate the "substance of which" requirement from rule 482, are there other reasons why a fund should continue to be required to include information about its methods of calculating performance in its prospectus or SAI?
- For example, should a fund be required to include in the SAI a description of the methods by which

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[69] Proposed paragraph (b)(3)(i) of rule 482. *Cf.* NASD Conduct Rule 2210(d)(2)(N) (investment performance illustrations may not imply that gain or income realized in the past will be repeated in the future); NASD Conduct Rule IM–2210–3(c)(4) (all advertisements and sales literature containing an investment company ranking must disclose that past performance is no guarantee of future results).

[70] Proposed paragraph (b)(1)(i) of rule 482. This disclosure would also be required in an advertisement used with a profile pursuant to rule 498 under the Securities Act. Proposed paragraph (b)(1)(ii) of rule 482. Rule 482 currently does not require funds to highlight the availability of information regarding the fund's charges and expenses. The rule does, however, require an advertisement to identify a source from which an investor may obtain a prospectus containing more complete information about the fund. Rule 482(a)(3)(i) [17 CFR 230.482(a)(3)(i)]. The rule also requires that a fund that advertises performance data include some information about sales loads and other nonrecurring fees. Rule 482(a)(6) [17 CFR 230.482(a)(6)].

[71] *See supra* note 37 and accompanying text (discussing concerns about advertising campaigns focused on past performance).

[72] *See* Securities and Exchange Commission, *Mutual Fund Investing: Look at More Than a Fund's Past Performance*, *supra* note 37 (cautioning investors to look beyond performance when evaluating funds and to consider the costs relating to a fund investment). *See also* NASD Notice to Members No. 98–107 (1998) (reminding members of their obligation to ensure that discussions concerning fees and expenses in fund advertising are fair, balanced, and not misleading).

[73] United States General Accounting Office, *Mutual Fund Fees: Additional Disclosure Could Encourage Price Competition* at 97 (June 2000).

[74] Rule 482 requires that funds base standardized performance calculations on the methods prescribed in Forms N–1A, N–3, or N–4. Rule 482(d)(1), (e)(1)(i), (e)(2)(i), (e)(3)(i), and (e)(4)(i) [17 CFR 230.482(d)(1), (e)(1)(i), (e)(2)(i), (e)(3)(i), and (e)(4)(i)]. These forms generally require the deduction of all recurring fees and maximum sales loads and charges deducted from payments in calculating standardized performance. Item 21(b)(1), (2), and (3) of Form N–1A; Item 25(b)(i) of Form N–3; Item 21(b)(i) of Form N–4.

[75] *See* Adam Shell, Investors' Business Daily, Feb. 3, 2000, at B1 (stating that the placement of serious warnings in "mice type" is a disservice to investors); Cruz, *supra* note 8 (stating that fund advertising often prints extraordinary fund return in bold-faced type but then discloses risk factor language in "the fine print at the bottom of the ad"); Marcy Gordon, *Securities Regulators Look at Mutual Fund Sales Pitches*, The Austin American-Statesman, Feb. 18, 2000, at D2 (citing how the Commission has decried the "recent proliferation of ads by mutual fund companies boasting of triple-digit returns * * * [when] only the fine print in the ads explains why the performance was so strong"). *Cf.* In the Matter of LBS Capital Management, Inc., Investment Advisers Act Release No. 1644 (Jul. 18, 1997) (disclosure in footnote that advertised results of investment adviser were "pro forma" was inadequate to dispel misleading suggestion that advertised performance represented results of actual trading).

[76] Rule 482(a)(3), (e)(1)(iii), (e)(2)(iii), (e)(3)(iii), (e)(4)(v), and (e)(5)(iv) [17 CFR 230.482(a)(3), (e)(1)(iii), (e)(2)(iii), (e)(3)(iii), (e)(4)(v), and (e)(5)(iv)].

[77] Rule 420(a) [17 CFR 230.420(a)].

[78] Rule 420(b) [17 CFR 230.420(b)]. These legibility requirements include paper size, type size and font, bold-face type, italics, and red ink.

[79] Proposed paragraph (b)(5) of rule 482. The proposed presentation requirements for rule 482 are the same as those currently required under rule 134. Rule 134(a)(iii) [17 CFR 230.134(a)(iii)]. The proposed presentation requirements would replace the current rule 482 requirement that certain required disclosures be "conspicuous." Rule 482(a)(3) [17 CFR 230.482(a)(3)].

In addition to complying with the presentation requirements of proposed paragraph (b)(5) of rule 482, electronic versions of print rule 482 advertisements would also continue to be subject to the legibility requirements of rule 420(b). [17 CFR 230.420(b)].

[80] Proposed paragraphs (b)(1) and (b)(3) of rule 482. The narrative disclosure covered by the prominence requirement would also include, if applicable, the "subject to completion" legend that would be required by proposed rule 482(b)(2), and, if the advertisement is used with a profile under rule 498 under the Securities Act [17 CFR 230.498], disclosure explaining that the profile contains information about the fund, describing the procedures for investing in the fund, and indicating the availability of the prospectus. Proposed paragraphs (b)(1)(ii) and (b)(2) of rule 482. In addition, the prominence requirement would extend to disclosures specific to money market funds. Proposed paragraph (b)(4) of rule 482.

[81] Proposed paragraph (b)(5) of rule 482.

[82] Proposed paragraph (b)(5) of rule 482. The disclosure subject to the proximity requirement would include the disclosure required by proposed paragraph (b)(3) of rule 482 that the performance data quoted represents past performance; that past performance does not guarantee future results; in the case of a non-money market fund, that the investment return and principal value of an investment will fluctuate; that current performance may be lower or higher than the performance data quoted; and the toll-free telephone number and, if available, website where an investor may obtain month-end performance data.

[83] Rule 482(e)(1)(iv), (e)(2)(v), (e)(3)(iv), (e)(4)(vi), and (e)(5)(v) [17 CFR 230.482(e)(1)(iv), (e)(2)(v), (e)(3)(iv), (e)(4)(vi), and (e)(5)(v)].

[84] Proposed paragraphs (d)(1)(iv), (d)(2)(v), (d)(3)(iv), (d)(4)(vi), (d)(5)(v), and (e)(1)(i) of rule 482.

[85] Form N–1A [17 CFR 239.15A; 17 CFR 274.11A] is the registration form for open-end management investment companies. Form N–3 [17 CFR 239.17a; 17 CFR 274.11b] is the registration form for separate accounts organized as management investment companies that offer variable annuity contracts. Form N–4 [17 CFR 239.17b; 17 CFR 274.11c] is the registration form for separate accounts organized as unit investment trusts that offer variable annuity contracts. Form N–6 [17 CFR 239.17c; 17 CFR 274.11d] is the registration form for separate accounts that are registered as unit investment trusts and that offer variable life insurance policies.

[86] The statement of additional information contains more extensive and detailed information about a fund than is contained in the prospectus, and is required to be delivered to investors upon request.

[87] Investment Company Act Release No. 23064 (Mar. 13, 1998) [63 FR 13916, 13936–37 (Mar. 23, 1998)]; 1986 Advertising Proposing Release, *supra* note 24, at 34392.

[88] Under proposed rule 482, these methods would continue to apply to performance data included in advertisements, as well. *See, e.g.*, proposed paragraphs (d)(1)(i), (d)(2)(i), (d)(3)(i), (d)(4)(i), and (e)(1)(i) of rule 482.

[89] Investment Company Act Release No. 25522 (Apr. 12, 2002) [67 FR 19848, 19856 (Apr. 23, 2002)] (discussing variable life insurance performance).

[90] Item 21(a)(5) and (b)(7) of Form N–1A; Item 25(a)(iii), (a)(iv), (b)(i)(B), (b)(i)(C), (b)(ii)(B), (b)(ii)(C), (b)(iii)(B), and (b)(iii)(C) of Form N–3; Item 21(a)(iii), (a)(iv), (b)(i)(B), (b)(i)(C), (b)(ii)(B), (b)(ii)(C), (b)(iii)(B), and (b)(iii)(C) of Form N–4.

[91] *See* General Instruction C.3.(b) of Form N–1A; General Instruction 2 for Parts A and B of Form N–3; General Instruction 2 for Parts A and B of Form N–4; General Instruction C.3.(b) of Form N–6 (allowing information that is not otherwise required to be included in the prospectus or SAI so long as it is not incomplete, inaccurate, or misleading).

any non-standardized performance is calculated?

E. Compliance Date

If we adopt the proposed amendments, we intend that the amendment eliminating the "substance of which" requirement from rule 482 will take effect immediately upon the effective date of the amendments. We also expect to require fund advertisements used 90 days or more after the effective date of the amendments to comply with the amendments. The Commission requests comment on these proposed dates. Is 90 days an appropriate transition period for compliance, or should this be shorter or longer? Should we base compliance on the date an advertisement is used, or should we require compliance based on the date an advertisement is submitted for publication, or should we adopt some other alternative?

III. Request for Comments

A. Request for Comments on the Framework for Regulation of Investment Company Advertisements

The amendments we propose today would enhance the basic framework for fund performance advertising that we have had in place for many years. Since 1988, we have required mutual funds that advertise performance to include standardized performance numbers in their advertisements.[92] In that same period, the assets of the industry have grown from approximately $800 billion to over $7 trillion, and the number of available mutual funds has exploded from nearly 3,000 to over 8,000.[93] Also, the range of mutual funds available to investors has changed dramatically. Today, investors choose from a broad range of fund options with very different risk profiles, including, among others, money market funds, government bond funds, high-yield bond funds, domestic equity funds, and international equity funds.

Investors today face a daunting task when they attempt to sort through the wealth of available mutual fund options to choose an appropriate investment. In making those choices, investors frequently rely on investment performance.[94] Given the enormous growth and change in the fund industry in the past twenty-five years, the importance of fund sales materials to investor choices among funds, and the tendency of investors to emphasize performance in selecting mutual funds, we believe it is appropriate to reexamine the framework of regulation for investment company advertising and to consider whether it should be modified to better serve investors.

The Commission is undertaking an effort to modernize our rules and forms in many areas. In light of this effort, we are searching for ways to provide more meaningful and useful information to investors about mutual funds.

We request comment generally on whether the framework for the regulation of mutual fund advertising could be modified, and specifically on the following issues.

- Are there alternatives to the framework of regulation for investment company advertising that is presently in place that would more effectively protect investors?
- Has the role of advertisements changed over the past several years? Has the role of advertisements changed when compared to the role of the statutory prospectus? If so, how? Should we revise our approach to the regulation of fund advertisements in light of those changes?
- For example, would it be better simply to require that mutual fund advertisements adhere to general standards that would result in providing information that would assist the average investor without prescribing any regulation of the contents of advertisements, including standards for performance advertising?
- To what extent should standards for fund advertising be established by the Commission, and to what extent should they be established by other organizations, *e.g.*, NASDR? For example, should we require NASDR to play a larger role in establishing standards for advertising? Would the limits on NASDR jurisdiction (that it regulates only its members) pose any issues if NASDR were to assume a larger role in establishing the standards for fund advertising?
- Is the standardization of performance data necessary or helpful to enable investors to compare different funds or prevent fraudulent performance claims? Does the advertisement of standardized performance data obscure important factors, such as costs and risk, that vary from fund to fund and are important to an investment decision?
- Does the standardization of performance advertising encourage too much reliance on performance? Should our rules be designed to produce more qualitative information in advertisements? If so, how?
- Currently, our rules include standardized performance calculations for investment companies, but not for investment advisers. Does this difference make sense and, if not, what changes should we make?
- Should fund advertisements be required to include information about a variety of factors that are important in making an investment decision? If so, should the Commission prescribe the factors that should be covered (*e.g.*, investment objectives, fees, risk), or should the Commission simply establish a more general requirement that advertisements present a balanced discussion of qualitative and quantitative information that would assist the average investor?
- Is it helpful or necessary to prescribe the manner in which information should be presented in advertisements, *e.g.*, emphasis and location of information or font size?
- Should radio and television fund advertisements, or other forms of advertisement where the investor may not refer back to the advertisement, be regulated differently than print advertisements?
- What are the costs for funds, and indirectly for investors, as well as other parties, associated with various alternative means of regulating fund advertising?
- What liability standards should apply to fund advertisements?

B. General Request for Comments

The Commission requests comment on the amendments proposed in this release, suggestions for additional provisions or changes to existing rules or forms, and comments on other matters that might have an effect on the proposals contained in this release.

C. Request for Comments on Rule 482(a)(5)(i) Relating to Variable Insurance Contracts

We also wish to solicit comment on a provision of rule 482 relating to variable insurance contracts. Rule 482 generally prohibits a rule 482 advertisement from containing or being accompanied by an application to purchase fund shares.[95] In order to preserve the statutory prospectus as the primary disclosure document by encouraging investors to read the statutory prospectus before investing, a rule 482 advertisement is required to include a legend telling investors how to obtain a prospectus and directing them to read it before investing.[96] The prohibition against applications accompanying rule 482 advertisements was included in rule 482 because the Commission believed that permitting purchase applications in a rule 482 advertisement would undermine the purpose of the legend requirement.[97]

Rule 482 contains an exception from the prohibition against applications for unit investment trusts that offer variable annuity or variable life insurance contracts.[98] These contracts permit investors to allocate premiums among a variety of underlying mutual funds in which the unit investment trust invests. The contract prospectuses contain descriptions of the underlying mutual funds, which are considered rule 482 advertisements for the underlying funds.[99] The underlying funds are separately registered as management investment companies on Form N–1A and offer their shares through separate prospectuses. The exception from the prohibition on applications for variable insurance contracts permits an application for the contract (which provides for investor allocation of purchase payments to specific underlying funds) to accompany the contract prospectus, even though the contract prospectus constitutes a rule 482 advertisement for the underlying mutual funds and even though prospectuses for the underlying funds do not accompany the contract prospectus.[100]

In recent years, members of the variable insurance industry have requested that the Commission staff clarify the scope of the variable insurance exception from the application prohibition of rule 482. By its terms, the exception permits a contract application to accompany a rule 482 advertisement for the underlying funds only when the rule 482 advertisement is a part of the contract prospectus itself. Members of the industry have argued that it should be permissible for a contract prospectus and application to be accompanied by other rule 482 advertisements for the underlying funds that are not a part of the prospectus itself.

Advocates of this position argue that rule 482 permits either of the following: (i) Delivery of a rule 482 advertisement for an underlying fund (without an application); and (ii) delivery of a contract prospectus with an application. They therefore argue that, under rule 482, delivery of a rule 482 advertisement for an underlying fund (without an application) could be either preceded or followed by delivery of a contract prospectus with an application. As a result, they conclude that it should be permissible for a contract prospectus and application to be accompanied by other rule 482 advertisements for the underlying funds because whether the delivery of the additional rule 482 advertisements is made together with the contract material or separately from it is a question of form, rather than substance.

We believe that it would be useful to clarify the ambiguities in the scope of the insurance exception from the application prohibition of rule 482, so that issuers of variable insurance products may operate with greater certainty. Therefore, we request comment on this issue.

We request comment on rule 482(a)(5)(i) relating to variable insurance products.

- Should rule 482 advertisements for the underlying funds that are not contained in the contract prospectus itself be permitted to be delivered simultaneously with the contract prospectus and accompanying purchase application?
- Should we amend rule 482 to explicitly permit this practice, or should we amend rule 482 to explicitly prohibit this practice?
- Particularly in light of the fact that we are proposing to remove the "substance of which" requirement from rule 482, are there relevant differences between permitting a contract prospectus that is filed with the Commission and subject to strict liability under Section 11 of the Securities Act to be accompanied by an application and permitting additional rule 482 advertisements for the underlying funds that are not subject to Section 11 liability to be accompanied by an application?[101]
- Variable insurance products are one among many channels through which mutual funds are distributed. How would explicitly broadening, or confining, the scope of the insurance exception from the application prohibition affect other sectors of the fund industry that are not permitted to include fund applications with rule 482 advertisements? What would the competitive effects be within the variable insurance industry and as between the variable insurance industry and other sectors of the fund industry?
- Should the Commission reconsider the insurance exception for competitive or other reasons? Is the insurance exception consistent with investor protection, given the limited amount of information about the underlying funds that is typically contained in the contract prospectus? We note, for example, that the fee table of recently adopted Form N–6 for variable life insurance policies requires disclosure of the range of expenses of all underlying funds offered through a policy rather than the expenses of each fund and that the Commission has proposed conforming amendments to the fee table of Form N–4 for variable annuities.[102]

IV. Cost/Benefit Analysis

The Commission is sensitive to the costs and benefits associated with its rules. The Commission requests comment and empirical data regarding the costs and benefits of the proposed amendments to the advertising rules.

A. Introduction

The Commission is proposing rule amendments under the Securities Act and the Investment Company Act. To provide funds with the ability to disclose more timely information in advertisements, the proposed amendments would remove the "substance of which" requirement contained in rule 482 under the Securities Act, and would rescind the provisions in rule 134 under the Securities Act that apply to funds. In addition, the proposed amendments would reinforce the antifraud protections in the fund advertising rules, and would require enhanced disclosure of certain information in fund advertisements designed to encourage advertisements that convey balanced information to prospective investors. Finally, the proposed amendments would make certain organizational changes to rule 482 and

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[92] 1988 Advertising Adopting Release, *supra* note 21.

[93] Investment Company Institute, *2001 Mutual Fund Fact Book* at 63 (41st ed.); Investment Company Institute, *Trends in Mutual Fund Industry: March 2002*, http://www.ici.org/facts_figures/trends_0302.html (Apr. 29, 2002).

[94] *See supra* note 37 and accompanying text.

[95] Rule 482(a)(5) [17 CFR 230.482(a)(5)].

[96] Rule 482(a)(3)(i) [17 CFR 230.482(a)(3)(i)]; proposed paragraph (b)(1)(i) of rule 482.

[97] 1986 Advertising Proposing Release, *supra* note 24, at 34391 nn. 57–60 and accompanying text.

[98] Rule 482(a)(5)(i) [17 CFR 230.482(a)(5)(i)]; proposed paragraph (c)(1) of rule 482. A rule 482 advertisement may also be accompanied by an application when the advertisement is used with a profile permitted by rule 498 under the Securities Act. Rule 482(a)(5)(ii) [17 CFR 230.482(a)(5)(ii)]. *See* proposed paragraph (c)(2) of rule 482.

[99] *See* Item 5(c) of Form N–4 and Item 4(c) of Form N–6 (requiring brief description of each underlying mutual fund offered through the contract). *See also* Investment Company Act Release No. 14575 (June 14, 1985) [50 FR 26415, 26155 n. 48 and accompanying text (June 25, 1985)] (describing treatment of description of underlying mutual funds in contract prospectus as omitting prospectuses).

[100] *See* 1986 Advertising Proposing Release, *supra* note 87, at 34391 n. 60.

[101] Section 11 imposes strict liability on issuers, as well as other persons, including directors and underwriters, for material misstatements and omissions contained in the registration statement. 15 U.S.C. 77k.

[102] Investment Company Act Release No. 25522, *supra* note 89 (adopting Form N–6); Investment Company Act Release No. 25521 (Apr. 12, 2002) [66 FR 19885 (Apr. 23, 2002)] (proposing changes to fee table of Form N–4).

technical amendments to the registration forms.

1. Present Fund Advertising Rules

Like most issuers of securities, when an investment company ("fund") offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act. Congress imposed these restrictions so that investors would base their investment decisions on the full disclosures contained in the "statutory prospectus," which Congress intended to be the primary selling document.[103] The advertising restrictions of the Securities Act cause special problems for many investment companies, particularly for open-end management investment companies ("mutual funds") and other investment companies that continuously offer and sell their shares. For these funds, the advertising restrictions apply continuously because the offering process, in effect, is continuous. To address these problems, the Commission has adopted a number of special advertising rules for investment companies, including rule 482 and rule 134.

Rule 482

The Commission adopted rule 482 under the authority of section 10(b) of the Securities Act, which permits the Commission to adopt rules that provide for a prospectus that omits "in part" or "summarizes" information in the statutory prospectus.[104] Rule 482 permits investment companies to advertise any information "the substance of which" is included in the statutory prospectus.[105] The theory behind the "substance of which" requirement is that an advertisement cannot be one that "omits" information from the statutory prospectus unless all of the information in the advertisement is derived from information in the statutory prospectus.[106] Significantly, rule 482 provides a means for mutual funds to advertise performance information according to standardized formulas.[107] Rule 482 also requires advertisements to comply with certain disclosure requirements, particularly when presenting performance figures.[108]

Rule 134

In contrast to rule 482, rule 134 is a content-based rule that specifies certain categories of information that a fund may advertise. Originally, rule 134 communications, known as "tombstone advertisements," were intended merely to announce the existence of a public offering and serve as a simple means for soliciting inquiries for the statutory prospectus.[109] Over the years, however, the Commission has amended rule 134, broadening the permissible categories of information that a fund may include in its tombstone advertisements.[110] Today, funds may advertise a broad range of information under rule 134, other than performance information.[111]

2. Present Burden of Fund Advertising Rules

Based on the Commission staff's discussions with certain fund complexes and its experience with the various types of investment companies registered with the Commission, we estimate that the current annual hour burden associated with rule 482 and rule 134 is approximately 40.275 hours per investment company.[112] For the industry overall, this represents 225,015 (40.275 hours per investment company × 5,587 investment companies) burden hours, or $9,222,465 (225,015 hours × $40.986 wage rate) in internal costs.[113] Another 89,143 hours, or $3,653,615 (89,143 hours × $40.986 wage rate) in internal costs, are imposed by the requirement that funds comply with rule 34b–1 under the Investment Company Act, which requires that any performance data included in supplemental sales literature be accompanied by performance data computed using the standardized formulas for advertising performance under rule 482.[114] The Commission estimates that external costs presently associated solely with the regulatory burden of complying with the advertising rules are negligible.[115] The benefits and costs associated with the proposed amendments affect these totals as indicated in the discussion that follows.

B. Benefits

The proposed amendments would modify rule 482 of the Securities Act and related rules and forms, to provide more timely, informative, and balanced information in fund advertising for the benefit of investors. The amendments would also simplify and clarify the advertising rules, thus reducing regulatory compliance costs, and these cost savings may be passed on to investors.

1. Enhanced Disclosure of Information to Investors

Currently, the regulations concerning advertising include significant disclosure requirements. The proposed amendments would enhance the disclosure provided to investors in fund advertising in several respects:

• *Availability of Monthly Performance Figures.* Advertisements would have to disclose the availability of updated monthly performance figures by a toll-free telephone number, and, if

[103] "Statutory prospectus" refers to the full prospectus required by Section 10(a) of the Securities Act. 15 U.S.C. 77j(a).

[104] 15 U.S.C. 77j(b). *See also* 1979 Advertising Adopting Release, *supra* note 18.

[105] Rule 482(a)(2) under the Securities Act [17 CFR 230.482(a)(2)].

[106] 1977 Advertising Proposing Release, *supra* note 20, at 30380.

[107] *See supra* note 21.

[108] Because a rule 482 advertisement is a prospectus under section 10(b) of the Securities Act [15 U.S.C. 77j(b)], a rule 482 advertisement is subject to section 12(a)(2) of the Securities Act [15 U.S.C. 77*l*(a)(2)], which imposes liability for materially false or misleading statements in a prospectus or oral communication, subject to a reasonable care defense. Rule 482 advertisements are also subject to the antifraud provisions of the federal securities laws.

[109] *See supra* note 26.

[110] *See supra* note 27.

[111] Because the Commission adopted rule 134 under section 2(a)(10)(b) of the Securities Act, rule 134 advertisements are not considered prospectuses. As a result, rule 134 advertisements do not create liability under section 12(a)(2) of the Securities Act, which by its terms applies only to prospectuses and oral communications. Rule 134 advertisements, however, are subject to liability under the antifraud provisions of the federal securities laws.

[112] This figure was determined based on averages derived from information from nine fund complexes that offer mutual funds or variable insurance products. Because there was little data for closed-end funds, the burden hours for closed-end funds were based on estimates from one fund complex that offers closed-end funds and the Commission staff that these funds would incur approximately 8% of the burden of open-end funds.

[113] These figures are based on a Commission estimate of 5587 investment companies and an estimated hourly wage rate of $40.986. The estimate of the number of investment companies is based on data derived from the Commission's EDGAR filing system. The estimated wage rate figure is based on published hourly wage rates for in-house attorneys ($38.95), paralegals ($20.94), and compliance inspectors ($22.60) and the estimate, based on the Commission staff's discussions with certain fund complexes, that attorneys would account for 50% of hours spent on advertising regulation and that paralegal and compliance inspectors would account for the remaining 50% in equal ratio, yielding a weighted wage rate of $30.36 [($38.95 × .50) + ($20.94 × .25) + ($22.60 × .25) = $30.36). Securities Industry Association, *Report on Office Salaries in the Securities Industry 2000* (Oct. 2000); Securities Industry Association, *Report on Management & Professional Earnings in the Securities Industry 2000* (Oct. 2000). This weighted wage rate was then adjusted upward by 35% for overhead, reflecting the costs of supervision, space, and administrative support, to obtain the total per hour internal cost of $40.986 ($30.36 × 1.35 = $40.986).

[114] 17 CFR 270.34b–1. These estimates are based on the number of pieces of sales literature filed annually with the Commission and the NASD, and the estimated wage rate described above in note 113.

In addition, Rule 156 under the Securities Act [17 CFR 230.156] is an interpretive regulation giving guidance as to whether sales literature is materially misleading. There is no cost associated directly with this rule.

[115] External costs might include, for example, costs of hiring outside counsel or accountants, or purchasing new equipment.

available, a website where an investor may obtain performance data current to the most recent month-end.[116] Easy access to and awareness of this information would benefit investors not only by providing potentially more accurate and timely performance data and reducing the ability of funds to selectively use performance data, but also by highlighting for investors the limitations of relying too heavily on any one set of performance figures.

• *Warning Legend.* If an advertisement provides performance figures, the proposed amendments would require the inclusion of an amended legend stating that past performance does not guarantee future results, and that current performance may be lower or higher than the data quoted.[117] This legend would benefit investors by making them more aware of the limitations of relying on performance data for investment decisions, and thus may result in more informed investment decisions.

• *Availability of Charge and Expense Information.* Advertisements would have to highlight the availability of information concerning charges and expenses in the statutory prospectus.[118] This provision would benefit investors by providing easy access to an important factor that would affect their returns, which in turn would allow investors to more easily compare the costs of competing funds.

• *Prominence Requirements.* Advertisements would be required to present certain disclosures, including those discussed above, (i) in a size and type style at least as prominent as that used in the major portion of the advertisement, or (ii) in the case of radio or television advertisements, with emphasis equal to that used in the major portion of the advertisement.[119] This provision would ensure that advertisers do not marginalize or minimize the presentation of the required disclosure described above. The provision also helps to ensure some uniformity between different advertisements, facilitating investors' ability to compare the products of competing funds.

• *Proximity Requirement.* In addition, the required disclosures regarding performance data would have to be identified in the body of the advertisement in close proximity to the performance data and not in a footnote, or, with regard to television or radio advertisements, presented in close proximity to the performance data.[120] The length of and the date of the last day in the base period used in computing yield quotations, average annual total returns, after-tax returns, and other performance measures would have to be adjacent to the performance data.[121] As with other disclosure requirements, this provision would help investors to more easily find information necessary to evaluate the performance figures shown and would help to remind investors of the limitations of performance data.

The benefits of these enhanced disclosure requirements to investors may be limited by the extent to which funds currently provide this disclosure voluntarily. Staff discussions with members of the fund industry indicate that most investment companies already comply with many of the requirements of the proposed amendments, by, for example, calculating performance data on at least a monthly basis, inserting warnings in advertisements that past performance is no guarantee of future performance, and operating websites and telephone call banks.

Nevertheless, the enhanced disclosure requirements would provide two benefits to investors. To the extent investment decisions are made based on advertising, the improved disclosure would result in investors making better informed investment decisions, and therefore in a more efficient distribution of assets by investors among different funds. The transparency resulting from the enhanced disclosure in fund advertising may, in turn, also contribute to increased competition among funds and result in a more efficient allocation of resources among competing investment products. Although it is not possible to quantify the beneficial effects of more efficient allocation of investors' assets and increased competition, they may be significant, given the size of the mutual fund industry.[122] We request comment on the nature and magnitude of the benefits to investors resulting from enhanced disclosure of information that would be required by the proposed amendments.

2. Simplification and Clarification of Fund Advertising Rules

The proposed amendments would add clarifying language to rule 482 and rule 156 under the Securities Act and rule 34b–1 under the Investment Company Act to reemphasize the separate applicability of the antifraud provisions of the federal securities laws. In addition, the proposed amendments would reorganize and modify rule 482 to make it easier for funds to apply, by adding headings, reordering provisions, and clarifying certain language.

The proposed amendments to rule 482 may aid funds and others in understanding and complying with the advertising rules, making it easier and cheaper for funds to advertise. This may, in turn, contribute to an increased flow of useful investment information to investors, which may lead to better-informed investment decisions and amplify the previously discussed benefits of efficient asset allocation.[123] Although difficult to quantify, this easing of regulation may provide some reduction of burden to the funds that choose to advertise. We request comment on the nature and magnitude of the benefits resulting from this reduction of regulatory burden.

3. Elimination of the "Substance of Which" Requirement and the Rescission of Rule 134 Provisions That Apply to Funds

To simplify the current structure of fund advertising rules and to provide funds the ability to disclose more timely information in advertisements, the proposed amendments would also remove the "substance of which" limitation contained in rule 482, allowing funds to include in their 482 advertisements material that is not included in the statutory prospectus. These amendments would render the current distinction between rule 482 and rule 134 advertisements unnecessary. As such, the proposed amendments would also rescind the provisions of rule 134 that apply to funds.

The elimination of the "substance of which" requirement would enable funds to avoid the need to include or update advertising related information in their prospectus or SAI, both in the initial registration statements and in post-effective amendments, before issuing an advertisement to the public. This would reduce filing costs for funds, including both internal costs and external costs such as outside legal fees.

[116] Proposed paragraph (g)(2) of rule 482.

[117] Proposed paragraph (b)(3)(i) of rule 482.

[118] Proposed paragraph (b)(1)(i) of rule 482. This disclosure would also be required in an advertisement used with a profile pursuant to rule 498 under the Securities Act. Proposed paragraph (b)(1)(ii) of rule 482.

[119] Proposed paragraph (b)(5) of rule 482.

[120] *Id.*

[121] Proposed paragraphs (d)(1)(iv), (d)(2)(v), (d)(3)(iv), (d)(4)(vi), and (d)(5)(v) of rule 482.

[122] *See* Investment Company Institute, *Trends in Mutual Fund Investing: March 2002*, *supra* note 93 (assets of mutual funds total $7.1 trillion).

[123] The trade-off between lower advertising burdens and increased advertising activity is complex and further complicated by business cycles and marketing strategy among other factors. We believe, however, that investors and funds would enjoy benefits in any event—either resources would be saved in reducing the costs and burdens of advertising or they would be spent to increase the amount and timeliness of information provided to investors in advertising.

The proposed amendments would also reduce the cost to the funds of printing and distributing prospectuses and SAIs. The elimination of unnecessary material from the prospectus or SAI may also help investors and others more easily understand the remaining information.

Finally, the proposed rescission of the rule 134 provisions that apply to funds would consolidate the regulation of most fund advertising in one rule as rule 482, as amended, would then cover advertisements now covered by rule 134. This simplification would contribute to the benefits of easier and cheaper advertising as discussed in section IV.B.2 ("Simplification and Clarification of Advertising Rules") above, principally by removing the unnecessary restrictions on the content of the advertisements and the unnecessary distinction with regard to their legal classification. The transfer of fund advertising regulation from rule 134 to rule 482 may also enhance investor protection by subjecting all fund advertisements to potential civil liability under section 12(a)(2) of the Securities Act.[124] The Commission requests comment on the increase in potential liability under section 12(a)(2) for issuers that currently rely on rule 134 for their advertising.

The Commission estimates that, on an annual basis, these benefits will save funds approximately 1.96 burden hours, or $80.33, per investment company in internal costs but only negligible amounts in external costs. We estimate that 5587 investment companies will be affected by the proposed amendments, and, thus, the Commission estimates that the annual internal burden associated with rule 482, for purposes of the Paperwork Reduction Act, will decrease by approximately 10,950 (1.96 hours per investment company × 5,587 investment companies) burden hours.[125] These burden hours represent a monetary savings of approximately $448,797 (10,950 hours × $40.986 wage rate) per year.[126] We request comment on this estimate and on the nature and magnitude of any other benefits that would result from the proposed amendments.

C. Costs

The Commission estimates that the costs of the proposed amendments, in the aggregate, would be minimal and limited in duration. The Commission estimates that funds would incur one-time costs in modifying their current rule 482 advertising to meet the new disclosure and presentation requirements, although many funds already provide the disclosure that would be required and make available more current performance information voluntarily. For example, funds may have to modify their layouts and typesetting in order to convert existing advertisements to meet the requirements of the rule, or alternatively, replace existing advertisements more quickly than they otherwise would. However, the proposed amendments would allow a 90-day transition period, enabling funds to come into compliance with the new requirements in their next generation of quarterly advertisements with smaller conversion or replacement costs.

In addition, the requirement for funds to provide access to performance figures that are current as of the last month end may also impose costs, some of which would be ongoing, both to generate such figures on a monthly basis and to provide the information by a toll-free telephone number. This could include costs for computer time, accounting personnel, information technology staff, and additional computer and telephone equipment. However, many, if not most, funds already provide this or more current performance information through these means and, therefore, the marginal cost for most funds for making updated performance information available is expected to be negligible.

The elimination of the "substance of which" requirement and the rescission of rule 134 as applicable to funds may require some funds to incur costs to convert many of their tombstone advertisements to rule 482 advertisements. These costs, however, should be minimal and non-recurring, since the rule 482 requirements would permit advertisements that are not significantly different from those currently permitted under current rule 134.

The Commission estimates the one-time switchover costs for each investment company attributable to the proposed amendments would be approximately 2.18 hours, or $89.35 (2.18 hours × $40.986 wage rate), in internal costs, and $2,417 in external costs.[127] In total this represents a one-time cost of approximately 12,180 internal burden hours (translating into approximately $499,209 (12,180 hours × $40.986 wage rate) in internal costs) and $13,503,779 ($2,417 cost per investment company × 5,587 investment companies) in external costs.[128] We request comment on this estimate, and on the nature and magnitude of any other costs to funds resulting from the proposed amendments.

D. Conclusion

The Commission expects that the proposed advertising rule amendments will encourage more informed and efficient investing, while easing the regulatory burden on fund advertising, and that these likely benefits would justify the associated costs. To assist in the evaluation of the costs and benefits that may result from the proposed amendments, the Commission requests that commenters provide views and data relating to any anticipated costs and benefits associated with these proposals.

V. Consideration of Effects on Efficiency, Competition, and Capital Formation

Section 2(c) of the Investment Company Act, section 2(b) of the Securities Act, and Section 3(f) of the Securities Exchange Act of 1934 ("Exchange Act") require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[129]

The proposed amendments seek to improve fund advertising by enhancing disclosure requirements and by simplifying and clarifying the rules, including elimination of the "substance of which" requirement. These changes may improve efficiency. The rule simplifications may lower the regulatory burden on funds engaged in advertising, freeing resources for more productive uses. For example, funds would no longer have to update their prospectuses or SAIs in order to change the types of performance information in advertisements. The enhanced disclosure requirements may provide greater and timelier access by investors to updated performance figures, which would promote more efficient allocation of investments by investors and more efficient allocation of assets among competing funds. The proposed amendments may also improve competition, as enhanced disclosure may prompt funds to seek to provide better-informed investors with improved products and services. Finally, the effects of the proposed amendments on capital formation are unclear. Although, as noted above, we believe that the proposed amendments would benefit investors, the magnitude of the effect of the proposed amendments on efficiency, competition, and capital formation is difficult to quantify, particularly given that most funds may already comply with at least some of the new disclosure requirements.

We request comment on whether the proposed amendments, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data and other factual support for their views if possible.

VI. Paperwork Reduction Act

A. Introduction

Certain provisions of the proposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501, *et seq.*], and the Commission is submitting the proposed collections of information to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The titles for the existing collections of information are: (i) "Form N–1A under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Open-End Management Investment Companies"; (ii) "Form N–2—Registration Statement of Separate Accounts Organized as Management Investment Companies" [130] (iii) "Form N–3—Registration Statement of Separate Accounts Organized as Management Investment Companies"; (iv) "Form N–4—Registration Statement of Separate Accounts Organized as Unit Investment Trusts"; (v) "Form N–6 Under the Investment Company Act and the Securities Act of 1933, Registration Statement of Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies"; and (vi) "Rule 34b–1 of the Investment Company Act of 1940, Sales Literature Deemed to Be Misleading." A new collection of information is being created entitled "Rule 482 under the Securities Act of 1933, Advertising by an Investment Company."[131] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Form N–1A (OMB Control No. 3235–0307), Form N–2 (OMB Control No. 3235–0026), Form N–3 (OMB Control No. 3235–0316), Form N–4 (OMB Control No. 3235–0318), and Form N–6 (OMB Control No. 3235–0503) were adopted pursuant to section 5 of the Securities Act [15 U.S.C. 77e] and section 8(a) of the Investment Company Act [15 U.S.C. 80a–8(a)]. Rule 482 of Regulation C was adopted pursuant to section 10(b) of the Securities Act [15 U.S.C. 77j(b)]. Rule 34b–1 (OMB Control No. 3235–0346) was adopted pursuant to section 34(b) of the Investment Company Act [15 U.S.C. 80a–33(b)].

The proposed amendments would modify rule 482 of the Securities Act and related rules and forms, to provide more timely, understandable, and balanced information in fund advertising for the benefit of investors, while simplifying and clarifying the advertising rules for the benefit of funds.[132] First, the proposed amendments would enhance the disclosure that funds would be required to provide in advertisements, including by highlighting the availability of information concerning charges and expenses and requiring an amended legend warning that past performance does not guarantee future results. The proposed amendments would also set forth requirements ensuring that funds present these and other required disclosures at least as prominently as the material included in the body of the advertisement. Second, if a fund advertisement includes performance data, the fund would have to make available to investors month-end performance figures by a toll-free telephone number, and disclosed the availability of month-end performance data in the advertisement. Third, the proposed amendments would add clarifying language to rule 482 under the Securities Act and rule 34b–1 under the Investment Company Act to reemphasize the separate applicability of the antifraud provisions of the federal securities laws, and would amend rule 156 under the Securities Act to provide further guidance regarding the factors to be weighed in determining whether a statement involving a material fact in investment company sales literature is or might be misleading. Fourth, to allow funds the ability to disclose more timely information in advertisements, the proposed amendments would remove the "substance of which" limitation contained in rule 482 and would rescind the provisions in rule 134 under the Securities Act that apply to funds. Fifth, the proposed amendments would clarify portions of rule 482 (without changing their content) by adding headings, reordering provisions, and simplifying certain provisions. Finally, the amendments would make technical and conforming changes to Forms N–1A, N–3, N–4, and N–6 to reflect all the rule changes listed above.

The analysis in this PRA summary is divided in two sections. Section VI.B. ("The Registration Forms Burden") discusses the current PRA burden attributable to the fund advertising rules, which is presently allocated to the collections of information for the various registration forms, and the transfer of this burden to a new collection of information category for rule 482. Section VI.C. ("Change in Burden Attributable to Proposed Amendments") discusses the net change in burden hours attributable to the proposed amendments for both the new collection of information for rule 482 and the existing collection of information for rule 34b–1.

B. The Registration Forms Burden

Presently, the PRA burdens imposed by rule 482 are accounted for under the various registration forms used by

[124] The benefits of potential direct investor suits in both remedying fraudulent advertising by funds and deterring such advertising in the future are difficult to quantify, but may be significant. The benefits would be reduced to the extent that the potential liability would increase litigation and insurance costs for funds. However, because suits based on misleading advertising are relatively rare, we estimate that this cost would be minimal.

[125] The estimate of the number of investment companies is based on data derived from the Commission's EDGAR filing system. The estimate of the decrease in burden hours is based on information gathered from the fund industry by the Commission staff and from the staff's experience with the various advertising regulations.

[126] See discussion in note 113, *supra*, regarding wage rate.

[127] These figures are based on averages derived from information gathered from several members of the fund industry by the Commission staff and from the staff's experience with the various advertising rules. Internal costs would include, for example, the cost of reviewing all fund advertisements for compliance with the revised rules. External costs would include, for example, the costs of typesetting and printing for new fund advertisements.

[128] See discussion in note 113, *supra*, regarding wage rate.

[129] 15 U.S.C. 77b(b), 78c(f), and 80a–2(c).

[130] Although the proposed amendments would not amend Form N–2, that form is included in this Paperwork Reduction Act summary because the PRA burden for rule 482 has previously been included in the various investment company registration statement forms affected by rule 482, including Form N–2. As discussed below, the Commission is transferring the PRA burden associated with rule 482 from all of these registration statement forms to a new rule 482 category.

[131] The proposed amendments would modify rule 482, which is part of Regulation C under the Securities Act of 1933. Regulation C describes the disclosure that must appear in registration statements under the Securities Act and Investment Company Act. The Paperwork Reduction Act ("PRA") burden associated with rule 482 has previously been included in the various investment company registration statement forms, not in Regulation C. However, because the proposed amendments would eliminate the rationale for allocating the PRA burden for rule 482 to the registration forms, the Commission proposes to transfer the burden associated with rule 482 to a new category. While this transfer and the fluctuation in the numbers of filings would affect the burden hours for the various forms, the proposed amendments to the forms would not have any effect on the burden hours for the forms.

[132] The Commission is proposing amendments to rules 134, 156, and 482 under the Securities Act, rule 34b–1 under the Investment Company Act, and Forms N–1A, N–3, N–4, and N–6 under the Investment Company Act and Securities Act.

investment companies affected by the rule: Form N–1A, Form N–2, Form N–3, Form N–4, and Form N–6. We intend to remove these burden hours associated with rule 482 and place them in a separate rule 482 category in the following amounts:

Form	Hours transferred
Form N–1A	177,514
Form N–2	1,014
Form N–3	792
Form N–4	36,630
Form N–6	9,065
Total hours to be transferred to new rule 482 category	225,015

The information required to be filed with the Commission pursuant to the information collections contained in the registration forms permits the verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

1. Form N–1A

The purpose of Form N–1A is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are open-end funds registering with the Commission. Compliance with the disclosure requirements on Form N–1A is mandatory. Responses to the disclosure requirements are not confidential.

The current hour burden for preparing an initial Form N–1A filing is 824 burden hours per portfolio, and the Commission attributes 23 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 801.[133] The current annual hour burden for preparing post-effective amendments on Form N–1A is 122 hours per portfolio, and the Commission attributes 23 of these burden hours per portfolio to rule 482, reducing the remaining burden hours per portfolio to 99. The Commission estimates that, on an annual basis, 193 portfolios file initial registration statements on Form N–1A and 7,525 file post-effective amendments on Form N–1A. Thus, the burden hours attributable to rule 482 to be transferred from Form N–1A to the new rule 482 collection of information equal 177,514 ((23 hours × 193 portfolios) + (23 hours × 7,525 portfolios)). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N–1A for all purposes unassociated with rule 482 would be 899,568 ((801 hours × 193 portfolios) + (99 hours × 7,525 portfolios)).

Except for the transfer of PRA burden from the Form N–1A to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–1A from the proposed amendments. The change in PRA burden resulting from the purposed amendments is accounted for under the new rule 482 collection of information.

2. Form N–2

The purpose of Form N–2 is to meet the registration and disclose requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are closed-end funds registering with the Commission. Compliance with the disclosure requirements of Form N–2 is mandatory. Responses to the disclosure requirements are not confidential.

The current hour burden for preparing an initial registration statement on Form N–2 is 542.4 burden hours per filing, and the current hour burden for preparing a post-effective amendment on Form N–2 is 107.4 hours per filing. The Commission attributes 5.7 of these burden hours per filing to compliance with rule 482, reducing the burden hours per filing to 536.7 and 101.7, respectively. The Commission currently estimates that, on an annual basis, 140 respondents file an initial registration statement on Form N–2 and 38 file post-effective amendments on Form N–2. Thus, the burden hours attributable to rule 482 to be transferred from N–2 to the new rule 482 collection of information equal 1,014 ((5.7 hours × 140 filings) + (5.7 hours × 38 filings)). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N–2 for all purposes unassociated with rule 482 would be 79,003 ((536.7 hours × 140 filings) + (101.7 hours × 38 filings)).

Except for the transfer of PRA burden from Form N–2 to the new collection of information for rule 482, the Commission estimates no effect on the remaining Form N–2 PRA burden from the proposed amendments. The change in PRA burden resulting from the proposed amendments is accounted for under the new rule 482 collection of information.

3. Form N–3

The purpose of Form N–3 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are separate accounts, organized as management investment companies and offering variable annuities, registering with the Commission. Compliance with the disclosure requirements of Form N–3 is mandatory. Responses to the disclosure requirements are not confidential.

The current annual hour burden for preparing an initial registration statement on Form N–3 is 910.5 hours per portfolio, and the Commission attributes 3.3 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 907.2.[134] The current annual hour burden for preparing post-effective amendments on Form N–3 is 151.7 hours per portfolio, and the Commission attributes 3.3 of these burden hours per portfolio to rule 482, reducing the remaining burden hours per portfolio to 148.4. The Commission estimates that, on an annual basis, no initial registration statements will be filed on Form N–3 and 60 post-effective amendments, including 240 portfolios, will be filed on Form N–3. Thus, the burden hours attributable to rule 482 to be transferred from Form N–3 to the new rule 482 collection of information equal 792 (3.3 hours × 240 portfolios). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N–3 for all purposes unassociated with rule 482 would be 35,616 (148.4 × 240 portfolios).

Except for the transfer of PRA burden from Form N–3 to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–3 resulting from the proposed amendments. The change in PRA burden resulting from the proposed amendments is accounted for under the new rule 482 collection of information.

4. Form N–4

The purpose of Form N–4 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable separate accounts issuing variable annuity contracts to provide investors with information necessary to evaluate an investment in a contract. The respondents to this information collection are separate accounts, organized as unit investment trusts and offering variable annuities, registering with the Commission. Compliance with the disclosure requirements of Form N–4 is mandatory. Responses to the disclosure requirements are not confidential.

The current hour burden for preparing an initial Form N–4 filing is 298 burden hours per filing, and the Commission attributes 24.8 of these burden hours per filing to rule 482, reducing the remaining burden hours per filing to 273.2.[135] The current annual hour burden for preparing post-effective amendments on Form N–4 is 219.8 hours per filing, and the Commission attributes 24.8 of these burden hours per filing to rule 482, reducing the remaining burden hours per filing to 195. The Commission estimates that, on an annual basis, 157 respondents file initial registration statements on Form N–4 and 1320 respondents file post-effective amendments on Form N–4. Thus, the burden hours attributable to rule 482 to be transferred from Form N–4 to the new rule 482 collection of information equal 36,630 ((24.8 hours × 157 filings) + (24.8 hours × 1320 filings)). After shifting the rule 482 burden hours to a new collection of information, the total hour burden that remains allocated to Form N–4 for all purposes unassociated with rule 482 would be 300,292 ((273.2 hours × 157 filings) + (195 hours × 1320 filings)).

Except for the transfer of PRA burden from Form N–4 to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–4 resulting from the proposed amendments. The change in PRA burden resulting from the proposed amendments is accounted for under the new rule 482 collection of information.

5. Form N–6

The purpose of Form N–6 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable separate accounts issuing variable life insurance policies to provide investors with information necessary to evaluate an investment in a policy. The respondents to this information collection are separate accounts, organized as unit investment trusts and offering variable life insurance policies, registering with the Commission. Compliance with the disclosure requirements of Form N–6 is mandatory. Responses to the disclosure requirements are not confidential.

The current hour burden for preparing an initial registration statement on Form N–6 is 800 burden hours per filing and the hour burden for a post-effective amendment on Form N–6 is 100 hours per post-effective amendment filed as an annual update, and 10 hours per post-effective amendment filed for other purposes. The Commission attributes 35 of these burden hours per filing to compliance with rule 482 for both initial registration statements and post-effective amendments that are annual updates.[136] The Commission estimates no burden hours associated with rule 482 for additional post-effective amendments that are not annual updates. The Commission estimates that, on an annual basis, 59 initial registration statements will be filed on Form N–6 and 500 post-effective amendments will be filed on Form N–6, 200 as annual updates and 300 as additional post-effective amendments.[137] Thus, the burden hours attributable to rule 482 to be transferred from Form N–6 to the new rule 482 collection of information equal 9,065 ((35 hours × 59 filings) + (35 hours × 200 filings)). The total hour burden that remains allocated to Form N–6 for all purposes unassociated with rule 482 would be 61,135 ((765 hours × 59 filings) + (65 hours × 200 filings) + (10 hours × 300 filings)).

Except for the transfer of PRA burden from Form N–6 to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–6 resulting from the proposed amendments. The change in PRA burden resulting from the proposed amendments is accounted for under the new rule 482 PRA collection of information.

C. Change in Burden Attributable to Proposed Amendments

The information required by the proposed amendments to the advertising rules is primarily for the use and benefit of investors. The Commission is concerned that investors receive information in advertisements that is accurate, balanced, timely, not misleading, and otherwise appropriate and helpful in making investment decisions. The additional information that would be required to be disclosed to investors pursuant to the collection of information provisions of the rules affected by the proposed amendments, would address these concerns regarding investor protection.

1. Rule 34b–1

Rule 34b–1, including the proposed amendments, contains collection of information requirements. The rule applies to supplemental sales literature, *i.e.*, sales literature that is preceded or accompanied by the statutory prospectus and requires the inclusion of standardized performance data in sales literature that includes performance data. Compliance with rule 34b–1 is mandatory for every registered investment company that issues supplemental sales literature. Responses to the disclosure requirements will not be kept confidential.

We estimate that approximately 37,000 responses are filed annually pursuant to rule 34b–1, and the burden per response is 2.9 hours. The proposed amendments would change rule 34b–1 only to add language to clarify the Commission's present interpretation of its rules, namely, that compliance with rule 34b–1 does not relieve the fund, underwriter, or dealer of the obligation to ensure that sales literature is not false or misleading. This added language merely confirms the present state of the law and imposes no additional burden hours.[138]

[133] The estimate of the burden hours attributable to compliance with rule 482 for filings on Forms N–1A and Form N–2 are based on information supplied to the Commission staff by members of the fund industry and the staff's experience with these registration forms.

[134] Estimates of the burden hours attributable to rule 482 for Forms N–3, N–4, and N–6 were derived by estimating the total burden hours for compliance with rule 482 for all variable insurance separate accounts, based on the staff's discussions with a member of the variable insurance products industry that issues both variable annuities and variable life insurance policies. This estimate of the total rule 482 burden hours for variable insurance products filings was allocated among Form N–3, Form N–4 and Form N–6 filings based on the ratio of burden hours previously allocated to each of these forms for PRA purposes. However, we excluded burden hours attributable to initial filings on Form N–3 because we currently anticipate no such filings.

[135] See discussion in note 134, *supra*.

[136] See discussion in note 134, *supra*.

[137] Based on its analysis of data from the EDGAR filing system from 2000–2001, the Commission estimates that there are approximately 200 variable life insurace policies, with respect to which as least one post-effective amendment must be filed per year. In addition, the Commission estimates, also based on EDGAR filing data, that 300 additional post-effective amendments are filed for these variable life insurance policies each year, generally to make no-material changes to their registration statements.

[138] The secondary effect on the burden attributable to rule 34b–1 due to the proposed amendments to rule 482 is estimated to be negligible. Both before and after the proposed amendments, rule 34b–1 would require any performance data included in supplemental sales literature to be accompanied by performance data computed using the standardized formulas for advertising performance under rule 482. We

Continued

2. Rule 482

Rule 482, including the proposed amendments, contains collection of information requirements in that it permits a fund to advertise information subject to certain disclosure requirements. Compliance with rule 482 is mandatory for every fund that issues rule 482 advertisements. Responses to the disclosure requirements will not be kept confidential.

The Commission estimates that 41,484 responses are filed annually by 5,587 funds pursuant to rule 482. The burden associated with rule 482 is presently included in the collections of information for the investment company registration statement forms, but the Commission is transferring this PRA burden to a new rule 482 collection of information, with an annual burden of 225,015 hours. The proposed amendments to rule 482 would affect this total. The Commission estimates an increase of 4,060 annual burden hours, or 0.727 hours per fund, would be required to comply with the proposed amendments to rule 482, as a result of one-time switchover costs amortized over a three-year period. The Commission also estimates a decrease of 10,950 annual burden hours, or 1.96 hours per fund, resulting from the proposed amendments due to the simplification and clarification of rule 482, including the removal of the "substance of which" requirement.[139] The net result would be an annual decrease of approximately 6,890 (4,060 hours increase—10,950 hours decrease) hours.

D. Request for Comments

We request your comments on the accuracy of our estimates. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of burden of the proposed collections of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) evaluate whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503, and should send a copy to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–0609, with reference to File No. S7–17–02. Request for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7–17–02, and be submitted to the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, Attention: Records Management, Office of Filings and Information Services. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this Release.

VII. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis ("Analysis") has been prepared in accordance with 5 U.S.C. 603, and relates to the Commission's proposed rule and form amendments under the Securities Act of 1933 and the Investment Company Act of 1940 to provide investment companies with the ability to disclose more timely information in advertisements and to reinforce the antifraud protections that apply to investment company advertisements. The proposed amendments would implement a provision of NSMIA by eliminating the requirement in rule 482 under the Securities Act that investment company advertisements contain only information the "substance of which" is included in the statutory prospectus. The proposed amendments also would require enhanced disclosure in investment company advertisements and are designed to encourage advertisements that convey balanced information to prospective investors, particularly with respect to past performance. In light of the proposed amendments to rule 482, the Commission is also proposing to rescind the provisions in rule 134 under the Securities Act that apply to investment companies.

A. Reasons for, and Objectives of, Proposed Amendments

The Commission has proposed the amendments to the advertising regulations described above to achieve two separate objectives. First, the Commission intends to simplify and clarify the rules governing fund advertising. Specifically, the proposed amendments would remove the "substance of which" requirement of rule 482 and rescind the provisions of rule 134 that apply to investment companies, following Congress' directive in NSMIA to adopt rules or regulations allowing funds the use of a section 10(b) prospectus that may include information the substance of which is not included in the statutory prospectus.[140] We are also proposing technical amendments to reorganize and clarify the language of rule 482. These simplifying and clarifying amendments are intended to aid funds and others in understanding and complying with the advertising rules, making it easier and cheaper for funds to advertise.

Second, the Commission intends to enhance the disclosure required in rule 482 advertising. Specifically, we propose to require advertisements to (i) highlight the availability of certain additional information, such as charge and expense information and updated monthly performance figures; (ii) provide an amended warning legend; and (iii) present certain required disclosure with equal prominence as the major portion of the advertisement. We are proposing these amendments because of our concern about fund performance advertising that could create unrealistic investor expectations or mislead potential investors. The enhanced disclosure requirements are intended to encourage advertisements that are clear, easy to use, and balanced, and to make investors aware of important and timely information necessary to make informed investment decisions.

B. Legal Basis

We are proposing amendments to rule 134 pursuant to authority set forth in sections 2(a)(10) and 19(a) of the Securities Act. We are proposing amendments to rule 156 pursuant to authority set forth in section 19(a) of the Securities Act and sections 10(b) and 23(a) of the Exchange Act. We are proposing amendments to rule 482 pursuant to authority set forth in sections 5, 10(b), 19(a), and 28 of the Securities Act and sections 24(g) and 38(a) of the Investment Company Act. We are proposing amendments to rule 34b–1 pursuant to authority set forth in sections 34(b) and 38(a) of the Investment Company Act. We are proposing amendments to Form N–1A, Form N–3, Form N–4, and Form N–6 pursuant to authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act and sections 8, 24(a), 30, and 38 of the Investment Company Act.

C. Small Entities Subject to the Rule

For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[141] Approximately 225 out of 5587 investment companies meet this definition.[142]

The Commission estimates, based on the staff's discussions with members of the fund industry, that approximately two-thirds of small entity funds do not advertise and, thus, do not incur any burdens or costs associated with rule 482. For small entity funds that do advertise, the Commission estimates an internal hour burden of approximately 80 hours per small entity fund. This represents approximately 6,000 (80 hours × 75 small entities) hours, or $246,915 (6,000 hours × $40.986 wage rate) in internal costs, for all small entities. The Commission estimates that the external cost burden associated with rule 482 for small entities, as with other funds, is negligible. To the extent small entities currently advertise, the burden and costs may affect them to a greater extent because small entities are unable to take advantage of economies of scale available to larger fund complexes.[143]

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed amendments would modify the disclosure requirements applicable to rule 482 advertisements. Advertisements would have to contain an amended warning legend, an explanation about where charges and expense information could be found, and, if performance figures are used, information about where updated performance information could be found. In addition, the required disclosure would have to be given as much prominence in the advertisement as the major portion of the advertisement. The proposed amendments would also rescind the disclosure requirements of rule 134 as they apply to funds, but we expect that this would not result in any appreciable change in the disclosure that funds make in their advertisements because present rule 134 advertisements would become rule 482 advertisements.

After assessing the proposed amendments in light of the current reporting requirements and consulting with representatives in the industry, the Commission has considered the potential effect that the proposed amendments would have on the preparation of advertisements. Without regard to the size of the entity, we estimate that the proposed amendments would result in a net decrease of 1.23 hours, or $50.41 (1.23 hours × $40.986 wage rate), per investment company per year in internal costs and a net increase of $805.67 per investment company per year in external costs.[144]

The Commission estimates some one-time switchover costs and burdens that would be imposed on all funds, but which may have a relatively greater impact on smaller firms. These costs include the costs of altering existing advertisements, including those now covered by rule 134, to comply with the new provisions of rule 482; generating performance figures on a monthly basis; and making available the updated monthly performance data by a toll-free telephone number. The costs of making updated performance data available could include expenses for computer time, legal and accounting fees, information technology staff, and additional computer and telephone equipment. However, we believe, based on consultation with a number of fund complexes, that many investment companies that presently advertise already provide performance information on a basis at least as current as monthly through these means and, therefore, that the marginal cost increases for most funds are expected to be minimal.

The Commission anticipates that the proposed amendments would also provide ongoing reductions in the compliance burden for all funds by clarifying the language of rule 482, eliminating the "substance of which" requirement, and consolidating fund advertising into one rule. These changes would effect savings primarily by reducing the time and money funds now spend on legal review and amending their SAIs to comply with the "substance of which" requirement in current rule 482.

The Commission solicits comment on the effect the proposed amendments would have on small entities.

E. Duplicative, Overlapping or Conflicting Federal Rules

There are no rules that duplicate, overlap, or conflict with the proposed amendments.

F. Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small issuers. In connection with the proposed amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed amendments for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the proposed amendments, or any part thereof, for small entities.

The Commission believes at the present time that special compliance or reporting requirements for small

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estimate that the changes in types of disclosure and presentation that would be required by the amendments to rule 482 would not affect the amount of review necessary for funds to ensure compliance with rule 34b–1. Therefore, all changes in burden associated with the proposed amendments are accounted for under the category associated with the principal rule generating the burden, *i.e.*, the new rule 482 collection of information.

[139] The estimates of the changes in the hours attributable to rule 482 are based on information supplied to the Commission staff by members of the mutual fund and variable insurance products industry.

[140] National Securities Markets Improvement Act, *supra* note 7.

[141] 17 CFR 270.0–10.

[142] This estimate is based on figures compiled by the Commission staff regarding investment companies registered on Form N–1A, Form N–2, Form N–3, Form N–4, and Form S–6. Form S–6 is the form currently used by insurance company separate accounts registered as unit investment trusts and that offer variable life insurance policies to register their securities under the Securities Act. It will be replaced by new Form N–6. *See* Investment Company Act Release No. 25522, *supra* note 89. In determining whether an insurance company separate account is a small entity for purposes of the Regulatory Flexibility Act, the assets of insurance company separate accounts are aggregated with the assets of their sponsoring insurance companies. Investment Company Act rule 0–10(b) [17 CFR 270.0–10(b)]. Currently, no insurance company separate account filing on Form N–3, Form N–4, or Form S–6 qualifies as a small entity.

[143] We note, however, that to the extent that the proposed amendments actually reduce the regulatory burden of advertising, small entities may be encouraged to increase their advertising activity.

[144] These figures are based on the Commission staff's discussions with several fund complexes, and represent the net of the switchover internal hour burdens (12,180 hours (or 4,060 amortized)) and external costs ($13,503,779 (or $4,501,259.67 amortized)), amortized over 3 years, and the annual internal hour burden savings (10,950), which would be attributable to the proposed amendments.

The net annual hour savings would be 6,890 hours (4,060 amortized increase—10,950 annual decrease) or 1.23 hours per investment company (6,890 hours/5,587 investment companies). The annual external costs would be $805.67 per investment company ($4,501,259.67/5,587 investment companies).

entities, or an exemption from coverage for small entities, would not be appropriate or consistent with investor protection. The proposed disclosure amendments would provide shareholders and the public with more balanced information about a fund's performance. Different disclosure requirements for small entities, such as reducing the level of disclosure that small entities would have to provide shareholders in advertising, may create the risk that shareholders would not receive balanced information about a fund's performance or would receive confusing, false, or misleading information. In addition, applying different standards for advertising by small and large funds might impede investors' ability to adequately compare funds. We believe it is important for the enhanced advertising disclosure that would be required by the proposed amendments to be provided to investors by all funds, not just funds that are not considered small entities.

The Commission also notes that current advertising requirements, and its disclosure rules in general, do not distinguish between small entities and other funds. In addition, we believe that it would be inappropriate to impose a different timetable on small entities for complying with the requirements.

The proposed amendments would also reduce the internal regulatory burden on all funds, including small entities, by eliminating the "substance of which" requirement from rule 482 and rescinding rule 134 provisions that apply to funds, thereby consolidating and simplifying the advertising rules. Small entities should benefit from these amendments to the same degree as other investment companies. Further clarification, consolidation, or simplification of the proposals for funds that are small entities may be inconsistent with investor protection. Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context.

G. Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this Analysis. Comment is specifically requested on the number of small entities that would be affected by the proposed amendments and the likely impact of the proposals on small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves. Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7–17–02; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549–0102. Electronically submitted comment letters also will be posted on the Commission's Internet web site (*http://www.sec.gov*).[145]

VIII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"),[146] a rule is "major" if it results or is likely to result in:

- An annual effect on the economy of $100 million or more;
- Aa major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.

The Commission requests comment on the potential impact of the proposed amendments on the U.S. economy on an annual basis. Commenters are requested to provide empirical data to support their views.

IX. Statutory Authority

The Commission is proposing amendments to rule 134 pursuant to authority set forth in sections 2(a)(10) and 19(a) of the Securities Act [15 U.S.C. 77b(a)(10) and 77s(a)]. The Commission is proposing amendments to rule 156 pursuant to authority set forth in section 19(a) of the Securities Act [15 U.S.C. 77s(a)] and sections 10(b) and 23(a) of the Exchange Act [15 U.S.C. 78j(b) and 78w(a)]. The Commission is proposing amendments to rule 482 pursuant to authority set forth in sections 5, 10(b), 19(a), and 28 of the Securities Act [15 U.S.C. 77e, 77j(b), 77s(a), and 77z–3] and sections 24(g) and 38(a) of the Investment Company Act [15 U.S.C. 80a–24(g) and 80a–37(a)]. The Commission is proposing amendments to rule 34b–1 pursuant to authority set forth in sections 34(b) and 38(a) of the Investment Company Act [15 U.S.C. 80a–33(b) and 80a–37(a)]. The Commission is proposing amendments to Form N–1A, Form N–3, Form N–4, and Form N–6 pursuant to authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and sections 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–24(a), 80a–29, and 80a–37].

List of Subjects

17 CFR Part 230

Advertising, Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule and Form Amendments

For the reasons set out in the preamble, the Commission proposes to amend Title 17, Chapter II, of the Code of Federal Regulations as follows.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The general authority citation for Part 230 is revised to read as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.134 is amended by:

a. Removing the authority citation following § 230.134;

b. Revising the introductory text of § 230.134;

c. Removing paragraphs (a)(3)(iii), (a)(13), and (e);

d. Redesignating paragraphs (a)(3)(iv) and (a)(14) as paragraphs (a)(3)(iii) and (a)(13), respectively; and

e. In newly redesignated paragraph (a)(13)(ii), revising the reference "(a)(14)(i)" to read "(a)(13)(i)".

The revision reads as follows:

§ 230.134 Communications not deemed a prospectus.

The term *prospectus* as defined in section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)) does not include a notice, circular, advertisement, letter, or other communication published or transmitted to any person after a registration statement has been filed if it contains only the statements required or permitted by this § 230.134. This § 230.134 does not apply to a notice, circular, advertisement, letter, or other communication relating to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) or a business development company as defined in section 2(a)(48) of the Investment Company Act (15 U.S.C. 80a–2(a)(48)).

* * * * *

3. Section 230.156 is amended by:

a. Removing the authority citation following § 230.156; and

b. Revising paragraph (b)(2)(i) to read as follows:

§ 230.156 Investment company sales literature.

* * * * *

(b) * * *

(2) * * *

(i) Portrayals of past income, gain, or growth of assets convey an impression of the net investment results achieved by an actual or hypothetical investment which would not be justified under the circumstances, including portrayals that omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading; and

* * * * *

4. Section 230.482 is revised to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) *Scope of rule.* This section applies to an advertisement or other sales material (advertisement) with respect to securities of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (1940 Act), or a business development company, that is selling or proposing to sell its securities pursuant to a registration statement that has been filed under the Act. This section does not apply to an advertisement that is excepted from the definition of prospectus by section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)), or a Profile under § 230.498. An advertisement that complies with this section, which may include information the substance of which is not included in the prospectus specified in section 10(a) of the Act (15 U.S.C 77j(a)), will be deemed to be a prospectus under section 10(b) of the Act (15 U.S.C. 77j(b)) for the purpose of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

Note to paragraph (a): The fact that an advertisement complies with this section does not relieve the investment company, underwriter, or dealer of the obligation to ensure that the advertisement is not false or misleading. For guidance about factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in investment company advertisements are misleading, *see* § 230.156. In addition, an advertisement that complies with this section is subject to the legibility requirements of § 230.420.

(b) *Required disclosure.* This paragraph describes information that is required to be included in an advertisement in order to comply with this section.

(1) *Availability of additional information.* An advertisement must include a statement that:

(i) Identifies a source from which an investor may obtain a prospectus; explains that the prospectus contains more complete information about the investment company, including charges and expenses; and states that the prospectus should be read carefully before investing; or

(ii) If used with a Profile, explains that the accompanying Profile contains information about the investment company, including charges and expenses; describes the procedures for investing in the investment company; and indicates the availability of the investment company's prospectus.

(2) *Advertisements used prior to effectiveness of registration statement.* An advertisement that is used prior to effectiveness of the investment company's registration statement or the determination of the public offering price (in the case of a registration statement that becomes effective omitting information from the prospectus contained in the registration statement in reliance upon § 230.430A) must include the "Subject to Completion" legend required by § 230.481(b)(2).

(3) *Advertisements including performance data.* An advertisement that includes performance data of an open-end management investment company or a separate account registered under the 1940 Act as a unit investment trust offering variable annuity contracts (trust account) must include the following:

(i) A legend disclosing that the performance data quoted represents past performance; that past performance does not guarantee future results; that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost; and that current performance may be lower or higher than the performance data quoted. The legend should also identify a toll-free (or collect) telephone number and, if available, a website where an investor may obtain performance data current to the most recent month-end. An advertisement for a money market fund may omit the disclosure about principal value fluctuation; and

(ii) If a sales load or any other nonrecurring fee is charged, the maximum amount of the load or fee, and if the sales load or fee is not reflected, a statement that the performance data does not reflect the deduction of the sales load or fee, and that, if reflected, the load or fee would reduce the performance quoted.

(4) *Money market funds.* An advertisement for an investment company that holds itself out to be a money market fund must include the following statement:

An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the Fund seeks to preserve the value of your investment at $1.00 per share, it is possible to lose money by investing in the Fund.

A money market fund that does not hold itself out as maintaining a stable net asset value may omit the second sentence of this statement.

(5) *Presentation.* In a print advertisement, the statements required by paragraphs (b)(1) through (b)(4) of this section must be presented in a size type at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisement. In a radio or television advertisement, the statements required by paragraphs (b)(1) through (b)(4) of this section must be given emphasis equal to that used in the major portion of the advertisement. The statements required by paragraph (b)(3) of this section must be presented in close proximity to the performance data, and, in a print advertisement, must be presented in the body of the advertisement and not in a footnote.

(6) *Commission legend.* An advertisement that complies with this section need not contain the Commission legend required by § 230.481(b)(1).

(c) *Use of applications.* An advertisement that complies with this section may not contain or be accompanied by any application by which a prospective investor may invest in the investment company, except that:

(1) *Variable annuity and variable life insurance contracts.* A prospectus meeting the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)) by

[145] We do not edit personal, identifying information, such as names or e-mail addresses, from electronic submissions. Submit only information that you wish to make publicly available.

[146] Pub. L. No. 104–21, Title II, 110 Stat. 857 (1996).

which a unit investment trust offers variable annuity or variable life insurance contracts may contain a contract application although the prospectus includes information about an investment company in which the unit investment trust invests that, pursuant to this section, is deemed a prospectus under section 10(b) of the Act (15 U.S.C. 77j(b)); and

(2) *Profile.* An advertisement that complies with this section may be used with a Profile that includes, or is accompanied by, an application to purchase shares of the investment company as permitted under § 230.498.

(d) *Performance data for non-money market funds.* In the case of an open-end management investment company or a trust account (other than a money market fund referred to in paragraph (e) of this section), any quotation of the company's performance contained in an advertisement shall be limited to quotations of:

(1) *Current yield.* A current yield that:

(i) Is based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter);

(ii) Is accompanied by quotations of total return as provided for in paragraph (d)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of total return; and

(iv) Adjacent to the quotation and with no less prominence than the quotation, identifies the length of and the date of the last day in the base period used in computing the quotation.

(2) *Tax-equivalent yield.* A tax-equivalent yield that:

(i) Is based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter);

(ii) Is accompanied by quotations of yield as provided for in paragraph (d)(1) of this section and total return as provided for in paragraph (d)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of yield and total return;

(iv) Relates to the same base period as the required quotation of yield; and

(v) Adjacent to the quotation and with no less prominence than the quotation, identifies the length of and the date of the last day in the base period used in computing the quotation.

(3) *Average annual total return.* Average annual total return for one, five, and ten year periods, except that if the company's registration statement under the Act (15 U.S.C. 77a *et seq.*) has been in effect for less than one, five, or ten years, the time period during which the registration statement was in effect is substituted for the period(s) otherwise prescribed. The quotations must:

(i) Be based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter);

(ii) Be current to the most recent calendar quarter ended prior to the submission of the advertisement for publication;

(iii) Be set out with equal prominence; and

(iv) Adjacent to the quotation and with no less prominence than the quotation, identify the length of and the last day of the one, five, and ten year periods.

(4) *After-tax return.* For an open-end management investment company, average annual total return (after taxes on distributions) and average annual total return (after taxes on distributions and redemption) for one, five, and ten year periods, except that if the company's registration statement under the Act (15 U.S.C. 77a *et seq.*) has been in effect for less than one, five, or ten years, the time period during which the registration statement was in effect is substituted for the period(s) otherwise prescribed. The quotations must:

(i) Be based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter);

(ii) Be current to the most recent calendar quarter ended prior to the submission of the advertisement for publication;

(iii) Be accompanied by quotations of total return as provided for in paragraph (d)(3) of this section;

(iv) Include both average annual total return (after taxes on distributions) and average annual total return (after taxes on distributions and redemption);

(v) Be set out with equal prominence and be set out in no greater prominence than the required quotations of total return; and

(vi) Adjacent to the quotations and with no less prominence than the quotations, identify the length of and the last day of the one, five, and ten year periods.

(5) *Other performance measures.* Any other historical measure of company performance (not subject to any prescribed method of computation) if such measurement:

(i) Reflects all elements of return;

(ii) Is accompanied by quotations of total return as provided for in paragraph (d)(3) of this section;

(iii) In the case of any measure of performance adjusted to reflect the effect of taxes, is accompanied by quotations of total return as provided for in paragraph (d)(4) of this section;

(iv) Is set out in no greater prominence than the required quotations of total return; and

(v) Adjacent to the measurement and with no less prominence than the measurement, identifies the length of and the last day of the period for which performance is measured.

(e) *Performance data for money market funds.* In the case of a money market fund:

(1) *Yield.* Any quotation of the money market fund's yield in an advertisement shall be based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter) and may include:

(i) A quotation of current yield that, adjacent to the quotation and with no less prominence than the quotation, identifies the length of and the date of the last day in the base period used in computing that quotation;

(ii) A quotation of effective yield if it appears in the same advertisement as a quotation of current yield and each quotation relates to an identical base period and is presented with equal prominence; or

(iii) A quotation or quotations of tax-equivalent yield or tax-equivalent effective yield if it appears in the same advertisement as a quotation of current yield and each quotation relates to the same base period as the quotation of current yield, is presented with equal prominence, and states the income tax rate used in the calculation.

(2) *Total return.* Accompany any quotation of the money market fund's total return in an advertisement with a quotation of the money market fund's current yield under paragraph (e)(1)(i) of this section. Place the quotations of total return and current yield next to each other, in the same size print, and if there is a material difference between the quoted total return and the quoted current yield, include a statement that the yield quotation more closely reflects the current earnings of the money market fund than the total return quotation.

(f) *Advertisements that make tax representations.* An advertisement for an open-end management investment company (other than a company that is permitted under § 270.35d–1(a)(4) of this chapter to use a name suggesting that the company's distributions are exempt from federal income tax or from both federal and state income tax) that represents or implies that the company is managed to limit or control the effect of taxes on company performance must accompany any quotation of the company's performance permitted by paragraph (d) of this section with quotations of total return as provided for in paragraph (d)(4) of this section.

(g) *Timeliness of performance data.* All performance data contained in any advertisement must be as of the most recent practicable date considering the type of investment company and the media through which the data will be conveyed, except that any advertisement containing total return quotations will be considered to have complied with this paragraph provided that:

(1) The total return quotations are current to the most recent calendar quarter ended prior to the submission of the advertisement for publication; and

(2) Total return quotations current to the most recent month ended three calendar days prior to the date of use are provided at the toll-free (or collect) telephone number identified pursuant to paragraph (b)(3)(i).

(h) *Filing.* An advertisement that complies with this section need not be filed as part of the registration statement filed under the Act.

Note to Paragraph (h): These advertisements, unless filed with NASD Regulation, Inc., are required to be filed in accordance with the requirements of § 230.497.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

6. The authority citation for part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a–1, *et seq.*, 80a–34(d), 80a–37, 80a–39, unless otherwise noted;

* * * * *

7. Section 270.34b–1 is amended by:

a. Revising the reference "(a)(7) of § 230.482" in paragraph (a) to read "(b)(4) of § 230.482";

b. Revising the reference "(a)(6) of § 230.482" in paragraph (b)(1)(i) to read "(b)(3) of § 230.482";

c. Revising the reference "(d)(1)(i) of § 230.482" in paragraph (b)(1)(ii)(A) to read "(e)(1)(i) of § 230.482";

d. Revising the reference "§ 230.482(d)(1)(iii)" in paragraph (b)(1)(ii)(B) to read "§ 230.482(e)(1)(iii)";

e. Revising the reference "(d)(1)(i) of § 230.482" in the first sentence of paragraph (b)(1)(ii)(C) to read "(e)(1)(i) of § 230.482";

f. Revising the reference "(e)(3) of § 230.482" in paragraph (b)(1)(iii)(A) to read "(d)(3) of § 230.482";

g. Revising the reference "(e)(4) of § 230.482" in paragraph (b)(1)(iii)(B) to read "(d)(4) of § 230.482";

h. Revising the reference "(e)(4) of § 230.482" in paragraph (b)(1)(iii)(C) to read "(d)(4) of § 230.482";

i. Revising the reference "(e)(1) of § 230.482" in paragraph (b)(1)(iii)(D) to read "(d)(1) of § 230.482";

j. Revising the references "(e)(2)" and "(e)(1) of § 230.482" in paragraph (b)(1)(iii)(E) to read "(d)(2)" and "(d)(1) of § 230.482", respectively;

k. Revising the reference "(e)(3)(ii), (e)(4)(ii)" in paragraph (b)(3) to read "(d)(3)(ii), (d)(4)(ii)"; and

l. Adding a note following the introductory text of § 270.34b–1 to read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

* * * * *

Note to Introductory Text of § 270.34b–1: The fact that the sales literature includes the information specified in paragraphs (a) and (b) of this section does not relieve the investment company, underwriter, or dealer of the obligation to ensure that the sales literature is not false or misleading. For guidance about factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in investment company sales literature are misleading, *see* § 230.156 of this chapter.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

8. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

Note: The text of Forms N–1A, N–3, N–4, and N–6 does not, and these amendments will not, appear in the *Code of Federal Regulations.*

9. Item 21 of Form N–1A (referenced in §§ 239.15A and 274.11A) is amended by:

a. Revising the introductory text of paragraphs (a) and (b); and

b. Removing paragraphs (a)(5) and (b)(7), to read as follows:

Form N–1A

* * * * *

Item 21. Calculation of Performance Data

(a) *Money Market Funds.* Yield quotation(s) for a Money Market Fund included in the prospectus should be calculated according to paragraphs (a)(1)–(4).

* * * * *

(b) *Other Funds.* Performance information included in the prospectus should be calculated according to paragraphs (b)(1)–(6).

* * * * *

10. Item 4 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

a. Removing Item 4(c); and

b. Redesignating Item 4(d) as Item 4(c).

11. Item 25 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

a. Removing Instruction 5 to paragraph (a); and

b. Revising paragraphs (a) and (b), and Instruction 6 to paragraph (b)(i), to read as follows:

Form N–3

* * * * *

Item 25. Calculation of Performance Data

(a) *Money Market Accounts.* Yield quotation(s) included in the prospectus for an account or sub-account that holds itself out as a "money market" account or sub-account should be calculated according to paragraphs (a)(i)–(ii).

(i) *Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting

yield figure carried to at least the nearest hundredth of one percent.

(ii) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the effective yield, carried to at least the nearest hundredth of one percent, by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

Effective Yield = [(Base Period Return +1)$^{365/7}$] – 1.

Instructions:

* * * * *

(b) *Other Accounts.* Performance information included in the prospectus should be calculated according to paragraphs (b)(i)–(iii).

(i) *Average Annual Total Return Quotation.* For the 1-, 5-, and 10-year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the average annual total return by finding the average annual compounded rates of return over the 1-, 5-, and 10-year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$P(1+T)^n = ERV$

Where:

P = A hypothetical initial payment of $1,000

T = Average annual total return

n = Number of years

ERV = Ending redeemable value of a hypothetical $1,000 payment made at the beginning of the 1-, 5-, or 10-year periods at the end of the 1-, 5-, or 10-year periods (or fractional portion).

Instructions:

* * * * *

6. Total return information in the prospectus need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield Quotation.* Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate yield by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$YIELD = 2\left[\left(\frac{a-b}{cd}+1\right)^6-1\right]$$

Where:

a = Dividends and interest earned during the period.

b = Expenses accrued for the period (net of reimbursements).

c = The average daily number of accumulation units outstanding during the period.

d = The maximum offering price per accumulation unit on the last day of the period.

Instructions:

* * * * *

(iii) *Non-Standardized Performance Quotation.* A Registrant may calculate performance using any other historical measure of performance (not subject to any prescribed method of computation) if the measurement reflects all elements of return.

* * * * *

12. Item 4 of Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by:

a. Removing Item 4(b); and

b. Redesignating Item 4(c) as Item 4(b).

13. Item 21 of Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by:

a. Removing Instruction 5 to paragraph (a); and

b. Revising paragraphs (a) and (b), and Instruction 6 to paragraph (b)(i), to read as follows:

Form N–4

* * * * *

Item 21. Calculation of Performance Data

(a) *Money Market Funded Sub-Accounts.* Yield quotation(s) included in the prospectus for an account or sub-account that holds itself out as a "money market" account or sub-account should be calculated according to paragraphs (a)(i)–(ii).

(i) *Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent.

(ii) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the effective yield, carried to at least the nearest hundredth of one percent, by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

Effective Yield = [(Base Period Return+1)$^{365/7}$] – 1.

Instructions:

* * * * *

(b) *Other Sub-Accounts.* Performance information included in the prospectus should be calculated according to paragraphs (b)(i)–(iii).

(i) *Average Annual Total Return Quotation.* For the 1-, 5-, and 10-year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the average annual total return by finding the average annual compounded rates of return over the 1-, 5-, and 10-year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$P(1+T)^n = ERV$

Where:

P = A hypothetical initial payment of $1,000

T = Average annual total return

n = Number of years

ERV = Ending redeemable value of a hypothetical $1,000 payment made at the beginning of the 1-, 5-, or 10-year periods at the end of the 1-, 5-, or 10-year periods (or fractional portion).

Instructions:

* * * * *

6. Total return information in the prospectus need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield Quotation.* Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate yield by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$YIELD = 2\left[\left(\frac{a-b}{cd}+1\right)^6-1\right]$$

Where:

a = Net investment income earned during the period by the portfolio company attributable to shares owned by the sub-account.

b = Expenses accrued for the period (net of reimbursements).

c = The average daily number of accumulation units outstanding during the period.

d = The maximum offering price per accumulation unit on the last day of the period.

Instructions:

* * * * *

(iii) *Non-Standardized Performance Quotation.* A Registrant may calculate performance using any other historical measure of performance (not subject to any prescribed method of computation) if the measurement reflects all elements of return.

* * * * *

14. General Instruction B.2.(b) of Form N–6 (referenced in §§ 239.17c and 274.11d) is amended by revising the reference "Items 27 (c), (k), (l), (n), and (o)" to read "Items 26 (c), (k), (l), (n), and (o)".

15. Item 25 of Form N–6 (referenced in §§ 239.17c and 274.11d) is removed.

16. Form N–6 (referenced in §§ 239.17c and 274.11d) is further amended by:

a. Redesignating Items 26 through 34 as Items 25 though 33;

b. Revising the reference "Item 26" in paragraph (j) of newly redesignated Item 25 to read "Item 25" and

c. Revising the reference "Item 26" in paragraphs (l) and (m) of newly redesignated Item 26 to read "Item 25".

By the Commission.

Dated: May 17, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12893 Filed 5–23–02; 8:45 am]

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Federal Register

Friday,
May 24, 2002

Part IV

Commodity Futures Trading Commission

Securities and Exchange Commission

17 CFR Parts 41 and 240
Cash Settlement and Regulatory Halt Requirements for Security Futures Products; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB86

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–45956; File No. S7–15–01]

RIN 3235–AI24

Cash Settlement and Regulatory Halt Requirements for Security Futures Products

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Joint final rule.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (collectively "Commissions") are adopting a new rule generally to require that the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities, and that trading in any security futures product halt when a regulatory halt is instituted with respect to a security or securities underlying the security futures product by the national securities exchange or national securities association listing the security. The rule adopted today would set forth more specifically how the exchange's or association's rules can satisfy provisions added to the Commodity Exchange Act ("CEA") and the Securities Exchange Act of 1934 ("Exchange Act") by the Commodity Futures Modernization Act of 2000 ("CFMA"). The Commissions are also issuing an interpretation of the statutory requirement under the CEA and the Exchange Act that procedures be put in place for coordinated surveillance among the markets trading security futures products and any market trading any security underlying the security futures products or any related security.

EFFECTIVE DATE: The rules are effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT:

CFTC

Richard A. Shilts, Acting Director, Division of Economic Analysis, at (202) 418–5275; Thomas M. Leahy, Jr., Financial Instruments Unit Chief, Division of Economic Analysis, at (202) 418–5278; or Gabrielle A. Sudik, Attorney, Office of General Counsel, at (202) 418–5120, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. E-mail: (*RShilts@cftc.gov*), (*TLeahy@cftc.gov*), or (*GSudik@cftc.gov*).

SEC

Jerry Carpenter, Assistant Director, at (202) 942–4187; Terri Evans, Assistant Director, at (202) 942–4162; Alton Harvey, Office Head, at (202) 942–4167; Michael Gaw, Special Counsel, at (202) 942–0158; Cyndi Nguyen, Attorney, at (202) 942–4163; and Michael Rae, Attorney, at (202) 942–0785, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The CFTC is adopting Rule 41.1(j) through (l), 41.25(a)(2), 41.25(b), and 41.25(d) under the CEA.[1] The SEC is adopting Rule 6h–1 under the Exchange Act.[2]

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I. Introduction

The CFMA[3] authorizes the trading of futures on individual stocks and narrow-based security indexes (collectively, "security futures").[4] The CFMA defines security futures products as "securities" under the Exchange Act,[5] the Securities Act of 1933,[6] the Investment Company Act of 1940,[7] and the Investment Advisers Act of 1940,[8] and as contracts of sale for future delivery of a single security or of a narrow-based security index or options thereon under the CEA.[9] Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures

[1] Rule 41.1(j)–(l), 17 CFR 41.1, hereinafter referred to as CFTC Rule 41.1; 41.25(a)(2), 17 CFR 41.25(a)(2), hereinafter referred to as CFTC Rule 41.25(a)(2); 41.25(b), 17 CFR 41.25(b), hereinafter referred to as CFTC Rule 41.25(b); and 41.25(d), 17 CFR 41.25(d), hereinafter referred to as CFTC Rule 41.25(d).

[2] Rule 6h–1, 17 CFR 240.6h–1, hereinafter referred to as SEC Rule 6h–1.

[3] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[4] After December 21, 2003, the Commissions may jointly determine to permit trading of puts, calls, straddles, options, or privileges on security futures (along with security futures, collectively referred to as "security futures products"). *See* Section 2(a)(1)(D)(iii) of the CEA, 7 U.S.C. 2(a)(1)(D)(iii); Section 6(h)(6) of the Exchange Act, 15 U.S.C. 78f(h)(6).

[5] *See* Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

[6] *See* Section 2(a)(1) of the Securities Act of 1933, 15 U.S.C. 77b(a)(1).

[7] *See* Section 2(a)(36) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(36).

[8] *See* Section 202(a)(18) of the Investment Advisers Act of 1940, 15 U.S.C. 80b–2(a)(18).

[9] *See* Section 1a(31) of the CEA, 7 U.S.C. 1a(31).

products provides the SEC and the CFTC with joint jurisdiction.

Under the Exchange Act, it is unlawful for any person to effect transactions in security futures products that are not listed on a national securities exchange[10] or on a national securities association registered pursuant to Section 15A(a) of the Exchange Act.[11] In addition, Section 6(h)(2) of the Exchange Act[12] provides that such an exchange or association may trade only those security futures products that conform with listing standards filed by the exchange or association with the SEC under Section 19(b) of the Exchange Act[13] and that meet certain criteria specified in Section 2(a)(1)(D)(i) of the CEA[14] and the standards and conditions enumerated in Section 6(h)(3) of the Exchange Act.[15]

In particular, the CEA and the Exchange Act stipulate that the listing standards of an exchange or association trading security futures products shall, among other things, require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures products, nor to causing or being used in the manipulation of the price of any underlying security or option thereon.[16] In addition, listing standards must require that the market on which the security futures product trades has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[17]

Accordingly, the Commissions proposed amendments to Rule 41.1 and Rule 41.25 under the CEA, and new Rule 6h–1 under the Exchange Act to generally provide that (i) the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities, and (ii) the listing standards of national securities exchanges and national securities associations trading security futures products establish a halt in trading in any security futures product when the national securities exchange or national securities association listing the security institutes a regulatory halt with respect to a security or securities underlying the security futures product.[18] In response to the Proposing Release, the Commissions received eight comment letters.[19] As discussed further below, the Commissions are adopting the rule substantially as proposed, with slight modifications in response to recommendations by commenters.

II. Discussion

A. Settlement Prices for Cash-Settled Security Futures Products

1. Background

All currently traded index futures and options are cash-settled. When stock index futures and options began trading in the mid-1980s, virtually all of these products used closing-price settlement procedures. Closing-price settlement procedures in index futures and options generally base the index settlement price on the execution prices from the last regular session trades in the underlying securities. The cash settlement provisions of stock index futures and options contracts facilitated the growth of sizeable index arbitrage activities by firms and professional traders and made it relatively easy for arbitrageurs to buy or sell the underlying stocks at or near the market close on expiration Fridays[20] in order to "unwind" arbitrage-related positions. These types of unwinding programs at the close on expiration Fridays often severely strained the liquidity of the securities markets.

Regulators and self-regulators were concerned that the liquidity constraints faced by the securities markets to accommodate expiration-related buy or sell programs at the market close on expiration Fridays could exacerbate ongoing market swings during an expiration and could provide opportunities for entities to anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices. To reduce such expiration-related strains on market liquidity, markets trading the most actively-traded futures contracts and many stock index option contracts moved to opening-price settlement procedures. As discussed in the Proposing Release, opening-price settlement procedures offered several features that enabled the securities

[10] Section 6(g) of the Exchange Act, 15 U.S.C. 78f(g), allows a designated contract market under Section 5 of the CEA, 7 U.S.C. 7, or a registered derivatives transaction execution facility under Section 5a of the CEA, 7 U.S.C. 7a, to register as a national securities exchange solely for the purpose of trading security futures products ("Security Futures Product Exchange"). *See* Securities Exchange Act Release No. 44692 (August 13, 2001), 66 FR 43721 (August 20, 2001) (adopting, in part, requirements for designated contract markets and registered derivatives transaction execution facilities to register as national securities exchanges). By definition, the phrase "national securities exchange" encompasses Security Futures Product Exchanges. For simplicity, the text of this release refers to national securities exchanges and national securities associations. The CFTC's rules in Section VII of this release, however, by their terms, apply to designated contract markets and registered derivatives transaction execution facilities.

[11] 15 U.S.C. 78*o*–3(a).

[12] 15 U.S.C. 78f(h)(2).

[13] 15 U.S.C. 78s(b).

[14] 7 U.S.C. 2(a)(1)(D)(i).

[15] 15 U.S.C. 78f(h)(3).

[16] *See* Section 2(a)(1)(D)(i)(VII) of the CEA. 7 U.S.C. 2(a)(1)(D)(i)(VII); Section 6(h)(3)(H) of the Exchange Act, 15 U.S.C. 78f(h)(3)(H).

[17] *See* Section 2(a)(1)(D)(i)(X) of the CEA. 7 U.S.C. 2(a)(1)(D)(i)(X); Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K). Before a national securities exchange or national securities association lists or trades security futures products, it is required to file, pursuant to Section 19(b) of the Exchange Act, 15 U.S.C. 78s(b), a proposed rule change with the SEC establishing listing standards that comply with Section 6(h)(3) of the Exchange Act, 15 U.S.C. 78f(h)(3). Generally, a national securities exchange registered under Section 6(a) of the Exchange Act, 15 U.S.C. 78f(a), or a national securities association registered under Section 15A(a) of the Exchange Act, 15 U.S.C. 78*o*–3(a), must file proposed rule changes with the SEC pursuant to Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), for notice, comment, and SEC approval, prior to implementation, unless the rule is otherwise permitted to become effective pursuant to Section 19(b)(3) of the Exchange Act, 15 U.S.C. 78s(b)(3). A Security Futures Product Exchange or a national securities association registered under Section 15A(k) of the Exchange Act, 15 U.S.C. 78*o*–3(k), must generally submit, pursuant to Section 19(b)(7) of the Exchange Act, 15 U.S.C. 78s(b)(7), proposed rule changes relating to certain enumerated matters, including listing standards. *See* 17 CFR 240.19b–7.

[18] *See* Securities Exchange Act Release No. 44743 (August 24, 2001), 66 FR 45904 (August 30, 2001) ("Proposing Release").

[19] *See* letters to Jean A. Webb, Secretary, CFTC, and Jonathan G. Katz, Secretary, SEC, from, or on behalf of: Joanne Moffic-Silver, General Counsel, Chicago Board Options Exchange, dated October 1, 2001 ("CBOE Letter"); David J. Vitale, President and Chief Executive Officer, Chicago Board of Trade, dated October 1, 2001 ("CBOT Letter"); James J. McNulty, President and Chief Executive Officer, Chicago Mercantile Exchange, Inc., dated October 1, 2001 ("CME Letter"); Jonathon Barton, Chairman, Futures Industry Association/Securities Industry Association Steering Committee on Security Futures, dated April 4, 2002 ("FIA/SIA Steering Committee Letter"); James E. Buck, Senior Vice President and Secretary, New York Stock Exchange, Inc., dated October 19, 2001 ("NYSE Letter"); William H. Navin, Executive Vice President and General Counsel, the Options Clearing Corporation, dated October 3, 2001 ("OCC Letter"); Joel Greenberg, Managing Director, Susquehanna International Group, LLP, dated October 17, 2001 ("SIG Letter"); and Larry Coury, Silvia Madrid, Laura Murias, Mike Periera, Vivek Sahota, Benjamin Sparks, Adrian Spirollari, and Wallace Truesdale, Students at Fordham University School of Law, dated October 1, 2001 ("Students Letter"). In addition to the comment letters received on the Proposing Release, the Commissions reviewed three comment letters received by the CFTC on its separate proposal regarding full membership in the Intermarket Surveillance Group. *See infra* discussion at Section II.C., Commissions' Interpretation of Statutory Requirements for Coordinated Surveillance.

[20] The term "expiration Fridays" refers to the third Friday of each month that marks the expiration date for that month's individual stock options, stock index options, and stock index futures contracts. On the expiration date, options and futures contracts cease to exist. Some stock index futures and options expire on a quarterly basis, with their expiration Friday occurring on the third Friday of the last month of the quarter (March, June, September, and December).

markets to better handle expiration-related unwinding programs.

2. Proposed Rule for Settlement Prices

In view of the experience gained with settlements in cash-settled stock index futures and options in the 1980s and in light of the potential for manipulation of the underlying securities markets, the Commissions proposed that security futures products that specify cash settlement in lieu of physical delivery use a final settlement price that fairly reflected the opening price of the underlying security or securities as the basis for cash settling positions at contract expiration.[21]

The Commissions' proposal also required that, if an opening price for an underlying security or securities was not readily available, the final settlement price of the overlying cash-settled security futures product had to fairly reflect the price of the underlying security or securities during its most recent regular trading session. The Commissions' proposal provided exchanges and associations with some discretion to implement this general rule. Finally, the proposal explicitly permitted the Commissions to grant a national securities exchange or national securities association an exemption from the above requirements.

3. Final Rule

a. Final Settlement Price for Cash-Settled Security Futures Products Must Fairly Reflect the Opening Price

The Commissions are adopting the requirement as proposed that the final settlement price of a cash-settled security futures product fairly reflect the opening price of the underlying security or securities, if the opening price is readily available.[22]

Several commenters generally supported this aspect of the proposal.[23] One commenter stated that cash-settled security futures products should be settled based on opening prices of the underlying securities because cash-settled index options already are required to settle in the same manner.[24] A second commenter advocated opening price settlement because closing-price settlement procedures for futures and options products in the 1980s "strained the liquidity of the securities markets and raised concerns about opportunities for manipulative or abusive trading practices."[25] This commenter believed that, with the increased use of opening-price settlement, specialists are better able to handle expiration-related unwinding programs because there are well-developed opening procedures to disseminate price indications in an orderly manner and because specialists have the remainder of the session to trade out of any position imbalances acquired at the opening.

A third commenter noted that the migration in 1987 from closing price to opening price settlement on its S&P 500 and other futures contracts "was largely in response to the fact that Friday afternoon settlements—which corresponded to existing practices for listed options expirations—exposed NYSE specialists to large information-less market-on-close orders without an adequate mechanism to cope."[26] Nevertheless, this commenter pointed out potential problems with the proposed approach. It stated, for example, that the openings of all securities do not occur simultaneously and, therefore, calculation of an index must be based on non-synchronous transaction prices. This commenter also noted that a volume-weighted average transaction price over a short time interval has evolved into an industry standard for determining final settlement prices for futures based on securities trading on decentralized markets, such as Nasdaq. In response to the foregoing, the Commissions note that the rule being adopted today does not mandate that a particular methodology be used to derive an opening price. A national securities exchange or national securities association is, therefore, free to develop its own methodology for determining final settlement prices, provided that the result "fairly reflects" the opening price.[27]

The same commenter also stated that the Commissions' proposal could create a discrepancy between security futures products based on narrow-based security indexes and other derivative products based on the same indexes: while the former would be required to settle using opening prices, the latter are subject to no such requirement.[28] Another commenter noted that the option on the S&P 100 index (the "OEX" option) still employs closing-price settlement and called upon the Commissions to bring OEX into line with the opening-price settlement procedures now being adopted.[29]

The Commissions do not believe it is necessary or appropriate at this time to mandate opening settlement procedures for all options and futures. As the Commissions noted in the Proposing Release, CBOE believed that the closing price settlement procedures were appropriate for OEX because these options were used primarily by retail investors and were not actively used in the types of index arbitrage unwinding programs that had strained the liquidity of the securities markets at the close on expiration.[30] Further, the Commissions note that the vast majority of options do use opening-price settlement procedures;[31] therefore, the rule being adopted today is consistent with that general practice.[32]

One commenter also did not believe that the decision to employ opening- rather than closing-price procedures should be based on a perceived threat of increased manipulative activity, arguing that improvements in audit trails, record-keeping practices, and inter-exchange cooperation have greatly increased the ability to detect and punish manipulative activity.[33] The Commissions agree that these enhancements have increased the ability of regulators to detect and punish manipulative trading activity. Nevertheless, the Commissions believe that it is appropriate to take steps that reduce not merely the incentive, but also the ability to manipulate the market. For example, one commenter described its implementation of special closing procedures to reduce the scope for end-of-day manipulation, while stating that the use of opening prices would obviate the need for these special closing procedures.[34] This commenter also noted that opening-price settlement decreases the likelihood of price distortions not brought about by manipulative intent, such as human error, that can significantly affect the closing prices of securities and their overlying indexes, because the markets have no time before the closing to correct such errors. The Commissions believe that market distortions—whether caused by manipulation, human error, or difficulties in balancing buy- and sell-side interest—are more likely to occur in an environment in which closing-price settlement of derivative products is used, and that the potential for these distortions exists to a far lesser degree at the opening.[35]

i. CFTC Technical Amendment

The CFTC notes one technical change to the text of CFTC Rule 41.25(b). In an earlier rulemaking, the CFTC adopted an introductory paragraph that required that the cash settlement price of security futures products must be "reliable and acceptable, be reflective of prices in the underlying securities market and be not readily susceptible to manipulation."[36] The CFTC included this language in the earlier rulemaking to reflect the CFTC's longstanding policy regarding the standards for cash-settlement of futures contracts, which are set forth in the CFTC's Guideline No. 1.[37] The CFTC also included this language in the Proposing Release for the present rulemaking.[38] In the final rules published today, the CFTC has decided to eliminate this introductory paragraph because the requirements of the paragraph are embodied in the remainder of the Rule 41.25(b) and in other rules in Part 41.

The requirements that the cash settlement price must be reliable, acceptable and reflect the prices in the underlying securities markets are embodied in CFTC Rules 41.25(b)(1) and (2). These rules require that cash settlement prices be based on the opening price of a security futures product's underlying security or securities, or, if the opening price for one or more securities is not readily available, the final settlement price of the security futures products must fairly reflect the price of the underlying security or securities during the most recent regular trading session for such securities or the next available opening price. Based on prior analyses and for reasons discussed in the proposing release, the CFTC previously has determined that opening prices represent reliable indicators of the values of securities and thus are acceptable for hedging of securities' positions. In addition, opening prices are established under procedures designed to ensure that the prices are reflective of prices in the underlying securities market. Finally, the requirement that the cash settlement price not be readily susceptible to manipulation is embodied in CFTC Rule 41.22(f), which states, "Trading in the security futures products is not readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities, consistent with the conditions for trading of § 41.25[.]"[39]

b. Definitions of "Opening Price" and "Regular Trading Session"

The Commissions are adopting the definition of "regular trading session" as proposed.[40] However, in response to comments, the Commissions have modified the definition of "opening price" by clarifying that, if a security is not listed on a national securities exchange or a national securities association, the opening price shall be the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, on the primary market for the security.

The Commissions proposed to define "opening price" as "the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security."[41] One commenter, however, observed that security futures products may be based on securities the primary markets of which are foreign, and that using the opening price from a U.S. market—if there is one—might not be a meaningful or practical solution for optimal contract design.[42]

The Commissions acknowledge that the proposed definition of "opening price" failed to contemplate that the market trading a security that underlies a security futures product could be a market other than a national securities exchange or national securities association, such as a foreign stock exchange. Therefore, the Commissions have revised the definition to provide that, if the underlying security is not listed on a national securities exchange or a national securities association, the opening price is the price at which the security opened for trading, or a price that fairly reflects the price at which a security opened for trading, on the primary market for the security. To the extent that the underlying security is listed on a national securities exchange or national securities association, however, as explained further below, the Commissions continue to believe that it is appropriate to use the opening price from the listing market.[43]

One commenter stated that it may soon become the case that the listing market is not the primary trading venue for a security and, thus, not the most liquid market.[44] The Commissions agree that this possibility exists, but nevertheless believe that national securities exchanges and national securities associations are, at the present time, a significant source of liquidity for those securities that are permitted to underlie security futures products and, therefore, that opening prices derived from these listing markets are appropriate to use as final settlement prices. Moreover, the Commissions believe, at this time, that a rule requiring, for example, the calculation of trading volumes to determine the appropriate primary market from which to derive an opening price for a security listed in the U.S. would impose unnecessary burdens without furthering the anti-manipulation goals enshrined in Section 2(a)(1)(D)(i)(VII) of the CEA[45]

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[21] *See* Proposing Release, *supra* note 18.

[22] CFTC Rule 41.25(b)(1) and SEC Rule 6h–1(b)(1). The CFTC is adopting one technical change to CFTC Rule 41.25(b). *See* discussion *infra* at II.A.3.a.i., CFTC Technical Amendment.

[23] *See* CBOE Letter, CBOT Letter, and NYSE Letter.

[24] *See* CBOE Letter.

[25] *See* NYSE Letter.

[26] *See* CME Letter.

[27] Any rule change proposed by a national securities exchange or national securities association to establish listing standards for security futures products, including methodologies for determining final settlement prices, would have to be filed with the SEC pursuant to Section 19 of the Exchange Act, 15 U.S.C. 78s, and the rules thereunder. *See supra* note 10 and accompanying text. Rule changes should also be submitted to the CFTC in accordance with CFTC Rule 41.24, 17 CFR 41.24.

[28] *See* CME Letter.

[29] *See* NYSE Letter.

[30] For example, the OCC indicated that for the month of November 2001, the dollar amount of premiums settled in SPX options was over 12 times larger than that for OEX options. Both indexes are capitalization-based indexes from Standard & Poor's.

[31] *See* Proposing Release, *supra* note .

[32] If the circumstances so warrant, the SEC may in the future consider requiring all cash-settled options to use opening-price settlement procedures.

[33] *See* CME Letter.

[34] *See* NYSE Letter.

[35] *See supra* discussion at Section II.A.1., Background.

[36] *See* 66 FR 55078 (November 1, 2001).

[37] *See* 17 CFR Part 40, Appendix A(a)(2)(iii).

[38] *See* 66 FR at 45918.

[39] *See* 17 CFR 41.22(f); 66 FR at 55084. *See also* Core Principle for Contract Markets 3 of the CEA requiring designated contract markets to list contracts that are not readily susceptible to manipulation; Core Principle for Contract Markets 4 of the CEA requiring designated contract markets to monitor trading to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process; and Core Principle for DTEFs 3 of the CEA requiring DTEFs to monitor trading to ensure orderly trading. Sections 5(d)(3), 5(d)(4) and 5a(d)(3) of the CEA; 7 U.S.C. 7(d)(3), 7(d)(4) and 7a(d)(3).

[40] A "regular trading session" of a security means the normal hours for business of a national securities exchange or national securities association that lists the security. *See* CFTC Rule 41.1(k) and SEC Rule 6h–1(a)(2).

[41] *See* proposed CFTC Rule 41.1(j) and proposed SEC Rule 6h–1(a)(1).

[42] *See* CME Letter.

[43] If a security futures product were based on an American Depository Receipt ("ADR") traded on a national securities exchange or national securities association, the opening price for the ADR would necessarily, under the rule adopted today, be derived from the national securities exchange or national securities association that trades it. However, if a security futures product were based on the foreign security itself, the market listing the security futures product must exercise its discretion to identify the primary market of the foreign security for purposes of deriving its opening price. *See* Securities Exchange Act Release No. 44725 (August 20, 2001).

[44] *See* CME Letter.

[45] 7 U.S.C. 2(a)(1)(D)(i)(VII).

and Section 6(h)(3)(H) of the Exchange Act.[46]

c. Determining a Final Settlement Price When Opening Price Not Readily Available

The Commissions proposed that, if the opening price of an underlying security were not readily available, the final settlement price of a cash-settled security futures product overlying that security must reflect a price of the underlying security taken from its most recent regular trading session. The proposed rule provided, however, that national securities exchanges and national securities associations could request exemptions from the Commissions on a case-by-case basis.

Although one commenter supported this aspect of the proposal,[47] four commenters generally opposed the Commissions' exclusive use of a "look back" settlement procedure for security futures products when the opening prices for the underlying securities are unavailable and, instead, recommended using the next day's opening prices.[48] These commenters noted that the existing cash settlement procedures for stock index options and stock index futures allow "next opening" prices.[49] Further, one commenter, a clearing agency, urged the Commissions not to require national securities exchanges and national securities associations to adopt rules addressing the determination of security futures final settlement prices when opening prices are not readily available, because of potential conflicts with clearing agency rules.[50] Another commenter believed that the establishment of consistent and commercially appropriate alternative pricing conventions should be resolved by a collaboration among the exchanges that design the product and the clearinghouse, with appropriate consultation with their members and participants.[51]

In addition, several commenters contended that under the Commissions' proposed rule hedges could be significantly disrupted.[52] One commenter specifically noted that market participants holding hedged or arbitraged positions expect to unwind the positions simultaneously at stock prices that have equal value in relation to derivative settlement prices.[53] According to the commenter, this equal value is achieved when the prices used to calculate the index settlement are the same prices that the market participant receives when unwinding the stock side of the position; when one or more component stocks cannot be unwound at that price, the settlements become disjointed and financial exposure occurs. Two commenters described how such a scenario would have unfolded had September 14, 2001, been an expiration Friday: A security futures product—under the Commissions' proposal—would have settled based on the prices of underlying securities traded on September 10, although prices at the next opening on September 17 were generally significantly lower.[54]

In response to the comment letters, the final rule adopted by the Commissions allows for either look-back or next opening prices to be used as alternate final settlement prices when an opening price is not readily available.[55] The Commissions agree with the commenters that the original proposal could result in an unwanted and unwarranted de-linking of hedging positions if they mandated look-back pricing procedures for security futures products. The Commissions also agree that it would be inadvisable for the Commissions' rule to result in proposed rule changes by national securities associations and national securities exchanges that could conflict with the rules of their registered clearing agency or derivatives clearing organization.[56]

The Commissions will not, however, prohibit a national securities exchange or national securities association from employing look-back pricing if it believed that such course were appropriate. One commenter stated that situations may arise in which a very small percentage of the securities of an index fail to trade on an expiration Friday.[57] In such situations, the commenter believed, it would be reasonable to allow the overlying derivative on the index to settle by using look-back prices for those few underlying securities that did not open, rather than waiting to obtain the next opening price for those few securities before settlement. The commenter recommended that there be flexibility to employ look-back pricing if two percent or less of the weighting of an index did not open for trading on an expiration Friday. While the Commissions do not believe it is appropriate to set a *de minimis* standard for use of look-back pricing, the Commissions agree with the commenter's general point that situations may arise where the ability to use look-back pricing will facilitate the fair settlement of an overlying security futures product. The Commissions further note that the final rule being adopted today is consistent with OCC rules that allow for look-back pricing in certain circumstances.[58]

d. New Provision To Resolve Conflict Between Market Rules and Clearing Agency Rules

The rule adopted by the Commissions today allows a national securities exchange or national securities association to choose between look-back and next opening pricing procedures for security futures products; however, it also provides the registered clearing agency or derivatives clearing organization that is used to clear such products with the authority to determine the final settlement prices in certain circumstances.[59] The Commissions believe that the rule adopted today is consistent with the current conditions under which OCC provides clearing services to national securities exchanges and national securities associations. Any national securities exchange or national securities association wishing to use OCC clearing services for security futures must enter into a clearing agreement with OCC in which both parties agree that security futures will be cleared by OCC in accordance with OCC's by-laws and rules, which currently give OCC the final authority to determine final settlement prices in certain circumstances.[60] The Commissions believe that the rule adopted today takes into account such arrangements, as well as allows for similar arrangements between other clearing agencies or derivatives clearing organizations and national securities exchanges or national securities associations. The Commissions also believe that the rule adopted today addresses concerns raised by commenters.

Under proposed CFTC Rule 41.25 and SEC Rule 6h–1, a clearing agency or derivatives clearing organization would not have been entitled to determine a final settlement price. One clearing agency commenter pointed out that its rules relating to security futures products specifically provide that, in the case of a conflict between OCC's rules and the rules of a national securities exchange or national securities association, OCC rules control.[61] OCC expressed the view that "the Commissions' rules should not force the exchanges to adopt rules in this area at all, but rather should permit that function to be left to the rules of the clearing organization."[62] OCC further stated that, "[w]hether or not the exchanges have rules on this subject, it should remain clear that the rules of the clearing organization will control in the event of any inconsistency, thus assuring uniformity of treatment of fungible products that might be traded on more than one exchange." Another commenter endorsed the view that the clearing agency's rules should control in the event of a conflict.[63]

The Commissions disagree with the view that markets trading security futures products should not address settlement procedures. To the extent that a clearing agency or derivatives clearing organization does not have rules in place to address all situations for determining the settlement price of a cash-settled security futures product, the national securities exchange or national securities association that trades such product should have rules in place. However, the Commissions believe that it is appropriate to expressly provide that, in the event of a conflict between the rules of a registered clearing agency or derivatives clearing organization and a market that trades a security futures product, the clearing agency or derivatives clearing organization may establish a new final settlement price for a security futures product if it determines, pursuant to its rules, that the final settlement price determined by the exchange or association is not consistent with the protection of investors or customers, as applicable, and the public interest, taking into account such factors as fairness to buyers and sellers of the affected security futures product, the maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice. In the absence of such a provision, confusion could arise if securities underlying a security futures product failed to trade on an expiration Friday and the market trading the security futures product and its clearing agency or derivatives clearing organization had different rules for determining a final settlement price. Moreover, this provision will make security futures products that trade on different markets more fungible, because a single clearing agency or derivatives clearing organization will be able in certain circumstances to harmonize procedures across different markets for determining alternate settlement prices.

e. Exemptions

In the final rule adopted by the Commissions, the Commissions' ability to grant exemptions to the rule's requirements has been expanded slightly from that proposed. The proposal explicitly provided that any national securities exchange or national securities association may receive an exemption from the requirements that final settlement prices of security futures products reflect the opening prices of the underlying securities or, if opening prices are not available, look-back pricing procedures. The final rule explicitly provides that the CFTC may grant an exemption with respect to any provision of paragraphs (a)(2) and (b) of CFTC Rule 41.25, provided that the CFTC finds that the exemption is consistent with the public interest and the protection of customers.[64] Similarly, the rule explicitly provides that the SEC may grant an exemption with respect to any provision of SEC Rule 6h–1, provided that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.[65] The Commissions are expanding the scope of the exemption to make it more consistent with the SEC's exemptive authority under Section 36 of the Exchange Act, which allows the SEC, by rule, regulation, or order to conditionally or unconditionally exempt any person, security, or transaction, or any classes thereof, from any rule or regulation under the Exchange Act, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.[66] Because exchanges and associations are subject to the requirements of both CFTC Rule 41.25(a)(2) and (b) and SEC Rule 6h–1, to be exempt from such requirements an exchange or association would have to obtain an exemption from both the CFTC and the SEC.

B. Regulatory Halts

1. Background

Generally, there are two types of regulatory halts used in the equity and options markets: News pending halts and circuit breaker halts. News pending halts are designed to protect the interests of current and potential shareholders by facilitating the orderly dissemination of potentially market moving information and the discovery of fair and reasonable prices for securities based on new information.[67] A news pending halt benefits current

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[46] 15 U.S.C. 78f(h)(3)(H).

[47] *See* CBOT Letter.

[48] *See* CBOE Letter, CME Letter, and SIG Letter. *See also* OCC Letter (urging the Commissions to withdraw this aspect of the proposal, or at a minimum, modify it to allow the final settlement value to be based on the next opening).

[49] *See* CBOE Letter, CME Letter, and SIG Letter. Two of these commenters—the CBOE and the CME—stated that, until May 2000, the futures and options markets derived alternate settlement prices from a previous trading session, but changed their procedures after Hurricane Floyd threatened to close the NYSE on the expiration Friday of September 17, 1999. *See, e.g.*, Securities Exchange Act Release No. 42857 (May 30, 2000), 65 FR 36185 (June 7, 2000) (approving SR–CBOE–00–02, which replaced look-back pricing with next opening pricing procedures on CBOE in certain situations). *See also* FIA/SIA Steering Committee Letter (stating that the Commissions' proposed requirement is inconsistent with existing market practice and rules governing a broad range of listed stock index products) and OCC By-Laws, Article XII, Section 5 (allowing OCC to fix the final settlement price for security futures products using next opening prices of the underlying securities, as well as look-back pricing).

[50] *See* OCC Letter.

[51] See FIA/SIA Steering Committee Letter.

[52] *See* CBOE Letter, CME Letter, FIA/SIA Steering Committee Letter, OCC Letter, and SIG Letter.

[53] *See* SIG Letter.

[54] *See* OCC Letter and SIG Letter.

[55] CFTC Rule 41.25(b)(2) and SEC Rule 6h–1(b)(2). The Commissions' rules do not specify the circumstances in which an opening price would not be "readily available." National securities exchanges and national securities associations, however, would have to establish, as part of their listing standards, specific rules that apply this term. In addition, national securities exchanges and national securities associations would have to file proposed rule changes to delineate which method would be used in determining final settlement prices and when it would be applied.

[56] For a further discussion on this issue, *see* discussion *infra* at II.A.3.d., New Provision to Resolve Conflict Between Market Rules and Clearing Agency Rules.

[57] *See* SIG Letter.

[58] *See* OCC By Laws, Article XII, Section 5 (allowing OCC to fix the final settlement price for security futures products using next opening prices of the underlying securities, as well as look-back pricing).

[59] *See* CFTC Rule 41.25(b)(3) and SEC Rule 6h–1(b)(3).

[60] *See* Securities Exchange Act Release No. 44727 (August 20, 2001), 66 FR 45351 (August 28, 2001).

[61] *See* OCC Letter and OCC By-Laws, Article XII, Section 6.

[62] *See also* FIA/SIA Steering Committee Letter (urging the Commissions not to require exchanges and associations to adopt rules addressing the determination of fallback security futures final settlement prices when opening prices are not readily available).

[63] *See* CBOE Letter.

[64] *See* CFTC Rule 41.25(d). In the Proposing Release, the CFTC referred to "investors" when discussing the exemptive provision. The final rule will more closely adhere to the CEA, and refer instead to "customers."

[65] *See* SEC Rule 6h–1(d).

[66] *See* Section 36 of the Exchange Act, 15 U.S.C. 78mm. *See also* Section 8a(5) of the CEA allows the CFTC to make and promulgate such rules and regulations as, in the judgment of the CFTC, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. 7 U.S.C. 12a(5). The CFTC believes that granting an exemption to the use of opening prices for cash settlement would be consistent with Section 8a(5) of the CEA, so long as the exemption is consistent with the public interest, the protection of customers, and otherwise furthers the provisions of the CEA.

[67] *See, e.g.*, the American Stock Exchange LLC ("Amex"), Listing Standards, Policies and Requirements, Section 402(b); Boston Stock Exchange ("BSE") Rules of the Board of Governors, Supplement to Chapter XXVII, Section 4; National Association of Securities Dealers ("NASD") Rule 4120; and the New York Stock Exchange, Inc. ("NYSE") Listed Company Manual, Sections 202.06 and 202.07.

and potential shareholders by halting all trading in the securities until there has been an opportunity for the information to be disseminated to the public. It also helps to promote public confidence in the market and the integrity of the marketplace by giving the public an opportunity to evaluate information in making investment decisions.

Circuit breakers are brief, coordinated cross-market trading halts used by the stock, options, and index futures markets to mitigate systemic stress when a severe one-day market drop of historic proportions prevents the financial markets from operating in an orderly manner.[68] The Commissions approved various exchanges' circuit breaker proposals in response to the October 1987 market break to permit these brief, coordinated cross-market halts to provide opportunities during a severe market decline to reestablish an equilibrium between buying and selling interests in an orderly fashion, and to help to provide market participants with a reasonable opportunity to become aware of, and respond to, significant price movements.[69] The coordinated cross-market trading halts provided by circuit breaker procedures are designed to operate only during significant market declines and to substitute orderly, pre-planned halts for the *ad hoc* and destabilizing halts which can occur when market liquidity is exhausted.[70] Currently, all stock exchanges and the NASD have rules or policies to implement coordinated circuit breaker halts.[71] The options markets also have rules applying circuit breakers.[72] Finally, the index futures exchanges have adopted circuit breaker halt procedures in conjunction with their price limit rules[73] for index products.[74] The options markets also have in place rules regarding trading halts on index options.[75] Several of the options markets will halt trading when, for example, a certain fixed percentage of the index halts trading or when it is appropriate in the interests of a fair and orderly market and to protect investors.[76]

[68] *See* Circuit Breaker Report by the Staff of the President's Working Group on Financial Markets dated August 18, 1998 ("Circuit Breaker Report").

[69] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (order approving circuit breaker rules for the Amex, CBOE, NASD, NYSE). The CFTC approved circuit breaker price limit and trading halt rule changes after the publication in the **Federal Register** of the proposed rule changes and request for public comment, 53 FR 35539 (September 14, 1988) (CBOT, CME, Kansas City Board of Trade, New York Futures Exchange).

[70] *See* Circuit Breaker Report, *supra* note 68.

[71] *See* Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (order approving proposals by Amex, BSE, Chicago Stock Exchange ("CHX"), NASD, NYSE, and the Philadelphia Stock Exchange, Inc. ("Phlx")). *See also* Amex Rule 117; BSE, Rules of the Board of Governors, Section 34A; CHX Rule 10A; Cincinnati Stock Exchange ("CSE") Rule 12.11; NYSE Rule 80B; the Pacific Exchange, Inc. ("PCX") Rule 4.22 (a), (b), and (c); and Phlx Rule 133. CSE Rule 12.11 gives the chairman or the president of the CSE the power to suspend trading whenever he or she believes that such suspension would be in the public interest, which has been interpreted as requiring the CSE, as a matter of policy, to halt trading in all equities traded on the CSE in conjunction with halted trading at all other U.S. equity and equity-related markets. *See* Securities Exchange Act Release No. 26440 (January 10, 1989), 54 FR 1830 (January 17, 1989). The NASD also recognizes the risks imposed on any single market that remains open while all other U.S. markets have halted trading in response to extraordinary price movements, and maintains a market closing policy to halt, upon SEC request, all domestic trading in both securities listed on the Nasdaq Stock Market and all equity and equity-related securities trading in the over-the-counter market should other major securities markets initiate market-wide trading halts in response to extraordinary market conditions. *See* NASD Rule 4120; NASD IM–4120–4. The SEC notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the NYSE and other equity markets have suspended trading. *See* Securities Exchange Act Release No. 39582 (January 26, 1998), 63 FR 5408 (February 2, 1998).

[72] *See* Amex Rule 950 (applying Amex Rule 117, Trading Halts Due to Extraordinary Market Volatility, to options transactions); CBOE Rule 6.3B; the International Securities Exchange, LLC ("ISE") Rule 703; PCX Rule 4.22 (which applies to options contracts through Rules 6.1(a) and (e)); and Phlx Rule 133.

[73] A price limit, in itself, does not halt trading in the futures, but prohibits trading at prices below the pre-set limit during a price decline. Intraday price limits are removed at pre-set times during the trading session, such as ten minutes after the thresholds are reached or at 3:30 p.m., whichever is earlier. Daily price limits remain in effect for the entire trading session. Specific price limits are set for each stock index futures contract. There are no price limits for U.S. stock index options, equity options, or stocks.

[74] *See, e.g.*, CME Rule 4002.I. The CME will implement a circuit breaker trading halt in SPX Futures if the 10 percent circuit breaker halt has been imposed in the securities markets and the futures are "locked" at their 10 percent price limit. Trading will not reopen in SPX Futures until the circuit breaker halt has been lifted in the securities markets and trading has resumed in stocks comprising at least 50 percent of the index capitalization. The CME will implement another circuit breaker trading halt in SPX Futures if the 20 percent circuit breaker halt has been imposed in the securities markets and the futures are locked at their 20 percent price limit. Once again, trading will not reopen in SPX Futures until the circuit breaker halt has been lifted in the securities markets and trading has resumed in stocks comprising at least 50 percent of the index capitalization.

[75] *See* Amex Rule 918C(b)(3); CBOE Rule 24.7; PCX Rule 7.11; and Phlx Rule 1047A(c).

[76] For example, trading on the PCX in any index option is halted whenever trading in underlying securities whose weighted value represents more than 20 percent of the value of a broad-based index or 10 percent of the value of other indices is halted. *See* PCX Rule 7.11. Similarly, under Phlx Rule 1047A(c), trading in any index option may be halted whenever trading on the primary market in underlying securities representing more than 10 percent of the current index value is halted or suspended, and there is approval from two floor officials and the concurrence of a market regulation officer. *See* Phlx Rule 1047A(c).

[77] 7 U.S.C. 2(a)(1)(D)(i)(X).

[78] 15 U.S.C. 78f(h)(3)(K).

[79] It should be noted that the Commissions have jointly adopted rules to establish the method of determining the market capitalization of a narrow-based security index for the limited purpose of determining whether a security is one of the 750 securities with the largest market capitalization under one of the exclusions from the definition of narrow-based security index. *See* Securities Exchange Act Release No. 44724 (August 20, 2001), 66 FR 44490 (August 23, 2001).

[80] *See* CBOT Letter and NYSE Letter.

2. Proposed Rule for Regulatory Halts

As discussed above, Section 2(a)(1)(D)(i)(X) of the CEA[77] and Section 6(h)(3)(K) of the Exchange Act[78] provide that listing standards for security futures products must include procedures to coordinate trading halts between the market that trades the security futures product, any market that trades any underlying security, and other markets on which any related security is traded. To assure such coordination of trading halts, the Commissions proposed CFTC Rule 41.25(a)(2) and SEC Rule 6h–1. More specifically, the Commissions proposed that trading in a future on a single security be halted at all times that such a news pending regulatory halt or a circuit breaker regulatory halt has been instituted by the listing market for the underlying security. The Commissions also proposed that trading be halted in a future on a narrow-based security index when a news pending or circuit breaker regulatory halt was instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.[79]

3. Final Rule

a. Trading Halt Coordination in Single-Stock Futures

The Commissions are adopting, as proposed, a requirement that the rules of a national securities exchange or national securities association that lists or trades security futures products provide that trading of a future on a single security be halted at all times that a regulatory halt has been instituted for the underlying security.

Two commenters agreed that trading in a future on a single security should be halted when trading in the underlying security is subject to a regulatory halt.[80] Another commenter, while generally supporting the proposed trading halt requirements for single-stock futures, believed that it may be appropriate to trade a single stock futures product when the listing market has imposed a trading halt, if the listing market is not the principal trading venue for the underlying security because the prices on that market may not be reflective of current market conditions.[81]

In addition, one commenter believed that the requirement to halt trading in single-stock futures when trading in the underlying security is halted was overly broad to satisfy the requirement that procedures be put in place to coordinate trading halts.[82] This commenter believed that this was overly broad and burdensome in its application to retail investors for whom single-stock futures might serve as the only available means for managing risk. This commenter recommended allowing trading halt sessions during which investors with risk exposure to an underlying equity, which has been halted, might have the opportunity to enter into single stock futures transactions with dealers.

The Commissions understand the concern raised by one commenter regarding continued trading of a security futures product when the underlying security has halted trading if the listing market is not the primary market. However, the Commissions believe that designating the listing market as the venue for the purpose of applying the rule provides for ease of use and application, because it does not require national securities exchanges or national securities associations to determine the primary market for each underlying security. Further, due to the contractual relationship between the issuer and the listing market, the listing market has a direct and ongoing relationship with the issuer. The Commissions believe, therefore, that the listing market is in the best position to be informed promptly by the issuer that pending news would require the imposition of a trading halt. Finally, the Commissions believe that the listing market represents sufficient liquidity that imposing a trading halt on a security futures product when the listing market for the underlying security imposes a trading halt furthers the purposes of Section 2(a)(1)(D)(i)(X) of the CEA[83] and Section 6(h)(3)(K) of the Exchange Act.[84]

With respect to the commenter's concern regarding the potential impact of such a rule on retail investors, the Commissions note that one of the purposes of trading halts is to provide for an adequate opportunity for information about a security to be disseminated to the public. The Commissions do not believe that it would be consistent with the protection of investors to permit investors, including retail investors, to trade a surrogate for a security—*i.e.*, a future on the security—without the benefit of material information about such security or the benefit of such other information that was the basis for the regulatory halt.

Finally, with respect to news pending halts, two commenters questioned the absolute requirement that trading in a security futures product must be halted during a news pending halt in the underlying security.[85] These commenters recommended providing exchanges with discretion to impose a trading halt when there is a news pending trading halt in the underlying security. Specifically, one commenter believed that this discretion is important because there may be circumstances when it is necessary to allow trading in a security futures product when the underlying stock is halted, such as when there is a need to adjust positions before an expiration.[86]

Given the rarity of an occurrence when a national securities exchange or national securities association would feel compelled to continue trading a security futures product while the trading of underlying stock is halted, the Commissions do not agree that there ought to be discretion in imposing regulatory halts for security futures products. The Commissions note that the underpinning for imposing news pending regulatory halts is promoting investor protection and fair and orderly markets. To the extent that there is pending news that could impact an investor's decision and to the extent that single-stock futures are surrogates for the underlying security, the Commissions continue to believe in the need for a provision requiring that trading in a security futures product be halted at all times that a regulatory halt has been instituted for the underlying security or securities, with certain limits for narrow-based security index futures. Furthermore, in the event that discretion is needed, the Commissions note that the exemptive authority in CFTC Rule 41.25(d) and SEC Rule 6h–1(d) allows the Commissions to exempt national securities exchanges or national securities associations from the regulatory halt provisions if the CFTC determines that such an exemption is consistent with the public interest and the protection of customers and the SEC determines that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors.

By adopting this rule, the Commissions aim to maintain and preserve the integrity of this mechanism so that the trading of security futures products will not be used as a tool to circumvent the institution of regulatory halts. Moreover, the Commissions believe that the purpose of halting trading in the underlying security would be frustrated if market participants could circumvent this halt by trading during the halt in the related security futures product.[87]

b. Trading Halt Coordination in Narrow-Based Security Index Futures

The Commissions proposed that national securities exchanges and national securities associations halt trading in a future on a narrow-based security index when component securities representing 30 percent or more of the market capitalization of such index are subject to a regulatory halt. In response to comments, the final rules modify the proposal by increasing to 50 percent the market capitalization represented by the component security or securities in a narrow-based security index that must be halted before a national securities exchange or national securities association must halt trading in a future on such index.

In addition to the comments supporting the Commissions' proposed trading halt rule,[88] the Commissions received three comments specifically addressing the application of regulatory halts to futures based on narrow-based security indexes.[89] One commenter neither specifically supported nor opposed the Commissions' proposed 30 percent capitalization test, although it suggested a possible alternative such as allowing narrow-based security index futures based principally on U.S. listed securities to continue trading until they have become limit offered at a price limit corresponding to a particular coordinated circuit breaker level.[90] Another commenter believed that the Commissions' proposal to require a trading halt in a narrow-based security index future when a component security or securities that constitute 30 percent or more of the market capitalization of

[81] *See* CME Letter. *See infra* notes 103–104 and accompanying text.

[82] *See* Students Letter.

[83] 7 U.S.C. 2(a)(1)(D)(i)(X).

[84] 15 U.S.C. 78f(h)(3)(K).

[85] *See* CBOE Letter and FIA/SIA Steering Committee Letter.

[86] *See* CBOE Letter.

[87] The Commissions' rules do not preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[88] *See supra* notes 80 and 81.

[89] *See* CBOE Letter, CBOT Letter, and CME Letter.

[90] *See* CME Letter.

the index are subject to a trading halt was too low a threshold to justify the disruption that it would inflict upon the futures market.[91] Instead, this commenter recommended that the threshold be no lower than 50 percent of an index's capitalization to be consistent with the threshold required for re-opening futures trading on broad-based indexes following a market-wide halt. This commenter noted that when trading in futures on a broad-based index is halted as a result of an exchange-wide halt in the relevant securities market, such futures trading resumes only when at least 50 percent of the securities underlying an index, by market capitalization, have reopened for trading.[92]

Another commenter recommended providing exchanges with greater discretion to decide whether to impose or maintain a trading halt.[93] This commenter stated that by specifying a specific percentage level, the proposed rule implied that it would be improper for an exchange to consider trading interruptions in underlying stocks that collectively represent less than 30 percent of an index. This commenter also believed that because not all indexes underlying security futures products may be capitalization weighted, it may be difficult for exchanges to determine on a real-time basis when securities comprising 30 percent of the market capitalization of a price-weighted or equal dollar weighted index are halted. Similarly, one of the commenters expressed a concern that, with respect to corporate news events, it may be operationally difficult to determine on a real-time basis whether the threshold of market capitalization has been crossed.[94] This commenter hoped the Commissions would recognize the potential difficulty and accept good faith attempts to comply.

The Commissions do not believe that trading in a narrow-based security index future should necessarily be halted because a trading halt has been instituted for only one or several low-weighted component securities. An inappropriately low threshold could lead to needless and potentially disruptive trading halts in the narrow-based index future. However, as noted in the Proposing Release, regulatory halts of narrow-based-index component securities could affect a sufficiently large portion of the index to make continued trading of a security futures product based on that index a means of improperly circumventing regulatory halts in the underlying component securities. Under these circumstances, trading halt procedures would not be coordinated, as required by Section 2(a)(1)(D)(i)(X) of the CEA[95] and Section 6(h)(3)(K) of the Exchange Act,[96] since the security futures product would continue to trade while investors would be precluded from trading the underlying securities. Moreover, the SEC believes that continued trading in the security futures product under these circumstances could undercut key provisions in the securities laws designed to protect investors and promote the fair and orderly operation of the markets.

However, in response to the commenter's statement that the 30 percent market capitalization test was too low, and therefore, potentially too disruptive to the market, and after consideration of the potential effects of the proposed 30 percent trading halt threshold, the Commissions are requiring that trading be halted in a narrow-based security index futures product when component securities representing 50 percent or more of the market capitalization of that narrow-based security index are subject to a regulatory halt. The Commissions believe that one of the major economic benefits that market participants derive from the trading of futures on narrow-based security indexes is the ability to hedge positions containing the securities underlying the indexes, thereby reducing the risk of holding positions in those securities. For traders using a narrow-based security index future to hedge a position containing the component index securities, trading halts in certain of those component securities necessarily will introduce basis risk because the one-to-one relationship between the cash portfolio of securities and the narrow-based index future is disrupted.

The Commissions believe that the proposed 30 percent threshold is too low because it could unnecessarily disrupt hedge positions involving futures on narrow-based security indexes that may still be substantially performing their intended risk-shifting function when trading is halted in a limited number of the index's component securities. The Commissions believe that a 50 percent threshold would better serve the requirement's intended purpose. In adopting a 50 percent threshold, the Commissions sought to balance the utility of maintaining effective hedge positions with concerns about circumventing the coordination requirement by allowing trading in narrow-based index futures to continue when trading in a limited number of the underlying securities is halted.

The Commissions believe that while it is not possible to eliminate completely the risk involved in hedging securities with a future on a narrow-based security index when trading halts are instituted for certain of those underlying securities, the 50 percent threshold reduces such risk. Therefore, the Commissions are adopting a 50 percent threshold as it appears to appropriately balance the goals of hedging utility with the prevention of improper circumvention of regulatory halts in the underlying securities. The Commissions also note that the 50 percent threshold is consistent with existing thresholds for re-opening trading in broad-based security index futures following a market-wide trading halt in the trading of the underlying securities.[97]

The Commissions reiterate, however, that their rule is not designed to preclude a market trading futures on narrow-based security indexes from halting trading when securities representing less than 50 percent of the market capitalization of the index are halted or for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations. The Commissions also note that the threshold at 50 percent provides further discretion to national securities exchanges and national securities associations to establish their thresholds at lower levels, or to change the thresholds as market conditions or experience warrant. This provides flexibility to the markets to modify trading halt thresholds, which would not be possible if the Commissions set the threshold at a lower level.

With respect to the commenters' concern regarding the potential difficulty in calculating the market capitalization of an index, especially for price-weighted or equal doHar weighted indexes, for purposes of instituting the regulatory halt, the Commissions note that selecting market capitalization as the method for calculating the weight of the index is similar to an existing standard used to calculate trigger points for circuit breaker operations.[98] The Commissions chose to apply a similar

[91] *See* CBOT Letter.

[92] *See, e.g.*, CBOT Rule 1008.01 and CME Rule 4002.I., *supra* note 74.

[93] *See* CBOE Letter.

[94] *See* CME Letter.

[95] 7 U.S.C. 2(a)(1)(D)(i)(X).

[96] 15 U.S.C. 78f(h)(3)(K).

[97] *See* CBOT Rule 1008.01 and CME Rule 4002.I., *supra* note 74.

[98] *See, e.g.*, CME Rule 4002.I., *supra* note 74.

method in implementing regulatory halts to narrow-based security index futures products. In addition, in specifying market capitalization as the method for weighing an index, the rule provides clarity and uniformity for all national securities exchanges and national securities associations to utilize in implementing regulatory halts in security futures products based on narrow-based security indexes and helps prevent the trading of security futures products from becoming a means of circumventing regulatory halts in the underlying securities.

c. Definition of a Regulatory Halt

The Commissions are adopting the definition of regulatory halt as proposed.[99] Specifically, a regulatory halt is defined as a delay, halt, or suspension in the trading of a security by the national securities exchange or national securities association that lists the security as a result of a news pending regulatory halt or the operation of circuit breakers. The definition of regulatory halt does not include the listing market's halting of trading because of an imbalance of buy and sell orders in a particular security or when trading is disrupted due to a problem in its systems or on its trading floor. The definition of regulatory halt in the rule adopted today incorporates the definition of news pending regulatory halt contained in the Consolidated Tape Association Plan ("CTA Plan").[100] Under the CTA Plan, a regulatory halt occurs whenever the primary market for any eligible security, in the exercise of its regulatory functions, halts or suspends trading in the security because the primary market has determined (i) that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or (ii) that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue.[101] When a regulatory trading halt is initiated by the primary market for a security, the regional exchanges and Nasdaq also halt trading in the security, and the options exchanges halt trading in related options. The options exchanges also halt trading in an equity option when the underlying security has ceased trading.[102]

Although generally supporting the requirement to halt trading in single-stock futures when trading in the underlying security has been halted due to a corporate news event, one commenter stated that the definition of regulatory halt could be refined to address situations not contemplated by the CFMA, such as where the listing market is not the primary trading venue for the underlying security or where the listing market is in a foreign country.[103]

In response to this comment, the Commissions note that the rule being adopted today does not preclude national securities exchanges and national securities associations trading security futures products from halting trading if they believe it is necessary to the orderly operation of the market. The rules of a national securities exchange or national securities association may permit it to halt trading in situations not covered by the rule being adopted today.[104] To the extent that the security or securities underlying a security futures product is listed on a foreign market, under the rule adopted today, national securities exchanges and national securities associations have the flexibility to impose trading halt requirements where the underlying security is listed solely on a foreign market. Further, the Commissions believe that it would be unduly burdensome and administratively difficult to require national securities exchanges and associations to calculate the primary market for each security underlying a security futures product. Again, under their rules, national securities exchanges and associations may also halt trading in a security futures product if the primary market, but not the listing market, halted trading in the underlying security or securities, but it is not mandated by the Commissions' rules.

With respect to the Commissions' proposal to include within the definition of "regulatory halt" trading halts due to circuit breaker procedures, three commenters generally supported the extension of market-wide circuit breaker procedures to security futures products in order to ensure coordinated and consistent circuit breaker procedures across equity products.[105] One of the commenters, however, noted a potential competitive issue over security futures product "look-alikes" that can trade in the unregulated upstairs market and do currently trade in foreign jurisdictions that may not adhere to the coordinated circuit breaker procedures.[106] This commenter recommended that the Commissions provide exchanges with latitude in implementing coordinated circuit breaker procedures and flexibility in imposing this requirement on security futures products where the principal trading venues for the underlying securities (or for a subset in the case of narrow-based indexes) are in foreign markets.

The Commissions note that the coordinated cross-market trading halts provided by circuit breaker procedures are designed to operate only during significant market declines and to substitute orderly, pre-planned halts for the *ad hoc* and destabilizing halts that can occur when market liquidity is exhausted. The circuit breakers also protect investors and the market by providing opportunities for market and market participants to assess market conditions and potential systemic stress during a historic market decline. In approving the original circuit breakers proposed by the securities market, the SEC noted that the circuit breakers were an effort by the securities and futures markets to arrive at a coordinated means to address potentially destabilizing market volatility of the severity of the October 1987 market break.[107] Therefore, in the interest of having coordinated trading halts across the U.S. equity markets, the Commissions do not agree that the exchanges should have latitude in implementing coordinated circuit breaker procedures on security futures products where the underlying

[99] *See* CFTC Rule 41.1(l) and SEC Rule 6h–1(a)(3).

[100] *See* Securities Exchange Act Release No. 41315 (April 20, 1999), 64 FR 23142 (April 29, 1999) (noting that the NYSE follows the CTA Plan when instituting a regulatory halt); and Securities Exchange Act Release No. 41877 (September 14, 1999), 64 FR 51566 (September 23, 1999) (noting that Amex follows the CTA Plan when instituting a regulatory halt); *see also* CTA Plan (Second Restatement), Section XI (a). The CTA Plan is a joint industry plan that governs the consolidated transaction reporting system, and each of the participants agrees to comply with the provisions of the plan. Recognizing the importance of disseminating information with respect to trading halts in certain securities, the CTA Plan imposes notification obligations upon the primary market whenever a regulatory halt occurs.

[101] *See* CTA Plan (Second Restatement), Section XI (a). For example, an event that may qualify under this standard and call for a regulatory halt is when it is unclear whether a security continues to meet the listing standards of the market on which the security is listed.

[102] The rules of the options exchanges generally provide for halts in options whenever it is appropriate in the interests of a fair and orderly market and to protect investors. See Amex Rule 918(b); CBOE Rule 6.3(a) and .04 of the Interpretations and Policies of CBOE Rule 6.3; ISE Rule 702; PCX Rule 6.65(a); and Phlx Rule 1047(b).

[103] *See* CME Letter.

[104] One commenter believed that the Commissions should expand on the examples of the reasons why national securities exchanges and associations could impose additional trading halts to include order imbalances. *See* NYSE Letter. As noted above, the rule being adopted today does not preclude a market trading security futures products from establishing rules that permit or require it to halt trading for other appropriate reasons.

[105] *See* CBOE Letter and FIA/SIA Steering Committee Letter; *see also* CME Letter.

[106] *See* CME Letter.

[107] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988).

security is not solely listed in a foreign market. To the extent that additional latitude is needed, the Commissions have the discretion to grant separate exemptions in those circumstances if the CFTC determines that such an exemption is consistent with the public interest and the protection of customers and the SEC determines that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors.

For these reasons, the Commissions believe that it is important to include within the definition of regulatory halt cross-market circuit breakers and, therefore, to require the application of cross-market circuit breaker regulatory halt procedures to security futures products. Moreover, the Commissions believe that such requirement is necessary to satisfy the requirements of Section 2(a)(1)(D)(i)(X) of the CEA[108] and Section 6(h)(3)(K) of the Exchange Act.[109] If cross-market circuit breaker regulatory halt procedures were not applied to the security futures products, such a failure would undermine the use of trading halts in the underlying securities markets.

d. Exemptions

As discussed previously,[110] the Commissions are expanding the exemption provisions in CFTC Rule 41.25(d) and SEC Rule 6h–1(d), which were originally proposed to apply only to the final settlement prices for security futures products. Under the final rule, the CFTC has the authority to grant an exemption with respect to any provision of paragraphs (a)(2) and (b) of CFTC Rule 41.25, provided that the CFTC finds that the exemption is consistent with the public interest and the protection of customers.[111] The SEC has the authority to grant an exemption with respect to any provision of SEC Rule 6h–1, provided that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.[112] Because exchanges and associations are subject to the requirements of both CFTC Rule 41.25(a)(2) and (b) and SEC Rule 6h–1, to be exempt from such requirements an exchange or association would have to obtain an exemption from both the CFTC and the SEC.

[108] 7 U.S.C. 2(a)(1)(D)(i)(X).

[109] 15 U.S.C. 78f(h)(3)(K).

[110] *See supra* discussion at II.A.3.e., Exemptions, which discusses the expansion of the exemption to make it more consistent with the SEC's exemptive authority under Section 36 of the Exchange Act.

[111] *See* CFTC Rule 41.25(d).

[112] *See* SEC Rule 6h–1(d).

C. Commissions' Interpretation of Statutory Requirements for Coordinated Surveillance

1. Markets Trading Security Futures

In amending the CEA and Exchange Act to permit the trading of futures on single stocks and narrow-based security indexes, Congress specifically required that exchanges and associations trading these new products have procedures in place for coordinated surveillance with other markets on which security futures products trade, any market on which any security underlying the security futures product is traded, and other markets on which any related security trades.[113] Because security futures products are surrogates for the securities on which their values are based, such coordinated surveillance is essential to detection of manipulation and insider trading. As discussed in detail below, the Commissions interpret the statutory requirement for coordinated surveillance to mean that if an exchange or association is a Full Member of the Intermarket Surveillance Group ("ISG")[114] or has the ability to obtain all information that a Full Member of the ISG is currently able to obtain from both current and former members, including, among other things, the ability to obtain market surveillance reports or information, and information relating to investigations, then that market would meet the statutory requirement for coordinated surveillance.

For an exchange or association to satisfy the statutory requirement that "procedures be in place for coordinated surveillance," the Commissions stated in the Proposing Release that they believed it was "essential that all such exchanges and associations be Full Members of the ISG."[115] In view of the role that the ISG plays, the Commissions stated their belief that the ISG should grant full memberships to all national securities exchanges and national securities associations registered pursuant to Section 15A(a) of the Exchange Act[116] trading securities futures products, including Security Futures Product Exchanges, upon a good-faith showing that the entities meet the criteria for full membership.

The CFTC in a separate proposing release also proposed, in part, to require boards of trade trading security futures products to be Full Members of ISG.[117] The CFTC received three comment letters regarding this aspect of the CFTC Proposal.[118] All of the commenters raised concerns regarding mandatory memberships in ISG. As a result, the CFTC deferred making a decision on requiring membership in ISG to allow the Commissions together to consider the appropriate means of ensuring that the coordinated surveillance requirement under the CEA and the Exchange Act is satisfied.[119]

As noted in the Proposing Release, ISG was created under the auspices of the SEC as a forum to ensure that national securities exchanges and national securities associations adequately share surveillance information and coordinate inquiries and investigations designed to address potential intermarket manipulations and trading abuses. Full Members routinely share a great deal of surveillance and investigatory information, and the SEC continues to believe that this framework has proven to be an effective mechanism to ensure that there is adequate information sharing and investigatory coordination for potential intermarket manipulations and trading abuses.

The Commissions continue to believe that any national securities exchange—including an exchange registered under Section 6(g) of the Exchange Act—that satisfies the requirements to be a Full Member of ISG should be admitted as a Full Member of ISG. Nevertheless, in light of comment letters received on the CFTC Proposal, we do not believe that an exchange trading security futures products *must* be a Full Member of ISG to satisfy the requirement that "procedures be in place for coordinated surveillance among the market on which the security futures product is traded, any market on which any security underlying the security futures product is traded, and other markets on which any related security is traded to detect manipulation and insider trading."[120]

In particular, the Commissions believe that exchanges and associations trading security futures products may also satisfy the CEA's and Exchange Act's coordinated surveillance requirement through Affiliate Membership in ISG, if the Affiliate Members trading security futures products also enter into supplemental

[113] Section 2(a)(1)(D)(i)(VIII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VIII); Section 6(h)(3)(I) of the Exchange Act, 15 U.S.C. 78f(h)(3)(I).

[114] ISG Full Members are Amex, BSE, CBOE, CHX, CSE, ISE, NASD, NYSE, PCX and Phlx.

[115] *See* Proposing Release, *supra* note 18.

[116] 15 U.S.C. 78*o*–3(a).

[117] *See* 66 FR 37932 (July 20, 2001) ("CFTC Proposal").

[118] The CFTC received comment letters from CME, Amex, and ISG.

[119] *See* 66 FR 55078 (November 1, 2001).

[120] Section 2(a)(1)(D)(i)(VIII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VIII); Section 6(h)(3)(I) of the Exchange Act, 15 U.S.C. 78f(h)(3)(I).

agreements with other Affiliate Members trading security futures products and with Full Members to share the same information as Full Members of ISG currently share with each other.[121] The Commissions, however, believe that the current information sharing agreement among Affiliate Members and the agreement between Affiliate and Full Members (referred to in Appendix A as "Affiliate Agreement") is insufficient to satisfy the obligation of a market trading security futures products to coordinate surveillance with other markets trading security futures and with markets trading related products because of certain limitations on the information that must be shared.[122] The Commissions believe, however, that these limitations, discussed below, can be overcome if Affiliate Members trading security futures products and Full Members agree to share information beyond what is currently required by the ISG for Affiliate Members.

For example, ISG provides to Full Members market surveillance reports. It is unclear whether Full Members have access to market surveillance reports of Affiliate Members or whether Affiliate Members have access to such information from each other. The Commissions understand that this information is, as a practical matter, made available to all ISG members upon request, but believe that the obligation to provide such information upon request should be explicit. In addition, Full Members are required to share information and documents, upon request, about current and former members.[123] Affiliate Members, however, are only required to share with each other and with Full Members information and documents relating to current members.[124] Similarly, Full Members are only required to share with Affiliate Members information about current members, not about their former members.[125] The Commissions believe that information about former members is necessary under some circumstances to facilitate investigations by Full and Affiliate Members.

Moreover, the agreement among Full Members allows Full Members to request information and documents from each other relating to ongoing investigations.[126] This information can be very useful in assisting an exchange performing its own, related investigation. However, the agreement between Full Members and Affiliate Members (and among Affiliate Members) does not provide for the sharing of this type of information. It is the Commissions' understanding that these agreements did not provide for the sharing of investigatory information due to a perceived prohibition in the CEA that restricted the sharing of such information.[127] The CFTC, however, believes the CEA allows the sharing of investigatory documents and information, provided that the futures market providing such information adopts a rule allowing for the sharing of information pursuant to an information sharing arrangement.[128] Therefore, because there is no legal prohibition on sharing investigatory information, the Commissions believe that such information may be shared between Affiliate and Full Members and among Affiliate Members trading security futures products. Without the sharing of such investigatory information, investigations by an Affiliate Member into manipulation or trading abuses related to the trading of security futures could be hindered unnecessarily. In addition, a Full Member's inability to obtain such information or documents from an Affiliate Member could hinder the Full Member's investigation of manipulation or trading abuses in other securities that were related to manipulation or trading abuses in the trading of security futures on an Affiliate Member's market.

Finally, once information is requested, Affiliate Members are generally only required to use "best efforts" in accordance with their rules to obtain the information.[129] In addition, Affiliate Members only need to provide the information to Full Members to the extent that it is not inconsistent with its rules or with applicable law.[130] Similarly, Full Members are only required to use best efforts in accordance with their rules to obtain the requested information for Affiliate Members and to provide such information to the extent that it is not inconsistent with its rule or applicable law.[131] Such limitations are not included as part of the agreement among Full Members. The Commissions believe that any restrictions on the ability of Affiliate or Full Members to share information could hinder the ability of these members to coordinate surveillance.

As discussed above, the Commissions believe that the limitations on an Affiliate Member's obligations to share information could be easily addressed through means other than becoming Full Members of ISG. For example, Affiliate Members trading security futures products and Full Members could enter into a supplementary agreement to share the information described above among each other despite the limitations in the current agreements.[132] If Full and Affiliate Members enter into this type of agreement, the Commissions believe that the markets would meet the statutory requirement for coordinated surveillance.

The Commissions also believe that exchanges trading security futures products could satisfy the requirement to coordinate surveillance by entering into bilateral surveillance agreements with each exchange, association, or market on which any security underlying the security futures product or related security is traded to detect manipulation and insider trading. The Commissions, however, believe that such bilateral agreements would have to contain essentially the same information sharing obligations that Full Members of ISG currently have with respect to each other.[133]

Accordingly, if a market trading security futures products becomes a Full Member of the ISG, becomes an Affiliate Member of the ISG and enters into a supplemental agreement to share the additional information described above with Full Members and other Affiliate Members trading security futures products, or enters into appropriate bilateral surveillance agreements to detect manipulation and insider trading with each exchange, association or market on which security futures products trade, and any market on which any security underlying the security futures product or related security is traded, the Commissions believe that the market would satisfy the requirements of Section 2(a)(1)(D)(i)(VIII) of the CEA and Section 6(h)(3)(I) of the Exchange Act.[134]

[121] An ISG Affiliate Member is a contract market or foreign self-regulatory organization that has become affiliated with ISG. *See* Appendix A for the relevant provisions of the agreement among Full Members of ISG.

[122] Futures exchanges and non-U.S. exchanges and associations are Affiliate Members of ISG. The limitations in an Affiliate Member's obligations to share information is of less concern when an Affiliate Member is not trading securities.

[123] *See* Appendix A, Section 2(b).

[124] *See, e.g.*, Appendix A, Section 2(c).

[125] *See, e.g.*, Appendix A, Section 2(d).

[126] *See* Appendix A, Section 2(b).

[127] *See* 8c(a)(2) of the CEA, 7 U.S.C. 12c(a)(2).

[128] *See* 8a(6) of the CEA, 7 U.S.C. 12a(6).

[129] *See, e.g.*, Appendix A, Section 2(c).

[130] *Id.*

[131] *See, e.g.*, Appendix A, Section 2(d).

[132] The Commissions note that this may require exchanges and associations trading security futures products to implement rules allowing for the sharing of information. *See supra* notes 126–128.

[133] *See* Appendix A, Section 2.

[134] 7 U.S.C. 2(a)(1)(D)(i)(VIII); 15 U.S.C. 78f(h)(3)(I).

2. Exchanges Trading Securities Other Than Security Futures

Sections 6(b)(1) and 15A(b)(2) of the Exchange Act require all national securities exchanges and national securities associations to enforce compliance by their members and persons associated with their members, with the provisions of the Exchange Act and the rules and regulations thereunder.[135] Securities exchanges' and associations' memberships in ISG currently enable them to satisfy this requirement with respect to enforcement of the proscriptions against insider trading and the anti-manipulation provisions of the federal securities laws.[136] Security futures products are surrogates for their underlying securities and, therefore, there is the potential that trading in this new product could be used to manipulate trading in the underlying security or in other related securities, such as options. Accordingly, the SEC believes that the introduction of security futures products means that, to satisfy their obligations under Sections 6 and 15A of the Exchange Act,[137] exchanges and associations that trade securities that are related to security futures must have the same ability to share information and to coordinate surveillance with markets trading such security futures products as they currently have through ISG with exchanges and associations trading other securities. For this reason, the SEC believes that the limitations described above in the current obligations of Affiliate Members to share information with Full Members would also unnecessarily hinder or constrain the ability of national securities exchanges and national securities associations to enforce compliance with the federal securities laws.

The SEC believes that exchanges and associations could address these limitations on the obligations of Affiliate Members to share information by, for example, entering into a supplementary agreement to share such information among Full and Affiliate Members despite the limitations in the current agreements. Alternatively, the SEC believes that exchanges or associations trading securities that are related to security futures traded by an exchange or association that is not a Full Member of ISG could satisfy the requirement to coordinate surveillance by entering into bilateral surveillance agreements with such exchange or association that is adequate to detect manipulation and insider trading. The Commissions, however, believe that such bilateral agreements would have to contain essentially the same information sharing obligations that Full Members of ISG currently have with respect to each other.

[135] In addition, Sections 6(b)(1) and 15A(b)(2) of the Exchange Act require all national securities exchanges and national securities associations to enforce compliance by their members and persons associated with their members, with the provisions of the exchanges' or associations' own rules. Section 6(b)(1) of the Exchange Act, 15 U.S.C. 78f(b)(1); Section 15A(b)(2) of the Exchange Act, 15 U.S.C. 78*o*–3(b)(2).

[136] Sections 9 and 10(b) of the Exchange Act, 15 U.S.C. 78i and 78j(b).

[137] 15 U.S.C. 78f and 15 U.S.C. 78*o*–3.

III. Paperwork Reduction Act

CFTC: This rulemaking contains information collection requirements. As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), the CFTC submitted a copy of the proposed amendments to its rules to the Office of Management and Budget (OMB) for its review.

Collection of Information: Part 41, Relating to Security Futures Products, OMB Control Number 3038–0059.

No comments were received in response to the CFTC's invitation in the proposed rules to comment on any paperwork burden associated with these regulations.[138]

SEC: Certain provisions of the new rule contain "collection of information requirements" within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[139] Accordingly, the Commission submitted the proposed rule to the Office of Management and Budget ("OMB") in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. OMB approved the new collection and assigned it OMB Control No. 3235–0555. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

In the Proposing Release, the Commissions solicited comments on these collection of information requirements. The Commissions received no comments that specifically addressed the PRA portion of the Proposing Release. Because the new rule is substantially similar to the proposed rule, the SEC continues to believe that the estimates published in the Proposing Release regarding the proposed collection of information burdens associated with the new rule are appropriate.

[138] *See* Proposing Release, 66 FR at 45912.

[139] 44 U.S.C. 3501 *et seq.*

A. Summary of Collection of Information

As discussed above, the Exchange Act, as amended by the CFMA, provides that a national securities exchange or national securities association may trade security futures products only if the listing standards for such products conform with the requirements set forth in Section 6(h)(3) of the Exchange Act.[140] These listing standards must, among other things, require that: (1) Trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities,[141] and (2) the market on which the security futures product is traded has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[142] To further these statutory mandates, the SEC is adopting SEC Rule 6h–1 to generally provide that: (1) the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities; and (2) the trading in any security futures product halt when a regulatory halt is instituted with respect to a security or securities underlying the security futures product by the national securities exchange or national securities association listing the security. The SEC anticipates that national securities exchanges and national securities associations that wish to trade security futures products will file with the SEC proposed rule changes, pursuant to Section 19(b) of the Exchange Act,[143] to establish listing standards that are consistent with the requirements set forth in Section 6(h)(3) of the Exchange Act.[144]

B. Proposed Use of Information

The SEC will review these proposed rule changes in the manner prescribed by Section 19(b) of the Exchange Act. In addition, the SEC will publish these proposed rule changes to afford the public an opportunity to comment on the listing standards adopted by national securities exchanges and national securities associations with respect to security futures products.

[140] 15 U.S.C. 78f(h)(3).

[141] *See* 15 U.S.C. 78f(h)(3)(H).

[142] *See* 15 U.S.C. 78f(h)(3)(K).

[143] 15 U.S.C. 78s(b).

[144] 15 U.S.C. 78f(h)(3).

C. Respondents

The SEC estimates that there will be 17 respondents to the proposed rule: 9 currently registered national securities exchanges, 1 national securities association (the NASD) that operates a securities market (Nasdaq), and an estimated 7 futures markets that are expected to register as Security Futures Product Exchanges.

D. Total Annual Reporting and Recordkeeping Burden

The SEC received no comments on its proposed estimates and has not revised them. The SEC estimates the paperwork burden for each respondent to comply with proposed SEC Rule 6h–1 will be 10 hours of legal work at $128/hour,[145] for a total cost of $1,280 per respondent. The SEC estimates that the total burden on all respondents will be 170 hours (10 hours/response x 17 respondents x 1 response/respondent), for a total cost of $21,760 ($1,280/response x 17 respondents x 1 response/respondent). The SEC believes that these burdens will be incurred on a one-time basis and will not recur.

E. Record Retention Period

As set forth in SEC Rule 17a–1,[146] a national securities exchange or national securities association must retain records of the collection of information for at least five years, the first two years in an easily accessible place. However, SEC Rule 17a–1 requires a national securities exchange registered under Section 6(g) of the Exchange Act to retain only those records relating to persons, accounts, agreements. contracts, and transactions involving security futures products.[147]

F. Collection of Information Is Mandatory

This collection of information is mandatory for any national securities exchange or national securities association that elects to list and trade security futures products.

G. Confidentiality

Any information filed with the Commission will be made publicly available. Information in the files of national securities exchanges or national securities associations that elect to list and trade security futures products will be subject to Commission enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

[145] The estimated rate of $128 per hour is derived from the SIA Management and Professional Earnings, Table 107 (Attorney, New York), and includes a 35 percent differential for bonus, overhead, and other expenses.

[146] 17 CFR 240.17a–1.

[147] *See* 15 U.S.C. 78q(b)(4)(B).

IV. Costs and Benefits of the Final Rule

CFTC: Section 15 of the CEA requires the CFTC to consider the costs and benefits of its action before issuing a new regulation.[148] The CFTC understands that, by its terms, Section 15 does not require the CFTC to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Nor does Section 15 require that each proposed rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, Section 15 simply requires the CFTC to "consider the costs and benefits" of its action.

Section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the CFTC could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The CFTC considered the costs and benefits of these rules in light of the specific areas of concern identified in Section 15,[149] and concluded that the rules should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets or on the risk management practices of trading facilities or others. The rules also should have no material effect on the protection of market participants and the public and should not impact the efficiency and competition of the markets.

The CFTC invited public comment on the costs and benefits of the proposed rules.[150] The CFTC received no comments. Accordingly, the CFTC has determined to adopt the rules discussed above.

SEC: The CFMA [151] authorizes the trading of futures on individual stocks and narrow-based security indexes ("security futures").[152] The CFMA provides, among other things, that the listing standards for security futures products must require that trading in security futures products not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.[153] In addition, listing standards must require that the market on which the security futures product trades has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[154]

Accordingly, the SEC is adopting new SEC Rule 6h–1 under the Exchange Act generally to require that the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities, and that trading in any security futures product halt when a regulatory halt is instituted with respect to a security or securities underlying the security futures product by the national securities exchange or national securities association listing the security.

Specifically, SEC Rule 6h–1(a) defines the terms "opening price," "regular trading session," and "regulatory halt" generally as proposed.[155] However, the SEC has incorporated a provision into the definition of "opening price" to clarify that if a security is not listed on a national securities exchange or a national securities association, the opening price shall be the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, on the primary market for the security.

Also like the proposed rule, adopted SEC Rule 6h–1(b)(1) requires that the final settlement price of a cash-settled security futures product must fairly reflect the opening price of the

[148] 7 U.S.C. 19.

[149] *See* Proposing Release, 66 FR at 45914.

[150] *See* Proposing Release, 66 FR at 45914.

[151] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[152] After December 21, 2003, the SEC and the CFTC may jointly determine to permit trading of puts, calls, straddles, options, or privileges on security futures (along with security futures, collectively referred to as "security futures products"). *See* Section 2(a)(1)(D)(iii) of the CEA, 7 U.S.C. 2(a)(1)(D)(iii); Section 6(h)(6) of the Exchange Act, 15 U.S.C. 78f(h)(6).

[153] *See* Section 2(a)(1)(D)(i)(VII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII); Section 6(h)(3)(H) of the Exchange Act, 15 U.S.C. 78f(h)(3)(H).

[154] *See* Section 2(a)(1)(D)(i)(X) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(X); Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K).

[155] SEC Rule 6h–1(a).

underlying security or securities.[156] However, if the opening price for one or more securities underlying a security futures product is not readily available,[157] SEC Rule 6h–1(b)(2) provides that the final settlement price of the security futures product shall fairly reflect the price of the underlying security or securities during its most recent regular trading session or the next available opening price of the underlying security or securities.[158] Furthermore, notwithstanding SEC Rule 6h–1(b)(1) or (b)(2), the SEC amended the proposed rule to add SEC Rule 6h–1(b)(3), which states that if a clearing agency to which a final settlement price of a security futures product is or would be reported determines, pursuant to its rules, that such final settlement price is not consistent with the protection of investors and the public interest, the clearing agency has the authority to determine, under its rules, a final settlement price for such security futures product. Under SEC Rule 6h–1(b)(3), the clearing agency must take into account such factors as fairness to buyers and sellers of the affected security futures product, the maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice.

With respect to regulatory halts for security futures products, the SEC is generally adopting the provision as proposed requiring that trading of a security futures product based on a single security be halted at all times that a regulatory halt has been instituted for the underlying security.[159] The trading of security futures product based on a narrow-based security index must be halted at all times that a regulatory halt has been instituted for one or more of the underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index.[160]

Finally, the SEC has expanded the exemption in SEC Rule 6h–1(d) to permit the SEC to grant a national securities exchange or national securities association an exemption from any provision of SEC Rule 6h–1 if the SEC determines that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors. The SEC has expanded the scope of the exemption to make it more consistent with its exemptive authority under Section 36 of the Exchange Act, which allows the SEC, by rule, regulation, or order to conditionally or unconditionally exempt any person, security, or transaction, or any classes thereof, from any rule or regulation under the Exchange Act, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.[161]

A. Comments

In the Proposing Release,[162] the SEC requested comments on all aspects of the costs and benefits of the adopted rule, including identification of additional costs and benefits of the changes. In addition, the SEC encouraged commenters to identify, discuss, analyze, and supply relevant data regarding the proposed rule. Specifically, the SEC requested data to quantify the costs and benefits of the proposed rule. The SEC requested estimates of these costs and benefits, as well as any costs and benefits not already described, which may result from the adoption of the proposed rule. Furthermore, the SEC requested comment on the estimate of the number of respondents that would be affected by proposed SEC Rule 6h–1 and the costs and benefits associated with complying with the proposed rule. The SEC specifically requested comments on the operational and maintenance costs associated with the proposal and whether these costs would be significant. Commenters were asked to provide analysis and empirical data to support their views on the costs and benefits associated with the proposal.

Although no comments specifically addressed the Costs and Benefits analysis in the Proposing Release,[163] there were comments that may apply generally to the costs and benefits of the adopted rule. The SEC anticipates that the rule adopted today will generate the costs and benefits described below and has incorporated the general comments into the applicable discussion.

B. Benefits of SEC Rule 6h–1 Under the Exchange Act

Adopted SEC Rule 6h–1(a) defines the terms "opening price," "regular trading session," and "regulatory halt." As a definitional provision, subparagraph (a) imposes no costs on the respondents. However, by defining the terms, the SEC believes that adopted SEC Rule 6h–1(a) should benefit respondents by providing legal certainty to respondents when complying with the rule.

One commenter stated that the definition of "opening price" failed to anticipate instances where the market trading a security underlying a security futures product may be a market other than a national securities exchange or national securities association, such as a foreign stock exchange.[164] Therefore, the SEC has revised the definition to provide that, if the underlying security is not listed on a national securities exchange or a national securities association, the opening price is the price at which the security opened for trading, or a price that fairly reflects the price at which a security opened for trading, on the primary market for the security. The SEC believes that the additional language should provide clear guidance and clarification of the term "opening price" in those instances where the security futures products may be based on securities that are not listed in the United States. To the extent that the underlying security is listed on a national securities exchange or national securities association, the SEC believes that it is appropriate to use the opening price from the listing market. Despite the commenter's view that the listing market may not be the primary trading venue for a security and, thus, not the most liquid market,[165] the SEC believes that the listing market is a significant source of liquidity for a security that underlies a security futures product and that a rule requiring, for example, the calculation of trading volumes to determine the appropriate primary market from which to derive an opening price for a security listed in the U.S. would impose unnecessary burdens without significantly furthering anti-manipulation goals.

Further, this commenter stated that the proposed definition of the term "regulatory halt," which is being

[156] SEC Rule 6h–1(b).

[157] Although SEC Rule 6h–1(b)(2) does not define when an opening price would not be "readily available," national securities exchanges and national securities associations would have to establish, as part of their listing standards, rules that interpret this term.

[158] The SEC amended the proposed rule to allow look forward pricing in response to recommendations by commenters.

[159] SEC Rule 6h–1(c)(1).

[160] In the Proposing Release, the SEC originally proposed halting trading in a security futures product when 30 percent of the market capitalization of a narrow-based security index halted trading in the underlying markets. As discussed further below, this change was made in response to commenters. *See* SEC Rule 6h–1(c)(2). The rule being adopted today does not preclude a market trading security futures products based on narrow-based security indexes from halting trading at a threshold of less than 50 percent of the market capitalization of the index or for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[161] *See supra* note 66 and accompanying text.

[162] *See* Proposing Release, *supra* note 18.

[163] *See* Proposing Release, *supra* note 18.

[164] *See* CME Letter.

[165] *See* CME Letter.

adopted as proposed, also does not address situations where the listing market is not the primary trading venue for the underlying security or where the listing market is in a foreign country.[166] The SEC notes that the rule adopted today is not intended to limit the ability of national securities exchanges and national securities associations to impose a trading halt in other circumstances, such as when the underlying security is listed on a foreign market that has halted trading. The rule provides national securities exchanges and national securities associations with the flexibility to submit proposed rule changes that address situations not covered by the rule being adopted today.[167] However, in those instances where the underlying security is listed in the United States, the SEC believes that by specifically designating the listing market as the appropriate venue, the rule allows for ease of application and clear guidance for respondents to administer and implement the rule. For example, the SEC believes that, due to the contractual relationship between the issuer and the listing market, the listing market has a direct and ongoing relationship with the issuer and, therefore, is in the best position to be informed promptly by the issuer that pending news would require the imposition of a trading halt.

Adopted SEC Rule 6h–1(b)(1) requires that the final settlement price of a cash-settled security futures product must fairly reflect the opening price of the underlying security or securities. Several commenters generally supported this aspect of the proposal.[168] The SEC believes that the provision for cash-settled security futures products under adopted SEC Rule 6h–1(b)(1) is necessary to minimize opportunities for intermarket manipulations and to promote the fair and orderly operation of the securities markets. In particular, opening-price settlement procedures appear to be necessary to satisfy Section 6(h)(3)(H) of the Exchange Act[169] that listing standards for security futures products must require that trading in a security futures product not be readily susceptible to manipulation of the price of such product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.

The SEC believes that SEC Rule 6h–1(b)(1) should facilitate the ability of the securities markets to handle expiration-related unwinding programs and mitigate the liquidity strains that had previously been experienced in the securities markets on expirations for stock index futures and options. The SEC further believes that the liquidity constraints associated with expiration-related buy or sell programs at the close on expiration Fridays aggravated ongoing market swings during an expiration and provided opportunities for entities to anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.[170]

The SEC notes that the rule adopted today provides national securities exchanges and national securities associations with flexibility to implement the requirements of the Exchange Act. The SEC notes that the rule adopted today does not mandate that a particular methodology be used to derive an opening price. A national securities exchange or national securities association would retain the flexibility to establish the procedures to determine the opening price, which will be used to determine the settlement price of security futures products. The SEC believes that this flexibility should provide respondents with the ability to meet the needs of the market place, while satisfying their obligations under the Exchange Act.

In those instances where the opening price was not readily available, the SEC proposed that the final settlement price of a cash-settled security futures product overlying that security must reflect a price of the underlying security taken from its most recent regular trading session. The proposed rule also provided that national securities exchanges and national securities associations could request exemptions from the settlement price provisions from the SEC on a case-by-case basis.

Although one commenter supported this aspect of the proposal,[171] four commenters generally opposed the SEC's exclusive use of a "look back" settlement procedure for security futures products when the opening prices for the underlying securities are unavailable and, instead, recommended using the next day's opening prices.[172] These commenters noted that the existing cash settlement procedures for stock index options and stock index futures allow "next opening" prices.[173] Further, one commenter, a clearing agency, urged the SEC not to require national securities exchanges and national securities associations to adopt rules addressing the determination of security futures final settlement prices when opening prices are not readily available because of potential conflicts with clearing agency rules.[174] Another commenter believed that the establishment of consistent and commercially appropriate alternative pricing conventions should be resolved by a collaboration among the exchanges that design the product and the clearinghouse, with appropriate consultation with their members and participants.[175] Furthermore, several commenters argued that under the SEC's proposed rule hedges could be significantly disrupted.[176]

In response to the commenters, the final rule adopted by the SEC allows either look-back or look forward opening prices to be used as alternate final settlement prices when an opening price is not readily available. Specifically, adopted SEC Rule 6h–1(b)(2) requires that, if an opening price for one or more securities underlying a security futures product is not readily available, the final settlement price of the security futures product shall fairly reflect (i) the price of the underlying security or securities during the most recent regular trading session for such security or securities, or (ii) the next available opening price of the underlying security or securities.

[166] *See* CME Letter.

[167] One commenter believed that the SEC and the CFTC should expand on the examples of the types of reasons why national securities exchanges and associations could impose additional trading halts provided in the footnotes of the Proposing Release to include order imbalances. *See* NYSE Letter. As noted above, the rule being adopted today is not designed to preclude a market trading security futures products from halting trading for other appropriate reasons. Therefore, a national securities exchange or national securities association would be free to impose additional restrictions on trading that are not required by this rule.

[168] *See* CBOE Letter, CBOT Letter, and NYSE Letter.

[169] 15 U.S.C. 78f(h)(3)(H).

[170] The liquidity constraints faced by the securities markets due to unwinding programs used in closing-price settlement procedures were discussed by the SEC staff in its report on the market decline on November 15, 1991. *See* SEC Division of Market Regulation, *Trading Analysis of November 15, 1991* (October 1992).

[171] *See* CBOT Letter.

[172] *See* CBOE Letter, CME Letter, and SIG Letter. *See also* OCC Letter (urging the Commissions to withdraw this aspect of the proposal, or at a minimum, modify it to allow the final settlement value to be based on the next opening).

[173] *See* CBOE Letter, CME Letter, and SIG Letter. *See also* FIA/SIA Steering Committee Letter (stating that the Commissions' proposed requirement is inconsistent with existing market practice and rules governing a broad range of listed stock index products) and OCC By-Laws, Article XII, Section 5 (allowing OCC to fix the final settlement price for security futures products using next opening prices of the underlying securities, as well as look-back pricing).

[174] *See* OCC Letter.

[175] *See* FIA/SIA Steering Committee Letter.

[176] *See* CBOE Letter, CME Letter, FIA/SIA Steering Committee Letter, OCC Letter, and SIG Letter.

As discussed earlier, the SEC agrees with the commenters' view that the proposed rule could have resulted in an unwanted and unwarranted de-linking of hedging positions if it mandated look-back pricing procedures for security futures products. The SEC believes that the adopted rule will provide national securities exchanges and national securities associations with some discretion to implement this general rule without dictating how the settlement price is derived for a security futures product. The SEC further notes that the final rule adopted today is consistent with OCC rules that allow for look-back pricing in certain circumstances.

In addition, one commenter indicated that problems could arise if an exchange or association that trades a security futures product and the registered clearing agency through which it clears such product had different rules for the determination of an alternate settlement price.[177] For example, a national securities exchange or national securities association wishing to use OCC clearing services for security futures must enter into a clearing agreement with OCC in which both parties agree that security futures will be cleared by OCC in accordance with OCC's by-laws and rules, which currently give OCC the final authority to determine final settlement prices in certain circumstances.[178] This commenter recommended that the clearing agency be permitted, under its rules, to determine the final settlement price of the security futures product.[179] In light of the comments, the final rule has been amended. Pursuant to adopted SEC Rule 6h–1(b)(3), if a clearing agency determines, pursuant to its rules, that such final settlement price is not consistent with the protection of investors and the public interest, taking into account such factors as fairness to buyers and sellers of the affected security futures product, the maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice, the clearing agency has the authority to determine, under its rules, a final settlement price for such security futures product.

The SEC believes that in the absence of such a provision, confusion could arise if securities underlying a security futures product failed to trade on an expiration Friday and the market trading the security futures product and its clearing agency had different rules determining a final settlement price. Moreover, this provision should make security futures products that trade on different markets more fungible, because a single clearing agency will be able to harmonize procedures across different markets for determining alternate settlement prices.

In addition, adopted SEC Rule 6h–1(c)(1) and (c)(2) requires the trading on security futures products based on a single security to be halted at all times that a regulatory halt has been instituted for the underlying security or, if based on a narrow-based security index, to be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index. The SEC believes that the adopted rule should help preserve the investor protection and market integrity goals of regulatory halt procedures in the securities markets. The SEC believes that the close relationship between the underlying security or securities and the pricing of the overlying security futures product generally justifies a regulatory halt of the security futures product at all times that a regulatory halt has been instituted for the underlying security or securities.[180]

With respect to regulatory halts due to pending news, the SEC does not agree with two commenters who questioned the absolute requirement that trading in a security futures product must be halted during a news pending halt in the underlying security.[181] These commenters recommended providing exchanges with discretion to impose a trading halt when there is a news pending trading halt in the underlying security.[182] Specifically, one commenter believed that this discretion is necessary to allow trading in a security futures product when the underlying stock is halted in certain circumstances, such as when there is a need to adjust positions before an expiration.[183] Given the rarity of such situations and that the significant underpinning for imposing news pending regulatory halts is to promote investor protection and fair and orderly markets, the SEC believes that, to the extent that there is pending news that could impact an investor's decision and to the extent that single-stock futures are surrogates for the underlying security, there is a need for a provision requiring that trading in a security futures product be halted at all times that a regulatory halt has been instituted for the underlying security or securities, with certain limits for narrow-based security index futures. SEC Rule 6h–1(c)(1) and (2), which concern regulatory halts, will benefit current and potential shareholders by providing an opportunity for material information about the underlying security or securities to be disseminated to the public. Since pending news may have a significant effect on trading, the SEC believes that all investors should have an opportunity to learn of and react to material information in order to make informed investment judgments.[184] Accordingly, news pending regulatory halts should foster public confidence in the market and promote the integrity of the market place. Furthermore, the SEC believes that requiring an exchange or association to halt trading on a security futures product at all times that a regulatory halt has been instituted for the underlying security or securities should contribute to the maintenance of an efficient market.

In addition, the SEC believes that regulatory halts in the trading of security futures products due to the operation of circuit breakers should further protect investors and the markets by mitigating potential systemic stress during a historic market decline and allow for the reestablishment of an equilibrium between buying and selling interests in an orderly fashion. The SEC generally believes that pre-determined, coordinated, cross-market operations of circuit breakers would effectively address market declines that threaten to result in *ad hoc* and potentially destabilizing market closings.

The SEC does not agree with one commenter's recommendation that the SEC should provide exchanges with latitude in implementing coordinated circuit breaker procedures and flexibility in imposing this requirement on security futures products where the

[177] *See* OCC Letter.

[178] *See supra* note 60 and accompanying text.

[179] *See* OCC Letter; *see also* CBOE Letter (recommending that security futures products have the proviso that the clearing corporation rules have precedence for determining the index value at expiration during a trading halt in the underlying security); FIA/SIA Steering Committee Letter (urging the Commissions not to require exchanges and associations to adopt rules addressing the determination of fallback security futures final settlement prices when opening prices are not readily available).

[180] The trading halt provision of adopted SEC Rule 6h–1(c) would not be exclusive. The adopted rule is not designed to preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[181] *See* CBOE Letter and FIA/SIA Steering Committee Letter.

[182] *Id.*

[183] *See* CBOE Letter.

[184] *See* Securities Exchange Act Release No. 32890 (September 14, 1993), 58 FR 48916 (September 20, 1993).

principal trading venues for the underlying securities (or for a subset of securities in the case of narrow-based indexes) are in foreign markets.[185] The SEC believes that it is important to require the application of cross-market circuit breaker regulatory halt procedures to security futures products and that such a requirement is necessary to satisfy the requirements of Section 6(h)(3)(K) of the Exchange Act.[186] If cross-market circuit breaker regulatory halt procedures were not applied to the security futures products, the lack of such procedures would undermine the use of trading halts in the underlying securities. Furthermore, national securities exchanges and national securities associations do have the flexibility under the rule to impose trading halt requirements where the underlying security is listed solely on a foreign market.

In addition, to be effective, circuit breakers have to be coordinated across stock, stock index futures, and options markets in order to prevent intermarket problems of the kind experienced in October 1987.[187] Since the markets currently coordinate regulatory halts between the listing market for the underlying security and other markets that trade the underlying security or any related security in order to promote investor protection and fair and orderly markets, SEC Rule 6h–1(c)(1) and (2) should help ensure such coordination and effectiveness through the use of regulatory halts in the markets trading security futures products.

Although the SEC understands the concern raised by one commenter regarding continued trading of a security futures product when the underlying security has halted trading if the listing market is not the primary market,[188] the SEC believes that, due to the contractual relationship between the issuer and the listing market, the listing market has a direct and ongoing relationship with the issuer and is, consequently, in the best position to be informed promptly by the issuer that pending news would require the imposition of a trading halt. The SEC also believes that designating the listing market as the venue for the purpose of applying the rule provides for ease of use and application and prevents national securities exchanges or national securities associations from having to determine the primary market for each underlying security. Further, the SEC believes that the listing market should represent sufficient liquidity that imposing a trading halt on a security futures product when the listing market for the underlying security imposes a trading halt furthers the purposes of Section 6(h)(3)(K) of the Exchange Act.[189]

With respect to narrow-based security indexes, the SEC believes that trading should be halted when a trading halt has been instituted for a sufficiently large portion of an index in order to prevent continued trading of the security futures product from becoming a means to improperly circumvent regulatory trading halts in the underlying securities. If trading in only one component security is halted, continued trading in a security future based on an index in which such a security represents a substantial portion of the index value could also undermine the trading halt in the underlying security. The SEC believes that trading halt procedures also would not be coordinated, as contemplated by Section 6(h)(3)(K) of the Exchange Act,[190] if the security futures product based on an index continued to trade while investors were precluded from trading some or all of the underlying securities. Moreover, the SEC believes that continued trading in the security futures product under these circumstances could undercut key provisions in the securities laws designed to protect investors and promote the fair and orderly operation of the markets.

Accordingly, the SEC believes that a general practice whereby trading is halted for the security futures product when investors lack access to current pricing information in the primary market for the underlying security should contribute to the maintenance of fair and orderly markets. Moreover, the SEC believes that this coordination of trading halts by SEC Rule 6h–1(c)(1) and (2) would generally benefit investors and the market by providing fewer opportunities for abuse and manipulation. SEC Rule 6h–1(c)(1) and (2) also would further increase investor confidence in the stability of the markets by assuring investors and the public that the national securities exchanges and national securities associations trading security futures product are reasonably equipped to handle market demand and pending material news.

Furthermore, in the final rule adopted by the SEC, the rule permits the SEC to grant an exemption with respect to any provision of SEC Rule 6h–1 based on its existing exemptive authority pursuant to Section 36 of the Exchange Act. Any exemption would require a finding that the action is necessary or appropriate in the public interest and consistent with the protection of investors. The SEC believes that the exemption provided for in SEC Rule 6h–1(d)[191] would benefit national securities exchanges and national securities associations by providing them with flexibility in responding to changing market conditions, as well as provide the SEC with continued oversight over the respondents by granting an exemption when it is necessary or appropriate in the public interest and is consistent with the protection of investors.

B. Costs of SEC Rule 6h–1 under the Exchange Act

The SEC estimates that there would be 17 respondents to the rule: 9 currently registered national securities exchanges, 1 national securities association (the NASD) that operates a securities market (Nasdaq), and an estimated 7 futures markets that are expected to register as Security Futures Product Exchanges.

National securities exchanges and national securities associations may file proposed rule changes pursuant to Section 19(b) of the Exchange Act[192] to implement SEC Rule 6h–1.[193] However, the SEC notes that even in the absence of SEC Rule 6h–1 each of the respondents would have to file one or more proposed rule changes to adopt listing standards for security futures products to trade security futures products pursuant to the Exchange Act, as amended by the CFMA.

Further, under Rule 17a–1 of the Exchange Act,[194] a national securities exchange or national securities association is required to retain records of the collection of information for at

[185] *See* CME Letter.

[186] 15 U.S.C. 78f(h)(3)(K).

[187] In response to the events of October 19, 1987, when the Dow Jones Industrial Average ("DJIA") sustained a one-day decline of 508 points (22.6%), the nation's securities and futures markets in 1988 adopted rules that provide for coordinated, cross-market trading halts in all equity and equity-derivative markets following specified declines in the DJIA. *See* Circuit Breaker Report, *supra* note 68. *See also* Securities Exchange Act Release No. 38080 (December 23, 1996), 61 FR 69126 (December 31, 1996) (citing the SEC's desire to have coordinated mechanisms across these markets to deal with potential volatility that may develop during periods of extreme downward volatility).

[188] *See* CME Letter.

[189] 15 U.S.C. 78f(h)(3)(K).

[190] 15 U.S.C. 78f(h)(3)(K).

[191] The SEC may grant an exemption from the rule, either unconditionally or on specified terms and conditions, if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors. *See* Section 36 of the Exchange Act, 15 U.S.C. 78mm.

[192] 15 U.S.C. 78s(b).

[193] The SEC has adopted Rule 19b–7, which would direct Security Futures Product Exchanges to file proposed rule changes on Form 19b–7. *See* Securities Exchange Act Release No. 44692, *supra* note.

[194] 17 CFR 240.17a–1.

least 5 years, with the first 2 years in an easily accessible place. However, Rule 17a–1 requires a Security Futures Product Exchange to retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[195] The SEC believes that respondents would not incur any additional capital or start-up costs beyond the paperwork costs, nor any additional operational or maintenance costs, to comply with the collection of information requirements under SEC Rule 6h–1.[196] As discussed above, the paperwork burden for each respondent to comply with the new rule will be $1,280, resulting in a total cost for the 17 respondents of $21,760.

As mentioned earlier, adopted SEC Rule 6h–1(a) defines the terms "opening price," "regular trading session," and "regulatory halt." The definitions of the relevant terms impose no costs on the respondents.

SEC Rule 6h–1 also requires respondents that choose to trade security futures products to develop a system for determining the settlement price of a cash-settled security futures product to fairly reflect the opening price of the underlying security. However, because respondents to the adopted rule currently have systems in place to determine opening prices, the SEC believes that respondents complying with the settlement provisions of SEC Rule 6h–1 would only incur minimal operational or maintenance costs to reconfigure their current settlement procedures to fairly reflect the opening price of the underlying security.

In addition, in order to comply with SEC Rule 6h–1(c)(1) and (2), the SEC believes that national securities exchanges and national securities associations may incur costs in developing or adapting existing systems to monitor when listing markets have instituted a regulatory halt for an underlying security of the security futures product. Similarly, costs may be incurred for system changes needed to calculate the market capitalization of an underlying narrow-based security index and when one or more of the underlying securities that constitute 50 percent or more of the market capitalization of a narrow-based security index are subject to a regulatory halt. The commenters did not provide the SEC with actual estimates of the costs they would incur to institute such a system. To the extent that systems need to be developed to determine the market capitalization of narrow-based security indexes to trigger a regulatory trading halt, the SEC does not believe that the additional costs that may be incurred will be substantial. Similarly, with respect to the costs in developing or adapting existing systems to monitor when listing markets institute regulatory halts for the security or securities, as applicable, underlying the security futures product, the SEC believes that these costs should not be substantial in light of the fact that the majority of affected markets already have systems in place to monitor regulatory halts. For instance, the SEC notes that 9 of the estimated 17 respondents are already required to provide notification of regulatory halts since they are participants of the Consolidated Tape Association Plan ("CTA Plan")[197] and thus, should already have systems in place to monitor each other of regulatory halts being instituted. The SEC also believes that each of the remaining respondents will have to develop a similar system to monitor when regulatory halts have been instituted for the underlying security. However, any costs that will be incurred to establish such a system arise from the requirements of the Exchange Act, as amended by the CFMA, to coordinate trading halts.[198] The rule adopted today merely clarifies the requirement imposed by the Exchange Act, as amended by the CFMA.

One commenter believed that the requirement to halt trading in single-stock futures when trading in the underlying security is halted was overly broad to satisfy the requirement that procedures be put in place to coordinate trading halts.[199] This commenter believed that this was overly broad and burdensome in its application to retail investors for whom single-stock futures might serve as the only available means for managing risk and that the SEC should allow trading halt sessions during which investors with risk exposure to an underlying equity, which has been halted, might have the opportunity to enter into single-stock futures transactions with dealers.

In response, the SEC notes that the purpose of trading halts is to ensure that there is an adequate opportunity for information about a security to be disseminated to the public. The SEC does not believe that it would be consistent with the protection of investors to permit investors, including retail investors, to trade a surrogate for a security when trading is halted in that security. By adopting this rule, the SEC seeks to maintain and preserve the integrity of this mechanism so that the trading of security futures products will not be used as a tool to circumvent the institution of regulatory halts. Moreover, the SEC believes that the purpose of halting trading in the underlying security would be frustrated if market participants could circumvent this halt by trading during the halt in the related security futures product.[200]

Another commenter believed that the SEC's proposal to require a trading halt in a narrow-based security index future when a security or securities that constitute 30 percent or more of the market capitalization of the index are subject to a trading halt was too low a threshold to justify the disruption that it would inflict upon the futures market.[201] Another commenter recommended providing exchanges with greater discretion to decide whether to impose or maintain a trading halt.[202] This commenter also believed that because not all indexes underlying security futures products may be capitalization weighted, it may be difficult for exchanges to determine on a real-time basis when securities comprising 30 percent of the market capitalization of a price-weighted or equal dollar weighted index are halted. Similarly, one of the commenters expressed a concern that, with respect to corporate news events, it may be operationally difficult to determine on a real-time basis whether the threshold of market capitalization has been crossed.[203]

In response to the commenter's statement that the 30 percent market capitalization test was too low and after consideration of the potential effects of the proposed 30 percent trading halt threshold, the adopted rule requires trading to be halted in a narrow-based security index futures product when component securities representing 50 percent or more of the market capitalization of that narrow-based security index are subject to a regulatory halt.[204] The SEC believes that one of the major economic benefits that market participants derive from the trading of futures on narrow-based security indexes is the ability to hedge positions containing the securities underlying the indexes, thereby reducing the risk of holding positions in those securities. For traders using a narrow-based security index future to hedge a position containing the component index securities, trading halts in certain of those component securities necessarily will introduce basis risk because the one-to-one relationship between the cash portfolio of securities and the narrow-based index future is disrupted.

The SEC believes that the proposed 30 percent threshold is too low because it could unnecessarily disrupt hedge positions involving futures on narrow-based security indexes that may still be substantially performing their intended risk-shifting function when trading is halted in a limited number of the index's component securities. The SEC believes that a 50 percent threshold would better serve the requirement's intended purpose. In adopting a 50 percent threshold, the SEC sought to balance the utility of maintaining effective hedge positions with concerns about circumventing the coordination requirement by allowing trading in narrow-based index futures to continue when trading in a limited number of the underlying securities is halted. The SEC believes that while it is not possible to eliminate completely the risk involved in hedging securities with a future on a narrow-based security index when trading halts are instituted for certain of those underlying securities, the 50 percent threshold reduces such risk. Therefore, the SEC is adopting a 50 percent threshold because it appears to appropriately balance the goals of hedging utility with prevention of improperly circumventing regulatory halts in the underlying securities. With respect to the commenters' concern regarding the potential difficulty in calculating the market capitalization of an index, especially for price-weighted or equal dollar weighted indexes, for purposes of instituting the regulatory halt, the SEC notes that selecting market capitalization as the method for calculating the weight of the index is similar to an existing standard used to calculate trigger points for circuit breaker operations.[205] Consequently, the SEC chose to apply a similar method in implementing regulatory halts to narrow-based security index futures product. Furthermore, in specifying market capitalization as the method for weighing an index, the rule provides clarity and uniformity for all respondents to utilize in implementing regulatory halts in security futures products based on narrow-based security indexes. If the rule allowed for different methods of weighing an index for purposes of imposing a regulatory halt in the trading of a security futures product, the SEC believes that the trading of security futures products may be more susceptible to becoming a means of circumventing regulatory halts in the underlying securities.

V. Consideration of the Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

SEC: Section 3(f) of the Exchange Act[206] requires the SEC, whenever it is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Exchange Act[207] requires the SEC, when promulgating rules under the Exchange Act, to consider the impact any such rules would have on competition. Section 23(a)(2) further provides that the SEC may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. In the Proposing Release, the SEC requested comment on these issues.[208]

A. Effects on Competition

1. Settlement Procedures for Cash-Settled Security Futures Products

SEC Rule 6h–1 provides that the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities. In the event that the opening price of an underlying security is not readily available, SEC Rule 6h–1 permits a national securities exchange or national securities association that lists and trades an overlying cash-settled security futures product to use look-back or next opening pricing procedures to derive a final settlement price for the security futures product. However, if a clearing agency determines, pursuant to its rules, that such final settlement price is not consistent with the protection of investors and the public interest, taking into account such factors as fairness to buyers and sellers of the affected security futures product, the maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice, the clearing agency has the authority to determine, under its rules, a final settlement price for such security futures product.

The SEC does not believe that these provisions will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The rule adopted today codifies what is general industry practice for other cash-settled derivative products. Thus, even in the absence of the rule, it is likely that the markets would have opted for opening-price rather than closing-price procedures for security futures products. In addition, under the final rule, the market listing the security futures product may use look-back or next opening prices in instances where the opening price of an underlying security is not readily available. The SEC believes that this flexibility will assist national securities exchanges and national securities associations in responding to market conditions when creating security futures products. Finally, the provision that allows a clearing agency to determine a final settlement price in certain instances will remove an obstacle to the fungibility of security futures products, which may in time lead to the same security futures product being multiply traded on more than one national securities exchange or national securities association. The SEC believes that the trading of security futures products on multiple markets promote competition.

The Commissions received one comment on the proposed settlement procedures that briefly addressed competitive issues. This commenter stated that exchange-listed security futures products "will be subject to intense competition" and urged the Commissions to avoid rulemaking that would lead to the sub-optimal design of security futures products and thereby "unfairly tilt the competitive landscape."[209] In light of the revisions

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[195] *See* 15 U.S.C. 78q(b)(4)(B).

[196] *See* Paperwork Reduction Act discussion at Section III.

[197] The CTA Plan is a joint industry plan that governs the consolidated transaction reporting system. Parties to the CTA Plan are as follows: the American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc. *See* CTA Plan (Second Restatement), Section III (a).

[198] Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K).

[199] *See* Students Letter.

[200] The SEC's rule does not preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[201] *See* CBOT Letter.

[202] *See* CBOE Letter.

[203] *See* CME Letter.

[204] As with adopted SEC Rule 6h–1(c)(1), the trading halt provision of adopted SEC Rule 6h–1(c)(2) is not intended to be exclusive. The adopted rule is not designed to preclude a market trading security futures products based on narrow-based security indexes from halting trading at a threshold of less than 50 percent of the market capitalization of the index or for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[205] *See, e.g.*, CME Rule 4002.I., *supra* note 74.

[206] 15 U.S.C. 78c(f).

[207] 15 U.S.C. 78w(a)(2).

[208] The CFTC is not required to consider its proposed rules under these standards.

[209] *See* CME Letter.

made to the rule at the suggestion of the various commenters, the SEC believes that the rule will further the anti-manipulation principles of Section 6(h)(3)(H) of the Exchange Act [210] while giving the markets flexibility to determine the characteristics of the products that they wish to trade. In addition, the SEC believes that the final rule promotes competition by providing national securities exchanges and national securities associations with the ability to structure their security futures products so as to respond to competitive forces in the marketplace.

2. Trading Halt Provisions

The Commissions received two comments that address the competitive aspects of the trading halt provisions of the proposed rule. One commenter stated that security futures product "lookalikes" can trade in the unregulated upstairs market and in foreign jurisdictions; to the extent that these other trading venues do not coordinate their trading halts, "there is a potential competitive issue." [211] Likewise, the second commenter stated that sophisticated investors could create a synthetic future in a halted stock.[212]

The SEC does not believe that the trading halt provisions will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. These provisions do restrict competition, in the sense that they restrict the freedom and ability to trade a security futures product whenever trading is halted in the underlying security or securities. The SEC believes, however, that such a requirement is necessary and appropriate to further the purposes of the Exchange Act, which require that listing standards for security futures products must include procedures to coordinate trading halts between the market that trades the security futures product, any market that trades any underlying security, and other markets on which any related security is traded. Specifically, in the absence of these mandatory halts for the security futures product, the purpose of declaring the halt in the underlying security or securities would be frustrated, because the market for the overlying security futures product could serve as a proxy for the underlying market.

Further, the SEC believes that trading halts promote fair competition by providing an adequate opportunity for information about a security to be disseminated to the public. The SEC does not believe that it would be consistent with the protection of investors, particularly retail investors, to permit trading in a surrogate for a security when trading is halted in that security. Thus, the SEC believes it is essential, to ensure fair and orderly markets, to prevent a national securities exchange or national securities association from becoming a proxy market by trading an overlying security futures product when trading is halted in an underlying security. Furthermore, any potential restraint on competition caused by the rule's trading halt provisions must be weighed against the requirement that listing standards, pursuant to Section 6(h)(3)(K) of the Exchange Act,[213] include procedures to coordinate trading halts with the market that trades the underlying security.

3. Conclusion

The SEC finds that SEC Rule 6h–1 will promote competition and will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

B. Effects on Efficiency and Capital Formation

1. Settlement Procedures for Cash-Settled Security Futures Products

The SEC believes that the settlement provisions of SEC Rule 6h–1 will improve efficiency and capital formation. Although no commenters addressed the efficiency and capital formation aspects of the proposed rule directly, some of the commenters [214] noted that the proposed rule could have significant adverse monetary consequences and, by implication, impact efficiency and capital formation. Under the proposed rule, a security futures product would have been required to use look back prices in the event that the opening price of the underlying security or securities were not readily available. These commenters noted that situations could arise where, due to some disruption to the markets, a hedge consisting of a security futures product and another security was "mismatched." This unhedged exposure could result in significant market losses. The final rule reduces the possibility of such losses—and, thus, improves efficiency and capital formation—by allowing security futures products to settle based on next opening prices if an opening price for one or more security futures products is not readily available and by allowing a registered clearing agency, in certain circumstances, to harmonize inconsistent settlement practices.

2. Trading Halt Provisions

The Commissions received no comments directly addressing efficiency and capital formation aspects of the trading halt provisions of SEC Rule 6h–1.

Regulatory trading halts provide an opportunity for investors to learn of, and react to, material information to make informed investment judgments. In addition, they mitigate potential systematic stress during severe market declines and allow for the reestablishment of an equilibrium between buying and selling interests in an orderly fashion. Accordingly, the SEC believes that the trading halt provisions of SEC Rule 6h–1, by requiring national securities exchanges and national securities associations to halt trading in security futures products when trading is halted in the underlying security or securities, will ultimately improve efficiency and capital formation by creating a more fair and orderly marketplace.

VI. Final Regulatory Flexibility Act

CFTC: The Regulatory Flexibility Act ("RFA") requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[215] The rules adopted herein would affect designated contract markets, registered derivatives transaction execution facilities and derivatives clearing organizations. The CFTC has previously established certain definitions of "small entities" to be used in evaluating the impact of its rules on small entities in accordance with the RFA. In its previous determinations, the CFTC concluded that contract markets are not small entities for the purpose of the RFA.[216] The CFTC recently determined that registered derivatives transaction execution facilities and derivatives clearing organizations are not small entities for purposes of the RFA.[217] The CFTC invited the public to comment on the Chairman's certification that these rules would not have a significant economic impact on a substantial number of small entities.[218] The CFTC received no comments on the certification.

[210] 15 U.S.C. 78f(h)(3)(H).

[211] *See* CME Letter.

[212] *See* Students Letter.

[213] 15 U.S.C. 78f(h)(3)(K).

[214] *See supra* note 52.

[215] 5 U.S.C. 601 *et seq.*

[216] *See* 47 FR 18618, 18619 (April 30, 1982) (discussing contract markets).

[217] *See* 66 FR 14262, 14268 (March 9, 2001) (discussing registered derivatives transaction execution facilities); 66 FR 45604, 45609 (August 29, 2001) (discussing derivatives clearing organizations).

[218] *See* Proposing Release, 66 FR at 45918.

SEC: Pursuant to Section 605(b) of the Regulatory Flexibility Act,[219] the SEC certified that the adopted rule would not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, was attached to the Proposing Release No. 34–44743 (August 24, 2001) as Appendix A. The SEC solicited comments concerning the impact on small entities and the Regulatory Flexibility Act certification, but received no comments.

VII. Statutory Basis and Text of Rule

List of Subjects

17 CFR Part 41

Security futures products, Trading halts and Settlement provisions.

17 CFR Part 240

Securities.

Commodity Futures Trading Commission

17 CFR Chapter I

The CFTC has the authority to adopt these rules pursuant to sections 2(a)(1)(D)(i)(VII), 2(a)(1)(D)(i)(X), and 8a(5) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII), 2(a)(1)(D)(i)(X), and 12(a)(5).

For the reasons set out in the joint preamble, Title 17, Chapter I of the Code of Federal Regulations is amended as follows.

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 is revised to read as follows:

Authority: Sections 206, 251 and 252, Pub. L. 106–554, 114 Stat. 2763; 7 U.S.C. 1a, 2, 6f, 6j, 7a–2, 12a; 15 U.S.C. 78(g)(2).

2. Section 41.1 is amended by adding paragraphs (j), (k) and (l) to read as follows:

§ 41.1 Definitions.

For purposes of this part:

* * * * *

(j) *Opening price* means the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security. If the security is not listed on a national securities exchange or a national securities association, then *opening price* shall mean the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, on the primary market for the security.

(k) *Regular trading session* of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(l) *Regulatory halt* means a delay, halt, or suspension in the trading of a security, that is instituted by the national securities exchange or national securities association that lists the security, as a result of:

(1) A determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue; or

(2) The operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

3. Section 41.25 is amended by adding the text of paragraph (a)(2) and adding paragraph (d) and by revising paragraph (b) to read as follows:

§ 41.25 Additional conditions for trading for security futures products.

(a) *Common provisions.* * * *

(2) *Regulatory trading halts.* The rules of a designated contract market or registered derivatives transaction execution facility that lists or trades one or more security futures products must include the following provisions:

(i) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security; and

(ii) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index.

* * * * *

(b) *Final settlement prices for security futures products.*

(1) The final settlement price of a cash-settled security futures product must fairly reflect the opening price of the underlying security or securities;

(2) Notwithstanding paragraph (b)(1) of this section, if an opening price for one or more securities underlying a security futures product is not readily available, the final settlement price of the security futures product shall fairly reflect:

(i) The price of the underlying security or securities during the most recent regular trading session for such security or securities; or

(ii) The next available opening price of the underlying security or securities.

(3) Notwithstanding paragraphs (b)(1) or (b)(2) of this section, if a derivatives clearing organization registered under Section 5b of the Act or a clearing agency exempt from registration pursuant to Section 5b(a)(2) of the Act, to which the final settlement price of a security futures product is or would be reported determines, pursuant to its rules, that such final settlement price is not consistent with the protection of customers and the public interest, taking into account such factors as fairness to buyers and sellers of the affected security futures product, the maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice, the clearing organization shall have the authority to determine, under its rules, a final settlement price for such security futures product.

* * * * *

(d) The Commission may exempt from the provisions of paragraphs (a)(2) and (b) of this section, either unconditionally or on specified terms and conditions, any designated contract market or registered derivatives transaction execution facility, if the Commission determines that such exemption is consistent with the public interest and the protection of customers. An exemption granted pursuant to this paragraph shall not operate as an exemption from any Securities and Exchange Commission rules. Any exemption that may be required from such rules must be obtained separately from the Securities and Exchange Commission.

Issued in Washington, DC on May 17, 2002 by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary.

Securities and Exchange Commission

17 CFR Chapter II

The SEC is adopting the rules pursuant to its authority under Exchange Act Sections 6, 9, 15A, 19, 23(a), and 36, 15 U.S.C. 78f, 78i, 78o–3, 78s, 78w(a), and 78mm.

For the reasons set out in the joint preamble, Title 17, Chapter II, part 240 of the Code of Federal Regulations is amended as follows.

[219] 5 U.S.C. 605(b).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.6h–1 is added to read as follows:

§ 240.6h–1 Settlement and regulatory halt requirements for security futures products.

(a) For the purposes of this section:

(1) *Opening price* means the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security. If the security is not listed on a national securities exchange or a national securities association, then *opening price* shall mean the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, on the primary market for the security.

(2) *Regular trading session* of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(3) *Regulatory halt* means a delay, halt, or suspension in the trading of a security, that is instituted by the national securities exchange or national securities association that lists the security, as a result of:

(i) A determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue; or

(ii) The operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

(b) *Final settlement prices for security futures products.*

(1) The final settlement price of a cash-settled security futures product must fairly reflect the opening price of the underlying security or securities.

(2) Notwithstanding paragraph (b)(1) of this section, if an opening price for one or more securities underlying a security futures product is not readily available, the final settlement price of the security futures product shall fairly reflect:

(i) The price of the underlying security or securities during the most recent regular trading session for such security or securities; or

(ii) The next available opening price of the underlying security or securities.

(3) Notwithstanding paragraph (b)(1) or (b)(2) of this section, if a clearing agency registered under Section 17A of the Act (15 U.S.C. 78q–1), or exempt from registration pursuant to Section 17A(b)(7) of the Act (15 U.S.C. 78q–1(b)(7)), to which the final settlement price of a security futures product is or would be reported determines, pursuant to its rules, that such final settlement price is not consistent with the protection of investors and the public interest, taking into account such factors as fairness to buyers and sellers of the affected security futures product, the maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice, the clearing agency shall have the authority to determine, under its rules, a final settlement price for such security futures product.

(c) *Regulatory trading halts.* The rules of a national securities exchange or national securities association registered pursuant to Section 15A(a) of the Act (15 U.S.C. 78o–3(a)) that lists or trades one or more security futures products must include the following provisions:

(1) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security; and

(2) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index.

(d) The Commission may exempt from the requirements of this section, either unconditionally or on specified terms and conditions, any national securities exchange or national securities association, if the Commission determines that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors. An exemption granted pursuant to this paragraph shall not operate as an exemption from any Commodity Futures Trading Commission rules. Any exemption that may be required from such rules must be obtained separately from the Commodity Futures Trading Commission.

By the Securities and Exchange Commission.

Dated: May 17, 2002.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the preamble will not appear in the Code of Federal Regulations.

Appendix A

Relevant Provisions of the Agreement Among

American Stock Exchange LLC, Boston Stock Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Incorporated, Cincinnati Stock Exchange, Incorporated, International Securities Exchange LLC, National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Exchange, Inc., Philadelphia Stock Exchange, Inc. (collectively, "ISG/SROs") as of [the date of Release].

* * * * *

Section 1. Intermarket Surveillance Group ("ISG")

(a)(i) The Intermarket Surveillance Group ("ISG") shall have as its purposes: (a) the coordination and development of programs and procedures designed to assist in identifying possible fraudulent and manipulative acts and practices across markets, particularly, between markets which trade the same or related securities and between markets which trade equity securities and options on an index in which such securities are included, (b) the routine exchange of Market Surveillance Reports, as that term is defined in Section 2(e), among ISG/SROs which is appropriate to the performance of adequate market surveillance, and (c) the exchange of information, upon request, among ISG/SROs which is appropriate to the requesting ISG/SRO in the discharge of its regulatory responsibilities under the Act to enforce compliance by its members and persons associated with its members with its rules. Each of the nine ISG/SROs will appoint form time to time one of its executive officers responsible for market surveillance to serve as its Principal Representative on the ISG. Each Principal Representative at any time appointed by an ISG/SRO shall serve as a member of ISG until such appointing ISG/SRO shall appoint a successor, such successor appointment to be evidenced by a written notice delivered by the appointing ISG/SRO to each of the other ISG/SROs.

(a)(ii) An "ISG affiliate" is a contract market or foreign self-regulatory organization which shall have such privileges and obligations as are set forth herein. A contract market or foreign self-regulatory organization shall become an ISG Affiliate if: (a) it is so approved by the unanimous vote of all ISG/SROs in attendance at a meeting of the ISG, and (b) the principal executive officer of the contract market or foreign self-regulatory organization so approved agrees in writing in a form approved by the ISG/SROs that the organization accepts the privileges and obligations of an ISG Affiliate. (Such a writing is hereinafter referred to as an "Affiliate Agreement.")

An ISG Affiliate shall appoint an Affiliate Representative to the ISG who shall be one of the executive officers of the ISG Affiliate responsible for market surveillance. The Affiliate Representative shall select one member form the ISG Affiliate staff to serve as an alternate for, and under the direction of, the Affiliate Representative. The alternate shall be generally familiar with market surveillance techniques and procedures.

* * * * *

Section 2. Sharing of Information and Confidentiality

(a) Attached hereto as Exhibit A is an executed copy of the Agreement between SIAC ("Information Processor") and the ISG Participants, including the Letter Agreement amending the Agreement (the "Service Agreement"), providing for the development and operation of a Central Collection and Reporting System. As provided in the Service Agreement, each of the ISG/SROs will routinely receive Market Surveillance Reports relating to securities (as that term is defined in Section 3(a)(10) of the Act):

(i) Which are traded on such receiving ISG/SRO, and

(ii) That are derived from (e.g., options) or underlie (e.g., stocks) securities which are traded on such receiving ISG/SRO.

(b) From time to time, an ISG/SRO ("requesting SRO") may ask another ISG/SRO ("requested SRO") to provide it with information or documents: (i) relating to a security traded through the facilities of either ISG/SRO or (ii) relating to a member or a former member of either ISG/SRO (including, but not limited to information or documents concerning the identity, trading activity and positions of the requested ISG/SRO's members, former members or customers of the requested ISG/SRO's members or former members) for the purpose of enforcing compliance with the provisions of the Act, or for other regulatory purposes. Upon receipt of such a request, the requested ISG/SRO shall obtain such information from its own records or from its members and former members, and shall provide any information or documents so gathered to the requesting ISG/SRO. In addition, an ISG/SRO may ask another ISG/SRO to provide it with information or documents relating to an investigation or a disciplinary action by the requested ISG/SRO against any of its members, member organizations or persons associated with its members or member organizations. Upon receipt of such a request, the requested ISG/SRO shall obtain such information or documents concerning disciplinary actions from its own records and shall provide such information or documents to the requesting ISG/SRO.

(c) From time to time, an ISG/SRO may ask an ISG Affiliate to provide it with information or documents: (1) Relating to a security, an option on a security, a currency option, a futures contract, an option on a futures contract or any other derivative or underlying instrument traded through the facilities of the ISG Affiliate, or (2) relating to a member of an ISG/SRO or the ISG Affiliate (including, but not limited to, information or documents concerning the identity, trading activity and positions of the ISG Affiliate's members or customers of the ISG Affiliate's members). An ISG Affiliate shall agree in an Affiliate Agreement that, upon receipt of such a request, it shall use its best efforts in accordance with its rules to obtain such information from its own records or from its members, and, to the extent not inconsistent with its rules or with applicable law, provide any information or documents so gathered to the requesting ISG/SRO. In addition, an ISG/SRO may ask an ISG Affiliate to provide it with information or documents relating to the disposition of a disciplinary action taken by the ISG Affiliate against any of its members, member organizations or persons associated with its members or member organizations. An ISG Affiliate shall agree in an Affiliate Agreement that, upon receipt of such a request, it shall obtain such information or documents concerning disciplinary actions from its own records and, to the extend not inconsistent with its rules or with applicable law, provide such information or documents to the requesting ISG/SRO.

(d) From time to time, an ISG Affiliate may ask an ISG/SRO to provide it with information or documents: (1) Relating to a security, an option on a security, a currency option or any other derivative or underlying instrument traded through the facilities of the ISG/SRO, or (2) relating to a member of an ISG Affiliate or the ISG/SRO (including, but not limited to, information or documents concerning the identity, trading activity and positions of the ISG/SRO's members or customers of the ISG/SRO's members). Upon receipt of such a request, the ISG/SRO shall use its best efforts in accordance with its rules to obtain such information from its own records or from its members, and, to the extent not inconsistent with its rules or with applicable law, provide any information or documents so gathered to the requesting ISG Affiliate. In addition, an ISG Affiliate may ask ISG/SRO to provide it with information or documents relating to the disposition of a disciplinary action taken by the ISG/SRO against any of its members, member organizations or persons associated with its members or member organizations. Upon receipt of such a request, the ISG/SRO shall obtain such information or documents concerning disciplinary actions from its own records and, to the extent not inconsistent with its rules or with applicable law, provide such information or documents to the requesting ISG Affiliate.

(e) Market Surveillance Reports as used in this Agreement shall include:

(i) with respect to securities subject to last sale reporting pursuant to CTA, CQ, OPRA or NASDAQ Plans: quotations, last sale, clearing and other trading information available pursuant to, or collected under, such Plans; and post trade information generated pursuant to the ITS Plan.

(ii) reports routinely collected by an ISG/SRO relating to program trading, i.e., the purchase or sale of stocks that are part of a coordinated trading strategy, or relating to trades by its members and member organizations which are not reported to the Consolidated Tape.

(iii) reports relating to positions or exercises of securities.

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[FR Doc. 02–12979 Filed 5–23–02; 8:45 am]

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Federal Register

Friday,
May 24, 2002

Part V

Environmental Protection Agency

40 CFR Part 80

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7215–3]

RIN 2060–AJ76

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's rule exempts motorcycles with emission control devices that could be affected by the use of leaded gasoline from having to be equipped with gasoline tank filler inlet restrictors. As before, motorcycles and other motor vehicles without such emission control devices are not required to be equipped with gasoline tank filler inlet restrictors.

The Clean Air Act and corresponding EPA regulations prohibit gasoline containing lead or lead additives (leaded gasoline) as a motor vehicle fuel after December 31, 1995. As a deterrent to misfueling prior to that date, the EPA regulations required filler inlet restrictors on motor vehicles equipped with an emission control device that could be affected by the use of leaded gasoline, such as a catalytic converter. EPA retained that provision after 1995 because the filler inlet restrictor, besides being a deterrent to misfueling, has also been incorporated into the design of some vapor recovery gasoline nozzle spouts. Gasoline tank filler inlet restrictors do not work well with most motorcycle fuel tanks, especially the saddle type of tank, because of their shallow depth. A gasoline tank filler inlet restrictor may cause gasoline spitback or spillage when a motorcycle is refueled, which increases evaporative emissions. Today there is relatively little risk of misfueling a motorcycle. Also, it is unlikely that a gasoline tank filler inlet restrictor on a motorcycle helps to control gasoline vapors when the motorcycle is refueled.

DATES: This action will be effective June 24, 2002.

ADDRESSES: *Comments:* All comments and materials relevant to today's action have been placed in public docket A–2001–17 at the following address: U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500, 401 M Street, SW., Washington, DC 20460 (on the ground floor in Waterside Mall) from 8:00 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 260–7548 and by facsimile at (202) 260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: Richard Babst at (202) 564–9473, facsimile: (202) 565–2085, e-mail address: *babst.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this rule are manufacturers of motorcycles. Regulated categories include:

Category	Examples of regulated entities
Industry	Manufacturers of motorcycles

To determine whether you are affected by this rule, you should carefully examine the requirements in § 80.24(b) of title 40 of the Code of Federal Regulations ("CFR"). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. History of Fuel Tank Filler Restrictor

Prior to 1996, 40 CFR 80.24(b) contained size specifications for the gasoline tank filler inlet of motor vehicles equipped with an emission control device that would be significantly impaired by the use of leaded gasoline. The purpose of the tank filler inlet restriction was to allow the insertion of an unleaded gasoline pump nozzle, but not a leaded gasoline pump nozzle. Specifically, § 80.24(b) required that a manufacturer of motor vehicles "equipped with an emission control device which the Administrator has determined will be significantly impaired by the use of leaded gasoline" shall "[m]anufacture such vehicle with each gasoline tank filler inlet having a restriction which prevents the insertion of a nozzle with a spout as described in § 80.22(f)(1) and allows the insertion of a nozzle with a spout as described in § 80.22(f)(2)." Section 80.22(f)(1) specified that "[e]ach pump from which leaded gasoline is introduced into motor vehicles shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 0.930 inch (2.363 centimeters)." Section 80.22(f)(2) specified that "[e]ach pump from which unleaded gasoline is introduced into motor vehicles shall be equipped with a nozzle spout which meets the following specifications: (i) The outside diameter of the terminal end shall not be greater than 0.840 inch (2.134 centimeters); (ii) * * *"

Section 80.24(b) contained additional specifications to prevent misfueling of motor vehicles with leaded gasoline. Section 80.24(b)(1) required that the filler inlet restrictor "pool" gasoline at the restrictor's opening, if fueling is attempted when the spout of a pump nozzle is not inserted into the restrictor opening. Historically, this had been accomplished by a spring-loaded door on the inside of the restrictor opening, which would be pushed open by inserting the spout of an unleaded gasoline nozzle. Since leaded gasoline nozzle spouts were larger than the inlet restrictor opening, they did not fit into the restrictor opening or push open the spring loaded door. Fueling with leaded gasoline would require the nozzle spout to be positioned in front of the restrictor opening and spring-loaded door. If fueling were attempted in this manner, the gasoline would pool at the restrictor opening and cause the nozzle's automatic shut-off device to activate. The related § 80.24(b)(2) exempted motorcycle manufacturers from meeting the "pooling" requirements of § 80.24(b)(1).

Section 211(n) of the Clean Air Act, 42 U.S.C. 7545(n), prohibits the introduction of gasoline containing lead or lead additives into commerce for use as a motor vehicle fuel after December 31, 1995. For consistency with this Clean Air Act prohibition, we published in the **Federal Register** on February 2, 1996 a direct final rule and associated notice of proposed rulemaking revising our regulations (61 FR 3832 and 61 FR 3894, respectively). The direct final rule became effective on March 4, 1996 except for language associated with § 80.24(b). We withdrew language for that paragraph from the direct final rule on March 4, 1996 (61 FR 8221) due to adverse comment, and subsequently published revised language in the **Federal Register** on June 6, 1996 (61 FR 28763).

In the February 2, 1996 direct final rule and associated notice of proposed rulemaking, we removed various portions of § 80.24, including the introductory text, and modified § 80.24(b) to make the size requirements of the tank filler inlet applicable to all new motor vehicles, and not just to those equipped with an emission control device that would be significantly impaired by the use of leaded gasoline. We reasoned that retaining the requirement for the tank filler inlet restrictor would conform with the statutory ban prohibiting the use of gasoline containing lead or lead additives as a motor vehicle fuel. The restrictor requirements for motor vehicles would match the nozzle size requirement for dispensing unleaded gasoline, which we had retained in § 80.22(f)(2). Further, General Motors and several gasoline pump nozzle manufacturers had requested that the specification for the tank filler inlet size be retained so that automobile equipment would continue to be compatible with Stage II vapor recovery pump nozzles. We simplified the applicability language of § 80.24(b) to refer to all motor vehicles, instead of motor vehicles equipped with an emission control device that would be significantly impaired by the use of leaded gasoline, because we thought that all motor vehicles were manufactured with tank filler inlet restrictors at that time. We did not intend to broaden the applicability of § 80.24(b).

In the February 2, 1996 direct final rule and associated notice of proposed rulemaking, we also removed §§ 80.24(b)(1) and 80.24(b)(2). We believed misfueling would be unlikely, making the § 80.24(b)(1) "pooling" safeguard against misfueling unnecessary. Once we removed § 80.24(b)(1), it was appropriate for us to remove § 80.24(b)(2) as well, since § 80.24(b)(2) exempted motorcycle manufacturers from the requirements of 80.24(b)(1).

We received an adverse comment from Harley Davidson, Inc. (Harley) on the revised language of 40 CFR 80.24(b) in the February 2, 1996 direct final rule and proposed rule.[1] In its comment, Harley stated that motorcycles generally do not use emission control devices that would be significantly impaired by the use of leaded gasoline (e.g., catalytic converters) and are therefore not manufactured with tank filler inlet restrictors matching the requirements of the existing § 80.24(b). The February 2, 1996 direct final rule and associated notice of proposed rulemaking would have required these motorcycles to meet the fuel inlet size requirements of 40 CFR 80.24(b), thereby causing additional economic burden and manufacturing complexity for Harley. We did not intend or foresee that we would be expanding the applicability of § 80.24(b) by the revised applicability language. Because of this adverse comment, we withdrew paragraph 40 CFR 80.24(b) from the direct final rule, and published it in the June 6, 1996 final rule with its previous applicability.

On October 31, 2001, we published a Direct Final Rule (66 FR 54955) and concurrent Notice of Proposed Rule (66 FR 54965) to 40 CFR 80.24(b) to exempt motorcycles equipped with an emission control device that will be affected by the use of leaded gasoline, such as a catalytic converter, from having to be equipped with a fuel tank inlet restrictor. We received an adverse comment, and on December 27, 2001 withdrew the Direct Final Rule (66 FR 66867) in order to address the comment in today's action based on the concurrent Notice of Proposed Rule. The December 27, 2001 withdrawal of the direct final rule was inadvertently published in the Proposed Rule section of the **Federal Register**. The Office of the Federal Register is publishing elsewhere in this issue of the **Federal Register** a correction reclassifying the withdrawal as a Rule.

[1] This comment can be found in docket no. A–95–13 for the February 2, 1996 direct final rule and proposed rule, and for the June 6, 1996 final rule.

II. Why Are We Exempting Motorcycles?

There are few, if any, offsetting environmental benefits to support the continued use of gasoline tank filler inlet restrictors in motorcycles equipped with emission control devices that would be significantly impaired by the use of leaded gasoline. Today there is relatively little risk of misfueling a motorcycle. Gasoline tank filler inlet restrictors were originally required to prevent motor vehicles with an emission control device, such as a catalytic converter, from using leaded gasoline. Leaded gasoline can damage catalytic converters and certain other emission control devices. Significantly, leaded gasoline has now been banned from use in all motor vehicles for over six years and is generally no longer available for sale at gasoline filling stations. Also, it is unlikely that a gasoline tank filler inlet restrictor on a motorcycle helps to control gasoline vapors when the motorcycle is refueled. Although a vapor recovery gasoline nozzle, in conjunction with the gasoline tank filler inlet restrictor, helps to control gasoline vapors and emissions when used to refuel most motor vehicles, they are relatively ineffective when used to refuel motorcycles.

During refueling of a car or truck, the fuel nozzle spout is inserted into the fill tube and through the filler neck restrictor plate. The fuel nozzle automatically stops the flow of gasoline when it senses a sufficiently high level of gasoline vapors below the restrictor plate, which indicates the fuel tank is full. We understand that, beginning with the introduction of Stage I vapor recovery fueling systems in the early 1990s and continuing with current Stage II vapor recovery systems, the fuel tank inlet restrictor of a car or truck has been used as a guide, a seat and a pressure contact point for some vapor recovery gasoline nozzle spouts.

For some vapor recovery fueling systems, the restrictor plate lines up the nozzle and helps concentrate the fugitive emissions for collection. Without the restrictor plate, more fugitive emissions would be released. The "balance" type of vapor recovery system uses a boot to seal around the outside of the tank filler inlet tube. While this system does not require the restrictor plate to help capture fugitive emissions, it requires the restrictor plate to push against in order to activate an interlock. An "emission" or "efficiency" control vapor recovery device does not need the restrictor plate to control fugitive emissions. This device consists of a cup, which has an outside diameter the same as the inside diameter of the fill hole, that is clipped to the spout. A similar type of vapor recovery system, the Marconi system, does not need the restrictor plate or the plastic cup.[2]

Most on-board vapor recovery systems, which are required for light-duty vehicles and light-duty trucks but not for motorcycles, are also designed around the restrictor plate. A seal is needed between the pump nozzle and the tank filler inlet tube to prevent fugitive emissions from escaping. This seal is normally located below the restrictor plate, and uses the restrictor plate to line-up the nozzle with the seal. Fugitive emissions below the seal are then diverted to a canister in the vehicle.[3]

We understand that gasoline tank filler inlet restrictors do not work well with most motorcycle fuel tanks, especially the saddle type of tank, because of their shallow depth. The use of gasoline tank inlet restrictors in motorcycles may in fact contribute to unnecessary releases of gasoline vapors and emissions. Unlike a car or truck, motorcycles are typically fueled while the operator observes the tank fuel level, similar to filling a small gasoline container typically used to refuel lawnmowers and other small gasoline powered equipment. However, the restrictor plate obstructs the view of the fuel level, and could contribute to inadvertent fuel overfill and spillage. If fueling with the "balance" type of vapor recovery nozzle, motorcycle operators generally pull back and hold the rubber boot to activate the interlock and allow

[2] Conversation with Catlow on April 3, 2001.

[3] IBID.

for better visibility, but that defeats the vapor recovery system.[4] Further, the filler inlet restrictor may cause the nozzle spout to be inserted deeper into the motorcycle tank than otherwise would be necessary, potentially causing increased splash back from the shallow tank. Besides causing excess gasoline vapors and spitback through the restrictor plate openings, this splashback could cause the pump nozzle to prematurely stop the flow of gasoline. The operator may have to reactivate the pump nozzle, possible several times, before the tank is full.

These problems were not much of an issue in the 1995 and earlier time frame, because only relatively few motorcycles were equipped with catalytic converters, and thus, only relatively few required tank inlet restrictors. However, a significant number of 2001 model year motorcycles have been equipped with catalytic converters.

III. Response to Comment

An adverse comment was submitted jointly from representatives of the multifamily rental industry: National Apartment Association, National Leased Housing Association, and National Multi Housing Council (herein referred to collectively as "NAA"). NAA expressed concern about environmental exposure to lead caused by potential increased usage of leaded gasoline, and raised four issues, which we will address separately.

Issue 1: NAA objects to EPA's proposed decision that would have the practical effect of making it easier for motorcycles to use leaded fuel, increase their usage of leaded gasoline and consequently increase lead emissions into the environment.

Fuel inlet restrictors together with pooling specifications were required to prevent damage to emission control devices, such as catalytic converters, installed on many motor vehicles to reduce smog. Today's action does not allow a motorcycle to use leaded gasoline, nor does it make it more likely that a motorcycle will misfuel with leaded gasoline. The fact that there is no suggestion or evidence that the large number of motorcycles in the U.S. not equipped with a fuel inlet restrictor are being misfueled supports this conclusion.

Fuel inlet restrictors have never prevented the use of leaded gasoline in motorcycles. Fuel inlet restrictors with size and "pooling" specifications were required from the mid-1970s until 1996 for motor vehicles with emission control devices, such a catalytic converters, that could be damaged by the use of leaded gasoline. At that time, both leaded and unleaded gasoline were generally available at gasoline filling stations.[5] The size and "pooling" specifications were intended to prevent the fueling of those vehicles with leaded gasoline. Significantly, motorcycles have always been exempt from the "pooling" specification.

The size specification prevented leaded gasoline nozzles, which had a larger diameter than unleaded gasoline nozzles, from being inserted into the fuel inlet restrictor opening. The "pooling" specification was typically met by a spring loaded door covering the fuel inlet opening, which could be pushed open with an unleaded gasoline nozzle for normal fueling. But, if fueling were attempted with a leaded gasoline nozzle, the spring loaded door would remain closed and gasoline would pool in the filler tube above the restrictor. The pooled gasoline would activate the gas pump's automatic cut-off device or overflow onto the vehicle and ground. Not only were motorcycles exempt from the "pooling" specification, but also very few motorcycles were required to be equipped with the filler neck restrictor because most did not have catalytic converters.

The specifications of the fuel inlet restrictor were changed in 1996 because leaded gasoline was no longer permitted as a fuel for any motor vehicle and we no longer considered fueling with leaded gasoline to be a significant possibility.[6] We retained the specification for the "shell" of the restrictor so that vapor recovery refueling nozzles and fuel inlets on the motor vehicles would remain compatible. However, we eliminated the critical "pooling" specification. A filler inlet restrictor meeting today's specification allows fueling with large diameter gasoline nozzles, such as the former leaded gasoline nozzles, although it would be a minor inconvenience. Refueling is possible by holding the nozzle over the restrictor opening and letting the gasoline pour through the opening. This process might take somewhat longer because the fueling rate may need to be slowed to prevent splashing of the fuel off of the restrictor surface. Since motorcycles were already exempt from the "pooling" specification prior to 1996, the 1996 regulatory change had no practical effect on motorcycles.

Even if a motorcycle owner wanted to use leaded fuel, it is relatively hard to find today. It is no longer generally available at retail gasoline stations because the use of leaded fuel is banned in motor vehicles. We estimate that only 0.3 percent of the gasoline used in the United States today is leaded gasoline.[7] It is used primarily in some aircraft engines and some race cars.[8] Although non-highway engines can use leaded gasoline, most do not. The non-highway engines that can use both leaded or unleaded gasoline use only unleaded gasoline, and the other non-highway engines that were designed to use leaded gasoline (other than certain racing or aircraft engines), such as some old farm equipment, currently use unleaded gasoline mixed with a commercially available lead substitute additive.[9]

[4] Also, for those motorcycles where the filler cap is attached to the gas tank by a hinge, the rubber boot of a "balance" type of vapor recovery nozzle would not seat correctly anyway, and the insertion pressure required to compress the boot may damage the gas cap, hinge, and tank finish.

[5] While both leaded and unleaded gasoline were available at gasoline filling stations since the mid-1970s, the availability of leaded gasoline gradually diminished and became small by the early 1990s. This was likely due to the increasing dominance of highway vehicles requiring unleaded gasoline, the increasing cost of producing and distributing the smaller volume of leaded gasoline, and our lead phase-down program of the 1980s.

[6] 61 FR 3832, February 2, 1996 (Direct Final Rule); 61 FR 389461, February 2, 1996 (Notice of Proposed Rule); 61 FR 8221, March 4, 1996 (partial withdrawal of the Direct Final Rule of February 2, 1996); 61 FR 28763, June 6, 1996 (Final Rule to complete February 2, 1996 rulemaking).

[7] Based on the National Transportation Statistics 2000, Table 4–7, BTS01–01, Bureau of Transportation Statistics, for 1998, the aviation component of non-highway gasoline was 351 million gallons, which is 10.7 percent of the total 3,284 million gallons non-highway gasoline. The racing component is considered negligible according to a conversation with the American Petroleum Institute, and a racing component was not broken out into a separate category in the BTS table. The BTS table also does not break marine engines into a separate category. Our contacts in the fuel industry doubt that leaded gasoline is used by marine engines, and we have no evidence of such use. If we assume 351 million gallons is the aviation and racing component combined (the racing component being negligible), and that aviation and racing are the only applications using leaded gasoline, than leaded gasoline represents only 0.3 percent of the total 128 billion gallons of highway and non-highway gasoline combined.

[8] According to the Department of Energy, jet fuel, which is a kerosene derivative of petroleum, comprises 98.8 percent of aviation energy (BTU) demand in the United States. Aviation gasoline, which is consumed by aircraft equipped with reciprocating engines and which may contain lead, comprises the remaining 1.2 percent of aviation energy demand. (see Internet at http://www.eia.doe.gov/oiaf/aeo/supplement/sup_tran.pdf, Table 54) Also, not all race cars use gasoline—some use nitromethane or methanol.

[9] Some non-highway applications need to use leaded gasoline or its equivalent. Non-highway engines built prior to the mid-1970s were designed to run on leaded gasoline. The use of unleaded gasoline in many of those old engines could cause valve seat recession. However, the equivalent of leaded gasoline can be obtained from unleaded gasoline by mixing it with a commercially available lead substitute additive, such as Millers VSP, Red Line Lead Substitute, Superblend 12/Zero Lead 2000, and Valvemaster.

[10] From conversation with aviation firm at Frederick Airport in Frederick Maryland on January 7, 2002.

[11] From conversation with racing firm in Gaithersburg, Maryland on January 7, 2002.

One reason why the non-highway market (other than certain aviation and racing engines) has switched to unleaded gasoline and, thereby, made leaded gas harder to find is the cost of maintaining separate fuel distribution systems for highway and non-highway applications. Maintaining an additional tank and fuel pump for a small volume of leaded gasoline at a retail gasoline station is generally not cost effective. This is particularly true if the local non-highway consumer market can use unleaded highway gasoline instead. Also leaded gasoline must be segregated in dedicated storage and shipping tanks and must use dedicated transfer lines to prevent lead contamination of the unleaded highway gasoline supply.

Another reason why the non-highway market (other than certain aviation and racing engines) has switched to unleaded gasoline is that leaded gasoline causes corrosive lead compound deposits in the engines and lubricating oil. Consequently, using leaded gasoline requires more frequent oil changes and reduces engine and exhaust system life. Even those engines designed to run on leaded gasoline can use unleaded highway gasoline and reap the benefits of unleaded gasoline if it is mixed with a commercially available lead substitute additive. Thus all non-road engines (except for certain racing and aircraft engines) can use unleaded highway gasoline, although some may need to also use a lead substitute additive.

A motorcycle owner, therefore, that wanted to use leaded gasoline would either have to go to an airport, a race track or a racing supply center. Even if such an owner obtained leaded gasoline at one of these locations, the fuel would be specially formulated as aviation gasoline or racing gasoline that may not be suitable for use in a highway motorcycle.

Finally, even if a motorcycle owner could find a leaded gasoline, it is unlikely that he or she would want to pay more for leaded gasoline than for cheaper unleaded gasoline that is conveniently available at retail gasoline stations. In January 2002, for example, the price of aviation fuel at an airport in the Washington D.C. area was $2.65 per gallon.[10] By comparison, the price of unleaded gasoline at retail gasoline stations in the same community during that same time period was less than $1.10. Racing gasolines are even more expensive than aviation fuels. In January 2002, racing gasolines in the Washington D.C. area cost an average of about $3 to $5 per gallon depending on the blend (especially depending on the desired octane), and could be as high as $7 per gallon.[11]

Issue 2: NAA claims that EPA's proposal is inconsistent with findings of the President's Task Force on Environmental Health Risks and Safety to Children, report titled "Eliminating Childhood Lead Poisoning: a Federal Strategy Targeting Lead Paint hazards. NAA also claims the proposal is inconsistent with EPA's regulatory mandate under other statutes to limit exposure to lead. Although leaded gasoline has been prohibited for use in motor vehicles since 1995, NAA indicates that leaded gasoline remains available for military, construction and agricultural use.

Eliminating the fuel inlet requirement for motorcycles equipped with catalytic converters is not inconsistent with longstanding efforts to reduce lead in the environment. As discussed above, fuel inlet restrictors together with pooling specifications were required to prevent damage to emission control devices, such as catalytic converters, installed on many motor vehicles to reduce smog. Today's action does not allow a motorcycle to use leaded gasoline, nor does it make it more likely that a motorcycle will misfuel with leaded gasoline.

Issue 3: NAA asked for copies of the risk assessments and the cost benefit analysis conducted by EPA in support of the proposed rule.

EPA does not believe that today's action will result in an increased risk of greater lead emissions into the environment. EPA, therefore, did not conduct a risk assessment or a cost benefit-analysis for today's rule. Based on the facts discussed above and in the direct final rule, EPA has concluded that fuel inlet restrictors are not needed in motorcycles with emission control devices and that the absence of a fuel inlet restrictor does not make it more likely that a motorcycle will be misfueled with leaded gasoline. The fact that there is no suggestion or evidence that the large number of motorcycles in the U.S. not equipped with a fuel inlet restrictor are being misfueled supports this conclusion.

Issue 4: NAA suggested that the proposed rule go through a formal rulemaking process in order to allow for public notice and comment period.

Today's action is an "informal" or notice-and-comment rulemaking. We published a notice of proposed rulemaking on October 31, 2001 soliciting public comment on the proposed rule. We also published a companion direct final rule which would have gone into effect on December 31, 2001 had we not received any adverse comment on the proposed rule. Upon receiving adverse comment to the proposed rule we withdrew the direct final rule. Today's action responds the adverse comment and promulgates the Agency's final rule.

Formal rulemaking under sections 556 and 557 of the Administrative Procedure Act is a trial-type procedure before an agency that is used very infrequently. The Clean Air Act does not require formal or "on-the-record" rulemaking for today's action.

IV. Final EPA Action

Today's final rule revises 40 CFR 80.24(b) to exempt motorcycles equipped with an emission control device that will be affected by the use of leaded gasoline, such as a catalytic converter, from having to be equipped with a fuel tank inlet restrictor.

V. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and therefore is not subject to these requirements.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule exempts motorcycles from a current provision that requires them, under certain circumstances, to be equipped with fuel inlet restrictors, and thus avoids the costs imposed by the existing Federal regulations. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed above, the rule is a deregulatory action and affects only motorcycle manufacturers.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. EPA reduced the content of lead in leaded gasoline, because EPA found that lead particle emissions from motor vehicles presented a significant risk of harm to the health of urban populations, especially children (38 FR 33734, Dec. 6, 1973). Congress ultimately banned the use of leaded gasoline in motor vehicles after 1995. 42 U.S.C. 7545(n). Gasoline tank filler inlet restrictors were related to the phase-out of leaded gasoline to prevent a motor vehicle with an emission control device, such as a catalytic converter, from using leaded gasoline. Leaded gasoline can damage such emission control devices. Today there is relatively little risk of misfueling a motorcycle with an emission control device that could be damaged by the use of leaded gasoline, because leaded gasoline has now been banned from use in all motor vehicles for over five years and is generally no longer available for sale at gasoline filling stations.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, Aug. 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Today's rule eliminates the existing requirement that manufacturers of motorcycles must equip certain motorcycles with fuel tank filler inlet restrictors. Thus, Executive Order 13132 does not apply to this rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U. S. Senate, the U. S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(a).

H. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities affected by this rule.

Today's rule is a deregulatory action and affects all motorcycle manufacturers. It eliminates the existing requirement that manufacturers of motorcycles must equip certain motorcycles with fuel tank filler inlet restrictors. We have therefore concluded that today's rule will relieve regulatory burden for any small entity.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The rule affects the applicability of the fuel tank filler inlet restrictor to motorcycles. It therefore affects only manufacturers of motorcycles Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

K. Electronic Copies of Rulemaking

A copy of this action is available on the Internet at *http://www.epa.gov/otaq* under the title: "Final Rule—Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption For Motorcycles."

L. Statutory Authority

Authority for this action is in sections 211, and 301(a) of the Clean Air Act, 42 U.S.C. 7545, 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a).

2. Section 80.24 is amended by adding paragraph (c) to read as follows:

§ 80.24 Controls applicable to motor vehicle manufacturers.

* * * * *

(c) A motorcycle, as defined at 40 CFR 86.402 for the applicable model year, is exempt from the requirements of paragraph (b) of this section.

[FR Doc. 02–12846 Filed 5–23–02; 8:45 am]

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Federal Register

Friday,
May 24, 2002

Part VI

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children with Disabilities; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.328M]

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children with Disabilities

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for FY 2002 competitions under one program authorized by the Individuals with Disabilities Education Act (IDEA), as amended: Special Education—Training and Information for Parents of Children with Disabilities (one priority).

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the rulemaking procedures in the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priority in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) Part III of each application submitted under this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed in the table at the end of this notice, using the following standards:

- A "page" is 8.5" × 11" (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Instructions for Transmittal of Applications

Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Special Education—Training and Information for Parents of Children with Disabilities program—CFDA 84.328M is one of the programs included in the pilot project. If you are an applicant under the Special Education—Training and Information for Parents of Children with Disabilities program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Special Education—Training and Information for Parents of Children with Disabilities program at: *http://e-grants.ed.gov*. We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

Special Education—Training and Information for Parents of Children with Disabilities (CFDA No. 84.328M)

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Under section 682(e) of IDEA, the Assistant Secretary is required to: (a) Make at least one award to a parent organization in each State, unless the Assistant Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval; and (b) select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; and (b) The selection criteria for this priority drawn from the EDGAR general selection criteria menu (34 CFR 75.210). The specific selection criteria for this priority are included in the funding application packet for this competition.

Eligible Applicants: Parent organizations, as defined in section 682(g) of IDEA. A parent organization is a private nonprofit organization (other than an institution of higher education) that:

(a) Has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities and individuals working in the fields of special education, related services, and early intervention; or

(b) Has a membership that represents the interests of individuals with disabilities and has established a special governing board meeting the requirements for a board of directors in paragraph (a) under *Eligible Applicants* and has a memorandum of understanding between this special governing board and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

In addition, to demonstrate eligibility to receive a grant, an applicant must describe how its board or special governing committee meets the criteria for a parent organization in section 682(g) of IDEA. Any parent organization that establishes a special governing committee under section 682(g)(2) of IDEA must demonstrate that the bylaws of its organization allow the governing committee to be responsible for operating the project (consistent with existing fiscal policies of its organization).

Priority

Under sections 661(e) and 682 of IDEA and 34 CFR 75.105(c)(3), we give an absolute preference to applications that meet the following priority. We will fund under this competition only those applications that meet this priority:

Absolute Priority—Parent Training and Information Centers (84.328M)

Background

The IDEA Amendments of 1997 strengthen the role of parents and increase their involvement in decisions about their children's education. In order to allocate resources more equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Assistant Secretary is making awards in five-year cycles for each State. In FY 2002, applications for 5-year awards will be accepted for Arkansas, California, Connecticut, Georgia, Illinois, Kansas, Michigan, Montana, New Jersey, New Mexico, Ohio, Oregon, South Carolina, Texas, and Utah. Exceptions to the 5-year awards will be in the States of Nebraska and New York where applications will be accepted for 4-year awards. Awards may also be made to authorized entities in Guam, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

Priority

A Parent Training and Information Center must—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities in the area served by the Center, particularly underserved parents and parents of children who may be inappropriately identified, including those who are not identified at all;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities;

(d) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decisionmaking processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of IDEA for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(e) Contract with the State educational agency, if the State elects to contract with the Parent Training and Information Center, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use, and explain the benefits, of mediation consistent with section 615(e)(2)(B) and (D) of IDEA;

(f) Establish cooperative relations with the Community Parent Resource Center or Centers in their State in accordance with section 683(b)(3) of IDEA;

(g) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of IDEA, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities;

(h) Annually report to the Assistant Secretary on—

(1) The number of parents to whom the Parent Training and Information Center provided information and training in the most recently concluded fiscal year, and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(i) If there is more than one parent center in a particular State, coordinate its activities with the other center or centers to ensure the most effective assistance to parents in that State.

An applicant must identify the strategies it will undertake—

(a) To ensure that the needs for training and information for underserved parents of children with disabilities in the areas to be served are effectively met, particularly in underserved areas of the State; and

(b) To work with the community-based organizations, particularly in the underserved areas of the State.

A Parent Training and Information Center that receives assistance under this absolute priority may also conduct the following activities—

(a) Provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(b) Assist students with disabilities to understand their rights and responsibilities on reaching the age of majority, as stated in section 615(m) of IDEA; and

(c) Assist parents of children with disabilities to be informed participants

in the development and implementation of the State improvement plan under IDEA.

In addition to the annual Project Directors' meeting included in the "General Requirements" section of this notice, a project's budget must include funds to attend a regional Project Directors' meeting to be held each year of the project.

Current funding levels and population of school age children were factors in determining the funding levels for these grants. Regions were identified in California, Illinois, Michigan, Ohio, and Texas by using the educational services breakdowns operational within each State.

Project Period: With the exception of projects in the States of Nebraska and New York, projects will be funded for a period up to 60 months. Projects in the States of Nebraska and New York will be funded for a period up to 48 months.

Estimated Project Awards: Project award amounts are for a single budget period of 12 months. To ensure maximum coverage for this competition, the Assistant Secretary has adopted regional designations established by California, Illinois, Michigan, Ohio, and Texas and has identified corresponding maximum award amounts. Any applicant that applies for grants for more than one region must complete a separate application for each region.

In the following States, one award may be made in the following amounts to a qualified applicant for a parent center to serve the *entire* State:

—Arkansas $265,225
—Connecticut $283,050
—Georgia $481,750
—Kansas $299,475
—Montana $233,775
—New Jersey $465,750
—New Mexico $285,125
—Oregon $290,775
—South Carolina $295,560
—Utah $253,170
—Nebraska $230,625
—New York $234,075

(These figures represent the maximum amounts the Assistant Secretary will award. In addition, the Assistant Secretary has not specified maximum amounts for Guam, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States).

In the following States with the exception of Illinois, one award will be made in the following amounts to a qualified applicant for a parent center to serve each identified Region. In Illinois Region 1, the Assistant Secretary will make up to two awards. The total of these two awards will not exceed the maximum amount listed in the chart below. A list of the counties that are included in each Region also follows.

California

—Region 1 $649,300
—Region 2 $532,300
—Region 3 $181,235
—Region 4 $473,785
—Region 5 $181,235

Illinois

—Region 1 $562,690
—Region 2 $289,570

Michigan

—Region 1 $249,265
—Region 2 $414,265

Ohio

—Region 1 $226,190
—Region 2 $438,115

Texas

—Region 1 $432,085
—Region 2 $432,085
—Region 3 $244,085

Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Listing of States/Regions/Counties

California Regions

Region 1 includes the following counties: Los Angeles, Ventura, Santa Barbara, San Luis Obispo.

Region 2 includes the following counties: Mono, Inyo, San Bernadino, Orange, Riverside, San Diego, Imperial.

Region 3 includes the following counties: Madera, Stanislaus, Mercer, Mariposa, San Benito, Monterey, Fresno, Kings, Tulare, Kern.

Region 4 includes the following counties: Sonoma, Napa, Yolo, Solano, Marin, Contra Costa, San Joaquin, Alameda, San Mateo, Santa Clara, Santa Cruz, San Francisco.

Region 5 includes the following counties: Del Norte, Humboldt, Mendocino, Sisklyou, Trinity, Shasta, Modoc, Lassen, Tehama, Lake, Glenn, Colusa, Butte, Sutter, Yuba, Sacramento, Nevada, Plumas, Sierra, Placer, El Dorado, Amador, Calavaras, Alpine, Tuolumne.

Illinois Regions

Region 1 includes the following counties: Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Will.

Region 2 includes the remainder of the State

Ohio Regions

Region 1 includes the following counties: Darke, Preble, Butler, Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Jackson, Pike, Ross, Fayette, Greene, Clark, Champaign, Logan, Shelby, Miami, Montgomery, Warren, Clinton, Highland.

Region 2 includes the remainder of the State.

Michigan Regions

Region 1 includes the following counties: Oakland, Macomb, Wayne.

Region 2 includes the remainder of the State.

Texas Regions:

Region 1 includes the following counties: Hardeman, Foard, Knox, Wilbarger, Baylor, Throckmorton, Wichita, Archer, Young, Clay, Jack, Montague, Cooke, Wise, Palo Pinto, Eralh, Parker, Hood, Somerveil, Denton, Tarrant, Johnson, Grayson, Collin, Dallas, Ellis, Fannin, Hunt, Rockwall, Kaufman, Lamar, Delta, Hopkins, Red River, Franklin, Titus, Camp, Morris, Bowie, Casa, Cass, Marion, Bosque, Hamilton, Mills, Lampaas, Coryell, Hill, McLennan, Bell, Navarro, Freestone, Limestone, Falls, Burnet, Llano, Gillespie, Kendall, Comal, Blanco, Williamson, Travis, Hays, Lee, Bastrop, Caldwell, Guadalupa, Fayette, Gonzales, Leon, Robertson, Millam, Burleston, Washington, Austin, Brazoa, Madison, Grimes, Houston, Trinity, Walker, Montgomery, Polk, San Jacinto, Tyler, Hardin, Jefferson, Orange, Jasper, Newton, Raine, Van Zandt, Henderson, Anderson, Wood, Smith, Cherokee, Upshur, Gregg, Rusk, Nacogdoches, Angelina, Harrison, Panola, Shelby, San Augustine, Sabine.

Region 2 includes the following counties: Kerr, Real, Kinney, Maverik, Uvalde, Zavala, Dimmit, Bandera, Medina, Frio, La Salle, Boxer, Atascosa, Wilson, Webb, Zapata, Jim Hogg, Staarr, Hidalgo, Willsoy, Cameron, McMullen, Duval, Live Oak, Jim Wells, Brooke, Nueces, Kisberg, Kenedy, San Patricio, Aransas, Bee, Karnes, Gollad, Dewitt, Lavaca, Colorado, Wharton, Malagorda, Jackson, Victoria, Refugio, Calhoun, Waller, Fort Bond, Brezoria, Harris, Galveston, Liberty, Chambers.

Region 3 includes the following counties: El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Reeves, Brewster, Pecos, Terrell, Dallam, Hartley, Oldham, Deaf Smith, Parmer, Bailey, Cochran, Yoakum, Gaines, Andrews, Loving, Winkler, Ward, Sharman, Moore, Potter, Randall, Castro, Swisher, Lamb, Hockley, Terry, Ector, Crane, Upton, Reagan, Midland, Glasscook, Dawson, Martin, Borden, Howard, Hansford, Hutchinson, Carson, Armstrong, Briscoe, Ochiltree, Roberts, Gray, Donley, Hall, Lipscomb, Hemphill, Wheeler, Collingsworth, Childress, Hale, Lubbock, Lynn, Floyd, Crosby, Garza, Motley, Dickens, Kent, Cottle, King, Scurry, Mitchell, Stonewall, Fisher, Nolan, Haskall, Jones, Taylor, Shackelford, Callahan, Stephens, Eastland, Sterling, Irion, Crockett, Val Verde, Coke, Tom Green, Schlelcher, Sutton, Edwards, Runnels, Concho, Menard, Kimble, Coleman, McCulloch, Mason, Brown, San Sabe.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the "General Requirements" section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), PO Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED-Pubs (1–877–433–7827). FAX: 301–470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html*

Or you may contact Ed Pubs at its e-mail address: *edpubs@inet.ed.gov*

If you request an application from Ed Pubs, be sure to identify this competition as follows: CFDA No. 84.328M.

FOR FURTHER INFORMATION CONTACT: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8207.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the Grants and Contracts Services Team under **FOR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may also obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team under **FOR FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the internet at the following site: *www.ed.gov/legislation/FedRegister*

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo/nara/index.html*

Program Authority: 20 U.S.C. 1482.

Dated: May 20, 2002.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 2002

CFDA number and name: 84.328M—special education—training and information for parents of children with disabilities	Applications available	Application deadline date	Deadline for Intergovernmental review	Maximum award (per year)*	Estimated range of awards	Estimated average size of awards	Estimated number of awards	Project period	Page limit**
Parent Training and Information Centers.	05/24/02	07/08/02	09/06/02		$100,000	$273,355	27	Up to 60 mos.	50
Arkansas				$265,225	$585,000				
Connecticut				$283,050					
Georgia				$481,750					
Kansas				$299,475					
Montana				$233,775					
New Jersey				$465,750					
New Mexico				$285,125					
Oregon				$290,775					
South Carolina				$295,560					
Utah					$253,170				
Nebraska				$230,625				Up to 48 mos.	
New York				$234,075				Up to 48 mos.	
California:								Up to 60 mos.	
Region 1				$649,300					
Region 2				$532,300					
Region 3				$181,235					
Region 4				$473,785					
Region 5				$181,235					
Illinois:								Up to 60 mos.	
Region 1				$562,690					
Region 2				$289,570					
Michigan:								Up to 60 mos.	
Region 1				$249,265					
Region 2				$414,265					

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 2002—Continued

CFDA number and name: 84.328M—special education—training and information for parents of children with disabilities	Applications available	Application deadline date	Deadline for Intergovernmental review	Maximum award (per year)*	Estimated range of awards	Estimated average size of awards	Estimated number of awards	Project period	Page limit**
Ohio:				.....				Up to 60 mos.	
Region 1				$226,190					
Region 2				$438,115				Up to 60 mos.	
Texas:				.....					
Region 1				$432,085					
Region 2				$432,085					
Region 3				$244,085					

*Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. Awards may also be made to authorized entities in Guam, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States. However, the Assistant Secretary has not specified maximum funding levels for these entities. ** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted in the table in this notice. Please refer to the "Page Limit" requirements included in the priority description and the page limit standards described in the "General Requirements" section. We will reject and will not consider an application that does not adhere to this requirement.

NOTE: The Department of Education is not bound by any estimates in this notice.

[FR Doc. 02–13159 Filed 5–23–02; 8:45 am]

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Last List May 22, 2002

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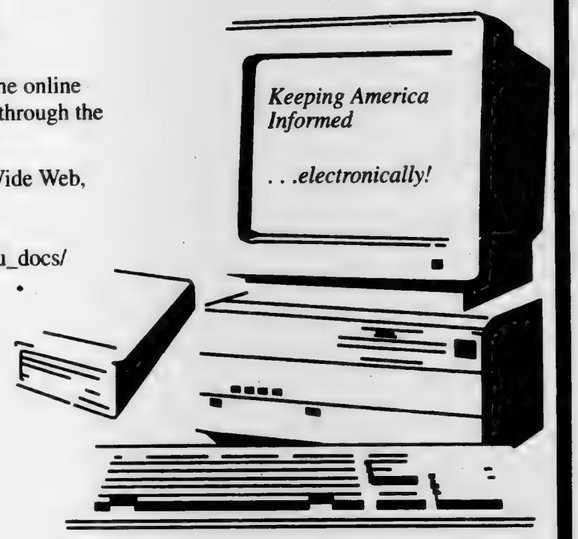

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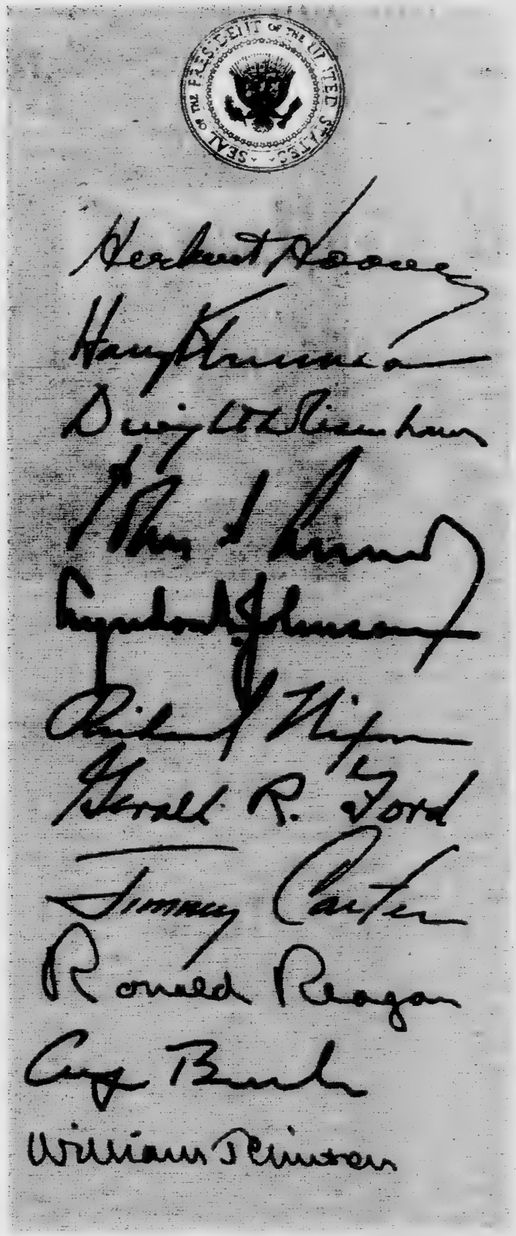

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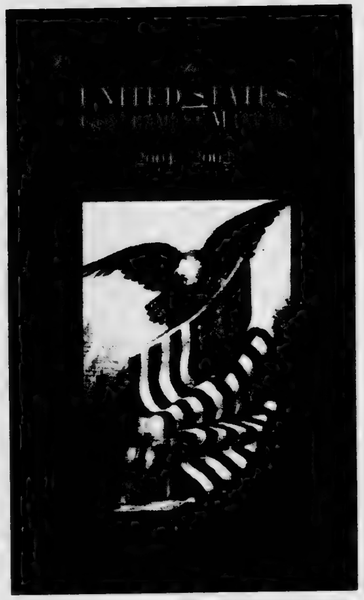

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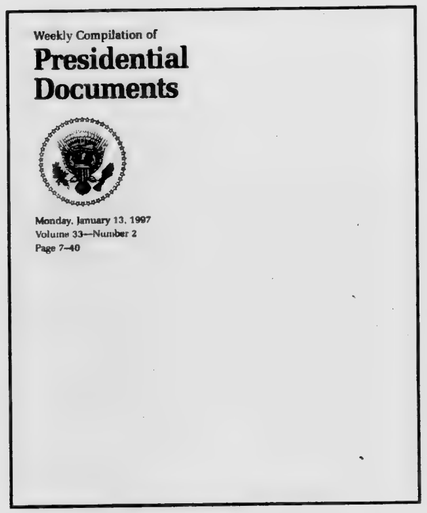

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Tuesday, May 28, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220, and 226

RIN 0584–AD26

Amendments to the Child Nutrition Infant Meal Pattern

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Food and Nutrition Service is issuing final regulations amending the meal pattern for infants less than 12 months of age in the National School Lunch Program, the School Breakfast Program, and the Child and Adult Care Food Program. These regulations finalize provisions of an interim rule, published on November 15, 1999, which eliminated the option of serving whole cow's milk to infants less than one year of age, allowed reimbursement for meals containing only breastmilk, and amended the Child and Adult Care Food Program's definition of infant formula.

This final rule also incorporates revisions to reflect the comments we received to the interim rule, clarifies when an optional food component is required under the infant meal pattern, and clarifies information in the meal pattern tables that have appeared in two previous rulemakings. We have made these changes to ensure that the infant meal pattern used in the Child Nutrition Programs conforms to current scientific evidence about infant feeding practices, and to ensure that all of the information about meal requirements is correct.

EFFECTIVE DATE: June 27, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rothstein, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302; or (703) 305–2590; or *CNDINTERNET@fns.usda.gov*. A regulatory impact analysis was completed for this rule. Single copies may be requested from Ms. Rothstein.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1999, the Food and Nutrition Service (FNS) published an interim rule for comment (64 FR 61770), to update the meal requirements for infants less than 12 months of age in the National School Lunch Program, the School Breakfast Program, and the Child and Adult Care Food Program. The rule recognized well-established scientific evidence demonstrating that breastmilk is the optimal source of nutrition for infants during the entire first year of life, and that the only appropriate alternative to breastmilk is iron-fortified infant formula.

The interim rule eliminated the option of serving whole cow's milk to infants less than 12 months of age, so that reimbursable infant meals must include either breastmilk or iron-fortified infant formula. It allowed reimbursement for meals containing only breastmilk, and addressed those situations when some breastfed infants may consume less than the minimum serving of breastmilk for their age group. The rule also amended the Child and Adult Care Food Program's definition of "infant formula" so that it would conform to the definition used in the school meal programs' regulations. These amendments became effective on December 15, 1999.

Technical corrections to the infant meal pattern were published in a final rule on December 27, 1999 (64 FR 72257). FNS is now issuing a final regulation, based on the evidence described in the interim rule, a review of written comments submitted by the public in response to that rule, and our operational experience in implementing these changes. This final rule discusses the comments we received, and codifies the small number of revisions and corrections into 7 CFR 210.10 of the National School Lunch Program regulations, 7 CFR 220.8 of the School Breakfast Program regulations, and 7 CFR 226.20 of the regulations for the Child and Adult Care Food Program.

The infant meal pattern is used in schools, residential child care institutions, child care centers, family day care homes, and homeless shelters participating in the Child Nutrition Programs. Throughout this preamble, the term "caregiver" refers to the different types of facilities that provide meal services to infants through these programs. The term "Child Nutrition Programs" refers collectively to the National School Lunch Program, the School Breakfast Program, and the Child and Adult Care Food Program (CACFP).

This rule does not directly change the regulations for the Summer Food Service Program at 7 CFR part 225. However, § (section) 225.16(f)(2) of the regulations requires sponsors, approved by their State agencies to serve summer meals to infants, to follow the infant meal pattern requirements in CACFP regulations.

What Did Commenters Have To Say About the Interim Rule?

We received a total of 16 written comments, during the 180-day comment period which ended on May 15, 2000. The commenters included three registered dieticians, two CACFP State directors, two sponsoring organization representatives, one independent child care center director, and one day care home provider. The majority of them wrote that they agreed with the amendments and with the scientific evidence described in the interim rule about currently accepted infant feeding practices. Some of them raised questions related to eliminating whole cow's milk from the infant meal pattern, while others were concerned about the decisions we made on allowing reimbursement for breastmilk-only meals.

What Did Commenters Say About Eliminating Whole Cow's Milk From the Infant Meal Pattern?

The interim rule amended the regulations to eliminate the option of serving whole cow's milk to infants less than 12 months of age, so that all reimbursable infant meals must include either breastmilk or iron-fortified infant formula. Five commenters agreed that the rule was an appropriate response to studies demonstrating that consumption of cow's milk during the first year of life prevents optimal nutrient intake and could adversely affect an infant's health.

One commenter questioned how we could mandate breastmilk or infant formula for the entire first year of life, stating that eliminating cow's milk as an option interferes with the choices parents make about feeding their own infants. Again, the decision to require

breastmilk or formula is based on scientific evidence that shows that whole cow's milk does not provide the appropriate level of nutrients needed by very young children. The rule eliminated whole cow's milk from the infant meal pattern because it can be detrimental to an infant's health and development.

Do We Allow Exceptions for Infants Who Are No Longer Receiving Breastmilk or Infant Formula?

Two commenters wanted us to acknowledge the exceptions that exist when doctors recommend whole cow's milk for some infants. We recognize that infants have unique dietary needs, and that decisions concerning diet, during this first year of life, are for the infant's health care provider and parents or guardians to make together.

For those reasons, program regulations have traditionally allowed substitutions to accommodate disabilities and other special dietary needs. Thus, a meal containing whole fluid cow's milk and served to an infant less than 12 months of age is eligible for reimbursement if the substitution is authorized, in writing, by a recognized medical authority (physician, physician assistant, nurse practitioner, or other professionals specified by the State agency).

Similarly, if a doctor or other recognized medical authority prescribes a formula, such as low-iron formula, which is not currently listed as an acceptable formula for the Child Nutrition Programs, the meal is eligible for reimbursement. In all cases, a medical statement, which explains what substitution of foods is needed, must be completed and given to the caregiver to keep on file.

We also recognize the special circumstances that exist when a one year old child is weaning from breastmilk or from infant formula to whole cow's milk. When a child is weaned to cow's milk, it is a common practice to provide the infant with both foods at the same meal service, to gradually ease the infant to accept some of the new food.

Unlike breastmilk, infant formula is not an alternative type of milk which can be substituted to meet the fluid milk requirement for the meal pattern or the food-based menu planning alternative for children over the age of one year (source: FNS Instruction 783–7, Revision 1, "Milk Requirement-Child Nutrition Programs"). However, for a reasonable period of transition—of up to one month—meals that contain infant formula may be reimbursable. Thus, for a child older than 13 months, a statement from a recognized medical authority is needed for a meal containing infant formula to be eligible for reimbursement.

The regulations at §§ 210.10(g)(1), 220.8(d)(1), and 226.20(h) specify requirements regarding individual substitutions and exceptions for medical or special dietary needs. Because an infant's dietary needs are more individualized than those of older children, we have added a sentence to the regulations to remind caregivers of the requirements when there are exceptions to the meal pattern. Accordingly, this final rule amends §§ 210.10(n)(3), 210.10(o)(2), 220.8(j)(1), and 226.20(b)(1) to refer caregivers to the procedures that must be followed whenever meal pattern exceptions or substitutions are needed.

What Did Commenters Say About Allowing Reimbursement for Meals Containing Only Breastmilk?

The interim rule amended the infant meal pattern to allow reimbursement for meals served to infants that contain breastmilk, even when breastmilk is the only required food component. Eight commenters praised FNS for making breastmilk an integral part of the infant meal pattern.

Because breastmilk is easier for infants to digest and is processed faster than infant formula, one commenter requested that the number of reimbursable meals served to breastfed infants be increased. Although we recognize that the number of feedings to expect for an exclusively breastfed infant may be more than for a formula-fed infant, we do not have statutory authority to change the maximum number of meals reimbursed in any of the Child Nutrition Programs.

Two commenters objected to reimbursing a caregiver for meals containing only breastmilk when the facility does not incur any food costs. While supporting our efforts to promote breastfeeding, and recognizing how breastfeeding improves the nutritional health of infants, they argued that a meal should not be reimbursable unless the caregiver also offers the infant an additional meal component.

We disagree. Although there may not be a food cost, a caregiver incurs allowable costs related to preparing each bottle of breastmilk for feeding, serving it to the infant, and cleaning up after the feeding. As long as the caregiver promotes the infant's consumption of breastmilk and provides a direct service to the infant during the meal service, the regulations allow reimbursement for meals containing only breastmilk.

Why Don't We Offer Reimbursement for All Breastmilk Meals, Not Only Those Fed From a Bottle?

The interim rule authorized reimbursement for meals containing breastmilk that is bottle-fed by the caregiver. Six of the commenters stated that the interim rule created a disincentive for caregivers to support mother-child breastfeeding, because it does not allow reimbursement for meals fed directly to an infant by the infant's nursing mother, unless the nursing mother is the caregiver.

Again, it is important to remember that the Child Nutrition Programs reimburse caregivers for the costs of serving nutritious meals—including the costs of preparation and clean up—to infants and children enrolled in the food service. We recognize that caregivers provide services when they accommodate mothers who come to their facilities to nurse their infants. However, we believe that the caregiver must not only promote the consumption of breastmilk by the infant, but also provide some type of service directly to the infant, in order to be reimbursed for the infant's meal.

When a mother comes to a facility to nurse her breastfed infant, the service is performed by the infant's mother. The meal is not eligible for reimbursement, because the infant has not received a meal component or any direct service from the caregiver. For this reason, reimbursable meals that include breastmilk fed directly to an infant by the infant's nursing mother must also include at least one component supplied by the caregiver. The caregiver must provide all of the food components in the meal pattern that are not provided by the parent, to receive reimbursement.

In CACFP, meals are also reimbursable when a family day care home provider, who is eligible to claim reimbursement for her own children's meals, nurses her own infant. In this example, the provider physically serves the meal to a child who receives care in her day care home.

Accordingly, this final rule amends §§ 210.10(n)(3), 210.10(o)(2), 220.8(j)(1), and 226.20(b)(1) regarding the reimbursement of meals containing breastmilk or iron-fortified infant formula. It clarifies that breastmilk fed directly by the infant's mother, during a visit to the facility, contributes to a reimbursable meal only when the caregiver supplies at least one component of the infant's meal. It also indicates conditions that affect whether or not a meal containing infant formula would qualify for reimbursement.

Is the Meal Reimbursable When an Infant Receives Both Breastmilk and Formula at the Same Meal Service?

Two commenters were concerned about reimbursement of meals that include both breastmilk and infant formula. One of the commenters recommended that if the parent or guardian supplies less than the minimum amount of breastmilk needed for one feeding, all of the breastmilk should be offered at the first meal service, and subsequent meals during the day would contain only infant formula. This final rule permits reimbursement for meals which contain a portion of breastmilk and a complementary feeding of formula, as long as the total number of ounces offered to the infant meets, or exceeds, the minimum amount for the milk component specified in the infant meal pattern.

Under the infant meal pattern, breastmilk and iron-fortified infant formula are interchangeable. We will continue to emphasize the desirability of feeding breastmilk in place of infant formula for the entire first year of life, in the regulations. However, we have amended the infant meal patterns to show that a meal containing both breastmilk and infant formula to fulfill the milk component requirement may qualify for reimbursement. Accordingly, the meal patterns in §§ 210.10(n), 210.10(o), 220.8(j), and 226.20(b) are amended in this final rule to clarify that a serving of the milk component may contain breastmilk or iron-fortified infant formula, or portions of both.

Do We Need To Update the CACFP Definition of "Milk?"

The definition of "milk" in § 226.2 of the CACFP regulations contains a list of acceptable types of fluid milk that may be served to children or adults who receive meals through the Child Nutrition Programs. One commenter believed that some varieties, such as flavored milk, skim milk, and buttermilk, would not be acceptable under the WIC program (Special Supplemental Nutrition Program for Women, Infants and Children) and should not be included.

Some of the varieties of fluid milk may be more appropriate for certain age groups, and less appropriate for others. However, our definition is consistent with the types of fluid milk currently approved as supplemental foods for WIC participants in 7 CFR 246.10, the Food and Drug Administration's standard of identity for milk in 21 CFR part 131, and food labeling guidelines in 21 CFR part 101, Subpart A. Therefore, we do not believe any change in the list of fluid milk varieties, or in the terms used to describe them, is necessary.

Do We Need To Make Changes in the Definition of "Infant Cereal?"

In §§ 210.10(o)(1)(i), 220.2(k), and 226.2, we define "infant cereal" as an iron-fortified dry cereal that is "'routinely mixed with breastmilk or iron-fortified infant formula prior to consumption." One commenter felt that caregivers may interpret this definition to mean that infant cereal is only reimbursable if it is mixed with breastmilk or iron-fortified infant formula.

The definition that appears in the regulations was not intended to limit caregivers to adding only breastmilk or infant formula to infant cereal. Fruit juice or water can also be added to give infant cereal an appropriate consistency. We are not making any changes in the definition of "infant cereal," because we believe it is flexible enough to accommodate those variations. However, infant cereal mixed with fruit juice should not be served to infants until after the infant has tried the juice and has not had any reactions to it. Caregivers should be aware that the American Academy of Pediatrics recommends waiting until infants are 6 months of age before introducing fruit juice into their diet (source: Pediatrics, Vol. 107, No. 5, pp. 1210–1213).

When Is an Optional Food Component Under the Infant Meal Pattern Required as Part of a Reimbursable Meal?

An issue that generated questions from program participants concerned optional components in the infant meal pattern, and how we ensure that infants always receive reimbursable meals that are appropriate for their stage of development. The introductory text found in §§ 210.10(o)(2), 220.8(j), and 226.20(b) of the regulations advises that, "* * * For infants 4 through 7 months of age, solid foods are optional and should be introduced only if the infant is developmentally ready * * *."

An infant's development does not always match the infant's chronological age. By offering a range of portion sizes and optional foods, the infant meal pattern acknowledges that infants grow at different rates, and that some infants will be developmentally ready for solid foods earlier, or later, than others. Some food items, such as fruits, vegetables, and cereal, are listed as options in the infant meal pattern to take into account an infant's readiness to accept these foods. Optional components are included in the breakfast and lunch/supper meal patterns for infants 4 through 7 months of age, and for the supplement (snack) meal pattern for infants 8 through 11 months of age.

If an infant is developmentally ready for solid foods, and the parent or guardian requests that they be served, the solid food components must be served to provide the infant with a reimbursable meal. Because solid foods serve an important purpose in an infant's daily diet, they are required as part of a reimbursable meal for infants who are developmentally ready for them. The decision to feed specific foods should always be made in consultation with an infant's parent or guardian.

Accordingly, this final rule amends §§ 210.10(n), 210.10(o), 220.8(j), and 226.20(b), to clarify that a serving of a component is required when the infant is developmentally ready. References to "whenever possible" are removed from the text to emphasize the importance of consulting with the infant's parent or guardian on decisions to feed specific foods.

What Else Did Commenters Have To Say?

One commenter asked about the types of approved infant formulas which can be served without medical statements in the Child Nutrition Programs. FNS periodically updates a list of acceptable iron-fortified infant formulas. Caregivers can request copies of the list from their State administering agencies.

Although a medical statement is not required for iron-fortified infant formulas, caregivers should only provide an infant with the formula recommended to the infant's parent or guardian by the infant's health care provider. If the formula offered by the caregiver is not the same as the formula recommended by an infant's health care provider, the infant's parent or guardian may choose to decline that one and supply another formula.

Readers are reminded that a meal containing only infant formula supplied by a parent or a guardian, and no other component, is not reimbursable. We recognize that, as with breastmilk-only meals, the formula feeding is fed from a bottle and requires a direct service by the caregiver. However, breastmilk-only meals are eligible for reimbursement because the meal promotes the infant's consumption of breastmilk.

One commenter also wanted to know what we recommend regarding the use of powdered versus ready to feed formula, or of bottled versus tap water, or of table versus commercial baby foods, in the Child Nutrition Programs. In the near future, FNS intends to publish a new edition of Feeding

Infants' A Guide for Use in the Child Nutrition Programs. This handbook will provide guidance to caregivers, with recommendations about good infant feeding practices.

What Technical Changes Does This Rule Make?

The proposed rule entitled, "Reimbursement for Snacks in Afterschool Programs," published in the **Federal Register** on October 11, 2000 (65 FR 60502), proposed replacing the terms "supplement," "meal supplement," and "supplemental food" with more commonly used terms. An earlier rulemaking, the final rule entitled, "Additional Menu Planning Approaches," published on May 9, 2000 (65 FR 26904), had already incorporated the term "afterschool snack" into § 210.10(o).

A separate rulemaking will finalize provisions addressing afterschool snacks. However, as we revised §§ 210.10(n)(3) and 226.20(b), we adopted the new terminology to simplify and add clarity to the infant meal pattern. Accordingly, this final rule incorporates the term "afterschool snack" into § 210.10(n)(3), and incorporates the term "snack" into § 226.20(b).

We have also clarified information in the infant and child care meal patterns. In §§ 210.10(o)(2)(iii)(B) and 226.20(b)(3)(ii) the meal pattern for infants age 8 through 11 months includes 1 to 4 ounces of cottage cheese, cheese food, and cheese spread. This rule specifies that cottage cheese is measured by volume, and that cheese food and cheese spread are measured by weight. The rule also adds a footnote to the supplement meal pattern in § 226.20(c)(4) to make it clearer that one-half egg meets the required minimum amount of meat alternate, even when the minimum amount is less than one ounce.

Finally, we redesignated and reworded the paragraphs in §§ 210.10(n), 210.10(o), 220.8(j), and 226.20(b). The reader should keep in mind that we rewrote those paragraphs to conform our regulations to the plain language guidelines and the formatting requirements of the Office of the Federal Register. With the exception of the amendments described in this preamble, we did not intentionally revise the content of the interim rule or of existing regulations.

Executive Order 12866

This final rule was determined to be significant under Executive Order 12866 and was reviewed by the Office of Management and Budget.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally prepares a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have "federalism implications," agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in the three categories under section (6)(a)(B) of Executive Order 13132.

Prior Consultation With State Officials

Prior to drafting this final rule, we received input from State and local agencies at various times. Since the Child Nutrition Programs are State administered, federally funded programs, our regional offices have informal and formal discussions with State and local officials on an ongoing basis regarding program implementation and performance. This arrangement allows State and local agencies to provide feedback that forms the basis for any discretionary decisions in this and other program rules. Additionally, the Food and Nutrition Service (FNS) published an interim rule on this rulemaking on November 15, 1999 (64 FR 61770) which solicited additional public comment.

Nature of Concerns and the Need To Issue This Rule

State and local agencies are generally supportive of the provisions in the interim rule. The majority of them agreed with the amendments and with the scientific evidence described in the interim rule about currently accepted infant feeding practices. Some of them raised questions related to eliminating whole cow's milk from the infant meal pattern, while others were concerned about the decisions we made on allowing reimbursement for breastmilk-only meals.

FNS is now issuing a final regulation, based on the evidence described in the interim rule, a review of written comments submitted by the public in response to that rule, and our operational experience in implementing these changes. This final rule discusses the comments we received, and codifies the small number of revisions and corrections into 7 CFR 210.10 of the National School Lunch Program regulations, 7 CFR 220.8 of the School Breakfast Program regulations, and 7 CFR 226.20 of the regulations for the Child and Adult Care Food Program.

Extent To Which We Meet These Concerns

We have considered all of the comments we received on the interim rule. Since commenters addressed numerous operational issues, we made every effort to address their concerns, within the constraints of statutory authority and concerns for program integrity.

Regulatory Flexibility Act

This final rule was reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Under Secretary for Food, Nutrition and Consumer Services, Eric M. Bost, has certified that this rule will not have a significant economic impact on a substantial number of small entities because the number of infants who would be affected constitutes a tiny portion of the total participation in these programs. The principal effect of this rule will be to enhance the nutritional benefit of meals served to infants under these programs.

Overall Regulatory Impact

This rule will improve nutrition for some older infants who formerly were served whole cow's milk. The rule also removes a previous disincentive to serving breastmilk and reduces the waste of breastmilk. The rule may also encourage exclusive breastfeeding and increased duration of breastfeeding, consistent with recommended nutritional practice. Finally, this rule will help ensure that infants who are developmentally ready for solid foods will receive them at an appropriate age. Because this regulation largely reflects current policy from interim final rules published in November and December of 1999, it is not a major rule (economic impact of $100 million or more in any one year.)

Executive Order 12372

The National School Lunch Program, the School Breakfast Program, and the Child and Adult Care Food Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.553 and 10.558, respectively. Each is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR 3015, subpart V and final rule related notice at 48 FR 29112, June 24, 1983).

Executive Order 12988

This final rule was reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the Effective Date section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of the provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments and, for disputes involving procurements by State agencies and sponsors, any administrative appeal procedures to the extent required by 7 CFR part 3016.

In the National School Lunch Program and the School Breakfast Program, the administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established in § 210.18(q); (2) school food authority appeals of FNS findings as a result of an administrative review must follow FNS hearing procedures as established in § 210.29(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions (§ 235.11(b)) must follow the FNS Administrative Review process as established in § 235.11(f).

In the Child and Adult Care Food Program, the administrative procedures are set forth under the following regulations: (1) Institution appeal procedures are established in § 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by § 226.22 and 7 CFR part 3015.

Paperwork Reduction Act of 1995

The information collection burden for this rule is approved under OMB Numbers 0584–0006, 0584–0012, and 0584–0055. This final rule contains no new paperwork burdens or information collection requirements which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Children, Food assistance programs, Grant programs-social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs-health, Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, the interim rule amending 7 CFR parts 210, 220, and 226 which was published at 64 FR 61770 on November 15, 1999, is adopted as a final rule with the following changes:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.10:

a. Paragraph (n)(3) and the Supplements for Infants chart in paragraph (n)(4) are revised; and

b. Paragraph (o)(2) is revised and paragraphs (o)(3) through (o)(6) are added.

The revisions and additions read as follows:

§ 210.10 What are the nutrition standards and menu planning approaches for lunches and the requirements for afterschool snacks?

* * * * *

(n) * * *

(3) Snacks served to infants ages birth through 11 months must meet the requirements described in paragraph (n)(3)(iv) of this section. Foods included in the snack must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in paragraph (g)(1) of this section.

(i) *Breastmilk and iron-fortified formula.* Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Snacks containing breastmilk and snacks containing iron-fortified infant formula supplied by the school are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, during a visit to the school, contribute to a reimbursable snack only when the school supplies at least one component of the infant's snack.

(ii) *Fruit juice.* Juice should not be offered to infants until they are 6 months of age and ready to drink from a cup. Feeding fruit juice only from a cup will help develop behaviors that may prevent early childhood caries. Fruit juice served as part of the meal pattern for infants 8 through 11 months must be full-strength.

(iii) *Solid foods.* Solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The school should consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid foods should be introduced one at a time, on a gradual basis, with the intent of ensuring the infant's health and nutritional well-being.

(iv) *Infant meal pattern.* Infant snacks must have, at a minimum, breastmilk or iron-fortified infant formula, or portions of both, in the appropriate amount indicated for the infant's age. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered if the infant is still hungry. Some infants may be developmentally ready to accept

an additional food component. Snacks are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) *Birth through 3 months.* 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(B) *4 through 7 months.* 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(C) *8 through 11 months.* 2 to 4 fluid ounces of breastmilk, iron-fortified infant formula, or full strength fruit juice; and 0 to ½ slice of crusty bread (if developmentally ready) or 0 to 2 cracker type products (if developmentally ready), which are made from whole-grain or enriched meal or flour, and suitable as a finger food for an infant.

(4) * * *

SNACK PATTERN FOR INFANTS

Birth through 3 months	4 through through 7 months	8 through 11 months
4–6 fluid ounces of formula[1] or breastmilk[2 3] ..	4–6 fluid ounces of formula[1] or breastmilk[2 3]	2–4 fluid ounces of formula[1], breastmilk[2 3], or fruit juice[4]; and 0–½ slice of bread[5] or 0–2 crackers[5].

[1] Infant formula must be iron-fortified.
[2] Breastmilk or iron-fortified formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] Fruit juice must be full-strength.
[5] A serving of this component must be made from whole-grain or enriched meal or flour. It is required only when the infant is developmentally ready to accept it.

(o) * * *

(2) *Feeding lunches to infants.* Lunches served to infants ages birth through 11 months must meet the requirements described in paragraph (o)(5) of this section. Foods included in the lunch must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in paragraph (g)(1) of this section.

(3) *Breastmilk and iron-fortified formula.* Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Meals containing breastmilk and meals containing iron-fortified infant formula supplied by the school are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, during a visit to the school, contribute to a reimbursable lunch only when the school supplies at least one component of the infant's meal.

(4) *Solid foods.* For infants ages 4 through 7 months, solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The school should consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid foods should be introduced one at a time, on a gradual basis, with the intent of ensuring the infant's health and nutritional well-being.

(5) *Infant meal pattern.* Infant lunches must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered if the infant is still hungry. Lunches may include portions of breastmilk and iron-fortified infant formula as long as the total number of ounces meets, or exceeds, the minimum amount required of this food component. Similarly, to meet the component requirements for vegetables and fruit, portions of both may be served.

(i) *Birth through 3 months.* 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(ii) *4 through 7 months.* Breastmilk or iron-fortified formula is required. Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Lunches are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) 4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 0 to 3 tablespoons of iron-fortified dry infant cereal; and

(C) 0 to 3 tablespoons of fruit or vegetable.

(iii) *8 through 11 months.* Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required.

(A) 6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 2 to 4 tablespoons of iron-fortified dry infant cereal; and/or 1 to 4 tablespoons of meat, fish, poultry, egg yolk, or cooked dry beans or peas; or ½ to 2 ounces (weight) of cheese; or 1 to 4 ounces (volume) of cottage cheese; or 1 to 4 ounces (weight) of cheese food or cheese spread; and

(C) 1 to 4 tablespoons of fruit or vegetable.

(6) *Infant meal pattern table.* The minimum amounts of food components to serve to infants, as described in paragraph (o)(5) of this section, are:

LUNCH PATTERN FOR INFANTS

Birth through 3 months	4 through 7 months	8 through 11 months
4–6 fluid ounces of formula[1] or breastmilk[2 3] ...	4–8 fluid ounces of formula[1] or breastmilk[2 3]; and 0–3 tablespoons of infant cereal[1 4]; and ..... 0–3 tablespoons of fruit or vegetable or both[4]	6–8 fluid ounces of formula[1] or breastmilk[2 3]; and 2–4 tablespoons of infant cereal[1]; and/or 1–4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or ½–2 ounces of cheese; or 1–4 ounces (volume) of cottage cheese; or 1–4 ounces (weight) of cheese food or cheese spread; and 1–4 tablespoons of fruit or vegetable or both.

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] A serving of this component is required only when the infant is developmentally ready to accept it.

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for 7 CFR part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

2. In § 220.8, paragraph (j) is revised to read as follows:

§ 220.8 What are the nutrition standards and menu planning approaches for breakfasts?

* * * * *

(j) *What are the requirements for the infant breakfast pattern?*

(1) *Feeding breakfasts to infants.* Breakfasts served to infants ages birth through 11 months must meet the requirements described in paragraph (j)(4) of this section. Foods included in the breakfast must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in paragraph (d)(1) of this section.

(2) *Breastmilk and iron-fortified formula.* Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Meals containing breastmilk and meals containing iron-fortified infant formula supplied by the school are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, during a visit to the school, contribute to a reimbursable breakfast only when the school supplies at least one component of the infant's meal.

(3) *Solid foods.* For infants ages 4 through 7 months, solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The school should consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid foods should be introduced one at a time, on a gradual basis, with the intent of ensuring the infant's health and nutritional well-being.

(4) *Infant meal pattern.* Infant breakfasts must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered if the infant is still hungry. Breakfasts may include portions of breastmilk and iron-fortified infant formula as long as the total number of ounces meets, or exceeds, the minimum amount required of this food component. Similarly, to meet the component requirement for vegetables and fruit, portions of both may be served.

(i) *Birth through 3 months.* 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(ii) *4 through 7 months.* Breastmilk or iron-fortified formula is required. Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Breakfasts are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) 4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 0 to 3 tablespoons of iron-fortified dry infant cereal.

(iii) *8 through 11 months.* Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required.

(A) 6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 2 to 4 tablespoons of iron-fortified dry infant cereal; and

(C) 1 to 4 tablespoons of fruit or vegetable.

(5) *Infant meal pattern table.* The minimum amounts of food components to serve to infants, as described in paragraph (j)(4) of this section, are:

BREAKFAST PATTERN FOR INFANTS

Birth through 3 months	4 through 7 months	8 through 11 months
4–6 fluid ounces of formula[1] or breastmilk[2 3] ...	4–8 fluid ounces of formula[1] or breastmilk[2 3]; and. 0–3 tablespoons of infant cereal[1 4]	6–8 fluid ounces of formula[1] or breastmilk[2 3]; and 2–4 tablespoons of infant cereal[1]; and 1–4 tablespoons of fruit or vegetable or both.

[1] Infant formula and dry infant cereal must be iron-fortified.

[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] A serving of this component is required only when the infant is developmentally ready to accept it.

* * * * *

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for 7 CFR part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765, and 1766).

2. In § 226.20, paragraphs (b) and (c)(4) are revised to read as follows:

§ 226.20 Requirements for meals.

* * * * *

(b) *What are the requirements for the infant meal pattern?*

(1) *Feeding meals to infants.* Meals served to infants ages birth through 11 months must meet the requirements described in paragraph (b)(6) of this section. Foods included in the infant meal must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in paragraph (h) of this section.

(2) *Breastmilk and iron-fortified formula.* Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Meals containing breastmilk and meals containing iron-fortified infant formula supplied by the facility are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, during a visit to the facility, contribute to a reimbursable meal only when the facility supplies at least one component of the infant's meal.

(3) *Fruit juice.* Juice should not be offered to infants until they are 6 months of age and ready to drink from a cup. Feeding fruit juice only from a cup will help develop behaviors that may prevent early childhood caries. Fruit juice served as part of the meal pattern for infants 8 through 11 months must be full-strength.

(4) *Solid foods.* Solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The facility should consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid foods should be introduced one at a time on a gradual basis with the intent of ensuring the infant's health and nutritional well-being.

(5) *Infant meal pattern.* Infant meals must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered if the infant is still hungry. Meals may include portions of breastmilk and iron-fortified infant formula as long as the total number of ounces meets, or exceeds, the minimum amount required of this food component. Similarly, to meet the component requirements for vegetables and fruit, portions of both may be served.

(i) *Birth through 3 months.* Only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(A) Breakfast—4 to 6 fluid ounces of breastmilk or iron-fortified infant formula.

(B) Lunch or supper—4 to 6 fluid ounces of breastmilk or iron-fortified infant formula.

(C) Snack—4 to 6 fluid ounces of breastmilk or iron-fortified infant formula.

(ii) *4 through 7 months.* Breastmilk or iron-fortified formula is required. Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Meals are reimbursable when facilities provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) Breakfast—4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal.

(B) Lunch or supper—4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal; and 0 to 3 tablespoons of fruit or vegetable.

(C) Snack—4 to 6 fluid ounces of breastmilk or iron-fortified infant formula.

(iii) *8 through 11 months.* Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required. Meals are reimbursable when facilities provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) Breakfast—6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; 2 to 4 tablespoons of iron-fortified dry infant cereal; and 1 to 4 tablespoons of fruit or vegetable.

(B) Lunch or supper—6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; 2 to 4 tablespoons of iron-fortified dry infant cereal; and/or 1 to 4 tablespoons of meat, fish, poultry, egg yolk, or cooked dry beans or peas; or ½ to 2 ounces (weight) of cheese; or 1 to 4 ounces (volume) of cottage cheese; or 1 to 4 ounces (weight) of cheese food or cheese spread; and 1 to 4 tablespoons of fruit or vegetable.

(C) Snack—2 to 4 fluid ounces of breastmilk, iron-fortified infant formula, or full strength fruit juice; and 0 to ½ slice of crusty bread (if developmentally ready) or 0 to 2 cracker type products (if developmentally ready), which are made from whole-grain or enriched meal or flour, and suitable as a finger food for an infant.

(6) *Infant meal pattern table.* The minimum amounts of food components to serve to infants, as described in paragraph (b)(5) of this section, are:

CHILD CARE INFANT MEAL PATTERN

Type of meal service	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4–6 fluid ounces of formula[1] or breastmilk[2 3].	4–8 fluid ounces of formula[1] or breastmilk[2 3]; and. 0–3 tablespoons of infant cereal[1 4]	6–8 fluid ounces of formula[1] or breastmilk[2 3]; and 2–4 tablespoons of infant cereal[1]; and 1–4 tablespoons of fruit or vegetable or both.
Lunch or Supper	4–6 fluid ounces of formula[1] or breastmilk[2 3].	4–8 fluid ounces of formula[1] or breastmilk[2 3]; and. 0–3 tablespoons of infant cereal[1 4]; and. 0–3 tablespoons of fruit or vegetable or both[4].	6–8 fluid ounces of formula[1] or breastmilk[2 3]; and 2–4 tablespoons of infant cereal[1]; and/or 1–4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or ½–2 ounces of cheese; or 1–4 ounces (volume) of cottage cheese; or 1–4 ounces (weight) of cheese food or cheese spread; and 1–4 tablespoons of fruit or vegetable or both.
Snack	4–6 fluid ounces of formula[1] or breastmilk[2 3].	4–6 fluid ounces of formula[1] or breastmilk[2 3].	2–4 fluid ounces of formula[1], breastmilk[2 3], or fruit juice[5]; and 0–½ slice of bread[4 6] or 0–2 crackers[4 6].

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] A serving of this component is required only when the infant is developmentally ready to accept it.
[5] Fruit juice must be full-strength.
[6] A serving of this component must be made from whole-grain or enriched meal or flour.

* * * * *

(c) * * *

(4) *Snack.* The minimum amounts of food components to be served as snack as set forth in paragraph (a)(4) of this section are as follow. Select two of the following four components. (For children, juice may not be served when milk is served as the only other component.)

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12[1]	Adult participants[1]
MILK				
Milk, fluid	½ cup[2]	½ cup	1 cup	1 cup.
VEGETABLES AND FRUIT				
Vegetable(s) and/or fruit(s) or	½ cup	½ cup	¾ cup	½ cup.
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	½ cup	½ cup	¾ cup	½ cup.
BREAD AND BREAD ALTERNATES[3]				
Bread or	½ slice	½ slice	1 slice	1 slice (serving).
Cornbread, biscuits, rolls, muffins, etc.[4] or	½ serving	½ serving	1 serving	1 serving.
Cold dry cereal[5]	¼ cup or	⅓ cup or	¾ cup or	¾ cup or.
	⅓ ounce	½ ounce	1 ounce	1 ounce.
Cooked pasta or noodle products or	¼ cup	¼ cup	½ cup	½ cup.
Cooked cereal or grains or an equivalent quantity of any combination of bread/bread alternates.	¼ cup	¼ cup	½ cup	½ cup.
MEAT AND MEAT ALTERNATES				
Lean meat or poultry or fish[6] or	½ ounce	½ ounce	1 ounce	1 ounce.
Alternate protein products[7] or	½ ounce	½ ounce	1 ounce	1 ounce.
Cheese or	½ ounce	½ ounce	1 ounce	1ounce.
Egg (large)[8] or	½ egg	½ egg	½ egg	½ egg.
Cooked dry beans or peas or	⅛ cup	⅛ cup	¼ cup	¼ cup.
Peanut butter or soynut butter or other nut or seed butters or.	1 tablespoon	1 tablespoon	2 tablespoons	2 tablespoons.

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 [1]	Adult participants [1]
Peanuts or soynuts or tree nuts or seeds [9] or Yogurt, plain or flavored, unsweetened or sweetened, or an equivalent quantity of any combination of meat/meat alternates.	½ ounce 2 ounces or ¼ cup	½ ounce 2 ounces or ¼ cup	1 ounce 4 ounces or ½ cup	1 ounce. 4 ounces or ½ cup.

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains shall be whole-grain or enriched; combread, biscuits, rolls, muffins, etc. shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[4] Serving size and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (ounce), whichever is less.
[6] Edible portion as served.
[7] Must meet the requirements in Appendix A of this part.
[8] One-half egg meets the required minimum amount (one ounce or less) of meat alternate.
[9] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

* * * * *

Dated: May 17, 2002.

Eric M. Bost,

Under Secretary for Food, Nutrition and Consumer Services.

[FR Doc. 02–13145 Filed 5–24–02; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Docket No. FV01–945–610 REVIEW]

Idaho-Eastern Oregon Potato Marketing Order; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This action summarizes the results of an Agricultural Marketing Service (AMS) review of Marketing Order 945, which regulates the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA). Based upon its review, AMS has determined that the marketing order should be continued without change.

DATES: Effective: May 28, 2002.

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Gary Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, Oregon 97204; telephone: (503) 326–2724; Fax: (503) 326–7440; E-mail: *GaryD.Olson@usda.gov;* or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–8938; E-mail: *George.Kelhart@usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Order No. 945, as amended (7 CFR part 945), regulates the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674).

Marketing Order 945, originally established in 1941, authorizes grade, size, quality, pack, and container regulations, as well as inspection. Under section 8e of the Act, the grade, size, quality, and maturity regulations are also applied to imported potatoes. The marketing order establishes the Idaho-Eastern Oregon Potato Committee (Committee), consisting of five producers and three handlers and their respective alternates. Members serve two-year terms and are nominated by the Idaho-Eastern Oregon potato industry, currently consisting of approximately 1,200 producers and 63 handlers.

AMS published in the **Federal Register** (63 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Order No. 945, under criteria contained in section 610 of the Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612). An updated plan was published in the **Federal Register** on January 4, 2002 (67 FR 525). AMS published a notice of review and request for written comments on the Idaho-Eastern Oregon potato marketing order in the May 31, 2001, issue of the **Federal Register** (66 FR 24095). During the comment period, one written comment in support of the marketing order was received. This comment, received from the Committee, supported continuation of the marketing order.

The AMS review was undertaken to determine whether the Idaho-Eastern Oregon potato marketing order should be continued without change, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the marketing order; (2) the nature of complaints or comments received from the public concerning the marketing order; (3) the complexity of the marketing order; (4) the extent to which the marketing order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing order.

In its written comment, the Committee stated that the marketing order has contributed significantly to the name recognition the "Idaho Potato" currently enjoys nationally and internationally. The Committee believes that, since its inception, the marketing order has been a significant factor in the successful marketing of Idaho-Eastern Oregon potatoes and that it remains an important and viable tool for area producers.

Based on its review, AMS has determined that the marketing order should be continued without change. The marketing order was established to help the Idaho-Eastern Oregon potato industry work with AMS to solve marketing problems. The marketing order regulations on grade, size, quality, maturity, pack, container, and inspection requirements continue to be beneficial to producers, handlers, and consumers. Potatoes produced within this region are widely recognized by consumers as having quality characteristics.

Neither AMS nor the Committee have received any complaints regarding Marketing Order 945 or the regulations issued thereunder. The marketing order is not unduly complex. Except for 8e regulations, AMS has not identified any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the Idaho-Eastern Oregon potato marketing order. In its comment, the Committee states that the order is not complex, but adds that it is available to assist both regulated handlers and inspection personnel if there are any questions or problems regarding interpretation of the handling regulations issued under the marketing order.

AMS provides federal oversight of the order and, along with the Committee, monitors marketing operations on a continuing basis. AMS works with the Committee to be responsive to an ever-changing market. Changes in regulations are implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of these evaluations is to assure that the marketing order and the regulations implemented under it fit the needs of the industry and are consistent with the Act. The Committee commented that it meets at least twice annually to discuss the marketing order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to recommend to AMS to reflect current industry practices. As a result, regulatory changes have been made by AMS numerous times over the years to address industry operation changes and to improve program administration.

AMS will continue to work with the Idaho-Eastern Oregon potato industry in maintaining an effective marketing order program.

Dated: May 20, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–13124 Filed 5–24–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–1 IFR]

Raisins Produced From Grapes Grown in California; Addition of a New Varietal Type and Quality Requirements for Other Seedless-Sulfured Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule adds a new varietal type of raisin under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (RAC). The order provides authority for volume and quality regulations that are imposed by varietal type. This action establishes and adds to the regulations a new varietal type (Other Seedless-Sulfured raisins), along with quality requirements for this varietal type. This is a new type of raisin being produced by some industry members.

DATES: Effective May 29, 2002. Comments received by July 29, 2002, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive intent. Under the order provisions now in effect, varietal types and quality requirements may be established for raisins acquired by handlers during the crop year. This rule establishes a new varietal type and quality requirements for Other Seedless-Sulfured raisins. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule adds a new varietal type of raisin under the order. The order

regulates the handling of raisins produced from grapes grown in California and is administered locally by the RAC. The order provides authority for volume and quality regulations that are imposed by varietal type. This action establishes, and adds to the regulations a varietal type (Other Seedless-Sulfured raisins), along with quality requirements, which is a new type of raisin being produced by some industry members. This action was recommended by the RAC at a meeting in August 2001, and discussed further at RAC meetings in September and November 2001. The RAC recommended that this rule apply to such raisins acquired during the 2001-02 crop year and forward. Changes to the import regulation will be made in a separate rule.

Varietal Type for Other Seedless-Sulfured Raisins

The order provides authority for volume and quality regulations that are imposed by varietal type. Section 989.10 of the order defines the term varietal type to mean raisins generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate identification and classification. That section includes a list of eight varietal types, and provides authority for the RAC, with the approval of USDA, to change this list. A description of these varietal types, along with additional varietal types, may be found in § 989.110 of the order's administrative rules and regulations. There are currently nine different varietal types of raisins listed in this section.

Some industry members have found a new market for raisins made by dehydrating sulfured red seedless grapes. These raisins do not fit into any of the current existing varietal types specified in § 989.110. Such raisins are similar to the Other Seedless varietal type, except they have been sulfured. Such raisins are also similar to the Golden Seedless varietal type, but may not meet the color requirements for Golden Seedless raisins. Golden Seedless raisins are made from green seedless grapes and are mostly yellowish green to greenish amber in color when sulfured. Red seedless grapes typically vary in color when sulfured.

Thus, the RAC recommended establishing, and adding to the regulations, a new varietal type—Other Seedless-Sulfured raisins. This will allow the RAC to consider Other Seedless-Sulfured raisins separate from other varietal types for the purpose of volume and quality regulation, thereby recognizing distinct differences in supply and demand conditions, and raisin characteristics. Accordingly, a new paragraph (j) is added to § 989.110 to define Other Seedless-Sulfured as all raisins produced from Ruby Seedless, Kings Ruby Seedless, Flame Seedless and other seedless grapes not included in any of the varietal categories for Seedless raisins which have been artificially dehydrated and sulfured.

Quality Requirements for Other Seedless-Sulfured Raisins

This rule also adds quality requirements for Other Seedless-Sulfured raisins. Specifically, this rule adds: incoming quality requirements (which includes adding these raisins to the order's weight dockage system); a factor for converting between natural condition and processed weight; and outgoing quality requirements for Other Seedless-Sulfured raisins. The details of these changes are discussed below.

Incoming Quality Requirements

Section 989.58(a) of the order provides authority for quality control regulations whereby natural condition raisins that are delivered from producers to handlers must meet certain incoming quality requirements. Section 989.701 of the order's regulations specifies minimum grade and condition standards for natural condition raisins for each varietal type. Paragraph (b) of that section specifies requirements for two varietal types of raisins—Dipped Seedless and Oleate and Related Seedless raisins. The RAC determined that natural condition Other Seedless-Sulfured raisins are similar to these two varietal types and, therefore, it has been determined that they should have the same incoming quality requirements. Accordingly, paragraph (b) of § 989.701 is revised to include Other Seedless-Sulfured raisins.

Weight Dockage System

Section 989.58(a) also contains authority for handlers to acquire natural condition raisins that fall outside the tolerance established for maturity, which includes substandard raisins, under a weight dockage system. Handler acquisitions of raisins and payments to producers are adjusted according to the percentage of substandard raisins in a lot, or the percentage of raisins that fall below certain levels of maturity. Section 989.210(a) of the order's regulations lists the varietal types of raisins that may be acquired pursuant to a weight dockage system. Sections 989.212 and 989.213 contain tables with dockage factors applicable to lots of raisins that fall outside the tolerances for substandard raisins and maturity, respectively, specified in § 989.701.

Because these raisins are similar to Dipped Seedless and Oleate and Related Seedless raisins, this rule adds Other Seedless-Sulfured raisins to the list contained in § 989.210(a), the substandard dockage table specified in § 989.212(b), the list regarding maturity in § 989.213(a), and to the maturity dockage tables in § 989.213(b) and (d). Additionally, this rule removes obsolete language contained in §§ 989.212 and 989.213 that was applicable to only the 1998–99 crop year.

Raisin Weight Conversion Table

Section 989.601 of the order's regulations specifies a list of conversion factors for raisin weights. The factors are used to convert the net weight of reconditioned raisins acquired by handlers as packed raisins to a natural condition weight. The net weight of the raisins after the completion of processing is divided by the applicable factor to obtain the natural condition weight. If the adjusted weight exceeds the original weight, the original weight is used. This rule adds Other Seedless-Sulfured raisins to that list, specifying a conversion factor of 0.95. These raisins are similar to Golden Seedless and Dipped Seedless for which 0.95 conversion factors are specified.

Outgoing Quality Requirements

Section 989.59 of the order provides authority for quality control regulations for raisins subsequent to their acquisition by handlers (outgoing requirements). Section 989.702 of the order's regulations specifies minimum grade standards for packed raisins. Paragraph (a) of that section specifies requirements for three varietal types—Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins. This rule revises paragraph (a) to add Other Seedless-Sulfured raisins.

Accordingly, Other Seedless-Sulfured raisins must meet the requirements of U.S. Grade C as defined in the United States Standards for Grades of Processed Raisins (§§ 52.1841 through 52.1858) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1622 through 1624). At least 70 percent, by weight, of the raisins in a lot must be well-matured or reasonably well-matured. With respect to select-sized and mixed-sized lots, the raisins must at least meet the U.S. Grade B tolerances for pieces of stem, and underdeveloped and substandard raisins, and small (midget) sized raisins must meet the U.S. Grade C tolerances for those factors.

Reporting Requirements

All raisin handlers are currently required to submit various reports to the RAC where the data collected is segregated by varietal type of raisin. These reports include: (1) Weekly Report of Standard Raisin Acquisitions (RAC–1); (2) Weekly Report of Standard Raisins Received for Memorandum Receipt or Warehousing (RAC–3); (3) Monthly Report of Free Tonnage Raisin Disposition (RAC–20); (4) Weekly Off-Grade Summary (RAC–30); (5) Inventory of Free Tonnage Standard Quality Raisins On Hand (RAC–50); and (6) Inventory of Off-Grade Raisins On Hand (RAC–51). This rule requires that an additional column be added to these six forms so that handlers can report Other Seedless-Sulfured raisins separately. The current total annual burden for these six forms is 660 hours. This rule will not change this burden on handlers.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

The order provides authority for volume and quality regulations that are imposed by varietal type of raisin. This rule establishes, and adds to the regulations a varietal type (Other Seedless-Sulfured raisins), along with quality requirements which is a new type of raisin that is being produced by some industry members. A new paragraph (j) is added to § 989.110 of the order's regulations to define the varietal type Other Seedless-Sulfured raisins. Pursuant to §§ 989.58 and 989.59, quality requirements for Other Seedless-Sulfured raisins are added to the order's regulations as follows: incoming quality requirements are added to §§ 989.210, 989.212, 989.213, and 989.701; a factor for converting between natural condition and processed weight is added to § 989.601; and outgoing quality requirements are added to § 989.702.

Regarding the impact of this action on affected entities, this rule will allow the RAC to consider Other Seedless-Sulfured raisins separately from other varietal types of raisins for the purpose of volume and quality regulation, thereby recognizing distinct differences in supply and demand conditions for that product. Producers and handlers will be able to take advantage of a separate and distinct market for Other Seedless-Sulfured raisins. This rule also allows appropriate quality requirements to be applied to this new varietal type, which will facilitate the production and handling of such raisins. In addition, this rule will allow the RAC to examine data on acquisitions and shipments of Other Seedless-Sulfured raisins, as handlers submit various reports to the RAC where the data is segregated by varietal type. The RAC will be able to analyze this data and assess marketing trends and opportunities for this unique varietal type. There are no expected additional costs associated with this regulation on either producers or handlers.

The RAC considered some alternatives to this action. The RAC reviewed the existing varietal types to see whether Other Seedless-Sulfured raisins could fit into an established category. The Golden Seedless and Other Seedless varietal types were examined. However, Other Seedless-Sulfured raisins may not meet the color requirements for Golden Seedless raisins. In addition, Other Seedless-Sulfured raisins do not fit into the Other Seedless category because that varietal type has historically included raisins that have not been sulfured. The industry determined that it was appropriate to establish a separate varietal type for Other Seedless raisins that had been dehydrated and sulfured.

All raisin handlers are currently required to submit various reports to the RAC where the data collected is segregated by varietal type of raisin. These reports include: (1) Weekly Report of Standard Raisin Acquisitions (RAC–1); (2) Weekly Report of Standard Raisins Received for Memorandum Receipt or Warehousing (RAC–3); (3) Monthly Report of Free Tonnage Raisin Disposition (RAC–20); (4) Weekly Off-Grade Summary (RAC–30); (5) Inventory of Free Tonnage Standard Quality Raisins On Hand (RAC–50); and (6) Inventory of Off-Grade Raisins On Hand (RAC–51). This rule requires that an additional column be added to these six forms so that handlers can report Other Seedless-Sulfured raisins separately. The current total annual burden for these six forms is 660 hours. This rule will not change this burden on handlers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements referenced above have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Additionally, except for applicable section 8e import regulations, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, Other Seedless-Sulfured raisins must meet U.S. Grade C as defined in the United States Standards for Grades of Processed Raisins (§§ 52.1841 through 52.1858) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1622 through 1624).

Further, the RAC's meetings on August 14, September 20, and November 13, 2001, where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, interested persons are invited to submit information on the regulatory and information impact of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Comments are invited concerning this rule. A 60-day comment period is provided to allow interested persons to respond. All comments received will be

considered prior to finalization of this rule.

After consideration of all relevant material presented, including the information and recommendation submitted by the RAC and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Other Seedless-Sulfured raisins are being produced by dehydrators and acquired by handlers during the 2001–02 crop year; (2) industry members are aware of this action which was recommended and discussed by the RAC at public meetings; (3) this rule provides appropriate quality standards for Other Seedless-Sulfured raisins which will facilitate the production and marketing of such raisins; and (4) this interim final rule provides a 60-day period for written comments, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as followed:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.110 is amended by adding a new paragraph (j) to read as follows:

§ 989.110 Varietal types.

* * * * *

(j) Other Seedless-Sulfured includes all raisins produced from Ruby Seedless, Kings Ruby Seedless, Flame Seedless and other seedless grapes not included in any of the varietal categories for Seedless raisins defined in paragraphs (a), (b), (c), (d), (h), or (i) of this section which have been artificially dehydrated and sulfured.

3. In § 989.210, the first sentence in paragraph (a) is revised to read as follows:

§ 989.210 Handling of varietal types of raisins acquired pursuant to a weight dockage system.

(a) *General.* A handler may acquire as standard raisins lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, Sultana, Zante Currant, Muscat (including other raisins with seeds), and Other Seedless-Sulfured raisins under the weight dockage provisions described in §§ 989.212 and 989.213.* * *

* * * * *

4. In § 989.212, paragraph (a), the paragraph heading in paragraph (b), the note to paragraph (b), and the note to paragraph (c) are revised to read as follows: § 989.212 Substandard dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, and Other Seedless-Sulfured raisins containing from 5.1 through 17.0 percent, by weight, of substandard raisins may be acquired by a handler under a weight dockage system. A handler may also, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing from 12.1 through 20.0 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of each lot of raisins acquired under the substandard dockage system shall be obtained by multiplying the net weight of the lot of raisins by the applicable dockage factor from the appropriate dockage table prescribed in paragraph (b) or (c) of this section.

(b) *Substandard dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, and Other Seedless-Sulfured raisins.* * * *

Note to paragraph (b): Percentages in excess of the last percentage shown in the table shall be expressed in the same increment as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment. Deliveries in excess of 17.0 percent would be offgrade; therefore, the dockage factor does not apply.

(c) * * *

Note to paragraph (c): Percentages in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each increment shall be .001 less than the dockage factor for the preceding increment. Deliveries in excess of 20.0 percent would be offgrade; therefore, the dockage factor does not apply.

5. Section 989.213 is amended by revising paragraph (a) and the introductory text in paragraphs (b), (c), and (d), removing the last sentence in the note to paragraph (d) and removing the last sentence in the note to paragraph (e) to read as follows:

§ 989.213 Maturity dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, and Other Seedless-Sulfured raisins containing from 35.0 percent through 49.9 percent, by weight, of well-matured or reasonably well-matured raisins may be acquired by a handler under a weight dockage system. The creditable weight of each lot of raisins acquired under the maturity dockage system shall be obtained by multiplying the net weight of the lot of raisins by the applicable dockage factor from the dockage table prescribed in paragraphs (b), (c), and (d) of this section.

(b) Maturity dockage table applicable to lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, and Other Seedless-Sulfured raisins which contain 45.0 percent through 49.9 percent well-matured or reasonably well-matured raisins: * * *

(c) Maturity dockage table applicable to lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, and Other Seedless-Sulfured raisins which contain 40.0 percent through 44.9 percent well-matured or reasonably well-matured raisins: * * *

(d) Maturity dockage table applicable to lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, and Other Seedless-Sulfured raisins which contain 35.0 percent through 39.9 percent well-matured or reasonably well-matured raisins: * * *

* * * * *

6. In § 989.601, the table is revised to read as follows:

§ 989.601 Conversion factors for raisin weight.

* * * * *

Varietal type	Conversion factor
Natural (sun-dried) Seedless	0.92
Golden Seedless, Dipped Seedless, Other Seedless, and Other Seedless-Sulfured	0.95
Muscats (including raisins with seeds):	
Seeded	0.80
Unseeded	0.92
Sultana	0.92
Zante Currant	0.91
Oleate and Related Seedless ..	0.92

7. In § 989.701, the paragraph heading and the first sentence in paragraph (b) are revised to read as follows:

§ 989.701 Minimum grade and condition standards for natural condition raisins.

* * * * *

(b) *Dipped Seedless, Oleate and Related Seedless, and Other Seedless-Sulfured raisins.* Natural condition Dipped Seedless, Oleate and Related Seedless, and Other Seedless-Sulfured raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: * * *

* * * * *

8. In § 989.702, paragraph (a) is revised to read as follows:

§ 989.702 Minimum grade standards for packed raisins.

* * * * *

(a) *Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, and Other Seedless-Sulfured raisins.* Packed Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, and Other Seedless-Sulfured raisins shall meet the requirements of U.S. Grade C as defined in the effective United States Standards for Grades of Processed Raisins (§§ 52.1841 through 52.1858 of this title): *Provided,* That at least 70.0 percent, by weight, of the raisins shall be well-matured or reasonably well-matured. With respect to select-sized and mixed-sized raisin lots, the raisins shall at least meet the U.S. Grade B tolerances for pieces of stem, and underdeveloped and substandard raisins, and small (midget)-sized raisins shall meet the U.S. Grade C tolerances for those factors.

* * * * *

Dated: May 21, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–13229 Filed 5–24–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc # CN–02–002]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2002 Amendments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. An adjustment is required on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

EFFECTIVE DATE: June 27, 2002.

FOR FURTHER INFORMATION CONTACT: Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, AMS, USDA, Stop 0224, 1400 Independence Ave., SW, Washington, DC 20250–0224, telephone (202) 720–2259, facsimile (202) 690–1718, or email at *whitney.rick@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule will affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule will lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be lowered, the decrease is small and will not significantly affect small businesses. The current assessment on imported cotton is $0.009965 per kilogram of imported cotton. The new assessment is $0.00862, a decrease of $0.001345 or a 13.5 percent decrease. From January through December 2001 approximately $22 million was collected. Should the volume of cotton products imported into the U.S. remain at the same level in 2002, one could expect the decreased assessment to generate approximately $19 million or a 13.5 percent decrease from 2001.

Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

Background

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that

authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments. An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991, and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). A proposed rule implementing the amended Order was published in the **Federal Register** on December 17, 1991. (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This rule will decrease the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. The source for the average price statistic is "Agricultural Prices", a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the weighted average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (66 FR 58051) on November 20, 2001, for the purpose of calculating supplemental assessments on imported cotton is $1.1111 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 2000 which was $0.504 per pound and multiplying by the conversion factor 2.2046. Using the Average Weighted Price Received by U.S. farmers for Upland cotton for the calendar year 2001, which is $0.382 per pound, the new value of imported cotton is $0.8422 per kilogram. The amended value is $.2689 per kilogram less than the previous value.

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.

One kilogram equals 2.2046 pounds.

One pound equals 0.453597 kilograms.

One Dollar Per Bale Assessment Converted to Kilograms

A 500 pound bale equals 226.8 kg. (500 × .453597).

$1 per bale assessment equals $0.002000 per pound (1/500) or $0.004409 per kg. (1/226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms.

The 2001 calendar year weighted average price received by producers for Upland cotton is $0.382 per pound or $0.8422 per kg. (0.382 × 2.2046).

Five tenths of one percent of the average price in kg. equals $0.004211 per kg. (0.8422 × .005).

Total Assessment

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.004211 per kg. which equals $0.00862 per kg.

The current assessment on imported cotton is $0.009965 per kilogram of imported cotton. The amended assessment is $0.00862, a decrease of $0.001345 per kilogram. This decrease reflects the decrease in the Average Weighted Price of Upland Cotton Received by U.S. Farmers during the period January through December 2001.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, the figures in this table have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

A proposed rule with request for comments was published in the **Federal Register** (67 FR 15495) on April 2, 2002. No comments were received during the period (April 2 through May 2, 2002).

Several changes in the harmonized tariff schedule numbering have occurred. Modifications to the harmonized tariff schedule were published in the December 26, 2001, **Federal Register** at 66 FR 66549 (Proclamation 7515 of December 18, 2001, by the President of the United States of America). These changes are as follows: Numbers changed:

Old No.	New No(s).	Conversion factor	Assessment cents/kg
5607902000	5607909000	0.8889	0.7662
6002203000	6003203000	0.8681	0.7483
6002206000	6003306000	0.2894	0.2495
	6003406000		
600242000	6005210000	0.8681	0.7483
	6005220000		
	6005220000		
	6005230000		
	6005240000		

Old No.	New No(s).	Conversion factor	Assessment cents/kg
6002430010	6005310010	0.2894	0.2495
	6005320010		
	6005330010		
	6005340010		
	6005410010		
	6005420010		
	6005430010		
	6005440010		
6002430080	6005310080	0.2894	0.2495
	6005320080		
	6005330080		
	6005340080		
	6005410080		
	6005420080		
	6005430080		
	6005440080		
6002921000	6006211000	1.1574	0.9977
	6006221000		
	6006231000		
	6006241000		
6002930040	6006310040	0.1157	0.0997
	6006320040		
	6006330040		
	6006340040		
6002930080	6006310080	0.1157	0.0997
	6006320080		
	6006330080		
	6006340080		
	6006410085		
	6006420085		
	6006430085		
	6006440085		

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraph (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $0.862 per kilogram.

(3) * * *

(ii) * * *

IMPORT ASSESSMENT TABLE

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5201000500	0	0.8620
5201001200	0	0.8620
5201001400	0	0.8620
5201001800	0	0.8620
5201002200	0	0.8620
5201002400	0	0.8620
5201002800	0	0.8620
5201003400	0	0.8620
5201003800	0	0.8620
5204110000	1.1111	0.9578
5204200000	1.1111	0.9578
5205111000	1.1111	0.9578
5205112000	1.1111	0.9578
5205121000	1.1111	0.9578
5205122000	1.1111	0.9578
5205131000	1.1111	0.9578
5205132000	1.1111	0.9578
5205141000	1.1111	0.9578
5205210020	1.1111	0.9578
5205210090	1.1111	0.9578
5205220020	1.1111	0.9578
5205220090	1.1111	0.9578
5205230020	1.1111	0.9578
5205230090	1.1111	0.9578
5205240020	1.1111	0.9578
5205240090	1.1111	0.9578
5205310000	1.1111	0.9578
5205320000	1.1111	0.9578
5205330000	1.1111	0.9578
5205340000	1.1111	0.9578
5205410020	1.1111	0.9578
5205410090	1.1111	0.9578
5205420020	1.1111	0.9578
5205420090	1.1111	0.9578

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5205440020	1.1111	0.9578
5205440090	1.1111	0.9578
5206120000	0.5556	0.4789
5206130000	0.5556	0.4789
5206140000	0.5556	0.4789
5206220000	0.5556	0.4789
5206230000	0.5556	0.4789
5206240000	0.5556	0.4789
5206310000	0.5556	0.4789
5207100000	1.1111	0.9578
5207900000	0.5556	0.4789
5208112020	1.1455	0.9874
5208112040	1.1455	0.9874
5208112090	1.1455	0.9874
5208114020	1.1455	0.9874
5208114060	1.1455	0.9874
5208114090	1.1455	0.9874
5208118090	1.1455	0.9874
5208124020	1.1455	0.9874
5208124040	1.1455	0.9874
5208124090	1.1455	0.9874
5208126020	1.1455	0.9874
5208126040	1.1455	0.9874
5208126060	1.1455	0.9874
5208126090	1.1455	0.9874
5208128020	1.1455	0.9874
5208128090	1.1455	0.9874
5208130000	1.1455	0.9874
5208192020	1.1455	0.9874
5208192090	1.1455	0.9874
5208194020	1.1455	0.9874
5208194090	1.1455	0.9874

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5208196020	1.1455	0.9874
5208196090	1.1455	0.9874
5208224040	1.1455	0.9874
5208224090	1.1455	0.9874
5208226020	1.1455	0.9874
5208226060	1.1455	0.9874
5208228020	1.1455	0.9874
5208230000	1.1455	0.9874
5208292020	1.1455	0.9874
5208292090	1.1455	0.9874
5208294090	1.1455	0.9874
5208296090	1.1455	0.9874
5208298020	1.1455	0.9874
5208312000	1.1455	0.9874
5208321000	1.1455	0.9874
5208323020	1.1455	0.9874
5208323040	1.1455	0.9874
5208323090	1.1455	0.9874
5208324020	1.1455	0.9874
5208324040	1.1455	0.9874
5208325020	1.1455	0.9874
5208330000	1.1455	0.9874
5208392020	1.1455	0.9874
5208392090	1.1455	0.9874
5208394090	1.1455	0.9874
5208396090	1.1455	0.9874
5208398020	1.1455	0.9874
5208412000	1.1455	0.9874
5208416000	1.1455	0.9874
5208418000	1.1455	0.9874
5208421000	1.1455	0.9874
5208423000	1.1455	0.9874
5208424000	1.1455	0.9874
5208425000	1.1455	0.9874
5208430000	1.1455	0.9874
5208492000	1.1455	0.9874
5208494020	1.1455	0.9874
5208494090	1.1455	0.9874
5208496010	1.1455	0.9874
5208496090	1.1455	0.9874
5208498090	1.1455	0.9874
5208512000	1.1455	0.9874
5208516060	1.1455	0.9874
5208518090	1.1455	0.9874
5208523020	1.1455	0.9874
5208523045	1.1455	0.9874
5208523090	1.1455	0.9874
5208524020	1.1455	0.9874
5208524045	1.1455	0.9874
5208524065	1.1455	0.9874
5208525020	1.1455	0.9874
5208530000	1.1455	0.9874
5208592025	1.1455	0.9874
5208592095	1.1455	0.9874
5208594090	1.1455	0.9874
5208596090	1.1455	0.9874
5209110020	1.1455	0.9874
5209110035	1.1455	0.9874
5209110090	1.1455	0.9874
5209120020	1.1455	0.9874
5209120040	1.1455	0.9874
5209190020	1.1455	0.9874
5209190040	1.1455	0.9874
5209190060	1.1455	0.9874
5209190090	1.1455	0.9874
5209210090	1.1455	0.9874
5209220020	1.1455	0.9874
5209220040	1.1455	0.9874
5209290040	1.1455	0.9874

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5209290090	1.1455	0.9874
5209313000	1.1455	0.9874
5209316020	1.1455	0.9874
5209316035	1.1455	0.9874
5209316050	1.1455	0.9874
5209316090	1.1455	0.9874
5209320020	1.1455	0.9874
5209320040	1.1455	0.9874
5209390020	1.1455	0.9874
5209390040	1.1455	0.9874
5209390060	1.1455	0.9874
5209390080	1.1455	0.9874
5209390090	1.1455	0.9874
5209413000	1.1455	0.9874
5209416020	1.1455	0.9874
5209416040	1.1455	0.9874
5209420020	1.0309	0.8886
5209420040	1.0309	0.8886
5209430030	1.1455	0.9874
5209430050	1.1455	0.9874
5209490020	1.1455	0.9874
5209490090	1.1455	0.9874
5209516035	1.1455	0.9874
5209516050	1.1455	0.9874
5209520020	1.1455	0.9874
5209590025	1.1455	0.9874
5209590040	1.1455	0.9874
5209590090	1.1455	0.9874
5210114020	0.6873	0.5925
5210114040	0.6873	0.5925
5210116020	0.6873	0.5925
5210116040	0.6873	0.5925
5210116060	0.6873	0.5925
5210118020	0.6873	0.5925
5210120000	0.6873	0.5925
5210192090	0.6873	0.5925
5210214040	0.6873	0.5925
5210216020	0.6873	0.5925
5210216060	0.6873	0.5925
5210218020	0.6873	0.5925
5210314020	0.6873	0.5925
5210314040	0.6873	0.5925
5210316020	0.6873	0.5925
5210318020	0.6873	0.5925
5210414000	0.6873	0.5925
5210416000	0.6873	0.5925
5210418000	0.6873	0.5925
5210498090	0.6873	0.5925
5210514040	0.6873	0.5925
5210516020	0.6873	0.5925
5210516040	0.6873	0.5925
5210516060	0.6873	0.5925
5211110090	0.6873	0.5925
5211120020	0.6873	0.5925
5211190020	0.6873	0.5925
5211190060	0.6873	0.5925
5211210025	0.6873	0.5925
5211210035	0.4165	0.3590
5211210050	0.6873	0.5925
5211290090	0.6873	0.5925
5211320020	0.6873	0.5925
5211390040	0.6873	0.5925
5211390060	0.6873	0.5925
5211490020	0.6873	0.5925
5211490090	0.6873	0.5925
5211590025	0.6873	0.5925
5212146090	0.9164	0.7899
5212156020	0.9164	0.7899
5212216090	0.9164	0.7899

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5509530030	0.5556	0.4789
5509530060	0.5556	0.4789
5513110020	0.4009	0.3456
5513110040	0.4009	0.3456
5513110060	0.4009	0.3456
5513110090	0.4009	0.3456
5513120000	0.4009	0.3456
5513130020	0.4009	0.3456
5513210020	0.4009	0.3456
5513310000	0.4009	0.3456
5514120020	0.4009	0.3456
5516420060	0.4009	0.3456
5516910060	0.4009	0.3456
5516930090	0.4009	0.3456
5601210010	1.1455	0.9874
5601210090	1.1455	0.9874
5601300000	1.1455	0.9874
5602109090	0.5727	0.4937
5602290000	1.1455	0.9874
5602906000	0.526	0.4534
5604900000	0.5556	0.4789
5607909000	0.8889	0.7662
5608901000	1.1111	0.9578
5608902300	1.1111	0.9578
5609001000	1.1111	0.9578
5609004000	0.5556	0.4789
5701104000	0.0556	0.0479
5701109000	0.1111	0.0958
5701901010	1.0444	0.9003
5702109020	1.1	0.9482
5702312000	0.0778	0.0671
5702411000	0.0722	0.0622
5702412000	0.0778	0.0671
5702421000	0.0778	0.0671
5702913000	0.0889	0.0766
5702991010	1.1111	0.9578
5702991090	1.1111	0.9578
5703900000	0.4489	0.3870
5801210000	1.1455	0.9874
5801230000	1.1455	0.9874
5801250010	1.1455	0.9874
5801250020	1.1455	0.9874
5801260020	1.1455	0.9874
5802190000	1.1455	0.9874
5802300030	0.5727	0.4937
5804291000	1.1455	0.9874
5806200010	0.3534	0.3046
5806200090	0.3534	0.3046
5806310000	1.1455	0.9874
5806400000	0.4296	0.3703
5808107000	0.5727	0.4937
5808900010	0.5727	0.4937
5811002000	1.1455	0.9874
6001106000	1.1455	0.9874
6001210000	0.8591	0.7405
6001220000	0.2864	0.2469
6001910010	0.8591	0.7405
6001910020	0.8591	0.7405
6001920020	0.2864	0.2469
6001920030	0.2864	0.2469
6001920040	0.2864	0.2469
6003203000	0.8681	0.7483
6003306000	0.2894	0.2495
6003406000	0.2894	0.2495
6005210000	0.8681	0.7483
6005220000	0.8681	0.7483
6005230000	0.8681	0.7483
6005240000	0.8681	0.7483
6005310010	0.2894	0.2495

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6005320010	0.2894	0.2495
6005330010	0.2894	0.2495
6005340010	0.2894	0.2495
6005410010	0.2894	0.2495
6005420010	0.2894	0.2495
6005430010	0.2894	0.2495
6005440010	0.2894	0.2495
6005310080	0.2894	0.2495
6005320080	0.2894	0.2495
6005330080	0.2894	0.2495
6005340080	0.2894	0.2495
6005410080	0.2894	0.2495
6005420080	0.2894	0.2495
6005430080	0.2894	0.2495
6005440080	0.2894	0.2495
6006211000	1.1574	0.9977
6006221000	1.1574	0.9977
6006231000	1.1574	0.9977
6006241000	1.1574	0.9977
6006310040	0.1157	0.0997
6006320040	0.1157	0.0997
6006330040	0.1157	0.0997
6006340040	0.1157	0.0997
6006310080	0.1157	0.0997
6006320080	0.1157	0.0997
6006330080	0.1157	0.0997
6006340080	0.1157	0.0997
6006410085	0.1157	0.0997
6006420085	0.1157	0.0997
6006430085	0.1157	0.0997
6006440085	0.1157	0.0997
6101200010	1.0094	0.8701
6101200020	1.0094	0.8701
6102200010	1.0094	0.8701
6102200020	1.0094	0.8701
6103421020	0.8806	0.7591
6103421040	0.8806	0.7591
6103421050	0.8806	0.7591
6103421070	0.8806	0.7591
6103431520	0.2516	0.2169
6103431540	0.2516	0.2169
6103431550	0.2516	0.2169
6103431570	0.2516	0.2169
6104220040	0.9002	0.7760
6104220060	0.9002	0.7760
6104320000	0.9207	0.7936
6104420010	0.9002	0.7760
6104420020	0.9002	0.7760
6104520010	0.9312	0.8027
6104520020	0.9312	0.8027
6104622006	0.8806	0.7591
6104622011	0.8806	0.7591
6104622016	0.8806	0.7591
6104622021	0.8806	0.7591
6104622026	0.8806	0.7591
6104622028	0.8806	0.7591
6104622030	0.8806	0.7591
6104622060	0.8806	0.7591
6104632006	0.3774	0.3253
6104632011	0.3774	0.3253
6104632026	0.3774	0.3253
6104632028	0.3774	0.3253
6104632030	0.3774	0.3253
6104632060	0.3774	0.3253
6104692030	0.3858	0.3326
6105100010	0.985	0.8491
6105100020	0.985	0.8491
6105100030	0.985	0.8491
6105202010	0.3078	0.2653

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6105202030	0.3078	0.2653
6106100010	0.985	0.8491
6106100020	0.985	0.8491
6106100030	0.985	0.8491
6106202010	0.3078	0.2653
6106202030	0.3078	0.2653
6107110010	1.1322	0.9760
6107110020	1.1322	0.9760
6107120010	0.5032	0.4338
6107210010	0.8806	0.7591
6107220015	0.3774	0.3253
6107220025	0.3774	0.3253
6107910040	1.2581	1.0845
6108210010	1.2445	1.0728
6108210020	1.2445	1.0728
6108310010	1.1201	0.9655
6108310020	1.1201	0.9655
6108320010	0.2489	0.2146
6108320015	0.2489	0.2146
6108320025	0.2489	0.2146
6108910005	1.2445	1.0728
6108910015	1.2445	1.0728
6108910025	1.2445	1.0728
6108910030	1.2445	1.0728
6108920030	0.2489	0.2146
6109100005	0.9956	0.8582
6109100007	0.9956	0.8582
6109100009	0.9956	0.8582
6109100012	0.9956	0.8582
6109100014	0.9956	0.8582
6109100018	0.9956	0.8582
6109100023	0.9956	0.8582
6109100027	0.9956	0.8582
6109100037	0.9956	0.8582
6109100040	0.9956	0.8582
6109100045	0.9956	0.8582
6109100060	0.9956	0.8582
6109100065	0.9956	0.8582
6109100070	0.9956	0.8582
6109901007	0.3111	0.2682
6109901009	0.3111	0.2682
6109901049	0.3111	0.2682
6109901050	0.3111	0.2682
6109901060	0.3111	0.2682
6109901065	0.3111	0.2682
6109901090	0.3111	0.2682
6110202005	1.1837	1.0203
6110202010	1.1837	1.0203
6110202015	1.1837	1.0203
6110202020	1.1837	1.0203
6110202025	1.1837	1.0203
6110202030	1.1837	1.0203
6110202035	1.1837	1.0203
6110202040	1.1574	0.9977
6110202045	1.1574	0.9977
6110202065	1.1574	0.9977
6110202075	1.1574	0.9977
6110909022	0.263	0.2267
6110909024	0.263	0.2267
6110909030	0.3946	0.3401
6110909040	0.263	0.2267
6110909042	0.263	0.2267
6111201000	1.2581	1.0845
6111202000	1.2581	1.0845
6111203000	1.0064	0.8675
6111205000	1.0064	0.8675
6111206010	1.0064	0.8675
6111206020	1.0064	0.8675
6111206030	1.0064	0.8675

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6111206040	1.0064	0.8675
6111305020	0.2516	0.2169
6111305040	0.2516	0.2169
6112110050	0.7548	0.6506
6112120010	0.2516	0.2169
6112120030	0.2516	0.2169
6112120040	0.2516	0.2169
6112120050	0.2516	0.2169
6112120060	0.2516	0.2169
6112390010	1.1322	0.9760
6112490010	0.9435	0.8133
6114200005	0.9002	0.7760
6114200010	0.9002	0.7760
6114200015	0.9002	0.7760
6114200020	1.286	1.1085
6114200040	0.9002	0.7760
6114200046	0.9002	0.7760
6114200052	0.9002	0.7760
6114200060	0.9002	0.7760
6114301010	0.2572	0.2217
6114301020	0.2572	0.2217
6114303030	0.2572	0.2217
6115198010	1.0417	0.8979
6115929000	1.0417	0.8979
6115936020	0.2315	0.1996
6116101300	0.3655	0.3151
6116101720	0.8528	0.7351
6116926420	1.0965	0.9452
6116926430	1.2183	1.0502
6116926440	1.0965	0.9452
6116928800	1.0965	0.9452
6117809510	0.9747	0.8402
6117809540	0.3655	0.3151
6201121000	0.948	0.8172
6201122010	0.8953	0.7717
6201122050	0.6847	0.5902
6201122060	0.6847	0.5902
6201134030	0.2633	0.2270
6201921000	0.9267	0.7988
6201921500	1.1583	0.9985
6201922010	1.0296	0.8875
6201922021	1.2871	1.1095
6201922031	1.2871	1.1095
6201922041	1.2871	1.1095
6201922051	1.0296	0.8875
6201922061	1.0296	0.8875
6201931000	0.3089	0.2663
6201933511	0.2574	0.2219
6201933521	0.2574	0.2219
6201999060	0.2574	0.2219
6202121000	0.9372	0.8079
6202122010	1.1064	0.9537
6202122025	1.3017	1.1221
6202122050	0.8461	0.7293
6202122060	0.8461	0.7293
6202134005	0.2664	0.2296
6202134020	0.333	0.2870
6202921000	1.0413	0.8976
6202921500	1.0413	0.8976
6202922026	1.3017	1.1221
6202922061	1.0413	0.8976
6202922071	1.0413	0.8976
6202931000	0.3124	0.2693
6202935011	0.2603	0.2244
6202935021	0.2603	0.2244
6203122010	0.1302	0.1122
6203221000	1.3017	1.1221
6203322010	1.2366	1.0659
6203322040	1.2366	1.0659

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6203332010	0.1302	0.1122
6203392010	1.1715	1.0098
6203399060	0.2603	0.2244
6203422010	0.9961	0.8586
6203422025	0.9961	0.8586
6203422050	0.9961	0.8586
6203422090	0.9961	0.8586
6203424005	1.2451	1.0733
6203424010	1.2451	1.0733
6203424015	0.9961	0.8586
6203424020	1.2451	1.0733
6203424025	1.2451	1.0733
6203424030	1.2451	1.0733
6203424035	1.2451	1.0733
6203424040	0.9961	0.8586
6203424045	0.9961	0.8586
6203424050	0.9238	0.7963
6203424055	0.9238	0.7963
6203424060	0.9238	0.7963
6203431500	0.1245	0.1073
6203434010	0.1232	0.1062
6203434020	0.1232	0.1062
6203434030	0.1232	0.1062
6203434040	0.1232	0.1062
6203498045	0.249	0.2146
6204132010	0.1302	0.1122
6204192000	0.1302	0.1122
6204198090	0.2603	0.2244
6204221000	1.3017	1.1221
6204223030	1.0413	0.8976
6204223040	1.0413	0.8976
6204223050	1.0413	0.8976
6204223060	1.0413	0.8976
6204223065	1.0413	0.8976
6204292040	0.3254	0.2805
6204322010	1.2366	1.0659
6204322030	1.0413	0.8976
6204322040	1.0413	0.8976
6204423010	1.2728	1.0972
6204423030	0.9546	0.8229
6204423040	0.9546	0.8229
6204423050	0.9546	0.8229
6204423060	0.9546	0.8229
6204522010	1.2654	1.0908
6204522030	1.2654	1.0908
6204522040	1.2654	1.0908
6204522070	1.0656	0.9185
6204522080	1.0656	0.9185
6204533010	0.2664	0.2296
6204594060	0.2664	0.2296
6204622010	0.9961	0.8586
6204622025	0.9961	0.8586
6204622050	0.9961	0.8586
6204624005	1.2451	1.0733
6204624010	1.2451	1.0733
6204624020	0.9961	0.8586
6204624025	1.2451	1.0733
6204624030	1.2451	1.0733
6204624035	1.2451	1.07
6204624040	1.2451	1.0
6204624045	0.9961	0.858
6204624050	.9961	0.8586
6204624055	0.9854	0.8494
6204624060	0.9854	0.8494
6204624065	0.9854	0.8494
6204633510	0.2546	0.2195
6204633530	0.2546	0.2195
6204633532	0.2437	0.2101
6204633540	0.2437	0.2101

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6204692510	0.249	0.2146
6204692540	0.2437	0.2101
6204699044	0.249	0.2146
6204699046	0.249	0.2146
6204699050	0.249	0.2146
6205202015	0.9961	0.8586
6205202020	0.9961	0.8586
6205202025	0.9961	0.8586
6205202030	0.9961	0.8586
6205202035	1.1206	0.9660
6205202046	0.9961	0.8586
6205202050	0.9961	0.8586
6205202060	0.9961	0.8586
6205202065	0.9961	0.8586
6205202070	0.9961	0.8586
6205202075	0.9961	0.8586
6205302010	0.3113	0.2683
6205302030	0.3113	0.2683
6205302040	0.3113	0.2683
6205302050	0.3113	0.2683
6505302070	0.3113	0.2683
6205302080	0.3113	0.2683
6206100040	0.1245	0.1073
6206303010	0.9961	0.8586
6206303020	0.9961	0.8586
6206303030	0.9961	0.8586
6206303040	0.9961	0.8586
6206303050	0.9961	0.8586
6206303060	0.9961	0.8586
6206403010	0.3113	0.2683
6206403030	0.3113	0.2683
6206900040	0.249	0.2146
6207110000	1.0852	0.9354
6207199010	0.3617	0.3118
6207210030	1.1085	0.9555
6207220000	0.3695	0.3185
6207911000	1.1455	0.9874
6207913010	1.1455	0.9874
6207913020	1.1455	0.9874
6208210010	1.0583	0.9123
6208210020	1.0583	0.9123
6208220000	0.1245	0.1073
6208911010	1.1455	0.9874
6208911020	1.1455	0.9874
6208913010	1.1455	0.9874
6209201000	1.1577	0.9979
6209203000	0.9749	0.8404
6209205030	0.9749	0.8404
6209205035	0.9749	0.8404
6209205040	1.2186	1.0504
6209205045	0.9749	0.8404
6209205050	0.9749	0.8404
6209303020	0.2463	0.2123
6209303040	0.2463	0.2123
6210109010	0.2291	0.1975
6210403000	0.0391	0.0337
6210405020	0.4556	0.3927
6211111010	0.1273	0.1097
6211111020	0.1273	0.1097
6211118010	1.1455	0.9874
6211118020	1.1455	0.9874
6211320007	0.8461	0.7293
6211320010	1.0413	0.8976
6211320015	1.0413	0.8976
6211320030	0.9763	0.8416
6211320060	0.9763	0.8416
6211320070	0.9763	0.8416
6211330010	0.3254	0.2805
6211330030	0.3905	0.3366

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6211330035	0.3905	0.3366
6211330040	0.3905	0.3366
6211420010	1.0413	0.8976
6211420020	1.0413	0.8976
6211420025	1.1715	1.0098
6211420060	1.0413	0.8976
6211420070	1.1715	1.0098
6211430010	0.2603	0.2244
6211430030	0.2603	0.2244
6211430040	0.2603	0.2244
6211430050	0.2603	0.2244
6211430060	0.2603	0.2244
6211430066	0.2603	0.2244
6212105020	0.2412	0.2079
6212109010	0.9646	0.8315
6212109020	0.2412	0.2079
6212200020	0.3014	0.2598
6212900030	0.1929	0.1663
6213201000	1.1809	1.0179
6213202000	1.0628	0.9161
6213901000	0.4724	0.4072
6214900010	0.9043	0.7795
6216000800	0.2351	0.2027
6216001720	0.6752	0.5820
6216003800	1.2058	1.0394
6216004100	1.2058	1.0394
6217109510	1.0182	0.8777
6217109530	0.2546	0.2195
6301300010	0.8766	0.7556
6301300020	0.8766	0.7556
6302100005	1.1689	1.0076
6302100008	1.1689	1.0076
6302100015	1.1689	1.0076
6302215010	0.8182	0.7053
6302215020	0.8182	0.7053
6302217010	1.1689	1.0076
6302217020	1.1689	1.0076
6302217050	1.1689	1.0076
6302219010	0.8182	0.7053
6302219020	0.8182	0.7053
6302219050	0.8182	0.7053
6302222010	0.4091	0.3526
6302222020	0.4091	0.3526
6302313010	0.8182	0.7053
6302313050	1.1689	1.0076
6302315050	0.8182	0.7053
6302317010	1.1689	1.0076
6302317020	1.1689	1.0076
6302317040	1.1689	1.0076
6302317050	1.1689	1.0076
6302319010	0.8182	0.7053
6302319040	0.8182	0.7053
6302319050	0.8182	0.7053
6302322020	0.4091	0.3526
6302322040	0.4091	0.3526
6302402010	0.9935	0.8564
6302511000	0.5844	0.5038
6302512000	0.8766	0.7556
6302513000	0.5844	0.5038
6302514000	0.8182	0.7053
6302600010	1.1689	1.0076
6302600020	1.052	0.9068
6302600030	1.052	0.9068
6302910005	1.052	0.9068
6302910015	1.1689	1.0076
6302910025	1.052	0.9068
6302910035	1.052	0.9068
6302910045	1.052	0.9068
6302910050	1.052	0.9068

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6302910060	1.052	0.9068
6303110000	0.9448	0.8144
6303910010	0.6429	0.5542
6303910020	0.6429	0.5542
6304111000	1.0629	0.9162
6304190500	1.052	0.9068
6304191000	1.1689	1.0076
6304191500	0.4091	0.3526
6304192000	0.4091	0.3526
6304910020	0.9351	0.8061
6304920000	0.9351	0.8061
6505901540	0.181	0.1560
6505902060	0.9935	0.8564
6505902545	0.5844	0.5038

* * * * *

Dated: May 21, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–13228 Filed 5–24–02; 8:45am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 3

[EOIR 133; AG Order No. 2585–2002]

RIN 1125–AA38

Protective Orders in Immigration Administrative Proceedings

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends regulations governing the Executive Office for Immigration Review ("EOIR") by authorizing immigration judges to issue protective orders and seal records relating to law enforcement or national security information. The rule will apply in all immigration proceedings before EOIR. This rule is necessary to ensure that sensitive information can be protected from general disclosure while affording use of that information by the respondent, the immigration judges, the Board of Immigration Appeals, and reviewing courts.

DATES: Effective date: This rule is effective May 21, 2002.

Comment date: Written comments must be submitted on or before July 29, 2002.

ADDRESSES: Please submit written comments to Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305–0470.

FOR FURTHER INFORMATION CONTACT: Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION:

Immigration Judge Authority to Issue Protective Orders and Seal Records

This interim rule amends 8 CFR 3.27 and 3.31, and adds 8 CFR 3.46 to authorize immigration judges to issue protective orders and accept documents under seal. This authority will ensure that sensitive law enforcement or national security information can be protected against general disclosure, while still affording full use of the information by the immigration judges, Board of Immigration Appeals, the respondent, and the courts.

The Immigration and Naturalization Service ("Service") may need to introduce in immigration proceedings sensitive law enforcement or national security information. For example, the Service may need to introduce grand jury information or information that reveals the identity of confidential informants, witnesses, or sources to establish that release from custody of a particular respondent poses a danger to the safety of other persons under section 236 of the Immigration and Nationality Act ("Act"), 8 U.S.C. 1226. Similarly, the Service may need to introduce sensitive evidence of organized criminal activity, either in the United States or in a foreign country, to establish the basis on which the Service believes that the respondent "is or has been an illicit trafficker in any controlled substance" under section 212(a)(2)(C)(i) of the Act, 8 U.S.C. 1182(a)(2)(C)(i), and is inadmissible. The disclosure of such information could clearly jeopardize ongoing criminal investigations and the safety of any sources and law enforcement officers. This rule is necessary to ensure that a respondent in proceedings will not disclose that information to individuals not authorized to possess the information.

This rule is also necessary because apparently innocuous law enforcement or national security information may be valuable to persons with a broader view of a subject. See generally, *McGehee* v. *Casey*, 718 F.2d 1137, 1149 (D.C. Cir. 1983) ("[d]ue to the mosaic-like nature of intelligence gathering, for example, [w]hat may seem trivial to the uninformed may appear of great moment to one who has a broad view of the scene and may put the questioned item of information in context") (internal quotations omitted). Certain circumstances may therefore require that access to information submitted to an immigration judge be restricted. This regulation provides immigration judges and the Service with the flexibility to protect this information where necessary.

In this post-September 11, 2001, era, the highest priority of the Department of Justice ("Department") is to prevent, detect, disrupt, and dismantle terrorism while preserving constitutional liberties. The intelligence and law enforcement communities' ability to collect and protect information relating to terrorist organizations is vital to the success of the United States' mission against terrorism. Failure to protect sensitive information may impede future collection efforts or aid terrorists who seek to harm Americans by revealing the thrust, sources, and methods of the Government's investigations. Disclosures of such sensitive information could allow terrorists to discern patterns in an investigation, enabling them to evade detection in the future. Disclosure of sensitive information could also reveal the identity of witnesses, allowing terrorists to threaten those witnesses or their families, and to make all witnesses less likely to cooperate. Such disclosures could also give terrorists clues as to what the Government knows and, sometimes more importantly, what the Government does not know. Such information could enable terrorists to adjust their plans in ways that avoid Government detection and that further endanger American lives. The Third Circuit recently recognized this principle:

> "We are not inclined to impede investigators in their efforts to cast out, root and branch, all vestiges of terrorism both in our homeland and in far off lands. As the [Supreme] Court has stated:
>
> 'Few interests can be more compelling than a nation's need to ensure its own security. It is well to remember that freedom as we know it has been suppressed in many countries. Unless a society has the capability and will to defend itself from the aggressions of others, constitutional protections of any sort have little meaning.'
>
> *Wayte* v. *United States*, 470 U.S. 598, 611–612 (1985)."

Kiareldeen v. *Ashcroft*, 273 F.3d 542, 555–56 (3d Cir. 2001). The premise of this interim rule is that ongoing investigations require that sensitive information be protected from general disclosure in immigration proceedings

and that regulatory authority for such protection is appropriate.

These regulations are a prudent and balanced acknowledgment of the reality that the Government's efforts against terrorism require the Department to treat information collected by the law enforcement and intelligence communities as vital national assets.

The Attorney General's Authority to Issue These Regulations

Congress has plenary authority over immigration matters. U.S. Const. Art I, sec. 8, cl. 4.

Congress has delegated to the Attorney General broad authority to administer the Act, to manage the Service, and to effectuate the administrative adjudication functions related to immigration. 8 U.S.C. 1103(a). Moreover, the Attorney General has an active role in the administration of the intelligence and law enforcement communities, both of which implicate the President's plenary authority over foreign relations. *United States ex rel. Knauff* v. *Shaughnessy*, 338 U.S. 537, 542 (1950); *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 319 (1936) ("In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation").

Indeed, the courts have viewed the President's inherent powers as a justification for permitting Congress to make remarkably broad delegations of its authority in the immigration field. *Knauff*, 338 U.S. at 543; *Curtiss-Wright Export Corp.*, 299 U.S. at 319–20 (when dealing with foreign affairs Congress may delegate a degree of discretion that would not be permissible if domestic policy alone were involved); *see also Jean* v. *Nelson*, 472 U.S. 846, 879 (1985) (Marshall, J., dissenting) (a lesser degree of procedural due process has been accorded to respondents in cases involving national security).

The Attorney General here is exercising the confluence of the authority granted by Congress under the Act and his authority inherent from his position as Attorney General concerning immigration policy, with regard to all such matters that are not subject to either a statutory mandate or an express prohibition. See *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 636–37 (1952) (Jackson, J. concurring).

This rule complements several other authorities to retain information. A directive by Chief Immigration Judge Creppy on September 21, 2001, that certain "special interest" cases should be closed to the public under 8 CFR 3.27, has generally limited the disclosure of information during hearings by limiting the attendees to those hearings. This rule is designed to work in tandem with that authority, and in a limited sense, codify a portion of that authority, by limiting what the respondent and his or her representatives may disclose about sensitive law enforcement and national security information outside the context of those hearings. The rule does not, however, replace or diminish the authority of the Chief Immigration Judge to manage the Immigration Courts and close hearings. The Chief Immigration Judge will continue to use 8 CFR 3.9 and 3.27 to ensure that testimony before an Immigration judge does not disclose sensitive law enforcement and national security information.

Process for Protective Orders

This rule utilizes several elements of protective orders in federal courts in the immigration administrative adjudication process. The Service may file a motion, with or without sealed information, to acquire a protective order for that information. The motion will be served on the respondent, who may respond within a short time. The information will not be made available to the respondent. The Immigration judge may review the information in camera only to determine whether to grant or deny the motion.

If a motion is denied, the information must be returned to the Service. The Service may appeal that decision immediately and any appeal must be decided expeditiously. This process maintains the *status quo* to the greatest extent possible while the protective order is considered.

If the motion is granted, an appropriate protective order is issued and the respondent will be provided with the information under the protective order. The respondent may challenge the admissibility of the information as evidence. The respondent may appeal the determination at the conclusion of proceedings.

Standards for Issuance of a Protective Order

The Department recognizes that the issuance of a protective order raises First Amendment free speech issues. In this rule, the protective orders are limited to an important and substantial governmental interest in safeguarding the public, and national security and law enforcement concerns. The rule no more limits a respondent's, or the respondent's representatives, rights than is necessary or essential to protect the particular governmental interests involved. Like the protective orders under Federal Rule of Civil Procedure 26(c), the Department seeks only to limit a respondent's ability to disclose or disseminate information discovered in the removal process and subject to the protective order. The Department believes that this rule is sufficiently narrow to meet the requirements of the Supreme Court in *Seattle Times Company* v. *Rhinehart*, 467 U.S. 20 (1984) (interpreting Rule 26(c) and a district court protective order issued in discovery) and *Gentile* v. *State Bar of Nevada*, 501 U.S. 1030 (1991) (public statements of attorney and application of bar disciplinary process). To do so, the rule utilizes a requirement that there be a substantial likelihood that disclosure or dissemination will harm the law enforcement or national security interests of the United States.

Moreover, the rule must be construed to comply with constitutional requirements. For example, the rule could not be applied to preclude a respondent from publicly stating the content of his own testimony before the immigration judge. See *Butterworth* v. *Smith*, 494 U.S. 624 (1990). A respondent could, however, be ordered not to disclose what he or she has learned from the protected information that comes into his or her knowledge during the proceedings, including, for example, the significance of information that the respondent already knows. *Id.*, at 632 ("right to divulge information of which he was in possession before he testified before the grand jury, and not information which he may have obtained as a result of his participation in the proceedings of the grand jury").

Protective Orders in Other Administrative Contexts

The issuance of protective orders in administrative proceedings is not a new concept. On the contrary, a number of agencies have exercised this type of authority in the past, in situations that do not pose the same degree of danger to the interests of the United States. *See, e.g.*, 4 CFR 21.4 (General Accounting Office; protection of proprietary, confidential, or source-selection sensitive material in bid protests); 14 CFR 13.220 (Federal Aviation Administration; discovery in civil penalty actions); 17 CFR 201.322 (Securities and Exchange Commission; rules of practice and procedure).

Consequences of not Complying With the Protective Order

The administrative enforcement provision of this interim rule sets out various consequences that violators of a protective order may face. A respondent who violates a protective order, or whose attorney or accredited representative violates a protective order, will not be granted any form of discretionary relief from removal. The Supreme Court has upheld an agency's ability to exercise discretionary authority through regulations. *See Lopez* v. *Davis*, 531 U.S. 230 (2001). Discretionary relief is an "an act of grace." *Jay* v. *Boyd*, 351 U.S. 345, 354 (1956). Where a respondent has violated a protective order and thereby possibly compromised sensitive information, such grace ought not be afforded readily—particularly where the respondent has already shown a disregard for this Nation's laws by violating the terms of his or her visa or otherwise violating the Act. Thus, as an exercise of the Attorney General's discretion, these regulations provide that a respondent who violates a protective order, or whose attorney or accredited representative violates a protective order, should generally not be granted discretionary relief.

Attorneys and accredited representatives may also be barred from appearing in further proceedings before EOIR or the Service. *See* 8 CFR 3.102(g) (contumelious conduct amounting to contempt). An attorney's or accredited representative's failure to comply with the protective order may be charged to the client and may impair the client's ability to obtain discretionary relief.

The possibility that a respondent might violate the order and disclose protected information presented does not eliminate the importance of attempting to restrict access to the information. The Department believes that most respondents will comply with the protective orders because disclosure of some sensitive information may imperil them directly.

The Respondents' Protection Against Unwarranted Disclosures

The Department also recognizes that a respondent may possess information that is of such a sensitivity to the respondent that it warrants protection from general disclosure and existing regulations provide sufficient protection for the respondent. For example, a respondent who has applied for asylum under section 208 of the Act will naturally be testifying about events that he or she believes have had or will have horrific consequences. The application for asylum and related documents are already the subject of non-disclosure requirements. 8 CFR 208.6. Similarly, an immigration judge may close proceedings in the public interest, including for the protection of the respondent. 8 CFR 3.27(b). A lawful permanent resident is protected from disclosure of personal information by government officials under the Privacy Act of 1974, 8 U.S.C. 552a. Respondents arriving at a port of entry who are denied admission also routinely receive closed hearings. 8 CFR 3.27. Moreover, the Department has a long-standing policy against releasing information about any individual who is involved in civil proceedings in order to protect their privacy and the integrity of the adjudicatory process. 28 CFR 50.2(c). Accordingly, the Department feels that individual respondents in proceedings do not require further privacy protections for sensitive information.

Good Cause Exception

The Department's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for the immediate promulgation of this rule are as follows: Sensitive information developed by, or provided to, the Federal Bureau of Investigation or the Service in the course of national security and law enforcement investigations sometimes must be presented to Immigration judges in instances where disclosure of that information would jeopardize or compromise the national security or law enforcement operations of the Government as explained in the Supplementary Information. Disclosure could, for example, reveal important information about the direction, progress, focus and scope of investigations arising out of the attack on September 11, 2001, and thereby assist terrorist organizations in counteracting investigative efforts of the United States.

In order to safeguard these important interests, the immigration judge must be given authority to issue protective orders to safeguard such sensitive information from disclosure. In light of the national emergency declared by the President on September 14, 2001, in Proclamation 7453, with respect to the terrorist attacks of September 11, 2001, and the continuing threat by terrorists to the security of the United States, and the need immediately to control such information pertaining to respondents in immigration proceedings, there is good cause under 5 U.S.C. 553(b) and (d) for dispensing with the requirements of prior notice and to make this rule effective upon signature.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies only to release of sensitive information in immigration proceedings. It does not have any impact on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule merely pertains to the disclosure of sensitive information filed under seal in immigration proceedings. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988, Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval, any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Aliens, Immigration.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301, 8 U.S.C. 1101 note, 1103, 1231, 1252 note, 1252b, 1324b, 1253, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

2. Section 3.27 is amended by adding paragraph (d) to read as follows:

§ 3.27 Public access to hearings.

* * * * *

(d) Proceedings before an Immigration Judge shall be closed to the public if information subject to a protective order under § 3.46, which has been filed under seal pursuant to § 3.31(d), may be considered.

3. Section 3.31 is amended by adding paragraph (d) to read as follows:

§ 3.31 Filing documents and applications.

* * * * *

(d) The Service may file documents under seal by including a cover sheet identifying the contents of the submission as containing information which is being filed under seal. Documents filed under seal shall not be examined by any person except pursuant to authorized access to the administrative record.

4. Section 3.46 is added to read as follows:

§ 3.46 Protective orders, sealed submissions in Immigration Courts.

(a) *Authority.* In any immigration or bond proceeding, Immigration Judges may, upon a showing by the Service of a substantial likelihood that specific information submitted under seal or to be submitted under seal will, if disclosed, harm the national security (as defined in section 219(c)(2) of the Act) or law enforcement interests of the United States, issue a protective order barring disclosure of such information.

(b) *Motion by the service.* The Service may at any time after filing a Notice to Appear, or other charging document, file with the Immigration Judge, and serve upon the respondent, a motion for an order to protect specific information it intends to submit or is submitting under seal. The motion shall describe, to the extent practical, the information that the Service seeks to protect from disclosure. The motion shall specify the relief requested in the protective order. The respondent may file a response to the motion within ten days after the motion is served.

(c) *Sealed annex to motion.* In the Service's discretion, the Service may file the specific information as a sealed annex to the motion, which shall not be served upon the respondent. If the Service files a sealed annex, or the Immigration Judge, in his or her discretion, instructs that the information be filed as a sealed annex in order to determine whether to grant or deny the motion, the Immigration Judge shall consider the information only for the purpose of determining whether to grant or deny the motion.

(d) *Due deference.* The Immigration Judge shall give appropriate deference to the expertise of senior officials in law enforcement and national security agencies in any averments in any submitted affidavit in determining whether the disclosure of information will harm the national security or law enforcement interests of the United States.

(e) *Denied motions.* If the motion is denied, any sealed annex shall be returned to the Service, and the Immigration Judge shall give no weight to such information. The Service may immediately appeal denial of the motion to the Board, which shall have jurisdiction to hear the appeal, by filing a Notice of Appeal and the sealed annex with the Board. The Immigration Judge shall hold any further proceedings in abeyance pending resolution of the appeal by the Board.

(f) *Granted motions.* If the motion is granted, the Immigration Judge shall issue an appropriate protective order.

(1) The Immigration Judge shall ensure that the protective order encompasses such witnesses as the respondent demonstrates are reasonably necessary to the presentation of his case. If necessary, the Immigration Judge may impose the requirements of the protective order on any witness before the Immigration Judge to whom such information may be disclosed.

(2) The protective order may require that the respondent, and his or her attorney or accredited representative, if any:

(i) Not divulge any of the information submitted under the protective order, or any information derived therefrom, to any person or entity, other than authorized personnel of the Executive Office for Immigration Review, the Service, or such other persons approved by the Service or the Immigration Judge;

(ii) When transmitting any information under a protective order, or any information derived therefrom, to the Executive Office for Immigration Review or the Service, include a cover sheet identifying the contents of the submission as containing information subject to a protective order under this section;

(iii) Store any information under a protective order, or any information derived therefrom, in a reasonably secure manner, and return all copies of such information to the Service upon completion of proceedings, including judicial review; and

(iv) Such other requirements as the Immigration Judge finds necessary to protect the information from disclosure.

(3) Upon issuance of such protective order, the Service shall serve the respondent with the protective order and the sealed information. A protective order issued under this section shall remain in effect until vacated by the Immigration Judge.

(4) Further review of the protective order before the Board shall only be had pursuant to review of an order of the Immigration Judge resolving all issues of removability and any applications for relief pending in the matter pursuant to 8 CFR 3.1(b). Notwithstanding any other provision of this section, the Immigration Judge shall retain jurisdiction to modify or vacate a protective order upon motion of the Service or the respondent. An Immigration Judge may not grant a motion by the respondent to modify or vacate a protective order until either: the Service files a response to such motion or 10 days after service of such motion on the Service.

(g) *Admissibility as Evidence.* The issuance of a protective order shall not prejudice the respondent's right to challenge the admissibility of the information subject to a protective order. The Immigration Judge may not find the information inadmissible solely because it is subject to a protective order.

(h) *Seal.* Any submission to the Immigration Judge, including any briefs, referring to information subject to a protective order shall be filed under seal. Any information submitted subject to a protective order under this paragraph shall remain under seal as part of the administrative record.

(i) *Administrative enforcement.* If the Service establishes that a respondent, or the respondent's attorney or accredited representative, has disclosed information subject to a protective order, the Immigration Judge shall deny all forms of discretionary relief, except bond, unless the respondent fully cooperates with the Service or other law enforcement agencies in any investigation relating to the noncompliance with the protective order and disclosure of the information; and establishes by clear and convincing evidence either that extraordinary and extremely unusual circumstances exist or that failure to comply with the protective order was beyond the control of the respondent and his or her attorney or accredited representative. Failure to comply with a protective order may also result in the suspension of an attorney's or an accredited representative's privilege of appearing before the Executive Office for Immigration Review or before the Service pursuant to 8 CFR part 3, subpart G.

Dated: May 21, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–13264 Filed 5–24–02; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–12–AD; Amendment 39–12761; AD 2002–10–15]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines. This amendment requires reapplication of dry film lubricant to low pressure compressor (LPC) fan blade roots. This amendment is prompted by an aborted take-off resulting from LPC fan blade loss. Since this event, four additional cracked LPC fan blade roots have been reported. The actions specified by this AD are intended to prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage.

DATES: Effective date July 2, 2002.

ADDRESSES: Information regarding this action may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7744, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines was published in the **Federal Register** on December 6, 2001 (66 FR 63341). That action proposed to require reapplication of dry film lubricant to low pressure compressor (LPC) fan blade roots.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Wording Clarification

One commenter suggests that the word "installation" in Table 1 of the compliance section, be replaced with the words "new or last lubrication." The commenter is concerned that the word "installation" does not ensure AD compliance at installation.

The FAA agrees. The wording in Table 1 has been changed because the suggested wording ensures that lubrication of the blade root is the proper criteria to use.

Typographical Errors

One commenter requests "LPT" be changed to correctly read "LPC" in Table 1, and "Dow Corning 321R (Rolls-Royce (RR) Omat item 4/52)" be changed to correctly read Dow Corning 321R (Rolls-Royce (RR) Omat item 4/51)" in paragraph (a).

The FAA agrees and has made these corrections in the final rule.

Update Terminology

One commenter suggests that the word "inspect" is not applicable in paragraph (b), and should be replaced with the word "lubricate." The AD is applicable to blade root lubrication.

The FAA agrees and has changed paragraph (b) in the final rule to state that on the effective date of the AD, blades with more cycles than the initial compliance criteria listed in Table 1 of this AD must be lubricated within 100 cycles-in-service after the effective date of this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

The FAA estimates that 100 engines installed on aircraft of U.S. registry would be affected by this AD. The FAA also estimates that it would take approximately 6 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total labor cost of the AD on U.S. operators is estimated to be $36,000 to accomplish each application of lubricant. The FAA estimates that operators will apply lubricant an average of 1.5 times per year, making the total annual cost of compliance with this AD $54,000.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a

"significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–10–15 Rolls-Royce plc: Amendment 39–12761. Docket No. 2001–NE–12–AD.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines with low pressure compressor (LPC) fan blade part numbers: FK 30838, FK30840, FK30842, FW12960, FW12961, FW12962, FW13175, or FW18548. These engines are installed on, but not limited to Boeing 777 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage, do the following:

TABLE 1.7—INITIAL AND REPETITIVE APPLICATION THRESHOLDS

LPC fan blade part Nos.	Initial compliance criteria	Repetitive compliance criteria
FK30842, FK30840, and FK30838	Before achieving 600 cycles-since-new or -last application.	Repeat at intervals not exceeding 600 cycles-since-last compliance
FW12961, FW12960, FW12962, FW13175, and FW18548.	Before achieving 1,200 cycles-since-new or -last application.	Repeat at intervals not exceeding 1,200 cycles-since-last compliance.

(a) Apply an approved dry film lubricant to LPC fan blade roots as specified in Table 1 above. Aircraft Maintenance Manual task 72–31–11–300–801–R00 (Repair Scheme FRS A031 by air spray method only) or Engine Manual task 72–31–11–R001 (Repair Scheme FRS A028) contain procedures for renewing the dry film lubricant on the blade roots. For purposes of this AD, approved lubricants are Dow Corning 321R (Rolls-Royce (RR) Omat item 4/51), Rocol Dry Moly Spray (RR Omat item 4/52), Molydag 709 (RR Omat item 444), or PL.237/R1 (RR Omat item 4/43).

Fan Blades Exceeding Initial Application Thresholds

(b) On the effective date of the AD, blades with more cycles than the initial compliance criteria listed in Table 1 of this AD must be lubricated within 100 cycles-in-service after the effective date of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Note 3: The subject of this AD is addressed in Civil Aviation Authority Airworthiness Directive 001–03–2001, dated March 2, 2001.

Effective Date

(e) This amendment becomes effective on July 2, 2002.

Issued in Burlington, Massachusetts, on May 16, 2002.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–13185 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–07–AD; Amendment 39–12760; AD 2002–10–14]

RIN 2120–AA64

Airworthiness Directives; Bombardier-Rotax GmbH 914 F Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bombardier-Rotax GmbH 914 F series reciprocating engines. This action requires initial and repetitive inspections of certain exhaust bend assemblies, which are located between the cylinder heads and exhaust manifold assembly. This amendment is prompted by reports of cracks found in exhaust bend assemblies. The actions specified in this AD are intended to prevent carbon monoxide from entering the cabin and also to prevent the possibility of an engine fire.

DATES: Effective June 12, 2002.

Comments for inclusion in the Rules Docket must be received on or before July 29, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-NE–07-AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "*9-ane-adcomment@faa.gov*". Comments sent via the Internet must contain the docket number in the subject line.

Information regarding this action may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299.

SUPPLEMENTARY INFORMATION: Austro Control, which is the airworthiness authority for Austria, recently notified the FAA that an unsafe condition may exist on Bombardier-Rotax GmbH 914 F series reciprocating engines. Austro Control advises that cracks found in exhaust bend assemblies, which are located between the cylinder heads and exhaust manifold assembly have been detected in service. Bombardier-Rotax GmbH is continuing to evaluate the unsafe condition and may implement a design change as terminating action.

Bilateral Airworthiness Agreement

This engine model is manufactured in Austria and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Austro Control has kept the FAA informed of the situation described above. The FAA has examined the findings of Austro Control, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Bombardier-Rotax GmbH 914 F series reciprocating engines of the same type design, this AD is being issued to prevent carbon monoxide from entering the cabin, and also to prevent the possibility of an engine fire. This AD requires initial and repetitive inspections of exhaust bend assemblies part numbers (P/N's) 979422, 979432, 979442, and 979452, which are located between the cylinder heads and exhaust manifold assembly, for exterior traces of smoke, cracks, and damage.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NE–07–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–10–14 Bombardier-Rotax GmbH: Amendment 39–12760. Docket No. 2002–NE–07–AD.

Applicability

This airworthiness directive (AD) is applicable to Bombardier-Rotax GmbH 914 F series reciprocating engines with exhaust bend assemblies part numbers (P/N's) 979422, 979432, 979442, and 979452 installed. These engines are installed on, but not limited to, Aeromot-Industria Mecanico Metalurgica, AMT–300 (Turbo Ximango Shark), Diamond Aircraft Industries, HK 36

TTS, HK 36 TTC, HK 36 TTC–ECO, and Stemme GmbH & Co. KG, S10—VT, Series Powered Sailplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent carbon monoxide from entering the cabin, and also to prevent the possibility of an engine fire, do the following:

Initial Inspection

(a) Within 50 hours time-in-service (TIS) after the effective date of this AD, visually inspect the exhaust bend assemblies (item 1, Figure 1, of this AD), located between the cylinder heads and exhaust manifold assembly, for exterior traces of smoke, cracks, and damage, especially around the exhaust gas temperature (EGT) bosses (item 2). Replace any exhaust bend assembly found cracked. Figure 1 follows:

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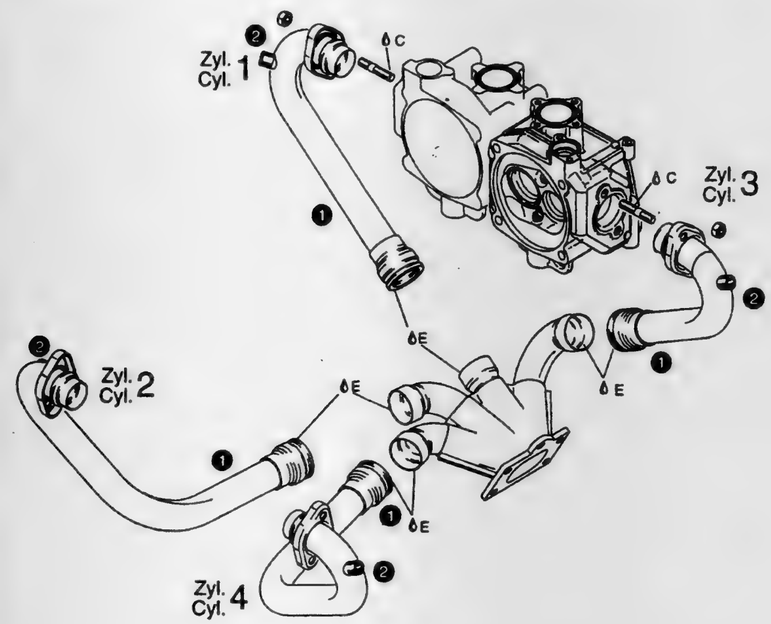

1) Exhaust Bend Assembly

2) EGT Boss

Figure 1

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Note 2: Information concerning this inspection can be found in Bombardier-Rotax service bulletin No. SB–914–017, dated May 2001.

Repetitive Inspections

(b) Thereafter, inspect the exhaust bend assemblies every additional 50 hours TIS. Replace any exhaust manifold assembly found cracked.

(c) If any exhaust bend assembly is replaced, perform a ground test run and exhaust leakage test.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Note 4: The subject of this AD is addressed in Austro Control airworthiness directive No. 106, dated April 25, 2001.

Effective Date

(f) This amendment becomes effective on June 12, 2002.

Issued in Burlington, Massachusetts, on May 16, 2002.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–13186 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–17]

Modification of Class E Airspace; Athens, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This document modifies Class E airspace at Athens, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 129° helicopter point in space approach, has been developed for O'Bleness Memorial Hospital, Athens, OH. Controlled airspace extending upward from 700 feet above the surface is need to contain aircraft executing the approach. This action modifies existing controlled airspace for Athens, OH, in order to include the point in space approach serving O'Bleness Memorial Hospital.

DATES: Effective 0901 UTC, October 03, 2002. Comments must be received on or before July 8, 2002.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Office of a the Regional Counsel, AGL–7, Rule Docket No. 01–AGL–17, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Airspace Branch, AGL–520, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 modifies class E airspace at Athens, Ohio, to Accommodate Aircraft executing the proposed GPS SIAP 129° helicopter point in space approach for O'Bleness Memorial Hospital by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 200, and effective September 16, 2001, which is incorporated by reference in 14 CFR Sec. 71.1 The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments on objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document will be published in the **Federal Register**. This document may withdraw the direct final rule in whole or in part. After considering the adverse or negative comment, we may publish another direct final rule or publish a notice of proposed rulemaking with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rule Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–AGL–17." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule will not have federalism implications under Executive Order 13132.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Athens, OH [Revised]

Athens, Athens-Albany, Ohio University, OH
(Lat. 39°12′39″ N., long. 82°13′53″ W.)
Athens, O'Bleness Memorial Hospital, OH
Point in Space Coordinates
(Lat. 39°20′3″ N., long. 82°07′48″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Ohio University Airport and within 4.6 miles either side of the 061° bearing from the Ohio University Airport, extending from the 6.4-mile radius to 12.3 miles northeast of the airport, and within a 6-mile radius of the Point in Space serving Obliness Memorial Hospital.

* * * * *

Issued in Des Plaines, Illinois on April 25, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–13214 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–053]

RIN 2115–AE47

Drawbridge Operation Regulations: Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Meadowbrook State Parkway Bridge, at mile 12.8, across Sloop Channel, New York. This temporary final rule allows the bridge to remain in the closed position to navigation from 9 p.m. to midnight, on July 4, 2002. This action is necessary to facilitate the annual Fourth of July Jones Beach State Park fireworks display.

DATES: This temporary final rule is effective from 9 p.m. to midnight on July 4, 2002.

ADDRESSES: The public docket and all documents referred to in this notice are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM in the **Federal Register**. As a result of coordination with the local harbormaster, marine facilities, and operators regarding the closure of the bridge and the fact that the bridge has been closed during past years for this event with no impact on navigation, we believe that it is not necessary to draft or publish a NPRM in advance of the requested start date for this bridge closure. This bridge closure is a necessary measure to facilitate public safety by allowing the orderly flow of vehicular traffic before and after this annual fireworks event.

Background

The Meadowbrook State Parkway Bridge has a vertical clearance of 22 feet at mean high water and 25 feet at mean low water in the closed position, unlimited vertical clearance in the full open position. The existing regulations are listed at 33 CFR 117.799(h).

The bridge owner, the New York State Office of Parks, Recreation and Historic Preservation, requested that the bridge be allowed to remain closed from 9 p.m. to midnight, during the annual Fourth of July fireworks event at the Jones Beach State Park. The Coast Guard coordinated this closure with the local facilities and operators and no objections were received. The bridge has been closed for the past several years to facilitate this annual event.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the mariners that normally use this waterway have no objections to the bridge closure to facilitate this annual event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" comprises small businesses, not-for profit organizations that are independently owned and

operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the mariners that normally use this waterway have no objections to the bridge closure to facilitate this annual event.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.799 is temporarily amended from 9 p.m. to midnight, on July 4, 2002, by suspending paragraph (h) and adding a new paragraph (k) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(k) From 9 p.m. to midnight, on July 4, 2002, the Meadowbrook State Parkway Bridge, mile 12.8, across Sloop Channel, may remain closed to navigation.

Dated: May 13, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–13220 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AH77

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2002 Subsistence Taking of Fish and Shellfish Regulations; Correction

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This correction amends the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on February 7, 2002 (67 FR 5890), implementing the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980. The February 7, 2002, final rule established regulations for seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2002–03 regulatory year. This document corrects an inadvertent omission of a permit requirement for freshwater fish in the Prince William Sound Fishery Management Area.

DATES: This correction to § ____.27 is effective March 1, 2002, through February 28, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA–Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

On February 7, 2002, the Secretaries published a final rule (67 FR 5890) to establish regulations for seasons, harvest limits, and methods and means related to taking of fish and shellfish for subsistence uses during the 2002 regulatory year. These regulations are subject to an annual review cycle, so the regulations set forth in the February 7, 2002, final rule are effective March 1, 2002, through February 28, 2003. Among many other changes, the February 7, 2002, final rule included changes to the regulations governing subsistence fishing and shellfishing in the Prince William Sound Fishery Management Area. In making revisions to the Prince William Sound regulations, we inadvertently omitted a previously established requirement.

Prior to publication of the February 7, 2002, final rule (67 FR 5890, 5903), the text in 36 CFR 242 (i)(11)(xii) and (xiii) and 50 CFR 100 (i)(11)(xii) and (xiii) read as follows:

(xii) Except as provided in this section, you may take fish other than salmon and freshwater fish species for subsistence purposes without a subsistence fishing permit.

(xiii) You may take salmon and freshwater fish species only under authority of a subsistence fishing permit.

In publishing the February 7, 2002, final rule, the words "and freshwater fish species" were inadvertently removed from the subparagraphs stated above. Through this final rule correction, we are simply correcting the text in 36 CFR 242 (i)(11)(xii) and (xiii) and 50 CFR 100 (i)(11)(xii) and (xiii) to read as it did prior to publication of the February 7, 2002, final rule. Therefore, we are reinstating the permit requirement for freshwater fish in the Prince William Sound Fishery Management Area that was removed in error by the February 7, 2002, final rule.

We are making no further changes to the February 7, 2002, final rule. The basis and required determinations for that rule are the same as for this final rule, which simply corrects an error in the February 7, 2002, rule.

Accordingly, make the following corrections to FR Doc. 02–1919 published at 67 FR 5890 on February 7, 2002:

PART ___—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA—[CORRECTED]

§ ___.27 [Corrected]

1. On page 5903, in column 1, in 36 CFR part 242 and 50 CFR part 100, § ___.27(i)(11)(xii) and (i)(11)(xiii) are corrected to read as follows:

§ ___.27 Subsistence taking of fish.

* * * * *

(i) * * *

(11) * * *

(xii) Except as provided in this section, you may take fish other than salmon and freshwater fish species for subsistence purposes without a subsistence fishing permit.

(xiii) You may take salmon and freshwater fish species only under authority of a subsistence fishing permit.

* * * * *

Dated: May 3, 2002.

Kenneth E. Thompson,

Subsistence Program Coordinator, USDA–Forest Service.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

[FR Doc. 02–13153 Filed 5–24–02; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD132 & 133–3087a; FRL–7210–1]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Revised Definitions and Recordkeeping Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP) submitted by the Maryland Department of Environment (MDE). The revisions adopt by reference the EPA definition of volatile organic compounds (VOC), update the Federal citation of the prevention of significant deterioration (PSD) requirements references in Maryland's definitions and general emission standards provisions, and revise the general records and information requirements for installations and sources. EPA is approving these revisions to the State of Maryland's SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 29, 2002 without further notice, unless EPA receives adverse written comment by June 27, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Harold A. Frankford, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108, or by e-mail at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revisions

On December 11, 2001, the State of Maryland submitted two separate formal revisions to its SIP. One SIP revision consists of (1) a revised reference to the Federal definition of VOC at 40 CFR 51.100(s) which is found in Maryland's definition for "volatile organic compounds (VOC)" (COMAR 26.11.01.01B(53)); and (2) revised references to the Federal PSD regulations at 40 CFR 52.21 found in both Maryland's definition of "prevention of significant deterioration (PSD) source" (COMAR 26.11.01.01B(37)) and the general regulation governing control of PSD sources (COMAR 26.11.06.14). These regulatory revisions became effective on December 10, 2001. The other SIP revision expands and clarifies the type of records and information which Maryland may require from installations and sources governs by its air pollution control regulations (COMAR 26.11.01.05). The revisions to this regulation became effective on June 30, 1997, and a subsequent clarifying amendment became effective on December 10, 2001. Maryland certified that public hearings on the revised regulations to COMAR 26.11.01.01B and 26.11.06.14 were held on October 23, 2001. Maryland also certified that public hearings were held on March 26 and March 28, 1997 on the first revision to COMAR 26.11.01.05, and additional hearings were held on October 23, 2001 on the second revision to COMAR 26.11.01.05. Maryland held these hearings in accordance with the requirements of 40 CFR 51.102.

II. Evaluation of SIP Revisions

A. Revisions to Reference Updates to VOC and PSD

Maryland has amended COMAR 26.11.01.01B(53) to update the Federal reference for incorporation of the EPA definition of VOC found at 40 CFR 51.100(s) from the 1999 edition (the currently SIP-approved version) to the 2000 edition of the Code of Federal Regulations (CFR). The amendment ensures that Maryland's definition of the term is identical to the Federal definition. EPA defines VOCs as any organic compound that contributes to ground-level ozone formation and lists as exclusions the compounds that have negligible photochemical reactivity. As EPA completes its reactivity testing, the list of exempt compounds expands. Since Maryland accepts the EPA test results on VOC exempt compounds, it is appropriate for Maryland to adopt the Federal definition of VOC as it appears in 40 CFR 51.100(s) as of a specified date. The 2000 edition of 40 CFR 51.100(s) does not add any new solvents, refrigerants or other compounds to the list of exempt VOCs.

The amendments to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 update the reference for incorporation of the Federal PSD regulations found at 40 CFR 52.21 from the 1999 edition to the 2000 edition. This edition of 40 CFR 52.21 does not add, amend, or remove any provisions when compared to the 1999 edition of 40 CFR 52.21. Therefore, EPA approves these 40 CFR cross-reference updates found in the definition of VOC at COMAR 26.11.01.01B(53) and the PSD provisions found at COMAR 26.11.01.01B(37) and 26.11.06.14.

B. Revisions to COMAR 26.11.01.05 (Records and Information)

Maryland has extensively revised the provisions of this regulation when compared to the SIP-approved version. Maryland's revised regulation expands the scope of entities which the State may require to establish and maintain records, in a format approved by the Maryland Department of the Environment (MDE), sufficient to provide the information, such as material and fuel use, necessary to:

(1) Assist the MDE in the development of an implementation plan, air emissions standard, equipment performance standard, or material formulation standard;

(2) Determine compliance with an air emissions standard, equipment performance standard, material formulation standard, or permit condition;

(3) Verify or update registration information; or

(4) Update Maryland's air emissions inventory.

Under the revised provision, the State can require a person who owns or operates such installation or source, upon request, to supply the requested information to the MDE, summarizing the information in a format approved by the MDE and on a schedule specified by the MDE. The current SIP provision applies only to fuel suppliers. Maryland's 1998 and 2001 amendments have expanded the scope of this rule to include a person who owns or operates an installation or source, as defined in COMAR 26.11.01.01B(19) and 26.11.01.01B(43) respectively. Both of these definitions are included in the current Maryland SIP. In its support document accompanying this SIP revision which provided justification for the amended provisions, Maryland stated that this amendment is intended to require owners and operators of applicable sources, when requested, to establish and maintain records as well as provide information to the Maryland Department of the Environment (MDE) on operating data, materials consumption, materials formulation, and similar information necessary to quantify air emissions and determine compliance. According to the State, most major facilities have specific record keeping requirements established in a source-specific regulation or by a permit condition. Maryland concludes that there would be little or no economic impact from the revised provisions because entities subject to this rule already maintain information such as fuel use, equipment use, and production rates as part of their normal business practice.

EPA has reviewed the revisions to COMAR 26.11.01.05 and has determined that the revised provisions are consistent with the requirements of 40 CFR part 51, subpart K (Source surveillance), particularly the requirements for determining compliance with the applicable rules and regulations (40 CFR 51.210) and for requiring owners or operators of stationary sources to maintain records and periodically report to the State such information which will enable the State to determine compliance with applicable portions of the control strategy (40 CFR 51.211). In addition, EPA has determined that the revised provisions would enhance Maryland's ability to comply, as needed, with the requirements of 40 CFR part 51, subpart G (Control strategy), particularly sections 51.114 (Emissions data and projections), and 51.116 (data availability). At the same time, EPA agrees with Maryland's assertion that having installations and sources provide such information presents no undue burden since such information is maintained during the course of normal business practice, or is already required by a source-specific regulation or by a permit condition. Therefore, EPA approves the revised version of COMAR 26.11.01.05 as a revision to the Maryland SIP.

III. Final Action

EPA is approving revisions to the Maryland SIP that update the references to the EPA definition of VOC found at 40 CFR 51.100(s) (COMAR 26.11.01.01B(53)), and the Federal PSD regulations at 40 CFR 52.21 (COMAR 26.11.01.01B(37) and 26.11.06.14). EPA is also approving as a revision to the Maryland SIP the State's revised general records and information requirements for installations and sources (COMAR 26.11.01.05). EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment since the revisions are administrative changes to the state regulations. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 29, 2002 without further notice unless EPA receives adverse comment by June 27, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve Maryland's revised definition of VOC, revised PSD requirements, and the revised general records and information requirements for installations and sources may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 1, 2002.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(171) and (c)(172) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(171) Revisions to the Code of Maryland Administrative Regulations (COMAR) which update the Maryland regulation references to both the Federal Prevention of Significant Deterioration (PSD) regulations found at § 52.21 and the EPA definition of "volatile organic compound" (VOC) found at 40 CFR 51.100(s) of the 2000 edition of the Code of Federal Regulations, submitted on December 11, 2001 by the Maryland Department of the Environment:

(i) *Incorporation by reference.*

(A) Letter of December 11, 2001 from the Maryland Department of the Environment transmitting updated references to the Code of Federal Regulations (CFR) with regard to the Prevention of Significant Deterioration (PSD) regulations and the definition of "volatile organic compound" (VOC).

(B) Revisions to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 effective December 10, 2001, which updates the references for incorporation of the Federal PSD regulations found at § 52.21 from the 1999 to the 2000 edition of the CFR.

(C) The revision to COMAR 26.11.01.01B(53) effective December 10, 2001, which updates the references of the EPA definition of VOC found at 40 CFR 51.100(s) from the 1999 edition to the 2000 edition of CFR.

(ii) *Additional material.* Remainder of the State submittals pertaining to the revisions listed in paragraphs (c)(171)(i)(B) and (C) of this section.

(172) Revision to the Code of Maryland Administrative Regulations (COMAR) governing general records and information requirements, submitted on December 11, 2001 by the Maryland Department of the Environment:

(i) *Incorporation by reference.*

(A) Letter of December 11, 2001 from the Maryland Department of the Environment transmitting revisions to COMAR 26.11.01.05 (Records and Information).

(B) Revised COMAR 26.11.01.05, effective June 30, 1997, replacing COMAR 26.11.01.05, effective July 18, 1980, as recodified August 1, 1988.

(C) Revision to the introductory paragraph of COMAR 26.11.01.05A., effective December 10, 2001.

(ii) *Additional material.* Remainder of the State submittals pertaining to the revisions listed in paragraphs (c)(172)(i)(B) and (C) of this section.

[FR Doc. 02–13110 Filed 5–24–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7217–4]

Land Disposal Restrictions: Site-Specific Treatment Variance to Chemical Waste Management, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA or Agency) is today taking direct final action by granting a site-specific treatment variance from the Land Disposal Restrictions (LDR) treatment standards for two selenium-bearing hazardous wastes. EPA first granted a variance for these two waste streams three years ago. We are now taking action to extend the variance because: the chemical properties of these two wastes continue to differ significantly from the waste used to establish the current LDR standard for selenium (5.7 mg/L, as measured by the TCLP); and Chemical Waste Management, Inc. (CWM) has adequately demonstrated that the two wastes cannot be treated with current technologies to meet this treatment standard.

CWM will stabilize these two specific wastes at their Kettleman City, California facility to meet the following alternative treatment standards: 51 mg/L, as measured by the TCLP, for the Owens-Brockway waste and 25 mg/L, as measured by the TCLP, for the St. Gobain (formerly Ball Foster) waste. After treatment to these alternative selenium standards, CWM may dispose of the treated wastes in a RCRA Subtitle C landfill provided they meet the applicable LDR treatment standards for the other hazardous constituents in the wastes. We are granting this variance for three years.

DATES: This rule is effective on July 12, 2002, without further notice, unless EPA receives adverse comment on the direct final rule by June 27, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F–2002–CWVF–FFFFF and is located in the RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday-Friday, 9 am to 4 pm, Eastern Standard Time. For more information on specific aspects of this direct final rule, contact Josh Lewis at 703–308–7877, *lewis.josh@epa.gov*, or write him at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without prior proposal because we view it as a noncontroversial action. We anticipate no significant adverse comment because of the site-specific nature of this action and because we are merely extending a variance that is already in effect, and which has already been the subject of notice and opportunity for comment. In the three years since we granted the original variance, no new treatment options have become available to treat these two waste streams more effectively. Having said this, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to grant this variance if significant adverse comments are filed. See the proposed rule for information on submitting comments.

This direct final rule will be effective on July 12, 2002, without further notice unless we receive adverse comment by June 27, 2002. If we receive significant adverse comment, we will publish a timely withdrawal in the **Federal Register** indicating that this direct final rule action is being withdrawn due to adverse comment on the proposed rule. We will then address all public comments, as appropriate, based on the proposed rule. Any parties interested in commenting on this treatment variance must do so at this time.

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type *http://www.epa.gov/epaoswer/hazwaste/ldr.*

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I. Background

A. What Is the Basis for LDR Treatment Variances?

Under section 3004(m) of the Resource Conservation and Recovery Act (RCRA), EPA is required to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." EPA interprets this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was upheld by the D.C. Circuit in *Hazardous Waste Treatment Council* vs. *EPA*, 886 F. 2d 355 (D.C. Cir. 1989).

The Agency recognizes that there may be wastes that cannot be treated to levels specified in the regulations (see 40 CFR 268.40) because an individual waste matrix or concentration can be

substantially more difficult to treat than those wastes the Agency evaluated in establishing the treatment standard (51 FR 40576, November 7, 1986). For such wastes, EPA has a process by which a generator or treater may seek a treatment variance. See 40 CFR 268.44. If granted, the terms of the variance establish an alternative treatment standard for the particular waste at issue.

B. What Is the Basis of the Current Selenium Treatment Standard?

In the so-called Third Third rule (55 FR 22521, June 1, 1990), we used performance data from the stabilization of a selenium D010 mineral processing waste, which we determined to be the most difficult to treat selenium waste, to set the national treatment standard for selenium. This waste contained up to 700 ppm total selenium and 3.74 mg/L selenium in the TCLP leachate. The resulting post-treatment selenium TCLP levels were between 1.80 and 0.154 mg/L, which led to our establishment of a national treatment standard of 5.7 mg/L for D010 selenium nonwastewaters. At that time, EPA also had information indicating that wastes containing high concentrations of selenium are rarely generated and land disposed and, therefore, concluded that the standard of 5.7 mg/L was achievable.

In the Phase IV final rule, the Agency determined that a treatment standard of 5.7 mg/L, as measured by the TCLP, continued to be appropriate for D010 nonwastewaters (63 FR 28556, May 26, 1998). The Agency also changed the universal treatment standard (UTS) for selenium nonwastewaters from 0.16 mg/L to 5.7 mg/L. In the preamble to the Phase IV final rule, we noted that we received comments from one company, Chemical Waste Management (CWM), indicating that they were attempting to stabilize selenium wastes with concentrations much higher than those EPA was examining to establish the national selenium standard. In response, we indicated that for these high-level selenium waste streams, we would propose a site-specific treatment variance.

II. Basis for Today's Determination

A. What Is the History of This Variance?

As we just mentioned, in the preamble to the Phase IV rule we said we would propose a site-specific treatment variance for high selenium waste streams. We proposed this treatment variance on October 23, 1998 (63 FR 56886) and subsequently finalized it in a May 26, 1999 **Federal Register** notice (64 FR 28387). The variance was for a three-year period from the date of signature (i.e., May 11, 1999) and it covered two specific waste streams: An electrostatic precipitator dust from Owens Brockway; and a dry scrubber solid from Ball Foster (now St. Gobain). Both waste streams contain relatively high leachable selenium concentrations. As we mentioned in the original treatment variance, CWM presented data showing that selenium TCLP concentrations in the untreated wastes are one to three orders of magnitude higher than the untreated mineral processing wastes that EPA used to develop the current D010 selenium treatment standard.[1] The data also showed that neither treated waste stream can reliably meet the numerical standard of 5.7 mg/L, as measured by the TCLP, even though CWM shows that they were using the treatment technology on which EPA based the selenium treatment standard.[2]

In the May 26, 1999 **Federal Register** notice, we established the following alternative treatment standards for selenium: 51 mg/L TCLP for Owens Brockway; and 25 mg/L TCLP for Ball Foster (now St. Gobain). We also included a requirement that CWM submit to EPA an annual report containing any analytical data from studies using alternative treatment technologies, data showing the stabilization recipes they are using to meet the alternative treatment standards, and the untreated and treated selenium concentrations in these wastes.

On June 8, 2000 and May 7, 2001, CWM submitted, respectively, the first and second annual reports to the Agency.[3] On March 25, 2002, CWM submitted a letter to EPA requesting a continuation of the treatment variance for another three-year period. In the letter, CWM states that because both wastes continue to have elevated levels of leachable selenium, they are unable to achieve the selenium treatment standard consistently. CWM also asserts that they are unaware of any additional reagents that would be more effective in the treatment process.

[1] Selenium concentrations in the untreated Owens Brockway wastes were between 465 and 1024 mg/L, as measured by the TCLP, while the selenium concentration in the Ball-Foster waste was 59.8 mg/L, as measured by the TCLP.

[2] CWM submitted stabilation data from each facility using combinations of the followig stabilization reagents: ferrous sulfate, calcium polysulfide, ferric chloride, sodium bisulfate, portland cement, and cement kiln dust. For more detailed information about the original petition, see the docket supporting this rulemaking (docket number F–2002–CWVF–FFFFF).

[3] All three CWM's annual reports are in the docket supporting today's rulemaking.

B. What Criteria Govern a Treatment Variance?

Under 40 CFR 268.44 (h), EPA allows facilities to apply for a site-specific variance when a waste generated under conditions specific to only one site cannot be treated to the specified level(s). In such cases, the generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance from a treatment standard.

In 40 CFR 268.44 (h)(1) and (2), EPA describes the two main cases in which we will grant a treatment variance. The case described in 40 CFR 268.44 (h)(1) is applicable to this treatment variance, which addresses process wastes that are generated on a routine basis by two glass manufacturing companies. Basically, EPA must determine if the petitioner has adequately shown that, "It is not physically possible to treat the waste to the level specified in the treatment standard * * * because the physical or the chemical properties of the waste differ significantly from the waste analyzed in developing the treatment standard. * * *"

C. What Is the Basis for EPA's Approval of CWM's Request for an Alternative D010 Treatment Standard?

After careful review of the original treatment variance and of the data that CWM has submitted since we granted the original treatment variance, we conclude that CWM has adequately demonstrated that the wastes continue to satisfy the requirements for a treatment variance under 40 CFR 268.44 (h)(1).

The two glass manufacturing waste streams continue to differ significantly in chemical composition from the waste used to generate the original selenium treatment standard. Selenium TCLP concentrations in the untreated wastes continue to be one to three orders of magnitude higher than the concentrations in the waste used in developing the treatment standard for D010 hazardous wastes. Furthermore, CWM continues to use stabilization as the treatment technology, which is consistent with EPA's determination of BDAT, and the process is well-designed and operated.[4]

As we mentioned in the preamble to the original treatment variance, treatment of these two wastes is especially difficult because of the presence of other metals (i.e., arsenic, cadmium, chromium, and lead) above their respective characteristic levels. It is difficult, if not impossible, to optimize treatment for selenium when other metals are being treated because the selenium solubility curve differs from that of most other metals.[5]

Therefore, EPA is today granting an extension to the site-specific treatment variance from the D010 treatment standards for the two waste streams in question since the wastes cannot be physically treated to the level specified in the regulations. Today's alternative treatment standards will provide sufficient latitude for CWM to treat the other metals present in the wastes to LDR treatment standards and, by raising the selenium treatment standard, will avoid the difficulty posed by the different metal solubility curves.

[4] See the docket supporting today's rule for more detailed information on CWM's standard practices for land disposal restricted waste.

D. What Are the Terms and Conditions of the Variance?

This variance applies to the following two waste streams that are generated during glass manufacturing operations: electrostatic precipitator dust from Owens Brockway Glass Container Company; and dry scrubber solid from St. Gobain (formerly Ball Foster).

1. Determination of the Treatment Standard for the Owens Brockway Waste

When we originally set the alternative treatment standard for the Owens Brockway waste, we determined the most effective stabilization recipe consisted of 0.7 parts iron sulfate combined with 2.0 parts cement, resulting in a reagent to waste ratio of 2.7 to 1. This recipe achieved final selenium TCLP values of 36.8, 34.08, and 43.7 mg/L.[6] We then used the BDAT methodology[7] to calculate an alternative D010 standard of 51 mg/L, as measured by the TCLP.

In the approximately three years the treatment variance has been in effect, CWM has treated 26 batches of the Owens Brockway waste. Untreated selenium TCLP values ranged from 26.5–649 mg/L, with an average value of about 265 mg/L. Treated TCLP values range from non-detect to 32.6 mg/L, with an average value of about 12.5 mg/L. Because the TCLP values in the untreated and treated wastes are comparable to the levels in the wastes we used to set the original alternative treatment standard of 51 mg/L, we determined that a TCLP value of 51 mg/L continues to be the appropriate alternative treatment standard for this waste.

2. Determination of the Treatment Standard for the St. Gobain Waste

When we originally set the alternative selenium treatment standard for the Ball-Foster waste, we determined the most effective stabilization recipes have reagent to waste ratios of 1.8, 2.2, 2.3, 2.4, and 2.7. Selenium concentrations in the treated wastes were 11.6, 7.47, 8.22, 15.6, and 4.82 mg/L, as measured by the TCLP.[8] Using these five data points, we calculated an alternative treatment D010 standard of 25 mg/L, as measured by the TCLP.

In the approximately three years the treatment variance has been in place, CWM has treated seven batches of the Owens Brockway waste. Untreated selenium TCLP values ranged from 33.5–43.9 mg/L, with an average value of about 38.9 mg/L. Treated TCLP values range from 1.6 to 14.6 mg/L, with an average value of about 8.7 mg/L. Because the TCLP values in the untreated and treated wastes are comparable to the levels in the wastes we used to set the original alternative treatment standard of 25 mg/L, we determined that a TCLP value of 25 mg/L continues to be the appropriate alternative treatment standard for this waste.

3. Specifics Applicable to Both Waste Streams

After treatment to these alternative selenium standards, CWM may dispose of the treated wastes in a RCRA Subtitle C landfill[9] provided CWM complies with any other applicable treatment standards associated with these wastes, including other applicable Federal, State, or local requirements as specified in the facility's waste analysis plan. We are granting this variance for three years for reasons discussed in section IV below.

4. Summary

In summary, after evaluating the data from the three years that the treatment variance has been in place, we have determined that the conditions that were present when we originally granted this treatment variance still exist: the two glass manufacturers continue to produce these high selenium waste streams; the untreated and treated selenium concentrations continue to be one to three orders of magnitude higher than the wastes we used to set the original selenium treatment standard; and alternative treatment options have not been established to more effectively treat these wastes.

We also note that although the alternative selenium standards for these two wastes are relatively high, this treatment variance is a technically necessary compromise. As noted above and in the May 12, 1997 **Federal Register** (62 FR 26045), treatment cannot be optimized for both acid and base-soluble metals due to their different solubility curves. Because all of the other toxic metals (*i.e.*, arsenic, cadmium, chromium, and lead) are being immobilized to meet their respective universal treatment standards, we consider, under the circumstances, that threats are being minimized if the alternative selenium treatment standards are met, as required by 3004 (m).

Furthermore, not only are all of the other toxic metals meeting their respective UTS standards, but the alternative selenium treatment standards essentially require CWM to use a well-designed and well-operated treatment system that is consistent, particularly in terms of the selection of reagents and reagent to waste ratios, with the technical basis for the current selenium treatment standard.

III. Reasons for Imposing Another Three-Year Limitation

We are granting this treatment variance for another three-year period. Again, we believe the conditions that led us to set the original three-year limit still exist. To be more specific, because selenium is a non-renewable resource, and because the wastes in question contain high selenium concentrations, one potential avenue that we want to continue to explore is whether the selenium component could be recycled in an environmentally sound manner instead of being stabilized and landfilled.[10] Over the next three years,

[5] Selenium's minimum solubility is at a neutral to mildly acidic pH (6.5–7.5) while other characterisitic metals have a minimum solubility in the alkaline pH range (8–12) (see 62 FR 26045).

[6] The treatment extract had a pH ranging from 10.5–11.9, which encompasses the maximum solubility (and, therefore, leaching potential) of selenium. This, in turn, suggests that use of the TCLP in this particular case adequately reflects a worst-case disposal scenario. (This is unlike the situation in *Columbia Falls Aluminum Co.* v. *EPA*, 139 F.3d 914, in which the TCLP testing did not reflect the post-treatment conditions).

[7] BDAT Background Document for Quality Assurance/Quality Control Procedures and Methodology, October 23, 1991.

[8] The treatment extract pH ranged from 11.9–12.0, which again suggested that the use of the TCLP adequately reflected the worst case disposal scenario. Furthermore, these treatment recipes were all consistent with the reagent to waste ratios used ot establish the existing selenium standard of 5.7 mg/L, as measured by the TCLP.

[9] Note that disposal in a Subtitle C landfill is required because the treated wastes are still characteristic for selenium (i.e., the wastes have TCLP values above the toxicity characteristic level for selenium of 1.0 mg/L).

[10] In 2001, Hydromet Environmental Recovery Ltd. opened the first plant in the U.S. that recovers

Continued

we also intend to work with the two glass manufacturers to better understand the processes that generate these waste streams and to explore whether opportunities exist to reduce the amount of selenium that ultimately is disposed.

For the three-year period, we expect CWM to update us annually on the alternative treatment technologies they are investigating and to submit any analytical data from studies using these alternative technologies. We ask that CWM's submission also include information showing which stabilization recipe they are using to meet the alternative treatment standards, the selenium concentrations in untreated wastes, and the analytical results from these treated wastes. We intend to use this information to determine, among other things, if there are any reductions in the amount of selenium that ultimately is disposed and if the alternative treatment standards for selenium are appropriate as a more permanent standard for these wastes.

At the end of the three-year period, today's alternative treatment standards expire. Thus, if the two glass manufacturers continue to generate these wastes with commensurate selenium levels, and if CWM has not found a new treatment technology to treat the two wastes to the national treatment level for D010 selenium wastes (or if the Agency has not adopted more permanent alternative treatment standards for these two wastes), then CWM and/or the generators of the two waste streams will have to re-open discussions with EPA about the most appropriate course of action for future management of these waste streams.

IV. Administrative Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because this rule does not create any new regulatory requirements, it is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This treatment variance does not create any new regulatory requirements. Rather, it establishes alternative treatment standards for two specific wastes that replace standards already in effect, and it only applies to the CWM facility in Kettleman City, California. Therefore, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more in the aggregate to either State, local, or tribal governments or the private sector in one year. The rule would not impose any Federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes, and local governments would have no compliance costs under this rule. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act. Thus, today's rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule will not significantly or uniquely affect small governments. This rule will not impose any requirements on small entities. This treatment variance does not create any new regulatory requirements. Rather, it establishes alternative treatment standards for two specific wastes that replace standards already in effect. Today's rule is not, therefore, subject to the requirements of section 203 of UMRA.

selenium from waste materials. The plant processes selenium materials from the copper refining and photocopy industries. These materials contain 25% or greater selenium.

D. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The subject wastes will comply with all other treatment standards and be disposed of in RCRA Subtitle C landfills. Therefore, we have identified no risks that may disproportionately affect children.

E. Environmental Justice Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's variance applies to two D010 waste streams that will be treated by Chemical Waste Management, Inc. at their Kettleman City, California facility and disposed of in a RCRA Subtitle C landfill, ensuring protection to human health and the environment. Therefore, the Agency does not believe that today's rule will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Paperwork Reduction Act

This variance only changes the treatment standards applicable to two D010 waste streams at the Chemical Waste Management, Inc. facility in Kettleman City, California. It does not change in any way the paperwork requirements already applicable to these wastes. Therefore, this rule is not affected by the requirements of the Paperwork Reduction Act.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards based on new methodologies. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This treatment variance does not create any new regulatory requirements. Rather, it establishes alternative treatment standards for two specific wastes that replace standards already in effect. Thus, Executive Order 13175 does not apply to this rule.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments."

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This treatment variance does not create any new regulatory requirements. Rather, it establishes alternative treatment standards for two specific wastes that replace standards already in effect. Thus, Executive Order 13132 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective July 12, 2002.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: May 13, 2002.

Michael H. Shapiro,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.44, the table in paragraph (o) is amended by: a. Removing the entry for "Ball Foster Glass Container Corp, El Monte, CA";

b. Adding in alphabetical order a new entry for "St. Gobain Containers, El Monte, CA"; and

c. Revising footnote 7.

The revision and addition read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.40

Facility name (1) and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
St. Gobain Containers, El Monte, CA (6) (7).	D010	Standards under § 268.40.	Selenium	NA	NA	25	NA

(1) A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7.

(6) Alternative D010 selenium standard only applies to dry scrubber solid from glass manufacturing wastes.

(7) D010 wastes generated by these two facilities are subject to the following conditions: (a) the wastes must be treated by Chemical Waste Management, Inc. at their Kettleman Hills facility in Kettleman City, California; and (b) this treatment variance will be valid until July 12, 2005.

Note: NA means Not Applicable.

[FR Doc. 02–13114 Filed 5–24–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 02–494]

FCC Registration Number Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On August 31, 2001 the Commission released final rules amending its rules to require persons and entities doing business with the Commission to obtain a unique identifying number called the FCC Registration Number (FRN) and to supply it when doing business with the Commission. The Commission is revising those rules to correct nonsubstantive errors.

DATES: Effective May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel (202) 418–1720.

SUPPLEMENTARY INFORMATION: This order adopted February 29, 2000 revises 47 CFR 1.8002 and 1.8004 to make nonsubstantive, editorial revisions. The Commission's rules are amended as set forth:

Ordering Clause

According, pursuant to § 0.231(b) of the Commission's rules, 47 CFR 0.231(b), that sections 1.8002(b)(1), 1.8004(c), and 1.8004(d) of the Commission's rules, 47 CFR 1.8002(b)(1), 1.8004(c), and 1.8004(d), are AMENDED as set forth in the rule changes.

List of Subjects in 47 CFR Part 1

Practice and procedure.

Federal Communication Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

§ 1.8002 [Amended].

2. In § 1.8002(b)(1), remove the words "THE CORES" and add in their place the words "the CORES".

3. Revise § 1.8004(c) and (d) to read as follows:

§ 1.8004 Penalty for Failure to Provide the FRN.

* * * * *

(c) Where the Commission has not established a filing deadline for an application, a missing or invalid FRN on such an application may be corrected and the application resubmitted. Except as provided in paragraph (d) of this section or in other Commission rules, the date that the resubmitted application is received by the Commission with a valid FRN will be considered the official filing date.

(d) Except for the filing of tariff publications (*see* 47 CFR 61.1(b)) or as provided in other Commission rules, where the Commission has established a filing deadline for an application and that application may be filed on paper, a missing or invalid FRN on such an application may be corrected with ten (10) business days of notification to the filer by the Commission staff and, in the event of such timely correction, the original date of filing will be retained as the official filing date.

[FR Doc. 02–13226 Filed 5–24–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571.121

[Docket No. NHTSA–02–12053]

RIN No. 2127–AI48

Federal Motor Vehicle Safety Standards; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA, DOT.)

ACTION: Final rule; technical amendment.

SUMMARY: In a May 3, 1989 final rule, NHTSA changed the brake applications and release timing requirements of the Federal motor vehicle safety standard on air brake systems. The changes to these requirements resulted in the addition of a new schematic diagram of a trailer test rig, labeled as Figure 1, to the standard. A pre-existing trailer test rig schematic was re-labeled as Figure 1(a) and retained for use until the new brake application and release timing requirements and the new figure became effective May 3, 1991. We are now deleting the obsolete Figure (1)(a). A provision describing the pressure characteristics of the trailer test rig depicted in Figure 1(a) is also being deleted. We are also taking this opportunity to correct various minor errors and omissions in the standard.

DATES: *Effective Date:* The amendment made by this final rule is effective June 27, 2002.

Petitions: Petitions for reconsideration must be received by July 12, 2002.

ADDRESSES: Petitions for reconsideration should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For non-legal issues: Mr. Jeffrey Woods, Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–8525, fax (202) 493–2739, electronic mail "*jwoods@nhtsa.dot.gov*".

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC–20, telephone (202) 366–5253, facsimile (202) 366–3820, electronic mail "*omatheke@nhtsa.dot.gov*".

SUPPLEMENTARY INFORMATION: On May 3, 1989, we published a final rule (54 FR 18890) amending the brake applications and release timing requirements of Standard No. 121, Air brake systems. Under Standard 121, pneumatic brake systems must meet a number of performance requirements when subjected to testing that includes both on-road and dynamometer testing. One of the aspects of brake system performance measured by Standard No. 121 is how quickly brakes are applied once the brake pedal is depressed and how quickly the brakes release after the brake pedal is allowed to return to its original position. The 1989 final rule modified the existing application and release timing requirements and made several changes in how these application and release times are measured. One of the changes involved the test device, the trailer test rig, used in the timing tests. Due to this change, a schematic diagram of the test device to be used until the new timing requirements became effective on May 3, 1991, was re-labeled as Figure 1(a).

Mr. Robert J. Crail submitted a petition for rulemaking to NHTSA dated July 17, 2000 requesting that Figure 1(a) be deleted from Standard No. 121. Mr. Crail's petition correctly indicated that Figure 1(a) depicts a trailer test rig no longer used in the standard. The petition requested that Figure 1(a) be deleted because Figure 1 depicts the only trailer test rig now used in the standard. NHTSA granted the petition on April 6, 2001, indicating that it would review the issue to determine if further action would be appropriate.

The agency has reviewed this issue and concluded that Figure (1)(a), which is now obsolete, should be deleted. NHTSA also has reviewed Standard No. 121 for other errors and omissions and is correcting these matters in this technical amendment. The agency believes that none of these corrections will change the substantive requirements of the Standard or have any effect on manufacturers of vehicles subject to Standard No. 121.

As noted above, this technical amendment deletes Figure 1(a) depicting an obsolete trailer test rig. S6.1.13(b) which describes the pressure characteristics of the old trailer test rig depicted in Figure 1(a), is also being deleted. S6.1.13(a) which references the currently-used trailer test rig in Figure 1, is renumbered as S6.1.13.

NHTSA is also correcting other typographical errors and omissions. The last sentence of S5.4.1.1 currently states "after each stop, rotate the brake drum or disc until the temperature of the brake falls to between 125 °F. And 200 °F." This sentence is being corrected by deleting the period after "125 °F" and removing the capitalization of the A in "and" to join the two sentences. As corrected, the last section of the sentence states "between 125 °F and 200 °F." S6.1.2 states that "the inflation pressure is as specified by the vehicle manufacturer for the GVWR." The word "tire" is now being inserted before the word "inflation." Prior to this technical amendment, S6.1.8 included this sentence:

> If the vehicle cannot attain a speed of 40 mph in 1 mph, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first.

We are now correcting S6.1.8 by replacing "1 mph" with "1 mile" so the sentence states "If the vehicle cannot attain a speed of 40 mph in 1 mile, continue * * *" Prior to the technical corrections set forth in this notice, S6.2.5 stated, in part, that "the rate of brake drum or disc rotation on a dynamometer or responding to the rate of rotation * * *" This phrase contained a typographical error as the words "or responding" were originally intended to be the single word "corresponding." NHTSA now amends this section of S6.2.5 to state "the rate of brake drum or disc rotation on a dynamometer corresponding to the rate of rotation * * *"

Several errors in tables and figures are also being corrected. Table III specifies brake chamber pressures that relate to brake retardation forces in the dynamometer test requirements in S5.4.1 *Brake retardation force.* NHTSA is modifying Table III to remedy a typographical error in the heading for the first column of the table. The

column heading incorrectly read "Column 1, Brake Retardation Force, GAWR." The comma in between the word "Force" and the abbreviation "GAWR" is being modified to reflect that the numbers in Column 1 are the quotient of brake retardation force divided by gross axle weight rating. The column heading is being changed to "Brake Retardation Force/GAWR."

A correction is also being made to the rated brake chamber volumes presented in Table V. In a final rule published in the **Federal Register** on July 11, 1996, (61 FR 36516) NHTSA revised the rated brake chamber volumes for long-stroke brake chambers in Table V. However, the revised brake volumes were never were put into Table V. Therefore, the correct values from the July 11, 1996, final rule are now being put into Table V.

NHTSA is also inserting a new section into the Standard. Standard No. 121 establishes brake performance requirements employing both dynamometer and road tests to measure braking force. Both tests require that brake temperatures be monitored before and during testing and each test must be performed when the brakes are in a certain temperature range. In order to assist those performing the dynamometer test, S6.2.4 provides guidance on the placement and mounting of temperature sensing devices on the brake shoes and contains a reference to a diagram contained in Figure 2. However, reference to Figure 2 and guidance on the installation of temperature sensing devices were omitted from the conditions for the road test contained in S6.1. In order to remedy this omission, S6.1 is amended to add a new paragraph, S6.1.16, outlining temperature sensor installation:

S6.1.16 *Thermocouples.* The brake temperature is measured by plug-type thermocouples installed in the approximate center of the facing length and width of the most heavily loaded shoe or disc pad, one per brake, as shown in Figure 2. A second thermocouple may be installed at the beginning of the test sequence if the lining wear is expected to reach a point causing the first thermocouple to contact the rubbing surface of a drum or rotor. The second thermocouple shall be installed at a depth of .080 inch and located within 1 inch circumferentially of the thermocouple installed at .040 inch depth. For centergrooved shoes or pads, thermocouples are installed within one-eighth of an inch to one-quarter of an inch of the groove and as close to the center as possible.

We find for good cause that notice and the opportunity to comment on these technical amendments are unnecessary and contrary to the public interest. As noted above, the agency believes that none of these corrections will change the substantive requirements of the Standard or have any effect on manufacturers of vehicles subject to Standard No. 121.

Rulemaking Analyses

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866. After considering the impacts of this rulemaking action, NHTSA has determined that the action is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The final rule makes no substantive changes. The impacts are so minimal as not to warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. For the reasons discussed above, I certify that this action would not have a significant economic impact upon "a substantial number of small entities." The amendment is intended to assist potential applicants for temporary exemptions, including small businesses, to understand agency procedures so that, if a request for confidentiality is made, the documentation will be complete at the time the request is made. It is also designed to provide guidance as to arguments the agency considers relevant in making decisions upon exemption applications. Governmental jurisdictions will not be affected at all since they are generally neither importers nor purchasers of nonconforming imported motor vehicles.

C. Executive Order 12612 (Federalism)

The agency has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act and concludes that the action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles produced or imported will not vary from that existing before promulgation of the rule.

E. Civil Justice Reform

This final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. A procedure is set forth in 49 U.S.C. 30161 for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Since this final rule will not have a $100 million effect, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 571

Motor vehicle safety.

In consideration of the foregoing, NHTSA amends 49 CFR part 571.121 as follows:

PART 571.121—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Amend Section 571.121 by revising S5.4.1.1, S6.1.8, S6.1.13, S6.2.5, Table III, Table V, removing figure 1(a), and adding S6.1.16 to read as follows:

§ 571.121 Air brake systems.

* * * * *

S5.4.1.1 After burnishing the brake pursuant to S6.2.6, retain the brake assembly on the inertia dynamometer. With an initial brake temperature between 125 °F. and 200 °F., conduct a stop from 50 m.p.h., maintaining brake chamber air pressure at a constant 20 psi. Measure the average torque exerted by the brake from the time the specified air pressure is reached until the brake stops and divide by the static loaded tire radius specified by the tire manufacturer to determine the retardation force. Repeat the procedure six times, increasing the brake chamber air pressure by 10 psi each time. After each stop, rotate the brake drum or disc until the temperature of the brake falls to between 125 °F. and 200 °F.

* * * * *

S6.1.8 For vehicles with parking brake systems not utilizing the service brake friction elements, burnish the friction elements of such systems prior to the parking brake test according to the manufacturer's recommendations. For vehicles with parking brake systems utilizing the service brake friction elements, burnish the brakes as follows: With the transmission in the highest gear appropriate for a speed of 40 mph, make 500 snubs between 40 mph and 20 mph at a deceleration rate of 10 f.p.s.p.s., or at the vehicle's maximum deceleration rate if less than 10 f.p.s.p.s. Except where an adjustment is specified, after each brake application accelerate to 40 mph and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If the vehicle cannot attain a speed of 40 mph in 1 mile, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. Any automatic pressure limiting valve is in use to limit pressure as designed. The brakes may be adjusted up to three times during the burnish procedure, at intervals specified by the vehicle manufacturer, and may be adjusted at the conclusion of the burnishing, in accordance with the vehicle manufacturer's recommendation.

* * * * *

S6.1.13 *Trailer test rig.*

The trailer test rig shown in Figure 1 is calibrated in accordance with the calibration curves shown in Figure 3. For the requirements of S5.3.3.1 and S5.3.4.1, the pressure in the trailer test rig reservoir is initially set at 100 psi for actuation tests and 95 psi for release tests.

* * * * *

S6.1.16 *Thermocouples.*

The brake temperature is measured by plug-type thermocouples installed in the approximate center of the facing length and width of the most heavily loaded shoe or disc pad, one per brake, as shown in Figure 2. A second thermocouple may be installed at the beginning of the test sequence if the lining wear is expected to reach a point causing the first thermocouple to contact the rubbing surface of a drum or rotor. The second thermocouple shall be installed at a depth of .080 inch and located within 1 inch circumferentially of the thermocouple installed at .040 inch depth. For centergrooved shoes or pads, thermocouples are installed within one-eighth of an inch to one-quarter of an inch of the groove and as close to the center as possible.

* * * * *

S6.2.5 The rate of brake drum or disc rotation on a dynamometer corresponding to the rate of rotation on a vehicle at a given speed is calculated by assuming a tire radius equal to the static loaded radius specified by the tire manufacturer.

* * * * *

TABLE III.—BRAKE RETARDATION FORCE

Column 1 brake retardation force/GAWR	Column 2 brake chamber pressure, PSI
0.05	20
0.12	30
0.18	40
0.25	50
0.31	60
0.37	70
0.41	80

* * * * *

TABLE V.—BRAKE CHAMBER RATED VOLUMES

Brake Chamber type (nominal area of piston or diaphragm in square inches)	Column 1 full stroke (inches)	Column 2 rated volume (cubic inches)
Type 9	1.75/2.10	25
Type 12	1.75/2.10	30
Type 14	2.25/2.70	40
Type 16	2.25/2.70	46
Type 18	2.25/2.70	50
Type 20	2.25/2.70	54
Type 24	2.50/3.20	67
Type 30	2.50/3.20	89
Type 36	3.00/3.60	135

Dated: Issued: May 21, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–13221 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1109

[STB Ex Parte No. 586]

Arbitration—Various Matters Relating To Its Use as an Effective Means of Resolving Disputes That Are Subject to the Board's Jurisdiction

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is making a technical amendment to its regulation on confidentiality in administrative dispute resolution matters, in order to correct a statutory reference to the Administrative Dispute Resolution Act, the numbering of which has changed.

EFFECTIVE DATE: May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. (TDD for the hearing impaired: (800) 877–8339).

SUPPLEMENTARY INFORMATION: A technical revision to 49 CFR 1109.3 is made to change the reference (relating to the confidentiality of ADR procedures) from "5 U.S.C. 584" to "5 U.S.C. 574" to reflect the transfer made by Public

Law 102–354, section 3(b)(2), August 26, 1992, 106 Stat. 944. Because this change is merely a technical correction, it is being implemented without requesting public comment.

Small Entities: The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment: This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1109

Administrative practice and procedures.

Authority: 49 U.S.C. 721(a).

Decided: May 20, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, Part 1109 of the Code of Federal Regulations, is amended as follows:

PART 1109—USE OF ALTERNATIVE DISPUTE RESOLUTION IN BOARD PROCEEDINGS AND THOSE IN WHICH THE BOARD IS A PARTY

1. The authority citation for part 1109 continues to read as follows:

Authority: 5 U.S.C. 571 *et seq.*

2. Revise § 1109.3 to read as follows:

§ 1109.3 Confidentiality in ADR Matters

In all ADR matters involving the Board, whether under the Administrative Dispute Resolution Act or not, the confidentiality provisions of that Act (5 U.S.C. 574) shall bind the Board and all parties and neutrals in those ADR matters.

[FR Doc. 02–13258 Filed 5–24–02; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1111

[STB Ex Parte No. 586]

Arbitration—Various Matters Relating To Its Use as an Effective Means of Resolving Disputes That Are Subject to the Board's Jurisdiction

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is amending its regulations at 49 CFR part 1111 governing formal complaints to add a requirement that in complaint cases that are potentially arbitrable under the Board's voluntary arbitration process (49 CFR part 1108), the complaint must contain a statement that arbitration was considered, but rejected, as a means of resolving the dispute.

EFFECTIVE DATE: June 21, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. (TDD for the hearing impaired: (800) 877–8339).

SUPPLEMENTARY INFORMATION: In this proceeding, in addition to amending its regulations as indicated in the summary, the Board updated its records as to those persons currently available and possessing the requisite qualifications (*i.e.*, those experienced in rail transportation or economic issues similar to those arising before the Board) to serve as an arbitrator under 49 CFR part 1108. A copy of the list can be obtained from the Board's Office of Public Services, Suite 840, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001; telephone (202) 565–1592.

Additionally, the Board obtained comments from interested parties on whether binding arbitration of small rail rate disputes should be mandated through legislation. The comments reflect a divergence of views on this subject and no areas of consensus. The Board will provide a report to Congress summarizing the comments received.

Additional information is contained in the Board's decision. To purchase a copy of the decision, write to, call or pick up in person from Dā-2-Dā Legal, Room 405, 1925 K Street, NW, Washington, DC 20006, telephone (202) 293–7776. The decision is also posted on the Board's Web site at *www.stb.dot.gov*.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR part 1111

Administrative practice and procedures.

Authority: 49 U.S.C. 721(a).

Decided: May 20, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, Part 1111 of the Code of Federal Regulations, is amended as follows:

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

1. The authority citation for part 1111 continues to read as follows:

Authority: 49 U.S.C. 721, 10704, and 11701.

2. In § 1111.1(a), paragraph (a)(11) is added to read as follows:

§ 1111.1 Content of formal complaints; joinder.

(a) * * *

(11) For matters for which voluntary, binding arbitration is available pursuant to 49 CFR part 1108, the complaint shall state that arbitration was considered, but rejected, as a means of resolving the dispute.

* * * * *

[FR Doc. 02–13257 Filed 5–24–02; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH83

Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for *Chorizanthe robusta* var. *robusta* (Robust Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for *Chorizanthe robusta* var. *robusta* (robust spineflower). Approximately 190 hectares (469 acres) of land fall within the boundaries of the critical habitat designation. Critical habitat is located in Santa Cruz County, California. This critical habitat designation provides additional protection under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 4 of the Act requires us to consider economic and other relevant impacts when specifying any particular area as critical habitat. We solicited data and comments from the public on all aspects of the proposed rule, including data on economic and other impacts of the designation, and our approaches for handling any future habitat conservation plans.

DATES: This rule becomes effective on June 27, 2002.

ADDRESSES: Comments and materials received, as well as supporting documentation, used in the preparation of this final rule will be available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA, 93003.

FOR FURTHER INFORMATION CONTACT: Connie Rutherford, Ventura Fish and Wildlife Office, at above address (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe robusta var. *robusta*, also known as robust spineflower or Aptos spineflower, is endemic to sandy soils in central California. The taxon is currently found in southern Santa Cruz County. Plants formerly considered *C. r.* var. *robusta*, but whose identity is now questioned, are found in northern Monterey County. Historically, *C. r.* var. *robusta* was also known from Alameda, San Mateo, and Santa Clara Counties. In California, the spineflower genus (*Chorizanthe*) in the buckwheat family (Polygonaceae) comprises species of wiry annual herbs that inhabit dry sandy soils, both along the coast and inland. Because of the patchy and limited distribution of such soils, many species of *Chorizanthe* tend to be highly localized in their distributions.

Like other spineflowers, *Chorizanthe robusta* var. *robusta* is branched from the base, which has a cluster of leaves arising from the base of the stem. The overall appearance of *C. r.* var. *robusta* is that of a low-growing herb that is soft-hairy and grayish or reddish in color. The plant has an erect to spreading or prostrate habit, with large individuals reaching 50 centimeters (cm) (20 inches (in)) or more in diameter. This taxon is distinguished by white (rarely pinkish) scarious (translucent) margins on the lobes of the involucre (circle or collection of modified leaves surrounding a flower cluster) or head that subtend the white- to rose-colored flowers. The aggregate of flowers tends to be 1.5 to 2.0 cm (0.6 to 0.8 in) across in diameter and distinctly aggregate. Each flower produces one seed; the seeds are 3.5 to 4.0 millimeters (0.14 to 0.16 in) long.

Chorizanthe robusta var. *robusta* is one of two varieties of the species *Chorizanthe robusta*. The other variety (*Chorizanthe robusta* var. *hartwegii*), known as Scotts Valley spineflower, is restricted to the Scotts Valley area in the Santa Cruz Mountains. The range of *C. r.* var. *robusta* partially overlaps with *Chorizanthe pungens* var. *pungens* (Monterey spineflower), another closely related taxon in the *Pungentes* section of the genus, in southern Santa Cruz County. *Chorizanthe pungens* var. *pungens* is a threatened species and *Chorizanthe robusta* var. *hartwegii* is an endangered species; for a detailed description of these related taxa, see the Draft Recovery Plan for the Robust Spineflower (Service 2000) and references within the plan. We are designating critical habitat for *Chorizanthe pungens* var. *pungens* and *Chorizanthe robusta* var. *hartwegii* in separate **Federal Register** rules.

Chorizanthe robusta var. *robusta* is a short-lived annual species. It germinates during the winter months and flowers from April through June. Pollinators observed on *C. r.* var. *robusta* include six species of flies, including two species of bee flies (Bombyliidae) and two species of syrphid flies (Syrphidae); three species of beetles, including ladybird beetles (Coccinelidae); honey bees (*Apis mellifera*); bumblebees (Apidae); leaf cutter bees (megachilids); at least six species of butterflies, including one species in the Nymphalidae family; sphecid wasps; and ants (Randy Morgan, biologist, Soquel, California, pers. comm., 2000; S. Baron, *in litt.*, 2000; Annie Murphy, Pacific Gas and Electric Company, *in litt.*, 2001). In other annual species of *Chorizanthe*, the flowers are protandrous, a reproductive strategy in which the anthers (part of flower that produces pollen) mature and shed pollen prior to the maturation of the style (part of the female reproductive structure of a flower) to receive pollen, with a delay of style receptivity of 1 or 2 days. Protandry facilitates cross-pollination by insects. However, if cross-pollination does not occur within 1 or 2 days, self-pollination may occur as the flower closes at the end of the day (Reveal 2001). The relative importance of insect pollination and self-pollination to seed set is unknown; however, in the closely related *C. p.* var. *pungens*), the importance of pollinator activity in seed set was demonstrated by the production of seed with low viability where pollinator access was limited (Harding Lawson Associates 2000).

Seed is mature by August. The plants turn a rusty hue as they dry through the summer months, eventually shattering during the fall. Seed dispersal is facilitated by the involucral spines, which attach the seed to passing animals. Black-tailed hares (*Lepus californicus*) have been observed to browse on *Chorizanthe robusta* var. *robusta* (S. Baron, *in litt.*, 2000), and most likely act to disperse seeds as well. Other animals likely to assist in seed dispersal include, but are not limited to, mule deer (*Odocoileus hemionus*), gray foxes (*Urocyon cinereoargenteus*), coyotes (Canis latrans), bobcats (*Felis rufus*), ground squirrels (*Otospermophilus beecheyi*), striped skunks (*Mephitis mephitis*), opossums (*Didelphis virginiana*), racoons (Procyon lotor), and other small mammals and birds. While animal vectors most likely facilitate dispersal between populations, or within portions of populations, the prevailing coastal winds undoubtedly play a part in scattering seed within colonies and populations.

For annual plants, maintaining a seed bank (a reserve of dormant seeds, generally found in the soil) is important to year-to-year and long-term survival (Baskin and Baskin 1978). A seed bank includes all of the seeds in a population and generally covers a larger area than the extent of observable plants seen in a given year (Given 1994). The number and location of standing plants (the observable plants) in a population varies annually due to a number of factors, including the amount and timing of rainfall, temperature, soil conditions, and the extent and nature of the seed bank. The extent of seed bank reserves is variable from population to population, and large fluctuations in the number of standing plants at a given site may occur from one year to the next. Depending on the vigor of the individual plant and the effectiveness of pollination, dozens, if not hundreds of seeds could be produced. In one study at Sunset State Beach, individual *Chorizanthe robusta* var. *robusta* plants had an average of 126 flowers, and an average seed set of 51 seeds per plant (S. Baron, pers. comm., 2001). The production of seed itself does not guarantee production of future reproductive individuals for several reasons: seed viability may be low, as has been found in other species of *Chorizanthe* (Bauder 2000); proper conditions for germination may not be present in most years; and seedling mortality may result from withering before maturity, herbivory, or uprooting by gopher activity (Baron 1998). At one site, seedling mortalities of 42 and 31 percent in 1998 and 2000, respectively, were caused in *C. r.* var. *robusta* primarily by a larval microlepidoptera

from the family Gelichiideae (Baron 2000).

While sites that support large populations of *Chorizanthe robusta* var. *robusta* most likely also support large seed banks and can sustain several years of poor weather or bouts of predation, sites that support smaller populations and smaller seed banks may be more vulnerable to extirpation. For example, the population of *C. r.* var. *robusta* at Sunset State Beach appears to be consistently large, with tens of thousands of individuals over the past decade. Also, the population that occurs within the Aptos unit numbered approximately 3,000 in the year 2000 (Taylor 2000); based on only 1 year of observation, this appears to be the second largest population of *C. r.* var. *robusta*. However, five other known populations have been estimated to support 1,500 or fewer plants, though in some cases, the estimate has been based on only 1 year of observation: the Pogonip population comprised 800 individuals in the year 2000 (Baron 2000); the Branciforte population comprised approximately 500 individuals in the year 2001 (Connie Rutherford, Service, *in litt.*, 2001); the Freedom unit supported approximately 500 individuals in 1995 (California Natural Diversity Data Base (CNDDB) 2001); the Buena Vista population supported approximately 1,500 individuals in 1999 (Baron 1999b); and the Wilder Creek population approximated 1,000 individuals in 2001 (Gray Hayes, *in litt.*, 2001).

The locations where *Chorizanthe robusta* var. *robusta* occurs are subject to a mild maritime climate, where fog helps keep summer temperatures cool and winter temperatures relatively warm, and provides moisture in addition to the normal winter rains. *Chorizanthe robusta* var. *robusta* is currently known from a total of eight sites, six of which are included in this critical habitat designation. One of these sites is located on active coastal dunes (Sunset State Beach), while the other sites are located inland from the immediate coast in sandy openings within scrub, maritime chaparral, or oak woodland habitats. All of these habitat types include microhabitat characteristics that are favored by *C. r.* var. *robusta*. First, all sites are on sandy soils; whether the origin of the soils are from active dunes or interior fossil dunes appears unimportant. The most prevalent soil series represented are Baywood, Ben Lomond, Zayante, Tierra, and Watsonville (Soil Conservation Service 1980). Second, these sites are relatively open and free of other vegetation; sandy soils tend to be nutrient-poor, which limits the abundance of other herbaceous species that can grow on them. However, if these soils have been enriched, either through the accumulation of organic matter or importation of other soils, these sandy soils may support more abundant herbaceous vegetation which may then compete with *C. r.* var. *robusta*. Management of the herb cover, through grazing, mowing or fire, may allow the spineflower to persist. In scrub and chaparral communities, *C. r.* var. *robusta* does not occur under dense stands, but will occur between more widely spaced shrubs. Controlled experiments in altering soil and shade regimes for the closely related Ben Lomond spineflower (*Chorizanthe pungens* var. *hartwegiana*) showed that plants grown on their native low-nutrient soil were less successful (measured by flower production and total biomass) than those grown on adjacent soils with a higher organic matter content. Furthermore, plants grown in high shade were less successful than those grown in low or no shade. These results indicate that the plants grow on sandy soils because their nutrient-poor nature tends to restrict the growth of other species that would compete with the spineflower for light (McGraw and Levin 1998).

According to information included in the CNDDB, *Chorizanthe robusta* var. *robusta* once ranged from Alameda County, on the eastern side of San Francisco Bay, south to northern Monterey County—a range of approximately 160 kilometers (km) (100 miles (mi)). The identity of the Alameda collections, however, is still unresolved; Reveal and Hardham (1989) noted that these collections may be more closely related to other spineflowers in the Pungentes section of the genus. Resolution of the identity of the Alameda collections is unlikely since the Alameda population was last collected in 1948, and the population at this site is believed to be extirpated (Service 2000). Other historic collections were made from Colma in San Mateo County, Los Gatos and San Jose in Santa Clara County, and several locations in Santa Cruz and Monterey Counties. The species is believed to be extirpated at all of these sites (Service 2000). The current distribution of *Chorizanthe robusta* var. *robusta* is restricted to coastal and near-coastal sites in southern Santa Cruz County, ranging from Pogonip Park in the city of Santa Cruz, southeast to coastal dunes at Sunset State Beach. One other currently occupied location is also found in northern Monterey County, but the identity of the plants at the site has recently come into question (see below, Summary of Changes From the Proposed Rule, item 5).

At the time of the proposed rule, we were aware of seven sites with *Chorizanthe robusta* var. *robusta*. At Pogonip Park, two *C. r.* var. *robusta* colonies occur on sandy soils derived from the Santa Margarita sandstone formation; one of these colonies is growing in sandy openings within a mixed forest community (S. Baron, *in litt.*, 1999a; CNDDB 2000). Within the city of Santa Cruz, near where Highway 1 crosses Carbonera Creek (referred to as the Branciforte site), a population occurs in a field that supports grassland species, including *Avena barbata* (wild oats), *Vulpia* sp. (vulpia), *Lupinus* sp. (sky lupine), *Eschscholzia californica* (California poppy), *Conyza* sp. (telegraph weed), *Navarettia atractyloides* (navarretia), and *Erodium* sp. (filaree) (R. Morgan, pers. comm., 2000). At the Aptos site, *C. r.* var. *robusta* occurs in an opening within maritime chaparral on inland marine sand deposit (CNDDB 2000). At the Freedom site, *C. r.* var. *robusta* occurs in a grassy opening within maritime chaparral and oak woodland (Dean Taylor, Jepson Herbarium, Berkeley, California, *in litt.*, 2000). At the Buena Vista site, *C. r.* var. *robusta* occurs on sandy soils in openings within oak forest and maritime chaparral (S. Baron, *in litt.*, 1999b). The Buena Vista site also supports the endangered Santa Cruz long-toed salamander (*Ambystoma californiense*).

At Sunset State Beach, *Chorizanthe robusta* var. *robusta* is found at the base of backdunes in openings of coastal scrub, including *Eriophyllum staechadifolium* (seaside woolly sunflower), *Artemisia pycnocephala* (coastal sagewort), *Ericameria ericoides* (mock heather), and *Baccharis pilularis* (coyote bush) (CNDDB 2000). *Chorizanthe pungens* var. *pungens* grows in a band parallel to the *C. r.* var. *robusta*, in the foredunes along the beach (CNDDB 2000). The distribution of suitable habitat on coastal dunes is subject to dynamic shifts caused by patterns of dune mobilization, stabilization, and successional trends in coastal dune scrub that increase in cover over time. Individual colonies of *C. r.* var. *robusta*, found in gaps between stands of scrub, shift in distribution and size over time. The seventh site at which the species was thought to occur at the time of the proposed rule was on coastal dunes between Marina and Seaside on lands formerly known as Fort Ord, in northern Monterey County. The identity of the plants at this site has recently come into question (see below, Summary of Changes From the Proposed Rule).

During the public comment periods, we became aware of additional habitat that supports *Chorizanthe robusta* var. *robusta*, that we had not included in the critical habitat proposal. Two areas supporting *C. r.* var. *robusta*, but not included in the critical habitat designation, are considered new sites: (1) A location to the south of Empire Grade and north of Wilder Ranch State Park on private lands (G. Hayes, *in litt.*, 2001) and (2) two places in Manresa State Beach. A third new area that came to our attention after we had proposed critical habitat is an expansion of the previously known location just east of Aptos High School on lands owned by the Pajaro Valley Unified School District (Vince Cheap, California Native Plant Society, *in litt.*, 2000). This latter area is directly adjacent to the Freedom unit that is discussed in this rule.

Under the Act and the Administrative Procedure Act (APA) (5 U.S.C. 702 and 706), we are required to allow the public an opportunity to comment on the proposed rulemaking. Therefore, because these new areas were not included in the proposed rule, we are not including them in the final rule. Although these areas were not included in the critical habitat proposal, they may be important to the recovery of the species and could be included in recovery activities in the future.

Portions of the coastal dune, coastal scrub, grassland, chaparral, and oak woodland communities that support *Chorizanthe robusta* var. *robusta* have been eliminated or altered by recreational use, conversion to agriculture, and urban development. Dune communities have also been altered in composition by the introduction of non-native species, especially *Carpobrotus* spp. (sea-fig or iceplant) and *Ammophila arenaria* (European beachgrass), in an attempt to stabilize shifting sands. In the last decade, significant efforts have been made to restore native dune communities, including the elimination of these non-native species (California Department of Parks and Recreation (CDPR) 1995).

Previous Federal Action

On May 16, 1990, we received a petition from the Santa Cruz Chapter of the California Native Plant Society to list *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower) as endangered. Based on a 90-day finding that the petition presented substantial information indicating that the requested action may be warranted (55 FR 46080), we initiated a status review of this taxon. During that time, we also reviewed the status of *Chorizanthe robusta* var. *robusta*. We proposed endangered status for the *C. r.* var. *robusta* on October 24, 1991 (56 FR 55107). The final rule, published on February 4, 1994, (59 FR 5499) listed *C. robusta*, inclusive of var. *robusta* and var. *hartwegii*, as endangered. At the time *Chorizanthe robusta* was listed, we found that designation of critical habitat for *Chorizanthe robusta* was prudent but not determinable and that designation of critical habitat would occur once we had gathered the necessary data.

On June 30, 1999, our failure to designate critical habitat for *Chorizanthe robusta* within the time period mandated by 16 U.S.C. 1533(b)(6)(C)(ii) was challenged in *Center for Biological Diversity* v. *Babbitt* (Case No. C99–3202 SC). On August 30, 2000, the U.S. District Court for the Northern District of California (court) directed us to publish a proposed critical habitat designation within 60 days of the court's order, and a final critical habitat designation no later than 120 days after the proposed designation is published. On October 16, 2000, the court granted our request for a stay of this order. Subsequently, by a stipulated settlement agreement signed by the parties on November 20, 2000, we agreed to propose critical habitat for *Chorizanthe robusta* var. *robusta* by January 15, 2001, and to publish a final rule by October 19, 2001. The plaintiffs subsequently agreed to, and the court approved, an extension until May 17, 2002, to complete the final rule.

Because the two varieties of *Chorizanthe robusta* are geographically and ecologically separated, critical habitat designations were developed separately. The proposed rule to designate critical habitat for *Chorizanthe robusta* var. *robusta* was sent to the **Federal Register** on January 16, 2001, and was published in the **Federal Register** February 15, 2001 (66 FR 10419). The proposed critical habitat designation included approximately 660 ha (1,635 ac) of lands in Santa Cruz and Monterey Counties as critical habitat. The publication of the proposed rule opened a 60-day public comment period, which closed on April 16, 2001. On May 3, 2001, we published technical corrections to the proposal to correct a mapping error that had been published in the proposal with respect to the location of Unit D (66 FR 22141). We accepted comments until June 4, 2001 on this correction. On September 19, 2001, we published a notice announcing the reopening of the comment period on the proposal to designate critical habitat for *Chorizanthe robusta* var. *robusta*, and a notice of availability of the draft economic analysis on the proposed determination (66 FR 48228). This second public comment period closed on October 19, 2001. On February 1, 2002, the Office of the Secretary of the Interior published a notice reopening the comment period until February 15, 2002 (67 FR 4940). The comment period was reopened to allow individuals to resubmit comments that we may not have received due to the Department's Internet access, including the receipt of outside e-mail, being shut down.

Summary of Comments and Recommendations

We contacted appropriate Federal, State, and local agencies, scientific organizations, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a legal notice in the Santa Cruz Sentinel on February 24, 2001. We received individually written letters from seven parties, which included three designated peer reviewers, two State agencies, one local jurisdiction, and one individual. Approximately 800 additional letters were submitted as part of a mailing campaign. Of the seven parties who did not respond as part of the mailing campaign, five supported the proposed designation and two were opposed. The 2 commenters opposing the proposal were specifically opposing designation of critical habitat on lands they own or manage, and were requesting that these areas be excluded from critical habitat designation. Of the 800 additional letters, 23 were opposed, 1 was neutral, and the remaining were in support of the critical habitat designation.

We reviewed all comments received for substantive issues and new information regarding critical habitat for *Chorizanthe robusta* var. *robusta*. Similar comments were grouped into general issues and are addressed in the following summary.

Comment 1: The University of California at Santa Cruz requested that their lands be excluded from the Pogonip unit of the critical habitat designation because no suitable habitat for *Chorizanthe robusta* var. *robusta* occurs there.

Our Response: For the proposed designation, we frequently used U.S. Geological Survey (USGS) Township/Range/Section boundaries to provide the legal description of the unit locations. The use of recently acquired high resolution aerial photographs dating from April 2000, and the use of Universal Transverse Mercator (UTM)

coordinates to provide the legal descriptions, has enabled us to undertake more precise mapping for the final designation. After conducting this new analysis, we found that the University lands do not contain the primary constituent elements needed to ensure the conservation of *C. r.* var. *robusta*. Therefore, we removed these lands from the designation, reducing the size of the Pogonip unit from 165 ha (410 ac) to 64 ha (159 ac).

Comment 2: The Pajaro Valley Unified School District (District) requested that District lands be excluded from the Freedom unit because the unit was mapped inaccurately, and included buildings and landscaped areas.

Our Response: In the proposal, the map showing the location of the Freedom unit was in error. We published a technical correction in the **Federal Register** on May 3, 2001 (66 FR 22141). As discussed in Comment 1 above, we now have access to more recent aerial photos, and are able to map boundaries using UTM coordinates. Therefore, we are able to more accurately map areas containing the primary constituent elements. This 4-ha (10-ac) unit is comprised of local agency lands (Pajaro Valley Unified School District) and private lands. We modified the boundaries of this unit to eliminate several hundred square meters of a baseball field from one corner of the unit. However, some of the District's land contains *Chorizanthe robusta* var. *robusta* and its primary constituent elements and remains as part of unit D.

Comment 3: The CDPR commented that a population of spineflower observed at Manresa State Beach was *Chorizanthe robusta* var. *robusta*, and not Monterey spineflower (*Chorizanthe pungens* var. *pungens*), as the Service stated in a companion critical habitat proposal for Monterey spineflower.

Our Response: The records available to us at the time the two proposed critical habitat designations were being prepared for *Chorizanthe pungens* var. *pungens* and *Chorizanthe robusta* var. *robusta* indicated that the populations of spineflower at Manresa State Beach were *Chorizanthe pungens* var. *pungens*. A site visit was subsequently made by State Park staff and a local species expert to Manresa State Beach, and they clarified that the currently extant populations of spineflower at Manresa State Beach are *C. r.* var. *robusta* (C. Rutherford, *in litt.*, 2001). However, since we were not aware of the presence of *C. r.* var. *robusta* at Manresa State Beach at the time of the proposed designation, we did not propose critical habitat for *C. r.* var. *robusta* at that location.

Under the Act and APA, we are required to allow the public an opportunity to comment on the proposed rulemaking. Therefore, because these populations were not in the proposed rule, we are unable to consider these areas in the final rule.

Comment 4: One peer reviewer suggested expanding the list of primary constituent elements to include such factors as seed germination requirements, substrate salinity, microreliefs and microclimates within local habitats, seasonal and yearly groundwater levels, and bird populations that migrate within the range of *Chorizanthe robusta* var. *robusta*.

Our Response: While we recognize that these factors may be important components of the habitats within which *Chorizanthe robusta* var. *robusta* is found, we do not have sufficient information at this time that indicates that they are the primary factors responsible for the distribution of *C. r.* var. *robusta* throughout its range.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited independent opinions from three knowledgeable individuals with expertise in one or several fields, including familiarity with the species, familiarity with the geographic region that the species occurs in, and familiarity with the principles of conservation biology. All three of the peer reviewers supported the proposal, and provided us with comments which were summarized in the previous section and incorporated into the final rule.

Summary of Changes From the Proposed Rule

Based on a review of public comments received on the proposed determination of critical habitat, we have reevaluated our proposed designation and included several changes to the final designation of critical habitat. These changes include the following:

(1) We clarified the description of the primary constituent elements and changed the number of primary constituent elements from six to four elements. We believe that two of the primary constituent elements included in the proposed designation are better described as features of the landscape. The two primary constituent elements that were included in the proposed rule but deleted in the final rule are: pollinator activity between existing colonies of *Chorizanthe robusta* var. *robusta*, and seed dispersal mechanisms between existing colonies and other potentially suitable sites. The two deleted elements are features of the landscape discussed in the section of this rule entitled Special Management Considerations or Protections and therefore, we did not include them as primary constituent elements.

(2) We added a section describing the Special Management Considerations or Protections that *Chorizanthe robusta* var. *robusta* may require. We believe that this new section will assist land managers in developing management strategies for *C. r.* var. *robusta* on their lands.

(3) We made revisions to the unit boundaries. These changes were made based on information supplied by commenters, as well as the use of the high resolution aerial photos, indicating either that the primary constituent elements were not present in certain portions of the proposed unit, or that certain changes in land use had occurred on lands within the proposed designation that would preclude those areas supporting the primary constituent elements. The use of recently acquired high resolution aerial photographs dating from April 2000 enabled us to undertake this more precise mapping.

A brief summary of the modifications made on each unit is given below:

Unit A: Pogonip Unit

Modifications were made to this unit to exclude areas that do not contain the primary constituent elements, including urban and industrial areas, and heavily forested areas through the use of high resolution imagery. These modifications resulted in a reduction from 165 ha (410 ac) in the proposed rule to 64 ha (159 ac) that are primarily within Pogonip Park in the city of Santa Cruz.

Unit B: Branciforte Unit

Minor modifications were made to this unit to remove paved areas and heavily forested areas. These modifications resulted in a reduction from 5 ha (11 ac) to 4 ha (9 ac).

Unit C: Aptos Unit

Modifications were made to this unit to remove heavily forested areas and areas with unsuitable soil types, while still maintaining connectivity between patches of suitable soil types. These modifications resulted in a reduction from 32 ha (78 ac) to 28 ha (70 ac).

Unit D: Freedom Unit

Unit D consists of grasslands and sandy areas in openings within maritime chaparral and oak woodland. This 4-ha (10-ac) unit is comprised of private and Pajaro Valley Unified School District lands. This unit was modified to eliminate several hundred square meters of a baseball field from one corner of the unit.

Unit E: Buena Vista Unit

Unit E consists of grasslands within maritime chaparral and oak woodland on the privately owned Buena Vista parcel. We modified the unit by removing lands in a watershed in which the *Chorizanthe robusta* var. *robusta* is not known to occur. These modifications resulted in a reduction from 75 ha (185 ac) to 55 ha (135 ac).

Unit F: Sunset Unit

Unit F consists of coastal dune habitat, and is identical to critical habitat that is being designated for the *Chorizanthe pungens* var. *pungens*. Modifications were made to this unit to eliminate the beaches within the surf zone along the western boundary of this unit. The acreage included in this unit was reduced from 50 ha (130 ac) to 35 ha (86 ac). All of this unit is within Sunset State Beach.

Unit G: Marina Unit

In 1992, a population of what was believed to be *Chorizanthe robusta* var. *robusta* was discovered on the coastal dunes between Marina and Seaside (Monterey County), in the course of surveys performed in preparation for the transfer of Department of Defense (DOD) lands formerly known as Fort Ord to the CDPR; this same stretch of dunes also supports the threatened *C. p.* var. *pungens* and the threatened western snowy plover (*Charadrius alexandrinus nivosus*) (U.S. Army Corps of Engineers (ACOE) 1997). We originally proposed this unit due to the reported discovery of the *C. r.* var. *robusta* population and to establish a contiguous area of habitat along Monterey Bay because fragmentation of habitat is a threat to the species. However, based on subsequent discussions with the botanist and the project manager that directed the botanical surveys on these lands, and the fact that no voucher specimens exist for *C. r.* var. *robusta* in this unit, we believe that there is not enough evidence to verify that a population of *C. r.* var. *robusta* occurs at this location (P. Cylinder, pers comm. 2001; R. Morgan, pers. comm. 2001). Therefore, because this unconfirmed location is outside the known range of the species and no historical collections have ever been made from this site, the proposed critical habitat, Unit G, was removed from the critical habitat designation. The acreage of this unit in the proposed rule was 325 ha (805 ac). Further calculations indicate that the elimination of the unit decreases the designation of critical habitat by 328 ha (811 ac) due to a revision in our calculations.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 of the Act also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. In regulations at 50 CFR 402.02, we define destruction or adverse modification as "* * * the direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not result in any regulatory requirements for these actions.

In order to be included in a critical habitat designation, the habitat must first be "essential to the conservation of the species." Critical habitat designations identify, to the extent known, using the best scientific and commercial data available, habitat areas that provide essential life-cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 requires that we designate critical habitat for a species, to the extent such habitat is determinable, at the time of listing. When we designate critical habitat at the time of listing or under short court-ordered deadlines, we may not have sufficient information to identify all areas essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation.

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from recovery plans, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies,

and biological assessments or other unpublished materials.

Habitat is often dynamic, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the Act's section 7(a)(2) jeopardy standard and section 9 prohibitions, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12) we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Chorizanthe robusta* var. *robusta*. This included information from CNDDB (2000), soil survey maps (Soil Conservation Service 1980), recent biological surveys and reports, additional information provided by interested parties, and discussions with botanical experts. We also conducted site visits at four of the known locations (Pogonip, Freedom, Buena Vista, and Sunset State Beach).

We also reviewed the goals for the delisting of *Chorizanthe robusta* var. *robusta* included in our draft recovery plan (Service 2000). The criteria for delisting *C. r.* var. *robusta* include: (1) The permanent protection of a minimum of 10 spineflower populations through establishment of new populations or the discovery of other new or historic populations; (2) with each population maintaining a minimum of 1,000 individuals for a period of 10 years that includes a normal rainfall cycle; and (3) the development and implementation of management plans for all sites on park lands and private lands.

The draft plan calls for the following recovery actions: (1) Protect habitat for *Chorizanthe robusta* var. *robusta* by working with local lead agencies; (2) manage habitat as needed at all locations that support extant populations; (3) conduct research that will contribute to developing appropriate management actions, including regular monitoring for population trends and potential threats; (4) establish new populations in appropriate habitat within the historic range of the species; and (5) increase public awareness of the species and its associated habitats through various outreach efforts. At the time the recovery plan was prepared, we were aware of only four populations; at the current time, we are aware of eight populations. Because the criteria for delisting *C. r.* var. *robusta* include the permanent protection of a minimum of 10 sites, we believe protection of all eight known sites is necessary for the long-term persistence of the species.

All of the critical habitat units are occupied by either above-ground plants or seed banks. In addition, each of the units probably contains areas that are considered currently unoccupied by the species. "Occupied" is defined here as an any area with above-ground *C. r.* var. *robusta* plants or a *C. r.* var. *robusta* seed bank of indefinite boundary. Current surveys need not have identified above-ground individuals for the area to be considered occupied because plants may still exist at the site as part of the seed bank (Given 1994). All occupied sites contain some or all of the primary constituent elements and are essential to the conservation of the species, as described below. "Unoccupied" is defined here as an area that contains no above-ground *C. r.* var. *robusta* plants and is unlikely to contain currently viable seeds.

Determining the specific areas that this taxon occupies is difficult for several reasons: (1) The distribution of *C. r.* var. *robusta* appears to be more closely tied to the presence of sandy soils than to specific plant communities; the plant communities may undergo changes over time which, due to the degree of cover that is provided by that vegetation type, may or may not favor the growth of *C. r.* var. *robusta* above-ground; (2) the method in which the current distribution of *C. r.* var. *robusta* is mapped can be variable, depending on the scale at which patches of individuals are recorded (*e.g.* many small patches versus one large patch); and (3) depending on the climate and other annual variations in habitat conditions, the extent of the distributions may either shrink and temporarily disappear, or, if there is a residual seed bank present, enlarge and cover a more extensive area. Because it is logistically difficult to determine how extensive the seed bank is at any particular site and because above-ground plants may or may not be present in all patches within a site every year, we cannot quantify in a meaningful way what proportion of each critical habitat unit may actually be occupied by *C. r.* var. *robusta*. Therefore, patches of unoccupied habitat are interspersed with patches of occupied habitat; the inclusion of unoccupied habitat in our critical habitat units reflects the dynamic nature of the habitat and the life history characteristics of this taxon. Both occupied and unoccupied areas that are designated as critical habitat are essential to the conservation of the species. Unoccupied areas provide areas into which populations might expand, provide connectivity or linkage between colonies within a unit, and support populations of pollinators and seed dispersal organisms.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to—space for individual and population growth, and for normal behavior; food, water, air, light, minerals or other nutritional or physiological requirements; cover or shelter; sites for germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Much of what is known about the specific physical and biological requirements of *Chorizanthe robusta* var. *robusta* is described in the Background section of this final rule. Based on the best available information at this time, the primary constituent elements of critical habitat for *C. r.* var. *robusta* are:

(1) Sandy soils associated with active coastal dunes and inland sites with sandy soils;

(2) Plant communities that support associated species, including coastal dune, coastal scrub, grassland, maritime chaparral, and oak woodland communities, and have a structure such that there are openings between the dominant elements (*e.g.* scrub, shrub, oak trees, clumps of herbaceous vegetation);

(3) Plant communities that contain little or no cover by nonnative species which would complete for resources available for growth and reproduction of *Chorizanthe robusta* var. *robusta;* and

(4) Physical processes, such as occasional soil disturbance, that support natural dune dynamics along coastal areas.

Site Selection

We selected critical habitat areas to provide for the conservation of *Chorizanthe robusta* var. *robusta*, at the single confirmed coastal site and five inland sites where it was known to occur at the time the proposal was prepared. A second coastal site, on the lands formerly known as Fort Ord, was proposed, but is not being designated as critical habitat because the identity of the plants at the location has recently come into question. Historic locations for which there are no recent records of occupancy (within the last 25 years) were not proposed for designation. At a number of these sites, including Alameda in Alameda County, Colma in San Mateo County, and Los Gatos and San Jose in Santa Clara County, the plant has not been seen for approximately 100 years; this, combined with the consideration that these locations have been urbanized, leads us to conclude that a critical habitat designation would be inappropriate for these sites.

Additional areas where *Chorizanthe robusta* var. *robusta* has been documented include one at Manresa State Beach, just seaward from the community of La Selva Beach in Santa Cruz County. *Chorizanthe robusta* var. *robusta* was observed near the entrance to the Beach in 1979, but it has not been seen since then and may be extirpated (CNDDB 2000).

Another population of *Chorizanthe* was known from the south end of the Manresa State Beach on a bluff top location, but it had been mistakenly identified as *Chorizanthe pungens* var. *pungens* (Monterey spineflower). The correct identity of the population was not determined until preparation of the final critical habitat designation was underway (C. Rutherford, *in litt.*, 2001). Another population is located south of Empire Grade and north of Wilder Ranch State Park on private land and contains approximately 1,000 individuals (G. Hayes, *in litt.*, 2001). In addition, Pajaro Valley Unified School District lands contain *Chorizanthe robusta* var. *robusta* colonies adjacent to Unit D, and associated with the colonies that are included within this unit. These three areas were brought to our attention after the proposed critical habitat designation had been published.

Under the Act and the Administrative Procedure Act (5 U.S.C. 702 and 706), we are required to allow the public an opportunity to comment on the proposed rulemaking. Therefore, because these sites were not included in the proposed rule, we are not including them in the final rule.

It is important to note that lands that support these populations do not appear to be threatened by actions that may negatively affect the species or its habitat. Because these areas are occupied by *Chorizanthe robusta* var. *robusta*, any actions in which there is a Federal nexus and that may affect the species will require consultation under section 7 of the Act.

Another area where *Chorizanthe robusta* var. *robusta* has been documented within the last 25 years is an area north of the community of Soquel in Santa Cruz County, and bounded by Paul Sweet Road to the west, Rodeo Gulch Road to the east, and as far north as Mountain View Road. Collections from this area were made in 1936, 1960, and 1977; although this area has undergone some scattered development, much of the area remains rural, and populations of *C. r.* var. *robusta* may persist in this area. However, due to the size of this area and our lack of information needed to delineate boundaries more specifically, we were not able to propose critical habitat in this area.

We do not believe this critical habitat designation alone will be sufficient to conserve *Chorizanthe robusta* var. *robusta*, a species in danger of extinction due to the highly restricted range in which the species is known to occur. The draft recovery plan for *C. r.* var. *robusta* (Service 2000) proposes as a recovery task "the reestablishment of populations within the historic range of the species if appropriate habitat can be located." The task of locating appropriate habitat, which would entail developing a predictive model based on habitat characteristics (similar to, but more detailed than, the constituent elements described in this final rule), followed by field surveys and coordination with other agencies, has not yet been initiated. Once these data have been gathered and the recovery plan is finalized, we may revisit critical habitat designation for this species, if appropriate.

The long-term conservation of *Chorizanthe robusta* var. *robusta* is dependent to a great extent upon the protection of existing population sites and on maintaining ecological functions within these sites, including connectivity between sites within close geographic proximity to facilitate pollinator activity and seed dispersal mechanisms, and the ability to maintain disturbance factors (for example dune dynamics at the coastal sites, and fire disturbance at inland sites) that maintain the openness of vegetation cover upon which the species depends. The areas we are designating as critical habitat provide some or all of the habitat components essential for the conservation of *C. r.* var. *robusta*.

Special Management Considerations or Protections

Special management considerations or protections may be needed to maintain the primary constituent elements for *Chorizanthe robusta* var. *robusta* within the units being designated as critical habitat. In some cases, protection of existing habitat and current ecological processes may be sufficient to ensure that populations of *C. r.* var. *robusta* are maintained, and have the ability to reproduce and disperse into surrounding habitat at those sites. In other cases, however, active management may be needed to maintain the primary constituent elements for *C. r.* var. *robusta*. We have outlined below the most likely kinds of special management and protection that *C. r.* var. *robusta* may require.

(1) In near-coastal areas, the supply and movement of sand along the coast must be maintained to create the dynamic dune habitats that are needed for *Chorizanthe robusta* var. *robusta*.

(2) In more interior locations, the sandy soils on which *Chorizanthe robusta* var. *robusta* is found should be maintained to optimize conditions for the species. Physical properties of the soil, such as its chemical composition, salinity, and drainage capabilities would best be maintained by limiting or restricting the use of herbicides, fertilizers, or other soil amendments.

(3) The associated plant communities must be maintained to ensure that the habitat needs of pollinators and dispersal agents are maintained. The use of pesticides should be limited or restricted so that viable populations of pollinators are present to facilitate reproduction of *Chorizanthe robusta* var. *robusta*. Fragmentation of habitat through construction of roads and certain types of fencing should be

limited so that seed dispersal agents may move seed of *C. r.* var. *robusta* throughout the unit.

(4) In some plant communities, it may be important to maintain a mosaic of different-aged stands of coastal scrub or maritime chaparral patches so that openings that support *Chorizanthe robusta* var. *robusta* will be maintained. Depending on location, the use of prescribed fire, thinning, or other forms of vegetation management may be useful in creating and maintaining this type of mosaic.

(5) In all plant communities where *Chorizanthe robusta* var. *robusta* occurs, invasive, non-native species such as harding grass (*Phalaris aquaticus*), veldt grass (*Ehrharta* spp.), European beachgrass, iceplant, and other species need to be actively managed to maintain the open habitat that *C. r.* var. *robusta* needs.

(6) Certain areas where *Chorizanthe robusta* var. *robusta* occurs may need to be fenced to protect them from accidental or intentional trampling by humans and livestock. While *C. r.* var. *robusta* appears to withstand light to moderate disturbance, heavy disturbance may be detrimental to its persistence. Seasonal exclusions may work in certain areas to protect *C. r.* var. *robusta* during its critical season of growth and reproduction.

Criteria Used To Identify Critical Habitat

We believe it is important to preserve all areas that currently support native populations of *C. r.* var. *robusta* because the number of populations that have been extirpated and the reduction in range that the species has undergone place a great importance on the conservation of all the known remaining sites. We are designating critical habitat at six of the eight known locations of *C. r.* var. *robusta*. We are not designating the other two known sites and a potential expansion of the Aptos Unit as critical habitat for reasons described above in the Site Selection section. When possible, areas that were in close geographic proximity were included in the same unit to emphasize the need to maintain connectivity between different populations or colonies. We also included habitat for *C. r.* var. *robusta* adjacent to and contiguous to areas of known occurrences to maintain landscape scale processes, such as maintaining normal rates of surface and subsurface water flow, normal rates of erosion, maintaining the composition and structure of the plant community, and maintaining wildlife/plant interactions. Each unit contains habitat that is occupied by *C. r.* var. *robusta*.

The proposed designated critical habitat units were delineated by creating data layers in a geographic information system (GIS) format of the areas of known occurrences of *Chorizanthe robusta* var. *robusta*, using information from CNDDB (2000), recent biological surveys and reports, our draft recovery plan for this species, and discussions with botanical experts. These data layers were created on a base of USGS 7.5′ quadrangle maps obtained from the State of California's Stephen P. Teale Data Center. We defined the boundaries for the designated critical habitat units using a combination of: (1) Public Land Survey (PLS) coordinates of township, range, and section; (2) known landmarks and roads; and (3) a protracted PLS grid system used to infill grid coordinates within Spanish land grant areas where actual PLS does not exist. During preparation of the final rule, we found several discrepancies between the legal description of the boundaries of the critical habitat units and the boundaries of the units as depicted in the maps accompanying the proposed rule. The discrepancies resulted primarily from our use of data layers created at a small scale (*e.g.*, 1:100,000 scale USGS mapping) during preparation of the maps of proposed critical habitat. For the final rule, the mapped boundaries of critical habitat first were corrected to be consistent with the boundaries as described in the proposed rule. We then modified the boundaries of proposed critical habitat using information on the location of existing developed areas from recent aerial imagery (April 2000), additional information from botanical experts, and comments on the proposed rule. The boundaries of the final critical habitat units are defined by UTMs.

In selecting areas of designated critical habitat, we made an effort to avoid developed areas, such as housing developments, that are unlikely to contribute to the conservation of *Chorizanthe robusta* var. *robusta*. However, we did not map critical habitat in sufficient detail to exclude all developed areas, or other lands unlikely to contain the primary constituent elements essential for the conservation of *C. r.* var. *robusta*. Areas within the boundaries of the mapped units, such as buildings, roads, parking lots, and other paved areas, lawns, and other urban landscaped areas will not contain one or more of the primary constituent elements. Federal actions limited to these areas, therefore would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Critical Habitat Designation

The critical habitat areas described below constitute our best assessment at this time of the areas needed for the conservation and recovery of *Chorizanthe robusta* var. *robusta*. Critical habitat being designated for *C. r.* var. *robusta* includes six units that currently sustain the species. The areas being designated as critical habitat are either along the coast (Sunset State Beach), or are at inland sites ranging from Pogonip Park southeast to the Buena Vista property in southern Santa Cruz County, and include the appropriate dune, scrub, maritime chaparral, or oak woodland habitat that include the sandy openings which support *C. r.* var. *robusta*.

A brief description of each critical habitat unit is given below:

Unit A: Pogonip Unit

Unit A consists of sandy openings within mixed forest habitat within Pogonip Park in the City of Santa Cruz. Of the 64 ha (159 acre) unit, 62 ha (152 ac) are owned and managed by the City; and the remainder are privately owned. As of the year 2000, two colonies comprising approximately 800 individuals occupied this site. This unit is important to the conservation of the taxon because it supports extant colonies of *Chorizanthe robusta* var. *robusta*. This unit also includes habitat that is important for the expansion of existing colonies and connectivity between the two colonies. In addition, it is also important because, aside from the Wilder Creek location which we were not aware of at the time of the proposed rule, Pogonip Park is the most northerly and westerly location known for the species. It is also one of only three known locations where *C. r.* var. *robusta* is found more than 5 km (3 mi) away from the beach. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions may be important for the long-term survival and conservation of *C. r.* var. *robusta*.

Unit B: Branciforte Unit

Unit B consists of an old field/grassland unit within the city limits of Santa Cruz. The 4-ha (9-ac) unit is privately owned. As of the year 2001, this unit supported a *Chorizanthe robusta* var. *robusta* population of approximately 500 individuals. This unit also includes habitat that is important for the expansion of the existing population. This unit is important to the conservation of the species because it contains one of the only eight known locations of *C. r.* var. *robusta*. It is the only other unit in close proximity to Unit A.

Unit C: Aptos Unit

Unit C consists of sandy openings within maritime chaparral. The 28 ha (70 ac) unit is comprised entirely of private lands. As of the year 2000, this unit supported a *Chorizanthe robusta* var. *robusta* population of approximately 3,000 individuals. This unit also includes habitat that is important for the expansion of the existing population. It is also one of only three locations that supports *C. r.* var. *robusta* more than 5 km (3 mi) away from the beach. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions (i.e., more inland conditions) may be important for the long-term survival and conservation of *C. r.* var. *robusta*.

Unit D: Freedom Unit

Unit D consists of grasslands and sandy areas in openings within maritime chaparral and oak woodland. This 4 ha (9 ac) unit is comprised of private and Pajaro Unified School District lands. As of the year 2001, this unit supports a *Chorizanthe robusta* var. *robusta* colony of several hundred individuals. Additionally, other colonies of *C. r.* var. *robusta* occur within a few hundred yards of the first colony; these additional colonies are outside the critical habitat boundary. This unit is important to the conservation of the taxon because it supports one of only eight known extant locations of *C. r.* var. *robusta*. This unit also includes habitat that is important for the expansion of the existing colony and connectivity between the two colonies.

Unit E: Buena Vista Unit

Unit E consists of grasslands within maritime chaparral and oak woodland on the Buena Vista parcel. The 55 ha (135 ac) unit is comprised entirely of private lands. As of 1999, this unit supports multiple colonies of *Chorizanthe robusta* var. *robusta* comprising approximately 1,500 individuals. This unit is important to the conservation of the species because it is one of only two units that supports multiple extant colonies of *C. r.* var. *robusta*. This unit also includes habitat that is important for the expansion of the existing colonies, and connectivity between the multiple colonies.

Unit F: Sunset Unit

Unit F consists of coastal dune habitat, and is identical to critical habitat that is being designated for the *Chorizanthe pungens* var. *pungens*. All of this 35 ha (86 ac) unit is within Sunset State Beach. As of 2001, this unit supports the largest concentration of *C. r.* var. *robusta*, including dozens of colonies of comprising tens of thousands of individuals. This unit is important to the conservation of the species because it is only one of two units that supports multiple extant colonies of *C. r.* var. *robusta*. This unit also includes habitat that is important for the expansion of these existing colonies into areas that were historically occupied, and for maintaining connectivity between the multiple colonies. The unit is also important because it is the most southerly location known for the species and the only location, aside from Manresa State Beach which was not proposed for critical habitat, where *C. r.* var. *robusta* is found so close to the beach. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions (*i.e.*, more coastal conditions) may be important for the long-term survival and conservation of *C. r.* var. *robusta*.

Lands designated as critical habitat are under private, city, and State jurisdiction. The approximate areas of designated critical habitat by land ownership are shown in Table 1.

TABLE 1.—APPROXIMATE AREAS IN HECTARES (HA) AND ACRES (AC) OF FINAL CRITICAL HABITAT FOR CHORIZANTHE ROBUSTA VAR. ROBUSTA BY LAND OWNERSHIP

Unit Name	State	Private	City/Local	Total
A. Pogonip		2ha (7 ac)	62 ha (152 ac)	64 ha (159 ac)
B. Branciforte		4 ha (9 ac)		4 ha (9 ac)
C. Aptos		28 ha (70 ac)		28 ha (70 ac)
D. Freedom		4 ha (9 ac)	less than 1 ha (1 ac)	4 ha (10 ac)
E. Buena Vista		55 ha (135 ac)		55 ha (135 ac)
F. Sunset	35 ha (86 ac)			35 ha (86 ac)
TOTAL	35 ha (86 ac)	93 ha (230 ac)	62 ha (153 ac)	190 ha (469 ac)

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat. Destruction or adverse modification of critical habitat occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the action agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports

include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide "reasonable and prudent alternatives" to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions under certain circumstances, including instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement, or control has been retained or is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal actions that may affect *Chorizanthe robusta* var. *robusta* or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as the ACOE under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), or any other activity requiring Federal action (*i.e.*, funding, authorization) will also continue to be subject to the section 7 consultation process. Federal actions not affecting critical habitat, as well as actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

To properly portray the effects of critical habitat designation, we must first compare the requirements pursuant to section 7 of the Act for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 of the Act prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. All of the units we are designating are occupied by either above-ground plants or a *Chorizanthe robusta* var. *robusta* seed bank, and Federal agencies already consult with us on activities in areas where the species may be present to ensure that their actions do not jeopardize the continued existence of the species. Each unit also contains some areas which are considered unoccupied. However, we believe, and the economic analysis discussed below illustrates, that the designation of critical habitat is not likely to result in a significant regulatory burden above that already in place due to the presence of the listed species. Few additional consultations are likely to be conducted due to the designation of critical habitat.

Designation of critical habitat could affect the following agencies and/or actions: development on private lands requiring permits from Federal agencies, such as 404 permits from the ACOE or permits from Housing and Urban Development, authorization of release of biological control agents by the Department of Agriculture, regulation by the Environmental Protection Agency of activities affecting point source pollution discharges into waters of the U.S., authorization of Federal grants or loans, restoration projects sponsored by the Natural Resources Conservation Service, pest control projects undertaken by the Animal and Plant Health Inspection Service, and land acquisition by the Service's Refuges Division. These actions would be subject to the section 7 consultation process. Where federally listed wildlife species occur on private lands proposed for development, any habitat conservation plans submitted by the applicant to secure a permit to take according to section 10(a)(1)(B) of the Act would be subject to the section 7 of the Act consultation process. Several other species that are listed under the Act occur in the same general areas as *Chorizanthe robusta* var. *robusta*. *Chorizanthe pungens* var. *pungens* occurs in close proximity to *C. r.* var. *robusta* at Sunset State Beach; *Gilia tenuiflora* ssp. *arenaria* (sand gilia) occurs at Sunset State Beach; western snowy plover occurs at Sunset State Beach; and the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) occurs on the Buena Vista property.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat would be those that alter the primary constituent elements to the extent that the value of critical habitat for the conservation of *Chorizanthe robusta* var. *robusta* is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species.

Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly destroy or adversely modify critical habitat include, but are not limited to: activities that appreciably degrade or destroy native dune, scrub, maritime chaparral, and oak woodland communities, including but not limited to: inappropriately managed livestock grazing, clearing, discing, introducing or encouraging the spread of nonnative species, and heavy recreational use.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181 (503/231–6131; facsimile 503/231–6243).

Relationship to Habitat Conservation Plans

Currently, there are no habitat conservation plans (HCP) that include *Chorizanthe robusta* var. *robusta* as a covered species. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. Although "take" of listed plants is not prohibited by the Act, listed plant species may also be covered in an HCP for wildlife species.

In the event that future HCPs covering *C. r.* var. *robusta* are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development process would provide an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by *C. r.* var. *robusta*. The process would also enable us to conduct detailed evaluations of the importance of such lands to the long-term conservation of the species in the context of constructing a biologically configured system of interlinked habitat blocks. We will also provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify appropriate management for lands essential for the long-term conservation of *C. r.* var. *robusta*. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned.

Following the publication of the proposed critical habitat designation, a draft economic analysis was conducted to estimate the potential economic effect of the designation. The draft analysis was made available for review on September 19, 2001 (66 FR 48228). We accepted comments on the draft analysis until this second public comment period closed on October 19, 2001.

Our draft economic analysis evaluated the potential future effects associated with the listing of *Chorizanthe robusta* var. *robusta* as an endangered species under the Act, as well as any potential effect of the critical habitat designation above and beyond those regulatory and economic impacts associated with listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a "without critical habitat" baseline and compared it to a "with critical habitat" scenario. The "without critical habitat" baseline represented the current and expected economic activity under all modifications prior to the critical habitat designation, including protections afforded the species under Federal and State laws. The difference between the two scenarios measured the net change in economic activity attributable to the designation of critical habitat. The categories of potential costs considered in the analysis included the costs associated with: (1) Conducting section 7 of the Act consultations associated with the listing or with the critical habitat, including incremental consultations and technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 of the Act consultations; (3) uncertainty and public perceptions resulting from the designation of critical habitat; and (4) potential offsetting beneficial costs associated with critical habitat including educational benefits. The most likely economic effects of critical habitat designation are on activities funded, authorized, or carried out by a Federal agency.

Based on our draft analysis, we concluded that the designation of critical habitat would have little significant additional regulatory burden or associated significant additional costs because of critical habitat above and beyond those attributable to the listing of *Chorizanthe robusta* var. *robusta*. Our economic analysis recognizes that there may be costs from delays associated with reinitiating completed consultations after the critical habitat designation is made final. There may also be economic effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be lowered due to perceived increase in the regulatory burden. Our economic analysis also takes into account that unoccupied habitat is being designated and that there may be some cost associated with new section 7 consultations that would not have occurred but for critical habitat being designated. However, we believe all these impacts will be either short-term or minimal in cost.

Although the draft economic analysis concludes that, over the next 10 years the costs attributable to the designation are expected to be approximately $106,000, we anticipate the costs will be even less due to the elimination of proposed Unit G from final designation. Costs to Federal agencies are expected to be approximately $21,000. Costs to State agencies are expected to be approximately $25,000, primarily resulting from consultations and project modifications in the Sunset unit. Local agencies are not expected to be impacted by the designation of critical habitat, principally because activities on local agency lands do not typically involve Federal nexuses. Costs to private landowners are expected to range from $1,000 to $14,000, primarily resulting from consultations and modifications within the Pogonip, Branciforte, Freedom, and Buena Vista units (Units A, B, D, and E). These estimates are based on the existing consultation history with agencies in this area and increased public awareness regarding the actual impacts of critical habitat designation on land values. Therefore, we conclude that minimal, significant incremental costs are anticipated as a result of the designation of critical habitat for *Chorizanthe robusta* var. *robusta*.

Following the close of the comment period on the draft economic analysis, a final addendum was completed which incorporated public comments on the draft analysis. The values presented above may be an overestimate of the

potential economic effects of the designation because the final designation has been reduced to encompass 190 ha (469 ac) versus the 660 ha (1,635 ac) proposed as critical habitat, a reduction of approximately 470 ha (1,166 ac).

A copy of the final economic analysis and a description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this is a significant rule and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

(a) In the economic analysis, we determined that this rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. *Chorizanthe robusta* var. *robusta* was listed as endangered in February, 1994. Since that time, we have conducted, and will continue to conduct, formal and informal section 7 of the Act consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of *Chorizanthe robusta* var. *robusta*.

Under the Act, Federal agencies shall consult with the Service to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. The Act does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency (see Table 2).

TABLE 2.—IMPACTS OF CHORIZANTHE ROBUSTA VAR. ROBUSTA LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation [1]
Federal activities potentially affected [2].	Activities conducted by the U.S. Army Corps of Engineers, the Department of Housing and Urban Development, the U.S. Department of Agriculture, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and any other Federal Agencies, including, but not limited to, the authorization of permits under section 404 of the Clean Water Act, the disbursement of grant monies for housing projects, spraying of herbicides or pesticides, the permitting or funding of clean-up activities of contaminants, pest control projects, and land acquisition.	Activities by these Federal Agencies in designated areas where section 7 of the Act consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal activities potentially affected [3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for *Chorizanthe robusta* var. *robusta* by mechanical, chemical, or other means or appreciably decrease habitat value or quality through indirect effects (e.g., edge effects, invasion of exotic plants or animals.	Funding, authorization, or permitting actions by Federal Agencies in designated areas where section 7 of the Act consultations would not have occurred but for the critical habitat designation.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

Based upon our knowledge of the species and its ecological needs, and the fact that it is so restricted in its range, we conclude that any Federal action or authorized action that could potentially result in the destruction or adverse modification of critical habitat would also be considered as "jeopardy" under the Act in areas occupied by the species.

Accordingly, the designation of currently occupied areas as critical habitat is not anticipated to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding beyond the effects resulting from the listing of this species. Non-Federal persons that do not have a Federal "sponsorship" in their actions are not restricted by the designation of critical habitat. The designation of areas as critical habitat where section 7 of the Act consultations would not have occurred but for the critical habitat designation may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding that are not attributable to the species listing. These impacts were evaluated in our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule).

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions not jeopardize the continued existence of *Chorizanthe robusta* var. *robusta* since its listing in 1994. We evaluated the impact of designating areas where section 7 of the Act consultations would not have occurred but for the critical habitat designation in our economic analysis (see Economic Analysis section of this rule). The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist on currently occupied land, and will not create inconsistencies with other agencies' actions on unoccupied lands.

(c) This final rule is not expected to materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification analysis resulting from critical habitat designation will have any incremental effects.

(d) OMB has determined that this rule may raise novel and legal or policy issues. Therefore, this rule is significant under Executive Order 12866, and, as a result, has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to Federal agencies to require a certification statement. In this rule, we are certifying that the critical habitat designation for *Chorizanthe robusta* var. *robusta* will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale.

Small entities include small organizations, such as independent non-profit organizations, small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

In determining whether this rule could "significantly affect a substantial number of small entities," the economic analysis first determined whether critical habitat could potentially affect a "substantial number" of small entities in counties supporting critical habitat areas. While SBREFA does not explicitly define "substantial number," the Small Business Administration, as well as other Federal agencies, have interpreted this to represent an impact on 20 percent or greater of the number of small entities in any industry. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Development on private land constitutes the only commercial activity that could take place within the area of proposed critical habitat. To be conservative (*i.e.*, more likely to overstate impacts than understate them), the economic analysis assumed that all potentially affected parties that may be engaged in development activities within critical habitat are small entities. There are approximately 35 small residential development and construction companies in Santa Cruz County. Because the draft economic analysis estimates that, at most, three formal consultations could arise involving private entities, the analysis for impacts on small businesses assumes that at most three residential/small business entities may be affected by the designation of critical habitat for the *Chorizanthe robusta* var. *robusta* in Santa Cruz County over 10 years.

In each year, on average, there would likely be less than a single consultation for real estate development projects. As a result, less than 1 percent of the total number of small residential development and construction companies could be affected annually by the designation of critical habitat for *Chorizanthe robusta* var. *robusta*. Because the percentage of small businesses that could be affected by this designation is far less than the 20 percent threshold that would be considered "substantial," the economic analysis concludes that this designation will not affect a substantial number of small entities as a result of the designation of critical habitat for *Chorizanthe robusta* var. *robusta*.

In general, two different mechanisms in section 7 of the Act consultations could lead to additional regulatory requirements for one small business, on average, that may be required to consult with us each year regarding their project's impact on *Chorizanthe robusta* var. *robusta* and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives." Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations pursuant to section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 of the Act consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. Since we have not conducted any formal

consultations for *Chorizanthe robusta* var. *robusta*, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation.

It is likely that a developer could modify a proposed project or take measures to protect *Chorizanthe robusta* var. *robusta*. Based on the types of modifications and measures that have been implemented in the past for plant species, a developer may take such steps as installing fencing or re-aligning the project to avoid sensitive areas. The cost for implementing these measures for one project is expected to be of the same order of magnitude as the total cost of the consultation process, *i.e.*, approximately $10,000. It should be noted that developers likely would already be required to undertake such measures due to regulations under the California Environmental Quality Act. These measures are not likely to result in a significant economic impact to project proponents.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons, that it will not affect a substantial number of small entities. Furthermore, we believe that the potential compliance costs for the number of small entities that may be affected by this rule will not be significant. Therefore, we are certifying that the designation of critical habitat for *Chorizanthe robusta* var. *robust* will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined whether designation of critical habitat would cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare a Statements of Energy Effects when undertaking certain actions. The primary land uses within designated critical habitat include urban and agricultural development, recreation, open space, and conservation facilities. The only energy-related facilities located within designated critical habitat is a transmission line easement owned by Pacific Gas and Electric Company that traverses the Aptos unit, and the only activities that we are aware in their easement is management of shrub species to reduce fuel load. Therefore, this action does not represent a significant action effecting energy production, supply, and distribution facilities and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that they must ensure that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely modify or destroy designated critical habitat.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for *Chorizanthe robusta* var. *robusta* in a takings implication assessment. The takings implications assessment concludes that this final rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by *Chorizanthe robusta* var. *robusta* would have little incremental impact on State and local governments and their activities. The designations may have some benefit to these governments in that the areas essential to the conservation of this species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning, rather than waiting for case-by-case section 7 of the Act consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Chorizanthe robusta* var. *robusta*.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act is required. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This determination does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. The designated critical habitat for *Chorizanthe robusta*-var. *robusta* does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Constance Rutherford, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by revising the entry for *Chorizanthe robusta* (incl. vars. *robusta* & *hartwegii*) and by adding an entry for *Chorizanthe robusta* var. *hartwegii*, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
.	.	.	.	.	.	.	.
Chorizanthe robusta var. *hartwegii*.	Scots Valley spineflower.	U.S.A., CA	Polygonaceae-Buckwheat.	E	528	NA	NA
Chorizanthe robusta var. *robusta*.	Robust Spineflower	U.S.A., CA	Polygonaceae-Buckwheat.	E	528	17.96(b)	NA
.	.	.	.	.	.	.	.

3. In § 17.96, add critical habitat for *Chorizanthe robusta* var. *robusta* (robust spineflower), as the first entry under paragraph (a) to read as follows:

§ 17.96 Critical habitat—plants.

(a) Flowering plants.

Family Polygonaceae: *Chorizanthe robusta* var. *robusta* (robust spineflower).

(1) Critical habitat units are depicted for Santa Cruz County, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Chorizanthe robusta* var. *robusta* include, but are not limited to, the habitat components that provide:

(i) Sandy soils associated with active coastal dunes, coastal bluffs with a deposition of windblown sand, inland sites with sandy soils, and interior floodplain dunes;

(ii) Plant communities that support associated species, including coastal dune, coastal scrub, grassland, maritime chaparral, oak woodland, and interior floodplain dune communities, and have a structure such that there are openings between the dominant elements (e.g, scrub, shrub, oak trees, clumps of herbaceous vegetation);

(iii) Plant communities that contain no or little cover by nonnative species which would complete for resources available for growth and reproduction of *Chorizanthe robusta* var. *robusta*; and

(iv) Physical processes, such as occasional soil disturbance, that support natural dune dynamics along coastal areas.

(3) Existing features and structures, such as buildings, roads, railroads, airports, other paved areas, lawns, and other urban landscaped areas, do not contain one or more of the primary constituent elements. Federal actions limited to those areas, therefore, would not trigger a consultation under section 7 of the Act unless they may affect the species and/or primary constituent elements in adjacent critical habitat.

(4) Critical Habitat Map Units—Index Map Follows

BILLING CODE 4310–55–P

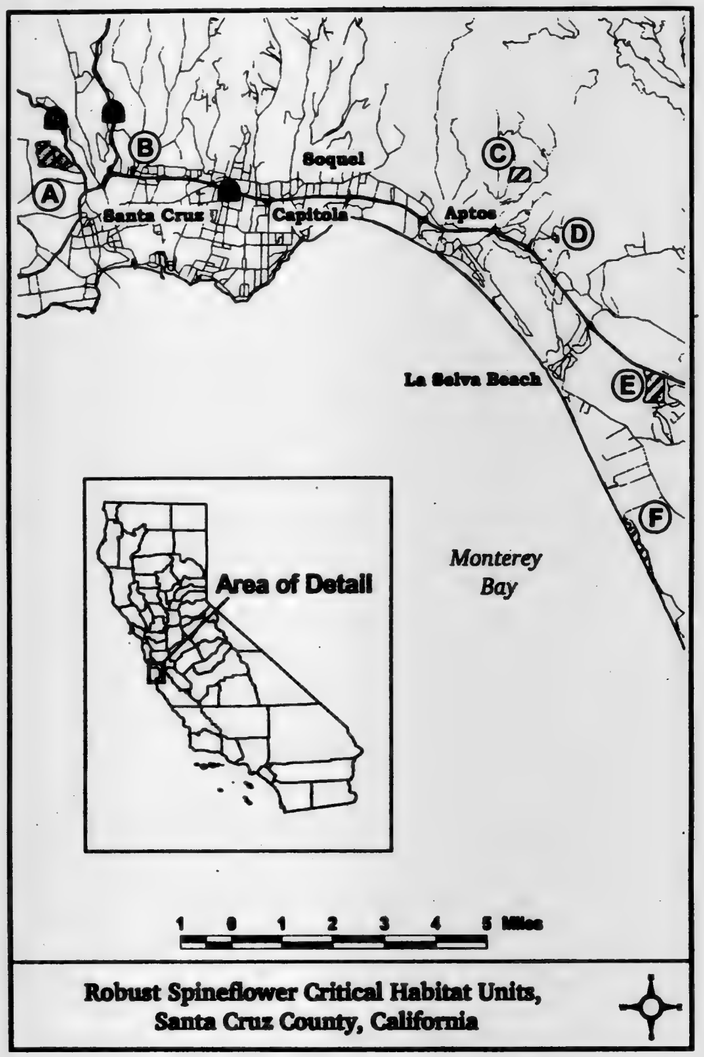

Robust Spineflower Critical Habitat Units, Santa Cruz County, California

BILLING CODE 4310–55–C

(5) Map Unit A (Pogonip): Santa Cruz County, California

From USGS 7.5′ quadrangle map Santa Cruz, California. Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 585912, 4094380; 585909, 4094380; 585900, 4094370; 585882, 4094350; 585830, 4094330; 585798, 4094320; 585775, 4094300; 585747, 4094260; 585722, 4094230; 585688, 4094200; 585666, 4094200; 585649, 4094210; 585617, 4094230; 585571, 4094230; 585556, 4094240; 585546, 4094240; 585537, 4094250; 585505, 4094280; 585487, 4094290; 585468, 4094290; 585442, 4094290; 585393, 4094290; 585340, 4094290; 585313, 4094300; 585220, 4094330; 585162, 4094330; 585101, 4094320; 584986, 4094300; 584917, 4094290; 584886, 4094300; 584871, 4094310; 584856, 4094320; 584839, 4094340; 584828, 4094360; 584829, 4094380; 584834, 4094390; 584846, 4094400; 584853, 4094420; 584856, 4094440; 584853, 4094470; 584844, 4094500; 584811, 4094600; 584798, 4094630; 584787, 4094650; 584773, 4094670; 584762, 4094700; 584754, 4094740; 584756, 4094770; 584762, 4094790; 584772, 4094830; 584777, 4094870; 584772, 4094890; 584730, 4094960; 584729, 4094990; 584738, 4095020; 584751, 4095040; 584767, 4095050; 584781, 4095060; 584805, 4095060; 584841, 4095070; 584879, 4095080; 584901, 4095090; 584926, 4095090; 585050, 4095110; 585125, 4095110; 585174, 4095110; 585168, 4095090; 585166, 4095070; 585169, 4095000; 585182, 4094980; 585193, 4094970; 585208, 4094960; 585223, 4094950; 585244, 4094950; 585265, 4094950; 585337, 4094940; 585366, 4094940; 585388, 4094930; 585397, 4094910; 585414, 4094890; 585446, 4094870; 585480, 4094860; 585492, 4094850; 585470, 4094830; 585568, 4094740; 585606, 4094750; 585626, 4094720; 585885, 4094430; 585899, 4094410; 585907, 4094400; 585912, 4094380.

(6) Map Unit B (Branciforte): Santa Cruz County, California

(i) From USGS 7.5′ quadrangle map Santa Cruz, California. Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 587730, 4094370; 587728, 4094390; 587865, 4094380; 587863, 4094360; 587877, 4094270; 587816, 4094080; 587738, 4094090; 587737, 4094190; 587724, 4094280; 587730, 4094370.

(ii) Map Unit A and B: Pogonip and Branciforte Map Follows.

BILLING CODE 4310–55–P

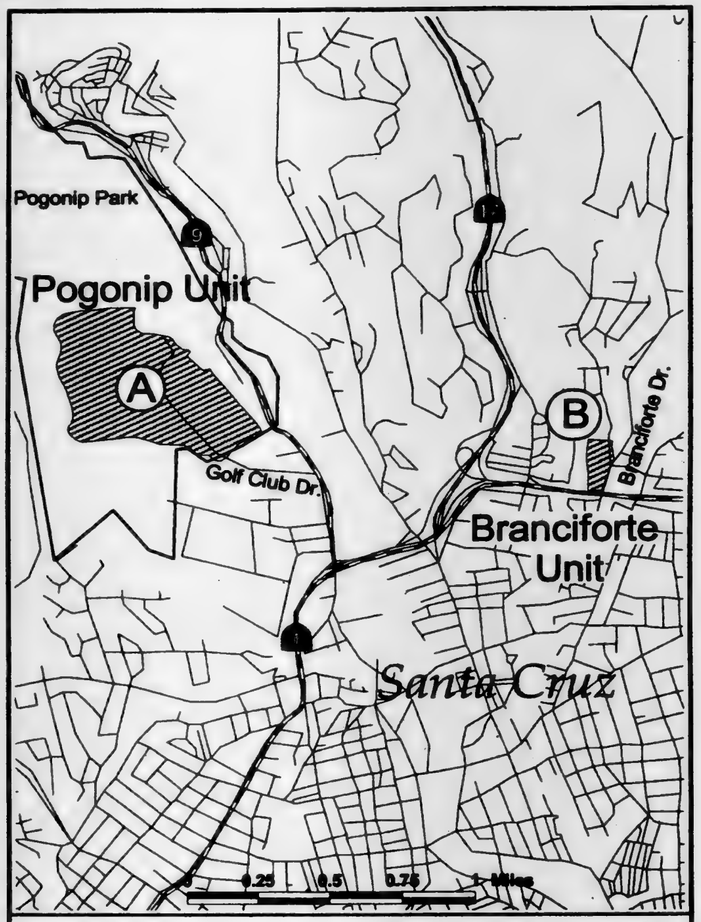

Robust Spineflower Critical Habitat, Units A & B

BILLING CODE 4310–55–C

(7) Map Unit C (Aptos): Santa Cruz County, California

Santa Cruz County, California.

Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 599729, 4094230; 599670, 4094230; 599629, 4094230; 599577, 4094230; 599591, 4094270; 599596, 4094290; 599609, 4094340; 599623, 4094400; 599636, 4094460; 599641, 4094490; 599645, 4094530; 599647, 4094540; 599647, 4094570; 599648, 4094580; 599653, 4094640; 599655, 4094650; 599658, 4094660; 599661, 4094660; 599662, 4094660; 599701, 4094670; 599776, 4094670; 600002, 4094670; 600092, 4094680; 600199, 4094680; 600204, 4094670; 600209, 4094670; 600220, 4094670; 600225, 4094660; 600231, 4094660; 600242, 4094650; 600247, 4094640; 600272, 4094620; 600276, 4094610; 600280, 4094480; 600280, 4094480; 600278, 4094460; 600276, 4094460; 600274, 4094450; 600271, 4094440; 600270, 4094440; 600270, 4094430; 600271, 4094420; 600283, 4094380; 600287, 4094250; 600138, 4094250; 600007, 4094240; 599915, 4094240; 599729, 4094230.

(8) Map Unit D (Freedom): Santa Cruz County, California

(i) From USGS 7.5′ quadrangle map Watsonville West, California. Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 601011, 4092690; 601113, 4092700; 601116, 4092600; 601223, 4092600; 601230, 4092400; 601122, 4092400; 601119, 4092500; 601019, 4092490; 601011, 4092690.

(ii) Map Units C and D: Aptos and Freedom Map Follows.

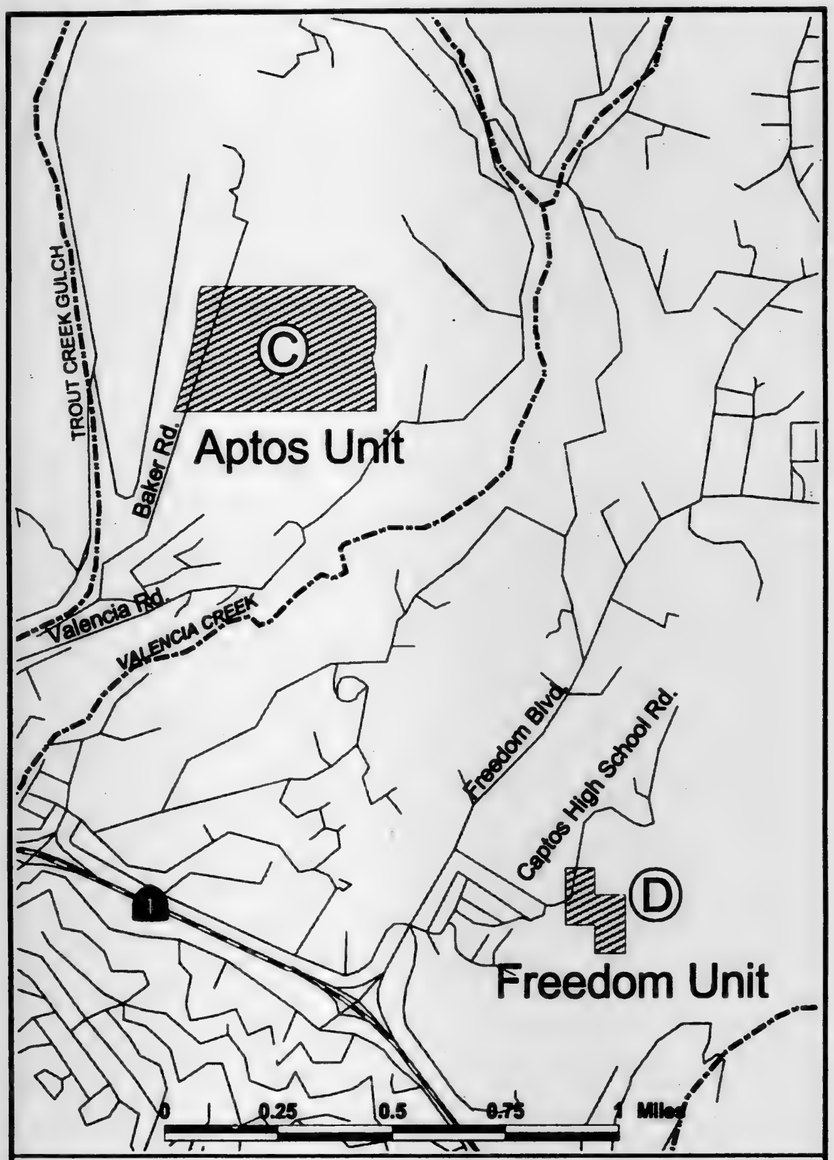

Robust Spineflower Critical Habitat, Units C & D

(9) Map Unit E (Buena Vista): Santa Cruz County, California

From USGS 7.5′ quadrangle map Watsonville West, California. Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 604046, 4088420; 604031, 4088480; 604029, 4088530; 604036, 4088560; 604049, 4088580; 604681, 4088360; 604692, 4087930; 604701, 4087560; 604071, 4087530; 604064, 4087550; 604057, 4087580; 604053, 4087630; 604060, 4087660; 604069, 4087670; 604089, 4087690; 604101, 4087700; 604111, 4087730; 604110, 4087790; 604109, 4087820; 604116, 4087870; 604125, 4087900; 604131, 4087930; 604130, 4088020; 604119, 4088060; 604114, 4088090; 604114, 4088110; 604123, 4088170; 604125, 4088250; 604120, 4088280; 604102, 4088320; 604082, 4088350; 604046, 4088420.

(10) Map Unit F (Sunset): Santa Cruz County, California

(i) From USGS 7.5′ quadrangle map Watsonville West, California. Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 603772, 4083610; 603885, 4083680; 603931, 4083700; 604008, 4083560; 604053, 4083490; 604059, 4083450; 604054, 4083420; 604045, 4083380; 604045, 4083350; 604080, 4083290; 604092, 4083270; 604102, 4083220; 604103, 4083180; 604109, 4083160; 604122, 4083150; 604149, 4083140; 604176, 4083120; 604202, 4083090; 604224, 4083060; 604243, 4083040; 604256, 4083020; 604279, 4083000; 604303, 4082980; 604328, 4082960; 604349, 4082920; 604373, 4082840; 604386, 4082800; 604412, 4082710; 604424, 4082670; 604425, 4082640; 604425, 4082610; 604426, 4082580; 604443, 4082530; 604449, 4082510; 604457, 4082490; 604460, 4082470; 604480, 4082440; 604492, 4082430; 604504, 4082400; 604512, 4082350; 604530, 4082300; 604546, 4082260; 604547, 4082250; 604536, 4082200; 604688, 4081900; 604847, 4081650; 604743, 4081650; 604613, 4081900; 604539, 4082040; 604449, 4082220; 604338, 4082450; 604258, 4082580; 604205, 4082690; 604132, 4082830; 604076, 4082910; 603987, 4083070; 603871, 4083280; 603804, 4083400; 603755, 4083480; 603700, 4083580; 603772, 4083610.

(ii) Map Units E and F: Buena Vista and Sunset Map Follows.

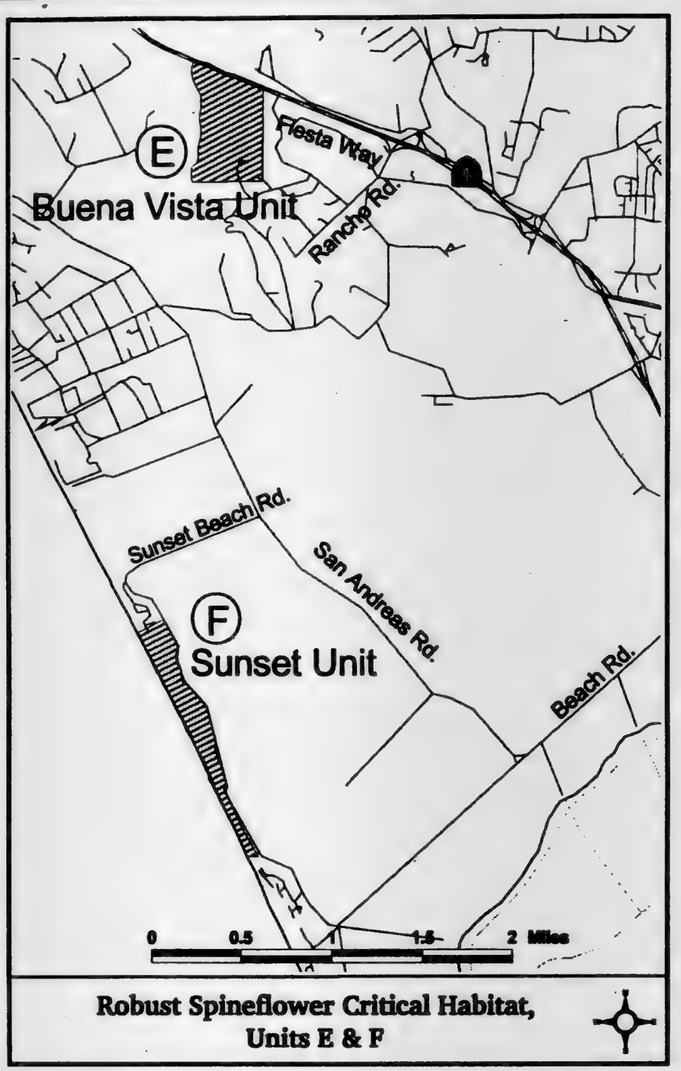

Robust Spineflower Critical Habitat, Units E & F

Dated: May 17, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13064 Filed 5–24–02; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 043002A]

Fisheries of the Exclusive Economic Zone off Alaska; Bycatch Rate Standards for the Second Half of 2002

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the second half of 2002. Publication of these bycatch rate standards is required by regulations implementing the vessel incentive program (VIP). This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 1, 2002, through 2400 hours, A.l.t., December 31, 2002. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., June 27, 2002.

ADDRESSES: Comments may be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228, fax 907–586–7465, e-mail *mary.furuness@noaa.gov*.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) are managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR part 679.

Regulations at § 679.21(f) implement a VIP to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels may not exceed Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and "other trawl" fisheries, and the BSAI yellowfin sole and "bottom pollock" fisheries. Vessel operators also may not exceed red king crab bycatch standards specified for the BSAI yellowfin sole and "other trawl" fisheries in Bycatch Limitation Zone 1 (defined in § 679.2). The fisheries included under the incentive program are defined in regulations at § 679.21(f)(2).

Regulations at § 679.21(f)(3) require that halibut and red king crab bycatch rate standards for each fishery included under the incentive program be published in the Federal Register. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. For purposes of calculating vessel bycatch rates under the incentive program, 2002 fishing months and halibut and red king crab bycatch rate standards for the first half of 2002 were published in the **Federal Register** (67 FR 1160, January 9, 2002).

As required by § 679.21(f)(3) and (4), the Administrator of the Alaska Region, NMFS (Regional Administrator), has established the bycatch rate standards for the second half of 2002 (July 1 through December 31). These standards were endorsed by the Council at its April 2002 meeting and are set out in Table 1: As required by § 679.21(f)(4), bycatch rate standards must be based on the following information:

(A) Previous years' average observed bycatch rates;

(B) Immediately preceding season's average observed bycatch rates;

(C) The bycatch allowances and associated fishery closures specified under §§ 679.21(d) and (e);

(D) Anticipated groundfish harvests;

(E) Anticipated seasonal distribution of fishing effort for groundfish; and

(F) Other information and criteria deemed relevant by the Regional Administrator.

TABLE 1—BYCATCH RATE STANDARDS BY FISHERY FOR THE SECOND HALF OF 2002 FOR PURPOSES OF THE VESSEL INCENTIVE PROGRAM IN THE BSAI AND GOA.

Fishery	*2002 bycatch rate standard*
Halibut bycatch rate standards (kilogram (kg) of halibut/metric ton (mt) of groundfish catch	
BSAI Midwater pollock	1.0
BSAI Bottom pollock	5.0
BSAI Yellowfin sole	5.0
BSAI Other trawl	30.0
GOA Midwater pollock	1.0
GOA Other trawl	40.0
Zone 1 red king crab bycatch rate standards (number of crab/mt of groundfish catch)	
BSAI yellowfin sole	2.5
BSAI Other trawl	2.5

Bycatch Rate Standards for Pacific Halibut

The halibut bycatch rate standards for the second half of 2002 trawl fisheries are unchanged from those implemented for the second half of 2001. The Regional Administrator based standards for the second half of 2002 on anticipated seasonal fishing effort for groundfish species and on 1998–2001 halibut bycatch rates observed in the trawl fisheries included under the incentive program. Along with bycatch rate standards, the industry and the Council are exploring opportunities under fishery cooperatives and other voluntary or mandatory arrangements to control bycatch and optimize the amount of groundfish harvested under halibut and crab bycatch limits. Under § 679.50(k), vessel specific prohibited species bycatch rates from observer data are published weekly on the NMFS, Alaska Region website (*www.fakr.noaa.gov*).

In determining these bycatch rate standards, the Regional Administrator considered the annual and seasonal bycatch specifications for the BSAI and the GOA trawl fisheries (67 FR 956, January 8, 2002). In the BSAI, the rockfish, yellowfin sole, and rock sole/flathead sole/"other flatfish" fishery categories will open or reopen on June 30 when seasonal apportionments of halibut bycatch allowances specified for these fisheries become available. The BSAI Pacific cod trawl fishery is currently open for catcher vessels and catcher processors. On June 10 the third allocation of trawl Pacific cod becomes available until November 1. The Regional Administrator also considered the June 10 opening date of the 2002 Bering Sea pollock 'B' season (§ 679.23(e)(5)) and the Gulf of Alaska 'C' and 'D' season pollock fisheries on August 25 and October 1, respectively (§ 679.23(d)(3)). The Regional Administrator acknowledged that the 2002 BSAI and GOA trawl fisheries for pollock and Pacific cod are closed November 1 for the remainder of the year as a protection measure for the endangered Western population of Steller sea lions.

The halibut bycatch rate standards for the BSAI yellowfin sole and "bottom pollock" trawl fisheries are each set at 5 kilograms (kg) of halibut per metric ton (mt) of groundfish. The BSAI yellowfin sole fishery has experienced undesirably high bycatch rates that NMFS and the Council wish to reduce through existing incentives. The average halibut bycatch rate for the 2001 third and fourth calendar quarter fisheries was equal to 8 and 13 kg halibut/mt groundfish, respectively. These rates are lower than those in 1999 and similar to those in 2000.

Since 1999, the use of nonpelagic trawl gear has been prohibited in the BSAI non-CDQ directed pollock fishery (§ 679.24(b)(4)). Even with this prohibition, a vessel using pelagic trawl gear may be assigned to the BSAI bottom pollock fishery defined at § 679.21(f)(2) because assignment to a fishery for purposes of the VIP is based on retained catch composition during a weekly period instead of gear type. If the majority of the catch is pollock, but pollock comprises less than 95 percent of the catch, then a haul is assigned to the BSAI bottom pollock fishery. The prohibition on the use of nonpelagic trawl gear has reduced the number of hauls assigned to the BSAI bottom pollock fishery. Since the prohibition became effective, the halibut bycatch rates for this fishery are low compared to the halibut bycatch rate standards established for this fishery. The average halibut bycatch rate for the 2001 third and fourth calendar quarter pollock fisheries was equal to 3.17 and 0.63 kg halibut/mt groundfish, respectively.

The halibut bycatch rate standard for the BSAI and GOA midwater pollock fisheries (1 kg of halibut/mt of groundfish) is higher than the bycatch rates normally experienced by vessels participating in these fisheries. This standard is intended to encourage vessel operators to maintain off-bottom trawl operations and limit further bycatch of halibut in the pollock fishery. The average halibut bycatch rates for the BSAI 2001 third and fourth calendar quarter fisheries are equal to 0.17 and 0.22 kg halibut/mt groundfish, respectively, and the average halibut bycatch rates for the GOA 2001 third and fourth calendar quarter fisheries are equal to 0.95 and 0.06 kg halibut/mt groundfish, respectively.

The considerations that support the bycatch rate standards for the "other trawl" fisheries are unchanged from previous years and are discussed in the **Federal Register** publications of 1995 bycatch rate standards (60 FR 2905, January 12, 1995, and 60 FR 27425, May 24, 1995). A bycatch rate standard of 30 kg halibut/mt of groundfish is established for the BSAI "other trawl" fishery. This standard has remained unchanged since 1992. Observer data from the 2001 BSAI "other trawl" fishery show third and fourth quarter halibut bycatch rates of 9 and 6 kg of halibut/mt of groundfish. A bycatch rate standard of 40 kg of halibut/mt of groundfish is established for the GOA "other trawl" fishery, which is unchanged since 1994. Observer data collected from the 2001 GOA "other trawl" fishery show average third and fourth quarter halibut bycatch rates of 27 and 57 kg of halibut/mt of groundfish, respectively.

Bycatch Rate Standards for Red King Crab

The red king crab bycatch rate standard for the yellowfin sole and "other trawl" fisheries in Zone 1 of the Bering Sea subarea is 2.5 crab/mt of groundfish during the second half of 2002. This standard has remained unchanged since 1992. Through April 6, 2002, the rock sole/flathead sole/"other flatfish" fishery category has taken 104 percent of its annual red king crab bycatch allowance in Zone 1 including the Red King Crab Savings Subarea bycatch limit. The Pacific cod and yellowfin sole fisheries have taken 38 percent and 9 percent, respectively, of their bycatch allowances in Zone 1. The Regional Administrator anticipates that the non-pelagic trawl gear closure of the Red King Crab Savings Area in Zone 1 and the trawl gear closure for rock sole/flathead sole/"other flatfish" in Zone 1 will continue to result in low red king crab bycatch rates for the remainder of the year and is maintaining the 2.5 red king crab/mt of groundfish bycatch rate standard.

The Regional Administrator has determined that the bycatch rate standards set forth in Table 1 for the second half of 2002 are appropriately based on the information and considerations necessary for such determinations under § 679.21(f). These bycatch rate standards may be revised and published in the **Federal Register** when deemed appropriate by the Regional Administrator, pending his consideration of the information set forth at § 679.21(f)(4).

Classification

The halibut and red king crab bycatch rate standards for the second half of 2002 must be effective by July 1, 2002, when the bycatch rate standards for the first half of 2002 expire, in order to limit bycatch rates in the second half of the 2002 fishing year. Consequently, NMFS finds good cause to waive the requirement for prior notice comment pursuant to 5 U.S.C. 553(b)(B) as such procedures are contrary to the public interest. For the same reason, NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived. This action is taken under 50 CFR 679.21(f) and is exempt from Office of Management and Budget review under Executive Order 12866.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*and 3631 *et seq.*

Dated: May 21, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13255 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 102
Tuesday, May 28, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–04]

Proposed Modification of Class E Airspace; Lapeer, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Lapeer, MI. A VOR–A, Standard Instrument Approach Procedure (SIAP) has been developed for Dupont-Lapeer Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action would increase the radius of the existing controlled airspace for Dupont-Lapeer Airport.

DATES: Comments must be received on or before July 8, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–04, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 02–AGL–04." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Lapeer, MI, for Dupont-Lapeer Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Lapeer, MI [Revised]

Dupont-Lapeer Airport, MI
(Lat. 43°04′00″N., long. 83°16′20″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Dupont-Lapeer Airport.

* * * * *

Issued in Des Plaines, Illinois on April 22, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–13216 Filed 5–24–02; 8:45 am]
BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD132 & MD133–3087b; FRL–7210–2]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Revised Definitions and Recordkeeping Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland. The revisions adopt by reference the EPA definition of volatile organic compounds (VOC), update the Federal citation of the prevention of significant deterioration (PSD) requirements references in Maryland's definitions and general emission standards provisions, and revise the general records and information requirements for installations and sources. In the Rules and Regulations section of this **Federal Register**, EPA is approving these revisions to the State of Maryland's SIP as a direct final rule in accordance with the requirements of the Clean Air Act. If EPA receives no adverse comments on the direct final rule, EPA will not take further action. If EPA receives adverse comments on the direct final rule, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 27, 2002.

ADDRESSES: Written comments should be addressed to Harold A. Frankford, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108, or by e-mail at *frankford.harold@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the direct final rule and if that provision may be severed from the remainder of the direct final rule, EPA may adopt as final those provisions of the direct final rule that are not the subject of an adverse comment.

Dated: May 1, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 02–13111 Filed 5–24–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7217–3]

Land Disposal Restrictions: Site-Specific Treatment Variance to Chemical Waste Management, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA or Agency) is today proposing to grant a site-specific treatment variance from the Land Disposal Restrictions (LDR) treatment standards for two selenium-bearing hazardous wastes. EPA is proposing to grant this variance because: the chemical properties of these two wastes differ significantly from the waste used to establish the current LDR standard for selenium (5.7 mg/L, as measured by the TCLP); and Chemical Waste Management, Inc. (CWM) has adequately demonstrated that the two wastes cannot be treated to meet this treatment standard.

CWM intends to stabilize the wastes at their Kettleman City, California facility. If this proposal is finalized, CWM may treat these two specific wastes to alternate treatment standards of 51 mg/L, as measured by the TCLP, for the Owens-Brockway waste and 25 mg/L, as measured by the TCLP, for the St. Gobain waste. After treatment to these alternative selenium standards, CWM may dispose of the treated wastes in a RCRA Subtitle C landfill provided they meet the applicable LDR treatment standards for the other hazardous constituents in the wastes. We are proposing to grant this variance for three years.

In the "Rules and Regulations" section of the **Federal Register**, we are publishing a direct final rule that would grant this site-specific treatment variance without prior proposal because we view this action as noncontroversial and we anticipate no significant adverse comment. We have explained our reasons for this approach in the preamble to the direct final rule. If we receive significant adverse comment on the direct final rule, however, we will withdraw the direct final action and the treatment variance will not take effect. We will address all public comments, as appropriate, based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this proposed variance must do so at this time.

DATES: Written comments must be received by June 27, 2002.

ADDRESSES: If you wish to comment on this proposed rule, you must send an original and two copies of the comments referencing Docket Number F–2002–CWVP–FFFFF to: RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; or, if using special delivery, such as overnight express service: RIC, Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. You may also submit comments electronically following the directions in the **SUPPLEMENTARY INFORMATION** section below.

You may view public comments and supporting materials in the RIC. The RIC is open from 9 am to 4 pm Monday through Friday, excluding Federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $ 0.15 per page. For information on accessing an electronic copy of the data base, *see* the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday–Friday, 9 am to 4 pm, Eastern Standard Time. For more information on specific aspects of this proposed rule, contact Mr. Josh Lewis at 703–308–7877, *lewis.josh@epa.gov*, or write him at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: This document concerns a site-specific treatment variance from the Land Disposal Restrictions (LDR) treatment standards for two selenium-bearing hazardous wastes to be treated by Chemical Waste Management, Inc. For further information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Electronic Submittal of Comments

You may submit comments electronically by sending electronic mail through the Internet to: *rcra-docket@epamail.epa.gov*. You should identify comments in electronic format with the docket number F–2001–CWVP–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters or any type of encryption. The official record for this action will be kept in the paper form. Accordingly, we will transfer all comments received electronically into paper form and place them in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the RIC as described above. We may seek clarification of electronic comments that are garbled in transmission or during conversion to paper form. You should not electronically submit any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

If you do not submit comments electronically, we are asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (text) format or a word processing format that can be converted to ASCII (text). It is essential that you specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow us to convert the comments into one of the word processing formats used by the Agency. Please use mailing envelopes designed to protect the diskettes. We emphasize that submission of diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

I. Description of Proposed Rule

Today's notice proposes to continue for another three-year period a site-specific treatment variance for two selenium-bearing waste stream that will be treated by Chemical Waste Management, Inc. In the "Rules and Regulations" section of the **Federal Register**, we are issuing a direct final rule to grant this variance without prior proposal because we view this action as noncontroversial and anticipate no significant adverse comment. We have explained our reasons for this approach in the preamble to the direct final rule, and do not believe it necessary to repeat those discussions here. If we receive significant adverse comment on the direct final rule, we will withdraw the direct final action and the treatment variance will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this proposed rule must do so at this time. For further information, please see the "Rules and Regulations" section of today's **Federal Register** publication.

II. How Can I Influence EPA's Thinking on This Rule?

In developing this rule, we tried to address the concerns of stakeholders. Your comments will help us improve this rule. We invite you to provide different views on options we propose, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. We welcome your views on all aspects of this rule. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the proposal, such as the units or page numbers of the preamble, or the regulatory sections.
- Make sure to submit your comments by the deadline in this notice.
- Be sure to include the name, date, and docket number with your comments.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: May 13, 2002.

Michael H. Shapiro,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 02–13115 Filed 5–24–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG71

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for Plant Species From the Islands of Kauai and Niihau, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the draft economic analysis for the proposed designations of critical habitat for plant species from the islands of Kauai and Niihau, Hawaii. We are also providing notice of the reopening of the comment period for the proposal to determine prudency and to designate critical habitat for these plants to allow peer reviewers and all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this reopened comment period and will be fully considered in the final rule.

DATES: We will accept public comments until June 27, 2002.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850–0001. For further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Office, at the above address (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

A total of 95 plant species historically found on Kauai and Niihau were listed as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act), between 1991 and 1996. Fifty-seven of these species are endemic to the islands of Kauai and/or Niihau, while 38 species are reported from one or more other islands, as well as Kauai, and/or Niihau.

In other published proposals we proposed that critical habitat was prudent for 90 of the 95 species from the islands of Kauai and Niihau because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risks of designation (65 FR 66808, 65 FR 79192, 65 FR 82086, 65 FR 83158, 67 FR 3940, 67 FR 9806, 67 FR 15856, 67 FR 16492). In addition, we proposed that critical habitat designation was not prudent for three species of loulu palm (*Pritchardia aylmer-robinsonii, P. napaliensis*, and *P. viscosa*) because it would likely increase the threats from vandalism or collection of these species on Kauai and Niihau, and that critical habitat designation was not prudent for *Acaena exigua* and *Melicope quadrangularis* because they have not been seen recently in the wild, and no viable genetic material is known to exist (65 FR 66808, 65 FR 79192, 67 FR 3940, 67 FR 15856).

In the January 28, 2002, revised prudency and critical habitat proposal (67 FR 3940), we proposed critical habitat for 83 of the 95 species from the islands of Kauai and Niihau. Critical habitat was not proposed for seven of the 95 species (*Achyranthes mutica, Hibiscus brackenridgei, Isodendrion pyrifolium, Phlegmariurus mannii, Silene lanceolata, Solanum incompletum, and Vigna o-wahuensis*) which no longer occur on the islands of Kauai or Niihau, and for which we were unable to identify any habitat that is essential to their conservation on the islands of Kauai or Niihau. Critical habitat was not proposed for three species of loulu palm nor for *Melicope quadrangularis* and *Acaena exigua* for the reasons given above.

We have proposed to designate a total of 15 critical habitat units on Kauai and one unit on Niihau covering approximately 40,147 hectares (ha) (99,206 acres (ac)) on Kauai and 282 ha (697 ac) on Niihau.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act (16 U.S.C. 1531 *et seq.*) with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available, and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for plant species from Kauai and Niihau, and comments received during the previous comment period, we have prepared a draft economic analysis of the proposed critical habitat designations. The draft economic analysis is available on the Internet and mailing address in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this re-opened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850–0001.

(2) You may send comments by electronic mail (e-mail) to: *kani_crithab@r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: RIN 1018–AG71" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Honolulu Fish and Wildlife Office at telephone number 808/541–3441.

(3) You may hand-deliver comments to our Honolulu Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at *http://pacificislands.fws.gov* or by request from the Field Supervisor at the address and phone number under (1 and 2) above.

Author(s)

The primary authors of this notice are Marigold Zoll and Christa Russell (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 17, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13189 Filed 5–24–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 67, No. 102
Tuesday, May 28, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Draft Supplement to the Final Environmental Impact Statement for the Deep Vegetation Management Project, Ochoco National Forest, Crook and Wheeler Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to supplement a final environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare a draft supplement to the final environmental impact statement (Draft SEIS) for the Deep Vegetation Management Project. A Notice of Intent to Prepare a draft Environmental Impact Statement (DEIS) was originally published in the **Federal Register** on December 23, 1999. The Notice of Availability of the DEIS appeared in the **Federal Register** on April 27, 2001, the Notice of Availability of the final Environmental Impact Statement (FEIS) was published on October 12, 2001.

On September 26, 2001, Ochoco and Deschutes National Forest Deputy Supervisor Becky Heath signed the Record of Decision (ROD) to implement Alternative C (mod) of the Deep Vegetation Management Project Final Environmental Impact Statement (FEIS). On November 9, 2001, six environmental groups appealed this decision. On April 26, 2002, Acting Ochoco Forest Supervisor, Judy Levin, withdrew the September 26, 2001 ROD. Additional information will be incorporated into the Draft SEIS to address raised in the appeal with emphasis on the effects of prescribed fire on snags and down wood, and the effects of on-going grazing by domestic livestock.

DATES: Comments concerning this analysis should be received, in writing by June 10, 2002, to be most useful.

ADDRESSES: Send written comments to Judith E. Levin, Acting Forest Supervisor, Ochoco National Forest, P.O. Box 490, Prineville, Oregon 97754, or William Fish, Acting District Ranger, Paulina Ranger District, 7803 Beaver Creek Road, Paulina, Oregon 97751.

FOR FURTHER INFORMATION CONTACT: Tom Mafera, Deep Project Leader, Paulina Ranger District, 7803 Beaver Creek Road, Paulina, OR 97751, phone (541) 477–6910.

SUPPLEMENTARY INFORMATION: The SEIS will display the original alternatives, including C (mod) selected in the 2001 ROD. Specific actions include: Silvicultural treatments that include timber harvest on approximately 6,393 acres (approximately 14mmbf), Precommercial thinning of approximately 10,042 acres, Post harvest fuels treatment on approximately 5,511 acres, Natural fuels underburning of approximately 4,192 acres, Forage enhancement/Juniper reduction underburning on approximately 4,549 acres, Riparian planting along 28 miles of stream, Large woody material placement on 7.4 miles of stream, Riparian protection at six dispersed recreation sites, Aspen enhancement on approximately 81 acres, Willow enhancement at two sites, Meadow enhancement on approximately 825 acres, Culvert replacement at eight locations, Road closure of approximately 16.2 miles, Road decommissioning on 15.2 miles. These activities would occur on approximately 19,800 acres within the Deep Creek watershed, located on the Paulina Ranger District of the Ochoco National Forest. The total planning area of the Deep Vegetation Management Project is 55,368 acres.

The purpose and need for action is to provide landscape-level health and diversity with the project by moving and existing vegetation toward conditions that are sustainable, provide habitat diversity, and contribute to riparian management objectives. Also to provide multiple use benefits: such as wildlife and fish habitat restoration; riparian and watershed restoration; visual quality; and timber products.

The original issues will guide the analysis. The original issues are: landscape level pattern and vegetative diversity; water quality and fish habitat; and fuels and fire hazard.

The decision-to-be-made will include whether, where, and/or how much of each proposed vegetation activity should occur, and/or how much road and where decommissioning, repair, obliteration, or construction should occur.

The public is invited to offer suggestions and comments in writing. Comments received in response to this notice, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available to public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d); any person may request the agency to withhold a submission form the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The Draft SEIS is expected to be completed in June 2002. The comment period on the Draft SEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a Draft SEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft SEIS stage but that are not raised until after completion of the Final SEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objects are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final SEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft SEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft SEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Final SEIS will be completed in September 2002. In the Final SEIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft SEIS and applicable laws, regulations, and policies considered in making the decisions regarding the Deep Vegetation Management Project.

The Forest Service is the lead agency. The Forest Supervisor of the Ochoco National Forest is the Responsible Official. The Responsible Official will determine which alternative best meets the purpose and need of this project and addresses the key issues raised about this project. The decision and rationale will be documented in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 FR part 215).

Dated: May 15, 2002.

Judith E. Levin,

Acting Forest Supervisor.

[FR Doc. 02–13198 Filed 5–24–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Notice of Resource Advisory Committee Meeting

AGENCY: Modoc Resource Advisory Committee, Alturas, California, USDA Forest Service

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Modoc National Forest's Modoc Resource Advisory Committee will meet Wednesday, June 12th, 2002 and Wednesday, July 10th, 2002 in Alturas, California for business meetings. The meetings are open to the public.

SUPPLEMENTARY INFORMATION: The business meeting June 12th begins at 5 pm., at the Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas. Agenda topics will include approval of 05/11/02 minutes, reports from subcommittees and review and selection of projects that will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve ;health and water quality. Time will also be set aside for public comments at the beginning of the meeting. The business meeting July 10th begins at 5 pm., at the Modoc National Forest Office, Conference Room, 800 West 12th Street, Alturas. Agenda topics will include approval of the 06/12/02 minutes, reports from subcommittees and selection of projects on the Modoc National Forest that meet the intent of Pub. L. 106–393. Time will be set aside for public comments at the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Dan Chisholm, Forest Supervisor and Designated Federal Officer, at (530) 233–8700; or Public Affairs Officer Nancy Gardner at (530) 233–8713.

Dan Chisholm,

Forest Supervisor.

[FR Doc. 02–13197 Filed 5–24–02; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a community forum of the Illinois Advisory Committee to the Commission will convene at 9 a.m. and recess at 6 p.m. on Monday, June 17, 2002; reconvene on Tuesday, June 18 at 9 a.m. and adjourn at 6 p.m. at the Ralph Metcalfe Federal Building, 77 West Jackson, Room 331, Chicago, Illinois 60604. The purpose of the two-day community forum is to gather information on "Arab and Muslim Civil Rights Issues in the Chicago Metropolitan Area: Post 9/11."

Persons desiring additional information, or planning a presentation to the Committee, should contact Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 21, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–13241 Filed 5–24–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Mexico Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 4:30 p.m. on Wednesday, June 26, 2002, at the Doubletree Hotel, 201 Marquette, NW., Albuquerque, New Mexico 87106. The purpose of the meeting is to review current civil rights issues in New Mexico and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact, John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 21, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–13242 Filed 5–24–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4:30 p.m. on Wednesday,

June 12, 2002, at the Hamilton Room, One Flight Up Restaurant, Burlington International Airport, 1200 Airport Drive, South Burlington, Vermont 05430. The Advisory Committee will hold a planning meeting to begin its project activities on harassment of minorities in Vermont public schools and communities. The Committee will draft questions to educators, community organizations, civil rights leaders, and plan its fall 2002 town hall style meetings.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 21, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–13243 Filed 5–24–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: U.S. Census Bureau.

Title: 2001 Panel of the Survey of Income and Program Participation, Wave 6 Topical Modules.

Form Number(s): SIPP 21505(L) Director's Letter; SIPP/CAPI Automated Instrument, SIPP 21003 Reminder Card.

Agency Approval Number: 0607–0875.

Type of Request: Revision of a currently approved collection.

Burden: 120,428 hours.

Number of Respondents: 78,750.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to conduct the Wave 6 Topical Module interview for the 2001 Panel of the Survey of Income and Program Participation (SIPP). We also request approval for a few replacement questions in the reinterview instrument. The core SIPP instrument and reinterview instrument were cleared previously. The reinterview instrument will be used for quality control purposes. We are also seeking continued clearance for the SIPP Methods Panel instrument field testing to be conducted in November and December 2002. The test targets SIPP Wave 2 items and sections that require thorough and rigorous testing in order to improve the quality of core data. The experiment is conducted under the direction of the Methods Panel Team, which is committed to delivering an improved and less burdensome instrument for use in the 2004 SIPP Panel.

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years, with each panel having durations of 3 to 4 years. The 2001 SIPP Panel is scheduled for three years and will include nine waves beginning February 1, 2001.

The survey is molded around a central "core" of labor force and income questions that remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs. These supplemental questions are included with the core and are referred to as "topical modules." The topical modules for the 2001 Panel Wave 6 are Medical Expenses and Utilization of Health Care (Adults and Children), Work Related Expenses and Child Support Paid, and Assets, Liabilities, and Eligibility. Wave 6 interviews will be conducted from October 2002 through January 2003.

Data provided by the SIPP are being used by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare or transfer payment programs, such as the Department of Health and Human Services and the Department of Agriculture. The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single and unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983, permitting levels of economic well-being and changes in these levels to be measured over time.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer..

[FR Doc. 02–13187 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Revolving Loan Fund Reporting Requirements

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 29, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via Internet at *MClayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to Patricia Flynn, Director, Operations Review and Analysis Division, Economic Development Administration, Room 7015, Washington, DC 20230, telephone: (202) 482–5353.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Economic Development Administration (EDA) provides investments that will help our partners across the nation (states, regions and communities) create wealth and minimize poverty by promoting a favorable business environment to attract private capital investment and high skill, high wage jobs through world-class capacity building, infrastructure, business assistance, research grants and strategic initiatives.

EDA's Revolving Loan Fund (RLF) Reporting Requirements are needed to ensure proper monitoring and compliance with program and administrative requirements as set forth in EDA's authorizing legislation (Public Law 105–393) and EDA's implementing regulations at 13 CFR Chapter III.

II. Method of Collection

The RLF Reporting Requirements are used by EDA to monitor grantee progress in establishing the loan funds, making initial loans, collecting and relending the proceeds from loans, and compliance with time schedules and federal requirements for administering grants, civil rights, environmental and other requirements prior to grant disbursement. The RLF Reporting Requirements are based on OMB administrative requirements for federal grants as implemented by DOC rules at 15 CFR Parts 14, 24, 29, and CFR 13 CFR Part III and are intended to supplement and explain such requirements and are not intended to replace or negate such requirements.

III. Data

OMB Number(s): 0610–0095.

Agency Form Number: ED–209A, ED–209S and ED–209I.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or Tribal Governments and not-for-profit organizations.

Estimated Number of Respondents: 627.

Estimated Time per Response: 12 hours for RLF Reporting Requirements (includes RLF Annual Report, RLF Semiannual Report and RLF Income and Expense Statement).

Estimated Total Annual Burden Hours: 15,048 hours.

Estimated Total Annual Cost: $833,910.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the equality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; and they also will become a matter of public record.

Dated: May 21, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13239 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–34–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–816, A–475–826, A–533–817, A–560–805, A–588–847]

Certain Cut-To-Length Carbon-Quality Steel Plate from France, Italy, Indonesia, India, and Japan: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of Antidumping Duty Administrative Review.

EFFECTIVE DATE: May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Chris Brady, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4406.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2002).

Background

On February 1, 2002, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty orders on certain cut-to-length carbon-quality steel plate (CTL plate) from France, Italy, Indonesia, India, Japan, and the Republic of Korea (67 FR 4945, 4946).

On March 27, 2002, the Department initiated administrative reviews of the antidumping duty orders on CTL plate from France, Italy, Indonesia, India, Japan, and the Republic of Korea for the period February 1, 2001, through January 31, 2002, (67 FR 14696, 14697) pursuant to requests made by Bethlehem Steel Corporation and United States Steel Corporation (collectively "the petitioners") on February 28, 2002. Also on February 28, 2002, Nucor Corp. requested an administrative review for only the Republic of Korea for the period February 1, 2001, through January 31, 2002. On April 26, 2002, the petitioners withdrew their request for the administrative reviews of CTL plate from France, Italy, Indonesia, India, Japan, and the Republic of Korea. In accordance with 19 CFR 351.213(d)(1), the Department is rescinding the administrative reviews covering France, Italy, Indonesia, India, and Japan because the petitioners have withdrawn their requests for an administrative review in a timely manner and they were the only petitioners to request those reviews.

However, as Nucor Corp. has not withdrawn its request that the Department conduct an administrative review of the order on CTL plate from the Republic of Korea, this review will proceed.

Rescission of Review

Section 351.213(d)(1) of the Department's regulations provides that a party that requests an administrative review may withdraw the request within 90 days after the date of publication of the notice of initiation of the requested administrative review. The Department is rescinding the administrative reviews of the order on CTL plate from France, Italy, Indonesia, India, and Japan because the requesting

parties have withdrawn their request for these administrative reviews within the 90 day time limit and no other interested parties have requested a review for these countries.

The notice is in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: May 20, 2002

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02–13270 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Extension of Time Limit of Preliminary Results of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limit of the preliminary results of the administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China. The period of review is September 1, 2000 through August 31, 2001. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Doug Campau or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–1395 or (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statutes and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 351 (2001).

Statutory Time Limits

Section 751(a)(3)(A) of the Act requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On September 28, 2001, the Department of Commerce received a timely request from the Crawfish Processors Alliance, petitioner in this case, and the Louisiana Department of Agriculture & Forestry and Bob Odom, Commissioner, for an administrative review of the antidumping order on freshwater crawfish tail meat from the People's Republic of China for numerous companies for the period of September 1, 2000, through August 31, 2001, in accordance with 19 CFR section 351.213(b)(2) of the Department's regulations. Also, on September 28, 2001, China Kingdom Import & Export Co., Ltd., aka China Kingdoma Import & Export Co., Ltd., aka Zhongda Import & Export Co., Ltd., and Qingdao Zhengri Seafood Co., Ltd., which were included in the petitioner's request for review, requested a review of their own shipments. We published a notice of initiation of this antidumping duty administrative review on October 26, 2001. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 65 FR 54195 (October 26, 2001).

Extension of Time Limits for Preliminary Results

Due to the complexity of the issues in this case, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1) of the Department's regulations. For example, the Department requires additional time to gather information and solicit comments from interested parties regarding the surrogate valuation issue. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for the completion of preliminary results. These preliminary results will now be due no later than September 30, 2002.

This notice is published pursuant to sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 20, 2002

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–13272 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–805]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania: Extension of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Tisha Loeper-Viti at (202) 482–7425 or Charles Riggle at (202) 482–0650, Office of AD/CVD Enforcement 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month of an order/finding for which a review is requested and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of publication of the preliminary results.

Background

On October 1, 2001, the Department of Commerce (the Department) published a notice of initiation of administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania, covering the period February 4, 2000, through July 31, 2001 (66 FR 49924). On May 8, 2002, the Department published, in the **Federal Register**, a notice to extend the deadline for the preliminary results in this administrative review until May 24, 2002. *See Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania: Extension of Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 30874 (May 8, 2002). On May 10, 2002, the Romanian Ministry of Foreign Affairs filed a request for revocation of Romania's non-market economy status.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the extended time limit. Specifically, additional time is necessary to consider the proper surrogate valuation of the factors of production. In addition, the Department only recently received a request from the Romanian Ministry of Foreign Affairs to revoke Romania's non-market economy status in either a free standing proceeding or in this administrative review. Additional time is necessary to consider this request. As such, it will not be possible to complete the preliminary analysis in this review by May 24, 2002. Therefore, the Department is fully extending the time limit for completion of the preliminary results until no later than September 3, 2002. We intend to issue the final results no later than 120 days after publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: May 21, 2002.

Bernard Carreau,

Deputy Assistant Secretary for AD/CVD Enforcement II.

[FR Doc. 02–13271 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052102E]

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Executive Committee; Ecosystems Planning Committee; Squid, Mackerel, and Butterfish Committee; and, Surfclam and Ocean Quahog Committee with Industry Advisors will hold a public meeting.

DATES: The meetings will be held on Tuesday, June 11, 2002 through Thursday, June 13, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: This meeting will be held at Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD; telephone: 301-589-5200.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302-674-2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

SUPPLEMENTARY INFORMATION: On Tuesday, June 11, the Executive Committee will meet from 10 a.m. until noon. The Ecosystems Planning Committee will meet from 1 p.m. to 3 p.m. From 3 p.m. to 5:30 p.m., there will be a Law Enforcement Information and Education Program regarding Homeland Defense and the integration and coordination of that program with other Law Enforcement Programs. On Wednesday, June 12, the Squid, Mackerel, and Butterfish Committee will meet from 8 a.m. to 10 a.m. The Surfclam and Ocean Quahog Committee, with its Industry Advisors, will meet from 10 a.m. until noon. The Council will meet from 1 p.m. to 5:30 p.m. On Thursday, June 13, the Council will meet from 8 a.m. until 4 p.m.

Agenda items for the committees and Council meeting are: the Ecosystem Planning Committee will receive a report on NMFS' final rule regarding essential fish habitat, and receive an update on the status of the Council's 2003 research set aside program; the Squid, Mackerel, and Butterfish Committee will set priorities for future fishery management plan (FMP) actions; the Surfclam and Ocean Quahog Committee, with Industry Advisors, will review staff recommendations for 2003 quotas and management measures for surfclams and ocean quahogs, and develop 2003 quota specification recommendations. The Council will: review the Surfclam and Ocean Quahog Committee's recommendations for 2003 quotas and management measures for surfclams and ocean quahogs, and approve recommendations regarding 2003 quota specifications; approve management alternatives regarding Amendment 2 to the Monkfish FMP; approve Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass FMP for Secretarial submission; receive and discuss organizational and committee reports including the New England Council's report regarding possible actions on herring, groundfish, monkfish, red crab, scallops, skates, and whiting; and, act on any continuing and/or new business.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 22, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13260 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051402A]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) has cancelled the public meeting of its Scallop Oversight Committee and Advisory Panel that was scheduled for June 10 & 11, 2002, at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The initial notice published in the **Federal Register** on May 22, 2002 (67 FR 35964). All other information contained in the previously-published notice remains unchanged. The meeting will be rescheduled at a later date and announced in the **Federal Register**.

Dated: May 22, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13259 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051002B]

Assessment Modeling Paper on Large Coastal Sharks

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of large coastal shark assessment modeling paper; request for comments; announcement of large coastal shark stock assessment workshop.

SUMMARY: NMFS announces the availability of a paper that evaluates the range of sensitivity trials and alternative model structures recommended by independent peer reviews of the 1998 large coastal shark (LCS) stock assessment. The paper describes the sensitivity trial results obtained from using 1998 data to evaluate the recommended range of alternative model/data formulations. NMFS requests public comment on the paper and whether the recommendations of the independent peer reviews have been adequately addressed. NMFS also announces the 2002 LCS stock evaluation workshop (SEW) will be held June 24–28, 2002, in the NMFS Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408.

DATES: Written comments must be received no later than 5 p.m., eastern standard time, on June 5, 2002.

ADDRESSES: Written comments on the modeling paper should be sent to Margo Schulze-Haugen, Highly Migratory Species Management Division (F/SF1), National Marine Fisheries Service (NMFS), 1315 East-West Highway, Silver Spring, MD 20910, or may be sent via facsimile (fax) to 301–713–1917. Written requests for copies of the modeling paper should be sent to Margo Schulze-Haugen.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz, (301) 713–2347, fax (301) 713–1917; or Enric Cortes, (850) 234–6541.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

On November 21, 2000, Southern Offshore Fishing Association and other commercial fishermen and dealers (plaintiffs) and NMFS reached a settlement agreement that prescribed actions to be taken by both parties in order to resolve issues raised in two lawsuits brought against NMFS by the plaintiffs. On December 7, 2000, Judge Steven D. Merryday of the U.S. District Court for the Middle District of Florida entered an order approving the settlement agreement.

The settlement agreement, *inter alia*, required NMFS to obtain an independent review of the 1998 LCS stock assessment. In October 2001, NMFS received the complete peer reviews of the 1998 LCS stock assessment. The reviews contained various recommendations for future LCS stock assessments.

The modeling paper evaluates the range of sensitivity trials and alternative model structures recommended by the independent peer reviews of the 1998 LCS stock assessment. The paper describes the sensitivity trial results obtained from using 1998 data to evaluate the recommended range of alternative model/data formulations. NMFS requests public comment on the paper and whether the recommendations of the peer reviews have been adequately addressed. The paper is now available on the NMFS website (*http://www.nmfs.noaa.gov/sfa/hmspg.html*). Hard copies of the document are available upon request (see **ADDRESSES**).

NMFS also announces the 2002 LCS stock evaluation workshop (SEW) will be held June 24–28, 2002, in the NMFS Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408. Past and prospective participants and observers will be contacted with the SEW details. Persons interested in participating or observing the SEW should contact Enric Cortes (see **FOR FURTHER INFORMATION CONTACT**).

Authority: 16 U.S.C. 971 *et seq.*and 1801 *et seq.*

Dated: May 22, 2002.

John H. Dunnigan

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13254 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designations under the Textile and Apparel Short Supply Provision of the United States-Caribbean Basin Trade Partnership Act (CBTPA)

May 22, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination.

SUMMARY: The Committee for the Implementation of Textile Agreements (Committee) has determined, under the CBTPA, that yarn of combed cashmere, combed cashmere blends, or combed camel hair, classified in subheading 5108.20.60 of the Harmonized Tariff Schedule of the United States (HTS) for use in fabric for apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The Committee hereby designates apparel articles that are both cut and sewn in an eligible country, from fabric woven in the United States containing yarn of combed cashmere, combed cashmere blend, or combed camel hair not formed in the United States, as eligible for quota-free and duty-free treatment under the textile and apparel short supply provisions of the CBTPA, and eligible under HTS subheading 9820.11.27 to enter free of quotas and duties, provided all other yarns are U.S. formed and all other fabrics are U.S. formed from yarns wholly formed in the U.S.

FOR FURTHER INFORMATION CONTACT: Martin J. Walsh, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 211 of the CBTPA, amending Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act (CBERA); Presidential Proclamation 7351 of October 2, 2000; Executive Order No. 13191 of January 17, 2001.

Background

The short supply provision of the CBTPA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States or a beneficiary CBTPA country if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and certain procedural requirements have been met. In Presidential Proclamation 7351, the President proclaimed that this treatment would apply to such apparel articles from fabrics or yarns designated by the appropriate U.S. government authority in the Federal Register. In Executive Order 13191, the President authorized the Committee to determine whether particular yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner.

On January 4, 2002, the Committee received a request alleging that yarn of combed cashmere, combed cashmere blends, or combed camel hair, classified in subheading 5108.20.60 of the HTS for use in fabric for apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and requesting that apparel articles from U.S. formed-fabric containing such yarns be eligible for preferential treatment under the CBPTA. On January 10, 2002, the Committee published a notice in the **Federal Register** requesting public comment on the request (67 FR 1330). On January 29, 2002, the Committee and the U.S. Trade Representative (USTR) sought the advice of the Industry Sector Advisory Committee for Wholesaling and Retailing and the Industry Sector Advisory Committee for Textiles and Apparel. On January 29, 2002, the Committee and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). On February 15, 2002, the U.S. International Trade Commission provided advice on the request. Based on the information and advice received and its understanding of the industry, the Committee determined that the yarn set forth in the request cannot be supplied by the domestic industry in commercial quantities in a timely manner. On March 5, 2002, the Committee and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and advice obtained. A period of 60 calendar days since this report was submitted has expired, as required by the CBTPA.

The Committee hereby designates as eligible for preferential treatment under subheading 9820.11.27 of the HTS apparel articles that are both cut and sewn in one or more eligible CBTPA beneficiary countries from fabric woven in the United States containing yarn of combed cashmere, combed cashmere blends, or combed camel hair, classified in subheading 5108.20.60 in the HTS, not formed in the United States, provided that all other yarns are wholly formed in the United States and that all fabrics are wholly formed in the United States, that are imported directly into the customs territory of the United States from an eligible CBTPA beneficiary country. An article otherwise eligible for preferential treatment under this designation shall not be ineligible for such treatment because the article contains findings, trimmings, certain interlinings, or deminimus foreign yarn, as specified in Section 213(b)(2)(A)(vii)(I), (II), and (III) of the CBTPA.

An "eligible CBTPA beneficiary country" means a country which the President has designated as a CBTPA beneficiary country under section 213(b)(5)(B) of the CBERA (19 U.S.C. 2703(b)(5)(B)) and which has been the subject of a finding, published in the Federal Register, that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of the CBERA (19 U.S.C. 2703(b)(4)(A)(ii)) and resulting in the enumeration of such country in U.S. note 1 to subchapter XX of chapter 98 of the HTS.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13273 Filed 5–24–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Notice of Public Meeting

AGENCY: Commodity Futures Trading Commission.

SUMMARY: Notice is hereby given that the Commodity Futures Trading Commission ("Commission") will convene a public meeting at which invited participants will appear before it to give oral and written statements to assist the Commission in its study of potential changes in the regulation of intermediaries, pursuant to Section 125 of the Commodity Futures Modernization Act of 2000.[1]

[1] Commodity Futures Modernization act of 2000, Pub. L. 106–554—Appendix E, § 105(c), 114 Stat. 2763A–365 (2000).

Participants will be announced at a later date.

DATES: Thursday, June 6, 2002, from 10 a.m. to 12 p.m.

Place: 1155 21st Street, NW., Washington, DC. Lobby Level Hearing Room located at Room 1000.

Status: Open.

FOR FURTHER INFORMATION CONTACT: Jean W. Webb, 202–418–5100.

Issued in Washington, DC this 21st day of May 2002.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–13178 Filed 5–24–02; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Parental Information and Resource Centers Program

AGENCY: Department of Education.

ACTION: Notice of final priority, selection criteria, and eligibility requirements.

SUMMARY: We announce a competitive preference, selection criteria, and eligibility requirements for grants for fiscal year (FY) 2002 under the Parental Information and Resource Centers (PIRC) Program. We are taking this action to implement a competition authorized under the No Child Left Behind Act of 2001. These grants will assist eligible parties in establishing school-based or school-linked PIRCs.

EFFECTIVE DATE: June 27, 2002.

FOR FURTHER INFORMATION CONTACT: Daisy Greenfield, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E307, FOB–6, Washington, DC 20202–6400. Telephone: (202) 401–0039 or via Internet: *daisy.greenfield@ed.gov*.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the notice.

SUPPLEMENTARY INFORMATION: On April 4, 2002, we published in the **Federal Register** (67 FR 16096–16099) a notice of proposed priority, selection criteria, and eligibility requirements. In that notice, we announced our intent to give a competitive preference of 10 additional points to the highest-scoring

applicant from each of the States in which the current PIRC project is ending. We also proposed selection criteria for the FY 2002 PIRC competition and interpreted the term "non-profit organization" for purposes of eligibility under the competition. The present notice announces the final competitive preference, selection criteria, and eligibility requirements for the FY 2002 PIRC competition.

Note: This notice does not solicit applications. A notice inviting applications for the FY 2002 PIRC competition is published elsewhere in this issue of the **Federal Register**.

Analysis of Comments and Changes

Five parties submitted comments in response to the notice of proposed priority, selection criteria, and eligibility requirements. Most of these comments were unrelated to the issues on which we solicited comments in that notice. The following is a summary of the comments that were submitted and our responses to those comments. We did not make any changes to the competitive preference, selection criteria, or eligibility requirements as a result of the comments.

Comment: One commenter requested that we eliminate the requirement that each PIRC must serve both urban and rural areas.

Discussion: We had not requested comments on this particular requirement. However, the legislation expressly requires each PIRC to serve both urban and rural areas. The intent of this provision is to help ensure that centers serve a broad region of their respective States.

Changes: None.

Comment: One commenter sought clarification on whether a national nonprofit organization is eligible for funding.

Response: The intent of the legislation is that each PIRC address the needs of parents in individual States. A national nonprofit organization may submit a State-specific application to provide services within a given State. The organization may not, however, submit a single application to address the needs of multiple States. This position is consistent with the legislation, and we do not believe that rulemaking on this issue is necessary.

Changes: None.

Comment: One commenter suggested that we (1) add language to other provisions of the Elementary and Secondary Education Act, as amended, (ESEA) to ensure that those programs collaborate and coordinate with the *PIRCs;* (2) identify how an applicant may demonstrate that its programs would be school-based or school-linked; (3) require applicants to identify how they are working with local educational agencies (LEAs) and the State educational agency (SEA); (4) indicate which types of early childhood, parent education programs may be supported by the PIRCs; (5) indicate whether we will award the 10-point competitive preference in PIRC competitions in future years; and (6) specify more directly that the non-profit organizations and consortia must be parent-focused.

Response: These comments do not address the particular matters on which comments were sought in the notice of proposed priority, selection criteria, and eligibility requirements, and we do not believe that rulemaking on these issues is necessary. However, we are responding as follows to the comments:

First, in implementing Federal programs, we are already working to ensure that activities supported under different programs are coordinated as appropriate.

The new PIRC legislation and application package for the FY 2002 PIRCs competition emphasize that the centers must be school-based or school-linked. Each applicant must devise specific strategies to meet this requirement. In doing so, applicants should consider the specific types of services identified in section 5564 of the ESEA and examine carefully the selection criteria for the competition, particularly the criteria concerning the quality of the design of the proposed PIRC and the quality of the services. A high-quality application would describe, among other things, how the PIRC would specifically work with schools, LEAs, and the SEA.

The PIRC program statute requires that at least 30 percent of a grantee's PIRC funds be used to establish, expand, or operate Parents as Teachers programs, Home Instruction for Preschool Youngsters programs, or other early childhood parent education programs. In deciding which early childhood parent education programs to support, PIRCs should consider factors such as whether a program (a) is research-based; (b) is comprehensive; (c) is of sufficient duration and intensity to ensure the likelihood of positive outcomes for parents and children; and (d) focuses on building the capacity of parents to support their children's learning and development over time.

The Department has made no decisions regarding what priorities, if any, might apply to any future PIRC competitions.

Finally, we believe that the materials in the application package, including the selection criteria for the program as published in this notice, will adequately ensure that all funded PIRCS will be parent-focused, with the ultimate aim of improving student academic achievement.

Changes: None.

Comment: One commenter supported our interpretation of the term "non-profit organization," which excludes institutions of higher education, SEAs, LEAs, intermediate school districts, schools, government entities, or hospitals. This commenter, however, questioned the appropriateness of the competitive preference, particularly with respect to large States. The commenter indicated that the preference makes it very difficult for a second or third proposal from the same State to receive funding. This commenter also suggested that we award more points under the need criterion and that the need relate to a specific geographic area.

Response: The competitive preference priority will permit us to comply with the Congressional mandate that grant funds be distributed, to the extent practicable, to all regions of the United States. The priority will increase the likelihood of establishing at least one PIRC in every State, while allowing nonprofit organizations from any State to compete for a PIRC grant. Regarding the suggestion concerning assigning the need criterion additional points, we note that the need criterion is currently worth one-fifth of the total points under the selection criterion. Furthermore, the factors that we will consider under this criterion are directly related to the authorizing legislation and will therefore help ensure that applicants have described needs that are consistent with the intended purpose of the legislation.

Changes: None.

Comment: One commenter suggested that we give a 10-point competitive preference to each currently funded one-year PIRC grantee.

Response: We do not believe that giving a 10-point competitive preference to each currently funded one-year PIRC grantee is appropriate. Rather, we believe that the competitive preference that we proposed will help ensure that PIRC funds are distributed, to the extent practicable, to all regions of the country and that the highest quality applicants from each State will be funded.

Changes: None.

Competitive Preference: Under 34 CFR 75.105(c)(2), we give a competitive preference in the FY 2002 PIRC competition. To receive this preference, an applicant must—

(1) Be located and operate a PIRC in one of the following States: Alabama, Alaska, Arizona, Arkansas, American Samoa, Commonwealth of the Northern Mariana Islands, Connecticut, Delaware, the Federated States of Micronesia, Guam, Idaho, Illinois, Indiana, Kansas, Louisiana, Montana, Mississippi, Nebraska, New Mexico, North Dakota, Oregon, Puerto Rico, the Republic of the Marshall Islands, the Republic of Palau, Rhode Island, South Carolina, U.S. Virgin Islands, Utah, Virginia, West Virginia, and Wyoming; and

(2) Be the highest-scoring applicant from its State on the basis of the selection criteria for the competition.

We will award 10 points to any applicant that meets the priority. These points will be in addition to any points the applicant earns under the selection criteria.

Selection Criteria: We will use the following selection criteria to evaluate applications under the PIRC competition. The maximum points for each criterion is indicated in parentheses after the heading for that criterion.

(a) *Need for the project.* (20 points)

In evaluating the need for the proposed project, we consider the extent to which—

(1) The proposed project will provide services to, or otherwise address, the needs of parents who are educationally or economically disadvantaged;

(2) The training, information, and support services currently available inadequately address the needs of the parents the proposed project will serve; and

(3) The children of the parents the proposed project will serve are not meeting State or local academic achievement standards.

(b) *Quality of the design of the proposed project.* (25 points)

In evaluating the quality of the design of the proposed project, we consider the extent to which—

(1) The proposed project will be a school-based or school-linked center of adequate size, scope, and quality to serve effectively the parents in the area;

(2) The proposed project is designed to work in coordination with the SEA and affected LEAs (i) in determining the needs of the parents who will be targeted for assistance; and (ii) in developing an effective means for providing services to those parents;

(3) The proposed project is designed to coordinate and integrate activities funded under this grant with parental involvement activities funded from other sources, particularly Title I of the ESEA and the Individuals with Disabilities Education Act;

(4) The proposed project will support effective early childhood parent education programs that will enhance school readiness;

(5) The proposed project includes multiple strategies for providing direct and indirect services for parents targeted for assistance; and

(6) The proposed project will implement a management plan that includes clearly defined responsibilities, timelines, and milestones for achieving the objectives of the project.

(c) *Quality of the services.* (20 points)

In evaluating the quality of the services to be provided by the proposed project, we consider—

(1) The quality and sufficiency of strategies for ensuring equal access by, and treatment of, eligible project participants who are members of groups that have been traditionally underrepresented based on race, color, national origin, gender, age, or disability; and

(2) The extent to which the proposed project will—

(i) Provide comprehensive training, information, and support services to develop and strengthen the relationship between parents and their child's school;

(ii) Assist parents in understanding the student academic achievement standards to which their child is being held and the measures of student and school academic achievement;

(iii) Assist parents in becoming involved in their child's education in meaningful ways that are likely to improve the child's academic achievement;

(iv) Provide services that reflect up-to-date knowledge from research and effective practices; and

(v) Provide to parents services that will likely improve the developmental progress of children, including children from birth through age five.

(d) *Quality of the PIRC personnel.* (10 points)

In evaluating the quality of the personnel who will carry out the PIRC activities, we consider—

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have been traditionally underrepresented based on race, color, national origin, gender, age, or disability;

(2) The qualifications, including relevant training and experience, of the PIRC director;

(3) The qualifications, including relevant training and experience, of key PIRC personnel; and

(4) The qualifications, including relevant training and experience, of PIRC consultants or subcontractors.

(e) *Evaluation.* (25 points)

In evaluating the quality of the evaluation the applicant proposes to conduct of the proposed project, we consider the extent to which the methods of evaluation—

(1) Are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(2) Produce quantitative and qualitative data; and

(3) Will result in data on whether the policies and practices of the PIRC are effective in improving home-school communication, student academic achievement, school academic achievement, and parental involvement in school planning, review, and improvement.

Eligibility Requirements: Organizations seeking funding under the PIRC Program, either individually or in consortia with one or more LEAs, must demonstrate that they are nonprofit organizations under section 501(c)(3) of the Internal Revenue Code. For purposes of the PIRC Program, the term "nonprofit organization" does *not* include institutions of higher education, SEAs, LEAs, intermediate school districts, schools, government entities, or hospitals.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79. Intergovernmental review instructions are contained in the application package.

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CFDA No.: 84.310A.

Program Authority: Subpart 16 of title V of the Elementary and Secondary Education

Act, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110), 20 U.S.C. 7273 *et seq.*

Dated: May 23, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13369 Filed 5–24–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.310A]

Parental Information and Resource Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purposes of Program: To support school-based and school-linked parental information and resource centers (PIRCs) that—

(1) Implement effective parental involvement policies, programs, and activities that will improve children's academic achievement;

(2) Develop and strengthen partnerships among parents (including parents of children from birth through age five), teachers, principals, administrators, and other school personnel in meeting the educational needs of children;

(3) Develop and strengthen the relationship between parents and their child's school;

(4) Further the developmental progress of children assisted under the program;

(5) Coordinate activities funded under the program with parental involvement initiatives funded under section 1118 and other provisions of the Elementary and Secondary Education Act (ESEA); and

(6) Provide a comprehensive approach to improving student learning, through coordination and integration of Federal, State, and local services and programs.

Eligible Applicants: Non-profit organizations, or consortia of non-profit organizations and local educational agencies (LEAs). We have published elsewhere in this issue of the **Federal Register** eligibility requirements that clarify the meaning of the term "non-profit organization" for purposes of this competition. LEAs alone are *not* eligible to apply for funding.

Applications Available: May 28, 2002.

Deadline for Transmittal of Applications: June 27, 2002.

Deadline for Intergovernmental Review: September 10, 2002.

Notificaiton of Intent to Apply for Funding: We will be able to develop a more efficient process for reviewing grant applications if we have a better understanding of the number of entities that intend to apply for funding. Therefore, we strongly encourage each potential applicant to send, by June 12, 2002, a notification of its intent to apply for funding to the following address: *daisy.greenfield@ed.gov.*

The notification of intent to apply for funding is *optional* and should not include information regarding the proposed application. Eligible applicants that fail to provide the notification may still submit an application by the application deadline.

Estimated Available Funds: $20 million.

Estimated Average Size of Awards: $570,000.

Funding of continuation awards after the initial year of funding is contingent upon future Congressional appropriations for the program. The Administration has not requested funding for this program in its FY 2003 budget proposal.

Estimated Number of Awards: 35.

These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 85, 97, 98, and 99; (b) The regulations in 34 CFR part 80 also apply to an LEA that is part of a consortium receiving assistance; and (c) The Notice of Final Priority, Selection Criteria, and Eligibility Requirements as published elsewhere in this issue of the **Federal Register**.

Competitive Preference: We have published elsewhere in this issue of the **Federal Register** a competitive preference for the FY 2002 PIRC competition. Applicants that meet this competitive preference will receive 10 additional points in the competition. These points are in addition to the points an applicant receives under the selection criteria.

Selection Criteria: We have published elsewhere in this issue of the **Federal Register** the selection criteria that will govern this competition.

For Applications and Further Information Contact: Daisy Greenfield, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E307, FOB–6, Washington, DC 20202–6400. Telephone: (202) 401–0039 or via Internet: *daisy.greenfield@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed above. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the notice.

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Program Authority: 20 U.S.C. 7273 *et seq.*

Dated: May 23, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13370 Filed 5–24–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.011]

Title I, Part C—Education of Migratory Children

ACTION: Notice of proposed requirements and minimum data elements for a electronic system of records transfer and request for comment.

SUMMARY: We announce proposed requirements for the minimum data elements that a State must collect and maintain for the purpose of electronically exchanging, among the States and their schools and local educational agencies, educational and health information for all migratory students.

DATES: Please send your comments on or before Monday, July 8, 2002.

ADDRESSES: Please address your comments to Alex Goniprow, Office of Elementary and Secondary Education, U.S. Department of Education, using one of the following methods:

1. Internet. We encourage you to send your comments through the Internet to the following address: *alex.goniprow@ed.gov.* You should use the term Minimum Data Elements in the subject line of your electronic message.

2. Fax Machine. You may also submit your comments by fax at (202) 205–0089.

3. Surface Mail. You may submit your comments via surface mail addressed to: Alex Goniprow, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E333, Washington, DC 20202–6400.

FOR FURTHER INFORMATION CONTACT: Alex Goniprow, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E333, Washington, DC 20202–6400. Telephone (202) 260–1205.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person identified in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The children of migratory agricultural workers and migratory fishers present unique challenges for educators and our Nation's schools. Migratory workers travel from community to community in search of temporary and seasonal work. Given the nature of their employment, migratory workers and their families often settle in a single community for a short period of time. One consequence of this lifestyle and mobility is that the children of migratory workers often enter new schools without adequate, and in many cases any, documentation of their educational and health history.

At present, no national system exists to support the timely transfer of migratory students' educational and health information. For school-aged migratory children, this lack of educational and health information may cause delays in receiving needed services, lead to inappropriate classroom and course placements, complicate the accrual of high school course credits, and result in duplicated services, such as multiple assessments and immunizations.

It is widely believed that educators could better serve migratory children if basic information on prior schooling was more readily available. Most States currently have electronic data bases that include migrant student records. Yet, these data bases are not able to share information on a national basis, nor do they contain even all of the basic information that schools need to make the best decisions about the education of migratory children.

Background

Section 1308 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (NCLB), Public Law 107–110, substantially revises requirements in Title I, Part C for the Migrant Education Program (MEP) that govern the interstate transfer of migrant student education and health records. In particular, section 1308(b)(1) requires the Secretary to assist the States in developing effective methods for the electronic interstate transfer of migrant student records. Section 1308(b)(2) requires the Secretary, in consultation with the States, to ensure that migrant student record systems used by the States are linked so that States may electronically exchange health and educational information regarding all migratory students. This provision also requires the Secretary to—

1. Consult with States regarding (a) The minimum data elements that each State receiving MEP funds would have to collect and maintain, and (b) the requirements the Department would establish for immediate electronic access to this information, and then

2. Publish a notice in the **Federal Register** seeking public comment on these proposed data elements, and proposed requirements States would meet for immediate access to these data elements.

The remainder of this notice describes the Department's proposal for required data elements and procedures that States would implement for immediate electronic access of an interstate system of records transfer. As explained in the following discussion, the proposal was developed by a group of local and State practitioners with the support and encouragement of the Department's Office of Migrant Education (OME). While the proposal reflects our best thinking to date on what the requirements of this electronic data system would be, we want to receive the reactions of State and local educators, including MEP staff and administrators, as well as the general public, to this proposal, as well as specific recommendations for how it can be improved. Please refer to the "Invitation to Comment" section of this notice for instructions on how to provide your comments.

Finally we note that ESEA section 9531 expressly exempts section 1308(b) from the general prohibition that nothing in the ESEA "shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data" under the ESEA. In addition, the Department will not have access to the personally identifiable migrant student education and health records contained in the database that is the subject of ESEA section 1308(b) and this notice.

Development of This Proposal

In the spring of 1999, over a year before enactment of NCLB, the Department began consulting with States on the development of minimum data elements that should be included in any subsequently created, electronic migrant student records system. As a first step, it asked a group of State MEP program directors to develop a set of principles to guide the effort to improve access to migrant student records. The group recommended a set of nine guiding principles, which all State MEP directors adopted in June 1999.

The Department then asked a group of migrant education practitioners to develop and recommend a set of minimum data elements that, based on these principles, seemed essential to exchanging migratory students' education and health data. Focusing on interstate secondary migratory students, this working group first established the key users and uses of migrant student data. It identified guidance counselors, school registrars, and migrant education specialists as the primary users of these data, and concluded that they needed these data for purposes of "enrollment," "placement," and "academic counseling." In particular, these individuals would need the data to ensure:

(1) Timely and efficient enrollment of migratory students in a school in the community in which the children reside;

(2) Proper placement of migratory students into courses and programs at the appropriate grade level; and

(3) Provision of academic counseling that helps migratory students to complete courses and accrue credits that they need to graduate from high school.

Over the course of its meetings between April and September 2000, the working group then developed a preliminary set of minimum data elements needed to accomplish these three tasks. To the extent possible, the working group aligned these preliminary data elements and definitions with terms and definitions recommended in the "Student Data

Handbook for Elementary, Secondary, and Early Childhood Education," which the Department's National Center for Education Statistics (NCES) had developed.

Finally, the working group proposed a set of deadlines for the submission and entry of the minimum data elements into State electronic migrant student records systems to ensure timely access to the data.

OME distributed and discussed the group's list of preliminary minimum data elements at a February 2002 meeting of MEP State directors. It also solicited questions and feedback on the proposed minimum data elements and timely access requirements during two sessions at the National Migrant Education Conference on April 8 and 9, 2002.

While the working group has focused on minimum data elements needed primarily to support the education of interstate secondary migratory children, we believe that these minimum data elements apply equally to the needs of *all* other migratory children, i.e., intrastate secondary migrant children, pre-school migratory children, elementary grade migratory students, and migratory youth who are not currently enrolled in school.

Proposed Minimum Data Elements for the Title I, Part C Migrant Education Program

The appendix to this notice contains the Department's proposal for the minimum data elements that all States would be required to collect and maintain for the purpose of electronically exchanging, among the States, educational and health information for all migratory students. The appendix reflects our review of the working group's proposal and our consultations to date with State MEP directors. Although data elements are listed once, a migrant student record would use a number of these elements on multiple occasions (*e.g.*, "course title" will be used for each course in which a migratory student is enrolled).

Proposed Requirements for Immediate Electronic Access to the Minimum Data Elements

Following up on the working group's recommendation, the Department would require each State receiving Title I, Part C funds to maintain the minimum data elements in an electronic data base of student records. The Department will develop the technical specifications that these data bases and student data would need to meet in order to permit the exchange of migrant student records at a later date.

The Department proposes that, *within four days* of each migratory child's enrollment in a migrant education program or project, or enrollment in a school, whichever comes first, all States, would have to submit and enter into their electronic data base the data elements for that child that are used for "enrollment" and "placement" purposes. They could do so either on their own, or operating through local educational agencies or other local operating agencies. States also would be required to submit and enter data used for "academic counseling" purposes into their electronic data base within four days of a child's withdrawal from school or migrant education program or project, whichever comes first. The appendix provides information that explains which data elements would be needed for each purpose.

Enrollment and placement information must be available to schools who are receiving migratory children upon their arrival at the school door so that counselors, school registrars, and migrant education specialists can use the data to take appropriate actions and make informed decisions. Consequently, we believe that timelines for data submission and data entry like those we have proposed are absolutely critical to the successful exchange of migrant students records.

Invitation To Comment

The Secretary invites interested members of the public to comment on this proposal for: (1) The minimum data elements to be collected and maintained in the migrant student records systems used by the States, and (2) the requirements for immediate electronic access to such information.

We are interested in receiving public comment on, and reaction to, all aspects of these proposed requirements. However, in formulating your comments, we ask that you pay particular attention to the following questions:

1. Will the collection and timely sharing of the minimum data elements significantly improve enrollment, placement, and graduation support services to students? If so, how?

2. Is the set of recommended minimum data elements the "right" set of data elements for the three purposes (*i.e.*, enrollment, placement, and graduation support)? Are any of the proposed elements unnecessary? Should any additional elements be added?

3. What will be the burden of collecting the data? Will the value of sharing the data outweigh the burden of data collection?

4. What are your suggestions for ensuring the *use* of the data elements by counselors and migrant specialists? What forces or factors will work to support the *use* of the minimum data elements? What forces or factors will hinder their use?

5. Are there ways to create linkages of migrant student record data systems that will ensure that the right information on an individual migratory student is available to school and LEA staff without assigning to each migratory student a unique migrant student record number?

6. What are your suggestions for increasing State compliance with requirements for collecting and maintaining up-to-date data elements? What are the forces and factors that will work to support the collection and maintenance of the data? What are the forces and factors that will hinder the collection and maintenance of the data?

After we have reviewed the comments received in response to this notice, we will decide what, if any, further discussion with State and local practitioners is necessary to improve these data system requirements. Before the Department issues any final requirements that govern the collection and maintenance of these data elements, the Department will (1) provide an opportunity for further public comment, and (2) advise all States of the technical specifications for the collection and maintenance of student data that their migrant student record systems will need to meet.

During and after the comment period, you may inspect all public comments about these proposed regulations in room 3E333, 400 Maryland Avenue, SW., Washington, DC 20202–6400 between the hours of 9 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

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Program Authority: 20 U.S.C. 6398.

Dated: May 22, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and, Secondary Education.

Appendix A: Minimum Data Elements

The following table presents the proposed requirements for the minimum data elements that a State shall collect and maintain for the purpose of electronically exchanging, among the States, educational and health information for all migratory students.

The table lists the data elements by: (1) a data element identification number, (2) a code that identifies the primary user function(s) for which the data element is required, (3) the name of the data element, and (4) a data element definition.

In regard to the primary user functions for which a data element is required, the letter "E" indicates that the data element is required to help guidance counselors, school registrars, or migrant education specialists with the timely and efficient enrollment of migratory students in a school in the community in which the children currently reside. The letter "P" indicates that the data element is required to help guidance counselors or migrant education specialists with the proper placement of migratory students into courses and/or programs at the appropriate grade level. The letter "G" indicates that the data element is required to help guidance counselors or migrant education specialists with the provision of academic counseling that supports the completion of courses and the accrual of credits needed for graduation.

In addition, the data elements are grouped into one of five categories of data: (1) data elements that describe a student, (2) data elements that describe a school or project, (3) data elements that describe the student's graduation plan, (4) data elements that describe a student's course history, and (5) data elements that describe a student's assessment information.

Finally, although the data elements are listed once, a number of the data elements will be used for multiple entries in a migrant student record (e.g., "course title" will be used for each course in which a migratory student is enrolled).

MINIMUM DATA ELEMENTS

No.	Use(s)	Data element	Definition
		Student Information	
1	E	National Student Identification Number	A unique national identification number assigned to a student.
2	E	State Student Identification Number	An alternate identification number assigned to a student by a State.
3	E	Last Name[1]	Student's legal last name (paternal).
4	E	Last Name[2]	If appropriate, student's legal last name (maternal). [Note: Provides an option for a hyphenated or double last name.]
5	E	First Name	A name given to a student at birth, baptism, or during another naming ceremony, or through legal change.
6	E	Middle Name	A secondary name given to a student at birth, baptism, or during another naming ceremony, or through legal change.
7	E	Generation	An appendage, if any, used to denote a student's generation in his family (e.g., Jr., Sr., III).
8	E	Gender	A student's gender. 01 Female. 02 Male.
9	E	Birth Date	The month, day, and year on which a student was born.
10	E	Birth Certificate Flag	The evidence by which a student's date of birth is confirmed. 01 Birth certificate—A written statement or form issued by an Office of Vital Statistics verifying the name and birth date of the child as reported by the physician attending at the birth. 02 Other official document (i.e., baptismal or church certificate, physician/hospital certificate, passport, previously verified school record, State-issued ID, driver's license). 03 Self Report—Parent or student reports age, birth date, and place of birth.
11	E	Birth City	The name of the city in which the student was born.
12	E	Birth State	The postal abbreviation code for a State (within the United States), Outlying Area, or State (in another country) in which a student was born.
13	E	Birth Country	The name of the country in which a student was born.
14	E	Birth/Legal Parent[1] Last Name	The last/surname of the natural or adoptive male parent having legal responsibility for a student.
15	E	Birth/Legal Parent[1] First Name	The first name of the natural male parent having legal responsibility for a student.
16	E	Birth/Legal Parent[2] Last Name	The last/surname of the natural or adoptive female parent having legal responsibility for a student.
17	E	Birth/Legal Parent2 First Name	The first name of the natural or adoptive female parent having legal responsibility for a student.
18	E	Current Parent/ Guardian Last Name	The last/surname of the adult serving as the student's *local* guardian. [Note: Provides an option for a hyphenated or double last name.]
19	E	Current Parent/ Guardian First Name	The first name of the adult serving as the student's *local* guardian.
20	P, G	Grade Level	The grade level in which a school/project enrolls a student.

MINIMUM DATA ELEMENTS—Continued

No.	Use(s)	Data element	Definition
			01 Ungraded. 02 Pre-school. 03 Kindergarten. 04 Grade 1 05 Grade 2 06 Grade 3 07 Grade 4 08 Grade 5 09 Grade 6 010 Grade 7 011 Grade 8 012 Grade 9 013 Grade 10 014 Grade 11 015 Grade 12 016 Out-of-School
21	E, P, G	Withdrawal Date	The month, day, year on which a student withdrew from a school or project.
22	E	Ed Alert Flag	Alert for a special need/educational condition linked with a contact person.
23	E	Ed Alert Contact	The full, legally accepted, proper name of the contact person.
24	E	Ed Alert Phone	The telephone number—for a telephone—including the area and extension, if applicable.
25	E	Med Alert	Alert for a medical/health condition
26	E	Med Alert Date	Month, day, and year the alert was issued
27	E	Med Alert Contact	The full, legally accepted, proper name of the contact person.
28	E	Med Alert Phone	The telephone number—for a telephone—including the area and extension, if applicable.
29	E	Immunization Date	The month, day, and year on which a student receives an immunization.
30	E	Immunization Type	The name of immunization that a student has received.
31		QAD (Qualifying Arrival Date)	The month, day, and year on which the family unit or the student (where the student is the worker) arrived at the place where the qualifying work was sought.
32		QAD From City	The name of the city in which the previous school district is located.
33		QAD From State	The postal abbreviation code for a State (within the United States) or Outlying Area in which the previous school district is located.
34		QAD From Country	The abbreviation code for a country (other than the US) area in which the previous school district is located.
35		QAD To City	The name of the city in which the new school district is located.
36		QAD To State	The postal abbreviation code for a State (within the United States) or Outlying Area in which the new school district is located.
37		Residency Date	The month, day, and year on which the family unit or the student (where the student is the worker) establishes residency in a school district within a State.
38		Termination Date	The month, day, and year on which the student is no longer eligible for the Migrant Education Program.
39		Terminating Flag	The reason for the end of student eligibility. 01 Non-migrant status, eligibility expired 02 Graduated. 03 GED. 04 Dropout. 05 Deceased.
		School/Project Information	
40	E, P, G	School/Facility Identification Code	A unique national code assigned to each school, site, or facility providing educational and/or educationally-related services.
41	E, P, G	School Name	The full legally or popularly accepted name of a school (or project providing educational and/or educational-related services).
42	E, P, G	Address1	Line 1 of the mailing address. The street number and name or post office box number of a school's address.

MINIMUM DATA ELEMENTS—Continued

No.	Use(s)	Data element	Definition
43	E, P, G	Address2	Line 2 of the mailing address. The building, office, department, room, suite number of a school's address.
44	E, P, G	Address3	Line 3 of the mailing address.
45	E, P, G	City	The name of the city in which a school is located.
46	E, P, G	District	The full legally or popularly accepted name of a local educational agency (i.e., school district or local operating agency).
47	E, P	State	The postal abbreviation code for a State (within the United States) or Outlying Area in which a school or other facility is located.
48	E, P, G	Zip	The five or nine digit zip code portion of a school or other facility's address.
49	G	Contact Name	The full, legally accepted, proper name of the contact person.
50	G	Contact Title/Position	The common title or job position of the contact person (i.e., Principal, Guidance Counselor, Federal Program Coordinator, Migrant Specialist, etc).
51	E, G	Phone	The number—for a telephone—including the area code and extension, if applicable. Allow for an optional alternate phone number.
52	E, G	Fax	The number—for a facsimile machine—including the area code and extension, if applicable. Allow for an optional alternate fax number.
53	E	Email	The electronic mail (email) address of the organization or contact person.
54	E, P, G	Enrollment Date	The month, day, and year on which a student enrolls in a school, project, or State and is eligible to receive instructional or support services during a given session.
55	P	Enrollment Type	The type of school/migrant education project in which instruction and/or support services are provided. 01 Regular School. 02 Regular Term MEP-Funded Supplemental Program. 03 Summer/Intersession MEP-Funded Project. 04 Year Round MEP-funded Project. 05 Residency Only.
56	P, G	Designated School for Graduation Flag	An indicator that designates the school or facility from which a student expects to graduate and is linked with associated school or facility identification fields (i.e., district, city, state, zip code). Only one school may be designated for graduation at any one point in time.
		Graduation Plan Information (Secondary Students Only)	
57	G	Graduation Year	The year the student is projected to graduate from high school. [Provided by Designated School of Graduation].
58	G	Type of Credential	The type of credential that the student expects to receive in recognition of his/her completion of curricular requirements. . [Provided by Designated School of Graduation]. 01 Regular diploma. 02 Certificate of attendance/completion. 03 General Educational Development (GED) credential. 04 State-specific diploma (e.g., New York Regents, Texas Minimum Program, etc.)
59	G	Subject Area Requirements	Number of credits (Carnegie units) required in individual subject areas for graduation in the State from which the student is projected to graduate.
60	G	Test	The name of the test the student will have to pass to graduate.
61	P,G	Subject Area	The name of a subject area (e.g., History, English).
		Course History Information (Secondary Students Only)	
62	P,G	Course Title	The name of a course (e.g., Algebra III, American History, Art I, English III, English-10).
63	G	Course Type	An indication of the general nature and difficulty of instruction provided throughout a course. 01 Regular (Default)—A course providing instruction (in a given subject matter area) that focuses primarily on general concepts for the appropriate grade level. 02 Honors—An advanced level course designed for students who have earned honors status according to educational requirements.

MINIMUM DATA ELEMENTS—Continued

No.	Use(s)	Data element	Definition
		.....	03 Pre-Advanced—A course in preparation to admission to an AP Program.
		Course Type (continued)	04 Advanced Placement—An advanced, college-level course designed for students who achieve specific level of academic performance. Upon successful completion of the course and a standardized Advanced Placement examination, a student may receive college credit.
			05 International Baccalaureate—A program of study, sponsored and designed by International Baccalaureate Organization, that leads to examinations and meets the needs of secondary students between the ages of 16 and 19 years.
			06 Accepted as a high school equivalent—A secondary-level course offered at an education institution other than a secondary school (such as adult learning center or community college) or through correspondence or distance learning.
			07 Not Applicable.
			07 Not Applicable.
64	G	Course Year	Calendar year in which the course was taken.
65	P, G	Course Section	The prescribed duration of course taken.
			01 Full year.
			02 Section A–One of two equal segments into which the course is divided.
			03 Section B–One of two equal segments into which the course is divided.
66	P, G	Term Type	The prescribed span of time that a course is provided, and in which, students are under the direction and guidance of teachers and/or an educational institution.
		.....	01 Full year.
		.....	02 Semester—A designation for the segment of a school year that is divided into two equal parts.
		.....	03 Trimester—A designation for the segment of a school year that is divided into three equal parts.
		Term Type (continued)	04 Quarter—A designation for the segment of a school year that is divided into four equal parts.
			05 Quinmester—A designation for the segment of a school year that is divided into five equal parts.
67	P, G	Grade-to-date	For courses that have NOT been completed (or credit granted), a numerical grade (percentage) of student performance for the grade-to-date that the student has completed at the time of withdrawal.
68	P	Clock Hours	For courses that have NOT been completed (or credit granted), the number of clock hours to date that the student has completed.
69	P	Final Grade	For courses that have NOT had credit granted, a final indicator of student performance in a class at the time of withdrawal as submitted by the instructor.
70	P	Credits Granted	The credits granted in Carnegie units for a given course or a section of a course (e.g., 1.0, .50, .33, .25, .20).
		Assessment Information	
71	G	Assessment Name	The title or description, including a form number, if any, that identifies a particular assessment.
72	G	Assessment Type	The category of an assessment based on format and content.
			01 Achievement Test/State Assessment—An assessment to measure a student's present level of knowledge, skill, or competence in a specific area or subject.
			02 Advanced placement test—An assessment to measure the achievement of a student in a subject matter area, taught during high school, which may qualify him or her to bypass the usual initial college class in this area and begin his or her college work in the area at a more advanced level and possibly with college credit.
		Assessment Type (continued)	03 Language proficiency test—An assessment used to measure a student's level of proficiency (i.e., speaking, writing, reading, and listening) in either a native language or an acquired language.
			04 Exit Exam.
			05 GED.

MINIMUM DATA ELEMENTS—Continued

No.	Use(s)	Data element	Definition
			06 Special Education Assessment.
			07 Early Childhood Development Assessment.
			Other.
73	G	Assessment Date	The month and year on which an assessment is administered.
74	G	Assessment Result	A score or statistical expression of the performance of a student on an assessment.
75	G	Type of Result	The metric in which results are presented.
			01 Proficiency level.
			02 Percentile rank.
			03 Pass/Fail (if failed enter numerical score).
			04 Normal curve equivalent.
			05 Sections that have been successfully completed (e.g., GED).

[FR Doc. 02–13275 Filed 5–24–02; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–166–002]

Williams Gas Pipelines Central, Inc.; Notice of Application

May 21, 2002.

On May 9, 2002, Williams Gas Pipelines Central, Inc. (Williams), 3800 Frederica Street, Owensboro, Kentucky 42301, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), as amended, and the Federal Energy Regulatory Commission's (the Commission) Rules and Regulations thereunder. Williams requests authorization to further amend the certificate of public convenience and necessity issued on December 30, 1963, authorizing the Webb Storage Field in Grant County, Oklahoma, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection. Further, Williams requests expedited approval of the amendment so work can commence by July 15, 2002. This filing may be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Williams requests authority to: (1) Place into service as part of its Webb Storage Field facilities, an existing gathering system which it has acquired in acquisition of additional buffer zone; and, (2) install a 60-Horsepower gas compressor, one measurement station, and certain related pipeline in the Webb Storage Field, in place of the facilities originally proposed by Williams and approved in the February 8, 2001 Commission Order Amending Certificate, 94 FERC ¶ 61,120. The cost of these modifications is estimated to be approximately $ 553,000.

Questions regarding the application may be directed to David N. Roberts, Manager of Tariffs and Regulatory Analysis, P.O. Box 20008, Owensboro, Kentucky 42304, or call (270) 688–6712.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before June 6, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the nonparty commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13234 Filed 5–24–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–69–000, et al.]

Louisville Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

May 20, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Louisville Gas and Electric Company, Kentucky Utilities Company, LG&E Capital Trimble County LLC

[Docket No. EC02–69–000]

Take notice that on May 16, 2002, Louisville Gas and Electric Company (LG&E), Kentucky Utilities Company (KU) and LG&E Capital Trimble County LLC (LCTC) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities in connection with a Proposed Transaction whereby LCTC will make an intra-corporate transfer of its generating facilities to its affiliates LG&E and KU. Specifically, LCTC will transfer two 152 MW [summer rated] turbines located in Trimble County, Kentucky. The jurisdictional facilities that are the subject of the Section 203 request consist of LCTC's rate schedules on file with the Commission.

Comment Date: June 6, 2002.

2. Duquesne Light Company

[Docket No. ER02–1776–000]

Take notice that on May 9, 2002, Duquesne Light Company (DLC) filed a Service Agreement with UBS AG, London Branch under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds UBS AG, London Branch as a customer under the Tariff. DLC requests an effective date of May 9, 2002 for the Service Agreement.

Comment Date: May 30, 2002.

3. Duquesne Light Company

[Docket No. ER02–1777–000]

Take notice that May 9, 2002, Duquesne Light Company (DLC) filed a Service Agreement with UBS AG, London Branch under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds UBS AG, London Branch as a customer under the Tariff. DLC requests an effective date of May 9, 2002 for the Service Agreement.

Comment Date: May 30, 2002.

4. Tucson Electric Power Company

[Docket No. ER02–1778–000]

Take notice that on May 9, 2002, Tucson Electric Power Company tendered for filing the 1990–2011 Power Sale Agreement between Tucson Electric Power Company and Salt River Project Agricultural Improvement and Power District as revised by the May 1, 2002, Amended and Restated Exhibit A.

Comment Date: May 30, 2002.

5. PECO Energy Company

[Docket No. ER02–1779–000]

Take notice that on May 9, 2002, PECO Energy Company (PECO) submitted for filing an Interconnection Agreement between PECO, and Rock Springs Generation LLC and CED Rock Springs, Inc. (Rock Springs/CED) related to the interconnection of Rock Springs/CED's transmission facilities with PECO's transmission facilities, together with a request for deferral of Commission action on a disputed provision of the Interconnection Agreement subject to the resolution of a related PJM proceeding. The Interconnection Agreement has been designated as Service Agreement No. 669 under PJM Interconnection L.L.C.'s (PJM) FERC Electric Tariff Fourth Revised Volume No. 1. PECO has requested the Commission to accept the undisputed provisions of the Interconnection Agreement and to permit an effective date of May 10, 2002. Copies of this filing were served on Rock Springs/CED and PJM.

Comment Date: May 30, 2002.

6. Entergy Services, Inc.

[Docket No. ER02–1780–000]

Take notice that on May 9, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Long-Term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Entergy-Koch Trading, LP.

Comment Date: May 30, 2002.

7. Entergy Services, Inc.

[Docket No. ER02–1781–000]

Take notice that on May 9, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Split Rock Energy LLC.

Comment Date: May 30, 2002.

8. Entergy Services, Inc.

[Docket No. ER02–1782–000]

Take notice that on May 9, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and UBS AG, London Branch.

Comment Date: May 30, 2002.

9. Entergy Services, Inc.

[Docket No. ER02–1783–000]

Take notice that on May 9, 2002, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively the Entergy Operating Companies), tendered for filing its 2002 Annual rate redetermination update (Update) in accordance with the Open Access Transmission Tariff filed in compliance with FERC Order No. 888 in Docket No. OA96–158–000. Entergy Service states that the Update redetermines the formula rate in accordance with the annual rate redetermination provisions of Appendix 1 to Attachment H and Appendix A to Schedule 7.

Comment Date: May 30, 2002.

10. NorthWestern Energy, L.L.C.

[Docket No. ER02–1784–000]

Take notice that on May 9, 2002, NorthWestern Energy, L.L.C. tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Succession adopting all applicable rate schedules, service agreement, tariffs and supplements thereto previously filed with the Commission by The Montana Power Company.

Comment Date: May 30, 2002.

11. Thermo Cogeneration Partnership, L.P.

[Docket No. ER02–1785–000]

Take notice that on May 9, 2002, Thermo Cogeneration Partnership, L.P. (Thermo Cogeneration) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting Thermo Cogeneration's FERC Electric Rate Schedule No. 1. Thermo Cogeneration requests waiver of the 60-day prior notice requirement to permit Thermo Cogeneration's Rate Schedule to be effective July 1, 2002, and requests expeditious Commission approval of this Application prior to that date.

Thermo Cogeneration intends to engage in electric power and energy transactions through power purchase agreements with Public Service Company of Colorado. In transactions where Thermo Cogeneration sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. Thermo Cogeneration's proposed Rate Schedule also permits it to reassign transmission capacity.

Comment Date: May 30, 2002.

12. Kentucky Utilities Company

[Docket No. ER02–1786–000]

Take notice that on May 10, 2002, Kentucky Utilities Company tendered for filing an executed Amendment to the interconnection agreement between Kentucky Utilities Company and East Kentucky Power Cooperative, Inc. The agreements provides for the construction of facilities to add an additional interconnection point on Kentucky Utilities Company's Taylor County to Lebanon 69kV transmission line to serve the new load area referred to as the East Campbellsville load station. The Amendment is numbered 19.

Comment Date: May 31, 2002.

13. American Electric Power

[Docket No. ER02–1787–000]

Take notice that on May 10, 2002, American Electric Power Service Corporation, tendered for filing with the Federal Energy Regulatory Commission (Commission), a Facilities, Operation and Maintenance Agreement (Facility Agreement) dated January 31, 2002, between Ohio Power Company (d/b/a AEP), Paulding-Putnam Electric Cooperative, Inc (hereinafter called Paulding Putnam) and Buckeye Power, Inc. (hereinafter called Buckeye).

The Facility Agreement provides for the establishment of a new delivery point, pursuant to the provisions of the Power Delivery Agreement between Ohio Power, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Columbus Southern Power Company and Toledo Edison Company, dated January 1, 1968. AEP requests an effective date of May 31, 2002 for the Facility Agreement.

AEP states that copies of its filing were served upon Paulding-Putnam, Buckeye and the Public Utilities Commission of Ohio.

Comment Date: May 31, 2002.

14. Vandolah Power Company, L.L.C.

[Docket No. ER02–1788–000]

Take notice that on May 10, 2002, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d, and its market based rate authority, Vandolah Power Company, L.L.C. (Vandolah) submitted for filing a power purchase agreement (designated as Service Agreement No. 1) between itself and Reliant Energy Services, Inc. Vandolah seeks an effective date for the service agreement of April 18, 2002.

Comment Date: May 31, 2002.

15. Puget Sound Energy, Inc.

[Docket No. ER02–1789–000]

Take notice that on May 10, 2002, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement for Long-Term Firm Point-To-Point Transmission Service acting by and through the Bonneville Power Administration (Bonneville), as Transmission Customer. A copy of the filing was served upon Bonneville.

Comment Date: May 31, 2002.

16. San Diego Gas & Electric Company

[Docket No. ER02–1790–000]

Take notice that on May 10, 2002, San Diego Gas & Electric Company (SDG&E) tendered for filing Amendment No. 1 to Interconnection Facilities Agreement between SDG&E and Otay Mesa Generating Company, LLC, designated as First Revised Service Agreement Number 1 to FERC Electric Tariff, Volume No. 6.

Amendment No. 1, dated April 23, 2002, implements Internal Revenue Service Notice 2001–82, "Expansion of Safe Harbor Provisions Under Notice 88–129", which provides in certain circumstances, regulated public utilities, such as SDG&E will not realize income upon contributions by interconnecting electric generators of certain interconnection facilities. This amendment further clarifies terms pertaining to creditworthiness requirements of OMG and the guarantor of OMG's financial obligations as contemplated by Section 10.22. SDG&E requests an effective date of May 10, 2002.

SDG&E states that copies of the amended filing have been served on Otay Mesa Generating Company, LLC and on the California Public Utilities Commission.

Comment Date: May 31, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13188 Filed 5–24–02; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1712–003, et al.]

Somerset Power LLC, et al.; Electric Rate and Corporate Regulation Filings

May 21, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Somerset Power LLC

[Docket No. ER99–1712–003]

Take notice that on May 3, 2002, Somerset Power LLC (Somerset) tendered for filing with the Federal Energy Regulatory Commission (Commission), its triennial review in compliance with the Commission's

order in Rockingham Power, L.L.C, Docket No. ER99–1567–000.

Comment Date: May 31, 2002.

2. American Electric Power Service Corp.

[Docket No. ER02–371–005]

Take notice that on May 15, 2002, American Electric Power Service Corporation (AEP), on behalf of its public utility operating companies, submitted for filing with the Federal Energy Regulatory Commission (Commission), revised pages to the AEP open access transmission service tariff and to the Transmission Coordination Agreement in compliance with the Commission's April 15, 2002 order in the above-captioned proceeding.

AEP states that a copy of the transmittal letter has been served on all parties to this proceeding, all customers under the tariff and a copy of the complete filing has been served upon each of the affected state commissions.

Comment Date: June 5, 2002.

3. PJM Interconnection, L.L.C.

[Docket No. ER02–1205–001]

Take notice that on May 13, 2002, in compliance with the Federal Energy Regulatory Commission's April 30, 2002 order in Docket No. ER02–1205 (PJM Interconnection, L.L.C., 99 FERC ¶ 61,139), PJM Interconnection, L.L.C. (PJM), submitted for filing amendments to the PJM Open Access Transmission Tariff (PJM Tariff) and the Amended and Restated PJM Operating Agreement (Operating Agreement) to provide a termination date of December 1, 2004 for PJM's Emergency Load Response Program. PJM also resubmitted all of the amended PJM Tariff and Operating Agreement sheets establishing the Emergency Load Response Program redesignated as part of the PJM Tariff and Operating Agreement implementing PJM West that became effective April 1, 2002.

Copies of this filing were served upon all parties listed on the official service list in Docket No. ER02–1205, all PJM members and each state electric utility regulatory commission in the PJM region.

PJM requests an effective date of June 1, 2002 for the amendments and redesignated sheets, consistent with the effective date in PJM Interconnection L.L.C., 99 FERC ¶ 61,139 (2002).

Comment Date: June 3, 2002.

4. The Detroit Edison Company

[Docket No. ER02–1791–000]

Take notice that on May 10, 2002, The Detroit Edison Company (Detroit Edison) tendered for filing a revised Power Supply Agreement (the PSA) between Detroit Edison and the City of Detroit, Michigan, to designate additional points of delivery.

Comment Date: May 31, 2002.

5. Dayton Power and Light Company

[Docket No. ER02–1792–000]

Take notice that on May 10, 2002, Dayton Power and Light Company (DP&L) tendered for filing with the Federal Energy Regulatory Commission (Commission), service agreements between DP&L and Dominion Energy Marketing Inc. under DP&L's filed Open Access Transmission Tariff.

Copies of this filing were served upon Dominion Energy Marketing Inc. and the Public Utilities Commission of Ohio.

Comment Date: May 31, 2002.

6. Dayton Power and Light Company

[Docket No. ER02–1793–000]

Take notice that on May 10, 2002, Dayton Power and Light Company (DP&L) tendered for filing with the Federal Energy Regulatory Commission (Commission), service agreements between DP&L and Dominion Energy Marketing Inc. under DP&L's filed Open Access Transmission Tariff.

Copies of this filing were served upon Dominion Energy Marketing Inc. and the Public Utilities Commission of Ohio.

Comment Date: May 31, 2002.

7. Dayton Power and Light Company

[Docket No. ER02–1794–000]

Take notice that on May 10, 2002, Dayton Power and Light Company (DP&L) tendered for filing with the Federal Energy Regulatory Commission (Commission), service agreements establishing UBS AG, London Branch as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon UBS AG, London Branch and the Public Utilities Commission of Ohio.

Comment Date: May 31, 2002.

8. Dayton Power and Light Company

[Docket No. ER02–1795–000]

Take notice that on May 10, 2002, Dayton Power and Light Company (DP&L) tendered for filing with the Federal Energy Regulatory Commission (Commission), service agreements between DP&L and UBS AG, London Branch under DP&L's filed Open Access Transmission Tariff.

Copies of this filing were served upon UBS AG, London Branch and the Public Utilities Commission of Ohio.

Comment Date: May 31, 2002.

9. Duke Electric Transmission

[Docket No. ER01–1797–000]

Take notice that on May 13, 2002, Duke Electric Transmission (Duke) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement for Non-Firm Point-to-Point Transmission Service between Duke and Northern States Power.

Duke requests that the Service Agreement become effective on May 6, 2002. A copy has been served on the North Carolina Utilities Commission.

Comment Date: June 3, 2002.

10. Huntley Power LLC

[Docket No. ER02–1798–000]

Take notice that on May 13, 2002, Huntley Power LLC filed under section 205 of the Federal Power Act, Part 35 of the regulations of the Federal Energy Regulatory Commission (Commission), and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. Huntley's proposed tariff revisions merely seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for Huntley's affiliates.

Comment Date: June 3, 2002.

11. Arthur Kill Power LLC

[Docket No. ER02–1799–000]

Take notice that on May 13, 2002, Arthur Kill Power LLC (Arthur Kill) filed under section 205 of the Federal Power Act, Part 35 of the regulations of the Federal Energy Regulatory Commission (Commission), and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. Arthur Kill's proposed tariff revisions merely seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for Arthur Kill's affiliates.

Comment Date: June 3, 2002.

12. Dunkirk Power LLC

[Docket No. ER02–1800–000]

Take notice that on May 13, 2002, Dunkirk Power LLC (Dunkirk) filed under section 205 of the Federal Power Act, Part 35 of the regulations of the Federal Energy Regulatory Commission (Commission), and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. Dunkirk's proposed tariff revisions merely seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for Dunkirk's affiliates.

Comment Date: June 3, 2002.

13. Astoria Gas Turbine Power LLC

[Docket No. ER02–1801–000]

Take notice that on May 13, 2002, Astoria Gas Turbine Power LLC (Astoria) tendered for filing with the Federal Energy Regulatory Commission (Commission), under section 205 of the Federal Power Act, Part 35 of the Commission's regulations and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. Astoria's proposed tariff revisions merely seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for Astoria's affiliates.

Comment Date: June 3, 2002.

14. Conectiv Bethlehem, Inc.

[Docket No. ER02–1802–000]

Take notice that on May 13, 2002, Conectiv Bethlehem, Inc. (CBI) tendered for filing with the Federal Energy Regulatory Commission (Commission), a revised transaction agreement between itself and Conectiv Energy Supply, Inc. The revised transaction agreement is First Revised Service Agreement No. 2 under CBI'S market-based rate tariff, FERC Electric Tariff, Original Volume No. 1. CBI requests that the Service Agreement No. 2 become effective on May 20, 2002, the effective-date of the original Service Agreement No. 2.

Comment Date: June 3, 2002.

15. Duke Electric Transmission

[Docket No. ER02–1803–000]

Take notice that on May 13, 2002, Duke Electric Transmission (Duke), a division of Duke Energy Corporation, tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement with Northern States Power, for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement become effective on May 7, 2002. Duke states that this filings has been served on the North Carolina Utilities Commission.

Comment Date: June 3, 2002.

16. PacifiCorp

[Docket No. ER02–1804–000]

Take notice that PacifiCorp on May 13, 2002, tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Cancellation of Service Agreement No. 20 under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 12 for the Long Term Service Agreement entered on March 23, 1998 between Citizens Power Sales and PacifiCorp. Copies of this filing were supplied to Citizens Power Sales and the Public Utility Commission of Oregon.

Comment Date: June 3, 2002.

17. Xcel Energy Services, Inc.

[Docket No. ER02–1805–000]

Take notice that on May 13, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company and Northern States Power Company (Wisconsin) (collectively, NSP), submitted for filing a Form of Service Agreement with Southern Indiana Gas and Electric Company d/b/a Vectren Power Supply, Inc. (Southern Indiana), which is in accordance with NSP's Rate Schedule for Market-Based Power Sales (NSP Companies FERC Electric Tariff, Original Volume No. 6).

XES requests that this agreement become effective on April 15, 2002.

Comment Date: June 3, 2002.

18. Xcel Energy Services, Inc.

[Docket No. ER02–1806–000]

Take notice that on May 13, 2002, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), submitted for filing a Form of Service Agreement with Southern Indiana Gas and Electric Company d/b/a Vectren Power Supply, Inc. (Southern Indiana), which is in accordance with Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, First Revised Volume No. 6).

XES requests that this agreement become effective on April 15, 2002.

Comment Date: June 3, 2002.

19. Oleander Power Project, LP

[Docket No. ER02–1807–000]

Take notice that on May 13, 2002, Oleander Power Project, LP (Oleander) tendered for filing with the Federal Energy Regulatory Commission (Commission), two executed service agreements with Florida Power & Light Company designated as Service Agreement Nos. 1 and 2 under Oleander's FERC Electric Tariff, Original Volume No. 1. Oleander respectfully requests an effective date of April 13, 2002.

Comment Date: June 3, 2002.

20. Sierra Pacific Power Company, Nevada Power Company

[Docket No. ER02–1808–000]

Take notice that on May 14, 2002 Sierra Pacific Power Company and Nevada Power Company (jointly Operating Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission), Service Agreements with FPL Energy Power Marketing, Inc. for Non-Firm and Short-Term Firm Point-to-Point Transmission Service under Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, Open Access Transmission Tariff (Tariff):

The Operating Companies are filing the executed Service Agreements with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. The Operating Companies also submitted revised Sheet No. 195A (Attachment E) to the Tariff, which is an updated list of current subscribers. The Operating Companies request waiver of the Commission's notice requirements to permit an effective date of May 15, 2002 for Attachment E, and to allow the Service Agreement to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment Date: June 4, 2002.

21. Aquila, Inc.

[Docket No. ES02–40–000]

Take notice that on May 10, 2002, Aquila, Inc. (Aquila) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue (1) guarantees in an amount not to exceed $645 million

and (2) no more than $425 million of short-term debt securities, in connection with the indirect acquisition of Cogentrix Energy, Inc.

Aquila also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: June 11, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13238 Filed 5–24–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11588–001, Alaska]

Alaska Power & Telephone Company; Notice of Availability of Final Environmental Assessment

May 21, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for Alaska Power and Telephone Company's proposed Otter Creek Hydroelectric Project, and has prepared a Final Environmental Assessment (FEA). The proposed project would be located on Kasidaya Creek, at Taiya Inlet, 3 miles south of the City of Skagway, and 12 miles southwest of the City of Haines, Alaska. The proposed project would occupy approximately 6.0 acres of land within the Tongass National Forest, administered by the U.S. Forest Service (Forest Service).

On December 26, 2001, the Commission staff issued a draft environmental assessment (DEA) for the project and requested that comments be filed with the Commission within 45 days. Comments on the DEA were filed by the Forest Service, the United States Department of the Interior, State of Alaska Department of Fish and Game, and Alaska Power & Telephone Company and are addressed in the FEA.

This FEA contains the Commission staff's analysis of the potential future environmental impacts of the project and has concluded that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). For further information, contact Gaylord Hoisington, Project Coordinator, at (202) 219–2756.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13236 Filed 5–24–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF01–1–000]

Dominion Transmission, Inc.; Notice of Public Scoping Meetings and Site Visit for the Greenbrier Pipeline Project and Request for Comments on Environmental Issues

May 21, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) is sending out this notice to announce the dates and locations of the Greenbrier Pipeline Project's public scoping meetings, and is continuing our[1] request to receive comments on environmental issues. We are in the process of preparing an environmental impact statement (EIS) for Dominion Transmission, Inc.'s (Dominion)[2] project in West Virginia, Virginia, and North Carolina.[3] The planned facilities consist of about 278.3 miles of mainline and lateral pipelines, two compressor stations, up to four meter stations, and related facilities. This EIS will be used by the Commission in its decision-making process to determine whether or not the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative for permission to survey across your land or to obtain an easement to construct, operate, and maintain the planned facilities on your property. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is filed and subsequently approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with applicable state law.

A fact sheet prepared by the FERC staff entitled "An Interstate Natural Gas Facility on My Land? What Do I Need To Know?" addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. The fact sheet is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

This notice is being mailed to landowners who are within a surveyed 100-foot-wide corridor; landowners within a 400-foot-wide corridor that is under consideration but has not yet been surveyed; landowners along alternative alignments that are being considered by Dominion; landowners who have property crossed by access roads, pipe yards, or other off-right-of-way potentially affected property; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes that might attach religious and cultural significance to historic properties in the area of potential effect; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned action and encourage them to comment on their areas of concern.

With this notice, we are also asking other Federal and state agencies with jurisdiction and/or special expertise with respect to environmental issues in the project area to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated Dominion's proposal relative to their responsibilities. Agencies who would like to request cooperating status should follow the instructions for filing comments described later in this notice. See appendix 1.

Summary of the Project

Dominion states that its project would transport up to 600,000 dekatherms per day (Dth/day) of natural gas to serve a growing demand for gas in southern West Virginia, southwestern Virginia, and North Carolina. Dominion seeks authority to construct and operate the Greenbrier Pipeline Project as follows:

a. About 215.7 miles of 30-inch-diameter pipeline from its existing Cornwell Compressor Station in Kanawha County, West Virginia, to Rockingham County, North Carolina;

b. About 41.4 miles of 24-inch-diameter pipeline from Rockingham to Person Counties, North Carolina;

c. About 17.4 miles of 20-inch-diameter pipeline from Person to Granville Counties, North Carolina;

d. About 1.0 mile of 12-inch-diameter lateral in Person County, North Carolina (DG–2);

e. About 2.1 miles of 10-inch-diameter lateral in Granville County, North Carolina (DG–3);

f. About 0.7 mile of 30-inch-diameter lateral in Rockingham County, North Carolina (DG–4);

g. Two new compressor stations, one in Kanawha County, West Virginia, (the Elk River Compressor Station) and the other in Rockingham County, North Carolina (Eden Compressor Station), totaling about 41,000 horsepower;

h. Up to four meter stations in Henry County, Virginia, and Rockingham, Person, and Granville Counties, North Carolina; and

f. Associated mainline valves, piping, and other appurtenant pipeline facilities.

Items a., b., and c. would collectively form a new mainline pipeline (DG–1).

Nonjurisdictional Facilities

—Virginia Power Energy Marketing, Inc. and Mountain Creek Development, L.L.C. are planning to construct power plants in Person and Granville Counties, North Carolina.

A general location map of the project facilities is shown in appendix 2.[4 5]. If you are interested in obtaining a detailed map of a specific portion of the project, you may send in your request using the form in appendix 4. Dominion has indicated that most of the pipeline route is firming up. However, it is still looking at an alternative alignment in the vicinity of the Hawks Nest State Park in Fayette County, West Virginia, and at the Henry County Alternative that is generally east of Martinsville, Virginia. See appendix 2 for the general location of these alternatives. The Hawks Nest State Park reroute would seek to avoid impact on the view shed of the park. In general, the Henry County Alternative follows a power line corridor. Whereas, the "original" alignment examined on the east side of Martinsville follows a products pipeline corridor.

Land Requirements

The planned construction and permanent right-of-way (ROW) widths for the pipelines are as follows:

Name P	Pipe diameter (inches)	Construction ROW (feet)	Permanent ROW (feet)
DG–1	30	100	75
DG–1	24	75	50
DG–1	20	75	50
DG–2	12	75	50
DG–3	10	75	50
DG–4[6] ...	30	100	75

[6] The DG–1 and DG–4 ROWs would overlap.

Construction of the planned pipelines would require about 3,500 acres (including pipeline ROWs and additional temporary work spaces). Following construction, about 2,334 acres would be retained as new permanent ROW for the pipelines. The 1,166 acres of temporary work space would be restored and allowed to revert to its former use.

Construction of the Elk River Compressor Station would disturb about 20.1 acres within the existing Cornwell Compressor Station. Six acres would be permanently used. The Eden Compressor Station would be located within a 79.9-acre property. About 38.0 acres would be disturbed by construction, and 6.3 acres would be permanently used. Dominion would construct the Transco Meter Station at the end of DG–4 using 1.85 acres. The rest of the meter stations would be constructed by the customers.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to solicit and address concerns the public may have about proposals. We call this "scoping." The main goal of the scoping process is to focus the EIS on the important environmental issues. With this notice, the Commission is continuing to seek public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents of this planned project and encourage them to comment on their areas of concern.

Currently Identified Environmental Issues

The public has already identified numerous issues that they want addressed in our review of the proposed facilities. These scoping letters can be examined at the Commission's Web site under Docket No. PF01–1–000. These comments fall under the following general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use, recreation, and visual resources.
- Socioeconomics.
- Air and noise quality.
- Pipeline safety.
- Alternatives.

We will also evaluate possible alternatives to the proposed project or

[1] "We", "us" and "our" refer to the environmental staff of the Office of Energy Projects (OEP), part of the Commission staff.

[2] The Greenbrier Pipeline Company, L.L.C. (GPC) will actually file the application to construct the Greenbrier Pipeline Project. GPC will be an equity venture between Dominion Greenbrier, Inc. and Piedmont Greenbrier Pipeline Company, L.L.C. Dominion Greenbrier, Inc. is a wholly owned subsidiary of Dominion Resources, Inc. Piedmont Greenbrier Pipeline Company, L.L.C. is a wholly owned subsidiary of Piedmont Natural Gas Company, Inc. These companies will have 67 and 33 percent equity owner interest, respectively, in the project. This notice will refer to Dominion in lieu of GPC since it initiated Docket No. PF01–1–000. After the certificate application is filed, we will refer to the proponent of the projects as GPC.

[3] Dominion's application for this project, now in Docket No. PF01–1–000, will be given a "CP" filing designation when it is formally filed with the Commission. This application should fall under section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations.

[4] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS, refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[5] The Commission is in the process of replacing RIMS and CIPS with the Federal Energy Regulatory Records Information System (FERRIS). If RIMS or CIPS cannot be found at the identified Commission web sites, FERRIS can be used to access information.

portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas. We have identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental information provided by Dominion. This preliminary list of issues may be changed based on our analysis.

- Federally listed endangered or threatened species may occur in the project area.
- Hawks Nest State Park is near the project.
- Blue Ridge Parkway is crossed.
- Jefferson National Forest is crossed.
- Appalachian Trail is crossed.
- Numerous streams and wetlands are crossed.
- Homes and schools are near the pipelines.

Our independent analysis of the issues will result in the publication of a draft EIS that will be mailed to Federal, state, and local government agencies; Native American tribes; elected officials; public interest groups; interested individuals; interested affected landowners; newspapers; libraries; and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. The final EIS will include our response to comments received on the draft EIS and will be used by the Commission in its decision-making process to determine whether or not to approve the project.

To ensure your comments are considered, please carefully follow the instructions in the "Public Participation" or "Public Scoping Meetings" sections of this notice.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Room 1A, Washington, DC 20426;
- Refer to Docket No. PF01–1–000;
- Label one copy of the comments for the attention of Gas Branch 2, PJ–11.2; and
- Mail your comments so that they will be received in Washington, DC on or before June 20, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on "Login to File" and then "New User Account."

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Mailing List Retention Form included in appendix 4. If you do not return the form, you will be taken off the mailing list.

Public Scoping Meetings

In addition to or in lieu of sending written comments, we invite you to attend any or all of the public scoping meetings that we will conduct in the area of the Greenbrier Pipeline Project. All of these meetings will start at 7 p.m. The locations for these meetings are listed below.

Monday, June 10, 2002, Roxboro, North Carolina—Person County Office Building, 304 South Morgan Street, Roxboro, North Carolina 27573, (336) 597–1720

Tuesday, June 11, 2002, Bassett, Virginia— Bassett High School, 85 Riverside Drive, Bassett, Virginia 24055, (276) 629–1731

Wednesday, June 12, 2002,Riner, Virginia—Auburn High School, 4163 Riner Road, Riner, Virginia 24149, (540) 382–5160

Thursday, June 13, 2002, Mt. Hope, West Virginia—Mt. Hope Middle School, 510 Main Street, Mt. Hope, West Virginia 25880, (304) 877–6641

The public scoping meetings provide you another opportunity to offer your comments on the project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the draft EIS. A transcript of each meeting will be made so that your comments will be accurately recorded.

The Pre-Filing NEPA Process

At the present time, Dominion has not filed an application with the FERC for the Greenbrier Pipeline Project. However, FERC has initiated work on evaluating the project using the Pre-Filing NEPA Process. FERC has assigned a Pre-Filing Docket Number (PF01–1–000). When Dominion files a formal application, it will be assigned a "CP" docket number, and all information filed under Docket No. PF01–1–000 will be become part of the record for the "CP docket". All comments received during the pre-filing period will be considered during the preparation of the EIS. An EIS will not be issued until Dominion has filed an acceptable application at the FERC.

Becoming an Intervenor

Once Dominion formally files a CP application at the FERC for the Greenbrier Pipeline Project, you may want to become an official party to the proceeding, known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3).[7] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered. Parties cannot intervene in this project until a "CP" application is filed at the FERC. The company will mail a notice of this filing to affected landowners shortly after it occurs.

[7] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Availability of Additional Information

Additional information about the proposed project is available from the Commission's Office of External Affairs (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. Please note that you must enter PF01–1 as the docket number, and 000 as the subdocket number.

For assistance with access to RIMS, the RIMS help line can be reached at (202) 208–2222. Similarly, the "CIPS" link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings. From the FERC Internet Web site, click on the "CIPS" link, select "Docket #" from the CIPS Menu, and follow the instructions. For assistance with access to CIPS, the CIPS help line can be reached at (202) 208–2222.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13235 Filed 5–24–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 11834–000 and 4026–033—Maine]

FPL Energy Maine Hydro, LLC, Androscoggin Reservoir Company; Notice of Availability of Environmental Assessment

May 21, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for the Upper and Middle Dam Storage Project located on the Rapid River, in Oxford and Franklin Counties, Maine, and has prepared an Environmental Assessment (EA) for the project. In addition, the EA analyzes the proposed permanent flow pursuant to Article 32 of the existing license for the Aziscohos Project, located on the Magalloway River, in Oxford County, Maine. In the EA, the Commission's staff has analyzed the potential environmental effects of the project, and permanent minimum flow and has concluded that approval of the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions. Please call (202) 208–2222 for assistance.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 1–A, Washington, DC 20426. Please affix "Upper and Middle Dam Storage Project No. 11834–000 and Aziscohos Hydroelectric Project No. 4026–033" to all comments. For further information, contact Mark Pawlowski at (202) 219–2795 or e-mail *mark.pawlowski@ferc.gov*. Comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13237 Filed 5–24–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–5]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held June 11–13, 2002 at the Hotel Washington, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: Tuesday, June 11, Science/Regulatory Work Group will meet; plenary sessions Wednesday, June 12 and Thursday, June 13, 2002.

ADDRESSES: Hotel Washington, 515 15th Street, NW., Washington, DC.

Agenda Items: The meetings of the CHPAC are open to the public. The Science/Regulatory Work Group will meet Tuesday, June 11, from 9:00 a.m. to 5:30 p.m. The plenary CHPAC will meet on Wednesday, June 12, from 9:00 a.m. to 5:30 p.m., with a public comment period at 5:00 p.m., and on Thursday, June 13, from 9:00 a.m. to 12:30 p.m.

The plenary session will open with introductions and a review of the agenda and objectives for the meeting. Agenda items include highlights of the Office of Children's Health Protection (OCHP) activities and a report from the Science and Regulator Work Group and the Smart Growth Ad Hoc Work Group. Other potential agenda items include an informational panel on Children's Environmental Health from an Environmental Justice Perspective.

FOR FURTHER INFORMATION CONTACT: Contact Joanne Rodman, Office of Children's Health Protection, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2188, rodman.joanne@epa.gov.

Dated: May 22, 2002.

Elizabeth Blackburn,

Acting Designated Federal Official.

[FR Doc. 02–13343 Filed 5–24–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–3]

Notification of Public Advisory NACEPT Standing Committee on Compliance Assistance Meeting; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public advisory NACEPT standing committee on compliance assistance meeting; open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Standing Committee on Compliance Assistance will meet on the date and time described below. The meeting is open to the public. Seating at the meeting will be on a first-come basis and limited time will be provided for public comment. For further information concerning this meeting, please contact the individual listed with the announcement below. National Advisory Council for Environmental Policy and Technology (NACEPT) Standing Committee on Compliance Assistance; June 4–5, 2002. Notice is hereby given that the U.S. Environmental Protection Agency (EPA)

will hold an open meeting of the NACEPT Standing Committee on Compliance Assistance (Committee) on Tuesday, June 4, 2002 from 12:30 p.m. to 5:30 p.m., and Wednesday, June 5, 2002 from 8 a.m.–3 p.m. The meeting will be held at the Hyatt Arlington at 1325 Wilson Boulevard, Arlington, VA 22209. The agenda for both days of the meeting will be focused primarily on introducing new Committee members to their role in contributing to the Agency's compliance assistance program, discussing work currently underway, identifying areas for future discussion and recommendations, and reaching consensus on organizational structure, including work plans and communication. A formal agenda will be available at the meeting.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Public Law 92–463. NACEPT provides advice and recommendations to the EPA Administrator and other EPA officials on a broad range of domestic and international environmental policy issues.

NACEPT consists of a representative cross-section of EPA's partners and principal constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies. Over the last two years, EPA has undertaken a number of actions to improve our compliance assistance activities. To ensure that the Agency efforts to improve compliance assistance are implemented in a way that continues to reflect stakeholder needs, NACEPT created a new Standing Committee on Compliance Assistance. This will provide a continuing Federal Advisory Committee forum from which the EPA can continue to receive valuable stakeholder advice and recommendations on compliance assistance activities. For further information concerning the NACEPT Standing Committee on Compliance Assistance, including the upcoming meeting, contact Joanne Berman, Designated Federal Officer (DFO), on (202) 564–7064, or E-mail: *berman.joanne@epa.gov*.

Inspection of Subcommittee Documents: Documents relating to the above topics will be publicly available at the meeting.

Dated: May 22, 2002.

Lisa Lund,

Acting Director, Office of Compliance.

[FR Doc. 02–13251 Filed 5–24–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0020; FRL–7181–9]

Endocrine Disruptor Method Validation Subcommittee under the National Advisory Council for Environmental Policy and Technology; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a meeting, via teleconference, of the Endocrine Disruptor Methods Validation Subcommittee (EDMVS), a subcommittee under the National Advisory Council for Environmental Policy and Technology (NACEPT), a Federal Advisory Committee, on June 11, 2002, to discuss the steroidogenesis detailed review paper. The meeting is open to the public. Due to limited phone lines, we encourage all local participants to join us at RESOLVE. Seating will be on a first-come basis. The EDMVS meeting originally scheduled for June 10–12, 2002, has been postponed. That meeting will be rescheduled for late July.

DATES: The teleconference will be held on June 11, 2002, from 10 a.m. to noon (eastern daylight time). Requests to participate and make public comment in the meeting must be received on or before June 6, 2002.

ADDRESSES: The teleconference will originate at RESOLVE, 1255 23rd St., NW., Suite 275, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jane Smith, Designated Federal Official, Office of Science Coordination and Policy (7201), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8476; fax number: (202) 564–8483; e-mail address: smith.jane-scott@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, potentially affect you if you produce, manufacture, use, consume, work with, or import pesticide chemical substances that may have an effect cumulative to an effect of a pesticide, or substances found in sources of drinking water. To determine whether you or your business may be affected by this notice you should carefully examine section 408(p) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Public Law 104–170), 21 U.S.C. 346A(p), and amendments to The Safe Drinking Water Act (Public Law 104–182), 42 U.S.C. 300j-17. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of the Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page search for "Endocrine Disruptor" which will take you to the OSCP Endocrine Disruptor web site. You can also look up the entry for this document under the **Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

A meeting agenda, a list of EDMVS members and information from previous meetings is available electronically, from the EPA Internet Home Page at http://www.epa.gov/scipoly/oscpendo.

2. *In person.* The Agency has established an official record for this meeting under docket ID number OPPT–2002–0020. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to Endocrine Disruptor Method Validation, including any information claimed as Confidential Business Information (CBI). The public version of the official record is available for inspection in the TSCA Nonconfidential Information Center, North East Mall, Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How Can I Request to Participate in this Meeting?

In accordance with the Federal Advisory Committee Act (FACA), the public is encouraged to submit written comments on this detailed review paper. The EDMVS will have a brief period (no more than 15 minutes) available during the teleconference for public comment. It is the policy of the EDMVS to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EDMVS expects that public statements presented at its meetings will be on the meeting topic and not be repetitive of previously submitted oral or written statements.

You may submit a request to participate in the meeting by e-mail, telephone, fax, or in person. We would normally accept requests by mail, but in this time of delays in delivery of government mail due to health and security concerns, we cannot assure your request would arrive in a timely manner. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before June 6, 2002. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0020 in the subject line on the first page of your request.

1. *Electronically.* You may submit your request electronically by e-mail to Jane Smith at: smith.jane-scott@epa.gov or to the docket at: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket ID number OPPT–2000–0020. You may also file a request online at many Federal Depository Libraries.

2. *By telephone or fax.* Contact Jane Smith, by telephone at (202) 564–8476 or by fax number at (202) 564–8483.

3. *In person or by courier.* You may deliver a request to: OPPT Docket Control Office, North East Mall, Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Docket Office is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Office is (202) 260–7099.

II. Background

In 1996, through enactment of the Food Quality Protection Act, which amended the Federal Food, Drug, and Cosmetic Act, Congress directed EPA to develop a screening program to determine whether certain substances may have hormonal effects in humans. EPA formed a scientific advisory committee, the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), under FACA to advise it on establishing a program to carry out the Congressional directive. EDSTAC recommended a multi-step approach including a series of screens (Tier I Screens), and tests (Tier II Tests), because there were no validated test systems for determining whether a chemical may be an endocrine disruptor. To ensure that EPA has the best and most up-to-date advice available regarding the validation of the screens and tests for the EDSP, EPA recently created the Endocrine Disruptor Methods Validation Subcommittee (EDMVS) of the National Advisory Council for Environmental Policy and Technology (NACEPT). EDMVS, a group of subject-matter experts, provides independent advice and counsel to the Agency through NACEPT, on scientific and technical issues related to validation of the EDSP Tier I screens and Tier II tests, including advice on methods for reducing animal use, refining procedures involving animals to make them less stressful, and replacing animals where scientifically appropriate. More information is available on the website: http://www.epa.gov/scipoly/oscpendo.

List of Subjects

Environmental protection, Endocrine disruptor screening program, Endocrine disruptors.

Dated: May 23, 2002.

Andy Privee,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 02–13344 Filed 5–24–02; 8:45 am]

BILLING CODE 6560–50–S

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Council of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA).

DATES AND PLACE: June 12, 2002, Washington, DC. This meeting will take place in the Colonial Room of the Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The President's Council of Advisors on Science and Technology is tentatively scheduled to meet in open session on Wednesday, June 12, 2002, at approximately 9 a.m., to discuss: (1) The science and technology of combating terrorism; (2) policies and technologies to improve energy efficiency; (3) the federal investment in science and technology research and development; and (4) demand issues that can speed the deployment of a 21st Century broadband infrastructure. One or more of the PCAST panels on these topics will discuss the status of their work. This session will end at approximately 12:30 p.m.

PUBLIC COMMENTS: There will be a time allocated for the public to speak on any of the above agenda items. Please make your request for the opportunity to make a public comment five (5) days in advance of the meeting. The time for public comments will be limited to no more than 5 minutes per person. Written comments are welcome at any time prior to or following the meeting. Please notify Stan Sokul, PCAST Executive Director, at (202) 456–6070, or fax your request/comments to (202) 456–6021.

FOR FURTHER INFORMATION CONTACT: For information regarding time, place and agenda, please call Cynthia Chase at (202) 456–6010, prior to 3:00 p.m. on Friday, June 7, 2002. Information may also be available at the PCAST Web site at: http://www.ostp.gov/PCAST/pcast.html. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology was established by Executive Order 13226, on September 30, 2001. The purpose of PCAST is to advise the President on matters of science and technology policy, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Council members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by Dr. John H. Marburger, III, the Director of the Office of Science and Technology Policy, and by E. Floyd Kvamme, a Partner at Kleiner Perkins Caufield & Byers.

Barbara Ann Ferguson,

Assistant Director for Budget and Administration, Office of Science and Technology Policy.

[FR Doc. 02–13054 Filed 5–24–02; 8:45 am]

BILLING CODE 3170–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1414–DR]

Kentucky; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, (FEMA–1414–DR), dated May 7, 2002, and related determinations.

EFFECTIVE DATE: May 14, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 7, 2002:

Breckinridge, Grayson, Laurel, Letcher, Marion, Pike, Rockcastle and Webster Counties for Public Assistance (already designated for Individual Assistance).

Breathitt, Edmondson, Green and Owsley Counties for Public Assistance.

All counties in the Commonwealth of Kentucky are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13204 Filed 5–24–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1413–DR]

Michigan; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Michigan (FEMA–1413–DR), dated May 6, 2002, and related determinations.

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 9, 2002.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13203 Filed 5–24–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1411–DR]

Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia, (FEMA–1411–DR), dated May 5, 2002, and related determinations.

EFFECTIVE DATE: May 15, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 5, 2002: Bedford, Campbell, Cumberland, Greensville, Prince Edward, Shenandoah and the independent City of Bedford for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13202 Filed 5–24–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Notice of Forms R–22, R–19, and F–7 submitted for revision, extension and review to the Office of Management and Budget.

SUMMARY: This notice announces that three information collection requests contained in the Federal Mediation and Conciliation Service (FMCS) agency forms have come up for renewal. FMCS submitted to the Office of Management and Budget (OMB) a request for review of three FMCS forms: FMCS Arbitrator's Report and Fee Statement (Agency Form R–19), the Arbitrator's Personal Data Questionnaire (Agency Form R–22), and the Notice to Mediation Agencies (Agency Form F–7). The request seeks OMB approval for a three-year expiration date of Forms R–19, R–22 and F–7 until December 2005. FMCS is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be submitted within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Submit written comments identified by the appropriate agency form number by mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Office for the Federal Mediation and Conciliation Service, Room 10235, Washington, DC 20503. Copies of complete agency forms may be obtained from the Office of Arbitration Services, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427 or by contacting the person whose name appears under the section headed, **FOR FURTHER INFORMATION CONTACT.**

Comments and may be submitted also by fax at (202) 606–3749 or electronic mail (e-mail) to *arbitration@fmcs.gov*. All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as "CBI". Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. FMCS may disclose information not marked confidential publicly without prior notice. All written comments will be available for inspection in Room 704 at the Washington, DC address above from 8:30 am to 4:30 pm, Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Vella M. Traynham, Director of Arbitration Services, FMCS, 2100 K Street, NW., Washington, DC 20427. Telephone (202) 606–5111; Fax (202) 606–3749.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Office of Arbitration Services and the Notice Processing Unit, by calling, faxing or writing, Ms. Vella M. Traynham at the address above. Please ask for the form by title and agency form number.

1. Information Collection Requests

FMCS is seeking comments on the following Information Collection Requests (ICRs).

Title: Arbitrator's Personal Data Questionnaire; Form R–22; OMB No. 3076–001.

Type of Request: Revision and extension of expiration date of a currently approved collection with change in the substance.

Affected Entities: Parties affected by this information collection are individuals who apply for admission to the FMCS Roster of Arbitrators.

Frequency: Individuals complete this form once, which is at the time of application to the FMCS roster of Arbitrators.

Abstract: Title II of the Labor Management Relations Act of 1947 (Pub. L. 90–101) as amended in 1959 (Pub. L. 86–257) and 1974 (Pub. L. 93–360), states that it is the labor policy of the United States that "the settlement of issues between employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to encourage employers and representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes." Under its regulations at 29 CFR part 1404, FMCS has established policies and procedures for its arbitration function dealing with all arbitrators listed on the FMCS Roster or Arbitrators, all applicants for listing on the Roster, and all person or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or fact-finding. FMCS strives to maintain the highest quality of dispute resolution experts on its roster. To ensure that purpose, it asks all candidates to complete an application form.

The purpose of this collection is to gather information about applicants for inclusion in the FMCS Roster of Arbitrators. This questionnaire is needed in order that FMCS may select highly qualified individuals for the arbitrator roster. The respondents are private citizens who make application for appointment to FMCS Roster. This obligation is pursuant to 29 U.S.C. 171(b), 29 CFR part 1404. This notice is a request to revise the existing form, which is currently approved collection with change in the substance, but not in the method of collection.

Burden Statement: The number of respondents is approximately 250 individuals per year; the approximate number of individuals who request membership on the FMCS Roster. The time required to complete this questionnaire is approximately one hour. Each respondent is required to respond only once per application, and updating the information as necessary.

Title: Arbitrator's Report and Fee Statement. Form R–19; OMB No. 3076–0003, Expiration Date: November 30, 2001.

Type of Request: Revision and extension of expiration date a currently approved collection with change in the substance.

Affected Entities: Individual arbitrators who render decisions under FMCS arbitration policies and procedures.

Abstract: Pursuant to 29 U.S.C. 171(b) and 29 CFR part 1404, FMCS assumes a responsibility to monitor the work of the arbitrators who serve on its roster. This is satisfied by requiring the completion and submission of a Report and Fee Statement, which indicates when the arbitration award was rendered, the file number, the company and union, the issues, whether briefs were filed and transcripts taken, if there were any waivers by parties on the date the award was due, and the fees and days for services as an arbitrator. This information is then contained in the agency's annual report to indicate the types of arbitration issues, the average or median arbitration fees and days spent on cases. This notice request is for a revision of the form that is currently approved for collection; no change in the substance or method of collection is involved.

Frequency: This form is completed each time an arbitrator hears an arbitration case and issues a decision.

Burden Statement: FMCS receives approximately 2500 responses per year. The form is only filled out each time an arbitrator hears a case and the time required is approximately ten minutes. FMCS uses this form to review arbitrator conformance with its fee and expense reporting requirements. This information is then contained in the agency's annual report to indicate the types of arbitration issues, the average or median arbitration fees and days spent on cases.

Title: Notice to Mediation Agencies, FMCS Form F–7, OMB No. 3076–0004, Expiration date: November 31, 1998.

Type of Request: Revision and extension of expiration date of a currently approved collection with no major changes in the substance.

Affected Entities: Parties affected by this information collection are private sector employers and labor unions involved in interstate commerce who file notices for mediation services to the FMCS and state, local and territorial agencies, who receive copies of these notice filed.

Frequency: Individuals complete this form once, which is at the time of an impending expiration of a collective bargaining agreement.

Abstract: Under the National Labor Management Relations Act, 1947, 29 U.S.C. 158(d)(3), Congress listed specific notice provisions creating a duty to bargain collectively so that no party to a collective bargaining agreement could terminate or modify that contract, unless the party wishing to terminate or modify the contract is sent a written notice to the other party, sixty days prior to the expiration date (section 8(d)(1) and offered to meet and confer with the other party for the purpose of negotiating a new or modified contract (section 8(d)(2). Furthermore, the Act requires that the party notify the Federal Mediation and Conciliation Service within thirty days after such notice of the existence of a dispute and simultaneously notify any State or Territory where the dispute occurred (section 8(d)(3). The 1974 amendments to the NLRA, which extended coverage to nonprofit health care institutions, also created a notification procedure in the health care industry requiring parties to notify each other 90 days in advance of termination and 60 days to the mediation service. This amendment also required notification of initial bargaining situations (notification of the existence of a dispute) to the FMCS, within 30 days.

To facilitate handling of more than 18,000 such notices a year, FMCS created a specific information collection form. The purpose of this information collection activity is for FMCS' Notice Processing Unit (NPU) to comply with FMCS' statutory duty to receive these notices, to facilitate assignment of mediators to assist in labor disputes, and to assist the parties in knowing whether or not proper notice was given. The information from these notices is sent electronically to the appropriate field manager who assigns the cases to the mediator so they may contact labor and management quickly, efficiently, and offer their dispute resolution services, where applicable.

Either party to a contract may make a request in writing for a copy of the notice filed with FMCS. These notices are critical to the function of FMCS and fulfill a statutory purpose as well.

The F–7 form was created to establish conformity throughout interstate commerce and to allow FMCS to gather desired information in a uniform manner. The collection of such information, including the name of the employer or employer association, address and phone number, e-mail address, official contact, bargaining unit and establishment size, location of affected establishment and negotiations, industry or type of business, principal product or service, union address, phone number, e-mail address and official contact, contract expiration date or renewal date, whether the notice is on file on behalf of the employer or the union, and whether this is a health care industry notice for initial contracts, is critical for reporting and medication purposes.

Burden Statement: The current annual respondent burden estimate is approximately 18,000 respondents. This one-page form takes about 10 minutes to complete, for a total of 180,000 minutes or 166 annual hours.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g., permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper electronic record maintained at the address at the beginning of this document. FMCS will transfer all electronically received comments into printed-paper form as they are received.

Dated: May 20, 2002.

C. Richard Barnes,

Director.

[FR Doc. 02–13037 Filed 5–24–02; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 11, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. George Richard Dill, Fife, Washington, to acquire additional voting shares of Puget Sound Financial Services, Inc., Fife, Washington, and thereby indirectly acquire additional voting shares of Fife Commercial Bank, Fife, Washington.

Board of Governors of the Federal Reserve System, May 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13179 Filed 5–24–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 21, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. First Security Bancorp, Inc., Chattanooga, Tennessee; to acquire 100 percent of the voting shares of First State Bank, Maynardville, Tennessee.

B. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. State Bank of Hawley, Inc., Hawley, Minnesota; to acquire an additional 6 percent, for a total of 38.8 percent of the voting shares of Bankshares of Hawley, Inc., Hawley, Minnesota, and thereby indirectly acquire State Bank of Hawley, Hawley, Minnesota.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. ITLA Capital Corporation, La Jolla, California; to become a bank holding company by acquiring 100 percent of the voting shares of Imperial Capital Bank, Encino, California.

In connection with this application, Applicant also has applied to acquire ITLA Capital Real Estate Investment Trust, La Jolla, California, and thereby engage in lending activities, pursuant to §§ 225.28(b)(1) and (b)(2) of Regulation Y.

Board of Governors of the Federal Reserve System, May 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13180 Filed 5–24–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Regulatory Reform

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a public meeting of the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with Section 10(a)(2), the Secretary's Advisory Committee on Regulatory Reform is seeking guidance for the Department's efforts to streamline regulatory requirements. The Advisory Committee will advise and make recommendations for changes that would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products. The Committee will review changes identified through regional public hearings, written comments from the public, and consultation with HHS staff.

All meetings and hearings of the Committee are open to the general public. During each meeting, invited witnesses will address how regulations affect health-related issues. Meeting agendas will also allow some time for public comment. Additional information on each meeting's agenda and list of participating witnesses will be posted on the Committee's Web site prior to the meetings (http://www.regreform.hhs.gov).

DATES: The third full meeting of the Secretary's Advisory Committee on Regulatory Reform will be held on Monday, June 10, from 8 a.m. to 6 p.m. and on Tuesday, June 11, from 8 a.m. to 6 p.m.

ADDRESSES: The hearing will be held at the Hyatt Regency Minneapolis, 1300 Nicollet Mall, Minneapolis, Minnesota.

FOR FURTHER INFORMATION CONTACT: Margaret P. Sparr, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW, Room 344G, Washington, DC, 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: The Hyatt Regency Minneapolis is in compliance with the Americans with Disabilities Act. Anyone planning to attend the meeting who requires special disability-related arrangements such as sign-language interpretation should provide notice of their need by Thursday, June 6, 2002. Please make any request to Dianne Norcutt—phone: 301–628–3146; fax: 301–628–3101; email: *dnorcutt@s-3.com*.

On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. Common sense approaches and careful balancing of needs can help improve patient care. As part of this initiative, the Department is establishing the Secretary's Advisory Committee on Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS programs to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: May 21, 2002.

William Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–13182 Filed 5–24–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part B of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration on Aging (AoA) as follows: Part B, Administration on Aging (60 FR 65338–65346), as last amended, December 19, 1995—continues the Office of the Assistant Secretary for Aging (OASA), abolishes the Congressional and White House Liaison, and establishes the Office of Evaluation Staff within the OASA, moving evaluation responsibilities from the Division of Personnel and Planning to this Office; establishes the Center for Communication and Consumer Services; establishes the Center for Planning and Policy Development (CPPD) and moves all planning and policy responsibilities from the Executive Secretariat and Policy Coordination Office and the Division of Personnel and Planning to CPPD; retitles the Office of Management as the Center for Management (CM), moves the Executive Secretariat from OASA to CM, retitles the Division of Personnel and Planning as the Office of Administrative Services, retitles the Division of Grants and Contracts as the Office of Grants Management, retitles the Division of Budget and Finance as the Office of Budget and Finance, and retitles the Division of Information Resources Management as the Office of Information Resources Management; retitles the Office of Program Operations and Development as the Center for Wellness and Community-Based Services (CWCBS), moves the function of the Office of Governmental Affairs and Elder Rights (OGAER) to CWCBS,

retitles the subordinate Office of Elder Rights Programs in OGAER as the Office of Consumer Choice and Protection in CWCBS, retitles the Office of State and Community Programs as the Office of Community-Based Services, retains the Office of American Indian, Alaskan Native, and Native Hawaiian Programs, and retitles the Regional Offices on Aging as the Administration on Aging Regional Support Centers. This reorganization of AoA offices will achieve several important objectives: it will streamline the organization; consolidate and elevate AoA's external communications functions; focus AoA's programmatic efforts on those areas of greatest importance to older Americans; and strengthen and centralize its analytic and policy development activities.

This Part is amended as follows:

I. Delete Part B, "The Administration on Aging" in its entirety and replace with the following:

B.00 Mission
B.10 Organization
B.20 Functions

B.00 Mission. The Administration on Aging (AoA) is the principal agency designated to carry out the provisions of the Older Americans Act ("OAA" or "The Act") of 1965, as amended, 42 U.S.C. 3001 et seq., and the Alzheimer's Disease Demonstration Grants to States Program, established under section 398 of the Public Health Service Act (PHSA) as amended by Public Law 101–157, and by Public Law 105–379, the Health Professions Education Partnerships Act of 1998. AoA serves as the effective and visible advocate for older persons within the Department of Health and Human Services (DHHS), and other Federal agencies. AoA assists the Secretary in all matters pertaining to opportunities and challenges of the elderly. It advocates for the needs of older persons in program planning and policy development within the Department and in other Federal agencies.

B.10 Organization. The Administration on Aging is a principal operating division of the Department of Health and Human Services, which is headed by the Assistant Secretary for Aging who reports directly to the Secretary. In addition to the Assistant Secretary, the AoA consists of the Principal Deputy Assistant Secretary and Staff and Program Offices. AoA is organized as follows:

Office of the Assistant Secretary for Aging (BA)
Center for Management (BE)
Center for Wellness and Community Based-Services (BF)
Center for Communication and Consumer Services (BG)
Center for Planning and Policy Development (BH)

B.20 Functions. The Administration on Aging develops, recommends and issues policies, procedures and interpretations to provide direction to the programs it administers. It develops standards and issues best practice guidelines; disseminates information; provides technical assistance; and initiates policy related to services funded by the Department and provided to older persons. Advises the Secretary, Departmental components and other Federal departments and agencies on the characteristics, circumstances and needs of older people and develops policies, plans and programs designed to promote their welfare; under Title III of the Act administers a program of formula grants to States to establish State and community programs for older persons; administers a program of grants to American Indians, Alaskan Natives and Native Hawaiians to establish programs for older Native Americans under Title VI of the Act. Provides policy and procedural direction, advice and assistance to States and Native American grantees to promote the development of State and Native American-administered, community-based service systems of comprehensive social services for older persons.

Administers long-term care ombudsman and protective services programs and legal services development programs for older people under Title VII of the Act. Approves or disapproves State plans and Native American funding applications. Administers programs of training, research and demonstration under Title IV of the Act and section 398 of the Public Health Service Act as amended. Administers national centers for service development and assistance, and information dissemination benefiting older persons.

Promotes through the State and Area Agencies on Aging and Indian Tribal Organizations a national community-based long-term care program for older persons. Develops and issues program designs, guidelines, standards and assistance to State and Area Agencies, Indian Tribal Organizations and nutrition providers to support Titles III and VI nutrition services and disseminate nutrition education material.

The functions of the organizational units of AoA are described in detail in the succeeding Parts.

II. Establish Part BA, the Office of the Assistant Secretary for Aging, as follows:

BA.00 Mission
BA.10 Organization
BA.20 Functions

BA.00 Mission. The Office of the Assistant Secretary for Aging provides executive direction, leadership, and guidance for OAA programs and the PHSA Alzheimer's Program, and serves as the focal point for the development, coordination and administration of those programs nationwide. The Office advises the Secretary on issues affecting America's elderly population.

BA.10 Organization. The Office of the Assistant Secretary for Aging is headed by an Assistant Secretary, who reports to the Secretary and consists of:

The Office of the Assistant Secretary (BA)
Office of Evaluation Staff (BA–1)

BA.20 Functions. A. The Office of the Assistant Secretary is responsible to the Secretary for carrying out AoA's mission and provides executive supervision to the major components of AoA. The Office serves as the effective and visible advocate within the Federal government to ensure the rights and entitlements of the elderly.

Sets national policies, establishes national priorities, ensures policy consistency, and directs plans and programs conducted by AoA. Advises the Secretary, HHS agencies, and other Federal agencies on the characteristics, circumstances, and needs of older people, and on policies, plans and programs designed to promote their welfare. The Principal Deputy Assistant Secretary serves as the Assistant Secretary's primary associate in carrying out the mission of the agency.

In collaboration with other Federal agencies, develops and implements interagency agreements to assist older persons. Provides liaison with other Federal advisory committees focused on the aging. Works with national aging organizations, professional societies, and academic organizations to identify mutual interests and plan voluntary and funded approaches to meet the needs of older persons. Ensures affirmative action throughout the Aging Network in employment and service delivery.

B. The Office of Evaluation implements, oversees and manages responsibilities assigned by the Government Performance and Results Act of 1993 (GPRA). Interprets AoA goals, priorities, and strategies for consistency with AoA long-range GPRA goals and strategies, and adjusts GPRA goals and strategies accordingly. Provides guidance and technical assistance to AoA organizational units in developing operational plans, particularly in developing measurable objectives and indicators reflecting program and organizational performance. Prepares AoA's annual GPRA plan and report.

Develops AoA plans and priorities for evaluation of AoA formula grant programs, with subject matter input from appropriate units. Manages contracting for mandated evaluation projects and performs intramural evaluation studies. Prepares reports of the results of program and impact evaluations conducted by and for AoA, with technical input from other AoA units. Provides technical guidance on evaluation activities conducted as part of AoA's discretionary grants programs.

Coordinates AoA activities related to the collection, analysis, and dissemination of national and program data on older individuals. Develops and manages all aspects of data requirements associated with home and community-based services programs under Title III of the OAA.

Develops and designs the criteria for collecting, analyzing and disseminating program performance data on State and Area Agencies' implementation of OAA programs, and prepares that data for reporting to Congress and the public. Designs, implements and provides guidance and technical assistance to State and Area Agencies on Aging and service providers on data collection and analysis (Section 202(b)(28)) and on uniform data collection procedures for State Units on Aging (Section 202(b)(29)).

Develops and operates a National Aging Program Information System focused on the information needs of AoA and the Network on Aging to both manage and advocate for the delivery of effective and efficient services to the elderly. Provides liaison with the Federal Task Force on Aging Statistics; in support of planning and program requirements; performs routine and special statistical analyses of data for AoA offices, other Federal and non-Federal organizations, and the general public.

III. Establish Part BE, Center for Management, as follows:

BE.00 Mission
BE.10 Organization
BE.20 Functions

BE.00 Mission. The Center for Management (CM) advises the Assistant Secretary for Aging on financial, grants, information resources, procurement, administrative and human resources management activities of AoA.

BE.10 Organization. The Center for Management is headed by a Director who reports directly to the Assistant Secretary for Aging. The Center is organized as follows:

Office of the Director (BE)
Executive Secretariat (BE–0)
Office of Budget and Finance (BE1)
Office of Administrative Services (BE2)
Office of Grants Management (BE3)
Office of Information Resources Management (BE4)

BE.20 Functions. A. The Office of the Director directs and coordinates all activities of the Center for Management (CM). The Director serves as the AoA's Chief Financial Officer (CFO); Chief Grants Management Officer; Federal Managers' Financial Integrity Act (FMFIA) Management Control Officer; Chief Information Resources Management Official; and Reports Clearance Officer. The Director serves as principal advisor and counsel to the Assistant Secretary for Aging on all aspects of internal administration and management of AoA, and serves as the AoA liaison with the Assistant Secretary for Administration and Management, the Assistant Secretary for Budget, Technology and Finance, the Office of the General Counsel, the Office of the Inspector General, the General Accounting Office, and the Office of Management and Budget for areas under CM purview. The Office advises the Assistant Secretary for Aging on financial, grants, information resources, procurement, administrative and human resources management activities. The Office develops, administers, and coordinates financial, operational, and budgetary policies, processes, and controls necessary to administer AoA programs and financial resources; directs discretionary and formula grants activities; oversees the utilization of information resources, information systems and telecommunications management in AoA; and coordinates AoA's internal control activities.

B. The Executive Secretariat (ES) coordinates essential policy and program concerns and ensures that issues requiring the attention of the Assistant Secretary, Deputy Assistant Secretary, and/or executive staff are addressed on a timely and coordinated basis. It serves as the AoA liaison with the HHS Executive Secretariat. ES receives, assesses, and controls incoming correspondence and assignments to the appropriate AoA component(s) for response and action; provides assistance and advice to AoA staff on the development of responses to correspondence and on the controlled correspondence system; and tracks development of periodic reports and facilitates departmental clearance. Maintains official copies of all policy and information issuances and data collection instruments, ensuring proper clearance before issuance and annually reviews for accuracy and compliance with laws and regulations; reviews all materials for **Federal Register** publication, ensuring compliance with guidelines; serves as records manager providing assistance to both Headquarters and Regional Support Centers staff regarding filing practices, retention and disposition of records. The Director of the Executive Secretariat Office serves as liaison with the Office of the **Federal Register** on regulatory actions and the Office of the Inspector General and the General Accounting Office on all program matters other than those related to grants or procurement management; and serves as the Freedom of Information Act (FOIA) Officer for AoA, reviews FOIA requests, and arranges for appropriate responses in coordination with the DHHS FOIA Officer.

C. The Office of Budget and Finance (OBF) supports the Director for the Center for Management in fulfilling AoA's Chief Financial Officer and Management Control Officer responsibilities including preparation of the CFO 5 Year Plan, and oversees and coordinates AoA's FMFIA activities.

OBF is responsible for budget formulation and execution and financial management. In coordination with AoA program offices, formulates and presents budget estimates; executes apportionment documents; plans, directs, and coordinates financial and budgetary programs of AoA. Provides guidance to AoA program offices in preparing budgets, justifications, and other budgetary materials. Solicits, obtains and consolidates information and data from other AoA offices, and prepares budget documents on behalf of the Assistant Secretary for presentation to the Department, the Office of Management and Budget (OMB), and Congress. Analyzes the budget as approved by the Congress and apportioned by OMB, obtains input from program offices and recommends for the Assistant Secretary's approval a financial plan for its execution. Makes allowances to AoA offices within the guidelines of the approved financial plan. Develops and maintains an overall system of budgetary controls to ensure observance of established ceilings on both program—including all formula discretionary grant accounts—and Salaries and Expense funds; maintains administrative control of funds against allotments and allowances; certifies funds availability for all AoA accounts; and coordinates the management of AoA's interagency agreement activities. Prepares requests for apportionment of appropriated funds; maintains separate financial operating plans for each of the

Regional Support Centers; and prepares spending plans and status-of-funds reports for the Assistant Secretary. Develops financial operating procedures and manuals; coordinates the preparation of AoA's financial audits; and provides analysis on financial issues. Serves as the AoA liaison with the Office of the Secretary and OMB on all budgetary matters. Acts as AoA's coordination point for all travel management activities; provides technical assistance and oversight on the use of the Travel Management System; manages employee participation in the Travel Charge Card program, and coordinates Travel Management Center services for AoA.

D. The Office of Administrative Services (OAS) provides support to AoA in the areas of personnel, management analysis, facilities, acquisitions, and other human resources and administrative services. Prepares, coordinates and disseminates information, policy and procedural guidance on human resource and administrative management issues on an agency-wide basis. Plans, organizes and conducts management studies of organizational structures, functional statements, job structure, staffing patterns, management and administrative information systems. Develops and maintains organizational functional statements and delegations of authority for AoA.

Provides direction to meet the human resource management needs within AoA. The Office is responsible for providing leadership, guidance, oversight and liaison functions for personnel related issues and activities as well as other administrative functions. Coordinates with the Department to provide staff with personnel services including position management, performance management, employee recognition, staffing, recruitment, employee and labor relations, employee assistance, payroll liaison, staff development and training, and special hiring and placement programs. Provides oversight and direction to meet the administrative needs of AoA components. Serves as liaison with the Office of the Secretary, the General Services Administration (GSA), and outside vendors to plan, develop and coordinate guidelines and activities for space and facilities services. Serves as the lead for AoA in coordination and liaison with Departmental, GSA, Federal Protective Service, and other Federal agencies for planning and executing the Agency's environmental health, safety and physical security programs.

The Office assists other AoA components in securing contractor assistance by advising on appropriate acquisition vehicles, developing statements of work, and managing the technical aspects of contracts. Monitors the use of credit cards for small purchases and establishes and manages contracts and/or blanket purchase agreements for administrative support and facilities management services.

The Office of Grants Management (OGM) serves as AoA's focal point for management, leadership and administration of discretionary and formula grants, and cooperative agreements. Provides national policy oversight and development for grants management and administration matters. Ensures that all grant awards conform to applicable statutory, regulatory, and administrative policy requirements, both before and following award. Maintains liaison and coordination with appropriate AoA and HHS organizations to ensure consistency between AoA discretionary and formula grant award activities, and the Department's payment systems for grants.

Ensures that the administrative business and financial management aspects of discretionary grants administration are carried out and grantee performance is monitored. Performs cost analysis/budget analysis for all discretionary grant award documents and negotiates grant budgets, executing all awards for AoA Headquarters. Advises and assists management and program officials in developing, implementing and evaluating program plans, strategies, regulations, announcements, guidelines and procedures. Recommends approval or disapproval of any grant applications based on programmatic considerations. Only the Office of Grants Management has the authority to obligate the Government to the expenditure of funds for grants and cooperative agreements. Serves as liaison with other offices in the Department.

Issues and maintains control over formula grant awards under the OAA, and makes adjustments to previously issued formula grant awards. In coordination with all AoA Headquarters and Regional Support Centers having grant administrative responsibilities: reviews and assesses AoA formula grant award procedures; directs and/or coordinates management initiatives to improve formula grant programs in financial areas; develops proposals for improving the efficiency in awarding grants and coordinating financial operations among AoA programs; establishes priorities and develops procedures for grantee financial monitoring; and, reviews activities at the field level for all AoA discretionary and formula grant programs. For formula grant activities, develops financial management standards for State and Area Agencies and provides guidance on and interpretation of applicable federal regulations to AoA staff. Based on formula grants management policies and procedures approved by the Department, reprograms formula grant funds as required under the OAA. Following consultation with all Headquarters and Regional Support Centers having grant administrative responsibilities, and with the approval of the Assistant Secretary: develops AoA instructions and procedures for the administration of the business aspects of all discretionary and formula grants, including those approved in AoA Regional Support Centers. Provides training, technical assistance, overall guidance, monitoring and assistance to AoA staff in all areas of administrative and financial management of grants. Has primary responsibility for developing grants management policy issuances, and ensuring consistent policy interpretation within AoA concerning grants management. Serves as AoA liaison with the General Accounting Office (GAO), the HHS Office of the Inspector General and the Department's Office of Grants and Acquisition Management on grant matters. Assists at discretionary and formula grant hearings, before the Departmental Appeals Board, in response to disallowances and other financial claims by AoA, State Agencies on Aging, and other grantees. Responds to Departmental and General Accounting Office audit reviews, ensuring proper analysis and resolution of audit findings by Regional Support Centers for final action by the Assistant Secretary. Coordinates receipt and processing of all grant and contract related materials.

F. The Office of Information Resources Management (OIRM) provides information technology services to AoA and develops policies, standards, guidelines, and procedures. The IRM Director serves as the principal IRM Official, responsible for delegations of procurement authority and the annual five-year long-range plan. The Office provides or contracts for the management, maintenance and operation of AoA's automated information system, including the LAN, personal computers, software, and support systems and services; provides or contracts for training and technical assistance in all AoA systems, hardware and software; coordinates the preparation of manuals and policy issuances required to meet the instructional and informational needs of users of the system; develops and implements procurement strategies for ADP support services; reviews all ADP acquisition documentation for compliance with applicable laws and regulations as well as for procurement strategy, assessing the need for and defining the specifications for procurement of all hardware and software for AoA; recommends and defines the need to share ADP services through inter-government, inter-departmental and interagency agreements; directs and coordinates AoA's systems security and privacy responsibilities, including protection, security and integrity of AoA data; in coordination with the Executive Secretariat coordinates mandated OMB approvals required under the Paperwork Reduction Act of 1980, as amended; represents AoA on the Department's IRM Policy and Planning Board.

The Office is responsible for establishing and maintaining a secure Inter- and intranet presence. It provides telecommunications planning, budgeting and management for AoA, including procurement, installation, alterations, and maintenance of telecommunications equipment and services such as telephones, pagers, cellular phone service, cable TV service, and audio conferencing equipment and services; provides liaison with HHS and GSA on telecommunications matters; and provides assistance to AoA components to identify telecommunications needs and use of communications equipment and systems.

IV. Establish Part BF, Center for Wellness and Community-Based Services, as follows:

BF.00 Mission
BF.10 Organization
BF.20 Functions

BF.00 Mission. The Center for Wellness and Community-Based Services (CWCBS) advises the Assistant Secretary for Aging on and provides leadership related to programs under the OAA.

BF.10 Organization. A Director who reports directly to the Assistant Secretary for Aging heads the Center for Wellness and Community-Based Services. The Center is organized as follows:

Office of the Director (BF)
Office for Community-Based Services (BF1)
Office for American Indian, Alaskan Native, and Native Hawaiian Programs (BF2)
Office for Consumer Choice and Protection (BF3)
AoA Regional Support Centers (BD1 to BD10)

BE.20 Functions. A. The Office of the Director provides program expertise on program development, advocacy and initiatives within assigned areas. Provides leadership on behalf of Titles III, VI and VII of the OAA, and those parts of Title II and Title IV of the OAA for which the Office is responsible. Works in conjunction with the Office of Evaluation to plan, direct and evaluate the programs under the OAA designed to provide planning, coordination and services to older Americans through grant programs authorized under Titles II, III, IV, VI, and VII of the OAA.

Consults with and provides technical assistance to and education for State and Area Agencies on Aging, Tribal grantees, and local community service providers in the development of plans, goals, and system development activities. Ensures that statutory requirements, regulations, policies, and instructions are implemented for Titles III, VI and VII, and for the functions under Title II and Title IV for which the Office is responsible. In addition, the Director provides oversight and leadership to the Nutrition Officer established in Title II of the OAA who provides technical assistance and guidance to Regional Support Centers, States, Area Agencies on Aging and community service providers.

The Director carries out the functions of the Office of Long-Term Care Ombudsman Programs established in Section 201(d)(1) of the OAA. Serves as the effective and visible advocate regarding Federal policies and laws that may adversely affect the health, safety, welfare, or rights of older residents of long-term care facilities; reviews Federal legislation, regulations, and policies regarding long-term care ombudsman programs and makes recommendations to the Secretary and Assistant Secretary; coordinates the activities of AoA with other Federal, State and local entities relating to long-term care ombudsman programs; prepares an annual report to Congress on the effectiveness of services provided by State long-term care ombudsman programs; and establishes standards for the training of State long-term care ombudsman staff.

Supervises and provides technical guidance to the Regional Support Centers as they implement the national programs of the OAA. Ensures that clear and consistent guidance is given on program and policy directives. Issues substantive operating procedures to guide Regional staff of AoA in the conduct of their responsibilities; establishes standards for performance plans and regularly assesses the performance against the established standards.

B. The Office for Community-Based Services (OCBS) serves as the focal point within AoA for the operation, administration, management, and assessment of the programs authorized under Title III of the OAA. In addition, the Office performs the functions under Title II of the OAA related to consultation with other Federal agencies and the provision of information about aging services and programs in order to enhance service coordination and delivery.

Implements Title III of the OAA through the development of regulations, policies and guidance governing the development and enhancement of comprehensive and coordinated home and community-based care service delivery systems by State and Area Agencies on Aging. This includes implementing and enhancing systems for supportive services and the operation of multi-purpose senior centers, congregate and home-delivered nutrition services, health promotion and disease prevention services, and caregiver support and assistance services.

Provides guidance regarding State Plan processing and approval, the process and criteria for approval of States' Intrastate Funding Formulas for the allocation and targeting of resources within States, and implementation of the Interstate Funding Formula for distribution of Title III funds among States. Fosters, oversees, ensures accountability and assesses the implementation of Title III by States and Area Agencies through guidance and direction to Regional staff regarding program reviews, and program and system development and enhancements. Designs and provides training and technical assistance for program compliance, effectiveness, and enhancement.

Directs and assesses the development of State-administered, home and community-based long-term care systems, and social and supportive services for the elderly. Initiates and encourages expansion of the capacities of home and community-based social service and health care systems to deliver comprehensive services to the elderly. Provides technical and subject matter expertise for the development of these systems, targeted at enhancing the capabilities of State and Area Agencies and local community service delivery programs to improve their service to older people. Coordinates with the Center for Planning and Policy Development to achieve a fully

integrated approach for the enhancement of systems of care throughout the nation.

Provides specialized input on programs under the OAA to long-range planning, operational plans and the budget process.

Carries out the functions of the designated nutrition officer, who coordinates nutritional services under the Act and develops the regulations and guidelines, and provides technical assistance regarding nutrition to the AoA Regional Support Centers, State and Area Agencies, nutrition service providers, and other organizations; serves as the liaison to the United States Department of Agriculture and other Federal agencies and organizations related to nutrition policy and program issues.

Coordinates with the Office of Evaluation to conduct operational studies, program analyses, and evaluations on special issues of concern to the Secretary, the Assistant Secretary, Regional Support Centers, and State and Area Agencies on Aging. Prepares reports on program operations under Title III for the Assistant Secretary, other AoA offices, the Secretary, the President, Congress and the public. Through the analysis of State Plans, evaluation findings and other relevant material, identifies potential Title III program and management issues and develops recommendations to the Assistant Secretary on possible solutions.

C. The Office of American Indian, Alaskan Native, and Native Hawaiian Programs (OAIANNHP) administers programs authorized by Title VI of the Older Americans Act, including the Tribal Family Caregiver Support Program formula and discretionary grants. On behalf of individuals who are older Native Americans, serves as the effective and visible advocate within the Department, with other Departments and agencies of the Federal Government, and with State, local and tribal governments providing leadership and coordination of activities, services and policies affecting American Indians, Alaskan Natives and Native Hawaiian elders; advocates and promotes linkages among national Indian organizations, national aging organizations, and national provider organizations with the goal of enhancing the interests of and services to Native American elders. Recommends to the Assistant Secretary policies and priorities with respect to the development and operation of programs and activities relating to individuals who are older Native Americans. The Office coordinates activities among other Federal departments and agencies to ensure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination. Carries out the following responsibilities of Title II: evaluates the outreach under Title III and Title VI and recommends necessary action to improve service delivery, outreach, and coordination between Title III and Title VI services; encourages and assists the provision of information to older Native Americans with need for Supplemental Security Income, Medicaid, food assistance, housing assistance, and transportation assistance; develops research plans, conducts and arranges for research in the field of Native American aging; collects, analyzes, and disseminates information related to problems experienced by older Native Americans, including information on health status of older individuals who are Native Americans, elder abuse, in-home care, and other problems unique to Native Americans; develops, implements, and oversees the uniform data collection procedures for Tribal and Native Hawaiian Organizations; and implements and oversees the consultation requirements of Title II as they apply to Native American issues.

Chairs the Interagency Task Force on Older Indians which is comprised of representatives from the Federal departments and agencies with an interest in the welfare of individuals who are older Indians and makes recommendations to the Assistant Secretary at six-month intervals, to facilitate coordination among Federally funded programs and improve services to older Indians.

Provides the Native American input to the Center for Planning and Policy Development for inclusion in AoA's research plan. In addition, collaborates with the Center for Community-Based Services on Title VI—Title III coordination.

Provides input and feedback to the Center for Planning and Policy Development for the development and operation of Resource Centers on Native American Elders, which gather information, perform research, provide for dissemination of results of the research, and provide technical assistance and training to those who provide services to Native American elders.

Provides specialized input on Title VI programs and the Native American components of Title II and Title VII–B programs to other Offices for long-range planning, operational plans, research and training, and the budget process. Determines the Title VI grant amounts from annual appropriations. Develops testimony and background documents concerning Native Americans for use by the Assistant Secretary.

Serves as the AoA focal point for the administration and assessment of the programs authorized under Title VI and the Native American Organization provisions of Title VII–B of the OAA, including administering grants, cooperative agreements and contracts. Implements the American Indian, Alaskan Native, and Native Hawaiian programs in the field through provision of program and policy direction, training and oversight to the Regional Support Centers in the execution of the Native American components of their Title II, Title VI and Title VII–B responsibilities. Oversees the Regional Support Centers' monitoring of Title VI grantees. Arranges for and manages on-going training and technical assistance for Title VI grantees. Coordinates additional training and technical assistance with other projects managed by the Center for Planning and Development.

D. The Office for Consumer Choice and Protection (OCCP) develops and carries out the ombudsman, elder abuse prevention, legal assistance development, and pension counseling provisions of Titles II and VII of the OAA throughout the Aging Network, including administration of the National Ombudsman Resource Center and the National Center on Elder Abuse, and advising the Assistant Secretary on the operation of those Centers. In addition, OCCP administers the Senior Medicare Patrol projects under Title IV of the OAA and the Health Insurance Portability and Accountability Act of 1997.

Reviews State Plans to determine eligibility for funding under the OAA and recommends approval or disapproval to the Assistant Secretary. Implements Title VII in the field through provision to Regional Support Centers guidance and information concerning AoA programs, and the development and interpretation of Title VII program regulations and policy. Ensures the implementation of guidance and instructions concerning long-term care ombudsman, prevention of elder abuse, and elder rights and legal assistance development programs. Provides guidance and leadership in the development of the pension counseling program and effective models for nationwide replication.

Fosters, oversees, ensures accountability and assesses the implementation of Title VII by States through guidance and direction to Regional staff regarding program reviews, and program and system development and enhancements. Designs and provides training and technical assistance for program compliance, effectiveness, and enhancement.

Conducts staff functions and responsibilities for the operation of the Long-Term Care Ombudsman Program and makes recommendations to the Director of the Center for Wellness and Community-Based Services for program and policy enhancement.

Serves as the agency's focal point for coordinating, implementing, monitoring, expanding, evaluating, and promoting efforts to provide consumer information, education and protection designed to detect, prevent and report error, fraud and abuse in the Medicare and Medicaid programs. Provides in-depth expertise, information, leadership and technical assistance through the Regional Support Centers to the Senior Medicare Patrol network and serves as a reliable clearinghouse of information for the aging network, older persons and their families. Provides specialized input on Title VII and consumer protection programs to long-range planning, operational plans and the budget process. Develops program plans and instructions for AoA Regional Support Centers and State and Area Agencies to improve the Title VII protection and representational programs funded under the OAA.

E. The AoA Regional Support Centers report to the Director, CWCBS and are headed by a Regional Administrator (RA).

The Regional Support Centers serve as the focal point for the development, coordination and administration of OAA programs within the designated HHS region. Represent the Assistant Secretary for Aging within the region, providing information for, and contributing to the development of, national policy dealing with the elderly. Based on national policy and priorities, establish field program goals and objectives. Serve as the effective and visible advocates for the elderly to Federal agencies in their geographic jurisdiction to ensure the rights and entitlement of the elderly; advise, consult and cooperate with each Federal agency proposing or administering programs or services related to the aging; coordinate and assist in the planning and development by public (including Federal, State, Tribal and local agencies) and private organizations of comprehensive and coordinated services and opportunities for older individuals in each community of the nation; conduct active public education of officials and citizens and the aged to ensure broad understanding of the needs and capabilities of the aged.

Monitor, assist and evaluate State Agencies on Aging administering programs supported under Titles II, III and VII of the OAA, and Indian Tribal Organizations administering projects under Title VI. Review OAA State Plans on Aging and recommend approval or disapproval to the Assistant Secretary for Aging, as appropriate. Review applications and recommend approval or disapproval of Title VI applications to the Assistant Secretary.

Advise the Assistant Secretary of problems and progress of programs through the Director, CWCBS; recommend to the Assistant Secretary changes that would improve OAA operations; evaluate the effectiveness of OAA and related programs in the Regions and recommend to the Assistant Secretary or take positive action to gain improvement; and guide agencies and grantees in applications of policy to specific operational issues requiring resolution. Facilitate interagency cooperation at the Federal, Regional Support Center, State and Tribal levels to enhance resources and assistance available to the elderly. Disseminate and provide technical assistance regarding program guidelines and developments to State and Area Agencies, Indian Tribal Organizations and local community service providers.

V. Establish a new Part BG as follows:

The Center for Communication and Consumer Services.

BG.00 Mission
BG.10 Organization
BG.20 Functions

BG.00 Mission. The Center for Communication and Consumer Services (CCCS) provides leadership and a central strategic focus for AoA's public information, education, consumer services, and outreach activities.

BG.10 Organization. A Director who reports to the Assistant Secretary for Aging heads the Center for Communication and Consumer Services.

BG.20 Functions. The Center for Communication and Consumer Services is responsible for developing information dissemination and outreach strategies for AoA and the National aging network and for coordinating the development of information materials, both printed and electronic. In coordination with the Department, CCCS manages AoA's media relations and legislative liaison activities.

CCCS coordinates the development of legislative proposals, testimony, background statements, and other policy documents for use by the Assistant Secretary in activities related to legislation. In coordination with the DHHS Office of the Assistant Secretary for Legislation, analyzes proposed and enacted legislation related directly or indirectly to older people, including legislation directly affecting OAA programs. Through automated legislative information systems tracks bills related to the aging. Develops and issues status reports regarding key legislative developments to Headquarters and Regional Support Centers staff, the network of State and Area Agencies on Aging, and Indian Tribal Organizations.

Coordinates with the Office of the Assistant Secretary for Public Affairs, including planning and implementing strategy for relations with the news and other information media; initiates media outreach activities and responds to all media inquiries concerning AoA programs and related issues.

Oversees the international liaison functions of AoA, coordinating AoA international activities with Departmental as well as other Federal agencies, States and national organizations concerned with international aging matters. At all levels, from national to the local service delivery level, develops methods and collaborations to articulate the problems and concerns of the elderly to organizations beyond the traditional network of agencies and works with these organizations to be more sensitive and responsive to age-related needs and issues.

Compiles, publishes, and disseminates information on programs funded under the Act, as well as demographic data on the elderly population and data from other Federal agencies on the health, social and economic status of older persons. Promotes information dissemination in professional fields. Ensures dissemination of information such as best practice models, to exchange program experience with the network of State and Area Agencies on Aging; works with organizations in the field of aging and with other organizations in fields that impact older persons to enhance the dissemination of consumer and technical information. Works with the Office of Evaluation to ensures the successful collection of data and its analysis to demonstrate the effectiveness of AoA dissemination activities. Ensures that program and service information and trends are disseminated to advocates for older persons.

Responds to written, phone and personal inquiries from all sources

dealing with services and needs of the aging.

VI. Establish a new Part BH as follows:

Center for Planning and Policy Development.

BH.00 Mission
BH.10 Organization
BH.20 Functions

BH.00 Mission. The Center for Planning and Policy Development (CPPD) advises and supports the Assistant Secretary for Aging in serving as the visible and effective advocate for older people within the Federal government, and in promoting an effective Federal policy and program response to address the aging of the population, as mandated under Title II and Title IV of the Older Americans Act. Serves as the focal point within AoA for identifying and analyzing emerging policy and program issues and trends related to the aging population, identifying appropriate Federal responses, and formulating an agency-wide policy and program development strategy consistent with the priorities established by the Assistant Secretary for Aging. Is responsible for leading the agency's strategic planning, policy development and program development functions, including the formulation of short and long-term strategies for advancing the Assistant Secretary for Aging's policy and program priorities.

BH.10 Organization. A Director and reports to the Assistant Secretary for Aging head the Center for Planning and Policy Development.

BH.20 Functions. The Center for Planning and Policy Development is responsible for analyzing trends in demographics, service needs, public policy and program development, and translating those trends into new policies and programs to assist the elderly. CPPD develops and maintains effective relationships with government and private sector entities and their representatives at the Federal, State and local levels to develop a unified policy toward, and promote the aims of the Older Americans Act; oversees development of more responsive service systems through intergovernmental and private sector initiatives and partnerships to address age-related issues and concerns.

CPPD coordinates the development and implementation of the agency's strategic plan that establishes long and short-range goals; objectives, strategies and action plan for advancing the agency's policy and program agenda. Reviews and coordinates all policy and program development documents and activities to ensure consistency with AoA's strategic plan; adjusts goals and strategies as appropriate.

The Center directs intergovernmental affairs activities as it relates to the agency's policy and program development agenda, and develops and maintains effective relationships with other governmental departments and agencies. Plans, negotiates, facilitates and updates, as appropriate, memoranda of understanding with other departments and agencies to promote agreements and cooperative relationships and ventures that address policies and services affecting the aging population.

Maintains information on, and pursues collaborative opportunities with, other Federal agencies, non-profit organizations and private corporations that have the potential to contribute to AoA's policy and program development priorities.

Supports the Assistant Secretary for Aging in implementing Section 203(1) of the OAA by coordinating, advising, consulting with and cooperating with the head of each department, agency and instrumentality of the Federal Government proposing or administering programs or services substantially related to the objectives of the OAA. Oversees the consultation process by which agency heads must consult with AoA before establishing programs or services related to the OAA. Plans and implements the process for the collaboration of all Federal agencies with AoA in the execution by those agencies of programs and services related to the OAA.

Provides technical, program and policy development input on legislative activities and the annual budget development cycle. Participates in Departmental and inter-departmental activities that concern health and social services; reviews and comments on Departmental regulations and policies regarding health programs and institutional and non-institutional long term care services. Provides agency-wide leadership on the programmatic functions of AoA's discretionary grant programs. Plans and directs activities authorized under Title IV of the OAA and section 398 of the Public Health Service Act as amended. Conducts activities for the development of adequate knowledge for improving the circumstances of older people. Develops a knowledge base for policy decisions and program development and coordination through support of a wide range of research, demonstration, and training activities.

Prepares the planning documents for, and coordinates the development of, annual discretionary funds program announcements. Provides technical input for Congressional and budget presentations related to research and demonstration programs. Evaluates research, demonstration and training grant and contract proposals; and recommends approval/disapproval, monitors progress, gives technical guidance to, and evaluates the performance of grantees and contractors. Develops standards and identifies successful service and systems development strategies and best practice models for use by the Aging Network. Develops technical assistance material and dissemination strategies for these strategies, models, and best practice suggestions, in coordination with the other AoA Centers.

Conducts relevant policy research and program demonstrations to inform policy and program development; undertakes qualitative and quantitative analyses to develop policy options and recommendations for the Assistant Secretary for Aging. Develops policy reports based on the needs and circumstances of older people, their family members and the aging population. Manages a program for the collection, analysis, and dissemination of information related to the needs and problems of older persons. Develops and coordinates initiatives with other Federal agencies, national aging organizations and universities to fill gaps in information in the field of aging. Reviews research findings from the literature and products from AoA, the Aging Network, and other sources regarding information on aging to identify new findings that will be useful to older people and professionals operating in the field of aging. Determines the relative utility of such products, and in collaboration with the Center for Communications and Consumer Services, their potential users and the most effective way to disseminate the information to users.

Promotes coordination of AoA's research and demonstrations with other national, field and local programs related to aging. Within overall AoA strategy and long-range plans, conducts continuing studies and periodic reviews of needs and resources in the field of aging, and makes recommendations for action to the Assistant Secretary for Aging.

Dated: May 20, 2002.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 02–13181 Filed 5–24–02; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10064]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with the BBA. We cannot reasonably comply with the normal clearance procedures because * * *

- The integration of the swing bed hospitals into the SNF PPS is mandated under the BBA. The FY 2002 final rule implementation date is the last possible date to introduce this program within the legislated time frames. Any delay past July 1, 2002 will put us out of compliance with the statutory requirements.
- Rural swing bed hospitals have already incurred costs to implement the SNF PPS. Postponing the implementation at this point would cause harm to the swing bed hospitals which have hired staff and purchased equipment in the expectation of higher reimbursement rates under the SNF PPS.
- The SB–MDS has already been reviewed by OMB as part of the regulatory review of the July 31, 2001 Update Rule. At that time, OMB concurred with the decision to replace the 6-page MDS with the customized 2-page SB–MDS. All the items included on the SB–MDS were included in Appendix B of that rule, and were reviewed and approved by OMB at that time. There was general consensus among CMS, the department and OMB that the use of the SB–MDS significantly reduces the burden of swing bed providers in complying with the BBA requirements.

CMS is requesting OMB review and approval of this collection by June 17, 2002, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by June 13, 2002. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: New collection; *Title of Information Collection:* Minimum Data Set (MDS) for Swing Bed Hospitals and Supporting Regulations in 42 CFR, Sections 413.337 and 483.20; *Form No.:* CMS–10064 (OMB# 0938–NEW); *Use:* We are requesting approval of resident assessment information that swing bed hospitals are required to submit as described at 42 CFR 483.20 in the manner necessary to administer the payment rate methodology described in 42 CFR 413.337; *Frequency:* Other: Days 5, 14, 30, 60 & 90 of stay; *Affected Public:* Not-for-Profit Institutions, and State, Local or Tribal Government; *Number of Respondents:* 1,250; *Total Annual Responses:* 156,480; *Total Annual Hours:* 132,360.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, by June 13, 2002:

Centers for Medicare and Medicaid Services, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–0262, Attn: Dawn Willinghan, CMS–10064

and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Eydt, CMS Desk Officer.

Dated: May 16, 2002.

Julie Brown,

Acting, Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13183 Filed 5–24–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10014]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this

collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Informatics, Telemedicine, and Education Demonstration Project; *Form No.:* CMS–10014 (OMB# 0938–0806); *Use:* Section 4207 of the Balanced Budget Act of 1997 mandated CMS to conduct a demonstration project to evaluate the effectiveness of advanced computer and telecommunications technology ("telemedicine") to manage the care of people with diabetes. CMS issued a request for proposals and, after review of the responses, selected a consortium led by Columbia University to conduct this project; *Frequency:* Semi-annually; *Affected Public:* Business or other for profit, individuals or households; *Number of Respondents:* 5,550; *Total Annual Responses:* 10,043; *Total Annual Hours:* 19,999.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, *to Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 15, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13184 Filed 5–24–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of new system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, called the "Non-Medicare Beneficiary Workers" Compensation (WC) Set-aside File (WCSAF)," HHS/CMS/CMM No. 09–70–0537. The primary purpose of the non-Medicare beneficiary WCSAF is to maintain a file of individuals who were injured while employed, are not currently Medicare beneficiaries, and received a WC Set-aside Arrangement, as part of a WC settlement, that is intended to pay for future medical expenses in place of future Medicare benefits. The information retrieved from this system of records will be used to support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant; to another Federal or State agency to contribute to the accuracy of CMS' proper payment of Medicare benefits, to enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; support constituent requests made to a Congressional representative; support litigation involving the agency; and support research, evaluation, and for payment related projects; and to disclose individual-specific information for the purpose of combating fraud and abuse in health benefits programs administered by CMS.

We have provided background information about the proposed system in the **SUPPLEMENTARY INFORMATION** section, below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 8, 2002. In any event, we will not disclose any information under a routine use until forty (40) calendar days after publication. We may defer implementation of this system of records or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Donna Kettish, Division of Benefit Coordination, Benefits Operations Group, Center for Medicare Management, CMS, S1–05–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–5462.

SUPPLEMENTARY INFORMATION:

I. Description of the New System of Records

A. Statutory and Regulatory Basis for System of Records

Section 1862 (b) (2) of the Social Security Act (the Act), requires that Medicare payment may not be made for any item or service to the extent that payment has been made under a WC law or plan. This section of the Act and 42 CFR 411.46 require CMS to exclude payments once the injured individual becomes a Medicare beneficiary when payment should be made from WC funds which are always primary to Medicare payment.

B. Background

CMS is responsible for safeguarding the fiscal integrity of the Medicare Program. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) established the "Medicare Integrity Program," enabling CMS to competitively award contracts with entities to promote the integrity of the Medicare Program. The Coordination of Benefit Contractor (COBC) is one of those specialized contractors hired to increase efficiency and effectiveness by ensuring that benefit payments are made by the appropriate payer by coordinating Medicare and other benefit payments.

The Electronic Correspondence Referral System (ECRS) is currently used to transfer data between CMS's Medicare contractors and the COBC to establish Medicare Secondary Payer periods of coverage on CMS's Common Working File (CWF). The CWF is a CMS system, containing Medicare beneficiary eligibility information, that is used for verification and validation purposes to ensure Medicare claims are paid properly and by the appropriate payer. ECRS is being enhanced to transfer WC Set-aside Arrangement data from CMS Regional Offices (RO) to the COBC for Medicare beneficiaries and non-Medicare beneficiaries who have an approved WC Set-aside Arrangement to cover future medical costs resulting from an injury incurred while employed. If the injury results in disability payments from the Social Security Administration (SSA), there is a reasonable expectation that the injured individual will also be eligible for Medicare benefits some time after the WC settlement is made.

The ROs will transfer the WC Set-aside Arrangement information via ECRS for non-Medicare beneficiaries once they approve the arrangement. The COBC will maintain ECRS transferred data in the WCSAF for future matching purposes. The COBC will "match" non-beneficiary WCSAF data against the file it receives each month of new Medicare eligibles to identify any non-beneficiaries with impending Medicare entitlement. Once a match occurs, the existence of a WC Set-aside Arrangement will be reflected on the new beneficiary's CWF record and a Lead Medicare Contractor will be assigned for coordination of the expenditures from the WC Set-aside Arrangement.

CMS is drawn into a civil action resulting from a WC claim in a consulting position to ensure that a legal settlement involving an injured worker considers Medicare's interest with respect to future claims. CMS RO approval of a Medicare Set-aside Arrangement helps direct the treatment of future disorders or health claims by the injured worker, ensuring he/she is adequately covered for long-term care resulting from their WC injury, first by the Medicare Set-aside Arrangement and then by Medicare if necessary.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The WCSAF includes standard data for identification including the name, address, date of birth, Social Security Number, date of the WC injury/incident, injury diagnosis code(s), effective date and amount of the WC Set-aside Arrangement. In addition, data will be included to enable CMS to manage the WC Set-aside Arrangement information when it becomes part of the beneficiary's record on the CWF. These data include the WC carrier, the administrator of the Set-aside Arrangement, and the attorney that prepared the arrangement.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release WCSAF information that can be associated with an individual as provided for under "Section III. Entities Who May Receive Disclosures Under Routine Use." Both identifiable and non-identifiable data may be disclosed under a routine use. Identifiable data includes individual records with WCSAF information and identifiers. Non-identifiable data includes individual records with WCSAF information and masked identifiers or WCSAF information with identifiers stripped out of the file.

CMS will only disclose the minimum personal data necessary to achieve the purpose of the WCSAF. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. In general, disclosure of information from the SOR will be approved only for the minimum information necessary to accomplish the purpose of the disclosure after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data are being collected; e.g., ensuring that benefit payments are made by the appropriate payer by coordinating Medicare and other benefit payments.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would, in fact, accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all individually, identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities That May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the WCSAF without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

CMS proposes to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants that have been contracted by the agency to assist in the performance of a service related to this system of records and that need to have access to the records in order to perform the activity.

CMS contemplates disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing agency business functions relating to purposes for this system of records.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract and requires the contractor to return or destroy all information at the completion of the contract.

2. To the agency of a State government, or established by State law,

for purposes of ensuring that benefit payments are made by the appropriate payer by coordinating Medicare and other benefit payments.

WCSAF data may be released to the State only on those injured individuals who are not currently Medicare beneficiaries but receive a WC Set-aside Arrangement that is intended to pay for future medical expenses in place of future Medicare benefits.

3. To another Federal or State agency:

a. To contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. To enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

Other Federal or State agencies in their administration of a Federal health program may require WCSAF information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper payment for services provided. Releases of information would be allowed if the proposed use(s) for the information proved compatible with the purpose for which CMS collects the information.

4. To an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, the restoration or maintenance of health, or for understanding and improving payment projects.

The WCSAF data will provide the research and evaluations a broader, longitudinal, national perspective of the status of injured individuals that are not currently Medicare beneficiaries but receive a WC Set-aside Arrangement that is intended to pay for future medical expenses in place of future Medicare benefits

5. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

6. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity; or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the purposes served by the use of the information in the particular litigation is compatible with a purpose for which CMS collects the information.

7. To a CMS contractor (including, but not necessarily limited to intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

CMS contemplates disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. CMS must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards (like ensuring that the purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring and those stated in II.B, above), are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract and to return or destroy all information.

8. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other State agencies in their administration of a Federal health program may require WCSAF information for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud and abuse in such programs. Releases of information would be allowed if the proposed use(s) for the information proved compatible with the purpose for which CMS collects the information.

B. Additional Provisions Affecting Routine Use Disclosures

In addition, CMS policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

This System of Records contains Protected Health Information as defined by the Department of Health and Human Services' regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 82462 as amended by 66 FR 12434). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

IV. Safeguards

The WCSAF system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: The Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix III, "Security of Federal Automated Information Resources." CMS has prepared a comprehensive system security plan as required by

OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, "Guide for Developing Security Plans for Information Technology Systems." Paragraphs A–C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. Records are used in a designated work area and system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects (e.g., tables, triggers, indexes, stored procedures, packages) and has database administration privileges to these objects.
- Quality Control Administrator class has read and write access to key fields in the database;
- Quality Index Report Generator class has read-only access to all fields and tables;
- Policy Research class has query access to tables, but are not allowed to access confidential patient identification information; and
- Submitter class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites will implement the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the CMS system:

Access to all servers is to be controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server is to require a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination, which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information Systems (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- User Log-on—Authentication is to be performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- Workstation Names—Workstation naming conventions may be defined and implemented at the agency level.
- Hours of Operation—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are to be determined and implemented at the agency level.
- Inactivity Lockout—Access to the NT workstation is to be automatically locked after a specified period of inactivity.
- Warnings—Legal notices and security warnings are to be displayed on all servers and workstations.
- Remote Access Security—Windows NT Remote Access Service (RAS) security handles resource access control. Access to NT resources is to be controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security. These include, but are not limited to: the Privacy Act of 1974; the Computer Security Act of 1987; OMB Circular A–130, revised; Information Resource Management Circular #10; HHS AIS Security Program; the CMS Information Systems Security Policy, Standards, and Guidelines Handbook; and other CMS systems security policies. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effects of the New System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will monitor the collection and reporting of WCSAF data. WCSAF information is submitted to CMS through standard systems. CMS will use a variety of onsite and offsite edits and audits to increase the accuracy of WCSAF data.

CMS will take precautionary measures (see item IV., above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of maintaining this system of records.

Dated: May 9, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09–70–0537

SYSTEM NAME:

Non-Medicare Beneficiary Workers' Compensation (WC) Set-aside File, (WCSAF).

SECURITY CLASSIFICATION:

Level 3, Privacy Act Sensitive.

SYSTEM LOCATION:

Group Health Incorporated, 25 Broadway, NY, NY 10004.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records will contain data on non-Medicare beneficiaries that receive a WC Set-aside Arrangement, as part of a WC settlement, that is intended to pay for future medical expenses in place of future Medicare benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records will contain the individual-level identifying data including such as the name, address, date of birth, Social Security Number (SSN), date of the WC injury/incident, injury diagnosis code(s), effective date and amount of the WC Set-aside Arrangement. In addition, data will be included to enable CMS to manage the WC Set-aside Arrangement information when it becomes part of a beneficiary's record on the Common Working File (CWF). These data include the WC carrier, the administrator of the WC Set-aside Arrangement, and the attorney that prepared the arrangement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 1862(b)(2) of the Social Security Act (the Act) and 42 CFR 411.46.

PURPOSE(S):

The primary purpose of the non-Medicare beneficiary WCSAF is to maintain a file about individuals who were injured while employed, are not currently Medicare beneficiaries, and received a WC Set-aside Arrangement, as part of a WC settlement, that is intended to pay for future medical expenses in place of future Medicare benefits. The information retrieved from this system of records will be used to support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant; to another Federal or State agency to contribute to the accuracy of CMS' proper payment of Medicare benefits, to enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; support constituent requests made to a Congressional representative; support litigation involving the agency; and support research, evaluation, and for payment related projects; and to disclose individual-specific information for the purpose of combating fraud and abuse in health benefits programs administered by CMS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the WCSAF without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, CMS policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). Be advised, this System of Records contains Protected Health Information as defined by the Department of Health and Human Services' (HHS) regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 8462 as amended by 66 FR 12434). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

1. To agency contractors or consultants that have been contracted by the agency to assist in the performance of a service related to this system of records and that need to have access to the records in order to perform the activity.

2. To the agency of a State government, or established by State law, for purposes of ensuring that benefit payments are made by the appropriate payer by coordinating Medicare and other benefit payments.

3. To another Federal or State agency:

a. To contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. To enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

4. To an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, or for understanding and improving payment projects.

5. To a member of Congress or to a Congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

6. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof; or

b. Any employee of the agency in his or her official capacity; or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

d. The United States Government;

is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

7. To a CMS contractor (including, but not necessarily limited to intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

8. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

The Social Security Number retrieves the records.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the CMS system. For computerized records, safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines; e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program; CMS Information Systems Security, Standards Guidelines Handbook and OMB Circular No. A–130 (revised) Appendix III.

RETENTION AND DISPOSAL:

CMS will retain identifiable WCSAF data for a period of 6 years and 3 months unless the injured individual becomes a Medicare beneficiary prior to that period of time. When either of these criteria is met, the information stored on the injured individual will be deleted from the WCSAF.

SYSTEM MANAGER(S) AND ADDRESS:

CMS, Center for Medicare Management, Benefits Operations Group, Director, Division of Benefit Coordination, S1–05–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), address, date of birth, date of WC injury/incident, diagnosis, effective date and amount of the WC Set-aside Arrangement. (Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

The Electronic Correspondence Referral System (ECRS), Medicare contractors and the Coordination of Benefit Contractor (COBC), Common Working File, CMS Regional Offices (RO), Medicare beneficiaries and non-Medicare beneficiaries that have an approved WC Set-aside Arrangement to cover future medical costs resulting from an injury incurred while employed and the Social Security Administration (SSA).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–13190 Filed 5–24–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99E–1086]

Determination of Regulatory Review Period for Purposes of Patent Extension; ENBREL

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ENBREL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4565.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product ENBREL (etanercept). ENBREL is indicated for the reduction in signs and symptoms of moderately to severely active rheumatoid arthritis in patients who have had an inadequate response to one or more disease-modifying antirheumatic drugs. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ENBREL (U.S. Patent No. 5,712,155) from Immunex Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 7, 2000, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of ENBREL represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office

requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ENBREL is 2,322 days. Of this time, 2,143 days occurred during the testing phase of the regulatory review period, while 179 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: June 26, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on June 26, 1992.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act*: May 8, 1998. The applicant claims March 9, 1998, as the date the product license application (BLA) for ENBREL (BLA 98–0286) was initially submitted. However, FDA records indicate that BLA 98–0286 was submitted on May 8, 1998.

3. *The date the application was approved*: November 2, 1998. FDA has verified the applicant's claim that BLA 98–0286 was approved on November 2, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 240 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may, on or before July 29, 2002, submit to the Dockets Management Branch (see **ADDRESSES**) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 25, 2002, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday

Dated: April 17, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–13227 Filed 5–24–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Medical Device Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Southwest Region (SWR), Dallas District Office, in collaboration with the FDA Medical Device Industry Coalition (FMDIC), is announcing a public workshop entitled "Medical Device Workshop." This public workshop is intended to provide information about FDA's medical device quality systems regulation (QSR) to regulated industry and, in particular, to small businesses.

Date and Time: The public workshop will be held on July 19, 2002, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at the Texas A&M University Health Science Center, Baylor College of Dentistry, 3302 Gaston Ave., sixth floor, Dallas, TX 75246. Directions to the facility are available on the Internet at the Texas A&M University Health Science Center, Baylor College of Dentistry at http://www.tambcd.edu/.

Contact: David Arvelo or Sue Thomason, Southwest Regional Office (HFR–SW16), Food and Drug Administration, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247, 214–655–8100, ext. 130 or 128, FAX 214–655–8114, or e-mail: oraswrsbr@ora.fda.gov.

Registration: Preregistration by June 7, 2002, is encouraged. FMDIC has a $150 preregistration fee. To preregister, please complete the form provided in this document and send it along with a check or money order for $150 payable to the FMDIC, c/o FDA/SWR/Small Business Representative, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247. As an alternative, the registration form can also be obtained on the Internet at http://www.geocities.com/Eureka/Suite/3316/. Seats are limited. Please submit registration forms as soon as possible. Course space will be filled in order of receipt of registration. Those accepted into the course will receive written confirmation. Registration will close once the course is filled. Onsite registration will be done on a space-available basis on the day of the public workshop beginning at 8:30 a.m. The cost of registration at the site is $175, payable to the FMDIC. If you need special accommodations due to a disability, please contact David Arvelo or Sue Thomason at least 7 days in advance.

The following information is requested for registration purposes:

Name: _____

Company: _____

Mailing address: _____

City: _____ State: _____ Zip code: _____

Phone: _____ FAX: _____

E-mail: _____

SUPPLEMENTARY INFORMATION: The workshop is being held in response to the interest that small medical device manufacturers in the Dallas District area have expressed in the topics that will be addressed at the workshop. FMDIC and FDA will present this workshop to help achieve objectives set forth in section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393), which include working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. This workshop is also consistent with the purposes of FDA's Regional Small Business Program, which are in part to respond to industry inquiries, develop educational materials, sponsor workshops and conferences to provide firms, particularly small businesses, with firsthand working knowledge of FDA's requirements and compliance policies. This workshop is also consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), because it is an outreach activity by a government agency directed at small businesses.

The goal of the workshop is to present information that will enable manufacturers and regulated industry to better comply with the QSR (21 CFR part 820). Information presented will be based on agency position as articulated through regulation, compliance policy guides, and information previously made available to the public. Topics to be discussed at the workshop include: (1) Analysis of FDA 483s, (2) analysis of FDA warning letters, (3) how corrective and preventive actions (CAPA) relates to QSR and the Quality System Inspection Technique, (4) designing and implementing a CAPA system, and (5) the role of complaint files in a CAPA system.

Transcripts: Transcripts of the public workshop will not be available due to the format of this workshop. Course handouts may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, starting approximately 15 working days after the public workshop at a cost of 10 cents per page.

Dated: May 22, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13282 Filed 5–22–02; 3:52 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB review; Comment Request; Retrovirus Epidemiology Donor Study (REDS): A Study of Motivations and Deterrents to Blood Donation in the United States

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 29, 2001, pages 29, 152–29, 153 and allowed 60-days for public comment. The Institute mailed a summary of the protocol and copies of the survey instrument in response to a request. Additionally, the Institute received two comments. A professional association applauded the agency's efforts and urged the Institute to consider future population based studies that would account for views of those who never donate blood. The second comment was from an individual representing biomedical services of a national blood banking institution. This individual stressed the need to build upon previous research conducted by this blood banking organization. The Institute responded to both comments via letter. To the first the Institute replied that they were discussing future studies to assess reasons that some people never donate blood. To the second they responded that while it would be beneficial to build upon this previous data, published literature on this blood collection organization's research was not available. No further responses to the Institute were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Retrovirus Epidemiology Donor Study (REDS): A Study of Motivations and Deterrents to Blood Donation in the United States. Type of Information Collection Request: NEW. Need and Use of Information Collection: There are serious blood shortages in the U.S. and the situation is predicted to worsen unless corrective measures are initiated. Through a randomized mail survey of individuals who have donated blood at one of the blood centers participating in the NHLBI Retrovirus Epidemiology Donor Study (REDS), this study will examine the personal, or intrinsic reasons for choosing to donate blood, as well as external influences for choosing to donate blood. Donors will be given the option to respond via a mailed survey or a secured website. Comparisons will be made between lapsed and repeat donors with the premise that repeat donors may have a stronger altruistic impetus for donating than donors who donate less frequently or discontinue donating. Donors will be asked about factors influencing them to donate, the donation experience, and questions addressing accessibility to donate. Additionally, the study will examine possible barriers to donation, such as inconvenience, discomfort, and confidentiality. With the majority of the blood supply coming from committed, repeat donors, information regarding why an individual decides to donate, and more importantly, what motivates them to come back, will provide valuable insight on possible strategies to encourage increased donation frequency among the current blood donor population. Assessment of possible barriers to donation will provide areas for focusing improvement in the blood donation process. Data from this survey will provide a valuable perspective for devising strategies to increase blood donation the U.S., thus helping insure that there is an adequate supply to meet the needs of the American public. Frequency of Response: Once. Affected Public: Individuals. Type of Respondents: Adult Blood Donors. The annual reporting burden is as follows: Estimated Number of Respondents: 40,000; Estimated Number of Responses per Respondent: 1; Average Burden Hours Per Response: 0.25; and Estimated Total Annual Burden Hours Requested: 10,000. The annualized cost to respondents is estimated at: $157,000. There are no Capital Costs, Operating Cost, and/or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adult Blood Donors	40,000	1	0.25	10,000

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. George J. Nemo, Group Leader, Transfusion Medicine, Scientific Research Group, Division of Blood Diseases and Resources, NHLBI, NIH, Two Rockledge Center, Suite 10042, 6701 Rockledge Drive, MSC 7950, Bethesda, MD 20892–7950, or call non-toll free number 301–435–0075, or e-mail your request, including your address to: *nemog@nih.gov*.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received *within 30-days* of the date of this publication.

Dated: May 10, 2002.

Donald Christoferson,

Executive Officer, NHLBI.

[FR Doc. 02–13195 Filed 5–24–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 7, 2002, page 5834 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial. *Type of Information Collection Request:* Revision, OMB control number 0925–0407, expiration date October 31, 2002. *Need and Use of Information Collection:* This trial is designed to determine if screening for prostate, lung, colorectal and ovarian cancer can reduce mortality from these cancers which currently cause an estimated 251,000 deaths annually in the U.S. The design is a two-armed randomized trial of men and women aged 55 to 74 at entry. The total sample size after more than 8 years of recruitment is 154,956. The primary endpoint of the trial is cancer-specific mortality for each of the four cancer sites (prostate, lung, colorectal, and ovary). In addition, cancer incidence, stage shift, and case survival are to be monitored to help understand and explain results. Biologic prognostic characteristics of the cancers will be measured and correlated with mortality to determine the mortality predictive value of these intermediate endpoints. Basic demographic data, risk factor data for the four cancer sites and screening history data, as collected from all subjects at baseline, will be used to assure comparability between the screening and control groups and make appropriate adjustments in analysis. Further, demographic and risk factor information will be used to analyze the differential effectiveness of screening in high versus low risk individuals. *Frequency of Response:* On occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Adult men and women. The annual reporting burden is as follows: *Estimated Number of Respondents:* 150,598; *Estimated Number of Responses per Respondent:* 1.38; *Average Burden Hours Per Response:* 0.19; and *Estimated Total Annual Burden Hours Requested:* 39,597. The annualized cost to respondents is estimated at: $395,970. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. John Gohagan, Chief, Early Detection Research Group, National Cancer Institute, NIH, EPN Building, Suite 3100, 6130 Executive Boulevard, MSC7346, Bethesda, MD 20892–7346–, or call non-toll-free number (301) 496–3982 or E-mail your request, including your address to: JG72P@.NIH.GOV.

Comments due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: May 21, 2002.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–13276 Filed 5–24–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Health Information National Trends Survey (HINTS)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 21, 2000, pages 80444–80445, and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Health Information National Trends Survey (HINTS). *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* As a result of the ongoing changes in the communication environment, there is an unprecedented opportunity to communicate information about cancer and other health topics to the general public. Developing appropriate messages for the public about cancer prevention, detection, diagnosis, treatment, and survivorship requires an understanding of individuals' sources and access to cancer-related information, their knowledge about cancer and other health information, or the factors that enhance or may hinder access, use, or knowledge of health information.

The HINTS is a new telephone survey designed to provide nationally representative, population-based standardized data on health knowledge and health information for the United States. The survey will establish important baseline data about cancer communication practices, preferences for information, and cancer knowledge across the country. This survey will provide data on the public's perceived needs for cancer information, sources and access to health information (e.g., health care providers, Internet, mass media), current knowledge and understanding about cancer prevention and detection, and the barriers to more effectively understanding and utilizing cancer-related information. The HINTS is intended to be conducted every 2 years, and data will be used to measure progress in improving cancer knowledge and communication among the general public. The survey will be administered to one sample adult in 8,000 households, and is intended to have an adequate sample size to produce stable estimates for racial and ethnic minority populations.

Data from this survey are essential for NCI to develop improved cancer-related messages and materials and to tailor these messages for different audiences, especially for cancer prevention and detection. Data will be used to help selecting the best means of communicating cancer-related messages to different audiences (communication channels) to reach the diverse audiences in the United States. Finally, information obtained in this survey data will be used to identify research gaps and to guide the direction and decisions about NCI's research efforts in health promotion and health communication. *Frequency of response:* One-time. *Affected public:* Individuals or households. *Type of Respondents:* U.S. adults. The annual reporting burden is as follows:

Type of respondent	Estimated number of respondents	Frequency of response	Average hours per response	Annual hour burden
Adult respondents to Dress Rehearsal Interview	150	1	.4509	68
Adult respondents to Main Study Household Screener	11,200	1	.0334	374
Adult respondents to Main Study Sample Person Interview	8,000	1	.4509	3607
Total				4049

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in the notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact David E.

Nelson, M.D., M.P.H., Project Officer, National Cancer Institute, NIH, 6130 Executive Boulevard, EPN 4068, MSC 7365,Bethesda, Maryland 20852–7365, or call non-toll-free number (301) 594–9904, or FAX your request to (301) 480–2087, or E-mail your request, including your address, to *dn83r@nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of this publication.

Dated: May 21, 2002.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–13277 Filed 5–24–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for Cooperative Research and Development Agreement(s) (CRADAs) and/or License(s) for the Development and Commercialization of *Nitric Oxide-Releasing Drugs and Biomaterials*

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) seeks Licensee(s) and/or Cooperative Research and Development Agreement (CRADA) Collaborator(s) for the development and commercialization of Nitric Oxide (NO)-Releasing Drugs and Biomaterials as embodied in a variety of recent NCI publications, as well as, in the patents and patent applications listed below.

DATES: Confidential CRADA proposal summaries, preferably one page or less, and a signed Confidential Disclosure Agreement (CDA) (*http://ttb.nci.nih.gov/forms.html*) must be submitted to the NCI Technology Transfer Branch (TTB) on or before June 24, 2002, to take full advantage of this opportunity. CRADA proposal summaries submitted thereafter may be considered if a suitable CRADA Collaborator is not selected from among the timely responses. Guidelines for preparing a full CRADA proposal will be communicated shortly thereafter to all respondents with whom initial confidential discussions will have established sufficient mutual interest.

Respondees interested in licensing the invention(s) should submit an "Application for License to Public Health Service Inventions". The licensing application, model licenses and other information on licensing NIH technologies can be found at *http://ott.od.nih.gov* under Intramural Licensing Program.

ADDRESSES: CRADA information may be obtained by contacting Dr. Charmaine Richman, Technology Transfer Specialist, Technology Transfer Branch, National Cancer Institute, 1003 West Seventh Street, Suite 500, Frederick, Maryland 21701; telephone: 301–846–5465; fax 301–846–6820; e-mail: *richmanc@mail.nih.gov*.

Licensing information and copies of the issued U.S. patents referenced below may be obtained by contacting Dr. Norbert Pontzer, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301–496–7057 ext. 284; fax 301–402–0220; e-mail: *PontzerN@od.nih.gov*. A signed Confidential Disclosure Agreement will be required to receive copies of patent applications that have not yet issued.

Scientific inquiries may be directed to Dr. Larry Keefer, National Cancer Institute/Center for Cancer Research (CCR) at Frederick, Building 538, Room 205F, Frederick, MD 21702–1201; telephone : 301–846–1467; e-mail: *keefer@ncifcrf.gov*.

SUPPLEMENTARY INFORMATION: NIH scientists are developing a variety of novel techniques for delivering nitric oxide (NO) to specific organs and cell types for therapeutic benefit. Methods for targeting lung, liver, and other tissues have been introduced to the literature, as have NO-releasing proteins and insoluble polymers. The compounds and drug delivery strategies developed thus far have shown promising activities that have been demonstrated in relevant experimental animal models. These include inhibition of thrombosis, treatment of vasospasm, relief of respiratory distress, protection against toxic liver injury, radiosensitization of hypoxic tumors, correction of genitourinary tract dysfunction, antimicrobial effects, protection against ischemia-reperfusion injury and whole-body radiation, and preservation of organ transplants. Inventions described in the patents are available for either exclusive or non-exclusive licensing in accordance with 35 U.S.C. 207 and 37 CFR 404.

A Cooperative Research and Development Agreement (CRADA) is the anticipated joint agreement to be entered into with NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of April 10, 1987, as amended. A CRADA is an agreement designed to enable certain collaborations between Government laboratories and non-Government laboratories. It is not a grant, and it is not a contract for procurement of goods/services. The NCI is prohibited from transferring funds to a CRADA collaborator. Under a CRADA, NCI can contribute facilities, staff, materials, and expertise. The CRADA Collaborator will have an option to negotiate the terms of an exclusive or nonexclusive commercialization license to subject inventions arising under the CRADA. CRADA applicants should be aware that a license to the above-mentioned patent rights may be necessary in order to commercialize products arising from a CRADA. The expected duration of the CRADA(s) would be for up to five (5) years. The goals of CRADAs include rapid publication of research results and timely commercialization of products, diagnostics, and treatments that result from the research.

Nitric Oxide Patents

Patent Status: Compositions and uses covered in:

1. Keefer, L.K., Wink, D.A., Dunams, T.M., and Hrabie, J.A.: Stabilized nitric oxide-primary amine complexes useful as cardiovascular agents. U.S. Patent 4,954,526, September 4, 1990.
2. Keefer, L.K., Wink, D.A., Dunams, T.M., and Hrabie, J.A.: Anti-hypertensive compositions of secondary amine-nitric oxide adducts and use thereof. U.S. Patent 5,039,705, August 13, 1991.
3. Keefer, L.K., and Hrabie, J.A.: Complexes of nitric oxides with polyamines. U.S. Patent 5,155,137, October 13, 1992.
4. Diodati, J.G., and Keefer, L.K.: Therapeutic inhibition of platelet aggregation by nucleophile-nitric oxide complexes and derivatives thereof. U.S. Patent 5,185,376, February 9, 1993.
5. Keefer, L.K., Wink, D.A., Dunams, T.M., and Hrabie, J.A.: Anti-hypertensive compositions of secondary amine-nitric oxide adducts and use thereof. U.S. Patent 5,208,233, May 4, 1993 (continuation in part of U.S. Patent 5,039,705).
6. Keefer, L.K., Wink, D.A., Dunams, T.M., and Hrabie, J.A.: Anti-hypertensive compositions and use thereof. U.S. Patent 5,212,204, May 18, 1993.
7. Keefer, L.K., and Hrabie, J.A.: Complexes of nitric oxide with polyamines. U.S. Patent 5,250,550, October 5, 1993 (continuation in part of U.S. Patent 5,155,137).
8. Keefer, L. K., Dunams, T.M., and Saavedra, J.E.: Oxygen-substituted derivatives of nucleophile-nitric oxide adducts as nitric oxide donor prodrugs. U.S. Patent 5,366,997, November 22, 1994.
9. Christodoulou, D.D., Wink, D.A., and Keefer, L.K.: Mixed ligand metal complexes of nitric oxide nucleophile adducts useful as cardiovascular agents. U.S. Patent 5,389,675, February 14, 1995.
10. Keefer, L.K., and Hrabie, J.A.: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 5,405,919, April 11, 1995.
11. Keefer, L.K., Hrabie, J.A., and Saavedra, J.E.: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 5,525,357, June 11, 1996 (continuation in part of U.S. Patent 5,405,919).
12. Malinski, T., Wink, D.A., Younathan, J., Murray, R.W., Sullivan, M., Meyer, T.J., and Christodoulou, D.D. Nitric oxide sensor. U.S. Patent 5,603,820, February 18, 1997.
13. Saavedra, J.E., Keefer, L.K., Roller, P. P., and Akamatsu, M.: Bipolymer-bound nitric oxide-releasing compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 5,632,981, May 27, 1997 (continuation in part of U.S. Patent 5,525,357).
14. Mitchell, J.B., Russo, A., Krishna, M.C., Wink, D.A., and Liebmann, J.E. Use of nitric oxide releasing compounds as hypoxic cell radiation sensitizers. U.S. Patent 5,650,442, July 22, 1997.
15. Keefer, L.K., and Hrabie, J.A.: Implants, prostheses, and stents comprising polymer-bound nitric oxide-nucleophile adducts capable of releasing nitric oxide. U.S. Patent 5,676,963, October 14, 1997.
16. Hrabie, J.A., and Keefer, L.K.: Method of generating nitric oxide gas using nitric oxide complexes. U.S. Patent 5,683,668, November 4, 1997.
17. Smith, D.J., Chakravarthy, D., and Keefer, L.K.: Polysaccharide-bound nitric oxide-nucleophile adducts. U.S. Patent 5,691,423, November 25, 1997 (continuation in part of U.S. Patent 5,405,919).
18. Korthuis, R.J., Kong, L., and Keefer, L.K.: Use of nitric oxide-releasing agents for reducing metastasis risk. U.S. Patent 5,700,830, December 23, 1997.
19. Saavedra, J.E., Keefer, L.K., and Billiar, T.R.: Selective prevention of organ injury in sepsis and shock using selective release of nitric oxide in vulnerable organs. U.S. Patent 5,714,511, February 3, 1998.
20. Keefer, L.K., and Hrabie, J.A.: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 5,718,892, February 17, 1998 (divisional application of U.S. Patent 5,405,919).
21. Keefer, L.K., Saavedra, J.E., and Hrabie, J.A.: N-Substituted piperazine NONOates. U.S. Patent 5,721,365, February 24, 1998.
22. Keefer, L.K., Wink, D.A., Dunams, T.M., and Hrabie, J.A.: Anti-hypertensive compositions of secondary amine-nitric oxide adducts and use thereof. U.S. Patent 5,731,305, March 24, 1998.
23. Wink, D.A., Mitchell, J.B., Russo, A., Krishna, M.C., Hanbauer, I., Grisham, M.B., and Granger, D.N. Nitric oxide releasing compounds as protective agents in ischemia reperfusion injury. U.S. Patent 5,789,447, August 4, 1998.
24. Mitchell, J.B., Russo, A., Krishna, M.C., Wink, D.A., and Liebmann, J.E. Use of nitric oxide-releasing compounds as hypoxic cell radiation sensitizers. U.S. Patent 5,814,667, September 19, 1998 (divisional application of U.S. Patent 5,650,442).
25. Green, S.J., and Keefer, L.K.: Encapsulated and non-encapsulated nitric oxide generators used as antimicrobial agents. U.S. Patent 5,814,666, September 29, 1998.
26. Saavedra, J.E., and Keefer, L.K.: Selective prevention of organ injury in sepsis and shock using selective release of nitric oxide in vulnerable organs. U.S. Patent 5,814,656, September 29, 1998 (divisional application of U.S. Patent 5,714,511).
27. Keefer, L.K., Saavedra, J.E., Doherty, P.C., Hanamoto, M.S., and Place, V.A.: Use of nitric oxide-releasing agents to treat impotency. U.S. Patent 5,910,316, June 8, 1999 (continuation in part of U.S. Patent 5,525,357).
28. Keefer, L.K., and Hrabie, J.A.: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 6,110,453, August 29, 2000 (divisional application of U.S. Patent 5,718,892).
29. Saavedra, J.E., Keefer, L.K., Roller, P.P., and Akamatsu, M.: Biopolymer-bound nitric oxide-releasing compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 6,200,558, March 13, 2001 (continuation in part of U.S. Patent 5,525,357).
30. Hrabie, J.A., and Keefer, L K.: Nitric oxide-releasing amidine- and enamine-derived diazeniumdiolates, compositions and uses thereof and methods of making same. U.S. Patent 6,232,336, May 15, 2001.
31. Keefer, L.K., Saavedra, J.E., Doherty, P.C., Hanamoto, M.S., Place, V. A.: Use of nitric oxide-releasing agents to treat impotency. U.S. Patent 6,290,981, September 18, 2001.
32. Saavedra, J.E., Srinivasan, A., and Keefer, L.K.: O2–Aryl substituted diazeniumdiolates. U.S. Patent Application 60/026,816, filed September 27, 1996.
33. Saavedra, J.E., Keefer, L.K., and Bogdan, C.: O2–Glycosylated 1-substituted diazen-1-ium-1,2-diolates and O2-substituted 1-[(2-carboxylato)pyrrolidin-1-yl]diazen-1-ium-1,2-diolates. U.S. Patent Application 60/051,696, filed July 3, 1997.
34. Saavedra, J.E., et al.: Nitric oxide-releasing 1-[(2 carboxylato)pyrrolidin-1-yl]diazen-1-ium-1,2,-diolates and composition comprising same. U.S. Patent Application 09/666,668, filed September 20, 2000.

Party Contributions to CRADAs

The role of the National Cancer Institute in this CRADA will include, but not be limited to:

1. Providing intellectual, scientific, and technical expertise and experience to the research project.
2. Providing the Collaborator with samples of the subject compounds for pharmacological evaluation.
3. Planning research studies and interpreting research results.
4. Providing support services at NCI/CCR.
5. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing significant intellectual, scientific, and technical expertise or experience to the research project.
2. Planning research studies and interpreting research results.
3. Providing support for ongoing CRADA-related research in the development of the particular application of nitric oxide-releasing drugs/biomaterials outlined in the Agreement:

a.Financial support to facilitate scientific goals;

b.Technical or financial support for further design of applications.

4. Publishing research results.

Selection criteria for choosing the CRADA Collaborator may include, but are not limited to:

1. The ability to collaborate with NCI on further research and development of this technology. This ability can be demonstrated through experience and expertise in this or related areas of technology indicating the ability to contribute intellectually to ongoing research and development.

2. The demonstration of adequate resources to perform the research, development and commercialization of this technology (e.g., facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.

3. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology.

4. The demonstration of expertise in the commercial development, production, marketing and sales of products related to this area of technology.

5. The level of financial support the CRADA Collaborator will provide for CRADA-related Government activities.

6. The willingness to cooperate with the NCI in the timely publication of research results.

7. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

8. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the equitable distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with (1) the grant of license for research and other Government purposes to the Government when the CRADA Collaborator's employee is the sole inventor, or (2) the grant of an option to elect an exclusive or nonexclusive license to the CRADA Collaborator when the Government employee is the sole inventor.

Dated: May 17, 2002.

Kathleen Sybert,

Chief, Technology Transfer Branch, National Cancer Institute, National Institutes of Health.

Dated: May 13, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–13196 Filed 5–24–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

MRP8, A Member of the ABC Transporter Superfamily Highly Expressed in Breast Cancer, and Uses Thereof

Ira Pastan et al. (NCI)
DHHS Reference No. E–225–01/0 12 Jul 2001
Licensing Contact: Richard Rodriguez; 301/496–7056 ext. 287; e-mail: rodrigur@od.nih.gov

MRP8 encodes an ATP-binding cassette transporter protein. Current data shows that it is expressed in a restrictive manner, and that it is highly expressed in breast cancer cells. This expression pattern makes it suitable as a molecular target, and MRP8-specific antibodies could be used to target MRP8-expressing cancer cells. Additionally, the MRP8-protein, immunogenic portions of said protein or nucleic acids encoding the protein, or immunogenic portions of said protein, could be used as immunogens to stimulate or to augment immune responses to MRP8-expressing cancer cells.

The Ovachip: A Clinically Useful cDNA Array for Differential Diagnosis of Ovarian Cancer

Morin et al. (NIA)
DHHS Reference No. E–344–01/0 filed 06 Mar 2002
Licensing Contact: Matthew Kiser; 301/496–7056 ext. 224; kiserm@od.nih.gov

The present invention describes a specialized microarray that exclusively contains genes that are differentially expressed in ovarian cancer. The invention also provides for methods of generating an expression profile of multiple genes that are differentially expressed in ovarian cancer, methods of determining treatment for an ovarian tumor, and methods of identifying clusters of coordinately regulated genes that are differentially expressed in ovarian cancer.

Benefits of this invention include methods of predicting the response of a mammal to an anti-ovarian cancer therapeutic regimen, methods of monitoring cancer progression, methods of determining the efficacy of anti-cancer drugs, and methods of screening candidate anti-ovarian drugs for efficacy. All these applications hinge on the use of these ovarian cancer gene microarrays in generating gene expression profiles under various conditions and comparing them to each other and to standards.

Method of Promoting Engraftment of a Donor Transplant in a Recipient Host

William J. Murphy et al. (NCI)
DHHS Reference No. E–151–01/0 filed .29 Jun 2001
Licensing Contact: Matthew Kiser; 301/496–7056 ext. 224; e-mail: kiserm@od.nih.gov

This invention pertains to a method of using donor natural killer (NK) cells to promote engraftment of a donor transplant in a recipient host, wherein the donor NK cells have been treated ex vivo, such as with an antibody (or antigenically reactive fragment thereof), a major histocompatibility molecule (MHC), a small molecule, a blocker of cell-signaling or an enzyme, such that the ability of the donor NK cells to interact with MHC molecules in the recipient host is compromised.

The method comprises adoptively transferring to the recipient host donor NK cells, which have been treated ex vivo to interfere with the ability of inhibitory receptors on the donor NK cells to interact with MHC molecules in the recipient host, simultaneously with, or sequentially to, in either order, the donor transplant, whereupon the engraftment of the donor transplant in the recipient host is promoted.

The present inventive method has applications in the context of the transplantation of a variety of tissues from the donor to the recipient host. In a preferred embodiment, the donor transplant is bone marrow. In an alternate embodiment, the donor transplant is an organ. Preferably, the donor or the recipient host is human.

DNA Encoding CAI Resistance Proteins and Uses Thereof

Elise Kohn et al. (NCI)
U.S. Patent 5,652,223 issued 29 Jul 1997; U.S. Patent 5,981,712 issued 09 Nov 1999; Serial No. 09/436,469 filed 08 Nov 1999
Licensing Contact: Jonathan Dixon; 301/496–7056 ext. 270; e-mail: dixonj@od.nih.gov

Novel targets for therapeutic intervention in cancer proliferation and invasion are needed. Calcium influx has been shown to be required for invasion. Carboxyamido-triazole (CAI), a synthetic blocker of calcium influx in nonexcitable cells, inhibits tumor and endothelial cell motility and decreases the expression of matrix metalloproteinases involved in invasion and angiogenesis. Thus, CAI plays a role in the inhibition of malignant proliferation, invasion, and metastasis of cancer cells. The effectiveness of CAI as a cancer therapeutic agent is currently being tested in clinical trials.

The technology which is available for licensing relates to the CAI resistance (CAIR–1) gene that encodes a protein identified in CAI conditioned cells. The CAIR–1 gene provides a potential source of information about the mechanism of drug conditioning and could also be useful as a marker for detecting the acquisition of a drug conditioned phenotype and/or as a target for intervention.

In addition, CAIR was also independently identified as BAG–3 and Bis. CAIR/BAG–3/Bis has been shown to play a role in protein folding inside the cell and to modulate programmed cell death (apoptosis). Thus, the CAIR/BAG–3/Bis protein serves as an important link between pathways regulating calcium influx, protein folding, and apoptosis and may be a valuable drug discovery target for therapeutic intervention in cancer proliferation and invasion.

Dated: May 20, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–13279 Filed 5–24–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Adult Human Dental Pulp Stem Cells In Vitro and In Vivo

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 60/219,989, filed July 21, 2000, now converted into PCT application number PCT/US01/23053 filed July 23, 2001 entitled, "Adult Human Dental Pulp Stem Cells In Vitro and In Vivo," to Dentigenix, having a place of business in the state of Washington. The field of use may be limited to the treatment of dental regeneration. The United States of America is the assignee of the patent rights in this invention. This announcement is the first notice to grant an exclusive license to this technology.

DATES: Only written comments and/or application for a license, which are received by the NIH Office of Technology Transfer on or before July 29, 2002 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Marlene Shinn, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3821; Telephone: (301) 496–7056, ext. 285; Facsimile: (301) 402–0220; e-mail: *MS482M@NIH.GOV*.

SUPPLEMENTARY INFORMATION: This technology utilizes dental pulp stem cells wherein an adult individual's own dental pulp tissue (one or two wisdom teeth) can potentially be used to engineer healthy living teeth. Our scientists have isolated and characterized a subpopulation of cells within normal, human dental pulp tissue with the ability to grow and proliferate *in vitro*. These stem cells can be induced under defined culture conditions to form calcified nodules *in vitro* and have been shown to differentiate into specialized tissues.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 13, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–13278 Filed 5–24–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program; Proposed Availability of Formula Allocation Funding for FY 2002 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed availability of and request for comments on formula allocation funding for FY 2002 targeted assistance grants to States for services to refugees [1] in local areas of high need.

SUMMARY: This notice and request for comments announces the proposed availability of funds and award procedures for FY 2002 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee

[1] Eligibility for targeted assistance includes refugees, asylees, Cuban and Haitian entrants, certain Amerasians from Vietnam who are admitted to the U.S. as immigrants, certain Amerasians from Vietnam who are U.S. citizens, and victims of a severe form of trafficking who receive certification or eligibility letters from ORR. (See section II of this notice on "Authorization," and refer to 45 CFR 400.43 and the ORR State Letter #01–13 on the Trafficking Victims Protection Act dated May 3, 2001.) The term "refugee," used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

populations, high refugee concentrations, and high use of public assistance by refugees, and where specific needs exist for supplementation of currently available resources.

This notice proposes that the qualification of counties for funding be based on refugee and entrant arrivals during the five-year period from FY 1997 through FY 2001, and on the concentration of refugees and entrants as a percentage of the general population. Under this proposal, nine new counties would qualify for targeted assistance and five counties which previously received targeted assistance grants would no longer qualify for targeted assistance funding.

DATES: Comments on this notice must be received by June 27, 2002.

ADDRESSES: Address written comments, in duplicate, to:

Gayle Smith, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Due to delays in mail delivery to Federal offices, a copy of comments should also be faxed to: Gayle Smith at (202) 401–0981.

APPLICATION DEADLINE: The deadline for applications will be established by the final notice; applications should not be sent in response to this notice of proposed allocations.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 93.584.

FOR FURTHER INFORMATION CONTACT: Gayle Smith, Director, Division of Refugee Self-Sufficiency, (202) 205–3590, e-mail: *gsmith@acf.dhhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,477,000 in FY 2002 funds for the targeted assistance program (TAP) as part of the FY 2002 appropriation for the Department of Health and Human Services (Pub. L. 107–116).

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,477,000 in targeted assistance funds as follows:

- $44,529,300 will be allocated to States under the 5-year population formula, as set forth in this notice.
- $4,947,700 (10% of the total) will be used to award discretionary grants to States under continuation grant awards.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available "(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity."

II. Authorization

Targeted assistance projects are funded under the authority of: (1) Section 412(c)(2) of the (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c); (2) section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; (3) section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513); and (4) section 107(b)(1)(A) of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106–386), insofar as it states that a victim of a severe form of trafficking shall be eligible for federal and certain State benefits and services to the same extent as a refugee.

III. Client and Service Priorities

Targeted assistance funding must be used to assist refugee families to achieve economic independence. To this end, States and counties are required to ensure that a coherent family self-sufficiency plan is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (*See* 45 CFR 400.79 and 400.156(g).) Each family self-sufficiency plan should address a family's needs for both employment-related services and other needed social services. The family self-sufficiency plan must include: (1) A determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; (3) employability plans for every employable member of the family; and (4) a plan to address the family's social services needs that may be barriers to self-sufficiency. In local jurisdictions that have both targeted assistance and refugee social services programs, one family self-sufficiency plan may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded through the targeted assistance program are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In addition to the statutory requirement that TAP funds be used "primarily for the purpose of facilitating refugee employment" (section 412(c)(2)(B)(i) of the INA), funds awarded under this program are intended to help fulfill the Congressional intent that "employable refugees should be placed in jobs as soon as possible after their arrival in the United States" (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with 45 CFR 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

A portion of a local area's allocation may be used for services which are not directed toward the achievement of a specific employment objective in less than one year but which are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State. Refer to 45 CFR 400.316.

Reflecting section 412(a)(1)(A)(iv) of the INA, States must "insure that women have the same opportunities as men to participate in training and instruction." In addition, in accordance with 45 CFR 400.317, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women. The Director of ORR also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit.

States and counties are expected to make every effort to obtain child care services, preferably subsidized child care, in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, child care may be treated as an employment-related service under the targeted assistance program. Refugees who are participating in targeted assistance-funded or social services-funded employment services or have accepted employment are eligible for child care. States and counties are expected to use child care funding from other publicly-administered programs as a prior resource and are encouraged to work with service providers to ensure mainstream access to other publicly funded resources for child care. For an employed refugee, targeted assistance-funded child care should be limited to situations in which no other publicly funded child care funding is available. In these cases, child care services funded by targeted assistance should be limited to one year after the refugee becomes employed.

In accordance with 45 CFR 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job-skills training, on-the-job training, or English language training, however, need not be refugee-specific.

We strongly encourage States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of mutual assistance associations (MAAs), whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. We also strongly encourage MAAs to ensure that their management and board composition reflect the major target populations to be served.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section IX, below.

IV. {Reserved for Discussion of Comments in the Final Notice}

V. Eligible Grantees

Eligible grantees are: 1. Those agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 2002 targeted assistance awards; and 2. those non-State agencies funded under the Wilson-Fish program which administer, in lieu of a State, a statewide refugee assistance program containing counties which qualify for FY 2002 targeted assistance formula funds.

The Director of ORR proposes to determine the eligibility of counties for inclusion in the FY 2002 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State/Wilson-Fish agency will submit a single application on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State/Wilson-Fish's agency application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State/Wilson-Fish agency.

A State with more than one qualified county is permitted, but not required, to

determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with 45 CFR 400.319, the FY 2002 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 2002 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 2002 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and area wide clearinghouses under Executive Order 12372, "Intergovernmental Review of Federal Programs."

VI. Qualification and Allocation

For FY 2002, ORR proposes to continue to use the formula that bases allocation of targeted assistance funds on the most current 5-year refugee/entrant arrival data. Targeted assistance services are limited to refugees residing in qualified counties who have been in the U.S. five years or less. The Director of ORR proposes to determine the qualification of counties for targeted assistance once every three years, as stated in the FY 1999 notice of proposed availability of targeted assistance allocations to States which was published in the **Federal Register** on March 10, 1999 (64 FR 11927). The FY 1999–FY 2001 three-year project cycle has expired. In preparation for re-qualifying counties for FY 2002, ORR has reviewed data on all counties that could potentially qualify for TAP funds on the basis of the most current 5-year refugee/entrant [2] arrival data.

A. Qualifying Counties

In order to qualify for application for FY 2002 targeted assistance funds, a county (or group of adjacent counties with the same Standard Metropolitan Statistical Area, or SMSA) or independent city, would be required to either: (1) Rank above a selected cut-off point of jurisdictions for which data were reviewed, based on two criteria: (a) The number of refugee/entrant arrivals placed in the county during the most recent five-year period (FY 1997–FY 2001); and (b) the five-year refugee/entrant arrival population as a percent of the county overall population; or (2) have received 3,000 or more refugee/entrant arrivals during this same 5-year period.

In regard to the first qualification criteria, each county would be ranked on the basis of its five-year arrival population and its concentration of refugees, with a relative weighting of two to one respectively, because we believe that large numbers of refugee/entrant arrivals into a county create a significant impact, regardless of the ratio of refugees to the county general population.

Each county would then be ranked in terms of the sum of a county's rank on refugee arrivals and its rank on concentration. To qualify for targeted assistance based on rank, a county would have to rank within the top 50 counties. ORR has decided to limit the number of qualified counties based on rank to the top 50 counties in order to target a sufficient level of funding to the most impacted counties.

A county could also qualify for targeted assistance based on resettling at least 3,000 refugee/entrant arrivals during the most recent five-year period. Three counties qualified according to this criteria. ORR decided that counties with 3,000 or more arrivals should qualify for targeted assistance after analyzing the arrival data and discovering that there were three counties which ranked high in arrival numbers (27, 29, and 38) but would not qualify for targeted assistance based solely on the sum of the ranks formula. ORR concluded that these counties which ranked high nationally in refugee population were impacted by high numbers of refugee arrivals, and thus should qualify for Targeted Assistance.

ORR has screened data on all counties that have received awards for targeted assistance since FY 1983 and on all other counties that could potentially qualify for TAP funds based on the criteria proposed in this notice. Analysis of these data indicates that: (1) 44 counties which have previously received targeted assistance would continue to qualify; (2) five counties which have previously received targeted assistance would no longer qualify; and (3) nine new counties would be qualified.

Table 1 provides a list of the counties that would remain qualified and the new counties that would qualify, the number of refugee/entrant arrivals in those counties within the past five years, the percent that the five-year arrival population represents of the overall county population, and each county's rank, based on the qualification formula described above.

Table 2 lists the counties that have previously received targeted assistance which would no longer qualify, the number of refugee/entrant arrivals in those counties within the past five years, the percent that the five-year arrival population represents of the overall county population, and each county's rank, based on the qualification formula.

The proposed counties listed in this notice as qualified to apply for FY 2002 TAP funding would remain qualified for TAP funding through FY 2004. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2005, when ORR will again review data on all counties that could potentially qualify for TAP funds based on the criteria contained in this proposed notice. We believe that a more frequent redetermination of county qualification for targeted assistance would not provide qualifying counties a sufficient period of time within a stable funding climate to adequately address the refugee impact in their counties, while a less frequent redetermination of county qualification would pose the risk of not considering new population impacts in a timely manner.

B. Allocation Formula

Of the funds available for FY 2002 for targeted assistance, $44,529,300 would be allocated by formula to States for qualified counties based on the initial placements of refugees, Amerasians, entrants (including Havana parolees), and Kurdish asylees in these counties during the five-year period from FY 1997 through FY 2001 (October 1, 1996–September 30, 2001). This is data that is available in the ORR refugee data system.

For fiscal years 1999 through 2001, Havana parolees were derived from actual data. For fiscal years 1997–1998, INS provided the number of actual Havana parolees. The State of Florida supplied ORR with the actual number of these parolees which arrived in Florida. The remaining parolees were not identified with any other State of arrival. To account for these arrivals, ORR prorated the non-Florida parolee numbers to qualifying counties in other States based on the counties' proportion of the five-year entrant population in the U.S.

If a county does not agree with ORR's population estimate for refugees and entrants and believes that its five-year population for FY 1997–FY 2001 was undercounted, the county must provide the following evidence in order for ORR to reconsider its population estimate: the county must submit to ORR a letter from each local voluntary agency that resettled refugees in the county that attests to the fact that the refugees/entrants listed in an attachment to the letter were resettled as initial placements during the five-year period from FY 1997–FY 2001 in the county making the claim.

Documentation must include the name, alien number, date of birth and date of arrival in the U.S. for each refugee/entrant claimed. Listings of refugees who are not identified by their alien numbers will not be considered. Counties should submit such evidence separately from comments on the proposed formula no later than 30 days from the date of publication of this notice by e-mail as an attachment in Excel or other compatible format to: *lbussert@acf.dhhs.gov* or via overnight mail to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Sixth Floor East, Washington, DC 20447, telephone: (202) 401–4732. Failure to submit the required documentation within the required time period will result in forfeiture of consideration.

Counties that have served asylees during the past year also may submit the following information in order to have their population estimate adjusted to include those asylees whose asylum was granted within the 60 month period ending September 30, 2001: (1) Name, (2) alien number, (3) date of birth, (4) the date asylum was granted, and (5) country of origin.

(**Please note:** The file should include the date that asylum was *granted*, not the date of entry into the U.S. or the date that the asylee was provided social services. Only persons granted asylum between October 1, 1996 and September 30, 2001 may be included in the file.)

Counties which have served victims of a severe form of trafficking during the past year may submit the following information in order to have their population estimate adjusted to include these trafficking victims: (1) Name, (2) alien number if available, (3) date of birth, (4) certification letter number, and, (5) date on certification letter.

Please submit the above data on asylees and victims of a severe form of trafficking served on separate Excel spreadsheets as an email attachment within 30 days of the publication date of this announcement to: *lbussert@acf.dhhs.gov* or via overnight mail to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Sixth Floor East, Washington, DC 20447, telephone: (202) 401–4732.

VII. Allocations

Table 3 lists the proposed qualifying counties, the number of refugee and entrant arrivals in those counties during the five-year period from October 1, 1997–September 30, 2001, the number of Havana parolee arrivals in those counties for this five-year period, the sum of the third, fourth, and fifth columns, and the proposed amount of each county's allocation based on its five-year arrival population.

Table 4 provides State totals for proposed targeted assistance allocations. Table 5 indicates the areas that each proposed qualifying county represents. Tables 1 through 5 follow.

[2] Each time the term "refugee/entrant" is used, we refer to arrival data for refugees and Cuban and Haitian entrants that is available in the ORR refugee data system.

TABLE 1.—TOP 53 PROPOSED ELIGIBLE COUNTIES

County	State	Year arrival total	Concentration percent	Sum of ranks
44 Targeted Assistance Counties Eligible for Continuation				
Dade County	FL	60,757	2.6963	4
City of St. Louis	MO	9,784	2.8100	23
DeKalb County	GA	8,887	1.3347	34
Sacramento County	CA	10,647	0.8702	35
Multnomah	OR	12,048	0.6733	39
Oneida County	NY	4,743	2.0143	42
Jefferson County	KY	6,108	0.8806	45
King/Snohomish	WA	12,561	0.4877	50
Hennepin/Ramsey	MN	10,331	0.6355	51
New York	NY	26,779	0.3344	62
Polk County	IA	3,769	1.0061	66
DuVal County	FL	4,989	0.6405	66
Maricopa County	AZ	11,174	0.3637	69
Kent County	MI	3,893	0.6778	76
Suffolk County	MA	4,011	0.5815	77
Fulton County	GA	4,332	0.5309	77
Ingham County	MI	3,253	1.1646	79
Davis/Salt Lake	UT	5,704	0.3788	83
Dallas/Tarrant	TX	10,580	0.2887	87
Cook/Kane	IL	14,102	0.2439	92
City of Richmond	VA	2,520	1.2741	95
Spokane County	WA	3,165	0.7573	97
Santa Clara County	CA	5,431	0.3228	98
Harris County	TX	9,041	0.2659	100
Fairfax County	VA	4,305	0.3263	105
Davidson County	TN	3,222	0.5654	106
Monroe County	NY	3,351	0.4557	107
Cass County	ND	2,113	1.7160	111
Lancaster County	NE	2,314	0.9245	112
Hillsborough County	FL	3,434	0.3438	118
Guilford County	NC	2,419	0.5745	122
Denver County	CO	2,673	0.4819	124
Los Angeles County	CA	14,035	0.1474	125

TABLE 1.—TOP 53 PROPOSED ELIGIBLE COUNTIES—Continued

County	State	Year arrival total	Concentration percent	Sum of ranks
Philadelphia County	PA	3,966	0.2613	126
Erie County	PA	2,087	0.7431	132
Hampden County	MA	2,326	0.5098	132
San Diego County	CA	5,461	0.1941	134
Minnehaha County	SD	1,740	1.1734	140
District of Columbia	DC	2,349	0.4106	141
San Francisco	CA	3,866	0.2233	143
Clark County	NV	3,473	0.2524	143
Broward County	FL	3,465	0.2135	155
Cuyahoga County	OH	3,048	0.2187	169
Orange County	CA	3,763	0.1322	184
9 New Counties That Qualify				
Onondaga County	NY	3,027	0.6604	106
Ada County	ID	2,292	0.7617	120
Warren County	KY	1,867	2.0179	123
Blackhawk County	IA	1,794	1.4014	129
Erie County	NY	3,176	0.3342	131
Palm Beach County	FL	3,303	0.2920	134
Pinellas County	FL	2,914	0.3162	146
Wayne County	MI	3,997	0.1939	149
Kansas City	MO	2,582	0.3177	149

TABLE 2.—COUNTIES THAT NO LONGER QUALIFY

County	State	Year arrival total	Concentration percent	Sum of ranks
Yolo County	CA	1,249	0.7444	179
Pierce County	WA	2,006	0.2862	184
Bernalillo County	NM	1,593	0.2862	207
Hudson County	NJ	1,335	0.2192	240
Fresno County	CA	654	0.0818	379

TABLE 3.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 2002

County	State	Refugees[1]	Entrants	Havana Parolees[2]	Total arrivals FY97–FY01	$44,529,300 Total FY 2002 final allocation
Maricopa County	Arizona	10,211	617	346	11,174	$1,434,040
Los Angeles County	California	13,811	44	180	14,035	$1,801,213
Orange County	California	3,737	9	17	3,763	$482,932
Sacramento County	California	10,643	0	4	10,647	$1,366,406
San Diego County	California	5,441	3	17	5,461	$700,849
San Francisco	California	3,852	3	11	3,866	$496,151
Santa Clara County	California	5,418	5	8	5,431	$697,000
Denver County	Colorado	2,670	0	3	2,673	$343,045
District of Columbia	District of Columbia	2,335	4	10	2,349	$301,464
Broward County	Florida	585	1,529	1,351	3,465	$444,689
Dade County	Florida	6,486	13,635	40,636	60,757	$7,797,386
Duval County	Florida	4,889	25	75	4,989	$640,274
Hillsborough County	Florida	1,678	335	1,421	3,434	$440,710
Palm Beach County	Florida	493	1,541	1,269	3,303	$423,898
Pinellas County	Florida	2,804	20	90	2,914	$373,975
DeKalb County	Georgia	8,871	6	10	8,887	$1,140,533
Fulton County	Georgia	4,281	14	37	4,332	$555,957
Ada County[3]	Idaho	2,292	0	0	2,292	$294,149
Cook/Kane	Illinois	13,990	15	97	14,102	$1,809,812
Polk County	Iowa	3,767	0	2	3,769	$483,703
Blackhawk	Iowa	1,794	0	0	1,794	$230,237
Jefferson County[3]	Kentucky	3,618	1,594	896	6,108	$783,884
Warren County[3]	Kentucky	1,867	0	0	1,867	$239,606
Hampden County	Massachusetts	2,326	0	0	2,326	$298,512
Suffolk County	Massachusetts	3,880	77	54	4,011	$514,761
Ingham County	Michigan	2,080	752	421	3,253	$417,481

TABLE 3.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 2002—Continued

County	State	Refugees[1]	Entrants	Havana Parolees[2]	Total arrivals FY97–FY01	$44,529,300 Total FY 2002 final allocation
Kent County	Michigan	3,422	293	178	3,893	$499,617
Wayne County	Michigan	3,994	0	3	3,997	$512,964
Hennepin/Ramsey	Minnesota	10,318	5	8	10,331	$1,325,852
City of St. Louis	Missouri	9,784	0	0	9,784	$1,255,652
Kansas City	Missouri	2,544	9	29	2,582	$331,367
Lancaster County	Nebraska	2,306	5	3	2,314	$296,972
Clark County[3]	Nevada	1,916	966	591	3,473	$445,715
Erie County	New York	3,062	73	41	3,176	$407,599
Monroe County	New York	2,456	570	325	3,351	$430,058
New York	New York	26,233	256	290	26,779	$3,436,743
Oneida County	New York	4,743	0	0	4,743	$608,704
Onodaga County	New York	2,170	548	309	3,027	$388,477
Guilford County	North Carolina	2,403	2	14	2,419	$310,448
Cass County[3]	North Dakota	2,113	0	0	2,113	$271,177
Cuyahoga County	Ohio	3,042	1	5	3,048	$391,172
Multnomah	Oregon	11,135	584	329	12,048	$1,546,207
Erie County	Pennsylvania	2,087	0	0	2,087	$267,840
Philadelphia County	Pennsylvania	3,932	14	20	3,996	$508,985
Minnehaha County[3]	South Dakota	1,740	0	0	1,740	$233,307
Davidson County	Tennessee	3,202	2	18	3,222	$413,503
Dallas/Tarrant	Texas	10,254	171	155	10,580	$1,357,808
Harris County	Texas	8,080	600	361	9,041	$1,160,297
Davis/Salt Lake	Utah	5,699	2	3	5,704	$732,036
Fairfax County	Virginia	4,290	1	14	4,305	$552,492
City of Richmond	Virginia	2,492	16	12	2,520	$323,410
King/Snohomish	Washington	12,547	4	10	12,561	$1,612,044
Spokane County	Washington	3,164	0	1	3,165	$406,187
Total		272,947	24,350	49,674	346,971	44,529,300

[1] Refugees includes refugees, Kurdish aslees, and Amerasian immigrants from Vietnam.
[2] For FY 1999–FY 2001, Havana parolees from actual data. For FY 1997–FY 1998, actual data for Florida counties; for all other counties, parolees estimated from entrant arrivals.
[3] Allocation to be awarded to a Wilson/Fish grantee, if approved by the Director.

TABLE 4.—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE

State	$44,529,300 Total FY 2002 allocation
Arizona	$1,434,040
California	5,544,551
Colorado	343,045
District of Columbia	301,464
Florida	10,120,932
Georgia	1,696,490
Idaho	294,149
Illinois	1,809,812
Iowa	713,940
Kentucky	1,023,490
Massachusetts	813,273
Michigan	1,430,062
Minnesota	1,325,852
Missouri	1,587,019
Nebraska	296,972
Nevada	445,715
New York	5,271,581
North Carolina	310,448
North Dakota	271,177
Ohio	391,172
Oregon	1,546,207
Pennsylvania	776,825
South Dakota	223,307
Tennessee	413,503
Texas	2,518,105
Utah	732,036
Virginia	875,902
Washington	2,018,231

TABLE 4.—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE—Continued

State	$44,529,300 Total FY 2002 allocation
Total	44,529,300

TABLE 5.—TARGETED ASSISTANCE AREAS

State	Targeted assistance area	Definition
Arizona	Maricopa County.	
California	Los Angeles County.	
	Orange County.	
	Sacramento County.	
	San Diego.	
	San Francisco	Marin, San Francisco, and San Mateo Counties.
	San Clara County.	
Colorado	Denver.	
District of Columbia.		
Florida	Broward County	
	Dade County.	
	Duval County.	
	Hillsborough County.	
	Palm Beach County.	
	Pinellas County.	
Georgia	DeKalb County	
	Fulton County.	
Idaho	Ada County.	
Illinois	Cook and Kane Counties.	
Iowa	Polk County	
	Blackhawk County.	
Kentucky	Jefferson County	
	Warren County.	
Massachusetts	Hampden County	
	Suffolk County.	
Michigan	Ingham County	
	Kent County	
	Wayne County.	
Minnesota	Hennepin/Ramsey.	
Missouri	City of St. Louis	
	Kansas City	Jackson County, Missouri, and Wyandotte County, Kansas.
Nebraska	Lancaster County.	
Nevada	Clark County.	
New York	Erie County	
	Monroe County	
	New York	Bronx, Kings, Queens, New York, and Richmond Counties.
	Oneida County	
	Onondaga County	
North Carolina	Guilford County.	
North Dakota	Cass County.	
Ohio	Cuyahoga County.	
Oregon	Multomah	Clackamas, Multnoman, and Washington Counties, Oregon, and Clark County, Washington.
Pennsylvania	Erie	
	Philadelpha.	
South Dakota	Minnehaha County.	
Tennessee	Davidson County.	
Texas	Dallas/Tarrant	
	Harris County.	
Utah	Davis/Salt Lake	Davis, Salt Lake, and Utah Counties.
Virginia	Fairfax	Arlington and Fairfax Counties and the cities of Falls Church, Fairfax, and Alexandria.
	City of Richmond.	
Washington	King/Snohomish	
	Spokane County.	

VIII. Application and Implementation Process

Under the FY 2002 targeted assistance program, States/Wilson-Fish agencies may apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State/Wilson-Fish agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

Pursuant to 45 CFR 400.210(b), FY 2002 targeted assistance funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than 90 days after the end of the two-year expenditure period. If final reports are not received on time, the Department will deobligate any unexpended funds, including any unliquidated obligations, on the basis of the State's last filed report.

The requirements regarding the discretionary portion of the targeted assistance program will be addressed under separate continuation grant awards. Continuation applications for these funds, therefore, are not subject to provisions contained in this notice but to other requirements which will be published separately.

IX. Application Requirements

In applying for targeted assistance funds in response to the Final Targeted Assistance Notice, a State agency will be required to provide the following:

A. Assurance that targeted assistance funds will be used in accordance with the requirements in 45 CFR part 400.

B. Assurance that targeted assistance funds will be used primarily for the provision of services which are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 2002 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

C. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs, *e.g.* social services, cash and medical assistance, etc.

D. If administered locally, the name of the local agency administering the funds, and the name and telephone number of the responsible person.

E. The amount of funds to be awarded to the targeted county or counties. In instances where a State receives targeted assistance funding for impacted counties contained in a standard metropolitan statistical area (SMSA) which includes a county or counties located in a neighboring State, the State receiving those funds must provide a description of coordination and planning activities undertaken with the State Refugee Coordinator of the neighboring State in which the impacted county or counties are located. These planning and coordination activities should result in a proposed allocation plan for the equitable distribution of targeted assistance funds by county based on the distribution of the eligible population by county within the SMSA. The proposed allocation plan must be included in the State's application to ORR.

F. Assurance that county targeted assistance plans will include:

1. A description of the local planning process for determining targeted assistance priorities and services, taking into consideration all other ORR-funded services available to the refugee population, including formula social services.

2. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, and a description of characteristics and needs of targeted populations. (As per 45 CFR 400.314)

3. Description of specific strategies and services to meet the needs of targeted populations.

4. The relationship of targeted assistance services to other services available to refugees/entrants in the county including formula allocated ORR social services to States/Wilson-Fish agencies.

5. Analysis of available employment opportunities in the local community. Examples of acceptable analyses of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, and review of studies on employment opportunities/forecasts which would be appropriate to the refugee populations.

6. Description of the monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

G. Assurance that the local administrative budget will not exceed 15% of the local allocation. Targeted assistance grants are cost-based awards. Neither a State nor a county is entitled to a certain amount for administrative costs. Rather, administrative cost requests should be based on projections of actual needs. All TAP counties will be allowed to spend up to 15% of their allocation on TAP administrative costs, as need requires. However, States and counties are strongly encouraged to limit administrative costs to the extent possible to maximize available funding for services to refugees.

H. For any State that administers the program directly or otherwise provides direct service to the refugee/entrant population in a qualified county (with the concurrence of the county), the State must have the same information contained in a county plan prior to issuing a Request for Proposals (RFP) for services.

I. A description of the State's plan for conducting fiscal and programmatic monitoring and evaluations of the targeted assistance program, including frequency of on-site monitoring.

J. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan, except in the case of a State that administers the program locally as described in item H above. Allocable costs for State contracting and monitoring for targeted assistance, if charged, must be charged to the targeted assistance grant and not to general State administration.

X. Results or Benefits Expected

All applicants will be required to establish proposed targeted assistance performance goals for each of the six ORR performance outcome measures for each impacted county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The six ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the "Quarterly Performance Report."

States which are currently grantees for targeted assistance funds should base projected annual outcome goals on past performance. Current grantees should have adequate baseline data for all of the six ORR performance outcome

measures based on a history of targeted assistance program experience.

States identified as new eligible targeted assistance grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New grantees may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

New qualifying counties within States that are current grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New counties may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

Proposed targeted assistance outcome goals should reflect improvement over past performance and strive for continuous improvement during the project period from one year to another.

Final targeted assistance outcome goals are due November 15, 2002, in conjunction with the ORR Government Performance and Results Act (GPRA) cycle.

XI. Budget and Budget Justification

In response to the Final Targeted Assistance, applicants will be required to provide line item detail and detailed calculations for each budget object class identified on the Budget Information form—Standard Form (SF) (424A). Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Forms may be obtained from the ORR Web site at: *www.hhs.gov/programs/orr.*

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. The Office of Refugee Resettlement is particularly interested in the following:

A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project. States that administer the program locally in lieu of the county, through a mutual agreement with the qualifying county, may request administrative costs that add up to, but may not exceed, 10% of the county's TAP allocation to the State's administrative budget.

XII. Reporting Requirements

States are required to submit quarterly reports on the outcomes of the targeted assistance program, using Schedule A and Schedule C of the ORR–6 Quarterly Performance Report (0970–0036).

XIII. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this program notice are approved under the following valid OMB control numbers: SF 424 (0348–0043); SF 424A (0348–0044); SF 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Uniform Project Description (0970–0139), Expiration date 12/31/2003; Financial Status Report (SF–269) (0348–0039); and ORR Quarterly Performance Report (0970–0036).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

Dated: May 15, 2002.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

[FR Doc. 02–13088 Filed 5–24–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt.

SUMMARY: We announce our receipt of applications to conduct certain activities pertaining to scientific research and enhancement of survival of endangered species.

DATES: Written comments on these requests for permits must be received June 27, 2002.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director—Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; telephone 303–236–7400, facsimile 303–236–0027.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone 303–236–7400.

SUPPLEMENTARY INFORMATION: The following applicants have requested renewal of scientific research and enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Applicants: ZooMontana, Inc., Billings, Montana, TE–051845; San Diego Wild Animal Park, San Diego, California, TE–051835; Texas Zoo, Victoria, Texas, TE–051840; Bramble Park Zoo, Watertown, South Dakota, TE–051814.

The above applicants request permits to possess black-footed ferrets (*Mustela nigripes*) for public display and propagation in conjunction with recovery activities for the purpose of enhancing their survival and recovery.

Applicant: Detroit Zoological Institute, Detroit, Michigan, TE–056003.

The applicant requests a permit to possess Wyoming toads (*Bufo hemiophrys baxteri*) for public display and propagation in conjunction with recovery activities for the purpose of enhancing their survival and recovery.

Applicant: Craig Milewski, East Dakota Water Development District, Brookings, South Dakota, TE–056001.

The applicant requests a permit to take Topeka shiner (*Notropis topeka*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Applicant: John A. Hawkins, Colorado State University, Fort Collins, Colorado, TE–056079.

The applicant requests a permit to take Colorado pikeminnow *Ptychocheilus lucius* in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Dated: May 8, 2002.

David E. Heffernan,

Acting Regional Director, Denver, Colorado.

[FR Doc. 02–13200 Filed 5–24–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for the Alaska-Breeding Population of the Steller's Eider (Polysticta stelleri)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the draft recovery plan for the threatened Alaska-breeding population of the Steller's eider (Polysticta stelleri). The draft recovery plan presents the tasks necessary to recover Alaska-breeding Steller's eiders and explains the process used to implement these actions. The Service solicits review and comment from the public on this draft plan.

DATES: The comment period for this draft recovery plan closes on July 29, 2002. Comments on the draft recovery plan must be received by the closing date.

ADDRESSES: Persons wishing to review the draft recovery plan can obtain a copy by contacting Northern Alaska Ecological Services, U.S. Fish and Wildlife Service, 101 12th Ave., Rm 110, Fairbanks, AK 99701 (telephone 907/456–0203; facsimile 907/456–0208) or by accessing the website: *http://alaska.fws.gov/.* Written comments and materials regarding the plan should be addressed to Ted Swem at the above address. Comments and materials received will be available, by appointment, for public inspection during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Ted Swem, 907/456–0203.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of species, establish criteria for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing recovery plans.

Three breeding populations of Steller's eiders are recognized: two in Arctic Russia and one in Alaska. Neither Russian population is listed as threatened or endangered. The Alaska-breeding population is the only population listed as threatened or endangered, and this recovery plan pertains exclusively to the conservation of this population.

The Alaska-breeding population was listed as threatened under the Act on June 11, 1997 (62 FR 31748). The decision to list the Alaska-breeding population of Steller's eiders as threatened was based on a substantial decrease in the species' nesting range in Alaska and the resulting increased vulnerability of the remaining breeding population to extirpation. When the Alaska-breeding population of the Steller's eider was listed as threatened, the factor or factors causing the decline were unknown. Factors identified as potential causes of decline included predation, hunting, ingestion of spent lead shot in wetlands, and changes in the marine environment that could affect Steller's eider food or other resources. Since listing, other potential threats, such as exposure to oil or other contaminants near fish processing facilities in southwest Alaska, have been identified, but the causes of decline and obstacles to recovery remain poorly understood. Accordingly, a significant number of early recovery tasks will involve research to identify threats and evaluate their impacts.

The draft recovery plan presents the tasks necessary to recover Alaska-breeding Steller's eiders and explains the process used to implement these actions. The draft recovery plan (1) provides background on the species and its natural history; (2) presents and explains the criteria used in measuring recovery; (3) lists recovery tasks that the Fish and Wildlife Service (Service) and Steller's Eider Recovery Team have identified as necessary for recovery of the species; (4) explains how the Service intends to implement and update this plan; and (5) includes appendices that augment information provided in the first 4 sections.

The draft recovery plan is being submitted for technical and agency review. After consideration of comments received during the review period, the recovery plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the recovery plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 7, 2002.

Rosa Meehan,

Acting Regional Director.

[FR Doc. 02–13231 Filed 5–24–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to the Office of Management and Budget for Review Under the Paper Work Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of renewal of a currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Indian Affairs has submitted to the Office of Management and Budget a request for approval and renewal of information collections, OMB Control No. 1076–0017, Financial Assistance and Social Service Program application form.

DATES: Written comments must be submitted on or before June 27, 2002.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Regulatory Affairs, Docket Library Attention: Desk Officer Room 10102, 725 17th Street NW., Washington, DC 20503.

Send a copy of your comments to Larry Blair, Office of Tribal Services, Bureau of Indian Affairs, Department of Interior, 1849 C Street, NW., MS–4660–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Interested persons can obtain additional information regarding collection requests with no additional charge by contacting Larry Blair, 202–208–2479. Facsimile number (202) 208–2648.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collected is necessary to be in compliance with 25 CFR part 20. Funding is authorized by 25 U.S.C. 13. The information is used to make determinations of eligibility for the BIA's social service (financial assistance) programs: General Assistance, Child Welfare Assistance, Miscellaneous Assistance, and services only (no cash assistance).

A 60-day notice for public comments was published in the **Federal Register** on February 15, 2002 (67 FR 7190). The only comment received was that the form should be lengthened. The justification was not adequate to revise the form nor was this consistent with the BIA policy to reduce paperwork where possible.

II. Request for Comments

The Department of the Interior invites comments being sent to OMB on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

(b) The accuracy of the BIA's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Burden means the total time, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collection, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources to complete and review the collection of information; and to transmit or otherwise disclose the information.

III. Data

Title of the collection of information: Department of the Interior, Bureau of Indian Affairs, Financial Assistance and Social Service Programs.

OMB Number: 1076–0017.

Expiration Date: June 30, 2002.

Type of Review: Extension of a currently approved collection. The information is submitted to obtain or retain benefits and for case management/case planning purposes.

Affected Entities: Individual members of Indian tribes who are living on a reservation or within a tribal service area.

Frequency of responses: One application per year.

Estimated Number of Annual Responses: 200,000.

Estimated Total Annual Burden Hours: 200,000 × 15 min. = 50,000 hours.

Dated: May 13, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–13274 Filed 5–24–02; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 15, 2001, and published in the **Federal Register** on December 21, 2001, (66 FR 65992), American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic of controlled substances listed below:

Drug	Schedule
Gamma hydroxybutyric acid (2010).	I
Lysergic acid diethylamide (7315)	I
Dimethyltryptamine (7435)	I
Dihydromorphine (9145)	I
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Oxycodone (9143)	II
Thebaine (9333)	II
Benzoylecgonine (9180)	II
Meperidine (9230)	II
Metazocine (9240)	II
Morphone (9300)	II
Oxymorphone (9652)	II

The firm plans to bulk manufacture small quantities of the listed controlled substances as radiolabeled compounds.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of American Radiolabeled Chemical, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated American Radiolabeled Chemical, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 21, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–13262 Filed 5–24–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 20, 2001, and published in the **Federal Register** on December 21, 2001, (66 FR 65993), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Research Triangle Institute is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an import of the basic classes of controlled substances listed above.

Dated: May 21, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–13263 Filed 5–24–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 27, 2001, and published in the **Federal Register** on September 7, 2001, (66 FR 46818), Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Thebaine (9333)	II

The firm plans to produce bulk product for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Rhodes Technologies to manufacture the listed controlled substances is consistent with the public interest at this time.

DEA has investigated Rhodes Technologies to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 21, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–13261 Filed 5–24–02; 8:45 am]

BILLING CODE 4410–09–M

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

The United States Institute for Environmental Conflict Resolution; Agency Information Collection Activities; Extension of Currently Approved Information Collection; Comment Request; U.S. Institute for Environmental Conflict Resolution; Application for the National Roster of Environmental Dispute Resolution and Consensus Building Professionals

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, U.S. Institute for Environmental Conflict Resolution

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act and supporting regulations, this document announces that the U.S. Institute for Environmental Conflict Resolution (the Institute), part of the Morris K. Udall Foundation, is submitting to the Office of Management and Budget (OMB) a request for an extension for the currently approved information collection (ICR), OMB control Number 2010–0030: Application for the National Roster of Environmental Dispute Resolution and Consensus Building Professionals ("National Roster of ECR Practitioners"), currently operating pursuant to Terms of Clearance issued July 29, 1999. The Institute published a **Federal Register** notice on March 20, 2002 (67 FR 13021–13024), to solicit public comments for a 60-day period. The Institute received no comments. The purpose of this notice is to allow an additional 30 days for public comments regarding this information collection.

DATES: Comments must be submitted on or before June 27, 2002.

ADDRESSES: Direct comments to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) Attention: Amy Farrell, Room 10202 NEOB, 725 17th Street NW, Washington, DC 20503, Phone: 202–395–7318, Fax: 202–395–7285, Email: *Amy_L._Farrell@omb.eop.gov*. Please provide a copy to the U.S. Institute (contact information below.)

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the ICR, contact: Joan C. Calcagno, Roster Manager: U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701. Fax: 520–670–5530. Phone: 520–670–5299. E-mail: *roster@ecr.gov*.

SUPPLEMENTARY INFORMATION:

A. Title for the Collection of Information

Application for National Roster of Environmental Dispute Resolution and Consensus Building Professionals ("National Roster of ECR Practitioners").

B. Potentially Affected Persons

You are potentially affected by this action if you are a dispute resolution or consensus building professional in the environmental or natural resources field who wishes to be listed on the National Roster of Environmental Dispute Resolution and Consensus Building Professionals.

C. Questions To Consider in Making Comments

The U.S. Institute for Environmental Conflict Resolution requests your comments to any of the following questions related to collecting information for the extension of the Application for the National Roster of ECR Practitioners:

(1) Is the continued use of the application ("collection of information") necessary for the proper performance of the functions of the agency, including whether the information has practical utility?

(2) Is the agency's estimate of the time spent completing the application ("burden of the proposed collection of information") accurate, including the validity of the methodology and assumptions used?

(3) Can you suggest ways to enhance the quality, utility, and clarity of the information collected?

(4) Can you suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology?

D. Abstract

The U.S. Institute for Environmental Conflict Resolution plans to continue collecting information from environmental dispute resolution and consensus building neutral professionals who desire to become members of the National Roster of ECR Practitioners, from which those involved in environmental, natural resource, or public lands disputes can locate, and may select, providers of neutral services. Responses to the collection of information (the application) are voluntary, but required to obtain a benefit (listing on the National Roster of Environmental Dispute Resolution and Consensus Building Professionals.) An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Background Information: U.S. Institute for Environmental Conflict Resolution. The U.S. Institute for Environmental Conflict Resolution was created in 1998 by the Environmental Policy and Conflict Resolution Act (Public Law 105–156). The U.S. Institute is a federal program established by the U.S. Congress to assist parties in resolving environmental, natural resource, and public lands conflicts. The Institute is part of the Morris K. Udall Foundation, an independent federal agency of the executive branch overseen by a board of trustees appointed by the President. The Institute serves as an impartial, non-partisan institution providing professional expertise, services, and resources to all parties involved in such disputes, regardless of who initiates or pays for assistance. The Institute helps parties determine whether collaborative problem solving is appropriate for specific environmental conflicts, how and when to bring all the parties to the table, and whether a third-party facilitator or mediator might be helpful in assisting the parties in their efforts to reach consensus or to resolve the conflict. In addition, the Institute maintains the National Roster of ECR Practitioners, a roster of qualified facilitators and mediators with substantial experience in environmental conflict resolution, and can help parties in selecting an appropriate neutral. The Institute accomplishes most of its work by partnering, contracting with, or referral to, experienced practitioners.

The Need for and Use of the Information Collected in the Application for the Roster of ECR Practitioners: Roster of ECR Practitioners Application: The application can be viewed on-line from the Institute's website: www.ecr.gov (simply register in the system to access and review an application). A hardcopy application may also be obtained from the Institute for those without web access. (See contact information above.)

Background Information: The information collected in the application for the National Roster of ECR Practitioners is the basis for an on-line database, searchable by a combination of 10 criteria designed to locate appropriate practitioners by matching desired characteristics with the information in the application. The application was first available in September 1999 and remains available on a continuous basis. The Roster of ECR Practitioners first became operational in February 2000 with 60 members, and it currently includes over 200 members from 39 states, the District of Columbia, and two Canadian provinces. They represent a broad cross-section of 31 different professional backgrounds and a broad distribution of case experience across 39 types of case issues. Each member has documented experience which meets the roster entry criteria, and each has experience as a neutral in some or all of the following: mediation, facilitation, consensus building, process design, conflict assessment, system design, neutral evaluation/fact finding, superfund allocation, and/or regulatory negotiation.

The specific entry criteria and applicable definitions are available from the Institute's web site: *www.ecr.gov*. Generally stated, the entry criteria require that an applicant has:

(1) Served as the lead neutral in a collaborative process (e.g., mediation, consensus building, conflict assessment) for at least 200 case hours in two to ten environmental cases, and

(2) Accumulated a total of 60 points across three categories: additional case experience and complex case experience; experience as a trainer or trainee; and substantive work/volunteer/educational experience in fields related to Alternative Dispute Resolution/Environmental Conflict Resolution (ADR/ECR), such as law, science, public administration.

Use of the National Roster of ECR Practitioners: The roster search and referral service is accessible through the Institute. The Institute uses the roster (specifically the information collected in the application) as a resource when making referrals to those searching for neutral ECR professionals with specific experience, backgrounds, or expertise (external referrals). The Institute also uses the roster as a resource when locating appropriate ECR neutral professionals with whom to partner/sub-contract for projects in which the Institute is involved (internal referrals). The roster referral system is enhanced through cooperation with existing programs and networks of environmental dispute-resolution and consensus-building practitioners familiar with the issues in their respective states and regions. Twenty-one ADR Specialists with the U.S. Environmental Protection Agency (EPA) also have direct, electronic access to search the roster. Next, it is anticipated that other federal agencies will gain direct access over the next year. Eventually, the roster will be available to the public through the internet.

Federal agencies are not required to select from the roster. Professionals not on the roster remain fully eligible to serve as ECR practitioners in disputes involving federal agencies. Finally, being listed on the roster does not guarantee additional work for the practitioner.

Development and Need for the National Roster of ECR Practitioners: The roster was developed with the support of EPA. Based on a 1997 study concerning the potential of a national roster of qualified practitioners, EPA decided to support the development of such a roster through the Institute.

To develop the project, the EPA and the Institute brought together a work group consisting of EPA dispute resolution professionals and contracting officers, state dispute resolution officials, private dispute resolution practitioners and academics. Informed in part by ideas from this group, the EPA and the Institute proposed roster entry qualifications and draft application, which were published in the **Federal Register** in November 1998. Before the entry criteria and application were finalized, the comments received in response to the **Federal Register** notice were reviewed. Outreach continued through meetings and newsletter articles, as well as individual communications to professional associations, state and federal government agencies, dispute resolution firms, individual practitioners, professional associations of attorneys, environmental and citizen groups.

The roster was created, and continues to be needed, for several reasons. The use of ADR in the environmental and public policy arena has grown markedly over the last two decades. In this context, ADR processes now include techniques ranging from conflict prevention, such as consensus building and facilitation of public policy dialogues, to specific dispute resolution through assisted negotiations and mediation. The number of ECR practitioners has grown as the field has gained prominence and professionals from a variety of disciplines have become attracted to its advantages and opportunities.

An essential step in any dispute resolution process occurs when parties select a practitioner. Parties making the selection rightfully expect that the practitioner will be qualified to provide the service sought and has experience and style matched well to the nature of the issues and to the parties. Thus, the Roster of ECR Practitioners is designed to advance the interests of the growing field of dispute resolution, reflect the evolving standards of best practice, and help direct the expenditure of public funds for quality services.

Over the last fifteen years of using ADR, EPA found that parties to a dispute or controversy will generate a list of desired characteristics, such as experience with specific types of issues, cases or disputes, location, and other factors, that will be used in an attempt to identify the right person to assist them. Locating practitioners meeting these criteria can be a "hit-or-miss" experience depending on the resources, available time, and experience of the parties with locating appropriate neutrals.

Although the EPA operates a national service contract that manages major cases through a list of experienced providers, it is limited in scope and membership, and as a consequence it can be burdensome to use for identifying neutrals for small or localized cases. Most other Federal agencies have no vehicle or information available to assist in this important first step to conducting a good dispute resolution process.

More specifically, the National Roster of ECR Practitioners is necessary for the proper performance of the Institute's goals: to resolve Federal environmental disputes in a timely and constructive manner; to increase the appropriate use of environmental conflict resolution; to improve the ability of Federal agencies and other interested parties to engage in ECR effectively; and to promote collaborative problem-solving and consensus-building during the design and implementation of Federal environmental policies so as to prevent and reduce the incidence of future environmental disputes.

In addition, the U.S. Institute's enabling legislation directs the Institute to work with practitioners located near the conflict whenever practical. Consistent with this mandate, the Institute must be able to identify appropriate experienced dispute resolution and conciseness building professionals in an efficient manner.

Finally, the Administrative Dispute Resolution ("ADR") Act of 1996 (5 U.S.C. 571, et. seq.) authorizes the Federal government to contract with dispute resolution professionals (e.g., facilitators or mediators) to assist it and other parties to disputes or issues in controversy in reaching an agreement, settlement, or consensus. The ADR Act authorizes the government to take steps to make identifying and contracting with neutrals easier (cf. 5 U.S.C. 573(c)).

Thus, the goal of the National Roster of ECR Practitioners and the referral system is to improve access to qualified environmental dispute resolution and consensus building professionals for the Institute and others sponsoring or engaging in environmental conflict resolution processes. The roster expedites the identification of appropriate professionals, shortens the time needed to complete contracting documents, and helps refer parties to practitioners, particularly practitioners in the locale of the dispute.

More specifically, the roster and the referral system provide an efficient, credible and user-friendly source from which to systematically identify experienced environmental neutral professionals; increase the use of collaborative processes by providing a useful tool for locating appropriate practitioners; and provide users with a detailed Practitioner Profiles, reflecting information contained in the application, to be used as a helpful first step in the process of selecting an appropriate neutral.

E. Burden Statement

The application compiles data available from the resumes of dispute resolution and consensus building professionals into a format that is standardized for efficient and fair eligibility review, database searches, and retrievals. A professional needs to complete the form only one time. Once the application is approved, the roster member has continual access to his or her on-line account to update information, on a voluntary basis. The burden includes time spent to review instructions, review resume information, and enter the information in the form.

Likely Respondents: Environmental dispute resolution and consensus building professionals (new respondents); existing roster members (for updating).

Proposed Frequency of Response: one, with voluntary updates approximately once per year.

Estimated Number of New Respondents (first extension year): 30.

Estimated Number of Existing Respondents—for updating (first extension year): 125.

Estimated Number of New Respondents (per year for succeeding year): 30.

Estimated Number of Existing Respondents-for updating (per year for succeeding year): 125.

Respondent Time Burden Estimates:

Estimate Time per New Response: 150 minutes (2.5 hours).

Estimated Number of Updates (per year): 1, for 125 existing respondents.

Estimated Time for Update: 15 minutes.

Estimated Total First Extension Year Burden: 4500 minutes (75 hours) (30 new respondents), 1875 minutes (31.25 hours)(125 updates).

Estimated Total Subsequent Year Annual Burden: 4500 minutes (75 hours) (30 new respondents), 1875 minutes (31.25 hours)(125 updates).

Respondent Cost Burden Estimates (at $150. per hour):*

Capital or start-up costs: $0.

Estimated Cost per Respondent (first extension year): $375 (new respondents), 38 (update).

Estimated Cost per Respondent (subsequent year): $375 (new respondents), 38 (update).

Estimated Total First Extension Year Burden: $11,250 (new respondents), $4,750 (updates).

Estimated Total Subsequent Year annual Burden: $11,250 (new respondents), $4,750 (updates).

* The actual cost estimate for this information collection may be less because this hourly rate is what is paid for services as a neutral and necessarily is set by the neutral to factor in time spent in the administration of the neutral's business and overhead costs. Indeed, fully burdened labor rates for "professional specialty and technical" occupations from Bureau of Labor Statistics tables indicate that an hourly rate as low as $36 may be appropriate.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a

Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information and transmitting information.

(Authority: 20 USC Sec. 5601–5609)

Dated the 21st day of May, 2002.

Christopher L. Helms,

Executive Director, Morris K. Udall Foundation.

[FR Doc. 02–13201 Filed 5–24–02; 8:45 am]

BILLING CODE 6820–FN–P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meetings/ Teleconferences

Times and Dates: 4:30 p.m. EDT, July 30, 2002 (meeting); 3 p.m. EDT, September 4, 2002 (teleconference).

Place: National Council on Disability, 1331 F Street, NW, Suite 850, Washington, DC.

AGENCY: National Council on Disability (NCD).

Status: All parts of these meetings will be open to the public. Those interested in participating in either of these meetings should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for the conference call.

Matters to be Considered: Roll call, announcements, reports, new business, adjournment.

FOR FURTHER INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), ghawkins@ncd.gov (e-mail).

Cultural Diversity Advisory Committee Mission: The purpose of NCD's Cultural Diversity Advisory Committee is to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee will help identify issues, expand outreach, infuse participation, and elevate the voices of underserved and unserved segments of this nation's population that will help NCD develop federal policy that will address the needs and advance the civil and human rights of people from diverse cultures.

Dated: May 6, 2002.

Jeffrey T. Rosen,

General Counsel and Director of Policy.

[FR Doc. 02–13128 Filed 5–24–02; 8:45 am]

BILLING CODE 6820–MA–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes Subcommittee: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) Subcommittee on June 21, 2002. The meeting will take place at the address provided below. The topic of discussion will be ACMUI Subcommittee recommendations related to the training and experience of authorized users in the revised 10 CFR part 35, Medical Use of Byproduct Material, published on April 24, 2002 (67 FR 20250–20397).

DATES: ACMUI Subcommittee will hold a public meeting on Friday, June 21, 2002, from 8 a.m. to 12:00 p.m.

ADDRESS FOR PUBLIC MEETING: U.S. Nuclear Regulatory Commission, Two White Flint North Building, Conference Room T2B3, 11545 Rockville Pike, Rockville, MD 20852-2738.

FOR FURTHER INFORMATION CONTACT: Linda M. Psyk, telephone (301) 415–0215; e-mail *lmp1@nrc.gov* of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Conduct of the Meeting

Richard J. Vetter, Ph.D., will chair the meeting. Dr. Vetter will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Linda M. Psyk, U.S. Nuclear Regulatory Commission, Two White Flint North, Mail Stop T8F5, 11545 Rockville Pike, Rockville, MD 20852–2738. Submittals should be postmarked by June 14, 2002, and must pertain to the topic for the meeting.

2. Questions from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection on NRC's web site (*www.nrc.gov*) and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852–2738, telephone (800) 397–4209, on or about July 8, 2002. Minutes of the meeting will be available on or about August 18, 2002.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *Code of Federal Regulations*, part 7.

Dated: May 21, 2002.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 02–13245 Filed 5–24–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Enhancing Public Participation in NRC Meetings; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy Statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its public meeting policy to enhance public participation in NRC meetings. This policy brings consistency to NRC public meetings planned by headquarters and regional staff by introducing a categorization system whereby the public can anticipate the level of participation that will be provided for during an upcoming meeting. The NRC has identified three categories of public meetings it convenes and has described information availability and follow-up effort associated with each meeting category. Information such as agendas, background documents, and meeting summaries will be available in ADAMS and at NRC's web site for certain categories of meetings. The policy also provides guidance on teleconferencing, security, and other administrative issues related to NRC staff-sponsored public meetings. This revision is in response to suggestions made by the public at a meeting held in April, 2001, and to fulfill the NRC's strategic goal of increasing public confidence.

EFFECTIVE DATE: May 28, 2002.

FOR FURTHER INFORMATION CONTACT: Mindy Landau or Ramin Assa, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–8703 or (301) 415–8709 respectively.

Commission Policy Statement on Staff Meetings Open to the Public

A. Purpose

The Nuclear Regulatory Commission has had a formal policy regarding open meetings since 1978 which has been revised periodically, and most recently on September 20, 2000. This paper presents a revised policy that the Nuclear Regulatory Commission (NRC) will follow in opening meetings between the agency staff and one or more outside persons to public observation and participation. The revised policy continues NRC's longstanding practice of providing the public with substantial information on its activities and of conducting business in an open manner, while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. The revised policy also sets forth a plan for categorizing meeting types that will provide a framework for enhancing public participation. The public will be notified of the category of the meeting, and thereby the level of participation to be anticipated, via the NRC's Public Meeting Notice System on its web site. Implementing guidance will be issued to the NRC staff. This meeting policy is a matter of NRC discretion and may be departed from as circumstances warrant.

B. Definition

A public meeting is a planned, formal encounter open to public observation and participation between one or more NRC staff members and one or more external stakeholders, with the expressed intent of discussing substantive issues that are directly associated with the NRC's regulatory and safety responsibilities. An external stakeholder is any individual who is not:

1. An NRC employee;
2. Under contract to the NRC;
3. Acting as an official consultant to the NRC;
4. Acting as an official representative of an agency of the executive, legislative, or judicial branch of the U.S. Government (except on matters where the agency is subject to NRC regulatory oversight);
5. Acting as an official representative of a foreign government;
6. Acting as an official representative of a State or local government or Tribal official (except when specific NRC licensing or regulatory matters are discussed).

C. Applicability and Exemptions

1. This policy applies solely to NRC staff-sponsored and conducted meetings and not to meetings conducted by outside entities in which NRC staff members might attend and participate. It does not apply to Commission meetings or to meetings sponsored by offices that report directly to the Commission. Similarly, it does not apply to meetings between NRC staff and representatives of State government, including Agreement State representatives, relating to NRC Agreement State activities or to State regulatory actions or to other matters of general interest to the State or to the Commission; that is, matters other than specific NRC licensing or regulatory actions involving specific licensees. Also, the policy is not intended to apply to or supersede any existing law, rule or regulation that addresses public attendance at a specific type of meeting. For example, 10 CFR part 7 and 10 CFR part 9 will continue to be applicable to advisory committee meetings and Commission meetings, respectively.

2. This policy covers various types of public "meetings." It does not cover the "hearings" associated with adjudicatory proceedings under the Commission's Rules of Practice in 10 CFR part 2.

The term "public meeting" is traditionally associated with the Commission's efforts to provide information to the public and to seek public views on various generic and site-specific issues. These meetings are open to a wide variety of people with an interest in the subject matter and a willingness to follow the ground rules established for the conduct of the meeting.

The term "hearings," covered under 10 CFR part 2, relates primarily to Commission adjudicatory proceedings on various types of licenses and licensing actions (*e.g.*, initial issuance of a license, amendment of an existing license, renewal of a license) or to enforcement actions involving the imposition of civil penalties or orders to modify, suspend or revoke a license or take other appropriate action. This policy also does not cover meetings concerning the settlement of issues pertaining to any proceeding or regarding enforcement matters. Specific requirements regarding participation in and the conduct of such hearings are provided in the Commission's Rules of Practice set out in 10 CFR part 2.

3. Meetings between the NRC staff and external stakeholders will be designated as public meetings unless the NRC staff determines that the subject matter or information to be discussed meets one or more of the following criteria:

a. Is specifically authorized by an Executive Order to be withheld in the interests of national defense or foreign policy (classified information) or specifically exempt from public disclosure by statute;

b. Contains safeguards or other protected information;

c. Contains trade secrets and commercial or financial information (proprietary information);

d. Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

e. Is related to a planned, ongoing, or completed investigation and/or contains information compiled for law enforcement purposes;

f. Could result in the inappropriate disclosure and dissemination of preliminary, predecisional or unverified information;

g. Is a general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action. However, should discussions in a closed meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting.

h. Indicates that the administrative burden associated with public attendance at the meeting could interfere with the staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program.

It is important to note that whether or not a meeting should be open to the public is dependent primarily on the subject matter to be discussed, not who is participating (*e.g.*, staff level versus senior management).

Also note that meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open because they may lead to a specific regulatory decision or action.

D. Public Participation in NRC Meetings

In order to fulfill the NRC's strategic goal of increasing public confidence, the agency has identified three categories of public meetings the agency convenes and has developed criteria for the level of public participation, information availability and follow-up effort associated with each meeting category. The extent of known public interest in the meeting or activity and the objective of the meeting insofar as public involvement is concerned, will be considered by the staff when assigning a meeting to an appropriate category. The description, purpose, and levels of

public participation for each category of meeting is described below.

Category 1

Description—Meetings in this category are typically held with one licensee, vendor, applicant or potential applicant rulemaking to discuss particular regulatory issues regarding their specific facility (or facilities), certificate of compliance, license or license application.

Meeting Purpose—The purpose of this type of meeting is to discuss one particular facility or site, or certified system or device, with an applicant or licensee regarding, for example, technical issues in an application, licensee actions, or inspection results. At this type of meeting, NRC anticipates that the public would obtain factual information to assist in their understanding of the applicable regulatory issues and NRC actions.

Examples—Examples of this type of meeting could include: Annual public meetings to discuss plant performance, regulatory conferences, predecisional enforcement conferences, meetings held prior to a facility restarting, as well as meetings held on licensing actions (or applications), renewals and amendments, new facilities, away-from-reactor storage sites, large or complex fuel cycle facilities, or waste disposal sites. Certain inspection exit meetings such as those for Incident Investigation Teams, Augmented Inspection Teams or others as appropriate, would also be included in this category.

Level of Public Participation—The public is invited to observe the meeting consistent with past practice, and the public will have the opportunity to communicate with the NRC after the business portion of the meeting, but before the meeting is adjourned. This does not preclude the licensee from responding to questions if they choose to do so.

For Category 1 meetings longer than two hours, one or more opportunities may be provided for the public to ask questions before the end of the meeting, if practicable. In advance of the meeting, members of the public may request, via e-mail or telephone, that the meeting coordinator consider changing the meeting to a Category 2 meeting (discussed below), depending on the level of public interest in the activity being discussed. Meetings that the staff believe will generate high public interest should also provide more than one opportunity for public comments and questions. The decision on whether to change the category of any particular meeting is a matter left to the discretion of the staff on a case-by-case basis.

Types of Information Provided—At a minimum, an agenda or a list of items to be discussed will be entered into the Agencywide Documents Access and Management System (ADAMS). The ADAMS document accession number would be provided in the meeting notice that is posted at our public Web site for access to any primary or background documents.

Follow-up—No formal follow-up will be provided beyond the normal period for questions. Informal follow-up (telephone or e-mail) may be appropriate for certain questions that cannot be answered at the meeting. Members of the public also have the option of writing or e-mailing the staff about particular concerns. These concerns will be considered by the staff as it deliberates on the issue. Feedback forms would also be provided at this type of meeting, so that comments can be reviewed and offices can track any planned improvements or resulting actions in their operating plans, as appropriate. Meeting summaries and participant lists will be publicly available in ADAMS.

Category 2

Description—Meetings in this category are typically held with a group of industry representatives, licensees, vendors or non-governmental organizations.

Meeting Purpose—The purpose of this type of meeting is for NRC to obtain feedback from the regulated community and other external stakeholders on issues that could potentially affect more than one licensee. At this type of meeting, NRC anticipates that the public would obtain factual information and provide the agency with feedback on the analysis of the issues, alternatives and/or decisions.

Examples—This type of meeting includes task force groups, industry groups (such as the Nuclear Energy Institute or owners groups), or public interest and citizen group discussions that focus on issues that could apply to several facilities, such as plant system aging, license renewal, decommissioning, or spent fuel storage.

Level of Public Participation—The public is invited to discuss regulatory issues with the agency at designated points identified on the agenda. Generally, there will be more opportunities provided for the public to ask questions and provide comments at a meeting of this type than at a Category 1 meeting.

Types of Information—An agenda, names of participants, and background documents will be entered into ADAMS, and the ADAMS package accession number will be provided in the meeting notice. A Web page with links to other appropriate background information will be made available at NRC discretion. The ADAMS package accession number and any link to a Web page will be posted to the public Web site.

Follow-up—Staff will provide answers to questions as appropriate during the meeting. Questions that cannot be answered at the meeting will be assigned to a designated staff person as an action item. Meeting summaries or any transcripts and participant lists would be provided in ADAMS and on the Web, if a Web site is established. Feedback forms will be provided as they are in Category 1 meetings, so that comments can be reviewed and offices can track any planned improvements or resulting actions in their operating plans, as appropriate.

Category 3

Description—This type of meeting would be held with representatives of non-government organizations, private citizens or interested parties, or various businesses or industries (other than those covered under Category 2) to fully engage them in a discussion on regulatory issues.

Meeting Purpose—The purpose of this type of meeting is to maximize discussions with the public to ensure that their issues and concerns are presented, understood and considered by the NRC. The NRC anticipates that the public would work with the agency to facilitate the widest exchange of information, views, concerns and suggestions with regard to license-specific or generic regulatory issues.

Examples—Examples might include town hall or roundtable discussions, Environmental Impact Statement scoping meetings, workshops, the Regulatory Information Conference, the Nuclear Safety Research Conference, or proposed rulemaking meetings.

Level of Public Participation—Public participation is actively sought at this type of meeting, which has the widest participation opportunities and is specifically tailored for the public to comment and ask questions throughout the meeting.

Types of Information—An agenda, names of participants and background documents will be entered into ADAMS, and the accession number will be provided in the meeting notice. In addition, a Web page will be created where all relevant documents for the meeting will be posted. The ADAMS accession number and a link to the required Web page will be posted to the public Web site.

Follow-up—Staff follow-up is similar to Category 2, but meeting summaries or transcripts and participant lists will be provided in ADAMS and linked to the Web site. Feedback forms will also be provided at this level meeting.

E. Notice to the Public

Meeting announcement information is to be provided to the public as soon as the staff is reasonably confident that a meeting will be held and firm date, time and facility arrangements have been made, but generally no fewer than 10 calendar days before the meeting. Where a meeting must be scheduled but cannot be announced 10 calendar days in advance, the staff will provide as much advance notice as possible. Public notice of meetings will be made via the internet on the NRC Web site. Meeting changes or cancellations will also be announced promptly on the NRC Web site. Members of the public who cannot access the NRC Web site can contact the NRC Public Document Room staff via a toll-free number (1–800–397–4209) or by e-mail (*pdr@nrc.gov*) for information on scheduled NRC meetings. Some meetings having very high public interest will also be noticed via a press release or paid advertisement in local newspapers, or both.

The assigned category level of the meeting, agenda, background documents, Commission papers, or other material that could be helpful to attendees at the meeting will be entered into ADAMS and made available through the public meeting notice system.

Teleconferencing may be requested by participants to the extent that travel to a meeting is considered difficult for interested citizens. Requests for teleconferencing should be made directly to the meeting contact listed on the public meeting Web site. Such requests may be granted to the extent budget resources are available and technical factors can be accommodated.

F. Visitors and Security

1. Registration, Badging, and Sign-in Procedures

All visitors to the NRC's White Flint North (WFN) complex in Rockville, Maryland are screened through metal detectors and their packages are x-rayed. All visitors age 18 and older must present a picture identification.

During normal security access hours (6 a.m.—6 p.m. Monday through Friday), NRC employees must register their visitors (visitor's name, organization, time, place and purpose of visit, and whether the visit involves classified information) with the guard force.

Visitors who have been registered in advance are issued a visitor badge by a guard and may move about freely without an escort in the public spaces. The public spaces in One White Flint North are the Public Document Room, the Commission Meeting Room (when open for a meeting), and the NUREG Café. In Two White Flint North, the public spaces are the Exhibit Area, Cafeteria, Snack 'n Go, and the Credit Union. Restrooms are also considered public spaces in both building complexes.

Visitors to the Public Document Room, the Commission Meeting Room or Credit Union are not normally registered in advance and their access to the public spaces is restricted.

2. Parking Procedures

Visitors to the NRC are encouraged to use Metro because parking availability is limited. Vehicles driven by visitors are subject to inspection (undercarriage, trunk, hood, and inside), before being allowed to enter the complex. Visitors must have prior approval (arranged by an NRC employee) to park inside the garage or in the outside visitor parking area behind the buildings. Visitors who want to park in the garage must have an NRC escort before driving into the garage. The NRC escort must accompany the visitor from the garage to a receptionist area on the lobby level for screening, registration, and badging. Visitors pre-approved to park in the outside visitor parking area are directed by a guard to park their vehicles in the visitor parking area and proceed to the lobby of either building to meet their escorts and go through screening, registration, and badging.

3. Recording Devices and Cameras

Portable electronic devices including cellular telephones, pagers, palm-size computing devices, two-way radios, and portable computers are allowed into NRC buildings and public meetings. However, devices that could interrupt or distract from public meetings (cellular phones, pagers and two-way radios) are not to be used during public meetings.

In addition, visitors may use recording devices in public meetings held in NRC headquarters spaces on the lobby levels designated as a "public access area." Cameras and video recording devices (*e.g.* camcorders) are permitted in public meetings on a case-by-case basis, with the approval of the Director, Office of Public Affairs or the Director, Division of Facilities and Security.

Any article that could cause property damage or personal injury is prohibited in NRC buildings. Prohibited articles include firearms, explosives, and incendiary devices. Members of the public going to NRC "controlled spaces" inside the buildings above the lobby levels are allowed access with recording devices with the approval of the sponsoring office and under the escort of an NRC employee.

4. Restrictions on Signs and Banners

Signs, banners, posters, and displays not larger than 18″x18″ are permitted at NRC public meetings, but cannot be waved, held over one's head, or generally moved about in the meeting room because they are distracting to the participants and audience. Signs, banners, posters, and displays affixed to sticks, poles, *etc.*, are not permitted in the meeting rooms.

5. Escort Requirements

All visitors going to locations above the first floor lobby level must display an NRC visitor badge and must be escorted by an NRC employee—one employee may escort up to five visitors.

6. Use of NRC Copiers, Telephones, and Fax Machines

Visitors may not use NRC copiers and fax machines without the approval and supervision of an NRC employee. Visitors may use building lobby level telephones to make brief in-house and local calls. Those visiting the PDR or attending public meetings are also prohibited from bringing copying or imaging devices, including scanners, CD-ROM writers, photocopy machines, or other devices which permit the duplication of NRC documents because of the devices' intrusive and disruptive nature.

7. Other Locations or Regions

Visitor controls and related security procedures are established for public meetings held in NRC regional offices or other remote locations based on an overall assessment by the Physical Security Branch relative to potential security concerns. Security requirements nationwide may differ based on various factors and therefore meetings are evaluated on a case-by-case basis.

G. Contact

The primary point of contact in the agency for general issues related to this policy will be the Assistant for Communications, Deputy Executive Director for Management Services, Office of the Executive Director for Operations. The Office of Public Affairs

is also available to receive questions and suggestions. There are also opportunities for comment on our public participation policies, or on any of our programs, at the link on the public involvement page of our Web site.

Dated at Rockville, Maryland, this 21st day of May, 2002.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 02–13244 Filed 5–24–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATES: Weeks of May 27, June 3, 10, 17, 24, July 1, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 27, 2002

Tuesday, May 28, 2002

9:30 a.m.—Discussion of Security Issues (Closed–Ex. 1)

3:00 p.m.—Discussion of Security Issues (Closed–Ex. 1)

Wednesday, May 29, 2002

9:25 a.m.—Affirmation Session (Public Meeting) (If needed)

9:30 a.m.—Briefing on the Status of New Reactor Licensing Activities (Public Meeting) (Contact: Joseph Williams, 301–415–1470)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of June 3, 2002—Tentative

Tuesday, June 4, 2002

1:15 p.m.—Discussion of Intergovernmental Issues (Closed—Ex. 1)

Friday, June 7, 2002

9:00 a.m.—Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

Week of June 10, 2002—Tentative

There are no meetings scheduled for the Week of June 10, 2002.

Week of June 17, 2002—Tentative

There are no meetings scheduled for the Week of June 17, 2002.

Week of June 24, 2002—Tentative

Tuesday, June 25, 2002

2:00 p.m.—Discussion of Intragovernmental Issues (Closed—Ex. 1)

Wednesday, June 26, 2002

10:30 a.m.—All Employees Meeting (Public Meeting)

1:30 p.m.—All Employees Meeting (Public Meeting)

Week of July 1, 2002—Tentative

Monday, July 1, 2002

2:00 p.m.—Discussion of International Safeguards Issues (Closed—Ex. 9)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

Additional Information

By a vote of 5–0 on May 22, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Discussion of Security Issues (Closed—Ex. 1)" be held on May 28, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: May 23, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–13328 Filed 5–23–02; 11:25 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses; Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 3, 2002 through May 16, 2002. The last biweekly notice was published on May 14, 2002 (67 FR 34481).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before

action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 27, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: April 26, 2002.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs), Section 2.3, "Limiting Safety System Settings," Section 3.1, "Protective Instrumentation," and Section 3.10, "Core Limits," to reflect a methodology to assure coupled neutronic/thermal-hydraulic instabilities are adequately detected and suppressed. This methodology is identified as Option II by the Boiling Water Reactor (BWR) Owners Group. The proposed amendment includes technical (*i.e.*, limiting safety system settings) and editorial changes, and is associated with the average power range monitoring (APRM) system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff reviewed the licensee's analysis and has performed its own, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The APRM neutron monitoring system is not an initiator of, or a precursor to, a previously evaluated accident. The APRM system monitors the power level of the reactor core and provides automatic core protection signals in the event of a power transient. The revised requirements will result in a reactor scram, should one be needed, sooner than under the current requirements. These revised requirements do not lead to, and are not results of, physical design modifications. The APRM and other systems associated with the proposed TS requirements will thus continue to perform their functions as originally designed. Therefore, this amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design feature, reactor fuel safety limit, equipment configuration, or manner in which the unit is operated. Further, it does not alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create a new or different kind of accident from any accident previously evaluated.

3. Does the amendment involve a significant reduction in a margin of safety?

No. The proposed amendment does not change any design feature, analysis methodology, safety limits or acceptance criteria. The APRM system under the revised requirements will continue to perform its design functions. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Kevin P. Gallen, Morgan, Lewis & Bockius, LLP, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Richard J. Laufer.

AmerGen Energy Company, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Exelon Energy Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 10, 2002.

Description of amendment request: The proposed changes to the Technical Specifications (TSs) will relocate the emergency diesel generator (EDG) 24-month maintenance inspection requirements to licensee-controlled documents, i.e., either the Updated Final Safety Analysis Report (UFSAR) or the Technical Requirements Manual as appropriate, either of which would be controlled in accordance with the requirements of 10 CFR 50.59.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[1.] The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes are administrative changes to relocate the current EDG maintenance inspection requirements.

The EDGs are designed to provide a reliable alternative source of AC [alternating current] electrical power in the event of an accident coincident with the loss of offsite power. The failure of an EDG itself is not considered as an accident evaluated in the UFSAR. The proposed administrative changes to relocate the maintenance inspection requirements do not affect the current accident initiators or precursors that could lead to a previously evaluated accident.

The failure of a single EDG to respond when required to mitigate the consequences of an accident has already been considered as a subsequent single failure in the current plant safety analyses. The proposed administrative changes to relocate the maintenance inspection requirements do not alter the EDG design features, operation, or accident analysis assumptions which could affect the ability of the EDGs to mitigate the consequences of a previously evaluated accident. Current TS testing requirements for the EDGs, e.g., starting, timing, loading, and sequencing will continue to ensure reliable EDG operation and are not being changed in this request.

Since only the relocation of EDG maintenance inspection requirements is involved, the proposed changes will not increase the likelihood of the malfunction of another system, structure or component which has been assumed as an accident initiator or credited in the mitigation of an accident.

Based on the above discussion, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

[2.] The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The EDGs are designed to provide a reliable alternative source of AC electrical power in the event of an accident coincident with the loss of offsite power. The proposed TS changes are administrative changes to relocate the EDG maintenance inspection requirements.

No change in the ability to perform the design function of the EDGs is involved. No change in the operation of the EDGs is required. Instrumentation setpoints, starting, sequencing, and loading functions associated with the EDGs are not affected by the proposed changes. No modifications to the EDGs are required to implement the proposed TS changes. Therefore, no new failure mechanism, malfunction, or accident initiator is considered credible.

Additionally, the proposed TS changes do not affect other plant design, hardware, system operation, or procedures. Therefore, based on the above discussion, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

[3.] The proposed amendments do not involve a significant reduction in a margin of safety.

The proposed TS changes are administrative changes to relocate the current EDG maintenance requirements.

The consideration of safety margins for this amendment included a review of the acceptance criteria for emergency core cooling systems for light water nuclear power reactors in 10 CFR 50.46, and ECCS [emergency core cooling system] evaluation models in Appendix K to 10 CFR [Part] 50. The proposed amendments do not involve a relaxation of the criteria used to establish the safety limits, a relaxation of the bases for the limiting safety system setting, nor a relaxation of the bases for the limiting conditions for operation.

Controlling values for the EDGs are included in current TS testing requirements, e.g., EDG starting, timing, loading, and sequencing. The proposed amendment will not modify these requirements or the accident analysis assumptions regarding the performance of the EDGs which could potentially challenge safety margins established to ensure fuel cladding integrity, as well as reactor coolant and containment system integrity.

The safety analyses of the EDGs' ability to mitigate accidents do not require revision in order to implement the proposed amendment[s]. Modification of the existing margins is not required.

Based on the above discussion, the proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Edward J. Cullen, Jr., Esquire, Vice President, General Counsel and Secretary, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Richard J. Laufer.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: January 31, 2002.

Description of amendments request: The proposed amendments would correct several administrative errors to Technical Specifications Sections 5.6.5.b and Appendix B. The changes would correct the title of a topical report, the date of issuance of a report, and the name of the state agency that issues pollution discharge elimination system permits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

Technical Specification 5.6.5.b, Item 16 is being corrected to change the title of the publication for CENPD–382–P–A from "C–E Methodology for Core Designs Containing Erbuim Burnable Absorbers" to "Methodology for Core Designs Containing Erbuim Burnable Absorbers." Correction of an administrative error does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 5.6.5.b, Item 19 is being corrected to change the date of publication for CEN–161–(B)–P, Supplement 1–P, "Improvements to Fuel Evaluation Model" from April 1989 to April 1986. Correction of an administrative error does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification Appendix B, Page 2–1 (both units) last paragraph is being corrected to change the State of Maryland Department of Health and Mental Hygiene to the Maryland Department of the Environment. The revision of a state organizational title to accurately reflect administrative changes made to that organization, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would Not Create the Possibility of a New or Different [Kind] of Accident From Any Accident Previously Evaluated

Technical Specification 5.6.5.b, Item 16 is being corrected to change the title of publication for CENPD–382–P–A from "C–E Methodology for Core Designs Containing Erbuim Burnable Absorbers" to "Methodology for Core Designs Containing Erbuim Burnable Absorbers." Correction of an administrative error will not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

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Technical Specification Appendix B, Page 2–1 (both units) last paragraph is being corrected to change the State of Maryland Department of Health and Mental Hygiene to the Maryland Department of the Environment. The revision of a state organizational title to accurately reflect administrative changes made to that organization will not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

3. Would Not Involve a Significant Reduction in [a] Margin of Safety

Technical Specification 5.6.5.b, Item 16 is being corrected to change the title of publication for CENPD–382–P–A from "C–E Methodology for Core Designs Containing Erbuim Burnable Absorbers" to "Methodology for Core Designs Containing Erbuim Burnable Absorbers." Correction of an administrative error will not involve a significant reduction in [a] margin of safety.

Technical Specification 5.6.5.b, Item 19 is being corrected to change the date of publication for CEN–161–(B)–P, Supplement 1–P, "Improvements to Fuel Evaluation Model" from April 1989 to April 1986. Correction of an administrative error will not involve a significant reduction in [a] margin of safety.

Technical Specification Appendix B, Page 2–1, (both units) last paragraph is being corrected to change the State of Maryland Department of Health and Mental Hygiene to the Maryland Department of the Environment. The revision of a state organizational title to accurately reflect administrative changes made to that organization will not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Richard J. Laufer.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: March 25, 2002.

Description of amendments request: The proposed amendment would revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period would be extended from the current limit of "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement would be added to SR 3.0.3: "A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed."

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400),

on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated March 25, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Thomas Koshy, Acting.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant (HBRSEP), Unit No. 2, Darlington County, South Carolina

Date of amendment request: March 26, 2002.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 5.5.16, "Containment Leakage Rate Testing Program," to require the performance of a Type A test within 15 years from the last Type A test, which was performed on April 9, 1992. The proposed change is supported by a plant-specific risk assessment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change to TS 5.5.16 provides a one-time extension to the testing interval for Type A (containment integrated leak rate) testing. The existing 10-year test interval is based on past test performance. The proposed TS change provides a one-time extension of the Type A test interval to 15 years for HBRSEP, Unit No. 2. The proposed TS change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment vessel is designed to provide a leak tight barrier against the uncontrolled release of radioactivity to the environment in the unlikely event of postulated accidents. As such, the containment vessel is not considered as the initiator of an accident. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed change involves only a one-time change to the interval between Type A containment leakage tests. Type B and C leakage testing will continue to be performed at the interval specified in 10 CFR Part 50, Appendix J, Option A, as currently required by the HBRSEP, Unit No. 2, TS. As documented in NUREG–1493, "Performance-Based Containment Leakage-Test Program," industry experience has shown that Type B and C containment leakage tests have identified a very large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is very small. In fact, an analysis of 144 integrated leak rate tests results, including 23 failures, found that none of the failures involved containment liner breach. NUREG–1493 also concluded, in part, that reducing the frequency of Type A containment leakage rate testing to once per 20 years was found to lead to an imperceptible increase in risk. The HBRSEP, Unit No. 2, test history and risk-based evaluation of the proposed extension to the Type A test interval supports this conclusion. The design and construction requirements of the containment vessel, combined with the containment inspections performed in accordance with the American Society of Mechanical Engineers (ASME) Code, Section XI, and the Maintenance Rule (i.e., 10 CFR 50.65) provide a high degree of assurance that the containment vessel will not degrade in a manner that is detectable only by Type A testing. Therefore, the proposed Technical Specification change does not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated

2. The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change to TS 5.5.16 provides a one-time extension to the testing interval for Type A (containment integrated leak rate) testing. The existing 10-year test interval is based on past test performance. The proposed TS change will provide a one-time extension of the Type A test interval to 15 years for HBRSEP, Unit No. 2. The proposed change to the Type A test interval does not result in any physical changes to HBRSEP, Unit No. 2. In addition, the proposed test interval extension does not change the operation of HBRSEP, Unit No. 2, such that a failure mode involving the possibility of a new or different kind of accident from any accident previously evaluated is created.

Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change to TS 5.5.16 provides a one-time extension to the testing interval for Type A (containment integrated leak rate) testing. The existing 10-year test interval is based on past test performance. The proposed TS change will provide a one-time extension of the Type A test interval to 15 years for HBRSEP, Unit No. 2. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20 year extension for Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes a very small amount to the individual risk, and that the decrease in Type A testing frequency would have a minimal affect on this risk, because most potential leakage paths are detected by Type B and C testing.

The proposed change involves only a one-time extension of the interval for Type A containment leakage testing; the overall containment leakage rate specified by the HBRSEP, Unit No. 2, Technical Specifications is being maintained. Type B and C containment leakage testing will continue to be performed at the frequency required by the HBRSEP, Unit No. 2, Technical Specifications. The regular containment inspections being performed in accordance with ASME, Section XI, and the Maintenance Rule (i.e., 10 CFR 50.65) provide a high degree of assurance that the containment will not degrade in a manner that is only detectable by Type A testing. In addition, a plant-specific risk evaluation has demonstrated that the one-time extension of the Type A leakage test interval from 10 years to 15 years results in only a very small increase in risk for those accident sequences influenced by Type A testing.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Thomas Koshy, Acting.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: August 24, 2001.

Description of amendment request: The proposed amendment would change Technical Specification (TS) Limiting Condition for Operation (LCO) 3.7.3, "Control Room Emergency Filtration (CREF) System," to address a degraded CREF pressure boundary. Specifically, the amendment would (1) add a note to the LCO that would allow the CREF pressure boundary to be opened under administrative control; (2) add a new Condition (B) for two CREF subsystems inoperable due to an inoperable control room pressure boundary—the associated Required Action would be to restore the control room pressure boundary to operable status and the Completion Time would be 24 hours; (3) add the phrase, "for reasons other than Condition (B)," to the Condition requiring entry into LCO 3.0.3 for two CREF subsystems or a nonredundant component or portion of the CREF system inoperable in Mode 1, 2, or 3; and (4) renumber the remaining existing Conditions and Required Actions of LCO 3.7.3, as required.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

No. The Control Room Emergency Filtration (CREF) System is not assumed to be an initiator of any analyzed accident. Therefore, the proposed change does not affect the probability of any accident previously evaluated. The proposed change to the CREF Technical Specifications would permit the control room pressure boundary to be opened intermittently under administrative control. Based on the proposed compensatory measures in the form of a dedicated individual who is in communication with the control room, and his ability to rapidly restore the pressure boundary, the capability to mitigate a design basis accident will be maintained. In addition, the proposed change adds a new Condition that would allow up to 24 hours to restore an inoperable control room pressure boundary to operable status and would modify existing Conditions to accommodate the new Condition (so as to maintain the requirements of the existing Conditions). The proposed change does not involve a significant increase in the consequences of an accident previously evaluated based on the availability of self-contained breathing apparatus equipment to minimize radiological dose due to iodine, and the ability to operate at least one CREF subsystem to maintain positive pressure or to at least minimize any inflow of air from outside of the control room.

2. The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

No. The proposed change would permit the control room pressure boundary to be opened intermittently under administrative control. In addition, the proposed change would add a new Condition that would permit a 24-hour period to take action to restore an inoperable control room pressure boundary to operable status. The proposed change does not alter the operation of the plant or any of its equipment, introduce any new equipment, or result in any new failure mechanisms or single failures. Therefore, this change does not create the possibility of a new accident, and does not change the way that an analyzed accident will progress.

3. The Change Does Not Involve a Significant Reduction in the Margin of Safety

No. The proposed change would permit the control room pressure boundary to be opened intermittently under administrative control. In addition, the proposed change would add a new Condition that would permit a 24-hour period to take action to restore an inoperable control room pressure boundary to operable status. The proposed change does not adversely affect the ability of the fission product barriers to perform their functions. The only safety-related equipment affected by the proposed change is the CREF system. Adequate compensatory measures are available to mitigate a breach in the CREF control room pressure boundary. The probability of a design basis accident that would place demands on the CREF System occurring during a period that the control room pressure boundary would be allowed to be inoperable have been shown to be negligible for this limited period of time. In addition, the proposed change would avoid the potential for placing the unit in TS Limiting Condition for Operation (LCO) 3.0.3, due solely to a breach in the control room pressure boundary. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for licensee: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Section Chief: L. Raghavan.

Dominion Nuclear Connecticut Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: February 5, 2002, as supplemented on March 6, 2002.

Description of amendment request: This request changes the term in the Technical Specifications "once each REFUELING INTERVAL" to "once per 24 months" in several surveillance requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change is to revise the term "once each REFUELING INTERVAL" to "once per 24 months" in several technical specification surveillance requirements. These surveillances were previously approved for once per 24 months when the term REFUELING INTERVAL was defined as once per 24 months. The proposed change does not revise any surveillance requirements. The change does not alter any regulatory requirement or any acceptance criteria for any design-basis accidents described in the Millstone Unit No. 3 Final Safety Analysis Report (FSAR). The proposed change does not alter the method by which the surveillances are conducted, does not involve any physical changes to the plant, and does not modify the manner in which the plant is operated. Since the change does not change the frequency of surveillance, it cannot affect the likelihood or consequences of accidents. Therefore, the change will not increase the probability or consequences of an accident previously evaluated.

2. Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change does not involve a physical alteration of the plant or change the plant configuration (no new or different type of equipment will be installed). The proposed change does not require any new or unusual operator actions. The change does not alter the way any structure, system, or component functions and does not alter the manner in which the plant is operated. The change does not introduce any new failure modes and does not change the surveillance frequency. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a Significant Reduction in a Margin of Safety

The proposed change does not change any analyses for the current design-basis accidents described in the Millstone Unit No. 3 FSAR. Therefore, the proposed change will not result in a reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Waterford, CT 06141–5127.

NRC Section Chief: James W. Clifford.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: April 15, 2002.

Description of amendment request: The proposed amendments would modify the allowable value and surveillance requirements for reactor protection system instrumentation for the reactor vessel steam dome pressure—high function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The Proposed TS Changes Do Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed Technical Specifications (TS) changes support a design change that upgrades the existing reactor vessel steam dome pressure—high instrumentation from pressure switches to analog trip units. Analog trip units use a proven technology that is more reliable than the existing equipment. The proposed design is consistent with a generic design that has been previously reviewed and approved by the NRC. Analog trip units are currently used in various applications at Dresden Nuclear Power Station (DNPS), including the reactor protection system (RPS) low water level scram function.

The proposed TS changes add new channel check and trip unit calibration surveillance requirements (SRs), and modify other SRs in keeping with the use of pressure transmitters for the reactor vessel steam dome pressure—high function. The new SRs are not applicable to the existing instrumentation because the current pressure switches are non-indicating and do not employ trip units.

TS requirements that govern operability or routine testing of plant instruments are not assumed to be initiators of any analyzed event because these instruments are intended to prevent, detect, or mitigate accidents. Therefore, these changes will not involve an increase in the probability of an accident previously evaluated. Additionally, these changes will not increase the consequences of an accident previously evaluated because the proposed change does not adversely impact structures, systems, or components. The planned instrument upgrade is a more reliable design than existing equipment. The proposed change establishes requirements that ensure components are operable when necessary for the prevention or mitigation of accidents or transients. Furthermore, there will be no change in the types or significant increase in the amounts of any effluents released offsite.

In summary, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The Proposed TS Changes Do Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed changes support a planned instrumentation upgrade by incorporating SRs required to ensure operability. The change does not adversely impact the manner in which the instrument will operate under normal and abnormal operating conditions. Therefore, these changes provide an equivalent level of safety and will not create the possibility of a new or different kind of accident from any accident previously evaluated. The changes in allowable values and surveillance requirements do not affect the current safety analysis assumptions. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The Proposed TS Changes Do Not Involve a Significant Reduction in a Margin of Safety

The proposed TS changes support a planned instrumentation upgrade. The proposed changes do not affect the probability of failure or availability of the affected instrumentation. The revised allowable values, addition of a channel check and trip unit calibration, and revision of other SRs do not affect the analytical limit assumed in the safety analyses for the actuation of the instrumentation. Therefore, the proposed changes do not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: May 1, 2002.

Description of amendment request: The proposed amendments revise the required emergency diesel generator start time limit specified in Technical Specification (TS) Section 3.8.1, "AC Sources—Operating," Surveillance Requirements from "≤10 seconds" to "≤13 seconds."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed TS change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The accidents previously evaluated in the Updated Final Safety Analysis Report (UFSAR) involving emergency diesel generator (EDGs) are failure of one EDG to start during a loss-of-offsite power (LOOP), with or without, simultaneous occurrence of the design basis loss-of-coolant accident (LOCA). New evaluations were necessary for the General Electric GE–14 (GE–14) fuel to be used at Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2. The proposed change increases the time limit allowed for an EDG to start by 3 seconds. However, the increased EDG start time span allowance is still within the time delay assumed in these newly evaluated accidents. Thus, the probability for a successful EDG start is unchanged by this proposed change. A change in the start time of an EDG, but still within the bounds of the time delay assumed in analyzed accidents, does not affect previously evaluated accidents.

In either accident specified above (i.e., failure of one EDG with either a LOOP or a LOOP plus LOCA), the UFSAR accident analysis assumes the limiting single failure, as required by 10 CFR 50 Appendix K, "ECCS Evaluation Models," which is the complete failure of the unit EDG to start. The limiting single failure is unchanged by the 3-second increase in EDG start time. For this limiting single failure, the redundant "swing" EDG starts within 13 seconds and powers the essential loads delivering Emergency Core Cooling System (ECCS) flow to the core within the GE–14 LOCA analysis assumptions. This GE–14 analysis meets all of the same 10 CFR 50.46, "Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors," requirements as the previously evaluated LOCA analysis assuming a 10-second EDG start time. Therefore, the consequences of an EDG start failure are not impacted by the proposed increase in the allowed EDG start time limit. Based on the above, the proposed TS change does not involve a significant increase in the consequences of an accident previously evaluated.

In summary, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change revises the required EDG start time limit utilized by the six Surveillance Requirements (SRs) that verify EDG start capability. No other changes in requirements are being proposed. The revised EDG start time limit is consistent with the EDG and ECCS start time delay assumed in the design basis accident analysis. Therefore, the proposed EDG start time utilized by the six SRs is still bounded by analyzed evaluations of a LOOP or a LOOP in conjunction with a LOCA. No new failure modes are introduced by this proposed change. In addition, the proposed change does not physically alter the plant and will not alter the operation of the structures, systems, or components of QCNPS. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated will not be created.

The proposed TS change does not involve a significant reduction in a margin of safety.

The consequences of a LOOP or a LOOP in conjunction with a LOCA have been previously evaluated. New evaluations were performed for the GE–14 fuel to be used at QCNPS. These new evaluations assume a bounding and longer EDG start time delay, following detection of the LOOP condition, prior to powering permanent loads fed off its associated emergency bus. Since the longer EDG start time delay was assumed in these new evaluations, any EDG start within the longer start time is bounded. The currently specified TS EDG start time limit is based on the existing analyses for the fuel utilized by QCNPS. New analysis for GE–14 fuel has assumed more conservative and bounding time delays for the integrated ECCS delivery timing sequence. All of the acceptance criterion of 10 CFR 50.46 continue to be met with the new GE–14 conservative EDG and ECCS sequences analyzed. The proposed change does not alter the basis upon which the start time limit specified in the TS is derived. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: April 15, 2002.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to relocate boron concentration limits contained in certain TSs to the Core Operating Limits Report (COLR). The proposed amendment would change TS 2.1, "Safety Limits," to relocate Figure 2.1–1, "Reactor Core Safety Limits-Four Loops in Operation," to the COLR; and would revise TSs 2.1.1 and 2.1.2 limiting conditions and actions to be consistent with the improved Standard Technical Specifications (ITS). The proposed amendment also would relocate the Departure from Nucleate Boiling (DNB)-related parameters, specified in TS 3/4.2.5, to the COLR. TS 6.8.1.6, "Core Operating Limits Report," and the associated TS Bases, would be revised to reflect the above changes. Editorial and administrative changes, consistent with the ITS, would also be made to TS 6.8.1.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The Proposed Changes Do Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes to relocate cycle-specific parameters from the TSs to the COLR are administrative in nature and do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which it is operated. The proposed changes do not alter or prevent the ability of structures, systems, or components to perform their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Updated Final Safety Analysis Report (UFSAR).

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The Proposed Changes Do Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed changes do not alter the design assumptions, conditions, or configuration of the facility or the manner in which it is operated. The proposed changes have no adverse impact on component or

system interactions. Since there are no changes to the design assumptions, parameters, conditions and configuration of the facility, or the manner in which the plant is operated and surveilled, the proposed changes do not create the possibility of a new or different accident from any previously analyzed.

3. The Proposed Changes Do Not Involve a Significant Reduction in the Margin of Safety.

There is no adverse impact on equipment design or operation and there are no changes being made to the TSs themselves that would adversely affect any current margin of safety. The proposed changes are administrative in nature and impose alternative procedural and programmatic controls on these parameter limits.

Therefore, relocation of the subject cycle-specific parameter limits and other proposed editorial changes, to be reflective of the relocated parameters, do not involve a significant reduction in the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William J. Quinlan, Esq. Assistant General Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Section Chief: James W. Clifford.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: April 17, 2002.

Description of amendment request: The proposed amendment would revise the Kewaunee Nuclear Power Plant Technical Specification (TS) Section 6.3, "Plant Staff Qualifications," to reflect the title change from Superintendent Plant Radiation Protection to Radiation Protection Manager. In addition, the licensee informed the United States Nuclear Regulatory Commission of its intention to reformat TS Section 6.3 to Microsoft WORD format.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes will not alter the intent of the TS. Reformatting TS Section 6.3 is administrative. Changing the title from Superintendent Radiation Protection to Radiation Protection Manager is also administrative in nature. There is no impact on accident initiators or plant equipment, and thus does not affect the probability or consequences of an accident.

2. Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated.

The proposed changes do not involve a change to the physical plant or operations. Since these are administrative changes they do not contribute to accident initiation. Therefore, they do not produce a new accident scenario or produce a new type of equipment malfunction.

3. Involve a Significant Reduction in the Margin of Safety

Since these are administrative changes, they do not involve a significant reduction in the margin of safety. The proposed changes do not affect plant equipment or operation. Safety limits and limiting safety system settings are not affected by this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Section Chief: L. Raghavan, Section Chief

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 2, 2002.

Description of amendment request: The proposed amendment would revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period would be extended from the current limit of "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement would be added to SR 3.0.3: "A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed."

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated April 2, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's incorporation of the above analysis by reference and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Section Chief: Richard J. Laufer.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: April 9, 2002.

Description of amendment request: The proposed amendment would revise the Ginna Station Improved Technical Specification (ITS) associated with Safety Limits, Instrumentation Setpoints, and the Core Operating Limits Report. The purpose of this license amendment is to provide a clear and consistent identification of instrumentation setpoints and their operability basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Operation of Ginna Station in accordance with the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The Reactor Trip System (RTS) Instrumentation, Engineered Safety Feature Actuation System (ESFAS), Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation, and Containment Ventilation Isolation trip functions are part of the accident mitigation response and are not themselves an initiator for any transient. Therefore, the probability of an accident previously evaluated is not significantly affected, including the probability of a spurious actuation. This proposed amendment includes changes to Allowable Values that have been determined with the use of an accepted methodology. The new values ensure that all automatic protective actions will be initiated at or before the condition assumed in the safety analysis. This change will allow the nominal trip setpoints to be adjusted within the calibration tolerance band allowed by the setpoint methodology. Plant operation with these revised values will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of plant systems is unaffected. There will be no adverse effect on the ability of the channels to perform their safety functions as assumed.in the safety analyses. Since there will be no adverse effect on the trip setpoints or the instrumentation associated with the trip setpoints, there will be no significant increase in the consequences of any accident previously evaluated.

Other changes in trip system function, content and format are proposed based on the current configuration of the trip system hardware. Similarly, since the ability of the instrumentation to perform its safety function is not adversely affected, there will be no significant increase in the consequences of any accident previously evaluated. The proposed editorial, administrative and format changes do not affect plant safety and are in accordance with NUREG–1431.

The proposed change to relocate core safety limits and trip setpoint parameter values to the Core Operating Limits Report (COLR) is a programmatic and administrative change that does not physically alter safety-related systems, nor does it affect the way in which safety-related systems perform their functions. Because the design of the facility and system operating parameters are not being changed, the proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated. The cycle-specific values relocated into the COLR will continue to be controlled by the Ginna Station programs and procedures. Accident analyses addressed in the UFSAR [Updated Final Safety Analysis Report] will be examined with respect to changes in the cycle-dependent parameters, which are obtained from the use of Nuclear Regulatory Commission (NRC) approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be conducted per the requirements of 10 CFR 50.59, will ensure that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated. Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Operation of Ginna Station in accordance with the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment includes changes to the format and magnitudes of nominal trip setpoints and allowable values that preserve all safety analysis assumptions related to accident mitigation. The protection system will continue to initiate the protective actions as assumed in the safety analysis.

The proposed change will continue to ensure that the trip setpoints are maintained consistent with the setpoint methodology and the plant safety analysis. Plant operation will not be changed.

Other proposed changes are made so that the technical specifications more accurately reflect the installed plant specific trip system hardware. Furthermore, the proposed changes do not alter the functioning of the protection systems. No new mode of failure has been created and no new equipment performance requirements are imposed. The proposed amendment has no affect on any previously evaluated accident.

The proposed change to relocate core safety limits and trip setpoint parameter values to the COLR is a programmatic and administrative change and does not result in any change in the manner in which the plant is operated or the way in which the Reactor Trip System provides plant protection. All of the accident transients analyzed in the UFSAR will continue to be protected by the same trip functions with the required trip setpoints. Removal of the cycle specific variables has no influence or impact on, nor does it contribute in any way to the probability or consequences of an accident. No safety-related equipment, safety function, or plant operation will be altered as a result of this proposed change. The cycle specific variables are calculated using the NRC approved methods, and submitted to the NRC to allow the staff to continue to review the values of these limits. The technical specifications will continue to require operation within the core operating limits, and appropriate actions will be required if these limits are exceeded. Therefore, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

The proposed change does not involve a significant reduction in [a] margin of safety.

Operation of Ginna Station in accordance with the proposed changes does not involve

a significant reduction in a margin of safety. The proposed trip setpoint Allowable Values are calculated with an accepted methodology. The proposed changes will continue to ensure that the trip setpoints are maintained consistent with the setpoint methodology and the plant safety analysis. The response of the protection system to accident transients reported in the Updated Final Safety Analysis Report (UFSAR) is unaffected by this change. Therefore, accident analysis acceptance criteria are not affected.

Other proposed changes are made so that the protection system technical specifications more accurately reflect the plant-specific trip system hardware. The proposed change does not involve revisions to any safety limits or safety system setting that would adversely impact plant safety. The proposed change does not alter the functional capabilities assumed in a safety analysis for any system, structure, or component important to the mitigation and control of design bases accident conditions within the facility. Nor does this change revise any parameters or operating restrictions that are assumptions of a design basis accident. In addition, the proposed change does not affect the ability of safety systems to ensure that the facility can be placed and maintained in a shutdown condition for extended periods of time.

The proposed change to relocate core safety limits and trip setpoint parameter values to the COLR represents an administrative change and no hardware changes are involved; therefore, no accident analysis acceptance criteria are affected. The margin of safety is not affected by the removal of cycle specific core operating limits from the technical specifications. The margin of safety presently provided by current technical specifications remains unchanged. Appropriate measures exist to control the values of these cycle specific limits. The proposed amendment continues to require operation within the core limits as obtained from NRC approved methodologies, and the actions to be taken if a limit is exceeded. The development of the limits for future reloads will continue to conform to those methods described in NRC approved documentation. In addition, each future reload will involve a 10 CFR 50.59 review. The proposed amendment is a programmatic and administrative change that provides assurance that plant operations continue to be conducted in a safe manner. The proposed amendment does not result in any change in the manner in which the plant is operated or the way in which the Reactor Trip System (RTS) provides plant protection. The proposed relocation does not alter the manner in which safety limits, limiting safety system setpoints or limiting conditions for operation are determined. Therefore, the response of the RTS to accident transients described in the UFSAR is unaffected by this change. As stated previously, this portion of the proposed amendment does not physically alter safety-related systems, nor does it affect the way in which safety-related systems perform their functions. The accident transients are unaffected and the safety analysis acceptance limits are unaffected. The design of the facility and system operating parameters are not being changed. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Daniel F. Stenger, Ballard Spahr Andrews & Ingersoll, LLP, 601 13th Street, NW., Suite 1000 South, Washington, DC 20005.

NRC Section Chief: Richard J. Laufer.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: March 1, 2002.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period before entering a limiting condition for operation following a missed SR from the current limit of "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement is added to SR 3.0.3: "A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed."

Date of issuance: May 7, 2002.

Effective date: May 7, 2002, and shall be implemented within 60 days of the date of issuance.

Amendment Nos.: Unit 1—141, Unit 2—141, Unit 3—141.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 2, 2002 (67 FR 15621). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 2002.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 and 50–423, Millstone Nuclear Power Station, Unit Nos. 2 and 3, New London County, Connecticut

Date of application for amendment: June 4, 2001.

Brief description of amendment: These amendments modify the Millstone Nuclear Power Station, Unit No. 2 (MP2) and Unit No. 3 (MP3) Technical Specifications (TSs) to relocate selected MP2 and MP3 technical specifications related to the reactor coolant system to the respective Technical Requirements Manual (TRM), with the exception of MP3 Technical Specification Section 4.4.10, which will be relocated to Section6 of MP3's TS. The Bases of the affected TSs will be modified to address the proposed changes.

Date of issuance: May 8, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 266, 204.

Facility Operating License Nos. DPR–65 and NPF–49: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55011). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 8, 2002.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut Date of application for amendment: August 27, 2001.

Brief description of amendment: The amendment changes the Millstone Nuclear Power Station, Unit No. 3 Technical Specifications (TSs) action and surveillance requirements associated with the containment airlock. The Bases of the affected TSs will be modified to address the proposed changes.

Date of issuance: May 15, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 205.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57119). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Generation Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: August 24, 2001, as supplemented December 20, 2001, and February 15, 2002.

Brief description of amendment: The amendment makes changes to the license and technical specifications to reflect the transfer of operating authority to Entergy Nuclear Operations, Inc.

Date of issuance: May 5, 2002.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 193.

Facility Operating License No. DPR–35: Amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** October 4, 2001 (66 FR 50694). The supplemental information received after the initial notice did not expand the application beyond the scope of the notice or affect the applicability of the Commission's generic no significant hazards consideration determination pursuant to 10 CFR 2.1315. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 5, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: September 28, 2001.

Brief description of amendment: The amendment revises the Anticipated Transient Without Scram Recirculation Pump Trip Reactor Pressure High setpoint by replacing the current conditional setpoints, which are based upon the number of Safety Relief Valves out of service, with a single setpoint.

Date of issuance: May 8, 2002.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 273.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 12, 2001 (66 FR 64294). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: January 31, 2002.

Brief description of amendment: The amendment revises Technical Specification (TS) 5.6.5, "Core Operating Limits Report (COLR)," to include an additional reference to Entergy Operations, Inc. (Entergy) Topical Report ENEAD–01–P, "Qualification of Reactor Physics Methods for Pressurized Water Reactors in the Entergy System."

Date of issuance: May 15, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of implementation of Amendment No. 215.

Amendment No.: 216.

Renewed Facility Operating License No. DPR–51: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 19, 2002 (67 FR 7416). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: January 25, 2001, as supplemented by letter dated February 20, 2002.

Brief description of amendment: This amendment revises Technical Specification 3.1.4, Control Rod Scram Times, to increase the control rod scram time testing interval from 120 days to 200 days of full power operation.

Date of issuance: May 14, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No: 150.

Facility Operating License No. NPF–29: The amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 21, 2001 (66 FR 15923). The supplemental letter provided clarifying information that did not change the original application nor expand the scope of the **Federal Register** notice as published. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 14, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: November 30, 2001.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period is

extended from the current limit of "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement is added to SR 3.0.3: "A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed."

Date of issuance: April 30, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 128 and 123.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 19, 2002 (67 FR 7417). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: June 1, 2001, as supplemented on February 8, 2002.

Brief description of amendments: These amendments revise Limiting Condition for Operation 3.6.1.7 concerning drywell average air temperature.

Date of issuance: May 9, 2002.

Effective date: As of date of issuance and shall be implemented within 30 days.

Amendment Nos.: 159, 121.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 8, 2001 (66 FR 41619). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 9, 2002.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 9, 2001, as supplemented by electronic mail dated February 28, 2002.

Brief description of amendment: The amendment consists of changes to the Technical Specifications (TSs) Table 3.3.1.1–1, Function 2.b due to an error in Amendment 184. The supplementary information in the electronic mail dated February 28, 2002, provided clarifications, and did not alter the Commission's conclusions regarding significant hazards consideration.

Date of issuance: May 9, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 191.

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 28, 2001 (66 FR 59509). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 9, 2002.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 21, 2002.

Description of amendment request: The amendment relocates specific pressure, differential pressure, and flow values, as well as specific test methods, associated with certain Engineered Safeguards Features (ESF) pumps from the Technical Specifications to the Seabrook Station Technical Requirements Manual.

Date of issuance: May 2, 2002.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 83.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 19, 2002 (67 FR 12604). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 2002.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: December 21, 2001, as supplemented March 25 and April 8, 2002.

Description of amendment request: The amendment revises Technical Specification Surveillance Requirements 4.3.1.2 and 4.3.2.2 to allow verification in place of demonstration of response time associated with certain pressure sensors, differential pressure sensors, process protection racks, nuclear instrumentation, and logic systems.

Date of issuance: May 2, 2002.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 84.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2925). The supplements dated March 25 and April 8, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally published, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on January 22, 2002, (67 FR 2925). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 2002.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: November 13, 2001, as supplemented by letters dated February 26, 2002, March 11, 2002, and April 18, 2002.

Brief description of amendments: The amendments revise the technical specifications to incorporate a new alternate repair criteria (ARC) for steam generator (SG) tubes with axial primary water stress corrosion cracking (PWSCC) at dented tube support plate (TSP) intersections. These amendments will apply to future operating cycles of Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2.

Date of issuance: May 1, 2002.

Effective date: May 1, 2002, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—152; Unit 2—152.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FR 929). The February 26, 2002, March 11, 2002, and April 18, 2002, supplemental letters provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 1, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: October 9, 2001, as supplemented March 13 and April 11, 2002.

Brief description of amendment: The amendment revised Technical Specification (TS) 6.8.4.h, to extend the requirement to perform a containment integrated leak test from once every 10 years to 11.5 years for the current interval only.

Date of issuance: May 7, 2002.

Effective date: As of the date of issuance and shall be implemented within 45 days of issuance.

Amendment No.: 265.

Facility Operating License No. DPR–79: Amendment revises the technical specifications.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57127). The supplemental letters provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 2002.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 6, 2001.

Brief description of amendment: The amendment revises several of the Required Actions in the Callaway Plant Technical Specifications (TSs) that require suspension of operations involving positive reactivity additions or suspension of operations involving reactor coolant system (RCS) boron concentration reductions. In addition, the proposed amendment revises several Limiting Condition for Operation (LCO) Notes that preclude reductions in RCS boron concentration. This amendment revises these Required Actions and LCO Notes to allow small, controlled, safe insertions of positive reactivity, but limits the introduction of positive reactivity such that compliance with the required shutdown margin or refueling boron concentration limits will still be satisfied. This amendment is based on an NRC-approved traveler, Technical Specification Task Force (TSTF)–286, Revision 2.

Date of issuance: May 1, 2002.

Effective date: May 1, 2002, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 149.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5340). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 2002.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 13, 2001, as supplemented by letter dated April 8, 2002.

Brief description of amendment: The amendment revises the Limiting Condition for Operation (LCO) 3.5.5, Required Action A.1 for the LCO, and Surveillance Requirement 3.5.5.1 in Technical Specification (TS) 3.5.5, "Seal Injection Flow." The revision replaces the flow and differential pressure limits that were stated for the reactor coolant pump seal injection flow by limits provided in Figure 3.5.5–1, which has been added to the TSs.

Date of issuance: May 2, 2002.

Effective date: May 2, 2002, and shall be implemented prior to entering Mode 3 ascending during the restart from Refueling Outage 12, which is scheduled for the Fall of 2002, subject to the note above Surveillance Requirement 3.5.5.1.

Amendment No.: 150.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5341). The supplemental letter of April 8, 2002, does not expand the scope of the application as noticed, clarifies the proposed changes given in the application, and does not change the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 2002.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 20, 2001.

Brief description of amendment: The amendment changes Technical Specifications Table 3.2.6 by revising the Allowed Outage Times (AOTs) and associated action requirements for certain post-accident monitoring instrumentation.

Date of Issuance: May 10, 2002.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 207.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FR 934). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 10, 2002.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of

telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document room (PDR) Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov*.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By June 27, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of amendment request: May 6, 2002, as supplemented on May 8, 2002 (TSC 02–05).

Description of amendment request: The amendment changed the Technical Specifications (TSs) for Sequoyah Nuclear Plant, Unit 2. The proposed change would modify TS Surveillance Requirement 4.4.5.4.a.8 to clarify the scope of the steam generator (SG) tube inspections required in the SG tubesheet region.

Date of issuance: May 10, 2002.

Effective date: May 10, 2002.

Amendment No.: 266.

Facility Operating License No. DPR–79: The amendment revises the TSs.

Public comments requested as to proposed no significant hazards consideration (NSHC): No. The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated May 10, 2002.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Thomas Koshy, Acting.

Dated at Rockville, Maryland, this 20th day of May, 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–13082 Filed 5–24–02; 8:45 am]

BILLING CODE 7590–01–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: U.S. Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its sixth regional meeting, the Commission's eighth public meeting, to hear and discuss coastal and ocean issues of concern to the Northwest region of the United States.

DATES: Public meetings will be held Thursday, June 13, 2002 from 12:30 p.m. to 6 p.m. and Friday, May 14, 2002 from 8:30 a.m. to 6 p.m.

ADDRESSES: The meeting location is the Commission Chambers, Port of Seattle, Pier 69, 2711 Alaskan Way, Seattle, WA 98121.

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW., Washington, DC, 20036, 202–418–3442, *schaff@oceancommission.gov*.

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Public Law 106–256, Section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by June 5, 2002 to the meeting Point of Contact. A public comment period is scheduled for Friday, June 14. The meeting agenda, including the specific time for the public comment period, and guidelines for making public comments will be posted on the Commission's website at *http://www.oceancommission.gov* prior to the meeting.

Dated: May 20, 2002.

James D. Watkins,

Chairman, U.S. Commission on Ocean Policy.

[FR Doc. 02–13199 Filed 5–24–02; 8:45 am]

BILLING CODE 5820–WM–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1 p.m., Monday, June 3, 2002; 8:30 a.m., Tuesday, June 4, 2002.

PLACE: Washington, DC at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: June 3—1 p.m. (Closed); June 4–8:30 a.m. (Open)

MATTERS TO BE CONSIDERED:

Monday, June 3—1 p.m. (Closed)

1. Financial Performance.
2. Strategic Planning.
3. Personnel Matters and Compensation Issues.

Tuesday, June 4—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, May 6–7, 2002.
2. Remarks of the Postmaster General and CEO.
3. Implementation of June 30 Price Changes.
4. Automated Flat Sorting Machine 100 Achievements.

Tuesday, June 4—8:30 a.m. (Open) [continued]

5. Making Information Technology Accessible for Persons with Disabilities.
6. Capital Investment.
   a. Northern New Jersey, Teterboro, Processing and Distribution Center.
7. Tentative Agenda for the July 1–2, 2002, meeting in Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 02–13367 Filed 5–23–02; 2:21 pm]

BILLING CODE 7710–12–M

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. § 460bb note, Title I of Pub. L. 104–333, 110 Stat. 4097, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 6 p.m. to 8:30 p.m. on Thursday, June 13, 2002, at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purpose of this meeting is to provide an opportunity for the public to ask questions regarding the Presidio Trust Management Plan, Land Use Policies for Area B of The Presidio of San Francisco (PTMP) and associated Final Environmental Impact Statement (Final EIS).

Time: The meeting will be held from 6 p.m. to 8:30 p.m. on Thursday, June 13, 2002.

ADDRESSES: The meeting will be held at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco.

Agenda: The agenda of the meeting is (1) a presentation of PTMP highlights; and (2) a Public Comment Period: Question and Answer Session regarding PTMP and associated Final EIS.

FOR FURTHER INFORMATION CONTACT: Karen Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: May 22, 2002.

Karen A. Cook,

General Counsel.

[FR Doc. 02–13310 Filed 5–24–02; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 7d–2; SEC File No. 270–464; OMB Control No. 3235–0527

Rule 237; SEC File No. 270–465; OMB Control No. 3235–0528

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collections of information discussed below.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts ("Canadian retirement accounts"). In cases where these individuals move to the United States, these participants ("Canadian/U.S. Participants" or "participants") may not be able to manage their Canadian retirement account investments. Most securities and most investment companies ("funds") that are "qualified investments" for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirements of the Securities Act of 1933 ("Securities Act")[1] and, in the case of securities of an unregistered fund, the Investment Company Act of 1940 ("Investment Company Act").[2] As a result of these registration requirements of the U.S. securities laws, Canadian/U.S. Participants, in the past, had not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

In 2000, the Commission issued two rules that enabled Canadian/U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian/U.S. Participants and sales to their accounts.[3] Rule 237 under the Securities Act permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act. Rule 7d–2 under the Investment Company Act permits foreign funds to offer securities to Canadian/U.S. Participants and sell securities to their Canadian retirement accounts without registering as investment companies under the Investment Company Act.

The provisions of rules 237 and 7d–2 are substantially identical. Rule 237 requires written offering materials for securities that are offered and sold in reliance on the rule to disclose prominently that those securities are not registered with the Commission and may not be offered or sold in the United States unless they are registered or exempt from registration under the U.S. securities laws. Rule 7d–2 requires written offering materials for securities offered or sold in reliance on that rule to make the same disclosure concerning those securities, and also to disclose prominently that the fund that issued the securities is not registered with the Commission. Neither rule 237 nor rule 7d–2 requires any documents to be filed with the Commission. The burden under either rule associated with adding this disclosure to written 2 offering documents is minimal and is non-recurring. The foreign issuer, underwriter or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement. The staff estimates the annual burden as a result of the disclosure requirements of rules 7d–2 and 237 as follows.

a. Rule 7d–2

At the time rule 7d–2 was adopted,[4] the staff estimated that there were approximately 1,300 publicly offered Canadian funds that potentially would rely on the rule to offer securities to participants and sell securities to their Canadian retirement accounts without registering under the Investment Company Act. During the first year rule 7d–2 was in effect, the staff estimates that approximately 910 (70 percent) of these Canadian funds relied on the rule. The staff further estimates that each of those 910 Canadian funds, on average, distributed 3 different written offering documents concerning those securities, for a total of 2,730 offering documents.[5]

The staff therefore estimates that during the first year that rule 7d–2 was in effect, approximately 910 respondents made 2,730 responses by adding the new disclosure statements to approximately 2,730 written offering documents. Thus, the staff estimates that the total annual burden associated with this disclosure requirement in the first year after rule 7d–2 became effective was approximately 455 hours (2,730 offering documents × 10 minutes per document). In each year following the first year that rule 7d–2 became effective, the staff estimates that approximately 65 (5 percent) additional Canadian funds may rely on the rule to offer securities to Canadian/U.S. Participants and sell securities to their Canadian retirement accounts, and that each of those funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 195 offering documents. The staff therefore estimates that in each year after the first year that rule 7d–2 became effective, approximately 65 respondents would make 195 responses by adding the new disclosure statement to approximately 195 written offering documents. The staff therefore estimates that after the first year, the annual burden associated with the rule 7d–2 disclosure requirement would be approximately 32.5 hours (195 offering documents × 10 minutes per document).

b. Rule 237

Canadian issuers other than funds. The Commission understands that there are approximately 3,500 Canadian issuers other than funds that may rely on rule 237 to make an initial public offering of their securities to Canadian/U.S. Participants.[6] The staff estimates that in any given year approximately 35 (or 1 percent) of those issuers are likely to rely on rule 237 to make a public offering of their securities to participants, and that each of those 35 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 105 offering documents.

The staff therefore estimates that during each year that rule 237 is in effect, approximately 35 respondents would be required to make 105 responses by adding the new disclosure statements to approximately 105 written offering documents. Thus, the staff estimates that the total annual burden associated with the rule 237 disclosure requirement would be approximately 17.5 hours (105 offering documents × 10 minutes per document).

Other foreign issuers other than funds. In addition, issuers from foreign countries other than Canada could rely on rule 237 to offer securities to Canadian/U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. Because Canadian law strictly limits the amount of foreign investments that may be held in a Canadian retirement account, however, the staff believes that the number of issuers from other countries that relies on rule 237, and that therefore is required to comply with the offering document disclosure requirements, is negligible.

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 20, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13232 Filed 5–24–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 27, 2002:

An open meeting will be held on Wednesday, May 29, 2002, at 10 a.m., in Room 1C30, the William O. Douglas Room, and a closed meeting will be held on Thursday, May 30, 2002, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (6), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the open meeting scheduled for Wednesday, May 29, 2002, will be:

1. The Commission will consider whether to issue an order approving the application by Xcel Energy Inc. ("Xcel Energy"), a registered holding company under the Public Utility Holding Company Act of 1935, as amended, and its wholly owned subsidiary, NRG Acquisition Company, LLC, to acquire the outstanding publicly held stock of Xcel Energy's majority owned subsidiary, NRG Energy, Inc., by means of a tender or exchange offer and to engage in related transactions. The Commission will also consider whether to grant a hearing requested by an individual shareholder of Xcel Energy.

2. The Commission will consider whether to issue notices of two applications from Barclays Global Fund Advisors (Barclays) seeking certain exemptions from the Investment Company Act of 1940. One application seeks an order to permit Barclays to introduce exchange-traded funds based on fixed income securities indices. The other application seeks an order to allow the shares of the proposed exchange-traded funds, as well as the shares of exchange-traded funds advised by Barclays and based on equity securities indices, to be sold in the secondary market without prospectus delivery when not required by the Securities Act of 1933.

3. The Commission will consider a proposal by the options exchanges to amend the Options Intermarket Linkage Plan. The Commission also will consider proposing a repeal of Rule 11Ac1–7 under the Securities Exchange Act of 1934 and extending a temporary exemption for broker-dealers from the requirements of the rule. Rule 11Ac1–7 requires a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote, and to disclose the better published quote available at that time, unless the broker-dealer effects the transaction on an exchange that participates in an approved linkage plan.

4. The Commission will consider whether to issue a release proposing for comment an amendment to paragraph (b)(3) of Rule 15c3–3. The provisions in this paragraph apply when broker-dealers borrow fully paid and excess margin securities from customers. The conditions for such borrowings include the requirement that broker-dealers

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[1] 15 U.S.C. 77.

[2] 15 U.S.C. 80a.

[3] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)].

[4] *See supra* note 3.

[5] Because Canadian tax law effectively precludes non-Canadian funds from being held in a Canadian retirement account, the Commission believes that no funds from countries other than Canada rely on rule 7d–2 to sell their shares to the Canadian retirement accounts of Canadian/U.S. Participants.

[6] Canadian funds can rely on both rule 7d–2 and rule 237 to offer securities to participants and sell securities to their Canadian retirement accounts without violating the registration requirements of the Investment Company Act or the Securities Act. Rule 237, however, does not require any disclosure in addition to that required by rule 7d–2. Thus, the disclosure requirements of rule 237 do not impose any burden on Canadian funds in addition to the burden imposed by the disclosure requirements of rule 7d–2. To avoid double-counting this burden, the staff has excluded Canadian funds from the estimate of the hourly burden associated with rule 237.

provide customers with full collateral consisting of certain specified financial instruments or cash. The amendment would allow broker-dealers to pledge such other collateral as the Commission designates as permissible by order as necessary or appropriate in the public interest and consistent with the protection of investors after giving consideration to the collateral's liquidity, volatility, market depth and location, and the issuer's creditworthiness.

5. The Commission will consider whether to issue, jointly with the Commodity Futures Trading Commission, an order to permit certain foreign security index futures to continue to be treated as broad-based index futures.

6. The Commission will consider a release proposing amendments to Rule 10b–10 under the Securities Exchange Act of 1934 ("Exchange Act") and new Exchange Act Rule 11d2–1, which are designed to clarify the disclosures broker-dealers effecting transactions in security futures products in customers' futures accounts must make in the confirmations sent to customers regarding those transactions.

The Commission will also consider issuing an exemptive order providing that broker-dealers effecting transactions in security futures products in customers' futures accounts are exempted from the requirements of Exchange Act Rule 10b–10 and Exchange Act Section 11(d)(2) until the amendments to Exchange Act Rule 10b–10 and new Rule 11d2–1 become effective.

The subject matter of the closed meeting scheduled for Thursday, May 30, 2002, will be:

Formal order of investigation;

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: May 22, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13299 Filed 5–22–02; 4:13 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45966; File No. SR–Amex–2002–24]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Securities Linked to the Nasdaq-100 Index

May 20, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to approve for listing and trading under Section 107A of the Amex Company Guide ("Company Guide"), index linked debt securities whose value will be linked in part to changes in the value of the Nasdaq-100 Index ("Nasdaq-100") pursuant to the methodology set forth below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 107A of the Amex Company Guide ("Company Guide"), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[3] The Amex proposes to list for trading under Section 107A of the Company Guide, index linked debt securities ("Securities") whose value in whole, or in part, will be based on the Nasdaq-100. Holders of the Securities will receive at maturity a payment linked to the closing level of the Nasdaq-100 based on the following formula: (1) If the Final Index Level of the Nasdaq-100 is at or above the Initial Index Level, the holder will receive a payment of $1,000 per Security; or (2) if the Final Index Level of the Nasdaq-100 is below the Initial Index Level, the holder will receive an amount in cash equal to $1,000 per Security multiplied by the Index Settlement Level. The Index Settlement Level is defined as the Final Index Level of the Nasdaq-100 divided by the Initial Index Level, expressed as a percentage. The Nasdaq-100 is determined, calculated and maintained solely by the Nasdaq.[4]

The Initial Index Level, which will be announced at the time of the offering, is the closing level of the Nasdaq-100 on the pricing date. The Final Index Level will equal the closing level of the Nasdaq-100 or any successor index at the regular official weekday close of the principal trading session of The Nasdaq Stock Market, Inc. ("Nasdaq") National Market on the final index determination date.[5]

Securities Description

The Securities will be non-convertible, unsecured and unsubordinated obligations of J.P. Morgan Chase & Co. ("JP Morgan"). The Securities will conform to the initial

[3] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[4] J.P. Morgan Chase & Co. and The Nasdaq Stock Market, Inc. have entered into a non-exclusive licensing agreement providing for the use of the Nasdaq-100 by J.P. Morgan Chase & Co. and certain affiliates and subsidiaries in connection with certain securities including these Notes. Nasdaq is not responsible and will not participate in the issuance and creation of the Securities.

[5] The final index determination date is five (5) trading days prior to maturity, subject to extension in the case of a market disruption event.

listing guidelines under Section 107A[6] and continued listing guidelines under Sections 1001–1003[7] of the Company Guide. Although a specific maturity date will not be established until the time of the offering, the Securities will provide for a maturity of not less than one (1) year nor more than ten (10) years from the date of issue. The Securities are expected to issue at a discount from the face or denomination amount. At maturity, holders of the Securities may receive less than 100% of the initial issue price.

Nasdaq-100 levels for the purpose of determining the payment to holders at maturity will be determined by reference to prices for the Index on a business date shortly prior to maturity. The payment at maturity of the Securities will be based on the Final Index Level. At maturity, holders will receive an amount in cash that is greater than the issue price of the Securities if the Final Index Level of the Nasdaq-100 is greater than the Initial Index Level. However, in no event will a holder of the Securities receive more than $1,000 per Security (or the face amount of such security) at maturity. A holder at maturity will receive less than $1,000 in an amount based on the Index Settlement Level if the Final Index Level is less than the Initial Index Level. Holders of the Securities will receive a cash payment at maturity as long as the Nasdaq-100 does not lose 100% of its value.[8]

[6] The initial listing standards for the Securities require: (1) A market value of at least $4 million, and (2) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[7] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Securities, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list a security if the aggregate market value or principal amount of bonds publicly held is less than $400,000.

[8] Thus, the Securities are not principal protected. Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on May 20, 2002.

The Securities are expected to be listed in $1,000 denominations with the Exchange's equity margin rules applying to trading. The Securities will be cash-settled in U.S. dollars. Holders of the Securities will have no claim or right to the underlying securities of the Nasdaq-100 or the Nasdaq-100 itself. The Securities are designed for investors who want to participate or gain exposure to the Nasdaq-100 while limiting downside risk and, who are willing to forgo market interest payments during the term.[9] The Securities will not have a minimum principal amount that will be repaid and, accordingly, payments at maturity may be less than the original issue price of the Securities.

Index Description

The Nasdaq-100 is a modified capitalization-weighted index of 100 of the largest and most active non-financial domestic and international issues listed on Nasdaq. The Index is determined, comprised and calculated by Nasdaq without regard to the Securities. The Index is calculated and disseminated every fifteen seconds to market information vendors. The Nasdaq-100 reflects the largest growth companies across major industry groups with all index components of domestic issuers having a market capitalization of at least $500 million and an average daily trading volume of at least 100,000 shares. For foreign issuers, the worldwide market capitalization must be at least $10 billion with a U.S. market capitalization of at least $4 billion and an average daily trading volume of at least 200,000 shares. In addition, no single security comprising the Nasdaq-100 is permitted to have more than a 24% weighting. The Nasdaq-100 was originally developed with a base value of 125 on February 1, 1985. Originally a capitalization-weighted index, on December 21, 1998, the Nasdaq-100 changed to a modified capitalization-weighted index.

A modified capitalization-weighted index is a hybrid between equal weighting and capitalization-weighting. This type of methodology is expected to: (1) Retain the economic attributes of capitalization weighting; (2) promote portfolio weight diversification; (3) reduce Nasdaq-100 performance distortion by preserving the capitalization ranking of companies; and (4) reduce market impact on the smallest Nasdaq-100 securities from

[9] For example, a 20% loss in the Nasdaq-100 will provide a 0% return on the Securities, assuming that the expected issue price for a Security is $800 per $1,000 face value.

necessary weight rebalancings. A quarterly examination of the Nasdaq-100 is performed to gauge whether a rebalancing of the Index is necessary. If one of the following weight distribution requirements is not met, the Index is rebalanced. These requirements are as follows: (1) The current weight of the single largest market capitalization index security must be less than or equal to 24%; and (2) the collective weight of those index securities whose individual current weights are in excess of 4.5%, when added together, must be less than or equal to 48.0%.

As of March 19, 2002, the market capitalization of the securities included in the Nasdaq-100 ranged from a high of $334.98 billion to a low of $1.42 billion. The average daily trading volume for these same securities for the last six (6) months, as of the same date, ranged from a high of 76.86 million shares to a low of 0.54 million shares. The Commission has previously granted approval to the Amex to list and trade the Nasdaq-100 Tracking Stock ("QQQ") and options on the QQQ.[10] In addition, the Exchange also lists and trades options on the Nasdaq-100 (NDX) and the Mini Nasdaq-100 (MNX).[11]

Because the Securities are issued in $1,000 denominations, the Amex's existing floor trading rules will apply to the listing of the Securities. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Securities.[12] Second, even though the Exchange's debt trading rules apply, the Securities will be subject to the equity margin rules of the Exchange.[13] Third, in conjunction with the Amex's Hybrid Approval Order, the Exchange will, prior to trading the Securities, distribute a circular to the membership providing guidance with regard to member firm

[10] *See* Securities Exchange Act Nos. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (approval to list and trade Nasdaq-100 Shares) and 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (approval to list and trade options on Exchange-Traded Funds).

[11] Approval of the Nasdaq-100 for underlying an option contract was originally granted to the Chicago Board Options Exchange, Inc. in 1994. See Securities Exchange Act Release Nos. 33428 (January 4, 1994), 59 FR 1576 (January 11, 1994) (approval to list and trade options on the Nasdaq-100); 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval to list and trade Flex Options on the Nasdaq-100) and 43000 (June 30, 2000), 65 FR 42409 July 10, 2000) (approval of a Reduced Value Nasdaq-100).

[12] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[13] *See* Amex Rule 462.

compliance responsibilities (including suitability recommendations) when handling transactions in the Securities and highlighting the special risks and characteristics of the Securities. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Securities: (1) to determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics, and bear the financial risks, of such transaction.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Securities. Specifically, the Amex will rely on its existing surveillance procedures governing debt, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy which prohibits the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act [14] in general and furthers the objectives of Section 6(b)(5) [15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

A. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2002–24 and should be submitted by June 18, 2002.

V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[16] The Commission believes that the availability of the Securities will provide an instrument for investors to achieve desired investment objectives through the purchase of an exchange-traded debt product linked to the Nasdaq. These objectives include participating in or gaining exposure to the Nasdaq while limiting somewhat downside risk. However, the Commission notes that the Securities are index-linked debt securities whose value in whole or in part will be based upon the Nasdaq-100. In addition, the Securities are non-principal protected: they do not have a minimum principal amount that will be repaid, and payments on the Securities at maturity may be less than their original issue price. For the reasons discussed below, the Commission has concluded that the Amex listing standards applicable to the Securities are consistent with the Act.

The Securities are non-convertible and will conform to the Amex listing guidelines under Section 107A of the Company Guide. The specific maturity date will not be established until the time of the offering, but will not be less than one year from the date of issue. The securities will have a face value of $1,000 per security and will be sold at a discount. Holders of the Securities will receive a cash payment based on the following formula: If the Final Index Value is greater than or equal to the Initial Index Value, then a holder receives $1,000 per Security; If the Final Index Value is less than the Initial Index Value, then the holder receives, per security, $1,000 multiplied by the result of dividing the Final Index Value by the Initial Index Value.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the Securities. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the Securities. The Exchange will require members, member organizations and employees thereof recommending a transaction in the Securities to: (1) Determine that such transaction is suitable for the customer, and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics, and bear the financial risks, of such transaction.

In addition, the Amex equity margin rules and debt trading rules will apply to the Securities. The Commission believes that the application of these rules should strengthen the integrity of the Securities. The Commission also believes that the Amex has appropriate surveillance procedures in place to detect and deter potential manipulation for similar index-linked products. By applying these procedures to the Securities, the Commission believes that the potential for manipulation of the Securities is minimal, thereby protecting investors and the public interest. The Commission further notes that the underlying Index is managed by the Nasdaq, an entity independent of both the Exchange and the Issuer, and thus, a factor which the Commission believes should act to minimize the possibility of manipulation. In addition, the Nasdaq-100 is calculated and disseminated every 15 seconds to market information vendors.

The Commission also notes that the Amex will issue a circular on the Securities. The circular should include, among other things, a discussion of the risks that may be associated with the Securities in addition to details on the composition of the Index and how the rates of return will be computed. Further, pursuant to Exchange Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Securities.

The Commission notes that the securities are dependent upon the individual credit of the issuer, J.P. Morgan. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide which provide that only issuers satisfying substantial asset and equity requirements may issue securities such as the Securities. In addition, the Exchange's hybrid listing standards further require that the securities have at least $4 million in market value.[17] In any event, financial information regarding J.P. Morgan, in addition to the information on the issuers of the underlying securities comprising the Nasdaq-100, will be publicly available.[18] Based on these factors, the Commission finds that the proposal to trade the Securities is consistent with section 6(b)(5) of the Act.[19]

Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex. In determining to grant the accelerated approval for good cause, the Commission notes that the Nasdaq-100 is a portfolio of highly capitalized and actively traded securities similar to component securities in hybrid securities products that have been approved by the Commission for U.S. exchange trading. Additionally, the Securities will be listed pursuant to existing hybird security listing standards as described above. Based on the above, the Commission finds good cause to accelerate approval of the proposed rule change, as amended.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Amex–2002–24), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

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[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] See Section 107A of the Company Guide.

[18] The companies that comprise the Nasdaq-100 are reporting companies under the Act.

[19] 15 U.S.C. 78(f)(b)(5).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45969; File No. SR–DTC–2002–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to the Application of a Receiver-Authorized Delivery-Like Function to Maturity Presentments for Money Market Instruments in Times of Unusual Market Stress

May 20, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 25, 2002, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend DTC's procedures to allow the application of a Receiver-Authorized Delivery ("RAD")-like function in times of unusual market stress to maturity presentments ("MPs") of money market instruments ("MMIs") that are in DTC's custody.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) Current Maturity Presentments

Under DTC's current procedures for the processing of MPs, early on the maturity date (generally around 2:00 a.m.), DTC initiates deliveries of the maturing paper from the accounts of participants having position in the maturing paper to the MMI participant account of the issuing/paying agent ("IPA"). These MPs are processed as the equivalent of book-entry deliveries versus payment. As such, MPs may "recycle" just as any delivery would if the net debit cap or collateralization controls applicable to the IPA's account prevents the delivery from being completed. If recycled, the MP delivery would be completed once additional funds such as settlement obligation prepayments or new issuances are credited to the IPA's account. Attempts to complete deliveries of recycling MPs occur randomly without regard to the identity of the offsetting prepayment/issuance transactions. For example, an issuance for commercial paper ("CP") Issuer A might establish collateral in the IPAs account that could be used to support the processing of a maturity of CP Issuer B's paper. This arrangement has operated successfully since MMIs first became DTC-eligible in 1990.

DTC's MMI procedures provide that the IPA can "refuse to pay" for maturing paper of a particular issuer by communicating that intention to DTC before 3:00 p.m. (ET) on the maturity date. This intention will be communicated to all participants by DTC. DTC will then reverse any completed MPs by recrediting them to presenting participants' accounts, which offsets the associated settlement credits in those accounts. DTC will also unwind the following transactions it may have processed earlier that day in the same and other MMIs of that "defaulting issuer': uncompleted maturity presentments; any valued issuances; any periodic income (interest or dividend) and principal presentments; and any reorganization presentments. In addition, DTC will mark down the collateral value of all of the defaulting issuer's MMIs in the system to zero and will block further issuances of that issuer's paper through DTC.

(ii) Application of Receiver-Authorized Delivery-Like Function

The Receiver-Authorized Delivery (RAD) function enables each participant to limit and consider certain securities

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

deliveries (those obligating the participant to pay $15 million or more) and certain payment orders (those obligating the participant to pay $1 million or more) which are directed to its account by any other participant before its account is updated. Certain other transactions, including substantially overvalued deliveries and deliveries initiated just prior to cutoff, are automatically subject to the RAD function.

Under DTC's current procedures, RAD is not available for MPs initiated by DTC on behalf of presenting participants because MPs are known in advance and can generally be presumed to be valid obligations due and payable. Moreover, the processing of MPs occurs early in the processing day in the expectation that the associated money credits posted to the accounts of presenting participants will be available to support the efficient subsequent processing of new MMI issuances. Finally, subjecting all MMI maturities to RAD would impose an operational burden on IPAs, who would be required to authorize each MP in order for the transaction to be completed.

Since the events of September 11, IPAs have raised a concern that in such emergency situations the random nature of DTC's process for updating recycling MPs prevents the IPAs from aligning the funding of maturities with offsetting issuances of the same issue or with decisions to activate back-up lines of credit in order to fund a particular issuer's maturing obligations.

The purpose of the proposed rule change is to provide to IPAs in the event of a systemic, operational, or other crisis that could result in MMI maturities not being funded in the normal course a mechanism for dealing with the nonpayment of maturities that does not have the consequences of a "refusal to pay." Under the proposed rule change, in extraordinary circumstances [3] and only after consultation with its regulators, DTC at its option could direct MPs for MMIs maturing on the days following the crisis to a new contingency RAD-like feature. This would afford the IPA an opportunity to review and approve MPs prior to having them processed into its account and would provide the IPA additional measures of control over its financial obligations to particular MMI issuers in times of unusual market stress. DTC would continue this procedure at its option until processing conditions returned to a more normal state.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act because it will promote the prompt and accurate settlement of securities transactions and will be implemented in a manner that is consistent with DTC's risk management controls.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was reviewed with members of The Bond Market Association's Money Market Operations Committee in December 2001 and the Commercial Paper Issuers Working Group in January 2002. They agreed that using the proposed RAD-like feature offers many advantages in that it is a process that can be rapidly deployed by DTC on the days following a disaster and that allows IPAs to control the presentation of maturing paper into their accounts and thereby better manage their exposures in times of unusual market stress.

Some members of these industry groups expressed concern that subjecting MPs to RAD-like controls might impose a difficult operational burden on IPAs if they would be required to authorize each MP individually. In this connection, a custodian bank pointed out that a significant delay in the availability of credits from successfully processed MPs (which but for the need for RAD approvals would have been processed in the early morning hours) could leave custodians with higher than usual debits and therefore could potentially cause the recycling of other delivery versus payment transactions. To address these concerns, the RAD-like controls developed by DTC will provide the IPA with several options to facilitate its processing, including the ability to approve all MPs as a group.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR–DTC–2002–04 and should be submitted by June 18, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

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[3] Such circumstances would be evidenced by the closing of one or more national securities exchanges (*e.g.*, the New York Stock Exchange or Nasdaq).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45968; File No. SR–NASD–2002–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2 and 3 thereto by the National Association of Securities Dealers, Inc. Relating to the Integrated Processing of Odd-Lot Share Amounts in Nasdaq's SuperMontage System

May 20, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 25, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed Amendment No. 1 to the proposed rule change on April 23, 2002.[3] Nasdaq filed Amendment No. 2 to the proposed rule change on May 17, 2002.[4] Nasdaq filed Amendment No. 3 to the proposed rule change on May 17, 2002.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes changes to several NASD Rules governing the operation of Nasdaq's future Order Display and Collector Facility ("NNMS" or "SuperMontage") to allow the system to accept, integrate, process, and otherwise facilitate the interaction of orders of less than one round-lot (100 shares) with all other SuperMontage quotes and orders.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.[6]

4701. Definitions

Unless stated otherwise, the terms described below shall have the following meaning:

(a) through (cc) No Change.

(dd) The term "Reserve Size" shall mean the system-provided functionality that permits a Nasdaq Quoting Market Participant to display in its Displayed Quote/Order part of the full size of a proprietary or agency order, with the remainder held in reserve on an undisplayed basis to be displayed in whole or in part after the displayed part is [executed] *reduced by executions to less than a normal unit of trading.*

(ee) through (ff) No Change.

(gg) The term "Legacy Quote" shall mean the quotation mechanism that existed in Nasdaq on or before July 1, 2002, and that does not permit the entry of Quotes/Orders at multiple price levels in the NNMS.

* * * * *

4706. Order Entry Parameters

(a) Non-Directed Orders —

(1) General. The following requirements shall apply to Non-Directed Orders Entered by NNMS Market Participants:

(A) No Change.

(B) A Non-Directed Order must be a market or marketable limit order, [must be a round-lot or a mixed-lot,] must indicate whether it is a buy, short sale, short-sale exempt, or long sale, and if entered by a Quoting Market Participant may be designated as Immediate or Cancel.

(C) through (E) No Change.

(2) No Change.

(b) Directed Orders A participant may enter a Directed Order into the NNMS to access a specific Attributable Quote/Order displayed in the Nasdaq Quotation Montage, subject to the following conditions and requirements:

(1) through (3) No Change.

(c) No Change.

(d) Order Size—Any [round or mixed-lot] order *in whole shares* up to 999,999 shares may be entered into the NNMS for normal execution processing. [Odd-lot orders, and the odd-lot portion of a mixed-lot, are subject to a separate execution process, as described in Rule 4710(e).]

(e) No Change.

[(f) Odd-Lot Orders—The system will accept odd-lot orders for processing through a separate facility. Odd-lot orders must be Non-Directed Orders, and may be market, marketable limit or limit orders. The system shall accept odd-lot orders at a rate no faster than one order per/second from any single participant. Odd-lot orders, and the odd-lot portion of a mixed-lot order, shall be processed as described in Rule 4710(e).]

* * * * *

4707. Entry and Display of Quotes/Orders

(a) No Change.

(b) Display of Quotes/Orders in Nasdaq—The NNMS will display a Nasdaq Quoting Market Participant's Quotes/Orders as follows:

(1) No Change.

(2) No Change.

(3) Exceptions—The following exceptions shall apply to the display parameters set forth in paragraphs (1) and (2) above:

(A) Odd-lots, Mixed-lots, and Rounding—The Nasdaq system (and all accompanying data feeds) shall be capable of displaying trading interest in round-lot amounts. For quote display purposes, Nasdaq will aggregate all shares, including odd-lot share amounts, entered by a Quoting Market Participant at a single price level and then round that total share amount down to the nearest round-lot amount for display and dissemination consistent with subparagraphs (b)(1) and (b)(2) of this rule. Though rounded, any odd-lot portion of a Quoting Market Participant's trading interest that is not displayed as a result of this rounding process will remain in the system, with the time-priority of their original entry, and be continuously available for execution. Round-lots that are subsequently reduced by executions to a mixed-lot amount will likewise be rounded for display purposes by the system to the nearest round-lot amount at that same price level. Any odd-lot number of shares that do not get displayed as a result of this rounding will remain in the system with the time-priority of their original entry and thus be continuously available for execution. If executions against an Attributable Quote/Order result in there being an insufficient (odd-lot) amount of shares at a price level to display an Attributable Quote/Order for one round-lot, the system will display the Quoting Market Participant's next best priced Attributable Quote/Order consistent with Rule 4710(b)(2). If all Attributable Quotes/Orders on the bid and/or offer side of the market are exhausted so that there are no longer any Attributable Quotes/Orders, the system will refresh a market maker's exhausted bid or offer quote using the process set forth in Rule 4710(b)(5). With the exception of Legacy Quotes, odd-lot remainders that are not displayed will remain in the system at their original price levels and continue to be available for execution.

(c) through (e) No Change.

* * * * *

4710. Participant Obligations in NNMS

(a) No Change.

(b) Non-Directed Orders

(1) General Provisions—A Quoting Market Participant in an NNMS Security shall be subject to the following requirements for Non-Directed Orders:

(A) No Change.

(i) No Change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 23, 2002, the Exchange filed a Form 19b–4, which replaced the original filing in its entirety ("Amendment No. 1").

[4] On May 17, 2002, the Exchange filed a form 19b–4, which replaced the original filing in its entirety ("Amendment No. 2").

[5] *See* letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 17, 2002 ("Amendment No. 3"). In Amendment No. 3, Nasdaq replaced the text of NASD Rule 4707 in its entirety.

[6] The Commission notes that it has made technical, non-substantive change to the proposed rule text. Nasdaq has committed to submit an amendment conforming to these changes. Telephone conversation between Thomas P. Moran, Associate General Counsel, Nasdaq, and Kelly Riley, Senior Special Counsel, Division, Commission, on May 17, 2002.

(ii) NNMS Order-Delivery ECNs shall participate in the order-delivery functionality of the NNMS, and shall accept the delivery of an order up to the size of the NNMS Order-Delivery ECN's Displayed Quote/Order and Reserve Size. The NNMS Order-Delivery ECN shall be required to execute *the full size of such order (even if the delivered order is a mixed-lot or odd-lot) unless that interest is no longer available in the ECN, in which case the ECN is required to execute in a size equal to the remaining amount of trading interest available in the ECN* [such order in a manner consistent with the Firm Quote Rule].

(iii) No Change.

(B) Processing of Non-Directed Orders—Upon entry of a Non-Directed Order into the system, the NNMS will ascertain who the next Quoting Market Participant in queue to receive an order is (based on the algorithm selected by the entering participant, as described in subparagraph (b)(B)(i)—(iii) of this rule), and shall deliver an execution to Quoting Market Participants that participate in the automatic-execution functionality of the system, or shall deliver a Liability Order to Quoting Market Participants that participate in the order-delivery functionality of the system; provided however, that the system always shall deliver an order (in lieu of an execution) to the Quoting Market Participant next in queue when the participant that entered the Non-Directed Order into the system is a UTP Exchange that does not provide automatic execution against its Quotes/Orders for Nasdaq Quoting Market Participants and NNMS Order Entry Firms. Non-Directed Orders entered into the NNMS system shall be delivered to or automatically executed against Quoting Market Participants' Displayed Quotes/Orders and Reserve Size, including Agency Quotes (if applicable), in strict price/time priority, as described in the algorithm contained in subparagraph (b)(B)(i) of this rule. Alternatively, an NNMS Market Participant can designate that its Non-Directed Orders be executed based on a price/time priority that considers ECN quote-access fees, as described in subparagraphs (b)(B)(ii) of this rule, or executed based on price/size/time priority, as described in subparagraph (b)(B)(iii) of this rule. *For purposes of the execution algorithms described in paragraphs (i), (ii) and (iii) below, "Displayed Quotes/Orders" shall also include any odd-lot, odd-lot portion of a mixed-lot, or any odd-lot remainder of a round-lot(s) reduced by execution, share amounts that while not displayed in the Nasdaq Quotation Montage, remain in system and available for execution.*

(i) through (iv) No Change.

(C) Decrementation Procedures—The size of a Quote/Order displayed in the Nasdaq Order Display Facility and/or the Nasdaq Quotation Montage will be decremented upon the delivery of a Liability Order or the delivery of an execution of a Non-Directed Order or Preferenced Order in an amount equal to the system-delivered order or execution. [; provided, however, that if an NNMS order that is a mixed-lot, the system will only deliver a Liability Order or an execution for the number of round-lots contained in the mixed-lot order, and will only decrement the size of a Displayed Quote/Order by the number of shares represented by the number of round-lots contained in the mixed-lot order. The odd-lot portion of the mixed-lot will be executed at the same price against the NNMS Market Maker next in the odd-lot rotation, as described in subparagraph (e) of this rule.]

(i) through (iv) No Change.

(D) through (E) No Change.

(2) Refresh Functionality

(A) Reserve Size Refresh—Once a Nasdaq Quoting Market Participant's Displayed Quote/Order size on either side of the market in the security has been decremented to [zero] *an amount less than one normal unit of trading* due to NNMS processing Nasdaq will refresh the displayed size out of Reserve Size to a size-level designated by the Nasdaq Quoting Market Participant, or in the absence of such size-level designation, to the automatic refresh size. *The amount of shares taken out of reserve to refresh display size shall be added to any shares remaining in the Displayed Quote/Order.* To utilize the Reserve Size functionality, a minimum of a normal unit of trading must initially be displayed in the Nasdaq Quoting Market Participant's Displayed Quote/Order, and the Displayed Quote/Order must be refreshed to at least a normal unit of trading. This functionality will not be available for use by UTP Exchanges.

(B) Auto Quote Refresh ("AQR")—Once an NNMS Market Maker's Displayed Quote/Order size and Reserve Size on either side of the market in the security has been decremented to [zero] *an amount less than one normal unit of trading* due to NNMS executions, the NNMS Market Maker may elect to have The Nasdaq Stock Market refresh the market maker's quotation as follows:

(i) Nasdaq will refresh the market maker's quotation price on the bid or offer side of the market, whichever is decremented to [zero] *an amount less than a normal unit of trading,* by a price interval designated by the NNMS Market Maker; and

(ii) No Change.

(iii) This functionality shall produce an Attributable Quote/Order. [In addition, if an NNMS Market Maker is utilizing the QR functionality but has an Attributable Quote/Order in the system that is priced at or better than the quote that would be created by the QR, the NNMS will display the Attributable Quote/Order, not the QR-produced quote.]

(iv) *The AQR functionality described in this subparagraph shall only be available for use in connection with a NNMS Market Maker's "Legacy Quote."* [An NNMS Market Maker's Agency Quote shall not be subject to the functionality described in this subparagraph, nor shall this functionality be available to Quoting Market Participants other than NNMS Market Makers.]

(3) through (8) No Change.

(c) No Change.

(d) No Change.

[(e) Odd-Lot Processing

(1) Participation in Odd-Lot Process—All NNMS Market Makers may participate in the Odd-Lot Process for each security in which the market maker is registered.

(2) Execution Process

(A) Odd-lot orders will be executed against an NNMS Market Maker only if it has an odd-lot exposure limit in an amount that would fill the odd-lot order. A NNMS Market Maker may, on a security-by-security basis, set an odd-lot exposure limit from 0 to 999,999 shares.

(B) An odd-lot order shall be executed automatically against the next available NNMS Market Maker when the odd-lot order becomes executable (i.e., when the best price in Nasdaq moves to the price of the odd-lot limit order). Such odd-lot orders will execute at the best price available in the market, in rotation against NNMS Market Makers who have an exposure limit that would fill the odd-lot order.

(C) For odd-lots that are part of a mixed-lot, once the round-lot portion is executed, the odd-lot portion will be executed at the round-lot price against the next NNMS Market Maker in rotation (as described in subparagraph (e)(2)(b) of this rule) even if the round-lot price is no longer the best price in Nasdaq.

(D) Odd-lot executions will decrement the odd-lot exposure limit of an NNMS Market Maker but will not decrement the size of NNMS Market Maker's Displayed Quote/Order.

(E) After the NNMS system has executed an odd-lot against an NNMS Market Maker, the system will not deliver another odd-lot order against the same market maker until a predetermined time period has elapsed from the time the last execution was delivered, as measured by the time of execution in the Nasdaq system. This period of time shall initially be established as 5 seconds, but may be increased upon Commission approval and appropriate notification to NNMS Participants or may be decreased to an amount less than five seconds by the NNMS Market Maker.]

[(f)] *(e)* UTP Exchanges

(1) through (6) No Change.

* * * * *

4715. Adjustment of Open Quotes and/or Orders

NNMS will automatically adjust the price and/or size of open quotes and/or orders resident in the system in response to issuer corporate actions related to a dividend, payment or distribution, on the ex-date of such actions, except where a cash dividend or distribution is less than one cent ($0.01), as follows:

(a) No Change.

(b) No Change.

(c) Buy Orders—Buy side orders shall be adjusted by the system based on the particular corporate action impacting the security (i.e. Cash dividend, stock dividend, both, stock split, reverse split) as set forth below:

(1) No Change.

(2) Stock Dividends and Stock Splits: Buy side order prices shall be determined by first rounding up the dollar value of the stock dividend or split to the nearest penny. The resulting amount shall then be subtracted from the price of the buy order. Unless marked "Do Not Increase", the size of the order shall be increased by first, (A) multiplying the size of the original order by the numerator of the ratio of the dividend or split, then (B) dividing that result by the denominator of the ratio of the dividend or split, then (C) rounding that result to the next lowest [round-lot] *share.*

(3) No Change.

(4) No Change.

(5) No Change.

(d) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Currently, the rules of SuperMontage provide for the voluntary participation of market makers in the execution of odd-lot orders. Only those market makers that voluntarily set individual odd-lot exposure limits on specific securities would have odd-lot orders sent to them on a rotating basis for execution. Resulting executions would reduce the market maker's odd-lot exposure limit, but not its displayed quote, and the system would not deliver an additional execution against the same odd-lot market maker until at least 5 seconds have elapsed since the market maker's last previous odd-lot execution in the security. For mixed-lot orders, SuperMontage would execute the round-lot portion(s) of such orders through the main non-directed order process and thereafter execute any odd-lot remainder against the next market maker in rotation with an odd-lot exposure amount sufficient to fully execute the odd-lot. The resulting odd-lot execution would be done at the same price as the round-lot portion(s) of the mixed-lot order.

Upon further review, Nasdaq has determined to alter this approach to the processing of odd-lots and mixed-lot orders in SuperMontage. Instead, Nasdaq proposes to implement in SuperMontage a fully integrated process to execute and process orders in share amounts of less than one round-lot (100 shares). As such, Nasdaq will not provide a separate process for odd-lot orders and instead allow the entry of orders in any whole share amount from 1 to 999,999 shares. The outline of this "actual shares" approach follows.

I. Display of Quotations and Dissemination of Transaction Reports

Nasdaq will continue to display and disseminate quote and trade information solely in round-lot amounts. The Nasdaq inside market will consist of the best-priced bid display quote and the best-priced offer display quote that are at least one round-lot (100 shares) in size. Nasdaq will continue to disseminate transactions to the public tape, whether it is a round or mixed-lot execution, in round-lot increments.[7] For quote display purposes, Nasdaq will aggregate all shares (orders and quotes) entered by a market participant, including UTP Exchanges, at a single price level and then round that total share amount down to the nearest round-lot amount for display and dissemination. For example, a quoting market participant with three separate orders to buy of 50 shares, 225 shares and 590 shares at the same price level would have displayed next to its market identifier on the bid side of the market an aggregate quote size of 800 shares (50 + 225 + 590 = 865 which is then rounded down to 800 shares for display purposes). Likewise, a party entering a mixed-lot quote/order will have that mixed-lot amount automatically rounded down to nearest round-lot amount for display. Though rounded, any odd-lot portion that is not displayed as a result of this rounding process (in the previous example, 65 shares) will remain in the system, with the time-priority of their original entry. SuperMontage's aggregated share price information features will disseminate price and size information based solely on aggregated round-lot share amounts (including aggregated mixed-lots rounded down to round-lots) and will not include any price level where there is less than a round-lot share amount of trading interest.

A. Display of Mixed-Lot and Odd-lot Remainders

SuperMontage will not display odd-lots.[8] Aggregated or initial round-lot amounts that are subsequently reduced by executions to a mixed-lot amount will be rounded down for display purposes to the nearest round-lot amount at that same price level. If executions result in there being an insufficient (odd-lot remainder) amount of shares at a price level to display a round-lot share amount for a market participant using SuperMontage's new quote/order interface ("Quote/Order"), the system will instead display that market participant's next best priced round-lot share amount on that same

[7] For the purpose of publicly reporting transactions to the tape, Nasdaq would round a mixed-lot execution down, and report it as the next lowest round-lot increment. Telephone conversation between Thomas P. Moran, Associate Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division, Commission, on May 17, 2002.

[8] Under the proposal, the maximum number of shares of an individual order, or an aggregated total of multiple orders, that potentially may not be displayed is 99 shares. Nasdaq believes that this approach is consistent with the Commission's Limit Order Display Rule that exempts customer limit orders of odd-lot size from the display requirement. *See* Exchange Act Rule 11Ac1–4(c)(3); 17 CFR 240.11Ac–4(c)(3).

side of the market where the market participant using quotes/orders has displayable trading interest of at least a single round-lot share amount. If there is no remaining displayable trading interest on a particular side of the market a new quote/order will be generated using the "penalty process," as set forth in Section I.B. below.

If a market participant in SuperMontage continues to use current quote technology—"Legacy Quote"—instead of SuperMontage's new quote and order entry messages and features,[9] the system will likewise not display any odd-lot remainder of the Legacy Quote and will instead either: (1) refresh the Legacy Quote using the Auto Quote Refresh ("AQR") function to a price and size selected by the entering party, or (2) generate a entirely new Legacy Quote using the penalty process, as set forth below.

B. Penalty Quote Refresh

If a market maker is using either a Quote/Order, or a Legacy Quote without AQR functionality, and has no attributable round-lot share amounts on a particular bid or ask side of a market to round to, SuperMontage will automatically generate, consistent with NASD Rule 4710(b)(5), a quote of a normal size unit of trading (*i.e.*, a round-lot).[10] When a market participant's Legacy Quote is refreshed using the penalty process, any odd-lot remainder of the market participant's present in the system will be purged and will not be retained for potential execution.[11] However, the odd-lot remainder of a market maker using a Quote/Order will remain in the system, will not be purged, and will be retained for potential execution.

C. Automatic Quote Refresh

As stated previously, a market participant using a Legacy Quote, but not Quote/Order, may use Nasdaq's AQR functionality to have their displayed quote refreshed to a price and size (round-lot share amount) selected by the firm immediately after its displayed and reserve size at a price level is reduced to less than 100 shares. Any odd-lot share amount present at the time a Legacy Quote is refreshed by AQR shall *not* be retained in the SuperMontage system for execution and the system will only recognize and potentially process the round-lot refreshed amount.

AQR was introduced in a SOES environment (and carried over into SuperSOES), where market participants can only enter one price level, and can have their quotes decremented to zero due to automatic executions. In SOES and SuperSOES, if a firm does not refresh its quote after being decremented to zero, the firm is subject to a mandatory withdrawal from market making in the security at issue, as it has failed to maintain a two-sided market ("SOESed-out-of-the-Box"). Thus, the purpose of AQR is to allow market participants to meet their two-sided quote obligations in an environment where market participant are subject to automatic execution and withdrawal and have only one means of meeting with two-sided market requirement (*i.e.*, via a two-sided quote).

In this filing, Nasdaq proposes that SuperMontage will only allow AQR to function with Legacy Quotes.[12] AQR will not function with new SuperMontage Quotes/Orders as AQR was tied to an environment where an market participant can only enter a single quote to manage their position. In addition, Nasdaq believes that AQR is redundant if a firm is using multiple quote/orders to manage their positions—that is, if a firm is using multiple quotes or orders to manage their position and meet their two-sided market obligation, AQR is duplicative.

Lastly, Nasdaq believes it is important to note that the need for AQR in a SuperMontage environment is less, in part, because market makers can no longer be SOESed-out-of-the-Box pursuant to the penalty quote process (as described in Section B of this filing).

D. Retention of Odd-Lot Remainders for Potential Execution

SuperMontage will always retain for potential execution all odd-lot remainders of Quotes/Orders unless canceled by the entering party. For Legacy Quotes, odd-lot remainders will be retained by the system only to the extent that Legacy Quote has not been refreshed by either the AQR function or the penalty process. Legacy Quotes using Nasdaq's AQR functionality shall have their displayed quote refreshed to the price and round-lot share amount selected by the firm immediately after its display and reserve at a price level is reduced to less than 100 shares. Any odd-lot share amount present at the time a Legacy Quote is refreshed using the AQR function shall *not* be retained in the SuperMontage system for execution. In addition, when a Legacy Quote without AQR functionality is refreshed using the penalty process, any odd-lot remainder shall not be retained by the system after the market maker has had its quote refreshed by the penalty process.[13] ECNs that have only odd-lot share amounts remaining at a price level will remain in the montage with no displayed quote on the side(s) of the market where they have the odd-lot amount. Though un-displayed, such odd-lots remainders will reside in the system, retain their price and time priority, and will be available for execution.

E. Reserve Refresh

SuperMontage also allows market participants to use reserve size and select a round-lot refresh amount that the market participant wishes its quote to be refreshed to once its displayed size is reduced to less than a round-lot. Thus, once a quote or an order is decremented to a size less than 100 shares, the system will refresh the quote from reserve size by an amount designated by the market participant. If there was an odd-lot amount available prior to the quote being refreshed, the odd-lot remainder of quotes and orders being refreshed from reserve would be retained by the system and combined with the refresh size. For example, a market maker ("MMA") is displaying a 1000 share bid quote. MMA has 5000 shares in reserve and a 500 share refresh size. SuperMontage executes 925 shares against MMA's. Upon execution, since MMA's displayable interest is less than 100 shares, the system will refresh MMA's' quote by the refresh amount—500 shares, but will also retain the 75 share odd-lot remainder in the system. The resulting 575 share total will remain in the system and available for execution but will be rounded down to 500 shares for display purposes.

II. Entry of Orders

Under the new approach to odd-lot orders, market participants will be able to enter orders into SuperMontage in any whole-share amount from 1 to 999,999 shares. Though eligible for entry and execution along with all other quotes and orders, orders originally entered in odd-lot amounts may not use SuperMontage's Reserve Size feature.[14] Like round-lot orders, odd-lot and mixed-lot orders will be allowed to be entered as "market" orders or priced "limit" orders, and may have a designated time-in force of "Day," "Immediate or Cancel," or "Good-till-canceled."[15] They can also be replaced, increased or decreased under the same terms and conditions as round-lot orders. Odd-lot orders may also be preferenced (via the Non-Directed Order Process set forth in NASD Rule 4710(b)(1)(B)(iv)) to other market participants in the same manner as round and mixed-lots.

Finally, to the extent that any order residing in SuperMontage becomes subject to an issuer corporate action related to a stock split or dividend that would require adjustment of the size of that order, Nasdaq will adjust the order's size to an appropriate individual share amount.[16] Currently, the rules governing these adjustments call for, in certain cases, the rounding of share amounts to the nearest round-lot. If this proposal is approved, such rounding, when required, will be done to the single share. Nasdaq believes that this will result in more accurate representation of buying and selling interest.

III. Execution Process

Odd-lots and mixed-lots shall be processed through SuperMontage's Non-Directed Order process. All market and marketable limit orders for odd-lots and mixed-lots will execute against trading interest on the other side of the market (against which it is marketable) on a share-by-share basis (in actual share amounts). Odd-lots and mixed-lots will receive a time stamp upon entry into SuperMontage, which they will retain while in the system. Odd-lots and mixed-lots will be executed pursuant to the execution algorithm selected (price/time (default), price/time with fee consideration, and price/size/time) by the entering market participant. Priced mixed-lot orders (limit orders) that are entered by a quoting market participant and that are or become non-marketable, will be displayed in SuperMontage on a rounded basis. That is, the system will round down the size of mixed-lot to the nearest round-lot amount.[17] An odd-lot, mixed-lot, or round-lot that subsequently is reduced to an odd-lot or mixed-lot size will retain the time-stamp of original entry for purposes of determining priority in the Non-Directed Order processing queue.

As described above, odd-lots will be retained by the system, but will not be displayed. Odd-lots and mixed-lots will interact with other quotes and orders against which they are marketable in the same manner as round-lots. As also described above, SuperMontage will *not* execute at an inferior price level until all better-priced share amounts that are in the system, both round-lots and undisplayed odd-lots, are executed.

Nasdaq believes that the full integration of odd-lot share amounts into SuperMontage is a great step forward in ensuring that the small orders of public customers are treated fairly, consistently, and on the same terms as the larger orders of professional market participants. In addition, by placing such orders on an equal execution footing with round-lot trading interest, Nasdaq believes that odd-lot share amounts can be a significant source of liquidity in the Nasdaq market.

(2) Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[18] in general and with section 15A(b)(6) of the Act,[19] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions and securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[9] An integral part of Nasdaq's implementation strategy for SuperMontage is to provide users with the ability to initially select their level of interaction with the system and the timing of internal firm programming changes necessary to take advantage of some or all of SuperMontage's new features and functionality. Through a programming approach known as "backward compatibility," SuperMontage will allow firms to continue to use the quote and order templates they use today in the SuperSoes environment to format messages to interact with the SuperMontage (i.e., Legacy Quote). Likewise, firms that continue to use current SelectNet formats, will be able to use SuperMontage's Directed Order Process to communicate with other market participants.

Firms would need to make at least some programming changes to participate in the new SuperMontage environment using existing SuperSOES formats, interfaces and functions. However, backward compatibility allows a firm to internally prioritize which SuperMontage features and functions it would like to take advantage of, and program for those changes first. In one limited circumstance, however, the decision to program to use a SuperMontage feature providing greater flexibility than that available in today's environment, can result in losing a complimentary capability. This occurs when a firm programs to use SuperMontage's new Quote/Order interface and thus is able to place multiple quotes at multiple price levels in the system. When this occurs, the firm may no longer use Nasdaq's AQR feature which is associated exclusively with Legacy Quotes. *See* Section I.C. of this filing.

[10] The currently approved SuperMontage rule provides that if a market maker's quote or order is decremented to zero and the market maker does not update its principal quote via AQR, transmit a revised attributable quote/order to Nasdaq, or have another attributable quote or order in the system, Nasdaq will place the market maker's quote (both sides) in a closed state for three minutes. At the end of that time, if the market maker did not voluntarily update or withdraw its quote from the market, Nasdaq will refresh the market maker's quote/order to its normal unit of trading at the lowest bid and highest offer currently being displayed in that security and reopen the market maker's quote.

Nasdaq recently filed with the Commission a proposed rule change to modify this process. Under the proposal, if all bids and/or offers are exhausted so that there are no longer any Quote/Orders displayed on the bid or offer side of the market, and the market maker does not update its principal quote via AQR, transmit a revised attributable quote/order to Nasdaq, or have another attributable quote or order in the system, the system, after 30 seconds, would refresh only the market maker's exhausted bid or offer quote to a normal unit of trading priced $0.01 inferior to the lesser of either: a) the last valid displayed inside bid/offer in the security before all such bids/offers were exhausted; or b) the market maker's last displayed bid/offer before exhaustion. If the resulting bid/offer quote would create a locked or crossed market, SuperMontage will instead re-open the exhausted market maker's bid/offer quote at a price $0.01 inferior to the unexhausted inside bid/offer in that security. If at any time this penalty quote refresh process would result in the creation of a bid/offer of less than $0.01, the system will refresh that bid/offer to a price of $0.01. *See* Securities Exchange Act Release No. 45671 (March 28, 2002), 67 FR 16784 (April 8, 2002) (Notice for File No. SR–NASD–2002–01).

Changes were made to this footnote pursuant to a telephone conversation between Thomas P. Moran, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division, Commission, on May 20, 2002.

[11] Note, however, between the time a market maker's Legacy Quote is decremented to less than a round-lot share amount and the time the market maker's Legacy Quote is refreshed pursuant to the penalty process or the transmission of a revised attributable quote prior to the system refreshing the quote via the penalty process, any odd-lot remainders will be retained by the system and shall be accessible for execution. In essence, odd-lot remainders of a Legacy Quote are purged from the system contemporaneous with the actually refreshing of a Legacy Quote. Telephone conversation between Thomas P. Moran, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division, Commission, on May 20, 2002.

[12] The SuperMontage, as originally approved, contemplated the use of the AQR function with a market participant's use of multiple attributable quotes. *See* Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001).

[13] *See supra* note 11.

[14] Quotes and orders originally entered into the system as mixed-lots may use the SuperMontage reserve size feature. Telephone conversation between Thomas P. Moran, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division, Commission, on May 17, 2002.

[15] Nasdaq has filed a rule proposed rule change with the Commission to allow orders in SuperMontage to be designated as "Day." The Commissions expects that Nasdaq will amend the proposed rule change shortly to include the "Good-till-cancelled" designation. *See* File No. SR–NASD–2001–98.

[16] Nasdaq filed a proposed rule change with the Commission that became effective pursuant to section 19(b)(3)(A) of the Act, which sets forth this adjustment process that currently contains rule language rounding share amounts to round-lots. *See* Securities Exchange Act Release No. 4577 (April 18, 2002), 67 FR 20566 (April 25, 2002).

[17] "Immediate or Cancel" ("IOC") Orders are not eligible for display in SuperMontage. Orders entered by order-entry firms are designated as IOC. Quoting market participants (*i.e.*, market makers, ECNs, and UTP Exchanges) may designate orders as IOC.

[18] 15 U.S.C. 78o–3.

[19] 15 U.S.C. 78o–3(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.[20]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–42 and should be submitted by June 18, 2002.

[20] Nasdaq has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act to approve the proposed rule change prior to the 30th day after its publication in the **Federal Register**. *See* Amendment No. 2, *supra* note 4.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13191 Filed 5–24–02; 8:45 am]

BILLING CODE 8010–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45970; File No. SR–NYSE–2001–33]

Self-Regulatory Organizations; The New York Stock Exchange; Notice of Filing of Proposed Rule Change To Amend the Certification Requirements of the Listed Company Manual

May 21, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 24, 2001, the New York Stock Exchange ("NYSE") filed with the Securities and Exchange Commission ("Commission") and on April 16, 2002, and May 7, 2002, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend Section 501 of the NYSE's Listed Company Manual ("Manual") to specify that a stock may be listed on the NYSE notwithstanding that is dematerialized or in book-entry-only form if the stock is included in the Direct Registration System ("DRS").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by the NYSE.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Section 5 of the NYSE's Manual deals with stock certificates requirements including when certificates must be distributed and what form stock certificates must take. Section 501.01 of the Manual currently requires a listed company to send stock certificates to record holders unless the stock distribution relates to a stock dividend reinvestment plan, stock dividend reinvestment purchase plan or a similar stock purchase plan, or the company's stock is included in DRS.

Over the years the NYSE has recognized changes in custom as the use of certificates has become less common with respect to certain securities such as corporate bonds and structured products (*e.g.*, equity-linked notes). In the 1980s for example, the NYSE amended Section 501.02 to specify that bonds may be listed on a book-entry basis using a global certificate held by a depository.[3]

Even with respect to common stocks, the trend has been to emphasize immobilization of certificates and book-entry delivery and settlement of trades whenever possible. In 1993, uniform rules were adopted among the U.S. securities markets to specify that exchange members must settle all trades in "depository-eligible securities" on a book-entry basis (that is, without having to physically deliver certificates).[4] In 1995, the NYSE adopted a rule specifying that a security must be "depository eligible" prior to listing it on the exchange.[5] Depository eligibility does not preclude certification of a security but it does not require a certificate either. Accordingly, securities may be completely dematerialized, represented by a single global certificate held at the depository, or represented by traditional stock certificates. In each case, the important characteristic is that the securities involved can be held in or on behalf of a depository so that trades

[3] Securities Exchange Act Release No. 25872 (June 30, 1988), 53 FR 25,560 [File No. SR–NYSE–88–07] (order approving rule permitting the use of a single global certificate for bonds).

[4] NYSE Rule 226. Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 [File Nos. SR–AMEX–93–07; SR–BSE–93–08; SR–MSE–93–03; SR–NASD–93–11; SR–NYSE–93–13; SR–PSE–93–04; and SR–PHLX–93–09] (order approving SRO rules requiring book-entry settlement of securities transactions).

[5] NYSE Rule 227. Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 [File No. SR–NYSE–95–19] (order approving adoption of Rule 227 requiring issuers' shares to be depository eligible).

may be settled by book-entry without physical delivery.

In 1996, the NYSE amended Section 501.01 of the Manual to rescind its policy requiring listed companies to provide certificates to record holders for all distributions and instead allow issuers to offer a choice of receiving certificates or holding their position in DRS.[6] Using DRS an investor is able to hold a book-entry position on the books of the issuer, to update stock ownership information directly with an issuer's transfer agent, and to electronically move his or her interest between the books of the issuer and his or her broker. While participation in DRS is optional for an issuer, the NYSE has to date taken the position that an investor must be able to obtain a traditional stock certificate upon request. As so construed, DRS did not afford the issuer the ability to completely dematerialize or utilize a global certificate with book-entry-only movement of securities positions.

In recent months, the NYSE has been approached by non-U.S. issuers that would like to list their ordinary shares on the NYSE but would prefer to use a book-entry-only format (*i.e.*, where shareholders would not have the option of obtaining certificates). In addition, under the laws of certain countries, corporate securities are required to be dematerialized. Traditionally non-U.S. companies have been able to dematerialize their ordinary shares outside the U.S. while utilizing American Depositary Receipt ("ADR") programs, which provide for the issuance of ADR certificates, in the U.S. For non-U.S. companies that desire to list ordinary shares in the U.S. as opposed to listing ADRs, it has become necessary to accommodate those non-U.S. companies' need or preference to dematerialize their shares or utilize a book-entry-only format.

Coincidentally, as the U.S. securities industry begins to prepare to change to a T+1 settlement cycle, there is a renewed focus on eliminating certificates from securities processing altogether, including a discussion within the industry of whether dematerialization should be mandated as it has been in certain other countries. Dematerialization has also assumed an increased urgency in the context of contingency planning following the September 11th tragedy.

The rule change proposes amend Section 501.01 to allow a listed company to not send stock certificates to a record holder as long as the company's stock is included in DRS or is issued pursuant to a dividend reinvestment program, stock purchase plan, or similar plan. Non-equity securities that have traditionally been issued in book-entry-only form, such as bonds and derivatives, will continue to be covered by the specific rules applicable to them and will not be required to be in DRS in order to issue in book-entry only or in a dematerialized form.[7] The proposed rule change does not mandate book-entry-only or dematerialization. Rather, the NYSE believes the rule change will eliminate the need to issue the traditional stock certificate and will allow non-certificated equities to be listed on the NYSE, subject to the requirement of Rule 227 that the issue be "depository eligible."

The NYSE believes the proposed rule change recognizes the desirability of providing shareholders with the flexibility offered by DRS, which provides an alternative to the traditional choices of receiving a stock certificate or holding stock in "street name" through a broker-dealer. Under DRS the shareholder can be directly registered with the company but be spared the burden and expense of safeguarding a certificate. The NYSE also notes that the successful expansion of the DRS since its first implementation in the mid-1990s should readily accommodate non-U.S. companies trading ordinary shares in this country.

The NYSE believes that in accommodating book-entry-only or complete dematerialization of common stock it is aligning itself with the rules and policies of the other U.S. listing markets. The National Association of Securities Dealers Automated Quotations System ("NASDAQ") does not have rules requiring certification or dictating the format of issues that are certificated. The American Stock Exchange ("AMEX"), which had rules similar to the traditional NYSE rules, eliminated all those rules as part of a sweeping set of amendments intended to more closely align the AMEX and NASDAQ listing administration following the acquisition of the AMEX by the National Association of Securities Dealers in 1998. As a result, each of those markets is today fully able to accommodate a listing applicant that wishes to dematerialize or use a book-entry-only structure for its common stock.

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and in general, to protect investors and the public interest.[8]

[6] Securities Exchange Act Release No. 37937 (November 8, 1996), 61 FR 58728 [File No. SR–NYSE 96–29] (order approving rule change requiring participating in DRS for certain stock distributions).

[7] Sections 703.16 and 501.11 of the Manual.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE has neither solicited nor received written comments on the proposed rule change. The NYSE will notify the Commission of any written comments received by the NYSE.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

[8] 15 U.S.C. 78q–1.

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–33 and should be submitted by June 18, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13233 Filed 5–24–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Notice Seeking Exemption Under section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Zero Stage Capital SBIC VII, L.P. ("ZSCVII"), 101 Main Street, 17th Floor, Cambridge, Massachusetts 02142, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (2002)). ZSCVII proposes to provide equity financing to Worldwinner.com, Inc. ("Worldwinner"), 313 Washington Street, Suite 308, Newton, Massachusetts 02458. The financing is contemplated for marketing and working capital.

The financing is brought within the purview of Section 107.730(a)(1) of the Regulations because Zero Stage Capital VI, L.P., an Associate ZSCVII, currently owns greater than 10 percent of Worldwinner, and therefore Worldwinner is considered an Associate of ZSCVII as defined in Section 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

[9] 17 CFR 200.30–3(a)(12).

Dated: May 20, 2002.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 02–13206 Filed 5–24–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice Seeking Exemption Under section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Zero Stage Capital SBIC VII, L.P. ("ZSCVII"), 101 Main Street, 17th Floor, Cambridge, Massachusetts 02142, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (2002)). ZSCVII proposes to provide equity financing to HydroCision, Inc. ("HydroCision"), 100 Burtt Road, Suite G01, Andover, Massachusetts 01810. The financing is contemplated for product production and working capital.

The financing is brought within the purview of Section 107.730(a)(1) of the Regulations because Zero Stage Capital V, L.P., an Associate ZSCVII, currently owns greater than 10 percent of HydroCision, and therefore HydroCision is considered an Associate of ZSCVII as defined in Section 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: May 20, 2002.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 02–13207 Filed 5–24–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice Seeking Exemption Under section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Zero Stage Capital SBIC VII, L.P. ("ZSCVII"), 101 Main Street, 17th Floor, Cambridge, Massachusetts 02142, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (2002)). ZSCVII proposes to provide equity financing to Spherics, Inc. ("Spherics"), 300 Metro Center Boulevard, Suite 150, Warwick, Rhode Island 02886. The financing is contemplated for market expansion and working capital.

The financing is brought within the purview of Section 107.730(a)(1) of the Regulations because Zero Stage Capital VI, L.P., an Associate ZSCVII, currently owns greater than 10 percent of Spherics, and therefore Spherics is considered an Associate of ZSCVII as defined in Section 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: May 20, 2002.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 02–13208 Filed 5–24–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on February 6, 2001 [FR 66, page 9048]. No comments were received.

DATES: Comments must be submitted on or before June 27, 2002, to: Attention DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington DC 20503.

FOR FURTHER INFORMATION CONTACT: Linda Lasley, Attorney-Adviser Regulation and Enforcement, Office of the General Counsel, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0002, Telephone (202) 366–4723.

SUPPLEMENTARY INFORMATION:

Office of the Secretary (OST)

Title: Transportation For Individuals With Disabilities-Accessibility Of Over-The-Road-Buses (OTRBs).

OMB Control Number: 2100–0019.

Affected Public: Bus Companies and the disability community.

Annual Estimated Burden: 316,226.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 21, 2002.

Michael Robinson,

Office of the Chief Information Office, United States Department of Transportation.

[FR Doc. 02–13219 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–38]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Republication of notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Because this summary was published containing errors on March 28, 2002, and the period for comments closed before the correction was printed, this summary of petition is being published again. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 17, 2002.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–11868 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Annette Kovite (425–227–1262), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98055–4056; or Vanessa Wilkins (202–267–8029), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 21, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–11868.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.365(e).

Description of Relief Sought:

To permit a time-limited exemption for a period of time not to exceed three years to allow continued delivery of Model 767 airplanes, both in production and retrofit, which incorporate enhanced security flight deck doors meeting the requirements of 14 CFR 25.795(a)(1) and (2).

[FR Doc. 02–13218 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–08–C–00–CVG To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cincinnati/Northern Kentucky International Airport, Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 27, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following addresses: Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Holscher, Director of Aviation of the Kenton County Airport Board at the following address: P.O. Box 752000, Cincinnati, Ohio 45275–2000.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kenton County Airport Board under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Airports Program Manager, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841, (901) 544–3495, Extension 21. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the 49 U.S.C. 40117 and

part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 20, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Kenton County Airport Board was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 3, 2002.

The following is a brief overview of the application.

Proposed charge effective date: August 1, 2003.

Proposed charge expiration date: July 1, 2008.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $261,649,000.

Brief description of proposed project(s): (1) Runway 17/35 (Future 18R/36L), a new north-south runway including a 1,00-foot extension to Runway 9/27; (2) Noise Compatibility Program (NCP) Measures—1999 Part 150 Study Update: (3) KR 212 Interchange Improvements—Design; (4) Deicing System Enhancements—Storm-Water Treatment System Gunpowder Creek; (5) Concourse C Improvements—Flight Information Display System Replacement; (6) Terminal Area Blast Analysis; (7) Airport Security Master Plan; (8) Extend Runway 9/27 an additional 1,000-foot for a total length of 12,000 feet.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: (1) FAR Part 121 supplemental operators which operate at the Airport without an operating agreement with the Board and enplane less than 1,500 passengers per year and (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: 1701 Columbia Avenue, College Park, Georgia 30337.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kenton County Airport Board.

Issued in Memphis, Tennessee, on May 20, 2002.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 02–13217 Filed 5–24–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for renewed approval by the Office of Management and Budget. The Office of Program Services and the Market Room within the Department of the Treasury are soliciting comments concerning recordkeeping requirements associated with Reporting of International Capital and Foreign Currency Transactions and Positions—31 CFR part 128.

DATES: Written comments should be received on or before July 29, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments on international capital transactions and positions to: Department of the Treasury, ATTN: Dwight Wolkow, IP Room 4410 NY, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of delays in mail delivery due to recent events, please also notify Mr. Wolkow by email (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276).

Direct all written comments on foreign currency transactions and positions to: Department of the Treasury, ATTN: Lois Quinn, Room 2405, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of delays in mail delivery due to recent events, please also notify Ms. Quinn by email (*lois.quinn@do.treas.gov*), FAX (202–622–2021) or telephone (202–622–9122).

FOR FURTHER INFORMATION CONTACT: Requests for additional information on international capital transactions and positions should be directed to Mr. Wolkow. Requests for additional information on foreign currency transactions and positions should be directed to Ms. Quinn.

SUPPLEMENTARY INFORMATION: *Title:* 31 CFR part 128, Reporting of International Capital and Foreign Currency Transactions and Positions.

OMB Number: 1505–0149.

Abstract: 31 CFR part 128 establishes general guidelines for reporting on United States claims on and liabilities to foreigners; on transactions in securities with foreigners; and on the monetary reserves of the United States as provided for by the International Investment and Trade in Services Survey Act and the Bretton Woods Agreements Act. In addition, 31 CFR part 128 establishes general guidelines for reporting on the nature and source of foreign currency transactions of large U.S. business enterprises and their foreign affiliates. This regulation includes a recordkeeping requirement, § 128.5, which is necessary to enable the Office of Program Services and the Office of Foreign Exchange Operations to verify reported information and to secure additional information concerning reported information as may be necessary. The recordkeepers are U.S. persons required to file reports covered by these regulations.

Current Actions: No changes to recordkeeping requirements are proposed at this time.

Type of Review: Extension.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Average Time per Respondent: 3 hours per respondent per filing.

Estimated Total Annual Burden Hours: 6,000 hours, based on one response per year.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: whether 31 CFR 128.5 is necessary for the proper performance of the functions of the Offices, including whether the information collected has practical uses; the accuracy of the above burden estimates; ways to enhance the quality, usefulness and clarity of the information to be collected; ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and estimates of capital or start-up costs of operation, maintenance, and purchases of services to provide information.

Timothy D. Dulaney,

Director, Market Room.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 02–13205 Filed 5–24–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), and the provisional meeting agenda.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, June 14, 2002, starting at 9 a.m., at the Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC. The meeting will be held in the Secretary's Conference Room, Rm. 3325, for approximately four hours.

FOR FURTHER INFORMATION, CONTACT: Gordana S. Earp, Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0336.

At this meeting, the Advisory Committee is expected to pursue the following draft agenda. The agenda may be modified prior to the meeting.

Agenda

I. Update on Supply Chain Security and Customs-Trade Partnership Against Terrorism ("C–TPAT");
II. Other Issues:
  A. ACE/ITDS Update;
  B. Report of the Customs Office of Rulings and Regulations;
  C. Update on Focused Assessment and Importer Self-Assessment Programs;
  D. Treasury Data Study and G–7 Data Uniformity Initiative;
  E. Customs Uniformity Initiative;
III. Administrative Issues:
  A. Status of 2001 COAC Annual Report to the Congress;
  B. Next Meeting

SUPPLEMENTARY INFORMATION: The Advisory Committee on Commercial Operations of the United States Customs Service ("COAC") was created by Congress in Public Law 100–203, Title IX, Section 9503(c), December 22, 1987, 100 Stat. 1330–381 (19 U.S.C. 2071 note). The Committee advises the Secretary of the Treasury and reports to Congress any recommendations on matters involving the commercial operations of the United States Customs Service. By statute, the Secretary of the Treasury appoints the members of this Committee, and the Assistant Secretary of the Treasury for Enforcement presides over the meetings.

The June 14, 2002 meeting of the Committee is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to address the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: May 21, 2002.

Timothy E. Skud,

Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 02–13223 Filed 5–24–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report—Proprietor of Export Warehouse.

DATES: Written comments should be received on or before July 29, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Report—Proprietor of Export Warehouse.

OMB Number: 1512–0115.

Form Number: ATF F 5220.4.

Abstract: Proprietors account for taxable articles on this report. ATF uses this information to ensure that Federal laws and regulations have been complied with and determined taxes have been paid.

Current Actions: ATF F 5220.4, Report—Proprietor of Export Warehouse has been revised. The title of the form has been changed from Monthly Report-Export Warehouse Proprietor to Report—Proprietor of Export Warehouse. The instructions have been revised and ATF believes that the additional instructions will help proprietors better understand the reporting requirements. The revision will also reduce follow-up contact between proprietors and ATF personnel and make reporting consistent between proprietors of export warehouses and proprietors of tobacco products or cigarette papers and tubes. There is a decrease in burden hours due to a decrease in the number of respondents who will complete the form.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 123.

Estimated Total Annual Burden Hours: 1,181.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 16, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–13211 Filed 5–24–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes.

DATES: Written comments should be received on or before July 29, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes.

OMB Number: 1512–0163.

Form Number: ATF F 5210.5.

Abstract: Manufacturers account for their taxable articles on ATF F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes. ATF uses this information to ensure that taxes have been properly paid and that Federal laws and regulations are complied with.

Current Actions: ATF F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes has been revised The instructions have been changed and ATF believes that the additional instructions will help the manufacturers to understand the reporting requirements. A new requirement is an employer identification number that must be listed on the form. An employer identification number is required on the tax returns that are filed by manufacturers and ATF will use these numbers to electronically match ATF F 5210.5 with the tax returns. There is an increase in burden hours due to an increase in the number of manufacturers.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 150.

Estimated Total Annual Burden Hours: 1,800.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 16, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–13212 Filed 5–24–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for a Permit As a Manufacturer of Tobacco Products or an Export Warehouse Proprietor, Application for a Amended Permit as a Manufacturer of Tobacco Products or an Export Warehouse Proprietor, Application for Permit Under 26 U.S.C. Chapter 52 Importer of Tobacco Products, and Application for an Amended Permit Under 26 U.S.C. Chapter 52, Importer of Tobacco Products.

DATES: Written comments should be received on or before July 29, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Application for a Permit as a Manufacturer of Tobacco Products or an Export Warehouse Proprietor, Application for a Amended Permit as a Manufacturer of Tobacco Products or an Export Warehouse Proprietor, Application for Permit Under 26 U.S.C. Chapter 52 Importer of Tobacco Products, and Application for an Amended Permit Under 26 U.S.C. Chapter 52, Importer of Tobacco Products.

OMB Number: 1512–0398.

Form Number: ATF F 2093 (5200.3), ATF F 2098 (5200.16), ATF F 5230.4, and ATF F 5230.5.

Abstract: The forms are used by the tobacco industry members to obtain and amend permits necessary to engage in business as a manufacturer of tobacco products, importer of tobacco products, or proprietor of a export warehouse.

Current Actions: ATF F 2093 (5200.3) and ATF F 2098 (5200.16) have been revised. ATF modified these application forms on which applicants apply for a new or amended permit to manufacture tobacco products or to operate an export warehouse. The new revisions inform the applicant as to what documentation must be sent for ATF to make a decision regarding the permit. The revised instructions will reduce follow-up contact between applicants and ATF personnel. ATF has also reduced the amount of information required by the forms while still maintaining standards on qualifying applicants.

Type of Review: Revision.

Affected Public: Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents: 630.

Estimated Total Annual Burden Hours: 1,130.

Request for Comment

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 16, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–13213 Filed 5–24–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

Retraction of Revocation Notice

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license was erroneously included in a list of revoked Customs broker licenses.

Name	License	Port name
Jose A. Ramos	05284	Houston

Customs broker license No. 05284 remains valid.

Dated: May 15,2002.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–13222 Filed 5–24–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. For the calendar quarter beginning April 1, 2002, the interest rates for overpayments will be 5 percent for corporations and 6 percent for non-corporations, and the interest rate for underpayments will be 6 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub.L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2002–13 (*see*, 2002–12 IRB __, dated March 25, 2002), the IRS determined the rates of interest for the calendar quarter beginning April 1, 2002, and ending June 30, 2002. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (3%) plus three percentage points (3%) for a total of six percent (6%). For corporate overpayments, the rate is the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). For overpayments made by non-corporations, the rate is the Federal short-term rate (3%) plus three percentage points (3%) for a total of six percent (6%). These interest rates are subject to change for the calendar quarter beginning July 1, 2002, and ending September 30, 2002.

For the convenience of the importing public and Customs personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments * (percent)
Prior to:				
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020382	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments* (percent)
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
*070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	063002	6	6	5

*Effective 1–1–99.

Dated: May 22, 2002.

Robert C. Bonner,

Commissioner of Customs.

[FR Doc. 02–13280 Filed 5–24–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Extension of Duty-Free Treatment for Certain Agricultural Products of Israel

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document informs the public of the extension of duty-free treatment for certain agricultural products of Israel and advises the public of the procedures that are available to ensure that duty-free treatment will be accorded to eligible products that were entered, or withdrawn from warehouse for consumption, between January 1, 2002, and the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Connie Chancey, Quota Branch, Office of Field Operations (202–927–5850).

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1985, the United States and Israel entered into the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel ("the FTA Agreement") which was approved by Congress in the United States-Israel Free Trade Area Implementation Act of 1985 ("the FTA Act," codified at 19 U.S.C. 2112 Note). Section 4(b) of the FTA Act provides that, whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the FTA Agreement, the President may proclaim such withdrawal, suspension, modification, or continuance of any duty, or such continuance of existing duty-free or excise treatment, or such additional duties, as the President determines to be required or appropriate to carry out the FTA Agreement.

On November 4, 1996, the United States entered into an agreement with Israel concerning certain aspects of trade in agricultural products, effective from December 4, 1996, through December 31, 2001 ("the 1996 Agreement"), in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to agricultural trade while acknowledging differing interpretations as to the meaning of certain rights and obligations in the FTA Agreement as to that trade. Accordingly, pursuant to section 4(b) of the FTA Act, President Clinton issued Proclamation 6962 of December 2, 1996, in order to provide to Israel, through the close of December 31, 2001, access into customs territory of the United States for specified quantities of certain agricultural products of Israel free of duty or certain fees or other import charges, consistent with the 1996 Agreement. This Proclamation included appropriate tariff modifications, the terms of which are set forth in Subchapter VIII, Chapter 99, Harmonized Tariff Schedule of the United States (HTSUS).

On December 31, 2001, the United States entered into an agreement with Israel to extend the 1996 Agreement through December 31, 2002, in order to allow for additional time to negotiate a successor arrangement to the 1996 Agreement. Accordingly, pursuant to section 4(b) of the FTA Act, President Bush issued Proclamation 7554 of May 3, 2002, to extend, through the close of December 31, 2002, the U.S. commitments under the 1996 Agreement. The Annex to this Proclamation set forth appropriate modifications to the HTSUS which, under the terms of the Proclamation, are effective with respect to goods that are the product of Israel and are entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, including entries for which the liquidation of duties has not become final under section 514 of the Tariff Act of 1930, as amended (19 U.S.C. 1514).

Entry Amendment Procedures

In the case of products that are eligible for treatment under Subchapter VIII, Chapter 99, HTSUS, as modified by Proclamation 7554, but for which no claim for that treatment was made because the products were entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, and before the publication of this notice, and provided that liquidation has not become final under 19 U.S.C. 1514 with respect to those products, importers may avail themselves of one of the following procedures in order to make a retroactive claim for that treatment:

1. The importer may amend the entry by filing a Supplementary Information Letter (SIL) with Customs. For the policy on SILs, ABI users should see Administrative Message 97–0727 dated August 3, 1997, and non-ABI filers should contact the local Customs port office;

2. The importer may make a Post Entry Amendment (PEA) in accordance with the requirements and procedures set forth in the notice published in the **Federal Register** (65 FR 70872) on November 28, 2000, regarding the PEA test program. The operation of the PEA test program was extended to December 31, 2002, by a notice published in the **Federal Register** (67 FR 768) on January 7, 2002; or

3. The importer may file a protest in accordance with 19 U.S.C. 1514 and 1515 and Part 174 of the Customs Regulations (19 CFR part 174).

Submission of a retroactive claim under one of the procedures mentioned above does not automatically guarantee the refund of duties deposited with Customs, and Customs notes in this regard that the applicable calendar year 2002 quota provided for under Subchapter VIII, Chapter 99, HTSUS, must be available when the retroactive claim is made. In addition, no refund will apply in the case of additional duties paid as safeguard measures under Chapter 99 of the HTSUS.

Dated: May 22, 2002.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–13224 Filed 5–24–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8404

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8404, Interest Charge on DISC-Related Deferred Tax Liability.

DATES: Written comments should be received on or before July 29, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Charge on DISC-Related Deferred Tax Liability.

OMB Number: 1545–0939.

Form Number: 8404.

Abstract: Shareholders of Interest Charge Domestic International Sales Corporations (IC–DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Responses: 2,000.

Estimated Time Per Response: 8 hrs., 48 min.

Estimated Total Annual Burden Hours: 17,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13172 Filed 5–24–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–4V

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–4V, Voluntary Withholding Request.

DATES: Written comments should be received on or before July 29, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Withholding Request.

OMB Number: 1545–1501.

Form Number: W–4V.

Abstract: If an individual receives any of the following government payments, he/she may voluntarily complete Form W–4V to request that the payer withhold Federal income tax. Those payments are unemployment compensation, social security benefits, tier I railroad retirement benefits, Commodity Credit Corporation loans, or certain crop disaster payments under the Agricultural Act of 1949 or title II of the Disaster Assistance Act of 1988.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and farms.

Estimated Number of Respondents: 19,700,000.

Estimated Time Per Respondent: 29 min.

Estimated Total Annual Burden Hours: 9,653,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13173 Filed 5–24–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8840

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8840, Closer Connection Exception Statement for Aliens.

DATES: Written comments should be received on or before July 29, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Closer Connection Exception Statement for Aliens.

OMB Number: 1545–1410.

Form Number: 8840.

Abstract: Form 8840 is used by an alien individual, who otherwise meets the substantial presence test, to explain the basis of the individual's claim that he or she is a nonresident of the United States by reason of the closer connection exception described in Reg. section 301.7701(b)–2.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 350,000.

Estimated Time Per Respondent: 2 hrs., 25 min.

Estimated Total Annual Burden Hours: 843,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13174 Filed 5–24–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury (Department) gives notice of a newly proposed Internal Revenue Service (IRS) system of records, Employee Complaint and Allegation Referral Records-Treasury/IRS 00.007.

DATES: Comments must be received no later than June 27, 2002. The proposed system of records will be effective July 8, 2002 unless the IRS receives comments which would result in a contrary determination.

ADDRESS: Comments should be sent to the Director, Commissioner's Complaint Processing and Analysis Group, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be made available for inspecting at the IRS Freedom of Information Reading Room also located at 1111 Constitution Avenue, NW. The telephone number for the Reading Room is (202) 622–5164.

FOR FURTHER INFORMATION CONTACT: Jim D'Elia, Commissioner's Complaint Processing and Analysis Group, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone number (202) 622–5212.

SUPPLEMENTARY INFORMATION: The IRS is establishing this system of records (1) to promote public confidence in the integrity of the IRS; (2) to identify and monitor complaints, allegations and other information received concerning current and former IRS employees and IRS contractors; (3) to ensure that the IRS provides a timely and appropriate response to those complaints, allegations and other information; (4) to advise complainants of the status and results of investigations or inquiries conducted as a result of the IRS's receipt of their complaints, and (5) to compile summary reports. The reports will provide non-identifying information about the type of complaints, allegations and resulting actions concerning current and former IRS employees and IRS contractors and will be distributed to IRS and Department of the Treasury executives, managers and employees, the Congress and the public. Specifically, section 1211 of PL 104–168, Taxpayer Bill of Rights 2 (TBOR2), requires that the Secretary of the Treasury submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of instances involving the misconduct of employees of the IRS. Section 3701 of PL 105–206, the IRS Restructuring and Reform Act (RRA) of 1998, requires that the Secretary or the Secretary's delegate maintain records of taxpayer complaints of misconduct by IRS employees on an individual employee basis to prepare the report required by section 1211 of TBOR2. Since parts of this system are retrieved by individual identifier, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

Treasury/IRS 00.003-Customer Feedback System, last published on December 10, 2001, at 66 FR 63787, contains records of complaints, problems, compliments, and suggestions about IRS employees and IRS systems and processes that involve administration of the tax laws and procedures, received by the IRS from taxpayers or their representatives. These complaints and problems might, but do not necessarily have to, include allegations of conduct by IRS employees that could involve the mandatory discharge provisions of section 203 of the IRS RRA. IRS 00.003 contains disposition information on the matters that do not include section 1203 allegations. When complaints or problems lodged by taxpayers or their representatives include allegations of conduct by IRS employees that could involve the mandatory discharge provisions of section 1203, the matter is forwarded to the Treasury Inspector General for Tax Administration (TIGTA) for review. Upon the conclusion of that review (which may or may not involve an investigation), TIGTA returns the matter to IRS for appropriate action. Records of complaints, information from TIGTA Reports of Investigation (if any), and disposition information for these matters are stored in IRS 00.007.

Treasury/IRS 00.007 also contains records of allegations of administrative or criminal misconduct, other than those involving section 1203, from whatever source, which are referred back to the IRS from TIGTA without TIGTA investigation, or as part of TIGTA's investigation (e.g., complaints against any IRS executive or GS–15 manager; allegations of criminal wrongdoing, or any allegation lodged directly with TIGTA). IRS 00.007 also contains disposition information on these matters.

Records relating to personnel actions taken against IRS employees as a result of allegations maintained in IRS 00.003, and/or 00.007 may be found in Treasury/IRS 36.001-Appeals, Grievances and Complaints Records, and Treasury/IRS 36.003-General Personnel and Payroll Records. IRS 36.001 and IRS 36.003 were published in the **Federal Register** on December 10, 2001, at 66 FR 63819 and 66 FR 63820 respectively.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated November 30, 2000.

A proposed rule to exempt this system from certain provisions of the Privacy Act (5 U.S.C. 552a) will be published separately in the **Federal Register**. The proposed IRS system of records, Employee Complaint and Allegation Referral Records-Treasury/IRS 00.007, is published in its entirety below.

Dated: May 20, 2002.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Treasury/IRS 00.007

SYSTEM NAME:

Employee Complaint and Allegation Referral Records.

SYSTEM LOCATION:

Commissioner's Complaint Processing and Analysis Group, Internal Revenue Service (IRS) National Office, 1111 Constitution Avenue, NW., Washington DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current and former employees of the IRS and IRS contractors who are the subjects of complaints directed to, or inquiries or investigations conducted by the IRS or the Treasury Inspector General for Tax Administration (TIGTA); (2) individuals (complainants) who submit these complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documents containing the complaint, allegation or other information regarding current and

former IRS employees and IRS contractors; (2) documents containing information about efforts to determine the relevant facts, and the applicable law, rule or regulation; and (3) documents containing information about actions taken in response to a complaint, allegation or other information regarding current and former IRS employees and IRS contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; sec. 7803 of Pub. L. 105–206, the IRS Restructuring and Reform Act (RRA) of 1998; sec. 1211 of Pub. L. 104–168, Taxpayer Bill of Rights 2 (TBOR2); sec. 3701 of the RRA of 1998.

PURPOSE(S):

Records in this system are used (1) to promote public confidence in the integrity of the IRS; (2) to identify and monitor complaints, allegations and other information received concerning current and former IRS employees and IRS contractors; (3) to ensure that the IRS provides a timely and appropriate response to those complaints, allegations and other information; (4) to advise complainants of the status and results of investigations or inquiries conducted as a result of the IRS's receipt of their complaints, and (5) to compile summary reports. The reports will provide non-identifying information about the type of complaints, allegations and resulting actions concerning current and former IRS employees and IRS contractors and will be distributed to IRS and Department of the Treasury executives, managers and employees, the Congress and the public. Specifically, section 1211 of Pub. L. 104–168, TBOR2, requires that the Secretary of the Treasury submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of instances involving the misconduct of employees of the IRS. Section 3701 of Pub. L. 105–206, the IRS RRA of 1998, requires that the Secretary or the Secretary's delegate maintain records of taxpayer complaints of misconduct by IRS employees on an individual employee basis to prepare the report required by section 1211 of TBOR2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations;

(2) Disclose information to a Federal, State or local agency relevant to or necessary to the agency's hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose relevant, non-privileged information to a Federal, State, local, or foreign court, magistrate, grand jury, or administrative tribunal in accordance with applicable constitutional, substantive, or procedural law or practice. This use includes disclosures to an opposing party or his/her attorney for the purpose of negotiation on such matters as settlement or plea bargaining. This use also includes disclosures to an opposing party or his/her attorney, or a witness, during the proceeding itself or in discovery.

(4) Provide information to third parties during the course of an investigation or inquiry to the extent necessary to obtain information pertinent to the investigation or inquiry;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Disclose information to a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or is seeking to become licensed;

(7) Disclose information to complainants or victims to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim. Information concerning the progress of the investigation or case is limited strictly to whether the investigation/case is opened or closed. Information about any disciplinary action is provided only after the subject of the action has exhausted all reasonable appeal rights;

(8) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the information pertains;

(9) Disclose information to a government contractor to the extent the contractor needs this information to perform the contract.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of individual who submitted the complaint, allegation or other information, or by name of the individual that is the subject of the complaint, allegation or other information.

SAFEGUARDS:

Access is limited to authorized Treasury and IRS personnel who have a need to know. Paper records are stored in locked file containers, in rooms that are locked after business hours or when unoccupied. Access to electronic media is controlled by computer passwords. Security procedures are in accord with IRM 1(16)1, Manager's Security Handbook and IRM 2.1.10, Information Systems Security.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15.2, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Commissioner's Complaint Processing and Analysis Group, Internal Revenue Service, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to them may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Records Access Procedures" below.

RECORDS ACCESS PROCEDURES:

Individuals seeking access to any record maintained in this system, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, Appendix B. Inquiries should be addressed to the Director, Commissioner's Complaint Processing and Analysis Group, Internal Revenue Service, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Records Access Procedures" above. 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported. (See "Exemptions Claimed for the System," below.)

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act pursuant to U.S.C. 552a(k)(2). (*See* 31 CFR 1.36.)

[FR Doc. 02–13253 Filed 5–24–02; 8:45 am]

BILLING CODE 4830–25–P

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Federal Register

Tuesday,
May 28, 2002

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Hawaii, HI; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH02

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Hawaii, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule concerning designation of critical habitat.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose critical habitat for 47 of the 58 plant species known historically from the island of Hawaii that are listed under the Endangered Species Act of 1973, as amended.

Critical habitat is not proposed for seven species as they no longer occur on the island of Hawaii, and we are unable to identify any habitat essential to their conservation on the island. Critical habitat is not proposed for two species of loulu palm, *Pritchardia affinis* and *Pritchardia schattaueri*, for which we determine that critical habitat designation is not prudent because it would likely increase the threats from vandalism or collection of these species on the island of Hawaii. Critical habitat is not proposed for two species, *Cyanea copelandii* ssp. *copelandii* and *Ochrosia kilaueaensis*, because they have not been seen recently in the wild and no viable genetic material is known to exist.

We propose critical habitat designations for 47 species within 28 critical habitat units totaling approximately 176,968 hectares (ha) (437,285 acres (ac)) on the island of Hawaii.

If this proposal is made final, section 7 of the Act requires Federal agencies to ensure that actions they carry out, fund, or authorize do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat.

We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designations, and the reasons why critical habitat for any of these species is prudent or not prudent. We may revise or further refine this rule, including critical habitat boundaries, prior to final designation based on habitat and plant surveys, public comment on the proposed critical habitat rule, and new scientific and commercial information.

DATES: We will accept comments until July 29, 2002. Public hearing requests must be received by July 12, 2002.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of the following methods:

You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., Room 3–122, P.O. Box 50088, Honolulu, HI 96850–0001.

You may hand-deliver written comments to our Pacific Islands Office at the address given above.

You may send comments by electronic mail (e-mail) to: *FW1PIE_Hawaii_Island_Crithab@r1.fws.gov*. See the *Public Comments Solicited* section in **SUPPLEMENTARY INFORMATION** below for file format and other information about electronic filing.

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Office (*see* **ADDRESSES** section) (telephone 808/541–3441; facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

In the Lists of Endangered and Threatened Plants (50 FR 17.12), there are 58 plant species that, at the time of listing, were reported from the island of Hawaii (Table 1). Twenty-seven of these species are endemic to the island of Hawaii, while 31 species are reported from 1 or more other islands, as well as the island of Hawaii.

TABLE 1.—SUMMARY OF ISLAND DISTRIBUTION OF 58 SPECIES FROM HAWAII

Species	Island distribution						
	Kauai	Oahu	Molokai	Lanai	Maui	Hawaii	NW Hawaiian Islands, Kahoolawe, Niihau
Achyranthes mutica (NCN)	H					C	
Adenophorus periens (pendent kihi fern).	C	H	C	R	R	C	
Argyroxiphium kauense (Mauna Loa silversword).						C	
Asplenium fragile var. *insulare* (NCN).					H	C	
Bonamia menziesii (NCN)	C	C	H	C	C	C	
Cenchrus agrimonioides (kamanomano).		C		H	C	R	NW Islands (H)
Clermontia drepanomorpha (oha wai).						C	
Clermontia lindseyana (oha wai).					C	C	
Clermontia peleana (oha wai)					H	H	
Clermontia pyrularia (oha wai)						C	
Colubrina oppositifolia (kauila)		C			C	C	
Ctenitis squamigera (pauoa)	H	C	C	C	C	H	
Cyanea copelandii ssp. *copelandii* (haha).						H	
Cyanea hamatiflora ssp. *carlsonii* (haha).						C	
Cyanea platyphylla (haha)						C	
Cyanea shipmanii (haha)						C	
Cyanea stictophylla (haha)						C	
Cyrtandra giffardii (haiwale)						C	
Cyrtandra tintinnabula (haiwale).						C	
Delissea undulata (NCN)	C				H	C	
Diellia erecta (NCN)	H	C	C	H	C	C	
Flueggea neowawraea (mehamehame).	C	C	H			C	
Gouania vitifolia (NCN)		C			H	C	
Hedyotis cookiana (awiwi)	C	H	H			H	
Hedyotis coriacea (kioele)		H			C	C	
Hibiscadelphus giffardianus (hau kuahiwi)*.						H	
Hibiscadelphus hualalaiensis (hau kuahiwi)*.						H	
Hibiscus brackenridgei (mao hau hele).	H	C	H	C	C	C	Ka (R)
Ischaemum byrone (Hilo ischaemum).	R	H	C		C	C	
Isodendrion hosakae (aupaka)						C	
Isodendrion pyrifolium (wahine noho kula).		H	H	H	H	C	Ni (H)
Mariscus fauriei (NCN)			C	H		C	
Mariscus pennatiformis (NCN)	H	H			C	H	NW (C)
Melicope zahlbruckneri (alani)						C	
Neraudia ovata (NCN)						C	
Nothocestrum breviflorum (aiea).						C	
Ochrosia kilaueaensis (holei)						H	
Phlegmariurus mannii (wawaeiole).	H				C	H	
Phyllostegia parviflora (NCN)		C			H	H	
Phyllostegia racemosa (NCN)						C	
Phyllostegia velutina (NCN)						C	
Phyllostegia warshaueri (NCN)						C	
Plantago hawaiensis (laukahi kuahiwi).						C	
Plantago princeps (laukahi kuahiwi).	C	C	C		C	H	
Pleomele hawaiiensis (halapepe).						C	
Portulaca sclerocarpa (poe)				C		C	
Pritchardia affinis (loulu)						C	
Pritchardia schattaueri (loulu)						C	
Sesbania tomentosa (ohai)	C	C	C	H	C	C	NW, Ka, Ni (H)
Sicyos alba (anunu)						C	
Silene hawaiiensis (NCN)						C	
Silene lanceolata (NCN)	H	C	C	H		C	
Solanum incompletum (popolo ku mai).	H		H	H	H	C	
Spermolepis hawaiiensis (NCN).	C	C	C	C	C	C	
Tetramolopium arenarium (NCN).					H	C	
Vigna o-wahuensis (NCN)		H	C	C	C	C	Ni (H), Ka (C)
Zanthoxylum dipetalum var. *tomentosum* (ae).						C	
Zanthoxylum hawaiiense (ae)	C		C	H	C	C	

KEY
C (Current)—population last observed within the past 30 years
H (Historical)—wild population not seen for more than 30 years
R (Reported)—reported from undocumented observations
NW—NW Hawaiian Islands

Ka—Kahoolawe
Ni—Niihau
NCN—no common name
* Taxon only known in cultivation

In previously published proposals we proposed that critical habitat was prudent for 31 (*Achyranthes mutica, Adenophorus periens, Asplenium fragile* var. *insulare, Bonamia menziesii, Cenchrus agrimonioides, Clermontia lindseyana, Clermontia peleana, Colubrina oppositifolia, Ctenitis squamigera, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion pyrifolium, Mariscus fauriei, Mariscus pennatiformis, Phlegmariurus mannii, Phyllostegia parviflora, Plantago princeps, Portulaca sclerocarpa, Sesbania tomentosa, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis*, and *Zanthoxylum hawaiiense*) of the 58 species reported from the island of Hawaii. No change is made to the 31 proposed prudency determinations in this proposal and they are hereby incorporated in this proposal (65 FR 66808, 65 FR 79192, 65 FR 82086, 65 FR 83158, 67 FR 3940, 67 FR 9806, 67 FR 15856, 67 FR 16492).

In this proposal, we determine that critical habitat is prudent for 23 species (*Argyroxiphium kauense, Clermontia drepanomorpha, Clermontia pyrularia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Isodendrion hosakae, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Sicyos alba, Silene hawaiiensis*, and *Zanthoxylum dipetalum* var. *tomentosum*), for which prudency determinations have not been made previously, because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risks that may result from human activity because of critical habitat designation.

In this proposal, we determine that critical habitat designation is not prudent for two species, *Pritchardia affinis* and *Pritchardia schattaueri*, because it would likely increase the threat from vandalism or collection of these species on the island of Hawaii. In addition, we propose that critical habitat designation is not prudent for two species, *Cyanea copelandii* ssp. *copelandii* and *Ochrosia kilaueaensis*, known only from the island of Hawaii, that have not been seen in the wild since 1957 and 1927, respectively, and for which no viable genetic material is known to exist.

In this proposal, we propose designation of critical habitat for 47 of the 58 species reported from the island of Hawaii: *Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum* var. *tomentosum*, and *Zanthoxylum hawaiiense*.

Critical habitat is not proposed for 4 (*Pritchardia affinis, Pritchardia schattaueri, Cyanea copelandii* ssp. *copelandii*, and *Ochrosia kilaueaensis*) of the 58 species reported from the island of Hawaii for which we determine that designation of critical habitat is not prudent for the reasons given above.

Critical habitat is not proposed for 7 (*Cenchrus agrimonioides, Ctenitis squamigera, Hedyotis cookiana, Mariscus pennatiformis, Phlegmariurus mannii, Phyllostegia parviflora*, and *Plantago princeps*) of the 58 species on the island of Hawaii because these plants no longer occur on the island of Hawaii and we are unable to identify any habitat essential to their conservation on this island. However, proposed critical habitat designations, or non-designations, for these species will be included in other Hawaiian plants proposed critical habitat rules (Table 2).

TABLE 2.—LIST OF PROPOSED RULES IN WHICH CRITICAL HABITAT DESIGNATIONS OR NON-DESIGNATIONS WILL BE PROPOSED FOR SEVEN SPECIES FOR WHICH WE ARE UNABLE TO DETERMINE HABITAT THAT IS ESSENTIAL FOR THEIR CONSERVATION ON THE ISLAND OF HAWAII

Species	Proposed rules in which critical habitat designations or non-designations will be made.
Cenchrus agrimonioides.	Maui; Lanai; Oahu.
Ctenitis squamigera ..	Kauai; Maui; Lanai; Molokai; Oahu.
Hedyotis cookiana	Kauai; Molokai; Oahu.
Mariscus pennatiformis.	Kauai; Maui; NW Hawaiian Islands; Oahu.
Phyllostegia mannii ...	Kauai; Maui.
Phyllostegia parviflora	Maui; Oahu.
Plantago princeps	Kauai; Maui; Molokai; Oahu.

The Island of Hawaii

This largest island of the Hawaiian archipelago comprises 10,458 square kilometers (km) (4,038 square miles (mi)) or two-thirds of the land area of the State of Hawaii giving rise to its common name, the "Big Island." The Hawaiian Islands are volcanic islands formed over a "hot spot," a fixed area of pressurized molten magma deep within the Earth. As the Pacific Plate, a section of the Earth's surface many miles thick, has moved to the northwest, the islands of the chain have separated. Currently, this hot spot is centered under the southeast part of the island of Hawaii, which is one of the most volcanic areas on Earth. Five large shield volcanoes make up the island of Hawaii: Mauna Kea at 4,205 meters (m) (13,796 feet (ft)), and Kohala at 1,670 m (5,480 ft), both extinct; Hualalai at 2,521 m (8,271 ft), which is dormant and could erupt again; and Mauna Loa, at 4,169 m (13,677 ft) and Kilauea at 1,248 m (4,093 ft), both of which are currently active and adding land area to the island (McDonald *et al.* 1983; 59 FR 10305; United States Fish and Wildlife Service (Service) 1996a).

The island of Hawaii lies within the trade wind belt. Moisture derived from the Pacific Ocean is carried to the island by north-easterly trade winds. Heavy rains fall when the moisture in clouds makes contact with windward mountain slopes (Wagner *et al.* 1999). Considerable moisture reaches the leeward slopes of the saddle area between Mauna Loa and Mauna Kea, but dries out rapidly as elevation increases. The orographic effect reaches an elevation of about 2,000 to 3,000 m (6,500 to 9,850 ft) and tends to go around rather than over the high mountains. Thus, leeward and saddle areas of Mauna Kea and Mauna Loa tend to be dry (Service 1996a).

A rain shadow effect is created by Mauna Kea and Mauna Loa on the leeward side of the island, removing the Kona coast from trade winds. However, warm air generated from the island land mass rises and condenses, resulting in convectional showers. A major source of rainfall is provided by winter storms which develop south of the island. Kona storms impact the island when trade winds subside during the winter months. Areas of the saddle are protected from these storms by Hualalai volcano and, therefore, droughts in the saddle area are common. Fog drip, the condensation of moisture on vegetation, can be a significant source of precipitation as well as an effective contributor in reducing evapotranspiration losses, especially in dry areas (Service 1996a; Wagner *et al.* 1999).

The Kau Desert is located on the southeastern side of the island of Hawaii and leeward to the slopes of Kilauea volcano. Lying in the volcano's rain shadow, Kau Desert receives less than 1,200 millimeters (mm) (47 inches (in)) of moisture per year. However, the barren conditions are not attributed to lack of moisture but, rather, to acid rain-forming sulphur dioxide vented from the caldera. Small seasonal variation in temperature occurs on the island. Average daily temperatures differ between the warmest and the coolest day only by about 4° C (7.2° F). However, daily extremes are pronounced, reflecting time of day, elevation, and weather. Wagner *et al.* (1999) reported that night is winter in Hawaii. The highest recorded temperature of 37.7° C (100° F) occurred at Pahala and the lowest of −12.7° C (9° F) on Mauna Kea (Service 1996a; Wagner *et al.* 1999).

Discussion of the Plant Taxa

Species Endemic to Hawaii

Argyroxiphium kauense (Mauna Loa silversword)

Argyroxiphium kauense, a long-lived perennial and a member of the aster family (Asteraceae), is a primarily monocarpic (flowering and fruiting only once and then dying, usually after several years) giant rosette plant with leaves covered with grayish-silver hairs. It differs from *Argyroxiphium sandwicense* ssp. *sandwicense* and *Argyroxiphium sandwicense* ssp. *macrocephalum* primarily by having the vegetative rosette of leaves elevated on an erect stem, longer and thinner leaves which are triangular rather than flat in cross-section, and somewhat sparser leaf pubescence (hairs) (Carr 1985; Carr 1999; Meyrat 1982).

The species is primarily monocarpic, that is, most individuals grow and flower from a large rosette. The plant increases in rosette diameter and stem height for a number of years, and then produces a single, tall inflorescence (flowering part of plant) with hundreds of capitula (heads), each containing up to 200 florets (small flowers that are part of a dense cluster). After fruit set, the entire plant dies. In the Upper Waiakea population, only 4 of the 86 plants in 1990 had more than a single rosette (that is, were branched). Three of these had two rosettes and one plant had three rosettes. At Keapohina, 30 percent (62) of the 205 plants examined in 1984 were branched. About 71 percent (44) of the branched silverswords had suffered browse damage to the apical meristem (the growing point at the tip of a stem, gives rise to stem, leaves and flowers). Branching is a common response to mechanical (browse) damage to the apical meristem in monocarpic silverswords, but may also be a trait with a genetic component. The majority of individuals of the *Argyroxiphium kauense* are monocarpic, unbranched plants. Adult individuals that have branched in response to browse damage may produce small flowering stalks. Fruits collected in 1991 from inflorescences of branched individuals were not viable. Fruits collected in 1984 from Keapohina were primarily from the small inflorescences produced on browsed plants, and the number of fruits that had seeds with embryos was low (Service 1996c; 58 FR 18029; Joan Canfield, formerly with the Service, pers. comm. 1992).

Historically, *Argyroxiphium kauense* may have once occurred in subalpine forests, bogs, and mountain parkland between 1,585 and 2,500 m (5,200 and 8,000 ft) elevation in a band from the southwest rift to the northeast slope of Mauna Loa and on Hualalai. The species is currently extant in three wild populations containing a total of fewer than 500 individuals on private land on Kahuku Ranch and on State owned land in the Upper Waiakea and Kapapala Forest Reserves. In addition, the Kapapala population has been augmented with approximately 1,000 individuals and there is an outplanted population of about 1,000 individuals in Hawaii Volcanoes National Park (Bryan *in litt.* 1974; Carr 1985; Hawaii Natural Heritage Program (HINHP) Database 2000; Marie Bruegmann, Service, pers. comm. 2001; Geographic Decision Systems International (GDSI) 2000).

The habitat of this species includes moist open forest, subalpine mesic shrubland, bogs, and weathered, old pahoehoe (smooth) or aa (rough) lava with well developed pockets of soil in subalpine mountain vegetation between 1,625 and 2,774 m (3,330 and 9,100 ft) elevation. Associated native plant species include *Coprosma montana* (pilo), *Plantago hawaiensis* (laukahi kuahiwi), *Silene hawaiiensis* (No Common Name (NCN)), *Asplenium fragile* var. *insulare* (NCN), *Metrosideros polymorpha* (ohia), *Styphelia tameiameiae* (pukiawe), *Coprosma ernodeoides* (nene), *Vaccinium reticulatum* (ohelo ai), *Dubautia ciliolata* (naenae), *Geranium cuneatum* (nohoanu), *Carex montis-eeka* (NCN), *Carex alligata* (NCN), *Rhynchospora chinensis* (kuolohia), *Dodonaea viscosa* (aalii), *Gahnia gahniiformis* (NCN), or *Deschampsia nubigena* (hair grass) (HINHP Database 2000; Linda Pratt, U.S. Geological Survey—Biological Resources Division, *et al.*, pers. comm. 2001; 58 FR 18029).

The threats to this species are browsing by cattle (*Bos taurus*), goats (*Capra hircus*), and mouflon sheep (*Ovis musimon*); habitat disruption by feral pigs (*Sus scrofa*); insects (including fruit parasites); drought; human disturbance; competition with non-native plants; disease; and vulnerability to extinction from chance events (such as volcanic activity, earthquakes, hurricanes, fires or other natural disasters) due to the small population size and limited distribution (J. Canfield, pers. comm. 1992; Mitchell 1981; Cuddihy and Stone 1999; Service 1996c; 58 FR 18029; Medeiros *et al.* 1991).

Clermontia drepanomorpha (oha wai).

Clermontia drepanomorpha, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a terrestrial or epiphytic (not rooted in the soil) branching tree with stalked leaves. This species is

distinguished from others in this endemic Hawaiian genus by similar sepals (outermost or lowermost whorl of flower parts) and petals, the long drooping inflorescence, and large blackish purple flowers (Lammers 1999).

No life history information is available for *Clermontia drepanomorpha* at this time (Service 1998c).

Historically, *Clermontia drepanomorpha* was known only from the State of Hawaii's Puu O Umi Natural Area Reserve (NAR) in the Kohala Mountains (puu = summit, hill). Currently there is a single large population containing approximately 200 individuals. It is located in the Puu O Umi NAR and Kohala Forest Reserve on State and privately owned lands. This species has also been outplanted in the State-owned Waimanu bog in the Kohala Mountains (HINHP Database 2000; Stemmermann and Jacobson 1987; GDSI 2000; Steve Perlman, National Tropical Botanical Garden (NTBG) *in litt.* 1995; Lyman Perry, Hawaii Division of Forestry and Wildlife (DOFAW), pers. comm. 2000; L. Pratt *et al.*, pers. comm. 2001).

This species typically grows in *Metrosideros polymorpha*, *Cheirodendron trigynum* (olapa), and *Cibotium glaucum* (hapuu) dominated montane wet forests, sometimes epiphytically, at elevations between 808 and 1,676 m (2,650 and 5,500 ft). Associated native plant taxa include *Carex alligata*, *Melicope clusiifolia* (alani), *Styphelia tameiameiae*, *Astelia menziesii* (painiu), *Rubus hawaiiensis* (akala), *Cyanea pilosa* (haha), *Coprosma* sp. (pilo), or native sphagnum moss (Corn 1983; HINHP Database 2000; Service 1998c, L. Pratt *et al.*, pers. comm., 2001).

The threats to this species are competition from non-native plant taxa such as *Rubus rosifolius* (thimbleberry), habitat disturbance by feral pigs, girdling of the stems by rats (*Rattus* spp.), and a risk of extinction from naturally occurring events (such as hurricanes) due to its narrow distribution (Service 1998c; 61 FR 53137).

Clermontia pyrularia (oha wai)

Clermontia pyrularia, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a tree with finely toothed leaves attached to a winged stalk. This species is separated from the other taxa in the genus that occur on the island of Hawaii by winged leaf stalks (petioles), two-lipped flowers, green-white petals, and a pear-shaped berry (Lammers 1991, 1999).

Clermontia pyrularia was observed in fruit and flower during December and November. No other life history information is currently available (Service 1996a).

Historically, *Clermontia pyrularia* was known only from the western and northeastern slope of Mauna Kea, the western slope of Mauna Loa and the saddle between the two. Currently this species is known from one population with several individuals on the boundary of the Hilo Forest Reserve on State-owned land. There are also two outplanted populations, at Piha on State owned land, adjacent to the Hakalau Forest National Wildlife Refuge (NWR) and in Hawaii Volcanoes National Park (HVNP) (Service 1996a; 59 FR 10305; HINHP Database 2000; GDSI 2000; Jack Jeffrey, Hakalau NWR, and Steve Bergfeld, DOFAW, pers. comm. 1999; Patty Moriyasu, Hawaii Center for Conservation Research and Training, University of Hawaii (CCRT–UH), pers. comm. 2000).

The habitat for this species includes wet and mesic montane forest dominated by *Acacia koa* (koa) and/or *Metrosideros polymorpha*, and subalpine dry forest dominated by *Metrosideros polymorpha*, at elevations between 1,628 and 2,061 m (5,340 to 6,760 ft). Associated native plants taxa are *Coprosma* sp., *Dryopteris wallichiana* (io nui), *Rubus hawaiensis*, or *Hedyotis* sp. (NCN) (HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001; 59 FR 10305).

The threats to this plant are competition with non-native plants, particularly *Passiflora mollissima* (banana poka), pigs, fruit and seed predation by *Rattus* sp. (black rat), scattered distribution, few populations, and small number of individuals making this taxon highly vulnerable to extinction caused by random naturally occurring events and human impacts, loss of pollinators, and cattle (59 FR 10305; Service 1996a).

Cyanea copelandii ssp. *copelandii* (haha).

Cyanea copelandii ssp. *copelandii*, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a small epiphytic shrub which roots at the nodes and grows on rocks and tree trunks. This species is distinguished from other members of the genus by the size, shape, and dark red hairs of the petals and by the reclining habit. This taxon is easily distinguished by its narrow leaves from the only other subspecies, *Cyanea copelandii* ssp. *haleakalaensis*, which is relatively prolific on Maui (Lammers 1999).

Cyanea copelandii ssp. *copelandii* was observed in fruit and flower during December. No other life history information is currently available (Service 1996a).

Historically, *Cyanea copelandii* ssp. *copelandii* was found at two sites on the southeastern slope of Mauna Loa, near Glenwood. It has not been observed in the wild since 1957 (Lammers 1999).

Cyanea copelandii ssp. *copelandii* was found in montane wet forest, epiphytic on mossy *Cibotium* spp. (hapuu) between an elevation of 658 and 881 m (2,160 and 2,890 ft). Associated native plant species included *Metrosideros polymorpha*, *Acacia koa*, *Cheirodendron trigynum*, *Broussaisia arguta* (kanawao), or *Melicope clusiifolia* (59 FR 10305, L. Pratt *et al.*, pers. comm. 2001).

The threats to *Cyanea copelandii* ssp. *copelandii* included grazing by feral ungulates and fruit and seed predation by rats. The loss of pollinators may have contributed to lack of regeneration (Service 1996a).

Cyanea hamatiflora (haha).

Cyanea hamatiflora, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a palm-like tree with tan sap and leaves without stalks. This species is composed of two subspecies: *Cyanea hamatiflora* ssp. *carlsonii*, endemic to the island of Hawaii, and *Cyanea hamatiflora* ssp. *hamatiflora*, endemic to East Maui. *Cyanea hamatiflora* ssp. *carlsonii* is distinguished from *C. hamatiflora* ssp. *hamatiflora* by calyx (collective term for sepals, outermost or lowermost whorl of flower parts) lobes that are longer and wider and by its longer pedicels (flower stalk) (Lammers 1999).

This taxon was observed in flower during December and August. Seeds have been collected in October and November. No other life history information is currently available (Service 1996a).

Historically, *Cyanea hamatiflora* ssp. *carlsonii* was known only from the west side of the island of Hawaii. Currently, it occurs in three populations containing approximately 14 individuals on the State's Honuaula Forest Reserve and South Kona Forest Reserve. It has also been reported from Federal land on the Kona unit of Hakalau Forest National Wildlife Refuge. There are also individuals of this taxon outplanted at Puu Waawaa and the Kipahoehoe NAR (GDSI 2000; HINHP Database 2000; Jon Giffin, DOFAW, *in litt.* 2000; L. Perry, pers. comm. 2000).

The habitat of *Cyanea hamatiflora* ssp. *carlsonii* is mesic montane forest dominated by *Metrosideros polymorpha* or *Acacia koa* at elevations between 1,350 to 1,783 m (4,430 to 5,850 ft). Associated native plants include *Myoporum sandwicense* (naio), *Clermontia clermontioides* (oha wai), *Coprosma* sp., *Ilex anomala* (kawau), *Hedyotis* sp., *Sophora chrysophylla* (mamane), *Cibotium* spp., *Dryopteris* sp. (NCN), or *Athyrium* (*Diplazium*) sp. (NCN) (Lammers 1999; HINHP Database 2000, L. Pratt *et al.*, pers. comm. 2001).

The threats to *Cyanea hamatiflora* ssp. *carlsonii* are competition with non-native plants, especially *Passiflora mollissima;* grazing and trampling by domestic and escaped cattle; rooting by feral pigs; and consumption of fruits by rats and non-native birds; seed damage by an undetermined species of caterpillar; and depressed reproductive vigor due to the limited gene pool. The small remaining numbers of individuals and their limited and scattered distribution make this species vulnerable to extinction by a single natural or human-induced event (59 FR 10305; Service 1996a).

Cyanea platyphylla (haha).

Cyanea platyphylla, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched palm-like shrub with stems that are covered with short, sharp, pale spines on the upper portions, especially when juvenile. The species differs from others in this endemic Hawaiian genus by its juvenile and adult leaves, precocious flowering, and smaller flowers (Lammers 1999).

No life history information is available for *Cyanea platyphylla* at this time (Service 1998c).

Historically, *Cyanea platyphylla* was found in the Kohala Mountains near Hiilawe Falls and also the Hamakua Ditch Trail, in Honaunau, in the Puna District near Glenwood, on Kalapana Road in Pahoa, and in Puu Kauka; in Waiakea Forest Reserve; and in an unknown location called "Kalanilehua." Currently there are a total of nine populations and fewer than 50 individuals on State and private lands. This species is extant in the Laupahoehoe NAR, Hilo Forest Reserve, and Punahoa Ahupuaa. There is also an outplanted population in the Waiakea Forest Reserve (Service 1998c; GDSI 2000; HINHP Database 2000).

This species is typically found in open *Metrosideros polymorpha-Acacia koa* lowland and montane wet forests at elevations between 137 and 1,082 m (450 and 3,550 ft). Associated native plant taxa include *Coprosma* sp., *Psychotria hawaiiensis* (kopiko), *Perrottetia sandwicensis* (olomea), *Scaevola* spp. (naupaka), *Cibotium* sp., *Antidesma platyphyllum* (hame),

Clermontia spp. (oha wai), *Hedyotis* sp., or *Cyrtandra* spp. (haiwale) (Lammers 1999; HINHP Database 2000; Service 1998c, L. Pratt *et al.*, pers. comm. 2001).

The threats to this plant are habitat degradation by feral pigs; competition with the introduced plant taxa *Psidium cattleianum* (strawberry guava), *Psidium guajava* (guava), *Passiflora ligularis* (sweet granadilla), and *Rubus rosifolius;* consumption of fruits by rats; volcanic activity; risk of extinction from naturally occurring events; and/or reduced reproductive vigor due to the low numbers of populations and individuals (Service 1998c; 61 FR 53137).

Cyanea shipmanii (haha).

Cyanea shipmanii, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a small unbranched or sparsely branched shrub with leaves that are deeply divided towards the midrib. This taxon is easily distinguishable from other members of the genus by its small flowers, slender stems, and stalked and divided leaves (Lammers 1999).

No life history information is available for *Cyanea shipmanii* at this time (Service 1996a).

Historically, *Cyanea shipmanii* was known only from the eastern slopes of Mauna Kea. Currently there are a total of five populations with 12 individuals on State land in north Hilo, Upper Waiakea Forest Reserve; on Federal land in the Hakalau Unit of the Hakalau Forest National Wildlife Refuge; and on private land at Papaikou, south Hilo (Lammers 1999; GDSI 2000; HINHP Database 2000).

Cyanea shipmanii is found in montane mesic forest dominated by *Acacia koa-Metrosideros polymorpha* on the windward slopes of the island, at elevations between 1,619 and 2,027 m (5,310 and 6,650 ft). Associated native plants include *Ilex anomala*, *Myrsine lessertiana* (kolea), or *Cheirodendron trigynum* (59 FR 10305, HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

This plant is threatened by pig rooting, vulnerability to extirpation by random events, and a loss of pollinators. Small numbers of extant individuals and localized distribution may result in a limited gene pool and reduced reproductive vigor (59 FR 10305).

Cyanea stictophylla (haha).

Cyanea stictophylla, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a small tree or shrub with sparsely branched stems that are occasionally equipped with sharp outgrowths. *Cyanea stictophylla* is distinguished from other species in the genus by its large, deeply lobed petals and small calyx lobes (Lammers 1999).

Cyanea stictophylla was observed in flower during March. No other life history information is currently available (Service 1996a).

Cyanea stictophylla is known historically from the western, southern, southeastern, and eastern slopes of Mauna Loa. Since 1975, the species has been found near Keauhou, Honokua, and Puu Waawaa in five populations totaling 10 individuals on State and private lands (Lammers 1999; GDSI 2000; HINHP Database 2000).

The species is found in *Acacia koa* or wet *Metrosideros polymorpha* forests at elevations between 1,183 and 1,942 m (3,880 and 6,370 ft). Associated native plant species include *Melicope* spp. (alani), *Cibotium* sp., or *Urera glabra* (opuhe) (HINHP Database 2000; Lammers 1999; Service 1996a, L. Pratt *et al.*, pers. comm. 2001).

The primary reasons for decline of this species are habitat destruction by cattle grazing and habitat degradation by feral pigs. In addition, the small number of plants and the scattered distribution of populations makes the species susceptible to extinction caused by naturally occurring random events and decreased reproductive vigor (Service 1996a).

Cyrtandra giffardii (haiwale).

Cyrtandra giffardii, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is a small shrubby tree with oppositely-arranged leaves positioned on the upper nodes of the stem. *Cyrtandra giffardii* is distinguished from other closely aligned taxa by papery textured and elliptically shaped leaves, small, cylindrical petals, small calyx, three to five flowers per cluster, the presence of hairs on leaves and flower clusters, and an almost round berry shape (Wagner *et al.* 1999).

Cyrtandra giffardii was observed in fruit and flower during June and November, and in flower during January and December. No other life history information is currently available (Service 1996a).

Cyrtandra giffardii is known from the northeastern slope of Mauna Kea south to the eastern slope of Mauna Loa. Since 1975, seven populations have been identified with the total number of individuals estimated at less than 500. These populations occur near Puu Makaala, Stainback Highway, Kilau Stream in Laupahoehoe NAR, and in Hawaii Volcanoes National Park on State, Federal, and privately owned lands (Wagner *et al.* 1999; GDSI 2000; HINHP Database 2000).

The habitat of *Cyrtandra giffardii* is wet montane forest dominated by *Cibotium* sp. or *Metrosideros polymorpha* and *Metrosideros*

polymorpha-Acacia koa lowland wet forests between 637 and 1,676 m (2,090 and 5,500 ft) elevation. Associated native plant species include *Hedyotis terminalis* (manono), *Astelia menziesiana, Diplazium sandwicensis* (hoio), *Perrottetia sandwicensis*, or other species of *Cyrtandra* (HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

Major threats to *Cyrtandra giffardii* are habitat degradation, rooting, and trampling by feral pigs and competition from non-native plant species such as *Andropogon virginicus* (broomsedge). The species is also susceptible to extinction due to naturally occurring random events and decreased reproductive vigor due to small numbers of populations and individuals (Service 1996a).

Cyrtandra tintinnabula (haiwale).

Cyrtandra tintinnabula, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is a small shrub. *Cyrtandra tintinnabula* can be distinguished from the other species in the genus that occur on the island of Hawaii by its petal size and shape, calyx size and shape, the number of flowers per cluster, and the presence of hairs. The species differs from *Cyrtandra giffardii* in its shrubby habit, larger leaves, and shorter main cluster stalks and flower stalks (Wagner *et al.* 1999).

Cyrtandra tintinnabula was observed in flower during July and August, and in fruit during December. No other life history information is currently available (Service 1996a).

Cyrtandra tintinnabula is known from three locations on the northeastern slopes of Mauna Kea. Since 1975, three populations have been identified in the State's Laupahoehoe NAR. Currently, a total of six populations with close to 25 individuals are known on State and private lands (59 FR 10305; GDSI 2000; HINHP Database 2000).

Cyrtandra tintinnabula grows in lowland wet forest dominated by dense *Acacia koa, Metrosideros polymorpha,* and *Cibotium* spp. at elevations between 390 and 1,430 m (1,280 and 4,690 ft). Several other *Cyrtandra* or *Hedyotis* species are associated with *Cyrtandra tintinnabula*. (Wagner *et al.* 1999; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The main threat to *Cyrtandra tintinnabula* is rooting and browsing by feral pigs that directly damage and disturb its habitat and break its weak and delicate stems. Pigs also disturb native vegetation which increases invasion and establishment of non-native plant taxa. Continued disturbance exacerbates the non-native plant problem and eventually precludes the survival of native taxa. Additionally, because much of the native habitat is lost, appropriate pollinators may be absent as well. The loss of native pollination vectors is a probable cause for the species' demise. *Cyrtandra tintinnabula* is also vulnerable to extinction due to naturally occurring events and decreased reproductive vigor due to small population sizes and a limited distribution (Service 1996a; 59 FR 10305).

Hibiscadelphus giffardianus (hau kuahiwi).

Hibiscadelphus giffardianus, a member of the mallow family (Malvaceae) and a long-lived perennial, is a small tree with whitish bark. This species differs from others in this endemic Hawaiian genus by its flower color, flower size, and the presence of filamentous bracts (Bates 1999).

No life history information is available for *Hibiscadelphus giffardianus* at this time.

Only one tree of *Hibiscadelphus giffardianus* has ever been known in the wild, from Kipuka Puaulu (or Bird Park) in Hawaii Volcanoes National Park (kipuka = vegetated area surrounded by bare lava flows), which died in 1930. Individuals were cultivated by Territorial Forestry (Hawaii's Department of Land and Natural Resources (DLNR) prior to statehood in 1959) from this parent tree. Approximately eleven plants were outplanted into Kipuka Puaulu somewhere between 1951 and 1964, and there are currently 100 outplanted plants surviving at this site in Hawaii Volcanoes National Park. This species only persists through cultivation efforts (GDSI 2000; L. Pratt *et al.*, pers. comm. 2001; Service 1998c).

Hibiscadelphus giffardianus grows in mixed montane mesic forest at elevations between 1,192 and 1,277 m (3,910 and 4,190 ft). Associated native plant taxa include *Metrosideros polymorpha, Acacia koa, Sapindus saponaria* (manele), *Coprosma rhynchocarpa* (pilo), *Pipturus albidus* (mamaki), *Psychotria* sp. (kopiko), *Nestegis sandwicensis* (olopua), *Melicope* spp., *Dodonaea viscosa*, or *Myoporum sandwicense* (Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Hibiscadelphus giffardianus* are bark, flower, and fruit feeding by black rats; leaf damage in the form of stippling and yellowing by *Sophonia rufofascia* (two-spotted leafhopper) and yellowing by the native plant bug *Hyalopeplus pellucidus;* competition from the non-native grasses *Ehrharta stipoides* (meadow ricegrass), *Paspalum conjugatum* (Hilo grass), and *Paspalum dilatatum* (Dallis grass); and possible habitat modification from volcanic activity. This species also faces a risk of extinction from naturally occurring events or reduced reproductive vigor due to the small number of existing cultivated individuals. Cattle were known in the area before it became a national park and probably had a large destructive influence on the habitat as well. However, cattle are not a threat to this species now because they are no longer allowed to roam freely through the park (Service 1998c; 61 FR 53137).

Hibiscadelphus hualalaiensis (hau kuahiwi).

Hibiscadelphus hualalaiensis, a member of the mallow family (Malvaceae) and a long-lived perennial, is a small tree with whitish bark. The species is distinguished from others in the genus by its flower color, smaller flower size, and tooth-like bracts (Bates 1999).

No life history information is available for *Hibiscadelphus hualalaiensis* at this time (Service 1998c).

Hibiscadelphus hualalaiensis was historically known from three populations located in the Puu Waawaa region of Hualalai. This species only persists through cultivation efforts. There are currently two outplanted populations on the island of Hawaii on State owned land (HINHP Database 2000; L. Perry, pers. comm. 2000).

Hibiscadelphus hualalaiensis grows in dry mesic to dry *Metrosideros* forest on rocky substrate in deep soils at elevations between 509 and 1,241 m (1,670 and 4,070 ft). Associated native plant species include *Nototrichium breviflorum, Metrosideros polymorpha, Diospyros sandwicensis*, or *Sophora chrysophylla* (Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

Threats to this species include fire, flower and seed predation by rats, competition form non-native plants, ranching activity, habitat change due to volcanic activity, and reduced reproductive vigor due to a small number of individuals from a single parent (Service 1998c).

Isodendrion hosakae (aupaka).

Isodendrion hosakae is a short-lived perennial member of the violet family (Violaceae). It is a branched, upright, evergreen shrub. Reproductively mature plants range from 8 to 82 centimeters (cm) (3 to 32 in) in height, and flowers and fruit occur on the woody stems. The leathery leaves are lance-shaped and the stipules are persistent and conspicuously cover the ends of the stems. The flowers are yellowish-green to white and the fruit is a red-tinged, green, elliptical capsule (Wagner et al. 1999).

The plants are often found within the crown outline of other native shrubs suggesting that there may be a beneficial association between *Isodendrion hosakae* and these other plants. Nothing is known about the mechanisms of sexual reproduction utilized by this species. No pollinating agents have been identified, although the white flowers produce a sweet scent and numerous moths have been seen in the habitat at night. Although it has been suggested that the seeds may be wind dispersed, seedlings found underneath mature plants in windy areas may indicate that this is not the dispersal mechanism. There are no reports of vegetative reproduction of this species in nature. Attempts to grow *Isodendrion hosakae* from cuttings using several techniques have failed. Production of fruit and viable seed may be low. Nagata (1982) found that the number of fruits per plant was very low and that 8 mature fruits collected in April 1982 contained only 14 seeds. In a subsequent germination trial, only 3 of 20 seeds germinated. However, it should be noted that these observations may have been made before the peak of the fruiting season. Field observations noting phenology of *Isodendrion hosakae* have been made in the months of January, February, March, April, and November. Flowers are reported in all of these months, and fruits were seen in all of these months except January. Nagata (1982) reported that flowering and fruiting occur from November through June. Greenhouse-grown plants are known to have flowered in March and other months, and to have set new leaves in January. Clearly, these data are far too few for a reliable picture of this species' phenology (Service 1994).

The known range of this species has changed very little in the 44 years since it was first discovered in 1948 by E.Y. Hosaka on an unspecified cinder cone in Waikoloa, South Kohala. This species was again collected in 1980 in Waikoloa, sparking further searches by DOFAW botanists. These searches led to the discovery of a major population at a nearby site and a lesser colony at another site described as less than 1.6 km (1 mile) northeast of the first site and near the second site, all on privately owned land. Cuddihy *et al.* (1983) speculated that Hosaka's original collections were made at the third site. There are approximately 200 individuals in the largest population and 8 to 9 individuals at both of the other two sites. The number of plants at the other two sites are sufficiently small that they may be considered relictual or ephemeral. Only two *Isodendrion hosakae* plants are known in cultivation, and there are no other germ plasm reserves (56 FR 1454; Service 1994, HINHP Database 2000).

The existing populations of *Isodendrion hosakae* occur on the western slope of Mauna Kea. The regional vegetation is cinder cones with montane dry shrubland and elevations between 655 and 1,259 m (2,150 and 4,130 ft). Associated native plant taxa include *Dodonaea viscosa, Styphelia tameiameiae, Wikstroemia pulcherrima* (akia), *Dubautia linearis* (naenae), *Sophora chrysophylla, Osteomeles anthyllidifolia* (ulei), *Wollastonia venosa* (nehe), *Bidens menziesii* (kookoolau), or *Santalum ellipticum* (iliahi). (HINHP Database 2000; Service 1994; 56 FR 1454; L. Pratt *et al.*, pers. comm. 2001).

The principal threats to this species include habitat destruction by fire; feral ungulates; cinder mining; military activity; competition by introduced plant species, particularly *Pennisetum setaceum* (fountain grass); and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of individuals in the two remaining populations (Service 1994; HINHP Database 2000; 56 FR 1454).

Melicope zahlbruckneri (alani).

Melicope zahlbruckneri, of the citrus family (Rutaceae), is a long-lived perennial and a medium-sized tree 10 to 12 m (33 to 40 ft) tall. New growth is covered with yellowish brown, fine, short, curly hairs. The opposite, stalked, elliptically oblong leaves have well defined lateral veins. Clusters of two to five flowers top the main flowering stalks. The fruit is squarish. *Melicope zahlbruckneri* is distinguished from other species of the genus by its branching habit, large leaves, and very large, squarish capsules (Stone *et al.* 1999).

No life history information is available for *Melicope zahlbruckneri* at this time (Service 1998c).

Historically, *Melicope zahlbruckneri* was known from three populations: Near Glenwood, in Kipuka Puaulu, and at Moaula in Kau. It is currently known from two sites: in Kipuka Puaulu within Hawaii Volcanoes National Park and a recently located population on State land in Laupahoehoe. Two individuals are known from the Laupahoehoe site. The Kipuka Puaulu population consists of approximately 30 to 45 individuals with reproducing and juvenile plants (GDSI 2000; 61 FR 53137; L. Pratt *et al.*, pers. comm. 2001; HINHP Database 2000; Service 1998c).

This species is found in *Acacia koa-Metrosideros polymorpha* dominated montane mesic forest at elevations between 692 and 1,393 m (2,270 and 4,570 ft). Associated native plant taxa include *Sapindus saponaria, Coprosma rhynchocarpa, Zanthoxylum dipetalum* (ae), *Pipturus albidus, Psychotria hawaiiensis, Nestegis sandwicensis, Myoporum sandwicense, Pisonia brunoniana* (papala kepau), or *Melicope* spp. (61 FR 53137; HINHP Database 2000; Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Melicope zahlbruckneri* are disease transmitted by the two-spotted leafhopper, competition from introduced grasses (*Paspalum scrobiculatum* (ricegrass), *Paspalum conjugatum*, and *Paspalum dilatatum*), fire; habitat modification due to volcanic activity; and potential fruit damage by rats. This species also faces a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of individuals in the two remaining populations (61 FR 53137; Service 1998c).

Neraudia ovata (NCN).

Neraudia ovata, of the nettle family (Urticaceae), is a short-lived perennial and a sprawling or rarely erect shrub to a small tree, with stems 1 to 3 m (3 to 10 ft) long, and branches bearing short, somewhat erect hairs. The alternate, thin, stalked leaves have smooth margins, are grayish on the undersurface, and have spreading, curved, nearly translucent hairs. Male and female flowers are found on separate plants. The fruit is an achene (a dry, one-seeded fruit that does not open at maturity). This species is distinguished from others in this endemic Hawaiian genus by the density, length, and posture of the hairs on the lower leaf surface, smooth leaf margin, and the boat-shaped calyx of the female flower (Wagner *et al.* 1999).

No life history information is available for this *Neraudia ovata* at this time (Service 1998c).

Historically, *Neraudia ovata* was found from North Kona all the way to Kau. There are currently three known locations. One population of four individuals is known from privately owned land in Kaloko, North Kona. Three subpopulations with a total of 11 individuals occur on land that is under Federal jurisdiction at Pohakuloa Training Area. One individual is known from the State's Manuka NAR. In addition, five individuals are currently in cultivation at Pohakuloa Training Area (61 FR 53137; GDSI 2000; HINHP Database 2000; Bill Stormont, DOFAW, pers. comm. 2000).

Neraudia ovata grows in open *Metrosideros polymorpha-Sophora*

chrysophylla dominated lowland, montane dry forests, and *Metrosideros*-shrub woodland at elevations of 115 m (380 ft) at Kaloko and 1,325 and 1,829 m (4,350 to 6,000 ft) at Pohakuloa Training Area. Associated native plant taxa include *Reynoldsia sandwicensis* (ohe), *Myoporum sandwicense*, *Cocculus triloba* (huehue), *Myrsine lessertiana*, *Myrsine lanaiensis* (kolea), *Capparis sandwichiana* (maiapilo), *Fimbristylis hawaiiensis* (NCN), or *Bidens micrantha* ssp. *ctenophylla* (kookoolau) as well as the federally endangered *Nothocestrum breviflorum* (aiea) or *Pleomele hawaiiensis* (halapepe), (61 FR 53137; HINHP Database 2000; Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Neraudia ovata* are heavy browsing and habitat modification by feral sheep (*Ovis aries*) and feral goats; competition from non-native plants such as *Schinus terebinthifolius* (Christmasberry), *Leucaena leucocephala* (koa haole), and *Pennisetum setaceum;* habitat modification due to volcanic activity; residential development; insect damage by the non-native spiraling whitefly (*Aleurodicus dispersus*); and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals in the three remaining populations (61 FR 53137; Service 1998c).

Nothocestrum breviflorum (aiea).

Nothocestrum breviflorum is a long-lived perennial of the nightshade family (Solanaceae). It is a stout tree with a soft, sappy wood with dark brown bark. The leaves are relatively thick and papery in texture. The upper leaf surface is glabrous (smooth) to sparsely whitish pubescent (downy), and the lower surface is often densely whitish pubescent. Several to numerous flowers appear in clusters at the tips of shortened, spur-like branches. Fruits remain enclosed by the calyx and are orange-red, round berries about 6 to 8 mm (0.2 to 0.3 in) in diameter. This species is distinguished from other Hawaiian members of the genus by leaf shape, number of flowers (more than three) in the flower clusters at tips of short spur-like branches, and the fruit remaining enclosed in the calyx (Symon 1999).

This species was observed in flower during February, and in fruit and flower during December and January. No other life history information is currently available (HINHP Database 2000; Service 1996a).

Nothocestrum breviflorum is historically known from the southern Kohala mountains, the western, southern, and eastern slopes of Mauna Loa, and the northern slopes of Hualalai. There are 10 currently known populations totaling more than 150 individuals from State and privately owned lands in north Kona at Kaupulehu, Puu Waawaa, Kaloko, Kealakehe, Kahauloa; in Kau at Kamaoa-Puueo, in the Kohala Mountains at Kiholo and Honopue. In addition, plants were cultivated at Kipuka Puaulu in Hawaii Volcanoes National Park for ornamental purposes and there are outplanted individuals on State owned land in Puu Waawaa (59 FR 10305; Service 1996a HINHP Database 2000; GDSI 2000; L. Perry, pers. comm. 2000).

Nothocestrum breviflorum is found in lowland dry forest, montane dry forest, and montane mesic forest dominated by *Metrosideros polymorpha, Acacia koa,* and/or *Diospyros sandwicensis* (lama). Individuals occur on aa lava substrates at elevations ranging from 152 to 1,948 m (500 to 6,390 ft). Associated native plant species include *Sophora chrysophylla, Reynoldsia sandwicensis, Psydrax odorata* (alahee), *Myoporum sandwicense, Bidens micrantha, Dodonaea viscosa, Osteomeles anthyllidifolia, Santalum paniculatum* (iliahi), *S. ellipticum, Caesalpinia kavaiensis* (uhiuhi), or *Erythrina sandwicensis* (wiliwili). In addition, in the Puu Waawaa area the federally endangered *Colubrina oppositifolia* (kauila), *Kokia drynarioides* (kokio), *Hibiscadelphus hualalaiensis* (hau kuahiwi), *Delissea undulata* (NCN), or *Pleomele hawaiiensis* (hala pepe) are also known from the area where *N. breviflorum* occurs (Gagne and Cuddihy 1999; Symon 1999; 59 FR 10305; Service 1996a; HINHP Database 2000, Pratt *et al.*, pers. comm. 2001).

Nothocestrum breviflorum is negatively impacted by cattle and sheep grazing and by non-native plant taxa such as *Schinus terebinthifolius, Pennisetum setaceum, Lantana camara* (lantana), and *Leucaena leucocephala.* The presence of these invasive plant taxa may afford enough fuel to support a destructive fire. Increased residential and recreational developments have reduced available habitat. This species is also threatened by a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals in the three remaining populations (59 FR 10305; HINHP Database 2000; Service 1996a).

Ochrosia kilaueaensis (holei).

Ochrosia kilaueaensis, a long-lived perennial of the dogbane family (Apocynaceae), is a tree with milky sap that grows to about 15 to 18 m (49 to 59 ft) tall. Elongated, egg- or lance-shaped leaf blades are arranged three to four at a node. Conspicuous secondary veins are almost perpendicular to the mid-vein. Numerous flowers are arranged in clusters and subtended by main flower cluster stalks divided into two sections, primary stalks (peduncles), and secondary branch stalks. The calyx is deeply 5-lobed and the green-white, trumpet-shaped flowers have five lobes fused at the base into a cylindric tube. Lance-shaped fruits have a fleshy inner layer, a stony single seed, and may be yellow-brown when mature. This species can be separated from other Hawaiian taxa of the genus by the greater height of mature trees, open flower clusters, longer flower stalks, and larger calyx and petal lobes (Wagner *et al.* 1999).

No life history information is available for *Ochrosia kilaueaensis* at this time (59 FR 10305).

Ochrosia kilaueaensis is known historically only from Puu Waawaa and at Kipuka Puaulu in Hawaii Volcanoes National Park. It has not been seen in the wild since 1927 (59 FR 10305; M. Bruegmann pers. comm. 2000).

Ochrosia kilaueaensis was found in *Acacia-Metrosideros-Sapindus* montane mesic forest between the elevations of 668 and 1,222 m (2,190 and 4,010 ft) (HINHP Database 2000; Wagner *et al.* 1999).

This species was threatened by fire, feral goats, predation of fruits by rats, and competition with fountain grass (Service 1996a).

Phyllostegia racemosa (NCN).

Phyllostegia racemosa, a short-lived perennial of the mint family (Lamiaceae), is a climbing vine with many-branched, square stems. Leaves are opposite, moderately covered with short, soft hairs, dotted with small glands, and with shallow, rounded teeth. The leaf stalks are covered densely with short hairs. This species is distinguished from others in this genus by its leaf shape, lack of a main stalk to the flower clusters, and calyx teeth that are rounded and shallow (Wagner *et al.* 1999).

No life history is available for this *Phyllostegia racemosa* at this time (61 FR 53137).

Historically, *Phyllostegia racemosa* was found in the Hakalau and Saddle Road areas of Mauna Kea and the Kulani-Keauhou and Kipuka Ahiu areas of Mauna Loa. Currently, seven populations with a total of approximately 10 individuals are known to occur on private and State lands in the Kulani-Keauhou area, on Federal lands in the Hakalau Unit of the Hakalau Forest National Wildlife Refuge and in Hawaii Volcanoes National Park

(61 FR 53137; HINHP Database 2000; GDSI 2000).

Phyllostegia racemosa is typically found epiphytically in *Acacia koa, Metrosideros polymorpha,* and *Cibotium* sp. dominated montane mesic or wet forests at elevations between 1,369 and 1,966 m (4,490 to 6,450 ft). Associated native plant taxa include *Vaccinium calycinum* (ohelo), *Rubus hawaiiensis,* or *Dryopteris wallichiana* (61 FR 53137; Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Phyllostegia racemosa* are habitat disturbance by feral pigs and cattle; logging; competition from non-native plant taxa, such as *Passiflora mollissima, Pennisetum clandestinum* (kikuyu grass), *Anthoxanthum odoratum* (sweet vernalgrass), and *Paspalum urvillei* (vasey grass); habitat modification due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals (61 FR 53137; Service 1998c; HINHP Database 2000).

Phyllostegia velutina (NCN).

Phyllostegia velutina, a short-lived perennial of the mint family (Lamiaceae), is a climbing vine with dense, backward-pointing hairs on the leaves and square stems. This species is distinguished from others in this genus by its silky hairs, lack of a main stalk to the flower clusters, and calyx teeth that are narrow and sharply pointed (Wagner *et al.* 1999).

No life history information is available for this *Phyllostegia velutina* at this time (61 FR 53137).

Historically, *Phyllostegia velutina* was found on the southern slopes of Hualalai and the eastern, western, and southern slopes of Mauna Loa. *Phyllostegia velutina* is currently known from five locations with approximately 100 individuals; on State and privately owned lands in the Olaa-Kilauea area, Upper Waiakea Forest Reserve, Kapapala Forest Reserve, Kau Forest Reserve, Puu Waawaa; and from Federal lands in the Hakalau Unit of the Hakalau Forest National Wildlife Refuge (61 FR 53137; GDSI 2000; HINHP Database 2000; Service 1998c).

Phyllostegia velutina typically grows in *Metrosideros polymorpha-Acacia koa* dominated montane mesic and wet forests at elevations between 908 and 1,887 m (2,980 and 6,190 ft). Associated native plant taxa include *Cibotium* spp., *Cheirodendron trigynum, Vaccinium calycinum, Coprosma* sp., *Dryopteris wallichiana, Rubus hawaiiensis, Pipturus albidus, Athyrium microphyllum* (akolea) or other native wet forest terrestrial ferns, *Myrsine lessertiana,* or *Ilex anomala* (61 FR 53137; HINHP Database 2000; Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

Threats to *Phyllostegia velutina* are habitat damage by cattle, feral pigs and sheep; prison facility expansion, road clearing, and logging; competition from non-native plants, such as *Pennisetum clandestinum, Rubus ellipticus* (yellow Himalayan raspberry), *Paspalum urvillei,* and *Pennisetum setaceum;* fire; habitat modification due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals (61 FR 53137; HINHP Database 2000; Service 1998c).

Phyllostegia warshaueri (NCN).

Phyllostegia warshaueri, a short-lived perennial of the mint family (Lamiaceae), is either a sprawling or climbing vine with end branches turning up, covered with upward-pointing fine, short hairs on the square stems. This species is distinguished from others in this genus by its long main stalk to the flower clusters, toothed leaves, and the distribution of hairs (Wagner *et al.* 1999).

No life history information is available for *Phyllostegia warshaueri* at this time (61 FR 53137).

Historically, *Phyllostegia warshaueri* was found in the Hamakua region on the northern slopes of Mauna Kea and in the Kohala Mountains. The only known individuals occur in 7 locations on State and privately owned lands; 3 populations with 12 individuals in Laupahoehoe NAR near the Waipunalei boundary; 2 populations in the Hilo Forest Reserve with an unknown number of individuals; and 1 population with 2 individuals in the Kohala Forest Reserve at the Ookala Trail and near the Hamakua Ditch Trail; and 1 population on private land just outside the Kohala Forest Reserve in Waipio Valley near Kaiwainui Stream. In addition, individuals have been outplanted on State land in Waimanu (61 FR 53137; HINHP Database 2000; GDSI 2000; Service 1998c; L. Perry, pers. comm. 2000).

Phyllostegia warshaueri grows in *Metrosideros polymorpha* and *Cibotium* montane and lowland wet forest in which *Acacia koa* or *Cheirodendron trigynum* may co-dominate, at elevations between 730 and 1,150 m (2,400 and 3,770 ft). Associated native plant taxa include *Antidesma platyphyllum, Psychotria hawaiiensis, Hedyotis* sp., *Coprosma* sp., *Sadleria pallida* (amau), *Broussaisia arguta, Pipturus albidus, Clermontia parviflora* (oha wai), *Athyrium sandwicensis* (NCN), *Machaerina angustifolia* (uki), *Cyanea pilosa,* or other *Cyanea* spp. (haha) (61 FR 53137; Service 1998c; HINHP Database 2000).

The major threats to *Phyllostegia warshaueri* are habitat destruction by feral pigs; competition from non-native plant taxa, such as *Rubus rosifolius, Psidium cattleianum, Setaria palmifolia* (palm grass), *Juncus planifolius* (NCN), or *Tibouchina herbacea* (glorybush); ditch improvements and road clearing; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals (61 FR 53137; Service 1998c; HINHP Database 2000).

Plantago hawaiensis (laukahi kuahiwi).

Plantago hawaiensis is a short-lived perennial herb in the plantain family (Plantaginaceae) with a short stem and red-brown wooly hairs. The thick leathery basal leaves are narrowly elliptic. This species is distinguished from other members of the genus in Hawaii by several characters including ascending to sub-erect flowers, thick leathery leaves, and a fruit that is longer than the calyx (Wagner *et al.* 1999).

No life history information is available for *Plantago hawaiensis* at this time (59 FR 10305).

Historically, *Plantago hawaiensis* occurred on the southern slope of Mauna Kea, northeastern, southeastern and southern slopes of Mauna Loa, and the western slope of Hualalai. Currently, 8 populations have been identified totaling approximately 5,000 individuals on State and federally owned lands. One population is known from Kipuka Ainahou Wildlife Sanctuary, two populations each are known from Upper Waiakea Forest Reserve. Hawaii Volcanoes National Park, and Puu Waawaa and one population is known from Kapapala Forest Reserve. In addition, *Plantago hawaiensis* is currently in cultivation at Hawaii Volcanoes National Park (59 FR 10305; GDSI 2000; Warshauer 2000; HINHP Database 2000; M. Bruegmann, pers. comm. 2000).

The habitat of *Plantago hawaiensis* is somewhat variable. The taxon grows in montane wet sedge land with mixed sedges and grasses, montane mesic forest, dry subalpine woodland, or *Metrosideros* and native shrub, at elevations of 1,512 to 2,585 m (4,960 to 8,480 ft). Associated native plant species include stunted *Acacia koa* and *Metrosideros polymorpha, Styphelia tameiameiae, Vaccinium reticulatum, Dodonaea viscosa, Coprosma montana,* or *Coprosma ernodeoides. Plantago hawaiensis* is often found growing in

damp cracks of pahoehoe lava (59 FR 10305; HINHP Database 2000; Service 1996a; L. Pratt *et al.*, pers. comm. 2001).

Mouflon sheep, feral pigs, and goats threaten most of the populations. The two populations within Hawaii Volcanoes National Park are protected from feral pigs and goats by fenced exclosures but recently mouflon sheep have compromised the fence. Browsing by ungulates may affect the viability of these plants, preclude the establishment of juveniles, and damage the habitat, thereby opening suitable sites for the establishment of non-native weeds. Decreased reproductive ability due to the small number of individuals in most populations, as well as their widely scattered distribution, threaten this species. A risk of extinction from naturally occurring events and/or human activities is possible (59 FR 10305; HINHP Database 2000; Service 1996a).

Pleomele hawaiiensis (halapepe).

Pleomele hawaiiensis, a long-lived perennial of the agave family (Agavaceae), is a branching tree with leaves spirally clustered at the branch tips which leave large brown leaf scars as they fall off. This species differs from other Hawaiian species in this genus by its pale yellow flowers, the size of the flowers, the length of the constricted base of the flower, and the width of the leaves (Wagner *et al.* 1999).

No life history information is available for this *Pleomele hawaiiensis* at this time (61 FR 53137).

Historically, *Pleomele hawaiiensis* was found ranging from the Kohala mountains to Kau. Eight locations with a total of 300 to 400 individuals are currently known from State and private lands. Two populations are known from State and private lands in the Kohala mountains in Pololu Valley, three populations are known from State land in the Puu Waawaa and Puu Anahulu area, two populations are known from State and private lands in the Kaupulehu lava flow area, and one population is known from private land in the Huehue area (61 FR 53137; HINHP Database 2000; GDSI 2000; Service 1998c, L. Pratt *et al.*, pers. comm. 2001).

Pleomele hawaiiensis typically grows on open aa lava in diverse lowland dry forests and *Metrosideros-Diospyros* lowland dry forest at elevations between 152 and 969 m (500 and 3,180 ft). Associated native plant taxa include *Metrosideros polymorpha, Reynoldsia sandwicensis, Dodonaea viscosa, Diospyros sandwicensis, Sophora chrysophylla, Psydrax odorata, Cocculus trilobus, Myoporum sandwicense, Nestegis sandwicensis, Bobea timonioides* (ahakea), *Nototrichium sandwicense* (kului), *Sida fallax* (ilima), *Erythrina sandwicensis, Santalum paniculatum, Osteomeles anthyllidifolia*, or *Bidens micrantha* ssp. *ctenophylla* as well as the federally endangered *Caesalpinia kavaiensis, Colubrina oppositifolia, Kokia drynarioides, Nothocestrum breviflorum*, or *Neraudia ovata* (61 FR 53137; HINHP Database 2000; Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Pleomele hawaiiensis* are habitat conversion associated with residential and recreational development; seed predation from weevils; habitat destruction by feral pigs, sheep, and goats; fire; competition from non-native plant taxa, such as *Pennisetum setaceum, Leucaena leucocephala, Schinus terebinthifolius*, or *Lantana camara;* habitat change due to volcanic activity; and the lack of reproduction in all but two populations (61 FR 53137; HINHP Database 2000; Service 1998c).

Pritchardia affinis (loulu).

Pritchardia affinis is a long-lived perennial in the palm family (Arecaceae) that grows from 10 to 25 m (33 to 82 ft) tall. Its orbicular and wedge-shaped, hairless leaf blades are green on the upper surface and pale green on the lower surface, with a few yellow scales. Pale, long, soft, tangled hairs extend along the fan-like folds of the leaf segments to the leaf stalk. One or more hairless flower clusters are branched and re-branched. Each flower cluster is subtended by a main flower cluster stalk (peduncle) that has bracts at the base. Upper flower cluster branches also are subtended by small membranous bracts bearing a single flower. The calyx is cup-shaped and three-lobed. Three petals are fused at the base to the stamen tube, which is comprised of six stamens (the organ of the flower which bears the pollen-grains). The immature fruit has a three-lobed stigma (the part of the female reproductive structure (pistil) of a flower on which pollen is normally deposited). The fruit is brown to black, almost round and about 2.3 cm (0.9 in) in diameter. This taxon can be distinguished from other species of *Pritchardia* by several characters including long tangled hair on the lower blade surface and leaf stalk, stout hairless flower clusters borne among wedge-shaped leaves, and an almost round fruit that is smaller than fruits of other species (Read and Hodel 1999).

No life history information is available for this *Pritchardia affinis* at this time (59 FR 10305).

Historically, *Pritchardia affinis* was known from the Kohala Mountains and along the southern and western coasts of the island of Hawaii. Currently, an unknown number of individuals are scattered along the western coast of the island of Hawaii, in Kealakekua, and in Hilo on State and private lands. Due to the use of this species as a landscape specimen and its locations in the "wild" near prehistoric and historic house lots, we are unable to determine the number of wild individuals or the number of wild populations. All of the extant populations may be outplanted. In addition, this palm has been propagated by the National Tropical Botanical Garden, Volcano Rare Plant Facility, and DOFAW (59 FR 10305; Service 1996a; M. Bruegmann, pers. comm. 2000).

Pritchardia affinis typically grows in coastal mesic forest, possibly near brackish water, at elevations of 0 to 610 m (0 to 2,000 ft). The trees occur in cultivated and/or developed sites, perhaps planted by Hawaiians, or may occur naturally. Because most coastal land had been historically cleared for cultivation, native associates are largely unknown (59 FR 10305; Service 1996a; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

Major threats to *Pritchardia affinis* are development and human activities including over collection and vandalism, rat predation of fruits and seeds, feral pigs, and non-native plant species. Fire is a serious threat. The small number of populations and individuals may compromise the reproductive viability of these individuals and increase the vulnerability of the taxon to random events. Lethal yellowing is a disease particular to palms that represents a potential threat if the disease ever reaches Hawaii (59 FR 10305; HINHP Database 2000; Service 1996a).

Pritchardia schattaueri (loulu).

Pritchardia schattaueri, a long-lived perennial in the palm family (Arecaceae), is a large tree, 30 to 40 m (100 to 130 ft) tall with a gray, longitudinally grooved trunk 30 cm (12 in) in diameter. Leaves form a spherical crown and are sometimes persistent after death. Leaves are fan-shaped, glossy green, with small brown scales on the lower surface. Flowers are on two- to four-branched inflorescences with a main stalk 1.2 to 1.75 m (3.9 to 5.7 ft) long and individual branches 1 to 1.4 m (3.2 to 4.6 ft) long. The five bracts are lance-shaped, the lowest one 60 cm (2 ft) long, and the uppermost one 20 to 30 cm (9 to 12 in) long. The calyx is green, fading to yellow-green at the tip and is three-toothed. Fruits are round or pear-shaped and black with brown spots when mature. This species differs from its closest relative, *Pritchardia beccariana*, by its slender inflorescence branches, more deeply divided leaves, and pendulous rather than stiff tips of the leaf blade segments (Read and Hodel 1999).

No life history information is available for *Pritchardia schattaueri* at this time (61 FR 53137).

Historically, *Pritchardia schattaueri* was known from the South Kona Forest Reserve on State land. Currently there is one mature individual with and fewer than 12 immature plants on privately owned land near the South Kona Forest Reserve. In addition, individuals have been propagated at the Volcano Rare Plant Facility, National Tropical Botanical Garden, Lyon Arboretum, and by DOFAW (61 FR 53137; Service 1998c; GDSI 2000; HINHP Database 2000).

Pritchardia schattaueri grows in *Metrosideros polymorpha*-dominated lowland mesic forest, at elevations between 600 and 800 m (1,970 to 2,600 ft). Associated native plant taxa include *Nestegis sandwicensis, Charpentiera obovata* (papala), *Cibotium* sp., *Myrsine* sp. (kolea), or *Pittosporum hosmeri* (hoawa) (61 FR 53137; Service 1998c; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Pritchardia schattaueri* are development and human activities including over collection and vandalism, grazing and trampling by cattle and feral pigs; competition from non-native plant taxa, such as *Psidium cattleianum, Psidium guajava, Pennisetum clandestinum, Schinus terebinthifolius*, or *Rubus rosifolius;* seed predation by rats; residential, commercial, or agricultural development; and habitat modification due to volcanic activity. There is also a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals, and the lack of successful regeneration. Lethal yellowing is a disease particular to palms that represents a potential threat if the disease ever reaches Hawaii (61 FR 53137; Service 1998c; HINHP Database 2000).

Sicyos alba (anunu).

Sicyos alba, an annual in the gourd family (Cucurbitaceae), is a minutely hairy, black-spotted vine. Leaves are pale, broadly heart-shaped and shallowly to deeply three- to five-lobed. This species can be distinguished from its nearest relative, *Sicyos cucumerinus*, by its white fruit without bristles and 10 or fewer female flowers per cluster (Telford 1999).

No life history is available for *Sicyos alba* at this time (61 FR 53137).

Historically, *Sicyos alba* was found in the Kilauea area. Currently, this species is known from four locations with a total of approximately 30 individuals on State and Federal lands in the Puna District. One population is known from Puu Makaala NAR, two populations from Olaa tract in Hawaii Volcanoes National Park, and one population from Olaa Forest Reserve, (61 FR 53137; HINHP Database 2000; GDSI 2000; L. Pratt *in litt.* 2000).

Sicyos alba typically grows in *Metrosideros polymorpha-Cibotium glaucum* dominated montane wet forests, at elevations between 896 and 1,576 m (2,940 and 5,170 ft). Associated native plant taxa include *Coprosma* sp., *Astelia menziesii* (painiu), *Athyrium* sp., *Psychotria* sp., *Cheirodendron trigynum, Pritchardia beccariana, Platydesma spathulata* (pilo kea), *Broussaisia arguta, Cyrtandra lysiosepala* (haiwale), *Stenogyne* sp. (NCN), *Perrottetia sandwicensis, Cyanea tritomantha* (aku), or *Athyrium microphyllum* or other ferns (61 FR 53137; Service 1998c; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Sicyos alba* are habitat damage by feral pigs; trail clearing; competition from non-native plant taxa, such as *Passiflora mollissima, Setaria palmifolia, Psidium cattleianum*, or *Rubus ellipticus;* habitat modification due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals (61 FR 53137; Service 1998c; HINHP Database 2000).

Silene hawaiiensis (NCN).

Silene hawaiiensis, a short-lived member of the pink family (Caryophyllaceae), is a sprawling shrub with climbing or clambering stems. Stems, generally, are covered with short, sticky hairs and arise from an enlarged root. Leaves are slender, often recurved and stalkless. Flowers are arranged in loose, elongate clusters that are very sticky. *Silene hawaiiensis* can be distinguished from other species of the genus in Hawaii by several characters: sprawling habit, presence of sticky hairs, leaf shape, and color of the petals (green-white with maroon-colored backs) (Wagner *et al.* 1999).

This species was observed in flower in September and August. No other life history is known for this species (Service 1996a).

Historically, *Silene hawaiiensis* was known from the western slopes of Mauna Kea; the summit of Hualalai; Humuula Saddle; northern, southern, western, and northwestern slopes of Mauna Loa; and Kilauea Crater. Currently, at least 23 populations with a total of approximately 2,540 individuals are known from private, State, and Federal lands in the Mauna Kea Forest Reserve, Keauhou, Pohakuloa Training Area, and Hawaii Volcanoes National Park (59 FR 10305; GDSI 2000; HINHP Database 2000; Service 1996a).

Silene hawaiiensis typically occurs in montane and subalpine dry shrubland on weathered lava, but is found on variously aged lava flows and cinder substrates as well, at elevations between 896 and 3,011 m (2,940 and 9,880 ft). Associated native plant taxa are *Metrosideros polymorpha, Sophora chrysophylla, Vaccinium reticulatum, Styphelia tameiameiae, Rumex giganteus* (pawale), or *Dodonaea viscosa* (59 FR 10305; HINHP Database 2000; Service 1996a, L. Pratt *et al.*, pers. comm. 2001).

Feral goats, pigs, and sheep are detrimental to the taxon's survival. Individuals on the lower northern slope of Mauna Loa were observed having tender new growth browsed and new leaves stripped away, thus compromising the viability of these individuals. Non-native plant taxa, particularly *Pennisetum setaceum*, are a major threat imperiling the survival of *Silene hawaiiensis*. In certain areas where new lava is flowing from Kilauea, plants may be enveloped by molten lava rock and/or consumed by fire. Military training may jeopardize plants on Pohakuloa Training Area (59 FR 10305; HINHP Database 2000; Service 1996a).

Zanthoxylum dipetalum var. *tomentosum* (ae).

Zanthoxylum dipetalum var. *tomentosum* is a long-lived perennial and a tree in the citrus family (Rutaceae). It has alternate leaves comprised of three to seven leathery, elliptical, gland-dotted, smooth-edged leaflets. The undersurface of the leaflets is densely covered with fine, short hairs, and the lowest pair of leaflets is often strongly reduced. This variety is distinguished from *Zanthoxylum dipetalum* var. *dipetalum* by the hairs on the undersurface of the leaflets. It is distinguished from other Hawaiian species of the genus by its reduced lower leaflets, the presence of only one joint on some of the leaflet stalks, and the large seeds (Stone *et al.* 1999).

No life history information is available for *Zanthoxylum dipetalum* var. *tomentosum* at this time (61 FR 53137).

Only one population of *Zanthoxylum dipetalum* var. *tomentosum* has ever been known, at Puu Waawaa on

Hualalai. Currently there are eight to nine individuals located on this State owned land. In addition, two to three individuals have been outplanted in the same location (61 FR 53137; GDSI 2000; HINHP Database 2000; Service 1998c; L. Perry, pers. comm. 2000).

Zanthoxylum dipetalum var. *tomentosum* grows in *Metrosideros polymorpha* dominated montane mesic forest, often on aa lava, at elevations between 872 and 1,210 m (2,860 and 3,970 ft). Associated native plant species include *Sophora chrysophylla, Diospyros sandwicensis, Pouteria sandwicensis, Santalum paniculatum, Reynoldsia sandwicensis, Myrsine* sp., or *Psychotria* sp. (61 FR 53137; HINHP Database 2000; Service 1998c; L. Pratt *et al.*, pers. comm. 2001).

Threats to *Zanthoxylum dipetalum* var. *tomentosum* include browsing, trampling, and habitat disturbance by cattle, feral pigs, and sheep; competition from non-native plant species, such as *Pennisetum clandestinum, Pennisetum setaceum, Lantana camara, Leucaena leucocephala,* or *Grevillea robusta* (silk oak); habitat modification due to volcanic activity; and fire. In addition, *Zanthoxylum dipetalum* var. *tomentosum* is threatened by a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals in only one population (61 FR 53137; HINHP Database 2000; Service 1998c).

Multi-Island Species

Achyranthes mutica (NCN).

Achyranthes mutica, a member of the amaranth family (Amaranthaceae) and a short-lived perennial, is a many-branched shrub with egg-shaped leaves and stalkless flowers. This species is distinguished from others in the genus by the shape and size of the sepals and by characteristics of the spike, which is short and congested (Wagner *et al.* 1999).

No life history information is available for *Achyranthes mutica* at this time (Service 1999).

Historically, *Achyranthes mutica* was known from three collections from opposite ends of the main archipelago, Kauai and the island of Hawaii. Currently, this species is known only from the island of Hawaii, from the Kilohana Gulch on private land. This one population has a total of between 20 and 50 individuals (61 FR 53108; HINHP Database 2000; GDSI 2000).

Achyranthes mutica is found in *Acacia koaia* (koaia) lowland dry forest primarily in gulches but also in remnant stands of forest at elevations between 643 and 1,518 m (2,110 and 4,990 ft). Associated native plant species include *Dodonaea viscosa, Myoporum sandwicense, Osteomeles anthyllidifolia, Nestegis sandwicensis, Metrosideros polymorpha, Santalum ellipticum, Erythrina sandwicensis,* or *Sophora chrysophylla* (Service 1999; L. Pratt *et al.*, pers. comm. 2001).

The primary threats to *Achyranthes mutica* on the island of Hawaii are habitat degradation and/or destruction by cattle and feral goats, competition with non-native plants, a risk of extinction from naturally occurring events (such as landslides or hurricanes), and/or reduced reproductive vigor due to the small number of existing individuals and populations.

Adenophorus periens (pendant kihi fern).

Adenophorus periens, a member of the grammitis family (Grammitidaceae) and a short-lived perennial, is a small, pendant, epiphytic fern. This species differs from other species in this endemic Hawaiian genus by having hairs along the pinna (the leaflet of a pinnate leaf (a compound leaf, having leaflets or pinnae, arranged in a single row along each side of a common axis)) margins, by the pinnae being at right angles to the midrib axis, by the placement of the sori (a group or cluster of sporanges (sac containing spores), spore-bearing structures) on the pinnae, and the degree of dissection of each pinna (Linney 1989).

Little is known about the life history of *Adenophorus periens*, which seems to grow only in closed canopy dense forest with high humidity. Its breeding system is unknown but outbreeding is very likely to be the predominant mode of reproduction. Spores are dispersed by wind, possibly by water, and perhaps on the feet of birds or insects. Spores lack a thick resistant coat which may indicate their longevity is brief, probably measured in days at most. Due to the weak differences between the seasons, there seems to be no evidence of seasonality in growth or reproduction. *Adenophorus periens* appears to be susceptible to volcanic emissions and/or the resultant acid precipitation. Additional information on reproductive cycles, longevity, specific environmental requirements, and limiting factors is not available (Linney 1989).

Historically, *Adenophorus periens* was known from Kauai, Oahu, Lanai, East Maui, and Hilo and Waimea on the island of Hawaii. Currently, it is known from several locations on Kauai, Molokai, and Hawaii . On the island of Hawaii, it is found in a total of 13 populations containing an unknown number of individuals in the Kahaualea NAR and adjoining areas and in Hawaii Volcanoes National Park on State, Federal, and privately owned lands (Lorence and Flynn 1991; HINHP Database 2000; 59 FR 56333; GDSI 2000).

Adenophorus periens, an epiphyte usually growing on *Metrosideros polymorpha* or *Ilex anomala* or possibly other native tree trunks, is found in *Metrosideros polymorpha-Cibotium glaucum* lowland wet forest at elevations between 338 and 1,180 m (1,110 and 3,870 ft). Associated native plant species include *Broussasia arguta, Cheirodendron trigynum, Cyanea* sp. (haha), *Cyrtandra* sp. (haiwale), *Dicranopteris linnearis* (uluhe), *Freycinetia arborea* (ieie), *Hedyotis terminalis, Labordia hirtella* (NCN), *Machaerina angustifolia, Psychotria* sp., or *Psychotria hawaiiensis* (Linney 1989; 59 FR 56333; L. Pratt *et al.*, pers. comm. 2001).

The threats to *Adenophorus periens* on the island of Hawaii are habitat degradation by feral pigs and goats, competition with the non-native plant *Psidium cattleianum*, and fires and fumes from volcanic eruptions (59 FR 56333).

Asplenium fragile var. *insulare* (NCN).

Asplenium fragile var. *insulare*, a short-lived perennial and a member of the spleenwort family (Aspleniaceae), is a fern with a short sub-erect stem with a dull gray or brown main axis with two greenish ridges. This Hawaiian fern species is most similar to *Asplenium macraei*. The two can be distinguished by the size and shape of the pinnae and the number of sori per pinna (Wagner and Wagner 1992).

Little life history information is available for *Asplenium fragile* var. *insulare*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown. Researchers have collected information on species composition, extent of cover, and age-class structure in six sub-populations at Pohakuloa Training Area in order to describe the populations. No gametophytes (gamete-producing life stage) were found, and the age-class structure of the sub-populations sampled was determined to be 100 percent reproductive adults because all the sporophytes (spore-producing life stage) had sori on some fronds (Service 1998a; Shaw 1992).

Asplenium fragile var. *insulare* was known historically from East Maui and on the island of Hawaii below Kalaieha, Laumaia, Keanakolu and Umikoa on Mauna Kea, Puu Waawaa on Hualalai, west Keawewai, above Kipuka Ahiu on Mauna Loa, and near Hilo. Currently, on the island of Hawaii it is found in a total of 17 populations with more than 300 individuals. There are 13 populations in the Pohakuloa Training Area, 1 population in Hawaii Volcanoes National Park, 2 populations just south of the Upper Waiakea Forest Reserve and the Mauna Loa Forest Reserve, and 1 population in the Keokea section of the South Kona District on State, Federal, and private lands (GDSI 2000; HINHP Database 2000; Shaw 1992; 59 FR 49025).

On the island of Hawaii, *Asplenium fragile* var. *insulare* is found in *Metrosideros polymorpha* dry montane forest, *Dodonaea viscosa* dry montane shrubland, *Myoporum sandwicense-Sophora chrysophylla* dry montane forest, *Metrosideros polymorpha-Acacia koa* forest as well as subalpine dry forest and shrubland between elevations of 930 and 2,710 m (3,050 and 8,890 ft). It grows almost exclusively in big, moist lava tubes (from 3 m to 4.5 m (10 to 15 ft) in diameter), pits, deep cracks, and lava tree molds, with at least a moderate soil or ash accumulation, associated with mosses and liverworts.

Infrequently, this fern has been found growing on the interface between younger aa lava flows and much older pahoehoe lava or ash deposits. Although this taxon is found in habitats with three different moisture regimes (dry, mesic and wet), the microhabitat for this plant is fairly consistent. The fern generally occurs in areas that are moist and dark. Associated native plant species include *Phyllostegia ambigua* (NCN), *Styphelia tameiameiae, Vaccinium reticulatum*, mosses, or liverworts (Gagne and Cuddihy 1999; Shaw 1992; Service 1998a; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The primary threats to *Asplenium fragile* var. *insulare* on the island of Hawaii are feral sheep, pigs and goats; military operations and/or fires resulting from these operations; construction due to military activities; volcanic activity; the non-native plant *Pennisetum setaceum;* bulldozing of jeep roads; filling in of lava tubes; and a risk of extinction due to random naturally occurring events due to the small number of existing individuals (Service 1998a; 59 FR 49025; Shaw 1992).

Bonamia menziesii (NCN).

Bonamia menziesii, a member of the morning glory family (Convolvulaceae) and a short-lived perennial, is a climbing vine with twining branches that are fuzzy when young. This species is the only member of the genus that is endemic to the Hawaiian Islands and differs from other genera in the family by its two styles, longer stems and petioles, and rounder leaves (Austin 1999).

Reproductive cycles, longevity, specific environmental requirements, limiting factors and other aspects of life history are unknown for *Bonamia menziesii* (Service 1999).

Historically, *Bonamia menziesii* was known from Kauai, Oahu, Molokai, West Maui, and eastern Hawaii. Currently, it is known on Kauai, Oahu, Lanai, Maui, and the island of Hawaii. On the island of Hawaii there is a single population containing six to eight naturally occurring individuals and 10 outplanted individuals at Kaupulehu on private land (HINHP Database 2000; L. Pratt, *et al.*, pers. comm. 2001; Mick Castillo, Service, pers. comm. 2000; GDSI 2000).

Bonamia menziesii is found in dry forest at elevations between 421 and 704 m (1,380 and 2,310 ft). Associated native plant species include *Diospyros sandwicensis, Erythrina sandwicensis, Xylosma hawaiiense* (maua), *Myrsine lanaiensis, Metrosideros polymorpha, Santalum paniculatum, Sapindus saponaria, Pouteria sandwicensis* (alaa), *Nototrichium sandwicense, Chenopodium oahuense* (aheahea), *Senna gaudichaudii* (kolomona), *Sophora chrysophylla, Sida fallax, Osteomeles anthyllidifolia, Dodonaea viscosa, Canavalia hawaiiensis* (awikiwiki), *Argemone glauca* (pua kala), *Peperomia blanda* var. *floribunda* (alaala wai nui), or *Psilotum nudum* (moa) (HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The primary threats to *Bonamia menziesii* on the island of Hawaii are habitat degradation and possible predation by wild and feral pigs, goats, and cattle; competition with a variety of non-native plant species, particularly *Pennisetum setaceum;* and fire (Service 1999).

Cenchrus agrimonioides (kamanomano).

Cenchrus agrimonioides, a member of the grass family (Poaceae), is a short-lived perennial grass with leaf blades which are flat or folded and have a prominent midrib. The two varieties, *C. agrimonioides* var. *laysanensis* and *C. agrimonioides* var. *agrimonioides*, differ from each other in that var. *agrimonioides* has smaller burs, shorter stems, and narrower leaves. *Cenchrus agrimonioides* var. *agrimonioides* is only known from the main Hawaiian Islands, while *Cenchrus agrimonioides* var. *laysanensis* is known only from the Northwestern Hawaiian Islands. This species is distinguished from others in the genus by the cylindrical to lance-shaped bur and the arrangement and position of the bristles (O'Conner 1999).

Little is known about the life history of *Cenchrus agrimonioides*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown; however, this species has been observed to produce fruit all year, though the fruit does not appear to bear viable seeds in most cases (Service 1999).

Historically, *Cenchrus agrimonioides* var. *agrimonioides* was known from Oahu, Lanai, Maui, and an undocumented report from island of Hawaii. Currently, var. *agrimonioides* is known only from Oahu and Maui. *Cenchrus agrimonioides* var. *laysanensis* has not been seen in the Northwestern Hawaiian Islands (Laysan, Kure Atoll, Midway Atoll) since about 1950. The undocumented report of *Cenchrus agrimonioides* var. *agrimonioides* on the island of Hawaii was made in 1800 (65 FR 79192; Kapua Kawelo, U.S. Army Environmental, pers. comm. 1997; Robert Hobdy, DOFAW, pers. comm. 1997; 61 FR 53108; Service 1999; HINHP Database 2000; O'Connor 1999).

Information on the physical and biological features that are essential to the conservation of *Cenchrus agrimonioides* var. *agrimonioides* on the island of Hawaii is not available.

Threats to *Cenchrus agrimonioides* on the island of Hawaii include competition with non-native plant species and risk of extinction from naturally occurring events, and/or reduced reproductive vigor due to the small number of existing individuals (Service 1999).

Clermontia lindseyana (haha).

Clermontia lindseyana, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a small, branched tree which is either terrestrial or epiphytic (living on the surface of other plants). It is easily separable from the other taxa within this genus by several characters: much larger leaves and flowers, similar petals and sepals, leaves which are conspicuously hairy beneath, and spreading floral lobes (Cuddihy *et al.* 1983; Lammers 1999, 1991).

Clermontia lindseyana was observed in fruit from June to October, and in flower from February to August. No other life history information is currently available (HINHP Database 2000; Service 1996a).

Currently and historically, *Clermontia lindseyana* is known from Maui and on the island of Hawaii from the eastern slope of Mauna Kea and eastern, southeastern, and southwestern slopes of Mauna Loa. Currently, on Hawaii

there are a total of 17 populations containing more than 100 individuals in or near the Kau Forest Reserve and the South Kona Forest Reserve on State land, the Kona Forest Unit of the Hakalau Forest National Wildlife Refuge on land under Federal jurisdiction, and the Hakalau Unit of the Hakalau Forest National Wildlife Refuge on Federal land (GDSI 2000; HINHP Database 2000; 59 FR 10305).

The extant populations of *Clermontia lindseyana* grow in slightly open forest cover in wet and mesic *Metrosideros polymorpha-Acacia koa* forest, *Metrosideros polymorpha* forest, and mixed montane mesic *Metrosideros polymorpha-Acacia koa* forest at elevations between 1,314 and 2,256 m (4,310 and 7,400 ft). Associated native plant taxa include: *Styphelia tameiameiae, Cheirodendron trigynum, Rubus hawaiiensis, Coprosma* sp., *Athyrium* sp., or *Peperomia* sp. (alaala wai nui) (HINHP Database 2000; Pratt *et al.*, pers. comm. 2001).

The threats to *Clermontia lindseyana* on the island of Hawaii are trampling and grazing by cattle; trampling and browsing by goats, rooting and trampling by pigs, competition with the non-native plants *Pennisetum clandestinum* or *Passiflora mollissima*, and fruit consumption by black rats (Service 1996a; Cuddihy *et al.* 1983).

Clermontia peleana (haha).

Clermontia peleana, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an epiphytic shrub or tree that grows on native trees and tree ferns. Two subspecies are recognized, *C. peleana* ssp. *singuliflora* (greenish-white petals) and *C. peleana* ssp. *peleana* (blackish-purple petals). This species can be separated from other Hawaiian members of the genus by its epiphytic growth, small triangular green calyx lobes, and single-lipped flowers (Lammers 1999, 1991).

Clermontia peleana has been observed in flower during June and November, and in fruit during November. No other life history information is currently available (Service 1996a; HINHP Database 2000).

Historically, *Clermontia peleana* ssp. *peleana* was known from the island of Hawaii, where it was found on the northeastern and southeastern slopes of Mauna Kea and from the eastern slopes of Mauna Loa (59 FR 10305). This subspecies was last collected by Ken Wood along Saddle Road in 1998 but that population was not relocated during a 1999 survey. There are records of this plant in five locations but all are believed to be dead. There were four populations in Hakalau Forest National Wildlife Refuge, four populations in the Hilo Forest Reserve and one scattered population in the Upper Waiakea Forest Reserve on Federal and State lands, but this subspecies is now known only in cultivation. *Clermontia peleana* ssp. *singuliflora* was formerly found on the island of Hawaii on the northern slope of Mauna Kea and on East Maui, but the taxon (ssp. singuliflora) has not been seen in either place since the early 1900s (HINHP Database 2000; Wagner *et al.* 1999, L. Perry, pers. comm. 2000).

Clermontia peleana grows in montane wet *Metrosideros-Cibotium* forest at elevations between 436 and 1,728 m (1,430 and 5,670 ft). Associated native plant species include *Clermontia hawaiiensis* (oha kepau), *Cheirodendron trigynum, Cyrtandra platyphylla* (haiwale), *Cibotium menziesii* (hapuu), *C. chamissoi* (hapuu), *Ilex anomala, Sadleria* spp. (amau), or *Coprosma pubens* (pilo) (L. Pratt *et al.*, pers. comm. 2001).

Colubrina oppositifolia (kauila).

Colubrina oppositifolia, a member of the buckthorn family (Rhamnaceae) and a long-lived perennial, is a tree with extremely hard, red wood. This species is readily distinguished from the other species in Hawaii by characters such as opposite leaf position, dull leaf surface, and entire 2leaf margins (Wagner *et al.* 1999).

Colubrina oppositifolia was observed in fruit and flower during September and June, and in flower during December and January. No other life history information is currently available (HINHP Database 2000; Service 1996a).

Currently and historically, *Colubrina oppositifolia* is known from Oahu, Maui and the island of Hawaii. Currently, on the island of Hawaii there are a total of eight populations containing a total of fewer than 500 individuals on State and private lands. Populations are located in Kaupulehu, Puu Waawaa, Kapua, Manuka NAR, and Kamaoa-Puueo (59 FR 10305; GDSI 2000; HINHP Database 2000).

Habitats of *Colubrina oppositifolia* on the island of Hawaii are lowland dry and mesic forests dominated by *Diospyros sandwicensis* and/or *Metrosideros polymorpha*, found at elevations between 162 and 945 m (530 and 3,100 ft). Associated native plant species include *Nototrichium sandwicense, Bobea timoniodes, Rauvolfia sandwicensis* (hao), *Erythrina sandwicensis, Sophora chrysophylla, Nestegis sandwicensis, Peperomia* sp., *Psydrax odorata, Reynoldsia sandwicensis*, or *Styphelia tameiameiae* or the endangered species *Nothocestrum breviflorum* or *Pleomele hawaiiensis* (HINHP Database 2000, L. Pratt *et al.*, pers. comm. 2001).

The threats to *Colubrina oppositifolia* on the island of Hawaii are habitat destruction by feral pigs; competition with the non-native plants *Lantana camara, Pennisetum setaceum, Phymatosorus scolopendria* (bracken fern), *Passiflora suberosa* (huehue haole), or *Schinus terebinthifolius;* the introduction of *Xylosandrus compactus* (black twig borer); *Adoretus sinicus* (Chinese rose beetles); fire; small population numbers; limited distributions; and disturbance by military and unauthorized personnel such as collectors (59 FR 10305; Service 1996a).

Ctenitis squamigera (pauoa).

Ctenitis squamigera is a short-lived perennial of the spleenwort family (Aspleniaceae). It has a rhizome (horizontal stem) 5 to 10 mm (0.2 to 0.4 in) thick, creeping above the ground and densely covered with scales similar to those on the lower part of the leaf stalk. The leaf stalks are densely clothed with tan-colored scales up to 1.8 cm (0.7 in) long and 1 mm (0.04 in) wide. The sori are tan-colored when mature and are in a single row one-third of the distance from the margin to the midrib of the ultimate segments. The indusium (the membrane enclosing the sori) is whitish before wrinkling, thin, suborbicular with a narrow sinus extending about half way, glabrous except for a circular margin which is ciliolate (provided with minute marginal hairs) with simple several-celled glandular and nonglandular hairs arising directly from the margin or from the deltoid base. *Ctenitis squamigera* can be readily distinguished from other Hawaiian species of *Ctenitis* by the dense covering of tan-colored scales on its frond (Degener and Degener 1957; Wagner and Wagner 1992).

Little is known about the life history of *Ctenitis squamigera*. Flowering cycles, pollination vectors, seed dispersal agents, specific environmental requirements, and limiting factors are unknown (Service 1998a; 59 FR 49025).

Historically, *Ctenitis squamigera* was recorded from the islands of Kauai, Oahu, Molokai, Lanai, Maui, and Hawaii. It is currently found on Oahu, Lanai, Molokai, and Maui. It was last collected on the island of Hawaii in 1909, at "Kalua", an indeterminable place name (HINHP Database 2001; Service 1998a).

Information on the physical and biological features that are essential to the conservation of *Ctentis squamigera* or the primary threats on the island of Hawaii is not available (HINHP Database 2001; Service 1998a).

Delissea undulata (NCN).

Delissea undulata, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched, palm-like, woody-stemmed tree, with a dense cluster of leaves at the tips of the stems. One or two knob-like structures often occur on the back of the flower tube. Three subspecies, all but the last of which are considered extinct, may be separated on the basis of leaf shape and margin characters: *D. undulata* var. *kauaiensis* (leaf blades are oval and flat-margined with sharp teeth) (Kauai), *D. undulata* var. *niihauensis* (leaf blades are heart shaped and flat-margined with shallow, rounded teeth) (Niihau), and *D. undulata* var. *undulata* (leaf blades are elliptic to lance-shaped and wavy-margined with small, sharply pointed teeth) (Maui, Hawaii). This species is separated from the other closely related members of the genus by its large flowers and berries and broad leaf bases. *Delissea undulata* ssp. *undulata* is the only subspecies found on the island of Hawaii (Lammers 1990).

Delissea undulata var. *undulata* was observed in fruit and flower during December. No other life history information is currently available (Service 1996a; HINHP Database 2000).

Delissea undulata var. *undulata* was known from southwestern Maui and western Hawaii in North and South Kona. Currently it is only known on the island of Hawaii from a single individual in Puu Waawaa on State land. Several individuals have been outplanted in this area (GDSI 2000; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

Delissea undulata var. *undulata* on the island of Hawaii occurs on dry cinder cones and in open *Sophora chrysophylla* and *Metrosideros polymorpha* forest at elevations between 890 to 1,747 m (2,920 to 5,730 ft). Associated native plant species include *Diospyros sandwicensis, Dodonaea viscosa, Psychotria mariniana* (kopiko), *P. greenwelliae* (kopiko), *Santalum paniculatum, Sophora chrysophylla*, or *Acacia koa* or the endangered *Nothocestrum breviflorum* (61 FR 53124; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The threats to *Delissea undulata* var. *undulata* on the island of Hawaii are feral sheep, goats, or pigs; cattle; small population size; competition with the non-native plant species *Passiflora mollissima, Delairea odorata* (Cape ivy), or *Pennisetum clandestinum*; fire; slugs; seed predation by rats; seed predation by introduced game birds; and extinction due to random events (Service 1996a; HINHP Database 2000).

Diellia erecta (NCN).

Diellia erecta, a member of the spleenwort family (Aspleniaceae) and a short-lived perennial, is a fern that grows in tufts of three to nine lance-shaped fronds which emerge from a rhizome covered with brown to dark gray scales. This species differs from other members of the genus in having brown or dark gray scales usually more than 2 cm (0.8 in) in length, fused or separate sori along both margins, shiny black midribs that have a hardened surface, and veins that do not usually encircle the sori (Degener and Greenwell 1950; Wagner 1992).

Little is known about the life history of *Diellia erecta*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Diellia erecta* was known from Kauai, Oahu, Molokai, Lanai, Maui, and the island of Hawaii. Currently, it is only known from Molokai, Maui, and Hawaii. On the island of Hawaii there are three populations containing a total of more than 20 individuals on State lands in the South Kona Forest Reserve and the Manuka Natural Area Reserve (GDSI 2000; Service 1996b; Service 1999; 59 FR 56333).

Diellia erecta on the island of Hawaii is found in *Metrosideros polymorpha-Nestegis sandwicensis* lowland mesic forest at elevations between 448 and 982 m (1,470 and 3,220 ft). Associated native plant species include *Diospyros sandwicensis, Psydrax odorata, Antidesma platyphyllum, A. pulvinatum* (hame), *Microlepia* sp. (NCN), *Nestegis sandwicensis, Wikstroemia sandwicensis* (akia), *Wikstroemia phillyreifolia* (akia), or *Nephrolepis* spp. (kupukupu) (HINHP Database 2000, L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Diellia erecta* on the island of Hawaii are habitat degradation by pigs, goats, and cattle; competition with non-native plant species, including *Blechnum occidentale* (NCN); random naturally occurring events causing extinction; and/or reduced reproductive vigor due to the small number of existing individuals (59 FR 56333; Service 1999).

Flueggea neowawraea (mehamehame).

Flueggea neowawraea, a member of the spurge family (Euphorbiaceae) and a long-lived perennial, is a large tree with white oblong pores covering its scaly, pale brown bark. This species is the only member of the genus found in Hawaii and can be distinguished from other species in the genus by its large size; scaly bark; the shape, size, and color of the leaves; flowers clustered along the branches; and the size and shape of the fruits (Hayden 1999).

Individual trees of *Flueggea neowawraea* bear only male or female flowers and must be cross-pollinated from a different tree to produce viable seed. Little else is known about the life history of this species. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Hayden 1999; Service 1999).

Historically, *Flueggea neowawraea* was known on Molokai, Oahu, Kauai, and the island of Hawaii. Currently, it is extant on Kauai, Oahu, Maui, and the island of Hawaii. On the island of Hawaii, there are a total of four populations containing around 16 to 23 individuals in Honomalino, Manuka NAR, Papa, and Huehue Ranch in North Kona on State and private lands (GDSI 2000; HINHP Database 2000).

Flueggea neowawraea on the island of Hawaii occurs in mesic *Metrosideros polymorpha* forest at elevations between 424 to 820 m (1,390 to 2,690 ft). Associated native plant species include *Nestegis sandwicensis, Psychotria hawaiiensis, Pittosporum hosmeri, Pipturus albidus, Pisonia* spp. (papala kepau), *Diospyros sandwicensis, Psydrax odorata, Antidesma platyphyllum, A. pulvinatum*, or *Nephrolepis* spp. (HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The threats to *Flueggea neowawraea* on the island of Hawaii are the black twig borer; habitat degradation by feral pigs, goats, and cattle; competition with non-native plant species such as *Schinus terebinthifolius* or *Psidium cattleianum;* fire; small population size; depressed reproductive vigor; military activities; and rat predation of the fruit (59 FR 56333; Service 1999; HINHP Database 2000).

Gouania vitifolia (NCN).

Gouania vitifolia, a member of the buckthorn family (Rhamnaceae) and a short-lived perennial, is a climbing shrub with tendriled flowering branches. This species differs from other members of its genus by having flowering branches with a tendril and coarsely crenate (wavy) to serrate-dentate (toothed) leaf margins (Wagner *et al.* 1999).

In winter and late spring the main vine of *Gouania vitfolia* produces new young side shoots which soon die. Plants have been observed flowering from late November to January, but flowering probably depends on precipitation (Service 1998b).

Historically, *Gouania vitfolia* was known from West Maui, the Kau District of the island of Hawaii, and Oahu. The species currently occurs on Oahu and

on the island of Hawaii. On the island of Hawaii, there is a single population within the State owned Manuka Natural Area Reserve containing three individuals (GDSI 2000; J. Giffin *in litt.* 2000).

The preferred habitat of *Gouania vitfolia* on the island of Hawaii is dry, rocky ridges and slopes in dry shrubland or dry to mesic *Nestegis-Metrosideros* forests on old substrate kipuka (vegetated area surrounded by bare lava flows) between 503 and 1,039 m (1,650 and 3,410 ft). Associated native plant species include *Nestegis sandwicensis, Wikstroemia sandwicensis* (akia), *Wikstroemia phillyreifolia, Nephrolepis* spp., or *Pipturus albidus* (J. Giffin *in litt.* 2000; Service 1998b; L. Pratt *et al.*, pers. comm. 2001).

The major threats to *Gouania vitfolia* on the island of Hawaii are competition with non-native plants, habitat destruction by feral pigs, and a threat of extinction due to randomly occurring natural events or reduced reproductive vigor due to the small number of extant individuals (Service 1998b; 59 FR 32932).

Hedyotis cookiana (awiwi).

Hedyotis cookiana, a member of the coffee family (Rubiaceae) and a short-lived perennial, is a small shrub with many branches and papery-textured leaves which are fused at the base to form a sheath around the stem. This plant is distinguished from other species in the genus by being entirely hairless (Wagner *et al.* 1999).

Little is known about the life history of *Hedyotis cookiana*. Flowering cycles, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1995a).

Historically, *Hedyotis cookiana* was known from Hawaii, Molokai, Oahu, and Kauai. Currently, this species is only extant on the island of Kauai. It was last collected on the island of Hawaii in 1816 at Kealakekua (HINHP Database 2000).

Nothing is known of the preferred habitat for or species associated with *Hedyotis cookiana* on the island of Hawaii (Service 1995a).

Threats to *Hedyotis cookiana* included modification of habitat by feral pigs, competition with non-native plant species, extinction due to naturally occurring events, and reduced reproductive vigor due to small numbers of individuals (Service 1995a).

Hedyotis coriacea (kioele).

Hedyotis coriacea, a member of the coffee family (Rubiaceae) and a short-lived perennial, is a small, erect herb with leathery, oval-shaped leaves. *Hedyotis coriacea* is distinguished from other species of the genus by its small, triangular leaf-like appendages below the flower (calyx lobes), which do not enlarge in fruit, the combination of fruits that are longer than wide, and flower buds that are square in cross section (Wagner *et al.* 1999).

Little is known about the life history of *Hedyotis coriacea*. Flowering cycles, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1997a).

Until recent rediscoveries, the latest collection of *Hedyotis coriacea* was made in 1949 on the 1859 lava flow, on the island of Hawaii. A single specimen was rediscovered in the Lihau section of the West Maui NAR, and the species conceivably could exist elsewhere on Maui as well. Individuals have also been rediscovered on the island of Hawaii on the 1859 lava flow in the Pohakuloa Training Area. Currently, there are a total of 11 populations containing approximately 150 individuals all located on land under Federal jurisdiction at Pohakuloa Training Area (GDSI 2000; HINHP Database 2000; Shaw 1992).

The habitat of *Hedyotis coriacea* on the island of Hawaii is geologically young (less than 3,000 years old) Mauna Loa pahoehoe lava with sparse *Metrisuderos* forest, open *Metrisuderos* forest with sparse shrub understory or open *Metrisuderos* forest with dense shrub understory at elevations of 1,506 to 1,780 m (4,940 to 5,840 ft). Associated native plant species include *Sophora chrysophylla, Myoporum sandwicense, Dodonaea viscosa, Chenopodium oahuense, Styphelia tameiameiae, Eragrostis deflexa* (NCN), *Festuca hawaiiensis* (NCN), or the endangered *Portulaca sclerocarpa* (poe) (Shaw 1997; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

On the island of Hawaii, *Hedyotis coriacea* has been almost extirpated by the combination of cattle, fires, invasion of non-native plant species such as *Pennisetum setaceum*, and feral ungulates. Other current threats to *Hedyotis coriacea* include the very small remaining number of individuals and the limited distribution of the species which make it susceptible to extinction caused by a single natural or human-caused environmental disturbance, the limited gene pool which may depress reproductive vigor, fire accidentally set by hunters or military activities within Pohakuloa Training Area, and habitat disturbance caused by military exercises at Pohakuloa Training Area (Service 1997a).

Hibiscus brackenridgei (mao hau hele).

Hibiscus brackenridgei, a member of the mallow family (Malvaceae) and a short-lived perennial, is a sprawling to erect shrub or small tree. This species differs from other members of the genus in having the following combination of characteristics: yellow petals, a calyx consisting of triangular lobes with raised veins and a single midrib, bracts attached below the calyx, and thin stipules that fall off, leaving an elliptic scar. Two subspecies of *Hibiscus brackenridgei* are recognized, *brackenridgei* and *mokuleianus*. Subspecies *brackenridgei* is the only one currently or historically found on the island of Hawaii (HINHP Database 2000; Bates 1990).

Hibiscus brackenridgei is known to flower continuously from early February through late May, and intermittently at other times of year. Intermittent flowering may possibly be tied to day length. Little else is known about the life history of this plant. Pollination biology, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Hibiscus brackenridgei ssp. *brackenridgei* was known historically from Molokai, Lanai, West Maui, and the island of Hawaii. Currently, *Hibiscus brackenridgei* ssp. *brackenridgei* is extant on the islands of Lanai, Maui, and Hawaii. On the island of Hawaii, *Hibiscus brackenridgei* ssp. *brackenridgei* is known from four populations containing a total of less than 20 individuals; one population at Puu Anahulu, one population at Puu Huluhulu, one population near the Kaupulehu Lava Flow, and one population outside Waimea town on State and privately owned lands (GDSI 2000; HINHP Database 2000).

Hibiscus brackenridgei on the island of Hawaii occurs in *Acacia koa* lowland mesic forest at elevations between 457 and 793 (1,500 and 2,600 ft). Associated native plant species include *Sida fallax* or *Reynoldsia sandwicensis* (HINHP Database 2000, L. Pratt *et al.*, pers. comm. 2001).

The primary threats to *Hibiscus brackenridgei* on the island of Hawaii are habitat degradation and possible predation by feral pigs, goats, sheep, cattle, or rats; competition with non-native plant species; road construction; fire; and susceptibility to extinction caused by randomly occurring natural events or reduced reproductive vigor due to small population size and a limited number of populations (Service 1999; 59 FR 56333).

Ischaemum byrone (Hilo ischaemum).

Ischaemum byrone, a member of the grass family (Poaceae), is a short-lived perennial species with creeping underground and erect stems. *Ischaemum byrone* can be distinguished from other Hawaiian grasses by its tough outer flower bracts, dissimilar basic flower units which are awned, and a two-flowered, di- or trichotomously-branching (two- or three-tiered) inflorescence (O'Connor 1999).

No life history information is available for this *Ischaemum byrone* at this time (59 FR 10305).

Ischaemum byrone was historically distributed on Kauai, Oahu, Molokai, Maui, and the island of Hawaii. Currently, this species is found on Kauai, Molokai, Maui, and the island of Hawaii. On the island of Hawaii, there are a total of five populations containing approximately 3,000 individuals located along the eastern coast from Hilo to Hawaii Volcanoes National Park on private, State and federally owned lands. In addition, there are some outplanted individuals in Hawaii Volcanoes National Park (59 FR 10305; GDSI 2000; HINHP Database 2000; L. Pratt, *in litt.*, 2000).

Ischaemum byrone on the island of Hawaii is found in coastal wet to dry shrubland, near the ocean, among rocks or on pahoehoe lava in cracks and holes, and elevations between sea level and 137 m (0 and 460 ft). Associated native plant taxa include *Scaevola sericea* (naupaka kahakai), or *Fimbristylis cymosa* (mauu akiaki) (Service 1996a; 59 FR 10305; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

The threats to *Ischaemum byrone* on Hawaii island are competition by non-native grasses, predation by goats, and elimination and degradation of habitat through fire and residential development (59 FR 10305; Service 1996a).

Isodendrion pyrifolium (wahine noho kula).

Isodendrion pyrifolium, a short-live perennial of the violet family (Violaceae), is a small, branched shrub with elliptic to lance-shaped leaf blades. The papery-textured blade is moderately hairy beneath (at least on the veins) and stalked. The stalk (petiole) is subtended by oval, hairy, bract-like structures (stipules). Fragrant, bilaterally symmetrical flowers are solitary. The flower stalk (pedicel) is white-hairy, and subtended by two bracts. Bracts arise at the tip of the main flower stalk (peduncle). The five sepals are lance-shaped, membranous-edged and fringed with white hairs. Five green-yellow petals are somewhat unequal, and lobed, the upper being the shortest and the lower the longest. The fruit is a three-lobed, oval capsule, which splits to release olive-colored seeds. *Isodendrion pyrifolium* is distinguished from other taxa in the genus by its smaller, green-yellow flowers, and hairy stipules and leaf veins (Wagner *et al.* 1999).

During periods of drought, this species will drop all but the newest leaves. After sufficient rains, the plants produce flowers with seeds ripening one to two months later. No other life history information is currently available for this species (Service 1996a).

Isodendrion pyrifolium is known historically from six of the Hawaiian Islands: Niihau, Molokai, Lanai, Oahu, Maui, and on the western slope of Hualalai mountain on the island of Hawaii. Currently on Hawaii island, one population is known from State land in Kealakehe homesteads with 9 individuals. In addition, seven individuals are in cultivation at botanical gardens (59 FR 10305; GDSI 2000; Service 1996a; HINHP Database 2000; M. Bruegmann pers. comm. 2000).

Isodendrion pyrifolium grows in dry forests at elevations between 18 to 137 m (60 to 450 ft). This species was formerly associated predominantly with native plant taxa such as *Psydrax odorata, Sida fallax, Myoporum sandwicense, Sophora chrysophylla*, or *Waltheria indica* (uhaloa) (59 FR 10305; Service 1996a; Pratt *et al.*, pers. comm. 2001).

The conversion of this species' natural habitat to residential and recreational developments is of grave concern, as is the presence of the aggressive non-native *Pennisetum setaceum*. Drying stands of this and other weedy species greatly increase the fire load and fire potential. Competition for nutrients with non-native plant taxa such as *Leucaena leucocephala* is a threat. Numbers of individuals are not abundant enough to maintain reproductive vigor, thus making random extirpation a possibility (Service 1996a; 59 FR 10305).

Mariscus fauriei (NCN).

Mariscus fauriei, a member of the sedge family (Cyperaceae), is a short-lived perennial plant with somewhat enlarged underground stems and three-angled, single or grouped aerial stems 10 to 50 cm (4 to 20 in) tall. It has leaves shorter than or the same length as the stems and 1 to 3.5 mm (0.04 to 0.1 in) wide. This species differs from others in the genus in Hawaii by its smaller size and its narrower, flattened, and more spreading spikelets (Koyama 1990; 59 FR 10305).

No life history information is available for *Mariscus fauriei* at this time (Service 1996b).

Historically and currently, *Mariscus fauriei* is found on east Molokai and on the island of Hawaii. This species is believed to be no longer extant on Lanai. Currently on Hawaii island, two populations with a total of 100 to 200 plants occur at South Point and in Kaloko on State and privately owned lands (59 FR 10305; HINHP Database 2000; GDSI 2000).

This species typically grows in *Diospyros sandwicensis-Metrosideros polymorpha-Sapindus saponaria* dominated lowland dry forests, often on a lava substrate, between elevations of 107 and 402 m (350 and 1,320 ft). Associated native plant species include *Sophora chrysophylla, Myoporum sandwicense, Psydrax odorata, Peperomia blanda* var. *floribunda, Osteomeles anthyllidifolia*, or *Rauvolfia sandwicensis* (59 FR 10305; HINHP Database 2000; L. Pratt et al., pers. comm. 2001).

The threats to *Mariscus fauriei* on Hawaii island are predation and habitat degradation by feral goats and competition from non-native plant species such as *Schinus terebinthifolius, Pennisetum setaceum*, and *Leucaena leucocephala*. Because there are only two currently known populations on Hawaii island, the species is threatened by the risk of extinction through random environmental events and through reduced reproductive vigor (Service 1996a; 59 FR 10305).

Mariscus pennatiformis (NCN).

Mariscus pennatiformis, a short-lived perennial member of the sedge family (Cyperaceae), has a woody root system covered with brown scales. *Mariscus pennatiformis* is subdivided into two subspecies, ssp. *bryanii* and ssp. *pennatiformis*, which are distinguished by the length and width of the spikelets; color, length, and width of the glume; and by the shape and length of the achenes. This species differs from other members of the genus by its three-sided, slightly concave, smooth stems; the length and number of spikelets; the leaf width; and the length and diameter of stems (Koyama 1990).

Mariscus pennatiformis is known to flower from November to December after heavy rainfall. Additional information on the life history of this plant, reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown (Service 1999).

Historically, *Mariscus pennatiformis* was known from Kauai, Oahu, East

Maui (Keanae Valley, Hana, and Nahiku), and from Laysan in the Northwestern Hawaiian Islands and reported from the island of Hawaii. *Mariscus pennatiformis* ssp. *pennatiformis* has not been seen on the island of Hawaii since the middle of the last century (Wagner *et al.* 1999; HINHP Database 2000; 59 FR 56333; Bruegmann, in litt., 2000).

Nothing is known of the preferred habitat for or species associated with *Mariscus pennatiformis* on the island of Hawaii (Service 1999).

The threats to *Mariscus pennatiformis* on the island of Hawaii are unknown.

Phlegmariurus mannii (wawae iole).

Phlegmariurus mannii, a member of the clubmoss family (Lycopodiaceae) and a short-lived perennial, is a hanging plant with clustered, delicate red stems and forked reproductive spikes. These traits distinguish it from others in the genus in Hawaii (Holub 1991).

Little is known about the life history of *Phlegmariurus mannii*. Reproductive cycles, dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1997a).

Historically, *Phlegmariurus mannii* was known from Kauai, West Maui, and Hawaii island (Captain Cook-Kona). Currently, this species is extant on Maui. The last collection of this species on the island of Hawaii was in 1949 from South Kona near Papaloa (HINHP Database 2000).

Nothing is known of the preferred habitat of or species associated with *Phlegmariurus mannii* on the island of Hawaii (Service 1997a).

This species was threatened by habitat degradation by feral pigs and goats and stray domestic cattle, and by non-native plants such as *Rubus argutus* (blackberry), *Cyathea cooperi* (Australian tree fern), or *Psidium cattleianum*. (Service 1997a).

Phyllostegia parviflora (NCN).

Phyllostegia parviflora, a member of the mint family (Lamiaceae), is a short-lived perennial herb. The leaves are egg-shaped and wrinkled. The species is distinguished from others of the genus by the leaf shape and length of the leaf stalk and lower corolla lip. *Phyllostegia parviflora* var. *glabriuscula* has fewer glandular hairs in the inflorescence, less pubescent (hairy) leaves, and usually unbranched inflorescences, as compared to P. parviflora var. parviflora. A recently discovered, unnamed variety of *Phyllostegia parviflora* has shorter leaf stalks, spreading hairs on the leaf stalks, and fewer gland-tipped hairs in the inflorescence (Wagner *et al.* 1990).

Nothing is known of the preferred habitat of or species associated with *Phyllostegia parviflora* on the island of Hawaii (Service 1996a).

Historically *Phyllostegia parviflora* was known from three islands: Oahu, Maui, and the island of Hawaii. This species is now known only from two populations on Oahu. *Phyllostegia parviflora* has not been observed on the island of Hawaii since the 1800s (61 FR 53108; HINHP Database 2000; GDSI 2000).

Nothing is known of the preferred habitat of or species associated with *Phyllostegia parviflora* on the island of Hawaii (Service 1999).

Threats to *Phyllostegia parviflora* include habitat degradation or destruction by feral pigs, competition with non-native plant species, risk of extinction from naturally occurring events, and/or reduced reproductive vigor due to the small number of remaining individuals (Service1999).

Plantago princeps (laukahi kuahiwi).

Plantago princeps, a member of the plantain family (Plantaginaceae), is a small shrub or robust, short-lived perennial herb. Its erect or ascending stems are hollow, about 2 to 250 centimeters (1 to 100 inches) long, and often branched with internodes that are more or less woolly with reddish brown hairs when young. The oblong to elliptic, thick, leathery leaves are tufted near the ends of the stems. The leaves have smooth or minutely-toothed margins, a pointed tip, and primary veins that converge at the base of the leaves. Numerous stalkless flowers are densely arranged in a cluster, with each cluster on a stalk. Each flower spreads at an angle of nearly 90 degrees to the axis of the stalk, or grows upright. The sepals are somewhat distinct and elliptic in shape. The fruits are capsules, which contain three or four tiny black seeds. The surface of the seed is covered with a sticky membrane. This species differs from other native members of the genus by its large-branched stems, flowers at nearly right angles to the axis of the flower cluster, and fruits that break open at a point two-thirds from the base. The four varieties (*anomala*, *laxiflora*, *longibracteata*, and *princeps*) are distinguished by the branching and pubescence of the stems; the size, pubescence, and venation of the leaves; the density of the inflorescence; and the orientation of the flowers (Wagner *et al.* 1999).

Little is known about the life history of this plant. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown. However, individuals have been observed in fruit from April through September (59 FR 56333).

Plantago princeps was historically found on Kauai, Oahu, Molokai, Maui, and the island of Hawaii. It has not been seen on the island of Hawaii since the 1860s (59 FR 56333; HINHP Database 2000).

Nothing is known of the preferred habitat of or species associated with *Plantago princeps* on the island of Hawaii.

Threats to *Plantago princeps* included habitat degradation by feral pigs and goats and competition with non-native plant species (Service 1999)

Portulaca sclerocarpa (poe).

Portulaca sclerocarpa, a short-lived perennial member of the portulaca family (Portulacaceae), has a fleshy, tuberous taproot that becomes woody with maturity. Leaves are narrowly oblance-shaped to linear (strap-like), almost round in cross-section, succulent, gray-green, and stalkless. Dense tufts of yellow-brown hairs occur in the axil between stem and leaf. Three to six flowers occur at the end of the stem and form a dense white or pink flower cluster. *Portulaca sclerocarpa* is distinguished from other species of the genus in Hawaii by its woody taproot, narrow leaves, petal color, seed color (dark, reddish-brown), and thick-walled fruit (Wagner et al. 1999).

Little is known of the life history of *Portulaca sclerocarpa*.This species was observed in flower in March, June, and December. The presence of juveniles indicate that pollination and germination are occurring (Service 1996a).

Historically, *Portulaca sclerocarpa* was known from the islands of Lanai and the island of Hawaii. Populations were found on an islet off of the south coast of Lanai, and the Kohala mountains, the northern slopes of Hualalai, the northwestern slopes of Mauna Loa, and near Kilauea Crater on Hawaii island. One extant population is known to occur off the coast of Lanai on Poopoo Islet. Nineteen extant populations with approximately 1,000 individuals are known to occur on Federal, State, and private lands on Hawaii island. One population occurs at Puupa on private land; two at Nohona O Hae on private land; nine at Puu Anahulu on private, State and Federal lands (Pohakuloa Training Area); three populations on private land at Keauhou; and four populations on Federal land at Hawaii Volcanoes National Park (59 FR 10305; GDSI 2000; HINHP Database 2000; Service 1996a).

Portulaca sclerocarpa grows on weathered Mauna Kea soils, cinder cones, or geologically young lavas in montane dry shrubland. The species often is found on bare cinder, near

steam vents, and in open *Metrosideros polymorpha* dominated woodlands, at elevations between 351 and 2,274 m (1,150 to 7,460 ft). Associated native plant taxa are *Sophora chrysophylla*, *Wollastonia venosa*, or *Dodonaea viscosa* (59 FR 10305; HINHP Database 2000; Service 1996a; L. Pratt *et al.*, pers. comm. 2001).

A major threat to *Portulaca sclerocarpa* is competition from non-native grasses such as *Pennisetum setaceum* and *Andropogon virginicus*. Although no browsing has been observed, goats, pigs and sheep trample and disturb the habitat, damaging the understory and providing suitable sites for non-native plant invaders. Fire is also a pervasive problem in such dry habitat. The unknown reason for the decrease in numbers from 4,300 in 1983 to 970 in 1994 in the Puhimau geothermal (fumarole) area within Hawaii Volcanoes National Park is of concern. Small numbers of populations and individuals, and their scattered distribution, decrease reproductive viability and increase vulnerability to random events (59 FR 10305; Service 1996a; HINHP Database 2000).

Sesbania tomentosa (ohai).

Sesbania tomentosa, a short-lived perennial and a member of the pea family (Fabaceae), is typically a sprawling shrub but may also be a small tree. Each compound leaf consists of 18 to 38 oblong to elliptic leaflets which are usually sparsely to densely covered with silky hairs. The flowers are salmon-tinged with yellow, orange-red, scarlet or rarely, pure yellow. *Sesbania tomentosa* is the only endemic Hawaiian species in the genus, differing from the naturalized *Sesbania sesban* (Egyptian rattlepod) by the color of the flowers, the longer petals and calyx, and the number of seeds per pod (Geesink *et al.*1999).

The pollination biology of *Sesbania tomentosa* is being studied by David Hopper, a graduate student in the Department of Zoology at the University of Hawaii at Manoa. His preliminary findings suggest that although many insects visit *Sesbania* flowers, the majority of successful pollination is accomplished by native bees of the genus *Hylaeus* and that populations at Kaena Point on Oahu are probably pollinator limited. Flowering at Kaena Point is highest during the winter-spring rains, and gradually declines throughout the rest of the year. Other aspects of this plant's life history are unknown (Service 1999).

Currently, *Sesbania tomentosa* occurs on at least six of the eight main Hawaiian Islands (Kauai, Oahu, Molokai, Kahoolawe, Maui, and the island of Hawaii) and in the Northwestern Hawaiian Islands (Nihoa and Necker). It is no longer extant on Niihau and Lanai. On the island of Hawaii, *Sesbania tomentosa* is known from 11 populations with less than 500 individuals. Two populations occur at South Point on Federal (Government Services Administration) and State lands; one population at Hapuna Bay and another at Mahaiula Bay on State lands, and the remaining seven populations occur on Federal land at Hawaii Volcanoes National Park (59 FR 56333; Service 1999; HINHP Database 2000; GDSI 2000).

Sesbania tomentosa is found in open, dry *Metrosideros polymorpha* forest with mixed native grasses, *Scaevola sericea* coastal dry shrubland on windswept slopes, and weathered basaltic slopes between sea level and 954 m (0 and 3,130 ft) elevation. Associated native plant plant species include *Sporobolus virginicus* (akiaki), *Styphelia tameiameiae*, *Wollastonia integrifolia* (nehe), *Jacquemontia san dwicensis* (pauohiiaka), *Sida fallax*, *Ipomoea pes-caprae* (pohuehue), *Dodonaea viscosa*, *Fimbristylis hawaiiensis*, *Myoporum sandwicense*, or *Waltheria indica* (59 FR 56333; HINHP Database 2000; Service 1999; L. Pratt *et al.*, pers. comm. 2001).

The primary threats to Sesbania tomentosa on the island of Hawaii are competition with various non-native plant species such as *Cynodon dactylon* (Bermuda grass), *Chloris barbata* (swollen finger grass), *Bothriochloa pertusa* (pitted beardgrass), *Cenchrus ciliaris* (buffelgrass), *Portulaca pilosa* (pigweed), *Desmodium triflorum* (tick clover), or *Lantana camara*; fire; habitat degradation by feral cattle; lack of adequate pollination; seed predation by rats, mice and, potentially, non-native insects; and destruction by random environmental events (*e.g.*, fire) and by human activities (*e.g.*, use of off-road vehicles and development) (HINHP Database 2000; 59 FR 56333; Service 1999).

Silene lanceolata (NCN).

Silene lanceolata, a member of the pink family (Caryophyllaceae), is an upright, short-lived perennial plant with stems 15 to 50 cm (6 to 20 in) long, which are woody at the base. The narrow leaves are smooth except for a fringe of hairs near the base. Flowers are arranged in open clusters. The flowers are white with deeply-lobed, clawed petals. The capsule opens at the top to release reddish-brown seeds. This species is distinguished from *S. alexandri* by its smaller flowers and capsules and its stamens, which are shorter than the sepals (Wagner *et al.* 1999).

No life history information is available for *Silene lanceolata* at this time (57 FR 46325; Service 1996b).

The historical range of *Silene lanceolata* includes five Hawaiian Islands: Kauai, Oahu, Molokai, Lanai, and the island of Hawaii. *Silene lanceolata* is presently extant on the islands of Molokai, Oahu, and the island of Hawaii. On the island of Hawaii, 10 populations with a total of approximately 2,500 individuals are known from land under Federal jurisdiction at Pohakuloa Training Area. In addition, individuals are in cultivation at the Army's greenhouse at Pohakuloa Training Area (57 FR 46325; GDSI 2000; USAG–HI 2000b; Service 1996a).

On the island of Hawaii, this species grows on rocky tumuli or outcrops, on aa lava, in deep ash deposits over pahoehoe lava, and in Mauna Kea substrate in dry montane shrubland at elevations between 1,253 and 1,320 m (4,110 and 4,330 ft). Associated native plant species include, *Eragrostis* sp. (lovegrass), *Metrosideros polymorpha*, *Chamaesyce* sp. (akoko), *Myoporum sandwicense*, *Sophora chrysophylla*, *Chenopodium oahuense*, *Dodonaea viscosa*, *Styphelia tameiameiae*, or *Dubautia linearis* (57 FR 46325; HINHP Database 2000; Service 1996b; L. Pratt *et al.*, pers. comm. 2001).

Habitat destruction by feral ungulates (goats, mouflon sheep, and pigs), fires, competition by invading non-native plants such as *Pennisetum setaceum*, and military activity are immediate threats to *Silene lanceolata* on the island of Hawaii (57 FR 46325; Service 1996b).

Solanum incompletum (popolo ku mai).

Solanum incompletum, a short-lived perennial member of the nightshade family (Solanaceae), is a woody shrub. Its stems and lower leaf surfaces are covered with prominent reddish prickles or sometimes with yellow fuzzy hairs on young plant parts and lower leaf surfaces. The oval to elliptic leaves have prominent veins on the lower surface and lobed leaf margins. Numerous flowers grow in loose branching clusters with each flower on a stalk. This species differs from other native members of the genus by being generally prickly and having loosely clustered white flowers, curved anthers about 2 mm (0.08 in) long, and berries 1 to 2 cm (0.4 to 0.8 in) in diameter (Symon 1999).

No life history information is available for *Solanum incompletum* at this time (59 FR 56333).

Historically, *Solanum incompletum* was known from central and northeastern Lanai, scattered locations on Maui, and the Kohala Mountains, Kona, Puu Waawaa, Puu Ikaaka Crater, Kanehaha, Puu Huluhulu, and Omaokaili on the island of Hawaii. According to David Symon (1999), the known distribution of *Solanum incompletum* also extended to the islands of Kauai and Molokai. Currently, *Solanum incompletum* is only known from one population of 35 individuals, recently discovered on the Army's Pohakuloa Training Area on the island of Hawaii. In addition, nine individuals are currently in cultivation in the greenhouse at Pohakuloa Training Area (59 FR 56333; HINHP Database 2000; Service 1999; GDSI 2000; USAG-HI 2000b).

Solanum incompletum grows in dry to mesic forest, diverse mesic forest, and subalpine forest between elevations of 1,192 and 2,259 m (3,910 and 7,410 ft) and is associated with *Myoporum sandwicense*, *Myrsine lanaiensis*, or *Sophora chrysophylla* (59 FR 56333; Service 1999; L. Pratt *et al.*, pers. comm. 2001).

The primary threats to the few remaining individuals of *Solanum incompletum* are habitat degradation by feral sheep and mouflon, competition with various non-native plants, random naturally-occurring mass mortality events, and reduced reproductive vigor due to the extremely small number of existing plants. *Solanum incompletum* is potentially threatened by military activities and fire resulting from these activities at the Pohakuloa Training Area (59 FR 56333; Service 1999; HINHP Database 2000).

Spermolepis hawaiiensis (NCN).

Spermolepis hawaiiensis, an annual member of the parsley family (Apiaceae), is a slender herb with few branches. Its leaves, dissected into narrow, lance-shaped divisions, are oblong to somewhat oval in outline and grow on stalks. Flowers are arranged in a loose, compound, umbrella-shaped inflorescence arising from the stem, opposite the leaves. *Spermolepis hawaiiensis* is the only member of the genus native to Hawaii. It is distinguished from other native members of the family by being a non-succulent annual with an umbrella-shaped inflorescence (Constance and Affolter 1999).

Little is known about the life history of *Spermolepis hawaiiensis*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (59 FR 56333; Service 1999).

Historically, *Spermolepis hawaiiensis* was known from Kauai, Oahu, Molokai, Maui, Lanai and the island of Hawaii (HINHP Database 2000). Currently, it is extant on Kauai, Oahu, Molokai, Lanai, Maui, and the island of Hawaii. On the island of Hawaii, there are approximately four known populations with between 5,000 and 10,000 individuals on land under Federal jurisdiction at Pohakuloa Training Area and State land at Puuanahulu (59 FR 56333; HINHP Database 2000; GDSI 2000; Service 1999).

Spermolepis hawaiiensis is known from shady spots in *Dodonaea viscosa* lowland dry shrubland, on pahoehoe lava at elevations between 1,134 and 2,140 m (3,720 and 7,020 ft). Associated native plant species include *Myoporum sandwicense*, *Osteomeles anthyllidifolia*, or *Sophora chrysophylla* (59 FR 56333; HINHP Database 2000; Service 1999; L. Pratt *et al.*, pers. comm. 2001).

The primary threats to *Spermolepis hawaiiensis* on the island of Hawaii are habitat degradation by feral goats, pigs and sheep; competition with various non-native plants such as *Melinis minutiflora* (molasses grass) and other grasses; military impacts; and habitat destruction and extinction due to natural environmental events such as erosion, landslides, and rock slides due to natural weathering (59 FR 56333; Service 1999).

Tetramolopium arenarium (NCN).

Tetramolopium arenarium is a short-lived perennial and an upright, branched shrub in the sunflower family (Asteraceae). Alternate leaves are lance-shaped, hairy, glandular, and gray-green. This species is separated from other taxa of the genus in the Hawaiian Islands by several characters: upright habit; number of heads per flower cluster (5 to 11); presence and type of glands and hairs; size of male ray flowers (1.3 to 2.2 mm (.05 to .09 in); number of bisexual disk flowers (5 to 9) and their maroon color; and a wide, 2- to 4-nerved fruit with white hairs at the tip. Three infra-specific taxa are recognized: *Tetramolopium arenarium* ssp. *arenarium* var. *arenarium* (Maui and Hawaii), *T. arenarium* ssp. *arenarium* var. *confertum* (Hawaii), and *T. arenarium* ssp. *laxum* (Maui). These taxa are distinguished one from the other by a combination of characters. *T. arenarium* ssp. *arenarium* var. *confertum* and *T. arenarium* ssp. *laxum* have not been seen the late 1800s (Lowrey 1999).

No life history information is available for *Tetramolopium arenarium* at this time (59 FR 10305).

Tetramolopium arenarium was historically known from the islands of Maui and Hawaii. Individuals were found on the western slope of Haleakala, Maui, and on the Kohala mountains, the northwestern slopes of Mauna Kea, Mauna Loa, and Hualalai, Hawaii. The taxon was considered extinct until *Tetramolopium arenarium* ssp. *arenarium* var. *arenarium* was recently rediscovered in Kipuka Kalawamauna at Pohakuloa Training Area. Two populations with approximately 400 individuals of *Tetramolopium arenarium* ssp. *arenarium* var. *arenarium* are currently extant. In addition, five individuals are in cultivation in the greenhouse at Pohakuloa Training Area (59 FR 10305; HINHP Database 2000; Service 1996a; GDSI 2000; USAG–HI 2000b).

The habitat of *Tetramolopium arenarium* on island of Hawaii is lowland and montane dry shrublands dominated by *Dodonaea viscosa*, at elevations between 1,363 and 1,762 m (4,470 and 5,780 ft). Associated native plant taxa are *Styphelia tameiameiae*, *Dubautia linearis*, *Chamaesyce olowaluana* (akoko), *Sida fallax*, *Chenopodium oahuense* or the endangered *Haplostachys haplostachya* (honohono) (59 FR 10305; Service 1996a; HINHP Database 2000; L. Pratt *et al.*, pers. comm. 2001).

Feral goats, sheep, and pigs have caused habitat destruction by browsing, trampling, and rooting. All known populations are transected by feral animal trails. Habitat decimation has resulted in opportunities for invasions by non-native plant taxa, particularly *Pennisetum setaceum*. The occurrence of *Pennisetum setaceum* increases the probability and intensity of fire. Military activity may threaten the species. The small number of extant individuals and the restricted distribution of this taxon make it extremely vulnerable to random events and/or reduction of reproductive vigor (59 FR 10305; Service 1996a; HINHP Database 2000).

Vigna o-wahuensis (NCN).

Vigna o-wahuensis, a member of the pea family (Fabaceae), is a slender twining short-lived perennial herb with fuzzy stems. Each leaf is made up of three leaflets which vary in shape from round to linear, and are sparsely or moderately covered with coarse hairs. Flowers, in clusters of one to four, have thin, translucent, pale yellow or greenish-yellow petals. The two lowermost petals are fused and appear distinctly beaked. The sparsely hairy calyx has asymmetrical lobes. The fruits are long slender pods that may or may not be slightly inflated and contain 7 to 15 gray to black seeds. This species

differs from others in the genus by its thin yellowish petals, sparsely hairy calyx, and thin pods which may or may not be slightly inflated (Geesink *et al.* 1999).

Information on the life history of this plant, reproductive cycles, longevity, specific environmental requirements, and limiting factors is unknown (Service 1999).

Historically, *Vigna o-wahuensis* was known from Niihau, Oahu, Maui, Molokai, Lanai, Kahoolawe, and the island of Hawaii. Currently, *Vigna o-wahuensis* is known from the islands of Molokai, Lanai, Kahoolawe, Maui, and island of Hawaii. There are no currently known populations on Niihau or Oahu. On the island of Hawaii, one population with 10 individuals occurs on privately owned land at Nohona O Hae (59 FR 56333; HINHP Database 2000; GDSI 2000).

On the island of Hawaii, *Vigna o-wahuensis* occurs in *Dodonaea viscosa* lowland dry shrubland at elevations between 351 and 2,274 m (1,150 to 7,460 ft). Associated native plant species include *Chenopodium oahuense*, *Dodonaea viscosa*, *Osteomeles anthyllidifolia*, *Wikstroemia* sp., (akia) or *Sida fallax* (59 FR 56333; HINHP Database 2000; Service 1999).

The primary threats to *Vigna o-wahuensis* on Hawaii island are competition with various non-native plant species, a risk of extinction due to random environmental events (primarily fire), and/or reduced reproductive vigor due to the small number of existing populations and individuals (Service 1999; 59 FR 56333).

Zanthoxylum hawaiiense (ae).

Zanthoxylum hawaiiense, a long-lived perennial in the rue family (Rutaceae), is a medium-size tree with pale to dark gray bark, and lemon-scented leaves. Alternate leaves are composed of three small triangular-oval to lance-shaped, toothed leaflets with surfaces usually without hairs. *Zanthoxylum hawaiiense* is distinguished from other Hawaiian members of the genus by several characters: three leaflets all of similar size, one joint on lateral leaf stalk, and sickle-shaped fruits with a rounded tip (Stone *et al.* 1999).

Additional information on the life history of this plant, reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown (59 FR 10305; Service 1996a).

Historically, *Zanthoxylum hawaiiense* was known from the islands of Kauai, Molokai, Lanai, the southern and southwestern slopes of Haleakala on Maui, and the island of Hawaii. Currently, *Zanthoxylum hawaiiense* is extant on Kauai, Molokai, Maui, and the island of Hawaii. On the island of Hawaii, the four extant populations with less than 250 individuals are located on State lands and on lands under Federal jurisdiction at Pohakuloa Training Area (59 FR 10305; HINHP Database 2000; GDSI 2000).

On the island of Hawaii, *Zanthoxylum hawaiiense* is found in *Metrosideros polymorpha* dry forest with *Dodonaea viscosa* or *Myoporum sandwicense*, or with *Dubautia linearis* in open *Myoporum-Dodonaea* shrubland on rough aa lava at elevations between 1,204 and 1,756 m (3,950 and 5,760 ft) (HINHP Database 2000; 59 FR 10305; L. Pratt *et al.*, pers. comm. 2001).

The threats to *Zanthoxylum hawaiiense* on the island of Hawaii include browsing, grazing, and trampling by feral goats, pigs and sheep; competition with non-native plant species; habitat degradation and destruction by humans, including military impacts; and extinction from naturally occurring events (primarily fire) and/or from reduced reproductive vigor due to the small number of individuals and populations (59 FR 10305; Service 1996a).

A summary of populations and landownership for the 58 plant species on the island of Hawaii is given in Table 3.

TABLE 3.—SUMMARY OF POPULATIONS OCCURRING ON THE ISLAND OF HAWAII, AND LANDOWNERSHIP FOR 58 SPECIES REPORTED FROM THE ISLAND OF HAWAII

Species	Number of current populations	Landownership/Jurisdiction		
		Federal	State	Private
Achyranthes mutica	1			X
Adenophorus periens	13	X[1]	X	X
Argyroxiphium kauense	3	X[1]	X	X
Asplenium fragile var. insulare	17	X[1 2]	X	X
Bonamia menziesii	1			X
Cenchrus agrimonioides	0.			
Clermontia drepanomorpha	1		X	X
Clermontia lindseyana	17	X[3]	X	
Clermontia peleana	0.			
Clermontia pyrularia	1	X[1]	X	
Colubrina oppositifolia	8		X	X
Cyanea copelandii ssp. *copelandii*	0.			
Ctenitis squamigera	0.			
Cyanea hamatiflora ssp. *carlsonii*	3	X[3]	X	
Cyanea platyphylla	9		X	X
Cyanea shipmanii	5	X[3]	X	X
Cyanea stictophylla	5		X	X
Cyrtandra giffardii	7	X[1]	X	X
Cyrtandra tintinnabula	6		X	X
Delissea undulata	1		X	
Diellia erecta	3		X	
Flueggea neowawraea	4		X	X
Gouania vitifolia	1		X	
Hedyotis cookiana	0.			
Hedyotis coriacea	11	X[2]		
Hibiscadelphus giffardianus	1 (planted)	X[1]		
Hibiscadelphus hualalaiensis	2 (planted)		X	
Hibiscus brackenridgei	4		X	X
Ischaemum byrone	5	X[1]	X	X

TABLE 3.—SUMMARY OF POPULATIONS OCCURRING ON THE ISLAND OF HAWAII, AND LANDOWNERSHIP FOR 58 SPECIES REPORTED FROM THE ISLAND OF HAWAII—Continued

Species	Number of current populations	Landownership/Jurisdiction		
		Federal	State	Private
Isodendrion hosakae	3			X
Isodendrion pyrifolium	1		X	
Mariscus fauriei	2		X	X
Mariscus pennatiformis	0.			
Melicope zahlbruckneri	2	X[1]	X	
Neraudia ovata	3	X[1 2]	X	X
Nothocestrum breviflorum	10	X[1 3]	X	X
Ochrosia kilaueaensis	0.			
Phlegmariurus mannii	0.			
Phyllostegia parviflora	0.			
Phyllostegia racemosa	7	X[1 3]	X	X
Phyllostegia velutina	5	X[3]	X	X
Phyllostegia warshaueri	7		X	X
Plantago hawaiensis	8	X[1]	X	
Plantago princeps	0.			
Pleomele hawaiiensis	8	X[1]	X	X
Portulaca sclerocarpa	19	X[1 2]	X	X
Pritchardia affinis	unknown.			
Pritchardia schattaueri	1			X
Sesbania tomentosa	11	X[1 4]	X	
Sicyos alba	4	X[1]	X	
Silene hawaiiensis	23	X[1 2]	X	X
Silene lanceolata	10	X[2]		
Solanum incompletum	1	X[2]		
Spermolepis hawaiiensis	4	X[1 2]	X	
Tetramolopium arenarium	2	X[2]		
Vigna o-wahuensis	1			X
Zanthoxylum dipetalum var. *tomentosum*	1		X	
Zanthoxylum hawaiiense	4	X[2]	X	

[1] Hawaii Volcanoes National Park.
[2] Pohakuloa Training Area.
[3] Hakalau Forest National Wildlife Refuge.
[4] Government Services Administration.

Previous Federal Action

Federal action on these plants began as a result of Section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Adenophorus periens, Argyroxiphium kauense, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii* (as *Cyanea carlsonii*), *Cyanea platyphylla* (as *Cyanea bryanii*), *Cyanea shipmanii, Flueggea neowawraea* (as *Drypetes phyllanthoides*), *Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei* (as *Hibiscus brackenridgei* var. *brackenridgei*, var. *mokuleianus*, and var. "from Hawaii"), *Ischaemum byrone, Melicope zahlbruckneri* (as *Pelea zahlbruckneri*), *Neraudia ovata, Nothocestrum breviflorum* (as *Nothocestrum breviflorum* var. *breviflorum*), *Portulaca sclerocarpa, Sesbania tomentosa* (as *Sesbania hobdyi* and *Sesbania tomentosa* var. *tomentosa*), *Silene lanceolata, Solanum incompletum* (as *Solanum haleakalense* and *Solanum incompletum* var. *glabratum*, var. *incompletum*, and var. *mauiensis*), *Vigna o-wahuensis* (as *Vigna sandwicensis* var. *heterophylla* and var. *sandwicensis*), and *Zanthoxylum hawaiiense* (as *Zanthoxylum hawaiiense* var. *citriodora*) were considered endangered; *Cyrtandra giffardii, Diellia erecta, Silene hawaiiensis* (as *Silene hawaiiensis* var. *hawaiiensis*), *Zanthoxylum dipetalum* var. *tomentosum*, and *Zanthoxylum hawaiiense* (as *Zanthoxylum hawaiiense* var. *hawaiiense* and var. *velutinosum*) were considered threatened; and, *Asplenium fragile* var. *insulare* (as *Asplenium fragile*), *Clermontia pyrularia, Delissea undulata* (as *Delissea undulata* var. *argutidentata* and var. *undulata*), *Gouania vitifolia, Hedyotis coriacea, Isodendrion hosakae, Isodendrion pyrifolium, Nothocestrum breviflorum* (as *Nothocestrum breviflorum* var. *longipes*), and *Tetramolopium arenarium* (as *Tetramolopium arenarium* var. *arenarium*, var. *confertum*, and var. *dentatum*) were considered to be extinct. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) of our acceptance of the Smithsonian report as a petition within the context of Section 4(c)(2) (now Section 4(b)(3)) of the Act, and gave notice of our intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, we published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to Section 4 of the Act for approximately 1,700 vascular plant taxa, including all of the above taxa except for *Cyrtandra giffardii* and *Silene hawaiiensis*. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, we published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. We published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), February 21, 1990 (55 FR 6183), September 30, 1993 (58 FR 51144), and February 28, 1996 (61 FR 7596). A summary of the status categories for these 58 plant species in the 1980 through1996 notices of review can be found in Table 4(a). We listed the 58 species as endangered or threatened between 1991 and 1996. A summary of the listing actions can be found in Table 4(b).

TABLE 4(a).—SUMMARY OF CANDIDACY STATUS FOR 58 PLANT SPECIES FROM THE ISLAND OF HAWAII

Species	*Federal Register* Notice of Review			
	1980	1985	1990	1993
Achyranthes mutica				
Adenophorus periens	C1	C1	C1	
Argyroxiphium kauense	C1	C1	C1	
Asplenium fragile var. *insulare*	C1*	C1*	C1	
Bonamia menziesii	C1	C1	C1	
Cenchrus agrimonioides				
Clermontia drepanomorpha	C1	C1	C1	C2
Clermontia lindseyana	C1	C1	C1	
Clermontia peleana	3C	3C	C1	
Clermontia pyrularia	C1	C1	C1	
Colubrina oppositifolia	C1	C1	C1	
Cyanea copelandii ssp. *copelandii*			C1	
Cyanea hamatiflora ssp. *carlsonii*	C1	C1	C1	
Cyanea platyphylla	C1	C1	C1	
Cyanea shipmanii	C1	C1	C1	
Cyanea stictophylla	C1	C1	C1	
Cyrtandra giffardii	C2	C2	C1	
Cyrtandra tintinnabula			C1	
Delissea undulata	C1	C1*	C1*	C2*
Diellia erecta	C1	C1	C1	
Flueggea neowawraea	C1	C1	C1	
Gouania vitifolia	C1*	C1*	C1*	
Hedyotis cookiana	3A	3A	C1	
Hedyotis coriacea	C1	C1	C1	
Hibiscadelphus giffardianus	C1	C1	C1	C1
Hibiscadelphus hualalaiensis	C1	C1	C1	C1
Hibiscus brackenridgei	C1	C1	C1	
Ischaemum byrone	C1	C1	C1	
Isodendrion hosakae	C1			
Isodendrion pyrifolium	C1*	C1*	3A	
Mariscus fauriei			C1	
Mariscus pennatiformis		C1	C1	
Melicope zahlbruckneri		C1	C2	C2
Neraudia ovata	C1	C1	C1	C2
Nothocestrum breviflorum	C1	C1	C1	
Ochrosia kilaueaensis		C2	C1	
Phlegmariurus mannii	C1	C1	C1	
Phyllostegia parviflora				
Phyllostegia racemosa			C2	C2
Phyllostegia velutina			C2	C2
Phyllostegia warshaueri			C2	C2
Plantago hawaiensis			C1	
Plantago princeps	C2	C2	C1	
Pleomele hawaiiensis	C1	C1	C1	C2
Portulaca sclerocarpa	C1	C1	C1	
Pritchardia affinis			C1	
Pritchardia schattaueri		C2	C2	C2
Sesbania tomentosa	C1*	C1*	C1	
Sicyos alba			C2	C2
Silene hawaiiensis	C1	C1	C1	
Silene lanceolata	C1	C1	C1	
Solanum incompletum	C1*	C1*	C1	
Spermolepis hawaiiensis			C1	
Tetramolopium arenarium	C1*	C1*	3A	
Vigna o-wahuensis	C1	C1	C1	
Zanthoxylum dipetalum var. *tomentosum*			C2	C2
Zanthoxylum hawaiiense	C1	C1	C1	

Key:
C1: Taxa for which the Service has on file enough sufficient information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

C1*: Taxa of known vulnerable status in the recent past that may already have become extinct.
C2: Taxa for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at this time.
C2*: Taxa of known vulnerable status in the recent past that may already have become extinct.
3A: Taxa for which the Service has persuasive evidence of extinction. If rediscovered, such taxa might acquire high priority for listing.
3C: Taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat.
Federal Register Notice of Review
1980: 45 FR 82479 1990: 55 FR 6183 1996: 61 FR 7596
1985: 50 FR 39525 1993: 58 FR 51144

TABLE 4(b).—SUMMARY OF LISTING ACTIONS FOR 58 PLANT SPECIES FROM THE ISLAND OF HAWAII

Species	Federal status	Proposed Rule		Final Rule		Prudency determination and proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Achyranthes mutica	E	10/02/1995	60 FR 51417	10/10/1996	61 FR 53108	11/07/2000	65 FR 66808.
Adenophorus periens	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	11/07/2000, 12/18/2000, 12/29/2000.	65 FR 66808, 65 FR 82086, 66 FR 83157.
Argyroxiphium kauense	E	08/06/1990	55 FR 31860	04/07/1993	58 FR 18029		
Asplenium fragile var. *insulare.*	E	06/24/1993	58 FR 34231	09/09/1994	59 FR 49025	12/18/2000	65 FR 79192.
Bonamia menziesii	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	11/07/2000, 12/18/2000, 12/27/2000.	65 FR 66808 65 FR 79192, 65 FR 82086.
Cenchrus agrimonioides.	E	10/02/1995	60 FR 51417	10/10/1996	61 FR 53108	12/18/2000	65 FR 79192.
Clermontia drepanomorpha.	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Clermontia lindseyana	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	12/18/2000	65 FR 79192.
Clermontia peleana	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	12/18/2000	65 FR 79192.
Clermontia pyrularia	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Colubrina oppositifolia	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	12/18/2000	65 FR 79192.
Ctenitis squamigera	E	06/24/1993	58 FR 34231	09/09/1994	59 FR 49025	12/18/2000, 12/27/2000, 12/29/2000, 1/28/2002.	65 FR 79192, 65 FR 82086, 66 FR 83157, 67 FR 3940.
Cyanea copelandii ssp *copelandii.*	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Cyanea hamatiflora ssp. *carlsonii.*	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Cyanea platyphylla	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Cyanea shipmanii	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Cyanea stictophylla	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Cyrtandra giffardii	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Cyrtandra tintinnabula	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Delissea undulata	E	06/27/1994	59 FR 32946	10/10/1996	61 FR 53124	11/07/2000	65 FR 66808.
Diellia erecta	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	12/18/2000, 12/29/2000, 1/28/2002.	65 FR 79192, 65 FR 83158, 67 FR 3940.
Flueggea neowawraea	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	11/07/2000, 12/18/2000.	65 FR 66808, 65 FR 79192.
Gouania vitifolia	E	12/14/1992	57 FR 39066	06/27/1994	59 FR 32932		
Hedyotis cookiana	E	10/30/1991	56 FR 5562	02/25/1994	59 FR 09304	11/07/2000	65 FR 66808.
Hedyotis coriacea	E	05/24/1991	56 FR 23842	05/15/1992	57 FR 20787	12/18/2000	65 FR 79192.
Hibiscadelphus giffardianus.	E	09/25/1995	60 FR 4937	10/10/1996	61 FR 53137		
Hibiscadelphus hualalaiensis.	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Hibiscus brackenridgei	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	12/18/2000, 12/27/2000, 1/28/2002.	65 FR 79192, 65 FR 82086, 67 FR 3940.
Ischaemum byrone	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	12/18/2000, 12/29/2000, 1/28/2002.	65 FR 79192, 65 FR 83158, 67 FR 3940.
Isodendrion hosakae	E	10/10/1989	54 FR 41470	01/14/1991	56 FR 1457		
Isodendrion pyrifolium	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Mariscus fauriei	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	12/29/2000	65 FR 83158.
Mariscus pennatiformis	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	12/18/2000, 1/28/2002.	65 FR 79192, 67 FR 3940.
Melicope zahlbruckneri	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Neraudia ovata	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Nothocestrum breviflorum.	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		

TABLE 4(b).—SUMMARY OF LISTING ACTIONS FOR 58 PLANT SPECIES FROM THE ISLAND OF HAWAII—Continued

Species	Federal status	Proposed Rule		Final Rule		Prudency determination and proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Ochrosia kilaueaensis	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Phlegmariurus mannii	E	5/24/1991	56 FR 23842	5/15/1992	57 FR20772	12/18/2000, 1/28/2002.	65 FR 79192, 67 FR 3940.
Phyllostegia parviflora	E	10/02/1995	60 FR 51417	10/10/1996	61 FR 53108		
Phyllostegia racemosa	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Phyllostegia velutina	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Phyllostegia warshaueri	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Plantago hawaiensis	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Plantago princeps	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	11/07/2000, 12/18/2000.	65 FR 66808, 65 FR 79192.
Pleomele hawaiiensis	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Portulaca sclerocarpa	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	12/27/2000	65 FR 82086.
Pritchardia affinis	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10324		
Pritchardia schattaueri	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Sesbania tomentosa	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	11/07/2000, 12/18/2000, 12/29/2000.	65 FR 66808, 65 FR 79192, 65 FR 83158.
Sicyos alba	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Silene hawaiiensis	T	12/17/1992	57 FR 59951	03/04/1994			59 FR 10305
Silene lanceolata	E	09/20/1991	56 FR 47718	10/08/1992	57 FR 46325	12/29/2000, 1/28/2002.	65 FR 83158, 67 FR 3940.
Solanum incompletum	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333		
Spermolepis hawaiiensis.	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	11/07/2000, 2/18/2000, 12/27/2000, 12/29/2000.	65 FR 6680, 65 FR 79192, 65 FR 82086, 65 FR 83158.
Tetramolopium arenarium.	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305		
Vigna o—wahuensis	E	09/14/1993	58 FR 48012	11/10/1994	59 FR 56333	12/18/2000, 12/29/2000, 1/28/2002.	65 FR 79192, 65 FR 83158, 67 FR 3940.
Zanthoxylum dipetalum var. *tomentosum.*	E	09/25/1995	60 FR 49377	10/10/1996	61 FR 53137		
Zanthoxylum hawaiiense.	E	12/17/1992	57 FR 59951	03/04/1994	59 FR 10305	11/07/2000, 12/18/2000, 12/29/2000.	65 FR 66808, 65 FR 79192, 65 FR 83158.

Key: E = Endangered; T = Threatened

Critical Habitat

Section 4 (a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. At the time each plant was listed, we determined that designation of critical habitat was not prudent because it would not benefit the plant and/or would increase the degree of threat to the species.

The not prudent determinations for the 58 species, along with others, were challenged in *Conservation Council for Hawaii* v. *Babbitt*, 2 F. Supp. 2d 1280 (D. Haw. 1998). On March 9, 1998, the United States District Court for the District of Hawaii, directed us to review the prudency determinations for 245 listed plant species in Hawaii, including the 58 species reported from the island of Hawaii (*Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Cenchrus agrimoiodes, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Ctentis squamigera, Cyanea copelandii* ssp. *copelandii, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Mariscus pennatiformis, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Ochrosia kilaueaensis, Phlegmariurus mannii, Phyllostegia parviflora, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Plantago princeps, Pleomele hawaiiensis, Portulaca sclerocarpa, Pritcharida affinis, Pritcharida schattaueri, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum var. tomentosum,* and *Zanthoxylum hawaiiense*). Among other things, the

court held that in most cases we did not sufficiently demonstrate that the species are threatened by human activity or that such threats would increase with the designation of critical habitat. The court also held that we failed to balance any risks of designating critical habitat against any benefits (*id.* at 1283–85).

Regarding our determination that designating critical habitat would have no additional benefits to the species above and beyond those already provided through the section 7 consultation requirement of the Act, the court ruled that we failed to consider the specific effect of the consultation requirement on each species (*id.* at 1286–88). In addition, the court stated that we did not consider benefits outside of the consultation requirements. In the court's view, these potential benefits include substantive and procedural protections. The court held that, substantively, designation establishes a "uniform protection plan" prior to consultation and indicates where compliance with section 7 of the Act is required. Procedurally, the court stated that the designation of critical habitat educates the public and State and local governments and affords them an opportunity to participate in the designation (*id.* at 1288). The court also stated that private lands may not be excluded from critical habitat designation even though section 7 requirements apply only to Federal agencies. In addition to the potential benefit of informing the public, and State and local governments of the listing and of the areas that are essential to the species' conservation, the court found that there may be Federal activity on private property in the future, even though no such activity may be occurring there at the present (*id.* at 1285–88).

On August 10, 1998, the court ordered us to publish proposed critical habitat designations or non-designations for at least 100 species by November 30, 2000, and to publish proposed designations or non-designations for the remaining 145 species by April 30, 2002 (24 F. Supp. 2d 1074).

On November 30, 1998, we published a notice in the **Federal Register** requesting public comments on our reevaluation of whether designation of critical habitat is prudent for the 245 Hawaiian plants at issue (63 FR 65805). The comment period closed on March 1, 1999, and was reopened from March 24, 1999, to May 24, 1999 (64 FR 14209). We received more than 100 responses from individuals, non-profit organizations, the DOFAW, county governments, and Federal agencies (U.S. Department of Defense-Army, Navy, Air Force). Only a few responses offered information on the status of individual plant species or on current management actions for one or more of the 245 Hawaiian plants. While some of the respondents expressed support for the designation of critical habitat for 245 Hawaiian plants, more than 80 percent opposed the designation of critical habitat for these plants. In general, these respondents opposed designation because they believed it will cause economic hardship, discourage cooperative projects, polarize relationships with hunters, or potentially increase trespass or vandalism on private lands. In addition, commenters also cited a lack of information on the biological and ecological needs of these plants which, they suggested, may lead to designation based on guesswork. The respondents who supported the designation of critical habitat cited that designation would provide a uniform protection plan for the Hawaiian Islands; promote funding for management of these plants; educate the public and State government; and protect partnerships with landowners and build trust.

On September 7, 2000, we mailed letters to over 1,200 landowners on the island of Hawaii requesting any information considered germane to the management of any of the 58 plants on their property, and containing a copy of the November 30, 1998, **Federal Register** notice, a map showing the general locations of the species that may be on their property, and a handout containing general information on critical habitat. We received 300 written responses to our landowner mailing with varying types of information on their current land management activities. These responses included information on the following: control of human access, ungulate control, fencing, hunting, weeding, rat control, scientific research, fire control, and propagation and/or planting of native plants. A few respondents expressed support for the designation of critical habitat. We held three open houses on the island of Hawaii, at Yano Hall in Captain Cook, the Waimea Civic Center in Waimea, and the State Building in Hilo, on August 1 to 3, 2000, respectively, to meet one-on-one with local landowners and other interested members of the public. A total of 84 people attended the three open houses. In addition, we met with Hawaii County Division of Forestry and Wildlife staff and discussed their management activities on the island.

On November 7, 2000, we published the first of the court-ordered prudency determinations and proposed critical habitat designations or non-designations for 76 Kauai and Niihau plants (65 FR 66808). The prudency determinations and proposed critical habitat designations for Maui and Kahoolawe plants were published on December 18, 2000 (65 FR 79192), for Lanai plants on December 27, 2000 (65 FR 82086) and for Molokai plants on December 29, 2000 (65 FR 83157). All of these proposed rules had been sent to the **Federal Register** by or on November 30, 2000, as required by the court's order.

On October 3, 2001, we submitted a joint stipulation with Earth Justice Legal Defense Fund requesting an extension of the court order for the final rules to designate critical habitat for plants from Kauai and Niihau (July 30, 2002), Maui and Kahoolawe (August 23, 2002), Lanai (September 16, 2002), and Molokai (October 16, 2002), citing the need to revise the proposals to incorporate or address new information and comments received during the comment periods. The joint stipulation was approved and ordered by the court on October 5, 2001. We published revised critical habitat proposals on January 28, 2002 (Kauai and Niihau, 67 FR 3940), March 4, 2002 (Lanai, 67 FR 9806), April 3, 2002 (Maui and Kahoolawe, 67 FR 15856), and April 5, 2002 (Molokai, 67 FR 16492). In those proposals we determined that critical habitat was prudent for 31 species (*Achyranthes mutica, Adenophorus periens, Asplenium fragile* var. *insulare, Bonamia menziesii, Cenchrus agrimonioides, Clermontia lindseyana, Clermontia peleana, Colubrina oppositifolia, Ctenitis squamigera, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion pyrifolium, Mariscus fauriei, Mariscus pennatiformis, Phlegmariurus mannii, Phyllostegia parviflora, Plantago princeps, Portulaca sclerocarpa, Sesbania tomentosa, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, and Zanthoxylum hawaiiense*) that are reported from the island of Hawaii as well as on Kauai, Niihau, Maui, Kahoolawe, Lanai, and/or Molokai.

The prudency determinations and proposed critical habitat designations for plants from the Northwestern Hawaiian Islands were published on May 14, 2002. Publication of this proposal for plants from the island of Hawaii is consistent with the August 10, 1998, the court order.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional regulatory protections under the Act.

Critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified to help to avoid accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must first be "essential to the conservation of the species." Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide at least one of the physical or biological features essential to the conservation of the species (primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species."

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of the designation. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 prohibitions, as determined on the basis of the best available information at the time of the action. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, HCPs, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

A. Prudency Redeterminations

In other proposed rules we determined that designation of critical habitat was prudent for 31 species that are reported from the island of Hawaii as well as from Kauai, Niihau, Maui, Kahoolawe, Lanai, and/or Molokai. These 31 plants are: *Achyranthes mutica, Adenophorus periens, Asplenium fragile* var. *insulare, Bonamia menziesii, Cenchrus agrimonioides, Clermontia lindseyana, Clermontia peleana, Colubrina oppositifolia, Ctenitis squamigera, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion pyrifolium, Mariscus fauriei, Mariscus pennatiformis, Phlegmariurus mannii, Phyllostegia parviflora, Plantago princeps, Portulaca sclerocarpa, Sesbania tomentosa, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, and Zanthoxylum hawaiiense.* No change is made to these 31 proposed prudency determinations and they are hereby incorporated into this proposal (65 FR 66808, 65 FR 79192, 65 FR 82086, 65 FR 83158, 67 FR 3940, 67 FR 9806, 67 FR 15856, 67 FR 16492).

To determine whether critical habitat would be prudent for each of the 27 species (*Argyroxiphium kauense, Clermontia drepanomorpha, Clermontia pyularia, Cyanea copelandii* ssp. *copelandii, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Hibiscadelphus giffardianus, Hibiscadelphus*

hualalaiensis, Isodendrion hosakae, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Ochrosia kilaueaensis, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiiensis, Pleomele hawaiiensis, Pritchardia affinis, Pritchardia schattaueri, Sicyos alba, Silene hawaiiensis, and *Zanthoxylum dipetalum* var. *tomentosum*) for which prudency determinations have not been made previously, we analyzed the potential threats and benefits for each species in accordance with the court's order. These 27 plants were listed as endangered species under the Endangered Species Act of 1973, as amended (Act) between 1991 and 1996. At the time each plant was listed, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the plant. We have examined the evidence currently available for each of these taxa and have found specific evidence of vandalism, disturbance, and/or the threat of unrestricted collection for two species of *Pritchardia*, the native palm. At the time of listing, we determined that designation of critical habitat was not prudent for *Pritchardia affinis* and *P. schattaueri* because it would increase the degree of threat from vandalism or collecting, and would provide no benefit (59 FR 10305; 61 FR 53137). Since publication of the listing rule, we learned of specific instances of vandalism, collection, and commercial trade involving these two species of *Pritchardia*. In the 1990s, seeds of *P. schattaueri* were removed from two of the three locations of this species known at that time (Nick Agorastos, DOFAW, pers. comm. 2000; L. Perry, pers. comm. 2000). Recently we received information on the commercial trade in palms conducted through the internet (Grant Canterbury, Service, *in litt.* 2000). Several nurseries advertise and sell seedlings and young plants, including 13 species of Hawaiian *Pritchardia*. Seven of these species are federally protected, including *P. affinis* and *P. schattaueri* . In light of this information, we believe that designation of critical habitat would likely increase the threat from vandalism or collection to these two species of *Pritchardia* on the island of Hawaii. First, these plants are easy to identify, and second, they are attractive to collectors of rare palms either for their personal use or to trade or sell for personal gain (Johnson 1996). We believe that the evidence shows that these species of palm may be attractive to such collectors. The final listing rules for these two species contained only general information on their distribution, but the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these species more vulnerable to incidents of vandalism or collection, and, therefore, contribute to the decline of these species and make recovery more difficult (59 FR 10305; 61 FR 53137).

In addition, we believe that designation would not provide significant benefits that would outweigh these increased risks. First, *Pritchardia affinis* and *P. schattaueri* do not occur on Federal lands. *Pritchardia schattaueri* is reported on privately owned land that is zoned for agriculture, and two of the approximately 12 individuals have been fenced. In addition, the privately owned land is currently farmed, with 10 of the plants located in pasture and two located in macadamia nut orchards, and is unlikely to be developed. *Pritchardia affinis* occurs on State and privately owned lands that are zoned for conservation and agriculture. Since there does not appear to be any actions in the future that would involve a Federal agency, designation of critical habitat would not provide any additional protection to these species that they do not already have through listing alone. If however in the future any Federal involvement did occur, such as through the permitting process or funding by the Department of Agriculture, the U.S. Department of the Interior, the Corps through section 404 of the Clean Water Act, the U.S. Federal Department of Housing and Urban Development or the Federal Highway Administration, the actions would be subject to consultation under Section 7 of the Act.

We acknowledge that critical habitat designation, in some situations, may provide some value to the species, for example, by identifying areas important for conservation and calling attention to those areas in need of special protection. However, for these two species, we believe that the benefits of designating critical habitat do not outweigh the potential increased threats from vandalism or collection. Given all of the above considerations, we propose that designation of critical habitat for *Pritchardia affinis* and *P. schattaueri* is not prudent.

To determine whether critical habitat would be prudent for *Cyanea copelandii* ssp. *copelandii* and *Ochrosia kilaueaensis*, two species endemic to the island of Hawaii and which are no longer extant in the wild, we analyzed the potential threats and benefits for these species in accordance with the court's order. These plants were listed as endangered species under the Endangered Species Act of 1973, as amended (Act) in 1994. At the time *C. copelandii* ssp. *copelandii* and *O. kilaueaensis* were listed, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to these species and/or would not benefit these plants. *Cyanea copelandii* ssp. *copelandii* was last seen in the wild in 1957 in the Glenwood area. *Ochrosia kilaueaensis* was last observed in the wild in 1927, in an area that is now part of Hawaii Volcanoes National Park. Neither of these two species is known to be in storage or under propagation. Given these circumstances, we determine that designation of critical habitat would be of no benefit to these species. If these species are rediscovered we may revise this proposal to incorporate or address new information as new data becomes available (See 16 U.S.C. 1532 (5) (B); 50 CFR 424.13(f)).

We have examined the evidence available for the other 23 taxa and have not, at this time, found specific evidence of taking, vandalism, collection or trade of these taxa or of similar species. Consequently, while we remain concerned that these activities could potentially threaten these 23 plant species in the future, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and the court's discussion of these regulations, we do not find that any of these species are currently threatened by taking or other human activity, which would be exacerbated by the designation of critical habitat. In the absence of finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. The potential benefits include (1) triggering section 7 consultation in new areas where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species. In the case of these 23 species there would be some benefits to critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely affects critical habitat. Thirteen of these 23 species are reported from federally owned lands or

lands under Federal jurisdiction on the island of Hawaii (*Argyroxiphium kauense, Cyanea shipmanii, Cyrtandra giffardii, Hibiscadelphus giffardianus, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Plantago hawaiiensis, Pleomele hawaiiensis, Sicyos alba,* and *Silene hawaiiensis*) (see Table 3), where actions would be subject to section 7 consultation. While many of the species are located exclusively on non-Federal lands with limited Federal activities, there could be Federal actions affecting these lands in the future. While a critical habitat designation for habitat currently occupied by these species would not likely change the section 7 consultation outcome, since an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat were designated. There may also be some educational or informational benefits to the designation of critical habitat. Educational benefits include the notification of landowner(s), land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements. Therefore, we propose that designation of critical habitat is prudent for 23 plant species: *Argyroxiphium kauense, Clermontia drepanomorpha, Clermontia pyrularia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Hibiscadelphus giffardianus. Hibiscadelphus hualalaiensis, Isodendrion hosakae, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiiensis, Pleomele hawaiiensis, Sicyos alba, Silene hawaiiensis,* and *Zanthoxylum dipetalum* var. *tomentosum*.

B. Methods

As required by the Act (section 4(b)(2)) and regulations at 50 CFR 424.12, we used the best scientific data available to determine areas that are essential to conserve *Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Cenchrus agrimonioides, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Ctenitis squamigena, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Mariscus pennatiformis, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phlegmariurus mannii, Phyllostegia parviflora, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Plantago princeps, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum* var. *tomentosum*, and *Zanthoxylum hawaiiense*. This information included the known locations, site-specific species information from the HINHP database and our own rare plant database; species information from the CPC's rare plant monitoring database housed at the University of Hawaii's Lyon Arboretum; island-wide GIS coverages,(*e.g.* vegetation, soils, annual rainfall, elevation contours, land ownership); the final listing rules for these 54 species; recent biological surveys and reports; our recovery plans for these 54 species; information received in response to outreach materials and requests for species and management information we sent to all landowners, land managers, and interested parties on the island of Hawaii; discussions with botanical experts; and recommendations from the Hawaii Pacific Plants Recovery Coordinating Committee (HPPRCC) (see also the discussion below) (Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999; HPPRCC 1998; HINHP Database 2000, CPC *in litt.* 1999; S. Perlman, pers. comm. 2000, R. Hobdy, pers. comm. 2000, L. Pratt *et al.*, pers. comm. 2001).

In 1994, the HPPRCC initiated an effort to identify and map habitat it believed to be important for the recovery of 282 endangered and threatened Hawaiian plant species. The HPPRCC identified these areas on most of the islands in the Hawaiian chain, and in 1999 we published them in our *Recovery Plan for the Multi-Island Plants* (Service 1999). The HPPRCC expects there will be subsequent efforts to further refine the locations of important habitat areas and that new survey information or research may also lead to additional refinement of identifying and mapping of habitat important for the recovery of these species.

The HPPRCC identified essential habitat areas for all listed, proposed, and candidate plants and evaluated species of concern to determine if essential habitat areas would provide for their habitat needs. However, the HPPRCC's mapping of habitat is distinct from the regulatory designation of critical habitat as defined by the Act. More data has been collected since the recommendations made by the HPPRCC in 1998. Much of the area that was identified by the HPPRCC as inadequately surveyed has now been surveyed in some way. New location data for many species has been gathered. Also, the HPPRCC identified areas as essential based on species clusters (areas that included listed species as well as candidate species and species of concern) while we have only delineated areas that are essential for the conservation of the 47 listed species at issue. As a result, the proposed critical habitat designations in this proposed rule include not only some habitat that was identified as essential in the 1998 recommendations but also habitat that was not identified as essential in those recommendations.

C. Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. Such requirements include, but are not limited to, space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring, germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

As described in the discussions for each of the 47 species (*Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *Insulare, Bonamia menziesii, Clermontia drepanomorpha, Clermontia*

lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Cyanea hamatiflora ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum var. tomentosum, and Zanthoxylum hawaiiense*) for which we are proposing critical habitat, we are proposing to define the primary constituent elements on the basis of the habitat features of the areas in which the plant species are reported from, as described by the type of plant community, associated native plant species, locale information (*e.g.*, steep rocky cliffs, talus slopes, stream banks), and elevation. The habitat features provide the ecological components required by the plant. The type of plant community and associated native plant species indicates specific microclimate conditions, retention and availability of water in the soil, soil microorganism community, and nutrient cycling and availability. The locale indicates information on soil type, elevation, rainfall regime, and temperature. Elevation indicates information on daily and seasonal temperature and sun intensity. Therefore, the descriptions of the physical elements of the locations of each of these species, including habitat type, plant communities associated with the species, location, and elevation, as described in the Supplementary Information: *Discussion of the Plant Taxa* section above, constitute the primary constituent elements for these species on the island of Hawaii.

We are unable to identify the primary constituent elements for *Cenchrus agrimonioides, Ctenitis squamigera, Hedyotis cookiana, Mariscus pennatiformis, Phlegmariurus mannii, Phyllostegia parviflora,* and *Plantago princeps,* which no longer occur on the island of Hawaii, because information on these features for these species on the island is not available at this time. Therefore, we are not able to identify the specific areas outside the geographic areas occupied by these species at the time of their listing (unoccupied habitat) that are essential for the conservation of *Cenchrus agrimonioides, Ctenitis squamigera, Hedyotis cookiana, Mariscus pennatiformis, Phlegmariurus mannii, Phyllostegia parviflora,* and *Plantago princeps* on the island of Hawaii.

All areas proposed as critical habitat are within the historical range of one or more of the 47 species at issue and contain one or more of the physical or biological features (primary constituent elements) essential for the conservation of one or more of the species.

D. Criteria Used to Identify Critical Habitat

The lack of detailed scientific data on the life history of these plant species makes it impossible for us to develop a robust quantitative model (*e.g.*, population viability analysis) to identify the optimal number, size, and location of critical habitat units to achieve recovery (Beissinger and Westphal 1998; Burgman *et al.* 2001; Ginzburg *et al.* 1990; Karieva and Wennergren 1995; Menges 1990; Murphy *et al.* 1990; Taylor 1995). At this time, and consistent with the listing of these species and their recovery plans, the best available information leads us to conclude that the current size and distribution of the extant populations are not sufficient to expect a reasonable probability of long-term survival and recovery of these plant species. Therefore, we used the best available information, including expert scientific opinion to identify potentially suitable habitat within the known historic range of each species.

We considered several factors in the selection and proposal of specific boundaries for critical habitat for these 47 species. For each of these species, the overall recovery strategy outlined in the approved recovery plans includes the following components: (1) Stabilization of existing wild populations, (2) protection and management of habitat, (3) enhancement of existing small populations and reestablishment of new populations within historic range, and (4) research on species' biology and ecology ((Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999). Thus, the long-term recovery of these species is dependent upon the protection of existing population sites and potentially suitable unoccupied habitat within historic range.

The overall recovery goal stated in the recovery plans for each of these species includes the establishment of 8 to 10 populations with a minimum of 100 mature individuals per population for long-lived perennials, 300 mature individuals per population for short-lived perennials, and 500 mature individuals per population for annuals. There are some specific exceptions to this general recovery goal of 8 to 10 populations for species that are believed to have occurred historically as one, large, scattered population (see discussion below on *Argyroxiphium kauense*), and the proposed critical habitat designations reflect this exception for these species. To be considered recovered each population of a species endemic to the island of Hawaii should occur on the island to which it is endemic, and likewise the populations of a multi-island species should be distributed among the islands of its known historic range (Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999). A population, for the purposes of this discussion and as defined in the recovery plans for these species, is defined as a unit containing 100, 300, or 500 mature individuals, depending on whether the species is a long-lived perennial, short-lived perennial, or annual, in which the individuals could be regularly cross-pollinated and are influenced by the same small-scale events (such as landslides).

For *Argyroxiphium kauense,* the recovery objective is more than 100,000 individuals spread over the historic range of the species because the best available information indicates this number of individuals is necessary to preserve the majority of the existing genetic diversity and to protect against extinction due to catastrophic events, especially lava flows (Service 1996c). *Argyroxiphium kauense* is monocarpic (only flowering once before dying), requires years to decades to mature, and must be cross-pollinated from a genetically different plant to produce viable seeds (Powell 1992, Carr *et al.* 1986). All of these characteristics indicate the need for more individuals in order to maintain a genetically diverse, viable population (Falk *et al.* 1996).

By adopting the specific recovery objectives enumerated above, the adverse effects of genetic inbreeding and random environmental events and catastrophes, such as landslides, hurricanes or tsunamis, that could destroy a large percentage of the species at any one time may be reduced (Menges 1990, Podolsky 2001). These recovery objectives were initially

developed by the HPPRCC and are found in all of the recovery plans for these species. While they are expected to be further refined as more information on the population biology of each species becomes available, the justification for these objectives is found in the current conservation biology literature addressing the conservation of rare and endangered plants and animals (Beissinger and Westphal 1998; Burgman *et al.* 2001; Falk *et al.* 1996; Ginzburg *et al.* 1990; Hendrix and Kyhl 2000; Karieva and Wennergren 1995; Luijten *et al.* 2000; Meffe and Carroll 1997; Podolsky 2001; Menges 1990; Murphy *et al.* 1990; Quintana-Ascencio and Menges 1996; Taylor 1995; Tear *et al.* 1995; Wolf and Harrison 2001). The overall goal of recovery in the short-term is a successful population that can carry on basic life-history processes, such as establishment, reproduction, and dispersal, at a level where the probability of extinction is low. In the long-term, the species and its populations should be at a reduced risk of extinction and be adaptable to environmental change through evolution and migration.

The long-term objectives, as reviewed by Pavlik (1996), require from 50 to 2,500 individuals per population, based largely on research and theoretical modeling on endangered animals, since much less research has been done on endangered plants. Many aspects of species life history are typically considered to determine guidelines for species interim stability and recovery, including longevity, breeding system, growth form, fecundity, ramet (a plant that is an independent member of a clone) production, survivorship, seed duration, environmental variation, and successional stage of the habitat. Hawaiian species are poorly studied, and the only one of the afore-mentioned characteristics that can be uniformly applied to all Hawaiian plant species is longevity (*i.e.*, long-lived perennial, short-lived perennial, and annual). In general, long-lived woody perennial species would be expected to be viable at population levels of 50 to 250 individuals per population, while short-lived perennial species would be viable at population levels of 1,500 to 2,500 individuals or more per population. These population numbers were refined for Hawaiian plant species by the HPPRCC (1994) due to the restricted distribution of suitable habitat typical of Hawaiian plants and the likelihood of smaller genetic diversity of several species that evolved from one single introduction. For recovery of Hawaiian plants, the HPPRCC recommended a general recovery guideline of 100 mature individuals per population for long-lived perennial species, 300 mature individuals per population for short-lived perennial species, and 500 mature individuals per population for annual species.

The HPPRCC also recommended the conservation and establishment of 8 to 10 populations to address the numerous risks to the long-term survival and conservation of Hawaiian plant species. Although absent the detailed information inherent to the types of PVA models described above (Burgman *et al.* 2001), this approach nevertheless employs two widely recognized and scientifically accepted goals for promoting viable populations of listed species: (1) Creation or maintenance of multiple populations so that a single or series of catastrophic events cannot destroy the whole listed species (Luijten *et al.* 2000; Menges 1990; Quintana-Ascencio and Menges 1996); and (2) increasing the size of each population in the respective critical habitat units to a level where the threats of genetic, demographic, and normal environmental uncertainties are diminished (Hendrix and Kyhl 2000; Luijten *et al.* 2000; Meffe and Carroll 1997; Podolsky 2000; Service 1997; Tear *et al.* 1995; Wolf and Harrison 2001). In general, the larger the number of populations and the larger the size of each population, the lower the probability of extinction (Raup 1991; Meffe and Carroll 1997). This basic conservation principle of redundancy applies to Hawaiian plants. By maintaining 8 to 10 viable populations in the several proposed critical habitat units, the threats represented by a fluctuating environment are alleviated and the species has a greater likelihood of achieving long-term survival and conservation. Conversely, loss of one or more of the plant populations within any critical habitat unit could result in an increase in the risk that the entire listed species may not survive and recover.

Due to the reduced size of suitable habitat areas for these Hawaiian plant species, they are now more susceptible to the variations and weather fluctuations affecting quality and quantity of available habitat, as well as direct pressure from hundreds of species of non-native plants and animals. Establishing and conserving 8 to 10 viable populations on one or more island(s) within the historic range of the species will provide each species with a reasonable expectation of persistence and eventual recovery, even with the high potential that one or more of these populations will be eliminated by normal or random adverse events, such as hurricanes, fires, and alien plant invasions (HPPRCC 1994; Luijten *et al.* 2000; Mangel and Tier 1994; Pimm *et al.* 1998; Stacey and Taper 1992). We conclude that designation of adequate suitable habitat for 8 to 10 populations as critical habitat will help give the species a reasonable likelihood of long-term survival and recovery, based on currently available information.

In summary, the long-term survival and recovery requires the designation of critical habitat units on one or more of the Hawaiian islands with suitable habitat for 8 to 10 populations of each plant species. For *Agyroxiphium kauense,* however, the recovery goal is more than 100,000 individuals spread over the historical range of the species. Some of the habitat is currently not known to be occupied by these 47 species. To recover the species, it will be necessary to conserve suitable habitat in these unoccupied units, which in turn will allow for the establishment of additional populations through natural recruitment or managed reintroductions. Establishment of these additional populations will increase the likelihood that the species will survive and recover in the face of normal and stochastic events (*e.g.*, hurricanes; fire; and non-native species introductions, such as the predation of *Argyroxiphium kauense* by mouflon sheep) (Pimm *et al.* 1998; Stacey and Taper 1992; Mangel and Tier 1994; Joan Canfield, pers. comm. 1992).

In this proposal, we have defined the primary constituent elements on the basis of the habitat features of the areas in which the plant species are reported from such as the type of plant community, the associated native plant species, the physical location (*e.g.*, steep rocky cliffs, talus slopes, stream banks), and elevation. The areas we are proposing to designate as critical habitat provide some or all of the habitat components essential for the conservation of the 47 plant species.

We used the following considerations in delineating proposed critical habitat units. We:

1. Focused on designating units representative of the known current and historical geographic and elevational range of each species;

2. Proposed critical habitat units would allow for expansion of existing wild populations and reestablishment of wild populations within historic range, as recommended by the recovery plans for each species; and

3. Delineated critical habitat boundaries in such a way that areas with overlapping occupied or potentially suitable unoccupied habitat

could be depicted clearly (multi-species units).

We began by creating rough units for each species by screen digitizing polygons (map units) using ArcView (ESRI), a computer GIS program. The polygons were created by overlaying current and historic plant location points onto a digital map of the island's elevation contours and vegetation types (initially described in Jacobi (1989)).

The resulting shape files (delineating historic elevational range and potential, suitable habitat) were then evaluated. Elevation ranges were further refined and land areas identified as not suitable for a particular species (*i.e.*, not containing the primary constituent elements) were avoided. The resulting shape files for each species then were considered to define all suitable habitat on the island, including occupied and unoccupied habitat.

These shape files of suitable habitat were further evaluated. Several factors were then used to delineate the proposed critical habitat units from these land areas. We reviewed the recovery objectives as described above and in recovery plans for each of the species to determine if the number of populations and population size requirements needed for conservation would be available within the critical habitat units identified as containing the appropriate primary constituent elements for each species. For multi-island species multiple populations of each taxon were identified on islands where they now occur or occurred historically. Because of the need to propose critical habitat on an island-by-island basis for multi-island species we evaluated the historical distribution of each multi-island species throughout Hawaii, based on the best available information available to us at this time. We expect to refine proposed areas for these multi-island species once all the proposed rules for the Hawaiian Islands are published. This refinement will be based on an evaluation on what is essential to the species on these islands throughout its historical distribution. Of the areas identified as potentially suitable habitat, only those areas within the least disturbed suitable habitat and that were determined as essential to the species were proposed as critical habitat.

A population for this purpose is defined as a discrete aggregation of individuals located a sufficient distance from a neighboring aggregation such that the two are not affected by the same small-scale events and are not believed to be consistently cross-pollinated. In the absence of more specific information indicating the appropriate distance to assure limited cross-pollination, we are using a distance of 1,000 m (3,281 ft) based on our review of current literature on gene flow (Barret and Kohn 1991; Fenster and Dudash 1994; Havens 1998; M.H. Schierup and F.B. Christiansen 1996).

Using the above criteria we delineated the proposed critical habitat for each species. When species units overlapped, we combined units for ease of mapping. Such critical habitat units encompass a number of plant communities. Using satellite imagery and parcel data we then eliminated areas that did not contain the appropriate vegetation, associated native plant species, or features such as cultivated agriculture fields, housing developments or other areas that are unlikely to contribute to the conservation of one or more of the 47 plant species. Geographic features (ridge lines, valleys, streams, coastlines, etc.) or man-made features (roads or obvious land use) that created an obvious boundary for a unit, were used as unit area boundaries. We also used watershed delineations to dissect very large proposed critical habitat units in order to simplify the unit mapping and their descriptions.

Section 7 consultation is necessary and adverse modification generally could occur only if the primary constituent elements are affected within the critical habitat boundaries. Therefore, not all activities within critical habitat would trigger an adverse modification conclusion. In defining critical habitat boundaries, we made an effort to avoid developed areas, such as towns and other similar lands, that are unlikely to contribute to the conservation of the 47 species. However, the minimum mapping unit that we used to approximate our delineation of critical habitat for these species did not allow us to exclude all such developed areas. In addition, existing man-made features and structures within the boundaries of the mapped unit, such as buildings, roads, aqueducts, telecommunications equipment, telemetry antennas, radars, missile launch sites, arboreta and gardens, heiau (indigenous places of worship or shrines), airports, other paved areas, and other rural residential landscaped areas do not contain one or more of the primary constituent elements and would be excluded under the terms of this proposed regulation. Federal actions limited to those areas, therefore would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

In summary, for the Hawaii Island species we utilized the approved recovery plan guidance to identify appropriately sized land units containing suitable occupied and unoccupied habitat. Based on the best available information, we believe these areas constitute the habitat necessary on the island of Hawaii to provide for the conservation of these 47 species.

E. Managed Lands

Currently occupied or historically known sites containing one or more of the primary constituent elements considered essential to the conservation of these 47 plant species were examined to determine if additional special management considerations or protection are required above those currently provided. We reviewed all available management information on these plants at these sites, including published reports and surveys; annual performance and progress reports; management plans; grants; memoranda of understanding and cooperative agreements; DOFAW planning documents; internal letters and memos; biological assessments and environmental impact statements; and section 7 consultations. Additionally, each public (*i.e.*, county, State, or Federal government holdings) and private landowner on Hawaii island with a known occurrence of one of the 47 species was contacted by mail. We reviewed all information received in response to our landowner mailing and open houses held at three locations (Captain Cook, Waimea, and Hilo) on the island of Hawaii on August 1, 2, and 3, 2000, respectively. When clarification was required on the information provided to us, we followed up with a telephone contact. Because of the large amount of land on Hawaii island under State of Hawaii jurisdiction, we met with staff from the island of Hawaii's DOFAW office to discuss their current management for the plants on their lands.

Pursuant to the definition of critical habitat in section 3 of the Act, the primary constituent elements as found in any area so designated must also require "special management considerations or protections." Adequate special management or protection is provided by a legally operative plan that addresses the maintenance and improvement of the essential elements and provides for the long-term conservation of the species. We consider a plan adequate when it: (1) Provides a conservation benefit to the species (*i.e.*, the plan must maintain or provide for an increase in the species' population or the enhancement or restoration of its habitat within the area covered by the plan); (2) provides assurances that the management plan will be implemented (*i.e.*, those responsible for implementing the plan are capable of accomplishing the objectives, have an implementation schedule and/or have adequate funding for the management plan); and (3) provides assurances the conservation plan will be effective (*i.e.*, it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieves the plan's goals and objectives). If an area is covered by a plan that meets these criteria, it does not constitute critical habitat as defined by the Act because the primary constituent elements found there are not in need of special management.

In determining and weighing the relative significance of the threats that would need to be addressed in management plans or agreements, we considered the following:

(1) The factors that led to the listing of the species, as described in the final rules for listing each of the species. Effects of clearing and burning for agricultural purposes and of invasive non-native plant and animal species have contributed to the decline of nearly all endangered and threatened plants in Hawaii (Smith 1985; Howarth 1985, Stone 1985; Wagner *et al.* 1985; Scott *et al.* 1986; Cuddihy and Stone 1999; Vitousek 1992; Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999; Loope 1998). The degradation and destruction of habitat, and consumption of listed plants by wildfire has also played a direct role in the decline of over half of these species. Logging and clearing are still threats to the habitats that support these species, but to a much lesser degree than prior to listing.

Current threats to these species include non-native grass and shrub-carried wildfire; browsing, digging, rooting, and trampling from feral ungulates (including cattle, goats, sheep, and pigs); direct and indirect effects of non-native plant invasions, including alteration of habitat structure and microclimate; and disruption of pollination and gene-flow processes by adverse effects of mosquito-borne avian disease on forest bird pollinators, direct competition between native and non-native insect pollinators for food, and predation of native insect pollinators by non-native hymenopteran insects (ants). In addition, physiological processes such as reproduction and establishment continue to be stifled by fruit and flower eating pests such as non-native arthropods, mollusks, and rats, and photosynthesis and water transport affected by non-native insects, pathogens and diseases. Many of these factors interact with one another, thereby compounding effects. Such interactions include non-native plant invasions altering wildfire regimes, feral ungulates vectoring weeds and disturbing vegetation and soils thereby facilitating dispersal and establishment of non-native plants, and numerous non-native insects feeding on native plants, thereby increasing their vulnerability and exposure to pathogens and disease (Cuddihy and Stone 1999; Mack 1992; Scott *et al.* 1986; Howarth 1985, Smith 1985; D'Antonio and Vitousek 1992, Tunison *et al.* 1992; Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999, Bruegmann *et al.* 2001).

(2) The recommendations from the HPPRCC in their 1998 report to the Service ("Habitat Essential to the Recovery of Hawaiian Plants"). As summarized in this report, recovery goals for endangered Hawaiian plant species cannot be achieved without the effective control of non-native species threats, wildfire, and land use changes.

(3) The management actions needed for assurance of survival and ultimate recovery of Hawaii's endangered plants. These actions are described in our recovery plans for these 47 species (Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999), in the 1998 HPPRCC report to us (HPPRCC 1998), and in various other documents and publications relating to plant conservation in Hawaii (Mueller-Dombois 1985; Smith 1985; Stone 1985; Cuddihy and Stone 1999; Stone *et al.* 1992). In addition to monitoring the plant populations, these actions include, but are not limited to: (1) Feral ungulate control; (2) nonnative plant control; (3) rodent control; (4) invertebrate pest control; (5) fire management; (6) maintenance of genetic material of the endangered and threatened plants species; (7) propagation, reintroduction, and/or augmentation of existing populations into areas deemed essential for the recovery of these species; (8) ongoing management of the wild, outplanted, and augmented populations; and (9) habitat management and restoration in areas deemed essential for the recovery of these species.

In general, taking all of the above recommended management actions into account, the following management actions are ranked in order of importance (Service 1994, 1995a, 1996a, 1996b, 1996c, 1997a, 1998a, 1998b, 1998c, 1999). It should be noted, however, that, on a case-by-case basis, some of these actions may rise to a higher level of importance for a particular species or area, depending on the biological and physical requirements of the species and the location(s) of the individual plants: Feral ungulate control; wildfire management; non-native plant control; rodent control; invertebrate pest control; maintenance of genetic material of the endangered and threatened plant species; propagation, reintroduction, and/or augmentation of existing populations into areas deemed essential for the recovery of the species; ongoing management of the wild, outplanted, and augmented populations; maintenance of natural pollinators and pollinating systems, when known; habitat management and restoration in areas deemed essential for the recovery of the species; monitoring of the wild, outplanted, and augmented populations; rare plant surveys; and control of human activities/access.

As shown in Table 3, the proposed critical habitat designations for 47 species of plants are found on Federal, State, and private lands on the island of Hawaii. Information received in response to our public notices, letters to landowners, open houses, and meetings, and information in our files indicated that on-going conservation management action for these plants is variable, see below. Some landowners reported that they are not conducting conservation management actions on their lands while others provided information on various activities such as fencing, weeding, ungulate control, hunting, control of human access, scientific research, fire control, and propagation and/or planting of native plants. Without management plans and assurances that the plans will be implemented, we are unable to find that the land in question does not require special management or protection.

Federal Lands

Pohakuloa Training Area

The Sikes Act Improvements Act of 1997 (Sikes Act) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented

to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, because they require no additional special management or protection. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide a conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat.

The Pohakuloa Training Area is on State-owned land that is leased and administered by the United States Army Garrison, Hawaii (Army) for live-fire training. Ten plant species (*Asplenium fragile* var. *insulare, Hedyotis coriacea, Neraudia ovata, Portulaca sclerocarpa, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium,* and *Zanthoxylum hawaiiense*) are reported from Pohakuloa Training Area (RCUH 1997; HINHP Database 2000). The Army has written an INRMP, an Ecosystem Management Plan, an Endangered Species Management Plan, a Fire Management Plan, and annual reports on the natural resources management projects performed under the Ecosystems Management Program at Pohakuloa Training Area (Tamimi 1998; Evans 1998; Evans 1999; Schnell 1998; Schnell 1999; Sherry 1999; RCUH 1997; RCUH 1998; USAG-HI 2000). These documents and records of telephone conversations with Pohakuloa Training Area environmental staff indicate that some of the management actions identified in these plans have been implemented and have proven beneficial to populations of some species (Lena Schnell, and Scott Henderson, Pohakuloa Training Area, pers. comms. 2001). However, current management is not sufficient to address many of the factors inhibiting the long-term conservation of any of these ten species and thus provide conservation benefits to the species. In addition, there is no guarantee of long-term funding for on-going or future management actions. The U.S. Army is currently engaged in discussions with the Service to identify training-related impacts to the ten listed species at Pohakuloa Training Area and develop measures that avoid, minimize and offset those impacts. However, a more comprehensive management document has not been completed at this time. Therefore, we can not at this time find that management on this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat.

Hawaii Volcanoes National Park

Nineteen species (*Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Clermontia pyrularia, Cyrtandra giffardii, Hibiscadelphus giffardianus, Ischaemum byrone, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Spermolepis hawaiiensis, and Zanthoxylum hawaiiense*) are reported from Hawaii Volcanoes National Park (GDSI 2000; HINHP Database 2000).

Hawaii Volcanoes National Park (HVNP) was established by Congress in 1916 as the Hawaii Volcanoes Section of Hawaii National Park. In 1961, an Act of Congress established Hawaii Volcanoes as an independent unit of the National Park System to preserve for visitor enjoyment and scientific study the HVNP's outstanding scenic, geological, and biological resources. Hawaii Volcanoes National Park encompasses diverse environments that range from sea level to the summit of Mauna Loa at 4,169 m (13,677 ft) and includes the active Kilauea volcano (National Park Service 2001).

Management programs, objectives, and their progress are documented in the 1974 Natural Resources Management Plan final environmental statement (National Park Service 1974) and Draft 2000 Resource Management Plan (National Park Service 2000) for HVNP. Although HVNP's 1974 plan outlines the management issues and strategies used to protect, restore, and enhance the rare and native plants and their habitats within the park, it does not adequately address the conservation needs of the 19 plant species reported from the Park. We are aware that specific units within the HVNP are managed for feral ungulate control. Some units are currently free of, or at sufficiently low numbers of, feral ungulates that no additional special management of these units is necessary for several of the 19 plant species for which browsing, rooting and digging by feral ungulates have been identified as the primary threats. However, sufficient information regarding species status is not available. Therefore, we have retained this area within the critical habitat proposal.

Hakalau Forest National Wildlife Refuge, Hakalau Unit

Five species (*Clermontia lindseyana, Clermontia peleana, Cyanea shipmanii, Phyllostegia racemosa,* and *Phyllostegia velutina*) are reported from the U.S. Fish and Wildlife Service's Hakalau Unit of Hakalau Forest National Wildlife Refuge (GDSI 2000; HINHP Database 2000; Service 2000b).

Hakalau Forest National Wildlife Refuge was established in 1985 for the conservation of endangered forest birds and their rainforest habitat. Refuge management efforts are focused on fencing out and removing feral cattle and pigs, controlling weeds such as *Passiflora mollissima, Rubus argutus* (prickly Florida blackberry), and *Ulex europaeus* (gorse), and planting native plant species to restore native habitat. Endangered and common Hawaiian native plants are propagated and outplanted within fenced areas. Plant and animal populations are monitored and non-native plants controlled. Volunteers play an important role by planting trees and removing weeds. Management programs, objectives, and progress are documented in the Refuge's Management Plan (Service 1989). This plan details the management issues and strategies used to protect, restore, and enhance the rare and native plants and their habitats within Refuge boundaries (Service 1989). Specific proposed actions to control feral cattle and pigs include: Fencing, one-way gates, cattle driving, public hunting, staff hunting with dogs, aerial hunting, contract hunting with dogs, and trapping. Some monitoring actions to determine the status and distribution of ungulates, measure the effectiveness of management and control techniques, and evaluate recovery of the native biota have been implemented (Service 1996d).

Specific actions for control of non-native plants are outlined in the Draft Hakalau Forest National Wildlife Refuge Alien Species Management Plan (Service 2000a). Objectives include: Fencing and removal of ungulates from Hakalau Forest National Wildlife Refuge to stimulate recovery of native vegetation and slow or prevent the establishment of non-native plants; preventing or reducing the introduction and spread of non-native plants by staff, visitors, or other persons working or visiting Hakalau Forest National Wildlife Refuge; developing a monitoring program to identify new introductions of non-native plant species; mapping distributions of established invasive non-native plant species and developing a prioritized list of species for control; controlling targeted species of non-native plants using herbicide or manual methods; monitoring non-native plant control efforts to determine their effectiveness and monitoring response of vegetation to non-native plant control efforts; and controlling non-native birds that disperse invasive plants (Service 2000a).

Specific actions for threatened and endangered plant recovery include: Collecting seed and tissue material for propagation, reforestation, and outplanting. The number and location of outplanted common, threatened and endangered plant species is detailed in the Hakalau Forest National Wildlife Refuge Greenhouse FY 2000 annual report (Service 2000b). Actions outlined in the 1995 reforestation management plan include: Reforesting heavily grazed areas by planting seedlings of canopy tree species such as *Acacia koa, Metrosideros polymorpha,* and *Sophora chrysophylla;* reforesting heavily grazed areas and more lightly impacted areas with native understory plant species including rare and endangered species; and facilitating natural regeneration within areas less impacted by grazing using techniques such as soil scarification and herbicide treatments (Service 1995b).

Specific actions for wildland fire management are outlined in the 1997 Wildland Fire Management Strategy. These actions include: Providing an initial attack fire suppression capability; conducting prescribed fire activities in support of refuge habitat management programs; establishing appropriate fire related agreements/contracts; monitoring results of wild land and prescribed fires; updating fire management and associated plans, call-out lists, and mobilization guidelines; continuing to develop a cadre of "red-carded" firefighters for wild land fire, trained and equipped to accomplish the fire management program; and maintaining the refuge fire cache and fire equipment in a ready state (Service 1997b).

The plans listed above and the actions that have been implemented to manage endangered species habitats demonstrate the long-term commitment of the Refuge to ecosystem management within designated management units. Specifically, some factors causing the decline of *Clermontia lindseyana, Cyanea shipmanii, Phyllostegia racemosa,* and *Phyllostegia velutina* have been controlled within the following feral ungulate management units: Middle Honohina unit, Shipman unit, Upper Malua Unit, Upper Honohina unit, Middle Papaikou unit, and Pua Akala unit. However, we have not excluded the Refuge lands from this proposed designation.

Hakalau Forest National Wildlife Refuge, Kona Forest Unit

Two species (*Clermontia lindseyana* and *Nothocestrum breviflorum*) are reported from the U.S. Fish and Wildlife Service's Kona Forest Unit of Hakalau Forest National Wildlife Refuge (GDSI 2000; HINHP Database 2000).

The Kona Forest Unit of Hakalau Forest National Wildlife Refuge was established in 1997 to protect endangered forest birds and their habitat. Although the Service conducts some conservation management actions on this land, we have not yet begun implementing many of the actions outlined in our Conceptual Management Plan (Service 1997c) or in our Wildland Fire Management Plan (Service 2000c). Therefore, we have not proposed to exclude the Refuge from the designation.

State of Hawaii Lands

The State lands on the island of Hawaii include ceded and leased lands, and those that are administered by the Department of Hawaiian Home Lands (DHHL), the Department of Public Safety (DPS), and the Department of Land and Natural Resources (DLNR). Forty-two plants are reported from State lands (*Adenophorus periens, Achyranthes mutica, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium arenarium,* and *Zanthoxylum hawaiiense*). DLNR lands are made up of Forest Reserves, Wildlife Sanctuaries, Natural Area Reserves, State Recreation Areas, and a Research Reserve. Within DLNR the Division of Forestry and Wildlife administers all of these lands. State Recreation Areas are administered by the Division of State Parks. DLNR also manages the DHHL lands on the island of Hawaii. The Department of Public Safety lands are at Kulani Correctional Facility and are managed by that facility in cooperation with the Olaa-Kilauea Management Partnership. The State conducts some conservation management actions on these lands and provides access to others who are conducting such activities.

Many of DLNR's programs provide beneficial effects to endangered species and their habitat. Hawaii DOFAW management actions include fences that have been built to exclude feral ungulates from several one-acre rare plant sites, propagation and dissemination of native tree species that help restore native plant assemblages around the island, participation in a cooperative ecosystem management partnership with other Federal and State agencies and a private landowner, and administration of programs that either directly or indirectly benefit endangered species and their habitats. Twelve one-acre rare dry forest plant management units were established during the 1980s to protect dry forest plants from browsing and wildfire. These units were fenced to exclude feral ungulates and maintained in a fuel-free condition that has kept frequent wildfires from consuming the enclosed rare plants. These sites have provided a seed source for endangered species restoration efforts elsewhere on the island (Vickie Caraway, DOFAW, pers. comm. 2001).

The Division of Forestry and Wildlife's Natural Area Reserves System (NARS) was established in 1970 with the intent to preserve and maintain unique Hawaiian ecosystems and geological features. The island of Hawaii has eight NARS that encompass a total of 33,407 ha (82,550 ac). Six of these NARS harbor endangered species and are managed primarily to maintain the native ecosystems that support these species. Some management actions that have occurred in many of the NARS include construction of feral ungulate exclosure fences around particularly unique plant communities, such as within older kipuka (vegetated area surrounded by bare lava flows), and other habitats that support populations of endangered species; treatment of endangered tree species for invasive

non-native insects; physical and chemical control of non-native plant populations; rat baiting; and, feral cat trapping. Such sites include the Lama and Olopua units in Manuka NAR which support *Pleomele hawaiiensis* and *Colubrina oppositifolia*, and *Flueggea neowawraea* and *Gouania vitifolia*, respectively; the Aku unit in the Puu Makaala NAR that supports *Sicyos alba*; Laupahoehoe NAR that supports *Cyrtandra tintinnabula*, and the Puu o Umi NAR that supports a habitat ranked by the Hawaii Natural Heritage Program as a globally imperiled ecosystem, and other rare species (HINHP Database 2000; Hawaii DLNR 1982; Hawaii DLNR 1989a; Hawaii DLNR 1989b; Hawaii Heritage Program 1989).

Numerous efforts by the State of Hawaii on the island of Hawaii contribute to the conservation of listed plant species, including their rare plant management activities, administration of the NARS and Hawaii Forest Stewardship Program (FSP) programs. However these programs do not adequately address the ongoing threats to these listed plant species on their lands. In addition, there are no comprehensive management plans for the long-term conservation of endangered and threatened plants on these lands; no updated detailed reports on management actions conducted, and no assurances that management actions will be implemented in the long term or that long term funding is secure. Therefore, we cannot, at this time, find that management on these State lands is adequate to preclude a proposed designation of critical habitat.

Partnership (Federal-State-Private) Lands

Olaa Kilauea Management Area

Nine species (*Asplenium fragile* var. *insulare, Clermontia lindseyana, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Phyllostegia racemosa, Phyllostegia velutina, Plantago hawaiensis*, and *Sicyos alba*) are reported from the Olaa Kilauea Partnership lands owned by State, private and Federal entities on Hawaii island (GDSI 2000; HINHP Database 2000; Hawaii DLNR *et al.* 1999).

In an effort to protect native biological resources, landowners and other interested parties established a partnership to cooperatively manage the Olaa-Kilauea Management Area. This 12,950 ha (32,000 ac) management area includes lands owned or controlled by the Hawaii Department of Public Safety (Kulani Correctional Facility), the Hawaii Department of Land and Natural Resource (Puu Makaala Natural Area Reserve), the National Park Service (Olaa tract of Hawaii Volcanoes National Park), and privately owned lands in Kilauea Forest. The partnership cooperative agreement signed in 1994 includes the commitment to jointly develop a natural resources management plan that includes, but is not limited to, feral animal and non-native plant control measures, collaborative research projects, and habitat protection and restoration. A group of landowners and managers of these project lands as well as representatives from the Service, USGS–BRD and the U.S. Forest Service (USFS) developed a five year management plan (Hawaii DLNR *et al.* 1999).

The overall objective of management in the project area is the protection and recovery of native ecosystems to the point that they are self-sustaining, native-dominated communities with secure populations of native plant, invertebrate, and forest bird species. Management efforts are aimed at controlling feral pigs and non-native plants. As objectives for feral pig and non-native plant control are achieved and large, pig-free areas become available for more intensive management control for other predators, (*i.e.* black rats (which eat the fruit and/or seeds of some plants species)) restoration of rare plant species will be implemented (Hawaii DLNR *et al.* 1999).

Specific management actions to address feral ungulates include the construction of fences surrounding management units; staff hunting, trapping and snaring; and monitoring transects to detect ingress and determine efficiency of the feral animal control program within the management areas (Hawaii DLNR *et al.* 1999).

Specific management actions to address non-native plants include mapping the distribution of priority non-native plants; development of a control strategy; herbicide or manual control; follow-up monitoring to determine the effectiveness of control efforts; and, long-term monitoring of non-native plants within and outside fenced areas (Hawaii DLNR *et al.* 1999).

Specific management for rare plant inventory, monitoring and recovery actions include additional surveys and mapping the distribution of individual plants and populations; intensive monitoring to assess potential threats; evaluation of forest stand structure and reproduction; and, monitoring following management actions such as fencing and pig control. Propagation and outplanting programs are being considered for some rare plant species that appear to be inadequately reproducing in the wild or for those with inadequate genetic representation in the wild (*i.e.*, few individuals). As rare plants are located, representative genetic material is collected and maintained at the Volcano Mid-Elevation Rare Plant Facility. In some instances spot fencing is erected for interim protection from ungulates (Hawaii DLNR *et al.* 1999).

However these actions do not adequately address the ongoing threats to the listed plant species on this land. In addition, there is no legally operative plan that addresses the maintenance and improvement of the essential elements and provides for the long term maintenance of the species. Therefore, we cannot, at this time, find that management on these lands is adequate to preclude a proposed designation of critical habitat.

Private Lands

Kaupulehu mauka (toward the mountain, inland)

This 2 ha (5 ac) parcel in the District of North Kona is owned by the National Tropical Botanical Garden and is managed expressly for the benefit of endangered plants and their habitat. Currently, there are three endangered plant species that naturally occur within this parcel, *Colubrina oppositifolia, Nothocestrum breviflorum*, and *Pleomele hawaiiensis*. The primary factors inhibiting the recovery of these species in this area was limited seedling growth of these dry forest trees due to altered microclimate conditions by the non-native plant *Pennisetum setaceum* (fountain grass), wildfire, seed predation by rats and mice, and occasional browsing of seedlings and saplings by feral sheep and goats. A cattle fence was erected in 1950 and the cattle removed, however there are local accounts of feral sheep and goats using this area off-and-on until the fence was improved with hogwire and barbed wire in 1996. In 1996 the North Kona Dry Forest Working Group was organized to address recovery of dry forest ecosystems in the region and the group focused on this 2 ha (5 ac) parcel as its pilot project. The group has since removed all of the *Pennisetum setaceum* and thus reduced the wildfire hazard to this area. Rodent populations have also been controlled within this unit and numerous native understory species have been planted. The North Kona Dry Forest Working Group is committed to long-term management of this parcel for the benefit of Hawaiian dry forest ecosystems. However, no legally operative plan has been prepared for the site. In addition, this group operates with year-to-year funding and there is no assurance that funding will be available for long-term maintenance of the on-going management activities. Therefore, we cannot at this time, find that management on this land is adequate to preclude a proposed designation of critical habitat (Hawaii Forest Association, *in litt.* 1998; M. Bruegmann, pers. comm. 1999).

Kaupulehu makai (toward the ocean)

This 28 ha (70 ac) management unit in the District of North Kona is part of a larger parcel owned by the Kamehameha Schools Bishop Estate. Four endangered plant species naturally occur within this dry forest management unit, *Bonamia menziesii, Colubrina oppositifolia, Nothocestrum breviflorum*, and *Pleomele hawaiiensis*. The primary factors inhibiting the recovery of these species in this area was the limited seedling growth of these dry forest trees due to altered microclimate conditions by non-native *Pennisetum setaceum*, wildfire, seed predation by rats and mice, and occasional browsing of seedlings and saplings by feral sheep and goats. A sheep and goat fence was erected in 1999 by the North Kona Dry Forest Working as part of an effort to expand dry forest restoration efforts to larger areas within the region. The group is in the process of removing *Pennisetum setaceum* from this site to eliminate the wildfire hazard to this area and enhance forest restoration efforts. Rodent populations are also being controlled within this unit and numerous native understory species have been planted. The North Kona Dry Forest Working Group is committed to long-term management of this parcel for the benefit of Hawaiian dry forest ecosystems and no management activities beyond those planned and currently occurring at the site appear to be needed to provide for the conservation of the four listed plant species. However, no legally operative plan has been prepared for the site. In addition, this group operates with year-to-year funding and there is no assurance that funding will be available for long-term maintenance of the on-going management activities. Therefore, we cannot at this time, find that management of this land is adequate to preclude a proposed designation of critical habitat (Hawaii Forest Industry Association *in litt.* 1998).

If we receive information during the public comment period that any of the lands within the proposed designations are actively managed to promote the conservation and recovery of the 47 listed species at issue in this proposed designation, in accordance with long term conservation management plans or agreements, and there are assurances that the proposed management actions will be implemented and effective, the Service can consider this information when making a final determination of critical habitat.

In addition, we are aware that other private landowners and the State of Hawaii are considering the development of land management plans or agreements that may promote the conservation and recovery of endangered and threatened plant species on the island of Hawaii. We support these efforts and provide technical assistance whenever possible. We are soliciting comments on whether future development and approval of conservation measures (*e.g.*, Habitat Conservation Plans, Conservation Agreements, Safe Harbor Agreements) should trigger revision of designated critical habitat to exclude such lands and, if so, by what mechanism.

The proposed critical habitat units described below constitute our best assessment of the physical and biological features needed for the conservation of the 47 plant species (*Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum* var. *tomentosum*, and *Zanthoxylum hawaiiense*) and the special management needs of these species, and are based on the best scientific and commercial information available and described above. We put forward this proposal acknowledging that we have incomplete information regarding many of the primary biological and physical requirements for these species. However, both the Act and the relevant court order requires us to proceed with designation at this time based on the best information available. As new information accrues, we may reevaluate which areas warrant critical habitat designation. We anticipate that comments received through the public review process and from any public hearings, if requested, will provide us with additional information to use in our decision making process and in assessing the potential impacts of designating critical habitat for one or more of these species.

The approximate areas of proposed critical habitat by landownership or jurisdiction are shown in Table 5.

TABLE 5.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA BY UNIT AND LAND OWNERSHIP OR JURISDICTION, HAWAII COUNTY, HAWAII.[1]

Unit name	State/Local	Private	Federal	Total
Hawaii A1	518 ha (1,280 ac)	202 ha (498 ac)		719 ha[1] (1,777 ac)
Hawaii A2	1,779 ha (4,395 ac)	907 ha (2,240 ac)		2,685 ha[1] (6,635 ac)
Hawaii B	5,738 ha (14,178 ac)	2,462 ha (6,084 ac)		8,200 ha (20,263 ac)[1]
Hawaii C	38 ha (94 ac)	<1 ha (<1 ac)		38 ha (94 ac)
Hawaii D1		55 ha (136 ac)		55 ha (136 ac)
Hawaii D2		43 ha (107 ac)		43 ha (107 ac)
Hawaii D3		257 ha (636 ac)		257 ha (636 ac)
Hawaii D4		14 ha (34 ac)		14 ha (34 ac)
Hawaii D5		1 ha (4ac)		1 ha (4 ac)
Hawaii D6		36 ha (89 ac)		36 ha (89 ac)

TABLE 5.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA BY UNIT AND LAND OWNERSHIP OR JURISDICTION, HAWAII COUNTY, HAWAII.[1]—Continued

Unit name	State/Local	Private	Federal	Total
Hawaii D7	.....	112 ha (278 ac)	.....	112 ha (278 ac)
Hawaii D8	.....	8 ha (21 ac)	.....	8 ha (21 ac)
Hawaii E	1,565 ha (3,866 ac) ...	52 ha (128 ac)	1,375 ha (3,399 ac) ...	2,992 ha (7,393 ac)
Hawaii F	4,639 ha (11,464 ac)	946 ha (2,338 ac)	8,321 ha (20,561 ac)	13,906 ha (34,363 ac)
Hawaii G	22,274 ha (55,040 ac)	6,378 ha (15,760 ac)	3,634 ha (8,980 ac) ...	32,286 ha (79,781 ac) [1]
Hawaii H	46 ha (113 ac)	1,406 ha (3,476 ac) ...	3,870 ha (9,563 ac) ...	5,322 ha (13,151 ac) [1]
Hawaii I	.....	8 ha (20 ac)	514 ha (1,269 ac)	522 ha (1,290 ac) [1]
Hawaii J	4,304 ha (10,636 ac)	499 ha (1,233 ac)	262 ha (647 ac)	5,065 ha (12,516 ac)
Hawaii K	8,742 ha (21,601 ac)	6,552 ha (16,191 ac)	.....	15,294 ha (37,792 ac)
Hawaii L	<1 ha (<1 ac)	.....	38,504 ha (95,145 ac)	38,505 ha (95,148 ac) [1]
Hawaii M1	19 ha (46 ac)	.....	.....	19 ha (46 ac)
Hawaii M2	133 ha (328 ac)	.....	.....	133 ha (328 ac)
Hawaii M3	112 ha (277 ac)	29 ha (72 ac)	.....	141 ha (349 ac)
Hawaii M4	141 ha (347 ac)	.....	.....	141 ha (347 ac)
Hawaii M5	.....	.....	533 ha (1,316 ac)	533 ha (1,316 ac)
Hawaii N1	35 ha (87 ac)	.....	.....	35 ha (87 ac)
Hawaii N2	439 ha (1,084 ac)	.....	2 ha (6 ac)	441 ha (1,091 ac) [1]
Hawaii O	179 ha (441 ac)	36 ha (90 ac)	.....	215 ha (531 ac)
Hawaii P	12 ha (31 ac)	534 ha (1,320 ac)	.....	547 ha [1] (1,351 ac)
Hawaii Q	3,148 ha (7,778 ac) ...	401 ha (992 ac)	.....	3,549 ha (8,770 ac)
Hawaii R	336 ha (830 ac)	51 ha (126 ac)	.....	387 ha (955 ac) [1]
Hawaii S	351 ha (868 ac)	32 ha (79 ac)	.....	383 ha (947 ac)
Hawaii T	1,094 ha (2,704 ac) ...	395 ha (977 ac)	.....	1,489 ha (3,681 ac)
Hawaii U	.....	.....	615 ha (1,520 ac)	615 ha (1,520 ac)
Hawaii V	.....	951 ha (2,351 ac)	.....	951 ha (2,351 ac)
Hawaii W	.....	1,479 ha (3,654 ac) ...	.....	1,479 ha (3,654 ac)
Hawaii X	138 ha (340 ac)	.....	.....	138 ha (340 ac)
Hawaii Y1	4 ha (11 ac)	208 ha (513 ac)	.....	212 ha (524 ac)
Hawaii Y2	195 ha (482 ac)	139 ha (344 ac)	.....	334 ha (826 ac)
Hawaii Z	8,317 ha (20,552 ac)	2,421 ha (5,983 ac) ...	.....	10,738 ha (26,535 ac)
Hawaii AA	26,198 ha (64,736 ac)	2,107 ha (5,206 ac) ...	79 ha (196 ac)	28,384 ha (70,138 ac)
Hawaii BB	43 ha (106 ac)	.....	.....	43 ha (106 ac)
Total	90,534 ha (223,715 ac).	28,725 ha (70,980 ac)	57,709 ha (142,601 ac).	176,968 ha (437,285 ac)

[1] Area differences due to digital mapping discrepancies between TMK data (GDSI 2000) and USGS coastline, or differences due to rounding.

Proposed critical habitat for 47 species includes lands under private, State, and Federal jurisdiction (owned and leased lands), with Federal lands including lands managed by the Department of Defense, U.S. Fish and Wildlife Service, Government Services Administration, and the National Park Service. Lands proposed as critical habitat have been divided into 28 units (Hawaii A1 through Hawaii BB) on the island of Hawaii. A brief description of each unit is presented below.

Descriptions of Critical Habitat Units

Hawaii A

The proposed unit Hawaii A (subunits A1 and A2) provides occupied habitat for two species: *Nothocestrum breviflorum* and *Pleomele hawaiiensis*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Nothocestrum breviflorum* and *Pleomele hawaiiensis*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii A).

This unit cluster contains a total of 3,404 ha (8,412 ac) on State and private lands. Unit A1 is in the Pololu and Honokane Nui watersheds and unit A2 is bordered on the west by the Honokane Iki watershed and on the east by the Waimanu watershed and contains portions of the Honokea, Honopue, Kailikaula, Kaimu, Kalele, Kolealiilii, Kukui, Nakooko, Ohiahuea, Pae, Paopao South, Punalulu, Waiaalala, Waiapuka, Waikaloa, Waimaile, and Waipahi watersheds. It contains a portion of the Kohala forest Reserve. The natural features found in this unit are: Unit A1, Kupenau summit and Pololu Stream; unit A2, Kamoloumi Stream, Kolealiilii Stream, Ohiahuea Stream, Oniu Stream, Paohia Gulch, Waipani Stream, and Waiapuka Stream.

Key to Table for Hawaii A–BB

1. This unit is needed to meet the recovery plan objectives of 8 to 10 viable populations (self perpetuating and sustaining for at least 5 years) with 100 to 500 mature, reproducing individuals per species throughout its historical range as specified in the recovery plans.
2. Island endemic.
3. Multi-island species with current locations on other islands.
4. Multi-island species with no current locations on other islands.
5. Current locations do not necessarily represent viable populations with the required number of mature individuals.
6. Several current locations may be affected by one naturally occurring, catastrophic event.
7. Species with variable habitat requirements, usually over wide areas. Wide ranging species require more space per individual over more land area to provide needed primary constituent elements to maintain healthy population size.

8. Not all currently occupied habitat was determined to be essential to the recovery of the species.
9. Life history, long-lived perennial—100 mature, reproducing individuals needed per population.
10. Life history, short-lived perennial—300 mature, reproducing individuals needed per population.
11. Life history, annual—500 mature, reproducing individuals needed per population.
12. Narrow endemic, the species probably never naturally occurred in more than a single or a few populations.
13. Species has extremely restricted, specific habitat requirements.
14. Hybridization is possible so distinct populations of related species should not overlap, requiring more land area.

‡ Not all suitable habitat is designated, only those areas essential for the conservation of the species.

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Table for Hawaii A

Species	Nothocestrum breviflorum	Pleomele hawaiiensis
1. 8–10 pop. guidelines.	X*	X*
2. Island endemic.	X	X
3. Multi-island/current other islands.		
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X
6. Several occ. vulnerable to destruction.	X	X
7. Species with variable habitats.	X	X
8. Not all occupied habitat needed.	X	
9. Long-lived perennial–100/pop.	X	X
10. Short-lived perennial–300/pop.		
11. Annual–500/pop.		
12. Narrow endemic.		
13. Restricted habitat requirements.		
14. Hybridization is possible.		
Notes	*Species is wide ranging.‡	*Species is wide ranging.‡

Hawaii B

The proposed unit Hawaii B provides occupied habitat for three species: *Achyranthes mutica, Clermontia drepanomorpha,* and *Phyllostegia warshaueri.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population for *Achyranthes mutica, Clermontia drepanomorpha,* and *Phyllostegia warshaueri,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii B).

This unit contains a total of 8,200 ha (20,263 ac) on State and privately owned lands. It is in portions of the Haloa, Honokane Nui, Honopue, Kaimu, Kawaihae, Lamimaumau, Nakooko, Ohiahuea, Waikaloa, Waikoloa/Waiulaula, Wailoa/Waipio, and Waimanu watersheds. It contains a portion of the Kohala Forest Reserve. Natural features found in this unit are Eke (summit), Kaholopoohina (summit), Kaiholena (summit), Kaunu o Kaleioohie (summit), Kilohana Gulch, Kohala Mountains (summit), Makalii (summit), Momoualoa Gulch, Opaeloa (summit), Puu Ahia, Puu Iki, Puu Kamoa, Puu Kawaiwai, Puu Laelae, Puu Lanikepu, Puu Loa (summit), Puu Makela, Puu Mala, Puu Ohu, Puu Palailai, Puu Pohoulaula, Puu o Umi, and Waiaka Gulch.

Table for Hawaii B

Species	*Not enough suitable habitat for 8 to 10 pops		
Notes			
14. Hybridization is possible.			
13. Restricted habitat requirements.			
12. Narrow endemic.			
11. Annual–500/pop.			
10. Short-lived perennial–300/pop.	X	X	X
9. Long-lived perennial–100/pop.			
8. Not all occupied habitat needed.			
7. Species with variable habitats.	X	X	X
6. Several occ. vulnerable to destruction.	X	X	X
5. Non-viable populations.	X	X	X
4. Multi-island/no current other islands.	X		
3. Multi-island/current other islands.			
2. Island endemic.		X	X
1. 8–10 pop. guidelines.	X*	X	X
Achyranthes mutica			
Clermontia drepanomorpha			
Phyllostegia warshaueri			

Hawaii C

The proposed unit Hawaii C provides occupied habitat for one species: *Sesbania tomentosa*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population throughout its known historical range considered by the recovery plans to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii C).

This unit contains a total of 38 ha (94 ac) on State and privately owned lands. The unit is in the Pohakuloa watershed and contains a portion of the Hapuna Beach State Recreation Area. This unit is north of Wailaea Bay and south of Hapuna Bay and adjacent to Kanekanaka Point.

Table for Hawaii C

Species	*Sesbania tomentosa*
1. 8–10 pop. guidelines.	X*
2. Island endemic.	
3. Multi-island/current other islands.	X
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	X
9. Long-lived perennial–100/pop.	
10. Short-lived perennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	

Notes
*Species is wide ranging, each island was probably one large, population.

Hawaii D

The proposed unit Hawaii D (subunits D1 through D8) provides occupied habitat for three species: *Isodendrion hosakae, Portulaca sclerocarpa,* and *Vigna o-wahuensis.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population for all three species, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species.

This unit also provides unoccupied habitat for the above three species: *Isodendrion hosakae, Portulaca sclerocarpa,* and *Vigna o-wahuensis.* Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more additional populations necessary to meet the recovery objectives of 8 to 10 populations for each species and 300 mature individuals per population for *Isodendrion hosakae, Portulaca sclerocarpa,* and *Vigna o-wahuensis,* throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Hawaii D).

This unit cluster contains a total of 526 ha (1,305 ac) on privately owned land. The units consist of puu (hills, summits, cinder cones) in the areas between the Kamakahala watershed in the west and Waipunahoe watershed in the east (with portions of Waikoloa/Waiulaula and Waiulili). Natural features for this unit are: Unit D1 contains Puu Pa; unit D2 contains Holoholoku summit; unit D3 contains Puu Io, Puu Kaliali, Puu Kekuakahea, and Puu Makahalau; unit D4 contains Heihei summit; unit D5 contains Nohona o Haeiki summit; unit D6 contains Nohona o Hae summit; unit D7 contains two unnamed puu; and unit D8 contains Puu Papapa.

Table for Hawaii D

Species	Isodendrion hosakae	Portulaca sclerocarpa	Vigna o-wahuensis
1. 8–10 pop. guidelines.	X	X*	X*
2. Island endemic.	X		
3. Multi-island/current other islands.		X	X
4. Multi-island/no current other islands.			
5. Non-viable populations.	X	X	X
6. Several occ. vulnerable to destruction.		X	X
7. Species with variable habitats.		X	X
8. Not all occupied habitat needed.			
9. Long-lived perennial–100/pop.			
10. Short-lived perennial–300/pop.	X	X	X
11. Annual–500/pop.			
12. Narrow endemic.	X		
13. Restricted habitat requirements.	X*		
14. Hybridization is possible.			
Notes	*Cinder cones.	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.

Hawaii E

The proposed unit Hawaii E provides occupied habitat for three species: *Clermontia lindseyana, Clermontia pyrularia,* and *Phyllostegia racemosa.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population for *Clermontia lindseyana, Clermontia pyrularia,* and *Phyllostegia racemosa,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii E).

This unit contains a total of 2,992 ha (7,393 ac) on State, Federal, and private lands. It is bounded on the north by Kaawali watershed and on the south by Umauma watershed and contains portions of the Haakoa, Kaiwilahilahi, and Waikaumalu watersheds. This unit contains portions of the Hakalau Forest NWR and the Hilo Forest Reserve. Natural features found in this unit are Nauhi Gulch and Puu Lahohinu.

Table for Hawaii E

Species				
	Clermontia lindseyana	Clermontia pyrularia	Phyllostegia racemosa	
1. 8–10 pop. guidelines.	X	X	X	
2. Island endemic.		X	X	
3. Multi-island/current other islands.	X			
4. Multi-island/no current other islands.				
5. Non-viable populations.	X	X	X	
6. Several occ. vulnerable to destruction.	X	X	X	
7. Species with variable habitats.	X	X		
8. Not all occupied habitat needed.	X			
9. Long-lived perennial–100/pop.				
10. Short-lived perennial–300/pop.	X	X	X	
11. Annual–500/pop.				
12. Narrow endemic.				
13. Restricted habitat requirements.			X*	
14. Hybridization is possible.				
Notes				*Epiphytic.

Hawaii F

The proposed unit Hawaii F provides occupied habitat for six species: *Cyanea platyphylla, Cyanea shipmanii, Cyrtandra giffardii, Cyrtandra tintinnabula, Phyllostegia racemosa, Phyllostegia warshaueri*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for this species and 300 mature individuals per population of *Cyanea platyphylla, Cyanea shipmanii, Cyrtandra giffardii, Cyrtandra tintinnabula, Phyllostegia racemosa, Phyllostegia warshaueri*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of these species.

This unit also provides unoccupied habitat for one species: *Clermontia peleana*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more additional populations necessary to meet the recovery objectives of 8 to 10 populations and 100 mature individuals per population, throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Hawaii F).

This unit contains a total of 13,906 ha (34,363 ac) on State, Federal, and private lands. This unit contains portions of the Haakoa, Hakalau, Honolii, Kaawalii, Kaiwiki, Kaiwilahilahi, Kapue, Kaula, Kawainui, Kilau, Kolekole, Laupahoehoe, Manoloa, Manowaiopae, Maulua, Nanue, Ninole, Pahale, Pahoehoe, Pohakupuka, Umauma, Waiaama, Waikaumalo, Wailuku, and Waipunalei watersheds. Unit F contains portions of the Hakalau Forest National Wildlife Refuge, Hilo Forest Reserve, Laupahoehoe Natural Area Reserve and Manowaialee Forest Reserve. The natural features include Haakoa Stream, Kaawalii Stream, Kaiwilahilahi Stream, Kaloaloa (summit), Kaula Stream, Magnetic Hill, Pahale Stream, Painiu Stream, and Waikaumalo Stream.

Table for Hawaii F

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Clermontia peleana	X			X*			X			X			X *		*Historical on Hawaii
Cyanea platyphylla	X	X			X	X	X	X		X					
Cyanea shipmanii	X	X			X	X	X	X		X					
Cyrtandra giffardii	X				X	X	X	X		X					
Cyrtandra tintinnabula	X	X			X		X	X		X					
Phyllostegia racemosa	X	X			X	X	X			X					*Epiphytically.
Phyllostegia warshaueri	X	X			X		X			X					

Hawaii G

The proposed unit Hawaii F provides occupied habitat for 11 species: *Argyroxiphium kauense, Asplenium fragile* var. *insulare, Clermontia lindseyana, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Phyllostegia racemosa, Phyllostegia velutina, Plantago hawaiense,* and *Sicyos alba*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population for *Asplenium fragile* var. *insulare, Clermontia lindseyana, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Phyllostegia racemosa, Phyllostegia velutina, Plantago hawaiense,* and *Sicyos alba*, or greater than 100,000 total individuals for *Argyroxiphium kauense*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of these species.

This unit also provides unoccupied habitat for one species: *Clermontia peleana*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more additional populations necessary to meet the recovery objectives of 8 to 10 populations and 300 mature individuals per population, throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Hawaii G).

This unit contains a total of 32,286 ha (79,781 ac) on State, Federal, and privately owned lands. It is in portions of Kaahakini, Wailoa, and Wailuku watersheds. It contains portions of the Hawaii Volcanoes National Park, Mauna Loa Forest Reserve, Hilo Forest Reserve, Olaa Forest Reserve, Puu Makaala Natural Area Reserve, Upper Waiakea Forest Reserve, and Waiakea 1942 Lava Flow Natural Area Reserve. The natural features of this unit include Kulani (summit), Lava Flow Of 1852, Lava Flow Of 1855, Lava Flow Of 1881, Puu Kipu, Puu Lalaau, Puu Lau, Puu Makaala, Solomons Waterhole, Waipahoehoe Gulch, and Waterhole Spring.

Table for Hawaii G

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Argyroxiphium kauense		X			X	X	X	X	X						100,000 individuals needed for recovery according to recovery plan.
Asplenium fragile var. insulare	X*		X		X	X		X		X			X**		*Species is wide ranging, each island was probably one large, population. ** Big, moist lava tubes (from 3.05 m to 4.57 m (10 to 15 ft) in diameter), pits, deep cracks, and lava tree molds, with at least a moderate soil or ash accumulation
Clermontia lindseyana	X		X		X	X	X	X		X					
Clermontia peleana	X			X*			X			X					*Historical on Hawaii
Cyanea platyphylla	X	X			X	X	X	X		X					
Cyanea shipmanii	X	X			X	X	X			X					
Cyanea stictophylla	X	X			X		X			X					
Cyrtandra giffardii	X				X	X	X	X		X					
Phyllostegia racemosa	X	X			X	X				X			X*		*Epiphytic.
Phyllostegia velutina	X	X			X	X	X	X		X					
Plantago hawaiensis	X*	X			X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Sicyos alba	X	X			X	X	X			X					

Hawaii H

The proposed unit Hawaii H provides occupied habitat for four species: *Argyroxiphium kauense, Phyllostegia racemosa, Plantago hawaiensis,* and *Silene hawaiiensis.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations of *Phyllostegia racemosa, Plantago hawaiensis,* and *Silene hawaiiensis* and 300 mature individuals per population for *Phyllostegia racemosa, Plantago hawaiensis, and Silene hawaiiensis,* or greater than 100,000 total individuals for *Argyroxiphium kauense,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii H).

This unit contains a total of 5,322 ha (13,151 ac) on State, Federal and privately owned lands. This unit is in the Kapapala watershed and contains a portion of Hawaii Volcanoes National Park. The natural features of this unit include the Keamoku Lava Flows, Kipuka Kulalilo, and Kipuka Maunaiu.

Table for Hawaii H

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Argyroxiphium kauense	0	X			X	X	X	X	X						*>100,000 individuals needed for recovery according to recovery plan.
Phyllostegia racemosa	X	X			X	X				X			X*		*Epiphytically.
Plantago hawaiensis	X*	X			X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Silene hawaiiensis	X*	X			X	X	X			X					*Species is wide ranging, each island was probably one large, population.

Hawaii I

The proposed unit Hawaii I provides occupied habitat for two species: *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii I).

This unit contains a total of 522 ha (1,290 ac) on Federal and privately owned lands. It lies in the Kapapala watershed and in the Hawaii Volcanoes National Park. This unit contains the natural features Kipuka Ki and Kipuka Puaulu.

Table for Hawaii I

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Hibiscadelphus giffardianus	X*	X			X	X	X		X			X		X	*Not enough suitable habitat exists for 8 to 10 populations at this time.
Melicope zahlbruckneri	X*	X			X	X	X	X	X						*Species is wide ranging.

Hawaii J

The proposed unit Hawaii J provides occupied habitat for one species: *Adenophorus periens*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population for *A. periens*, throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii J).

This unit contains a total of 5,065 ha (12,516 ac) on State, Federal, and privately owned lands. This unit lies in the Kaahakini watershed in the north and the Kilauea watershed in the south. This unit contains a portion of the Hawaii Volcanoes National Park and Kahaulea Natural Area Reserve. The natural features of this unit include the Lava Flows of 1969, 1970, and 1972.

Table for Hawaii J

Species	*Species is wide ranging, each island was probably one large, population. **Epiphytic.
Adenophorus periens	
1. 8–10 pop. guidelines.	X*
2. Island endemic.	
3. Multi-island/current other islands.	X
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	
8. Not all occupied habitat needed.	X
9. Long-lived perennial–100/pop.	
10. Short-lived perennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	X**
14. Hybridization is possible.	

Hawaii K

The proposed unit Hawaii J provides occupied habitat for five species: *Argyroxiphium kauense, Asplenium fragile* var. *insulare, Clermontia lindseyana, Cyanea stictophylla,* and *Phyllostegia velutina.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population for *Phyllostegia racemosa, Plantago hawaiensis,* and *Silene hawaiiensis,* or greater than 100,000 total individuals for *Argyroxiphium kauense,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for one species: *Melicope zahlbruckneri.* Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more additional populations necessary to meet the recovery objectives of 8 to 10 populations and 100 mature individuals per population, throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Hawaii K).

This unit contains a total of 15,294 ha (37,792 ac) on State and privately owned lands. This unit lies mostly in the Pahala watershed but has a small portion in the Kapapala watershed in the northeast and the Hilea watershed in the southwest. It contains a portion of the Kau Forest Reserve and the Kapapala Forest Reserve. The natural features of this unit include Maunaanu Waterhole and Puu Kinikini.

Table for Hawaii K

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Argyroxiphium kauense	0	X			X	X	X	X	X						*>100,000 individuals needed for recovery according to recovery plan.
Asplenium fragile var. insulare	X*		X		X	X	X	X		X			X**		*Species is wide ranging, each island was probably one large, population. ** Big, moist lava tubes (from 3.05 m to 4.57 m (10 to 15 ft) in diameter), pits, deep cracks, and lava tree molds, with at least a moderate soil or ash accumulation
Clermontia lindseyana	X	X	X		X	X	X	X		X					
Cyanea stictophylla	X	X			X		X			X					
Melicope zahlbruckneri	X	X			X	X	X	X	X						
Phyllostegia velutina	X	X			X	X	X	X		X					

Hawaii L

The proposed unit Hawaii L provides occupied habitat for three species: *Pleomele hawaiiensis, Portulaca sclerocarpa,* and *Sesbania tomentosa.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Pleomele hawaiiensis,* or 300 mature individuals per population for *Portulaca sclerocarpa* and *Sesbania tomentosa,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii L).

This unit contains a total of 38,505 ha (95,148 ac) on Federal and State lands. This unit is mainly in the Kapapala watershed and has a portion in the Kilauea watershed in the east and the Pahala watershed in the west. This unit lies completely in the Hawaii Volcanoes National Park. Natural features of this unit include Alae Crater, Aloi Crater, Byron Ledge, Chain Of Craters, Cinder Cone (summit), Devils Throat (crater), Halape (cape), Halemaoli (summit), Halemaumau (crater), Hiiaka Crater, Hilina Pali (pali = cliff), Holei Pali, Kahue Point, Kalanaokuaiki Pali, Kamakaia Hills, Kamakaia Lava Flow, Kamakaiauka (summit), Kamakaiawaena (summit), Kamooalii Lava Flow, Kau Desert, Keana Bihopa (summit), Keanakakoi Crater, Kilauea Crater, Kilauea Iki Crater, Kipuka Keana Bihopa (lava flow), Kipuka Pepeiau, Kokoolau Crater, Kukalauula Pali, Lava Flow Of 1919, Lava Flow Of 1920, Lava Flow Of 1921, Lava Flow Of 1954, Lava Flow Of 1961, Lava Flow of 1959, Lava Flow of 1961, Lele o Kalihipaa (cliff), Lua Manu Crater, Makahanu Pali, Pauahi Crater, Poliokeawe Pali, Puhimau Crater, Puu Huluhulu, Puu Kaone, Puu Kapukapu, Puu Koae, Puu Puai, Puueo Pali, Spatter Cone, Steaming Bluff, Uwekahuna Bluff, Waiwelawela Point, and Waldron Ledge.

Table for Hawaii L

Species	Notes	•Species is wide ranging.‡	•Species is wide ranging, each island was probably one large, population.	•Species is wide ranging, each island was probably one large, population.
Pleomele hawaiiensis	1. 8–10 pop. guidelines.	X•	X•	X•
	2. Island endemic.	X		
	3. Multi-island/current other islands.		X	X
	4. Multi-island/no current other islands.			
	5. Non-viable populations.	X	X	X
	6. Several occ. vulnerable to destruction.	X	X	X
	7. Species with variable habitats.	X	X	X
	8. Not all occupied habitat needed.			X
	9. Long-lived perennial–100/pop.	X		
	10. Short-lived perennial–300/pop.		X	X
	11. Annual–500/pop.			
	12. Narrow endemic.			
	13. Restricted habitat requirements.			
	14. Hybridization is possible.			
Portulaca sclerocarpa				
Sesbania tomentosa				

Hawaii M

The proposed unit Hawaii M (subunits M1 through M5) provides occupied habitat for one species: *Ischaemum byrone*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for this species and 300 mature individuals per population throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii M).

This unit cluster contains a total of 967 ha (2,386 ac) on State, Federal, and private lands. M1 and M2 lie in the Kaahakini watershed along the coast and M3, M4, and M5 lie in the Kilauea watershed along the coast. M3 contains the MacKenzie State Recreation Area and a portion of the Malama-Ki Forest Reserve and M5 lies completely in Hawaii Volcanoes National Park. The natural features of this unit cluster include: M1, no named features but the unit lies just south of Leleiwi Point; M2, no named features but the unit lies adjacent to Opihi Rock, an off-shore islet; M3, Kaakepa (summit) and Lililoa (cape); M4, Waipuku Point; and M5, Puu Manawalea.

Table for Hawaii M

Species	Ischaemum byrone
1. 8–10 pop. guidelines.	X*
2. Island endemic.	
3. Multi-island/current other islands.	X
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	X
9. Long-lived perennial–100/pop.	
10. Short-lived perennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	

Notes	*Species is wide ranging, each island was probably one large, population.

Hawaii N

The proposed unit Hawaii N (N1 and N2) provides occupied habitat for one species: *Sesbania tomentosa*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population for this species, throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii N).

This unit cluster contains a total of 476 ha (1,178 ac) on State and Federal lands. This unit is in the South Point watershed along the coast. The natural features of this unit include: N1, Keoneokanuku Bay and N2, Kaalo (bay), Kahawai Kolono (stream), Kahukupoko (cape), Kaulani (cape), Kipuka Hanalua, Kipuka Kaahue, Lua (crate), Makalei, Lua o Palahemo (lake), Luakeananolo (bay), Pali Haukeuke, and Puu o Mahana.

Table for Hawaii N

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Sesbania tomentosa	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.

Hawaii O

The proposed unit Hawaii O provides occupied habitat for one species: *Mariscus fauriei*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population, throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii O).

This unit contains a total of 215 ha (531 ac) on State and private lands. This unit lies in the South Point Watershed. This unit has no named natural features but lies between Kipuka Puu Kou in the east and the Kamaoa Homesteads in the west.

Table for Hawaii O

Species	Mariscus fauriei
1. 8–10 pop. guidelines.	X*
2. Island endemic.	
3. Multi-island/current other islands.	X
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	
9. Long-lived perennial–100/pop.	
10. Short-lived perennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	
Notes	*Species is wide ranging, each island was probably one large, population.

Hawaii P

The proposed unit Hawaii P provides occupied habitat for one species: *Pleomele hawaiiensis*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 100 mature individuals per population for *Pleomele hawaiiensis* throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii P).

This unit contains a total of 547 ha (1,351 ac) on State and privately owned lands. This unit lies completely in the Kauna watershed. Natural features of this unit include Kipuka Kapulehu, Kipuka Mamane, and the Lava Flow of 1887.

Table for Hawaii P

Species	*Species is wide ranging.
Pleomele hawaiiensis	
1. 8–10 pop. guidelines.	X*
2. Island endemic.	X
3. Multi-island/current other islands.	
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	
9. Long-lived perennial–100/pop.	X
10. Short-lived perennial–300/pop.	
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	

Notes

Hawaii Q

The proposed unit Hawaii Q provides occupied habitat for five species: *Colubrina oppositifolia, Diellia erecta, Flueggea neowawraea, Gouania vitifolia,* and *Neraudia ovata.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Colubrina oppositifolia* and *Flueggea neowawraea,* or 300 mature individuals per population for *Diellia erecta, Gouania vitifolia,* and *Neraudia ovata,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii Q).

This unit contains a total of 3,549 ha (8,770 ac) on State and privately owned lands. This unit lies mostly in the Kauna watershed with a portion in the Kiilae in the southwest. A large portion of this unit lies in the Manuka Natural Area Reserve. The natural features in this unit include unnamed lava flows and tubes.

Table for Hawaii Q

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Colubrina oppositifolia	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.
Diellia erecta	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.
Flueggea neowawraea	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.
Gouania vitifolia	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Neraudia ovata	X	X			X	X	X	X		X					

Hawaii R

The proposed unit Hawaii R provides occupied habitat for two species: *Diellia erecta* and *Flueggea neowawraea*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Flueggea neowawraea*, or 300 mature individuals per population for *Diellia erecta*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii R).

This unit contains a total of 387 ha (955 ac) on State and privately owned lands. This unit lies in the Kiilae watershed and lies mostly in the South Kona Forest Reserve. There are no named natural features in this unit.

Table for Hawaii R

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Diellia erecta	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Flueggea neowawraea	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.

Hawaii S

The proposed unit Hawaii S provides occupied habitat for two species: *Cyanea hamatiflora* ssp. *carlsonii* and *Cyanea stictophylla*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii S).

This unit contains a total of 383 ha (947 ac) on State and privately owned lands. This unit is in the Kiilae watershed. This unit contains a portion of the Kipahoehoe Natural Area Reserve. The natural feature of this unit includes a portion of the Lava Flow of 1919.

Table for Hawaii S

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Cyanea hamatiflora ssp. carlsonii	X	X			X	X	X			X					
Cyanea stictophylla	X	X			X		X			X					

Hawaii T

The proposed unit Hawaii T provides occupied habitat for one species: *Cyanea stictophylla*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population for this species throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species.

This unit also provides unoccupied habitat for one species: *Cyanea hamatiflora* ssp. *carlsonii*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more additional populations necessary to meet the recovery objective of 8 to 10 populations and 300 mature individuals per population for this species throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Hawaii T).

This unit contains a total of 1,489 ha (3,681 ac) on State and privately owned lands. This unit is in the Kiilae watershed contains a portions of the South Kona Forest Reserve. Natural features of this unit include portions of the Lava Flow of 1950.

Table for Hawaii T

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes	
Cyanea hamatiflora ssp. carlsonii	X	X			X	X	X			X						
Cyanea stictophylla	X	X			X		X			X						

Hawaii U

The proposed unit Hawaii U provides occupied habitat for one species: *Cyanea hamatiflora* ssp. *carlsonii*. It is proposed for designation because it contains the physical and biological features that are considered essential for the conservation of *Cyanea hamatiflora* ssp. *carlsonii* on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for this species and 300 mature individuals per population throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii U).

This unit contains a total of 615 ha (1,520 ac) on Federal land. This unit is in the Kiilae watershed and lies in a portion of the Hakalau Forest National Wildlife Refuge, Kona Unit. There are no named natural features of this unit.

Table for Hawaii U

Species	Cyanea hamatiflora ssp. carlsonii
1. 8–10 pop. guidelines.	X
2. Island endemic.	X
3. Multi-island/current other islands.	
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	
9. Long-lived perennial–100/pop.	
10. Short-lived perennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	
Notes	

Hawaii V

The proposed unit Hawaii V provides occupied habitat for one species: *Nothocestrum breviflorum*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 100 mature individuals per population for *Nothocestrum breviflorum* throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii V).

This unit contains a total of 951 ha (2,351 ac) on privately owned land. This unit is in the Kiilae watershed in the south and Kealakekua watershed in the north. this unit has no named natural features.

Table for Hawaii V

Species	Nothocestrum breviflorum
1. 8–10 pop. guidelines.	X
2. Island endemic.	X
3. Multi-island/current other islands.	
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	X
9. Long-lived perennial–100/pop.	X
10. Short-lived perennial–300/pop.	
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	
Notes	

Hawaii W

The proposed unit Hawaii W provides occupied habitat for one species: *Delissea undulata*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population for *Delissea undulata* throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species.

This unit also provides unoccupied habitat for one species: *Solanum incompletum*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more additional populations necessary to meet the recovery objectives of 8 to 10 populations and 300 mature individuals per population for *Solanum incompletum* throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Hawaii W).

This unit contains a total of 1,479 ha (3,654 ac) on private land. This unit lies in the Waiaha watershed. The natural area of this unit includes Puu Lehua and a portion of Kipuka Paluli.

Table for Hawaii W

Species	Delissea undulata	Solanum incompletum
1. 8–10 pop. guidelines.	X	X*
2. Island endemic.		
3. Multi-island/current other islands.	X	
4. Multi-island/no current other islands.		X
5. Non-viable populations.	X	X
6. Several occ. vulnerable to destruction.	X	X
7. Species with variable habitats.		X
8. Not all occupied habitat needed.		
9. Long-lived perennial–100/pop.		
10. Short-lived perennial–300/pop.	X	X
11. Annual–500/pop.		
12. Narrow endemic.		
13. Restricted habitat requirements.	X*	
14. Hybridization is possible.		

Notes	*Dry cinder cones	*Not enough suitable habitat for 8 - 10 (unable to identify suitable habitat on other islands in historical range).

Hawaii X

The proposed unit Hawaii X provides occupied habitat for one species: *Cyanea hamatiflora* ssp. *carlsonii*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population for *Cyanea hamatiflora* ssp. *carlsonii* throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii X).

This unit contains a total of 138 ha (340 ac) on State owned lands. This unit is in the Waiaha watershed and contains a portion of the Honuaula Forest Reserve. There are no named natural features in this unit, though it lies southwest of Puu Laalaau.

Table for Hawaii X

Species	Cyanea hamatiflora ssp. carlsonii
1. 8–10 pop. guidelines.	X
2. Island endemic.	X
3. Multi-island/current other islands.	
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction.	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed.	
9. Long-lived perennial–100/pop.	
10. Short-lived perennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements.	
14. Hybridization is possible.	
Notes	

Hawaii Y

The proposed unit Hawaii Y (subunits Y1 and Y2) provides occupied habitat for two species: *Isodendrion pyrifolium* and *Neraudia ovata*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 300 mature individuals per population throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii Y).

This unit cluster contains a total of 546 ha (1,350 ac) on State and privately owned lands. This unit is in the Keahole watershed in the north and the Waiaha watershed in the south and contains a portion of the Honokohau watershed. There are no named natural features in this unit but it lies between the Queen Kaahumanu Highway (in the west) and Palani Road (in the east). It is inland and east of Honokohau Bay and inland and north of Kalani Bay.

Table for Hawaii Y

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Isodendrion pyrifolium	X			X	X	X	X			X					
Neraudia ovata	X	X			X	X	X	X		X					

Hawaii Z

The proposed unit Hawaii Z provides occupied habitat for 12 species: *Bonamia menziesii, Colubrina oppositifolia, Cyanea stictophylla, Delissea undulata, Flueggea neowawraea, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Nothocestrum breviflorum, Phyllostegia velutina, Plantago hawaiensis, Pleomele hawaiiensis,* and *Zanthoxylum dipetalum* var. *tomentosum*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Colubrina oppositifolia, Flueggea neowawraea, Hibiscadelphus hualalaiensis, Nothocestrum breviflorum, Pleomele hawaiiensis,* and *Zanthoxylum dipetalum* var. *tomentosum*, or 300 mature individuals per population for *Bonamia menziesii, Cyanea stictophylla, Delissea undulata, Hibiscus brackenridgei, Phyllostegia velutina,* and *Plantago hawaiensis,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii Z).

This unit contains a total of 10,738 ha (26,535 ac) on State and privately owned lands. This unit is predominately in the Kiholo watershed in the north with portions in the Honokohau, Keahole, and Waiaha in the southwest. This unit also contains most of the Puu Waawaa Wildilfe Sanctuary. The natural features of this unit include Hinakapoula (summit), Kalulu (summit), Kaupulehu Crater, Kileo (summit), Poohohoo (summit), Puu Huluhulu, Puu Iki, Puu Paha, and Puu Waawaa.

Table for Hawaii Z

Species	Bonamia menziesii	Colubrina oppositifolia	Cyanea stictophylla	Delissea undulata
1. 8–10 pop. guidelines.	X*	X*	X	X
2. Island endemic.			X	
3. Multi-island/current other islands.	X	X		X
4. Multi-island/no current other islands.				
5. Non-viable populations.	X	X	X	X
6. Several occ. vulnerable to destruction.	X	X		X
7. Species with variable habitats.	X	X	X	
8. Not all occupied habitat needed.		X		
9. Long-lived perennial–100/pop.		X		
10. Short-lived perennial–300/pop.	X		X	X
11. Annual–500/pop.				
12. Narrow endemic.				
13. Restricted habitat requirements.				X*
14. Hybridization is possible.				

Notes	*Species is wide ranging, each island was probably one large, population (may have been a couple of meta-populations on each island).	*Species is wide ranging, each island was probably one large, population.		*Dry cinder cones

Flueggea neowawraea	X*		X		X	X	X	X	X					*Species is wide ranging, each island was probably one large, population.
Hibiscadelphus hualalaiensis	X*	X			X	X			X			X	X**	X	*Not enough suitable habitat exists for 8 to 10 populations at this time. **Rocky substrate in deep soils.
Hibiscus brackenridgei	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.
Nothocestrum breviflorum	X*	X			X	X	X	X	X						*Species is wide ranging.‡
Phyllostegia velutina	X	X			X	X	X	X		X					
Plantago hawaiensis	X*	X			X	X	X			X					*Species is wide ranging.‡
Pleomele hawaiiensis	X*	X			X	X	X		X						*Species is wide ranging.
Zanthoxylum dipetalum ssp. tomentosum	X*	X			X	X	X		X			X			*Species is wide ranging.

Hawaii AA

The proposed unit Hawaii AA provides occupied habitat for 10 species: *Asplenium fragile* var *insulare*, *Hedyotis coriacea*, *Neraudia ovata*, *Portulaca sclerocarpa*, *Silene hawaiiensis*, *Silene lanceolata*, *Solanum incompletum*, *Spermolepis hawaiiensis*, *Tetramolopium arenarium*, and *Zanthoxylum hawaiiense*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations for each species and 100 mature individuals per population for *Zanthoxylum hawaiiense*, or 300 mature individuals per population for *Asplenium fragile* var *insulare*, *Hedyotis coriacea*, *Neraudia ovata*, *Portulaca sclerocarpa*, *Silene hawaiiensis*, *Silene lanceolata*, *Solanum incompletum*, *Spermolepis hawaiiensis*, and *Tetramolopium arenarium*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Hawaii AA).

This unit contains a total of 28,364 ha (70,138 ac) on State, Federal, and privately owned lands and land under Federal jurisdiction. This unit lies predominately in the Pohakuloa watershed with the western edge in the Kiholo watershed. This unit also contains a small portion of the Mauna Loa Forest Reserve and the Mauna Loa Forest Reserve and portions of the Pohakuloa Training Area The natural features of this unit include Kipuka Alala, Kipuka Kalawamauna, Lava Flow of 1843, Naohueleelua (summit), Puu Ka Pele, Puu Kea, Puu Keekee, Puuahi, and Waikahalulu Gulch.

Table for Hawaii AA

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Asplenium fragile var. insulare	X*		X		X	X		X		X			X**		*Species is wide ranging.‡ ** Big, moist lava tubes (from 3.05 m to 4.57 m (10 to 15 ft) in diameter), pits, deep cracks, and lava tree molds, with at least a moderate soil or ash accumulation
Hedyotis coriacea	X		X		X	X				X			X*		*Geologically young (<3,000 years old) Mauna Loa pahoehoe lava.
Neraudia ovata	X	X			X	X	X	X		X					
Portulaca sclerocarpa	X*		X		X	X	X			X					*Species is wide ranging.‡
Silene hawaiiensis	X*	X			X	X	X			X					*Species is wide ranging.‡
Silene lanceolata	X		X		X	X	X			X					
Solanum incompletum	X*			X	X	X	X			X					*Not enough suitable habitat for 8 - 10 (unable to identify suitable habitat on other islands in historical range).
Spermolepis hawaiiensis	X*		X		X	X	X				X				*Species is wide ranging.‡
Tetramolopium arenarium	X*			X	X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Zanthoxylum hawaiiense	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.

Hawaii BB

The proposed unit Hawaii BB provides occupied habitat for one species: *Sesbania tomentosa*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on the island of Hawaii, and provides habitat to support 1 or more of the 8 to 10 populations and 300 mature individuals per population for *Sesbania tomentosa* throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Hawaii BB).

• This unit contains a total of 43 ha (106 ac) on State owned land. This unit lies in the Keahole watershed along the coast and contains a portion of Kekaha State Park. There are no named natural features in this unit but it lies between Mahaiula Bay and Makolea Point.

Table for Hawaii BB

Species	1. 8–10 pop. guidelines.	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction.	7. Species with variable habitats.	8. Not all occupied habitat needed.	9. Long-lived perennial–100/pop.	10. Short-lived perennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements.	14. Hybridization is possible.	Notes
Sesbania tomentosa	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat. Destruction or adverse modification of critical habitat occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat was designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into formal consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions under certain circumstance, including instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control has been retained or is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect critical habitat of one or more of the 47 plant species will require Section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), or a section 10(a)(1)(B) permit from us, or some other Federal action, including funding (*e.g.* from the Federal Highway Administration (FHWA), Federal Aviation Administration (FAA), Federal Emergency Management Agency (FEMA)), permits from the Department of Housing and Urban Development (HUD), activities funded by the U.S. Environmental Protection Agency (EPA), Department of Energy (DOE), or any other Federal agency; regulation of airport improvement activities by FAA; and construction of communication sites licensed by the Federal Communication Commission (FCC) will also continue to be subject to the section 7 consultation process. Federal actions not affecting critical habitat and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. We note that such activities may also jeopardize the continued existence of the species.

Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly destroy or adversely modify critical habitat include, but are not limited to:

(1) Activities that appreciably degrade or destroy the primary constituent elements including but not limited to: overgrazing; maintenance of feral ungulates; clearing or cutting of native live trees and shrubs, whether by burning or mechanical, chemical, or other means (*e.g.*, woodcutting, bulldozing, construction, road building, mining, herbicide application); introducing or enabling the spread of nonnative species; and taking actions that pose a risk of fire.

(2) Activities that alter watershed characteristics in ways that would appreciably reduce groundwater recharge or alter natural, dynamic wetland or other vegetative communities. Such activities may include water diversion or impoundment, excess groundwater pumping, manipulation of vegetation such as timber harvesting, residential and commercial development, and grazing of livestock or horses that degrades watershed values.

(3) Rural residential construction that includes concrete pads for foundations and the installation of septic systems where a permit under section 404 of the Clean Water Act would be required by the Corps.

(4) Recreational activities that appreciably degrade vegetation.

(5) Mining of cinder or sand or other minerals.

(6) Introducing or encouraging the spread of non-native plant species.

(7) Importation of non-native species for research, agriculture, and aquaculture, and the release of biological control agents that would have unanticipated effects on the primary constituent elements of designated critical habitat.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Pacific Islands Ecological Services Field Office (see **ADDRESSES** section). Requests for copies of the regulations on listed plants and animals, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species/Permits, 911 N.E. 11th Ave., Portland, OR 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

Relationship to Habitat Conservation Plans and Other Planning Efforts

Currently, there are no HCPs that include any of the plant species discussed in this proposal as covered species. In the event that future HCPs covering any of the discussed plant species are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential to the conservation of the species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development process would provide an opportunity for more intensive data collection and analysis regarding the use of particular areas by these plant species.

Economic and Other Relevant Impacts

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. However, we cannot exclude such areas from critical habitat if the exclusion will result in the extinction of the species concerned. We will conduct an analysis of the economic impacts of designating these areas as critical habitat in light of this proposal and in accordance with recent decisions in the *N.M. Cattlegrowers Ass'n* v. *U.S. Fish and Wildlife Serv.*, 248 F.3d 1277 (10th Cir. 2001) prior to a final determination. The economic analysis will include detailed information on the baseline costs and benefits of the critical habitat designation regardless of whether the costs are coextensive with listing, where such estimates are available. This information on the baseline will allow a fuller appreciation of the economic impacts associated with critical habitat designation. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will open a public comment period on the draft economic analysis and re-open the comment period on the proposed rule at that time.

We will utilize the final economic analysis, and take into consideration all comments and information regarding economic or other impacts submitted during the public comment period and any public hearings, if requested, to make final critical habitat designations. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as part of critical habitat; however, we cannot exclude areas from critical habitat when such exclusion will result in the extinction of the species.

Public Comments Solicited

It is our intent that any final action resulting from this proposal be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry or any other interested party concerning this proposed rule.

We invite comments from the public that provide information on whether lands within proposed critical habitat are currently being managed to address conservation needs of these listed plants. As stated earlier in this proposed rule, if we receive information that any of the areas proposed as critical habitat are adequately managed, we may delete such areas from the final rule, because they would not meet the definition in section 3(5)(A)(i) of the Act. In determining adequacy of management, we must find that the management effort is sufficiently certain to be implemented and effective so as to contribute to the elimination or adequate reduction of relevant threats to the species.

We are soliciting comment in this proposed rule on whether current land management plans or practices applied within areas proposed as critical habitat adequately address the threat to these listed species.

We are aware that the State of Hawaii and some private landowners are considering the development and implementation of land management plans or agreements that may promote the conservation and recovery of endangered and threatened plant species on the island of Hawaii. We are soliciting comments in this proposed rule on whether current land management plans or practices applied within the areas proposed as critical habitat provide for the conservation of the species by adequately addressing the threats. We are also soliciting comments on whether future development and approval of conservation measures (*e.g.*, HCPs, Conservation Agreements, Safe Harbor Agreements) should be excluded from critical habitat and if so, by what mechanism.

In addition, we are seeking comments on the following:

(1) The reasons why critical habitat for any of these species is prudent or not prudent as provided by section 4 of the Act and 50 CFR 424.12(a)(1);

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species, as critical habitat is defined by section 3 of the Act (16 U.S.C. 1532 (5));

(3) specific information on the amount, distribution, and quality of habitat for the 47 species and what habitat is essential to the conservation of the species and why;

(4) land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low income households, and local governments;

(6) economic and other potential values associated with designating critical habitat for the above plant species such as those derived from non-consumptive uses (*e.g.*, hiking, camping, birding, enhanced watershed protection, increased soil retention, "existence values," and reductions in administrative costs);

(7) the methodology we might use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat; and

(8) the effects of critical habitat designation on military lands, and how it would affect military activities, particularly military activities at the Pohakuloa Training Area lands on the island of Hawaii. Whether there will be a significant impact on military readiness or national security if we designate critical habitat on these facilities. Whether these facilities should be excluded from the designation under section 4(b)(2) of the Act.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which

we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES** section).

If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods: You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850–0001. You may hand-deliver comments to our Honolulu Fish and Wildlife Office at the address above. You may send comments by electronic mail (e-mail) to: *FW1PIE_Hawaii_Island_Crithab @r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: RIN 1018–AH02" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Honolulu Fish and Wildlife Office at telephone number 808/541–3441.

The comment period closes on July 29, 2002. We are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. For additional information on public hearings see the **DATES** section.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing and critical habitat decisions are based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**. We will invite the peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designations of critical habitat.

We will consider all comments and data received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the document? (5) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240.

Taxonomic Changes

At the time we listed *Delissea undulata*, *Hibiscus brackenridgei*, *Mariscus fauriei*, *Mariscus pennatiformis*, and *Phyllostegia parviflora* we followed the taxonomic treatments in Wagner *et al.* (1990), the widely used and accepted *Manual of the Flowering Plants of Hawaii*. Subsequent to the final listing we became aware of new taxonomic treatments of these species. Due to the court-ordered deadlines we are required to publish this proposal to designate critical habitat on the island of Hawaii before we can prepare and publish a notice of taxonomic changes for these five species. We propose to publish a taxonomic change notice for these five species after we have published the final critical habitat designations on the island of Hawaii.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below. We are preparing an economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific areas identified as critical habitat. The availability of the draft economic analysis will be announced in the **Federal Register** so that it is available for public review and comments.

a. While we will prepare an economic analysis to assist us in considering whether areas should be excluded pursuant to section 4 of the Act, we do not believe this rule will have an annual economic effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local governments or communities. Therefore, at this time, we do not believe a cost benefit and economic analysis pursuant to Executive Order 12866 is required. We will revisit this if the economic analysis indicates greater impacts than currently anticipated.

The dates for which the 47 plant species were listed as threatened or endangered can be found in Table 4(b). Consequently, and as needed, we conduct formal and informal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of these species. Under the Act, critical habitat may not be adversely modified by a Federal agency action. Critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency (see Table 6).

TABLE 6.—IMPACTS OF CRITICAL HABITAT DESIGNATION FOR 47 PLANTS FROM THE ISLAND OF HAWAII

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation [1]
Federal Activities Potentially Affected [2].	Activities conducted by the Army Corps of Engineers, Department of Transportation, Department of Defense, Department of Agriculture, Environmental Protection Agency, Federal Emergency Management Agency, Federal Aviation Administration, Federal Communications Commission, Department of Interior activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for these plants by mechanical, chemical, or other means (*e.g.*, overgrazing, clearing, cutting native live trees and shrubs, water diversion, impoundment, groundwater pumping, road building, mining, herbicide application, recreational use etc.) or appreciably decrease habitat value or quality through indirect effects (*e.g.*, edge effects, invasion of exotic plants or animals, fragmentation of habitat).	These same activities carried out by Federal Agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected [3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for these plants by mechanical, chemical, or other means (*e.g.*, overgrazing, clearing, cutting native live trees and shrubs, water diversion, impoundment, groundwater pumping, road building, mining, herbicide application, recreational use etc.) or appreciably decrease habitat value or quality through indirect effects (*e.g.*, edge effects, invasion of exotic plants or animals, fragmentation of habitat).	These same activities carried out by Federal Agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of these species. Based on our experience with these species and their needs, we conclude that most Federal or federally-authorized actions that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as "jeopardy" under the Act in areas occupied by the species because consultation would already be required due to the presence of the listed species, and the duty to avoid adverse modification of critical habitat would not trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species. Accordingly, we do not expect the designation of currently occupied areas as critical habitat to have any additional incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding.

The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation (that is, in areas currently unoccupied by the listed species), may have impacts that are not attributable to the species listing on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding. We will evaluate any impact through our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule). Non-Federal persons who do not have a Federal nexus with their actions are not restricted by the designation of critical habitat.

b. We do not believe this rule will create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions not jeopardize the continued existence of the 47 plant species since their listing between 1991 and 1996. For the reasons discussed above, the prohibition against adverse modification of critical habitat would be expected to impose few, if any, additional restrictions to those that currently exist in the proposed critical habitat on currently occupied lands. However, we will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation through our economic analysis. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

c. We do not expect this proposed rule, if made final, would materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of a listed species, and, as discussed above, we do not anticipate that the adverse modification prohibition, resulting from critical habitat designation will have any incremental effects in areas of occupied habitat on any Federal entitlement, grant, or loan program. We will evaluate any impact of designating areas where section 7 consultation would not have occurred but for the critical habitat designation through our economic analysis.

d. OMB has determined that this rule may raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In

today's rule, we are certifying that the rule will not have a significant effect on a substantial number of small entities. However, should our economic analysis provide a contrary indication, we will revisit this determination at that time. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation. In areas where the species are present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect *Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyrularia, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum* ssp. *tomentosum*, and *Zanthoxylum hawaiiense*. If these critical habitat designations are finalized, Federal agencies must also consult with us if their activities may affect designated critical habitat. However, in areas where the species are present, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants because consultation would already be required due to the presence of the listed species, and the duty to avoid adverse modification of critical habitat likely would not trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species.

Even if the duty to avoid adverse modification does not trigger additional regulatory impacts in areas where the species is present, designation of critical habitat could result in an addition economic burden on small entities due to the requirement to reinitiate consultation for ongoing Federal activities. However, since these 47 species were listed (between 1991 and 1996), on the island of Hawaii we have conducted only two formal and 20 informal consultations, 11 of which concerned the Army's Pohakuloa Training Area (PTA), in addition to consultations on Federal grants to State wildlife programs, which do not affect small entities.

One of the two formal consultations involving the 47 species was conducted with the Army regarding the addition of two firing lanes to Range 8 at PTA. *Silene hawaiiensis*, one of the 47 species, was the only listed species addressed in the biological opinion, which concluded that with implementation of the preferred alternative and accompanying mitigation procedures, the project was not likely to jeopardize the continued existence of the species. The other formal consultation was with the Federal Highways Administration (FHWA) on realignment of and improvements to Saddle Road. *Silene hawaiiensis* and the palila (or honeycreeper, *Loxioides bailleui*), a listed bird, were the two species addressed in the biological opinion, which concluded that with the conservation and mitigation measures built into the project by FHWA, the project was not likely to jeopardize the continued existence of the two species and was not likely to adversely modify critical habitat for the palila. Neither of the two formal consultations directly affected or concerned small entities. In both consultations, we concluded that the preferred alternative for the project, with accompanying conservation and mitigation procedures, was not likely to jeopardize the continued existence of the species. The only ongoing project is the Saddle Road realignment, which does not directly affect small entities. Neither of these formal consultations directly affected or concerned small entities, nor does the ongoing project directly affect small entities. As a result, the requirement to reinitiate consultation for ongoing projects will not affect a substantial number of small entities on the island of Hawaii.

Three of the 20 informal consultations that have been conducted on the island of Hawaii concern the National Park Service's Hawaii Volcanoes National Park: one on fence construction to exclude ungulates regarding three of the 47 species (*Asplenium fragile* var. *insulare, Plantago hawaiensis*, and *Silene hawaiiensis*) as well as one listed bird and two listed plants not included in the 47 species in today's rule; one on use of the Marsokhod planetary rover at Kilauea Volcano's summit regarding *Silene hawaiiensis*; and one on outplanting food plants for the endangered Hawaiian nene goose regarding *Sesbania tomentosa* and two listed birds. Four informal consultations were conducted with the Army Corps of Engineers (ACOE): one for the Defense Environmental Restoration Program on removal of unexploded ordnance from the former Waikoloa Maneuver Area regarding *Portulaca sclerocarpa;* one on the Alenaio Stream flood control project in Hilo regarding *Asplenium fragile* var. *insulare* as well as several listed birds and a listed plant not included in today's rule; one for the Multi-Purpose Range Complex at PTA regarding

Asplenium fragile var. *insulare, Hedyotis coriacea, Silene hawaiiensis, Silene lanceolata*, and one listed plant not in today's rule; and one consultation for the Endangered Species Management Plan for PTA regarding eight of the 47 species (*Asplenium fragile* var. *insulare, Hedyotis coriacea, Portulaca sclerocarpa, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Tetramolopium arenarium*, and *Zanthoxylum hawaiiense*) and three listed plants not in today's rule. Eleven informal consultations were conducted with the Army concerning PTA: three on archery hunts regarding *Silene hawaiiensis* and three listed plants not in today's rule; one on a grenade machine gun range regarding *Asplenium fragile* var. *insulare* and *Silene hawaiiensis*; one on a quarry rock crusher regarding *Silene hawaiiensis* and a listed plant not in today's rule; one on the proposed acquisition of a Parker Ranch parcel regarding *Silene lanceolata* and a listed plant not in today's rule; one on military training regarding *Hedyotis coriacea, Portulaca sclerocarpa, Silene hawaiiensis, Silene lanceolata, Tetramolopium arenarium*, and *Zanthoxylum hawaiiense;* two on threats to rare plants from feral ungulates regarding eight of the 47 species (*Asplenium fragile* var. *insulare, Hedyotis coriacea, Portulaca sclerocarpa, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Tetramolopium arenarium*, and *Zanthoxylum hawaiiense*) as well as three listed plants not in today's rule; one on the Ecosystem Management Plan regarding nine of the 47 species (*Asplenium fragile* var. *insulare, Hedyotis coriacea, Neraudia ovata, Portulaca sclerocarpa, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Tetramolopium arenarium*, and *Zanthoxylum hawaiiense*) as well as the listed Hawaiian hoary bat and two listed plants not in today's rule; and one consultation concerning PTA's Ecosystem Management Plan, Endangered Species Management Plan, and Fire Management Plan regarding the same nine species, bat, and two listed plants referred to just above. Two informal consultations were conducted with the Federal Highways Administration on Kealakehe Parkway construction regarding four of the 47 species (*Isodendrion pyrifolium, Mariscus fauriei, Nothocestrum breviflorum*, and *Pleomele hawaiiensis*) as well as one listed plant not included in the 47 species in today's rule and *Pritchardia affinis*, for which we determine that the designation of critical habitat is not prudent in today's rule.

None of these informal consultations directly affected or concerned small entities. In all 20 informal consultations, we concurred with each agency's determination that the project, as proposed or modified, was not likely to adversely affect listed species. The only ongoing projects are Kealakehe Parkway and those concerning military training and management plans at PTA, which do not directly affect small entities. None of these consultations directly affected or concerned small entities, and none of the ongoing projects directly affect small entities. Only a small percentage of the small entities would be affected indirectly. As a result, the requirement to reinitiate consultation for ongoing projects will not affect a substantial number of small entities on the island of Hawaii.

In areas where the species is clearly not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act that would otherwise not be required. Other than on military lands, notably the Army's PTA, Hawaii Volcanoes National Park, and construction for Saddle Road and Kealakehe Parkway, we are aware of few activities in the proposed critical habitat areas for these 47 plants that have Federal involvement, and thus, would require consultation or reinitiation of already completed consultations for ongoing projects. As mentioned above, we have conducted only two formal and 20 informal consultations under section 7 involving any of the species, most of them concerning PTA. As a result, other than for PTA, Hawaii Volcanoes National Park, Saddle Road, and Kealakehe, we cannot easily identify future consultations that may be due to the listing of the species or the increment of additional consultations that may be required by this critical habitat designation. Therefore, for the purposes of this review and certification under the Regulatory Flexibility Act, we are assuming that, with those exceptions, future consultations in the area proposed as critical habitat will be due to the critical habitat designations.

On the island of Hawaii, approximately 33 percent of the designations are on Federal lands, 51 percent are on State lands, and 16 percent are on private lands. Most of the land within the critical habitat units will have limited suitability for development, land uses, and activities because of the rather remote locations, limited access, and rugged terrain of these lands. Also, most of this land (84 percent) is within the State Conservation District where State land-use controls severely limit development and most activities. Approximately 16 percent of this land is within the State Agricultural District where only activities such as crops, livestock, grazing, and accessory structures and farmhouses are allowed. The majority of this land is under State ownership or large estates that do not qualify as small entities. Less than 1 percent of this land is within the State Urban District where land use and development (commercial, industrial, residential, etc.) are subject to the county community plans, zoning, building code regulations, and land-use regulations. On non-Federal lands, activities that lack Federal involvement would not be affected by the critical habitat designations. Activities of an economic nature that are likely to occur on non-Federal lands in the area encompassed by these proposed designations consist of improvements in State parks and communications and tracking facilities; road improvements; recreational use such as hiking, camping, picnicking, game hunting, fishing; and ranching, and crop farming. With the exception of communications and tracking facilities improvements by the Federal Aviation Administration or the Federal Communications Commission and road improvements by FHWA, these activities are unlikely to have Federal involvement. On lands that are in agricultural production, the types of activities that might trigger a consultation include irrigation ditch system projects that may require section 404 authorizations from the Army Corps of Engineers (ACOE), and watershed management and restoration projects sponsored by NRCS. However, the NRCS restoration projects typically are voluntary, and irrigation ditch system projects within lands that are in agricultural production are rare, and may affect only a small percentage of the small entities within these proposed critical habitat designations.

Lands that are within the State Urban District are located almost exclusively within undeveloped coastal areas. The types of activities that might trigger a consultation include shoreline restoration or modification projects that may require section 404 authorizations from the ACOE or Federal Emergency Management Agency, housing or resort development that may require permits from the Department of Housing and Urban Development, and activities funded or authorized by the Environmental Protection Agency. However, we are not aware of a significant number of future activities that would require federal funds,

permits, or authorizations in these coastal areas. Therefore, we conclude that the proposed rule would not affect a substantial number of small entities.

Even if a substantial number of small entities were affected by the consultation requirements of the Act, which we believe would be highly unlikely based on the past consultation history for these 47 species, and based on our experience with section 7 consultations for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures must be economically feasible and within the scope of authority of the Federal agency involved in the consultation (see 50 CFR 404.2, definition of reasonable and prudent alternatives). Therefore, such measures are not likely to result in a significant economic impact to a substantial number of small entities.

As required under section 4(b)(2) of the Act, we will conduct an analysis of the potential economic impacts of this proposed critical habitat designation, and will make that analysis available for public review and comment before finalizing these designations. However, court deadlines require us to publish this proposed rule before the economic analysis can be completed.

In summary, we have considered whether this proposed rule would result in a significant economic effect on a substantial number of small entities. It would not affect a substantial number of small entities. Approximately 51 percent of the lands proposed as critical habitat are on State of Hawaii lands. The State of Hawaii is not a small entity. Approximately 16 percent of the lands proposed as critical habitat are on private lands, the majority owned by large estates that do not qualify as small entities. Many of the private parcels are located in areas where likely future land uses are not expected to result in Federal involvement or section 7 consultations. Most of the private and State parcels within the proposed designation are currently being used for recreational and agricultural purposes and, therefore, are not likely to require any Federal authorization. In the remaining areas, section 7 application, the only trigger for economic regulatory impact under this rule, would be limited to a subset of the area proposed. The most likely future section 7 consultations resulting from this rule would be for informal consultations on military training activities, federally funded highway construction, federally funded land and water conservation projects, species-specific surveys and research projects, and watershed management and restoration projects sponsored by NRCS. These consultations would likely occur on only a subset of the total number of parcels and therefore would not likely affect a substantial number of small entities. This rule would result in project modifications only when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even when it does occur, we do not expect it to result in a significant economic impact, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. Therefore, we are certifying that the proposed designation of critical habitat for the following species: *Achyranthes mutica, Adenophorus periens, Argyroxiphium kauense, Asplenium fragile* var. *insulare, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyularia, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum* ssp. *tomentosum*, and *Zanthoxylum hawaiiense* will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required. However, should the economic analysis of this rule indicate otherwise, we will revisit this determination.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) We believe this rule, as proposed, will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that they have any programs requiring Federal funds, permits or other authorizations. Any such activities will require that the Federal agency ensure that the action will not adversely modify or destroy designated critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated to result from critical habitat designation of occupied areas. In our economic analysis, we will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation.

(b) This rule, as proposed, will not produce a Federal mandate on State or local governments or the private sector of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for the 47 species from the island of Hawaii in a preliminary takings implications assessment. The takings implications assessment concludes that this proposed rule does not pose significant takings implications. Once the economic analysis is completed for this proposed rule, we will review and revise this preliminary assessment as warranted.

Federalism

In accordance with Executive Order 13132, the proposed rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of Interior policy, we requested information from appropriate State agencies in Hawaii. The designation of critical habitat in areas currently occupied by one or more of the 47 plant species imposes no additional restrictions to those currently in place, and, therefore, has little incremental impact on State and local governments and their activities. The designation of critical habitat in unoccupied areas may require section 7 consultation on non Federal lands (where a Federal nexus occurs) that might otherwise not have occurred. However, there will be little additional impact on State and local governments and their activities because all but one unit and four subunits of the proposed critical habitat areas are occupied by at least one species. The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long range planning, rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the 47 plant species.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed determination does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) Executive Order 13175 and 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized federal Tribes on a government-to-government basis. We have determined that there are no Tribal lands essential for the conservation of these 47 species has not been proposed on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Pacific Islands Office (see **ADDRESSES** section).

Authors

The primary authors of this notice are Gregory Koob, Christa Russell, Michelle Stephens, and Marigold Zoll (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h) revise the entries for "*Achyranthes mutica, Argyroxiphium kauense, Bonamia menziesii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia peleana, Clermontia pyularia, Colubrina oppositifolia, Cyanea hamatiflora* ssp. *carlsonii, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata, Flueggea neowawraea, Gouania vitifolia, Hedyotis coriacea, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion hosakae, Isodendrion pyrifolium, Mariscus fauriei, Melicope zahlbruckneri, Neraudia ovata, Nothocestrum breviflorum, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Plantago hawaiensis, Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa, Sicyos alba, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Vigna o-wahuensis, Zanthoxylum dipetalum* var. *tomentosum, and Zanthoxylum hawaiiense*" under "*FLOWERING PLANTS*" and "*Adenophorus periens, Asplenium fragile* var. *insulare*, and *Diellia erecta*" under "FERNS AND ALLIES" to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering Plants.							

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Achyranthes mutica	None	U.S.A. (HI)	Amaranthaceae	E	592	17.96A(a)	NA
Argyroxiphium kauense.	Mauna Loa silversword.	U.S.A. (HI)	Asteraceae	E	497	17.96A(a)	NA
Bonamia menziesii	None	U.S.A. (HI)	Convolvulaceae	E	559	17.96A(a)	NA
Clermontia drepanomorpha.	Oha wai	U.S.A. (HI)	Campanulaceae	E	595	17.96A(a)	NA
Clermontia lindseyana.	Oha wai	U.S.A. (HI)	Campanulaceae	E	532	17.96A(a)	NA
Clermontia peleana	Oha wai	U.S.A. (HI)	Campanulaceae	E	532	17.96A(a)	NA
Clermontia pyrularia	Oha wai	U.S.A. (HI)	Campanulaceae	E	532	17.96A(a)	NA
Colubrina oppositifolia.	Kauila	U.S.A. (HI)	Rhamnaceae	E	532	17.96A(a)	NA
Cyanea hamatiflora ssp. *carlsonii.*	Haha	U.S.A. (HI)	Campanulaceae	E	532	17.96A(a)	NA
Cyanea platyphylla	Haha	U.S.A. (HI)	Campanulaceae	E	595	17.96A(a)	NA
Cyanea shipmanii	Haha	U.S.A. (HI)	Campanulaceae	E	532	17.96A(a)	NA
Cyanea stictophylla	Haha	U.S.A. (HI)	Campanulaceae	E	532	17.96A(a)	NA
Cyrtandra giffardii	Haiwale	U.S.A. (HI)	Gesneriaceae	E	532	17.96A(a)	NA
Cyrtandra tintinnabula.	Haiwale	U.S.A. (HI)	Gesneriaceae	E	532	17.96A(a)	NA
Delissea undulata	None	U.S.A. (HI)	Campanulaceae	E	593	17.96A(a)	NA
Flueggea neowawraea.	Mehamehame	U.S.A. (HI)	Euphorbiaceae	E	559	17.96A(a)	NA
Gouania vitifolia	None	U.S.A. (HI)	Rhamnaceae	E	541	17.96A(a)	NA
Hedyotis coriacea	Kioele	U.S.A. (HI)	Rubiaceae	E	467	17.96A(a)	NA
Hibiscadelphus giffardianus.	Hau kuahiwi	U.S.A. (HI)	Malvaceae	E	595	17.96A(a)	NA
Hibiscadelphus hualalaiensis.	Hau kuahiwi	U.S.A.(HI)	Malvaceae	E	595	17.96A(a)	NA
Hibiscus brackenridgei.	Mao hau hele	U.S.A. (HI)	Malvaceae	E	559	17.96A(a)	NA
Ischaemum byrone	Hilo ischaemum	U.S.A. (HI)	Poaceae	E	532	17.96A(a)	NA
Isodendrion hosakae	Aupaka	U.S.A. (HI)	Violaceae	E	414	17.96A(a)	NA

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Isodendrion pyrifolium.	Wahine noho kula	U.S.A. (HI)	Violaceae	E	532	17.96A(a)	NA
Mariscus fauriei	None	U.S.A. (HI)	Cyperaceae	E	532	17.96A(a)	NA
Melicope zahlbruckneri.	Alani	U.S.A. (HI)	Rutaceae	E	595	17.96A(a)	NA
Neraudia ovata	None	U.S.A. (HI)	Urticaceae	E	595	17.96A(a)	NA
Nothocestrum breviflorum.	Aiea	U.S.A. (HI)	Solanaceae	E	532	17.96A(a)	NA
Phyllostegia racemosa.	Kiponapona	U.S.A. (HI)	Lamiaceae	E	595	17.96A(a)	NA
Phyllostegia velutina	None	U.S.A. (HI)	Lamiaceae	E	595	17.96A(a)	NA
Phyllostegia warshaueri.	None	U.S.A. (HI)	Lamiaceae	E	595	17.96A(a)	NA
Plantago hawaiensis	Laukahi kuahiwi	U.S.A. (HI)	Plantaginaceae	E	532	17.96A(a)	NA
Pleomele hawaiiensis.	Halapepe	U.S.A. (HI)	Liliaceae	E	595	17.96A(a)	NA
Portulaca sclerocarpa.	Poe	U.S.A. (HI)	Portulacaceae	E	532	17.96A(a)	NA
Sesbania tomentosa	Ohai	U.S.A. (HI)	Fabaceae	E	559	17.96A(a)	NA
Sicyos alba	Anunu	U.S.A. (HI)	Cucurbitaceae	E	595	17.96A(a)	NA
Silene hawaiiensis	None	U.S.A. (HI)	Caryophyllaceae	T	532	17.96A(a)	NA
Silene lanceolata	None	U.S.A. (HI)	Caryophyllaceae	E	480	17.96A(a)	NA
Solanum incompletum.	Popolo ku mai	U.S.A. (HI)	Solanaceae	E	559	17.96A(a)	NA
Spermolepis hawaiiensis.	None	U.S.A. (HI)	Apiaceae	E	559	17.96A(a)	NA
Tetramolopium arenarium.	None	U.S.A. (HI)	Asteraceae	E	532	17.96A(a)	NA
Vigna o-wahuensis	None	U.S.A. (HI)	Fabaceae	E	559	17.96A(a)	NA
Zanthoxylum dipetalum var. *tomentosum.*	Ae	U.S.A. (HI)	Rutaceae	E	595	17.96A(a)	NA
Zanthoxylum hawaiiense.	Ae	U.S.A. (HI)	Rutaceae	E	532	17.96A(a)	NA

Ferns and Allies.

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Adenophorus periens	Pendant kihi fern	U.S.A. (HI)	Grammitidaceae	E	559	17.96A(a)	NA
. .	.	.	.	.	.	.	.
Asplenium fragile var. *insulare.*	None	U.S.A. (HI)	Aspleniaceae	E	553	17.96A(a)	NA
.	.	.	.	.	.	.	.
Diellia erecta	Asplenium-leaved diellia.	U.S.A. (HI)	Aspleniaceae	E	559	17.96A(a)	NA
.	.	.	.	.	.	.	.

3. Section 17.96, as proposed to be amended at 65 FR 66865, November 7, 2000, 65 FR 79192 (December 18, 2000), 65 FR 82086 (December 27, 2000), 65 FR 83193 (December 29, 2000), 67 FR 4072 (January 28, 2002), 67 FR 9806 (March 4, 2002), 67 FR 15856 (April 3, 2002), 67 FR 16492 (April 5, 2002), and 67 FR 34522 (May 14, 2002) is proposed to be further amended as follows:

a. Add paragraph (a)(1)(i)(H); and

b. Amend paragraph (a)(1)(ii) by adding the entries set forth below.

§ 17.96 Critical habitat-plants.

(a) * * *

(1) * * *

(i) *Maps and critical habitat unit descriptions.* The following sections contain the legal descriptions of the critical habitat units designated for each of the Hawaiian Islands. Existing features and structures within proposed areas, such as buildings, roads, aqueducts, telecommunication equipment, arboreta and gardens, heiaus (indigenous place of worship, shrine), airports, other paved areas, lawns, and other rural residential landscaped areas do not contain one or more of the primary constituent elements described for each species in paragraphs (a)(1)(ii)(A) and (a)(1)(ii)(B) of this section and are not included in the critical habitat designation.

* * * * *

(H) *Hawaii.* Critical habitat units are described below. Coordinates are in UTM Zone 5 with units in meters using North American Datum of 1983 (NAD83). The following map shows the general locations of the 28 critical habitat units designated on the island of Hawaii.

(*1*) **Note:** Map 1—Index map follows:

BILLING CODE 4310–55–P

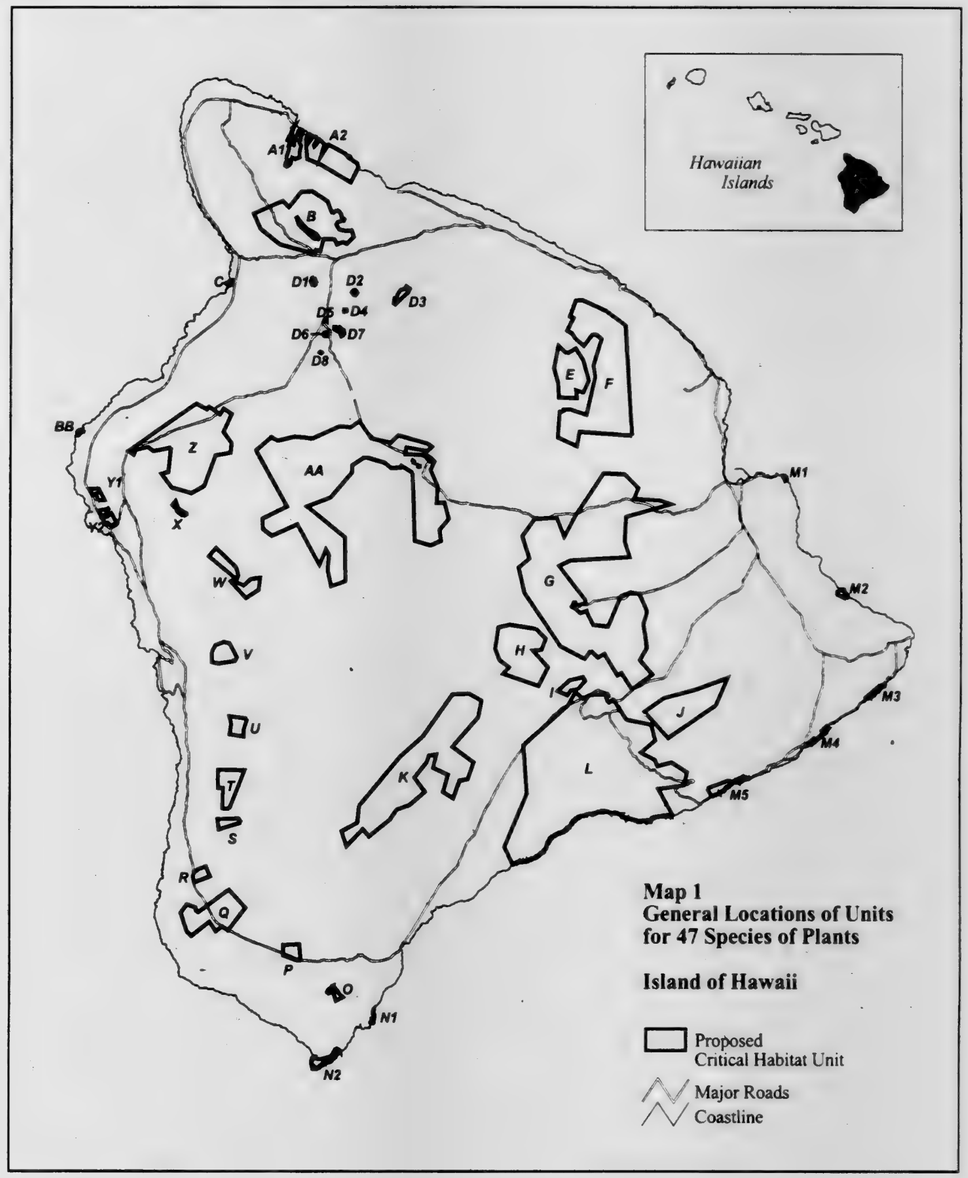

BILLING CODE 4310–55–C

(*2*) Hawaii A1 (719 ha; 1,777 ac).

(*i*) Unit consists of the following 56 boundary points: 213645, 2235127; 213646, 2235128; 213870, 2235881; 213849, 2236039; 214231, 2236397; 214073, 2236118; 213966, 2236053; 214027, 2235922; 213874, 2235537; 213912, 2235356; 213779, 2235023; 213495, 2234674; 213594, 2234495; 213903, 2234581; 213784, 2233612; 214109, 2233345; 214171, 2233459; 214131, 2233716; 214311, 2234221; 214471, 2234336; 214374, 2234583; 214789, 2235600; 214978, 2235699; 215036, 2235455; 215183, 2235821; 215492, 2235685; 215490, 2235180; 215280, 2234884; 215136, 2234466; 215169, 2234127; 214956, 2233845; 215193, 2233323; 214983, 2232423; 215030, 2231525; 214643, 2231424; 214338, 2231240; 213870, 2231505; 213870, 2231342; 213666, 2231261; 213585, 2230650; 213402, 2230385; 213015, 2230141; 212772, 2230287; 212852, 2230691; 212976, 2230917; 212994, 2231684; 213137, 2232014; 213401, 2232866; 213381, 2233174; 213259, 2233215; 213454, 2233742; 213434, 2234160; 213320, 2234192; 213137, 2234192; 213320, 2234721; 213645, 2235127.

(*ii*) **Note:** See Map 2.

(*3*) Hawaii A2 (2,685 ha; 6,635 ac).

(*i*) Unit consists of the following 26 boundary points: 216018, 2233828; 216096, 2234031; 216010, 2234247; 216164, 2234825; 216281, 2234837; 216511, 2235154; 216975, 2234861; 216801, 2234306; 217114, 2234782; 217527, 2234678; 217743, 2234334; 217207, 2233347; 217252, 2233124; 217620, 2233502; 218094, 2234265; 218843, 2233587; 218286, 2231694; 219486, 2233520; 222066, 2232085; 222577, 2231460; 223900, 2230601; 224117, 2230006; 222945, 2227734; 218340, 2230439; 216174, 2231252; 216018, 2233828.

(*ii*) **Note:** Map 2 follows:

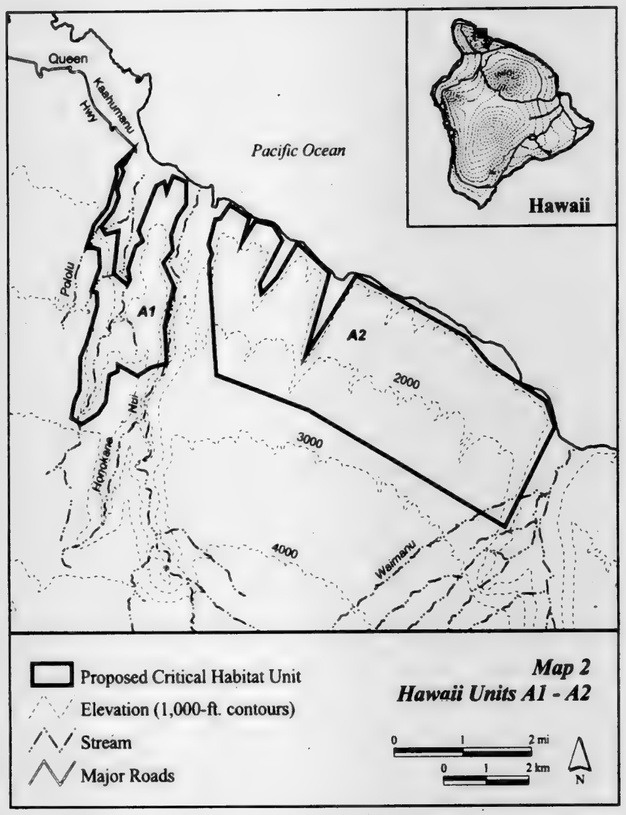

(*3*) Hawaii B (8,200 ha; 20,263 ac).

(*i*) Unit consists of the following 34 boundary points: 220056, 2222994; 220386, 2223366; 220886, 2223462; 221152, 2223319; 221480, 2222888; 221459, 2222499; 221971, 2222131; 221869, 2221906; 221398, 2221865; 220845, 2221639; 220702, 2221271; 221132, 2220595; 222094, 2220390; 223077, 2220452; 223466, 2219489; 222340, 2218424; 221746, 2218711; 220845, 2218342; 220436, 2219154; 218738, 2219136; 218273, 2217335; 217531, 2217496; 217361, 2217075; 216932, 2217289; 216745, 2217118; 212055, 2218324; 208993, 2220657; 207937, 2222955; 212449, 2224975; 213349, 2223996; 215306, 2226356; 216953, 2226452; 219330, 2224881; 220056, 2222994.

(*ii*) Excluding the area bounded by the following 9 boundary points (233 ha, 577 ac): 218184, 2219101; 217244, 2219173; 214943, 2221244; 214556, 2222362; 214657, 2222404; 215168, 2221804; 216111, 2220679; 217554, 2220006; 218184, 2219101.

(*iii*) **Note:** Map 3 follows:

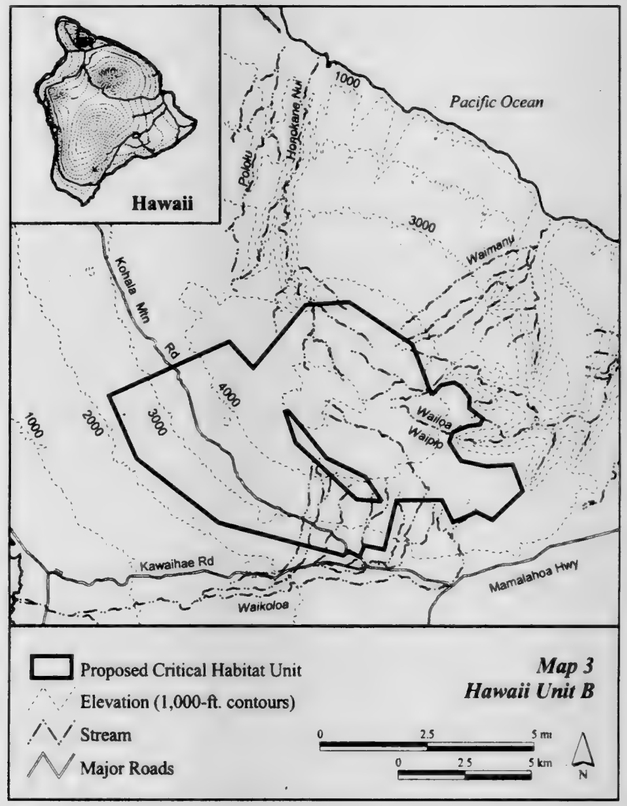

(*4*) Hawaii C (38 ha; 94 ac).

(*i*) Unit consists of the following nine boundary points: 204444, 2212965; 204625, 2212973; 204622, 2212839; 204381, 2212624; 204522, 2212274; 204092, 2212117; 203750, 2212397; 203856, 2212544; 204444, 2212965.

(*ii*) **Note:** Map 4 follows:

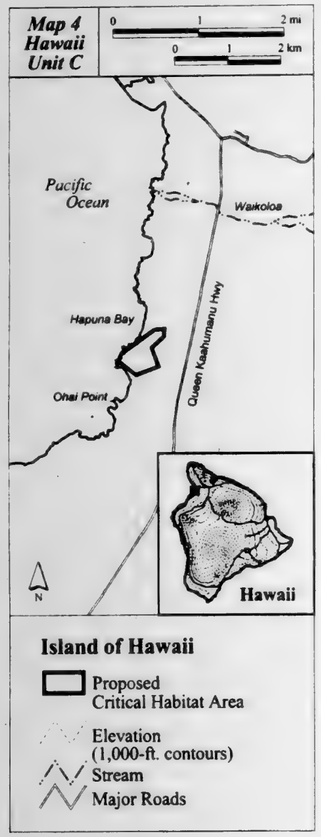

(*5*) Hawaii D1 (55 ha; 136 ac).

(*i*) Unit consists of the following 12 boundary points: 217658, 2212443; 217347, 2212191; 217122, 2212425; 216974, 2212346; 216772, 2212797; 216930, 2213059; 216918, 2213235; 217016, 2213305; 217161, 2212966; 217379, 2213113; 217624, 2212704; 217658, 2212443.

(*ii*) **Note:** See Map 5.

(*6*) Hawaii D2 (43 ha; 107 ac).

(*i*) Unit consists of the following seven boundary points: 223515, 2211644; 223742, 2211502; 223965, 2211046; 223748, 2210727; 223464, 2210758; 223186, 2211148; 223515, 2211644.

(*ii*) **Note:** See Map 5.

(*7*) Hawaii D3 (257 ha; 636 ac).

(*i*) Unit consists of the following 11 boundary points: 229819, 2210481; 230122, 2210409; 230226, 2210890; 230744, 2211568; 231267, 2211631; 231537, 2212023; 232139, 2211722; 231979, 2211293; 229919, 2209314; 229676, 2209450; 229819, 2210481.

(*ii*) **Note:** See Map 5.

(*8*) Hawaii D4 (14 ha; 34 ac).

(*i*) Unit consists of the following six boundary points: 222195, 2208132; 221960, 2208175; 221965, 2208568; 222290, 2208522; 222369, 2208305; 222195, 2208132.

(*ii*) **Note:** See Map 5.

(*9*) Hawaii D5 (1 ha; 4 ac).

(*i*) Unit consists of the following eight boundary points: 219313, 2206792; 219277, 2206743; 219217, 2206755; 219211, 2206878; 219245, 2206912; 219279, 2206913; 219313, 2206868; 219313, 2206792.

(*ii*) **Note:** See Map 5.

(*10*) Hawaii D6 (36 ha; 89 ac).

(*i*) Unit consists of the following eight boundary points: 219524, 2204639; 219285, 2204460; 218903, 2204552; 218798, 2204662; 218872, 2205006; 219122, 2205138; 219438, 2205062; 219524, 2204639.

(*ii*) **Note:** See Map 5.

(*11*) Hawaii D7 (112 ha; 278 ac).

(*i*) Unit consists of the following 12 boundary points: 221058, 2205989; 221716, 2205427; 221986, 2205377; 222020, 2204891; 221830, 2204740; 221852, 2204603; 221531, 2204445; 221346, 2205006; 220421, 2205505; 220400, 2205861; 220861, 2205816; 221058, 2205989.

(*ii*) **Note:** See Map 5.

(*12*) Hawaii D8 (8 ha; 21 ac).

(*i*) Unit consists of the following seven boundary points: 218460, 2202141; 218559, 2201989; 218475, 2201865; 218371, 2201844; 218139, 2202042; 218291, 2202179; 218460, 2202141.

(*ii*) **Note:** Map 5 follows:

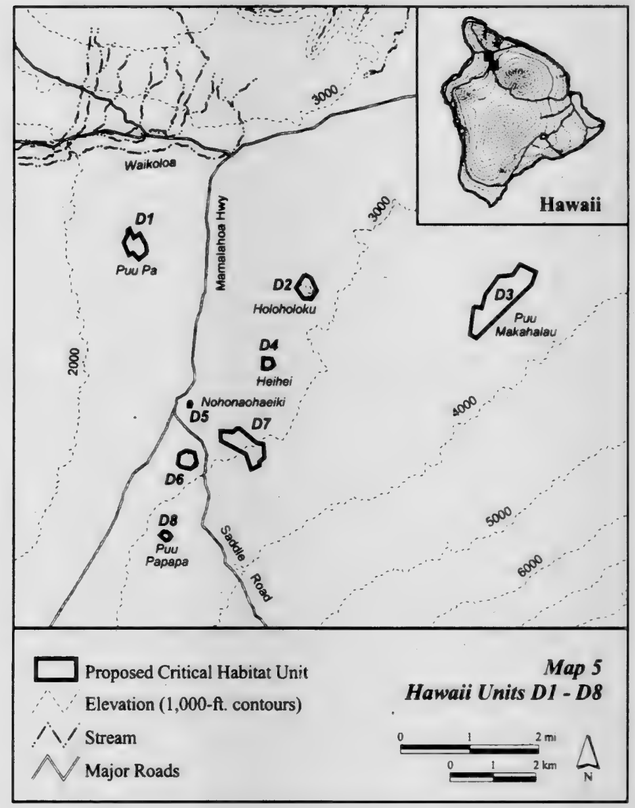

(*13*) Hawaii E (2,992 ha; 7,393 ac)

(*i*) Unit consists of the following 12 boundary points: 256602, 2201844; 257942, 2202750; 259136, 2200808; 259973, 2197792; 259164, 2195977; 257990, 2196313; 258115, 2195161; 255348, 2195206; 255294, 2197390; 254588, 2199653; 255244, 2203058; 256602, 2201844.

(*ii*) **Note:** Map 6 follows:

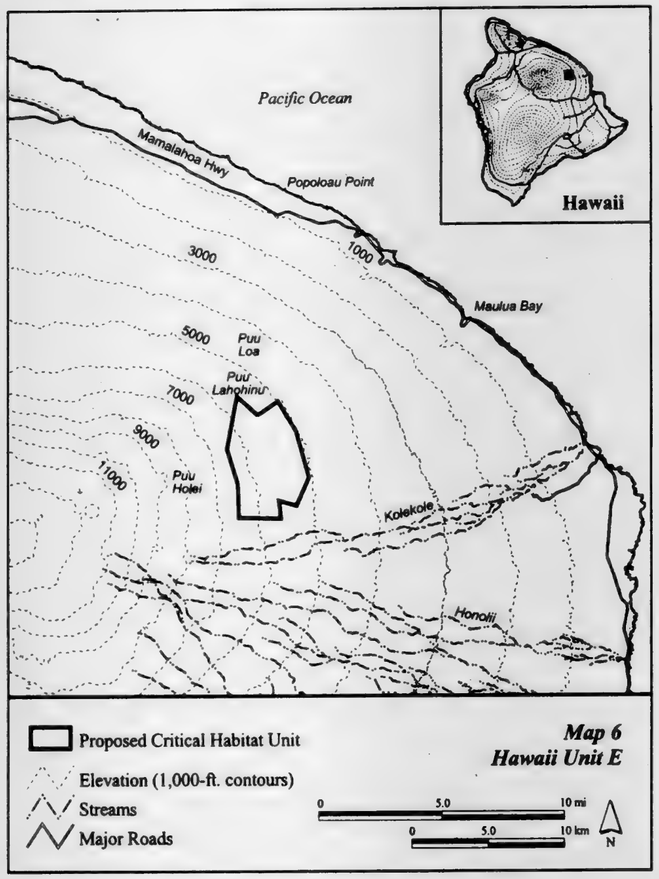

Map 6
Hawaii Unit E

((*14*) Hawaii F (13,906 ha; 34,363 ac).
(*i*) Unit consists of the following 26 boundary points: 266711, 2189400; 258582, 2189967; 258122, 2187775; 255211, 2189128; 255480, 2193046; 255783, 2193024; 256116, 2193190; 256121, 2193417; 257062, 2193396; 259634, 2192559; 260989, 2198401; 260703, 2200148; 261944, 2204127; 261158, 2204766; 260467, 2204723; 259168, 2203086; 257856, 2204159; 257404, 2204963; 256622, 2205405; 257561, 2207252; 257006, 2207522; 257933, 2209976; 258996, 2210030; 262583, 2208378; 265651, 2206158; 266711, 2189400.

(*ii*) **Note:** Map 7 follows:

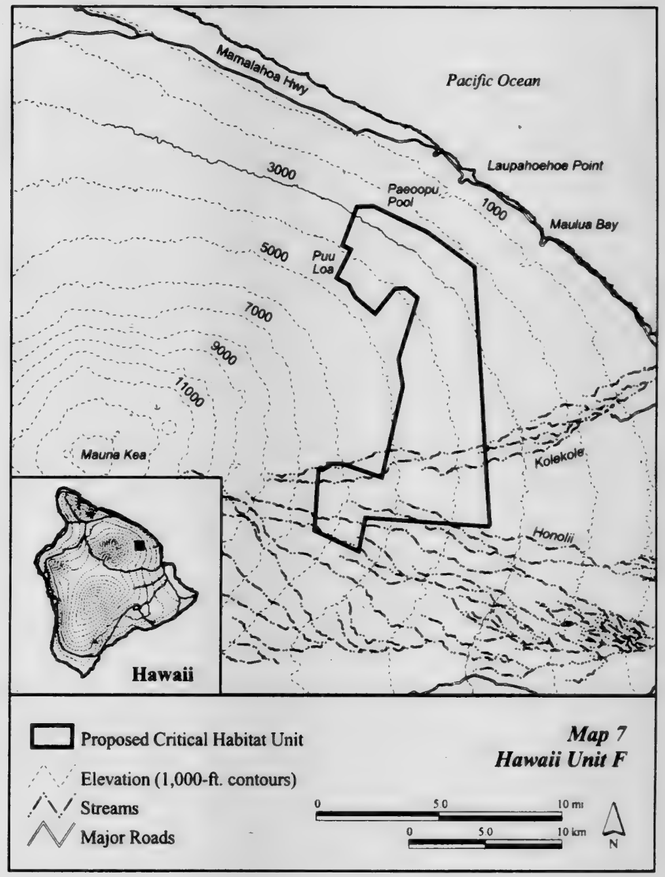

Map 7
Hawaii Unit F

(*15*) Hawaii G (32,286 ha; 79,781 ac).
(*i*) Unit consists of the following 52 boundary points: 260368, 2156706; 259509, 2155445; 255714, 2157400; 250084, 2165481; 249140, 2169300; 250847, 2170639; 249738, 2174070; 251601, 2176619; 255032, 2176864; 256265, 2173968; 258036, 2177250; 262267, 2183657; 265594, 2183524; 267656, 2181395; 266981, 2179799; 271100, 2179533; 272746, 2178964; 265775, 2176949; 265615, 2173174; 266388, 2170855; 257222, 2170390; 255508, 2169531; 259558, 2164351; 259625, 2163807; 258983, 2163775; 258608, 2163559; 257889, 2163809; 257937, 2163979; 257725, 2164003; 257418, 2163342; 258185, 2162891; 258752, 2162422; 259789, 2162776; 259848, 2162373; 260734, 2160659; 263088, 2160361; 265004, 2164964; 266409, 2165548; 267862, 2165369; 268296, 2164387; 268316, 2164392; 269082, 2162635; 268527, 2160814; 269085, 2157102; 267952, 2155276; 269920, 2153164; 266755, 2150858; 265179, 2153340; 264559, 2152994; 262477, 2156217; 261502, 2155677; 260368, 2156706.

(*ii*) **Note:**Map 8 follows.

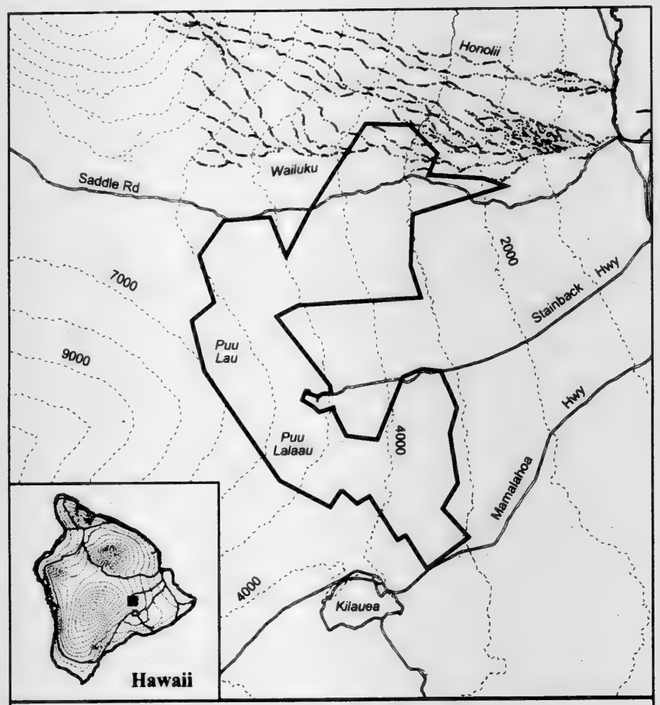

Map 8
Hawaii Unit G

(*16*) Hawaii H (5,322 ha; 13,151 ac).
(*i*) Unit consists of the following 13 boundary points: 251923, 2160023; 253460, 2158526; 252820, 2156844; 251512, 2156703; 253803, 2154201; 252314, 2151377; 246870, 2153207; 247755, 2154211; 246280, 2155218; 245573, 2156986; 246070, 2160207; 247871, 2160627; 251923, 2160023.

(*ii*) **Note:** Map 9 follows.

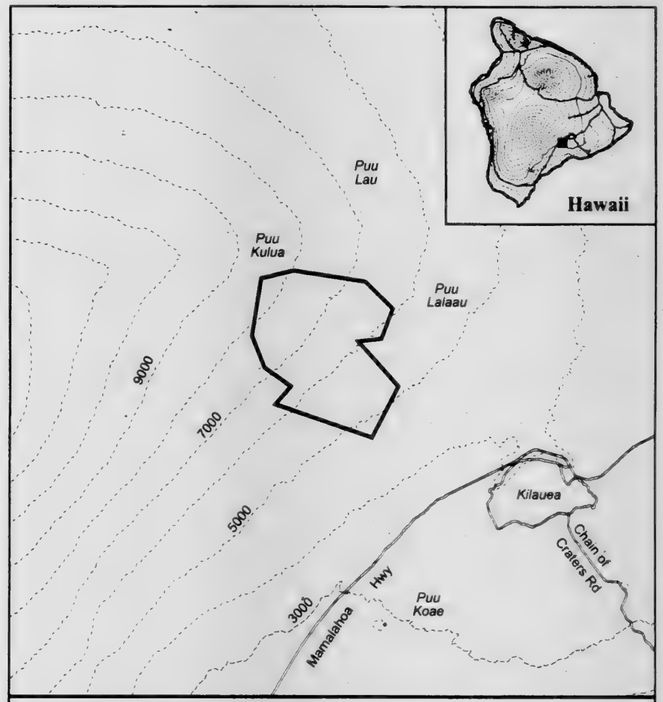

Map 9
Hawaii Unit H

(*17*) Hawaii I (522 ha; 1,290 ac).
(*i*) Unit consists of the following eight boundary points: 258433, 2150898; 257351, 2150734; 256786, 2149999; 255343, 2150577; 257268, 2152271; 259182, 2152731; 259540, 2152124; 258433, 2150898.

(*ii*) **Note:** Map 10 follows.

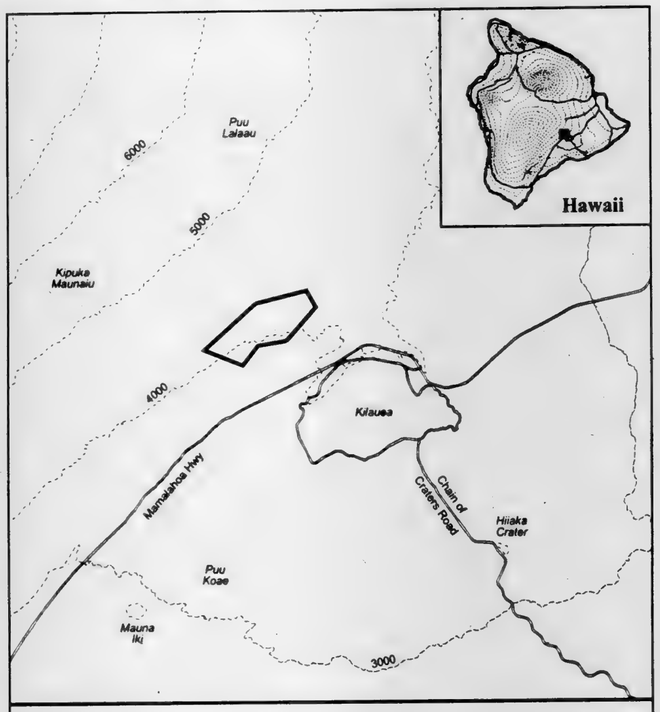

Map 10
Hawaii Unit I

(*18*) Hawaii J (5,065 ha; 12,516 ac).
(*i*) Unit consists of the following seven boundary points: 279757, 2148468; 272371, 2143454; 268751, 2147441; 271710, 2149593; 276749, 2150890; 281591, 2152626; 279757, 2148468.

(*ii*) **Note:** Map 11 follows:

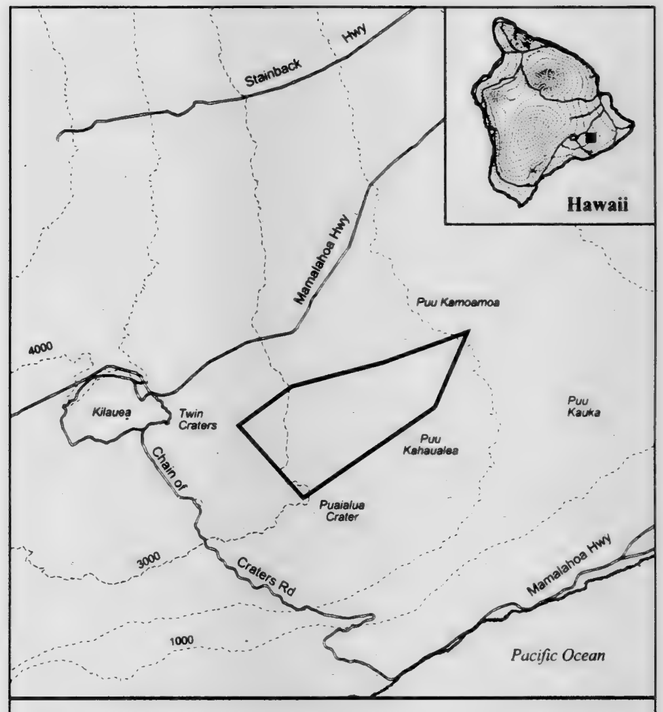

Map 11
Hawaii Unit J

(*19*) Hawaii K (15,294 ha; 37,792 ac).
(*i*) Unit consists of the following 29 boundary points: 224527, 2133134; 230903, 2140619; 234438, 2143729; 238998, 2150111; 241626, 2150220; 243506, 2149158; 242986, 2146643; 238998, 2142139; 242286, 2139770; 241367, 2137225; 240125, 2137019; 239140, 2134291; 237510, 2135220; 238298, 2137823; 235958, 2138922; 236512, 2140899; 235380, 2140822; 235020, 2139742; 233111, 2137411; 234739, 2135265; 232310, 2133217; 230373, 2132524; 229332, 2130965; 226078, 2128345; 225106, 2129484; 222624, 2126875; 221850, 2129146; 224293, 2130509; 224527, 2133134.

(*ii*) **Note:** Map 12 follows:

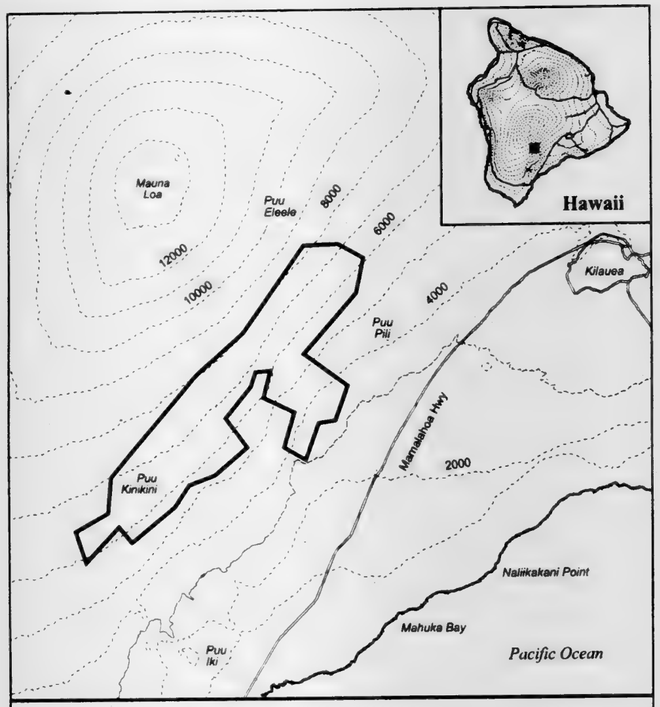

(*20*) Hawaii L (38,505 ha; 95,148 ac).

(*i*) Unit consists of the following 27 boundary points and the intermediate coastline: 269799, 2145483; 270429, 2143104; 268294, 2141333; 268202, 2141259; 268224, 2141247; 270343, 2140162; 270786, 2139161; 272920, 2139709; 275334, 2138290; 274935, 2136330; 270882, 2135751; 273045, 2131980; 273073, 2131644; 248432, 2124173; 247059, 2126847; 250585, 2135021; 249994, 2142352; 256883, 2148361; 258069, 2150441; 259217, 2149492; 260325, 2150029; 262724, 2150106; 262978, 2149151; 263296, 2148846; 263963, 2149299; 265911, 2146297; 269799, 2145483.

(*ii*) **Note:** Map 13 follows:

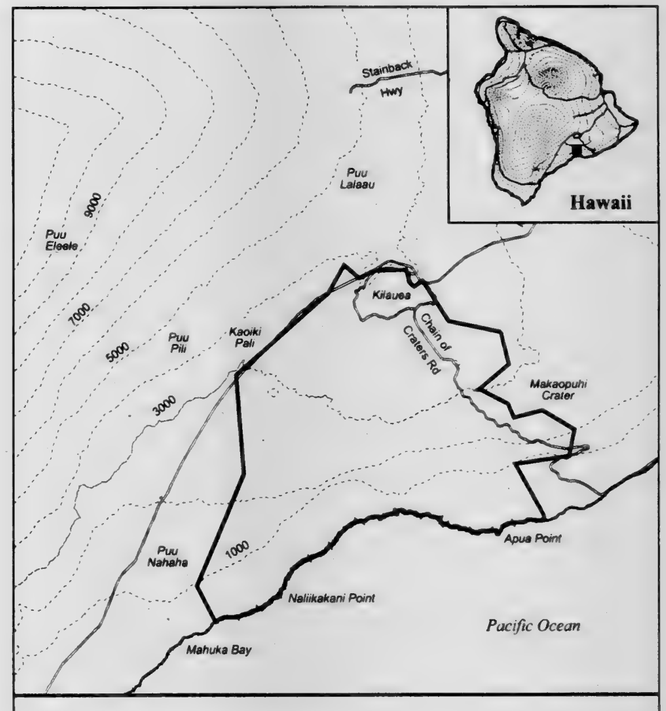

(*21*) Hawaii M1 (19 ha, 46 ac).

(*i*) Unit consists of the following six boundary points and the intermediate coastline: 290436, 2182514; 290346, 2182746; 290037, 2183187; 290191, 2183379; 290648, 2182628; 290436, 2182514.

(*ii*) **Note:** See Map 14:

(*22*) Hawaii M2 (133 ha, 328 ac).

(*i*) Unit consists of the following seven boundary points and the intermediate coastline: 299860, 2164658; 298430, 2165311; 298418, 2165662; 298918, 2165882; 299164, 2166128; 300166, 2164994; 299860, 2164658.

(*ii*) **Note:** See Map 14:

(*23*) Hawaii M3 (141 ha, 349 ac).

(*i*) Unit consists of the following eight boundary points and the intermediate coastline: 302785, 2149537; 305121, 2151610; 305379, 2151558; 305688, 2151734; 305768, 2151825; 305926, 2151657; 302998, 2149399; 302785, 2149537.

(*ii*) **Note:** See Map 14:

(*24*) Hawaii M4 (141 ha, 348 ac).

(*i*) Unit consists of the following 10 boundary points and the intermediate coastline: 294327, 2142439; 294091, 2142729; 294897, 2143498; 295092, 2143256; 295740, 2143796; 296348, 2144415; 296086, 2144633; 296853, 2145365; 297150, 2145025; 294327, 2142439.

(*ii*) **Note:** See Map 14:

(*25*) Hawaii M5 (533 ha, 1,316 ac).

(*i*) Unit consists of the following 10 boundary points and the intermediate coastline: 278462, 2135799; 281674, 2137029; 282395, 2136841; 284108, 2137718; 284803, 2137355; 284850, 2137360; 284874, 2137349; 284893, 2137276; 279221, 2134615; 278462, 2135799.

(*ii*) **Note:** Map 14 follows:

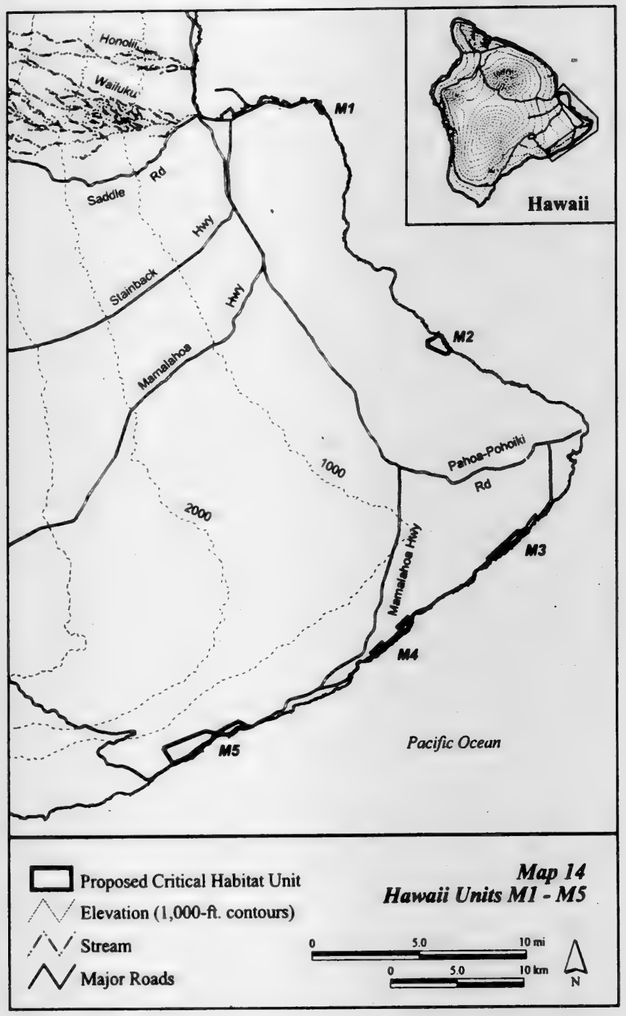

(*26*) Hawaii N1 (35 ha; 88 ac).

(*i*) Unit consists of the following 12 boundary points and the intermediate coastline: 226741, 2101686; 226790, 2101953; 226781, 2102176; 226908, 2102299; 226917, 2102261; 226379, 2099994; 226353, 2100102; 226476, 2100184; 226781, 2100602; 226831, 2100880; 226831, 2101257; 226741, 2101686.

(*ii*) **Note:** See Map 15:

(*27*) Hawaii N2 (441 ha; 1,091 ac).

(*i*) Unit consists of the following 17 boundary points and the intermediate coastline: 218146, 2094919; 218077, 2094656; 218291, 2094588; 218623, 2094561; 220226, 2095017; 220630, 2095479; 220789, 2095748; 220926, 2096057; 221185, 2096180; 221326, 2096062; 221462, 2096012; 221594, 2095880; 221763, 2095728; 217452, 2094960; 217481, 2094950; 217632, 2094974; 218146, 2094919.

(*ii*) **Note:** Map 15 follows:

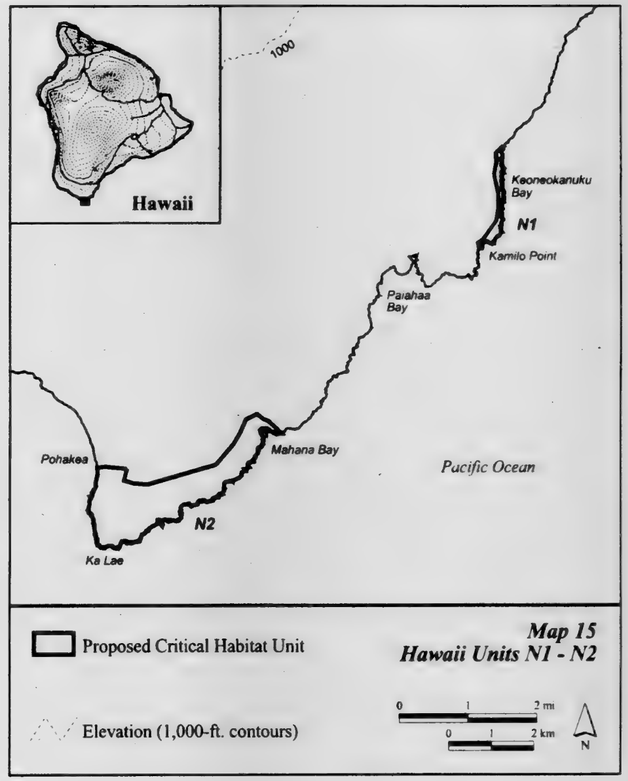

(*28*) Hawaii O (215 ha; 531 ac).

(*i*) Unit consists of the following 15 boundary points: 221200, 2105198; 221467, 2104758; 221444, 2104588; 222078, 2104024; 221064, 2103509; 220535, 2104849; 219841, 2104574; 219669, 2104802; 219758, 2105103; 220370, 2105598; 220464, 2105761; 220683, 2105838; 220715, 2105654; 220821, 2105428; 221200, 2105198.

(*ii*) **Note:** Map 16 follows:

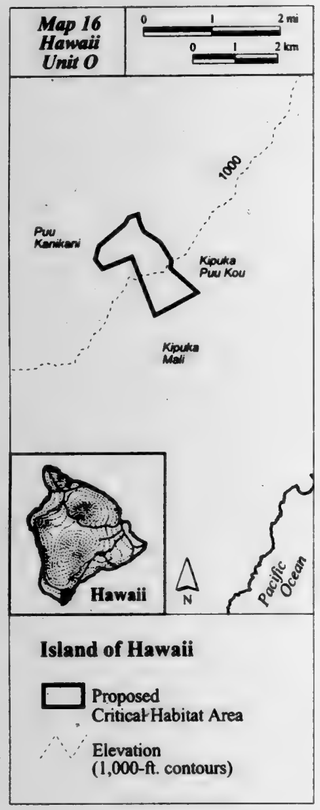

(*29*) Hawaii P (547 ha; 1,351 ac).

(*i*) Unit consists of the following seven boundary points: 215125, 2109609; 214584, 2109691; 212813, 2110371; 212813, 2111962; 215328, 2112049; 215501, 2109621; 215125, 2109609.

(*ii*) **Note:** Map 17 follows:

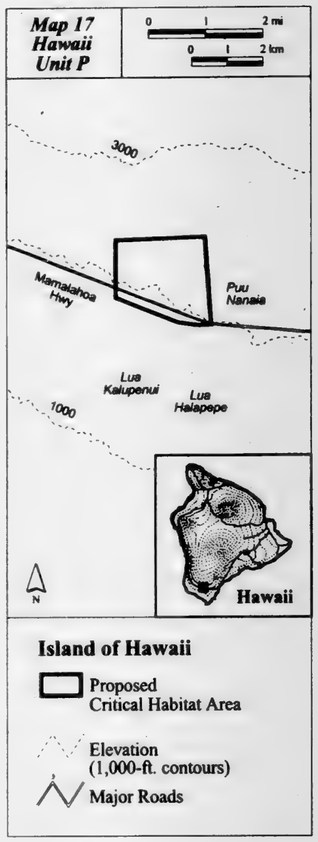

(*30*) Hawaii Q (3,549 ha; 8,770 ac).

(*i*) Unit consists of the following 15 boundary points: 203744, 2119863; 204434, 2120339; 206918, 2117598; 204288, 2114159; 203379, 2114793; 202419, 2113989; 201403, 2115445; 198635, 2113306; 197884, 2114011; 196992, 2116831; 197884, 2118084; 199261, 2117650; 199326, 2117178; 199670, 2116873; 203744, 2119863.

(*ii*) **Note:** Map 18 follows:

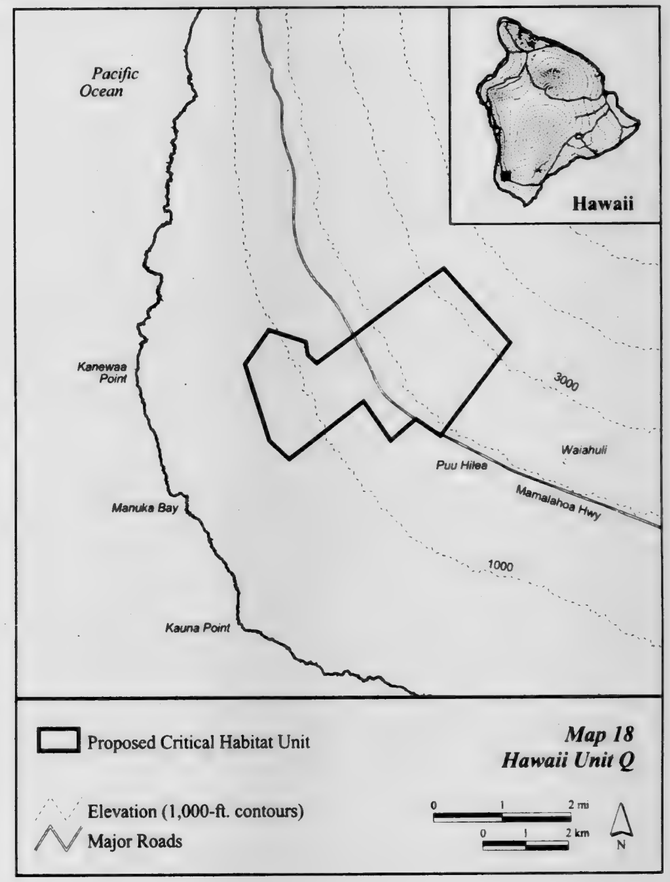

(*31*) Hawaii R (387 ha; 387 ac).

(*i*) Unit consists of the following eight boundary points: 199019, 2121433; 198840, 2122426; 199183, 2123093; 199523, 2123234; 199557, 2123431; 200864, 2123853; 201509, 2122322; 199019, 2121433.

(*ii*) **Note:** Map 19 follows:

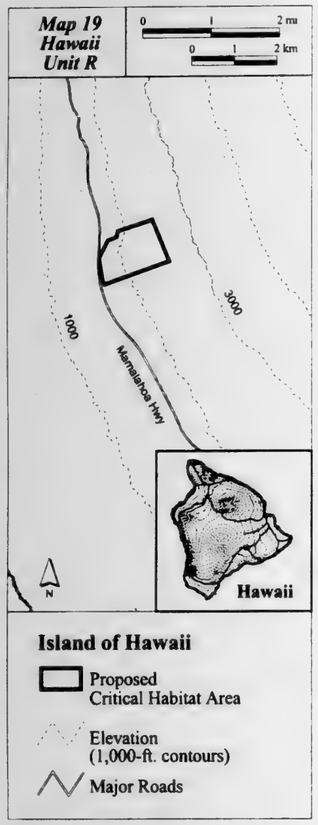

(*32*) Hawaii S (383 ha; 947 ac).

(*i*) Unit consists of the following five boundary points: 206224, 2130517; 202842, 2129444; 202613, 2131045; 205877, 2131123; 206224, 2130517.

(*ii*) **Note:** Map 20 follows:

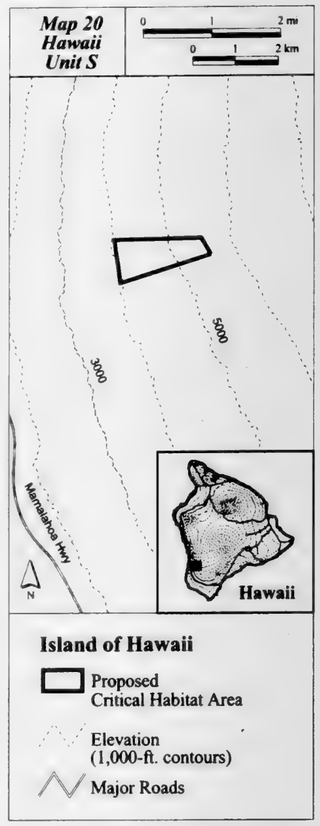

(*33*) Hawaii T (1,489 ha; 3,681 ac).

(*i*) Unit consists of the following seven boundary points: 204443, 2132607; 203375, 2132666; 203443, 2135792; 202673, 2135845; 202654, 2138543; 206732, 2138501; 204443, 2132607.

(*ii*) **Note:** Map 21 follows:

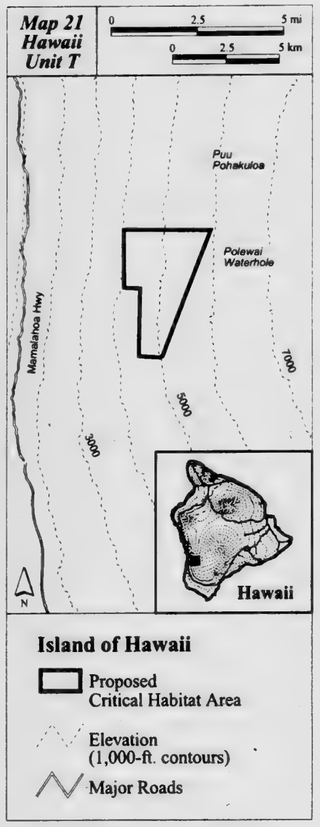

(*34*) Hawaii U (615 ha; 1,520 ac).

(*i*) Unit consists of the following seven boundary points: 207156, 2146304; 206598, 2144681; 206598, 2143570; 204428, 2143915; 204674, 2145490; 204421, 2146650; 207156, 2146304.

(*ii*) **Note:** Map 22 follows:

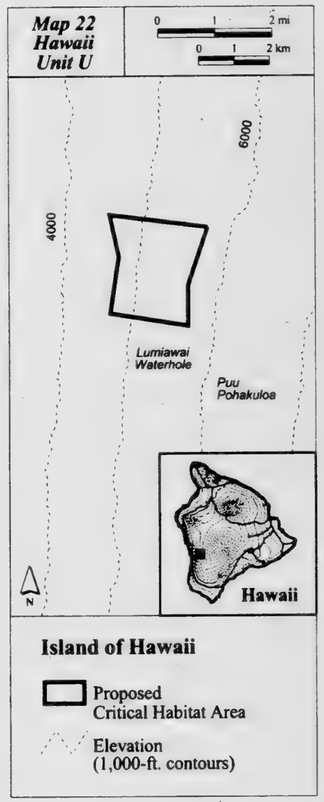

(*35*) Hawaii V (951 ha; 951 ac).

(*i*) Unit consists of the following nine boundary points: 201716, 2156441; 202236, 2157481; 203493, 2157946; 204443, 2157768; 205570, 2155691; 205302, 2155071; 202715, 2154681; 201716, 2154917; 201716, 2156441.

(*ii*) **Note:** Map 23 follows:

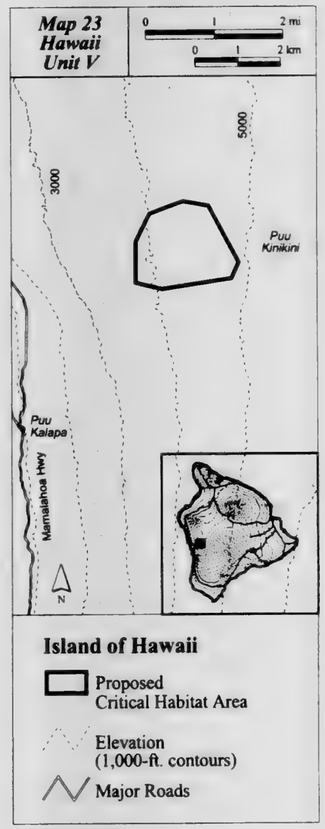

(*36*) Hawaii W (1,479 ha; 3,654 ac).

(*i*) Unit consists of the following 13 boundary points: 205252, 2167635; 201198, 2170923; 202321, 2172189; 205378, 2169282; 205734, 2168071; 205395, 2167074; 206630, 2166529; 207676, 2167534; 209126, 2167741; 208948, 2165908; 206971, 2164632; 204555, 2167184; 205252, 2167635.

(*ii*) **Note:** Map 24 follows:

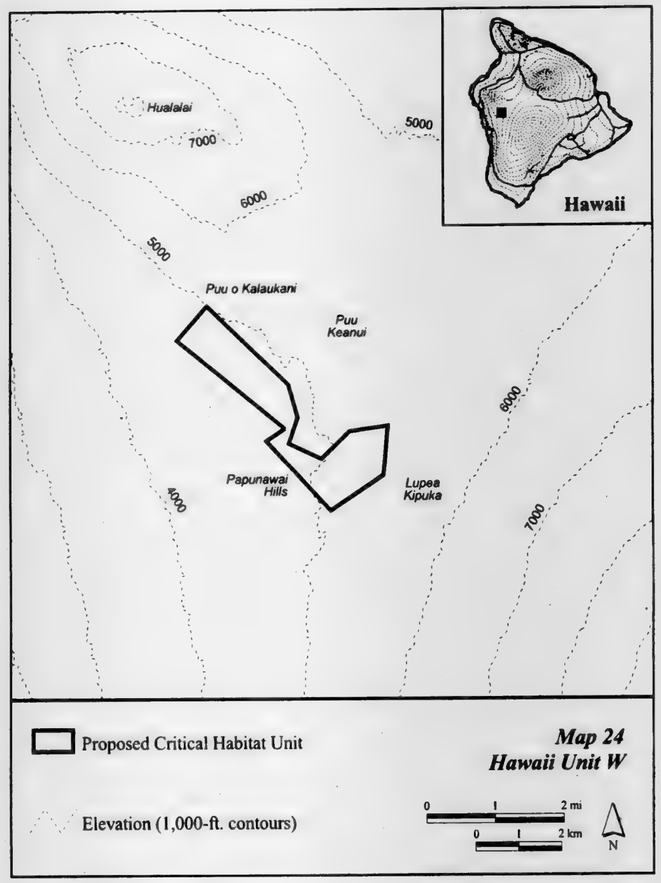

(*37*) Hawaii X (138 ha; 340 ac).

(*i*) Unit consists of the following nine boundary points: 197194, 2177013; 196714, 2177434; 196239, 2177751; 196187, 2178067; 195553, 2178701; 196028, 2179334; 196530, 2178147; 197744, 2177408; 197793, 2177330.

(*ii*) **Note:** Map 25 follows:

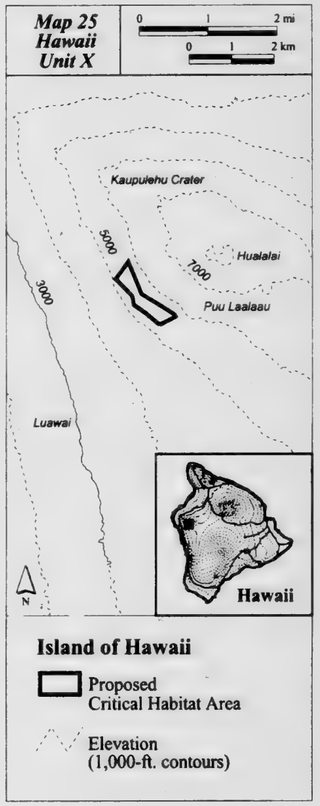

(*38*) Hawaii Y1 (212 ha; 524 ac).

(*i*) Unit consists of the following seven boundary points: 183972, 2179379; 183738, 2180484; 183094, 2180286; 182697, 2181215; 184122, 2181277; 184966, 2179538; 184138, 2179420.

(*ii*) **Note:** Map 26 follows:

(*39*) Hawaii Y2 (334 ha; 826 ac).

(*i*) Unit consists of the following 18 boundary points: 185749, 2177865; 185261, 2177684; 185647, 2177155; 186075, 2177494; 186885, 2176018; 186069, 2175532; 185540, 2176019; 185232, 2175842; 184584, 2176731; 185340, 2176888; 185300, 2177182; 184431, 2177142; 184190, 2177908; 184571, 2177971; 184963, 2178008; 185173, 2178026; 185406, 2178122; 185576, 2178230.

(*ii*) **Note:** Map 26 follows:

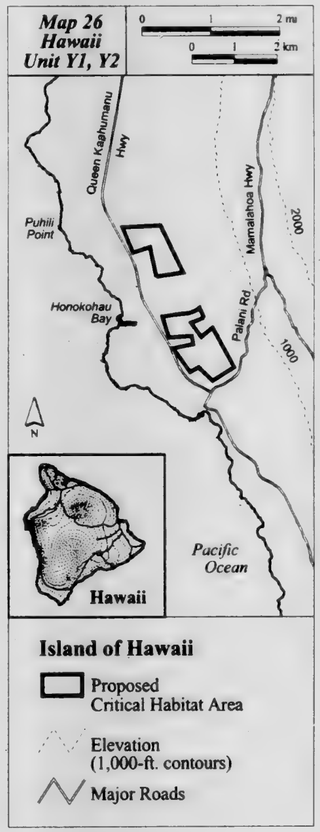

(*40*) Hawaii Z (10,738 ha; 26,535 ac).

(*i*) Unit consists of the following 22 boundary points: 195290, 2187514; 192592, 2186941; 191694, 2187574; 189745, 2187154; 189472, 2186376; 188637, 2186944; 199157, 2194227; 200761, 2193290; 201154, 2193708; 202794, 2192559; 203397, 2193436; 204610, 2192598; 203353, 2189881; 204671, 2188173; 204462, 2186704; 202154, 2186315; 200408, 2181683; 198449, 2180555; 195423, 2181386; 193852, 2183527; 194901, 2183797; 195290, 2187514.

(*ii*) **Note:** Map 27 follows:

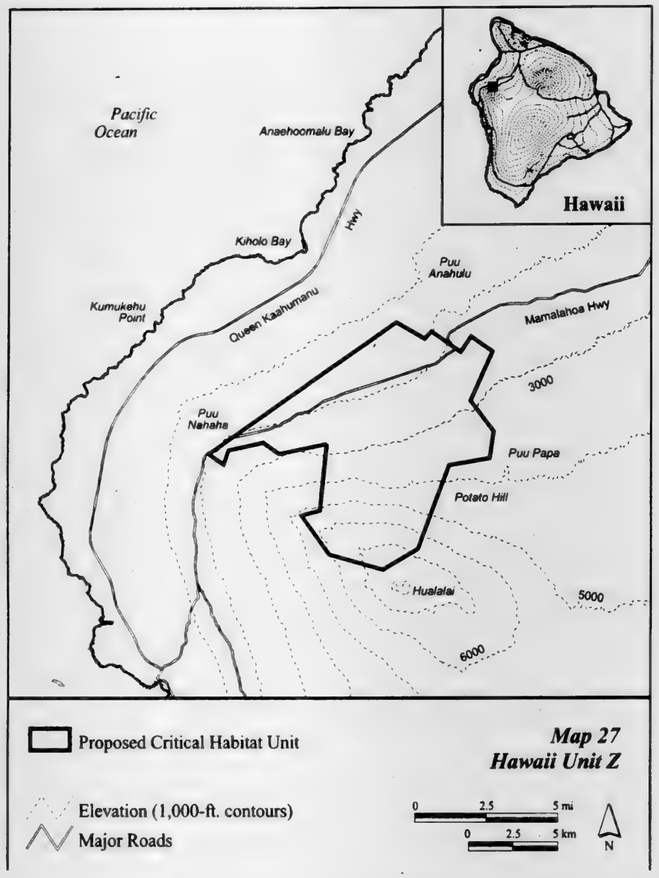

(*41*) Hawaii AA (28,384 ha; 70,138 ac).

(*i*) Unit consists of the following 67 boundary points: 232723, 2183705; 230919, 2184740; 230815, 2184516; 229320, 2184420; 228423, 2185167; 225733, 2185964; 225124, 2185943; 223293, 2184769; 223290, 2183683; 220000, 2179930; 219994, 2179923; 219987, 2179918; 219981, 2179913; 219977, 2179911; 219973, 2179909; 219965, 2179906; 216370, 2178543; 222247, 2173811; 222322, 2167265; 222322, 2167257; 222335, 2167257; 220155, 2166489; 219579, 2168927; 219762, 2171154; 219286, 2172006; 218282, 2169685; 214867, 2175808; 210939, 2174004; 209532, 2175089; 209494, 2176651; 213262, 2178498; 208392, 2187047; 210165, 2188544; 210162, 2188542; 210803, 2189143; 211768, 2188558; 214377, 2189201; 217216, 2188903; 221396, 2190818; 222990, 2190609; 223038, 2190602; 223044, 2190601; 224382, 2191593; 226252, 2188954; 229287, 2188260; 230414, 2189388; 234885, 2188211; 235657, 2187676; 234948, 2187010; 231708, 2187545; 231561, 2186512; 234898, 2186362; 235254, 2186077; 235032, 2185729; 235339, 2185480; 235602, 2185805; 236072, 2185421; 235419, 2184116; 236547, 2181683; 236410, 2179093; 237588, 2179190; 238332, 2176662; 236820, 2174962; 237090, 2173313; 235396, 2172615; 233055, 2173313; 232723, 2183705.

(*ii*) Excluding the following two areas:

(*A*) Bounded by the following 7 boundary points (10ha, 24ac): 232577, 2185323; 232599, 2185467; 232714, 2185578; 232934, 2185467; 232998, 2185368; 232954, 2185202; 232577, 2185323.

(*B*) Bounded by the following 9 boundary points (5ha, 11ac): 233384, 2184752; 233480, 2184822; 233636, 2184644; 233786, 2184671; 233811, 2184653; 233813, 2184596; 233682, 2184541; 233484, 2184638; 233384, 2184752.

(*iii*) **Note:** Map 28 follows:

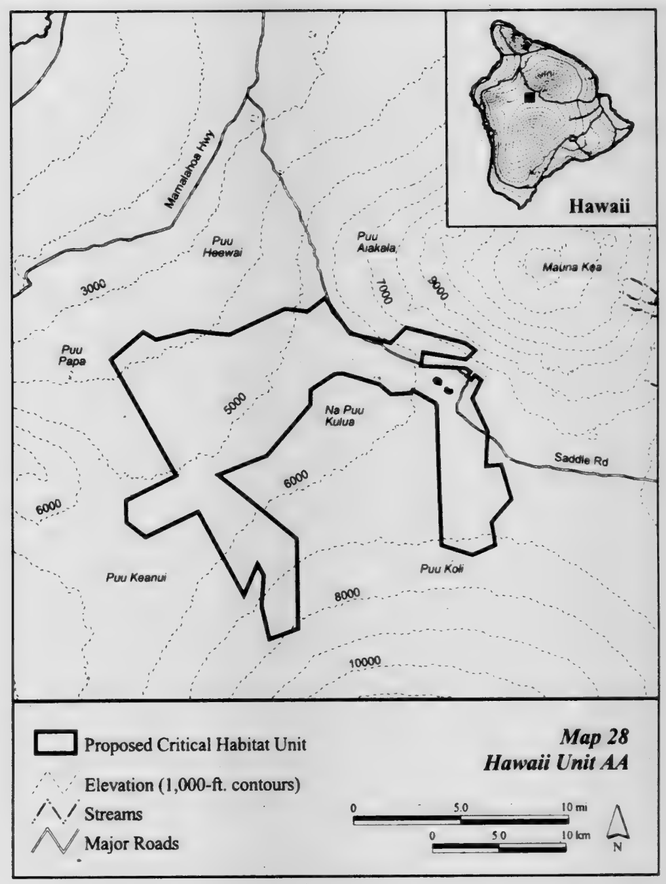

(*42*) Hawaii BB (43 ha; 106 ac).

(*i*) Unit consists of the following 13 boundary points and the intermediate coastline: 181769, 2190198; 181706, 2189862; 181589, 2189862; 181195, 2189687; 180990, 2189424; 180757, 2189337; 180698, 2189351; 180707, 2189442; 181635, 2190130; 181662, 2190111; 181735, 2190198; 181750, 2190198; 181769, 2190198.

(*ii*) **Note:** Map 29 follows:

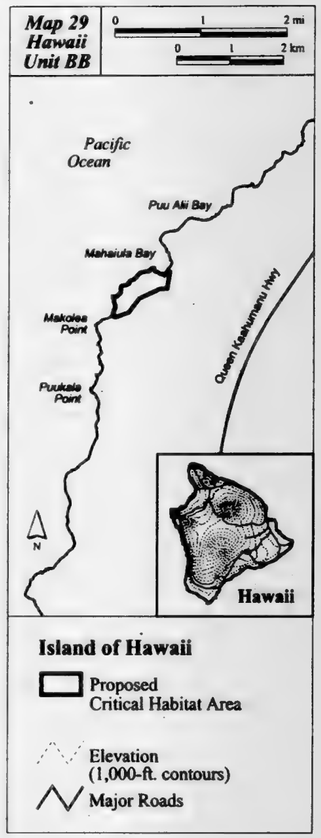

TABLE (a)(1)(i)(H).—PROTECTED SPECIES WITHIN EACH CRITICAL HABITAT UNIT ON THE ISLAND OF HAWAII

Unit name	Species occupied	Species unoccupied
Hawaii A1	*Pleomele hawaiiensis*	
Hawaii A2	*Nothocestrum breviflorum*	
Hawaii B	*Achyranthes mutica, Clermontia drepanomorpha, Phyllostegia warshaueri.*	
Hawaii C	*Sesbania tomentosa*	
Hawaii D1	*Portulaca sclerocarpa*	*Isodendrion hosakae, Vigna o-wahuensis.*
Hawaii D2		*Isodendrion hosakae, Portulaca sclerocarpa, Vigna o-wahuensis.*
Hawaii D3		*Isodendrion hosakae.*
Hawaii D4		*Isodendrion hosakae, Portulaca sclerocarpa, Vigna o-wahuensis.*
Hawaii D5	*Isodendrion hosakae, Portulaca sclerocarpa, Vigna o-wahuensis.*	
Hawaii D6		*Isodendrion hosakae, Portulaca sclerocarpa, Vigna o-wahuensis.*
Hawaii D7	*Isodendrion hosakae, Portulaca sclerocarpa*	*Vigna o-wahuensis.*
Hawaii D8	*Isodendrion hosakae*	*Portulaca sclerocarpa, Vigna o-wahuensis.*
Hawaii E	*Clermontia lindseyana, Clermontia pyrularia, Phyllostegia racemosa.*	
Hawaii F	*Cyanea platyphylla, Cyanea shipmanii, Cyrtandra giffardii, Cyrtandra tintinnabula, Phyllostegia racemosa, Phyllostegia warshaueri.*	*Clermontia peleana.*

TABLE (a)(1)(i)(H).—PROTECTED SPECIES WITHIN EACH CRITICAL HABITAT UNIT ON THE ISLAND OF HAWAII—Continued

Unit name	Species occupied	Species unoccupied
Hawaii G	*Argyroxiphium kauense, Asplenium fragile* var. *insulare, Clermontia lindseyana, Cyanea platyphylla, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Phyllostegia racemosa, Phyllostegia velutina, Plantago hawaiense, Sicyos alba.*	*Clermontia peleana.*
Hawaii H	*Argyroxiphium kauense, Phyllostegia racemosa, Plantago hawaiensis, Silene hawaiiensis.*	
Hawaii I	*Hibiscadelphus giffardianus, Melicope zahlbruckneri*	
Hawaii J	*Adenophorus periens*	
Hawaii K	*Argyroxiphium kauense, Asplenium fragile* var. *insulare, Clermontia lindseyana, Cyanea stictophylla, Phyllostegia velutina.*	*Melicope zahlbruckneri*
Hawaii L	*Pleomele hawaiiensis, Portulaca sclerocarpa, Sesbania tomentosa.*	
Hawaii M1	*Ischaemum byrone*	
Hawaii M2	*Ischaemum byrone*	
Hawaii M3	*Ischaemum byrone*	
Hawaii M4	*Ischaemum byrone*	
Hawaii M5	*Ischaemum byrone*	
Hawaii N1	*Sesbania tomentosa*	
Hawaii N2	*Sesbania tomentosa*	
Hawaii O	*Mariscus fauriei*	
Hawaii P	*Pleomele hawaiiensis*	
Hawaii Q	*Colubrina oppositifolia, Diellia erecta, Flueggea neowawraea, Gouania vitifolia, Neraudia ovata.*	
Hawaii R	*Diellia erecta, Flueggea neowawraea*	
Hawaii S	*Cyanea hamatiflora* ssp. *carlsonii, Cyanea stictophylla*	
Hawaii T	*Cyanea stictophylla*	*Cyanea hamatiflora* ssp. *carlsonii.*
Hawaii U	*Cyanea hamatiflora* ssp. *carlsonii*	
Hawaii V	*Nothocestrum breviflorum*	
Hawaii W	Delissea undulata	*Solanum incompletum.*
Hawaii X	*Cyanea hamatiflora* ssp. *carlsonii*	
Hawaii Y1	*Neraudia ovata*	
Hawaii Y2	*Isodendrion pyrifolium*	*Neraudia ovata.*
Hawaii Z	*Bonamia menziesii, Colubrina oppositifolia, Cyanea stictophylla, Delissea undulata, Flueggea neowawraea, Hibiscadelphus hualalaiensis, Hibiscus brackenridgei, Nothocestrum breviflorum, Phyllostegia velutina, Plantago hawaiensis, Pleomele hawaiiensis, Zanthoxylum dipetalum* var. *tomentosum.*	
Hawaii AA	*Asplenium fragile* var *insulare, Hedyotis coriacea, Neraudia ovata, Portulaca sclerocarpa, Silene hawaiiensis, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium arenarium, Zanthoxylum hawaiiense.*	
Hawaii BB	*Sesbania tomentosa*	

(ii) *Hawaiian plants—Constituent elements.*

(A) *Flowering plants.*

Family Amaranthaceae: Achyranthes mutica (NCN).

Hawaii B, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Achyranthes mutica* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Acacia koaia* lowland dry forest primarily in gulches but also in remnant stands of forest containing one or more of the following associated native plant species: *Dodonaea viscosa, Myoporum sandwicense, Osteomeles anthyllidifolia, Nestegis sandwicensis, Metrosideros polymorpha, Santalum ellipticum, Erythrina sandwicensis,* or *Sophora chrysophylla;* and

(*2*) Elevations between 643 and 1,518 m (2,110 and 4,990 ft).

Family Apiaceae: Spermolepis hawaiiensis (NCN).

Hawaii AA, identified in the legal description in paragraph (a)(1)(i)(H), constitute critical habitat for *Spermolepis hawaiiensis* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Shady spots in *Dodonaea viscosa* lowland dry shrubland, on pahoehoe lava and containing one or more of the following associated native plant species: *Myoporum sandwicense, Osteomeles anthyllidifolia,* or *Sophora chrysophylla,* and

(*2*) Elevations between 1,134 and 2,140 m (3,720 and 7,020 ft).

Family Asteraceae: Argyroxiphium kauense (Mauna Loa silversword).

Hawaii G, H, K, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Argyroxiphium kauense* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moist open forest; subalpine mesic shrubland, bogs; and weathered, old pahoehoe (smooth) or aa (rough) lava with well developed pockets of soil, and containing one or more of the following associated native plant species: *Coprosma montana, Plantago hawaiensis, Silene hawaiiensis, Asplenium fragile* var. *insulare,*

Metrosideros polymorpha, Styphelia tameiameiae , Coprosma ernodeoides, Vaccinium reticulatum, Dubautia ciliolata, Geranium cuneatum, Carex montis-eeka, Carex alligata, Rhynchospora chinensis, Dodonaea viscosa, Gahnia gahniiformis, or *Deschampsia nubigena;* and

(*2*) Elevations between 1,625 and 2,774 m (3,330 and 9,100 ft).

Family Asteraceae: Tetramolopium arenarium (NCN).

Hawaii AA, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Tetramolopium arenarium* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland and montane dry shrublands dominated by *Dodonaea viscosa,* containing one or more of the following associated native plant species: *Styphelia tameiameiae, Dubautia linearis, Chamaesyce olowaluana, Haplostachys haplostachya, Sida fallax,* or *Chenopodium oahuense,* and

(*2*) Elevations between 1,363 and 1,762 m (4,470 and 5,780 ft).

Family Campanulaceae: Clermontia drepanomorpha (oha wai).

Hawaii B, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Clermontia drepanomorpha* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha, Cheirodendron trigynum,* and *Cibotium glaucum* dominated montane wet forests, containing one or more of the following native plant species: *Carex alligata, Melicope clusiifolia, Styphelia tameiameiae, Astelia menziesii, Rubus hawaiiensis, Cyanea pilosa,* and *Coprosma* sp. or native sphagnum moss; and

(*2*) Elevations between 808 and 1,676 m (2,650 and 5,500 ft).

Family Campanulaceae: Clermontia lindseyana (haha).

Hawaii E, G, K, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Clermontia lindseyana* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slightly open forest cover in wet and mesic *Metrosideros polymorpha-Acacia koa* forest, *Metrosideros polymorpha* forest, and mixed montane mesic *Metrosideros polymorpha-Acacia koa* forest and containing one or more of the following associated native plant species: *Styphelia tameiameiae, Cheirodendron trigynum, Rubus hawaiiensis, Coprosma* sp., *Athyrium* sp., or *Peperomia* sp., and

(*2*) Elevations between 1,314 and 2,256 m (4,310 and 7,400 ft).

Family Campanulaceae: Clermontia peleana (oha wai).

Hawaii F, G, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Clermontia pyrularia* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Montane wet *Metrosideros-Cibotium* forest containing one or more of the following associated native plant species: *Clermontia hawaiiensis, Cheirodendron trigynum, Cyrtandra platyphylla, Cibotium menziesii, C. chamissoi, Ilex anomala, Sadleria* spp., or *Coprosma pubens,* and

(*2*) Elevations between 436 and 1,728 m (1,430 and 5,670 ft).

Family Campanulaceae: Clermontia pyrularia (oha wai).

Hawaii E, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Clermontia pyrularia* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Wet and mesic montane forest dominated by *Acacia koa* or *Metrosideros polymorpha,* and subalpine dry forest dominated by *M. polymorpha* containing one or more of the following associated native plant species: *Coprosma* sp., *Dryopteris wallichiana, Rubus hawaiensis,* or *Hedyotis* sp.; and

(*2*) Elevations between 1,628 and 2,061 m (5,340 to 6,760 ft).

Family Campanulaceae: Cyanea hamatiflora ssp. *carlsonii* (haha).

Hawaii S, T, U, X, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Cyanea hamatiflora* ssp. *carlsonii* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Mesic montane forest dominated by *Metrosideros polymorpha* or *Acacia koa* containing one or more of the following associated native plants species: *Myoporum sandwicense, Clermontia clermontioides, Coprosma* sp., *Ilex anomala, Hedyotis* sp., *Sophora chrysophylla, Cibotium* spp., *Dryopteris* sp., or *Athyrium* sp.; and

(*2*) Elevations between 1,350 to 1,783 m (4,430 to 5,850 ft).

Family Campanulaceae: Cyanea platyphylla (haha).

Hawaii F, G, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Cyanea platyphylla* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha-Acacia koa* lowland and montane wet forests containing one or more of the following associated native plant species: *Coprosma* sp., *Psychotria hawaiiensis, Perrottetia sandwicensis, Scaevola* spp., *Cibotium* sp., *Antidesma platyphyllum, Clermontia* spp., *Hedyotis* sp., or *Cyrtandra* spp.; and

(*2*) Elevations between 120 and 915 m (390 and 3,000 ft).

Family Campanulaceae: Cyanea shipmanii (haha).

Hawaii F, G, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Cyanea shipmanii* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Montane mesic forest dominated by *Acacia koa-Metrosideros polymorpha* on the windward slopes of the island containing one or more of the following associated native plant species: *Ilex anomala, Myrsine lessertiana,* or *Cheirodendron trigynum;* and

(*2*) Elevations between 1,619 and 2,027 m (5,310 and 6,650 ft).

Family Campanulaceae: Cyanea stictophylla (haha).

Hawaii G, K, S, T, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Cyanea stictophylla* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Acacia koa* or wet *Metrosideros polymorpha* forests containing one or more of the following associated native plant species: *Melicope* spp., *Cibotium* sp., or *Urera glabra;* and

(*2*) Between elevations of 1,183 and 1,942 m (3,880 and 6,370 ft).

Family Campanulaceae: Delissea undulata (NCN).

Hawaii W, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Delissea undulata* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry cinder cones and open *Sophora chrysophylla* and *Metrosideros polymorpha* forest containing one or more of the following associated native plant species: *Diospyros sandwicensis, Dodonaea viscosa, Psychotria mariniana, P. greenwelliae, Santalum paniculatum, Sophora chrysophylla, Nothocestrum breviflorum,* or *Acacia koa,* and

(*2*) Elevations between 890 to 1,747 m (2,920 to 5,730 ft).

Family Caryophyllaceae: Silene hawaiiensis (NCN).

Hawaii H, AA, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Silene hawaiiensis* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) In weathered lava, but also on variously aged lava flows and cinder substrates in montane and subalpine dry shrubland and containing one or more of the following associated native plants species: *Metrosideros polymorpha, Sophora chrysophylla, Vaccinium reticulatum, Styphelia tameiameiae, Rumex giganteus,* or *Dodonaea viscosa;* and

(*2*) Elevations between 896 and 3,011 m (2,940 and 9,880 ft).

Family Caryophyllaceae: Silene lanceolata (NCN).

Hawaii AA, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Silene lanceolata* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Rocky tumuli or outcrops, on aa lava, in deep ash deposits over pahoehoe lava and in Mauna Kea substrate in dry montane shrubland containing one or more of the following associated native plant species: *Eragrostis* sp., *Metrosideros polymorpha, Chamaesyce* sp., *Myoporum sandwicense, Sophora chrysophylla, Chenopodium oahuense, Dodonaea viscosa, Styphelia tameiameiae,* or *Dubautia linearis,* and

(*2*) Elevations between 1,253 and 1,320 m (4,110 and 4,330 ft).

Family Convolvulaceae: Bonamia menziesii (NCN).

Hawaii Z, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Bonamia menziesii* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry forest containing one or more of the following associated native plant species: *Diospyros sandwicensis, Erythrina sandwicensis, Xylosma hawaiiense, Myrsine lanaiensis, Metrosideros polymorpha, Santalum paniculatum, Sapindus saponaria, Pouteria sandwicensis, Nototrichium sandwicense, Chenopodium oahuense, Senna gaudichaudii, Sophora chrysophylla, Sida fallax, Osteomeles anthyllidifolia, Dodonaea viscosa, Canavalia hawaiiensis, Argemone glauca, Peperomia blanda* var. *floribunda,* or *Psilotum nudum,* and

(*2*) Elevations between 421 and 704 m (1,380 and 2,310 ft).

Family Cucurbitaceae: Sicyos alba (anunu).

Hawaii G, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Sicyos alba* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha-Cibotium glaucum* dominated montane wet forests, containing one or more of the following associated native plant species: *Coprosma* sp., *Astelia menziesii., Athyrium* sp., *Psychotria* sp., *Cheirodendron trigynum, Pritchardia beccariana, Platydesma spathulata, Broussaisia arguta, Cyrtandra lysiosepala, Stenogyne* sp., *Perrottetia sandwicensis, Cheirodendron trigynum, Cyanea tritomantha,* or *Athyrium microphyllum* and other ferns; and

(*2*) Elevations between 896 and 1,576 m (2,940 and 5,170 ft).

Family Cyperaceae: Mariscus fauriei (NCN).

Hawaii O, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Mariscus fauriei* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Diospyros sandwicensis-Metrosideros polymorpha-Sapindus saponaria* dominated lowland dry forests, often on a lava substrate containing one or more of the following associated native plant species: *Sophora chrysophylla, Myoporum sandwicense, Psydrax odorata, Peperomia blanda* var. *floribunda, Osteomeles anthyllidifolia,* or *Rauvolfia sandwicensis,* and

(*2*) Elevations between 107 and 402 m (350 and 1,320 ft).

Family Euphorbiaceae: Flueggea neowawraea (mehamehame).

Hawaii Q, R, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Flueggea neowawraea* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Mesic *Metrosideros polymorpha* forest containing one or more of the following associated native plant species: *Nestegis sandwicensis, Psychotria hawaiiensis, Pittosporum hosmeri, Pipturus albidus, Pisonia* spp., *Diospyros sandwicensis, Psydrax odorata, Antidesma platyphyllum,* A. *pulvinatum,* or *Nephrolepis* spp., and

(*2*) Elevations between 424 to 820 m (1,390 to 2,690 ft).

Family Fabaceae: Sesbania tomentosa (ohai).

Hawaii C, L, N, BB, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Sesbania tomentosa* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Open, dry *Metrosideros polymorpha* forest with mixed native grasses, *Scaevola sericea* coastal dry shrubland on windswept slopes, and weathered basaltic slopes containing one or more of the following associated native plant species: *Sporobolus virginicus, Styphelia tameiameiae, Wollastonia integrifolia, Jacquemontia sandwicensis, Sida fallax, Ipomoea pes-caprae, Dodonaea viscosa, Fimbristylis hawaiiensis, Myoporum sandwicense,* or *Waltheria indica,* and

(*2*) Elevations between sea level and 954 m (0 and 3,130 ft).

Family Fabaceae: Vigna o-wahuensis (NCN).

Hawaii D, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Vigna o-wahuensis* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Dodonaea viscosa* lowland dry shrubland containing one or more of the following associated native plant species: *Chenopodium oahuense, Dodonaea viscosa, Osteomeles anthyllidifolia, Wikstroemia* sp., or *Sida fallax;* and

(*2*) Elevations between 351 and 2,274 m (1,150 to 7,460 ft).

Family Gesneriaceae: Cyrtandra giffardii (haiwale).

Hawaii F, G, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Cyrtandra giffardii* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Wet montane forest dominated by *Cibotium* sp. or *Metrosideros polymorpha* and *Metrosideros polymorpha-Acacia koa* lowland wet forests containing one or more of the following associated native plant species: *Hedyotis terminalis, Astelia menziesiana, Diplazium sandwicensis, Perrottetia sandwicensis,* or other species of *Cyrtandra;* and

(*2*) Between elevations of 637 and 1,676 m (2,090 and 5,500 ft).

Family Gesneriaceae: Cyrtandra tintinnabula (haiwale).

Hawaii F, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Cyrtandra tintinnabula* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland wet forest dominated by *dense Acacia koa, Metrosideros polymorpha*, and *Cibotium* spp. containing one or more of the following associated native plant species: *Cyrtandra* spp. or *Hedyotis* spp.; and

(*2*) Between elevations 390 and 1,430 m (1,280 and 4,690 ft).

Family Lamiaceae: Phyllostegia racemosa (NCN)..

Hawaii E, F, G, H, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Phyllostegia racemosa* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Epiphytic conditions in *Acacia koa, Metrosideros polymorpha*, and *Cibotium* sp. dominated montane mesic or wet forests containing one or more of the following associated native plant species: *Vaccinium calycinum, Rubus hawaiiensis*, or *Dryopteris wallichiana*; and

(*2*) Elevations between 1,369 and 1,966 m (4,490 to 6,450 ft).

Family Lamiaceae: Phyllostegia velutina (NCN).

Hawaii G, K, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Phyllostegia velutina* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha-Acacia koa* dominated montane mesic and wet forests containing one or more of the following native plant species: *Cibotium* spp., *Cheirodendron trigynum, Vaccinium calycinum, Coprosma* sp., *Dryopteris wallichiana, Rubus hawaiiensis, Pipturus albidus, Athyrium microphyllum* and other native wet forest terrestrial ferns, *Myrsine lessertiana*, or *Ilex anomala*; and

(*2*) Elevations between 908 and 1,887 m (2,980 and 6,190 ft).

Family Lamiaceae: Phyllostegia warshaueri (NCN).

Hawaii B, F, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Phyllostegia warshaueri* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha* and *Cibotium* montane and lowland wet forest in which *Acacia koa* or *Cheirodendron trigynum* may co-dominate, containing one or more of the following associated native plant species: *Antidesma platyphyllum, Psychotria hawaiiensis, Hedyotis* sp., *Coprosma* sp., *Sadleria pallida, Broussaisia arguta, Pipturus albidus, Clermontia parviflora, Athyrium sandwicensis, Machaerina angustifolia, Cyanea pilosa*, or other *Cyanea* spp.; and

(*2*) Elevations between 730 and 1,150 m (2,400 and 3,770 ft).

Family Liliaceae: Pleomele hawaiiensis (hala pepe).

Hawaii A, L, P, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Pleomele hawaiiensis* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Open aa lava in diverse lowland dry forests and *Metrosideros-Diospyros* lowland dry forest containing one or more of the following associated native plant species: *Metrosideros polymorpha, Reynoldsia sandwicensis, Dodonaea viscosa, Diospyros sandwicensis, Sophora chrysophylla, Psydrax odorata, Cocculus trilobus, Myoporum sandwicense, Nestegis sandwicensis, Bobea timonioides, Kokia drynarioides, Nototrichium sandwicense, Sida fallax, Erythrina sandwicensis, Santalum paniculatum, Osteomeles anthyllidifolia, Caesalpinia kavaiensis, Colubrina oppositifolia, Nothocestrum breviflorum, Neraudia ovata*, or *Bidens micrantha* ssp. *ctenophylla;* and

(*2*) Elevations between 152 and 969 m (500 and 3,180 ft).

Family Malvaceae: Hibiscadelphus giffardianus (hau kuahiwi).

Hawaii I, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Hibiscadelphus giffardianus* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Mixed montane mesic forest containing one or more of the following native plant species: *Metrosideros polymorpha, Acacia koa, Sapindus saponaria, Coprosma rhynchocarpa, Pipturus albidus, Psychotria* sp., *Nestegis sandwicensis, Melicope* spp., *Dodonaea viscosa*, or *Myoporum sandwicense*; and

(*2*) Elevations between 1,192 and 1,277 m (3,910 and 4,190 ft).

Family Malvaceae: Hibiscadelphus hualalaiensis (hau kuahiwi).

Hawaii Z, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Hibiscadelphus hualalaiensis* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat and the habitat components provided by:

(*1*) Dry mesic to dry *Metrosideros* forest on rocky substrate in deep soils containing one or more of the following native plants species: *Metrosideros polymorpha, Acacia koa, Sapindus saponaria, Coprosma rhynchocarpa, Pipturus albidus, Psychotria* sp., *Nestegis sandwicensis, Melicope* spp., *Dodonaea viscosa*, or *Myoporum sandwicense;* and

(*2*) Between elevations 509 and 1,241 m (1,670 and 4,070 ft).

Family Malvaceae: Hibiscus brackenridgei (mao hau hele)

Hawaii Z, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Hibiscus brackenridgei* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Acacia koa* lowland mesic forest between containing one or more of the following native plants species: *Sida fallax* or *Reynoldsia sandwicensis*, and

(*2*) Elevations between 457 and 793 (1,500 and 2,600 ft).

Family Plantaginaceae: Plantago hawaiensis (laukahi kuahiwi)

Hawaii G, H, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Plantago hawaiensis* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Either montane wet sedge land (often in damp cracks of pahoehoe lava) with mixed sedges and grasses, montane mesic forest, dry subalpine woodland, or *Metrosideros polymorpha* and native shrub, containing one or more of the following associated native plant species: stunted *Acacia koa* and *Metrosideros polymorpha, Styphelia tameiameiae, Vaccinium reticulatum, Dodonaea viscosa, Coprosma montana*, or *Coprosma ernodeoides;* and

(*2*) Elevations between 1,512 and 2,585 m (4,960 and 8,480 ft).

Family Poaceae: Ischaemum byrone (Hilo ischaemum)

Hawaii M, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Ischaemum byrone* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Coastal wet to dry shrubland, near the ocean, rocks or pahoehoe lava in cracks and holes containing one or more of the following associated native plant species: *Scaevola sericea* or *Fimbristylis cymosa*, and

(*2*) Elevations between sea level and 137 m (0 and 460 ft).

Family Portulacaceae: Portulaca sclerocarpa (poe).

Hawaii D, L, AA, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Portulaca sclerocarpa* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Weathered Mauna Kea soils, cinder cones, or geologically young lavas, in montane dry shrubland, often on bare cinder, near steam vents, or in open *Metrosideros polymorpha* dominated woodlands containing one or more of the following associated native plant species: *Sophora chrysophylla, Wollastonia venosa*, or *Dodonaea viscosa*, and

(*2*) Elevations between 351 and 2,274 m (1,150 to 7,460 ft).

Family Rhamnaceae: Colubrina oppositifolia (kauila).

Hawaii Q, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Colubrina oppositifolia* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland dry and mesic forests dominated by *Diospyros sandwicensis* or *Metrosideros polymorpha*, containing one or more of the following associated native plant species: *Nototrichium sandwicense, Nothocestrum breviflorum, Bobea timoniodes, Rauvolfia sandwicensis, Erythrina sandwicensis, Sophora chrysophylla, Nestegis sandwicensis, Peperomia* sp., *Psydrax odorata, Reynoldsia sandwicensis, Pleomele hawaiiensis*, or *Styphelia tameiameiae;* and

(*2*) Elevations between 162 and 945 m (530 and 3,100 ft).

Family Rhamnaceae: Gouania vitifolia (NCN).

Hawaii Q, identified in the legal description in paragraph (a)(1)(i)(H) constitutes critical habitat for *Gouania vitifolia* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry, rocky ridges and slopes in dry shrubland or dry to mesic *Nestegis-Metrosideros* forests on old substrate kipuka containing one or more of the following associated native plant species: *Nestegis sandwicensis, Wikstroemia sandwicensis, Wikstroemia phillyreifolia, Nephrolepis* spp., or *Pipturus albidus*, and

(*2*) Elevations between 503 and 1,039 m (1,650 and 3,410 ft).

Family Rubiaceae: Hedyotis coriacea (kioele).

Hawaii AA, identified in the legal description in paragraph (a)(1)(i)(H) constitutes critical habitat for *Hedyotis coriacea* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Geologically young (<3,000 years old) Mauna Loa pahoehoe lava with sparse *Metrosideros* forest, open *Metrosideros* forest with sparse shrub understory or open *Metrosideros* forest with dense shrub understory containing one or more of the following native plant species: *Sophora chrysophylla, Myoporum sandwicense, Dodonaea viscosa, Chenopodium oahuense, Styphelia tameiameiae, Eragrostis deflexa, Festuca hawaiiensis*, or *Portulaca sclerocarpa;* and

(*2*) Elevations between 1,506 to 1,780 m (4,940 to 5,840 ft).

Family Rubiaceae: Melicope zahlbruckneri (alani).

Hawaii I, K, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Melicope zahlbruckneri* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Acacia koa-Metrosideros polymorpha* dominated montane mesic forest containing one of more of the following associated native plant species: *Sapindus saponaria, Coprosma rhynchocarpa, Zanthoxylum dipetalum, Pipturus albidus, Psychotria hawaiiensis, Nestegis sandwicensis, Myoporum sandwicense, Pisonia brunoniana*, or *Melicope* spp.; and

(*2*) Elevations between 692 and 1,393 m (2,270 and 4,570 ft).

Family Rutaceae: Zanthoxylum dipetalum var. *tomentosum* (ae).

Hawaii Z, identified in the legal description in paragraph (a)(1)(i)(M) constitutes critical habitat for *Zanthoxylum dipetalum* var. *tomentosum* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha* dominated montane mesic forest, often on aa lava, containing one or more of the following associated native plant species: *Sophora chrysophylla, Diospyros sandwicensis, Pouteria sandwicensis, Santalum paniculatum, Reynoldsia sandwicensis, Myrsine* sp., or *Psychotria* sp.; and

(*2*) Elevations between 872 and 1,210 m (2,860 and 3,970 ft).

Family Rutaceae: Zanthoxylum hawaiiense (ae).

Hawaii AA, identified in the legal description in paragraph (a)(1)(i)(H) constitutes critical habitat for *Zanthoxylum hawaiiense* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha* dry forest or in open *Myoporum-Dodonaea* shrubland on rough aa lava containing one or more of the following associated native plant species: *Dodonaea viscosa, Myoporum sandwicense*, or *Dubautia linearis;* and

(*2*) Elevations between 1,204 and 1,756 m (3,950 and 5,760 ft).

Family Solanaceae: Nothocestrum breviflorum (aiea).

Hawaii A, V, Z, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Nothocestrum breviflorum* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland dry forest, montane dry forest, or montane mesic forest dominated by *Metrosideros polymorpha, Acacia koa*, or *Diospyros sandwicensis* on aa lava substrates containing one or more of the following associated native plant species: *Sophora chrysophylla, Reynoldsia sandwicensis, Psydrax odorata, Myoporum sandwicense, Bidens micrantha, Dodonaea viscosa, Osteomeles anthyllidifolia, Santalum paniculatum, S. ellipticum, Caesalpinia kavaiensis, Erythrina sandwicensis, Colubrina oppositifolia, Kokia drynarioides, Hibiscadelphus hualalaiensis*, or *Delissea undulata;* and

(*2*) Elevations between 152 and 1,948 m (500 and 6,390 ft).

Family Solanaceae: Solanum incompletum (popolo ku mai).

Hawaii W, AA, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Solanum incompletum* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry to mesic forest, diverse mesic forest, or subalpine forest containing one or more of the following associated native plant species: *Myoporum sandwicense, Myrsine lanaiensis*, or *Sophora chrysophylla;* and

(*2*) Elevations between 1,192 and 2,259 m (3,910 and 7,410 ft).

Family Urticaceae: Neraudia ovata (NCN).

Hawaii Q, Y, AA, identified in the legal descriptions in paragraph (a)(1)(i)(H) , constitute critical habitat for *Neraudia ovata* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Open *Metrosideros polymorpha-Sophora chrysophylla* dominated lowland, montane dry forests, or *Metrosideros*-shrub woodland containing one or more of the following associated native plant species: *Reynoldsia sandwicensis, Myoporum sandwicense, Cocculus triloba, Myrsine lessertiana, Myrsine lanaiensis, Nothocestrum breviflorum, Pleomele hawaiiensis, Capparis sandwichiana, Fimbristylis hawaiiensis,* or *Bidens micrantha* ssp. *ctenophylla;* and

(*2*) Elevations between 115 and 1,829 m (380 to 6,000 ft).

Family Violaceae: Isodendrion hosakae (aupaka).

Hawaii D, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Isodendrion hosakae* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cinder cones with montane dry shrubland containing one or more of the following associated native plant species: *Dodonaea viscosa, Styphelia tameiameiae, Wikstroemia pulcherrima, Dubautia linearis, Sophora chrysophylla, Osteomeles anthyllidifolia, Wollastonia venosa, Bidens menziesii,* or *Santalum ellipticum;* and

(*2*) Between elevations 655 and 1,259 m (2,150 and 4,130 ft).

Family Violaceae: Isodendrion pyrifolium (wahine noho kula).

Hawaii Y, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Isodendrion pyrifolium* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland dry forests containing one or more of the following native plant species: *Psydrax odorata, Sida fallax, Myoporum sandwicense, Sophora chrysophylla,* or *Waltheria indica;* and

(*2*) Elevations between 18 to 137 m (60 to 450 ft).

(B) Ferns and Allies.

Family Aspleniaceae: Asplenium fragile var. *insulare* (NCN)

Hawaii G, K, AA, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Asplenium fragile* var. *insulare* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha* dry montane forest, *Dodonaea viscosa* dry montane shrubland, *Myoporum sandwicense-Sophora chrysophylla* dry montane forest, *Metrosideros polymorpha-Acacia koa* forest, or subalpine dry forest and shrubland with big, moist lava tubes (from 3.05 m to 4.57 m (10 to 15 ft) in diameter), pits, deep cracks, and lava tree molds, with at least a moderate soil or ash accumulation or, infrequently, the interface between younger aa lava flows and much older pahoehoe lava or ash deposits, with a fairly consistent microhabitat (areas that are moist and dark), and containing one or more of the following associated native plant species: *Phyllosteia ambigua, Styphelia tameiameiae, Vaccinium reticulatum,* mosses, or liverworts; and

(*2*) Elevations between 930 and 2,710 m (3,050 and 8,890 ft).

Family Aspleniaceae: Diellia erecta (NCN)

Hawaii Q, R, identified in the legal descriptions in paragraph (a)(1)(i)(H), constitute critical habitat for *Diellia erecta* on Hawaii. Within these units, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha-Nestegis sandwicensis* lowland mesic forest containing one or more of the following associated native plant species: *Diospyros sandwicensis, Psydrax odorata, Antidesma platyphyllum, A. pulvinatum, Microlepia* sp., *Nestegis sandwicensis, Wikstroemia sandwicensis, Wikstroemia phillyreifolia,* or *Nephrolepis* spp.; and

(*2*) Elevations between 448 and 982 m (1,470 and 3,220 ft).

Family Grammitidaceae: Adenophorus periens (pendant kihi fern)

Hawaii J, identified in the legal description in paragraph (a)(1)(i)(H), constitutes critical habitat for *Adenophorus periens* on Hawaii. Within this unit, the currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Epiphytic on *Metrosideros polymorpha* or *Ilex anomala* or possibly other native tree trunks, in *Metrosideros polymorpha-Cibotium glaucum* lowland wet forest containing one or more of the following associated native plant species: *Broussasia arguta, Cheirodendron trigynum, Cyanea* sp., *Cyrtandra* sp., *Dicranopteris linnearis, Freycinetia arborea, Hedyotis terminalis, Labordia hirtella, Machaerina angustifolia, Psychotria* sp., or *Psychotria hawaiiensis;* and

(*2*) Elevations between 338 and 1,180 m (1,110 and 3,870 ft).

Dated: May 2, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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May 28, 2002

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Oahu, HI; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI24

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule concerning designation of critical habitat.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose critical habitat for 99 of the 101 plant species known historically from the island of Oahu that are listed under the Endangered Species Act of 1973, as amended.

Critical habitat is not proposed for two species, *Pritchardia kaalae* and *Cyrtandra crenata*. We propose that critical habitat designation is not prudent for *Pritchardia kaalae* because it would likely increase the threat from vandalism or collection of this species on Oahu. Critical habitat is not proposed for *Cyrtandra crenata*, a species known only from Oahu, and for which we propose that critical habitat designation is not prudent because it has not been seen recently in the wild and no viable genetic material of this species is known to exist.

We propose critical habitat designations for 99 species within 25 critical habitat units totaling approximately 45,067 hectares (111,364 acres) on the island of Oahu.

If this proposal is made final, section 7 of the Act requires Federal agencies to ensure that actions they carry out, fund, or authorize do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat.

We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designations. We may revise or further refine critical habitat boundaries prior to final designation based on habitat and plant surveys, public comment on the proposed critical habitat rule, and new scientific and commercial information.

DATES: We will accept comments until July 29, 2002. Public hearing requests must be received by July 12, 2002.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., Room 3–122, P.O. Box 50088, Honolulu, HI 96850–0001.

2. You may hand-deliver written comments to our Pacific Islands Office at the address given above.

3. You may send comments by electronic mail (e-mail) to: FW1PIE_Oahu_crithab@r1.fws.gov. See the *Public Comments Solicited* section in Supplementary Information below for file format and other information about electronic filing.

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Office (see **ADDRESSES** section) (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

In the Lists of Endangered and Threatened Plants (50 CFR 17.12), there are 101 plant species that, at the time of listing, were reported from the island of Oahu. Fifty-six of these species are endemic to Oahu, while 45 species are reported from one or more other islands, as well as Oahu (Table 1).

TABLE 1.—SUMMARY OF ISLAND DISTRIBUTION OF 101 SPECIES FROM OAHU

Species	Island distribution						
	Kauai	Oahu	Molokai	Lanai	Maui	Hawaii	NW Islands, Kahoolawe, Niihau
Abutilon sandwicense (No common name)		C					
Adenophorus periens (pendant kihi fern)	C	H	C	H	H	C	
Alectryon macrococcus (mahoe)	C	C	C		C		
Alsinidendron obovatum (No common name)		C					
Alsinidendron trinerve (No common name)		C					
Bonamia menziesii (No common name)	C	C	H	C	C	C	
Cenchrus agrimonioides (kamanomano)		C		H	C		NW (H)
Centaurium sebaeoides (awiwi)	C	C	H	C	C		
Chamaesyce celastroides var. *kaenana* (akoko)		C					
Chamaesyce deppeana (akoko)		C					
Chamaesyce herbstii		C					
Chamaesyce kuwaleana (akoko)		C					
Chamaesyce rockii (akoko)		C					
Colubrina oppositifolia (kauila)		C			C	C	
Colubrina squamigera (pauoa)		C			C	C	
Ctenitis squamigera (pauoa)	H	C	C	C	C	H	
Cyanea acuminata (haha)		C					
Cyanea crispa (haha)		C					
Cyanea grimesiana ssp. *grimesiana* (haha)		C	C	C	C		
Cyanea grimesiana ssp. *obatae* (haha)		C					

TABLE 1.—SUMMARY OF ISLAND DISTRIBUTION OF 101 SPECIES FROM OAHU—Continued

Species	Island distribution						
	Kauai	Oahu	Molokai	Lanai	Maui	Hawaii	NW Islands, Kahoolawe, Niihau
Cyanea humboltiana (haha)		C					
Cyanea kolauensis (haha)		C					
Cyanea longiflora (haha)		C					
Cyanea pinnatifida (haha)		H					
Cyanea st.-johnii (haha)		C					
Cyanea superba (haha)		C					
Cyanea truncata (haha)		C					
Cyperus trachysanthos (puukaa)	C	C	H	H			Ni (H)
Cyrtandra crenata (haiwale)		H					
Cyrtandra dentata (haiwale)		C					
Cyrtandra polyantha (haiwale)		C					
Cyrtandra subumbellata (haiwale)		C					
Cyrtandra viridiflora (haiwale)		C					
Delissea subcordata (No common name)		C					
Diellia erecta (No common name)	H	C	C	H	C	C	
Diellia falcata (No common name)		C					
Diellia unisora (No common name)		C					
Diplazium molokaiense (No common name)	H	H	H	H	C		
Dubautia herbstobatae (naenae)		C					
Eragrostis fostergii (No common name)		C					
Eugenia koolauensis (nioi)		C	H				
Euphorbia haeleeleana (akoko)	C	C					
Flueggea neowawraea (mehamehame)	C	C	H		C	C	
Gardenia mannii (nanu)		C					
Gouania meyenii (No common name)	C	C					
Gouania vitifolia (No common name)		C			H	C	
Hedyotis coriacea (kioele)		H			C	C	
Hedyotis degeneri (No common name)		C					
Hedyotis parvula (No common name)		C					
Hesperomannia arborescens (No common name)		C	C	H	C		
Hesperomannia arbuscula (No common name)		C			C		
Hibiscus brackenridgei (mao hau hele)	R	C	H	C	C	C	
Isodendrion laurifolium (aupaka)	C	C					
Isodendrion longifolium (aupaka)	C	C					
Isodendrion pyrifolium (wahine noho kula)		H	H	H	H	C	Ni (H)
Labordia cyrtandrae (kamakahala)		C					
Lepidium arbuscula (anaunau)		C					
Lipochaeta lobata var. *leptophylla* (nehe)		C					
Lipochaeta tenuifolia (nehe)		C					
Lobelia gaudichaudii ssp. *koolauensis* (No common name)		C					
Lobelia monostachya (No common name)		C					
Lobelia niihauensis (No common name)	C	C					Ni (H)
Lobelia oahuensis (No common name)		C					
Lysimachia filifolia (No common name)	C	C					
Mariscus pennatiformis (No common name)	H	H			C	H	NW (C) Ni (H)
Marsilea villosa (ihi ihi)		C	C				
Melicope lydgatei (alani)		C					
Melicope pallida (alani)	C	C					
Melicope saint-johnii (alani)		C					
Myrsine juddii (kolea)		C					
Neraudia angulata (No common name)		C					
Nototrichium humile (kului)		C			H		
Peucedanum sandwicense (makou)	C	C	C		C		
Phlegmariurus nutans (wawaeiole)	H	C					
Phyllostegia hirsuta (No common name)		C					
Phyllostegia kaalaensis (No common name)		C					
Phyllostegia mollis (No common name)		C	H		C		
Phyllostegia parviflora (No common name)		C			H	H	
Plantago princeps (laukahi kauhiwi)	C	C	C		C	H	

TABLE 1.—SUMMARY OF ISLAND DISTRIBUTION OF 101 SPECIES FROM OAHU—Continued

Species	Island distribution						
	Kauai	Oahu	Molokai	Lanai	Maui	Hawaii	NW Islands, Kahoolawe, Niihau
Platanthera holochila (No common name)	C	H	C		C		
Pritchardia kaalae (loulu)		C					
Pteris lidgatei (No common name)		C	H		C		
Sanicula mariversa (No common name)		C					
Sanicula purpurea (No common name)		C			C		
Schiedea hookeri (No common name)		C			H		
Schiedea kaalae (No common name)		C					
Schiedea kealia (No common name)		C					
Schiedea nuttallii (No common name)	C	C	C		H		
Sesbania tomentosa (ohai)	C	C	C	H	C	C	Ni (H), Ka (C), NW (C)
Silene lanceolata (No common name)	H	C	C	H		C	
Silene perlmanii (No common name)		H					
Solanum sandwicense (aiakeakua, popolo)	C	H					
Spermolepis hawaiiensis (No common name)	C	C	C	C	C	C	
Stenogyne kanehoana (No common name)		C					
Tetramolopium filiforme (No common name)		C					
Tetramolopium lepidotum ssp. *lepidotum* (No common name)		C		H			
Tetraplasandra gymnocarpa (oheohe)		C					
Trematalobelia singularis (No common name)		C					
Urera kaalae (opuhe)		C					
Vigna o-wahuensis (No common name)		H	C	C	C	C	Ni (H), Ka (C)
Viola chamissoniana ssp. *chamissoniana* (olopu)		C					
Viola oahuesis (No common name)		C					

KEY:
C (Current)—population last observed within the past 30 years.
H (Historical)—population not seen for more than 30 years.
R (Reported)—reported from undocumented observations.
NW—NW Hawaiian Islands.
Ka—Kahoolawe.
Ni—Niihau.

We have reconsidered our findings concerning whether designating critical habitat for these 56 federally protected plants from the island of Oahu is prudent. In this proposal, we are proposing that critical habitat is prudent for 54 of these species (*Abutilon sandwicense, Alsinidendron obovatum, Alsinidendron trinerve, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Diellia unisora, Dubautia herbstobatae, Eragrostis fosbergii, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia oahuensis, Melicope lydgatei, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Sanicula mariversa, Schiedea kaalae, Schiedea kealiae, Silene perlmanii, Stenogyne kanehoana, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana*, and *Viola oahuensis*) because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risk that may result from human activity because of critical habitat designation.

We propose that critical habitat designation is not prudent for *Pritchardia kaalae* because it would likely increase the threat from vandalism or collection of this species of loulu palm on Oahu. We propose that critical habitat designation is not prudent for *Cyrtandra crenata*, a species known only from Oahu that has not been seen recently in the wild and for which no viable genetic material is known to exist.

Proposed prudency determinations for 45 other species (*Adenophorus periens, Alectryon macrococcus, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Colubrina oppositifolia, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyperus trachysanthos, Diellia erecta, Diplazium molokaiense, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Lobelia niihauensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Nototrichium humile, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula purpurea, Schiedea hookeri, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Solanum sandwicense, Spermolepis hawaiiensis, Tetramolopium lepidotum* ssp. *lepidotum*, and *Vigna o-wahuensis*) which are reported from Oahu as well as Kauai, Niihau, Maui, Kahoolawe, Lanai, Molokai, the Northwestern Hawaiian Islands, and/or the island of Hawaii were published in the proposed rules published on November 7, 2000, and January 28, 2000 (Kauai and Niihau, 65 FR 66808 and 67 FR 3939); on December 18, 2000 and April 3, 2002 (Maui and Kahoolawe 65 FR 79192 and 67 FR 15856); on December 27, 2000 and March 4, 2002 (Lanai 65 FR 82086 and 67 FR 9806); on December 29, 2000 and April 5, 2002 (Molokai 65 FR 83158 and 67 FR 16492); on May 14, 2002 (Northwestern Hawaiian Islands 67 FR 34522), or elsewhere in this issue of the **Federal Register** (Hawaii Island).

Critical habitat for 99 of these 101 species from Oahu is proposed at this time. Critical habitat is not proposed for two species, *Pritchardia kaalae* and *Crytandra crenata*, for which we determine that designation of critical habitat is not prudent for the reasons described above.

The Island of Oahu

The island of Oahu was formed from the remnants of two large shield volcanoes, the younger Koolau volcano to the east and the older Waianae volcano to the west (60 FR 51398; Service 1995a, 1996b). Their original shield volcano shape has been lost as a result of extensive erosion, and today these volcanoes are called mountains or ranges, and consist of long, narrow ridges. The Koolau Mountains were built by eruptions that took place primarily along a northwest-trending rift zone and formed a range now approximately 60 kilometers (km) (37 miles (mi)) long (Service 1996b). Median annual rainfall for the Koolau Mountains varies from 100 to 710 centimeters (cm) (40 to 280 inches (in)), most of which is received at higher elevations along the entire length of the windward (northeastern) side (Service 1996b).

The Waianae Mountains were built by eruptions that took place primarily along three rift zones. The two principal rift zones run in a northwestward and south-southeastward direction from the summit, and a lesser one runs to the northeast. The range is approximately 32 km (20 mi) long. The caldera lies between the north side of Makaha Valley and the head of Nanakuli Valley (MacDonald *et al.* 1983). The Waianae Mountains are in the rain shadow of the parallel Koolau Mountains and receive much less rainfall, except for Mt. Kaala, the highest point on Oahu at 1,225 meters (m) (4,020 feet (ft)) (Wagner *et al.* 1999). The median annual rainfall for the Waianae Mountains varies from 51 to 19 cm (20 to 75 in), with only the small summit area of Mt. Kaala receiving the highest amount (Service 1995a).

Discussion of the Plant Taxa

Species Endemic to Oahu

Abutilon sandwicense (No Common Name (NCN))

Abutilon sandwicense, a member of the mallow family (Malvaceae) and a short-lived perennial, is a shrub that grows to 3 m (5 ft) tall and is covered with short glandular hairs. This species is distinguished from others in the genus by the green or reddish-brown tipped petals which extend beyond the sepals (Bates 1999).

Abutilon sandwicense has been observed flowering in winter and spring. By summer, most plants have flowered and the fruits have usually dried up by fall. Fruit capsules develop within 6 weeks. Although seedlings are often initially abundant, few plants appear to survive to maturity for unknown reasons (56 FR 55770).

Historically, *Abutilon sandwicense* was known from nearly the entire length of the Waianae Mountains, from Makaleha Valley to Nanakuli Valley. This species is now known from Huliwai Gulch, Kaawa Gulch, Kaimuhole Gulch, Palikea Gulch, Makaha Valley, Makaha-Waianae Kai Ridge, Makaleha Valley, Manuwai Gulch, Halona subdistrict, Mikilua subdistrict, Alaiheihe Gulch, and Nanakuli Valley on Federal, State, private, city, and county lands. The 16 known populations contain an estimated 253 to 263 individuals (Hawaii Heritage Program (HINHP) Database 2001; Bates 1999).

Abutilon sandwicense typically grows on steep slopes or gulches in dry to mesic lowland forest between 149 and 875 m (489 and 2,870 ft) elevation. Associated species include *Sapindus oahuensis* (lonomea), *Eugenia reinwardtiana* (nioi), *Hibiscus arnottianus* (kokio keokeo), *Psydrax odorata* (alahee), *Diospyros sandwicensis* (lama), *Reynoldsia sandwicensis* (ohe), *Nestegis sandwicensis* (olopua), *Antidesma pulvinatum* (hame), *Pittosporum* sp. (hoawa), *Pleomele* sp. (hala pepe), *Rauvolfia sandwicensis* (hao), *Myrsine lanaiensis* (kolea), *Pisonia* sp. (papala kepau), *Metrosideros polymorpha* (ohia), *Pipturus albidus* (mamaki), and *Elaeocarpus bifidus* (kalia) (Bates 1999; HINHP Database 2001; Environmental Division of the U.S. Army (EDA), *in litt.* 2001).

The major threats to *Abutilon sandwicense* are competition from the alien plant species *Pimenta dioica* (allspice), *Hyptis pectinata* (Comb hyptis), *Schinus terebinthifolius* (Christmasberry), *Syzygium cumini* (Java plum), *Clidemia hirta* (Koster's curse), *Ipomoea sp.* (morning glory), *Melinis minutiflora* (molasses grass), *Ficus microcarpa* (Chinese banyan), *Psidium cattleianum* (strawberry guava), *Psidium guajava* (guava), *Kalanchoe pinnata* (air plant), *Oplismenus hirtellus* (basketgrass), *Ageratina riparia* (haumakua pamakani), *Leucaena leucocephala* (koa haole), *Toona ciliata* (Australian red cedar), *Grevillea robusta* (silk oak), *Montanoa hibiscifolia* (tree daisy), *Aleurites moloccana* (kuku i), *Rivina humilis* (coral berry), *Panicum maximum* (Guinea grass), *Melia azedarach* (chinaberry), and *Passiflora suberosa* (huehue haole); fire; black twig borer (*Xylosandrus compactus*); Chinese rose beetle (*Adoretus sinicus*); feral pigs (*Sus scrofa*) and goats (*Capra hircus*); and trampling by feral cattle (*Bos taurus*) (56 FR 55770; Service 1998b).

Alsinidendron obovatum (NCN)

Alsinidendron obovatum, a member of the pink family (Caryophyllaceae) and a short-lived perennial, is a branching subshrub growing to 3 ft (1 m) tall with thick, somewhat fleshy leaves. This species and *Alsinidendron trinerve* can be distinguished from other members of the genus by their shrubby habit and fleshy purple sepals surrounding the capsule (Wagner *et al.* 1999).

Alsinidendron obovatum generally flowers after about 2 years of growth. Plants flower and fruit year round, but flowering is usually heavier in winter and spring depending on the level of precipitation. Plants survive 3 to 6 years, unless there are drought conditions (56 FR 55770).

Historically, *Alsinidendron obovatum* was known from the northern and

southern end of the Waianae Range. This species remains in Keawapilau Gulch, Kahanakaiki Gulch, Makaleha, Kapuna Gulch, and Pahole Gulch on Federal and State lands. The five known populations contain about 8 to 10 individuals (HINHP Database 2001; EDA Database 2001;Wagner *et al.* 1999).

Alsinidendron obovatum typically grows on ridges and slopes in lowland diverse mesic forest dominated by *Acacia koa* (koa) and *Metrosideros polymorpha* between 476 and 943 m (1,561 and 3,093 ft) elevation. Associated species include *Bidens torta* (kookoolau), *Antidesma platyphyllum* (hame), *Cibotium chamissoi* (hapuu), *Hedyotis terminalis* (manono), *Pipturu* sp. (mamaki), *Machaerina* sp. (uki), *Peperomia* sp. (ala ala wai nui), *Perrottetia sandwicensis* (olomea), *Ilex anomala* (kawau), *Psydrax odorata*, *Coprosma* sp. (pilo), *Alyxia oliviformis* (maile), or the endangered *cyanea lingiflora* (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Alsinidendron obovatum* are competition from the aggressive alien plant species *Melinus minutiflora, Schinus terebinthifolius, Psidium cattleianum, Blechnum occidentale* (NCN), *Clidemia hirta, Grevillea robusta, Stachytarpheta dichotoma* (owi), *Paspalum conjugatum* (Hilo grass), and *Rubus argutus* (prickly Florida blackberry); habitat degradation by feral pigs; trampling by humans; rockslides, and the small number of populations (56 FR 55770; Service 1998b).

Alsinidendron trinerve (NCN)

Alsinidendron trinerve, a member of the pink family (Caryophyllaceae) and a short-lived perennial, is very similar in appearance to *A. obovatum* but differs in that it has a more open inflorescence (flowering part of plant) with peduncles (stalk of a flower) more than 2 cm (0.8 in) long, sepals (leaves of the outer series floral leaves, i.e., calyx) with an acute tip, and usually is found in wet forests above 914 m (3,000 ft) in elevation. *Alsinidendron obovatum* has a congested inflorescence with peduncles less than 2 cm (0.8 in) long, sepals with a rounded tip, and usually grows in mesic forests 550 to 792 m (1,800 to 2,600 ft) in elevation (Wagner *et al.* 1999).

Alsinidendron trinerve flowers and fruits throughout the year with the possible exception of fall (56 FR 55770).

Historically, *Alsinidendron trinerve* was known from the north-central and southern Waianae Mountains. This species is known to be in Makaleha Gulch, on Mt. Kaala and Puu Kalena on Federal and State lands. The three known populations total between 18 and 34 individuals (HINHP Database 2001; EDA Database 2001).

Alsinidendron trinerve typically grows on slopes in wet forest or the wetter portions of diverse mesic forest dominated by *Metrosideros polymorpha* and *Ilex anomala* or *Metrosideros polymorpha* montane wet forest between 833 and 1,233 m (2,732 and 4,044 ft) elevation. Associated species include *Machaerina* sp., *Hedyotis* sp. (NCN), *Peperomia* sp., *Perrottetia sandwicensis, Athyrium sandwichianum* (akolea), *Broussaisia arguta* (kanawao), *Vaccinium* sp. (ohelo), *Phyllostegia* sp. (NCN), *Coprosma ochracea* (pilo), *Gunnera* sp. (apeape), *Nothoperanema rubiginosa*, or *Pipturus albidus* (HINHP Database 2001; EDA, *in litt.* 2001; Wagner *et al.* 1999).

The major threats to *Alsinidendron trinerve* are competition from the aggressive alien plant species *Rubus argutus, Buddleia asiatica* (butterfly bush), *Clidemia hirta*, and *Kalanchoe pinnata;* habitat degradation by feral pigs; trampling by humans along trails; and the small number of extant individuals (56 FR 55770; Service 1998b).

Chamaesyce celastroides var. *kaenana* (akoko)

Chamaesyce celastroides var. *kaenana*, a member of the spurge family (Euphorbiaceae) and a short-lived perennial, is a low-growing or upright shrub to 5 ft (1.5 m) tall with milky sap and leaves which fall off during the dry season, are mostly hairless and are arranged in two opposite rows along the stem. This species is distinguished from other members of the genus in the area in which it grows in that it is a woody shrub; the other members of the genus in the area are herbs or small subshrubs (Koutnik and Huft 1999).

Chamaesyce celastroides var. *kaenana* has been observed flowering and fruiting throughout the year, probably in response to precipitation. Fruits mature in three to four weeks and plants live from five to ten years. No additional information is available on reproductive cycles, longevity, specific environmental requirements or limiting factors (56 FR 55770).

Historically, *Chamaesyce celastroides* var. *kaenana* was known from the northwestern end of the Waianae Mountains as well as from one collection from the southeastern end of the Koolau Mountains. This taxon remains at Kaena Point, Keawaula, Alau Gulch, Waianae Kai, and Kahanahaiki on State land and land under Federal jurisdiction. The 13 known populations contain 569 individuals (HINHP Database 2001; Koutnik and Huft 1999).

Chamaesyce celastroides var. *kaenana* typically grows in coastal dry shrubland on windward talus slopes, leeward rocky cliffs, open grassy slopes, or on vegetated cliff faces between sea level and 862 m (0 and 2,827 ft) elevation. Associated species include: *Lipochaeta lobata* (nehe), *Myoporum sandwicense* (naio), *Heteropogon contus* (pili grass), *Santalum* sp.(ili ahi), *Plumbago zeylanica* (iliee), *Psydrax odorata, Boerhavia* sp. (alena), *Waltheria indica* (uhaloa), *Dodonaea viscosa* (aalii), *Artemisia australis* (ahinahina), *Psilotum nudum* (moa), *Chamaesyce celastroides* var. *amplectans* (akoko), *Gossypium tomentosum* (mao), *Jacquemontia ovalifolia* ssp. *sandwicensis* (pauohiiaka), *Santalum freycinetianum* (iliahi), or *Sida fallax* (ilima) (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Chamaesyce celastroides* var. *kaenana* are competition from the alien plant species *Leucaena leucocephala, Melinis repens* (natal redtop), *Schinus terebinthifolius, Pluchea symphytitfolia* (sourbush), *Hyptis pectinata, Panicum maximum, Grevillea robusta*, and *Acacia confusa* (Formosakoa); fire; and effects of recreational activities (56 FR 55770; Service 1998b).

Chamaesyce deppeana (Akoko)

Chamaesyce deppeana, a member of the spurge family (Euphorbiaceae) and a short-lived perennial, is an erect subshrub up to 1.2 m (4 ft) tall with fuzzy branches. The hairless leaves, generally oval-shaped and often notched at their tips, are between 5 and 20 millimeter (mm) (0.2 and 0.8 in) long and 5 and 12 mm (0.2 and 0.5 in) wide; they are arranged in two opposite rows along the stem. The leaf margins are usually toothed. The small, petalless flower clusters, 1.5 to 3 mm (0.06 to 0.1 in) wide, are borne singly in the leaf axils (point between the stem and leaf stalk) and produce small capsules about 2 mm (0.1 in) long. Seeds have not been observed. This species is distinguished from others in the genus by the following combination of characters leaves arranged in two rows on opposite sides of the branches, leaves glabrous, leaf apex notched, leaf margin toothed, and cyathia width (Koutnik and Huft 1999).

Chamaesyce deppeana has been observed in flower in May and September. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Chamaesyce deppeana* was known only from southern Oahu. Because the few collections that were made were collected prior to the 20th century, it was thought to be extinct. In 1986, Joel Lau and Sam Gon of The Nature Conservancy of Hawaii (TNCH) rediscovered *C. deppeana* on State land in the southern Koolau Mountains of Oahu in Nuuanu Pali Wayside State Park near the Pali Lookout, a popular tourist attraction. About 50 individuals grow near there (HINHP Database 2001; Koutnik and Huft 1999).

The habitat of the only known population of *Chamaesyce deppeana* is windward-facing ridge crests, cliff faces and mixed native cliffs with such plant species as *Metrosideros polymorpha* or *Bidens sandvicensis* (kookoolau) between 274 and 661 m (899 and 2,168 ft) elevation (HINHP Database 2001).

The major threats to the single known population of *Chamaesyce deppeana* are competition for water, space, light, and nutrients with the alien plant species *Casuarina equisetifolia* (common ironwood), *Paspalum conjugatum*, and *Schinus terebinthifolius;* and extinction due to naturally caused events because of the limited number of individuals and restricted range. Fire and impact by humans threaten the species as well (59 FR 14482; Service 1998b; HINHP Database 2001).

Chamaesyce herbstii (Akoko)

Chamaesyce herbstii, a member of the spurge family (Euphorbiaceae) and a short-lived perennial, is a small tree ranging from 3 to 8 m (10 to 26 ft) tall with thin, leathery leaves arranged in pairs on the same plane. This species is distinguished from others in the genus by the length of the flowering stalk and the color of the angular fruits (Koutnik and Huft 1999).

Chamaesyce herbstii has been observed in flower year-round in January, May, July, September, and October (Service 1998b).

Historically, *Chamaesyce herbstii* was known from scattered populations in the northern and central Waianae Mountains on the island of Oahu. Currently, this species is known from four populations with between 162 and 164 individuals in the central and northern Waianae Mountains—South Ekahanui Gulch, Pahole (Kukuiula) Gulch, Kapuna Gulch, and West Makaleha-Central Makaleha. These populations are found on private and State lands (HINHP Database 2001; Geographic Decision Systems International (GDSI) 2001).

Chamaesyce herbstii typically grows in shaded gulch bottoms and slopes in mesic *Acacia koa/Metrosideros polymorpha* lowland forests or diverse mesic forests at elevations between 435 and 886 m (1,427 and 2,906 ft). Associated plant species include *Xylosma* sp. (maua), *Pteralyxia* sp. (kaulu), *Morinda trimera* (noni), *Hedyotis* sp., *Coprosma* sp., *Pipturis albidus, Diplazium sandwichianum* (hoio), *Antidesma platyphyllum, Hibiscus arnottianus* var. *arnottianus* (kokio keokeo), *Melicope* sp. (alani), *Pouteria sandwicense* (alaa), or *Urera glabra* (opuhe) (HINHP Database 2001; EDA, *in litt.* 2001).

The primary threats to *Chamaesyce herbstii* are habitat degradation and/or destruction by feral pigs; competition with alien plant species such as *Clidemia hirta, Grevillea robusta, Passiflora suberosa, Psidium cattleianum*, and *Schinus terebinthifolius;* potential fire; and a risk of extinction from naturally occurring events (such as hurricanes) and/or reduced reproductive vigor due to the small number of remaining populations (HINHP Database 2001; 61 FR 53089; Service 1998b).

Chamaesyce kuwaleana (Akoko)

Chamaesyce kuwaleana, a member of the spurge family (Euphorbiaceae) and a short-lived perennial, is an erect shrub 20 to 90 cm (8 to 36 in) tall with leaves arranged in two rows along the stem. This species is distinguished from other species of the genus in its habitat by its stalked, oval to rounded leaves with untoothed margins, and the bent stalk supporting the small capsule (Koutnik and Huft 1999).

Chamaesyce kuwaleana bear fruits in spring and early summer and is usually done fruiting by fall. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (56 FR 55770).

Historically, *Chamaesyce kuwaleana* was known from the central Waianae Mountains and Moku Manu Island off the eastern coast of Oahu. This species is currently known only from Kauaopuu Peak, Mauna Kuwale, Waianae Kai-Lualualei Ridge, Puu Kailio, and Kauaopuu in the Waianae Mountains, on Federal and State lands. The four populations contain around 2,001 individuals (HINHP Database 2001; Koutnik and Huft 1999; GDSI 2001).

Chamaesyce kuwaleana typically grows in thin guano soil on basaltic rock, on arid, exposed volcanic cliffs, on dry or mesic rocky ridges, or on sparsely vegetated slopes between sea level and 596 m (0 to 1,955 ft) elevation. Associated species include *Heteropogon contortus, Bidens* sp. (kookoolau), *Artemisia* sp. (hinahina), *Plectranthus parviflorus* (ala ala wai nui), *Chamaesyce* sp. (akoko), *Schiedea* sp. (NCN), *Carex* sp. (NCN), *Sida fallax*, or *Dodonaea viscosa* (HINHP Database 2001; Koutnik and Huft 1999; Service 1998b).

The major threats to *Chamaesyce kuwaleana* are competition from the alien plant species *Leucaena leucocephala, Opuntia* sp. (prickly pear), *Cenchrus ciliaris* (buffelgrass), *Schinus terebinthifolius, Kalanchoe pinnata*, and *Melinis repens;* fire; two-spotted leafhoppers (*Saphonia rufofascia*); and the small number of populations (56 FR 55770; Service 1998b; HINHP Database 2001).

Chamaesyce rockii (Akoko)

Chamaesyce rockii, a member of the spurge family (Euphorbiaceae) and a short-lived perennial, is usually a compact shrub or sometimes a small tree typically ranging from 0.5 to 2 m (1.6 to 6.6 ft) tall, but in protected sites it has been known to reach 4 m (13 ft) in height. This species differs from others in the genus in that it has large, red, capsular fruit (Koutnik and Huft 1999).

Chamaesyce rockii has been observed fruiting in February. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Chamaesyce rockii was known historically from scattered populations along the Koolau Mountains on the island of Oahu. Today, 16 populations are located in Waikakalaua Gulch, Kaukonahua-Kahana summit area, Punaluu-Kaluanui, Peahinaia Trail Laie-Kaipapau-Kawai Nui junction area, Puu Keahiakahoe, Halawa Trail, summit ridge between Aiea Ridge Trail and Waimano Trail, Ewa Forest Reserve, Halemano Gulch, Kawaiiki-Opaeula Ridge, Puu Kainapuaa, Kawai Iki Stream, Maakua Gulch, and Kaipapau-Loloa Ridge, on State, Federal, and private lands. Currently the total number of plants is estimated to be between 641 and 773 plants (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Chamaesyce rockii typically grows on gulch slopes, gulch bottoms, and ridge crests in wet *Metrosideros polymorpha-Dicranopteris linearis* (uluhe) forest and shrubland between 208 and 871 m (682 and 2,857 ft) in elevation. Associated plant species include *Bidens* sp., *Antidesma platyphyllum, Hedyotis terminalis, Psychotria* spp. (kopiko), *Melicope* spp., *Coprosma longifolia* (pilo), *Diplopterygium pinnatum* (uluhe lau nui), *Cibotium* sp. (hapuu),

Broussaisia arguta, Dubautia laxa (naenae pua melemele), *Machaerina* sp., *Psychotria fauriei* (kopiko), *Wikstroemia* sp. (akia), or the endangered species *Myrsine juddii* (kolea) (HINHP Database 2001).

The primary threats to *Chamaesyce rockii* are habitat degradation and/or destruction by feral pigs; trail clearing; potential impacts from military activities; and competition with alien plant species such as *Paspalum conjugatum, Pterolepis glomerata* (NCN), *Leptospermum scoparium* (tea tree), *Psidium cattleianum*, and *Clidemia hirta* (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyanea acuminata (Haha)

Cyanea acuminata, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched shrub 0.3 to 2 m (1 to 6.6 ft) tall with inversely lance-shaped to narrowly egg-shaped or elliptic leaves. This species is distinguished from others in this endemic Hawaiian genus by the color of the petals and fruit and length of the calyx lobes, flowering stalk, and leaf stalks (Lammers 1999).

Cyanea acuminata has been observed fruiting in February and November. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Cyanea acuminata* was known from 31 scattered populations in the Ko olau Mountains of Oahu. Currently, fewer than 200 plants are known from 22 populations on private, city, county, State, and Federal lands on Puu o Kona, near South Kaukonahua Stream, in Halemano Gulch, Kawai Iki Gulch, near Poamoho Stream, on Schofield-Wai Kane Trail, Helemano-Punaluu summit ridge, Konahuanui, in Kamana Nui Valley, Pukele, in Makaua Gulch, on Niu-Waimanalo summit ridge, Waahila Ridge, Kaipapau, Puu Keahia Kahoe, Kaala, Kaluanui, Pia Gulch, Makaleha, and Maakua Gulch (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Cyanea acuminata typically grows on slopes, ridges, or stream banks between 216 and 1,208 m (708 and 3,962 ft) elevation. The plants are found in *Metrosideros polymorpha-Dicranopteris linearis, Acacia koa-Metrosideros polymorpha* wet or mesic forest or shrubland, or *Diospyros sandwicensis-Metrosideros polymorpha* lowland mesic forest with one or more of the following associated native species *Hibiscus* sp. (aloalo), *Charpentiera* sp. (papala), *Cyrtandra* spp. (hai wale), *Antidesma* sp. (hame), *Freycinetia arborea* (ieie), *Athyrium sandwichianum, Psychotria* sp., *Hedyotis* sp., *Perrottetia sandwicensis, Melicope* spp., *Thelypteris sandwicensis* (palapalaia), *Hedyotis centranthoides* (NCN), *Broussaisia argutus, Pipturus albidus, Labordia* sp. (kamakahala), *Chamaesyce* sp., *Pisonia* sp., *Touchardia latifolia* (olona), *Machaerina* sp., *Sadleria* sp. (amau), *Wikstroemia* sp., *Dubautia laxa, Ilex anomala, Syzygium sandwicensis* (ohia ha), or *Phyllostegia* sp. (HINHP Database 2001; Lammers 1999).

The major threats to *Cyanea acuminata* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; potential predation by rats (*Rattus rattus*); competition with the alien plant species *Aleurites moluccana, Cordyline fruticosa* (ti), *Schinus terebinthifolius, Musa* sp., (banana), *Passiflora suberosa, Dioscorea* sp. (yam), *Erigeron karvinskianus* (daisy fleabane), *Rubus argutus, Schinus terebinthifolius, Clidemia hirta*, and *Ageratina adenophora* (Maui pamakani); and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyanea crispa (Haha)

Cyanea crispa, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched shrub with leaves clustered at the ends of succulent stems. The broad oval leaves, 30 to 75 cm (12 to 30 in) long and 9 to 16 cm (3.5 to 6.3 in) wide, have undulating, smooth or toothed leaf margins. Each leaf is on a stalk 0.8 to 4 cm (0.3 to 1.6 in) long. Clusters of three to eight fuzzy flowers grow on stalks 2 to 3 cm (0.8 to 1.2 in) long, with each flower borne on a stalk 1 to 2 cm (0.4 to 0.8 in) long. The calyx lobes are oval or oblong, 6 to 12 mm (0.2 to 0.5 in) long, and often overlapping at their base. The fused petals, 4 to 6 cm (1.6 to 2.4 in) long and fuzzy, are pale magenta with darker longitudinal stripes. The fruits are spherical berries 1 cm (0.4 in) in diameter, that contain many minute, dark seeds. *Cyanea crispa* is distinguished from other species in this endemic Hawaiian genus by its leaf shape, distinct calyx lobes, and the length of the flowers and stalks of flower clusters (Lammers 1999).

Cyanea crispa was observed in flower in April 1930. It was more recently observed fruiting in June and September. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b; 59 FR 14482).

Historically, *Cyanea crispa* was known from scattered locations throughout the upper elevations of the Koolau Mountains of Oahu from Kaipapau Valley to the north to Waialae Iki Ridge to the southeast. This species is now known from Federal, State, city, county, and private lands in Hidden Valley, Palolo Valley, Kapakahi Gulch, Moanalua Valley, Wailupe, Koolau Summit Trail, Kawaipapa Gulch, Maakua Gulch, Kaipapa Gulch, Maunawili, and Pia Valley. There are a total of 11 locations containing a total of 56 individual plants (HINHP Database 2001; EDA Database 2001).

Cyanea crispa is found in habitats ranging from steep, open mesic forests to gentle slopes or moist gullies of closed wet forests and streambanks, at elevations between 56 and 959 m (184 and 3,146 ft). Associated plant species include *Diospyros* sp. (lama), *Pipturus albidus, Cibotium chamissoi, Perrottetia sandwicensis, Metrosideros polymorpha, Boehmeria grandis* (akolea), *Broussaisia argutus, Dubautia* sp. (naenae), *Psychotria* sp., *Thelypteris cyatheoides* (palapalai), *Antidesma platyphylla, Cyrtandra* spp., *Pisonia umbellifera* (papala kepau), or *Touchardia latifolia* (HINHP Database 2001; Service 1998b).

The major threats to *Cyanea crispa* are habitat alteration and predation by feral pigs; competition with the alien plant species *Zingiber zerumbet* (awapuhi), *Setaria palmifolia* (palm grass), *Arthrostema ciliatum* (NCN), *Psidium guajava, Pterolepis glomerata, Schinus terebinthifolius, Rubus rosifolius* (thimbleberry), *Clidemia hirta*, and *Psidium cattleianum;* and extinction due to naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals, their limited gene pool, and restricted distribution (Service 1998b; 59 FR 14482).

Cyanea grimesiana ssp. *obatae* (Haha)

Cyanea grimesiana ssp. *obatae*, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a shrub, usually unbranched, growing from 1 to 3.2 m (3.3 to 10.5 ft) tall with wide, deeply lobed leaves. This subspecies can be distinguished from the other two by its short, narrow, calyx lobes which are not fused or overlapping (Lammers 1999).

Cyanea grimesiana ssp. *obatae* flowers and fruits year round, depending on rainfall. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (59 FR 32932).

Historically, *Cyanea grimesiana* ssp. *obatae* was known from the southern Waianae Mountains from Puu Hapapa to Kaaikukai. This taxon is known to be extant in Kaluaa Gulch, Ekahanui Gulch, North Palawai Gulch, and Pahole Gulch. The populations are on State and private lands. A total of six populations are known which contain 16 individuals (HINHP Database 2001; Lammers 1999; GDSI 2000).

Cyanea grimesiana ssp. *obatae* typically grows on steep, moist, shaded slopes in diverse mesic to wet lowland forests between 404 and 1,075 m (1,325 and 3,528 ft) elevation. Associated species include *Pouteria sandwicensis, Psychotria hathewayi* (kopiko), *Streblus pendulinus* (aiai), *Perrottetia sandwicensis, Dubautia* sp., *Rumex* sp. (sorrel), *Chamaesyce* sp., *Coprosma* sp., *Nothocestrum* sp. (aiea), *Dryopteris unidentata* (NCN), *Freycinetia arborea, Cibotium chamissoi, Myrsine lessertiana* (kolea lau nui), *Hedyotis terminalis, Hedyotis acuminata* (au), *Selaginella arbuscula* (lepelepe a moa), *Charpentiera obovata* (papala), *Cyrtandra waianaeensis* (hai wale), *Pipturus albidus, Claoxylon sandwicense* (poola), *Pisonia umbellifera, Acacia koa, Metrosideros polymorpha, Antidesma platyphyllum, Diplazium sandwichianum*, or *Cyanea membranacea* (haha) (HINHP Database 2001; EDA, *in litt.* 2001; Lammers 1999).

The major threats to *Cyanea grimesiana* ssp. *obatae* are habitat degradation by feral pigs; competition from alien plant species such as *Buddleia asiatica, Passiflora suberosa, Blechnum occidentale, Thelypteris parasitica* (NCN), *Psidium cattleianum, Aleurites moluccana, Toona ciliata, Setaria palmifolia, Rubus rosifolius, Lantana camara* (lantana), *Myrica faya* (firetree), *Ageratina riparia, Paspalum conjugatum, Clidemia hirta*, and *Schinus terebinthifolius;* predation of seeds or fruits by introduced slugs; and extinction caused by naturally occurring events and/or reduced reproductive vigor due to the small number of extant individuals (HINHP Database 2001; 59 FR 32932; Service 1998b).

Cyanea humboltiana (Haha)

Cyanea humboltiana, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched shrub with woody stems 1 to 2 m (3.2 to 6.6 ft) tall and inversely egg-shaped to broadly elliptic leaves. The leaf edges are hardened and have shallow, ascending rounded teeth. This species differs from others in this endemic Hawaiian genus by the downward bending flowering stalk and the length of the flowering stalk (Lammers 1999).

Cyanea humboltiana has been observed in flower from September through January. No further information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Cyanea humboltiana was known historically from 17 populations from the central portion to the southern end of the Koolau Mountains of Oahu. Currently, between 133 and 239 plants are known from eight locations Konahuanui summit, Moanalua-Kaneohe summit, Wailupe summit, Poamoho Trail, Opaeula Gulch, Maakua Gulch, Kaluanui, and Lulumahu Gulch. These populations occur on Federal, private, State, city, and county lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Cyanea humboltiana is usually found in wet *Metrosideros polymorpha/ Dicranopteris linnearis* lowland shrubland between 261 and 959 m (856 and 3,146 ft) elevation. Associated native plant species include ferns, *Hedyotis terminalis, Dubautia laxa, Cibotium chamissoi, Syzygium sandwicensis, Acacia koa, Psychotria mariniana* (kopiko), *Bobea elatior* (ahakea), *Sadleria* sp., *Wikstroemia* sp., *Broussaisia argutus, Phyllostegia* sp., *Melicope* sp., *Machaerina angustifolia* (uki), *Ilex anomala*, or *Scaevola mollis* (naupaka kuahiwi) (HINHP Database 2001).

The major threats to *Cyanea humboltiana* are habitat degradation and/or destruction by feral pigs; potential predation by rats; competition with the alien plant species *Axonopus fissifolius* (narrow-leaved carpet grass), *Erigeron karvinskianus, Pterolepis glomerata, Psidium cattleianum*, and *Clidemia hirta;* and a risk of extinction from naturally occurring events and/or reduced reproductive vigor, due to the small number of remaining populations. The Konahuanui summit population is also threatened by trampling by hikers (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyanea koolauensis (Haha)

Cyanea koolauensis, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched shrub with woody stems, 1 to 1.5 m (3.5 to 5 ft) tall with linear to narrowly elliptic leaves with a whitish underside. The leaf edges are hardened with shallow, ascending rounded teeth. *Cyanea koolauensis* is distinguished from others in this endemic Hawaiian genus by the leaf shape and width; the whitish green lower leaf surface and; the lengths of the leaf stalks, calyx lobes, and hypanthium (Lammers 1999).

Cyanea koolauensis has been observed in flower and fruit during the months of May through August. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Cyanea koolauensis was known historically from 27 scattered populations throughout the Koolau Mountains on Oahu. Currently, 25 populations totaling fewer than 80 plants are known from the Waimea-Malaekahana Ridge to Hawaii Loa Ridge in the Koolau Mountains. These populations occur on private, city, county, State, and Federal lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Cyanea koolauensis is usually found on slopes, streambanks, and ridge crests in wet *Metrosideros polymorpha-Dicranopteris linearis* forest or shrubland at elevations between 163 and 959 m (535 and 3,146 ft). Associated plant species include *Acacia koa, Bobea elatior, Syzygium sandwicensis, Pittosporum* sp. *Dubautia* sp., *Cibotium* sp., *Hedyotis* sp., *Wikstroemia* sp., *Bidens* sp., *Machaerina* sp., *Diploterygium pinnatum, Pritchardia martii* (loulu hiwa), *Sadleria* sp., *Broussaisia argutus, Melicope* sp., *Antidesma platyphyllum, Psychotria mariniana*, or *Scaevola* sp. (naupaka) (HINHP Database 2001; Lammers 1999).

The major threats to *Cyanea koolauensis* are habitat destruction by feral pigs; potential impacts from military activities; trail clearing, potential predation by rats; competition with the aggressive alien plant species *Pterolepis glomerata, Heliocarpus popayanensis* (moho), *Clidemia hirta*, and *Psidium cattleianum;* trampling by hikers; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyanea longiflora (Haha)

Cyanea longiflora, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched shrub with woody stems 1 to 3 m (3.5 to 10 ft) long and elliptic or inversely lance-shaped leaves. Mature leaves have smooth or hardened leaf edges with shallow, ascending, rounded teeth. *Cyanea longiflora* differs from others in this endemic Hawaiian genus by the fused calyx lobes (Lammers 1999).

Cyanea longiflora has been observed in flower in February, April, and May and in fruit in August. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Cyanea longiflora was known historically from five populations in the Waianae Mountains and six populations in the Koolau Mountains of Oahu. Currently, four populations with less than 217 individuals of this species are known on State, Federal, city, county, and private lands Makaha-Waianae Kai Ridge, Makaha Valley, Kapuna Gulch, and Pahole Gulch in the Waianae Mountains (Service 1998b; HINHP Database 2001; GDSI 2001).

Cyanea longiflora is usually found on steep slopes, bases of cliffs, or ridge crests in mesic *Acacia koa-Metrosideros polymorpha* lowland forest in the Waianae Mountains usually between 221 and 1,191 m (725 and 3,906 ft) elevation. Associated plant species include *Cibotium* sp., *Schiedea* sp., *Psychotria* sp., *Antidesma* sp., *Dicranopteris linearis, Coprosma* sp., or *Syzygium sandwicensis* (HINHP Database 2001; Lammers 1999).

The major threats to *Cyanea longiflora* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; potential predation by rats; competition with the alien plant species *Psidium cattleianum* and *Rubus argutus;* potential fire; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining, widely dispersed populations (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyanea pinnatifida (Haha)

Cyanea pinnatifida, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a shrub, usually unbranched, growing from 0.8 to 3.0 m (2.6 to 10 ft) tall, with deeply lobed leaves. This species differs from other members of the genus on Oahu by its leaves, which are deeply cut into two to six lobes per side. The only other member of the genus on Oahu with lobed leaves has 9 to 12 lobes per side (Lammers 1999).

Cyanea pinnatifida has been observed flowering in August. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Cyanea pinnatifida* was known from the central Waianae Mountains. The last known wild individual died in August 2001 (Trae Menard, TNCH, pers. comm., 2001; HINHP Database 2001; Lammers 1999). Currently, this species is known only from individuals under propagation at the University of Hawaii's Lyon Arboretum and the National Tropical Botanical Garden (Greg Koob, Service, pers. comm. 2002).

Cyanea pinnatifida typically grows on steep, wet, rocky slopes in diverse mesic forest between 450 and 881 m (1,476 and 2,890 ft) elevation. Associated plant species include *Strongylodon ruber* (nunuiiwi), *Pisonia umbellifera, Pisonia sandwicensis* (papala kepau), *Psychotria* sp., *Canavalia* sp. (awikiwiki), *Diplazium sandwichianum, Pipturus albidus,* and native ferns (HINHP Database 2001; Lammers 1999).

The major threats to *Cyanea pinnatifida* are the small number of extant individuals; competition from the alien plant species *Toona ciliata, Passiflora suberosa, Aleurites moluccana, Psidium cattleianum, Psidium guajava, Blechnum occidentale, and Clidemia hirta;* habitat degradation by feral pigs; slugs; trampling by humans on or near trails; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (56 FR 55770; Service 1998b).

Cyanea st-johnii (Haha)

Cyanea st-johnii, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched shrub with a woody stem 30 to 60 cm (12 to 24 in) long with lance-shaped to inversely lance-shaped leaves. The leaf edges are thickened, smoothly toothed, and curl under. This species is distinguished from others in this endemic Hawaiian genus by the length of the leaves, the distinctly curled leaf margins, and the petal color (Lammers 1999).

Cyanea st-johnii has been observed in flower in July through September. No further information is available on reproductive cycles, longevity, specific requirements, or limiting factors (Service 1998b).

Cyanea st-johnii was known historically from 11 populations in the central and southern Koolau Mountains of Oahu. Currently, 57 plants are known from six locations Waimano Trail summit to Aiea Trail summit, the summit ridge crest between Manana and Kipapa Trails, between the summit of Aiea and Halawa trails, Summit Trail south of Poamoho Cabin, and Wailupe-Waimanalo summit ridge. These populations are found on city, county, private, and State lands, and lands under Federal jurisdiction (HINHP Database 2001; GDSI Database 2000).

Cyanea st-johnii typically grows on wet, windswept slopes and ridges between 415 and 959 m (1,361 and 3,146 ft) elevation in *Metrosideros polymorpha* mixed lowland shrubland or *Metrosideros polymorpha-Dicranopteris linearis* lowland shrubland. Associated plant species include *Psychotria* sp., *Alyxia oliviformis, Melicope* sp., *Broussaisia argutus, Cibotium* sp., *Labordia* sp., *Scaevola mollis, Dubautia laxa, Hedyotis* sp., *Antidesma* sp., *Sadleria pallida (amau), Syzygium sandwicensis, Machaerina angustifolia, Bidens macrocarpa* (kookoolau), *Chamaesyce clusifolia* (akoko), or *Freycinetia arborea* (HINHP Database 2001).

The major threats to *Cyanea st-johnii* are habitat degradation and/or destruction by feral pigs; potential predation by rats; slugs and snails; competition with the alien plant species *Axonopus fissifolius, Sacciolepis indica* (Glenwood grass), *Andropogon virginicus* (broomsedge), and *Clidemia hirta;* and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining populations and individuals. The plants between the summit of Aiea and Halawa Trail are also threatened by trampling by hikers (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyanea superba (Haha)

Cyanea superba, of the bellflower family (Campanulaceae) and a short-lived perennial, is a perennial with a very isolated geography and is morphologically very different from its closest relatives. It grows to 6 m (20 ft) tall and has a terminal rosette of large leaves each 50 to 100 cm long (20 to 40 in) by 10 to 20 cm (4 to 8 in) wide atop a simple, unbranched trunk (Lammers 1999).

The flowering season of *Cyanea superba* varies from year to year depending on precipitation. It ranges from late August to early October. Generally, flowering is at its peak in early to mid-September. Fruits have been known to mature in 2 to 5 months, depending on climatic conditions (Service 1998b).

Historically, *Cyanea superba* was collected from the gulches of Makaleha on Mt. Kaala in the Waianae Mountains of Oahu. Currently, there is one natural population on the Makua Military Reservation with one individual and an out-planted population of 140 individuals on State and Federal lands in the Waianae Mountains (Service 1998b; Matt Keir, EDA, pers. comm., 2001; HINHP Database 2001; GDSI 2001; EDA Database 2001).

Cyanea superba grows in the understory on sloping terrain on a well drained rocky substrate within mesic forest between 232 and 872 m (761 and 2,860 ft) in elevation with one or more of the following associated native species *Diospyros* sp., *Metrosideros polymorpha, Xylosma* sp., *Nestegis sandwicensis, Psychotria* sp., *Hedyotis terminalis,* and *Pisonia brunoniana* (papala kepau) (HINHP Database 2001).

The major threats to *Cyanea superba* are degradation of its habitat due to competition with the alien plant species *Schinus terebinthifolius, Aleurites moluccana., Psidium cattleianum,* and *Melinis minutiflora;* wildfires generated in the nearby military firing range; feral pigs; a restricted range which makes it vulnerable to even a small, local, environmental disturbance and a single incident which could destroy a significant percentage of the known individuals; and the limited gene pool may depress reproductive vigor (56 FR 46235; Service 1998b; HINHP Database 2001).

Cyanea truncata (Haha)

Cyanea truncata, of the bellflower family (Campanulaceae) and a short-lived perennial, is an unbranched or sparsely branched shrub covered with small sharp prickles and oval leaves, which are wider above their middle, and lined with hardened teeth along the margins. *Cyanea truncata* is distinguished from other members of this genus by the length of the flower cluster stalk, and the size of the flowers and flower lobes (Lammers 1999).

Cyanea truncata was observed in flower in December 1919 and November 1980, the last time the species was observed before feral pigs extirpated that population. No other information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b; 59 FR 14482).

Historically, *Cyanea truncata* was known from Punaluu, Waikane, and Waiahole in the northern Koolau Mountains of Oahu. One population of at least one individual is known to exist in Hanaimoa Gulch on State and private lands (HINHP Database 2001; GDSI 2001).

Cyanea truncata typically grows on windward slopes and streambanks in mesic to wet forests at elevations between 54 and 705 m (177 and 2,312 ft). Associated plant species include *Cyrtandra calpidicarpa* (hai wale), *Cyrtandra laxiflora* (hai wale), *Pipturus albidus, Cibotium chamissoi, Hibiscus arnottianus, Diospyros sandwicensis, Metrosideros polymorpha, Cyrtandra propinqua* (hai wale), *Neraudia melastomifolia* (maaloa), or *Pisonia umbellifera* (Service 1998b; HINHP Database 2001; Lammers 1999).

The major threats to *Cyanea truncata* are habitat degradation and predation by feral pigs; competition with the invasive alien plant species *Cordyline fruticosa, Oplismenus hirtellus, Thelypteris parasitica, Clidemia hirta,* and *Psidium cattleianum;* rats; slugs; and extinction due to naturally caused events and/or reduced reproductive vigor due to the small number of remaining individuals (59 FR 14482; Service 1998b).

Cyrtandra crenata (Haiwale)

Cyrtandra crenata, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is a shrub 1 to 2 m (3 to 7 ft) tall with few branches and leaves arranged in whorls of three, tufted at the end of branches. *Cyrtandra crenata* is distinguished from other species in the genus by the combination of its three-leaf arrangement, bilaterally symmetrical calyx, and brownish, hemispherical glands (Wagner *et al.* 1999).

Cyrtandra crenata has been observed in flower in June. No other information exists on reproductive cycles, longevity, specific environmental requirements, and limiting factors (Service 1998b; 59 FR 14482).

Historically, *Cyrtandra crenata* was known from Waikane Valley along the Waikane-Schofield Trail in the Koolau Mountains and was last observed in 1947 (HINHP Database 2001).

Cyrtandra crenata typically grows on steep slopes, in ravines, or gulches in mesic to wet forests between elevations of 328 and 779 m (1,076 and 2,555 ft) with associated native plant species such as *Metrosideros polymorpha, Dicranopteris linearis,* and *Machaerina angustifolia* (Wagner *et al.* 1999; Service 1998b; HINHP Database 2001).

The primary threat to *Cyrtandra crenata* is extinction due to naturally caused events and/or reduced reproductive vigor due to the species' restricted range and the small number of individuals that are thought to exist (59 FR 14482; Service 1998b).

Cyrtandra dentata (Haiwale)

Cyrtandra dentata, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is a sparingly branched shrub ranging from 1.5 to 5 m (5 to 16 ft) tall with papery textured leaves. This species is distinguished from others in the genus by the number and arrangement of the flowers, the length of the bracts and flower stalks, and the shape of the leaves (Wagner *et al.* 1999).

Cyrtandra dentata has been observed in flower and fruit in May and November. No other information exists on reproductive cycles, longevity, specific environmental requirements, and limiting factors (Service 1998b).

Cyrtandra dentata was historically known from six populations in the Waianae Mountains and three populations in the Koolau Mountains of Oahu. Currently, this species is found only in the Pahole Gulch, Kapuna Valley, Ekahanui Gulch, Keawapilau Gulch, Kahanahaiki, Kawai Iki Gulch, Opaeula Stream, and Makaleha Valley on Federal, State, city, and county lands (within TNCH's Honouliuli Preserve). The eight known populations total 136 individuals (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Cyrtandra dentata typically grows in gulches, slopes, streambanks, or ravines in mesic or wet forest with *Urera glabra, Acacia koa, Pisonia sandwicensis, Pipturis albidus, Metrosideros polymorpha, Pouteria sandwicensis, Pisonia umbellifera,* or *Syzygium sandwicensis* at elevations between 255 and 953 m (836 and 3,126 ft) (HINHP Database 2001; Wagner *et al.* 1999; EDA, *in litt.* 2001).

The major threats to *Cyrtandra dentata* are competition with the alien plant species *Schinus terebinthifolius, Psidium guajava, Aleurites moluccana, Thelypteris parasitica, Belchnum occidentale, Clidemia hirta,* and *Psidium cattleianum;* potential predation by rats; potential fire; and a risk of extinction from naturally occurring events (such as landslides/hurricanes/flooding) and/or reduced reproductive vigor, due to the small number of extant populations and individuals (HINHP Database 2001; 61 FR 53089; Service 1998b).

Cyrtandra polyantha (Haiwale)

Cyrtandra polyantha, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is an unbranched or few-branched shrub 1 to 3 m (3 to 10 ft) in height with leathery, elliptic, unequal leaves. *Cyrtandra polyantha* is distinguished from other species in the genus by the texture and hairiness of the leaf surfaces and the length, shape, and degree of cleft of the calyx. This species differs from *C. crenata* by the lack of short-stalked glands and by its leathery leaves, opposite leaf arrangement, and radially symmetrical calyx (Wagner *et al.* 1999).

No information exists on reproductive cycles, longevity, specific environmental requirements, and limiting factors for *Cyrtandra polyantha* (Service 1998b).

Historically, *Cyrtandra polyantha* was known from the Kalihi region and from Kūlepeamoa Ridge above Niu Valley on the leeward (southwest) side of the southern Koolau Mountains. Currently, one population with three individuals is extant on the summit ridge between Kuliouou and Waimanalo on State and private lands (HINHP Database 2001).

Cyrtandra polyantha grows on ridges of valleys in *Metrosideros polymorpha* mesic or wet forests at elevations between 331 and 762 m (1,086 and 2,499 ft). *Cyrtandra polyantha* probably grows in association with *Machaerina angustifolia, Dicranopteris linearis, Broussaisia arguta, Coprosma foliosa* (pilo), and *Psychotria* sp. (Service 1998b; HINHP Database 2001).

The primary threats to *Cyrtandra polyantha* are habitat degradation by feral pigs; competition with the invasive plant species, *Clidemia hirta, Melinus minutiflora, Ageratina adenophora,* and *Erigeron karvinskianus;* extinction due to naturally caused events and/or reduced reproductive vigor due to the small number of remaining individuals and their restricted distribution (59 FR 14482; Service 1998b; HINHP Database 2001).

Cyrtandra subumbellata (Haiwale)

Cyrtandra subumbellata, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is a shrub 2 to 3 m (6.6 to 10 ft) tall. Papery in texture, the leaves are almost circular to egg-shaped, 12 to 39 cm (4.7 to 15.4 in) long, and 3 to 19 cm (1.2 to 7.5 in) wide (Wagner *et al.* 1999).

Cyrtandra subumbellata has been observed in fruit in September. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Cyrtandra subumbellata* was known from the Koolau Mountains of Oahu. Currently, there are two populations containing 12 individuals in the central Koolau Mountains Schofield-Waikane Trail, Puu Ohulehule, and in Kaukonahua drainage on Federal, private, and State lands (HINHP Database 2001; EDA Database 2001).

Cyrtandra subumbellata typically grows on moist, forested slopes or gulch bottoms dominated by *Metrosideros polymorpha* or a mixture of *Metrosideros polymorpha-Dicranopteris linearis-Acacia koa* wet forests between 345 and 790 m (1,132 and 2,591 ft) elevation. Associated plant species include *Machaerina* sp., *Boehmeria grandis, Broussaisia arguta,* and *Thelypteris* sp. (palapalai) (HINHP Database 2001; Service 1998b; Wagner *et al.* 1999).

The primary threats to *Cyrtandra subumbellata* are competition with the alien plant species Clidemia hirta; impacts from military activities; predation by rats; fire; and risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of extant populations and individuals (HINHP Database 2001; Service 1998b; 61 FR 53089).

Cyrtandra viridiflora (Haiwale)

Cyrtandra viridiflora, a member of the African violet family (Gesneriaceae) and a short-lived perennial, is a small shrub 0.5 to 2 m (1.6 to 6.6 ft) tall. This species is distinguished from others in the genus by the leaves, which are thick, fleshy, heart-shaped, and densely hairy on both surfaces (Wagner *et al.* 1999).

Cyrtandra viridiflora has been observed in fruit and flower from May through September. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Cyrtandra viridiflora* was known from scattered populations in the Koolau Mountains on the island of Oahu. This species is now known only from seven locations in the northern Koolau Mountains on Federal, State, and private lands at Kawainui-Laie summit divide, Kawainui-Kaipapau summit divide, Maakua-Kaipapau Ridge, and the Peahinaia Trail. Fifty-two plants are known from eight populations at Puu Kainapuaa, Maakua-Kaipapau Ridge, Kawai Nui Drainage, Opaeula Gulch, and Kawai Nui-Laie Divide (HINHP Database 2001; GDSI 2001).

Cyrtandra viridiflora is usually found on wind-blown ridge tops in cloud-covered wet forest or shrubland at elevations between 443 and 867 m (1,453 and 2,844 ft). Associated plant species include *Diplopterygium* (pinnatum), *Psychotria* sp., *Freycinetia arborea, Dubautia* sp., *Ilex anomala, Melicope* sp., *Hedyotis* sp., *Cheirodendron platyphyllum* (olapa), *Broussaisia arguta, Metrosideros polymorpha, Syzygium sandwicensis, Machaerina* sp., *Metrosideros rugosa* (lehua papa), or *Dicranopteris linearis* (HINHP Database 2001; Wagner *et al.* 1999; EDA, *in litt.* 2001).

The major threats to *Cyrtandra viridiflora* are habitat degradation or destruction by feral pigs; impacts from military activities, predation by rats, competition with the alien plant species *Clidemia hirta* and *Psidium catteianum;* and risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining populations and individuals (HINHP Database 2001; Service 1998b; 61 FR 53089).

Delissea subcordata (NCN)

Delissea subcordata, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a branched or unbranched shrub 1 to 3 m (3.5 to 10 ft) tall. This species is distinguished from others in this endemic Hawaiian genus by the shape and size of the leaves, the length of the calyx lobes and corolla, and the hairless condition of the anthers (Lammers 1999).

Fertile plants of *Delissea subcordata* have been observed in July. An examination of herbarium specimens show that this plant flowers throughout the year. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Delissea subcordata* was known from scattered populations in the Waianae and Koolau Mountains of Oahu. A specimen collected by Mann and Brigham in the 1860s and labeled from the island of Kauai is believed to have been mislabeled. *Delissea subcordata* is now known from 18 populations at South Huliwai Gulch, Palikea Gulch, Kaluaa Gulch, South Mohiakea Gulch, Kahanahaiki Valley, Kapuhi Gulch, South Ekahanui Gulch, Waikoekoe Gulch, Pahole Gulch, Kaawa Gulch, North Palawai Gulch, Kealia land section, Kapuna Gulch, Keawapilau Gulch, North Huliwai Gulch, Kuaokala, and Kolekole. This species is found on private, Federal, and State lands. The total number of plants in the 18 remaining populations is estimated to be fewer than 70 (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Delissea subcordata typically grows on moderate to steep gulch slopes in mixed mesic forests between 162 and 1,025 m (531 and 3,362 ft) elevation. Associated plant species include a variety of native trees such as *Acacia koa, Alyxia oliviformis, Hedyotis acuminata, Streblus pendulinus, Diospyros sandwicensis, Psydrax odoratum, Bobea* sp. (ahakea), *Myrsine lanaiensis, Claoxylon sandwicense, Charpentiera obovata, Chamaesyce multiformis* (akoko), *Pouteria sandwicensis, Antidesma* sp., *Metrosideros polymorpha, Pisonia* sp., *Diospyros hillebrandii* (lama), *Nestegis sandwicensis,* or *Psychotria hathewayi* (HINHP Database 2001; Service 1998b).

The major threats to *Delissea subcordata* are habitat degradation and/or destruction by pigs and goats; impacts from military activities, including road construction and housing development; predation by rats and slugs; competition with the alien plant species *Passiflora suberosa, Blechnum occidentale, Toona ciliata, Syzygium cumini, Oplismenus hirtellus, Pimenta dioica, Grevillea robusta, Melinus minutiflora, Schinus terebinthifolius, Clidemia hirta, Psidium cattleianum,* and *Lantana camara;* fire; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (HINHP Database 2001; Service 1998b; 61 FR 53089).

Diellia falcata (NCN)

Diellia falcata, in the polypodium family (Polypodiaceae) and a short-lived perennial, grows from a rhizome (underground stem), 1 to 5 cm (0.4 to 2 in) long and 0.5 to 2 cm (0.2 to 0.8 in) in diameter, which is covered with small black or maroon scales. This species is distinguished from others in the genus by the color and texture of its leaf stalk, the venation pattern of its fronds, the color of its scales, its rounded and reduced lower pinnae, and its separate sori arranged on marginal projections (Wagner 1952; Service 1998b).

Diellia falcata hybridizes with *Diellia unisora.* It has been observed with fronds bearing sori (fern spores) year round. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Diellia falcata* was known from almost the entire length of the Waianae Mountains, from Manini Gulch to Palehua Iki, as well as from the Koolau Mountains of Oahu, from Kaipapau Valley to Aiea Gulch. This species remains in Waieli Gulch, Ekahanui Gulch, Makaleha Valley, Makaha Valley, Palikea Gulch, Makua Valley, Kaimuhole Gulch, Kuaokala-Manini Gulch, Pahole Gulch, Puu Ku Makalii, Kapuna Gulch, Mohiakea Gulch, Waianae Kai, Pualii Gulch, Napepeiauolelo Gulch, Kahanahaiki Valley, Nanakuli-Lualualei Ridge, Makua, Kamaileunu Ridge, Kaluaa Gulch, and Huliwai Gulch on Federal, State, city, county, and private lands. The 29 known locations contain fewer than 6,000 individuals (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Diellia falcata is a terrestrial fern which typically grows in deep shade or open understory on moderate to moderately steep slopes and gulch bottoms in diverse mesic forest between 224 and 953 m (735 and 3,126 ft) elevation. Associated species include *Pisonia sandwicensis, Doodia kunthiana* (NCN), *Dryopteris unidentata, Antidesma* sp., *Nestegis sandwicensis, Alyxia oliviformis, Psydrax odorata, Pipturis* sp., *Metrosideros polymorpha, Freycinetia arborea, Athyrium sandwichianum, Dryopteris unidentata, Nephrolepis exaltata* (kupukupu), *Diospyros hillebrandii, Acacia koa, Elaeocarpus bifidus, Myrsine lanaiensis, Selaginella arbuscula, Carex meyenii* (NCN), *Sophora chrysophylla* (mamane), *Claoxylon sandwicense, Psychotria* sp., *Hibiscus* sp., *Xylosma* sp., *Melicope* sp., *Coprosma foliosa, Asplenium kaulfussii* (NCN), *Nothocestrum* sp., *Charpentiera* sp., *Hedyotis terminalis, Sapindus oahuensis, Diospyros sandwicensis,* or *Pouteria sandwicensis* (HINHP Database 2001).

The major threats to *Diellia falcata* are habitat degradation by feral goats and pigs; competition from the alien plant species *Psidium cattleianum, Syzygium cumini, Schinus terebinthifolius, Passiflora suberosa, Pimenta dioica, Grevillea robusta, Lantana camara, Melinus minutiflora, Heliocarpus popayanensis, Blechnum occidentale, Kalanchoe pinnata, Ageratina riparia, Psidium guajava, Rubus argutus, Thelypteris parasitica, Toona ciliata, Passiflora lingularis* (sweet granadilla), *Aleurites moluccana, Clidemia hirta, Schefflera actinophylla* (octopus tree), and *Paspalum conjugatum;* and fire (Service 1998b; 56 FR 55770; HINHP Database 2001).

Diellia unisora (NCN)

Diellia unisora, a short-lived perennial in the fern family Polypodiaceae, grows from a slender, erect rhizome (underground stem), 0.5 to 3 cm (0.2 to 1.2 in) tall and 0.5 to 1 cm (0.2 to 0.4 in) in diameter, which is covered with the bases of the leaf stalks and a few small black scales. This species is distinguished from others in the genus by a rhizome completely covered by the persisting bases of the leaf stalks, and few, very small scales; by sori mostly confined to the upper pinnae margins; and by delicate fronds gradually and symmetrically narrowing toward the apex (Wagner 1952).

Diellia unisora hybridizes with *Diellia falcata.* Otherwise, little is known about its reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Diellia unisora* was known from steep, grassy, rocky slopes on the western side of the Waianae Mountains, Oahu. This species is known to be extant in four areas of the southern Waianae Mountains at South Ekahanui Gulch, Palawai Gulch, and the Pualii-Napepeiauolelo Ridge. The four known populations, which are on State and private lands, contain fewer than 800 individuals (HINHP Database 2001; GDSI 2001).

Diellia unisora is a terrestrial fern which typically grows on moderate to steep slopes or gulch bottoms in deep shade or open understory mesic forest between 382 and 953 m (1,253 and 3,126 ft) elevation. Associated species include *Coprosma* sp., *Rumex* sp., *Antidesma* sp., *Psychotria* sp., *Carex meyenii, Doryopteris unidentata, Chamaesyce multiformis, Dodonaea viscosa, Bidens torta, Eragrostis grandis* (kawelu), *Hedyotis terminalis, Alyxia oliviformis, Myrsine lessertiana, Hedyotis schlecthendahliana* (kopa), *Selaginella arbuscula, Acacia koa,* or *Metrosideros polymorpha* (59 FR 32932; HINHP Database 2001).

The major threats to *Diellia unisora* are habitat degradation by feral pigs and competition from the alien plant species *Ageratina riparia, Clidemia hirta, Schefflera actinophylla, Blechnum occidentale, Schinus terebinthifolius, Melinis minutiflora, Passiflora suberosa,* and *Psidium cattleianum* (59 FR 32932; HINHP Database 2001).

Dubautia herbstobatae (Naenae)

Dubautia herbstobatae, a member of the aster family (Asteraceae) and a short-lived perennial, is a small, spreading shrub to 50 cm (20 in) tall. *Dubautia herbstobatae* is distinguished from other species on Oahu by the presence of the outer bracts of the flower heads fused, forming a cup surrounding the florets and the presence of one large vein showing in each leaf (Carr 1999).

Dubautia herbstobatae is likely outcrossing and possibly self-incompatible (i.e., pollen from the same plant will not produce seed). Flowering usually occurs in May and June. Pollination is almost certainly achieved by insect activity and fruit dispersal is probably quite localized and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (Service 1998b).

Dubautia herbstobatae is known to be extant from four locations in the northern Waianae Mountains, on Ohikilolo and Kamaileunu Ridges, Keaau, and Waianae Kai on State lands and land under Federal jurisdiction; fewer than 100 individuals are known from these locations (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Dubautia herbstobatae typically grows on rock outcrops, ridges, moderate slopes, or vertical cliffs in dry

or mesic shrubland at elevations between 266 and 978 m (872 and 3,208 ft). Associated species include *Dodonaea viscosa, Artemisia australis, Chamaesyce celastroides* (akoko), *Schiedea mannii* (NCN), *Carex meyenii, Bidens torta, Metrosideros polymorpha, Lysimachia waianaensis* (kolokolo kuahiwi), and *Eragrostis variabilis* (kawelu) (56 FR 55770; EDA, in litt. 2001; HINHP Database 2001)

The major threats to *Dubautia herbstobatae* are habitat degradation by feral goats and pigs; competition from the alien plant species *Ageratina riparia, Bromus mollis* (soft chest), *Melinis repens, Grevillea robusta, Schinus terebinthifolis, Leucana leucocephala,* and *Melinis minutiflora;* fire; visitation and possible trampling by humans; and the small number of individuals (56 FR 55770).

Eragrostis fosbergii (NCN)

Eragrostis fosbergii, a member of the grass family (Poaceae), is a perennial species with stout, tufted culms (stems) 61 to 102 cm (24 to 40 in) long, which usually arise from an abruptly bent woody base. This species is distinguished from others in the genus by its stiffly ascending flowering stalk and the long hairs on the margins of the glumes and occasionally on the margins of the lemmas (O'Connor 1999).

No information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Eragrostis fosbergii* was known only from the Waianae Mountains of Oahu, from the slopes of Mount Kaala and in Waianae Kai and its associated ridges. Only six individuals are known to remain in Waianae Kai and on Kumaipo Trail in four populations on Federal and State lands (HINHP Database 2001; GDSI 2001).

Eragrostis fosbergii typically grows on ridge crests or moderate slopes in dry and mesic forests between 578 and 941 m (1,896 and 3,086 ft) elevation. Associated plant species include; *Chamaesyce* sp., *Alyxia oliviformis, Sphenomeris* sp. (palaa), *Nephrolepis exaltata, Doodia* sp. (ohu pukupulauii), *Bidens* sp., *Melicope* sp., *Acacia koa, Metrosideros polymorpha, Psydrax odorata, Dodonaea viscosa,* or *Eragrostis grandis* (HINHP Database 2001; 61 FR 53089).

The major threats to *Eragrostis fosbergii* are degradation of habitat by feral pigs and goats; competition with alien plant species such as *Schinus terebinthifolis, Grevillea robusta,* and *Psidium cattleianum;* trampling by hikers; hybridization with *Eragrostis grandis;* and a threat of extinction from random environmental events and/or reduced reproductive vigor due to the small number of remaining populations and individuals (HINHP Database 2001; Service 1998b; G. Koob, pers. comm. 2001).

Gardenia mannii (Nanu)

Gardenia mannii, a member of the coffee family (Rubiaceae), is a tree 5 to 15 m (16 to 50 ft) tall. This species is distinguished from others in the genus by the shape and number of the calyx spurs (Wagner *et al* 1999).

Gardenia mannii has been observed in flower and fruit in June and September. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors. (Service 1998b)

Historically, *Gardenia mannii* was known from seven widely scattered populations in the Waianae Mountains and 39 populations distributed along almost the entire length of the Koolau Mountains of Oahu. Currently, there are 31 populations of *Gardenia mannii* at Haleauau Gulch, Peahinaia Ridge, Kaunala Gulch and Kaunala-Waimea Ridge, Castle Trail, Halawa Valley and Halawa-Kalauao Ridge, Moanalua Valley, Makaua-Kahana Ridge, Poamoho and Halemano Gulches, Kaluaa and Maunauna Gulches, Waimano Trail, Kawailoa Trail, Puu Hapapa and Waieli Gulch, Wiliwilinui Ridge, Koloa Stream, Waialae Nui-Kapakahi Ridge, Manaiki Valley, Laie Trail, Malaekahana-Waimea Summit Ridge, Haleauau Gulch, Schofield-Waikane Trail, Kaukonahua Gulch, Kapakahi Gulch, Manana Trail, Peahinaia Trail and Opaeula Stream, Kamana Nui Stream, Pukele, Hanaimoa Gulch, Papali Gulch, Kawai Nui, and Kaipapau Gulch. The 31 extant populations occur on private, State, and Federal lands. The existing populations total between 69 and 80 plants (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Gardenia mannii is usually found on moderate to moderately steep gulch slopes, ridge crests, in gulch bottoms, and on streambanks in mesic or wet forests between 82 and 1,050 m (269 and 3,444 ft) in elevation. Associated plant species include *Coprosma foliosa, Pisonia* sp., *Bobea* sp., *Syzygium sandwicensis, Melicope* sp., *Cheirodendron* sp. (NCN), *Perotettiá sandwicensis, Elaeocarpus* sp., *Cibotium* sp., *Thelypteris* sp., *Pipturus* sp., *Ilex anomala, Freycinetia arborea, Boehmeria grandis, Metrosideros polymorpha, Pouteria sandwicensis, Acacia koa, Dicranopteris linearis, Antidesma platyphyllum, Broussaisia arguta, Hedyotis acuminata, Alyxia oliviformis,* and *Psychotria mariniana* (HINHP Database 2001).

The major threats to *Gardenia mannii* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; competition with alien plant species such as *Toona ciliata, Passiflora suberosa, Psidium guajava, Leptospermum scoparium, Clidemia hirta, Rubus argutus,* and *Psidium cattleianum;* fire; and risk of extinction from random environmental events and/or reduced reproductive vigor due to the widely dispersed, small number of remaining individuals. The Kapakahi Gulch population is also threatened by the black twig borer (HINHP Database 2001; 61 FR 53089; Service 1998b).

Hedyotis degeneri (NCN)

Hedyotis degeneri, a member of the coffee family (Rubiaceae), is a prostrate shrub with four-sided stems and peeling, corky bark. This species can be distinguished from others in the genus on Oahu by its low-growing habit, the peeling corky layers on older stems, and the short, crowded, leafy shoots growing in the leaf axils; two varieties within the species are recognized *Hedyotis var coprosmifolia* and *Hedyotis var. degeneri* (Wagner *et al.* 1999).

This species has been observed in flower in November, June, and July, and in fruit in July. No further information is available on flowering cycle, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Hedyotis degeneri* is known from Mt. Kaala in the northern Waianae Mountains. Variety *coprosmifolia* has not been collected since the 1980s and no current populations are known. Five populations, totaling 60 individuals, of variety *degeneri* are known from Makaleha, Pahole Gulch, Kahanahaiki, and Alaiheihe Gulch on Federal, State, city, and county lands (HINHP Database 2001; GDSI 2001; Wagner *et al.* 1999).

Hedyotis degeneri typically grows on ridge crests in diverse mesic forest between 349 and 1,083 m (1,145 and 3,552 ft) elevation. Associated species include *Styphelia tameiameiae* (pukiawe), *Dicranopteris linearis, Wikstroemia oahuensis* (akia), *Dodonaea viscosa, Alyxia oliviformis, Diospyros sandwicensis, Psychotria hathewayi, Cocculus* sp. (huehue), *Lysimachia hillebrandii* (kolokolo kuahiwi), *Chamaesyce multiformis, Lobelia yuccoides* (NCN), *Gahnia* sp. (NCN), *Pleomele* sp., *Carex meyenii, Psydrax odorata, Metrosideros*

polymorpha, or *Hedyotis terminalis* (HINHP Database 2001).

The major threats to *Hedyotis degeneri* are habitat destruction by feral pigs; competition from the alien plant species *Grevillea robusta, Clidemia hirta, Blechnum occidentale, Toona ciliata, Psidium guajava, Ageratina adenophora, Rubus argutus, Schinus terebinthifolius, Melinis minutiflora,* and *Psidium cattleianum;* and a threat of extinction from random environmental events and/or decreased reproductive vigor due to the small number of extant individuals and populations (HINHP Database 2001).

Hedyotis parvula (NCN)

Hedyotis parvula, a member of the coffee family (Rubiaceae), is a small, many-branched shrub, either upright or sprawling. with stems usually no more than 30 cm (1 ft) in length. Closely spaced, overlapping leaves which are uniform in size along the stem separate this species from other members of the genus on Oahu (Wagner *et al.* 1999).

Hedyotis parvula has been observed flowering in both winter and summer. The plant is found in dry areas and flowering may be induced by rain. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Hedyotis parvula* was known from the central and southern Waianae Mountains, from Makaleha Valley to Nanakuli Valley. Currently, this species is known from five locations on Federal, State, city, and county lands at Makaleha Ridge, Makua-Keaau Ridge, Lualualei-Nananakuli Ridge, Ohikilolo Ridge, and Halona. Five populations totaling between 116 and 131 individuals are known (HINHP Database 2001; EDA Database 2001; Wagner *et al.* 1999; GDSI 2001).

Hedyotis parvula typically grows on and at the base of cliff faces, rock outcrops, and ledges in mesic habitat at elevations between 331 and 1,160 m (1,086 and 3,805 ft). Associated species include *Eragrostis* sp. (kawelu), *Carex* sp., *Rumex* sp., *Metrosideros polymorpha, Chamaesyce* sp., *Bidens* sp., *Dodonaea viscosa, Psydrax odorata, Metrosideros tremuloides* (lehua ahihi), or *Plectranthus parviflorus* (alaala wai nui) (56 FR 55770; HINHP Database 2001; Wagner *et al.* 1999).

The major threats to *Hedyotis parvula* are habitat degradation by feral goats and pigs; competition from the alien plant species *Ageratina riparia, Myrica faya, Schinus terebinthifolius,* and *Melinis minutiflora;* and a threat of extinction from random environmental events and/or decreased reproductive vigor due to the small number of individuals and populations (56 FR 55770; HINHP Database 2001).

Labordia cyrtandrae (Kamakahala)

Labordia cyrtandrae, a member of the logania family (Loganiaceae), is a shrub 0.7 to 2 m (2.3 to 6.6 ft) tall. This species is distinguished from others in the genus by its fleshy, hairy, cylindrical stem which flattens upon drying, the shape and length of the floral bracts, and the length of the corolla tube and lobes (Wagner *et al.* 1999).

Labordia cyrtandrae has been observed flowering from May through June, and fruiting from July through August, is sporadically fertile year round. The flowers are functionally unisexual and male and female flowers are on separate plants. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Labordia cyrtandrae* was known from both the Waianae and Koolau Mountains of Oahu; in the Koolau Mountains, this species ranged from Kawailoa Trail to Waialae Iki, extending almost the entire length of the mountain range. This species currently is known only from 20 individuals in nine populations in Haleauau Gulch, Mohiakea Gulch, Kaala, and Makaleha. These populations occur on State, city, county, and private lands (GDSI 2001; EDA Database 2001; HINHP Database 2001).

Labordia cyrtandrae typically grows in shady gulches, slopes, and glens in mesic to wet forests and shrublands dominated by *Metrosideros polymorpha, Diplopterygium pinnatum,* and/or *Acacia koa* between the elevations between 212 and 1,233 m (695 and 4,044 ft). Associated plant species include *Broussaisia argutus, Cyrtandra* sp., *Phyllostegia* sp., *Dicranopteris linearis, Antidesma* sp., *Bidens torta, Artemisia australis, Dubautia plantaginea* (naenae), *Rumex* sp., *Lysimachia hillebrandii, Chamaesyce* sp., *Coprosma* sp., *Boehmeria grandis, Peperomia membranaceae* (ala ala wai nui), *Pouteria sandwicensis, Diplazium sandwichianum, Pipturus albidus, Perrottetia sandwicensis,* or *Psychotria* sp. (HINHP Database 2001; Service 1998b).

The greatest threats to *Labordia cyrtandrae* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; competition with the alien plant species *Axonopus fissifolius, Juncus planifolius* (NCN), *Setaria gracilis* (yellow foxtail), *Schinus terebinthifolius, Clidemia hirta, Rubus argutus,* and *Psidium cattleianum;* fire; and risk of extinction from random environmental events and/or reduced reproductive vigor due to the small number of individuals and populations (HINHP Database 2001; Service 1998b).

Lepidium arbuscula (Anaunau)

Lepidium arbuscula, a member of the mustard family (Brassicaceae), is a gnarled shrub 0.6 to 1.2 m (2 to 4 ft) tall. The species is distinguished from others in the genus by its height (Wagner *et al.* 1999).

Lepidium arbuscula has been observed in flower in February. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Lepidium arbuscula* was known from 11 populations in the Waianae Mountains, Oahu. Currently, there are a total of approximately 1,000 individuals known from 10 locations on Federal, State, city, and county lands at Kamaileunu Ridge, Lualualei-Nanakuli Ridge, Kapuhi Gulch, northwest of Puu Kaua, Manini Gulch, Mohiakea Gulch, Ohikilolo Ridge, Makua-Keaau Ridge, the ridge between the Paahoa and Halona subdistricts, northwest of Puu Ku Makalii, and Halona subdistrict (GDSI 2001; HINHP Database 2001; EDA Database 2001).

Lepidium arbuscula on Oahu generally grows on exposed ridge tops and cliff faces in mesic and dry vegetation communities between 131 and 978 m (430 and 3,208 ft) elevation. This species is typically associated with native plant species such as *Metrosideros polymorpha, Peperomia* sp., *Dryopteris unidentata, Sida fallax, Schiedea ligustrina* (NCN), *Artemisia australis, Rumex albescens* (huahu ako), *Styphelia tameiameiae, Psydrax odorata, Carex wahuensis* (NCN), *Chamaesyce multiformis, Lysimachia hillebrandii, Dubautia* sp., *Sophora chrysophylla, Dodonaea viscosa, Eragrostis* sp., *Bidens* sp., or *Carex meyenii* (HINHP Database 2001; Service 1998b).

The primary threats to *Lepidium arbuscula* are habitat degradation and/or destruction by feral goats; potential impacts from military activities; competition with alien plants; and fire. The population at the head of Kapuhi Gulch is also threatened by its proximity to a road (HINHP Database 2001; 61 FR 53089).

Lipochaeta lobata var. *leptophylla* (Nehe)

Lipochaeta lobata var. *leptophylla*, a member of the aster family (Asteraceae),

is a low, somewhat woody, perennial herb with arched or nearly prostrate stems that may be up to 150 cm (59 in) long. Aside from a very rare coastal species, this species is the only member of its genus on Oahu with four-parted disk florets. This variety has narrower leaves, spaced more closely along the stem, than those of *Lipochaeta lobata* var. *lobata*, the only other variety of the species (Wagner *et al.* 1999).

Flowering of *Lipochaeta lobata* var. *leptophylla* is probably rain-induced. Populations may consist of fewer distinct individuals than it appears because many "individuals" are connected underground by the roots and are probably clones. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Lipochaeta lobata* var. *leptophylla* was known from the southern Waianae Mountains, from Kolekole Pass to Lualualei. Currently, there are a total of 147 individuals found in five locations on State, Federal, city, and county lands Lualualei-Nanakuli Ridge, Kauhiuhi, Puu Hapapa, Mikilua, and Kamaileunu Ridge, (HINHP Database 2001; GDSI 2001; EDA Database 2001; Wagner *et al.* 1999).

Lipochaeta lobata var. *leptophylla* typically grows on cliffs, ridges, and slopes in dry or mesic shrubland at elevations between 256 and 978 m (840 and 3,208 ft). Associated species include *Diospyros* sp., *Eragrostis* sp., *Artemisia australis, Lipochaeta tenuis* (nehe), *Stenogyne* sp. (NCN), *Carex meyenii, Dodonaea viscosa, Peperomia* sp., *Psydrax odorata*, and *Bidens* sp. (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Lipochaeta lobata* var. *leptophylla* include competition from alien plant species such as *Ageratina riparia, Passiflora suberosa, Lantana camara, Grevillea robusta, Kalanchoe pinnata, Erigeron karvinskianus, Ageratina adenophora, Schinus terebinthifolius, Leucaena leucocephala*, and *Melinis minutiflora;* habitat degradation by feral pigs and goats; fire; and a threat of extinction from random environmental events and/or decreased reproductive vigor due to the small number of individuals and populations (HINHP Database 2001).

Lipochaeta tenuifolia (Nehe)

Lipochaeta tenuifolia, a member of the aster family (Asteraceae), is a low growing, somewhat woody perennial herb with short, more or less erect branches. Its five-parted disk florets and its deeply cut, stalkless leaves separate this species from other members of the genus (Wagner *et al.* 1999).

Lipochaeta tenuifolia has been observed flowering in April. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Lipochaeta tenuifolia occurs in the northern half of the Waianae Mountains, from Kaluakauila Gulch to Kamaileunu Ridge and east to Mt. Kaala, and northwest, southwest, southeast, and north of Puu Ku Makalii on State, Federal, city, and county lands. The 12 known populations contain between 759 to 1,174 individuals (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Lipochaeta tenuifolia typically grows on ridgetops and bluffs in open areas and protected pockets of dry to mesic forests and shrublands and forests dominated by *Diospyros sandwicensis* at elevations between 67 and 978 m (220 and 3,208 ft). Associated species include *Diospyros* sp., *Dodonaea viscosa, Eragrostis* sp., *Artemisia australis, Schiedea* sp., *Carex meyenii, Rumex* sp., *Dubautia* sp., *Bryophyllum* sp. (NCN), *Osteomeles anthyllidifolia* (ulei), *Reynoldsia sandwicensis, Psydrax odorata, Doryopteris* sp. (kumu niu), *Santalum* sp., *Myoporum sandwicense, Sapindus oahuensis*, or *Bidens* sp. (HINHP Database 2001; Wagner *et al.* 1999).

The major threats to *Lipochaeta tenuifolia* are habitat degradation by feral goats and pigs; competition for light and space from alien plant species including *Ageratina riparia, Blechnum occidentale, Grevillea robusta, Panicum maximum, Lantana camara, Hyptis pectinata, Rivina humilis, Aleurites moluccana, Toona ciliata, Coffea arabica* (coffee), *Schinus terebinithifolius, Leucaena leucocephala, Melinis minutiflora*, and *Psidium cattleianum;* and fire (HINHP Database 2001; 56 FR 55770).

Lobelia gaudichaudii ssp. *koolauensis* (NCN)

Lobelia gaudichaudii ssp. *koolauensis*, a member of the bellflower family (Campanulaceae), is an unbranched, woody shrub 0.3 to 1 m (1 to 3.5 ft) tall. The species is distinguished from others in the genus by the length of the stem, the length and color of the corolla, the leaf width, the length of the floral bracts, and the length of the calyx lobes. The subspecies *koolauensis* is distinguished by the greenish or yellowish white petals and the branched flowering stalks (61 FR 53089; Lammers 1990).

Lobelia gaudichaudii ssp. *koolauensis* has been observed in flower in September and fruit in December. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Lobelia gaudichaudii* ssp. *koolauensis* was known from only two populations in the central Koolau Mountains on Oahu. Currently, this subspecies is known from four populations in the central Koolau Mountains; on Federal, State, and private lands Waimano-Waiawa Ridge, Waimano, plateau above Sacred Falls, and Kaukonahua Gulch. The total number of plants is estimated to be fewer than 270 (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Lobelia gaudichaudii ssp. *koolauensis* typically grows on moderate to steep slopes in *Metrosideros polymorpha* lowland wet shrublands and bogs at elevations between 383 and 867 m (1,256 and 2,844 ft). Associated plant species include—*Sadleria pallida, Isachne distichophylla* (ohe), *Vaccinium dentatum* (ohelo), *Cibotium* sp., *Melicope* sp., *Bidens* sp., *Scaevola* sp., *Machaerina angustifolia, Dicanthelium koolauensis* (NCN), or *Broussaisia arguta* (HINHP Database 2001; EDA, *in litt.* 2001).

The primary threats to *Lobelia gaudichaudii* ssp. *koolauensis* are—habitat degradation and/or destruction by feral pigs; competition with the alien plant species *Axonopus fissifolius, Pterolepis glomerata, Sacciolepis indica*, and *Clidemia hirta;* trampling by hikers; landslides; and risk of extinction from random environmental events and/or reduced reproductive vigor of the one remaining population (HINHP Database 2001; 61 FR 53089).

Lobelia monostachya (NCN)

Lobelia monostachya, a member of the bellflower family (Campanulaceae), is a prostrate woody shrub with stems 15 to 25 cm (6 to 10 in) long. The species is distinguished from others in the genus by its narrow, linear leaves without stalks and its short pink flowers (Lammers 1999).

This species has been observed in flower in May and June. Further information is not available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Lobelia monostachya* was known only from the Koolau Mountains and had not been seen since its original discovery in the 1800s in Niu Valley, and in the 1920s in Manoa Valley. In 1994, Joel Lau discovered one individual in a previously unknown

location in Wailupe Valley on State and private lands. Currently, a total of three plants are known (HINHP Database 2001; GDSI 2001).

Lobelia monostachya occurs on steep, sparsely vegetated cliffs in mesic shrubland between 44 and 614 m (144 and 2,014) elevation. Associated plant species include—*Artemisia australis, Carex meyenii, Psilotum nudum*, or *Eragrostis* sp. (HINHP Database 2001).

The major threats to *Lobelia monostachya* are—predation by rats; competition with the alien plants *Schinus terebinthifolius, Ageratum riparia, Kalanchoe pinnata*, and *Melinis minutiflora*; and risk of extinction from random environmental events and/or reduced reproductive vigor due to the low number of individuals in the only known population (HINHP Database 2001; 61 FR 53089).

Lobelia oahuensis (NCN)

Lobelia oahuensis, a member of the bellflower family (Campanulaceae), is a stout, erect, unbranched shrub 1 to 3 m (3 to 10 ft) tall. *Lobelia oahuensis* differs from other members of the genus in having the following combination of characters erect stems 1 to 3 m (3 to 10 ft) long, dense rosettes of leaves at the end of stems, lower leaf surfaces covered with coarse grayish or greenish hairs, and flowers 42 to 45 mm (1.7 to 1.8 in) long (Lammers 1999).

This species was observed in flower during November. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Lobelia oahuensis* was known from Kahana Ridge, Kipapa Gulch, and the southeastern Koolau Mountains of Oahu. Ten populations totaling 42 individuals are located on private, State, and Federal lands. These populations occur on Mt. Olympus, Konahuanui summit, Waikakalaua-Waikane Ridge, Puu o Kona, the summit area between Aiea and Halawa Valley, Puu Keahiakahoe and the summit ridge south of Puu Keahiakahoe, Waialae Nui-Waimanalo and Kapakahi-Waimanalo, Puu Kalena, and Eleao (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Lobelia oahuensis grows on steep slopes between elevations of 415 and 959 m (1,361 and 3,146 ft) on summit cliffs in cloudswept wet forests or in lowland wet shrubland that are frequently exposed to heavy wind and rain. Associated plant species include—*Sadleria squarrosa* (amau), *Peperomia* sp., *Broussaisia arguta, Scaevola* sp., *Vaccinium* sp., *Hedyotis* sp., *Cibotium* sp., *Freycinetia arborea, Lycopodium* sp. (wawae iole), *Bidens* sp., *Wikstroemia* sp., *Phyllostegia* sp., *Syzygium sandwicensis, Melicope* sp., *Metrosideros polymorpha, Dicranopteris linearis, Machaerina angustifolia, Cheirodendron trigynum* (olapa), *Dubautia laxa*, or *Labordia hosakae* (kamakahala) (HINHP Database 2001; Service 1998b; Lammers 1999).

The primary threats to *Lobelia oahuensis* are—competition with the alien plant species *Rubus rosifolius, Rubus argutus, Paspalum conjugatum, Erigeron karvinskianus*, and *Clidemia hirta* and habitat degradation by feral pigs (HINHP Database 2001).

Melicope lydgatei (Alani)

Melicope lydgatei, a member of the citrus family (Rutaceae), is a small shrub that has leaves arranged oppositely or in threes. The species' leaf arrangement (opposite or in groups of three), the amount of fusion of the fruit sections, and the hairless exocarp (outermost layer of the fruit wall) and endocarp (innermost layer) distinguish it from others in the genus (Wagner *et al.* 1999).

This species has been observed in flower in May and in fruit from June to July. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Melicope lydgatei was formerly known throughout the Koolau Mountains of Oahu from Hauula to Kahana, Kipapa Gulch to Waimano, and Kalihi Valley to Wailupe Valley. Only four populations, totaling between 14 to 15 individuals, remain within its historical range on State and private lands along Poamoho Trail, along Peahinaia Trail, and along Manana Trail (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Melicope lydgatei typically grows in association with—*Acacia koa, Metrosideros polymorpha, Dicranopteris linearis, Psychotria* sp., *Syzygium sandwicensis*, or *Bobea elatior* on ridges in mesic and wet forests at elevations between 349 and 671 m (1,145 and 2,201 ft) (HINHP Database 2001; Service 1998b; EDA, *in litt.* 2001).

The primary threat to *Melicope lydgatei* is a threat of extinction due to random environmental events and/or reduced reproductive vigor because of the small number of individuals and populations remaining (59 FR 14482).

Melicope saint-johnii (Alani)

Melicope saint-johnii, a member of the rue family (Rutaceae), is a slender tree 3 to 6 m (10 to 20 ft) tall. The leaves are opposite or occasionally occur in threes on young lateral branches. The leaves are narrowly to broadly elliptic, sometimes elliptic egg-shaped or rarely lance-shaped. Three to 11 flowers are arranged on an flowering stalk and are usually functionally unisexual, with staminate (male) and pistillate (female) flowers. The staminate flowers have broadly egg-shaped sepals which are hairless to sparsely covered with hair. The triangular petals are densely covered with hair on the exterior. The pistillate flowers are similar in hairiness to staminate flowers, but are slightly smaller in size. The dry fruit splits at maturity. The exocarp is hairless, whereas the endocarp is hairy. This species is distinguished from others in the genus by the combination of the hairless exocarp, the hairy endocarp, the densely hairy petals, and the sparsely hairy to smooth sepals (Stone *et al.* 1999).

No information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors.

Historically, *Melicope saint-johnii* was known from both the Waianae and Koolau Mountains at Makaha to Mauna Kapu in the Waianae Mountains and Papali Gulch in Hauula, Manoa-Aihualama, Wailupe, and Niu Valley in the Koolau Mountains. Today five locations of this species are found on Federal and private lands from the region between Puu Kaua and Puu Kanehoa to Mauna Kapu in the southern Waianae Mountains. Fewer than 170 individuals of this species are known (GDSI 2001; HINHP Database 2001).

Melicope saint-johnii typically grows on mesic forested ridges and gulch bottoms between elevations of 240 and 953 m (787 and 3,126 ft). Associated native plant species include—*Artemisia australis, Eragrostis* sp., *Hedyotis schlechtendahliana, Lysimachia hillebrandii, Bidens torta, Alyxia oliviformis, Carex wahuensis, Panicum beechyi* (NCN), *Rumex albescens, Pittosporum* sp., *Pleomele halapepe* (hala pepe), *Pipturus albidus, Metrosideros polymorpha, Coprosma longifolia, Labordia kaalae* (kamakahala), or *Psychotria hathewayi* (HINHP Database 2001).

The primary threats to *Melicope saint-johnii* are habitat degradation and/or destruction by feral goats and pigs; potential predation by the black twig borer; potential fire; and competition with alien plant species such as *Psidium cattleianum, Clidemia hirta, Passiflora suberosa, Melinis minutiflora, Schinus terebinthifolius, Myrica faya, Ageratum riparia, Passiflora subcordata* (huehue haole), *Lantana camara, Ageratina adenophora*, and *Grevillea robusta;* and risk of extinction due to naturally-occurring events and/or reduced reproductive vigor because of the few

individuals remaining and their restricted distribution (Service 1998b; 61 FR 53089; HINHP Database 2001).

Myrsine juddii (Kolea)

Myrsine juddii, a member of the myrsine family (Myrsinaceae), is a many branched shrub ranging from 1 to 2 m (3.5 to 6.6 ft) tall. The leathery leaves are narrowly inverse lance-shaped or more elliptic. The upper leaf surface is hairless, whereas the lower surface is sparsely to moderately covered with short, coarse, stiff, whitish or brownish hairs toward the base and along the midrib. The leaf base is broadly wedge-shaped to heart-shaped, and the margins are smooth and curl under. The flowers are unisexual and the plants are dioecious (male and female flowers are on separate plants). Flowers occur in groups of four to eight in tight clusters surrounded by small bracts. The yellowish green petals are narrowly inverse lance-shaped. The fleshy, round fruit contains a single seed. This species is distinguished from others in the genus by the hairiness of the lower leaf surface and the shape of the leaf base. In addition, the hairy leaves distinguish this species from all other species of *Myrsine* on Oahu (Wagner *et al.* 1999).

Myrsine juddii has been reported from only three populations in the central Koolau Mountains—the North Kaukonahua-Kahana Summit divide, Peahinaia Trail, and Puu Kainapuaa to Poamoho Trail. These populations are found on State and Federal lands. The total number is thought to be around 5,000 individuals (HINHP Database 2001; GDSI 2001).

Myrsine juddii typically grows on ridge crests and gulch slopes in wet forests and shrublands dominated by *Metrosideros polymorpha* or a mixture of *Metrosideros polymorpha* and *Dicranopteris linearis* at elevations between 384 and 867 m (1,260 and 2,844 ft). Associated plant species include— *Machaerina* sp., *Cheirodendron trigynum*, *Cheirodendron platyphyllum*, *Melicope clusiifolia* (kolokolo mokihana), *Psychotria mariniana*, and *Syzygium sandwicensis* (Service 1998b; 61 FR 53089; GDSI 2001; HINHP Database 2001; EDA, *in litt.* 2001).

The primary threats to *Myrsine juddii* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; competition with alien plant species such as *Clidemia hirta* and *Psidium cattleianum;* and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of extant populations (Service 1998b; 61 FR 53089; HINHP Database 2001).

Neraudia angulata (NCN)

Neraudia angulata, a member of the nettle family (Urticaceae), is an erect shrub 3 m (10 ft) tall. Leaves are thin and elliptic to oval in outline. The upper leaf surface has a few silky hairs, and the lower surface is moderately hairy. Flowers are male or female and grow on different plants. The female flowers produce a dry-walled fruit which is surrounded by fleshy, fused sepals. This species is distinguished from other species in its genus by the conspicuously angled, ridged, fleshy calyx in the female flower. There are two varieties, *N. a. var. angulata* and *N. a. var. dentata*, that differ in the types of leaf hairs on the lower surface of the leaves and the type of leaf margin (Wagner *et al.* 1999).

Neraudia angulata flowers and fruits from early spring to summer. Fruits mature in about a month. No other information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Neraudia angulata* was known from almost the entire length of the Waianae Mountains, from Kaluakauila Gulch nearly to Puu Manawahua. This species is currently known from Kaluakauila Gulch along Makua-Keaau Ridge to Makaha-Waianae Kai Ridge, on Federal, State, city, county, and private lands. The five known populations are estimated to comprise approximately 51 individuals (GDSI 2001; HINHP Database 2001; EDA Database 2001).

Neraudia angulata var. *angulata* typically grows on slopes, ledges, or gulches in lowland mesic or dry forest between 189 and 978 m (620 and 3,208 ft) elevation. Associated plant species include— *Diospyros* sp., *Dodonaea viscosa*, *Bidens* sp., *Artemisia australis*, *Sida fallax*, *Carex meyenii*, *Psydrax odorata*, *Hibiscus* sp., *Pisonia sandwicensis* (ūlu), or *Nestegis sandwicensis*. *Neraudia angulata* var. *dentata* typically grows on cliffs, rock embankments, gulches, and slopes in mesic or dry forests between 110 and 978 m (361 and 3,208 ft). Associated native plant species include *Diospyros sandwicensis*, *Diospyros hillebrandii*, *Dodonaea viscosa*, *Artemisia australis*, *Alyxia oliviformis*, *Sapindus oahuensis*, *Psydrax odorata*, *Pisonia* sp., *Antidesma pulvinatum*, *Nestegis sandwicensis*, *Myrsine lanaiensis*, *Hibiscus* sp., *Metrosideros polymorpha*, *Bidens torta*, *Canavalia* sp., *Rauvolfia sandwicensis*, *Carex* sp., *Charpentiera* sp., *Sida fallax*, *Streblus pendulinus*, or *Eragrostis* sp. (HINHP Database 2001; EDA, *in litt.* 2001; Service 1998b; 56 FR 55770).

The major threats to *Neraudia angulata* var. *angulata* are habitat degradation by feral goats and pigs; military activities; competition from the alien plant species *Ageratina riparia*, *Schinus terebinthifolius*, *Passiflora subcordata*, *Melinis minutiflora*, and *Psidium cattleianum;* fire; and the small number of extant individuals. The major threats to *Neraudia angulata* var. *dentata* are habitat degradation by feral pigs and goats; fire; and competition with the alien plant species *Melinis minutiflora*, *Tecoma castanifolia* (yellow elder), *Schinus terebinthifolius*, *Melinis* sp., *Ageratina riparia*, *Montanoa hibiscifolia*, *Passiflora suberosa*, *Ageratina adenophora*, *Psidium guajava*, *Pimenta dioica*, *Aleurites moluccana*, *Syzygium cumini*, *Schefflera actinophylla*, *Oplismenus hirtellus*, *Leucaena leucocephala*, *Blechnum occidentale*, and *Erigeron karvinskianus* (HINHP Database 2001; Service 1998b; 56 FR 55770).

Phyllostegia hirsuta (NCN)

Phyllostegia hirsuta, a member of the mint family (Lamiaceae), is an erect subshrub or vine with stems densely covered with coarse or stiff hairs. The wrinkled leaves are egg-shaped, and both leaf surfaces are moderately covered with long, flat hairs. The upper surface is inconspicuously dotted with glands, while the lower surface is more densely glandulose. The egg-shaped floral bracts are 3 to 6 mm (0.1 to 0.2 in) long. The flowers have two lips the upper one is approximately 3 mm (0.1 in) long and the lower one is 5 to 7 mm (0.2 to 0.3 in) long. The tubular portion of the flower is slightly curved. The corolla is white and usually purple-tinged on the upper lip. The fruit is a nutlet about 3 mm (0.1 in) long. This species is distinguished from others in the genus by the texture, hairiness, and size of the leaves and the length of the upper bracts (Wagner *et al.* 1999).

Phyllostegia hirsuta has been observed in flower in February and in fruit in June. Cultivated material flowered in July. No other information on reproductive cycles, longevity, specific environmental requirements, or limiting factors is available (Service 1998b).

Historically, *Phyllostegia hirsuta* was known from widespread populations in the Waianae and Koolau Mountains on Oahu. Currently, this species is found in 23 locations with a total of between 214 and 227 individuals from the ridge between Makaha and Waianae Kai to the south fork of North Palawai Gulch in the Waiaanae Mountains and from Kawainui Gulch in Kawailoa Training Area to south Kaukonahua drainage in the Koolau Mountains. These populations occur on Federal, State, city, county, and private lands (GDSI 2001; HINHP Database 2001; EDA Database 2001).

Phyllostegia hirsuta is usually found on steep, shaded slopes, cliffs, ridges, gullies, and streambanks in mesic or wet forests dominated by *Metrosideros polymorpha* or a mixture of *Metrosideros polymorpha* and *Dicranopteris linearis* between 195 and 1,202 m (640 and 3,943 ft) elevation. Associated plant species include *Pisonia* sp., *Diplazium sandwichiana*, *Freycinetia arborea*, *Chamaesyce multiformis*, *Hibiscus* sp., *Rumex albescens*, *Machaerina angustifolia*, *Clermontia kekeana* (oha wai), *Perotettia sandwicenum*, *Cibotium* sp., *Hedyotis schlechtendahliana*, *Ilex anomala*, *Lysimachia hillebrandii*, *Melicope* sp., *Psychotria* sp., *Astelia* sp. (painiu), *Antidesma platyphyllum*, *Dubautia laxa*, *Cyanea membranacea*, *Elaeocarpus bifidus*, *Myrsine sandwicensis* (kōlea), *Scaevola gaudichaudiana* (naupaka kuahiwi), *Pleomele* sp., *Dryopteris unidentata*, *Streblus pendulinus*, *Claoxylon sandwicense*, *Nothocestrum* sp., *Neraudia* sp. (NCN), *Zanthoxylum kauaense* (ae), *Labordia kaalae*, *Cyrtandra waianaeensis*, *Phyllostegia grandiflora* (NCN), *Liparis hawaiiensis* (awapuhiakanaloa), *Dubautia sherffiana* (naenae), *Pouteria sandwicensis*, *Brousaissia arguta*, *Pipturis* sp., *Coprosma longifolia*, *Hedyotis terminalis*, *Myrsine lessertiana*, or native ferns (Service 1998b; HINHP Database 2001; 61 FR 53089).

The primary threats to *Phyllostegia hirsuta* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; rockslides; rats; and competition with *Passiflora suberosa*, *Blechnum occidentale*, *Pimenta dioica*, *Paspalum conjugatum*, *Rubus rosifolius*, *Drymaria cordata*, *Axonopus fissifolius*, *Athyrium* sp. (NCN), *Adiantum raddianum*, *Melinis minutiflora*, *Physalis peruviana* (poha), *Buddleia asiatica*, *Schinus terebinthifolius*, *Clidemia hirta*, *Lantana camara*, *Rubus argutus*, or *Psidium cattleianum* (HINHP Database 2001).

Phyllostegia kaalaensis (NCN)

Phyllostegia kaalaensis, a member of the mint family (Lamiaceae), is an herb. The egg-shaped leaves are 5 to 13 cm (2 to 5 in) long. Usually six flowers are arranged along a flowering stalk. The calyx is glabrous and the corolla tube is hairless. The species is distinguished from others of the genus by the spreading, pointed teeth on the leaf edges and by the hairs along the margins of the calyx and bracts (*Wagner et al.* 1999).

No information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Phyllostegia kaalaensis has been known from only six scattered populations in the Waianae Mountains of Oahu. Currently, this species is known from four populations containing a total of fewer than 45 plants, in Waianae Kai, Pahole Gulch, central Ekahanui Gulch, Ekahanui Gulch, and Palikea Gulch. These populations occur on State and private lands (HINHP Database 2001; GDSI 2001).

Phyllostegia kaalaensis is found on gulch slopes and bottoms and on almost vertical rock faces in mesic forest or *Sapindus oahuensis* forest between 374 and 796 m (1,227 and 2,611 ft) elevation. Associated plant include *Myrsine lanaiensis*, *Myrsine lessertiana*, *Psychotria hathewayi*, *Antidesma platyphyllum*, *Diplazium sandwichianum*, *Pipturus albidus*, *Hibiscus* sp., *Claoxylon sandwicense*, *Neraudia melastomifolia*, *Streblus pendulinus*, *Pouteria sandwicensis*, *Freycinetia arborea*, or *Urera glabra*, (HINHP Database 2001).

The major threats to *Phyllostegia kaalaensis* are habitat degradation and/or destruction by feral pigs and goats; fire; trail clearing; competition with the alien plant species *Rubus rosifolius*, *Thelypteris parasitica*, *Ageratina adenophora*, *Buddleia asiatica*, *Psidium guajava*, *Lantana camara*, *Blechnum occidentale*, *Passiflora suberosa*, *Aleurites moluccana*, *Cordyline fruticosa*, *Oplismenus hirtellus*, *Passiflora edulis* (passion fruit), *Passiflora ligularis*, *Toona ciliata*, *Schinus terebinthifolius*, *Passiflora subcordata*, *Clidemia hirta*, and *Psidium cattleianum;* and risk of extinction from naturally-occurring events and/or reduced reproductive vigor due to the small number of populations and individuals (Service 1998b; 61 FR 53089; HINHP Database 2001).

Pritchardia kaalae (loulu)

Pritchardia kaalae, a member of the palm family (Arecaceae), is a single-stemmed palm up to 5 m (16 ft) tall. The waxy, hairless leaves are thin and papery or thick and leathery. Sometimes small points, dots, or linear, rusty scales are scattered on the lower leaf surface. The flowering stalks are composed of one or more branches. The round fruits are approximately 2 cm (0.8 in) in diameter. *Pritchardia kaalae* is distinguished from other members of the genus by the hairless or scaly leaves (Read and Hodel 1999).

Pritchardia kaalae plants have been observed in fruit in April, August and October and may fruit throughout the year. No other information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Pritchardia kaalae* was known from scattered populations in the central and north-central Waianae Mountains of Oahu. Currently, six populations are known from Manuwai Gulch, East Makaleha, Kaumokunui Gulch, Waianae Kai-Haleauau summit divide, Makua-Keaau Ridge and Makaha Valley, totaling about 200 individuals. These populations are located on Federal, State, city, and county lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Pritchardia kaalae is typically found on steep slopes and gulches in mesic forest or shrubland between elevations of 421 and 1,123 m (1,381 and 3,683 ft). Associated plant species include *Dodonaea viscosa*, *Myrsine* sp., *Bidens* sp., *Pipturus* sp., *Dubautia* sp., *Metrosideros polymorpha*, *Eragrostis* sp., *Metrosideros tremuloides*, or *Tetraplasandra* sp. (ohe ohe) (Service 1998b; HINHP Database 2001; 61 FR 53089; EDA, *in litt.* 2001).

Major threats to *Pritchardia kaalae* are habitat degradation by feral pigs and goats; fruit predation by rats; potential impacts from military activities; competition with the alien plant species *Schinus terebinthifolius*, *Ageratina adenophora*, and *Rubus argutus;* potential fire; and risk of extinction from naturally-occurring events and/or reduced reproductive vigor due to the small number of populations (Service 1998b; HINHP Database 2001; 61 FR 53089).

Sanicula mariversa (NCN)

Sanicula mariversa, a member of the parsley family (Apiaceae), is an upright herb, 40 to 70 cm (16 to 28 in) tall which produces a caudex (a single branched stem from a sturdy base) growing just beneath the surface of the soil. There are many heart- to kidney-shaped, leathery, three- to five-lobed leaves growing from the base of the plant. Leaves on the stem become smaller and more deeply lobed the closer they are to the tip of the stem. Flowers are arranged in one to four more or less flat-topped clusters; each cluster comprises 10 to 20 flowers and is located at the end of the stem or in the leaf axils. Each flower cluster has eight to 12 bracts beneath it and comprises both male and

hermaphroditic flowers. There are five nearly circular, fused, toothed, yellow petals. The egg-shaped fruit is covered with hooked prickles and separates into two single-seeded parts. The larger size of the plant and basal leaves, the color of the flower petals, and the hooked prickles on the fruit separate this species from others of the genus in Hawaii (Constance and Affolter 1999).

Sanicula mariversa is known to flower from February through May, and fruits can be found until August. Dry fruits remain on infructescences for a long time and may persist beyond August. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Sanicula mariversa* was known from the central Waianae Mountains from Makua-Keaau Ridge to Kaluaa-Lualualei Summit Ridge. This species is now extant on Ohikilolo Ridge, Keaau-Makaha Ridge, Kamaileunu Ridge, and northwest of Puu Kanehoa on Federal, State, city, and county lands. The four known populations contain approximately 170 individuals (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Sanicula mariversa typically grows on well-drained, dry slopes and rock faces in mesic shrublands and open grassy areas at elevations between 582 and 978 m (1,909 and 3,208 ft). Associated species include *Carex meyenii*, *Eragrostis* sp., *Bidens torta*, *Metrosideros tremuloides*, *Doryopteris* sp., or *Metrosideros polymorpha* (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Sanicula mariversa* are habitat degradation by feral goats; fire; erosion; competition from the alien plant species *Stachytarpheta dichotoma*, *Ageratina riparia*, *Erigeron karvinskianus*, *Schinus terebinthifolius*, and *Melinus minutiflora*; trampling by humans on or near trails; and the risk of extinction due to the small number of populations (Service 1998b; HINHP Database 2001; 56 FR 55770).

Schiedea kaalae (NCN).

Schiedea kaalae, a member of the pink family (Caryophyllaceae), has a short woody caudex less than 20 cm (8 in) long. The thick, single-veined leaves are bunched at the top of the stem; they are long and elliptic or broader toward the tip and can reach a length of 24 cm (9.4 in) and a width of 6 cm (2.4 in). Flowers are in a panicle (an open, much branched inflorescence). The flowers lack petals, but have purple bracts and sepals. Stamens and nectaries each number five and are about 4 to 5 mm (0.2 in) long. Capsules are about 4 mm (0.2 in) long, and seeds are dark grayish brown and about 1 mm (0.04 in) long. This species can be distinguished from other members of its genus by its very short stems and its thick leaves with one conspicuous vein (Wagner *et al.* 1999).

This plant has been observed in flower from March through June. Based on field and greenhouse observations, *Schiedea kaalae* has perfect flowers (each individual has both male and female reproductive organs). A series of experimental self-pollinations, within-population crosses, and crosses among populations have demonstrated that *Schiedea kaalae* experiences moderately strong inbreeding depression. These results indicate that reductions in population size could result in expression of inbreeding depression in seedlings, with potentially deleterious consequences for the long-term persistence of this species. Consistent with the evidence for inbreeding depression, *Schiedea kaalae* appears to be an outcrossing species. Under greenhouse conditions, flowers do not set fruit unless pollinated. In the field, this species was observed being visited by the introduced syrphid fly, *Simosyrphus grandicornis*. The fly did not appear to be foraging for nectar but may have been feeding on pollen. Individuals of *Schiedea kaalae* appear to be long-lived, but there is no evidence of regeneration from seed under field conditions. Seedlings of *Schiedea kaale*, like those of other *Schiedea* species in mesic or wet sites are apparently consumed by introduced slugs and snails, which have been observed feeding on *Schiedea membranacea*, a mesic forest species from Kauai. *Schiedea* occurring in dry areas produce abundant seedlings following winter rains, presumably because dry areas have fewer alien predators (Service 1998b; Weller and Sakai, unpublished data).

Historically, *Schiedea kaalae* was known from the north-central and south-central Waianae Mountains and the northern Koolau Mountains of Oahu. This species remains on State and private lands at Pahole Gulch, Kaluaa Gulch, Puu Kaua, Palawai Gulch, Maakua Gulch, Huliwai Gulch, and Makaua Stream. The eight known populations contain only 49 individuals (HINHP Database 2001; GDSI 2001).

Schiedea kaalae typically grows on steep slopes, cliffs, streambanks, and deep shade in diverse mesic and wet forests at elevations between 64 and 869 m (210 and 2,850 ft). Associated species include *Pisonia sandwicensis*, *Psychotria hathewayi*, *Pouteria sandwicensis*, *Freycinetia arborea*, *Pipturus albidus*, *Cyrtandra laxiflora*, *Hedyotis acuminata*, *Selaginella arbuscula*, *Cyrtandra calpidicarpa*, *Boehmeria grandis*, *Claoxylon sandwicense*, *Diospyros hillebrandii*, *Dryopteris unidentata*, *Alyxia oliviformis*, *Charpentiera* sp., *Athyrium sandwichianum*, *Xylosma hawaiiensis* (maua), *Nothocestrum longifolium* (aiea), *Athyrium arnottii* (hoio), or *Pisonia umbellifera* (HINHP Database 2001; Service 1998b).

The major threats to *Schiedea kaalae* are habitat degradation by feral pigs and goats; competition from the alien plant species *Passiflora suberosa*, *Psidium cattleianum*, *Blechnum occidentale*, *Ageratina riparia*, *Psidium guajava*, *Thlypteris parasitica*, *Oplismenus hirtellus*, *Cordyline fruticosa*, *Rubus rosifolius*, *Schinus terebinthifolius*, *Ageratina adenophora*, *Passiflora subcordata*, *Clidemia hirta*, *Melinus minutiflora*, and *Myrica faya*; fire; predation by introduced slugs and snails; and the small number of extant individuals and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (HINHP Database 2001; Service 1998b).

Schiedea kealiae (NCN)

Schiedea kealiae, a member of the pink family (Caryophyllaceae), is a subshrub with weakly ascending to sprawling stems which form loose clumps. The lower stems are smooth while the upper stems and flowering stalk bear glands. The opposite leaves are lance-shaped to elliptic lance-shaped and conspicuously three-veined with a prominent midrib. The flowering stalk have numerous unisexual flowers in crowded clusters. The green sepals of the male flowers are approximately 2.5 mm (0.1 in) long. The sepals of the female flowers, 1.5 to 2.2 mm (0.06 to 0.09 in) long, are slightly shorter. The nectaries are inconspicuous. The capsular fruit is 2 to 2.5 mm (0.08 to 0.1 in) long. The species is distinguished from others of this endemic Hawaiian genus by the length of the sepals and nectaries and the flowering stalk exclusively with stalkless glands (Wagner *et al.* 1999).

Schiedea kealiae has been observed in flower in December. A series of self-pollinations, intra-populational crosses, and crosses among populations have demonstrated that many related *Schiedea* sp. experience moderately strong inbreeding depression. These results indicate that reductions in population size could result in expression of inbreeding depression among seedlings, with potentially deleterious consequences for the long term persistence of this species. Individuals of *Schiedea kealiae* appear to be long-lived, however there is no evidence of regeneration from seed under field conditions. Seedlings of *Schiedea* species occurring in mesic or wet sites are apparently consumed by introduced slugs and snails, which have been observed feeding on *Schiedea membranacea*, a mesic forest species from Kauai. *Schiedea* occurring in dry areas produce abundant seedlings following winter rains, presumably because dry areas have fewer alien predators (Service 1998b; Weller and Sakai, unpublished data).

Historically, *Schiedea kealiae* was known from the northern Waianae Mountains and one collection from the Palikea area, near the southern end of the same mountain range. Currently, four populations totaling between 265 and 315 plants are located on the cliffs above Dillingham Airfield and Camp Erdman and at Kaena Point at the northern end of the Waianae Mountains. These populations occur on private and State lands, and State lands under Federal jurisdiction (HINHP Database 2001; GDSI 2001; U.S. Army (Army) 2001b).

Schiedea kealiae is usually found on steep slopes and cliff faces and bases in dry remnant *Erythrina sandwicensis* forest at elevations between 46 and 341 m (151 and 1,118 ft). Associated plant species include *Sicyos* sp. (anunu), *Plumbago zeylanica*, *Lepidium bidentatum* (anaunau), *Lipochaeta remyi* (nehe), *Myoporum sandwicense*, *Hibiscus arnottianus*, *Psydrax odorata*, *Bidens* sp., or *Sida fallax* (HINHP Database 2001).

The major threats to *Schiedea kealiae* are competition with the alien plant species *Schinus terebinthifolius*, *Panicum maximum*, and *Leucaena leucocephala*; predation by introduced slugs and snails; lack of a pollinator; and risk of extinction from naturally-occurring events and/or reduced reproductive vigor due to the small number of existing populations. The Kaena Point population is additionally threatened by naturally-occurring rock slides and fire (Service 1998b; HINHP Database 2001; 61 FR 53089).

Silene perlmanii (NCN)

Silene perlmanii, a member of the pink family (Caryophyllaceae), is a perennial plant with stems that are woody at the base. It usually is much branched from the base and often forms clumps. Stems are 30 to 50 cm (12 to 20 in) long, and leaves are in the shape of narrow ellipses. A few flowers are arranged in clusters at the ends of stems. Each flower has fused sepals with five lobes and white, deeply notched petals. Mature capsules have not been seen. It is the only species of the genus on Oahu and can be distinguished from other *Silene* species by its white petals and a calyx which is more than 19 mm (0.7 in) long and densely covered with short hairs (Wagner *et al.* 1999).

Silene perlmanii flowers in the spring, depending on climatic conditions. Flowers last for a day. Fruits develop in a few weeks. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Silene perlmanii was discovered in the 1980s and was known from a few individuals in two populations in the southern Waianae Mountains on Federal and privately owned lands. The populations were about 1.6 km (1 mi) apart at Palikea and Palawai Gulch. As of December 1997, no individuals are known to be extant in the wild (GDSI 2001; HINHP Database 2001; Service 1998b; 56 FR 55770). Currently, this species is known only from individuals under propagation at the National Tropical Botanical Garden (G. Koob, pers. comm. 2002).

Silene perlmanii typically grew on steep rocky slopes in *Acacia koa-Metrosideros polymorpha* lowland mesic forest at elevations between 493 and 919 m (1,617 and 3,014 ft) (Service 1998b; HINHP Database 2001; 56 FR 55770).

The major threats to *Silene perlmanii* are competition from the alien plant species *Erigeron karvinskianus*, *Ageratina adenophora*, *Passiflora suberosa*, *Schinus terebinthifolius*, *Myrica faya*, and *Melinis minutiflora*; feral pigs; and the risk of extinction from naturally-occurring events and reduced reproductive vigor due to the small number of individuals (Service 1998b; HINHP Database 2001; 56 FR 55770).

Stenogyne kanehoana (NCN)

Stenogyne kanehoana is a scandent vine in the mint family (Lamiaceae) with stems weakly four-angled, hairy, and 1 to 2 m (3 to 6 ft) long. The leaves are oppositely arranged and are narrowly ovate to oblong-ovate, and thin but densely hairy. The flowers are in clusters of three to six per leaf axil; the petals are fused into a strongly curved tube, white or pale yellow with short, pink, corolla lobes. The fruit consists of four fleshy, black nutlets. *Stenogyne kanehoana* is distinguished from the only other member of the genus occurring on Oahu, *S. kaalae*, primarily by the size and color of its flowers. The flowers of *S. kanehoana* are large, white to yellow, and tipped in pink, while those of *S. kaalae* are small and deep purple (Weller and Sakai 1999).

Stenogyne kanehoana generally flowers from February through March, but flowering depends on precipitation and flowers have been noted from January to as late as April. Fruits mature within 6 weeks. The life span of this species appears to be about 7 to 12 years. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Stenogyne kanehoana was known from the east ridge of Puu Kanehoa, Waianae Mountains, near the summit of the ridge connecting Puu Kanehoa with Puu Hapapa to the north and Puu Kaua to the south; a distance totaling approximately 2.8 km (1.75 mi). This population consisting of two plants near the summit of Puu Kanehoa on privately owned land was found dead recently. An additional population in Kaluaa Gulch was discovered in 2000 by Joan Yoshioka of TNCH. This population consist of one to six individual plants and is located on private owned land (HINHP Database 2001; GDSI 2001; Service 1998b; 57 FR 20592).

The remnant population of *Stenogyne kanehoana* is found in lowland mesic forest between 559 and 1,168 m (1,834 and 3,831 ft) elevation. Associated native plant species include *Acacia koa*, *Metrosideros polymorpha*, *Psychotria* sp., *Freycinetia arborea*, *Bidens* sp., *Chamaesyce* sp., *Alyxia oliviformis*, *Cibotium* sp., or *Scaevola* sp. (HINHP Database 2001).

The major threats to *Stenogyne kanehoana* are habitat degradation and competition for space, water, light, and nutrients by naturalized, alien species (especially *Clidemia hirta*, *Schinus terebinthifolius*, *Psidium cattleianum*, *Passiflora suberosa*, and *Paspalum conjugatum*). The extremely small number of individual plants and their restricted distribution increases the potential for extinction from naturally-occurring events. Other potential threats which have been suggested include fire and deforestation, but, at present, these probably are not serious threats to the species. Feral pigs, the two spotted leafhopper, and hikers are also thought to be a threat to this species (Service 1998b; HINHP Database 2001; 57 FR 20592).

Tetramolopium filiforme (NCN)

Tetramolopium filiforme, a member of the aster family (Asteraceae), is a dwarf shrub from 5 to 15 cm (2 to 6 in) tall with complexly branched stems. The leaves are much longer than wide; from 1 to 2 cm (0.4 to 0.8 in) long and 0.4 to 1.2 mm (0.02 to 0.05 in) wide. The

flower heads are single or grouped in clusters of two to four, each having a bell-shaped involucre (one or more whorls of bracts situated below and close to a flower, flower cluster, or fruit). There are 35 to 52 white or pale lavender ray florets in a single circle at the edge of the head. There are 18 to 30 maroon (rarely yellow) disk florets in the center of each head. The ray florets are female, while the disk florets function as male flowers. Fruits are achenes (a small dry indehiscent one-seeded fruit). This species is distinguished from the other extant species on Oahu by its separate male and female flowers both on the same plant, and its inflorescence of one to four heads (Lowrey 1999).

In cultivation, *Tetramolopium filiforme* germinates in about 3 weeks. Fifteen weeks after germination, the plants are approximately 9 cm (3.5 in) high and they produce their first buds. The first blossoms are noted about 18 weeks after germination. During growth an inflorescence forms at the apex of each shoot while new shoots develop laterally. *Tetramolopium filiforme* is relatively short-lived and usually lives less than 5 years. In the wild, it usually flowers in the late winter or spring but flowering can also be induced by heavy rainfall (Service 1998b).

Historically, *Tetramolopium filiforme* was known from the northern Waianae Mountains, from Ohikilolo Ridge, Keaau Valley, and Makaha Valley. This species remains in Keaau Valley, Kahanahaiki Valley, Makua-Keaau Ridge, Lualualei, Waianae Kai and Puu Kawiwi on Federal, State, city, and county lands. The six known populations are estimated to contain approximately 253 individuals (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Tetramolopium filiforme typically grows on dry cliff faces and ridges in dry and mesic forests at elevations of 247 to 978 m (810 to 3,208 ft). Associated species include *Bidens torta, Carex meyenii, Peperomia tetraphylla* (ala ala wai nui), *Schiedea* sp., *Sida fallax, Dodonaea viscosa, Artemisia australis,* or *Schiedea mannii* (HINHP Database 2001).

The major threats to *Tetramolopium filiforme* are habitat degradation by feral goats; competition from the alien plant species *Ageratina riparia, Lantana camara, Melinis repens, Acacia confusa, Kalanchoe pinnata, Schinus terebinthifolius, Leucaena leucocephala, Melinis minutiflora,* and *Erigeron karvinskianus*; fire; military activities; and a risk of extinction from naturally-occurring events and/or reduced reproductive vigor due to the small number of remaining populations and trampling or collection by humans on or near trails (Service 1998b; HINHP Database 2001).

Tetraplasandra gymnocarpa (Oheohe)

Tetraplasandra gymnocarpa, a member of the ginseng family (Araliaceae), is a tree 2.5 to 10 m (8 to 33 ft) tall, either hairless or with fuzzy, short-lived hairs on the young leaves and flower clusters. The leaves have seven to 21 leathery, oval to elliptic leaflets per leaf. Each leaflet is folded upward along the midvein. The flowers are usually arranged in threes or in an umbrella-shaped arrangement. Petals usually number five or six per flower, with an equal number of stamens. The ovary, which usually has three or four sections, appears placed atop the receptacle (base of the flower) in a superior position, due to the expansion of the ovary disk (outgrowth of the receptacle) and the reduction of the hypanthium (basal portion of the flower). Fruits are purplish, oval or top-shaded drupes, that enclose a papery endocarp and single seeds. *Tetraplasandra gymnocarpa* is distinguished from all other species in the genus in that its ovary appears fully superior (Lowrey 1999).

This species was observed in flower and fruit in November 1991 and in fruit in May and September. No further information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Tetraplasandra gymnocarpa was historically known from Punaluu, Waikakalaua Gulch, Mount Olympus, and the region between Niu and Wailupe, all in the Koolau Mountains of Oahu. This species was also sighted in the Waianae Range at Palikea in 1954. Currently, 20 populations are scattered along the summit ridges of the Koolau Mountains from the region of Paumalu at the northern extreme to Kuliouou and Waimanalo at the southeastern most point, on Federal, State, city, and county lands. Fewer than 100 individuals are known (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Tetraplasandra gymnocarpa is typically found on windswept summit ridges, slopes, or in gullies in wet or sometimes mesic lowland forests and shrublands between elevations of 93 and 959 m (305 and 3,146 ft). Associated plant species include *Cheirodendron* sp., *Antidesma platyphyllum, Syzygium sandwicensis, Hedyotis terminalis, Diplopterygium pinnatum, Melicope* spp., *Tetraplasandra oahuensis* (ohe mauka), *Bobea elaitor, Acacia koa, Cibotium chamissoi, Lobelia hypoleuca* (NCN), *Myrsine fosbergii* (kolea), *Pouteria sandwicensis, Wikstroemia* sp., *Sadleria* sp., *Metrosideros polymorpha, Cheirodendron* sp., *Dicranopteris linearis, Machaerina angustifolia, Freycinetia arborea, Broussaisia arguta, Psychotria* spp., *Labordia* sp., *Hedyotis fosbergii* (manono), *Bidens* sp., *Dubautia laxa, Cibotium* sp., or the endangered *Cyanea humboldtiara* (Service 1998b; HINHP Database 2001; 59 FR 14482).

The major threats to *Tetraplasandra gymnocarpa* are competition with the alien plant species *Pterolepis glomerata, Aleurites moluccana, Eucalyptus* sp. (gum tree), *Setaria palmifolia, Araucaria columnaris* (Norfolk Island pine), *Ardisia elliptica* (shoebutton ardisia), *Sacciolepis indica, Erigeron karvinskianus, Axonopus fissifolius, Paspalum conjugatum, Clidemia hirta* and *Psidium cattleianum;* the two spotted leafhopper; habitat degradation by feral pigs; and reduced reproductive vigor due to the species' limited gene pool, a consequence of the small number of extant individuals (Service 1998b; HINHP Database 2001; 59 FR 14482).

Trematolobelia singularis (NCN)

Trematolobelia singularis, a member of the bellflower family (Campanulacea), is an unbranched shrub with stems 0.6 to 1.5 m (2 to 5 ft) long. The long and narrow leaves are 10 to 18 cm (4 to 7 in) long and 1 to 1.8 cm (0.4 to 0.7 in) wide. The unbranched, erect flowering stalk is 20 to 42 cm (8 to 16.5 in) long. The violet petals are about 5 cm (0.2 in) long and collectively form a three-lobed tube. The largest lobe is curved downward and the other two are bent backward, giving the appearance of two lips. The capsules are almost round and contain numerous small, wind-dispersed seeds. This species differs from others of this endemic Hawaiian genus by the unbranched, erect flowering stalk (Lammers 1999).

This species has been observed in flower in October. No additional information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Trematolobelia singularis has been reported only from the southern Koolau Mountains. Approximately 165 plants are known from three populations Moanalua-Tripler Ridge summit to Puu Keahiakahoe, Konahuanui, and Puu Lanipo. These populations are found on State and private lands (HINHP Database 2001; GDSI 2001).

This species usually grows on steep, windswept cliff faces or slopes in *Metrosideros polymorpha-Dicranopteris linearis* lowland wet shrubland from 545 to 953 m (1,788 to 3,126 ft) elevation. Associated plant species include *Eugenia* sp.(nioi), *Wikstroemia* sp., *Melicope* sp., *Sadleria* sp., *Cibotium* sp., *Broussaisia arguta,* or *Dubautia laxa* (Service 1998b; HINHP Database 2001; 61 FR 53089).

The threats to *Trematolobelia singularis* are habitat degradation by feral pigs; potential predation by rats and slugs; competition with the aggressive alien plant species *Clidemia hirta;* and risk of extinction from naturally-occurring events and/or reduced reproductive vigor due to the small number of extant populations are serious (Service 1998b; HINHP Database 2001; 61 FR 53089).

Urera kaalae (Opuhe)

Urera kaalae, a member of the nettle family (Urticaceae), is a small tree or shrub 3 to 7 m (10 to 23 ft) tall. The sap of the plant becomes greenish black when exposed to air. The leaves are pale green, thin and membranous, heart-shaped, 10 to 27 cm (4 to 11 in) long by 5 to 13 cm (2 to 5 in) wide, with three main veins and toothed margins. The flowers are either male or female and may grow on the same or different plants. They are arranged in three-branched inflorescences. Sepals of male flowers are fused into rather globe-shaped structures about 1.5 mm (0.06 in) long. Sepals of female flowers are less than 1 mm (0.04 in) long, and the inner pair becomes slightly fleshy to enclose the achene along about half of its 1 mm (0.04 in) length. This species can be distinguished from the other Hawaiian species of the genus by its heart-shaped leaves (Wagner *et al.* 1999).

Urera kaalae has been observed flowering in the spring. It is difficult to predict when seeds will be produced, and, when they are produced, they are often sterile. This may be an indication of pollinator limitation. The plants are fast-growing. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Urera kaalae* was known from the central to southern windward Waianae Mountains, from Waianae Uka to Kupehau Gulch. This species now occurs only in North and South Ekahanui, Pualii Gulch, Napepeiauolelo, Halona, and Kaluaa Gulches, North and South Palawai, Puu Hapapa, Napepeiauolelo Gulch, and Waianae Kai on Federal, State, and private lands. The 11 known populations contain approximately 41 individuals (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Urera kaalae typically grows on slopes and in gulches in diverse mesic forest at elevations of 439 to 1,074 m (1,440 to 3,523 ft). Associated species include *Hibiscus* sp., *Alyxia oliviformis, Canavalia* sp., *Charpentiera* sp., *Senna gaudichaudii* (kolomona), *Claoxylon sandwicense, Pleomele* sp., *Xylosma hawaiiense, Chamaesyce* sp., *Antidesma platyphyllum, Athyrium* sp., *Streblus pendulinus, Hedyotis acuminata, Asplenium kaulfusii, Doryopteris* sp., *Pouteria sandwicensis, Freycinetia arborea, Pipturus albidus, Urera glabra, Psychotria* sp., *Diospyros hillebrandii,* or *Nestegis sandwicensis* (Service 1998b; 61 FR 53089; HINHP Database 2001; Wagner *et al.* 1999).

The major threats to *Urera kaalae* are habitat degradation by feral pigs; competition from the alien plant species *Psidium guajava, Pimenta dioica, Buddleia asiatica, Thelypteris parasitica, Rubus rosifolius, Clidemia hirta, Passiflora suberosa, Heliocarpus popayaensis, Schinus terebinthifolius, Myrica faya, Passiflora subcordata, Melinis minutiflora,* and *Psidium cattleianum;* fire; rockslides; and the small number of extant individuals and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (Service 1998b; 61 FR 53089; HINHP Database 2001).

Viola chamissoniana ssp. *chamissoniana* (Olopu)

Viola chamissoniana ssp. *chamissoniana*, a member of the violet family (Violaceae), is a branched shrub up to 90 cm (3 ft) tall. The toothed leaves, usually clustered at branch tips, are triangular-oval to heart-shaped in outline. Each flowering stalk produces one or two flowers with five sepals and five white, purple-tinged petals. Capsules contain dark brown to almost black seeds. This subspecies can be distinguished from the other members of the genus in the Waianae Mountains by the small size of its leaves (Wagner *et al.* 1999).

Viola chamissoniana ssp. *chamissoniana* has been observed in fruit and flower in April, August and October. No further information is available on flowering cycle, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Viola chamissoniana* ssp. *chamissoniana* was known from the central and southern Waianae Mountains and Makaleha Valley. This taxon now occurs on Kamaileunu Ridge, Palikea Ridge (between Nanakuli and Lualualei), Puu Hapapa, Makua-Keaau Ridge, Halona, and Puu Kumakalii on Federal, State, city, and county lands. The five known populations contain 59 individuals (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Viola chamissoniana ssp. *chamissoniana* typically grows on dry cliffs, rocky ledges, and steep slopes in mesic shrubland and cliff vegetation at elevations of 414 to 1,149 m (1,358 to 3,769 ft). Associated species include *Sida fallax, Chamaesyce* sp., *Dodonaea viscosa, Schiedea sp., Dubautia* sp., *Peperomia* sp., *Lipochaeta tenuis, Rumex* sp., *Artemisia australis, Bidens torta, Carex meyenii, Eragrostis* sp., *Metrosideros polymorpha,* or *Styphelia tameiameiae* (pukiawe) (Service 1998b; 56 FR 55770; HINHP Database 2001).

The major threats to *Viola chamissoniana ssp. chamissoniana* are habitat degradation by feral goats and pigs; competition from the alien the plant species *Myrica faya, Schinus terebinthifolius, Erigeron karvinskianus, Ageratina adenophora, Ageratum riparia,* and *Melinis minutiflora;* fire; landslides; and the small number of extant individuals and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (Service 1998b; 56 FR 55770; HINHP Database 2001).

Viola oahuensis (NCN)

Viola oahuensis, a member of the violet family (Violaceae), is usually an erect, unbranched subshrub 6 to 40 cm (2.4 to 16 in) tall. The papery-textured leaves are elliptic-egg-shaped to elliptic. The leaf stalks are typically 0.5 to 1 cm (0.2 to 0.4 in) long. The narrowly triangular stipules (either pair of appendages borne at the base of the leaf in many plants) have fringed edges. One to two flowers are borne on stalks typically 25 to 60 mm (1 to 2.4 in) long. The petals are pale yellow, the upper ones 8 to 13 mm (0.3 to 0.5 in) long, the lateral ones 10 to 13.5 mm (0.4 to 0.5 in) long, and the lower one 12 to 16 mm (0.5 to 0.6 in) long. The capsules are 9 to 16 mm (0.4 to 0.6 in) long. This species is distinguished from other Hawaiian members of the genus by the stipule characters, the length of the leaf stalks, and the length and papery texture of the leaves (Wagner *et al.* 1999).

Viola oahuensis has been observed flowering in August and September. No further information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Viola oahuensis* was known from 17 populations in the Koolau Mountains of Oahu scattered

over about a 37 km (23 mi) distance from Puu Kainapuaa to Palolo. The nine extant populations, which total fewer than 200 individuals, are now found from the Kawainui-Koloa summit divide to the Waimalu-Koolaupoko divide. These populations are found on Federal, State, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Viola oahuensis is generally found on exposed, windswept ridges of moderate to steep slope in wet *Metrosideros polymorpha-Dicranopteris linearis* shrublands and *Metrosideros polymorpha* mixed montane bogs in the cloud zone from 415 to 959 m (1,361 to 3,146 ft) elevation. This species typically grows among wind-stunted *Broussaisia arguta, Cibotium* sp., *Labordia* sp., *Dubautia laxa, Wikstroemia* sp., *Hedyotis terminalis, Antidesma* sp., *Syzygium sandwicensis, Melicope* sp., *Bidens macrocarpa, Machaerina* sp., *Sadleria* sp., or *Vaccinium* sp. (Service 1998b; HINHP Database 2001; 61 FR 53089).

The primary threats to *Viola oahuensis* are habitat degradation and/or destruction by feral pigs; potential impacts from military activities; competition with *Pterolepis* sp. (NCN), *Axonopus fissifolius, Clidemia hirta, Psidium cattleianum,* and *Paspalum conjugatum;* and risk of extinction from naturally-occurring events and/or reduced reproductive vigor due to the small number of populations (Service1998b; HINHP Database 2001; 61 FR 53089).

Multi-Island Species

Adenophorus periens (Pendant kihi fern)

Adenophorus periens, a member of the grammitis family (Grammitidaceae) and a short-lived perennial, is a small, pendant, epiphytic (not rooted on the ground) fern. This species differs from other species in this endemic Hawaiian genus by having hairs along the pinna (a leaflet or primary division of a pinnate leaf or frond) margins, by the pinnae being at right angles to the midrib axis, by the placement of the sori on the pinnae, and the degree of dissection of each pinna (Linney 1989).

Little is known about the life history of *Adenophorus periens,* which seems to grow only in closed canopy dense forest with high humidity. Its breeding system is unknown but outbreeding is very likely to be the predominant mode of reproduction. Spores are dispersed by wind, possibly by water, and perhaps on the feet of birds or insects. Spores lack a thick resistant coat which may indicate their longevity is brief, probably measured in days at most. Due to the weak differences between the seasons in the habitats where this species is found, there seems to be no evidence of seasonality in growth or reproduction. *Adenophorus periens* appears to be susceptible to volcanic emissions and/or resultant acid precipitation. Additional information on reproductive cycles, longevity, specific environmental requirements, and limiting factors is not available (Linney 1989).

Historically, *Adenophorus periens* was known from Kauai, the Koolau Mountains of Oahu, Lanai, Maui, and the island of Hawaii. Currently, it is known from several locations on Kauai, Molokai, and Hawaii. This species is no longer extant on the island of Oahu. It was collected in 1909 on the west ridge of Palolo crater and the west ridge of Palolo Valley (HINHP Database 2001).

Adenophorus periens grows epiphytically on trees in *Metrosideros polymorpha* and *Metrosideros rugosa* wet forests between 309 and 867 m (1,014 and 2,844 ft) elevation. Associated native plant species include *Dicranopteris linearis, Cheirodendron* spp., *Machaerina angustifolia, Syzygium sanwicensis, Hedyotis terminalis,* or *Cibotium* sp. (HINHP Database 2001).

The threats to *Adenophorus periens* are habitat degradation by feral pigs and goats and competition with the alien plant species *Psidium cattleianum* (Service 1999; 59 FR 56333; HINHP Database 2001).

Alectryon macrococcus (Mahoe)

Alectryon macrococcus, a member of the soapberry family (Sapindaceae), consists of two varieties, *macrococcus* and *auwahiensis,* both trees with reddish brown branches and net veined paper, or leather, leaves with one to five pairs of sometimes asymmetrical egg-shaped leaflets. The underside of the leaf has dense brown hairs, only when young in *A. macrococcus* var. *macrococcus,* and whether young or mature (persistent) in *A. macrococcus* var. *auwahiensis. Alectryon macrococcus* var. *auwahiensis* is only found on the island of Maui. The only member of its genus found in Hawaii, this species is distinguished from other members of its family by being a tree with a hard fruit 2.5 cm (1 in) or more in diameter (Wagner *et al.* 1999).

Alectryon macrococcus is a relatively slow growing, long lived tree that grows in xeric to mesic sites and is adapted to periodic drought. Little else is known about the life history of this species. Flowering cycles, pollination vectors, seed dispersal agents, and specific environmental requirements are unknown (Service 1997).

Currently and historically, *Alectryon macrococcus* var. *macrococcus* occurs on Kauai, Oahu, Molokai, and Maui. On Oahu, there are a total of 34 populations containing around 300 individuals. These populations are found in Kapuna Gulch, Huliwai Gulch, Kaluaa Gulch, Ekahanui Gulch, Manuwai Gulch, Mohiakea Gulch, Makua Valley, Puu Ku Makalii, Nanakuli-Lualualei Ridge, Palikea Gulch, Makaha, Pahole Gulch, Makaleha Valley, Waianae Kai, Waieli Gulch, Kaluakauila Gulch, Kaaua Gulch, Puu Hapapa, Mikilua subdistrict, Kaawa Gulch, and Napepeiauolelo Gulch on Federal, State, city, county, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001; Wagner *et al.* 1999; EDA, *in litt.* 2001).

Alectryon macrococcus var. *macrococcus* grows on slopes, ridges, or in gulches within mesic lowland forests between elevations of 367 and 941 m (1,204 and 3,086 ft). Associated native plant species include *Pisonia sandwicensis, Elaeocarpus bifidus, Streblus pendulinus, Psychotria hathewayi, Pouteria sandwicensis, Pisonia umbellifera, Diplazium sandwichianum, Claoxylon sandwicense, Neraudia* sp., *Pipturus albidus, Diospyros hillebrandii, Charpentiera* sp., *Hibiscus arnottianus, Metrosideros polymorpha, Diospyros sandwicensis, Nestegis sandwicensis, Pisonia* sp., *Xylosma* sp., *Antidesma platyphyllum, Myrsine lanaiensis, Psydrax odorata, Canavalia* sp., or *Alyxia oliviformis* (HINHP Database 2001).

The threats to *Alectryon macrococcus* var. *macrococcus* on Oahu are impacts of feral goats and pigs; impacts of the alien plant species *Heliocarpos popayanensis, Toona ciliata, Syzygium cumini, Aleurites moluccana, Blechnum occidentale, Oplismenus hirtellus, Psidium guajava, Melinus minutiflora, Clidemia hirta, Pennisetum clandestinum* (kikuyu grass), *Buddleia asiatica, Thelypteris parasitica, Rubus rosifolius, Passiflora suberosa, Lanatana camara, Schinus terebinthifolius,* and *Psidium cattleianum;* damage from the black twig borer; seed predation by rats, mice (*Mus domesticus*), and insects; fire; depressed reproductive vigor; loss of pollinators; depressed reproductive vigor; and due to the very small remaining number of individuals and their limited distribution, a single natural or human-caused environmental disturbance could easily be catastrophic (Service 1997; 57 FR 20772).

Bonamia menziesii (NCN)

Bonamia menziesii, a member of the morning glory family (Convolvulaceae) and a short-lived perennial, is a vine with twining branches that are fuzzy when young. This species is the only member of the genus that is endemic to the Hawaiian Islands and differs from other genera in the family by its two styles, longer stems and petioles, and rounder leaves (Austin 1999).

Little is known about the life history of *Bonamia menziesii.* Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Bonamia menziesii* was known from Kauai, the Waianae Mountains of Oahu, Molokai, Maui, and the Island of Hawaii. Currently, this species is extant on Kauai, Oahu, Lanai, Maui, and the Island of Hawaii. There are 16 total populations containing a total of fewer than 100 individual plants on Oahu. On Oahu, populations are found in Niu Valley, Makaleha Valley, Makua-Keaau Ridge, Wailupe, Waialae Nui-Kapakahi Ridge and Kapakahi Gulch, Kaluakauila Gulch, Keawaula, Hawaii loa Ridge and Kului Gulch, Nanakuli Valley, Kuaokala, Halona, Waialae Iki, Kapuna Gulch, Mikilua, Waianae Kai, and Alaiheihe Gulch on Federal, State, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Bonamia menziesii is found on steep slopes or level ground in dry or mesic forest in open or closed canopy at elevations between 31 and 809 m (102 and 2,654 ft). Associated species include *Alyxia oliviformis, Pleomele* sp., *Sida fallax, Waltheria indica, Erythrina sandwicensis* (wili wili), *Rauvolfia sandwicensis, Sicyos* sp., *Acacia koa, Styphelia tameiameiae, Dodonaea viscosa, Metrosideros polymorpha, Psydrax odorata, Dianella sandwicensis* (ukiuki), *Diospyros sandwicensis, Hedyotis terminalis, Melicope anisata* (mokihana), *Melicope barbigera* (alani), *Myoporum sandwicense, Nestegis sandwicensis, Pisonia* sp., *Pittosporum* sp., *Pouteria sandwicensis,* or *Sapindus oahuensis* (HINHP Database 2001; Service 1999).

The primary threats to *Bonamia menziesii* on Oahu are habitat degradation and possible predation by wild and feral pigs, goats, and cattle; competition with the alien plant species *Pennisetum setaceum* (fountain grass), *Passiflora suberosa, Aleurites moluccana, Psidium cattleianum, Montanoa hibiscifolia, Schinus terebinthifolius, Grevillea robusta, Toona ciliata, Pimenta dioica, Kalanchoe pinnata, Panicum maximum, Melia azerdarach, Syzygium cumini, Leucaena leucocephala, Lantana camara, Hyptis pectinata,* and *Rivina humilis;* fire; an alien bug (*Physomerus grossipes*); and military activities (59 FR 56333; Service 1999; HINHP Database 2001).

Cenchrus agrimonioides (Kamanomano)

Cenchrus agrimonioides, a member of the grass family (Poaceae) and a short-lived perennial, is a grass with leaf blades which are flat or folded and have a prominent midrib. There are two varieties, *Cenchrus agrimonioides* var. *laysanensis* and *Cenchrus agrimonioides* var. *agrimonioides.* They differ from each other in that var. *agrimonioides* has smaller burs, shorter stems, and narrower leaves. *Cenchrus agrimonioides* var. *laysanensis* is only known from the Northwest Hawaiian Islands. This species is distinguished from others in the genus by the cylindrical to lance-shaped bur and the arrangement and position of the bristles (O'Conner 1999).

Little is known about the life history of *Cenchrus agrimonioides.* Reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown, however, this species has been observed to produce fruit year round (Service 1999).

Historically, *Cenchrus agrimonioides* var. *agrimonioides* was known from the Waianae Mountains of Oahu, Lanai, and Maui. This variety is currently extant on Oahu and Maui. Currently, *Cenchrus agrimonioides* var. *agrimonioides* is known from a total of eight populations containing between 113 and 118 individuals on Oahu. On Oahu, populations are found in the Pahole Gulch, on the Makaha-Waianae Kai Ridge, in or near Kahanahaiki Gulch, in east Makaleha, Puu Kaua, Huliwai Gulch, and in the Pualii Drainage, on Federal, State, city, county, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001; 61 FR 53108; Service 1999).

Cenchrus agrimonioides var. *agrimonioides* is usually found on dry upper slopes, or ridges in lowland mixed mesic forest at elevations between 357 and 890 m (1,171 and 2,919 ft). Associated plant species include *Acacia koa, Metrosideros polymorpha, Alyxia oliviformis, Psydrax odorata, Diospyros sandwicensis, Carex wahuensis, Nestegis sandwicensis, Psychotria* sp., *Bobea* sp., *Chamaesyce multiformis, Gahnia beecheyi* (NCN), *Coprosma foliosa, Styphelia tameiameiae,* or *Eragrostis variabilis* (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Cenchrus agrimonioides* var. *agrimonioides* on Oahu are habitat degradation and/or destruction by feral pigs; competition with the alien plant species *Schinus terebinthifolius, Blechnum occidentale, Ageratina riparia, Psidium cattleianum, Grevillea robusta, Passiflora suberosa, Clidemia hirta, Casuarina* sp. (ironwood), *Paspalum conjugatum,* and *Rubus argutus;* trampling and fire from military activities; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals (Service 1999; 61 FR 53108; HINHP Database 2001).

Centaurium sebaeoides (Awiwi)

Centaurium sebaeoides, a member of the gentian family (Gentianaceae), is an annual herb with fleshy leaves and stalkless flowers. This species is distinguished from *Centaurium erythraea,* which is naturalized in Hawaii, by its fleshy leaves and the unbranched arrangement of the flower cluster (Wagner *et al.* 1999).

Centaurium sebaeoides has been observed flowering in April. Flowering may be induced by heavy rainfall. Populations are found in dry areas, and plants are more likely to be found following heavy rains (56 FR 55770).

Historically, *Centaurium sebaeoides* was known from Kauai, Oahu, Molokai, Lanai, and Maui. This species is currently extant on Kauai, Maui, Lanai, and Oahu. Currently on Oahu, three populations of this species remains with a total of between 60 and 80 individuals at Kaena Point, Koko Head, and on the slopes above Halona Point on State, private, city, and county lands (HINHP Database 2001; Service 1999; Wagner *et al.* 1999).

Centaurium sebaeoides typically grows in volcanic or clay soils or on cliffs in arid coastal areas or on coral plains below 368 m (1,207 ft) elevation. Associated species include *Artemisia* sp., *Bidens* sp., *Jacquemontia ovalifolia, Lipochaeta succulenta* (nehe), or *Lysimachia* sp. (kolokolo kuahiwi) (HINHP Database 2001; 56 FR 55770; Wagner *et al.* 1999).

The major threats to *Centaurium sebaeoides* on Oahu are habitat degradation by feral goats and cattle; competition from the alien plant species *Leucaena leucocephala;* trampling by humans on or near trails; and fire (56 FR 55770; Service 1999).

Colubrina oppositifolia (Kauila)

Colubrina oppositifolia, a member of the Buckthorn family (Rhamnaceae) and

a long-lived perennial, is a tree with extremely hard red wood. This species is readily distinguished from the other species in Hawaii by several characters opposite leaf position, dull leaf surface, and entire leaf margins (Wagner *et al.* 1999).

Colubrina oppositifolia was observed in fruit and flower during September and June, and in flower during December and January. No other life history information is currently available (HINHP Database 2001).

Historically, *Colubrina oppositifolia* was known from Oahu, Maui and the island of Hawaii. This species now occurs on the island of Hawaii, Oahu, and Maui. Currently there are a total of five populations containing a total of 61 individuals on Oahu. On Oahu, populations are found in Kaumokunui Gulch, Makaleha Valley, and Manuwai Gulch on State and private lands (HINHP Database 2001; GDSI 2001).

Habitats of *Colubrina oppositifolia* are lowland dry and mesic forests dominated by *Diospyros sandwicensis*, found at elevations between 277 and 761 m (909 and 2,496 ft). Associated native species include *Alyxia oliviformis, Nestegis sandwicensis, Sapindus oahuensis, Psydrax odorata,* or *Reynoldsia sandwicensis* (HINHP Database 2001).

The threats to this species on Oahu are habitat destruction by feral pigs and goats; competition with the alien plant species *Syzygium cumini, Psidium cattleianum, Aleurites moluccana, Lantana camara, Pennisetum setaceum,* and *Schinus terebinthifolius;* the introduction of black twig borer; Chinese rose beetles; fire; small population numbers; limited distributions; and disturbance by military and unauthorized personnel (59 FR 10305; Service 1996c; HINHP Database 2001).

Ctenitis squamigera (Pauoa)

Ctenitis squamigera, a member of the wood fern family (Aspleniaceae), has a rhizome creeping above the ground that is densely covered with scales similar to those on the lower part of the leaf stalk. It can be readily distinguished from other Hawaiian species of *Ctenitis* by the dense covering of tan colored scales on its frond (Degener and Degener 1957).

Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown for *Ctenitis squamigera* (Service 1998a).

Historically, *Ctenitis squamigera* was recorded from Kauai; Kaluanui, southeast of Kahana Bay, Pauoa, Nuuanu, Niu, and Wailupe in the Koolau Mountains, Mt. Kaala NAR and Schofield Barracks in the Waianae Mountains of Oahu; Molokai; Maui; and the island of Hawaii. This species is currently extant on Oahu, Molokai, Lanai, and Maui. Currently on Oahu, four populations with more than 80 individuals are found in the Waianae Mountains in Makaleha Valley, Kaaawa Gulch, Makua Valley and Waianae Kai Forest Reserve on Federal, State, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Ctenitis squamigera is found on gentle to steep slopes in *Metrosideros polymorpha/Diospyros sandwicensis* mesic forest and diverse mesic forest at elevations of 387 to 923 m (1,269 to 3,027 ft). Associated native plant taxa include *Alyxia oliviformis, Hibiscus* sp., *Diospyros hillebrandii, Nestegis sandwicensis, Psydrax odorata, Pouteria sandwicensis, Carex meyenii, Dodonaea viscosa, Freycinetia arborea, Pisonia* sp., *Dryopteris unidentata, Doodia kunthiana, Myrsine* sp., *Psychotria* sp., or *Xylosma* sp. (HINHP Database 2001).

The primary threats to *Ctenitis squamigera* on Oahu are habitat degradation by feral pigs and goats; competition with the alien plant species, *Blechnum occidentale, Ageratina riparia, Toona ciliata, Clidemia hirta, Aleurites moluccana, Syzygium cumini, Psidium guajava, Psidium cattleianum* and *Schinus terebinthifolius;* fire; decreased reproductive vigor and extinction caused by naturally occurring events due to the small number of existing populations (Service 1998a; HINHP Database 2001; 59 FR 49025).

Cyanea grimesiana ssp. *grimesiana* (Haha)

Cyanea grimesiana ssp. *grimesiana*, a member of the bellflower family (Campanulaceae) and a short-lived perennial, is a shrub with pinnately divided leaves. This species is distinguished from others in this endemic Hawaiian genus by the pinnately lobed leaf margins and the width of the leaf blades. This subspecies is distinguished from the other two subspecies by the shape and size of the calyx lobes which overlap at the base (Lammers 1999).

Little is known about the life history of *Cyanea grimesiana* ssp. *grimesiana*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Currently and historically, *Cyanea grimesiana* ssp. *grimesiana* is known from the Waianae and Koolau Mountains on Oahu, Molokai, Lanai, and Maui. On Oahu, there are populations known from Palikea Gulch, North Haleauau Gulch, Pahole NAR, Pia Gulch, Kului Gulch, and in Waialae Iki-Kapakahi on Federal, State, city, county, and private lands in a total of six populations containing nine individuals (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Cyanea grimesiana ssp. *grimesiana* is typically found in mesic forest often dominated by *Metrosideros polymorpha* or *Metrosideros polymorpha* and *Acacia koa*, or on rocky or steep slopes of stream banks, at elevations between 114 and 746 m (374 and 2,447 ft). Associated plant species include *Cyanea angustifolia* (haha), *Joinvillea* sp. (ohe), *Clermontia persicaefolia* (oha wai), *Melicope* sp., *Dicranopteris linearis, Coprosma* sp., *Alyxia oliviformis, Syzygium sandwicensis, Diplazium sandwichianum, Antidesma* sp., *Bobea* sp., *Myrsine* sp., *Nestegis sandwicensis, Psychotria* sp., or *Xylosma* sp. (61 FR 53108; Service 1999).

The threats to *Cyanea grimesiana* ssp. *grimesiana* on Oahu are habitat degradation and/or destruction caused by wild and feral goats and pigs; competition with the alien plant species, *Clidemia hirta, Psidium cattleianum,* and *Toona ciliata;* random naturally occurring events causing extinction due to the small number of existing individuals; fire; trampling by hikers and/or military activities; landslides; rats; and predation by various species of slugs (61 FR 53108; Service 1999).

Cyperus trachysanthos (Puukaa)

Cyperus trachysanthos, a member of the sedge family (Cyperaceae), is a perennial grass-like plant with a short rhizome (underground stem). The culms (aerial stems) are densely tufted, obtusely triangular in cross section, tall, sticky, and leafy at the base. This species is distinguished from others in the genus by the short rhizome, the leaf sheath with partitions at the nodes, the shape of the glumes, and the length of the culms (Koyama 1999).

Little is known about the life history of *Cyperus trachysanthos*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Cyperus trachysanthos* was known from Niihau, Kauai, scattered locations on Oahu, Molokai, and Lanai. This species is now extant on Kauai and Oahu. On Oahu, it is known from the Kaena Point NAR, nearby Manini Gulch, State land at Diamond Head, Makapuu, Queens Beach, and the Kawainui Marsh area, on Federal, State, and private lands. There are six

populations with a total of 40 individuals on Oahu (HINHP Database 2001; Service 1999)

Cyperus trachysanthos is usually found in wet sites (mud flats, wet clay soil, seasonal ponds, or wet cliff seeps) on coastal cliffs or talus slopes at elevations above 248 m (813 ft). Associated native species include *Hibiscus tiliaceus* (hau) (Service 1999; Koyama 1999; 61 FR 53108; HINHP Database 2001).

The threats to *Cyperus trachysanthos* on Oahu are a risk of extinction from naturally occurring events due to the small number of populations; competition with alien plant species; feral goats; fire; off-road vehicles to all populations; and pumping of wetlands for flood and mosquito control; modifications to the wetland topography; mowing; herbicide application; and run-off from nearby Hawaii Army National Guard (HIARNG) activities such as the cleaning of vehicles, dumping of paints or thinners, or the use of pesticides to the Diamond Head population (61 FR 53108; Service 1999).

Diellia erecta (NCN)

Diellia erecta, a member of the spleenwort family (Aspleniaceae) and a short-lived perennial, is a fern that grows in tufts of three to nine lance shaped fronds which emerge from a rhizome covered with brown to dark gray scales. This species differs from other members of the genus in having brown or dark gray scales usually more than 2 cm (0.8 in) in length, fused or separate sori (one of the dots on the underside of a fertile fern frond consisting of a cluster of spores) along both margins, shiny black midribs that have a hardened surface, and veins that do not usually encircle the sori (Degener and Greenwell 1950; Wagner 1952).

Little is known about the life history of *Diellia erecta*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Diellia erecta* was known from Kauai; the Koolau Mountains on Oahu; Molokai; Lanai; Maui; and the island of Hawaii. Currently, it is known from Molokai, Maui, Oahu, and Hawaii. On Oahu, it is known from a single population containing at least 20 plants on Hawaii Loa Ridge on State and private lands (HINHP Database 2001; GDSI 2001).

Diellia erecta is found on moderate to steep gulch slopes or sparsely vegetated rock faces in mesic forest at elevations between 118 and 550 m (387 and 1,804 ft). Associated native plant species include *Sapindus oahuensis, Psydrax odorata, Coprosma* sp., *Dodonaea viscosa, Dryopteris unidentata, Myrsine* sp., *Psychotria* sp., *Syzygium sandwicensis,* or *Wikstroemia* sp. (HINHP Database 2001; Service 1999).

The major threats to *Diellia erecta* on Oahu are habitat degradation by pigs; competition with alien plant species, including *Blechnum occidentale, Psidium cattleianum, Schinus terebinthifolius, Cordyline fruticosa, Oplismenus hirtellus, Schefflera actinophylla, Clidemia hirta,* and *Phymatosorus scolopendria* (NCN); and random naturally occurring events causing extinction and/or reduced reproductive vigor due to the small number of existing individuals (HINHP Database 2001; 59 FR 56333; Service 1999).

Diplazium molokaiense (NCN)

Diplazium molokaiense, a member of the woodfern family (Dryopteridaceae), has a short prostrate rhizome. The leaf stalks are 15 to 20 cm (6 to 8 in) long and green or straw colored. The frond is thin textured, ovate-oblong, 15 to 50 cm (6 to 20 in) long and 10 to 15 cm (4 to 6 in) wide, truncate at the base, and pinnate with a pinnatifid apex. The sori are 0.8 to 1.3 cm (0.3 to 0.5 in) long and lie alongside the side veins of the pinnae. *Diplazium molokaiense* can be distinguished from other species of *Diplazium* in the Hawaiian Islands by a combination of characters, including venation pattern, the length and arrangement of the sori, frond shape, and the degree of dissection of the frond (Wagner and Wagner 1992).

Reproductive cycles, longevity, specific environmental requirements and limiting factors are for *Diplazium molokaiense* are unknown (Service 1998a).

Historically, *Diplazium molokaiense* was found on Kauai, Makaleha and Schofield Barracks on Oahu, Molokai, Lanai, and Maui. However, within the last 20 years, only one population of one individual has been recorded from Waiopai Gulch, East Maui on DHHL land. This species was last collected on Oahu in 1945 from Kolekole Pass to Kaala (HINHP Database 2001).

Diplazium molokaiense on Oahu was found on steep rocky wooded gulch walls in wet forests from 618 to 1,202 m (2,027 to 3,943 ft) elevation (HINHP Database 2001).

No other information is available for *Diplazium molokaiense* on Oahu.

Eugenia koolauensis (Nioi)

Eugenia koolauensis, a member of the myrtle family (Myrtaceae), is a small tree or shrub between 2 and 7 m (7 and 23 ft) tall with branch tips covered with dense brown hairs. *Eugenia koolauensis* is one of two species in the genus that are native to Hawaii, it differs from the other species in having leaves that are densely hairy on the lower surface and leaf margins that curve under the leaves (Wagner *et al.* 1999).

This species has been observed in flower from February to December in various years. No other information exists on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Eugenia koolauensis was historically known from Maunaloa on western Molokai and from Kaipapau Valley, Hanaimoa and Kahawainui Gulches, and a gully southeast of Kahuku on Oahu. Currently, this species is only found on Oahu in ten populations on Federal, State, and private lands Hanaimoa Gulch, Papali Gulch, Kaleleiki Gulch, Aimuu Gulch, Kaunala Gulch, Pahipahialua Gulch, Oio Gulch, and Palikea Gulch. A total of fewer than 70 individuals occur in the Koolau populations (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Eugenia koolauensis is found on gentle to steep slopes or ridges in mesic or dry forests dominated by *Metrosideros polymorpha* or *Diospyros* sp. from 57 to 437 m (187 to 1,433 ft) in elevation. Other associated plant species include *Bobea elaitor, Rauvolfia sandwicensis, Alyxia oliviformis, Pouteria sandwicensis, Dicranopteris linearis, Styphelia tameiameiae, Carex meyenii, Myrsine lessertiana, Nestegis sandwicensis, Pleomele halapepe,* or *Psydrax odorata* (HINHP Database 2001; Service 1998b).

The major threats to *Eugenia koolauensis* on Oahu are habitat degradation by feral pigs; competition with alien plant species such as *Casuarina equisetifolia, Eucalyptus* sp., *Cordyline fruticosa, Passiflora laurifolia* (yellow granadilla), *Oplismenus hirtellus, Acacia confusa, Araucaria columnaris, Toona ciliata, Melia azedarach, Grevillea robusta, Aleurites moluccana, Syzygium cumini, Passiflora suberosa, Panicum maximum, Hyptis pectinata, Ardisia elliptica, Schinus terebinthifolius, Clidemia hirta, Psidium cattleianum,* and *Lantana camara;* and the limited numbers of this species make it vulnerable to extinction due to naturally caused events and reduced reproductive vigor (59 FR 14482; HINHP Database 2001).

Euphorbia haeleeleana (Akoko)

Euphorbia haeleeleana, a member of the spurge family (Euphorbiaceae) and a short-lived perennial, is a dioecious (female and male flowers on separate

plants) tree 3 to 14 m (10 to 46 ft) tall. The alternate leaves are papery in texture, elliptic, and usually 10 to 15 cm (4 to 6 in) long and 4 to 6 cm (2 in) wide. Male trees bear many small male flowers within a cyathium (a compact inflorescence with small individual flowers). The female trees have cyathia with a single female flower surrounded by numerous abortive male flowers. The capsules (dry fruit that open at maturity) are round. This species is distinguished from others in the family in that it is a tree, whereas most of the other species are herbs or shrubs, as well as by the large leaves with prominent veins (Wagner *et al.* 1999).

Individual trees of *Euphorbia haeleeleana* bear only male or female flowers, and must be cross-pollinated from a different tree to produce viable seed. This species sets fruit between August and October. Little else is known about the life history of this species. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999; Wagner *et al.* 1999).

Euphorbia haeleeleana is known historically and currently from northwestern Kauai and the Waianae Mountains of Oahu. On Oahu, six populations of approximately 134 individuals are known from Keawaula Gulch, Kahanahaiki Valley, Kaumokunui-Kaumokuiki Ridge, and Alaieihe Gulch on Federal, State, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Euphorbia haeleeleana on Oahu is usually found in dry forest that is often dominated by *Diospyros* sp. The plant is typically found at elevations between 156 and 586 m (512 and 1,922 ft). Associated plant species include *Psydrax odorata, Dodonaea viscosa, Erythrina sandwicensis, Pleomele* sp., *Reynoldsia sandwicensis,* or *Sapindus oahuensis* (HINHP Database 2001).

The main threats to *Euphorbia haeleeleana* on Oahu are habitat degradation and/or destruction by wild and feral ungulates including goats and pigs; predation by rats; fire; potential military activities; and competition with the alien plant species, *Panicum maximum, Grevillea robusta, Toona ciliata, Lantana camara, Aleurites moluccana, Syzygium cumini, Melia azedarach, Psidium cattleianum, Passiflora suberosa, Schinus terenbinthifolius, Hyptis pectinata, Melinus minutiflora, Kalanchoe pinnata, Caesalpinia decapetala* (wait-a-bit), *Ficus microcarpa, Digitaria insularis* (sourgrass), *Rivina humilis, Coffea arabica,* and *Leucaena leucocephala* (HINHP Database 2001).

Flueggea neowawraea (Mehamehame)

Flueggea neowawraea, a member of the spurge family (Euphorbiaceae) and a long-lived perennial, is a large tree up to 30 m (100 ft) tall and 2 m (7 ft) in diameter with white oblong pores covering its scaly, pale brown bark. The thin, papery, oval leaves, 4 to 14 cm (1.5 to 5.5 in) long and 2 to 9 cm (0.8 to 3.5 in) wide, are green on the upper surface and pale green on the lower surface. This species is usually dioecious (having separate male and female plants) with unisexual flowers lacking petals. Male flowers, on stalks less than 4 mm (0.2 in) long, have five green sepals with brownish tips. The female flowers, on stalks 1 to 2.5 mm (0.04 to 0.1 in) long, have sepals of unequal length with irregular margins. This species is the only member of the genus found in Hawaii and can be distinguished from other species in the genus by its large size; scaly bark; the shape, size, and color of the leaves; flowers clustered along the branches; and the size and shape of the fruits (Hayden 1999).

Individual trees of *Flueggea neowawraea* bear only male or female flowers, and must be cross-pollinated from a different tree to produce viable seed. Little else is known about the life history of this species. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999; Hayden 1999).

Historically, *Flueggea neowawraea* was known from Molokai, Oahu, Kauai and the island of Hawaii. Currently, *Flueggea neowawraea* is known from Kauai, Oahu, east Maui, and Hawaii. On Oahu, *Flueggea neowawraea* is known from 19 locations with approximately 31 individuals on Federal, State, city, county, and private lands Makua Valley, Makaha, Alaiheihe Gulch, Kaluaa Gulch, Makaleha Valley, Ekahanui Gulch, Pahole Gulch, Keaau Valley, Kahanahaiki Valley, Kaawa Gulch, Waianae Kai, Palikea Gulch, Manuwai Gulch, Mohiakea Gulch, Kauhiuhi, Mikilua, and Lualualei (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Flueggea neowawraea occurs on gulch slopes, ridge crests, or near streams in dry or mesic forest at elevations of 323 to 1,006 m (1,059 to 3,300 ft). Associated plant species include *Pisonia sandwicensis, Hibiscus arnottianus, Morinda sandwicensis* (noni), *Hedyotis terminalis, Alyxia oliviformis, Chamaesyce multiformis, Metrosideros polymorpha, Myrsine* sp., *Pleomele* sp., *Myoporum sandwicense, Pteralyxia* sp., *Pipturis albidus, Diospyros hillebrandii, Pisonia umbellifera, Charpentiera* sp., *Claoxylon sandwicensis, Antidesma platyphyllum, Sapindus oahuensis, Pittosporum* sp., *Erythrina sandwicensis, Diospyros sandwicense, Antidesma pulvinatum, Bobea* sp., *Psydrax odorata, Nestegis sandwicensis, Rauvolfia sandwicensis, Streblus pendulina,* and *Chamaesyce herbstii* (akoko) (HINHP Database 2001; Hayden 1999).

The primary threat to the continued existence of *Flueggea neowawraea* on Oahu is the black twig borer that has affected all known *Flueggea neowawraea* plants. Other major threats include habitat degradation by feral and wild ungulates, pigs and goats; competition with the alien plant species *Aleurites moluccana, Schinus terebinthifolius, Psidium* spp., *Grevillea robusta, Paspalum conjugatum, Passiflora suberosa, Toona ciliata, Clidemia hirta, Lantana camara, Ficus macrophylla, Blechnum occidentale, Kalanchoe pinnata, Syzygium cumini, Ageratina riparia, Rivina* sp., *Melinis minutiflora,* and *Ficus microcarpa;* fire; Chinese rose beetle; the small population size with its limited gene pool and depressed reproductive vigor, compounded by a requirement for cross-pollination because the species is dioecious; military activities are possible threats at the Lualualei Naval Reservation and the Army's Schofield Barracks; and predation of the fruit by rats (Service 1999; HINHP Database 2001).

Gouania meyenii (NCN)

Gouania meyenii, a member of the buckthorn family (Rhamnaceae) and a short-lived perennial, is an erect to spreading shrub. The main character that tells this species apart from other members of its genus are its two to three winged fruits, peduncle length, and the hairiness of the fruits (Wagner *et al.* 1999).

Gouania meyenii flowers from March to May. Seed capsules develop in about six to eight weeks. Plants appear to live about ten to 18 years in the wild. No other information exists on specific environmental requirements or limiting factors (Service 1998b).

Historically, *Gouania meyenii* was known from central and southern areas of the Waianae Mountains, from Kamaileunu Ridge to Honouliuli. This species was also recorded from Diamond Head in 1831. Currently, this species is found on Oahu and Kauai. On Oahu, this species is found on Makaha-Waianae Kai Ridge on State, private, city, and county lands. The three known populations on Oahu contain an estimated 63 individuals (HINHP Database 2001; Wagner *et al.* 1999; GDSI 2001).

Gouania meyenii typically grows on moderate to steep slopes in dry shrubland or mesic lowland forest at elevations of 17 to 930 m (56 to 3,050 ft). Associated plant species include *Diospyros sandwicensis, Charpentiera* sp., *Alyxia oliviformis, Pisonia* sp., *Hibiscus* sp., *Canavalia* sp., *Sophora chrysophylla, Sida fallax, Schiedea* sp., *Dubautia sherffiana, Psydrax odorata, Eragrostis* sp., *Dryopteris unidentata, Sapindus oahuensis, Myrsine* sp. (kolea) *Dodonaea viscosa, Chamaesyce* sp., *Psychotria* sp., *Hedyotis* sp., *Melicope* sp., *Nestegis sandwicensis, Bidens* sp., *Carex meyenii, Diospyros* sp., *Lysimachia* sp., or *Senna gaudichaudii* (HINHP Database 2001).

The major threats to *Gouania meyenii* on Oahu are competition from the alien plant species *Pimenta dioica, Psidium guajava, Lantana camara, Melinis minutiflora, Grevillea robusta, Leucaena leucocephala, Kalanchoe pinnata, Oplismenus hirtellus, Psidium cattleianum,* and *Schinus terebinthifolius;* fire; habitat degradation by feral pigs and goats; and the small number of extant populations and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (HINHP Database 2001).

Gouania vitifolia (NCN)

Gouania vitifolia, a member of the buckthorn family (Rhamnaceae), is a climbing shrub or woody vine with tendrils. The species is the only Hawaiian member of the genus with tendrils and toothed leaf margins (Wagner *et al.* 1999).

Gouania vitifolia flowers from March to May. Seed capsules develop in about 6 to 8 weeks. Plants appear to live about 10 to18 years in the wild. No other information exists on specific environmental requirements or limiting factors. (Service 1998b).

Historically, *Gouania vitifolia* was known from West Maui; the Kau District of the island of Hawaii; and the northwestern portion of the Waianae Mountains in Makaleha, Keaau, and Waianae Kai Valleys on Oahu. Currently, this species is extant on Oahu and the island of Hawaii. On Oahu, it is known from two populations on State and private lands, located at Waianae Kai and Keaau Valley, totaling 44 individuals (HINHP Database 2001; GDSI 2001; Wagner *et al.* 1999).

Gouania vitifolia typically grows on the sides of ridges and gulches in dry to mesic forests at elevations of 39 to 978 m (128 to 3,208 ft). Associated plant species include *Erythrina sandwicensis, Dodonea viscosa, Hibiscus arnottianus, Pipturis albidus, Urera glabra, Chamaesyce* sp., *Psychotria* sp., *Hedyotis* sp., *Melicope* sp., *Nestegia sandwicensis, Bidens* sp., *Carex meyenii,* or *Diospyros sandwicensis* (Service 1998b).

The major threats to *Gouania vitifolia* are competition from alien plant species particularly *Panicum* sp. (panic grass), *Leucaena leucocephala, Toona ciliata, Passiflora suberosa, Aleurites moluccana, Melinis minutiflora, Hyptis pectinata, Cordyline fruticosa, Passilfora edulis, Passiflora ligularis, Oplismenus hirtellus, Lantana camara, Rubus argutus, Buddleia asiatica, Psidium cattleianum* and *Schinus terebinthifolius;* habitat destruction by feral pigs; and a threat of random extinction and reduced reproductive vigor due to the small number of extant individuals (HINHP Database 2001; 59 FR 32932).

Hedyotis coriacea (Kioele)

Hedyotis coriacea, a member of the coffee family (Rubiaceae), is a small shrub with leathery leaves which are generally elliptic to oblong in shape, 3 to 8 cm (1.2 to 3.1 in) long and usually 1.5 to 3 cm (0.6 to 1.2 in) wide. This species is distinguished from others of the genus by its small, triangular calyx lobes, which do not enlarge in fruit, and the combination of capsules which are longer than wide and flower buds which are square in cross section (Wagner *et al.* 1999).

Little is known about the life history of *Hedyotis coriacea.* Flowering cycles, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1997).

Historically, *Hedyotis coriacea* was known from the Waianae and Koolau Mountains on Oahu and the Army's Pohakuloa Training Area on the island of Hawaii. Currently, this species is extant on Maui and Hawaii. This species was last collected on Oahu in the 1800s (HINHP Database 2001).

Hedyotis coriacea is found on steep, rocky, slopes in dry to mesic *Dodonaea viscosa* dominated shrublands or forests at elevations of 57 to 836 m (187 to 2,742 ft). Associated species include *Metrosideros polymorpha, Styphelia tameiameiae,* or *Alyxia oliviformis* (HINHP Database 2001; 57 FR 20772).

The major threats to *Hedyotis coriacea* are the small number of remaining individuals; fire; and alien weeds (Service 1997; 57 FR 20772).

Hesperomania arborescens (NCN)

Hesperomannia arborescens, a member of the aster family (Asteraceae), is a small shrubby tree that usually stands 1.5 to 5 m (5 to 16 ft) tall. This member of an endemic Hawaiian genus differs from other *Hesperomannia* species in having the following combination of characters erect to ascending flower heads, thick flower head stalks, and usually hairless and relatively narrow leaves (Wagner *et al.* 1999).

This species was observed in flower from April through June and fruit during March and June. No other information is available on reproductive cycles, longevity, specific environmental requirements, and limiting factors (Service 1998b).

Hesperomannia arborescens was formerly known from Molokai, Lanai, and scattered populations throughout the Koolau Mountains, Oahu, from Koolauloa and Pupukea at its northern extreme to Konahuanui at the southern end. This species is now known from Oahu, Molokai, and Maui. On Oahu, there are 23 populations containing between 86 and 93 individuals on private, city, county, State, and Federal lands at a few disjunct locations upslope of Kahuku, Laie, and Malaekahana; along Poamoho Trail above Poamoho Stream; along Waikane-Schofield Trail near the ridge summit; at Kipapa Gulch; on Halawa Ridge; Waimanalo-Niu divide, Kainawaanui, Kaukonahua Gulch, Maakua-Kaipapau Ridge, Kapakahi Gulch, Halemano-Opaeula Ridge, Kawailoa Trail, Kaimananui Gulch, and upper Palolo Valley to Niu Valley (HINHP Database 2001; GDSI 2001; EDA Database 2001; Service 1998b).

Hesperomannia arborescens on Oahu, is often found on slopes or ridges in association with *Scaevola glabra* (ohe naupaka), *Broussaisia arguta, Melicope* sp., *Acacia koa, Machaerina angustifolia, Hedyotis terminalis, Tetraplasandra oahuensis, Scaevola gaudichaudiana* (naupaka kahakai), *Dubautia* sp., *Labordia sessilis* (kamakahala), *Cibotium* sp., *Perotettia sandwicensis, Pipturus* sp., *Wikstroemia* sp., *Cheirodendron* sp., *Coprosma* sp., *Myrsine* sp., *Bobea elatior, Hibiscus arnottianus, Metrosideros polymorpha, Nestegis sandwicensis, Dicranopteris linearis, Antidesma platyphyllum, Psychotria mariniana, Syzygium sandwicensis,* and common *Melicope* spp. It typically grows on steep slopes, ridge tops, and gulches in lowland wet forests and occasionally in shrublands between 110 and 1,147 m (361 and 3,762 ft) in elevation (HINHP Database

2001; Wagner *et al.* 1999; Service 1998b).

The major threats to *Hesperomannia arborescens* are habitat degradation by feral pigs and goats; competition with the alien plant species *Clidemia hirta, Psidium cattleianum, Leptospermum scoparium,* and *Axonopus fissifolius;* fire; impact by humans; and extinction due to random environmental events or reduced reproductive vigor due to this species' limited numbers (59 FR 14482; HINHP Database 2001)

Hesperomannia arbuscula (NCN)

Hesperomannia arbuscula, a member of the aster family (Asteraceae), is a small shrubby tree, 2 to 3.3 m (7 to 11 ft) tall. This species can be distinguished from other members of the genus by the erect flower heads and the leaves, usually hairy beneath, which are one to two times as long as wide (Wagner *et al.* 1999).

Hesperomannia arbuscula usually flowers in the spring depending on precipitation. Seeds mature in about 6 weeks and trees last about 10 to 15 years. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Hesperomannia arbuscula* was known from the central and southern Waianae Mountains, from Makaleha to Puu Kanehoa on Oahu, and from West Maui. This species is currently known to be extant on the Makaha-Waianae Kai Ridge and in Kaluaa and Kapuna Gulches on Oahu and on West Maui. The six known populations on Oahu contain between 90 and 92 individuals on State, private, city, and county lands (HINHP Database 2001; GDSI 2001).

Hesperomannia arbuscula on Oahu typically grows on slopes and ridges in dry to wet forest dominated by *Acacia koa* and *Metrosideros polymorpha* at elevations of 370 and 1,053 m (1,214 and 3,454 ft). Associated species include *Syzygium sandwicensis, Freycinetia arborea, Antidesma* sp., *Bobea elatior, Hibiscus* sp., *Diospyros hillebrandii, Hedyotis terminalis, Bidens* sp., *Alyxia oliviformis,* and *Psychotria* sp., or the endangered *Cyanea longifleua* (HINHP Database 2001; Service 1998b; Wagner *et al.* 1999).

The major threats to *Hesperomannia arbuscula* on Oahu are habitat degradation by feral pigs; competition from the alien plant species *Lantana camara, Psidium cattleianum, Rubus argutus, Clidemia hirta,* and *Schinus terebinthifolius;* trampling by humans; and the small number of populations and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (56 FR 55770; HINHP Database 2001).

Hibiscus brackenridgei (Mao hau hele)

Hibiscus brackenridgei, a member of the mallow family (Malvaceae), is a sprawling to erect shrub or small tree. This species differs from other members of the genus in having the following combination of characteristics yellow petals, a calyx consisting of triangular lobes with raised veins and a single midrib, bracts attached below the calyx, and thin stipules that fall off, leaving an elliptic scar. Three subspecies of *Hibiscus brackenridgei* are now recognized, *brackenridgei, molokaiana,* and *mokuleianus.* Subspecies *molokaiana* and *mokuleianus* are found on the island of Oahu. When we listed this species in 1994 only two subspecies, *brackenridgei* and *mokuleianus,* were recognized. Subsequent to the final rule listing this species in 1994, we became aware of Wilson's (1993) taxonomic treatment of this group in which *Hibicsus brackenridgei* ssp. *molokaiana* was changed to subspecies status and recognized as distinct from *Hibicsus brackenridgei* ssp. *brackenridgei.* Wilson's (1993) treatment is cited in the supplement in the revised edition of the Manual of the Flowering Plants of Hawaii as the basis for recognizing *Hibicsus brackenridgei* ssp. *molokaiana.* We will address this name change in a future **Federal Register** notice (HINHP Database 2000; Bates 1999; Wilson 1993; Wagner *et al.* 1999).

Hibiscus brackenridgei is known to flower continuously from early February through late May, and intermittently at other times of year. Intermittent flowering may possibly be tied to day length. Little else is known about the life history of this plant. Pollination biology, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Hibiscus brackenridgei ssp. *mokuleianus* is currently known from Oahu, Lanai, Maui, and Hawaii; it may possibly occur on Kauai. On Oahu there are a total of fewer than 206 individual plants in five populations—Kaumokunui Gulch, Kawaiu Gulch, Palikea Gulch, Kihakapu Gulch, and Kaimuhole Gulch on State and private lands. *Hibiscus brackenridgei* ssp. *molokaiana* is currently known from Oahu. On Oahu, there are a total of 5 individual plants in one population in Makua Valley on land under federal jurisdiction (Joel Lau, TNCH, pers. comm., 2001; HINHP Database 2001; GDSI 2001).

Hibiscus brackenridgei ssp. *mokuleianus* on Oahu occurs on slopes, cliffs, and arid ledges in lowland dry forest and shrubland from 24 to 490 m (79 to 1,607 ft) in elevation. Associated plant species include *Erythrina sandwicensis, Heteropogon contortus, Waltheria indica, Doryopteris* sp., *Lepidium bidentatum, Lipochaeta remyi, Bidens amplectans* (kookoolau), *Chamaesyce* sp., *Reynoldsia sandwicensis, Pleomele halapepe, Diospyros hillebrandii, Dodonaea viscosa., Psydrax odorata,* or *Sida fallax. Hibiscus brackenridgei* ssp. *molokaiana* occurs in dry shrublands between 23 and 580 m (75 to 1,902 ft) elevation. Associated plant species include *Waltheria indica, Sida fallax, Doryopteris* sp., *Dodonea viscosa,* and *Heteropogon contortus* (HINHP Database 2001; GDSI Database 2001; EDA, *in litt.* 2001).

The primary threats to *Hibiscus brackenridgei* ssp. *mokuleianus* on Oahu are habitat degradation and possible predation by pigs, goats, cattle, and rats; competition with the alien plant species *Panicum maximum, Syzygium cumini, Melia azedarach, Aleurites moluccana, Hyptis pectinata, Leucaena leucocephala, Schinus terebinthifolius, Toona ciliata, Caesalpinia decapetala, Ageratum conyzoides, Glycine wightii* (NCN), *Grevillea robusta, Passiflora suberosa, Coffea arabica, Spathodea campanulata* (African tulip tree), and *Passiflora edulis;* road construction; fire; and susceptibility extinction caused by random environmental events or reduced reproductive vigor due to small population size and a limited number of populations. The primary threats to *Hibiscus brackenridgei* ssp. *molokaiana* on Oahu are habitat degradation and possible predation by pigs and goats; competition with the alien plant species *Panicum maximum, Leucaena leucocephala,* and *Ageratum conyzoides;* fire; Chinese rose beetle; and susceptibility extinction caused by random environmental events or reduced reproductive vigor due to small population size and a limited number of populations (HINHP Database 2001; 59 FR 56333).

Isodendrion laurifolium (Aupaka)

Isodendrion laurifolium, a member of the violet family (Violaceae), is a slender, straight shrub with few branches. The species is distinguished from others in the genus by its leathery, oblong-elliptic, narrowly elliptic lance-shaped leaves (Wagner et al. 1999).

Little is known about the life history of this plant. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Isodendrion laurifolium* was known from scattered locations on Kauai and the Waianae and Koolau mountains of Oahu. Currently, this species is found on Kauai and Oahu. On Oahu, there are a total of between 22 and 23 individuals found in five locations on State, private, city, and county lands Makaha in the Waianae Mountains, East Makaleha Valley, Waianae Kai, Kaawa Gulch, and Kaumokunui Gulch, (Schofield Barracks Military Reservation) (HINHP Database 2001; GDSI 2001).

Isodendrion laurifolium on Oahu is usually found between 90 and 959 m (295 and 3,146 ft) elevation on gulch slopes, in ravines, and on ridges in diverse mesic or dry forest dominated by *Metrosideros polymorpha, Acacia koa, Eugenia reinwardtiana,* or *Diospyros sandwicensis* with one or more of the following associated native plant species *Nestegis sandwicensis, Hibiscus arnottianus, Alyxia oliviformis, Rauvolfia sandwicensis, Psydrax odorata, Carex wahuensis, Charpentiera tomentosa* (papala), *Doodia* sp., *Dryopteris unidentata, Sapindus* sp. (soapberry), *Antidesma pulvinatum, Smilax melastomifolia* (hoi kuahiwi), *Antidesma platyphyllum, Xylosma hawaiiense, Hedyotis terminalis, Pisonia* sp., or *Pouteria sandwicensis* (HINHP Database 2001; Service 1999).

The primary threats to *Isodendrion laurifolium* on Oahu are habitat degradation by feral goats and pigs; competition with the alien plant species *Schinus terebinthifolius, Aleurites moluccana, Cordyline fruticosa, Psidium cattleianum, Toona ciliata,* and *Grevillea robusta;* and a potential threat from military activities (HINHP Database 2001; 61 FR 53108).

Isodendrion longifolium (Aupaka)

Isodendrion longifolium, a member of the violet family (Violaceae), is a slender, straight shrub. The hairless, leathery, lance shaped leaves distinguish this species from others in the genus (Wagner *et al.* 1999).

Little is known about the life history of this plant. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Isodendrion longifolium* was known from scattered locations on Kauai and the Waianae Mountains on Oahu. Currently, *Isodendrion longifolium* is known from populations on Kauai and Oahu. On Oahu, there are a total of 30 individual plants in four locations on Federal, State, and private lands Palikea Gulch, Kaawa Gulch, Makaua Gulch, and Kaukonahua Stream, (HINHP Database 2001; EDA Database 2001).

Isodendrion longifolium on Oahu is found on steep slopes and stream banks in mixed mesic or lowland wet *Metrosideros polymorpha-Dicranopteris linearis* forest, usually between 363 and 964 m (1,191 and 3,162 ft) elevation. Associated plant species include *Syzygium sandwicensis, Pouteria sandwicensis, Acacia koa, Psydrax odorata, Alyxia oliviformis, Melicope* sp., *Pittosporum* sp., *Carex* sp., *Selaginella arbuscula, Isachne pallens* (NCN), *Bobea brevipes* (ahakea lau lii), *Antidesma* sp., *Cyanea* sp. (haha), *Cyrtandra* sp., *Hedyotis terminalis, Peperomia* sp., *Perrottetia sandwicensis,* or *Psychotria* sp. (HINHP Database 2001; Service 1999).

The major threats to *Isodendrion longifolium* on Oahu are habitat degradation or destruction by feral goats and pigs; and competition with the alien plants, *Clidemia hirta, Psidium cattleianum, Thelypteris parasitica, Paspalum conjugatum, Oplismenus hirtellus, Ageratina riparia,* and *Blechnum occidentale.* The Palikea Gulch population is potentially threatened by fire (HINHP Database 2001; 61 FR 53108).

Isodendrion pyrifolium (wahine noho kula)

Isodendrion pyrifolium, a member of the violet family (Violaceae), is a small, branched shrub. The species is distinguished from other taxa in the genus by its smaller, green-yellow flowers, and hairy stipules and leaf veins (Wagner *et al.* 1999).

During periods of drought, this species will drop all but the newest leaves. After sufficient rains, the plants produce flowers with seeds ripening 1 to 2 months later. No further information is available on reproductive cycles, specific environmental requirements, or limiting factors (Service 1996c).

Isodendrion pyrifolium was known historically from Oahu's central Waianae mountains, Maui, Hawaii, Niihau, Molokai, and Lanai. Currently, this species is found on Hawaii. This species was last collected on Oahu in the late 1800s (HINHP Database 2001).

Isodendrion pyrifolium on Oahu was found on bare rocky hills and in wooded ravines in dry shrublands at low elevations from 363 to 964 m (1,191 to 3,162 ft.) (Wagner *et al.* 1999; HINHP Database 2001).

No threat information is available for *Isodendrion pyrifolium* on Oahu.

Lobelia niihauensis (NCN)

Lobelia niihauensis, a member of the bellflower family (Campanulaceae), is a small, branched shrub. This species is distinguished from others in the genus by its leaves lacking or nearly lacking leaf stalks, the magenta-colored flowers, the width of the leaf, and length of the flowers (56 FR 55770).

Lobelia niihauensis flowers in late summer and early fall. Fruits mature a month to 6 weeks later. Plants are long-lived and are known to live as long as 20 years (Service 1998b).

Historically, *Lobelia niihauensis* was known from the Waianae Mountains of Oahu (Uluhulu Gulch to Nanakuli Valley), from Kauai, and Niihau. It is now known to be extant only on Kauai and Oahu. On Oahu, this species remains on Ohikilolo Ridge, Kaimokuiki-Manuwai Ridge, Kamaileunu Ridge, Mt. Kaala, Makaha-Waianae Kai, Makua Military Reservation, Nanakuli, South Mohiakea Gulch, East of Puu Kalena, Kahanahaiki Valley, between Puu Hapapa and Puu Kanehoa, Puu Kailio, between Kolekole Pass and Puu Hapapa, North of Palikea, Puu Kaua-Kauhiuhi-Pahoa-Halona subdistricts, and Lualualei Naval Magazine in 21 populations containing between 362 and 397 individual plants on Federal, State, city, and county lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Lobelia niihauensis on Oahu typically grows on exposed mesic or dry cliffs and ledges, at elevations from 339 to 926 m (1,112 to 3,037 ft). Associated plant species include *Osteomeles anthyllidifolia, Dodonaea viscosa, Schiedea mannii, Carex meyenii, Doryopteris* sp., *Sida fallax,* Styphelia tameiameiae, *Eragrostis* sp., *Bidens* sp., *Plectranthus parviflorus, Lipochaeta tenuis,* or *Artemisia* sp. (HINHP Database 2001; 56 FR 55770).

On Oahu, the major threats to *Lobelia niihauensis* are habitat degradation and predation by feral goats, rats, and slugs; fire; military activities; and competition from the alien plant species *Schinus terebinthifolius, Leucaena leucocephala, Acacia confusa, Grevillea robusta, Lantana camara, Melinis minutiflora, Melinis repens, Ageratina riparia, Erigeron karvinskianus, Kalanchoe pinnata,* and *Ficus microcarpa* (HINHP Database 2001; 56 FR 55770).

Lysimachia filifolia (NCN)

Lysimachia filifolia, a member of the primrose family (Primulaceae), is a small shrub 15 to 50 cm (0.5 to 1.6 ft) tall. The linear leaves measure 15 to 54 mm (0.6 to 2.1 in) long and 0.3 to 1.8 mm (0.01 to 0.07 in) wide and are

usually alternately arranged. They are single veined and sparsely hairy or hairless. The bell shaped flowers are reddish purple, 6 to 10 mm (0.2 to 0.4 in) long, and borne singly on flower stalks about 18 to 30 mm (0.7 to 1.2 in) long which elongate upon fruiting. Fruits are thick, hard capsules about 5 mm (0.2 in) long which contain numerous minute, nearly black, irregularly shaped seeds. This species is distinguished from other taxa of the genus by its leaf shape and width, calyx lobe shape, and corolla length (Service 1995b).

Little is known about the life history of *Lysimachia filifolia*. Flowering cycles, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1995b).

Historically, *Lysimachia filifolia* was known only from Kauai. This species is now known from Oahu and Kauai. On Oahu, there is one population containing a total of 50 individuals, on the slopes of Waiahole Valley in the Koolau Mountains on State land (HINHP Database 2001; GDSI 2001).

On Oahu, *Lysimachia filifolia* typically grows on mossy banks at the base of cliff faces within the spray zone of waterfalls or along streams in lowland wet forests at elevations of 65 to 798 m (213 to 2,617 ft). Associated plants include mosses, ferns, liverworts, and *Pilea peploides* (NCN) (Service 1995b; HINHP Database 2001; Wagner *et al.* 1999).

The major threat to *Lysimachia filifolia* on Oahu is competition with the alien plant species *Ageratina riparia, Schefflera actinophylla, Cordyline fruticosa, Pluchea* sp. (sourbush), and *Blechnum occidentale*. Additionally, individuals of the species are vulnerable to rock slides. Because only one population of *Lysimachia filifolia* occurs on each of only two islands, the species is threatened by extinction due to naturally caused events (HINHP Database 2001; 59 FR 09304).

*Mariscus pennatiformis (*NCN*)*

Mariscus pennatiformis, a member of the sedge family (Cyperaceae), is a perennial plant with a woody root system covered with brown scales. The stout, smooth, three-angled stems are between 0.4 and 1.2 m (1.3 and 4 ft) long, slightly concave, and 3 to 7 mm (0.1 to 0.3 in) in diameter in the lower part. The three to five linear, somewhat leathery leaves are 8 to 17 mm (0.3 to 0.7 in) wide and at least as long as the stem. Each flower cluster, umbrella-shaped and moderately dense, is 4 to 15 cm (1.5 to 6 in) long and five to 25 cm (2 to 10 in) wide. About five to 18 spikes, comprised of numerous spikelets, form each cluster. Each spikelet, measuring about 8 to 14 mm (0.3 to 0.6 in) in length, is yellowish brown or grayish brown and is comprised of eight to 25 densely arranged flowers. The glumes (bracts beneath each flower), which are less than twice as long as wide, are spreading and overlap tightly. The lowest glume does not overlap the base of the uppermost glume. This species differs from other members of the genus by its three-sided, slightly concave, smooth stems; the length and number of spikelets; the leaf width; and the length and diameter of stems. The two subspecies are distinguished primarily by larger and more numerous spikelets, larger achenes (dry, one-seeded fruits), and more overlapping and yellower glumes in ssp. *pennatiformis* as compared with ssp. *bryanii*. Subsequent to the final rule listing this species in 1994, we became aware of Tucker's (1994) treatment of this genus in which the genus *Mariscus* was changed to *Cyperus*. Tucker's (1994) treatment is cited in the supplement in the revised edition of the Manual of the Flowering Plants of Hawaii as the basis for recognizing *Mariscus* as *Cyperus*. We will address this name change in a future **Federal Register** notice (Service 1999; Wagner *et al.* 1999).

Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown for *Mariscus pennatiformis* ssp. *pennatiformis* (Service 1999).

Historically, *Mariscus pennatiformis* was known from Kauai, Oahu (Waianae Mountains on a ridge above Makaha Valley), East Maui, the island of Hawaii, and from Laysan (ssp. *bryani*) in the Northwestern Islands. Only one population has been seen in the last 70 years on the main islands, when an unknown number of plants were seen sometime in Keanae Valley on Maui in the 1970s (HINHP Database 2001).

Mariscus pennatiformis typically grows in mesic and wet *Metrosideros polymorpha* forest and *Metrosideros polymorpha-Acacia koa* forest at elevations between 424 and 1,032 m (1,391 and 3,385 ft). The associated native plant species on Oahu are unknown (J. Lau, *in litt.* 2001).

No threat information is available for *Mariscus pennatiformis* on Oahu.

*Marsilea villosa (*Ihiihi*)*

Marsilea villosa, a member of the marsilea family (Marsileaceae) is an aquatic to semiaquatic fern similar in appearance to a four-leaved clover that requires periodic flooding to complete its life cycle. The species is the only member of the genus native to Hawaii and is closely related to *Marsilea vestita* of the western coast of the United States (Service 1996a).

Sexual reproduction of *Marsilea villosa* is initiated through the production of a hard sporocarp borne on the rhizome of a leaf pair node. The young sporocarp is covered with rust-colored hairs which are lost as the sporocarp matures. The sporocarp will mature only if the soil dries below threshold levels for leaf growth. The sporocarp remains in the soil for an extended period of time and must be scarified before it will open. It is not known how the sporocarp (a structure in or on which spores are produced) is scarified in *Marsilea villosa* but bacterial action is thought to erode the wall of the sporocarp to the point that water can be absorbed and force the sporocarp to open, as in other *Marsilea* species (Service 1996a).

Marsilea villosa was historically known from Oahu, Molokai, and Niihau. Currently, it is found on Oahu and Molokai. There are four populations with an unknown total number of individuals on the island of Oahu Koko Head Crater, on the Lualualei Naval Reservation, Kealakipapa, and Ihiihilauakea, on Federal, city, county, and private lands (HINHP Database 2001; GDSI 2001; Service 1996a).

Marsilea villosa typically grows in cinder craters, vernal pools surrounded by lowland dry forest vegetation, mud flats, or lowland grasslands at elevations 424 and 1,032 m (1,391 and 3,385 ft ft). Associated native plant species include Sida fallax (HINHP Database 2001).

The main reason for the decline of *Marsilea villosa* on Oahu is habitat destruction and the destruction of natural hydrology; many of the areas from which it is known to have occurred are now sugar cane fields, industrial parks, housing developments, and pastures. The greatest immediate threats to the survival of this species are the encroachment and competition from naturalized, exotic plants, such as *Prosopis pallida* (kiawe), *Panicum maximum, Bidens pilosa* and *Cynodon dactylon* (Bermuda grass); and the disturbance of areas where the plant grows by off-road vehicles or by grazing cattle; continued development and habitat degradation; fire; small population size; and fragmentation, trampling and other impacts from humans and introduced mammals (57 FR 27863; HINHP Database 2001).

*Melicope pallida (*Alani*)*

Melicope pallida, a member of the citrus family (Rutaceae), is a tree with grayish white hairs and black, resinous new growth. The species differs from *Melicope haupuensis, Melicope knudsenii*, and other members of the genus by presence of resinous new growth, leaves folded and in clusters of three, and fruits with separate carpels (Wagner *et al.* 1999).

Little is known about the life history of *Melicope pallida*. Flowering cycles, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1995b).

Melicope pallida is currently and historically known from Kauai and Oahu on State and private lands from the Waianae Mountains, the base of Mount Kaala and near Palikea, within TNCH's privately owned Honouliuli Preserve. On Oahu, it is currently known from the base of Mount Kaala near Palikea in the Waianae Mountains. There is a single population with a single individual (HINHP Database 2001; GDSI 2001).

Melicope pallida usually grows on steep rock faces in lowland dry or mesic forests at elevations of 234 to 841 m (768 to 2,758 ft). Associated plant species include *Psychotria mariniana, Bobea elatior, Acacia koa, Cibotium* sp., *Wikstroemia oahuensis, Syzygium sandwicensis, Alyxia oliviformis, Dryopteris* sp. (NCN), *Metrosideros polymorpha, Pipturus albidus, Sapindus oahuensis, Tetraplasandra* sp. (ohiohe), *Xylosma hawaiiense* or the endangered *Abutilon sandwicense* (HINHP Database 2001; 59 FR 09304).

The major threat to *Melicope pallida* on Oahu is competition from introduced plants, especially *Andropogon virginicus, Psidium cattleianum, Pterolepis glomerata, Clidemia hirta*, and *Toona ciliata*. A potential threat to *Melicope pallida* is the black twig borer, which is known to occur in areas where this species grows and to feed on members of the genus *Melicope*. Additional threats to *Melicope pallida* are fire; habitat degradation by feral pigs; and extinction due to naturally caused events and/or reduced reproductive vigor due to the small number of existing individuals (HINHP Database 2001; 59 FR 09304).

Nototrichium humile (Kului)

Nototrichium humile, a member of the amaranth family (Amaranthaceae), is an upright to trailing shrub with branched stems to 1.5 m (5 ft) long. Stems and young leaves are covered with short hairs. Leaves are oppositely arranged, oval to oblong in outline, 3 to 9 cm (1.2 to 3.5 in) long, and 2 to 5 cm (0.8 to 2.0 in) wide. Stalkless flowers are arranged in a spike at the ends of the stem. Membranous bracts grow below each flower. Two of the bracts and the sepals fall off with the mature fruit. This species is distinguished from the only other species in the genus by its inflorescence, a slender spike 4 mm (0.2 in) in diameter or less, which is covered with short hairs (Wagner *et al.* 1999).

Nototrichium humile is found on and at the base of rock cliffs and talus slopes in areas that do not receive full sun all day. Plants have been observed flowering after heavy rain, but flowering is generally heaviest in the spring and summer. Fruits mature a few weeks after flowering. In cultivation, this species is known to live for more than a decade (Service 1998b).

Historically and currently, *Nototrichium humile* is known from Oahu and Maui. Currently, on Oahu, it is found in Kapuhi Gulch, Pahole Gulch, Kealia, Kahanahaiki, Kaluakauila Gulch, along Makua-Keaau Ridge to Makaha-Waianae Kai Ridge, and Nanakuli, where it occurs on Federal, State, city, county, and private lands. There are a total of 21 populations containing between 775 and 995 individuals on the island of Oahu (HINHP Database 2001; EDA Database 2001; GDSI 2001).

Nototrichium humile typically grows at elevations of 185 to 806 m (607 to 2,644 ft) on cliff faces, gulches, streambanks, or steep slopes in dry or mesic forests often dominated by *Sapindus oahuensis* or *Diospyros sandwicensis*. Associated species include *Erythrina sandwicensis, Sicyos* sp., *Rauvolfia sandwicensis, Nestegis sandwicensis, Streblus pendulinus, Myoporum sandwicense, Metrosideros polymorpha, Antidesma pulvinatum, Pouteria sandwicensis, Charpentiera* sp., *Hibiscus* sp., *Alyxia oliviformis, Pisonia umbellifera, Lipochaeta tenuis, Stenogyne* sp., *Artemisia australis, Bidens cervicata* (kookoolau), *Carex wahuensis, Elaeocarpus bifidus, Peperomia* sp., *Dodoanea viscosa, Canavalia* sp., *Psydrax odorata, Syzygium sandwicensis, Reynoldsia sandwicensis, Pleomele* sp., *Eugenia reinwartiana, Myrsine lanaiensis*, or the endangered species *Abutilon sandwicense* (Service 1998b; HINHP Database 2001; 56 FR 55770).

On Oahu, the major threats to *Nototrichium humile* are habitat degradation by feral goats and pigs; military activities; competition from the alien plant species *Grevillea robusta, Panicum maximum, Lantana camara, Hyptis pectinata, Rivina humilis, Aleurites moluccana, Toona ciliata, Coffea arabica, Passiflora suberosa, Melia azedarach, Syzygium cumini, Blechnum occidentale, Oplismenus hirtellus, Schefflera actinophylla, Spathodea campanulata, Psidium guajava, Triumfetta semitriloba* (Sacramento bur), *Buddleia asiatica, Ageratina adenophora, Ficus microphylla, Kalanchoe pinnata, Adiantum hispidulum, Caesalpinia decapetala, Cordyline fruticosa, Pimenta dioica, Montanoa hibiscifolia, Schinus terebinthifolius, Leucaena leucocephala, Melinis minutiflora*, and *Psidium cattleianum*; road building and maintenance; and fire (Service 1998b; HINHP Database 2001; 56 FR 55770).

Peucedanum sandwicense (Makou)

Peucedanum sandwicense, a short lived perennial and a member of the parsley family (Apiaceae), is a parsley-scented, sprawling herb. Hollow stems arise from a short, vertical, perennial stem with several fleshy roots. This species is the only member of the genus in the Hawaiian Islands (Constance and Affolter 1999).

Information on the life history of this plant, reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown (Service 1995b).

Historically and currently, *Peucedanum sandwicense* is known from Molokai, Maui, and Kauai. Discoveries in 1990 extended the known distribution of this species to the island of Oahu. O n Oahu, there are a total of four populations containing 51 individual plants on State, city, and county lands Keaau Valley, Puu Kawiwi, Waianae Kai, and Kamaileunu Ridge, (GDSI 2001; HINHP Database 2001).

Peucedanum sandwicense grows on cliffs, slopes, and ridges in Metrosideros *polymorpha* lowland mesic forest between 395 and 977 m (1,296 and 3,205 ft) elevation and is associated with native species such as *Dodonaea viscosa, Carex meyenii, Eragrostis* sp, *Santalum ellipticum* (iliahialoe), *Reynoldsia sandwicensis, Osteomeles anthyllidifolia, Scaevola sericea* (naupaka kahakai), *Senna gaudichaudii, Pittosporum halophilum* (hoawa), *Sida fallax, Plumbago zeylandica, Artemisia australis, Portulaca lutea* (ihi), *Lepidium bidentatum* var. *o-waihiense* (anaunau), *Schiedea globosa* (NCN), *Lipochaeta integrifolia* (nehe), *Peperomia remyi* (alaala wai nui), *Plechranthus parviflorus*, and *Dianella sandwicensis* (Constance and Affolter 1999; Service 1995b; HINHP Database 2001).

Threats to *Peucedanum sandwicense* on Oahu are habitat degradation by feral goats and pigs and competition with the non-native plant species *Schinus*

terebinthifolius, Melinis minutiflora, Kalanchoe pinnata, and *Lantana camara* (HINHP Database 2001).

Phlegmariurus nutans (Wawaeiole)

Phlegmariurus nutans is a member of the clubmoss family (Lycopodiaceae). This species can be distinguished from others of the genus in Hawaii by its epiphytic habit, simple or forking fruiting spikes, and larger and stiffer leaves (59 FR 14482).

This species has been observed fertile, with spores, in May and December. No other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (Service 1998b).

Historically, *Phlegmariurus nutans* was known from the island of Kauai and from scattered locations in the Koolau Mountains of Oahu, bounded by Kaluanui Valley to the north, Paalaa to the west, and Mount Tantalus to the south. On Oahu, this species is now known from only five populations containing seven individual plants on Federal and State lands Kaukonahua Gulch, Kahana, and Kaipapau Gulch, (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Phlegmariurus nutans on Oahu grows on tree trunks, usually on open ridges, forested slopes, and cliffs in *Metrosideros polymorpha* dominated wet forests, cliffs, and shrublands and occasionally mesic forests between 227 and 846 m (745 and 2,775 ft) in elevation. Associated native plant species include *Machaerina angustifolia, Wikstroemia oahuensis, Antidesma platyphyllum, Syzygium sandwicensis, Elaphoglossum* sp. (ekaha), *Hibiscus* sp., *Psychotria mariniana, Cyrtandra laxiflora, Hedyotis terminalis, Broussaisia arguta,* or *Dicranopteris linearis* (HINHP Database 2001; EDA, *in litt.* 2001; Service 1998b).

The primary threat to *Phlegmariurus nutans* on Oahu is susceptibility to extinction from naturally caused events and decreased reproductive vigor because of the small number of remaining individuals and limited distribution of the species. Additional threats to *Phlegmariurus nutans* are feral pigs; floods; and the alien plants *Clidemia hirta, Paspalum conjugatum, Sacciolepis indica,* and *Psidium cattleianum* (HINHP Database 2001).

Phyllostegia mollis (NCN)

Phyllostegia mollis, a short-lived member of the mint family (Lamiaceae), grows as a nearly erect, densely hairy, nonaromatic, perennial herb. Leaves are oval in outline with rounded teeth. Flowers, usually in groups of six, are spaced along a stem; there are two shorter flowering stems directly below the main stem. The flowers have fused sepals and white petals fused into a tube and flaring into a smaller upper and a larger lower lip. Fruits are fleshy, dark green to black nutlets. A suite of technical characteristics concerning the kind and amount of hair, the number of flowers in a cluster, and details of the various plant parts separate this species from other members of the genus (Wagner *et al.* 1999).

Individual *Phyllostegia mollis* plants live for approximately 5 years. The species is known to flower in late winter and spring. Additional information on the life history of this plant, reproductive cycles, specific environmental requirements, and limiting factors is generally unknown (Service 1998b).

Historically, *Phyllostegia mollis* was known from the central and southern Waianae Mountains, from Mt. Kaala to Honouliuli, and from Makiki in the Koolau Mountains of Oahu; Molokai; and East Maui. Currently, this species is only known from Oahu and Maui. On Oahu, this species remains only in Kaluaa Gulch, Palawai Gulch, Puu Kumakalii, Mohiakea Gulch, Huliwai Gulch, Waieli Gulch, and Pualii Gulch on Federal and private lands. The eight populations contain between 85 and 105 individuals (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Phyllostegia mollis typically grows on steep slopes and in gulches in diverse mesic to wet forests at elevations of 519 to 928 m (1,702 to 3,044 ft). Associated plant species include *Pouteria sandwicensis, Antidesma platyphyllum, Dryopteris unidentata, Carex meyenii, Metrosideros polymorpha, Chamaesyce multiformis, Acacia koa, Claoxylon sandwicense, Alyxia oliviformis, Myrsine* sp., *Diospyros hillebrandii, Psychotria hathewayi, Pipturus alba, Urera glabra,* or *Pisonia umbellifera* (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Phyllostegia mollis* are competition from the alien plant species *Passiflora suberosa, Psidium cattleianum, Kalanchoe pinnata, Blechnum occidentale, Clidemia hirta, Ageratina adenophora, Thelypteris parasitica, Heliocarpus popayanensis, Rubus rosifolius,* and *Schinus terebinthifolius;* rockslides; habitat degradation and predation by feral pigs and goats; and the small number of extant populations, which makes the species vulnerable to random mass mortality events (HINHP Database 2001).

Phyllostegia parviflora (NCN)

Phyllostegia parviflora, a member of the mint family (Lamiaceae), is a perennial herb with forward-bending hairs on the stems and straight or slightly curved hairs on the flowering stalk. The egg-shaped to broadly egg-shaped, wrinkled leaves are usually 19 to 33 cm (7.5 to 13 in) long and 7.5 to 15.3 cm (3 to 6 in) wide. The leaf surfaces are usually conspicuously dotted with coarse or stiff hairs, especially along the veins, and the edges are toothed. The leaf stalks are typically 6 to 13.5 cm (2.4 to 5.3 in) long, with straight, spreading hairs. Usually six hairy flowers are arranged along a flowering stalk with a main terminal stem and many side branches immediately below. The individual flower stalks are usually 8 to 15 mm (0.3 to 0.6 in) long with rather coarse or stiff hairs. The calyx is bell-shaped and has short, stiff hairs. The corolla is white, sometimes tinged with purple, and has short, stiff hairs. The upper corolla lip is about 3 mm (0.1 in) long while the lower lip is about 6 to 9 mm (0.2 to 0.4 in) long. The mature fruits are nutlets about 3 to 6 mm (0.1 to 0.2 in) long. The species is distinguished from others of the genus by the egg-shaped to broadly egg-shaped leaves, leaf stalks usually 6 to 13.5 cm (2.4 to 5.3 in) long, and the lower corolla lip 6 to 9 mm (0.24 to 0.36 in) long. *Phyllostegia parviflora* var. *glabriuscula* has fewer glandular hairs in the inflorescence, less pubescent leaves, and usually unbranched inflorescences compared with *Phyllostegia parviflora* var. *parviflora*. *Phyllostegia parviflora* var. *lydgatei* has shorter leaf stalks, spreading hairs on the leaf stalks, and fewer gland-tipped hairs in the inflorescence. At the time of listing of this species, only two varieties were recognized, *P. p.* var. *glabriuscula* and *P. p.* var. *parviflora*. Subsequent to the final rule listing this species in 1996, we became aware of Wagner *et al.* (1999) taxonomic treatment of this group in which *Phyllostegia parviflora* var. *lydgatei* was changed to variety status and recognized as distinct from *Phyllostegia parviflora* var. *parviflora*. Wagner *et al.* (1999) treatment is cited in the supplement in the revised edition of the Manual of the Flowering Plants of Hawaii as the basis for recognizing *Phyllostegia parviflora* var. *lydgatei*. This name change will be addressed in a future **Federal Register** notice (Wagner *et al.* 1999).

Historically, *Phyllostegia parviflora* was known from three islands Oahu, Hawaii, and Maui. This species is now known only from two populations on Oahu. *Phyllostegia parviflora* var. *glabriuscula* was only known from the island of Hawaii on private land and has not been observed since the 1800s. *Phyllostegia parviflora* var. *parviflora* was known from Oahu and Maui, but is now known from only 30 plants on the east side of Puu Pauao, on State and Federal lands. *Phyllostegia parviflora* var. *lydgatei* is known from only four plants in North Pualii Gulch on private land (HINHP Database 2001; GDSI 2001).

Phyllostegia parviflora var. *lydgatei* is typically found on moderate to steep slopes in mesic forest from 555 to 881 m (1,820 to 2,890 ft) elevation. Native vegetation associated with *Phyllostegia parviflora* var. *lydgatei* includes *Xylosma hawaiiense, Claoxylon sandwicense, Antidesma platyphyllum, Pouteria sandwicensis, Pipturus albidus, Myrsine lessertiana, Chamaesyce multiformis, Coprosma foliosa, Dryopteris unidentata, Selaginella arbuscula,* or *Pipturus alba*. *Phyllostegia parviflora* var. *parviflora* is typically found in *Metrosideros polymorpha* mixed lowland wet forest from 232 to 867 m (761 to 2,844 ft) elevation. Native vegetation associated with *Phyllostegia parviflora* var. *parviflora* includes *Cibotium* sp., *Dicranopteris linearis, Broussaisia arguta, Antidesma* sp., *Pritchardia* sp. (loulu), *Tetraplasandra* sp., *Touchardia latifolia, Pipturus* sp., *Cheirodendron* sp. (Olapa), *Phyllostegia glabra* (NCN), *Cyrtandra* sp., *Syzygium sandwicensis,* or *Melicope* sp. (HINHP Database 2001).

The major threats to *Phyllostegia parviflora* var. *lydgatei* are habitat degradation and/or destruction by feral pigs; landslides, rockslides, competition with the alien plant species *Schinus terebinthifolius, Passiflora suberosa, Rubus rosifolius, Psidium cattleianum, Ageratina adenophora, Thelypteris parasitica,* and *Rivina humilis;* and extinction and/or reduced reproductive vigor due to the small number of remaining individuals and in each respective population. The major threats to *Phyllostegia parviflora* var. *parviflora* on Oahu are competition with the alien plant species *Clidemia hirta* and *Ageratina* sp.; and extinction and/or reduced reproductive vigor due to the small number of remaining individuals and in each respective population (HINHP Database 2001; Service 1999; 61 FR 53108).

Plantago princeps (laukahi kuahiwi)

Plantago princeps, a short-lived member of the plantain family (Plantaginaceae), is a small shrub or robust short lived perennial herb. This species differs from other native members of the genus in Hawaii by its large branched stems, flowers at nearly right angles to the axis of the flower cluster, and fruits that break open at a point two-thirds from the base. The four varieties, *anomala, laxiflora, longibracteata,* and *princeps*, are distinguished by the branching and pubescence of the stems; the size, pubescence, and venation of the leaves; the density of the inflorescence; and the orientation of the flowers (Wagner *et al.* 1999).

Little is known about the life history of *Plantago princeps*. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown. However, individuals have been observed in fruit from April through September (Service 1999).

Plantago princeps is historically and currently found on Kauai, Oahu, Molokai, and Maui. It is no longer extant on the island of Hawaii. *Plantago princeps* var. *anomala* is currently known from Kauai; var. *longibracteata* is known from Kauai and Oahu; var. *princeps* is known from Oahu; and var. *laxiflora* is known from Molokai and Maui. On Oahu, there are currently no remaining populations of var. *longibracteata*, and six remaining populations consisting of between 130 and 180 individuals of var. *princeps* on Federal, State, city, county, and private lands Palawai Gulch, Ekahanui Gulch, Nanakuli-Lualualei Ridge, Makua-Makaha Ridge, Mohiakea Gulch, and Pahole Gulch, (GDSI 2001; HINHP Database 2001; EDA Database 2001).

On Oahu, *Plantago princeps* var. *longibracteata* is typically found on the sides of waterfalls and wet rock faces at around 64 and 835 m (210 and 2,739 ft) elevation. Associated native plant species include *Lobelia gaudichaudii* (NCN), *Scaevola glabra, Bidens* sp., *Eugenia* sp., *Coprosma granadensis* (makole), or *Metrosideros rugosa* (HINHP Database 2001). *Plantago princeps* var. *princeps* is typically found on slopes and ledges in *Metrosideros polymorpha* lowland mesic forests and shrublands between 110 to 1,064 m (361 to 3,490 ft) elevation. Associated native plant species include *Lysimachia* sp., *Chamaesyce* sp., *Eragrostis* sp., *Pilea peploides, Artemisia australis, Viola* sp. (pamakani), *Dubautia plantaginea,* and *Bidens* sp. (HINHP Database 2001; EDA, *in litt.* 2001).

The primary threats to *Plantago princeps* var. *longibracteata* on Oahu are predation and habitat degradation by feral pigs and goats and competition with various alien plant species. The primary threats to *Plantago princeps* var. *princeps* on Oahu are rockslides and competition with the alien plant species *Erigeron karvinskianus, Melinis minutiflora,* and *Schinus terebinthifolius* (HINHP Database 2001; 59 FR 56333; Service 1999).

Platanthera holochila (NCN)

Platanthera holochila, a short-lived perennial and a member of the orchid family (Orchidaceae), is an erect, deciduous herb. The stems arise from underground tubers, the pale green leaves are lance to egg-shaped and the greenish-yellow flowers occur in open spikes. This is the only species of this genus that occurs in the Hawaiian Islands (Wagner *et al.* 1999).

Little is known about the life history of this plant. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically, *Platanthera holochila* was known from Maui, Oahu, Molokai, and Kauai. Currently, *Platanthera holochila* is extant on Kauai, Molokai, and Maui. This species was last collected on Oahu in 1938 in the area from Puu Kainapuaa to Kawainui-Kaipapau summit ridge and Kipapa Gulch (HINHP Database 2001).

On Oahu, *Platanthera holochila* was found in *Metrosideros polymorpha-Dicranopteris linearis* montane wet forest or *Metrosideros polymorpha* mixed montane bogs between 447 and 867 m (1,466 and 2,844 ft) elevation. Associated native plant species include *Cibotium* sp., *Coprosma ernodeoides* (kukae nene), *Styphelia tameiameiae, Wikstroemia* sp., *Scaevola chamissoniana* (naupaka kuahiwi), *Sadleria* sp., *Lythrum maritimum* (pukamole), *Deschampsia nubigena* (hair grass), *Luzula hawaiiensis* (wood rush), *Sisyrinchium acre* (mauu la ili), *Broussaisia arguta, Clermontia* sp. (oha wai), *Lycopodium cernuum* (wawaeiole), *Dubautia scabra* (naenae), *Polypodium pellucidum* (ae), *Mareletia gahniiformis* (NCN), and *Vaccinium reticulatum* (ohelo ai) (61 FR 53108; Service 1999).

Pteris lidgatei (NCN)

Pteris lidgatei, a short-lived member of the maidenhair fern family (Adiantaceae), is a coarse perennial herb, 0.5 to 1 m (1.6 to 3.3 ft) tall. It has a horizontal rhizome 1.5 cm (0.6 in) thick and at least 10 cm (3.9 in) long when mature. The fronds, including the leaf stalks, are 60 to 95 cm (24 to 37 in) long and 20 to 45 cm (8 to 18 in) wide. The leafy portion of the frond is oblong-deltoid to broadly ovate-deltoid, thick, brittle, and dark gray-green. The sori are apparently marginal in position, either fused into long linear sori, or more typically separated into distinct shorter

sori, with intermediate conditions being common. *Pteris lidgatei* can be distinguished from other species of *Pteris* in the Hawaiian Islands by the texture of its fronds and the tendency of the sori along the leaf margins to be broken into short segments instead of being fused into continuous marginal sori (Wagner and Wagner 1992; Wagner 1949).

Additional information on the life history of this plant, reproductive cycles, longevity, specific environmental requirements, and limiting factors is generally unknown (Service 1998a).

Historically, *Pteris lidgatei* was found on Oahu, Molokai, and West Maui. Currently, this species is known from Oahu and Maui. Five populations with approximately 13 individuals occur on Oahu on Federal, State, and private lands Kaluanui, Kawainui drainage, Kaukonahua Gulch, Kawai Iki Stream, Waimano Stream and Waimano Gulch, (GDSI 2001; HINHP Database 2001; EDA Database 2001).

Pteris lidgatei on Oahu grows on steep stream banks and cliffs around 75 m (246 ft) elevation in wet *Metrosideros polymorpha-Dicranopteris linearis* forest with *Cyrtandra* sp., *Machaerina angustifolia, Selaginella arbuscula, Isachne pallens, Thelypteris sandwicensis, Diploterygium pinnatum., Sadleria* sp.; *Broussaisia arguta, Cibotium chamissoi, Dicranopteris linearis, Elaphoglossum crassifolium* (ekaha), *Sadleria squarrosa, Asplenium* sp. (NCN), *Doodia lyonii* (NCN), or *Sphenomeris chusana* (palaa) (HINHP Database 2001; EDA, *in litt.* 2001).

The primary threats to *Pteris lidgatei* on Oahu are competition with the alien plant species *Psidium cattleianum, Sacciolepis indica, Thelypteris parasitica, Ageratina riparia, Paspalum conjugatum, Pterolepis glomerata,* and *Clidemia hirta*; habitat destruction by feral pigs, and a risk of extinction due to random environmental events and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining individuals (HINHP Database 2001).

Sanicula purpurea (NCN)

Sanicula purpurea, a short-lived member of the parsley family (Apiaceae), is a stout perennial herb, 8 to 36 cm (3 to 14 in) tall, arising from a massive perennial stem. The stems are tufted and branched, with the lower portion of the stem lying close to the ground, while the upper portion rises above the ground. The basal leaves are numerous and leathery in texture and are kidney-shaped or circular to egg-heart-shaped, with three to seven lobes. The leaf lobes are circular to inversely egg-shaped. The leaf veins are impressed on the upper surface and prominent on the lower surface. The leaf margins bear short, sharp teeth. The basal leaf stalks are slender and abruptly sheathed at the base. The leaves are palmately three-to five-lobed. The small purple, or cream-colored with a purple tinge, flowers occur in branched terminal clusters, each of which contains six to ten flowers. Each flower cluster contains one to three perfect flowers and five to seven staminate flowers. Below the inflorescence is a series of about ten oblong or inversely lance-shaped bracts. The nearly spherical fruits are covered with prickles. This species is distinguished from others in the genus by the number of flowers per cluster and by the color of the petals (Constance and Affolter 1999).

Additional information on the life history of *Sanicula purpurea*, reproductive cycles, longevity, specific environmental requirements, and limiting factors is generally unknown (Service 1999).

Historically and currently, *Sanicula purpurea* is known from Oahu and West Maui. On Oahu, four populations totaling between 21 individuals are currently known from Kaukonahua-Kahana Divide, Helemano-Punaluu Divide, the summit between Aiea and Waimano, and North Kaukonahue-Punaluu on Federal, State, and private lands (GDSI 2001; HINHP Database 2001; EDA Database 2001).

Sanicula purpurea on Oahu typically grows in open *Metrosideros polymorpha* mixed montane bogs and windswept shrublands within the cloud zone between 415 and 959 m (1,361 and 3,146 ft) elevation. Associated plant species include *Cheirodendron* sp., *Sadleria pallida, Bidens* sp., *Dicanthelium koolauensis, Styphelia tameiameiae, Gahnia beechyi, Plantago pachyphylla* (laukahi kuahiwi), *Lycopodium* sp., *Vaccinium* sp., or *Machaerina angustifolia* (HINHP Database 2001; EDA, *in litt.* 2001).

The major threats to *Sanicula purpurea* on Oahu are habitat degradation by feral pigs; a risk of extinction due to random environmental events, and/or reduced reproductive vigor due to the small number of existing populations; sun exposure; and competition with the alien plant species *Axonopus fissifolius* and *Clidemia hirta* (61 FR 53108; Service 1999; HINHP Database 2001).

Schiedea hookeri (NCN)

Schiedea hookeri, a member of the pink family (Caryophyllaceae), is a sprawling or clumped perennial herb. The stems, 0.3 to 0.5 m (1 to 1.6 ft) long, curve slightly upward or lie close to the ground and often produce matted clumps. The thin, opposite leaves are narrowly lance-shaped to narrowly elliptic. The petalless, perfect flowers are borne in open branched inflorescences, which are hairy, somewhat sticky, and 5 to 22 cm (2 to 9 in) long. The lance-shaped sepals are green to purple and 3 to 4.5 mm (1.2 to 1.8 in) long. The fruit is a capsule about 3 mm (0.1 in) long. This species is distinguished from others in this endemic Hawaiian genus by its open, hairy, and sometimes sticky inflorescence, and by the size of the capsules (Wagner *et al.* 1999).

Little is known about the life history of *Schiedea hookeri*. Based on field and greenhouse observations, it is hermaphroditic, which means each individual has both male and female reproductive organs. Mature fruits have been observed in June and August. *Schiedea hookeri* appears to be an outcrossing species. Under greenhouse conditions, flowers do not set fruit unless pollinated. In the field, the species is presumed to be pollinated by insects, although none have been observed (a related species, *Schiedea lydgatei* on Molokai, is apparently pollinated by native, night-flying moths). A series of self-pollinations, within population crosses, and crosses among populations have demonstrated that *Schiedea hookeri* experiences moderately strong inbreeding depression. These results indicate that reductions in population size could result in expression of inbreeding depression among progeny, with deleterious consequences for the long-term persistence of this species. Individuals of *Schiedea hookeri* appear to be long-lived, but there is no evidence of reproduction from seed under field conditions. Seedlings of *Schiedea* occurring in mesic or wet sites are apparently consumed by introduced slugs and snails, which have been observed feeding on *Schiedea membranacea*, another mesic forest species that occurs on Kauai. In contrast to mesic-forest species, *Schiedea* occurring in dry areas produce abundant seedlings following winter rains, presumably because the drier sites have fewer alien consumers. *Schiedea hookeri* differs considerably through its range in potential for clonal growth. Plants from Kaluakauila Gulch are upright, and show little potential for clonal spread. In contrast, clonal growth has been detected for individuals at Kaluaa Gulch, where the growth form is decumbent and plants apparently root at the nodes (Service 1999; HINHP Database 2001; Weller and Sakai, unpublished data).

Historically, *Schiedea hookeri* was known from the Waianae Mountains of Oahu and from a single fragmentary collection from Haleakala on Maui that may represent *Schiedea menziesii* rather than *Schiedea hookeri*. Currently, this species is known from 17 populations on Oahu containing between 328 and 378 individuals in East Makaleha, Makaha-Waianae Kai Ridge, Kaluakauila Gulch, between Kalaulula and Kanewai Streams, Kaluaa Gulch, north of Puu Ku Makalii, Waianae Kai, Makua-Makaha Ridge, between Kolekole Pass and Puu Hapapa, southwest of Puu Kaua, Palikea Gulch, Makaha, Kamaileunu Ridge, and Kahanahaiki on Federal, State, city, county, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001; Service 1999).

Schiedea hookeri on Oahu is usually found on slopes, cliffs and cliff bases, rock walls, and ledges in diverse mesic or dry lowland forest, often with *Metrosideros polymorpha, Diospyros sandwicensis,* or *Diospyros hillebrandii* dominant, and at elevations between 208 and 978 m (682 and 3,208 ft). Associated plants species include *Carex wahuensis, Psydrax odorata, Acacia koa, Bidens torta, Alyxia oliviformis, Pouteria sandwicensis, Hibiscus* sp., *Charpentiera tomentosa, Styphelia tameiameiae, Sida fallax, Pisonia sandwicensis, Lipochaeta tenuis, Stenogyne* sp., *Antidesma pulvinatum, Elaeocarpus bifidus, Dodonaea viscosa, Artemisia australis, Carex meyenii,* or *Eragrostis grandis* (Service 1999).

The primary threats to *Schiedea hookeri* on Oahu are habitat degradation and/or destruction by feral goats and pigs; competition with the alien plants species *Schinus terebinthifolius, Kalanchoe pinnata, Blechnum occidentale, Passiflora suberosa, Clidemia hirta, Heliocarpus popayanensis, Psidium cattleianum, Ageratina riparia, Thelypteris parasitica, Toona ciliata, Melia azedarach, Grevillea robusta, Aleurites moluccana, Syzygium cumini, Panicum maximum, Hyptis pectinata, Lantana camara, Ageratina adenophora, Adiantum hispidulum, Melinis minutiflora, Pimenta dioica, Psidium guajava,* and *Cordyline fruticosa*; and predation by introduced slugs and snails. The Kaluakauila Gulch population is also potentially threatened by fire and military activities (Service 1999).

Schiedea nuttallii (NCN)

Schiedea nuttallii, a member of the pink family (Caryophyllaceae), is a generally hairless, erect subshrub. This species is distinguished from others in this endemic Hawaiian genus by its habit, length of the stem internodes, length of the inflorescence, number of flowers per inflorescence, smaller leaves, smaller flowers, and smaller seeds (Wagner *et al.* 1999).

Little is known about the life history of *Schiedea nuttallii*. Based on field and greenhouse observations, it is hermaphroditic (flowers contain both sexes). Plants located close to the Makua rim on Oahu have been under observation for 10 years, and they appear to be long-lived. *Schiedea nuttallii* appears to be an outcrossing species. Under greenhouse conditions, plants fail to set seed unless pollinated, suggesting that this species requires insects for pollination. Seedlings of *Schiedea* occurring in mesic or wet sites are apparently consumed by introduced slugs and snails. These have been observed feeding on *Schiedea membranacea*, another mesic forest species occurring on Kauai. In contrast to mesic forest species, *Schiedea* occurring in dry areas produce abundant seedlings following winter rains, presumably because there are fewer alien predators in drier sites. Fruits and flowers are abundant in the wet season but can be found throughout the year. Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically *Schiedea nuttallii* was known from scattered locations on southeastern Kauai, Oahu, Molokai, and Maui. Currently, known populations occur on Kauai, Oahu, and Molokai. On Oahu, five populations with 49 individuals are found on Pahole-Makua Ridge, Pahole-Kahanahaiki Ridge, Ekahanui Gulch Kahanahaiki Valley, and Pahole Gulch, on Federal, State, and private lands (HINHP Database 2001; GDSI 2001; EDA Database 2001; Service 1999).

Schiedea nuttallii on Oahu typically grows on rock walls, forested slopes, and steep walls in *Acacia koa-Metrosideros polymorpha* lowland mesic forest and *Metrosideros polymorpha-Dodonaea viscosa* forest at elevations between 436 and 1185 m (1,430 and 3,887 ft). Associated native plant species include *Alyxia oliviformis, Bidens torta, Psydrax odorata, Cibotium chamissoi, Hedyotis terminalis, Perrottetia sandwicensis, Ilex anomala, Coprosma* sp., *Peperomia* sp., *Machaerina* sp., *Pipturis* sp., *Antidesma platyphyllum,* or the endangered *Cyanea longiflora,* (HINHP Database 2001; EDA, *in litt.*, 2001).

Schiedea nuttalii on Oahu is seriously threatened by competition with the alien plant species *Psidium cattleianum, Paspalum conjugatum, Clidemia hirta, Melinis minutiflora, Grevillea robusta,* and *Andropogon virginicus;* predation by the black twig borer, slugs, and snails; habitat degradation by feral pigs; and a risk of extinction from naturally occurring events (e.g., landslides) and/or reduced reproductive vigor due to the small number of individuals (Service 1999; 61 FR 53108; HINHP Database 2001).

Sesbania tomentosa (Ohai)

Sesbania tomentosa, a short lived perennial and a member of the pea family (Fabaceae), is typically a sprawling shrub but may also be a small tree. Each compound leaf consists of 18 to 38 oblong to elliptic leaflets which are usually sparsely to densely covered with silky hairs. The flowers are salmon tinged with yellow, orange-red, scarlet or rarely, pure yellow. *Sesbania tomentosa* is the only endemic Hawaiian species in the genus, differing from the naturalized *Sesbania sesban* by the color of the flowers, the longer petals and calyx, and the number of seeds per pod (Geesink *et al.* 1999).

The pollination biology of *Sesbania tomentosa* is being studied by David Hopper, a graduate student in the Department of Zoology at the University of Hawaii at Manoa. His preliminary findings suggest that although many insects visit *Sesbania* flowers, the majority of successful pollination is accomplished by native bees of the genus *Hylaeus* and that populations at Kaena Point on Oahu are probably pollinator limited. Flowering at Kaena Point is highest during the winter-spring rains, and gradually declines throughout the rest of the year. Other aspects of this plant's life history are unknown (Service 1999).

Currently, *Sesbania tomentosa* occurs on at least six of the eight main Hawaiian Islands (Kauai, Oahu, Molokai, Kahoolawe, Maui, and Hawaii) and in the Northwestern Hawaiian Islands (Nihoa and Necker). It is no longer extant on Niihau and Lanai. On Oahu, *Sesbania tomentosa* is known from three populations of 54 to 55 wild and approximately 200 outplanted individuals on State-owned land within the Kaena Point NAR and from Keawaula on State and private lands (HINHP Database 2001; GDSI 2001; 59 FR 56333; Service 1999).

On Oahu, *Sesbania tomentosa* is found on cliff faces, broken basalt, and

sand dunes with rock outcrops in *Scaevola sericea* coastal dry shrubland and *Sporobolus virginicus* (aki aki), mixed grasslands between sea level and 152 m (499 ft) elevation. Associated plant species include *Heliotropium* sp. (ahinahina), *Jacquemontia sandwicensis, Myoporum sandwicense,* or *Sida fallax, Lipochaeta* sp., (HINHP Database 2001; Service 1999).

The primary threats to *Sesbania tomentosa* on Oahu are competition with the alien plant species *Leucana leucocephala* and *Lantana camara;* lack of adequate pollination; seed predation by rats, mice and, potentially, non-native insects; and destruction by random environmental events (e.g., fire); hikers; and motorcycles and other all terrain vehicles (59 FR 56333; Service 1999; HINHP Database 2001).

Silene lanceolata (NCN)

Silene lanceolata, a member of the pink family, is an upright, perennial plant with stems 15 to 50 cm (6 to 20 in) long, which are woody at the base. The narrow leaves are smooth except for a fringe of hairs near the base. Flowers are arranged in open clusters. The flowers are white with deeply-lobed, clawed petals. The capsule opens at the top to release reddish-brown seeds. This species is distinguished from *Silene alexandri,* the only other member of the genus found on Molokai, by its smaller flowers and capsules and its stamens, which are shorter than the sepals (Wagner *et al.* 1999).

Currently, no life history information is available for *Silene lanceolata* (Service 1996d).

The historical range of *Silene lanceolata* includes five Hawaiian Islands Kauai, Oahu, Molokai, Lanai, and the island of Hawaii. *Silene lanceolata* is presently extant on the islands of Molokai, Oahu, and Hawaii. On Oahu, there are two populations with 62 individuals located in Koiahi Gulch and Waianae Kai on Federal and State lands (GDSI 2001; HINHP Database 2001; EDA Database 2001).

On Oahu, *Silene lanceolata* grows on cliff faces and ledges of gullies in dry to mesic shrubland and cliff communities at elevations of about 351 to 978 m (1,151 to 3,208 ft). Associated native plant species include *Artemisia aurstralis, Dodonaea viscosa, Schiedea manni, Bidens* sp., *Carex* sp., *Osteomeles anthyllidifolia, Chamaesyce* sp., *Lysimachia* sp. or the endangered *Tetramolopium filfilforme* (pamakani) (HINHP Database 2001).

The threats to *Silene lanceolata* on Oahu are habitat destruction by feral goats and pigs; wildfires; and competition with the alien plant species *Ageratina riparia, Schinus terebinthifolius, Lantana camara, Melinis repens, Melinis minutiflora, and Erigeron karvinskianus* (HINHP Database 2001; 57 FR 46325; Service 1996d).

Solanum sandwicense (Popolo aiakeakua)

Solanum sandwicense, a member of the nightshade family (Solanaceae), is a large sprawling shrub. The younger branches are more densely hairy than older branches and the oval leaves usually have up to four lobes along the margins. This short-lived perennial species differs from others of the genus in having dense hairs on young plant parts, a greater height, and its lack of prickles (Symon 1999).

Little is known about the life history of *Solanum sandwicense.* Flowering cycles, pollination vectors, seed dispersal agents, longevity, specific environmental requirements, and limiting factors are unknown (Service 1995b).

Historically, *Solanum sandwicense* was known from both Oahu and Kauai. Currently, this species is only known from Kauai (Joan Yoshioka, TNCH, pers. comm., 2000; HINHP Database 2001; GDSI Database 2001; 65 FR 66808 59 FR 09304; Service 1995b).

Solanum sandwicense on Oahu was found on talus slopes and in streambeds in open, sunny areas at elevations between 131 and 1,006 m (430 and 3,300 ft). Associated plant species included *Pisonia* sp. or *Psychotria* sp. (59 FR 09304; Service 1995b; HINHP Database 2001).

The major threats to populations of *Solanum sandwicense* on Oahu were habitat degradation by feral pigs; and competition with alien the plant species *Passiflora suberosa, Psidium* sp., and *Schinus terebinthifolius;* fire; landslides; and a risk of extinction from naturally occurring events and reduced reproductive vigor due to the small number of existing individuals (59 FR 09304; Service 1995b; HINHP Database 2001).

Spermolepis hawaiiensis (NCN)

Spermolepis hawaiiensis, a member of the parsley family (Apiaceae), is a slender annual herb with few branches. Its leaves, dissected into narrow, lance-shaped divisions, are oblong to somewhat oval in outline and grow on stalks. Flowers are arranged in a loose, compound umbrella-shaped inflorescence arising from the stem, opposite the leaves. *Spermolepis hawaiiensis* is the only member of the genus native to Hawaii. It is distinguished from other native members of the family by being a non-succulent annual with an umbrella-shaped inflorescence (Constance and Affolter 1999).

Reproductive cycles, longevity, specific environmental requirements, and limiting factors are unknown (Service 1999).

Historically and currently, *Spermolepis hawaiiensis* is known from Kauai, Oahu, Lanai and the island of Hawaii. On Oahu, there are two known populations totaling between 110 and 910 individuals, on Makua-Keaau Ridge and near the entrance of Diamond Head on State, Federal, city, and county lands (HINHP Database 2001; GDSI 2001; EDA Database 2001).

Spermolepis hawaiiensis on Oahu typically grows on steep-vertical cliffs or at the base of cliffs and ridges in coastal dry cliff vegetation at elevations of 25 to 839 m (82 to 2,752 ft). Associated plant species include *Dodonaea viscosa, Artemisia australis, Bidens* sp., *Santalum ellipticum, Waltheria indica, Heteropogon contortus,* or *Doryopteris* sp. (HINHP Database 2001; EDA, *in litt.,* 2001).

The primary threats to *Spermolepis hawaiiensis* on Oahu are habitat degradation by feral goats; competition with various alien plant species such as *Melinis minutiflora, Lantana camara,* and grasses; and habitat destruction and extinction due to natural environmental events such as erosion, landslides, and rockslides due to natural weathering (HINHP Database 2001; 59 FR 56333; Service 1999).

Tetramolopium lepidotum ssp. *lepidotum* (NCN)

Tetramolopium lepidotum ssp. *lepidotum,* a member of the aster family (Asteraceae), is an erect shrub 12 to 36 cm (4.7 to 14 in) tall, branching near the ends of the stems. Leaves of this taxon are lance-shaped, wider at the leaf tip, and measure 25 to 45 mm (1.0 to 1.8 in) long and 1 to 7 mm (0.04 to 0.3 in) wide. Flower heads are arranged in groups of six to 12. The involucre is bell-shaped and less than 4 mm (0.2 in) high. Florets are either female or bisexual, with both occurring on the same plant. There are 21 to 40 white to pinkish lavender ray florets 1 to 2 mm (0.04 to 0.08 in) long on the periphery of each head. In the center of each head there are four to eleven maroon to pale salmon disk florets. The fruits are achenes, 1.6 to 2.5 mm (0.06 to 0.1 in) long and 0.5 to 0.8 mm (0.02 to 0.03 in) wide. This taxon can be distinguished from the other extant species on Oahu by its hermaphroditic (having both male and female flowers) disk flowers and its

inflorescence of six to 12 heads (Lowrey 1999).

Tetramolopium lepidotum ssp. *lepidotum* is a short-lived perennial that has been observed producing fruit and flowers from April through July. No further other information is available on reproductive cycles, longevity, specific environmental requirements, or limiting factors (59 FR 09304; Service 1995b).

Historically, *Tetramolopium lepidotum* ssp. *lepidotum* was known from nearly the entire length of the Waianae Mountains, from Makua Valley to Cachexia Ridge, as well as from the island of Lanai. On Oahu, a total of four populations of approximately 15 individual plants are currently known from Federal, State, and private lands on Mauna Kapu, Ekahanui-Lualualei summit, Waianae Kai, and Puu Hapapa. TNCH has outplanted three individuals in a fenced exclosure within Honouliuli Preserve. These individuals have since died, yet two healthy *Tetramolopium lepidotum* ssp. *lepidotum* have sprouted near the exclosure (56 FR 55770; Lowrey 1999; Service 1998b; HINHP 2001; GDSI 2001; EDA Database 2001).

Tetramolopium lepidotum ssp. *lepidotum* typically grows on grassy ridge tops, slopes, or cliffs in windblown dry forests at elevations of 330 to 1,157 m (1,082 to 3,795 ft). Associated species include *Eragrostis* sp., *Carex wahuensis, Bidens* sp., or *Metrosideros polymorpha* (HINHP Database 2001).

The major threats to *Tetramolopium lepidotum* ssp. *lepidotum* on Oahu are competition from the alien plant species *Schinus terebinthifolius, Melinis minutiflora,* and *Andropogon virginicus;* habitat degradation and predation by goats and pigs; fire; and the small number of populations (Service 1998b; 56 FR 55770; HINHP Database 2001).

Vigna o-wahuensis (NCN)

Vigna o-wahuensis, a member of the pea family (Fabaceae), is a slender twining perennial herb with fuzzy stems. Each leaf is made up of three leaflets which vary in shape from round to linear, and are sparsely or moderately covered with coarse hairs. Flowers, in clusters of one to four, have thin, translucent, pale yellow or greenish yellow petals. The two lowermost petals are fused and appear distinctly beaked. The sparsely hairy calyx has asymmetrical lobes. The fruits are long slender pods that may or may not be slightly inflated and contain seven to 15 gray to black seeds. This species differs from others in the genus by its thin yellowish petals, sparsely hairy calyx, and thin pods which may or may not be slightly inflated (Geesink *et al.* 1999).

Additional information on the life history of this plant, reproductive cycles, longevity, specific environmental requirements, and limiting factors are generally unknown (Service 1999).

Historically, *Vigna o-wahuensis* was known from Niihau, Oahu, and Maui. Currently, *Vigna o-wahuensis* is known from the islands of Molokai, Lanai, Kahoolawe, Maui, and Hawaii. There are no currently known populations on Niihau or Oahu. The last collection on Oahu was made in 1938 on the Mokulua Islets and North Islet (HINHP Database 2001).

Vigna o-wahuensis on Oahu occurred on open dry fossil reef, climbing over shrubs and grasses on limestone deposit and on fairly steep slopes from sea level to 609 m (0 to 1,998 ft) in elevation. The associated native plant species for this plant are unknown for Oahu (HINHP Database 2001).

The threats for this species are unknown for Oahu.

A summary of populations and landownership for these 101 plant species reported from Oahu is given in Table 2.

TABLE 2.—SUMMARY OF EXISTING POPULATIONS OCCURRING ON OAHU, AND LANDOWNERSHIP FOR 101 SPECIES REPORTED FROM OAHU

Species	Number of current populations	Landownership/jurisdiction		
		Federal	State	Private
Abutilon sandwicense	16	X [2 6]	X	X
Adenophorus periens	0			
Alectryon macrococcus	34	X [1 2 6]	X	X
Alsinidendron obovatum	5	X [1]	X	
Alsinidendron trinerve	3	X [2]	X	
Bonamia menziesii	16	X [1 6]	X	X
Cenchrus agrimonioides	8	X [1 2]	X	X
Centaurium sebaeoides	3		X	X
Chamaesyce celastroides var. kaenana	13	X [1]	X	
Chamaesyce deppeana	1		X	
Chamaesyce herbstii	4		X	X
Chamaesyce kuwaleana	4	X [6]	X	
Chamaesyce rockii	16	X [2 3 6]	X	X
Colubrina oppositifolia	5		X	X
Ctenitis squamigera	4	X [1 2]	X	X
Cyanea acuminata	22	X [2 3 8]	X	X
Cyanea crispa	11	X [3]	X	X
Cyanea grimesiana ssp. grimesiana	6	X [2]	X	X
Cyanea grimesiana ssp. obatae	6		X	X
Cyanea humboltiana	8	X [3 8]	X	X
Cyanea koolauensis	25	X [2 3 4 8]	X	X
Cyanea longiflora	4		X	X
Cyanea pinnatifida	0			
Cyanea st.-johnii	6	X [3]	X	X
Cyanea superba	1	X [1]	X	
Cyanea truncata	1		X	X
Cyperus trachysanthos	6	X [7]	X	
Cyrtandra crenata	0			
Cyrtandra dentata	8	X [1 3]	X	
Cyrtandra polyantha	1		X	X
Cyrtandra subumbellata	2	X [2 8]	X	X

TABLE 2.—SUMMARY OF EXISTING POPULATIONS OCCURRING ON OAHU, AND LANDOWNERSHIP FOR 101 SPECIES REPORTED FROM OAHU—Continued

Species	Number of current populations	Landownership/jurisdiction		
		Federal	State	Private
Cyrtandra viridiflora	8	X[38]	X	X
Delissea subcordata	18	X[12]	X	X
Diellia erecta	1		X	X
Diellia falcata	29	X[126]	X	X
Diellia unisora	4		X	X
Diplazium molokaiense	0			
Dubautia herbstobatae	4	X[1]	X	
Eragrostis fosbergii	4	X[2]	X	
Eugenia koolauensis	10	X[34]	X	X
Euphorbia haeleeleana	6	X[1]	X	X
Flueggea neowawraea	19	X[126]	X	X
Gardenia mannii	31	X[234‖]	X	X
Gouania meyenii	3		X	X
Gouania vitifolia	2		X	X
Hedyotis coriacea	0			
Hedyotis degeneri	5	X[1]	X	
Hedyotis parvula	5	X[16]	X	
Hesperomannia arborescens	23	X[348]	X	X
Hesperomannia arbuscula	6		X	X
Hibiscus brackenridgei	6	X[16]	X	X
Isodendrion laurifolium	5		X	X
Isodendrion longifolium	4	X[2]	X	X
Isodendrion pyrifolium	0			
Labordia cyrtandrae	9		X	X
Lepidium arbuscula	10	X[126]	X	
Lipochaeta lobata var. leptophylla	5	X[26]	X	
Lipochaeta tenuifolia	12	X[126]	X	
Lobelia gaudichaudii ssp. koolauensis	4	X[238]	X	X
Lobelia monostachya	1		X	X
Lobelia niihauensis	21	X[126]	X	
Lobelia oahuensis	10	X[1238]	X	X
Lysimachia filifolia	1		X	
Mariscus pennatiformis	0			
Marsilea villosa	4	X[6]	X	X
Melicope lydgatei	4	X[3]	X	X
Melicope pallida	1		X	X
Melicope saint-johnii	5	X[6]		X
Myrsine juddii	3	X[3]	X	
Neraudia angulata	5	X[126]	X	X
Nototrichium humile	21	X[126]	X	X
Peucedanum sandwicense	4		X	
Phlegmariurus nutans	5	X[238]	X	
Phyllostegia hirsuta	23	X[2368]	X	X
Phyllostegia kaalaensis	4		X	X
Phyllostegia mollis	8	X[2]	X	
Phyllostegia parviflora	2	X[3]	X	X
Plantago princeps	6	X[1236]	X	X
Platanthera holochila	0			
Pritchardia kaalae	6	X[12]	X	
Pteris lidgatei	5	X[238]	X	X
Sanicula mariversa	4	X[16]	X	
Sanicula purpurea	4	X[238]	X	X
Schiedea hookeri	17	X[126]	X	X
Schiedea kaalae	8		X	X
Schiedea kealiae	4	X[5]	X	X
Schiedea nuttallii	5	X[12]	X	X
Sesbania tomentosa	3		X	X
Silene lanceolata	2	X[1]	X	
Silene perlmanii	0			
Solanum sandwicense	0			
Spermolepis hawaiiensis	2	X[1]	X	
Stenogyne kanehoana	1			X
Tetramolopium filiforme	6	X[16]	X	
Tetramolopium lepidotum ssp. lepidotum	4	X[26]	X	X
Tetraplasandra gymnocarpa	20	X[2348]	X	X
Trematalobelia singularis	3		X	X
Urera kaalae	11	X[26]	X	X
Vigna o-wahuensis	0			
Viola chamissoniana ssp. chamissoniana	5	X[126]	X	

TABLE 2.—SUMMARY OF EXISTING POPULATIONS OCCURRING ON OAHU, AND LANDOWNERSHIP FOR 101 SPECIES REPORTED FROM OAHU—Continued

Species	Number of current populations	Landownership/jurisdiction		
		Federal	State	Private
Viola oahuensis	9	X[238]	X	X

[1] Makua Military Reservation.
[2] Schofield Barracks Military Reservation/Schofield Barracks East Range.
[3] Kawailoa Training Area.
[4] Kahuku Training Area.
[5] Dillingham Military Reservation.
[6] Naval Magazine Pearl Harbor Lualualei Branch and Naval Computer and Telecommunication Area Master Station Pacific Transmitting Facility at Lualualei.
[7] Hawaii Army National Guard.
[8] Oahu Forest National Wildlife Refuge.

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Abutilon sandwicense* (as *Abutilon sandwicense* var. *sandwicense*), *Adenophorus periens, Alectryon macrococcus* (as *Alectryon macrococcum* var. *macrococcum* and *Hesperomannia arborescens* var. *bushiana* and var. *swezeyi*), *Hesperomannia arbuscula, Hibiscus brackenridgei* (as *Hibiscus brackenridgei* var. *brackenridgei*, var. *mokuleianus*, and var. "from Hawaii"), *Lipochaeta lobata* var. *leptophylla, Lobelia gaudichaudii* ssp. *koolauensis* (as *Lobelia gaudichaudii* var. *koolauensis*), *Lobelia niihauensis, Lobelia oahuensis, Marsilea villosa, Melicope lydgatei* (as *Pelea descendens* and *Pelea lydgatei*), *Melicope pallida* (as *Pelea leveillei* and *Pelea pallida*), *Melicope saint-johnii* (as *Pelea saint-johnii* var. *elongata*), *Neraudia angulata, Nototricium humile, Peucedanum sandwicense, Phyllostegia mollis, Plantago princeps* (as *Plantago princeps* var. *elata*, var. *laxifolia*, var. *princeps*), *Lipochaeta lobata* var. *leptophylla, Lobelia gaudichaudii* ssp. *koolauensis* (as *Lobelia gaudichaudii* var. *koolauensis*), *Lobelia niihauensis, Lobelia oahuensis, Marsilea villosa, Pritchardia kaalae* (as *Pritchardia kaalae* var. *kaalae* and var. *minima*), *Schiedea kaalae, Schiedea kealiae, Sesbania tomentosa* (as *Sesbania hobdyi* and *Sesbania tomentosa* var. *tomentosa*), *Silene lanceolata, Solanum sandwicense* (as *Solanum hillebrandii* and *Solanum kauaiense*), *Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa* (as *Tetraplasandra gymnocarpa* var. *pupukeensis*), *Urera kaalae, Vigna o-wahuensis* (as *Vigna sandwicensis* var. *heterophylla* and var. *sandwicensis*), *Viola chamissoniana* ssp. chamissoniana (as *Viola chamissoniana*), and *Viola oahuensis* were considered endangered; *Diellia erecta, Diellia unisora, Huperzia nutans* (as *Lycopodium nutans*), *Lipochaeta tenuifolia, Lobelia monostachya* (as *Lobelia hillebrandii* var. *monostachya*), *Lysimachia filifolia*, and *Phyllostegia hirsuta* (as *Phyllostegia hirsuta* var. *hirsuta* and var. *laxior*) were considered threatened; and, *Chamaesyce deppeana* (as *Euphorbia deppeana*), *Ctenitis squamigera, Diplazium molokaiense, Eugenia koolauensis* (as *Eugenia molokaiana*), *Gouania meyenii, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Isodendrion pyrifolium, Plantago princeps* (as *Plantago princeps* var. *acaulis*, var. *denticulata*, and var. *queleniana*), *Pteris lidgatei*, and *Tetramolopium filiforme*, were considered to be extinct. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) of our acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and gave notice of our intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, we published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant taxa, including all of the above taxa considered to be endangered or thought to be extinct; *Diellia erecta* was also included in the 1976 document. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, we published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. We published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), February 21, 1990 (55 FR 6183), September 30, 1993 (58 FR 51144), February 28, 1996 (61 FR 7596). A summary of the status categories for these 101 plant species in the 1980–1996 notices of review can be found in Table 3(a). We listed the 101 species as endangered or threatened between 1991 and 1996. A summary of the listing actions can be found in Table 3(b).

TABLE 3(a).—SUMMARY OF CANDIDACY STATUS FOR 101 PLANT SPECIES FROM OAHU

Species	**Federal Register** notice of review			
	12/15/80	9/27/85	2/20/90	9/30/93
Abutilon sandwicense	C1	C1	C1	
Adenophorus periens	C1	C1	C1	

TABLE 3(a).—SUMMARY OF CANDIDACY STATUS FOR 101 PLANT SPECIES FROM OAHU—Continued

Species	Federal Register notice of review			
	12/15/80	9/27/85	2/20/90	9/30/93
Alectryon macrococcus	C1	C1	C1	
Alsinidendron obovatum	C1	C1	C1	
Alsinidendron trinerve	C1	C1	C1	
Bonamia menziesii	C1	C1	C1	
Cenchrus agrimonioides				
Centaurium sebaeoides			C1	
Chamaesyce celastroides var. *kaenana*				
Chamaesyce deppeana	C1	C1	C1	
Chamaesyce herbstii			C1	
Chamaesyce kuwaleana	C1	C1	C1	
Chamaesyce rockii	3A	3A	C1	
Colubrina oppositifolia				
Ctenitis squamigera	C1	C1	C1	
Cyanea acuminata				
Cyanea crispa	C1	C1	C1	
Cyanea grimesiana ssp. *grimesiana*	C1*	C1*	C1*	
Cyanea grimesiana ssp. *obatae*	C1	C1		C2
Cyanea humboltiana			C2	
Cyanea koolauensis	C1	C1	3C	
Cyanea longiflora				
Cyanea pinnatifida	C1	C1		
Cyanea st.-johnii	C1	C1	C1	
Cyanea superba	C1	C1	3C	
Cyanea truncata	C1	C1	C1	
Cyperus trachysanthos			C1	
Cyrtandra crenata				C2
Cyrtandra dentata	C1	C1	C1	
Cyrtandra polyantha			3C	
Cyrtandra subumbellata	C1	C1	C1	
Cyrtandra viridiflora	C1	C1	C2	C2
Delissea subcordata				C2
Diellia erecta	3C	3C		
Diellia falcata	C1	C1	C1	
Diellia unisora	C1	C1	C1	
Diplazium molokaiense	C1	C1	C1*	
Dubautia herbstobatae	C1*	C1*	C1	
Eragrostis fosbergii	C1	C1	C1	
Eugenia koolauensis	C1	C1	C1*	C2*
Euphorbia haeleeleana	C1	C1	C1	
Flueggea neowawraea	C1	C1	C1	
Gardenia mannii				
Gouania meyenii	3A	3A	C1	
Gouania vitifolia	C1*	C1*	C1*	
Hedyotis coriacea	3A	3A	C1	
Hedyotis degeneri	C1	C1	C1	
Hedyotis parvula	C1	C1	C1	
Hesperomannia arborescens	C1	C1	C1	
Hesperomannia arbuscula	C1	C1	C1	
Hibiscus brackenridgei	C1	C1	C1	
Isodendrion laurifolium	C1	C1	C1	
Isodendrion longifolium	C1	C1	C1	C2
Isodendrion pyrifolium	C1	C1	C1	3C
Labordia cyrtandrae	C1*	C1*	3A	
Lepidium arbuscula			C2	C2
Lipochaeta lobata var. *leptophylla*		C1*	C2	C2
Lipochaeta tenuifolia	C1	C1	C1	
Lobelia gaudichaudii ssp. *koolauensis*	C1	C1	C1	
Lobelia monostachya	C1	C1	3B	
Lobelia niihauensis		C1	3A	
Lobelia oahuensis	C1	C1	C1	
Lysimachia filifolia	C1	C1	C1	
Mariscus pennatiformis	C2	C2	C1	
Marsilea villosa			C1	
Melicope lydgatei				C2
Melicope pallida		C1	C1	
Melicope saint-johnii	C1	C1	C1	
Myrsine juddii	C1	C1	C1*	
Neraudia angulata			C1*	
Nototrichium humile	C1	C1	3C	
Peucedanum sandwicense	C1	C1	C1	

TABLE 3(a).—SUMMARY OF CANDIDACY STATUS FOR 101 PLANT SPECIES FROM OAHU—Continued

Species	Federal Register notice of review			
	12/15/80	9/27/85	2/20/90	9/30/93
Phlegmariurus nutans	C1	C1	C1	
Phyllostegia hirsuta	C2	C2	C2	
Phyllostegia kaalaensis	C1	C2	3C	
Phyllostegia mollis				
Phyllostegia parviflora	C1	C1	C1	
Plantago princeps				
Platanthera holochila	C2	C2	C1	
Pritchardia kaalae	C1	C1	C1	C2
Pteris lidgatei	3C	3C		
Sanicula mariversa			C1	
Sanicula purpurea			C1	
Schiedea hookeri				C2
Schiedea kaalae	C1	C1	C1	
Schiedea kealiae	3C	3C		
Schiedea nuttallii				C2
Sesbania tomentosa	C1*	C1*	C1	
Silene lanceolata	C1	C1	C1	
Silene perlmanii			C1	
Solanum sandwicense	C1*	C1*	C1	
Spermolepis hawaiiensis			C1	
Stenogyne kanehoana	C1	C1	C1	
Tetramolopium filiforme	C1	C1	C1	
Tetramolopium lepidotum ssp. *lepidotum*	C1	C1	C1	
Tetraplasandra gymnocarpa	3B	3B	C1	
Trematalobelia singularis			C2	C2
Urera kaalae	C1	C1	C1	
Vigna o-wahuensis	C1	C1	C1	
Viola chamissoniana ssp. *chamissoniana*	C1	C1	C1	
Viola oahuensis	C1	C1	C2	C2

Key:
C: Taxa for which the Service has on file sufficient information on the biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species. (The 1996 Notice of Review discontinued the use of different categories of candidates (as described below; candidates were redefined as species meeting the definition of former C1 species.)
C1: Taxa for which the Service has on file enough sufficient information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.
C1*: Taxa of known vulnerable status in the recent past that may already have become extinct.
C2: Taxa for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at this time.
3A: Taxa for which the Service has persuasive evidence of extinction. If rediscovered, such taxa might acquire high priority for listing.
3B: Names that, on the basis of current taxonomic understanding (usually as represented in published revisions and monographs), do not represent distinct taxa meeting the Act's definition of "species". Such supposed entities could be reevaluated in the future on the basis of new information.
3C: Taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat. If further research or changes in habitat conditions indicate a significant decline in any of these taxa, they may be reevaluated for possible inclusion in categories 1 or 2.
Federal Register Notices of Review:
1980: 45 FR 82479
1985: 50 FR 39525
1990: 55 FR 6183
1993: 58 FR 51144
1996: 61 FR 7596

TABLE 3(b).—SUMMARY OF LISTING ACTIONS FOR 101 PLANT SPECIES FROM OAHU

Species	Federal status	Proposed rule		Final rule		Proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Abutilon sandwicense	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Adenophorus periens	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
Alectryon macrococcus	E	05/24/91	56 FR 23842	05/15/92	57 FR 20772	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
Alsinidendron obovatum	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Alsinidendron trinerve	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		

TABLE 3(b).—SUMMARY OF LISTING ACTIONS FOR 101 PLANT SPECIES FROM OAHU—Continued

Species	Federal status	Proposed rule		Final rule		Proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Bonamia menziesii	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/27/00	65 FR 82086
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
Cenchrus agrimonioides	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
Centaurium sebaeoides	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/27/00	65 FR 82086
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
Chamaesyce celastroides var. *kaenana*	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Chamaesyce deppeana	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Chamaesyce herbstii	E	10/02/95	55 FR 51398	10/10/96	61 FR 53089		
Chamaesyce kuwaleana	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Chamaesyce rockii	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Colubrina oppositifolia	E	12/17/92	57 FR 59951	03/04/94	59 FR 10305	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
						05/28/02	HI PR
Ctenitis squamigera	E	06/24/93	58 FR 34231	09/26/94	59 FR 49025	12/18/00	65 FR 79192
						12/27/00	65 FR 82086
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
						05/28/02	HI PR
Cyanea acuminata	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Cyanea crispa	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Cyanea grimesiana ssp. *grimesiana*	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	12/18/00	65 FR 79192
						12/27/00	65 FR 82086
						12/29/00	65 FR 83158
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
Cyanea grimesiana ssp. *obatae*	E	12/14/92	57 FR 59066	06/27/94	59 FR 32932		
Cyanea humboltiana	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Cyanea koolauensis	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Cyanea longiflora	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Cyanea pinnatifida	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Cyanea st.-johnii	E	10/02/95	60 FR 51389	10/10/96	61 FR 53089		
Cyanea superba	E	07/17/90	55 FR 29072	09/11/91	56 FR 46235		
Cyanea truncata	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Cyperus trachysanthos	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
						03/04/02	67 FR 9806
Cyrtandra crenata	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Cyrtandra dentata	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Cyrtandra polyantha	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Cyrtandra subumbellata	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Cyrtandra viridiflora	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Delissea subcordata	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Diellia erecta	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
						05/28/02	HI PR
Diellia falcata	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Diellia unisora	E	12/14/92	57 FR 39066	06/27/94	59 FR 32932		

TABLE 3(b).—SUMMARY OF LISTING ACTIONS FOR 101 PLANT SPECIES FROM OAHU—Continued

Species	Federal status	Proposed rule		Final rule		Proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Diplazium molokaiense	E	06/24/93	58 FR 34231	09/26/94	59 FR 49025	12/18/00	65 FR 79192
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
Dubautia herbstobatae	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Eragrostis fosbergii	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Eugenia koolauensis	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482	04/05/02	67 FR 16492
Euphorbia haeleeleana	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Flueggea neowawraea	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
						05/28/02	HI PR
Gardenia mannii	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Gouania meyenii	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Gouania vitifolia	E	12/14/92	57 FR 59066	06/27/94	59 FR 32932		
Hedyotis coriacea	E	05/24/91	56 FR 23772	05/15/92	56 FR 20772	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
						05/28/02	HI PR
Hedyotis degeneri	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Hedyotis parvula	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Hesperomannia arborescens	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482	12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
Hesperomannia arbuscula	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
Hibiscus brackenridgei	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	12/18/00	65 FR 79192
						12/27/00	65 FR 82086
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
						05/28/02	HI PR
Isodendrion laurifolium	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Isodendrion longifolium	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Isodendrion pyrifolium	T	12/17/92	57 FR 59951	03/04/94	59 FR 10305		
Labordia cyrtandrae	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Lepidium arbuscula	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Lipochaeta lobata var. *leptophylla*	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Lipochaeta tenuifolia	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Lobelia gaudichaudii ssp. *koolauensis*	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Lobelia monostachya	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Lobelia niihauensis	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Lobelia oahuensis	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Lysimachia filifolia	E	10/30/91	56 FR 55862	02/25/94	59 FR 09304	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Mariscus pennatiformis	E	09/14/93	58 FR 58012	11/10/94	59 FR 56333	12/18/00	65 FR 79192
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						05/14/02	67 FR 34522
						05/28/02	HI PR
Marsilea villosa	E	02/15/91	56 FR 6349	06/22/92	57 FR 27863	12/29/00	65 FR 83158
						04/05/02	67 FR 16492
Melicope lydgatei	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Melicope pallida	E	10/30/91	56 FR 55862	2/25/94	59 FR 09304	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Melicope saint-johnii	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Myrsine juddii	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Neraudia angulata	E	9/28/90	55 FR 39664	10/29/91	56 FR 55770		
Nototrichium humile	E	9/28/90	55 FR 39664	10/29/91	56 FR 55770		

TABLE 3(b).—SUMMARY OF LISTING ACTIONS FOR 101 PLANT SPECIES FROM OAHU—Continued

Species	Federal status	Proposed rule		Final rule		Proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Peucedanum sandwicense	E	10/30/91	56 FR 55862	02/25/94	59 FR 09304	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
Phlegmariurus nutans	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Phyllostegia hirsuta	T	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Phyllostegia kaalaensis	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Phyllostegia mollis	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
Phyllostegia parviflora	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108		
Plantago princeps	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
Platanthera holochila	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						01/28/00	67 FR 3939
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
Pritichardia kaalae	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Pteris lidgatei	E	06/24/93	58 FR 34231	09/26/94	59 FR 49025	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
						04/05/02	67 FR 16492
Sanicula mariversa	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Sanicula purpurea	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	12/18/00	65 FR 79192
						04/03/02	67 FR 15856
Schiedea hookeri	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108		
Schiedea kaalae	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Schiedea kealiae	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Schiedea nuttallii	E	10/02/95	60 FR 51417	10/10/96	61 FR 53108	11/07/00	65 FR 66808
						12/29/00	65 FR 83158
						04/05/02	67 FR 16492
Sesbania tomentosa	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
						05/14/02	67 FR 34522
						05/28/02	HI PR
Silene lanceolata	E	09/20/91	56 FR 47718	10/08/92	57 FR 46325	12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/05/02	67 FR 16492
						05/28/02	HI PR
Silene perlmanii	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Solanum sandwicense	E	10/30/91	56 FR 55862	02/25/94	59 FR 09304	11/07/00	65 FR 66808
						01/28/02	67 FR 3939
Spermolepis hawaiiensis	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	11/07/00	65 FR 66808
						12/18/00	65 FR 79192
						12/27/00	65 FR 82086
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
						05/28/02	HI PR
Stenogyne kanehoana	E	01/23/91	56 FR 2493	05/13/92	57 FR 20592		
Tetramolopium filiforme	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Tetramolopium lepidotum ssp. *lepidotum*	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Tetraplasandra gymnocarpa	E	10/14/92	57 FR 47028	03/28/94	59 FR 14482		
Trematalobelia singularis	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		
Urera kaalae	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		

TABLE 3(b).—SUMMARY OF LISTING ACTIONS FOR 101 PLANT SPECIES FROM OAHU—Continued

Species	Federal status	Proposed rule		Final rule		Proposed critical habitat	
		Date	Federal Register	Date	Federal Register	Date	Federal Register
Vigna o-wahuensis	E	09/14/93	58 FR 48012	11/10/94	59 FR 56333	12/18/00	65 FR 79192
						12/29/00	65 FR 83158
						01/28/02	67 FR 3939
						04/03/02	67 FR 15856
						03/04/02	67 FR 9806
						04/05/02	67 FR 16492
						05/28/02	HI PR
Viola chamissoniana ssp. *chamissoniana*	E	09/28/90	55 FR 39664	10/29/91	56 FR 55770		
Viola oahuensis	E	10/02/95	60 FR 51398	10/10/96	61 FR 53089		

Key: E = Endangered.
T = Threatened.

Critical Habitat

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary will find that critical habitat designation is not prudent when one or both of the following situations exist: (1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. At the time each plant was listed, we determined that designation of critical habitat was not prudent because it would not benefit the plant and/or would increase the degree of threat to the species.

The not prudent determinations for these species, along with others, were challenged in *Conservation Council for Hawaii* v. *Babbitt*, 2 F. Supp. 2d 1280 (D. Haw. 1998). On March 9, 1998, the United States District Court for the District of Hawaii, directed us to review the prudency determinations for 245 listed plant species in Hawaii, including these 101 species reported from Oahu. Among other things, the court held that, in most cases, we did not sufficiently demonstrate that the species are threatened by human activity or that such threats would increase with the designation of critical habitat. The court also held that we failed to balance any risks of designating critical habitat against any benefits (*id.* at 1283–85).

Regarding our determination that designating critical habitat would have no additional benefits to the species above and beyond those already provided through the section 7 consultation requirement of the Act, the court ruled that we failed to consider the specific effect of the consultation requirement on each species (*id.* at 1286–88). In addition, the court stated that we did not consider benefits outside of the consultation requirements. In the court's view, these potential benefits include substantive and procedural protections. The court held that, substantively, designation establishes a "uniform protection plan" prior to consultation and indicates where compliance with section 7 of the Act is required. Procedurally, the court stated that the designation of critical habitat educates the public and State and local governments and affords them an opportunity to participate in the designation (*id.* at 1288). The court also stated that private lands may not be excluded from critical habitat designation even though section 7 requirements apply only to Federal agencies. In addition to the potential benefit of informing the public, State, and local governments of the listing and of the areas that are essential to the species' conservation, the court found that there may be Federal activity on private property in the future, even though no such activity may be occurring there at the present (*id.* at 1285–88).

On August 10, 1998, the court ordered us to publish proposed critical habitat designations or non-designations for at least 100 species by November 30, 2000, and to publish proposed designations or non-designations for the remaining 145 species by April 30, 2002 (24 F. Supp. 2d 1074).

On November 30, 1998, we published a notice in the **Federal Register** requesting public comments on our reevaluation of whether designation of critical habitat is prudent for the 245 Hawaiian plants at issue (63 FR 65805). The comment period closed on March 1, 1999, and was reopened from March 24, 1999, to May 24, 1999 (64 FR 14209). We received more than 100 responses from individuals, non-profit organizations, the Division of Forestry and Wildlife (DOFAW), county governments, and Federal agencies (U.S. Department of Defense—Army, Navy, Air Force). Only a few responses offered information on the status of individual plant species or on current management actions for one or more of the 245 Hawaiian plants. While some of the respondents expressed support for the designation of critical habitat for 245 Hawaiian plants, more than 80 percent opposed the designation of critical habitat for these plants. In general, these respondents opposed designation because they believed it will cause economic hardship, discourage cooperative projects, polarize relationships with hunters, or potentially increase trespass or vandalism on private lands. In addition, commenters also cited a lack of information on the biological and ecological needs of these plants which, they suggested, may lead to designation based on guesswork. The respondents who supported the designation of critical habitat cited that designation would provide a uniform protection plan for the Hawaiian Islands; promote funding for management of these plants; educate the public and State government; and protect partnerships with landowners and build trust.

On November 7, 2000, we published the first of the court-ordered prudency determinations and proposed critical habitat designations or non-designations for 76 Kauai and Niihau plants (65 FR 66808). The prudency determinations and proposed critical habitat designations for Maui and Kahoolawe plants were published December 18, 2000 (65 FR 79192), for Lanai plants on December 27, 2000 (65 FR 82086), and for Molokai plants on December 29, 2000 (65 FR 83157). All of these proposed rules had been sent to the **Federal Register** on or by November 30, 2000, as required by the court's order. In those proposals, we determined that critical habitat was prudent for 45

species (*Adenophorus periens, Alectryon macrococcus, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Colubrina oppositifolia, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyperus trachysanthos, Diellia erecta, Diplazium molokaiense, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Lobelia niihauensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Nototrichium humile, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula purpurea, Schiedea hookeri, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Solanum sandwicense, Spermolepis hawaiiensis, Tetramolopium lepidotum* ssp. *lepidotum*, and *Vigna o-wahuensis*) that are reported from Oahu as well as on Kauai, Niihau, Maui, Kahoolawe, Lanai, or Molokai.

On October 3, 2001, we submitted a joint stipulation with Earth Justice Legal Defense Fund requesting extension of the court order for the final rules to designate critical habitat for plants from Kauai and Niihau (July 30, 2002), Maui and Kahoolawe (August 23, 2002), Lanai (September 16, 2002), and Molokai (October 16, 2002), citing the need to revise the proposals to incorporate or address new information and comments received during the comment periods. The joint stipulation was approved and ordered by the court on October 5, 2001. In the revised proposed rules published on January 28, 2002 (67 FR 3939), March 4, 2002 (67 FR 9806), April 3, 2002 (67 FR 15856), and April 5, 2002 (67 FR 16492), we proposed that designation of critical habitat was prudent for *Eugenia koolauensis, Gouania vitifolia, Isodendrion pyrifolium, Nototrichium humile, Phlegmariurus nutans, Phyllostegia parviflora, Schiedea hookeri, and Tetramolopium lepidotum* ssp. *lepidotum*, eight species reported from Oahu as well as Kauai, Maui, Molokai, and Lanai. The designation of critical habitat is proposed for all of these species on Oahu.

On May 14, 2002, we published the prudency determinations and proposed critical habitat designations for the Northwestern Hawaiian Islands plants (67 FR 34522) and in this issue of the **Federal Register** we are publishing the prudency determinations and proposed critical habitat designations for the Hawaii Island plants. Publication of this proposal for plants from Oahu is consistent with the August 10, 1998, court order.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) The specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional regulatory protections under the Act.

Critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified to help to avoid accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must be "essential to the conservation of the species." Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide at least one of the physical or biological features essential to the conservation of the species (primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species."

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of designation. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 prohibitions, as determined on the basis of the best available information at the time of the action. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

A. Prudency Redeterminations

In other proposals (65 FR 66808, 65 FR 79192, 65 FR 82086, 65 FR 83158, 67 FR 3939, 67 FR 9806, 67 FR 15856, 67 FR 16492), we proposed that designation of critical habitat was prudent for 45 plants that are reported from Oahu as well as from Kauai, Niihau, Lanai, Maui, Kahoolawe, and Molokai. These 45 species are: *Adenophorus periens, Alectryon macrococcus, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoidea, Colubrina oppositifolia, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyperus trachysanthos, Diellia erecta, Diplazium molokaiense, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Lobelia niihauensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Nototrichium humile, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula purpurea, Schiedea hookeri, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Solanum sandwicense, Spermolepis hawaiiensis, Tetramolopium lepidotum* ssp. *lepidotum*, and *Vigna o-wahuensis*.

To determine whether critical habitat would be prudent for each of the 56 species for which a prudency determination has not been made previously, we analyzed the potential threats and benefits for each species in accordance with the court's order. These 56 plants were listed as endangered species under the Act between 1991 and 1996. At the time each plant was listed, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the plant. We examined the evidence currently available for each of these species and found specific evidence of vandalism, disturbance, and/or the threat of unrestricted collection for one species of *Pritchardia*, the native palm. At the time of listing, we determined that designation of critical habitat was not prudent for *Pritchardia kaalae* because it would increase the degree of threat from vandalism or collecting, and would provide no benefit (61 FR 53108). Recently, we received information on the commercial trade in palms conducted through the internet (Grant Canterbury, Service, *in litt.* 2000). Several nurseries advertise and sell seedlings and young plants, including 13 species of Hawaiian *Pritchardia*. Seven of these species are federally protected, including *Pritchardia kaalae*. In light of this information, we believe that designation of critical habitat would likely increase the threat from vandalism or collection to this species of *Pritchardia* on the island of Oahu. These plants are easy to identify, and they are attractive to collectors of rare palms either for their personal use or to trade or sell for personal gain (Johnson 1996). We believe that the evidence shows that these species of palm may be attractive to such collectors. The final listing rule for this species contained only general information on its distribution, but the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make this species more vulnerable to incidents of vandalism or collection, and, therefore, contribute to the decline of these species and make recovery more difficult.

We acknowledge that critical habitat designation, in some situations, may provide some value to the species, for example, by identifying areas important for conservation and calling attention to those areas in need of special protection. However, for *Pritchardia kaalae*, we believe that the benefits of designating critical habitat do not outweigh the potential increased threats from vandalism or collection. Given the above considerations, we propose that designation of critical habitat for *Pritchardia kaalae* is not prudent.

One species, *Cyrtandra crenata*, endemic to the island of Oahu, is no longer extant in the wild. *Cyrtandra crenata* was last collected in 1932 from Waikane Valley (HINHP Database 2001). In addition, this species is not known to be in storage or under propagation. Under these circumstances, we propose that designation of critical habitat for *Cyrtandra crenata* is not prudent because such designation would be of no benefit to this species. If this species is rediscovered, we may revise this proposal to incorporate or address new information as new data becomes available (*See* 16 U.S.C. 1532(5)(B); 50 CFR 424.13(f)).

We examined the evidence available for the other 54 taxa and have not, at this time, found specific evidence of taking, vandalism, collection or trade of these taxa or of similar species. Consequently, while we remain concerned that these activities could potentially threaten these 54 plant species in the future, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and the court's discussion of these regulations, we do not find that any of these species are currently threatened by taking or other human activity, which would be exacerbated by the designation of critical habitat.

In the absence of finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. The potential benefits include (1) triggering section 7 consultation in new areas where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species. In the case of these 54 plant species there would be some benefit to critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely affects critical habitat. Thirty-nine of these species are reported from federally owned lands or lands under Federal jurisdiction [*Abutilon sandwicense, Alsinidendron obovatum, Alsinidendron trinerve, Chamaesyce celastroides* var. *kaenana, Chamaesyce kuwaleana, Chamaesyce rockii, Cyanea acuminata, Cyanea*

crispa, Cyanea grimesiana ssp. *obatae, Cyanea humboldtiana, Cyanea koolauensis, Cyanea st.-johnii, Cyanea superba, Cyrtandra dentata, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eragrostis fosbergii, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia oahuensis, Melicope lydgatei, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Phyllostegia hirsuta, Sanicula mariversa, Schiedea kealiae, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis*) (see Table 2), where most actions would be subject to section 7. While some of the species are located exclusively on non-Federal lands with limited Federal activities, there could be Federal actions affecting these lands in the future. While a critical habitat designation for habitat currently occupied by these species would be unlikely to change the section 7 consultation outcome, since an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat were designated. There may also be some educational or informational benefits to the designation of critical habitat. Educational benefits include the notification of landowner(s), land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements, particularly for *Cyanea pinnatifida* and *Silene perlmanii*, two species currently only in propagation. Therefore, we propose that designation of critical habitat is prudent for 54 plant species: *Abutilon sandwicense, Alsinidendron obovatum, Alsinidendron trinerve, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *obatae, Cyanea humboldtiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johinii, Cyanea superba, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Diellia unisora, Dubautia herbstobatae, Eragrostis fosbergii, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia oahuensis, Melicope lydgatei, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Sanicula mariversa, Schiedea kaalae, Schiedea kealiae, Silene perlmanii, Stenogyne kanehoana, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis.*

B. Methods

As required by the Act (section 4(b)(2)) and regulations at 50 CFR 424.12, we used the best scientific data available to determine areas that are essential to conserve *Abutilon sandwicense, Adenophorus periens, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyperus trachysanthos, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia erecta, Diellia falcata, Diellia unisora, Diplazium molokaiense, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Nototrichium humile, Pelea lydgatei, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Silene perlmanii, Solanum sandwicense, Spermolepis hawaiiensis, Stenogyne kanehoana, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Vigna o-wahuensis, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis.* This information included the known locations, site-specific species information from the HINHP database and our own rare plant database; species information from the Center for Plant Conservation's (CPC) rare plant monitoring database housed at the University of Hawaii's Lyon Arboretum; island-wide Geographic Information System (GIS) coverages, (*e.g.* vegetation, soils, annual rainfall, elevation contours, land ownership); the final listing rules for these 99 species; recent biological surveys and reports; our recovery plans for these 99 species; discussions with botanical experts; and recommendations from the Hawaii Pacific Plants Recovery Coordinating Committee (HPPRCC) (see also the discussion below) (Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999; HPPRCC 1998; HINHP Database 2000, CPC *in litt.* 1999; J. Lau *et al.*, pers. comm., 2001).

In 1994, the HPPRCC initiated an effort to identify and map habitat it believed to be important for the recovery of 282 endangered and threatened Hawaiian plant species. The HPPRCC identified these areas on most of the islands in the Hawaiian chain, and in 1999, we published them in our *Recovery Plan for the Multi-Island Plants* (Service 1999). The HPPRCC expects there will be subsequent efforts to further refine the locations of important habitat areas and that new survey information or research may also lead to additional refinement of identifying and mapping of habitat important for the recovery of these species.

The HPPRCC identified essential habitat areas for all listed, proposed, and candidate plants and evaluated species of concern to determine if essential habitat areas would provide for their habitat needs. However, the HPPRCC's mapping of habitat is distinct from the regulatory designation of critical habitat as defined by the Act. More data has been collected since the recommendations made by the HPPRCC in 1998. Much of the area that was identified by the HPPRCC as inadequately surveyed has now been surveyed in some way. New location data for many species has been gathered. Also, the HPPRCC identified areas as essential based on species clusters (areas that included listed species as well as candidate species, and species of concern) while we have only delineated areas that are essential for the conservation of the 99 listed species at issue. As a result, the proposed critical habitat designations in this proposed rule include not only some habitat that was identified as essential in the 1998 recommendation but also habitat that was not identified as essential in those recommendations.

C. Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features (primary consistent elements) that are essential to the conservation of the species and that may require special management considerations or protection. Such requirements include, but are not limited to, space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring, germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

In previous proposals (65 FR 66808, 65 FR 79192, 65 FR 82086, 65 FR 83158, 67 FR 3939, 67 FR 9806, 67 FR 15856, 67 FR 16492), we determined that designation of critical habitat was prudent for 45 plants (*Adenophorus periens, Alectryon macrococcus, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Colubrina oppositifolia, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyperus trachysanthos, Diellia erecta, Diplazium molokaiense, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Lobelia niihauensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Nototrichium humile, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Solanum sandwicense, Spermolepis hawaiiensis, Tetramolopium lepidotum* ssp. *lepidotum,* and *Vigna o-wahuensis*) that are reported from Oahu as well as from Kauai, Niihau, Maui, Kahoolawe, Lanai, and/or Molokai.

In this proposal, we have determined that designation of critical habitat is prudent for 54 plants (*Abutilon sandwicense, Alsinidendron obovatum, Alsinidendron trinerve, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Diellia unisora, Dubautia herbstobatae, Eragrostis fosbergii, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia oahuensis, Melicope lydgatei, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Sanicula mariversa, Schiedea kaalae, Schiedea kealiae, Silene perlmanii, Stenogyne kanehoana, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis*) reported only from Oahu.

Ten of the 99 species (*Adenophorus periens, Cyanea pinnatifida, Diplazium molokaiense, Hedyotis coriacea, Isodendrion pyrifolium, Mariscus pennatiformis, Platanthera holochila, Silene perlmanii, Solanum sandwicense,* and *Vigna o-wahuensis*) no longer occur on Oahu. Eight of these species (*Adenophorus periens, Diplazium molokaiense, Hedyotis coriacea, Isodendrion pyrifolium, Mariscus pennatiformis, Platanthera holochila, Solanum sandwicense,* and *Vigna o-wahuensis*) occur on one or more other Hawaiian Islands. *Cyanea pinnatifida* and *Silene perlmanii* are currently extant only in propagation. Based on the information available at this time, we have identified the physical and biological features that are considered essential to the conservation of all ten species on Oahu. Therefore, we were able to identify the specific areas outside the geographic areas occupied by these species at the time of their listing (unoccupied habitat) that are essential for the conservation of *Adenophorus periens, Cyanea pinnatifida, Diplazium molokaiense, Hedyotis coriacea, Isodendrion pyrifolium, Mariscus pennatiformis, Platanthera holochila, Silene perlmanii, Solanum sandwicense,* and *Vigna o-wahuensis.*

All areas proposed as critical habitat are within the historical range of one or more of the 99 species at issue and contain one or more of the physical or biological features (primary constituent elements) essential for the conservation of one or more of the species.

As described in the discussions for each of the 99 species for which we are proposing critical habitat, we are proposing to define the primary constituent elements on the basis of the habitat features of the areas in which the plant species are reported from, as described by the type of plant community, associated native plant species, locale information (*e.g.*, steep rocky cliffs, talus slopes, stream banks), and elevation. The habitat features provide the ecological components required by the plant. The type of plant community and associated native plant species indicates specific microclimate conditions, retention and availability of water in the soil, soil microorganism community, and nutrient cycling and availability. The locale provides information on soil type, elevation, rainfall regime, and temperature. Elevation indicates information on daily and seasonal temperature and sun intensity. Therefore, the descriptions of the physical elements of the locations of each of these species, including habitat type, plant communities associated with the species, location, and elevation, as described in the *Supplementary Information-Discussion of the Plant Taxa* section above, constitute the primary constituent elements for these species on Oahu.

D. Criteria Used To Identify Critical Habitat

Based on the comments received during the public comment periods following publication of the four proposals to designate critical habitat for Hawaiian plants on Kauai and Niihau (65 FR 66808), Maui and Kahoolawe (65 FR 79192), Lanai (65 FR 82086), and Molokai (65 FR 83158), we have reevaluated the manner in which

we delineated proposed critical habitat. In addition, we met with members of the HPPRCC, and State and Federal agencies to discuss criteria and methods to delineate critical habitat units for these Hawaiian plants.

The lack of detailed scientific data on the life history of these plant species makes it impossible for us to develop a robust quantitative model (e.g., population viability analysis) to identify the optimal number, size, and location of critical habitat units to achieve recovery (Beissinger and Westphal 1998; Burgman *et al.* 2001; Ginzburg *et al.* 1990; Karieva and Wennergren 1995; Menges 1990; Murphy *et al.* 1990; Taylor 1995). At this time, and consistent with the listing of these species and their recovery plans, the best available information leads us to conclude that the current size and distribution of the extant populations are not sufficient to expect a reasonable probability of long-term survival and recovery of these plant species. Therefore, we used the best available information, including expert scientific opinion to identify potentially suitable habitat within the known historic range of each species.

We considered several factors in the selection and proposal of specific boundaries for critical habitat for these 99 species. For each of these species, the overall recovery strategy outlined in the approved recovery plans includes the following components: (1) Stabilization of existing wild populations, (2) protection and management of habitat, (3) enhancement of existing small populations and reestablishment of new populations within historic range, and (4) research on species' biology and ecology (Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999). Thus, the long-term recovery of these species is dependent upon the protection of existing population sites and potentially suitable unoccupied habitat within historic range.

The overall recovery goal stated in the recovery plans for each of these species includes the establishment of 8 to 10 populations with a minimum of 100 mature individuals per population for long-lived perennials, 300 mature individuals per population for short-lived perennials, and 500 mature individuals per population for annuals. There are some specific exceptions to this general recovery goal of 8 to10 populations for multi-island species (see discussion below on *Marsilea villosa*) and for species that are believed to be very narrowly distributed on a single island, and the proposed critical habitat designations reflect this exception for these species. To be considered recovered, each population of a species endemic to the island of Oahu should occur on the island to which it is endemic, and likewise the populations of a multi-island species should be distributed among the islands of its known historic range (Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999). A population, for the purposes of this discussion and as defined in the recovery plans for these species, is a unit in which the individuals could be regularly cross-pollinated, and influenced by the same small-scale events (such as landslides), and containing 100, 300, or 500 mature individuals, depending on whether the species is a long-lived perennial, short-lived perennial, or annual.

Marsilea villosa, a short-lived perennial aquatic fern, was historically known from six populations on three different islands, Molokai, Oahu, and Niihau. This species is now extant only on Oahu and Molokai. Delisting objectives for this species include protection and stabilization of at least six (rather than 8 to 10) geographically distinct, self-sustaining populations (either three on Oahu and three on Molokai or three on Oahu, two on Molokai, and one on Niihau), stable or increasing population sizes, no active management needed, and self-maintenance of each population through two successive floods resulting in sexual reproduction. Delisting objectives for *Marsilea villosa* do not include a specific number of mature individuals per population because of its clonal nature (it is extemely difficult to distinguish between individuals in clonal plant species) (Service 1996c).

By adopting the specific recovery objectives enumerated above, the adverse effects of genetic inbreeding and random environmental events and catastrophes, such as landslides, hurricanes, or tsunamis that could destroy a large percentage of the species at any one time may be reduced (Menges 1990; Podolsky 2001). These recovery objectives were initially developed by the HPPRCC and are found in all of the recovery plans for these species. While they are expected to be further refined as more information on the population biology of each species becomes available, the justification for these objectives is found in the current conservation biology literature addressing the coonservation of rare and endangered plants and animals (Beissinger and Westphal 1998; Burgman *et al.* 2001; Falk et al. 1996; Ginzburg *et al.* 1990; Hendrix and Kyhl 2000; Karieva and Wennergren 1995; Luijten *et al.* 2000; Meffe and Carroll 1997; Menges 1990; Murphy *et al.* 1990; Quintana-Ascencio and Menges 1996; Taylor 1995; Tear *et al.* 1995; Wolf and Harrison 2001). The overall goal of recovery in the short-term is a successful population that can carry on basic life-history processes, such as establishment, reproduction, and dispersal, at a level where the probability of extinction is low. In the long-term, the species and its populations should be at a reduced risk of extinction and be adaptable to environmental change through evolution and migration.

The long-term objectives, as reviewed by Pavlik, range from 50 to 2,500 individuals per population, based largely on research and theoretical modeling on endangered animals. Many aspects of species life history are typically considered to determine guidelines for species interim stability and recovery, including longevity, breeding system, growth form, fecundity, ramet (a plant that is an independent member of a clone) production, survivorship, seed duration, environmental variation, and successional stage of the habitat. Hawaiian species are poorly studied, and the only one of the afore-mentioned characteristics that can be uniformly applied to all Hawaiian plant species is longevity (*i.e.*, long-lived perennial, short-lived perennial, and annual). In general, long-lived woody perennial species would be expected to be viable at population levels of 50 to 250 individuals per population, while short-lived perennial species would be viable at population levels of 1,500 to 2,500 individuals or more per population. These population numbers were refined for Hawaiian plant species by the HPPRCC (1994) due to the restricted distribution of suitable habitat typical of Hawaiian plants and the likelihood of smaller genetic diversity of several species that evolved from one single introduction. For recovery of Hawaiian plants, the HPPRCC recommended a general recovery guideline of 100 mature individuals per population for long-lived perennial species, 300 mature individuals per population for short-lived perennial species, and 500 mature individuals per population for annual species.

The HPPRCC also recommended the conservation and establishment of 8 to10 populations to address the numerous risks to the long-term survival and conservation of Hawaiian plant species. Although absent the detailed information inherent to the types of PVA models described above (Burgman *et al.* 2001), this approach nevertheless

employs two widely recognized and scientifically accepted goals for promoting viable populations of listed species: (1) Creation or maintenance of multiple populations so that a single or series of catastrophic events cannot destroy the whole listed species (Luijten *et al.* 2000; Menges 1990; Quintana-Ascencio and Menges 1996); and (2) increasing the size of each population in the respective critical habitat units to a level where the threats of genetic, demographic, and normal environmental uncertainties are diminished (Hendrix and Kyhl 2000; Luijten et al. 2000; Meffe and Carroll 1997; Service 1997; Tear *et al.* 1995; Wolf and Harrison 2001). In general, the larger the number of populations and the larger the size of each population, the lower the probability of extinction (Raup 1991; Meffe and Carroll 1997). This basic conservation principle of redundancy applies to Hawaiian plants. By maintaining 8 to10 viable populations in the several proposed critical habitat units, the threats represented by a fluctuating environment are alleviated and the species has a greater likelihood of achieving long-term survival and conservation. Conversely, loss of one or more of the plant populations within any critical habitat unit could result in an increase in the risk that the entire listed species may not survive and recover.

Due to the reduced size of suitable habitat areas for these Hawaiian plant species, they are now more susceptible to the variations and weather fluctuations affecting quality and quantity of available habitat, as well as direct pressure from hundreds of species of non-native plants and animals. Establishing and conserving 8 to 10 viable populations on one or more islands(s) within the historic range of the species will provide each species with a reasonable expectation of persistence and eventual recovery, even with the high potential that one or more of these populations will be eliminated by normal or random adverse events, such as hurricanes, fires, and alien plant invasions (HPPRCC 1994; Luijten *et al.* 2000; Mangel and Tier 1994; Pimm *et al.* 1998; Stacey and Taper 1992). We conclude that designation of adequate suitable habitat for 8 to 10 populations as critical habitat will help give the species a reasonable likelihood of long-term survival and recovery, based on currently available information.

In summary, the long-term survival and recovery requires the designation of critical habitat units on one or more of the Hawaiian islands with suitable habitat for 8 to 10 populations of each plant species, with the exceptions discussed above. Some of this habitat is currently not known to be occupied by these species. To recover the species, it will be necessary to conserve suitable habitat in these unoccupied units, which in turn will allow for the establishment of additional populations through natural recruitment or managed reintroductions. Establishment of these additional populations will increase the likelihood that the species will survive and recover in the face of normal and stochastic events (*e.g.*, hurricanes, fire, and non-native species introductions) (Pimm *et al.* 1998; Stacey and Taper 1992; Mangel and Tier 1994).

In this proposal, we have defined the primary constituent elements on the basis of the habitat features of the areas in which the plants are reported from such as the type of plant community, the associated native plant species, the physical location (*e.g.*, steep rocky cliffs, talus slopes, stream banks), and elevation. The areas we are proposing to designate as critical habitat provide some or all of the habitat components essential for the conservation of one or more of the 99 plant species.

We have delineated proposed critical habitat units in the following manner:

1. We focused on designating units representative of the known current and historical geographic and elevational range of each species;

2. Proposed critical habitat units would allow for expansion of existing wild populations and reestablishment of wild populations within historic range, as recommended by the recovery plans for each species; and

3. Critical habitat boundaries were delineated in such a way that areas with overlapping occupied or potentially suitable unoccupied habitat could be depicted clearly (multi-species units).

We began by creating rough models for each species by screen digitizing polygons (map units) using ArcView (ESRI), a computer GIS program. The polygons were created by overlaying current and historic plant location points onto a digital map of the island's elevation range and vegetation types.

The resulting shape files (delineating historic range and potential, suitable habitat) were then evaluated. Elevation ranges were further refined and land areas identified as not suitable for a particular species (*i.e.*, not containing the primary constituent elements) were avoided. The resulting shape files for each species then were considered to define all suitable habitat on the island, including occupied and unoccupied habitat.

These shape files of potentially suitable habitat were further evaluated. Several factors were then used to delineate the proposed critical habitat units from these land areas. We reviewed the recovery objectives as described above and in recovery plans for each of the species to determine if the number of populations and population size requirements needed for full recovery would be available within the critical habitat units identified as containing the appropriate primary constituent elements for each species. If more than the area needed for the number of recovery populations was identified as potentially suitable, only those areas within the least disturbed suitable habitat were designated as proposed critical habitat. A population for this purpose is defined as a discrete aggregation of individuals located a sufficient distance from a neighboring aggregation such that the two are not affected by the same small-scale events and are not believed to be consistently cross-pollinated. In the absence of more specific information indicating the appropriate distance to assure limited cross-pollination, we are using a distance of 1,000 m (3,281 ft) based on our review of current literature on gene flow (Barret and Kohn 1991; Fenster and Dudash 1994; Havens 1998; Schierup and Christiansen 1996).

Using the above criteria, we delineated the proposed critical habitat for each species. When species units overlapped, we combined units for ease of mapping. Such critical habitat units encompass a number of plant communities. Using satellite imagery and parcel data we then eliminated areas that did not contain the appropriate vegetation, associated native plant species, or features such as cultivated agriculture fields, housing developments or other areas that are unlikely to contribute to the conservation of one or more of the 99 plant species. Geographic features (ridge lines, valleys, streams, coastlines, etc.) or man-made features (roads or obvious land use) that created an obvious boundary for a unit were used as unit area boundaries. We also used watershed delineations to dissect very large proposed critical habitat units in order to simplify the unit mapping and their descriptions.

Within the critical habitat boundaries, adverse modification under section 7 generally would occur only if the primary constituent elements are affected. Therefore, not all activities within critical habitat would trigger an adverse modification conclusion. In defining critical habitat boundaries, we made an attempt to avoid areas, such as towns and other similar lands that are unlikely to contribute to the

conservation of the 99 species. However, the minimum mapping unit that we used to approximate our delineation of critical habitat for these species did not allow us to exclude all such developed areas. In addition, existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, telecommunications equipment, telemetry antennas, radars, missile launch sites, arboreta and gardens, heiau (indigenous places of worship or shrines), airports, other paved areas, and other rural residential areas do not contain one or more of the primary constituent elements and would be excluded under the terms of this proposed regulation. Federal actions limited to those areas, therefore, would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

In summary, for most of these species we utilized the approved recovery plan guidance to identify appropriately sized land units containing suitable occupied and unoccupied habitat. These areas are our best estimation of the habitat necessary to provide for the recovery of these 99 species.

E. Managed Lands

Currently occupied or historically known sites containing one or more of the primary constituent elements considered essential to the conservation of these 99 plant species were examined to determine if additional special management considerations or protection are required above those currently provided. We reviewed all available management information on these plants at these sites, including published reports and surveys; annual performance and progress reports; management plans; grants; memoranda of understanding and cooperative agreements; DOFAW planning documents; internal letters and memos; biological assessments and environmental impact statements; and section 7 consultations.

Pursuant to the definition of critical habitat in section 3 of the Act, the primary constituent elements as found in any area so designated must also require "special management considerations or protections." Adequate special management or protection is provided by a legally operative plan that addresses the maintenance and improvement of the essential elements and provides for the long-term conservation of the species. We consider a plan adequate when it: (1) Provides a conservation benefit to the species (*i.e.*, the plan must maintain or provide for an increase in the species' population or the enhancement or restoration of its habitat within the area covered by the plan); (2) provides assurances that the management plan will be implemented (*i.e.*, those responsible for implementing the plan are capable of accomplishing the objectives, have an implementation schedule and/or have adequate funding for the management plan); and, (3) provides assurances the conservation plan will be effective (*i.e.*, it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieves the plan's goals and objectives). If an area is covered by a plan that meets these criteria, it does not constitute critical habitat as defined by the Act because the primary constituent elements found there are not in need of special management.

In determining and weighing the relative significance of the threats that would need to be addressed in management plans or agreements, we considered the following:

(1) The factors that led to the listing of the species, as described in the final rules for listing each of the species. Effects of clearing and burning for agricultural purposes and of invasive non-native plant and animal species have contributed to the decline of nearly all endangered and threatened plants in Hawaii (Smith 1985; Howarth 1985; Stone 1985; Wagner *et al.* 1985; Scott *et al.* 1986; Cuddihy and Stone 1990; Vitousek 1992; Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999; Loope 1998).

Current threats to these species include non-native grass and shrub-carried wildfire; browsing, digging, rooting, and trampling from feral ungulates (including goats, deer, and pigs); direct and indirect effects of non-native plant invasions, including alteration of habitat structure and microclimate; and disruption of pollination and gene-flow processes by adverse effects of mosquito-borne avian disease on forest bird pollinators, direct competition between native and non-native insect pollinators for food, and predation of native insect pollinators by non-native hymenopteran insects (ants). In addition, physiological processes such as reproduction and establishment continue to be stifled by fruit and flower eating pests such as non-native arthropods, mollusks, and rats, and photosynthesis and water transport affected by non-native insects, pathogens and diseases. Many of these factors interact with one another, thereby compounding effects. Such interactions include non-native plant invasions altering wildfire regimes, feral ungulates vectoring weeds and disturbing vegetation and soils thereby facilitating dispersal and establishment of non-native plants, and numerous non-native insects feeding on native plants, thereby increasing their vulnerability and exposure to pathogens and disease (Howarth 1985; Smith 1985; Scott *et al.* 1986; Cuddihy and Stone 1990; Mack 1992; D'Antonio and Vitousek 1992; Tunison *et al.* 1992; Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999; Bruegmann *et al.* 2001).

(2) The recommendations from the HPPRCC in their 1998 report to us ("Habitat Essential to the Recovery of Hawaiian Plants"). As summarized in this report, recovery goals for endangered Hawaiian plant species cannot be achieved without the effective control of non-native species threats, wildfire, and land use changes.

(3) The management actions needed for assurance of survival and ultimate recovery of Hawaii's endangered plants. These actions are described in our recovery plans for these 99 species (Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999), in the 1998 HPPRCC report to us (HPPRCC 1998), and in various other documents and publications relating to plant conservation in Hawaii (Mueller-Dombois 1985; Smith 1985; Stone 1985; Cuddihy and Stone 1990; Stone *et al.* 1992). In addition to monitoring the plant populations, these actions include, but are not limited to: (1) Feral ungulate control; (2) non-native plant control; (3) rodent control; (4) invertebrate pest control; (5) fire management; (6) maintenance of genetic material of the endangered and threatened plants species; (7) propagation, reintroduction, and/or augmentation of existing populations into areas deemed essential for the recovery of these species; (8) ongoing management of the wild, outplanted, and augmented populations; and (9) habitat management and restoration in areas deemed essential for the recovery of these species.

In general, taking all of the above recommended management actions into account, the following management actions are ranked in order of importance (Service 1994, 1995a, 1995b, 1996a, 1996b, 1996c, 1996d, 1997, 1998a, 1998b, 1999). It should be noted, however, that, on a case-by-case basis, some of these actions may rise to a higher level of importance for a particular species or area, depending on the biological and physical requirements of the species and the location(s) of the individual plants: feral ungulate control; wildfire management; non-native plant control; rodent control; invertebrate pest control; maintenance of genetic material of the endangered and threatened plant species; propagation, reintroduction, and/or augmentation of existing populations into areas deemed essential for the recovery of the species; ongoing management of the wild, outplanted, and augmented populations; maintenance of natural pollinators and pollinating systems, when known; habitat management and restoration in areas deemed essential for the recovery of the species; monitoring of the wild, outplanted, and augmented populations; rare plant surveys; and control of human activities/access.

As shown in Table 2, the proposed critical habitat designations for 99 species of plants are found on Federal, State, and private lands on the island of Oahu. Information received in response to our public notices, meetings, and information in our files indicated that there is some on-going conservation management action for these plants, as noted below. However, without management plans and assurances that the plans will be implemented, we are unable to find that the land in question does not require special management or protection.

Federal Lands

The Sikes Act Improvements Act of 1997 (Sikes Act) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an INRMP. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, because they require no additional special management or protection. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide a conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat.

Lands Under U.S. Army Jurisdiction

The Army has six installations under its jurisdiction on Oahu-Dillingham Military Reservation (DMR), Kawailoa Training Area (KLOA), Kahuku Training Area (KTA), Makua Military Reservation (MMR), Schofield Barracks Military Reservation (SBMR) and Schofield Barracks East Range (SBER). All of these lands are administered by the Army Garrison, Hawaii for various types of routine military training. The Army has written an Integrated Natural Resources Management Plan (INRMP) for all of the Oahu training areas (Army 2001b), Ecosystem Management Plan (Army 1998), an Endangered Species Management Plan (Research Corporation of Hawaii (RCUH) 1998), a Wildland Fire Management Plan (which is finalized only for MMR at this time) (Army 2000), monthly summary reports (Col. W.E. Ryan III, Army, *in litt.* 2000–2002), and annual reports on the natural resources management projects performed under the Ecosystems Management Program for all of these installations (RCUH 1998, 1999, and 2000). These documents indicate that some of the management actions identified in these plans, including their 2001 INRMP, have been implemented and have proven beneficial to populations of some species. However, current management is not sufficient to address the on-going threats to the listed plant species on these lands. In addition, there is currently no guarantee of long-term funding for management actions that are ongoing or future management actions. The Army is currently engaged in or will begin discussions with the Service to identify training-related impacts to the listed plant species at SBMR, SBER, KLOA, KTA, and DMR and develop measures that avoid, minimize and offset those impacts. However, more comprehensive management documents have not been completed at this time. Therefore, we can not, at this time, find that management on these lands under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat.

Dillingham Military Reservation

Four species, *Cyperus trachysanthos*, *Hibiscus brackenridgei* ssp. *mokuleianus*, *Nototrichium humile*, and *Schiedea kealiae* are reported from the Army's Dillingham Military Reservation, though only *Schiedea kealiae* is currently known to occur on this land (Army 2001b; HINHP Database 2001). We believe this land is needed for the recovery of one or more of these four species. Currently, the Army is not implementing any management actions for these listed species at the Dillingham Military Reservation (HINHP Database 2001; Army 2001b). In addition, proposed management actions identified for *Schiedea kealiae* in the 2001 INRMP are "subject to available funding". We do not believe that appropriate conservation management strategies have been adequately funded or effectively implemented. Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for the listed plant species reported from Dillingham Military Reservation, and provides for their long-term conservation and assurances that it will is completed and implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude these military lands under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Kahuku Training Area

Ten species, *Adenophorus periens*, *Chamaesyce rockii*, *Cyanea grimesiana* ssp. *grimesiana*, *Cyanea koolauensis*, *Cyanea longiflora*, *Eugenia koolauensis*, *Gardenia mannii*, *Hesperomannia arborescens*, *Phyllostegia hirsuta*, and *Tetraplasandra gymnocarpa*, are reported from the Army's Kahuku Training Area though only *Cyanea koolauensis*, *Eugenia koolauensis*, *Gardenia mannii*, *Hesperomannia arborescens*, and *Tetraplasandra gymnocarpa* are currently known to occur on this land (HINHP Database 2001; Army 2001b). We believe this land is needed for the recovery of one or more of these 10 species. Currently, management actions for listed plants at Kahuku Training Area consists of weed control around known populations of *Eugenia koolauensis* and collection of

propagules for propagation and eventual outplanting (Army 2001b). Proposed management actions identified for listed plant species in the 2001 INRMP are "subject to available funding". We do not believe that there are sufficient assurances that appropriate conservation management strategies will be adequately funded or effectively implemented. Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for the listed plant species reported from Kahuku Training Area, and provides for their long-term conservation and assurances that it will is completed and implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude these military lands under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Kawailoa Training Area

Twenty-nine species, *Adenophorus periens, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea humboldtiana, Cyanea koolauensis, Cyanea longiflora, Cyanea st.-johnii, Cyrtandra dentata, Cyrtandra viridiflora, Delissea subcordata, Eugenia koolauensis, Gardenia mannii, Hesperomannia arborescens, Labordia cyrtandrae, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia oahuensis, Melicope lydgatei, Myrsine juddii, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula purpurea, Tetraplasandra gymnocarpa*, and *Viola oahuensis*, are reported from the Army's Kawailoa Training Area, and 23 of the 29 plant species (*Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea humboldtiana, Cyanea koolauensis, Cyanea st.-johnii, Cyrtandra dentata, Cyrtandra viridiflora, Eugenia koolauensis, Gardenia mannii, Hesperomannia arborescens, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia oahuensis, Melicope lydgatei, Myrsine juddii, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia parviflora, Plantago princeps, Pteris lydgatei, Sanicula purpurea, Tetraplasandra gymnocarpa*, and *Viola oahuensis*) are currently known to occur on this land (HINHP Database 2001; Army 2001b). We believe this land is needed for the recovery of one or more of these 29 species. Currently, management for listed plant species at Kawailoa Training area includes monitoring to examine population health, the collection of propagules for ex-situ propagation, and the identification of threats to these populations. The populations of *Cyanea st.-johnii* and *Cyrtandra viridiflora* have been intensely monitored since 1999. The Army plans to construct a fenced exclosure around the *Cyrtandra viridiflora* population to protect the individuals from browsing by feral ungulates. *Gardenia mannii* has been actively monitored for threats and competition from exotic plants but no fences have been erected to prevent browsing from feral pigs (Army 2001b). Proposed management actions identified for listed plant species in the 2001 INRMP are "subject to available funding". We do not believe that the current management measures are sufficient to address the primary threats to these species, nor do we believe that there are sufficient assurances that appropriate conservation management strategies will be adequately funded or effectively implemented. Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for the listed plant species reported from Kawailoa Training Area, and provides for their long-term conservation and assurances that it will be implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude these military lands under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Makua Military Reservation

Thirty-one species, *Alectryon macrococcus, Alsinidendron obovatum, Bonamia menziesii, Cenchrus agrimonioides, Chamaesyce celastroides var. keanana, Ctenitis squamigera, Cyanea superba, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Euphorbia haeleeleana, Flueggea neowawraea, Hedyotis degeneri, Hedyotis parvula, Hibiscus brackenridgei, Lepidium arbuscula, Lipochaeta tenuifolia, Lobelia niihauensis, Lobelia oahuensis, Neraudia angulata, Nototrichium humile, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea nuttallii, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum*, and *Viola chamissoniana* ssp. *chamissoniana*, are reported from the Army's Makua Military Reservation, and all but *Tetramolopium lepidotum* ssp. *lepidotum* are currently known to occur on this land (HINHP Database 2001; Army 2001b). We believe this land is needed for the recovery of one or more of these 31 species. Currently, management for listed plant species at Makua Military Reservation includes monitoring to examine population health, the collection of propagules for ex-situ propagation, and the identification of threats to these populations. Seeds of *Alectryon macroccocus, Alsinidendron obovatum, Cenchrus agrinomioides, Cyanea superba* ssp. *superba, Hedyotis degeneri, Hedyotis parvula, Sanicula mariversa, Silene lanceolata*, and *Viola chamissoniana* ssp. *chamissoniana* have been collected and propagated for future reintroduction into protected habitat. Slug control has been initiated on populations of *Alsinidendron obovatum* and intensive rat control has been implemented for *Euphorbia haeleeleana*. Erosion barriers have been constructed to protect *Sanicula mariversa* populations. Fenced exclosures have been constructed around populations of *Cenchrus agrinomioides, Cyanea superba* ssp. *superba, Cyrtandra dentata, Delissea subcordata*, and *Diellia falcata* to protect them from browsing by feral ungulates. Fenced exclosures for some species are not possible due to unexploded ordnance hazards near individual plants, for example, of *Flueggea neowawraea* (Army 2001b). While we believe that some of these species specific actions may control threats in the short term, we do not believe that these measures are sufficient to address the primary threats to all of the species reported from Makua Military Reservation at this time. The Army has completed a programmatic section 7 consultation with the Service for Makua Military Reservation. We issued a biological opinion of no jeopardy for the Army's routine training on June 23, 1999. Part of the Army's proposed action included the development and implementation of an Implementation Plan (IP) to outline detailed steps needed to stabilize the species impacted by Army training. The IP is still in the development phase and may not be completed for another year. If the implementation plan addresses the maintenance and improvement of the essential elements for the listed plant species reported from Makua Military Reservation, and provides for their long-term conservation and assurances that it will be implemented, we will reassess the critical habitat boundaries in light of the Implementation Plan. However, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. In addition, we may exclude these military lands under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Schofield Barracks East Range

Seventeen species, *Chamaesyce rockii, Cyanea acuminata, Cyanea koolauensis, Cyanea longiflora, Cyanea st.johnii, Cyrtandra subumbellata, Gardenia mannii, Hesperomannia arborescens, Isodendrion laurifolium, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia oahuensis, Plegmariurus nutans, Pteris lidgatei, Sanicula pupurea, Tetraplasandra gymnocarpa*, and *Viola oahuensis*, are reported from the Army's Schofield Barracks East Range, and all but *Cyanea longiflora, Cyanea st.johnii*, and *Lobelia oahuensis* are currently known to occur on this land (HINHP Database 2001; Army 2001b). We believe this land is needed for the recovery of one or more of these 17 species. Currently, management for listed plant species at Schofield Barracks East Range includes monitoring of some plant populations, the collection of propagules for ex-situ propagation, and the identification of threats to the rare plant populations. *Phlegmariurus nutans* is the only species at Schofield Barracks East Range that has been collected for ex-situ propagation and results have been unsuccessful (Army 2001b). Proposed management actions identified for listed plant species in the 2001 INRMP are "subject to available funding". We do not believe that the current management measures are sufficient to address the primary threats to these species, nor do we believe that there are sufficient assurances that appropriate conservation management strategies will be adequately funded or effectively implemented. Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for the listed plant species reported from Schofield Barracks East Range, and provides for their long-term conservation and assurances that it will be implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude these military lands under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Schofield Barracks Military Reservation

Thirty-four species, *Abutilon sandwicense, Alectryon macrococcus, Alsinidendron trinerve, Cenchrus agriminioides, Ctenitis squamigera, Cyanea acuminata, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea superba, Delissea subcordata, Diellia falcata, Diplazium molokaiense, Eragrostis fosbergii, Flueggea neowawraea, Gardenia mannii, Isodendrion longifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia niihauensis, Lobelia oahuensis, Neraudia angulata, Nototrichium humile, Phyllostegia hirsuta, Phyllostegia mollis, Plantago princeps, Schiedea hookeri, Schiedea nuttalii, Solanum sandwicense, Stenogyne kanehoana, Tetramolopium lepidotum* ssp. *lepidotum, Urera kaalae*, and *Viola chamissoniana* ssp. *chamissoniana*, are reported from the Army's Schofield Barracks Military Reservation and 23 of the 34 plant species are currently known to occur on this land (HINHP Database 2001; Army 2001b). Eleven species, *Cenchrus agriminioides, Ctenitis squamigera, Cyanea grimesiana* ssp *obatae, Cyanea superba, Diplazium molokaiense, Eragrostis fosbergii, Neraudia angulata, Nototrichium humile, Schiedea nuttalii, Solanum sandwicense*, and *Stenogyne kanehoana* are only known from historical records. We believe this land is needed for the recovery of one or more of these 34 species. Currently, management for listed plant species at Schofield Barracks Military Reservation includes rare plant surveys and the identification and monitoring of threats to the rare plant species. Propagules of *Alectryon macrococcus, Flueggea neowawraea, Gardenia mannii, Phyllostegia hirsuta, Urera kaalae*, and *Viola chamissoniana* ssp. *chamissoniana* have been collected and are being propagated for outplanting into protected habitat. Propagated individuals of *Flueggea neowawraea*, and *Urera kaalae* have already been outplanted into habitat that is protected by ungulate exclosure fences and is regularly monitored for alien plant species. Monitoring for many of the rare plants at Schofield Barracks Military Reservation is restricted due to unexploded ordnance hazards (Army 2001b). Proposed management actions identified for listed plant species in the 2001 INRMP are "subject to available funding". We do not believe that the current management measures are sufficient to address the primary threats to these species, nor do we believe that there are sufficient assurances that appropriate conservation management strategies will be adequately funded or effectively implemented. Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for the listed plant species reported from Schofield Barracks Military Reservation, and provides for their long-term conservation and assurances that it will be implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude these military lands under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Hawaii Army National Guard

One plant species, *Cyperus trachysanthos*, occurs on HIARNG lands at Diamond Head Crater (HINHP Database 2001). We conducted surveys and prepared management plans for all HIARNG lands in Hawaii, including Diamond Head Crater (Service 1998c and 2001). Current management on HIARNG lands at Diamond Head include rare plant seed collection for off-site propagation, fire control, some weed control, and some habitat restoration. However, these actions are not sufficient to address the on-going threats to this species on this land. In addition, currently there is no guarantee that appropriate conservation management strategies will be adequately funded or effectively implemented. Therefore, we cannot, at this time, find that management on these lands is adequate to preclude a proposed designation of critical habitat.

Naval Magazine Pearl Harbor Lualualei Branch and Naval Computer and Telecommunication Area Master Station Pacific Transmitting Facility at Lualualei

The U.S. Navy (Navy) owns or leases much of Lualualei Valley, which is operated as a naval magazine and transmitting facility. One species, *Marsilea villosa*, occurs on land at the Naval Computer and Telecommunications Area Master Station Pacific Radio Transmitting Facility at Lualualei and we believe this land is needed for the recovery of this species. Some management actions to protect and maintain the population are included in the 2001 INRMP but these actions have not been adequately funded or effectively implemented (HINHP Database 2001; Navy 2001a). Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for *Marsilea villosa*, and provides for its long-term conservation and assurances that it will be implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude this military land under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the area within critical habitat, provided the exclusion will not result in extinction of the species.

Twenty-three species, *Abutilon sandwicense, Alectryon macrococcus, Bonamia menziesii, Chamaesyce kuwaleana, Diellia falcata, Flueggea neowawraea, Hedyotis parvula, Lepidium arbuscula, Lipochaeta lobata, Lipochaeta tenuifolia, Lobelia niihauensis, Marsilea villosa, Melicope saint-johnii, Neraudia angulata, Nototrichium humile, Phyllostegia hirsuta, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Tetramolopium filiforme, Tetramolopium lepidotum, Urera kaalae*, and *Viola chamissoniana* ssp. *chamissoniana*, are reported from the Naval Magazine Pearl Harbor Lualualei Branch land and we believe this land is needed for the recovery of one or more of these 23 species (HINHP Database 2001; Navy 2001b). One fenced exclosure at the Halona management area has been erected to protect *Abutilon sandwicense* from feral ungulates, and another exclosure at Puu Hapapa protects *Abutilon sandwicense, Bonamia menziesii, Fleuggea neowawraea, Lipochaeta lobata* var. *leptophylla*, and *Nototrichium humile* from browsing by feral ungulates. Other management actions include some monitoring of rare plants, surveying for rare plants and controlling some invasive plants in rare plant habitats (The Traverse Group 1988; Navy 1997, 2001a, 2001b). We do not believe that these measures are sufficient to address the primary threats to these species on this land, nor do we believe that appropriate conservation management strategies have been adequately funded or effectively implemented. Therefore, we cannot at this time find that management of this land under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. However, if an INRMP or other endangered species management plan that addresses the maintenance and improvement of the essential elements for these plant species, and provides for their long-term conservation and assurances that it will be implemented, we will reassess the critical habitat boundaries in light of these management plans. Also, we may exclude this military land under section 4(b)(2) of the Act if benefits of exclusion outweigh the benefits of including the area within critical habitat, provided the exclusion will not result in extinction of the species.

Oahu Forest National Wildlife Refuge

The Oahu Forest National Wildlife Refuge was established to protect and manage a portion of some of the best remaining native forest in the northern Koolau Mountains of Oahu. The southern portion of the refuge is owned by the Service, while the northern portion is private land leased by the Army as part of Schofield Barracks Military Reservation and included as an overlay refuge. Sixteen plant species (*Chamaesyce rockii, Cyanea acuminata, Cyanea koolauensis, Cyanea humboldtiana, Cyrtrandra subumbellata, Cyrtrandra viridiflora, Gardenia mannii, Hesperomannia arborescens, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia oahuensis, Phlegmariurus nutans, Phyllostegia hirsuta, Pteris lydgatei, Sanicula purpurea, Tetraplasandra gymnocarpa*, and *Viola oahuensis*) are reported from the refuge lands (HINHP Database 2001). The refuge was established in December 2000 and no management plan has been developed yet. We have included this area within the critical habitat proposal.

State of Hawaii Lands

The State lands on the island of Oahu include ceded and leased lands, and those that are administered by the Department of Hawaiian Home Lands (DHHL), the Division of State Parks, and the Department of Land and Natural Resources (DLNR). Eighty-six plants are reported from State lands (*Abutilon sandwicense, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboldtiana, Cyanea koolauensis, Cyanea longiflora, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyperus trachysanthos, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia erecta, Diellia falcata, Diellia unisora, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lysimachia filifolia, Marsilea villosa, Melicope lydgatei, Melicope pallida, Myrsine juddii, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia parviflora, Plantago princeps, Pteris lydgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa, Trematolobelia singularis, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana, and Viola oahuensi*). DLNR lands on Oahu are made up of Forest Reserves, Game Hunting Units, and Natural Area Reserves (NAR). Within DLNR, DOFAW administers all of these lands.

Many of DLNR's programs provide beneficial effects to endangered species and their habitat. Hawaii DOFAW

management actions on Oahu include fences that have been built to exclude feral ungulates from rare plant sites, propagation and dissemination of native tree species that help restore native plant assemblages around the island, participation in a cooperative watershed management partnership with other Federal and State agencies and private land owners, and administration of programs that either directly or indirectly benefit endangered species and their habitats.

DOFAW has four fenced areas on Oahu for the protection of rare plants. An area of approximately 101 ha (250 ac) is fenced in Pahole Gulch within Pahole NAR for the protection of numerous endangered plant species and the endangered land snail *Achatinella mustelina*. DOFAW is currently seeking funding for an additional large fence within Pahole NAR in adjacent Kapuna Gulch. In addition, DOFAW has constructed three other, small rare plant exclosures for the protection of extant rare plant populations and reintroduction of propagated material (Marie Bruegmann, Service, pers. comm., 2001).

DOFAW's Natural Area Reserves System (NARS) was established in 1970 with the intent to preserve and maintain unique Hawaiian ecosystems and geological features. The island of Oahu has three NARs that encompass a total of 728 ha (1,799 ac). All three of these NARs harbor endangered species and are managed primarily to maintain the native ecosystems that support these species. Management plans have been developed for these NARs and intensive management actions that have occurred in the NARs include construction of feral ungulate exclosure fences around particularly unique plant communities and endangered species; treatment of endangered tree species for invasive alien insects, physical and chemical control of alien plant populations, rat baiting, and feral cat trapping (DLNR 1988a and b, 1990).

The other DOFAW-administered program on the island that has indirect benefits to endangered plant species is the Hawaii Forest Stewardship Program (FSP). Forest Stewardship projects are designed to be implemented over a 1-year period where private landowners are provided funds to establish forestry projects over a 4-year period and maintain these projects over the subsequent 10 years. Projects can be variable in nature and use native and non-native species. A few of these projects that have focused on native forest habitat restoration in areas that harbor endangered plant species have demonstrated success in restoring native forest habitat suitable for the maintenance and recovery of endangered plant species. We believe that private landowners in this program have the potential to contribute to the recovery of endangered plant species. However, no FSP projects have been implemented on Oahu to date (Vickie Caraway, DOFAW, pers. comm., 2001).

Numerous efforts by the State of Hawaii on Oahu contribute to the conservation of listed plant species, including their rare plant management activities and administration of the NARs. However, these programs do not adequately address the threats to the listed plant species on their lands. In addition, there are no comprehensive management plans for the long-term conservation of endangered and threatened plants on these lands, no updated detailed reports on management actions conducted, and no assurances that management actions will be implemented. Therefore, we cannot, at this time, find that management on these State lands is adequate to preclude a proposed designation of critical habitat.

Partnership (Federal-State-Private) Lands

Koolau Mountains Watershed Partnership

Thirty-five species (*Bonamia menziesii, Chamaesyce deppeana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea humboldtiana, Cyanea koolauensis, Cyanea st.-johnii, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Diellia erecta, Eugenia koolauensis, Gardenia mannii, Hesperomannia arborescens, Isodendrion longifolium, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia oahuensis, Lysimachia filifolia, Melicope lydgatei, Myrsine juddii, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia parviflora, Plantago princeps, Pteris lidgatei, Sanicula purpurea, Schiedea kaalae, Tetraplasandra gymnocarpa, Trematolobelia singularis*, and *Viola oahuensis*) are reported from the Koolau Mountains Watershed Management lands owned by State, Federal, and private entities on Oahu (GDSI Database 2001; HINHP Database 2001). In an effort to better protect native biological resources, landowners and other interested parties established a voluntary partnership to cooperatively manage some of the lands within the Koolau Mountains. The partnership cooperative agreement, signed in 1999, indicates the shared interest in the joint management of threats shared by the landowners involved. The partnership is completing a natural resources management plan that will include, feral animal and alien plant control measures, collaborative research projects, and habitat protection and restoration (Craig Rowland, Service, pers. comm., 2001). Because no management plan is developed yet, management has been implemented only in small areas, and there is no long-term commitment of funding, we cannot, at this time, find that management on these lands is adequate to preclude a proposed designation of critical habitat.

Opaeula Watershed Protection Project

The partners in this effort are Kamehameha Schools, the Army, DOFAW, and the Service. The project, located on land owned by Kamehameha Schools in the Koolau Mountains, entails construction of an ungulate exclusion fence and removal of ungulates from within the 61 ha (150 ac) enclosure. The wet summit crest shrubland and forest within the enclosure contains four of the 99 species: *Chamaesyce rockii, Cyrtandra viridiflora, Myrsine juddii*, and *Viola oahuensis* (C. Rowland, pers. comm., 2002). Because there is no management plan and no long-term commitment of funding, we cannot, at this time, find that management on this land is adequate to preclude a proposed designation of critical habitat.

Waianae Mountains Feral Goat Management Group

The Waianae Mountains Feral Goat Management Group is a voluntary group composed of 12 Federal, State, and county agencies and private organizations with the mission of "* * * working together cooperatively to manage feral goats for the protection of Hawaiian plants, animals, watersheds, and ecosystems." The group has developed short-term goals and has ongoing projects regarding feral goat control in the Waianae Mountains, but has no detailed plan and no long-term funding, or jurisdiction other than on the lands of each participating agency or organization. In addition, the group is only addressing one of the many threats to endangered plants in the Waianae Mountains. Therefore, we cannot, at this time, find that management on these lands is adequate to preclude a proposed designation of critical habitat.

Private Lands

Honouliuli Preserve

The Honouliuli Preserve is a 1,494 ha (3,692 ac) preserve managed by TNCH through a long-term lease with the landowner, the Estate of James Campbell. Several rare native plant communities and endangered animals, along with 25 plant species (*Abutilon sandwicense, Alectryon macrococcus, Cenchrus agrimonioides, Chamaescye herbstii, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Delissea subcordata, Diellia falcata, Diellia unisora, Flueggea neowawraea, Gardenia mannii, Hesperomannia arbuscula, Lipochaeta lobata* var. *leptophylla, Melicope saint-johnii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Schiedea hookeri, Schiedea kaalae, Stenogyne kanehoana, Tetramolopium lepidotum* ssp. *lepidotum*, and *Urera kaalae*). TNCH has developed a management plan for the preserve that includes ungulate control, rodent control, weed control, fire control, and reintroduction of endangered and other rare plant species (TNCH 1997). Some of the management actions identified have been implemented and have proven beneficial to populations of some species, and a new plan is currently being developed to incorporate more rare plant management and reintroduction actions (TNCH, *in litt.* 2000; Trae Menard, TNCH, pers. comm., 2001). However, these actions do not adequately address the on-going threats to the listed plant species on this land. In addition, there is currently no guarantee of long-term funding for ongoing or future management actions. Therefore, we cannot, at this time, find that management on these private lands is adequate to preclude a proposed designation of critical habitat.

Ihiihilauakea Preserve

TNCH also manages the Ihiihilauakea Preserve on Oahu, through a conservation agreement with the City and County of Hawaii. This preserve harbors one endangered species, *Marsilea villosa*. There is an existing management plan for the site (TNCH 1990), and a new site restoration plan is being developed that will involve turning the preserve over to a local community group for volunteer management. TNCH has conducted periodic weed control efforts at this site, but there is no long-term commitment of funds for adequate management (T. Menard, pers. comm., 2001). Therefore, for these reasons we cannot, at this time, find that management on these lands is adequate to preclude a proposed designation of critical habitat.

If we receive information during the public comment period that any of the lands within the proposed designations are actively managed to promote the conservation and recovery of the 99 listed species at issue in this proposed designation, in accordance with long term conservation management plans or agreements, and there are assurances that the proposed management actions will be implemented and effective, we can consider this information when making a final determination of critical habitat.

In addition, we are aware that other private landowners and the State of Hawaii are considering the development of land management plans or agreements that may promote the conservation and recovery of endangered and threatened plant species on the island of Oahu. We support these efforts and provide technical assistance whenever possible. We are also soliciting comments on whether future development and approval of conservation measures (*e.g.*, Habitat Conservation Plans, Conservation Agreements, Safe Harbor Agreements) should trigger revision of designated critical habitat to exclude such lands and, if so, by what mechanism.

The proposed critical habitat units described below constitute our best assessment of the physical and biological features needed for the conservation of the 99 plant species, and the special management needs of these species, and are based on the best scientific and commercial information available and described above. We put forward this proposal acknowledging that we may have incomplete information regarding many of the primary biological and physical requirements for these species. However, both the Act and the relevant court order requires us to proceed with designation at this time based on the best information available. As new information accrues, we may reevaluate which areas warrant critical habitat designation. We anticipate that comments received through the public review process and from any public hearings, if requested, will provide us with additional information to use in our decision making process and in assessing the potential impacts of designating critical habitat for one or more of these species.

The approximate areas of proposed critical habitat by landownership or jurisdiction are shown in Table 4.

TABLE 4.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA BY UNIT AND LAND OWNERSHIP OR JURISDICTION, HONOLULU COUNTY, OAHU [1].

Unit name	State/local	Private	Federal	Total
Oahu A	5,778 ha (14,278 ac)	1,901 ha (4,698 ac)	824 ha (2,036 ac)	8,503 ha (21,013 ac)
Oahu B	34 ha (83 ac)			34 ha (83 ac)
Oahu C	14 ha (35 ac)			14 ha (35 ac)
Oahu D	110 ha (271 ac)			110 ha (271 ac)
Oahu E	38 ha (94 ac)			38 ha (94 ac)
Oahu F	44 ha (109 ac)		37 ha (91 ac)	81 ha (200 ac)
Oahu G			16 ha (40 ac)	16 ha (40 ac)
Oahu H			28 ha (68 ac)	28 ha (68 ac)
Oahu I	1,138 ha (2,813 ac)	3,056 ha (7,552 ac)	914 ha (2,258 ac)	5,109 ha (12,623 ac)
Oahu J			10 ha (25 ac)	10 ha (25 ac)
Oahu K			7 ha (18 ac)	7 ha (18 ac)
Oahu L	7,938 ha (19,617 ac)	21,170 ha (52,313 ac)	960 ha (2,371 ac)	30,068 ha (74,301 ac)
Oahu M	<1 ha (<1 ac)	99 ha (245 ac)		100 ha (246 ac)
Oahu N	5 ha (12 ac)			5 ha (12 ac)
Oahu O	184 ha (455 ac)	247 ha (611 ac)		431 ha (1,066 ac)
Oahu P	2 ha (3 ac)			2 ha (3 ac)

TABLE 4.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA BY UNIT AND LAND OWNERSHIP OR JURISDICTION, HONOLULU COUNTY, OAHU [1].—Continued

Unit name	State/local	Private	Federal	Total
Oahu Q	1 ha (3 ac)			1 ha (3 ac)
Oahu R	6 ha (15 ac)			6 ha (15 ac)
Oahu S	4 ha (12 ac)			4 ha (12 ac)
Oahu T	4 ha (9 ac)			4 ha (9 ac)
Oahu U	27 ha (67 ac)			27 ha (67 ac)
Oahu V	4 ha (10 ac)			4 ha (10 ac)
Oahu W	339 ha (839 ac)	<1 ha (<1 ac)		340 ha (840 ac)
Oahu X1	117 ha (290 ac)			117 ha (290 ac)
Oahu X2	8 ha (21 ac)			8 ha (21 ac)
Total	15,797 ha (39,037 ac)	26,474 ha (65,420 ac)	2,796 ha (6,907 ac)	45,067 ha (111,364 ac)

[1] Area differences due to digital mapping discrepancies between TMK data (GDSI 2000) and USGS coastline, or differences due to rounding.

Proposed critical habitat includes habitat for 99 species under private, State, and Federal jurisdiction (owned and leased lands), with Federal lands including lands managed by the Department of Defense and the Service. Lands proposed as critical habitat have been divided into 25 units (Oahu A through Oahu X) on the island of Oahu. A brief description of each unit is presented below.

Descriptions of Critical Habitat Units

Oahu A

The proposed unit Oahu A provides occupied habitat for 58 species: *Abutilon sandwicense, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menzeisii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce herbstii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea grimesiana* ssp. *obatae, Cyanea longiflora, Cyanea superba, Cyperus trachysanthos, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Fluggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia niihauensis, Melicope pallida, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme, Urera kaalae*, and *Viola chamissoniana* ssp. *chamissoniana*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu and provides habitat to support one or more of the 8 to 10 populations and 100 mature individuals per population for *Alectryon macrococcus, Colubrina oppositifolia, Flueggea neowawraea, Hesperomannia arborescens, Hesperomannia arbuscula, Melicope pallida, Schiedea nuttallii*, and *Vigna o-wahuensis;* or 300 mature individuals per population for *Abutilon sandwicense, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menzeisii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce herbstii, Ctenitis squamigera, Cyanea acuminata, Cyanea grimesiana* ssp. *obatae, Cyanea longiflora, Cyanea superba, Cyperus trachysanthos, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis degeneri, Hedyotis parvula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia niihauensis, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Sesbania tomentosa, Silene lanceolata, Tetramolopium filiforme, Urera kaalae*, and *Viola chamissoniana* ssp. *chamissoniana;* or 500 mature individuals per population for *Spermolepis hawaiiensis*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for seven species: *Diplazium molokaiense, Isodendrion pyrifolium, Mariscus pennatiformis, Solanum sandwicense, Stenogyne kaneohoana, Tetramolopium lepidotum* ssp. *lepidotum*, and *Vigna o-wahuense*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 100 mature individuals per population for *Vigna o-wahuense*, or 300 mature individuals per population for *Diplazium molokaiense, Isodendrion pyrifolium, Mariscus pennatiformis, Solanum sandwicense, Stenogyne kaneohoana*, and *Tetramolopium lepidotum* ssp. *lepidotum*, throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu A).

This unit contains a total of 8,503 ha (21,013 ac) on State (Kuaokala Game Management Area, Kaena Point Natural Area Reserve and State Park, Kaala Natural Area Reserve, Waianae Kai Forest Reserve, Makua Keauu Forest Reserve, Mokuleia Forest Reserve, and Pahole Natural Area Reserve), Federal (Makua Military Reservation, Schofield Barracks Military Reservation, and Dillingham Military Reservation), and private lands. The natural features found in this unit are Kaneana Cave, Manini Pali, Alei Pali, Kauhao Pali, Mahoe Pali, Peacock Flat, Kamaileunu

Ridge, Kaala, Kamaile Heiau summit, Kaupakuhale summit, Puu Pueo, Puu Iki, Puu Pane, Kamaohanui summit, Puu Kamaileunu, Puu Kawiwi, Puu Kepauala, Puu Keaau, Alau Gulch, Haili Gulch, Uluhulu Gulch, and Nihoa Gulch.

The following key should be used for critical habitat units Oahu A through Oahu X tables:

Key:

1. This unit is needed to meet the recovery plan objectives of 8 to 10 viable populations (self perpetuating and sustaining for at least 5 years) with 100 to 500 mature, reproducing individuals per species throughout its historical range as specified in the recovery plans.
2. Island endemic.
3. Multi-island species with current locations on other islands.
4. Multi-island species with no current locations on other islands.
5. Current locations do not necessarily represent viable populations with the required number of mature individuals.
6. Several current locations may be affected by one naturally occurring, catastrophic event.
7. Species with variable habitat requirements, usually over wide areas. Wide ranging species require more space per individual over more land area to provide needed primary constituent elements to maintain healthy population size.
8. Not all currently occupied habitat was determined to be essential to the recovery of the species.
9. Life history, long-lived perennial–100 mature, reproducing individuals per population.
10. Life history, short-lived perennial–300 mature, reproducing individuals per population.
11. Life history, annual–500 mature, reproducing individuals per population.
12. Narrow endemic, the species probably never naturally occurred in more than a single or a few populations.
13. Species has extremely restricted, specific habitat requirements.
14. Hybridization is possible so distinct populations of related species should not overlap, requiring more land area.

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Table for Oahu A

Species	1. 8–10 pop. guidelines	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction	7. Species with variable habitats.	8. Not all occupied habitat needed	9. Long-lived perennial–100/pop.	10. Short-livedperennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements	14. Hybridization is possible.
Abutilon sandwicense	X	X			X	X	X	X						X
Alectryon macrococcus	X *		X		X	X	X	X	X					
Alsinidendron obovatum	X *	X			X	X	X			X				
Alsinidendron trinerve	X *	X			X	X	X			X				
Bonamia menziesii	X *		X		X		X			X				

Notes

Species	*Species is wide ranging, each island was probably one large, population.	*Not enough suitable habitat for 8 to 10 pops	*Not enough suitable habitat for 8 to 10 pops	*Species is wide ranging, each island was probably one large, population.
Abutilon sandwicense				
Alectryon macrococcus				
Alsinidendron obovatum			X	
Alsinidendron trinerve			X	
Bonamia menziesii				

Cenchrus agrimonioides	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Centaurium sebaeoides	X*		X		X	X					X		X**		*Species is wide ranging, each island was probably one large, population. **volcanic or clay soils
Chamaesyce celastroides var. kaenana	X*	X			X	X	X	X		X					*Not enough suitable habitat for 8 to 10 pops
Chamaesyce herbstii	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Colubrina oppositifolia	X*		X		X	X	X		X						*Species is wide ranging, each island was probably one large, population.
Ctenitis squamigera	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Cyanea acuminata	X	X			X	X	X	X		X					
Cyanea grimesiana ssp. obatae	X	X			X	X	X			X					
Cyanea longiflora	X	X			X	X	X			X					
Cyanea superba	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops

Cyperus trachysanthos	X*		X		X					X			X**		*Species is wide ranging, each island was probably one large, population. **wet sites (mud flats, wet clay soil, seasonal ponds, or wet cliff seeps) on coastal cliffs or talus slopes
Cyrtandra dentata	X	X			X	X	X			X				X	
Delissea subcordata	X	X			X	X	X	X		X					
Diellia falcata	X*	X			X	X	X	X		X				X	*Species is wide ranging, each island was probably one large, population.
Diplazium molokaiense	X*		X**		X**					X			X**		*Species is wide ranging, each island was probably one large, population. **Historical on Oahu ***Steep rocky wooded gulch walls in wet forests.
Dubautia herbstobatae	X*	X			X	X	X			X				X	*Not enough suitable habitat for 8 to10 pops.
Eragrostis fosbergii	X*	X			X	X	X			X		X			*Species is wide ranging, each island was probably one large, population.

Eugenia koolauensis	X*			X	X	X	X		X						*Species is wide ranging, each island was probably one large, population.
Euphorbia haeleeleana	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Flueggea neowawraea.	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.
Gardenia mannii	X*	X			X	X	X	X		X				X	*Species is wide ranging, each island was probably one large, population.
Gouania meyenii	X		X		X	X	X			X					
Gouania vitifolia	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Hedyotis degeneri	X*	X			X	X				X			X**		*Not enough suitable habitat for 8 to 10 pops **Ridge crests.
Hedyotis parvula	X	X			X	X				X			X*		*On and at the base of cliff faces, rock outcrops, and ledges.
Hesperomannia arborescens	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.

Hesperomannia arbuscula	X*		X		X	X	X		X						*Species is wide ranging, each island was probably one large, population.
Hibiscus brackenridgei	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Isodendrion laurifolium	X		X		X	X	X			X				X	
Isodendrion longifolium	X		X		X	X	X			X				X	
Isodendrion pyrifolium	X		X*		X*		X			X					*Historical on Oahu
Labordia cyrtandrae	X	X			X	X	X			X					
Lepidium arbuscula	X	X			X	X		X		X			X*		*Exposed ridge tops and cliff faces.
Lipochaeta lobata var. leptophylla	X	X			X	X	X			X					
Lipochaeta tenuifolia	X	X			X	X		X		X			X*		*Ridgetops and bluffs.
Lobelia niihauensis	X*		X		X	X		X			X		X**		*Species is wide ranging, each island was probably one large, population. **Exposed mesic or dry cliffs and ledges.
Mariscus pennatiformis	X		X*		X*		X			X					*Historical on Oahu
Melicope pallida	X		X		X	X			X				X*		*Steep rock faces.
Neraudia angulata	X	X			X		X	X		X					

Nototrichium humile	X			X	X	X	X	X		X					
Peucedanum sandwicense	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.
Phyllostegia hirsuta	X	X			X	X	X	X		X				X	
Phyllostegia kaalaensis	X	X			X	X	X			X				X	
Phyllostegia mollis	X		X		X	X	X	X		X				X	
Plantago princeps	X		X		X					X			X*		*Sides of waterfalls and wet rock faces.
Sanicula mariversa	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Schiedea hookeri	X*			X	X	X	X	X		X					*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Schiedea kaalae	X	X			X	X	X	X		X					
Schiedea kealiae	X*	X			X	X				X		X	X**		*Not enough suitable habitat for 8 to 10 pops **Steep slopes and cliff faces and bases in dry remnant Erythrina sandwicensis forest.
Schiedea nuttallii	X		X		X	X	X			X					
Sesbania tomentosa	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.

Silene lanceolata	X		X		X	X				X			X*		*Cliff faces and ledges of gullies in dry to mesic shrubland and cliff communities.
Solanum sandwicense	X		X*										X**		*Historical on Oahu **Talus slopes and in streambeds in open, sunny areas.
Spermolepis hawaiiensis	X*		X		X	X					X		X**		*Species is wide ranging, each island was probably one large, population. **Steep–vertical cliffs or at the base of cliffs and ridges in coastal dry cliff vegetation.
Stenogyne kanehoana	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Tetramolopium filiforme	X*	X			X	X		X		X				X	*Not enough suitable habitat for 8 to 10 pops
Tetramolopium lepidotum ssp. lepidotum	X*			X	X	X	X	X		X				X	*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Urera kaalae	X	X			X	X	X			X					

| | | |

Table for Oahu B

Species	Bonamia menziesii	Euphorbia haeleeleana	Gouania vitifolia	Hibiscus brackenridgei	Isodendrion pyrifolium	Neraudia angulata	Nototrichium humile
1. 8–10 pop. guidelines	X *	X *	X *	X *	X	X	X
2. Island endemic.						X	
3. Multi-island/current other islands.	X	X	X	X	X*		
4. Multi-island/no current other islands.							X
5. Non-viable populations.	X	X	X	X	X *	X	X
6. Several occ. vulnerable to destruction		X	X	X			X
7. Species with variable habitats.	X	X	X	X	X	X	X
8. Not all occupied habitat needed	X					X	X
9. Long-lived perennial–100/pop.							
10. Short-livedperennial–300/pop.	X	X	X	X	X	X	X
11. Annual–500/pop.							
12. Narrow endemic.							
13. Restricted habitat requirements							
14. Hybridization is possible.							
Notes	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.	*Historical on Oahu		

Oahu C

The proposed unit Oahu C provides occupied habitat for one species: *Bonamia menzeisii*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for *Bonamia menzeisii*, throughout its known historical range considered by the recovery plan to be necessary for the conservation of this species (see the discussion of conservation requirements in Section D, and in the table for Oahu C).

This unit contains a total of 14 ha (35 ac) on State lands (Kuaokala Forest Reserve and Kuaokala Game Management Area).

Table for Oahu C

Species	*Species is wide ranging, each island was probably one large, population.
Bonamia menziesii	
14. Hybridization is possible.	
13. Restricted habitat requirements	
12. Narrow endemic.	
11. Annual–500/pop.	
10. Short-livedperennial–300/pop.	X
9. Long-lived perennial–100/pop.	
8. Not all occupied habitat needed	X
7. Species with variable habitats.	X
6. Several occ. vulnerable to destruction	
5. Non-viable populations.	X
4. Multi-island/no current other islands.	
3. Multi-island/current other islands.	X
2. Island endemic.	
1. 8–10 pop. guidelines	X *

Oahu D

The proposed unit Oahu D provides occupied habitat for five species: *Bonamia menzeisii, Euphorbia haeleeleana, Neraudia angulata, Nototrichium humile,* and *Schiedea hookeri.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for these species throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for four species: *Chamesyce celastroides* var. *kaenana, Hibiscus brackenridgei, Isodendrion pyrifolium,* and *Gouania vitifolia.* Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals per population for these species throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu D).

This unit contains a total of 110 ha (271 ac) on State (Kuaokala Forest Reserve and Kaena Point State Park) and Federal (Makua Military Reservation) lands. The natural features found in this unit are Kaluakauila Stream and Punapohaku Stream.

Table for Oahu D

Species	Notes	*Species is wide ranging, each island was probably one large, population.	*Not enough suitable habitat for 8 to 10 pops	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.
Bonamia menziesii	1. 8–10 pop. guidelines	X *	X *	X *	X *
	2. Island endemic.		X		
	3. Multi-island/current other islands.	X		X	X
	4. Multi-island/no current other islands.				
	5. Non-viable populations.	X	X	X	X
	6. Several occ. vulnerable to destruction		X	X	X
	7. Species with variable habitats.	X	X	X	X
	8. Not all occupied habitat needed	X	X		
	9. Long-lived perennial–100/pop.				
	10. Short-livedperennial–300/pop.	X	X	X	X
	11. Annual–500/pop.				
	12. Narrow endemic.				
	13. Restricted habitat requirements				
	14. Hybridization is possible.				
Chamaesyce celastroides var. kaenana	1. 8–10 pop. guidelines	X *	X *	X *	X *
	2. Island endemic.		X		
	3. Multi-island/current other islands.	X		X	X
	4. Multi-island/no current other islands.				
	5. Non-viable populations.	X	X	X	X
	6. Several occ. vulnerable to destruction		X	X	X
	7. Species with variable habitats.	X	X	X	X
	8. Not all occupied habitat needed	X	X		
	9. Long-lived perennial–100/pop.				
	10. Short-livedperennial–300/pop.	X	X	X	X
	11. Annual–500/pop.				
	12. Narrow endemic.				
	13. Restricted habitat requirements				
	14. Hybridization is possible.				
Euphorbia haeleeleana	1. 8–10 pop. guidelines	X *	X *	X *	X *
	2. Island endemic.		X		
	3. Multi-island/current other islands.	X		X	X
	4. Multi-island/no current other islands.				
	5. Non-viable populations.	X	X	X	X
	6. Several occ. vulnerable to destruction		X	X	X
	7. Species with variable habitats.	X	X	X	X
	8. Not all occupied habitat needed	X	X		
	9. Long-lived perennial–100/pop.				
	10. Short-livedperennial–300/pop.	X	X	X	X
	11. Annual–500/pop.				
	12. Narrow endemic.				
	13. Restricted habitat requirements				
	14. Hybridization is possible.				
Gouania vitifolia	1. 8–10 pop. guidelines	X *	X *	X *	X *
	2. Island endemic.		X		
	3. Multi-island/current other islands.	X		X	X
	4. Multi-island/no current other islands.				
	5. Non-viable populations.	X	X	X	X
	6. Several occ. vulnerable to destruction		X	X	X
	7. Species with variable habitats.	X	X	X	X
	8. Not all occupied habitat needed	X	X		
	9. Long-lived perennial–100/pop.				
	10. Short-livedperennial–300/pop.	X	X	X	X
	11. Annual–500/pop.				
	12. Narrow endemic.				
	13. Restricted habitat requirements				
	14. Hybridization is possible.				

Species	Notes	*Species is wide ranging, each island was probably one large, population.	*Historical on Oahu			*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Hibiscus brackenridgei	1. 8–10 pop. guidelines	X *		X	X	X
	2. Island endemic.		X*			
	3. Multi-island/current other islands.	X		X	X	X
	4. Multi-island/no current other islands.				X	X
	5. Non-viable populations.	X	X *	X	X	X
	6. Several occ. vulnerable to destruction				X	X
	7. Species with variable habitats.	X	X	X	X	X
	8. Not all occupied habitat needed	X	X			
	9. Long-lived perennial–100/pop.					
	10. Short-livedperennial–300/pop.	X	X	X	X	X
	11. Annual–500/pop.					
	12. Narrow endemic.					
	13. Restricted habitat requirements					
	14. Hybridization is possible.					
Isodendrion pyrifolium	1. 8–10 pop. guidelines	X		X	X	X
	2. Island endemic.					
	3. Multi-island/current other islands.	X		X	X	X
	4. Multi-island/no current other islands.					
	5. Non-viable populations.	X		X	X	X
	6. Several occ. vulnerable to destruction				X	X
	7. Species with variable habitats.	X		X	X	X
	8. Not all occupied habitat needed	X		X	X	X
	9. Long-lived perennial–100/pop.					
	10. Short-livedperennial–300/pop.	X		X	X	X
	11. Annual–500/pop.					
	12. Narrow endemic.					
	13. Restricted habitat requirements					
	14. Hybridization is possible.					
Neraudia angulata	1. 8–10 pop. guidelines	X		X	X	X
	2. Island endemic.	X				
	3. Multi-island/current other islands.					
	4. Multi-island/no current other islands.				X	X
	5. Non-viable populations.	X		X	X	X
	6. Several occ. vulnerable to destruction				X	X
	7. Species with variable habitats.	X		X	X	X
	8. Not all occupied habitat needed	X		X	X	X
	9. Long-lived perennial–100/pop.					
	10. Short-livedperennial–300/pop.	X		X	X	X
	11. Annual–500/pop.					
	12. Narrow endemic.					
	13. Restricted habitat requirements					
	14. Hybridization is possible.					
Nototrichium humile	1. 8–10 pop. guidelines	X		X	X	X
	2. Island endemic.					
	3. Multi-island/current other islands.					
	4. Multi-island/no current other islands.				X	X
	5. Non-viable populations.	X		X	X	X
	6. Several occ. vulnerable to destruction				X	X
	7. Species with variable habitats.	X		X	X	X
	8. Not all occupied habitat needed	X		X	X	X
	9. Long-lived perennial–100/pop.					
	10. Short-livedperennial–300/pop.	X		X	X	X
	11. Annual–500/pop.					
	12. Narrow endemic.					
	13. Restricted habitat requirements					
	14. Hybridization is possible.					
Schiedea hookeri	1. 8–10 pop. guidelines	X *		X	X	X
	2. Island endemic.					
	3. Multi-island/current other islands.					
	4. Multi-island/no current other islands.				X	X
	5. Non-viable populations.	X		X	X	X
	6. Several occ. vulnerable to destruction				X	X
	7. Species with variable habitats.	X		X	X	X
	8. Not all occupied habitat needed	X		X	X	X
	9. Long-lived perennial–100/pop.					
	10. Short-livedperennial–300/pop.	X		X	X	X
	11. Annual–500/pop.					
	12. Narrow endemic.					
	13. Restricted habitat requirements					
	14. Hybridization is possible.					

Oahu E

The proposed unit Oahu E provides occupied habitat for one species: *Chamaesyce kuwaleana*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population, throughout its known historical range considered by the recovery plan to be necessary for the conservation of the species (see the discussion of conservation requirements in Section D, and in the table for Oahu E).

This unit contains a total of 38 ha (94 ac) on State land. The natural features found in this unit are Mauna Kuwale and Paheehee Ridge.

Table for Oahu E

Species	*Not enough suitable habitat for 8 to 10 pops
Chamaesyce kuwaleana	
1. 8–10 pop. guidelines	X *
2. Island endemic.	X
3. Multi-island/current other islands.	
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed	
9. Long-lived perennial–100/pop.	
10. Short-livedperennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements	
14. Hybridization is possible.	

Notes

Oahu F

The proposed unit Oahu F provides occupied habitat for one species: *Chamaesyce kuwaleana*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population, throughout its known historical range considered by the recovery plan to be necessary for the conservation of the species. This unit also provides unoccupied habitat for one species: *Isodendrion pyrifolium*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for this species of 8 to 10 populations and 300 mature individuals throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu F).

This unit contains a total of 81 ha (200 ac) on State (Waianae Kai Forest Reserve) and Federal (Lualualei Naval Magazine) lands. The natural feature found in this unit is Kauaopuu.

Table for Oahu F

Species	*Chamaesyce kuwaleana*	*Isodendrion pyrifolium*
1. 8–10 pop. guidelines	X *	X
2. Island endemic.	X	
3. Multi-island/current other islands.		X*
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X *
6. Several occ. vulnerable to destruction	X	
7. Species with variable habitats.	X	X
8. Not all occupied habitat needed		
9. Long-lived perennial–100/pop.		
10. Short-livedperennial–300/pop.	X	X
11. Annual–500/pop.		
12. Narrow endemic.		
13. Restricted habitat requirements		
14. Hybridization is possible.		

Notes	*Not enough suitable habitat for 8 to 10 pops	*Historical on Oahu

Oahu G

The proposed unit Oahu G provides occupied habitat for two species: *Tetramolopium filiforme* and *Viola chamissoniana* ssp. *chamissoniana*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for these species throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Oahu G).

This unit contains a total of 16 ha (40 ac) on Federal land (Lualualei Naval Magazine and Schofield Barracks Military Reservation). The natural feature found in this unit is Puu Ku Makalii.

Table for Oahu G

Species	1. 8–10 pop. guidelines	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction	7. Species with variable habitats.	8. Not all occupied habitat needed	9. Long-lived perennial–100/pop.	10. Short-livedperennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements	14. Hybridization is possible.	Notes
Tetramolopium filiforme	X *	X			X	X		X		X				X	*Not enough suitable habitat for 8 to 10 pops
Viola chamissoniana ssp. chamissoniana	X	X			X	X	X	X		X					

Oahu H

The proposed unit Oahu H provides occupied habitat for one species: *Chamaesyce kuwaleana*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population, throughout its known historical range considered by the recovery plan to be necessary for the conservation of the species (see the discussion of conservation requirements in Section D, and in the table for Oahu H).

This unit contains a total of 28 ha (68 ac) on Federal land (Lualualei Naval Magazine). The natural feature found in this unit is Pūu Kailio.

Table for Oahu H

Species	Chamaesyce kuwaleana
1. 8–10 pop. guidelines	X •
2. Island endemic.	X
3. Multi-island/current other islands.	
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed	
9. Long-lived perennial–100/pop.	
10. Short-livedperennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements	
14. Hybridization is possible.	

Notes	*Not enough suitable habitat for 8 to 10 pops

Oahu I

The proposed unit Oahu I provides occupied habitat for 32 species: *Abutilon sandwicense, Alectryon macrococcus, Bonamia menzeisii, Cenchrus agrimonioides, Chamaesyce herbstii, Cyanea grimesiana* ssp. *obatae, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Diellia unisora, Fluggea neowawraea, Gardenia mannii, Hedyotis parvula, Hesperomannia arbuscula, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lobelia niihauensis, Melicope saint-johnii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Schiedea nuttallii, Stenogyne kanehoana, Tetramolopium lepidotum* ssp. *lepidotum, Urera kaalae,* and *Viola chamissoniana* ssp. *chamissoniana.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 100 mature individuals per population for *Alectryon macrococcus, Flueggea neowawraea, Hesperomannia arbuscula, Melicope saint-johnii,* and *Schiedea nuttallii;* or 300 mature individuals per population for *Abutilon sandwicense, Bonamia menzeisii, Cenchrus agrimonioides, Chamaesyce herbstii, Cyanea grimesiana* ssp. *obatae, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Diellia unisora, Gardenia mannii, Hedyotis parvula, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lobelia niihauensis, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Stenogyne kanehoana, Tetramolopium lepidotum* ssp. *lepidotum, Urera kaalae,* and *Viola chamissoniana* ssp. *chamissoniana,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for 10 species: *Alsinidendron obovatum, Chamaesyce kuwaleana, Cyanea pinnatifida, Gouania meyenii, Hedyotis coriacea, Hibiscus brackenridgei, Isondendrion pyrifolium, Melicope pallida, Silene perlmanii, and Solanum sandwicense.* Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 100 mature individuals per population for *Melicope pallida;* or 300 mature individuals per population for *Alsinidendron obovatum, Chamaesyce kuwaleana, Cyanea pinnatifida, Gouania meyenii, Hedyotis coriacea, Hibiscus brackenridgei, Isondendrion pyrifolium, Silene perlmanii,* and *Solanum sandwicense,* throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu I).

This unit contains a total of 5,109 ha (12,623 ac) on State (Nanakuli Forest Reserve), Federal (Lualualei Naval Magazine and Schofield Barracks Military Reservation), City and County of Honolulu, and private (Honouliuli Preserve) lands. The natural features found in this unit are Pohakea Pass, Akupu, Palehua, Palikea Ridge, Maunauna summit, Palikea summit, Mauna Kapu, Puu Heleakala, Puu Kaua, Puu Hapapa, Puu Kuua, Puu Kanehoa, Puu Manawahua, Puu Poulihale, and Puu Moopuna.

Table for Oahu I

Species	Abutilon sandwicense	Alectryon macrococcus	Alsinidendron obovatum	Bonamia menziesii	Cenchrus agrimonioides
1. 8–10 pop. guidelines	X	X •	X •	X •	X •
2. Island endemic.	X		X		
3. Multi-island/current other islands.		X		X	X
4. Multi-island/no current other islands.					
5. Non-viable populations.	X	X	X	X	X
6. Several occ. vulnerable to destruction	X	X	X		X
7. Species with variable habitats.	X	X	X	X	X
8. Not all occupied habitat needed	X	X		X	
9. Long-lived perennial–100/pop.		X			
10. Short-livedperennial–300/pop.	X		X	X	X
11. Annual–500/pop.					
12. Narrow endemic.					
13. Restricted habitat requirements					
14. Hybridization is possible.	X				
Notes		•Species is wide ranging, each island was probably one large, population.	•Not enough suitable habitat for 8 to 10 pops	•Species is wide ranging, each island was probably one large, population.	•Species is wide ranging, each island was probably one large, population.

Chamaesyce herbstii	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Chamaesyce kuwaleana	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Cyanea grimesiana ssp. obatae	X	X			X	X	X			X					
Cyanea pinnatifida	X*	X			X**		X			X					*Not enough suitable habitat for 8 to 10 pops **Extirpated in wild but genetic material available
Cyrtandra dentata	X	X			X	X	X			X				X	
Delissea subcordata	X	X			X	X	X	X		X					
Diellia falcata	X*	X			X	X	X	X		X				X	*Species is wide ranging, each island was probably one large, population.
Diellia unisora	X*	X			X	X	X			X				X	*Species is wide ranging, each island was probably one large, population.
Flueggea neowawraea	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.
Gardenia mannii	X*	X			X	X	X	X		X				X	*Species is wide ranging, each island was probably one large, population.
Gouania meyenii	X		X		X	X	X			X					

Hedyotis coriacea	X		X*		X*					X			X**		*Historical on Oahu **Steep, rocky, slopes.
Hedyotis parvula	X	X			X	X				X			X*		*On and at the base of cliff faces, rock outcrops, and ledges.
Hesperomannia arbuscula	X*		X		X	X	X		X						*Species is wide ranging, each island was probably one large, population.
Hibiscus brackenridgei	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Isodendrion pyrifolium	X		X*		X*		X			X					*Historical on Oahu
Lepidium arbuscula	X	X			X	X		X		X			X*		*Exposed ridge tops and cliff faces.
Lipochaeta lobata var. leptophylla	X	X			X	X	X			X					
Lobelia niihauensis	X*		X		X	X		X			X		X**		*Species is wide ranging, each island was probably one large, population. **Exposed mesic or dry cliffs and ledges.
Melicope pallida	X		X		X	X			X				X*		*Steep rock faces.
Melicope saint-johnii	X*	X			X	X	X		X						*Species is wide ranging, each island was probably one large, population.
Neraudia angulata	X	X			X		X	X		X					

Phyllostegia hirsuta	X	X			X	X	X	X		X				X	
Phyllostegia kaalaensis	X	X			X	X	X			X				X	
Phyllostegia mollis	X		X		X	X	X	X		X				X	
Phyllostegia parviflora	X*			X	X	X	X			X				X	*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Plantago princeps	X		X		X					X			X*		*Sides of waterfalls and wet rock faces.
Sanicula mariversa	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Schiedea hookeri	X*			X	X	X	X	X		X					*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Schiedea kaalae	X	X			X	X	X	X		X					
Schiedea nuttallii	X		X		X	X	X			X					
Silene perlmanii	X*	X*			X*					X		X	X**		*Not enough suitable habitat for 8 to 10 pops **Extirpated but genetic material available. ***Steep rocky slopes.
Solanum sandwicense	X		X*										X**		*Historical on Oahu **Talus slopes and in streambeds in open, sunny areas.
Stenogyne kanehoana	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Tetramolopium lepidotum ssp. lepidotum	X*			X	X	X	X	X		X				X	*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Urera kaalae	X	X			X	X	X			X					
Viola chamissoniana ssp. chamissoniana	X	X			X	X	X	X		X					

Oahu J

The proposed unit Oahu J provides occupied habitat for one species: *Marsilea villosa*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more of the 6 populations throughout its known historical range considered by the recovery plan to be necessary for the conservation of the species (see the discussion of conservation requirements in Section D, and in the table for Oahu J).

This unit contains a total of 10 ha (25 ac) on Federal land (Lualualei Naval Magazine).

Table for Oahu J

Species	Marsilea villosa
	*Recovery goal is 6 populations **Seasonal wetlands in cinder craters, vernal pools surrounded by lowland dry forest vegetation, mud flats, and lowland grasslands.
1. 8–10 pop. guidelines	X *
2. Island endemic.	
3. Multi-island/current other islands.	X
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction	X
7. Species with variable habitats.	
8. Not all occupied habitat needed	
9. Long-lived perennial–100/pop.	
10. Short-livedperennial–300/pop.	
11. Annual–500/pop.	X
12. Narrow endemic.	
13. Restricted habitat requirements	X**
14. Hybridization is possible.	
Notes	

Oahu K

The proposed unit Oahu K provides occupied habitat for one species: *Marsilea villosa*. It is proposed for designation because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more of the 6 populations throughout its known historical range considered by the recovery plan to be necessary for the conservation of the species (see the discussion of conservation requirements in Section D, and in the table for Oahu K).

This unit contains a total of 7 ha (18 ac) on Federal land (Lualualei Naval Magazine).

Table for Oahu K

Species	Marsilea villosa
Notes	*Recovery goal is 6 populations. **Seasonal wetlands in cinder craters, vernal pools surrounded by lowland dry forest vegetation, mud flats, and lowland grasslands.
14. Hybridization is possible.	
13. Restricted habitat requirements	X**
12. Narrow endemic.	
11. Annual–500/pop.	X
10. Short-livedperennial–300/pop.	
9. Long-lived perennial–100/pop.	
8. Not all occupied habitat needed	
7. Species with variable habitats.	
6. Several occ. vulnerable to destruction	X
5. Non-viable populations.	X
4. Multi-island/no current other islands.	
3. Multi-island/current other islands.	X
2. Island endemic.	
1. 8–10 pop. guidelines	X*

BILLING CODE 4310–55–C

Oahu L

The proposed unit Oahu L provides occupied habitat for 35 species: *Bonamia menzeisii, Chamaesyce deppeana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea humbotiana, Cyanea koolauensis, Cyanea st.-johnii, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Diellia erecta, Eugenia koolauensis, Gardenia mannii, Hesperomannia arborescens, Isodendrion longifolium, Labordia cyrtandrae, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lysimachia filifolia, Melicope lydgatei, Myrsine juddii, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia parviflora, Plantago princeps, Pteris lydgatei, Sanicula purpurea, Schiedea kaalae, Tetraplasandra gymnocarpa, Trematalobelia singularis,* and *Viola oahuensiis.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 100 mature individuals per population for *Hesperomannia arborescens, Melicope lydgatei,* and *Tetraplasandra gymnocarpa;* or 300 mature individuals per population for *Bonamia menzeisii, Chamaesyce deppeana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea humbotiana, Cyanea koolauensis, Cyanea st.-johnii, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Diellia erecta, Eugenia koolauensis, Gardenia mannii, Isodendrion longifolium, Labordia cyrtandrae, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lysimachia filifolia, Myrsine juddii, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia parviflora, Plantago princeps, Pteris lydgatei, Sanicula purpurea, Schiedea kaalae, Trematalobelia singularis,* and *Viola oahuensiis,* throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for 10 species: *Adenophorus periens, Chamaesyce celastroides* var. *kaenana, Cyanea longiflora, Cyanea superba, Delissea subcordata, Hedyotis coriacea, Isodendrion laurifolium, Lobelia oahuensis, Platanthera holochila,* and *Solanum sandwicense.* Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals per population for these species throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu L).

This unit contains a total of 30,068 ha (74,301 ac) on State (Pupukea-Paumalu Forest Reserve, Hauula Forest Reserve, Sacred Falls State Park, Kaipapau Forest Reserve, Kahana Valley State Park, Ewa Forest Reserve, Waiahole Forest Reserve, Kaneohe Forest Reserve, Keaiwa Heiau State Recreation Area, Honolulu Watershed Forest Reserve, Kuliouou Forest Reserve, and Waahila Ridge State Park), Federal (Fort Shafter, Oahu Forest National Wildlife Refuge, Schofield Barracks Military Reservation, Kawailoa Training Area, and Kahuku Training Area), City and County of Honolulu, and private lands. The natural features found in this unit are Nuuanu Pali, Kaau Crater, Waipuhia Falls, Sacred Falls, Manoa Falls, Pauoa Flats, Waahila Ridge, Kulepiamoa Ridge, Mauumae Ridge, Kaumala Ridge, Wiliwilinui Ridge, Waiakeakua Stream, Naniuapo Stream, Waaloa Stream, Luaalaea Stream, Konahuanui summit, Mount Kawela, Kainawaaunui summit, Nanaikaalaea summit, Napuumaia summit, Puu Kaaumakua, Palikea summit, Puu Kainapuaa, Puu Kamana, Puu Kapu, Puu Kawipoo, Puu Keahia Kahoe, Puu Lanihuli, Puu Lanipo, Puu Nukohe, Puu o Kona, Puu Pauao, Puu Peahinaia, Puu Pia, Puu Uau, Puu Kahuauli, Eleao summit, Ulimakoli summit, Mount Olympus, and Laulaupoe Gulch.

BILLING CODE 4310–55–P

Table for Oahu L

Species	1. 8–10 pop. guidelines	2. Island endemic.	3. Multi-island/current other islands.	4. Multi-island/no current other islands.	5. Non-viable populations.	6. Several occ. vulnerable to destruction	7. Species with variable habitats.	8. Not all occupied habitat needed	9. Long-lived perennial–100/pop.	10. Short-livedperennial–300/pop.	11. Annual–500/pop.	12. Narrow endemic.	13. Restricted habitat requirements	14. Hybridization is possible.	Notes
Adenophorus periens	X*		X**		X**					X			X**		*Species is wide ranging, each island was probably one large, population. **Historical on Oahu ***epiphytically on trees
Bonamia menziesii	X*		X		X		X	X		X					*Species is wide ranging, each island was probably one large, population.
Chamaesyce celastroides var. kaenana	X*	X			X	X	X	X		X					*Not enough suitable habitat for 8 to 10 pops
Chamaesyce deppeana	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Chamaesyce rockii	X	X			X	X	X	X		X					
Cyanea acuminata	X	X			X	X	X	X		X					
Cyanea crispa	X	X			X	X	X	X		X					
Cyanea grimesiana ssp. grimesiana	X*		X		X	X	X	X		X					*Species is wide ranging, each island was probably one large, population.
Cyanea humboltiana	X	X			X	X	X	X		X					
Cyanea koolauensis	X	X			X	X	X			X					
Cyanea longiflora	X	X			X	X	X			X					
Cyanea st.-johnii	X	X			X	X	X			X					
Cyanea superba	X*	X			X	X	X			X					*Not enough suitable habitat for 8 to 10 pops
Cyanea truncata	X	X			X	X	X			X					
Cyrtandra dentata	X	X			X	X	X			X				X	
Cyrtandra polyantha	X*	X			X	X	X			X				X	*Not enough suitable habitat for 8 to 10 pops
Cyrtandra subumbellata	X*	X			X	X	X			X				X	*Not enough suitable habitat for 8 to 10 pops
Cyrtandra viridiflora	X	X			X	X		X		X			X*	X	*Wind-blown ridge tops in cloud-covered wet forest.
Delissea subcordata	X	X			X	X	X	X		X					

Diellia erecta	X*		X		X	X	X			X					*Species is wide ranging, each island was probably one large, population.
Eugenia koolauensis	X*			X	X	X	X		X						*Species is wide ranging, each island was probably one large, population.
Gardenia mannii	X*	X			X	X	X	X		X				X	*Species is wide ranging, each island was probably one large, population.
Hedyotis coriacea	X		X*		X*					X			X**		*Historical on Oahu **Steep, rocky, slopes.
Hesperomannia arborescens	X*		X		X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.
Isodendrion laurifolium	X		X		X	X	X			X				X	
Isodendrion longifolium	X		X		X	X	X			X				X	
Labordia cyrtandrae	X	X			X	X	X			X					
Lobelia gaudichaudii ssp. koolauensis	X	X			X	X	X			X					
Lobelia monostachya	X	X			X	X			X				X*		*Steep, sparsely vegetated cliffs in mesic shrubland.
Lysimachia filifolia	X		X		X	X				X			X*		*Mossy banks at the base of cliff faces within the spray zone of waterfalls or along streams.

Melicope lydgatei	X*	X			X	X	X	X	X						*Species is wide ranging, each island was probably one large, population.
Myrsine juddii	X	X			X	X	X		X						
Phlegmariurus nutans	X*			X	X	X				X			X**		*Species is wide ranging, each island was probably one large, population. **Tree trunks
Phyllostegia hirsuta	X	X			X	X	X	X		X				X	
Phyllostegia parviflora	X*			X	X	X	X			X				X	*Not enough suitable habitat for 8 to 10 pops (not done on other island in historic range)
Plantago princeps	X		X		X					X			X*		*Sides of waterfalls and wet rock faces.
Platanthera holochila	X		X*		X*		X			X					*Historical on Oahu
Pteris lydgatei	X*		X		X	X				X			X*		*Species is wide ranging, each island was probably one large, population. **Steep stream banks and cliffs.
Sanicula purpurea	X		X		X					X			X*		*Open Metrosideros polymorpha mixed montane bogs and windswept shrublands within the cloud zone.

	*Historical on Oahu **Talus slopes and in streambeds in open, sunny areas.	*Species is wide ranging, each island was probably one large, population.		
			X *	
	X* *			
X			X	X
		X		
X				
X		X		X
X		X		X
X		X		X

Table for Oahu M

Species	Centaurium sebaeoides	Sesbania tomentosa
1. 8–10 pop. guidelines	X *	X *
2. Island endemic.		
3. Multi-island/current other islands.	X	X
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X
6. Several occ. vulnerable to destruction	X	X
7. Species with variable habitats.		X
8. Not all occupied habitat needed		X
9. Long-lived perennial–100/pop.		
10. Short-livedperennial–300/pop.		X
11. Annual–500/pop.	X	
12. Narrow endemic.		
13. Restricted habitat requirements	X**	
14. Hybridization is possible.		

Notes	*Species is wide ranging, each island was probably one large, population. **volcanic or clay soils	*Species is wide ranging, each island was probably one large, population.

Oahu N

The proposed unit Oahu N provides unoccupied habitat for two species: *Centaurium sebaeoides* and *Sesbania tomentosa*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals per population throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu N).

This unit contains a total of 5 ha (12 ac) on State lands. This unit is the Mokuauia Island State Seabird Sanctuary.

Table for Oahu N

Species	*Centaurium sebaeoides*	*Sesbania tomentosa*
1. 8–10 pop. guidelines	X *	X *
2. Island endemic.		
3. Multi-island/current other islands.	X	X
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X
6. Several occ. vulnerable to destruction	X	X
7. Species with variable habitats.		X
8. Not all occupied habitat needed		X
9. Long-lived perennial–100/pop.		
10. Short-livedperennial–300/pop.		X
11. Annual–500/pop.	X	
12. Narrow endemic.		
13. Restricted habitat requirements	X**	
14. Hybridization is possible.		

Notes	*Species is wide ranging, each island was probably one large, population. **volcanic or clay soils	*Species is wide ranging, each island was probably one large, population.

Oahu O

The proposed unit Oahu O provides occupied habitat for three species: *Cyanea crispa, Cyanea truncata,* and *Schiedea kaalae.* It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for each species throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species (see the discussion of conservation requirements in Section D, and in the table for Oahu O).

This unit contains a total of 431 ha (1,066 ac) on State (Kahana Valley State Park) and private lands. The natural features found in this unit are Puu Manamana and Secret Valley.

Table for Oahu O

Species	Cyanea crispa	Cyanea truncata	Schiedea kaalae
1. 8–10 pop. guidelines	X	X	X
2. Island endemic.	X	X	X
3. Multi-island/current other islands.			
4. Multi-island/no current other islands.			
5. Non-viable populations.	X	X	X
6. Several occ. vulnerable to destruction	X	X	X
7. Species with variable habitats.	X	X	X
8. Not all occupied habitat needed	X		X
9. Long-lived perennial–100/pop.			
10. Short-livedperennial–300/pop.	X	X	X
11. Annual–500/pop.			
12. Narrow endemic.			
13. Restricted habitat requirements			
14. Hybridization is possible.			
Notes			

Oahu P

The proposed unit Oahu P provides occupied habitat for three species: *Bonamia menzeisii, Euphorbia haeleeleana*, and *Nototrichium humile*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for each species throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for three species: *Gouania vitifolia, Hibiscus brackenridgei*, and *Isodendrion pyrifolium*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals per population throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu P).

This unit contains a total of 2 ha (3 ac) on City and County of Honolulu land. This unit is Mokolii Island (Chinaman's Hat), part of Kualoa Regional Park.

Table for Oahu P

Species	Bonamia menziesii	Euphorbia haeleeleana	Gouania vitifolia	Hibiscus brackenridgei	Isodendrion pyrifolium	Nototrichium humile
Notes	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population.	*Historical on Oahu	
14. Hybridization is possible.						
13. Restricted habitat requirements						
12. Narrow endemic.						
11. Annual–500/pop.						
10. Short-livedperennial–300/pop.	X	X	X	X	X	X
9. Long-lived perennial–100/pop.						
8. Not all occupied habitat needed	X					X
7. Species with variable habitats.	X	X	X	X	X	X
6. Several occ. vulnerable to destruction		X	X	X		X
5. Non-viable populations.	X	X	X	X	X *	X
4. Multi-island/no current other islands.						X
3. Multi-island/current other islands.	X	X	X	X	X*	
2. Island endemic.						
1. 8–10 pop. guidelines	X *	X *	X *	X *	X	X

Oahu Q

The proposed unit Oahu Q provides unoccupied habitat for one species: *Sesbania tomentosa*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for *Sesbania tomentosa* of 8 to 10 populations and 300 mature individuals per population throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu Q).

This unit contains a total of 1 ha (3 ac) on State land. This unit is a portion of the Moku Manu State Seabird Sanctuary.

Table for Oahu Q

Species	*Species is wide ranging, each island was probably one large, population.
Sesbania tomentosa	
14. Hybridization is possible.	
13. Restricted habitat requirements	
12. Narrow endemic.	
11. Annual–500/pop.	
10. Short-livedperennial–300/pop.	X
9. Long-lived perennial–100/pop.	
8. Not all occupied habitat needed	X
7. Species with variable habitats.	X
6. Several occ. vulnerable to destruction	X
5. Non-viable populations.	X
4. Multi-island/no current other islands.	
3. Multi-island/current other islands.	X
2. Island endemic.	
1. 8–10 pop. guidelines	X *
Notes	

Oahu R

The proposed unit Oahu R provides unoccupied habitat for two species: *Chamaesyce kuwaleana* and *Sesbania tomentosa*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals per population throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu R).

This unit contains a total of 6 ha (15 ac) on State land. This unit is a portion of the Moku Manu State Seabird Sanctuary.

Table for Oahu R

Species	Chamaesyce kuwaleana	Sesbania tomentosa
1. 8–10 pop. guidelines	X *	X *
2. Island endemic.	X	
3. Multi-island/current other islands.		X
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X
6. Several occ. vulnerable to destruction	X	X
7. Species with variable habitats.	X	X
8. Not all occupied habitat needed		X
9. Long-lived perennial–100/pop.		
10. Short-livedperennial–300/pop.	X	X
11. Annual–500/pop.		
12. Narrow endemic.		
13. Restricted habitat requirements		
14. Hybridization is possible.		
Notes	*Not enough suitable habitat for 8 to 10 pops	*Species is wide ranging, each island was probably one large, population.

Oahu S

The proposed unit Oahu S provides unoccupied habitat for two species: *Sesbania tomentosa* and *Vigna o-wahuense*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals per population throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu S).

This unit contains a total of 4 ha (12 ac) on State land. This unit is one of the Mokulua Islands State Seabird Sanctuary.

Table for Oahu S

Species	Sesbania tomentosa	Vigna o-wahuensis
1. 8–10 pop. guidelines	X *	X *
2. Island endemic.		
3. Multi-island/current other islands.	X	X** *
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X**
6. Several occ. vulnerable to destruction	X	
7. Species with variable habitats.	X	
8. Not all occupied habitat needed	X	
9. Long-lived perennial–100/pop.		
10. Short-livedperennial–300/pop.	X	X
11. Annual–500/pop.		
12. Narrow endemic.		
13. Restricted habitat requirements		X**
14. Hybridization is possible.		

Notes	*Species is wide ranging, each island was probably one large, population.	*Species is wide ranging, each island was probably one large, population. **Historical on Oahu ***Open dry fossil reef, climbing over shrubs and grasses on limestone deposit and on fairly steep slopes.

Oahu T

The proposed unit Oahu T provides unoccupied habitat for two species: *Sesbania tomentosa* and *Vigna o-wahuense*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for each species of 8 to 10 populations and 300 mature individuals per population throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu T).

This unit contains a total of 4 ha (9 ac) on State land. This unit is one of the Mokulua Islands State Seabird Sanctuary.

Table for Oahu T

Species	Sesbania tomentosa	Vigna o-wahuensis
1. 8–10 pop. guidelines	X *	X *
2. Island endemic.		
3. Multi-island/current other islands.	X	X** *
4. Multi-island/no current other islands.		
5. Non-viable populations.	X	X **
6. Several occ. vulnerable to destruction	X	
7. Species with variable habitats.	X	
8. Not all occupied habitat needed	X	
9. Long-lived perennial–100/pop.		
10. Short-livedperennial–300/pop.	X	X
11. Annual–500/pop.		
12. Narrow endemic.		
13. Restricted habitat requirements		X** **
14. Hybridization is possible.		

Notes
*Species is wide ranging, each island was probably one large, population.
*Species is wide ranging, each island was probably one large, population. **Historical on Oahu ***Open dry fossil reef, climbing over shrubs and grasses on limestone deposit and on fairly steep slopes.

Oahu U

The proposed unit Oahu U provides unoccupied habitat for three species: *Chamaesyce kuwaleana*, *Sesbania tomentosa*, and *Vigna o-wahuense*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 100 mature individuals per population of *Vigna o-wahuense*, or 300 mature individuals per population of *Chamaesyce kuwaleana* and *Sesbania tomentosa*, throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu U).

This unit contains a total of 27 ha (67 ac) on State land. This unit is the Manana Island State Seabird Sanctuary.

Table for Oahu U

Notes	*Not enough suitable habitat for 8 to 10 pops	*Species is wide ranging, each island was probably one large, population.
14. Hybridization is possible.		
13. Restricted habitat requirements		
12. Narrow endemic.		
11. Annual–500/pop.		
10. Short-livedperennial–300/pop.	X	X
9. Long-lived perennial–100/pop.		
8. Not all occupied habitat needed		X
7. Species with variable habitats.	X	X
6. Several occ. vulnerable to destruction	X	X
5. Non-viable populations.	X	X
4. Multi-island/no current other islands.		
3. Multi-island/current other islands.		X
2. Island endemic.	X	
1. 8–10 pop. guidelines	X *	X *
Species	Chamaesyce kuwaleana	Sesbania tomentosa

*Species is wide ranging, each island was probably one large, population.	**Historical on Oahu	***Open dry fossil reef, climbing over shrubs and grasses on limestone deposit and on fairly steep slopes.
X*	**	
X		
X	**	
X*	*	
X	*	
Vigna o–wahuensis		

Oahu V

The proposed unit Oahu V provides unoccupied habitat for one species: *Sesbania tomentosa*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for this species of 8 to 10 populations and 300 mature individuals per population throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu V).

This unit contains a total of 4 ha (10 ac) on State land. This unit is the Kaohikaipu Island State Seabird Sanctuary.

Table for Oahu V

Species	*Species is wide ranging, each island was probably one large, population.
Sesbania tomentosa	
1. 8–10 pop. guidelines	X *
2. Island endemic.	
3. Multi-island/current other islands.	X
4. Multi-island/no current other islands.	
5. Non-viable populations.	X
6. Several occ. vulnerable to destruction	X
7. Species with variable habitats.	X
8. Not all occupied habitat needed	X
9. Long-lived perennial–100/pop.	
10. Short-livedperennial–300/pop.	X
11. Annual–500/pop.	
12. Narrow endemic.	
13. Restricted habitat requirements	
14. Hybridization is possible.	
Notes	

Oahu W

The proposed unit Oahu W provides occupied habitat for two species: *Centaurium sebaeoides* and *Marsillea villosa*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for *Centaurium sebaeoides*, or one or more of the 6 populations for *Marsilea villosa*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for one species: *Cyperus trachysanthos*. Designation of this unit is essential to the conservation of this species because it contains the physical and biological features that are considered essential for its conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for this species of 8 to 10 populations and 300 mature individuals throughout its known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu W).

This unit contains a total of 340 ha (840 ac) on private and City and County of Honolulu lands. The natural features found in this unit are portions of Koko Head, Nonoula, Ihiihilaūakea, Kuamoo Kane, and Puu Mai.

Table for Oahu W

Species	Centaurium sebaeoides	Cyperus trachysanthos	Marsilea villosa
1. 8–10 pop. guidelines		X *	X *
2. Island endemic.			
3. Multi-island/current other islands.	X	X	X
4. Multi-island/no current other islands.			
5. Non-viable populations.	X	X	X
6. Several occ. vulnerable to destruction	X		X
7. Species with variable habitats.			
8. Not all occupied habitat needed			
9. Long-lived perennial–100/pop.			
10. Short-livedperennial–300/pop.		X	
11. Annual–500/pop.	X		X
12. Narrow endemic.	X		
13. Restricted habitat requirements		X* *	
14. Hybridization is possible.	X *		X **

Notes
*Species is wide ranging, each island was probably one large, population. **wet sites (mud flats, wet clay soil, seasonal ponds, or wet cliff seeps) on coastal cliffs or talus slopes
*Recovery goal is 6 populations. **Seasonal wetlands in cinder craters, vernal pools surrounded by lowland dry forest vegetation, mud flats, and lowland grasslands.

Oahu X

The proposed unit Oahu X (X1 and X2) provides occupied habitat for two species: *Cyperus trachysanthos* and *Spermolepis hawaiiensis*. It is proposed for designation because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more of the 8 to 10 populations and 300 mature individuals per population for *Cyperus trachysanthos*, or 500 mature individuals for *Spermolepis hawaiiensis*, throughout their known historical range considered by the recovery plans to be necessary for the conservation of each species. This unit also provides unoccupied habitat for two species: *Gouania meyenii* and *Marsilea villosa*. Designation of this unit is essential to the conservation of these species because it contains the physical and biological features that are considered essential for their conservation on Oahu, and provides habitat to support one or more additional populations necessary to meet the recovery objectives for these species of 8 to 10 populations and 300 mature individuals for *Gouania meyenii*, or one or more of the 6 populations for *Marsilea villosa*, throughout their known historical range (see the discussion of conservation requirements in Section D, and in the table for Oahu X).

This unit contains a total of 125 ha (290 ac) on State land and land leased to the Hawaii Army National Guard. This unit contains units X1 and X2. This unit is a portion of the Diamond Head State Monument and includes the Kuilei Cliffs portion of the crater.

Table for Oahu X

Species	*Cyperus trachysanthos*	*Gouania meyenii*	*Marsilea villosa*	*Spermolepis hawaiiensis*
1. 8–10 pop. guidelines	X •	X	X •	
2. Island endemic.				
3. Multi-island/current other islands.	X	X	X	X
4. Multi-island/no current other islands.				
5. Non-viable populations.	X	X	X	X
6. Several occ. vulnerable to destruction		X	X	X
7. Species with variable habitats.		X		
8. Not all occupied habitat needed				
9. Long-lived perennial–100/pop.				
10. Short-livedperennial–300/pop.	X	X		
11. Annual–500/pop.			X	X
12. Narrow endemic.				X
13. Restricted habitat requirements	X* •		X* •	
14. Hybridization is possible.				X •

Notes	*Species is wide ranging, each island was probably one large, population. **wet sites (mud flats, wet clay soil, seasonal ponds, or wet cliff seeps) on coastal cliffs or talus slopes		*Recovery goal is 6 populations. **Seasonal wetlands in cinder craters, vernal pools surrounded by lowland dry forest vegetation, mud flats, and lowland grasslands.	

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat. Destruction or adverse modification occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on

Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat was designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into formal consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we would also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions under certain circumstances, including instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement, or control has been retained or is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect critical habitat of one or more of the 99 plant species will require Section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), or a section 10(a)(1)(B) permit from us, or some other Federal action, including funding (*e.g.* from the Federal Highway Administration, Federal Aviation Administration (FAA), Federal Emergency Management Agency (FEMA)), permits from the Department of Housing and Urban Development, activities funded by the Environmental Protection Agency (EPA), Department of Energy, or any other Federal agency; regulation of airport improvement activities by the FAA; and construction of communication sites licensed by the Federal Communication Commission will also continue to be subject to the section 7 consultation process. Federal actions not affecting critical habitat and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. We note that such activities may also jeopardize the continued existence of the species.

Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly adversely affect critical habitat include, but are not limited to:

(1) Activities that appreciably degrade or destroy the primary constituent elements including, but not limited to: overgrazing; maintenance of feral ungulates; clearing or cutting of native live trees and shrubs, whether by burning or mechanical, chemical, or other means (*e.g.*, woodcutting, bulldozing, construction, road building, mining, herbicide application); introducing or enabling the spread of non-native species; and taking actions that pose a risk of fire;

(2) Activities that alter watershed characteristics in ways that would appreciably reduce groundwater recharge or alter natural, dynamic wetland or other vegetative communities. Such activities may include water diversion or impoundment, excess groundwater pumping, manipulation of vegetation such as timber harvesting, residential and commercial development, and grazing of livestock or horses that degrades watershed values;

(3) Rural residential construction that includes concrete pads for foundations and the installation of septic systems where a permit under section 404 of the Clean Water Act would be required by the Corps;

(4) Recreational activities that appreciably degrade vegetation;

(5) Mining of sand or other minerals;

(6) Introducing or encouraging the spread of non-native plant species; and

(7) Importation of non-native species for research, agriculture, and aquaculture, and the release of biological control agents.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Pacific Islands Office (see **ADDRESSES** section). Requests for copies of the regulations on listed plants and animals, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species/Permits, 911 N.E. 11th Ave., Portland, OR 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

Relationship to Habitat Conservation Plans and Other Planning Efforts

Currently, there are no HCPs that include any of the plant species discussed in this proposal as covered species. In the event that future HCPs covering any of the discussed plant species are developed within the boundaries of designated critical habitat, we will work with applicants to encourage them to provide for protection and management of habitat areas essential to the conservation of the species. This could be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development process would provide an opportunity for more intensive data collection and analysis regarding the use of particular areas by these plant species. If an HCP that addresses one or more of the 99 plant species as covered species is ultimately approved, we will reassess the critical habitat boundaries in light of the HCP. We intend to undertake this review when the HCP is approved, but funding and priority constraints may influence the timing of such a review.

Economic and Other Relevant Impacts

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned.

We will conduct an analysis of the economic impact of designating these areas as critical habitat and in accordance with recent decisions in the *N.M. Cattlegrowers Ass'n* v. *U.S. Fish and Wildlife Serv.*, 248 F.3d 1277 (10th Cir. 2001) prior to a final determination. The economic analysis will include detailed information on the baseline costs and benefits of the critical habitat designation regardless of whether the costs are coextensive with listing, where such estimates are available. This information on the baseline will allow a fuller appreciation of the economic impacts associated with critical habitat designation. When completed, we will announce the availability of the revised draft economic analysis with a notice in the **Federal Register**, and we will open a public comment period on the draft economic analysis and re-open the comment period on the proposed rule at that time.

We will utilize the final economic analysis, and take into consideration all comments and information regarding economic or other impacts submitted during the public comment period and the public hearing, if requested, to make final critical habitat designations. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as part of critical habitat; however, we cannot exclude areas from critical habitat when such exclusion will result in the extinction of the species.

Public Comments Solicited

It is our intent that any final action resulting from this proposal be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry or any other interested party concerning this proposed rule.

We invite comments from the public that provide information on whether lands within proposed critical habitat are currently being managed to address conservation needs of these listed plants. As stated earlier in this proposed rule, if we receive information that any of the areas proposed as critical habitat are adequately managed, we may delete such areas from the final rule, because they would not meet the definition in section 3(5)(A)(i) of the Act. In determining adequacy of management, we must find that the management effort is sufficiently certain to be implemented and effective so as to contribute to the elimination or adequate reduction of relevant threats to the species.

We are soliciting comment in this proposed rule on whether current land management plans or practices applied within areas proposed as critical habitat adequately address the threats to these listed species.

We are aware that the State of Hawaii and some private landowners are considering the development and implementation of land management plans or agreements that may promote the conservation and recovery of endangered and threatened plant species on the island of Oahu. We are soliciting comments in this proposed rule on whether current land management plans or practices applied within the areas proposed as critical habitat provide for the conservation of the species by adequately addressing the threats. We are also soliciting comments on whether future development and approval of conservation measures (*e.g.*, HCPs, Conservation Agreements, Safe Harbor Agreements) should be excluded from critical habitat and if so, by what mechanism.

In addition, we are seeking comments on the following:

(1) The reasons why critical habitat for any of these species is prudent or not prudent as provided by section 4 of the Act and 50 CFR 424.12(a)(1);

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species, as critical habitat is defined by section 3 of the Act (16 U.S.C. 1532 (5));

(3) Specific information on the amount and distribution of habitat for the 99 species, and what habitat is essential to the conservation of the species and why;

(4) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low income households, and local governments;

(6) Economic and other potential values associated with designating critical habitat for the above plant species such as those derived from non-consumptive uses (*e.g.*, hiking, camping, birding, enhanced watershed protection, increased soil retention, "existence values," and reductions in administrative costs);

(7) The methodology we might use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat; and

(8) The effects of critical habitat designation on military lands, and how it would affect military activities, particularly military lands at Makua Military Reservation, Schofield Barracks East Range, Schofield Barracks Military Reservation, Kawailoa Training Area, Kahuku Training Area, Dillingham Military Reservation, Naval Magazine Pearl Harbor Lualualei Branch and Naval Computer Telecommunication Area Master Station Pacific Transmitting Facility at Lualualei, Hawaii Army National Guard lands at Diamond Head; whether there will be a significant impact on military readiness or national security if we designate critical habitat on these facilities; and whether these facilities should be excluded from the designation under section 4(b)(2) of the Act.

If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850–0001.

(2) You may send comments by electronic mail (e-mail) to: *oahucrithabplants@r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any

form of encryption. Please also include "Attn: RIN 1018–AI24" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Honolulu Fish and Wildlife Office at telephone number 808/541–3441.

(3) You may hand-deliver comments to our Honolulu Fish and Wildlife Office at the address under (1) above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The comment period closes on July 29, 2002. We are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule.

Public Hearing

The Act provides for a public hearing on this proposal, if requested. Requests for public hearings must be made within 45 days of the date of publication of this proposal in the **Federal Register**.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. For additional information on public hearings see the **ADDRESSES** section.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such a review is to ensure listing and critical habitat decisions are based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**. We will invite the peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designations of critical habitat.

We will consider all comments and data received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the document? (5) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240.

Taxonomic Changes

At the time we listed *Hibiscus brackenridgei, Phyllostegia parviflora,* and *Mariscus pennatiformis,* we followed the taxonomic treatments in Wagner *et al.* (1990), the widely used and accepted *Manual of the Flowering Plants of Hawaii.* Subsequent to the final listings for these three species, we became aware of new taxonomic treatments for these species (See Discussion of Plant Taxa). Due to the court-ordered deadlines, we are required to publish this proposal to designate critical habitat on Oahu before we can prepare and publish a notice of taxonomic changes for these three species. We propose to publish a taxonomic change notice for these three species after we have published the final critical habitat designations on Oahu.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below. We are preparing an economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific areas identified as critical habitat. The availability of the draft economic analysis will be announced in the **Federal Register** so that it is available for public review and comments.

(a) While we will prepare an economic analysis to assist us in considering whether areas should be excluded pursuant to section 4 of the Act, we do not believe this rule will have an annual economic effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local governments or communities. Therefore, at this time, we do not believe a cost benefit and economic analysis pursuant to Executive Order 12866 is required. We will revisit this if the economic analysis indicates greater impacts than currently anticipated.

The dates for which the 99 plant species were listed as threatened or endangered can be found in Table 3(b). Consequently, and as needed, we conduct formal and informal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of these species. Under the Act, critical habitat may not be adversely modified by a Federal agency action. Critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency (see Table 5).

TABLE 5.—IMPACTS OF CRITICAL HABITAT DESIGNATION FOR 99 PLANTS FROM OAHU

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation [1]
Federal Activities Potentially Affected [2].	Activities conducted by the Federal Government (*e.g.*, Army Corps of Engineers, Department of Transportation, Department of Defense, Department of Agriculture, Environmental Protection Agency, Federal Emergency Management Agency, Federal Aviation Administration, Federal Communications Commission, Department of the Interior) or that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for these plants by mechanical, chemical, or other means (*e.g.*, overgrazing, clearing, cutting native live trees and shrubs, water diversion, impoundment, groundwater pumping, road building, mining, herbicide application, recreational use, etc.) or appreciably decrease habitat value or quality through indirect effects (*e.g.* edge effects, invasion of exotic plants or animals, fragmentation of habitat).	These same activities carried our by Federal agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected [3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for these plants by mechanical, chemical, or other means (*e.g.*, overgrazing, clearing, cutting native live trees and shrubs, water diversion, impoundment, groundwater pumping, road building, mining, herbicide application, recreational use, etc.) or appreciably decrease habitat value or quality through indirect effects (*e.g.*, edge effects, invasion of exotic plants or animals, fragmentation of habitat).	These same activities carried out in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of these species. Based on our experience with these species and their needs, we conclude that most Federal or federally-authorized actions that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as "jeopardy" under the Act in areas occupied by the species because consultation would already be required due to the presence of the listed species, and the duty to avoid adverse modification of critical habitat would not trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species. Accordingly, we do not expect the designation of currently occupied areas as critical habitat to have any additional incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding.

The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation (that is, in areas currently unoccupied by the listed species), may have impacts that are not attributable to the species listing on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding. We will evaluate any impact through our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule). Non-Federal persons who do not have a Federal nexus with their actions are not restricted by the designation of critical habitat.

(b) We do not expect this rule to create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the 99 plant species since their listing between 1991 and 1996. For the reasons discussed above, the prohibition against adverse modification of critical habitat would be expected to impose few, if any, additional restrictions to those that currently exist in the proposed critical habitat on currently occupied lands. However, we will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation through our economic analysis. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) We do not expect this proposed rule, if made final, to significantly affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of a listed species, and, as discussed above, we do not anticipate that the adverse modification prohibition, resulting from critical habitat designation will have any incremental effects in areas of occupied habitat on any Federal entitlement, grant, or loan program. We will evaluate any impact of designating areas where section 7 consultation would not have occurred but for the critical habitat designation through our economic analysis.

(d) OMB has determined that this rule may raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In today's rule, we are certifying that the rule will not have a significant effect on

a substantial number of small entities. However, should our economic analysis provide a contrary indication, we will revisit this determination at that time. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 99 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. In some circumstances, especially with proposed critical habitat designations of very limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation. In areas where the species is present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect *Abutilon sandwicense, Adenophorus periens, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyperus trachysanthos, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia erecta, Diellia falcata, Diellia unisora, Diplazium molokaiense, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Nototrichium humile, Pelea lydgatei, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Silene perlmanii, Solanum sandwicense, Spermolepis hawaiiensis, Stenogyne kanehoana, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Vigna o-wahuensis, Viola chamissoniana* ssp. *chamissoniana*, and *Viola oahuensis*. If these critical habitat designations are finalized, Federal agencies must also consult with us if their activities may affect designated critical habitat. However, in areas where the species is present, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants because consultation would already be required due to the presence of the listed species, and the duty to avoid adverse modification of critical habitat would not trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species.

Even if the duty to avoid adverse modification does not trigger additional regulatory impacts in areas where the species is present, designation of critical habitat could result in an additional economic burden on small entities due to the requirement to reinitiate consultation for ongoing Federal activities. However, since these 99 plant species were listed (between 1991 and 1996), there have been two formal consultations, and we have conducted 23 informal consultations, in addition to consultations on Federal grants to State wildlife programs, which would not affect small entities. Two formal consultations were conducted on behalf of the Army, for review of the "Biological Assessment for Programmatic Section 7 Consultation on Routine Military Training at Makua Military Reservation, and Makua Endangered Species Mitigation Plan". Thirty-nine of the 99 species, *Alectryon macrococcus, Abutilon sandwicense, Alsinidendron obovatum, Bonamia menziesii, Cenchrus agrimonioides, Chamaesyce celastroides* var. *kaenana, Chamesyce herbstii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyanea longiflora, Cyanea superba, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Euphorbia haeleeleana, Flueggea neowawraea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arbuscula, Hibiscus brackenridgei, Lepidium arbuscula, Lipochaeta tenuifolia, Lobelia niihauensis, Lobelia oahuensis, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phyllostegia kaalaensis, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Schiedea nuttallii, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme*, and *Viola chamissoniana* ssp. *chamissoniana*, were reported from the action area.

One informal consultation was conducted on behalf of the Army for a flood control study, who requested information on the candidate, proposed, or listed threatened or endangered species within the vicinity of the project area. One of the 99 species, *Cyanea superba* was reported historically from the project area. One informal consultation was conducted on behalf of U.S. Air Force for the Kaena Point Tracking Station site, who requested a list of the endangered, threatened, and proposed species that occur on or in the vicinity of the site. Two of the 99 species, *Chamaesyce celastroides* var. *kaenana* and *Nototrichium humile* were reported from the vicinity of the site. One informal consultation was conducted on behalf of the Navy in regard to Lualualei Naval Magazine, who requested comments on the July 11, 1995 "Work Plan for the Implementation of Priority Conservation Measures to Protect Rare and Endangered Biological Resources at Naval Magazine Lualualei, Headquarters, Oahu, Hawaii". Six of the 99 species, *Abutilon sandwicense, Flueggea neowawraea, Hedyotis parvula, Lipochaeta lobata* var. *leptophylla, Neraudia angulata* var. *dentata*, and *Viola chamissoniana* ssp. *chamissoniana* were reported from the project area. Two informal consultations were conducted on behalf of the Army, who requested comments on the November 1995 Preliminary Draft Endangered Species Management Plan (ESMP) for the Oahu Training Areas (OTA) and review of revisions to the plan. Fifty-eight of the 99 species, *Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Chamaesyce celastroides* var. *kaenana, Chamaesyce herbstii, Chamaesyce rockii, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea superba, Cyrtandra dentata, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia niihauensis, Lobelia oahuensis, Neraudia angulata, Nototrichium humile, Pelea lydgatei, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Plantago princeps, Pteris lidgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Silene lanceolata, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana*, and *Viola oahuensis*, were reported from the project area. Two informal consultations were conducted on behalf of the FAA, for the effects of relocation and demolition of the FAA's Diamond Head facility. One of the 99 species, *Schiedea adamantis* was reported from the project area. Two informal consultations was conducted on behalf of the Department of Transportation, who requested a list of the proposed and listed threatened and endangered species in the vicinity of the proposed corridor for the North-South Road Project and our concurrence with the project. Two of the 99 species, *Centaurium sebaeoides* and *Marsillea villosa* were reported from the project area. One informal consultation was conducted on behalf of the U.S. Coast Guard, for the effects of lowering of antenna spans at the Haiku Valley Omega Station. Two of the 99 species, *Tetraplasandra gymnocarpa* and *Trematalobelia singularis* were reported from the project area. One informal consultations was conducted on behalf of the Navy, for the effect of cattle removal on endangered plant species. Five of the 99 species, *Abutilon sandwicense, Bonamia menziesii, Flueggea neowawraea, Lobelia niihauensis*, and *Neraudia angulata* were reported from the vicinity of the project area. One informal consultations was conducted on behalf of the Department of Land and Natural Resources Division of State Parks, for review of the Ka Iwi shoreline project categorical exclusion document. Two of the 99 species, *Cyperus trachysanthos* and *Marsillea villosa* was reported from the project area. Two informal consultations were conducted on behalf of the Army, for review of effects of prescribed burns at Schofield Barracks West Range. Three of the 99 species, *Delissea subcordata, Isodendrion longifolium*, and *Neraudia angulata* var. *angulata* were reported from the vicinity of the project area. One informal consultation was conducted on behalf of the Army, who requested we review the effects of insecticidal treatment on one of the 99 species, *Flueggea neowawraea*. Two informal consultation were conducted on behalf of the Hawaii Army National Guard, who requested we review the effects of training activities and road improvements on listed threatened and endangered species. Two of the 99 species, *Schiedea adamantis* and *Cyperus trachysanthos* were reported from the project area. One informal consultation was conducted on behalf of the Army, who requested we review their "Makua Propagation and Outplanting Plans for Endangered Plants". Four of the 99 species, *Cyanea superba, Alsinidendron obovatum, Cenchrus agrimonioides*, and *Delissea subcordata* were addressed in the plan. Two informal consultations were conducted on behalf of the U.S. Department of Agriculture Animal and Plant Health Inspection Service, who requested we review their determination that establishing and monitoring transects to determine feral pig activity is categorically excluded under National Environmental Policy Act, and that radio tagging and releasing feral pigs for research in Kuaokala game management area is also categorically excluded under NEPA. Forty-eight of the 99 species, *Abutilon sandwicense, Alectryon macrococcus, Alsinidendron obovatum, Bonamia menziesii, Cenchrus agrimonioides, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea grimesiana* ssp. *grimesiana, Cyanea koolauensis, Cyanea longiflora, Cyanea st.-johnii, Cyanea superba, Cyrtandra dentata, Cyrtandra subumbellata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eragrostis fosbergii, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arbuscula, Hesperomannia arborescens, Isodendrion laurifolium, Isodendrion longifolium, Lepidium arbuscula, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia niihauensis, Myrsine juddii, Neraudia angulata, Nototrichium humile, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Pteris lydgatei, Schiedea hookeri, Schiedea kaalae, Schiedea nuttallii, Tetraplasnadra gymnocarpa*, and *Viola oahuensis* were reported from the project area. One informal consultation was conducted on behalf of the Army, who requested we review the effects of fencing in the upper reaches of Opaeula drainage in Kawailoa Training Area on listed endangered or threatened species. Four of the 99 species, *Cyrtandra viridiflora, Chamaesyce rockii, Myrsine juddii*, and *Viola oahuensis*, were reported from the project area. One informal consultation was conducted on behalf of the Army, who requested we review and comment on the "redraft Biological Assessment for routine military training at Makua Military Reservation, Oahu, Hawaii". Thirty-five of the 99 species, *Alectryon macrococcus, Alsinidendron obovatum, Bonamia menziesii, Cenchrus*

agrimonioides, Chamaesyce herbstii, Ctenitis squamigera, Cyanea grimesiana ssp. *grimesiana, Cyanea longiflora, Cyanea superba, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Euphorbia haeleeleana, Flueggea neowawraea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arbuscula, Lepidium arbuscula, Lipochaeta tenuifolia, Lobelia niihauensis, Lobelia oahuensis, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phyllostegia kaalaensis, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Schiedea nuttallii, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme,* and *Viola chamissoniana* ssp. *chamissoniana,* were reported from the project area. One informal consultation was conducted on behalf of the Service, for review of the effects of fencing of the south Ekahanui Gulch on listed endangered or threatened species. Nine of the 99 species, *Alectryon macrococcus, Chamaesyce herbstii, Diellia falcata, Diellia unisora, Melicope saint-johnii, Phyllostegia kaalaensis, Plantago princeps, Schiedea kaalae,* and *Urera kaalae* were reported from the project area. One informal consultation was conducted on behalf of the Army as a reminder of the contingency placed upon the Army in the "Biological Opinion for routine military training at Makua Military Reservation, Oahu, Hawaii" that the Army would start to implement priority stabilization measures for listed endangered and threatened species within one year of the opinion. One informal consultation was conducted on behalf of the Army, who requested we review the "Draft Integrated Natural Resources Management Plan for 2002–2006 at Oahu Army Installations, Hawaii". Fifty-four of the 99 species, *Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Chamaesyce celastroides* var. *kaenana, Chamaesyce rockii, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa, Cyanea humboltiana, Cyanea koolauensis, Cyanea superba, Cyanea st.-johnii, Cyrtandra dentata, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hibiscus brackenridgei, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia niihauensis, Neraudia angulata, Nototrichium humile, Pelea lydgatei, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia mollis, Phyllostegia parvilfora, Plantago princeps, Pteris lidgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kealiae, Schiedea nuttallii, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis,* were reported from the project area. One informal consultation was conducted on behalf of the Navy, who requested we review and comment on their "Naval Computer and Telecommunications Area Master Station Pacific Integrated Natural Resources Management Plan". One of the 99 species, *Marsillea villosa* was reported from the project area. One informal consultation was conducted on behalf of the U.S. Department of Energy, for review of the effects of a proposed telecommunications radio shack at Mauna Kapu on listed endangered and threatened species. One of the 99 species, *Tetramolopium lepidotum* ssp. *lepidotum* was reported from the project area.

None of these consultations affected or concerned small entities. In 22 of the 23 informal consultations, we concurred with each agency's determination that the project, as proposed, was not likely to adversely affect listed species. For both formal consultations, we concurred that routine military training at Makua Military Reservation, which included an in depth list of conservation measures the Army would carry out in the action area, was not likely to jeopardize listed species. None of these consultations affected or concerned small entities, and only the routine military training exercises conducted on Army training installations are ongoing. As a result, the requirement to reinitiate consultation for ongoing projects will not affect a substantial number of small entities on Oahu.

In areas where the species is clearly not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act, that would otherwise not be required. We are aware of relatively few private activities in the proposed critical habitat areas for these 99 plants that have Federal involvement, and thus, would require consultation or reinitiation of already completed consultations for on-going projects. As mentioned above, we have conducted 23 informal consultations and two formal consultations under section 7 involving many of the species none of which involved small entities. We cannot, at this time, easily identify future consultations that may be due to the listing of the species or the increment of additional consultations that may be required by this critical habitat designation. Therefore, for the purposes of this review and certification under the RFA, we are assuming that any future consultations in the area proposed as critical habitat will be due to the critical habitat designations.

On Oahu, approximately, 6 percent of the designations are on Federal lands, 35 percent are on State or County lands, and 59 percent are on private lands. Nearly all of the land within the critical habitat units is unsuitable for development, many land uses, and activities. This is due to their remote locations, lack of access, and rugged terrain. The majority of this land (90 percent) is within the State Conservation District where State land-use controls severely limit development and most activities. Approximately 10 percent of this land is within the State Agricultural District, and less than 1 percent is within the State Urban District. On non-Federal lands, activities that lack Federal involvement would not be affected by the critical habitat designations. However, activities of an economic nature that are likely to occur on non-Federal lands in the area encompassed by these proposed designations consist of improvements in State parks and communications and tracking facilities; ranching; road improvements; recreational use such as hiking, camping, picnicking, game hunting, fishing; botanical gardens; and, crop farming. On lands that are in agricultural production, the types of activities that might trigger a consultation include irrigation ditch system projects that may require section 404 authorizations from the Corps, and watershed management and restoration projects sponsored by Natural Resources Conservation Service. However, the Natural Resources Conservation Service restoration projects typically are voluntary, and the irrigation ditch system projects within lands that are in agricultural production are uncommon, and would likely affect only a small percentage of the small entities within these proposed critical habitat designations.

Lands that are within the State Urban District are located within undeveloped coastal areas and areas adjacent to Forest Reserves (State Conservation District). The types of activities that might trigger a consultation include shoreline restoration or modification projects that may require section 404 authorizations from the Corps or FEMA, housing or resort development that may require permits from the Department of Housing and Urban Development, and activities funded or authorized by the EPA. However, we are not aware of a significant number of future activities that would require Federal permitting or authorization in these coastal areas. Therefore, we conclude that the proposed rule would not affect a substantial number of small entities.

We are not aware of any commercial activities on the Federal lands included in these proposed critical habitat designations.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives." Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives. Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. However, the Act does not prohibit the take of listed plant species or require terms and conditions to minimize adverse effect to critical habitat. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with section 7 consultations for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have a limited consultation history for these 99 species from Oahu, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of these species and the threats they face, especially as described in the final listing rules and in this proposed critical habitat designation, as well as our experience with similar listed plants in Hawaii. In addition, all of these species are protected under the State of Hawaii's Endangered Species Act (Hawaii Revised Statutes, Chap. 195D–4). Therefore, we have also considered the kinds of actions required under the State licensing process for these species. The kinds of actions that may be included in future reasonable and prudent alternatives include conservation set-asides, management of competing non-native species, restoration of degraded habitat, propagation, outplanting and augmentation of existing populations, construction of protective fencing, and periodic monitoring.

As required under section 4(b)(2) of the Act, we will conduct an analysis of the potential economic impacts of this proposed critical habitat designation, and will make that analysis available for public review and comment before finalizing these designations. However, court deadlines require us to publish this proposed rule before the economic analysis can be completed.

In summary, we have considered whether this proposed rule would result in a significant economic effect on a substantial number of small entities. It would not affect a substantial number of small entities. Approximately 35 percent of the lands proposed as critical habitat are on State of Hawaii lands. The State of Hawaii is not a small entity. Approximately 59 percent of the lands proposed as critical habitat are on private lands. Many of these parcels are located in areas where likely future land uses are not expected to result in Federal involvement or section 7 consultations. As discussed earlier, most of the private and State parcels within the proposed designation are currently being used for recreational and agricultural purposes and, therefore, are not likely to require any Federal authorization. In the remaining areas, Federal involvement—and thus section 7 consultations, the only trigger for economic impact under this rule—would be limited to a subset of the area proposed. The most likely future section 7 consultations resulting from this rule would be for informal consultations on federally funded land and water conservation projects, species-specific surveys and research projects, and watershed management and restoration projects sponsored by Natural Resources Conservation Service. These consultations would likely occur on only a subset of the total number of parcels and therefore not likely to affect a substantial number of small entities. This rule would result in project modifications only when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even when it does occur, we do not expect it to result in a significant economic impact, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. Therefore, we are certifying that the proposed designation of critical habitat for the following species: *Abutilon sandwicense, Adenophorus periens, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyperus trachysanthos, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia erecta, Diellia falcata, Diellia unisora, Diplazium molokaiense, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus*

brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Nototrichium humile, Pelea lydgatei, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Silene perlmanii, Solanum sandwicense, Spermolepis hawaiiensis, Stenogyne kanehoana, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Vigna o-wahuensis, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis* will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required. However, should the revised economic analysis of this rule indicate otherwise, we will revisit this determination.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. *et seq.*):

(a) We believe this rule, as proposed, will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will not be affected unless they propose an action requiring Federal funds, permits or other authorizations. Any such activities will require that the Federal agency ensure that the action will not adversely modify or destroy designated critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated to result from critical habitat designation of occupied areas. In our economic analysis, we will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation.

(b) This rule, as proposed, will not produce a Federal mandate on State or local governments or the private sector of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for the 99 species from Oahu in a preliminary takings implication assessment. The takings implications assessment concludes that this proposed rule does not pose significant takings implications. Once the economic analysis is completed for this proposed rule, we will review and revise this preliminary assessment as warranted.

Federalism

In accordance with Executive Order 13132, the proposed rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of Interior policy, we requested information from appropriate State agencies in Hawaii. The designation of critical habitat in areas currently occupied by one or more of the 99 plant species imposes no additional restrictions to those currently in place, and, therefore, has little incremental impact on State and local governments and their activities. The designation of critical habitat in unoccupied areas may require section 7 consultation on non Federal lands (where a Federal nexus occurs) that might otherwise not have occurred. However, there will be little additional impact on State and local governments and their activities because 17 of the 25 proposed critical habitat areas are occupied by at least one species. The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long range planning, rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the 99 plant species.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed determination does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) Executive Order 13175 and 512 DM 2, we readily acknowledge our responsibility to

communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no Tribal lands essential for the conservation of these 99 plant species. Therefore, designation of critical habitat for these 99 species has not been proposed on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Pacific Islands Office (see **ADDRESSES** section).

Author(s)

The primary authors of this notice are Michelle Stephens and Christa Russell (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h) revise the entries for *Abutilon sandwicense, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Cyanea acuminata, Cyanea (-Rollandia) crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboldtiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyperus trachysanthos, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lysimachia filifolia, Mariscus pennatiformis, Melicope lydgatei, Melicope pallida, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Silene perlmanii, Solanum sandwicense, Spermolepis hawaiiensis, Stenogyne kanehoana, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Vigna o-wahuensis, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis* under "*FLOWERING PLANTS*" and *Adenophorus periens, Ctenitis squamigera, Diellia erecta, Diellia falcata, Diellia unisora, Diplazium molokaiense, Lycopodium (-Phlegmariurus) nutans, Marsilea villosa,* and *Pteris lidgatei,* under "FERNS AND ALLIES" to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
•	•	•	•	•	•	•	
Abutilon sandwicense.	No common name ..	U.S.A. (HI)	Malvaceae	E	448	17.96(a)	NA
•	•	•	•	•	•	•	
Alectryon macrococcus.	Mahoe	U.S.A. (HI)	Sapindaceae	E	467	17.96(a)	NA
•	•	•	•	•	•	•	
Alsinidendron obovatum.	No common name ..	U.S.A. (HI)	Caryophyllaceae	E	448	17.96(a)	NA
Alsinidendron trinerve.	No common name ..	U.S.A. (HI)	Caryophyllaceae	E	448	17.96(a)	NA
•	•	•	•	•	•	•	
Bonamia menziesii ..	No common name ..	U.S.A. (HI)	Convolvulaceae	E	559	17.96(a)	NA
•	•	•	•	•	•	•	
Cenchrus agrimonioides.	Kamanomano	U.S.A. (HI)	Poaceae	E	592	17.96(a)	NA
•	•	•	•	•	•	•	
Centaurium sebaeoides.	Awiwi	U.S.A. (HI)	Gentianaceae	E	448	17.96(a)	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Chamaesyce celastroides var. *kaenana.*	Akoko	U.S.A. (HI)	Euphorbiaceae	E	448	17.96(a)	NA
Chamaesyce deppeana.	Akoko	U.S.A. (HI)	Euphorbiaceae	E	536	17.96(a)	NA
Chamaesyce herbstii	Akoko	U.S.A. (HI)	Euphorbiaceae	E	591	1796(a)	NA
Chamaesyce kuwaleana.	Akoko	U.S.A. (HI)	Euphorbiaceae	E	448	17.96(a)	NA
Chamaesyce rockii	Akoko	U.S.A. (HI)	Euphorbiaceae	E	591	17.96(a)	NA
Colubrina oppositifolia.	Kauila	U.S.A. (HI)	Rhamnaceae	E	532	17.96(a)	NA
Cyanea acuminata	Haha	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Cyanea (*Rollandia*) *crispa.*	Haha	U.S.A. (HI)	Campanulaceae	E	536	17.96(a)	NA
Cyanea grimesiana ssp. *grimesiana.*	Haha	U.S.A. (HI)	Campanulaceae	E	592	17.96(a)	NA
Cyanea grimesiana ssp. *obatae.*	Haha	U.S.A. (HI)	Campanulaceae	E	541	17.96(a)	NA
Cyanea humboldtiana.	Haha	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Cyanea koolauensis	Haha	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Cyanea longiflora	Haha	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Cyanea pinnatifida	Haha	U.S.A. (HI)	Campanulaceae	E	448	17.96(a)	NA
Cyanea st.-johnii	Haha	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Cyanea superba	Haha	U.S.A. (HI)	Campanulaceae	E	434	17.96(a)	NA
Cyanea truncata	Haha	U.S.A. (HI)	Campanulaceae	E	536	17.96(a)	NA
Cyperus trachysanthos.	Puukaa	U.S.A. (HI)	Cyperaceae	E	592	17.96(a)	NA
Cyrtandra dentata	Haiwale	U.S.A. (HI)	Gesneriaceae	E	591	17.96(a)	NA
Cyrtandra polyantha	Haiwale	U.S.A. (HI)	Gesneriaceae	E	536	17.96(a)	NA
Cyrtandra subumbellata.	Haiwale	U.S.A. (Hi)	Gesneriaceae	E	591	17.96(a)	NA
Cyrtandra viridiflora	Haiwale	U.S.A. (HI)	Gesneriaceae	E	591	17.96(a)	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Delissea subcordata	No common name	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Dubautia herbstobatae.	Naenae	U.S.A. (HI)	Asteraceae	E	448	17.96(a)	NA
Eragrostis fosbergii	No common name	U.S.A. (HI)	Poaceae	E	591	17.96(a)	NA
Eugenia koolauensis	Nioi	U.S.A. (HI)	Myrtaceae	E	536	17.96(a)	NA
Euphorbia haeleeleana.	Akoto	U.S.A. (HI)	Euphorbiaceae	E	592	17.96(a)	NA
Flueggea neowawraea.	Mehamehame	U.S.A. (HI)	Euphorbiaceae	E	559	17.96(a)	NA
Gardenia mannii	Nanu	U.S.A. (HI)	Rubiaceae	E	591	17.96(a)	NA
Gouania meyenii	No common name	U.S.A. (HI)	Rhamnaceae	E	448	17.96(a)	NA
Gouania vitifolia	No common name	U.S.A. (HI)	Rhamnaceae	E	541	17.96(a)	NA
Hedyotis coriacea	Kioele	U.S.A. (HI)	Rubiaceae	E	467	17.96(a)	NA
Hedyotis degeneri	No common name	U.S.A. (HI)	Rubiaceae	E	448	17.96(a)	NA
Hedyotis parvula	No common name	U.S.A. (HI)	Rubiaceae	E	448	17.96(a)	NA
Hesperomannia arborescens.	No common name	U.S.A. (HI)	Asteraceae	E	536	17.96(a)	NA
Hesperomannia arbuscula.	No common name	U.S.A. (HI)	Asteraceae	E	448	17.96(a)	NA
Hibiscus brackenridgei.	Mao hau hele	U.S.A. (HI)	Malvaceae	E	559	17.96(a)	NA
Isodendrion laurifolium.	Aupaka	U.S.A. (HI)	Violaceae	E	592	17.96(a)	NA
Isodendrion longifolium.	Aupaka	U.S.A. (HI)	Violaceae	T	592	17.96(a)	NA
Isodendtion pyrifolium.	Wahine none kula	U.S.A. (HI)	Violaceae	E	532	17.96(a)	NA
Labordia cyrtandrae	Kamakahala	U.S.A. (HI)	Longaniaceae	E	591	17.96(a)	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
Lepidium arbuscula	Anaunau	U.S.A. (HI)	Brassicaceae	E	591	17.96(a)	NA
*	*	*	*	*	*	*	
Lipochaeta lobata var. *leptophylla.*	Nehe	U.S.A. (HI)	Asteraceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Lipochaeta tenuifolia	Nehe	U.S.A. (HI)	Asteraceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Lobelia gaudichaudii ssp. *koolauensis.*	No common name	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Lobelia monostachya	No common name	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
Lobelia niihauensis	No common name	U.S.A. (HI)	Campanulaceae	E	448	17.96(a)	NA
Lobelia oahuensis	No common name	U.S.A. (HI)	Campanulaceae	E	536	17.96(a)	NA
*	*	*	*	*	*	*	
Lysimachia filifolia	No common name	U.S.A. (HI)	Primulaceae	E	530	17.96(a)	NA
*	*	*	*	*	*	*	
Mariscus pennatiformis.	No common name	U.S.A. (HI)	Cyperaceae	E	559	17.96(a)	NA
*	*	*	*	*	*	*	
Melicope lydgatei	Alani	U.S.A. (HI)	Rutaceae	E	536	17.96(a)	NA
*	*	*	*	*	*	*	
Melicope pallida	Alani	U.S.A. (HI)	Rutaceae	E	530	17.96(a)	NA
*	*	*	*	*	*	*	
Melicope saint-johnii	Alani	U.S.A. (HI)	Rutaceae	E	591	17.96(a)	NA
*	*	*	*	*	*	*	
Myrsine juddii	Kolea	U.S.A. (HI)	Myrsinaceae	E	591	17.96(a)	NA
*	*	*	*	*	*	*	
Neraudia angulata	No common name	U.S.A. (HI)	Urticaceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Nototrichium humile	Kului	U.S.A. (HI)	Solanaceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Peucedanum sandwicense.	Makou	U.S.A. (HI)	Apiaceae	T	530	17.96(a)	NA
*	*	*	*	*	*	*	
Phyllostegia hirsuta	No common name	U.S.A. (HI)	Lamiaceae	E	591	17.96(a)	NA
Phyllostegia kaalaensis.	No common name	U.S.A. (HI)	Lamiaceae	E	591	17.96(a)	NA
*	*	*	*	*	*	*	
Phyllostegia mollis	No common name	U.S.A. (HI)	Lamiaceae	E	448	17.96(a)	NA
Phyllostegia parviflora.	No common name	U.S.A. (HI)	Lamiaceae	E	592	17.96(a)	NA
*	*	*	*	*	*	*	
Plantago princeps	Laukahi kuahiwi	U.S.A. (HI)	Plantaginaceae	E	559	17.96(a)	NA
Platanthera holochila	No common name	U.S.A. (HI)	Orchidaceae	E	592	17.96(a)	NA
*	*	*	*	*	*	*	
Sanicula mariversa	No common name	U.S.A. (HI)	Apiaceae	E	448	17.96(a)	NA
Sanicula purpurea	No common name	U.S.A. (HI)	Apiaceae	E	592	17.96(a)	NA
*	*	*	*	*	*	*	
Schiedea hookeri	No common name	U.S.A. (HI)	Caryophyllaceae	E	592	17.96(a)	NA
Schiedea kaalae	No common name	U.S.A. (HI)	Caryophyllaceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Schiedea kealiae	No common name	U.S.A. (HI)	Caryophyllaceae	E	591	17.96(a)	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
Schiedea nuttallii	No common name	U.S.A. (HI)	Caryophyllaceae	E	592	17.96(a)	NA
*	*	*	*	*	*	*	
Sesbania tomentosa	Ohai	U.S.A. (HI)	Fabaceae	E	559	17.96(a)	NA
*	*	*	*	*	*	*	
Silene lanceolata	No common name	U.S.A. (HI)	Caryophyllaceae	E	480	17.96(a)	NA
Silene perlmanii	No comon name	U.S.A. (HI)	Caryophyllaceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Solanum sandwicense.	Aiakeakua, Popolo	U.S.A. (HI)	Solanaceae	E	530	17.96(a)	NA
*	*	*	*	*	*	*	
Spermolepis hawaiiensis.	No common name	U.S.A. (HI)	Apiacea	E	559	17.96(a)	NA
*	*	*	*	*	*	*	
Stenogyne kanehoana.	No common name	U.S.A. (HI)	Lamiaceae	E	466	17.96(a)	NA
*	*	*	*	*	*	*	
Tetramolopium filiforme.	No common name	U.S.A. (HI)	Asteraceae	E	448	17.96(a)	NA
Tetramolopium lepidotum ssp. *lepidotum.*	No common name	U.S.A. (HI)	Asteraceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Tetraplasandra gymnocarpa.	Oheohe	U.S.A. (HI)	Asteraceae	E	536	17.96(a)	NA
*	*	*	*	*	*	*	
Trematolobelia singularis.	No common name	U.S.A. (HI)	Campanulaceae	E	591	17.96(a)	NA
*	*	*	*	*	*	*	
Urera kaalae	Opuhe	U.S.A. (HI)	Urticaceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Vigna o-wahuensis	No common name	U.S.A. (HI)	Fabaceae	E	559	17.96(a)	NA
Viola chamissoniana ssp. *chamissoniana.*	Olopu	U.S.A. (HI)	Violaceae	E	448	17.96(a)	NA
*	*	*	*	*	*	*	
Viola oahuensis	No common name	U.S.A. (HI)	Violaceae	E	591	17.96(a)	NA
*	*	*	*	*	*	*	
FERNS AND ALLIES							
Adenophorus periens	Pendant kihi fern	U.S.A. (HI)	Grammitidaceae	E	559	17.96(a)	NA
*	*	*	*	*	*	*	
Ctenitis squamigera	Pauoa	U.S.A. (HI)	Aspleniaceae	E	553	17.96(a)	NA
*	*	*	*	*	*	*	
Diellia erecta	No common name	U.S.A. (HI)	Aspleniaceae	E	559	17.96(a)	NA
Diellia falcata	No common name	U.S.A. (HI)	Aspleniacea	E	448	17.96(a)	NA
Diellia unisora	No common name	U.S.A. (HI)	Aspleniaceae	E	541	17.96(a)	NA
Diplazium molokaiense.	No common name	U.S.A. (HI)	Aspleniaceae	E	553	17.96(a)	NA
*	*	*	*	*	*	*	
Marsilea villosa	Ihiihi	U.S.A. (HI)	Marsiliaceae	E	474	17.96(a)	NA
*	*	*	*	*	*	*	
Phlegmariurus (Lycopodium) nutans.	Wawaeiole	U.S.A. (HI)	Lycopodiaceae	E	536	17.96(a)	NA
Pteris lidgatei	No common name	U.S.A. (HI)	Adiantaceae	E	553	17.96(a)	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
•	•	•	•	•	•	•	•

3. Section 17.96, as proposed to be amended at 65 FR 66865, November 7, 2000, 65 FR 79192 (December 18, 2000), 65 FR 82086 (December 27, 2000), 65 FR 83193 (December 29, 2000), 67 FR 4072 (January 28, 2002), 67 FR 9806 (March 4, 2002), 67 FR 15856 (April 3, 2002), 67 FR 16492 (April 5, 2002), 67 FR 34522 (May 14, 2002) and elsewhere in this issue of the **Federal Register** (Big Island Hawaii) is proposed to be further amended as follows:

a. Add paragraph (a)(1)(i)(I); and

b. Amend paragraph (a)(1)(ii)(A) and (B) by adding the entries set forth below.

§ 17.96 Critical habitat-plants.

(a) * * *

(1) * * *

(*i*) Maintain *Maps and critical habitat unit descriptions.* The following sections contain the legal descriptions of the critical habitat units designated for each of the Hawaiian Islands. Existing manmade features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, railroads, telecommunication equipment, telemetry antennas, radars, missile launch sites, arboreta and gardens, heiaus (indigenous place of worship, shrine), airports, other paved areas, lawns, and other rural residential landscaped areas do not contain one or more of the primary constituent elements described for each species in paragraphs (a)(1)(ii)(A) and (a)(1)(ii)(B) of this section and are not included in the critical habitat designation.

(I) *Oahu.* Critical habitat units are described below. Coordinates are in UTM Zone 5 with units in meters using North American Datum of 1983 (NAD83). The following map shows the general locations of the 25 critical habitats units designated on the island of Oahu.

(*1*) **Note:** Map 1—Index map follows:

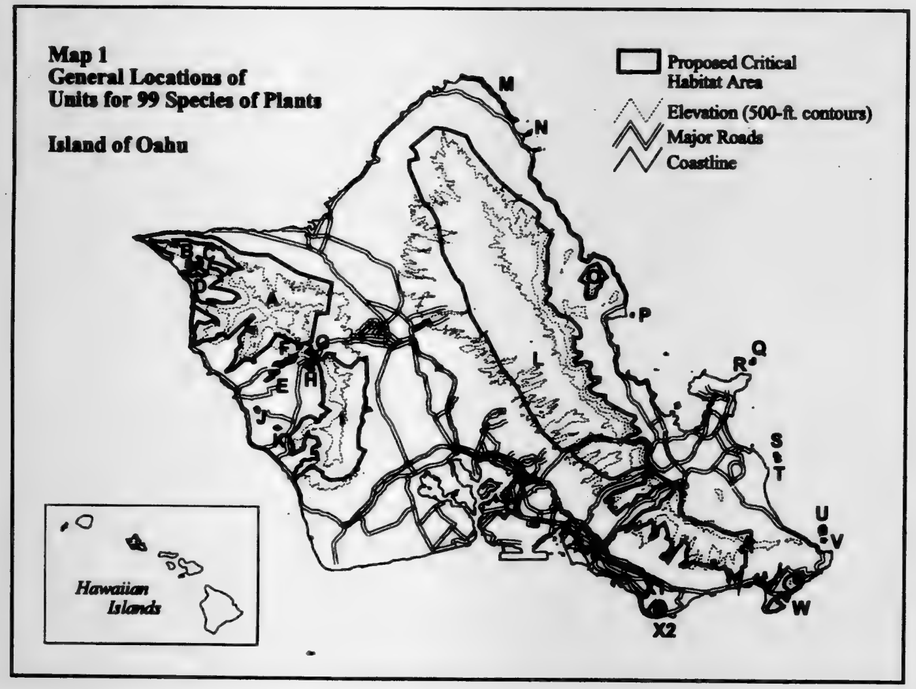

(*2*) Oahu A (8,504 ha, 21,013 ac).

(*i*) Unit consists of the following 129 boundary points: 584950, 2377432; 585671, 2377146; 585659, 2377618; 585016, 2377625; 585092, 2377943; 585733, 2378575; 585538, 2378784; 583246, 2376657; 582737, 2377043; 582396, 2376973; 582116, 2376586; 580873, 2376363; 580475, 2376039; 579928, 2376027; 580207, 2376763; 580077, 2377208; 580463, 2378115; 581095, 2377940; 581741, 2378223; 582348, 2377927; 582352, 2378103; 582079, 2378466; 580956, 2379031; 580053, 2379577; 579916, 2379943; 580195, 2380119; 579990, 2380577; 580239, 2380639; 580400, 2380204; 580711, 2379943; 581339, 2379885; 581818, 2379719; 581445, 2380141; 581917, 2380146; 582701, 2379888; 583715, 2379970; 584093, 2380363; 584290, 2380395; 584158, 2380660; 583632, 2380990; 582472, 2381212; 581560, 2381299; 581525, 2381376; 582048, 2381795; 582606, 2382084; 582448, 2382291; 582852, 2382503; 582190, 2383041; 581891, 2383049; 581445, 2383224; 581544, 2383659; 581994, 2383664; 583254, 2383233; 583771, 2382937; 584528, 2383106; 583163, 2384156; 582817, 2384756; 581496, 2385379; 580099, 2385471; 579431, 2385710; 578101, 2385710; 578396, 2385344; 578151, 2385138; 577468, 2385588; 576935, 2385536; 576208, 2385632; 575911, 2385714; 575829, 2385586; 576581, 2385071; 577457, 2384544; 577898, 2384416; 577948, 2384016; 577765, 2383898; 577185, 2384117; 576277, 2384883; 575412, 2385521; 574908, 2385747; 574600, 2385794; 574538, 2385893; 574683, 2385979; 575263, 2385990; 575698, 2386095; 576517, 2386212; 576821, 2386287; 576902, 2386302; 576929, 2386276; 577139, 2386330; 577147, 2386349; 577336, 2386382; 577539, 2386382; 577539, 2386383; 578164, 2386410; 578534, 2386464; 579454, 2386447; 579361, 2386220; 580107, 2386178; 581087, 2385955; 581593, 2386070; 582279, 2385848; 584310, 2384610; 585987, 2384377; 587049, 2384382; 589845, 2382717; 593031, 2381826; 592675, 2379038; 591610, 2378927; 591125, 2376370; 590184, 2376161; 590237, 2375925; 590078, 2375730; 589871, 2375739; 589804, 2376190; 587886, 2376990; 587134, 2375976; 585708, 2374809; 585805, 2374401; 585659, 2374361; 585509, 2374635; 584838, 2374660; 583757, 2373710; 583115, 2373484; 583076, 2373552; 583436, 2373865; 583905, 2374537; 584086, 2375018; 584030, 2375455; 584478, 2375878; 584279, 2376661; 584950, 2377432.

(*ii*) Excluding the area consisting of the following six boundary points (7 ha; 17 ac): 583216, 2382880; 583450, 2382956; 583543, 2382821; 583374, 2382640; 583216, 2382693; 583216, 2382880.

(*iii*) **Note:** Map 2 follows:

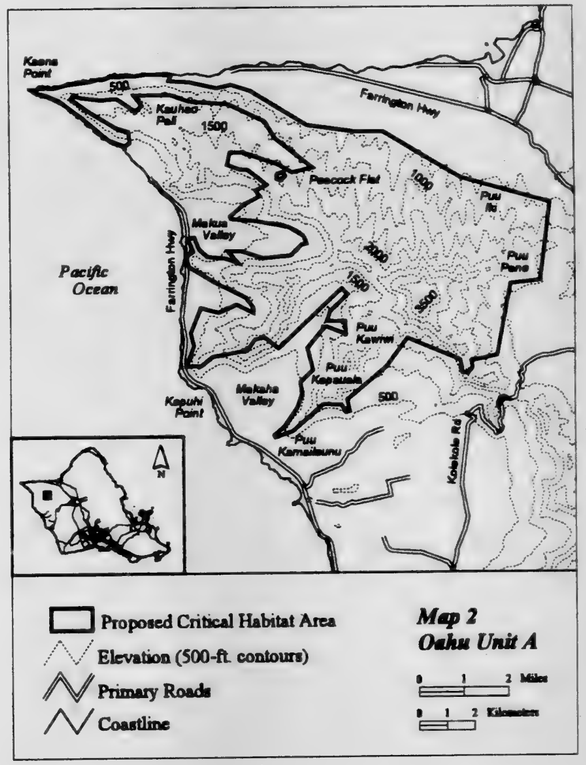

(*3*) Oahu B (34 ha, 83 ac).

(*i*) Unit consists of the following 13 boundary points: 579694, 2383749; 579887, 2383567; 580216, 2383613; 580233, 2383353; 580093, 2383252; 579781, 2383420; 579551, 2383218; 579281, 2383273; 579340, 2383412; 579313, 2383539; 579533, 2383839; 579678, 2383853; 579694, 2383749.

(*ii*) **Note:** Map 3 follows:

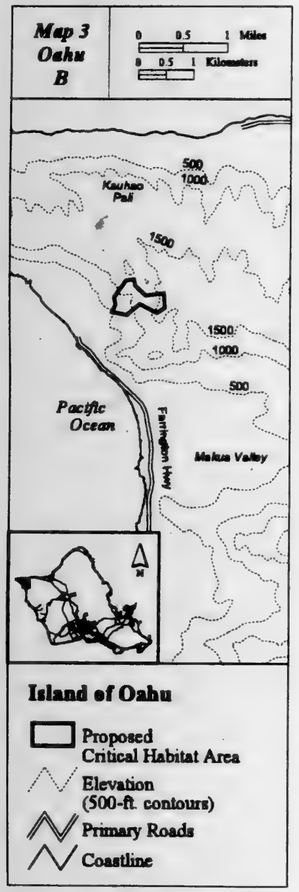

(*4*) Oahu C (14 ha, 35 ac).

(*i*) Unit consists of the following 10 boundary points: 580634, 2383658; 580448, 2384031; 580348, 2384103; 580359, 2384180; 580622, 2384091; 580816, 2383697; 580809, 2383460; 580717, 2383424; 580606, 2383503; 580634, 2383658.

(*ii*) **Note:** Map 4 follows:

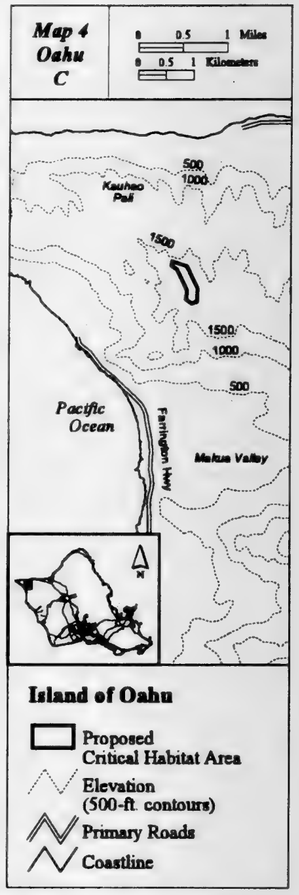

(*5*) Oahu D (110 ha, 271 ac).

(*i*) Unit consists of the following 25 boundary points: 580281, 2383222; 580606, 2383411; 580655, 2383344; 580602, 2383210; 580789, 2382976; 580968, 2382856; 581269, 2382857; 581319, 2382595; 581206, 2382556; 581138, 2382463; 580929, 2382460; 580805, 2382349; 580325, 2382658; 580194, 2382531; 579912, 2382420; 579539, 2382543; 579344, 2382444; 578880, 2382694; 578948, 2382793; 579364, 2382805; 579630, 2382884; 579781, 2382892; 579832, 2382960; 580303, 2383087; 580281, 2383222.

(*ii*) **Note:** Map 5 follows:

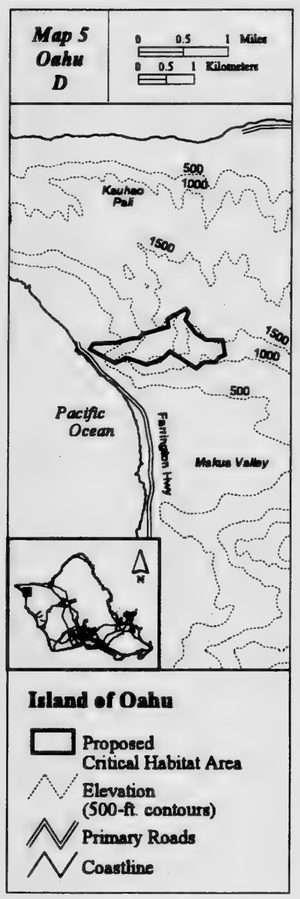

(*6*) Oahu E (38 ha, 94 ac).

(*i*) Unit consists of the following 13 boundary points: 587490, 2373552; 587822, 2373610; 588066, 2373607; 588093, 2373488; 587547, 2373162; 587575, 2373016; 586913, 2372659; 586819, 2372688; 587343, 2373135; 587340, 2373263; 587234, 2373485; 587305, 2373618; 587490, 2373552.

(*ii*) **Note:** Map 6 follows:

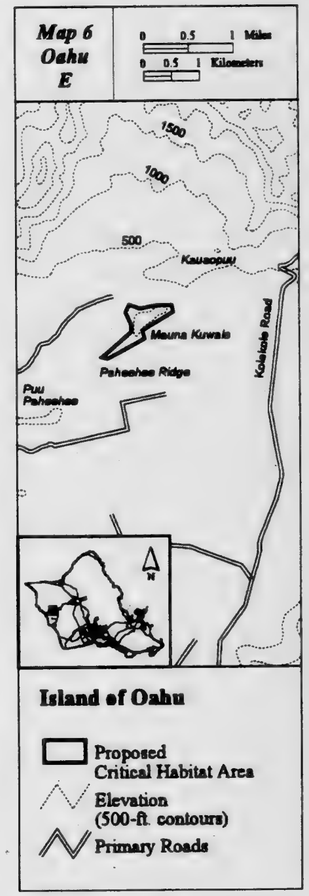

(*7*) Oahu F (81 ha, 200 ac).

(*i*) Unit consists of the following 20 boundary points: 587685, 2374312; 587953, 2374412; 588499, 2374458; 588734, 2374736; 589087, 2374687; 589164, 2374979; 589410, 2375004; 589548, 2375117; 589718, 2375138; 589743, 2374983; 589691, 2374952; 589636, 2374708; 589487, 2374525; 588596, 2374211; 588507, 2374058; 588331, 2373970; 587938, 2374132; 587898, 2374199; 587599, 2374147; 587685, 2374312.

(*ii*) **Note:** Map 7 follows:

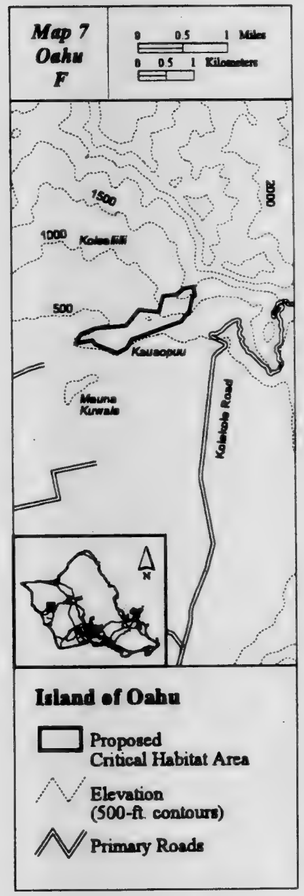

(*8*) Oahu G (16 ha, 40 ac).

(*i*) Unit consists of the following 19 boundary points: 590995, 2375723; 591072, 2375735; 591090, 2375622; 591212, 2375467; 591381, 2375387; 591513, 2375416; 591525, 2375393; 591395, 2375323; 591181, 2375356; 591100, 2375416; 590964, 2375432; 590898, 2375362; 590966, 2375282; 590921, 2375214; 590793, 2375263; 590625, 2375384; 590645, 2375451; 590888, 2375585; 590995, 2375723.

(*ii*) **Note:** Map 8 follows:

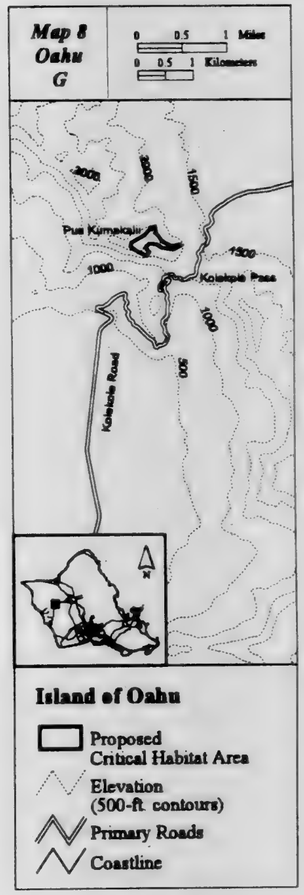

(*9*) Oahu H (28 ha, 68 ac).

(*i*) Unit consists of the following 14 boundary points: 590764, 2374307; 590763, 2374472; 590700, 2374526; 590756, 2374578; 591092, 2374606; 591195, 2374587; 591248, 2374509; 591194, 2374127; 591134, 2374054; 591180, 2373922; 591094, 2373854; 590957, 2373933; 590826, 2374078; 590764, 2374307.

(*ii*) **Note:** Map 9 follows:

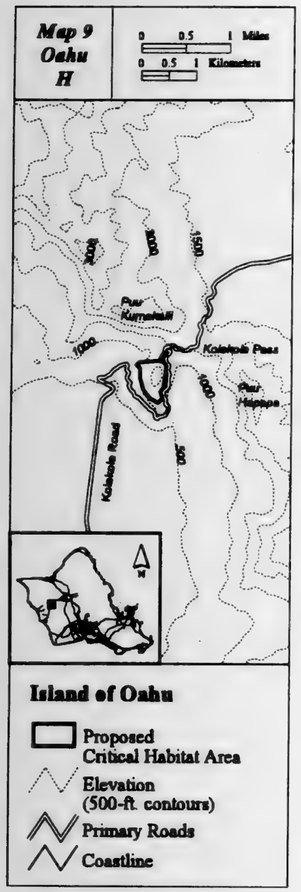

(*10*) Oahu I (5,108 ha, 12,623 ac).

(*i*) Unit consists of the following 88 boundary points: 591216, 2366381; 591982, 2366817; 591691, 2367372; 590921, 2367515; 590903, 2367852; 590740, 2367734; 590438, 2366785; 590602, 2366656; 590452, 2366324; 589437, 2365779; 589274, 2365854; 589506, 2366168; 589343, 2366913; 589024, 2367508; 589876, 2368279; 590308, 2369112; 591047, 2369419; 591542, 2369212; 591680, 2368861; 591915, 2368960; 592125, 2369494; 592399, 2369453; 592450, 2369644; 592858, 2369920; 592024, 2370471; 592290, 2370765; 592078, 2373499; 591626, 2374755; 592184, 2374670; 592614, 2375298; 593304, 2375183; 593191, 2374882; 594258, 2374119; 594913, 2373987; 595654, 2374786; 596144, 2374692; 596144, 2374844; 596305, 2374913; 596443, 2372614; 596207, 2372094; 596174, 2371267; 596352, 2371074; 596301, 2370442; 596100, 2370329; 596086, 2370155; 596604, 2370178; 596742, 2370040; 596249, 2369943; 596055, 2369758; 595948, 2369350; 596098, 2368982; 595665, 2368199; 595626, 2366488; 596281, 2366231; 595522, 2364723; 594929, 2363957; 594256, 2363568; 593002, 2363438; 592261, 2363823; 592254, 2364166; 591923, 2364366; 591746, 2364409; 591557, 2364645; 591037, 2364559; 590435, 2364159; 590272, 2363910; 590125, 2363901; 589781, 2363570; 589592, 2363721; 589588, 2364069; 589790, 2364314; 589786, 2364443; 589945, 2364675; 590241, 2364821; 590263, 2365140; 590539, 2365314; 591056, 2365277; 591200, 2365406; 591519, 2365415; 591827, 2365351; 591748, 2365947; 591738, 2365951; 591637, 2365979; 591602, 2365972; 591533, 2365957; 591460, 2365917; 591235, 2365936; 591216, 2366381.

(*ii*) **Note:** Map 10 follows:

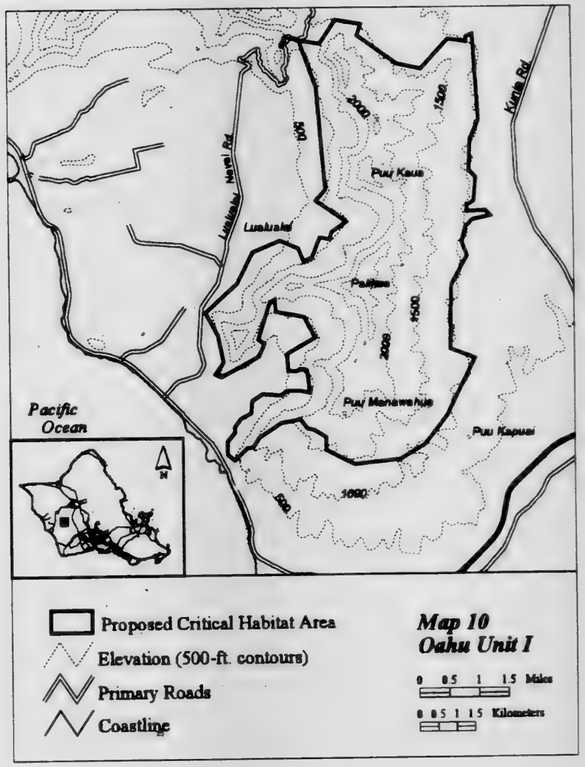

(*11*) Oahu J (10 ha, 25 ac).

(*i*) Unit consists of the following ten boundary points: 586105, 2369712; 586019, 2369826; 585929, 2369900; 585878, 2369958; 585860, 2370075; 586047, 2370180; 586105, 2370159; 586228, 2369973; 586148, 2369708; 586105, 2369712.

(*ii*) **Note:** Map 11 follows:

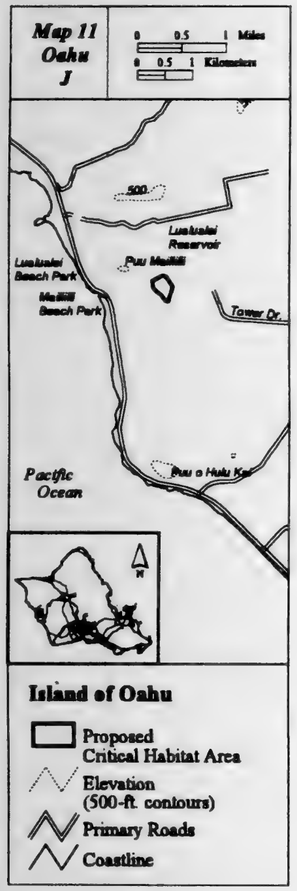

(*12*) Oahu K (7 ha, 18 ac).

(*i*) Unit consists of the following eight boundary points: 587975, 2368114; 587736, 2368302; 587784, 2368350; 587880, 2368389; 587969, 2368407; 588041, 2368390; 588193, 2368272; 587975, 2368114.

(*ii*) Note: Map 12 follows:

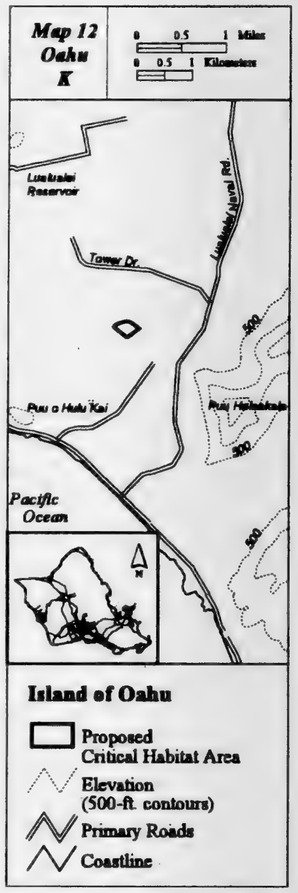

(*13*) Oahu L (30,068 ha, 74,301 ac).

(*i*) Unit consists of the following 247 boundary points: 630472, 2354716; 630100, 2355624; 629580, 2355419; 629301, 2355527; 629162, 2356203; 628907, 2356125; 628855, 2355534; 628391, 2355772; 628053, 2355755; 627070, 2356063; 626669, 2355661; 626214, 2355599; 625962, 2355819; 626440, 2356093; 626520, 2356196; 626441, 2356918; 626678, 2357357; 626649, 2357694; 626282, 2358028; 626067, 2358099; 626022, 2357714; 625616, 2357251; 625324, 2356852; 624769, 2356015; 624665, 2356158; 624810, 2356492; 624733, 2356592; 624312, 2356301; 624120, 2356499; 624386, 2356808; 624519, 2356754; 624644, 2356803; 625017, 2357329; 625143, 2357659; 624967, 2358116; 624604, 2358276; 624760, 2358514; 624614, 2359138; 624420, 2359643; 623879, 2359238; 623709, 2358524; 623169, 2358149; 623081, 2358237; 623229, 2358330; 623152, 2358462; 623235, 2358611; 623389, 2358572; 623477, 2358682; 623368, 2358806; 623323, 2359133; 623468, 2359271; 623191, 2359887; 623070, 2359870; 622882, 2359571; 622300, 2359375; 621959, 2359117; 621849, 2359276; 621711, 2359133; 621546, 2359436; 621383, 2359351; 621014, 2358958; 620851, 2358914; 620942, 2359237; 620122, 2358980; 620543, 2359252; 620950, 2359361; 622396, 2360697; 623890, 2361098; 624124, 2361689; 624497, 2361860; 625196, 2362592; 625395, 2362905; 625302, 2363098; 624704, 2363373; 623455, 2362882; 622842, 2362180; 621909, 2362178; 621370, 2361266; 620803, 2361210; 619955, 2360463; 619241, 2361098; 619485, 2361645; 618895, 2361516; 618817, 2361712; 619665, 2362481; 621304, 2363049; 622555, 2363345; 622625, 2363548; 622551, 2363798; 622638, 2363988; 622939, 2363923; 623240, 2364110; 622549, 2364906; 622070, 2364700; 621516, 2364619; 619844, 2363773; 619306, 2363732; 618018, 2364365; 617769, 2364712; 616590, 2365310; 616218, 2365592; 615788, 2365918; 615698, 2366342; 616146, 2366497; 616978, 2367173; 617442, 2367401; 618298, 2367467; 619284, 2367246; 619350, 2367450; 618298, 2367670; 617418, 2367589; 616872, 2367369; 616187, 2366749; 615502, 2366480; 614715, 2366305; 612726, 2368229; 612213, 2369265; 611690, 2369886; 610594, 2372095; 609095, 2373932; 607429, 2377141; 607076, 2377223; 606097, 2378881; 605220, 2381803; 604636, 2382351; 603415, 2384650; 603167, 2386304; 602914, 2387638; 602349, 2388646; 601544, 2389445; 600257, 2392431; 600187, 2393272; 601024, 2393410; 600830, 2394049; 600377, 2394522; 602551, 2396317; 603610, 2396217; 605573, 2395548; 606141, 2394360; 608595, 2391432; 610456, 2389829; 611781, 2389129; 612485, 2388484; 612286, 2387566; 613734, 2386451; 613275, 2385352; 613314, 2383180; 613082, 2381819; 613547, 2381214; 613507, 2380935; 613089, 2380404; 613241, 2380052; 613647, 2379899; 614362, 2379040; 615438, 2378645; 616347, 2377697; 616509, 2377025; 616330, 2376842; 615916, 2376860; 615761, 2376728; 615884, 2376328; 615745, 2376016; 616023, 2375527; 616498, 2375480; 616476, 2375235; 615846, 2374664; 616051, 2374429; 616922, 2374655; 617401, 2374499; 617428, 2374263; 617214, 2373976; 617446, 2373188; 618238, 2373106; 618224, 2372771; 617446, 2372342; 617311, 2372083; 617424, 2371813;

617953, 2371576; 618784, 2371489; 618773, 2371099; 618907, 2370820; 620838, 2369795; 621571, 2369604; 621650, 2369367; 621267, 2368961; 621323, 2368668; 621884, 2368434; 622056, 2368173; 621695, 2367902; 620962, 2367677; 620605, 2367259; 621160, 2367110; 621495, 2367050; 622240, 2367375; 622811, 2366967; 622868, 2366712; 622597, 2365765; 622759, 2365413; 622709, 2365156; 622784, 2364960; 623415, 2364346; 624146, 2363841; 625731, 2363030; 625923, 2362695; 626282, 2362445; 626140, 2362302; 625971, 2362363; 625953, 2361656; 625785, 2360976; 625863, 2360608; 626338, 2360087; 627103, 2359897; 627409, 2359692; 628198, 2359542; 628683, 2359547; 630084, 2358798; 630825, 2358657; 632432, 2358970; 632589, 2358852; 632556, 2358317; 632776, 2357999; 632629, 2357845; 632595, 2357490; 632325, 2357479; 632308, 2357738; 632117, 2358148; 632000, 2357971; 632038, 2357642; 631661, 2357473; 631618, 2357125; 632107, 2357040; 632062, 2355691; 631695, 2355601; 631703, 2355280; 631699, 2354977; 631532, 2354149; 631517, 2354916; 631428, 2355081; 631285, 2354916; 631057, 2354415; 630644, 2355292; 630484, 2355323; 630457, 2355102; 630644, 2354689; 630488, 2354267; 630389, 2354343; 630472, 2354716.

(*ii*) **Note:** Map 13 follows:

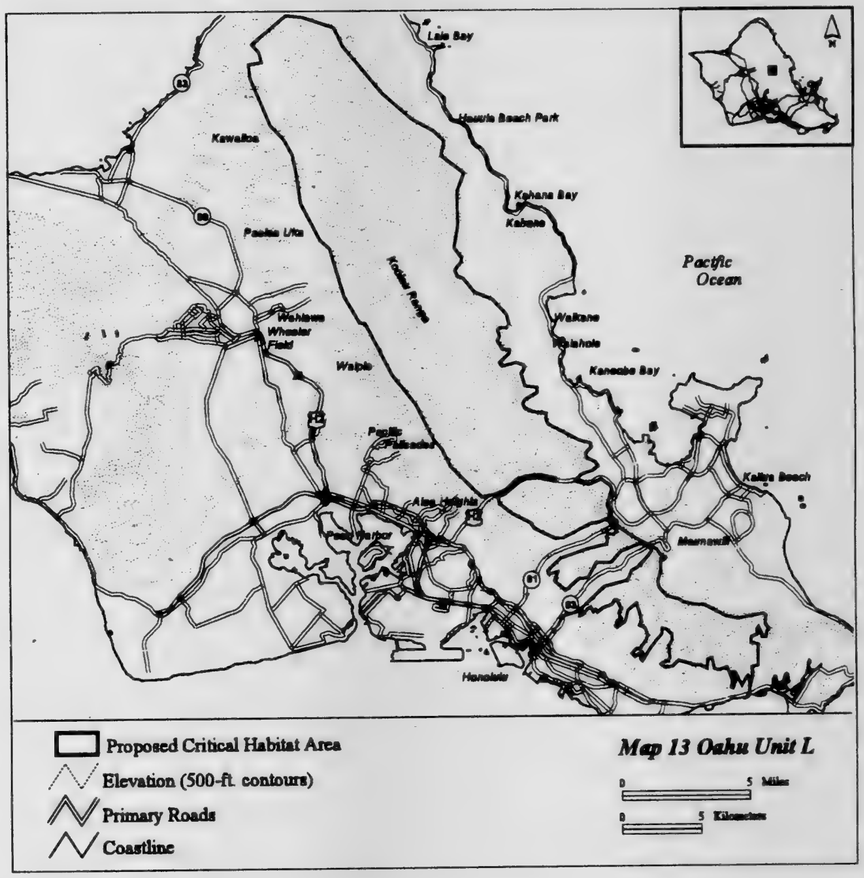

(*14*) Oahu M (100 ha, 246 ac).

(*i*) Unit consists of the following 66 boundary points: 605075, 2401114; 605050, 2401154; 605103, 2401171; 605130, 2401169; 605155, 2401135; 605240, 2401108; 605306, 2401120; 605397, 2401050; 605439, 2401040; 605516, 2401036; 605556, 2401006; 605705, 2400985; 605892, 2401002; 605974, 2401051; 606009, 2401054; 606082, 2401044; 606286, 2400994; 606487, 2400973; 606811, 2400952; 607170, 2400618; 607182, 2400505; 607216, 2400450; 607264, 2400416; 607294, 2400407; 607455, 2400278; 607707, 2400136; 608018, 2399654; 608529, 2399247; 608541, 2399223; 608541, 2399222; 608751, 2398862; 609109, 2398604; 609125, 2398360; 609242, 2398091; 609441, 2397864; 609549, 2397569; 609925, 2397252; 610007, 2397236; 610009, 2397234; 610053, 2397216; 610058, 2397227; 610160, 2397208; 610302, 2397128;

610310, 2397106; 610285, 2397037; 610265, 2397056; 610235, 2397053; 610193, 2397026; 610049, 2397044; 609503, 2397435; 609075, 2398137; 608976, 2398230; 608976, 2398474; 608798, 2398707; 608608, 2398855; 608506, 2399104; 607877, 2399558; 607524, 2400032; 607089, 2400309; 607033, 2400576; 606615, 2400810; 606022, 2400942; 605706, 2400878; 605065, 2401033; 605075, 2401060; 605075, 2401114.

(*ii*) **Note:** Map 14 follows:

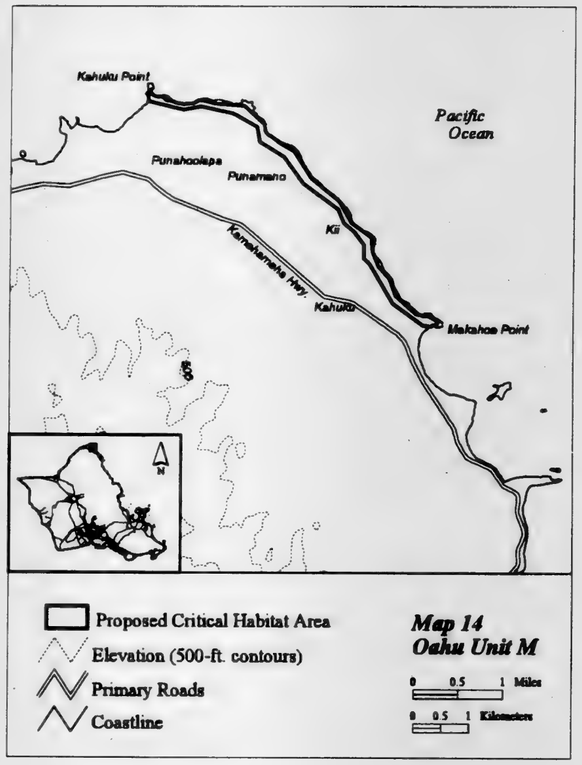

(*15*) Oahu N (5 ha, 12 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 611477, 2395905.

(*ii*) **Note:** Map 15 follows:

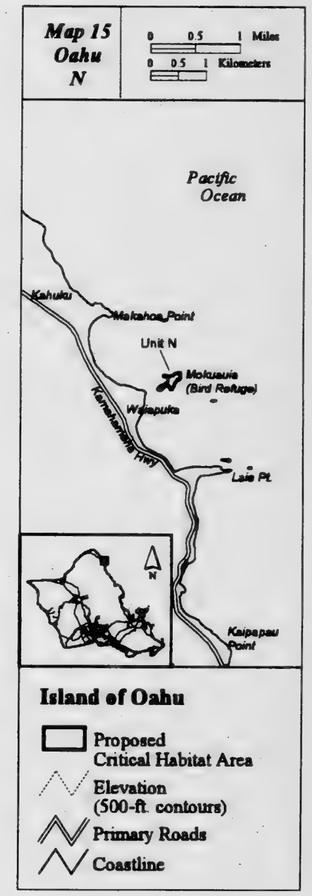

(*16*) Oahu O (431 ha, 1,066 ac).

(*i*) Unit consists of the following 15 boundary points: 617935, 2381391; 617776, 2380713; 617169, 2380478; 617006, 2380498; 616849, 2380834; 616997, 2381875; 616333, 2382207; 617139, 2383429; 617958, 2383753; 618243, 2383442; 618321, 2383143; 618857, 2382536; 618408, 2382201; 618290, 2381653; 617935, 2381391.

(*ii*) **Note:** Map 16 follows:

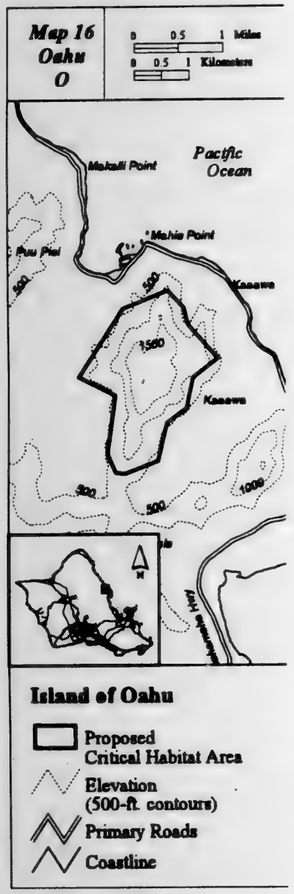

(*17*) Oahu P (2 ha, 3 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 621249, 2378985.

(*ii*) **Note:** Map 17 follows:

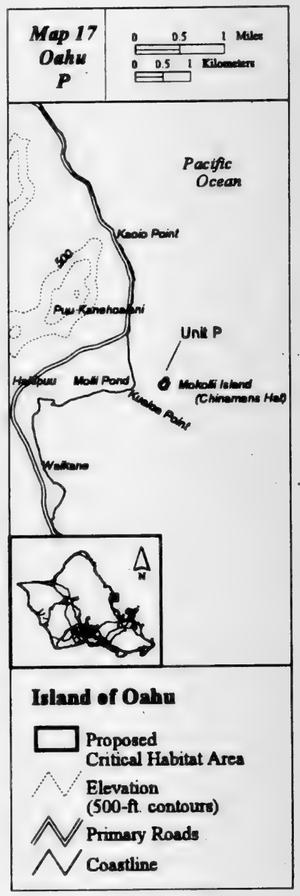

(*18*) Oahu Q (1 ha, 3 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 632741, 2374904.

(*ii*) **Note:** Map 18 follows:

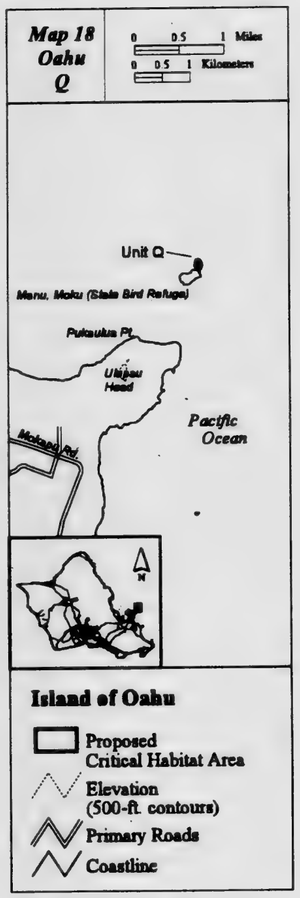

(*19*) Oahu R (6 ha, 15 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 632595, 2374679.

(*ii*) **Note:** Map 19 follows:

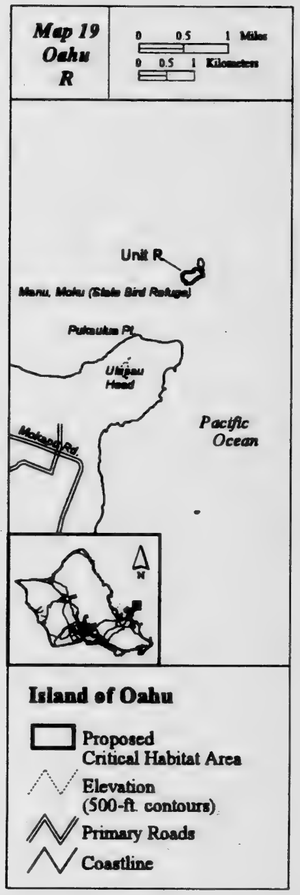

(*20*) Oahu S (4 ha, 12 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 634867, 2366056.

(*ii*) **Note:** Map 20 follows:

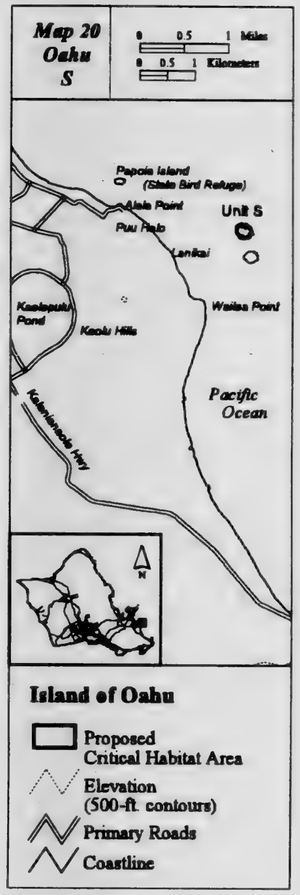

(*21*) Oahu T (4 ha, 9 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 634990, 2365593.

(*ii*) **Note:** Map 21 follows:

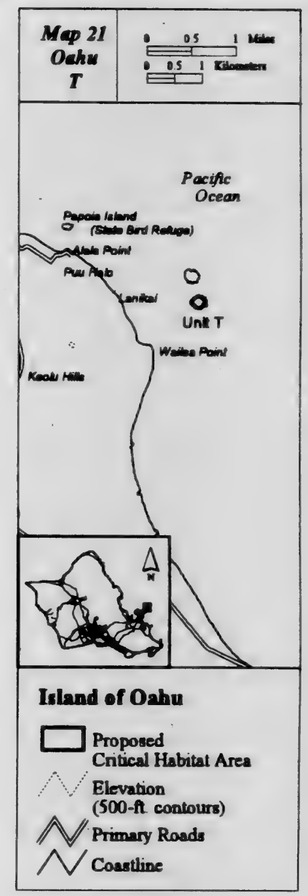

(*22*) Oahu U (27 ha, 67 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 639277, 2359130.

(*ii*) **Note:** Map 22 follows:

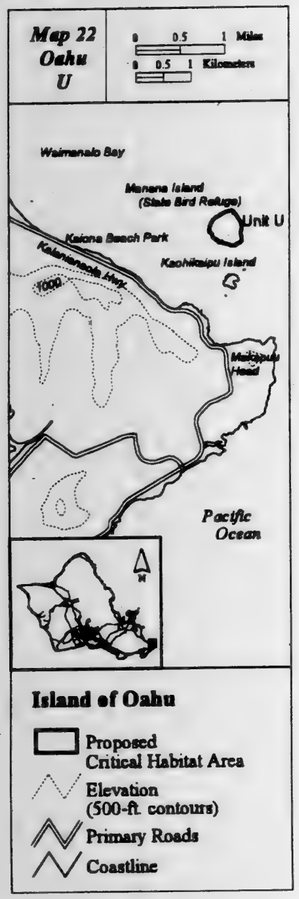

(*23*) Oahu V (4 ha, 10 ac).

(*i*) Unit consists of the entire offshore island located at approximately: 639339, 2358203

(*ii*) **Note:** Map 23 follows:

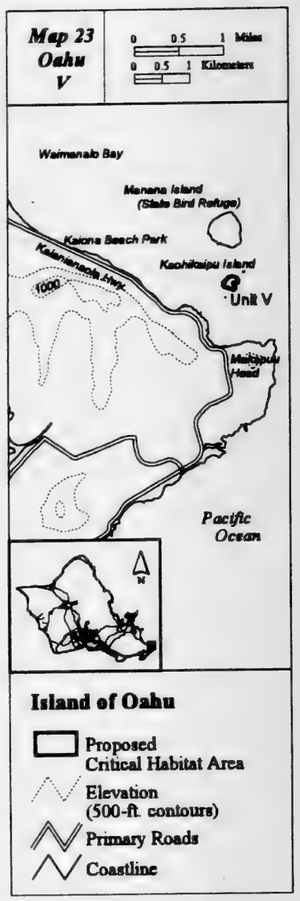

(*24*) Oahu W (340 ha, 840 ac).

(*i*) Unit consists of the following 60 boundary points: 637132, 2355245; 636973, 2355040; 636907, 2354928; 636897, 2354741; 636703, 2354644; 636613, 2354536; 636623, 2354312; 636808, 2354187; 636928, 2354201; 637076, 2354437; 636971, 2354701; 637225, 2354809; 637258, 2354895; 637251, 2355073; 637318, 2355106; 637384, 2355073; 637402, 2354195; 637140, 2353900; 637163, 2353807; 636874, 2353617; 636746, 2353610; 636729, 2353536; 636439, 2353369; 636391, 2353293; 636246, 2353257; 636122, 2353069; 636172, 2352980; 635971, 2352522; 635803, 2352590; 635641, 2352849; 635286, 2352948; 635095, 2352844; 634984, 2352593; 635070, 2352360; 635295, 2352316; 635417, 2352155; 635541, 2352050; 635672, 2352009; 635644, 2351902; 635123, 2351660; 634921, 2351541; 634779, 2351512; 634574, 2351531; 634430, 2351464; 634168, 2351550; 634069, 2351830; 634492, 2352496; 635235, 2353123; 635647, 2353114; 636026, 2352858; 636172, 2353227; 635954, 2353657; 635716, 2353823; 635656, 2354107; 635700, 2354295; 635875, 2354584; 636120, 2354776; 636669, 2355067; 636881, 2355121; 637132, 2355245.

(*ii*) **Note:** Map 24 follows:

(*25*) Oahu X1 (117 ha, 290 ac).

(*i*) Unit consists of the following 19 boundary points: 624293, 2352306; 624551, 2351916; 624594, 2351655; 624479, 2351301; 624279, 2351133; 623918, 2350950; 623734, 2350938; 623387, 2351012; 623164, 2351001; 623038, 2351128; 623080, 2351284; 622861, 2351384; 623109, 2351844; 623379, 2352152; 623614, 2352329; 623656, 2352268; 623889, 2352282; 623968, 2352380; 624293, 2352306.

(*ii*) Excluding the area consisting of the following 11 boundary points (59 ha; 145 ac): 623847, 2351144; 623734, 2351301; 623550, 2351461; 623616, 2351896; 623861, 2352075; 624048, 2352141; 624172, 2352080; 624321, 2351901; 624343, 2351375; 624109, 2351194; 623847, 2351144.

(*iii*) **Note:** See Map 25.

(*26*) Oahu X2 (8 ha, 21 ac).

(*i*) Unit consists of the following nine boundary points: 624111, 2351694; 624244, 2351705; 624294, 2351602; 624225, 2351495; 624162, 2351477; 624021, 2351312; 623901, 2351349; 623890, 2351454; 624111, 2351694.

(*ii*) **Note:** Map 25 follows:

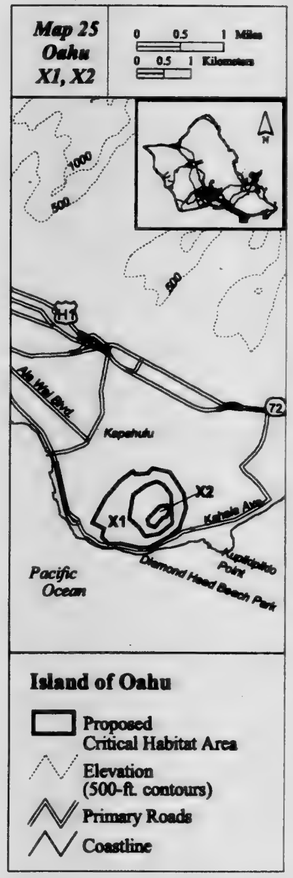

TABLE (A)(1)(i)(I).—PROTECTED SPECIES WITHIN EACH CRITICAL HABITAT UNIT FOR OAHU

Unit name	Species occupied	Species unoccupied
Oahu A	*Abutilon sandwicense, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce herbstii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea grimesiana* ssp. *obatae, Cyanea longiflora, Cyanea superba, Cyperus trachysanthos, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Fluggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia niihauensis, Melicope pallida, Neraudia angulata, Nototrichium humile, Peucedanum sandwicense, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Spermolepis hawaiiensis, Tetramolopium filiforme, Urera kaalae,* and *Viola chamissoniana* ssp. *chamissoniana.*	*Diplazium molokaiense, Isodendrion pyrifolium, Mariscus pennatiformis, Solanum sandwicense, Stenogyne kaneohoana, Tetramolopium lepidotum* ssp. *lepidotum* and *Vigna o-wahuense.*

TABLE (A)(1)(i)(I).—PROTECTED SPECIES WITHIN EACH CRITICAL HABITAT UNIT FOR OAHU—Continued

Unit name	Species occupied	Species unoccupied
Oahu B	*Bonamia menzeisii, Euphorbia haeleeleana,* and *Nototrichium humile*	*Gouania vitifolia, Hibiscus brackenridgei, Isodendrion pyrifolium,* and *Neraudia angulata.*
Oahu C	*Bonamia menzeisii.*	
Oahu D	*Bonamia menzeisii, Euphorbia haeleeleana, Neraudia angulata, Nototrichium humile,* and *Schiedea hookeri.*	*Chamesyce celastroides* var. *kaenana, Gouania vitifolia, Hibiscus brackenridgei,* and *Isodendrion pyrifolium.*
Oahu E	*Chamaesyce kuwaleana.*	
Oahu F	*Chamaesyce kuwaleana*	*Isodendrion pyrifolium.*
Oahu G	*Tetramolopium filiforme* and *Viola chamissoniana* ssp. *chamissoniana.*	
Oahu H	*Chamaesyce kuwaleana.*	
Oahu I	*Abutilon sandwicense, Alectryon macrococcus, Bonamia menzeisii, Cenchrus agrimonioides, Chamaesyce herbstii, Cyanea grimesiana* ssp. *obatae, Cyrtandra dentata, Delissea subcordata, Diellia falcata, Diellia unisora, Flueggea neowawraea, Gardenia mannii, Hedyotis parvula, Hesperomannia arbuscula, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lobelia niihauensis, Melicope saint-johnii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Sanicula mariversa, Schiedea hookeri, Schiedeakaalae, Schiedea nuttallii, Stenogyne kanehoana, Tetramolopium lepidotum* ssp. *lepidotum, Urera kaalae,* and *Viola chamissoniana* ssp. *chamissoniana.*	*Alsinidendron obovatum, Chamaesyce kuwaleana, Cyanea pinnatifida, Gouania meyenii, Hedyotis coriacea, Hibiscus brackenridgei, Isondendrion pyrifolium, Melicope pallida, Silene perlmanii,*and *Solanum sandwicense*
Oahu J	*Marsillea villosa.*	
Oahu K	*Marsillea villosa.*	
Oahu L	*Bonamia menzeisii, Chamaesyce deppeana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *grimesiana, Cyanea humbotiana, Cyanea koolauensis, Cyanea st.-johnii, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Diellia erecta, Eugenia koolauensis, Gardenia mannii, Hesperomannia arborescens, Isodendrion longifolium, Labordia cyrtandrae, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lysimachia filifolia, Melicope lydgatei, Myrsine juddii, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia parviflora, Plantago princeps, Pteris lydgatei, Sanicula purpurea, Schiedea kaalae, Tetraplasandra gymnocarpa, Trematalobelia singularis,* and *Viola oahuensiis.*	*Adenophorus periens, Chamaesyce celastroides* var. *kaenana, Cyanea longiflora, Cyanea superba, Delissea subcordata, Hedyotis coriacea, Isodendrion laurifolium, Lobelia oahuensis, Platanthera holochila,* and *Solanum sandwicense.*
Oahu M		*Centaurium sebaeoides* and *Sesbania tomentosa*
Oahu N		*Centaurium sebaeoides* and *Sesbania tomentosa.*
Oahu O	*Cyanea crispa, Cyanea truncata,* and *Schiedea kaalae.*	
Oahu P	*Bonamia menzeisii, Euphorbia haeleeleana,* and *Nototrichium humile*	*Gouania vitifolia, Hibiscus brackenridgei,* and *Isodendrion pyrifolium*
Oahu Q		*Sesbania tomentosa.*
Oahu R		*Chamaesyce kuwaleana* and *Sesbania tomentosa.*
Oahu S		*Sesbania tomentosa* and *Vigna o-wahuense.*
Oahu T		*Sesbania tomentosa* and *Vigna o-wahuense.*
Oahu U		*Chamaesyce kuwaleana, Sesbania tomentosa,* and *Vigna o-wahuense.*
Oahu V		*Sesbania tomentosa.*
Oahu W	*Centaurium sebaeoides* and *Marsillea villosa*	*Cyperus trachysanthos.*
Oahu X1	*Spermolepis hawaiiensis*	*Gouania meyenii.*
Oahu X2	*Cyperus trachysanthos*	*Marsillea villosa.*

(ii) *Hawaiian plants—Constituent elements.*

(A) *Flowering plants.*

Family Amaranthaceae: Nototrichium humile (kului)

Oahu A, B, D, and P, identified in the legal descriptions in paragraph (a)(1)(i)(I), constitutes critical habitat for *Nototrichium humile* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliff faces, gulches, streambanks, or steep slopes in dry or mesic forests often dominated by *Sapindus oahuensis* or *Diospyros sandwicensis* containing one or more of the following associated native plant species—*Erythrina sandwicensis, Sicyos* sp., *Rauvolfia sandwicensis, Nestegis sandwicensis, Streblus pendulinus, Myoporum sandwicense, Metrosideros polymorpha, Antidesma pulvinatum, Pouteria sandwicensis, Charpentiera* sp., *Hibiscus* sp., *Alyxia oliviformis, Pisonia umbellifera, Lipochaeta tenuis, Stenogyne* sp., *Artemisia australis, Bidens Cervicata, Carex wahuensis, Elaeocarpus bifidus, Abutilon sandwicense, Peperomia* sp., *Dodonaea viscosa, Canavalia* sp., *Psydrax odorata, Syzygium sandwicensis, Reynoldsia sandwicensis, Pleomele* sp., *Eugenia reinwartiana,* or *Myrsine lanaiensis;* and

(*2*) Elevations between 185 and 806 m (607 and 2,644 ft).

Family Apiaceae: Peucedanum sandwicense (makou)

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Peucedanum sandwicense* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliffs, slopes, or ridges in *Metrosideros polymorpha* lowland mesic forest containing one or more of the following associated native plant species: *Dodonaea viscosa, Carex meyenii, Eragrostis* sp., *Santalum ellipticum, Reynoldsia sandwicensis, Osteomeles anthyllidifolia, Scaevola sericea, Senna gaudichaudii, Pittosporum halophilum, Sida fallax, Plumbago zeylanica, Artemisia australis, Portulaca lutea, Lepidium bidentatum* var. *o-waihiense, Schiedea globosa, Lipochaeta integrifolia, Peperomia remyi, Plechranthus parviflorus,* or *Dianella sandwicensis;* and

(*2*) Elevations between 395 and 977 m (1,296 and 3,205).

Family Apiaceae: Sanicula mariversa (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitutes critical habitat for *Sanicula mariversa* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Well-drained, dry slopes or rock faces in mesic shrublands or open grassy areas containing one or more of the following associated native plant species: *Carex meyenii, Eragrostis* sp., *Bidens torta, Metrosideros tremuloides, Doryopteris* sp., or *Metrosideros polymorpha;* and

(*2*) Elevations between 582 and 978 m (1,909 and 3,208 ft).

Family Apiaceae: Sanicula purpurea (NCN)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Sanicula purpurea* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Open *Metrosideros polymorpha* mixed montane bogs or windswept shrublands within the cloud zone containing one or more of the following associated native plant species: *Cheirodendron* sp., *Sadleria pallida, Bidens* sp., *Dicanthelium koolauensis, Styphelia tameiameiae, Gahnia beechyi, Plantago pachyphylla, Lycopodium* sp., *Vaccinium* sp., or *Machaerina angustifolia;* and

(*2*) Elevations between 415 and 959 m (1,361 and 3,146 ft).

Family Apiaceae: Spermolepis hawaiiensis (NCN)

Oahu A and X, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Spermolepis hawaiiensis* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep or vertical cliffs or the base of cliffs or ridges in coastal dry cliff vegetation containing one or more of the following associated native plant species: *Dodonaea viscosa, Artemisia australis, Bidens* sp., *Santalum ellipticum, Waltheria indica, Heteropogon contortus,* or *Doryopteris* sp.; and

(*2*) Elevations between 25 to 839 m (82 to 2,752 ft).

Family Araliaceae: Tetraplasandra gymnocarpa (oheohe)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Tetraplasandra gymnocarpa* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Windswept summit ridges, slopes, or gullies in wet or sometimes mesic lowland forests or shrublands containing one or more of the following associated native plant species: *Cheirodendron* sp., *Antidesma platyphyllum, Syzygium sandwicensis, Hedyotis terminalis, Diplopterygium pinnatum, Melicope* spp., *Tetraplasandra oahuensis, Bobea elatior, Acacia koa, Cibotium chamissoi, Lobelia hypoleuca, Cyanea humboltiana, Myrsine fosbergii, Pouteria sandwicensis, Wikstroemia* sp., *Sadleria* sp., *Metrosideros polymorpha, Cheirodendron* sp., *Dicranopteris linearis, Machaerina angustifolia, Freycinetia arborea, Broussaisia arguta, Psychotria* spp., *Labordia* sp., *Hedyotis fosbergii, Bidens* sp., *Dubautia laxa,* or *Cibotium* sp.; and

(*2*) Elevations between 93 and 959 m (305 and 3,156 ft).

Family Asteraceae: Dubautia herbstobatae (naenae)

Oahu unit A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Dubautia herbstobatae* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Rock outcrops, ridges, moderate slopes, or vertical cliffs in dry or mesic shrubland containing one or more of the following associated native plant species: *Dodonaea viscosa, Artemisia australis, Chamaesyce celastroides, Schiedea mannii, Carex meyenii, Bidens torta, Metrosideros polymorpha, Lysimachia waianaensis,* or *Eragrostis variabilis;* and

(*2*) Elevations between 266 and 978 m (872 and 3,208 ft).

Family Asteraceae: Hesperomannia arborescens (NCN)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Hesperomannia arborescens* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes, ridge tops, or gulches in lowland wet forests or shrublands containing one or more of the following associated native plant species: *Scaevola glabra, Broussaisia arguta, Melicope* sp., *Acacia koa, Machaerina angustifolia, Hedyotis terminalis, Tetraplasandra oahuensis, Scaevola gaudichaudiana, Dubautia* sp., *Labordia sessilis, Cibotium* sp., *Perotettia sandwicensis, Pipturus* sp., *Wikstroemia* sp., *Cheirodendron* sp., *Coprosma* sp., *Myrsine* sp., *Bobea elatior, Hibiscus arnottianus, Metrosideros polymorpha, Nestegis sandwicensis, Dicranopteris linearis, Antidesma platyphyllum, Psychotria mariniana, Syzygium sandwicensis,* or common *Melicope* spp.; and

(*2*) Elevations between 110 and 1,147 m (361 and 3,762 ft).

Family Asteraceae: Hesperomannia arbuscula (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Hesperomannia arbuscula* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes or ridges in dry to wet forest dominated by *Acacia koa* or *Metrosideros polymorpha* containing one or more of the following associated native plant species: *Syzygium sandwicensis, Freycinetia arborea, Cyanea longiflora, Antidesma* sp., *Bobea elatior, Hibiscus* sp., *Diospyros hillebrandii, Hedyotis terminalis, Bidens* sp., *Alyxia oliviformis, or Psychotria* sp.; and

(*2*) Elevations between 370 and 1,053 m (1,214 and 3,454 ft).

Family Asteraceae: Lipochaeta lobata var. *leptophylla (nehe)*

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Lipochaeta lobata* var. *leptophylla* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliffs, ridges, or slopes in dry or mesic shrubland containing one or more of the following associated native plant species: *Diospyros* sp., *Eragrostis* sp., *Artemisia australis, Lipochaeta tenuis, Stenogyne* sp., *Carex meyenii, Dodonaea viscosa, Peperomia* sp., *Psydrax odorata*, or *Bidens* sp.; and

(*2*) Elevations between 256 and 978 m (840 and 3,208 ft).

Family Asteraceae: Lipochaeta tenuifolia (nehe)

Oahu unit A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Lipochaeta tenuifolia* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridgetops or bluffs in open areas or protected pockets of dry to mesic forests or shrublands or forests dominated by *Diospyros sandwicensis* containing one or more of the following associated native plant species: *Diospyros* sp., *Dodonaea viscosa, Eragrostis* sp., *Artemisia australis, Schiedea* sp., *Carex meyenii, Rumex* sp., *Dubautia* sp., *Bryophyllum* sp., *Osteomeles anthyllidifolia, Reynoldsia sandwicensis, Psydrax odorata, Doryopteris* sp., *Santalum* sp., *Myoporum sandwicense, Sapindus oahuensis*, or *Bidens* sp.; and

(*2*) Elevations between 67 and 978 m (220 and 3,208 ft).

Family Asteraceae: Tetramolopium filiforme (NCN)

Oahu A and G, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Tetramolopium filiforme* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(1) Dry cliff faces or ridges in dry or mesic forests containing one or more of the following associated native plant species: *Bidens torta, Carex meyenii, Peperomia tetraphylla, Schiedea* sp., *Sida fallax, Dodonaea viscosa, Artemisia australis*, or *Schiedea mannii;* and

(*2*) Elevations between 247 and 978 m (810 and 3,208 ft).

Family Asteraceae: Tetramolopium lepidotum ssp. *lepidotum (NCN)*

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Tetramolopium lepidotum* ssp. *lepidotum* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Grassy ridgetops, slopes, or cliffs in windblown dry forests and containing one or more of the following associated native plant species: *Eragrostis* sp., *Carex wahuensis, Bidens* sp., or *Metrosideros polymorpha;* and

(*2*) Elevations between 330 to 1,157 m (1,082 to 3,795 ft).

Family Brassicaceae: Lepidium arbuscula (anaunau)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Lepidium arbuscula* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Exposed ridge tops and cliff faces in mesic and dry vegetation communities and containing one or more of the following associated native plant species: *Metrosideros polymorpha, Peperomia* sp., *Dryopteris unidentata, Sida fallax, Schiedea ligustrina, Artemisia australis, Rumex albescens, Styphelia tameiameiae, Psydrax odorata, Carex wahuensis, Chamaesyce multiformis, Lysimachia hillebrandii, Dubautia sp., Sophora chrysophylla, Dodonaea viscosa, Eragrostis* sp., *Bidens* sp., or *Carex meyenii;* and

(*2*) Elevations between 131 and 978 m (430 and 3,208 ft).

Family Campanulaceae: Cyanea acuminata (haha)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyanea acuminata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(1) Slopes, ridges, or stream banks in *Metrosideros polymorpha-Dicranopteris linearis, Acacia koa-Metrosideros polymorpha* wet or mesic forest or shrubland, or *Diospyros sandwicensis-Metrosideros polymorpha* lowland mesic forest containing one or more of the following associated native plant species: *Hibiscus* sp., *Charpentiera* sp., *Cyrtandra* spp., *Antidesma* sp., *Freycinetia arborea, Athyrium sandwichianum, Psychotria* sp., *Hedyotis* sp., *Perrottetia sandwicensis, Melicope* spp., *Thelypteris sandwicensis, Hedyotis centranthoides, Broussaisia argutus, Pipturus albidus, Labordia* sp., *Chamaesyce* sp., *Pisonia* sp., *Touchardia latifloia, Machaerina* sp., *Sadleria* sp., *Wikstroemia* sp., *Dubautia laxa, Ilex anomala, Syzygium sandwicensis*, and *Phyllostegia* sp.; and

(*2*) Elevations between 216 and 1,208 m (708 and 3,962 ft).

Family Campanulaceae: Cyanea crispa (haha)

Oahu L and O, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyanea crispa* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes, moist gullies, or streambanks in open mesic forests or closed wet forests containing one or more of the following associated native plant species: *Diospyros* sp., *Pipturus albidus, Cibotium chamissoi, Perrottetia sandwicensis, Metrosideros polymorpha, Boehmeria grandis, Broussaisia argutus, Dubautia* sp., *Psychotria* sp., *Thelypteris cyatheoides, Antidesma platyphyllum, Microsorum spectrum, Cyrtandra* spp., *Pisonia umbellifera*, or *Touchardia latifolia;* and

(*2*) Elevations between 56 and 959 m (184 and 3,146 ft).

Family Campanulaceae: Cyanea grimesiana ssp. *grimesiana (haha)*

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyanea grimesiana* ssp. *grimesiana* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Rocky or steep slopes of stream banks in mesic forest often dominated by *Metrosideros polymorpha* or *Metrosideros polymorpha* and *Acacia koa*, and containing one or more of the following associated native plant species: *Cyanea angustifolia, Joinvillea* sp., *Clermontia persicaefolia, Melicope* sp., *Dicranopteris linearis, Coprosma* sp., *Alyxia oliviformis, Syzygium sandwicensis, Diplazium sandwichianum, Antidesma* sp., *Bobea* sp., *Myrsine* sp., *Nestegis sandwicensis, Psychotria* sp., or *Xylosma* sp.; and

(*2*) Elevations between 114 and 746 m (374 and 2,447 ft).

Family Campanulaceae: Cyanea grimesiana ssp. *obatae (haha)*

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyanea grimesiana* ssp. *obatae* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep, moist, shaded slopes in diverse mesic to wet lowland forests containing one or more of the following associated native plant species: *Pouteria sandwicensis, Psychotria hathewayi, Streblus pendulinus, Perrottetia sandwicensis, Dubautia* sp., *Rumex* sp., *Chamaesyce* sp., *Coprosma* sp., *Nothocestrum* sp., *Dryopteris unidentata, Freycinetia arborea, Cibotium chamissoi, Myrsine lessertiana, Hedyotis terminalis, Hedyotis acuminata, Selaginella arbuscula, Charpentiera obovata, Cyrtandra waianaeensis, Pipturus albidus, Claoxylon sandwicense, Pisonia umbellifera, Acacia koa, Antidesma platyphyllum, Metrosideros polymorpha, Diplazium sandwichianum, and Cyanea membranacea;* and

(*2*) Elevations between 404 and 1,092 m (1,325 and 3,528 ft).

Family Campanulaceae: Cyanea humboltiana (haha)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyanea humboltiana* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Wet *Metrosideros polymorpha-Dicranopteris linnearis* lowland shrubland containing one or more of the following associated native plant species: ferns, *Hedyotis terminalis, Dubautia laxa, Cibotium chamissoi, Syzygium sandwicensis, Acacia koa, Psychotria mariniana, Bobea elatior, Sadleria* sp., *Wikstroemia* sp., *Broussaisia argutus, Phyllostegia* sp., *Melicope* sp., *Machaerina angustifolia, Ilex anomala*, or *Scaevola mollis;* and

(*2*) Elevations between 261 and 959 m (856 and 3,146 ft).

Family Campanulaceae: Cyanea koolauensis (haha)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyanea koolauensis* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes, streambanks, and ridge crests in wet *Metrosideros polymorpha-Dicranopteris linearis* forest or shrubland containing one or more of the following associated native plant species: *Acacia koa, Bobea elatior, Syzygium sandwicensis, Pittosporum* sp. *Dubautia* sp., *Cibotium* sp., *Hedyotis* sp., *Wikstroemia* sp., *Bidens* sp., *Machaerina* sp., *Diploterygium pinnatum, Pritchardia martii, Sadleria* sp., *Broussaisia argutus, Melicope* sp., *Antidesma platyphyllum, Psychotria mariniana*, and *Scaevola* sp.; and

(*2*) Elevations between 163 and 959 m (535 and 3,146 ft).

Family Campanulaceae: Cyanea longiflora (haha)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyanea longiflora* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes, bases of cliffs, or ridge crests in mesic *Acacia koa-Metrosideros polymorpha* lowland forest containing one or more of the following associated native plant species: *Cibotium* sp., *Schiedea* sp., *Psychotria* sp., *Antidesma* sp., *Dicranopteris linearis, Coprosma* sp., or *Syzygium sandwicensis;* and

(*2*) Elevations between 221 and 1,191 m (725 and 3,906 ft).

Family Campanulaceae: Cyanea pinnatifida (haha)

Oahu unit I, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyanea pinnatifida* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep, wet, rocky slopes in diverse mesic forest containing one or more of the following associated native plant species: *Strongylodon ruber, Pisonia umbellifera, Pisonia sandwicensis, Psychotria sp., Canavalia sp., Pipturus albidus, Diplazium sandwichianum*, or native ferns; and

(*2*) Elevations between 450 and 881 m (1,476 and 2,890 ft).

Family Campanulaceae: Cyanea st.-johnii (haha)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyanea st.-johnii* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Wet, windswept slopes and ridges in *Metrosideros polymorpha* mixed lowland shrubland or *Metrosideros polymorpha-Dicranopteris linearis* lowland shrubland containing one or more of the following associated native plant species *Psychotria* sp., *Alyxia oliviformis, Melicope* sp., *Broussaisia argutus, Cibotium* sp., *Labordia* sp., *Scaevola mollis, Dubautia laxa, Hedyotis* sp., *Antidesma* sp., *Sadleria pallida, Syzygium sandwicensis, Machaerina angustifolia, Bidens macrocarpa, Chamaesyce clusifolia, or Freycinetia arborea;* and

(*2*) Elevations between 415 and 959 m (1,361 and 3,146 ft).

Family Campanulaceae: Cyanea superba (haha)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyanea superba* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Understory on sloping terrain on a well drained rocky substrate within mesic forest containing one or more of the following associated native plant species: *Diospyros* sp., *Metrosideros polymorpha, Xylosma* sp., *Nestegis sandwicensis, Psychotria* sp., *Hedyotis terminalis*, and *Pisonia brunoniana;* and

(*2*) Elevations between 354 and 872 m (1,161 and 2,860 ft).

Family Campanulaceae: Cyanea truncata (haha)

Oahu L and O, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyanea truncata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Windward slopes and streambanks in mesic to wet forests containing one or more of the following associated native plant species: *Cyrtandra calpidicarpa, Cyrtandra laxiflora, Pipturus albidus, Cibotium chamissoi, Hibiscus arnottianus, Diospyros sandwicensis, Metrosideros polymorpha, Cyrtandra propinqua, Neraudia melastomifolia*, or *Pisonia umbellifera;* and

(*2*) Elevations between 54 and 705 m (177 and 2,312 ft).

Family Campanulaceae: Delissea subcordata (NCN)

Oahu A, I, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Delissea subcordata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to steep gulch slopes in mixed mesic forests containing one or more of the following associated native plant species: *Acacia koa, Alyxia oliviformis, Hedyotis acuminata, Streblus pendulinus, Diospyros sandwicensis, Psydrax odorata, Bobea* sp., *Myrsine lanaiensis, Claoxylon sandwicense, Charpentiera obovata, Chamaesyce multiformis, Pouteria sandwicensis, Antidesma* sp.,

Metrosideros polymorpha, Pisonia sp., *Diospyros hillebrandii, Nestegis sandwicensis,* or *Psychotria hathewayi;* and

(*2*) Elevations between 162 and 1025 m (531 and 3,362 ft).

Family Campanulaceae: Lobelia gaudichaudii ssp. koolauensis (NCN)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Lobelia gaudichaudii* ssp. *koolauensis* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to steep slopes in *Metrosideros polymorpha* lowland wet shrublands or bogs containing one or more of the following associated native plant species: *Sadleria pallida, Isachne distichophylla, Vaccinium dentatum, Cibotium* sp., *Melicope* sp., *Bidens* sp., *Scaevola* sp., *Machaerina angustifolia, Dicanthelium koolauensis,* or *Broussaisia arguta;* and

(*2*) Elevations between 383 and 867 m (1,256 and 2,844 ft).

Family Campanulaceae: Lobelia monostachya (NCN)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Lobelia monostachya* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep, sparsely vegetated cliffs in mesic shrubland containing one or more of the following associated native plant species: *Artemisia australis, Carex meyenii, Psilotum nudum,* or *Eragrostis* sp.; and

(*2*) Elevation between 44 and 614 m (144 to 2,014 ft).

Family Campanulaceae: Lobelia niihauensis (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Lobelia niihauensis* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Exposed mesic or dry cliffs or ledges containing one or more of the following associated native plant species: *Osteomeles anthyllidifolia, Dodonaea viscosa, Schiedea mannii, Carex meyenii, Doryopteris* sp., *Sida fallax, Styphelia tameiameiae, Eragrostis* sp., *Bidens* sp., *Plectranthus parviflorus, Lipochaeta tenuis,* or *Artemisia* sp.; and

(*2*) Elevations between 339 to 926 m (1,112 to 3,037 ft).

Family Campanulaceae: Lobelia oahuensis (NCN)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Lobelia oahuensis* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes on summit cliffs in cloudswept wet forests or in lowland wet shrubland that are frequently exposed to heavy wind and rain containing one or more of the following associated native plant species: *Sadleria squarrosa, Peperomia* sp., *Broussaisia arguta, Scaevola* sp., *Vaccinium* sp., *Hedyotis* sp., *Cibotium* sp., *Freycinetia arborea, Lycopodium* sp., *Bidens* sp., *Wikstroemia* sp., *Phyllostegia* sp., *Syzygium sandwicensis, Melicope* sp., *Metrosideros polymorpha, Dicranopteris linearis, Machaerina angustifolia, Cheirodendron trigynum, Dubautia laxa,* or *Labordia hosakae;* and

(*2*) Elevations between 415 and 959 m (1,361 and 3,146 ft).

Family Campanulaceae: Trematalobelia singularis (NCN)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Trematalobelia singularis* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep, windswept cliff faces or slopes in *Metrosideros polymorpha-Dicranopteris linearis* lowland wet shrubland containing one or more of the following associated native plant species: *Eugenia* sp., *Wikstroemia* sp., *Melicope* sp., *Sadleria* sp., *Cibotium* sp., *Broussaisia arguta,* or *Dubautia laxa;* and

(*2*) Elevations between 545 and 953 m (1,788 and 3,126 ft).

Family Caryophyllaceae: Alsinidendron obovatum (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Alsinidendron obovatum* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridges and slopes in lowland diverse mesic forest dominated by *Acacia koa* and *Metrosideros polymorpha* containing one or more of the following associated native plant species: *Bidens torta, Antidesma platyphyllum, Cibotium chamissoi, Hedyotis terminalis, Cyanea longiflora, Pipturus* sp., *Machaerina* sp., *Peperomia* sp., *Perrottetia sandwicensis, Ilex anomala, Psydrax odorata, Coprosma* sp., or *Alyxia oliviformis;* and

(*2*) Elevations between 476 and 943 m (1,561 and 3,093 ft).

Family Caryophyllaceae: Alsinidendron trinerve (NCN)

Oahu unit A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Alsinidendron trinerve* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes in wet forest or the wetter portions of diverse mesic forest dominated by *Metrosideros polymorpha* or *Ilex anomala* and *Metrosideros polymorpha* montane wet forest containing one or more of the following associated native plant species: *Machaerina* sp., *Hedyotis* sp., *Peperomia* sp., *Perrottetia sandwcensis, Athyrium sandwichianum, Broussaisia arguta, Vaccinium* sp., *Phyllostegia* sp., *Coprosma ochracea, Gunnera* sp., *Nothoperanema rubiginosa,* or *Pipturus albidus;* and

(*2*) Elevations between 833 and 1,233 m (2,732 and 4,044 ft).

Family Caryophyllaceae: Schiedea hookeri (NCN)

Oahu A, D, and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Schiedea hookeri* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes, cliffs or cliff bases, rock walls, or ledges in diverse mesic or dry lowland forest often with *Metrosideros polymorpha, Diospyros sandwicensis,* or *Diospyros hillebrandii* dominant, containing one or more of the following associated native plant species: *Carex wahuensis, Psydrax odoratum, Acacia koa, Bidens torta, Alyxia oliviformis, Pouteria sandwicensis, Hibiscus* sp., *Charpentiera tomentosa, Styphelia tameiameiae, Sida fallax, Pisonia sandwicensis, Lipochaeta tenuis, Stenogyne* sp., *Antidesma pulvinatum, Elaeocarpus bifidus, Dodonaea viscosa, Artemisia australis, Carex meyenii,* or *Eragrostis grandis;* and

(*2*) Elevations between 208 and 978 m (682 and 3,208 ft).

Family Caryophyllaceae: Schiedea kaalae (NCN)

Oahu A, I, L, and O, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Schiedea kaalae* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes, cliffs, streambanks, or deep shade in diverse mesic or wet forests containing one or more of the following associated native plant species: *Pisonia sandwicensis, Psychotria hathewayi, Pouteria sandwicensis, Freycinetia arborea, Pipturus albidus, Cyrtandra laxiflora, Hedyotis acuminata, Selaginella arbuscula, Cyrtandra calpidicarpa, Boehmeria grandis, Claoxylon sandwicense, Diospyros hillebrandii, Dryopteris unidentata, Alyxia oliviformis, Charpentiera* sp., *Athyrium sandwichianum, Xylosma hawaiiense, Nothocestrum longifolium, Athyrium arnottii,* or *Pisonia umbellifera;* and

(*2*) Elevations between 64 and 869 m (210 and 2,850 ft).

Family Caryophyllaceae: Schiedea kealiae (NCN)

Oahu unit A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Schiedea kealiae* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes or cliff faces or bases in dry remnant *Erythrina sandwicensis* forest containing one or more of the following associated native plant species: *Sicyos* sp., *Plumbago zeylanica, Lepidium bidentatum, Lipochaeta remyi, Myoporum sandwicense, Hibiscus arnottianus, Psydrax odorata, Bidens* sp., or *Sida fallax;* and

(*2*) Elevations between 64 and 869 m (210 and 2,850 ft.)

Family Caryophyllaceae: Schiedea nuttallii (NCN)

Oahu A and I, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Schiedea nuttallii* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Rock walls, forested slopes, or steep walls in *Acacia koa-Metrosideros polymorpha* lowland mesic forest or *Metrosideros polymorpha-Dodonaea viscosa* forest containing one or more of the following associated native plant species: *Alyxia oliviformis, Bidens torta, Psydrax odorata, Cyanea longiflora, Cibotium chamissoi, Hedyotis terminalis, Perrottetia sandwicensis, Ilex anomala, Coprosma* sp., *Peperomia* sp., *Machaerina* sp., *Pipturis* sp., or *Antidesma platyphyllum;* and

(*2*) Elevations between 436 and 1185 m (1,430 and 3,887 ft).

Family Caryophyllaceae: Silene lanceolata (NCN)

Oahu unit A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Silene lanceolata* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliff faces or ledges of gullies in dry to mesic shrubland or cliff communities containing one or more of the following associated native plant species: *Artemisia aurstralis, Dodonaea viscosa, Schiedea mannii, Tetramolopium fifilforme, Bidens* sp., *Carex* sp., *Osteomeles anthyllidifolia, Chamaesyce* sp., or *Lysimachia* sp.; and

(*2*) Elevations between 351 to 978 m (1,151 to 3,208 ft).

Family Caryophyllaceae: Silene perlmanii (NCN)

Oahu unit I, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Silene perlmanii* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep rocky slopes in *Acacia koa-Metrosideros polymorpha* lowland mesic forest; and

(*2*) Elevations between 493 and 919 m (1,617 and 3,014 ft).

Family Convolvulaceae: Bonamia menziesii (NCN)

Oahu A, B, C, D, I, L, and P, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Bonamia menziesii* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes or level ground in dry or mesic forest in open or closed canopy containing one or more of the following associated native plant species: *Alyxia oliviformis, Pleomele* sp., *Sida fallax, Waltheria indica, Erythrina sandwicensis, Rauvolfia sandwicensis, Sicyos* sp., *Acacia koa, Styphelia tameiameiae, Dodonaea viscosa, Metrosideros polymorpha, Psydrax odorata, Dianella sandwicensis, Diospyros sandwicensis, Hedyotis terminalis, Melicope anisata, Melicope barbigera, Myoporum sandwicensis, Nestegis sandwicense, Pisonia* sp., *Pittosporum* sp., *Pouteria sandwicensis,* or *Sapindus oahuensis;* and

(*2*) Elevations between 31 and 809 m (102 and 2,654 ft).

Family Cyperaceae: Cyperus trachysanthos (puukaa)

Oahu A, W, and X, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyperus trachysanthos* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Mud flats, wet clay soil, seasonal ponds, or wet cliff seeps on coastal cliffs or talus slopes containing *Hibiscus tiliaceus;* and

(*2*) Elevations above 248 m (813 ft).

Family Cyperaceae: Mariscus pennatiformis (NCN)

Oahu unit A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Mariscus pennatiformis* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Mesic and wet *Metrosideros polymorpha* forest and *Metrosideros polymorpha-Acacia koa* forest; and

(*2*) Elevations between 424 and 1,032 m (1,391 and 3,385 ft).

Family Euphorbiaceae: Chamaesyce celastroides var. *kaenana (akoko)*

Oahu A, D, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Chamaesyce celastroides* var. *kaenana* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Windward talus slopes, leeward rocky cliffs, open grassy slopes, or on vegetated cliff faces in coastal dry shrubland containing one or more of the following associated native plant species: *Lipochaeta lobata, Myoporum sandwicense, Heteropogon contortus, Santalum* sp., *Plumbago zeylanica, Psydrax odorata, Boerhavia* sp., *Waltheria indica, Dodonaea viscosa, Artemisia australis, Psilotum nudum, Chamaesyce celastroides* var. *amplectans, Gossypium tomentosum, Jacquemontia ovalifolia* ssp. *sandwicensis, Santalum freycinetianum,* or *Sida fallax;* and

(*2*) Elevations between sea level and 862 m (0 and 2,827 ft).

Family Euphorbiaceae: Chamaesyce deppeana (akoko)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Chamaesyce deppeana* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Windward facing ridge crests, cliff faces and mixed native cliffs containing one or more of the following associated native plant species: *Metrosideros polymorpha* or *Bidens sandvicensis;* and

(*2*) Elevations from 274 to 661 m (899 to 2,168 ft).

Family Euphorbiaceae: Chamaesyce herbstii (akoko)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitutes critical habitat for *Chamaesyce herbstii* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Shaded gulch bottoms and slopes in mesic *Acacia koa-Metrosideros polymorpha* lowland forests or diverse mesic forests containing one or more of the following associated native plant species: *Xylosma* sp., *Pteralyxia* sp., *Morinda trimera, Hedyotis* sp., *Coprosma* sp., *Pipturis albidus, Diplazium sandwichianum, Antidesma platyphyllum, Hibiscus arnottianus* var. *arnottianus, Melicope* sp., *Pouteria sandwicensis,* or *Urera glabra;* and

(*2*) Elevations between 435 and 886 m (1,427 and 2,906 ft).

Family Euphorbiaceae: Chamaesyce kuwaleana (akoko)

Oahu E, F, H, I, R, and U, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Chamaesyce kuwaleana* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Thin guano soil on basaltic rock, arid, exposed volcanic cliffs, dry or mesic rocky ridges, or sparsely vegetated slopes containing one or more of the following associated native plant species: *Heteropogon contortus, Bidens* sp., *Artemisia* sp., *Plectranthus parvilforus, Chamaesyce* sp., *Schiedea* sp., *Carex* sp., *Sida fallax* or *Dodonaea viscosa;* and

(*2*) Elevations between 0 and 596 m (0 and 1,955 ft).

Family Euphorbiaceae: Chamaesyce rockii (akoko)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Chamaesyce rockii* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gulch slopes, gulch bottoms, and ridge crests in wet *Metrosideros polymorpha-Dicranopteris linearis* forest and shrubland containing one or more of the following associated native plant species: *Bidens* sp., *Antidesma platyphyllum, Hedyotis terminalis, Psychotria* spp., *Melicope* spp., *Coprosma longifolia, Diplopterygium pinnatum, Cibotium* sp., *Broussaisia arguta, Dubautia laxa, Machaerina* sp., *Psychotria fauriei, Wikstroemia* sp., or *Myrsine juddii;* and

(*2*) Elevations between 208 and 871 m (682 and 2,857 ft).

Family Euphorbiaceae: Euphorbia haeleeleana (akoko)

Oahu A, B, D, and P, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Euphorbia haeleeleana* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry forest dominated by *Diospyros* sp. containing one or more of the following associated native plant species: *Psydrax odorata, Dodonaea viscosa, Erythrina sandwicensis, Pleomele* sp., *Reynoldsia sandwicensis,* or *Sapindus oahuensis;* and

(*2*) Elevations between 156 and 586 m (512 and 1,922 ft).

Family Euphorbiaceae: Flueggea neowawraea (mehamehame)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Flueggea neowawraea* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gulch slopes, ridge crests, or near streams in dry or mesic forest containing one or more of the following associated native plant species: *Pisonia sandwicensis, Hibiscus arnottianus, Morinda sandwicensis, Hedyotis terminalis, Alyxia oliviformis, Chamaesyce multiformis, Metrosideros polymorpha, Myrsine* sp., *Pleomele* sp., *Myoporum sandwicense, Chamaesyce herbstii, Pteralyxia* sp., *Pipturis albidus, Diospyros hillebrandii, Pisonia umbellifera, Charpentiera* sp., *Claoxylon sandwicensis, Antidesma platyphyllum, Sapindus oahuensis, Pittosporum* sp., *Erythrina sandwicensis, Diospyros sandwicensis, Antidesma pulvinatum, Bobea* sp., *Psydrax odorata, Nestegis sandwicensis, Rauvolfia sandwicensis,* or *Streblus pendulina;* and

(*2*) Elevations between 323 to 1,006 m (1,059 to 3,300 ft).

Family Fabaceae: Sesbania tomentosa (ohai)

Oahu A, M, N, Q, R, S, T, U, and V, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Sesbania tomentosa* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliff faces, broken basalt, or sand dunes with rock outcrops in *Scaevola sericea* coastal dry shrubland or *Sporobolus virginicus* mixed grasslands containing one or more of the following associated native plant species: *Heliotropium* sp., *Jacquemontia sandwicensis, Myoporum sandwicense, Sida fallax,* or *Lipochaeta* sp.; and

(*2*) Elevations between sea level and 152 m (0 and 499 ft).

Family Fabaceae: Vigna o-wahuensis (NCN)

Oahu S, T, and U, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Vigna o-wahuensis* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Open dry fossil reef, with shrubs or grasses for the plant to climb over or fairly steep slopes; and

(*2*) Elevations between 0 and 609 m (0 and 1,998 ft).

Family Gentianaceae: Centaurium sebaeoides (awiwi)

Oahu A, M, N, and W, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Centaurium sebaeoides* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Volcanic or clay soils or cliffs in arid coastal areas or on coral plains containing one or more of the following associated native plant species: *Artemisia* sp., *Bidens* sp., *Jacquemontia ovalifolia, Lipochaeta succulenta,* or *Lysimachia* sp.; and

(*2*) Below 368 m (1,207 ft).

Family Gesneriaceae: Cyrtandra dentata (haiwale)

Oahu A, I, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cyrtandra dentata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gulches, slopes, streambanks, or ravines in mesic or wet forest containing one or more of the following associated native plant species: *Urera glabra, Acacia koa, Pisonia sandwicensis, Pipturis albidus, Metrosideros polymorpha, Pouteria sandwicensis, Pisonia umbellifera,* or *Syzygium sandwicensis;* and

(*2*) Elevations between 255 and 953 m (836 and 3,126 ft).

Family Gesneriaceae: Cyrtandra polyantha (haiwale)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyrtandra polyantha* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridges of valleys in *Metrosideros polymorpha* mesic or wet forests containing one or more of the following associated native plant species: *Machaerina angustifolia, Dicranopteris linearis, Broussaisia arguta, Coprosma foliosa,* or *Psychotria* sp.; and

(*2*) Elevations between 331 and 762 m (1,086 and 2,499 ft).

Family Gesneriaceae: Cyrtandra subumbellata (haiwale)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyrtandra subumbellata* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moist slopes or gulch bottoms in wet forest dominated by *Metrosideros polymorpha* or a mixture of *Metrosideros polymorpha-Dicranopteris linearis-Acacia koa* containing one or more of the following associated native plant species: *Machaerina* sp., *Boehmeria grandis, Broussaisia arguta,* or *Thelypteris* sp.; and

(*2*) Elevations between 345 and 790 m (1,132 and 2,591 ft).

Family Gesneriaceae: Cyrtandra viridiflora (haiwale)

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Cyrtandra viridiflora* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Wind blown ridge tops in cloud covered wet forest or shrubland containing one or more of the following associated native plant species: *Diplopterygium pinnatum., Psychotria* sp., *Freycinetia arborea, Dubautia* sp., *Ilex anomala, Melicope* sp., *Hedyotis* sp., *Cheirodendron platyphyllum, Broussaisia arguta, Metrosideros polymorpha, Syzygium sandwicensis, Machaerina* sp., *Metrosideros rugosa,* or *Dicranopteris linearis;* and

(*2*) Elevations between 443 and 867 m (1,453 and 2,844 ft).

Family Loganiaceae: Labordia cyrtandrae (kamakahala)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Labordia cyrtandrae* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Shady gulches, slopes, or glens in mesic to wet forests and shrublands dominated by *Metrosideros polymorpha, Diplopterygium pinnatum,* and/or *Acacia koa* containing one or more of the following associated native plant species: *Broussaisia argutus, Cyrtandra* sp., *Phyllostegia* sp., *Dicranopteris linearis, Antidesma* sp., *Bidens torta, Artemisia australis, Dubautia plantaginea, Rumex* sp., *Lysimachia hillebrandii, Chamaesyce* sp., *Coprosma* sp., *Boehmeria grandis, Peperomia membranaceae, Pouteria sandwicensis, Diplazium sandwichianum, Pipturus albidus, Perrottetia sandwicensis,* or *Psychotria* sp.; and

(*2*) Elevations between 212 and 1,233 m (695 and 4,044 ft).

Family Lamiaceae: Phyllostegia hirsuta (NCN)

Oahu A, I, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Phyllostegia hirsuta* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep, shaded slopes, cliffs, ridges, gullies, or streambanks in mesic or wet forests dominated by *Metrosideros polymorpha* or a mixture of *Metrosideros polymorpha* and *Dicranopteris linearis* containing one or more of the following associated native plant species: *Pisonia* sp., *Diplazium sandwichiaum, Freycinetia arborea, Chamaesyce multiformis, Hibiscus* sp., *Rumex albescens, Machaerina angustifolia, Clermontia kekeana, Perotettia sandwicensis, Cibotium* sp., *Hedyotis schlectendahliana, Ilex anomala, Lysimachia hillebrandii, Melicope* sp., *Psychotria* sp., *Astelia* sp., *Antidesma platyphyllum, Dubautia laxa, Cyanea membranacea, Elaeocarpus bifidus, Myrsine sandwicensis, Scaevola gaudichaudiana, Pleomele* sp., *Dryopteris unidentata, Streblus pendulinus, Claoxylon sandwicense, Nothocestrum* sp., *Neraudia* sp., *Zanthoxylum kauaense, Labordia kaalae, Cyrtandra waianaeensis, Phyllostegia grandiflora, Liparis hawaiiensis, Dubautia sherffiana, Pouteria sandwicensis, Brousaissia arguta, Pipturis* sp., *Coprosma longifolia, Hedyotis terminalis, Myrsine lessertiana,* or native ferns; and

(*2*) Elevations between 195 and 1,202 m (640 and 3,943 ft).

Family Lamiaceae: Phyllostegia kaalaensis (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Phyllostegia kaalaensis* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gulch slopes or bottoms or almost vertical rock faces in mesic forest or *Sapindus oahuensis* forest containing one or more of the following associated native plant species: *Myrsine lanaiensis, Myrsine lessertiana, Psychotria hathewayi, Antidesma platyphyllum, Diplazium sandwichianum, Pipturus albidus, Hibiscus* sp., *Claoxylon sandwicense, Neraudia melastomifolia, Streblus pendulinus, Pouteria sandwicensis, Freycinetia arborea,* or *Urera glabra;* and

(*2*) Elevations between 374 and 796 m (1,227 and 2,611 ft).

Family Lamiaceae: Phyllostegia mollis (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Phyllostegia mollis* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes or gulches in diverse mesic to wet forests containing one or more of the following associated native plant species: *Pouteria sandwicensis, Antidesma platyphyllum, Dryopteris unidentata, Carex meyenii, Metrosideros polymorpha, Chamaesyce multiformis, Acacia koa, Claoxylon sandwicense, Alyxia oliviformis, Myrsine* sp., *Diospyros hilebrandii, Psychotria hathewayi, Pipturus alba, Urera glabra,* or *Pisonia umbellifera;* and

(*2*) Elevations between 519 to 928 m (1,702 to 3,044 ft).

Family Lamiaceae: Phyllostegia parviflora (NCN)

Oahu unit I, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Phyllostegia parviflora* var. *lydgatei* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to steep slopes in mesic forest containing one or more of the following associated native plant species: *Xylosma hawaiiense, Claoxylon sandwicense, Antidesma platyphyllum, Pouteria sandwicensis, Pipturus albidus, Myrsine lessertiana, Chamaesyce multiformis, Coprosma foliosa, Dryopteris unidentata, Selaginella arbuscula,* or *Pipturus alba;* and

(*2*) Elevations between 555 to 881 m (1,820 to 2,890 ft).

Oahu unit L, identified in the legal description in (a)(1)(i)(I), constitutes

critical habitat for *Phyllostegia parviflora* var. *parviflora* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha* mixed lowland wet forest containing one or more of the following associated native plant species: *Cibotium* sp., *Dicranopteris linearis, Broussaisia arguta, Antidesma* sp., *Pritchardia* sp., *Tetraplasandra* sp., *Touchardia latifolia, Pipturus* sp., *Cheirodendron* sp., *Phyllostegia glabra, Cyrtandra* sp., *Syzygium sandwicensis,* or *Melicope* sp.; and

(*2*) Elevations between 232 and 867 m (761 and 2,844 ft).

Family Lamiaceae: Stenogyne kanehoana (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Stenogyne kanehoana* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland mesic forest containing one or more of the following associated native plant species: *Acacia koa, Metrosideros polymorpha, Psychotria* sp., *Freycinetia arborea, Bidens* sp., *Chamaesyce* sp., *Alyxia oliviformis, Cibotium* sp., or *Scaevola* sp.; and

(*2*) Elevations between 559 and 1,168 m (1,834 and 3,831 ft).

Family Malvaceae: Abutilon sandwicense (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Abutilon sandwicense* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes or gulches in dry to mesic lowland forest containing one or more of the following associated native plant species: *Sapindus oahuensis, Hibiscus arnottianus, Psydrax odorata, Diospyros sandwicensis, Reynoldsia sandwicensis, Nestegis sandwicensis, Antidesma pulvinatum, Pittosporum* sp., *Pleomele* sp., *Rauvolfia sandwicensis, Myrsine lanaiensis, Pisonia* sp., *Metrosideros polymorpha, Pipturus albidus, Eugenia reinwartiana,* or *Elaeocarpus bifidus;* and

(*2*) Elevations between 149 and 875 m (489 and 2,870 ft).

Family Malvaceae: Hibiscus brackenridgei (mao hau hele)

Oahu A, B, D, I, and P, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Hibiscus brackenridgei* ssp. *mokuleianus* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes, cliffs, or arid ledges in lowland dry forest or shrubland containing one or more of the following associated native plant species: *Erythrina sandwicensis, Heteropogon contortus, Waltheria indica, Doryopteris* sp., *Lepidium bidentatum, Lipochaeta remyi, Bidens amplectans, Chamaesyce* sp., *Reynoldsia sandwicensis, Pleomele halapepe, Diospyros hillebrandii, Dodonaea viscosa., Psydrax odoratua or Sida fallax;* and

(*2*) Elevations between 24 to 490 m (79 to 1,607 ft).

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Hibiscus brackenridgei* ssp. *molokaiana* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry shrublands containing one or more of the following associated native plant species: *Waltheria indica, Sida fallax, Doryopteris* sp., *Dodonaea viscosa,* or *Heteropogon contortus;* and

(*2*) Elevations between 23 and 580 m (75 to 1,902 ft).

Family Myrsinaceae: Myrsine juddii (kolea)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Myrsine juddii* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridge crests or gulch slopes in wet forests or shrublands dominated by *Metrosideros polymorpha* or a mixture of *Metrosideros polymorpha* and *Dicranopteris linearis* containing one or more of the following associated native plant species: *Machaerina* sp., *Cheirodendron trigynum, Melicope clusiifolia, Psychotria mariniana, Cheirodendron platyphyllum,* or *Syzygium sandwicensis;* and

(*2*) Elevations between 384 and 867 m (1,260 and 2,844 ft).

Family Myrtaceae: Eugenia koolauensis (nioi)

Oahu A and L, identified in the legal descriptions ip (a)(1)(i)(I), constitute critical habitat for *Eugenia koolauensis* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gentle to steep slopes or ridges in mesic or dry forests dominated by *Metrosideros polymorpha* or *Diospyros* sp. containing one or more of the following associated native plant species: *Bobea elatior, Rauvolfia sandwicensis, Alyxia oliviformis, Pouteria sandwicensis, Dicranopteris linearis, Styphelia tameiameiae, Carex meyenii, Myrsine lessertiana, Nestegis sandwicensis, Pleomele halapepe,* or *Psydrax odorata;* and

(*2*) Elevations between 57 to 437 m (187 to 1,433 ft).

Family Orchidaceae: Platanthera holochila (NCN)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Platanthera holochila* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) *Metrosideros polymorpha-Dicranopteris linearis* montane wet forest or *Metrosideros polymorpha* mixed montane bogs containing one or more of the following associated native plant species: *Cibotium* sp., *Coprosma ernodeoides, Styphelia tameiameiae, Wikstroemia* sp., *Scaevola chamissoniana, Sadleria* sp., *Lythrum maritimum, Deschampsia nubigena, Luzula hawaiiensis, Sisyrinchium acre, Broussaisia arguta, Clermontia* sp., *Lycopodium cernuum, Dubautia scabra, Polypodium pellucidum, moreletia gahniiformis,* or *Vaccinium reticulatum;* and

(*2*) Elevations between 447 and 867 m (1,466 and 2,844 ft).

Family Plantaginaceae: Plantago princeps (laukahi kuahiwi)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Plantago princeps* var. *longibracteata* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Sides of waterfalls or wet rock faces containing one or more of the following associated native plant species: *Lobelia gaudichaudii, Scaevola glabra, Bidens* sp., *Eugenia* sp., *Coprosina granadensis,* or *Metrosideros rugosa;* and

(*2*) Elevations around 64 and 835 m (210 and 2,844 ft).

Oahu A, I, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Plantago princeps* var. *princeps* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes or ledges in *Metrosideros polymorpha* lowland mesic forests or shrublands containing one or more of the following associated native plant species: *Lysimachia* sp., *Chamaesyce* sp., *Eragrostis* sp., *Pilea peploides, Artemisia australis, Viola* sp., *Dubautia plantaginea,* or *Bidens sp.;* and

(*2*) Elevations between 110 and 1,064 m (361 and 3,490 ft).

Family Poaceae: Cenchrus agrimonioides (kamanomano)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Cenchrus agrimonioides* var. *agrimonioides* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry ridges or upper slopes, or ridges in lowland mixed mesic forest containing one or more of the following associated native plant species: *Acacia koa, Metrosideros polymorpha, Alyxia oliviformis, Psydrax odorata, Diospyros sandwicensis, Carex wahuensis, Nestegis sandwicensis, Psychotria sp., Bobea sp., Chamaesyce multiformis, Gahnia beecheyi, Coprosma foliosa, Styphelia tameiameiae, or Eragrostis variabilis;* and

(*2*) Elevations between 357 and 890 m (1,171 and 2,919 ft).

Family Poaceae: Eragrostis fosbergii (NCN)

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Eragrostis fosbergii* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridge crests or moderate slopes in dry or mesic forests containing one or more of the following associated native plant species: *Chamaesyce* sp., *Alyxia oliviformis, Sphenomeris* sp., *Nephrolepis exaltata, Doodia* sp., *Bidens* sp., *Melicope* sp., *Acacia koa, Metrosideros polymorpha, Psydrax odorata, Dodonaea viscosa,* or *Eragrostis grandis;* and

(*2*) Elevations between 578 and 941 m (1,896 and 3,086 ft).

Family Primulaceae: Lysimachia filifolia (no common name)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Lysimachia filifolia* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Mossy banks at the base of cliff faces within the spray zone of waterfalls or along streams in lowland wet forests containing one or more of the following associated native plant species: mosses, ferns, liverworts, or Pilea peploides; and

(*2*) Elevations between 65 and 798 m (213 and 2,617 ft).

Family Rhamnaceae: Colubrina oppositifolia (kauila)

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Colubrina oppositifolia* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Lowland dry or mesic forests dominated by *Diospyros sandwicensis* containing one or more of the following associated native plant species: *Alyxia oliviformis, Nestegis sandwicensis, Sapindus oahuensis, Psydrax odorata,* or *Reynoldsia sandwicensis;* and

(*2*) Elevations between 277 and 761 m (909 and 2,496 ft).

Family Rhamnaceae: Gouania meyenii (NCN)

Oahu A, I, and X, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Gouania meyenii* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to steep slopes in dry shrubland or mesic lowland forest containing one or more of the following associated native plant species: *Diospyros sandwicensis, Charpentiera* sp., *Alyxia oliviformis, Pisonia* sp., *Hibiscus* sp., *Canavalia* sp., *Sophora chrysophylla, Sida fallax, Schiedea* sp., *Dubautia sherffiana, Psydrax odorata, Eragrostis* sp., *Dryopteris unidentata, Sapindus oahuensis, Myrsine* sp., *Dodonaea viscosa, Chamaesyce* sp., *Psychotria* sp., *Hedyotis* sp., *Melicope* sp., *Nestegis sandwicensis, Bidens* sp., *Carex meyenii, Diospyros* sp., *Lysimachia sp.,* or *Senna gaudichaudii;* and

(*2*) Elevations between 323 to 1,006 m (1,059 to 3,300 ft).

Family Rhamnaceae: Gouania vitifolia (NCN)

Oahu A, B, D, and P, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Gouania vitifolia* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Sides of ridges or gulches in dry to mesic forests containing one or more of the following associated native plant species: *Erythrina sandwicensis, Dodonaea viscosa, Hibiscus arnottianus, Pipturis albidus, Urera glabra, Chamaesyce* sp., *Psychotria* sp., *Hedyotis* sp., *Melicope* sp., *Nestegia sandwicensis, Bidens* sp., *Carex meyenii,* or *Diospyros sandwicensis;* and

(*2*) Elevation between 39 to 978 m (128 to 3,208 ft).

Family Rubiaceae: Gardenia mannii (nanu)

Oahu A, I, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Gardenia mannii* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to moderately steep gulch slopes, ridge crests, gulch bottoms, and streambanks in mesic or wet forests containing one or more of the following associated native plant species *Coprosma foliosa, Pisonia* sp., *Bobea* sp., *Syzygium sandwicensis, Melicope* sp., *Cheirodendron* sp., *Perotettia* sp., *Elaeocarpus* sp., *Cibotium* sp., *Thelypteris* sp., *Pipturus* sp., *Ilex anomala, Freycinetia arborea, Boehmeria grandis, Metrosideros polymorpha, Pouteria sandwicensis, Acacia koa, Dicranopteris linearis, Antidesma platyphyllum, Broussaisia arguta, Hedyotis acuminata, Alyxia oliviformis, or Psychotria mariniana;* and

(*2*) Elevations between 82 and 1,050 m (269 and 3,444 ft).

Family Rubiaceae: Hedyotis coriacea (kioele)

Oahu I and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Hedyotis coriacea* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep, rocky, slopes in dry to mesic *Dodonaea viscosa* dominated shrublands or forests containing one or more of the following associated native plant species: *Metrosideros polymorpha, Styphelia tameiameiae,* or *Alyxia oliviformis;* and

(*2*) Elevations between 57 and 836 m (187 and 2,742 ft).

Family Rubiaceae: Hedyotis degeneri (NCN)

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Hedyotis degeneri* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridge crests in diverse mesic forest containing one or more of the following associated native plant species *Styphelia tameiameiae, Dicranopteris linearis, Wikstroemia oahuensis,*

Dodonaea viscosa, Alyxia oliviformis, Diospyros sandwicensis, Psychotria hathewayi, Cocculus sp., *Lysimachia hillebrandii, Chamaesyce multiformis, Lobelia yuccoides, Gahnia* sp., *Pleomele* sp., *Carex meyenii, Psydrax odorata, Metrosideros polymorpha,* or *Hedyotis terminalis;* and

(*2*) Elevations between 349 and 1,083 m (1,145 and 3,552 ft).

Family Rubiaceae: Hedyotis parvula (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Hedyotis parvula* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliff faces or their bases, rock outcrops, or ledges in mesic habitat containing one or more of the following associated native plant species: *Eragrostis* sp., *Carex* sp., *Rumex* sp., *Metrosideros polymorpha, Chamaesyce* sp., *Bidens* sp., *Dodonaea viscosa, Psydrax odorata, Metrosideros tremuloides,* or *Plectranthus parviflorus;* and

(*2*) Elevations between 331 and 1,160 m (1,086 and 3,805 ft).

Family Rutaceae: Melicope lydgatei (alani)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Melicope lydgatei* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridges in mesic or wet forests containing one or more of the following associated native plant species: *Acacia koa, Metrosideros polymorpha, Dicranopteris linearis, Psychotria* sp., *Syzygium sandwicensis,* or *Bobea elatior;* and

(*2*) Elevations between 349 and 671 m (1,145 and 2,201 ft).

Family Rutaceae: Melicope pallida (alani)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Melicope pallida* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep rock faces in lowland dry or mesic forests containing one or more of the following associated native plant species: *Psychotria mariniana, Bobea elatior, Acacia koa, Cibotium* sp., *Wikstroemia oahuensis, Syzygium sandwicensis, Abutilon sandwicense, Alyxia oliviformis, Dryopteris* sp., *Metrosideros polymorpha, Pipturus albidus, Sapindus oahuensis, Tetraplasandra* sp., or *Xylosma hawaiiense;* and

(*2*) Elevations between 234 to 841 m (768 to 2,758 ft).

Family Rutaceae: Melicope saint-johnii (alani)

Oahu I, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Melicope saint-johnii* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridges or gulch bottoms in mesic forest containing one or more of the following associated native plant species: *Artemisia australis, Eragrostis* sp., *Hedyotis schlechtendahliana, Lysimachia hillebrandii, Bidens torta, Alyxia oliviformis, Carex wahuensis, Panicum beechyi, Rumex albescens, Pittosporum* sp., *Pleomele halapepe, Pipturus albidus, Metrosideros polymorpha, Coprosma longifolia, Labordia kaalae,* or *Psychotria hathewayi;* and

(*2*) Elevations between 240 and 953 m (787 and 3,126 ft).

Family Sapindaceae: Alectryon macrococcus (mahoe)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Alectryon macrococcus* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Ridges, ridges, or gulches within mesic lowland forests containing one or more of the following associated native plant species: *Pisonia sandwicensis, Elaeocarpus bifidus, Streblus pendulinus, Psychotria hathewayi, Pouteria sandwicensis, Pisonia umbellifera, Diplazium sandwichianum, Claoxylon sandwicense, Neraudia* sp., *Pipturus albidus, Diospyros hillebrandii, Charpentiera* sp., *Hibiscus arnottianus, Metrosideros polymorpha, Diospyros sandwicensis, Nestegis sandwicensis, Pisonia* sp., *Xylosma* sp., *Antidesma platyphyllum, Myrsine lanaiensis, Psydrax odorata, Canavalia* sp., or *Alyxia oliviformis;* and

(*2*) Elevations between 367 and 941 m (1,204 and 3,086 ft).

Family Solanaceae: Solanum sandwicense (aiakeaakua, popolo)

Oahu A, I, and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Solanum sandwicense* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Talus slopes or streambeds in open, sunny areas containing one or more of the following associated native plant species: *Pisonia* sp. or *Psychotria* sp.; and

(*2*) Elevations between 131 and 1,006 m (430 and 3,300 ft).

Family Urticaceae: Neraudia angulata (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Neraudia angulata* var. *angulata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes, ledges, or gulches in lowland mesic or dry forest containing one or more of the following associated native plant species: *Diospyros* sp., *Dodonaea viscosa, Bidens* sp., *Artemisia australis, Sida fallax, Carex meyenii, Psydrax odorata, Hibiscus* sp., *Pisonia sandwicensis,* or *Nestegis sandwicensis;* and

(*2*) Elevations between 189 and 978 m (620 and 3,208 ft).

Oahu A, B, D, and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Neraudia angulata* var. *dentata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cliffs, rock embankments, gulches, or slopes in mesic or dry forests containing one or more of the following associated native plant species: *Diospyros sandwicensis, Diospyros hillebrandii, Dodonaea viscosa, Artemisia australis, Alyxia oliviformis, Sapindus oahuensis, Psydrax odorata, Pisonia* sp., *Antidesma pulvinatum, Nestegis sandwicensis, Myrsine lanaiensis, Hibiscus* sp., *Metrosideros polymorpha, Bidens torta, Canavalia* sp., *Rauvolfia sandwicensis, Carex* sp., *Charpentiera* sp., *Sida fallax, Streblus pendulinus,* or *Eragrostis* sp.; and

(*2*) Elevations between 110 and 978 m (361 and 3,208 ft).

Family Urticaceae: Urera kaalae (opuhe)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Urera kaalae* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Slopes or gulches in diverse mesic forest containing one or more of the following associated native plant species: *Hibiscus* sp., *Alyxia oliviformis, Canavalia* sp., *Charpentiera* sp., *Senna gaudichaudii, Claoxylon sandwicense, Pleomele* sp., *Xylosma hawaiiense, Chamaesyce* sp., *Antidesma platyphyllum, Athyrium* sp., *Streblus pendulinus, Hedyotis acuminata, Asplenium kaulfusii, Doryopteris* sp., *Pouteria sandwicensis, Claoxylon sandwicense, Freycinetia arborea, Pipturus albidus, Urera glabra, Psychotria* sp., *Diospyros hillebrandii,* or *Nestegis sandwicensis;* and

(*2*) Elevations between 439 and 1074 m (1,440 and 3,523 ft).

Family Violaceae: Isodendrion laurifolium (aupaka)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Isodendrion laurifolium* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gulch slopes, ravines, or ridges in diverse mesic or dry forest dominated by *Metrosideros polymorpha, Acacia koa, Eugenia reinwardtiana,* or *Diospyros sandwicensis* containing one or more of the following associated native plant species: *Nestegis sandwicensis, Hibiscus arnottianus, Alyxia oliviformis, Rauvolfia sandwicensis, Psydrax odorata, Carex wahuensis, Charpentiera tomentosa, Doodia* sp., *Dryopteris unidentata, Sapindus* sp., *Antidesma pulvinatum, Smilax melastomifolia, Antidesma platyphyllum, Xylosma hawaiiense, Hedyotis terminalis, Pisonia* sp., or *Pouteria sandwicensis;* and

(*2*) Elevations between 90 and 959 m (295 and 3,146 ft).

Family Violaceae: Isodendrion longifolium (aupaka)

Oahu A and L, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Isodendrion longifolium* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep slopes or stream banks in mixed mesic or lowland wet *Metrosideros polymorpha-Dicranopteris linearis* forest containing one or more of the following associated native plant species: *Syzygium sandwicensis, Pouteria sandwicensis, Acacia koa, Psydrax odoratum, Alyxia oliviformis, Melicope* sp., *Pittosporum* sp., *Carex* sp., *Selaginella arbuscula, Isachne pallens, Bobea brevipes, Antidesma* sp., *Cyanea* sp., *Cyrtandra* sp., *Hedyotis terminalis, Peperomia* sp., *Perrottetia sandwicensis,* or *Psychotria* sp; and

(*2*) Elevations between 363 and 964 m (1,191 and 3,162 ft).

Family Violaceae: Isodendrion pyrifolium (wahine noho kula)

Oahu A, B, D, F, I, and P, identified in the legal descriptions in (a)(1)(i)(I), constitutes critical habitat for *Isodendrion pyrifolium* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Bare rocky hills or wooded ravines in dry shrublands from 363 to 964 m (1,191 to 3,162 ft.).

Family Violaceae: Viola chamissoniana ssp. chamissoniana (olopu)

Oahu A, G, and I, identified in the legal descriptions in (a)(1)(i)(I), constitute critical habitat for *Viola chamissoniana ssp. chamissoniana* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Dry cliffs, rocky ledges, or steep slopes in mesic shrubland or cliff vegetation containing one or more of the following associated native plant species: *Sida fallax, Chamaesyce* sp., *Dodonaea viscosa, Schiedea* sp., *Dubautia* sp., *Peperomia* sp., *Lipochaeta tenuis, Rumex* sp., *Artemisia australis, Bidens torta, Carex meyenii, Eragrostis* sp., *Metrosideros polymorpha,* or *Styphelia tameiameiae;* and

(*2*) Elevations between 414 and 1,149 m (1,358 and 3,769 ft).

Family Violaceae: Viola oahuensis (NCN)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Viola oahuensis* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Exposed, windswept ridges of moderate to steep slope in wet *Metrosideros polymorpha-Dicranopteris linearis* shrublands or *Metrosideros polymorpha* mixed montane bogs in the cloud zone containing one or more of the following associated native plant species: *Broussaisia arguta, Cibotium* sp., *Labordia* sp., *Dubautia laxa, Wikstroemia* sp., *Hedyotis terminalis, Antidesma* sp., *Syzygium sandwicensis, Melicope* sp., *Bidens macrocarpa, Machaerina* sp., *Sadleria* sp., or *Vaccinium* sp.; and

(*2*) Elevations between 415 and 959 m (1,361 and 3,146 ft).

(B) Ferns and Allies.

Family Adiantaceae: Pteris lidgatei (NCN)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Pteris lidgatei* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep stream banks or cliffs in wet *Metrosideros polymorpha-Dicranopteris linearis* forest containing one or more of the following associated native plant species: *Cyrtandra* sp., *Machaerina angustifolia, Selaginella arbuscula, Isachne pallens, Thelypteris sandwicensis, Diplaterygium pinnatum, Sadleria* sp., *Broussaisia arguta, Cibotium chamissoi, Dicranopteris linearis, Elaphoglossum crassifolium , Sadleria squarrosa, Asplenium* sp., *Doodia lyonii,* or *Sphenomeris chusana;* and

(*2*) Elevations around 75 m (246 ft).

Family Aspleniaceae: Ctenitis squamigera (pauoa)

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Ctenitis squamigera* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Gentle to steep slopes in *Metrosideros polymorpha-Diospyros sandwicensis* mesic forest or diverse mesic forest containing one or more of the following associated native plant species: *Alyxia oliviformis, Hibiscus* sp., *Diospyros hillebrandii, Nestegis sandwicensis, Psydrax odorata, Pouteria sandwicensis, Carex meyenii, Dodonaea viscosa, Freycinetia arborea, Pisonia* sp., *Dryopteris unidentata, Doodia kunthiana, Myrsine* sp., *Psychotria* sp., or *Xylosma* sp.; and

(*2*) Elevations between 387 to 923 m (1,269 to 3,027 ft).

Family Aspleniaceae: Diellia erecta (NCN)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Diellia erecta* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to steep gulch slopes or sparsely vegetated rock faces in mesic forest containing one or more of the following associated native plant species: *Sapindus oahuensis, Psydrax odorata, Coprosma* sp., *Dodonaea viscosa, Dryopteris unidentata, Myrsine* sp., *Psychotria* sp., *Syzygium sandwicensis,* or *Wikstroemia* sp.; and

(*2*) Elevations between 118 and 550 m (387 and 1,804 ft).

Family Aspleniaceae: Diellia falcata (NCN)

Oahu A and I, identified in the legal descriptions in (a)(1)(i)(I), constitutes critical habitat for *Diellia falcata* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Deep shade or open understory on moderate to moderately steep slopes and gulch bottoms in diverse mesic forest containing one or more of the following associated native plant species: *Pisonia sandwicensis, Doodia kunthiana, Dryopteris unidentata, Antidesma* sp., *Nestegis sandwicensis, Alyxia oliviformis, Psydrax odorata, Pipturis* sp., *Metrosideros polymorpha, Freycinetia arborea, Athyrium sandwichianum, Dryopteris unidentata, Nephrolepis exaltata, Diospyros hillebrandii, Acacia koa, Elaeocarpus bifidus, Myrsine lanaiensis, Selaginella arbuscula, Carex meyenii, Sophora chrysophylla, Claoxylon sandwicense, Psychotria* sp., *Hibiscus* sp., *Xylosma* sp., *Melicope* sp., *Coprosma foliosa, Asplenium kaulfussii, Nothocestrum* sp., *Charpentiera* sp., *Hedyotis terminalis, Sapindus oahuensis, Diospyros sandwicensis,* or *Pouteria sandwicensis;* and

(*2*) Elevations between 224 and 953 m (735 and 3,126 ft).

Family Aspleniaceae: Diellia unisora (NCN)

Oahu I, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Diellia unisora* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Moderate to steep slopes or gulch bottoms in deep shade or open understory in mesic forest containing one or more of the following associated native plant species: *Coprosma* sp., *Rumex* sp., *Antidesma* sp., *Psychotria* sp., *Carex meyenii, Dryopteris unidentata, Chamaesyce multiformis, Dodonaea viscosa, Bidens torta, Eragrostis grandis, Hedyotis terminalis, Alyxia oliviformis, Myrsine lessertiana, Hedyotis schlechtendahliana, Selaginella arbuscula, Acacia koa,* or *Metrosideros polymorpha;* and

(*2*) Elevations between 382 and 953 m (1,253 and 3,126 ft).

Family Aspleniaceae: Diplazium molokaiense (NCN)

Oahu A, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Diplazium molokaiense* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Steep rocky wooded gulch walls in wet forests; and

(*2*) Elevations around 450 m (1,476 ft).

Family Grammitidaceae: Adenophorus periens (pendant kihi fern)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Adenophorus periens* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Trees in *Metrosideros polymorpha* or *Metrosideros rugosa* wet forests containing one or more of the following associated native plant species: *Dicranopteris linearis, Cheirodendron* spp., *Machaerina angustifolia, Syzygium sanwicensis, Hedyotis terminalis,* or *Cibotium* sp.; and

(*2*) Elevations between 618 to 1,202 m (2,027 to 3,943 ft).

Family Lycopodiaceae: Phlegmariurus nutans (wawaeiole)

Oahu L, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Phlegmariurus nutans* on Oahu. Within this unit, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Tree trunks, open ridges, forested slopes, or cliffs in *Metrosideros polymorpha* dominated wet forests, cliffs, or shrublands or mesic forests containing one or more of the following associated native plant species: *Machaerina angustifolia, Wikstroemia oahuensis, Antidesma platyphyllum, Syzygium sandwicensis, Elaphoglossum* sp., *Hibiscus* sp., *Psychotria mariniana, Cyrtandra laxiflora, Hedyotis terminalis, Broussaisia arguta,* or *Dicranopteris linearis;* and

(*2*) Elevations between 227 and 846 m (745 and 2,775).

Family Marsileaceae: Marsilea villosa (ihi ihi)

Oahu J, K, W, and X, identified in the legal description in (a)(1)(i)(I), constitutes critical habitat for *Marsilea villosa* on Oahu. Within these units, currently known primary constituent elements of critical habitat are the habitat components provided by:

(*1*) Cinder craters, vernal pools surrounded by lowland dry forest vegetation, mud flats, or lowland grasslands containing *Sida fallax;* and

(*2*) Elevations between 424 and 1,032 m (1,391 and 3,385 ft).

Dated: May 2, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–11348 Filed 5–24–02; 8:45 am]

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Federal Register

Tuesday,
May 28, 2002

Part IV

Department of Health and Human Services

Administration for Children and Families

Request for Applications for the Office of Community Services' Fiscal Year 2002 Community Economic Development Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2002–10]

Request for Applications for the Office of Community Services' Fiscal Year 2002 Community Economic Development Program

AGENCY: Office of Community Services, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for applications for the Office of Community Services' Community Economic Development Awards.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces that competing applications will be accepted for new grants and cooperative agreements pursuant to the Secretary's Community Economic Development authority under sections 680(a)(2) of the Community Services Block Grant Act of 1981, as amended, (Public Law 105–285). The Office of Community Services is particularly interested in receiving applications from faith-based community development corporations.

CLOSING DATE: The closing date for submission of applications for Fiscal Year 2002 is July 12, 2002. Applications received after this date will be classified as late.

Application Submission

Mailing and Delivery Address: Community Economic Development Program applications must be mailed or hand-carried to the OCS Operations Center: 1815 North Fort Meyer Drive, Suite 300, Arlington, Virginia 22209; Attention: Application for Community Economic Development Program. This is the only address that applications will be accepted; applications mailed or delivered to any other address will be returned to sender.

Submission Instructions: Applications shall be considered as meeting the announced deadline if they are received by 4:30 p.m. Eastern Standard Time (EST), at the OCS Operations Center on or before the closing date July 12, 2002. Applications not received by the closing date will be returned to the sender.

Applications either mailed, by U.S. Postal Service or hand delivered or courier delivered, must be physically received at the OCS Operations Center by 4:30 p.m. EST, on or before the closing date July 12, 2002. Applicants are reminded to mail or deliver applications to the OCS Operations Center well in advance of the closing date to assure timely receipt of their applications. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications mailed or hand carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting the announced deadline if they are received on or before the closing date at the OCS Operations Center: 1815 North Fort Meyer Drive, Suite 300, Arlington, VA 22209. The Operations Center is open daily between the hours of 8 a.m. and 4:30 p.m. EST, Monday through Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note, "Attention: Application for Community Economic Development Program". (Applicants are again cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of the mail service. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant. Determinations to extend or waive deadline requirements rest with ACF's Chief, Grants Management Officer.

Number of Copies Required: One signed original application and two additional copies must be submitted at the time of the initial submission. (OMB–0970–0139, which expires 12/31/2003).

The first page of the SF–424 must contain in the lower right-hand corner, a designation indicating under which priority area funds are being requested, for example 'OP' for Priority Area "1"—Operational Projects. See Part G, section 1, item 11 for details. Also, see Part C, section 5 for a description of each of the priority areas.

Acknowledgment of Receipt: All applicants will receive an acknowledgment notice with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application that can be attached to this acknowledgment notice. The identification number and the program priority area letter code must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgment is not received within two weeks after the deadline date, please notify the OCS Operations Center by telephone at (703) 351–7676.

[**Note:** To facilitate receipt of this acknowledgment from the operations center, applicant should include a cover letter with the application containing an E-mail address and facsimile (FAX) number if these resources are available to applicant.]

FOR GENERAL QUESTIONS ON THE ANNOUNCEMENT, CONTACT: Mr. Ros Relaford, Technical Assistance Manager, OCS Operations Center, Call: 1–800–281–9516, or E-mail: *OCS@lcgnet.com.*

FOR A COPY OF THE ANNOUNCEMENT, CONTACT: OCS Operations Center, 1815 North Fort Meyer Drive, Suite 300, Arlington, Virginia 22209, (703) 351–7676.

In addition, the announcement is accessible on the OCS web site for reading or downloading at: *http://www.acf.dhhs.gov/programs/ocs/kits1.htm*

The Catalog of Federal Domestic Assistance number for this program is 93.570. The title is Community Services Block Grant—Discretionary Awards (Urban Rural Economic Development.)

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PART A—PREAMBLE

1. Legislative Authority

The Community Services Block Grant (CSBG) Act of 1981, as amended, (Section 680 of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998), authorizes the Secretary to make grants to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business ownership opportunities.

2. Departmental Goals

This announcement is particularly relevant to the Departmental goal of strengthening the American family and promoting self-sufficiency. These programs have objectives of increasing the access of low-income people to employment and business development opportunities, and improving the integration, coordination, and continuity of the various HHS (and other Federal Departments') funded services potentially available to families living in poverty. Faith-based organizations are eligible to apply for grants under this program if they are private, non-profit organizations that are community development corporations.

3. Definition of Terms

For purposes of this Program Announcement, the following definitions apply:

Beneficiaries: Low-income people (as defined in the most recent annual revision of the Poverty Income Guidelines published by DHHS) and low-income communities receive direct benefits.

Budget period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

Business Start-up Period: The initial period (usually three to six months) after the effective date of an OCS award during which a grantee completes preliminary project tasks including but notlimited to assembling key staff, execution of contracts, lease out or build-out of space for occupancy, upfit plant equipment and other similar activities.

Building deconstruction: The systematic disassembly of residential and commercial buildings.

Cash contributions: The recipient's cash outlay, including the outlay of money contributed to the recipient by the third parties.

Community Development Corporation (CDC): A private, non-profit corporation, governed by a board of directors consisting of residents of the community and business and civic leaders, that has as a principal purpose planning, developing, or managing low-income housing or community development projects.

Community Economic Development (CED): A process by which a community uses resources to attract capital and increase physical, commercial, and business development and job opportunities for its residents.

Construction projects: For the purpose of this announcement, construction projects involve land improvements and development or major renovation of (new or existing) facilities and buildings, including their improvements, fixtures and permanent attachments.

Cooperative Agreement: An award instrument of financial assistance when substantial involvement is anticipated between the awarding office and the recipient during performance of the contemplated project.

Developmental phase: The time interval during a project period that precedes the operational phase. During the developmental phase, preliminary activities are accomplished which include establishing third party agreements, mobilizing monetary and other resources, assembling, rezoning and leasing of properties, conducting architectural and engineering studies, constructing facilities and etc.

Displaced worker: An individual who is in the labor market but has been unemployed for six months or longer.

Distressed community: A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

Eligible applicant: A private, non-profit organization that is a Community Development Corporation. (Also, see "Eligible Applicants" under Part B—Application Pre-Requisites and also Program Priority Areas under Part C.)

Employment education and training program: A program that provides education and/or training to welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals and that has demonstrated organizational experience in education and training for these populations.

Empowerment Zones and Enterprise Communities (EZ/EC): Those communities designated as such by the Secretary of Agricultural or Housing and Urban Development.

Equity investment: The provision of capital to a business entity for some specified purpose in return for a portion of ownership using a third party

agreement as the contractual instrument.

Faith-Based Community Development Corporation: A community development corporation that has a religious character.

Hypothesis: An assumption made in order to test its validity. It should assert a cause-and-effect relationship between a program intervention and its expected result. Both the intervention and result must be measured in order to confirm the hypothesis. For example, the following is a hypothesis: "Eighty hours of classroom training in small business planning will be sufficient for participants to prepare a successful loan application." In this example, data would be obtained on the number of hours of training actually received by participants (the intervention), and the quality of loan applications (the result), to determine the validity of the hypothesis (that eighty hours of training is sufficient to produce the result).

Intervention: Any planned activity within a project that is intended to produce changes in the target population and/or the environment and that can be formally evaluated. For example, assistance in the preparation of a business plan and loan package are planned interventions.

Job creation: New jobs, i.e. jobs not in existence prior to the start of the project, that result from new business startups, business expansion, development of new services industries, and/or other newly-undertaken physical or commercial activities.

Job placement: Placing a person in an existing vacant job of a business, service, or commercial activity not related to new development or expansion activity.

Letter of commitment: A signed letter or agreement from a third party to the applicant that pledges financial or other support for the grant activities only subject to receiving an award of OCS grant funds.

Loan: Money lent to a borrower under a binding pledge for a given purpose to be repaid, usually at a stated rate of interest and within a specified period of time.

Operational phase: The time interval during the project when businesses, commercial or other activities are in operation and employment or business ownership opportunities are provided for low-income persons.

Outcome evaluation: An assessment of project results as measured by collected data which define the net effects of the interventions applied in the project. An outcome evaluation will produce and interpret findings related to whether the interventions produced desirable changes and their potential for replicability. It should answer the question: Did this program work?

Poverty Income Guidelines: Guidelines published annually by the U.S. Department of Health and Human Services that establish the level of poverty defined as low-income for individuals and their families.

Process evaluation: The ongoing examination of the implementation of a program. It focuses on the effectiveness and efficiency of the program's activities and interventions (for example, methods of recruiting participants, quality of training activities, or usefulness of follow-up procedures). It should answer questions such as: (1) Who is receiving what services and (2) are the services being delivered as planned. In addition, this process is known as a formative evaluation because it gathers information that can be used as a management tool to improve the way a program operates while the program is in progress. It should also identify problems that occurred, how the problems were resolved and what recommendations are needed for future implementation.

Pre-development phase: The time interval during a project period that an applicant or grantee plans a project, conducts feasibility studies, prepares a business or work plan and mobilizes non-OCS funding.

Program income: Gross income earned by the grant recipient that is directly generated by an activity supported with grant funds.

Project period: The total time for which a project is approved for OCS support, including any approved extensions.

Revolving loan fund: A capital fund established to make loans whereby repayments are re-lent to other borrowers.

Self-employment: The state of an individual or individuals who engage in self-directed economic activities.

Self-sufficiency: The economic state not requiring public assistance for an individual and his (her) immediate family.

Sub-award: An award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible sub-recipient or by a sub-recipient to a lower tier sub-recipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in 45 CFR 74.2. (Note: Sub awards do not include equity investments or loan transactions since they are promulgated under third party agreements.)

Technical assistance: A problem-solving event generally utilizing the services of a specialist. Such services may be provided on-site, by telephone, or by other communications. These services address specific problems and are intended to assist with the immediate resolution of a given problem or set of problems.

Temporary Assistance to Needy Families (TANF): Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) creates the TANF program that transforms welfare into a system that requires work in exchange for time-limited assistance. The law specifically eliminates any individual entitlement to or guarantee of assistance, repeals the Aid to Families with Dependent Children (AFDC) program, Emergency Assistance (EA) and Job Opportunities and Basic Skills Training (JOBS) programs, and replaces them with a block grant entitlement to States under Title IV–A of the Social Security Act.

Third party: Any individual, organization, or business entity that is not the direct recipient of grant funds.

Third party agreement: A written agreement entered into by the grantee and an organization, individual or business entity (including a wholly-owned subsidiary), by which the grantee makes an equity investment or a loan in support of grant purposes.

Third party in-kind contributions: The value of non-cash contributions provided by non-federal third parties which may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefitting and specifically identifiable to the project or program.

4. Paperwork Reduction Act of 1995 (Public Law 104–13

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under Office of Management and Budget (OMB) Control Number 0970–0139 which expires 12/31/2003. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless is displays a currently valid OMB control number.

PART B—APPLICATION PREREQUISITES

1. Eligible Applicants

An eligible applicant must be a private, non-profit organization and must provide proof of its status. The non-profit agency can accomplish this by providing a copy of either the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations, a copy of the currently valid IRS tax exemption certificate, or a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. Faith-based organizations are eligible to apply.

Also to be eligible, an applicant must be a Community Development Corporation (CDC). A CDC is a private, non-profit corporation, governed by a board of directors consisting of residents of the community and business and civic leaders, that has a principal purpose of planning, developing, or managing low-income housing or community development projects.

All eligible applicants must have private, non-profit status at the time of submission of their application. In addition to non-profit status, each priority area of this program announcement has additional eligibility requirements. These requirements are identified in the narrative descriptions of each priority area found in Part C. *Applicant must submit proof of non-profit status in its application at the time of submission.* Applications that *do not* include proof of this status with their application will be disqualified.

2. Availability of Funds

Approximately $25,000,000 is available for FY 2002. However, all grant awards for FY 2002 are subject to the availability of appropriated funds. The maximum funding level for each award is described under each priority area description in Part C.

3. Project and Budget Periods

For Priority Areas 1, 2, and 3, applicants with projects involving construction may request a project period of up to 60 months and a budget period of up to 36 months. Applicants for non-construction projects under these priority areas may request project periods of up to 36 months and budget periods of up to 17 months. For Priority Area 4, applicants may request project and budget periods of up to 12 months.

4. Mobilization of Resources

OCS encourages and strongly supports leveraging of resources through public/private partnerships that can mobilize cash and/or third-party in-kind contributions.

5. Program Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income people as defined in the most recent annual revision of the Poverty Income Guidelines published by DHHS.

Attachment A to this announcement is an excerpt from the Poverty Income Guidelines currently in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402. Also, grantees may contact the OCS Operations Center to obtain a copy of the guidelines. No other government agency or privately defined poverty guidelines are applicable for the determination of low-income eligibility for these OCS programs.

Note, however, that low-income individuals granted lawful temporary resident status under Sections 245A or 210A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 (Public Law 99–603), may not be eligible for direct or indirect assistance based on financial need under this program for a period of five years from the date such status was granted.

6. Number of Projects in Application

All Priority Area applications shall contain only one proposed project except for Priority Area 4. Applicants that are not in compliance with this requirement may be disqualified. Under Priority Area 4, applicants may address a number of ideas or activities that promote planning or development of projects.

7. Multiple Submittals

There is no limit to the number of applications that an applicant can submit under this announcement as long as each application contains a different project. However, an applicant can receive only one grant or cooperative agreement under this program announcement.

8. Sub-awarding or Delegating Projects

OCS does not fund projects where the role of the applicant is *primarily* to serve as a conduit for funds through the use of sub awards to other organizations. In cases where the applicant proposes to make one or more sub awards, it must retain a substantive role in the implementation and operation of the project for which funding is requested.

9. Third Party Agreements

Any applicant submitting an application for funding under Priority Areas 1 or 3 that proposes to use some or all of the requested OCS funds to enter into a third party agreement in order to make an equity investment, such as the purchase of stock or a loan to an organization or business entity (including a wholly-owned subsidiary), is required to include in the application, along with the business plan, a copy of the signed third party agreement for approval by OCS. When the applicant is proposing to enter into a third party agreement for all of the grant funds and a signed third party agreement is not included with the business plan, if the application is approved, OCS will send a time-limited letter of intent to fund each viable, competitively ranked project pending receipt of a signed third party agreement. Once OCS has determined that the agreement is acceptable, an award will be forwarded to the applicant.

If a signed third party agreement is not available when the application is submitted, the applicant must submit as part of the narrative as much of the information below as possible in order to enable reviewers to evaluate the application. This exception is particularly applicable to Incremental Development Projects or Priority Area 2.

For this priority area an applicant may establish a third party agreement during the developmental phase but before the operational phase of the project. However, it should be noted that the portion of a grant that will be used to fund project activities related to a third party agreement will not be released (in any instances) until the agreement has been approved by OCS.

A third party agreement covering an equity investment must contain, at a minimum, the following:

—Purpose(s) for which the equity investment is being made.
—Cost per share.
—The type of equity transaction (e.g. stock purchase).
—Number of shares being purchased.
—Percentage of ownership of the business.
—Term of duration of the agreement.
—Number of seats on the board, if applicable.
—Signatures of the authorized official of the grantee and third party organization.

A third party agreement covering a loan transaction must contain, at a minimum, the following information:

—Purpose(s) for which the loan is being made.
—Rates of interest and other fees.
—Terms of loan.
—Repayment schedules.
—Collateral security.
—Default and collection procedures.
—Signatures of the authorized official of the lender and borrower.

All third party agreements must include written commitments as follows:

From the Third Party (as Appropriate)

—Low-income individuals will fill a minimum of 60% of the jobs to be created from project activities as a result of the injection of grant funds.
—The grantee will have the right to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility.
—If the grantee's equity investment equals 25% or more of the business's assets, the grantee will have representation on the board of directors.
—Reports will be made to the grantee regarding the use of grant funds on a quarterly basis or more frequently, if necessary.
—Procedures will be developed to assure that there are no duplicate counts of jobs created.

Detailed information will be provided on how the grant funds will be used by the third party by submitting a Source and Use of Funds Statement. In addition, the agreement must provide details on how the grantee will provide support and technical assistance to the third party in areas of recruitment and retention of low-income individuals.

From the Grantee

Detailed information on how the grantee will provide support and technical assistance to the third party in areas of recruitment and retention of low-income individuals.

All third party agreements should be accompanied by:

A signed statement from a Certified or Licensed Public Accountant as to the sufficiency of the third party's financial management system in accordance with 45 CFR 74, to protect adequately any federal funds awarded under the application.

Financial statements for the third party organization for the prior three years. (If not available because the organization is a newly formed entity, include a statement to this effect.)

The third party agreement will specify how the grantee will provide oversight of the grant supported activities of the third party for the life of the agreement. Also, the agreement will specify that the third party will maintain documentation related to the grant objectives as specified in the agreement and will provide the grantee and HHS access to that documentation.

The grantee is responsible for ensuring that grant funds expended by it and the third party are expended in compliance with Federal regulations of 45 CFR, part 74 and OMB Circular A–122.

10. Funding Considerations

In cases where an application ranks high and is competitive, the following may apply:

(a) Previous performance of applicants will be considered an important determining factor in the grant award decisions.

(b) Any applicant that has two or more active OCS grants may only be funded under exceptional circumstances.

(c) Pre-award site visits may be performed for the purpose of undertaking assessments of many of these applications prior to OCS making final determinations on grant awards.

11. Prohibited Activities

OCS will not consider applications that propose the establishment of Small Business Investment Corporations or Minority Enterprise Small Business Investment Corporations.

OCS does not fund projects that have a primary purpose to provide education and training activities. In projects where participants must be trained, any funds that are proposed to be used for training purposes must be limited to providing specific job-related training to those individuals who have been selected for employment in the grant supported project which includes new business startups, business expansions, development of new service industries, and/or other newly-undertaken physical and commercial activities.

Projects involving training and placement for existing vacant positions will be disqualified from competition.

Projects that would result in the relocation of a business from one geographic area to another with the possible displacement of employees are discouraged.

PART C—APPLICATION REQUIREMENTS AND PROGRAM PRIORITY AREAS

1. Program Goals

Projects must further the Departmental goals of strengthening American families and promoting their self-sufficiency. OCS is particularly interested in receiving applications that involve public-private partnerships that are directed toward the development of economic self-sufficiency for low-income people and distressed communities through projects that focus on providing employment and business ownership opportunities for low-income people through business startups, business expansions, development of new services, and/or other newly-undertaken physical and commercial activities.

2. Project Scope

OCS encourages each applicant to describe the project scope that includes the low-income community served, the business activities undertaken, and types of jobs to be created. The business activities should be described by the North American Industry Classification System (NAICS) and jobs by occupational classifications. This information is published by the U. S. Department of Commerce in the current Statistical Abstract of the United States, or updated revisions. Also, applicant may use the material included in Attachment I to identify industrial areas and occupational classifications.

3. Program Focus

The focus of this program is to encourage the creation of projects intended to create jobs and provide employment and business ownership opportunities for low-income people through business, physical or commercial development. Generally the opportunities must aim to improve the quality of the economic and social environment of TANF recipients; low-income residents including displaced workers; at-risk teenagers; custodial and non-custodial parents, particularly those of children receiving TANF assistance; individuals residing in public housing; individuals who are homeless; and individuals with developmental disabilities. Grant funds under this program announcement area are intended to provide resources to eligible applicants but also have the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas.

4. Community Empowerment and Collaboration

Eligible organizations including faith-based community development corporations located in Empowerment Zones, Enterprise Communities and rural areas are urged to submit applications. Likewise, applicants are encouraged to foster partnerships with child support enforcement agencies to increase the capability of low-income non-custodial parents, particularly those of children receiving TANF assistance, to fulfill their parental responsibilities. Such applicants may request funds for a business development project or a project that demonstrates innovative ways to create jobs for low-income persons in the targeted group or community.

5. Types of Funding, Priority Areas and Estimated Funding

The types of funding are grants and coopeative agreements. Operational projects, developmental projects and planning projects will be supported through grants. Incremental development projects and Native American Tribes incremental development projects will be supported through cooperative agreements.

The program priority areas and the estimated level of funding available under each area are:

1. Operational Projects (OP)—$12,600,000 estimate.

2A. Incremental Development Projects (IDP)—$2,240,000 estimate. (First increment will be funded in FY 2002. Second increment will be considered in FY 2003 or FY 2004, respectively, depending on whether a successful applicant has no more than a 12-month budget period or a budget period ranging from 13–17 months. Also, funding of the second increment is subject to continued funding of this program.)

2B.—Native American Tribes (NAT) Incremental Development Projects;—$280,000 estimate.

(First increment will be funded in FY 2002. Second increment will be considered in FY 2003 or FY 2004, respectively, depending on whether a successful applicant has no more than a 12-month budget period or a budget period ranging from 13–17 months. Also, funding of the second increment is subject to continued funding of this program.)

3. Developmental Projects (DP)—$7,000,000 estimate.

4. Planning Projects (PP)—$1,350,000 estimate.

Applicants applying for priority areas 1, 2A, 2B and 3 must show that the proposed project:

(1) Creates full-time permanent jobs except where an applicant demonstrates that a permanent part-time job produces actual wages that exceed the HHS poverty guidelines. At least sixty percent (60%) of the jobs created must be filled by low-income residents of the community and must also provide for career development opportunities. Project emphasis should be on employment of individuals who are unemployed or on public assistance, with particular emphasis on those that are at-risk teenagers, TANF recipients, low-income custodial and non-custodial parents (particularly those of children receiving TANF assistance), individuals residing in public housing, individuals with developmental disabilities, and individuals who are homeless. While projected employment in future years may be included in the application, it is essential that the focus of employment projects concentrate on those permanent jobs created during the duration of the OCS project period; and/or

(2) Creates a significant number of business ownership opportunities for low-income residents of the community or significantly aids such residents in maintaining economically viable businesses; and

(3) Assists low-income participants to become self-sufficient.

In addition, favorable consideration in the review process will be given to applicants that develop linkages and agreements or demonstrate their intention to coordinate services with the local TANF offices and/or other employment education and training offices and child support enforcement agencies that serve the proposed area. The offices and agencies should serve TANF recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals (as defined by the annual revision to the Poverty Income Guidelines published by DHHS) including custodial and non-custodial parents. Applicants should submit a written agreement from the applicable office or agency that indicates what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. The agreement should include the goals and objectives (including target groups) that the applicant and the employment education and training office and child support enforcement agencies expect to reach through their collaboration. It should describe the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out in support of the project, and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS. Documentation that illustrates the organizational experience of the employment education and training office should also be included.

Applications must include provision for an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in creating new jobs and business ownership opportunities. There must be a well-defined process evaluation, and an outcome evaluation whose design will permit tracking of project participants throughout the proposed project period. The evaluation must be conducted by an independent evaluator, i.e., a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. It is important that each successful applicant have a third-party evaluator selected, and implement their role at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the design of the program, in order to assure that data necessary for the evaluation will be collected and available.

The executive director and/or project director, and the evaluator must attend a two-day national workshop in Washington, DC. The workshop will be scheduled shortly after the effective date of the grant award. Additionally, the project director should plan annual meetings with their program and grants management specialists each year, thereafter, during the life of the grant. The evaluator should also attend a final evaluation workshop to be held at the end of the project period. Project budgets must include funds from the OCS award for travel to and attendance at these meetings and workshops.

Priority Area 1. Operational Projects (OP)

An applicant for an operational project must have in place written commitments for all projected non-OCS funding required for their project. Written proof of commitments from third parties must be submitted with the application. After the business start-up period, a period that is relatively a short time after the effective date of the OCS grant, an operational project should start its operational phase. The operational phase is defined as the time interval when business, commercial or other activities are in operation and employment or business ownership opportunities are provided for low-income persons.

An eligible applicant must propose a project that provides employment and business ownership opportunities for low-income people through business, physical or commercial development at the local level. Applicants should submit a work plan or business plan that complies with the test of economic feasibility. Attachment K is a guideline for the work plan or business plan.

The cost-per-job for low-income persons in OCS funds may not exceed $15,000. Unless there are extenuating circumstances, OCS will not fund projects where the cost-per-job for low-income persons in OCS funds exceeds $15,000.

The maximum award of OCS funding can be no more than $700,000 for a project.

A project period up to 60 months and a budget period up to 36 months are permitted for projects involving construction. Projects that do not involve construction may have a maximum project period up to 36 months and a maximum budget period up to 17 months.

Applicants must be aware that projects funded under this priority area must be operational by the end of the project period, *i.e.*, businesses must be in place, and low-income individuals actually employed in those businesses.

Priority Area 2A. Incremental Development Projects (IDP)

IDP projects will be funded in two increments including (1) a developmental phase and (2) an operational phase. IDP applicants should submit a comprehensive, written business plan or work plan. OCS intends to support an IDP project under a cooperative agreement. A cooperative agreement is an award instrument of financial assistance when substantial involvement is anticipated between the awarding office and the recipient during performance of the contemplated project. The OCS will outline a plan of interaction with the grantee for implementation under the cooperative agreement. The respective responsibilities of the OCS and the successful applicant will be identified and incorporated into the cooperative agreement during pre-award negotiations. It is anticipated that OCS responsibilities will not change the project requirements found in this Announcement. The plan under the cooperative agreement will describe the general and specific responsibilities of the grantee and the grantor as well as foreseeable joint responsibilities. A schedule of tasks will be developed and agreed upon in addition to any special conditions relating to the implementation of the project. An applicant for IDP has the same requirements as Priority Area 1 (OP) except for the following:

(a) All written commitments need not be in place;

(b) All non-OCS funding necessary to complete the project need not be in place;

(c) A third party agreement need not be in place (if applicable); and

(d) Acquisition or site control of the proposed site and similar activities need not be in place.

An applicant requesting funding for an IDP project must request the total amount of OCS funding at the initial submission of their application. However, the project will receive OCS funding in two increments: (a) The first increment will be provided to begin the developmental phase. During the developmental phase, the grantee will be granted initial funding up to but not to exceed more than 20% of the total OCS funding requested for the entire project period. The second increment is predicated on success of the developmental activities being in place. Documentation of completed tasks must be submitted to the Office of Grants Management in accord with terms and requirements of the cooperative agreement to be reviewed by OCS prior to the project's operational phase being funded. The decision to continue funding the project is at the sole discretion of the OCS.

Funding will be provided in no more than two increments as follows:

The first increment will not exceed 20% of the anticipated total OCS grant award. The budget period for this phase can be no longer than 17 months for non-construction projects and 24 months for projects involving construction.

The second increment is for the balance of anticipated OCS funds. The budget period for this phase can be no longer than 17 months for non-construction projects and 24 months for construction projects. The combined project period and budget periods for the first and second increment cannot exceed 36 months for non-construction and 60 months for construction type projects.

The cost-per-job in OCS funds (based on the total anticipated request of OCS funds for the entire project period) may not exceed $15,000.

The maximum award of OCS funding requested for the entire project period can be no more than $700,000 for a project. The maximum amount of the first incremental award cannot exceed $140,000 or 20% of the total OCS funding, whichever is lower.

Priority Area 2B. Native American Tribe, Incremental Development Project, (NAT)

Funds will be provided to two private, non-profit, 501(c), community development corporations that enter into an agreement with an eligible Native American tribe to carry out business development activities, i.e. business startups, business expansions, development of new services industries, and/or other newly-undertaken physical and commercial activities, on reservations. An eligible Native American Tribe is one of the 42 tribes that operate a Temporary Assistance for Needy Families Block Grant Program (TANF) under a direct agreement (recognized under tribal self-governance agreements as the equal of a State block grant program) with the Federal government.

The applicant should select a project that promotes economic sustainability and self-sufficiency for families on the reservation where the project will be implemented. An application under this priority area must reflect a significant partnership role for the tribe. The application also must contain a written, signed agreement from an authorized tribal official confirming the tribe's significant involvement in the grant activities. By entering into a partnership agreement with a tribe, the applicant will be considered to have fulfilled the goal of mobilizing non-discretionary program dollars under sub-criterion V.1, Mobilization of resources and will be granted the maximum number of points (10) in that category.

In addition, applicants must develop a project that has the same purposes and requirements as Priority Area 2A. Also, for each applicant, the maximum OCS funding requested, budget and project period and other requirements are the same as Priority Area 2A.

Priority Area 3. Developmental Projects (DP)

Funds will be provided to a limited number of eligible applicants that received planning grants from OCS in Fiscal Years 2000 and 2001.

Applicant must develop a project that has the same purposes and requirements as Priority Area 1.

The maximum award of OCS funding can be no more than $350,000.

Priority Area 4. Planning Projects (PP)

Funds will be provided to a limited number of eligible applicants that have been recently established and are inexperienced in implementing economic development projects. The primary purpose of this priority area is to assist eligible organization in planning, developing organizational capacity, identifying potential projects, mobilizing resources and the development of a business plan for implementation on completion of the planning project.

Eligible applicants cannot be more than three years old, or if more than three years old have no experience in implementing economic development projects. (For the latter type of applicant, a written assurance must be provided in the project narrative that states " the applicant had no participation in economic development projects"). The phrase "no participation in economic development projects" means an eligible applicant has not sponsored nor had any significant participation in projects that have provided employment or business ownership opportunities through business startups, expansions or development through physical, business or commercial activities or provision of financial services. In addition, applicants with housing experience must not have had primary responsibility in planning, developing, and managing housing projects.

With funding received under this priority area, applicants may incur costs to: (1) Evaluate the feasibility of potential projects that address identified needs in the low-income community (*see* Part E—Evaluation Criteria, Section 2, Criterion I for details) and that conform to those projects and activities allowable under Priority Areas 1, 2A, 2B and 3; (2) develop a business plan related to one of those projects; (3) mobilize resources to be contributed to one of those projects and (4) develop organizational capacity. Examples of activities under item 4 may include hiring staff, training board members, staff and volunteers, recruiting community volunteers and developing management systems.

The business plan developed as a result of the respective planning project must be submitted as part of your next competitive application if you participate in the Developmental or Operational Projects set-asides for Fiscal Year 2003 based on the availability of funds.

The maximum award of OCS funding can not exceed $75,000 including the cost of travel for the program director to attend a two-day workshop in Washington, DC.

The project and budget period can be no longer than 12 months.

Applications submitted under this priority area will be evaluated on how well the project narrative comply with the following information:

1. Description of the impact area, i.e., a description of the low-income area it proposes to address;

2. Need identification in the targeted area;

3. How the potential projects relate to applicant's organizational goals and previous experience (if any);

4. Project approach and implementation factors including a discussion of potential projects that might be implemented to address identified needs;

5. A strategy for conduct of feasibility studies on potential projects including quarterly work plans with specific task timelines and a self-evaluation component; and

6. Project objectives and measurable impact, i.e., a discussion of preparing a business plan on only one selected project based on results of the feasibility studies and a plan for mobilization of non-OCS dollars to implement it.

PART D—THE PROJECT DESCRIPTION, PROGRAM APPLICATION ELEMENTS AND REVIEW CRITERIA

1. Purpose

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

2. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

3. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, instructional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

4. Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe the types of jobs to be created or employment or business ownership opportunities to be provided to low-income persons, career opportunities provided and how the applicant will assist participants to move towards self-sufficiency. As another example, the applicant should provide information on the funds and other resources mobilized or attracted to respective low-income communities.

5. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. Also, this section should include the number of jobs created and business ownership opportunities provided to low income persons; and the amount of resources and types of business attracted to low-income communities. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates. If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key

individuals who will work on the project along with a short description of the nature of their effort or contribution.

6. Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)3 of the IRS code, or, by providing a copy of the currently valid IRS tax exemption certificate, or, by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

7. Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

8. Evaluation

Provide a narrative addressing how the results of the project and the conduct of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

9. Business Plan

When Federal grant funds will be used to make an equity investment or loan, provide a business plan. The business plan should include discussion of applicable elements of a business plan as described in Attachment K, "Guidelines for a Business Plan".

10. Third-Party Agreements

Include written agreements between grantees and sub-grantees or subcontractors or other cooperating entities. These agreements must detail the scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

11. Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included.

12. Budget and Budget Justification

Provide a line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, "Federal resources" refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. If not known at the time of submission, a comprehensive position description should be included that indicates that the responsibility to be assigned to the project director are relevant to the successful implementation of the project. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Compensation Act (FICA), retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 74 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for applications or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Description: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (non-contractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Non-Federal Resources

Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

PART E—EVALUATION CRITERIA

Each application submitted under this program announcement will undergo initial screening to determine that the application was received by the closing date, complies with the page limitation, is eligible for funding and complies with other instructions. Also, *see* Part F—Application Procedures, section 4 for additional details of "criteria for screening applicants".

Each application that passes the initial screening will be reviewed and scored by a panel of three independent reviewers. Each panel gives a numerical score and summary evaluation of each application reviewed. The summary evaluation will include explanatory statements describing major strengths and weaknesses reviewed against published criterion.

The competitive review of each application is based on the degree to which applicants:

(1) Adhere to the requirements in PART B, incorporate the elements of specific priority area and address elements under each criterion; and

(2) Describe a project that will create jobs and provide employment to and business ownership opportunities for low-income persons including TANF and other eligible persons.

1. Criteria for Review and Evaluation of Applications Submitted Under Priority Areas 1, 2 and 3

Criterion I: Need for Assistance Maximum: (5 Points)

The application documents that the project addresses a vital need in a distressed community. Distressed community is defined as a geographic urban neighborhood or rural community of high unemployment and pervasive poverty. The application documents that both the unemployment rate and poverty level for the targeted neighborhood or community must be equal or greater than the national level. (0–3 points)

The application cites the most recent available statistics from published sources e.g. the recent U.S. Census or updates, the State, county, city, election district and other information are provided in support of its contention. (0–2 points)

Criterion II: Organizational Profiles and Staff Responsibilities (Maximum: 15 Points)

(1) Organizational Profiles (Sub-Rating: 0–7 Points)

The applicant has the organizational structure and strategic plan to develop business, physical, or community development activities. (0–4 points)

The applicant has demonstrated the ability to implement major activities in such areas as business development, commercial development, physical development, or financial services; and the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.). (0–3 points)

(2) Staff Skills, Resources and Responsibilities (Sub-Rating: 0–8 Points)

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but whose professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description that indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–2 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–1 points)

Criterion III: Project Approach (Maximum: 25 Points)

(1) The business plan or work plan, where applicable, is both sound and feasible. The plan describes the key project tasks and shows how the project objectives will be accomplished including the development of businesses and creation of jobs for low-income persons during the allowable OCS project period. (0–3 points)

(2) The project is responsive to the needs identified in the Analysis of Need. (0–4 points)

(3) The work plan outlines realistic quarterly time targets by which the various work tasks would be completed. (0–5 points)

(4) Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems. (0–3 points)

The application contains a full and accurate description of the proposed use of the requested financial assistance for all projects. However, if an applicant proposes (under Priority Areas 1 and 3) to make an equity investment or a loan to an individual, organization, or business entity (including a wholly-owned subsidiary), the application includes a signed third party agreement; a signed statement by a Certified or Licensed Public Accountant, as to the sufficiency of the third party's financial management system; and financial statements for the third party's prior three years of operation. (If newly formed and unable to provide the information regarding the prior three years of operation, a statement to that effect is included.) If the applicant states that an agreement is not currently in place, the application contains in the narrative as much information required for third party agreements as is available. (*See* Part B, item 9.)

Note: For applicants that propose projects under Priority Area 2A and 2B, at the time of application their proposal needs only to contain a comprehensive, written business or work plan. Developmental activities related to equity investment and third party agreements may be unrealized concepts at the time of their application. Thus, no points should be deducted from the total points for this sub-criterion for these applicants.]

Also, if the project proposes the development of a new or expanded business, service, physical or commercial activity, the application addresses applicable elements of a business plan. Guidelines for a Business Plan are included in Attachment K.

(5) The financial plan element, which indicates the project's potential and timetable for financial self-sufficiency, is included. It includes for the applicant and the third party, if appropriate, the following exhibits for the first three years (on a quarterly basis) of the business' operations: Profit and Loss Forecasts, Cash Flow projections, and Proforma Balance Sheets. Based on these documents, the application also contains an analysis of the financial feasibility of the project. In addition, a Source and Use of Funds statement for all project funding is included. (0–10 points)

Criterion IV: Results or Benefit Expected (Maximum: 20 Points)

(1) Results or Benefits Expected (Sub-Rating: 0–5 Points)

The proposed project will produce permanent and measurable results including, but not limited to, employment and business ownership opportunities that will reduce the incidence of poverty and TANF assistance in the community. (0–3 points)

The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated Empowerment Zones and Enterprise Communities. (0–2 points)

(2) Community Empowerment Consideration and Partnership With Child Support Enforcement Agency (Sub-Rating: 0–5 Points)

The applicant is located in an area that is characterized by poverty and other indicators of socio-economic distress such as a poverty or TANF assistance rate of at least 20%, designation as an Empowerment Zone or Enterprise Community (EZ/EC), high levels of unemployment, high levels of incidences of violence, gang activity, crime, drug use, and low-income custodial and non-custodial parents of children receiving TANF. (0–3 points)

Applicant documents that it was involved in the preparation and implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner; and how the proposed project will support the goals of that plan. Also, if an applicant documents that it has entered into partnership agreements with the local TANF and/or other employment education and training office and/or child support enforcement agency to increase capability of low-income parents and families to fulfill their parental responsibilities. (0–2 points)

Note 1: Applicants who have projects located in EZ/EC target areas or those who have included signed current agreements with child support enforcement agencies will automatically receive the maximum 2 points.

Note 2: For applicants that apply under Priority Area 2B, partnership agreements refer to agreements entered into with a Native American Tribe and the contents of the agreement support the goals of participants on the reservation. If the agreement is included with the application, the applicant automatically receives the maximum 2 points.

(3) Cost-per-job (Sub-Rating: 0–5 Points)

During the project period, the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job below $15,000 in OCS funds *unless* there are extenuating circumstances, e.g., Alaska where the cost of living is much higher. (0–5 points)

(4) Career Development Opportunities (Sub-Rating: 0–5 Points)

The applicant documents that the jobs to be created for low-income people have career development opportunities that will promote self-sufficiency. (0–5 points)

Criterion V: Public-Private Partnerships (Maximum: 15 Points)

(1) Mobilization of Resources: (Sub-Rating: 10 Points)

The applicant documents it has mobilized from public and/or private sources the proposed balance of Non-OCS funding required to fully implement the project. Lesser contributions will be given consideration based upon the value documented. (0–10 points)

Note 1: Applicant under Priority Area 2A and 2B, need only document an amount equal to the amount of OCS funds requested for the first segment.

Note 2: Applicants under Priority Area 2B with a written partnership agreement with a tribe will be considered to have fulfilled the goal of mobilizing non-discretionary program dollars and on this basis will be granted the maximum number of points (10) in this sub-priority area.

Note 3: Cash resources such as cash or loans contributed from all project sources (except for those contributed directly by the applicant) are documented by letters of commitment from third parties making the contribution.

Note 4: The value of in-kind contributions for personal property is documented by an inventory valuation for equipment and a certified appraisal for real property. Also, a copy of a deed or other legal document is required for real property.

Note 5: Anticipated or projected program income such as gross or net profits from the project or business operations will not be recognized as mobilized or contributed resources.

(2) Integration/Coordination of Services (Sub-Rating: 5 Points)

The applicant demonstrates a commitment to, or agreements with, local agencies responsible for administering child support enforcement, employment education, and training programs to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals, and low-income custodial and non-custodial parents will be trained and placed in the newly created jobs. The applicant provides written agreements from the local TANF or other employment education and training offices, and child support enforcement agency indicating what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. (0–2 points)

The agreements include: (1) The goals and objectives that the applicant and the TANF or other employment education and training offices and/or child support enforcement agency expect to achieve through their collaboration; (2) the specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the target population that this collaboration will serve; (4) the mechanism(s) to be used in integrating/coordinating activities; (5) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (6) how those activities will be significant in relation to their impact on the success of the OCS-funded project. (0–2 points)

The applicant also provides documentation that illustrates the organizational experience related to the employment education and training program. (Refer to Criterion II for guidelines.) (0–1 point)

Criterion VI: Project Evaluation (Maximum: 15 Points)

Sound evaluations are essential to the Community Economic Development Program. OCS requires applicants to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented; whether the project activities, or interventions, achieved the expected immediate outcomes, and why or why not (the process evaluation); and whether and to what extent the project achieved its stated goals, and why or why not (the outcome evaluation). Together, the process and outcome evaluations should answer the question: "What did this program accomplish and why did it work/not work?"

Applicants are *not* being asked to submit a complete and final evaluation plan as part of their application; but they must include:

(1) A well thought through outline of an evaluation plan that identifies the principal cause-and-effect relationships to be tested, and that demonstrates the applicant's understanding of the role and purpose of both process and outcome evaluations. (See previous paragraph). (0–2 points)

A reporting format based on the grantee's documentation of its activities (interventions) and their effectiveness, to be included in the grantee's semi-annual program progress report, which will provide OCS with insights and lessons learned, as they become evident, concerning the various aspects of the work plan, such as recruitment, training, support, public-private partnerships, and coordination with other community resources, as they may be relevant to the proposed project. (0–2 points)

(2) The identity and qualifications of the proposed third-party evaluator, or if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating community development programs, and the planning and/or evaluation of programs designed to foster self-sufficiency in low income populations. (0–2 points)

(3) A commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the six-month start-up period of the project, if funded. (0–2 points)

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, as well as the hypotheses, or expected cause-effect relationships to be tested in the project; and the proposed project activities, or interventions, that will address those needs in ways that will lead to the achievement of the project goals of self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, and the community. Finally, as noted above, the outline should provide for prompt reporting, concurrently with the semi-annual program progress reports, of lessons learned during the course of the project, so that they may be shared without waiting for the final evaluation report.

(4) For all these reasons, it is important that each successful applicant have a third-party evaluator selected and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, and in order to assure that data necessary for the evaluation will be collected and available. Plans for selecting an evaluator should be included in the application narrative. A third-party evaluator must have knowledge about, and have experience in, conducting process and outcome evaluations in the job creation field, and have a thorough understanding of the range and complexity of the problems faced by the target population. (0–2 points)

The competitive procurement regulations (45 CFR part 74, Sections 74.40—74.48, especially section 74.43) apply to service contracts such as those for evaluators.

It is suggested that applicants use no more than three (3) pages for this Element, plus the resume or position description for the evaluator, which should be included in an appendix.

Criterion VII: Budget and Budget Justification Maximum: 5 Points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. (0–2 points)

The application includes a detailed budget breakdown and a narrative justification for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. (0–2 points)

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–1 point)

2. Criteria for Review and Evaluation of Applications Submitted Under Priority Area 4

Criterion I: Need for Assistance (Maximum: 15 Points)

The application documents that the project addresses a vital need in a distressed community. A distressed community is defined as a geographic urban neighborhood or rural community of high unemployment and pervasive poverty. The application documents that both the unemployment rate and poverty level for the targeted neighborhood or community is equal or greater than the national level. (0–10 points)

The application cites the most recent available statistics from official sources (e.g., the recent U.S. Census or updates,

the State, county, city, election district and other information are provided in support of its contention). (0–5 points)

Criterion II: Organizational Profiles and Staffing Capacity (Maximum: 20 Points)

(1) Organizational Profiles (Sub-Rating: 5 Points)

The applicant shows why its organization can successfully implement the project for which it is requesting funds. (0–3 points)

* Please note that this entire section relates to the organizational experience of the applicant organization, itself, and does not pertain to the experience of a partner or an affiliated or parent organization. Also, this section does not pertain to the experience of the directors, officers, employees, contractors, volunteers or other persons have gained from other organizations or otherwise.

The organization must demonstrate that the Board of Directors are residents, or business or civic leaders of the community. This can be done by showing the address(es) of their home and/or businesses or local civic association. The applicant must show that its board of directors is active by providing a copy of the minutes of the meeting (properly signed by the Secretary) held within the 90 days of its submission of its application to OCS. The minutes must include the attendees and officers present that constitute a quorum and the subject matters discussed including its approval of the organization's submission of an application to OCS for funding. (0–2 points)

(2) Management Capacity (Sub-Rating: 5 Points)

Applicant fully details its ability to implement sound and effective management practices and, if it has been a recipient of other Federal or other governmental grants, it also details that it has consistently complied with financial and program progress reporting and audit requirements. (0–3 points)

Applicant has submitted available documentation on its management practices and progress reporting procedures along with a statement by a Certified or Licensed Public Accountant (CPA) as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted. If the applicant has not hired a CPA, it may include a statement signed by both the head of the organization and the treasurer providing assurance of the sufficiency of the financial management system. (0–2 points)

[**Note:** The assurance or documentation of the applicant's management practices, etc., and statement from the accountant on the financial management system must address the applicant organization's own internal system rather than an external system of an affiliate, partner, management support organization, etc.]

(3) Staffing (Sub-Rating: 5 Points)

The application fully describes (e.g., resumes) the experience and skills of key staff showing that they are not only well qualified but that their professional capabilities are relevant to the successful implementation of the project.

(4) Staffing responsibilities (Sub-Rating: 5 Points)

The application describes how the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

Criterion III: Project Approach and Evaluation (Maximum: 30 Points)

(1) Project Approach (Sub-Rating: 25 Points)

The work plan addresses a clearly identified need in the low-income community as described in Criterion I. The plan must include a methodology to evaluate the feasibility of potential projects that conform to the type of projects and activities allowable under Priority Areas 1, 2, and 3. (0–8 points)

The work plan discusses the preparation of a business plan on one selected project based on the results of the feasibility studies and a plan for mobilization of non-Community Economic Development funds to implement the business plan. (0–4 points)

The work plan addresses activities to develop organizational capacity, e.g. hiring staff, training board members, staff and volunteers, recruiting community volunteers and developing management systems. (0–4 points)

It outlines realistic quarterly time schedules of work tasks by which the objectives (including the development of organizational capacity, a business plan and mobilization of resources) will be accomplished.

[**Note:** Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets will seriously reduce an applicant's poipt score in this criterion.] (0–5 points)

It defines critical issues or potential problems that might impact negatively on the project and it indicates how the project objectives will be attained notwithstanding any such potential problems. (0–4 points)

(2) Evaluation component (Sub-Rating: 5 Points)

The application includes a self-evaluation component. The evaluation data collection and analysis procedures are specifically oriented to assess the degree to which the stated goals and objectives are achieved. (0–3 Points)

Qualitative and quantitative measures reflective of the scheduling and task delineation in (1) above are used to the maximum extent possible. This component indicates the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports that are required by OCS from all organizations receiving planning grants. (0–2 points)

Criterion IV: Results and Benefits Expected (Maximum: 25 Points)

(1) The proposed project around which the business plan is to be developed with the use of OCS grant funds is targeted into low-income communities, and/or designated Empowerment Zones or Enterprise Communities with the goals of increasing the economic conditions and social self-sufficiency of residents. Also, the project proposes to produce permanent and measurable results that will reduce the incidence of poverty and number of TANF recipients in the low-income area targeted. (0–15 points)

[**Note:** This priority area permits applicants to conduct several feasibility studies related to various potential projects. However, on completion of the studies, one proposed project must be selected and a business plan prepared for the selected project.]

(2) The activity targets mobilization of non-OCS program dollars from private sector individuals, public resources, corporations and foundations, if the proposed project is implemented. (0–10 points)

Criterion V: Budget and Budget Justification (Maximum: 10 Points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–5 points)

The application includes a detailed budget breakdown and a narrative justification for each of the budget categories in the SF 424–A. The applicant presents a reasonable administrative cost. (0–5 points)

PART F—APPLICATION PROCEDURES

1. Availability of Forms

For purposes of this announcement, all applicants will use the following forms: SF–424, SF–424A, SF–424B.

Applications proposing construction projects will present all required financial data using SF–424A. Instructions for completing the SF–424, SF–424A, and SF–424B are found in Attachments B, C, and D. These forms may be photocopied for this application.

An applicant may use instructions under Part D or F for preparing the project abstract and project narrative. They should be submitted on plain bond paper along with the SF–424 and related forms.

Attachment M, Applicant's Checklist, provides a checklist to aid applicants in preparing a complete application package for OCS.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the following regulations: Drug-free workplace, Attachment E; Debarment, Attachment F; and Environmental Tobacco Smoke, Attachment J.

2. Intergovernmental Review

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR Part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities. Under the Order, states may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

The following jurisdictions have elected NOT to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by Federally-recognized Indian tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, and Palau.

An applicant should contact its Single Point of Contact (SPOC) as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submits all required materials, if any, to the SPOC and indicates the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a, and submits a copy of the letter along with its application to OCS. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

The SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official state process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor West, Aerospace Center, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each state and territory is included as Attachment G of this announcement.

3. Application Consideration

Applications that meet the screening requirements in sections 4.a and b. below may be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program priority area guidelines and evaluation criteria published in this announcement.

Applications submitted under all priority areas will be reviewed by persons outside of the Office of Community Services. The results of these reviews will assist the Director and OCS program staff in considering competing applications.

Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

Applicants with two or more active OCS grants at the time of review may be denied funding. In addition, OCS may consider the geographic distribution of funds among states and the relative proportion of funding among rural and urban areas in accordance with Section 680(a)(2)(D) of the CSBG Act.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

4. Criteria for Screening Applications

1. a. Initial Screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain the Application for Federal Assistance (SF–424), a budget (SF–424A), and signed Assurances (SF 424B) completed according to instructions included in Parts D, F, G and H of this Program Announcement.

(2) A project abstract must also accompany the standard forms.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(4) While there is no limit to the number applications that can be submitted under a specific program priority area, each application must be submitted for consideration under one priority area only.

(5) All applications that exceed 65 pages will be determined ineligible and will be returned to the sender. (*See* Part F.1. "Content of Application" for details.

b. Pre-Review

Applications that pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant must comply with the eligibility requirements for the priority area under which funds are being requested. Proof of non-profit status, (see Eligible Applicants under Part B, Application Prerequisites) must

be included in the appendices of the project narrative where applicable. Applicants that do not submit proof of non-profit status will be disqualified. Applicants must also be aware that the applicant's legal name as required in SF–424, Item 5 *must match* that listed as corresponding to the Employer Identification Number at Item 6.

(2) *Number of Projects:* While there is no limit to the numbers of applications, an application may contain only one project under Priority Areas 1, 2, and 3. However, an application may contain more than one project under Priority Area 4 where applicants are researching and conducting feasibility studies of various project opportunities.

(3) *Grant amount:* The amount of funds requested does not exceed the limits indicated in the appropriate priority area.

(4) *Written Agreement When Applicant Proposes to Make Equity Investment or Loan:* (Priority Areas 1, 2, and 3): The application contains a written third party agreement, or a discussion of a proposed agreement, signed by the applicant and the third party that includes all of the elements required in Part B, item 9.

An application will be disqualified if it does not conform to one or more of the above requirements.

c. Panel Reviews

Applications that pass the initial and pre-rating review will be assessed and scored by panels of reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The panelists will use the criteria found in Part D along with the specific requirements contained under each program priority area as described in Part C.

PART G—CONTENTS OF APPLICATION AND RECEIPT PROCESS

1. Contents of Application

Each submission should include one signed original application and two additional copies of the application. The font size must not be smaller than a 12 pitch and the margins must be at least 1″ wide on all sides. The application package including the sections for the table of contents, project abstract, project and budget narratives and business plan must not exceed 65 pages for applications submitted under Priority Areas 1, 2, and 3 and 35 pages under Priority area 4. The instruction for page limitation is included below in items e and f.

Note: It is important to note that applications with the above cited sections exceeding the page limitation will be determined ineligible and will be returned to the sender.

The page limitation does not include the following attachments and appendices: Standard Forms for Assurances, Certifications, Disclosures and appendices listed below. The instructions are included below in items c, d, g, h, i, j, k, l, m, and n. Application pages should be numbered sequentially throughout the application package, beginning with an abstract of the proposed project as page number one. Each application must include all of the following, in the order listed below:

a. *Table of Contents.*

b. *Completed Standard Form 424*—(Attachment B)—that has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

c. *A Standard Form 424A*—Budget Information—Non-Construction Programs (Attachment C).

d. *A budget justification* for each object class category required under Section B, SF–424A (Attachment C).

e. *A Project Abstract*—A paragraph that succinctly describes the project in 500 characters or less. Section 424A (Attachment C).

f. *A Project Narrative.* The project narrative must address the specific concerns mentioned under the relevant priority area description in Part C. The narrative should also provide information on how the application meets the evaluation criteria in Part D and Guidelines for a Business Plan (Attachment K) of the Program Announcement.

g. *A Standard Form 424B Assurances*—Non-Construction (Attachment D)—All applicants, whether or not their project involves construction, must sign and submit the Standard Form 424B with their applications.

h. *Certification Regarding Lobbying*—(Attachment H)—Applicant must sign and return an executed copy of the lobbying certification.

i. *Disclosure of Lobbying Activities, SF–LLL* (Attachment H)—Fill out, sign and date the form.

j. *DHHS Regulations Applying to All Applicants/Grantees Under the Community Economic Development Program* (Attachment I)—By signing and submitting the application, applicant is certifying that it will comply with these regulations.

k. *Certification Regarding Environmental Tobacco Smoke* (Attachment J)—Applicant must make the appropriate certification of their compliance with the Pro-Children Act of 1994. By signing and submitting the application, applicant is providing the certification regarding environmental tobacco smoke and need not mail back the certification with their applications.

l. *Certification Regarding Drug-Free Workplace Requirement* (Attachment E): By signing and submitting the application, applicant is certifying that it will comply with this regulation.

m. *Certification Regarding Debarment, Suspension, and Other Responsibility Matters:* By signing and submitting the application, applicant is certifying that it will comply with this regulation.

n. *Proof of Non-Profit Status:* The non-profit agency can accomplish this by providing a copy of either the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations, a copy of the currently valid IRS tax exemption certificate, or, a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. Applicants that do not include proof of this status with the applications will be disqualified.

Other information needed on the applicant organization includes a listing of the current Board of Directors' names, titles and addresses (Note: If the applicant is proposing an equity transaction, this is also needed for the third party organization.); resumes of the project director and other key management team members; written agreements, i.e., third party agreements, coordination with TANF, etc.; a copy of the submission to the State Single Point of Contact, if applicable; Single Point of Contact comments, where applicable; certification regarding anti-lobbying activities; and a disclosure of lobbying activities.

2. Acknowledgment of Receipt

All applicants will receive an acknowledgment notice with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application that can be attached to this acknowledgment notice. The identification number and the program priority area letter code must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgment is not received within two weeks after the deadline date, please notify the OCS Operations Center by telephone at (703) 351–7676.

[**NOTE:** To facilitate receipt of this acknowledgment from the OCS Operations center, applicant should include a cover letter with the application containing an E-mail address and facsimile (FAX) number if these resources are available to applicant.]

PART H—INSTRUCTIONS FOR COMPLETING APPLICATION PACKAGE

It is suggested that the applicant reproduce the SF–424 and SF–424A, and type its organization's legal name on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, write NA for Not Applicable.

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

1. SF–424 Application for Federal Assistance

Item 1. For the purposes of this announcement, all applications are considered Applications; there are no Pre-Applications. For the purpose of this announcement, construction projects involve land improvements and development or major renovation of (new or existing) facilities and buildings, including their improvements, fixtures and permanent attachments. All others are considered non-construction. Check the appropriate box under Application. Whether applications involve construction or non-construction projects, all applicants are required to complete the Budget Information—Non-construction Programs sections of SF–424A.

Items 5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (EIN) and the Payment Identifying Number (PIN), if one has been assigned, in the block entitled Federal Identifier located at the top right hand corner of the form.

Item 7. If the applicant is a non-profit corporation, enter N in the box and specify non-profit corporation in the space marked Other. Any non-profit organization submitting an application must submit proof of its non-profit status in its applications at time of submission.

Item 9. Enter DHHS–ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.570. The title is CSBG Community Economic Development Awards.

Item 11. In addition to a brief descriptive title of the project, indicate one of the following program priority areas for which funds are being requested.

OP—Priority Area 1. Community Economic Development (Operational Projects)
IDP—Priority Area 2A. Community Economic Development (Incremental Development Projects)
NAT—Priority Area 2B. (Native American Tribes, Incremental Development Project)
DP—Priority Area 3. Community Economic Development (Developmental Projects)
PP—Priority Area 4. Community Economic Development (Planning Projects)

2. SF–424A—Budget Information—Non-Construction Programs

See instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the Federal funds budget entries will relate to the requested OCS Community Economic Development funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS Community Economic Development funding should be included in Non-Federal entries.

The budget forms in SF–424A are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF–424A format should be used as necessary.

Section A—Budget Summary

Lines 1–4:

—Column (a): Line 1—Enter CSBG Community Economic Development
—Column (b): Line 1—Enter 93.570
—Columns (c) and (d): Leave Blank
—Columns (e) through (g): Line 1; enter the appropriate amounts needed to support the project for the budget period.

Line 5: Enter the figures from Line 1 for all columns completed as required, (c), (d), (3), (f), and (g).

Section B—Budget Categories

Allowability of costs is governed by applicable cost principles set forth in 45 CFR part 74. A budget narrative must be submitted that includes the appropriate justifications as stated.

This section should contain entries for OCS funds only. For all projects, this first budget period will be entered in Column (1).

Budget estimates for administrative costs must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those that reflect estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class other, identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives; large dollar amounts; local, regional, or other travel; new positions; and major equipment purchases.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Line 6a

Personnel—Enter the total costs of salaries and wages.

Justification—Identify the project director and staff. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and non-Federal) of the organization's staff that will be working on the project.

Line 6b

Fringe Benefits—Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate that is entered on Line 6j.

Justification—Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Line 6c

Travel—Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification—Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances. Traveler must

be a person listed under the personnel line or employee being paid under non-federal share. (**Note:** Local transportation and consultant travel costs are entered on Line 6h.)

Line 6d

Equipment—Enter the total estimated costs for all non-expendable personal property to be acquired by the project. Equipment means tangible nonexpendable personal property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Justification—Provide breakdown of cost per item. Items that cost less than $5,000 should be included under Supplies.

Line 6e

Supplies—Enter the total estimated costs of all tangible personal property (supplies) other than that included on line 6d.

Justification—Provide a general description as to what is being purchased such as type of supplies, office, classroom, medical, etc. Also property that is not equipment and costs less than $5,000 per item.

Line 6f

Contractual—Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific projects(s) or businesses to be financed by the applicant.

Justification—Contractual cannot be a person—it must be the name of an organization, firm, etc. Consultant cost goes in line 6h—Other.

Line 6g

Construction—Enter the estimated costs of renovation, repair, or new construction. Identify the type of construction activity and costs associated, *i.e.*, concrete, HVAC, electrical, etc. Provide narrative justification and breakdown of costs.

Line 6h

Other—Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to insurance, fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Justification—Provide as much detail as you can. Some items may have to be defined more than others.

Line 6j

Indirect Charges—Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by DHHS or other Federal agencies.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should, immediately upon notification that an award will be made, develop a tentative indirect cost rate application based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates and submit it to the appropriate DHHS Regional Office. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool cannot be also budgeted or charged as direct costs to the grant. Indirect costs consistent with approved Indirect Cost Rate Agreements are allowable.

Section C—Non-Federal Resources

This section is to record the amounts of non-Federal resources that will be used to support the project. Non-Federal resources mean other than OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs where authorizing statutes permit their use as non-Federal sources, should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit under the criterion for Public-Private Partnerships.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/ individuals from which funds will also be received.

PART I—POST AWARD INFORMATION AND REPORTING REQUIREMENTS

1. Notification of Grant Award

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award that provides the amount of Federal funds approved for use in the project, the budget period for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total financial participation from the award recipient.

General Conditions and Special Conditions (where the latter are warranted) that will be applicable to grants, are subject to the provisions of 45 CFR Part 74.

2. Attendance at OCS Training Conference

The Executive Director and/or Project Director will be required to attend a two-day national workshop in Washington, DC The project budget must include funds for travel to attend this conference.

3. Reporting Requirements

Grantees will be required to submit semi-annual progress and financial reports (SF–269) as well as a final progress and financial report.

Under the Paperwork Reduction Act of 1995, Public Law 104–13, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0139, which expires 12/31/2003.

4. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR parts 74 and OMB Circular A–133. If an applicant will not be requesting indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

5. Lobbying

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires

recipients and their subtier contractors and/or sub grantees: (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtler contractors or sub grantees will pay with the non-appropriated funds; and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

6. Applicable Federal Regulations

Attachment I provides a list of the regulations that apply to all applicants/ grantees under the FY 2002 (Supplementary) and FY 2002 Community Economic Development Programs.

Dated: May 3, 2002.

Clarence Carter,

Director, Office of Community Services.

List of Attachments

A—2001 Poverty Income Guidelines
B—Standard Form 424, Application for Federal Assistance
C—Standard Form 424A, Budget Information—Non-Construction Programs
D—Standard Form 424B, Assurances—Non-Construction Programs
E—Certification Regarding Drug-Free Workplace Requirements
F—Certification of Debarment, Suspension and Other Responsibility Matters
G—Intergovernmental Review State Single Points of Contact Listing (SPOC List)
H—Certification Regarding Lobbying and Disclosure of Lobbying Activities, SF LLL
I—DHHS Regulations Applying to all Applicants/Grantees Under the Fiscal Year 2002 Community Economic Development Program
J—Certification Regarding Environmental Tobacco Smoke
K—Guidelines for a Business Plan
L—Table of North American Industry Classification System (NAIC)
M—Applicant's Checklist

ATTACHMENT A

Size of family unit	Poverty guidelines
2001 POVERTY INCOME GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA [1]	
1	$8,590
2	11,610
3	14,630
4	17,650
5	20,670
6	23,690
7	26,710
8	29,730

ATTACHMENT A

Size of family unit	Poverty guidelines
2001 POVERTY INCOME GUIDELINES FOR ALASKA [2]	
1	$10,730
2	14,510
3	18,290
4	22,070
5	25,850
6	29,630
7	33,410
8	37,190
2001 POVERTY INCOME GUIDELINES FOR HAWAII [3]	
1	$9,890
2	13,360
3	16,830
4	20,300
5	23,770
6	27,240
7	30,710
8	34,180

[1] For family units with more than 8 members, add $3,020 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

[2] For family units with more than 8 members, add $3,780 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

[3] For family units with more than 8 members, add $3,470 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

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ATTACHMENT B
OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name:		Organizational Unit:	
Address *(give city, county, State, and zip code)*:		Name and telephone number of person to be contacted on matters involving this application *(give area code)*	
6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐–☐☐☐☐☐☐☐		7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐	
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision		A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify) _____	
If Revision, enter appropriate letter(s) in box(es) ☐ ☐			
A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other *(specify)*: _____		9. NAME OF FEDERAL AGENCY:	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐–☐☐☐ TITLE:		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:	
12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:			
13. PROPOSED PROJECT: Start Date / Ending Date		14. CONGRESSIONAL DISTRICTS OF: a. Applicant; b. Project	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____ b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	$ .00		
b. Applicant	$ .00		
c. State	$ .00		
d. Local	$ .00		
e. Other	$ .00		
f. Program Income	$ .00		
g. TOTAL	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Type Name of Authorized Representative	b. Title	c. Telephone Number	
d. Signature of Authorized Representative		e. Date Signed	

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that states which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organization unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—"New" means a new assistance award.
—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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ATTACHMENT C

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-10

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorizations in annual of other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budgeted period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Columns (e) the amount of the increase of decrease of Federal funds and enter in Columns (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown in Line 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheets. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount of Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts of Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in year). This section need not be completed for revisions (amendment, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this section, annotate accordingly and show the overall totals in this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D

Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standard or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standard for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statues relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685—1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to non–discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal Funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetland pursuant to EO

11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176)(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components of potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C § 469a-1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Attachment E

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Fee Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substances is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, inlcuding position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the • Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Attachment F

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that is certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executing Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause title "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed

that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check, the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause.

The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of this instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Intergovernmental Review (SPOC List)

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, "Intergovernmental Review of Federal Programs," was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided below.

States that are not listed on this page have chosen not to participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within one of these States, you may still send application materials directly to a Federal awarding agency.

Contact information for Federal agencies that award grants can be found in Appendix IV of the Catalog of Federal Domestic Assistance.

Arkansas

Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room, 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206, tlcopeland@dfa.state.ar.us

California

Grants Coordination, State Clearninghouse, Office of Planning and Research, P.O. Box 3044, Room 222, Sacramento, California 95812–3044, Telephone: (916) 445–0613, Fax: (916) 323–3018, stat.clearinghouse@opr.ca.gov

Delaware

Charles H. Hopkins, Executive Department, Office of the Budget, 540 S. Dupont Highway, 3rd Floor, Dover, Delaware 19901, Telephone: (302) 739–3323, Fax: (302) 739–5661, chopkins@state.de.us

District of Columbia

Luisa Montero-Diaz, Office of Partnerships and Grants Development, Executive Office of the Mayor, District of Columbia Government, 441 4th Street, NW., Suite 530 South Washington, DC 20001, Telephone: (202) 727–8900, Fax: (202) 727–1652, opgd.eom@dc.gov

Florida

Jasmin Raffington
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399–2100
Telephone: (850) 922–5438
Fax: (850) 414–0479
clearinghouse@dca.state.fl.us

Georgia

Georgia State Clearinghouse
270 Washington Street, SW.
Atlanta, Georgia 30334
Telephone: (404) 656–3855
Fax: (404) 656–7901
gach@mail.opb.state.ga.us

Illinois

Virginia Bova
Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3–400
Chicago, Illinois 60601
Telephone: (312) 814–6028
Fax (312) 814–8485
vboba@commerce.state.il.us

Iowa

Steven R. McCann
Division of Community and Rural Development
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone: (515) 242–4719
Fax: (515) 242–4809
steve.mccann@ided.state.ia.us

Kentucky

Ron Cook
Department for Local Government
1024 Capital Center Drive, Suite 340
Frankfort, Kentucky 40601
Telephone: (502) 573–2382
Fax: (502) 573–2512
ron.cook@mail.state.ky.us

Maine

Joyce Benson
State Planning Office
184 State Street
38 State House Station
Augusta, Maine 04333
Telephone: (207) 287–3261
(207) 287–1461 (direct)
Fax: (207) 287–6489
joyce.benson@state.me.us

Maryland

Linda Janey
Manager, Clearinghouse and Plan Review Unit
Maryland Office of Planning
301 West Preston Street—Room 1104
Baltimore, Maryland 21201–2305
Telephone: (410) 767–4490
Fax: (410) 767–4480
linda@mail.op.state.md.us

Michigan

Richard Pfaff
Southeast Michigan Council of Governments
535 Griswold, Suite 300
Detroit, Michigan 48226
Telephone: (313) 961–4266
Telephone: (313) 961–4266
Fax: (313) 961–4869
pfaff@semcog.org

Mississippi

Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
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Changes to this list can be made only after OMB is notified by a State's officially designated representative. E-mail messages can be sent to grants@omb.eop.gov. If you prefer, you may send correspondence to the following postal address: Attn: Grants Management, Office of Management and Budget, New Executive Office Building, Suite 6025, 725 17th Street, NW., Washington, DC 20503.

Please note: Inquiries about obtaining a Federal grant should not be sent to the OMB e-mail or postal address shown above. The best source of this information is the CFDA.

Attachment H

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer of employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184–01–M

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

BILLING CODE 4184-01-C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF–LLL–A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number of grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 [e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency]. Include prefixes, e.g., "RFP–DE–90–001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Disclosure of Lobbying Activities Continuation Sheet

Reporting Entity

Page _____ of _____

Attachment 1

Department of Health and Human Services (DHHS)

Regulations Applying to All Applicants/Grantees Under The Fiscal Year 2002 Community Economic Development Program

Title 45 of the Code of Federal Regulations

Part 16—DHHS Grant Appeals Process
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):

Sections

74.26—Non-Federal Audits
74.27—Allowable cost for hospitals and non-profit organizations among other things
74.32—Real Property
74.34—Equipment
74.35—Supplies
74.24—Program Income
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility For Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-discrimination Under Programs Receiving Federal Assistance through DHHS Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non—discrimination on the Basis of Handicap in Programs or Activities Conducted by DHHS
Part 86—Non-discrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and

Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of DHHS Programs and Activities

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment K

Guidelines for a Business Plan

The application must contain a detailed and specific workplan or business plan that is both sound and feasible. Generally, a business plan is required for applications submitted under priority areas 1, 2, and 3. For all business ventures (except for business development opportunities for self-employed programs participants) a complete business plan will be required using guidelines discussed in the next several paragraphs. For the remaining sub-priority areas, a workplan is acceptable in lieu of a business plan.

Please note that OCS does not require the application to contain business plans for each self-employed program participant. However, a project that proposes to provide self-employed and other business opportunities for program participants must include a development plan that shows how participants will become self-sufficient and how their technical assistance needs will be met.

Guidelines of a Business Plan

The business plan is one of the major components that will be evaluated by the OCS to determine the feasibility of a business venture or an economic development project. It must be well prepared and address all the relevant elements as follows:

(a) EXECUTIVE SUMMARY (limit summary to 3 pages)

(b) *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

(i) *The Business:* as a legal entity; the general business category;

(ii) *Description and Discussion of Industry:* current status and prospects for the industry.

(c) *Products and Services:* This section deals with the following:

(i) *Description:* Describe in detail the products or services to be sold;

(ii) *Proprietary Position:* Describe proprietary features if any of the product, e.g., patients, trade secrets;

(iii) *Potential:* Features of the product or service that may give it an advantage over the competition;

(d) *Market Research and Evaluation:* The applicant should consider businesses in growth industries and occupations with skill levels accessible to low income persons. Businesses should be identified by Standard Industrial Codes (SIC) and jobs by occupational classifications. This information is published by the U.S. Department of Commerce in the "Statistical Abstract of the United States, 1996", Table No. 646 and 647. Also, you may use the table included as "Attachment L" to identify industrial areas and occupational classifications. This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

(i) *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

(ii) *Market Size and Trends:* State the site of the current total market for the product or service offered;

(iii) *Competition:* An Assessment of the strengths and weaknesses of competitive in the current market;

(iv) *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market;

(e) *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

(f) *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

(g) *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

(h) *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

(i) *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

(j) *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the products market appeal, and the timing and financing of the venture.

Also, if a "construction project" is involved, the Business Plan should identify and address briefly the project's timeframes and critical assumptions for conduct of predevelopment, architectural/engineering and environmental studies, etc., and acquisition of permits for building, use and occupancy that are required for the project.

(k) *Community Benefits:* The proposed project must contribute to economic, human and community development within the projects targets area. A section that describes and discusses the potential economic and non-economic benefits to low income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs and how linkages with community agencies/organizations administering the AFDC/TANF program will be developed. The following project benefits must be described.

Economic Development and Job Creation

Number of permanent jobs (with particular emphasis on jobs for low-income people) that will be created during the project period. Also, for low-income people, provide the following information:

—Number of jobs that will have career development opportunities and a description of those jobs;
—Number of jobs that will be filled by individuals lifted form AFDC/TANF assistance;

Number of Self-employed and other ownership opportunities created for low-income residents;

—Annual salary expected for each person employed (net profit after deductions of business expenses for self-employed persons);
—Specific steps to be taken including on-going management support and technical assistance provided by the grantee or a third party to develop and sustain self-employed program participants after their businesses are in place.

Note: OCS will not recognize job equivalents nor job counts based on economic multiplier functions; jobs must be specifically identified.

Other benefits, which might be discussed, are;

Human Development

—New technical skills development and associated career opportunities for community residents;
—Management development and training;
—Benefits of self-sufficient for persons lifted from AFDC/TANF assistance.

Community Development

—Development of community's physical assets;
—Provisions of needed, but currently unsupplied, services or products to community;
—Improvement in the living environment.

(l) *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

(i) Profit and Loss Forecasts—quarterly for each year;

(ii) Cash Flow Projections—quarterly for each year

(iii) Pro forma balance sheets—quarterly for each year;

Also, additional financial information for the business operation that must be included are an initial Source and Use of Funds Statement for project funds and a brief summary paragraph discussing any further capital requirements and their sources.

If an applicant is proposing a project which will affect a property list in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1996 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidance.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for funding consideration.

Applicable to Priority Areas 1, 2, and 3

Applications submitted under Priority Areas 1, 2 and 3 which propose to use the requested OCS funds to make an equity investment or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of OCS funds, must include a written agreement between the community development corporation and the recipient of the grant funds which contains all of the elements listed in Part C under the appropriate Priority Area.

Applicable to Sub-Priority Area 1.5 Only

An applicant in this priority area must document its experience and capability in several of the following areas:

—Business/Development;
—Micro-Entrepreneurship Development;
—Commercial Development;
—Organizational and Staff Development;
—Board Training;
—Business Management, including Strategic Planning and Fiscal Mangement;
—Finance, including Business Packaging and Financial/Accounting Services, and/or
—Regulatory compliance including Zoning and permit Compliance
—Incubator Development
—Tax Credits and Bond Financing
—Marketing

The applicant must document staff competence or the accessibility of third party resources with proven competence. If the work program requires the significance use of third party (consultant/contractor) resources, those resources should be identified and resumes of the individuals or key organizational staff provided.

Resumes of the applicant's staff, who are to be directly involved in programmatic and administrative expertise sharing, should also be included. The applicant must document successful experience in the mobilization of resources (both cash and in-kind) from private and public sources. The applicant must also clearly state how the information learned from this project may be disseminated to other interested grantees.

Applicable to Sub-Priority Area 1.6 only

An applicant in this priority area must document its experience and capability in implementing projects national in scope and have significant and relative experiences in working with community development corporations.

The applicants must have the ability to collect and analyze data nationally that may benefit CDCs and be able to disseminate information to all of OCS funding grantees; publish a national directory of funding sources for CDCs (public, corporate, foundation, religious); publish research papers on specific aspects of job creation by CDSs;

design and provide information on successful projects and economic niches that CDCs can target. The applicant will also be responsible for the development of instructional programs, national conferences, seminars, and other activities to assist community development corporations; and provide peer-to-peer technical assistance to OCS funded CDCs.

Applicable to Sub-Priority Area 2.1

Each applicant must include a full discussion of how the proposed use of funds will enable low-income rural communities to devlop the capability and expertise to establish and maintain affordable, adequate and safe water and waste water systems. Applicants must also discuss how they will disseminate information about water and waste water programs serving rural communities, and how they will better coordinate Federal, State, and local water and waste water program financing and development to assure improved service to rural communities.

Among the benefits that merit discussion under this sub-priority area are: The number of rural communities to be provided with technical and advisory services; the number of rural poor individuals who are expected to be directly served by applicant-supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly-established and applicant-supported treatment systems (all of the above may be expressed in terms of equivalent connection units); the increase in local capacity in engineering and other areas of expertise; and the amount of non-discretionary program dollars expected to be mobilized.

e. Significant and Beneficial Impact and Other Criteria

The project narrative must address the remaining aspects of the project noted in the outline of Part F, "Contents of Application and Receipt Process", Items V and VI. These include private partnerships and "Budget Appropriateness and Reasonableness" areas as well as information to be included in the appendices.

Attachment L

TABLE OF NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AND OCCUPATIONAL CLASSIFICATIONS

North American industry classification system (NAIC)	Occupational classifications
Agriculture, Forestry, Fishing, and Hunting Only Logging covered in the Economics Census	Managerial and Professional Specialty Technical sales, and Administrative Support (includes technical and related support, technicians, sales occupations, including clerical).
Mining	Precision Production, Craft, and Repair (includes mechanics, repairers, construction trades, crafters).
Utilities	Operators, fabricators, and Laborers (includes machine operators, assemblers, inspectors, transportation and material moving occupations, handlers, equip cleaners, Helpers, laborers including construction laborers).
Construction	Farming, Forestry and Fishing.
Manufacturing	
Wholesale Trade	
Retail Trade	
Transportation and Warehousing	
Information	
Finance and Insurance	
Real Estate and Rental and Leasing	
Professional, Scientific and Technical Services	
Management of Companies and Enterprises	
Administrative and Support and Waste Management and Remediation Services	
Educational Services	
Health Care and Social Assistance	
Arts, Entertainment and Recreation	
Accommodation and Food Services	
Other Services (except Public Administration)	
Public Administration not covered in the Economic Census	

Source: U.S. Department of Commerce, "Statistical Abstract of the United States, 1996", Table No. 646 and 647. Updated 1998. Table No. 679 and 680, and 1997 Economic Census.

BILLING CODE 4184-01-M

ATTACHMENT M

APPLICANT'S CHECKLIST

This checklist will assist you with preparing and assembling your application. Completing the checklist can help ensure that you do not omit key information. Because this checklist is used by many ACF programs, some of the information might not apply to your application. This checklist DOES NOT have to be completed and returned with your application.

	Yes	Included	N/A
Authorizing official read and understood Certification Regarding Debarment, Suspension, and Other Responsibility Matters?			
Authorizing official read and understood Certification Regarding Drug-Free Workplace Requirements–Grantees Other Than Individuals?			
Authorizing official read and understood Certification Regarding Environmental Tobacco Smoke?			
Application for Federal Assistance (SF 424) was completed? Proper Signature and Date for Line 18?			
Budget Information–Non-Construction Programs (SF 424A) or Budget Information–Construction Programs (SF 424C) was completed?			
Assurances– Non-Construction Programs (SF 424B) or Assurances–Construction Programs (SF 424D) was completed? (Proper Signature and Date?)			
Certification Regarding Lobbying was completed? (Proper Signature and Date?)			
Disclosure of Lobbying Activities was completed? (Proper Signature and Date?)			
Other special certifications, assurances, and/or disclosures required under the program were completed (e.g., maintenance of effort certification)?			
Proof of nonprofit status was provided?			
Has additional information such as biographical sketch(es) with job description(s) and other additional information been attached, when required?			
For a Supplemental application, does the detailed budget only address the additional funds requested?			
Checked all budget computations for accuracy?			

FOLLOW-UP QUESTIONS

	YES	N/A
On the Application for Federal Assistance (SF 424),		
⇒ did you enter the application number issued by the sponsoring ACF office in the "Federal Identifier" block?		
⇒ did you type the 12 digit Payee EIN or PIN previously assigned to your organization by DHHS in the "Federal Identifier" block?		
⇒ is the EIN in Item #6 assigned to the organization and organizational unit named in Item #5?		
⇒ did you include city, county, state and zip code of the applicant did organization in Item #5?		
⇒ has the appropriate box been checked in Item #16?		
⇒ has the entire proposed project period been identified in Item #13?		
On the Budget Information form (SF 424A or SF 424C),		
⇒ do the totals in Section B match the totals provided in the budget and budget narrative?		

SUGGESTED ORDERING OF APPLICATION MATERIALS

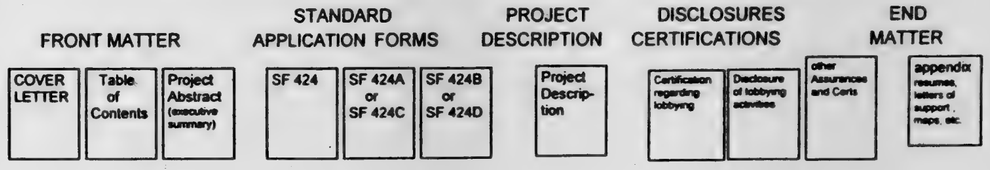

[FR Doc. 02–13036 Filed 5–24–02; 8:45 am]

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Federal Register

Tuesday,
May 28, 2002

Part V

Department of Education

Reauthorization of Federal Support for Vocational and Technical Education Programs; Notice

DEPARTMENT OF EDUCATION

Reauthorization of Federal Support for Vocational and Technical Education Programs

AGENCY: Office of Vocational and Adult Education, U.S. Department of Education.

ACTION: Notice of public meetings and request for comment on the reauthorization of Federal support for vocational and technical education programs.

SUMMARY: The Assistant Secretary announces a series of public meetings and invites comments from the public regarding the reauthorization of programs under the Carl D. Perkins Vocational and Technical Education Act of 1998 (the Act) and related issues, including Federal support for secondary school reform.

DATES: We must receive your written comments on or before July 30, 2002.

We will also hold public meetings about the reauthorization of programs under the Act. The dates, times, and places of the meetings are under PUBLIC MEETINGS elsewhere in this notice.

ADDRESSES: Address all comments concerning the reauthorization of programs under the Act to Gerri Anderson, Conference Manager, 1010 Wayne Avenue, Suite 300, Silver Spring, Maryland 20910; or by using one of the following methods:

1. *E-Mail.* We encourage you to e-mail your comments to the following address: *ganderson@dbconsultinggroup.com.*

2. *Facsimile.* You may submit comments by facsimile at (301) 589–4122.

FOR FURTHER INFORMATION CONTACT: Gail Schwartz, U.S. Department of Education, 400 Maryland Avenue, SW., room 4311, Mary E. Switzer Building, Washington, DC 20202–7100. Telephone: (202) 205–5445.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meetings

Dates, times, and addresses

We will hold public meetings according to the following schedule:

1. Date: June 3, 2002, Time: 8:30 a.m. to 10:30 a.m., Location: Oakland Community College, Wallace F. Smith Performing Arts Theatre, 27055 Orchard Lake Road, Farmington Hills, MI 48334–4579, Phone: (248) 522–3400, Fax: (248) 522–3903.

Hotel Information: A limited number of rooms have been reserved at the Best Western Executive Hotel & Suites located at 31525 W. Twelve Mile Road, Farmington Hills, Michigan 48334. To make your reservations, please call 248–553–0000 and refer to "OVAE Public Meeting." The room rate is $89.27 (tax inclusive) for the reserved rooms on a first come first served basis. Check-in time is 3 p.m., and check-out time is 12 p.m.

2. Date: June 4, 2002, Time: 8:30 a.m. to 10:30 a.m.

Location: St. Louis Chamber of Commerce, 12th Floor, Meeting Room, 1 Metro Square, St. Louis, MO 31300, Phone: (314) 444–1192.

Hotel Information: A limited number of rooms have been reserved at the Westin Hotel located at 811 Spruce Street, St. Louis MO 63102. To make your reservations, please call 1–800–937–8461 or 314–621–2000 and refer to "OVAE Public Meeting." The room rate is $103.34 (tax inclusive) per night for the reserved rooms. Rooms are on a first-come first-served basis. Check-in time is 3 p.m., and check-out time is 12 p.m.

Additional public meetings will be held in California and North Carolina in August 2002. The exact dates, times, and locations to be determined.

Participants

Those who wish to present comments on the reauthorization of Federal support for vocational and technical education programs and related issues at one of the public meetings must reserve time on the agenda for that meeting by contacting Gerri Anderson, Conference Manager, 1010 Wayne Avenue, suite 300, Silver Spring, MD 20910. Telephone: (voice) 1 (888) 589–4366; fax: (301) 589–4122; or via e-mail at: *ganderson@dbconsultinggroup.com.* Reservations for presenting comments will be accepted on a first-come, first-served basis.

Participants will be allowed approximately 3 to 5 minutes to present their comments, depending upon the number of individuals who reserve time on the agenda. At the meeting, participants also are encouraged to submit two written copies of their comments. Persons interested in making comments are encouraged to address the issues and questions discussed under **SUPPLEMENTARY INFORMATION.**

Assistance to Individuals With Disabilities at the Public Meetings

The meeting rooms and proceedings will be accessible to individuals with disabilities. When making reservations, anyone presenting comments at or attending a meeting who needs special accommodations, such as sign language interpreters, Braille materials, and communication access real-time transcription, should inform Gerri Anderson of his or her specific accessibility needs. You should make requests for accommodations at least 10 working days prior to the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

In addition to soliciting comments during the public meetings, we invite the public to submit written comments on the reauthorization of Federal vocational and technical education programs, as well as related issues, including secondary school reform. We are particularly interested in comments that address the issues and questions described under *Key Issues for Public Comment* elsewhere in this notice.

During and after the comment period, you may inspect all public comments about the reauthorization by contacting Gerri Anderson, Conference Manager, 1010 Wayne Avenue, suite 300, Silver Spring, MD, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Background and description of the Act

The Act authorizes Federal support to improve secondary and postsecondary vocational and technical education programs. The Act includes nine programs, with more than $1.3 billion in funding for fiscal year 2002. The funded programs are: Vocational and Technical Education Assistance to States; Tech-Prep Education State Grants; National Activities, including: the National Research Center(s); Native American Vocational and Technical Education; Tribally Controlled Postsecondary Vocational and Technical Institutions; Native Hawaiian Vocational Education; Occupational and Employment Information, commonly known as America's Career Resource Network State Grants; the Career Clusters Initiative; and Tech-Prep Demonstrations.

The statutory authorization for these programs expires on September 30, 2003. In order to contribute in a timely manner to congressional reauthorization discussions, we are beginning a review of these programs, as well as related issues, including secondary school reform. To ensure public participation in our review and decision-making, we invite public comment on these issues.

You may obtain an electronic copy of the Act on the Internet at the following site: *http://www.ed.gov/offices/OVAE/CTE/legis.html.*

Individuals with disabilities may obtain a copy of the Act in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact number listed under **FOR FURTHER INFORMATION CONTACT.**

Key Issues for Public Comment

Comments are encouraged on the following priority issues.

1. *Narrowing the Achievement Gap.* Since the release of *A Nation At Risk* in 1983, little, if any, improvements have been made in the performance of our Nation's high school students. By all accounts, improvements have not been substantial enough so that every student is prepared for a successful future. In fact, data show that by the end of the 1980s, progress for high school students stopped cold and, through the 1990s, achievement gaps have remained stable or widened. A number of trends indicate that we are a "Nation at Risk" of not preparing our high school students for their future.

Scores by 12th graders on the National Assessment of Educational Progress (NAEP) remain disturbingly low. As of 1998, only 40 percent of 12th graders were able to read at or above a proficient level, and just 22 percent were able to write at or above a proficient level. Only 16 percent of 12th grade students in 2000 scored at or above a proficient level in math, and only 18 percent scored at or above a proficient level in science. Despite a substantial decrease in achievement gaps between 1970 and 1999, white students still consistently outperform peers of all other racial and ethnic backgrounds in every subject area. In fact, by 1999, on average, 17-year-old African-American and Hispanic students had skills in English, mathematics, and science comparable to those of 13-year-old white students. Achievement gaps also exist among students who pursue different programs of study. As of 1994, vocational concentrators lagged behind other students in English, math, and science achievement.

On January 8, 2002, President George W. Bush signed into law the No Child Left Behind Act, the most sweeping reform of the Elementary and Secondary Education Act (ESEA) since it was enacted in 1965. Its provisions include increased accountability for States, school districts, and schools; greater choice for parents and students, particularly those attending low-performing schools; more flexibility for States and local educational agencies in the use of Federal education dollars; targeting education dollars to research-based programs that have been proven to help most children learn; and a stronger emphasis on reading, especially for our youngest children.

Although No Child Left Behind applies to both elementary and secondary students, it places primary and much-needed emphasis on the 28 million public school students enrolled in kindergarten through 8th grade. The reauthorization of the Perkins Act provides an opportunity for additional legislative reforms in vocational and technical education programs to improve the achievement of the Nation's high school students.

- Is there a need for additional or separate Federal action to address the achievement gap among secondary school students?
- Is there a need for additional or separate Federal action to address the achievement gap among non-baccalaureate postsecondary students?
- How should Federal support for vocational and technical education programs be aligned with Title I of the Elementary and Secondary Education Act of 1965 and other elementary and secondary education programs?
- The current array of Federal programs that affect high schools and their students may or may not represent a coherent Federal high school policy. What policies and programmatic elements should an effective, coherent Federal strategy to promote high school transformation include?
- How should existing vocational and technical education be modified to support this Federal strategy?
- Nearly one-third of college freshmen take remedial math courses, and over one-quarter take remedial English. In some States, estimates of students requiring college remediation are nearly 50 percent. What can be done to ensure that every student is prepared for postsecondary education, without the need for remediation?

2. *Focusing on What Works.* The Federal investment in vocational and technical education comprises about seven percent of the total amount spent nationally on vocational and technical education.

- How can these limited resources be targeted to maximize the return on the Federal investment?
- What are the features of effective secondary vocational and technical education programs that should be given higher priority for Federal resources?
- What are the features of effective postsecondary vocational and technical education programs that should be given higher priority for Federal resources?
- How should our national program funds be targeted to help close the achievement gap between high- and low-performing students, including factors that are based on gender, ethnicity, economic status and disability?

3. *Increasing Accountability for Student Performance.* The Act established a State accountability system that holds States accountable for meeting annual, agreed-upon levels of performance on a set of "core indicators" specified in the statute. Each State has discretion to determine how it will measure each of the indicators.

- While the Act's accountability system has heightened attention on student achievement, completion, and other outcomes, some contend that the system is needlessly complex and does not generate straight-forward, easily understandable information about student, program, and State performance. How can this accountability system be simplified and improved?
- The Act uses a single set of indicators to measure the effectiveness of both secondary and postsecondary programs. However, some of the indicators, such as attainment of State-established academic proficiencies, are not readily applicable to postsecondary education. What indicators are most appropriate and useful for measuring the effectiveness of postsecondary vocational and technical education programs? To what types of students should they apply? For example, should non-credit students be included in the

accountability system? Are the right things being measured?

4. *Coordination with Federal Employment and Training Programs.* Title I of the Workforce Investment Act (WIA) created a one-stop delivery system that links multiple Federal education and training programs in order to make these services more accessible to the public, to reduce duplication of services, and to facilitate coordinated planning across programs. Postsecondary vocational and technical education programs supported by the Act are "mandatory partners" that are required to participate in the one-stop delivery system. They are also represented on local workforce investment boards that govern the one-stop system in local areas.

• Have the one-stop delivery system's goals of improving public access to postsecondary vocational and technical education, reducing duplication, and facilitating coordination been achieved in local areas? What changes are needed to promote the further attainment of these goals? How have memoranda of understanding (MOUs) worked to benefit the postsecondary vocational and technical education participant?

• States negotiate annual levels of performance for WIA Title I employment programs for a set of "core indicators" that is similar to those established under the Act. Placement in employment, for example, is measured for both WIA Title I and the Act. Should these indicators be measured consistently across these programs and others, using the same population and other definitions? How should this common employment measure be constructed, and what definitions should be used? Are there other indicators (*e.g.*, educational attainment) for which there also should be common measurement approaches and definitions?

• Have WIA incentive grants helped states look at ways to promote student achievement across programs and help close the achievement gap?

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 USC 2301 *et seq.*

Dated: May 22, 2002.

Carol D'Amico,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 02–13265 Filed 5–24–02; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday,
May 28, 2002

Part VI

Department of Education

Reauthorization of the Adult Education and Family Literacy Act; Notice

DEPARTMENT OF EDUCATION

Reauthorization of the Adult Education and Family Literacy Act

AGENCY: Office of Vocational and Adult Education, U.S. Department of Education.

ACTION: Notice of public meetings and request for comment on the reauthorization of the Adult Education and Family Literacy Act.

SUMMARY: The Assistant Secretary announces a series of public meetings and invites comments from the public regarding the reauthorization of programs under the Adult Education and Family Literacy Act (the Act) (Title II of the Workforce Investment Act of 1998).

DATES: We must receive your comments on or before July 30, 2002.

We will hold public meetings about the reauthorization of programs under the Act. The dates, times, and places of the meetings are under PUBLIC MEETINGS elsewhere in this notice.

ADDRESSES: Address all comments concerning the reauthorization of programs under the Act to Gerri Anderson, Conference Manager, 1010 Wayne Avenue, Suite 300, Silver Spring, Maryland 20910; or by using one of the following methods:

1. *E-Mail.* We encourage you to e-mail your comments to the following address: *ganderson@dbconsultinggroup.com.*

2. *Facsimile.* You may submit comments by facsimile at (301) 589–4122.

FOR FURTHER INFORMATION CONTACT: Michael Jones, U.S. Department of Education, 400 Maryland Avenue, SW., room 4521, Mary E. Switzer Building, Washington, DC 20202–7242. Telephone: (202) 205–9260.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meetings

Dates, times, and addresses

We will hold public meetings according to the following schedule:

1. Date: June 3, 2002, Time: 10:30 a.m. to 12:30 p.m.

Location: Oakland Community College, Wallace Smith Theatre, 27055 Orchard Lake Road, Farmington Hills, MI 48334–4579, Phone: (248) 522–3400, Fax: (248) 522–3903

Hotel Information: A limited number of rooms have been reserved at the Best Western Executive Hotel & Suites located at 31525 W. Twelve Mile Road, Farmington Hills, Michigan 48334. To make your reservations, please call 248–553–0000 and refer to "OVAE Public Meeting." The room rate is $89.27 (tax inclusive) for the reserved rooms on a first come first served basis. Check-in time is 3 p.m., and check-out time is 12 p.m.

2. *Date:* June 4, 2002, Time: 10:30 a.m. to 12:30 p.m.,

Location: St. Louis Chamber of Commerce, 12th Floor, Meeting Room, 1 Metropolitan Square, St. Louis, MO 63102, Phone: (314) 231–5555, Fax: (314) 206–3277.

Hotel Information: A limited number of rooms have been reserved at the Westin Hotel located at 811 Spruce Street, St. Louis MO 63102. To make your reservations, please call 1–800–937–8461 or 314–621–2000 and refer to "OVAE Public Meeting." The room rate is $103.34 (tax inclusive) per night for the reserved rooms. Rooms are on a first-come first-served basis. Check-in time is 3 p.m., and check-out time is 12 p.m.

Additional public meetings will be held in California and North Carolina in August 2002. The exact dates, times, and locations to be determined.

Participants

Those who wish to present comments on the reauthorization of Federal support for the Adult Education and Families Literacy Act at one of the public meetings must reserve time on the agenda for that meeting by contacting Gerri Anderson, Conference Manager, 1010 Wayne Avenue, suite 300, Silver Spring, MD 20910. Telephone: (voice) 1(888) 589–4366; fax: (301) 589–4122; or via e-mail at: *ganderson@dbconsultinggroup.com*

Reservations for presenting comments will be accepted on a first-come, first-served basis.

Participants will be allowed approximately 3 to 5 minutes to present their comments, depending upon the number of individuals who reserve time on the agenda. At the meeting, participants also are encouraged to submit two written copies of their comments. Persons interested in making comments are encouraged to address the issues and questions discussed under **SUPPLEMENTARY INFORMATION.**

Assistance to Individuals With Disabilities at the Public Meetings

The meeting rooms and proceedings will be accessible to individuals with disabilities. When making reservations, anyone presenting comments at or attending a meeting who needs special accommodations, such as sign language interpreters, Braille materials, and communication access real-time transcription, should inform Gerri Anderson of his or her specific accessibility needs. You should make requests for accommodations at least 10 working days prior to the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

In addition to soliciting comments during the public meetings, we invite the public to submit written comments on the reauthorization of the Act. We are particularly interested in comments that address the issues and questions described under *Key Issues for Public Comment* elsewhere in this notice.

During and after the comment period, you may inspect all public comments about the reauthorization by contacting Gerri Anderson, Conference Manager, 1010 Wayne Avenue, suite 300, Silver Spring, MD, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Background and Description of the Act

The Act authorizes Federal support to States to provide adult education and literacy services, including adult basic education, adult secondary education, English literacy, and family literacy programs of instruction. For Fiscal Year (FY) 2002, Congress appropriated $505 million for these grants to States. Since FY 2000, Congress also has appropriated additional funds for grants to States for integrated English literacy and civics education services to immigrants and other limited English proficient populations. $70 million was appropriated for this purpose for FY 2002.

Under these programs States distribute funds to local providers through a competitive process. Eligible providers include: local educational agencies, community-based organizations, volunteer literacy organizations, correctional education agencies, institutions of higher education, libraries, public housing authorities, and other public or private nonprofit agencies.

The statutory authorization for this program expires on September 30, 2003. In order to contribute in a timely manner to congressional reauthorization discussions, we are beginning a review of this program. To ensure public participation in our review and decision-making, we invite public comment on these issues.

You may obtain an electronic copy of the Act on the Internet at the following site: *http://www.ed.gov/offices/OVAE/CTE/legis.html.*

Individuals with disabilities may obtain a copy of the Act in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact number listed under **FOR FURTHER INFORMATION CONTACT.**

Key Issues for Public Comment

Comments are encouraged on the following priority issues.

1. *Narrowing the Achievement Gap.* The 1992 National Assessment of Adult Literacy (NAALS) indicated that approximately 90 million adults were reading at levels that were insufficient to allow them to fully participate in the economy and obtain new skills necessary for success. In 2002, an updated version of NAALS will be conducted, which will likely indicate that tens of millions of Americans continue to live with low literacy. Yet programs funded under the Act currently serve only about 2.7 million individuals each year. This disparity between available resources and need is likely to persist for the foreseeable future.

- How can we improve the targeting of Federal resources on effective programs that will produce the greatest return on the Federal investment?
- What are the features of effective adult education and literacy programs that should be given higher priority for Federal resources?
- How can we improve the performance of adult education programs, increasing their success in not only increasing the number of completers but also generating more rapid knowledge and skill gains?
- How we can expand the array of services available to support adult learners who are currently not accessing learning through the present system?
- Can non-traditional service providers be better integrated into a multi-faceted delivery system? What changes would promote the delivery of high-quality, accountable services by community-based organizations and faith-based organizations and businesses?
- How should our national program funds be targeted to help States close the achievement gap?

2. *Increasing Accountability for Student Performance.* The Act established a State accountability system that holds States and other grant recipients accountable for meeting annual, agreed-upon levels of performance on a set of "core indicators" specified in the statute. Do these core indicators measure student performance and demonstrate impact of the federal investment well? How could data be reported differently to enhance their meaning to the public, to students, and to policymakers?

3. *Coordination with Federal Employment and Training Programs.* Title I of the Workforce Investment Act (WIA) created a one-stop delivery system that links multiple Federal education and training programs in order to make these services more accessible to the public, to reduce duplication of services, and to facilitate coordinated planning across programs. Adult education and literacy programs supported by the Act are "mandatory partners" that are required to participate in the one-stop delivery system. They are also represented on local workforce investment boards that govern the one-stop system in local areas.

- Have the one-stop delivery system's goals of improving public access to adult education services, improving academic achievement, reducing duplication, and facilitating coordination been achieved in local areas? What changes are needed to promote the further attainment of these goals? How have memoranda of understanding [MOUs] among the delivery system's partners worked to benefit the adult education participant?
- States negotiate annual levels of performance for WIA Title I employment programs for a set of "core indicators" that is similar to that established under the Act. Placement in employment, for example, is measured for both WIA Title I and the Act. Should these indicators be measured consistently across these programs and others, using the same population and other definitions? If so, how should this common employment measure be constructed and what definitions should be used? Are there other indicators (e.g., educational attainment) for which there should also be common measurement approaches and definitions?
- Have WIA incentive grants helped States look at ways to promote student achievement across programs and help close the achievement gap?

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Program Authority: 20 U.S.C. 9201, *et seq.*

Dated: May 22, 2002.

Carol D'Amico,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 02–13266 Filed 5–24–02; 8:45 am]

BILLING CODE 4000–01–P

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 378/P.L. 107–182

To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the "Paul Simon Chicago Job Corps Center". (May 21, 2002; 116 Stat. 584)

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

[Docket No. FV02–916–1C IFR)

Nectarines and Peaches Grown in California; Correction

AGENCY: Agricultural Marketing Service.

ACTION: Interim final rule; correction.

SUMMARY: This document contains a correction to the interim final rule published on April 5, 2002 (67 FR 16286), concerning nectarines and peaches grown in California. The correction is needed to exempt Peento (Donut) varieties of peaches from the weight-count standards for round varieties of peaches. The exemption was inadvertently omitted from the rule.

EFFECTIVE DATE: April 6, 2002.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Ave, SW STOP 0237, Washington, DC 20250–0237, Telephone: (202) 720–2491, Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION:

Background

The interim final regulations that are the subject of this correction revised § 917.459, but inadvertently omitted paragraph (a)(6)(iii).

Need for Correction

The interim final rule as published omits revised § 917.459, paragraph (a)(6)(iii) which exempts Peento (Donut) varieties of peaches from the weight-count standards applicable to other round varieties of peaches. The additional language is needed to ensure that newly-developed and approved weight-count standards for volume-filled containers of Peento (Donut) varieties of peaches are the sole basis for the weight-count sampling of Peento varieties of peaches.

Correction

Accordingly, in FR Doc. 02–8140, published April 5, 2002 (67 FR 16286) make the following corrections.

1. On page 16296, third column, add instruction "E" immediately following instruction "D" as stated below.

E. Paragraph (a)(6)(iii) is revised as follows.

2. On page 16298, first column, after the 5 asterisks following § 917.459 paragraph (a)(6) introductory text, paragraph (a)(6)(iii) is added to read as follows:

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches, or if the peaches are "well matured," not more than 73 peaches, except for Peento (Donut) varieties of peaches.

Dated: May 21, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–13378 Filed 5–28–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–19–AD; Amendment 39–12763; AD 2002–11–02]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Model 390 airplanes. This AD requires you to insert a temporary change into the FAA-approved Airplane Flight Manual (AFM) that adds a limitation for prohibiting flight into icing conditions and adds procedures for when an icing condition occurs. This AD is the result of reports of a manufacturing problem with the wing leading edge anti-ice system. The actions specified by this AD are intended to minimize the potential hazards associated with operating these airplanes in icing conditions by providing procedures and limitations associated with such conditions.

DATES: This AD becomes effective on June 14, 2002.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before July 5, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–19–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov*. Comments sent electronically must contain "Docket No. 2002–CE–19–AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get the service information referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–19–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused this AD?

The FAA has received reports from Raytheon that indicate during maintenance on one of the affected airplanes, it was discovered that the airflow paths of the anti-ice system between the outer skin and inner leading edge skin of the wing were obstructed. The obstruction is caused by sealant that is applied to the wing leading edge during manufacture. This condition has been found on six other affected airplanes. Obstruction of the airflow paths prevents the hot air from the anti-ice system from properly distributing heat on the wing leading edge. Heat is necessary on the wing leading edge to prevent leading edge ice formation or runback ice.

What Are the Consequences If the Condition Is Not Corrected?

This condition, if not corrected, could result in ice formation on the wing leading edges and the upper and lower wing surfaces during flight in icing conditions. Ice formation on the wings could cause symmetric or asymmetric loss of lift, degradation of handling qualities, and increased drag of the airplane.

Is There a Modification I Can Incorporate Instead of Adding the Temporary Changes to the Airplane Flight Manual (AFM)?

The FAA has determined that long-term continued operational safety would be better assured by design changes that remove the source of the problem rather than by temporary changes to the AFM or other special procedures. With this in mind, we will continue to work with Raytheon in collecting information to determine whether a future design change may be necessary.

The FAA's Determination and an Explanation of the Provisions of This AD—What Has FAA Decided?

The FAA has reviewed all available information and determined that:

—The unsafe condition referenced in this document exists or could develop on other Raytheon Model 390 airplanes of the same type design; and

—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD requires you to insert a temporary change into the FAA-approved AFM that adds a limitation for prohibiting flight into icing conditions and adds procedures for when an icing condition occurs.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included, in the rulemaking docket, a discussion of any information that may have influenced this action.

Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in ice formation on the wings, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention To?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2002–CE–19–AD." We will date stamp and mail the postcard back to you.

Compliance Time of This AD

What Is the Compliance Time of This AD?

The compliance time of this AD is "within the next 15 calendar days after the effective date of this AD."

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

Although ice formation on the wings is only unsafe during flight, this unsafe condition is not a result of the number of times the airplane is operated. The chance of this situation occurring is the same for an airplane with 10 hours time-in-service (TIS) as it would be for an airplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2002–11–02 Raytheon Aircraft Company: Amendment 39–12763; Docket No. 2002–CE–19–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the following airplanes that are certificated in any category:

Model	Serial Nos.
390	RB–4 through RB–14, RB–20 through RB–22, RB–24 through RB–32, and RB–34.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent ice formation on the wing leading edges and the upper and lower wing surfaces during flight in icing conditions. Ice formation on the wings could cause symmetric or asymmetric loss of lift, degradation of handling qualities, and increased drag of the airplane.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance	Procedures
Insert page 2 (Limitations Section) and page 3 (Abnormal Procedures Section) of Raytheon Temporary Change, Part Number (P/N) 390–590001–0003BTC1, dated April 29, 2002, into the FAA-approved Airplane Flight Manual (AFM).	Within the next 15 calendar days after June 14, 2002 (the effective date of this AD).	Incorporating the AFM revisions, as required by this AD, may be performed by anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7 You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *When does this amendment become effective?* This amendment becomes effective on June 14, 2002.

Issued in Kansas City, Missouri, on May 20, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13289 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 01–AGL–01]

Modification of Class D Airspace; Rockford, IL; Modification of Class E Airspace; Rockford, IL; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects two errors in the legal descriptions of a final rule that was published in the **Federal Register** on Tuesday, April 2, 2002 (67 FR 15478). The Final Rule modified Class D and Class E airspace at Rockford, IL.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 02–7858 published on Tuesday, April 2, 2002 (67 FR 15478), modified Class D and Class E Airspace at Rockford, IL. The latitude and longitude was omitted for the Greater Rockford ILS localizer in the Class E legal description. In addition, runway 36 was referred to in the Class D legal description, instead of runway 1. This action corrects these errors, by adding the missing latitude and longitude, and changing the runway identifier.

Accordingly, pursuant to the authority delegated to me, the errors for the Class D and Class E Airspace, Rockford, IL, as published in the **Federal Register** Tuesday, April 2, 2002 (67 FR 15478), (FR Doc. 02–7858), are corrected as follows:

§ 71.1 [Corrected]

1. On page 15478, Column 3, correct the Class E legal description as follows:

a. Add the following immediately below:

"**Greater Rockford Airport, IL** (Lat. 42°11′43″N., long. 89°05′50″W.)":

Greater Rockford ILS Localizer (Lat. 42°12′36″N., long. 89°05′17″W.)

2. On page 15478, Column 3, correct the Class D legal description as follows:

a. Change "Runway 36 ILS localizer course" to read: "Runway 1 ILS localizer course".

Issued in Des Plaines, Illinois on April 25, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–13215 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 11

Delegation of Authority to the Director of the Division of Enforcement To Institute Subpoena Enforcement Proceedings

AGENCY: Commodity Future Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is amending regulations to delegate authority to the Director of the Division of Enforcement, with the concurrence of the General Counsel or General Counsel's delegee, to institute subpoena enforcement proceedings in federal court to seek an order compelling the attendance and testimony of witnesses and the production of documents pursuant to a validly-issued Commission subpoena and to clarify that notwithstanding the delegated authority, as he believes appropriate, the Director may submit any proposed subpoena enforcement action for Commission consideration and nothing in this delegation prohibits the Commission from exercising the delegated authority. This amendment will expedite the investigation process by enabling the staff more quickly to compel individuals or entities to comply with Commission subpoenas and conserve Commission resources. This action relates solely to the Commission's organization, procedure and practice.

EFFECTIVE DATE: June 28, 2002.

FOR FURTHER INFORMATION CONTACT: Gretchen L. Lowe, Counselor to the Director, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 2058. Telephone: (202) 418–5379.

SUPPLEMENTARY INFORMATION:

I. Rule 11.4(e)

The CFTC today announced an amendment to its rules governing investigations, and in particular, subpoenas. The Commission is authorized to promulgate this rule under sections 2a(11) and 8a(5), of the Commodity Exchange Act.[1]

The amendment to Rule 11.4,[2] adding paragraph (e), authorizes the Director of Division of Enforcement, with the concurrence of the General Counsel or General Counsel's delegee, to institute subpoena enforcement proceedings in federal court to seek an order compelling individuals or entities to comply with Commission subpoenas. This delegation will expedite the investigation process and conserve Commission resources by enabling the Division more expeditiously to seek to compel compliance with Commission subpoenas in cases where the entry of a court order is necessary. Notwithstanding this delegation of authority, in instances where potential subpoena enforcement actions raise any novel or complex issues, the Division may consult with the Commission before the action is filed in federal court.

The Commission has determined that this amendment relates solely to agency organization, procedure and practice and does not relate to a substantive rule. Therefore, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, which generally require notice of proposed rulemaking and opportunity for public participation, are not applicable. The Commission further finds that there is good cause to make this rule effective immediately upon publication in the **Federal Register** because it will expedite the investigation process and conserve Commission resources.

II. Related Matters

A. Consideration of Costs and Benefits and Antitrust Laws

Section 15 of the Commodity Exchange Act requires the Commission to consider the costs and benefits of its action as well as the public interest to be protected by the antitrust laws before adopting a rule or regulation under the Act. Because the amendments to part 140 relate solely to agency organization, procedure and practice, they do not directly implicate the specific areas of concern identified in Section 15. In any event, the Commission has considered the costs and benefits of this amendment and has concluded that the rule is fully consistent with the public interest and with the requirements and prohibitions of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(f) and (j), 12a(5) and 13.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules in accordance with 5 U.S.C. 553, consider the impact of those rules on small businesses. The Commission has determined that the provisions of the RFA do not apply to the promulgation of this regulation since it relates solely agency organization, procedure and practice.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (RPA), 4 U.S.C. 3501 *et seq.*, which imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the RPA, does not apply to these rules. This rule amendment does not contain information collection requirements as defined by the RPA.

List of Subjects in 17 CFR Part 11

Administrative practice and procedure, Commodity futures, Investigations, Rules relating to investigations.

In consideration of the foregoing and pursuant to the authority contained in the Act, and in particular, Sections 2a and 8a, 7 U.S.C. 2(a) and 8a, the Commission hereby amends Part 11 of Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

PART 11—RULES RELATING TO INVESTIGATIONS

1. The authority citation for Part 11 continues to read as follows:

Authority: 7 U.S.C. 2(a), 4a(j), 9 and 15, 12, 12a(5), 12(f).

2. Section 11.4 is amended by adding paragraphs (e) and (f) to read as follows:

§ 11.4 Subpoenas.

* * * * *

(e) Pursuant to the authority granted under Sections 2(a)(11) and 8a(5) of the Act, the Commission hereby delegates to the Director of the Division of Enforcement, with the concurrence of the General Counsel or General Counsel's delegee, and until such time as the Commission orders otherwise, the authority to invoke, in case of contumacy by, or refusal to obey a subpoena issued to, any person, the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records pursuant to subpoenas issued in accordance with section 6(c) of the Act for the purpose of securing effective enforcement of the provisions of this Act, for the purpose of any investigation or proceeding under this Act, and for the purpose of any action taken under section 12(f) of the Act.

(f) Notwithstanding the delegation of authority to the Director set forth in paragraph (e) of this section, in any case in which the Director believes it appropriate the matter may be submitted to the Commission for its consideration. Nothing in this section shall prohibit the Commission from exercising the authority delegated in paragraph (e) of this section.

Issued in Washington, DC on May 22, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–13300 Filed 5–28–02; 8:45 am]

BILLING CODE 6351–01–M

[1] Section 2a(11), 7 U.S.C. 4a(j), authorizes the Commission to "promulgate such rules and regulations as it deems necessary to govern the operating procedures and conduct of the business of the Commission." Section 8a(5), 7 U.S.C. 12a(5) gives the Commission the authority "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of [the Act.]."

[2] 17 CFR 11.4.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL189–1a; FRL–7212–9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to particulate matter control requirements for rural grain elevators in Illinois. On April 8, 1999, the Illinois Environmental Protection Agency (IEPA) submitted section 9 of the Illinois Environmental Protection Act (as revised by Public Act 89–491) as a requested revision to the Illinois State Implementation Plan (SIP). The requested SIP revision exempts rural grain elevators from certain particulate matter control requirements. An air quality modeling analysis was conducted to show that this rule change would not cause or contribute to violation of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10).

DATES: This rule is effective on July 29, 2002, unless EPA receives relevant adverse written comments by June 28, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should send written comments to: Patricia Morris, Acting Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean EPA.

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I. What Is the EPA Approving?

EPA is approving section 9 of the Illinois Environmental Protection Act (as revised by Public Act 89–491) as a revision to the Illinois SIP. The revised Illinois Environmental Protection Act exempts rural grain elevators from particulate matter control requirements contained in section 212.462 of Title 35 of the Illinois Administrative Code (35 IAC 212.462).

a. What Sources Are Being Exempted?

The exemption applies to "any grain elevator located outside of a major population area" provided that the elevator:

1. does not violate the pollution prohibition in subsection (a) of section 9 of the Illinois Environmental Protection Act or have a certified investigation on file with the Illinois EPA; and,

2. Is not required to obtain a Clean Air Act Permit Program permit.

"Major population areas" are defined at 35 IAC 211.3610. Generally, major population areas include Cook, Lake, DuPage, and Will Counties; portions of McHenry, Kane, and St. Clair Counties; as well as the municipalities of Kankakee, Rockford, Moline, Galesburg, Peoria, Pekin, Bloomington/Normal, Champaign/Urbana, Decatur, Springfield, and surrounding areas.

Subsection (a) of section 9 of the Illinois Environmental Protection Act states "No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the [Illinois Pollution Control Board] under this Act."

A "certified investigation" means "a report signed by Illinois Environmental Protection Agency personnel certifying whether a grain-handling operation (or portion thereof) or grain-drying operation is causing or tending to cause air pollution."

A Clean Air Act Permit Program permit is a permit required under section 39.5 of the Illinois Environmental Protection Act. For sources of particulate matter pollution, such as grain elevators, sources with a potential to emit over 100 tons of PM10 per year are required to obtain permits under this program.

b. What Requirements Are They Being Exempted From?

The revised Illinois Environmental Protection Act exempts rural grain elevators from particulate matter control requirements contained in 35 IAC 212.462. The requirements in 35 IAC 212.462 are applicable only to operations with a total annual grain throughput of 300,000 bushels or more. 35 IAC 212.462 requires sources to apply for a permit subject to 35 IAC 201. 35 IAC 212.462 also requires, among other requirements, control equipment with 90% particulate removal efficiency on cleaning and separating operations, major dump-pit areas, internal transferring areas, and watercraft loadout areas. 35 IAC 212.462 requires truck and hopper car loading to use socks, sleeves or choke loading, and for box car loading emissions to be controlled "to the fullest extent which is technically and economically feasible".

c. What Requirements Still Apply?

Illinois grain elevators exempted from the requirements of 35 IAC 212.462 continue to be regulated by 35 IAC 212.461 which includes housekeeping requirements such as maintenance and operation of existing control equipment, and requirements for cleaning and maintenance of areas such as floors, roofs, and property. No visible emissions are allowed from the head house.

Grain drying operations continue to be regulated by 35 IAC 212.463, which contains specific requirements for different types of grain dryers.

Sources exempted from 35 IAC 212.462 are also subject to the opacity limits of 35 IAC 212.123, which limit opacity of emissions to 30%, generally. 60% opacity is allowed for up to 8 minutes per hour, on no more than 3 occasions in any 24-hour period.

Additionally, New Source Performance Standards (Title 40 Code of Federal Regulations, part 60, subpart DD) apply to grain elevators constructed or modified after August 3, 1978. These Federal regulations, generally, contain limits on grain loading/unloading, grain drying, and material handling operations at grain elevators with a permanent storage capacity of more than 2.5 million bushels.

II. Analysis of the Requested SIP Revision

Section 110(l) of the Clean Air Act (Act) states that EPA shall not approve a requested SIP revision if the revision would interfere with any applicable requirement of the Act. While the requested SIP revision does not apply to any PM10 "nonattainment areas", it is a relaxation of the current SIP. Therefore, to satisfy section 110(l) of the Act, an air quality modeling analysis was conducted to determine whether the requested SIP revision would cause or contribute to violations of PM10 National Ambient Air Quality Standards (NAAQS). Illinois submitted a modeling analysis, and the EPA conducted further analyses to confirm the State's results. The modeling analyses considered a representative rural grain elevator with a throughput of 2.5 million bushels per year, using conservative emissions estimates, and including estimates of background PM10 concentrations. The analysis showed that the requested SIP revision will not cause or contribute to violations of the PM10 NAAQS. The NAAQS for PM10 are 150 and 50 micrograms per cubic meter ($\mu g/m^3$) for the 24-hour and annual standards, respectively. The final modeling analysis results showed an expected 24-hour (highest sixth-high plus background) concentration of 129 $\mu g/m^3$ and an expected annual-average concentration 41 ug/m^3. For a detailed discussion, see the Technical Support Document dated April 23, 2002.

EPA thus concludes that this submittal will not interfere with attainment or any other Act requirement. Therefore, EPA is approving the requested SIP revision.

III. What Are the Environmental Effects of This Action?

As discussed above, while this submittal allows somewhat more emissions in rural areas than was previously allowed, air quality modeling analysis shows that approval of this requested SIP revision will not result in violations of the PM10 NAAQS. (For more information *see* the Technical Support Document dated April 23, 2002.)

IV. EPA Rulemaking Action

We are approving, through direct final rulemaking, revisions to particulate matter control requirements for rural grain elevators in Illinois. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision in case adverse written comments are filed. This action will be effective without further notice unless we receive relevant adverse written comment by June 28, 2002. Should we receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on July 29, 2002.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 7, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(165) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(165) On April 8, 1999, the Illinois Environmental Protection Agency submitted revisions to particulate matter control requirements for rural grain elevators in Illinois. The revised requirements exempt rural grain elevators from certain particulate matter control requirements.

(i) *Incorporation by reference.* Revised grain elevator provisions in Section 9(f) of the Illinois Environmental Protection Act. Adopted by both Houses of the Illinois General Assembly as Public Act 89–491 (previously Senate Bill 1633) on April 25, 1996, approved by the Governor of Illinois on May 23, 1996, effective June 21, 1996.

* * * * *

[FR Doc. 02–13246 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[NE 156–1156a; FRL–7218–2]

Approval and Promulgation of Implementation Plans and Operating Permit Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving revisions to the Nebraska State Implementation Plan (SIP), Operating Permit Program, and Air Toxics Program. These revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program.

DATES: This direct final rule will be effective July 29, 2002, unless EPA receives adverse comments by June 28, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Lynn M. Slugantz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lynn M. Slugantz at (913) 551–7883.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal Approval Process for a SIP?

What does Federal Approval of a State Regulation Mean to Me?

What is the Part 70 Operating Permit Program?

What is Being Addressed in This Action?

Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?

What Action is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52,

entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the Part 70 Operating Permit Program?

The CAA Amendments of 1990 require all states to develop an operating permit program that meets certain Federal criteria listed in 40 CFR part 70. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permit program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or particulate matter less than 10 micrometers in size (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (HAP) (Specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state and local agencies' operating permit program are subject to public notice, comment, and our approval. Because the state's operating permit rules are approved pursuant to both part 70 and section 112(l), some of the revised rules are also approved pursuant to section 112(l).

What Is Being Addressed in This Action?

The Nebraska Department of Environmental Quality (NDEQ) has adopted changes to its Title 129—*Nebraska Air Quality Regulations* and has requested that EPA approve these changes as a revision to the Nebraska SIP.

Nebraska has also asked that changes also be approved as revisions to the Title V Operating Permit Program, and § 112(l) Air Toxics Program. The changes to Title 129 were approved by the Nebraska Environmental Quality Council at its September 4, 1998, and March 23, 2000, hearings, with effective dates of December 15, 1998, and August 22, 2000, respectively. Also, on January 23, 2002, NDEQ sent EPA a letter which provided further explanation regarding a modification made to section 014 of Chapter 17, "Construction Permits—When Required."

The following is a description of the changes to Nebraska's Title 129:

1. *Applicable Requirement Definition.* The definition of applicable requirement in Chapter 1, 014.04 was revised to reference Chapter 23 emission standards for Hazardous Air Pollutants (HAPs) in addition to the already existing reference to Chapters 27 and 28.

2. *Updates to Reference-type Materials.* The version of the SIC Code Manual cited in Chapter 1, 018 was updated to 1987.

3. *Volatile Organic Compound (VOC) Exemption Update.* Chapter 1, 109 was revised to add 16 additional compounds to the list of organic compounds which have been determined to have negligible reactivity.

4. *Transferral of Stack Height Rules.* Four definitions from Chapter 1 related to Stack Height Good Engineering Practice (032, 040, 049, and 061) were transferred to new regulations added to Chapter 16 (new 004, 005, 006, 007, 008). These rules have previously been approved by EPA.

5. *Significance Levels for Landfills.* In Chapter 1, 094, a trigger level for "Municipal solid waste landfill emissions" was added to the definition of "significant" in Chapter 1.

6. *Requirements for Permit Compliance Certification.* Chapter 7, 006.0214 was revised to replace "enhanced monitoring" with "compliance assurance or periodic monitoring" consistent with terminology used in corresponding regulations.

7. *Annual Certification of Risk Management Plans.* Chapter 8, 011.02 was revised to correct a typographical error in a citation, from Chapter 7, 002 to Chapter 7, 006.0213.

8. *Compliance with Terms of Construction Permit.* Chapter 17, 002.01 was added to reinforce that permit non-compliance is not allowed.

9. *Modification of a Construction Permit.* Chapter 17, 014 was added to allow for modification of construction permits without public notice procedures under tightly limited circumstances. The revision allows the Director the means to address construction permit provisions which in hindsight could or should have been written differently, without undergoing a full permit revision process where there is no environmental impact. On January 23, 2002, NDEQ sent EPA a letter which responded to EPA's concerns that this change not allow sources to modify an existing construction permit which would allow significant emissions of a pollutant not previously emitted or which should require a new Best Available Control Technology (BACT) analysis. The NDEQ's letter explains its process for review of requests for changes under this section and for assuring that only modifications meeting the criteria of the rule are approved under this process.

10. *Update to CFR Citation.* The CFR citation in Chapter 19, 001 was updated to July 1, 1997, which, among other things, updates the definition of "significant" to include a trigger level for municipal solid waste landfill emissions.

11. *Opacity of Particulate Emissions.* Chapter 20, 005 was revised to allow for evaluation of opacity using an EPA-approved method other than Method 9 in Appendix A of 40 CFR part 60, as long as the alternate method is agreed upon by NDEQ and EPA.

12. *Compliance Assurance Monitoring.* Chapter 31, 001 was revised to adopt by reference the Federal compliance assurance monitoring (CAM) rule as found at 40 CFR part 64, effective July 1, 1999. Previously, EPA had not approved Chapter 31 as part of NDEQ's Title V program. Today, EPA is adding the chapter to the list of those chapters of Title 129 which are approved as part of Nebraska's Title V Operating Permit Program.

13. *Emission Sources, Testing, Monitoring.* Chapter 34, 007 was revised to require performance tests "if required" rather than every time a new or modified source becomes operational.

14. *Updates to Reference-type Materials.* The reference to the Test Methods for Evaluating Solid Waste in Chapter 34, 002.06, was updated to 1997.

15. *Location of Federal Documents.* Chapter 41, 007 was added to clarify that copies of the substantial Federal documents (Code of Federal Regulations and **Federal Register**) adopted by reference are located and available at NDEQ's office.

Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfies the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. Finally, the submittal meets the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70.

What Action is EPA Taking?

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision is severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Final Action: EPA is approving as an amendment to the Nebraska SIP regulatory changes to Title 129, Chapters 1, 7, 8, 16, 17, 19, 20, 34 and 41. EPA is also approving as an amendment to the Nebraska Title V operating permit program changes to Title 129 Chapters 1, 7, 8, 31, and 41. Finally, EPA is approving pursuant to section 112(l) revisions to Chapters 7 and 8.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compound.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Karen A. Flournoy,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CC—Nebraska

2. In § 52.1420 the table in paragraph (c) is amended by:

a. Revising the entry for "129–1".

b. Revising the entry for "129–7".

c. Revising the entry for "129–8".
d. Revising the entry for "129–16".
e. Revising the entry for "129–17".
f. Revising the entry for "129–19".
g. Revising the entry for "129–20".
h. Revising the entry for "129–34".
i. Revising the entry for "129–41".
The revisions read as follows:

§ 52.1420 Identification of Plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Comments
STATE OF NEBRASKA—DEPARTMENT OF ENVIRONMENTAL QUALITY				
129–1	Definitions	8/22/2000	[May 29, 2002, and FR cite]	
.	. . .	.	.	. .
129–7	Operating Permits—Application	8/22/2000	[May 29, 2002, and FR cite]	
129–8	Operating Permit Content	8/22/2000	[May 29, 2002, and FR cite]	
.	. . .	.	.	. .
129–16 ...	Stack Heights; Good Engineering Practice (GEP).	12/15/1998	[May 29, 2002, and FR cite]	
129–17 ...	Construction Permits—When Required	8/22/2000	[May 29, 2002, and FR cite]	Also refer to January 23, 2002, NDEQ letter to EPA regarding change to 129–17–014.
129–19 ...	Prevention of Significant Deterioration of air Quality.	12/15/1998	[May 29, 2002, and FR cite]	
129–20 ...	Particulate Emissions; Limitations and Standards (Exceptions due to Breakdowns of Scheduled Maintenance: See Chapter 34).	8/22/2000	[May 29, 2002, and FR cite]	
.	. . .	.	.	. .
129–34 ...	Emission Sources; Testing; Monitoring	8/22/2000	[May 29, 2002, and FR cite]	
.	. . .	.	.	. .
129–41 ...	General Provision	12/15/1998	[May 29, 2002, and FR cite]	
.	. . .	.	.	. .

PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to Part 70 is amended by adding under "Nebraska; City of Omaha; Lincoln-Lancaster County Health Department" paragraph (e) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

* * * * *

(e) The Nebraska Department of Environmental Quality submitted the following program revisions on June 29, 2001; NDEQ Title 129, Chapters 1 and 41, effective December 15, 1998; and NDEQ Title 129, Chapters 1, 7, 8, and 31, effective on August 22, 2000.

* * * * *

[FR Doc. 02–13248 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WI101–7332a; FRL–7206–5]

Approval and Promulgation of Implementation Plans; Wisconsin Designation of Areas for Air Quality Planning Purposes; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 17, 2000, the Wisconsin Department of Natural Resources (WDNR) submitted a request to the Environmental Protection Agency (EPA) to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, Wisconsin, from primary and secondary sulfur dioxide (SO_2) nonattainment areas to attainment of the SO_2 National Ambient Air Quality Standards (NAAQS). EPA identified modeling and enforceability issues during the technical review of this submittal. On October 17, 2001, WDNR sent to EPA a submittal addressing the technical deficiencies. In this action EPA is approving the state's request, because it meets all of the Clean Air Act (Act) requirements for redesignation.

IF EPA receives adverse comments on this action, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

DATES: This "direct final" rule is effective July 29, 2002, unless EPA receives adverse or critical comments by June 28, 2002. If EPA receives adverse comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Christos Panos, at (312) 353–8328, before visiting the Region 5 Office.)

A copy of this redesignation is available for inspection at this Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

A. What Action is EPA Taking?
B. Why was This SIP Revision Submitted?
C. Why Can We Approve This Request?
D. What Requirements Must be Met for Approval of a Redesignation, and How Did the State Meet Them?

A. What Action is EPA Taking?

We are approving the State of Wisconsin's request to redesignate the Rothschild-Rib Mountain-Weston primary and secondary SO_2 nonattainment areas to attainment of the SO_2 NAAQS. We are also approving the maintenance plan for these areas into the Wisconsin SO_2 SIP. Further, we are incorporating the consent orders for Weyerhaeuser Company (AM–01–600) and Wisconsin Public Service Corporation's Weston Plant (AM–01–601) into the Wisconsin SO_2 SIP.

B. Why Was This SIP Revision Submitted?

WDNR believes that the Rothschild-Rib Mountain-Weston areas, located in central Marathon County, are now eligible for redesignation because EPA approved Wisconsin's SO_2 SIP in 1990 and 1993, and SO_2 monitors in the nonattainment area of Marathon County have not recorded exceedances of either the primary or secondary SO_2 air quality standards since 1986.

C. Why Can We Approve This Request?

Consistent with the Act's requirements, EPA developed procedures for redesignation of nonattainment areas that are in a September 4, 1992, memorandum from John Calcagni, EPA, titled, *Procedures for Processing Requests to Redesignate Areas to Attainment.* This EPA guidance document contains a number of conditions that a state must meet before it can request a change in designation for a federally designated nonattainment area. That memorandum and EPA's Technical Support Document set forth the rationale in support of the redesignation of the Rothschild-Rib Mountain-Weston SO_2 nonattainment areas to an attainment status.

D. What Requirements Must the State Meet for Approval of a Redesignation and How Did the State Meet Them?

1. The State Must Show That the Area Is Attaining the Applicable NAAQS

There are two components involved in making this demonstration: (1) Ambient air quality monitoring representative of the area of highest concentration must show no more than one exceedance annually; and (2) EPA approved air quality modeling must show that the area in question meets the applicable standard.

The first component relies on ambient air quality data representative of the area of highest concentration. The primary 24-hour concentration limit of the SO_2 NAAQS is 365 micrograms per cubic meter ($\mu g/m^3$). The secondary 3-hour concentration limit is 1300 $\mu g/m^3$. According to 40 CFR 50.4, an area must show no more than one exceedance annually. WDNR's monitoring data indicates that there have been no exceedances of the primary 24-hour concentration limit or the secondary 3-hour concentration limit during the monitoring period of 1986–1991, therefore satisfying the first component.

The second component relies on supplemental EPA approved air quality modeling. The modeling methodology used by the WDNR followed the guidance identified in EPA's Guideline on Air Quality Models, 40 CFR part 51, appendix W. Five sources were explicitly modeled: Wisconsin Public Service Corporation Weston Plant, Weyerhaeuser Company, Foremost Farms USA, Lignotech USA, Inc., and Mosinee Paper. Weyerhaeuser Paper and Lignotech are located within the Rothschild nonattainment area. Wisconsin Public Service Corporation-Weston and Foremost Farms are located 3 to 4 kilometers to the southwest of the Rothschild area and Mosinee Paper is located about 12 kilometers to the south-southwest of the Rothschild area.

EPA's review of the modeling in the state's November 17, 2000 submittal identified several issues. WDNR's supplemental submittal sent to EPA on October 17, 2001 included revised modeling which adequately addressed those issues. To demonstrate modeled attainment, Weyerhaeuser was limited to burning fuel oil with no more than 0.05% sulfur and Wisconsin Public Service Corporation Weston Plant was limited to burning coal in Units 1 and 2 with no more than 1.2 pounds of SO_2 per million British Thermal Units and to burning fuel oil with no more than 0.3% sulfur in the three turbines. WDNR placed these limits into consent orders which were included in its October 17, 2001 submittal.

The results of the air quality modeling conducted by the WDNR for the Rothschild-Rib Mountain-Weston nonattainment areas show the total SO_2 concentration from the impact of the five modeled sources combined with a representative background SO_2 concentration are below the primary and secondary SO_2 NAAQS. Therefore, WDNR satisfied the second component by supplying a modeling demonstration showing that the area is in attainment of the SO_2 NAAQS.

2. The SIP for the Area Must Be Fully Approved Under Section 110(k) of the Act and Must Satisfy All Requirements That Apply to the Area

WDNR submitted multiple SO_2 SIP revisions to EPA between 1985 and 1992 to fulfill the requirements of section 110 and part D of the Act. The Rothschild SO_2 SIP revision approved by EPA on March 27, 1990 (55 FR 11183), contained limits pertaining to two sources, Weyerhaeuser and Reed Lignin Company (now Lignotech). This SIP revision approved Wisconsin's SO_2 plan for the City of Rothschild and the Town of Weston. The emission limits for the Wisconsin Public Service Corporation Weston Plant, the only large SO_2 emitting source located near Rib Mountain, were submitted as part of the Wisconsin statewide SO_2 rule. EPA approved the statewide SO_2 rule on May 21, 1993 (58 FR 29537), thereby approving Wisconsin's SO_2 plan for Rib Mountain Township.

3. EPA Has Determined That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions

Air quality improvement in the Rothschild-Rib Mountain-Weston SO_2 nonattainment areas is attributed to SO_2 emission limits and operating restrictions imposed on the facilities that contributed to the nonattainment status. These limits have been incorporated into the state SO_2 SIP and are therefore permanent and enforceable. Further, the additional limits relied upon in the modeling were placed into consent orders, which were included in WDNR's October 17, 2001 submittal. These consent orders are being incorporated into the Wisconsin SO_2 SIP, thereby making them permanent and enforceable.

4. The State Has Met All Applicable Requirements Under Section 110 and Part D of the Act That Were Applicable Prior to Submittal of the Complete Redesignation Request

Section 110(a)(2) of the Act contains the general requirements for nonattainment plans. Part D contains the general requirements applicable to all areas that are designated nonattainment based on a violation of

the NAAQS. These requirements are satisfied by EPA's March 27, 1990 and May 21, 1993 approvals of the nonattainment plans that Wisconsin submitted for the control of SO_2 emissions in the Rothschild-Rib Mountain-Weston areas.

A PSD program will replace the requirements of the Part D new source review program after redesignation of the area. To ensure that the PSD program will become fully effective immediately upon redesignation, either EPA must delegate the federal PSD program to the state or the state must make any needed modifications to its rules to have the approved PSD program apply to the affected area upon redesignation. EPA fully approved Wisconsin's PSD program, effective June 28, 1999.

5. EPA Has Fully Approved a Maintenance Plan, Including a Contingency Plan, for the Area Under Section 175A of the Act

Section 107(d)(3)(E) of the Act states that, for an area to be redesignated, EPA must fully approve a maintenance plan that meets the requirements of Section 175A. Section 175A of the Act requires states to submit a SIP revision that provides for the maintenance of the NAAQS in the area for at least 10 years after approval of the redesignation. The basic components needed to ensure proper maintenance of the NAAQS are: attainment inventory, maintenance demonstration, verification of continued attainment, ambient air monitoring network, and a contingency plan. EPA is approving the maintenance plan in today's action as discussed below.

a. *Attainment Inventory.* The air dispersion modeling included in the state's submittal contains the emission inventory of SO_2 sources in the Rothschild-Rib Mountain-Weston nonattainment areas.

b. *Maintenance Demonstration and Verification of Continued Attainment.* The modeling analysis submitted by WDNR on October 17, 2001, demonstrates attainment and maintenance of the SO_2 NAAQS. The SO_2 emitting sources involved in the Rothschild-Rib Mountain-Weston SO_2 redesignation are meeting the SO_2 emission limits identified in the modeling. WDNR will track the maintenance plan through the annual submittal of the air emission inventory for the SO_2 emitting facilities in the Rib Mountain-Rothschild-Weston area.

c. *Monitoring Network.* WDNR ceased air quality monitoring in this area in 1991 due to fiscal considerations. EPA has stated in the past that if a state can show attainment of the NAAQS through EPA approved air dispersion modeling, has an approvable SIP revision showing that the control strategies have been implemented, and shows that it can continue to attain the standard for a period of 10 years following the redesignation, then an SO_2 monitoring network does not need to be maintained. Because the WDNR has met these requirements, it does not need to maintain a monitoring network in the Rothschild-Rib Mountain-Weston area. WDNR, however, has committed to resume monitoring if it appears that there are significant emission increases from the SO_2 emitting sources in the area that would cause a concern for public health.

d. *Contingency Plan.* Section 175A of the Act requires that the maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of the area. WDNR will resume SO_2 air monitoring if the reported SO_2 emissions from any of the facilities in any one year exceeds the amount identified in the modeling. Once monitoring resumes and upon verification of a violation of either the 24-hour or 3-hour SO_2 NAAQS, if any of the SO_2 emitting sources in the area is responsible for the violation, WDNR will work with one or all of these sources to ensure that the violation will not occur again. WDNR will involve EPA, Region 5, in the discussions with the company. Once WDNR identifies the problem and sets a strategy to fix the problem, WDNR will write rules to control SO_2 emissions at the company or amend the company's federal operation permit. WDNR has committed to the following schedule: (1) To identify the responsible source within 30 days after a monitored violation; (2) to take action against the responsible source within 90 days of the violation; and, if EPA determines it necessary, (3) to submit a SIP revision to EPA within 360 days after the violation.

Final Action

We have evaluated the state's submittal and have determined that it meets the applicable requirements of the Act, EPA regulations, and EPA policy. Therefore, we are approving the State of Wisconsin's request to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, from primary and secondary SO_2 nonattainment areas to attainment of the SO_2 NAAQS. We are also approving the maintenance plan for the Rothschild-Rib Mountain-Weston areas into the Wisconsin SO_2 SIP. Further, we are also incorporating into the Wisconsin SO_2 SIP the consent orders for Weyerhaeuser Company (AM–01–600) and Wisconsin Public Service Corporation's Weston Plant (AM–01–601).

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective July 29, 2002 without further notice unless we receive relevant adverse comments by June 28, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. We will then address all public comments received in a subsequent final rule based on the proposed action published elsewhere in this **Federal Register**. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 29, 2002.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et. seq.*

Dated: April 4, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.2570 is amended by adding paragraph (c)(105) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(105) On November 17, 2000, WDNR submitted a request to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, Wisconsin from primary and secondary SO_2 nonattainment areas to attainment of the SO_2 NAAQS. EPA identified modeling and enforceability issues during the technical review of this submittal. On October 17, 2001, WDNR sent to EPA a supplemental submittal addressing the technical deficiencies.

(i) *Incorporation by reference.*

(A) A Consent Order identified as AM–01–600 for Weyerhaeuser Company, issued by WDNR and signed by Scott Mosher for the Weyerhaeuser Company on May 29, 2001, and Jon Heinrich for WDNR on August 16, 2001.

(B) A Consent Order identified as AM–01–601 for Wisconsin Public Service Corporation's Weston Plant, signed by David W. Harpole for the Wisconsin Public Service Corporation on July 12, 2001, and Jon Heinrich for WDNR on August 16, 2001.

3. Section 52.2575 is amended by adding paragraph (b)(4) to read as follows:

§ 52.2575 Control strategy: Sulfur dioxide.

* * * * *

(b) * * *

(4) An SO_2 maintenance plan was submitted by the State of Wisconsin on November 17, 2000, for the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Section 81.350 is amended by revising the entry for Marathon County under AQCR 238 in the table entitled "Wisconsin-SO_2" to read as follows:

§ 81.350 Wisconsin.

WISCONSIN—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 238:				

WISCONSIN—SO_2—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • •	•	•	•	•
Marathon County				X
• • •	•	•	•	•

* * * * *

[FR Doc. 02–13112 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0061; FRL–7176–8]

Fludioxonil; Re-establishment of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes a time-limited tolerance for residues of the fungicide fludioxonil in or on caneberries at 5 parts per million (ppm) for an additional 2 year period. This tolerance will expire and is revoked on December 31, 2003. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on caneberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation is effective May 29, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0061, must be received on or before July 29, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0061 in the subject line on the first page of your respon-

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**"—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0061. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of June 30, 1999 (64 FR 35037) (FRL–6086–4), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996 (Public Law 104–170), it established a time-limited tolerance for the residues of fludioxonil in or on caneberries at 5 ppm, with an expiration date of December 31, 2000. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment. The tolerance was extended in the **Federal Register** of December 6, 2000 (65 FR 76169) (FRL–6756–6) until December 31, 2001.

EPA received a request to extend the use of fludioxonil on caneberries for this year's growing season due to the widespread development of pest resistance to previously-used standard fungicides benomyl, iprodione, and vinclozolin; no curently available alternatives appear to provide suitable disease control and significant economic losses are expected with moderate to severe disease pressure. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of fludioxonil on caneberries for control of gray mold in Oregon and Washington.

EPA assessed the potential risks presented by residues of fludioxonil in or on caneberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of June 30, 1999 (FR 64 35037) (FRL–6086–4). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 2 year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2002, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on caneberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need To Do To File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0061 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 29, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–2002–0061, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule re-establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

§ 180.516 [Amended]

2. In § 180.516, revise the entry in paragraph (b) for Caneberries to read as follows:

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ revocation date
. . . . .	.	.
Caneberry	5.0	12/31/03
. . . . .	.	.

* * * * *

[FR Doc. 02–13252 Filed 5–28–02; 8:45 am]
BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket 92–297; FCC 01–164]

Redesignate the 27.5–29.5 GHz Frequency Band, To Reallocate the 29.5–30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (FCC) issued a document disposing of petitions for reconsideration of a previous order that established a frequency-use plan for Ka-Band satellite services. The reconsideration order eliminates a rule provision that restricted eligibility for license authority for uplink transmission in the 29.25–29.5 GHz frequency band and clarifies provisions concerning inter-system coordination in that band.

DATES: Effective May 29, 2002.

FOR FURTHER INFORMATION CONTACT: William Bell at (202) 418–0741. Internet: *bbell@fcc.gov*, International Bureau, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in CC Docket No. 92–297, FCC 01–164, adopted May 22, 2001 and released on May 24, 2001. The complete text of this MO&O is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800.

Summary of Memorandum Opinion and Order

Deletion of Repeating-Groundtracks Requirement

In the *First Report and Order, 61 FR 39425, July 29, 1996* in Docket No. 92–297, the Commission designated two adjacent frequency bands, 29.1–29.25 GHz and 29.25–29.5 GHz, for feeder uplinks for Mobile Satellite Service systems using non-geostationary-orbit satellites (*i.e.*, "NGSO/MSS" systems). The Commission also designated the 29.1–29.25 GHz band for hub-to-subscriber transmission by Local Multipoint Distribution Service ("LMDS") systems and the 29.25–29.5 GHz band for uplinks for Fixed Satellite Service systems using geostationary satellites (*i.e.*, "GSO/FSS" systems).

In a petition for reconsideration of the *First Report and Order*, Motorola Satellite Communications, Inc. asked for deletion of a rule provision, 47 CFR 25.258(c), that limits eligibility for NGSO/MSS feeder uplink assignments in the 29.25–29.5 GHz band to systems whose satellites retrace the same path over the earth's surface on every orbit. Motorola argued that the restriction should be eliminated because it severely constrains system design, is unnecessary for inter-system coordination, and was adopted without adequate prior notice.

The FCC concludes that there is no evidence of record that an NGSO/MSS system must operate with repeating ground tracks in order to coordination with GSO/FSS systems. The FCC therefore decides to eliminate the rule provision in question.

Geographic Separation

A petitioner requested that 47 CFR 25.258(b) be amended to allow GSO FSS licensees to rely on geographic separation for coordination of uplink transmission with NGSO FSS systems. The FCC denies the request because it has concluded that the rule already permits reliance on geographical separation for that purpose.

"Licensed"

A petitioner contended that the word "Licensed" should be stricken from § 25.258(b) because its use in that context might foster an impression that NGSO/MSS licensees need not coordinate with GSO/FSS systems proposed in pending applications. The FCC denies this amendment request. It holds that the petitioner's concern is unwarranted and, in any case, that merely deleting "Licensed" would not change the meaning of the rule provision.

Clarifying Amendments to § 25.258

Several petitioners proposed amendments to 47 CFR 25.258 to make it clear that interference should be minimized with respect to both GSO FSS and NGSO MSS systems and that NGSO applicants should demonstrate the feasibility of sharing with previously-licensed GSO systems that are not yet operational. The FCC agrees that these proposed changes should be made.

Limits on LMDS Operation

In the *First Report and Order* the FCC prohibited use of the 29.1–29.25 GHz frequency band for LMDS subscriber-to-hub links, but indicated that the limitation might be reconsidered in the future based on evidence that sharing is feasible. A petitioner sought clarification regarding the process that would be used to reach a determination in this regard. The FCC says in the reconsideration order that it sees no reason to prescribe a specific process for making such a determination at this time and that clarification of requirements for fixed service leasing of LMDS spectrum is under consideration in another proceeding.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended ("RFA") requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA").

First, in this Memorandum Opinion and Order we eliminate a rule provision that barred use of the 29.25–29.5 GHz frequency band for transmission from earth stations to non-geostationary-orbit (i.e., "NGSO") satellites that do not trace constant paths over the ground in successive orbits. Any applicant for a license for NGSO uplink transmission in that band is required by other provisions in the Commission's rules to demonstrate that the proposed operation (1) would not interfere with authorized operation in that band by previously-licensed systems or (2) would be conducted in accordance with coordination agreements with the licensees of such systems. With these protective measures in place, we believe that the elimination of the restriction on use of the 29.25–29.5 GHz frequency band will not have a significant economic impact on any small entities.

Second, this Memorandum Opinion and Order adopts minor revisions to other rule provisions to make it clear that: (1) the frequencies and polarity of transmission to GSO satellites in the 29.25–29.5 GHz band from fixed earth stations in the vicinity of NGSO feeder-link stations must be chosen to minimize interference with reception of uplink transmission to NGSO, as well as GSO, satellites and (2) applicants for authority to use the 29.25–29.5 GHz band for feeder uplinks must show that sharing is possible with other systems that have been previously-authorized to use that band, not just systems that are currently operational. These changes merely clarify the Commission's pertinent intentions, rather than altering its policies and therefore impose no additional burden on any small entities. We therefore certify that the adoption of this Memorandum Opinion and Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Memorandum Opinion and Order, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Memorandum Opinion and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register.**

Ordering Clauses

Accordingly, that the "Petition for Partial Reconsideration" filed by Motorola Satellite Communications, Inc. on September 27, 1996 *is granted.*

The "Petition of TRW Inc. for Clarification and/or Partial Reconsideration of the First Report and Order" filed on September 24, 1996 *is granted* to the extent indicated herein and *is otherwise denied* and that the "Petition for Reconsideration of Texas Instruments, Inc." filed on August 28, 1996 *is denied* to the extent indicated herein.

Section 25.258 of the Commission's rules *is amended* as indicated in the rule changes, effective May 29, 2002. This action is taken pursuant to 47 U.S.C. 154(i) and 303(r).

The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this Memorandum Opinion and Order, including the Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303; 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

2. Section 25.258 is revised to read as follows:

§ 25.258 Sharing between NGSO MSS Feeder links Stations and GSO FSS services in the 29.25–29.5 GHz Bands.

(a) Operators of NGSO MSS feeder link earth stations and GSO FSS earth stations in the band 29.25 to 29.5 GHz where both services have a co-primary allocation shall cooperate fully in order to coordinate their systems. During the coordination process both service operators shall exchange the necessary technical parameters required for coordination.

(b) Licensed GSO FSS systems shall, to the maximum extent possible, operate with frequency/polarization selections, in the vicinity of operational or planned NGSO MSS feeder link earth station complexes, that will minimize instances of unacceptable interference with GSO FSS or NGSO MSS uplink reception.

(c) Applicants for authority to use the 29.25–29.5 GHz band for NGSO MSS feeder uplinks will have to demonstrate that their systems can share with GSO FSS and NGSO MSS systems that have been authorized for operation in that band.

[FR Doc. 02–13225 Filed 5–28–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH82

Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for *Chorizanthe robusta* var. *hartwegii* (Scotts Valley Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower). Approximately 116 hectares (287 acres) of land fall within the boundaries of the critical habitat designation located in Santa Cruz County, California. We solicited data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation.

DATES: This rule becomes effective on June 28, 2002.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule will be available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Connie Rutherford, Ventura Fish and Wildlife Office, at the above address (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe robusta var. *hartwegii* is endemic to Purisima sandstone and Santa Cruz mudstone in Scotts Valley in the Santa Cruz Mountains, Santa Cruz County, California. *C. r.* var. *hartwegii*, a short-lived annual species in the buckwheat family (Polygonaceae), is a low-growing herb with rose-pink involucral (pertaining to a circle or collection of modified leaves surrounding a flower cluster) margins confined to the basal portion of the teeth and an erect form of growth. The aggregate flowers (heads) are medium in size (1 to 1.5 centimeters (cm) (0.4 to 0.6 inches (in) in diameter) and distinctly aggregate. Each flower produces one seed; the seeds are 3.5 to 4.0 millimeters (mm) long. Hooks on the spines of the involucre (circle or collection of modified leaves surrounding a flower cluster), which surround the seed, facilitate seed dispersal.

Chorizanthe robusta var. *hartwegii* is one of two varieties of the species *Chorizanthe robusta*. The other variety (*Chorizanthe robusta* var. *robusta*), known as robust spineflower, is restricted to sandy soils in coastal and near-coastal areas in Santa Cruz County. We are designating critical habitat for *C. r.* var. *robusta* in a separate **Federal Register** notice.

The range of *Chorizanthe robusta* var. *hartwegii* comes close to, but does not overlap with that of *Chorizanthe pungens* var. *hartwegiana* (Ben Lomond spineflower), another closely related taxon in the *Pungentes* section of the genus, in Santa Cruz County. *Chorizanthe pungens* var. *hartwegiana* is also a federally endangered species; for a detailed description of these related taxa, see the Draft Recovery Plan for the Robust Spineflower (Service 2000) and references within this plan.

Chorizanthe robusta var. *hartwegii* is known from two sites about 1.6 kilometers (km) (1 mile (mi)) apart at the northern end of Scotts Valley in Santa Cruz County, California. For the most part, it co-occurs with *Polygonum hickmanii*, a species that is proposed for Federal listing as endangered (65 FR 67335). We proposed critical habitat for *C. r.* var. *hartwegii* and *Polygonum hickmanii* at the same time; however, since the final rule for *Polygonum hickmanii* has not been published, we are only designating critical habitat for *C. r. var. hartwegii* at this time.

Chorizanthe robusta var. *hartwegii* is found on gently sloping to nearly level fine-textured, shallow soils of the Bonnydoon series over outcrops of Santa Cruz mudstone and Purisima sandstone (Hinds and Morgan 1995, Soil Conservation Service 1980, U.S. Geologic Survey 1989). *C. r.* var. *hartwegii* occurs with other small annual herbs in patches within a more extensive annual grassland habitat. These small patches have been referred to as "wildflower fields" because they support a large number of native herbs, in contrast to the adjacent annual grasslands that support a greater number of non-native grasses and herbs. While the wildflower fields are underlain by shallow, well-draining soils, the surrounding annual grasslands are underlain by deeper soils with a greater water-holding capacity, and therefore more easily support the growth of non-native grasses and herbs. The surface soil texture in the wildflower fields tends to be consolidated and crusty rather than loose and sandy (Biotic Resources Group (BRG) 1998). Elevation of the sites is from 215 to 245 meters (m) (700 to 800 feet (ft)) (Hinds and Morgan 1995).

Chorizanthe robusta var. *hartwegii* is associated with a number of native herbs including *Lasthenia californica* (goldfields), *Minuartia douglasii* (sandwort), *Minuartia californica* (California sandwort), *Gilia clivorum* (gilia), *Castilleja densiflora* (owl's clover), *Lupinus nanus* (sky lupine), *Brodiaea terrestris* (brodiaea), *Stylocline amphibola* (Mount Diablo cottonweed), *Trifolium grayii* (Gray's clover), and *Hemizonia corymbosa* (coast tarplant). Non-native species present include *Filago gallica* (filago) and *Vulpia myuros* (rattail) (California Natural Diversity Data Base (CNDDB) 1998; Randy Morgan, biological consultant, pers. comm., 1998). In many cases, the habitat also supports a crust of mosses and lichens (BRG 1998).

Chorizanthe robusta var. *hartwegii* germinates during the winter months and flowers from April through June. Although pollination ecology has not been studied for this taxon, it is likely visited by a wide array of pollinators. Pollinators that have been observed on other species of *Chorizanthe* that occur in Santa Cruz County have included: leaf cutter bees (megachilids); at least 6 species of butterflies; flies; sphecid wasps; ants; and small beetles (Randy Morgan, biologist, Soquel, California, pers. comm., 2000; S. Baron, *in litt.* 2000; A. Murphy, *in litt.*, 2002). In other annual species of *Chorizanthe*, the flowers are protandrous, a reproductive strategy in which the anthers (male reproductive structures) mature and shed pollen prior to the maturation of the style (female reproductive structures) to receive pollen, with a delay of style receptivity being one or two days. Protandry facilitates cross-pollination by insects. However, if cross-pollination does not occur within 1 or 2 days, self-pollination may occur as the flower closes at the end of the day (James Reveal 2001). The relative importance of insect pollination and self-pollination to seed set is unknown; however, in the closely related Monterey spineflower (*Chorizanthe pungens* var. *pungens*), the importance of pollinator activity to production of viable seed was demonstrated by the production of seed with low viability where pollinator access was limited (Harding Lawson Associates 2000).

The plants turn a rusty hue as they dry through the summer months, eventually shattering during the fall. Seed is mature by August and dispersal is facilitated by the hooked involucral spines, which surround the seed and attach it to passing animals. Black-tailed hares (*Lepus californicus*) have been observed to browse on the related *Chorizanthe robusta* var. robusta (S. Baron, *in litt.* 2000), and most likely act to disperse seeds as well. Other animals likely to assist in seed dispersal include, but are not limited to: mule deer (*Odocoileus hemionus*); gray foxes (*Urocyon cinereoargenteus*); coyotes (*Canis latrans*); bobcats (*Felis rufus*); ground squirrels (*Otospermophilus beecheyi*); striped skunks (*Mephitis mephitis*); opossums (*Didelphis virginiana*); racoons (*Procyon lotor*); and other small mammals and small birds.

For annual plants, maintaining a seed bank (a reserve of dormant seeds, generally found in the soil) is important to its year-to-year and long-term survival (Baskin and Baskin 1978). A seed bank includes all of the seeds in a population and generally covers a larger area than the extent of observable plants seen in a give year (Given 1994). The number and location of standing plants (the observable plants) in a population varies annually due to a number of factors, including the amount and timing of rainfall, temperature, soil conditions, and the extent and nature of the seed bank. The extent of seed bank reserves is variable from population to population and large fluctuations in the number of standing plants at a given site may occur from one year to the next.

Depending on the vigor of the individual plant and the effectiveness of pollination, dozens, if not hundred of seeds could be produced. In one study on a closely related spineflower, *Chorizanthe robusta* var. robusta, individual plants had an average of 126 flowers, and an average seed set of 51 seeds per plant (S. Baron, pers. comm., 2001). The production of seed itself does not guarantee future reproductive individuals for several reasons: seed viability may be low, as has been found in other species of Chorizanthe (Bauder 2000); proper conditions for germination may not be present in most years; and seedling mortality may result from withering before maturity, herbivory, or uprooting by gopher activity (Baron 1998). Seedling mortalities of up to 42 percent in the related *C. r.* var. *robusta* have been caused primarily by the larval (caterpillar) life stage of moths belonging to the family Gelichiideae (Baron 2000).

For purposes of this rule, a cluster of individuals of *Chorizanthe robusta* var. *hartwegii* will be referred to as a "colony." Because of the close proximity of many of the clusters to

each other, it is uncertain whether clusters biologically represent patches within a metapopulation, true colonies, or separate populations. The general location of the colonies will be referred to as a "site."

While the sites that support large colonies or populations of *Chorizanthe robusta* var. *hartwegii* most likely also support large seed banks and can sustain the species through several years of poor weather or bouts of predation, sites that support smaller populations and smaller seed banks may be more vulnerable to extirpation. The complex of colonies of *C. r.* var. *hartwegii* in the Glenwood area are in close enough proximity to each other that their seed banks most likely are dispersed between colonies; the total number of standing individuals and the attendant seed bank most likely are of sufficient magnitude to perpetuate the species in the near term, absent significant threats to the remaining habitat. In the Polo Ranch area, the colonies of *C. r.* var. *hartwegii* are also in close enough proximity to each other that their seed banks most likely are dispersed between colonies; however, the total number of individuals and the attendant seed bank are relatively smaller in magnitude here than at the Glenwood site and, therefore, this unit may be more vulnerable to extirpation if exposed to events such as several years of poor weather or bouts of predation.

The total number of colonies of *Chorizanthe robusta* var. *hartwegii* is difficult to count for several reasons: (1) Depending on the scale at which colonies are mapped, a larger or smaller number of colonies may result, and (2) depending on the climate and other annual variations in habitat conditions, the extent of colonies may either shrink and temporarily disappear, or enlarge and merge into each other, thus appearing as larger but fewer colonies.

The distribution of colonies is generally concentrated at two sites. The Glenwood site is located north of Casa Way and west of Glenwood Drive in northern Scotts Valley (see map at end of rule) and contains a large number of colonies of *Chorizanthe robusta* var. *hartwegii* that occur on three privately owned parcels of land. Colonies of *C. r.* var. *hartwegii* are situated within a 4 hectare (ha) (9 ac) preserve on a parcel owned by the Scotts Valley Unified School District and referred to as the "School District" colony (Denise Duffy and Associates 1998). Other colonies at the Glenwood site are located approximately 0.20 km (0.13 mi) to the west of the School District colony on a parcel of land owned by the Salvation Army (CNDDB 1998) and are referred to as the "Salvation Army" colonies. Additional colonies of *C. r.* var *hartwegii* are located on a parcel owned by American Dream/Glenwood L.P. and are referred to as the "Glenwood" colonies; the parcel has been approved for development by the City of Scotts Valley (Keenan Land Company (KLC) 2001). As currently approved, the project would retain colonies on the west side of Glenwood Drive and on the east side of Glenwood Drive in portions of the parcel that are being designated as open space (Impact Sciences 2001, KLC 2001).

The first extensive effort to map the distribution and abundance of *Chorizanthe robusta* var *hartwegii* within the area included in the Glenwood unit was carried out in 1992; surveyors mapped 30 "populations/occurrences" of *C. r.* var. *hartwegii*, with occurrences comprising from a low of one individual to over 25,000, and including a total of approximately 100,000 individuals. Additionally 82 patches of "suitable habitat" were mapped (Habitat Restoration Group 1992). Construction of the Scotts Valley High School in 1999 resulted in the loss of approximately 6 populations and occurrences, 890 individuals, and 34 patches of "suitable habitat" (Denise Duffy and Associates 1997, 1998).

In addition to direct removal of habitat, habitat fragmentation affects the long-term conservation of the species by reducing connectivity among colonies and populations, by altering microsite drainage patterns, and by providing access to vectors that cause secondary impacts, such as the spread of non-native species. Because the high school is located within the central portion of the Glenwood unit, its construction significantly fragmented the grasslands that were once contiguous and that provided connectivity between the Salvation Army, School District, and Glenwood colonies. Two access roads, one on each side of Glenwood Drive, have been constructed in the last three years; one was placed between colonies of *Chorizanthe robusta* var. *hartwegii*, and the other was placed between colonies and other patches of wildflower fields. In the fall of 2001, an arson wildfire burned approximately 12 ha (5 ac) of grassland between Teacup and Cupcake Hill, coming close to, but not directly damaging individuals of *C. r.* var. *hartwegii*. This event highlighted the potential for damage to the species' habitat, not only from a fire event that is not part of a habitat management plan, but also from the vehicles dispatched to extinguish the fire (K. Lyons, consultant, Santa Cruz, CA, pers. comm., 2002).

The second site is referred to as the "Polo Ranch" site. Located just east of Highway 17 and north of Navarra Drive in northern Scotts Valley, this site is approximately 1.6 km (1 mi) east of the Salvation Army and School District colonies. Colonies within the Polo Ranch site occur on a parcel of land owned by Greystone Homes (Lyons *in litt.* 1997); a number of these colonies of *Chorizanthe robusta* var. *hartwegii* occur within 0.2 km (0.1 mi) of each other (Lyons *in litt.* 1997, Impact Sciences 2000). In 1997 surveys, *C. r.* var. *hartwegii* was found at 25 locations and comprised approximately 8,000 individuals; the abundance and distribution was similar to that recorded in 1990 (Lyons *in litt.* 1997). We believe that the abundance and distribution of *C. r.* var. *hartwegii* has been reduced by disturbance to the site by illegal off-highway vehicle use since that time (Service *in litt.* 2000).

Chorizanthe robusta var. *hartwegii* is threatened with extinction by habitat alteration due to secondary impacts of urban development. Urban development includes the recent construction and operation of a high school; installation and maintenance of water delivery pipelines, access roads, and water tanks; and currently existing and proposed housing. Over the last decade a variety of housing proposals have been considered for two of the parcels; the Glenwood development was approved by the City of Scotts Valley in late 2001 (Keenan Land Company 2001), and the proposed Polo Ranch development is currently on hold due to other legal issues.

The small range of this taxon makes it vulnerable to edge effects from adjacent human activities. The kinds of habitat alterations expected to impact *Chorizanthe robusta* var. *hartwegii* as a result of development include changes in soil characteristics such as surface and subsurface water flow and soil compaction; increased disturbance due to trampling from humans, pets, and bicycle traffic; the inadvertent application of herbicides and pesticides; over-spray from landscape irrigation, dumping of yard wastes; and the introduction and spread of non-native species (Conservation Biology Institute 2000). Due to their small size, the proposed preserves and open space areas intended to protect *C. r.*var. *hartwegii* are inadequate for maintaining viable populations of this species (Service *in litt.* 1998). Studies on habitat fragmentation and preserves established in urbanized settings have shown that these preserves gradually become destabilized from external forces (*i.e.*, changes in the hydrologic conditions, soil compaction, etc.), resulting in preserves that are no longer able to support the species that they were established to protect (Kelly and Rotenberry 1993).

The chance of random extinction for *Chorizanthe robusta* var. *hartwegii* is also increased due to the limited area of habitat available for this species (Shaffer 1981). Because the colonies are concentrated at only a few sites, a random environmental event (*e.g.*, fire) or human disturbance potentially could destroy all colonies occurring on a parcel, thus diminishing the likelihood of long-term persistence.

Previous Federal Action

On May 16, 1990, we received a petition from the Santa Cruz Chapter of the California Native Plant Society to list *Chorizanthe robusta* var. *hartwegii* as endangered. Based on a 90-day finding that the petition presented substantial information indicating that the requested action may be warranted (55 FR 46080), we initiated a status review of this taxon. During this time, we also reviewed the status of *Chorizanthe robusta*. var. *robusta*. On October 24, 1991 (56 FR 55107), we published a proposal to list both varieties of *Chorizanthe robusta* as endangered species. On February 4, 1994, we published a final rule that listed *C. robusta* as endangered, inclusive of *C. r.* var. *hartwegii* and *C. r.* var. robusta (59 FR 5499). Proposed designation of critical habitat for these taxa was believed prudent but not determinable at the time of listing. A Recovery Plan covering two insect species and four plant species from the Santa Cruz Mountains, including *C. r.* var. *hartwegii*, was published in 1998 (Service 1998).

On June 30, 1999, our failure to designate critical habitat for *Chorizanthe robusta*, inclusive of var. *hartwegii* and var. *robusta*, within the time period mandated by 16 U.S.C. 1533(b)(6)(C)(ii) was challenged in *Center for Biological Diversity* v. *Babbitt* (Case No. C99–3202 SC). On August 30, 2000, the U.S. District Court for the Northern District of California (court) directed us to publish a proposed critical habitat designation within 60 days of the court's order, and a final critical habitat designation no later than 120 days after the proposed designation was published. On October 16, 2000, the court granted the government's request for a stay of this order. Subsequently, by a stipulated settlement agreement signed by the parties on November 20, 2000, the Service agreed to propose critical habitat for *C. r.* var. *hartwegii* by January 15, 2001, and to sign a final rule by October 19, 2001. The plaintiffs subsequently agreed to an extension, approved by the court, until May 17, 2002 to complete the final rule.

Because the two varieties of *Chorizanthe robusta* are geographically and ecologically separated, critical habitat designations were developed separately. The proposed rule to designate critical habitat for *Chorizanthe robusta* var. *hartwegii* was sent to the **Federal Register** on January 16, 2001, and was published in the **Federal Register** February 15, 2001 (66 FR 10469). In the proposal, we determined that it was prudent to designate approximately 125 ha (310 ac) of lands in Santa Cruz County as critical habitat. The publication of the proposed rule opened a 60-day public comment period, which closed on April 16, 2001. On September 19, 2001, we published a notice announcing the reopening of the comment period on the proposal to designate critical habitat for *C. r.* var. *hartwegii*, and a notice of availability of the draft economic analysis on the proposed determination (66 FR 48227). This second public comment period closed on October 19, 2001. On February 1, 2002, the Office of the Secretary of the Interior published a notice reopening the comment period until February 15, 2002 (67 FR 4940). The comment period was reopened to allow individuals to resubmit comments that we may not have received due to the Department's Internet access, including the receipt of outside e-mail, being shut down.

Summary of Comments and Recommendations

We contacted appropriate Federal, State, and local agencies, scientific organizations, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a notice in the Santa Cruz Sentinel on February 24, 2001. We received individually written letters from seven parties, including three designated peer reviewers, and two environmental groups. Approximately 800 additional letters were submitted as part of a mailing campaign. Of the seven parties responding individually, five supported the proposed designation, one was neutral, and one was opposed. Of the 800 additional letters, 23 were opposed, 1 was neutral, and the remaining were in support of the critical habitat designation.

We reviewed all comments received for substantive issues and new information regarding critical habitat and *Chorizanthe robusta* var. *hartwegii*. Similar comments were grouped into three general issues relating specifically to biological issues, procedural and legal issues, and economic issues. These are addressed in the following summary.

Issue 1: Biological Justification and Methodology

Comment 1: The proposed designation is not properly supported by the best scientific information available. In particular, the Service makes "numerous and unsupported assertions regarding the biology and habitat requirements" of the species, and did not use the data available to them.

Service Response: As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Chorizanthe robusta* var. *hartwegii*. This information included data from the California Natural Diversity Data Base (CNDDB 2000), geologic and soil survey maps (USGS 1989, SCS 1980), recent biological surveys and reports, our recovery plan for this species, additional information provided by interested parties, and discussions with botanical experts. We also conducted multiple site visits to the two locations that were proposed for designation.

Comment 2: One peer reviewer suggested expanding the list of primary constituent elements to include such factors as seed germination requirements, substrate salinity, microreliefs and microclimates within local habitats, seasonal and yearly groundwater levels, and bird populations that migrate within the range of *Chorizanthe robusta* var. *hartwegii*.

Our Response: While we recognize that these factors may be important components of the habitats within which *Chorizanthe robusta* var. *hartwegii* is found, we do not have sufficient information at this time that leads us to believe they are the primary factors essential to the conservation of *C. r.* var. *hartwegii* throughout its range.

Comment 3: One commenter submitted a map portraying a recommended revision to the proposed critical habitat covering the parcel owned by American Dream/Glenwood L.P. which would reduce the extent of critical habitat on that parcel. The commenter suggested that the swath of low-elevation grasslands that occur along Carbonera Creek in the middle of the Glenwood Unit could be eliminated from critical habitat, as well as a portion of the Carbonera Creek watershed above

them, because the low-level grasslands do not support the primary constituent elements, and the presence of existing residential development and the Scotts Valley High School along Glenwood Drive makes this area a less desirable movement corridor for wildlife functioning as dispersal agents.

Our Response: The low-elevation grasslands along Carbonera Creek do support some of the primary constituent elements, including; a grassland community, area to allow for adequate seed dispersal between existing colonies and other suitable sites, and areas that allow pollinator activity between existing colonies. In particular, the low-level grasslands along Carbonero Creek provide an important corridor for dispersers and pollinators between the colonies on the west and east sides of Glenwood Drive. The recent development of the Scotts Valley High School has reduced the extent of the corridor between the east and west sides of Carbonero Creek, and has therefore increased the conservation value and importance of the remaining corridor for pollinators and seed dispersers. In the background section of this final rule, we have expanded the discussion of potential seed dispersers and pollinators, which are part of the primary constituent elements, to clarify the role that these elements play in the long-term conservation of the species.

The recovery plan for the species states that to downlist the species from endangered to threatened, all known sites would have to be in protected status, a habitat conservation plan would have to be in place with the City of Scotts Valley, and population numbers would have to be stable or increasing (Service 1998). The limited range of the species, the limited opportunities for conservation, and the existence of threats on all locations where it occurs, makes conservation of the species very difficult. Further loss of habitat or compromising the ecological processes on which the species depends may eliminate the ability of the species to persist.

Issue 2: Legal and Procedural Issues

Comment 4: The proposed designation fails to designate specific areas as critical habitat; rather, it uses a landscape approach.

Service Response: The critical habitat designation delineates areas which contain locations of known individuals of *Chorizanthe robusta* var. *hartwegii* and areas with the constituent elements that we believe are necessary for the long-term conservation of *C. r.* var. *hartwegii*. The distribution of *C. r.* var. *hartwegii* is so restricted that direct and indirect threats to its habitat may preclude our ability to recover the species. Given the limited distribution of the species, we were able to map critical habitat for it with a high level of precision.

Comment 5: The proposed designation improperly includes areas not essential to the conservation of *Chorizanthe robusta* var. *hartwegii*.

Service Response: We recognize that not all parcels of land proposed and designated as critical habitat contain the habitat components essential to the conservation of *Chorizanthe robusta* var. *hartwegii*. Some lands included in the proposed designation have not been included in this final designation. In developing the final designation, we modified boundary lines to exclude areas that obviously did not contain the primary constituent elements, and for which we were unable to draw more precise boundaries at the time of the proposed designation. The use of recently acquired high-resolution aerial photographs dating from April 2000 enabled us to undertake this more precise mapping. However, due to our mapping scale, some areas not essential to the conservation of *C. r.* var. *hartwegii* were included within the boundaries of final critical habitat. Certain features, such as, buildings, roads, other paved areas and urban landscaped areas do not contain the primary constituent elements for the species. Service staff at the contact numbers provided are available to assist landowners in discerning whether or not lands within the critical habitat boundaries actually possess the primary constituent elements for the species.

Comment 6: The proposed designation fails to delineate between occupied and unoccupied habitat areas.

Service Response: In this final designation all of the critical habitat units are occupied by either standing plants or support a *Chorizanthe robusta* var. *hartwegii* seed bank, but each of the units probably contains areas that are considered currently unoccupied by the species. "Occupied" is defined here as an area that may or may not have an above-ground standing mass of *C. r.* var. *hartwegii* during current surveys, but if no standing mass is apparent, the site likely contains a below-ground seed bank of indefinite boundary. All occupied sites contain some or all of the primary constituent elements and are essential to the conservation of the species, as described below. "Unoccupied" is defined here as an area that contains no above-ground standing mass of *C. r.* var. *hartwegii* and the unlikely existence of a viable seed bank. The inclusion of unoccupied habitat in our critical habitat units reflects the dynamic nature of the habitat and the life history characteristics of this taxon. Unoccupied areas provide areas into which populations might expand, provide connectivity or linkage between colonies within a unit, and support populations of pollinators and seed dispersal organisms.

The commenter also cited that there is a lack of data to show that colonies may temporarily disappear or expand into areas surrounding the immediate vicinity of the current year's colony. Determining the specific areas that this taxon occupies is difficult for several reasons: (1) The way the current distribution of *Chorizanthe robusta* var. *hartwegii* is mapped can be variable, depending on the scale at which patches of individuals are recorded (*e.g.*, many small patches versus one large patch) and (2) depending on the climate and other annual variations in habitat conditions, the extent of the distributions may either shrink and temporarily disappear, or, if there is a residual seedbank present, enlarge and cover a more extensive area. Because it is logistically difficult to determine how extensive the seed bank is at any particular site and because above-ground plants may or may not be present in all patches within a site every year, we cannot quantify in any meaningful way what proportion of each critical habitat unit may actually be occupied by *C. r.* var. *hartwegii* .

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." (50 CFR 424.12(e)). Because of the very limited range of *Chorizanthe robusta* var. *hartwegii*, designating only occupied areas would not meet the conservation requirements of the species. Occupied areas, as well as the grassland areas around them within the designated units of critical habitat which may be occupied in the future, provide the essential life-cycle needs of the species and provide some or all of the habitat components essential for the conservation (primary constituent elements) of *C. r.* var. *hartwegii*. We are designating critical habitat for *C. r.* var. *hartwegii* in all areas that are known to currently be occupied by the species. Even so, we believe that the small amount of critical habitat that we are designating for *C. r.* var. *hartwegii* will be insufficient to provide for its recovery because of the development projects that are proposed and the secondary impacts that will result from

the development. At this time, we are not aware of additional populations of *C. r.* var. *hartwegii* nor additional areas that can be occupied by the species in the future.

Comment 7: The Service should review the endangered status of *Chorizanthe robusta* var. *hartwegii*. Since the listing of the species, no new information about the habitats essential to the species had been obtained.

Service Response: Since the time of listing in 1994, we have reviewed new information from the CNDDB, biological surveys, botanists in the field familiar with the species, and made numerous visits to field sites. From this information, we believe that the range of the species is limited to the Scotts Valley area. Since the species was listed as endangered in 1994, habitat for the species has been destroyed due to several development projects, and additional habitat has been altered due to secondary impacts resulting from development. According to a review of the socioeconomic information available about the geographic area presented in the draft economic analysis, pressure on the remaining suitable habitat for the species from residential and commercial development and recreation, has increased steadily since the species was listed in 1994. The increased pressure on the limited area currently available for this species reinforces its endangered status and the need to designate critical habitat.

Comment 8: The Service has failed to properly consider the economic and other impacts of designating particular areas as critical habitat.

Service Response: The Service published the economic analysis for designating the critical habitat for *Chorizanthe robusta* var. *hartwegii* on September 19, 2001 (66 FR 48227). There was a 30-day public comment period associated with this publication. Comments received on the economic analysis are incorporated with the comments received on the other portions of the proposed designation in this final rule. In addition, an addendum to the economic analysis, incorporating the comments received on the economic analysis, has been completed and is available upon request (*see* **ADDRESSES** section).

Comment 9: The Service has improperly bifurcated its consideration of economic impacts and other factors.

Service Response: Pursuant to section 4(b)(2) of the Act, we are to evaluate, among other relevant factors, the potential economic effects of the designation of critical habitat for *Chorizanthe robusta* var. *hartwegii*. We published our proposed designation in the **Federal Register** on February 15, 2001 (66 FR 10469). At that time, our Division of Economics and their consultants, Industrial Economics, Inc., initiated the draft economic analysis. The draft economic analysis was made available for public comment and review beginning on September 19, 2001 (66 FR 48227). Following a 30-day public comment period on the proposal and draft economic analysis, a final addendum to the economic analysis was developed. Both the draft economic analysis and final addendum were used in the development of this final designation of critical habitat for *C. r.* var. *hartwegii*. Please refer to the Economic Analysis section of this final rule for a more detailed discussion of these documents.

Comment 10: The Service has not provided a fair and meaningful opportunity for comment on its proposed designation.

Service Response: We published a proposed rule to designate critical habitat for *Chorizanthe robusta* var. *hartwegii* on February 15, 2001 (66 FR 10469), and accepted comments from the public for 60 days, until April 16, 2001. The comment period was reopened from September 19, 2001, to October 19, 2001 (66 FR 48227) and February 1, 2002, to February 15, 2002 (67 FR 4940), to allow for additional comments on the proposed designation, and comments on the draft economic analysis of the proposed critical habitat.

We contacted all appropriate State and Federal agencies, county governments, elected officials, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a notice in the Santa Cruz Sentinel on February 24, 2001. We provided notification of the draft economic analysis through telephone calls, letters, and news releases faxed and/or mailed to affected elected officials, local jurisdictions, and interest groups. Additionally, the public had the opportunity to request a public hearing, but none was requested.

Comment 11: The Service should prepare and consider an environmental impact statement in keeping with NEPA.

Service Response: We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act as amended. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). Also, the public involvement and notification requirements under both the Endangered Species Act and the Administrative Procedure Act provide ample opportunity for public involvement in the process, similar to the opportunities for public involvement and economic analysis of effects that would be provided in the NEPA process.

Issue 3: Economic Comments

Comment 12: Some commenters expressed concern that the economic analysis fails to adequately describe the potential social welfare benefits of the rule such as the averted cost to society if, absent the rule, the areas identified in this rule are developed or somehow used in a manner that leads to the extinction of the species.

Our Response: We recognize that social welfare generally benefits from the conservation and recovery of endangered and threatened species and their habitat as numerous studies have shown that society values open space and biodiversity. Benefits to social welfare are composed of direct and passive use benefits. Examples of direct use benefits, as it may relate to species protection, include such activities as commercial cultivation of a species for medicinal purposes (*e.g.*, the Pacific yew tree) and tourism associated with a species' presence (*e.g.*, traveling to a certain part of the country just to see protected species and their habitat). Passive use benefits may include such values as option, bequest, and existence values that include, respectively, the value to society of future direct use benefits, the value of conserving species and their habitat for future generations, and the value gained by society from simple acknowledgment that a species continues to exist in its natural habitat.

While we have acknowledged the potential for society to experience such benefits in our economic analyses for critical habitat rulemakings, our ability to actually measure these benefits in any meaningful way is difficult and imprecise at best. While we are aware of many studies that attempt to identify the social benefits of open space, the use of public lands for recreational purposes, the cost of sprawl, *etc.*, few of these studies provide any meaningful information that can be used to develop estimates associated with critical habitat designation. The designation of critical habitat does not necessarily inhibit development of private property, which makes it difficult to draw upon the literature of the economic values of open space to identify potential benefits

of critical habitat designation. Also, while some economic studies attempt to measure the social value of protecting endangered species, the species that are often valued are well known and easy to identify (*e.g.*, bighorn sheep) in contrast to less high profile species. Furthermore, the values identified in these studies would be most closely associated with the listing of a species as endangered or threatened because the listing serves to provide the majority of protection and conservation benefits under the Act.

While we will continue to explore ways that will allow us to provide more meaningful descriptions of the potential social benefits associated with critical habitat designation, we believe that due to the current lack of available data specific to these rulemakings, along with the time and resource constraints imposed upon the Service, the benefits of critical habitat designation can best be expressed in biological terms that can then be weighed against the expected social costs of the rulemaking.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited independent opinions from three knowledgeable individuals with expertise in one or several fields, including familiarity with the species, familiarity with the geographic region that the species occurs in, and familiarity with the principles of conservation biology. All three of the peer reviewers supported the proposal, and provided us with comments which were summarized in the previous section and incorporated into the final rule.

Summary of Changes From the Proposed Rule

Based on a review of public comments received on the proposed determination of critical habitat, we reevaluated our proposed designation and made several changes to the final designation of critical habitat. These include the following:

(1) The description of the primary constituent elements was modified and clarified. One peer reviewer suggested expanding the list of primary constituent elements (*see comment 2* in *Summary of Comments* above). However, we took some of these additional elements suggested by the peer reviewer, and included discussion of them as features of the landscape that needed special management or protections.

(2) One element ("physical processes. * * * that support natural dune dynamics") was erroneously included in the proposed rule; it has been removed from this final rule.

(3) We added a section describing the Special Management Needs or Protections that *Chorizanthe robusta* var. *hartwegii* may require. We believe that this new section will assist land managers in developing management strategies for *C. r.* var. *hartwegii* on their lands.

(4) We made minor revisions to the boundary lines on both units. The purpose for these minor changes was to remove areas that do not contain the primary constituent elements. The use of recently acquired high-resolution aerial photographs dating from April, 2000 enabled us to undertake this more precise mapping. These changes reduced the Glenwood Unit by 4 percent and Polo Ranch Unit was reduced 15 percent by eliminating some of the riparian gallery forest at the western edge of the unit that borders Carbonero Creek because the area does not support any of the primary constituent elements.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Section 7(a)(2) of the Act requires Federal agencies to consult with the Service to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification critical habitat. Section 7 of the Act also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

In order to be included in a critical habitat designation, the habitat must first be "essential to the conservation of the species." Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 of the Act requires that we designate critical habitat for a species, to the extent such habitat is determinable, at the time of listing. When we designate critical habitat at the time of listing or under short court-ordered deadlines, we will often not have sufficient information to identify all areas essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area occupied by the species, we will attempt to not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), which provide essential life cycle needs of the species. However, we may be restricted by our minimum mapping unit or mapping scale.

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." (50 CFR 424.12(e)). Accordingly, when

the best available scientific and commercial data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should, at a minimum, be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, unpublished materials, and expert opinion.

Habitat is often dynamic, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the Act's section 7(a)(2) jeopardy standard and the section 9 of the Act prohibitions, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act and regulations at 50 CFR 424.12 we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Chorizanthe robusta* var. *hartwegii*. This information included information from the CNDDB 2000, geologic and soil survey maps (USGS 1989, SCS 1979), recent biological surveys and reports, our recovery plan for this species, additional information provided by interested parties, and discussions with botanical experts. We also conducted multiple site visits to the two locations that are being designated as critical habitat.

We also reviewed the goals for downlisting *Chorizanthe robusta* var. *hartwegii* included in our recovery plan that addresses this species and other taxa from the Santa Cruz Mountains (Service 1998).

The plan calls for the following recovery actions: (1) Secure and protect habitat for *Chorizanthe robusta* var. *hartwegii* through HCPs, conservation easements, or acquisition; (2) manage habitat for the species through such actions as control of non-native species, reducing impacts from recreation, restoring degraded sites, and regular monitoring; (3) learn more about the life history, ecology, and population dynamics of the species that will contribute to developing appropriate management strategies; (4) increase public awareness of the species and its associated habitats through various outreach efforts; and (5) use an adaptive management approach to revise management strategies over time. Critical habitat alone is not expected to recover the species, and it is only one of many strategies that can assist in such recovery.

Determining the specific areas that this taxon occupies is difficult for several reasons: (1) The distribution of *Chorizanthe robusta* var. *hartwegii* appears to be more closely tied to the presence of sandy soils than to specific plant communities; the plant communities may undergo changes over time, which, due to the degree of cover that is provided by that vegetation type, may or may not favor the growth of *C. r.* var. *hartwegii* above ground; (2) the way the current distribution of *C. r.* var. *hartwegii* is mapped can be variable, depending on the scale at which patches of individuals are recorded (*e.g.*, many small patches versus one large patch); and (3) depending on the climate and other annual variations in habitat conditions, the extent of the distributions may either shrink and temporarily disappear, or, if there is a residual seedbank present, enlarge and cover a more extensive area. Because it is logistically difficult to determine how extensive the seed bank is at any particular site and because above-ground plants may or may not be present in all patches within a site every year, we cannot quantify in any meaningful way what proportion of each critical habitat unit may actually be occupied by *C. r.* var. *hartwegii*. Therefore, patches of unoccupied habitat are interspersed with patches of occupied habitat; the inclusion of unoccupied habitat in our critical habitat units reflects the dynamic nature of the habitat and the life history characteristics of this taxon. Unoccupied areas provide areas into which populations might expand, provide connectivity or linkage between colonies within a unit, and support populations of pollinators and seed dispersal organisms.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to—space for individual and population growth, and for normal behavior; food, water, air, light, minerals or other nutritional or physiological requirements; cover or shelter; sites for germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Much of what is known about the specific physical and biological requirements of *Chorizanthe robusta* var. *hartwegii* is described in the Background section of this final rule. Based on the best available information at this time, we believe the long-term probability of the conservation of *C. r.* var. *hartwegii* is dependent upon the protection of existing population sites, and the maintenance of ecologic functions within these sites, including connectivity between colonies within close geographic proximity to facilitate pollinator activity and seed dispersal mechanisms, and the ability to maintain disturbance factors (for example, fire disturbance) that maintain the openness of plant cover on which the species

depends. In addition, the small range of this species makes it vulnerable to edge effects from adjacent human activities, including disturbance from trampling and recreational use, the introduction and spread of non-native species, and the application of herbicides, pesticides, and other contaminants (Conservation Biology Institute 2000).

The primary constituent elements of critical habitat for *Chorizanthe robusta* var. *hartwegii* are:

(1) Thin soils in the Bonnydoon series that have developed over outcrops of Santa Cruz mudstone and Purisima sandstone;

(2) "Wildflower field" habitat that has developed on these thin-soiled sites;

(3) A grassland plant community that supports the "wildflower field" habitat, that is stable over time and in which nonnative species are absent or are at a density that has little or no adverse effect on resources available for growth and reproduction of *Chorizanthe robusta* var. *hartwegii*;

(4) Sufficient areas around each population to allow for recolonization to adjacent suitable microhabitat sites in the event of catastrophic events;

(5) Pollinator activity between existing colonies of *Chorizanthe robusta* var. *hartwegii*;

(6) Seed dispersal mechanisms between existing colonies and other potentially suitable sites; and

(7) Sufficient integrity of the watershed above habitat for *Chorizanthe robusta* var. *hartwegii* to maintain soil and hydrologic conditions that provide the seasonally wet substrate for growth and reproduction of *C. r.* var. *hartwegii*.

Special Management Considerations or Protections

Special management considerations or protections may be needed to maintain the primary constituent elements for *Chorizanthe robusta* var. *hartwegii* within the units being designated as critical habitat. In some cases, protection of existing habitat and current ecologic processes may be sufficient to ensure that populations of *C. r.* var. *hartwegii* are maintained at those sites and have the ability to reproduce and disperse in surrounding habitat. In other cases, however, active management may be needed to maintain the primary constituent elements for *C. r.* var. *hartwegii*. We have outlined below the most likely kinds of special management and protection that *C. r.* var. *hartwegii* may require.

(1) The soils on which *Chorizanthe robusta* var. *hartwegii* is found should be maintained to optimize conditions for its persistence. Physical properties of the soil, such as its chemical composition, surface crust, and drainage capabilities would best be maintained by limiting or restricting the use or application of herbicides, fertilizers, or other soil amendments.

(2) Overspray from irrigation or saturation of soils beyond the normal season should also be avoided, as this may alter the structure and composition of the grassland community, or render the native species more vulnerable to pathogens found in wetter soil regimes.

(3) The associated plant communities must be maintained to ensure that the habitat needs of pollinators and seed dispersal agents are maintained. For pollinators, the use of pesticides should be limited or restricted so that healthy populations of pollinators are present to effect seed set in *Chorizanthe robusta* var. *hartwegii*. For dispersal agents, the fragmentation of habitat through construction of roads and certain types of fencing should be limited so that these agents may disperse seed of *C. r.* var. *hartwegii* throughout the unit.

(4) Within the grassland community where *Chorizanthe robusta* var. *hartwegii* occurs, invasive, non-native species such as bromes and other species may need to be actively managed to maintain the patches of open habitat that *C. r.* var. *hartwegii* needs.

(5) Certain areas where *Chorizanthe robusta* var. *hartwegii* occurs may need to be fenced to protect it from accidental or intentional trampling by humans and livestock. While *C. r.* var. *hartwegii* appears to withstand light to moderate disturbance, heavy disturbance may be detrimental to its persistence. Seasonal exclusions may work in certain areas to protect *C. r.* var. *hartwegii* during its critical season of growth and reproduction.

Criteria Used To Identify Critical Habitat

In delineating the critical habitat units, we selected areas that provide for the conservation of *Chorizanthe robusta* var. *hartwegii* at the only two sites where it is known to occur. We believe it is important to preserve all areas that currently support native populations of *C. r.* var. *hartwegii* because the current range of the species is so restricted that it places great importance on the conservation of all the known remaining sites. The species is currently growing on less than 0.4 ha (1 ac) of land. However, habitat is not restricted solely to the area where standing individuals can be observed. Habitat for the species must include an area that is large enough to maintain the ecological functions upon which the species depends (*e.g.*, the hydrologic and soil conditions for seed germination and establishment, pollinators and seed dispersers). We believe it is important to designate an area of sufficient size to maintain landscape scale processes that maintain the patches of wildflower field habitat, and to minimize the alteration of habitat, such as invasions of non-native species and recreation-caused erosion, that result from human occupancy and human activities occurring in adjacent areas.

We delineated the critical habitat units by creating data layers in a geographic information system (GIS) format of the areas of known occurrences of Chorizanthe robusta var. *hartwegii* using information from the California Natural Diversity Data Base (CNDDB 2000) and the other information sources listed above. These data layers were created on a base of USGS 7.5′ quadrangle maps obtained from the State of California's Stephen P. Teale Data Center. Because the areas within proposed critical habitat boundaries were portions of the San Augustin Spanish Land Grant, they have not been surveyed according to the State Plan Coordinate System. Therefore, instead of defining proposed critical habitat boundaries using a grid of township, range, and section, we defined the boundaries for the proposed critical habitat units using known landmarks and roads.

During preparation of the final rule, we found several discrepancies between the legal description of the boundaries of the critical habitat units and the boundaries of the units as depicted in the maps accompanying the proposed rule. The discrepancies resulted primarily through our use of data layers created at a small scale (for example 1:100,000 scale USGS mapping) during preparation of the maps of proposed critical habitat. For the final rule, we corrected the mapped boundaries of critical habitat first to be consistent with the boundaries as described in the proposed rule. We then modified the boundaries of proposed critical habitat using information on the location of existing developed areas from recent (April 2000) aerial imagery, additional information from botanical experts, and comments on the proposed rule. The boundaries of the final critical habitat units are defined by Universal Transverse Mercator (UTM).

In selecting areas of critical habitat, we made an effort to avoid developed areas, such as housing developments, which are unlikely to contribute to the conservation of *Chorizanthe robusta* var. *hartwegii*. For the final rule, we attempted to map critical habitat in sufficient detail to exclude all developed areas (buildings), or other lands unlikely to contain the primary constituent elements essential for the conservation of *C. r.* var. *hartwegii*. Note that other areas within the boundaries of the mapped units, such as roads, parking lots, and other paved areas, lawns, and other urban landscaped areas will not contain any of the primary constituent elements. Federal actions limited to these areas, therefore would not trigger a section 7 of the Act consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Critical Habitat Designation

The critical habitat areas described below constitute our best assessment at this time of the areas essential for the species' conservation. Critical habitat for *Chorizanthe robusta* var. *hartwegii* is being designated at the only two sites where it is known to occur and both units are currently occupied with known occurrences of *C. r.* var. *hartwegii*. These areas provide the essential life cycle needs of the species and the habitat components essential for the survival of *C. r.* var. *hartwegii*. The two units are primarily within the city limits of Scotts Valley in Santa Cruz County, with a small portion within an unincorporated area of Santa Cruz County, California, and include the grassland habitat that contains the "wildflower field" patches on which the species depends. Given the threats to the habitat of *C. r.* var. *hartwegii* discussed above, we believe that these areas are likely to require special management considerations and protection.

Because we consider maintaining hydrologic and soil conditions so important in these grasslands, the critical habitat area extends outward to the following limits—(1) Upslope from the occurrences of *Chorizanthe robusta* var. *hartwegii* to include the upper limit of the immediate watershed; (2) downslope from the occurrences of *C. r.* var. *hartwegii* to the point at which grassland habitat is replaced by forest habitats (oak forest, redwood forest, or mixed conifer-hardwood forest); and (3) to the boundary of existing development.

Unit Descriptions

We are designating the following general areas as critical habitat (*see* legal descriptions for exact critical habitat boundaries).

Unit 1: Glenwood Site

Unit 1 consists of approximately 87 ha (214 acres) to the west of Glenwood Drive and north and northwest of Casa Way, in the City of Scotts Valley, including land owned and managed by the Salvation Army; land owned and managed by the Scotts Valley High School District as a preserve, but excluding the rest of the High School, and to the east of Glenwood Drive, encompassing the parcel known as the Glenwood Development. Most of the land being designated within this unit is privately owned, with a small portion (4 ha (9 ac)) owned by a local agency. This unit is essential because it supports approximately 90 percent of the known numbers of individuals of *Chorizanthe robusta* var. *hartwegii*, as well as other suitable patches of wildflower field habitat that could be colonized by the species; intervening habitat which supports the grassland community necessary for pollinators and seed dispersers; and a contiguous extent of the watershed that is necessary to maintain the hydrologic and soil conditions suitable for *C. r.* var. *hartwegii*.

Unit 2: Polo Ranch Site

The Polo Ranch site consists of approximately 30 ha (73 ac) to the east of Carbonera Creek on the east side of Highway 17 and north and northeast of Navarra Drive, in the City of Scotts Valley, known as the Polo Ranch, in the County of Santa Cruz, California. All of the land being designated as critical habitat is privately owned. This unit is essential because it supports approximately 10 percent of the known numbers of individuals of *Chorizanthe robusta* var. *hartwegii*, as well as other suitable patches of wildflower field habitat that could be colonized by the species; intervening habitat which supports the grassland community necessary for pollinators and seed dispersers; and a contiguous extent of the watershed that is necessary to maintain the hydrologic and soil conditions suitable for *C. r.* var. *hartwegii*.

TABLE 1.—APPROXIMATE CRITICAL HABITAT AREA (HA (AC)) BY AND LAND OWNERSHIP

[Estimates reflect the total area within critical habitat unit boundaries]

Unit name	Local agency	Private	Total
1. Glenwood Unit	4ha (9 ac)	83 ha (205 ac)	87 ha (214 ac)
2. Polo Ranch Unit	0 ha (0 ac)	30 ha (73 ac)	30 ha (73 ac)
Total	4 ha (9 ac)	113 ha (278 ac)	117 ha (287 ac)

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify its critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7 (a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. We may issue a formal conference report if requested by a Federal agency. Formal

conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat were designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (*see* 50 CFR 402.10 (d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide "reasonable and prudent alternatives" to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect *Chorizanthe robusta* var. *hartwegii* or its critical habitat will be subject to the section 7 of the Act consultation process. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act or any other activity requiring Federal action (*i.e.*, funding, authorization) will also continue to be subject to the section 7 of the Act consultation process. Federal actions not affecting critical habitat, as well as actions on non-Federal lands that are not federally funded or permitted, will not require section 7 of the Act consultation.

To properly portray the effects of critical habitat designation, we must first compare the requirements pursuant to section 7 of the Act for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 of the Act prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on the recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. Because both of the units we are designating are occupied by either standing plants or a *Chorizanthe robusta* var. *hartwegii* seed bank, and Federal agencies already consult with us on activities in areas where the species may be present to ensure that their actions do not jeopardize the continued existence of the species, the designation of critical habitat is not likely to result in a significant regulatory burden above that already in place due to the presence of the listed species. Actions on which Federal agencies consult with us include, but are not limited to:

(1) Development on private lands requiring permits from Federal agencies, such as section 404 of the Clean Water Act permits from the U.S. Army Corps of Engineers;

(2) Restoration projects sponsored by the Natural Resources Conservation Service;

(3) Pest control projects undertaken by the Animal and Plant Health Inspection Service, permits from Housing and Urban Development, or authorization of Federal grants or loans.

Such activities would be subject to the section 7 of the Act consultation process. Where federally listed wildlife species occur on private lands proposed for development, any habitat conservation plans submitted by the applicant to secure an incidental take permit according to section 10(a)(1)(B) of the Act would be subject to the section 7 of the Act consultation process. The Ohlone tiger beetle (*Cicindela ohlone*), a federally endangered species, occurs in close proximity to *Chorizanthe robusta* var. *hartwegii* within grasslands on the east side of Carbonero Creek on land owned by American Dream/Glenwood L.P.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat would be those that alter the primary constituent elements to the extent that the value of critical habitat for the conservation of *Chorizanthe robusta* var. *hartwegii* is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species. Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly destroy or adversely modify critical habitat include, but are not limited to:

(1) Activities that alter watershed characteristics in ways that would appreciably alter or reduce the quality or quantity of surface and subsurface flow of water needed to maintain natural grassland communities and the wildflower field habitat. Such activities adverse to *Chorizanthe robusta* var. *hartwegii* could include, but are not limited to: vegetation manipulation such as chaining or harvesting timber in the watershed upslope from *C. r.* var. *hartwegii*; maintaining an unnatural fire regime either through fire suppression or prescribed fires that are too frequent or poorly-timed; residential and commercial development, including road building and golf course installations; agricultural activities, including orchards, viticulture (the cultivation of grapes), row crops, and livestock grazing; and

(2) Activities that appreciably degrade or destroy native grassland communities, including but not limited to livestock grazing, clearing, discing, introducing or encouraging the spread of nonnative species, and heavy recreational use.

If you have questions about whether specific activities may constitute adverse modification of critical habitat, contact the Field Supervisor, Ventura Fish and Wildlife Office (*see* **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181 (503/231–6131, FAX 503/231–6243).

Relationship to Habitat Conservation Plans

Currently, there are no HCPs that include *Chorizanthe robusta* var. *hartwegii* as a covered species. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. Although "take" of listed plants is not prohibited by the Act, listed plant species may also be covered in an HCP for wildlife species.

In the event that future HCPs covering *Chorizanthe robusta* var. *hartwegii* are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development process would provide an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by *C. r.* var. *hartwegii*. The process would also enable us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a biologically configured system of interlinked habitat blocks. We will also provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify appropriate management for lands essential for the long-term conservation of *C. r.* var. *hartwegii*. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

Following the publication of the proposed critical habitat designation, a draft economic analysis was conducted to estimate the potential economic effect of the designation. The draft analysis was made available for review on September 19, 2001. We accepted comments on the draft analysis until October 19, 2001.

Our draft economic analysis evaluated the potential future effects associated with the listing of *Chorizanthe robusta* var. *hartwegii* as a threatened species under the Act, as well as any potential effect of the critical habitat designation above and beyond those regulatory and economic impacts associated with listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a "without critical habitat" baseline and compared it to a "with critical habitat" scenario. The "without critical habitat" baseline represented the current and expected economic activity under all modifications prior to the critical habitat designation, including protections afforded the species under Federal and State laws. The difference between the two scenarios measured the net change in economic activity attributable to the designation of critical habitat. The categories of potential costs considered in the analysis included the costs associated with: (1) Conducting section 7 of the Act consultations associated with the listing or with the critical habitat, including incremental consultations and technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 of the Act consultations; (3) uncertainty and public perceptions resulting from the designation of critical habitat; and (4) potential offsetting beneficial costs associated with critical habitat including educational benefits. The most likely economic effects of critical habitat designation are on private landowners carrying out development activities funded or authorized by a Federal agency.

Based on our draft analysis, we concluded that the designation of critical habitat would have little significant additional regulatory burden or associated significant additional costs because of critical habitat above and beyond those attributable to the listing of *Chorizanthe robusta* var. *hartwegii*. Our economic analysis does take into account that unoccupied habitat is being designated and that there may be some cost associated with new section 7 consultations that would not have occurred but for critical habitat being designated. Our economic analysis also recognizes that there may be economic effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be temporarily lowered due to perceived increase in the regulatory burden. However, we believe these impacts will be short-term or minimal in cost.

The draft economic analysis concludes that, over the next 10 years the total costs to all landowners attributable to the designation are expected to be approximately $16,000 to $56,000 annually, however, we anticipate the costs will be even less because the costs of preparing Environmental Impact Reports for proposed developments, which were figured into the estimates, would have already been prepared to satisfy California Environmental Quality Act requirements for the lead State agency. Costs to Federal agencies are expected to total approximately $10,000 total over the next 10 years. Costs to local agencies are expected to total $5,000 to $8,000 total over the next 10 years. However, this does not include the potential cost of developing a multispecies HCP. Costs to private landowners are expected to range from $159,000 to $558,000 total over the next 10 years.

Following the close of the comment period on the draft economic analysis, a final addendum was completed which incorporated public comments on the draft analysis. The values presented above may be an overestimate of the potential economic effects of the designation because the final designation has been reduced to encompass 117 ha (287 acres) versus the 125 ha (308 ac) proposed as critical

habitat, a difference of approximately 8 ha (21 ac).

A copy of the final economic analysis and a description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this is a significant rule and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

(a) In the economic analysis, we determined that this rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. *Chorizanthe robusta* var. *hartwegii* was listed as endangered in February, 1994. Since that time we have not conducted any formal or informal section 7 consultations with other Federal agencies with respect to *C. r.* var. *hartwegii*. However, should any agencies be involved in any activities within the area being designated as critical habitat, we will consult with them to ensure that their actions will not jeopardize the continued existence of *C. r.* var. *hartwegii* or adversely modify its critical habitat.

Under the Act, Federal agencies shall consult with the Service to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. The Act does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency (*see* Table 2 below). Based upon our knowledge of this species and its ecological needs, and the fact that it is so restricted in its range, we conclude that any Federal action or authorized action that could potentially result in the destruction or adverse modification of critical habitat would currently be considered as "jeopardy" under the Act in areas occupied by the species.

Accordingly, the designation of currently occupied areas as critical habitat is not anticipated to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding beyond the effects resulting from the listing of this species. Non-Federal persons that do not have a Federal "sponsorship" in their actions are not restricted by the designation of critical habitat. The designation of areas as critical habitat where section 7 of the Act consultations would not have occurred but for the critical habitat designation may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding that are not attributable to the species listing. These impacts were evaluated in our economic analysis (under section 4 of the Act; *see Economic Analysis* section of this rule).

TABLE 2.—IMPACTS OF *Chorizanthe robusta* var.*hartwegii* LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation[1]
Federal Activities Potentially Affected[2]	Activities conducted by the Army Corps of Engineers, the Department of Housing and Urban Development, the Environmental Protection Agency, the Natural Resources Conservation Service, the Animal and Plant Health Inspection Service, and any other Federal Agencies, including, but not limited to, the authorization of permits under section 404 of the Clean Water Act, the disbursement of grant monies for housing projects, the spraying of herbicides or pesticides, the permitting or funding of clean-up activities of contaminants, pest control projects, and land acquisition.	Activities by these Federal Agencies in designated areas where section 7 of the Act consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected[3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for *Chorizanthe robusta* var. *hartwegii* by mechanical, chemical, or other means or appreciably decrease habitat value or quality through indirect effects (*e.g.*, edge effects, invasion of exotic plants or animals, fragmentation of habitat).	Funding, authorization, or permitting actions by Federal Agencies in designated areas where section 7 of the Act consultations would not have occurred but for the critical habitat designation.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions not jeopardize the continued existence of *Chorizanthe robusta* var. *hartwegii* since its listing in 1994. We evaluated the impact of designating areas where section 7 of the Act consultations would not have occurred but for the critical habitat designation in our economic analysis (*see Economic Analysis* section of this rule). The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist on currently occupied land and will not create inconsistencies with other agencies' actions on unoccupied lands.

(c) This final rule is not expected to materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species and, as discussed above, we do not anticipate that the adverse modification prohibition, resulting from critical habitat designation will have any incremental effects.

(d) OMB has determined that this rule may raise novel and legal or policy issues. Therefore, this rule is significant under E.O. 12866 and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to prepare a certification statement. In this rule, we are certifying that the critical habitat designation for the *Chorizanthe robusta* var. *hartwegii* will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale.

Small entities include small organizations, such as independent non-profit organizations, small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting, *etc.*). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. While SBREFA does not explicitly define "substantial number," the Small Business Administration, as well as other Federal agencies, have interpreted this to represent an impact on 20 percent or greater of the number of small entities in any industry. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. Residential development on private land constitutes the primary activity expected to be impacted by the designation of critical habitat for the *Chorizanthe robusta* var. *hartwegii*.

To be conservative (*i.e.*, more likely overstate impacts than understate them), the economic analysis assumed that all potentially affected parties that may be engaged in development activities within critical habitat are small entities. There are approximately 35 small residential development and construction companies in Santa Cruz County. Because the draft EA estimates that at most three formal consultations could arise involving private entities, the analysis for impacts on small businesses assumes that at most three residential/small business entities may be affected by the designation of critical habitat for the Scotts Valley spineflower in Santa Cruz County over a ten-year period. It's important to note that, to date, we have not conducted any formal consultations for *Chorizanthe robusta* var. *harwegii*.

In each year over the ten-year period of analysis, on average, there would likely be less than a single consultation for real estate development projects. As a result, less than one percent of the total number of small residential development and construction companies could be affected annually by the designation of critical habitat for the *Choriazanthe robust* var. *hartwegii*. Because the percentage of small businesses that could be affected by this designation is far less than the 20 percent threshold that would be considered "substantial," the economic analysis concludes that this designation will not affect a substantial number of small entities as a result of the designation of critical habitat for *Choriazanthe robust* var. *hartwegii*.

In general, two different mechanisms in section 7 of the Act consultations could lead to additional regulatory requirements for the one small business, on average, that may be required to consult with us each year regarding their project's impact on *Chorizanthe robusta* var. *hartwegii* and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives."

Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations pursuant to section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7

consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These alternatives, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have no consultation history for *Chorizanthe robusta* var. *hartwegii*, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation.

It is likely that a developer could modify a project to avoid removing standing plants. Based on the types of modifications that have been implemented in the past for plant species, a developer may take such steps as installing fencing or re-aligning the project to avoid sensitive areas. The cost for implementing these modifications for one project is expected to be of the same order of magnitude as the total cost of the consultation process, *i.e.*, approximately $16,000. It should be noted that developers likely would already be required to undertake such modifications due to regulations in California Environmental Quality Act. These modifications are not likely to result in a significant economic impact to project proponents. However, there does remain some concern about secondary impacts to the species. These will need to be addressed before projects are approved.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities and have determined, for the above reasons, that it will not affect a substantial number of small entities. Furthermore, we believe that the potential compliance costs for the number of small entities that may be affected by this rule will not be significant. Therefore, we are certifying that the designation of critical habitat for *Chorizanthe robusta* var. *hartwegii* will not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined whether designation of critical habitat would cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that they must ensure that any programs involving Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Executive Order 13211

On May 18, 2001, the President issued a Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. There are no energy-related facilities located within designated critical habitat. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for *Chorizanthe robusta* var. *hartwegii* in a takings implication assessment. The takings implications assessment concludes that this final rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by *Chorizanthe robusta* var. *hartwegii* would have little incremental impact on State and local governments and their activities. The designations may have some benefit to these governments in that the areas essential to the conservation of this species is more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long range planning, rather than waiting for case-by-case section 7 of the Act consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Chorizanthe robusta* var. *hartwegii*.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act as amended. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a Government-to-Government basis. The designated critical habitat for *Chorizanthe robusta* var. *hartwegii* does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Constance Rutherford, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In § 17.12(h) revise the entry for *Chorizanthe robusta* var. *hartwegii* under "FLOWERING PLANTS" in the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
.	.	.	.	.	.	.	.
Chorizanthe robusta var. *hartwegii*.	Scotts Valley spineflower.	U.S.A. (CA)	Polygonaceae—Buckwheat.	E	528	17.96(a)	NA
.	.	.	.	.	.	.	.

3. Amend § 17.96(a) by adding critical habitat for Scotts Valley spineflower (*Chorizanthe robusta* var. *hartwegii*) in alphabetical order under Family Polygonaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) * * *

Family Polygonaceae: *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower)

(1) Critical habitat units are depicted for Santa Cruz County, California, on the map below.

(2) The primary constituent elements of critical habitat for *Chorizanthe robusta* var. *hartwegii* are the habitat components that provide:

(i) Thin soils in the Bonnydoon series that have developed over outcrops of Santa Cruz mudstone and Purisima sandstone;

(ii) "Wildflower field" habitat that has developed on these thin-soiled sites;

(iii) A grassland plant community that supports the "wildflower field" habitat, that is stable over time and in which nonnative species are absent or are at a density that has little or no adverse effect on resources available for growth and reproduction of *Chorizanthe robusta* var. *hartwegii;*

(iv) Sufficient areas around each population to allow for recolonization to adjacent suitable microhabitat sites in the event of catastrophic events;

(v) Pollinator activity between existing colonies of *Chorizanthe robusta* var. *hartwegii;*

(vi) Seed dispersal mechanisms between existing colonies and other potentially suitable sites; and

(vii) Sufficient integrity of the watershed above habitat for *Chorizanthe robusta* var. *hartwegii* to maintain soil and hydrologic conditions that provide the seasonally wet substrate for growth and reproduction.

(3) Existing features and structures, such as buildings, roads, railroads, airports, other paved areas, lawns, and other urban landscaped areas, do not contain one or more of the primary constituent elements. Federal actions limited to those areas, therefore, would not trigger a consultation under section 7 of the Act unless they may affect the species and/or primary constituent elements in adjacent critical habitat.

(4) Unit 1: Santa Cruz County, California.

From USGS 7.5′ quadrangle map Felton, California, Mount. Diablo Meridian, California.

Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 587990, 4103190; 587999, 4103220; 588021, 4103230; 588025, 4103250; 587997, 4103260; 588025, 4103280; 588035, 4103290; 588033, 4103310; 588025, 4103320; 588012, 4103330; 588014, 4103340; 588005, 4103350; 587984, 4103360; 587969, 4103370; 587962, 4103380; 587958, 4103390; 587962, 4103400; 587975, 4103410; 587992, 4103410; 588012, 4103420; 588029, 4103400; 588046, 4103410; 588058, 4103420; 588064, 4103430; 588072, 4103450; 588082, 4103480; 588088, 4103500; 588091, 4103530; 588091, 4103560; 588099, 4103570; 588115, 4103590; 588146, 4103580; 588169, 4103610; 588201, 4103630; 588272, 4103700; 588411, 4104050; 588571, 4103930; 588584, 4103940; 588589, 4103960; 588590, 4103980; 588583, 4104010; 588574, 4104030; 588559, 4104050; 588549, 4104070; 588568, 4104110; 588833, 4104150; 588827, 4104020; 588883, 4104030; 588891, 4103950; 588906, 4103920; 588931, 4103890; 588979, 4103870; 589049, 4103870; 589069, 4103680; 589061, 4103450; 589124, 4103440; 589173, 4103400; 589117, 4103050; 589062, 4103060; 589019, 4102960; 589099, 4102940; 589096, 4102920; 588612, 4103020; 588570, 4102880; 588485, 4102900; 588474, 4102960; 588452, 4102960; 588452, 4103090; 588473, 4103160; 588502, 4103270; 588504, 4103330; 588505, 4103420; 588402, 4103470; 588360, 4103480; 588292, 4103480; 588267, 4103440; 588121, 4103320; 588033, 4103080; 588352, 4103020; 588337, 4102930; 588000, 4102990; 587981, 4102940; 587900, 4102940; 587900, 4102960; 587905, 4102980; 587919, 4102970; 587931, 4102970; 587932, 4102990;

587924, 4103010; 587916, 4103040; 587915, 4103060; 587893, 4103070; 587887, 4103090; 587883, 4103100; 587885, 4103100; 587891, 4103110; 587911, 4103100; 587939, 4103130; 587942, 4103150; 587951, 4103160; 587963, 4103150; 587977, 4103160; 587990, 4103190.

(5) Unit 2: Santa Cruz County, California.

From USGS 7.5′ quadrangle map Laurel, California.

Lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 589297, 4102370; 589213, 4102420; 589164, 4102430; 589168, 4102460; 589174, 4102500; 589181, 4102550; 589189, 4102570; 589210, 4102600; 589243, 4102620; 589261, 4102630; 589274, 4102640; 589271, 4102660; 589270, 4102680; 589270, 4102690; 589289, 4102710; 589327, 4102740; 589361, 4102770; 589402, 4102790; 589435, 4102800; 589472, 4102800; 589571, 4102790; 589657, 4102780; 589762, 4102770; 589845, 4102750; 589889, 4102730; 589917, 4102690; 589932, 4102660; 589932, 4102620; 589930, 4102530; 589865, 4102440; 589732, 4102250; 589681, 4102260; 589669, 4102290; 589661, 4102300; 589642, 4102310; 589623, 4102310; 589590, 4102310; 589531, 4102320; 589297, 4102370.

(6) *Critical Habitat Map for Units 1 and 2 follows:*

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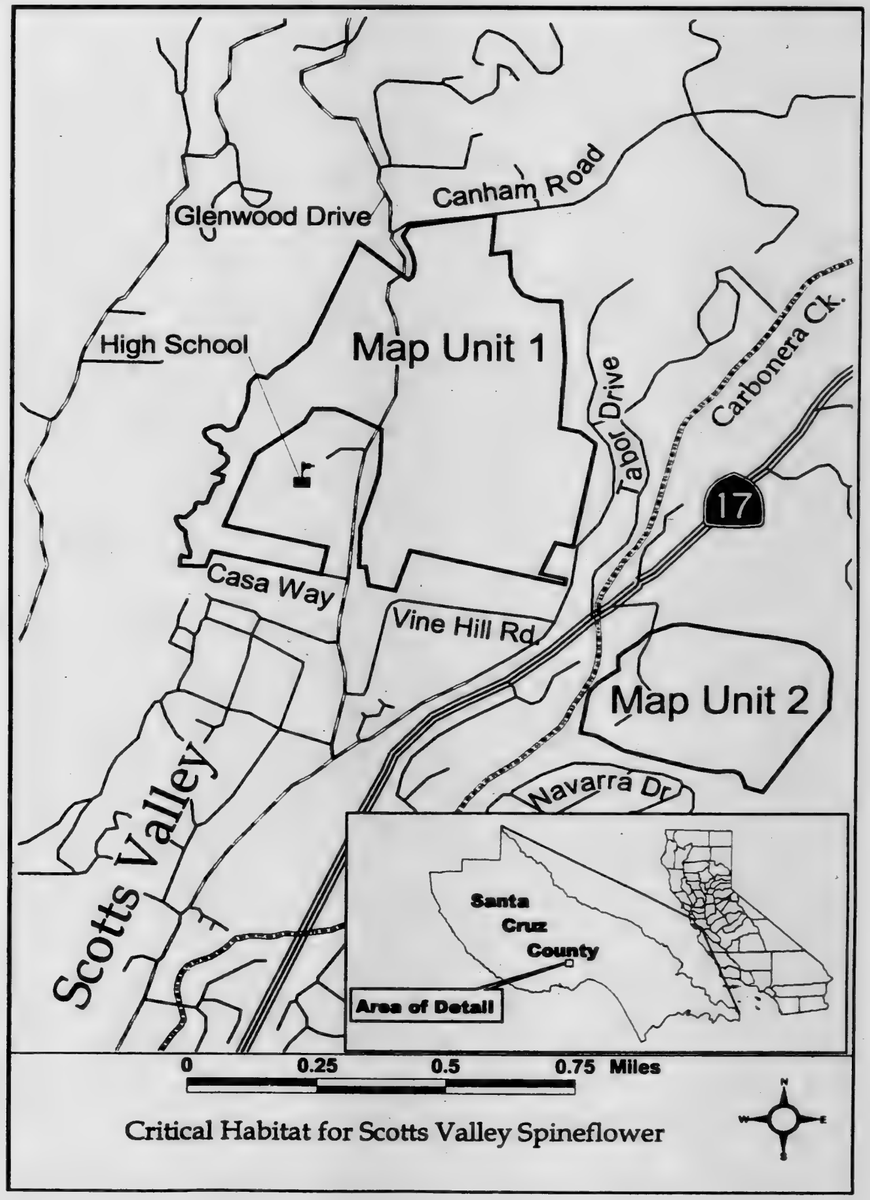

* * * * *

Dated: May 16, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13063 Filed 5–28–02; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 011218303–1303–01; I.D. 110501B]

RIN 0648–AP70

Atlantic Highly Migratory Species; Commercial Shark Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency rule; extension of expiration date; request for comments; fishing season notification.

SUMMARY: NMFS extends the expiration date of the emergency rule that established the commercial quotas for large and small coastal sharks at 1,285 metric tons (mt) dressed weight (dw) and 1,760 mt dw, respectively. This extension is necessary to ensure that the regulations in force are consistent with a court-approved settlement agreement and are based on the best available science. NMFS also notifies eligible participants of the opening and closing dates for the Atlantic large coastal shark (LCS), small coastal shark (SCS), pelagic shark, blue shark, and porbeagle shark fishing seasons.

DATES: The expiration date of the emergency rule published December 28, 2001 (66 FR 67118), is extended to December 30, 2002.

The fishery opening for LCS is effective July 1, 2002 through 11:30 p.m., local time, September 15, 2002. The LCS closure is effective from 11:30 p.m., local time, September 15, 2002, through December 31, 2002.

The fishery opening for SCS, pelagic sharks, blue sharks, and porbeagle sharks is effective July 1, 2002, through December 31, 2002, unless otherwise modified or superseded through publication of a closure notice in the **Federal Register**.

Comments on this action must be received no later than 5 p.m. on August 27, 2002.

ADDRESSES: Written comments on this action must be mailed to Christopher Rogers, Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301–713–1917. Comments will not be accepted if submitted via email or the Internet. Copies of the Environmental Assessment and Regulatory Impact Review prepared for the initial emergency rule may be obtained from Margo Schulze-Haugen or Karyl Brewster-Geisz at the same address.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz at 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

On November 21, 2000, Southern Offshore Fishing Association and other commercial fishermen and dealers (plaintiffs) and NMFS reached a settlement agreement that prescribed actions to be taken by both parties in order to resolve issues raised in two lawsuits brought against NMFS by the plaintiffs. On December 7, 2000, Judge Steven D. Merryday of the U.S. District Court for the Middle District of Florida entered an order approving the settlement agreement.

The settlement agreement, inter alia, required NMFS to maintain the 1997 commercial LCS quotas and the catch accounting/monitoring procedures pending an independent review of the 1998 LCS stock assessment. In October 2001, NMFS received the complete peer reviews of the 1998 LCS stock assessment. Three of the four reviews found that the scientific conclusions and scientific management recommendations contained in the 1998 LCS stock assessment were not based on scientifically reasonable uses of the appropriate fisheries stock assessment techniques and on the best available (at the time of the 1998 LCS stock assessment) biological and fishery information relating to LCS. Because of this conclusion, NMFS regards the management recommendations of the 1996 stock assessment to be an appropriate basis for any rulemaking, pending completion of a new stock assessment. Thus, having considered the peer review's overall conclusion, the terms of the settlement agreement, and the recommendations of the 1996 stock assessment, NMFS published an emergency rule (December 28, 2001, 66 FR 67118) to maintain the 1997 commercial LCS quota level until a new LCS stock assessment that employs improved assessment techniques and addresses the recommendations and comments of the peer reviews can be completed and independently peer reviewed.

The 2002 LCS stock evaluation workshop (SEW) will be held June 24-28, 2002, in the NMFS Panama City Laboratory, 3500 Delwood Beach Road, Panama City, Florida 32408. NMFS anticipates that the final LCS SEW report will be complete in August 2002.

Upon completion of the LCS stock assessment and independent review, NMFS intends to implement management measures for LCS by January 1, 2003, through notice and comment rulemaking, based on the additional information to ensure the conservation of LCS while maintaining a sustainable fishery in the long-term.

Additionally, consistent with the court-approved settlement agreement, in the initial emergency rule, NMFS maintained the SCS commercial shark quota at the 1997 level pending a new stock assessment in early 2002. The 2002 SCS stock assessment report is now available, see **ADDRESSES** or online at http://www.nmfs.noaa.gov/sfa/hmspg.html. NMFS intends to implement management measures for SCS based on the 2002 SCS stock assessment by January 1, 2003, through notice and comment rulemaking.

This emergency rule extension is necessary to manage and conserve LCS based on the best scientific information available, pending completion of a new LCS stock assessment. Without this emergency rule extension, the reduced LCS and SCS commercial quotas of 816 mt dw and 329 mt dw, respectively, adopted in the HMS FMP and based on the 1998 LCS stock assessment, would be in force, inconsistent with the terms of the court-approved settlement agreement.

Annual Landings Quotas

The 2002 annual landings quotas for LCS and SCS are established at 1,285 mt dw and 1,760 mt dw, respectively. The 2002 quota levels for pelagic, blue, and porbeagle sharks are established at 488 mt dw, 273 mt dw, and 92 mt dw, respectively.

Of the 735.5 mt dw established for the first 2002 semiannual LCS season (December 28, 2001, 66 FR 67118), 722.5 mt dw was taken. NMFS is adding the remaining 13 mt dw to the available quota for the second 2002 semiannual fishing season. As such, the LCS quota for the second 2002 semiannual season is 655.5 mt dw. The SCS second semiannual quota for 2002 is established at 880 mt dw. The second 2002 semiannual quotas for pelagic, blue, and porbeagle sharks are established at 244 mt dw, 136.5 mt dw, and 46 mt dw, respectively.

Fishing Season Notification

The second semiannual fishing season of the 2002 fishing year for the commercial fishery for LCS, SCS, and pelagic sharks in the western north Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open July 1, 2002. To estimate the closure dates of the LCS, NMFS examined the average catch rates for each species group from the first seasons from the years 1999, 2000, and 2001 while also considering the reporting dates of permitted shark dealers. Due to an apparent changes in LCS fishing patterns, NMFS determined that using the most recent year's LCS catch rates for the second semi-annual fishing season is appropriate for estimating the 2002 LCS second fishing season. Based on 2001 weekly catch rates, between 92 and 102 percent of the available quota would likely be taken between the first and second weeks of September. The second week of September corresponds with the end of the first of two monthly reporting periods for permitted shark dealers. Accordingly, the Assistant Administrator for Fisheries (AA) has determined that the LCS quota for the second 2002 semiannual season will likely be attained by September 15, 2002. Thus, the LCS fishery will close September 15, 2002, at 11:30 p.m. local time.

When quotas are projected to be reached for the SCS, pelagic, blue, or porbeagle shark fisheries, the AA will file notification of closure at the Office of the Federal Register at least 14 days before the effective date.

During a closure, retention of, fishing for, possessing or selling LCS are prohibited for persons fishing aboard vessels issued a limited access permit under 50 CFR 635.4. The sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under 50 CFR 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

Classification

This emergency rule extension is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The AA has determined that this action is necessary to ensure that regulations in force are consistent with the court-approved settlement agreement and with the best available science.

NMFS prepared an Environment Assessment for the initial emergency rule that describes the impact on the human environment and found that no significant impact on the human environment would result. This emergency rule extension is of limited duration. Additional details concerning the basis for this action are contained in the initial emergency rule and are not repeated here. NMFS intends to conduct notice and comment rulemaking to have new management measures in place, based on the 2002 LCS and SCS stock assessments and LCS peer review, by January 1, 2003.

NMFS also prepared a Regulatory Impact Review for this action which assesses the economic costs and benefits of the action. Additional details concerning the basis for this action are contained in the initial emergency rule and are not repeated here.

This emergency rule extension to establish the 2002 landings quotas and other shark management actions has been determined to be not significant for the purposes of Executive Order 12866.

Additionally, the ancillary action announcing the fishing season is taken under 50 CFR 635.27(b) and is exempt from review under Executive Order 12866.

Because no general notice of proposed rulemaking is required to be published in the Federal Register for this emergency rule extension by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act do not apply; thus, no Regulatory Flexibility Analysis was prepared.

The AA finds that there is good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B). Comment on these management measures were requested in the initial emergency rule published on December 28, 2001 (66 FR 67118); therefore, the agency has the authority to extend the emergency rule for another 180 days. Two comments were received. The first comment expressed concern that the emergency action does not allow for increases in harvest levels for the recreational shark fishery commensurate with increases for the commercial shark fishery. NMFS intends to review the recreational shark fishing measures during the notice and comment rulemaking after the 2002 LCS stock assessment and peer review. The second comment raised procedural and legal concerns regarding the adequacy and appropriateness of the independent peer reviews, initial emergency rule, and supporting environmental assessment. Some of these concerns are currently the subject of ongoing litigation and will be resolved by a court. To the extent possible, NMFS intends to address additional concerns in the 2002 LCS SEW and during the notice and comment rulemaking after the 2002 LCS stock assessment and peer review.

If these regulations are not in effect then more restrictive management measures (e.g. lower annual landings quotas and measures to count dead discards against that lower quota) that could significantly impact the fishery, and that currently lack an adequate scientific basis, would be in place. The public will have additional opportunities to comment on these or similar measures during the notice and comment rulemaking subsequent to the completion of the 2002 LCS stock assessment and peer review.

Dated: May 22, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–13407 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 103
Wednesday, May 29, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–26–AD]

Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for MD Helicopters, Inc. (MDHI) Model MD900 helicopters. The AD would require inspecting and, if necessary, repairing the longitudinal drive link (drive link) and modifying certain nonrotating swashplate (swashplate) assemblies. The AD would also require recording compliance with the AD on a component history card or equivalent record. This proposal is prompted by reports of damage to the drive link assembly caused by the sharp inner edge of the bushing in the swashplate assembly. The actions specified by the proposed AD are intended to prevent damage to the drive link, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 29, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–26–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jon Mowery, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–26–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–26–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes adopting a new AD for certain MDHI Model MD900 helicopters. The AD would require inspecting and, if necessary, repairing the drive link assembly, part number (P/N) 900C2010212–101, and modifying the swashplate assembly, P/N 900C2010192–105, –107, and –109. The AD would also require recording compliance on the component history card or equivalent record. This proposal is prompted by reports of damage to the drive link assembly. The damage is caused by the drive link striking the sharp edges of the nonrotating swashplate due to the small clearance between the swashplate bushing and the drive link. The FAA issued AD 2000–18–08 (65 FR 55449, September 14, 2000) to require modifying the swashplate assembly, P/N 900C2010192–111, reidentifying two swashplate assemblies as P/N's 900C1010804–127 and 900C2010192–113, and inspecting drive link assemblies, P/N 900C2010212–101. We have since determined that similar requirements should also apply to swashplate assembly, P/N 900C2010192–105, –107, and –109. This condition, if not corrected, could result in damage to the drive link, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

The FAA has reviewed MDHI Service Bulletin SB900–078, dated April 23, 2001 (SB), which describes procedures for reworking of the bushing in the swashplate assembly and inspecting and repairing the drive link assembly.

Since we have identified an unsafe condition that is likely to exist or develop on other MDHI Model MD900 helicopters of the same type design, the proposed AD would require the following:

- Modify the swashplate assembly, P/N 900C2010192–105, –107, or –109;
- Dye-penetrant inspect for gouging and cracking and modify or replace, as necessary, the drive link assembly, P/N 900C2010212–101.
- Record compliance with the AD on the component history card or equivalent record.

The actions would be required to be accomplished in accordance with the SB described previously.

The FAA estimates that 28 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1164 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $35,952.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

MD Helicopters Inc.: Docket No. 2001–SW–26–AD.

Applicability: Model MD900 helicopters, serial numbers 0008 through 0068, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated.

To prevent damage to the longitudinal drive link (drive link), loss of control of the main rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 100 hours time-in-service (TIS) or 3 months, whichever occurs first, unless previously accomplished, modify the nonrotating swashplate assembly, part number (P/N) 900C2010192–105, –107, or –109, in accordance with the Accomplishment Instructions, paragraphs 2.A.(1). and 2.A.(2)., of MD Helicopters (MDHI) Service Bulletin SB900–078, dated April 23, 2001 (SB).

(b) After modifying the nonrotating swashplate assembly, P/N 900C2010192–105, –107 or –109, in accordance with paragraph (a) of this AD, dye-penetrant inspect the drive link assembly, P/N 900C2010212–101, for gouging or cracking in accordance with the Accomplishment Instructions, paragraph 2.B.(1). and 2.B.(2). of the SB, except that returning cracked parts to MDHI is not required by this AD.

(1) If a crack is found, before further flight, replace the drive link assembly, P/N 900C2010212–101, with an airworthy drive link assembly.

(2) If gouging is found without a crack, before further flight, rework the drive link assembly, P/N 900C2010212–101, in accordance with the Accomplishment Instructions, paragraph 2.B.(3) of the SB.

Note 2: Even if you have previously accomplished the inspection required by paragraph (b) of this AD, you are not relieved from complying with paragraph (b) of this AD.

(c) Record compliance with this AD on the component history card or equivalent record for the nonrotating swashplate assembly.

(d) Accomplishing the actions required by paragraphs (a) and (b) of this AD is terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on May 20, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–13291 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–329–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200, –200CB, and –200PF Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that currently requires repetitive inspections for excessive wear of the internal and external splines of the torque tube couplings of the trailing edge flaps, and replacement of the couplings, if necessary. That AD also provides an optional modification that, if installed, constitutes terminating action for the inspection requirements. This action would expand the applicability of the existing AD and require new inspections of the torque tube assemblies and certain gearbox assemblies and universal joints in the drive system for the inboard trailing edge flaps, and follow-on actions, if necessary. For certain airplanes, this action also would require the previously optional modification and/or a new modification, which would terminate certain inspections. The actions specified by the proposed AD are intended to prevent separations in the drive system for the inboard trailing edge flaps, which could cause a flap skew condition that could result in damage to the flaps or fuselage, and consequent reduced controllability of the airplane.

DATES: Comments must be received by July 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–329–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:
Technical Information: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1506; fax (425) 227–1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 227–1119, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: judy.golder@faa.gov. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–329–AD." The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 9, 1992, the FAA issued AD 92–25–01, amendment 39–8416 (57 FR 54298, November 18, 1992), applicable to certain Boeing Model 757 series airplanes, to require visual inspections of the internal and external splines of the trailing edge flap drive torque tube coupling assembly for excessive wear, and replacement of the coupling, if necessary. That AD also provides an optional modification that, if installed, constitutes terminating action for the inspection requirements. That action was prompted by reports of excessive wear on the aft end of the trailing edge flap drive torque tube coupling. The requirements of that AD are intended to prevent damage caused by skewed flaps resulting from excessive wear of the splines of the trailing edge flap drive torque tube coupling.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received several reports of separations in the drive system for the inboard trailing edge flaps on Boeing Model 757–200, –200CB, and –200PF series airplanes. These separations caused a flap skew condition, in which one end of a flap did not move to the commanded position. These separations have been attributed to various discrepancies in the drive system for the trailing edge flaps, including:

- Worn splines in the torque tube assemblies;
- Corroded and worn bearings from loss of lubricant, which permitted axial shaft movement and subsequent bevel gear separation inside angle gearbox assemblies; and
- Worn universal joints (U-joints) caused by the loss of boots and subsequent wear on the drive shaft assembly between the inboard transmission of the inboard flaps and the angle tee gearbox assembly.

These discrepancies could cause a flap skew condition, which could result in damage to the flaps or fuselage and consequent reduced controllability of the airplane.

The existing AD applies to Model 757 series airplanes with line numbers 1 through 411 inclusive and 413 through 432 inclusive. Since the issuance of that AD, the FAA has determined that certain other Model 757 series airplanes (*i.e.*, Model 757–200, –200CB, and –200PF series airplanes) may also be subject to the discrepancies described previously. Therefore, these additional airplanes also may be subject to the identified unsafe condition.

Also, as stated previously, AD 92–25–01 provides for an optional modification per Boeing Service Bulletin 757–27–0099, dated March 12, 1992, for airplanes that were delivered without coupling seals on torque tube assemblies 3 and 6. That modification includes replacement of torque tube assemblies 3 and 6 with improved torque tube assemblies and installation of a sealant plug in the shafts of four gearboxes. The FAA has now determined that long-term continued operational safety will be better assured by requiring installation of this modification (to remove the source of the problem), rather than by requiring repetitive inspections. In some instances, long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. Therefore, this proposed AD would require doing the previously optional modification. Doing this modification eliminates the need for the repetitive inspections for excessive wear of torque tube assemblies 3 and 6.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 757–27A0125, Revision 1, including Appendices A and B, dated December 2, 1999. That service bulletin describes procedures for inspecting certain torque tube assemblies, certain gearbox assemblies, and U-joints on the drive shaft assembly in the drive system for the inboard trailing edge flaps. The inspection of the torque tube assemblies involves performing a general visual inspection for excessive wear of external splines and, if excessive wear is found, measuring the distance over pins, measuring the outer diameter, if necessary, and repeating the inspection or replacing the torque tube assembly, as necessary. The inspection of the gearbox assemblies involves measuring axial movement, and replacing the gearbox assembly with a new assembly, if necessary. The inspection of the U-joints on the drive shaft assembly involves measuring the maximum and minimum distance between the upper and lower yoke, and replacing the drive shaft assembly with a new assembly, if necessary. Doing the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The FAA also has reviewed and approved Boeing Service Bulletin 757–27–0107, dated June 16, 1994. Among other actions, for airplanes delivered without coupling seals on torque tube assemblies 4 and 5, that service bulletin describes procedures for a modification that involves replacing torque tube assemblies 4 and 5 with new, improved torque tube assemblies, and changing related angle and tee gearbox assemblies of the drive system. The changes to the angle gearbox assembly involve replacing certain coupling halves with improved coupling halves, installing sealant, and changing the part number of the assembly. The changes to the tee gearbox assembly involve cleaning certain holes, installing sealant, and changing the part number of the assembly. Doing this modification eliminates the need for the repetitive inspections for excessive wear of torque tube assemblies 4 and 5.

Explanation of Change to Existing Requirements

In the "Restatement of Requirements of AD 92–25–01" in this proposed AD, the FAA has revised paragraph (a) of the existing AD to clarify that the visual inspection applies to the torque tube 3 and 6 coupling splines. Also, the FAA has clarified the existing requirement to specify that the required inspection is a "general visual inspection." A note has been added under the new requirements of this proposed AD to define that inspection.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 92–25–01 to continue to require repetitive inspections of the internal and external splines of the trailing edge flap drive torque tube coupling assemblies for excessive wear, and replacement of the couplings, if necessary. The proposed AD also would require accomplishment of the actions specified in Boeing Alert Service Bulletin 757–27A0125, Revision 1. For certain airplanes, the proposed AD also would require accomplishment of Boeing Service Bulletin 757–27–0099, and/or certain actions in Boeing Service Bulletin 757–27–0107, as described previously.

Cost Impact

There are approximately 979 airplanes of the affected design in the worldwide fleet.

In AD 92–25–01, the FAA estimated that approximately 279 U.S.-registered airplanes would be subject to the inspections in that AD. For these airplanes, the currently required inspections take approximately 2 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $33,480, or $120 per airplane, per inspection cycle.

The FAA estimates that approximately 283 U.S.-registered airplanes (Group 1 of Boeing Alert Service Bulletin 757–27A0125, Revision 1) would be subject to the proposed inspection of torque tube assemblies 3 and 6. This inspection would take approximately 2 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these new proposed inspections on U.S. operators of Group 1 airplanes is estimated to be $33,960, or $120 per airplane, per inspection cycle.

The FAA estimates that approximately 376 U.S.-registered airplanes (Groups 1 and 2 of Boeing Alert Service Bulletin 757–27A0125, Revision 1) would be subject to the proposed inspection of torque tube assemblies 4 and 5. This inspection would take approximately 2 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these new proposed inspections on U.S. operators of Group 2 airplanes is estimated to be $45,120, or $120 per airplane, per inspection cycle.

The FAA estimates that 643 U.S.-registered airplanes (Groups 1, 2, and 3 of Boeing Alert Service Bulletin 757–27A0125, Revision 1) would be subject to the new proposed inspections of the gear box assemblies and U-joints of the drive shaft assembly. These inspections would take approximately 4 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these new proposed inspections on U.S. operators is estimated to be $154,320, or $240 per airplane, per inspection cycle.

The FAA estimates that approximately 283 U.S.-registered airplanes (Group 1 of Boeing Alert Service Bulletin 757–27A0125, Revision 1) would be subject to the proposed modification that involves replacement of torque tube assemblies 3 and 6. This modification would take approximately 5 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,550. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $1,372,550, or $4,850 per airplane.

The FAA estimates that approximately 376 U.S.-registered airplanes (Groups 1 and 2 of Boeing Alert Service Bulletin 757–27A0125, Revision 1) would be subject to the proposed modification that involves replacement of torque tube assemblies 4 and 5. This modification would take approximately 5 work hours per airplane, at an average labor rate of $60 per work hour. Required parts will cost approximately $4,550. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $1,823,600, or $4,850 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8416 (57 FR 54298, November 18, 1992), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2001–NM–329–AD. Supersedes AD 92–25–01, Amendment 39–8416.

Applicability: Model 757–200, –200CB, and –200PF series airplanes; line numbers (L/Ns) 1 through 979 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separations in the drive system for the inboard trailing edge flaps, which could cause a flap skew condition that could result in damage to the flaps or fuselage, and consequent reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 92–25–01:

Repetitive Visual Inspections and Corrective Actions

(a) For airplanes with L/Ns 1 through 411 inclusive and 413 through 432 inclusive: Prior to the accumulation of 2,000 total flight cycles, or within the next 200 flight cycles after April 30, 1990 (the effective date of AD 90–08–16, amendment 39–6574), whichever occurs later, and thereafter at intervals not to exceed 2,000 flight cycles, perform a general visual inspection of the torque tube 3 and 6 coupling splines, in accordance with Boeing Service Letter 757–SL–27–52–B, dated April 30, 1990.

Note 2: Operators who have conducted inspections of the torque tube coupling splines prior to December 23, 1992 (the effective date of AD 92–25–01, amendment 39–8416), in accordance with Boeing Service Letter 757–SL–27–52, dated January 31, 1990, or Boeing Service Letter 757–SL–27–52–A, dated March 21, 1990, are considered to be in compliance with paragraph (a) of this AD.

(1) If the measurement over the pin, as detailed in the service letter, is less than 1.8605 inches but equal to or greater than 1.8533 inches, repeat the inspection within 1,000 flight cycles, until the requirements of paragraph (c) or (f) of this AD have been accomplished.

(2) If the measurement over the pin, as detailed in the service letter, is less than 1.8533 inches, replace the coupling before further flight, in accordance with the service letter.

New Requirements of This AD:

Note 3: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

New Repetitive Inspections: Torque Tubes 3 and 6

Note 4: If the requirements of paragraph (f) of this AD have been accomplished before the effective date of this AD, inspection per paragraph (b) of this AD is not required.

(b) For airplanes with L/Ns 1 through 411 inclusive and 413 through 432 inclusive, which are identified as Group 1 airplanes in Boeing Alert Service Bulletin 757–27A0125, Revision 1, including Appendices A and B, dated December 2, 1999: Do a general visual inspection for excessive wear of torque tube assemblies 3 and 6, per the service bulletin. Do the initial inspection at the time specified in paragraph (b)(1) or (b)(2) of this AD, as applicable. If no wear is found, repeat the inspection every 3,000 flight cycles or 24 months, whichever comes first, until paragraph (f) of this AD has been accomplished. Doing paragraph (b) of this AD terminates the requirements of paragraph (a) of this AD for torque tube assemblies 3 and 6.

(1) For airplanes on which the inspection in paragraph (a) of this AD has been done prior to the effective date of this AD: Inspect within 3,000 flight cycles after the most recent inspection done PRIOR to the effective date of this AD per paragraph (a) of this AD, or within 24 months after the effective date of this AD, whichever is first.

(2) For airplanes on which the inspection in paragraph (a) of this AD has NOT been done prior to the effective date of this AD: Inspect prior to the accumulation of 3,000 total flight cycles, within 24 months since the airplane's date of manufacture, or within 18 months after the effective date of this AD, whichever is latest.

Note 5: Inspections, measurements, and replacements done prior to the effective date of this AD per Boeing Alert Service Bulletin 757–27A0125, dated July 17, 1997, are considered acceptable for compliance with the corresponding requirements of paragraphs (b), (c), (d), and (e) of this AD.

New Repetitive Inspections: Torque Tubes 4 and 5

Note 6: If the requirements of paragraph (g) of this AD have been accomplished before the effective date of this AD, inspection per paragraph (c) of this AD is not required.

(c) For airplanes with L/Ns 1 through 411 inclusive and 413 through 580 inclusive, which are identified as Groups 1 and 2 airplanes in Boeing Alert Service Bulletin 757–27A0125, Revision 1, including Appendices A and B, dated December 2, 1999: Prior to the accumulation of 3,000 total flight cycles, within 24 months since the airplane's date of manufacture, or within 18 months after the effective date of this AD, whichever is latest, do a general visual inspection for excessive wear of torque tube assemblies 4 and 5, per the service bulletin. If no wear is found, repeat the inspection every 3,000 flight cycles or 24 months, whichever comes first, until paragraph (g) of this AD has been accomplished.

Corrective Actions: Torque Tubes 3, 4, 5, and 6

(d) If any wear is found during any inspection required by paragraph (b) or (c) of this AD: Before further flight, measure the distance of the measurement over pins, per Boeing Alert Service Bulletin 757–27A0125, Revision 1, including Appendices A and B, dated December 2, 1999.

(1) If the distance is 1.8337 inches or more, repeat the general visual inspection required by paragraph (b) or (c) of this AD at the applicable interval specified in Table 1 of Figure 7 of the service bulletin, until the actions in paragraphs (f) (for torque tube assemblies 3 and 6) and (g) (for torque tube assembles 4 and 5) have been done.

(2) If the distance is less than 1.8337 inches, do the actions in paragraphs (d)(2)(i) and (d)(2)(ii) of this AD, per the service bulletin.

(i) Before further flight, measure the distance of the outside diameter, as shown in Table 1 of Figure 7 of the service bulletin.

(ii) Replace the affected torque tube assembly with a new torque tube assembly at the applicable time specified in Table 1 of Figure 7 of the service bulletin.

New Repetitive Inspections: Gearbox Assemblies and Universal Joints

(e) For airplanes with L/Ns 1 through 979 inclusive: Prior to the accumulation of 3,000 total flight cycles, within 24 months since the airplane's date of manufacture, or within 18 months after the effective date of this AD, whichever is latest, perform an inspection to measure the axial movement of the angle and tee gearbox assemblies and the distance between the upper and lower yokes of the universal joints (U-joints) of the drive shaft assemblies, per Boeing Alert Service Bulletin 757–27A0125, Revision 1, including Appendices A and B, dated December 2, 1999. Repeat these measurements every 3,000 flight cycles or 24 months, whichever comes first, and do paragraphs (e)(1) and (e)(2) of this AD, as applicable.

(1) If any measurement of the axial movement of the gearbox assembly is more than 0.015 inch, as specified in the service bulletin: Before further flight, replace the gearbox assembly with a new gearbox assembly, per the service bulletin.

(2) If the distance between the upper and lower yokes of the U-joints is more than 0.020 inch, as specified in Steps 3 and 6 of Figure 6 of the service bulletin: Before further flight, replace the drive shaft assembly with a new drive shaft assembly, per the service bulletin.

Terminating Action

(f) For airplanes with L/Ns 1 through 411 inclusive and 413 through 432 inclusive: Within 3 years after the effective date of this AD, modify the airplane by replacing torque tube assemblies number 3 and 6 with new, improved torque tube assemblies, and installing a sealant plug in the shafts of four gearboxes, according to Boeing Service Bulletin 757–27–0099, dated March 12, 1992. Doing this paragraph terminates the inspections required by paragraphs (a) and (b) of this AD.

(g) For airplanes with L/Ns 1 through 580 inclusive: Within 3 years after the effective date of this AD, modify the airplane by replacing torque tube assemblies number 4 and 5 with new, improved torque tube assemblies, and changing the related angle and tee gearbox assemblies, per Boeing Service Bulletin 757–27–0107, dated June 16, 1994. The changes for the related tee and angle gearbox assemblies are shown in Figures 6 and 7, respectively, of the service bulletin. Doing this paragraph terminates the inspections required by paragraph (c) of this AD.

Note 7: No terminating action has been identified for the inspections specified in paragraph (e) of this AD.

Alternative Methods of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 8: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 15, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12949 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2002–11301; Notice No. 02–04]

RIN 2120–AH14

Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published on February 28, 2002. In that document, the FAA proposed to clarify regulatory language, increase consistency between the antidrug and alcohol misuse prevention program regulations where possible, and revise regulatory provisions as appropriate. This extension is a result of a joint request from 14 entities.

DATES: Comments must be received on or before July 29, 2002.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2002–11301, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: *http://dms.dot.gov* at any time. Commenters who wish to file comments electronically should follow the instructions on the DMS Web site.

FOR FURTHER INFORMATION CONTACT: Diane J. Wood, Manager, AAM–800, Drug Abatement Division, Office of Aerospace Medicine, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone number (202) 267–8442.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in the NPRM, Notice No. 02–04. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Before acting on the proposals in the NPRM, Notice No. 02–04, we will

consider all comments we receive on or before the closing date. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposals in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background

On February 28, 2002, the FAA published NPRM, Notice No. 02–04, Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities (67 FR 9366). Comments to that document were to be received on or before May 29, 2002.

By letter dated April 29, 2002, 14 entities jointly requested that the FAA extend the comment period for NPRM, Notice No. 02–04, for 90 days. The entities wanted additional time to gather, develop, and analyze data to support their comments regarding a proposed change clarifying the applicability of the drug and alcohol testing regulations to contractors. In addition, subsequent to the April 29 joint request, a representative of one of the entities notified the FAA that the regulatory evaluation was missing from the electronic docket.

While the FAA agrees that additional time for comments may be needed because of the inadvertent administrative error in the electronic docket, the FAA believes that a 90-day extension would be excessive. Therefore, the FAA believes an additional 60 days would be adequate for these entities to provide comment to NPRM, Notice No. 02–04.

Extension of Comment Period

In accordance with § 11.47 of Title 14, Code of Federal Regulations, the FAA has reviewed the April 29 joint request made by the 14 entities for extension of the comment period to NPRM, Notice No. 02–04. Also, the FAA has recognized that there was an administrative error when information was inadvertently omitted from the electronic docket. Therefore, the FAA has found good cause for extending the comment period for 60 days. The FAA also has determined that extension of the comment period is consistent with the public interest.

Accordingly, the comment period for NPRM, Notice No. 02–04, is extended until July 29, 2002.

Issued in Washington, DC, on May 23, 2002.

Jon L. Jordan,

Federal Air Surgeon.

[FR Doc. 02–13366 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 310

Telemarketing Sales Rule User Fees

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (the "Commission" or "FTC") is issuing a Notice of Proposed Rulemaking ("NPR") to amend the FTC's Telemarketing Sales Rule ("TSR"). This new rule would impose user fees on telemarketers, and their seller or telemarketer clients, for their access to the national do-not-call registry, if one is implemented. This NPR invites written comments on the issues raised by the proposed changes, and seeks answers to the specific questions set forth in section VIII of the NPR.

DATES: Written comments will be accepted until June 28, 2002. Time is of the essence to promulgate the proposed user fees, if a national registry is adopted. Thus, the Commission does not anticipate providing any extension to this comment period.

ADDRESSES: Six paper copies of each written comment should be submitted to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. To encourage prompt and efficient review and dissemination of the comments to the public, all comments should also be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.) Individual members of the public filing comments need not submit multiple copies or comments in electronic form.

Alternatively, the Commission will accept comments submitted to the following email address: *userfee@ftc.gov*. All comments and any electronic versions (*i.e.*, computer disks) should be identified as "Telemarketing Rulemaking—User Fee Comment. FTC File No. R411001." The Commission will make this NPR and, to the extent possible, all comments received in electronic form in response to this NPR, available to the public through the Internet at the following address: *www.ftc.gov*.

Comments on proposed revisions bearing on the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, Washington, D.C. 20503, ATTN.: Desk Officer for the Federal Trade Commission, as well as to the FTC Secretary at the address above.

FOR FURTHER INFORMATION CONTACT: David M. Torok, (202) 326–3075 (email: *dtorok@ftc.gov*), Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

On January 30, 2002, the FTC published in the **Federal Register** a NPR to amend the FTC's TSR and to request public comment on the proposed changes. 67 FR 4492 (Jan. 30, 2002) ("the Rule NPR"). Among other provisions, the Rule NPR proposed to establish a national "do-not-call" registry, maintained by the FTC. The proposal, if adopted, would permit consumers who prefer not to receive telemarketing calls to contact one centralized registry to effectuate this preference. Telemarketers would be required to refrain from calling consumers who have placed their telephone numbers on this registry. The Rule NPR anticipates that telemarketers would need to access the do-not-call registry on at least a monthly basis in order to remove from their telemarketing lists those consumers who have placed themselves on the national registry.

The Commission has not made a final determination regarding whether to establish a do-not-call registry. However, it is necessary to consider the funding for the registry at this time so that if the Commission ultimately decides to establish the registry, it can be implemented without undue delay.

The current NPR proposes user fees to fund the development and operation of the proposed national registry, if one is implemented. In developing this proposal, the Commission is guided by the Independent Offices Appropriations Act of 1952, codified at 31 U.S.C. 9701 ("the User Fee Statute"), which states:

(a) It is the sense of Congress that each service or thing of value provided by an agency * * * to a person * * * is to be self-sustaining to the extent possible.

(b) The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—(1) fair; and

(2) based on—(A) the costs to the Government; (B) the value of the thing to the recipient; (C) public policy or interest served; and (D) other relevant facts.

The Commission is also guided by the Office of Management and Budget ("OMB") Circular No. A–25, which "establishes Federal policy regarding fees assessed for Government services." *Id.* at ¶ 1. It states that user fees "will be sufficient to recover the full cost to the Federal Government * * * of providing the service, * * * will be based on market prices * * * [and] will be collected in advance of, or simultaneously with, the rendering of services." *Id.* at ¶ 6(a)(2).

In accordance with the User Fee Statute and OMB Circular A–25, the Commission now proposes to charge user fees to all telemarketers that access or obtain data from the national do-not-call registry, if such a registry is, in fact, implemented. If a do-not-call registry is implemented, the Commission will be providing a "thing of value" to telemarketers; namely, a list of all United States consumers who have indicated a preference not to receive certain telemarketing calls. Access to such a list will permit telemarketers to focus their telemarketing sales on those consumers who have no objection to receiving such solicitations. Ultimately, it may be more profitable for telemarketers to call only those consumers who are receptive to being called. In addition, assuming the TSR is amended as proposed by the Rule NPR, telemarketers will be required to access the national registry to remain in compliance with the TSR and to engage in telemarketing lawfully. Thus, access to the registry will enable telemarketers to engage in their chosen business.[1] We believe telemarketers should be charged appropriately for obtaining this information.

To maintain the fairness of the fee structure and to keep the fees to individual firms as reasonable as possible, it is critical that all firms that derive a benefit from the registry pay for that benefit. The Commission understands that telemarketers may undertake telemarketing campaigns on behalf of other sellers or telemarketers. Based on our discussions with officials who run State do-not-call registries, the Commission also anticipates that sellers and telemarketers may use the information included in the registry to "scrub" the telemarketing lists of other firms.[2] The Commission proposes requiring that any telemarketer who engages in telemarketing or "list scrubbing" on behalf of its clients will be required to pay the user fee set forth below on behalf of each such entity.

The Commission also has considered charging consumers directly for adding their telephone numbers to the registry. The Commission proposes that no such fees be imposed, however, for the following reasons. First, while registering their telephone number may be perceived as a benefit to consumers, at this time the Commission does not believe that it would be appropriate to charge consumers who seek to avail themselves of the protections of the Telemarketing Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–08 ("the Telemarketing Act"). Specifically, the proposed national registry would prohibit telemarketers from undertaking "a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy." 15 U.S.C. 6102(a)(3)(A). The Commission does not wish to charge consumers to protect their privacy from unwanted and abusive telemarketing calls. Second, even if the Commission found that charging consumers was appropriate, the costs of collecting what, under the constraints of the User Fee Statute, necessarily would be a very small fee from each consumer who elected to list his or her number in the registry could be greater than the fee itself.[3] OMB Circular A–25 states that agencies need not impose user fees when "the cost of collecting the fees would represent an unduly large part of the fee for the activity." *Id.* at ¶ 6.c.2. Thus, the Commission does not believe that the imposition of consumer user fees is appropriate at this time.

II. User Fee Calculation

To establish the appropriate fees to charge telemarketers and their clients for information obtained from the registry, the Commission, guided by OMB Circular A–25, will endeavor to recover the full cost of creating and implementing the registry. Based on initial market research, including potential vendor responses to the Request for Information ("RFI") that was issued by the FTC on February 28, 2002,[4] it is estimated that the cost to develop and implement a national registry will be approximately $5 million in the first year. The President's Budget proposes that $5 million of the agency's total funding be used for the proposed national registry, of which $3 million will come from user fees. Thus, user fees of approximately $3 million will be needed in Fiscal Year 2003 ("FY 03"), the first year of the potential operation of the registry.[5] Moreover, those fees must be raised during FY 03, which runs from October 1, 2002, through September 30, 2003, even though the registry may be in operation for a period of time shorter than twelve months.[6]

The first step in calculating an appropriate user fee is also potentially the most difficult—determining the number of telemarketers and sellers that would be required to pay the proposed fee. The Commission has examined

[1] Courts have long recognized that agencies may charge regulated companies for the cost of administering their regulations, since the companies receive a specialized value from the agencies by complying with the regulations and gaining the ability to remain in business. See, e.g., *Mississippi Power & Light Co.* v. *United States Nuclear Regulatory Comm'n*, 601 F.2d 223, 229 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980); *National Cable Television Ass'n* v. *United States*, 554 F.2d 1094, 1101–02 (D.C. Cir. 1976); *Electronic Indus. Ass'n* v. *F.C.C.*, 554 F.2d 1109, 1114 (D.C. Cir. 1976).

[2] Section 310.4(b)(iv) of the Proposed Rule states that it is an abusive practice for a telemarketer, or for a seller to cause a telemarketer, to sell, purchase or use the national do-not-call registry for any purpose except compliance with the Rule's do-not-call provisions. The Commission believes that this provision does not preclude a telemarketer from using the national registry to scrub the calling lists of other telemarketers or sellers, since such usage is assisting others in maintaining compliance with the Rule.

[3] States that have established statewide "do-not-call" registries have experienced consumer registration levels ranging from a few percent of the telephone lines in use within the State, to over 40 percent of all lines. Thus, a national registry may ultimately include over 60 million telephone numbers. Even if all those consumers do not register in the first year, raising the estimated $3 million in necessary fees from that large a pool of possible registrants would require an extremely small fee (possibly as small as $0.05 per consumer), the collection costs of which could not be justified.

[4] *See www.ftc.gov/procurement*. Responses to the RFI are not part of the public record and are legally exempt from public disclosure to the extent they constitute confidential and proprietary business information. *See* Section 6(f) of the FTC Act, 15 U.S.C. 46(f); Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4).

[5] If, during the appropriations process, the amount of user fees which the agency is required to collect were to change, the fee structure proposed in this NPR would have to be adjusted accordingly.

[6] Given the time needed to complete the procurement process to hire a contractor, and for that contractor to develop and implement any proposed national registry, it is unlikely the registry will be available at the start of FY 03. In fact, it may be some months into the fiscal year before user fees can first be collected.

relevant industry literature, as well as the record in this and past rulemaking proceedings concerning the TSR. The Commission believes the more pertinent information for determining the number of firms that would be required to pay the proposed user fee may be the number of firms that access State do-not-call registries. Currently, sixteen States have do-not-call registries in place. Most of those States have fewer than 1,000 telemarketing firms requesting access to their registries. Some have fewer than 100 firms requesting access. The most telemarketing firms that currently access any individual State registry is 2,932. Thus, in order to propose a realistic fee structure that would ensure sufficient funds are collected to cover the costs of a national registry, the Commission estimates that 3,000 telemarketers or sellers may pay for access to the information in the national registry.[7] The Commission is seeking comment and evidence to determine whether this estimate is realistic and appropriate.

The next step in calculating the appropriate user fee is to determine the information for which the user would be charged. In accordance with OMB Circular A–25, the Commission is proposing a user fee structure that most closely approximates the cost of operating the national registry. The primary operational cost to the Commission for the proposed national registry, once the basic database infrastructure is in place, would be each toll-free call consumers make to register their telephone numbers with the system. Thus, system costs increase with each additional consumer registrant.

At the same time, the Commission anticipates that not all telemarketers or sellers would want access to all of the telephone numbers listed in the national registry. Many telemarketers and sellers engage in regional rather than nationwide calling campaigns, and therefore would not need consumer registration data for the entire nation. To address this business need, the Commission anticipates providing telemarketers with access to the national registry by area code. Thus, telemarketers would be able to access those portions of the registry covered by as little as one area code, to as many as all area codes nationwide. The Commission also anticipates enabling telemarketers to access the national database at any time, through a secure Internet website.[8]

In order to most closely approximate the Commission's costs to operate the national registry, and to address telemarketers' and sellers' needs for regional lists, the Commission proposes a fee structure based on the number of different area codes of data that the telemarketer or seller wishes to use annually. Under the proposed fee, telemarketers and their clients would be charged a rate of $12 per year for each area code of data they use.

The Commission proposes that no charge be imposed for firms to obtain data from only one to five area codes. Such free data would be available to any business regardless of its size, although the Commission notes that small businesses that telemarket only within such a limited range of area codes are likely to benefit the most from this provision.[9] The Commission believes this approach would be less burdensome than a fee structure that would require payment no matter how few area codes are used. In addition, the Commission proposes to cap the maximum annual fee at $3,000, which would be charged for using 250 area codes of data or more.[10] Thus, for example, there would be no charge for obtaining only five area codes of data; six area codes of data would cost $72; twenty-five area codes would cost $300; two hundred area codes would cost $2,400; and access to the data from all area codes would be capped at $3,000 annually.

These proposed fees obviously are based on certain assumptions and estimates. The Commission anticipates that whatever fees may be adopted would be reexamined periodically and would likely need to be adjusted, in future rulemaking proceedings, to reflect the costs of providing the national do-not-call registry. Moreover, the Commission bases these fee assumptions on the need to raise $3 million in FY 03, which is subject to change. The Commission anticipates the need to revise this fee proposal for future fiscal years.

In accordance with OMB Circular A–25, the Proposed Rule requires telemarketers to pay these fees prior to gaining access to the registry.[11] They would be able to access data as often as they like during the course of one year (defined as their "annual period") for those area codes that are selected with the payment of the related annual fee. For telemarketers who work on behalf of multiple clients, the telemarketer would pay to access a separate list of area codes of data for each client, and the annual period would run from the date of payment for access to each separate list of area codes.

If, during the course of the year, telemarketers need to access data from more area codes than those initially selected, either for themselves or on behalf of their clients, they would be required to pay for access to those additional area codes. For purposes of these additional payments, the annual period is divided into two semi-annual periods of six months each. Obtaining additional data from the registry during the first semi-annual, six month period will require a payment of $12 for each new area code. During the second semi-annual, six month period, the charge of obtaining additional data is $6 for each new area code. These payments for additional data would provide telemarketers access to those additional areas of data for the remainder of their initial annual term. As noted above, should a telemarketer obtain a new client, it would have to pay the appropriate user fee for the area codes of data needed by that new client, and a new annual period for that client would begin on the first month when that data is accessed by the telemarketer.

The following is an example of how this proposed payment system would work. A telemarketer requests access to the registry for the first time in August 2003. After completing an application form, the telemarketer pays $600 for access to 50 area codes of data (50 area codes times $12 per area code equals $600). The telemarketer indicates which area codes it wishes to access, and is then provided that information from the registry. The same telemarketer may continue to access updates to the data from those 50 originally selected area codes at any time until the end of its annual period, which in this example would be the end of July, 2004. If, during December 2003 (i.e., within the first six months of its annual period), the telemarketer needs to access 10 additional area codes, the telemarketer would need to pay an additional $120 to access that data (10 area codes times $12 per area code equals $120). The telemarketer may then continue to access the data from those additional 10 area codes (as well as the original 50 area codes) until the end of July 2004. If, during March 2004 (i.e., within the second six months of its annual period) the telemarketer needs to access another 10 previously unselected area codes, the telemarketer would need to pay an additional $60 to access that data (10 area codes times $6 per area code equals $60). At that point, the telemarketer would be able to access the data from 70 area codes (the original 50, plus 10 acquired in December, plus 10 acquired in March) until the end of July, 2004. In August, 2004, the telemarketer would need to pay another annual fee for access to any portion of the registry.

If, however, the telemarketer acquires a new client during November 2003, and the new client needs access to 20 area codes of data, the telemarketer would need to pay $240 on behalf of that client (20 area codes times $12 per area code equals $240). That new client's annual period would run from November 1, 2003, through October 31, 2004. During that annual period, the telemarketer could access information from the 20 area codes selected on behalf of that client at any time.

The Commission considered charging these user fees on a monthly, rather than annual basis. However, given the necessity of raising $3 million during FY 03 (even though the registry will be available for only a portion of that fiscal year), the Commission has tentatively determined that an annual fee, to be paid in advance, is necessary to raise the required funds during that fiscal year. The Commission seeks comment whether an annual or a monthly fee would be a more preferable, efficient and appropriate method of fee collection in the future.

III. Telemarketer Access to the Proposed National Registry

The proposed amendments to the TSR would prohibit the use of information in the national registry for any purpose other than compliance with the do-not-call provisions of the Proposed Rule. *See* 16 CFR 310.4(b)(iv) (proposed). As a result, the Commission proposes, in Section 310.9(d), to limit access to the registry to telemarketers working on their own behalf or working on behalf of other sellers or telemarketers. In order to maintain the security of the registry and to track its usage, the Proposed Rule also would require telemarketers to certify, under penalty of law, that they are accessing the registry solely to comply with the provisions of the TSR. If they are accessing the registry on behalf of other sellers or telemarketers, they also would be required to identify each of the other sellers or telemarketers on whose behalf they are accessing the registry. In addition, they would be required to certify that the other sellers or telemarketers will be using the information gathered from the list solely to comply with the provisions of the TSR. Submitting a false certification to the government would not only be a Rule violation, but also would be actionable criminally as a false statement or claim to the Federal government. *See, e.g.*, 18 U.S.C. 287, 1001; 31 U.S.C. 3729.

The Commission recognizes that additional guidance may be necessary to more accurately define the relationships for which the applying telemarketer will have to report and pay. For example, in the compliance guide to the original TSR, the Commission stated that distinct corporate divisions of a single corporation are considered separate sellers for purposes of the Rule. Factors used to determine if corporate divisions will be treated as separate sellers include whether there is substantial diversity between the operational structure of the divisions, and whether the goods or services sold by the divisions are substantially different from each other. The Commission proposes that these same distinctions would apply to the payment of the proposed annual user fee. This NPR includes specific questions on this issue in Section VIII, and seeks answers to those questions in the comments.

IV. Invitation to Comment

All persons are hereby given notice of the opportunity to submit written data, views, facts, and arguments concerning these proposed changes to the Commission's Telemarketing Sales Rule. The Commission invites written comments to assist it in ascertaining the facts necessary to reach a determination as to whether to adopt as final the proposed changes to the Rule. Written comments must be submitted to the Office of the Secretary, Room 159, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, on or before June 28, 2002. Time is of the essence to promulgate proposed user fees, if a national registry is adopted. Thus, the Commission does not anticipate providing any extension to this comment period.

Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission Rules of Practice, on normal business days between the hours of 9 a.m. and 5 p.m. at the Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The Commission will make this NPR and, to the extent possible, all papers or comments received in electronic form in response to this NPR available to the public through the Internet at the following address: *www.ftc.gov*.

V. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(5).

VI. Paperwork Reduction Act

The instant proposed amendments involve certain limited new collection of information requirements. The Commission will submit shortly to the Office of Management and Budget a copy of this NPR and an addendum to its most recent prior clearance request under the Paperwork Reduction Act, 44 U.S.C. 3501–3517 ("PRA") that will account for the incremental PRA effects posed by these newly proposed TSR amendments.

The Commission proposes to require telemarketers to submit minimal identifying information that the operator of the proposed national registry may deem necessary to collect the user fee. The Commission anticipates that this would include basic information, such as the name, address and telephone number of the telemarketer, a contact person for the organization, and information about the matter of payment. The telemarketer also would need to submit a list of the area codes of data for which it requests information. In addition, the telemarketer would have to certify that it is accessing the registry solely to comply with the provisions of the TSR. If the telemarketer is accessing the registry on behalf of other seller or telemarketer clients, it would have to submit basic identifying information

[7] The Commission previously has estimated that there are 40,000 "telemarketers" in the United states. *See* the Rule NPR at 67 FR 4492, 4534 (notice of amended application to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*). However, of all the companies that engage in telemarketing, only those telemarketers that engage in "outbound telephone calls" would be required to access the national registry and pay the required user fee to scrub their calling lists. Moreover, the number of telemarketers and sellers who will be required to pay the fee is further limited by certain exemptions to the Rule, set forth at 16 CFR 310.6, as well as by the inherent limitations of the FTC's jurisdiction. Thus, the Commission does not believe its prior estimate is representative in the instant context.

[8] The proposed amendments to the TSR state that telemarketers must access the proposed national registry on at least a monthly basis to remain in compliance. *See* 16 C.F.R. 310.4(b)(2)(iii) (proposed), 67 FR 4543.

[9] In this regard, the Commission believes its proposal is consistent with the mandate of the Regulatory Flexibility Act, 5 U.S.C. 601, which requires that to the extent, if any, a rule is expected to have a significant economic impact on a substantial number of small entities, agencies consider regulatory alternatives to minimize such impact.

[10] Currently, there are approximately 270 area codes that would be included in the proposed national registry.

[11] Section 310.9(c) of the Proposed Rule would require each telemarketer to provide any identifying information deemed necessary by the operator of the registry to collect the user fee.

about those clients, a list of the area codes of data for which it requests information on their behalf, and a certification that the clients are accessing the registry solely to comply with the TSR.

The Commission anticipates that each telemarketer would have to submit all of this information only once each year, at the beginning of each annual period when the telemarketer would have to pay for access to the registry, unless the telemarketer needs to acquire information from more area codes than it originally sought and paid for. In that instance, the telemarketer may have to submit the same information again to pay for the additional data.

The Commission estimates that it should take no longer than two minutes for each telemarketer to submit the basic information described above.[12] In addition, as set forth in this NPR, the Commission has estimated that approximately 3,000 telemarketers and sellers may pay for access to the information in the proposed national registry. Each of those telemarketers, either on their own behalf or on behalf of their clients, would need to submit this information annually, resulting in approximately 100 burden hours (3,000 telemarketers times 2 minutes per telemarketer equals 6,000 minutes, or 100 hours). In addition, the Commission estimates that possibly one-half of those telemarketers may need, during the course of their annual period, to submit their identifying information more than once in order to obtain additional area codes of data. This would result in an additional 50 burden hours (1,500 telemarketers times 2 minutes per telemarketer equals 3,000 minutes, or 50 hours). Thus, the Commission estimates that the proposed user fee provision will impose a total paperwork burden of approximately 150 hours per year.

The Commission invites comment that will enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

2. Evaluate the accuracy of the Commission's estimates of the burdens of the proposed collections of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and validity of the information to be collected; and

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

[12] This estimate is likely to be conservative for PRA purposes. OMB regulations exclude from its definition of "information" certain inquiries that it considers "routine" and not burdensome to the respondent. This includes disclosures that require persons to provide facts necessary simply to identify themselves, e.g., the respondent, the respondent's address, and a description of the information the respondent seeks in detail sufficient to facilitate the request. *See* 5 CFR 1320.3(h)(1).

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 604(a), requires an agency either to provide an Initial Regulatory Flexibility Analysis ("IRFA") with a proposed rule, or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The FTC does not expect that the final rule concerning user fees will have the threshold impact on small entities. The NPR specifically charges no fee for access to data included in the registry from one to five area codes. As a result, the Commission anticipates that many, if not all, small telemarketers will be able to access the national registry without having to pay any annual fee. Thus, there is likely to be little or no burden on small telemarketers resulting from the adoption of the proposed user fees.

The Commission reached a similar conclusion in the Rule NPR. *See* 67 FR 4536. Nonetheless, the Commission has determined that it is appropriate to publish an IRFA in order to inquire into the impact on small entities of both the amendments to the TSR proposed in this document, as well as the proposed amendments to the TSR set forth in the Rule NPR. Therefore, the Commission has prepared the following analysis.

A. Reasons for the Proposed Rule

As stated in the Rule NPR, the Commission proposed amendments to the TSR as a result of the findings of the rule review, conducted pursuant to the mandate of the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–08 ("Telemarketing Act"). Certain proposed changes, relating to the solicitation of charitable contributions through telemarketing, are made pursuant to the mandate of the USA PATRIOT Act of 2001, Pub. L. 107–56 (Oct. 25, 2001) ("USA PATRIOT Act"). The proposed amendments are authorized under the rulemaking authority granted to the Commission by the Telemarketing Act, as amended by the USA PATRIOT Act, to protect consumers from deceptive and abusive practices. The Commission believes that the proposed amendments to the TSR are necessary to ensure that the TSR continues to protect consumers.

The current proposed rule is intended to fulfill the obligations imposed by the User Fee Statute and the proposed amendments to the TSR. This NPR is issued so that the Commission may raise user fees to fund the development, implementation and operation of a national do-not-call registry, if such a proposed registry is implemented.

B. Statement of Objectives and Legal Basis

The objectives for the original proposed amendments to the TSR were set forth in the Rule NPR, 67 FR 4492–4546. The legal basis for the Rule NPR is the Telemarketing Act, 15 U.S.C. 6101–08, as amended by the USA PATRIOT Act of 2001, Pub. L. 107–56 (Oct. 25, 2001).

The objectives of the current proposed rule are discussed above. The legal basis for the current proposed rule is the User Fee Statute and the proposed amendments to the TSR, 67 FR 4492 (Jan. 30, 2002), promulgated pursuant to the Telemarketing Act.

C. Description of Small Entities to Which the Rule Will Apply

The Small Business Administration has determined that "telemarketing bureaus" with $6 million or less in annual receipts qualify as small businesses. *See* 13 CFR 121.201. Similar standards, i.e., $6 million or less in annual receipts, apply for many retail businesses which may be "sellers" and subject to either the proposed amendments to the TSR set forth in the Rule NPR, or the proposed user fee provisions outlined in this NPR. In addition, there may be other types of businesses, other than retail establishments, that would be "sellers" subject to the proposed rule. Determining a precise estimate of the number of small entities that would be subject to the proposed amendments to the TSR, or describing those entities, is not readily feasible. The Commission, therefore, invites comment on this issue, including information about the number and type of small business entities that may be subject to the TSR and its proposed amendments.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The Rule NPR proposes to alter some collection of information requirements included in the TSR. The effect of those requirements on all businesses was discussed in detail in the Paperwork Reduction Act section of the Rule NPR, 67 FR 4534–36. The only proposed change to the recordkeeping requirement (§ 310.5) would extend the provision's coverage to include charitable solicitations in a non-sales context, as required by the USA PATRIOT Act. See 67 FR at 4528. All other proposed amendments described in the Rule NPR relate to the Rule's disclosure or other compliance requirements, which are necessary to prevent telemarketing fraud and abuse. The classes of small entities, if any, affected by the proposed amendments set forth in the Rule NPR would include telemarketers or sellers engaged in acts or practices covered by the Rule, as discussed earlier. The types of professional skills, if any, required to comply with the Rule's recordkeeping, disclosure, or other requirements would include attorney or other skilled labor to ensure compliance.

In addition, the proposed user fee rule will, as a practical matter, require telemarketers to submit certain payment information to obtain access to the registry. The impact of that reporting requirement is discussed in Section VI, above. The Commission does not believe that any professional skills will be necessary to complete the payment information that would be required to be submitted if the user fee proposed rule is adopted. As previously noted, the Commission invites comment on the estimated paperwork burden of these amendments, including the impact it may have on any small businesses.

E. Identification of Duplicative, Overlapping, or Conflicting Federal Rules

The FTC has identified no other federal statutes, rules, or policies that would conflict with the amendments to the TSR proposed in the Rule NPR, or the user fees proposed in this NPR. As for the amendments to the TSR proposed in the Rule NPR, the only other federal statute in this area is the Telephone Consumer Protection Act of 1991 ("TCPA"), 47 U.S.C. 227 *et seq.*, and the Federal Communications Commission regulations promulgated to enforce the TCPA, 47 CFR 64.1200(e)(2). Neither the TCPA nor the FCC regulations duplicate, conflict with, or overlap the proposed amendments to the TSR; the company-by-company do-not-call provision contained in the FCC regulations and the similar provision in the TSR are consistent with one another and compliance with both imposes no additional regulatory burden on companies that conduct telemarketing. The proposed national do-not-call registry would potentially overlap the current TCPA company-by-company do-not-call scheme, but would result in a minimal additional compliance burden to those companies that conduct telemarketing, including small business entities. The Commission invites comment on the extent of this additional burden, if any, including the impact it may have on small businesses.

As for the proposed user fees, no other federal agency is currently collecting such fees, which are intended to fund a new do-not-call registry that, if adopted, would be maintained by the FTC. The FTC is aware of other State statutes and regulations that implement State do-not-call registries, and is considering the interplay between the State and proposed federal registries as part of the Rule NPR.

F. Discussion of Significant Alternatives

The Commission has sought, in drafting all of the proposed amendments to the TSR, to minimize as much as possible the compliance burden for all affected entities, including small businesses. For example, the amendments to the disclosure and recordkeeping provisions of the TSR are generally consistent with the business practices that most sellers and telemarketers, regardless of any size, would choose to follow, even absent legal requirements. That being said, each of the proposed amendments set forth in the Rule NPR is intended to better protect consumers from deceptive and abusive telemarketing practices, whether engaged in by entities large or small in size. As to these provisions, the Commission does not anticipate any disproportionate impact on small entities from compliance with the proposed Rule.

The Commission has taken care in drafting the proposed amendments to the Rule to set performance standards, which establish the objective results that must be achieved by regulated entities, but do not establish a particular technology that must be employed in achieving those objectives. For example, the Commission does not specify in what manner a company will maintain a company-by-company do-not-call list. Similarly, the proposed recordkeeping provision of the Rule is designed to afford those subject to the Rule discretion in determining how best to retain the required records.

As for the user fee rule proposal, the Commission recognizes that alternatives to the proposed fee are possible. For example, in addition to a user fee based on the number of area codes that a telemarketer accesses from the database, access to the registry's database could be provided, for example, on the basis of a flat fee regardless of the number of area codes accessed, or a fee that does not permit free access for one to five area codes. The Commission believes, however, that those alternatives would likely impose greater costs on small businesses, to the extent they are more likely to access fewer area codes than larger entities. Accordingly, the Commission believes its current proposal is likely to be the least burdensome for small businesses, while achieving the goal of covering the necessary costs of operating the registry.

Despite these conclusions, the Commission welcomes comment on any significant alternatives that would further minimize the impact on small entities, consistent with the objectives of the Telemarketing Act, the proposed amendments to the TSR set forth in the Rule NPR, and the requirements of the User Fee Statute.

VIII. Questions for Comment on the Proposed Rule

The Commission seeks comment on the various aspects of the proposed revisions to the Telemarketing Sales Rule set forth in this NPR. Without limiting the scope of issues on which it seeks comment, the Commission is particularly interested in receiving comments on the questions that follow. In responding to these questions, include detailed, factual supporting information whenever possible.

1. The NPR estimates that there are 3,000 "telemarketers" or "sellers," as those terms are defined in §§ 310.2(x) and (z) of the Proposed Rule, that will be required to pay the proposed user fee for access to the national registry, if one is implemented. Is that estimate realistic and appropriate? What evidence, if any, do you have concerning the number of telemarketers that engage in "outbound telephone calls" that are subject to the Commission's jurisdiction? What evidence, if any, do you have concerning the number of sellers that hire other telemarketers to engage in "outbound telephone calls" on their behalf? What evidence, if any, do you have concerning the number of telemarketers who engage in "list scrubbing" on behalf of other sellers or telemarketers?

2. If there is no readily available evidence concerning the number of telemarketers and sellers, as requested in question 1, is it appropriate to estimate the number of entities who must pay the proposed user fee based upon the number of entities that access State registries? Why or why not? Is there a better estimate?

3. The Commission anticipates that some telemarketers will not want to gain access to the entire national registry. Is that expectation realistic? The

Commission also anticipates providing access to the registry by area code of the registrant. Is that the best method of sorting the information in the registry? Given the Commission's expectation that it will gather only the consumer's telephone number for the national registry, are there any other sorting capabilities that telemarketers would find useful to comply with the proposed amended TSR?

4. Is a user fee based on the number of area codes of data accessed by the telemarketer appropriate? Why or why not? In preparing this proposal, the Commission considered adopting a simple, flat fee for every telemarketer that accesses the registry, regardless of whether it wished to obtain data for all or only part of the country. Based upon the estimates included in this NPR (3,000 entities paying for access and the need to raise $3 million in FY 03), that flat fee would have to be $1,000 for each entity. Is such a flat fee more reasonable and appropriate that the fee based on the area codes of data accessed?

5. The proposed annual user fee of $12 per area code of data accessed is based upon the assumption that, on average, the Commission must raise $1,000 from each of the 3,000 entities that pay to gain access to the registry data. Thus, the mid-point in the range of area codes of data for which entities will be charged $12 is approximately 83. That is, the Commission anticipates that the average telemarketer or seller will pay to obtain the information in 83 area codes of data. Is this expectation realistic and appropriate?

6. Given the potential need to raise $3 million within FY 03, even though the registry may not be available for the entire fiscal year, are there any alternatives to charging the user fee on an annual basis, in advance of any access to the registry?

7. Is it appropriate not to charge telemarketers or sellers that obtain information from only one to five area codes of data from the registry? Why or why not? Should more than five area codes of data be offered free of charge? How many? If, instead of the current proposal, the Commission would charge a flat fee for every telemarketer that accesses the registry, regardless of the amount of data they access, would it still be appropriate not to charge telemarketers or sellers that obtain information from only one to five area codes of data?

8. Is the "buy-up" provision (permitting telemarketers to buy access to additional area codes of data) included in proposed section 310.9(b), reasonable and appropriate? Does it make the user fee too complex? What alternatives would you offer?

9. Is it problematic to require telemarketers to identify the particular area codes of data they need to access from the national registry, and to limit their access during the entire one-year term to those area codes? Why or why not? Does the "buy-up" provision solve any potential problems caused by such identification?

10. The NPR states that only telemarketers will be permitted access to the national registry, since the information in the registry cannot be used for any purpose other than compliance with the do-not-call provisions of the Proposed Rule. Is that limitation appropriate and workable? Would there ever be a need for an entity other than a telemarketer to gain access to the national registry? (The Commission anticipates providing appropriate law enforcement access to the national registry.)

11. Should list brokers be given access to the national registry in order to "scrub" the telemarketing lists of other firms? Why or why not?

12. Is it appropriate to require the telemarketer that gains access to the national registry on behalf of other sellers or telemarketers to pay the required user fee for those other entities? Why or why not? If the telemarketer does not pay this fee, who, if anyone, should pay? If list brokers are allowed access to the national registry, should they be required to pay the required user fee for all of their clients on whose behalf they are obtaining access? If telemarketers or list brokers are not required to pay this fee, what would prevent only a few firms from gaining access to the national registry, and passing the information they obtain on to many other entities? If that happened, wouldn't the annual fee need to be raised significantly? Is this fair to the entities who do access the registry?

13. Are the certification requirements included in Section 310.9(d) reasonable and appropriate?

14. Identify any instances when it would be difficult or impossible for a telemarketer that gains access to the national registry to identify the other "sellers" or "telemarketers" on whose behalf they are working. For example, how should this provision operate as to a telemarketer working on behalf of numerous subsidiaries of the same company?

15. The Commission anticipates that if a seller changes telemarketers during the course of the year, the newly hired telemarketer will have to pay the appropriate user fee for that seller in order to gain access to the registry on its behalf. Is this reasonable and appropriate? If not, identify other alternatives that could be used to ensure that the seller pays the appropriate user fee.

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

IX. Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Commission proposes to amend part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108

2. Add a new § 310.9 to read as follows:

§ 310.9 Fee for access to do-not-call registry.

(a) Telemarketers who obtain access to the do-not-call registry, maintained by the Commission under § 310.4(b)(1)(iii)(B), shall pay an annual fee, prior to obtaining such access, of $12.00 per area code of data they access. Telemarketers may obtain access to five or fewer area codes of data for no fee. The maximum annual fee is $3,000.00, which will provide access to 250 or more area codes of data. Any telemarketer who engages in telemarketing on behalf of other sellers or telemarketers, or who uses the information included in the registry to remove telephone numbers from the telemarketing lists of other sellers or telemarketers, shall pay this fee for each such seller or telemarketer.

(b) After a telemarketer pays the fees set forth in paragraph (a) of this section, the telemarketer may access the registry data for the selected area codes at any time for twelve months following the first day of the month in which the telemarketer paid the fee ("the annual period"). To obtain access to additional area codes of data during the first six months of the annual period, the telemarketer must first pay $12 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, the telemarketer must first pay $6 for each additional area code of data not initially selected. The payment of the additional fee will permit the telemarketer to access the additional area codes of data for the remainder of the annual period.

(c) Access to the do-not-call registry is limited to telemarketers working on their own behalf or working on behalf of other sellers or telemarketers. Prior to accessing the do-not-call registry, a telemarketer must provide the identifying information required by the operator of the registry to collect the user fee, and must certify, under penalty of law, that the telemarketer is accessing the registry solely to comply with the provisions of this rule. If the telemarketer is accessing the registry on behalf of other sellers or telemarketers, that telemarketer also must identify each of the other sellers or telemarketers on whose behalf it is accessing the registry, and it must certify, under penalty of law, that the other sellers or telemarketers will be using the information gathered from the registry solely to comply with the provisions of this rule.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–13320 Filed 5–28–02; 8:45 am]

BILLING CODE 6750–01–P

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 542

RIN 3141–AA24

Minimum Internal Control Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule: Notice of extension of time.

SUMMARY: On April 23, 2002, the National Indian Gaming Commission (Commission) reopened the comment period on proposed revisions to the Minimum Internal Control Standards, 66 FR 66500 (December 26, 2001) for the limited purpose of giving small entities an opportunity to comment on the Commission's certification that the proposed revisions will not have a significant economic impact on them. Upon request from tribes, the date for filing comments is being extended.

DATES: Comments shall be filed on or before May 30, 2002.

ADDRESSES: Send comments by mail, facsimile, or hand delivery to: Minimum Internal Control Standards, Revision Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street, NW., Washington, DC 20005. Fax number: 202–632–7066 (not a toll-free number). Public comments may be delivered or inspected from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michele F. Mitchell at 202–632–7003 or, by fax, at 202–632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act ("IGRA" or "Act") 25 U.S.C. 2701–2721, enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). The Commission published proposed revisions to its existing Minimum Internal Control Standards on December 26, 2001. 66 FR 66500. The Commission received numerous comments on the proposed rule. As a result of one of the comments received, the Commission determined that certain Indian gaming operations, if they meet specific definitional criteria, might qualify as "small entities," under the Regulatory Flexibility Act (RFA). 5 U.S.C. 601(3). As a result of requests from potentially affected tribes, the Commission has agreed to extend the deadline for comment by one week. The public comment period will now end on May 30, 2002.

Dated: May 21, 2002.

Kevin K. Washburn,

General Counsel, National Indian Gaming Commission.

[FR Doc. 02–13309 Filed 5–28–02; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107100–00]

RIN 1545–AY26

Disallowance of Deductions and Credits for Failure To File Timely Return; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: This document provides notice of cancellation of proposed regulations and notice of public hearing relating to the disallowance of deductions and credits for nonresident alien individuals and foreign corporations that fail to file a timely U.S. income tax return.

DATES: The public hearing originally scheduled for Monday, June 3, 2002, at 10 a.m is cancelled.

FOR FURTHER INFORMATION CONTACT: Donna Poindexter of the Regulations Unit, Associate Chief Counsel (Income Tax and Accounting), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing that appeared in the **Federal Register** on Tuesday, January 29, 2002 (67 FR 4217), announced that a public hearing was scheduled for June 3, 2002, at 10 a.m., in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW, Washington, DC. The subject of the public hearing is proposed regulations under section 874 and 882 of the Internal Revenue Code. The public comment period for these proposed regulations expired on April 29, 2002.

The notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed as of May 13, 2002; no one has requested to speak. Therefore, the public hearing scheduled for June 3, 2002, is cancelled.

Cynthia Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–13397 Filed 5–28–02; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL189–1b; FRL–7213–1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to particulate matter control requirements for rural grain elevators in Illinois. On April 8, 1999, the Illinois Environmental Protection Agency submitted section 9 of the Illinois Environmental Protection Act (as revised by Public Act 89–491) as a requested revision to the Illinois State Implementation Plan (SIP). The requested SIP revision exempts rural grain elevators from certain particulate matter control requirements. An air quality modeling analysis was conducted to show that this rule change would not cause or contribute to violation of the National Ambient Air Quality Standards (NAAQS) for

particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10).

DATES: EPA must receive written comments on this proposed rule by June 28, 2002.

ADDRESSES: You should mail written comments to: Patricia Morris, Acting Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean EPA.

Table of Contents

I. What action is EPA taking today?
II. Where can I find more information about this proposal and the corresponding direct final rule?

I. What Action is EPA Taking Today?

We are proposing to approve section 9 of the Illinois Environmental Protection Act (as revised by Public Act 89–491) as a revision to the Illinois SIP. The revised Illinois Environmental Protection Act exempts rural grain elevators from particulate matter control requirements contained in Section 212.462 of Title 35 of the Illinois Administrative Code (35 IAC 212.462). An air quality modeling analysis showed that the requested SIP revision would not cause or contribute to violations of PM10 NAAQS.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 7, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 02–13247 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[NE 156–1156; FRL–7218–1]

Approval and Promulgation of Implementation Plans and Operating Permit Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the Nebraska State Implementation Plan (SIP), Operating Permit Program, and Air Toxics Program. These revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program. In the final rules section of the **Federal Register**, EPA is approving these revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by June 28, 2002.

ADDRESSES: Comments may be mailed to Lynn M. Slugantz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Lynn Slugantz at (913) 551–7883.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: May 16, 2002.

Karen A. Flournoy,

Acting Regional Administrator, Region 7.

[FR Doc. 02–13249 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WI101–7332b; FRL–7206–6]

Approval and Promulgation of Implementation Plans; Wisconsin Designation of Areas for Air Quality Planning Purposes; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to approve the State of Wisconsin's request to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, Wisconsin, from primary and secondary sulfur dioxide (SO_2) nonattainment areas to attainment of the SO_2 National Ambient Air Quality Standards (NAAQS). In conjunction with these actions, EPA is also proposing to approve the maintenance plan for the Rothschild-Rib Mountain-Weston nonattainment areas, which was submitted to ensure that attainment of the NAAQS will be maintained. Further, we are also proposing to incorporate into the Wisconsin SO_2 State Implementation Plan consent orders for Weyerhaeuser Company and Wisconsin Public Service Corporation's Weston Plant. The Wisconsin Department of Natural Resources (WDNR) submitted the redesignation request and maintenance plan on November 17, 2000, and submitted the consent orders on October 17, 2001. The proposed actions are approvable because they satisfy the requirements of the Clean Air Act. In the final rules section of this **Federal Register**, we are approving these actions as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to the direct final rule, we contemplate no further activity in relation to this proposed rule. If we receive adverse comments on the direct final rule, we will withdraw the direct final rule, and we will address all public comments received in a subsequent final rule based on this proposed rule. We will not institute a second comment

period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before June 28, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: April 4, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 02–13113 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 67, No. 103
Wednesday, May 29, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of Civil Rights; Request for Reinstatement of a Previously Approved Information Collection

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture (USDA) Office of Civil Rights announces its intent to establish an information collection process for complaints of discrimination involving USDA programs. The Office of Civil Rights will use the information collected to investigate, attempt resolution, and settle respondents' discrimination complaints.

DATES: Comments on this notice must be submitted on or before July 29, 2002.

ADDRESSES: All comments should be addressed to: Josie Woodley-Jones, Assistant to the Director, USDA Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250–9410. (202) 720–8765.

FOR FURTHER INFORMATION CONTACT: Josie Woodley-Jones, Assistant to the Director, USDA Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250–9410. (202) 720–8765.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection:

Title: Program Discrimination Complaints.

OMB Number: 0508–xxxx.

Expiration Date: July 31, 1998.

Type of Request: Reinstatement of a previously approved information collection.

Estimate of Burden: The estimate of burden on the respondent is likely to vary but not to exceed 60 minutes to gather the information and complete the mail-back form.

Type of Respondents: Customers of USDA programs and activities which are conducted or assisted by USDA agencies.

Estimated Number of Respondents: 600 per year.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 600 hours.

Copies of the information collection materials (form and brochure) can be obtained without charge from: Josie Woodley-Jones, Assistant to the Director, USDA Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250–9410. (202) 720–5212.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

Use of Comments

All responses to this notice will be summarized and included in the request for Office of Management and Budget three-year approval. All comments will also become a matter of public record.

Abstract: Under 7 CFR 15.6 "Any person who believes himself/herself or any specific class of individuals to be subjected to discrimination [in any United States Department of Agriculture (USDA) assisted program or activity] * * * may by himself/herself or by an authorized representative file * * * a written complaint" based on the grounds of such discrimination. Under 7 CFR 15d.4(a) "Any person who believes that he or she (or any specific class of individuals) has been, or is being, subjected to discrimination [in any USDA conducted program or activity]* * *may file on his or her own, or through an authorized representative, a written complaint alleging such discrimination." The collection of this information is one avenue by which the individual or his representative may file such a written complaint.

The requested information, which can be submitted by filling out a form with the aid of an instructive brochure or by submitting a letter, is necessary in order for the USDA Office of Civil Rights to address the alleged discriminatory action. The respondent (individual filing the complaint) is asked to state his/her name, address, telephone number, and the basis of the discrimination complaint, *i.e.*, which of the bases of possible discrimination prohibited under either Part 15d: race, color, national origin, age, sex, disability, religion, sexual orientation, marital or familial status, reprisal, or because all or part of the individual's income is derived from any public assistance program; or under nondiscrimination regulations applying to recipients of Federal financial assistance from USDA: race, color, national origin, sex, age, disability, religion, political beliefs, or reprisal. (Not all bases apply to all programs.) A brief description of what occurred when, where, who was involved, and the names of any witnesses is also requested.

This discrimination complaint filing information, which is voluntarily provided by the respondent, will be used by the staff of the USDA Office of Civil Rights to investigate, attempt resolution of, and settle the respondent's complaint. The brochures also include additional information on the USDA Program Discrimination Complaint Process. The information filing format in the submitted collection documents (forms and brochures) is being provided to the public to assist in gathering the necessary information to open a program discrimination complaint case in a manner most efficient and least intrusive for the public/customer.

Two separate forms and brochures are necessary because of the distinct nature of USDA conducted and USDA assisted programs. Without two brochures and forms, public confusion will result. USDA places requirements upon its agencies that extend beyond the prohibitions contained in Federal laws applicable to recipients of Federal financial assistance from USDA.

Dated: May 21, 2002.

Ann M. Veneman,

Secretary of Agriculture.

BILLING CODE 3410–XE–P

DISCRIMINATION COMPLAINT INFORMATION

You may request a Program Discrimination Complaint form from any USDA agency office or the office where you received this brochure, or by calling the telephone number printed on the back of this brochure.

Or, you may send a letter to file a program discrimination complaint to the address printed on the back of this brochure.

Please provide the following information when filing a program discrimination complaint:

YOUR NAME, ADDRESS, AND TELEPHONE NUMBER

APPROPRIATE TIME TO CALL YOU

USDA PROGRAM, AGENCY AND/OR RECIPIENT INVOLVED

WHAT HAPPENED AND WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

YOUR SIGNATURE AND THE DATE

If you have filed a complaint with USDA and have not heard back from USDA/CR within 15 days, please call CR at the telephone number listed below.

REPRISAL POLICY

No Recipient, sub-recipient, or agent or employee of a recipient or sub-recipient, shall intimidate, threaten, harass, coerce, discriminate against, or commit or seek reprisal against anyone who participates in any aspect of the discrimination complaint process.

If you believe an agency has taken an adverse action against you because you filed a complaint or participated in the complaint process, you have the right to file a discrimination (reprisal) complaint.

In accordance with Federal law and USDA policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, religion, political beliefs, or reprisal. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964; TTY (202) 401-0216. Persons with disabilities who require alternative means for communication of this brochure information (Braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720-2600 (voice and TTY). USDA is an equal opportunity provider and employer.

How to File a Civil Rights Discrimination Complaint

For a USDA Assisted Program

USDA

Office of Civil Rights
United States Department of Agriculture

OUR ROLE

The United States Department of Agriculture (USDA) is committed to treating all customers fairly and equitably with dignity and respect.

USDA has a uniform Program Discrimination Complaint Process. All complaints shall be filed in writing directly with the USDA Office of Civil Rights (CR) in Washington, D.C. This office handles all new complaints. All investigations are conducted by investigators from the Washington office.

YOUR RIGHTS

As a participant in, or applicant for, programs or activities funded by USDA through a recipient agency or organization, you have a right to be treated fairly.

If you believe you have been discriminated against (treated unfairly) because of your race, color, national origin, sex, age, disability, religion, political beliefs or reprisal, you may file a discrimination complaint. (Not all prohibited bases apply to all programs.)

The complaint should be filed in writing with the USDA/CR within 180 days of the date you knew or reasonably should have known of the alleged discrimination. You may ask for an extension of the filing time for good cause.

You also have a right to request mediation and you may have a right to file a civil action. To pursue a civil action, you should consult with a lawyer.

WHAT TO REPORT

Tell what happened, the date and place it happened, and who was involved. List names of anyone who saw what happened. If you know the phone numbers or addresses of those people, that will help.

If you submit documents please send copies–not the originals–with your complaint.

WHAT WILL HAPPEN TO YOUR COMPLAINT

Your complaint will be sent immediately to CR. CR will contact you by mail or by phone within 15 days after they receive the complaint. CR will explain the process, including opportunities for mediation, and will answer your questions. In most cases the complaint process will be completed within 180 days or less, usually by a written agreement with the recipient. If CR finds that discrimination occurred, you will be told what the recipient who administered the program or activity will need to do to comply with its civil rights requirements.

HOW TO FILE YOUR COMPLAINT

You do not need a lawyer or a special form to file a complaint with USDA. However, you may hire a lawyer if you deem appropriate.

To file your complaint, you can:

- Write a letter about what happened and mail it to USDA/CR at the address on the back of this brochure.

or

- Fill out a Program Discrimination Complaint form and mail it to the address on the back of this brochure. Program Discrimination Complaint forms are available at all USDA and recipient offices.

Be sure to sign and date the complaint and keep a copy.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is xxx-xxxx. The time required to complete this information collection is estimated at an average of 1 hour, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Form Approved OMB #yyyy-yy

CIVIL RIGHTS DISCRIMINATION COMPLAINT FORM
for
USDA Assisted Programs

For USDA to process your complaint, you must file a written program discrimination complaint within 180 days of the date you knew or should have known that an action, inaction, or decision by a agency, institution, or organization receiving USDA financial assistance (recipient) or by an employee or agent of the recipient, may have been discriminatory. You may ask for an extension of the filing time for good cause.

YOUR NAME, ADDRESS, AND TELEPHONE NUMBER

APPROPRIATE TIME TO CALL YOU

USDA PROGRAM, AGENCY AND/OR RECIPIENT INVOLVED

I believe that I was treated differently because of the following–check all which apply to your situation. (Not all bases apply to all programs.)

- ☐ Race
- ☐ Sex
- ☐ Disability
- ☐ Color
- ☐ Religion
- ☐ Political Beliefs
- ☐ National Origin
- ☐ Age
- ☐ Reprisal

REPRISAL POLICY: No recipient, sub-recipient, or employee or agent of a recipient or sub-recipient shall intimidate, threaten, harass, coerce, discriminate against, or commit or seek reprisal against anyone who participates in any aspect of the discrimination complaint process.

MAIL THIS COMPLETED FORM TO:

USDA, Director, Office of Civil Rights
Room 326-W, Whitten Building
1400 Independence Avenue, SW
Washington, DC 20250-9410

(202) 720-5964 (Voice)
(202) 401-0216 (TTY)*

*Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.), should contact the USDA TARGET Center at (202) 720-2600 (voice and TTY).

USDA is an equal opportunity provider and employer.

ISSUE 1: WHAT HAPPENED? (Add additional pages if necessary.)

WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

ISSUE 2: WHAT HAPPENED? (Add additional pages if necessary.)

WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

ISSUE 3: WHAT HAPPENED? (Add additional pages if necessary.)

WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

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SIGN HERE DATE

Please Keep A Copy Of This Form For Your Records.

DISCRIMINATION COMPLAINT INFORMATION

You may request a Program Discrimination Complaint form from any USDA agency office or the office where you received this brochure, or by calling the telephone number printed on the back of this brochure.

Or, you may send a letter to file a program discrimination complaint to the address printed on the back of this brochure.

Please provide the following information when filing a program discrimination complaint:

YOUR NAME, ADDRESS, AND TELEPHONE NUMBER

APPROPRIATE TIME TO CALL YOU

USDA AGENCY INVOLVED (Farm Service Agency, Forest Service, etc.)

WHAT HAPPENED AND WHEN

NAMES OF USDA INDIVIDUALS INVOLVED (If you know them)

WITNESSES

YOUR SIGNATURE AND THE DATE

If you have filed a complaint with USDA and have not heard back from USDA/CR within 15 days, please call CR at the telephone number listed below.

REPRISAL POLICY

No agency, officer, or employee of USDA, including persons representing USDA and its programs, shall intimidate, threaten, harass, coerce, discriminate against, or commit or seek reprisal against anyone who participates in any aspect of the discrimination complaint process.

If you believe an agency has taken an adverse action against you because you filed a complaint or participated in the complaint process, you have the right to file a discrimination (reprisal) complaint.

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, sexual orientation, marital status, familial status, reprisal, or because all or part of an individual's income is derived from any public assistance program.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964; TTY (202) 401-0216. Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720-2600 (voice and TTY). USDA is an equal opportunity provider and employer.

How to File a Civil Rights Discrimination Complaint

For a Program Conducted By USDA and its Agencies

USDA

Office of Civil Rights
United States Department of Agriculture

OUR ROLE

The United States Department of Agriculture (USDA) is committed to treating all customers fairly and equitably with dignity and respect.

USDA has a uniform Program Discrimination Complaint Process. All complaints shall be filed in writing directly with the USDA Office of Civil Rights (CR) in Washington, D.C. This office handles all new complaints. All investigations are conducted by investigators from the Washington office.

YOUR RIGHTS

As a participant in, or applicant for, programs or activities conducted by USDA, you have a right to be treated fairly.

If you believe you have been discriminated against (treated unfairly) because of your race, color, national origin, sex, religion, age, disability, sexual orientation, marital status, familial status, reprisal, or because all or part of your income is derived from any public assistance program, you may file a discrimination complaint.

The complaint should be filed in writing with the USDA/CR within 180 days of the date you knew or reasonably should have known of the alleged discrimination. You may ask for an extension of the filing time for good cause.

You also have a right to request mediation and you may have a right to file a civil action. To pursue a civil action, you should consult with a lawyer.

WHAT TO REPORT

Tell what happened, the date and place it happened, and who was involved. List names of anyone who saw what happened. If you know the phone numbers or addresses of those people, that will help.

If you submit documents please send copies–not the originals–with your complaint.

WHAT WILL HAPPEN TO YOUR COMPLAINT

Your complaint will be sent immediately to CR. CR will contact you by mail or by phone within 15 days after they receive the complaint. CR will explain the process, including opportunities for mediation, and will answer your questions. In most cases the complaint process will be completed within 180 days or less, either by a written agreement or decision. If CR finds that discrimination occurred, you will be told what the agency will have to do.

HOW TO FILE YOUR COMPLAINT

You do not need a lawyer or a special form to file a complaint with USDA. However, you may hire a lawyer if you deem appropriate.

To file your complaint, you can:

- Write a letter about what happened and mail it to USDA/CR at the address on the back of this brochure.

or

- Fill out a Program Discrimination Complaint form and mail it to the address on the back of this brochure. Program Discrimination Complaint forms are available at all USDA and recipient offices.

Be sure to sign and date the complaint and keep a copy.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is xxx-xxxx. The time required to complete this information collection is estimated at an average of 1 hour, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Form Approved OMB #xxxx-xxx

CIVIL RIGHTS DISCRIMINATION COMPLAINT FORM
for
Programs Conducted by USDA and its Agencies

For USDA to process your complaint, you must file a written program discrimination complaint within 180 days of the date you knew or should have known that an action, inaction, or decision by a USDA agency or employee may have been discriminatory. You may ask for an extension of the filing time for good cause.

YOUR NAME, ADDRESS, AND TELEPHONE NUMBER

APPROPRIATE TIME TO CALL YOU

USDA AGENCY INVOLVED (Farm Service Agency, Forest Service, etc.)

I believe that I was treated differently because of the following–check all which apply to your situation. (Not all bases apply to all programs.)

- ☐ Race
- ☐ Sex
- ☐ Disability
- ☐ Income Derived From Public Assistance
- ☐ Color
- ☐ Religion
- ☐ Marital Status
- ☐ Sexual Orientation
- ☐ National Origin
- ☐ Age
- ☐ Familial Status
- ☐ Reprisal

REPRISAL POLICY: No agency, officer, employee, or agent of USDA, including persons representing USDA and its programs, shall intimidate, threaten, harass, coerce, discriminate against, or commit or seek reprisal against anyone who participates in any aspect of the discrimination complaint process.

MAIL COMPLETED FORM TO:

USDA, Director, Office of Civil Rights
Room 326-W, Whitten Building
1400 Independence Ave SW
Washington, D.C. 20250-9410

(202) 720-5964 (Voice)
(202) 401-0216 (TTY)*

*Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.), should contact the USDA TARGET Center at (202) 720-2600 (voice and TTY).

USDA is an equal opportunity provider and employer.

ISSUE 1: WHAT HAPPENED? (Add additional pages if necessary.)

WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

ISSUE 2: WHAT HAPPENED? (Add additional pages if necessary.)

WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

ISSUE 3: WHAT HAPPENED? (Add additional pages if necessary.)

WHEN

NAMES OF INDIVIDUALS INVOLVED (If you know them)

WITNESSES

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is xxx-xxxx. The time required to complete this information collection is estimated on an average of 1 hour , including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

SIGN HERE DATE

Please Keep A Copy Of This Form For Your Records.

[FR Doc. 02–13301 Filed 5–28–02; 8:45 am]
BILLING CODE 3410–XE–C

DEPARTMENT OF AGRICULTURE

Forest Service

Meeting of the Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board will hold a meeting on Thursday, June 20, 2002. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App.2.

The meeting agenda includes the following:

(1) Welcome, Introductions, Agenda
(2) Environmental Education Program
(3) LBL Communication Plan
(4) Trust Fund Criteria Review
(5) LBL Data Clarification
(6) LBL Association
(7) Discussion of Public Comments Received
(8) Passport-in-Time Project
(9) Visit to Nature Station

The meeting is open to the public. Written comments are invited and may be mailed to: William P. Lisowsky, Area Supervisor, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211. Written comments must be received at Land Between The Lakes by June 13, 2002, in order for copies to be provided to the members at the meeting. Board members will review written comments received, and at their request, oral clarification may be requested at a future meeting.

DATES: The meeting will be held on Thursday, June 20, 2002, 8:30 a.m. to 3:30 p.m., CDT.

ADDRESSES: The meeting will be held at the LBL Administration Building, Golden Pond, Kentucky, and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Sharon Byers, Advisory Board Liaison, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, 270–924–2002.

SUPPLEMENTARY INFORMATION: None.

Dated: May 21, 2002.

William P. Lisowsky,

Area Supervisor, Land Between The Lakes.

[FR Doc. 02–13315 Filed 5–28–02; 8:45 am]
BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Portland, Oregon, June 13–15, 2002. The purpose of the meeting is to discuss emerging issues in urban and community forestry and to determine the categories for the 2003 Challenge Cost-Share grant program.

DATES: The meeting will be held June 13–15, 2002. A tour of local projects will be held June 13, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Westin Hotel, 750 SW. Alder Street, Portland, Oregon. Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, 20628 Diane Drive, Sonora, California 95370. Individuals may fax their names and proposed agenda items to (209) 536–9089.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Cooperative Forestry Staff, (209) 536–9201.

SUPPLEMENTARY INFORMATION: The Challenge Cost-Share Grant categories, identified by the Council, are advertised annually to solicit proposals for projects, which advance the knowledge of, and promote interest in, urban and community forestry. Pursuant to 5 U.S.C. 552b(c)(9)(B), the meeting will be closed from approximately 8 a.m. to 11 a.m. on June 15, in order for the Council to determine the categories for the 2003 Challenge Cost-Share grant program. Otherwise, the meeting is open to the public.

Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided.

Dated: May 15, 2002.

Ann M. Veneman,

Secretary, U.S. Department of Agriculture.

[FR Doc. 02–13382 Filed 5–28–02; 8:45 am]
BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

South Mt. Baker-Snoqualmie Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The South Mt. Baker-Snoqualmie Resource Advisory Committee (RAC) will meet Monday, June 24, 2002. This meeting replaces the June 10, 2002 RAC meeting and will be held at the Washington State University Puyallup Research and Extension Center, Allmendinger Center, 7612 E. Pioneer Way, Puyallup, WA 98371–4998.

The meeting will begin at 9 a.m. and continue until about 3 p.m. The June 24 meeting will focus primarily on Title II project evaluation.

All South Mt. Baker-Snoqualmie Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

The South Mt. Baker-Snoqualmie Resource Advisory Committee advises King and Pierce Counties on projects, reviews project proposals, and makes recommendations to the Forest Supervisor for projects to be funded by Title II dollars. The South Mt. Baker-Snoqualmie Resource Advisory Committee was established to carry out the requirements of the Secure Rural Schools and Community Self-Determination Act of 2000.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Penny Sundblad, Management Specialists, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, 810 State Route 20, Sedro Woolley, Washington 98284 (360–856–5700, Extension 321).

Dated: May 21, 2002.

John Phipps,

Designated Federal Official.

[FR Doc. 02–13287 Filed 5–28–02; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Action of meeting.

SUMMARY: The Willamette Province Advisory Committee (PAC) will meet on Thursday June 20, 2002. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 3 p.m. The meeting will be held at the Alton Collins Retreat Center, 32867 SE Highway 211, Eagle Creek, Oregon, 97022. This is a joint meeting with Deschutes Advisory Committee. The tentative agenda includes: (1) Introductions, (2) Public Forum, (3) Mt. Hood NF Recreation Strategy presentation, (4) PAC Information Sharing and (5) Northwest Forest Plan update.

The Public Forum is tentatively scheduled to begin at 10:15 a.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the June 20 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 225–6436.

Dated: May 21, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–13314 Filed 5–28–02; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for Rural Housing Site Loans Policies, Procedures and Authorizations.

DATES: Comments on this notice must be received by July 29, 2002, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Kaye F. Deener, Senior Loan Specialist, Single Family Housing Direct Loan Division, RHS, U.S. Department of Agriculture, Stop 0783, 1400 Independence Ave., SW, Washington, DC 20250–0783, Telephone (202) 690–3832.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1822–G, Rural Housing Site Loans, Polices, Procedures and Authorizations.

OMB Number: 0575–0071.

Expiration Date of Approval: October 31, 2002.

Type of Request: Extension of currently approved information collection.

Abstract: Section 523 of the Housing Act of 1949 as amended (Public Law 90–448) authorizes the Secretary of Agriculture to establish the Self-Help Land Development Fund to be used by the Secretary as a revolving fund for making loans on such terms and conditions and in such amounts as deemed necessary to public or private nonprofit organizations for the acquisition and development of the land as building sites to be subdivided and sold to families, nonprofit organizations and cooperatives eligible for assistance.

Section 524 authorizes the Secretary to make loans on such terms and conditions and in such amounts as deemed necessary to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies and cooperatives eligible for assistance under any section of this title, or under any other law which provides financial assistance for housing low and moderate income families.

RHS will be collecting information from participating organizations to insure they are program eligible entities. This information will be collected at the RHS field office. If not collected, RHS would be unable to determine if the organization would qualify for loan assistance.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 hours per response.

Respondents: Public or private nonprofit organizations, State, Local or Tribal Governments.

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 6.

Estimated Total Annual Burden on Respondents: 36.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 11, 2002.

Arthur A. Garcia,

Administrator, Rural Housing Service.

[FR Doc. 02–13357 Filed 5–28–02; 8:45 am]
BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD APRIL 19, 2002–MAY 16, 2002

Firm name	Address	Date petition accepted	Product
Zenith Fuel Systems, Inc	14570 Industrial Park Rd., Bristol, VA 24202.	04/25/02	Carburetors for internal combustion engines.
Northwest Wood Products, Inc	850 West Old Kettle Rd., Kettle Falls, WA 99141.	04/25/02	Pine wood boards and brackets.
Eagle Tool, Inc	430 Kinsley Avenue, Providence, RI 02909.	04/29/02	Base metal jewelry parts (findings).
Kendrick Pecan Company, Inc	302 Brown Avenue, Columbus, GA 31903.	04/29/02	Gourmet flavored spirit cakes and pecan confections.
Orycon Control Technology, Inc	3407 Rose Avenue, Ocean City, NJ 07712.	04/30/02	Hot runner temperature controls for plastic injection molding manufacturers.
Precision Die and Machine Co., Inc	1400 S. Carney Drive, St. Clair, MI 48079.	04/30/02	Injection molds for the automotive industry.
Old Dominion Wood Products, Inc	800 Craddock Street, Lynchburg, VA 24501.	05/01/02	Wooden chairs for the restaurant industry.
Seco Spice Co., Ltd	76 E. Cottonwood, Artesia, NM 88210	05/01/02	Dehydrated paprika.
Liberty Brass Turning Co., Inc	3801 Queens Boulevard, Long Island, NY 11101.	05/01/02	Screw machine parts for lamps and lighting fixtures.
Tesko Welding & Manufacturing Co., Inc	7350 W. Montrose Ave., Norridge, IL 60706.	05/01/02	Steel stakes, cut from bars and drilled for propping up concrete forms.
Clearwood, L.L.C	270 Clearwood Drive, Whittier, NC 28789.	05/01/02	Finger joint board.
Fiber Pad, Inc	P. O. Box 690660, Tulsa, OK 74169	05/02/02	Thermoformed automotive parts and equipment.
Tulsa Tube Bending Co., Inc	4192 South Galveston, Tulsa, OK 74107	05/02/02	Fabricated pipe and fittings used in the petrochemical, power and refining industries.
Advantage Buildings & Exteriors, Inc	8635 West 21st Street, Sand Springs, OK 74063.	05/02/02	Exterior siding.
Plastic Extruded Products Co.	1430 Chestnut Avenue, Hillside, NJ 07205.	05/02/02	Thermoplastic tubing, rods and profiles.
Carolina Casting, Inc	1416 Progress Avenue, High Point, NC 27260.	05/02/02	Furniture trim, table bases and home furnishing accessories of resin compound.
Claude's Sauces, Inc	935 Loma Verde, El Paso, TX 79936	05/16/02	Sauces—barbecue, steak and marinate.
Alphabet Embroidery Studios, Inc	1291 Bellbrook Avenue, Xenia, OH 45385.	05/16/02	Cloth embroidery badges, monogram letters sewn into clothing.
Statton Furniture Manufacturing Co.	504 East First Street, Hagerstown, MD 21741.	05/16/02	Wooden furniture for the home.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 21, 2002.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 02–13316 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1230]

Approval of Manufacturing Activity Within Foreign-Trade Zone 210, Port Huron, MI; Cross Hüller-North America (Metalworking Equipment)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u)(the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Economic Development Alliance of St. Clair County, grantee of FTZ 210, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Cross Hüller-North America (Inc.) to manufacture metalworking equipment (machine tools) under FTZ procedures within FTZ 210-Site 2, Port Huron, Michigan (filed 10–5–2001);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is the same, in terms of products involved, to activity recently approved by the Board (§ 400.32(b)(1)(i)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of Section 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to Section 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 17th day of May 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–13395 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1228]

Grant of Authority For Subzone Status; Movado Group, Inc. (Watches and Consumer Goods), Moonachie, New Jersey

Pursuant to its authority under the Foreign-Trade Zones Act, of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "...the establishment... of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, has made application to the Board for authority to establish special-purpose subzone status at the watch and consumer goods distribution/repair facility of Movado Group, Inc., located in Moonachie, New Jersey (FTZ Docket 44–2001, filed 10/31/01);

Whereas, notice inviting public comment was given in the **Federal Register** (66 FR 56272, 11/7/01); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the watch and consumer goods distribution/repair facility of Movado Group, Inc., located in Moonachie, New Jersey (Subzone 49J), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 17th day of May, 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–13393 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board [Order No. 1229]

Approval of Manufacturing Authority, Foreign-Trade Zone 40, HMI Industries, Inc. (High Filtration Vacuum and Air Cleaners), Cleveland, OH

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, on behalf of HMI Industries, Inc., has requested authority to manufacture vacuum and air cleaners under FTZ procedures within FTZ 40–Site 8;

Whereas, notice inviting public comment has been given in the **Federal Register** (66 FR 41499, 8/8/01);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the request is in the public interest;

Now, therefore, the Board hereby orders:

The application on behalf of HMI Industries, Inc., to manufacture vacuum and air cleaners under zone procedures within FTZ 40—Site 8, is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 17th day of May 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–13394 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–834]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Anya Naschak, Charles Rast, or Abdelali Elouaradia at (202) 482–6375, (202) 482–1324 and (202) 482–1374, respectively; AD/CVD Enforcement, Office 8, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the provisions codified at 19 CFR 351 (2001).

Amendment of Preliminary Determination

The Department of Commerce (the Department) is amending the preliminary determination in the antidumping investigation of certain cold-rolled carbon steel flat products from Germany to reflect the correction of significant ministerial errors in the margin calculation. Correction of these errors results in a revised antidumping rate for the single respondent, as well as the all others rate.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, please *see* the "Scope Appendix" attached to the *Notice of*

Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 67 FR 31204 (May 9, 2002).

Background

On April 26, 2002, the Department issued its affirmative preliminary determination in this proceeding. *See Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Cold-Rolled Carbon Steel Flat Products from Germany*, 67 FR 31212 (May 9, 2002) (*Preliminary Determination*). That preliminary determination covered the following manufacturer/exporter: Thyssen Krupp Stahl AG (TKS). On April 30, 2002, the Department disclosed its calculations used in the preliminary determination to counsel for TKS and counsel for petitioners.

On Monday, May 6, 2002, the Department received from the respondent and petitioners[1] allegations of ministerial errors in the preliminary determination, timely filed pursuant to 19 CFR 351.224(c)(2). The respondent alleged five ministerial errors: (1) the Department incorrectly administered the arms' length test on home market sales; (2) the Department incorrectly applied its intended facts available (FA) methodology for affiliated home market resellers; (3) the Department incorrectly excluded billing adjustments from calculation of home market revenue used for the purpose of determining constructed export price (CEP) profit; (4) the Department incorrectly applied a revised general and administrative expenses rate (GNA) for U.S. further manufacturing (which results in double counting of certain indirect selling expenses) and incorrectly included freight revenue in the denominator of the further manufacturing GNA rate calculation; and (5) the Department incorrectly performed the comparison of control number (CONNUM) specific average prices. *See* letter from the respondent alleging ministerial errors in the preliminary determination (May 6, 2002). In addition, the petitioners alleged that the Department incorrectly applied its intended FA methodology to an affiliated U.S. reseller. *See* letter from petitioners alleging ministerial errors in the preliminary determination (May 6, 2002).

Significant Ministerial Error

A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. *See* 19 CFR 351.224(f). A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. *See* 19 CFR 351.224(g).

In this instance, the original preliminary determination resulted in a weighted-average margin of 14.52%. Implementation of the corrections of the ministerial errors results in a weighted-average dumping margin of 8.47%, thus meeting the requirements under 19 CFR 351.224(g)(2).

Amended Determination

The Department has reviewed its preliminary margin calculations and agrees that all but one of the respondent's and petitioners' identified errors constitute ministerial errors within the meaning of 19 CFR 351.224(f) as they involve inadvertent coding or calculation errors that generate results that are other than that which the Department intended. Specifically, the Department administered the arms' length test incorrectly on home market sales, incorrectly applied its intended FA methodology for affiliated home market resellers, incorrectly excluded billing adjustments from calculation of home market revenue used for the purpose of determining CEP profit, inadvertently used a variable in calculation of the CEP offset that was not weight averaged, and incorrectly applied its intended FA methodology to an affiliated U.S. reseller. For additional details, *see* the May 17, 2002, Sales Memorandum to Richard O. Weible from Anya Naschak and Charlie Rast regarding *Ministerial Error Allegation*.

With regard to respondent's allegations concerning the further manufacturing GNA ratio, the Department agrees in part that the alleged errors are ministerial in nature. The Department agrees that it inadvertently subtracted freight revenue from the denominator of that calculation, thereby overstating the GNA ratio used to calculate further manufacturing costs. We have corrected this ministerial error. However, we disagree that the Department double-counted the selling expenses used in the numerator of that calculation. The methodology used by the Department to calculate the further manufacturing GNA numerator did not double-count any expenses. Moreover, the Department intended to calculate the further manufacturing GNA numerator in the manner used in the preliminary determination. Therefore, respondent's ministerial error allegation on this point is more properly viewed as a comment on our methodology. Accordingly we have not corrected this alleged error in the amended preliminary determination. For additional details, *see* the May 17, 2002, Cost Memorandum to Neil Harper from Michael Harrison regarding *Ministerial Error Allegations*.

As a result of our analysis of petitioners' and respondent's allegations, we are amending our preliminary determination to revise the antidumping rates in accordance with 19 C.F.R. § 351.224(e). Suspension of liquidation will be revised in accordance with section 733(d) of the Act.

The following weighted-average dumping margins apply:

Manufacturer/exporter	Margin (percent)
Thyssen Krupp Stahl AG	8.47
All Others	8.47

The all others rate has been amended, and applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct the Customs Service to continue to suspend liquidation of all entries of cold rolled steel from Germany that are entered, or withdrawn from warehouse, for consumption, on or after May 9, 2002, the date of publication of the original preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission of the amended preliminary determination.

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., WCI Steel, Inc., Weirton Steel Corporation, and United States Steel Corporation.

This determination is issued and published pursuant to section 733(f) and 777(i)(1) of the Tariff Act.

Dated: May 21, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–13389 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–822]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza, John Drury or Abdelali Elouaradia at (202) 482–3019, (202) 482–0195 and (202) 482–1374, respectively; AD/CVD Enforcement, Office 8, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR part 351 (April 2001).

Amendment of Preliminary Determination

The Department of Commerce (the Department) is amending the preliminary determination in the antidumping investigation of certain cold-rolled carbon steel flat products from France. This amended preliminary determination results in a revised antidumping rate for the single respondent in this case.

Scope of Investigations

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, please see the "Scope Appendix" attached to the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31204 (May 9, 2002).

Background

On May 4, 2001, the Department issued its negative preliminary determination in this proceeding. *See Notice of Preliminary Determination of Sales at Not Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from France*, 67 FR 31204 (May 9, 2002) ("*Preliminary Determination*"). That preliminary determination covered the following manufacturer/exporter, Usinor Group ("Usinor").

On May 6, 2002, the Department received from the petitioners a timely allegation of ministerial errors in the preliminary determination.[1] The petitioners alleged that the Department made a number of ministerial errors. The alleged ministerial errors include:

the creation of a temporary, rather than permanent, dataset in the Model Match program;

use of multiple producers' costs rather than a single, weighted-average cost for each product;

exclusion of certain United States sales from the margin calculation;

exclusion of certain billing adjustments to revenue;

reintroduction, into the home market dataset, of sales made to affiliated resellers that failed the arm's-length test;

- failure to correct warranty expenses in the home market;
- failure to implement weighted-average movement expenses;
- failure to use the proper customer codes in the arm's-length test program;
- improper specification of the sorting macro for U.S. variables ("USBYVARS");
- failure to exclude as intended all sales between affiliates in the model match and arm's-length test programs where downstream sales were reported;
- improper calculation of credit for all non-cash sales;
- failure to exclude all home market commissions paid to affiliates;
- failure to exclude certain rebates;
- failure to correct the cost of minor inputs in the cost of production;
- failure to convert certain adjustments stated in Euros to U.S. dollars;
- failure to correct U.S. sales with respect to non-prime merchandise; and
- improper merger of COP and home market data files.

See letters from petitioners alleging ministerial errors in the preliminary determination (May 6, 2002).

On May 6, 2002, the respondent alleged one clerical error. The respondent stated, as did the petitioners, that the model match program created a temporary, rather than a permanent, dataset.

Significant Ministerial Error

A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. See 19 CFR 351.224(g).

In this instance, the original preliminary determination resulted in a weighted-average margin which was de minimis. Implementation of the corrections of the ministerial errors results in a weighted-average dumping margin which is greater than *de minimis*, thus meeting the requirements under 19 CFR 351.224(g)(2).

Amended Determination

The Department has reviewed its preliminary calculations and agrees that most of the items identified as ministerial errors do constitute ministerial errors within the meaning of 19 CFR 351.224(f). For a detailed analysis and the Department's determinations, see the May 15, 2002 Memorandum to Richard O. Weible from Angelica Mendoza regarding *Ministerial Error Allegations* on file in room B–099 of the main Commerce building. As a result of our analysis of petitioners' and respondent's allegations, we are amending our preliminary determination to revise the antidumping rates in accordance with 19 CFR 351.224(e). Specifically, we corrected all of the points raised by all parties with the following exception:

we did not include freight revenue as a billing adjustment in the definition of home market revenue for sales by Etilam.

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., WCI Steel, Inc., Weirton Steel Corporation, and United States Steel Corporation.

In addition to the ministerial errors reported by petitioners and respondent, the Department separately identified and corrected another ministerial error. With respect to revised home market imputed credit expense calculations for sales with missing payment dates, we inadvertently defined the billing adjustment variable ("BILADJH") after the programming code specifying the revised credit calculations, thereby omitting this adjustment from the credit expense calculation. *See* the analysis memorandum.

Suspension of liquidation will be revised in accordance with section 733(d) of the Act.

The following weighted-average dumping margins apply:

Manufacturer/exporter	Margin (percent)
Usinor Group	5.17
All Others	5.17

The all others rate has been amended, and applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the U.S. Customs Service ("Customs") to suspend liquidation of all imports of certain cold-rolled carbon steel flat products from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of this amended preliminary determination in the **Federal Register**. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

This determination is issued and published pursuant to section 733(f) and 777(i)(1) of the Tariff Act.

Dated: May 21, 2002

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

[FR Doc. 02–13390 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–877]

Notice of Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of an antidumping duty investigation.

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: David Salkeld at (202) 482–1168; AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, ("the Act"), by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are references to the provisions codified at 19 CFR Part 351 (2001).

The Petition

On May 1, 2002, the Department received a petition filed in proper form by Steel City Corporation ("the petitioner"). On May 9, 2002, we sent the petitioner a letter with questions regarding the petition. The Department received information supplementing the petition on May 14, 2002 and May 21, 2002.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of lawn and garden steel fence posts ("steel fence posts") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party, as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department to initiate. (*See* the *Determination of Industry Support for the Petition* section below.)

Scope of Investigation

The scope of the investigation includes all lawn and garden steel fence posts, in whatever form, shape, or size, that are produced in the PRC. The fence posts included within the scope of this investigation weigh up to 1 pound per foot and are made of steel and/or any other metal. Imports of these products are classified under the following categories: fence posts, studded with corrugations, knobs, studs, notches or similar protrusions with or without anchor posts. These posts are normally "U" shaped or "hat" shaped or any other similar shape excluding round or square tubing or pipes.

These posts are normally made in two different classes, light and heavy duty. Light duty lawn and garden posts are normally made of 14 gauge steel (0.068 inches–0.082 inches thick), 1.75 inches wide, in 3, 4, 5, or 6 foot lengths. These posts normally weigh approximately 0.45 pounds per foot and are packaged in mini-bundles of 10 posts and master bundles of 400 posts. Heavy duty lawn and garden fence posts are normally made of 13 gauge steel (0.082 inches–0.095 inches thick), 3 inches wide, in 5, 6, 7, and 8 foot lengths. Heavy duty posts normally weigh approximately 0.90 pounds per foot and are packaged in mini-bundles of 5 and master bundles of 200. Both light duty and heavy duty posts are included within the scope of the investigation.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheading: 7326.90.85.35. Fence posts classified under subheading 7308.90 are also included within the scope of the investigation if the fence posts are made of steel and/or metal.

Specifically excluded from the scope are "tee" posts, farm posts, and sign posts, provided that the posts weigh over 1 pound per foot.[1] Although the HTSUS subheadings are provided for convenience and U.S. Customs Service ("Customs") purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner

[1] Tee posts are made by rolling red hot steel into a "T" shape. These posts do not have tabs or holes to help secure fencing to them and have primarily farm and industrial uses.

to ensure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[2]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation.

The petition covers lawn and garden steel fence posts as defined in the *Scope of Investigation* section, above, a single class or kind of merchandise. The Department has no basis on the record to find the petitioner's definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition. However, the Department will take into account any comments submitted by parties in connection with this issue during the course of the proceeding, and revisit the issue, if appropriate. In order to estimate production for the domestic industry as defined for purposes of this case, the Department has relied on the petition. The petition contained the most recent production and shipment data (by volume) of petitioner available, covering the period February 1, 2001 to January 31, 2002, which is petitioner's fiscal year. *See Initiation Checklist.*

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

We examined the accuracy of information contained in the petition, in accordance with section 732(c)(1) of the Act, by gathering information through Department research. For example, we procured a list of potential domestic producers of steel fence posts from the International Trade Commission and contacted those companies to check petitioner's claim that it was the sole producer of subject merchandise in the United States. We found no information that called into question the accuracy of information contained in the petition.

Information contained in the petition and its supplements demonstrate that the domestic producers or workers who support the petition account for over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. *See Initiation Checklist* at Attachment I. Furthermore, because the Department received no domestic opposition to the petition, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. *See Initiation Checklist.* Thus, the requirement of section 732(c)(4)(A)(ii) is met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Period of Investigation

The anticipated period of investigation is October 1, 2001, through March 31, 2002.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department has based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to home market and U.S. price are detailed in the *Initiation Checklist.*

The Department has analyzed the information in the petition and considers the country-wide import statistics for the anticipated POI and pricing information used to calculate the estimated margin to be sufficient for purposes of initiation. Based on the information submitted in the petition, adjusted where appropriate, we are initiating this investigation, as discussed below and in the *Initiation Checklist.* Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we will re-examine the information and may revise the margin calculation, if appropriate.

Export Price

The petitioner based export prices on actual prices of the product offered by a U.S. importer and/or distributor. The petition demonstrates that these prices are on a packed and delivered basis. Petitioner calculated a net price by deducting from the price movement expenses and a U.S. distributor markup. Movement expenses include costs for duties and fees, unloading and handling fees, foreign brokerage and handling, foreign inland freight, repacking costs, U.S. inland freight and ocean freight. To derive the movement expenses, petitioner used the lowest of numerous

[2] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 Fr 32376, 32380–81 (July 16, 1991).

price quotes from several freight companies for the costs to deliver a 40-foot container of fence posts from Youngstown, Ohio to China on March 20, 2002. *See Initiation Checklist.*

Normal Value

The petitioner asserted that the PRC is a nonmarket economy country ("NME") within the meaning of section 771(18) of the Act. In previous investigations, the Department has determined that the PRC is an NME. *See, e.g., Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 22183 (May 31, 2001); *Steel Wire Rope from the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 66 FR 12759 (February 28, 2001). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product appropriately is based on the producer's factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

For the normal value calculation, the petitioner based the factors of production, as defined by section 773(c)(3) of the Act, on the quantities of inputs it used to produce steel fence posts during calendar year ("CY") 2001. The petitioner used the actual usage rates of a U.S. production facility in accordance with 19 CFR 351.202(b)(7)(B) because information on actual usage rates of representative Chinese steel fence posts producers is not reasonably available to the petitioner. The petitioner used its own data because it claimed it is the only steel fence posts manufacturer in the United States.

The petitioner asserted that India is the most appropriate surrogate country for the PRC, claiming that India is: (1) A market economy; (2) a significant producer of comparable merchandise; and (3) at a level of economic development comparable to the PRC in terms of per capita gross national product. Based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, the petitioner valued factors of production, where possible, on reasonably available, public surrogate country data. Specifically, the factor cost for steel was based on the public version of an Indian price quote from a market research report attached to the September 28, 2001, *Petition for the Imposition of Antidumping Duties: Certain Cold-Rolled Carbon Steel Flat Products from India. See the Initiation Checklist.*

Unit energy costs were obtained for India from public data from the *Energy Information Administration, National Energy Information Center, Electricity Prices for Industry*, 1994–1999 for electricity and natural gas as this was the best reasonably available public data the petitioner could find. The cost of paint was based on petitioner's own costs because the petitioner was unable to find publically available Indian data for this factor of production. Labor was valued using the regression-based wage rate for China provided by the Department, in accordance with 19 CFR 351.408(c)(3).

The factory overhead rate, selling, general & administrative expenses ("SG&A") rate, and profit rate, were based on the average respective rates derived from a sample of 1,914 public limited companies in India that were reported in the June 2001 *Reserve Bank of India Bulletin*. The petitioner included packing costs based on its own costs in its normal value calculation as best information available.

Based on the information provided by the petitioner, we believe that the petitioner's factors of production methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

The estimated dumping margins, based on a comparison between export price and normal value, range from 51 to 89 percent. See *Initiation Checklist.*

Fair Value Comparisons

The Department has examined the adequacy and accuracy of the information the petitioner used in its calculations of export prices and normal value and has found that it represents information reasonably available to the petitioner supporting the allegation of dumping. Based on the data provided by the petitioner, there is reason to believe that imports of lawn and garden steel fence posts from the PRC are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. The petitioner contends that the industry's injured condition is evident in the decline of U.S. producers' output, sales, capacity, profits, productivity, and capacity utilization, as well as negative effects on cash flow, inventories, employment, wages, and growth. We have examined the accuracy and adequacy of the evidence provided in the petition and have determined that the allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, and lost sales, and pricing information, and that the petition contains information reasonably available to the petitioner (*see Initiation Checklist* at Attachment II).

Initiation of Antidumping Investigation

Based upon our examination of the petition on lawn and garden steel fence posts from the PRC and the petitioner's responses to our supplemental questionnaire clarifying the petition, we have found that the petition meets the requirements of section 732 of the Act. See *Initiation Checklist*. Therefore, we are initiating an antidumping duty investigation to determine whether imports of lawn and garden steel fence posts from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is postponed, we will make our preliminary determination no later than 140 days after the date of this initiation. *See* "Case Calendar" section of the *Initiation Checklist.*

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine, no later than June 17, 2002, whether there is a reasonable indication that imports of steel fence posts from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: May 21, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–13392 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–809]

Stainless Steel Butt-Weld Pipe Fittings From Malaysia: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Rescission of the antidumping duty administrative review for the period December 27, 2000 through January 31, 2002.

SUMMARY: On March 27, 2002, in response to a request made by Schulz (Mfg.) Sdn. Bhd. ("Schulz"), a producer and exporter of the subject merchandise in Malaysia, the Department of Commerce ("Department") published a notice of initiation of an antidumping duty administrative review on stainless steel butt-weld pipe fittings ("SSBWPF") from Malaysia, for the period December 27, 2000 through January 31, 2002. Because Schulz has withdrawn its request for review, and there were no other requests for review for this time period, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Robert A. Bolling, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230; telephone: 202–482–4243 and 202–482–3434, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Background

On February 28, 2002, Schulz, a producer and exporter of the subject merchandise in Malaysia, requested the Department to conduct an administrative review of its sales for the period December 27, 2000 through January 31, 2002. Schultz was the only interested party to request a review for this time period. On March 27, 2002, the Department published a notice of initiation of the antidumping administrative review on SSBWPF from Malaysia, in accordance with 19 CFR 351.221(c)(1)(i). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 67 FR 14696 (March 27, 2002). On April 8, 2002, Schulz withdrew its request for review.

Rescission of Review

Pursuant to the Department's regulations, the Department will rescind an administrative review "if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." *See* 19 CFR 351.213(d)(1). Schultz, the only interested party to request an administrative review for this time period, requested a withdrawal of this review within the 90–day time limit; accordingly, we are rescinding the administrative review for the period December 27, 2000 through January 31, 2002, and will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation. This determination is issued in accordance with 19 CFR 351.213(d)(4) and section 777(i)(1) of the Act.

Dated: May 21, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–13388 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of stainless steel wire rod from India.

SUMMARY: On January 8, 2002, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on stainless steel wire rod from India. *See Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 865 (January 8, 2002). This review covers the Viraj Group Ltd., ("Viraj Group"), a manufacturer and exporter of subject merchandise to the United States. The period of review is December 1, 1999 through November 30, 2000.

Based on our analysis of the comments received, we have not changed our results from the preliminary results of review. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of the Review."

EFFECTIVE DATE: June 28, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001),

Background

On January 8, 2002, the Department published in the **Federal Register** (67 FR 865) the preliminary results and partial rescission of its administrative review of the antidumping duty order on stainless steel wire rod from India (''*Preliminary Results*''). We invited parties to comment on our preliminary results of review. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

The product covered by this review is stainless steel wire rod from India. This merchandise is classifiable under Harmonized Tariff Schedule (''HTS'') subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, and 7221.00.0080. Although the HTS subheadings are provided for convenience and for U.S. Customs purposes, the written description of the scope of this finding remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (''*Decision Memorandum*'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated May 21, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have not changed our results from the preliminary results of review.

Final Results of Review

We determine that the following percentage margin exists for the period December 1, 1999, through November 30, 2000:

Producer/Manufacturer/Exporter	Weighted-average margin (percent)
The Viraj Group, Limited	0.73

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the entered quantity of those reviewed sales for the Viraj Group. We will direct the Customs Service to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period (*see* 19 CFR 351.212(a)).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel wire rod from India entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the Viraj Group will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate will be the ''all others'' rate, which is 48.80 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: May 21, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix 1

Issues in Decision Memorandum

Comments and Responses

1. Collapsing the Viraj Group
2. Entry Value
3. Import Duties
4. Grade 304L and 304LER
5. Negative Dumping Margins
6. Comparing Individual U.S. prices to 12-month Average Cost

[FR Doc. 02–13391 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051602A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Draft Environmental Assessment (EA) and request for comments.

SUMMARY: Notice is hereby given of the availability of a draft EA for NMFS' implementation of part of the

Endangered Species Act (ESA) that it adopted for the 14 threatened salmon and steelhead Evolutionarily Significant Units (ESUs) identified in the **SUPPLEMENTARY INFORMATION** section. The action provides for limits on ESA prohibitions (Limits) for the various activities set out in the document. The draft EA is a programmatic EA that analyzes the impacts of implementing the Limit for routine road maintenance activities (RRM) of any state, city, county or port (Limit 10). This EA will form the basis for subsequent analyses of activities or programs that may be submitted pursuant to Limit 10. NMFS is furnishing this notification to allow other agencies and the public an opportunity to review and comment on the draft EA. All comments received will become part of the public record and will be available for review.

DATES: Written comments on the draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on June 28, 2002.

ADDRESSES: Written comments should be sent to Rosemary Furfey, Protected Resources Division, National Marine Fisheries Service, 525 N.E. Oregon Street, Suite 500, Portland, OR 97232-2737. Comments may also be sent via fax to 503–230–5441. Copies of the draft EA are available on the Internet at , *http:www.nwr.noaa.gov/1salmon/salmesa/final4d.htmhttp://swr.nmfs.noaa.gov/salmon.htm*, or from NMFS, Protected Resources Division, 525 N.E. Oregon Street, Suite 500, Portland, OR 97232–2737. Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Rosemary Furfey at phone number: 503-231-2149, facsimile: 503–230–5441, or e-mail: *Rosemary.Furfey@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following species are covered in this Notice:

Chinook salmon (*Oncorhynchus tshawytscha*); threatened Puget Sound (PS), Lower Columbia River (LCR), and Upper Willamette River (UWR).

Coho salmon (*Oncorhynchus kisutch*); threatened Oregon Coast (OC).

Sockeye salmon (*Oncorhynchus nerka*); threatened Ozette Lake (OL).

Chum salmon (*Oncorhynchus keta*); threatened Hood Canal Summer-run (HCS) and Columbia River (CR).

Steelhead (*Onchorynchus mykiss*); threatened Snake River Basin (SRB), Central California Coast (CCC), South/Central California Coast (SCCC), Lower Columbia River (LCR), Central Valley, California (CVC), Middle Columbia River (MCR), and Upper Willamette River (UWR).

Background

National Environmental Policy Act (NEPA) requires that Federal agencies conduct an environmental analysis of their actions to determine if the actions may affect the human environment. Accordingly, before NMFS issued the ESA 4(d) rule for the 14 ESUs identified above it prepared a set of EAs in connection with this regulation and made a Finding of No Significant Impact (FONSI). Since the 4(d) rule came into effect on July 10, 2000, various governmental entities and the public have demonstrated interest in having their individual programs reviewed under Limit 10. With this increasing interest in using Limit 10, there is the possibility of increased effects as defined by NEPA. Thus, NMFS is conducting this subsequent NEPA analysis to determine the impacts of implementing Limit 10. States, counties, cities and ports conducting RRM activities would not be subject to ESA section 9 prohibitions provided that they perform the RRM activities using an RRM program that has been approved by NMFS as meeting the requirements of Limit 10.

NMFS is using a staged or sequential approach in its NEPA review of the implementation of Limit 10, and of any RRM that may be submitted under it. The first stage is this programmatic EA, which assesses the environmental impacts associated with just the implementation of Limit 10. It will form the basis for the second stage or subsequent NEPA analyses of NMFS' actions regarding individual RRM programs submitted under Limit 10.

This draft EA analyzes three alternatives: (1) The no action alternative; the 4(d) rule with Limits is not implemented; no ESA section 9 prohibitions are in effect; (2) the proposed action alternative; the 4(d) Rule with section 9 prohibitions and Limit 10 is implemented; and (3) alternative 3; the 4(d) rule without Limit 10 is implemented.

Because the proposed action creates an optional ESA process, its effects are necessarily programmatic in nature. In other words, the only effects that the proposed action may generate are those associated with putting take prohibitions into place and establishing the Limit 10 option for NMFS' approval of RRM programs. The proposed action does not address the possible effects of individual RRM programs because the actual effects, particularly the physical effects, associated with such programs cannot be measured at this point. Also it is impossible to anticipate what programs will be submitted to NMFS or approved by NMFS. During the second stage of NEPA review, NMFS will conduct further NEPA analyses when an RRM program is submitted to NMFS. These subsequent NEPA documents will present a summary of the issues addressed in this draft programmatic Limit 10 EA; as appropriate, incorporate by reference the analyses presented in this programmatic EA; and address any environmental effects of NMFS' action regarding a specific RRM program.

This notice is provided pursuant to the NEPA regulations (40 CFR 1506.6). The final NEPA determinations will not be completed until after the end of the 30-day comment period and NMFS will fully consider all public comments during the comment period.

Dated: May 22, 2002.

Wanda Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–13408 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051302A]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a supplemental environmental impact statement (SEIS); notice of scoping meetings; request for comments.

SUMMARY: NMFS announces its intent to prepare an SEIS in accordance with the National Environmental Policy Act of 1969 (NEPA) for the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The North Pacific Fishery Management Council (Council) proposes management measures to improve the economic efficiency of the Gulf of Alaska (GOA) groundfish fisheries and to address conservation, safety, and social concerns. The Council is considering one or more methods of allocating fishing privileges, such as: individual fishing quotas (IFQs); individual processing quotas (IPQs); allocations to communities; fishing cooperatives program; or other measures. The scope of the SEIS will include a review of the GOA groundfish

fisheries that may be affected by management measures that improve the economic efficiency of the GOA groundfish fisheries, the components of these programs, and potential changes to the management of the fisheries under these programs.

NMFS will hold public scoping meetings and accept written comments to determine the issues of concern and the appropriate range of management alternatives to be addressed in the SEIS.

DATES: Written comments will be accepted through November 15, 2002 (see **ADDRESSES**). Public scoping meetings will be held in August, September, and October. For dates and times see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Written comments on issues and alternatives for the SEIS should be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK., 99802, Attn: Lori Gravel-Durall, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments may be sent via facsimile (fax) to 907–586–7557. NMFS will not accept comments by e-mail or internet.

An analysis of the issues and alternatives will be available through the North Pacific Fishery Management Council, 605 West 4th, Suite 306, Anchorage, AK., 99501–2252.

Public scoping meetings will be held in Alaska's Sand Point, King Cove, Kodiak, Cordova, Homer, and Petersburg, and in Seattle, Washington. For specific locations, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, (907) 586–7228 or email: *glenn.merrill@noaa.gov*.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all living marine resources found within the exclusive economic zone (EEZ). The management of these marine resources, with the exception of marine mammals and birds, is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare fishery management plans for approval and implementation by the Secretary. The Council has the responsibility to prepare fishery management plans for the fishery resources that require conservation and management in the EEZ off Alaska.

NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502.4(b) state:

> Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.

The FMP was approved by the Secretary on April 12, 1978. The Secretary has approved numerous amendments to the FMP since that time. Section 304 of the Magnuson-Stevens Act specifies a process for amending FMPs.

The proposed action to be addressed in the SEIS is amendment of the FMP to include policies and management measures that would increase the economic efficiency of the GOA groundfish fisheries. Additional information on EISs pertaining to Gulf of Alaska groundfish fisheries may be obtained through NMFS (see ADDRESSES). Fisheries conducted under such policies and management measures generally are considered more "rational" than other fisheries because capital investment in "rationalized" fisheries tends to be in balance with the amount of fish that can be conservatively harvested. Hence, to "rationalize" the management of the GOA groundfish fisheries implies that the management required will incorporate economic incentives that prevent or reduce excessive capital investment. This is commonly accomplished through the establishment of transferable harvesting privileges or other market-based systems for allocating access to the fishery resources.

Rationalization programs may provide additional opportunities to use fishing methods that reduce the bycatch of non-target species and reduce gear conflicts thereby addressing larger conservation goals. Rationalization programs also may reduce the incentive to fish during unsafe conditions. Rationalization programs frequently result in substantial changes to the existing management regime and these changes may have a significant effect on the human environment.

The SEIS will examine the GOA groundfish fisheries authorized under the FMP, which may be affected by any proposed rationalization program and the potential changes to the management of the fisheries under these programs. The scope of the alternatives analyzed is intended to be broad enough for the Council and NMFS to make informed decisions on whether a rationalization program should be developed and, if so, how it should be designed, and to assess other changes to the FMP as necessary with the implementation of these programs.

NMFS is seeking information from the public through the scoping process on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered in the analysis.

Alternatives

The analysis will evaluate a range of alternative regimes for managing GOA groundfish fisheries. Alternatives analyzed in the SEIS may include those identified here, plus additional alternatives developed through the public scoping process and the Council.

The potential alternatives already identified for the SEIS include: (1) the existing management measures (status quo); (2) a rationalization program; and (3) a modified Licence Limitation Program. The specific options for a rationalization program identified thus far include the use of IFQs, IPQs, fishing cooperatives, and quotas held by communities, either separately or in combination. The particular combination of these options would effectively provide multiple "alternative" rationalization programs. Public scoping meetings will provide the opportunity for comment on the range of alternatives and the specific options within the rationalization alternative.

Specific options for rationalization are derived from preliminary discussions by three separate Council GOA rationalization committees tasked to address this issue, recommendations from the Council's Advisory Panel, and the Council. In addition, the Consolidated Appropriations Act of 2001 (Public Law 106-554) requires the Council to examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish fisheries, to determine whether rationalization is needed and describes management measures that should be analyzed. Additional information on the specific options for rationalization may be obtained through the Council (see **ADDRESSES**), or via the Council website at *http://www.fakr.noaa.gov/npfmc/*.

The Council may recommend specific options for analysis in late 2002. The rationalization alternative, options for consideration, and other alternatives and options, will be developed through this scoping process in coordination with the Council's rationalization committee and the Council. Depending on the rationalization program options selected, Congressional action may be required to provide statutory authority to implement a specific rationalization alternative preferred by the Council. Lack of statutory authority for any particular alternative or option does not prevent consideration of that alternative or option in the SEIS.

Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will identify critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

NMFS is seeking written public comments on the scope of issues that should be addressed in the SEIS and on alternatives and options that should be considered for management of the GOA groundfish fisheries.

Public comments on specific aspects of the rationalization programs should be submitted to NMFS (see **ADDRESSES**). The public also will be able to provide oral and written comments at the meetings listed below. The Council will make a draft analysis of these alternative programs available for public review and comment. Copies of the analysis can be requested from the Council (see **ADDRESSES**).

Dates, Times, and Locations for Public Scoping Meetings

1. Saturday, August 17, 2002, from 9 a.m. to noon—Aleutians East Borough Office, 100 Mossberry Lane, Sand Point, AK.

2. Sunday, August 18, 2002, from 9 a.m. to noon—King Cove Harbor House, 100 Harbor House Road, King Cove, AK.

3. Friday, August 23, 2002, from 1 p.m. to 4:00 p.m.— Fishery Industrial Technology Center, 118 Trident Way, Kodiak, AK.

4. Monday, September 16, 2002, from 5 p.m to 8 p.m.—Cordova City Library Meeting Room, 622 First Street, Cordova, AK.

5. Tuesday, September 24, 2002, from 2 p.m. to 5 p.m.—Best Western Bidarka Inn, 575 Sterling Highway, Homer, AK.

6. Thursday, September 26, 2002, from 3 p.m. to 6 p.m.—City Council Chambers, 12 Nordic Drive, Petersburg, AK.

7. Tuesday, October 1, 2002, from 6 p.m. to 9 p.m.—Doubletree Hotel, Seattle Airport, 18740 Pacific Highway South, Seattle, WA, in conjunction with the Council's October meeting.

The public is invited to assist NMFS in developing the scope of alternatives and issues to be analyzed for the SEIS. Comments will be accepted in writing at the meetings and at the NMFS address above (see **ADDRESSES**). Meeting schedules may be delayed due to weather conditions and flight availability in some locations. Meetings may be rescheduled if necessary.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Glenn Merrill, NMFS, (see **ADDRESSES**), (907) 586–7228, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: May 21, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13256 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052102F]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 8:30 a.m. on Wednesday, June 12, 2002, and will conclude at 4 p.m. on Friday, June 14, 2002.

ADDRESSES: The meeting will be held at the Wyndham Riverfront Hotel, 701 Convention Center Boulevard, New Orleans, LA; telephone: 504–524–8200.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SEP will meet to review available social and economic information on Gulf king and Spanish mackerel and to determine the social and economic implications of the levels of acceptable biological catch (ABC) recommended by the Council's Mackerel Stock Assessment Panel (MSAP). The SEP may recommend to the Council total allowable catch (TAC) levels for the 2003 fishing year and certain management measures associated with achieving the TACs. In addition, the SEP will review the results of a bioeconomic modeling evaluation of the measures proposed in the Secretarial amendment for rebuilding the red grouper stock.

A report will be prepared by the SEP containing their conclusions and recommendations. The red grouper part of the report will be presented for review to the Council's Reef Fish Advisory Panel and Standing and Special Reef Fish Scientific and Statistical Committee at meetings to be held on the week of June 24, 2002 in Tampa, FL and to the Council at its meeting on the week of July 8, 2002 in Sarasota, FL. The mackerel portion of the report will be presented for review to the Council's Mackerel Advisory Panel and Standing and Special Mackerel Scientific and Statistical Committee at meetings to be held on the week of July 29, 2002 in New Orleans, LA and to the Council at its meeting on the week of September 9, 2002 in Metairie, LA.

Composing the SEP membership are economists, sociologists, and anthropologists from various universities and state fishery agencies throughout the Gulf. They advise the Council on the social and economic implications of certain fishery management measures.

A copy of the agenda can be obtained by calling 813–228–2815.

Although other non-emergency issues not on the agenda may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the SEP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by June 5, 2002.

Dated: May 23, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13405 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052102G]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Oversight Committee and Advisory Panel in June, 2002. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Thursday, June 13, 2002, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The committee and advisory panel will discuss outstanding issues identified by NMFS related to the Council's submission of the Draft Skate Fishery Management Plan (FMP) and Environmental Impact Statement (EIS). They will also discuss the possibility of incorporating skates into the multispecies complex through an amendment to the Multispecies FMP and develop recommendations to the Council for addressing the outstanding issues identified by NMFS related to the Council's submission of the Draft Skate FMP/EIS.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 23, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13406 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 020514121–2121–01]

RIN 0660–XX14

Request for Comment on the Effectiveness of Internet Protection Measures and Safety Policies

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Telecommunications and Information Administration (NTIA) invites interested parties to provide comments in response to section 1703 of the Children's Internet Protection Act (CIPA), Pub. L. No. 106–554, 114 Stat. 2763, 2763A–336 (2000). Section 1703 directs NTIA to initiate a notice and comment proceeding to evaluate whether currently available Internet blocking or filtering technology protection measures and Internet safety policies adequately address the needs of educational institutions. The Act also directs NTIA to make recommendations to Congress on how to foster the development of technology protection measures that meet these needs.

DATES: Written comments are requested to be submitted on or before August 27, 2002.

ADDRESSES: Comments may be mailed to Sallianne Fortunato Schagrin, Office of Policy Analysis and Development, National Telecommunications and Information Administration, Room 4716 HCHB, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Paper submissions should include a diskette in HTML, ASCII, Word, or WordPerfect format (please specify version). Diskettes should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. In the alternative, comments may be submitted electronically to the following electronic mail address: *cipa-study@ntia.doc.gov*. Comments submitted via electronic mail also should be submitted in one or more of the formats specified above.

FOR FURTHER INFORMATION CONTACT: Sallianne Fortunato Schagrin, Office of Policy Analysis and Development, NTIA, telephone: (202) 482–1880; or electronic mail: *sschagrin@ntia.doc.gov*. Media inquiries should be directed to the Office of Public Affairs, National Telecommunications and Information Administration: telephone (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Growing Concern About Children's Exposure to Inappropriate Online Content

A U.S. Department of Commerce report, released earlier this year, indicates that as of September 2001 more than half of the nation's population (143 million Americans) were using the Internet. *A Nation Online: How Americans Are Expanding Their Use of the Internet*, National Telecommunications and Information Administration, U.S. Department of Commerce (Feb. 2002), available at *http://www.ntia.doc.gov/ntiahome/dn/index.html*. Children and teenagers use computers and the Internet more than any other age group. *Id.* at 1, 13. Almost 90 percent of children between the ages of 5 and 17 (or 48 million) now use computers. *Id.* at 1, 44. Significant numbers of children use the Internet at school or at school and home: 55 percent for 14–17 year olds; 45 percent for 10–13 year olds; and 22 percent for 5–9 year olds. *Id.* at 47. Approximately 12 percent of 10 to 17 year olds use the Internet at a library. *Id.* at 52. Noting the heightened interest regarding the possible exposure of children to unsafe or inappropriate content online, the Department of Commerce report notes that for the first time households were surveyed to determine the level of concern about their children's exposure to material over the Internet versus their concern over exposure to material on television. The results indicated that 68.3 percent of households were more concerned about the propriety of Internet content than material on television. *Id.* at 54.

Similarly, in its 2000 survey of public schools to measure Internet connectivity, the Department of Education's National Center for Education Statistics asked questions about "acceptable use policies" in schools in recognition of the concern among parents and teachers about student access to inappropriate online material. *See Internet Access in U.S. Public Schools and Classrooms: 1994–2000*, NCES 2001–071, Office of Education Research and Improvement, Department of Education (May 2001), available at *http://www.nces.ed.gov/pubs2001/internetaccess*. According to the NCES survey, 98 percent of all public schools had access to the Internet by the fall of 2000. *Id.* at 1. The survey also indicated that almost all such schools had "acceptable use policies" and used various technologies or procedures (blocking or filtering software), an intranet system, student honor codes, or teacher/staff monitoring to control student access to inappropriate online material. *Id.* at 7. Of the schools with acceptable use policies, 94 percent reported having student access to the Internet monitored by teachers or other staff; 74 percent used blocking or filtering software; 64 percent had honor codes; and 28 percent used their intranet. *Id.* Most schools (91 percent) used more than one procedure or technology as part of their policy: 15 percent used all of the procedures and technologies listed; 29 percent used blocking/filtering software, teacher/staff monitoring, and honor codes; and 19 percent used blocking/filtering software and teacher/staff monitoring. *Id.* at 7, 8. In addition, 95 percent of schools with an acceptable use policy used at least one of these technologies or procedures on all Internet-connected computers used by students. *Id.*

This trend appears to be reflected in the library community as well. A recent article in the Library Journal reports that of the 355 libraries responding to its Budget Report 2002, 43 percent reported filtering Internet use, up from 31 percent in 2001, and 25 percent in 2000. Norman Oder, *The New Wariness*, The Library Journal (Jan. 15, 2002) (LJ Budget Report 2002), available at *http://libraryjournal.reviewsnews.com/index.asp?layout=articlePrint&articleID=CA188739*. Of those libraries filtering Internet use, 96 percent reported using filters on all children's terminals. *Id.*

The E-Rate and CIPA

Section 254(h) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, provides a universal support mechanism program (commonly known as the "E-Rate program") through which eligible schools and libraries may apply for discounted telecommunications, Internet access, and internal connections services. *See* 47 U.S.C. 254(h). The program is administered by the Universal Service Administrative Company (USAC) pursuant to regulations promulgated by the Federal Communications Commission. See Federal Communications Commission, Universal Service for Schools and Libraries, available at *http://www.fcc.gov/wcb/universal_service/schoolsandlibs.html*.

According to USAC, approximately 82 percent of public schools and 10 percent of private schools received E-rate funding in the Fiscal Year (FY) 2000 funding cycle (July 1, 2000 through June 30, 2001) (using 1997 data base as denominator). See Universal Service Administrative Company, available at *http://www.sl.universalservice.org*. Public libraries also rely heavily on E-rate funding; 57 percent of main public libraries received E-rate funding in FY 2000. *Id.*; *see also* LJ Budget Report 2002 supra.

In October 2000, Congress passed the Children's Internet Protection Act (CIPA) as part of the Consolidated Appropriations Act of 2001 (Pub. L. No. 106–554). Under section 1721 of the Act, schools and libraries that receive discounted telecommunications, Internet access, or internal connections services under the E-rate program are required to certify and adopt an Internet safety policy and to employ technological methods that block or filter certain visual depictions deemed obscene, pornographic, or harmful to minors for both minors and adults.[1] The Federal Communications Commission implemented the required changes to the E-rate program and the new CIPA certification requirements became effective for the fourth E-rate funding year that began on July 1, 2001, and ends on June 30, 2002. *See* Federal-State Joint Board on Universal Service, Children's Internet Protection Act, *Report and Order*, CC Docket No. 96–45 (March 30, 2001), available at *http://www.fcc.gov/wcb/universal_service/schoolsandlibs.html*.

Section 1703(a) of CIPA directs NTIA to initiate a notice and comment proceeding to determine if currently available blocking and filtering technologies adequately address the needs of educational institutions, make recommendations on how to foster the development of technologies that meet the needs of schools and libraries, and evaluate current Internet safety policies. Section 1703(a) of CIPA specifically provides:

> Sec. 1703. Study of Technology Protection Measures
>
> (a) IN GENERAL. B Not later than 18 months after the date of the enactment of this Act, the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—
>
> (1) Evaluating whether or not currently available technology protection measures, including commercial Internet blocking and filtering software, adequately address the needs of educational institutions;
>
> (2) Making recommendations on how to foster the development of measures that meet such needs; and
>
> (3) Evaluating the development and effectiveness of local Internet safety policies that are currently in operation after community input.

Internet Blocking and Filtering Software and Acceptable Use Policies

The computer industry has developed a number of technology protection measures to block or filter prohibited content in response to the growing amount of online content. Among these measures are stand alone filters, monitoring software, and online parental controls. The Pew Internet and American Life Project reports that more than 41 percent (2 of every 5) of parents of children using the Internet rely on monitoring software or use pre-selected controls on their home computers. Pew Internet and American Life Project, *The Internet and Education: Findings of the Pew Internet and American Life Project*, at 5 (September 2001), available at *http://www.pewinternet.org/reports/toc.asp?Report=36*.

A Consumer Reports study indicated, however, that some technology protection companies refuse to disclose their method of blocking or filtering and their list of blocked sites, although users can submit Web addresses to check against blocked lists in some cases. *See Digital Chaperones for Kids: Which Internet Filters Protect the Best? Which Get in the Way?*, Consumer Reports at 2 (March 2001). Another report indicates that technology protection tools can require a fair amount of technical expertise in order to be manipulated successfully, such as an understanding of how to unblock sites, adjust tools for different levels of access, and examine and interpret log files. Trevor Shaw, *What's Wrong with CIPA*, E-School News (March 1, 2001), available at *http:/*

[1] NTIA notes that Sections 1712 and 1721 of the CIPA are currently the subject of constitutional challenge. *See American Library Ass'n v. United States*, No. 01–CV–1303 (E.D. Pa. March 20, 2001); *Multnomah County Public Library v. United States*, No. 01–CV–1322 (E.D Pa. March 20, 2001). NTIA is not seeking comment on the constitutionality of the statute or its provisions.

/www.eschoolnews.com/features/cipa/cipa3.cfm.

The National Research Council (NRC) of the National Academy of Sciences recently released a report describing the social and educational strategies, technology-based tools, and legal and regulatory approaches to protect children from inappropriate material on the Internet. *See Youth, Pornography, and the Internet*, Committee to Study Tools and Strategies for Protecting Kids from Pornography and Their Applicability to Other Inappropriate Internet Content, National Research Council (NRC Report) (May 2, 2002), available at *http://bob.nap.edu/html/youth_internet/es.html*.

Among other things, the NRC Report concludes that perhaps the most important social and educational strategy for ensuring safe online experiences for children is responsible adult involvement and supervision. *Id.* at ES–7, 209. This strategy includes families, schools, libraries, and other organizations developing acceptable use policies to provide explicit guidelines about how individuals will conduct themselves online that will serve as a framework within which children can become more responsible for making better choices. *Id.* at 218. The Report notes that acceptable use policies are most effective when developed jointly with schools and communities. *Id.* at 219. The Report suggests that acceptable use policies are not without problems, including how to avoid the "one size fits all" problem that may arise in trying to craft a policy that is appropriate for both young children as well as teenagers. *Id.* at 219–220. The NRC Report also discusses the ways that technology provides parents and other responsible adults with additional choices as to how best to protect children from inappropriate material on the Internet. *Id.* at ES–8, 255–304. The report notes, however, that filtering/blocking tools are all imperfect in that they may "overblock" otherwise appropriate material or "underblock" some inappropriate material. *Id.* at 259–266.

Specific Questions

In an effort to enhance NTIA's understanding of the present state of technology protection measures and Internet safety policies, NTIA solicits responses to the following questions. NTIA requests that interested parties submit written comments on any issue of fact, law, or policy that may provide information that is relevant to this evaluation. Commenters are invited to discussany relevant issue, regardless of whether it is identified below. To the extent possible, please provide copies of studies, surveys, research, or other empirical data referenced in responses.

Evaluation of Available Technology Protection Measures

Section 1703(a)(1) of the Act requires NTIA to evaluate whether or not currently available technology protection measures, including commercial Internet blocking and filtering software, adequately address the needs of educational institutions.

1. Discuss whether available technology protection measures adequately address the needs of educational institutions.

2. Is the use of particular technologies or procedures more prevalent than others?

3. What technology, procedure, or combination has had the most success within educational institutions?

4. Please explain how the technology protection products block or filter prohibited content (such as "yes" lists, (appropriate content); "no" lists, (prohibited content), human review, technology review based on phrase or image, or other method.) Explain whether these methods successfully block or filter prohibited online content and whether one method is more effective than another.

5. Are there obstacles to or difficulties in obtaining lists of blocked or filtered sites or the specific criteria used by technology companies to deny or permit access to certain web sites? Explain.

6. Do technology companies readily add or delete specific web sites from their blocked lists upon request? Please explain your answer.

7. Discuss any factors that were considered when deciding which technology tools to use (such as training, cost, technology maintenance and upgrades or other factors.)

Fostering the Development of Technology Measures

Section 1703(a)(2) directs NTIA to initiate a notice and comment proceeding to make recommendations on how to foster the development of technology measures that meet the needs of educational institutions.

1. Are current blocking and filtering methods effectively protecting children or limiting their access to prohibited Internet activity?

2. If technologies are available but are not used by educational institutions for other reasons, such as cost or training, please discuss.

3. What technology features would better meet the needs of educational institutions trying to block prohibited content?

4. Can currently available filtering or blocking technology adjust to accommodate all age groups from kindergarten through grade twelve? Are these tools easily disabled to accommodate bona fide and other lawful research? Are these tools easily dismantled?

Current Internet Safety Policies

Section 1703(a)(3) requires NTIA to evaluate the development and effectiveness of local Internet safety policies currently in operation that were established with community input.

1. Are Internet safety policies an effective method of filtering or blocking prohibited material consistent with the goals established by educational institutions and the community? If not, please discuss the areas in which the policies do not effectively meet the goals of the educational institutions and/or community.

2. Please discuss whether and how the current policies could better meet the needs of the institutions and the community. If possible, provide specific recommendations.

3. Are educational institutions using a single technology protection method or a combination of blocking and filtering technologies?

4. Describe any best practices or policies that have been effective in ensuring that minors are protected from exposure to prohibited content. Please share practices proven unsuccessful at protecting minors from exposure to prohibited content.

Dated: May 22, 2002.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 02–13286 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

May 22, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used, carryover and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 67229, published on December 28, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 22, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 30, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month limit [1]
Group I	
200, 218, 219, 226, 237, 239pt. [2] 300/301, 313–315, 317/326, 331pt. [3], 333–336, 338/339, 340–342, 345, 347/348, 351, 352, 359–C [4], 359–V [5], 360–363, 410, 433–436, 438, 440, 442–444, 445/446, 447, 448, 611, 613–615, 617, 631pt. [6], 633–636, 638/639, 640–643, 644, 645/646, 647, 648, 651, 652, 659–C [7], 659–H [8], 659–S [9], 666pt. [10], 845 and 846, as a group.	1,201,100,744 square meters equivalent.
Sublevels in Group I	
200	844,887 kilograms.
218	12,545,467 square meters.
219	2,819,060 square meters.
226	12,800,583 square meters.
237	2,383,936 dozen.
300/301	2,571,100 kilograms.
313	47,867,029 square meters.
314	57,648,979 square meters.
315	143,304,913 square meters.
317/326	24,971,671 square meters of which not more than 4,777,571 square meters shall be in Category 326.
331pt.	2,242,388 dozen pairs.
333	116,928 dozen.
334	366,160 dozen.
335	410,477 dozen.
336	196,283 dozen.
338/339	2,438,867 dozen of which not more than 1,837,510 dozen shall be in Categories 338–S/339–S [11].
340	838,610 dozen of which not more than 426,897 dozen shall be in Category 340–Z [12].
341	736,245 dozen of which not more than 443,883 dozen shall be in Category 341–Y [13].
342	285,516 dozen.
345	134,753 dozen.
347/348	2,409,491 dozen.
351	644,834 dozen.
352	1,739,826 dozen.
359–C	721,363 kilograms.
359–V	1,017,725 kilograms.
360	9,249,493 numbers of which not more than 6,141,216 numbers shall be in Category 360–P [14].
361	4,922,583 numbers.
362	8,029,234 numbers.
363	23,392,064 numbers.
410	1,104,672 square meters of which not more than 885,515 square meters shall be in Category 410–A [15] and not more than 885,515 square meters shall be in Category 410–B [16].
433	22,681 dozen.
434	14,232 dozen.
435	26,138 dozen.
436	16,410 dozen.
438	28,717 dozen.

Category	Twelve-month limit [1]
440	41,025 dozen of which not more than 23,442 dozen shall be in Category 440–M [17].
442	43,428 dozen.
443	139,063 numbers.
444	228,793 numbers.
445/446	303,448 dozen.
447	76,814 dozen.
448	23,844 dozen.
611	6,297,531 square meters.
613	8,911,001 square meters.
614	13,741,261 square meters.
615	29,151,701 square meters.
617	20,367,999 square meters.
631pt.	341,565 dozen pairs.
633	66,142 dozen.
634	698,943 dozen.
635	730,107 dozen.
636	599,513 dozen.
638/639	2,569,540 dozen.
640	1,447,136 dozen.
641	1,362,757 dozen.
642	386,695 dozen.
643	562,165 numbers.
644	3,799,352 numbers.
645/646	860,381 dozen.
647	1,736,889 dozen.
648	1,217,799 dozen.
651	868,116 dozen of which not more than 154,221 dozen shall be in Category 651–B [18].
652	3,202,696 dozen.
659–C	472,582 kilograms.
659–H	3,281,032 kilograms.
659–S	725,383 kilograms.
666pt.	433,445 kilograms.
845	2,439,906 dozen.
846	198,043 dozen.
Group II	
332, 359–O [19], 459pt. [20] and 659–O [21], as a group	44,086,866 square meters equivalent.
Group III	
201, 220, 224–V [22], 224–O [23], 225, 227, 369–O [24], 400, 414, 469pt. [25], 603, 604–O [26], 618–620 and 624–629, as a group.	50,623,803 square meters equivalent.
Sublevels in Group III	
224–V	4,241,431 square meters.
225	7,317,278 square meters.
Group IV	
852	410,668 square meters equivalent.
Levels not in a Group	
369–S [27]	661,141 kilograms.
863–S [28]	9,421,818 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[3] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[4] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010

[5] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[6] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[7] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[9] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[10] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

[11] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[12] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[13] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[14] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[15] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[16] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.3030, 5112.11.3060, 5112.11.6030, 5112.11.6060, 5112.19.6010, 5112.19.6020, 5112.19.6030, 5112.19.6040, 5112.19.6050, 5112.19.6060, 5112.19.9510, 5112.19.9520, 5112.19.9530, 5112.19.9540, 5112.19.9550, 5112.19.9560, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

[17] Category 440–M: only HTS numbers 6203.21.9030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.3020, 6205.90.4020 and 6211.31.0030.

[18] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[19] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070 (Category 359–V); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[20] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[21] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[22] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[23] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[24] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.0020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[25] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[26] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[27] Category 369–S: only HTS number 6307.10.2005.

[28] Category 863–S: only HTS number 6307.10.2015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–13332 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in India

May 22, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, recrediting of unused carryforward, swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59577, published on November 29, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 22, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 23, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 30, 2002, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
218	23,960,480 square meters.
219	104,900,344 square meters.
313	64,109,374 square meters.
314	12,488,136 square meters.
315	20,975,065 square meters.
317	45,057,612 square meters.
326	12,831,781 square meters.
334/634	223,424 dozen.
335/635	1,038,521 dozen.
336/636	1,506,153 dozen.
338/339	5,194,443 dozen.
340/640	2,822,811 dozen.
341	6,177,031 dozen of which not more than 3,742,222 dozen shall be in Category 341–Y [2].
342/642	2,103,009 dozen.
345	309,363 dozen.
347/348	1,179,126 dozen.
351/651	429,206 dozen.
369–S [3]	1,078,666 kilograms.
641	2,342,904 dozen.
647/648	1,166,221 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001

[2] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[3] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13333 Filed 5–28–02 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

May 22, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov.*

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (*see* **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also *see* 66 FR 63031, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 22, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 29, 2002, you are directed to decrease the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335	244,703 dozen.
351/651	840,608 dozen.
361	2,564,917 numbers.
433	3,362 dozen.
443	40,645 numbers.
635	369,593 dozen.
647/648	1,676,979 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–13334 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

May 22, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at *http://www.customs.gov.* For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov.*

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used, swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 67232, published on December 28, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 22, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 15, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 30, 2002, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month limit [1]
Group I	
200–220, 224, 225/317/326, 226, 227, 300/301, 313–315, 360–363, 369–S [2], 369–O [3], 400–414, 469pt [4], 603, 604, 611, 613/614/615/617, 618, 619/620, 624, 625/626/627/628/629 and 666pt [5], as a group.	216,469,734 square meters equivalent.
Sublevels in Group I	
225/317/326	44,594,009 square meters.
619/620	16,507,532 square meters.
625/626/627/628/629	21,480,199 square meters.
Group II	
237, 239pt [6], 331pt. [7], 332, 333/334/335, 336, 338/339, 340–345, 347/348, 351, 352/652, 359–C/659–C [8], 659–H [9], 359pt. [10], 433–438, 440, 442, 443, 444, 445/446, 447/448, 459pt. [11], 631pt. [12], 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 651, 659–S [13], 659pt. [14], 846 and 852, as a group.	612,067,297 square meters equivalent.
Sublevels in Group II	
336	151,780 dozen.
338/339	1,045,662 dozen.
345	129,396 dozen.
347/348	1,514,317 dozen of which not more than 1,288,567 dozen shall be in Categories 347–W/348–W [15].
352/652	3,585,031 dozen.
435	27,381 dozen.
438	30,632 dozen.
445/446	145,252 dozen.
638/639	6,476,011 dozen.
647/648	5,351,981 dozen of which not more than 5,088,804 dozen shall be in Categories 647–W/648–W [16].
659–S	1,713,821 kilograms.
Within Group II Subgroup	
342	230,949 dozen.
447/448	22,588 dozen.
636	379,539 dozen.
651	481,841 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 369–S: only HTS number 6307.10.2005.

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

[4] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[5] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

[6] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[7] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[8] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[9] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[10] Category 359pt.: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[11] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.
[12] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.
[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.
[14] Category 659pt.: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.
[15] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.
[16] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13335 Filed 5–28–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 28, 2002.

Title, Form, and OMB Number: Lock Performance Monitoring System (LPMS) Waterway Traffic Report; ENG Forms 3102C, 3102D; OMB Number 0710–0008.

Type of Request: Reinstatement.

Number of Respondents: 3,000.

Responses per Respondent: 231.

Annual Responses: 695,304.

Average Burden per Response: 2.5 minutes.

Annual Burden Hours: 28,507.

Needs and Uses: The U.S. Army Corps of Engineers utilizes the data collected to monitor and analyze the use and operation of federally owned and operated locks. Owners, agents, and masters of vessels provide general data about vessels and estimated tonnage and commodities carried. The information is used for sizing and scheduling replacement or maintenance of locks and canals.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for the U.S. Army Corps of Engineers, Room 10202, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 21, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–13294 Filed 5–28–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB review; comment request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 28, 2002.

Title and OMB Number: Corps of Engineers Civil Works Questionnaires—Generic Clearance; OMB Number 0710–0001.

Type of Request: Revision.

Number of Respondents: 214,150.

Responses per Respondent: 1.

Annual Responses: 214,150.

Average Burden per Response: 5 minutes (average).

Annual Burden Hours: 17,750.

Needs and Uses: The U.S. Army Corps of Engineers utilizes the data collected from the questiionnaire items for planning data to formulate and evaluate alternative water resources development plans, to determine the effectiveness and evaluate the impacts of Corps projects, and in the case of flood damage mitigation, to obtain information on flood damage incurred, whether or not a project is being considered or exists. All survey questionnaires are administered either by face-to-face, mail, or telephone methods. Public surveys are used to gather data for planning and operating Corps projects and facilities and to determine public preferences and satisfaction.

Affected Public: Individuals or Households; business or other for-profit; not-for-profit institutions; farms; State, Local or Tribal Government

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for the U.S. Army Corps of Engineers, Room 10202, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 21, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–13295 Filed 5–28–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Education Board Meeting

AGENCY: National Defense University, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the National Security Education Board. The purpose of the meeting is to review the make recommendations to the Secretary concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

DATES: June 4, 2002.

ADDRESSES: The Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond J. Collier, Deputy Director, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn, Virginia 22209–2248; (703) 696–1991. Electronic mail address: *colliere@ndu.edu*

SUPPLEMENTARY INFORMATION: The Board meeting is open to the public.

Dated: May 21, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–13293 Filed 5–28–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for Accommodating Development Within Marine Corps Base Quantico, VA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy announces its intent to prepare a programmatic Environmental Impact Statement (EIS) to evaluate the potential environmental effects of accommodating various types and levels of development at Marine Corps Base Quantico (MCBQ), VA.

DATES: A public scoping meeting will be held on Wednesday, June 12, 2002, beginning at 7 p.m., at the Ramada Inn, 4316 Inn Street, Triangle, VA.

ADDRESSES: Written comments, statements and/or questions regarding scoping issues should be addressed to: Mr. Hank Riek, Engineering Field Activity Chesapeake, 1314 Harwood Street, SE, Washington Navy Yard, Washington, DC 20374–5018. All written comments must be received no later than July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Riek, Engineering Field Activity Chesapeake, at (202) 685–3064.

SUPPLEMENTARY INFORMATION: Marine Corps Base (MCB) Quantico, VA manages over 60,000 acres of land approximately 30 miles south of Washington, DC. A variety of Department of Defense programs, including those related to base realignments and closures, and movement of Federal activities from leased space to Federally owned facilities have resulted in the relocation of federal activities to MCB Quantico. Because of its size, controlled access, proximity to the Washington, DC area, and heightened security concerns following the terrorists attacks of September 11, 2001, MCB Quantico has been and is expected to continue to be an increasingly attractive location for accommodating future relocations for other Marine Corps activities and related agencies. In anticipation of these relocations and to address traffic concerns resulting from growth at the installation, the base has conducted a variety of planning studies. These studies have lead to the identification of two specific areas within the western area of the base that could be used to accommodate new requirements without conflicting with installation's primary mission of military education and training. The areas identified for accommodating new requirements consist of approximately 270 acres located west of Interstate 95 along Marine Corps Base Road 1, a primary access route within the installation. The studies also support the widening of Russell Road, a major access route within the installation, which connects the main containment area of the base, located east of Interstate 95, with regional transportation routes that serve the base.

The EIS will examine the environmental effects of various types and levels of potential development within the western areas consisting primarily of administrative office space, warehousing and light industrial. Alternatives for improvements of Russell Road would include widening by one or two lanes and associated traffic controls and road features.

Issues to be addressed in the EIS will include effects to vegetation, wildlife, water resources, wetlands, threatened and endangered species, historic and archaeological resources, air quality, socio-economics, and traffic.

The Marine Corps will initiate a scoping process for the purpose of determining the extent of issues to be addressed, and identifying the significant issues related to this action. The Marine Corps will hold a public scoping meeting as noted in the Dates section of this notice. This meeting will be advertised in area newspapers.

Marine Corps representatives will be available at the meeting to receive comments from the public regarding issues of concern to the public. Federal, state and local agencies, and interested individuals are encouraged to take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. Agencies and the public are also invited and encouraged to provide written comment on scoping issues in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics that the commenter believes the EIS should address. Written statements and/or questions regarding the scoping process should be mailed to the addresses noted in the **ADDRESS** section of this notice.

Dated: May 22, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–13284 Filed 5–28–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the

Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent No. 5,958,701 entitled "Method for Measuring Intramolecular Forces by Atomic Force", Navy Case No. 79,257.

ADDRESSES: Requests for copies of the patent cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: May 22, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–13317 Filed 5–28–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to delete records systems.

SUMMARY: The Department of the Navy proposes to delete three systems of records notices from its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletions will be effective on June 28, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, DNS10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

These deletions are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems report.

Dated: May 21, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.,

N01001–5

SYSTEM NAME:

MSC Masters/Chief Engineers Biographical Data File (April 28, 1999, 64 FR 22840).

Reason: The Command no longer tracks or updates biographies. Records no longer necessary and have been destroyed.

N04050–1

SYSTEM NAME:

Personal Property Program (February 22, 1993, 58 FR 10734).

Reason: The Department of the Navy is deleting this system of records from its inventory because the Department of the Army, as the executive agency for DoD's surface passenger and personal property program, has an established DoD-wide system of records for the maintenance of these records (A0055–355 MTMC, entitled 'Personal Property Movement and Storage Records').

N05800–2

SYSTEM NAME:

Legal Records System (February 22, 1993, 58 FR 10770).

Reason: As a result of realignment, Navy hospitals no longer report to the Bureau of Medicine and Surgery. Accordingly, their legal office records are covered under a variety of other Navy legal systems. Hence, a separate distinct system for BUMED and the hospitals is no longer needed.

[FR Doc. 02–13296 Filed 5–28–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

[CFDA NO: 84.349A]

Early Childhood Educator Professional Development Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of the Early Childhood Educator Professional Development Program, authorized by section 2151(e) of the Elementary and Secondary Education Act (ESEA) as added by the No Child Left Behind Act, Public Law 107–110, is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent them from encountering difficulties once they enter school. The program is designed to improve the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

Projects funded under the Early Childhood Educator Professional Development Program will provide high-quality, sustained, and intensive professional development for these early childhood educators in how to provide developmentally appropriate school-readiness services for preschool-age children that are based on the best available research on early childhood pedagogy and on child development and learning. These grants complement the President's Early Childhood Initiative and early learning programs, such as Early Reading First, by helping States and local communities strengthen early learning for young children. The Department intends to disseminate information about the funded projects that prove to be effective professional development models to child care and early childhood education programs.

Eligible Applicants: A *partnership* consisting of—

(i) One or more institutions of higher education, or other public or private entities (including faith-based organizations), that provide professional development for early childhood educators who work with children from low-income families in high-need communities; *and*

(ii) One or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990), Head Start agencies, or private organizations (including faith-based organization); *and*

(iii) If feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs concerning identifying and preventing behavior problems or working with children identified as or suspected to be victims of abuse. This entity may be one of the partners described above, if appropriate.

Applications Available: May 28, 2002.

Deadline For Receipt of Applications: The Department's Application Control Center must *receive* the application by July 5, 2002 (by 4:30 p.m., Eastern Standard Time, if hand-delivered).

Deadline for Intergovernmental Review: September 3, 2002.

Estimated Available Funds: $15,000,000 (for FY 2002).

Estimated Range of Awards: $600,000–$1,400,000 per year.

Estimated Average Size of Awards: $1,000,000 per year (based on 15 awards).

Estimated Number of Awards: 10–25.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 2 years.

Applicable Regulations: The following provisions of the Education Department General Administrative Regulations (EDGAR) apply to these Early Childhood Educator Professional Development program grants: 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

Matching and Use of Funds Requirements:

Cost-sharing: Each partnership carrying out a project through an Early Childhood Educator Professional Development Program grant under this program must provide a cost share of (1) at least 50 percent of the total cost of the project for the entire grant period; and (2) at least 20 percent of the project cost for each year. The project may provide this cost share from any source other than funds under this program, including other Federal sources. The partnership may provide the project cost share through contributions of cash or in-kind, fairly evaluated, including plant, equipment, and services.

Indirect Costs: For purposes of indirect cost charges, the Secretary considers all Early Childhood Educator Professional Development Program grants to be "educational training grants" within the meaning of 34 CFR 75.562(a). Therefore, consistent with 34 CFR 75.562, except for costs incurred by fiscal agents that are State agencies or agencies of local governments (such as local educational agencies), a recipient's indirect cost rate is limited to the maximum of eight percent or the amount permitted by its negotiated indirect cost rate agreement, whichever is less.

Pre-award Costs: The Department's regulations authorize grant recipients to incur allowable pre-award costs up to 90 calendar days before the grant award (34 CFR 75.263 and 74.25(e)(1)). Pre-award costs, in this case, may include the necessary and reasonable costs of a needs assessment that the statute requires applicants to conduct, before submitting their applications, to determine the most critical professional development needs of the early childhood educators to be served by the project and in the broader community. Applicants incur any pre-award costs at their own risk. That is, the Secretary is under no obligation to reimburse these costs if for any reason the applicant does not receive an award or if the award is less than anticipated and inadequate to cover these costs.

Background

These Early Childhood Educator Professional Development Program grants will provide a small but significant base of high-quality, intensive, replicable, professional development programs for early childhood educators. These programs will be based upon the best available research on early childhood pedagogy and on child development and learning, including early language and literacy development. The grants are particularly important because high-quality, intensive, research-based professional development is critical for implementing effective early childhood programs that enhance the school readiness of young children.

These grants will fund projects that carry out activities to improve the knowledge and skills of early childhood educators working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families. The specific activities for which recipients may use grant funds are identified in the application package.

The Secretary will expect funded projects to use rigorous methodologies to measure progress toward attainment of project objectives and of the achievement indicators in this notice under *Achievement Indicators.* The statute requires applicants to report annually on their progress toward attaining these achievement indicators.

Definitions

The following terms used in the absolute priority, the competitive preference, and the selection criteria for this grant competition have specific statutory meanings that are included in the application package: "early childhood educator," "high-need community," "low-income family," "poverty line," "professional development," and "scientifically based research." The Secretary strongly encourages applicants to review the statutory definitions of these terms before preparing their grant applications.

Applications

Early Childhood Educator Professional Development Program grants for FY 2002 will be awarded through a competitive process. The statute requires each applicant to submit an application that contains specific information and assurances that are described in the application package. The application narrative (addressing the absolute priority, the competitive preference, the EDGAR selection criteria, and other information identified in the application package) is limited to 30 double-spaced, typed pages. In addition, the budget narrative is limited to 5 double-spaced, typed pages. Other application materials are limited to the specific materials indicated in the application package, and may not include any video or other non-print materials.

Waiver of Proposed Rulemaking

It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed priorities and other program requirements that are not taken directly from statute. Ordinarily, this practice would have applied to the priorities, achievement indicators, and application requirements in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forgo public comment with respect to the rules in this grant competition in order to ensure timely awards. The rules in this notice will apply only to the FY 2002 grant competition.

Achievement Indicators

The Secretary announces the following achievement indicators for these grants as required by section 2151(e)(6) of the ESEA:

Indicator 1

Increasing numbers of hours of high quality professional development will be offered. High-quality professional development must be ongoing, intensive, classroom-focused, and based on scientific research on cognitive and social development in early childhood and effective pedagogy for young children.

Indicator 2

Early childhood educators who work in early childhood programs serving low-income children will participate in greater numbers, and increasing numbers of hours, in high-quality professional development.

Indicator 3

Early childhood educators will demonstrate increased knowledge and understanding of effective strategies to support school readiness based on scientific research on cognitive and social development in early childhood and effective pedagogy for young children.

Indicator 4

Early childhood educators will more frequently apply research-based approaches in early childhood pedagogy and child development and learning domains, including using a content-rich curriculum and activities that promote language and cognitive development.

Indicator 5

Children will demonstrate improved readiness for school, especially in the areas of appropriate social and emotional behavior and early language and literacy competencies.

Priorities

Absolute Priority

Under 35 CFR 75.105(c)(3), the Secretary gives an absolute preference to any eligible applicant that proposes a project to provide professional development services that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that (1) are located in high-need communities; and (2) serve concentrations of children from low-income families.

The statute requires every applicant to describe in its application the high-need community to be served by the project. Applicants should include relevant demographic and socio-economic information to support this description. To meet this priority, *all* early childhood programs served by the early childhood educators receiving services under this grant must be located in a "high-need community." For the purpose of this priority, the Secretary considers an early childhood program to serve a "concentration" of children from low-income families if the number of children in the program from low-income families is over 50 percent of the number of children served by the total program.

Under 34 CFR 75.105(c)(3), the Secretary will fund under this competition only applicants that meet this absolute priority.

Note: The following terms used in this absolute priority have statutory definitions that are included in the application package: "early childhood educator," "high-need community," "low-income family," and "professional development."

Competitive Preference

Under 34 CFR 75.105(c)(2), the Secretary establishes one competitive preference as follows:

The Secretary gives a competitive preference to any applicant that proposes to provide research-based professional development to early childhood educators to improve their knowledge and skills in working effectively with preschool-age children who have been identified as having a learning disability or whose pre-literacy skills put them at high risk of later being identified as having a learning disability.

An application that meets this competitive preference would receive *10 points* in the competition. These points are in addition to any points the applicant earns under the selection criteria.

Note: The following terms used in this competitive preference have statutory definitions that are included in the application package: "early childhood educator," and "professional development."

Selection Criteria

The Secretary will use selection criteria from EDGAR in 34 CFR 75.210 to evaluate applications under this competition. Those selection criteria are identified in the application package.

For Applications Contact

Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827 FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.htm.*

Or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.349A.

The public also may obtain a copy of the application package on the Department's Web site at the following address: *www.ed.gov/GrantApps/#84.349A.*

For Further Information Contact: Virginia Berg, U.S. Department of Education, Compensatory Education Programs, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Washington, DC 20202–6132. Telephone: (202) 260–0926, or via Internet: *Virginia.Berg@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/fedregister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at that site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 6651(e).

Dated: May 22, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13403 Filed 5–28–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Career Resource Network State Grants

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of proposed extension of project period and waiver, and reopening of competition for American Samoa.

SUMMARY: We propose to waive the requirement in 34 CFR 75.261(c)(2) as it applies to projects funded under the Career Resource Network State GrantsProgram (CRN) in fiscal year (FY) 2000. We propose this waiver in order to be able to extend the project periods for 58 current grants awarded under the FY 2000 CRN competition.

We also are proposing to reopen the FY 2000 competition for the limited purpose of allowing American Samoa to submit an application for funding under the CRN.

We are requesting public comments on the proposed extension, waiver, and the limited reopening of the FY 2000 competition.

DATES: We must receive your comments on or before June 28, 2002.

ADDRESSES: Address all comments about this proposed extension and waiver to Sharon A. Jones, U.S. Department of Education, 400 Maryland Avenue, SW., room 4515, Mary E. Switzer Building, Washington, DC 20202–7242. If you prefer to send your comments through the Internet, use the following address: *sharon.jones@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Sharon A. Jones. Telephone (202) 205–9870.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this proposed extension and waiver in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed extension and waiver. We are particularly interested in receiving comments on the potential impact the extension and waiver may have on the CRN.

Additionally, we invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed extension and waiver. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the CRN.

During and after the comment period, you may inspect all public comments about this proposed extension and waiver in room 4515, Mary E. Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed extension and waiver. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Background

On May 12, 2000 (65 FR 30798), we issued a notice inviting applications for new awards under the CRN for FY 2000. Among other things, the notice (a) explained that CRN grants are intended to provide support for the implementation of Statewide, systemic strategies for providing young people and adults with the critical career information resources and the skills they need to make effective educational and career decisions throughout their lives, (b) created a two-year project period, (c) established the deadline for the receipt of applications, and (d) clearly identified the eligible applicants, which include any of the 50 States, the Virgin Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Marianna Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

In the May 12th notice we indicated that the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau are not eligible for funding under the CRN after FY 2001 and, therefore, would not be eligible to receive funding under the CRN beyond FY 2001. However, following publication of the notice, Congress enacted H.R. 2436, the Guam Omnibus Opportunities Act, in which it extended the eligibility of these three entities beyond 2001, and until such time as they have fully completed the negotiations of their compacts of free association. Accordingly, since these three entities have not yet completed the negotiations process, they would continue to be eligible for funding under the CRN program in FY 2002, and perhaps beyond.

As indicated in the May 12th notice, we expected to receive applications from each of the 59 eligible applicants. With the exception of American Samoa, every eligible State and outlying area applied for and received funding under the FY 2000 competition. American Samoa missed the deadline, but has indicated that it is interested in submitting an application and receiving funding in FY 2002. Based on the statute as written and the important services to be provided under the authority of section 118 of the Perkins Act, we believe that Congress intended for us to provide assistance under the CRN program to all eligible entities. We are, therefore, reopening the FY 2000 competition in order that American Samoa may apply for funding under the CRN.

If we held a new competition for FY 2002 and every current grantee, as well as American Samoa, applied for and received funding, all eligible applicants would be receiving support under the CRN in FY 2002. We believe, therefore, that in FY 2002 it is now preferable and in the best interest of the CRN for us to extend currently funded projects, allow American Samoa to apply for a grant, and review requests for continuation awards from the 58 current FY 2000 grantees, rather than hold a new competition in FY 2002. We believe that holding a new competition would create an unnecessary burden for current grantees since the 58 current grantees would have to undertake the effort and cost of submitting new applications for funding in FY 2002. A new competition is likely merely to cause existing grantees to expend valuable time and resources applying for program funding under the existing authority, while requesting continuation awards would be a more appropriate and effective means for current CRNs already under way to continue their projects under this program. In addition, pursuing a continuation grant process would also result in a more efficient use of Federal funds.

Moreover, the Perkins Act, which includes authorization for the CRN, expires at the end of FY 2003. With the uncertainties presented by the absence of authorizing legislation for the CRN beyond 2003, it does not appear to be advisable to hold a competition in FY 2003 for projects that would operate in FY 2004. We are generally reluctant to announce a competition whereby eligible entities would be expected to proceed through the application preparation and submission process while lacking critical information about the future of the program, and do not think that it would be in the public interest to do so in this case.

Since we propose a limited purpose reopening of the FY 2000 competition so as to allow American Samoa to apply for CRN funding, the proposal of continuation grants in lieu of a FY 2002 competition will not prevent the support of this last, and as yet unfunded, eligible entity under the CRN.

EDGAR Requirement

In order to provide for continuation awards, we must waive the requirement in 34 CFR 75.261(c)(2), which establishes the conditions for extending a project period, including prohibiting the extension of a program's project period if it involves the obligation of additional Federal funds.

This proposed extension and waiver would allow us to make continuation grants at least in FY 2002 and FY 2003 and perhaps beyond FY 2003 if Congress continues to appropriate funds for the CRN program under the current statutory authority. However, in accordance with 34 CFR 75.250, we do not hereby propose to make continuation grants beyond FY 2005.

A waiver as proposed would mean that: (1) Current CRN grants may be continued at least through FY 2004 (depending on the availability of appropriations for CRN in subsequent years under the current statutory authority), instead of ending in FY 2002, and (2) we would not announce a new competition or make new awards in FY 2002, as previously planned.

Continuation of the Current Grantees

With this proposed extension and waiver of § 75.261(c)(2) of EDGAR, we propose to extend the project periods of the 58 States and outlying areas that received grants under the FY 2000 competition for two years and for additional years for which Congress appropriates funds under the current statutory authority.

Decisions regarding annual continuation awards will be based on the program narratives, budgets and budget narratives, and Grant Performance Reports submitted by grantees, and on the regulations at 34 CFR 75.253. Consistent with 34 CFR 75.253, we would award continuation grants if we determined, among other things, and based on information provided by each grantee, that each grantee was making substantial progress performing grant activities. Under this proposed extension and waiver, (1) the project period for grantees could be extended to July 19, 2004, and (2) additional continuation awards could be made for additional year or years for which Congress appropriates funds under existing statutory authority.

We do not interpret the waiver as exempting current grantees from the account closing provisions of Pub. L. 101–510, or as extending the availability of FY 2001 funds awarded to the grantees. As a result of Pub. L. 101–510, appropriations available for a limited period may be used for payments of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the Treasury Department and is unavailable for restoration for any purpose.

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed extension and waiver and the activities required to support additional years of funding would not have a significant economic impact on a substantial number of small entities.

Because this proposed extension and waiver would affect only States and State agencies, the notice would not have an impact on small entities. States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act.

Instructions for Requesting a Continuation Award

Each grantee wishing to receive an annual continuation grant shall submit a program narrative that describes the activities it intends to carry out during each of the two years (FYs 2002 and 2003), and during any additional years for which Congress appropriates funds under the current statutory authority, of a continuation award. The activities must be consistent with, or be a logical extension of, the scope, goals, and objectives of the grantee's approved application. A grantee shall also submit a budget and budget narrative for each year it requests a continuation award. (34 CFR 75.253(c)(2)). States and outlying areas should request continuation awards at least three weeks before their current grants expire.

Amount of New Awards Under Continuation Grant

The actual amount of each continuation award depends on factors such as (1) the grantee's written statement describing how the funds made available under the continuation award will be used, (2) a cost analysis of the grantee's budget by the Department, and (3) whether any unobligated funds remaining from previous grant awards are needed to complete activities that are planned for completion in the prior budget period. (34 CFR 75.232 and 75.253(c)(2)(ii) and (3)).

The CRN has received an increase in its appropriation from FY 2001, which could result in States and outlying areas receiving a percentage increase in their awards. As a result of the increase in the appropriation, it is expected that States and outlying areas will receive a 4.39 percent increase in the amount of their current grants.

Although grantees must submit program narratives and budgets describing the activities they plan to carry out during each period of continuation, which could include some increase in funding, we strongly encourage all grantees to consider the 4.39 percent increase when deciding the amount of funds to request to support their continuation of projects.

American Samoa

American Samoa missed the deadline for the FY 2000 competition, but is interested in receiving funding in FY 2002. In order to provide an opportunity for American Samoa to submit an application under the CRN, we propose to (1) reopen the competition and application notice published on May 12, 2000 (65 FR 30798) for this limited purpose, and (2) establish a new deadline date by which American Samoa would be required to submit its application. To be considered for funding, American Samoa must submit an application that meets the requirements established by the statute and the May 12, 2000 notice and is determined by the Department to have merit based on the criteria described in the May 12th notice. However, American Samoa is not required to follow the May 12th notice with regard to the DEADLINE FOR TRANSMITTAL OF APPLICATIONS, DEADLINE FOR INTERGOVERNMENTAL REVIEW, ESTIMATED AVERAGE SIZE OF AWARDS, and PROJECT PERIOD. Instead, *American Samoa* should note the following:

Deadline for Transmittal of Application: July 31, 2002.

Deadline for Intergovernmental Review: September 30, 2002.

Estimated Range of Award: As with other awards under the FY 2000 competition, the size of American Samoa's award will depend on factors such as the scope and quality of the application and will be determined during pre-award clarification discussions with us. However, we strongly encourage American Samoa to consider the $85,732 estimated grant amount determined for American Samoa and published in the May 12th notice and the 4.39 percent increase in this notice, in determining the amount it requests for FY 2002.

Project Period: American Samoa's project period would be for FYs 2003 and 2004, and possibly for additional years for which Congress appropriates funds under the current statutory authority. Decisions regarding any continuation awards for American Samoa would be made in the same manner as decisions would be made for other CRN grantees under this notice.

Note: The Department is not bound by any estimates in this notice.

If You Have Questions About The Percentage Increase Your State Or Outlying Area May Receive Or About The Information You Must Submit In Order To Request A Continuation Award, Or New Award In The Case Of American Samoa, Contact: Burt Carlson, U.S. Department of Education, 400 Maryland Avenue, SW., room 4331, Mary E. Switzer Building, Washington, DC 20202–7241. Telephone (202) 401–6225.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Number 84.346 Career Resource Network State Grants)

Dated: May 22, 2002.

Carol D'Amico,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 02–13311 Filed 5–28–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Quarterly Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of quarterly meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming quarterly meeting of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. Individuals who will need accommodations for a disability in order to attend the meeting (*i.e.*, interpreting services, assistive listening devices, materials in alternative format) should notify Mary Grace Lucier at (202) 219–2253 by June 14. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: June 28, 2002.

Time: 9 a.m. to 3:30 p.m.

Location: Room 200, Graduate School of Education, the University of Pennsylvania, 3700 Walnut St., Philadelphia, PA, 19104–6216.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, (Acting) Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, DC 20208–7564. Tel.: (202) 219–2353; fax; (202) 219–1528; e-mail: *Mary.Grace.Lucier@ed.gov*, or *nerppb@ed.gov* The main telephone number for the Board is (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement (OERI) to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The Board will conduct outstanding business in and hear reports from the Assistant Secretary for OERI. It will receive a briefing on the work of the Consortium for Policy Research in Education (CPRE) and on state and local initiatives in education reform. A final agenda will be available from the Board office on June 14, and will be posted on the Board's Web site, *http:www.ed.gov/offices/OERI/NERPPB/*. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW, Washington, DC 20208–7564.

Dated: May 22, 2002.

Rafael Valdivieso,

Executive Director.

[FR Doc. 02–13377 Filed 5–28–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Management, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (Privacy Act), 5 United States Code (U.S.C.) 552a, the Department of Education (Department) publishes this notice of a new system of records entitled "Student Loan Repayment Benefits Case Files." The Department is implementing the Federal Government authority set forth at 5 U.S.C. 5379 to establish a program providing for repayment of federally made or insured student loans when necessary to attract or retain highly qualified individuals for employment. Subject to the requirements of law and regulation, the Department can make payments to Federal student loan holders (lenders) on behalf of an employee, thus reducing an employee's Federal student loan debt.

DATES: The Department seeks comments on this new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on the proposed routine uses for this system of records included in this notice on or before June 28, 2002.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 23, 2002. This new system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on July 2, 2002 or (2) June 28, 2002, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments on the proposed routine uses of this system, and requests for information about this system, to Jeffrey Frank, Human Resources Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Federal Office Building 6, room 2E338, Washington, DC 20202–4573. If you prefer to send your comments through the Internet, use the following address: *Comments@ed.gov.*

You must include the term "Student Loan Repayment" in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 2E300, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m.,

Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Jeffrey Frank. Telephone: (202) 401-0539. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of new or revised systems of records managed by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to a record about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a "record," and the system, whether manual or computer-driven, is called a "system of records." The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to OMB whenever the agency publishes a new or "altered" system of records.

The Student Loan Repayment authority is one of several flexibilities made available to agencies when trying to attract individuals to the Federal service, or retain highly qualified personnel. It permits agencies to repay federally insured student loans when necessary to attract or retain highly qualified personnel. This system will document requests for repayment benefits, employees who are approved to receive benefits, and the benefit amounts and service agreements specific to each individual case. Information contained in this system will be used by the Department to compile annual reports for the Office of Personnel Management (OPM) on the Department's use of the student loan repayment authority.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the CFR is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*.

Dated: May 23, 2002.

William J. Leidinger,

Assistant Secretary for Management.

For the reasons discussed in the preamble, the Assistant Secretary for Management of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–05–15

SYSTEM NAME:

Student Loan Repayment Benefits Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Human Resources Group, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., room 2E300, FOB–6, Washington, DC 20202–4573.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who are being considered for student loan repayment benefits under the Department of Education's Personnel Manual Instruction 537–1 entitled "Repayment of Federal Student Loans," as well as individuals who have been approved for and are receiving such benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by selecting officials or supervisors to offer student loan repayment benefits to recruit or retain highly qualified employees. This system contains: (1) Request letters from selecting official or supervisor with supporting documentation; (2) employee's (or potential employee's) names, home and work addresses, social security numbers, student loan account numbers, loan balances, repayment schedule, repayment history, and repayment status; and (3) the loan holder's name, address and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (Public Law 106–398); 5 U.S.C. 5379, as amended, and regulations to be codified at 5 CFR part 537.

PURPOSE(S):

These records are maintained to determine eligibility and benefits and to process requests to offer student loan repayment benefits to employees under authority set forth at 5 U.S.C. 5379. The records are used by the Department to prepare its reports for OPM, as is required by 5 CFR 537.110. The Department will also refer information from this system to loan holders for collection activities in the case of any student loan default or delinquency that becomes known to the Department in the course of determining an employee's (or potential employee's) eligibility for student loan repayment benefits because of the Department's mission responsibilities for Federal student loan programs and its role in promoting their responsible use by student borrowers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Personnel Management Disclosure.* The Department may disclose as a routine use to OPM any records or information in this system of records that OPM requests or requires pursuant to OPM's oversight and regulatory functions.

(2) *Salary Offset or Debt Collection Disclosures.* The Department may disclose records in this system to other Federal agencies, hearing or court officials, and present employers of an employee in order for the Department to obtain repayment, if an employee fails to complete the period of employment under a service agreement and fails to reimburse the Department the amount of any student loan repayment benefits the employee received from the Department.

(3) *Disclosure to other Federal agencies.* The Department may disclose records in this system to its payroll processing provider in order to calculate tax withholdings and disburse payments of student loan repayment benefits to loan holders on behalf of employees approved to receive this benefit.

(4) *Disclosure to Student Lending Institutions or Loan Holders.* The Department may disclose to student lending institutions or loan holders records from this system as a routine use disclosure in order to obtain information (such as the borrower's account number, original and current loan balance, repayment schedule, repayment history, and current repayment status) to allow the Department to determine an employee's or potential employee's initial and continuing eligibility for this program, to facilitate accurate payments to student loan holders on behalf of eligible employees, and to ensure the Department discontinues making student loan repayments to individuals who do not remain eligible for them during the period of the service agreement. The Department also may disclose to loan holders records from this system of records as a routine use disclosure in the event it becomes known to the Department during the course of its program eligibility determinations that an individual is past due, delinquent, or in default of a federally insured student loan so that the Department can facilitate the loan holder's collection of any past due, delinquent or defaulted student loans, because of the Department's mission responsibilities for Federal student loan programs and its role in promoting their responsible use by student borrowers.

(5) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(6) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(7) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department requests representation for or has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(8) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(9) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: a complaint, a grievance, or a discipline or competence determination proceeding. The disclosure may only be made during the course of the proceeding.

(10) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to DOJ and OMB if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(11) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the program covered by this system.

(12) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an

individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(13) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy and may be retained in electronic form accessible with office automation software on a Department personal computer in offices of the Human Resources Group.

RETRIEVABILITY:

Records are retrieved by the name of the individual. SAFEGUARDS:

Hard copy records are stored in a locked metal filing cabinet, with access limited to personnel whose duties require access. Electronic records are stored on computer diskette that is secured in a locked metal filing cabinet, with access limited to personnel whose duties require access. Personal computers used to view the electronic media are password protected; passwords are changed periodically throughout the year. All physical access to the building where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for an employee or visitor badge.

RETENTION AND DISPOSAL:

Service agreements between the Department and an employee and related supporting documents resulting in approval for program benefits will be retained for a period of three years after the employee satisfies the terms and conditions of the agreement. All other documents will be retained in accordance with the National Archives and Records Administration General Records Schedules (GRS) 1.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Group, U.S. Department of Education, 400 Maryland Avenue, SW, room 2E300, FOB–6, Washington, DC 20202–4573.

NOTIFICATION PROCEDURE:

If you wish to inquire whether a record exists regarding you in this system, you should contact the system manager at the address listed above. You must provide your name, name of organization, and subject matter. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to request access to your records, you should contact the system manager at the address listed above. You must comply with the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to request an amendment to your records, you should contact the system manager at the address listed above. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual to whom the information applies, lending institutions holding student loans for the individual to whom the information applies, officials of the Department, and official Department documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–13312 Filed 5–28–02; 8:45 am]
BILLING CODE 4000–01–P

FEDERAL ENERGY REGULATORY COMMISSION

Notice of Meeting

May 8, 2002.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 15, 2002 (30 Minutes Following Regular Commission Meeting).

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. EL02–75–000, *Duke Energy Trading and Marketing, L.L.C.* v. *Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., Entergy New Orleans, Inc. and Entergy Services, Inc.*

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 208–0400.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13473 Filed 5–28–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting

May 23, 2002.

The following notice is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 30, 2002, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda, * Note: items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 208–0400, For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the Agenda;

however, all public documents may be examined in the reference and information center.

793RD—Meeting May 30, 2002, Regular Meeting 10:00 a.m.

Administrative Agenda

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters
A–2.
DOCKET# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations
A–3.
DOCKET# AD02–18, 000, Northeast RTO Developments
OTHER#S RT01–99, 000, Regional Transmission Organizations
RT01–86, 000, Bangor Hydro-Electric Company, Central Maine Power Company, National Grid USA, Northeast Utilities Service Company, United Illuminating Company and The Vermont Electric Power Company
RT01–95, 000, New York Independent System Operator Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation, Orange & Rockland Utilities, Inc. and Rochester Gas and Electric Corporation

Markets, Tariffs and Rates—Electric

E–1.
DOCKET# ER02–456, 000, Electric Generation LLC
E–2.
DOCKET# ER02–352, 002, Southern Company Services, Inc.
OTHER#S ER02–352, 000, Southern Company Services, Inc.
ER02–352, 001, Southern Company Services, Inc.
E–3.
DOCKET# ER02–1451, 000, Ameren Energy Marketing Company
E–4.
DOCKET# ER02–1472, 000, Entergy Gulf States, Inc.
E–5.
DOCKET# ER02–1450, 000, IRH Management Committee
E–6.
DOCKET# ER02–1326, 000, PJM Interconnection, L.L.C.
E–7.
DOCKET# ER02–1618, 000, New England Power Pool
E–8.
DOCKET# ER02–1494, 000, Commonwealth Edison Company
E–9.
DOCKET# ER01–948, 000, Exelon Generation Company, L.L.C.
E–10.
DOCKET# ER01–890, 003, Boston Edison Company
OTHER#S ER02–1465, 000, Boston Edison Company
E–11.
DOCKET# ER02–1478, 000, Duke Energy Oakland, LLC
OTHER#S ER02–10, 000, Duke Energy Oakland, LLC
ER02–240, 000, Duke Energy Oakland, LLC
ER02–240, 001, Duke Energy Oakland, LLC
E–12.
DOCKET# ER02–1420, 000, Midwest Independent Transmission System Operator, Inc.
E–13.
DOCKET# EL00–95, 022, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
OTHER#S EL00–95, 023, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
EL00–95, 024, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
EL00–95, 025, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
EL00–98 021 Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 022, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 023, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 024, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
E–14.
DOCKET# ER02–108, 003, Midwest Independent Transmission System Operator, Inc.
E–15.
OMITTED
E–16.
DOCKET# ER01–2214, 001, Entergy Services, Inc.
E–17.
DOCKET# EL00–62 042 ISO New England Inc.
E–18.
OMITTED
E–19.
OMITTED
E–20.
DOCKET# TX02–2, 000, Kiowa Power Partners, LLC
OTHER#S ER02–1654, 000, Oncor Electric Delivery Company
E–21.
DOCKET# ER02–488, 001, Midwest Independent Transmission System Operator, Inc.
E–22.
DOCKET# ER98–1438, 011, Midwest Independent Transmission System Operator, Inc.
OTHER#S EC98–24, 007 Cincinnati Gas & Electric Company, Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Illinois Power Company, PSI Energy, Inc., Wisconsin Electric Power Company, Union Electric Company, Central Illinois Public Service Company, Louisville Gas & Electric Company and Kentucky Utilities Company
ER01–479, 003, Midwest Independent Transmission System Operator, Inc.
E–23.
DOCKET# EL02–2, 001, PPL EnergyPlus, LLC
E–24.
OMITTED
E–25.
DOCKET# ER02–651, 001, California Independent System Operator Corporation
E–26.
DOCKET# ER02–653, 001, PacifiCorp
E–27.
DOCKET# ER02–913, 001, American Electric Power Company
E–28.
DOCKET# ER99–2779, 001, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
E–29.
DOCKET# EL00–80, 001, Indeck Maine Energy, L.L.C. v. ISO New England, Inc.
E–30.
OMITTED
E–31.
DOCKET# ER02–112, 001, Mid-Continent Area Power Pool
E–32.
DOCKET# ER02–708, 001, Central Illinois Light Company
OTHER#S ER02–708, 002, Central Illinois Light Company
E–33.
DOCKET# ES02–25, 001, UtiliCorp United Inc.
E–34.
DOCKET# EL01–51, 000, Detroit Edison Company
OTHER#S EL01–51, 001, Detroit Edison Company
EL01–51, 002, Detroit Edison Company
ER01–1649, 000, Detroit Edison Company
ER01–1649, 001, Detroit Edison Company
ER01–1649, 002, Detroit Edison Company
E–35.
OMITTED
E–36.
DOCKET# EL02–25, 000, Intermountain Rural Electric Association v. Public Service Company of Colorado
OTHER#S EL02–76, 000, Holy Cross Energy and Yampa Valley Electric Association v. Public Service Company of Colorado
E–37.
DOCKET# EL02–74, 000, Colton Power L.P. and City of Colton, California v. Southern California Edison Company
E–38.
OMITTED
E–39.
OMITTED
E–40.
DOCKET# ER01–1136, 000, Ameren Services Company

OTHER#S ER01–1136, 001, Ameren Services Company
ER01–1136, 002, Ameren Services Company
ER01–1136, 003, Ameren Services Company
ER01–1136, 004, Ameren Services Company
E–41.
DOCKET# EL02–59, 000, KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.
E–42.
DOCKET# EL02–69, 000, UtiliCorp United Inc.
E–43.
DOCKET# EL02–71, 000, State of California, *ex rel.* Bill Lockyer, Attorney General of the State of California v. British Columbia Power Exchange Corporation, Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Reliant Energy Services, Inc., Williams Energy Marketing & Trading Company, All Other Public Utility Sellers of Energy and Ancillary Services to the California Energy Resources Scheduling Division of the California Department of Water Resources and All Other Public Utility Sellers of Energy and Ancillary Services into Markets Operated by the California Power Exchange and the California Independent System Operator Corporation
E–44.
DOCKET# ER01–3155, 002, New York Independent System Operator, Inc.
OTHER#S EL01–45, 002, Consolidated Edison Company of New York, Inc.
EL01–45, 003, Consolidated Edison Company of New York, Inc.
EL01–45, 005, Consolidated Edison Company of New York, Inc.
EL01–45, 009, Consolidated Edison Company of New York, Inc.
EL01–45, 010, Consolidated Edison Company of New York, Inc.
ER01–1385, 003, Consolidated Edison Company of New York, Inc.
ER01–1385, 004, Consolidated Edison Company of New York, Inc.
ER01–1385, 006, Consolidated Edison Company of New York, Inc.
ER01–1385, 010, Consolidated Edison Company of New York, Inc.
ER01–1385, 011, Consolidated Edison Company of New York, Inc.
E–45.
DOCKET# EL00–35, 000, Platte-Clay Electric Cooperative Inc.
E–46.
DOCKET# EL98–66, 000, East Texas Electric Cooperative, Inc. v. Central and South West Services, Inc., Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
E–47.
DOCKET# EL02–86, 000, Exelon Generation Company, L.L.C. v. Southwest Power Pool, Inc.

Miscellaneous Agenda

M–1.
RESERVED

Markets, Tariffs and Rates—Gas

G–1.
DOCKET# RP02–332, 000, Petal Gas Storage, L.L.C.
G–2.
DOCKET# RP02–329, 000, Stingray Pipeline Company, L.L.C.
G–3.
DOCKET# RP99–518, 027, PG&E Gas Transmission, Northwest Corporation
G–4.
DOCKET# RP00–337, 000, Kern River Gas Transmission Company
OTHER#S RP00–337, 001, Kern River Gas Transmission Company
RP00–337, 002, Kern River Gas Transmission Company
RP01–93, 000, Kern River Gas Transmission Company
RP01–93, 001, Kern River Gas Transmission Company
RP01–93, 002, Kern River Gas Transmission Company
G–5.
DOCKET# RP02–232, 000, Great Lakes Gas Transmission Limited Partnership
G–6.
DOCKET# RP02–248, 000, Kern River Gas Transmission Company
G–7.
DOCKET# RP96–312, 070, Tennessee Gas Pipeline Company
G–8.
OMITTED
G–9.
DOCKET# RP02–335, 000, ANR Pipeline Company
G–10.
DOCKET# RP02–334, 000, Northern Natural Gas Company
G–11.
DOCKET# RP02–238, 000, Natural Gas Pipeline Company of America
G–12.
DOCKET# IS02–216, 000, Express Pipeline LLC
G–13.
DOCKET# RP00–410, 000, Mississippi River Transmission Corporation
OTHER#S RP00–410, 001, Mississippi River Transmission Corporation
RP01–8, 000, Mississippi River Transmission Corporation
RP01–8, 001, Mississippi River Transmission Corporation
G–14.
DOCKET# RP02–318, 000, Questar Southern Trails Pipeline Company
OTHER#S RP02–318, 001, Questar Southern Trails Pipeline Company
G–15.
DOCKET# RP00–322, 000, Garden Banks Gas Pipeline, L.L.C.
OTHER#S RP00–577, 000, Garden Banks Gas Pipeline, L.L.C.
G–16.
DOCKET# RP00–338, 000, Mojave Pipeline Company
OTHER#S RP00–621, 000, Mojave Pipeline Company
G–17.
DOCKET# RP00–465, 000, Trunkline LNG Company
OTHER#S RP00–616, 000, Trunkline LNG Company
G–18.
DOCKET# RP00–480, 000, Alliance Pipeline L.P.
OTHER#S RP00–445, 000, Alliance Pipeline L.P.
RP01–9, 000, Alliance Pipeline L.P.
G–19.
DOCKET# RP00–336, 002, El Paso Natural Gas Company
OTHER#S RP00–139, 000, KN Marketing, L.P. v. El Paso Natural Gas Company
RP01–484, 000, Aera Energy, LLC, Amoco Production Company, BP Energy Company, Burlington Resources Oil & Gas Company LP, Conoco Inc., Coral Energy Resources LP, ONEOK Energy Marketing & Trading Company, L.P., Pacific Gas and Electric Company, Panda Gila River L.P., the Public Utilities Commission of the State of California, Southern California Edison Company, Southern California Gas Company and Texaco Natural Gas Inc. v. El Paso Natural Gas Company
RP01–486, 000 Texas, New Mexico and Arizona Shippers: Apache Nitrogen Products, Inc., Arizona Electric Power Cooperative, Inc., Arizona Gas Division of Citizens Communications Company, BHP Copper, Inc., El Paso Electric Company, El Paso Municipal Customer Group, Phelps Dodge Corporation, Public Service Company of New Mexico, Salt River Project and Southern Union Gas Company v. El Paso Natural Gas Company
G–20.
DOCKET# RP99–301, 041, ANR Pipeline Company
G–21.
OMITTED
G–22.
DOCKET# RP96–312, 029, Tennessee Gas Pipeline Company
G–23.
DOCKET# RP02–151, 002, Gulf South Pipeline Company, L.P.
OTHER#S RP96–320, 054, Gulf South Pipeline Company, L.P.
RP02–151, 001, Gulf South Pipeline Company, L.P.
G–24.
OMITTED
G–25.
DOCKET# RM98–10, 011, Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services
G–26.
DOCKET# RP02–330, 000, ANR Pipeline Company
G–27.
DOCKET# PR02–3, 000, Bay Gas Storage Company, Ltd.
OTHER#S PR02–3, 001, Bay Gas Storage Company, Ltd.
G–28.
DOCKET# RP02–333, 000, Northern Natural Gas Company

Energy Projects—Hydro

H–1.
DOCKET# UL97–11, 004, PacifiCorp
H–2.
DOCKET# DI97–8, 003, Domtar Maine Corporation

OTHER#S P–2618, 015, Domtar Maine Corporation
P–2660, 016, Domtar Maine Corporation
DI97–9, 003, Domtar Maine Corporation
H–3.
DOCKET# P–6032, 044, Niagara Mohawk Power Corporation and Fourth Branch Associates
H–4.
OMITTED
H–5.
DOCKET# P–2232, 411, Duke Energy Corporation

Energy Projects—Certificates

C–1.
DOCKET# CP02–76, 000, Eastern Shore Natural Gas Company
C–2.
DOCKET# CP01–4, 001, Maritimes & Northeast Pipeline, L.L.C.
OTHER#S CP01–5, 002, Algonquin Gas Transmission Company
C–3.
DOCKET# CP02–20, 000, Iroquois Gas Transmission System, L.P.
C–4.
DOCKET# CP02–6, 001, Colorado Interstate Gas Company
OTHER#S CP02–6, 000, Colorado Interstate Gas Company
C–5.
DOCKET# CP01–66, 001, Egan Hub Partners, L.P.
C–6.
DOCKET# CP02–188, 000, Copper Eagle Gas Storage, L.L.C.
C–7.
DOCKET# CP02–80, 000, Reliant Energy Gas Transmission Company
C–8.
DOCKET# CP02–74, 000, Reef International, L.L.C.
C–9.
DOCKET# CP02–81, 000, Natural Gas Pipeline Company of America
C–10.
DOCKET# CP01–260, 001, Columbia Gas Transmission Corporation

Magalie R. Salas,

Secretary.

[FR Doc. 02–13474 Filed 5–28–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Nonconformance Penalties for Heavy-Duty Engines and Heavy-duty Vehicles, Including Light-Duty Trucks; Reporting and Recordkeeping Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Nonconformance Penalties for Heavy-duty Engines and Heavy-duty Vehicles, Including Light-Duty Trucks, Reporting And Recordkeeping Requirements, OMB Control Number 2060–0132, expired 5/31/97, reinstatement. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1285.05 and OMB Control No. 2060–0132 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566–1672, by E-mail at *auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1285.05. For technical questions about the ICR contact Anthony Erb, tel.: (202) 564–9259; fax: (202) 565–2057; or e-mail: *erb.anthony @epa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks; Reporting And Recordkeeping Requirements; OMB Control No. 2060–0132; EPA ICR No. 1285.05, expired 5/31/1997, reinstatement. This is a request for reinstatement with change of a previously approved collection for which approval has expired.

Abstract: Section 206(g) of the Act as amended in 1990 contains the nonconformance penalty (NCP) provisions. It requires tests of production engines and vehicles to determine the extent of their nonconformity. Nonconformance penalties allow a manufacturer to introduce into commerce heavy-duty engines or vehicles including light-duty trucks, which fail to conform with certain emission standards upon payment of a monetary penalty. A manufacturer that elects to pay a nonconformance penalty must perform a Production Compliance Audit (PCA). The collection activities of the nonconformance penalty program include periodic reports and other information (including the results of emission testing conducted during the PCA) which the manufacturer will create and submit to the Certification and Compliance Division (CCD), Office of Transportation and Air Quality(OTAQ), Office of Air and Radiation (OAR). CCD will use this information to ensure that manufacturers are complying with the regulations and that appropriate nonconformance penalties are being paid. Responses to this collection are voluntary based on the fact that participation in the nonconformance penalty program is an option that is available to manufacturers. Once a manufacturer opts to participate, specific regulatory requirements must be fulfilled in order to obtain a benefit under the NCP. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 01/29/02 (67 FR 4252); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 23 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: On-Highway engine and vehicle manufacturers.

Estimated Number of Respondents: 2.

Frequency of Response: 52.

Estimated Total Annual Hour Burden: 1178 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $18,200.00.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1285.05 and OMB Control No. 2060–0132 in any correspondence.

Dated: May 21, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–13345 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Modification of Secondary Treatment Requirements for Discharges Into Marine Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Modification of Secondary Treatment Requirements for Discharges into Marine Waters, EPA ICR Number 0138.07, OMB Control Number 2040–0088, expiring July 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2002.

FOR FURTHER INFORMATION: Contact Susan Auby at EPA by phone at (202) 566–1672, by email at *auby.susan@epa.gov*, or download a copy of the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0138.07.

SUPPLEMENTARY INFORMATION:

Title: Modification of Secondary Treatment Requirements for Discharges into Marine Waters (EPA ICR Number 0138.07; OMB Control Number 2040–0088) expiring July 31, 2002. This is a request for extension of a currently approved collection.

Abstract: The Clean Water Act (CWA) 301(h) program involves collecting information from two sources: (1) The municipal wastewater treatment facility, commonly called a publicly owned treatment works (POTW); and (2) the State in which the POTW is located. Municipalities had the opportunity to apply for a waiver from secondary treatment requirements, but that opportunity closed in December 1982. A POTW seeking to obtain a 301(h) waiver, holding a current waiver, or reapplying for a waiver, provides application, monitoring, and toxic control program information. The State provides information on its determination whether the proposed conditions of the waiver ensure the protection of water quality, biological habitats, and beneficial uses of receiving waters, and whether the discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. The State also provides information to certify that the discharge will meet all applicable State laws and that the State accepts all permit conditions.

EPA requires updated information on the discharge to: (1) Determine whether the section 301(h) criteria are still being met and whether the section 301(h) waiver should be reissued; (2) determine whether the water quality, biological habitats, and beneficial uses of the receiving waters are protected; and (3) ensure that the permittee is effectively minimizing industrial and nonindustrial toxic pollutant and pesticide discharges into the treatment works. EPA needs information from the State to: (1) Allow the State's views to be taken into account when EPA reviews the section 301(h) application and develops permit conditions; and (2) ensure that all State laws are met and that the State accepts all permit conditions. This information is the means by which the State can non-concur with a section 301(h) approval decision made by the EPA Regional office. Responses to the collection of information are required to obtain or retain a benefit. Regulations implementing CWA section 301(h) are found at 40 CFR part 125, subpart G. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on January 3, 2002 (67 FR 71245); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 667 hours per response for POTWs and 86 hours per response for States. The average annual reporting burden varies depending on the size of the respondent and the category of the information collection. There are 6 categories of information collection in this ICR renewal. The frequency of response varies from 1 time to once every 5 years, to case-by-case, as the individual permit specifies, depending on the category. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information, and transmit or otherwise disclose the information.

Respondents/Affected Entities: Municipalities with publicly owned treatment works (POTW) that currently have section 301(h) waivers from secondary treatment, who have applied for a renewal of a section 301(h) waiver, or have a pending section 301(h) waiver, and the States within which these municipalities are located.

Estimated Number of Respondents: 51.

Frequency of Response: Varies from 1 time to once every 5 years, to case-by-case, depending on the category of information collection.

Estimated Total Annual Hour Burden: 65,057 hours.

Estimated Total Annualized Cost Burden (capital/startup and O&M costs only): $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0138.07 and OMB Control No. 2040–0088 in any correspondence.

Ms. Susan Auby, U.S. Environmental Protection Agency, Office of Information Collection, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503

Dated: May 21, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–13346 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Evaluations of Innovative Pilot Project Innovations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB): Evaluations of Innovative Pilot Project Innovations, EPA ICR 1993.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1993.01, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566–1672, by E-mail at *auby.susan@epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1993.01. For technical questions about the ICR contact Eric Marsh in EPA's Office of Environmental Policy Innovation at (202) 260–2782.

SUPPLEMENTARY INFORMATION:

Title: Evaluations of Innovative Pilot Project Innovations, EPA ICR No. 1993.01. This is a new collection.

Abstract: In 1995 the U.S. Environmental Protection Agency began to solicit innovative pilot projects in response to a challenge to transform the environmental regulatory system to better meet the needs of a rapidly changing society while maintaining the nation's commitment to protect human health and safeguard the natural environment. Through site-specific agreements with project sponsors, EPA is gathering data and project experience that will help the Agency redesign current approaches to public health and environmental protection. Through these projects, sponsors—private facilities, multiple facilities, industry sectors, Federal facilities, communities, universities, Tribes and States—can implement innovative strategies that produce superior environmental performance, provide flexibility, cost savings, paperwork reduction or other benefits to sponsors, and promote greater accountability to stakeholders.

In September 2002, EPA would like to begin in-depth evaluations of different innovative pilot project innovations in order to determine which, if any, innovations have the potential for wider application. These innovations center around regulations, permitting, environmental information management, compliance and enforcement, environmental stewardship, and stakeholder involvement. From the identified innovations, EPA plans to evaluate a select set the Agency believes has potential for broader application. As more innovative pilot projects move into implementation and more innovations emerge, EPA plans to continue this same process of selecting a set of new innovations and then evaluating them.

The evaluation of innovative pilot project innovations will serve a variety of purposes. First, by learning which innovations are working and which are not, EPA management can better discern which innovations can be applied on a wider-scale, which need further testing and refining before wide-scale adoption, and which should eventually be retired. Second, the evaluations will provide information to state, tribal, and local agencies attempting their own unique efforts to transform their regulatory systems. Third, they will inform industry representatives and the public, allowing them to play an active, creative role in finding solutions to environmental problems. Finally, the evaluations will help set the course for future EPA innovative environmental programs. As a start, EPA intends to begin evaluating permit innovations from projects that have been in implementation for at least a year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 22, 2000, (65 FR 70345); one comment was received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average three hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State, Local and Tribal Government, Individuals, Business or other for-profit organizations.

Estimated Number of Respondents: 600.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 1,800.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1993.01 in any correspondence.

Dated: May 22, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–13347 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Final Authorization for Hazardous Waste Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Final Authorization for Hazardous Waste Management, OMB Control No. 2050–0041, expiring May 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 0969.06 and OMB Control No. 2050–0041, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566–1672, by e-Mail at *auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0969.06. For technical questions about the ICR contact Wayne Roepe by phone at (703) 308–8630, or by e-Mail at *roepe.wayne@epa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Final Authorization for Hazardous Waste Management, OMB Control Number 2050–0041, EPA ICR Number 0969.06, expiration date May 31, 2002. This is a request for extension of a currently approved collection.

Abstract: In order for a State to obtain final authorization for a State hazardous waste program or to revise it's previously authorized program, it must submit an official application to the EPA Regional office for approval. The purpose of the application is to enable EPA to properly determine whether the State's program meets the requirements of section 3006 of RCRA. A State with an approved program may voluntarily transfer program responsibilities back to EPA by notifying EPA of the proposed transfer, as required by 40 CFR 271.23. Either EPA or the approved State may initiate a revision to the authorized program. State program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. The State shall inform EPA of any proposed modification to it's basic statutory or regulatory authority, it's forms, procedures, or priorities, in accordance with § 271.21. If a State is proposing to transfer all or any part of any program from the approved agency to any other agency, it must notify EPA in accordance with § 271.21 and submit revised organizational charts as required under § 271.6. Further, whenever EPA has reason to believe that circumstances have changed with respect to a State program, EPA may request, and the State will provide, a supplemental Attorney General's statement, program description or other such documents or information ass are necessary. These paperwork requirements are mandatory under section 3006(a). EPA will use the information submitted by the State in order to determine whether the State's program meets statutory and regulatory requirements for authorization.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on put December 28, 2001 (66 FR 67245). One comment was received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 399 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Federal Government; State, Local, or Tribal Government.

Estimated Number of Respondents: 50.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 19,968 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the address listed above. Please refer to EPA ICR No. 0969.06 and OMB Control No. 2050–0041 in any correspondence.

Dated: May 21, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–13348 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Synthetic Organic Chemical Manufacturing Industry (SOCMI): Consolidation of Information Collection Requests (ICRs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Synthetic Organic Chemical Manufacturing Industry (SOCMI): Consolidation of Information Collection Requests (ICRs); OMB Control Number 2060–0443 expiring January 31, 2004.

The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2002.

ADDRESSES: Send comments, referencing EPA ICR Number 1854.03 and OMB Control Number 2060–0443, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION: For a copy of the ICR, contact Susan Auby of EPA, by phone at: (202) 566–1672, by E-mail at: *auby.susan@epa.gov*, or download off the Internet at: *http://www.epa.gov/icr*, and refer to EPA ICR Number 1854.03. For technical questions about the ICR, contact: Marcia Mia of EPA, by phone at: (202) 564–7042, or by E-mail at: *mia.marcia@epa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Synthetic Organic Chemical Manufacturing Industry (SOCMI): Consolidation of Information Collection Requests (ICRs); EPA ICR Number 1854.03; OMB Control Number 2060–0443 expiring January 31, 2004. This is a revision to a previously approved collection.

Abstract: This ICR contains a consolidation of recordkeeping and reporting requirements that are mandatory for compliance with the applicable subparts listed below at 40 CFR parts 60, 61, 63 and 65. The consolidated Federal Air Rule (CAR) is an optional alternative compliance strategy for plant sites that must comply with the existing subparts in the Code of Federal Regulations (CFR). This ICR also consolidates major portions of 14 different New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and Maximum Achievable Control Technology (MACT) pertaining to storage vessels, process vents, transfer racks and equipment leaks, as well as the general provisions in the three applicable parts (60, 61, and 63). The referencing subparts include: 40 CFR part 60, subpart Ka; 40 CFR part 60, subpart Kb; 40 CFR part 60, subpart VV; 40 CFR part 60, subpart DDD; 40 CFR part 60, subpart III; 40 CFR part 60, subpart NNN; 40 CFR part 60, subpart RRR; 40 CFR part 61, subpart BB; 40 CFR part 61, subpart Y; 40 CFR part 61, subpart V; 40 CFR part 63, subpart F; 40 CFR part 63, subpart G; 40 CFR part 63, subpart H; and 40 CFR part 63, subpart I.

Compliance with the CAR is a voluntary alternative; sources may continue to comply with existing applicable rules or may choose to comply with the consolidated rule. The CAR, therefore, does not constitute additional requirements, per se. Rather, the recordkeeping and reporting requirements in the CAR would be carried out in lieu of the existing requirements. This revised ICR creates a consolidated ICR, consisting of the CAR and its referencing subparts burden; it shows the sum of all of the burden hours for the CAR and its referencing subparts based upon the most recently approved collections for the ICRs. When an individual ICR is renewed, appropriate changes will be made to the CAR, and vice versa. This avoids updating every time a referencing subpart is renewed to account for the percentage of sources that opt to comply with it. Similarly, when the CAR is renewed, updating each of the referencing subparts is unnecessary.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 1, 2001 (66 FR 8588); no comments were received. Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 209 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers in the Synthetic Organic Chemical Manufacturing Industry.

Estimated Number of Respondents: 3,862.

Estimated Number of Annual Responses: 10,361.

Frequency of Response: Semiannually and on occasion.

Estimated Total Annual Hour Burden: 2,165,600 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $99,921,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR Number 1854.03 and OMB Control Number 2060–0443 in any correspondence.

Dated: May 21, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–13349 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Regulatory Reinvention Pilot Projects Under Project XL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Regulatory Reinvention Pilot Projects Under Project XL, OMB Control No. 2010–0026, expiring May 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1755.06 and OMB Control No. 2010–0026, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania

Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566–1672, by E-mail at *auby.susan@epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1755.06. For technical questions about the ICR contact Eric Marsh in EPA's Office of Environmental Policy Innovation at (202) 260–2782.

SUPPLEMENTARY INFORMATION:

Title: Regulatory Reinvention Pilot Projects Under Project XL (OMB Control No. 2010–0026; EPA ICR No. 1755.06) expiring May 31, 2002. This is a request for extension of a currently approved collection.

Abstract: In 1995 the U.S. Environmental Protection Agency began to solicit innovative pilot projects in response to a challenge to transform the environmental regulatory system to better meet the needs of a rapidly changing society while maintaining the nation's commitment to protect human health and safeguard the natural environment. Through site-specific agreements with project sponsors, EPA is gathering data and project experience that will help the Agency redesign current approaches to public health and environmental protection. Through these projects, sponsors—private facilities, multiple facilities, industry sectors, Federal facilities, communities, universities, Tribes and States—can implement innovative strategies that produce superior environmental performance, provide flexibility, cost savings, paperwork reduction or other benefits to sponsors, and promote greater accountability to stakeholders.

The intent of the regulatory flexibility of the innovative pilot projects is to allow the EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide superior environmental performance and other benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow the EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site or state specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Innovative pilot project proposals are collected by EPA's Office of Environmental Policy Innovation (OEPI) [formerly the Office of Reinvention], which has been given responsibility for implementation of this program. Since 1995, EPA has implemented pilot projects to test innovative ideas working with EPA headquarters, EPA regions, federal, state, and local government agencies. The renewal of this ICR is important as it will allow the Agency to identify additional regulated entities who are interested in participating in innovative pilot projects as well as allow the Agency to continue its commitment to innovation and regulatory flexibility with facilities, communities, and states in achieving environmental results. The renewal of this ICR will allow OEPI to continue to receive and work with project sponsors on proposals for innovation, including those directly through EPA and those through the Joint EPA-State Agreement to Pursue Regulatory Innovation. In addition, the renewal of this ICR is necessary to allow EPA to continue its commitments to current projects, including three specified in approved ICR amendments: the NYSDEC ICR amendemnt (1755.03), the US Filter ICR amendment (1755.04) and the POTWs ICR amendment (1755.05).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 9, 2001 (66 FR 56671); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 150 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, adjust the existing ways to comply with any previously applicable instructions and requirements; train personal to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transit or otherwise disclose the information.

Respondents/Affected Entities: Business or other for profit, State, Local or Tribal Government.

Estimated Number of Respondents: 480.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 60,840.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1755.06 and OMB Control No. 2010–0026 in any correspondence.

Dated: May 2, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–13355 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–6]

Request for Initial Proposals for Fiscal Year 2003—Chesapeake Bay Program

The U.S. Environmental Protection Agency (EPA) Chesapeake Bay Program (CBP) is issuing a Requests for Initial Proposals (RFIP) to implement specific outcomes that will further goals of the Chesapeake 2000 agreement. Up to $2.2 million dollars may be available for Fiscal Year 2003 for implementation of activities to protect and restore the Chesapeake Bay. Any non-profit organization, federal state or local government agency, interstate agency, college or university is eligible to submit proposals in response to this Request for Initial Proposals. Funding will be provided to an applicant under the authority of the Clean Water Act. section 117.

The RFIP will be available starting May 29, 2002 at the following Web site: *http://www.gov/r3chespk/* You may also request a copy by calling Robert Shewack at 410–267–9856 or by e-mail at *shewack.bob@epa.gov* All proposals must be postmarked NLT July 30, 2002.

Diana Esher,

Deputy Director, Chesapeake Bay Program Office.

[FR Doc. 02–13353 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–4]

Notice of Availability for FY 02 Enforcement and Compliance Assurance Multi-Media Assistance Agreements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Compliance (OC), within EPA's Office of Enforcement and Compliance Assurance (OECA), is soliciting proposals for assistance agreements with states and tribes, in the range of $50,000–$200,000, for proposals in three focus areas: Tribal and State Inspector Training; Program Planning and Performance Measurement; and Data Management.

DATES: Two to five page pre-proposals must be received electronically or by hard copy by July 5, 2002. Funding decisions will be made by August 16, 2002 based on the pre-proposals. Applicants selected to receive funds will be required to submit final proposals to the appropriate EPA Region by September 27, 2002.

ADDRESSES: Copies of Pre-proposals should be sent to David Piantanida (2222A), US EPA—Ariel Rios South Rm 6149D, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, email: *piantanida.david@epa.gov*, Tel: (202) 564–8318, Fax: (202) 564–0034; and simultaneously to the appropriate Regional Enforcement Coordinator. This document will be posted on the EPA's Office of Enforcement and Compliance Assurance web site at *http://www.epa.gov/compliance/planning/states.*

FOR FURTHER INFORMATION CONTACT: David Piantanida at (202) 564–8318.

SUPPLEMENTARY INFORMATION:

Eligibility and Authority

The funds available are from OECA's Multi-Media State and Tribal Assistance Grants (STAG) appropriation. Eligible applicants include States, Tribes, Inter-Tribal Consortia, Territories, and multi-jurisdictional organizations.

Authority to enter into assistance agreements for the purposes described in this Notice are delegated to OECA in EPA Delegation 1–47, Assistance Agreements for Economic, Social Science, Statistical, and Other Research, Development, Studies, Surveys, Demonstrations, Investigations, Public Education Programs, Training, and Fellowships.

Funding priorities must be allowable under 66.709 (Capacity Building Grants and Cooperative Agreements for States and Tribes) of the *Catalog of Federal Domestic Assistance* (CFDA).

Desired Projects

OECA will only consider funding projects for the three focus areas described below, and for projects which can be completed in 3 years or less. Projects will be evaluated for potential funding based on the extent to which they address the information below. Please note, applicants do not need to address all 3 focus areas in their pre-proposals. Each focus area is separate and proposals from each category will be evaluated independently.

Table of Contents

1. Tribal and State Inspector Training:
2. Program Planning and Performance Measurement:
(A) Enhancing Results through improved Regional/State/Tribal Planning
(B) Outcome measures for Enforcement and Compliance Assurance Initiatives
(C) Development of performance measures for Concentrated Animal Feeding Operations (CAFOs) and Worker Protection Standards (WPS)
3. Data Management:
(A) Permit Compliance System (PCS) Modernization
(B) Air Facility System (AS)—Universal Interface (UI)

1. Tribal and State Inspector Training

OECA's Office of Compliance is seeking ways to improve and build tribal and state inspector capability. EPA maintains discretionary authority to ask tribes and states to conduct civil inspections on behalf of the Agency under each federal environmental statute. It is essential that tribal and state inspectors are trained to safely and properly conduct federal civil inspections. OECA will consider funding for basic inspector training, media-specific inspector training, and/or health and safety training courses.

This Notice also solicits projects that build partnerships between states or tribes through a Regional Inspectors workshop. The workshop may be designed for state, tribal or local inspectors within a region, and could cover a variety of topics designed to build inspector capability to conduct compliance monitoring inspections under federal authority. The host state or tribe would fund the travel, course materials, and contractor costs with grant funds.

Criteria for proposal selection will include the following:

(a) The explicit intent to collaborate and partner with other states and tribes within an EPA region to host or participate in an Inspector workshop.

(b) Course outline and content is consistent with EPA Federal guidelines and is supportive of an authorized program. (e.g., training provides information on federal inspection law and policy) Course content may also provide information on inspection issues that arise under state and tribal laws.

2. Program Planning and Performance Measurement

OECA's Office of Compliance is making funds available to assist states and tribes with Performance Measurement and Program Planning initiatives. Projects should develop and/or implement performance measurement outcomes or improved program planning in the following ways:

(A) Enhancing Results through Improved Regional/State/Tribal Planning: Projects to support state or tribal efforts to collaboratively carry out joint priority setting and work planning. Projects address the following components of a joint planning effort:

(1) Projects that describe how a state or tribe plans to perform efficient enforcement and compliance work planning with EPA Regions;

(2) Projects that define the components for the steps in the joint planning process; and

(3) Projects that develop a process which would be used to produce a surrogate "risk based" ranking of all identified enforcement and compliance assurance problems facing a state or a tribe.

Projects may be used to support either Performance Partnership grants or traditional, media specific program grant activities.

(B) Outcome measures for Enforcement and Compliance Assurance Initiatives: Historically, EPA and the states have used enforcement outputs such as inspections conducted, or enforcement actions taken, as the primary performance measures for their enforcement and compliance assurance programs. While these output measures provide important information about the enforcement presence among regulated facilities and industries, they do not necessarily characterize the state of compliance in regulated facilities, describe the overall environmental results achieved, or assess the extent to which important objectives and problems are being addressed.

Measurement of environmental outcomes in general is often very challenging due to the difficulty of defining outcomes, lack of supporting

data, and the complexity of developing measures that are valid and representative of populations being measured. Outcome measurement of compliance incentives or assistance presents unique challenges compared to other activities such as enforcement, where the results are compulsory and can therefore be tracked. OECA is making funds available to assist states and tribes in developing and field testing outcome measures for enforcement and compliance assurance initiatives/activities.

Projects should develop and test outcome measures from state/tribal enforcement and compliance assurance activity. Examples of outcome measures for enforcement and/or compliance assurance/initiatives follow:

Statistically Valid Noncompliance Rates

—Develop or implement a methodology for statistically valid noncompliance rates.

Improvements Resulting from Enforcement Actions/Initiatives

Examples:

—Number or percent of concluded enforcement actions identifying pollutant reductions.

—Amount of emissions, pollutants, and/or risk reduced from enforcement actions.

—Number or percent of enforcement actions that result in improvements in the use or handling of pollutants, such as changes in industrial processes or storage and disposal practices to achieve emission and discharge reduction.

—Number or percent of enforcement actions that result in improvements in facility management practices and information.

Improvements Resulting from Compliance Assistance Tools and Initiatives

Compliance assistance can include on site visits, workshops, mailed tools or outreach materials, hotlines, phone calls, meetings, or training that provides clear and consistent information for (1) helping the regulated community understand and meet its obligations under environmental regulations; and (2) compliance assistance providers to aid the regulated community in complying with environmental regulations. Compliance assistance may also help the regulated community find cost-effective ways to comply with regulations and/or go "beyond compliance" through the use of pollution prevention, environmental management practices, and innovative technologies, thus improving their environmental performance. To be categorized as a compliance assistance project or activity, at least one objective must be related to achieving or advancing regulatory compliance.

Better understanding of regulations or compliance:

—Number of facilities whose understanding of environmental regulations improved as measured by pre-or post-tests at workshops.

—Number of facilities whose understanding of environmental regulations has improved as a result of the compliance assistance received, as indicated by verbal or written responses to surveys.

Behavioral changes (regulatory and non-regulatory environmental management changes):

—Number of facilities:

- That have taken action(s) to comply with environmental regulations because of the compliance assistance received and/or incentives offered.
- That have improved the quality of self-reported information or begun reporting this information for the first time.
- Adopting non-regulatory process changes or best management practices as a result of compliance assistance received and/or incentives offered.
- Making environmental management changes (i.e., improved training, self-audits, development of an environmental management system) because of the compliance assistance received and/or incentives offered.

—Number of compliance assistance projects demonstrating improved compliance rates, measured through direct observation.

Environmental or human health improvements:

—Number of facilities that reduce emissions or other pollutants.

—Amount of emissions, pollutants, and/or risk reduced.

Applicants are encouraged to consult and utilize EPA's Guide to Compliance Assistance Outcome Measurement. This document is available at *http://es.epa.gov/oeca/perfmeas/full-oec.pdf.* If you do not have access to the internet, you may request a hard copy by contacting David Piantanida on (202) 564–8318.

Improvements Resulting from Integrated Initiatives

Environmental or human health improvements or behavioral changes (see above) from initiatives which include more than one tool, e.g. enforcement and compliance assistance.

Improvements Resulting from Self-policing Efforts/Use of Compliance Incentive Policies

Compliance incentive policies encourage the regulated community to voluntarily discover, disclose and correct violations before they are identified by regulatory agencies for enforcement investigation or response. Examples of outcome measures from compliance incentive policies include:

—Number or percent of concluded self-disclosed actions identifying pollutant reductions.

—Amount of emissions, pollutants, and/or risk reduced from self-disclosed actions.

—Number or percent of self-disclosed actions that result in improvements in the use or handling of pollutants.

—Number or percent of self-disclosed actions that result in improvements in facility management practices and information.

(C) Development of performance measures for Concentrated Animal Feeding Operations (CAFOs) and Worker Protection Standards (WPS): OECA is making funds available to states or tribes to develop and field test outcome measures to gauge the effectiveness of assistance, incentives, monitoring, and enforcement on CAFO and WPS compliance. Examples of outcome measures for enforcement and compliance assistance have previously been listed above.

Applicants are encouraged to consult and utilize EPA's Guide to Compliance Assistance Outcome Measurement. This document is available at *http://es.epa.gov/oeca/perfmeas/full-oec.pdf.* If you do not have access to the internet, you may request a hard copy by contacting David Piantanida on (202) 564–8318.

Criteria for Proposal Selection for A, B, or C, Will Include the Following

(a) Extent to which suggested performance measures are: (1) Relevant—to important goals and objectives of enforcement and compliance assurance programs; (2) transparent—comprehensible to important users and audiences; (3) credible—based on accurate and timely supporting data;

(4) feasible—capable of being implemented without costs disproportionate to their value; and

(5) functional—they promote good performance by regulated entities and agency personnel; and

(b) Extent to which information and data is relevant to, and shared with, other states, tribes and EPA.

3. Data Management

OECA's Office of Compliance is seeking ways to enhance states and tribes ability to provide data to EPA to allow for better integration of data (e.g. enforcement and compliance), improve state and tribal multi-media targeting capabilities, improve multi-media reporting capabilities, and compliance assurance capabilities. To accomplish this, it is critical that a state or tribal system is capable of reporting data to EPA that is consistent with EPA/state data standards and in line with new requirements of modernized media data systems (e.g. Permit Compliance System) or current requirements of legacy media systems. OECA is making funds available to support the enhancement of the state's or tribe's ability to provide data to EPA, through improved system interfaces, data linkages, and data clean-up. OECA is interested in maximizing the quality of the data that is provided to the national systems, while minimizing reporting burdens, especially for states/tribes with numerous quasi-independent boards, departments and offices—all with independent data systems.

This Notice also solicits projects that assist states/tribes with reporting of consistent streamlined environmental and compliance data to EPA, including, but not limited to, the following:

(A) Permit Compliance System (PCS) Modernization: assisting states/tribes with upgrading of their current state systems through improved system interfaces, data linkages and data clean-up; and

(B) Air Facility System (AFS)—Universal Interface (UI): assisting states/tribes with enhancement of their current state systems to incorporate the use of the AFS UI interface software to allow for improved system interfaces, data linkages and data clean-up.

Criteria for Proposal Selection Will Include the Following

(a) Extent to which projects support/provide a solution to consistent streamlined reporting of data across the various independent media data systems or lead to identifying problems/issues associated with the reporting of environmental data to EPA, with recommendations for solving the problem;

(b) Extent to which projects address problems and provide recommendations for improvements to enhancing reporting of data to EPA by the states/tribes and by EPA;

(c) Extent to which projects support EPA/state data standards implementation, media system modernization efforts, and data clean up efforts that would promote better integration of data across EPA systems.

Funding

The grants/cooperative agreements should be in the range of $50,000 to $200,000, although proposals below or above that range will be considered.

State and tribal matching funds are not required. However, preference will be given to proposals which also make a commitment of state or tribal resources towards the total project cost. This can be state or tribal personnel salary dedicated to the project, cash contribution to the project budget or other "in kind" contributions.

OECA can not predict that additional funds for these focus areas will be available in future years. Therefore, states and tribes should assume that these funds will be available on a one-time only basis and should not propose projects requiring annual funding.

Process and Schedule

Electronic pre-proposals must be received by EPA by July 5, 2002 and should follow the format below. Pre-proposals should be submitted simultaneously to the appropriate Regional Enforcement Coordinator, and to David Piantanida, OECA, (See contact information below.) Funding decisions will be made by August 16, 2002 based on the pre-proposals. Applicants selected to receive funds will be required to submit final proposals by September 27, 2002. Regions will provide application materials to selected applicants.

Proposed Milestones for 2002 OECA Multi Media Assistance Agreements

July 5: Electronic Pre-Proposals due simultaneously to the appropriate EPA Regional Enforcement Coordinator, and David Piantanida, OECA. (See contact information below.)

August 16: EPA notifies applicants of funding decisions.

August 19: Selected recipients receive final application materials from EPA Regional office and name and contact info of Regional Project Officer and Regional Grants Contact.

September 27: Final Proposals/Work Plans due to Regional Project Officers and Regional Grants Contact, and David Piantanida, OECA.

October: Grants awarded.

Format for Pre-Proposals

Pre-proposals should be 2–5 pages long and follow the format below:

I. Project Information

State/Tribe and Department:

Title of Project:

Focus Area: (from Notice of Availability)

Total Funds Requested from EPA:

Total Project Cost (including state/tribe cash and in-kind contributions):

Contact Person: (name, title, address, phone, fax, & email)

Preferred Assistance Agreement: (Grants or cooperative agreements)

II. Summary

—Summary of the problem being addressed

—Summary of project goal(s)

—Summary of project components

—Summary of how the project components will address the problem & attain the goals

III. Work Plan

—Proposed activities—list and describe activities and how they relate to the evaluation elements listed under Desired Projects above

—Measures—how will the success of the project be measured?

—Sharing results—how will the results of the project be shared across states/tribes?

IV. Project Milestones

—List project milestones with estimated dates, including estimated duration of project

V. Project Costs

—Include an itemized budget for all project costs—distinguish the funds requested from any state/tribe contributions (in kind or other)

Reports

Awardees will be required to submit quarterly and final progress reports to their project officer and to David Piantanida at the address below. A template reporting form will be provided to all funded grantees. Recipients will also be required to complete annual Financial Status Reports.

Contact Information

For more information regarding this process, please contact David Piantanida at the address below:

David Piantanida (2222A), US EPA—Ariel Rios South Rm 6149D, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, *piantanida.david@epa.gov*, Tel: (202) 564–8318, Fax: (202) 564–0034.

EPA Regional Contacts

EPA Region I

Enforcement Coordinator: Ken Moraff—*moraff.ken@epa.gov*

Enforcement Division Director: Sam Silverman—*silverman.sam@epa.gov*

EPA Region II

Enforcement Coordinator: Barbara McGarry—*mcgarry.barbara@epa.gov*
Enforcement Division Director:Richard Caspe—*caspe.richard@epa.gov*

EPA Region III

Enforcement Coordinator: Samantha Fairchild—*fairchild.samantha@epa.gov*

EPA Region IV

Enforcement Coordinator: Sherri Fields—*fields.sherri@epa.gov*
Enforcement Division Director: William Anderson—*anderson.william@epa.gov*

EPA Region V

Enforcement Coordinator: Tinka Hyde—*hyde.tinka@epa.gov*

EPA Region VI

Enforcement Coordinator: Walter Biggins—*biggins.walter@epa.gov*
Enforcement Division Director: Samuel Coleman—*coleman.samuel@epa.gov*

EPA Region VII

Enforcement Coordinator: Cecilia Tapia—*tapia.cecilia@epa.gov*

EPA Region VIII

Enforcement Coordinator: Eddie Sierra—*sierra.eddie@epa.gov*
Enforcement Division Director:Carol Rushin—*rushin.carol@epa.gov*

EPA Region IX

Enforcement Coordinator: Sally Seymour—*seymour.sally@epa.gov*

EPA Region X

Enforcement Coordinator: Lauris Davies—*davies.lauris@epa.gov*

Dated: May 21, 2002.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. 02–13250 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–8]

Environmental Laboratory Advisory Board Meeting Date, and Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency's Environmental Laboratory Advisory Board (ELAB) will hold an Open Forum on Tuesday July 9, 2002 at 5–6 p.m. EDT and an Open Meeting on Thursday July 11, 2002 at 1:30–5 p.m. EDT at the Wyndham Harbour Island Hotel, 725 S. Harbour Island Boulevard, Tampa, Florida. Members of the public are invited to attend both events. Items to be discussed include: (1) Update on recommendations to restructure the National Environmental Laboratory Accreditation Conference (NELAC) to allow it to better serve the future needs of EPA, the States, and the private sector, (2) discussion of ELAB recommendations to EPA, and (3) review of Action Items from the June 19 ELAB meeting. ELAB is soliciting input from the public on these and other issues related to the National Environmental Laboratory Accreditation Program (NELAP) and the NELAC standards. Written comments on NELAP laboratory accreditation and the NELAC standards are encouraged and should be sent to Mr. Edward Kantor, DFO, P.O. Box 93478, Las Vegas, NV 89193, faxed to (702) 798–2261, or e-mailed to *kantor.edward@epa.gov*. or can be presented in person at the Open Forum, July 9. Members of the public are invited to raise issues or to make comments at the Open Forum and time permitting, will be allowed to comment on discussions ensued from the ELAB Open Meeting.

Dated: May 20, 2002.

John G. Lyon,

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02–13351 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–7]

Environmental Laboratory Advisory Board (ELAB) Meeting Date, and Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of teleconference meeting.

SUMMARY: The Environmental Protection Agency's Environmental Laboratory Advisory Board (ELAB) will have a teleconference meeting on June 19, 2002, at 11 a.m. EDT to discuss the ideas and views presented at the previous ELAB meetings, as well as new business. Items to be discussed include: (1) Update on recommendations to restructure the National Environmental Laboratory Accreditation Conference (NELAC) to allow it to better serve the future needs of EPA, the States, and the private sector, (2) discussion of ELAB recommendations to EPA, (3) review of Action Items from the April 17 ELAB meeting, and (4) ELAB upcoming meeting at NELAC 8. ELAB is soliciting input from the public on these and other issues related to the National Environmental Laboratory Accreditation Program (NELAP) and the NELAC standards. Written comments on NELAP laboratory accreditation and the NELAC standards are encouraged and should be sent to Mr. Edward Kantor, DFO, P.O. Box 93478, Las Vegas NV 89193, faxed to (702) 798–2261, or emailed to *kantor.edward@epa.gov*. Members of the public are invited to listen to the teleconference calls and, time permitting, will be allowed to comment on issues discussed during this and previous ELAB meetings. Those persons interested in attending should call Edward Kantor at 702–798–2690 to obtain teleconference information. The number of lines are limited and will be distributed on a first come, first serve basis. Preference will be given to a group wishing to attend over a request from an individual.

Dated: May 20, 2002.

John G. Lyon,

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02–13352 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0074; FRL–7178–3]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number OPP–20020–0074, must be received on or before June 28, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0074 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Tavano, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6411; and e-mail address: tavano.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**"—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0074. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0074 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0074. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA

has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by Valent U.S.A. Corporation and represents the view of Valent. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Valent U.S.A. Corporation

PP 2F6385

EPA has received a pesticide petition (2F6385) from Valent U.S.A. Corporation, 1333 North California Boulevard, Suite 600, Walnut Creek, CA 94596-8025 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180, by establishing a tolerance for residues of pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine, in or on the raw agricultural commodity vegetable, brassica, leafy, group (crop group 5) at 2.5 parts per million (ppm); vegetable, cucurbit, group (crop group 9) at 0.1 ppm; and olive at 1.0 ppm; and in the processed commodity olive, oil at 3.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* Metabolism of ^{14}C-pyriproxyfen labelled in the phenoxyphenyl ring and in the pyridyl ring has been studied in cotton, apples, tomatoes, lactating goats, and laying hens (and rats). The major metabolic pathways in plants is aryl hydroxylation and cleavage of the ether linkage, followed by further metabolism into more polar products by further oxidation and/or conjugation reactions. However, the bulk of the radiochemical residue on raw agricultural commodity samples remained as parent. Comparing metabolites detected and quantified from cotton, apple, tomato, goat, and hen (and rat) shows that there are no significant aglycones in plants which are not also present in the excreta or tissues of animals. The residue of concern is best defined as the parent, pyriproxyfen.

Ruminant and poultry metabolism studies demonstrated that transfer of administered ^{14}C-residues to tissues was low. Total ^{14}C-residues in goat milk, muscle and tissues accounted for less than 2% of the administered dose, and were less than 1 ppm in all cases. In poultry, total ^{14}C-residues in eggs, muscle and tissues accounted for about 2.7% of the administered dose, and were less than 1 ppm in all cases except for gizzard.

2. *Analytical method.* Practical analytical methods for detecting and measuring levels of pyriproxyfen (and relevant metabolites) have been developed and validated in/on all appropriate agricultural commodities, respective processing fractions, milk, animal tissues, and environmental samples. The extraction methodology has been validated using aged radiochemical residue samples from metabolism studies. The methods have been validated in cottonseed, apples, soil, and oranges at independent laboratories. EPA has successfully validated the analytical methods for analysis of cottonseed, pome fruit, nutmeats, almond hulls, and fruiting vegetables. The limit of detection of pyriproxyfen in the methods is 0.01 ppm which will allow monitoring of food with residues at the levels proposed for the tolerances.

3. *Magnitude of residues*—i. *Vegetable, brassica, leafy, group.* Seven field trials in cabbage were conducted in 1999 and 2000. Similarly, seven field trials were conducted for cauliflower and six field trials were conducted for mustard greens. The proposed use pattern for the three vegetable, brassica, leafy, crops is identical. The analytical data show that the average measured residue in/on cabbage samples was 0.14 ppm ($n = 14$, $\sigma_{n-1} = 0.12$ ppm) pyriproxyfen. Similarly, the analytical data show that the average measured residue in/on cauliflower samples was 0.03 ppm ($n = 14$, $\sigma_{n-1} = 0.05$ ppm), and in/on mustard green samples was 0.70 ppm ($n = 12$, $\sigma_{n-1} = 0.53$ ppm), of pyriproxyfen. The highest average residue (HAR) from field trials was 1.6 ppm. These data support a proposed tolerance for pyriproxyfen in/on the vegetable, brassica, leafy, group at 2.5 ppm.

ii. *Vegetable, cucurbit, group.* Seven field trials in cantaloupe were conducted in 1999 and 2000. Similarly, six field trials were conducted for cucumber and six field trials were conducted for summer squash. The proposed use pattern for the three vegetable, cucurbit, crops is identical. The analytical data show that the average measured residue in/on cantaloupe samples was 0.02 ppm ($n = 14$, $\sigma_{n-1} = 0.01$ ppm) pyriproxyfen. Similarly, the analytical data show that the average measured residue of pyriproxyfen in/on cucumber and summer squash samples was below the residue method "Limit of Detection" of 0.01 ppm. The HAR from field trials was 0.04 ppm. These data support a proposed tolerance for pyriproxyfen in/on the vegetable, cucurbit, group at 0.1 ppm.

iii. *Olive.* Four field trials in olive were conducted in 2000. The analytical data show that the average measured residue in/on olive samples was 0.37 ppm ($n = 8$, $\sigma_{n-1} = 0.24$ ppm) pyriproxyfen. A processing study in olive demonstrated that pyriproxyfen concentrated in olive oil (3-fold). The HAR from field trials was 0.73 ppm. These data support proposed tolerances for pyriproxyfen in/on olive at 1.0 ppm and olive oil at 3.0 ppm.

iv. *Secondary residues.* No additional feed commodities are associated with the new proposed use on vegetable, brassica, leafy, group; vegetable, cucurbit, group; and olive. Using established tolerances to calculate the maximum feed exposure to fed animals, and using the very low potential for residue transfer demonstrated in the milk cow feeding residue study, detectable secondary residues in animal tissues, milk, and eggs are not expected. Therefore, no tolerances are required for these commodities.

v. *Rotational crops.* The results of a confined rotational crops accumulation study indicate that no rotational crop planting restrictions or rotational crop tolerances are required.

B. Toxicological Profile

1. *Acute toxicity.* The acute toxicity of technical grade pyriproxyfen is low by all routes. The compound is classified as Category III for acute dermal and inhalation toxicity, and Category IV for acute oral toxicity, and skin/eye irritation. Pyriproxyfen is not a skin sensitizing agent.

2. *Genotoxicty.* Pyriproxyfen does not present a genetic hazard. Pyriproxyfen was negative in the following tests for mutagenicity: Ames assay with and without S9, *in vitro* unscheduled DNA synthesis in HeLa S3 cells, *in vitro* gene mutation in V79 chinese hamster cells, and *in vitro* chromosomal aberration with and without S9 in Chinese hamster ovary cells.

3. *Reproductive and developmental toxicity.* Pyriproxyfen is not a developmental or reproductive toxicant. Developmental toxicity studies have been performed in rats and rabbits, and multigenerational effects on reproduction were tested in rats. These studies have been reviewed and found to be acceptable to the Agency.

In the developmental toxicity study conducted with rats, technical pyriproxyfen was administered by gavage at levels of 0, 100, 300, and 1,000 milligrams/kilogram body weight/day (mg/kg bw/day) during gestation days 7–17. Maternal toxicity (mortality, decreased body weight gain and food consumption, and clinical signs of toxicity) was observed at doses of 300 mg/kg bw/day and greater. The maternal no observed adverse effect level (NOAEL) was 100 mg/kg bw/day. A transient increase in skeletal variations was observed in rat fetuses from females exposed to 300 mg/kg bw/day and greater. These effects were not present in animals examined at the end of the postnatal period; therefore, the NOAEL for prenatal developmental toxicity was 100 mg/kg bw/day. An increased incidence of visceral and skeletal variations was observed postnatally at 1,000 mg/kg bw/day. The NOAEL for postnatal developmental toxicity was 300 mg/kg bw/day.

In the developmental toxicity study conducted with rabbits, technical pyriproxyfen was administered by gavage at levels of 0, 100, 300, and 1,000 mg/kg bw/day during gestation days 6–18. Maternal toxicity (clinical signs of toxicity including one death, decreased body weight gain and food consumption, and abortions or premature deliveries) was observed at oral doses of 300 mg/kg bw/day or higher. The maternal NOAEL was 100 mg/kg bw/day. No developmental effects were observed in the rabbit fetuses. The NOAEL for developmental toxicity in rabbits was 1,000 mg/kg bw/day.

In the rat reproduction study, pyriproxyfen was administered in the diet at levels of 0, 200, 1,000, and 5,000 ppm through two generations of rats. Adult systemic toxicity (reduced body weights, liver and kidney histopathology, and increased liver weight) was produced at the 5,000 ppm dose (453 mg/kg bw/day in males, 498 mg/kg bw/day in females) during the pre-mating period. The systemic NOAEL was 1,000 ppm (87 mg/kg bw/day in males, 96 mg/kg bw/day in females). No effects on reproduction were produced at 5,000 ppm, the highest dose tested (HDT).

4. *Subchronic toxicity.* Subchronic oral toxicity studies conducted with pyriproxyfen technical in the rat, mouse and dog indicate a low level of toxicity. Effects observed at high dose levels consisted primarily of decreased body weight gain; increased liver weights; histopathological changes in the liver and kidney; decreased red blood cell counts, hemoglobin and hematocrit; altered blood chemistry parameters; and, at 5,000 and 10,000 ppm in mice, a decrease in survival rates. The NOAELs from these studies were 400 ppm (23.5 mg/kg bw/day for males, 27.7 mg/kg bw/day for females) in rats, 1,000 ppm (149.4 mg/kg bw/day for males, 196.5 mg/kg bw/day for females) in mice, and 100 mg/kg bw/day in dogs.

In a 4-week inhalation study of pyriproxyfen technical in rats, decreased body weight and increased water consumption were observed at 1,000 mg/m^3. The NOAEL in this study was 482 mg/m^3.

A 21–day dermal toxicity study in rats with pyriproxyfen technical did not produce any signs of dermal or systemic toxicity at 1,000 mg/kg bw/day, the highest dose tested. In a 21–day dermal study conducted with KNACK® Insect Growth Regulator, the test material produced a NOAEL of 1,000 mg/kg bw/day HDT for systemic effects, and a NOAEL for skin irritation of 100 mg/kg bw/day.

5. *Chronic toxicity.* Pyriproxyfen technical has been tested in chronic studies with dogs, rats and mice. EPA has established a reference dose (RfD) for pyriproxyfen of 0.35 mg/kg bw/day, based on the NOAEL in female rats from the 2–year chronic/oncogenicity study. Effects cited by EPA in the Reference Dose Tracking Report include negative trend in mean red blood cell volume, increased hepatocyte cytoplasm and cytoplasm: nucleus ratios, and decreased sinusoidal spaces.

Pyriproxyfen is not a carcinogen. Studies with pyriproxyfen have shown that repeated high dose exposures produced changes in the liver, kidney and red blood cells, but did not produce cancer in test animals. No oncogenic response was observed in a rat 2–year chronic feeding/oncogenicity study or in a 78-eight week study on mice. The oncogenicity classification of pyriproxyfen is "E" (no evidence of carcinogenicity for humans).

Pyriproxyfen technical was administered to dogs in capsules at doses of 0, 30, 100, 300, and 1,000 mg/kg bw/day for 1 year. Dogs exposed to dose levels of 300 mg/kg bw/day or higher showed overt clinical signs of toxicity, elevated levels of blood enzymes and liver damage. The NOAEL in this study was 100 mg/kg bw/day.

Pyriproxyfen technical was administered to mice at doses of 0, 120, 600 and 3,000 ppm in diet for 78 weeks. The NOAEL for systemic effects in this study was 600 ppm (84 mg/kg bw/day in males, 109.5 mg/kg bw/day in females), and a LOAEL of 3,000 ppm (420 mg/kg bw/day in males, 547 mg/kg bw/day in females) was established based on an increase in kidney lesions.

In a 2–year study in rats, pyriproxyfen technical was administered in the diet at levels of 0, 120, 600, and 3,000 ppm. The NOAEL for systemic effects in this study was 600 ppm (27.31 mg/kg bw/day in males, 35.1 mg/kg bw/day in females). A LOAEL of 3,000 ppm (138 mg/kg bw/day in males, 182.7 mg/kg bw/day in females) was established based on a depression in body weight gain in females.

6. *Animal metabolism.* The absorption, tissue distribution, metabolism and excretion of ^{14}C-labeled pyriproxyfen were studied in rats after single oral doses of 2 or 1,000 mg/kg bw (phenoxyphenyl and pyridyl label), and after a single oral dose of 2 mg/kg bw (phenoxyphenyl label only) following 14 daily oral doses at 2 mg/kg bw of unlabelled material. For all dose groups, most (88–96%) of the administered radiolabel was excreted in the urine and feces within 2 days after radiolabeled test material dosing, and 92–98% of the administered dose was excreted within 7 days. Seven days after dosing, tissue residues were generally low, accounting for no more than 0.3% of the dosed ^{14}C. Radiocarbon concentrations in fat were the higher than in other tissues analyzed. Recovery in tissues over time indicates that the potential for bioaccumulation is minimal. There were no significant sex or dose-related differences in excretion or metabolism.

7. *Metabolite toxicology.* Metabolism studies of pyriproxyfen in rats, goats and hens, as well as the fish bioaccumulation study demonstrate that the parent is very rapidly metabolized and eliminated. In the rat, most (88-96%) of the administered radiolabel was excreted in the urine and feces within 2 days of dosing, and 92-98% of the administered dose was excreted within

7 days. Tissue residues were low 7 days after dosing, accounting for no more than 0.3% of the dosed ^{14}C. Because parent and metabolites are not retained in the body, the potential for acute toxicity from in situ formed metabolites is low. The potential for chronic toxicity is adequately tested by chronic exposure to the parent at the maximum tolerance dose (MTD) and consequent chronic exposure to the internally formed metabolites.

Seven metabolites of pyriproxyfen, 4′-OH-pyriproxyfen, 5′′-OH-pyriproxyfen, desphenyl-pyriproxyfen, POPA, PYPAC, 2-OH-pyridine and 2,5-diOH-pyridine, have been tested for mutagenicity (Ames) and acute oral toxicity to mice. All seven metabolites were tested in the Ames assay with and without S9 at doses up to 5,000 micro-grams per plate or up to the growth inhibitory dose. The metabolites did not induce any significant increases in revertant colonies in any of the test strains. Positive control chemicals showed marked increases in revertant colonies. The acute toxicity to mice of 4′-OH-pyriproxyfen, 5′′-OH-pyriproxyfen, desphenyl-pyriproxyfen, POPA, and PYPAC did not appear to markedly differ from pyriproxyfen, with all metabolites having acute oral LD_{50} values greater than 2,000 mg/kg bw. The two pyridines, 2-OH-pyridine and 2,5-diOH-pyridine, gave acute oral LD_{50} values of 124 (male) and 166 (female) mg/kg bw, and 1,105 (male) and 1,000 (female) mg/kg bw, respectively.

8. *Endocrine disruption.* Pyriproxyfen is specifically designed to be an insect growth regulator and is known to produce juvenoid effects on arthropod development. However, this mechanism-of-action in target insects and other some arthropods has no relevance to any mammalian endocrine system. While specific tests, uniquely designed to evaluate the potential effects of pyriproxyfen on mammalian endocrine systems have not been conducted, the toxicology of pyriproxyfen has been extensively evaluated in acute, sub-chronic, chronic, developmental, and reproductive toxicology studies including detailed histopathology of numerous tissues. The results of these studies show no evidence of any endocrine-mediated effects and no pathology of the endocrine organs. Consequently, it is concluded that pyriproxyfen does not possess estrogenic or endocrine disrupting properties applicable to mammals.

C. Aggregate Exposure

1. *Dietary exposure.* An evaluation of chronic dietary exposure including both food and drinking water has been performed for the U.S. population and various sub-populations including infants and children. No acute dietary endpoint; and dose was identified in the toxicology data base for pyriproxyfen; therefore, the Agency has concluded that there is a reasonable certainty of no harm from acute dietary exposure.

i. *Food.* Chronic dietary exposure to pyriproxyfen residues was calculated for the U.S. population and 25 population subgroups assuming tolerance level residues, processing factors from residue studies, and 100% of the crop treated. The analyses included residue data for all existing uses, pending uses, and proposed new uses. The results from several representative subgroups are listed below. Chronic exposure to the overall U.S. population is estimated to be 0.002984 mg/kg bw/day, representing 0.9% of the RfD. For the most highly exposed sub-population, children 1 to 6 years of age, exposure is calculated to be 0.007438 mg/kg bw/day, or 2.1% of the RfD. Generally speaking, the Agency has no cause for concern if total residue contribution for established and proposed tolerances is less than 100 percent of the RfD.

CALCULATED CHRONIC DIETARY EXPOSURES TO THE TOTAL U.S. POPULATION AND SELECTED SUB-POPULATIONS TO PYRIPROXYFEN RESIDUES IN FOOD

Population subgroup	Exposure (mg/kg bw/day)	Percent of RfD
Total U.S. population (all seasons)	0.002984	0.853
Children (1–6 Years)	0.007438	2.125
Non-Nursing Infants (<1 Year Old)	0.006483	1.852
All Infants (<1 Year Old)	0.005604	1.601
Children (7–12 Years)	0.004159	1.188
Children (1–6 Years)	0.007438	2.125
Females (13+/Nursing)	0.002964	0.847
Nursing Infants (<1 Year Old)	0.002601	0.743

ii. *Drinking water.* Since pyriproxyfen is applied outdoors to growing agricultural crops, the potential exists for pyriproxyfen or its metabolites to reach ground or surface water that may be used for drinking water. Because of the physical properties of pyriproxyfen, it is unlikely that pyriproxyfen or its metabolites can leach to potable ground water. To quantify potential exposure from drinking water, surface water concentrations for pyriproxyfen were estimated using GENEEC 1.3. The average 56–day concentration predicted in the simulated pond water was 0.16 ppb. Using standard assumptions about body weight and water consumption, the chronic exposure to pyriproxyfen from this drinking water would be 4.57×10^{-6} and 1.6×10^{-5} mg/kg bw/day for adults and children, respectively; 0.0046% of the RfD (0.35 mg/kg/day) for children. Based on this worse case analysis, the contribution of water to the dietary risk is negligible.

2. *Non-dietary exposure.* Pyriproxyfen is currently registered for use on residential non-food sites. Pyriproxyfen is the active ingredient in numerous registered products for flea and tick control. Formulations include foggers, aerosol sprays, emulsifiable concentrates, and impregnated materials (pet collars). With the exception of the pet collar uses, consumer use of

pyriproxyfen typically results in acute and short-term intermittent exposures. No acute dermal, or inhalation dose or endpoint was identified in the toxicity data for pyriproxyfen. Similarly, doses and endpoints were not identified for short- and intermediate-term dermal or inhalation exposure to pyriproxyfen. The Agency has concluded that there are reasonable certainties of no harm from acute, short-term, and intermediate-term dermal and inhalation occupational and residential exposures due to the lack of significant toxicological effects observed.

Chronic residential post-application exposure and risk assessments were conducted to estimate the potential risks from pet collar uses. The risk assessment was conducted using the following assumptions: Application rate of 0.58 mg a.i./day (product label), average body weight for a 1–6 year old child of 10 kg, the active ingredient dissipates uniformly through 365 days (the label instruct to change collar once a year), 1% of the active ingredient is available for dermal and inhalation exposure per day (assumption from Draft EPA Standard Operating Procedures (SOPs) for Residential Exposure Assessments, December 18, 1997). The assessment also assumes an absorption rate of 100%. This is a conservative assumption since the dermal absorption was estimated to be 10%. The estimated chronic term MOE was 61,000 for children, and 430,000 for adults. The risk estimates indicate that potential risks from pet collar uses do not exceed the Agency's level of concern.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that the Agency must consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." Available information in this context include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not, at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way.

There are no other pesticidal compounds that are structurally related to pyriproxyfen and have similar effects on animals. In consideration of potential cumulative effects of pyriproxyfen and other substances that may have a common mechanism of toxicity, there are currently no available data or other reliable information indicating that any toxic effects produced by pyriproxyfen would be cumulative with those of other chemical compounds. Thus, only the potential risks of pyriproxyfen have been considered in this assessment of aggregate exposure and effects.

Valent will submit information for EPA to consider concerning potential cumulative effects of pyriproxyfen consistent with the schedule established by EPA at (62 FR 42019) (FRL–5734–6) August 4, 1997 and other subsequent EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population—i. Chronic dietary exposure and risk.—Adult sub-populations.* The results of the chronic dietary exposure assessment described above demonstrate that estimates of chronic dietary exposure for all existing, pending and proposed uses of pyriproxyfen are well below the chronic RfD of 0.35 mg/kg bw/day. The estimated chronic dietary exposure from food for the overall U.S. population and many non-child/infant subgroups is from 0.002123 to 0.003884 mg/kg bw/day, 0.607 to 1.100% of the RfD. Addition of the small but worse case potential chronic exposure from drinking water (calculated above) increases exposure by only 4.57×10^{-6} mg/kg bw/day and does not change the maximum occupancy of the RfD significantly. Generally, the Agency has no cause for concern if total residue contribution is less than 100% of the RfD. It can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. population or any non-child/infant subgroups from aggregate, chronic dietary exposure to pyriproxyfen residues.

ii. *Acute dietary exposure and risk.—Adult sub-populations.* No acute dietary endpoint and dose were identified in the toxicology data base for pyriproxyfen: therefore, it can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. population or any non-child/infant subgroups from aggregate, acute dietary exposure to pyriproxyfen residues.

iii. *Non-dietary exposure and aggregate risk.—Adult sub-populations.* Acute, short-term, and intermediate-term dermal and inhalation risk assessments for residential exposure are not required due to the lack of significant toxicological effects observed. The results of a chronic residential post-application exposure and risk assessment for pet collar uses demonstrate that potential risks from pet collar uses do not exceed the Agency's level of concern. The estimated chronic term MOE for adults was 430,000.

2. *Infants and children—i. Safety factor.* In assessing the potential for additional sensitivity of infants and children to residues of pyriproxyfen, FFDCA section 408 provides that EPA shall apply an additional margin of safety, up to ten-fold, for added protection for infants and children in the case of threshold effects unless EPA determines that a different margin of safety will be safe for infants and children.

The toxicological data base for evaluating prenatal and postnatal toxicity for pyriproxyfen is complete with respect to current data requirements. There are no special prenatal or postnatal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies or the 2-generation reproductive toxicity study in rats. Valent concludes that reliable data support use of the standard 100–fold uncertainty factor and that an additional uncertainty factor is not needed for pyriproxyfen to be further protective of infants and children.

ii. *Chronic dietary exposure and risk.* Using the conservative exposure assumptions described above, the percentage of the RfD that will be utilized by chronic dietary (food only) exposure to residues of pyriproxyfen ranges from 0.002601 mg/kg bw/day for nursing infants, up to 0.007438 mg/kg bw/day for children (1–6 years of age), 0.743 to 2.125% of the RfD, respectively. Adding the worse case potential incremental exposure to infants and children from pyriproxyfen in drinking water (1.6×10^{-5} mg/kg bw/day) does not materially increase the aggregate, chronic dietary exposure and only increases the occupancy of the RfD by 0.0046% to 2.130% for children (1–6 years of age). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, chronic dietary exposure to pyriproxyfen residues.

iii. *Acute dietary exposure and risk.* No acute dietary endpoint and dose were identified in the toxicology data

base for pyriproxyfen; therefore, it can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, acute dietary exposure to pyriproxyfen residues.

iv. *Non-dietary exposure and aggregate risk.* Acute, short-term, and intermediate-term dermal and inhalation risk assessments for residential exposure are not required due to the lack of significant toxicological effects observed. The results of a chronic residential post-application exposure and risk assessment for pet collar uses demonstrate that potential risks from pet collar uses do not exceed the Agency's level of concern. The estimated chronic term MOE for children was 61,000.

F. International Tolerances

There are no presently existing Codex maximum residue levels maximum residue levels for pyriproxyfen.

[FR Doc. 02–13356 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7218–9]

Agreement and Covenant Not To Sue, Sharon Steel Superfund Site, Midvale, UT

AGENCY: Environmental Protection Agency (U.S. EPA).

ACTION: Notice; Agreement and Covenant Not to Sue.

SUMMARY: In accordance with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9601 *et seq.*, notice is hereby given of an Agreement and Covenant Not to Sue ("Agreement"), also known as a Prospective Purchaser Agreement ("PPA"), concerning the Sharon Steel Superfund Site in Midvale, Utah (the "Site"). The Agreement resolves any potential liability for response costs incurred and to be incurred by the United States Environmental Protection Agency ("EPA") and the State of Utah Department of Environmental Quality that may be acquired by the City of Midvale, UT when it takes title to certain permanent easements that traverse the Sharon Steel Superfund Site. The City of Midvale is taking title to these easements in order to construct the Provo/Jordan River Parkway Pedestrian & Bicycle Trail and the Bingham Junction Parkway.

DATES: Comments must be submitted to EPA on or before June 28, 2002.

ADDRESSES: Comments should be addressed to Nancy A. Mangone, (8ENF–L), Enforcement Attorney, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, and should refer to: In the Matter of: Sharon Steel Superfund Site Agreement And Covenant Not To Sue Midvale City.

FOR FURTHER INFORMATION CONTACT: Nancy A. Mangone, (8ENF–L), Enforcement Attorney, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, (303) 312–6903.

SUPPLEMENTARY INFORMATION: Notice of Agreement and Covenant Not to Sue with the City of Midvale for the Sharon Steel Superfund Site: In accordance with CERCLA, 42 U.S.C. 9601, *et seq.* notice is hereby given that the terms of a Prospective Purchaser Agreement and a covenant not to sue have been agreed to by the United States, Utah Department of Environmental Quality and the City of Midvale.

By the terms of the proposed Agreement, the City will acquire permanent public easements and access rights across certain portions of the Site in order to: (1) Construct a non-motorized, multiple-use recreational trail along the western edge of the Site, from 7980 South to 8500 South, known as the Provo/Jordan River Parkway Pedestrian & Bicycle Trail, including an access road known as the Oxbow Road, (collectively, the "Parkway Trail"); and (2) construct a new north/south road, the Bingham Junction Parkway, from 7800 South at approximately 1000 West, across the eastern portion of the Site, to Sandy Parkway ("Bingham Junction Parkway").

The PPA provides the City with covenants not to sue from EPA and UDEQ for liability for the existing contamination that has already been addressed by the remedial action performed at the Site in accordance with section 107(a) of CERCLA, 42 U.S.C. 9607(a) and the Utah Hazardous Substance Mitigation Act, section 19–6–301, *et seq.*, Utah Code Ann. The City will also receive contribution protection under section 113 CERCLA, 42 U.S.C. 9613, for claims that could be brought against it by third parties. In consideration for these covenants not to sue, the City has agreed to perform operation and maintenance ("O&M") activities on that portion of the Sharon Steel Site it is acquiring, which amounts to approximately 15 acres of the Site. The current annualized value of the performance of these O&M activities is estimated to be $22,505 for the Bingham Junction Parkway and $4,938 for the Parkway Trail. The City is also providing O&M for the access road to the Site, known as Oxbow Road.

U.S. EPA will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Agreement and Covenant Not to Sue for the Sharon Steel Superfund Site. A copy of the PPA may be obtained in person or by mail from Mike Rudy, Enforcement Specialist (ENF–T), Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, (303) 312–6332.

Dated: May 17, 2002.

Michael T. Risner,

Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice.

[FR Doc. 02–13350 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7219–1]

Koppers Company Inc., (Morrisville Plant) Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with Beazer East Inc., pursuant to 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding Beazer East Inc., located in Morrisville, Wake County, North Carolina. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA Region 4, Waste Management Division, 61 Forsyth Street SW., Atlanta, Georgia 30303, 404/562–8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: May 10, 2002.

James T. Miller,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–13354 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Certified Statement for Semiannual Deposit Insurance Assessment."

DATES: Comments must be submitted on or before July 29, 2002.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to "Certified Statement for Semiannual Deposit Insurance Assessment." Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: *comments@fdic.gov*]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Certified Statement for Semiannual Deposit Insurance Assessment.

OMB Number: 3064–0057.

Form Number: 6420/07A.

Frequency of Response: Semiannual.

Affected Public: All insured institutions that file certified statements with the FDIC.

Estimated Number of Respondents: 19,400.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden: 4,850 hours.

General Description of Collection: Certified statements are prepared and submitted semiannually to report and certify deposit liabilities and to compute the assessment payment due for deposit insurance protection.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 22nd day of May, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02–13327 Filed 5–28–02; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1414–DR]

Kentucky; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, (FEMA–1414–DR), dated May 7, 2002, and related determinations.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 7, 2002:

Floyd and Martin Counties for Public Assistance (already designated for Individual Assistance).

Lincoln, Magoffin, and Perry Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13330 Filed 5–28–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1412–DR]

Missouri; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA–1412–DR), dated May 6, 2002, and related determinations.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for

this disaster is reopened and the incident type is expanded to include flooding. The incident period for this declared disaster is now April 24, 2002, and continuing, and the incident type is severe storms, tornadoes and flooding.

Bollinger, Butler, Carter, Howell and Madison Counties (already designated for Individual and Public Assistance under FEMA–1412–DR).

Cape Girardeau, Iron, Oregon, Perry, Reynolds, Ripley, Shannon, St. Francois, Stoddard and Wayne Counties (already designated for Individual Assistance under FEMA–1412–DR).

Adair, Barry, Dade, Dallas, Johnson, Knox, Lafayette, Lawrence and Taney Counties for Public Assistance.

Crawford, Dent, Jefferson, St. Geneieve for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13329 Filed 5–28–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1415–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1415–DR), dated May 16, 2002, and related determinations.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 16, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from an earthquake on April 20, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and the Individual and Family Grant program will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne C. Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

Clinton and Essex Counties for Individual Assistance.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13331 Filed 5–28–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank orBank Holding Companies

The notificants listed below have applied under the Change in BankControl Act (12 U.S.C. 1817(j)) and § 225.41 of theBoard's Regulation Y (12 CFR 225.41) to acquire a bank or bankholding company. The factors that are considered in acting on the noticesare set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the FederalReserve Bank indicated. The notices also will be available for inspectionat the office of the Board of Governors. Interested persons may expresstheir views in writing to the Reserve Bank indicated for that notice or tothe offices of the Board of Governors. Comments must be received not laterthan June 11, 2002.

A. Federal Reserve Bank of Philadelphia (Michael E.Collins, Senior Vice President) 100 North 6th Street, Philadelphia,Pennsylvania 19105–1521:

1. George Connell, Radnor, Pennsylvania; to acquireadditional voting shares of Bryn Mawr Bank Corporation, Bryn Mawr,Pennsylvania, and thereby indirectly acquire voting shares of Bryn MawrTrust Company, Bryn Mawr, Pennsylvania.

B. Federal Reserve Bank of Kansas City (Susan Zubradt,Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri64198–0001:

1. Lynn Dinsdale Marchese, Omaha, Nebraska; to retainvoting shares of Pinnacle Bancorp, Inc., Central City, Nebraska, andthereby indirectly retain voting shares of Bank of Colorado, Fort Collins,Colorado; First National Bank, Abilene, Kansas; Pinnacle Bank, Papillion,Nebraska; Pinnacle Bank - Wyoming, Torrington, Wyoming; and Western Bank,Gallup, New Mexico.

2. Blair Lauritzen Gogel, Mission Hills, Kansas, andClarkson Davis Lauritzen, Boston, Massachusetts; to acquire voting sharesof K.B.J. Enterprises, Inc., Omaha, Nebraska, and thereby indirectlyacquire voting shares of Sibley State Bank, Sibley, Iowa.

Board of Governors of the Federal Reserve System, May 22, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13324 Filed 5–28–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank HoldingCompanies

The companies listed in this notice have applied to the Board forapproval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841*et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and allother applicable statutes and regulations to become a bank holding companyand/or to acquire the assets or the ownership of, control of, or the powerto vote shares of a bank or bank holding company and all of the banks andnonbanking companies owned by the bank holding company, including thecompanies listed below.

The applications listed below, as well as other related filings requiredby the Board, are available for immediate inspection at the Federal ReserveBank indicated. The application also will be available for inspection atthe offices of the Board of Governors. Interested persons may expresstheir views in writing on the standards enumerated in the BHC Act (12U.S.C. 1842(c)). If the proposal also involves the acquisition of anonbanking company, the review also includes whether the acquisition of thenonbanking company complies with the standards in section 4 of the BHC Act(12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will beconducted throughout the United States. Additional information on all bankholding companies may be obtained from the National Information Centerwebsite at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applicationsmust be received at the Reserve Bank indicated or the offices of the Boardof Governors not later than June 21, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt,Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri64198–0001:

1. Denison Capital Enhancement Trust, Omaha, Nebraska; tobecome a bank holding company by acquiring 100 percent of the non-votingshares of K.B.J. Enterprises, Inc., Omaha, Nebraska, and thereby indirectlyacquire Sibley State Bank, Sibley, Iowa..

2. Sibley Capital Enhancement Trust, Omaha, Nebraska, tobecome a bank holding company by acquiring 100 percent of the non-votingshares of The Viking Corporation, Omaha, Nebraska, and thereby indirectlyacquire shares of K.B.J. Enterprises, Omaha, Nebraska, and Sibley StateBank, Sibley, Iowa.

Board of Governors of the Federal Reserve System, May 22, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13325 Filed 5–28–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activitiesor to Acquire Companies that are Engaged in Permissible NonbankingActivities

The companies listed in this notice have given notice under section 4 ofthe Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y(12 CFR Part 225) to engage *de novo*, or to acquire or controlvoting securities or assets of a company, including the companies listedbelow, that engages either directly or through a subsidiary or othercompany, in a nonbanking activity that is listed in § 225.28 ofRegulation Y (12 CFR 225.28) or that the Board has determined by Order tobe closely related to banking and permissible for bank holding companies.Unless otherwise noted, these activities will be conducted throughout theUnited States.

Each notice is available for inspection at the Federal Reserve Bankindicated. The notice also will be available for inspection at the officesof the Board of Governors. Interested persons may express their views inwriting on the question whether the proposal complies with the standards ofsection 4 of the BHC Act. Additional information on all bank holdingcompanies may be obtained from the National Information Center website atwww.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must bereceived at the Reserve Bank indicated or the offices of the Board ofGovernors not later than June 11, 2002.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble,Vice President) 2200 North Pearl Street, Dallas, Texas75201–2272:

1. Lost Pines Bancshares, Inc., Smithville, Texas; toengage *de novo*, in lending activities, pursuant to §225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 22, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–13326 Filed 5–28–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, June 3, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR MORE INFORMATION PLEASE CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 24, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board

[FR Doc. 02–13505 Filed 5–24–02; 12:35 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Office of Communications, Cancellation of Standard Form by the Department of Treasury

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: Because of low demand from the Federal Supply Service the Department of Treasury cancelled the following Standard Form:

SF 1035A, Public Voucher for Purchases and Services Other Than Personal (Memorandum).

DATES: Effective May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: May 14, 2002.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 02–13283 Filed 5–28–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–15]

Notice of Proposed Information Collection: Comment Request; Loss Mitigation Evaluation

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 29, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Laurie Maggiano, Director, Single Family Asset Management and Disposition Division, Room 9176, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–1672 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Loss Mitigation Evaluation.

OMB Control Number, if applicable: 2502–0523.

Description of the need for the information and proposed use: Mortgagees are required by 24 CFR 203.605 to evaluate what (if any) loss mitigation initiatives are appropriate, and must maintain documentation of this evaluation.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 135,795 hours; the number of respondents is 600, the total annual number of responses is approximately 543,180, the frequency of response is on occasion, and the estimated time per response is estimated to be 15 minutes.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 21, 2002.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 02–13303 Filed 5–28–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Comprehensive Conservation Plan and Environmental Assessment for Waubay National Wildlife Refuge Complex, Waubay, SD

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish & Wildlife Service announces that a Draft Comprehensive Conservation Plan and the Environmental Assessment (CCP/EA) for Waubay National Wildlife Refuge and Wetland Management District Complex (Complex) is available for review and comment. This CCP/EA, prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997 and the National Environmental Policy Act of 1969, describes how the U.S. Fish & Wildlife Service intends to manage the Complex for the next 15 years.

DATES: Please submit comments on the Draft CCP/EA on or before June 28, 2002.

ADDRESSES: Comments on the Draft CCP/EA should be addressed to: Bridget McCann, Planning Team Leader, U.S. Fish & Wildlife Service, P.O. Box 25486, DFC, Denver, CO 80225–0486.

FOR MORE INFORMATION CONTACT: Larry Martin, Project Leader, U.S. Fish & Wildlife Service, Waubay National Wildlife Refuge Complex, 44401 134A Street, Waubay, SD 57273; (605) 947–4521; fax (605) 947–4524; or Bridget McCann, Planning Team Leader, U.S. Fish & Wildlife Service, P.O. Box 25486, DFC, Denver, CO 80225–0486; (303) 236–8145 ext. 685; fax (303) 236–4792.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the Draft CCP/EA may be obtained by writing to Larry Martin, Project Leader, U.S. Fish & Wildlife Service, Waubay National Wildlife Refuge Complex, 44401 134A Street, Waubay, SD 57273. The Draft CCP/EA will also be available for viewing and downloading online at *http://www.r6.fws.gov/larp.*

Background

Waubay National Wildlife Refuge (NWR), comprised of 4,650 acres, is located in Day County in northeastern South Dakota. The Refuge's mix of lakes, wetlands, prairie, forests, and cropland is home to a diversity of wildlife. More than 100 bird species nest on this small piece of habitat, with 37 mammals also calling it home.

Waubay NWR was established by President Roosevelt in 1935 as "a refuge and breeding ground for migratory birds and other wildlife."

Waubay Wetland Management District (WMD) protects over 250,000 acres of wetlands and prairie in six counties of northeastern South Dakota. The area's mix of native grass, planted grasses, cropland, and wetlands support a variety of wildlife. Wildlife communities are dependent on the abundant grasslands or wetlands, or both. The WMD is home to 247 species of birds, 43 species of mammals, and over 20 species of amphibians and reptiles. Breeding waterfowl and grassland-dependent passerines are two groups that are especially prominent.

This Draft CCP/EA identifies and evaluates three alternatives for managing Waubay National Wildlife Refuge Complex in northeastern South Dakota for the next 15 years.

Under Alternative A, the No Action alternative, current management of the Complex would continue; programs would follow the same direction, emphasis, and intensity as they do at present. No additional restoration of grasslands would occur on the Refuge. No effort would be made to enhance or research the importance of Refuge woodlands. Grassland and wetland easements on the WMD would continue to be purchased at current levels from willing sellers, averaging 10,000 and 2,000 acres per year, respectively. Fee-title acquisitions would be limited to exceptional tracts or those requiring special protection, or particular roundouts to Waterfowl Production Areas (WPAs). Wildlife monitoring on the Complex would be limited to mostly waterfowl surveys with incidental sightings of threatened and endangered species. Public use programs would continue, as is, with no additional educational or recreational programs offered. White-tailed deer hunting on the Refuge would continue for archery, rifle, and muzzleloader seasons. Providing deer hunts for youth and people with disabilities would not be planned for. Ice fishing, with current restrictions, would be allowed on the Refuge. Waterfowl Production Areas on the WMD would remain open to hunting, fishing, and trapping in accordance with State regulations. Development of an environmental education center would not be explored.

Alternative B would focus on protecting remaining tracts of native tallgrass prairie, restoring diversity to degraded grassland sites, replanting croplands to native grasses and forbs, and enhancing and maintaining these sites to support a functioning prairie ecosystem.

Protection of tallgrass prairie would be accomplished through fee-title acquisition, easements or through partnerships with State, Tribal or private organizations. In order to concentrate protection, restoration and management efforts in the WMD, especially in the target area of the Minnesota-Red River Lowlands, activities and management on the Refuge would be reduced to minimum levels. Restoration and management of Refuge woodlands would not occur. Threatened and endangered species on the Complex would be documented, but additional surveys or inventory plans would not be initiated. Protection, restoration, management, and wildlife monitoring efforts would increase in the Minnesota-Red River Lowlands, where tallgrass prairie historically occurred. Other parts of the WMD would receive minimal attention in terms of management and wildlife monitoring. Current hunting and fishing seasons on the Refuge would continue with no effort to expand or offer more accessible opportunities. An increase in fee-title lands would provide expanded opportunities for hunting, fishing, and trapping on the WMD. No changes would be made on the Refuge to provide additional trails or other wildlife observation opportunities. An education/visitor/research center within the Tallgrass Prairie Ecosystem would be developed to educate the public and provide a place for long-term studies on the dynamics and richness of this threatened habitat. Other interpretive and educational programs and special events on the Complex would be minimized to focus staff energies on the tallgrass prairie.

Under alternative C, the proposed action, management of the Complex would be much more aggressive and proactive. Fee-title lands would be managed and monitored to maintain higher quality habitat. All tame grasslands on the Refuge would be converted to native grasslands. Food plots within native woodlands on the Refuge would be restored to native trees to reduce edge effects and brown-headed cowbird populations. Native woodlands on the WMD would be protected where necessary. An inventory and monitoring plan would be developed for threatened and endangered species and State species at risk on the Complex. Public use and recreation on the Complex would be expanded to provide additional and improved educational experiences for visitors. Current hunting opportunities on the Refuge would be augmented by offering youth hunts and/or hunts for people with disabilities. Ice fishing on the Refuge, with current restrictions, would continue. Opportunities for wildlife observation, wildlife photography, environmental education and interpretation would be expanded on the Complex. The development of an outdoor classroom would be explored. The headquarters building would be expanded. One or two additional hiking trails would be developed on the Refuge. A more active volunteer program would be developed and promoted. Educational programs offered for schools in the WMD would increase, as would interpretive opportunities for visitors to WPAs.

Dated: May 7, 2002.

Ralph O. Morgenweck,

Regional Director, Region 6, Denver, Colorado.

[FR Doc. 02–13319 Filed 5–28–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for Endangered Species Permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on these applications must be received, at the address given below, by June 28, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist). Telephone: 404/679–4176; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: Victoria Davis, Telephone: 404/679–4176; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit

comments by any one of several methods. You may mail comments to the Service's Regional Office (*see* **ADDRESS**). You may also comment via the Internet to "*victoria_davis@fws.gov*." Please submit comments over the Internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the Service that we have received your Internet message, contact us directly at either telephone number listed above (*see* **FURTHER INFORMATION**). Finally, you may hand deliver comments to the Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Applicant: Arlena Maija Wartell, University of Georgia, Athens, Georgia, TE056509–0.

The applicant requests authorization to take (survey, capture, identify, examine, measure, tag, remove hair follicles, and release) the North Carolina northern flying squirrel (*Glaucomys sabrinus colratus*) to provide information on the genetic structure, diversity, and gene flow of the populations in the southern Appalachians. The proposed activities will take place at the following North Carolina locations: Plott Balsam Mountains, Roan Mountain, Grandfather Mountain, Great Smoky Mountains National Park, and Unicoi Mountains.

Applicant: Joseph H.K. Pechmann, University of New Orleans, New Orleans, Louisiana, TE056510–0.

The applicant requests authorization to take (survey, capture, tag, toe clip, monitor egg masses and tadpoles, and translocate) the Mississippi gopher frog (*Rana capito sevosa*) to gather information about the growth and survival and metamorphosis of tadpoles when raised in ponds that have different characteristics and to determine if the species raised in artificial ponds will return to breed. The proposed activities will take place in the DeSoto National Forest, Harrison County, Mississippi.

Applicant: Jeanette Wyneken, Florida Atlantic University, Boca Raton, Florida, TE056217–0.

The applicant requests authorization to take (survey, capture, identify, radio tag, measure and weigh, and release) the loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), and leatherback sea turtle (*Dermochelys coriacea*) to monitor green sea turtle use of developmental habitat in near shore waters, to collate and summarize long-term data, to update the understanding of the North Atlantic loggerhead population structure in a spatially explicit way, to update and partition the morality associated with several well-documented environmental stressors, and to collect new comprehensive data to describe the sex ratios of hatchlings throughout the southeastern United States. The proposed activities will take place in Florida, Georgia, South Carolina, and North Carolina.

Applicant: Tennessee Valley Authority, Travis H. Henry, Norris, Tennessee, TE056341–0.

The applicant requests authorization to take (survey, capture, mark, recapture, and release) the gray bat (*Myotis grisescens*), Indiana bat (*Myotis sidakus*), and bald eagle (*Haliaeetus leucocephalus*) to determine presence and absence and to gather population data, and to conduct a feeding analysis study of bald eagles. The proposed activities will take place in 201 counties within the Tennessee Valley Authority Power Service Area. This would include areas throughout Tennessee and portions of Alabama, Mississippi, Georgia, North Carolina, Virginia, and Kentucky.

Applicant: University of North Carolina at Wilmington, Dr. Michael A. McCartney, Wilmington, North Carolina TE056186–0.

The applicant requests authorization to take (harass) the Waccamaw silverside (*Menidia extensa*) while conducting population surveys and collecting the Waccamaw darter (*Etheostoma perlongum*) for genetic studies. The proposed activities are confined to Lake Waccamaw in Columbus County, North Carolina.

Applicant: North Carolina Natural Heritage Program, Stephen P. Hall, Raleigh, North Carolina, TE056340–0.

The applicant requests authorization to take (collect) 15 Saint Francis' Satyr (*Neonympha mitchellii francisci*) for genetic studies. The purpose of the collection is to determine the identity of the newly discovered populations in Alabama and Virginia. The activities will take place at Fort Bragg Army Base, Cumberland and Hoke Counties, North Carolina.

Applicant: Fish and Wildlife Associates, Inc., Pamela M. Boaze, Whitter, North Carolina TE056486–0.

The applicant requests authorization to take (survey, capture, and translocate) the pink mucket (*Lampsilis abrupta*) and orangefoot pimpleback (*Plethobasus cooperianus*) to relocate mussels outside of the construction site of a bridge over State Road-2 and the demolition of an existing bridge over State Road-2. The proposed activities will take place in Loudon, Tennessee.

Applicant: Mark A. Bailey, Shorter, Macon, TE056488–0.

The applicant requests authorization to install artificial cavity inserts in red-cockaded woodpecker (*Picoides borealis*) habitat so that each cluster has a minimum of four suitable cavities. The proposed activities will take place at Mitchell Dam, Richville, and Flag Mountain, Coosa County, Alabama.

Dated: May 8, 2002.

Judy L. Pulliam,

Acting Regional Director.

[FR Doc. 02–13318 Filed 5–28–02; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–462]

In the Matter of Certain Plastic Molding Machines With Control Systems Having Programmable Operator Interfaces Incorporating General Purpose Computers, and Components Thereof II; Notice of Commission Decision not to Review an Initial Determination Terminating the Investigation as to Two Respondents on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID")(Order No. 26) terminating the above-captioned investigation as to respondents Sidel S.A. and Sidel, Inc. based on a settlement agreement. Under ALJ Order No. 27, the investigation will continue so that complainant may have the opportunity to move for summary determination of violation and to request a general exclusion order pursuant to Commission rule 210.16(c)(2), 19 CFR 210.16(c)(2).

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3104. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the above-captioned investigation on August 23, 2001, based on a complaint filed by Milacron, Inc. (Milacron) of Cincinnati, OH, against eleven respondents. 66 FR 44374 (2001). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain plastic molding machines with control systems having programmable operator interfaces incorporating general purpose computers, and components thereof, by reason of infringement of claims 1–4 and 9–13 of U.S. Patent No. 5,062,052. Sidel S.A. and Sidel, Inc. (collectively, Sidel) are the last respondents remaining in the investigation. The nine other respondents were previously terminated from the investigation on the basis of settlement agreements.

On April 9, 2002, Milacron, and Sidel filed a joint motion under Commission rule 210.21(b) to terminate the investigation as to Sidel based on a Settlement and Non-Exclusive License Agreement. On April 18, 2002, Milacron filed a motion to amend the procedural schedule so that it would have the opportunity to file a motion for summary determination of violation of section 337 and to request a general exclusion order. On April 19, 2002, the Commission investigative attorney filed a response in support of both the joint motion to terminate and Milacron's motion to amend the procedural schedule. On April 23, 2002, the presiding ALJ issued his ID terminating the investigation as to Sidel. On April 24, 2002, he issued Order No. 27, granting Milacron's request to amend the procedural schedule. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: May 23, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13323 Filed 5–28–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–472]

In the Matter of Certain Semiconductor Devices and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 22, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Toshiba Corporation of Japan. A supplement to the complaint was filed on May 8, 2002. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor devices and products containing same by reason of infringement of claims 1, 3, 5, 7, 8, 10, and 12 of U.S. Letters Patent 5,150,178; claims 1–4 of U.S. Letters Patent 4,683,382; and claims 18–20 of U.S. Letters Patent 5,187,561. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public*.

FOR FURTHER INFORMATION CONTACT: Rett V. Snotherly, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2599.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2001).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 21, 2002, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain semiconductor devices or products containing same by reason of infringement of claim 1, 3, 5, 7, 8, 10, or 12 of U.S. Letters Patent 5,150,178; claim 1–3, or 4 of U.S. Letters Patent 4,683,382; or claim 18, 19, or 20 of U.S. Letters Patent 5,187,561, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Toshiba Corporation, 1–1, Shibaura 1-Chome, Minato-ku, Tokyo, 105–8001, Japan.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Samsung Electronics Co., Ltd., Samsung Main Building, 250–2 ga, Taepyong-ro, Chung-gu, Seoul, Korea; Samsung Semiconductor, Inc., 3655 North First Street, San Jose, CA 95134; Samsung Electronics America, Inc., 105 Challenger Road, 8th Floor, Ridgefield Park, NJ 07660.

(c) Rett V. Snotherly, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's rules of practice and procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: May 22, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13321 Filed 5–28–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–460]

In the Matter of Certain Sortation Systems, Parts Thereof, and Products Containing Same; Order

The Commission instituted this patent-based investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain sortation systems, parts thereof, and products containing same, on July 25, 2001. 66 FR 38741. The complainants, Rapistan Systems Advertising Corporation and Siemens Dematic Corporation, named Vanderlande Industries Nederland BV and Vanderlande Industries, Inc. as respondents. On January 3, 2002, the then presiding administrative law judge (ALJ) (Judge Terrill) issued an ID (Order No. 10), which extended the target date for completion of the investigation from October 25, 2002, to March 10, 2003. On February 6, 2002, the Commission determined to review and vacate the ID. Consistent with the Commission's vacatur order, the ALJ on February 13, 2002, issued Order No. 13 reestablishing the original target date of October 25, 2002.

On March 6, 2002, the ALJ issued an order (Order No. 20) extending the target date for completion of the investigation by two months, from October 25, 2002, to December 25, 2002. On May 2, 2002, the Commission issued an order assigning this investigation to Judge Charles E. Bullock. On May 8, 2002, Judge Bullock issued an ID (Order No. 26) extending the target date by one month, from December 25, 2002, until January 25, 2003. Pursuant to Commission rule 210.42(a)(1)(i), the ALJ's final ID on the merits would be due four months earlier, i.e., by September 25, 2002.

Because Judge Bullock only recently became an ALJ at the Commission and this is his first section 337 investigation, it is reasonable to allow him more time for preparation of the final ID. Accordingly, we are, pursuant to rule 201.4(b), waiving the four-month requirement of rule 210.42(a)(1)(i) for good and sufficient reason and setting October 25, 2002, as the date by which the ALJ must issue his final ID in this investigation.

By order of the Commission.

Issued: May 22, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13322 Filed 5–28–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association ("DVD CCA")

Notice is hereby given that, on April 12, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), DVD Copy Control Association ("DVD CCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Action Electronics Co., Ltd., Chung Li, Taiwan; Alcorn McBride, Inc., Orlando, FL; Creative Technology Ltd., Singapore, Singapore; DVS Korea Co. Ltd, Sungnam City, Kyungki-do, Republic of Korea; Denca Industrial Limited, Kowloon, Hong Kong-China; First International Computer, Inc., Taipei Hsien, Taiwan; Gema O.D. S.A., Barcelona, Spain; KD Media, Inc., Seol, Republic of Korea; Media Group, Inc., Fremont, CA; Megatron Co., Ltd., Seoul, Republic of Korea; Novac Co., Ltd., Bunkyo-ku, Tokyo, Japan; SDC Denmark A/S, Sakskobing, Denmark; STMicroelectronics, Inc., Carrollton, TX; UP Technology, Yangcheon-Gu, Seoul, Republic of Korea; and Videolar S/A, Barueri, Brazil have been added as parties to this venture.

Also, Beijing Durban Yu Change Electronics Co. Ltd., Kowloon, Hong Kong-China; Diversion Technologies, Inc., Castro Valley, CA; Dragon DVD Technology Sdn Bhd, Kuala Lumpur, Malaysia; Ngai Lik Electronics Co., Ltd., Kowloon, Hong Kong-China; Kanematsu Corporation, Tokyo, Japan; Nokia Corporation, Espoo, Finland; and P.T. Hartono Istana Teknologies, Kudos, Indonesia have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD Copy Control Association ("DVD CCA") intends to file additional written notification disclosing all changes in membership.

On April 11, 2001, DVD Copy Control Association ("DVD CCA") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on January 15, 2002. A notice was published in the **Federal Register** pursuant seciton 6(b) of the Act on March 25, 2002 (67 FR 13662).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–13304 Filed 5–28–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Optical Internetworking Forum

Notice is hereby given that, on March 28, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Optical Internetworking Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Synopsys, Mountain View, C; Exar, Fremont, CA; Charlotte's Web Networks, Yoqneam, Israel; Mysticom, Netanya, Israel; Anritsu, Atsugi-shi, Kanagawa, Japan; Flextronics Semiconductor, Bowie, MD; Stratos Lightwave, Mountlake Terrace, WA; Bookham Technology, Abingdon, Oxfordshire, United Kingdom; Tality, Cary, NC; Peregrine Semiconductor, San Diego, CA; SiPackets, Fremont, CA; Ignis Optics, San Jose; CA; Sparkolor, Santa Clara, CA; Xindium, Champaign, IL; Harting Electro-Optics GmbH, Espelkamp, Nordrhein-Westfalen, Germany; Silicon Logic, Eau Claire, WI; Myrica Networks, San Diego, CA; Atrica, Hertzelia, Israel; TeraConnect, Nashua, NH; DeriveIt, Campbell, CA; Greenfield Networks, Santa Clara; CA; MathStar, Minnetonka, MN; Santec Corporation, Komaki, Aichi, Japan; Optium, Chalfont, PA; Fiberspace, Woodland Hills, CA, Octillion Communications, San Jose, CA; and GDA Technologies, San Jose, CA have been added as parties to this venture.

Princeton Optronics, Princeton, NJ changed from auditing to small business member. The following members have changed their names: Cinta Corporation to Cinta Networks, San Jose, CA; GMD to FhG—IMK, Munich, Bavaria, Germany; Edgeflow to Meriton Networks, Kanata, Ontario, Canada; Solinet Systems to Ceyba, Ottawa, Ontario, Canada; Sita Equant to Equant, Valbonne, Sophia Antipolis, France.

The following members have been involved with mergers: Onex Communications, Bedford, MA merged with TranSwitch Corporation, Bedford, MA; Ocular Networks, Reston, VA merged with Tellabs, Lisle, IL; and Silicon Packets, San Jose, CA merged with Cypress Semiconductor, San Jose, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Optical Internetworking Forum intends to file additional written notification disclosing all changes in membership.

On October 5, 1998, Optical Internetworking Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4709).

The last notification was filed with the Department on October 3, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 2002 (67 FR 7201).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–13307 Filed 5–28–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum ("PERF") Project No. 2000–01

Notice is hereby given that, on April 25, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") Project No. 2000–01: "Effective Methods and Lessons Learned for Exploration & Production Waste Treatment" has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are ChevronTexaco Energy Research and Technology Company, Richmond, CA; ExxonMobil Production Company, Houston, TX; Phillips Petroleum Company, Bartlesville, OK; and Unocal, Brea, CA. The nature and objectives of the venture are, through cooperative research efforts, to identify, develop and/or improve methods for waste management considering both biological and non-biological methods, disposal options, selecting methods for international locations, sharing lessons learned from implementing technologies at specific sites including remote locations.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–13305 Filed 5–28–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby give that, on April 16, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Acuid Limited, Edinburgh, Scotland, United Kingdom; Bob Altizer (individual member), Phoenix, AZ; Suzanne Harrison (individual member), Palo Alto, CA; Gerald Keeler (individual member), San Francisco, CA; Sadrudin Laiwala (individual member), Fremont; CA; David Laone (individual member), San Jose, CA; Zainalabedin Navabi (individual member), Boston, MA; Patrick Sullivan (individual member), Palo Alto, CA; Angela Sutton (individual member), Redwood City, CA; Joe Villella (individual member), Palo Alto, CA; and NewLogic Technologies AG, Lustenau, Austria have been added as parties to this venture. Also, 3DSP Corporation, Irvine, CA; American Microsystems, Inc., Pocatello, ID; Ando Electric Co. Ltd., Tokyo, Japan; Axys Design Automation, Irvine, CA; C Level Design, Campbell,

CA; Fluence Technology, Inc., Beaverton, OR; Fuji Xerox Co. Ltd., Kanagawa, Japan; inSilicon Corp., San Jose, CA; Intensys, San Jose, CA; MIPS Technologies, Mountain View, CA; Monterey Design Systems, Sunnyvale, CA; Paxonet Communications, Pune, Maharashtra, India; Silicon Metrics, Austin, TX; Teradyne, Inc., Agoura Hills, CA; Xilinx, San Jose, CA; Zaiq Technologies, Inc., Woburn, MA; and NewLogic Consulting & Technology GmbH, Lustenau, Austria have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 29, 1996, VSI Alliance filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on January 15, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2002 (67 FR 10763).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–13306 Filed 5–28–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection; Request Submitted for Public Comment and Recommendations; Management Information System Reporting Requirements for Youth Opportunity Grants

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paper-work Reduction Act of 1995, (PRA95)(44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data could be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly under-stood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of information collection for the management information system (MIS) reporting requirements for Youth Opportunity Grants. A copy of the current information collection request forms ETA–9086 and ETA–9087, can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on/or before July 29, 2002.

ADDRESSES: Gregg Weltz, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4511, Washington, DC 20210, telephone: 202–693–3527. (this is not a toll-free number), e-mail: *gweltz@doleta.gov.*

SUPPLEMENTARY INFORMATION:]

I. Background

Youth Opportunity Grants concentrate a large amount of resources in high-poverty neighborhoods to increase the employment, high school graduation, and college enrollment rates of youth growing up in these communities. In February 1999, the DOL announced Youth Opportunity awards to 36 urban, rural, and Native American sites. The MIS requirements for these grants currently include information on enrollee characteristics, services received, outcomes, retention in jobs and school. Youth Opportunity program operators currently maintain individual records of enrollees through an electronic method. The purpose of this collection provides grantees, services providers and the Employment and Training Administration with critical program data in order to ensure effective an efficient delivery of program services under these grants.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden and the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

The Youth Opportunity Grant program is a five year initiative. The current OMB approval instrument will expire in the middle of the third-year of program operation. In order to continue to monitor in real-time, the effective and efficient delivery of program services delivered through the grant funds for the remaining years of program operation, this collection of information is necessary. In addition, through the collection of this information the Employment and Training Administration is able to calculate the Workforce Investment Act (WIA) youth performance measures. The WIA youth performance measures data is also sent to the States in which grants are located to generate additional performance calculations that require Unemployment Insurance wage record data. Without this collection it would be impossible to generate the WIA youth performance measures, a Youth Opportunity Grant's required under the WIA legislation.

At this time, no revision will be made to the existing collection.

Cite/reference	Total respondents	Frequency	Total responses	Average	Burden
ETA–9086	36	Monthly	432	104	44,928
ETA–9087	36	Quarterly	144	48	6912
Totals					51,840

Type of Review: Extension (without change).

Agency: Employment and Training Administration.

Title: Management Information System Requirements for Youth Opportunity Grants OMB Number: 1205–0414 and Agency Number: ETA–9086 and ETA–9087.

Affected Public: Local Workforce Investment Boards and Youth Opportunity Service Providers such as community-based organizations, schools, Tribal Governments and community colleges.

Total Respondents: 36 Youth Opportunity Grantees.

Frequency: Monthly.

Total Responses: 576 each year.

Average Time Per Response: 130 hours. This is based on the following assumptions: Each site will need to enter updated information for an average of 1,250, participant records over the course of a year at an average time of one hour a year, or 104 hours per month. Sites will require an average of 16 hours to prepare each quarterly report site per month.

Estimated Total Burden Hours: 51,840 hours.

Estimated Total Burden Costs: $777,600 to maintain data collection each year.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; and they will become a matter of public record.

Dated: May 13, 2002.

Lorenzo D. Harrison,

Administrator, Office of Youth Services.

[FR Doc. 02–13404 Filed 5–28–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Eastern Associated Coal Corp.

[Docket No. M–2002–042–C]

Eastern Associated Coal Corp., 202 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.900 (Low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Rivers Edge Mine (I.D. No. 46–08890) located in Boone County, West Virginia. The petitioner proposes to use contactors instead of circuits breakers to provide undervoltage protection, ground fault, and ground monitor protection. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Lone Mountain Processing, Incorporated

[Docket No. M–2002–043–C]

Lone Mountain Processing, Incorporated, Drawer C, St. Charles, Virginia 24282 has filed a petition to modify the application of 30 CFR 75.901 (Protection of low- and medium-voltage three-phase circuits used underground) to its Darby Fork No. 1 Mine (I.D. No. 15–02263) located in Harlan County, Kentucky. The petitioner proposes to use a 480-volt, three-phase, 300KW/375VA diesel powered generator (DPG) set to supply power to a three-phase wye connected 300 KVA auto transformer and three-phase 480-volt and 995-volt power circuits. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Lone Mountain Processing, Incorporatcd

[Docket No. M–2002–044-C]

Lone Mountain Processing, Incorporated, Drawer C, St. Charles, Virginia 24282 has filed a petition to modify the application of 30 CFR 75.901 (Protection of low- and medium-voltage three-phase circuits used underground) to its Huff Creek Mine No. 1 (I.D. No. 15–17234) located in Harlan County, Kentucky. The petitioner proposes to use a 480-volt, three-phase, 300KW/375VA diesel powered generator (DPG) set to supply power to a three-phase wye connected 300 KVA auto transformer and three-phase 480-volt and 995-volt power circuits. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to "*comments@msha.gov,*" or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 28, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 22nd day of May, 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–13410 Filed 5–28–02; 8:45 am]

BILLING CODE 4510–43–P

LEGAL SERVICES CORPORATION

Board of Directors; Sunshine Act Meeting

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on June 1, 2002. The meeting will begin at 9 a.m. and continue until conclusion of the Board's agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR § 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Board's meeting of April 6, 2002.
3. Approval of the minutes of the Executive Session of the Board's meeting of April 6, 2002.
4. Chairman's Report.
5. Members' Report.
6. Acting Inspector General's Report.
7. President's Report.
8. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Service.
9. Consider and act on the report of the Board's Finance Committee.
10. Consider and act on the report of the Board's Operations and Regulations Committee.
11. Consider and act on changes to the Board's 2002 meeting schedule.

Closed Session

12. Briefing [1] by the Inspector General on the activities of the Office of Inspector General.

13. Consider and act on the Office of Legal Affairs' report on potential and pending litigation involving LSC.

Open Session

14. Consider and act on other business.

15. Public Comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: May 24, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–13560 Filed 5–24–02; 2:22 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Board of Directors Finance Committee; Sunshine Act Meeting

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet on May 31, 2002. The meeting will begin at 1:30 p.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of April 5, 2002.
3. Review of the Legal Services Corporation's Consolidated Operating Budget, Expenses and Other Funds available through April 5, 2002.
4. Review the projected operating expenses for fiscal year 2002 based on operating experience through March 31, 2002 and the required internal budgetary adjustments due to shifting priorities.
5. Consider and act on the President's recommendations for Consolidated Operating Budget reallocations.
6. Report on internal budgetary adjustments by the President and Inspector General.
7. Report on budgetary needs for fiscal year 2004.
8. Consider and act on Amendment to the LSC Flexible Benefits Plan.
9. Consider and act on other business.
10. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: May 24, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–13561 Filed 5–24–02; 2:22 pm]

BILLING CODE 7050–01–P

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(1)(2) and (b). See also 45 CFR § 1622.2 & 1622.3.

LEGAL SERVICES CORPORATION

Board of Directors Committee on Provision for the Delivery of Legal Services; Sunshine Act Meeting

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on May 31, 2002. The meeting will begin at 9 a.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of April 5, 2002.
3. Panel Discussion—Listening to the Voices of our Clients. Five legal services clients from across the country will talk about the issues and problems that brought them into a legal services office and discuss the importance of legal services in their lives.
4. Office of Program Performance (OPP) Staff Updates on Three Special Projects:

(1) Update by Cynthia Schneider, OPP Program Counsel, on LSC's Contract for Skills Training with the National Poverty Law Center.

(2) Update by Monica Holman, OPP Program Counsel, on LSC's Resource Library (a.k.a. LARRY).

(3) Update by Joyce Raby, OPP Program Analyst, and Glen Rawdon, OPP Program Counsel, on LSC's Technology Initiative.

5. Report by Randi Youells, Vice President for Programs, on the State Planning Evaluation Instrument and the Innovations in Government Award Application.
6. Report by Randi Youells on development and publication of grant assurances.
7. Consider and act on other business.
8. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel Corporate Secretary of the Corporation, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: May 24, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–13562 Filed 5–24–02; 2:22 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Board of Directors Operations and Regulations Committee; Sunshine Act Meeting

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on May 31, 2002. The meeting will begin at 2:30 p.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of April 5, 2002.
3. Staff report on the status of Current Negotiated Rulemakings: 45 CFR Part 1626 (Restrictions on Legal Assistance to Aliens); and 45 CFR Part 1611 (Eligibility).
4. Staff report on the publication of a Final Rule at 45 CFR Part 1639 (Welfare Reform).

5. Consider and act on changes to the title and qualifications for the position of Vice President for Administration.
6. Consider and act on appointment of acting Vice President for Compliance and Administration (formerly Vice President for Administration).
7. Consider and act on other business.
8. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: May 24, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–13563 Filed 5–24–02; 2:22 pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–064)]

NASA Advisory Council, Biological and Physical Research Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee.

DATES: Thursday, June 20, 2002, 10 a.m. to 6 p.m.; and Friday, June 21, 2002, 8 a.m. to 12 Noon.

ADDRESSES: National Aeronautics and Space Administration, Conference Room MIC–6, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review Recommendations
—Program Overview
—Division Reports
—Status of International Space Station
—Research Prioritization Task Force
—Education and Outreach Policy
—Review of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 21, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–13297 Filed 5–28–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Allowance For Loan and Lease Losses Methodologies and Documentation for Federally-Insured Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of final interpretive ruling and policy statement (IRPS) 02–3.

SUMMARY: The National Credit Union Administration (NCUA) is adopting an Interpretive Ruling and Policy Statement on *Allowance for Loan and Lease Losses (ALLL) Methodologies and Documentation for Federally-Insured Credit Unions* (the IRPS). The federal banking agencies recently issued a final policy statement intended to clarify the banking agencies' expectations regarding methodologies and documentation support for the ALLL. The Securities and Exchange Commission (SEC) issued parallel guidance in a Staff Bulletin. Likewise, it is necessary for the NCUA to issue analogous guidelines for federally-insured credit unions in order to clarify the NCUA's expectations regarding methodologies and documentation support for the ALLL. This IRPS is intended to provide the necessary parallel guidance for federally-insured credit unions.

The IRPS provides guidance on the design and implementation of ALLL methodologies and supporting documentation practices. The guidance recognizes that credit unions should adopt methodologies and documentation practices that are appropriate for their size and complexity.

DATES: The IRPS is effective May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Karen Kelbly, Program Officer, Office of Examination and Insurance, at the above address or telephone (703) 518–6389.

SUPPLEMENTARY INFORMATION:

I. Keypoints

- Credit union management is responsible for establishing an appropriate ALLL and documenting their methodology.
- Credit union methodologies should conform to generally accepted accounting principles (GAAP).
- Credit unions with lending portfolios comprised of homogeneous pools of consumer loans (such as credit card and automobile loans) and mortgage loans will find methodology and documentation requirements discussed herein to be less burdensome than those for credit unions with lending portfolios comprised of larger-balance, non-homogeneous loans. Simply put, credit unions must review all loans (by groups, as appropriate) for relevant internal and external factors, loss history, collateral values, and methods to ensure they are applied consistently when estimating probable existing losses but, when appropriate, modify loss estimates for new factors affecting collectibility.
- The Statement of Financial Accounting Standard (FAS) 5 discussions throughout this document will be most relevant to the majority of credit unions.
- Independent review of management's methodology and documentation practices by the supervisory committee, internal or external auditors is emphasized.
- Illustrations are provided that may be useful to a credit union in enhancing their own ALLL estimation methodology and documentation practices.

II. Background

On March 10, 1999, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Securities and Exchange Commission (the Agencies) issued a joint letter to financial institutions on the allowance for loan and lease losses (the Joint Letter). In the Joint Letter, the Agencies agreed to establish a Joint Working Group to study ALLL issues and to assist financial institutions by providing them with improved guidance on this topic. The Agencies agreed that the Joint Working Group would develop and issue parallel guidance for two key areas regarding the ALLL:

- Appropriate methodologies and supporting documentation, and
- Enhanced disclosures.

As a result, the banking agencies issued a final Policy Statement providing guidance to banks and savings institutions relating to methodologies and supporting documentation for the ALLL. The Securities and Exchange Commission staff has issued parallel guidance on this topic for public companies in Staff Accounting Bulletin No. 102.[1] This IRPS is intended to provide parallel guidance for federally-insured credit unions.

This IRPS clarifies the NCUA's expectations regarding methodologies and documentation support for the ALLL. For financial reporting purposes, including regulatory reporting, the provision for loan and lease losses and the ALLL must be determined in accordance with generally accepted accounting principles (GAAP). GAAP requires that a credit union maintain written documentation to support the amounts of the ALLL and the provision for loan and lease losses reported in the financial statements.

The IRPS does not change existing accounting guidance in, or modify the documentation requirements of, GAAP. It is intended to supplement, not replace, current guidance. The IRPS does not address or change current guidance regarding loan charge-offs; therefore, credit unions should continue to follow existing regulatory guidance that addresses the timing of charge-offs.

The guidance in this IRPS recognizes that credit unions should adopt methodologies and documentation practices that are appropriate for their size and complexity. For credit unions with fewer and less complex loan products, the amount of supporting documentation for the ALLL may be less exhaustive than for credit unions with more complex loan products or portfolios.

Recognizing that a primary mission of the NCUA is to support a safe and sound credit union system, examiners will continue to evaluate the overall adequacy of the ALLL, including the adequacy of supporting documentation, to ensure that it is appropriate. While the IRPS generally does not provide guidance to examiners in conducting safety and soundness examinations, examiners may take exception to credit union practices that fail to document and maintain an adequate ALLL in accordance with this IRPS, and other NCUA guidance. In such cases, credit union management may be cited for engaging in unsafe and unsound practices and may be subject to further supervisory action.

[1] In addition, the American Institute of Certified Public Accountants (AICPA) is developing guidance on the accounting for loan losses and the techniques for measuring probable losses in a loan portfolio.

III. The Proposed IRPS

The NCUA sought public comment on a proposed IRPS on ALLL methodologies and documentation practices for credit unions on October 26, 2001 (66 FR 54290). The proposal indicated that the purpose of the policy statement was to provide federally-insured credit unions with enhanced guidance on appropriate ALLL methodologies and documentation practices.

The proposed IRPS explained that the board of directors of each federally-insured credit union is responsible for ensuring that controls are in place to determine the appropriate level of the ALLL. It also emphasized the NCUA's long-standing position that credit unions should maintain and support the ALLL with documentation that is consistent with their stated policies and procedures, GAAP, and applicable supervisory guidance.

The proposed IRPS described significant aspects of ALLL methodologies and documentation practices. Specifically, the proposal provided guidance on maintaining and documenting policies and procedures that are appropriately tailored to the size and complexity of the credit union and its loan portfolio. The proposed IRPS stated that a credit union's ALLL methodology must be a thorough, disciplined, and consistently applied process that incorporates management's current judgments about the credit quality of the loan portfolio.

The proposal also discussed the methodology and documentation needed to support ALLL estimates prepared in accordance with GAAP, which requires loss estimates based upon reviews of individual loans and groups of loans. The proposal stated that after determining the allowance on individually reviewed loans and groups of loans, management should consolidate those loss estimates and summarize the amount to be reported in the financial statements for the ALLL. To verify that the ALLL methodology is effective and conforms to GAAP and supervisory guidance, the supervisory committee, the internal or external auditors or some other designated party who is independent from the ALLL estimation process should review the methodology and its application in a manner appropriate to the size and complexity of the credit union.

The proposal included illustrations of implementation practices that credit unions may find useful for enhancing their own ALLL practices; a summary of applicable GAAP guidance; an appendix that provided examples of certain key aspects of ALLL guidance; and a bibliographical list of relevant GAAP guidance, joint interagency statements, and other literature on ALLL issues.

IV. Discussion of Public Comments

A. General Comments

The NCUA received thirteen letters commenting on the proposed IRPS. Five of the letters were received from credit unions; four were received from credit union league groups; two letters were from credit union trade groups; one letter was from another credit union group; and one letter came from a banking trade group.

Overall, eight of the thirteen commenters supported the IRPS: three favoring the IRPS and welcoming the guidance and policy clarification; five others supporting the IRPS but expressing cautious approval. One of the eight summarized the flavor of the comments well in pointing out that the IRPS was an enhancement to current guidelines; provided a given framework without endorsing a fixed formula; and provided valuable discussion points on generally accepted accounting principles (GAAP). Another of the eight welcomed the IRPS guidance as offering areas of policy clarification. One commenter welcomed the IRPS guidance arguing that a new process is needed to replace the outdated historical loss approach. Other favorable comments included approval of the useful appendix illustrations; appreciation for the discussion points on FAS 5 and FAS 114 as particularly helpful; and acknowledgement that the policy recognized that credit unions with homogeneous pools of consumer loans should have a lesser burden. A banking trade group supported the effort and encouraged the NCUA to issue identical guidance to credit unions as the other regulators issue for banks.

One commenter was unclear in setting forth his position as either favoring or opposing the IRPS. Another commenter expressed the view that current practices within its credit union satisfied the major points in the IRPS. He understood that the guidance did not attempt to expand current GAAP requirements and allowed credit unions to continue to use judgment in implementing loan loss estimation methodologies that are appropriate to individual credit unions.

The NCUA believes that credit unions currently complying with GAAP should not need to dedicate additional resources to create or support the ALLL

included in their regulatory reports. The NCUA has expected credit unions to follow GAAP, as it applies to the ALLL, for regulatory reporting purposes for a number of years. The IRPS is consistent with existing GAAP, which requires that allowances be well documented, with clear explanations of the supporting analysis and rationale. The NCUA encourages credit unions to carefully evaluate their current ALLL methodologies and supporting documentation practices as well as other credit risk management practices and reports before making significant changes to their current practices or creating new processes, reports, or other supporting documents in order to follow this guidance.

Two of the thirteen commenters opposed the change outright both arguing it would impose a regulatory burden without a corresponding benefit. One of these categorized the IRPS as an extensive policy change and the other objected to the documentation requirements. These comments are discussed more fully below in the section dealing with "IRPS Burden on Small Credit Unions".

The remaining commenter expressed caution and anticipated overly-zealous agency enforcement of the IRPS, fearing that the examiners would likely challenge the ALLL result even when the methodology had been validated by a third party. The NCUA plans several initiatives to update examiner directives and train examiners in the less familiar aspects of the IRPS. The Board does not anticipate an unreasonable enforcement of the IRPS with regard to affected credit unions.

B. Board Approval Requirement

The proposed IRPS required that amounts to be reported each period for the provision for loan and lease losses and the ALLL should be reviewed and approved by the board of directors. The NCUA did not intend through this language to expand the board of directors responsibilities beyond those that currently exist.

Two commenters that favored the IRPS proposal and one that opposed it objected to the referenced language. One of these three stated that it was inappropriate to require the board of directors by regulatory ruling to provide such approvals. Another suggested it was unwise to add responsibilities on credit union boards of directors at a time when attracting qualified volunteers was becoming increasingly difficult. Each argued that boards should have oversight over the methodology used, periodically validating the methodology and ensuring it was revised when appropriate; but, otherwise, not be required to provide approvals.

At present, boards of directors are responsible for approving ALLL policies and attesting to the validity of the regulatory reports, which includes the ALLL. While the board of directors has ultimate responsibility for these functions, daily administration of policies and recordkeeping may be delegated to operating management. The IRPS includes the statement that the scope of board of directors' responsibilities is not changed or expanded with the issuance of this Policy Statement.

C. Independent Review of ALLL

The proposed IRPS required that credit union policies governing the ALLL methodology should include procedures for a review, by a party who is independent of the ALLL estimation process, of the ALLL methodology and its application in order to confirm its effectiveness. Further, the supervisory or audit committee should oversee and monitor the internal controls over the ALLL determination process.

Three commenters request modifications to the IRPS language. One opposed this provision outright arguing that an independent review carries little or no weight at the examiner level. One argued that since the supervisory committee could delegate these functions to the internal or external auditor, the IRPS should acknowledge that fact. The third stated it was inappropriate and unnecessary to require, by regulatory ruling, that the oversight and monitoring of the internal controls over the ALLL determination process is a specific responsibility of the supervisory committee.

The NCUA did not intend through this language to expand the supervisory committee's responsibilities beyond those that currently exist. The supervisory committee's responsibilities with regard to oversight and monitoring of the internal controls over the ALLL determination process are already encompassed within its general responsibilities set forth in § 715.3 of the NCUA Rules and Regulations. The IRPS simply highlights and reinforces the supervisory committee's role (which may be delegated to the internal or external auditor) with regard to the ALLL estimation process and specifically, its role in the independent review of management's implementation of the board's policies with regard to the process. The Board believes the IRPS guidance would be deficient if it failed to mention and reinforce this role.

D. IRPS Burden On Small Credit Unions

The IRPS provided in several places that credit unions currently complying with GAAP should not need to dedicate additional resources to create or support the ALLL included in regulatory reports. Essentially, those credit unions currently following GAAP should not be greatly affected by the IRPS nor find their current practices in need of substantial change.

One commenter acknowledged that the current practices within his credit union satisfy the major points in the IRPS. However, two other commenters did not agree: one of these, opposed to the IRPS generally, argued that the additional regulatory burden it will impose is without a corresponding benefit. The other commenter objected that the IRPS imposes a needless burden to credit unions; that the ALLL within credit unions is not systemically deficient; and that they support a simpler rule without adding new burden to credit union management and board members. Further, this commenter opposed a particular methodology.

The IRPS provides throughout that if a credit union is currently complying with GAAP in its ALLL estimation practices and methodology, the IRPS will not substantially change current practice. The guidance in the IRPS includes a broad description of the steps taken during the ALLL estimation process that must be documented. The types of documentation described in the examples illustrate that management has considerable flexibility in determining the appropriate level and type of supporting documentation given the type of loans and associated credit risks being evaluated. Additionally, the guidance specifically states that credit unions with less complex products or portfolios may consider combining some of the procedures outlined in the proposed guidance. Furthermore, when appropriate, these credit unions may use documentation that is already being generated for other purposes to support their ALLLs. The NCUA believes these suggestions will assist these credit unions in supporting their ALLLs without any unnecessary burden.

E. Statement of Financial Accounting Standard (FAS) 5

The proposed IRPS included a discussion of relevant GAAP particularly FAS 5 and FAS 114, and provides illustrations of how the two standards work in tandem.

One commenter suggested that small credit unions should not have to apply either FAS 5 or FAS 114, but that NCUA

should develop a simplistic methodology for their use. FAS 5 and FAS 114 comprise GAAP and all credit unions must comply with GAAP in their ALLL estimation process: credit unions under $10 million in assets must comply with GAAP in their ALLL estimation process in order to meet full and fair disclosure requirements of the NCUA Rules and Regulations; in addition, credit unions with $10 million or more in assets must comply with GAAP under requirements of the Federal Credit Union Act as amended by the Credit Union Membership Access Act. However, the IRPS does concede a lesser methodology and documentation burden for less complex credit unions.

Another commenter, generally favoring the IRPS, acknowledged that the IRPS approach is technically accurate but argued that it does not protect the National Credit Union Share Insurance Fund (NCUSIF) by building a cushion in good times to cover losses in bad times. The commenter is correct. The GAAP rules, aimed at fair presentation of financial statements, are predicated on an "incurred loss" accounting model for estimating loan losses rather than an "expected loss" model; the latter model is arguably more favorable in cushioning against future losses. Nonetheless, the entire ALLL must be determined in accordance with GAAP and supported with adequate documentation. Credit unions are already required to follow GAAP (incurred loss model) when determining the ALLL and the guidance does not change existing GAAP; therefore, following this IRPS should not result in material adjustments to the ALLL by credit unions currently following GAAP.

A third commenter addressed the requirement that homogeneous pools be segmented based on predominant risk characteristics. The commenter expressed concern about the examiners interpretation of this provision and strongly advocated for additional examiner guidance. This commenter also suggested the final IRPS omit the paragraph dealing with loss estimation models. The NCUA agrees that examiner guidance will be needed and will be following the issuance of this IRPS with Examiner Guide revisions and examiner education to ensure the smooth implementation of this policy. The Board considered the elimination of the loss estimation models paragraph but determined there was merit to segments of the credit union population in retaining the paragraph.

A final commenter wanted the NCUA to emphasize that obtaining an appropriate ALLL that correctly recognizes risk is more important than the minute details of the methodology. The NCUA agrees but acknowledges that a sound methodology ensures an appropriate ALLL. This commenter also wants NCUA to recognize in the guidance that many credit unions are already abiding by these practices. The NCUA agrees this statement is true and believes the guidance recognizes this fact.

F. Statement of Financial Accounting Standard (FAS) 114

The proposed IRPS discussed GAAP generally and FAS 114 specifically. FAS 114 deals with individual classification of large-balance, non-homogeneous loans which for credit unions will predominantly consist of business and agricultural loans.

One commenter suggested that rarely will a credit union have such a loan, and if they do, it is unlikely they will have the means to analyze and calculate the present value of future cash flows. He believes FAS 114 is intended to provide job security to CPAs. This commenter further suggested that the vast majority of credit unions will have loans within the scope of FAS 5, *i.e.*, smaller balance, homogeneous pools of consumer loans. He encouraged parameters defining "larger balance" for each of consumer loans and commercial loans. The NCUA agrees that the vast majority of credit unions will have loans within the scope of FAS 5 and that it will be only the most complex credit unions that may have a large balance business loan within the scope of FAS 114 requiring individual classification. Nonetheless, the NCUA resists setting parameters defining "larger balance" as to do so would eliminate the intended discretion the Financial Accounting Standards Board (FASB) preserved in promulgating FAS 114. The IRPS includes illustrations to help guide a credit union's judgment as it implements the guidance.

In the Q&A Appendix to the IRPS, question #2 discusses "a $750,000 loan outstanding that is secured by real estate, which Credit Union B individually evaluates under FAS 114 *due to the loan's size* (emphasis added)." The example was originally published by the banking agencies as collateralized at $10 million. When drafting the proposed IRPS, NCUA staff reduced the dollar threshold from the $10 million level to make the example more realistic in relation to a credit union. Clearly only large balance, non-homogeneous loans are scoped within FAS 114, and since rarely would a credit union have a large balance, real estate-secured loan within the scope of FAS 114 unless it were a business loan, staff have concluded that the collateral value reduction included when drafting the proposed rule has proved misleading to readers of the IRPS in a proper interpretation of FAS 114. Accordingly, the dollar threshold for real estate collateral in the Q&A example for purposes of applying FAS 114 has been raised to the $10 million threshold consistent with the banking agencies similar policy statement.

G. Miscellaneous

The proposed IRPS mentioned that the American Institute of Certified Public Accountants (AICPA) is drafting and intends to issue a Statement of Position setting forth further GAAP with regard to the ALLL. Two commenters suggest the NCUA wait to issue its final IRPS until the AICPA issues its final SOP. Because the IRPS provides beneficial clarifying guidance within existing GAAP, and since the SOP document has yet to be advanced through the accounting standard-setting due process, NCUA chooses to proceed with issuing this IRPS. The AICPA continues to develop its guidance, and the NCUA along with the banking agencies are closely monitoring and actively contributing to that process.

One commenter objected to footnote language that seemed to obligate all insured credit unions to have a supervisory or audit committee. They argued the footnote language is inconsistent with the construction of Title II of the Federal Credit Union Act and applicable parts of the NCUA Rules and Regulations. Because of differing state requirements and the fact that some state credit unions have audit committees rather than supervisory committees, the footnote has been amended to provide that while federal credit unions are required to establish a supervisory committee; and while state chartered credit unions are encouraged to have either a supervisory or audit committee, in credit unions without either a supervisory or an audit committee, the board of directors retains this responsibility. The revised footnote more closely parallels a similar footnote included in the banking agencies' related final interagency policy statement.

One commenter noted that, for purposes of the Regulatory Flexibility Act (RFA), the Board considers credit unions under $1 million in assets to be small credit unions. The commenter suggested that the Board use a threshold of $10 million instead of $1 million. In suggesting that the threshold be raised, they argue that credit unions under $10 million do not need to comply with GAAP in funding the ALLL. NCUA regulations mandate, however, that credit unions under $1 million be considered as small for purposes of the RFA. See 12 CFR 791.8(a) and Interpretive Ruling and Policy Statement 87–2. Additionally, all credit unions regardless of asset size must comply with GAAP in funding the allowance as discussed above in the section dealing with FAS 5.

V. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires that NCUA prepare an analysis describing any significant economic impact agency rulemaking may have on a substantial number of small credit unions. 5 U.S.C. 601 *et seq.* For purposes of this analysis, NCUA considers credit unions under $1 million in assets as small credit unions.

Credit unions over $10 million in assets must follow GAAP in the call reports they file with the NCUA Board. All other credit unions must comply with GAAP in relation to the ALLL in order to meet regulatory requirements of full and fair disclosure. This IRPS describes simplified ALLL requirements for the less complex loan activities that small credit unions engage in. For example, small credit unions may satisfy their ALLL responsibilities with consolidated documentation, the use of standardized checklists and worksheets, and simplified loan categorizations and segmentation. Accordingly, the NCUA has determined and certifies that this IRPS will not have a significant economic impact on a substantial number of small credit unions beyond what is already required of them.

Paperwork Reduction Act

NCUA has determined that this IRPS does not increase paperwork requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order.

This IRPS applies to all credit unions, but does not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this IRPS does not constitute a policy that has federalism implications for purposes of the executive order.

By the National Credit Union Administration Board, on May 16, 2002.

Becky Baker,

Secretary of the Board.

Authority: 12 U.S.C. 1782a; 12 CFR 702.402.

IRPS 02–3 is as follows:

Interpretive Ruling and Policy Statement No. 02–3

Allowance for Loan and Lease Losses, Methodologies and Documentation for Federally-Insured Credit Unions (IRPS 02–3)

Boards of directors of federally-insured credit unions are responsible for ensuring that their credit unions have controls in place to consistently determine the allowance for loan and lease losses (ALLL) in accordance with the credit union's stated policies and procedures, generally accepted accounting principles (GAAP), and ALLL supervisory guidance.[1] To fulfill this responsibility, boards of directors instruct management to develop and maintain an appropriate, systematic, and consistently applied process to determine the amounts of the ALLL and provisions for loan losses. Management should create and implement suitable policies and procedures to communicate the ALLL process internally to all applicable personnel. Regardless of who develops and implements these policies, procedures, and the underlying controls, the board of directors should assure themselves that the policies specifically address the credit union's unique goals, systems, risk profile, personnel, and other resources before approving them. Additionally, by creating an environment that encourages personnel to follow these policies and procedures, management improves procedural discipline and compliance.

The determination of the amounts of the ALLL and provisions for loan and lease losses should be based on management's current judgments about the credit quality of the loan portfolio, and should consider all known relevant internal and external factors that affect loan collectibility as of the reporting date. The amounts to be reported each period for the provision for loan and lease losses and the ALLL should be reviewed and approved by the board of directors. To ensure the methodology remains appropriate for the credit union, the board of directors should have the methodology periodically validated and, if appropriate, revised. Further, the supervisory or audit committee[2] should oversee and monitor the internal controls over the ALLL determination process.[3]

The NCUA has a long-standing examination policy that calls for examiners to review a credit union's lending and loan review functions and recommend improvements, if needed. Agency guidance assists a credit union in estimating and establishing a sufficient ALLL supported by adequate documentation.

Additionally, guidance requires operational and managerial standards that are appropriate for a credit union's size and the nature and scope of its activities.

For financial reporting purposes, including regulatory reporting, the provision for loan and lease losses and the ALLL must be determined in accordance with GAAP. GAAP requires that allowances be well documented, with clear explanations of the supporting analyses and rationale.[4] This IRPS describes but does not increase the documentation requirements already existing within GAAP. Failure to maintain, analyze, or support an adequate ALLL in accordance with GAAP and supervisory

[1] A bibliography is attached that lists applicable ALLL GAAP guidance, interagency policy statements, and other reference materials that may assist in understanding and implementing an ALLL in accordance with GAAP. See "Application of GAAP" section for additional information on applying GAAP to determine the ALLL.

[2] All federal credit unions must establish a supervisory committee. If a federally insured state chartered credit union does not have either a supervisory or audit committee, the board of directors retains this responsibility.

[3] Credit union supervisory or audit committees and their auditors should refer to Statement on Auditing Standards No. 61, *Communication With Audit Committees* (as amended by Statement on Auditing Standards No. 90, *Audit Committee Communications*), which requires certain discussions between the auditor and the audit committee. These discussions should include items, such as accounting policies and estimates, judgments, and uncertainties, that have a significant impact on the accounting information included in the financial statements.

[4] The documentation guidance within this IRPS is predominantly based upon the GAAP guidance from Financial Accounting Standards Board Statement Numbers 5 and 114 (FAS 5 and FAS 114, respectively); Emerging Issues Task Force Topic No. D–80 (EITF Topic D–80 and attachments), *Application of FASB Statements No. 5 and No. 114 to a Loan Portfolio* (which includes the *Viewpoints* Article—an article issued in 1999 by FASB staff providing guidance on certain issues regarding the ALLL, particularly on the application of FAS 5 and FAS 114 and how these statements interrelate), and Chapter 6— *Allowance for Loan Losses*, the American Institute of Certified Public Accountants' (AICPA) Audit and Accounting Guide, *Audits of Credit Unions 2000* edition (AICPA Audit Guide).

guidance is generally an unsafe and unsound credit union practice.[5]

This guidance applies equally to all credit unions, regardless of the size. However, credit unions with less complex lending activities and products may find it more efficient to combine a number of procedures (e.g., information gathering, documentation, and internal approval processes) while continuing to ensure the credit union has a consistent and appropriate methodology. Thus, much of the supporting documentation required for a credit union with more complex products or portfolios may be combined into fewer supporting documents in a credit union with less complex products or portfolios. For example, simplified documentation can include spreadsheets, check lists, and other summary documents that many credit unions currently use. Illustrations B and D provide specific examples of how less complex credit unions may determine and document portions of their ALLL.

Documentation Standards

Appropriate written supporting documentation facilitates review of the ALLL process and reported amounts, builds discipline and consistency into the ALLL determination process, and improves the process for estimating loan and lease losses by helping to ensure that all relevant factors are appropriately considered in the ALLL analysis. A credit union should document the relationship between the findings of its detailed review of the loan portfolio and the amount of the ALLL and the provision for loan and lease losses reported in each period.

At a minimum, credit unions should maintain written supporting documentation for the following decisions, strategies, and processes:

1. Policies and procedures:
   a. Over the systems and controls that maintain an appropriate ALLL, and
   b. Over the ALLL methodology,
2. Loan grading system or process,
3. Summary or consolidation of the ALLL balance,
4. Validation of the ALLL methodology, and
5. Periodic adjustments to the ALLL process.

The following sections of this IRPS provide guidance on significant aspects of ALLL methodologies and documentation practices. Specifically, this IRPS provides documentation guidance on:

1. Application of GAAP,
2. Policies and Procedures,
3. Methodology,
4. ALLL Under FASB Statement of Financial Accounting Standards No. 114, *Accounting by Creditors for Impairment of a Loan* (FAS 114),
5. ALLL Under FASB Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies* (FAS 5),
6. Consolidating the Loss Estimates, and
7. Validating the ALLL Methodology.

Application of GAAP

An ALLL recorded pursuant to GAAP is a credit union's best estimate of the probable amount of loans and lease-financing receivables that it will be unable to collect based on current information and events.[6] A creditor should record an ALLL when the criteria for accrual of a loss contingency as set forth in GAAP have been met. Estimating the amount of an ALLL involves a high degree of management judgment and is inevitably imprecise. Accordingly, a credit union may determine that the amount of loss falls within a range. A credit union should record its best estimate within the range of loan losses.[7]

Under GAAP, Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies* (FAS 5), provides the basic guidance for recognition of a loss contingency, such as the collectibility of loans (receivables), when it is probable that a loss has been incurred and the amount can be reasonably estimated. Statement of Financial Accounting Standards No. 114, *Accounting by Creditors for Impairment of a Loan* (FAS 114) provides more specific guidance about the measurement and disclosure of impairment for certain types of loans.[8] Specifically, FAS 114 applies to loans that are identified for evaluation on an individual basis. Loans are considered impaired when, based on current information and events, it is probable that the creditor will be unable to collect all interest and principal payments due according to the contractual terms of the loan agreement.

For individually impaired loans, FAS 114 provides guidance on the acceptable methods to measure impairment. Specifically, FAS 114 states that when a loan is impaired, a creditor should measure impairment based on the present value of expected future principal and interest cash flows discounted at the loan's effective interest rate, except that as a practical expedient, a creditor may measure impairment based on a loan's observable market price or the fair value of collateral, if the loan is collateral dependent. When developing the estimate of expected future cash flows for a loan, a credit union should consider all available information reflecting past events and current conditions, including the effect of existing environmental factors. The Illustration A provides an example of a credit union estimating a loan's impairment when the loan has been partially charged-off.[9]

Large groups of smaller-balance homogeneous loans that are collectively evaluated for impairment are not included in the scope of FAS 114.[10] Such groups of loans may include, but are not limited to, credit card, residential mortgage, and consumer installment loans. FAS 5 addresses the accounting for impairment of these loans. Also, FAS 5 provides the accounting guidance for impairment of loans that are not identified for evaluation on an individual basis and loans that are individually evaluated but are not individually considered impaired.

[5] Failure to maintain adequate supporting documentation does not relieve a credit union of its obligation to record an appropriate ALLL.

[6] This section provides guidance on the ALLL and does not address allowances for credit losses for off-balance sheet instruments (e.g., loan commitments, guarantees, and standby letters of credit). Credit unions should record liabilities for these exposures in accordance with GAAP. Further guidance on this topic is presented in the American Institute of Certified Public Accountants' Audit and Accounting Guide, *Audits of Credit Unions*, 2000 edition (AICPA Audit Guide). Additionally, this section does not address allowances or accounting for assets or portions of assets sold with recourse, which is described in Statement of Financial Accounting Standards No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities—a Replacement of FASB Statement No. 125* (FAS 140).

[7] Refer to FASB Interpretation No. 14, *Reasonable Estimation of the Amount of a Loss*, and Emerging Issues Task Force Topic No. D-80, *Application of FASB Statements No. 5 and No. 114 to a Loan Portfolio* (EITF Topic D–80).

[8] Emerging Issues Taskforce (EITF) Topic D–80 includes additional guidance on the requirements of FAS 5 and FAS 114 and how they relate to each other. The AICPA is currently developing a Statement of Position (SOP) that will provide more specific guidance on accounting for loan losses.

[9] The referenced "gray box" illustrations are presented to assist credit unions in evaluating how to implement the guidance provided in this document. The methods described in the illustrations may not be suitable for all credit unions and are not considered required processes or actions. For additional descriptions of key aspects of ALLL guidance, a series of ALLL Questions and Answers (Q&As) are included in Appendix A of this paper.

[10] In addition, FAS 114 does not apply to loans measured at fair value or at the lower of cost or fair value, leases, or debt securities.

ILLUSTRATION A

INTERACTION OF FAS 114 WITH AN ADVERSELY CLASSIFIED LOAN, PARTIAL CHARGE-OFF, AND THE OVERALL ALLL

A credit union determined that a collateral dependent loan, which it identified for evaluation, was impaired. In accordance with FAS 114, the credit union established an ALLL for the amount that the recorded investment in the loan exceeded the fair value of the underlying collateral, less costs to sell.

Consistent with relevant regulatory guidance, the credit union classified as "Loss," the portion of the recorded investment deemed to be the confirmed loss, and classified the remaining recorded investment as "Substandard." For this loan, the amount classified "Loss" was less than the impairment amount (as determined under FAS 114). The credit union charged off the "Loss" portion of the loan. After the charge-off, the portion of the ALLL related to this "Substandard" loan (1) reflects an appropriate measure of impairment under FAS 114, and (2) is included in the aggregate FAS 114 ALLL for all loans that were identified for evaluation and individually considered impaired. The aggregate FAS 114 ALLL is included in the credit union's overall ALLL.

Credit unions should ensure that they do not layer their loan loss allowances. Layering is the inappropriate practice of recording in the ALLL more than one amount for the same probable loan loss. Layering can happen when a credit union includes a loan in one segment, determines its best estimate of loss for that loan either individually or on a group basis (after taking into account all appropriate environmental factors, conditions, and events), and then includes the loan in another group, which receives an additional ALLL amount.[11]

While different credit unions may use different methods, there are certain common elements that should be included in any loan loss allowance methodology. Generally, a credit union's methodology should:[12]

1. Include a detailed analysis of the loan portfolio, performed on a regular basis;
2. Consider all loans (whether on an individual or group basis);
3. Identify loans to be evaluated for impairment on an individual basis under FAS 114 and segment the remainder of the portfolio into groups of loans with similar risk characteristics for evaluation and analysis under FAS 5;
4. Consider all known relevant internal and external factors that may affect loan collectibility;
5. Be applied consistently but, when appropriate, be modified for new factors affecting collectibility;
6. Consider the particular risks inherent in different kinds of lending;
7. Consider current collateral values (less costs to sell), where applicable;
8. Require that analyses, estimates, reviews and other ALLL methodology functions be performed by competent and well-trained personnel;
9. Be based on current and reliable data;
10. Be well documented with clear explanations of the supporting analyses and rationale; and
11. Include a systematic and logical method to consolidate the loss estimates and ensure the ALLL balance is recorded in accordance with GAAP.

A systematic methodology that is properly designed and implemented should result in a credit union's best estimate of the ALLL. Accordingly, credit unions should adjust their ALLL balance, either upward or downward, in each period for differences between the results of the systematic determination process and the unadjusted ALLL balance in the general ledger.[13]

Policies and Procedures

Credit unions use a wide range of policies, procedures, and control systems in their ALLL process. Sound policies should be appropriately tailored to the size and complexity of the credit union and its loan portfolio.

In order for a credit union's ALLL methodology to be effective, the credit union's written policies and procedures for the systems and controls that maintain an appropriate ALLL should address but not be limited to:

(1) The roles and responsibilities of the credit union's departments and personnel (including the lending function, credit review, financial reporting, internal audit, senior management, audit committee, board of directors, and others, as applicable) who determine, or review, as applicable, the ALLL to be reported in the financial statements;

(2) The credit union's accounting policies for loans and loan losses, including the policies for charge-offs and recoveries and for estimating the fair value of collateral, where applicable;

(3) The description of the credit union's systematic methodology, which should be consistent with the credit union's accounting policies for determining its ALLL;[14] and

(4) The system of internal controls used to ensure that the ALLL process is maintained in accordance with GAAP and supervisory guidance.

An internal control system for the ALLL estimation process should:

(1) Include measures to ensure the reliability and integrity of information

[11] According to the Federal Financial Institutions Examination Council's Federal Register Notice, *Implementation Issues Arising from FASB Statement No. 114, Accounting by Creditors for Impairment of a Loan*, published February 10, 1995, institution-specific issues should be reviewed when estimating loan losses under FAS 114. This analysis should be conducted as part of the evaluation of each individual loan reviewed under FAS 114 to avoid potential ALLL layering.

[12] Refer to paragraph 6.04–6.10 of the AICPA Audit Guide.

[13] For informational purposes, credit unions may want to refer to the guidance on materiality provided in SEC Staff Accounting Bulletin No. 99, *Materiality*.

[14] Further explanation is presented in the Methodology section that appears below.

and compliance with laws, regulations, and internal policies and procedures;

(2) Reasonably ensure that the credit union's financial statements (including regulatory reports) are prepared in accordance with GAAP and ALLL supervisory guidance; and

(3) Include a well-defined loan review process containing:

(a) An effective loan grading system that is consistently applied, identifies differing risk characteristics and loan quality problems accurately and in a timely manner, and prompts appropriate administrative actions;

(b) Sufficient internal controls to ensure that all relevant loan review information is appropriately considered in estimating losses. This includes maintaining appropriate reports, details of reviews performed, and identification of personnel involved; and

(c) Clear formal communication and coordination between a credit union's credit administration function, financial reporting group, management, board of directors, and others who are involved in the ALLL determination process or review process, as applicable (*e.g.*, written policies and procedures, management reports, audit programs, and committee minutes).

Methodology

An ALLL methodology is a system that a credit union designs and implements to reasonably estimate loan and lease losses as of the financial statement date. It is critical that ALLL methodologies incorporate management's current judgments about the credit quality of the loan portfolio through a disciplined and consistently applied process.

A credit union's ALLL methodology is influenced by credit union-specific factors, such as a credit union's size, organizational structure, business environment and strategy, management style, loan portfolio characteristics, loan administration procedures, and management information systems. However, there are certain common elements a credit union should incorporate in its ALLL methodology. A summary of common elements was provided in *Application of GAAP* section of this IRPS.[15]

Documentation of ALLL Methodology in Written Policies and Procedures

A credit union's written policies and procedures should describe the primary elements of the credit union's ALLL methodology, including portfolio segmentation and impairment measurement. In order for a credit union's ALLL methodology to be effective, the credit union's written policies and procedures should describe the methodology:

(1) For segmenting the portfolio:

(a) How the segmentation process is performed (*i.e.*, by loan type, industry, risk rates, *etc.*),

(b) When a loan grading system is used to segment the portfolio:

(i) The definitions of each loan grade,

(ii) A reconciliation of the internal loan grades to supervisory loan grades, and

(iii) The delineation of responsibilities for the loan grading system.

(2) For determining and measuring impairment under FAS 114:

(a) The methods used to identify loans to be analyzed individually;

(b) For individually reviewed loans that are impaired, how the amount of any impairment is determined and measured, including:

(i) Procedures describing the impairment measurement techniques available and

(ii) Steps performed to determine which technique is most appropriate in a given situation.

(c) The methods used to determine whether and how loans individually evaluated under FAS 114, but not considered to be individually impaired, should be grouped with other loans that share common characteristics for impairment evaluation under FAS 5.

(3) For determining and measuring impairment under FAS 5:

(a) How loans with similar characteristics are grouped to be evaluated for loan collectibility (such as loan type, past-due status, and risk);

(b) How loss rates are determined (*e.g.*, historical loss rates adjusted for environmental factors or migration analysis) and what factors are considered when establishing appropriate time frames over which to evaluate loss experience; and

(c) Descriptions of qualitative factors (*e.g.*, industry, geographical, economic and political factors) that may affect loss rates or other loss measurements.

The supporting documents for the ALLL may be integrated in a credit union's credit files, loan review reports or worksheets, board of directors' and committee meeting minutes, computer reports, or other appropriate documents and files.

ALLL Under FAS 114

A credit union's ALLL methodology related to FAS 114 loans begins with the use of its normal loan review procedures to identify whether a loan is impaired as defined by the accounting standard. Credit unions should document:

(1) The method and process for identifying loans to be evaluated under FAS 114 and

(2) The analysis that resulted in an impairment decision for each loan and the determination of the impairment measurement method to be used (*i.e.*, present value of expected future cash flows, fair value of collateral less costs to sell, or the loan's observable market price).

Once a credit union has determined which of the three available measurement methods to use for an impaired loan under FAS 114, it should maintain supporting documentation as follows:

(1) When using the present value of expected future cash flows method:

(a) The amount and timing of cash flows,

(b) The effective interest rate used to discount the cash flows, and

(c) The basis for the determination of cash flows, including consideration of current environmental factors and other information reflecting past events and current conditions.

(2) When using the fair value of collateral method:

(a) How fair value was determined, including the use of appraisals, valuation assumptions, and calculations,

(b) The supporting rationale for adjustments to appraised values, if any,

(c) The determination of costs to sell, if applicable, and

(d) Appraisal quality, and the expertise and independence of the appraiser.

(3) When using the observable market price of a loan method:

(a) The amount, source, and date of the observable market price.

Illustration B describes a practice used by a small credit union to document its FAS 114 measurement of impairment using a comprehensive worksheet. Q&A #1 and #2 in Appendix A provide examples of applying and documenting impairment measurement methods under FAS 114.

Some loans that are evaluated individually for impairment under FAS 114 may be fully collateralized and therefore require no ALLL. Q&A #3 in Appendix A presents an example of a credit union whose loan portfolio includes fully collateralized loans and describes the documentation maintained by that credit union to support its conclusion that no ALLL was needed for those loans.

[15] Also, refer to paragraph 6.04–6.10 of the AICPA Audit Guide, 2000 edition.

ILLUSTRATION B
DOCUMENTING AN ALLL UNDER FAS 114

Comprehensive worksheet for the impairment measurement process

A small credit union uses a comprehensive worksheet for each loan being reviewed individually under FAS 114. Each worksheet includes a description of why the loan was selected for individual review, the impairment measurement technique used, the measurement calculation, a comparison to the current loan balance, and the amount of the ALLL for that loan. The rationale for the impairment measurement technique used (e.g., present value of expected future cash flows, observable market price of the loan, fair value of the collateral) is also described on the worksheet.

ALLL Under FAS 5

Segmenting the Portfolio

For loans evaluated on a group basis under FAS 5, management should segment the loan portfolio by identifying risk characteristics that are common to groups of loans. Credit unions typically decide how to segment their loan portfolios based on many factors, which vary with their business strategies as well as their information system capabilities. Smaller credit unions that are involved in less complex activities often segment the portfolio into broad loan categories. This method of segmenting the portfolio is likely to be appropriate only in small credit unions offering a narrow range of loan products. Larger credit unions typically offer a more diverse and complex mix of loan products. Such credit unions may start by segmenting the portfolio into major loan types but typically have more detailed information available that allows them to further segregate the portfolio into product line segments based on the risk characteristics of each portfolio segment. Regardless of the segmentation method used, a credit union should maintain documentation to support its conclusion that the loans in each segment have similar attributes or characteristics.

As economic and other business conditions change, credit unions often modify their business strategies, which may result in adjustments to the way in which they segment their loan portfolio for purposes of estimating loan losses. Illustration C presents an example in which a credit union refined its segmentation method to more effectively consider risk factors and maintains documentation to support this change.

Credit unions use a variety of documents to support the segmentation of their portfolios.

ILLUSTRATION C
DOCUMENTING SEGMENTING PRACTICES

Documenting a refinement in a segmentation method

A credit union with a significant portfolio of consumer loans performed a review of its ALLL methodology. The credit union had determined its ALLL based upon historical loss rates in the overall consumer portfolio. The ALLL methodology was validated by comparing actual loss rates (charge-offs) for the past two years to the estimated loss rates. During this process, the credit union decided to evaluate loss rates on an individual product basis (e.g., auto loans, unsecured loans, or home equity loans). This analysis disclosed significant differences in the loss rates on different products. With this additional information, the methodology was amended in the current period to segment the portfolio by product, resulting in a better estimation of the loan losses associated with the portfolio. To support this change in segmentation practice, the credit review committee records contain the analysis that was used as a basis for the change and the written report describing the need for the change.

Some of these documents include:

- Loan trial balances by categories and types of loans,
- Management reports about the mix of loans in the portfolio,
- Delinquency and nonaccrual reports, and

• A summary presentation of the results of an internal or external loan grading review.

Reports generated to assess the profitability of a loan product line may be useful in identifying areas in which to further segment the portfolio.

Estimating Loss on Groups of Loans

Based on the segmentation of the portfolio, a credit union should estimate the FAS 5 portion of the ALLL. For those segments that require an ALLL,[16] the credit union should estimate the loan and lease losses, on at least a quarterly basis, based upon its ongoing loan review process and analysis of loan performance. The credit union should follow a systematic and consistently applied approach to select the most appropriate loss measurement methods and support its conclusions and rationale with written documentation. Regardless of the method used to measure losses, a credit union should demonstrate and document that the loss measurement methods used to estimate the ALLL for each segment are determined in accordance with GAAP as of the financial statement date.[17]

One method of estimating loan losses for groups of loans is through the application of loss rates to the groups' aggregate loan balances. Such loss rates typically reflect historical loan loss experience for each group of loans, adjusted for relevant environmental factors (*e.g.*, industry, geographical, economic, and political factors) over a defined period of time. If a credit union does not have loss experience of its own, it may be appropriate to reference the loss experience of other credit unions, provided that the credit union demonstrates that the attributes of the loans in its portfolio segment are similar to those of the loans included in the portfolio of the credit union providing the loss experience.[18] Credit unions should maintain supporting documentation for the technique used to develop their loss rates, including the period of time over which the losses were incurred. If a range of loss is determined, credit unions should maintain documentation to support the identified range and the rationale used for determining which estimate is the best estimate within the range of loan losses. An example of how a small credit union performs a comprehensive historical loss analysis is provided as the first item in Illustration D.

ILLUSTRATION D
DOCUMENTING THE SETTING LOSS RATES

Comprehensive loss analysis in a small credit union

A small credit union determines its loss rates based on loss rates over a three-year historical period. The analysis is conducted by type of loan and is further segmented by originating branch office. The analysis considers charge-offs and recoveries in determining the loss rate. The credit union also considers the loss rates for each loan grade and compares them to historical losses on similarly rated loans in arriving at the historical loss factor. The credit union maintains supporting documentation for its loss factor analysis, including historical losses by type of loan, originating branch office, and loan grade for the three-year period.

Adjustment of loss rates for changes in local economic conditions

A credit union develops a factor to adjust loss rates for its assessment of the impact of changes in the local economy. For example, when analyzing the loss rate on business real estate loans, the assessment identifies changes in recent commercial building occupancy rates. The credit union generally finds the occupancy statistics to be a good indicator of probable losses on these types of loans. The credit union maintains documentation that summarizes the relationship between current occupancy rates and its loss experience.

Before employing a loss estimation model, a credit union should evaluate and modify, as needed, the model's assumptions to ensure that the resulting loss estimate is consistent with GAAP. In order to demonstrate consistency with GAAP, credit unions that use loss estimation models typically document the evaluation, the conclusions regarding the appropriateness of estimating loan losses with a model or other loss estimation tool, and the support for adjustments to the model or its results.

In developing loss measurements, credit unions should consider the impact of current environmental factors and then document which factors were used in the analysis and how those factors affect the loss measurements. Factors that should be considered in developing loss measurements include the following:[19]

(1) Levels of and trends in delinquencies and impaired loans;

(2) Levels of and trends in charge-offs and recoveries;

(3) Trends in volume and terms of loans;

(4) Effects of any changes in risk selection and underwriting standards, and other changes in lending policies, procedures, and practices;

(5) Experience, ability, and depth of lending management and other relevant staff;

(6) National and local economic trends and conditions;

(7) Industry conditions; and

(8) Effects of changes in credit concentrations.

For any adjustment of loss measurements for environmental factors, the credit union should maintain sufficient, objective evidence to support the amount of the adjustment and to explain why the adjustment is necessary to reflect current information, events, circumstances, and conditions in the loss measurements.

The second item in Illustration D provides an example of how a credit union adjusts its business real estate historical loss rates for changes in local economic conditions. Q&A #4 in Appendix A provides an example of maintaining supporting documentation for adjustments to portfolio segment loss rates for an environmental factor related to an economic downturn in the borrower's primary industry. Q&A #5 in Appendix A describes one credit union's process for determining and documenting an ALLL for loans that are not individually impaired but have characteristics indicating there are loan losses on a group basis.

Consolidating the Loss Estimates

To verify that ALLL balances are presented fairly in accordance with GAAP and are auditable, management should prepare a document that summarizes the amount to be reported in the financial statements for the ALLL. The board of directors should review and approve this summary.

Common elements in such summaries include:

(1) An estimate of the probable loss or range of loss incurred for each category evaluated (*e.g.*, individually evaluated impaired loans, homogeneous pools, and other groups of loans that are collectively evaluated for impairment);

(2) The aggregate probable loss estimated using the credit union's methodology;

(3) A summary of the current ALLL balance;

(4) The amount, if any, by which the ALLL is to be adjusted;[20] and

(5) Depending on the level of detail that supports the ALLL analysis, detailed sub-schedules of loss estimates that reconcile to the summary schedule.

Illustration E describes how a credit union documents its estimated ALLL by adding comprehensive explanations to its summary schedule.

ILLUSTRATION E
SUMMARIZING LOSS ESTIMATES

Descriptive comments added to the consolidated ALLL summary schedule

To simplify the supporting documentation process and to eliminate redundancy, a credit union adds detailed supporting information to its summary schedule. For example, this credit union's board of directors receives, within the body of the ALLL summary schedule, a brief description of the credit union's policy for selecting loans for evaluation under FAS 114. Additionally, the credit union identifies which FAS 114 impairment measurement method was used for each individually reviewed impaired loan. Other items on the schedule include brief descriptions of loss factors for each segment of the loan portfolio, the basis for adjustments to loss rates, and explanations of changes in ALLL amounts from period to period, including cross-references to more detailed supporting documents.

Generally, a credit union's review and approval process for the ALLL relies upon the data provided in these consolidated summaries. There may be instances in which individuals or committees that review the ALLL methodology and resulting allowance balance identify adjustments that need to be made to the loss estimates to provide a better estimate of loan losses. These changes may be due to information not known at the time of the initial loss estimate (*e.g.*, information that surfaces after determining and adjusting, as necessary, historical loss rates, or a recent decline in the marketability of property after conducting a FAS 114 valuation based upon the fair value of collateral). It is important that these adjustments are consistent with GAAP and are reviewed and approved by appropriate personnel. Additionally, the summary should provide each subsequent reviewer with an understanding of the support behind these adjustments. Therefore, management should document the nature of any adjustments and the underlying rationale for making the changes. This documentation should be provided to those making the final determination of the ALLL amount. Q&A #6 in Appendix A addresses the documentation of the final amount of the ALLL.

Validating the ALLL Methodology

A credit union's ALLL methodology is considered valid when it accurately estimates the amount of loss contained in the portfolio. Thus, the credit union's methodology should include procedures that adjust loss estimation methods to reduce differences between estimated losses and actual subsequent charge-offs, as necessary.

To verify that the ALLL methodology is valid and conforms to GAAP and supervisory guidance, a credit union's directors should establish internal control policies, appropriate for the size of the credit union and the type and complexity of its loan products. These policies should include procedures for a

[16] An example of a loan segment that does not generally require an ALLL is loans that are fully secured by deposits maintained at the lending credit union.

[17] Refer to paragraph 8(b) of FAS 5. Also, the AICPA is currently developing a Statement of Position that will provide more specific guidance on accounting for loan losses.

[18] Refer to paragraph 23 of FAS 5.

[19] Refer to paragraph 6.08 in the AICPA Audit Guide.

[20] Subsequent to adjustments, there should be no material differences between the consolidated loss estimate, as determined by the methodology, and the final ALLL balance reported in the financial statements.

review, by a party who is independent of the ALLL estimation process, of the ALLL methodology and its application in order to confirm its effectiveness.

In practice, credit unions employ numerous procedures when validating the reasonableness of their ALLL methodology and determining whether there may be deficiencies in their overall methodology or loan grading process. Examples are:

(1) A review of trends in loan volume, delinquencies, restructurings, and concentrations.

(2) A review of previous charge-off and recovery history, including an evaluation of the timeliness of the entries to record both the charge-offs and the recoveries.

(3) A review by a party that is independent of the ALLL estimation process. This often involves the independent party reviewing, on a test basis, source documents and underlying assumptions to determine that the established methodology develops reasonable loss estimates.

(4) An evaluation of the appraisal process of the underlying collateral. This may be accomplished by periodically comparing the appraised value to the actual sales price on selected properties sold.

Supporting Documentation for the Validation Process

Management usually supports the validation process with the workpapers from the ALLL review function. Additional documentation often includes the summary findings of the independent reviewer. The credit union's board of directors, or its designee, reviews the findings and acknowledges its review in its meeting minutes. If the methodology is changed based upon the findings of the validation process, documentation that describes and supports the changes should be maintained.

Appendix A—ALLL Questions and Answers

Introduction

The Questions and Answers (Q&As) presented in this appendix serve several purposes, including (1) to illustrate the NCUA's views, as set forth in this IRPS, about the types of decisions, determinations, and processes a credit union should document with respect to its ALLL methodology and amounts; and (2) to illustrate the types of ALLL documentation and processes a credit union might prepare, retain, or use in a particular set of circumstances. The level and types of documentation described in the Q&As should be considered neither the minimum acceptable level of documentation nor an all-inclusive list. Credit unions are expected to apply the guidance in this IRPS to their individual facts, circumstances, and situations. If a credit union's fact pattern differs from the fact patterns incorporated in the following Q&As, the credit union may decide to prepare and maintain different types of documentation than did the credit unions depicted in these Q&As.

Q&A #1—ALLL Under FAS 114—Measuring and Documenting Impairment

Facts: Approximately one-third of Credit Union A's business loan portfolio consists of large balance, non-homogeneous loans. Due to their large individual balances, these loans meet the criteria under Credit Union A's policies and procedures for individual review for impairment under FAS 114. Upon review of the large balance loans, Credit Union A determines that certain of the loans are impaired as defined by FAS 114.

Question: For the business loans reviewed under FAS 114 that are individually impaired, how should Credit Union A measure and document the impairment on those loans? Can it use an impairment measurement method other than the methods allowed by FAS 114?

Interpretive Response: For those loans that are reviewed individually under FAS 114 and considered individually impaired, Credit Union A must use one of the methods for measuring impairment that is specified by FAS 114 (that is, the present value of expected future cash flows, the loan's observable market price, or the fair value of collateral). Accordingly, in the circumstances described above, for the loans considered individually impaired under FAS 114, it would not be appropriate for Credit Union A to choose a measurement method not prescribed by FAS 114. For example, it would not be appropriate to measure loan impairment by applying a loss rate to each loan based on the average historical loss percentage for all of its business loans for the past five years.

Credit Union A should maintain, as sufficient, objective evidence, written documentation to support its measurement of loan impairment under FAS 114. If Credit Union A uses the present value of expected future cash flows to measure impairment of a loan, it should document the amount and timing of cash flows, the effective interest rate used to discount the cash flows, and the basis for the determination of cash flows, including consideration of current environmental factors [1] and other information reflecting past events and current conditions. When Credit Union A uses the fair value of collateral to measure impairment, Credit Union A should document how it determined the fair value, including the use of appraisals, valuation assumptions and calculations, the supporting rationale for adjustments to appraised values, if any, and the determination of costs to sell, if applicable, appraisal quality, and the expertise and independence of the appraiser. Similarly, Credit Union A should document the amount, source, and date of the observable market price of a loan, if that method of measuring loan impairment is used.

Q&A #2—ALLL Under FAS 114—Measuring Impairment for a Collateral Dependent Loan

Facts: Credit Union B has a $10 million loan outstanding to Member X that is secured by real estate, which Credit Union B individually evaluates under FAS 114 due to the loan's size. Member X is delinquent in its loan payments under the terms of the loan agreement. Accordingly, Credit Union B determines that its loan to Member X is impaired, as defined by FAS 114. Because the loan is collateral dependent, Credit Union B measures impairment of the loan based on the fair value of the collateral. Credit Union B determines that the most recent valuation of the collateral was performed by an appraiser eighteen months ago and, at that time, the estimated value of the collateral (fair value less costs to sell) was $12 million.

Credit Union B believes that certain of the assumptions that were used to value the collateral eighteen months ago do not reflect current market conditions and, therefore, the appraiser's valuation does not approximate current fair value of the collateral. Several buildings, which are comparable to the real estate collateral, were recently completed in the area, increasing vacancy rates, decreasing lease rates, and attracting several tenants away from the borrower. Accordingly, credit review personnel at Credit Union B adjust certain of the valuation assumptions to better reflect the current market conditions as they relate to the loan's collateral.[2] After

[1] Question #16 in Exhibit D–80A of EITF Topic D–80 and attachments indicates that environmental factors include existing industry, geographical, economic, and political factors.

[2] When reviewing collateral dependent loans, Credit Union B may often find it more appropriate to obtain an updated appraisal to estimate the effect of current market conditions on the appraised value instead of internally estimating an adjustment.

adjusting the collateral valuation assumptions, the credit review department determines that the current estimated fair value of the collateral, less costs to sell, is $8 million. Given that the recorded investment in the loan is $10 million, Credit Union B concludes that the loan is impaired by $2 million and records an allowance for loan losses of $2 million.

Question: What type of documentation should Credit Union B maintain to support its determination of the allowance for loan losses of $2 million for the loan to Member X?

Interpretive Response: Credit Union B should document that it measured impairment of the loan to Member X by using the fair value of the loan's collateral, less costs to sell, which it estimated to be $8 million. This documentation should include the credit union's rationale and basis for the $8 million valuation, including the revised valuation assumptions it used, the valuation calculation, and the determination of costs to sell, if applicable. Because Credit Union B arrived at the valuation of $8 million by modifying an earlier appraisal, it should document its rationale and basis for the changes it made to the valuation assumptions that resulted in the collateral value declining from $12 million eighteen months ago to $8 million in the current period.[3]

Q&A #3—ALLL Under FAS 114—Fully Collateralized Loans

Facts: Credit Union C has $500,000 in business loans that are fully collateralized by purchased business equipment. The loan agreement for each of these loans requires the borrower to provide qualifying collateral sufficient to fully secure each loan. The member borrowers have physical control of the collateral. Credit Union C perfected its security interest in the collateral when the funds were originally distributed. On an annual basis, Credit Union C determines the market value of the collateral for each loan using two independent market quotes and compares the collateral value to the loan carrying value. Semiannually or more frequently as needed, the Credit Union C's credit administration function physically inspects the equipment. If there are any collateral deficiencies, Credit Union C notifies the borrower and requests that the borrower immediately remedy the deficiency. Due in part to its efficient operation, Credit Union C has historically not incurred any material losses on these loans. Credit Union C believes these loans are fully-collateralized and therefore does not maintain any ALLL balance for these loans.

Question: What documentation does Credit Union C maintain to adequately support its determination that no allowance is needed for this group of loans?

Interpretive Response: Credit Union C's management summary of the ALLL includes documentation indicating that, in accordance with the credit union's ALLL policy, the collateral protection on these loans has been verified by the credit union, no probable loss has been incurred, and no ALLL is necessary. Documentation in Credit Union C's loan files includes the two independent market quotes obtained annually for each loan's collateral amount, the documents evidencing the perfection of the security interest in the collateral, and other relevant supporting documents. Additionally, Credit Union C's ALLL policy includes a discussion of how to determine when a loan is considered "fully collateralized" and does not require an ALLL. Credit Union C's policy requires the following factors to be considered and the credit union's findings concerning these factors to be fully documented:

1. Volatility of the market value of the collateral;

2. Recency and reliability of the appraisal or other valuation;

3. Recency of the credit union or other third party inspection of the collateral;

4. Historical losses on similar loans;

5. Confidence in the credit union's lien or security position including appropriate:

a. Type of security perfection (*e.g.*, physical possession of collateral or secured filing);

b. Filing of security perfection (*i.e.*, correct documents and with the appropriate officials); and

c. Relationship to other liens.

6. Other factors as appropriate for the loan type

Q&A #4—ALLL Under FAS 5—Adjusting Loss Rates

Facts: Credit Union D's field of membership (lending area) includes a metropolitan area that is financially dependent upon the profitability of a number of sponsor manufacturing businesses. These businesses use highly specialized equipment and significant quantities of rare metals in the manufacturing process. Due to increased low-cost foreign competition, several of the parts suppliers servicing these sponsor manufacturing firms declared bankruptcy. The foreign suppliers have subsequently increased prices and the sponsor manufacturing firms have suffered from increased equipment maintenance costs and smaller profit margins. Additionally, the cost of the rare metals used in the manufacturing process increased and has now stabilized at double last year's price. Due to these events, the sponsor manufacturing businesses are experiencing financial difficulties and have recently announced downsizing plans.

Although Credit Union D has yet to confirm an increase in its loss experience as a result of these events, management knows that the credit union lends to a significant number of member's for business and individual purposes whose repayment ability depends upon the long-term viability of the sponsor manufacturing businesses. Credit Union D's management has identified particular segments of its business and consumer member bases that include member borrowers highly dependent upon sales or salary from the sponsor manufacturing businesses. Credit Union D's management performs an analysis of the affected portfolio segments to adjust its historical loss rates used to determine the ALLL. In this particular case, Credit Union D has experienced similar business and lending conditions in the past that it can compare to current conditions.

Question: How should Credit Union D document its support for the loss rate adjustments that result from considering these manufacturing firms' financial downturns?

Interpretive Response: Credit Union D should document its identification of the particular segments of its business and consumer loan portfolio for which it is probable that the sponsor manufacturing business' financial downturn has resulted in loan losses. In addition, Credit Union D should document its analysis that resulted in the adjustments to the loss rates for the affected portfolio segments. As part of its documentation, Credit Union D maintains copies of the documents supporting the analysis, including relevant newspaper articles, economic reports, and economic data, and notes from discussions with individual member borrowers.

Because in this case Credit Union D has had similar situations in the past, its supporting documentation also includes an analysis of how the current conditions compare to its previous loss

[3] In accordance with the FFIEC's **Federal Register** Notice, Implementation Issues Arising from FASB No. 114, "Accounting by Creditors for Impairment of a Loan," published February 10, 1995 (60 FR 7966, February 10, 1995), impaired, collateral-dependent loans must be reported at the fair value of collateral, less costs to sell, in regulatory reports. This treatment is to be applied to all collateral-dependent loans, regardless of type of collateral.

experiences in similar circumstances. As part of its effective ALLL methodology, Credit Union D creates a summary of the amount and rationale for the adjustment factor, which management presents to the audit committee and board for their review and approval prior to the issuance of the financial statements.

Q&A #5—ALLL Under FAS 5—Estimating Losses on Loans Individually Reviewed for Impairment but Not Considered Individually Impaired

Facts: Credit Union E has outstanding loans of $875,000 to Member Y and $725,000 to Member Z, both of which are paying as agreed upon in the loan documents. The credit union's ALLL policy specifies that all loans greater than $700,000 must be individually reviewed for impairment under FAS 114. Member Y's financial statements reflect a strong net worth, good profits, and ongoing ability to meet debt service requirements. In contrast, recent information indicates Member Z's profitability is declining and its cash flow is tight. Accordingly, this loan is rated substandard under the credit union's loan grading system. Despite its concern, management believes Member Z will resolve its problems and determines that neither loan is individually impaired as defined by FAS 114.

Credit Union E segments its loan portfolio to estimate loan losses under FAS 5. Two of its loan portfolio segments are Segment 1 and Segment 2. The loan to Member Y has risk characteristics similar to the loans included in Segment 1 and the loan to Member Z has risk characteristics similar to the loans included in Segment 2.[4]

In its determination of the ALLL under FAS 5, Credit Union E includes its loans to Member Y and Member Z in the groups of loans with similar characteristics (*i.e.*, Segment 1 for Member Y's loan and Segment 2 for Member Z's loan). Management's analyses of Segment 1 and Segment 2 indicate that it is probable that each segment includes some losses, even though the losses cannot be identified to one or more specific loans. Management estimates that the use of its historical loss rates for these two segments, with adjustments for changes in environmental factors provides a reasonable estimate of the credit union's probable loan losses in these segments.

Question: How does Credit Union E adequately support and document an ALLL under FAS 5 for these loans that were individually reviewed for impairment but are not considered individually impaired?

Interpretive Response: As part of Credit Union E's effective ALLL methodology, it documents the decision to include its loans to Member Y and Member Z in its determination of its ALLL under FAS 5. It also documents the specific characteristics of the loans that were the basis for grouping these loans with other loans in Segment 1 and Segment 2, respectively. Credit Union E maintains documentation to support its method of estimating loan losses for Segment 1 and Segment 2, including the average loss rate used, the analysis of historical losses by loan type and by internal risk rating, and support for any adjustments to its historical loss rates. The credit union also maintains copies of the economic and other reports that provided source data.

Q&A #6—Consolidating the Loss Estimates—Documenting the Reported ALLL

Facts: Credit Union F determines its ALLL using an established systematic process. At the end of each period, the accounting department prepares a summary schedule that includes the amount of each of the components of the ALLL, as well as the total ALLL amount, for review by senior management, the Credit Committee, and, ultimately, the board of directors. Members of senior management and the Credit Committee meet to discuss the ALLL. During these discussions, they identify changes to be made to certain of the ALLL estimates. As a result of the adjustments made by senior management, the total amount of the ALLL changes. However, senior management (or its designee) does not update the ALLL summary schedule to reflect the adjustments or reasons for the adjustments. When performing their audit of the financial statements, the independent accountants are provided with the original ALLL summary schedule that was reviewed by management and the Credit Committee, as well as a verbal explanation of the changes made by senior management and the Credit Committee when they met to discuss the loan loss allowance.

Question: Are Credit Union F's documentation practices related to the balance of its loan loss allowance appropriate?

Interpretive Response: No. A credit union must maintain supporting documentation for the loan loss allowance amount reported in its financial statements. As illustrated above, there may be instances in which ALLL reviewers identify adjustments that need to be made to the loan loss estimates. The nature of the adjustments, how they were measured or determined, and the underlying rationale for making the changes to the ALLL balance should be documented. Appropriate documentation of the adjustments should be provided to the board of directors (or its designee) for review of the final ALLL amount to be reported in the financial statements. For credit unions subject to external audit, this documentation should also be made available to the supervisory committee and its independent accountants. If changes frequently occur during management or committee reviews of the ALLL, management may find it appropriate to analyze the reasons for the frequent changes and to reassess the methodology the credit union uses.

Bibliography

GAAP and Auditing Guidance

American Institute of Certified Public Accountants' Audit and Accounting Guide, *Audits of Credit Unions*, 2000 edition.

Auditing Standards Board Statement on Auditing Standards No. 61, *Communication With Audit Committees* (AICPA, *Professional Standards*, vol. 1, AU sec. 380).

Emerging Issues Task Force Topic No. D–80, *Application of FASB Statements No. 5 and No. 114 to a Loan Portfolio* (EITF Topic D–80 and attachments), discussed on May 19–20, 1999.

Financial Accounting Standards Board Interpretation No. 14, *Reasonable Estimation of the Amount of a Loss (An Interpretation of FASB Statement No. 5)*.

Financial Accounting Standards Board Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies*.

Financial Accounting Standards Board Statement of Financial Accounting Standards No. 114, *Accounting by Creditors for Impairment of A Loan (An Amendment of FASB Statements No. 5 and 15)*.

Financial Accounting Standards Board Statement of Financial Accounting Standards No. 118, *Accounting by Creditors for Impairment of a Loan—Income Recognition and Disclosures (An Amendment of FASB Statement No. 114)*.

Financial Accounting Standards Board Statement of Financial Accounting Standards No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities—a Replacement of FASB Statement No. 125*.

Regulatory Guidance

Interagency Policy Statement on the Allowance for Loan and Lease Losses (ALLL), December 21, 1993.

United States General Accounting Office Report to Congressional Committees, *Depository Institutions: Divergent Loan Loss Methods Undermine Usefulness of Financial Reports*, (GAO/AIMD–95–8), October 1994.

[4] These groups of loans do not include any loans that have been individually reviewed for impairment under FAS 114 and determined to be impaired as defined by FAS 114.

[FR Doc. 02–12790 Filed 5–28–02; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* NRC Form 450, "General Assignment".

3. *The form number if applicable:* NRC Form 450.

4. *How often the collection is required:* Once during the closeout process.

5. *Who will be required or asked to report:* Contractors, Grantees, and Cooperators.

6. *An estimate of the number of responses:* 100.

7. *The estimated number of annual respondents:* 100.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 200 hours (2 hours per response).

9. *An indication of whether Section 3507(d), Pub.L. 104–13 applies:* N/A.

10. *Abstract:* During the contract closeout process, the NRC requires the contractor to execute a NRC Form 450, General Assignment. Completion of the form grants the government all rights, titles, and interest to refunds arising out of the contractor performance.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room 0–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature of this notice.

Comments and questions should be directed to the OMB reviewer listed below by June 28, 2002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0114), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of May, 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13339 Filed 5–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Grant and Cooperative Agreement Provisions.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* On occasion, one time.

5. *Who will be required or asked to report:* Contractors, Grantees, and Cooperators.

6. *An estimate of the number of responses:* 88 per year.

7. *The estimated number of annual respondents:* 60.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,055 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* The Division of Contracts and Property Management uses provisions, required to obtain or retain a benefit in its awards and cooperative agreements to ensure: adherence to Public Laws, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by June 28, 2002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0107), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of May, 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13340 Filed 5–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 135th meeting on June 18–20, 2002, at 11545 Rockville Pike, Rockville, Maryland, Room T–2B3.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, June 18, 2002

A. *12:30–12:40 p.m.: Opening Statement* (Open)—The Chairman will open the meeting with brief opening remarks, outline the topics to be discussed, and indicate several items of interest.

B. *12:40–3:30 p.m.: Igneous Activity Considerations at the Proposed High Level-Waste Repository at Yucca Mountain* (Open)—The Committee will hear presentations by several Nuclear Waste Technical Review Board (NWTRB) consultants on their perception on igneous activity efforts by both DOE and NRC.

C. *3:45–5:15 p.m.: NRC's Package Performance Study* (Open)—The Committee will hear an update by representatives of the Spent Fuel Project Office and Sandia National Laboratories on the current and future transportation safety studies and potential confirmatory testing.

D. *5:15–6:00 p.m.: Preparation of ACNW Reports* (Open)—The Committee will discuss proposed reports on the following topics:

- High-Level Waste Risk Insights Initiative
- Final Research Plan on Radionuclide Transport in the Environment

Wednesday, June 19, 2002

E. *8:30–8:35 a.m.: Opening Statement* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

F. *8:35–10:00 a.m.: Entombment Option for Decommissioning Power Reactors* (Open)—The Committee will hear from the NRC staff on comments received on the Rulemaking Plan and Advance Notice of Proposed Rulemaking: Entombment Options for Power Reactors.

G. *10:15–1:00 p.m.: Long-Term Behavior of Waste Packages* (Open)—The Committee will hear presentations from the NRC and CNWRA staff on issues and activities related to the projected performance of waste packages in the proposed high-level waste repository at Yucca Mountain, NV. This will include presentations on risk insights from performance assessment analyses, and presentations on work related to confirming performance and understanding potential failure mechanisms such as from corrosion.

H. *2:00–3:00 p.m.: Yucca Mountain Review Plan, Revision 2* (Open)—The Committee will discuss the elements of a letter report on the Yucca Mountain Review Plan, Revision 2.

I. *3:15–6:00 p.m.: Preparation of ACNW Reports* (Open)—The Committee will discuss proposed reports on the following topics:

- ACNW Action Plan for FY 2002 and FY 2003
- Entombment Option for Decommissioning Power Reactors
- Long-Term Behavior of Waste Packages
- Igneous Activity Considerations
- NRC's Package Performance Study
- High-Level Waste Risk Insights Initiative
- Final Research Plan on Radionuclide Transport in the Environment
- High-Level Waste Performance Assessment Sensitivity Studies

Thursday, June 20, 2002

J. *8:30–8:35 a.m.: Opening Statement* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

K. *8:35–8:45 a.m.: Election of ACNW Officers* (Open)—Members will nominate and elect members to the positions of Chairman and Vice Chairman for the period July 1, 2002 through June 30, 2003.

L. *8:45–2:45 p.m.: Preparation of ACNW Reports* (Open)—The Committee will continue its discussion of proposed ACNW reports noted in item I.

M. *2:45–3:00 p.m.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 3, 2001 (66 FR 50461). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Howard J. Larson, ACNW (Telephone 301/415–6805), between 8 a.m. and 4 p.m. EDT, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or viewing on the Internet at *http://www.nrc.gov/ACRSACNW*.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301/415–8066), between 7:30 a.m. and 3:45 p.m. EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: May 23, 2002.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 02–13336 Filed 5–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting on Planning and Procedures; Notice of Meeting

The ACNW will hold a Planning and Procedures meeting on June 18, 2002,

Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, June 18, 2002–8:30 a.m.–10:30 a.m.

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the Designated Federal Official, Howard J. Larson (telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule that may have occurred.

Dated: May 22, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–13337 Filed 5–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1748, Draft Report]

Environmental Review Guidance for Licensing Actions Associated With NMSS Programs; Notice of Extended Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Extended Comment Period.

SUMMARY: The Nuclear Regulatory Commission (NRC) is extending the public comment period on the draft document "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs" (NUREG–1748) until November 30, 2002. The availability of this document was originally noticed in the **Federal Register** on October 18, 2001 (66 FR 52951). This document provides guidance for the planning and implementation of National Environmental Policy Act requirements. The guidance is intended for use by NRC staff and licensees/applicants, and provides information to the public. The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing the document is available to the NRC staff. This document was issued for interim use and comment in September 2001. The NRC will review public comments received on the draft document. Suggested changes will be incorporated, where appropriate, in response to those comments.

DATES: Comments received by November 30, 2002, will be considered. Comments received after that date will be considered to the extent practical.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the Chief, Rules and Directives Branch, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may also be sent electronically to *nmssnepa@nrc.gov*.

NUREG–1748 is available for inspection and copying for a fee at the Commission's Public Document Room, U.S. NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

A free single copy of NUREG–1748 will be made available to interested parties until the supply is exhausted. Such copies may be requested by writing to the U.S. Nuclear Regulatory Commission, Distribution Services, Washington, DC 20555–0001 or submitting an e-mail to *distribution@nrc.gov*. NUREG–1748 is available on the World Wide Web at: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1748/index.html*.

FOR FURTHER INFORMATION CONTACT: Either of the following: Matthew Blevins, U.S. Nuclear Regulatory Commission, Mail Stop T7–J8, Washington, DC 20555, Phone Number: (301) 415–7684, e-mail: *mxb6@nrc.gov*; or Melanie Wong, U.S. Nuclear Regulatory Commission, Mail Stop T7–J8, Washington, DC 20555, Phone Number: (301) 415–6262, e-mail: *mcw@nrc.gov*. Please e-mail comments to *nmssnepa@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of May, 2002.

For the Nuclear Regulatory Commission.

Thomas H. Essig,

Chief, Environmental and Performance Assessment Branch, Division of Waste Management, NMSS.

[FR Doc. 02–13338 Filed 5–28–02; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Committee Management; Notice of Establishment

NAME OF COMMITTEE: Performance Measurement Advisory Council.

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Federal Advisory Committee Establishment.

SUMMARY: The Director of the Office of Management and Budget ("OMB") has determined that the establishment of the Performance Measurement Advisory Council ("PMAC") is necessary and is in the public interest in connection with the performance of his duties. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

FOR FURTHER INFORMATION CONTACT: Matthew Schneider, Assistant General Counsel, Office of Management and Budget, Washington, DC 20503. Telephone (202) 395–3503 (not a toll-free call).

Purpose and Objectives: The Performance Measurement Advisory Council will provide independent expert advice and recommendations to the Office of Management and Budget

regarding measures of program performance and the use of such measures in making management and budget decisions. Council members will advise OMB regarding the particular processes and means utilized to assess the effectiveness of Federal programs and initiatives. Council members will draw upon their expertise in creating, implementing and evaluating performance measurement standards and will make recommendations regarding the types of measures and benchmarking systems that departments and agencies can employ most effectively to track program performance.

The Council's proposed functions are essential to OMB's successful implementation of an effective system of program evaluation. The independent expert advice and recommendations sought through this Council cannot be provided internally by OMB, by another existing committee, or by other means such as a public hearing.

Balanced Membership Plans: The Council shall consist of approximately six members. Every effort shall be made to select Council members who are outstanding in their professional field and who are objective. A balance is needed and individuals with expertise in performance measurement are essential. In selecting Council members, weight is given to viewpoint diversity, expertise in performance measurement, and professional qualifications.

Duration: The Council shall exist for nine months from the date of the Charter, unless earlier renewed.

Designated Federal Officer: Mr. Thomas M. Reilly, Chief, Public Health Branch, Executive Office of the President; Office of Management and Budget, 7002 New Executive Office Building, Washington, DC 20503. Telephone: 202–395–4926; Facsimile: 202–395–5648; Email: *Thomas_Reilly@omb.eop.gov*.

Dated: May 21, 2002.

Mitchell E. Daniels, Jr.,

Director, Office of Management and Budget.

[FR Doc. 02–13308 Filed 5–28–02; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25591; 812–12346]

USAA Mutual Fund, Inc., et al.; Notice of Application

May 22, 2002.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an exemption under section 6(c) of the Investment Company Act of 1940 ("Act") from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit them to enter into and materially amend subadvisory agreements without shareholder approval.

APPLICANTS: USAA Mutual Fund, Inc. ("Company"), and USAA Investment Management Company ("IMCO").

FILING DATES: The application was filed on November 30, 2000, and amended on May 21, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 17, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 9800 Fredericksburg Road, A–O3–W, San Antonio, Texas 78288.

FOR FURTHER INFORMATION CONTACT: Keith A. Gregory, Senior Counsel, at (202) 942–0611, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Company is a Maryland corporation registered under the Act as an open-end management investment company. The Company currently is comprised of eighteen series (each, a "Portfolio," and together, the "Portfolios"), each with its own investment objectives, policies, and restrictions.[1] IMCO serves as the investment adviser to the Portfolios and is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). IMCO is a wholly owned indirect subsidiary of United Services Automobile Association, a diversified financial services institution.

2. The Company, on behalf of each Portfolio, has entered into investment advisory or investment management agreements with IMCO (collectively, the "Management Agreements") that were approved by the Company's board of directors ("Board"), including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Company or the Manager ("Independent Directors"), and each Portfolio's shareholders.

3. The Management Agreements permit the Manager to enter into separate investment advisory agreements ("Sub-Advisory Agreements") with sub-advisers ("Sub-Advisers") to whom the Manager may delegate responsibility for providing investment advice and making investment decisions for a Portfolio. The Manager monitors and evaluates the Sub-Advisers and recommends to the Board their hiring, termination, and replacement. Each Sub-Adviser is, or will be, an investment adviser registered, or exempt from registration, under the Advisers Act. The Manager compensates the Sub-Advisers out of the fees paid to the Manager by the Portfolio. Applicants request relief to permit the Manager to enter into and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or the Manager, other than by reason of serving as a Sub-Adviser to one or more of the Portfolios ("Affiliated Sub-Adviser"). None of the current Sub-Advisers is an Affiliated Sub-Adviser.

[1] The Applicants request that any relief granted pursuant to the application apply to each existing and future Portfolio of the Company and each existing and future series (included in the Term "Portfolios") of any other existing or futured registered open-end management investment company that: (a) Is advised by IMCO or any entity controlling, controlled by, or under common control with IMCO (any such entity together with IMCO, the "Manager"); (b) is managed in a manner consistent with the application; and (c) complies with the terms and conditions in the application (together with the Company, a "Fund"). The Company is the only existing registered open-end management investment company that currently intends to rely on the requested order. If the name of any Portfolio contains the name of any Sub-Adviser (as defined below), the Sub-Adviser's name will be preceded by the name of the Manager.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act, or from any rule thereunder, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

3. Applicants assert that the Portfolio's shareholders rely on the Manager to select the Sub-Advisers best suited to achieve a Portfolio's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Sub-Advisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of each Sub-Advisory Agreement would impose costs and unnecessary delays on the Portfolios, and may preclude the Manager from acting promptly in a manner considered advisable by the Board. Applicants also note that the Management Agreements will remain subject to section 15(a) of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Portfolio may rely on the requested order, the operation of the Portfolio as described in the application will be approved by the vote of a majority of the Portfolio's outstanding voting securities, as defined in the Act, or in the case of a Portfolio whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2, by the initial shareholder(s) before the shares of such Portfolio are offered to the public.

2. Each Portfolio relying on the requested order will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Portfolio relying on the requested order will hold itself out to the public as employing the management structure described in the application. The prospectus with respect to each such Portfolio will prominently disclose that the Manager has the ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. The Manager will provide general management and administrative services to each Fund and its Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's assets, and, subject to review and approval by the Board, will: (i) Set each Portfolio's overall investment strategies; (ii) evaluate, select and recommend Sub-Advisers to manage all or part of a Portfolio's assets; (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Sub-Advisers; (iv) monitor and evaluate the performance of Sub-Advisers; and (v) implement procedures reasonable designed to ensure that the Sub-Advisers comply with the relevant Portfolio's investment objectives, policies and restrictions.

4. At all times, a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

5. The Manager will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

6. When a Sub-Adviser change is proposed for a Portfolio with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the best interests of the Portfolio and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. No director or officer of a Fund or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Sub-Adviser, except for: (i) Ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

8. Within 90 days of the hiring of any new Sub-Adviser, the Manager will furnish shareholders all information about the new Sub-Adviser that would be included in a proxy statement. Such information will include any change in such disclosure caused by the addition of a new Sub-Adviser. To meet this condition, the Manager will provide shareholders with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13341 Filed 5–28–02; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Carroll County Regional Airport, Westminster, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of proposed release of approximately 12 acres of land at the Carroll County Regional Airport, Westminster, Maryland. There are no impacts to the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. Fair Market Value of the land will be paid to the Airport sponsor, and used for Airport purposes.

DATES: Comments must be received on or before June 28, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, P.O. Box 16780, Washington, DC 20041–6780.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Steve Brown,

Manager, Carroll County Regional Airport, at the following address: Steve Brown, Airport Manager, Carroll County Department of Enterprise and Recreation Services, 225 North Center Street, Room 100, Westminster, Maryland 21157.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, P.O. Box 16780, Washington, DC 20041–6780; telephone (703) 661–1354, fax (703) 661–1370, e-mail *Terry.Page@faa.gov*.

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Chantilly, Virginia, on May 8, 2002.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 02–13376 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held June 17–21, 2002 starting at 9 am. Please note that on June 19 and June 20 the Plenary Session starting times are 1 pm and 1:30 pm, respectively.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 186 meeting.

Note: Specific working group sessions will be held on June 17–19. The plenary agenda will include:

- June 19–21
  - Opening Plenary Session (Chairman's Introductory Remarks, Review of Meeting Agenda, Review/Approval of Previous Meeting Summary)
  - SC–186 Activity Reports
  - WG–1, Operations & Implementation
  - WG–2, Traffic Information Service—Broadcast (TIS–B)
  - WG–3, 1090 MHz Minimum Operational Performance Standard (MOPS)
  - WG–4, Application Technical Requirements
  - WG–5, Universal Access Transceiver (UAT) MOPS
  - WG–6, Automatic Dependent Surveillance-Broadcast (ADS–B) Minimum Aviation System Performance Standards (MASPS)
  - EUROCAE WG–51 Report; Discuss Joint RTCA/EUROCAE Work
  - Review and Approve Proposed Final Draft UAT MOPS, RTCA Paper No. 098–02/SC186–195
  - Review and Approve Proposed Final Draft TIS–B MASPS, RTCA Paper No. 095–02/SC186–193
  - Closing Plenary Session (Date, Place and Time of Next Meeting, Other Business, Review Actions Items/Work Program, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 20, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–13372 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held June 10–14, 2002 from 9 am–5 pm.

ADDRESSES: The meeting will be held at ICAO Headquarters, 999 University Street, Montreal, PQ, Canada, H3C 5H7.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www/rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

- June 10
  - Opening Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda, Review Summary of Previous Meeting)
  - Presentations/Discussions
  - Subgroup 4 (Database Exchange Format)
  - Resolution of Action Items; Continue goals and objectives for new subgroup; Start work on new document
- June 11, 12, 13
  - Subgroup 4 (Continue previous day activities)
  - June 14
  - Closing Plenary Session (Summary of Subgroup 4, Assign Tasks, Other Business, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statements to the committee at any time.

Issued in Washington, DC, on May 20, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–13373 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 199: Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 199 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 199: Airport Security Access Control Systems.

DATES: The meeting will be held on June 11, 2002 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 199 meeting. The agenda will include:

- June 11:
  - Opening Session (Welcome, Introductory and Administrative Remarks, Agenda Overview, Review Minutes of Previous Meeting, Action Items from Last Meeting)
  - Workgroup Reports, New Standard Text, and Comments from Members, as appropriate (Document Sections 1–4, Biometrics workgroup, Smart card workgroup, Database workgroup)
  - Closing Session (Any Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting)
  - Workgroups Breakout Session

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Dated: Issued in Washington, DC, on May 20, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–13374 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–04–C–00–BWI To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Baltimore/Washington International Airport, Baltimore, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Baltimore/Washington International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990)(Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 28, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Washington Airport District Office, 23723 Air Freight Ln., Suite 210, Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Beverly K. Swaim-Staley, Acting Executive Director, of the Maryland Aviation Administration (MAA) at the following address: P.O. Box 8766, BWI Airport, Baltimore, MD 21240–0766.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the MAA under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Eleanor Schifflin, PFC Program Manager, Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica 11434 at (718) 553–3354. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Baltimore/Washington International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 26, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by MAA was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 1, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–04–C–00–BWI.

Level of the proposed PFC: $4.50

Proposed charge effective date: May 1, 2004.

Proposed charge expiration date: May 1, 2011.

Total estimated PFC revenue: $371,417,115.

Brief description of proposed project(s):

—Terminal Roadway Expansion and Improvement
—Terminal Pedestrian Access Expansion and Improvement
—15R Parallel Taxiway and Airfield Ramp Construction
—CUTE for International Terminal Fitout
—SMGCS Equipment—Phase 1

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-demand air taxi/commercial operators (ATCO) filing form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: 1 Aviation Plaza, Airports Division, AEA–610, John F Kennedy International Airport, Jamaica, New York, 11434.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at MAA.

Eleanor Schifflin,

Manager, PFC Program, Eastern Region.

[FR Doc. 02–13375 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–05–C–00–BLI To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Bellingham International Airport, Submitted by the Port of Bellingham, Bellingham International Airport, Bellingham, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Bellingham International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 28, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Brian Henshaw, Aviation Analyst, at the following address: P.O. Box 1677, Bellingham, WA 98227.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Bellingham International Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (425) 227–2654, Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 02–05–C–00–BLI to impose and use PFC revenue at Bellingham International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 17, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Port of Bellingham. Bellingham International Airport, and Bellingham, Washington was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 27, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2004.

Proposed charge expiration date: January 1, 2007.

Total requested for use approval: $954,210.

Brief description of proposed project: Extension of Runway 16/34 New HIRL System, and Taxiway Lighting/Wetlands Mitigation; Airport Sign System; Master Plan (completed); Construct & Rehabilitate Aircraft Apron; Acquisition of Snow Removal Equipment; Construct Snow Removal Equipment building; Upgrades on Security Gates/Installation of Wildlife Fence; Reconstruct & Rehabilitate Taxiway D; Construct/Reconstruct Terminal Apron; Construct Deicing Facility; Acquisition of Passenger Lift Device; Master Plan (new); Acquire Aircraft Rescue & Firefighting.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Non-scheduled air taxi/commercial operators, utilizing aircraft having seating capacity of less than 20 passengers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Bellingham International Airport.

Issued in Renton, Washington, on May 17, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02–13371 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12371]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FAIR TRADES.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 28, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12371. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: FAIR TRADES. Owner: Michael and Frances Plitman.

(2) Size, capacity and tonnage of vessel. According to the applicant: "FAIR TRADES is 50 feet long, and has a Gross tonnage of 35 tons as calculated pursuant to 46 U.S.C. 14502."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: We intend to operate FAIR TRADES on day and overnight charter trips along the Gulf Coast for up to 12 passengers. FAIR TRADES is now berthed at St. Andrews marina in Panama City and most charters will operate within 50 nautical miles of the entrance to St. Andrews Bay."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1990. Place of construction: France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "Approval of this waiver will have minimal impact on other commercial passenger vessel operators. FAIR TRADES will not be competing with the large majority of coastwise operators that offer daily excursions. We have absolutely no interest in providing hourly harbor tour type services. Rates for chartering FAIR TRADES will be based on comparable market prices for similar vessels regardless of place of construction, most of which are operated in "bareboat" charter. There will be no attempt to undercut competitors; in fact, we are seeking to make a profit based on quality of service—not volume. Therefore our rates will be comparable to other high end charters. There are many foreign-built and U.S.-built boats, including French-built BENETEAUS, that operate legally in the Bareboat trade. It is these types of vessels with which we will really compete and their owners are not truly in the commercial service—they are individuals looking to offset the high costs of boat ownership."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "Any impact on domestic shipbuilders should be positive. In fact, successful operations with FAIR TRADES may stimulate interest among U.S. builders to design and construct similar type vessels. Since we purchased FAIR TRADES, we have spent over $75,000 for U.S. manufactured equipment to upgrade her thereby helping the local marine industry. All repair work contracted for has been performed by U.S. yards. It should be evident that FAIR TRADES is, in fact, stimulating many related marine industries."

Dated: May 22, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13362 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12369]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel GECKO GECKO.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 28, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12369. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: GECKO GECKO. Owner: George Randall Boelsems.

(2) Size, capacity and tonnage of vessel. According to the applicant: "Size: 15 Gross ton, 14 Net ton, Length 41.6 ft, Breadth 21.4 ft, Depth 6.8 ft."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "Vessel is intended to be used in Southern California coastal waters as an overnight crewed recreational charter vessel."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1992. Place of construction: France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "This waiver should have minimal impact on other commercial passenger vessel operators due the current demand for this type of vessel in the area for recreational purposes. Most charter vessels in this size are sportfisher designs used for day fishing charter trips. This vessel is a power Catamaran and there is only one other

operating 100 miles south, out of San Diego that offers an overnight recreational application."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "A waiver for the GECKO GECKO should have a positive impact on shipyards building power catamarans. The crewed charter by people interested in the power multihull design will give potential buyers an opportunity to try the multihull experience, which should increase sales in this type of vessel."

Dated: May 22, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13361 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number:MARAD–2002–12373]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LAUREN ASHLEY.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 28, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12373. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: LAUREN ASHLEY. Owner: Tilcom, Inc.

(2) Size, capacity and tonnage of vessel. According to the applicant: "Gross Tonnage: 53 GRT; Net Tonnage: 48 NRT; Length: 72 ft.; Breadth: 21 ft.; Depth: 9.5 ft.; Capacity: 6 passengers."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: If a waiver is granted, the Vessel will be used for luxury, week-long, captained voyage charters. The geographic region of intended operation will be from Key West, Florida to Fort Lauderdale, Florida, no more than 90 nautical miles from the Florida Coastline. The vessel will not carry more than 6 passengers at any one time."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1987. Place of construction: Hong Kong.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "This waiver is not expected to have any measurable impact on commercial passenger vessel operators in the Key West area. There are several companies in Key West that offer day charters of all different kinds of pleasure vessels for fishing or sightseeing * * *. However, to this owner's knowledge, there is no company in Key West currently offering captained voyage charters of a luxury yacht on a week-to-week basis."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "This waiver is not expected to have any detrimental effect on U.S. shipyards. There are no U.S. builders that are currently building motor yachts anything the LAUREN ASHLEY * * *. If the waiver is granted, the owner anticipates that * * * marinas in the Key West and Fort Lauderdale areas will continue to provide regular maintenance and repair services to the vessel."

Dated: May 22, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13364 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12374]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SEA–YA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 28, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12374. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: SEA–YA. Owner: Edwin H. Dolatowski.

(2) Size, capacity and tonnage of vessel. According to the applicant: "35′0″long, 12′2″ breadth, 6′8″ depth and the weight is 17000."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "Charter a 6 man uninspected passenger vessel on Lake Michigan waters (sports trolling charters)."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1971. Place of construction: Unknown.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "I see no reason why documentation of this vessel will interfere with any other existing operators."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "There will be no impact * * * to the U.S. Shipyards."

Dated: May 22, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13365 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12372]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VALHALLA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 28, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12372. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* VALHALLA. Owner: Donald Allen Brunnell.

(2) Size, capacity and tonnage of vessel. According to the applicant: "She is 13 gross tons and 12 net registered tons * * * length is 35.0 feet, breadth is 11.9 feet and depth is 6.4 feet."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "The intended use of the vessel is to operate in the coastwise trade in the Hawaiian Islands and the South Pacific Ocean."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1973. Place of construction: Cheoy Lee Shipyard, Kowloon, Hong Kong. Date of reconstruction: 1990. Place of reconstruction: Pearl Harbor, Hawaii.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "I do not expect any significant impact on other commercial passenger vessel operators. Most of the other small commercial operators in this area operate off the beaches, or operate short duration dinner cruises, with larger (149 or more) passenger vessels."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "I expect no significant impact on U.S. shipyards."

Dated: May 22, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13363 Filed 5–28–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34201]

International Steel Group, Inc.—Continuance in Control Exemption—ISG South Chicago & Indiana Harbor Railway Company and ISG Cleveland Works Railway Company

International Steel Group, Inc. (ISG), a noncarrier, has filed a verified notice of exemption to continue in control of ISG South Chicago & Indiana Harbor Railway Company (SCIH) [1] and ISG Cleveland Works Railway Company (CWRO),[2] upon CWRO's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 34182, *ISG Cleveland Works Railway Company—Acquisition and Operation Exemption—Rail Lines of The Cuyahoga Valley Railway Company and River Terminal Railway Company*, wherein CWRO seeks to acquire the railroad lines and trackage rights of The Cuyahoga Valley Railway Company and River Terminal Railway Company, Class III rail carrier subsidiaries of LTV Steel Company, Inc. The railroad lines are located in Cuyahoga County, OH, south of Cleveland.

The transaction was expected to be consummated when the transaction covered by STB Finance Docket No. 34182 was consummated.[3]

ISG states that: (i) The properties of SCIH and CWRO will not connect with each other or any railroads in their corporate family; (ii) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines of the two railroads with each other or any railroads in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34201, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, Second Floor, Washington, DC 20036.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV*."

Decided: May 22, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13383 Filed 5–28–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34182]

ISG Cleveland Works Railway Company—Acquisition and Operation Exemption—Rail Lines of The Cuyahoga Valley Railway Company and River Terminal Railway Company

ISG Cleveland Works Railway Company (CWRO), a noncarrier and indirect wholly owned subsidiary of International Steel Group, Inc. (ISG), has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate 9.5 miles of railroad lines of The Cuyahoga Valley Railway Company (CVRC) and River Terminal Railway Company (RTRC), Class III rail carrier subsidiaries of LTV Steel Company, Inc., as follows: (a) CVRC's approximately 3.4-mile line within and in the vicinity of the Cleveland Works West steel facility located on the west side of the Cuyahoga River in Cuyahoga County, OH; (b) RTRC's approximately 3.9-mile line within and in the vicinity of the Cleveland Works East steel facility located on the east side of the Cuyahoga River in Cuyahoga County; [1] and (c) CVRC's and RTRC's approximately 2.2-mile jointly owned line between approximately station 25 + 49.7 and approximately station 140 + 5 that extends between and through the Cleveland Works West facility and the Cleveland Works East facility. In addition, CWRO will acquire overhead trackage rights of CVRC over approximately 1,750 feet of rail line formerly owned by the Baltimore and Ohio Railroad Company and currently owned by CSX Transportation, Inc., between approximately P.S. 250 + 68 near Cleveland and approximately O.P. 20 + 73 in Cuyahoga Heights, OH.[2]

This transaction is related to STB Finance Docket No. 34201, *International Steel Group, Inc.—Continuance in Control Exemption—ISG South Chicago & Indiana Harbor Railway Company and ISG Cleveland Works Railway Company*, wherein ISG seeks to continue in control of ISG South Chicago & Indiana Harbor Railway Company and CWRO, upon CWRO's becoming a Class III rail carrier.

The transaction was scheduled to be consummated on the effective date of the exemption, which, as noted, was May 15, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34182, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Ave., 2nd Floor, Washington, DC 20036.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV*."

Decided: May 22, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13384 Filed 5–28–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2002

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor and reference prices for calendar year 2002 as required by section 45(d)(2)(A) (26 U.S.C. 45(d)(2)(A)).

SUMMARY: The 2002 inflation adjustment factor and reference prices are used in determining the availability of the renewable electricity production credit under section 45(a).

DATES: The 2002 inflation adjustment factor and reference prices apply to calendar year 2002 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources.

Inflation Adjustment Factor: The inflation adjustment factor for calendar year 2002 is 1.1908.

Reference Prices: The reference prices for calendar year 2002 are 5.54¢ per kilowatt hour for facilities producing electricity from wind and 0¢ per kilowatt hour for facilities producing electricity from closed-loop biomass and poultry waste.

Because the 2002 reference prices for electricity produced from wind, closed-loop biomass, and poultry waste energy resources do not exceed 8¢ multiplied by the inflation adjustment factor, the phaseout of the credit provided in section 45(b)(1) does not apply to electricity sold during calendar year 2002.

Credit Amount: As required by section 45(b)(2), the 1.5¢ amount in section 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by section 45(b)(2), the renewable electricity production credit for calendar year 2002 under section 45(a) is 1.8¢ per kilowatt hour on the sale of electricity produced from wind, closed-loop biomass, and poultry waste energy resources.

FOR FURTHER INFORMATION CONTACT: David A. Selig, IRS, CC:PSI:5, 1111 Constitution Ave., NW., Washington, DC 20224, (202) 622–3040 (not a toll-free call).

Paul F. Kugler,

Associate Chief Counsel, (Passthroughs & Special Industries).

[FR Doc. 02–13399 Filed 5–28–02; 8:45 am]

BILLING CODE 4030–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Electronic Tax Administration Advisory Committee Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of the Electronic Tax Administration Advisory Committee (ETAAC).

SUMMARY: In 1998 the IRS established the Electronic Tax Administration Advisory Committee (ETAAC). The primary purpose of ETAAC is to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC offers constructive observations about current or proposed policies, programs, and procedures, and suggests improvements.

There will be a meeting of ETAAC on Thursday, June 6, 2002. The meeting will be held in the Swissotel Watergate, 2650 Virginia Avenue, NW., Washington, DC. A summarized version of the agenda along with a list of topics that are planned to be discussed are listed below.

FOR FURTHER INFORMATION CONTACT: To get on the access list to attend this meeting, to have a copy of the agenda faxed to you, or to get general information about ETAAC, call Robin Marusin at 202–622–8184.

SUPPLEMENTARY INFORMATION:

Summarized Agenda for Meeting Thursday, June 6, 2002

9:00 Meeting Opens
11:30 Break for Lunch
1:00 Meeting Resumes
3:00 Meeting Adjourns

The topics that are planned to be covered are as follows:

(1) Large and Mid-Size Business Plans.

(2) Review of 2002 Filing Season and Plans for the Future.

(3) Change in Filing Date.

(4) EZ Tax Filing.

(5) Preview of Report to Congress.

Note: Last minute changes to these topics are possible and could prevent advance notice.

Background

ETAAC reports to the Director, Electronic Tax Administration, who is the executive responsible for the electronic tax administration program. Increasing participation by external stakeholders in the development and implementation of the Internal Revenue Service's (IRS's) strategy for electronic tax administration will help achieve the goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend the public meetings, working sessions, and an orientation each year.

Meeting Information

The meeting will be open to the public, and will be in a room that accommodates approximately 80

[1] SCIH, a Class III rail carrier, is a wholly owned subsidiary of ISG Indiana Harbor Inc., which is a wholly owned subsidiary of ISG. SCIH operates over lines located in Illinois and Indiana.

[2] ISG indirectly controls CWRO, a noncarrier at the time of the filing of the verified notice. CWRO is a wholly owned subsidiary of ISG Cleveland Inc., which is a wholly owned subsidiary of ISG.

[3] The exemption in STB Finance Docket No. 34182, became effective on May 15, 2002, when the Board denied a petition to revoke the exemption and lifted the stay of the effectiveness of the exemption. The stay had been issued to allow orderly consideration of the parties' arguments.

[1] The CVRC lines and the RTRC lines do not have milepost designations.

[2] By decision served on May 6, 2002, the Chairman issued a "housekeeping" stay of the effective date of the notice of exemption to permit the orderly consideration of a petition filed by United Transportation Union (UTU) to revoke the exemption. Subsequently, by decision served on May 15, 2002, the Board denied UTU's petition to revoke the exemption in this proceeding. The May 15 decision also vacated the housekeeping stay, making the exemption effective on that date.

people, including members of ETAAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. To get your name on the access list, *notification of intent to attend the meeting should be made with Ms. Robin Marusin by May 31, 2002. Ms. Marusin can be reached at 202–622–8184.* Notification of intent should include your name, organization and phone number. If you leave this information for Ms. Marusin in a voice-mail message, please spell out all names.

A draft of the agenda will be available via facsimile transmission the week prior to the meeting. Please call Ms. Robin Marusin on or after Thursday May 30 to have a copy of the agenda faxed to you. Please note that a draft agenda will not be available until that date.

Terence H. Lutes,

Director, Electronic Tax Administration.

[FR Doc. 02–13177 Filed 5–28–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Software Developer's Conference

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Software Developer's Conference notification.

SUMMARY: The Software Developer's Conference will be held on June 26–27, 2002. The conference will be held in the Ritz-Carlton, Pentagon City, Arlington, VA. A summarized version of the agenda, along with a list of topics that are planned to be discussed are listed below.

SUPPLEMENTARY INFORMATION:

Summarized Agenda for Conference Wednesday, June 26, 2002

8:00—Conference Begins
12:15—Break for Lunch
1:15—Conference Resumes
5:00—Conference Adjourns

The topics that are planned to be covered are as follows:

(1) Privacy
(2) Security
(3) EMS
(4) Help Desk
(5) ETA Transition
(6) Operations, Form 1040
(7) Change in Due Date
(8) Payments & Business Returns
(9) Internet-Based Fee/Transaction Service for Credit Card Processing
(10) Form 1041
(11) Form 1065
(12) Employment Tax

Summarized Agenda for Conference Wednesday, June 27, 2002

8:00—Conference Begins
12:00—Break for Lunch
1:00—Conference Resumes
5:00—Conference Adjourns

The topics that are planned to be covered are as follows

(1) Modernized e-file
(2) Form 1120 Architecture
(3) Form 1120 e-file
(4) Form 990 e-file
(5) EZ Tax Filing Consortium
(6) e-services
(7) 2 D Bar Code
(8) Break Out Groups

Note: Last minute changes to these topics are possible and could prevent advance notice.

The conference is being sponsored by the Electronic Tax Administration.

The conference will be in a room that accommodates approximately 150 people, including IRS officials. *Registration forms for the IRS e-file Software Developers Conference may be obtained by visiting our Web site: www.irs.gov. Click on the IRS e-file logo at the bottom and then click Software Developers & Transmitters. Registration should be received by May 24, 2002.* In addition, a draft agenda is available.

Terence H. Lutes,

Director, Electronic Tax Administration.

[FR Doc. 02–13176 Filed 5–28–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service, Tax Exempt and Government Entities Division; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Friday, June 21, 2002.

FOR FURTHER INFORMATION CONTACT: Rick Trevino; Office of Communication and Liaison; 1111 Constitution Avenue, NW., T:CL—Penn Bldg; Washington, DC 20224. Telephone: 202–283–9950 (not a toll-free number). E-mail address: *Rick.Trevino@irs.gov.*

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Friday, June 21, 2002, from 9 a.m. to 4 p.m. in Room 3313, main Internal Revenue Service building, 1111 Constitution Avenue, NW., Washington, DC 20224. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities. Reports from five ACT subgroups will be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 50 people, IRPAC members and Internal Revenue Service officials inclusive. Due to limited seating and security requirements, please call Demetrice Tuppince to confirm your attendance. Ms. Tuppince can be reached at (202) 283–9954. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Please use the main entrance at 1111 Constitution Avenue to enter the building.

Should you wish the ACT to consider a written statement, please call (202) 283–9966, or write to: Internal Revenue Service; Tax Exempt/Government Entities Division; ATTN: Rick Trevino; 1111 Constitution Avenue, NW., T:CL—Penn Bldg; Washington, DC. 20224, or e-mail: *Rick.Trevino@irs.gov.*

Dated: May 22, 2002.

Steven J. Pyrek,

Designated Federal Official, Tax Exempt and Government Entities Division.

[FR Doc. 02–13398 Filed 5–28–02; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 67, No. 103

Wednesday, May 29, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

Federal Supply Service; Standard Tender of Service

Correction

In notice document 02–11638 beginning on page 31307 in the issue of Thursday, May 9, 2002 make the following correction:

On page 31308, in the first column, in the footnote, in the first line, "U.S." should read "U.S. Mint".

[FR Doc. C2–11638 Filed 5–28–02; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0044]

Proposed Collection Application/ Permit for Use of Space in Public Buildings and Grounds

Correction

In notice document 02–11223, beginning on page 30686 in the issue of Tuesday, May 7, 2002 make the following corrections:

1. On page 30686, in the third column, the "**AGENCY**" heading is corrected to read as set forth above.

2. On page 30686, in the same column, under the "**SUMMARY:**" heading, in the second line, "paperwork" should read "Paperwork".

3. On page 30686, in the same column, under the same heading, in the third line, "chapter" should read "Chapter ".

[FR Doc. C2–11223 Filed 5–28–02; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0259]

Submission for OMB Review; Comment Request Entitled Market Research Questionnaire

Correction

In notice document 02–11224 appearing on page 30687 in the issue of Tuesday, May 7, 2002, make the following correction:

On page 30687, in the second column, under the "**ADDRESSES:**" heading, in the sixth line, "Service" should read "Services".

[FR Doc. C2–11224 Filed 5–28–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–14]

Modification of Class D Airspace; Columbus, OH

Correction

In rule document 02–11501 beginning on page 30776 in the issue of Wednesday, May 8, 2002, make the following corrections:

§ 71.1 [Corrected]

1. On page 30777, in the first column, in § 71.1, under the heading **AGL OH D Columbus, OH [Revised]**, in the first line, "Airprt" should read, "Airport".

2. On the same page, in the same column, in the same section, under the heading **AGL OH D Columbus, OH [Revised]**, in the second line, "Lat. 30°" should read, "Lat. 39°".

[FR Doc. C2–11501 Filed 5–28–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–04]

Modification of Class E Airspace; Winona, MN

Correction

In rule document 02–11502 beginning on page 30780 in the issue of Wednesday, May 8, 2002, make the following correction:

§ 71.1 [Corrected]

On page 30781, in the first column, in § 71.1, under the heading **AGL MN E5 Winona, MN [Revised]**, in the second line, "Lat. 40°" should read, "Lat. 44°".

[FR Doc. C2–11502 Filed 5–28–02; 8:45 am]

BILLING CODE 1505–01–D

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Federal Register

Wednesday,
May 29, 2002

Part II

United States Sentencing Commission

Sentencing Guidelines for United States Courts; Notice

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of submission to Congress of amendments to the sentencing guidelines, effective November 1, 2002.

SUMMARY: Pursuant to its authority under 28 U.S.C. § 994(a) and (p), the Commission has promulgated amendments to the sentencing guidelines, policy statements, commentary, and statutory index.

This notice sets forth the amendments and the reason for each amendment.

DATES: The Commission has specified an effective date of November 1, 2002, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, 202–502–4590. The amendments set forth in this notice also may be accessed through the Commission's Web site at *www.ussc.gov*.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p). Absent action of Congress to the contrary, submitted amendments become effective by operation of law on the date specified by the Commission (generally November 1 of the year in which the amendments are submitted to Congress).

Notice of proposed amendments was published in the **Federal Register** on November 27, 2001 (*see* 66 FR 59330–59340), and January 17, 2002 (*see* 67 FR 2456–2475). The Commission held three public hearings on the proposed amendments in Washington, DC, on February 25, 2002, February 26, 2002, and March 19, 2002. After a review of hearing testimony and additional public comment, the Commission promulgated the amendments set forth in this notice. On May 1, 2002, the Commission submitted these amendments to Congress and specified an effective date of November 1, 2002.

Authority: 28 U.S.C. § 994(a), (o), and (p); USSC Rule of Practice and Procedure 4.1.

Diana E. Murphy,

Chair.

1. Amendment: The Commentary to § 2A1.1 captioned "Statutory Provisions" is amended by inserting ", 2332b(a)(1), 2340A" after "2118(c)(2)".

The Commentary to § 2A1.2 captioned "Statutory Provision" is amended by striking "Provision" and inserting "Provisions"; by inserting "§ " before "1111"; and by inserting ", 2332b(a)(1), 2340A" after "1111".

The Commentary to § 2A1.3 captioned "Statutory Provision" is amended by striking "Provision" and inserting "Provisions"; by inserting "§ " before "1112"; and by inserting ", 2332b(a)(1)" after "1112".

The Commentary to § 2A1.4 captioned "Statutory Provision" is amended by striking "Provision" and inserting "Provisions"; by inserting "§ " before "1112"; and by inserting ", 2332b(a)(1)" after "1112".

The Commentary to § 2A2.1 captioned "Statutory Provisions" is amended by inserting ", 1993(a)(6)" after "1751(c)".

The Commentary to § 2A2.2 captioned "Statutory Provisions" is amended by inserting ", 1993(a)(6), 2332b(a)(1), 2340A" after "1751(e)".

The Commentary to § 2A4.1 captioned "Statutory Provisions" is amended by inserting ", 2340A" after "1751(b)".

Chapter Two, Part A is amended in the heading of subpart 5 by adding at the end "AND OFFENSES AGAINST MASS TRANSPORTATION SYSTEMS".

Section 2A5.2 is amended in the heading by adding at the end "; Interference with Dispatch, Operation, or Maintenance of Mass Transportation Vehicle or Ferry".

Section 2A5.2(a)(1) is amended by striking "the aircraft and passengers; or" and inserting ": (A) an airport or an aircraft; or (B) a mass transportation facility, a mass transportation vehicle, or a ferry;".

Section 2A5.2(a)(2) is amended by striking "the aircraft and passengers; or" and inserting ": (A) an airport or an aircraft; or (B) a mass transportation facility, a mass transportation vehicle, or a ferry;".

Section 2A5.2 is amended by inserting after subsection (a) the following:

"(b) Specific Offense Characteristic.

(1) If (A) subsection (a)(1) or (a)(2) applies; and (B)(i) a firearm was discharged, increase by 5 levels; (ii) a dangerous weapon was otherwise used, increase by 4 levels; or (iii) a dangerous weapon was brandished or its use was threatened, increase by 3 levels. If the resulting offense level is less than level 24, increase to level 24.

(c) Cross References.

(1) If death resulted, apply the most analogous guideline from Chapter Two, Part A, subpart 1 (Homicide), if the resulting offense level is greater than that determined above.

(2) If the offense involved possession of, or a threat to use (A) a nuclear weapon, nuclear material, or nuclear byproduct material; (B) a chemical weapon; (C) a biological agent, toxin, or delivery system; or (D) a weapon of mass destruction, apply § 2M6.1 (Nuclear, Biological, and Chemical Weapons, and Other Weapons of Mass Destruction), if the resulting offense level is greater than that determined above.".

The Commentary to § 2A5.2 captioned "Statutory Provisions" is amended by inserting "18 U.S.C. 1993(a)(4), (5), (6), (b);" before "49 U.S.C."; and by inserting "46503," after "46308,".

Section 2A5.2 is amended by striking the Commentary captioned "Background" and inserting the following:

"Application Note:

1. Definitions.—For purposes of this guideline:

'Biological agent', 'chemical weapon', 'nuclear byproduct material', 'nuclear material', 'toxin', and 'weapon of mass destruction' have the meaning given those terms in Application Note 1 of the Commentary to § 2M6.1 (Nuclear, Biological, and Chemical Weapons, and Other Weapons of Mass Destruction).

'Brandished', 'dangerous weapon', 'firearm', and 'otherwise used' have the meaning given those terms in Application Note 1 of the Commentary to § 1B1.1 (Application Instructions).

'Mass transportation' has the meaning given that term in 18 U.S.C. 1993(c)(5).".

Section 2A6.1 is amended by redesignating subsection (b)(4) as subsection (b)(5); by striking "and (3)" in subsection (b)(5), as redesignated by this amendment, and inserting "(3), and (4)"; and by inserting after subsection (b)(3) the following:

"(4) If the offense resulted in (A) substantial disruption of public, governmental, or business functions or services; or (B) a substantial expenditure of funds to clean up, decontaminate, or otherwise respond to the offense, increase by 4 levels.".

The Commentary to § 2A6.1 captioned "Statutory Provisions" is amended by inserting "32(c), 35(b)," before "871"; by inserting ", 1993(a)(7), (8), 2332b(a)(2)" after "879"; and by inserting "; 49 U.S.C. 46507" after "(C)–(E)".

The Commentary to § 2A6.1 captioned "Application Notes" is amended by striking Note 1; and by redesignating Note 2 as Note 1.

The Commentary to § 2A6.1 captioned "Application Notes" is amended in Note 1, as redesignated by this amendment, by inserting "Scope of Conduct to Be Considered.—" before "In determining"; and by striking the last two paragraphs.

The Commentary to § 2A6.1 captioned "Application Notes" is amended by adding at the end the following:

"2. Grouping.—For purposes of Chapter Three, Part D (Multiple Counts), multiple counts involving making a threatening or harassing communication to the same victim are grouped together under § 3D1.2 (Groups of Closely Related Counts). Multiple counts involving different victims are not to be grouped under § 3D1.2.

3. Departure Provisions.—

(A) In General.—The Commission recognizes that offenses covered by this guideline may include a particularly wide range of conduct and that it is not possible to include all of the potentially relevant circumstances in the offense level. Factors not incorporated in the guideline may be considered by the court in determining whether a departure from the guidelines is warranted. See Chapter Five, Part K (Departures).

(B) Multiple Threats or Victims.—If the offense involved substantially more than two threatening communications to the same victim or a prolonged period of making harassing communications to the same victim, or if the offense involved multiple victims, an upward departure may be warranted.".

Section 2B1.1 is amended by striking subsection (d).

The Commentary to § 2B1.1 captioned "Statutory Provisions" is amended by inserting "1992, 1993(a)(1), (a)(4)," after "1832,"; by inserting ", 2332b(a)(1)" after "2317"; and by inserting ", 60123(b)" after "46317(a)".

The Commentary to § 2B1.1 captioned "Background" is amended by striking the last paragraph.

Section 2B2.3(b)(1) is amended by inserting "(A)" after "occurred"; by striking the comma after "government facility" and inserting "; (B) at"; and by striking ", or" after "energy facility" and inserting "; (C) on a vessel or aircraft of the United States; (D) in a secured area of an airport; or (E) at".

Section 2B2.3 is amended by inserting after subsection (b) the following:

"(c) Cross Reference.

(1) If the offense was committed with the intent to commit a felony offense, apply § 2X1.1 (Attempt, Solicitation, or Conspiracy) in respect to that felony offense, if the resulting offense level is greater than that determined above.".

The Commentary to § 2B2.3 captioned "Statutory Provisions" is amended by inserting "§ " before "1030"; and by inserting ", 1036" after "(a)(3)".

The Commentary to § 2B2.3 captioned "Application Notes" is amended in Note 1 by striking "For purposes of this guideline—" and inserting the following:

"Definitions.—For purposes of this guideline:

"Airport" has the meaning given that term in section 47102 of title 49, United States Code.

"Felony offense" means any offense (federal, state, or local) punishable by imprisonment for a term exceeding one year, whether or not a criminal charge was brought or a conviction was obtained.".

Section 2K1.4(a)(1)(B) is amended by inserting ", an airport, an aircraft, a mass transportation facility, a mass transportation vehicle, or a ferry" after "dwelling".

Section 2K1.4(a)(2) is amended by striking "a dwelling; or (C) endangered a dwelling, or a structure other than a dwelling" and inserting "(i) a dwelling, or (ii) an airport, an aircraft, a mass transportation facility, a mass transportation vehicle, or a ferry; or (C) endangered (i) a dwelling, (ii) a structure other than a dwelling, or (iii) an aircraft, a mass transportation vehicle, or a ferry".

The Commentary to § 2K1.4 captioned "Statutory Provisions" is amended by inserting "1992, 1993(a)(1), (a)(2), (a)(3), (b)," after "1855,"; and by inserting ", 2332a; 49 U.S.C. 60123(b)" after "2275".

The Commentary to § 2K1.4 captioned "Application Notes" is amended by striking Note 1 and inserting the following:

"1. Definitions.—For purposes of this guideline:

"Explosives" includes any explosive, explosive material, or destructive device.

"National cemetery" means a cemetery (A) established under section 2400 of title 38, United States Code; or (B) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.

"Mass transportation" has the meaning given that term in 18 U.S.C. 1993(c)(5).".

The Commentary to § 2K1.4 captioned "Application Notes" is amended in Note 2 by inserting "Risk of Death or Serious Bodily Injury.—" before "Creating".

The Commentary to § 2K1.4 captioned "Application Notes" is amended by striking Notes 3 and 4 and inserting the following:

"3. Upward Departure Provision.—If bodily injury resulted, an upward departure may be warranted. See Chapter Five, Part K (Departures).".

The Commentary to § 2L1.2 captioned "Application Notes" is amended by inserting at the end of subdivision (B) of Note 1 the following:

"(vi) 'Terrorism offense' means any offense involving, or intending to promote, a 'federal crime of terrorism', as that term is defined in 18 U.S.C. 2332b(g)(5).".

The Commentary to § 2M2.1 captioned "Statutory Provisions" is amended by inserting "; 49 U.S.C. 60123(b)" after "2284".

The Commentary to § 2M2.3 captioned "Statutory Provisions" is amended by inserting "; 49 U.S.C. 60123(b)" after "2284".

Chapter Two, Part M is amended in the heading of subpart 5 by adding at the end ", AND PROVIDING MATERIAL SUPPORT TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS".

Section 2M5.1 is amended in the heading by adding at the end "; Financial Transactions with Countries Supporting International Terrorism".

Section 2M5.1(a)(1) is amended by inserting "(A)" after "26, if"; and by inserting "; or (B) the offense involved a financial transaction with a country supporting international terrorism" after "evaded".

The Commentary to § 2M5.1 captioned "Statutory Provisions" is amended by inserting "18 U.S.C. 2332d;" before "50 U.S.C.".

The Commentary to § 2M5.1 captioned "Application Notes" is amended by adding at the end the following:

"4. For purposes of subsection (a)(1)(B), 'a country supporting international terrorism' means a country designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405).".

Chapter Two, Part M, subpart 5 is amended by adding at the end the following:

"§ 2M5.3. Providing Material Support or Resources to Designated Foreign Terrorist Organizations

(a) Base Offense Level: 26

(b) Specific Offense Characteristic

(1) If the offense involved the provision of (A) dangerous weapons; (B) firearms; (C) explosives; or (D) funds

with knowledge or reason to believe such funds would be used to purchase any of the items described in subdivisions (A) through (C), increase by 2 levels.

(c) Cross References

(1) If the offense resulted in death, apply § 2A1.1 (First Degree Murder) if the death was caused intentionally or knowingly, or § 2A1.2 (Second Degree Murder) otherwise, if the resulting offense level is greater than that determined above.

(2) If the offense was tantamount to attempted murder, apply § 2A2.1 (Assault with Intent to Commit Murder; Attempted Murder), if the resulting offense level is greater than that determined above.

(3) If the offense involved the provision of (A) a nuclear weapon, nuclear material, or nuclear byproduct material; (B) a chemical weapon; (C) a biological agent, toxin, or delivery system; or (D) a weapon of mass destruction, apply § 2M6.1 (Nuclear, Biological, and Chemical Weapons, and Other Weapons of Mass Destruction), if the resulting offense level is greater than that determined above.

Commentary

Statutory Provision: 18 U.S.C. 2339B.

Application Notes:

1. Definitions—For purposes of this guideline:

"Biological agent", "chemical weapon", "nuclear byproduct material", "nuclear material", "toxin", and "weapon of mass destruction" have the meaning given those terms in Application Note 1 of the Commentary to § 2M6.1 (Nuclear, Biological, and Chemical Weapons, and Other Weapons of Mass Destruction).

"Dangerous weapon", "firearm", and "destructive device" have the meaning given those terms in Application Note 1 of the Commentary to § 1B1.1 (Application Instructions).

"Explosives" has the meaning given that term in Application Note 1 of the Commentary to § 2K1.4 (Arson; Property Damage by Use of Explosives).

"Foreign terrorist organization" has the meaning given the term "terrorist organization" in 18 U.S.C. 2339B(g)(6).

"Material support or resources" has the meaning given that term in 18 U.S.C. 2339B(g)(4).

2. Departure Provisions.—

(A) In General.—In determining the sentence within the applicable guideline range, the court may consider the degree to which the violation threatened a security interest of the United States, the volume of the material support or resources involved, the extent of planning or sophistication, and whether there were multiple occurrences. In a case in which such factors are present in an extreme form, a departure from the guidelines may be warranted. See Chapter Five, Part K (Departures).

(B) War or Armed Conflict.—In the case of a violation during time of war or armed conflict, an upward departure may be warranted.".

Section 2M6.1(a)(2) is amended by striking "and" and inserting a comma; by inserting ", (a)(4), and (a)(5)" after "(a)(3)"; and by striking "or".

Section 2M6.1(a) is amended by redesignating subdivision (3) as subdivision (5); by inserting after subdivision (2) the following:

"(3) 22, if the defendant is convicted under 18 U.S.C. 175b;

(4) 20, if the defendant is convicted under 18 U.S.C. 175(b); or"; and by striking "by-product" in subdivision (5), as redesignated by this amendment, and inserting "byproduct".

Section 2M6.1(b)(1) is amended by striking "or (a)(3)" and inserting ", (a)(4), or (a)(5)".

Section 2M6.1(b)(2) is amended by inserting ", (a)(3), or (a)(4)" after "(a)(2)".

Section 2M6.1(b)(3) is amended by striking "or" after "(a)(2)" and inserting a comma; and by inserting ", (a)(4), or (a)(5)" after "(a)(3)".

The Commentary to § 2M6.1 captioned "Statutory Provisions" is amended by inserting "175b," after "175,"; and by inserting "1993(a)(2), (3), (b)," after "842(p)(2),".

The Commentary to § 2M6.1 captioned "Application Notes" is amended in Note 1 by inserting after "18 U.S.C. 831(f)(1)." the following paragraph:

"'Restricted person' has the meaning given that term in 18 U.S.C. 175b(b)(2).".

Section 2S1.3 is amended in the heading by adding at the end "; Bulk Cash Smuggling; Establishing or Maintaining Prohibited Accounts".

Section 2S1.3(a) is amended to read as follows:

"(a) Base Offense Level:

(1) 8, if the defendant was convicted under 31 U.S.C. 5318 or 5318A; or

(2) 6 plus the number of offense levels from the table in § 2B1.1 (Theft, Property Destruction, and Fraud) corresponding to the value of the funds, if subsection (a)(1) does not apply.".

Section 2S1.3(b)(1) is amended by inserting "(A)" after "If"; and by inserting "; or (B) the offense involved bulk cash smuggling" after "promote unlawful activity".

Section 2S1.3(b) is amended by redesignating subdivision (2) as subdivision (3); and by inserting after subdivision (1) the following:

"(2) If the defendant (A) was convicted of an offense under subchapter II of chapter 53 of title 31, United States Code; and (B) committed the offense as part of a pattern of unlawful activity involving more than $100,000 in a 12-month period, increase by 2 levels.".

Section 2S1.3(b)(3), as redesignated by this amendment, is amended by striking "subsection (b)(1) does not apply" and inserting "subsection (a)(2) applies and subsections (b)(1) and (b)(2) do not apply".

The Commentary to § 2S1.3 captioned "Statutory Provisions" is amended by inserting "5318, 5318A(b), 5322," after "5316,"; and by inserting ", 5331, 5332" after "5326".

The Commentary to § 2S1.3 captioned "Application Note" is amended by striking "Note" and inserting "Notes"; by inserting "Definition of 'Value of the Funds'.—" before "For purposes of this guideline"; and by adding after Note 1 the following:

"2. Bulk Cash Smuggling.—For purposes of subsection (b)(1)(B), 'bulk cash smuggling' means (A) knowingly concealing, with the intent to evade a currency reporting requirement under 31 U.S.C. 5316, more than $10,000 in currency or other monetary instruments; and (B) transporting or transferring (or attempting to transport or transfer) such currency or monetary instruments into or outside of the United States. 'United States' has the meaning given that term in Application Note 1 of the Commentary to § 2B5.1 (Offenses Involving Counterfeit Bearer Obligations of the United States).

3. Enhancement for Pattern of Unlawful Activity.—For purposes of subsection (b)(2), 'pattern of unlawful activity' means at least two separate occasions of unlawful activity involving a total amount of more than $100,000 in a 12-month period, without regard to whether any such occasion occurred during the course of the offense or resulted in a conviction for the conduct that occurred on that occasion.".

The Commentary to § 2S1.3 captioned "Background" is amended by striking "The" and inserting "Some of the"; and by adding at the end the following:

" This guideline also covers offenses under 31 U.S.C. 5318 and 5318A, pertaining to records, reporting and identification requirements, prohibited accounts involving certain foreign jurisdictions, foreign institutions, and foreign banks, and other types of transactions and types of accounts.".

Section 2X1.1 is amended by adding after subsection (c) the following:

"(d) Special Instruction

(1) Subsection (b) shall not apply to any of the following offenses, if such offense involved, or was intended to promote, a federal crime of terrorism as defined in 18 U.S.C. 2332b(g)(5):

18 U.S.C. 81;
18 U.S.C. 930(c);
18 U.S.C. 1362;
18 U.S.C. 1363;
18 U.S.C. 1992;
18 U.S.C. 2339A;
18 U.S.C. 2340A;
49 U.S.C. 46504;
49 U.S.C. 46505; and 49 U.S.C. 60123(b).".

The Commentary to § 2X2.1 captioned "Statutory Provision" is amended to read as follows:

"Statutory Provisions: 18 U.S.C. 2, 2339, 2339A.".

The Commentary to § 2X2.1 captioned "Application Note" is amended in Note 1 by striking "'Underlying" and inserting "Definition.—For purposes of this guideline, 'underlying"; and by inserting ", or in the case of a violation of 18 U.S.C. 2339A, "underlying offense" means the offense the defendant is convicted of having materially supported prior to or during its commission" after "abetting".

Section 2X3.1(a) is amended by striking "Provided, that where" and inserting "However, in a case in which"; and by striking "offense level shall" and inserting "base offense level under this subsection shall".

The Commentary to § 2X3.1 captioned "Statutory Provisions" is amended by inserting ", 2339, 2339A" after "1072".

The Commentary to § 2X3.1 captioned "Application Notes" is amended in Note 1 by striking "Underlying" and inserting "Definition."—For purposes of this guideline, "underlying"; and by inserting", or in the case of a violation of 18 U.S.C. 2339A, 'underlying offense' means the offense the defendant is convicted of having materially supported after its commission (*i.e.*, in connection with the concealment of or an escape from that offense)" after "accessory".

The Commentary to § 2X3.1 captioned "Application Notes" is amended in Note 2 by inserting "Application of Mitigating Role Adjustment.—"before "The adjustment".

The Commentary to § 3A1.4 captioned "Application Notes" is amended by striking Note 1 and inserting the following:

"1. 'Federal Crime of Terrorism' Defined.—For purposes of this guideline, "federal crime of terrorism" has the meaning given that term in 18 U.S.C. 2332b(g)(5).".

The Commentary to § 3A1.4 captioned "Application Notes" is amended by redesignating Note 2 as Note 3; and by inserting after Note 1 the following:

"2. Harboring, Concealing, and Obstruction Offenses.—For purposes of this guideline, an offense that involved (A) harboring or concealing a terrorist who committed a federal crime of terrorism (such as an offense under 18 U.S.C. 2339 or 2339A); or (B) obstructing an investigation of a federal crime of terrorism, shall be considered to have involved, or to have been intended to promote, that federal crime of terrorism.".

The Commentary to § 3A1.4 captioned "Application Notes" is amended in Note 3, as redesignated by this amendment, by inserting "Computation of Criminal History Category.—" before "Under subsection (b)".

The Commentary to § 3A1.4 captioned "Application Notes" is amended by adding at the end the following:

"4. Upward Departure Provision.—By the terms of the directive to the Commission in section 730 of the Antiterrorism and Effective Death Penalty Act of 1996, the adjustment provided by this guideline applies only to federal crimes of terrorism. However, there may be cases in which (A) the offense was calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct but the offense involved, or was intended to promote, an offense other than one of the offenses specifically enumerated in 18 U.S.C. 2332b(g)(5)(B); or (B) the offense involved, or was intended to promote, one of the offenses specifically enumerated in 18 U.S.C. 2332b(g)(5)(B), but the terrorist motive was to intimidate or coerce a civilian population, rather than to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct. In such cases an upward departure would be warranted, except that the sentence resulting from such a departure may not exceed the top of the guideline range that would have resulted if the adjustment under this guideline had been applied.".

The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 4 by striking the period at the end of subdivision (i) and inserting a semicolon; and by inserting after subdivision (i) the following:

"(j) failing to comply with a restraining order or injunction issued pursuant to 21 U.S.C. 853(e) or with an order to repatriate property issued pursuant to 21 U.S.C. 853(p).".

Section 5D1.2(a) is amended by adding at the end the following:

"Notwithstanding subdivisions (1) through (3), the length of the term of supervised release for any offense listed in 18 U.S.C. 2332b(g)(5)(B) the commission of which resulted in, or created a foreseeable risk of, death or serious bodily injury to another person (A) shall be not less than the minimum term of years specified for that class of offense under subdivisions (1) through (3); and (B) may be up to life.".

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 175 the following new line:

"18 U.S.C. 175b 2M6.1";

by inserting after the line referenced to 18 U.S.C. 1992 the following new lines:

"18 U.S.C. 1993(a)(1) 2B1.1, 2K1.4
18 U.S.C. 1993(a)(2) 2K1.4, 2M6.1
18 U.S.C. 1993(a)(3) 2K1.4, 2M6.1
18 U.S.C. 1993(a)(4) 2A5.2, 2B1.1
18 U.S.C. 1993(a)(5) 2A5.2
18 U.S.C. 1993(a)(6) 2A2.1, 2A2.2, 2A5.2
18 U.S.C. 1993(a)(7) 2A6.1
18 U.S.C. 1993(a)(8) 2A6.1
18 U.S.C. 1993(b) 2A5.2, 2K1.4, 2M6.1";

by inserting after the line referenced to 18 U.S.C. 2332a the following new lines:

"18 U.S.C. 2332b(a)(1) 2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A2.1, 2A2.2, 2A4.1, 2B1.1
18 U.S.C. 2332b(a)(2) 2A6.1
18 U.S.C. 2332d 2M5.1
18 U.S.C. 2339 2X2.1, 2X3.1
18 U.S.C. 2339A 2X2.1, 2X3.1
18 U.S.C. 2339B 2M5.3
18 U.S.C. 2340A 2A1.1, 2A1.2, 2A2.1, 2A2.2, 2A4.1";

by inserting after the line referenced to 30 U.S.C. 1463 the following new line:

"31 U.S.C. 5311 note (section 329 of the USA PATRIOT Act of 2001) 2C1.1";

by inserting after the line referenced to 31 U.S.C. 5316 the following new lines:

"31 U.S.C. 5318 2S1.3
31 U.S.C. 5318 2S1.3";

by inserting after the line referenced to 31 U.S.C. 5326 the following new lines:

"31 U.S.C. 5331 2S1.3
31 U.S.C. 5332 2S1.3";

by inserting after the line referenced to 49 U.S.C. 46502(a),(b) the following new line:

"49 U.S.C. 46503 2A5.2"; and

by inserting after the line referenced to 49 U.S.C. 46506 the following new lines:

"49 U.S.C. 46507 2A6.1
49 U.S.C. 60123(b) 2B1.1, 2K1.4, 2M2.1, 2M2.3".

Reason for Amendment: This amendment is a six-part amendment

that responds to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107–56 (the "Act").

Among its many provisions are appropriately severe penalties for offenses against mass transportation systems and interstate gas or hazardous liquid pipelines. The amendment also increases sentences for threats that substantially disrupt governmental or business operations or result in costly cleanup measures. It expands the guideline coverage of offenses involving bioterrorism, and it creates a new guideline for providing material support to foreign terrorist organizations. It punishes attempts and conspiracies to commit terrorism as if the offense had been carried out and adds an invited upward departure to the guidelines' terrorism enhancement for appropriate cases. Finally, it authorizes a term of supervised release up to life for a defendant convicted of a federal crime of terrorism that resulted in substantial risk of death or serious bodily injury to another person.

First, this amendment makes a number of changes to Appendix A (Statutory Index) and several guidelines in Chapter Two (Offense Conduct) in order to incorporate several new predicate offenses to federal crimes of terrorism. This amendment addresses section 801 of the Act, which added 18 U.S.C. 1993, generally pertaining to offenses against mass transportation systems and facilities. The amendment also addresses 49 U.S.C. 46507 pertaining to false information and threats, that heretofore was not listed in the Statutory Index, as well as the new offense at 49 U.S.C. 46503, pertaining to interference with security screening personnel.

Specifically, the amendment makes a number of changes to § 2A5.2 (Interference with Flight Crew Member or Flight Attendant) and the guidelines in Chapter Two, part A, subpart 2 (Assault). First, this amendment references violations of 18 U.S.C. 1993(a)(4), (a)(5), (a)(6), and (b) and 49 U.S.C. 46503 to 2A5.2 because that guideline presently covers other similar offenses and because the guideline's alternative base offense levels cover offenses that involve reckless or intentional endangerment, conduct which is an element of some of these new offenses.

In order to take into account aggravating conduct which may occur in such offenses, the amendment adds a specific offense characteristic for use of a weapon, borrowing language from § 2A2.2 (Aggravated Assault). The specific offense characteristic provides a graduated enhancement with a minimum offense level of level 24 at § 2A5.2(b)(1) for the involvement of a dangerous weapon in the offense. This enhancement addresses concerns that the current base offense level of level 18 (in § 2A5.2(a)(2)) for reckless endangerment may be inadequate in situations involving a dangerous weapon and reckless disregard for the safety of human life. The minimum offense level of level 24 mirrors the offense level that applies for conduct amounting to reckless endangerment under subsection (b)(1) of § 2K1.5 (Possessing Dangerous Weapons or Materials While Boarding or Aboard an Aircraft). A cross reference to the appropriate homicide guideline also is provided for offenses in which death results; death as an aggravating circumstance is included in 18 U.S.C. 1993(b).

The amendment also amends § 2A6.1 (Threatening or Harassing Communications) to incorporate offenses against mass transportation systems under 18 U.S.C. 1993(a)(7) and (a)(8) and 49 U.S.C. 46507 and provides corresponding references in the Statutory Index. These three provisions require the same type of threatening conduct or conveyance of false information as two other offenses referenced to § 2A6.1, specifically 18 U.S.C. 32(c) and 35(b), which cover aircraft, railroads, and shipping, rather than mass transportation systems. Additionally, a specific offense characteristic is added if the offense resulted in a substantial disruption of public, governmental, or business functions or services, or a substantial expenditure of funds to clean up, decontaminate, or otherwise respond to the offense. This enhancement recognizes that a terrorist threat usually will be directed at a large number of individuals, governmental buildings or operations, or infrastructure. Unless such a terrorist threat is immediately dismissed as not credible, the conduct may result in significant disruption and response costs. This specific offense characteristic is the same as that contained in subsection (b)(3) of § 2M6.1 (Nuclear, Biological, and Chemical Weapons, and Other Weapons of Mass Destruction). An invited upward departure provision is added for situations in which the offense involved multiple victims, a circumstance which might occur in the context of these new offenses.

This amendment also amends § 2K1.4 (Arson; Property Damage by Use of Explosives) and § 2B1.1 (Theft, Property Destruction, and Fraud) to cover violations of 18 U.S.C. 1993(a)(1) and (b). Offenses under 18 U.S.C. 1993(a)(1) are similar to another offense referenced to these guidelines, 18 U.S.C. 32(a)(1), with respect to the intent standard required to commit the offense, offense conduct, and resulting harm. The amendment references violations of 18 U.S.C. 1993(a)(2), (a)(3), and (b) to §§ 2K1.4 and 2M6.1. These offenses encompass a wide range of conduct. For example, a violation of 18 U.S.C. 1993(a)(3) may occur if the defendant sets fire to a garage or places a biological agent or toxin for use as a destructive substance near an aircraft and this likely endangered the safety of that aircraft.

The amendment expands § 2M6.1 to cover 18 U.S.C. 175(b) and 175b, two new offenses created by section 817 of the Act, involving possession of biological agents, toxins, and delivery systems. Section 2M6.1 is the most appropriate guideline for these offenses because they involve the knowing possession of certain biological substances. A base offense level of level 20 is provided for 18 U.S.C. 175(b) offenses, the same base offense level as is currently provided for threat cases under that guideline. The current two level increase for particularly dangerous biological agents would be available for the most serious substances.

A base offense level of level 22 is provided for offenses under 18 U.S.C. 175b, which forbids certain restricted persons (defined in the statute) to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or to receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent (e.g., ebola, anthrax). Because this offense already takes into account the serious nature of a select agent, the amendment treats these offenses separately from offenses under 18 U.S.C. 175(b), with a higher base offense level and an instruction that the enhancement for select biological agents does not apply.

The amendment also amends the Statutory Index to reference 18 U.S.C. 2339 to 2X2.1 (Aiding and Abetting) and 2X3.1 (Accessory After the Fact). This offense prohibits harboring or concealing any person who the defendant knows, or has reasonable grounds to believe, has committed or is about to commit, one of several enumerated offenses.

Second, this amendment provides Statutory Index references, as well as modifications to various Chapter Two guidelines, for a number of offenses

that, prior to enactment of the Act, were enumerated in 18 U.S.C. 2332b(g)(5) as predicate offenses for federal crimes of terrorism but were not explicitly incorporated in the guidelines.

Specifically, the amendment references 18 U.S.C. 2332b(a)(1) offenses to §§ 2A1.1 (First Degree Murder), 2A1.2 (Second Degree Murder), 2A1.3 (Voluntary Manslaughter), 2A1.4 (Involuntary Manslaughter), 2A2.1 (Assault with Intent to Commit Murder; Attempted Murder), 2A2.2 (Aggravated Assault), and 2A4.1 (Kidnapping, Abduction, Unlawful Restraint), inasmuch as 18 U.S.C. 2332b offenses are analogous to offenses currently referenced to those guidelines.

The amendment also provides a Statutory Index reference to § 2A6.1 (Threatening or Harassing Communications) for cases under 18 U.S.C. 2332b(a)(2), which prohibits threats, attempts and conspiracies to commit an offense under 18 U.S.C. 2332b(a)(1).

This amendment also creates a new guideline, at § 2M5.3 (Providing Material Support or Resources to Designated Foreign Terrorist Organizations), for offenses under 18 U.S.C. 2339B, which prohibits the provision of material support or resources to a foreign terrorist organization. The amendment references offenses under 18 U.S.C. 2339A to §§ 2X2.1 and 2X3.1. Section 2339A offenses concern providing material support to terrorists that the defendant knows or intends will be used in preparation for, or in carrying out, certain specified predicate offenses. Thus, the essence of 18 U.S.C. 2339A offenses is akin to aiding and abetting or accessory after the fact offenses, which warrants reference to §§ 2X2.1 and 2X3.1. In contrast, 18 U.S.C. 2339B offenses are referenced to a new guideline, § 2M5.3, primarily because they are not statutorily linked to the commission of any specified predicate offenses. To account for the variety of ways in which such offenses may be committed, the proposed new guideline provides two specific offense characteristics that enhance the sentence for cases in which the material support involved dangerous weapons and in which the material support involved nuclear, biological, or chemical weapons.

The amendment references torture offenses under 18 U.S.C. 2340A to §§ 2A1.1, 2A1.2, 2A2.1, 2A2.2, and 2A4.1. The amendment also references 49 U.S.C. 60123(b), pertaining to damaging or destroying an interstate gas or hazardous liquid pipeline facility, to §§ 2B1.1, 2K1.4, 2M2.1 (Destruction of, or Production of Defective, War Material, Premises, or Utilities), and 2M2.3 (Destruction of, or Production of Defective, National Defense Material, Premises, or Utilities).

Third, the amendment responds to section 811 of the Act, which amended a number of offenses to ensure that attempts and conspiracies to commit any of those offenses subject the offender to the same penalties prescribed for the object offense. This amendment provides a special instruction in § 2X1.1 (Attempt, Solicitation, or Conspiracy) that the three level reduction in § 2X1.1(b) does not apply to these offenses when committed for a terrorist objective.

Fourth, the amendment adds an encouraged, structured upward departure in § 3A1.4 (Terrorism) for offenses that involve terrorism but do not otherwise qualify as offenses that involved or were intended to promote "federal crimes of terrorism" for purposes of the terrorism adjustment in § 3A1.4. The amendment provides an upward departure, rather than a specified guideline adjustment, because of the expected infrequency of these terrorism offenses and to provide the court with a viable tool to account for the harm involved during the commission of these offenses on a case-by-case basis. In addition, the structured upward departure provision makes it possible to impose punishment equal in severity to that which would be imposed if the § 3A1.4 adjustment actually applied.

The amendment adds an application note to § 3A1.4 regarding harboring and concealing offenses to clarify that § 3A1.4 may apply in the case of offenses that occurred after the commission of the federal crime of terrorism (e.g., a case in which the defendant, in violation of 18 U.S.C. 2339A, concealed an individual who had committed a federal crime of terrorism).

Fifth, the amendment amends § 2S1.3 (Structuring Transactions to Evade Reporting Requirements; Failure to Report Cash or Monetary Transactions; Failure to File Currency and Monetary Instrument Report; Knowingly Filing False Reports) to incorporate new money laundering provisions created by the Act.

Specifically, the amendment provides an alternative base offense level of level 8 in § 2S1.3(a) in order to incorporate offenses under 31 U.S.C. 5318 and 5318A. The base offense level of level 8 recognizes the heightened due diligence requirements placed on financial institutions with respect to payable-through accounts, correspondent accounts, and shell banks.

The amendment also amends § 2S1.3(b)(1), relating to the promotion of unlawful activity, to provide an alternative prong if the offense involved bulk cash smuggling. This amendment addresses 31 U.S.C. 5332, added by section 371 of the Act, which prohibits concealing, with intent to evade a currency reporting requirement under 31 U.S.C. 5316, more than $10,000 in currency or other monetary instruments and transporting or transferring such currency or monetary instruments into or outside of the United States. Findings set forth in that section of the Act indicate that bulk cash smuggling typically involves the promotion of unlawful activity.

The amendment also provides an enhancement in § 2S1.3(b) to give effect to the enhanced penalty provisions under 31 U.S.C. 5322(b) for offenses under subchapter II of chapter 53 of title 31, United Stated Code, if such offenses were committed as part of a pattern of unlawful activity involving more than $100,000 in a 12-month period.

Sixth, the amendment addresses a number of miscellaneous issues related to terrorism. Specifically, it provides a definition of terrorism for purposes of the prior conviction enhancement in § 2L1.2 (Unlawfully Entering or Remaining in the United States). For consistency, the definition is the same as that found in the current Chapter Three terrorism adjustment.

It also amends § 3C1.1 (Obstructing or Impeding the Administration of Justice), in response to section 319(d) of the Act, which amends the Controlled Substances Act at 21 U.S.C. 853(e) to require a defendant to repatriate any property that may be seized and forfeited and to deposit that property in the registry of the court or with the United States Marshals Service or the Secretary of the Treasury. Section 319(d) of the Act also states that the failure to comply with a protective order and an order to repatriate property "may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines." Accordingly, the amendment adds Application Note 4(j) to § 3C1.1 to provide that failure to comply with an order issued pursuant to 21 U.S.C. 835(e) is an example of the types of conduct to which the adjustment applies.

It also amends § 5D1.2 (Term of Supervised Release), in response to section 812 of the Act, which authorizes a term of supervised release of any term of years or life for a defendant convicted

of a federal crime of terrorism the commission of which resulted in, or created a foreseeable risk of, death or serious bodily injury to another person.

It also amends § 2B1.1 to delete the special instruction pertaining to the imposition of not less than six months' imprisonment for a defendant convicted under 18 U.S.C. 1030(a)(4) or (5). This amendment is in response to section 814(f) of the Act, which directed the Commission to amend the guidelines "to ensure that any individual convicted of a violation of section 1030 of title 18, United States Code, can be subjected to appropriate penalties, without regard to any mandatory minimum term of imprisonment."

It also adds a reference in the Statutory Index to § 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Color of Official Right), for the new offense created by section 329 of the Act, which prohibits a federal official or employee, in connection with administration of the money laundering provisions of the Act, to corruptly demand, seek, receive, accept, or agree to receive or accept anything of value in return for being influenced in the performance of an official act, being influenced to commit or aid in committing any fraud on the United States, or being induced to do or omit to do any act in violation of official duties.

It also amends § 2M5.1 (Evasion of Export Controls) to incorporate 18 U.S.C. 2332d, which prohibits a United States person, knowing or having reasonable cause to know that a country is designated under the Export Administration Act as a country supporting international terrorism, to engage in a financial transaction with the government of that country. The amendment provides a base offense level of level 26 for these offenses.

Finally, it amends § 2B2.3 (Trespass) to incorporate the offense under 18 U.S.C. 1036. That offense, added by section 2 of the Enhanced Federal Security Act of 2000, Public Law 106–547, prohibits, by fraud or pretense, the entering or attempting to enter any real property, vessel, or aircraft of the United States, or secure area of an airport. The amendment amends the existing two level enhancement in § 2B2.3(b)(1) to provide an additional ground for application of the enhancement if the trespass involved a vessel, aircraft of the United States, or secure area of an airport. It also adds a cross reference to § 2X1.1 if the offense involved the intent to commit another felony.

2. Amendment: Section 2B1.1(c) is amended by adding at the end the following:

"(4) If the offense involved a cultural heritage resource, apply § 2B1.5 (Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources), if the resulting offense level is greater than that determined above.".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 1 by inserting after "For purposes of this guideline:" the following paragraph:

" 'Cultural heritage resource' has the meaning given that term in Application Note 1 of the Commentary to § 2B1.5 (Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources).".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in subdivision (F) of Note 2 by adding at the end the following:

"(vii) Value of Cultural Heritage Resources.—In a case involving a cultural heritage resource, loss attributable to that cultural heritage resource shall be determined in accordance with the rules for determining the "value of the cultural heritage resource' set forth in Application Note 2 of the Commentary to § 2B1.5.".

Chapter Two, Part B, subpart 1 is amended by adding at the end the following new guideline and accompanying commentary:

"§ 2B1.5. Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources.

(a) Base Offense Level: 8

(b) Specific Offense Characteristics

(1) If the value of the cultural heritage resource (A) exceeded $2,000 but did not exceed $5,000, increase by 1 level; or (B) exceeded $5,000, increase by the number of levels from the table in § 2B1.1 (Theft, Property Destruction, and Fraud) corresponding to that amount.

(2) If the offense involved a cultural heritage resource from, or that, prior to the offense, was on, in, or in the custody of (A) the national park system; (B) a National Historic Landmark; (C) a national monument or national memorial; (D) a national marine sanctuary; (E) a national cemetery; (F) a museum; or (G) the World Heritage List, increase by 2 levels.

(3) If the offense involved a cultural heritage resource constituting (A) human remains; (B) a funerary object; (C) cultural patrimony; (D) a sacred object; (E) cultural property; (F) designated archaeological or ethnological material; or (G) a pre-Columbian monumental or architectural sculpture or mural, increase by 2 levels.

(4) If the offense was committed for pecuniary gain or otherwise involved a commercial purpose, increase by 2 levels.

(5) If the defendant engaged in a pattern of misconduct involving cultural heritage resources, increase by 2 levels.

(6) If a dangerous weapon was brandished or its use was threatened, increase by 2 levels. If the resulting offense level is less than level 14, increase to level 14.

(c) Cross Reference

(1) If the offense involved arson, or property damage by the use of any explosive, explosive material, or destructive device, apply § 2K1.4 (Arson; Property Damage by Use of Explosives), if the resulting offense level is greater than that determined above.

Commentary

Statutory Provisions: 16 U.S.C. 470ee, 668(a), 707(b); 18 U.S.C. 541–546, 641, 661–662, 666, 668, 1152–1153, 1163, 1168, 1170, 1361, 2232, 2314–2315.

Application Notes:

1. 'Cultural Heritage Resource' Defined.—For purposes of this guideline, 'cultural heritage resource' means any of the following:

(A) A historic property, as defined in 16 U.S.C. 470w(5) (see also section 16(l) of 36 CFR part 800).

(B) A historic resource, as defined in 16 U.S.C. 470w(5).

(C) An archaeological resource, as defined in 16 U.S.C. § 470bb(1) (see also section 3(a) of 43 CFR part 7; 36 CFR part 296; 32 CFR part 299; 18 CFR part 1312).

(D) A cultural item, as defined in section 2(3) of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001(3) (see also 43 CFR 10.2(d)).

(E) A commemorative work. "Commemorative work" (A) has the meaning given that term in section 2(c) of Public Law 99–652 (40 U.S.C. 1002(c)); and (B) includes any national monument or national memorial.

(F) An object of cultural heritage, as defined in 18 U.S.C. 668(a)(2).

(G) Designated ethnological material, as described in 19 U.S.C. 2601(2)(ii), 2601(7), and 2604.

2. Value of the Cultural Heritage Resource Under Subsection (b)(1)."This application note applies to the determination of the value of the cultural heritage resource under subsection (b)(1).

(A) General Rule."For purposes of subsection (b)(1), the value of the cultural heritage resource shall include, as applicable to the particular resource involved, the following:

(i) The archaeological value. (Archaeological value shall be included in the case of any cultural heritage resource that is an archaeological resource.)

(ii) The commercial value.

(iii) The cost of restoration and repair.

(B) Estimation of Value."For purposes of subsection (b)(1), the court need only make a reasonable estimate of the value of the cultural heritage resource based on available information.

(C) Definitions."For purposes of this application note:

(i) "Archaeological value" of a cultural heritage resource means the cost of the retrieval of the scientific information which would have been obtainable prior to the offense, including the cost of preparing a research design, conducting field work, conducting laboratory analysis, and preparing reports, as would be necessary to realize the information potential. (See 43 CFR 7.14(a); 36 CFR 296.14(a); 32 CFR 229.14(a); 18 CFR 1312.14(a).)

(ii) "Commercial value" of a cultural heritage resource means the fair market value of the cultural heritage resource at the time of the offense. (See 43 CFR 7.14(b); 36 CFR 296.14(b); 32 CFR 229.14(b); 18 CFR 1312.14(b).)

(iii) "Cost of restoration and repair" includes all actual and projected costs of curation, disposition, and appropriate reburial of, and consultation with respect to, the cultural heritage resource; and any other actual and projected costs to complete restoration and repair of the cultural heritage resource, including (I) its reconstruction and stabilization; (II) reconstruction and stabilization of ground contour and surface; (III) research necessary to conduct reconstruction and stabilization; (IV) the construction of physical barriers and other protective devices; (V) examination and analysis of the cultural heritage resource as part of efforts to salvage remaining information about the resource; and (VI) preparation of reports. (See 43 CFR 7.14(c); 36 CFR 296.14(c); 32 CFR 229.14(c); 18 CFR 1312.14(c).)

(D) Determination of Value in Cases Involving a Variety of Cultural Heritage Resources.—In a case involving a variety of cultural heritage resources, the value of the cultural heritage resources is the sum of all calculations made for those resources under this application note.

3. Enhancement in Subsection (b)(2).—For purposes of subsection (b)(2):

(A) "Museum" has the meaning given that term in 18 U.S.C. 668(a)(1) except that the museum may be situated outside the United States.

(B) "National cemetery" has the meaning given that term in Application Note 1 of the Commentary to § 2B1.1 (Theft, Property Destruction, and Fraud).

(C) "National Historic Landmark" means a property designated as such pursuant to 16 U.S.C. 470a(a)(1)(B).

(D) "National marine sanctuary" means a national marine sanctuary designated as such by the Secretary of Commerce pursuant to 16 U.S.C. 1433.

(E) "National monument or national memorial" means any national monument or national memorial established as such by Act of Congress or by proclamation pursuant to the Antiquities Act of 1906 (16 U.S.C. 431).

(F) "National park system" has the meaning given that term in 16 U.S.C. 1c(a).

(G) "World Heritage List" means the World Heritage List maintained by the World Heritage Committee of the United Nations Educational, Scientific, and Cultural Organization in accordance with the Convention Concerning the Protection of the World Cultural and Natural Heritage.

4. Enhancement in Subsection (b)(3)."For purposes of subsection (b)(3):

(A) "Cultural patrimony" has the meaning given that term in 25 U.S.C. 3001(3)(D) (see also 43 CFR 10.2(d)(4)).

(B) "Cultural property" has the meaning given that term in 19 U.S.C. 2601(6).

(C) "Designated archaeological or ethnological material" means archaeological or ethnological material described in 19 U.S.C. 2601(7) (see also 19 U.S.C. 2601(2) and 2604).

(D) "Funerary object" means an object that, as a part of the death rite or ceremony of a culture, was placed intentionally, at the time of death or later, with or near human remains.

(E) "Human remains" (i) means the physical remains of the body of a human; and (ii) does not include remains that reasonably may be determined to have been freely disposed of or naturally shed by the human from whose body the remains were obtained, such as hair made into ropes or nets.

(F) "Pre-Columbian monumental or architectural sculpture or mural" has the meaning given that term in 19 U.S.C. 2095(3).

(G) "Sacred object" has the meaning given that term in 25 U.S.C. 3001(3)(C) (see also 43 CFR 10.2(d)(3)).

5. Pecuniary Gain and Commercial Purpose Enhancement Under Subsection (b)(4).—

(A) "For Pecuniary Gain'.—For purposes of subsection (b)(4), "for pecuniary gain" means for receipt of, or in anticipation of receipt of, anything of value, whether monetary or in goods or services. Therefore, offenses committed for pecuniary gain include both monetary and barter transactions, as well as activities designed to increase gross revenue.

(B) Commercial Purpose.—The acquisition of cultural heritage resources for display to the public, whether for a fee or donation and whether by an individual or an organization, including a governmental entity, a private non-profit organization, or a private for-profit organization, shall be considered to involve a "commercial purpose" for purposes of subsection (b)(4).

6. Pattern of Misconduct Enhancement Under Subsection (b)(5).—

(A) Definition.—For purposes of subsection (b)(5), "pattern of misconduct involving cultural heritage resources" means two or more separate instances of offense conduct involving a cultural heritage resource that did not occur during the course of the offense (i.e., that did not occur during the course of the instant offense of conviction and all relevant conduct under § 1B1.3 (Relevant Conduct)). Offense conduct involving a cultural heritage resource may be considered for purposes of subsection (b)(5) regardless of whether the defendant was convicted of that conduct.

(B) Computation of Criminal History Points.—A conviction taken into account under subsection (b)(5) is not excluded from consideration of whether that conviction receives criminal history points pursuant to Chapter Four, Part A (Criminal History).

7. Dangerous Weapons Enhancement Under Subsection (b)(6).—For purposes of subsection (b)(6), "brandished" and "dangerous weapon" have the meaning given those terms in Application Note 1 of the Commentary to § 1B1.1 (Application Instructions).

8. Multiple Counts.—For purposes of Chapter Three, Part D (Multiple Counts), multiple counts involving cultural heritage offenses covered by this guideline are grouped together under subsection (d) of § 3D1.2 (Groups of Closely Related Counts). Multiple counts involving cultural heritage offenses covered by this guideline and

offenses covered by other guidelines are not to be grouped under § 3D1.2(d).

9. Upward Departure Provision. There may be cases in which the offense level determined under this guideline substantially understates the seriousness of the offense. In such cases, an upward departure may be warranted. For example, an upward departure may be warranted if (A) in addition to cultural heritage resources, the offense involved theft of, damage to, or destruction of, items that are not cultural heritage resources (such as an offense involving the theft from a national cemetery of lawnmowers and other administrative property in addition to historic gravemarkers or other cultural heritage resources); or (B) the offense involved a cultural heritage resource that has profound significance to cultural identity (e.g., the Statue of Liberty or the Liberty Bell).".

Section 2Q2.1 is amended by adding after subsection (b) the following:

"(c) Cross Reference

(1) If the offense involved a cultural heritage resource, apply § 2B1.5 (Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources), if the resulting offense level is greater than that determined above.".

The Commentary to § 2Q2.1 captioned "Application Notes" is amended by adding at the end the following:

"6. For purposes of subsection (c)(1), "cultural heritage resource" has the meaning given that term in Application Note 1 of the Commentary to § 2B1.5 (Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources).".

Section 3D1.2(d) is amended by inserting "2B1.5," after "2B1.4,".

Appendix A (Statutory Index) is amended by striking the line referenced to 16 U.S.C. 433; by inserting before the line referenced to 16 U.S.C. 668(a) the following new line: "16 U.S.C. 470ee 2B1.5";
in the line referenced to 16 U.S.C. 668(a) by inserting "2B1.5," before "2Q2.1";
in the line referenced to 16 U.S.C. 707(b) by inserting "2B1.5," before "2Q2.1";
in the line referenced to 18 U.S.C. 541 by inserting "2B1.5," before "2T3.1";
in the line referenced to 18 U.S.C. 542 by inserting "2B1.5," before "2T3.1";
in the line referenced to 18 U.S.C. 543 by inserting "2B1.5," before "2T3.1";
in the line referenced to 18 U.S.C. 544 by inserting "2B1.5," before "2T3.1";
in the line referenced to 18 U.S.C. 545 by inserting "2B1.5," before "2Q2.1";
by inserting after the line referenced to 18 U.S.C. 545 the following new line: "18 U.S.C. 546 2B1.5";
in the line referenced to 18 U.S.C. 641 by inserting ", 2B1.5" after "2B1.1";
in the line referenced to 18 U.S.C. 661 by inserting ", 2B1.5" after "2B1.1";
in the line referenced to 18 U.S.C. 662 by inserting ", 2B1.5" after "2B1.1";
in the line referenced to 18 U.S.C. 666(a)(1)(A) by inserting ", 2B1.5" after "2B1.1"; in the line referenced to 18 U.S.C. 668 by striking "2B1.1" and inserting "2B1.5";
by inserting after the line referenced to 18 U.S.C. 1121 the following new line: "18 U.S.C. 1152 2B1.5";
in the line referenced to 18 U.S.C. 1153 by inserting "2B1.5," after "2B1.1,";
in the line referenced to 18 U.S.C. 1163 by inserting ", 2B1.5" after "2B1.1";
by inserting after the line referenced to 18 U.S.C. 1168 the following new line: "18 U.S.C. 1170 2B1.5";
in the line referenced to 18 U.S.C. 1361 by inserting ", 2B1.5" after "2B1.1";
in the line referenced to 18 U.S.C. 2232 by inserting "2B1.5," before "2J1.2";
in the line referenced to 18 U.S.C. 2314 by inserting ", 2B1.5" after "2B1.1"; and
in the line referenced to 18 U.S.C. 2315 by inserting ", 2B1.5" after "2B1.1".

Reason for Amendment: This amendment provides a new guideline at § 2B1.5 (Theft of, Damage to, Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources) for offenses involving cultural heritage resources. This amendment reflects the Commission's conclusion that the existing sentencing guidelines for economic and property destruction crimes are inadequate to punish in an appropriate and proportional way the variety of federal crimes involving the theft of, damage to, destruction of, or illicit trafficking in, cultural heritage resources. The Commission has determined that a separate guideline, which specifically recognizes both the federal government's long-standing obligation and role in preserving such resources, and the harm caused to both the nation and its inhabitants when its history is degraded through the destruction of cultural heritage resources, is needed.

Cultural heritage resources include national memorials, landmarks, parks, archaeological and other historic and cultural resources, specifically designated by Congress and the President for the preservation of the cultural heritage of this nation and its ancestors. The federal government acts either as a trustee for the public generally, or as a fiduciary on behalf of American Indians, Alaska Natives and Native Hawaiian Organizations, to protect these cultural heritage resources. Because individuals, communities, and nations identify themselves through intellectual, emotional, and spiritual connections to places and objects, the effects of cultural heritage resource crimes transcend mere monetary considerations. Accordingly, this new guideline takes into account the transcendent and irreplaceable value of cultural heritage resources and punishes in a proportionate way the aggravating conduct associated with cultural heritage resource crimes.

This guideline incorporates into the definition of "cultural heritage resource" a broad range of existing federal statutory definitions for various historical, cultural, and archaeological items. If a defendant is convicted of an offense that charges illegal conduct involving a cultural heritage resource, this guideline will apply, irrespective of whether the conviction is obtained under general property theft or damage statutes, such as laws concerning the theft and destruction of government property, 18 U.S.C. 641, interstate sale or receipt of stolen property, 18 U.S.C. 2314–15, and smuggling, 18 U.S.C. 541 *et seq.*, or under specific cultural heritage statutes, such as the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470ee (ARPA), the criminal provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) at 18 U.S.C. 1170, and 18 U.S.C. 668, which concerns theft from museums. In addition, if a more general offense is charged that is referenced in Appendix A to § 2B1.1 (Theft, Property Destruction, and Fraud), this guideline will apply by cross reference if the offense conduct involves a cultural heritage resource and results in a higher offense level.

This new guideline has a base offense level of level 8, which is two levels higher than the base offense level for general economic and property destruction crimes. The higher base offense level represents the Commission's determination that offenses involving cultural heritage resources are more serious because they involve essentially irreplaceable resources and cause intangible harm to society.

The new guideline also provides that the monetary value of the cultural heritage resource is an important, although not the sole, factor in determining the appropriate

punishment. The Commission has elected not to use the concept of "loss," which is an integral part of the theft, fraud, and property destruction guideline at § 2B1.1, because cultural heritage offenses do not involve the same fungible and compensatory values embodied in "loss." Instead, under this new guideline, value is to be based on commercial value, archaeological value, and the cost of restoration and repair. These methods of valuation are derived from existing federal law. See 16 U.S.C. 470ee(d); 43 CFR 7.14.

The Commission has recognized that archaeological value shall be used in calculating the value of archaeological resources but has provided flexibility for the sentencing court to determine whether either commercial value or the cost of restoration and repair, or both, should be added to archaeological value in determining the appropriate value of archaeological resources. For all other types of cultural heritage resources covered by this guideline, the Commission has provided flexibility for the sentencing court regarding whether and when to use all or some of the methods of valuation, as appropriate, for calculating the total value associated with the harm to the particular resource caused by the defendant's offense conduct. The value of the cultural heritage resource is then referenced to the monetary table provided at § 2B1.1(b)(1) in order to determine appropriate and proportionate offense levels in a manner consistent with the overall guidelines structure.

The new guideline provides five additional specific offense characteristics to provide proportionate enhancements for aggravating conduct that may occur in connection with cultural heritage resource offenses. In providing enhancements for these non-pecuniary aggravating factors, the Commission seeks to ensure that the nonquantifiable harm caused by the offense to affected cultural groups, and society as a whole, is adequately reflected in the penalty structure.

The first two of these enhancements, at subsections (b)(2) and (b)(3), relate to whether the offense involves a place or resource that Congress has designated for special protection. A two level enhancement attaches if the offense involves a resource from one of eight locations specifically designated by Congress for historic commemoration, resource preservation, or public education. These are the national park system, national historic landmarks, national monuments, national memorials, national marine sanctuaries, national cemeteries, sites contained on the World Heritage List, and museums.

Consistent with the definition in 18 U.S.C. 668(a)(1), museums are defined broadly to include all organized and permanent institutions, with an essentially educational or aesthetic purpose, which exhibit tangible objects to the public on a regular schedule. Adoption of this definition reflects the Commission's recognition that cultural heritage resource crimes affecting institutions dedicated to the preservation of resources and associated knowledge, irrespective of the institution's size, ownership, or funding, deprive the public and future generations of the opportunity to learn and appreciate the richness of the nation's heritage. Similarly, this enhancement reflects the Commission's assessment that damage to the other listed places degrades not only the resource itself but also the historical and cultural aspects which the resource commemorates.

An additional two level enhancement attaches to offense conduct that involves any of a number of specified resources, including human remains and other resources that have been designated by Congress for special treatment and heightened protection under federal law. Funerary objects, items of cultural patrimony, and sacred objects are included because they are domestic cultural heritage resources protected under NAGPRA. See 25 U.S.C. 3001. Cultural property, designated archaeological and ethnological material, and pre-Columbian monumental and architectural sculpture and murals are included in the enhancement because these are cultural heritage resources of foreign provenance for which Congress has chosen, in the implementation of international treaties and bilateral agreements, to impose import restrictions. See 19 U.S.C. 2092, 2606, and 2607.

This guideline also provides a two level enhancement at subsection (b)(4) if the offense was committed for pecuniary gain or otherwise involved a commercial purpose. This increase is based on a determination that offenders who are motivated by financial gain or other commercial incentive are more culpable than offenders who are motivated solely by their personal interest in possessing cultural heritage resources. Those motivated by financial gain contribute to illicit trafficking and support dealers and brokers who earn a livelihood from illegal activities. Mindful of INTERPOL's findings, as reported by the Department of Justice, that the annual dollar value of art and cultural property theft is exceeded only by trafficking in illicit narcotics, money laundering, and arms trafficking, the Commission seeks to ensure that the penalty structure adequately accounts for these increased harms.

This guideline also provides a two level enhancement at subsection (b)(5) if the offense involves a pattern of misconduct, and provides a definition of "pattern of misconduct" that is designed to interact with other requirements of the guidelines regarding relevant conduct and criminal history. "Pattern of misconduct" is defined as "two or more separate instances of offense conduct involving cultural heritage resources that did not occur during the course of the instant offense (i.e., that did not occur during the offense of conviction and all relevant conduct under § 1B1.3 (Relevant Conduct))". Accordingly, under this guideline, separate instances of offense conduct need not result in a criminal conviction or legal adjudication in order for this enhancement to apply. Separate instances of offense conduct involving cultural heritage resources that are included in the defendant's criminal history may also form the factual basis for the application of this enhancement. The Commission considers such increased punishment to be appropriate for offenders who repeatedly disregard cultural heritage resource laws and regulations and the social values underlying them. These repeat offenders cause serious harm, not only to the resources themselves, but to the nation and the individuals who treasure them.

This guideline also provides at subsection (b)(6) a two level enhancement and a minimum offense level of level 14 if a dangerous weapon, including a firearm, is brandished or its use threatened. This enhancement reflects the increased culpability of offenders who pose a threat to law enforcement officers and innocent passersby. Recognizing that there are legitimate uses in remote expanses of tribal and federal land for certain tools and firearms that may otherwise qualify as "dangerous weapons" under the guideline definitions, the Commission has limited the scope of this enhancement by requiring that the dangerous weapon or firearm be brandished or its use threatened, in order for increased punishment to attach under this provision.

In light of the increased potential for the symbols of our nation's heritage and culture to be targets of violent individuals, including terrorists, the Commission also has provided for increased punishment through a cross reference to § 2K1.4 (Arson; Property Damage by Use of Explosives), if the offense involved arson or property damage by the use of any explosive,

explosive material, or destructive devices, when the resulting offense level is greater under § 2K1.4 than the offense level under this guideline.

This guideline also includes a special rule in the Commentary to address multiple counts of cultural heritage resource offenses, as well as multiple counts of conviction involving offenses under this and other guidelines. Consistent with the principles underlying the rules for grouping multiple counts of conviction in § 3D1.2 (Groups of Closely Related Counts) and the unique concerns sought to be addressed by this amendment, the new guideline provides that multiple counts of cultural heritage resource offenses are to be grouped under § 3D1.2(d). However, because the monetary harm is measured differently, a count of conviction for an offense sentenced under § 2B1.5 may not be grouped under this provision with a conviction for an offense sentenced under a different guideline.

This guideline also invites an upward departure if the determined offense level substantially understates the seriousness of the cultural heritage resource offense. Two illustrations of such situations are given. Finally, this amendment provides a cross reference within § 2B1.1. Theft, fraud, and property destruction offenses which also involve cultural heritage resources are cross referenced to the new guideline at § 2B1.5 if the resulting offense level under it would be greater than under § 2B1.1. When a case involving a cultural heritage resource is sentenced under § 2B1.1, loss attributable to that cultural heritage resource is to be determined using the definition of "value of the cultural heritage resource" from § 2B1.5.

The Commission recognizes that the full implementation of this new guideline for the most serious offenders often will be limited in its application because of the extremely low statutory maxima of some of the potentially applicable statutes, such as the criminal provisions of ARPA, NAGPRA, and 18 U.S.C. 1163 (covering the theft of tribal property). Currently ARPA has either a one year or two year statutory maximum term of imprisonment for the first offense, depending on whether the value exceeds $500, and NAGPRA has a statutory maximum term of imprisonment of one year for the first offense irrespective of value. These statutes all have five year statutory maximum terms of imprisonment for second and subsequent offenses. Consequently, the statutory ceiling may limit the full range of proportionate guideline sentencing, but the Commission has promulgated this new guideline to cover the wide variety of potential offense conduct that can occur in connection with cultural heritage resources. The Commission has recommended to Congress that the statutory maximum terms of imprisonment for these offenses be raised appropriately.

3. Amendment: The Commentary to § 2B4.1 captioned "Statutory Provisions" is amended by striking "15 U.S.C. 78dd-1, 78dd-2;".

The Commentary to § 2B4.1 captioned "Application Notes" is amended in Note 1 by inserting ", foreign governments, or public international organizations" after "local government"; and by striking "governmental" and inserting "any such".

The Commentary to § 2B4.1 captioned "Background" is amended in the sixth paragraph by striking "to violations of the Foreign Corrupt Practices Act, 15 U.S.C. 78dd-1 and 78dd-2, and".

The Commentary to § 2C1.1 captioned "Statutory Provisions" is amended by inserting "15 U.S.C. 78dd-1, 78dd-2, 78dd-3;" before "18 U.S.C.".

The Commentary to § 2C1.1 captioned "Background" is amended by inserting after the ninth paragraph the following:

"Section 2C1.1 also applies to offenses under 15 U.S.C. 78dd-1, 78dd-2, and 78dd-3. Such offenses generally involve a payment to a foreign public official, candidate for public office, or agent or intermediary, with the intent to influence an official act or decision of a foreign government or political party. Typically, a case prosecuted under these provisions will involve an intent to influence governmental action.".

Appendix A (Statutory Index) is amended in the line referenced to 15 U.S.C. 78dd-1 by striking "2B4.1" and inserting "2C1.1";

in the line referenced to 15 U.S.C. 78dd-2 by striking "2B4.1" and inserting "2C1.1"; by inserting after the line referenced to 15 U.S.C. 78dd-2 following new line:

"15 U.S.C. 78dd-3 2C1.1";

and in the line referenced to 15 U.S.C. 78ff by striking "2B4.1" and inserting "2C1.1".

Reason for Amendment: This amendment changes the Statutory Index reference for violations of section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2 and 78dd-3), from § 2B4.1 (Bribery in Procurement of Bank Loan and Other Commercial Bribery) to § 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Color of Official Right).

This change is made because violations of 15 U.S.C. 78dd-1 through 78dd-3 involve public corruption of foreign officials and are, therefore, more akin to public corruption cases than commercial bribery cases. Violations of the 15 U.S.C. 78dd-1 through 78dd-3 typically involve payments to foreign officials for the purposes of influencing their official acts or decisions, inducing them to do or omit an act in violation of their lawful duty, inducing them to influence a foreign government, or securing any improper advantage. These cases also involve payments to foreign political parties or officials, candidates for foreign political office, or persons who act as conduits to these individuals. Most cases prosecuted under 15 U.S.C. 78dd-1 through 78dd-3 involve an intent to influence governmental action.

Conversely, commercial bribery cases sentenced under § 2B4.1 often involve kickback and gratuity payments made to bank officials or others who accept payments in return for influence or some type of exchange from the other person. These cases typically do not involve bribery of public or governmental officials and indeed, the Commentary to the guideline makes this clear in Application Note 1.

This change also is made to comply with the mandate of a mulitlateral treaty entered into by the United States, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In part, this Convention requires signatory countries to impose comparable sentences in both domestic and foreign bribery cases. Domestic public bribery cases are referenced to § 2C1.1. To comply with the treaty, offenses committed in violation of 15 U.S.C. 78dd-1 through 78dd-3 are now similarly referenced to § 2C1.1.

4. Amendment: Section 2D1.1(a)(3) is amended by striking "below." and inserting ", except that if the defendant receives an adjustment under § 3B1.2 (Mitigating Role), the base offense level under this subsection shall be not more than level 30.".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 11 in the "TYPICAL WEIGHT PER UNIT (DOSE, PILL, OR CAPSULE) TABLE" by striking the line referenced to MDA and inserting the following:

"MDA 250 mg
MDMA 250 mg".

The Commentary to § 2D1.1 captioned "Application Notes" is amended by adding at the end the following:

"21. Applicability of Subsection (b)(6).—The applicability of subsection (b)(6) shall be determined without regard to whether the defendant was convicted of an offense that subjects the defendant to a mandatory minimum term of imprisonment. Section § 5C1.2(b), which provides a minimum offense level of level 17, is not pertinent to the determination of whether subsection (b)(6) applies.".

Section 2D1.8(a)(2) is amended by striking "16" and inserting "26".

The Commentary to § 3B1.2 captioned "Application Notes" is amended by adding at the end the following:

"6. Application of Role Adjustment in Certain Drug Cases.—In a case in which the court applied § 2D1.1 and the defendant's base offense level under that guideline was reduced by operation of the maximum base offense level in § 2D1.1(a)(3), the court also shall apply the appropriate adjustment under this guideline.".

Reason for Amendment: This amendment responds to concerns that the guidelines pertaining to drug offenses do not satisfactorily reflect the culpability of certain offenders. The amendment also clarifies the operation of certain provisions in § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy).

First, the amendment increases the maximum base offense level under subsection (a)(2) of § 2D1.8 (Renting or Managing a Drug Establishment; Attempt or Conspiracy) from level 16 to level 26. This part of the amendment responds to concerns that § 2D1.8 did not adequately punish defendants convicted under 21 U.S.C. 856, pertaining to the establishment of manufacturing operations. That statute originally was enacted to target defendants who maintain, manage, or control so-called "crack houses" and more recently has been applied to defendants who facilitate drug use at commercial dance clubs, frequently called "raves".

Prior to this amendment, § 2D1.8(a)(2) provided a maximum base offense level of level 16 for defendants convicted under 21 U.S.C. 856 who had no participation in the underlying controlled substance offense other than allowing use of their premises. The Commission determined that the maximum base offense level of level 16 did not adequately reflect the culpability of offenders who permit distribution of drugs in quantities that under § 2D1.1 result in offense levels higher than level 16. Such offenders knowingly and intentionally facilitate and profit, at least indirectly, from the trafficking of illegal drugs, even though they may not participate directly in the underlying controlled substance offense.

Second, the amendment modifies § 2D1.1(a)(3) to provide a maximum base offense level of level 30 if the defendant receives an adjustment under § 3B1.2 (Mitigating Role). The maximum base offense level somewhat limits the sentencing impact of drug quantity for offenders who perform relatively low level trafficking functions, have little authority in the drug trafficking organization, and have a lower degree of individual culpability (e.g., "mules" or "couriers" whose most serious trafficking function is transporting drugs and who qualify for a mitigating role adjustment).

This part of the amendment responds to concerns that base offense levels derived from the Drug Quantity Table in § 2D1.1 overstate the culpability of certain drug offenders who meet the criteria for a mitigating role adjustment under § 3B1.2. The Commission determined that, ordinarily, a maximum base offense level of level 30 adequately reflects the culpability of a defendant who qualifies for a mitigating role adjustment. Other aggravating adjustments in the trafficking guideline (e.g., the weapon enhancement at § 2D1.1(b)(1)), or other general, aggravating adjustments in Chapter Three (Adjustments), may increase the offense level above level 30. The maximum base offense level is expected to apply narrowly, affecting approximately six percent of all drug trafficking offenders.

The amendment also adds an application note in § 3B1.2 that instructs the court to apply the appropriate adjustment under that guideline in a case in which the maximum base offense level in § 2D1.1(a)(3) operates to reduce the defendant's base offense level under § 2D1.1.

Third, the amendment modifies the Typical Weight Per Unit (Dose, Pill, or Capsule) Table in the commentary to § 2D1.1 to reflect more accurately the type and weight of ecstasy pills typically trafficked and consumed. Specifically, the amendment adds a reference for MDMA (3,4-methylenedioxymethamphetamine) in the Typical Weight Per Unit Table and lists the typical weight as 250 milligrams per pill. The amendment also revises the typical weight for MDA to 250 milligrams of the mixture or substance containing the controlled substance. Prior to this amendment, the Table listed the typical weight of MDA as 100 milligrams of the actual controlled substance.

Information provided by the Drug Enforcement Administration indicates that ecstasy usually is trafficked and used as MDMA in pills weighing approximately 250 to 350 milligrams.

The absence of MDMA from the Typical Weight Per Unit (Dose, Pill, or Capsule) Table and the listing for MDA of an estimate of the actual weight of the controlled substance created the potential for misapplying the MDA estimate in a case in which MDMA is involved, which could result in underpunishment in some ecstasy cases. This part of the amendment thus promotes uniform application of § 2D1.1 for offenses involving ecstasy by adding a reference for MDMA and revising the estimated weight for MDA.

Fourth, the amendment addresses two application concerns regarding the two level reduction under § 2D1.1(b)(6) for defendants who meet the criteria set forth in § 5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases). The amendment provides an application note that clarifies that the two level reduction under § 2D1.1(b)(6) does not depend on whether the defendant is convicted under a statute that carries a mandatory minimum term of imprisonment. The application note also clarifies that § 5C1.2(b), which provides a minimum offense level of level 17 for certain offenders, is not applicable to § 2D1.1(b)(6).

5. Amendment: Chapter Two is amended in the heading of Part G by striking "PROSTITUTION" and inserting "COMMERCIAL SEX ACTS".

Chapter Two, Part G is amended in the heading of subpart 1 by striking "PROSTITUTION" and inserting "A COMMERCIAL SEX ACT".

Section 2G1.1 is amended in the heading by striking "Prostitution" and inserting "A Commercial Sex Act".

Section 2G1.1(b)(1) is amended by striking "prostitution" and inserting "a commercial sex act"; by inserting "fraud," after "force,"; and by striking "by threats or drugs or in any manner".

Section 2G1.1(b)(4) is amended by striking "prostitution" each place it appears and inserting "a commercial sex act".

Section 2G1.1(b)(5) is amended by striking "prostitution" and inserting "a commercial sex act".

Section 2G1.1(c)(3) is amended by striking "prostitution" and inserting "a commercial sex act".

Section 2G1.1(d)(1) is amended by striking "prostitution" and inserting "a commercial sex act".

The Commentary to § 2G1.1 captioned "Application Notes" is amended in Note 1 by inserting after "For purposes of this guideline—" the following paragraph:

"'Commercial sex act' has the meaning given that term in 18 U.S.C. 1591(c)(1)."; and by striking "'Promoting prostitution' means" and all that follows through "law enforcement officer." and inserting the following:

"'Promoting a commercial sex act' means persuading, inducing, enticing, or coercing a person to engage in a commercial sex act, or to travel to engage in, a commercial sex act.

"Victim" means a person transported, persuaded, induced, enticed, or coerced to engage in, or travel for the purpose of engaging in, a commercial sex act or prohibited sexual conduct, whether or not the person consented to the commercial sex act or prohibited sexual conduct. Accordingly, 'victim' may include an undercover law enforcement officer.".

The Commentary to § 2G1.1 captioned "Application Notes" is amended in Note 2 by inserting "fraud," after "force,"; and by striking "prostitution" and inserting "commercial sex act".

The Commentary to § 2G1.1 captioned "Application Notes" is amended in Notes 3, 4, 7, 8, and 11 by striking "prostitution" each place it appears and inserting "a commercial sex act".

The Commentary to § 2G1.1 captioned "Application Notes" is amended by striking Note 12 and inserting the following:

"12. Upward Departure Provision.—An upward departure may be warranted if the offense involved more than 10 victims.".

Reason for Amendment: This amendment ensures that appropriately severe sentences for sex trafficking crimes apply to commercial sex acts such as production of child pornography, in addition to prostitution, and also targets offenders who use fraud to entrap victims. It proposes several changes to § 2G1.1 (Promoting Prostitution or Prohibited Sexual Conduct) to address more adequately the portion of section 112(b) of the Victims of Trafficking and Violence Protection Act of 2000 (the "Act"), Public Law 106–386, pertaining to the new offense at 18 U.S.C. 1591, which prohibits knowingly transporting or harboring any person, or benefitting from such transporting or harboring, knowing either that force, fraud, or coercion will be used to cause that person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be forced to engage in a commercial sex act.

In response to the Act, the Commission in 2001 promulgated an amendment that referenced 18 U.S.C. 1591 to 2G1.1 and 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material) and provided an encouraged upward departure in those guidelines to address cases in which (1) the defendant was convicted under 18 U.S.C. 1591 and the offense involved a victim who had not attained the age of 14 years; or (2) the offense involved more than 10 victims. (See Supplement to Appendix C, Amendment 612, effective May 1, 2001, and Amendment 627, effective November 1, 2001).

This amendment proposes three substantive changes to § 2G1.1. First, this amendment broadens the conduct covered by the guideline beyond prostitution to encompass all commercial sex acts, consistent with the scope of the Act. Second, this amendment expands the "force or coercion" prong of § 2G1.1(b)(1) to also cover offenses involving fraud. This change addresses the increased punishment provided by 18 U.S.C. 1591 for offenses effected by force, fraud, or coercion. Third, the amendment deletes the portion of the encouraged upward departure provision in § 2G1.1 pertaining to the age of the victim because such conduct already is taken into account by that guideline.

6. Amendment: Section 2K2.4 is amended by redesignating subsection (b) as subsection (d); and by striking subsection (a) and inserting the following:

"(a) If the defendant, whether or not convicted of another crime, was convicted of violating section 844(h) of title 18, United States Code, the guideline sentence is the term of imprisonment required by statute. Chapters Three (Adjustments) and Four (Criminal History and Criminal Livelihood) shall not apply to that count of conviction.

(b) Except as provided in subsection (c), if the defendant, whether or not convicted of another crime, was convicted of violating section 924(c) or section 929(a) of title 18, United States Code, the guideline sentence is the minimum term of imprisonment required by statute. Chapters Three and Four shall not apply to that count of conviction.

(c) If the defendant (1) was convicted of violating section 924(c) or section 929(a) of title 18, United States Code; and (2) as a result of that conviction (alone or in addition to another offense of conviction), is determined to be a career offender under § 4B1.1 (Career Offender), the guideline sentence shall be determined under § 4B1.1(c). Except for §§ 3E1.1 (Acceptance of Responsibility), 4B1.1, and 4B1.2 (Definitions of Terms Used in Section 4B1.1), Chapters Three and Four shall not apply to that count of conviction.".

The Commentary to § 2K2.4 captioned "Application Notes" is amended by redesignating Notes 2 through 5 as Notes 4 through 7, respectively; and by striking Note 1 and inserting the following:

"1. Application of Subsection (a).—Section 844(h) of title 18, United State Code, provides a mandatory term of imprisonment of 10 years (or 20 years for the second or subsequent offense). Accordingly, the guideline sentence for a defendant convicted under 18 U.S.C. 844(h) is the term required by that statute. Section 844(h) of title 18, United State Code, also requires a term of imprisonment imposed under this section to run consecutively to any other term of imprisonment.

2. Application of Subsection (b).—

(A) In General.—Sections 924(c) and 929(a) of title 18, United States Code, provide mandatory minimum terms of imprisonment (e.g., not less than five years). Except as provided in subsection (c), in a case in which the defendant is convicted under 18 U.S.C. 924(c) or 929(a), the guideline sentence is the minimum term required by the relevant statute. Each of 18 U.S.C. 924(c) and 929(a) also requires that a term of imprisonment imposed under that section shall run consecutively to any other term of imprisonment.

(B) Upward Departure Provision.—In a case in which the guideline sentence is determined under subsection (b), a sentence above the minimum term required by 18 U.S.C. 924(c) or 929(a) is an upward departure from the guideline sentence. A departure may be warranted, for example, to reflect the seriousness of the defendant's criminal history in a case in which the defendant is convicted of an 18 U.S.C. 924(c) or 929(a) offense but is not determined to be a career offender under § 4B1.1.

3. Application of Subsection (c).—In a case in which the defendant (A) was convicted of violating 18 U.S.C. 924(c) or 18 U.S.C. 929(a); and (B) as a result of that conviction (alone or in addition to another offense of conviction), is determined to be a career offender under § 4B1.1 (Career Offender), the guideline sentence shall be determined under § 4B1.1(c). In a case involving multiple counts, the sentence shall be imposed according to the rules in subsection (e) of § 5G1.2 (Sentencing on Multiple Counts of Conviction).".

The Commentary to § 2K2.4 captioned "Application Notes" is amended in Note 4, as redesignated by this amendment, by inserting "Weapon Enhancement.—" before "If a sentence under"; and by inserting in the last paragraph "in which the defendant is determined not to be a career offender" after "In a few cases".

The Commentary to § 2K2.4 captioned "Application Notes" is amended by striking Note 5, as redesignated by this amendment, and inserting the following:

"5. Chapters Three and Four.—Except for those cases covered by subsection (c), do not apply Chapter Three (Adjustments) and Chapter Four (Criminal History and Criminal Livelihood) to any offense sentenced under this guideline. Such offenses are excluded from application of those chapters because the guideline sentence for each offense is determined only by the relevant statute. See §§ 3D1.1 (Procedure for Determining Offense Level on Multiple Counts) and 5G1.2. In determining the guideline sentence for those cases covered by subsection (c): (A) the adjustment in § 3E1.1 (Acceptance of Responsibility) may apply, as provided in § 4B1.1(c); and (B) no other adjustments in Chapter Three and no provisions of Chapter Four, other than §§ 4B1.1 and 4B1.2, shall apply.".

The Commentary to § 2K2.4 captioned "Application Notes" is amended in Note 6, as redesignated by this amendment, by inserting "Terms of Supervised Release.—" before "Imposition of a term".

The Commentary to § 2K2.4 captioned "Application Notes" is amended in Note 7, as redesignated by this amendment, by inserting "Fines.—" before "Subsection"; and by striking "(b)" and inserting "(d)"; and by striking "Note 2" and inserting "Note 4".

Section 4B1.1 is amended by striking "A defendant is a career offender" and all that follows through "Category VI." and inserting the following:

"(a) A defendant is a career offender if (1) the defendant was at least eighteen years old at the time the defendant committed the instant offense of conviction; (2) the instant offense of conviction is a felony that is either a crime of violence or a controlled substance offense; and (3) the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense.

(b) Except as provided in subsection (c), if the offense level for a career offender from the table in this subsection is greater than the offense level otherwise applicable, the offense level from the table in this subsection shall apply. A career offender's criminal history category in every case under this subsection shall be Category VI.".

Section 4B1.1 is amended by adding after "corresponding to that adjustment." the following:

"(c) If the defendant is convicted of 18 U.S.C. 924(c) or 929(a), and the defendant is determined to be a career offender under subsection (a), the applicable guideline range shall be determined as follows:

(1) If the only count of conviction is 18 U.S.C. 924(c) or 929(a), the applicable guideline range shall be determined using the table in subsection (c)(3).

(2) In the case of multiple counts of conviction in which at least one of the counts is a conviction other than a conviction for 18 U.S.C. 924(c) or 929(a), the guideline range shall be the greater of—

(A) the guideline range that results by adding the mandatory minimum consecutive penalty required by the 18 U.S.C. 924(c) or 929(a) count(s) to the minimum and the maximum of the otherwise applicable guideline range determined for the count(s) of conviction other than the 18 U.S.C. 924(c) or 929(a) count(s); and

(B) the guideline range determined using the table in subsection (c)(3).

(3) Career Offender Table for 18 U.S.C. 924(c) or 929(a) Offenders

§ 3E1.1	Reduction Guideline Range for the 18 U.S.C. 924(c) or 929(a) Count(s)
No reduction	360-life
2-level reduction	292–365
3-level reduction	262–327.".

The Commentary to § 4B1.1 captioned "Application Notes" is amended by adding at the end the following:

"3. Application of Subsection (c).—

(A) In General.—Subsection (c) applies in any case in which the defendant (i) was convicted of violating 18 U.S.C. 924(c) or 929(a); and (ii) as a result of that conviction (alone or in addition to another offense of conviction), is determined to be a career offender under § 4B1.1(a).

(B) Subsection (c)(2).—To determine the greater guideline range under subsection (c)(2), the court shall use the guideline range with the highest minimum term of imprisonment.

(C) 'Otherwise Applicable Guideline Range'.—For purposes of subsection (c)(2)(A), 'otherwise applicable guideline range' for the count(s) of conviction other than the 18 U.S.C. 924(c) or 18 U.S.C. 929(a) count(s) is determined as follows:

(i) If the count(s) of conviction other than the 18 U.S.C. 924(c) or 18 U.S.C. 929(a) count(s) does not qualify the defendant as a career offender, the otherwise applicable guideline range for that count(s) is the guideline range determined using: (I) the Chapter Two and Three offense level for that count(s); and (II) the appropriate criminal history category determined under §§ 4A1.1 (Criminal History Category) and 4A1.2 (Definitions and Instructions for Computing Criminal History).

(ii) If the count(s) of conviction other than the 18 U.S.C. 924(c) or 18 U.S.C. 929(a) count(s) qualifies the defendant as a career offender, the otherwise applicable guideline range for that count(s) is the guideline range determined for that count(s) under § 4B1.1(a) and (b).

(D) Imposition of Consecutive Term of Imprisonment.—In a case involving multiple counts, the sentence shall be imposed according to the rules in subsection (e) of § 5G1.2 (Sentencing on Multiple Counts of Conviction).

(E) Example.—The following example illustrates the application of subsection (c)(2) in a multiple count situation:

The defendant is convicted of one count of violating 18 U.S.C. 924(c) for possessing a firearm in furtherance of a drug trafficking offense (5 year mandatory minimum), and one count of violating 21 U.S.C. 841(b)(1)(B) (5 year mandatory minimum, 40 year statutory maximum). Applying subsection (c)(2)(A), the court determines that the drug count (without regard to the 18 U.S.C. 924(c) count) qualifies the defendant as a career offender under § 4B1.1(a). Under § 4B1.1(a), the otherwise applicable guideline range for the drug count is 188–235 months (using offense level 34 (because the statutory maximum for the drug count is 40 years), minus 3 levels for acceptance of responsibility, and criminal history category VI). The court adds 60 months (the minimum required by 18 U.S.C. 924(c)) to the minimum and the maximum of that range, resulting in a guideline range of 248–295 months. Applying subsection (c)(2)(B), the court then determines the career offender guideline range from the table in subsection (c)(3) is 262–327 months. The range with the greatest minimum, 262–327 months, is used to impose the sentence in accordance with § 5G1.2(e).".

The Commentary to § 4B1.1 captioned "Background" is amended by adding at the end the following:

"Subsection (c) provides rules for determining the sentence for career offenders who have been convicted of 18 U.S.C. 924(c) or 929(a). The Career Offender Table in subsection (c)(3) provides a sentence at or near the statutory maximum for these offenders by using guideline ranges that correspond to criminal history category

VI and offense level 37 (assuming § 3E.1.1 (Acceptance of Responsibility) does not apply), offense level 35 (assuming a 2-level reduction under § 3E.1.1 applies), and offense level 34 (assuming a 3-level reduction under § 3E1.1 applies).".

The Commentary to § 4B1.2 captioned "Application Notes" is amended in Note 1 by striking "A prior conviction for violating 18 U.S.C. 924(c)" and all that follows through the end of that paragraph and inserting the following:

"A violation of 18 U.S.C. 924(c) or 929(a) is a 'crime of violence' or a 'controlled substance offense' if the offense of conviction established that the underlying offense was a 'crime of violence' or a 'controlled substance offense'. (Note that in the case of a prior 18 U.S.C. 924(c) or 929(a) conviction, if the defendant also was convicted of the underlying offense, the two prior convictions will be treated as related cases under § 4A1.2 (Definitions and Instructions for Computing Criminal History).)".

The Commentary to § 4B1.2 captioned "Application Notes" is amended by striking Note 2; and by redesignating Notes 3 and 4 as Notes 2 and 3, respectively.

Section 5G1.2(a) is amended by striking "The" and inserting "Except as provided in subsection (e), the"; and by inserting a comma after "other term of imprisonment".

Section 5G1.2 is amended by adding after subsection (d) the following:

"(e) In a case in which subsection (c) of § 4B1.1 (Career Offender) applies, to the extent possible, the total punishment is to be apportioned among the counts of conviction, except that (1) the sentence to be imposed on a count requiring a minimum term of imprisonment shall be at least the minimum required by statute; and (2) the sentence to be imposed on the 18 U.S.C. 924(c) or 929(a) count shall be imposed to run consecutively to any other count.".

The Commentary to § 5G1.2 is amended by striking the first paragraph and inserting the following:

"Application Notes:

1. In General.—This section specifies the procedure for determining the specific sentence to be formally imposed on each count in a multiple-count case. The combined length of the sentences ('total punishment') is determined by the court after determining the adjusted combined offense level and the Criminal History Category. Except as otherwise required by subsection (e) or any other law, the total punishment is to be imposed on each count and the sentences on all counts are to be imposed to run concurrently to the extent allowed by the statutory maximum sentence of imprisonment for each count of conviction.";

by indenting the second and third paragraphs 2 ems from the left margin; and by striking the fourth paragraph and inserting the following:

"2. Mandatory Minimum and Mandatory Consecutive Terms of Imprisonment (Not Covered by Subsection (e)).—Subsection (a) applies if a statute (A) specifies a term of imprisonment to be imposed; and (B) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. See, e.g., 18 U.S.C. 924(c) (requiring mandatory minimum terms of imprisonment, based on the conduct involved, and also requiring the sentence imposed to run consecutively to any other term of imprisonment). Except for certain career offender situations in which subsection (c) of § 4B1.1 (Career Offender) applies, the term of years to be imposed consecutively is the minimum required by the statute of conviction and is independent of the guideline sentence on any other count. See, e.g., the Commentary to §§ 2K2.4 (Use of Firearm, Armor-Piercing Ammunition, or Explosive During or in Relation to Certain Crimes) and 3D1.1 (Procedure for Determining Offense Level on Multiple Counts) regarding the determination of the offense levels for related counts when a conviction under 18 U.S.C. 924(c) is involved. Note, however, that even in the case of a consecutive term of imprisonment imposed under subsection (a), any term of supervised release imposed is to run concurrently with any other term of supervised release imposed. See 18 U.S.C. 3624(e). Subsection (a) also applies in certain other instances in which an independently determined and consecutive sentence is required. See, e.g., Application Note 3 of the Commentary to § 2J1.6 (Failure to Appear by Defendant), relating to failure to appear for service of sentence.

3. Career Offenders Covered under Subsection (e).—

(A) Imposing Sentence.—The sentence imposed for a conviction under 18 U.S.C. 924(c) or 929(a) shall, under that statute, consist of a minimum term of imprisonment imposed to run consecutively to the sentence on any other count. Subsection (e) requires that the total punishment determined under § 4B1.1(c) be apportioned among all the counts of conviction. In most cases this can be achieved by imposing the statutory minimum term of imprisonment on the 18 U.S.C. 924(c) or 929(a) count, subtracting that minimum term of imprisonment from the total punishment determined under § 4B1.1(c), and then imposing the balance of the total punishment on the other counts of conviction. In some cases covered by subsection (e), a consecutive term of imprisonment longer than the minimum required by 18 U.S.C. 924(c) or 929(a) will be necessary in order both to achieve the total punishment determined by the court and to comply with the applicable statutory requirements.

(B) Examples.—The following examples illustrate the application of subsection (e) in a multiple count situation:

(i) The defendant is convicted of one count of violating 18 U.S.C. 924(c) for possessing a firearm in furtherance of a drug trafficking offense (5 year mandatory minimum), and one count of violating 21 U.S.C. 841(b)(1)(C) (20 year statutory maximum). Applying § 4B1.1(c), the court determines that a sentence of 300 months is appropriate (applicable guideline range of 262–327). The court then imposes a sentence of 60 months on the 18 U.S.C. 924(c) count, subtracts that 60 months from the total punishment of 300 months and imposes the remainder of 240 months on the 21 U.S.C. 841 count. As required by statute, the sentence on the 18 U.S.C. 924(c) count is imposed to run consecutively.

(ii) The defendant is convicted of one count of 18 U.S.C. 924(c) (5 year mandatory minimum), and one count of violating 21 U.S.C. 841(b)(1)(C) (20 year statutory maximum). Applying § 4B1.1(c), the court determines that a sentence of 327 months is appropriate (applicable guideline range of 262–327). The court then imposes a sentence of 240 months on the 21 U.S.C. 841 count and a sentence of 87 months on the 18 U.S.C. 924(c) count to run consecutively to the sentence on the 21 U.S.C. 841 count.

(iii) The defendant is convicted of two counts of 18 U.S.C. 924(c) (5 year mandatory minimum on first count, 25 year mandatory minimum on second count) and one count of violating 18 U.S.C. 2113(a) (20 year statutory maximum). Applying § 4B1.1(c), the court determines that a sentence of 400 months is appropriate (applicable guideline range of 360-life). The court then imposes (I) a sentence of 60 months on the first 18 U.S.C. 924(c) count; (II) a sentence of 300 months on the second 18 U.S.C. 924(c) count; and (III) a sentence of 40 months on the 18 U.S.C. 2113(a) count. The sentence on each count is imposed to run consecutively to the other counts.".

Reason for Amendment: This amendment is intended to comply with the statutory directive in 28 U.S.C. 994(h) by providing a guideline sentence at or near the statutory maximum of life imprisonment for cases in which certain serious firearm offenses establish the defendant as a career offender.

This amendment provides special rules in §§ 4B1.1 (Career Offender) and 5G1.2 (Sentencing on Multiple Counts of Conviction) for determining and imposing a guideline sentence in a case in which the defendant is convicted of an offense under 18 U.S.C. 924(c) or 929(a) and, as a result of that conviction, is determined to be a career offender under §§ 4B1.1 and 4B1.2 (Definitions of Terms Used in Section 4B1.1). The amendment supplements Amendment 600 (effective November 1, 2000) in which the Commission first addressed implementation of the statutory changes in penalties for 18 U.S.C. 924(c) and 929(a) offenses made by the Act to Throttle the Criminal Use of Guns, Public Law 105–386. At that time, the Commission deferred addressing the more complicated issues of whether convictions under 18 U.S.C. 924(c) and 929(a) can qualify as instant offenses for purposes of § 4B1.1, and if they do so qualify, how the sentence would be imposed. Promulgation of this amendment reflects the Commission's decision that the amendment, while somewhat complex, is necessary to comply appropriately with 28 U.S.C. 994(h).

Operationally, this amendment achieves two goals. First, it permits 18 U.S.C. 924(c) or 929(a) offenses, whether as the instant or prior offense of conviction, to qualify for career offender purposes. Second, it ensures that, in a case in which such an instant offense establishes the defendant as a career offender, the resulting guideline sentence is determined under § 4B1.1 using a count of conviction that has a statutory maximum of life imprisonment. The special rule necessarily is somewhat more complex because of the need to address certain anomalies that infrequently would occur in the absence of such a rule, i.e., that a very serious offender could receive a lower sentence by virtue of the application of § 4B1.1 than that which would otherwise be received by imposing the statutorily required minimum sentence consecutively to the otherwise applicable guideline range.

This amendment does not change the current guideline rules precluding application of guideline weapon enhancements in a case in which the defendant is convicted of a 18 U.S.C. 924(c) or 929(a) offense. Furthermore, under this amendment, in a case in which the defendant is convicted of a 18 U.S.C. 924(c) or 929(a) offense but that offense, together with any prior convictions, does not establish the defendant as a career offender, the current guideline rules for sentencing on that 18 U.S.C. 924(c) or 929(a) count continue to apply. Accordingly, under § 2K2.4 (Use of Firearm, Armor-Piercing Ammunition, or Explosive During or in Relation to Certain Crimes), the guideline sentence on that count is the statutory minimum, and that sentence is imposed independently and consecutively to the sentence on other counts. No adjustments in Chapter Three (Adjustments) or Chapter Four (Criminal History and Criminal Livelihood) apply to adjust the guideline sentence for that 18 U.S.C. 924(c) or 929(a) count.

However, under this amendment, in a case in which the 18 U.S.C. 924(c) or 929(a) count establishes the defendant as a career offender, which the court will determine under §§ 4B1.1 and 4B1.2, new special rules and instructions will apply. To determine the guideline sentence on the 18 U.S.C. 924(c) or 929(a) count, the court moves directly from § 2K2.4 to § 4B1.1 and applies the new special instruction therein. New special instructions for imposing sentence in these cases also have been added to § 5G1.2.

7. Amendment: Section 3A1.2 is amended to read as follows:

"§ 3A1.2. Official Victim

(a) If (1) the victim was (A) a government officer or employee; (B) a former government officer or employee; or (C) a member of the immediate family of a person described in subdivision (A) or (B); and (2) the offense of conviction was motivated by such status, increase by 3 levels.

(b) If, in a manner creating a substantial risk of serious bodily injury, the defendant or a person for whose conduct the defendant is otherwise accountable——

(1) knowing or having reasonable cause to believe that a person was a law enforcement officer, assaulted such officer during the course of the offense or immediate flight therefrom; or

(2) knowing or having reasonable cause to believe that a person was a prison official, assaulted such official while the defendant (or a person for whose conduct the defendant is otherwise accountable) was in the custody or control of a prison or other correctional facility,

increase by 3 levels.".

The Commentary to § 3A1.2 captioned "Application Notes" is amended in Note 1 by inserting "Applicability to Certain Victims.—" before "This guideline applies".

The Commentary to § 3A1.2 captioned "Application Notes" is amended by striking Note 2 and by redesignating Notes 3 through 6 as Notes 2 through 5, respectively.

The Commentary to § 3A1.2 captioned "Application Notes" is amended in Note 2, as redesignated by this amendment, by inserting "Nonapplicability in Case of Incorporation of Factor in Chapter Two.—" before "Do not apply".

The Commentary to § 3A1.2 captioned "Application Notes" is amended in Note 3, as redesignated by this amendment, by inserting "Application of Subsection (a).—" before "Motivated by such"; and by striking "subdivision" and inserting "subsection".

The Commentary to § 3A1.2 captioned "Application Notes" is amended by striking Note 4, as redesignated by this amendment, and inserting the following:

"4. Application of Subsection (b).—

(A) In General.—Subsection (b) applies in circumstances tantamount to aggravated assault (i) against a law enforcement officer, committed in the course of, or in immediate flight following, another offense; or (ii) against a prison official, while the defendant (or a person for whose conduct the defendant is otherwise accountable) was in the custody or control of a prison or other correctional facility. While subsection (b) may apply in connection with a variety of offenses that are not by nature targeted against official victims, its applicability is limited to assaultive conduct against such official victims that is sufficiently serious to create at least a 'substantial risk of serious bodily injury'.

(B) Definitions.—For purposes of subsection (b):

"Custody and control" includes "non-secure custody", i.e., custody with no significant physical restraint. For example, a defendant is in the custody and control of a prison or other correctional facility if the defendant (i) is on a work detail outside the security perimeter of the prison or correctional facility; (ii) is physically away from the prison or correctional facility while on a pass or furlough; or (iii) is in custody at a community corrections center, community treatment center, 'halfway house', or similar facility. The defendant also shall be deemed to be in the custody and control of a prison or other correctional facility while the defendant is in the status of having

escaped from that prison or correctional facility.

"Prison official" means any individual (including a director, officer, employee, independent contractor, or volunteer, but not including an inmate) authorized to act on behalf of a prison or correctional facility. For example, this enhancement would be applicable to any of the following: (i) An individual employed by a prison as a corrections officer; (ii) an individual employed by a prison as a work detail supervisor; and (iii) a nurse who, under contract, provides medical services to prisoners in a prison health facility.

"Substantial risk of serious bodily injury" includes any more serious injury that was risked, as well as actual serious bodily injury (or more serious injury) if it occurs.".

The Commentary to § 3A1.2 captioned "Application Notes" is amended by striking Note 5, as redesignated by this amendment, and inserting the following:

"5. Upward Departure Provision.—Certain high level officials, e.g., the President and Vice President, although covered by this section, do not represent the heartland of the conduct covered. An upward departure to reflect the potential disruption of the governmental function in such cases typically would be warranted.".

Reason for Amendment: This amendment expands the category of persons who may be considered official victims for purposes of triggering the two level enhancement at § 3A1.2 (Official Victim). This amendment is promulgated in response to concerns expressed by the Bureau of Prisons regarding *United States* v. *Walker*, 202 F.3d 181 (3d Cir. 2000). Walker held that an individual employed by the prison to supervise food service functions who was attacked by an inmate subordinate was not a "corrections officer" within the scope of § 3A1.2. The Bureau of Prisons advised the Commission that the Bureau uses a variety of employees, contractors, and volunteers to supervise inmates and that maintenance of a safe and stable institutional environment is fostered by knowledge on the part of inmates that anyone in prison employment or performing an authorized role within a prison is afforded the protection of § 3A1.2. In accord with the Bureau's recommendation, the amendment includes a broad definition of "prison official" to include prison employees, as well as independent contractors and volunteers on prison premises with official authorization, but does not include inmates.

8. Amendment: Section 5B1.3(a) is amended by striking the period at the end of subdivision (9) and inserting a semicolon; and by adding after subdivision (9) the following:

"(10) the defendant shall submit to the collection of a DNA sample from the defendant at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a).".

Section 5D1.3(a) is amended by striking the period at the end of subdivision (7) and inserting a semicolon; and by adding after subdivision (7) the following:

"(8) the defendant shall submit to the collection of a DNA sample from the defendant at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a).".

Reason for Amendment: This amendment adds a mandatory condition to §§ 5B1.3 (Conditions of Probation) and 5D1.3 (Conditions of Supervised Release) that the defendant provide a DNA sample if the defendant is required to do so by the DNA Analysis Backlog Elimination Act of 2000, Public Law 106–546. Pursuant to section 3 of the Act, a defendant is required to provide a DNA sample if the defendant is convicted of certain offenses (e.g., murder, kidnapping).

9. Amendment: The Commentary to § 5G1.3 captioned "Application Notes" is amended by adding at the end the following:

"7. Downward Departure Provision.—In the case of a discharged term of imprisonment, a downward departure is not prohibited if subsection (b) would have applied to that term of imprisonment had the term been undischarged. Any such departure should be fashioned to achieve a reasonable punishment for the instant offense.".

Reason for Amendment: This amendment modifies § 5G1.3 (Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment) to include certain discharged terms of imprisonment. Specifically, the amendment adds commentary to § 5G1.3 to provide that courts are not prohibited from considering a downward departure in a case in which § 5G1.3(b) would have applied if the term of imprisonment had not been discharged. In the case of undischarged terms of imprisonment, § 5G1.3(b) currently authorizes a court to adjust the sentence if the conduct underlying the undischarged term of imprisonment has been fully taken into account in the offense level for the instant federal offense. See Application Note 2 of the Commentary to § 5G1.3. By adding the new commentary, the Commission makes clear that discharged terms of imprisonment may merit a downward departure for a similar reason. The amendment thereby addresses a circuit conflict regarding the propriety of a downward departure under such circumstances. Compare, e.g., *United States* v. *O'Hagan*, 139 F.3d 641, 657 (8th Cir. 1998) (holding that a sentencing court could downwardly depart to adjust for time served on a discharged state sentence); *United States* v. *Blackwell*, 49 F.3d 1232, 1241–42 (7th Cir. 1995) (same) with *United States* v. *McHan*, 101 F.3d 1027, 1040 (4th Cir. 1996) (holding that downward departure to allow an adjustment for a discharged term was based on an error of law and therefore an abuse of discretion), cert. denied, 520 U.S. 1281 (1997).

10. Amendment: The Commentary to § 2B1.1 captioned "Application Notes" is amended in subdivision (A) of Note 7 by striking "18 U.S.C. 1028(d)(3)" and inserting "18 U.S.C. 1028(d)(4)".

Section 2B4.1(b)(2) is amended to read as follows:

"(2) (Apply the greater) If—

(A) the defendant derived more than $1,000,000 in gross receipts from one or more financial institutions as a result of the offense, increase by 2 levels; or

(B) the offense substantially jeopardized the safety and soundness of a financial institution, increase by 4 levels.

If the resulting offense level determined under subdivision (A) or (B) is less than level 24, increase to level 24.".

The Commentary to § 2B4.1 captioned "Application Notes" is amended by striking Notes 4 and 5 and inserting the following:

"4. Gross Receipts Enhancement under Subsection (b)(2)(A).—

(A) In General.—For purposes of subsection (b)(2)(A), the defendant shall be considered to have derived more than $1,000,000 in gross receipts if the gross receipts to the defendant individually, rather than to all participants, exceeded $1,000,000.

(B) Definition.—"Gross receipts from the offense" includes all property, real or personal, tangible or intangible, which is obtained directly or indirectly as a result of such offense. See 18 U.S.C. 982(a)(4).

5. Enhancement for Substantially Jeopardizing the Safety and Soundness

of a Financial Institution under Subsection (b)(2)(B).—For purposes of subsection (b)(2)(B), an offense shall be considered to have substantially jeopardized the safety and soundness of a financial institution if, as a consequence of the offense, the institution (A) became insolvent; (B) substantially reduced benefits to pensioners or insureds; (C) was unable on demand to refund fully any deposit, payment, or investment; (D) was so depleted of its assets as to be forced to merge with another institution in order to continue active operations; or (E) was placed in substantial jeopardy of any of subdivisions (A) through (D) of this note.".

The Commentary to § 2D1.9 captioned "Statutory Provision" is amended by striking "(e)" and inserting "(d)".

Section 2D1.11(a) is amended by striking "below" and inserting "or (e), as appropriate".

Section 2D1.11(e) is amended in Note (A) of the Notes following the "CHEMICAL QUANTITY TABLE" by striking "of this guideline" and inserting "or (e) of this guideline, as appropriate".

The Commentary to § 2D1.11 captioned "Statutory Provisions" is amended by striking "841(d)(1)" and inserting "841(c)(1)"; and by striking "(g)(1)" and inserting "(f)(1)".

The Commentary to § 2D1.13 captioned "Statutory Provisions" is amended by striking "841(d)(3)" and inserting "841(c)(3)"; and by striking "(g)(1)" and inserting "(f)(1)".

The Commentary to § 2N2.1 captioned "Application Notes" is amended in Note 2 by striking "theft, property destruction, or".

Section 2Q1.6(a)(3) is amended by inserting "or" after "(Aggravated Assault);".

Section 2T1.1(c) is amended in Note (D) of subdivision (1) by striking "subdivisions" and inserting "subdivision".

Amendment 568 (effective November 1, 1997) is repromulgated with the following changes: Section 4B1.4(b)(3)(A) is amended to read as follows:

"(3) (A) 34, if the defendant used or possessed the firearm or ammunition in connection with either a crime of violence, as defined in § 4B1.2(a), or a controlled substance offense, as defined in § 4B1.2(b), or if the firearm possessed by the defendant was of a type described in 26 U.S.C. 5845(a)*; or"; and

section 4B1.4(c)(2) is amended to read as follows:

"(2) Category VI, if the defendant used or possessed the firearm or ammunition in connection with either a crime of violence, as defined in § 4B1.2(a), or a controlled substance offense, as defined in § 4B1.2(b), or if the firearm possessed by the defendant was of a type described in 26 U.S.C. 5845(a); or".

Section 5C1.1(c)(2) is amended by inserting an asterisk after "confinement".

Section 5C1.1(d)(2) is amended by inserting an asterisk after "confinement".

The Commentary to § 5C1.1 captioned "Application Notes" is amended in the first sentence of subdivision (C) of Note 3 by inserting an asterisk after "confinement".

The Commentary to § 5C1.1 captioned "Application Notes" is amended in the first sentence of subdivision (B) of Note 4 by inserting an asterisk after "confinement".

The Commentary to § 5C1.1 captioned "Application Notes" is amended in the first sentence of Note 6 by inserting an asterisk after "confinement".

The Commentary to § 5C1.1 captioned "Application Notes" is amended by inserting after Application Note 8 the following:

"*Note: Section 3583(d) of title 18, United States Code, provides that "[t]he court may order, as a further condition of supervised release...any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate." Subsection (b)(11) of section 3563 of title 18, United States Code, is explicitly excluded as a condition of supervised release. Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the condition at 18 U.S.C. 3563(b)(11) was intermittent confinement. The Act deleted 18 U.S.C. 3563(b)(2), authorizing the payment of a fine as a condition of probation, and redesignated the remaining conditions of probation set forth in 18 U.S.C. 3563(b); intermittent confinement is now set forth at subsection (b)(10), whereas subsection (b)(11) sets forth the condition of residency at a community corrections facility. It would appear that intermittent confinement now is authorized as a condition of supervised release and that community confinement now is not authorized as a condition of supervised release.

However, there is some question as to whether Congress intended this result. Although the Antiterrorism and Effective Death Penalty Act of 1996 redesignated the remaining paragraphs of section 3563(b), it failed to make the corresponding redesignations in 18 U.S.C. 3583(d), regarding discretionary conditions of supervised release.".

Section 5D1.2(c) is amended by inserting "(Policy Statement)" before "If the".

Section 5D1.3 is amended by inserting an asterisk after "Confinement" in the heading of subsection (e)(1); and by inserting after subsection (e)(1) the following:

"*Note: Section 3583(d) of title 18, United States Code, provides that "[t]he court may order, as a further condition of supervised release...any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate." Subsection (b)(11) of section 3563 of title 18, United States Code, is explicitly excluded as a condition of supervised release. Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the condition at 18 U.S.C. 3563(b)(11) was intermittent confinement. The Act deleted 18 U.S.C. 3563(b)(2), authorizing the payment of a fine as a condition of probation, and redesignated the remaining conditions of probation set forth in 18 U.S.C. 3563(b); intermittent confinement is now set forth at subsection (b)(10), whereas subsection (b)(11) sets forth the condition of residency at a community corrections facility. It would appear that intermittent confinement now is authorized as a condition of supervised release and that community confinement now is not authorized as a condition of supervised release.

However, there is some question as to whether Congress intended this result. Although the Antiterrorism and Effective Death Penalty Act of 1996 redesignated the remaining paragraphs of section 3563(b), it failed to make the corresponding redesignations in 18 U.S.C. 3583(d), regarding discretionary conditions of supervised release.".

The Commentary to § 5E1.2 captioned "Application Notes" is amended in Note 5 by striking "; and 42 U.S.C. 7413(c), which authorizes a fine of up to $25,000 per day for violations of the Clean Air Act".

Section 5F1.1 is amended by striking "release." and inserting the following: "release.*

"*Note: Section 3583(d) of title 18, United States Code, provides that "[t]he court may order, as a further condition of supervised release...any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate." Subsection (b)(11) of section 3563 of title 18, United States Code, is explicitly excluded as a condition of supervised release. Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the condition at 18 U.S.C. 3563(b)(11) was intermittent confinement. The Act deleted 18 U.S.C. 3563(b)(2), authorizing the payment of a fine as a condition of probation, and redesignated the remaining conditions of probation set forth in 18 U.S.C. 3563(b); intermittent confinement is now set forth at subsection (b)(10), whereas subsection (b)(11) sets forth

the condition of residency at a community corrections facility. It would appear that intermittent confinement now is authorized as a condition of supervised release and that community confinement now is not authorized as a condition of supervised release.

However, there is some question as to whether Congress intended this result. Although the Antiterrorism and Effective Death Penalty Act of 1996 redesignated the remaining paragraphs of section 3563(b), it failed to make the corresponding redesignations in 18 U.S.C. 3583(d), regarding discretionary conditions of supervised release.".

The Commentary to § 5F1.5 captioned "Background" is amended in the first paragraph by striking "(b)(6)" each place it appears and inserting "(b)(5)".

The Commentary to § 5F1.5 captioned "Background" is amended by striking the last paragraph and inserting the following:

"The appellate review provisions permit a defendant to challenge the imposition of a probation condition under 18 U.S.C. 3563(b)(5) if the sentence includes a more limiting condition of probation or supervised release than the maximum established in the guideline. See 18 U.S.C. 3742(a)(3). The government may appeal if the sentence includes a less limiting condition of probation than the minimum established in the guideline. See 18 U.S.C. 3742(b)(3).".

The Commentary to § 5F1.7 is amended in the first paragraph by inserting "Background:" before "Section 4046".

Chapter Seven, Part A, subpart 2 is amended in the second paragraph of subdivision (b) by striking "intermittent confinement," and inserting "residency in, or participation in the program of, a community corrections facility,*"; and by inserting after subdivision (b) the following:

*Note: Section 3583(d) of title 18, United States Code, provides that "[t]he court may order, as a further condition of supervised release...any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate." Subsection (b)(11) of section 3563 of title 18, United States Code, is explicitly excluded as a condition of supervised release. Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the condition at 18 U.S.C. 3563(b)(11) was intermittent confinement. The Act deleted 18 U.S.C. 3563(b)(2), authorizing the payment of a fine as a condition of probation, and redesignated the remaining conditions of probation set forth in 18 U.S.C. 3563(b); intermittent confinement is now set forth at subsection (b)(10), whereas subsection (b)(11) sets forth the condition of residency at a community corrections facility. It would appear that intermittent confinement now is authorized as a condition of supervised release and that community confinement now is not authorized as a condition of supervised release.

However, there is some question as to whether Congress intended this result. Although the Antiterrorism and Effective Death Penalty Act of 1996 redesignated the remaining paragraphs of section 3563(b), it failed to make the corresponding redesignations in 18 U.S.C. 3583(d), regarding discretionary conditions of supervised release.".

The Commentary to § 7B1.3 captioned "Application Notes" is amended in Note 5 by striking "(11). Intermittent confinement is not authorized as a condition of supervised release. 18 U.S.C. 3583(d)." and inserting the following:

"(10).*

*Note: Section 3583(d) of title 18, United States Code, provides that "[t]he court may order, as a further condition of supervised release...any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate." Subsection (b)(11) of section 3563 of title 18, United States Code, is explicitly excluded as a condition of supervised release. Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the condition at 18 U.S.C. 3563(b)(11) was intermittent confinement. The Act deleted 18 U.S.C. 3563(b)(2), authorizing the payment of a fine as a condition of probation, and redesignated the remaining conditions of probation set forth in 18 U.S.C. 3563(b); intermittent confinement is now set forth at subsection (b)(10), whereas subsection (b)(11) sets forth the condition of residency at a community corrections facility. It would appear that intermittent confinement now is authorized as a condition of supervised release and that community confinement now is not authorized as a condition of supervised release.

However, there is some question as to whether Congress intended this result. Although the Antiterrorism and Effective Death Penalty Act of 1996 redesignated the remaining paragraphs of section 3563(b), it failed to make the corresponding redesignations in 18 U.S.C. 3583(d), regarding discretionary conditions of supervised release.".

Appendix A (Statutory Index) is amended by inserting after the line referenced to 16 U.S.C. 1417(a)(5),(6),(b)(2) the following new line:

"16 U.S.C. 1437(c) 2A2.4";

by inserting after the line referenced to 18 U.S.C. 2244 the following new line:

"18 U.S.C. 2245 2A1.1";

in the line referenced to 21 U.S.C. 841(d)(1),(2) by striking "(d)" and inserting "(c)";

in the line referenced to 21 U.S.C. 841(d)(3) by striking "(d)" and inserting "(c)";

in the line referenced to 21 U.S.C. 841(e) by striking "(e)" and inserting "(d)";

in the line referenced to 21 U.S.C. 841(g)(1) by striking "(g)" and inserting "(f)";

by inserting after the line referenced to 42 U.S.C. 5157(a) the following new line:

"42 U.S.C. 5409 2N2.1"; and

by inserting after the line referenced to 42 U.S.C. 9603(d) the following new line:

"42 U.S.C. 14905 2B1.1".

Reason for Amendment: This thirteen-part amendment makes several technical and conforming changes to various guideline provisions.

First, the amendment conforms the language concerning offenses that "affected a financial institution" in subsection (b)(2) of § 2B4.1 (Bribery in Procurement of Bank Loan and Other Commercial Bribery) with subsection (b)(12) of § 2B1.1 (Theft, Property Destruction, and Fraud).

Second, the amendment: (1) updates statutory references in §§ 2D1.9 (Placing or Maintaining Dangerous Devices on Federal Property to Protect the Unlawful Production of Controlled Substances; Attempt or Conspiracy), 2D1.11 (Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy), and 2D1.13 (Structuring Chemical Transactions or Creating a Chemical Mixture to Evade Reporting or Recordkeeping Requirements; Presenting False or Fraudulent Identification to Obtain a Listed Chemical; Attempt or Conspiracy) and Appendix A (Statutory Index) to correspond to statutory redesignations made by the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000, Public Law 106–172; and (2) corrects references to the new chemical quantity tables in § 2D1.11.

Third, the amendment corrects a change to the commentary of § 2N2.1 (Violations of Statutes and Regulations Dealing With Any Food, Drug, Biological Product, Device, Cosmetic, or Agricultural Product) that was inadvertently made as part of the conforming package of amendments in the Economic Crime Package (see Supplement to Appendix C, Amendment 617, effective November 1, 2001).

Fourth, the amendment inserts a missing "or" in subsection (a)(3) of

§ 2Q1.6 (Hazardous or Injurious Devices on Federal Lands).

Fifth, the amendment corrects a grammatical error in Note (D) of subsection (c)(1) of § 2T1.1 (Tax Evasion; Willful Failure to File Return, Supply Information, or Pay Tax; Fraudulent or False Returns, Statements, or Other Documents) by replacing "subdivisions (A), (B), or (C)" with "subdivision (A), (B), or (C)".

Sixth, the amendment repromulgates amendment 568, effective November 1, 1997, to correct an inadvertent omission of a conforming amendment to § 4B1.4 (Armed Career Criminal) from amendment 568.

Seventh, the amendment conforms §§ 5C1.1 (Imposition of a Term of Imprisonment), 5D1.3 (Conditions of Supervised Release), and 5F1.1 (Community Confinement), Part A of Chapter Seven (Violations of Probation and Supervised Release), and § 7B1.3 (Revocation of Probation or Supervised Release) to current statutory provisions at 18 U.S.C. 3563 and 3583 and provides an explanatory note concerning the status of intermittent confinement and community confinement as conditions of supervised release.

Eighth, the amendment clarifies that language in subsection (c) of § 5D1.2 (Term of Supervised Release) is a policy statement (because it recommends the maximum term of supervised release for sex offenders rather than requires it).

Ninth, the amendment deletes from Application Note 5 of § 5E1.2 (Fines for Individual Defendants) an incorrect statement concerning the Clean Air Act.

Tenth, the amendment updates statutory references in § 5F1.5 (Occupational Restrictions).

Eleventh, the amendment inserts a missing "Background" heading in § 5F1.7 (Shock Incarceration Program).

Twelfth, the amendment references 18 U.S.C. 2245, which covers sexual abuse resulting in death, to § 2A1.1 (First Degree Murder) in Appendix A (Statutory Index) because the offense requires the death of a person.

Finally, the amendment responds to new legislation as follows:

(1) It updates, in § 2B1.1, a statutory reference in the definition of "means of identification" to correspond to a redesignation made by the Internet False Identification Prevention Act of 2000, Public Law 106–578.

(2) It provides guideline references in Appendix A for two new offenses created by the American Homeownership and Economic Opportunity Act of 2000, Public Law 106–569 ("the Act"). First, section 608 of the Act amends section 610(a) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5409(a)) which makes it unlawful to fail to comply with a state's installation program. Under section 611 of the National Housing Construction and Safety Standard Act of 1974 (42 U.S.C. 5410(b)), knowing and willful violations of subsection 610(a) are punishable by imprisonment of not more than one year. The amendment references this provision to § 2N2.1. Second, section 708 of the Act created section 543 in Title V of the Housing Act of 1949 (42 U.S.C. 1490(s)(a)), which provides a criminal penalty of not more than five years' imprisonment for equity skimming. The amendment references this provision to § 2B1.1.

(3) It references offenses under section 307(c) of the National Marine Sanctuaries Act (16 U.S.C. 1437(c)) to § 2A2.4 (Obstructing or Impeding Officers). Section 307(c) of the National Marine Sanctuaries Act, as amended by the National Marine Sanctuaries Amendments Act of 2000, Public Law 106–513, prohibits the interference with the enforcement of conservation activities authorized in title 16, United States Code, including refusing to permit any officer authorized to enforce such title to board a vessel for purposes of conducting a search or inspection in connection with the enforcement of such title.

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Federal Register

Wednesday,
May 29, 2002

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Chorizanthe pungens* var. *pungens* (Monterey Spineflower); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AHO4

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Chorizanthe pungens* var. *pungens* (Monterey Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for *Chorizanthe pungens* var. *pungens* (Monterey spineflower) pursuant to the Endangered Species Act of 1973, as amended (Act). A total of approximately 7,620 hectares (18,830 acres) of land in Santa Cruz and Monterey Counties, California, are within the boundaries of the critical habitat designation.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection.

Section 7(a)(2) of the Act requires that each Federal agency shall, in consultation with and with the assistance of the Service, insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat.

We solicited data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation.

DATES: This rule is effective June 28, 2002.

ADDRESSES: Comments and materials received, as well as supporting documentation, used in the preparation of this final rule are available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section) (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe pungens var. *pungens* (Monterey spineflower) is endemic to sandy soils in coastal areas in southern Santa Cruz and northern Monterey Counties, and in the Salinas Valley in interior Monterey County. In California, the spineflower genus, *Chorizanthe*, in the buckwheat family (Polygonaceae) is comprised of species of slender, stiff, and tough annual herbs that inhabit dry sandy soils. They occur along the coast and inland, but because of the patchy and limited distribution of such soils, many species of *Chorizanthe* tend to be highly localized in their distribution.

Chorizanthe pungens var. *pungens* is one of two varieties of the species *Chorizanthe pungens*. The other variety, *C. p.* var. *hartwegiana* (Ben Lomond spineflower) is restricted to the Santa Cruz Mountains, generally between Scotts Valley and Ben Lomond. The ranges of these two varieties of *C. pungens* do not overlap. The range of *C. p.* var. *pungens* partially overlaps with another closely related taxon, *Chorizanthe robusta* var. *robusta* (robust spineflower), in southern Santa Cruz County. *Chorizanthe pungens* var. *hartwegiana* and *C. r.* var. *robusta* are both endangered species (59 FR 5499). A detailed description of these related taxa is available in the Recovery Plan for Seven Coastal Plants and the Myrtle's Silverspot Butterfly (Service 1998), the Draft Recovery Plan for the Robust Spineflower (Service 2000), and references within these plans.

The overall appearance of *Chorizanthe pungens* var. *pungens* is of a low-growing herb that is soft, hairy and grayish or reddish in color. The plant generally grows flat along the ground or curves upward from the base. Large individuals may reach 50 centimeters (cm) (20 inches (in)) or more in diameter. This taxon is distinguished by white (rarely pinkish) scarious (translucent) margins on the lobes of the involucre (circle or collection of modified leaves surrounding a flower cluster) or head that occur immediately below the white- to rose-colored flowers. The aggregate of flowers (heads) tend to be small (less than 1 cm (0.4 in) in diameter) and either distinctly or indistinctly aggregate.

Chorizanthe pungens var. *pungens* is a short-lived annual species. It germinates during the winter months and flowers from April through June. Although pollination ecology has not been studied for this taxon, *C. p.* var. *pungens* is likely visited by a wide array of pollinators. Observations of pollinators on other species of *Chorizanthe* that occur in Santa Cruz County have included leaf cutter bees (megachilids) and at least six species of butterflies, flies, and sphecid wasps (R. Morgan, biologist, Soquel, CA, pers. comm., 2000). In other annual species of *Chorizanthe*, the flowers are protandrous, a reproductive strategy in which the anthers (part of flower that produces pollen) mature and shed pollen prior to the maturation of the style (part of the female reproductive structure of a flower) to receive pollen, with a delay of style receptivity being 1 or 2 days. Protandry facilitates cross-pollination by insects. However, if cross-pollination does not occur within 1 or 2 days, self-pollination may occur as the flower closes at the end of the day (Reveal 2001). The relative importance of cross-pollination by insects and self-pollination to seed set or development is unknown; however, in *C. p.* var. *pungens*, the importance of pollinator activity to production of viable seed was indicated by the production of seed with low viability where pollinator access was limited (Harding Lawson Associates 2000).

Seed is mature by August. The plants turn a rusty hue as they dry through the summer months, eventually shattering during the fall. Seed dispersal is facilitated by the involucral spines, which attach the seed to passing animals. Black-tailed hares *(Lepus californicus)* and ground squirrels *(Otospermophilus beecheyi)* have been observed to browse on *Chorizanthe pungens* var. *pungens* (L. Otter, Coastal Commission, pers. comm., 2001; Schettler, in litt., 2000), and other animals likely to contribute to seed dispersal include, but are not limited to: mule deer *(Odocoileus hemionus)*, gray foxes *(Urocyon cinereoargenteus)*, coyotes *(Canis latrans)*, bobcats *(Felis rufus)*, striped skunks *(Mephitis mephitis)*, opossums *(Didelphis virginiana)*, racoons *(Procyon lotor)*, and other small mammals and small birds. While animal vectors most likely facilitate seed dispersal between colonies and populations of *C. p.* var. *pungens*, the prevailing coastal winds undoubtedly play a part in scattering seed within colonies and populations.

For annual plants, maintaining a seed bank (a reserve of dormant seeds, generally found in the soil) is important to year-to-year and long term survival (Baskin and Baskin 1978). A seed bank includes all of the seeds in a population, and the extent of the seed bank reserve is variable from population to population. Within any given population, the seed bank generally covers a larger area than the extent of observable plants seen in a given year

(Given 1994) because the number and location of standing plants (the observable plants) varies annually due to factors such as the amount and timing of rainfall, temperature, soil conditions, and the extent and nature of the seed bank.

Each *Chorizanthe pungens* var. *pungens* flower produces one seed. Depending on the vigor of the individual plant and the effectiveness of pollination, dozens, if not hundreds of seeds could be produced from a single plant. For instance, in one study of a closely related spineflower, *Chorizanthe robusta* var. *robusta*, individual plants had an average of 126 flowers, and an average seed set of 51 seeds per plant (S. Baron, pers. comm., 2001). However, seed production does not guarantee production of future reproductive individuals for several reasons: seed viability may be low, as has been found in other species of *Chorizanthe* (Bauder 2000); proper conditions for germination may not be present in most years; and seedling mortality may result from withering before maturity, herbivory, or uprooting by gopher activity (Baron 1998).

The locations where *Chorizanthe pungens* var. *pungens* occurs, with the exception of the Soledad area, are subject to a mild maritime climate where fog helps keep summer temperatures cool and winter temperatures relatively warm and provides moisture in addition to the normal winter rains. *Chorizanthe pungens* var. *pungens* is found in a variety of seemingly disparate plant communities, including active coastal dunes, grassland, scrub, chaparral, woodland types on interior upland sites, and interior floodplain dunes. However, all of these areas include microhabitat characteristics favored by *C. p.* var. *pungens*. First, all sites where it is found are on sandy soils; whether the origin of the soils is from active dunes, interior fossil dunes, or floodplain alluvium is apparently unimportant. The most prevalent soil series represented are Baywood, Oceano, Elder, Elkhorn, Arnold, Santa Ynez, and Metz (SCS 1978, 1980). Second, these sites are relatively open and free of other vegetation. In scrub and chaparral communities, *C. p.* var. *pungens* does not occur under dense stands of vegetation, but does occur between more widely spaced shrubs. In grassland and oak woodland communities, abundant annual grasses may outcompete *C. p.* var. *pungens*, but in places where grass species are affected or managed through grazing, mowing or fire, the result may be less competition, thus allowing the spineflower to persist.

Chorizanthe pungens var. *pungens* is generally distributed along the rim of Monterey Bay in southern Santa Cruz and northern Monterey Counties, and inland along the coastal plain of the Salinas Valley. At coastal sites ranging from the Monterey Peninsula north to Manresa State Beach in Santa Cruz County, *C. p.* var. *pungens* is found in active coastal dune systems and on coastal bluffs upon which windblown sand has been deposited.

On coastal dunes, the distribution of suitable habitat is subject to dynamic shifts caused by patterns of dune mobilization, stabilization, and successional trends in coastal dune scrub that result in increased vegetation cover over time. Accordingly, over time there are shifts in the distribution and size of individual colonies of *Chorizanthe pungens* var. *pungens* found in gaps between stands of scrub vegetation. Other native plants associated with *C. p.* var. *pungens* include: *Ambrosia chamissonis* (beach bur); *Artemisia pycnocephala* (coastal sagewort); *Ericameria ericoides* (mock heather); *Castilleja latifolia* (Monterey Indian paintbrush); and *Lathyrus littoralis* (beach pea). At some northern Monterey County locations, *C. p.* var. *pungens* occurs in close proximity to *Gilia tenuiflora* ssp. *arenaria* (sand gilia) and *Erysimum menziesii* ssp. *menziesii* (Menzies' wallflower), which are both endangered plants, as well as an endangered butterfly, *Euphilotes enoptes smithi* (Smith's blue butterfly), and a threatened bird, *Charadrius alexandrinus nivosus* (western snowy plover).

Chorizanthe pungens var. *pungens* formerly was more widespread in the Monterey Bay area, as well as farther south. The plant can no longer be found at some locations where historical collections were made. For instance, at a historical site on the coast near San Simeon in San Luis Obispo County, *C. p.* var. *pungens* has not been seen since it was first collected in 1842 (California Natural Diversity Data Base (CNDDB) 2000; D. Keil, California Polytechnic University, San Luis Obispo, pers. comm., 2000). It also is no longer found at Point Pinos on the Monterey Peninsula or Castroville (between Prunedale and Salinas River State Beach), both in Monterey County.

We can infer from the current distribution of the spineflower that development has fragmented habitat that formerly provided for a more continuous occurrence of the plant. For instance, portions of the coastal dune and coastal scrub communities that support *Chorizanthe pungens* var. *pungens* have been eliminated or altered by recreational use, industrial and urban development, and military activities. The composition of dune communities also has been altered by the introduction of non-native species, especially *Carpobrotus* species (sea-fig or iceplant) and *Ammophila arenaria* (European beachgrass), in an attempt to stabilize shifting sands. In the last decade, significant efforts have been made to restore native dune communities and one aspect of such restoration is the elimination of these non-native species (CDPR 1995, Pratt *in litt.* 2000).

At more inland sites, *Chorizanthe pungens* var. *pungens* occurs on sandy, well-drained soils in a variety of habitat types, most frequently maritime chaparral, valley oak woodlands, and grasslands. The plant probably has been extirpated from a number of historical locations in the Salinas Valley, primarily due to conversion of the original grasslands and valley oak woodlands to agricultural crops (Reveal & Hardham 1989).

Within grassland communities, *Chorizanthe pungens* var. *pungens* occurs along roadsides, in firebreaks, and in other disturbed sites, while in oak woodland, chaparral, and scrub communities, it occurs in sandy openings between shrubs. In older stands with a high cover of shrubs, the plants are restricted to roadsides, firebreaks, and trails that bisect these communities.

Significant populations of *Chorizanthe pungens* var. *pungens* occur on lands that are referred to as former Fort Ord (U.S. Army Corps of Engineers (ACOE) 1992, 1997). At former Fort Ord, the highest densities of *C. p.* var. *pungens* are located in the central portion of the firing range, where disturbance is the most frequent. This pattern of distribution and densities of *C. p.* var. *pungens* on former Fort Ord indicates that some activities which have disturbed *C. p.* var. *pungens* habitat also have created open conditions that contribute to high densities of the plant. Prior to the onset of human use of this area, *C. p.* var. *pungens* may have been restricted to openings created by wildfires within these communities (Service 1998).

The southwestern edge of *Chorizanthe pungens* var. *pungens* habitat on former Fort Ord was once continuous with habitat found in the community of Del Rey Oaks and at the Monterey Airport (Deb Hillyard, ecologist, California Department of Fish and Game (CDFG), pers. comm., 2000). Other inland sites that support *C. p.* var. *pungens* are located in the area between Aptos and La Selva Beach in Santa Cruz

County, and near Prunedale in northern Monterey County. At some of these locations, *C. p.* var. *pungens* occurs in close proximity with the endangered *Piperia yadonii* (Yadon's piperia) and *C. robusta* var. *robusta*.

Chorizanthe pungens var. *pungens* was recently found on a dune within the Salinas River floodplain near Soledad, Monterey County (CNDDB 2000). Two historic sites for *C. p.* var. *pungens* occur nearby. One, near Mission Soledad, was collected once in 1881; the other, near San Lucas along the Salinas River, was collected once in 1935. Due to conversion to agriculture and channelization activities along the Salinas River over the last century, *C. p.* var. *pungens* most likely has been extirpated from these locations. The dune near Soledad is the only one of its size and extent between there and the river mouth (Brad Olsen, East Bay Regional Parks District, pers. comm., 2000).

During the public comment periods we became aware of additional locations that support *Chorizanthe pungens* var. *pungens*. Not surprisingly, the areas occur adjacent to habitat known to support *C. p.* var. *pungens*. These additional areas include the following: (1) Between the northern portion of the Fort Ord unit and the northern portion of the Marina unit, on private lands that are being used for cattle grazing but which may be proposed for development; (2) just south of the Freedom unit, on lands owned by the Pajaro Unified School District at Aptos High School; (3) northwest of the Prunedale unit on lands owned by The Nature Conservancy (TNC) and managed by the Elkhorn Slough Foundation for conservation of natural resources; and (4) several locations to the north and to the west of the Asilomar unit on the Monterey Peninsula, including Federal lands owned and managed by the Coast Guard at Point Pinos Light Station, and on private lands owned by the Pebble Beach Company along 17 Mile Drive.

Because we did not know of the four areas described above at the time we published the proposal rule, they were not included in the background information provided in the proposed rule and were not included in the proposed critical habitat. Under the Act and the Administrative Procedure Act (APA) (5 U.S.C. 702 and 706), we are required to allow the public an opportunity to comment on the proposed rulemaking. We have not yet evaluated these areas and, if appropriate, re-propose critical habitat for public review and comment. Because these areas were not included in the proposed rule, we are not including them in this final rule. Depending on the results of an evaluation of these areas, we may revise this critical habitat designation in the future. Although these areas were not included in the critical habitat proposal, they may be important to the recovery of the species and could be included in recovery activities in the future, if appropriate. Also, Federal agencies will continue to be required to consult with us, as appropriate, on activities in these areas pursuant to section 7(a)(2) of the Act, to ensure that any action they authorize, fund, or carry out does not jeopardize the continued existence of *Chorizanthe pungens* var. *pungens*.

Previous Federal Action

Federal government actions for *Chorizanthe pungens* var. *pungens* began when we published an updated Notice of Review (NOR) of plants on December 15, 1980 (45 FR 82480). This notice included *C. p.* var. *punges* as a category 2 candidate (defined at that time as species for which data in our possession indicate listing may be appropriate, but for which additional biological information is needed to support a proposed rule). In the September 27, 1985, revised NOR of plants (50 FR 39526) and in the February 21, 1990 (55 FR 6184) revised NOR of plants, *C. p.* var. *punges* was again included as a category 2 candidate.

On October 24, 1991 (56 FR 55107), we published a proposal to list *Chorizanthe pungens* var. *pungens* as threatened, along with three other varieties of *Chorizanthe* (*C. p.* var. *hartwegiana*, *C. robusta* var. *hartwegii*, *C. r.* var. *robusta*) and *Erysimum teretifolium* as endangered species. The final rule listing *C. p.* var. *pungens* as a threatened species was published on February 4, 1994 (59 FR 5499). The final rule indicated that the designation of critical habitat for *C. p.* var. *pungens* was prudent but not determinable, and that designation of critical habitat would occur once we had gathered the necessary data.

On June 30, 1999, our failure to designate critical habitat for *Chorizanthe pungens* var. *pungens* and three other species within the time period mandated by 16 U.S.C. 1533(b)(6)(C)(ii) was challenged in *Center for Biological Diversity* v. *Babbitt* (Case No. C99–3202 SC). On August 30, 2000, the U.S. District Court for the Northern District of California (Court) directed us to publish a proposed critical habitat designation within 60 days of the Court's order and a final critical habitat designation no later than 120 days after the proposed designation was published. On October 16, 2000, the Court granted the government's request for a stay of this order. Subsequently, by a stipulated settlement agreement signed by the parties on November 20, 2000, we agreed to propose critical habitat for the *C. p.* var. *pungens* by January 15, 2001. Plaintiffs subsequently agreed to an extension, approved by the court, until May 17, 2002, to complete the final rule.

The proposed rule to designate critical habitat for the species was signed on January 16, 2001, and sent to the **Federal Register**. It was published on February 15, 2000 (66 FR 10440). In the proposal, we determined it was prudent to designate approximately 10,400 ha (25,800 ac) of land in Santa Cruz and Monterey Counties as critical habitat for *Chorizanthe pungens* var. *pungens*. Publication of the proposed rule opened a 60-day public comment period, which closed on April 16, 2001.

On September 19, 2001, we published a notice announcing the reopening of the comment period on the proposal to designate critical habitat for *Chorizanthe pungens* var. *pungens*, and a notice of availability of the draft economic analysis on the proposed determination (66 FR 48228). This second public comment period closed on October 19, 2001. By notice published February 1, 2002 (67 FR 4940), the Department provided interested parties an opportunity to resubmit written comments by February 15, 2002, the receipt of which may have been delayed due to the shutdown of postal facilities in Washington, DC, and of the Department's internet access.

Summary of Comments and Recommendations

We contacted appropriate Federal, State, and local agencies, scientific organizations, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a notice in the Santa Cruz Sentinel on February 24, 2001. We received individually written letters from 14 parties, which included 4 designated peer reviewers, 2 Federal agencies, 1 State agency, and 4 local jurisdictions. Approximately 800 additional letters were submitted as part of a mailing campaign. Of the 14 parties responding individually, 5 supported the proposed designation, 2 were neutral, and 7 were opposed. The 7 commenters opposing the proposal specifically opposed designation of critical habitat on lands they own or manage, and requested that these areas be excluded from critical habitat designation. Of the 800 additional letters, 19 were opposed, 1 was neutral, and the remaining were in support of the critical habitat designation.

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited independent opinions from four knowledgeable individuals who have expertise with the species, with the geographic region where the species occurs, and/or familiarity with the principles of conservation biology. All four of the peer reviewers supported the proposal and provided us with comments, which are included in the summary below and incorporated into the final rule.

We reviewed all comments received from the public and the peer reviewers for substantive issues and new information regarding critical habitat and *Chorizanthe pungens* var. *pungens*. Similar comments were grouped into four general issues relating specifically to the proposed critical habitat determination and draft economic analysis on the proposed determination. These are addressed in the following summary:

Issue 1: Biological Justification and Methodology

1. *Comment:* The proposed rule was not based on the best scientific data available.

Our Response: As stated in the proposed rule, we are required under the Act and regulations (section 4(B)(2) and 50 CFR 424.12, respectively) to make decisions based on the best information available at the time of designation. Our policy on information standards, described in the section entitled Critical Habitat in the rule, states that we should use the listing package for the species as well as additional information obtained from recovery plans, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials (*i.e.*, gray literature). In addition to using these sources, we have consulted with botanists and other experts who are familiar either with the species or the geographic area where it occurs. The final rule also incorporates relevant new information submitted during the two comment periods.

2. *Comment: Chorizanthe pungens* var. *pungens* would not even occur on Pebble Beach Company lands at Spanish Bay if it were not for their extensive restoration efforts that reclaimed a former sand mine site; therefore, this area should be excluded from the Asilomar unit.

Our Response: We recognize that the Company has undertaken the restoration and creation of several habitats, including coastal dunes, in the Spanish Bay area; much of this work was done to fulfill permit requirements by the Coastal Commission as part of the approval for construction of resort facilities at Spanish Bay. We know from historical records that *Chorizanthe pungens* var. *pungens* occurred at several locations along the coast of Monterey Peninsula, both upcoast and downcoast from the Spanish Bay area prior to sand mining activity. In addition, extant populations are known to occur both immediately upcoast and downcoast within a mile of Spanish Bay. Although surveys done in conjunction with the Company's restoration plan did not detect *C. p.* var. *pungens*, it is possible that *C. p.* var. *pungens* was missed during the surveys, or existed as a seedbank on the remnant dunes. Moreover, seeds for the reintroduction of *C. p.* var. *pungens* into the newly created dunes were collected from the remnant dunes at Spanish Bay (Joey Dorrell-Canepa, biologist, pers. comm., 2001). We therefore believe that there is sufficient information to consider dune habitat at Spanish Bay within the range of the species and essential to the conservation of the species.

3. *Comment:* One peer reviewer suggested expanding the list of primary constituent elements to include such factors as seed germination requirements, substrate salinity, microreliefs and mocroclimates within local habitats, seasonal and yearly groundwater levels, and bird populations that migrate within the range of *Chorizanthe pungens* var. *pungens*.

Our Response: While we recognize that these factors may be important components of the habitats within which *Chorizanthe pungens* var. *pungens* is found, we do not have sufficient information at this time that leads us to believe that they are the primary factors responsible for the distribution of *C. p.* var. *pungens* throughout its range and necessary for its conservation.

Issue 2: Economic Comments

4. *Comment:* Comments received by the Service from the Fort Ord Reuse Authority and City of Marina suggested that section 2.4.9 of the draft Economic Analysis (which estimated that 2 to 4 consultations, at a total cost of $10,000 to $60,000, will occur related to activities by private parties after the transfer of Fort Ord land) mischaracterized the likely impacts of critical habitat designation on lands within the boundaries of Fort Ord that will be transferred to private landowners. The comments indicated that development on this land could lead to a greater number of consultations, and that the consultations would be more costly than estimated in the draft Economic Analysis.

Our Response: We have revised the final critical habitat designation to remove all lands within the boundaries of former Fort Ord that the Multispecies Habitat Management Plan for the area explicitly designates for development (see our response to comment 8 for further information regarding former Fort Ord and the Habitat Management Plan) . The section 7 consultation requirements pertain only to actions of Federal agencies. Consequently, in relation to *Chorizanthe pungens* var. *pungens*, consultation involving these excluded lands would be necessary only when there is a Federal nexus and there is a determination that the Federal action may affect the species or its designated critical habitat.

Lands within former Fort Ord that have been designated for development with reserves, but for which development boundaries are not determined, are included in the final designation. These lands may be subject to additional consultations in the future. The original estimates of the draft Environmental Analysis, based on the consultation history and cost of the consultations in this area, apply to these lands, as two to four consultations may be necessary in the future to address any development as it occurs.

5. *Comment:* One party was concerned that the designation would eliminate their opportunity for Federal development grants, since Federal agencies must ensure that their activities do not result in destruction or adverse modification of critical habitat. The party was concerned that if a federally funded project "in any way destroyed or adversely modified any portion of the area proposed", the Federal agency would be unable to provide the grant.

Our Response: Under section 7(a)(2) of the Act all Federal agencies must ensure that any action they authorize, fund, or carry out does not jeopardize the continued existence of a listed species; this requirement applies regardless of whether the project area is designated as critical habitat. In the vast majority of situations in which a project funded by Federal development grant monies may affect a listed species or its critical habitat, we have been able to work with the landowner and the appropriate Federal agency to ensure that the landowner's project can be completed without jeopardizing the

continued existence of a species or adversely modifying critical habitat. Federal agencies already must consult pursuant to the jeopardy aspect of section 7(a)(2) of the Act on all activities that may affect *Chorizanthe pungens* var. *pungens*, regardless of whether critical habitat is present. All of the critical habitat units are occupied by *C. p.* var. *pungens*. Thus, the designation of critical habitat for *C. p.* var. *pungens* is expected to result in few or no additional restrictions through the consultation process beyond those that have existed since the species was listed.

Issue 3: Site-Specific Areas and Other Comments

6. *Comment:* The U.S. Department of the Navy (DON) requested that the lands of the Naval Postgraduate School be excluded from the Marina unit of the critical habitat designation because protections and management actions provided for *Chorizanthe pungens* var. *pungens* under their Integrated Natural Resource Management Plan (INRMP) are sufficient. Therefore, their lands do not require special management considerations or protection and do not meet the definition of critical habitat.

Our Response: We address the issue of INRMPs in the section entitled "Relationship of Critical Habitat to Military Lands." The DON completed a final INRMP for the Naval Postgraduate School in July of 2001. The INRMP provides for conservation, management and protection for *Chorizanthe pungens* var. *pungens* (DON 2001). The DON has been responsive to our comments regarding actions for the conservation and protection of *C. p.* var. *pungens* and other listed species that occur at the Naval Postgraduate School. We have reviewed the final INRMP and have determined that it addresses the conservation needs of *C. p.* var. *pungens*. The dune area of the Naval Postgraduate School has been restored, is maintained as habitat for sensitive species, and is designated solely for research and interpretive uses. In addition, we have undergone formal consultation with the DON for actions under their ongoing and proposed vegetation management and restoration program for the Naval Postgraduate School, which is designed to benefit listed and sensitive species. Therefore, the 22 ha (55 ac) of land of the Naval Postgraduate School have not been included in this final designation of critical habitat for *C. p.* var. *pungens*, as we have determined that they do not require additional special management considerations or protection, and so do not meet the definition of critical habitat.

7. *Comment:* Sand City requested that any property within the city be excluded from the Marina critical habitat unit because their Local Coastal Plan already requires them to work with the Service and they believe that designation of critical habitat will add another layer of coordination which is unnecessary.

Our Response: Upon further evaluation of the Marina unit, we revised the final designation to avoid areas that have been developed or otherwise significantly altered to such an extent that they do not provide one or more of the primary constituent elements essential for the conservation of *Chorizanthe pungens* var. *pungens*. We included lands in the Marina unit that we determined to be essential to the conservation of *C. p.* var. *pungens* and that may require special management considerations or protection. This includes lands within Sand City. Although the remaining natural lands of Sand City within the larger Marina critical habitat unit may not be currently occupied by *C. p.* var. *pungens*, they may play an important role in the conservation of *C. p.* var. *pungens* with additional protection and management. Management of *C. p.* var. *pungens* in Sand City and other areas of the Marina unit has been successful in the past, and we believe that *C. p.* var. *pungens* will respond well to additional protection and management in areas of the Marina unit not yet developed or significantly altered.

8. *Comment:* The Army, City of Marina, and Fort Ord Reuse Authority requested that areas designated for development in the 1997 Installation-wide Multispecies Habitat Management Plan for Former Fort Ord, California (HMP), be excluded from the Fort Ord critical habitat unit. They commented that those areas do not require special management consideration; that the Service, through the consultation process, already indicated in a biological opinion that the designated development parcels are not essential to the long-term preservation of sensitive species at the former Fort Ord; and that the benefits of excluding these areas outweigh the benefits of including them. The Army indicated that it intends to fully implement the HMP, consistent with other laws and regulations.

Our Response: We have reevaluated the configuration of lands included in the Fort Ord Unit, particularly with regard to the various land designations in the HMP, and have revised this critical habitat designation to avoid those lands designated in the HMP as solely for development. Based on information obtained through several section 7 consultations, we have determined that these areas are not essential to the conservation of *Chorizanthe pungens* var. *pungens*.

Although we not including as critical habitat those lands that are designated for development, with no resource conservation requirements, the public should recognize that the lands included in this designation are not the only lands that may be important to the conservation of *Chorizanthe pungens* var. *pungens*. If habitat for this species on the lands designated as habitat reserve, habitat corridor, and development with reserve or development with restrictions, does not receive the special management it requires because the HMP is not fully implemented, then additional lands may be needed for the conservation of *C. p.* var. *pungens* on former Fort Ord.

9. *Comment:* The Moss Landing Harbor District (District) has requested that their 3-ha (8-ac) parcel be excluded from the Moss Landing critical habitat unit because they believe the site is not essential to the continuation of the species due to its small size, marginal habitat, and isolation from the rest of the unit. Moreover, they believe the designation would place an unfair burden on the District because they already informally consulted with the Service on their habitat restoration plan for the site; this plan, if successful, would provide enhanced habitat conditions and more protection for *Chorizanthe pungens* var. *pungens* than were on the site previously.

Our Response: We acknowledge the work that the District is undertaking to restore, enhance, and project habitat for *Chorizanthe pungens* var. *pungens* on this site. We also acknowledge that even though the District was not required to consult with us previously, they sought our technical assistance. We support the District's habitat restoration efforts for this site. Even if the restoration plan is fully implemented, however, the sites supporting *C. p.* var. *pungens* will not be under permanent protection, and could possibly be impacted by future projects, such as the widening of Highway 1. We are including this parcel in the Moss Landing critical habitat unit because we believe that, even though it is geographically separated, it is still biologically connected to the rest of the Moss Landing critical habitat unit. In particular, because other parts of the Moss Landing critical habitat unit are close to the coast, the inland position of this parcel is important for avoiding random extinction of *C. p.* var. *pungens* in this unit due, for instance, to severe winter storms. We have made minor modifications to the boundaries of this final critical habitat designation in this area, based on our improved mapping ability.

10. *Comment:* The Pebble Beach Company requested that their property in the Spanish Bay area be excluded from the Asilomar unit and cited a number of legal and procedural issues as well as biological arguments for doing so.

Our Response: Our response to the legal and procedural issues is included under Issue 4 below, and our responses to the biological arguments are included under Issue 1 above. We did not exclude all of Pebble Beach Company's property from the final designation. However, based on additional reports, photos and a map supplied by the Company, as well as recent aerial photos acquired by the Service and a site visit made by Service staff, we have reduced the amount of acreage of their lands included in the Asilomar unit by avoiding areas that do not contain one or more of the primary constituent elements essential for the conservation of *Chorizanthe pungens* var. *pungens*.

Issue 4: Legal and Procedural Comments

11. *Comment:* The Pebble Beach Company believes that they would unfairly be subject to additional regulatory burden by the inclusion of their lands in the designation of the Asilomar unit, where *Chorizanthe pungens* var. *pungens* occurs only by virtue of their restoration efforts.

Our Response: Private land owners are not required to consult with us under section 7 of the Act except when their actions involve a Federal nexus. See our response under Issue 1, above, that addresses the relationship of the restoration efforts to the presence of *Chorizanthe pungens* var. *pungens* on Company lands.

12. *Comment:* The Service did not follow the narrow criteria set forth in the ESA in proposing critical habitat, specifically: (a) Critical habitat is to be limited to those areas essential to species conservation; (b) legislative history shows that congressional intent was to have critical habitat narrowly defined; and (c) the proposal goes beyond the limited grounds for designating critical habitat.

Our Response: We developed the proposed and this final critical habitat designation consistent with the Act and our implementing regulations. The definition of critical habitat in section 3(5)(A) of the Act includes "(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed * * * upon a determination by the Secretary that such areas are essential for the conservation of the species." The term "conservation", as defined in section 3(3) of the Act, means "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary."

In accordance with section 3(5)(A) of the Act, and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. As specified in the regulations, these include, but are not limited to—space for individual and population growth, and for normal behavior; food, water, air, light, minerals or other nutritional or physiological requirements; cover or shelter; sites for germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species. This designation of critical habitat is consistent with these requirements of the Act and the regulations.

13. *Comment:* The proposed rule states that the Service is required to make decisions due to court-ordered deadlines even though the Service admits that little is known about the physical and biological requirement of the species. Therefore, the Service has violated the Administrative Procedure Act and is acting in an arbitrary and capricious manner by not going beyond the existing body of science where available methodologies may yield "as yet untapped sources of best scientific and commercial data" (*Roosevelt Campobello Intern. Park* v. *U.S.E.P.A.*, 684 F.2d 1041, 1055 (1st Cir. 1982) in Nossaman 2001).

Our Response: Under section 4(b)(2) of the Act, we are required to use the best scientific and commercial information available when designating critical habitat. During development of the proposed designation and following its publication during two open comment periods, we solicited biological data and public participation in the rule making process. The comments received have been taken into consideration in the development of this final designation. In this final designation, we used information from: the CNDDB (CNDDB 2000); soil survey maps (Soil Conservation Service (SCS) 1978, 1980); recent biological surveys and reports; additional information provided by interested parties; and discussions with botanical experts. We also conducted site visits at a number of locations (see the Methods section of this rule for more information). We believe we have used the best available information and therefore, are not in violation of the APA. We will continue to monitor the species and collect new information. We may revise the critical habitat designation in the future if new information supports a change.

14. *Comment:* The proposed rule did not provide adequate notice to impacted landowners because it fails to identify the specific locations that contain the primary constituent elements, which illegally shifts the burden of determining critical habitat to the landowner.

Our Response: We published the proposed rule to designate critical habitat for *Chorizanthe pungens* var. *pungens* on February 15, 2001 (66 FR 10440), and accepted comments from the public for 60 days, until April 16, 2001. We contacted appropriate Federal, State, and local agencies, scientific organizations, elected officials, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a notice in the Santa Cruz Sentinel on February 24, 2001.

The proposed rule provided maps of the critical habitat units. The maps delineated the area covered with reference to street and natural landmark boundaries. More detailed mapping information was available to any interested individuals, organizations, local jurisdiction or State and Federal agencies upon their request during the 60-day comment period upon their request. No such requests for additional information were received.

We believe the information made available to the public was sufficiently detailed to allow for determination of critical habitat boundaries. In addition to the maps, specific information was provided in the proposed rule regarding the primary constituent elements are for *Chorizanthe pungens* var. *pungens*. The maps and the description of primary constituent elements together provide landowners with information necessary to determine whether any Federal action involving their property would trigger a section 7 consultation with the Service

with regard to critical habitat, or if the Federal action may affect the species and/or critical habitat adjacent to their property.

This final rule contains the legal descriptions of areas designated as critical habitat required under 50 CFR 424.12(c). If additional clarification is necessary, it can be provided by the Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

15. *Comment:* The proposed rule does not include an Economic Impact Analysis as required under the Endangered Species Act and the Regulatory Flexibility Act.

Our Response: We published a notice in the **Federal Register** on September 19, 2001 (66 FR 48228), announcing the reopening of the public comment period for the critical habitat designation, and a notice of availability of the draft Economic Analysis. This announcement was to allow for comments on the draft Economic Analysis and additional comments on the proposed determination itself. This second comment period closed October 19, 2001. We also published the draft Economic Analysis and associated material on our Fish and Wildlife Office internet site following the draft's release on September 19, 2001.

16. *Comment:* The proposed rule does not comply with NEPA as required by the Tenth Circuit Court of Appeals in *Catron County Bd. Of Comm'r N.M.* v. *United States Fish and Wildlife Service*, 75 F.3d 1429 (10th cir. 1996).

Our Response: We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). Also, the public involvement and notification requirements under both the ESA and the APA provide ample opportunity for public involvement in the process, similar to the opportunities for public involvement and economic analysis of effects that would be provided in the NEPA process.

17. *Comment:* One commenter opposed the exemption from critical habitat of those lands that are included in HCPs, because they are never developed specifically for plants, and vary in the amount of conservation benefit provided to them through this process.

Our Response: We recognize that critical habitat is only one of many conservation tools for federally listed species. HCPs are one of the most important tools for reconciling land use with the conservation of listed species on non-Federal lands. Section 4(b)(2) of the Act allows us to exclude from critical habitat areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We believe that in most instances the benefits of excluding lands covered by HCPs from critical habitat designations will outweigh the benefits of including them. Although "take" of listed plants is not prohibited by the Act, listed plant species may be, and often are, covered in HCPs for wildlife species.

We expect that HCPs undertaken by local jurisdictions (*e.g.*, counties and cities) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. Section 10(a)(2) of the Act states that HCPs must meet issuance criteria, including minimizing and mitigating any take of the listed wildlife species, to the maximum extent practicable. In addition, the action covered in the HCP must not appreciably reduce the likelihood of the survival and recovery of the species in the wild. We fully expect that our future Section 7 analyses of HCPs and section 10(a)(1)(B) permits will show that covered activities carried out in accordance with the provisions of the HCPs and section 10(a)(1)(B) permits will not result in the destruction or adverse modification of critical habitat.

In the one HCP issued that includes *Chorizanthe pungens* var. *pungens*, the habitat area is already managed for the benefit of this and other covered species under the terms of the associated section 10(a)(1)(B) permit. We believe the assurances provided through the HCP and permit are sufficient to provide for the conservation of *C. p.* var. *pungens*, and any additional benefit provided by designating these lands as critical habitat would be minimal, at best. In contrast, the benefits of excluding lands covered by this HCP will be significant in preserving positive relationships with our conservation partners, particularly by reinforcing the regulatory assurances provided for in the implementation agreement for the HCP. We believe these benefits outweigh the benefits of designating this area as critical habitat.

Summary of Changes From the Proposed Rule

In preparation for development of our final designation of critical habitat for *C. p.* var *pungens* we reviewed comments received on the proposed designation of critical habitat and the draft Economic Analysis. We made several changes to our proposed designation, as follows:

(1) The description of the primary constituent elements was modified and clarified. One peer reviewer suggested expanding the list of primary constituent elements (*see* comment 3 in *Summary of Comments* section). However, we believed it was more appropriate to shorten the list of primary constituent elements from six to four elements. The two primary constituent elements that were included in the proposed rule but deleted in the final rule are: pollinator activity between existing colonies of *Chorizanthe pungens* var. *pungens*, and seed dispersal mechanisms between existing colonies and other potentially suitable sites. We deleted the two elements because we believe that the critical habitat units are of sufficient size and number that the ecosystem processes of pollinator activity and seed dispersal mechanisms are functioning normally and are not a factor in limiting the distribution of *C. p.* var. *pungens* to the extent that the other primary constituent elements are.

(2) We added a section describing Special Management Needs or Protections that *Chorizanthe pungens* var. *pungens* may require. We believe this new section will be useful in identifying activities that address section 3(5)(A)(i)(II) of the Act, and also assist land managers in developing management strategies for *C. p.* var. *pungens* on their lands.

(3) We deleted one of the eleven units described in the proposed rule and made changes in the boundaries of the remaining ten units, resulting in an overall total reduction of approximately 2,823 ha (6,989 ac), approximately 27 percent of the area that had been proposed for critical habitat. These changes are described below.

The Manresa unit was removed entirely from the critical habitat designation. Based upon recently gathered information, we determined that *Chorizanthe pungens* var. *pungens* does not occur within the unit. Previous records of *C. p.* var. *pungens* from Manresa State Beach are likely to have been made in error. The exclusion of this unit resulted in a reduction of approximately 40 ha (100 ac) compared to the proposed rule.

We made changes to the boundary lines on the remaining ten units. The new boundary lines were drawn within the boundary lines shown in the proposed designation; in no case were the new boundary lines drawn outside of those described in the legal description for the units in the proposed designation. The purpose of these changes was to avoid areas that obviously did not contain the primary constituent elements, and for which we were unable to draw more precise boundaries at the time of the proposed designation. The use of recently acquired high resolution aerial photographs dating from April 2000 enabled us to undertake this more precise mapping. These changes resulted in a total reduction of 377 ha (928 ac) in this final critical habitat designation.

These minor changes reduced the total amount of critical habitat by 15 percent or less in the final designation for 5 of the units. These units, and the approximate percent reduction for each, are as follows: Asilomar (13 percent), Del Rey Oaks (9 percent), Freedom (7 percent), Bel Mar (14 percent), and Prunedale (15 percent).

Changes in the boundary lines of the other five units resulted in excluding more than 15 percent of the critical habitat that was included in the proposed designation in each of those units. Changes in these units were made based on information supplied by commenters, as well as the use of the high resolution aerial photos, which indicated either that the primary constituent elements were not present in certain portions of the proposed unit, or that certain changes in land use had occurred on lands within the proposed designation that would preclude those areas supporting the primary constituent elements. The units with reductions of more than 15 percent in the final designation are: Sunset (35 percent), Moss Landing (36 percent), Marina (19 percent), Fort Ord (29 percent), and Soledad (79 percent).

A brief summary of the modifications made on each of the 10 units is provided below, beginning with the four coastal units and followed by the six inland units:

Coastal units

Unit A: Sunset Unit

The beaches within the surf zone were eliminated along the western boundary of this unit because they do not contain the primary constituent elements for *Chorizanthe pungens* var. *pungens*. The unit was reduced from 50 ha (130 ac) in the proposed rule to 35 ha (85 ac) in the final designation. Habitat supporting *C. p.* var. *pungens* populations within the State Beach to the east of Shell Road was inadvertently omitted from the proposed critical habitat designation, and so is not included in this final critical habitat designation.

Unit B: Moss Landing Unit

Major modifications were made to this unit to avoid areas that do not contain the primary constituent elements, including intertidal areas, wetlands, and areas that have been developed or significantly disturbed. These modifications resulted in a reduction from 283 ha (703 ac) in the proposed rule to 182 ha (452 ac) in the final designation.

Unit C: Marina Unit

Major modifications were made to this unit to avoid areas that do not contain the primary constituent elements, including areas that have been developed or significantly disturbed. Federal lands at the Naval Postgraduate School were not included in the final designation because DON has recently completed a final INRMP that addresses the conservation of *Chorizanthe pungens* var. *pungens* (U.S. Department of the Navy 2001). A 5-acre (2-ha) parcel on former Fort Ord lands that has been designated solely for development in the HMP was also removed. These changes also are discussed in the *Summary of Comments and Recommendations* section above (*see* our responses to comments 4 and 6). These modifications resulted in a reduction from 885 ha (2,190 ac) in the proposed rule to 720 ha (1,780 ac) in the final designation.

Unit D: Asilomar Unit

During the comment period, the Pebble Beach Company, which owns Spanish Bay, provided us with maps, reports, and aerial photos that allowed us to more accurately map habitat supporting the primary constituent elements on their property. The modifications to this unit resulted in a reduction from 145 ha (355 ac) in the proposed rule to 125 ha (310 ac) in the final designation. Also, during 2001 several populations of *Chorizanthe pungens* var. *pungens* were located that are adjacent to, but not in, this unit. One population is on Federal lands managed by the Coast Guard at Point Pinos Light Station, and one population is on private lands owned by Pebble Beach Company along 17 Mile Drive on the Monterey Peninsula. Habitat supporting these populations has not been included in this critical habitat unit because we did not have information about them at the time the proposal was prepared and there was no opportunity to conduct an evaluation of whether they met the criteria for critical habitat, or to prepare and issue a revised proposal, including a revised draft Economic Analysis, for public comment within the schedule established by the court for completing the critical habitat designation.

Inland units

Unit E: Freedom Boulevard Unit

Minor modifications were made on this unit to remove areas that do not contain the primary constituent elements, including areas that have been developed or are heavily wooded. These modifications resulted in a reduction from 90 ha (220 ac) in the proposed rule to 85 ha (205 ac) in the final designation.

Unit F: Bel Mar Unit

Minor modifications were made on this unit to remove areas that do not contain the primary constituent elements, including areas that have been developed or paved. These modifications resulted in a reduction from 40 ha (95 ac) in the proposed rule to 33 ha (82 ac).

Unit G: Prunedale Unit

Modifications were made to this unit to remove areas that do not contain the primary constituent elements, including areas that have been developed, paved, or have been significantly disturbed by agriculture. These modifications resulted in a reduction from 2,135 ha (5,280 ac) in the proposed rule to 1,815 ha (4,485 ac). We also corrected the description of land ownership in this unit to reflect ownership of parcels by Caltrans. During the public comment period, we received information from the Elkhorn Slough Foundation that two populations of *Chorizanthe pungens* var. *pungens* occur on lands they manage for The Nature Conservancy (TNC) to the northwest of this unit. Habitat supporting these populations has not been included in this critical habitat unit because we did not have information about them at the time the proposal was prepared and there was no opportunity to conduct an evaluation of whether they met the criteria for critical habitat, or to prepare and issue a revised proposal, including a revised draft Economic Analysis, for public comment within the schedule established by the court for completing the critical habitat designation.

Unit H: Fort Ord Unit

Substantial modifications were made to this unit to remove areas designated

in the HMP for this area as "Development" that have no HMP resource conservation requirements. Areas designated in the HMP as "Habitat Reserve," "Habitat Corridor," and "Development with Reserve or Development with Restrictions" were retained in this unit, as were easements that cross lands with these designations. The reasons for removing areas designated for development in this unit are discussed under the paragraphs about former Fort Ord in the section titled "Criteria Used to Identify Critical Habitat," and in Comment 8 in the Summary of Comments and Recommendations section. In the north area of former Fort Ord, the Service has followed existing habitat reserve lines in designating final critical habitat. We recognize that the habitat corridor that connects the North and South Reserves of the University of California's Natural Reserve System on former Fort Ord is narrow and tenuously connects the adjacent reserves. We encourage those entities who own surrounding natural lands that are designated for development to consider and accommodate functioning of this area as a corridor for the movement of seeds, seed dispersers, and pollinators whenever possible. The modifications to this unit and some corrections in habitat acreages resulted in a reduction from 5,995 ha (14,810 ac) in the proposed rule to 4,265 ha (10,530 ac).

Unit I: Del Rey Oaks Unit

Minor modifications were made to this unit to remove areas that do not contain the primary constituent elements, including the runways at the Monterey Airport, and other areas that have been developed, paved, or have been significantly disturbed. These modifications resulted in a reduction from 280 ha (700 ac) in the proposed rule to 255 ha (640 ac).

Unit J: Soledad Unit

Major modifications were made to this unit to remove areas that do not contain the primary constituent elements. Most of the area surrounding the eastern subunit are in agricultural production. In addition, we have eliminated the western subunit because, based on a site visit we conducted following the proposed rule, we now believe the primary constituent elements that would support the species are not present there. These modifications resulted in a reduction from 500 ha (1,235 ac) in the proposed rule to 105 ha (260 ac).

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination that such areas are essential for the conservation of the species. "Conservation" is defined in section 3 of the Act as meaning the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7(a)(2) of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions authorized, funded, or carried out by a Federal agency. Also, section 7(a)(4) of the Act requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. In regulations at 50 CFR 402.02, we define destruction or adverse modification as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not result in any regulatory requirements for these actions.

The designation of critical habitat does not, in itself, lead to recovery of a listed species. The designation of critical habitat does not create a management plan, establish a preserve, reserve, or wilderness area where no actions are allowed, it does not establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat.

In order to be included in a critical habitat designation, the habitat must first be "essential to the conservation of the species." Critical habitat designations identify, to the extent known, and using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 of the Act requires that we designate critical habitat for a species, to the extent such habitat is determinable, at the time of listing. We are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic area occupied by the species, we are designating only areas currently known to be essential. Essential areas contain the features and habitat characteristics that are necessary to sustain the species, as defined at 50 CFR 424.12(b). We will not speculate about what areas might be found to be essential if better information becomes available, or what areas may become essential over time.

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species can not be met within currently occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. This policy requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, unpublished materials, and expert opinions.

Habitat is often dynamic, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, it is important to understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the prohibitions of section 9 of the Act, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12) we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Chorizanthe pungens* var. *pungens*. This included information from the CNDDB (CNDDB 2000), soil survey maps (SCS1978,1980), recent biological surveys and reports, additional information provided by interested parties, and discussions with botanical experts.

We also reviewed the goals for the delisting of *Chorizanthe pungens* var. *pungens* included in our recovery plan that addresses seven coastal plant taxa and the Myrtle's silverspot butterfly (Service 1998). The criteria for delisting *C. p.* var. *pungens* include: (1) The funding and implementation of permanent protection of *C. p.* var. *pungens* through the Fort Ord disposal and reuse process, and (2) the permanent protection of private and public lands on the beaches and dunes along the coast that are occupied by *C. p.* var. *pungens* or contain its habitat. At the time the recovery plan was prepared, Fort Ord was considered the most important inland occurrence of *C. p.* var. *pungens* because of the extent of habitat it occupied there. The discovery of additional inland populations over the last few years has led us to conclude that these other sites are equally as important in contributing to the long-term conservation of the species.

The plan calls for the following recovery actions: (1) Protect habitat for *Chorizanthe pungens* var. *pungens* by working with landowners and local lead agencies; (2) obtain life history and response-to-management information, particularly concerning the role of substrate disturbance in the establishment and persistence of *C. p.* var. *pungens;* (3) develop and implement management practices for occurrences of *C. p.* var. *pungens,* particularly with respect to controlling invasive, non-native species; (4) monitor occurrences for population trends and for effectiveness of reducing and eliminating threats; and (5) increase public awareness of the species and its associated habitats through various outreach efforts. Although the recovery plan does not provide more detailed conservation recommendations for specific areas, we believe that the designation of critical habitat for *C. p.* var. *pungens* is consistent with these recommended recovery actions.

We also conducted site visits. Frequently we were accompanied by agency representatives at locations managed by local, State or Federal agencies, including Manresa, Sunset, Marina, Monterey, and Asilomar State Beaches; Service lands at Salinas River National Wildlife Refuge; Bureau of Land Management (BLM) lands at former Fort Ord; Moss Landing Marine Laboratory; Moss Landing North Harbor District; Monterey Airport; Caltrans lands in the vicinity of Prunedale; and Manzanita County Park. We have also made site visits to certain privately owned lands, such as those owned by Pebble Beach Company along 17-Mile Drive and at Spanish Bay, and those owned by TNC at Blohm Ranch.

Much of the coastline along Monterey Bay and the Monterey Peninsula includes resources of concern to the California Coastal Commission (Commission). The Coastal Act requires that projects within the coastal zone be reviewed and permitted by the Commission, or by local planning agencies that have a Local Coastal Plan (LCP) certified by the Commission. Section 30240 of the Coastal Act requires that areas recognized as environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values. Only uses dependent on those resources shall be allowed within those areas. In general, dunes are considered ESHAs because they include plant or animal life or their habitats which are either rare or especially valuable because of their special nature or role in the ecosystem and which could be easily disturbed or degraded by human activities and developments (Coastal Commission 2001). The counties of Santa Cruz and Monterey both have LCPs that allow only resource-dependent uses in habitats known to support rare and endangered species. The County of Monterey also recognizes dune habitat, with or without rare and endangered species, as ESHAs, and requires the protection of environmentally sensitive habitats in new land divisions or developments through deed restrictions or dedications of permanent conservation easements. The County of Santa Cruz requires protection of environmentally sensitive habitats through dedication of an open space or conservation easement to protect the portion of a sensitive habitat that is undisturbed by the proposed development (Service 1998). Local jurisdictions may request amendments to their LCPs from the Commission to allow for changes in land use not consistent with the current plan.

These initiatives and planning efforts all recognize the sensitivity of the coastal habitats and resources along this portion of the central California coast. Due to the historic loss of the habitats that supported *Chorizanthe pungens* var. *pungens*, and in consideration of the primary constituent elements essential to the conservation of the species, we believe that future conservation and recovery of this species depends not only on protecting it in the areas that it currently occupies, but also on providing the opportunity for it to shift in distribution over time, and to increase its current distribution by designating currently unoccupied habitat within its range.

All of the critical habitat units are occupied by either above-ground plants or a seed bank. "Occupied" is defined here as an any area with above-ground *Chorizanthe pungens* var. *pungens* plants *or* a *C. p.* var. *pungens* seed bank of indefinite boundary. Current surveys need not have identified above-ground individuals for the area to be considered occupied because plants may still exist at the site as part of the seed bank (Given 1994). All occupied sites contain some or all of the primary constituent elements that are essential to the conservation of the species, as described below. In addition, each of the units probably contain areas currently unoccupied by the species. "Unoccupied" is defined here as an area that contains no above-ground *C. p.* var.

pungens plants and that is unlikely to contain a viable seed bank. For the reasons discussed above, both occupied and unoccupied areas that are designated as critical habitat are essential to the conservation of the species.

Determining the specific areas that this taxon occupies is difficult for several reasons: (1) The distribution of *Chorizanthe pungens* var. *pungens* appears to be more closely tied to the presence of sandy soils than to specific plant communities; the plant communities may undergo changes over time, which, due to the degree of cover that is provided by that vegetation type, may or may not favor the growth of *C. p.* var. *pungens* above ground; (2) the way the current distribution of *C. p.* var. *pungens* is mapped can vary, depending on the scale at which patches of individuals are recorded (*e.g.*, many small patches versus one large patch); and (3) depending on the climate and other annual variations in habitat conditions, the extent of the distributions may either shrink and temporarily disappear, or, if there is a residual seedbank present, enlarge and cover a more extensive area. Because it is difficult to determine how extensive the seed bank is at any particular site and because above-ground plants may or may not be present in all patches within a site every year, we cannot quantify in any meaningful way what proportion of each critical habitat unit may actually be occupied by *C.* p. var. *pungens*. Therefore, patches of unoccupied habitat are interspersed with patches of occupied habitat; the inclusion of unoccupied habitat in our critical habitat units reflects the dynamic nature of the habitat and the life history characteristics of this taxon. Unoccupied areas provide habitat into which populations might expand, provide connectivity or linkage between colonies within a unit, and support populations of pollinators and seed dispersal organisms.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to—space for individual and population growth, and for normal behavior; food, water, air, light, minerals or other nutritional or physiological requirements; cover or shelter; sites for germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Much of what is known about the specific physical and biological requirements of *Chorizanthe pungens* var. *pungens* is described in the Background section of this final rule.

Several coastal dune restoration efforts have included measures to propagate and reintroduce *Chorizanthe pungens* var. *pungens*, notably at Moss Landing North Harbor, Pajaro Dunes, and the University of California's Moss Landing Marine Laboratory (MLML). Such efforts have contributed to our understanding that *C. p.* var. *pungens* readily grows where suitable sandy substrates occur and competition with other plant species is minimal (Harding Lawson Associates 2000; J. Dorrell-Canepa, pers. comm., 2000; P. Slattery, dune ecologist, MLML, pers. comm., 2000). Where *C. p.* var. *pungens* occurs within native plant communities, along the coast as well as at more interior sites, it occupies microhabitat sites found between scrub and shrub stands where there is little cover from other herbaceous species. Where *C. p.* var. *pungens* occurs within grassland communities, the density of *C. p.* var. *pungens* may decrease with an increase in the density of other herbaceous species.

As has been observed at former Fort Ord, human caused disturbance, such as scraping along roadsides and firebreaks, can favor the abundance of *Chorizanthe pungens* var. *pungens* by reducing competition from other herbaceous species. However, because such disturbance also can promote the spread and establishment of non-native species, can bury the seedbank of *C. p.* var. *pungens*, and does not result in the cycling of nutrients and soil microbial changes that occur from fire, this type of management may not sustain populations over the long term and would likely result in a general degradation of habitat for *C. p.* var. *pungens* if conducted over large areas. At other locations where *C. p.* var. *pungens* occurs, its habitat may include a large complement of non-native species. Management activities such as mowing, scraping, or in some situations, tilling, would need to be repeated frequently and may not be practical in all areas where *C. p.* var. *pungens* habitat includes a complement of non-native species. Moreover, while the presence of *C. p.* var. *pungens* could be maintained in areas with a high abundance of non-native species, the habitat quality of these areas may be less than areas where the presence of non-native species is minimal.

Based on our knowledge to date, the primary constituent elements of critical habitat for *Chorizanthe pungens* var. *pungens* are:

(1) Sandy soils associated with active coastal dunes, coastal bluffs with a deposition of windblown sand, inland sites with sandy soils, and interior floodplain dunes;

(2) Plant communities that support associated species, including coastal dune, coastal scrub, grassland, maritime chaparral, oak woodland, and interior floodplain dune communities, and have a structure with openings between the dominant elements (e.g., scrub, shrub, oak trees, clumps of herbaceous vegetation);

(3) No or little cover by non-native species which compete for resources available for growth and reproduction of *Chorizanthe pungens* var. *pungens*; and

(4) Physical processes, such as occasional soil disturbance, that support natural dune dynamics along coastal areas.

Site selection

We selected critical habitat areas to provide for the conservation of *Chorizanthe pungens* var. *pungens* at four coastal sites and six inland sites where it is known to occur. Historic locations for which there are no recent records of occupancy (within the last 20 years) were not proposed for designation, including large areas of the Salinas Valley floodplain that have been converted to agriculture over the last 100 years and potentially suitable areas around San Simeon in San Luis Obispo County and along the Salinas River near San Lucas in Monterey County.

The long term probability of the conservation of *Chorizanthe pungens* var. *pungens* is dependent upon the protection of existing population sites, and the maintenance of ecological functions within these sites, including connectivity between sites within close geographic proximity to facilitate pollinator activity and seed dispersal mechanisms, and the ability to maintain disturbance factors (for example, dune dynamics in the coastal sites, and fire disturbance at inland sites) that maintain the openness of vegetative cover on which the species depends. Threats to the habitat of *C. p.* var. *pungens* include: industrial and recreational development; road development; human and equestrian recreational use; and dune stabilization as a result of the introduction of non-native species (59 FR 5499; February 4, 1994). The areas we are designating as critical habitat provide some or all of the habitat components essential for the conservation of *C. p.* var. *pungens*. Given the species' need for an open plant community structure and the risk from non-native species invasions, we believe that these areas may require special management considerations or protection.

Special Management Considerations or Protections

Special management considerations or protections may be needed to maintain the primary constituent elements for *Chorizanthe pungens* var. *pungens* within the units designated as critical habitat. In some cases, protection of existing habitat and current ecological processes may be sufficient to ensure that populations of *C. p.* var. *pungens* are maintained at those sites, and have the ability to reproduce and disperse into surrounding habitat. In other cases, however, active management may be needed to maintain the primary constituent elements for *C. p.* var. *pungens*. We have outlined below the most likely kinds of special management and protection that *C. p.* var. *pungens* may require.

(1) In near-coastal areas, the supply and movement of sand along the coast must be maintained to create the dynamic dune habitats that are needed for *Chorizanthe pungens* var. *pungens*.

(2) In more interior locations, the sandy soils on which *Chorizanthe pungens* var. *pungens* is found should be maintained to optimize conditions for it. Physical properties of the soil, such as its chemical composition, salinity, and drainage capabilities would best be maintained by limiting or restricting the use of herbicides, fertilizers, or other soil amendments that are applied.

(3) The associated plant communities must be maintained to ensure that the habitat needs of pollinators and dispersal agents are maintained. The use of pesticides should be limited or restricted so that viable populations of pollinators are present to facilitate reproduction of *Chorizanthe pungens* var. *pungens*. Fragmentation of habitat (*e.g.* through construction of roads or certain types of fencing) should be limited so that seed dispersal agents may move seed of *C. p.* var. *pungens* throughout the unit.

(4) In some plant communities, it may be important to maintain a mosaic of different-aged stands of coastal scrub or maritime chaparral patches so that openings that support *Chorizanthe pungens* var. *pungens* will be maintained. Depending on location, the use of prescribed fire, thinning, or other forms of vegetation management may be useful in creating and maintaining this type of mosaic, particularly if natural processes that generally result in maintaining such a mosaic are altered due to human activities.

(5) In all plant communities where *Chorizanthe pungens* var. *pungens* occurs, invasive, non-native species such as harding grass (*Phalaris aquatica*), veldt grass (*Ehrharta* sp.), European beachgrass, iceplant, and other species need to be actively managed to maintain the open habitat that *C. p.* var. *pungens* needs.

(6) Certain areas where *Chorizanthe pungens* var. *pungens* occurs may need to be fenced to protect them from accidental or intentional trampling by humans or livestock. While *C. p.* var. *pungens* appears to withstand light to moderate disturbance, heavy disturbance may be detrimental to its persistence. Seasonal exclusions may work in certain areas to protect *C. p.* var. *pungens* during its critical season of growth and reproduction.

Criteria Used to Identify Critical Habitat

We believe it is important to preserve all areas that currently support native populations of *Chorizanthe pungens* var. *pungens* because the species has undergone a reduction in range which places a great importance on the conservation of all the known remaining sites. When possible, areas that were in close geographic proximity were included in the same unit to emphasize the need to maintain connectivity between different populations. We also included habitat for *C. p.* var. *pungens* adjacent to and contiguous to areas of known occurrences to maintain landscape scale processes. Some units were mapped with a greater precision than others, based on the available information and the size of the unit. Each unit contains habitat that is occupied by *C. p.* var. *pungens*.

The proposed critical habitat units were delineated by creating data layers in a geographic information system (GIS) format of the areas of known occurrences of *Chorizanthe pungens* var. *pungens*, using information from the CNDDB (CNDDB 2000), recent biological surveys and reports, our recovery plan for this species, and discussions with botanical experts. These data layers were created on a base of USGS 7.5' quadrangles obtained from the State of California's Stephen P. Teale Data Center. We defined the boundaries for the proposed critical habitat units using roads and known landmarks and, if necessary, township, range, and section numbers from the public land survey. During preparation of the final rule, we found several discrepancies between the legal description of the boundaries of the critical habitat units and the boundaries of the units as depicted in the maps accompanying the proposed rule. The discrepancies resulted primarily through our use of data layers created at a small scale (*e.g.*, 1:100,000 scale USGS mapping) during preparation of the maps of proposed critical habitat. For the final rule, the mapped boundaries of critical habitat first were corrected to be consistent with the boundaries as described in the proposed rule. We then modified the boundaries of proposed critical habitat using information on the location of existing developed areas from recent aerial imagery (April, 2000), additional information from botanical experts, and comments on the proposed rule. The boundaries of the final critical habitat units are defined by Universal Transverse Mercator (UTM).

We also considered the status of habitat conservation plan (HCP) efforts in proposing areas as critical habitat. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed wildlife species incidental to otherwise lawful activities. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. Although "take" of listed plants is not prohibited by the Act, listed plant species may also be covered in an HCP developed primarily for wildlife species.

The only HCP that is operative and has an executed Implementation Agreement within the critical habitat that was proposed for *Chorizanthe pungens* var. *pungens* is the HCP for the North of Playa project site (Zander Associates 1995), within Sand City (Marina Unit). Subsection 4(b)(2) of the Act allows us to exclude from critical habitat designation areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species.

Habitat for *Chorizanthe pungens* var. *pungens* in the North of Playa HCP plan area is already managed for the benefit of this and other covered species under the terms of the associated section 10(a)(1)(B) permit. We believe the assurances provided through the HCP and permit are sufficient to provide for the conservation of *C. p.* var. *pungens* in that area. Any additional benefit provided by designating these lands as critical habitat would be minimal at best. In contrast, the benefits of

excluding lands covered by this HCP would be significant in preserving positive relationships with our conservation partners, particularly by reinforcing the regulatory assurances provided for in the implementation agreement for the HCP. We believe they outweigh the benefits of designating this area as critical habitat. Furthermore, we have determined that excluding this area from critical habitat designation will not result in the extinction of the species. The main regulatory benefit of critical habitat designation is the requirement that Federal agencies consult with us and ensure that their actions do not destroy or adversely modify designated critical habitat. As these areas are occupied by the species, Federal agencies are already required to consult with us and ensure their actions here do not jeopardize the continued existence of the species. This requirement will ensure that excluding this area does not result in the extinction of the species. Consequently, these lands have not been included in this critical habitat designation for the Marina Unit.

A large planning effort is currently underway to address the conservation needs for a number of threatened and endangered species, in addition to sensitive unlisted species, for the lands formerly known as Fort Ord. The Defense Base Realignment and Closure Commission selected the 11,340-ha (28,000-ac) Fort Ord for closure in 1991. As a requirement of a biological opinion issued by the Service in 1993, the *Installation-wide Multispecies Habitat Management Plan for Former Fort Ord, California* (HMP), was prepared in 1994 and revised in 1997 by the Army to address listed, proposed, candidate, and sensitive species and their habitat. The HMP provides a comprehensive plan for minimizing and mitigating impacts to sensitive species and their habitats while allowing disposal and redevelopment of the base. Under the HMP, over 6,880 ha (17,000 ac) is designated for eventual habitat conservation. The Bureau of Land Management (BLM) will receive approximately 6,070 ha (15,000 ac) of undeveloped land to be managed for habitat and sensitive species. California Department of Parks and Recreation (CDPR) will receive the coastal properties, a large portion of which will be restored and managed for sensitive species. Several other entities will also receive property which they will manage for conservation of habitat and sensitive species. The remaining areas of the base, including many areas that have already been developed as part of the base operations, will be available for land development. As of October 2001, a total of approximately 4,290 ha (10,600 ac) of former Fort Ord had been transferred. Approximately 3,160 ha (7,800 ac) identified as habitat reserve were transferred, of which about 2,910 ha (7,200 ac) were transferred to BLM, 215 ha (530 ac) were transferred to the University of California, Santa Cruz, and 16 ha (40 ac) were transferred to the City of Marina.

The Service has designated critical habitat on lands of the former Fort Ord specified as "Habitat Reserve," "Habitat Corridor," and "Development with Reserve Areas or Development with Restrictions" as shown on the map and post-transfer modifications of the HMP. In finalizing this critical habitat rule we have not included lands that the HMP designated solely for development, with no accompanying resource conservation requirements, that were included as critical habitat in the proposed rule. Lands within easements remain in this critical habitat designation where they cross the Reserve, Corridor, or Development with Reserve designations listed above.

The Service has consulted with the Army on the closure and reuse of Fort Ord. The Fort Ord critical habitat unit is entirely encompassed within the area covered by that consultation. The biological opinions resulting from consultation with the Army on the closure and reuse of former Fort Ord determined that development according to the HMP would not jeopardize the continued existence of *Chorizanthe pungens* var. *pungens*. This determination was based on full implementation of the HMP, including the appropriate management of habitat reserve areas. Recently, the Army's ability to fully implement the HMP has come into question. Specifically, the Army's ability to conduct prescribed burns to clear vegetation in habitat reserve areas was impeded by two lawsuits brought by the Monterey Bay Unified Air Pollution Control District against the Army during the past several years. The Army uses prescribed burns to clear vegetation prior to the cleanup of ammunition and explosives that remain on former ranges. Following a ruling on the most recent of these lawsuits, the Army is embarking on an evaluation of alternative methods of vegetation clearance, including prescribed burning, under CERCLA. If the Army is not able to fully implement those measures in the HMP that protect and conserve listed and sensitive species, then the design of reserve and development lands may need to be reevaluated along with this critical habitat designation.

On former Fort Ord lands, the HMP would be the basis of each subsequent HCP submitted by a non-Federal land recipient applying for a section 10(a)(1)(B) incidental take permit. A draft programmatic HCP submitted by the Fort Ord Reuse Authority is under review by the Service.

Throughout this designation, in selecting areas of critical habitat we made an effort to avoid developed areas, such as housing developments, that are unlikely to contribute to the conservation of *Chorizanthe pungens* var. *pungens*. However, we did not map critical habitat in sufficient detail to exclude all developed areas, or other lands unlikely to contain the primary constituent elements essential for the conservation of *C. p.* var. *pungens*. Areas within the boundaries of the mapped units, such as buildings, roads, parking lots, railroads, airport runways and other paved areas, lawns, and other urban landscaped areas will not contain any of the primary constituent elements. Therefore, Federal actions limited to these areas would not trigger a section 7 consultation unless it is determined that such actions may affect the species and/or its designated critical habitat (*e.g.* certain actions may affect the species or its critical habitat an adjacent area).

Critical Habitat Designation

The critical habitat areas described below constitute our best assessment at this time of the areas needed for the conservation of *Chorizanthe pungens* var. *pungens*. Critical habitat for *C. p.* var. *pungens* includes 10 units that currently support the species. The areas being designated as critical habitat are either along the coast between Sunset State Beach in Santa Cruz County, south to Asilomar State Beach in Monterey County, or are at inland sites ranging from the Aptos area in Santa Cruz County, south to a stretch of the Salinas River near Soledad in Monterey County, California, and include the appropriate dune, maritime chaparral, or oak woodland habitats that support *C. p.* var. *pungens*. We have designated approximately 7,620 ha (18,830 acres) of land as critical habitat for *C. p.* var. *pungens*. Approximately 57 percent of this area consists of Federal lands, while State lands comprise approximately 9 percent, County and other local jurisdiction lands comprise approximately 4 percent, and private lands comprise approximately 31 percent of the critical habitat.

A brief description of each critical habitat unit is given below:

Coastal units

Unit A: Sunset Unit

Unit A includes approximately 35 ha (85 ac) of critical habitat, consisting of coastal beaches, dunes, and bluffs west of Watsonville in southern Santa Cruz County. This entire unit is within Sunset State Beach. The unit includes land from Sunset Beach Road south to the gate on Shell Road, just north of the mouth of the Pajaro River, and west of the main road that extends the length of the park. This unit supports a population of *Chorizanthe pungens* var. *pungens* that numbers in the tens of thousands. This unit is important because it supports the northernmost population found along the coast, as well as being one of only four populations along the coast. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions (*i.e.*, more northerly coastal conditions) may be important for the long-term survival and conservation of *C. p.* var. *pungens*.

Unit B: Moss Landing Unit

Unit B includes approximately 182 ha (452 ac) of critical habitat. It consists of coastal beaches, dunes, and bluffs to the north and south of the community of Moss Landing in northern Monterey County. The northern portion of this unit includes lands owned and managed by the State, including portions of Zmudowski State Beach and Moss Landing State Beach as well as the private land between these two parks, between the mouths of the Pajaro River and Elkhorn Slough. The southern portion of this unit includes two portions of Salinas River State Beach and the private lands between these two portions. Two other small pieces of the unit include portions of the Moss Landing North Harbor District (MLNHD), and the MLML. Local agency lands (MLNHD) comprise 2 percent of the unit, while State lands comprise 86 percent, and private lands comprise 12 percent of the unit. This unit currently supports a population of *Chorizanthe pungens* var. *pungens* that numbers in the tens of thousands (P. Slattery, MLML, pers. comm., 2001). This unit is important because it supports one of only four populations found along the coast and because it provides connectivity between the Sunset unit to the north, and the Marina unit to the south.

Unit C: Marina Unit

Unit C contains approximately 720 ha (1,780 ac) of critical habitat. The unit consists of coastal beaches, dunes, and bluffs ranging from just south of the mouth of the Salinas River, south to the city of Monterey in northern Monterey County. These lands are almost entirely west of Highway 1, with the exception of a small portion of land between Del Monte Boulevard and Highway 1 in Sand City. Federal lands, which comprise 44 percent of the unit, include a portion of the Salinas River National Wildlife Refuge, and lands known as former Fort Ord. State lands, which comprise 3 percent of the unit, include Marina State Beach and Monterey State Beach. Private lands account for 53 percent of the unit. An area of 1.9 ha (4.6 ac) within Sand City known as North of Playa, has been excluded from the unit because a HCP for this restoration site included *Chorizanthe pungens* var. *pungens* as a covered species. In addition, Federal lands at the Naval Postgraduate School were not included, because DON has recently completed a final INRMP that addresses the conservation of *C. p.* var. *pungens*. This unit currently supports a population of *C. p.* var. *pungens* that numbers in the tens of thousands. This unit is important because it supports one of only four populations found along the coast and because it provides connectivity between the coastal populations and the more interior populations found at former Fort Ord.

Unit D: Asilomar Unit

Unit D includes approximately 125 ha (310 ac) of critical habitat. It consists of coastal dunes and bluffs near the communities of Pacific Grove and Pebble Beach on the Monterey Peninsula in northern Monterey County. The unit is generally bounded by the extrapolated western extension of Lighthouse Avenue to the north and the portion of 17 Mile Drive between Point Joe and Sloat Road to the south. It is bounded on the east by Sunset Drive south to Arena Avenue, Arena Avenue to Asilomar Boulevard, Asilomar Boulevard to Highway 68, from this corner generally south to the junction of 17 Mile Drive and Spanish Bay Road. The unit is comprised of State lands at Asilomar State Beach (about 80 percent) and private lands, including those near Spanish Bay (about 20 percent). This unit currently supports a population of *Chorizanthe pungens* var. *pungens* that numbers in the thousands. This unit is important because it supports one of only four populations found along the immediate coast, and is also the southernmost occurrence of *C. p.* var. *pungens* along the coast. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions (*i.e.*, more southerly coastal conditions) may be important for the long-term survival and conservation of *C. p.* var. *pungens*.

Inland Units

Unit E: Freedom Boulevard Unit

Unit E includes approximately 85 ha (205 ac) of critical habitat. The unit consists of grassland, maritime chaparral, and oak woodland habitat near the western terminus of Freedom Boulevard and northeast of Highway 1 in Santa Cruz County. The unit is bounded on the western boundary by Freedom Boulevard from Valencia Road to McDonald Road, then north on McDonald Road to Apple Road. The northern boundary runs approximately 0.4 km (0.25 mi) east from McDonald Road, then jogs south to Freedom Boulevard, and follows Freedom Boulevard for approximately 0.8 km (0.5 mi). The eastern boundary heads directly south from Freedom Boulevard at this point for approximately 0.6 km (0.4 mi). The southern boundary heads directly west from this point to Freedom Boulevard near the intersection with Valencia Road. This entire unit consists of privately owned lands. This unit currently supports a population of *Chorizanthe pungens* var. *pungens* that numbers in the thousands in favorable years, but many fewer in unfavorable years. This unit is important because it, along with the Bel Mar unit, is the northernmost occurrence away from the immediate coast. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions (*i.e.*, at the northern end of its range) may be important for the long-term survival and conservation of *C. p.* var. *pungens*.

Unit F: Bel Mar Unit

Unit F includes approximately 33 ha (82 acres) of critical habitat. The unit consists of maritime chaparral habitat near the terminus of East Bel Mar Dive, between Larkin Valley Road and Highway 1 near the community of La Selva Beach in southern Santa Cruz County. This unit consists of privately owned lands, with 3 acres of State lands, and currently supports a population of *Chorizanthe pungens* var. *pungens* that numbers in the thousands in favorable years, but many fewer in unfavorable years. This unit is important because it, along with the Freedom unit, is the northernmost occurrence away from the immediate coast. Preserving the genetic characteristics that have allowed individuals at this site to survive under

these slightly different environmental conditions (*i.e.*, at the northern end of its range) may be important for the long-term survival and conservation of *C. p.* var. *pungens*.

Unit G: Prunedale Unit

Unit G includes approximately 1,815 ha (4,485 ac) of critical habitat. It consists of grassland, maritime chaparral, and oak woodland in the area around Prunedale in northern Monterey County. On the west side of Highway 101, the unit includes Manzanita County Park located between Castroville Boulevard and San Miguel Canyon Road. On the east side of Highway 101, the unit is generally bounded by Highway 101 to the west and north, Crazy Horse Canyon Road, and then Wild Horse Road and Herbert Road to the east, and Meadow Ridge Circle to the south. Approximately 9 percent of the unit consists of county park land, 8 percent is owned by Caltrans, and 83 percent is privately owned.

This unit currently supports multiple populations of *Chorizanthe pungens* var. *pungens*; in addition to the populations that have been known from Manzanita County Park for over a decade, it includes numerous populations that have been discovered in the past few years during surveys conducted for the Highway 101 Prunedale bypass project (R. Robison, *in litt.* 2001). This is one of only three units that are known to support populations away from the immediate coast and that support maritime chaparral and oak woodland habitats more representative of hotter, interior sites. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions may be important for the long-term survival and conservation of *C. p.* var. *pungens*. The Prunedale Unit also supports multiple populations in relatively close proximity to one another and supports suitable habitat that is important for the expansion of existing populations.

Unit H: Fort Ord Unit

Unit H includes approximately 4,265 ha (10,530 ac) of critical habitat. It consists of grassland, maritime chaparral, coastal scrub, and oak woodland on the former DOD base at Fort Ord, east of the city of Seaside in northern Monterey County. Portions of Fort Ord have been transferred to the BLM; University of California, Santa Cruz; California State University at Monterey Bay; and local city and county jurisdictions. As of October 2001, approximately 4,290 ha (10,600 ac) of former Fort Ord had been transferred, of which about 3,160 ha (7,800 ac) have been designated as habitat reserve in the HMP. As a result of these recent transfers, approximately 5 percent of this critical habitat unit is State land and 1 percent is under local jurisdiction. We considered all other land within this unit to be under Federal jurisdiction (about 94 percent). This unit is entirely within the area formerly known as Fort Ord, bounded by Highway 1 on the northwest, the Salinas River to the east and the Monterey-Salinas Road (Highway 68) to the south. This unit currently supports multiple populations of *Chorizanthe pungens* var. *pungens* that number in the tens of thousands. This is one of only three units that are known to support populations away from the immediate coast and that support maritime chaparral and oak woodland habitats more representative of hotter, interior sites. Preserving the genetic characteristics that have allowed individuals at this site to survive under these slightly different environmental conditions may be important for the long-term survival and conservation of *C. p.* var. *pungens*. It also supports multiple populations in relatively close proximity to one another and supports suitable habitat that is important for the expansion of existing populations.

Unit I: Del Rey Oaks Unit

Unit I contains approximately 255 ha (640 ac) of critical habitat. It consists of grassland, maritime chaparral, and oak woodland near the community of Del Rey Oaks, southeast of the city of Seaside in northern Monterey County. This unit is generally bounded to the north and northeast by Rosita Road and South Boundary Road, to the east by York Road, to the south by the Monterey-Salinas Road (Highway 68), and by Olmstead Road and its extrapolated extension northward to Rosita Road on the west. Approximately 30 percent of the unit is owned by Monterey County Airport and other local jurisdictions, and 70 percent is privately owned. This unit currently supports multiple populations of *Chorizanthe pungens* var. *pungens*; at one time, habitat supporting these populations was likely continuous with habitat on former Fort Ord. Although fragmentation has occurred, it is possible that connectivity still exists between these areas. This unit is important because it supports multiple populations in relatively close proximity to one another and because it represents the southernmost extension of the population complex that occurs on former Fort Ord.

Unit J: Soledad Unit

Unit J includes approximately 105 ha (260 ac) of critical habitat. It consists of an interior dune in the floodplain of the Salinas River channel just south of the town of Soledad in central Monterey County, on privately owned lands. This unit currently supports a population of *Chorizanthe pungens* var. *pungens*. This unit is the southernmost interior location that supports a population, and the only unit where *C. p.* var. *pungens* grows in interior floodplain dune habitat. Preserving the genetic characteristics that have allowed individuals at this site to survive in interior floodplain dune habitat may be important for the long-term survival and conservation of *C. p.* var. *pungens*.

The approximate areas of proposed critical habitat by land ownership are shown in Table 1. Lands proposed are under private, county, State, and Federal jurisdiction, with Federal lands including lands managed by us, the DOD, and BLM.

TABLE 1.—APPROXIMATE AREAS, GIVEN IN HECTARES (HA) AND ACRES (AC) [1] OF DESIGNATED CRITICAL HABITAT FOR *Chorizanthe pungens* VAR. *pungens* BY LAND OWNERSHIP.

Unit name	State lands	Private lands	County and other local jurisdictions	Federal lands	Total
A. Sunset	35 ha (85 ac)	0 ha (0 ac)	0 ha (0 ac)	0 ha (0 ac)	35 ha (85 ac).
B. Moss Landing	160 ha (390 ac)	20 ha (55 ac)	2 ha (7 ac)	0 ha (0 ac)	182 ha (452 ac).
C. Marina[2]	25 ha (60 ac)	380 ha (945 ac)	0 ha (0 ac)	315 ha (775 ac)	720 ha (1,780 ac).
D. Asilomar	100 ha (250 ac)	25 ha (60 ac)	0 ha (0 ac)	0 ha (0 ac)	125 ha (310 ac).
E. Freedom Blvd.	0 ha (0 ac)	85 ha (205 ac)	0 ha (0 ac)	0 ha (0 ac)	85 ha (205 ac).
F. Bel Mar	3 ha (7 ac)	30 ha 75 ac)	0 ha (0 ac)	0 ha (0 ac)	33 ha (82 ac).
G. Prunedale	145 ha (360 ac)	1,515 ha (3,740 ac)	155 ha (385 ac)	0 ha (0 ac)	1,815 ha (4,485 ac).

TABLE 1.—APPROXIMATE AREAS, GIVEN IN HECTARES (HA) AND ACRES (AC) [1] OF DESIGNATED CRITICAL HABITAT FOR *Chorizanthe pungens* VAR. *pungens* BY LAND OWNERSHIP.—Continued

Unit name	State lands	Private lands	County and other local jurisdictions	Federal lands	Total
H. Fort Ord (Current)[3]	215 ha (530 ac)	0 ha (0 ac)	55 ha (130 ac)	3,995 ha (9,870 ac)	4,265 ha (10,530 ac).
I. Del Rey Oaks	0 ha (0 ac)	180 ha (450 ac)	75 ha (190 ac)	0 ha (0 ac)	255 ha (640 ac).
J. Soledad	0 ha (0 ac)	105 ha (260 ac)	0 ha (0 ac)	0 ha (0 ac)	105 ha (260 ac).
Total	683 ha (1,682 ac)	2,340 ha (5,790 ac)	287 ha (712 ac)	4,310 ha (10,645 ac).	7,620 ha (18,829 ac).

[1] Approximate acres have been converted to hectares (1 ha = 2.47 ac). Based on the level of imprecision of mapping of each unit, hectares and acres greater than 10 have been rounded to the nearest 5; hectares and acres less than or equal to 10 have been rounded to the nearest whole number. Totals are sums of units.

[2] Acreages assigned to various landowner categories for the Fort Ord portion of the Marina unit will change in the future once land transfers have been completed. We estimate the following after transfer: state, 835ac; local, 945 ac; federal, 0 ac.

[3] Acreages assigned to various landowner categories for the Fort Ord unit will change in the future once land transfers have been completed. We estimate the following after transfer: state, 610 ac; local jurisdictions, 970 ac; federal, 8,950 ac.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of critical habitat designated for such species. Destruction or adverse modification of critical habitat occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the action agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (*see* 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide "reasonable and prudent alternatives" to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation previously has been completed if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect *Chorizanthe pungens* var. *pungens* or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act or any other activity requiring Federal action (i.e., funding, authorization) will also continue to be subject to the section 7 consultation process. Federal actions not affecting *C. p.* var *pungens* or its critical habitat, as well as actions on non-Federal lands that are not federally funded or permitted, will not require section 7 consultation with respect to this species.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat would be those that alter the primary

constituent elements to the extent that the value of critical habitat for the conservation of *Chorizanthe pungens* var. *pungens* is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species. Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly destroy or adversely modify critical habitat include, but are not limited to:

(1) Activities that alter watershed characteristics in ways that would appreciably alter or reduce the quality or quantity of surface and subsurface flow of water needed to maintain the maritime chaparral and oak woodland communities. Such activities adverse to *Chorizanthe pungens* var. *pungens* could include, but are not limited to, maintaining an unnatural fire regime either through fire suppression or prescribed fires that are too frequent or poorly-timed; residential and commercial development, including road building and golf course installations; agricultural activities, including orchardry, viticulture, row crops, and livestock grazing; and vegetation manipulation such as chaining or harvesting firewood in the watershed upslope from *C. p.* var. *pungens;* and

(2) Activities that appreciably degrade or destroy native maritime chaparral and oak woodland communities, including but not limited to livestock grazing, clearing, discing, introducing or encouraging the spread of nonnative species, and heavy recreational use.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 ensures that actions funded, authorized, or carried out by Federal agencies are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify the critical habitat designated for such species. Actions likely to jeopardize the continued existence of a species are those that would appreciably reduce the likelihood of its survival and recovery, and actions likely to destroy or adversely modify critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species. (50 CFR 402.02)

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. All of the units we are designating are occupied by either above-ground plants or a *Chorizanthe pungens* var. *pungens* seed bank, and Federal agencies already consult with us on activities in areas where the species may be present to ensure that their actions do not jeopardize the continued existence of the species. Each unit also contains some areas which are considered unoccupied. However, we believe, and the economic analysis discussed below illustrates, that the designation of critical habitat is not likely to result in a significant regulatory burden above that already in place due to the presence of the listed species. Few additional consultations are likely to be conducted due to the designation of critical habitat. Actions on which Federal agencies consult with us include, but are not limited to:

(1) Development on private lands requiring permits from Federal agencies, such as 404 permits from the U.S. Army Corps of Engineers or permits from other Federal agencies such as Housing and Urban Development, military activities of the U.S. Department of Defense (Navy and Army) on their lands or lands under their jurisdiction;

(2) Activities of the BLM on their lands or lands under their jurisdiction;

(3) Activities of the Federal Aviation Authority on their lands or lands under their jurisdiction;

(4) The release or authorization of release of biological control agents by the U.S. Department of Agriculture;

(5) Regulation of activities affecting point source pollution discharges into waters of the United States by the Environmental Protection Agency under section 402 of the Clean Water Act; and

(6) Construction of communication sites licensed by the Federal Communications Commission, and authorization of Federal grants or loans.

Where federally listed wildlife species occur on private lands proposed for development and an HCP is submitted by an applicant to secure a permit to take according to section 10(a)(1)(B) of the Act, our issuance of such a permit would be subject to the section 7 consultation process. In those situations where *Chorizanthe pungens* var. *pungens* may occur or its critical habitat is present within the area covered by the HCP, the consultation process would include consideration of the potential effects of granting the permit authorizing take of threatened or endangered wildlife species addressed by the HCP. Wildlife species that are listed under the Act and occur in the same general areas as *C. p.* var. *pungens* include the Smith's blue butterfly *(Euphilotes enoptes smithi),* which occurs at dunes from Salinas River National Wildlife Refuge south to the Naval Postgraduate School, and western snowy plover *(Charadrius alexandrinus nivosus),* which ranges from Zmudowski State Beach south along the coast to Monterey State Beach. Consultations conducted under Section 7 in relation to HCPs prepared for these wildlife species would address any effects that granting a permit for take of the wildlife species would have on *C. p.* var *pungens,* including its critical habitat.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Ventura Fish and Wildlife Office (*see* **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181 (503/231–6131, FAX 503/231–6243).

Relationship of Critical Habitat to Military Lands

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Special management and protection are not required if adequate management and protection are already in place. Adequate special management or protection is provided by a legally operative plan/agreement that addresses the maintenance and improvement of the primary constituent elements important to the species and that manages for the long-term conservation of the species. If any areas containing the primary constituent elements are currently being managed to address the conservation needs of *C. p.* var. *pungens* management or protection, these areas would not meet the definition of critical habitat in section 3(5)(A)(i) of the Act and would not be included in this final rule.

We consider several factors to determine if a plan provides adequate management or protection. These factors are: (1) Whether there is a current plan specifying the management actions and whether such actions provide sufficient conservation benefit to the species; (2) whether the plan provides assurances that the conservation management strategies will be implemented; and (3) whether the plan provides assurances that the conservation management strategies will be effective.

In determining if management strategies are likely to be implemented, we consider whether: (a) A management plan or agreement exists that specified the management actions being implemented or to be implemented; (b) there is a timely schedule for implementation; (c) there is a high probability that the funding source(s) or other resources necessary to implement the actions will be available; and (d) the party(ies) have the authority and long-term commitment to implement the management actions, as demonstrated, for example, by a legal instrument providing enduring protection and management of the lands.

In determining whether an action is likely to be effective, we consider whether: (a) The plan specifically addresses the management needs, including reduction of threats to the species; (b) such actions have been successful in the past; (c) there are provisions for monitoring and assessment of the effectiveness of the management actions; and (d) adaptive management principles have been incorporated into the plan.

The Sikes Act Improvement Act of 1997 (Sikes Act) requires each military installation that encompasses land and water suitable for the conservation and management of natural resources to have completed, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs of the installation, including needs to provide for the conservation of species listed as threatened or endangered pursuant to the Endangered Species Act; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan.

As required by Section 7 of the Act, consultation is conducted on the development and implementation of INRMPs for installations with listed species. We believe that military installations that have completed and approved INRMPs which address the needs of species generally do not meet the definition of critical habitat discussed above, as they require no additional special management or protection. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide a benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat.

The mission of the Naval Postgraduate School is to foster and encourage a program of education and research in order to sustain academic excellence. The majority of the coastal dune portion of the Naval Postgraduate School is designated as open beach and protected habitat zone with controlled public access, as compatible with mission requirements for academic research and training and resource protection.

The DON has committed to continue implementing vegetation management and restoration activities that benefit *Chorizanthe pungens* var. *pungens,* including removal of invasive plant species that threaten the native vegetation community of the coastal dune portion of the Naval Postgraduate School. In the INRMP for the Naval Postgraduate School, the DON places a high priority on funding and implementing these efforts. In addition, the Naval Postgraduate School will continue its annual surveys to track the effectiveness of management actions taken to enhance and protect the local population of *C. p.* var. *pungens.* Since 1992, the DON and the Naval Postgraduate School have successfully implemented actions that benefit *C.* p. var. *pungens.*

The DON funded a revegetation and rehabilitation project of the dunes of the Naval Postgraduate School, which was implemented in 1992. Prior to 1992, grading, compaction, introduction of fill material, and previous landscaping activities resulted in the loss of 80 percent of the native back dunes at the Naval Postgraduate School. Due to the efforts of the DON and the Naval Postgraduate School, the 18-hectare (45-acre) area has since undergone extensive native revegetation and efforts to control invasive non-native plant species, primarily iceplant, *Bromus diandrus* (ripgut brome grass), and *Ammophila arenaria* (European dune grass). Following initial eradication of these invasive species, more than 90,000 plants of 50 native dune and coastal bluff species, including *Chorizanthe pungens* var. *pungens,* were planted over 5 years (Cowan 1998, Navy 2001). Elimination of iceplant and ripgut brome grass (along with increased rainfall) was noted as a factor in the substantial increase of *C. p.* var. *pungens* plants from 1,600 plants in 1992 to more than 100,000 plants in 1998 (Cowan 1998). In 1999, colonies of sensitive plant species in the dunes appeared to be thriving, and most of the invasive plant species had been eradicated or were noted to be controlled by ongoing weeding (Greening Associates 1999). In 2001, the DON formally consulted with the Service on potential adverse effects to *C. p.* var. *pungens* plants that may occur during ongoing and proposed invasive plant species control and vegetation management activities at the Naval Postgraduate School.

In 2001, the DON completed a final INRMP for the Naval Postgraduate School. In their comments on the proposed rule, the DON requested that the lands of the School be excluded from the Marina unit of critical habitat because of the protections and management actions provided for *Chorizanthe pungens* var. *pungens* as part of the INRMP. We evaluated the INRMP and found that it meets the three criteria described above. We excluded these lands from critical habitat under the section 3(5)(A) definition.

Lands at former Fort Ord are not discussed in this section because Fort Ord is no longer an active military installation. All but a few hundred acres at former Fort Ord are to be eventually transferred to non-military entities. The few hundred acres that the Army may retain are not within this critical habitat designation.

Economic Analysis

Section 4(b)(2)of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned.

Following the publication of the proposed critical habitat designation,

we conducted a draft Economic Analysis to estimate the potential economic effect of the designation. The draft analysis was made available for public review on September 19, 2001 (66 FR 48228). We accepted comments on the draft analysis until October 19, 2001.

Our draft Economic Analysis evaluated the potential future effects associated with the listing of *Chorizanthe pungens* var. *pungens* as a threatened species under the Act, as well as any potential effect of the critical habitat designation above and beyond those regulatory and economic impacts associated with listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a "without critical habitat" baseline and compared it to a "with critical habitat" scenario. The "without critical habitat" baseline represented the current and expected economic activity under all modifications prior to the critical habitat designation, including protections afforded the species under Federal and State laws. The difference between the two scenarios measured the net change in economic activity attributable to the designation of critical habitat. The categories of potential costs considered in the analysis included the costs associated with: (1) Conducting section 7 consultations associated with the listing or with the critical habitat, including reinitiated consultations and technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 consultations; (3) uncertainty and public perceptions resulting from the designation of critical habitat; and (4) potential offsetting beneficial costs associated with critical habitat including educational benefits.

Our economic analysis recognizes that there may be costs from delays associated with reinitiating completed consultations after the critical habitat designation is made final. There may also be economic effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be lowered due to a perceived increase in the regulatory burden. We believe these impacts will be short-term, however.

Based on our draft analysis, we concluded that the designation of critical habitat would not result in a significant economic impact, and estimated the potential economic effects over a 10-year period would be $400,000. Costs to Federal agencies are expected to be approximately $150,000. Costs to State agencies are expected to be approximately $56,000, primarily resulting from consultations and project modifications in the Sunset, Marina, and Prunedale units. Local agencies are not expected to be impacted by the designation of critical habitat, principally because activities on local agency lands do not typically have Federal involvement. Costs to private landowners are expected to range from $170,000 to $200,000, primarily resulting from consultations and modifications within the Moss Landing, Marina, Fort Ord, and De Rey Oaks units. These estimates are based on the existing consultation history with agencies in this area and increased public awareness regarding the actual impacts of critical habitat designation on land values.

Following the close of the comment period on the draft Economic Analysis, a final addendum was completed which incorporated public comments on the draft analysis. The values presented above may be an overestimate of the potential economic effects of the designation because the final designation has been reduced to encompass 7,620 ha (18,829 ac) versus the 10,443 ha (25,818 ac) proposed as critical habitat, a difference of 2,823 ha (6,989 ac).

A copy of the final economic analysis and a description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this is a significant rule and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

(a) In the economic analysis, we determined that this rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. *Chorizanthe pungens* var. *pungens* was listed as threatened in February of 1994. Since that time we have conducted, and will continue to conduct, formal and informal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of *C. p.* var. *pungens*.

Under the Act, Federal agencies shall consult with the Service to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. The Act does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency (*see* Table 2 below). Based upon our understanding of this species and its ecological needs, we conclude that any Federal action or authorized action that could potentially result in the destruction or adverse modification of critical habitat would also be considered as "jeopardy" under the Act in areas occupied by the species.

Accordingly, the designation of currently occupied areas as critical habitat is not anticipated to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding beyond the effects resulting from the listing of this species. Non-Federal persons that do not have a Federal "sponsorship" in their actions are not restricted by the designation of critical habitat. The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding that are not attributable to the species listing. These impacts were evaluated in our Economic Analysis (under section 4 of the Act; *see Economic Analysis* section of this rule).

TABLE 2.—IMPACTS OF *Chorizanthe pungens* VAR. *pungens* LISTING AND CRITICAL HABITAT DESIGNATION.

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation [1]
Federal Activities Potentially Affected [2].	Activities conducted by the Army Corps of Engineers, the Department of Housing and Urban Development, Department of Defense, Bureau of Land Management, Federal Aviation Authority, U.S. Department of Agriculture, Environmental Protection Agency, Federal Communications Commission, and any other Federal Agencies.	Activities by these Federal Agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected [3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for *Chorizanthe pungens* var. *pungens* by mechanical, chemical, or other means or appreciably decrease habitat value or quality through indirect effects (*e.g.*, edge effects, invasion of exotic plants or animals, fragmentation of habitat).	Funding, authorization, or permitting actions by Federal Agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions not jeopardize the continued existence of *Chorizanthe pungens* var. *pungens* since its listing in 1994. We evaluated the impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation in our economic analysis (*see Economic Analysis* section of this rule). The prohibition against adverse modification of critical habitat is not expected to impose any restrictions in addition to those that currently exist on currently occupied land and will not create inconsistencies with other agencies' actions on unoccupied lands.

(c) This final rule is not expected to materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and as discussed above, we do not anticipate that the adverse modification analysis (resulting from critical habitat designation) will have any incremental effects.

(d) OMB has determined that this rule raises novel and legal or policy issues. Therefore, this rule is significant under E.O. 12866, and, as a result, has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to require a certification statement. In this rule, we are certifying that the critical habitat designation for *Chorizanthe pungens* var. *pungens* will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale.

Small entities include small organizations, such as independent non-profit organizations, small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the rule could significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. While the SBREFA does not explicitly define "substantial number," the Small Business Administration, as well as other federal agencies, has interpreted this to represent an impact on 20 percent or greater of the number of small entities in any industry. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect *Chorizanthe pungens* var. *pungens*. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing

Federal activities. Since *C. p.* var. *pungens* was proposed for listing we have conducted approximately four formal consultations.

In the Economic Analysis, we found that the proposed designation could potentially impose total economic costs for consultations and modifications to projects within proposed critical habitat for *Chorizanthe pungens* var. *pungens* on privately owned land to be in a range from $170,000 to $200,000 over a 10 year period. The analysis estimated that private landowners will likely incur costs of $70,000 in Unit C (Moss Landing), $56,000 in Unit D (Marina), $30,000 to $60,000 in Unit I (Fort Ord), and $14,000 in Unit J (Del Ray Oaks).

For the final designation, the Service has elected to exclude from critical habitat all lands within the boundaries of former Fort Ord that have been explicitly designated for development without additional resource conservation measures. Therefore, any projects on these lands will not be subject to any consultations as a result of critical habitat designation for the *Chorizanthe pungens* var. *pungens*, unless a Federal action is involved that requires consultation because it may affect critical habitat (for example, if the action may affect critical habitat is nearby). Lands within former Fort Ord that have been designated for development with reserves, but are not explicitly slated for development in the immediate future, are included in the final designation. These lands may be subject to additional consultations in the future. The original estimates of the draft EA apply to these lands, as two to four consultations may be necessary in the future to address any development as it occurs (please *see* the draft EA for further discussion).

Our draft Economic Analysis found that residential and commercial development on private land constitutes the primary activity that is likely to take place within the area designated as critical habitat for the Monterey spineflower. To be conservative (*i.e.*, more likely overstate impacts than understate them), the Economic Analysis assumed that all potentially affected parties that may be engaged in development activities within critical habitat are small entities. There are approximately 65 small residential development and construction companies in Santa Cruz and Monterey counties. Because the draft EA estimates that at most 22 formal consultations could arise involving private entities, the analysis for impacts on small businesses assumes that at most 22 residential/small business entities may be affected the designation of critical habitat for *Chorizanthe pungens* var. *pungens* in Monterey and Santa Cruz counties over a ten year period.

On average, over the ten year period of analysis, in each year there could be 2 to 3 consultations for real estate development projects. Assuming each consultation involves a different small business, approximately 2 to 4 percent of the total number of small residential development and construction companies could be affected annually by the designation of critical habitat for *Chorizanthe pungens* var. *pungens*. Because the percentage of small businesses that could be affected by this designation is far less than the 20 percent threshold that would be considered "substantial," the economic analysis concludes that this designation will not affect a substantial number of small entities as a result of the designation of critical habitat for *C. p.* var. *pungens*.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements for the two to three small businesses, on average, that may be required to consult with us each year regarding their project's impact on *Chorizanthe pungens* var. *pungens* and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives." Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives. Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations pursuant to section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have a very limited consultation history for *Chorizanthe pungens* var. *pungens*, with no consultations that resulted in a jeopardy determination and so no identified reasonable and prudent alternatives, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation.

It is likely that a developer could modify a project or take measures to protect *Chorizanthe pungens* var. *pungens*. Based on the types of modifications and measures that have been implemented in the past for plant species, a developer may take such steps as installing fencing or re-aligning the project to avoid sensitive areas. The cost for implementing these measures for one project is expected to be of the same order of magnitude as the total cost of the consultation process, *i.e.*, approximately $10,000. It should be noted that developers likely would already be required to undertake such measures due to regulations in the California Environmental Quality Act (CEQA). These measures are not likely to result in a significant economic impact to project proponents.

As required under section 4(b)(2) of the Act, we conducted an analysis of the potential economic impacts of this critical habitat designation, and that analysis was made available for public review and comment before finalization of this designation. Based on estimates provided in the economic analysis, the potential economic impact of critical habitat designation for *Chorizanthe pungens* var. *pungens* over the next 10 years is about $400,000. Out of this about one-half, $200,000, could potentially be borne by the private sector. On an annual basis, this amounts to about $20,000, which would not normally be considered a significant cost in the context of multi-acre real estate development projects that would most likely be affected by this designation as indicated in the economic analysis. Furthermore, due to the changes being made in the final rule regarding the designation of private lands, the actual impact of critical habitat designation on private landowners will be less than that estimated in the economic analysis.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons, that it will not affect a substantial number of small entities. Furthermore, we believe that the potential compliance costs for the number of small entities that may be affected by this rule will not be significant. Therefore, we are certifying that the designation of critical habitat for *Chorizanthe pungens* var. *pungens* will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined whether designation of critical habitat would cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that they must ensure that any programs involving Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Executive Order 13211

On May 18, 2001, the President issued a Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. In our Economic Analysis, we did not identify energy production or distribution as being affected by this designation, and we received no comments indicating that the proposed designation could significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for *Chorizanthe pungens* var. *pungens* in a takings implication assessment. The takings implications assessment concludes that this final rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by *Chorizanthe pungens* var. *pungens* would have little incremental impact on State and local governments and their activities. The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long range planning, rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Endangered Species Act, as amended. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Chorizanthe pungens* var. *pungens*.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This determination does not constitute a major federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a Government-to-Government basis. The designated critical habitat for *Chorizanthe pungens* var. *pungens* does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

Author

The authors of this final rule are Constance Rutherford and Diane Pratt, Ventura Fish and Wildlife Office (*See* **ADDRESSES** section).

List of Subjects in 50 CFR part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In § 17.12(h) revise the entry for *Chorizanthe pungens* var. *pungens* under "FLOWERING PLANTS" in the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
.	.	.	.	.	.	.	.
Chorizanthe pungens var. *pungens*.	Monterey Spineflower.	U.S.A. (CA)	Polygonaceae—Buckwheat	T	528	17.96(a)	NA
.	.	.	.	.	.	.	.

3. Amend In § 17.96(a) by adding critical habitat for the Monterey spineflower (*Chorizanthe pungens* var. *pungens*) in alphabetical order under Family Polygonaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) * * *

Family Polygonaceae: *Chorizanthe pungens* var. *pungens* (Monterey spineflower)

(1) Critical habitat units are depicted for Santa Cruz and Monterey Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Chorizanthe pungens* var. *pungens* are the habitat components that provide:

(i) Sandy soils associated with active coastal dunes, coastal bluffs with a deposition of windblown sand, inland sites with sandy soils, and interior floodplain dunes;

(ii) Plant communities that support associated species, including coastal dune, coastal scrub, grassland, maritime chaparral, oak woodland, and interior floodplain dune communities, and have a structure such that there are openings between the dominant elements (e.g., scrub, shrub, oak trees, clumps of herbaceous vegetation);

(iii) No or little cover by nonnative species which would compete for resources available for growth and reproduction of *Chorizanthe pungens* var. *pungens*; and

(iv) Physical processes, such as occasional soil disturbance, that support natural dune dynamics along coastal areas.

(3) Critical habitat does not include existing features and structures, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other urban landscaped areas not containing one or more of the primary constituent elements.

Critical Habitat Map Units

Data layers defining map units were mapped using Universal Transverse Mercator (UTM) coordinates.

(4) Index Map Follows

BILLING CODE 4310–55–P

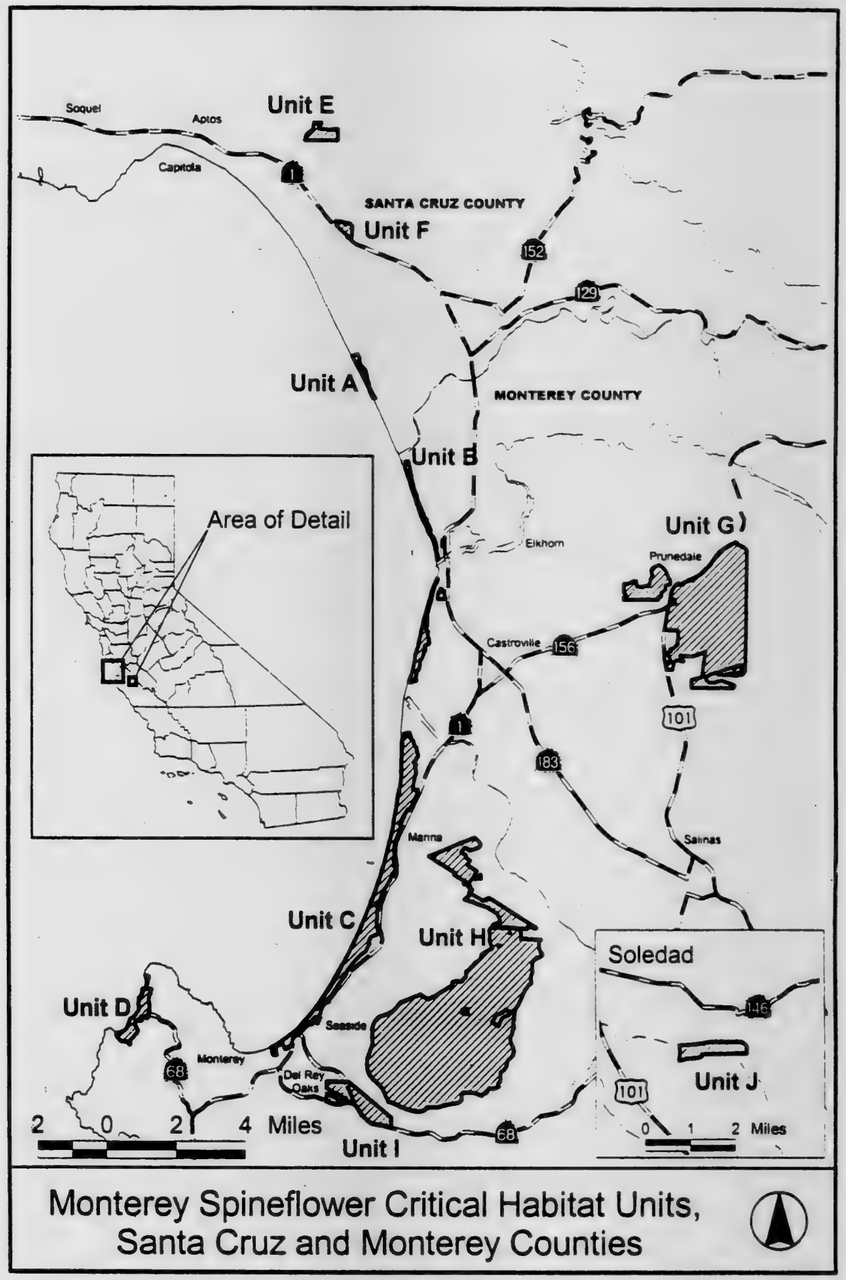

Monterey Spineflower Critical Habitat Units, Santa Cruz and Monterey Counties

(5) Unit A: *Sunset Unit.*

(i) Santa Cruz County, California. From USGS 1:24,000 quadrangle map Watsonville West, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 603772, 4083610; 603885, 4083680; 603931, 4083700; 604008, 4083560; 604053, 4083490; 604059, 4083450; 604054, 4083420; 604045, 4083380; 604045, 4083350; 604080, 4083290; 604092, 4083270; 604102, 4083220; 604103, 4083180; 604109, 4083160; 604122, 4083150; 604149, 4083140; 604176, 4083120; 604202, 4083090; 604224, 4083060; 604243, 4083040; 604256, 4083020; 604279, 4083000; 604303, 4082980; 604328, 4082960; 604349, 4082920; 604373, 4082840; 604386, 4082800; 604412, 4082710; 604424, 4082670; 604425, 4082640; 604425, 4082610; 604426, 4082580; 604443, 4082530; 604449, 4082510; 604457, 4082490; 604460, 4082470; 604480, 4082440; 604492, 4082430; 604504, 4082400; 604512, 4082350; 604530, 4082300; 604546, 4082260; 604547, 4082250; 604536, 4082200; 604688, 4081900; 604847, 4081650; 604743, 4081650; 604613, 4081900; 604539, 4082040; 604449, 4082220; 604338, 4082450; 604258, 4082580; 604205, 4082690; 604132, 4082830; 604076, 4082910; 603987, 4083070; 603871, 4083280; 603804, 4083400; 603755, 4083480; 603700, 4083580; 603772, 4083610.

(ii) Map Unit A follows:

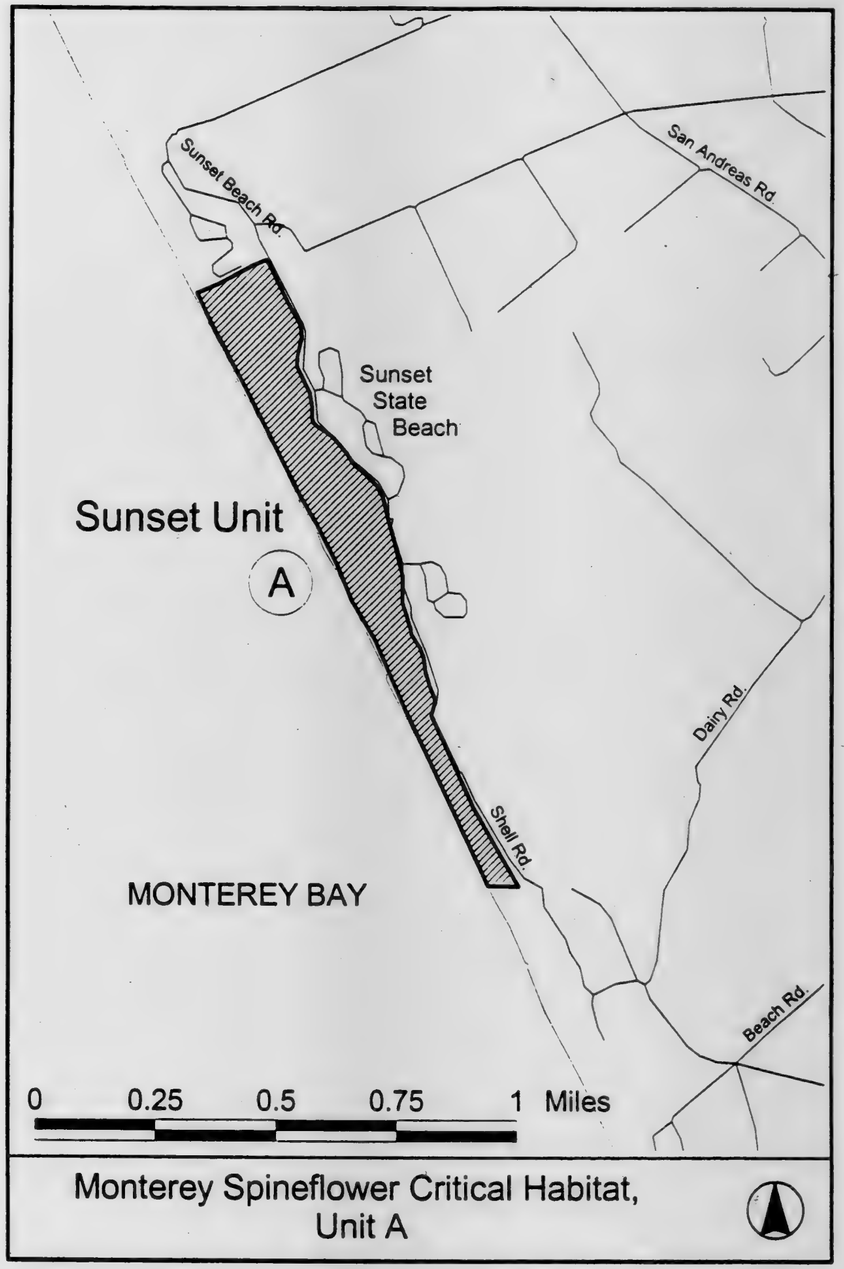

(6) Unit B: *Moss Landing Unit.* Monterey County, California.

(i) From USGS 1:24,000 quadrangle map Moss Landing, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 608197, 4072970;

608305, 4072940; 608361, 4072820; 608468, 4072510; 608077, 4072480; 608070, 4072540; 608067, 4072620; 608090, 4072700; 608121, 4072800; 608163, 4072870; 608184, 4072900; 608193, 4072950; 608195, 4072970; 608197, 4072970.

608089, 4073400; 608023, 4073250; 607963, 4073120; 607937, 4073090; 607914, 4073020; 607895, 4072920; 607866, 4072860; 607858, 4072820; 607818, 4072630; 607783, 4072470; 607787, 4072360; 607718, 4072180; 607663, 4071930; 607624, 4071730; 607616, 4071620; 607625, 4071340; 607619, 4071290; 607625, 4071220; 607605, 4071170; 607597, 4071140; 607592, 4071100; 607574, 4071040; 607576, 4071020; 607601, 4071010; 607646, 4071000; 607672, 4070970; 607692, 4070940; 607656, 4070840; 607654, 4070820; 607679, 4070780; 607679, 4070750; 607677, 4070720; 607684, 4070700; 607710, 4070670; 607733, 4070590; 607745, 4070550; 607696, 4070510; 607748, 4070450; 607742, 4070410; 607719, 4070370; 607607, 4070320; 607557, 4070300; 607535, 4070280; 607537, 4070230; 607574, 4070150; 607574, 4070130; 607561, 4070120; 607552, 4070110; 607554, 4070100; 607566, 4070080; 607572, 4070050; 607545, 4070020; 607521, 4070010; 607512, 4070000; 607504, 4069980; 607463, 4069770; 607435, 4069720; 607418, 4069670; 607402, 4069610; 607338, 4069610; 607338, 4069360; 607333, 4069350; 607322, 4069320; 607316, 4069290; 607313, 4069280; 607314, 4069270; 607317, 4069260; 607316, 4069240; 607314, 4069210; 607298, 4069170; 607287, 4069160; 607282, 4069140; 607283, 4069120; 607278, 4069110; 607268, 4069100; 607254, 4069090; 607219, 4069090; 607198, 4069020; 607178, 4068970; 607175, 4068850; 607161, 4068800; 607131, 4068770; 607135, 4068750; 607177, 4068720; 607191, 4068690; 607189, 4068650; 607175, 4068620; 607164, 4068610; 607130, 4068620; 607100, 4068630; 607045, 4068660; 607022, 4068650; 607002, 4068620; 606988, 4068540; 606945, 4068540; 606932, 4068590; 606920, 4068600; 606901, 4068600; 606893, 4068580; 606886, 4068540; 606828, 4068540; 606852, 4068630; 606870, 4068710; 606900, 4068790; 606931, 4068860; 606992, 4069040; 607031, 4069240; 607093, 4069730; 607101, 4069810; 607111, 4069870; 607152, 4070020; 607180, 4070130; 607212, 4070210; 607230, 4070260; 607233, 4070300; 607228, 4070370; 607262, 4070540; 607310, 4070740; 607328, 4070900; 607348, 4071020; 607384, 4071160; 607406, 4071270; 607464, 4071520; 607513, 4071710; 607592, 4072020; 607717, 4072510; 607772, 4072780; 607849, 4073030; 608016, 4073440; 608089, 4073400.

607999, 4074280; 607936, 4074600; 607872, 4074870; 607801, 4075110; 607725, 4075270; 607602, 4075450; 607505, 4075620; 607438, 4075770; 607271, 4076050; 607174, 4076270; 607109, 4076400; 607008, 4076690; 606898, 4076960; 606803, 4077230; 606731, 4077410; 606659, 4077580; 606604, 4077760; 606561, 4077910; 606502, 4078050; 606450, 4078190; 606396, 4078350; 606352, 4078460; 606325, 4078610; 606354, 4078780; 606487, 4078780; 606514, 4078680; 606549, 4078580; 606679, 4078020; 606827, 4077460; 606860, 4077390; 606863, 4077370; 606841, 4077340; 606846, 4077330; 606856, 4077320; 606883, 4077320; 606936, 4077240; 607001, 4076990; 607221, 4076530; 607207, 4076520; 607206, 4076510; 607216, 4076490; 607238, 4076470; 607272, 4076420; 607272, 4076390; 607298, 4076370; 607309, 4076360; 607302, 4076350; 607290, 4076320; 607281, 4076290; 607281, 4076270; 607363, 4076210; 607402, 4076180; 607386, 4076150; 607385, 4076140; 607405, 4076130; 607447, 4076140; 607463, 4076130; 607474, 4076100; 607446, 4076090; 607459, 4076070; 607468, 4076050; 607462, 4076030; 607463, 4076010; 607478, 4075950; 607520, 4075920; 607562, 4075870; 607571, 4075830; 607568, 4075800; 607574, 4075780; 607613, 4075750; 607633, 4075680; 607659, 4075650; 607659, 4075640; 607650, 4075630; 607631, 4075620; 607636, 4075580; 607597, 4075560; 607653, 4075490; 607690, 4075440; 607760, 4075370; 607796, 4075330; 607827, 4075300; 607872, 4075190; 607912, 4075110; 607947, 4074930; 607954, 4074720; 608021, 4074540; 608040, 4074460; 608058, 4074340; 607999, 4074280.

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(ii) Map Unit B follows.

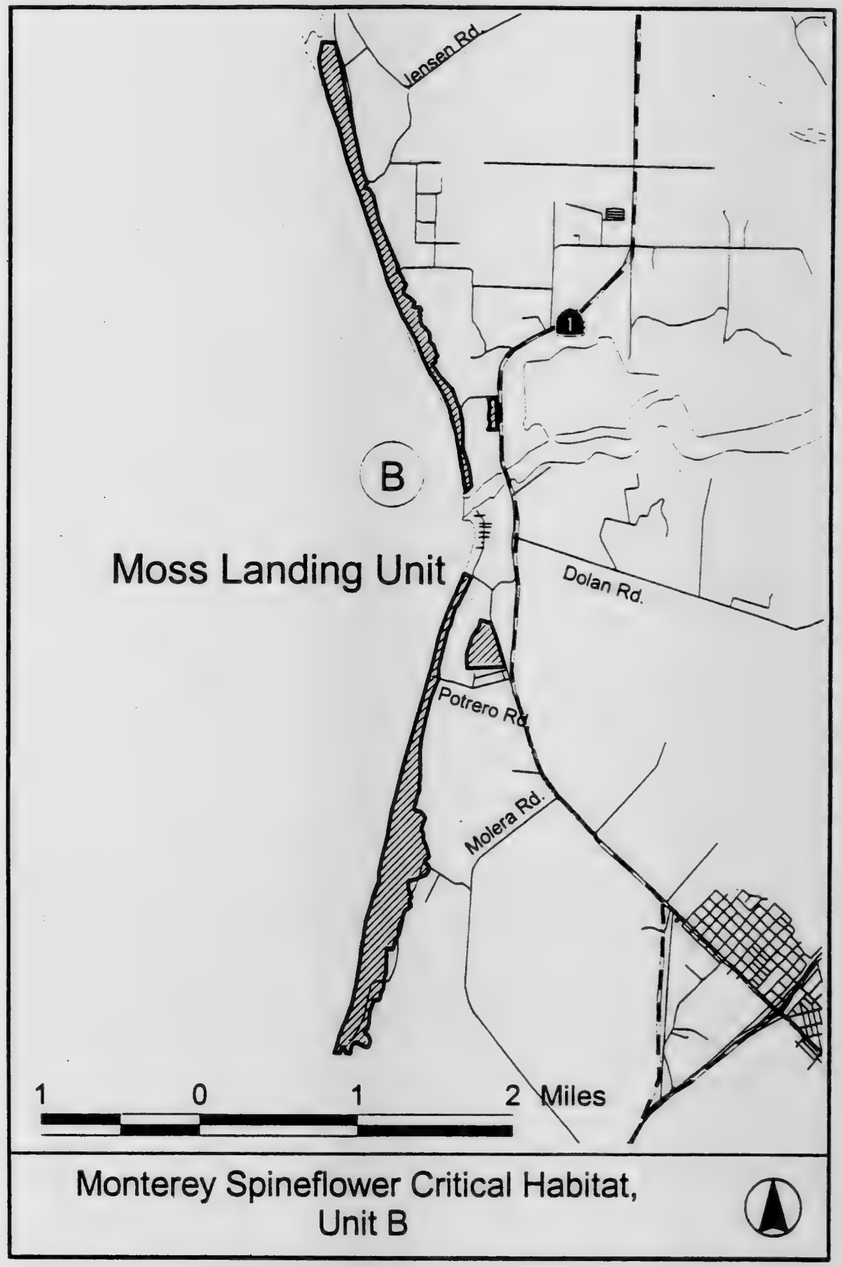

(7) Unit C: *Marina Unit.* Monterey County, California

(i) From USGS 1:24,000 quadrangle maps Marina and Seaside, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 606623,

4066060; 606685, 4066120; 606740, 4066150; 606840, 4066180; 606929, 4066210; 606953, 4066170; 606872, 4066140; 606843, 4066090; 606826, 4066070; 606821, 4066050; 606832, 4066030; 606860, 4066040; 606932, 4066060; 606996, 4066060; 607007, 4066010; 606975, 4065980; 607007, 4065920; 607031, 4065890; 607075, 4065860; 607120, 4065830; 607161, 4065710; 607174, 4065610; 607212, 4065570; 607269, 4065520; 607313, 4065340; 607326, 4065280; 607368, 4065180; 607374, 4065150; 607380, 4065110; 607368, 4065080; 607348, 4065070; 607318, 4065060; 607293, 4065030; 607304, 4064990; 607299, 4064960; 607287, 4064930; 607246, 4064920; 607225, 4064900; 607205, 4064880; 607184, 4064840; 607179, 4064820; 607181, 4064800; 607208, 4064770; 607227, 4064740; 607260, 4064740; 607286, 4064720; 607292, 4064700; 607286, 4064680; 607249, 4064660; 607232, 4064620; 607238, 4064590; 607274, 4064550; 607281, 4064540; 607294, 4064500; 607290, 4064460; 607289, 4064430; 607300, 4064410; 607301, 4064380; 607287, 4064360; 607279, 4064350; 607295, 4064280; 607293, 4064270; 607266, 4064200; 607240, 4064150; 607215, 4064010; 607213, 4063970; 607202, 4063910; 607164, 4063590; 607234, 4063570; 607298, 4063560; 607401, 4063570; 607397, 4063420; 607137, 4062840; 607089, 4062730; 607053, 4062640; 606957, 4062670; 606681, 4062190; 606671, 4062130; 606572, 4061990; 606653, 4061940; 606642, 4061780; 606595, 4061610; 606497, 4061370; 606456, 4061250; 606413, 4061090; 606388, 4060900; 606384, 4060750; 606390, 4060630; 606431, 4060410; 606349, 4060380; 606397, 4060190; 606398, 4060150; 606392, 4060110; 606370, 4060070; 606443, 4060020; 606446, 4059960; 606490, 4059930; 606225, 4059380; 606149, 4059230; 606099, 4059150; 606046, 4059050; 605974, 4058940; 605942, 4058880; 605907, 4058790; 605865, 4058670; 605824, 4058530; 605779, 4058390; 605739, 4058410; 605709, 4058350; 605679, 4058360; 605597, 4058300; 605587, 4058210; 605728, 4058160; 605683, 4058030; 605674, 4057900; 605679, 4057760; 605681, 4057670; 605667, 4057540; 605662, 4057410; 605671, 4057320; 605690, 4057220; 605712, 4057150; 605763, 4057020; 605768, 4056980; 605756, 4056940; 605731, 4056910; 605601, 4056830; 605457, 4056770; 605429, 4056740; 605335, 4056560; 605360, 4056450; 605361, 4056420; 605356, 4056390; 605232, 4056160; 605223, 4056120; 605212, 4056090; 605153, 4056050; 604951, 4055890; 604786, 4055710; 604498, 4055350; 604397, 4055200; 604345, 4055090; 604323, 4055020; 604293, 4054950; 604254, 4054900; 604077, 4054660; 604008, 4054570; 603934, 4054470; 603914, 4054400; 603758, 4054200; 603736, 4054150; 603698, 4054070; 603648, 4053990; 603594, 4053910; 603545, 4053860; 603543, 4053710; 603498, 4053700; 603401, 4053660; 603364, 4053640; 603320, 4053600; 603335, 4053580; 603290, 4053540; 603222, 4053420; 603152, 4053260; 603158, 4053210; 603102, 4053060; 603149, 4052990; 603150, 4052980; 603147, 4052960; 603096, 4052990; 603056, 4052910; 603119, 4052890; 603105, 4052840; 603074, 4052850; 603067, 4052850; 603003, 4052800; 603039, 4052740; 603049, 4052710; 603024, 4052700; 602999, 4052730; 602963, 4052720; 602914, 4052830; 602871, 4052850; 602845, 4052860; 602780, 4052760; 602806, 4052750; 602770, 4052660; 602671, 4052640; 602659, 4052690; 602611, 4052730; 602425, 4052530; 602326, 4052440; 602248, 4052390; 602163, 4052350; 602134, 4052330; 602131, 4052280; 602065, 4052230; 602006, 4052170; 601945, 4052080; 601903, 4052010; 601880, 4051960; 601861, 4051890; 601842, 4051810; 601833, 4051730; 601832, 4051700; 601826, 4051670; 601818, 4051630; 601800, 4051600; 601772, 4051570; 601736, 4051550; 601632, 4051500; 601544, 4051450; 601498, 4051530; 601380, 4051790; 601263, 4051720; 601295, 4051660; 601075, 4051550; 601119, 4051460; 601083, 4051440; 601110, 4051380; 601022, 4051340; 601052, 4051270; 601127, 4051300; 601153, 4051260; 601146, 4051250; 601164, 4051210; 601133, 4051180; 601087, 4051180; 601052, 4051180; 600882, 4051530; 601085, 4051640; 601525, 4051960; 602083, 4052410; 602477, 4052860; 602681, 4053110; 602837, 4053320; 603008, 4053530; 603222, 4053820; 603487, 4054230; 603693, 4054580; 603944, 4055020; 604173, 4055500; 604253, 4055650; 604429, 4056020; 604655, 4056510; 604819, 4056880; 605042, 4057450; 605354, 4058250; 605467, 4058540; 605565, 4058850; 605709, 4059360; 605837, 4059750; 605918, 4060030; 605986, 4060400; 606155, 4061060; 606243, 4061540; 606282, 4061740; 606323, 4062140; 606374, 4062470; 606411, 4062640; 606421, 4062850; 606470, 4063150; 606518, 4063360; 606541, 4063510; 606538, 4063630; 606570, 4063740; 606614, 4064230; 606601, 4064690; 606602, 4065090; 606621, 4065500; 606623, 4066060.

(ii) Excluding lands bounded by: 604634, 4056280; 604620, 4056260; 604616, 4056260; 604611, 4056230; 604611, 4056230; 604612, 4056220; 604618, 4056210; 604626, 4056200; 604632, 4056190; 604633, 4056180; 604631, 4056170; 604626, 4056160; 604616, 4056150; 604608, 4056140; 604603, 4056130; 604601, 4056120; 604602, 4056100; 604603, 4056090; 604599, 4056080; 604593, 4056080; 604579, 4056080; 604571, 4056080; 604559, 4056080; 604539, 4056090; 604530, 4056090; 604523, 4056090; 604516, 4056080; 604514, 4056070; 604514, 4056070; 604519, 4056050; 604526, 4056030; 604528, 4056010; 604526, 4056010; 604522, 4056000; 604517, 4055990; 604501, 4055980; 604491, 4055980; 604479, 4055970; 604467, 4055960; 604459, 4055940; 604456, 4055930; 604450, 4055920; 604443, 4055910; 604423, 4055890; 604420, 4055880; 604422, 4055870; 604427, 4055850; 604438, 4055850; 604451, 4055850; 604473, 4055860; 604484, 4055860; 604498, 4055870; 604510, 4055890; 604524, 4055910; 604537, 4055920; 604560, 4055940; 604578, 4055950; 604613, 4055970; 604651, 4056000; 604697, 4056070; 604723, 4056120; 604729, 4056140; 604733, 4056160; 604736, 4056180; 604730, 4056240; 604724, 4056270; 604710, 4056290; 604702, 4056300; 604676, 4056300; 604653, 4056300; 604634, 4056280.

(iii) Map Unit C follows.

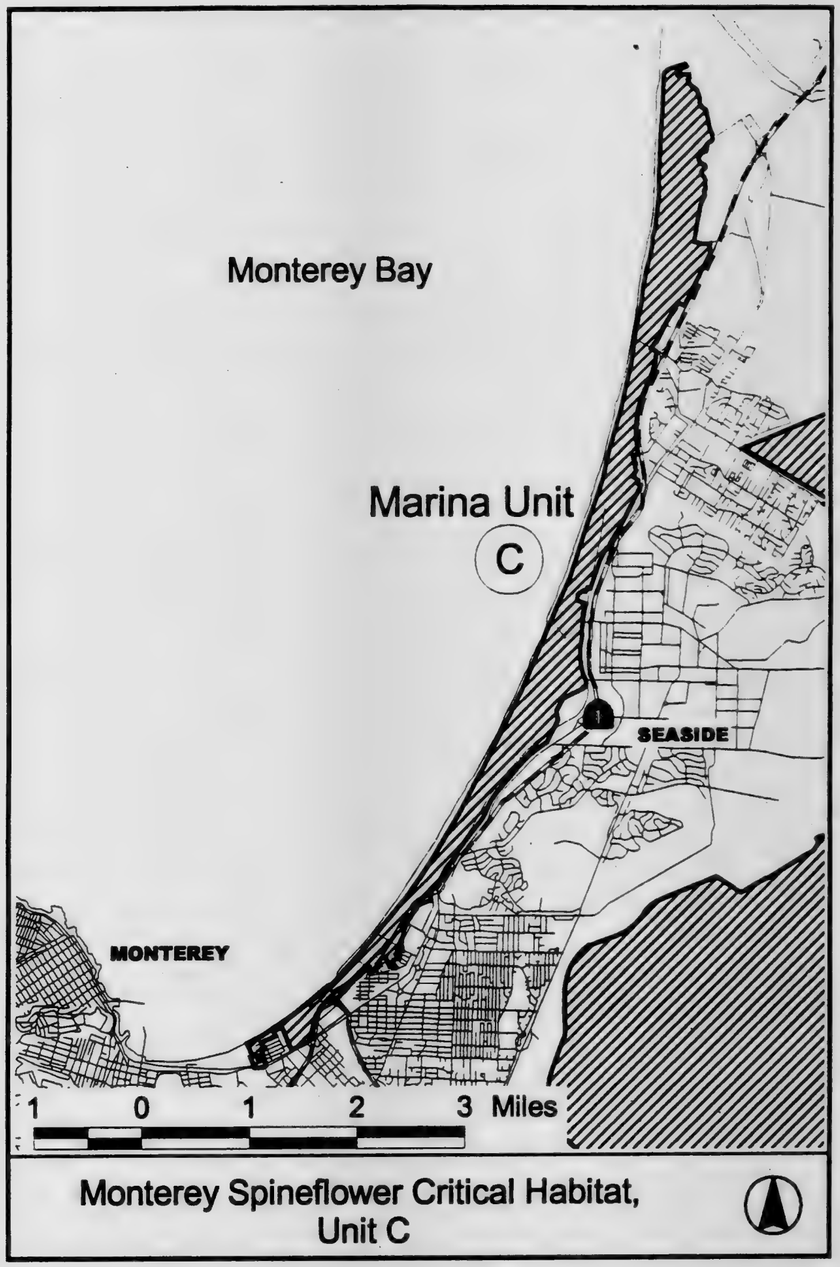

(8) Unit D: *Asilomar Unit.* Monterey County, California.

(i) From USGS 1:24,000 quadrangle map Monterey, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 594965, 4054010;

595058, 4053990; 595108, 4054000; 595134, 4054000; 595161, 4054010; 595209, 4054010; 595169, 4053780; 595109, 4053660; 595094, 4053520; 595130, 4053330; 595156, 4053180; 595123, 4053070; 595110, 4053000; 595124, 4052910; 595121, 4052820; 595106, 4052820; 595073, 4052820; 595052, 4052830; 595053, 4052780; 595092, 4052740; 595058, 4052680; 595056, 4052670; 595044, 4052670; 595037, 4052670; 595025, 4052670; 595018, 4052670; 595009, 4052670; 594992, 4052680; 594980, 4052690; 594972, 4052690; 594959, 4052690; 594945, 4052690; 594937, 4052700; 594919, 4052710; 594910, 4052730; 594890, 4052750; 594850, 4052730; 594804, 4052680; 594791, 4052660; 594784, 4052650; 594773, 4052630; 594792, 4052590; 594811, 4052550; 594694, 4052540; 594526, 4052550; 594534, 4052510; 594523, 4052450; 594524, 4052440; 594509, 4052430; 594504, 4052420; 594498, 4052390; 594501, 4052370; 594514, 4052340; 594541, 4052320; 594555, 4052270; 594635, 4052140; 594632, 4052050; 594582, 4051940; 594530, 4051900; 594505, 4051850; 594455, 4051780; 594397, 4051730; 594293, 4051610; 594279, 4051580; 594283, 4051540; 594293, 4051500; 594310, 4051460; 594308, 4051430; 594279, 4051420; 594177, 4051500; 594123, 4051570; 594062, 4051570; 593904, 4051550; 593762, 4051690; 593643, 4051860; 593651, 4051950; 593714, 4051950; 593821, 4051970; 593939, 4052020; 594032, 4052080; 594113, 4052160; 594152, 4052220; 594236, 4052480; 594251, 4052600; 594348, 4052640; 594497, 4052770; 594662, 4053030; 594680, 4053080; 594680, 4053140; 594667, 4053170; 594658, 4053250; 594618, 4053310; 594619, 4053330; 594673, 4053460; 594648, 4053560; 594648, 4053580; 594655, 4053600; 594727, 4053640; 594734, 4053640; 594740, 4053670; 594751, 4053690; 594765, 4053700; 594763, 4053750; 594755, 4053770; 594750, 4053790; 594766, 4053800; 594788, 4053800; 594800, 4053810; 594811, 4053820; 594817, 4053850; 594813, 4053880; 594795, 4053910; 594788, 4053930; 594776, 4053950; 594778, 4053960; 594784, 4053980; 594798, 4054000; 594807, 4054010; 594822, 4054020; 594862, 4054000; 594883, 4054000; 594906, 4054000; 594928, 4054010; 594949, 4054040; 594950, 4054060; 594944, 4054110; 594952, 4054170; 594968, 4054190; 594979, 4054240; 594977, 4054290; 594972, 4054310; 595001, 4054350; 594980, 4054390; 594962, 4054440; 594960, 4054480; 594946, 4054510; 594953, 4054540; 594944, 4054560; 594905, 4054620; 595068, 4054580; 595069, 4054560; 595069, 4054480; 595048, 4054460; 595028, 4054430; 595022, 4054380; 595028, 4054350; 595032, 4054330; 595029, 4054290; 594965, 4054010.

(ii) Map Unit D follows.

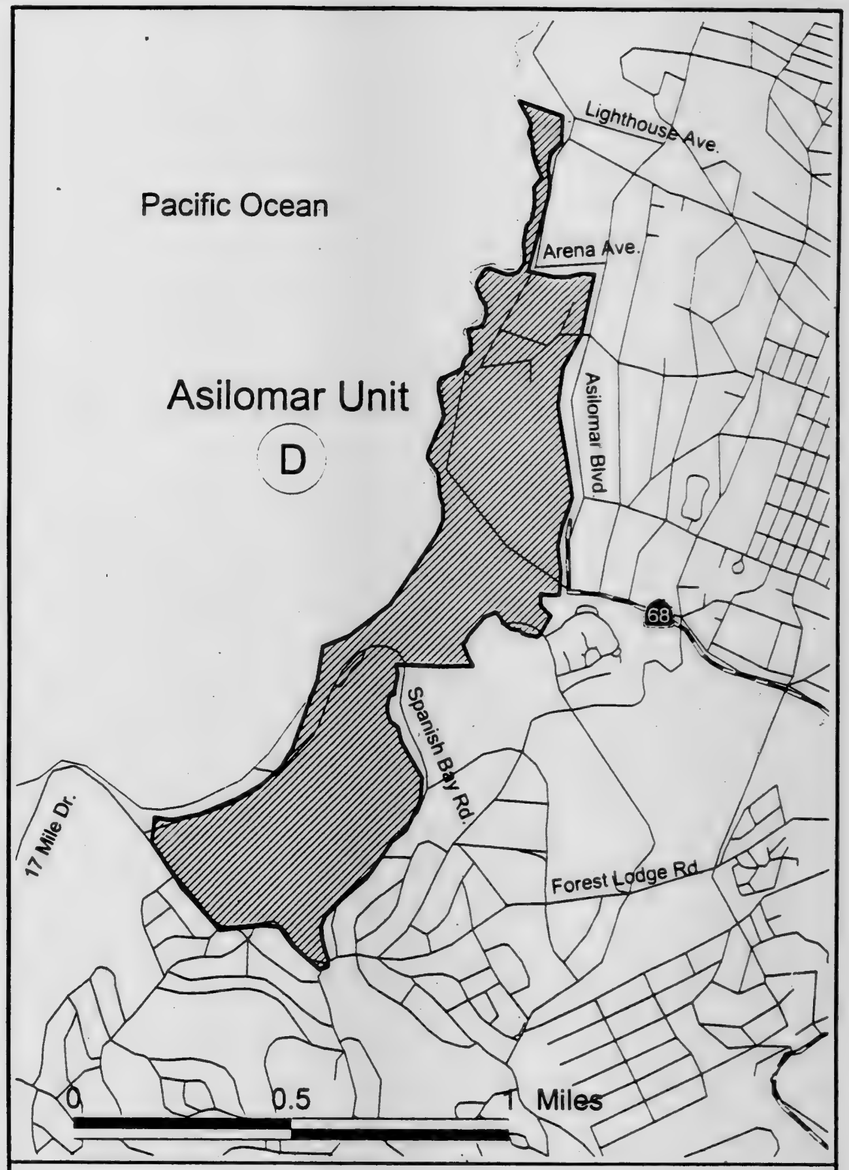

Monterey Spineflower Critical Habitat, Unit D

(9) Unit E: *Freedom Boulevard Unit.* Santa Cruz County, California.

(i) From USGS 1:24,000 quadrangle map Watsonville West, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 601095, 4093430; 601117, 4093530; 601180, 4093690; 601315, 4093840; 601452, 4093950; 601490, 4094270; 601612, 4094230; 601623, 4094260; 601689, 4094260; 601755, 4094270; 601845, 4094270; 601848, 4094180; 601789, 4094180; 601789, 4094210; 601740, 4094210; 601735, 4093980; 601871, 4093970; 602214, 4093960; 602341, 4093960; 602500, 4093980; 602626, 4094000; 602637, 4093460; 601095, 4093430.

(ii) Map Unit E follows.

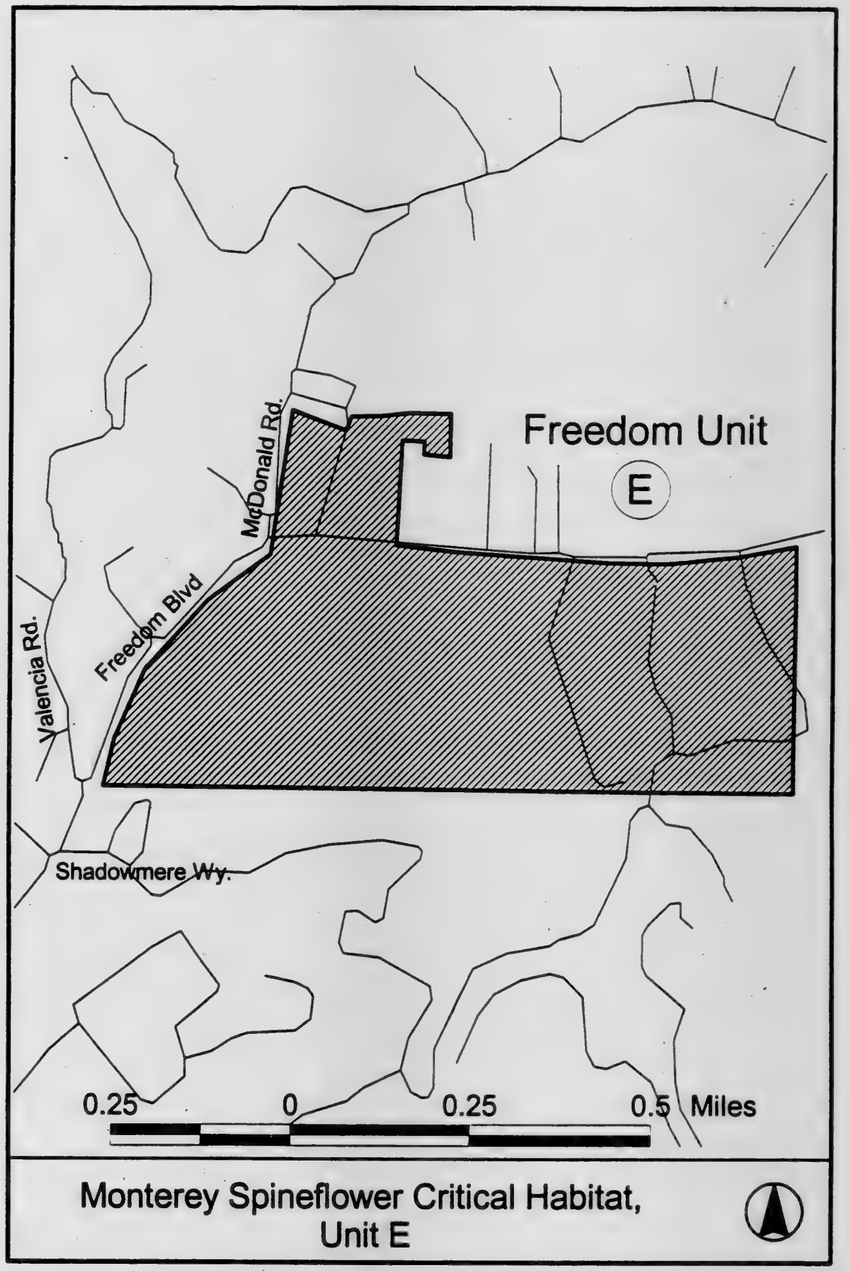

(10) Unit F: *Bel Mar unit.* Santa Cruz County, California.

(i) From USGS 1:24,000 quadrangle map Watsonville West, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 602688, 4089780;

602766, 4089690; 602836, 4089680; 602858, 4089690; 602855, 4089770; 602944, 4089760; 602971, 4089740; 602991, 4089730; 603014, 4089730; 603059, 4089720; 603114, 4089710; 603129, 4089700; 603130, 4089600; 603154, 4089600; 603177, 4089630; 603201, 4089690; 603236, 4089670; 603292, 4089680; 603373, 4089660; 603481, 4089550; 603476, 4088970; 603457, 4088980; 603120, 4089220; 602693, 4089570; 602688, 4089780.

(ii) Map Unit F follows.

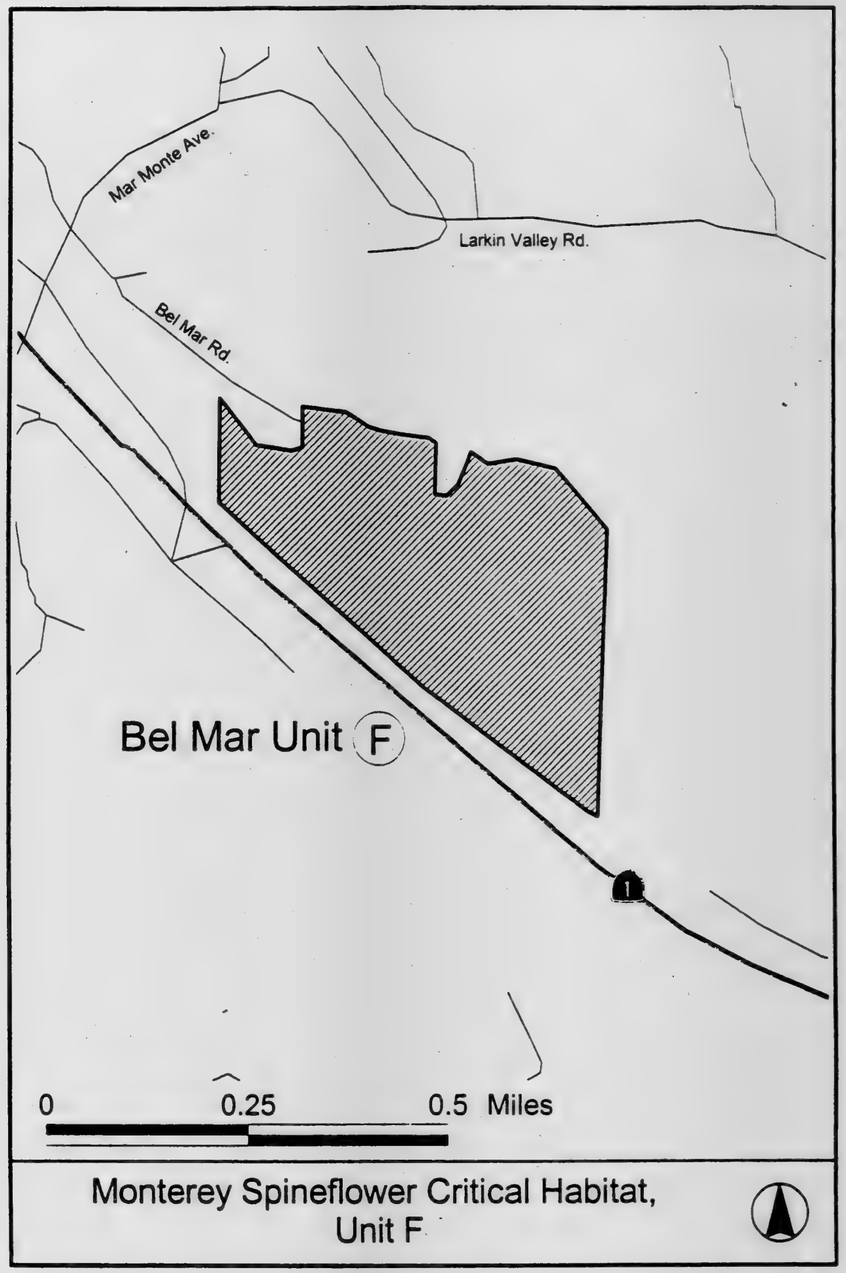

Monterey Spineflower Critical Habitat, Unit F

(11) Unit G: *Prunedale Unit.* Monterey County, California. From USGS 7.5′ quadrangle map Prunedale, California.

(i) From USGS 1:24,000 quadrangle map Prunedale, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N). Western portion: 618343, 4074370; 618464, 4074420; 618606, 4074310; 618731, 4074180; 618828, 4074060; 618863, 4073950; 618915, 4073840; 618988, 4073730; 618993, 4073540; 618770, 4073470; 618751, 4073250; 618562, 4073110; 618572, 4072940; 618441, 4072930; 618443, 4072790; 618391, 4072780; 618346, 4072790; 618096, 4072780; 617914, 4072790; 617680, 4072780; 617591, 4072770; 616784, 4072740; 616781, 4072840; 616855, 4072890; 616906, 4072970; 616780, 4073090; 616783, 4073170; 616796, 4073480; 616951, 4073470; 617265, 4073640; 617366, 4073630; 617373, 4073410; 617490, 4073370; 617670, 4073350; 617722, 4073410; 617785, 4073420; 617979, 4073420; 618035, 4073600; 618057, 4073760; 618132, 4073840; 618119, 4073960; 618076, 4074170; 618162, 4074290; 618279, 4074360; 618343, 4074370.

(ii) Eastern Portion: 619646, 4070100; 619725, 4069980; 619688, 4069950; 619448, 4070010; 619226, 4069890; 619285, 4069780; 619266, 4069740; 619221, 4069550; 618942, 4069540; 618864, 4069810; 619102, 4069960; 619089, 4070090; 618943, 4070330; 619120, 4070420; 619071, 4070520; 619240, 4070570; 619422, 4070750; 619410, 4070950; 619442, 4070960; 619414, 4071320; 619402, 4071420; 618929, 4071400; 618825, 4071490; 618773, 4071490; 618871, 4072100; 618932, 4072480; 618960, 4072480; 618970, 4072520; 618989, 4072550; 619018, 4072580; 619091, 4072600; 619147, 4072610; 619263, 4072660; 619257, 4072680; 619212, 4072790; 619196, 4072830; 619158, 4072860; 619117, 4072860; 619072, 4072850; 618989, 4072850; 619011, 4073000; 619072, 4073250; 619138, 4073380; 619266, 4073530; 619365, 4073610; 619404, 4073530; 619483, 4073570; 619496, 4073510; 619614, 4073560; 619593, 4073630; 619905, 4073740; 619988, 4073780; 620028, 4073800; 620030, 4073820; 620125, 4073880; 620280, 4073980; 620392, 4074080; 620700, 4074380; 620956, 4074720; 621042, 4074860; 621284, 4075150; 621644, 4075400; 621980, 4075590; 622139, 4075460; 622413, 4075320; 622539, 4075210; 622554, 4074580; 622555, 4074040; 622576, 4072770; 622598, 4072010; 622602, 4071520; 622604, 4071130; 622618, 4069970; 622622, 4069580; 622509, 4069410; 622491, 4069430; 622428, 4069420; 622272, 4069360; 622140, 4069340; 621971, 4069380; 621770, 4069380; 621656, 4069350; 621720, 4069430; 621910, 4069460; 621983, 4069490; 622131, 4069500; 622325, 4069500; 622479, 4069550; 622386, 4069880; 622252, 4069830; 622227, 4069760; 622117, 4069660; 622063, 4069690; 622126, 4069780; 621657, 4069620; 621403, 4069520; 621423, 4069460; 621496, 4069420; 621536, 4069380; 621474, 4069380; 621404, 4069370; 621329, 4069410; 621258, 4069480; 620978, 4069380; 620900, 4069310; 620782, 4069280; 620768, 4069210; 620901, 4069030; 620986, 4069000; 621230, 4069030; 621485, 4069120; 621551, 4069140; 621693, 4069060; 621916, 4069000; 622049, 4068950; 622163, 4068890; 622089, 4068770; 620954, 4068750; 620129, 4068740; 620111, 4069100; 620598, 4069260; 620719, 4070460; 620207, 4070240; 620044, 4070200; 619538, 4070240; 619646, 4070100.

(iii) Map Unit G follows.

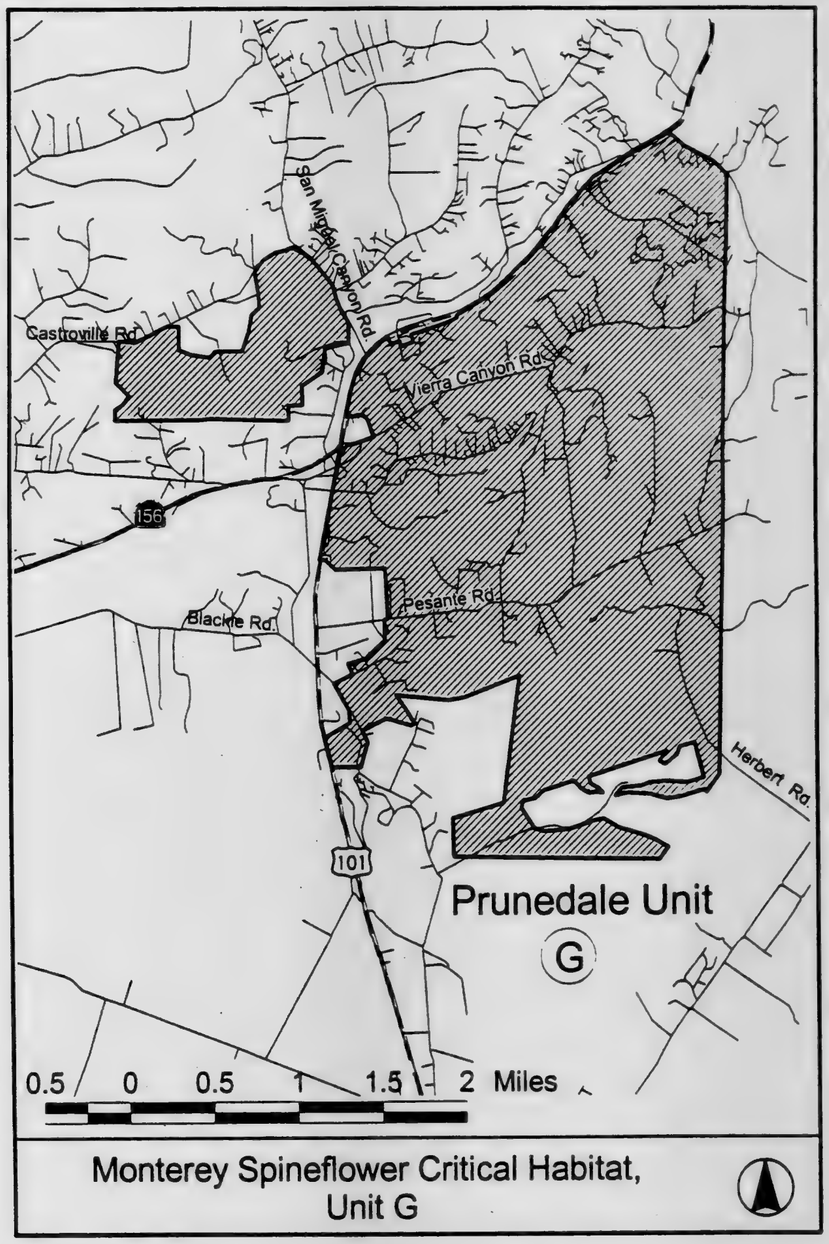

(12) Unit H: *Fort Ord Unit:* Monterey County, California.

(i) From USGS 1:24,000 quadrangle maps Marina, Salinas, Seaside, and Spreckels, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 609722, 4059410; 610035, 4059230; 610010, 4059190;

610075, 4059110; 610137, 4059070; 610131, 4059060; 610126, 4059050; 610120, 4059040; 610115, 4059040; 610109, 4059030; 610103, 4059020; 610097, 4059020; 610091, 4059010; 610085, 4059000; 610078, 4059000; 610072, 4058990; 610066, 4058990; 609965, 4058890; 609958, 4058900; 609998, 4059020; 609961, 4059180; 609940, 4059170; 609906, 4059210; 609932, 4059260; 609797, 4059340; 609773, 4059300; 609709, 4059310; 609697, 4059330; 609722, 4059410; 610492, 4059590; 610463, 4059610; 610456, 4059610; 610450, 4059620; 610444, 4059620; 610438, 4059620; 610430, 4059620; 610420, 4059620; 610408, 4059620; 610397, 4059620; 610389, 4059620; 610380, 4059610; 610372, 4059610; 610364, 4059600; 610355, 4059600; 610331, 4059590; 610317, 4059590; 610295, 4059580; 610279, 4059580; 610267, 4059580; 610255, 4059580; 610240, 4059580; 610221, 4059590; 610211, 4059590; 610201, 4059590; 610192, 4059590; 610236, 4059660; 610244, 4059660; 610255, 4059660; 610264, 4059650; 610273, 4059650; 610283, 4059650; 610293, 4059650; 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(ii) Excluding lands bounded by: 611438, 4056500; 611495, 4056520; 611476, 4056580; 611418, 4056560; 611438, 4056500.

Excluding lands bounded by: 611939, 4057140; 611960, 4057140; 611959, 4057160; 611938, 4057160; 611939, 4057140.

Excluding lands bounded by: 609833, 4053400; 609908, 4053360; 610068, 4053380; 610032, 4053600; 610030, 4053600; 610026, 4053600; 610022, 4053600; 610021, 4053600; 610019, 4053600; 609791, 4053560; 609792, 4053420; 609833, 4053400.

Excluding lands bounded by: 611759, 4053550; 611754, 4053540; 611727, 4053520; 611706, 4053510; 611679, 4053500; 611658, 4053490; 611642, 4053480; 611613, 4053450; 611582, 4053430; 611536, 4053420; 611500, 4053420; 611469, 4053410; 611436, 4053390; 611394, 4053340; 611367, 4053290; 611346, 4053240; 611313, 4053170; 611278, 4053120; 611240, 4053070; 611218, 4053040; 611270, 4053010; 611305, 4052990; 611336, 4052970; 611371, 4052940; 611402, 4052910; 611442, 4052910; 611514, 4052860; 611524, 4052850; 611585, 4052980; 611610, 4053050; 611638, 4053130; 611670, 4053190; 611724, 4053240; 611761, 4053280; 611826, 4053310; 611953, 4053370; 611994, 4053390; 612029, 4053400; 612049, 4053520; 611979, 4053570; 611863, 4053640; 611759, 4053550.

(iii) Map Unit H follows.

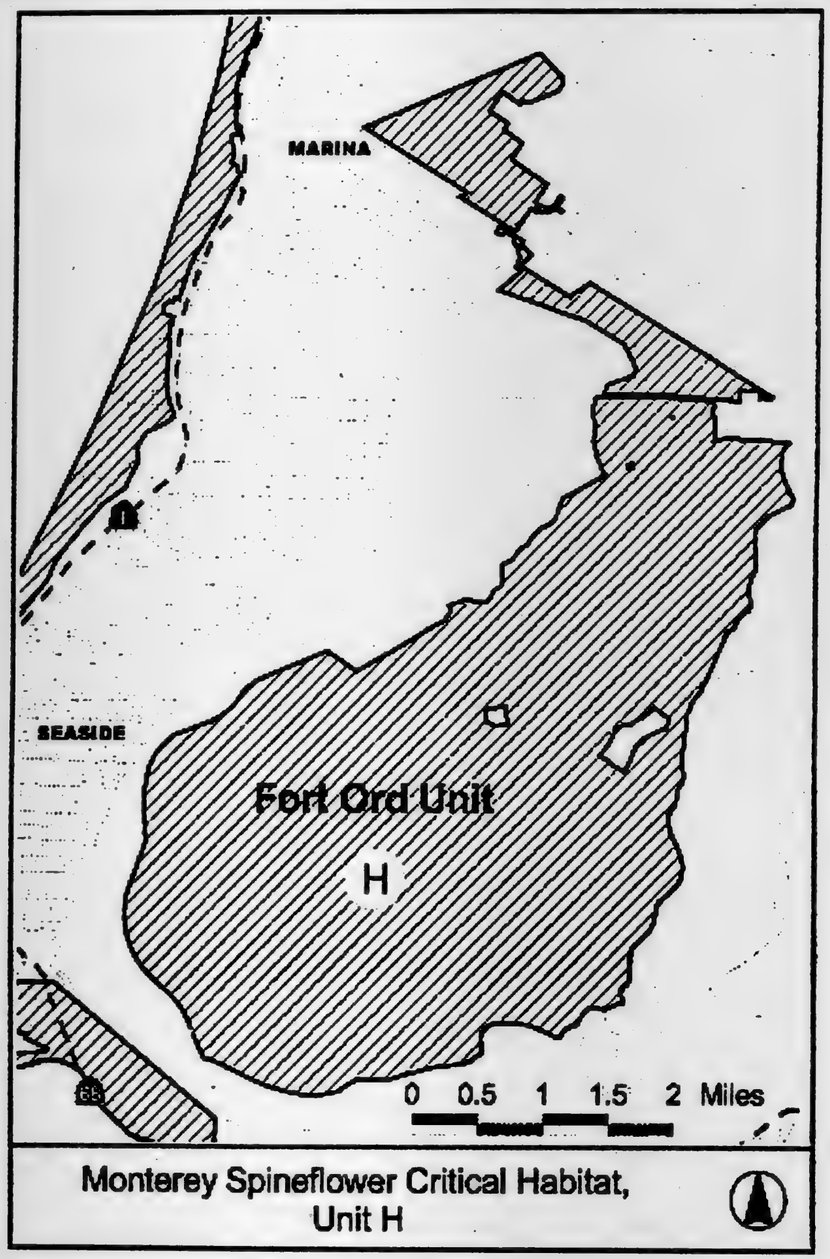

Monterey Spineflower Critical Habitat,
Unit H

(13) Unit I: *Del Rey Oaks Unit.* Monterey County, California.

(i) From USGS 1:24,000 quadrangle map Seaside lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 603516, 4050050; 604562, 4050070; 606616, 4048490; 606612, 4048020; 606317, 4048090; 606197, 4048120; 606101, 4048130; 605982, 4048140; 605862, 4048150; 605758, 4048170; 605649, 4048200; 605557, 4048250; 605206, 4048580; 604937, 4048980; 604820, 4049060; 604710, 4049100; 604599, 4049130; 604457, 4049120; 604340, 4049080; 604209, 4049040; 604094, 4049010; 604000, 4049010; 603918, 4049020; 603802, 4049040; 603692, 4049080; 603525, 4049140; 603521, 4049490; 603993, 4049300; 604045, 4049220; 604128, 4049190; 604195, 4049200; 604280, 4049200; 604377, 4049210; 604452, 4049220; 604491, 4049220; 604502, 4049260; 604228, 4049370; 604242, 4049410; 604148, 4049450; 604143, 4049440; 603678, 4049620; 603655, 4049670; 603519, 4049730; 603516, 4050050.

(ii) Map Unit I follows.

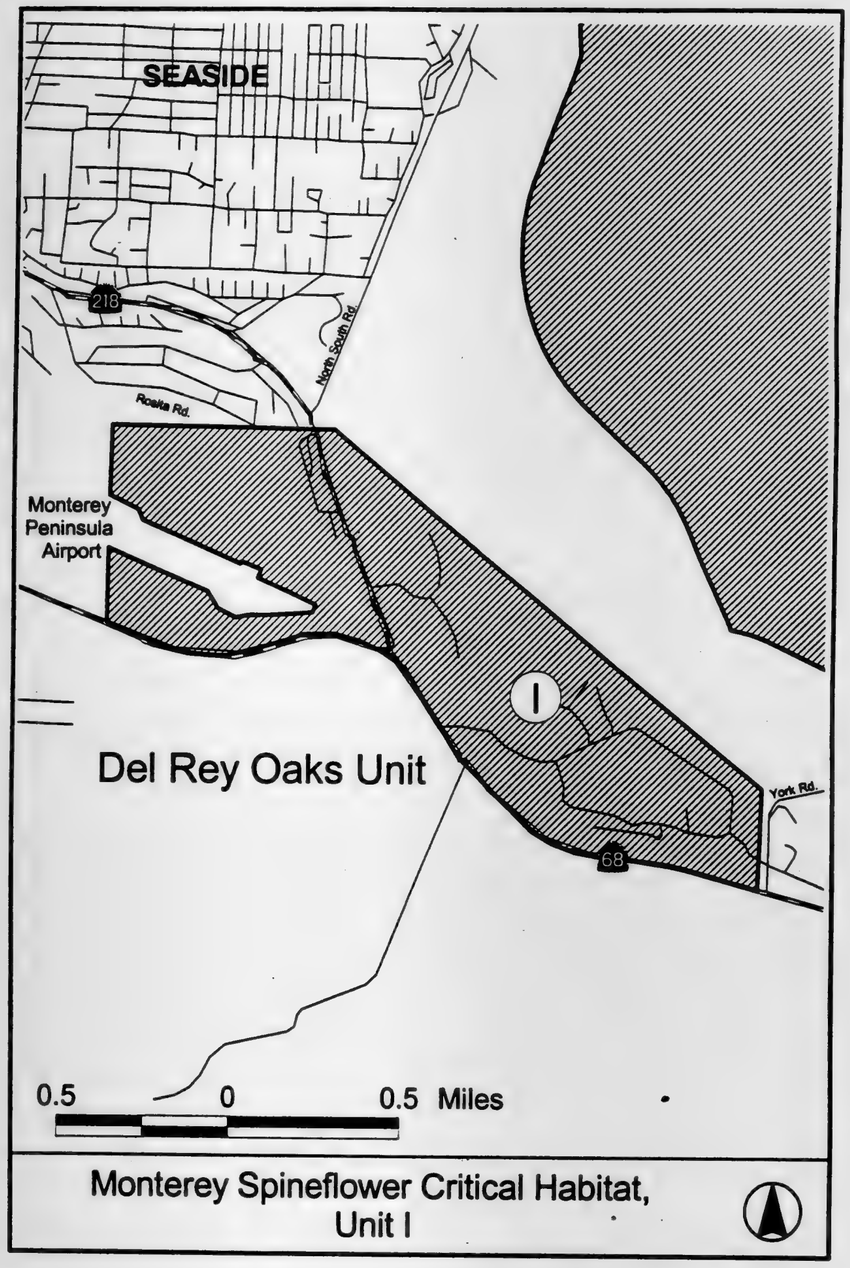

Monterey Spineflower Critical Habitat, Unit I

(14) Unit J: *Soledad Unit.* Monterey County, California.

(i) From USGS 1:24,000 quadrangle map Soledad, lands bounded by the following UTM zone 10 NAD83 coordinates (E,N): 653580, 4030090; 653997, 4030130; 654337, 4030190; 654644, 4030250; 655780, 4030290; 655904, 4030220; 655999, 4030140; 655999, 4029880; 654381, 4029810; 654381, 4029730; 654236, 4029680; 654093, 4029660; 653886, 4029650; 653594, 4029550; 653609, 4029810; 653580, 4030090.

(ii) Map Unit J follows.

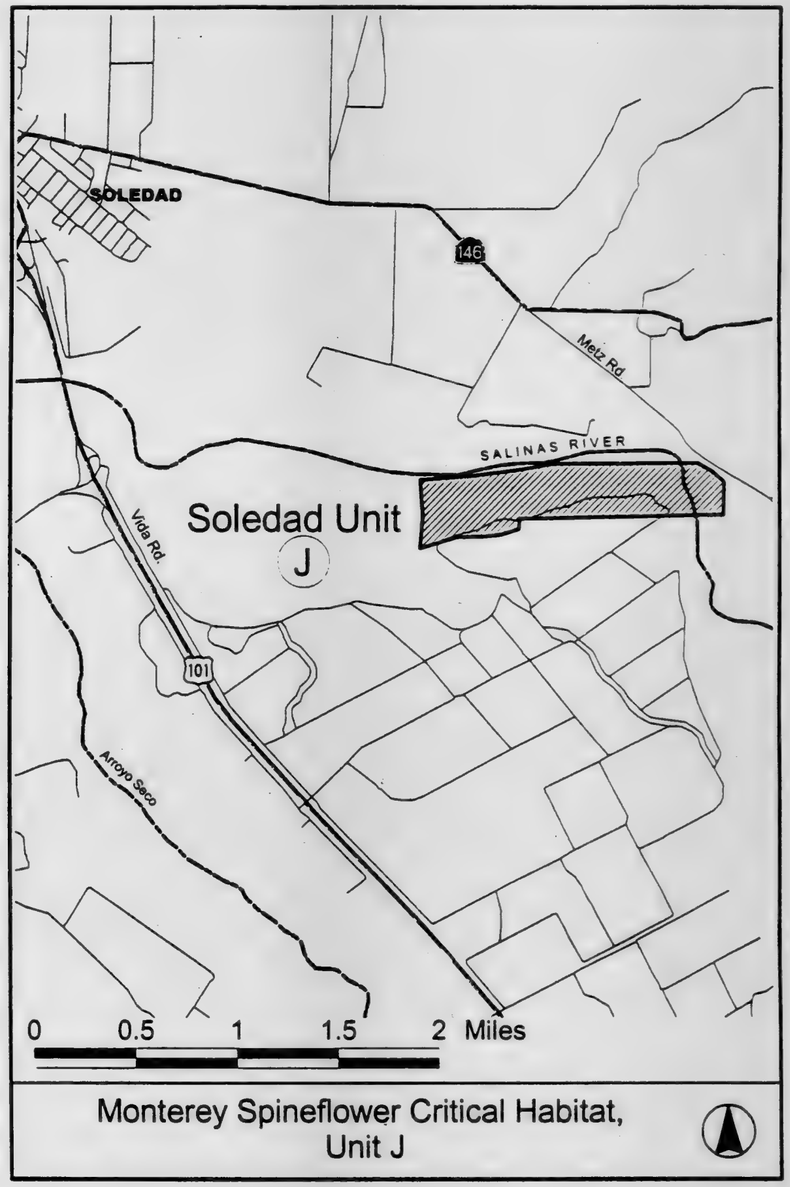

Monterey Spineflower Critical Habitat, Unit J

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Dated: May 17, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13065 Filed 5–28–02; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Wednesday,
May 29, 2002

Part IV

Environmental Protection Agency

40 CFR Part 94

Control of Emissions of Air Pollution From New Marine Compression-Ignition Engines at or Above 30 Liters/Cylinder; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 94

[AMS–FRL–7207–3]

RIN 2060–AJ98

Control of Emissions of Air Pollution from New Marine Compression-Ignition Engines At or Above 30 Liters/Cylinder

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this action, we are proposing emission standards for new marine diesel engines at or above 30 liters per cylinder and 2.5 to 30 liters per cylinder on U.S. vessels. Marine diesel engines at or above 30 liters per cylinder are very large marine engines used primarily for propulsion power on ocean-going vessels such as container ships, tankers, bulk carriers, and cruise ships. The vessels that use these engines are flagged in the United States and in other countries. Nationwide, these engines contribute to ozone and carbon monoxide nonattainment and to ambient particulate matter levels, particularly in commercial ports and along coastal areas.

We are proposing emission controls for these engines at or above 30 liters per cylinder on U.S. vessels. We are proposing a first tier that is equivalent to the internationally negotiated oxides of nitrogen standards and would be enforceable under U.S. law for new engines built in 2004 and later. We are also considering adoption of a subsequent second tier of standards, which would reflect additional reductions that can be achieved through engine-based controls, and would apply to new engines built after 2006 or later. In addition, we are proposing voluntary low-emission engine standards that reflect advanced oxides of nitrogen emission-control technologies. Meeting these standards would likely require the use of technologies such as selective catalyst reduction or fuel cells. If the second tier is promulgated, we would review the second tier standards prior to their effective date to take into consideration continued development of new technologies, such as selective catalyst reduction and water-based emission reduction techniques, and international activity such as action at the International Maritime Organization to set more stringent international standards. Consistent with these factors, EPA is also considering not adopting Tier 2 standards in this rulemaking, and instead establishing a schedule for a future rulemaking and addressing Tier 2 standards in that future rulemaking.

Emissions from all marine diesel engines at or above 30 liters per cylinder, regardless of flag of registry, currently account for about 1.5 percent of national mobile source oxides of nitrogen emissions. This contribution can be significantly higher on a port-specific basis (5 to 25 percent of mobile source emissions in certain key ports by the year 2020). The standards discussed in this notice, which would apply only to new engines on U.S. flag vessels, are expected to reduce these national emissions by about 11 percent by 2030.

The contribution of these engines to national mobile source hydrocarbon and carbon monoxide inventories is small, less than 0.1 percent, and we are considering standards to ensure that these emissions do not increase on a engine-specific basis. The contribution of these engines to the national mobile source particulate matter inventory is about 2.6 percent. Reductions in particulate emissions could be obtained from setting a sulfur content standard for the fuels that are used by these engines, and we request comment on whether we should adopt such standards and, if so, the level of sulfur that should be allowed.

We are also proposing new requirements for engines at or above 2.5 liters per cylinder but less than 30 liters per cylinder. The Tier 2 standards finalized for these engines in our 1999 commercial marine diesel engine rule apply beginning in 2007. Until then, engine manufacturers are encouraged to voluntarily comply with the Tier 1 standards, which are equivalent to the internationally negotiated NO_X standards. The international NO_X standards are not yet enforceable. Given that they have not yet entered into force, we believe it is appropriate to begin to require engine manufacturers to certify these engines to the Tier 1 standards, starting in 2004. We are also proposing to eliminate the foreign trade exemption for all marine diesel engines, which was available for engines installed on vessels that spend less than 25 percent of total operating time with 320 kilometers of U.S. territory.

The proposed standards would apply to engines installed on vessels flagged in the United States. Recognizing that foreign-flag vessels constitute a significant portion of emissions from these engines, we are seeking comment on whether the proposed standards and existing Category 1 and Category 2 standards should also apply to marine engines on foreign vessels entering U.S. ports and to no longer exclude such foreign vessels from the emission standards. If we were to determine that the standards should apply to engines on foreign vessels that enter U.S. ports, then all emission standards for marine diesel engines would apply, including those we finalized for marine diesel engines less than 30 liters per cylinder in our 1999 rule.

DATES: *Comments:* Send written comments on this proposed rule by July 16, 2002. See Section IX.A of **SUPPLEMENTARY INFORMATION** for more information about written comments.

Hearing: We will hold a public hearing on June 13, 2002 in Long Beach, California. See Section IX.B of **SUPPLEMENTARY INFORMATION** for more information about the public hearing.

ADDRESSES: *Comments:* You may send written comments in paper form or by e-mail. We must receive them by the date indicated under **DATES** above. Send paper copies of written comments (in duplicate, if possible) to the contact person listed below. You may also submit comments via e-mail to "*c3marine@epa.gov.*" In your correspondence, refer to Docket A–2001–11. See Section IX.A for more information on comment procedures.

Docket: EPA's Air Docket makes materials related to this rulemaking available for review in Public Docket A–2001–11 at the following address: U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500 (on the ground floor in Waterside Mall), 401 M Street, S.W., Washington, DC 20460 between 8 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202)260–7548, and by facsimile at (202)260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2.

Hearing: We will hold a public hearing at the Hyatt Regency, 200 South Pine Avenue, Long Beach, California, 90802 (562) 491-1234. If you want to testify at the hearing, notify the contact person listed below at least ten days before the date of the hearing. See Section IX.B for more information on the public hearing procedures.

FOR FURTHER INFORMATION CONTACT: Margaret Borushko, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105; Telephone (734)214–4334; Fax: (734)214–4816, E-mail: *borushko.margaret@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected Entities

This proposed action would affect companies and persons that manufacture, sell, or import into the United States new marine compression-ignition engines for use on vessels flagged or registered in the United States; companies and persons that make vessels that will be flagged or registered in the United States and that use such engines; and the owners/operators of such U.S.-flag vessels. We are inviting comment on including foreign flagged vessels. Further requirements apply to companies and persons that rebuild or maintain these engines. Affected categories and entities include:

Category	NAICS code[a]	Examples of potentially affected entities
Industry	333618	Manufacturers of new marine diesel engines.
Industry	336611	Manufacturers of marine vessels.
Industry	811310	Engine repair and maintenance.
Industry	483	Water transportation, freight and passenger.
Industry	324110	Petroleum refinenes.
Industry	422710	Petroleum Bulk Stations and Terminals; Petro-
	422720	leum and Petroleum Products Wholesalers.

[a] North American Industry Classification System (NAICS).

This list is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. To determine whether particular activities may be affected by this action, you should carefully examine the proposed regulations. You may direct questions regarding the applicability of this action to the person listed in **FOR FURTHER INFORMATION CONTACT**.

Additional Information About This Rulemaking

Emission standards for new marine diesel engines at or above 30 liters per cylinder were considered by EPA in two previous rulemakings, in 1996 and in 1999. The notice of proposed rulemaking for the first rule (for the control of air pollution from new gasoline spark-ignition and diesel compression-ignition marine engines) can be found at 59 FR 55930 (November 1994); a supplemental notice of proposed rulemaking can be found at 61 FR 4600 (February 7, 1996); and the final rule can be found at 61 FR 52088 (October 4, 1996). The notice of proposed rulemaking for the second rule (for the control of air pollution from new compression-ignition marine engines at or above 37 kW) can be found at 63 FR 68508 (December 11, 1998); the final rule can be found at 64 FR 73300 (December 29, 1999). These documents are available on our websites, *http://www.epa.gov/otaq/marine.htm* and http://www.epa.gov/otaq.marinesi.htm This proposal relies in part on information that was obtained for those rulemakings, which can be found in Public Dockets A–92–28 and A–97–50. Those dockets are incorporated by reference into the docket for this proposal, A–2001–11.

Obtaining Electronic Copies of the Regulatory Documents

The preamble, regulatory language, Draft Regulatory Support Document, and other rule documents are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost incurred for internet connectivity. The electronic version of this proposed rule is made available on the date of publication on the primary web site listed below. The EPA Office of Transportation and Air Quality also publishes **Federal Register** notices and related documents on the secondary web site listed below.

1. *http://www.epa.gov/docs/fedrgstr/EPA-AIR* (either select desired date or use Search features).

2. *http://www.epa.gov/otaq* (look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the documents and the software into which the document may be downloaded, format changes may occur.

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I. Introduction

A. Overview

Marine diesel engines can be significant contributors to local ozone, CO, and PM levels, particularly in commercial ports and along coastal areas. In recognition of their inventory impact, we recently set emission standards for new marine diesel engines above 37 kW but less than 30 liters per cylinder (64 FR 73300, December 29, 1999). The standards contained in that rule cover emissions of oxides of nitrogen (NO_X), particulate matter (PM), hydrocarbons (HC), and carbon monoxide (CO), and go into effect in 2004–2007, depending on engine size. Those standards are more stringent than the international standards contained in Annex VI to the International Convention on the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto (this convention is also known as MARPOL; the standards are referred to as the Annex VI NO_X limits).[1] They also cover more pollutants, as the MARPOL limits are for NO_X emissions only. As described in Section D, below, the Annex has not yet gone into force because the requisite number of countries have not ratified it. Prior to the effective date of the national standards, engine manufacturers are encouraged to voluntarily comply with the Annex VI NO_X limits pending entry into force of Annex VI. We developed a voluntary certification program to enable engine manufacturers to certify to the Annex VI NO_X limits prior to the Annex VI requirements entering into force. The national emission requirements apply only to engines on vessels flagged in the United States. Marine engines on foreign vessels were not covered by the rule.

We did not set standards for new marine diesel engines at or above 30 liters per cylinder in our 1999 rule. Our analysis at the time indicated that the Annex VI NO_X limits were appropriate given the operating characteristics and fuel used by these engines. Rather than duplicate the Annex VI emission control program in our federal regulations, we encouraged engine manufacturers to comply with the Annex VI limits using our voluntary certification program.

We also indicated that we would revisit the need to adopt emission limits for these engines under the Clean Air Act if the Annex does not go into effect internationally.

Although more than four years have gone by since Annex VI was adopted by the Parties to the Convention, it has not yet entered into force. There is growing concern in the United States that there are no enforceable standards for these large marine engines. Also, recently developed inventories suggest that the inventory contribution of these engines can be very high in individual port areas. We estimate that these engines account for about 1.5 percent of national mobile source NO_X emissions. This contribution can be significantly higher on a port-specific basis. For example, we estimate that these engines contribute about 7 percent of mobile source NO_X in the Metropolitan Statistical Areas (MSA) of Baton Rouge/ New Orleans and Wilmington NC, about 5 percent of mobile source NO_X in the Miami/ Fort Lauderdale and Corpus Christi MSAs, and about 4 percent in the Seattle/Tacoma/Bremerton/ Bellingham MSA. In addition, these ships can have a significant impact on inventories in areas without large commercial ports. For example, Santa Barbara estimates that engine on ocean-going marine vessels contribute about 37 percent of total NO_X in their area. These emissions are from ships that transit the area, and "are comparable to (even slightly larger than) the amount of NO_X produced onshore by cars and truck.[2] These emissions are expected to increase to 62 percent by 2015.

We estimate the contribution of these engines to national PM levels is about 2.6 percent, but can also be higher on a port-specific area (see Table 2.6–1 in the draft Regulatory Support Document (RSD) for this rule and associated text). The estimated contribution of these engines to national HC and CO emissions is negligible. The inventory contribution of these engines to national NO_X, PM, HC, and CO levels is expected to increase as emissions from other mobile sources decrease due to our recently finalized emission control programs for highway vehicles and heavy-duty trucks. Reductions in the inventories of these pollutants will lead to health benefits, as described in Section II.

In addition, manufacturers of diesel engines, including marine diesel engines, have gained greater experience with the emission control technologies that can be applied to these engines. Our analysis indicates that greater emission reductions can be achieved by optimizing currently available control technologies that are being used to achieve the Annex VI NO_X limits.

This Notice discusses two tiers of NO_X emission controls for these engines. The first tier is equivalent to the internationally negotiated NO_X standards and would be enforceable under U.S. law for new engines built in 2004 and later. The second tier of NO_X standards, if implemented, would reflect additional reductions that can be achieved through engine-based emission controls, and would apply to new engines built after 2006 or later. We are also considering standards for HC and CO emissions to ensure that these emissions do not increase on an engine-specific basis. Particulate matter emissions from these engines are primarily due to the characteristics of the fuel they use (residual fuel), and we are requesting comment on whether we should consider a sulfur content limit for that fuel. We would review the Tier 2 standards prior to their effective date to take into consideration continued development of new technologies, such as selective catalyst reduction and water-based emission reduction techniques, and international activity such as action at International Maritime Organization (IMO) to set more stringent international standards.

Consistent with our 1999 commercial marine diesel engine standards, this proposal also contains voluntary low emission standards for marine diesel engines at or above 30 liters per cylinder. As emissions from most mobile source categories continue to decline, emissions from marine vessels and associated port equipment are becoming an increasingly significant source for local, regional, and global emissions. Because of the slow turnover of vessels and associated equipment, there is an opportunity and need for the ports, shipping companies, engine manufacturers, and fuel suppliers to work on a collaborative effort to expedite and further reduce emissions beyond the Annex VI NO_X limits and U.S. national standards. Two components of this proposal can help encourage these actions. The first is voluntary low emission standards set at 80 percent below the Annex VI NO_X limits. These standards can be used in state-based initiatives and are expected to require the use of advanced technologies such as fuel cells or selective catalyst reduction. The second is the voluntary Blue Cruise program, in which participant vessel owners can receive special recognition from EPA for installing and using technologies that reduce waste and air emissions.

We are also proposing new requirements for engines at or above 2.5 liters per cylinder but less than 30 liters per cylinder. The Tier 2 standards we finalized for these engines in our 1999 commercial marine diesel rule are effective in 2007. Until then, and pending entry into force of Annex VI, we encouraged engine manufacturers to voluntarily comply with Tier 1 standards, which are equivalent to the internationally negotiated NO_X standards. Because Annex VI has not gone into force, they remain unenforceable. Due to the continued uncertainty regarding entry into force of Annex VI, we believe it is appropriate to begin to require engine manufacturers to certify these engines to the Tier 1 standards, starting in 2004. We are also proposing to eliminate the foreign trade exemption for all marine diesel engines, which was available for engines installed on vessels that spend less than 25 percent of total operating time with 320 kilometers of U.S. territory. To date, this exemption has not been requested by engine manufacturers.

The standards discussed in this Notice, which would apply to engines installed on vessels flagged in the United States, are intended to help reduce ozone inventories and avoid a range of associated adverse health effects. The costs of the proposed Tier 1 standards are negligible and reflect certification and compliance costs only. We do not anticipate that there will be any engineering or design costs associated with the Tier 1 standards as manufacturers are already certifying engines to Annex VI requirements through our voluntary certification program. The estimated cost to industry of complying with the Tier 2 standards being considered is about $115,000 per engine, with an additional estimated cost of about $5,000 annually to maintain equipment. This represents a 7 percent increase in the total engine cost and about 0.1 percent increase in the total vessel cost. We estimate the aggregate costs (annualized over 20 years) of the Tier 2 standards under consideration to be about $1.6 million annually. The economic impacts and environmental benefits of the proposal and Tier 2 standards under consideration are described in Section VI, below.

The impact of the standards on air quality in specific areas will depend in part on the characteristics of the fleet of vessels that operate in that area, particularly on the proportion of foreign-flag ships to U.S.-flag ships. Recognizing that foreign-flag vessels constitute a significant portion of emissions from these engines and that the internationally negotiated NO_X standards for these engines are not yet enforceable, we are seeking comment on whether the standards should also apply to marine engines on foreign vessels entering U.S. ports and to no longer exclude such foreign vessels from the emission standards under 40 CFR 94.1(b)(3). While EPA's current standards for marine vessels do not apply to foreign flag vessels, EPA is inviting comments on whether it should change this approach. If we were to apply our emission standards to foreign vessels that enter U.S. ports as part of this rulemaking effort, then the standards would apply to any marine engine that is manufactured after the standards become effective and that is installed on such a foreign vessel and would be a condition of port entry. The standards would also apply to any marine engine installed on such a foreign vessel that is manufactured (or that otherwise become new) after the standards become effective. While we are seeking comment on applying the standards to foreign vessels that use U.S. ports, we may require such standards for foreign vessels in 2003.

B. How Is This Document Organized?

This document contains ten parts. After this introductory section, Section II describes the air quality need for this rulemaking and projected benefits. That section contains a description of the human health and welfare effects of exposure to ozone, PM, and CO and reports our inventory estimates for this source for current and future years. In Section III, we describe the set of engines that would be required to comply with the proposed standards and our reasoning behind this scope of application. Sections IV and VII contain the proposed emission standards and alternatives under consideration, effective dates, and testing requirements. We also discuss the technological feasibility of the standards discussed in this Notice, and alternative approaches. Section V describes various compliance provisions. Section VI summarizes the projected impacts of the standards and discusses their benefits. Section VIII describes a voluntary incentive program in which participant vessel owners can receive special recognition from EPA for installing and using technologies that reduce waste and air emissions. Finally, Sections IX and X contain information about public participation, how we satisfied our administrative requirements, and the statutory provisions and legal authority for this proposal. Additional information on many of these topics can be found in the Draft Regulatory Support Document for this proposal.

C. What Requirements Are We Proposing or Considering?

The NO_X emission standards for marine diesel engines at or above 30 liters per cylinder (Category 3 marine diesel engines) would consist of two tiers. Tier 1 would apply to new engines built in 2004 and later and would be equivalent to the Annex VI NO_X limits adopted by the Parties to MARPOL in 1997. We are also considering Tier 2 NO_X standards that would apply to new engines built after 2006 or later and consist of a NO_X limit 30 percent below the Tier 1/Annex VI limit. The year that EPA considers most appropriate at this time is 2007. For both tiers of standards, we would define NO_X standards as a function of maximum engine speed, consistent with Annex VI, but are requesting comment on the merits of defining Tier 2 NO_X standards instead as a function of engine displacement. Both tiers of standards can be met through engine-based emission-control technologies. The Annex VI NO_X limits are based on certification on distillate fuel, which has a lower nitrogen content than the residual fuel that these engines are most likely to use in operation. We are proposing numerical emission limits based on residual fuel, but allow for certification testing using distillate or residual fuel. In either case, we are proposing that the test results be adjusted to account for the nitrogen content of the fuel, and then be compared to the proposed emission limits. The fuel quality adjustment is described in Section IV.A.2, below.

In addition to the Tier 2 NO_X limits, we are considering hydrocarbon and carbon monoxide emission limits at 0.4 g/kW-hr and 3.0 g/kW-hr, respectively. These standards would ensure that these emissions do not increase on an engine-specific basis. We are also considering adoption of a schedule to review any Tier 2 standards prior to their effective date to take into consideration continued development of new technologies, such as selective catalyst reduction and water-based emission reduction techniques, and international activity such as action at IMO to adopt more stringent standards

[1] Annex VI was adopted by a Conference of the Parties to MARPOL on September 26, 1997, but has not yet entered into force. Copies of the conference versions of the Annex and the NOx Technical Code can be found in Docket A–95–50, Document II.B.01. Copies of updated versions can be obtained from the International Maritime Organization (*www.imo.org.*)

[2] Memorandum to Docket A–2001–11 from Jean Marie Revelt, "*Santa Barbara County Air Quality News*, Issue 62, July–August 2001 and other materials provided to EPA by Santa Barbara County," March 14, 2002. Air Docket A–2001–11, Document No. II–A–47.

internationally. We request comment on the hydrocarbon and carbon monoxide standards.

We are not planning to adopt a Tier 2 standard for particulate emissions from these engines. Most of the particulate emissions are a result of the high sulfur and ash content of the fuel used by these engines, and there is no acceptable measurement procedure for fuels with these characteristics. We are requesting comment, however, on whether we should consider a fuel sulfur content limit for the fuels used by these engines. One option, for example, would be to set a sulfur content cap equivalent to the limit for fuel used in SO_X Emission Control Areas provided in Regulation 14 of MARPOL Annex VI. Pursuant to that regulation, the sulfur content of fuel used by vessels operating in those areas cannot exceed 15,000 ppm. The United States could also pursue this option through procedures contained in Regulation 14 of MARPOL Annex VI. That regulation provides for the designation of SO_X emission control areas. We estimate that reducing the sulfur content of residual fuel to 15,000 ppm may decrease the PM inventory of these engines 18 percent and the SO_X inventory by 44 percent (See Section VI.F, below). In connection with this option, we are seeking comment as to which areas of the United States should be considered for designation as SO_X emission control areas under MARPOL Annex VI, and whether and how we should seek the cooperation of Canada, Mexico, and the Carribean in designating these areas. Both of these options are discussed in Section VI.E, below.

We are also proposing voluntary low emission NO_X standards for Category 3 marine diesel engines. These standards, which represent an 80 percent reduction from the Annex VI NO_X limits, are intended to encourage the introduction and more widespread use of low-emission technologies. Manufacturers could be motivated to exceed emission requirements either to gain early experience with certain technologies or as a response to market demand or local government programs. Ship owners could take advantage of these and other emission reduction technologies to receive special recognition from EPA for installing and using technologies that reduce waste and air emissions under our proposed voluntary Blue Cruise program.

To implement these standards for marine diesel engines at or above 30 liters per cylinder in an effective way, we are proposing several compliance requirements. In general, the proposed compliance program reflects our traditional manufacturer-based approach. This is in contrast to the international approach reflected in Annex VI, which holds the vessel owner responsible for compliance once the engine is delivered onboard. Many of the proposed compliance provisions, including certification application, engine labeling, and warranty requirements, are similar or identical to the compliance provisions that we finalized in our 1999 rulemaking. In addition, we are including a post-installation verification provision which would require an emission test after an engine is installed on a vessel. We are also proposing a field measurement provision that would apply to engines with adjustable parameters or add-on emission control devices. Manufacturers of these engines would be required to equip the engine with a field measurement device. The owner of a vessel with such an engine would have to perform a field measurement when the vessel approaches within 175 nautical miles (200 statutory miles) of the U.S. coastline from the open sea or when it adjusts an engine parameter within that distance. The results of this field measurement will demonstrate that the engine is in compliance with the relevant standards when it is operated in an area that affects U.S. air quality. EPA will work with the U.S. Coast Guard to develop procedures to verify onboard performance of these field measurement provisions, as Coast Guard has the general authority to carry out such procedures on vessels.

We are also proposing new requirements for engines at or above 2.5 liters per cylinder but less than 30 liters per cylinder. The Tier 2 standards we finalized for these engines in our 1999 commercial marine diesel rule are effective in 2007. Until then, and pending entry into force of Annex VI, we encouraged engine manufacturers to voluntarily comply with Tier 1 standards, which are equivalent to the internationally negotiated NO_X standards. Because Annex VI has not gone into force, they remain unenforceable. While the U.S. is beginning the ratification process for Annex VI, due to the continued uncertainty regarding its entry into force of Annex VI, we believe it is appropriate to begin to require engine manufacturers to certify these engines to the Tier 1 standards, starting in 2004. We are also proposing to eliminate the foreign trade exemption for all marine diesel engines, which was available for engines installed on vessels that spend less than 25 percent of total operating time with 320 kilometers of U.S. territory. To date, this exemption has not been requested by engine manufacturers.

The standards discussed above would apply to engines installed on vessels flagged in the United States. Recognizing that foreign-flag vessels constitute a significant portion of emissions from these engines and that the internationally negotiated NO_X standards for these engines are not yet enforceable, we are seeking comment on whether the standards should also apply to marine engines on foreign vessels entering U.S. ports and to no longer exclude such foreign vessels from the emission standards under 40 CFR 94.1(b)(3). If we were to apply our emission standards to foreign vessels that enter U.S. ports, then the standards would apply to any marine engine that is manufactured after the standards become effective and that is installed on such a foreign vessel. The standards would also apply to any marine engine installed on such a foreign vessel that is manufactured (or that otherwise become new) after the standards become effective. As discussed below, if the standards were to apply to foreign flag vessels, EPA would consider any significant differences between this proposed rule and Annex VI.

D. Why Is EPA Taking This Action?

We developed this emission control program to fulfill our obligations under Section 213 of the Clean Air Act. That section, described in more detail in Section E, below, requires us to set standards for new nonroad engines. In addition, there are important public health and welfare reasons supporting the standards proposed in this document. As described in Section II.B, Category 3 marine diesel engines contribute to air pollution which causes public health and welfare problems. Emissions from these engines contribute to ground level ozone and ambient PM and CO levels, especially in and near commercial ports and waterways.[3] Exposure to ground level ozone, PM, and CO can cause serious respiratory problems. These emissions also contribute to other environmental problems, including acid deposition, eutrophication, and nitrification.

This action is a departure from the emission control strategy we finalized in 1999 (64 FR 73300, December 29, 1999) in that we are considering no longer

[3] Ground-level ozone, the main ingredient in smog, is formed by complex chemical reactions of volatile organic compounds (VOCs) and NO_X in the presence of heat and sunlight. Hydrocarbons (HC) are a large subset of VOC, and to reduce mobile-source VOC levels we set maximum emissions limits for hydrocarbon and particulate matter emissions.

relying solely on MARPOL Annex VI for controlling emissions from Category 3 marine diesel engines. While the Annex VI NO_X limits apply to engines installed on vessels constructed on or after January 1, 2000, those standards are not enforceable until the Annex enters into force. As specified in Article 6 of the Annex, it will enter into force twelve months after the date on which not less than fifteen member states, the combined merchant fleets of which constitute not less than 50 percent of the gross tonnage of the world's merchant shipping, have ratified the agreement. To date, more than four years after it was adopted, the Annex has been ratified by only 6 countries representing 15.8 percent of the world's merchant shipping.[4] In addition, the Annex VI NO_X limits no longer reflect the greatest degree of emission control that can be achieved using newer technology, given appropriate lead time. Since we finalized our commercial marine diesel engine standards in 1999 (64 FR 73300, December 29, 1999), engine manufacturers continue to make progress in applying land-based emission control technologies to marine diesel engines. Improvements in fuel systems and engine cooling can reduce Category 3 engine emissions even more than the Annex VI NO_X limits would require. Some engine manufacturers are also experimenting with water emulsification and injection and aftertreatment, including selective catalyst reduction, for even greater reductions. These emission control technologies are described in greater detail in Section IV.

E. Putting This Proposal Into Perspective

This proposal should be considered in the broader context of EPA's nonroad emission-control programs, international activities, including MARPOL Annex VI, our previous marine emission control program, European Union (EU) initiatives, and activities at the state level. These programs and actions are discussed below.

1. EPA's Nonroad Emission-Control Programs

Clean Air Act section 213(a)(1) directs us to study emissions from nonroad engines and vehicles to determine, among other things, whether these emissions "cause, or significantly contribute to, air pollution that may reasonably be anticipated to endanger public health or welfare." Section 213(a)(2) further requires us to determine whether emissions of CO, VOC_s, and NO_X from all nonroad engines significantly contribute to ozone or CO emissions in more than one nonattainment area. If we determine that emissions from all nonroad engines are significant contributors, section 213(a)(3) then requires us to establish emission standards for classes or categories of new nonroad engines and vehicles that in our judgment cause or contribute to such pollution. We may also set emission standards under section 213(a)(4) regulating any other emissions from nonroad engines that we find contribute significantly to air pollution.

We completed the Nonroad Engine and Vehicle Emission Study, required by Clean Air Act section 213(a)(1), in November 1991.[5] On June 17, 1994, we made an affirmative determination under section 213(a)(2) that nonroad emissions are significant contributors to ozone or CO in more than one nonattainment area. We also determined that these engines make a significant contribution to PM and smoke emissions that may reasonably be anticipated to endanger public health or welfare. In the same document, we set a first phase of emission standards (now referred to as Tier 1 standards) for land-based nonroad diesel engines rated at or above 37 kW. In 1998, we set more stringent Tier 2 and Tier 3 emission levels for new land-based nonroad diesel engines at or above 37 kW and adopted Tier 1 standards for nonroad diesel engines, including marine diesel engines, less than 37 kW. Our other emission-control programs for nonroad engines are listed in Table I.E–1. This proposal takes another step toward the comprehensive nonroad engine emission-control strategy envisioned in the Act by proposing enforceable emission limits for marine diesel engines at or above 30 liters per cylinder.

TABLE I.E–1.—EPA'S NONROAD EMISSION-CONTROL PROGRAMS

Engine category	Final rulemaking	Date
Land-based diesel engines ≥ 37 kW—Tier 1	56 FR 31306	June 17, 1994
Spark-ignition engines ≤19 kW—Phase 1	60 FR 34581	July 3, 1995.
Spark-ignition marine	61 FR 52088	October 4, 1996.
Locomotives	63 FR 18978	April 16, 1998.
Land-based diesel engines	63 FR 56968	October 23, 1998.
—Tier 1 and Tier 2 for engines < 37 kW (these standards also apply to marine diesel engines < 37 kW)		
—Tier 2 and Tier 3 for engines ≥ 37 kW		
Commercial marine diesel engines above 37 kW (Standards apply to engines less than 30 liters per cylinder only).	64 FR 73300	December 29, 1999.
Spark-ignition engines ≤19 kW (Non-handheld)—Phase 2	64 FR 15208	March 30, 1999.
Spark-ignition engines ≤19 kW (Handheld)—Phase 2	65 FR 24268	April 25, 2000.
Nonroad large spark-ignition engines, recreational vehicles, and recreational marine diesel engines.	66 FR 51098 (proposal)	October 5, 2001.
Marine evap. (includes highway motorcycles)	Expected 2002	

2. MARPOL Annex VI

In response to growing international concern about air pollution and in recognition of the highly international nature of maritime transportation, the IMO developed a program to reduce NO_X and SO_X emissions from marine vessels.[6] [7] The development of Annex

[4] The countries that have ratified Annex VI are Sweden, Norway, Bahamas, Singapore, Marshall Islands, and Malawi. Information about Annex VI ratification can be found at *www.imo.org* (look under Conventions, Status of Conventions—Complete List).

[5] This study, the Nonroad Engine and Vehicle Emission Study (NEVES) is available in docket A–92–28.

[6] The Annex covers a several air emissions from marine vessels: ozone depleting substances, NO_X, SO_X, VOCs from tanker operations, incineration, fuel oil quality. There are also requirements for reception facilities and platforms and drilling rigs.

Continued

VI took place between 1992 and 1997. The Annex VI engine emission limits cover only NO_X emissions; there are no restrictions on PM, HC, or CO emissions. They are based on engine speed and apply to engines above 130 kW. These standards are set out in Table I.E–2. Originally, these standards were expected to reduce NO_X emissions by 30 percent when fully phased in. EPA inventory analysis, based on newly estimated emission factors for these engines, indicates that the expected reduction is on the order of about 20 percent. The EPA inventory analysis is described in more detail in the Draft Regulatory Support Document for this proposal.

With regard to implementation, the Annex VI NO_X limits apply to each diesel engine with a power output of more than 130 kW installed on a ship constructed on or after January 1, 2000, or that undergoes a major conversion on or after January 1, 2000. The Annex does not distinguish between marine diesel engines installed on recreational or commercial vessels; all marine diesel engines above 130 kW would be subject to the standards regardless of their use. The test procedures to be used to demonstrate compliance are set out in the Annex VI NO_X Technical Code.[8] They are based on ISO 8178 and are performed using distillate fuel. Engines can be pre-certified or certified after they are installed onboard. After demonstrating compliance, pre-certified engines would receive an Engine International Air Pollution Prevention (EIAPP) certificate. This document, to be issued by the Administration of the flag country, is needed by the ship owner as part of the process of demonstrating compliance with all of the provisions of Annex VI and obtaining an International Air Pollution Prevention (IAPP) certificate for the vessel once the Annex goes into force. The Annex also contains engine compliance provisions based on a survey approach. These survey requirements would apply after the Annex goes into force. An engine is surveyed after it is installed, every five years after installation, and at least once between 5-year surveys. Engines are not required to be tested as part of a survey, however. The surveys can be done by a parameter check, which can be as simple as reviewing the Record Book of Engine Parameters that must be maintained for each engine and verifying that current engine settings are within allowable limits.

After several years of negotiation, the Parties to MARPOL adopted a final version of Annex VI at a Diplomatic Conference on September 26, 1997. However, as noted in Section I.C, above, the Annex has not yet gone into force. Pending entry into force, ship owners and vessel manufacturers have begun installing compliant engines on relevant ships beginning with the date specified in Regulation 13: January 1, 2000. In addition, ship owners must bring existing engines into compliance if the engines undergo a major conversion on or after that date.[9] As defined in Regulation 13 of Annex VI, a major conversion is when the engine is replaced by a new engine, it is substantially modified, or its maximum continuous rating is increased by more than 10 percent. To facilitate implementation while the Annex is not yet in force and to allow engine manufacturers to certify their engines before the Annex goes into force, we set up a process for manufacturers to obtain a Statement of Voluntary Compliance.[10] An EPA-issued Statement of Voluntary Compliance should be exchangeable for an EIAPP certificate once the Annex goes into effect in the United States.

The U.S. government is preparing the appropriate documents for the President to submit Annex VI to the Senate for its advice and consent to ratification. Besides setting standards for NO_X emissions, Annex VI regulates ozone-depleting emissions, sulfur oxides emissions and shipboard incineration, and contains other environmentally protective measures. In transmitting Annex VI to the Senate, the Administration will work with Congress on new legislation to implement the Annex. At the same time, the United States government supports a revision of the Annex VI standards for NO_X emissions, taking into account the emission reduction potential of new control technologies. By ratifying the Annex, the United States will continue its leadership in promoting environmentally responsible international emission standards at the IMO and recognize the role the IMO plays in protecting the world's marine environment from pollution. As described in Section I.E.4, below, we have already requested MEPC to begin consideration of more stringent NO_X emission limits for marine diesel engines. In addition, once the Annex goes into force, amendment of NO_X standards will be made easier through the tacit amendment process that would then apply.

3. EPA's Commercial Marine Diesel Engine Rules

Although we included marine diesel engines in the development of our 1996 marine rule, we did not finalize standards for these engines at that time. At the time, we were considering standards based on Tier 1 land-based nonroad diesel emission controls. Emerging emission control technologies for diesel engines, particularly the Tier 2 land-based nonroad emission control technologies, led us to reconsider our approach and to defer standards for these engines to a later rulemaking.

In our 1999 commercial marine diesel engine rule, we distinguished between different types of marine diesel engines. The three categories of marine diesel engines, contained in Table I.E–3, were intended to reflect differences in the land-based counterparts of these engines.

TABLE I.E–3.—MARINE ENGINE CATEGORY DEFINITIONS

Category	Displacement per cylinder	Land-based equivalent
1	disp. < 5 liters (and power > 37 kW)	Agricultural equipment; construction equipment.
2	5 liters < disp. < 30 liters	Locomotives.
3	disp > 30 liters	No mobile source equivalent Power plant generators.

[7] To obtain copies of this document, see Footnote 1, above.

[8] To obtain copies of this document, see Footnote 1, above.

[9] As defined in Regulation 13 of Annex VI, a major conversion means the engine is replaced by a new engine, it is substantially modified, or its maximum continuous rating is increased by more than 10 percent.

[10] For more information about our voluntary certification program, see "guidance for Certifying to MARPOL Annex VI," VPCD–99–02. This letter is available on our website: *http://www.epa.gov/otaq/regs/nonroad/marine/ci/imolettr.pdf* and in Docket A–2001–11, Document No. II–B–01.

The final standards for Category 1 and Category 2 marine diesel standards were more stringent than the Annex VI NO_X limits, reflecting the greater degree of emission control that would be achievable through the application of technologies that would be used on the land-based equivalents of these engines to meet the nonroad Tier 2 and locomotive Tier 1 standards. The standards also cover more pollutants than Annex VI, including standards for HC, CO, and PM as well as NO_X. The emission standards we finalized for Category 1 and Category 2 marine diesel engines are similar to the nonroad Tier 2 and locomotive Tier 1 standards, respectively.

We did not finalize standards for Category 3 marine diesel engines in 1999. Instead, we deferred to the Annex VI NO_X emission control program. This decision was based on our technological analysis of control strategies for these engines which indicated that the appropriate standards should reflect reductions that can be obtained from injection rate shaping and some timing retard. These control technologies were consistent with the Annex VI NO_X limits. While some Category 3 engines were already using Tier 2 engine technologies including turbocharging, injection improvements, electronics, and more efficient cooling, these technologies were being used to increase fuel efficiency and obtain optimal operation. Next-generation technologies such as exhaust gas recirculation (EGR), selective catalyst reduction (SCR), and water injection were still under development for marine diesel engines of that size. Because the Annex VI NO_X limits would likely be implemented independently of any Clean Air Act requirement, EPA believed that it would be unnecessary and redundant to adopt the same program under the Clean Air Act. Vessel owners were anticipated to begin complying with the Annex VI NO_X limits beginning in 2000, as indicated in the Annex.

Since 1999, Category 3 marine diesel engine manufacturers have continued to research emission control technologies and explore ways to transfer land-based diesel engine technologies to marine diesel engines. These technologies and emission control strategies are described in Sections IV and VII below, and in the draft Regulatory Support Document for this rule. Due to these advances, and due to the contribution of these engines to ozone and PM levels, we believe it is now appropriate to consider a second tier of emission limits for Category 3 marine diesel engines that will achieve greater reductions than those expected from the Annex VI NO_X limits.

4. Continuing Action at the IMO

At the time the Annex VI NO_X limits were adopted, several Member States expressed concern that the NO_X limits would not result in the emissions reductions they were intended to achieve. Due to the efforts of these Member States, the Conference of the Parties adopted a resolution that provides for review of the emission limits with the aim of adopting more stringent limits taking into account the adverse effects of such emissions on the environment and any technological developments in marine engines. This review is to occur at a minimum of five-year intervals after entry into force of the Annex and, if appropriate, amend the NO_X limits to reflect more stringent controls.

In March of 2000, the United States requested MEPC to begin consideration of more stringent emission limits for marine diesel engines.[11] EPA's analysis of emission control technology for our 1999 rulemaking indicated that more stringent standards are feasible for all Category 1 and Category 2 marine diesel engines. Engine manufacturers were also beginning to apply these emission control strategies to Category 3 marine diesel engines, as well as more advanced strategies such as water emulsification and selective catalyst reduction. Reflecting the potential emission reductions that could be obtained from applying these strategies to all marine diesel engines, the U.S. recommended Annex VI Tier 2 NO_X limits be set at 25 to 30 percent below the existing Annex VI NO_X limits for all engines subject to the regulation (engines above 130 kW), to go into effect in 2007. This would allow a 7-year period of stability for the Annex VI NO_X limits, permit engine manufacturers to adjust their engine designs to include new emission control technologies, and allow manufacturers of marine diesel engines at or above 30 liters per cylinder to develop emission control strategies for those large engines. This recommendation was briefly discussed at the 44th session of the MEPC (London, March 3–16, 2000), but was not acted on. The United States will continue to promote more stringent standards at IMO and encourage MEPC to adopt a second tier of emission limits that will reflect available technology and reduce the impact of marine diesel engines on the world's air quality.

5. European Union Actions

In February, 1999, the European Commission D–GXI commissioned a report to "consider, analyse and recommend policy options to further the objective of reducing the harmful environmental impact of SO_X and NO_X from ships operating in European waters.[12] The final report was completed in August 2000. The report explores two types of regulatory options, regulatory standards and incentive plans, for both fuel and engine emission controls. The report is currently under consideration by the Commission.

In January 2001, the Directorate-General for the Environment issued a discussion paper entitled "A Community Strategy on Air Pollution from Seagoing Ships."[13] This paper contains a description of issues and solicits comments that will be used to develop a European emission control strategy for marine vessels. The discussion paper envisions two products: a Commission Communication and a proposal to amend EU Directive 1999/32 on the Sulphur Content of Liquid Fuels.

The discussion paper notes that current inventory analysis indicates that ships will account for 75% and 60% of EU land SO_X and NO_X emissions, respectively. A new inventory study currently being commissioned will shed more light on these contributions, particularly in-port contributions. The discussion paper also describes current EU and international regulatory regimes and the potential for further reductions. Regarding SO_X emissions, EU Directive 1999/32 currently prohibits the use of marine distillate fuels having more than 2,000 ppm sulfur in Community territorial waters. While there is an exemption for ships coming from third countries, those ships must use low sulfur distillate after they make their first stop at a Community port. There is some concern that this approach encourages ships to burn heavy fuel

[11] MEPC 44/11/7, Prevention of Pollution from Ships, Revision of the NO_X Technical Code, Tier 2 emission limits for marine diesel engines at or above 130 kW, submitted by the United States. This document is available at Docket A–2001–11, Document No. II–A–16.

[12] Davies, M. E., et al., Study on the Economic, Legal, Environmental and Practical Implications of a European Union System to Reduce Ship Emissions of SO_X and NO_X, Final Report for European Commission Contract B4–3040/98/000839/MAR/B1, August 2000. This report is available at *http://www.europa.eu.int/comm/environment/air/transport.htm#3*. A copy can also be found in Docket A–2001–11, Document No. II–A–17.

[13] This discussion paper can be found at *http://www.europa.eu.int/comm/environment/air/future_transport.htm* (Under "pollutant emissions from ships" then "new developments"). A copy of this paper can also be found in Docket A–2001–11, Document No. II–A–28.

while in Community waters. Regarding NO_X emissions, the paper describes the MARPOL Annex VI requirements, the EPA standards established in 1999, and the U.S. action to encourage IMO to consider more stringent NO_X limits. The paper does not suggest potential emission control programs for the EU, but it requests comment support for more stringent standards.

6. Action By Individual European Countries

In 1996 the Swedish Maritime Administration, the Swedish Shipowners' Association and the Swedish Ports' and Stevedores' Association arrived at a Tripartite Agreement to decrease ship nitrogen oxides and sulphur emissions by 75% within five years. The parties agreed to establish an environmental program on differentiated fairway and port dues for NO_X levels and fuel sulphur content. The program was constructed by first raising the ship related dues (from Swedish Kroner (SEK) 3.90 per gross tonne (GT) for oil tankers and SEK 3.60 per GT for ferries and other ships to SEK 5.30 and SEK 5.00 respectively) from which the discounts would be subtracted[14]. For use of low sulphur fuels a credit of SEK 0.90 per GT was given for ships operating on bunker oils of a sulphur content of less than 0.5 per cent by weight for ferries and less than 1.0 per cent for other ships. For low NO_X emissions, if the emission at 75 per cent engine load is above 12 g/kWh, no NO_X discount is given. Below this level the discount increases continuously down to a level of 2 g/kWh where the discount is SEK 1.60 per GT. A maximum discount of SEK 2.50 per GT is possible. The program entered into force January 1, 1998 and as of 1999, twenty of Sweden's fifty two ports have introduced environmentally differentiated harbour dues for reduced sulphur fuels, reduced NO_X emissions or both. Ferries are using new technologies, including water emulsion systems (20–50% Nox reduction) and SCR systems (up to 95% NO_X reduction), to achieve the low emission levels. To overcome initial problems and encourage the installation of catalytic converters, the Swedish Maritime Administration agreed to reimburse shipowners for the fairway dues paid during the first five years of the program (thru 2002). "Based on known planned installations, the National Maritime Administration expects that by 1 January 2001 the scheme will have reduced NO_X emissions from ships calling at Swedish ports by 40–45 per cent compared to the situation in 1995."[15]

Over the past three years several other localities worldwide have also incorporated adjustments in port dues based on compliance with emission levels. The Port of Mariehamn, on the Finnish Island of Aland differentiates its harbor dues with regard to ships' emissions of NO_X and sulphur. The proposal in 1999 was to "give ships emitting less than 10 g/kWh NO_X a rebate on a linear scale where the reduction of the port due is 8 per cent for ships emitting less than 1 gramme, and 1 per cent for ships emitting 9 g/kWh. Ships using bunker oils with less than 0.5 per cent sulphur (by weight) will receive an additional reduction of 4 per cent. For vessels meeting the latter criteria and having NO_X emissions of less than 1 g/kWh the proposal is to offer an extra rebate of 8 per cent. Such ships will, if the scheme is adopted, get a total reduction of 20 per cent."[16] The Norwegian government has a program for environmental differentiation of the tonnage tax (Proposition No. 1 1999/2000). The differentiation is based on a Ship Environment Index System (SEIS). The SEIS is based on up to seven different environmental parameters, including sulphur and NO_X emissions with a maximum of 10 points of which 6 points are from the abatement of NO_X and sulphur emissions. The program will raise the tonnage tax by 50 per cent and ships registered according to the environmental index system will receive rebates in proportion to their environmental score. Ships that earn 10 points will not pay more than they did before the new scheme began operating and ships that do not register or do not earn any points will have to pay the full tax."[17] The Green Award Foundation, with the Port of Rotterdam and some ports in Portugal and South Africa offers reduced harbor dues for tankers of more than 20,000 DWT. To earn the award, the shipowner and the vessel must comply with national and international laws and regulations as well as demonstrate environmental and safety awareness in a number of areas affecting management and crew competence as well as technical provisions which includes exhaust emissions.

7. State Actions: SCAQMD, Alaska and Texas Smoke Requirements

Several states have programs that address smoke emissions from marine engines. This section summarizes the programs in SCAQMD, Alaska and Texas.

SCAQMD: California's South Coast Air Quality Management District's Rule 401 states "(b)(1) A person shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three minutes in any one hour which is: (A) As dark or darker in shade as that designated No. 1 on the Ringelmann Chart as published by the United States Bureau of Mines; or (B) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subparagraph (b)(1)(A) of this rule."[18] The Port of Long Beach has issued literature requiring compliance with the SCAQMD rules through their Smoke Stack Emissions Program.[19]

The Port of Long Beach and the Port of Los Angeles also require, as of May 1, 2001, a Voluntary Commercial Cargo Ship Speed Reduction Program. The "Air Quality Compliance Zone" is with a 12 knot speed restriction beginning 20-nautical miles from Point Fermin to the boundaries of the existing mandatory Precautionary Area. The purpose is to reduce air pollution from ships in the South Coast Air Basin.[20]

Alaska: Under Alaska's present state law, with some exceptions, "ships must keep emissions from reducing visibility through the exhaust plume by more than 20% while in Alaska waters. Diesel exhausts and other smoky discharges from ships can create a haze that hangs over coastal communities. DEC receives regular complaints from coastal community residents about these emissions. The state has certified readers who observe the emissions coming from a cruise ship's smokestack to determine if the standards are being exceeded."[21]

Texas: The Texas Natural Resource Conservation Commission Chapter 111 of the document on Control of Air Pollution From Visible Emissions and Particulate Matter contains requirements of visible emissions from ships. The document, section 111.111(a)(6)(A) and (B), state that "(A) Visible emissions shall not be permitted from any railroad locomotive, ship or any other vessel to exceed an opacity of 30% for any five-minute period, except during reasonable periods of engine start-up. (B) Compliance with subparagraph (A) of this paragraph shall be determined by applying the following test methods, as appropriate: (i) Test Method 9, (40 CFR part 60, Appendix A), or (ii) equivalent test method approved by the executive director and EPA." This document was effective June 11, 2000.[22]

[14] One Swedish Kroner (SEK) is about $0.09

[15] A further detailed discussion of this topic can be found at *http://www.sjofartsverket.se/navigering/htm/frameset.htm.*

[16] A further detailed discussion of this topic can be found at *http://www.sjofartsverket.se/navigering/htm/frameset.htm.*

[17] A further detailed discussion of this topic can be found at *http://www.sjofartsverket.se/navigering/htm/frameset.htm.*

[18] A further detailed discussion of this topic can be found at *http://www.aqmd.gov/rules/html/r401.html.*

[19] A further detailed discussion of this topic can be found at *www.polb.com.*

[20] A further detailed discussion of this topic can be found at *http://www.polb.com/NavAlert.htm.*

[21] A further detailed discussion of this topic can be found at *http://www.state.ak.us/local/akpages/ENV.CONSERV/press/2001/rel_1115.htm.*

[22] A further detailed discussion of this topic can be found at http://www.tnrcc.state.tx.us/oprd/rules/pdflib/111a.pdf.

II. The Air Quality Need

A. Overview

This proposal contains a regulatory strategy for Category 3 marine diesel engines on U.S. vessels. Marine diesel engines at or above 30 liters per cylinder are very large marine engines used primarily for propulsion power on ocean-going vessels such as container ships, tankers, bulk carriers, and cruise ships. The vessels that use these engines are flagged in the United States and in other countries. Category 3 engines have not been regulated under our nonroad engine programs. Nationwide, these engines are a significant source of mobile source air pollution. As described in Section II.C, below, emissions from all Category 3 marine diesel engines, regardless of flag of registry, currently account for about 1.5 percent of national mobile source NO_X, and 2.6 percent of national mobile source PM inventories.

We conducted a study of emissions from nonroad engines, vehicles, and equipment in 1991, as directed by the Clean Air Act, section 213(a) (42 U.S.C. 7547(a)). Based on the results of that study, we determined that emissions of NO_X, VOCs (including HC), and CO from nonroad engines and equipment contribute significantly to ozone and CO concentrations in more than one noattainment area (see 59 FR 31306, June 17, 1994). Given this determination, section 213(a)(3) of the Act requires us to establish (and from time to time revise) emission standards for those classes or categories of new nonroad engines, vehicles, and equipment that in our judgment cause or contribute to such air pollution. We have determined that commercial marine diesel engines cause or contribute to such air pollution (see also the proposed commercial marine diesel engine preamble at 63 FR 68508, December 11, 1998 and the final rule at 64 FR 73300, December 29, 1999).

Where we determine that other emissions from new nonroad engines, vehicles, or equipment significantly contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, section 213(a)(4) authorizes EPA to establish (and from time to time revise) emission standards from those classes or categories of new nonroad engines, vehicles, and equipment that cause or contribute to such air pollution. We have determined that commercial marine diesel engines cause or contribute to such air pollution (see also the proposed commercial marine diesel engine preamble at 63 FR 68508, December 11, 1998 and the final rule at 64 FR 73300, December 29, 1999).

B. What Are the Public Health and Welfare Concerns Associated With Emissions From Category 3 Diesel Marine Engines Subject to the Proposed Standards?

The engines that would be subject to the proposed standards generate emissions of NO_X, HC, PM and CO that contribute to ozone and CO nonattainment as well as adverse health effects associated with ambient concentrations of PM. This section contains a summary of the general health effects of these substances. Further information can be found in Chapter 2 of the Draft Regulatory Support Document. National and selected port city inventories are set out in Section II.C, and estimates of the expected impact of the proposed control program are described in Section VI.

1. Ozone and its Precursors

Volatile organic compounds (VOC) and NO_X are precursors in the photochemical reaction which forms tropospheric ozone. Ground-level ozone, the main ingredient in smog, is formed by complex chemical reactions of VOCs and NO_X in the presence of heat and sunlight. Hydrocarbons (HC) are a large subset of VOC, and to reduce mobile-source VOC levels we set maximum emissions limits for hydrocarbon and particulate matter emissions.

A large body of evidence shows that ozone can cause harmful respiratory effects including chest pain, coughing, and shortness of breath, which affect people with compromised respiratory systems most severely. When inhaled, ozone can cause acute respiratory problems; aggravate asthma; cause significant temporary decreases in lung function of 15 to over 20 percent in some healthy adults; cause inflammation of lung tissue; produce changes in lung tissue and structure; may increase hospital admissions and emergency room visits; and impair the body's immune system defenses, making people more susceptible to respiratory illnesses. Children and outdoor workers are likely to be exposed to elevated ambient levels of ozone during exercise and, therefore, are at a greater risk of experiencing adverse health effects. Beyond its human health effects, ozone has been shown to injure plants, which has the effect of reducing crop yields and reducing productivity in forest ecosystems.

There is strong and convincing evidence that exposure to ozone is associated with exacerbation of asthma-related symptoms. Increases in ozone concentrations in the air have been associated with increases in hospitalization for respiratory causes for individuals with asthma, worsening of symptoms, decrements in lung function, and increased medication use, and chronic exposure may cause permanent lung damage. The risk of suffering these effects is particularly high for children and for people with compromised respiratory systems.

Ground level ozone today remains a pervasive pollution problem in the United States. In 1999, 90.8 million people (1990 census) lived in 31 areas designated nonattainment under the 1-hour ozone NAAQS.[23] This sharp decline from the 101 nonattainment areas originally identified under the Clean Air Act Amendments of 1990 demonstrates the effectiveness of the last decade's worth of emission-control programs. However, elevated ozone concentrations remain a serious public health concern throughout the nation.

Over the last decade, declines in ozone levels were found mostly in urban areas, where emissions are heavily influenced by controls on mobile sources and their fuels. Twenty-three metropolitan areas have realized a decline in ozone levels since 1989, but at the same time ozone levels in 11 metropolitan areas with 7 million people have increased.[24] Regionally,

[23] National Air Quality and Emissions Trends Report, 1999, EPA, 2001, at Table A–19. This document is available at *http://www.epa.gov/oar/aqtrnd99/.* The data from the Trends report are the most recent EPA air quality data that have been quality assured. A copy of this table can also be found in Docket No. A–2001–11, Document No. II–A–XX.

[24] National Air Quality and Emissions Trends Report, 1998, March, 2000, at 28. This document is available at *http://www.epa.gov/oar/aqtrnd98/.* Relevant pages of this report can be found in Memorandum to Air Docket A–2000–01 from Jean Marie Revelt, September 5, 2001. This

Continued

California and the Northeast have recorded significant reductions in peak ozone levels, while four other regions (the Mid-Atlantic, the Southeast, the Central and Pacific Northwest) have seen ozone levels increase. The highest ambient concentrations are currently found in suburban areas, consistent with downwind transport of emissions from urban centers. Concentrations in rural areas have risen to the levels previously found only in cities.

To estimate future ozone levels, we refer to the modeling performed in conjunction with the final rule for our most recent heavy-duty highway engine and fuel standards.[25] We performed ozone air quality modeling for the entire Eastern U.S. covering metropolitan areas from Texas to the Northeast.[26] This ozone air quality model was based upon the same modeling system as was used in the Tier 2 air quality analysis, with the addition of updated inventory estimates for 2007 and 2030. The results of this modeling were examined for those 37 areas in the East for which EPA's modeling predicted exceedences in 2007, 2020, and/or 2030 and the current 1-hour design values are above the standard or within 10 percent of the standard. This photochemical ozone modeling for 2020 predicts exceedences of the 1-hour ozone standard in 32 areas with a total of 89 million people (1999 census) after accounting for light- and heavy-duty on-highway control programs.[27] We expect the NO_X control strategy contained in this Notice for Category 3 marine engines will further assist state efforts already underway to attain and maintain the 1-hour ozone standard.

In addition to the health effects described above, there exists a large body of scientific literature that shows that harmful effects can occur from sustained levels of ozone exposure much lower than 0.125 ppm.[28] Studies of prolonged exposures, those lasting about 7 hours, show health effects from prolonged and repeated exposures at moderate levels of exertion to ozone concentrations as low as 0.08 ppm. The health effects at these levels of exposure include transient pulmonary function responses, transient respiratory symptoms, effects on exercise performance, increased airway responsiveness, increased susceptibility to respiratory infection, increased hospital and emergency room visits, and transient pulmonary respiratory inflammation.

Prolonged and repeated ozone concentrations at these levels are common in areas throughout the country, and are found both in areas that are exceeding, and areas that are not exceeding, the 1-hour ozone standard. Areas with these high concentrations are more widespread than those in nonattainment for that 1-hour ozone standard. Monitoring data indicate that 333 counties in 33 states exceed these levels in 1997–99.[29] The Agency's recent photochemical ozone modeling forecast that 111 million people are predicted to live in areas that are at risk of exceeding these moderate ozone levels for prolonged periods of time in 2020 after accounting for expected inventory reductions due to controls on light- and heavy-duty on-highway vehicles.[30]

2. Particulate Matter

Category 3 marine engines that would be subject to the proposed standards contribute to ambient particulate matter (PM) levels in two ways. First, they contribute through direct emissions of particulate matter. Second, they contribute to indirect formation of PM through their emissions of organic carbon, especially HC. Organic carbon accounts for between 27 and 36 percent of fine particle mass depending on the area of the country.

Particulate matter represents a broad class of chemically and physically diverse substances. It can be principally characterized as discrete particles that exist in the condensed (liquid or solid) phase spanning several orders of magnitude in size. All particles equal to and less than 10 microns are called PM_{10}. Fine particles can be generally defined as those particles with an aerodynamic diameter of 2.5 microns or less (also known as $PM_{2.5}$), and coarse fraction particles are those particles with an aerodynamic diameter greater than 2.5 microns, but equal to or less than a nominal 10 microns.

Particulate matter, like ozone, has been linked to a range of serious respiratory health problems. Scientific studies suggest a likely causal role of ambient particulate matter (which is attributable to several sources including mobile sources) in contributing to a series of health effects.[31] The key health effects categories associated with ambient particulate matter include premature mortality, aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions and emergency room visits, school absences, work loss days, and restricted activity days), aggravated asthma, acute respiratory symptoms, including aggravated coughing and difficult or painful breathing, chronic bronchitis, and decreased lung function that can be experienced as shortness of breath. Observable human noncancer health effects associated with exposure to diesel PM include some of the same health effects reported for ambient PM such as respiratory symptoms (cough, labored breathing, chest tightness, wheezing), and chronic respiratory disease (cough, phlegm, chronic bronchitis and suggestive evidence for decreases in pulmonary function). Symptoms of immunological effects such as wheezing and increased allergenicity are also seen. Exposure to fine particles is closely associated with such health effects as premature mortality or hospital admissions for cardiopulmonary disease.

PM also causes adverse impacts to the environment. Fine PM is the major cause of reduced visibility in parts of the United States. Other environmental impacts occur when particles deposit onto soils, plants, water or materials. For example, particles containing nitrogen and sulphur that deposit on to land or water bodies may change the nutrient balance and acidity of those environments. Finally, PM causes soiling and erosion damage to materials, including culturally important objects such as carved monuments and statues. It promotes and accelerates the corrosion of metals, degrades paints, and deteriorates building materials such as concrete and limestone.

The NAAQS for PM_{10} were established in 1987. According to these standards, the short term (24-hour) standard of 150 $\mu g/m^3$ is not to be exceeded more than once per year on average over three years. The long-term standard specifies an expected annual arithmetic mean not to exceed 50 $\mu g/m^3$ over three years. Recent PM_{10} monitoring data indicate that 14 designated PM_{10} nonattainment areas with a projected population of 23 million violated the PM_{10} NAAQS in the period 1997–99. In addition, there are 25 unclassifiable areas that have recently recorded ambient concentrations of PM_{10} above the PM_{10} NAAQS.[32]

Current 1999 $PM_{2.5}$ monitored values, which cover about a third of the nation's counties, indicate that at least 40 million people live in areas where long-term ambient fine particulate matter levels are at or above 16 $\mu g/m^3$ (37 percent of the population in the areas with monitors).[33] This 16 $\mu g/m^3$ threshold is the low end of the range of long term average $PM_{2.5}$ concentrations in cities where statistically significant associations were found with serious health effects, including premature mortality.[34] To estimate the number of people who live in areas where long-term ambient fine particulate matter levels are at or above 16 $\mu g/m^3$ but for which there are no monitors, we can use modeling. According to our national modeled predictions, there were a total of 76 million people (1996 population) living in areas with modeled annual average $PM_{2.5}$ concentrations at or above 16 $\mu g/m^3$ (29 percent of the population).[35]

To estimate future $PM_{2.5}$ levels, we refer to the modeling performed in conjunction with the final rule for our most recent heavy-duty highway engine and fuel standards, using EPA's Regulatory Model System for Aerosols and Deposition (REMSAD).[36] The most appropriate method of making these projections relies on the model to predict changes between current and future states. Thus, we have estimated future conditions only for the areas with current $PM_{2.5}$ monitored data (which cover about a third of the nation's counties). For these counties, REMSAD predicts the current level of 37 percent of the population living in areas where fine PM levels are at or above 16 $\mu g/m^3$ to increase to 49 percent in 2030.[37]

3. Carbon Monoxide

Carbon monoxide (CO) is a colorless, odorless gas produced through the incomplete combustion of carbon-based fuels. Carbon monoxide enters the bloodstream through the lungs and reduces the delivery of oxygen to the body's organs and tissues. The health threat from CO is most serious for those who suffer from cardiovascular disease, particularly those with angina or peripheral vascular disease. Healthy individuals also are affected, but only at higher CO levels. Exposure to elevated CO levels is associated with impairment of visual perception, work capacity, manual dexterity, learning ability and performance of complex tasks.

High concentrations of CO generally occur in areas with elevated mobile-source emissions. Peak concentrations typically occur during the colder months of the year when mobile-source CO emissions are greater and nighttime inversion conditions are more frequent. This is due to the enhanced stability in the atmospheric boundary layer, which inhibits vertical mixing of emissions from the surface.

The current primary NAAQS for CO are 35 parts per million for the one-hour average and 9 parts per million for the eight-hour average. These values are not to be exceeded more than once per year. Air quality carbon monoxide value is estimated using EPA guidance for calculating design values. In 1999, 30.5 million people (1990 census) lived in 17 areas designated nonattainment under the CO NAAQS.[38]

Nationally, significant progress has been made over the last decade to reduce CO emissions and ambient CO concentrations. Total CO emissions from all sources have decreased 16 percent from 1989 to 1998, and ambient CO concentrations decreased by 39 percent. During that time, while the mobile source CO contribution of the inventory remained steady at about 77 percent, the highway portion decreased from 62 percent of total CO emissions to 56 percent while the nonroad portion increased from 17 percent to 22 percent.[39] Over the next decade, we would expect there to be a minor decreasing trend from the highway segment due primarily to the more stringent standards for certain light-duty trucks (LDT2s).[40] CO standards for passenger cars and other light-duty trucks and heavy-duty vehicles did not change as a result of other recent rulemakings.

4. Other Welfare and Environmental Effects

In addition to the health and welfare concerns just described, Category 3 marine diesel engines can contribute to regional haze, acid deposition, and eutrophication and nitrophication. Further information on these effects can

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memorandum is available in Air Docket A–2001–11, Document No. II–A–XX.

[25] Additional information about this modeling can be found in our Regulatory Impact Analysis: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements, document EPA420–R–00–026, December 2000. Docket No. A–2001–11, Document No. II–A–XX. This document is also available at *http://www.epa.gov/otaq/diesel.htm#documents*.

[26] We also performed ozone air quality modeling for the western United States but, as described further in the air quality technical support document, model predictions were well below corresponding ambient concentrations for our heavy-duty engine standards and fuel sulfur control rulemaking. Because of poor model performance for this region of the country, the results of the Western ozone modeling were not relied on for that rule.

[27] Regulatory Impact Analysis: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements, US EPA, EPA420–R–00–026, December 2000, at II–14, Table II.A–2. Docket No. A–2001–11, Document Number II–A–XX. This document is also available at *http://www.epa.gov/otaq/diesel.htm#documents*.

[28] Additional information about these studies can be found in Chapter 2 of "Regulatory Impact Analysis: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements," December 2000, EPA420–R–00–026. Docket No. A–2001–11, Document Number II–A–XX. This document is also available at *http://www.epa.gov/otaq/diesel.htm#documents*.

[29] A copy of these data can be found in Air Docket A–2001–11, Document No. II–A–XX.

[30] Memorandum to Docket A–99–06 from Eric Ginsburg, EPA, "Summary of Model-Adjusted Ambient Concentrations for Certain Levels of Ground-Level Ozone over Prolonged Periods," November 22, 2000, at Table C, Control Scenario—2020 Populations in Eastern Metropolitan Counties with Predicted Daily 8–Hour Ozone greater than or equal to 0.080 ppm. Docket A–2001–11, Document Number II–B–XX.

[31] EPA (1996) Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information OAQPS Staff Paper. EPA–452/R–96–013. Docket Number A–99–06, Documents Nos. II–A–18, 19, 20, and 23. The particulate matter air quality criteria documents are also available at *http://www.epa.gov/ncea/partmatt.htm*.

[32] EPA adopted a policy in 1996 that allows areas with PM_{10} exceedances that are attributable to natural events to retain their designation as unclassifiable if the State is taking all reasonable measures to safeguard public health regardless of the sources of PM_{10} emissions.

[33] Memorandum to Docket A–99–06 from Eric O. Ginsburg, Senior Program Advisor, "Summary of 1999 Ambient Concentrations of Fine Particulate Matter," November 15, 2000. Air Docket A–2001–11, Document No. II–B–XX.

[34] EPA (1996) Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information OAQPS Staff Paper. EPA–452/R–96–013. Docket Number A–99–06, Documents Nos. II–A–18, 19, 20, and 23. The particulate matter air quality criteria documents are also available at *http://www.epa.gov/ncea/partmatt.htm*.

[35] Memorandum to Docket A–99–06 from Eric O. Ginsburg, Senior Program Advisor, "Summary of Absolute Modeled and Model-Adjusted Estimates of Fine Particulate Matter for Selected Years," December 6, 2000. Air Docket A–2001–11, Document No. II–B–XX.

[36] Additional information about the Regulatory Model System for Aerosols and Deposition (REMSAD) and our modeling protocols can be found in our Regulatory Impact Analysis: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements, document EPA420–R–00–026, December 2000. Docket No. A–2001–11, Document No. A–II–XX. This document is also available at *http://www.epa.gov/otaq/disel.htm#documents*.

[37] Technical Memorandum, EPA Air Docket A–99–06, Eric O. Ginsburg, Senior Program Advisor, Emissions Monitoring and Analysis Division, OAQPS, Summary of Absolute Modeled and Model-Adjusted Estimates of Fine Particulate Matter for Selected Years, December 6, 2000, Table P–2. Docket Number 2001–11, Document Number II–B–XX.

[38] National Air Quality and Emissions Trends Report, 1999, EPA, 2001, at Table A–19. This document is available at *http://www.epa.gov/oar/aqtrnd99/*. The data from the Trends report are the most recent EPA air quality data that have been quality assured. A copy of this table can also be found in Docket No. A–200111, Document No. II–A–XX.

[39] National Air Quality and Emissions Trends Report, 1998, March, 2000; this document is available at *http://www.epa.gov/oar/aqtrnd98/*. National Air Pollutant Emission Trends, 1900–1998 (EPA–454/R–00–002), March, 2000. These documents are available at Docket No. A–2000–01, Document No. II–A–72. See also Air Quality Criteria for Carbon Monoxide, U.S EPA, EPA 600/P–99/001F, June 2000, at 3–10. Air Docket A–2001–11, Document Number II–A–XX. This document is also available at *http://www.epa.gov/ncea/coabstract.htm*.

[40] LDT2s are light light-duty trucks greater than 3750 lbs. loaded vehicle weight, up through 6000 gross vehicle weight rating.

be found in Chapter 2 of the Draft Regulatory Support Document.

C. Contribution From Category 3 Marine Diesel Engines

1. National Inventories

We developed baseline Category 3 vessel emissions inventories under contract with E. H. Pechan & Associates, Inc.[41] Inventory estimates were developed separately for vessel traffic within 25 nautical miles of port areas and vessel traffic outside of port areas but within 175 nautical miles of the coastline. The inventories include all Category 3 traffic, including that on the Great Lakes. Different techniques were used to develop the port and non-port inventories. For port areas we developed detailed emissions estimates for nine specific ports using port activity data including port calls, vessel types and typical times in different operating modes. Emissions estimates for all other ports were developed by matching each of those ports to one of the nine specific ports already analyzed based on characteristics of port activity, such as predominant vessel types, harbor draft and region of the country. The detailed port emissions were then scaled to the other ports based on relative port activity. We developed non-port emissions inventories using cargo movements and waterways data, vessel speeds, average dead weight tonnage per ship, and assumed cargo capacity factors. More detailed information regarding the development of the baseline emissions inventories can be found in Chapter 6 of the Draft Regulatory Support Document.

There has been little study of the transport of marine vessel NO_X emissions and the distance they may travel to impact air quality on land. Pollutant transport is a very complicated subject, and the transport distance can vary dramatically depending on a variety of factors, including the pollutant under consideration, as prevailing wind speed and direction, and other atmospheric conditions. When we consider how far off the coast to include emissions in our baseline the correct answer may well vary depending on geographic area and prevailing atmospheric conditions. Thus, in developing baseline emissions inventories we looked at two scenarios that we believe reasonably bracket the distances from shore that vessel emissions my be emitted and expected in impact air quality on land. First, we looked only at the pollutants emitted within 25 nautical miles of a port area as a reasonable lower bound to estimate the national inventory of Category 3 marine diesel engines. As an upper bound we considered all Category 3 emissions within 175 nautical miles of shore.

Not surprisingly, these two different distances yield different inventory results. The 1996 NO_X and PM emissions inventories are shown in Table II.C–1. We used 1996 as the starting point for this analysis because that is the most recent year that we have detailed information available for the nine specific port areas. As will be discussed later in this section, this initial analysis shows that the contribution from U.S. and foreign flagged vessels differs between these two areas.

TABLE II.C–1.—CATEGORY 3 MARINE DIESEL ENGINE 1996 BASELINE EMISSIONS INVENTORIES

[thousand short tons]

Scenario	NO_X	PM
Within 25 nautical miles of ports	101	9.3
Within 175 nautical miles of coast	190	17

For the remainder of the analysis associated with the proposed emissions standards we will consider all emissions that occur within 175 nautical miles from the coast as our primary scenario. We request comment on all aspects of our emissions inventories. In particular, we request comment on whether we should consider a range different than 175 nautical miles from the coast as our primary scenario, and why. We also request comment on whether we should consider different distances from the coast for different areas of the country. For example, should we consider a smaller distance on the East coast than the West coast to account for prevailing wind patterns?

We will continue to investigate this issue throughout this rulemaking, and will incorporate any new information into the final rule. For example, the U.S. Department of Defense (DoD) has presented information to us recommending that a different, shorter (offshore distance) limit be established rather than the proposed 175 nautical miles as the appropriate location where emissions from marine vessels would affect on-shore air quality. DoD's extensive work on the marine vessels issue in Southern California resulted in a conclusion that emissions within 60 nautical miles of shore could make it back to the coast due to eddies and the nature of the sea breeze effects. Satellite data however showed a distinct tendency for a curved line of demarcation separating the offshore (unobstructed) or parallel ocean wind flow from a region of more turbulent, recirculated air which would impact on-shore areas. That curved line of demarcation was close to San Nicolas Island which is about 60 nautical miles offshore. Studies and published information on other coastal areas in California indicates that they experience somewhat narrower (perhaps 30 nautical miles) region of "coastal influence." The Gulf Coast and the U.S. East coast would similarly have their own unique meteorological conditions that might call for different lines of demarcation between on-shore and off-shore effects.

To estimate inventories for years after 1996, we developed inventory projections based on expected increases in vessel freight movement and expected changes in vessel characteristics, as well as fleet turnover based on 25 years as the average age of the world fleet at time of scrappage. We also take the MARPOL Annex VI NO_X limits into account because, although these international NO_X standards are not yet in force, we expect that most, if not all shipbuilders and shipping companies around the world are currently complying with them, and we expect this trend to continue. Our estimated emissions inventories are based on the assumption that all vessels built after 1999, both U.S. and foreign flagged, will comply with the MARPOL NO_X limits. Table II.C–2 shows the future year NO_X and PM inventories for selected years out to 2030. More detailed information regarding the development of the future year emissions inventories can be found in Chapter 6 of the Draft Regulatory Support Document. We request comment on these inventory projections. In particular, we request comment on whether freight growth will continue at the exponential rate that is has seen in the past, and for how long such exponential growth can be expected to continue.

One very important consideration in projecting future year inventories is the make up and size of the future vessel fleet. The size and make up of the future U.S. flagged fleet is dependent on vessel construction at U.S. shipyards, the nature of vessel replacement practices, and any growth in the number of ships in the fleet. Projecting future vessel production at U.S. shipyards is difficult for two reasons. First, vessel construction totals for U.S. shipyards have varied quite a bit from year to year, with no clear trends. Second, the U.S. government discontinued subsidies to U.S. shipyards in 1983, creating a dramatic downward shift in production at U.S. shipyards. We request comment on likely future production at U.S. shipyards, including production estimates and the rationale behind the estimates. Vessel replacement practices also play a role in future year emissions inventory projections. For example, the current U.S. flagged fleet contains a large number of older steamships. We request comment on whether these steamships are likely to be replaced with diesels when they are scrapped. We also request comment on whether there are any other vessel replacement practices or trends that we should consider when projecting future year emissions inventories. As shown in Chapter 6 of the Draft Regulatory Support Document, a substantial portion of the U.S. flagged fleet is over 30 years old. We request comment on the size and nature of any increase in U.S. shipbuilding activity that may occur in the near future in an effort to replace the aging fleet. Finally, we request comment on whether the total number of U.S. flagged vessels is expected to grow substantially in the future and why.

[41] "Commercial Marine Emission Inventory Development," E.H. Pechan and Associates, Inc. and ENVIRON International Corporation, April, 2002.

TABLE II.C–2.—FUTURE YEAR NO_X AND PM INVENTORIES FOR CATEGORY 3 MARINE DIESEL ENGINES

[thousand short tons]

Year	NO_X			PM		
	Ports	Non-ports	All areas	Ports	Non-ports	All areas
1996	101	89	190	9	8	17
2010	146	128	274	14	12	26
2020	196	172	367	20	16	37
2030	288	243	531	30	24	54

Baseline emission inventory estimates for the year 2000 for Category 3 marine diesel engines are summarized in Table II.C–3 in the context of other emissions sources. This table shows the relative contributions of the different mobile-source categories to the overall national mobile-source inventory. Of the total emissions from mobile sources, all Category 3 marine diesel engines contributed about 1.5 percent of NO_X and 2.6 percent of PM emissions in the year 2000.

Our draft emission projections for 2020 for Category 3 marine diesel engines show how emissions from these engines are expected to increase over time if left uncontrolled beyond the MARPOL Annex VI NO_X limits. The projections for 2020 are summarized in Table II.C–4 and indicate that Category 3 marine diesel engines are expected to contribute 5.7 percent NO_X and 5.8 percent of PM emissions in the year 2020. Population growth and the effects of other regulatory control programs are factored into these projections. The relative importance of uncontrolled nonroad engines is higher than the projections for 2000 because there are already emission control programs in place for the other categories of mobile sources which are expected to reduce their emission levels. The effectiveness of all control programs is offset by the anticipated growth in engine populations.

TABLE II.C–3.—MODELED ANNUAL EMISSION LEVELS FOR MOBILE-SOURCE CATEGORIES IN 2000

[thousand short tons]

Category	NO_X		HC		CO		PM	
	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source
Total for engines subject to proposed standards (U.S. flagged commercial marine—Category 3)	79	0.6	2	0.0	4	0.0	7.0	1.0
Commercial Marine CI—Category 3	195	1.5	8	0.1	16	0.0	18.0	2.6
Commercial Marine CI—Categories 1 and 2	700	5.2	22	0.3	103	0.1	20	2.9
Highway Motorcycles	8	0.1	84	1.1	329	0.4	0.4	0.1
Nonroad Industrial SI > 19 kW	306	2.3	247	3.2	2,294	2.9	1.6	0.2
Recreational SI	13	0.1	737	9.6	2,572	3.3	5.7	0.8
Recreation Marine CI	24	0.2	1	0.0	4	0.0	1	0.1
Marine SI Evap	0	0.0	89	1.2	0	0.0	0	0.0
Marine SI Exhaust	32	0.2	708	9.2	2,144	2.7	38	5.4
Nonroad SI < 19 kW	106	0.8	1,460	18.9	18,359	23.5	50	7.2
Nonroad CI	2,625	19.6	316	4.1	1,217	1.6	253	36.3
Locomotive	1,192	8.9	47	0.6	119	0.2	30	4.3
Total Nonroad	5,201	39	3,719	48	27,157	35	418	60
Total Highway	7,981	60	3,811	50	49,811	64	240	34
Aircraft	178	1	183	2	1,017	1	39	6
Total Mobile Sources	13,360	100	7,713	100	77,985	100	697	100
Total Man-Made Sources	24,444		18,659		100,064		3,093	
Mobile Source percent of Total Man-Made Sources	55		41		78		23	

TABLE II.C–4.—MODELED ANNUAL EMISSION LEVELS FOR MOBILE-SOURCE CATEGORIES IN 2020

[thousand short tons]

Category	NO_x		HC		CO		PM	
	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source
Total for engines subject to proposed standards (U.S. flagged commercial marine—Category 3)	150	2.3	5	0.1	9	0.0	14.0	2.2
Commercial Marine CI—Category 3	367	5.7	17	0.3	37	0.0	37.0	5.8
Commercial Marine CI—Categories 1 and 2	617	9.6	24	0.4	125	0.1	19.0	3.0
Highway Motorcycles	14	0.2	144	2.3	569	0.6	0.8	0.1
Nonroad Industrial SI > 19 kW	486	7.6	348	5.5	2,991	3.3	2.4	0.4
Recreational SI	27	0.4	1,706	27.1	5,407	6.0	7.5	1.2
Recreation Marine CI	39	0.6	1	0.0	6	0.0	1.5	0.2
Marine SI Evap	0	0.0	102	1.6	0	0.0	0	0.0
Marine SI Exhaust	58	0.9	284	4.5	1,985	2.2	28	4.4
Nonroad SI < 19 kW	106	1.7	986	15.6	27,352	30.3	77	12.0
Nonroad CI	1,791	28.0	142	2.3	1,462	1.6	261	40.6
Locomotive	611	9.5	35	0.6	119	0.1	21	3.3
Total Nonroad	4,116	63	3,789	60	40,053	44	455	70
Total Highway	2,050	33	2,278	36	48,903	54	145	23
Aircraft	232	4	238	4	1,387	2	43	7
Total Mobile Sources	6,398	100	6,305	100	90,343	100	643	100
Total Man-Made Sources	16,374	.....	16,405	.....	114,011	.....	3,027	.....
Mobile Source percent of Total Man-Made Sources	39	.....	38	.....	79	.....	21	.....

2. Inventories for Specific Ports

In the previous section we presented estimates of Category 3 marine diesel engine emissions as percentages of the national mobile source inventory. Total national man-made source inventories were also included in Tables II.C–3 and II.C–4 for comparison. However, marine vessel activity tends to be concentrated in port areas, and thus we would expect that Category 3 marine diesel engines would have a proportionately bigger impact on the mobile source pollution inventories of port areas. Using the port-specific Category 3 inventories developed for use in our national inventory in conjunction with total port area inventories developed in support of the heavy-duty on-highway 2007 rule, we developed estimates of the contribution of Category 3 marine diesel engines to the mobile source NO_x and PM inventories of several selected port areas, including several ozone nonattainment areas. The NO_x results are shown in Table II.C–5, and the PM results are shown in Table II.C–6. As can be seen from these tables, the relative contribution of Category 3 marine diesel engine pollution to mobile source pollution is expected to increase in the future. This is due both to the expected growth of shipping traffic in the future and the effect of emissions control programs already in place for other mobile sources.

TABLE II.C–5.—MODELED NO_x INVENTORIES AS A PERCENTAGE OF MOBILE SOURCE NO_x IN SELECTED PORT AREAS

Ozone non-attainment area?	Port area	Percent of mobile source NO_x from C3	
		1966	2020
Y	Baton Rouge and New Orleans, LA	7.4	15.8
Y	Los Angeles/Long Beach, CA	2.0	8.6
Y	Beaumont/Port Arthur, TX	1.4	3.1
Y	Houston/Galveston/Brazoria, TX	1.5	4.9
Y	Baltimore/Washington, DC	2.1	11.4
Y	Philadelphia/Wilmington/Atlantic City	1.8	6.9
Y	New York/New Jersey	1.0	6.2
N	Seattle/Tacoma/Bremerton/Bellingham, WA	4.3	26.3
N	Miami/Ft. Lauderdale, FL	5.4	28.1
N	Portland/Salem, OR	1.9	11.9
N	Wilmington, NC	6.9	26.8
N	Corpus Christi, TX	4.8	12.2
N	Brownsville/Harlington/San Benito, TX	1.8	6.6

TABLE II.C–6—MODELED PM INVENTORIES AS A PERCENTAGE OF MOBILE SOURCE PM IN SELECTED PORT AREAS

Port area	Percent of mobile source PM from C3	
	1996	2020
Baton Rouge and New Orleans, LA	12.1	22.6
Los Angeles/Long Beach, CA [1]	3.9	10.8
Beaumont/Port Arthur, TX	7.4	18.3
Houston/Galveston/Brazoria, TX	3.3	8.5
Baltimore/Washington DC	3.2	9.6
Philadelphia/Wilmington/Atlantic City	2.8	6.3
New York/New Jersey	1.6	5.7
Seattle/Tacoma/Bremerton/Bellingham, WA	8.5	25.5
Miami/Ft. Lauderdale, FL	10.6	28.7
Portland/Salem, OR	3.9	12.1
Wilmington, NC	8.1	22.4
Corpus Christi, TX	6.0	9.6
Brownsville/Harlington/San Benito, TX	3.1	14.9

[1] PM nonattainment area.

3. Emissions in Nonport Areas

These ships can also have a significant impact on inventories in areas without large commercial ports. For example, Santa Barbara estimates that engines on ocean-going marine vessels contribute about 37 percent of total NO_x in their area. These emissions are from ships that transit the area, and "are comparable to (even slightly larger than) the amount of NO_x produced onshore by cars and truck.[42] These emissions are expected to increase to 62 percent by 2015. While Santa Barbara's exact conditions may be unique due to the relative close proximity of heavily used shipping channels to shore and the meteorological conditions in their area, other coastal areas may also have relatively high inventory impacts from ocean-going vessels.

4. Contribution by Flag

It is important to determine how much of the Category 3 marine diesel engine pollution inventory is contributed by U.S. flagged vessels given that we are considering whether to restrict application of the proposed standards and standards under consideration to U.S. flag vessels only or to apply the standards to all vessels (U.S. and foreign-flag entering U.S. ports). We estimated the relative contribution of U.S. and foreign flagged vessels separately for the port areas and the non-port areas due to the fact that we had different data sets available to us for the two areas.

We estimated the contribution of U.S. flagged vessels for the ports areas using port call data obtained from the U.S. Maritime Administration (MARAD). These data contained all port calls in 1999 to U.S. ports by vessels of greater than 1000 gross registered tons, including the country in which they are flagged and the number of port calls each vessel made. An analysis of the port call data shows that U.S. flagged vessels only account for 6.4 percent of port calls to U.S. ports. For the lack of more detailed information regarding the breakout of U.S. and foreign flagged vessel emissions we applied the percentage of port calls from U.S. and foreign flagged vessels to the national ports inventories to determine the relative contributions of each to the national ports inventories.

We used freight tonnage data from the U.S. Army Corp of Engineers (USACE) to develop relative U.S. and foreign flagged emissions contributions in non-ports areas within 175 nautical miles of the coast. In contrast to the data for the ports areas, the USACE data suggests that more than 80 percent of the non-ports emissions come from U.S. flagged vessels.

The relative contributions from U.S. and foreign flagged vessels are quite different between the ports areas and the non-ports areas. Some of this difference can be explained through U.S. cabotage law, which requires that any vessel operating between two U.S. ports be U.S. flagged. Thus, while most port traffic is foreign flagged, the foreign flagged vessels would tend to come into a single U.S. port and then leave U.S. waters. In contrast, U.S. flagged vessels would typically travel from one U.S. port to another, thus accounting for a higher percentage of the non-ports emissions. We request comment on this assessment of U.S. and foreign flagged vessel contributions, as well as additional data that would help us further understand the relative contributions of U.S. and foreign flagged vessels to the national pollution inventories.

For the purposes of the future inventory projections we assumed that the current split of U.S. and foreign flagged emissions would continue. However, this assumption, in combination with our assumed growth rates, implies that the manufacture of Category 3 vessels in the U.S. for the U.S. flagged fleet would occur in the future at rates greater than the recent build rate of around two vessels per year. More likely, seven to nine new U.S. flagged vessels would need to be built per year to accommodate the U.S. flagged vessel emissions growth assumptions. We request comment on whether the U.S. flagged fleet is expected to grow at this rate in the future, or instead whether a growing fraction of vessel emissions would come from foreign flagged vessels in the future. Specifically, we request comment on the likely replacement rates and expected new capacity of the U.S. fleet in the future.

III. What Engines Are Covered?

The scope of application of this proposal is broadly set by Clean Air Act section 213(a)(3), which instructs us to set standards for new nonroad engines and new nonroad vehicles. In this case, the proposed rule is intended to cover all new marine diesel engines installed on vessels flagged or registered in the United States that have a specific engine displacement greater than or equal to 30 liters per cylinder. Under the requirements of the Clean Air Act, once emission standards apply to a group of

[42] Memorandum to Docket A–2001–11 from Jean Marie Revelt, "Santa Barbara County Air Quality News, Issue 62, July–August 2001 and other materials provided to EPA by Santa Barbara County," March 14, 2002. Air Docket A–2001–11.

engines, a manufacturer of a new engine must get a certificate of conformity from us before selling an engine, importing an engine, or otherwise introducing an engine into commerce in the United States.[43] [44] We also require vessel manufacturers to install only certified engines on new vessels that will be flagged or registered in the United States once emission standards apply. The certificate of conformity (and corresponding engine label) provide assurance that engine manufacturers have met their obligation to make engines that meet the emission standards over the useful life we specify in the regulations.

The scope of application for emission standards for commercial marine diesel engines up to 30 liters per cylinder was established in our 1999 rulemaking (64 FR 73300, December 29, 1999). In that rule, we adopted a set of clarifying definitions that apply to those commercial marine diesel engines and the vessels that use them. We are proposing to apply those definitions to Category 3 marine diesel engines for the purpose of identifying the engines and vessels that must comply with the proposed standards. According to those definitions, which can be found in 40 CFR 94.2, a Category 3 marine diesel engine would be subject to the proposed standards if it is:

- Manufactured after the emission standards become effective, whether domestic or imported;
- Installed for the first time in a marine vessel flagged in the U.S. after having been used in another application subject to different emission standards; or
- Installed on a new vessel flagged in the U.S.

At the same time we are soliciting comment on whether the emission standards should also apply to marine engines on foreign vessels entering U.S. ports and to no longer exclude such foreign vessels from the emission standards under 40 CFR § 94.1(b)(3). We are inviting comment on whether to modify the definition of a "new marine engine" to find that engine emission standards would apply to Category 1, 2 and 3 marine diesel engines that are manufactured after the standards become effective and that are installed on a foreign flagged vessel that enters a U.S. port. If we were to adopt such an approach, we anticipate the standards would also apply to any marine engine that is installed on a foreign vessel if the vessel is manufactured (or that otherwise become new) after the standards become effective.

We are also proposing to eliminate the foreign trade exemption. Under this exemption, contained in 40 CFR section 94.906(d), engines on vessels flagged or registered in the United States that spend less than 25 percent of total operating time within 320 kilometers of U.S. territory are not required to comply with the proposed limits. This would generally affect auxiliary engines, which are usually less than 30 liters per cylinder.

EPA is not considering inclusion of gas turbines in this rulemaking given the limited amount of information that we currently have about emissions from turbines. EPA's current belief is that gas turbines generally have lower emissions than diesels. However, we are requesting that commenters provide to us any emissions information that is available as well as whether it would be appropriate to regulate turbines and diesels together. Commenters supporting the regulation of turbines should also address whether any special provisions would be needed for the testing and certification of turbines.

In the remainder of this section we discuss the proposed scope of application of the rule in greater detail.

A. What Is a Marine Vessel?

For the purpose of our marine diesel engine standards, "marine vessel" has the meaning specified in the General Provisions of the United States Code, 1 U.S.C. 3 (see 40 CFR 94.2). According to that definition, the word "vessel" includes "every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water."

B. What Is a Category 3 Marine Diesel Engine?

In our 1999 commercial marine diesel engine rule, we defined marine engine as an engine that is installed or intended to be installed on a marine vessel. We also differentiated between three types of marine diesel engines. As explained in that rule, this approach is necessary because marine diesel engines are typically derivatives of land-based diesel engines and the land-based engines are not all subject to the same numerical standards and effective dates.

The definitions for the different categories of marine diesel engines are contained in 40 CFR 94.2. Category 1 marine diesel engines, those having a rated power greater than or equal to 37 kilowatts and a specific engine displacement less than 5.0 liters per cylinder, are similar to land-based nonroad engines used in construction and farm equipment. Category 2 marine diesel engines, those having a specific engine displacement greater than or equal to 5.0 liters per cylinder but less than 30 liters per cylinder, are most often similar to locomotive engines. Category 1 and Category 2 marine diesel engines are used as propulsion engines (i.e., an engine that moves a vessel through the water or directs the movement of a vessel (40 CFR 94.2)) on tugs, fishing vessels, supply vessels, and smaller cargo vessels. They are also used as auxiliary engines (i.e., a marine engine that is not a propulsion engine (40 CFR 94.2)) to provide electricity for navigation equipment and crew service or other services such as pumping or powering winches or anchors.

Category 3 marine diesel engines, which are the primary focus of this proposal, are defined as having a specific engine displacement greater than or equal to 30 liters per cylinder. These are very large engines used for propulsion on large vessels such as container ships, tankers, bulk carriers, and cruise ships. Most of these engines are installed on ocean-going vessels, although a few are found on ships in the Great Lakes. Category 3 marine diesel engines have no land-based mobile source counterpart, although they are similar to engines used to generate electricity in municipal power plants. In marine applications they are either mechanical drive or indirect drive. Mechanical drive engines can be direct drive (engine speed is the same as propeller speed; this is common on very large ships) or have a gearbox (i.e., they have reduction gears; this is common on ships using medium speed Category 3 marine diesel engines). Indirect drive engines are used to generate electricity that is then used to turn the propeller shaft. These are common in cruise ships since they have heavy electricity demands. Category 3 marine diesel engines typically operate at a lower speed and higher power than Category 1 and Category 2 engines, with the slowest speed being 130–200 rpm.

[43] The term "manufacturer" means any person engaged in the manufacturing or assembling of new engines or importing such engines for resale, or who acts for and is under the control of any such person in connection with the distribution of such engines. 40 CFR 94.2.

[44] For this proposal, we consider the United States to include the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands. See CAA section 302(d) definition of "State."

TABLE III.B–1—MARINE ENGINE CATEGORY DEFINITIONS

Category	Displacement per cylinder	hp range (kW)	rpm range
1	disp. < 5 liters (and power ≥ 37 kW)	37–2,300	1,800–3,000
2	5 ≤ disp. < 30 liters	1,500–8,000	750–1,500
3	disp ≥ 30 liters	2,500–80,000	80–900

C. What Is a New Marine Diesel Engine?

1. The Current Regulatory Definition

As set out in 40 CFR 94.2, a new marine engine is (i) a marine engine, the equitable or legal title to which has never been transferred to an ultimate purchaser; (ii) a marine engine installed on a vessel, the equitable or legal title to such vessel has never been transferred to an ultimate purchaser; or (iii) a marine engine that has not been placed into service on a vessel. In cases where the equitable or legal title to an engine or vessel is not transferred to an ultimate purchaser prior to its being placed into service, an engine ceases to be new after it is placed into service.

What this means is that a marine engine is new and is subject to the proposed standards before its initial sale is completed or it is placed into service. Practically, it means that any engine must meet the proposed emission standards that are in effect the first time it is sold or placed into service or the first time the vessel on which it is installed is sold or placed into service. This is true for any engine that is sold for the first time as a marine engine (placed into service on a marine vessel), regardless of whether it has previously been used in other nonroad or on-highway purposes. This clarification is necessary because some marine engines are made by "marinizing" existing land-based nonroad or highway engines. Without this clarification a marinized used highway or land-based engine would not be subject to the standards since its title was already transferred to the initial highway or land-based nonroad user.

With respect to imported marine diesel engines, 40 CFR 94.2 defines "new" as an engine that is not covered by a certificate of conformity at the time of importation and that was manufactured after the starting date of the emissions standards which are applicable to such engine (or which would be applicable to such engine had it been manufactured for importation into the United States). According to this definition, the proposed standards would apply to engines that are imported by any person, whether newly manufactured or used, and whether they are imported as uninstalled engines or if they are already installed on a marine vessel that is imported into the U.S. In one example, a person may want to import a vessel built after the effective date of the standards but the engine does not have a certificate of conformity from EPA because the engines and vessel were manufactured elsewhere. We would still consider it to be a new engine or vessel, and it would need to comply with the applicable emission standards. This provision is important to prevent manufacturers from trying to avoid the emission standards by building vessels abroad, transferring their title, and then importing them as used vessels.

2. Should Engines on Foreign Flag Vessels That Enter U.S. Ports Be Covered?

Today's proposal solicits comment on whether to modify the definition of a "new" marine engine to find that engine emission standards apply to Category 1, 2, and 3 marine diesel engines that are built after the standards become effective and that are installed on foreign flag vessels that enter U.S. ports. Such vessels and their engines would be subject to U.S. engine emission standards as a condition of port state entry.

The 1999 marine engine rule did not apply to marine engines on foreign vessels. 40 CFR 94.1(b)(3). At that time we concluded that engines installed on vessels flagged in another country that come into the United States temporarily will not be subject to the emission standards. Those vessels are not considered imported under the U.S. customs laws, and under the interpretation adopted in that rule we did not consider their engines "new" for purposes of Clean Air Act section 213, 42 U.S.C. 7547. 64 FR 73300, 73302 (Dec. 12, 1999).

Section 213 authorizes regulation of "new nonroad engine" and "new nonroad vehicle." However, Title II of the Clean Air Act does not define either "new nonroad engine" or "new nonroad vehicle." Section 216 defines a "new motor vehicle engine" to include an engine that has been "imported." EPA modeled the current regulatory definitions of "new nonroad engine" and "new marine engine" at 40 CFR 89.2 and 40 CFR 94.2, respectively, after the statutory definitions of "new motor vehicle engine" and "new motor vehicle." Because "new nonroad engine" is not defined in the statute, EPA is seeking comment on whether "new nonroad engine" could be defined to include marine engines on foreign vessels that enter U.S. ports and that are manufactured after the standards go into effect, whether or not they are considered imported under the U.S. customs laws. EPA also invites comment on whether the term "import," which is not defined in Title II, should be defined to include foreign flag vessels, for purposes of the definition of "new nonroad engine" only, whether or not they are considered imported under the U.S. customs laws.

EPA has discretion in defining "new nonroad engine" as it is used in Section 213 of the Act. EPA solicits comment on whether it would be appropriate and within EPA's authority to exercise this discretion to define "new nonroad engine" to include marine engines on foreign vessels that enter US ports, in light of environmental and international oceans policy and any other relevant factors, including consideration of their significant emissions contribution to air quality problems in the United States. If EPA were to regulate foreign-flagged vessels, such vessels would be subject to enforcement as a condition of port entry.

Even if EPA determined that it had the discretion to define "new nonroad engine" as outlined above, EPA could conclude that the most appropriate exercise of its discretion would involve retention of the 1999 definition of "new nonroad engine." EPA could conclude that revising the definition would not be warranted at this time because of the potential implications that setting engine emission standards for foreign vessels might have on international commerce and future international negotiations under MARPOL and in other fora. EPA will consider, therefore, whether setting a national standard in this situation and changing its interpretation of "new nonroad engine" to apply this standard to foreign vessels could adversely affect the U.S.' position with respect to the variety of other international issues that are addressed under MARPOL and in other fora. In considering whether to impose requirements on foreign vessels that are

more stringent than those imposed on such vessels by their flag states or which may be more stringent than those set out in international instruments (or agreements), EPA will consider whether this would raise questions of international oceans policy or would have adverse ramifications on U.S. foreign policy.

In such a case, it might be more appropriate at this time to exercise any discretion EPA may have by retaining the 1999 definition of "new nonroad engine."

However EPA decides this issue it would be free to revisit it in the future as appropriate. For example, EPA could revisit any decision to retain the 1999 definition if negotiations with other nations do not lead to international agreement on emissions that adequately protect air quality in the U.S. when foreign vessels enter U.S. ports.

EPA also clarifies that any extension of the rule to foreign flag vessels would not include extension to any warship, naval auxiliary, or other ship owned or operated by a foreign state and used for government noncommercial service.

3. Should Engines on Foreign Flag Vessels Be Covered Regardless of the Number of Their Annual Visits?

If we were to apply the standards to engines that are manufactured after the standards become effective and that are installed on foreign flag vessels that enter U.S. ports, one thing to consider is whether this provision should be limited by the number of times a vessel visits U.S. ports annually.

Were we to apply the standards to engines on foreign flag vessels, using a strict approach, any engines on a vessel manufactured (or that otherwise becomes new) after the effective date of the standards, or manufactured before the effective date but has engines that are manufactured after the effective date, that comes to the United States, whether once a year, twenty times a year, or even more, would be required to have compliant engines.

An alternative approach would apply the standards only to those vessels that are frequent visitors to the United States. A review of 1999 data on vessel entrances from the United States Maritime Administration for 1999 indicates that there is considerable variation in the number of vessel entrances per ship. According to that data, which is described in more detail in Chapter 2 of the draft Regulatory Support Document for this rulemaking, there were about 2,500 foreign flag vessels that made only one or two entrances into the United States in 1999. These vessels accounted for 33 percent of all foreign flag vessels that entered this country, but they accounted for only about 5 percent of all vessel entrances. There were about 3,900 foreign flag vessels that entered the United States four or fewer times in that year, accounting for about 52 percent of all vessels, but they accounted for only about 12.5 percent of all vessel entrances. In other words, there is a large set of vessels that come to the United States only a few times a year. The vast majority of entrances by foreign flag vessels, 87.5 percent, are made by about 3,700 vessels that come here 5 or more times a year. We estimate that emissions from engines on foreign flag vessels were on average about 1.7 tons NO_X per vessel in 2000. This means that foreign vessels that enter U.S. ports only once or twice a year contributed about 6,100 tons of NO_X in 2000 (about 3 percent of total Category 3 NO_X emissions of 195,000 tons), and foreign flag vessels that entered U.S. ports four or fewer times a year contributed about 14,500 tons of NO_X in 2000 (about 7.4 percent of Category 3 NO_X emissions).

If we were to conclude that it was appropriate under the Clean Air Act to apply the standards to engines on foreign flag vessels, it might be appropriate to exempt engines on foreign-flag vessels that come to the United States only a few times a year. This could be a temporary exemption that would apply only as long as a vessel remains below the threshold number of vessel entrances. To qualify for such an exemption, the shipowner would have to show that the ship does not frequently enter U.S. ports. This demonstration could be made based on the average number of times the vessel entered the United States in the previous two years, for existing vessels, or on the expected usage of the vessel for new vessels (e.g., a regular container or tanker route), for new vessels. In any case, a shipowner that did not obtain an exemption would have to demonstrate in some form that the vessel's engines are compliant. In other words, under such an approach, each foreign flag that seeks to enter a U.S. port would be required to have either a compliant engines or an exemption from the program based on the frequency of its visits. Under this approach, such a requirement would apply for every trip, not just trips in excess of the threshold number of trips to obtain the exemption.

This alternative relies on the assumption that a vessel that enters the United States only periodically does not have dramatically different number of vessel entrances from year to year. We request comment on whether this is, in fact, the case. Another important aspect of such an exemption for foreign flag vessels, if we were to include them in this rule, is what would happen if the vessel wished to make a third, or fifth, entry into a U.S. port. This is important because of the certification burden associated with making that extra annual trip. The owner of a ship with such an exemption would have to be confident that the vessel would not seek entry more than the allowable number of times. Alternatively, it might be possible to petition EPA for permission to enter an extra time. This might require entering into a settlement agreement in advance of a violation of the terms of the exemption. The settlement could include a fine, a restriction on the number of entries in the future, or some other requirement. We seek comment on this as well as alternative methods to address the case in which a ship would seek to enter U.S. ports in excess of the number of visits specified in the exemption, and on whether obtaining an advance agreement with EPA would be too burdensome.

We request comment on all aspects of this potential alternative. Specifically, we request comment on the number of times a ship should be allowed to enter U.S. ports in a twelve-month period before being required to have compliant engines. We also request comment on whether there is much variability in port entries from year to year for vessels that come to U.S. ports only periodically.

D. What is a New Marine Vessel?

The definition of new vessel is set out in 40 CFR 94.2. This definition is similar to the definition of new engine: a new marine vessel is a vessel the equitable or legal title of which has never been transferred to an ultimate purchaser. In the case where the equitable or legal title to a vessel is not transferred to an ultimate purchaser prior to its being placed into service, a vessel ceases to be new when it is placed into service. Thus, a vessel is new and must have a certified engine and meet any other requirements for new vessels until its initial sale is completed or it is placed into service.

In addition, a vessel is considered to be new when it has been modified such that the value of the modifications exceeds 50 percent of the value of the modified vessel. As noted in our 1999 rulemaking, this provision is intended to prevent someone from re-using the hull or other parts from a used vessel to avoid emission standards. When applying this provision, the modifications must be completed prior to the effective date of the standards that would otherwise apply. For example, if a second tier of engine standards goes into effect in 2007, modifications that are completed by December 31, 2006 will not trigger the engine requirements and the engines on that vessel would not have to meet the standards. However, if the vessel modifications are completed on or after January 1, 2007, and they exceed 50 percent of the value of the modified vessel, then the engines on the vessel must meet the standards regardless of whether they have been changed as part of the vessel modification.

The definition in 40 CFR 94.2 refers to the "value" of the modifications, rather than the costs. This should therefore be based on the appraised value of the vessel before modifications compared with the value of the modified vessel. The following equation demonstrates the calculation, showing that a vessel is new if:

$$\frac{[\text{assessed value after modifications}] - [\text{assessed value before modifications}]}{[\text{assessed value after modifications}]} \geq 0.5$$

If the value of the modifications exceeds 50 per cent of the final value of the modified vessel, we would treat the vessel as new under 40 CFR part 94. To evaluate whether the modified vessel would be considered new, one would need to project the fair market value of the modified vessel based on an objective assessment, such as an appraisal for insurance or financing purposes, or some other third-party analysis. While the preliminary decision can be based on the projected value of the modified vessel, the decision must also be valid when basing the calculations on the actual assessed value of the vessel after modifications are complete.

E. Would the Foreign Trade Exemption Be Retained?

In addition to their main propulsion engines, which are generally Category 3 marine diesel engines, ocean-going commercial vessels typically have several Category 1 and Category 2 engines that are used in auxiliary power applications. They provide electricity for important navigational and maneuvering equipment, and crew services.

Several commenters to our earlier marine diesel engine rulemaking expressed concern that requiring ship owners to obtain and use compliant Category 1 and Category 2 engines for vessels that spend most of their time outside the U.S. could be burdensome for those vessels if these engines need to be repaired or replaced when they are away from U.S. ports. Consequently, we provided a foreign trade exemption for these engines. A vessel owner can obtain this exemption for Category 1 and Category 2 marine diesel engines if it can be demonstrated to the Administrator's satisfaction that the vessel: (a) Will spend less than 25 percent of its total engine operation time within 320 kilometers of U.S. territory; or (b) will not operate between two U.S. ports (40 CFR 94.906(d)). Engines that are exempt under this provision must be labeled to indicate that they have been certified only to the MARPOL Annex VI NO_X curve limits and that they are for use solely on vessels that meet the above criteria.

Today, we are proposing to eliminate this foreign trade exemption because the conditions that led to the need for it no longer hold. Specifically, we have learned that many engine spare parts are kept onboard vessels to enable ship operators to perform maintenance and repairs while the ship is underway. In addition, obtaining parts that are not kept onboard is not expected to be a problem. Modern package delivery systems should allow ship owners to obtain parts quickly, even overnight, and necessary parts can be shipped to the next convenient port on a ship's route. In the unlikely case that an engine fails catastrophically and must be replaced by a compliant engine, we are confident that the ship operator will be able to make arrangements to obtain a certified engine since the major manufacturers of marine diesel engines operate abroad as well as in the United States. Because the burden associated with repairing or replacing engines away from the United States is not significant, we believe it is appropriate to eliminate the exemption. We do not expect this change to have any impact on shipowners and operators, however, we request comments on the elimination of this exemption. Would this change have any measurable impact on U.S. flag shipowners or operators? Would it put U.S. flag shipowners or operators at a competitive disadvantage, in particular if a Tier 2 standard is included in the final rule? If so, please provide information supporting this concern.

IV. Standards and Technological Feasibility

A. What Engine Emission Standards Are Under Consideration?

Manufacturers of Category 3 marine engines have available a wide range of technologies to control emissions. Many of these technologies are similar to those that have been developed for smaller nonroad and highway diesel engines. While Category 3 marine engines are much larger than other regulated diesel engines, many of the same engineering principles of emission formation and control apply. In fact, manufacturers have applied significant effort to reduce emissions from these engines, both to meet Annex VI NO_X standards and to develop technologies to address concerns in specific areas. At the same time, it is clear that a substantial opportunity remains to adapt technologies to Category 3 marine engines

The following discussion of emission standards and the associated control technologies applies without respect to whether the standards ultimately apply only to U.S.-flag vessels or to all vessels calling on U.S. ports. Engine technology has become a very global field, with emission-control technology and compliant engines coming from all parts of the world. Manufacturers and owners of foreign-flag vessels would not face any unique constraints in using engines certified to EPA emission standards compared with U.S.-flag vessels. Nevertheless, we are proposing emission standards only for engines installed on U.S.-flag vessels, so references in this section to Category 3 marine engines apply specifically to those engines that would be subject to the proposed emission standards, unless otherwise noted.

Clean Air Act section 213 directs EPA to adopt standards requiring: * * *the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

To implement this Clean Air Act directive, we are seeking comment on two separate tiers of emission standards

for new marine diesel engines, as described below.

This section also describes an approach for setting Tier 2 HC and CO standards, applying Tier 1 standards to engines between 2.5 and 30 liters per cylinder, and defining voluntary low-emission standards.

1. Tier 1 Emission Standards

We propose to adopt a first tier of standards starting in the 2004 model year[45] equivalent to the Annex VI NO_X limits. Manufacturers have introduced basic emission-control technologies for all types of marine diesel engines in response to the Annex VI standards. This effort has demonstrated the feasibility of in-cylinder technologies including optimized turbocharging, higher compression ratio, and optimized fuel injection, which generally includes timing retard and changes to the number and size of injector holes to increase injection pressure.

As described in Section V, we are proposing to accept emission data for Tier 1 certification based on testing with either distillate or residual fuel. Since most or all manufacturers have been using distillate fuel to comply with Annex VI requirements, we expect manufacturers to meet Tier 1 standards generally by submitting their available emission data from testing with distillate fuels. However, since Annex VI does not include detailed specifications for test fuels, we believe that we will need to correct emission data for the effect of fuel nitrogen content. This correction is described later in this section. We would require that certified engines continue to meet Tier 1 emission standards throughout their useful life when tested with either distillate or residual fuel, after correction for the effect of fuel nitrogen. The proposed Tier 1 NO_X limits, reflecting the fuel adjustment, are set out in Table IV.A–1.

TABLE IV.A–1.—PROPOSED TIER 1 NO_X EMISSION LIMITS (g/kW-HR)*

Engine speed (n)	n ≥ 130 rpm**	n < 130 rpm
Tier 1	$45.0 \times n^{-0.2} + 1.4$	18.4

*The proposed regulations specify emission standards based on testing with measured emission values corrected to take into account the nitrogen content of the fuel. Emission values are corrected to values consistent with testing engines with fuel containing 0.4 weight percent nitrogen. Testing with fuel containing 0.2 weight-percent nitrogen (typical for in-use distillate marine fuels) would have a correction of 1.4 g/kW-hr, so the proposed Tier 1 NO_X standards would match the Annex VI NO_X standards at this test point.

**No cap would apply to engines over 2000 rpm, because Category 3 engines all have engine speeds well below that speed.

We are also proposing to apply the Tier 1 standards to all marine diesel engines with specific displacement between 2.5 and 30 liters per cylinder. This would apply to these engines from 2004 to 2006, after which the EPA Tier 2 marine engine emission standards established in December 1999 would apply (64 FR 73300, December 29, 1999). All testing to show compliance for these engines would be based on testing with distillate fuels meeting the specifications in 40 CFR 94.108.[46] As with the Category 3 engines, this would merely formalize the Annex VI standards, which these engines should already meet. Including these engines in this proposal would remove any ambiguity regarding the applicability of emission standards. We are not proposing to include engines under 2.5 liters per cylinder, because the December 1999 emission standards generally start already in 2004. Marine diesel engines below 0.9 liters per cylinder need not meet EPA emission standards until 2005. Most of those engines are under 130 kW and are therefore not subject to Annex VI standards.

2. Effect of Fuel Variables on Emission Standards

Another objective of the Clean Air Act is to adopt test procedures that represent in-use operating conditions as much as possible, including specification of test fuels consistent with the fuels that compliant engines will use over their lifetimes. This raises the question of testing Category 3 marine engines with distillate and residual fuel. Distillate fuel has a higher quality than residual fuel, but costs significantly more, so vessels with Category 3 marine engines primarily use residual fuel. The Annex VI emission standard is based on allowing manufacturers to test with marine distillate fuels, which generally have nitrogen levels of 0.0 to 0.4 weight percent. As discussed in the Draft Regulatory Support Document, NO_X emission levels increase with greater amounts of nitrogen that are bound up in the fuel. Residual fuels generally have higher nitrogen concentrations (typically 0.2 to 0.6 weight percent).

We are proposing that manufacturers of Category 3 engines may certify that they meet the applicable emission standards using either distillate or residual fuel. The proposed regulations include a range of fuel specifications for each fuel type (40 CFR 94.108). However, for testing engines after installation in the vessel, we would expect manufacturers to use residual fuel. This would add assurance that emission-control technologies reduce emissions under real operation in vessels. Without this assurance, manufacturers could implement and optimize technologies to achieve substantial emission control with distillate fuel without necessarily reducing emissions when engines operate with residual fuel.

To appropriately account for the emission-related effects of fuel quality, we analyzed the effect of nitrogen in contributing to NO_X emissions. The first step is to assign a default nitrogen content for distillate fuels as a benchmark to properly characterize the Annex VI NO_X standards. Fuel sampling shows an average concentration of 0.2 percent nitrogen in distillate fuel by weight (i.e., weight percent).[47] The comparable average value for residual fuels is 0.4 weight percent. To adjust the standard for testing with high-nitrogen residual fuel, we calculated the amount of additional NO_X that would form if all the additional fuel-bound nitrogen would react to form NO_X. This calculation depends on assigning a value for brake-specific fuel consumption, for which we use 220 g/kW-hr.[48] The resulting correction of 1.4 g/kW-hr shows up as an additive term in the equation in Table IV.A–1, since it is a constant value (independent of speed), assuming a consistent brake-specific fuel consumption rate.[49] For all testing with Category 3 engines, we would require measuring fuel-bound nitrogen and correcting measured values to what would occur with a nitrogen concentration of 0.4 weight percent (see Section V). This corrected value would be used to determine whether the engine meets emission standards or not. This correction methodology would apply equally to testing with distillate or residual fuels. Note that Annex VI includes a 10-percent allowance for higher emissions when performing simplified in-use testing with residual fuel. However, we believe that the nitrogen-based correction for any testing with any fuel is a better way to ensure that the targeted emission reductions are achieved in use.

This proposed approach to account for fuel nitrogen would help us ensure that engines meet the targeted level of emission control for the whole range of in-use fuels. At the same time, it allows substantial testing flexibility without compromising our ability to set an emission standard requiring the greatest degree of emission reductions for any given fuel. We request comment on this approach to testing with distillate and residual fuels. In particular, we request comment on the appropriate adjustment in the emission standard to account for the effects of testing with residual and distillate fuels in general and fuel-bound nitrogen in particular. We also request comment on how this approach to test fuels affects the cost of emission testing.

3. Tier 2 Emission Standards

EPA is considering adoption of a second tier of standards that would reflect additional reductions that could be achieved through engine-based controls and would apply to new engines built after 2006 or later. The year that EPA considers most appropriate at this time is 2007. The NO_X standards we are considering for potential Tier 2 standards are based on a 30 percent reduction from Tier 1 to allow manufacturers both greater flexibility in choosing the combination of emission control technologies to apply to their engines and a compliance margin for certification purposes. The NO_X limits we are considering for a second tier of standards are contained in Table IV.A–2.

TABLE IV.A–2.—TIER 2 STANDARDS CURRENTLY UNDER CONSIDERATION, NO_X EMISSION LIMITS (g/kW-HR)*

Engine speed (n)	n ≥ 130 rpm**	n < 130 rpm
Tier 2	$31.5 \times n^{-0.2} + 1.4$	13.3

*See notes to Table IV.A–1.
**See notes to Table IV.A–1.

Control of diesel engine emissions typically focuses on NO_X and PM emissions. HC and CO limits for diesel engines generally receive less attention because the diesel combustion process inherently prevents high rates of HC and CO emissions. We estimate that HC emissions are currently at 0.4 g/kW-hr, which is significantly lower than NO_X emissions from Category 3 engines, even after manufacturers substantially reduce NO_X emissions. Hydrocarbon emissions nevertheless combine with NO_X emissions to form ozone. We have generally adopted emission standards for other types of diesel engines in the form of a single standard for combined NO_X and HC emissions. To prevent increases in HC emissions, we are considering a Tier 2 standard at the baseline level of 0.4 g/kW-hr. This may achieve modest reductions in HC emissions, but more importantly would prevent HC emission increases that might otherwise result from controlling NO_X emissions alone. We request comment on whether we should set an emission standard for HC emissions and how to best to set an appropriate standard if one is warranted. We further request comment on setting a combined NO_X+HC standard for Category 3 engines as part of a second tier of standards. Commenters supporting a NO_X+HC standard should also address how to use NO_X-only onboard emission measurements in the context of a NO_X+HC standard, since it may not be possible to measure HC emissions.

We do not expect manufacturers to apply control technologies to reduce CO emissions. In fact, for current technologies, CO emissions generally decrease as manufacturers improve fuel consumption rates, so there is no incentive that would lead manufacturers to increase CO emissions. In other EPA programs for diesel engines, we generally set CO emission standards to prevent emission increases over time. We are considering this same approach with Tier 2 standards for Category 3 marine engines. Uncontrolled CO levels are generally less than 1 g/kW-hr. We are therefore considering a Tier 2 emission standard of 3 g/kW-hr for these engines, which would ensure that manufacturers don't cause significant increases in CO emissions when applying technologies designed to address NO_X emissions. A tighter standard may cause a manufacturer to spend a disproportionate amount of effort developing emission-control technologies for small changes in CO emissions. We request comment on regulating CO emission levels this way and specifically whether this is an appropriate level for a CO emission standard.

Regarding PM from Category 3 marine engines, the majority of emissions comes directly from the high concentration of sulfur in the fuel. Short of changing in-use fuel quality, emission-control technologies only address the remaining portion of PM, since engine technologies are ineffective at reducing sulfur-related PM emissions. Furthermore, no acceptable procedure exists for measuring PM from Category 3 marine engines, because current established PM test methods show unacceptable variability when sulfur levels exceed 0.8 weight percent, which is common for both residual and distillate marine fuels for Category 3 engines. No PM test method or calculation methodology has been developed to correct that variability for these engines. For these reasons, we are not considering a PM standard for Category 3 engines. We request comment on our approach; commenters supporting PM emission standards should address these issues and suggest

[45] We are proposing to base model years on the date on which the engine is first assembled. In other rules, we have defined the date of manufacture to be the date of the final assembly of the engine. However, we recognize that Category 3 engines are often disassembled for shipment to the site at which it is installed in the ship.

[46] Without the fuel-based corrections described below, the proposed Tier 1 standards for these engines default to $NO_X = 45.0 \ ^{-0.2}$, with emissions capped at 9.8 g/kW-hr for engine speeds over 2000 rpm.

[47] Lloyds report.

[48] "Commercial Marine Emissions Inventory Development, Draft Final Report," EPA Work Assignment Number 1–1, Prepared by ENVIRON International Corporation, April 2002.

[49] In contrast, Annex VI and the proposed Tier 1 standards allow for a 10-percent increase in emissions when testing with residual fuel, which makes the fuel correction a function of engine speed. For most Category 3 engines, 1.4 g/kW-hr is roughly 10 percent of the Annex VI NO_X emission standard.

an appropriate standard reflecting an achievable level of control, considering costs and other statutory factors. See the section below for discussion of regulating in-use fuels to achieve PM, SO_X, and possibly additional NO_X reductions.

Testing has shown that optimizing engine systems and developing additional control technologies will allow manufacturers of Category 3 marine engines to meet emission standards more stringent than Annex VI levels. Such improvements will require additional time. As discussed in Section IV.C, we believe manufacturers can achieve these proposed emission standards by further optimizing their designs and developing additional technologies for better control of fuel injection, charge air induction and mixing, and the overall design of combustion chambers and the timing of combustion events. We request comment on the level of the Tier 2 standards. Section IV.B discusses the timing of introducing the proposed Tier 1 standards and the Tier 2 standards under consideration.

4. Emission Effects of Test Conditions and Engine Operating Modes

Section V describes how we propose to address varying test conditions for emission measurements to show that engines meet emission standards when operated over the ISO E3 duty cycle. In general, we define a range of conditions for barometric pressure, humidity, ambient air temperature and ambient water temperature for testing according to the proposed duty cycle. Weighted engine emissions may not exceed the emission standards within the specified ranges of ambient conditions. For humidity and ambient water temperature, we specify a proposed method for correcting emission levels to a reference condition. We don't propose to allow any correction or adjustment based on varying ambient air temperatures or barometric pressures within the specified ranges. The specified ranges of test conditions apply to both laboratory testing and testing onboard a vessel. We are also proposing other provisions that would require equivalent emission control under other ambient conditions.

An additional concern relates to the way emissions vary under different engine operating conditions. For Category 1 and Category 2 engines, we adopted "not-to-exceed" provisions to define an objective measure to ensure that engines would be reasonably controlling emissions under the whole range of expected normal operation, as well as the defeat-device prohibition. Since these smaller engines are mass produced for a wide range of vessels used in many different applications, we expected "normal operation" for these engines to vary considerably around the ideal propeller curve. We are not considering not-to-exceed standards for Category 3 engines, since each engine intended to operate on a propeller curve is matched with a propeller for custom installation on a specific vessel. Also, the very large mass of ocean-going vessels make them relatively insensitive to perturbations caused by varying vessel loads, water currents, or weather conditions. As a result, engine operation should invariably be limited to a very narrow range around the propeller curve. Propulsion engines that operate at constant speed (whether coupled to a variable-pitch propeller or generator for electric-drive units) will similarly operate over a very narrow range. Moreover, we are considering a requirement that manufacturers test their production engines after installation on the vessel to show compliance with Tier 2 emission standards, which further removes the possibility of engines departing significantly from areas of engine operation over for which they are demonstrated to control emissions.

The proposed ISO E3 duty cycle includes four test modes weighted to reflect the operation of commercial marine vessels. The modal weightings are based on 70 percent of engine operation occurring at 75 percent or more of the engine's maximum power. For Category 1 and Category 2 engines, we have applied this same duty cycle, which reflects the way such engines are expected to operate. We are concerned, however, that Category 3 engines operate at significantly lower power levels when they are operating within range of a port. Ship pilots generally operate engines at reduced power for several miles to approach a port, with even lower power levels very close to shore. Because of the relatively low weighting of the low-power test modes, it is very possible that manufacturers could meet emission standards without significantly reducing emissions at the low-power modes that are more prevalent for these engines as they operate close to commercial ports. This issue would generally not apply to vessels that rely on multiple engines providing electric-drive propulsion, since these engines can be shut down as needed to maintain the desired engine loading.

We are considering a variety of options to address this concern. We could re-weight the modes of the duty cycle to emphasize low-power operation. This has several disadvantages. For example, we have no information to provide a basis for applying different weighting factors. Also, changing the duty cycle would depart from the historic norm for marine engine testing. This would make it more difficult to make use of past emission data, which is all based on the established modal weighting. An alternative approach would be to cap emission rates at the two low-power modes. We could set the cap at the same level as the emission standard, or allow for a small variation above the emission standard. For mechanically controlled engines, such an approach could dictate the overall design of the engine. On the other hand, we expect most or all new engines to have electronic controls, which would enable the manufacturer to target emission controls specifically for low-power operation without affecting the effectiveness of emission controls at higher power. We request comment on the need to adopt special provisions to ensure appropriate control of emissions during low-power operation. We specifically request comment on an additional requirement to limit emission levels of the two low-power modes to the level of the NO_X emission standard for each engine.

An additional concern relates to variation in emission levels between test modes. The proposed defeat device provisions (which already apply to Category 1 and Category 2 engines) would prevent manufacturers from producing their engines to control emissions more effectively at established test points than at other points not included in the test. This is especially important for Category 3 engines that leave the U.S., because we are expecting ship operators to measure emissions to show that the engines still meet emission standards within a certain range of a U.S. port. As described in Section V.B.10, outside the U.S., ship operators may make adjustments outside the range of adjustable parameters to which the engine is certified. Engine manufacturers would be required to develop emission targets to allow the operator to ensure that the engine has been readjusted to the certified configuration. These emission targets would vary with operating conditions and would include targets for engine speeds other than the test points speeds. We are proposing that Category 3 engine manufacturers design their engines to achieve equivalent control for varying engine speeds after any changes are made to compensate for changes such as switching fuels. In identifying the NO_X

emission targets, manufacturers would have the choice of either applying the same injection timing map for the tested and nontested engine speeds, or ensuring that NO_X emissions for nontest speeds follow a linear interpolation between test points. Ship operators would be required to adjust their engines to have NO_X levels below the target level.

5. Voluntary Low-Emission Standards

We are also proposing voluntary low-emission standards, consistent with the approach we have taken in several other programs, to encourage the introduction and more widespread use of low-emission technologies. Manufacturers would need to reduce emissions 80 percent below Annex VI levels (excluding the nitrogen adjustment), as shown in Table IV.A–1, to qualify their engines for designation as voluntary low-emission engines. These reduced emission levels would apply to testing with both residual and distillate fuels, with the appropriate adjustments for nitrogen content of the fuel. Data show that engines utilizing selective catalytic reduction are capable of meeting these emission levels. If we establish an objective qualifying level for voluntary low-emission engines, this would make it easier for state and local governments or individual port authorities to develop meaningful incentive-based programs to encourage preferential use of these very low-emitting engines.

Engines certified to the voluntary low-emission standards would also need to meet HC and CO levels at levels we are considering for the second tier of standards. The voluntary low-emission standards are contained in Table IV.A–3.

TABLE IV.A–3.—PROPOSED BLUE SKY NO_X EMISSION LIMITS (g/kW–HR)*

Engine speed (n)	n ≥ 130 rpm**	n < 130 rpm
Blue Sky	$9.0 \times n^{-0.2} + 1.4$	4.8

* See notes to Table IV.A–1.
** See notes to Table IV.A–1.

6. Hotelling Emissions

In addition to emissions from engines while the ship is moving in port, many ships run one or more engines to produce electricity for ship operations while in port for loading and unloading. These emissions are concentrated locally in the port area, which may have a disproportionate effect on neighboring communities. Several options are available specifically to address this concern for "hotelling" emissions. Many of these go beyond our usual approach of setting emission standards for new engines, but we request comment on these and other possible approaches, given the potential to achieve substantial additional reductions in this area.

Focusing on port emissions raises several questions. (1) Would it be appropriate for regulatory provisions to focus on reducing emissions specifically from port facilities, including hotelling emissions from ships? (2) Should EPA provide targets or incentives to encourage port authorities to reduce overall port emissions, including land-based equipment and vehicles? (3) What form might such a policy take—regulatory, voluntary, administered by EPA or local governments, including financial or logistical incentives? (4) Is it appropriate to adopt national policies to ensure emission reductions in all port areas or should such policy development be tailored to port-specific concerns? (5) Should EPA emission standards differentiate between in-port and transit emission levels? If so, what form or emission levels would be appropriate for in-port operations?

While we are not proposing to take action to address hotelling or other in-port emissions separately, we request comment on these issues and on any other possible approaches to encourage or ensure that emission controls are applied appropriately in port areas.

B. When Would the Engine Emission Standards Apply?

Proposing emission standards for new Category 3 marine engines starting in 2004 allows less than the usual lead time for meeting EPA requirements. We note, however, that manufacturers are already meeting the Annex VI standards, which apply to engines installed on vessels built on or after January 1, 2000. The Tier 1 standards proposed in this document require no additional development, design, or testing beyond what manufacturers are already doing to meet Annex VI standards.

Under the proposed EPA regulations, engine manufacturers would need to comply with emission standards for all engines produced after the specified date. This date would be based on the point of final engine assembly, which for large Category 3 marine engines typically occurs when the engine is installed in the vessel. Shipbuilders and owners would not be responsible for meeting EPA standards, but we are proposing to apply the prohibition from 40 CFR 94.1103(a)(5), which prevents shipbuilders from selling vessels with noncompliant engines if they initiate construction of a vessel after the date that regulations begin to apply. This raises a question about vessels whose keel is laid before new standards take effect if vessel completion does not occur until after standards take effect. This question is best addressed by an example—if EPA were to adopt Tier 2 standards that would apply in January 2007 and if a ship's keel is laid in June 2006, with final vessel assembly in June 2007, that vessel could use Tier 1 engines only if the engine manufacturer completes the engine assembly before January 1, 2007. This should not be an issue for Tier 1 engines, since vessels are generally already using engines that meet Annex VI NO_X limits.

As described in the Draft Regulatory Support Document, manufacturers are well underway in pursuing emission-control technologies that would reduce emissions from Category 3 marine engines beyond Annex VI levels. If EPA were to adopt Tier 2 standards in a final rule in 2003, manufacturers would have four years to implement technologies needed to meet such standards by 2007. This would include time in the early years for selecting specific approaches and developing those technologies. Manufacturers would also need that time to integrate the various technologies into an overall engine design that performs well and is durable. Given that engine manufacturers already have limited experience in applying these technologies to Category 3 marine engines, we believe the Tier 2 standards will be achievable in the time frame under consideration. In addition, Tier 2 emission standards are already scheduled to apply to Category 2 engines in 2007. To the extent that some Category 3 engines compete directly with Category 2 engines, sharing an implementation date helps in maintaining a level playing field between competitive engines. We request comment on the implementation

dates for the Tier 2 program under consideration.

C. What Information Supports the Technological Feasibility of the Engine Emission Standards?

Annex VI calls for marine diesel engines over 130 kW to meet emission standards if they are installed on vessels built on or after January 1, 2000. Engine manufacturers are meeting the Annex VI standards today with a variety of emission-control technologies. Chapter 4 of the Draft Regulatory Support Document identifies several technologies that individual manufacturers have already incorporated to reduce emissions. The most common approach has been to focus on increased compression ratio, adapted fuel injection, valve timing and different fuel nozzles to trim NO_X emissions. Manufacturers have generally been able to do this with little or no increase in fuel consumption. By building engines that can meet the Annex VI standards, manufacturers have shown that they can meet the identical Tier 1 standards proposed here for Category 3 marine engines.

As described in the Draft Regulatory Support Document, we have relied on existing data to account for fuel effects in selecting the proposed Tier 1 and potential Tier 2 NO_X emission standards for testing Category 3 marine engines with residual fuel. Engines designed to meet Annex VI NO_X standards using in-use distillate fuels should be able to meet the proposed Tier 1 standards without adopting any new technologies.

While manufacturers have used a wide variety of technologies to meet Annex VI standards for Category 3 marine engines, engines have so far generally incorporated only a few of the available emission-control technologies. To meet more stringent standards, manufacturers would need to integrate Tier 1 technologies more broadly into the fleet and pursue several additional approaches. These include:

—*Improved fuel injection.* This includes injection timing, injection pressure, rate shaping (or split injection), and common rail injection systems. Electronic controls would also allow for more precise metering and timing of individual injections.

—*Intake air management.* Manufacturers can use more effective turbocharging and aftercooling to reduce NO_X emissions. Also, valve timing can be manipulated to vary expansion and compression ratios or to recirculate exhaust gases.

—*Combustion chamber modifications.* Several design variables affect the compression and mixing of the fuel-air mixture before and during combustion, including higher compression ratios, piston geometry, and injector location.

Test data show that these technologies can reduce emissions up to 40 percent below Annex VI NO_X standards.[50] We believe manufacturers could incorporate emission-control technologies to achieve a 30-percent reduction below Annex VI standards for all their Category 3 marine engines. Some industry representatives have indicated that this level of control is achievable.[51] Specifying 30 percent instead of 40 percent allows for a compliance margin for manufacturers to ensure that they meet emission standards consistently with all the engines they produce in an engine family. This also allows for manufacturers to show that they meet emission standards under the range of prescribed testing and operating conditions, as described above, including measures to cap emission levels at low-power modes to the level of the proposed emission standards. These technologies, and accompanying emission data, are described in more detail in Chapter 4 of the Draft Regulatory Support Document, while Chapter 5 adds specific detail regarding our estimated deployment of each of the targeted control technologies in the analysis to develop costs estimates related to the emission standards.

The analysis of emission-control technologies in most cases applies equally to two-stroke and four-stroke engines. While there are many fundamental differences between these types of engines, most emission-control strategies could be applied effectively to both types. Perhaps the most significant difference between these engines is the tendency for significantly larger displacements and slower operating speeds with two-stroke engines. The emission standards for Category 3 marine engines incorporate the same shape of the NO_X curve specified by Annex VI (and shown in Table IV.A–1), which reflects the generally increasing NO_X emission levels for larger engines with slower operating speeds. The emission standards therefore implicitly take into account higher emission levels for two-stroke engines.

Section VII discusses a range of alternative approaches we considered in developing this proposal and explains our reasons to defer their adoption at this time.

If we adopt Tier 2 standards as part of this rulemaking, we intend to revisit and reopen the Tier 2 standards in approximately 2005. At that time we would fully reassess the circumstances and re-determine the appropriate level of the standards. We believe it is important to preserve our ability to coordinate our actions under the Clean Air Act with the future actions of the U.S. government involving MARPOL. To maximize this coordination and to allow for all appropriate harmonization, we would establish a rulemaking schedule for a future reopening and revisiting of any Tier 2 standards. In this future rulemaking we would reconsider the level of any Tier 2 standards based on all the circumstances then present, including the information then available concerning technological feasibility, cost, and other relevant aspects of emissions control for these engines, as well as the then current status of emissions standards under MARPOL. This reconsideration could lead to revised Tier 2 standards to reflect the appropriate level of the standard under the Clean Air Act based on the circumstances present at that time. We would implement this process by adopting in this rule a specific schedule for a future rulemaking, including for example a set date for final action on the future rulemaking.

D. Is EPA Considering Not Adopting Tier 2 Standards in This Rulemaking?

EPA is also considering not adopting Tier 2 standards in this rulemaking, and instead establishing a schedule for a future rulemaking and addressing Tier 2 standards in that future rulemaking. For these reasons, EPA has not included proposed regulations in this Notice. In that future rulemaking, EPA would propose and establish appropriate Tier 2 standards based on an assessment of all of the circumstances then present, including the information then available concerning technological feasability, cost, and other relevant aspects of emissions control for these engines, as well as the then current status of emissions standards under MARPOL. This would be similar to the reopening rulemaking discussed above, involving reopening of any Tier 2 standards adopted in the current rulemaking. However, instead of revisiting Tier 2 standards adopted in the current rulemaking, under this alternative no Tier 2 standards would be set until the future rulemaking. The schedule for the future rulemaking would be the same as that discussed above, approximately 2005, and as with the reopening rulemaking this schedule would be included in the regulations adopted in this rulemaking.

The benefit of this alternative would stem from its potential to facilitate the international process of updating the Annex VI emissions standards. As discussed earlier in this preamble, EPA anticipates that further discussions will be held at the IMO, in the Marine Environment Protection Committee, concerning adoption of a second, more stringent level of emissions standards. If delaying the initial establishment of Tier 2 standards to a future rulemaking facilitates the successful completion of updating the Annex VI emissions standards, the overall environmental result might be better than adoption of Tier 2 standards in this rulemaking. In addition, it could facilitate EPA's actions to harmonize its regulations as appropriate with future Annex VI provisions. This future rulemaking would occur whether or not Annex VI negotiations were concluded by that date. Delaying setting Tier 2 standards until a future rulemaking, however, also raises the issue of whether adoption in this rulemaking of only Tier 1 standards and establishment of a schedule for a future Tier 2 rulemaking would be consistent with the Agency's obligations under the Clean Air Act. EPA invites comment on all issues associated with this alternative.

E. Is EPA Considering Any Fuel Standards?

The majority of Category 3 engines are designed to run on residual fuel. This fuel is made from the very end products of the oil refining process, formulated from residues remaining after the primary distilling stages of the refining process. It has higher contents of ash, metals, and nitrogen that may increase exhaust emissions. Residual also has sulfur content up to 45,000 ppm; the global average sulfur concentration is currently about 27,000 ppm, though fuel sold in the U.S. has sulfur levels somewhat above the average.[52] Operating on fuels with such high sulfur contents results in high SO_X and direct sulfate PM emissions.

Using a residual fuel with a lower sulfur content would reduce the fraction of PM emissions from ash and metals. Using distillate fuel instead of residual fuel could result in even lower emissions. The simpler molecular structure of distillate fuel may result in more complete combustion with reduced levels of carbonaceous PM. Operation on distillate fuel would also reduce NO_X emissions because distillate fuel generally contains less nitrogen and has better ignition qualities. Because of these benefits, we request comment on fuel controls to reduce exhaust emissions from Category 3 marine engines.

MARPOL Annex VI contains requirements for fuels used onboard marine vessels. These requirements, which will be effective when the Annex goes into force, consist of two parts. First, Annex VI specifies that the sulfur content of fuel used onboard ships cannot exceed 45,000 ppm (4.5 percent). Information gathered in an international monitoring program indicates refiners are currently complying with this requirement. Second, the Annex provides a mechanism to designate SO_X emission control areas, within which ships must either use fuel with a sulfur content not to exceed 15,000 ppm or an exhaust gas cleaning system to reduce SO_X emissions. To date, two SO_X emission control areas have been designated: the North Sea and English Channel, and the Baltic Sea. The Annex VI fuel provisions do not go into effect, however, until the Annex enters into force (see Section I.C. above).

Operators who choose not to use exhaust gas cleaning systems can meet the Annex VI SO_X requirement by using low-sulfur residual fuel or by switching to distillate fuel while they operate in SO_X Emission Control Areas. Due to the nature of distillate fuel, this would also reduce NO_X emissions. In general, engines that are designed to operate on residual fuel oil are capable of operating on distillate fuel. For example, if the engine is to be shut down for maintenance, distillate fuel is often used to flush out the fuel system. However, there are several complications associated with this option. Switching to distillate fuel requires 20 to 60 minutes, depending on how slowly the operator wants to cool the fuel temperatures. According to engine manufacturers, switching from a heated residual fuel to an unheated distillate fuel too quickly could cause damage to fuel pumps. There could also be fuel pump durability problems if the engine is operated on distillate fuel for more than a few days. For continued operation on distillate fuel, ships would need to have separate (or modified) pumps and lines. In addition, modification to the fuel tanks may be necessary to ensure sufficient capacity for low-sulfur fuel.

Alternatively, ships can use residual fuels produced to meet the 15,000 ppm (1.5 percent) sulfur requirement. Refiners can produce low-sulfur residual fuel from a low-sulfur crude oil or they can put the fuel through a de-sulfonation step in the refinery process. They can also produce it by blending marine distillate fuel, which typically has fuel sulfur levels between 2,000 and 3,000 ppm.

Given the PM, and SO_X benefits of using low-sulfur residual fuels and the added NO_X benefit of using distillate or distillate-blend fuels, we are requesting comment on whether we should set standards for the fuel that ships use. We are also seeking comment on what form such fuel standards should take. For example, we could adopt the Annex VI special control area sulfur limits, either through the Annex VI process or through regulation under the Act. This would set a maximum sulfur limit of 15,000 ppm. However, lower sulfur contents are feasible and would yield greater PM and SO_X benefits. As a comparison, the sulfur content of highway diesel fuel is under 500 ppm today, with a 15-ppm cap applying starting in 2007. The sulfur content of nonroad diesel is not regulated, but generally ranges from 2,000 to 3,000 ppm. Reducing the sulfur content of the fuel would reduce PM and SO_X emissions by 10 and 44 percent, respectively (see Chapter 4 of the Draft Regulatory Support Document). An alternative approach would be to require that ships use distillate fuels, which would achieve the same or greater reduction of PM and SO_X emissions, with an additional 10-percent reduction in NO_X emissions resulting from the decreased nitrogen content of the fuel. Chapter 5 of the Draft Regulatory Support Document presents costs estimates for these fuel-based regulatory options. We request comment on these possible approaches to addressing in-use fuel quality.

We also seek information on the costs and expected benefits of further reductions in allowable fuel-sulfur levels, for both ship owners and fuel suppliers. Finally, we seek comment on how to apply the standard. Historically, we have regulated in-use fuels by establishing minimum specifications that apply to those who sell the fuel. This approach may not be effective for this sector because ship owners could choose to purchase their fuel outside the U.S. If we don't adopt any requirements related to in-use fuels in this rulemaking, we could revisit these questions in the context of a technology review, as described above.

We are not proposing fuel-based regulations in this rule because regulating fuel sold in the U.S. would not necessarily ensure that distillate fuel

[50] Ingalls, M., Fritz S., "Assessment of Emission Control Technology for EPA Category 3 Commercial Marine Diesel Engines," Southwest Research Institute, September 2001 (Docket A–2001–11, document II–A–08).

[51] Mayer, Hartmut, Euromot, e-mail response to EPA questions, January 31, 2002 (Docket A–2001–11, IIA–D–01).

[52] Sulphur Monitoring 2002. Report to Marine Environmental Protection Committee, 47th Session. MEPC 47/INF.2, August 28, 2001. A copy of this document can be found in Docket A–2000–11.

was used in U.S. waters. The Clean Air Act limits us to setting requirements on fuel entered into commerce in the U.S. If we can regulate only the fuel sold in the U.S., then a fuel sulfur standard would be unlikely to have a significant impact on emissions because ships may choose to bunker before entering or after leaving the U.S. However, Regulation 14 of MARPOL Annex VI allows areas in need of SO_X emission reductions to petition to be designated as SO_X Emission Control Areas (SECA). Within such waters, the maximum sulfur content of the fuel will be limited to 15,000 ppm.[53] We intend to work through the MARPOL process to designate certain areas in the U.S. as sulfur control areas which would require the use of distillate fuel. We request comment on whether all waters under U.S. jurisdiction or only specific areas should be designated as SECAs, and whether such designation(s) could be expected to have an adverse impact on port traffic within SECAs. EPA also invites comment on our authority under the Clean Air Act to regulate this fuel.

V. Demonstrating Compliance

A. Overview of Certification

1. How Would I Certify My Engines?

We are proposing to base certification data and administration requirements for new Category 3 marine engines on the existing program for Category 1 and Category 2 marine engines. These provisions are contained in 40 CFR part 94, and were described in detail in the preamble to the FRM that promulgated those regulations (64 FR 73300, December 29, 1999). In general, these provisions require that a manufacturer do the following things to certify engines:

- Divide engines into groups of engines with similar emission characteristics. These groups are called "engine families".
- Test the highest emitting engine configuration within the family.
- Determine deterioration rate for emissions and apply it to the "zero-hour" emission rate. The deterioration rate is essentially the difference between the emissions of the engine when produced and the point at which it would need to be rebuilt.
- Determine the emission-related maintenance that will be necessary to keep the engines in compliance with the standards.
- Submit the test data to EPA along with other information describing the engines within the engine family. This submission is called the "application for certification".

The certification provisions proposed for new Category 3 engines are discussed more fully in later sections. You should also read the proposed regulatory text, and the existing Category 2 regulations in 40 CFR part 94. These later section highlight the differences that we are proposing to apply to Category 3.

2. How Is the Proposed Certification Method Different From That Used Under Annex VI?

In general, the two methods are similar. Our certification process is similar to the Annex VI pre-certification process, while our production-line testing program (described later) is similar to the Annex VI initial certification survey. However, the Clean Air Act specifies certain requirements for our certification program that are different from the Annex VI requirements. The most important differences between the proposed approach and the method used under Annex VI are related to witness testing (we allow, but do not require witness testing), the durability requirements, and test procedures. Our proposed durability requirements and testing requirements are discussed in other sections. It is also worth noting that, as described in Section III, we are proposing to apply the standards based on the date of final assembly of the engine, while Annex VI generally applies the standards based on the start-date of the manufacture of the vessel (i.e., the date on which the keel is laid), which would generally occur prior to the final assembly of the engine. Overall, we believe that our proposed regulations are sufficiently consistent with Annex VI that manufacturers would be able to use a single harmonized compliance strategy to certify under both systems. The relationship between our proposed program and the Annex VI requirements is described in more detail in section V.D.

3. How Does a Certificate of Conformity Relate to a Statement of Voluntary Compliance or an EIAPP?

The Clean Air Act requires that manufacturers obtain a certificate of conformity before they introduce a new engine into commerce. Once it goes into force, MARPOL ANNEX VI will require manufacturers to obtain an "Engine International Air Pollution Prevention Certificate" (EIAPP). We anticipate that engines that receive an EPA certificate of conformity will also be eligible for an Engine International Air Pollution Prevention Certificate, since the proposed Tier 1 emission limits are the same as the Annex VI NO_X limits and the Tier 2 limits under consideration are more stringent.

It should be noted that EIAPPs will not be issued until the Annex goes into force and can be issued only by the flag state Administration. Prior to entry into force of the Annex, and to encourage vessel owners to purchase MARPOL Annex VI compliant engines, we have developed a voluntary certification program. Under this program, the engine manufacturer can apply for and obtain a Statement of Voluntary Compliance to the MARPOL Annex VI NO_X limits.[54] It is anticipated that ship owners will be able to exchange this Statement of Voluntary Compliance for an EIAPP after the Annex enters into force. If a shipowner does not have a valid Statement of Voluntary Compliance for an engine, it may be necessary to recertify the engine to obtain an EIAPP after the Annex enters into force. Finally, it should be noted that to obtain an EIAPP in this way, the Statement of Voluntary Compliance must be issued by EPA. A shipowner with a Statement of Voluntary Compliance issued by another Administration will have to apply for certification to obtain an EIAPP.

4. Could I Use a Continuous Emission Monitoring System to Demonstrate Compliance for Certification?

You would generally not be able to use a continuous emission monitoring system to generate emission data that would be sufficient for our certification purposes. However, as we describe later, such a system could probably be used for production line testing or for in-use verification.

5. What Would the Roles of the Engine Manufacturer and Ship Owner Be After the Engine Is Installed?

Unlike the provisions of MARPOL Annex VI, under our proposed regulations, the engine manufacturer would have some responsibilities for in-use compliance. The manufacturer would be required to demonstrate that its engine would be capable of complying with the standards through the "useful life" of the engine (as described below, the useful life would generally be the first rebuild cycle). The manufacturer would be responsible for remedying failures that occur during that period. The ship owner would be responsible for ensuring that all proper maintenance is performed during the entire service life of the engine. After Annex VI goes into force internationally, the ship owner would also be responsible for compliance with the provisions contained in the NO_X Technical Code, including the recordkeeping requirements for the Record Book of Engine Parameters and the various survey requirements. EPA and Coast Guard will work together to develop procedures to verify onboard performance of Annex VI requirements, as Coast Guard has the general authority to carry out such procedures on vessels.

6. How Would Engines on Foreign-Flagged Vessels Be Certified?

We are asking for comment regarding whether EPA should regulate all engines installed in foreign-flagged vessels that will call at a U.S. port (Categories 1, 2, and 3). In general, we would apply the same compliance provisions to foreign-flagged vessels as we would to U.S.-flagged vessels. We do not believe that manufacturers or owners of foreign-flag vessels would face unique constraints compared with manufacturers and owners of U.S.-flag vessels. Thus, the compliance discussions in the section V would apply without regard to whether the standards ultimately apply only to U.S.-flag vessels or to all vessels calling on U.S. ports.

It is worth discussing, however, how engines on foreign-flagged vessels would be certified if we determined that it was appropriate to regulate them in the rule. If we extended our regulations to these engines, compliance could be demonstrated for certification in one of two ways. Both would require that an application be submitted to EPA. It would not be sufficient to have obtained a certificate from a country other than the U.S. The simplest way to obtain an EPA certificate would be for the ship manufacturer to install a certified engine during the construction of the ship. In this case, we would treat this engine in the same manner as engines installed on U.S.-flagged vessels. Our proposed regulations would already allow this. This approach would also work for replacement auxiliary engines. The ship owner would only be required to purchase a certified marine engine.

The second approach would be for the engine to be certified after it has been installed in a vessel that will call at a U.S. port, but before the vessel is within 175 nautical miles of the U.S. As with our requirements for newly manufactured engines, we would require that emission test data be submitted in an application for certification to demonstrate that the engine complies with our requirements. This could be done by either the engine manufacturer or the ship owner. We recognize that we may need to allow different certification procedures to be used in these special cases. In fact, our existing regulations for smaller marine engines include an allowance for EPA to establish special certification procedures for engines on imported vessels (§ 94.222). We could modify this provision to allow these special certification procedures for foreign-flagged vessels subject to our standards irrespective of whether such vessels are considered to be imported.

It is also worth noting that any vessel subject to our standards that has one or more uncertified engines installed could be denied the right to enter a U.S. port, because the vessel would not be in compliance with U.S. law. Similarly, a vessel with an engine that has within 175 nautical miles of the U.S. coastline operated outside the range of operating parameters within which the engine is certified to comply with the applicable emission standard could be denied the right to enter a U.S. port. In addition, EPA could bring an enforcement action against the vessel and its operator under the Clean Air Act for injunctive relief and for penalties of up to $27,500 for each day that a violation occurs. As is described in section III.C.3, if we were to apply our proposed standards to foreign-flagged vessels, we would consider exemption provisions to allow vessels with uncertified engines to make occasional, but not frequent visits to U.S. ports.

B. Other Certification and Compliance Issues

1. How Are Engine Families Defined?

We are proposing that engine grouping for the purpose of certification be accomplished through the application of an "engine family" definition. Engines expected to have similar emission characteristics throughout their useful life are proposed to be classified in the same engine family. We are proposing to define engine families consistent with MARPOL. To provide for administrative flexibility in the proposal, we would have the authority to separate engines normally grouped together or to combine engines normally grouped separately based upon a manufacturer's request substantiated with an evaluation of emission characteristics over the engine's useful life. We are requesting comment on the proposed requirements for selecting engine families. Do the proposed criteria provide sufficient certainty that NO_X emissions would be similar for all of the engines within a particular family?

2. Which Engines Would Be Tested?

We are proposing that manufacturers select the highest emitting-engine (i.e., "worst-case" engine) in a family for certification testing. This is consistent with the Annex VI requirements. In making that determination, the manufacturer shall use good engineering judgement (considering, for example, all engine configurations and power ratings within the engine family and the range of installation options allowed). By requiring the worst-case engine to be tested, we are assured that all engines within the engine family are complying with emission standards for the smallest number of test engines. If manufacturers believe that the engine family is grouped too broadly, they may request separating engines with dissimilar calibrations (based on an evaluation of emission characteristics over the engine's useful life) into separate engine families.

For these large marine engines, conventional emission testing on a dynamometer becomes more difficult. Often the engine mock-ups that are used for the development of these engines use a single block for many years, while the power assemblies are changed out. We propose that for Category 3 engines, certification tests may be performed on these engine mock-ups, provided that their configuration is the same as that of the production engines. In addition, we are proposing to allow single-cylinder tests, since a single-cylinder test should give the same brake-specific emission results as a full engine test, as long as each cylinder in an engine is equivalent in all material respects.

We are also proposing that manufacturers be required to allow EPA to perform confirmatory testing using their certification engines. In other rules, we have required manufacturers to provide us with actual engines for our confirmatory testing program. However, this would not be practical for Category 3 engines because of their size and cost.

3. How Does EPA Treat Adjustable Parameters?

Diesel engines are often designed with adjustable components. For example, it is common to be able to adjust the fuel injection timing of an engine. EPA has historically required that these important adjustable parameters be physically limited to the range over which an engine would comply with the standards. Thus, while an uncontrolled diesel engine would typically have a broad (or even unlimited) range of adjustability, EPA-certified engines have

[53] Unless SO_X emission controlled by secondary means which at present is not clear.

[54] Information on how to obtain a Statement of Voluntary Compliance can be found on our website, *www.epa.gov/otaq/marine.htm*.

a very narrow range of adjustability. Typically, this narrow range is enforced through physical stops on the adjustable parts. In some cases, manufacturers seal a component after final assembly to prevent any adjustment in use. Disabling physical stops, breaking seals, or otherwise adjusting an engine outside of the certified range is considered tampering with the emission controls, and is a violation of section 203(a) of the Clean Air Act.

For marine engines, broad adjustability allows engines to be adjusted for maximum efficiency when used in a particular application. This practice simplifies marine diesel engine production, since the same basic engine can be used in many applications. While we recognize the need for this practice, we are also concerned that the engine meet the proposed emission limits throughout the range of adjustment. Therefore, the Agency has established provisions for Category 2 engines to allow manufacturers to specify in their applications for certification the range of adjustment for these components across which the engine is certified to comply with the applicable emission standards, and demonstrate compliance only across that range. We are proposing to also allow such adjustments for Category 3 engines. Practically, this requirement means that a manufacturer would specify different fuel injection timing calibrations for different conditions. These different calibrations would be designed to account for differences in fuel quality, which can be very significant for Category three engines. Operators would then be prohibited by the anti-tampering provisions from adjusting engines to a calibration different from the calibration specified by the manufacturer. (See section V.B.10 for a discussion of adjustments away from the U.S.) Annex VI also allows engines to be adjusted in use, and requires the engine manufacturer to include a description of the allowable adjustments in the Technical File for the engine.

Given the broad range of ignition properties for in-use residual fuels, we expect that this allowance for Category 3 engines would result in a broader range of adjustment than is expected for Category 2 engines. Because of this broader allowance, we are also proposing that operators be required to perform a simple field measurement test to confirm emissions after a parameter adjustment or maintenance operation. This would not be required for adjustments or maintenance that would not affect emissions. In addition, given the degree to which Category 3 engines regularly undergo major maintenance (e.g., replacement of an entire power assembly), we believe that all Category 3 engines as a class should be considered to be inherently adjustable. We do not believe that a manufacturer could make an engine that would be unadjustable in practice. Therefore, we are proposing that all new Category 3 engines be equipped with emission measurement systems and with electronic-logging equipment that automatically records all adjustments to the engine and the results of the required verification tests. EPA believes this is a nominal burden. We request comment on this proposed requirement. It is important to emphasize that we believe that it is essential that the logging equipment automatically record all adjustments without requiring the operator to turn on the data logger. (As is described in section V.B.10, this requirement would apply to all adjustments without regard to whether they occur within 175 nautical miles of the U.S. coast.) This would allow us to rely on the data log to ensure that the vessel is consistently being adjusted properly. We would also require that such adjustments be manually recorded as well, consistent with Annex VI requirements.

We are proposing to use a simpler measurement system than the type specified in Chapter 6 of NO_x Technical Code. As is described in the RSD, we believe that onboard emission equipment that is relatively inexpensive and easy to use could be used to verify that an engine is properly adjusted and is operating to the specifications of the engine manufacturer. We do not believe that it would be necessary to perform a complete certification-type emission test after each adjustment. Under the proposed approach, operators should be able to complete this testing during normal operation without stopping or slowing the vessel. We also expect that this equipment will provide useful information to the ship's crew, that will enable them to better monitor the engine performance from a non-emission perspective. We believe that the proposed requirement to include this equipment should result in little or no net burden to ship operators. It is worth noting the fact that Annex includes specifications that would allow operators to choose to verify emissions through onboard testing suggests that MARPOL also envisioned that onboard measurement systems could be of value to operators.

We are requesting comment on the broader Annex VI approach to address engine adjustments, which is to specify that ship operators must keep the engine adjusted within the limits specified by the engine manufacturer and to verify the compliance through periodic surveys. Ship operators would have the choice between verifying the emissions performance through parameter check or through onboard testing. Commenters should address the reliability of this approach. We have concerns that the Annex VI parameter check approach could be difficult to enforce, since operators that adjusted their engines outside of a manufacturers specifications would have no incentive to record such violations. It is also not clear that a parameter check could be reliable, given the infrequency with which these surveys will likely occur. Commenters should address both the parameter check method and the testing method. Are they equivalent? Is the reliability of the testing method affected by whether the tests are scheduled in advance or are performed as part of a surprise inspection? Are surprise test inspections practical?

We also have concerns that, under the Annex VI approach, manufacturers would not be able to identify the specific adjustments that would be required for the full range of in-use conditions. While it is known that changes in fuel properties can require changes in engine calibrations, the properties themselves are poorly understood. We do not believe that manufacturers could specify to the operator that if fuel property A is equal to X, fuel property B is equal to Y, and fuel property C is equal to Z, then the fuel injection timing should be adjusted to a specific setting to make sure that the engine meets the emission standards. Not every important fuel property is readily quantifable, and different fuel properties can interact to affect performance. How would an operator record that a parameter was properly adjusted for a given in-use fuel if not all of the relevant fuel properties are quantifiable?

We also request comments on other approaches to ensure that engines with adjustable parameters meet the proposed emission requirements. Should we require that engine manufacturers design their engines to be automatically adjusted for changes in fuel quality of other conditions and prohibit all other adjustments? Would such a prohibition be practicable? We are also requesting comment on the need for and the feasibility of indicators on the outside of the vessel (e.g. a light) to indicate whether the pollution controls are working properly. Obviously, such a feature would need to be hard-wired into the vessel controls to be reliable.

4. How Would Engines Be Labeled?

We are proposing that each new engine have a permanent emission label on the engine block, or on some other part of the engine that would not be replaced in service. This label would have to include specific emission-related information such as engine family name, model year, and basic maintenance specifications. This inclusion of this information on the label would be in addition to the recordkeeping requirements specified in the NO_x technical code.

5. How Does EPA Ensure Durable Emission Controls?

To achieve the full benefit of the emissions standards, we need to ensure that manufacturers design and build their engines with durable emission controls. It is also necessary to encourage the proper maintenance and repair of engines throughout their lifetime. The goal is for engines to maintain good emission performance throughout their in-use operation. Therefore, we believe it is necessary to adopt measures to address concerns about possible in-use emission performance degradation. The proposed durability provisions, described in the following sections, are intended to help ensure that engines are still meeting applicable standards in use. Most of these provisions are carried over from our program for smaller marine compression-ignition engines. We request comment on all aspects of this durability program.

The most fundamental issue related to durability is the concept of useful life. The Clean Air Act specifies that useful life is the period during which an engine is required to meet the emission standards. For Category 3 marine engines subject to our standards, we are proposing that the useful life be the period during which an engine is expected to be properly functioning with respect to reliability and fuel consumption without being rebuilt. For engines that are rebuilt completely at one time, the useful life would be the expected period between original manufacture and the first engine rebuild. For engines that are maintained by replacing individual power assemblies, the useful life would be the expected period between original manufacture and the point at which the last power assembly is replaced. We expect that this period will vary to some degree among engine models. Therefore, we are proposing that manufacturers specify the useful life for their engines at the time of certification. Their specification would be subject to EPA approval, and could not be less than a minimum period of 3 years or 10,000 hours of operation (based on all engine operation, not just operation in or near U.S. waters). This specification would not limit in-use operation. Rather it would determine how the manufacturer would address emission deterioration (i.e., the manufacturer would be required to demonstrate to EPA that the engine would meet the standards for the full useful life). We are also proposing that the useful life period may not be less than any mechanical warranty that the manufacturer offers for the engine.

These minimum useful life values are lower than the minimum values for Category 2 engines due to the effect of using residual fuel, which generally has much higher sulfur levels than distillate fuels. The high sulfur levels create a more corrosive environment within the combustion chamber, which decreases durability. The period of years (three years) is also affected by the higher usage rate in terms of hours per year. We request comment on this issue.

6. What Are the Manufacturer's Responsibilities for Warranty and Defect Reporting?

Tied to the useful life is the minimum period for the warranty required under section 207(a) of the Clean Air Act. We believe it is important to ensure that the engine manufacturer has designed and built the engine to ensure that it would comply with the emission standards throughout its useful life, as long as it is properly maintained. Therefore, we are proposing that the warranty period be equal to the useful life period (e.g., 10,000 hours or 3 years). Under the performance warranty, the engine manufacturer would be responsible to repair any properly maintained and used engine that fails to meets the standard in use during the warranty period. (Engine operators would be responsible to repair any engines that failed to meet the standards because of improper maintenance.) We request comment on this approach.

We are also proposing defect-reporting requirements. These provisions require Category 3 engine manufacturers to report to EPA whenever a manufacturer identifies a specific emission-related defect in 2 or more engines (or 2 or more cylinders within the same engine). In most cases, we would expect the defects to be identified as part of a manufacturer's warranty process. However, the manufacturer would be required to report all defects, without regard to how they were identified. It is important to clarify that the defect reporting requirements would not require the manufacturer to collect new information. The manufacturer would be required to track and report to EPA information that they obtain through normal business practice. We request comment on this issue.

7. What Are Deterioration Factors?

To further ensure that the proposed emission limits are met in use, we are proposing to require the application of a deterioration factor (DF) to engines in evaluating emission control performance during the certification and production-line testing process. The emissions from new engines are adjusted using the DF to account for potential deterioration in emissions over the life of the engine due to aging of emission control technologies or devices. The resulting emission level is intended to represent the expected emissions at the end of the useful life period for a properly maintained engine. We believe that the effectiveness of some emission control technologies, such as aftertreatment, sophisticated fuel-delivery controls, and some cooling systems, can decline as these systems age. The DF is applied to the certification emission test data to represent emissions at the end of the useful life of the engine. We are proposing that marine diesel engine DFs be determined by engine manufacturers in accordance with good engineering practices. The DFs, however, would be subject to EPA approval, and must be consistent with in-use test data. For example, if we had in-use test data from earlier model year engines from the same basic engine family that showed that NO_x emissions generally deteriorate by 0.5 g/kW-hr over the useful life, then we would approve a DF that assumed no deterioration in NO_x emissions. Additionally, the DF should be calculated for the worst-case engine configuration offered within the engine family.

It is not our intent to require a great deal of data gathering on engines that use established technology for which the manufacturers have the experience to develop appropriate DFs. New DF testing may not be needed where sufficient data already exists. However, we are proposing to apply the DF requirement to all engines so that we can be sure that reasonable methods are being used to ascertain the capability of engines to meet standards throughout their useful lives. Consistent with other programs, we propose to allow manufacturers the flexibility of using durability emission data from a single engine that has been certified to the same or more stringent standard for which all of the data applicable for

certification has been submitted. In addition, we request comment on whether this flexibility should be extended to allow deterioration data from highway, nonroad, or stationary engines to be used for similar marine diesel engines.

Finally, we are proposing that DFs be calculated as an additive value (i.e., the arithmetic difference between the emission level at full useful life and the emission level at the test point) for engines without exhaust aftertreatment devices. In contrast, DFs should be calculated as a multiplicative value (i.e., the ratio of the emission level at full useful life to the emission level at the test point) for engines using exhaust aftertreatment devices. This is consistent with the DF requirements applicable to other diesel engines, based on observed patterns of emission deterioration. Given the type of emission controls projected to be used to meet the proposed standards (calibration changes and combustion chamber redesign, but not aftertreatment), it is possible that NO_x emissions may actually decrease with time as the piston rings and cylinder liners wear (thereby reducing peak pressures). In such cases, we would require that the manufacturer use an additive DF of zero.

It is important to note that one of the reasons we are proposing a very flexible DF program for this rulemaking because we do not expect deterioration to be a major problem for these engines. Our history with in-cylinder NO_x control suggests that engine-out NO_x emissions are relatively stable over time. If we were to adopt an aftertreatment-forcing standard or a standard for PM, we would likely consider more specific requirements for calculating DFs. For example, it might be appropriate to apply to these engines the more specific DF provisions that have been developed for on-highway heavy-duty engines (40 CFR 86.004–26). Commenters that favor the adoption of an aftertreatment-forcing standard or a standard for PM should address whether they believe that the proposed DF program would be sufficient to ensure that manufacturers design their aftertreatment devices to be durable.

8. What Requirements Are Proposed for In-Use Maintenance?

In previous rules, we have required manufacturers to furnish the ultimate purchaser of each new nonroad engine with written instructions for the maintenance needed to ensure proper functioning of the emission control system. (Generally, manufacturers require the owners to perform this maintenance as a condition of their emission warranties.) If such required maintenance is not performed by the engine operator, then in-use emissions deterioration can result. We are proposing to require that Category 3 engine operators be required to perform this maintenance, or equivalent maintenance. This provision is comparable to our requirement for railroads to perform emission-related maintenance for locomotives (40 CFR 92.1004). In that approach, locomotive owners who fail to properly maintain a locomotive are subject to civil penalties for tampering. For marine engines, properly rebuilding engines and power assemblies would be considered to be a part of emission related maintenance. We believe that these requirements would generally be consistent in practice with the provisions specified for ship operators in Technical File required by the NO_x Technical Code.

An important part of this proposal is the allowance for operators to perform the maintenance differently than specified by the manufacturer, provided that maintenance is performed in such a way to keep the engines performing properly with respect to emissions. With the proposed emission verification requirements, it would be straightforward for ship operators to determine if their maintenance practices are sufficient. As long as their engines pass the verification tests, EPA would consider the maintenance to be equivalent. For ships that travel far from U.S. waters, this requirement would mean that maintenance would need to be performed in such a way that the engines would pass the verification tests before they come within 175 nautical miles of the U.S. coastline. (See section V.B.10 for more information about special provisions that apply for ships that travel more than 175 nautical miles from the U.S.)

Unlike our regulation for smaller marine engines, we are not proposing minimum allowable maintenance intervals for Category 3 marine diesel engines. This is also consistent with our approach for locomotives. In both cases, we believe that maintenance would be jointly agreed to by the engine manufacturer and the engine owner prior to purchase.

We are requesting comment on whether we should allow a manufacturer or owner to petition EPA to amend the emission-related maintenance instructions after the engine is in use, either within or after the useful life. This may be necessary because of the very long service lives of these engines. It may not be reasonable for us to require an owner of a 20-year old engine to be bound to maintenance practices that were set 20 years earlier. We are requesting comment on how such amendments would be made.

9. Do the Proposed Regulations Affect Engine Rebuilding?

We are proposing in-use maintenance provisions that would require operators to perform emission related maintenance properly. We are proposing that this would also apply whenever an engine or engine subsystem is rebuilt. These provisions would require that all rebuilds return the engine to its original certified condition. (Failure to rebuild an engine to its original certified condition would be considered tampering with the emission controls.) We believe that the proposed provisions would address the vast majority of in-use maintenance and rebuilding practices. However, we are concerned about special circumstances in which an owner wants to upgrade the engine to be comparable to a newer configuration rather than simply returning it to its original configuration. Under Annex VI, such "substantial modifications" are allowed, but the owner is required to recertify the engine. Should we adopt a similar provision? We are also requesting comment on a voluntary rebuild standard for older ships with engines that are not subject to our standards or the Annex VI requirements. For example, should we create a program for owners of ships built before 2004 to voluntarily certify that they comply with the EPA standards for model year 2004 ships?

As described in the previous section, for ships that travel far from the U.S., the proposed in-use maintenance provisions that would require operators to perform emission related maintenance so that an engine meets the manufacturer's maintenance requirements when it is within 175 nautical miles of the United States. For rebuilds performed away from the U.S., this would require that all rebuilds be performed so that the engine could be returned to its original certified condition before the ship returns to within 175 nautical miles of the United States. (See section V.B.10 for more information about special provisions that apply for ships that travel more than 175 nautical miles from the U.S.)

10. Compliance With a Certificate of Conformity Beyond 175 Nautical Miles of the U.S. Coast

As described in section V.B.3, we are proposing to allow engines to be adjusted in use in accordance with the certificate of conformity, and to limit this adjustability under our Clean Air Act authority to prohibit tampering. We are also proposing different compliance requirements than those adopted in prior rulemakings for new nonroad vehicles and new nonroad engines for Category 3 marine engines installed in vessels that operate outside the U.S. Under this approach a vessel operator would be conditionally allowed to adjust an engine's operating parameters different from the manufacturer's specification. This would be allowed when a vessel that is proceeding toward or out of a U.S. port is more than 175 nautical miles about (200 statutory miles) from the U.S. coastline. More precisely, we would allow this for vessels that are more than 175 nautical miles from the baseline from which the territorial sea is measured, including U.S. states or territories outside of the U.S. mainland.

This flexibility is not included in the Annex VI provisions. While we considered proposing our program without this flexibility, we believe that it is an appropriate flexibility, as is described below.

Under the proposed approach, engine adjustments different from engine manufacturer's specifications would be conditional on readjusting the engine's parameters within its certified range and confirming that emissions are within the range of emissions to which the engine is certified to comply before a vessel seeking to enter a U.S. port is 175 nautical miles from the U.S. coastline. Failure to take these actions would constitute tampering with the engine in violation of section 203(a)(3)(A) of the CAA and 40 CFR 94.1103(a)(3)(i). To confirm that emissions are within the range of emissions at which the engine is certified to comply, operators would have to perform a simple field measurement test after each parameter adjustment or maintenance operation that could reasonably be expected to affect emissions. (All adjustments and maintenance would be presumed to affect emissions unless there was a reasonable technical basis for believing that they did not affect emissions.) Furthermore, we would require that all new Category 3 engines be equipped with electronic-logging equipment that automatically records all adjustments to the engine and the results of the required verification tests. The logging equipment would be required automatically record all adjustments without requiring the operator to turn on the data logger, without regard to whether they occur within 175 nautical miles of the U.S. coast. It would not be possible to rely on the data log to ensure that the vessel is consistently being adjusted properly if the operator could turn the logger on and off. Since the logging would occur automatically, we do not believe there would be a significant burden to the operator. Such adjustments would also have to be manually recorded as well. Obviously, we would not allow adjustments that damaged the engine or its emissions controls or otherwise prevented the engine from being able to comply with our regulations after the readjustment.

Prior rulemakings that establish emission standards for new nonroad engines and vehicles prohibit anyone from disabling or otherwise tampering with an engine or vehicle that is covered by a certificate of conformity. See for example 40 CFR 94.1103(a)(3)(i). Our normal practice has been to require an engine to meet the emission standards at all specifications within an adjustable range. In addition, we normally require an engine manufacturer to make an engine's parameters unadjustable outside the range at which an engine is certified. We have adopted these practices to minimize the possibility that a certified engine can be intentionally or unintentionally adjusted to exceed the emission levels at which it is certified. If we take a different approach and allow Category 3 marine engines to conditionally allow a vessel operator to adjust an engine's operating parameters outside the range of specifications within which the engine is certified to comply with the applicable emission standards, we would be increasing the possibility that a certified engine would exceed the emission levels at which it is certified when it is in or near the United States. We are, nonetheless, proposing such an approach because of the unique issues associated with Category 3 marine engines that are installed in a vessel. These engines spend much of their time in international waters far away from U.S. coastal regions, where their emissions would have little or no effect on U.S. air quality. Tailoring the scope of the prohibition against tampering with a certified engine would allow vessel operators to readjust their engines for different performance characteristics in international waters when their emissions do not affect the U.S.

Although section 203(a)(3)(A) of the CAA prohibits the disabling of or tampering with emission control technology on a compliant motor vehicle or motor vehicle engine, there is no express statutory prohibition on such conduct with respect to new nonroad engines or vehicles. Although section 213(d) does provide that emission standards for new nonroad engines and vehicles "shall be enforced in the same manner" as standards prescribed for new motor vehicles and new motor vehicle engines, it is unclear whether this means "exactly equivalent" enforcement requirements or "analogous, comparable or consistent" enforcement requirements. The CAA, therefore, is ambiguous as to how emission standards for new nonroad engines and vehicles should be enforced.

We believe that it would be reasonable to interpret section 213(d) to allow the Agency to fashion enforcement provisions for new nonroad engines and vehicles that are consistent with, but not necessarily equivalent to, those applicable to new motor vehicles and new motor vehicle engines. Such an interpretation is consistent with the rest of section 213(d), which recognizes the need for different solutions to implement emission standards for new nonroad engines and vehicles. Specifically, section 213(d) provides that emission standards for nonroad engines and vehicles like emissions standards for new motor vehicles and new motor vehicle engines are subject to sections 206, 207, 208 and 209 "with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate."

In this case, the need for a different solution than the one that we have traditionally adopted is warranted by the fact that the engines we propose to regulate operate primarily outside of the United States. As discussed above, marine Category 3 engines installed in vessels spend much of their time in waters far away from U.S. coastal regions, where their emissions would have little or no effect on U.S. air quality. Enforcing emission standards for these kinds of engines, therefore, is different than enforcing standards for motor vehicles and motor vehicle engines that operate primarily, if not exclusively, inside the United States. However, vessel operators that adjust an engine's operating parameters outside the range within which the engine is certified to comply with the applicable emission standards, would have to readjust the engine's parameters to its certified calibration and confirm that emissions are within the range of emissions to which the engine is certified to comply before a vessel seeking to enter a U.S. port is 175 nautical miles from the U.S. coastline.

As described in previous sections, we are proposing to apply this same approach for engine maintenance and rebuilding. Within 175 nautical miles of the U.S., improper maintenance or

rebuilding of an engine would be considered to be tampering to the extent that it compromised the emission performance of the engine. On the other hand, engine maintenance and rebuilding that occurs more than 175 nautical miles away from the U.S. would be treated as any other type of emission-related adjustment. Ship operators could maintain or rebuild the engine however they would choose, provided that the engine is returned to a certified configuration and passes the emission verification test specified in § 94.1003(b) of the proposed regulations before it comes within 175 nautical miles of the U.S.

We are proposing this limit of 175 nautical miles to control Category 3 emissions that affect U.S. air quality, especially emissions from coastwise traffic. As described in the draft RSD, we believe that the emissions that occur within 175 nautical miles (200 statutory miles) of the U.S. coastline represent a significant fraction of the total inventory and that these emissions can significantly affect U.S. air quality. Assuming a 10 mile per hour wind blowing toward the coast, these emissions would reach the coast in less than one day. Setting this threshold at some shorter distance would not adequately account for these emissions. We considered proposing a larger distance. The Ozone Transport Assessment Group [55] has estimated that within the continental U.S., emissions can affect air quality as far away as 500 statutory miles from the emission source. Other analyses have suggested that NO_X and SO_X emissions could be transported even farther than that. However, there is uncertainty associated with the transport of ship emissions. Most transport studies have focused on transport that occurs over land, and emissions over the ocean do not have the same effect as land-based emissions due to different meteorological conditions. While we recognize that some emissions that occur beyond 175 nautical miles could potentially affect U.S. air quality, these effects are hard to quantify. At this time, we cannot determine that emissions beyond 175 nautical miles would have a significant effect in most cases.

We will continue to investigate this issue throughout this rulemaking, and will incorporate any new information into the final rule. For example, the Department of Defense (DoD) has recently presented information to EPA supporting the significance of offshore emissions, but suggesting that a different, shorter (offshore distance) limit may be appropriate to address the emissions from marine vessels that would affect on-shore air quality. DoD's extensive work on the marine vessels issue in Southern California resulted in a conclusion that emissions within 60 nautical miles of shore could make it back to the coast due to eddies and the nature of the sea breeze effects. Their analysis of satellite data, however, showed a distinct tendency for a curved line of demarcation separating the offshore (unobstructed) or parallel ocean wind flow from a region of more turbulent, recirculated air which would impact on-shore areas. That curved line of demarcation was close to San Nicolas Island which is about 60 nm offshore from the California coast. DoD also indicated that studies and published information on other coastal areas in California indicate that they experience somewhat narrower (perhaps 30 nm) region of "coastal influence". We are investigating how this information would related to other coastal regions such as the Gulf Coast and the East coast, which would be expected to have their own unique meteorological conditions that might call for different lines of demarcation between on-shore and off-shore effects.

We believe that the proposed distance would protect U.S. air quality without placing an undue burden on ship operators. Nevertheless, we request comment on the proposed distance. We encourage commenters to address both the long-distance effect of marine engine emissions on U.S. air quality and the potential impact of this proposed approach on ship operations. We are requesting comment regarding the appropriateness of applying a single distance to all coastal regions, without considering prevailing wind patterns. For example, would it be more appropriate to set a larger distance for the Pacific coast and a smaller distance for the Atlantic coast? Would such an approach be practical? We are also requesting comment on whether we should treat the waters around U.S. island territories such as Guam in the same way that we treat the coastal waters around the continental U.S. Would emissions around these islands affect their air quality to the same extent as coastal emissions around the U.S. mainland? Alternatively, we could exempt the island territories from these requirements, pursuant to section 324(a) of the Act, if petitioned by the governors of the territories.

Finally, it is worth noting that since we expect that manufacturers would design their engines to have good performance when adjusted to their compliant calibrations, it should not make a major difference to operators exactly where they conduct the verification test. Therefore, we would expect that operators that adjust their engines outside of the manufacturer's recommended range would begin readjusting their engines when they reach the 200-mile EEZ limit. This would allow them to adjust their engines and complete the verification test before they reached the proposed 175-mile limit. It would also provide time to readjust the engine if it were to fail the initial emission verification test. If we determine that some distance other than the proposed 175-mile limit would better divide those emissions that affect U.S. air quality from those emissions that do not, should we incorporate some additional cushion to ensure that operators would have sufficient time to readjust and retest an engine before its emissions could adversely affect U.S. air quality?

11. Are There Proposed Post-Certification Testing Requirements?

To ensure compliance of production engines, we are proposing a simple testing program that is modeled loosely on our production line testing (PLT) requirements for other marine engines. The general object of any PLT program is to enable manufacturers and EPA to determine, with reasonable certainty, whether certification designs have been translated into production engines that meet applicable standards. We are not proposing a specific testing requirement, and would allow manufacturers flexibility in determining how to test the engines. However, we are proposing some minimum requirements. First, we would require that each certified engine that a manufacturer produces be tested. We would also require that either the test directly measure brake-specific emissions, or measure other parameters that provide equal assurance that each engine meets the standards. The testing would need to occur after final installation, but before final delivery to the ultimate purchaser. We would suspend the certificate of conformity for any failing engine, or if the engine manufacturer's submittal reveals that the tests were not performed in accordance with the applicable testing procedure. The manufacturer must then bring the engine into compliance before we could reinstate the certificate of conformity subsequent to a suspension. We would also suspend the certificate of conformity for an engine family whenever an engine fails. The manufacturer would need to identify and remedy the cause of the failure before we could reinstate the certificate of conformity for future production within that family. EPA will work with the U.S. Coast Guard to develop procedures to verify onboard performance of these field measurement provisions, as Coast Guard has the general authority to carry out such procedures on vessels.

12. What Would the Prohibited Acts and Related Requirements Be?

We are proposing to regulate Category 3 engines under 40 CFR part 94. This means that we are proposing to extend the general compliance provisions for smaller marine engines to Category 3 marine engines. These include the general prohibition introducing an uncertified engine into commerce, as well as the tampering and defeat-device prohibitions. However, as described in Section V(B)(10), we are proposing to modify the tampering provision for Category 3 engines to allow operation outside of the otherwise allowable range of adjustment when the vessel is far away from the U.S. All other aspects of the existing tampering prohibition would apply. These prohibitions are listed in § 94.1103. EPA seeks comment on extending these provisions to Category 3 engines, and on any additional modifications that should be made to these provisions to accommodate special features of these engines.

13. Would There Be General Exemptions for Engines?

We are proposing to extend the exemptions provisions for smaller marine engines to Category 3 marine engines. These include, for example, exemptions for the purpose of national security and exemptions for engines built in the U.S. for export to other countries. These exemptions, which are described in Subpart J of 40 CFR Part 94, would exempt the engines from the proposed requirements, but would require that the manufacturer keep records or label the engines in some cases. Both the exemption and the related requirements are allowed under our general standard-setting authority.

14. What Regulations Would Apply for Imported Engines?

We are proposing to extend the current importation provisions found in 40 CFR Part 94 for smaller marine engines to Category 3 marine engines. This means that we are proposing that engines that are imported would generally be subject to the proposed requirements based on their date of original manufacture. The existing provisions for smaller engines include permanent and temporary exemptions from this requirement. The most significant of these import exemptions for ocean-going vessels is the allowance to temporarily import an engine for repair.

15. What Would Be a Manufacturer's Recall Responsibilities?

Section 207(c)(1) of the Act specifies that manufacturers must recall and repair in-use engines if we determine that a substantial number of them do not comply with the regulations in use. We are proposing to apply the existing provisions for smaller marine engines to Category 3 marine engines. These provisions are described in Subpart H of 40 CFR Part 94.

C. Test Procedures for Category 3 Marine Engines

Engine manufacturers are currently testing according to the test procedures outlined in The Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines in the "Annex VI of MARPOL 73/78 Regulations for the Prevention of Air Pollution from Ships and NO_X Technical Code" from the International Maritime Organization. We are proposing to certify Category 3 marine engines using these MARPOL test procedures for diesel marine engines with modification. The modifications, which are described in the following sections, are required to ensure that the test data used for certification are consistent with the requirements of the Clean Air Act.

1. What Duty Cycle Would I Use to Test My Engines?

The duty cycle used to measure emissions is intended to simulate operation in the field. Testing an engine for emissions consists of exercising it over a prescribed duty cycle of speeds and loads, typically using an engine dynamometer. The nature of the duty cycle used for determining compliance with emission standards during the certification process is critical in evaluating the likely emissions performance of engines designed to those standards.

To address operational differences between engines, we are proposing two different duty cycles for different types of C3 marine engines. Engines that operate on a fixed-pitch propeller curve would be certified using the International Standards Organization (ISO) E3 duty cycle. This is a four-mode steady-state cycle developed to represent in-use operation of marine diesel engines. The four modes lie on an average propeller curve based on the vessels surveyed in the development of this duty cycle. We are proposing ISO E2 for propulsion engines that operate at a constant speed. These are the cycles used by MARPOL.

2. What Kind of Fuel Would Be Required for Emission Testing?

To facilitate the testing process, we generally specify a test fuel that is intended to be representative of in-use fuels. Engines would have to meet the standard on any fuel that meets the proposed test fuel specifications, with one modification as described later. This test fuel is to be used for all testing associated with the regulations proposed in this document, to include certification, production line and in-use testing.

We are proposing that the official test fuel specification for C3 engines be a residual fuel. We are proposing to allow a range of fuels based on the ASTM D 2069–91 specifications for residual fuel. We would allow testing using any residual fuel meeting the specifications for RMH–55 grade of fuel including fuels meeting the specifications for RMA–10 grade of fuel. We request comment on this specification. An alternative to this approach might be to narrowly define a worst-case test fuel. Your comments should address whether the grade of the test fuel would affect the feasibility or the stringency of the proposed standard. We also are requesting comment on whether there needs to be a specification for ignition properties of the test fuels, such as cetane.

This ASTM specification does not include any specification for the nitrogen content of the fuel. Organically-bound nitrogen is a normal component of residual fuels that has a very significant effect on NO_X emissions. However, the effect on NO_X can be calculated from the nitrogen content of the fuel. Therefore, we are proposing to include a broad specification for the nitrogen content of the fuel (between zero and 0.6 weight percent), and to require correction of the NO_X emissions based on the nitrogen content of the fuel.

We are also proposing to allow certification testing on marine distillate fuel to be consistent with MARPOL testing (see section IV.A.2). However, distillate fuels tend to have lower nitrogen content than residual fuels. To account for this, we would correct the NO_X emissions, based on fuel nitrogen content, to be equivalent to testing with residual fuels. We request comment on this approach. Your comments should address whether we should account for

[55] Final Report of the Ozone Transport Assessment Group, Chapter 4.

factors other than nitrogen content of the fuel in our correction.

Finally, based on our current understanding of the importance of fuel nitrogen levels, we are proposing to also establish a nitrogen-correction for testing Category 1 and Category 2 engines using residual fuel. This correction would be consistent with the Category 3 correction. However, since the Category 1 and Category 2 standards are based on zero-nitrogen fuel, the Category 1 and Category 2 correction would correct to 0.0 percent nitrogen instead of 0.4 percent nitrogen for Category 3. In the Category 1 and Category 2 FRM, we intended to set the standards so that they could be achieved by Category 2 engines that use residual fuel. After reconsidering the effect of fuel nitrogen, we now believe that this correction is necessary to achieve that goal.

3. How Would EPA Account for Variable Test Conditions?

We are not proposing to limit certification testing based on barometric pressure or ambient humidity. We are proposing to limit the allowable ambient air temperature to 13°C to 30°C and charge air cooling water to 17°C to 27°C. However, since a manufacturer would not always be able to stay within these ranges for tests conducted after the engine is installed in the ship, we are proposing to allow production testing and in-use testing under broader conditions. Engine manufacturers would need to provide information about how emissions are affected at other temperatures to allow production testing and in-use testing conducted under the broader conditions to be used to verify compliance with the emission standard.

We are proposing to use the MARPOL Annex VI correction factors for temperature and humidity for certification testing. We would allow the use of the corrections for a broader range of test conditions, provided the manufacturer verifies the accuracy of the correction factors outside of the range of test conditions for certification.

4. How Does Laboratory Testing Relate to Actual In-Use Operation?

If done properly, laboratory testing can provide emission measurements that are the same as measurements taken from in-use operation. However, improper measurements may be unrepresentative of in-use operation. Therefore, we are proposing regulatory provisions to ensure that laboratory measurements accurately reflect in-use operation. In the proposed regulations, there is a general requirement that manufacturers must use good engineering judgment in applying the MARPOL Annex VI test procedures to ensure that the emission measurements accurately represent emissions performance from in-use engines. We are proposing specific requirements that the manufacturers ensure that intake air and exhaust restrictions and coolant and oil temperatures are consistent with in-use operation. Most importantly, we are proposing that manufacturers' simulation of charge-air cooling replicate the performance of in-use coolers within ±3°C.

The definition of maximum test speed, (the maximum engine speed in revolutions per minute, or rpm) is an important aspect of the test cycles proposed in this document. Under Annex VI, engine manufacturers are allowed to declare the rated speeds for their engines, and to use those speeds as the maximum test speeds for emission testing. However, we are concerned that a manufacturer could declare a rated speed that is not representative of the in-use operating characteristics of its engine in order to influence the parameters under which their engines could be certified. Therefore, we are proposing to apply the current definition of "maximum test speed" in § 94.107 to Category 3 engines that are subject to our standards.

5. What is Required to Perform a Simplified Onboard Measurement?

We are proposing that simplified onboard measurements be used to confirm proper adjustment of in-use engines as described in sections V.B.3 and V.B.10. These systems must be capable of measuring NO_x concentration, exhaust temperature, engine speed, and engine torque. Operators would compare the NO_x concentration and exhaust temperature to limits provided by the manufacturer. Tests that showed emissions higher than allowed under the manufacturer's specifications would mean that the engine was not properly adjusted. If the engine was within 175 nautical miles of the U.S. coast, then this would require that the engine be readjusted and retested. Such exceedances 175 nautical miles of the U.S. coast would not be considered to be violations of the regulations, provided they were corrected immediately.

D. Comparison to Annex VI Compliance Requirements

1. Why are EPA's proposed compliance requirements different from the Annex VI requirements?

We have attempted to propose compliance requirements that are sufficiently consistent with Annex VI that manufacturers would be able to use a single harmonized compliance strategy to certify under both systems. However, the Clean Air Act specifies certain requirements for our compliance program that are different from the Annex VI requirements. The most important differences between the proposed approach and the method used under Annex VI are related to witness testing, the durability requirements, and test procedures. It is the durability requirements of the Clean Air Act that represent the most fundamental differences between the Annex VI certification program and the program required by the Clean Air Act. Section 213 of the Act requires that the engine manufacturer be responsible for ensuring compliance with the emission standards for the full useful life of the engine. The Annex VI certification provisions do not include this kind of requirement, and make the ship operators fully responsible for ensuring in-use compliance through periodic survey requirements. Thus, we cannot adopt the Annex VI certification and compliance requirements to implement the requirements of the Clean Air Act.

We believe that adopting certification provisions similar to our existing Category 1 and 2 requirements would best meet the requirements of the Clean Air Act.

2. What Would Be the Most Significant Differences Between the Two Programs?

There are a number of differences between the two programs. These differences are summarized below. They were also discussed in more detail in the earlier subsections of this section V.

- Liability for in-use compliance—We require that the engine manufacturer be responsible for ensuring compliance with the emission standards for the full useful life of the engine, while the Annex VI program makes the ship operators fully responsible for ensuring in-use compliance. Both our regulations and Annex VI provisions would require ship operators to properly maintain their engines and to keep records of the maintenance and engine adjustment. Under Annex VI, these records are referred to as the Record Book of Engine Parameters.
- Durability demonstration—We require that the engine manufacturer demonstrate prior to production that they comply with the emission standards for the full useful life of the engine (see section V.B.5). The Annex VI program would only require that the manufacturer demonstrate that the engine meets the standards when it is installed in the vessel; there is no Annex VI durability demonstration.
- Witness testing—We allow, but do not require witness testing for U.S. compliance. Some other countries require witness testing for marine engines. Manufacturers would need to take this into consideration if they plan to sell the same engines in the U.S. and those other countries.
- Test procedures—We are proposing to certify Category 3 marine engines using the Annex VI test procedures for diesel marine engines with modification. The modifications, which are described section V.C, are required to ensure that the test data used for certification are representative of in-use operation. We expect that manufacturers would be able to use data from certification tests conducted according to the modified EPA procedures for Annex VI certification.
- Test fuel—As described in section V.C.2, we are proposing that the official test fuel specification for C3 engines be a residual fuel. Annex VI specifies using distillate test fuels and uses distillate testing as the basis of its standards. We are proposing to allow certification testing on marine distillate fuel to be consistent with Annex VI. However, we would correct the NO_x emissions, based on fuel nitrogen content, before the test results are compared to our residual fuel based standards.
- Compliance date for standards—As described in Section III, we are proposing to apply the standards based on the date of final assembly of the engine, while Annex VI generally applies the standards based on the start-date of the manufacture of the vessel (i.e., the date on which the keel is laid). Since the laying of the keel would almost always occur prior to the final assembly of the engine, this provides manufacturers with somewhat more lead time than is provided by the Annex VI provision. Note that this difference would not matter for Tier 1, since the effective date of the Annex VI limits has already passed (January 1, 2000).
- Production testing—We are proposing a simple production testing program ensure that certification designs would be translated into production engines that meet applicable standards. We are not proposing a specific testing requirement, and would allow manufacturers flexibility in determining how to test the engines.

Annex VI also requires verification that engines are properly installed, but allow this to be demonstrated by either a parameter check or by testing.

- Technical file—Annex VI requires that engine manufacturers provide operators with a Technical File that contains maintenance instructions, test data, and other compliance information. We are proposing only to require the manufacturer to provide maintenance instructions necessary to ensure that the engine would continue to meet the emission standards in use.
- In-use compliance—To ensure that an engine in-use continues to meet the standards, we are proposing that operators be required to perform a simple field measurement test to confirm emissions after a parameter adjustment or maintenance operation. The Annex VI program would require only periodic surveys of the engine, which can take the form of a simplified onboard test or, more frequently, a parameter check. The parameter check can be as simple as reviewing the record book of engine parameters to see if any adjustments were made to the engine that were outside the range of acceptable parameter adjustments specified by the engine manufacturer. Both of these would be carried out by representatives of the flagging state.
- Parameter adjustment—We are proposing to allow manufacturers to specify in their applications for certification the range of adjustment across which the engine is certified to comply with the applicable emission standards. This would allow a manufacturer to specify different fuel injection timing calibrations for different conditions. These different calibrations would be designed to account for differences in fuel quality. Operators would then be prohibited by the anti-tampering provisions from adjusting engines to a calibration different from the calibration specified by the manufacturer when they are within 175 miles of the U.S. coast. We are also proposing to require all new Category 3 engines be equipped with emission measurement systems and with automatic electronic-logging equipment that automatically records all adjustments to the engine and the results of the required verification tests. (See sections V.B.3 and V.B.10 for more details.) Annex VI would prohibit operators from adjusting engines to a calibration different from the calibration specified by the manufacturer under any circumstances.
- Onboard measurement—We are proposing that simplified onboard measurements be used to confirm proper adjustment of in-use engines as described in sections V.B.3 and V.B.10. Annex VI allows such systems, but does not require them.

3. Could a Manufacturer Comply With Both the EPA Requirements and the Annex VI requirements at the Same Time?

A manufacturer that complied with the proposed EPA requirements would need to do very little additional work to meet the Annex VI requirements. First, the engine manufacturer would need to provide the operator with a Technical File that contains more information than would be required by EPA. The manufacturer may also need to ensure that the relevant emission testing is witnessed appropriately.

For manufacturers that have already complied with the Annex VI, the amount of additional work that would required to comply with the proposed EPA requirements, would be dependent on how the manufacturer conducted its emission testing. Annex VI allows manufacturers more discretion in testing engines than would be allowed under our proposed regulations, and does not necessarily require that the engine be tested fully consistent with in-use operation. Under the proposed regulations, tests of engines that are not consistent with in-use operation would not be allowed, unless the manufacturer could demonstrate that the test results were equivalent to test results that would result form testing conducted in accordance with the proposed regulations. In these cases, manufacturers would need to repeat the tests according to the proposed test procedures. On the other hand, manufacturers that used their good engineering judgment to test their engines consistent with their in-use operation would generally be allowed to use the same test data for EPA certification. For future testing, manufacturers would be able to test their engines in compliance with both the Annex VI procedures and the proposed EPA procedures.

With respect to the other proposed compliance requirements not related to certification testing, manufacturers would need to do the following things in addition to the Annex VI requirements:

- Demonstrate prior to production that the engines would comply with the emission standards for the useful life of the engine.
- Warrant to the purchasers that the engines would comply with the EPA requirements for the useful life of the engine.
- Perform a simple production test after installation.

- Install an onboard measurement system.
- Specify how the operator should adjust the engine in use and how proper adjustment should be verified through testing.

VI. Projected Impacts

A. What Are the Anticipated Economic Impacts of the Proposed Standards?

Our analysis of the projected impacts of the proposed standards consists primarily of estimating the costs, emission benefits, and cost per ton of pollutant reduced.

With regard to the proposed Tier 1 standards, we expect the costs of the proposed Tier 1 standards to be negligible. We do not anticipate that there will be any engineering or design costs associated with the Tier 1 standards because manufacturers are already certifying engines to the Annex VI standards through our voluntary certification program (see Section E.2 of the preamble for this rule). While there will be certification and compliance costs, these costs will be negligible on a per-engine basis. The emission reductions from the proposed Tier 1 standards will reflect only reductions from engines that are currently in noncompliance with the Annex VI NO_X limits. For these reasons, the projected impacts of this rule are expected to be negligible.

Additionally, because the total annualized costs associated with complying the proposed rule are a small percentage of total market revenues, it is unlikely that market prices or production will change as a result of the proposed rule. Furthermore, the total annualized costs associated with applying the reductions to all vessels is smaller; thus, we would still not anticipate appreciable changes in market prices or quantities to be associated with the proposed rule.

The remainder of this section discusses the projected impacts of a second tier of standards currently under consideration that would reflect a 30 percent reduction from Tier 1.

B. What Are the Anticipated Economic Impacts of the Standards Under Consideration?

As described below, aggregate annualized costs of adopting the Tier 2 standards discussed above are estimated to be about $1.6 million per year. In assessing the economic impact of setting emission standards, we have made a best estimate of the combination of technologies that an engine manufacturer would most likely use to meet the new standards discussed in this Notice. The analysis presents estimated cost increases for new engines. These estimates include consideration of variable costs (for hardware and assembly time), fixed costs (for research and development, and retooling), and compliance costs (for certification testing and onboard emission measurements). The analysis also considers total operating costs, including maintenance and fuel consumption. Cost estimates based on these projected technology packages represent an expected change in the cost of engines as manufacturers begin to comply with new emission standards. All costs are presented in 2002 dollars. Full details of our cost analysis can be found in Chapter 5 of the Draft Regulatory Support Document.

Table VI.B–1 summarizes the projected costs for meeting the Tier 2 emission limits under consideration. Anticipated incremental new engine cost impacts of the Tier 2 emission limits discussed in this notice for the first years of production range from $94,000 to $153,000 per engine with an calculated composite cost of $115,000. Long-term impacts on engine costs are expected to be lower, ranging from $25,000 to $63,000 per engine with a composite cost of $39,000. Most of this cost reduction is accounted for by the fact that research, testing, and other fixed costs dominate the cost analysis, but disappear after the projected ten-year amortization period. Some additional cost reduction is expected to result from learning in production. We believe that manufacturers would be able to combine emission-control technologies to meet the Tier 2 emission standards under consideration without increasing fuel consumption or other operating costs. The cost analysis, however, includes an estimated $5,000 of annual expenses to maintain equipment for onboard emission measurement, which corresponds with a net-present-value at the point of sale of $61,000. See Chapter 5 of the Draft Regulatory Support Document for a more detailed discussion of the analysis to estimate the costs of emission-control technology for meeting a second tier of emission standards.

TABLE VI.B–1.—SUMMARY OF PROJECTED COSTS TO MEET TIER 2 EMISSION STANDARDS—U.S.-FLAG ONLY

Time Frame	Medium-speed engines			Slow-speed engines		
	6 cyl.	9 cyl.	12 cyl.	4 cyl.	8 cyl.	12 cyl.
Total cost per engine (yr. 1)	$93,587	$98,977	$104,368	$106,414	$129,723	$153,031
Total cost per engine (yr. 6 and later)	25,452	28,902	32,352	33,661	48,579	63,496
Annual operating costs	5,000	5,000	5,000	5,000	5,000	5,000

Table VI.B–2 shows the same cost estimates for the scenario of requiring engines on foreign-flag vessels to meet emission standards. Near-term costs are generally lower in this scenario because fixed costs can be amortized over substantially larger numbers of engines. The same manufacturers produce engine used in U.S. and foreign-flagged vessels. In addition, the majority of the vessels visiting the U.S. are foreign flagged. Therefore, we do not estimate separate costs for applying the Tier 2 standards to foreign flagged vessels only.

TABLE VI.B–2.—SUMMARY OF PROJECTED COSTS TO MEET TIER 2 EMISSION STANDARDS—INCLUDING FOREIGN-FLAG

Time frame	Medium-speed engines			Slow-speed engines		
	8 cyl.	12 cyl.	16 cyl.	4 cyl.	8 cyl.	12 cyl.
Total cost per engine (yr. 1	$35,970	$41,360	$46,751	$48,797	$72,106	$95,414
Total cost per engine (yr. 6 and later)	25,452	28,902	32,352	33,661	48,579	63,496
Annual operating costs	5,000	5,000	5,000	5,000	5,000	5,000

The above analysis presents unit cost estimates for each power category. With current data for engine and vessel sales for each category and projections for the future, these costs can be translated into projected direct costs to the nation for the new emission standards in any year. Aggregate annualized costs (based on a 20-year stream) are estimated to be about $1.6 million per year. This is based on the present value of an annuity discounted at 7 percent over a 20-year stream of costs. Aggregate annualized costs not including the NO_X monitoring costs are estimated to be about $1 million. Applying the Tier 2 emission standards described in this notice also to engines on foreign-flag vessels would increase aggregate annualized costs to about $54 million. In both cases, estimated aggregate costs per year fall substantially after five years as manufacturers would no longer need to recover their amortized costs.

The annualized aggregate cost (no operating costs) of $1 million represents 0.17 percent of total annual shipbuilding industry revenues based on the 1997 value of shipments. Because the total annualized costs associated with complying the Tier 2 standards under consideration are a small percentage of total market revenues, it is unlikely that market prices or production will change as a result of these proposed rules. Furthermore, the total annualized costs associated with applying the reductions to all vessels is smaller; thus, we would still not anticipate appreciable changes in market prices or quantities to be associated with the standards under consideration.

C. What Are The Anticipated Emission Reductions of the Standards Under Consideration?

The following discussion gives a brief overview of the methodology we used to determine the emissions reductions from Category 3 marine diesel engines associated with this proposed rule and alternatives we are considering. Chapter 6 of the Draft Regulatory Support Document provides a detailed explanation of the methodology and results. Section II of this preamble and Chapter 2 of the Draft Regulatory Support Document contain information about the health and welfare concerns associated with Category 3 marine diesel engine pollution.

To model the emission reductions of the standards discussed in this Notice we applied an engine replacement schedule and the emissions standards to the baseline inventory. We also accounted for the MARPOL Annex VI NO_X limits. Although these standards are not yet effective, they are being largely complied with around the world, and we expect this trend to continue. Thus, we are using the Annex VI limits as the baseline for purposes of showing the expected emissions reductions from the Tier 2 standards. Thus, we are assuming that all U.S. and foreign flagged vessels built after 1999 will comply with the Annex VI limits, and show the benefits of the Tier 2 standards relative to this baseline. We are only considering that the Tier 2 standards apply to U.S. flagged vessels. Thus, we only applied the expected emissions reductions from the Tier 2 standards to the portion of the national inventory attributable to U.S. flagged vessels. Also, because the HC and CO standards are intended only to prevent future increases in HC and CO emissions, and because we are not considering PM standards, we are claiming no emissions reductions in HC, CO or PM. Table VI.C–1 shows our estimates of Category 3 vessel NO_X emissions with and without the Tier 2 standards, as well as the impact of the MARPOL Annex VI NO_X limits.

It is important to note that we only modeled the emissions reductions within 175 nautical miles of the U.S. coast. However, reductions from the Annex VI standards and the Tier 2 standards would also likely occur outside of 175 nautical miles of the U.S. coast. To the extent that vessels in compliance with these limits visit foreign ports some emissions reductions would likely be seen in those areas as well.

TABLE VI.C–1.—CATEGORY 3 MARINE VESSEL NO_X NATIONAL EMISSIONS INVENTORIES

	1996	2010	2020	2030
No control baseline (thousand short tons)	190	303	439	659
MARPOL Annex VI:				
(thousand short tons)	190	274	367	531
Percent reduction (relative to no control)	.....	9.6%	16.2%	19.5%
Tier 2:				
Control (thousand short tons)	190	269	343	475
Percent reduction (relative to MARPOL Annex VI)	.....	2.0%	6.8%	10.5%

As discussed in Section III, we are only proposing to apply the emissions standards to U.S. flagged vessels. The effect of applying the Tier 2 standards to both U.S. and foreign flagged vessels is shown in Table VI.C–2. As can be seen from this table, the projected emissions reductions from applying a second tier of standards would be substantially greater in 2030 if foreign flagged vessels were also to comply with such limits. EPA believes this information provides support for pursuing an international agreement to limit emissions to such levels in the context of additional reductions under MARPOL.

TABLE VI.C–2.—EFFECT OF APPLICATION OF TIER 2 EMISSIONS STANDARDS BASED ON VESSEL FLAG (U.S. FLAGGED VESSELS VS. ALL VESSELS)

Scenario	2020		2030	
	NO_X (1000 tons)	% reduction	NO_X (1000 tons)	% reduction
Baseline (Annex VI)	367		531	
U.S. Flagged Only	343	6.8	475	10.5
All Vessels	306	16.7	392	26.1

D. What is the Estimated Cost Per Ton of Pollutant Reduced for This Proposal and Alternatives We are Considering?

We estimated the cost per ton of NO_X reduction of the NO_X emission standards discussed in this Notice. Chapter 7 of the Draft Regulatory Support Document contains a more detailed discussion of the cost per ton analysis. The calculated cost per ton of the proposed emission standard presented here includes all of the anticipated effects on costs and emission reductions.

1. Tier 1 Cost Per Ton

The proposed Tier 1 standards are equivalent to the MARPOL Annex VI standards. Because engines already comply with the MARPOL Annex VI standards, we not claiming any benefits or costs to meet the EPA proposed Tier 1 standards.

2. Tier 2 Cost Per Ton

To determine the cost per ton of NO_X reduction associated with the Tier 2 emission standards discussed in section IV.A.3, we only considered emissions reductions beyond those achieved by the MARPOL Annex VI standards. Table VI.D–1 presents the cost per ton of the Tier 2 standards discussed in this notice for U.S. flagged Category 3 marine engines. By weighting the projected cost and emission benefit numbers presented above by the populations, we also calculated the aggregate cost per ton of NO_X reduced for Category 3. The net present value (NPV) of the costs and emissions reductions shown here are discounted at a rate of 7 percent per year. For comparison, estimates are also presented here for applying these standards to foreign flagged vessels as well. These cost per ton estimates are higher because only emission reductions within 175 nautical miles of the U.S. coast are considered and foreign flagged vessels have less of their operation near the U.S. than U.S. flagged vessels.

TABLE VI.D–1.—COST PER TON OF THE MARINE TIER 2 STANDARDS FOR NO_X

Model year grouping	NPV benefits per ship (short tons)	NPV operating costs per ship	Engine & vessel costs per ship	Discounted cost per ton
U.S. Flagged Vessels Only (proposed)				
1 to 5	1,149	$66,000	$115,000	$145
6+			39,000	87
Foreign Flagged Vessels Only (for comparison)				
1 to 5	45	$66,000	$57,000	$2,590
6+			39,000	2,235
All Vessels (for comparison)				
1 to 5	73	66,000	57,000	1,585
6+			39,000	1,368

The costs and reductions presented in the above table are based on an 11,000 kW engine which, as discussed in Chapter 7 of the draft RSD, we believe represents the average sized engine visiting U.S. ports. An engine of this size would cost about $2.5 to 3.0 million. It would be used in a vessel which would cost about $100 to $200 million to construct. Therefore, the $180,000 cost estimate of engine improvements represents about 0.1 percent of the total vessel cost. All costs are in 2002 dollars.

3. Comparison to Other Programs

In an effort to evaluate the cost per ton of the NO_X controls discussed above for Category 3 marine engines, we looked at the cost per ton for other recent EPA mobile source rulemakings that required reductions in NO_X (or $NMHC+NO_X$) emissions. Our final standards for Category 1 and 2 marine engines yielded a cost per ton of $24–$180 per ton of $HC+NO_X$ reduced (in 1997 dollars). In contrast, the 2007 standards for highway heavy-duty engines yielded a cost per ton of approximately $1600–$2100 per ton of $NMHC+NO_X$ (in 1999 dollars). The rulemaking proposed in this document has a low cost-per-ton value compared with other mobile source programs. Chapter 7 presents additional cost-per-ton estimates for comparison with the Draft Regulatory Support Document.

E. What Are the Estimated Health and Environmental Benefits for This proposal?

In addition to the benefits of reducing ozone within and transported into urban ozone nonattainment areas, the NO_X reductions from the new standards are expected to have beneficial impacts with respect to crop damage from ozone reductions, secondary particulate formation, acid deposition, eutrophication, visibility, and the viability and diversity of species in forests. These effects are described in more detail in Section II–B and in Chapter 2 of the Draft Regulatory Support Document.

We are not able to quantify or monetize the benefits at this time due to a lack of emissions inventories that would locate the emissions in specific ports, lack of appropriate national air quality modeling systems that can be used in marine settings, and lack of time to develop such techniques. However, to the extent that U.S.-flag Category 3 marine vessels operate in a given port area, that area would benefit from significantly reduced emissions.

F. What Would Be the Impacts of a Low Sulfur Fuel Requirement?

As discussed above in section IV, we are requesting comment on low sulfur fuel requirements. This analysis looks at two approaches to meeting a cap of 15,000 ppm S beginning in 2007. The first approach is to use a low sulfur marine distillate oil which would likely be a blend of residual fuel and distillate fuel. The second approach would be to use number 2 diesel fuel (3000 ppm S) such as used in land-based applications today. These two approaches provide a range of costs and benefits that could be achieved by requiring the use of low sulfur fuel. For the purpose of this analysis, we only include the operation of ships within 175 nautical miles of the U.S. coast which is where we believe emissions will have the most significant impact on U.S. air quality.

1. Cost and Economic Impacts

Many ships are already equipped to operate on either distillate or residual fuel. Using any sort of distillate fuel for all operation near the U.S. coast could result in additional hardware costs. These costs would be for modifications to the fuel plumbing and storage associated with longer periods of operation on distillate fuel. The cost of using marine diesel oil would be about 60 percent higher than for the higher sulfur residual fuel. The cost of the number 2 diesel would be about twice the cost of operating on residual fuel. Table VI.F–1 presents the discounted lifetime costs for either using 15,000 ppm S or 3,000 ppm S fuel on all ships operating within 175 nautical miles of the U.S. coast. Chapter 5 of the Draft Regulatory Support Document develops the analysis of these cost estimates.

TABLE VI.F–1.—ESTIMATED AVERAGE PER ENGINE COST INCREASES FOR ALTERNATIVE APPROACHES

Fuel Used	Increased Hardware Costs	Increased Operating Costs
15,000 ppm S residual fuel	$50,000	$139,000
3,000 ppm S distillate fuel	50,000	273,000

2. Environmental impacts

For the 1.5 percent sulfur residual fuel scenario, our estimates of SO_X and PM reductions are based strictly on the reduction of sulfur in the fuel from 27,000 to 15,000 ppm. In this case by itself, no NO_X reductions are anticipated. Table VI.F–2 presents the emission reductions due to using this low sulfur fuel for all operation of U.S. and foreign vessels within 175 nautical miles of the U.S. coast. However, as discussed in section IV.D, there are some issues regarding how we might enforce such a fuel requirement for all operation within 175 nautical miles of the U.S. coast.

TABLE VI.F–2.—PROJECTED CATEGORY 3 EMISSIONS INVENTORIES FOR SWITCHING TO 15,000 PPM S FUEL

	1996	2010	2020	2030
PM:				
Baseline case (thousand short tons)	17.1	26.0	36.7	54.2
Control case (thousand short tons)	17.1	21.3	30.1	44.5
Reduction (thousand short tons)	.....	4.7	6.6	9.7
Percent reduction from baseline	.....	18	18	18
SO_X:				
Baseline case (thousand short tons)	156.2	192.8	271.2	399.7
Control case (thousand short tons)	156.2	108.0	151.9	223.9
Reduction (thousand short tons)	.....	84.8	119.3	175.8
Percent reduction from baseline	.....	44	44	44

For the 3,000 ppm fuel case, our estimates of SO_X reductions are based on a reduction of sulfur in the fuel from 2.7 to 0.3 percent. Our estimates of PM reductions are based on changes in several fuel components. We estimate that PM from a marine engine operating on residual fuel is made up of 45 percent sulfate, 25 percent carbon soot, 20 percent ash, and 10 percent soluble organic hydrocarbons. Reducing sulfur in the fuel would reduce direct sulfate PM by about 90 percent. In addition, if distillate fuel is used, the ash content and the density of the fuel would be reduced. This analysis results in a total per vessel PM reduction of 63 percent. Using residual fuel can lead to NO_X increases due to nitrogen in the fuel. For this analysis we use a per vessel NO_X reduction of ten percent based on a reduction of nitrogen in the fuel. Table VI.F–3 presents the potential SO_X, PM, and NO_X reductions from using distillate fuel for all Category 3 vessel operations.

TABLE VI.E–3.—PROJECTED CATEGORY 3 EMISSIONS INVENTORIES FOR SWITCHING TO 3,000 PPM S FUEL

	1996	2010	2020	2030
NO_X:				
Baseline case (Annex VI—thousand short tons)	190.0	274.1	367.5	530.8
Control case (thousand short tons)	190.0	246.7	330.7	477.7
Reduction (thousand short tons)	.....	27.4	36.8	51.3
Percent reduction from Annex VI baseline	.....	10	10	10
PM:				
Baseline case (thousand short tons)	17.1	26.0	36.7	54.2
Control case (thousand short tons)	17.1	9.6	13.6	20.1
Reduction (thousand short tons)	.....	16.4	23.1	34.1
Percent reduction from baseline	.....	63	63	63
SO_X:				
Baseline case (thousand short tons)	156.2	192.8	271.2	399.7
Control case (thousand short tons)	156.2	21.2	29.8	44.0
Reduction (thousand short tons)	.....	171.6	241.4	355.7
Percent reduction from baseline	.....	89	89	89

The reductions of SO_X and fine PM emissions from this alternative both within port and transported into urban areas are expected to have beneficial impacts with respect to PM-related cancer and non-cancer health effects, acid deposition, eutrophication, visibility. These effects are described in more detail in Section IIB and in Chapter 2 of the Draft Regulatory Support Document.

We are not able to quantify or monetize the benefits at this time due to a lack of emissions inventories that would locate the emissions in specific ports, lack of appropriate national air quality modeling systems that can be used in marine settings, and lack of time to develop such techniques. Nevertheless, certain ports with high traffic in U.S. flagged Category 3 marine vessels could experience significant benefits from SO_X and PM reductions.

3. Cost per ton

We estimated the cost per ton of both 15,000 ppm sulfur residual fuel and 3,000 ppm sulfur distillate fuel. For this analysis, we consider operation of all ships within 175 nautical miles of the U.S. coast. In determining the cost per ton, we apportion the costs between reductions in PM and SO_X emissions.

One approach would be to apply all of the costs to PM and consider the SO_X reductions to come at no additional cost; however, we recognize that there is benefit to reducing both PM and SO_X. Therefore, we apply 10 percent of the cost to SO_X reductions. If all the costs were applied to PM, the estimated $/ton for PM control would be about 10 percent higher than shown below. No costs are applied to NO_X control, so a cost per ton value is not presented. We request comment on this partition of costs.

TABLE VI.F–4.—COST PER TON OF A LOW SULFUR FUEL REQUIREMENT

Pollutant	NPV of total lifetime costs per ship	NPV of tons reduced per ship	Discounted cost per ton
15,000 ppm sulfur			
PM	$170,000	4.3	$38,000
SO_X	19,000	61	302
3,000 ppm sulfur			
PM	$291,000	8.7	$33,000
SO_X	$32,000	121	262

VII. Other Approaches We Considered

A. Standards Considered

Earlier in this preamble we discuss two tiers of standards for new Category 3 marine engines. The first tier is equivalent to the MARPOL Annex VI NO_X limits to which manufacturers have recently begun designing their engines. The second tier is 30 percent below this Tier 1 limit; we anticipate that this standard can be met relatively soon using in-cylinder controls. This section discusses two other approaches we considered when developing this proposal and presents our analysis of the feasibility and impacts of setting such standards. We considered alternative NO_X emission standards 50 and 80 percent below Annex VI levels. Under either of these scenarios, additional lead time beyond 2007 may be necessary; however, in this discussion, we consider a 2007 implementation date for our analysis of the alternative approaches so that a direct comparison can be made to the Tier 2 standard under consideration. Our analysis of alternative approaches applies equally to U.S. and foreign vessels. Also, if we were to adopt either of these alternative standards, all the provisions for certifying engines described in Section V would apply. However, as described below, we believe it is not appropriate to set standards for Category 3 marine engines based on these approaches at this time, due to remaining technological and operational issues. However, we may consider these approaches as the basis of new standards in the future.

1. NO_X Level 50 Percent Below Tier 1

One alternative that we are considering is an emission level one-half of the MARPOL limits. We believe reductions on this order could be achieved by introducing water into the combustion process. Water can be used in the combustion process to lower maximum combustion temperature, and therefore lower NO_X formation, with an insignificant increase in fuel consumption. Water has a high heat capacity, which allows it to absorb enough of the energy in the cylinder to reduce peak combustion temperatures. Data presented below and in Chapter 8 of the Draft Regulatory Support Document suggest that a 30 to 80 percent NO_X reduction can be achieved depending on ratio of water to fuel and on the method of introducing water into the combustion chamber. This data is primarily based on developmental engines; however, given enough lead time, we believe that introducing water into the combustion process may become an effective emission control strategy.

Water may be introduced into the combustion process through emulsification with the fuel, direct injection into the combustion chamber, or saturating the intake air. Water emulsification refers to mixing the fuel and water prior to injection. This strategy is limited due to instability of suspending water in fuel. To increase the effective stability, a system can be used that emulsifies the water into the fuel just before injection. Another option is to stratify the fuel and water through a single injector. The Draft Regulatory Support Document presents data on these approaches showing a 30–40 percent reduction in NO_X with water fuel ratios ranging from 0.3 to 0.4.

More effective control of the water injection process can be achieved through the use of an independent nozzle for water. Using a separate injector nozzle for the water allows larger amounts of water to be added to the combustion process because the water is injected simultaneously with the fuel, and larger injection pumps and nozzles can be used for the water injection. In addition, the fuel injection timing and the amount of water injected can be better optimized. Data presented in the Draft Regulatory Support Document show NO_X reductions of 40 to 70 percent with water-to-fuel ratios ranging from 0.5 to 0.9 if a separate nozzle is used for injecting water.

Other strategies for introducing water into the combustion process are being developed that will allow much higher water to fuel ratios. These strategies include combustion air humidification and steam injection. With combustion air humidification, a water nozzle is placed in the engine intake and an air heater is used to offset condensation. With steam injection, waste heat is used to vaporize water which is then injected into the combustion chamber during the compression stroke. Data on initial testing, presented in the Draft Regulatory Support Document, show NO_X reductions of more than 80 percent with water to fuel ratios as high as 3.5.

Fresh water is necessary for any of these water-based NO_X-reduction strategies. Introducing salt water into the engine could result in serious deterioration due to corrosion and fouling. For this reason, a ship using water strategies would need to either produce fresh water through the use of a desalination or distillation system or store fresh water on board. Cruise ships may already have a source of fresh water that could be used to enable this technology. This water source is the "gray" water, such as drainage from showers, which could be filtered for use in the engine. However, the use of gray water would have to be tested on these engines, and systems would have to be devised to ensure proper filtering. For example, it would be necessary to ensure that no toxic wastes are introduced into the gray waste-water stream. One manufacturer stated that today's ships operating with direct water injection carry the amount needed to operate the system between ports (two to four days). Also, when and where a ship operates can have an effect on the available water. A ship operating in cold weather uses all of the available steam heated by the exhaust just to heat the fuel. Also, a ship operating in an area with low humidity would not be able to condense water out of the air using the jacket water aftercooler.

Depending on the amount of water necessary, other vessels that use Category 3 marine engines may not be able to generate sufficient amounts of gray water for this technology. These ships would have to carry the water or be outfitted with new or larger distillation systems. Both of these options would displace cargo space. Finally, it should be noted that vessels that are currently equipped with water-based NO_X reduction technologies are four-stroke engines and include fast ferries, cruise ships and cargo ships. The specific vessels travel relatively short distances between stops and need a much smaller volume of fresh water for a trip than would be required for crossing an ocean. More information is needed regarding operation on ocean-going vessels before this technology could be used as the basis for a NO_X emission standard. If the ships were only to use this technology traveling from 175 nautical miles of the U.S. coast to port, less water storage capacity would be needed than if the ship used this NO_X reduction strategy at all times. However, ships operating primarily within 175 nautical miles of the U.S. coast would need to be able to carry a volume of water of about one-half the volume of fuel they carry if they wish to keep the same refueling schedule. Ships making long runs, such as from California to Alaska, would have to be able to store enough water for that trip even if they make it infrequently. Lastly, if this technology were applied to two-stroke engines there may be lubricity concerns with the cylinder liner. One manufacturer is developing a strategy to use DWI with EGR to minimize water requirements on such engines.

Durability issues may be a concern with water emulsification or injection systems. For onboard water emulsifying units, cavitation is used to atomize the water and mix it into the fuel. Although this works well at emulsifying the fuel, the water can cause significant wear of the injection pump. For water injection systems, high pressure water is injected similar to in a fuel injector. However, water does not have the inherent lubrication properties found in fuel. Therefore, more research may be necessary on more durable materials.

Another concern with the use of water in the combustion process is the effect on PM emissions. The water in the cylinder reduces NO_X, which is formed at high temperatures, by reducing the temperature in the cylinder during combustion. However, PM oxidation is most efficient at high temperatures. At this time, we do not have sufficient information on the effect of water emulsification and injection strategies on PM emissions to quantify this effect. We request information on the effect of using water in the combustion process on PM emissions.

For these reasons we believe it is premature to set a standard based on water-based technologies at this time. We request comment on this approach.

2. NO_X Level 80 Percent Below Tier 1

The other alternative we are considering for the Tier 2 standard is an emission level 80 percent below the MARPOL limits. We believe reductions of this order could be achieved through the use of selective catalytic reduction. Selective catalytic reduction (SCR) is one of the most effective means of reducing NO_X from large diesel engines. In SCR systems, a reducing agent, such as ammonia, is injected into the exhaust and both are channeled through a catalyst where NO_X emissions are reduced. As discussed in the draft RSD, SCR can be used to reduce NO_X emissions by more than 90 percent at exhaust temperatures above 300°C. These systems are being successfully used for stationary source applications, which operate under constant, high load

conditions. These systems are also being used in Category 3 engines used on ferries and cruise ships where they operate largely at high loads and over short distances so exhaust temperature and urea storage are not primary issues.

Several issues exist before application of this technology to all Category 3 engines can be deemed feasible. Issues include temperature at low load for SCR effectiveness, use of low sulfur fuel for system durability, space required for the SCR unit and urea storage, availability of regular down time for repair, availability of urea at ports, and application to slow-speed engines.

SCR systems available today are effective only over a narrow range of exhaust temperatures (above 300°C). To date, these systems have primarily been applied to four-stroke medium speed engines which have exhaust temperatures above 300°C at least at high load. Two-stroke slow speed engines have lower exhaust temperatures and are discussed later. The effectiveness of the SCR system is decreased at reduced temperatures exhibited during engine operation at partial loads. Most of the engine operation in and near commercial ports and waterways close to shore is likely to be at these partial loads. In fact, reduced speed zones can be as large as 100 miles for some ports. Because of the cubic relationship between ship speed and engine power required, engines may operate at less than 25 percent power in a reduced speed zone. During this low load operation, no NO_X reduction would be expected, therefore SCR would be less effective than the proposed Tier 2 standards during low load operation near ports. Some additional heat to the SCR unit can be gained by placing the reactor upstream of the turbocharger; however, this temperature increase would not be large at low loads and the volume of the reactor would diminish turbocharger response when the engine changes load. The engine could be calibrated to have higher exhaust temperatures; however this could affect durability (depending on the fuel used) if this calibration also increased temperatures at high loads. For an engine operating on residual fuel, vanadium in the fuel can react with the valves at higher temperatures and damage the valves.

SCR systems traditionally have required a significant amount of space on a vessel; in some cases the SCR was as large as the engine itself. However, at least one manufacturer is developing a compact system which uses an oxidation catalyst upstream of the reactor to convert some NO to NO_2 thus reducing the reactor size necessary. The reactor size is reduced because the NO_2 can be reduced without slowing the reduction of NO. Therefore, the catalytic reaction is faster because NO_X is being reduced through two mechanisms. This compact SCR unit is designed to fit into the space already used by the silencer in the exhaust system. If designed correctly, this could also be used to allow the SCR unit to operate effectively at somewhat lower exhaust temperatures. The oxidation catalyst and engine calibration would need to be optimized to convert NO to NO_2 without significant conversion of S to direct sulfate PM. NO_X reductions of 85 to 95 percent have been demonstrated with an extraordinary sound attenuation of 25 to 35 dB(A).[56]

Information from one manufacturer who has 40 installations of SCR reveals that the engines using the technology are either using low sulfur residual fuel (0.5%–1% S) or distillate fuel. Low sulfur residual fuel is available in areas which provide incentives for using such fuel, including the Baltic Sea, however such fuel is not yet available at ports throughout the United States. However, distillate fuel is available. Low sulfur fuel is necessary to assure the durability of the SCR system because sulfur can become trapped in the active catalyst sites and reduce the effectiveness of the catalyst. This is known as sulfur poisoning which can require additional maintenance of the system. The operation characteristics of ocean going vessels may interfere with correct maintenance of the SCR system. Ferries which have incorporated this technology to date do not run continuously and therefore any maintenance necessary can be performed during regular down times. The availability of time for repair can be an issue for ocean going vessels for they do not have regular down times.

Sulfur in fuel is also a concern with an oxidation catalyst because, under the right conditions, sulfur can also be oxidized to form direct sulfate PM. At higher temperatures, up to 20 percent of the sulfur could be converted to direct sulfate PM in an oxidation catalyst compared to about a 2 percent conversion rate for a typical diesel engine without aftertreatment. Depending on the precious metals used in the SCR unit, it could be possible to convert some sulfur to direct sulfate PM in the reactor as well. Manufacturers would have to design their exhaust system (and engine calibration) such that temperatures would be high enough to have good conversion of NO, but low enough to minimize conversion of S to direct sulfate PM. Direct sulfate PM emissions could be reduced by using lower sulfur fuel such as distillate.

A vessel using a SCR system would also require an additional tank to store ammonia (or urea to form ammonia). This storage tank would be sized based on the vessel use, but could be large for a vessel that travels long distances in U.S. waters between refueling such as between California and Alaska. The urea consumption results in increased operating costs. Also, if lower sulfur diesel fuel were required to ensure the durability of the SCR system or to minimize direct sulfate PM emissions, this lower sulfur fuel would increase operating costs. For SCR to be effective, an infrastructure would be necessary to ensure that ships could refuel at ports they visit. We believe that it would take some time to set up a system for getting fuel to ships that fill up using barges, especially if the standard were only to apply to U.S. flagged ships due to the low production volume. In addition, a ship that operates outside the U.S. for several months (or years) would have to ensure that it has urea available for any visits to U.S. ports.

Because SCR units are so easily adjustable, ship operators may choose to turn off the SCR unit when not operating near the U.S. coast. If they were to use this approach, they would need to construct a bypass in the exhaust to prevent deterioration of the SCR unit when not in use. To ensure that the SCR system is operating properly within 175 nautical miles of the U.S. coast, we would need to consider continuous monitoring of NO_X emissions for engines using SCR. Discussions of equipment and procedures for continuous monitoring are currently under discussion by IMO in the context of Annex VI.

If the combustion is not carefully controlled, some of the ammonia can pass through the combustion process and be emitted as a pollutant. This is less of an issue for Category 3 marine engines, which generally operate under steady-state conditions, than for other mobile-source applications. In addition, in ships where banks of engines are used to drive power generators, such as cruise ships, the engines generally operate under steady-state conditions near full load. If ammonia slip still occurred, an oxidation could be used downstream of the reactor to burn off the excess ammonia.

Slow-speed marine engines generally have even lower exhaust temperatures than medium speed engines due to their

[56] Paro, D., "Effective, Evolving, and Envisaged Emission Control Technologies for Marine Propulsion Engines," presentation from Wartsila to EPA on September 6, 2001.

two-stroke design. However, we are aware of four slow-speed Category 3 marine engines that have been successfully equipped with SCR units. Because of the low exhaust temperatures, the SCR unit is placed upstream of the turbocharger to expose the catalyst to the maximum exhaust heat. Also, the catalyst design required to operate at low temperatures is very sensitive to sulfur. Especially at the lower loads, the catalyst is easily poisoned by ammonium sulfate that forms due to the sulfur in the fuel. To minimize this poisoning on these four in-service engines, highway diesel fuel (0.05% S) is required. In addition, these ships only operate with the exhaust routed through the SCR unit when they enter port in the U.S. which is about 12 hours of operation every 2 months. Therefore, the sulfur loading on the catalyst is much lower than it would be for a vessel that continuously used the SCR system. To prevent damage to the catalyst due to water condensation, this system needs to be warmed up and cooled down gradually using external heating. Another issue associated with the larger slow-speed engines and lower exhaust temperatures is that a much larger SCR system would be necessary than for a vessel using a smaller medium-speed engine. Size is an issue because of the limited space on most ships.

We believe that more time is necessary to resolve the issues discussed above for the application of SCR to Category 3 marine engines. Therefore, we are not proposing to set a standard at this time that would require the use of a SCR system. However, given enough lead time, we believe that manufacturers will be able to refine their designs for efficiency, compactness, and cost. Therefore, we believe that SCR may be available for widespread application with Category 3 marine engines in the future, and we intend to consider this technology if or when we propose additional standards in the future. We are also including this technology in our Blue Cruise program because of the potential large NO_X reductions and because this technology may be an attractive NO_X control strategy for cruise ship which use banks of engines generally operating at high load. Because cruise ships make frequent stops on regular routes, they should be able to coordinate a workable urea supply strategy. We request comment on using SCR technology on ocean-going vessels and on setting voluntary standards based on SCR technology.

A second approach for meeting an 80 percent reduction in NO_X emissions would be to use fuel cells to power the vessel in place of an internal combustion engine. A fuel cell is like a battery except where batteries store electricity, a fuel cell generates electricity. The electro-chemical reaction taking place between two gases, hydrogen and oxygen generate the electricity from the fuel cell. The key to the energy generated in a fuel cell is that the hydrogen-oxygen reaction can be intercepted to capture small amounts of electricity. The byproduct of this reaction is the formation of water. Current challenges include the storage or formation of hydrogen for use in the fuel cell and cost of the catalyst used within the fuel cell.

Over the past 5 years several efforts to apply fuel cells to marine applications have been conducted. These include grants from the Office of Naval Research and the U.S. Navy. The Office of Naval Research initiated a three-phase advanced development program to evaluate fuel cell technology for ship service power requirements for surface combatants in 1997. In early 2000, the U.S. Navy sponsored an effort to continue the development of the molten carbonate fuel cell for marine use. The Society of Naval Architects and Marine Engineers released the technical report "An Evaluation of Fuel Cells for Commercial Ship Applications." The report examines fuel cells for application in commercial ships of all types for electricity generation for ship services and for propulsion.

Fuel cell research is currently supported by several sources, including the U.S. Maritime Administration (MARAD) and the state of California's Fuel Cell Partnership. MARAD's Division of Advanced Technology has also included the topic of fuel cells as a low air emission technology that should be demonstrated. California's Fuel Cell Partnership seeks to achieve four main goals which include (1) Demonstrate vehicle technology by operating and testing the vehicles under real-world conditions in California; (2) Demonstrate the viability of alternative fuel infrastructure technology, including hydrogen and methanol stations; (3) Explore the path to commercialization, from identifying potential problems to developing solutions; and (4) Increase public awareness and enhance opinion about fuel cell electric vehicles, preparing the market for commercialization.

At this time, we consider fuel cell technology still be in the early stages of development. We recognize that a mature fuel cell system could have significant environmental benefits and we will consider this technology in the future. We request comment on the feasibility of using fuel cells for power on marine vessels.

B. Potential Impacts of the Regulatory Alternatives

1. Costs

The following analysis presents estimated cost increases for Category 3 marine engines and vessels that would be associated with the alternative standards (see Table VII.B–1). This cost analysis follows the same methodology outlined above (VI.B) and described in more detail in the Draft Regulatory Support Document. For the 50 percent below Tier 1 case, hardware costs include water injectors, plumbing, and water storage. Operating costs include water and a small fuel oil consumption penalty. For the 80 percent below Tier 1 case, hardware costs include the cost of the SCR unit and operating costs include the cost of the urea. In the analysis of these two scenarios, we only include the operation of ships where we believe emissions will have the most significant impact on U.S. air quality. The entire increased production cost is therefore included, but the increased operating costs are only considered for operation within 175 nautical miles of the U.S. coast. These costs are based on year 1 (no learning curve adjustment) and are discounted at a rate of seven percent to present the net present value.

Table VII.B–1 presents our cost estimates for applying the standards to U.S. flagged vessels only and for applying the standards to all vessels operating within 175 nautical miles of the U.S. coast. When applying the costs to all vessels, the production costs decrease because the development costs are spread among more engines; operating costs decrease because the average vessel spends less time operating near the U.S. coast than the average U.S. flagged vessel. For water injection, the operating costs include the effective cost of the water. For SCR, the operating costs include urea consumption as well as ship operation on 0.05 percent sulfur fuel. These costs are for an average sized Category 3 marine engine which would cost about 2.5 to 3.0 million dollars. For the 50 percent below Tier 1 case, the increased production costs range from 3 to 6 percent of the cost of the engine. For the 80 percent below Tier 1 case, the increased production costs range from 20 to 25 percent of the cost of the engine.

TABLE VII.B–1.—ESTIMATED AVERAGE COST INCREASE PER SHIP FOR ALTERNATIVE NO_X STANDARDS

Alternative standard	Increased production costs per ship (thousand $)	Increased operating costs per ship (thousand $)
US Flagged Vessels Only		
50% below Tier 1	$207	$527
80% below Tier 1	1,014	9,542
Foreign Flagged Vessels Only		
50% below Tier 1	137	84
80% below Tier 1	972	410
All Vessels		
50% below Tier 1	137	95
80% below Tier 1	972	629

2. Reductions

We use the same methodology to model emissions inventories for the alternative approaches as we used for the proposed Tier 2 standards. This is outlined earlier in the preamble (VI.B) and described in more detail in the Draft Regulatory Support Document. Table VII.B–2 presents our estimates of Category 3 vessel emission reductions possible through the alternative standards applied only to U.S. flagged vessels. Table VII.B–3 presents our estimates of Category 3 vessel emission reductions possible through the alternative standards applied to all Category 3 vessels. As for the cost analysis, we only include operation within 175 nautical miles of the U.S. coast, so only the emission reductions in that area are presented below.

TABLE VII.B–2.—PROJECTED CATEGORY 3 NO_X REDUCTIONS FOR ALTERNATIVE APPROACHES APPLIED TO U.S. FLAGGED VESSELS

	1996	2010	2020	2030
Tier 1				
Control case (thousand short tons)	190.0	274.1	367.5	530.8
50% below Tier 1:				
Control case (thousand short tons)	190.0	265.6	326.8	439.1
Percent reduction from Tier 1		3.1	11.1	17.3
80% below Tier 1:				
Control case (thousand short tons)	190.0	260.4	301.9	382.9
Percent reduction from Tier 1		5.0	17.8	27.9

TABLE VII.B–3.—PROJECTED CATEGORY 3 NO_X REDUCTIONS FOR ALTERNATIVE APPROACHES APPLIED TO ALL VESSELS

	1996	2010	2020	2030
Tier 1				
Control case (thousand short tons)	190.0	274.1	367.5	530.8
50% below Tier 1:				
Control case (thousand short tons)	190.0	260.7	276.9	311.2
Percent reduction from Tier 1		4.9	24.7	41.4
80% below Tier 1:				
Control case (thousand short tons)	190.0	252.5	221.4	176.7
Percent reduction from Tier 1		7.9	39.8	66.7

3. Cost per ton

To determine the cost per ton of NO_X reduction of the Tier 2 emission standards described in this notice, we considered only benefits beyond those achieved by the Tier 1 standards (equivalent to the Annex VI standards). Although the Annex VI standards are not yet effective, manufacturers around the world are generally producing compliant engines and we expect this to continue. Thus, we are using the proposed Tier 1 standards as the baseline, and showing the benefits of the Tier 2 standards under consideration relative to this baseline. Table VII.B–4 presents the cost per ton of the alternative standards using the same methodology discussed for the potential Tier 2 standards above. For this analysis, we considered all costs incurred and emission reductions achieved within 175 nautical miles of the U.S. coast. The cost estimates presented here do not include future reductions in cost due to the learning curve. Both costs and benefits are discounted at a rate of seven percent.

In addition, this analysis presents estimates both for applying the alternative standards just to U.S. flagged and for applying the alternative NO_X standards to all vessels operating in U.S. waters. By including foreign flagged vessels under these alternative approaches, the cost per engine decreases because the development costs can be distributed across more engines. However, the cost per ton actually increases because U.S. flagged vessels spend about 16 times more of their operating time within 175 nautical miles of the U.S. coast than foreign flagged vessels. Therefore, the tons of NO_X reduced per year in U.S. waters for an average foreign flagged vessel (which make up about 97 percent of the vessels) are lower. Operating costs included in this analysis would still be proportional to the amount of time the ship operates within 175 nautical miles of the U.S. coast.

TABLE VII.B–4.—COST PER TON OF THE ALTERNATIVE NO_X CONTROL APPROACHES

Approach	NPV of total lifetime costs (thousand $) per ship	NPV of NO_X tons reduced per ship	Discounted cost per ton
US Flagged Vessels Only			
50% below Tier 1	$734	1,915	$370
80% below Tier 1	10,557	3,064	3,405
Foreign Flagged Vessels Only			
50% below Tier 1	220	75	2,737
80% below Tier 1	1,381	119	10,607
All Vessels			
50% below Tier 1	232	122	1,768
80% below Tier 1	1,601	195	7,618

C. Summary

We considered two alternative approaches to a Tier 2 NO_X standard, namely a 50 or 80 percent reduction below Tier 1.

For a 50-percent reduction, we considered water injection with 0.5 water to fuel ratio. At the present time, the cost per ton for the water injection system ranges from $370 to $1,768 depending on if it applies to U.S. flagged vessels only or all vessels operating within 175 nautical miles of the U.S. coast. This analysis does not consider the lost space on a vessel due to water storage, nor does it consider the alternative of adding water distillation boilers which would add cost to the vessel, require space, and require additional fuel consumption. Water storage would either displace fuel storage and reduce the range of the vessel or reduce cargo space which would affect the money generated per cruise. In addition, more information is necessary on the effects of this technology on PM emissions. Because the water reduces the temperature in the combustion chamber, we are concerned that this could result in an increase in PM. Although this technology may be more attractive in the future, we are not focused on considering standards at this level at this time due to the water storage issues as well as the development time of advances in this technology to address lubricity concerns in the cylinder liners of two-stroke engines.

For the 80 percent NO_X reduction case, we considered the use of selective catalytic reduction with a urea consumption rate of about 8 percent of the fuel consumption rate. Our estimated cost per ton for this approach ranges from $3,405 to $7,618 depending on if it applies to U.S. flagged vessels only or all vessels operating within 175 nautical miles of the U.S. coast. This is considerably higher than the cost per ton figures for the recent mobile source programs presented in Chapter 7 of the Draft RSD. The cost per ton estimate for the use of SCR includes the cost of using lower sulfur fuel which we believe would be necessary for the durability of the system and to prevent increases in direct sulfate PM. In the future, however, technological advances increase the effectiveness of these units at lower temperatures and may reduce the cost of this system.

For SCR to be effective, an infrastructure would be necessary to ensure that ships could refuel at ports they visit. We believe that it would take some time to set up a system for getting fuel to ships that fill up using barges, especially if the standard were only to apply to U.S. flagged ships due to the low production volume. SCR would require space for urea storage, but it would likely be much less than that for water storage in the above approach because the volume of urea needed is only 5–10 percent of the volume of water needed for the water injection case considered above. In addition, at least one manufacturer is developing a compact SCR unit that will minimize the space needed for this system. We also believe that there are technical issues that need to be resolved such as effectiveness at low loads and the effect of the catalyst in the exhaust on direct sulfate PM emissions. As with water injection, we believe SCR may be appropriate for certain applications, but also believe that the remaining technology development and system cost prevent us from expecting manufacturers to apply SCR to all Category 3 marine engines at this time. We are therefore proposing to designate 80-percent reductions as a target for recognition as voluntary low-emission engines, rather than considering mandatory standards based on this technology.

D. Speed-based vs. Displacement-based Emission Standards

Annex VI specifies the NO_X emission standard as a function of engine speed. The shape of this curve was established with a mathematical relationship based on available emission data showing uncontrolled NO_X emission rates as a function of maximum engine speed. The numerical level of the standard was set based on a fixed percentage reduction relative to uncontrolled emission levels. The shape of the curve generally allows for higher emissions from larger engines, which tend to operate at slower speeds. On the other hand, a given percentage reduction for all engine sizes yields greater brake-specific emission reductions from larger engines, with greater percentage reductions flattening the curve.

This speed-based approach to setting standards has several advantages. It reflects the inherent tendency of larger (and slower-speed) engines to have higher NO_X-formation rates. It correspondingly reflects the challenges facing the design engineer to apply technology to reduce emissions. While maximum engine speeds can vary somewhat for a given engine, this parameter provides an effective correlation to an engine's emissions behavior. This is borne out by the emission data showing the trend of emissions as a function of engine speed on which the Annex VI NO_X curve is based. Also, defining the emission standard as a formula instead of setting different standards for discrete ranges prevents any complications related to step changes in the standard at any particular engine speed.

While we believe it is appropriate for the emission standards to be consistent with the Annex VI formula, this approach raises two issues that may become significant in the future. First, maximum engine speed is a design variable that can be set by the manufacturer based on an engine's particular application or a shipowner's preference. Under the speed-based formula, a manufacturer selling two otherwise identical engines may install them in different vessels that call for differing engine-speed ratings, which would allow the manufacturer to produce the engines to operate at different emission levels. For a given engine, it's not clear that emission standards should allow a higher emission level for engine installations

that call for a lower speed rating. Table VII.D–1 shows the effect of speed rating on the applicable emission standard for selected engine models that are currently available. For some engines, varying engine speed causes a difference in the NO_X standard of over 0.5 g/kW-hr.

TABLE VII.D–1.—EFFECT OF ENGINE SPEED ON EMISSION STANDARDS FOR SELECTED ENGINES

Engine	Speed 1 (rpm)	Standard 1 (g/kW-hr)	Speed 2 (rpm)	Standard 2 (g/kW-hr)	Difference (g/kW-hr)	Percent increase
1	111	/1/ 17.0	148	16.6	0.4	2.6
2	132	16.9	176	16.0	0.9	5.9
3	212	15.4	250	14.9	0.5	3.4
4	330	14.1	360	13.9	0.2	1.8
5	720	12.1	1000	11.3	0.8	6.8

[1] The NO_X formula would allow for emissions up to 17.5 g/kW-hr for an engine speed of 111 rpm, but Annex VI caps the NO_X standard at 17 g/kW-hr for engines with rated speed below 130 rpm.

The second concern with a speed-based emission standard is that future emission-control technologies may allow for more effective control of NO_X emissions at slow engine speeds. This would allow for a "flatter" NO_X curve, or even a single NO_X standard that would apply for all Category 3 engines, regardless of speed rating. It would not be appropriate to allow for higher emissions on low-speed engines if an emission-control technology enables a flatter relationship between NO_X emissions and engine speed. This will become especially important if or when there is a need to adopt PM emission standards, since PM emissions are unlikely to follow the same relationship to engine speed as NO_X emissions.

The alternative approach to defining emission standards would be to follow the approach in EPA's December 1999 rulemaking for Category 1 and Category 2 marine engines. Defining emission standards based on an engine's specific displacement (in liters per cylinder) would provide a clear and discrete emission standard for each engine. Table VII.D–2 shows a variety of typical engine sizes and engine-speed values correlated with the Tier 2 NO_X standards discussed in section IV.A.3 that would apply to each engine. A straightforward regression of specific displacement values and the Tier 2 NO_X levels shows a good correlation using the following simple formula:

$NO_X = 0.0047 \times (L/cyl) + 9.9$

The calculated value using this formula is within 0.1 g/kW-hr across the range of engines shown in Table IV.D–2. Most two-stroke engines operate at less than 130 rpm and are therefore subject to the capped standard that doesn't vary with engine speed. The table therefore includes no two-stroke engines. Many of these slow-speed engines, however, have specific displacements between 100 and 300 L/cyl. To implement a displacement-based standard that parallels the Annex VI approach, we would need to apply a cap of 13.3 g/kW-hr on the Tier 2 emission standards under consideration for two-stroke (or slow-speed) engines over 700 L/cyl, while using the above equation to define the emission standard for smaller engines. On the other hand, it may be more appropriate to adopt standards reflecting the relative power output of the slow-speed engines. Slow-speed engines generally produce about half as much power as medium-speed engines for a given displacement, so we could set comparable standards by using the displacement-based formula above, but dividing the displacement term by two for slow-speed engines. This would take into account the lower specific power from slow-speed engines, resulting in comparable standards for competing engines with similar total power output.

TABLE VII.D.–2 VALUES RELATED TO DISPLACEMENT-BASED STANDARDS [1]

Engine model	Engine speed (rpm)	Per-cylinder displacement (L)	Tier 2 standard	Tier 2 standard using displacement formula
Niigata 34HX	600	41	10.2	10.1
MAN B&W L48/60	514	109	10.4	10.4
MAN B&W PC4.2B	430	168	10.8	10.7
Wärtsilä 64	400	225	10.9	11.0
Wärtsilä 64 (longer stroke)	330	290	11.3	11.3
	130	[2] 700	13.3	[2] 13.2

[1] Source: Diesel and Gas Turbine Worldwide Catalog, 2001.
[2] Extrapolation.

The near-term adoption of emission standards equivalent to the Annex VI standards would not allow for restructuring emission standards based on displacement. It is also not clear that the advantages of displacement-based standards would warrant departing from the approach established internationally in the near term. We request comment on the appropriateness of adopting a displacement-based NO_X standard. We also request comment regarding the above formula and table of values and their use in establishing Tier 2 NO_X standards. We specifically request comment on whether the projected Tier 2 emission-control technologies would be expected to follow the trends implicit in the Annex VI formula. Finally, we request comment on the appropriateness of basing emission standards for two-stroke engines on engine speed (with standards set at the maximum value) or whether they should be expected to achieve the same degree of emission control as counterpart four-stroke engines with comparable power ratings.

VIII. The Blue Cruise Program

A. What Is the Blue Cruise Program?

As noted in previous sections, fleet turnover for marine vessels that use Category 3 marine diesel engines is very slow. The average life of these vessels is as high as 29 years, and many are scrapped only when their hulls can no longer be repaired. One consequence of the long lives of these vessels is that the full impact of an engine emission control program may not occur until well into the future.

To address this issue, and to create a mechanism to encourage purchasers of new ships to use advanced technology emission controls, we are proposing to develop a Blue Cruise program. This would be a voluntary program to encourage ship owners and operators to reduce their air and waste emissions and in so doing reduce the adverse impacts of their vessels on the environment. Basically, participant ship owners would be awarded a number of stars based on the types of air and waste emission control programs they adopt. These technologies and/or systems would be different depending on whether it is a new or existing vessel. The stars can be used by the participants on advertising materials, and even on the ship itself, to educate consumers and encourage them to choose their vessel for their transportation needs. Although the program is perhaps best suited to cruise ships, parts of the program could be extended to other types of ships as well. These stars would be issued to an individual ship, not an entire fleet.

The Blue Cruise program would be a cross-media program. This means that it would include the air and waste emissions of a vessel, including both solid and liquid waste. By choosing one option from each of the three categories, air, liquid waste, and solid waste, participants would reduce their overall impact on the marine environment.

The program described below is focused on cruise ships. This is because their emissions on a per vessel basis can be very high, both in terms of engines used to generate power for passenger comfort and entertainment and in terms of waste streams, including gray and black water and solid waste. According to Bluewater Network, a typical cruise ships generates as much as 210,000 gallons of sewage and 1,000,000 gallons of graywater, 130 gallons of hazardous wastes, and 8 tons of garbage during a one-week voyage.[57] Disposal of these wastes is controversial, and a report issued by the General Accounting Office in 2000 indicates that in the six-year period between 1993 and 1998, "cruise ships were responsible for 87 confirmed illegal discharge cases in U.S. waters."[58] In August 2000, the Bluewater Network sent an addendum to that petition, requesting EPA to also examine air pollution from cruise ships.

At the same time, cruise ship owners have taken steps to manage their waste streams more carefully. In June, 2001, the members of the International Council of Cruise Lines (ICCL), whose members include the major cruise lines that visit U.S. ports, adopted mandatory environmental standards that are to be integrated into each members's internationally mandated Safety Management Systems.[59] These standards address the waste streams noted in the Bluewater Network petition. In addition, ICCL has entered into a Memorandum of Understanding with State of Florida regarding waste management.

The Blue Cruise Program would expand on these recent pollution reduction activities by encouraging and rewarding cruise ship owners who take addition steps to reduce emissions and/or ensure that pollution reduction practices and measures are adhered to. While the focus in this discussion is on cruise ships, we request comment on whether this program should also apply to cargo and other commercial vessels and, if so, if the point system should be different for those vessels.

B. How Would the Program Work?

The Blue Cruise Program would have two components. The first component consists of making a commitment to reduce emissions through the application of technologies and/or systems that would reduce air pollution, water discharges, and waste streams. The second step involves ensuring that the equipment and/or systems that a ship owner agreed to apply are operating and being maintained correctly.

It should be noted that, due to the complexity of the program associated with its cross-media nature, the discussion of the Blue Cruise program in this section is not meant to be a comprehensive. Instead, it is a brief description of the overall concept that is meant to stimulate discussion of the value of such a program and the provisions it should include. We will continue to develop this program, soliciting comments from interested parties, as we prepare our final rule.

1. A Commitment To Reduce Emissions

To participate in the Blue Cruise program, a ship owner would need to take steps to reduce air emissions, water discharges, and waste streams from the vessel. For air pollution, this could involve installing new emission control devices on the ship's engine. For liquid waste pollution, this could involve applying new water treatment technology. For solid waste, this could involve developing systems to reduce, reuse, and recycle solid waste, as evidenced by joining EPA's WasteWise Program.[60] The exact choice of technologies and systems, of course, would depend on the technologies that are already in use on the vessel and the level of investment the ship owner desires to make. They key requirement is that the ship owner take steps to reduce three kinds of emissions: air, water, and solid waste.

The first step toward obtaining Blue Cruise status would be to sign up to the program. Similarly to the WasteWise program, a participant would assess the ship's air and waste streams and current state of pollution reduction technology; identify and submit goals, including obtaining and using new technologies and/or procedures; and measure and report progress. Successful participants would be awarded a number of stars, with five stars being the maximum number of stars awarded, which could be used to inform consumers and the world at large that they are taking steps to reduce emission beyond what is legally required. Once a participant signs up for the program, the actions agreed to become mandatory. In other words, while opting into the program is voluntary, compliance with the provisions once they are opted into is not.

We are proposing to develop a matrix of options that can be used by ship

[57] See Bluewater Network's Petition to EPA to Address Cruise Ship Pollution, March 17, 2000. A copy of this document can be found in Docket A–20011–11, Document No. II–B–02. The August 2, 2000 Addendum to this Petition, regarding air emissions from cruise ships, can be found at A–20011–11, Document No. II–B–03.

[58] Marine Pollution: Progress Made to Reduce Marine Pollution by Cruise Ships, but Important Issues Remain. February 2000, GAO/RCED–00–48. A copy of this report can be found in Docket A–2001–11, Document No. II–A–22.

[59] ICCL Industry Standard E–01–01 (Revision 1), Cruise Industry Waste Management Practices and Procedures (see *http://www.iccl.org/policies/environmentalstandards.pdf*). A copy of this document can be found in Docket A–2001–11, Document No. II–A–21.

[60] WasteWise is a free, voluntary partnership program that helps organizations reduce their solid waste streams. The program provides technical assistance, networking, and recognition for successful waste reduction. Members are required to assess their waste streams, identify and submit waste reduction goals, and measure and report progress annually. More information about the WasteWise program can be found at the Office of Solid Waste website *www.epa.gov/wastewise*.

owners to make their emission control decisions. An example of a matrix is shown in Table VIII.B–1. In general, each option would be assigned a number of points, and stars would be given out depending on the number of points across all categories. A ship owner will be required to take action in each category, however.

TABLE VIII.B–1.—DRAFT BLUE CRUISE PROGRAM OPTIONS MATRIX

Category	Action	Pts
Air	Use low sulfur fuel while within 200 miles of U.S. coast (out 320 nautical miles).	
	Use shore-side power for hotelling.	
	Retrofit emission control devices when existing ships go in for refurbishing—Tier 1 technologies.	
	Retrofit emission control devices when existing ships go in for refurbishing—additional engine-based controls.	
	Retrofit emission control devices when existing ships go in for refurbishing—Tier 1 and 2 technologies.	
	Use engines that meet Voluntary Low Emission Standards for new builds.	
	Other.	
Water	Implement education programs for passengers on waste minimization.	
	Use biodegradable and bio-enzymatic cleaning supplies, non-phosphate soaps, and materials (e.g., toiletries supplied to passengers, salon chemicals, photo processing chemicals, etc.).	
	Ensure that all sinks, showers, toilets, hoses, etc. are low flow.	
	Ensure that only shower, galley, and stateroom sink wastes enter the gray water system.	
	Install gray water treatment systems that allow gray water to be used aboard the vessel for nonhuman consumption purposes.	
	At a minimum meet the Alaska Standards for Gray and Black Water Discharges and incorporate this program into the ship Environmental Management System plan.	
	Other.	
Solid Waste	Recycle materials shore side (possibly set up a closed loop, where vessel waste is recycled and sold to the vessel as new products).	
	Sign on to MOU with the States new approach to tracking RCRA waste and implement.	
	Participate in WasteWise	
	Other.	

We request comment on all aspects of this program, and especially on this approach to awarding stars under the program and the contents of the options table and point system. We also request comment on whether points should be weighted and, if so, how. For example, more weight could be assigned to air emissions for cruise ships since they are currently taking steps to reduce their waste emissions pursuant to the Cruise Industry Waste Management Practices and Procedures. Finally, we request comment on whether EPA should manage this program or whether it can be run by an independent organization.

2. Verification

For the Blue Cruise program to be meaningful, it will be necessary to ensure that not only ship owners install emission control technologies and equipment, but also that they are operated and maintained correctly. There are at least two ways to do this: self certification and third party verification.

With a self-certification system, a ship owner would certify to EPA annually that the emission control technologies and systems described in the application are functional and are being operated and maintained correctly. If a ship owner is unable to make this certification, then that ship's stars would be taken away and the ship would be disqualified from the program until ship can be brought back into compliance.

With a third party verification program, an outside entity would ensure that the emission control technologies and systems are functional and are being operated and maintained correctly. This approach may be necessary, at least at the beginning of the program, until the industry gains experience with the program. A model for third party verification could be the Coast Guard procedures put in place to conduct waste management inspections on board cruise vessels.

We request comment on these verification approaches, particularly on how a third party verification program can work.

IX. Public Participation

We request comment on all aspects of this proposal. This section describes how you can participate in this process.

A. How Do I Submit Comments?

We are opening a formal comment period by publishing this document. We will accept comments during the period indicated under **DATES** above. If you have an interest in the proposed emission control program described in this document, we encourage you to comment on any aspect of this rulemaking. We also request comment on specific topics identified throughout this proposal.

Your comments will be most useful if you include appropriate and detailed supporting rationale, data, and analysis. If you disagree with parts of the proposed program, we encourage you to suggest and analyze alternate approaches that meet the air quality goals described in this proposal. You should send all comments, except those containing proprietary information, to our Air Docket (see **ADDRESSES**) before the end of the comment period.

If you submit proprietary information for our consideration, you should clearly separate it from other comments by labeling it "Confidential Business Information." You should also send it directly to the contact person listed under **FOR FURTHER INFORMATION CONTACT** instead of to the public docket. This will help ensure that no one inadvertently places proprietary information in the docket. If you want us to use your confidential information as part of the basis for the final rule, you should send a nonconfidential version of the document summarizing the key data or information. We will disclose information covered by a claim of confidentiality only through the application of procedures described in 40 CFR part 2. If you don't identify information as confidential when we receive it, we may make it available to the public without notifying you.

B. Will There Be a Public Hearing?

We will hold a public hearing on June 13, 2002 at the Hyatt Regency Long Beach, 200 South Pine Avenue, Long Beach, California, phone (562) 491–1234. The hearing will start at 9:30 am and continue until everyone has had a chance to speak.

If you would like to present testimony at the public hearing, we ask that you notify the contact person listed above at least ten days before the hearing. You should estimate the time you will need for your presentation and identify any needed audio/visual equipment. We suggest that you bring copies of your statement or other material for the EPA panel and the audience. It would also be helpful if you send us a copy of your statement or other materials before the hearing.

We will make a tentative schedule for the order of testimony based on the notifications we receive. This schedule will be available on the morning of the hearing. In addition, we will reserve a block of time for anyone else in the audience who wants to give testimony.

We will conduct the hearing informally, and technical rules of evidence won't apply. We will arrange for a written transcript of the hearing and keep the official record of the hearing open for 30 days to allow you to submit supplementary information. You may make arrangements for copies of the transcript directly with the court reporter.

X. Administrative Requirements

A. Administrative Designation and Regulatory Analysis (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of this Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is a "significant regulatory action" under the terms of Executive Order 12866 because it raises novel legal or policy issues due to the international nature of the use of Category 3 marine diesel engines and is therefore subject to OMB review. The Agency believes that this proposed regulation would result in none of the economic effects set forth in Section 1 of the Order. A Draft Regulatory Support Document has been prepared and is available in the docket for this rulemaking and at the internet address listed under **ADDRESSES** above. Written comments from OMB and responses from EPA to OMB are in the public docket for this rulemaking.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that meet the definition for business based on SBA size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The following table X.B–1 provides an overview of the primary SBA small business categories potentially affected by this regulation.

TABLE X.B–1.—PRIMARY SBA SMALL BUSINESS CATEGORIES POTENTIALLY AFFECTED BY THIS PROPOSED REGULATION INDUSTRY

Industry	NAICS[a] codes	Defined by SBA as a small business if: [b]
Internal combustion engines	333618	<1000 employees
Ship building	336611	<1000 employees
Water transportation, freight and passenger	483	<500 employees

NOTES:
[a] North American Industry Classification System
[b] According to SBA's regulations (13 CFR 121), businesses with no more than the listed number of employees or dollars in annual receipts are considered "small entities" for purposes of a regulatory flexibility analysis.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Our review of the list of manufacturers of Category 3 marine diesel engines (marine diesel engines at or above 30 l/cyl) indicates that there are no U.S. manufacturers of these engines that qualify as small businesses. We are unaware of any foreign manufacturers of such engines with a U.S.-based facility that would qualify as a small business. In addition, the proposed rule will not impose significant economic impacts on engine manufacturers. Engine manufacturers are already achieving the proposed Tier 1 limits, and our program will impose only negligible compliance costs. With regard to potential Tier 2 standards, we estimate that engine-based requirements may increase the price of an engine by about 9 percent and increase the price of a vessel by about 0.1 percent. Our review of the U.S. shipyards that build, or have built, ships that use Category 3 marine diesel engines indicates that there are no U.S. manufacturers of these ships that qualify as small businesses. Ship operators would have to perform field testing to periodically demonstrate the engine is performing within certified parameters. The testing devices that would be needed to perform field testing are expected to be incorporated in the engine system as delivered by the manufacturer. Operation of these systems is not expected to require significant crew resources since it can be done by crew currently responsible

for testing other engine parameters as normally required onboard a vessel to ensure efficient operation of the vessel. Ship operators would also be required to maintain the engine as specified by the engine manufacturer during the useful life of the engine. These costs are not expected to be greater than the costs of maintaining unregulated engines except to the extent that ship operators do not currently maintain engines as specified by the engine manufacturer. Maintenance costs are expected to be minimal given the overall costs of maintaining all of the vessel's systems and structures.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An Information Collection Request (ICR No. 1897.03) has been prepared by EPA, and a copy may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW; Washington, DC 20460, by e-mail at *quby.susan@epamail.epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr*.

The information being collected is to be used by EPA to ensure that new marine vessels and fuel systems comply with applicable emissions standards through certification requirements and various subsequent compliance provisions.

The estimated annual public reporting and recordkeeping burden for this collection of information is 281 hours per response, with collection required annually. The estimated number of respondents is 6. The total annual cost for the first 3 years of the program is estimated to be $138,595 per year and includes no annualized capital costs, $67,000 in operating and maintenance costs, at a total of 1,685 hours per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjusting the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 29, 2002, a comment to OMB is best ensured of having its full effect if OMB receives it by June 28, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. According to the cost estimates prepared for this proposal, we estimate the aggregate costs (annualized over 20 years) of the proposed rule to engine manufacturers to be negligible.

Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

2. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

This proposed rule does not have tribal implications as specified in Executive Order 13175. This rule will be implemented at the Federal level and impose compliance costs only on engine manufacturers and ship builders. Tribal governments will be affected only to the extent they purchase and use vessels having regulated engines. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves technical standards for testing emissions from marine diesel engines. EPA proposes to use test procedures contained in the MARPOL NO_X Technical Code, with the proposed modifications contained in this rulemaking. The MARPOL NO_X Technical Code includes the International Standards Organization (ISO) duty cycle for marine diesel engines (E2, E3, D2, C1) and the American Society for Testing and Materials (ASTM) fuel standards.[61] These procedures are currently used by virtually all Category 3 engine manufacturers to demonstrate compliance with the Annex VI NO_X limits and to obtain Statements of Voluntary Compliance to those standards.

With regard to the proposed requirements for field NO_X testing and post-installation testing, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards. Therefore, EPA proposes to use the procedures contained in the draft regulations for this rulemaking (40 CFR 94.110, 94.1103).

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

F. Protection of Children (Executive Order 13045)

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, Section 5–501 of the Order directs the Agency to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposal is not subject to Executive Order 13045 because it is not economically significant under the terms of Executive Order 12866.

G. Federalism (Executive Order 13132)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule creates no mandates on State, local or tribal governments. The rule imposes no enforceable duties on these entities, because they do not manufacture any engines that are subject to this rule. This rule will be implemented at the Federal level and impose compliance obligations only on private industry. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

H. Energy Effects (Executive Order 13211)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The proposed standards have for their aim the reduction of emission from certain marine diesel engines, and have no effect on fuel formulation, distribution, or use. Although the proposal solicits comment on regulating the sulfur content of marine distillate and residual fuel, EPA is not proposing to regulate such fuel at this time.

[61] The Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines in the Annex VI of MARPOL 73/78 Regulations for the Prevention of Air Pollution from Ships and NO_X Technical Code. International Maritime Organization. See footnote 1 regarding how to obtain copies of these documents.

List of Subjects in 40 CFR Part 94

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Dated: April 30, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 94—CONTROL OF AIR POLLUTION FROM MARINE COMPRESSION-IGNITION ENGINES

1. The authority for part 94 continues to read as follows:

Authority: 42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7545, 7547, 7549, 7550, and 7601(a).

Subpart A—[Amended]

2. Section 94.1 is amended by revising paragraph (b) to read as follows:

§ 94.1 Applicability.

* * * * *

(b) Notwithstanding the provision of paragraph (c) of this section, the requirements and prohibitions of this part do not apply with respect to the engines identified in paragraphs (a)(1) and (2) of this section where such engines are:

(1) Marine engines with rated power below 37 kW; or

(2) Marine engines on foreign vessels.

* * * * *

3. Section 94.2 is amended in paragraph (b) by adding, in alphabetical order, definitions to paragraph (b) for "Brake-specific fuel consumption", "Hydrocarbon standard", "MARPOL Technical Code", "Maximum test speed", "Residual fuel", "Tier 1", "Vessel operator", and "Vessel owner", and revising the definitions for "Diesel fuel" and "New vessel" to read as follows:

§ 94.2 Definitions.

* * * * *

(b) * * *

Brake-specific fuel consumption means the mass of fuel consumed by an engine during a test segment divided by the brake-power output of the engine during that same test segment.

* * * * *

Diesel fuel means any fuel suitable for use in diesel engines which is commonly or commercially known or sold as diesel fuel or marine distillate fuel.

* * * * *

Hydrocarbon standard means an emission standard for total hydrocarbons, nonmethane hydrocarbons, or total hydrocarbon equivalent; or a combined emission standard for NO_X and total hydrocarbons, nonmethane hydrocarbons, or total hydrocarbon equivalent.

* * * * *

MARPOL Technical Code means the "Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines" in the "Annex VI of MARPOL 73/78 Regulations for the Prevention of Air Pollution from Ships and NO_X Technical Code" from the International Maritime Organization (which is incorporated by reference at § 94.5).

* * * * *

Maximum test speed means the engine speed defined by § 94.107 to be the maximum engine speed to use during testing.

* * * * *

New vessel means:

(1) (i) A vessel, the equitable or legal title to which has never been transferred to an ultimate purchaser; or

(ii) A vessel that has been modified such that the value of the modifications exceeds 50 percent of the value of the modified vessel. The value of the modification is the difference in the assessed value of the vessel before the modification and the assessed value of the vessel after the modification. Use the following equation to determine if the fractional value of the modification exceeds 50 percent:

Percent of value = *[(Value after modification)—(Value before modification)]* × 100%

(Value after modification)

(2) Where the equitable or legal title to a vessel is not transferred to an ultimate purchaser prior to its being placed into service, the vessel ceases to be new when it is placed into service.

* * * * *

Residual fuel means a petroleum product containing the heavier compounds that remain after the distillate fuel oils (e.g., diesel fuel and marine distillate fuel) and lighter hydrocarbons are distilled away in refinery operations.

* * * * *

Tier 1 means relating to an engine subject to the Tier 1 emission standards listed in § 94.8.

* * * * *

Vessel operator means any individual that physically operates or maintains a vessel, or exercises managerial control over the operation of the vessel.

Vessel owner means the individual or company that holds legal title to a vessel.

* * * * *

4. Section 94.5 is amended by revising paragraph (b) to read as follows:

§ 94.5 Reference materials.

* * * * *

(b) The following paragraphs and tables set forth the material that has been incorporated by reference in this part:

(1) *ASTM material.* The following table sets forth material from the American Society for Testing and Materials that has been incorporated by reference. The first column lists the number and name of the material. The second column lists the section(s) of the part, other than this section, in which the matter is referenced. The second column is presented for information only and may not be all-inclusive. More recent versions of these standards may be used with advance approval of the Administrator. Copies of these materials may be obtained from American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428. The table follows:

Document number and name	40 CFR part 94 reference
ASTM D 86–97: "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure"	§ 94.108
ASTM D 93–97: "Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester"	§ 94.108
ASTM D 129–95: "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)"	§ 94.108
ASTM D 287–92: "Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products" (Hydrometer Method).	§ 94.108
ASTM D 445–97: "Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and the Calculation of Dynamic Viscosity)".	§ 94.108
ASTM D 613–95: "Standard Test Method for Cetane Number of Diesel Fuel Oil"	§ 94.108
ASTM D 1319–98: "Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption".	§ 94.108
ASTM D 2069–91: "Standard Specification for Marine Fuels"	§§ 94.108, 94.109
ASTM D 2622–98: "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry".	§ 94.108
ASTM D 3228–92: "Standard Test Method for Total Nitrogen In Lubricating Oils and Fuel Oils By Modified Kjeldahl Method".	§§ 94.108, 94.109
ASTM D 5186–96: "Standard Test Method for "Determination of the Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels and Aviation Turbine Fuels By Supercritical Fluid Chromatography".	§ 94.108
ASTM E 29–93a: "Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications".	§§ 94.9, 94.218, 94.305, 94.508

(2) *ISO material.* The following table sets forth material from the International Organization for Standardization that we have incorporated by reference. The first column lists the number and name of the material. The second column lists the section(s) of the part, other than this section, in which the matter is referenced. The second column is presented for information only and may not be all-inclusive. More recent versions of these standards may be used with advance approval of the Administrator.

Copies of these materials may be obtained from International Organization for Standardization, Case Postale 56, CH–1211 Geneva 20, Switzerland. The table follows:

Document number and name	40 CFR part 94 reference
ISO 8178–1: "Reciprocating internal combustion engines—Exhaust emission measurement—Part 1: Test-bed measurement of gaseous and particulate emissions".	§ 94.109

(3) *MARPOL material.* The "Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines" in the "Annex VI of MARPOL 73/78 Regulations for the Prevention of Air Pollution from Ships and NO_X Technical Code" from the International Maritime Organization has been incorporated by reference. Copies of this material may be obtained from International Maritime Organization, 4 Albert Embankment, London SE1 7SR, United Kingdom.

5. Section 94.8 is amended by revising paragraphs (a), (c), (d), (e), (f), and (g) to read as follows:

§ 94.8 Exhaust emission standards.

(a) This paragaph (a) contains multiple tiers of emission standards. The Tier 1 standards of paragraph (a)(1) of this section are the earliest tier and apply as specified until the model year that the Tier 2 standards of paragraph (a)(2) of this section (or later standards) become applicable for a given category (or sub-category) of engines.

(1) *Tier 1 standards for engines with displacement of 2.5 or more liters per cylinder.* (i) NO_X emissions from model year 2004 and later engines with a maximum test speed of 2000 rpm or less may not exceed 18.4 g/kW or the following engine speed-dependent value: $45.0 \times N^{-0.20} + 1.4$ where N = the maximum test speed of the engine in revolutions per minute. (Note: Speed-dependent standards are rounded to the nearest 0.1 g/kW-hr.)

(ii) NO_X emissions from model year 2004 and later engines with a maximum test speed greater than 2000 rpm may not exceed 11.2 g/kW-hr.

(2) *Tier 2 standards.* Exhaust emissions from marine compression-ignition engines shall not exceed the applicable exhaust emission standards contained in Table A–1 as follows:

TABLE A–1.—PRIMARY TIER 2 EXHAUST EMISSION STANDARDS (g/kW-HR)

Engine size liters/cylinder, rated power	Category	Model year[1]	THC+NO_X g/kW-hr	CO g/kW-hr	PM g/kW-hr
disp. < 0.9 and power ≥ 37 kW	Category 1	2005	7.5	5.0	0.40
0.9 ≤ disp. < 1.2 all power levels	Category 1	2004	7.2	5.0	0.30
1.2 ≤ disp. < 2.5 all power levels	Category 1	2004	7.2	5.0	0.20
2.5 ≤ disp. < 5.0 all power levels	Category 1	2007	7.2	5.0	0.20
5.0 ≤ disp. < 15.0 all power levels	Category 2	2007	7.8	5.0	0.27
15.0 ≤ disp. < 20.0 power < 3300 kW	Category 2	2007	8.7	5.0	0.50
15.0 ≤ disp. < 20.0 power ≥ 3300 kW	Category 2	2007	9.8	5.0	0.50
20.0 ≤ disp. < 25.0 all power levels	Category 2	2007	9.8	5.0	0.50
25.0 ≤ disp. < 30.0 all power levels	Category 2	2007	11.0	5.0	0.50

[1] The model years listed indicate the model years for which the specified standards start.

* * * * *

(c) In lieu of the THC+NO_X standards, and PM standards specified in paragraph (a) of this section, manufacturers may elect to include engine families in the averaging, banking, and trading program, the provisions of which are specified in subpart D of this part. The manufacturer shall then set a family emission limit (FEL) which will serve as the standard for that engine family. The ABT provisions of Subpart D of this part do not apply for Category 3 engines.

(d)(1) Naturally aspirated engines subject to the standards of this section shall not discharge crankcase emissions into the ambient atmosphere.

(2) For engines using turbochargers, pumps, blowers, or superchargers for air induction, if the engine discharges crankcase emissions into the ambient atmosphere in use, these crankcase emissions shall be included in all exhaust emission measurements. This requirement applies only for engines subject to hydrocarbon standards (e.g., THC standards, NMHC standards, or THC+ NO_X standards).

(e)(1) For Category 1 and Category 2 engines, exhaust emissions from propulsion engines subject to the standards (or FELs) in paragraph (a), (c), or (f) of this section shall not exceed:

(i) 1.20 times the applicable standards (or FELs) when tested in accordance with the supplemental test procedures specified in § 94.106 at loads greater than or equal to 45 percent of the maximum power at rated speed or 1.50 times the applicable standards (or FELs) at loads less than 45 percent of the maximum power at rated speed; or

(ii) 1.25 times the applicable standards (or FELs) when tested over the whole power range in accordance with the supplemental test procedures specified in § 94.106.

(2) For Category 3 engines, engines must be designed to provide equivalent emission performance over all operating conditions, as specified in § 94.205(f).

(f) The following define the requirements for low-emitting Blue Sky Series engines:

(1) *Voluntary standards.* (i) Category 1 and Category 2 engines may be designated "Blue Sky Series" engines by meeting the voluntary standards listed in Table A–2, which apply to all certification and in-use testing:

TABLE A–2.—VOLUNTARY EMISSION STANDARDS (g/kW–HR)

Rated brake power (kW)	THC+NO_X	PM
power ≥ 37 kW, and displ.<0.9	4.0	0.24
0.9≤displ.<1.2	4.0	0.18
1.2≤displ.<2.5	4.0	0.12
2.5≤displ.<5	5.0	0.12

TABLE A–2.—VOLUNTARY EMISSION STANDARDS (g/kW–HR)—Continued

Rated brake power (kW)	THC+NO_X	PM
5≤displ.<15	5.0	0.16
15 ≤ disp. < 20, and power < 3300kW	5.2	0.30
15 ≤ disp. < 20, and power ≥ 3300kW	5.9	0.30
20 ≤ disp; <25	5.9	0.30
25≤ disp. <30	6.6	0.30

(ii) Category 3 engines may be designated "Blue Sky Series" engines by meeting a voluntary NO_X standard of 9.0 $xN^{-0.20}$ +1.4 where N = the maximum test speed of the engine in revolutions per minute (or 4.8 g/kW for engines with maximum test speeds less than 130 rpm). (**Note:** Speed-dependent standards are rounded to the nearest 0.1 g/kW-hr.) This standard would apply to all certification and in-use testing.

(2) *Additional standards.* Blue Sky Series engines are subject to all provisions that would otherwise apply under this part.

(3) *Test procedures.* Manufacturers may use an alternate procedure to demonstrate the desired level of emission control if approved in advance by the Administrator.

(g) Standards for alternative fuels. The standards described in this section apply to compression-ignition engines, irrespective of fuel, with the following two exceptions for Category 1 and Category 2 engines:

(1) Engines fueled with natural gas shall comply with NMHC+NO_X standards that are numerically equivalent to the THC+NO_X described in paragraph (a) of this section; and

(2) Engines fueled with alcohol fuel shall comply with THCE+NO_X standards that are numerically equivalent to the THC+NO_X described in paragraph (a) of this section.

6. Section 94.9 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 94.9 Compliance with emission standards.

(a) * * *

(1) The minimum useful life is 10 years or 10,000 hours of operation for Category 1, 10 years or 20,000 hours of operation for Category 2, and 3 years or 10,000 hours of operation for Category 3.

* * * * *

(b) * * *

(1) Compliance with the applicable emission standards by an engine family shall be demonstrated by the certifying manufacturer before a certificate of conformity may be issued under § 94.208. Manufacturers shall demonstrate compliance using emission data, measured using the procedures specified in Subpart B of this part, from a low hour engine. A development engine that is equivalent in design to the marine engines being certified may be used for Category 2 or Category 3 certification.

* * * * *

7. Section 94.10 is amended by revising paragraph (a) to read as follows:

§ 94.10 Warranty period.

(a) (1) Warranties imposed by § 94.1107 for Category 1 or Category 2 engines shall apply for a period of operating hours equal to at least 50 percent of the useful life in operating hours or a period of years equal to at least 50 percent of the useful life in years, whichever comes first.

(2) Warranties imposed by § 94.1107 for Category 3 engines shall apply for a period of operating hours equal to at least the full useful life in operating hours or a period of years equal to at least the full useful life in years, whichever comes first.

* * * * *

8. Section 94.11 is amended by adding paragraph (g) to read as follows:

§ 94.11 Requirements for rebuilding certified engines.

* * * * *

(g) For Tier 1 engines, and all Category 3 engines, the rebuilder and operator shall also comply with the recordkeeping requirements of MARPOL Technical Code (incorporated by reference at § 94.5).

9. Section 94.12 is amended by revising the introductory text to read as follows:

§ 94.12 Interim provisions.

This section contains provisions that apply for a limited number of calendar years or model years. These provisions apply instead of other provisions of this part. The provisions of this section do not apply for Category 3 engines.

* * * * *

Subpart B—[Amended]

10. Section 94.106 is amended by revising the section heading and introductory text to read as follows:

§ 94.106 Supplemental test procedures for Category 1 and Category 2 marine engines.

This section describes the test procedures for supplemental testing conducted to determine compliance with the exhaust emission requirements of § 94.8(e)(1). In general, the supplemental test procedures are the same as those otherwise specified by this subpart, except that they cover any speeds, loads, ambient conditions, and operating parameters that may be experienced in use. The test procedures specified by other sections in this subpart also apply to these tests, except as specified in this section.

* * * * *

11. Section 94.107 is amended by revising paragraph (a) to read as follows:

§ 94.107 Determination of maximum test speed.

(a) *Overview.* This section specifies how to determine maximum test speed from a lug curve. This maximum test speed is used in §§ 94.105, 94.106, and 94.109 (including the tolerances for engine speed specified in § 94.105).

* * * * *

12. Section 94.108 is amended by revising paragraphs (a)(1), (b), and (d)(1), and adding paragraph (e) to read as follows:

§ 94.108 Test fuels.

(a) *Distillate diesel test fuel.* (1) The diesel fuels for testing Category 1 and Category 2 marine engines designed to operate on distillate diesel fuel shall be clean and bright, with pour and cloud points adequate for operability. The diesel fuel may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, dispersant, and biocide. The diesel fuel shall also meet the specifications (as determined using methods incorporated by reference at § 94.5) in Table B–5 of this section, or substantially equivalent specifications approved by the Administrator, as follows:

TABLE B–5.—FEDERAL TEST FUEL SPECIFICATIONS

Item	Procedure (ASTM)[1]	Value (Type 2–D)
Cetane	D 613–95	40–48
Distillation Range:		
IBP, °C	D 86–97	171–204
10% point, °C	D 86–97	204–238
50% point, °C	D 86–97	243–282
90% point, °C	D 86–97	293–332
EP, °C	D 86–97	321–366
Gravity, API	D 287–92	32–37
Total Sulfur, weight%	D 129–95 or D 2622–98	0.03—0.80
Hydrocarbon composition:		
Aromatics, %vol.	D 1319–98 or D 5186–96	[2] 10
Paraffins, Naphthalenes, Olefins	D 1319–98	[3]
Flashpoint, °C (minimum)	D 93–97	54
Viscosity @ 38 °C, Centistokes	D 445–97	2.0–3.2

[1] All ASTM procedures in this table have been incorporated by reference. See § 94.6.
[2] Minimum.
[3] Remainder.

* * * * *

(b) *Other fuel types.* For Category 1 and Category 2 engines that are designed to be capable of using a type of fuel (or mixed fuel) instead of or in addition to distillate diesel fuel (e.g., natural gas, methanol, or nondistillate diesel), and that are expected to use that type of fuel (or mixed fuel) in service:

(1) A commercially available fuel of that type shall be used for exhaust emission testing. The manufacturer shall propose for the Administrator's approval a set of test fuel specifications that take into account the engine design and the properties of commercially available fuels. The Administrator may require testing on each fuel if it is designed to operate on more than one fuel. These test fuel specifications shall be reported in the application for certification.

(2) NO_X emissions may be adjusted to account for the nitrogen concentration of the fuel (as measured by ASTM D 3228-92). The adjusted NO_X emissions shall be calculated using the following equation:

Adjusted NO_X emissions [g/kW-hr] = NO_X – [BSFC *3.25 *(FNF)]

Where:

NO_X = measured weighted NO_X level [g/KW-hr].

BSFC = measured brake specific fuel consumption [g/KW-hr].

FNF = fuel nitrogen weight fraction.

* * * * *

(d) *Correction for sulfur.* (1) Particulate emission measurements from Category 1 or Category 2 engines without exhaust aftertreatment obtained using a diesel fuel containing more than 0.40 weight percent sulfur may be adjusted to a sulfur content of 0.40 weight percent.

* * * * *

(e) *Test Fuel for Category 3.* (1) Except as specified in paragraph (e)(4) of this section, or allowed by paragraph (e)(2) of this section, the test fuel for Category 3 marine engines shall:

(i) Be a residual fuel meeting the ASTM D 2069–91 specification for RMH–55 grade of fuel but not for RMC–10 grade of fuel.

(ii) Have a nitrogen content of 0.6 percent by weight or less.

(2) Marine distillate fuel may be used for certification testing.

(3) NO_X emissions shall be adjusted to account for the nitrogen concentration of the fuel (as measured by ASTM D 3228–92). The adjusted NO_X emissions shall be calculated using the following equation:

Adjusted NO_X emissions [g/kW-hr] = NO_X – [BSFC *3.25 *(FNF–0.0040)]

Where:

NO_X=measured weighted NO_X level [g/KW-hr].

BSFC=measured brake specific fuel consumption [g/KW-hr].

FNF=fuel nitrogen weight fraction.

(4) For engines that are designed to be capable of using a type of fuel (or mixed fuel) instead of or in addition to residual fuel (e.g., natural gas), and that are expected to use that type of fuel (or mixed fuel) in service, a commercially available fuel of that type shall be used for exhaust emission testing. The manufacturer shall propose for the Administrator's approval a set of test fuel specifications that take into account the engine design and the properties of commercially available fuels. The Administrator may require testing on each fuel if it is designed to operate on more than one fuel. These test fuel specifications shall be reported in the application for certification.

13. A new § 94.109 is added to subpart B to read as follows:

§ 94.109 Test procedures for Category 3 marine engines.

(a) Gaseous emissions shall be measured using the test procedures specified by Section 5 of the MARPOL Technical Code (incorporated by reference at § 94.5), except as otherwise specified in this paragraph (a).

(1) The inlet air and exhaust restrictions shall be set at the average in-use levels.

(2) Measurements are valid only for sampling periods in which the temperature of the charge air entering the engine is within 3°C of the temperature that would occur in-use under ambient conditions (temperature, pressure, and humidity) identical to the test conditions. You may measure emissions within larger discrepancies, but you may not use those measurements to demonstrate compliance.

(3) Engine coolant and engine oil temperatures shall be equivalent to the temperatures that would occur in-use under ambient conditions identical to the test conditions.

(4) Exhaust flow rates shall be calculated using measured fuel flow rates.

(5) Standards used for calibration shall be traceable to NIST standards. (Other national standards may be used if they have been shown to be equivalent to NIST standards.)

(6) Tests may be performed at any representative pressure and humidity levels. Tests may be performed at any

ambient air temperature from 13°C to 30°C and any charge air cooling water temperature from 17°C to 27°C.

(7) The test fuel shall be a residual fuel meeting the specifications of § 94.108. Distillate fuel may be used for certification testing. Emissions shall be corrected for the nitrogen content of the fuel, according to § 94.108(e)(3).

(8) Test cycles shall be denormalized based on the maximum test speed described in § 94.107.

(b) Analyzers meeting the specifications of either 40 CFR part 86, subpart N, or ISO 8178–1 (incorporated by reference at § 94.5) shall be used to measure THC and CO.

(c) The Administrator may specify changes to the provisions of paragraph (a) of this section that are necessary to comply with the general provisions of § 94.102.

14. A new § 94.110 is added to subpart B to read as follows:

§ 94.110 Test procedures for verifying emission performance of Category 3 marine engines installed in a vessel.

The test procedures of this section are designed to verify emissions performance of engines that have been installed in a vessel (and thus cannot be tested using an engine dynamometer) These procedures shall be used by vessel operators to verify compliance with the requirements of §§ 94.1003 and 94.1004. EPA may allow the use of these test procedures for other compliance demonstrations. For example, we will allow a manufacturer to use these test procedures to meet the production testing requirements of subpart F of this part, as long as they have been demonstrated to provide an equivalent demonstration of compliance to testing conducted in accordance with the test procedures of § 94.109.

(a) *General requirement.* All test systems shall be designed according to good engineering judgment to ensure accurate verification that the engine is complying with the requirements of this part.

(b) *Equipment.* The measurement system shall be permanently installed in the vessel, and shall include the following:

(1) A NO_X analyzer with an accuracy of ±2 percent of point or better, and a precision of ±5 percent of point or better, under steady-state laboratory conditions. The analyzer must reach at least 90 percent of its final response within 5.0 seconds after any step change to the input concentration greater than or equal 80 percent of full scale.

(2) An engine speed gauge with an accuracy and precision of ± 0.1 rpm or better under steady-state laboratory conditions.

(3) An engine output shaft torque gauge with an accuracy and precision of ±2 percent of point or better under steady-state laboratory conditions.

(4) Other sensors as necessary to determine the operational conditions of the engine, such as a thermocouple in the exhaust stream.

(c) *Data logging.* The measurement system shall automatically log all test results and other test parameters. The data logger must also automatically log all adjustments to the engine that could affect emissions. The position of the vessel (e.g., longitude and latitude) must be recorded with all logs of test results and adjustments.

(d) *Calibration.* The measurement system shall include ports for zero and span gases. The analyzers shall be zeroed and spanned prior to each test. Full calibration of the system must be conducted as needed, according to good engineering judgment.

(e) *Test run.* The NO_X concentration in the exhaust shall be measured under normal operating conditions. Engine speed, engine torque, and other test parameters shall be measured simultaneously.

(f) *Compliance.* The measured NO_X concentration shall be compared to a table or algorithm supplied by the engine manufacturer. If the NO_X concentration is at or below the level specified by the engine manufacturer for the test conditions (*e.g.*, engine speed, engine torque, seawater temperature, nitrogen content of the fuel, etc.), then the engine is in compliance with the manufacturer specifications. If the NO_X concentration is above the level specified by the engine manufacturer for the test conditions, then the engine is not in compliance, and must be readjusted and retested.

Subpart C—[Amended]

15. Section 94.203 is amended by revising paragraph (d)(14) to read as follows:

§ 94.203 Application for certification.

* * * * *

(d) * * *

(14) (i) For Category 1 and Category 2 engines, a statement that the all the engines included in the engine family comply with the Not To Exceed standards specified in § 94.8(e) when operated under all conditions which may reasonably be expected to be encountered in normal operation and use; the manufacturer also must provide a detailed description of all testing, engineering analyses, and other information which provides the basis for this statement.

(ii) For Category 3 engines, a statement that the all the engines included in the engine family comply with the requirements of § 94.8(e) when operated under all conditions which may reasonably be expected to be encountered in normal operation and use; the manufacturer must also provide a detailed description of all testing, engineering analyses, and other information which provides the basis for this statement.

* * * * *

16. Section 94.204 is amended by adding paragraph (f) to read as follows:

§ 94.204 Designation of engine families.

* * * * *

(f) Category 3 engines shall be grouped into engine families as specified in Section 4.3 of the MARPOL Technical Code (incorporated by reference at § 94.5), except as allowed in paragraphs (d) and (e) of this section.

17. Section 94.205 is amended by revising paragraph (b) and adding paragraphs (e) and (f) to read as follows:

§ 94.205 Prohibited controls, adjustable parameters.

* * * * *

(b)(1) Category 1 and Category 2 marine engines equipped with adjustable parameters must comply with all requirements of this subpart for any adjustment in the physically adjustable range.

(2) Category 3 marine engines equipped with adjustable parameters must comply with all requirements of this subpart for any adjustment specified in paragraph (e) of this section

* * * * *

(e) The following provisions apply for Category 3 marine engines:

(1) For certification testing, engines shall be adjusted according to the manufacturer's specifications.

(2) Manufacturers shall determine NO_X concentration targets for in-use testing, consistent with the provisions of paragraph (f) of this section, that enable the operator to ensure that the engine is properly adjusted in use.

(3) For production line testing and in-use testing, the engine shall be adjusted so that measured NO_X concentration in the exhaust is no higher than engine manufacturer's target described in paragraph (e)(2) of this section.

(f) For Category 3 marine engines, manufacturers must specify in the maintenance instructions how to adjust the engines to achieve emission performance equivalent to the performance demonstrated under the certification test conditions. This must address all necessary adjustments, including those required to address differences in fuel quality or ambient temperatures. (**Note:** The engine must comply with the applicable emission standards of § 94.8 for all conditions allowed by the test procedures described in § 94.109.)

(1) Equivalent emissions performance is measured relative to optimal engine performance that could be achieved in the absence of emission standards (i.e., the calibration that result in the lowest fuel consumption and/or maximum firing pressure). Except as allowed by paragraph (f)(2) or (f)(3) of this section, equivalent performance requires the same percent reduction in NO_X emissions from the optimal calibration as is achieved under the test conditions.

(2) The adjustments may achieve a smaller reduction in NO_X emissions under some conditions if the engine is calibrated the same at the different conditions. For example, if the engine uses injection timing retard and EGR to reduce emissions, then the manufacturer would need to retard timing the same number of degrees and use the same rate of EGR at the different conditions in order to qualify for the allowance in this paragraph (f)(2).

(3) Under extraordinary circumstances, the manufacturer may petition EPA during certification to allow calibrations not meeting requirements of paragraph (f)(1) or (f)(2) of this section if the manufacturer demonstrates that compliance with those requirements is not feasible. If the manufacturer can comply with those requirements by derating the engine, then compliance is considered to be feasible.

(4) Adjustments must achieve equivalent performance for all engine speeds other than the speeds associated with the certification test points. For engine speeds between test point speeds, this means that NO_X emissions should generally follow a linear interpolation between test points.

(5) Example: If, for the test calibration, you retard the start of injection timing by 2.0 degrees for the maximum test speed to reduce NO_X emissions by 18 percent, and you retard the start of injection timing by 3.0 degrees for all other speeds to reduce NO_X emissions by 25 percent, then for all other operational conditions:

(i) For maximum engine speed, you must either retard timing by 2.0 degrees or reduce NO_X emissions by 18 percent or more relative to the calibration that would be used in the absence of emissions standards; and

(ii) For other speeds, you must either retard timing by 3.0 degrees or reduce NO_X emissions by 25 percent or more relative to the calibration that would be used in the absence of emissions standards.

18. Section 94.209 is amended by adding introductory text to the section to read as follows:

§ 94.209 Special provisions for post-manufacture marinizers.

The provisions of this section apply for Category 1 and Category 2 engines, but not for Category 3 engines.

* * * * *

19. Section 94.211 is amended by adding paragraphs (a)(3) and (e)(2)(iii), and revising paragraphs (h) introductory text and (j)(2) introductory text to read as follows:

§ 94.211 Emission-related maintenance instructions for purchasers.

(a) * * *

(3) For Category 3 engines, the manufacturer must provide in boldface type on the first page of the written maintenance instructions notice that § 94.1004 requires that the emissions-related maintenance be performed as specified in the instructions (or equivalent).

* * * * *

(e) * * *

(2) * * *

(iii) The maintenance intervals listed in paragraphs (e)(3) and (e)(4) of this section do not apply for Category 3.

* * * * *

(h) For Category 1 and Category 2 engines, equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and are:

* * * * *

(j) * * *

(2) All critical emission-related scheduled maintenance must have a reasonable likelihood of being performed in use. For Category 1 and Category 2 engines, the manufacturer must show the reasonable likelihood of such maintenance being performed in-use. Critical emission-related scheduled maintenance items which satisfy one of the conditions defined in paragraphs (j)(2)(i) through (j)(2)(vi) of this section will be accepted as having a reasonable likelihood of being performed in use.

* * * * *

20. Section 94.214 is revised to read as follows:

§ 94.214 Production engines.

Any manufacturer obtaining certification under this part shall supply to the Administrator, upon his/her request, a reasonable number of production engines, as specified by the Administrator. The engines shall be representative of the engines, emission control systems, and fuel systems offered and typical of production engines available for sale or use under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. This requirement does not apply for Category 3 engines. Manufacturers of Category 3 engines, however, must allow EPA access to test engines and development engines to the extent necessary to determine that the engine family is in full compliance with the applicable requirements of this part.

21. Section 94.217 is amended by adding paragraph (f) to read as follows:

§ 94.217 Emission data engine selection.

* * * * *

(f) A single cylinder test engine may be used for certification of Category 3 engine families.

22. Section 94.218 is amended by revising paragraph (d)(1) to read as follows:

§ 94.218 Deterioration factor determination.

* * * * *

(d)(1) Except as allowed by paragraph (d)(2) of this section, the manufacturer shall determine the deterioration factors for Category 1 and Category 2 engines based on service accumulation and related testing, according to the manufacturer's procedures, and the provisions of §§ 94.219 and 94.220. The manufacturer shall determine the form and extent of this service accumulation, consistent with good engineering practice, and shall describe this process in the application for certification.

* * * * *

23. Section 94.219 is amended by revising paragraph (a) to read as follows:

§ 94.219 Durability data engine selection.

(a) For Category 1 and Category 2 engines, the manufacturer shall select for durability testing, from each engine family, the engine configuration which is expected to generate the highest level of exhaust emission deterioration on engines in use, considering all exhaust emission constituents and the range of installation options available to vessel builders. The manufacturer shall use good engineering judgment in making this selection.

* * * * *

Subpart E—[Amended]

24. Section 94.403 is amended by revising paragraph (a) to read as follows:

§ 94.403 Emission defect information report.

(a) A manufacturer must file a defect information report whenever it determines, in accordance with procedures it established to identify either safety-related or performance defects (or based on other information), that a specific emission-related defect exists in 25 or more Category 1 marine engines, or 10 or more Category 2 marine engines, or 2 or more Category 3 engines or cylinders. No report must be filed under this paragraph for any emission-related defect corrected prior to the sale of the affected engines to an ultimate purchaser. (**Note:** These limits apply to the occurrence of the same defect, and are not constrained by engine family or model year.)

* * * * *

Subpart F—[Amended]

25. Section 94.503 is amended by revising paragraphs (a) and (b), and adding paragraph (d) to read as follows:

§ 94.503 General requirements.

(a) For Category 1 and Category 2 engines, manufacturers shall test production line engines in accordance with sampling procedures specified in § 94.505 and the test procedures specified in § 94.506.

(b) Upon request, the Administrator may also allow manufacturers to conduct alternate production line testing programs for Category 1 and Category 2 engines, provided the Administrator determines that the alternate production line testing program provides equivalent assurance that the engines that are being produced conform to the provisions of this part. As part of this allowance or for other reasons, the Administrator may waive some or all of the requirements of this subpart.

* * * * *

(d) For Category 3 engines, the manufacturer shall test each production engine after it is installed in the vessel. The manufacturer may used the test procedures specified in § 94.109, or alternate test procedures that provide an equivalent demonstration of production quality. For example, a manufacturer may use the short test procedures of § 94.110, as long as the procedures can be demonstrated to provide an equivalent demonstration of compliance to testing conducted in accordance with the test procedures of § 94.109.

26. Section 94.505 is amended by revising paragraph (a) introductory text to read as follows:

§ 94.505 Sample selection for testing.

(a) At the start of each model year, the manufacturer will begin to select engines from each Category 1 and Category 2 engine family for production line testing. Each engine will be selected from the end of the production line. Testing shall be performed throughout the entire model year to the extent possible. Engines selected shall cover the broadest range of production possible. Note: Each Category 3 production engine must be tested.

* * * * *

27. Section 94.507 is amended by revising paragraph (a) to read as follows:

§ 94.507 Sequence of testing.

(a) If one or more Category 1 or Category 2 engines fail a production line test, then the manufacturer must test two additional engines for each engine that fails.

* * * * *

28. Section 94.508 is amended by revising paragraphs (d) and (e) introductory text to read as follows:

§ 94.508 Calculation and reporting of test results.

* * * * *

(d)(1) If, subsequent to an initial failure of a Category 1 or Category 2 production line test, the average of the test results for the failed engine and the two additional engines tested, is greater than any applicable emission standard or FEL, the engine family is deemed to be in non-compliance with applicable emission standards, and the manufacturer must notify the Administrator within 2 working days of such noncompliance.

(2) If a Category 3 engine fails a production line test, the engine family is deemed to be in non-compliance with applicable emission standards, and the manufacturer must notify the Administrator within 2 working days of such noncompliance.

(e) Within 30 calendar days of the end of each quarter in which production line testing occurs, each manufacturer must submit to the Administrator a report which includes the following information:

* * * * *

29. Section 94.510 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 94.510 Compliance with criteria for production line testing.

* * * * *

(b) A Category 1 or Category 2 engine family is deemed to be in noncompliance, for purposes of this subpart, if at any time throughout the model year, the average of an initial failed engine and the two additional engines tested, is greater than any applicable emission standard or FEL.

(c) For Category 3 engines, the engine family is deemed to be in noncompliance, for purposes of this subpart, whenever the average emission rate of any regulated pollutant is greater than the applicable emission standard for any test engine.

Subpart I—[Amended]

30. Section 94.801 is amended by revising paragraph (b) to read as follows:

§ 94.801 Applicability.

* * * * *

(b) Regulations prescribing further procedures for the importation of engines into the Customs territory of the United States are set forth in U.S. Customs Service regulations (19 CFR Chapter I).

Subpart J—[Amended]

§ 94.904 [Amended]

31. Section 94.904 is amended by removing paragraph (b)(7).

32. Section 94.906 is amended by revising the section heading and removing paragraph (d) to read as follows:

§ 94.906 Manufacturer-owned exemption, display exemption, and competition exemption.

* * * * *

33. Section 94.907 is amended by revising paragraph (d) introductory text to read as follows:

§ 94.907 Engine dressing exemption.

* * * * *

(d) New Category 1 and Category 2 marine engines that meet all the following criteria are exempt under this section:

* * * * *

34. Subpart K, consisting of §§ 94.1001, 94.1002, 94.1003, and 94.1004, is added to read as follows:

Subpart K—Requirements Applicable to Vessel Manufacturers, Owners, and Operators

Sec.

94.1001 Applicability.
94.1002 Definitions.
94.1003 Production and in-use testing.
94.1004 Maintenance, repair, and adjustment.

Subpart K—Requirements Applicable to Vessel Manufacturers, Owners, and Operators.

§ 94.1001 Applicability.

The requirements of this subpart are applicable to manufacturers, owners, and operators of marine vessels that contain Category 3 engines subject to the provisions of subpart A of this part, except as otherwise specified.

§ 94.1002 Definitions.

The definitions of subpart A of this part apply to this subpart.

§ 94.1003 Production and in-use testing.

(a) *Production testing.* Vessel manufacturers must allow engine manufacturers to conduct the production line testing required by subpart F of this part.

(b) *In-use adjustments.* Operators of in-use engines may adjust certified engines as specified by the engine manufacturer, provided that after the adjustment the engine's exhaust emissions are measured to verify that the engine is operating within the specifications certified by the manufacturer. For the purposes of this section, maintenance is considered to be a form of adjustment.

(1) Emissions shall be measured using the short-test procedures specified in § 94.110, or other test procedures that provide an equivalent demonstration of compliance.

(2)(i) This paragraph (b)(2)(i) applies for vessels adjusted within 175 nautical miles of the United States coastline entering or leaving a port of the United States.

Operators of vessels whose next port of call is a port of the United States, and operators of vessels that are leaving a port of the United States, must ensure that the engine is operating according to the certifying manufacturer's specification after any adjustments are made to its engine within 175 nautical miles of the coastline of the United States. Operators shall verify that the engine is operating within the specifications certified by the manufacturer by measuring the engine's exhaust emissions in accordance with paragraph (b)(1) of this section.

(ii) This paragraph (b)(2)(ii) applies for vessels adjusted beyond 175 nautical miles of the United States coastline that will enter a port of the United States. Operators of vessels whose next port of call is a port of the United States must ensure that the engine is operating according to the certifying manufacturer's specification before coming within 175 nautical miles of the coastline of the United States. Operators shall verify that the engine is operating within the specifications certified by the manufacturer by measuring the engine's exhaust emissions in accordance with paragraph (b)(1) of this section.

(3) All adjustments and verification testing must be recorded. These records must be made available to EPA upon request.

(4) The requirements of this paragraph (b) do not apply for adjustments that could not affect emissions.

(5) For the purposes of this section the "coastline of the United States" is the baseline from which the territorial sea of the United States is measured.

(c) Manufacturers, owners and operators must allow emission tests to be conducted by the U.S. government, and must provide reasonable assistance to perform such tests.

§ 94.1004 Maintenance, repair, and adjustment.

(a) Unless otherwise approved by the Administrator, all owners and operators of Category 3 engines subject to the provisions of this part shall ensure that all emission-related maintenance is performed, as specified in the maintenance instructions provided by the certifying manufacturer in compliance with § 94.211 (or maintenance that is equivalent to the maintenance specified by the certifying manufacturer in terms of maintaining emissions performance). Owners or operators performing equivalent maintenance must have a reasonable technical basis for believing that the maintenance is equivalent to that described in the application for certification.

(b) Unless otherwise approved by the Administrator, all maintenance and repair of Category 3 engines subject to the provisions of this part performed by any owner, operator or other maintenance provider, including maintenance that is not covered by paragraph (a) of this section, shall be performed, using good engineering judgement, in such a manner that the engine continues (after the maintenance or repair) to meet the emission standards it was certified as meeting prior to the need for maintenance or repair.

(c) All adjustments of certified engines shall be performed as specified by the engine manufacturer, unless the vessel is operating beyond 175 nautical miles of the United States coastline. As is described in § 94.1003 (b), engines on vessels operating beyond 175 nautical miles of the United States coastline that are adjusted outside of the manufacturer's specifications, and that will enter a port of the United States, must be adjusted according to the engine manufacturer's specification before coming within 175 nautical miles of the United States coastline. For the purposes of this paragraph, the "coastline of the United States" is the baseline from which the territorial sea of the United States is measured.

(d) The owner of the engine shall maintain records of all maintenance and repair that could reasonably affect the emission performance of any Category 3 engine subject to the provision of this part.

Subpart L—[Amended]

35. Section 94.1103 is amended by revising paragraph (a)(3)(i), and adding paragraphs (a)(2)(v) and (a)(7) to read as follows:

§ 94.1103 Prohibited acts.

(a) * * *

(2) * * *

(v) For an owner or operator of a vessel using a Category 3 to refuse to allow the in-use testing described in § 94.1003 to be performed.

(3)(i) For a person to remove or render inoperative a device or element of design installed on or in a engine in compliance with regulations under this part, or to set any adjustable parameter to a setting outside of the range specified by the manufacturer, as approved in the application for certification by the Administrator (except as allowed by §§ 94.1003 and 94.1004).

* * * * *

(7)(i) For an owner or operator of a vessel using a Category 3 engine to fail or refuse to ensure that an engine is in compliance and is properly adjusted as set forth in §§ 94.1003 and 94.1004, (including a failure or refusal to conduct the required verification testing or keep the required records).

(ii) For an owner or operator of a vessel using a Category 3 to fail to maintain or repair an engine as set forth in § 94.1004.

* * * * *

36. Section 94.1106 is amended by revising paragraphs (a)(1), (a)(4), and (a)(5) to read as follows:

§ 94.1106 Penalties.

(a) * * *

(1) A person who violates § 94.1103(a)(1), (a)(4), (a)(5), (a)(6), or (a)(7) or a manufacturer or dealer who violates § 94.1103(a)(3)(i) or (iii) is subject to a civil penalty of not more than $25,000 for each violation unless modified by the Debt Collection Improvement Act (31 U.S.C. chapter 37) and/or regulations issued there under.

* * * * *

(4) A violation with respect to § 94.1103(a)(3)(ii) constitutes a separate offense with respect to each part or component. Each day of a violation with respect to § 94.1103(a)(5) or (a)(7) constitutes a separate offense.

(5) A person who violates § 94.1103(a)(2), (a)(5) or (a)(7) is subject to a civil penalty of not more than $25,000 per day of violation unless modified by the Debt Collection Improvement Act and/or regulations issued there under.

* * * * *

37. Section 94.1108 is amended by adding paragraph (d) to read as follows:

§ 94.1108 In-use compliance provisions.

* * * * *

(d) The U.S. Customs Service or the U.S. Coast Guard may require the operator of any vessel that is subject to the provisions of this part to certify in writing that all of the vessel's engines conform to the applicable provisions of this part.

[FR Doc. 02–11736 Filed 5–28–02; 8:45 am]

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Federal Register

Wednesday,
May 29, 2002

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

West Virginia Regulatory Program; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–094–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are announcing our decision to approve an amendment and to remove required program amendments on the West Virginia surface coal mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment we are approving concerns the deletion of a State provision that imposed a regulatory limitation on expenditure of funds for water treatment at bond forfeiture sites. The required program amendments we are removing concern the regulatory limitation on expenditure of funds for water treatment, and the effectiveness of West Virginia's alternative bonding system (ABS) in providing sufficient funds to complete reclamation, including water treatment, at all existing and future bond forfeiture sites.

EFFECTIVE DATE: May 29, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Background on West Virginia's ABS
III. Submission of the Amendment
IV. OSM's Findings
V. Summary and Disposition of Comments
VI. OSM's Decision
VII. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act* * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Background on West Virginia's ABS

On January 21, 1981, the Secretary conditionally approved West Virginia's ABS. The ABS has two basic components: the site-specific or incremental bond posted by the permittee and the Special Reclamation Fund (the Fund), comprised of a special reclamation tax, civil penalty assessments, and interest earned on the revenues, which is intended to cover any reclamation costs in excess of the site-specific or incremental bond.

At the time of approval, the Secretary required that the State provide an actuarial study of the Fund demonstrating that the amount of money going into the Fund would cover the demands to be placed upon it, along with any program changes needed to redress any deficiencies identified by the actuarial study (46 FR 5956).

The State submitted an actuarial study on October 29, 1982 (Administrative Record Number WV–456). The study concluded that the Fund was solvent, in part, because it contained a funding mechanism (the special reclamation tax) to provide for the cost of future reclamation. On March 1, 1983 (41 FR 8447), we subsequently found that the State's alternative bonding provisions were in accordance with section 509(c) of SMCRA and the Federal criteria for approval of alternative bonding systems at 30 CFR 806.11(b), which has since been recodified as 30 CFR 800.11(e). Consequently, we removed the condition (25) relating to our approval of the State's ABS.

By 1988–89, our oversight evaluations indicated that the Fund lacked sufficient revenue to reclaim all outstanding bond forfeiture sites. In addition, the cash balance in the Fund ceased earning interest because of losses suffered by the State's Consolidated Investment Fund. On October 1, 1991, we notified the State, pursuant to 30 CFR 732.17(c) and (e), that a program amendment was necessary, because the Fund no longer met the requirements of 30 CFR 800.11(e).

In a series of amendments beginning in 1993, West Virginia revised portions of its permanent regulatory program in an attempt to resolve some of our concerns. For example, the State increased its special reclamation tax from one cent to three cents per ton of coal mined and adopted site-specific bonding regulations. In addition, Deloitte and Touche, an accounting and consulting company, completed an actuarial study of the Fund in March 1993. The study concluded that the Fund had an accrual deficit position as of June 30, 1992, but that the Fund would realize gradual improvement over the next five years.

On October 4, 1995 (60 FR 51900), we announced our partial approval of the State's amendments. However, as specified in 30 CFR 948.16 (jjj), (kkk), and (lll), we also required the State to amend certain statutory provisions to fully eliminate the deficit in the Fund and to complete reclamation, including treatment of pollutional discharges, at all bond forfeiture sites.

OSM and the State conducted additional studies that were completed in September 1997 and June 1999 to assess the financial condition of the Fund. The studies found that the Fund could eventually be solvent if its responsibilities were limited to land reclamation. However, the studies also determined that treatment of pollutional discharges from forfeited sites required additional revenue.

By letter dated September 29, 2000, we informed the West Virginia Department of Environmental Protection (WVDEP) that Federal corrective action would be taken, unless the West Virginia Legislature (Legislature) adopted the necessary changes to the Fund to resolve the identified deficiencies (Administrative Record Number WV–1181). However, the Legislature adjourned on April 14, 2001, without enacting the proposed changes.

On April 18, 2001, WVDEP requested additional time to develop and obtain approval of statutory and regulatory changes to the State's bonding provisions (Administrative Record Number WV–1206). In addition, WVDEP requested that we conduct an informal review of a report entitled "The Mountain State Clean Water Trust Fund." Under a plan that was based on the report, WVDEP intended to bifurcate the Fund into two distinct accounts, one for land reclamation and one for water treatment.

In a letter dated June 29, 2001, we initiated corrective action under 30 CFR 733.12(b). In that letter, which is known as a Part 733 notification, we notified the State that it must initiate certain remedial measures by July 27, 2001, to satisfy the outstanding required amendments at 30 CFR 948.16 (kkk), (jjj) and (lll) and that it must submit the necessary, fully-enacted and adopted statutory and regulatory revisions no later than 45 days after the end of the 2002 regular session of the Legislature (Administrative Record Number WV–1218). As stated in the letter, if West Virginia failed to take these measures, we intended to recommend that the Secretary partially withdraw approval of the State program and implement a partial Federal regulatory program.

By e-mail message dated August 8, 2001, WVDEP provided us with additional draft legislative changes for informal review (Administrative Record Number WV–1233A). The proposed revisions are commonly called the 7-Up Plan.

On August 9 and August 28, 2001, we provided WVDEP our informal review of the proposed statutory revisions that were submitted on August 8 (Administrative Record Nos. WV–1233 and WV–1235). Under the draft legislation, the special reclamation tax would be increased from 3 cents to 14 cents per ton of clean coal mined for 39 months and reduced to 7 cents thereafter with biennial review by an advisory council.

By letter dated August 13, 2001, WVDEP provided us with a schedule for submitting statutory and regulatory revisions to the Legislature in response to our Part 733 notification (Administrative Record Number WV–1234). The letter specified that the State would formally submit the program amendment to us by April 30, 2002. The letter also indicated that the statutory changes could be presented to a special session of the Legislature before that date.

We released our analysis of the State's draft legislation on September 7, 2001 (Administrative Record Number WV–1236). In that report, we concluded that the proposal would generate sufficient revenues for about 9 years, but future adjustments would have to be made to meet long-term needs of the Fund.

On September 15, 2001, a special session of the Legislature passed Senate Bill 5003, which is intended to eliminate the deficit in the Fund and provide for reclamation, including water treatment, at bond forfeiture sites. The Governor of West Virginia (Governor) signed Enrolled Senate Bill 5003 on October 4, 2001. The effective date of the bill is October 4, 2001, but none of the provisions could be implemented without OSM approval.

III. Submission of the Amendment

By letter dated September 24, 2001 (Administrative Record Number WV–1238), WVDEP formally submitted a proposed amendment to the West Virginia program consisting of revisions to the West Virginia Code (W. Va. Code), as amended by Enrolled Senate Bill 5003. The amendment added W. Va. Code section 22–1–17, which established the Special Reclamation Fund Advisory Council (Advisory Council). The amendment also revised W. Va. Code 22–3–11 by increasing the special reclamation tax rate and revised W. Va. Code 22–3–12 by deleting certain site-specific bonding provisions.

We announced receipt of the proposed amendment on October 24, 2001 (66 FR 53749). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Number WV–1243). The public comment period closed on November 23, 2001. We received comments from one environmental organization, a consultant to the environmental organization, one industry group, and two Federal agencies.

By letter dated November 6, 2001, the West Virginia Highlands Conservancy (WVHC) requested that the comment period on the amendment be extended through December 14, 2001 (Administrative Record Number WV–1245). On November 9, 2001 we denied the request (Administrative Record Number WV–1246). We denied the request for an extension because an extension would have delayed our decision, which could have resulted in a loss of revenues that are badly needed by the State for reclamation of bond forfeiture sites. The proposed amendments that we later approved increased the tonnage tax on clean coal mined that provides revenues to the Fund. The tax increase was scheduled to go into effect on January 1, 2002, but only if OSM approved the tax increase by that date. W. Va. Code 22–3–11(h), (n). Nevertheless, we agreed with WVHC's contention that the complexity of the questions raised by the amendment itself, and by comments submitted by WVHC and others, created the need for a longer comment period on the question of whether the amendments were sufficient to remedy the State's bonding program deficiencies on a long-term basis. Therefore, we elected to bifurcate our approval process for these amendments as follows.

First, we published in the **Federal Register**, on December 28, 2001, our approval of the amendment submitted on September 24, 2001, because it afforded immediate improvement in the State's existing, approved ABS. 66 FR 67446. We also required that the State remove the regulatory limitation on expenditure of funds for water treatment at bond forfeiture sites (Administrative Record Number WV–1259).

Next, we announced a 90-day comment period in the **Federal Register** on December 28, 2001, which also provided an opportunity for a hearing or meeting, on the issue of whether the amendments that we approved satisfy the required amendment at 30 CFR 948.16(lll) (Administrative Record Number WV–1262). 66 FR 67455. 30 CFR 948.16(lll) requires that the State "eliminate the deficit in [its] * * * alternative bonding system and * * * ensure that sufficient money will be available to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites." No one requested a hearing or meeting, so we did not hold one. The public comment period closed on March 28, 2001. During the reopening of the comment period, we received comments from one private citizen, one environmental group, one consultant, and one industry group.

We are also including in this **Federal Register** document our decision on the State's response to the required program amendment codified at 30 CFR 948.16(jjj) that was submitted to us as part of a separate program amendment package dated April 9, 2002 (Administrative Record Number WV-1296A). We will address the remainder of the April 9, 2002, amendment in a separate final rule document at a later date. A notice (67 FR 30336) announcing receipt and a 15-day public comment period on the program amendment that addressed the required amendment at 30 CFR 948.16(jjj) was published in the **Federal Register** on May 6, 2002 (Administrative Record Number WV–1303). The public comment period closed on May 21, 2002. We received comments from one industry group and two Federal agencies.

IV. OSM's Findings

For the reasons discussed below, we are removing the required program amendments codified at 30 CFR 948.16(jjj) and (lll).

In our June 29, 2001, 30 CFR part 733 notification, we stated that West Virginia must initiate certain remedial measures to satisfy the outstanding required amendments at 30 CFR 948.16(jjj), (kkk), and (lll), and that the State must submit the necessary, fully

enacted and adopted statutory and regulatory revisions (Administrative Record Number WV–1218). As we announced in the December 28, 2001, **Federal Register**, the required program amendment at 30 CFR 948.16(kkk) was previously satisfied and, therefore, removed (66 FR 67446, 67450).

We will discuss below how the State revised the West Virginia program to address the required program amendments codified at 30 CFR 948.16(jjj) and (lll).

1. Required Program Amendment at 30 CFR 948.16(jjj)

As of June 29, 2001, the date of our Part 733 notification to the State, this required amendment read as follows:

30 CFR 948.16(jjj)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise section 22–3–11(g) of the Code of West Virginia and section 38–2–12.5(d) of the West Virginia Code of State Regulations to remove the limitation on the expenditure of funds for water treatment or to otherwise provide for the treatment of polluted water discharged from all bond forfeiture sites.

In response to this required program amendment, WVDEP submitted a program amendment by letter dated September 24, 2001, containing Enrolled Senate Bill 5003 (Administrative Record Number 1238). In that amendment, the State revised W. Va. Code 22–3–11(g) by deleting language that limited expenditures from the Fund for water treatment purposes to 25 percent of the Fund's gross revenues. As amended, W. Va. Code 22–3–11(g) provides, in part, that the Secretary of WVDEP may use the Fund for the purpose of designing, constructing and maintaining water treatment systems where they are required for complete reclamation of the affected lands.

On December 28, 2001, we found that the deletion of the 25-percent limitation at W. Va. Code 22–3–11(g) partially satisfied the requirement codified at 30 CFR 948.16(jjj) (66 FR 67446, 67449). To fully satisfy this required amendment, the State also needed to delete the 25-percent limitation in its Code of State Regulations (CSR) at 38–2–12.5(d). In addition; revised W. Va. Code 22–3–11(g) continued to provide that the Secretary of WVDEP "may" rather than "shall," use the Fund for the purpose of designing, constructing and maintaining water treatment systems. Therefore, we revised 30 CFR 948.16(jjj) to reflect the statutory changes and to require the State to specify that the Fund must be used, where needed, to pay for water treatment on bond forfeiture sites. As revised on December 28, 2001, the required amendment at 30 CFR 948.16(jjj) reads as follows:

30 CFR 948.16(jjj)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR 38–2–12.5(d) to remove the 25-percent limitation on the expenditure of funds for water treatment or to otherwise provide for the treatment of polluted water discharged from all bond forfeiture sites. In addition, the State must amend its program to specify that moneys from the Special Reclamation Fund must be used, where needed, to pay for water treatment on bond forfeiture sites.

By letter dated February 26, 2002, WVDEP sent us a status report regarding its efforts to satisfy various required program amendments codified at 30 CFR 948.16 (Administrative Record Number WV–1276). In that letter, WVDEP stated that it had submitted proposed legislation to the Legislature to amend subsection CSR 38–2–12.5(d) to remove the 25-percent limitation on the expenditure of funds for water treatment.

However, WVDEP declined to change "may" to "shall" in W. Va. Code 22–3–11(g). According to WVDEP, making that change could remove the State's discretion to determine the appropriate forms of reclamation it could use by specifically mandating water treatment to the exclusion of land reclamation.

When we revised 30 CFR 948.16(jjj) on December 28, 2001, we did not intend to require that water treatment be the exclusive means of correcting pollutional discharges on bond forfeiture sites. We acknowledge that other methods, such as land reclamation, might also be effective. Nor did we intend to require that monies from the Fund be spent to treat pollutional discharges regardless of whether there are other more beneficial and cost-effective means of abating or eliminating the pollutional discharge. Rather, we intended to require that the State clarify that the use of monies from the Fund for treatment of pollutional discharges on bond forfeiture sites, where needed, is mandatory.

While the word "may" was not removed from the West Virginia program, the West Virginia Supreme Court of Appeals has determined that the WVDEP has a mandatory duty to use bond moneys for acid mine drainage treatment. *State ex rel. Laurel Mountain* v. *Callaghan*, 418 S.E.2d 580 (1990). Moreover, in a subsequent decision, the Court held that W. Va. Code 22A–3–11(g), now codified as 22–3–11(g), imposes upon the WVDEP "a mandatory, nondiscretionary duty to utilize moneys from the SRF [Special Reclamation Fund] * * *, to treat AMD [acid mine drainage] at bond forfeiture sites when the proceeds of the forfeited bonds are less than the actual cost of reclamation." *State ex rel. West Virginia Highlands Conservancy, Inc.* v. *West Virginia DEP*, 447 S.E.2d 920, 925 (1994).

In addition, current West Virginia program regulations at CSR 38–2–12.4.d. state that:

Where the proceeds of bond forfeiture are less than the actual cost of reclamation, the Secretary shall make expenditures from the special reclamation fund to complete reclamation. The Secretary shall take the most effective actions possible to remediate acid mine drainage, including chemical treatment where appropriate, with the resources available. (Emphasis added)

Moreover, the State defines "completion of reclamation" to mean, among other things, "that all applicable effluent and applicable water quality standards are met * * *" CSR 38–2–2.37. Hence, the State's program contains a mandatory requirement that Fund monies be used, where needed, for acid mine drainage treatment.

In view of the litigation and the regulations discussed above, we conclude that the part of the required amendment at 30 CFR 948.16(jjj) that concerns use of moneys from the Fund for water treatment on bond forfeiture sites is no longer needed and can be removed.

The other portion of the required amendment concerns the 25-percent limitation in the State's regulations. By letter dated April 9, 2002 (Administrative Record Number WV–1296A), West Virginia sent us a proposed amendment that revised CSR 38–2–12.5.d. by deleting the 25-percent limitation on expenditures from the Fund for water quality enhancement projects. The Legislature adopted this revision on March 9, 2002, as part of the Enrolled Committee Substitute for House Bill 4163, which the Governor signed into law on April 3, 2002.

The specific language that the State deleted read as follows:

Expenditures from the special reclamation fund for water quality enhancement projects shall not exceed twenty-five percent (25%) of the funds gross annual revenue as provided in subsection g, section 11 of the [West Virginia] Act.

As amended, CSR 38–2–12.5.d. reads as follows:

12.5.d. In selecting such sites for water quality improvement projects, the Secretary shall determine the appropriate treatment techniques to be applied to the site. The selection process shall take into consideration the relative benefits and costs of the projects.

We find that the amendment to CSR 38–2–12.5.d. satisfies the part of the required amendment at 30 CFR 948.16(jjj) that concerns the deletion of the 25-percent limitation from the State rules. Therefore, we find that 30 CFR 948.16(jjj) has been fully satisfied and can be removed.

2. Required Program Amendment at 30 CFR 948.16(lll)

This required amendment reads as follows.

30 CFR 948.16(lll)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to eliminate the deficit in the State's alternative bonding system and to ensure that sufficient money will be available to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites.

In essence, it requires that West Virginia modify its ABS to (A) eliminate the deficit and (B) ensure that sufficient money will be available to complete land and water reclamation on all existing and future bond forfeiture sites. This requirement corresponds to 30 CFR 800.11(e)(1), which provides that alternative bonding systems must "assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time."

A. Elimination of the Deficit

Special Reclamation Tax Rate Increase. On December 28, 2001, we approved an amendment to W. Va. Code 22–3–11(h) that increased the special reclamation tax rate from 3 cents per ton of clean coal mined to 7 cents per ton of clean coal mined. This subsection also levies an additional temporary tax of 7 cents per ton of clean coal mined for a period not to exceed 39 months. Collection of both taxes began on January 1, 2002. At the current coal production rate in West Virginia, these tax rate increases will increase cash flow into the Fund by about $1.8 million per month. According to WVDEP, the Fund had a deficit of approximately $47.9 million in December 2001. Therefore, the deficit in the Fund should be eliminated in about three years.

Prohibition to Reduce Reclamation Tax Rate. On December 28, 2001, we approved an amendment to W. Va. Code 22–3–11(h) that provides that the 7-cent permanent tax rate may not be reduced until the Fund has sufficient moneys to meet the State's reclamation responsibilities under W. Va. Code 22–3–11. This provision provides a safeguard to prevent a premature reduction in the 7 cents per ton permanent tax rate.

Special Reclamation Fund Advisory Council. On December 28, 2001, we approved new W. Va. Code 22–1–17, which created the Special Reclamation Fund Advisory Council (Advisory Council) to ensure "the effective, efficient and financially stable operation of the special reclamation fund." One of the main tasks of the Advisory Council is the elimination of the ABS deficit. It must also ensure that the Fund remains solvent once the deficit is eliminated.

The Advisory Council will have eight appointed members representing multiple interests in the State, including the Secretary of WVDEP, the State Treasurer, the Director of the National Mine Land Reclamation Center, the coal industry, an actuary or an economist, the environmental community, coal miners and the general public.

By letters dated March 29, 2002 (Administrative Record Number WV–1298), WVDEP asked for nominations of people to serve on the Advisory Council. The letters were sent to various groups with an actual or potential interest in the solvency of West Virginia's ABS. After the initial appointments, subsequent members will serve a full six-year term. The initial terms of all members will begin on July 1, 2002 (W. Va. Code 22–1–17(c)).

The Advisory Council has the following specific duties:

1. Study the effectiveness, efficiency and financial stability of the Fund, and develop a financial process that ensures the long-term stability of the special reclamation program;
2. Identify and define problems associated with the Fund;
3. Evaluate bond forfeiture collection and reclamation efforts;
4. Provide a forum to discuss issues relating to the Fund;
5. Contract with a qualified actuary to determine the Fund's fiscal soundness; and
6. Study and recommend to the Legislature and the Governor alternative approaches to the current funding scheme.

To accomplish these mandates, we anticipate that the Advisory Council will analyze data provided by WVDEP and others; monitor current income and expenditures from the Fund; review and evaluate WVDEP's estimates of future reclamation costs and water treatment obligations; consider alternative means of financing the Fund's reclamation responsibilities so as not to make it entirely dependent upon a coal production tax; project revenues; and consider the findings of the actuary and other experts regarding the fiscal soundness of the Fund.

Annual Reports to the Legislature and the Governor. As provided by W. Va. Code 22–1–17(g), the Advisory Council must report annually to the Legislature and the Governor on the adequacy of the special reclamation tax and the fiscal condition of the Fund. At a minimum, the report must contain—

a recommendation as to whether or not any adjustments to the special reclamation tax should be made considering the cost, timeliness and adequacy of bond forfeiture reclamation, including treatment.

To prepare this report, the Advisory Council will have to study the effectiveness of the tax rate to eliminate the deficit of the Fund. To do so, the Advisory Council will have to determine current and anticipated bond forfeiture reclamation obligations, including water treatment.

As noted by some commenters, we recognize that there are inaccuracies and gaps in the data currently available. We are continually revising our acid mine drainage (AMD) inventories. For example, we do not know how many bond forfeiture sites with pollutional discharges will require perpetual water treatment. Projected treatment costs at this time are gross estimates based on water treatment models, rather than individual site-specific designs of treatment systems. Until more and better information is obtained on each site, the number of discharges requiring treatment and the kinds of treatment systems required to abate the pollution will be in a state of flux. To the extent that resources allow, we intend to work with WVDEP to assist the Advisory Council in obtaining the data it will need to do its job.

It would be ideal if the State could provide sufficient revenue to immediately eliminate the deficit. It would also be ideal if necessary land reclamation and water treatment projects at bond forfeiture sites could be completed immediately. However, such immediate financial relief may have required the State to obtain monies from the State's general revenue fund. To avoid placing any financial burden on the public for these reclamation obligations, the State chose to make adjustments in the special reclamation tax assessed against the coal industry. In addition, logistical and contractual limitations mean that it would not be possible to immediately reclaim all the land that needs to be reclaimed and treat all the water that needs to be treated. To accomplish the necessary

land reclamation and water treatment, the State will need time to develop specifications, bid and award contracts, secure necessary easements and permits, and design and construct needed treatment facilities.

With the adoption of special reclamation tax rate increases and the creation of the Advisory Council, West Virginia has created a fiscally sound mechanism to eliminate the deficit in the Fund within a reasonable period of time. Therefore, we find that West Virginia has satisfied the first part of the required program amendment codified at 30 CFR 948.16(lll).

B. Ensure Sufficient Money Will Be Available To Complete Existing and Future Bond Forfeiture Reclamation

At 30 CFR 948.16(lll), we also required that West Virginia improve its ABS to ensure that sufficient money will be available to complete land and water reclamation at existing and future bond forfeiture sites, a requirement that parallels the criterion for approval of an ABS under 30 CFR 800.11(e)(1).

As discussed above, the current deficit in the ABS should be eliminated in about three years. If current estimates of the Fund's deficit are in error, the Advisory Council must recommend changes to the Legislature and the Governor to assure that the deficit is eliminated in a timely manner.

With respect to future reclamation obligations, the Advisory Council has an obligation under State law to monitor the Fund, address funding-related issues, and recommend measures to ensure the long-term solvency of the Fund. Specifically, W. Va. Code 22–1–17(f)(1) provides that the Advisory Council must study the effectiveness, efficiency and financial stability of the Fund with an emphasis on "development of a financial process that ensures the long-term stability of the special reclamation program."

In addition, W. Va. Code 22–1–17(f)(6) provides that the Advisory Council must "[s]tudy and recommend to the Legislature alternative approaches to the current funding scheme of the special reclamation fund, considering revisions which will assure future proper reclamation of all mine sites and continued financial viability of the state's coal industry." We interpret this provision as meaning that, instead of relying solely on a coal production tax, the Advisory Council must examine and recommend other funding mechanisms such as a sinking fund, insurance, trust fund, or escrow accounts to meet future bond forfeiture reclamation obligations.

With the establishment of the Advisory Council and the requirement that the Council make recommendations to the Legislature and the Governor on appropriate methods of financing existing and future ABS reclamation obligations, West Virginia has created a mechanism whereby the State has the capability to maintain its ABS in a manner consistent with 30 CFR 800.11(e)(1). Therefore, we find that West Virginia has satisfied the required program amendment codified at 30 CFR 948.16(lll). However, we recognize that the mechanism adopted by the State does not ensure implementation of the Advisory Council's recommendations, which must be approved by the Legislature and the Governor before they can take effect. In the event that the Legislature and the Governor do not approve the Council's recommendations, we will reevaluate the adequacy of the State's ABS and, if appropriate, provide notification to West Virginia under 30 CFR 732.17(c) and (e) that it must amend its program to restore consistency with Federal requirements. With this caveat, we are removing the required amendment at 30 CFR 948.16(lll).

V. Summary and Disposition of Comments

Public Comments

In response to our request for comments from the public on the proposed amendment (see Section III of this preamble), we received comments from the WVHC; Morgan Worldwide Mining Consultants, Inc. (Morgan Consultants), a consultant for the WVHC; the West Virginia Coal Association, Inc. (WV Coal Association) and Working On People's Environmental Concerns (WOPEC), an environmental consultant. Our summary and disposition of those comments appear below.

1. Advisory Council

WVHC expressed doubts as to the constitutionality of the Advisory Council established by the legislation, stating that the council appears to violate provisions of the West Virginia Constitution relating to separation of powers. According to WVHC, in devising the council, the Legislature gave itself the power to appoint members to what is essentially an executive body and limited the Governor to approving council members proposed by outside entities. WVHC also expressed concern regarding possible bias within the council, stating that the makeup and appointment scheme associated with the council will no doubt be skewed in favor of industry.

As a Federal agency, we have no authority to evaluate issues relating to interpretation of the West Virginia Constitution. Unless and until the State courts rule otherwise, we must and will presume that legislation adopted by the Legislature and signed by the Governor meets all State constitutional requirements. However, the Advisory Council, which is a multi-interest board, is not much different from other multi-interest boards in West Virginia. The members are appointed by the Governor with the advice and consent of the Senate. All West Virginia advisory boards that we are aware of are created the same way. The various interest groups identified in the statute merely nominate potential members. Only two of the eight members of the Advisory Council must represent the coal industry.

WVHC stated that OSM may not approve a potentially inadequate proposal by delegating responsibility for any necessary future revenue adjustments to an advisory council. According to WVHC, we may only approve an ABS that is fully sufficient, at the time of approval, to cover all potential defaults.

We disagree with these assertions. We believe that as long as the amendment provides a mechanism for remedying ABS inadequacies in a reasonable fashion, we can approve it as being consistent with 30 CFR 800.11(e), which establishes the criteria for approval of alternative bonding systems. 30 CFR 800.11(e)(1) provides that the ABS "must assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time." The commenter asserts that monies must be made available immediately to cover all potential defaults. We believe that it is not reasonable, because there is currently no way to immediately predict with certainty future bond forfeitures and future water treatment obligations. 30 CFR 800.11(e)(1) requires that sufficient money "be available," but it does not specify that the money must be immediately available. As we stated in Finding 2, it would be ideal if the State could provide sufficient revenue to immediately eliminate the deficit in the Fund and cover all potential defaults. However, even if the necessary funds *were* immediately available, it would not be possible to reclaim immediately all the land that needs to be reclaimed and treat all the water that needs to be treated due to manpower, logistics, planning and contractual limitations. To accomplish the necessary land reclamation and water treatment, the State will need time to bid and award contracts, secure necessary easements and permits, design and construct needed treatment facilities.

The increased special reclamation tax rate will be sufficient to eliminate the Fund deficit in about three years. We believe that is a realistic time frame, given the limitations discussed above. The legislation also requires the Advisory Council to develop recommendations for the Legislature and the Governor on ways to ensure that the Fund remains solvent on a permanent basis. As noted in Finding 2, we found that arrangement to be a satisfactory method of meeting the criteria in 30 CFR 800.11(e)(1). If the Legislature or the Governor fail to adopt or implement the Advisory Council's recommendations, we will take action under 30 CFR 732.17(c) and (e), if appropriate.

2. Future Water Treatment Cost Estimates

WVHC stated that our September 7, 2001, analysis is faulty, and that the legislative changes will not eliminate the ABS deficit. WVHC asserted that our analysis is not a substitute for an objective, professional, and rigorous actuarial analysis. WVHC asserted that because the recently approved amendments to the Fund do not require an actuarial study until December 31, 2004, the WVDEP has no idea what its true liabilities are and that there is no rational basis for concluding that the proposed tax increases are sufficient to satisfy liabilities.

WVHC stated that, even if OSM's analysis is accurate, that report concludes that the proposed amendments would only result in a positive Fund balance for about nine years. After that time, the Fund would be in deficit every subsequent year. Therefore, WVHC argued, the amendments fail to meet the standard in 30 CFR 800.11(e)(1), which requires that the ABS have "sufficient money to complete the reclamation plan for any areas which may be in default at any time."

Our September 7, 2001, analysis represents a best estimate at the time, given the data provided by WVDEP. Since that analysis, WVDEP has continued to improve the quantity and quality of its data on current costs and estimates of future bond forfeiture land and water reclamation costs. Consequently, WVDEP's analysis, as well as our understanding of the Fund and its ability to meet bond forfeiture obligations, is improving. Estimating bond forfeiture rates and long-term water treatment obligations is a very speculative endeavor.

We agree with the commenter that our September 7, 2001, analysis is not a substitute for an objective, professional, and rigorous actuarial analysis of the Fund and its reclamation obligations and costs. The legislation requires that the Advisory Council contract for an actuarial analysis on a regular basis, with the first to be completed by December 31, 2004. That due date coincides with the approximate time that our estimates indicate that the Fund's deficit will be eliminated by the recent increases in the special reclamation tax rate. Therefore, the first determination from the professional actuary will be timely from the perspective of assuring that the Fund's deficit is fully eliminated because that determination will provide the Advisory Council with the information it needs concerning recommending measures to ensure its complete elimination.

With respect to the future, the legislation created the Advisory Council to study the issue, monitor the Fund, and develop recommendations to ensure long-term solvency. As discussed in Finding 2, we believe that the legislation thus establishes a mechanism whereby the Fund can meet the criteria of 30 CFR 800.11(e)(1).

Our responses to specific comments follow.

a. Actuarial Analysis of the Fund

WVHC stated that a proper actuarial analysis of the Fund has never been done, and that a preliminary study done in 1982 was inadequate.

We disagree with this comment. The State submitted an actuarial study on October 29, 1982, and Deloitte and Touche completed an actuarial study of the Fund in March 1993. The 1982 actuarial study found that the Fund was solvent, because it contained a funding mechanism (the special reclamation tax) to provide for the cost of future reclamation. OSM subsequently found the State's ABS provisions to be in accordance with section 509(c) of SMCRA and the Federal regulations. The Deloitte and Touche study concluded that the Fund had an accrual deficit position as of June 30, 1992, but that the Fund would realize gradual improvement over the next five years. Unfortunately, that study proved to be wrong.

b. Estimate of Fund Liabilities.

WV Coal Association stated that our September 7, 2001, analysis grossly overestimated the liabilities associated with the Fund. However, WVHC asserted that WV Coal Association produced no documents in several areas where WV Coal Association claimed that OSM overestimated costs. Thus, WVHC argues, many of WV Coal Association's assertions are unsupported by any documents or written analysis and appear to be nothing more than speculation.

We see no need to determine whether either commenter is correct. The legislation adopted in 2001 provides a means for further study of the issue and adjustments, as appropriate.

c. Estimated Annual Water Treatment Cost Increase.

WVHC stated that our September 7, 2001, analysis is faulty because we projected that costs for water treatment would increase $230,000 per year rather than $2.462 million per year as top WVDEP officials indicated.

Further, WVHC stated that WVDEP's annual costs at just five sites increased from $0.29 million in FY 1985–86 to $3.72 million in FY 1999–2000. This is an increase of $3.43 million in fourteen years, or about $245,000 per year. Thus, the WVHC claims that the increased costs at these five sites by themselves exceed OSM's estimate, without even considering the additional treatment costs at future forfeited sites.

WV Coal Association stated that it believes OSM's $230,000 estimate is the best estimate since it is based on 20 years of mining activity.

We discussed annual treatment costs with WVDEP officials when preparing our analysis of the 7-Up Plan and had an understanding that the $2.462 million was an annual estimated cost repeated every year at the same rate, rather than a cumulative cost to be added each year. To assume the latter would be to assume that almost all permits where acid mine drainage is being treated, would be forfeited. We do not believe that assumption to be a reasonable expectation. Rather than using a one-time $2.462 million cost, we based our estimate of future costs on known historical costs. Over the past 20 years, the State has forfeited bonds where water treatment, if it were to occur, would cost approximately $4.6 million over the 20-year period. This equates to $230,000 per year. We are not certain that the WVHC estimate of a $245,000 increase in cost per year is supported by facts related only to water treatment. However, our calculations were based only on data concerning water treatment. The $230,000 is a 20-year average, but there could have been spikes in costs during some years.

WVHC also stated that, even if we were correct in assuming that water treatment liability would increase by

$230,000 per year, our spreadsheet does not apply that assumption. Instead, the commenter stated, we only increased the water treatment liability figure by $230,000 in three years— 2002, 2003 and 2004.

In response, we agree that we had made this inadvertent programming error. However, even with this correction, our basic conclusion remains the same. The Fund will eliminate the deficit and retain a positive balance for a few years. We agree that a more thorough analysis is necessary to estimate costs and make long-term predictions, which is exactly what the new Advisory Council has been charged to do.

d. Trend in Number of Permits That Produce Acid Mine Drainage (AMD)

WVHC stated that we were mistaken when we stated, on page 3 of our September 7, 2001, analysis, that "there has actually been a downward trend in the number of new permits issued that have generated water pollution over at least the last ten years (Appendix IV)." The trend, the WVHC stated, is one of increasing numbers of active sites with AMD discharges and declining assignment of those sites to the bond-forfeiture column. According to the WVHC, this creates a huge potential liability that is much worse now than it was in 1982. In addition, the WVHC asserted, the older the site, the greater the risk of bond forfeiture, since the mines are less likely to be producing coal and revenue.

In the chart to which this commenter refers, we were merely attempting to show how many of the permits issued for each year between 1982 and 1996 developed an AMD condition. The table indicates that fewer permits issued in 1996 developed AMD than did permits issued in preceding years and that there is a declining trend from 1982 to 1996. However, the commenter is correct that the universe of sites with AMD has grown since 1982 and, therefore, the reliance on historic data may not be the best tool for evaluating long-term needs. We agree that there is a need for more data and a rigorous data analysis. The State program amendment that we approved on December 28, 2001, provides for such actions through the tasks assigned to the Advisory Council.

WVHC stated that our assertion that the water treatment problem is decelerating is directly inconsistent with our statement on September 3, 1999, that "[t]his problem is accelerating with the continued forfeiture of performance bonds that require water treatment."

The commenter has misinterpreted our September 3, 1999, letter. The "problem" we referred to in that letter is the increasing inability of the Fund to meet its obligations. That is, the Fund was falling deeper into debt. We did not state, nor imply, as the comment suggests, that the rate of bond forfeiture sites requiring water treatment is increasing.

e. Comparison of OSM's Analysis With Other Studies

WVHC stated that our analysis is inconsistent with the conclusions of WVDEP's economic consultants in their draft February 2001 report entitled "The Mountain State Clean Water Trust Fund." WVHC asserted that the report calculated that guaranteeing payment of future water treatment costs would require firms currently treating water to pay roughly $35.9 million annually. In contrast, the 7-Up Plan would generate revenues of only $20.79 million for the first three years, declining to $8.82 million thereafter.

This comment inappropriately compares two plans that are fundamentally different and not directly comparable. The goal of the "Mountain State Clean Water Trust Fund" was to create a trust fund to pay for water treatment costs on active mine sites as well as for bond forfeitures. The 7-Up Plan, however, is designed to pay the reclamation and water treatment costs for only revoked permits where the forfeited bond is not sufficient to do so. The 7-Up Plan is not designed to pay the water treatment costs of sites while they are active, i.e. while they are still under a permit. The $35.9 million water treatment cost estimate mentioned in the Trust Fund report has no direct comparison to the costs predicted in our September 7, 2001, analysis.

f. Analysis Reporting Methods

WVHC stated that our reporting is unconventional and makes it impossible to determine the cumulative effect of the increased tax on the Fund balance. According to the commenter, we also confused revenues with liabilities. As a result, the WVHC asserted, the net end-year balance in 2022 should be a negative $61.42 million, rather than the negative $7.75 million in our table.

This comment indicates a lack of understanding of the nature of water treatment. Water treatment is an operating cost that does not accumulate if the water is not treated in any given year. The only figures that should be accumulated as increasing debt are the capital costs. In any event, a cumulative negative figure is important as an indicator of when the Fund needs to be adjusted to assure sufficient revenue for water treatment or capital construction. We concur that the new Advisory Council must gather data and evaluate the adequacy of the Fund's ability to cover water treatment.

WVHC stated that we assumed that WVDEP's water treatment liability would not increase for the first two years, and would be limited to its actual current costs of $1.5 million. WVHC asserted that we based this assumption on the premise that WVDEP could not begin increased water treatment until more money became available from the increased special reclamation tax. However, WVHC stated, it would not take two years to generate more funds for water treatment and WVDEP has an obligation to begin reclamation of AMD within 180 days after bond forfeiture. As a result of this error, the water treatment costs in the first two years are underestimated by $3 million. Consequently, according to the commenter, the cumulative deficit will grow to $141.06 million by 2022, and only one year (2005) shows a surplus. In addition, Morgan Consultants stated that the data indicate that the Fund has negative balances in the first two years and therefore has no ability to complete reclamation of any bond forfeiture sites during that period.

Our assumption to limit water treatment costs to $1.5 million in the first two years is reasonable. The $1.5 million estimate is the State's current, actual annual operating costs. We expect this level of expenditure to continue until the increased tax revenues have had time to accumulate, and the State has had time to bid and award contracts, secure necessary easements and permits, design and construct needed treatment facilities, and begin treatment. It is not reasonable to assume that full treatment will begin immediately on all backlogged sites requiring treatment. We recognize that the current estimate of treatment costs is based on very limited data and a formula for estimating costs. WVDEP needs to collect data showing seasonal variation at sites requiring water treatment, and it must increase staff or hire contractors for site-specific designs of those treatment systems. Although WVDEP has an obligation under CSR 38–2–12.4.c. to begin reclamation within 180 days after bond forfeiture, that has not happened in all instances. However, we believe that the revisions to the State's ABS that we approved on December 28, 2001, will allow the State to eliminate that deficit and to begin treating pollutional discharges at all bond forfeiture sites. If changes in the tax rate are necessary to assure

elimination of the deficit, the revised ABS provides for the Advisory Council to recognize that need and to make appropriate recommendations to the Legislature and the Governor concerning needed adjustments to the special reclamation tax rate.

3. Methods Used to Estimate Water Treatment Costs

a. Cost Estimate of Reclaiming Bond Forfeiture Sites With AMD

WVHC stated that WVDEP has grossly underestimated the costs of reclaiming bond forfeiture sites with AMD. WVHC also stated that WVDEP used a methodology that its own consultant criticized as inaccurate.

WV Coal Association stated that we overestimated the capital operating costs for water treatment at bond forfeiture sites. For example, WV Coal Association stated, sediment ponds and needed roads would likely already be in place at sites where proper inspection and enforcement had mandated adherence to the mining permit. In addition, WV Coal Association stated that we over estimated the costs associated with powering water treatment systems. The majority of water treatment devices in use in West Virginia, the WV Coal Association asserted, are powered by the natural flow of water (similar to a water wheel) and require no electrical power source.

WV Coal Association argues that annual treatment costs will be reduced for two other reasons. The first reason is that "the material that would likely lead to AMD as water leaches through the mining spoil is [typically] encapsulated on the bench area of the mine and isolated from water sources." The second is that "WVDEP will rarely issue a permit where the generation of AMD is anticipated."

In response, we acknowledge the difficulty of obtaining accurate reclamation cost estimates. Program liability cost estimates, derived from current WVDEP inventory data, are at best gross estimates that may either underestimate or overestimate the actual program liability costs. A number of factors, such as costing methodology and water quality data limitations, influence the accuracy of cost projections. Water quality data used with the inventory was obtained from the WVDEP bond forfeiture water quality database that includes analytical data from water samples collected by WVDEP staff and consultants. Water quality data can be negatively affected by insufficient samples to characterize the discharge, lack of seasonal variation data, adequacy of sampling protocol and accuracy of flow measurements, etc. However, we believe that WVDEP's inventory data will improve significantly over time as WVDEP gains new knowledge and experience and as it identifies the costs associated with planning, developing, installing, and treating bond forfeiture sites with AMD.

b. Methodology for Determining Loadings

WVHC stated that WVDEP's method of cumulating AMD loadings is incorrect. Quoting from OSM's December 2000 draft "Appalachian Region AMD Inventory," WVHC stated that "[a]cid loading is a function of the volume of flow from the discharge times the amount of pollutants contained in the discharge." WVHC also stated that WVDEP assumes that treatment cost is a simple function of cumulating the product of flow times concentration across all sites, and calculating cost as a function of the total loading. However, WVHC asserted, WVDEP's own consultant has stated that because many sites use a variety or combination of chemicals depending on flow volume or quality, temperature, availability, or a host of other factors, loads and flow cannot be summed, and the entire matrix must be viewed as non-cumulative.

In response, we acknowledge that each site requires its own analysis. We believe both WVDEP's and our analyses are simply methods to obtain rough cost estimates for overall planning purposes. Further refinement of actual treatment costs will take time and more site-specific data than is currently available. WVDEP must continually update its data and collect this kind of information.

c. Flow Data

WVHC stated that WVDEP's flow data is incorrect. WVHC stated that WVDEP's flow data is based on single sampling events during the driest month of a record drought year. WVHC stated that at a minimum, the data should be adjusted to account for the variability of flow, and the potential for higher flows in wetter years, and therefore, higher treatment costs must be considered.

WVHC stated that WVDEP based its analysis of flow data on the 1998 AMD inventory report. Chart No. 1 in that report, WVHC stated, contains flow data for each of the 112 bond forfeiture sites, but does not total the flow of those sites. The total flow of 6,251 gallons per minute (gpm) can be calculated by simply adding the flows of the individual sites listed in Chart No. 1, WVHC stated.

WVHC stated that in contrast to the 1998 data, two other WVDEP and OSM calculations show much higher flows. WVHC asserted that as a result, WVDEP's total annual cost of water treatment at these sites is greatly underestimated.

WOPEC addressed WVHC's claim that treatment costs were seriously understated by underestimating flow. WOPEC acknowledged that, "As illustrated in the July 2, 2002 update, there were problems with flow and quality, but these problems overstated estimated costs rather than understating these costs." WOPEC emphasized that any program as complex as estimating treatment liabilities will encounter details that have to be added, eliminated, or modified as the program is implemented and associated problems are identified.

The WVHC comment inappropriately compares flow data from active mines on the 1998 AMD inventory with flow data from 112 bond forfeiture sites. However, the commenter has accurately identified an initial difference of 2,501 gallons per minute between WVDEP's and our representation of total flow rates for bond forfeiture sites. We are continuing to work with WVDEP on the inventory of bond forfeiture sites with AMD. Further evaluations identified errors in the inventories resulting in flow rate adjustments by both agencies.

We have always recognized that program liability costs, derived from the inventory data, are at best a gross estimate that may either underestimate or overestimate the actual program liability cost. There are a number of factors influencing the "absolute" accuracy of these cost projections, primarily the costing methodology and water quality data limitations (insufficient samples to characterize the discharge, lack of seasonal variation data, adequacy of sampling protocol and accuracy of flow measurements, etc.). Consequently, we may not know the exact costs until treatment systems have been installed at each site and actual construction and operating cost data are collected and analyzed. WVDEP's revised ABS includes provisions for adjustment in the event reclamation costs are either underestimated or overestimated. The State's ABS now includes an Advisory Council that is charged with ensuring the effective, efficient, and long-term financial stability of the special reclamation program and requires an actuarial review every four years.

d. Current WVDEP Chemical Treatment Costs

WVHC stated that WVDEP underestimated its own chemical treatment costs at five sites where WVDEP is responsible for chemical treatment by about $1 million. WVHC stated that WVDEP listed its total cost for five sites (DLM, F&M, Omega, Royal Scot, and T&T Fuels) as $1,540,000. The individual cost figures for each site differ greatly from WVDEP's other recent cost estimates for the same sites. For example, WVHC noted that the June 2000 WVDEP Fund balance sheet showed a total of $2.47 million, and August 8, 2000, WVDEP Fund Water Quality Efforts and Plans showed a total of $2.65 million for these five sites. Since annual operating costs are the major factor driving long-term costs, WVHC stated, the result is a huge underestimation of liability. WVHC also stated that other WVDEP information indicates that the State seriously underestimated the assumed water treatment costs for the T&T Fuels site.

WV Coal Association responded by stating that WVHC is incorrect in its assertion that the current cost estimates for treating AMD at the sites discussed above is $1 million per year less than other recent estimates. The lower number, WV Coal Association maintains, does not represent an estimate but is WVDEP's actual costs. Further, WV Coal Association notes that the F&M site is funded by a private trust with $3.8 million in assets.

We disagree with the comment that WVDEP has underestimated its water treatment costs at the five sites referred in the comment. WVDEP maintains expense records for all bond forfeiture sites where chemical treatment is conducted. WVDEP's most current annual treatment costs for those sites are $1,540,000. Although WVDEP included water treatment costs for F&M at $200,000, those costs are actually being reimbursed through a trust fund administered by a local watershed group and consequently, upon reimbursement, do not represent a liability to the Fund. The current water treatment costs at the T&T Fuels site are $400,000. We believe that some of the costs identified by the commenter include both operating and capital construction costs for the bond forfeiture sites mentioned above.

e. Water Treatment Costs at Active Permits

WVHC stated that OSM and WVDEP have underestimated actual treatment costs at active mine sites with AMD. WVHC asserted that OSM and WVDEP state that actual treatment costs at active mine sites with AMD are no more than about $25 million. In contrast, WVHC asserted, WVDEP's own consultant has stated:

> Using historic State expenditures as a standard, industry spends at least $30 million per year neutralizing acidity in West Virginia. Capital-intensive, high-volume plants designed to deal with large alkaline flows laden with iron and difficult manganese sites suggest the total bill to industry exceeds $60 million.

WVHC asserted that WVDEP chose to use a simplified model for estimating treatment costs at active sites rather than obtaining all current actual costs from industry. As a result, WVHC asserted, OSM and WVDEP have ignored available or obtainable data and instead used a methodology that likely underestimates actual costs. WVHC further asserted that to the extent that WVDEP's consultant, WOPEC, used actual cost data from some industry sites, WVDEP did not verify that data and does not know where it came from or how it was obtained.

WOPEC responded to these assertions. WOPEC stated that actual cost data was used in estimating annual treatment costs and that, based on its experience, this data was quite reliable. In its December 17, 2001, report, WOPEC stated that in developing a general methodology, WVDEP obtained actual treatment costs from numerous coal companies that covered 95 individual treatment sites. This was then supplemented with actual costs from 22 treatment sites currently operated by the WVDEP. The costs for these sites were then used to determine the annual cost per ton of loading for acidity, iron, and manganese. WOPEC also noted that, as seen in the December 17, 2001, report, actual costs were utilized in projecting annual estimated treatment costs. WOPEC stated that OSM did not utilize loading and actual operator treatment costs to produce its annual estimated costs, but instead utilized a modified version of the Tetra Tech methodology, which produced nearly the same estimated annual treatment costs as the WVDEP estimate.

WVDEP and OSM independently conducted treatment cost calculations for active mines and arrived at cost estimates of $25,600,000 and $24,990,761, respectively. Although we relied on a computer program to run estimated costs, WVDEP hired a consultant, WOPEC, to assist in developing its estimated annual treatment costs. The consultant used actual treatment costs supplied by the coal industry, as well other State treatment costs to develop a method to calculate costs. These costing methodologies are explained in Appendix I of the Report. Both models are conservative. That is, both models probably provide higher projected cost estimates than necessary, because sites are included in the inventory that will not actually require long-term water treatment after land reclamation is completed. Also, the estimates include a significant cost component for pumped discharges that are associated with active mines that are likely to have smaller discharges after mining. Both WVDEP's and our costs were limited to annual treatment and did not include capital construction costs. It is not clear, however, whether the $30—$60 million cost range that WVHC referred to is adequately supported by data, and it is not clear whether these costs are for treatment only or are intended to include both capital construction and operating costs. Therefore, we find that there is insufficient justification for use of WVHC's $30—$60 million estimate in place of the cost estimates that both we and WVDEP developed.

f. Costs of Treating to Effluent Standards

WVHC asserted that WVDEP understated water treatment costs by including costs at sites that are violating required effluent standards. WVHC stated that WVDEP's analysis is based on the assumption that existing sites that are treating AMD are complying with required effluent standards under the Clean Water Act. WVHC stated that, in an October 2001, slide presentation produced by OSM in response to the WVHC's document requests in the pending citizen suit, OSM stated that it downloaded records of effluent violations at bond forfeiture sites from WVDEP's Environmental Resources Information System (ERIS) database. From these records, WVHC stated, OSM determined that 46 sites were producing AMD that was causing violations of effluent limits under the Clean Water Act. WVHC stated that those permits with violations include T&T Fuels and Royal Scot Minerals, which are two of the sites where WVDEP is responsible for chemical treatment. Yet, WVHC asserted, WVDEP has based its treatment costs at those sites on existing treatment levels, not on the costs needed to comply with required effluent limits. WVHC stated that WVDEP's proposal is therefore inadequate because it fails to take account of the cost of treating acid mine drainage to Clean Water Act effluent standards.

In response, we acknowledge that treatment costs may go up for any sites not meeting Clean Water Act standards. We have not completed detailed analyses of the sites to determine if these exceptions are caused by site or technological limitations that would have a significant bearing on costs. Again, we were only doing a model analysis to obtain gross cost estimates for the entire universe of pollutional discharges at bond forfeiture sites. The State will continue to refine these data, to fully account for the costs of treating AMD to Clean Water Act effluent standards.

g. Passive Water Treatment Costs

WVHC stated that WVDEP improperly limited treatment costs to the costs of passive treatment. WVHC stated that to be effective on a long-term and permanent basis, treatment costs must consider the cost of constructing treatment facilities and using chemical treatment for such discharges.

WOPEC responded to WVHC's assertion that treatment costs were limited to the costs of passive treatment systems by stating that the assertion was absolutely false and that:

> absolutely no passive treatment methods or costs [were] used whatsoever in my projection of estimated annual treatment costs for the Active Permits or the Bond Forfeiture permits. All cost data was derived from active type treatment systems utilizing some form of chemical treatment.

We have no evidence that would lead us to conclude that WVDEP limited its treatment costs to the costs of passive treatment systems. However, passive systems may be used if sufficient funds are provided for their continued maintenance and replacement as long as treatment is necessary on bond forfeiture sites.

h. Removal of Sites From AMD Inventory

WVHC stated that OSM and WVDEP improperly deleted active sites from its AMD inventory.

We disagree. The commenter provides no basis for this allegation. We only deleted a site from the active inventory if it was found to have no pollutional discharges, or it was moved to the bond forfeiture inventory if the permit was revoked. The OSM/WVDEP inventory effort began by including all permanent program bond forfeiture permits listed in the WVDEP Bond Forfeiture Permits Database that were shown to have "yes" in the AMD field of that database. That review identified 219 permits with AMD from a total of 1,695 bond forfeited permanent program, interim program and pre-law coal mining permits. After several months of discussions and permit file and field reviews, WVDEP and OSM agreed to a revised listing of permits to be included on the AMD inventory. Questionable sites were retained on the inventory. This was to ensure that such sites would not be eliminated from the inventory if they could eventually become a future AMD liability to the Fund. The water quality consideration used to determine retention on the inventory was based on the required effluent limitation standards for the site when it was active. This inventory effort actually increased the total number of permits from the listing that WVDEP had previously identified as bond forfeiture sites requiring treatment.

WVDEP has since prioritized the inventory and designated many of the questionable permits as insignificant discharges not requiring treatment. We entered into a work plan agreement with WVDEP to evaluate, during 2002, all those permits (26) to determine if WVDEP's designation is correct and whether or not the permits should be retained on the inventory. The 2002 work plan also includes an analysis of the remaining permanent program permits included in the bond forfeiture permits database (1,695 permits) that show a "No" or were left blank in the AMD field of the database. We believe that our overall approach in developing the inventory is very reasonable and complete, and we did not eliminate permits from the inventory with disregard for future liability as portrayed by the commenter.

WVHC stated that in October 2001, OSM and WVDEP signed a "Detailed Oversight Evaluation Work Plan" for Evaluation Year 2001, which states:

> While developing OSM's Regional AMD Inventory with WVDEP, 112 sites were removed from WVDEP's 1998 Active Mine Drainage Inventory due to insufficient water quantity or quality information.

Thus, WVHC stated, OSM and WVDEP failed to analyze these 112 sites and assumed that they pose no risk of future AMD liability. A more realistic assumption, WVHC stated, is that these sites will produce AMD and become a Fund liability at the same historical rate as other sites.

In response, we note that the 112 sites or records (80 permits) that were removed from the 1998 Active Mine Drainage Inventory were removed only after appropriate consideration. Nine of the 80 permits had been revoked and are now the responsibility of the Special Reclamation Program. Forty-nine permits had received a Federal inspection with no indication of water quality problems. The violation history for each of the remaining 22 permits was checked to determine whether effluent limitation violations had ever been issued. Seven permits were identified as having past effluent limitation violations. Those seven permits are part of our oversight for 2002 and will be evaluated in the field this year.

WVHC stated that the "Detailed Oversight Evaluation Work Plan" for Evaluation Year 2001 also states:

> Of the 918 permanent program permits that had been forfeited when this effort started, OSM and WVDEP focused on 219 permits where the WVDEP had recorded in its "permits" database that at one time produced AMD. OSM and WVDEP reached consensus that 148 of the 219 permits should continue to appear on an AMD inventory. For the remaining 699 permanent program permits, OSM proposes to conduct a spot check to achieve a level of confidence that none of the 699 permits generate AMD.

Thus, WVHC stated, OSM and WVDEP excluded these permits from its analysis and assumed that these permits would not become a future liability to the Fund. WVHC stated that according to a draft OSM memorandum, WVDEP also refused to assist OSM in validating or refining the AMD bond forfeiture inventory for any permit where the Special Reclamation Program database showed that land reclamation had been completed.

We disagree with the commenter's assertion that we improperly assumed that none of these permits would produce AMD and become a Fund liability and, therefore, should have included them in the analysis. We found in our analysis of the WVDEP Bond Forfeiture Permit and Water Quality databases that WVDEP has been conducting an aggressive water sampling program at bond forfeiture sites since 1990. Despite statements in the draft OSM memorandum, the State has recently been working with OSM on gathering data for any bond forfeiture site with a pollutional discharge. The WVDEP has devoted an exceptional amount of time and effort to sampling water at permits with bond forfeiture (including interim permits). The extensive water quality work that WVDEP has performed at these sites provided us confidence that the WVDEP had accurately identified the majority, if not all, permanent program bond forfeiture permits with AMD. However, due to our oversight responsibilities, we propose to spot check the remaining 699 permits. Given our experience to date, we do not anticipate finding any discrepancies during this review that would alter WVDEP's original analysis.

WVHC also stated that the Oversight Plan also states:

> During the cooperative development of the Bond Forfeiture AMD Inventory in 2000/2001, WVDEP identified 54 permits where

the reclamation liability analysis, including water quality, had not been completed, but AMD was a concern. The WVDEP agreed that all 54 sites should be included on the Bond Forfeiture AMD Inventory and site-specific information be collected by WVDEP and provided for the Inventory. That information was not available for 11 of the 54 permits at the end of the Inventory effort.

WVHC stated that OSM and WVDEP excluded those 11 permits from the analysis because of the optimistic assumption that they would not become a liability to the Fund. According to the commenter, a more realistic assumption is that these sites will become liabilities to the Fund at the same historical rate as other sites.

The 11 permits were not excluded from the cost calculations. A default cost was initially used pending updated water quality information from WVDEP, which will allow for the estimation of site-specific water treatment costs.

i. OSM's Consultant's (Tetra Tech) Analysis

WVHC stated that, in its August 24, 2000 "Final Report on the Contingency Costs of Long-Term Treatment of Mine Drainage," OSM's consultant, Tetra Tech, calculated that the long-term costs of treatment of AMD at forfeited mine sites in West Virginia would be $2,643,099,976 after fifty years. In contrast, WVHC stated, WVDEP calculates that its annual liability for AMD treatment will be less than $10 million per year after twenty years. After fifty years, the cumulative liability based on this annual rate would be less than $500,000,000. WVHC stated that this is less than one-fifth of the Tetra Tech figure. WVHC asserted that WVDEP and OSM have failed to reconcile WVDEP's analysis with Tetra Tech's analysis.

WOPEC responded to the comment that WVDEP and OSM have failed to reconcile WVDEP's analysis with Tetra Tech's analysis by pointing out that Tetra Tech relied upon the methodology used to estimate treatment costs for Superfund sites. According to the commenter, that methodology does not translate well to treatment of pollutional discharges from coal mines.

We disagree with the commenter's assertion that we failed to reconcile WVDEP's analysis with Tetra Tech's analysis. There is nothing to reconcile, because the Tetra Tech analysis was not intended to produce a valid cost for water treatment. In its August 4, 2000, "Final Report on the Contingency Cost of Long-Term Treatment of Mine Drainage," Tetra Tech states that its calculations were "illustrative of the use of a methodology," but cautioned that "they did not reflect final determinations of unfunded costs." In other words, Tetra Tech was demonstrating how to use its methodology, but it was using hypothetical data to do so. The Tetra Tech report advises OSM not to use the examples contained within the report as cost projections for AMD treatment. The Tetra Tech report in question was done prior to the completion of the OSM inventory that shows that costs for all active sites do not exceed $25 million per year, and only a portion of those sites are likely to be forfeited in the future. The report used examples of treatment costs that do not reflect current estimates.

4. Future Land Reclamation Costs

a. Actual Land Reclamation Cost Estimate

WVHC stated that OSM and WVDEP grossly underestimated West Virginia's unfunded liabilities for land reclamation at bond forfeiture sites. WVHC stated that WVDEP's estimated $27.9 million liability for land reclamation works out to only $2,558 per acre, based on 304 permits that contain 10,902 disturbed acres. WVHC stated that WVDEP's current land reclamation costs are $5,400 per acre for poor reclamation. The commenter stated that WVDEP's reclamation costs on forfeiture sites were $2,820 per acre in 1994—the lowest per acre cost in the history of the program, and in the twelve months ending June 30, 1995 were $4,214 per acre statewide.

In contrast, the WV Coal Association stated that several of the land reclamation estimates appear excessive. On some sites, the WV Coal Association asserted, land reclamation has been completed with final regrading and revegetation work in place. WV Coal Association also stated that we failed to account for the sites where remining operations will eliminate environmental liabilities altogether, and at no cost to the Fund. WV Coal Association pointed out that a recent rulemaking by the U.S. Environmental Protection Agency extends incentives to remine sites to operations extracting coal from sites forfeited since 1977. WV Coal Association stated that many of the permits listed on the Fund inventory were revoked and bond forfeited for minor infractions such as failure to renew or failure to maintain proper insurance. The commenter also stated that most recent WVDEP reclamation costs are from large sites and, therefore, are not representative of all sites.

We believe that, at the time of our analysis, the estimated land reclamation liabilities listed in the analysis represented the best estimate available of the expenditure necessary to complete reclamation of those sites. We recognize that the source of that information is not without deficiencies. However, because it is the best information available, we have used it in evaluating the entire system. Individual discrepancies would not alter the findings that we made concerning the State's amendment. The Advisory Council will consider the reliability of that data in developing its recommendations.

The existing land reclamation liabilities of the Fund are estimated to be $27.9 million. At the time of our analysis, Fund data indicate that $13.5 million dollars had already been spent at 83 of the 304 sites. Although we cannot state exactly what has been expended, we know that the total amount that the Fund has or expects to expend on these sites is approximately $41.4 million. If that were applied to the disturbed acres, the per acre figure becomes approximately $3,800 ($27.9 million + $13.5 million divided by 10,901 acres) rather than $2,558.

Not all of the 10,901 acres listed as disturbed acres require backfilling and grading, which is the most expensive component of land reclamation. In fact, we are aware that in some cases the disturbed acreage figure is a carryover from the inspection and enforcement estimate of the portion of the permit that had been disturbed without reduction for any reclamation completed by the operator. The WVDEP does not necessarily revise the disturbed acreage data until it is ready to contract the site for reclamation and have an accurate measurement. Therefore, dividing the total liability amount by the disturbed acreage figure does not provide an accurate cost per acre cost estimate.

All of these projections are estimates. The revised ABS includes periodic review by the multi-interest Advisory Council, which will have the benefit of determinations provided by a professional actuary, to evaluate the need for future adjustments to the Fund. The WVDEP has spent considerable effort to redesign the data management system that it is using for the Fund and that effort should result in a system that will provide accurate, conclusive information that can be used for analysis and management decisions.

WV Coal Association stated that recently implemented changes to West Virginia's mining program will reduce the liability associated with a bond forfeiture site. For example, new regulations associated with excess spoil minimization, approximate original contour (AOC) restoration, and contemporaneous reclamation will reduce the amount of disturbance. In addition, WV Coal Association stated, a properly maintained inspection and enforcement program should not only reduce the liability of a given site, but should prevent bond forfeiture totally. WV Coal Association asserted that, at any given time during the life of the mining operation, only one-third of the permit should be disturbed, thus effectively increasing the amount of bond available in the event of forfeiture by three times the original amount.

In response, we agree with WV Coal Association's comment that a properly implemented inspection and enforcement program and close adherence with the State's excess spoil, AOC, and contemporaneous reclamation rules should reduce the amount of unreclaimed disturbed area and, therefore, the potential reclamation costs in the event of bond forfeiture (although it will not prevent bond forfeiture, contrary to the commenter's allegations). However, the WV Coal Association failed to mention that only mountaintop removal mining operations are subject to the requirement that only one-third of the permit area be disturbed at any given time. Furthermore, there are other provisions within the State's rules that, under certain circumstances, would allow for the approval of larger disturbances involving mountaintop removal and multiple seam mining operations. Therefore, while relevant, we do not believe that these observations warrant special consideration in the analysis of the West Virginia ABS.

If reclamation costs are lower, the Advisory Council has the authority to recommend appropriate Fund adjustments to the Legislature and the Governor. We agree that the ideal program that all States should strive to achieve would be one that prevents the occurrence of bond forfeitures. Unfortunately, we do not believe that the total elimination of future bond forfeitures is a realistic expectation, and we must plan accordingly.

WV Coal Association stated that several of the permits listed in the forfeiture inventory also appear to qualify for AML funds and should be removed from the Fund inventory.

We do not believe that there are any AML eligible sites requiring reclamation under the Fund. However, if there are any, WVDEP should identify those sites and, based on its approved program, determine if they should be removed from the inventory.

b. Cost of Reclamation at Four Sites

WVHC stated that WVDEP's reclamation costs at three sites ($2.3 million at the Omega site, an additional $2.9 million at the T&T site, and $25 million at the Royal Scot site) exceed the WVDEP's $27.9 million estimate for all land reclamation. These three sites combined, therefore, exceed $27.9 million by themselves, without considering any of the other 110 bond forfeiture sites on the list.

WVHC further stated that a State official testified that this has not fixed the problems at the Royal Scot site. Fixing the problems at Royal Scot would cost either (1) $25 million in one-time capital costs for a complete fix; or (2) $6.5 million in capital costs for land reclamation and $30,000 to $40,000 per month in perpetual operating costs for water treatment. This translates to $360,000 to $480,000 per year, much higher than the $250,000 WVDEP assumed. Furthermore, the $25 million in capital costs for this one site alone approaches the total estimated costs for all existing bond forfeiture sites in the state, which WVDEP estimated at $27.89 million. In the WVDEP's spreadsheet, the total land reclamation liability for all Royal Scot sites amounts to only $6,222,631.

Additionally, WVHC stated, WVDEP has estimated that the cost of land reclamation for a small mountaintop removal mine that recently forfeited its bond (Quintain) will be more than $15,000.00 per acre. Because the Quintain mine was permitted before the requirements of the *Bragg* consent decree went into effect, the $15,000 per acre reclamation costs are significantly lower for that mine than such costs will be post-*Bragg*. WVHC stated that WVDEP's land reclamation estimate is therefore far too low, even before the more expensive reclamation requirements resulting from *Bragg* are included in the cost calculations.

The liability figures discussed in this comment point out the difficulties encountered when parties try to quantify the liabilities of the Fund. The $2.3 million reclamation liability for the Omega site and the $2.9 million for the T&T site noted in the comment are not the remaining land reclamation liabilities. All land reclamation at the Omega site has been completed. The land reclamation liability for the T&T site is $105,000 and $6.2 million for the Royal Scot sites.

WV Coal Association noted what it believes are discrepancies between WVHC statements on cost estimates and those of a State official's testimony.

We believe that these differences of opinion serve to emphasize the importance of WVDEP's current efforts to improve the quantity and quality of its Fund inventory data. The Quintain forfeiture site was included in the inventory. However, our cost projections did not include a special analysis of mountaintop removal mining permit failures. Nor have we conducted a study of the effects of the permitting requirements related to the consent decree resulting from the Bragg litigation on the expected costs to complete reclamation in the event of bond forfeiture. While it is logical that the reclamation costs to an operator of a mine operating under those criteria would be increased, the cost to the Fund to complete reclamation of such a site in the event of bond forfeiture might not be as significantly impacted due to constraints such as limits on extent of disturbed area and spoil placement. Furthermore, the post-Bragg standards would only apply to those mine sites that were permitted under the new requirements or modified and forfeited after they went into effect. As we stated above, we believe that West Virginia has put in place an ABS, including increased special reclamation tax rates, the Advisory Council, and the recurring actuarial determinations, that will provide the State with the means to fully evaluate and manage the Fund, its current reclamation obligations, and estimates of future bond forfeiture rates and reclamation cost obligations, so that the State can fully meet those demands.

c. $3.9 Million Land Reclamation Cost Estimate

WVHC stated that the "Last 3 Yr. Average net land liability" figure of $3.9 million was based on the difference between the bond amounts for forfeited sites during the last three years (1998–2000), and the estimated land reclamation liability for those sites. This figure represents the liability for future land reclamation at active sites that forfeit their bonds in the future. In calculating this figure, WVHC stated, the State official "didn't project any cost for active permits for land reclamation," and "didn't consider [the possible] bankruptcy of any company." Morgan Consultants also provides a detailed review of specific companies as further indications of the risk of failure.

Morgan Consultants stated that WVDEP has provided no analysis or justification for the use of the $3.9 million value. Morgan Consultants stated that nowhere in the supporting data or in the OSM review is there any calculation of the liability associated with the existing permits in West

Virginia. Therefore, WVDEP can make no informed representation of the current reclamation liability.

Morgan Consultants stated that the use of the $3.9 million value for annual reclamation costs is totally inadequate and not supported by WVDEP's own data "as the current reclamation liability for land reclamation consists of about $27.9 million." According to the commenter, "the accrual of such a significant historic liability is clear evidence that WVDEP does not initiate reclamation efforts to reclaim the site in accordance with the reclamation plan within the required 180 day period." The commenter also claimed that the inadequacy of the $3.9 million estimate is further evidenced by comparison to WVDEP's own estimate of the liability associated with the reclamation of the 46 permits revoked in 2000. WVDEP estimated reclamation costs for those sites at $6.21 million.

We agree that WVDEP did not provide a detailed analysis in support of the estimated $3.9 million shortfall for land reclamation. WVDEP advised that it arrived at this amount by using the estimated liability for bond forfeiture sites during calendar years 1998, 1999, and 2000, that were on the listing of land liability sites and adding 10 percent for inflation. We found this estimate to be reasonable based on an earlier OSM/WVDEP study. The June 1999 joint OSM/WVDEP Phase II Report of the West Virginia ABS had a similar table for a five-year period coinciding with State fiscal years beginning in July 1992. The shortfalls for those years were $4.7 million, $6.6 million, $6.1 million, $2.3 million and $1.7 million with an average shortfall of $4.3 million. Therefore, we believe the State's estimated $3.9 million shortfall is reasonable because it doesn't vary significantly from our estimate of $4.3 million.

The "Last 3 Yr. Average net land liability" is the difference between the amount of the bond and the accrued liability for the permits revoked during a one-year period based on an average of the last three years. Such a projection uses historical data for both the forfeiture rate that would add bond forfeiture revenues to the Fund and for the liability or amount of money that must be expended from the Fund to complete the reclamation of the sites. The difference between these is the revenue shortfall that must come from a source other than the forfeited bonds. The cost of reclaiming active mines and bankruptcies are all considered based on the historical record of bond forfeiture rates and reclamation costs. We believe that the historical bond forfeiture rate on an annual basis is a good reference for projecting future forfeiture rates and, consequently, liabilities.

d. Historical Costs Used for Estimates

Morgan Consultants stated that the information provided by the WVDEP does not provide any data of permit defaults and bond forfeiture data by year for the last ten years, even though this information is critical for the definition of the historic trends.

We agree that WVDEP did not provide the data suggested by the commenter. However, State data show that the following number of bonds were forfeited from 1996 through 2001: 1996—52, 1997—35, 1998—31, 1999—26, 2000–61, and 2001—38. The Phase II Report mentioned above also has a summary showing the number of bond forfeitures that covered the five-year period from July 1992 through June 1997. The number of bonds forfeited during those State fiscal years were: 1992 to 1993 = 94; 1993 to 1994 = 94; 1994 to 1995 = 122; 1995–1996 = 60; and 1996 to 1997 = 53. Although the exact data mentioned is not available, there is historical data available with regard to the number of sites and revenues needed.

Morgan Consultants stated that review of data supporting the WVDEP ABS does not indicate any analysis of the average disturbed area per permit for those permits placed in bond forfeiture per year for each of the last 10 years. WVHC stated that WVDEP does not provide any analysis of size of the current permits. Without these data, WVHC asserts, there is no means to evaluate the applicability of the historic reclamation costs to define the future liability. WVHC stated that WVDEP did not include any analysis of the permit area when developing its proposal.

We have found that the WVDEP did not have the data checks in place to ensure consistency of data entry and therefore we have not attempted to make projections using certain data fields such as the disturbed area. In some cases, the disturbed area is from inspection and enforcement data showing the portion of the permit area that has been disturbed without any reductions for reclaimed areas. Generally, after a contract has been let for reclamation work, the disturbed area is revised to reflect the actual disturbed area to be reclaimed under the contract. We determined that from 1993 through 2000 the average acreage for revoked permits ranged from 22 acres in evaluation year 1998 to 103 acres in evaluation year 1999. Currently, the average number of acres per permit is 119 acres, as reported in Table 2 of the 2001 West Virginia Annual Evaluation Report.

e. Reclamation Costs at Large Mountaintop Removal Mines

Morgan Consultants stated that the bond forfeiture data, relied upon by WVDEP to calculate their $3.9 million per annum land reclamation liability, does not include many large sites, as the average disturbed acreage of current permits in bond forfeiture is 35.8 acres. However, one recently forfeited (January 2000) permit the Quintain operation (Permit # S–5033-96), has a disturbed acreage of 255 acres and a reclamation cost of $15,439 per acre, as estimated by WVDEP. The total estimated reclamation cost of $3.94 million for that permit alone exceeds the proposed annual land reclamation of $3.9 million.

We previously explained the origin of the $3.9 million per year revenue shortfall estimate. Also, the year 2000 was significantly higher both in the number of sites and the amount of reclamation liability that the Fund was obliged to assume. Previous time periods have also had spikes, but when averaged over multiple tear periods, the forfeiture rate has been relatively constant. The Advisory Council is charged with reviewing the financial soundness of the Fund on a routine basis and this process can provide for adjustments as needed to ensure the continued fiscal soundness of the Fund.

WVHC stated that WVDEP failed to calculate the cost of reclaiming a large mountaintop removal mine if the operator forfeited at the time when reclamation costs are at their greatest. WVHC stated that WVDEP has failed to consider the amount of disturbed acreage for past forfeited permits, or the increasing size of disturbed areas for current permits. WVHC asserted that, therefore, WVDEP has no basis for extrapolating from historic to future costs of land reclamation, and has likely understated the costs. Morgan Consultants stated that an indication of the inapplicability of the reclamation costs from historic sites in predicting future costs is the difference in size of the current forfeited permits when compared to the historic sites. Morgan Consultants stated that the average disturbed acreage for all current forfeited permits is only 35.8 acres. This is dramatically less than the potential disturbed area on a large surface mine such as Spruce or Alex Energy.

WV Coal Association stated that, because Spruce and Alex Energy are exceptionally large, Morgan is incorrect in his assumption that Spruce and Alex Energy are indicative of the majority of permits sought by mining companies and approved by WVDEP. Also, WV Coal Association stated, because of a 250-acre threshold on proposed mining sites, implemented by the U.S. Army Corps of Engineers as a result of a settlement agreement, most proposed permits are designed to fall within the 250-acre threshold, thereby limiting the size of the mining project.

We believe that historic data for forfeitures and reclamation costs is the best and most reliable information available for projecting future forfeitures and reclamation costs. Because the ABS statutory provisions require the Advisory Council to continue monitoring forfeiture and reclamation cost data, changes can be made in the ABS as necessary to respond to changing conditions. We believe that this feature will allow the ABS to adapt to changes in a more timely manner and consequently is a better method for managing a dynamic program, such as the Special Reclamation Program.

Morgan Consultants stated that any review of reclamation liability associated with the permit size should separate the surface mine operations from the analysis of underground mines or mine support facilities as the liabilities have totally different characteristics. WVHC stated that WVDEP's analysis did not evaluate the different mining types separately.

We have not categorized permits by size or type. Instead, we looked at the ABS as one system and based our evaluation on the whole unit not the component parts. If the State's site-specific bonding rates were being changed, then we would agree that the different types and sizes of operations should be segregated and considered separately. However, we do not believe that this separation is necessary at this time.

WVHC stated that if Arch, Massey, or AEI were to fail, the cost of reclaiming its sites would be tens or hundreds of millions of dollars. WVHC stated that Morgan Consultants estimates that the failure of a moderately large surface mine (4 million tons per year) at an inopportune time would cost 30 million dollars to reclaim just to achieve rough regrade. A huge mine like the proposed Spruce Mine with a large contemporaneous reclamation variance would cost much more.

We agree that the land reclamation cost associated with the reclamation of a large mountaintop mine is not reflected by previous forfeitures. We believe that to manage these costs WVDEP must continue to vigorously enforce its contemporaneous reclamation requirements and continue to require site-specific bonds up to the $5,000 per acre limit to ensure reclamation. The increased bond amounts will help lessen the exposure of the Fund in the event of such a bond forfeiture. We agree that a risk analysis should be done to consider the potential impact that the failure of large mining operations would have on the State's ABS. These are some of the risk factors that the Advisory Council will have to consider when making recommendations to the Legislature and the Governor concerning the fiscal soundness of the Fund.

f. Potential Failure of Large Mining Companies

WVHC stated that WVDEP did not consider the potential failure of a large mining company like Arch Coal, Massey Energy, or AEI Resources. Such a failure is possible if bonding companies go bankrupt, coal prices decline, coal mined outside of Appalachia becomes less expensive in the market served by coal from Appalachia, or coal use declines as a result of environmental regulations. In its February 2001 draft report to WVDEP, "The Mountain State Clean Water Trust Fund," WVDEP's economic consultants at Marshall University stated that "it is possible over the next 25 years some firms in the Fund may fail." Fund Report, p. 7, Ex. 24. "This occurrence directly transfers the cost of water treatment from the private to the public sector." This report recognized that "the coal industry faces enormous risks," and therefore an insurance fund "is needed as a protection for the State's taxpayers."

Morgan Consultants stated that the consolidation of the mining industry would result in the default of a significant number of permits and a significantly higher liability than the failure of one company with one permit. Morgan Consultants stated that neither WVDEP or OSM has provided any data to define the consolidation of the industry, nor have they reflected such consolidation in the determination of potential default rates.

WVHC stated that by looking only at reclamation costs from past bond forfeitures, WVDEP has not calculated its potential liability from the failure of one of these large companies, since none of the companies that have failed in the past twenty years approaches the size of these companies. Consolidation in the mining industry makes such catastrophic failures far more likely than in the past.

We agree that these comments identify a potential problem, but they do not offer any suggestions for how it should be addressed. The ABS did see a spike of forfeited bonds during 2000 when the Royal Scot permits were revoked. Likewise, the annual revenue shortfall also reflects that spike for the year. The number of bond forfeiture sites has been on a downward trend, but deviations should be expected. As the coal industry has consolidated and only the larger, better capitalized companies have survived, fewer permits are being revoked. However, as the number of mining companies has decreased, we recognize that the failure of a larger company could have a significant impact on the Fund.

At the current time, past cost is the best information available for the evaluation and projection of bond forfeitures and the cost to complete reclamation. Although the failure of a large mining company could be a very significant event, we do not believe that the failure of such a company would necessarily result in the forfeiture of all permits held by that company. Many could be assumed by another operator, especially if the permitting enhancements currently underway have improved the accuracy of the hydrologic assessments and reclamation plans so that the likelihood of a long-term liability due to AMD is greatly reduced or eliminated. We also believe that the probability of such a failure is significantly less for the larger operations that plan to remain in the coal business for years to come than it is for smaller undercapitalized companies that have typically appeared on the bond forfeiture list. Further, as mentioned above, these are the potential risks that the Advisory Council will need to study. We believe that the Advisory Council, together with the actuary, will be able to respond as the need arises and recommend the adjustments necessary to keep the ABS on a sound financial basis. The Advisory Council is also tasked to study the development of alternative financial processes that ensure the long-term stability of the Fund. This study would include an analysis of the risks mentioned above, and may require adjustments in the funding mechanisms to ensure that such risks do not jeopardize the stability of the Fund.

g. Reclamation Costs at Mines With New Commercial Forestry PMLU

WVHC stated that WVDEP considered neither the cost of reclaiming sites to the standards required by the State's new Commercial Forestry and Forestry regulations nor the cost of deleting grasslands and fish and wildlife habitat from the list of uses approved for AOC variance mines. WVHC asserted that the new Commercial Forestry and Forestry

regulations will significantly increase the cost of reclamation after 2000. Therefore, WVHC asserted, WVDEP's plan fails to contain sufficient funds to accomplish post-2000 postmining land uses and reclamation costs.

Morgan Consultants stated that there are additional costs associated with the selective excavation, transport, and placement of soil replacement material. This could cause the cost per acre to significantly exceed WVDEP's estimate of $2558 per acre for land reclamation.

WV Coal Association stated that not every operating or proposed permit that could default has a postmining land use of commercial forestry. Therefore, these costs won't apply to all permits.

In response, we note that the impact of the commercial forestry rules has not been quantified for reclamation purposes in the event of bond forfeiture. Many factors impact reclamation costs including how much area has been allowed to be disturbed and unreclaimed, how much overburden must actually be moved and how far, and regrading and establishing an acceptable vegetative cover compatible with achieving the approved postmining land use. We believe that with the increased bond amounts and the mechanism for future adjustments in revenues, a positive balance in the Fund can be attained and maintained. The site-specific bonds for these sites, while not adequate to fully cover the cost of reclamation, will be significantly greater than previously required. Any increased costs will be partially offset by those increases. Furthermore, as WV Coal Association alludes, the commercial forestry postmining land use is only an option, and then only for mountaintop removal mining operations that obtain a variance from AOC. Not all mining operations will have to comply with these requirements. In addition, the legislation charges the Advisory Council with making recommendations to the Legislature and the Governor for any adjustments needed to keep the system functioning on a sound financial basis.

h. Reclamation Costs at Mines Required To Meet New AOC+ Policy

WVHC stated that WVDEP did not consider the costs of complying with WVDEP's June 5, 2000, final AOC guidance policy document, the so-called "AOC+ Policy." For the first time, WVHC asserted, the AOC+ Policy requires compliance with SMCRA's AOC requirements and with the Section 404(b)(1) guidelines promulgated by the U.S. Army Corps of Engineers under the Federal Clean Water Act. WVHC stated that compliance with these provisions will significantly increase the cost of land reclamation for both mountaintop removal and contour mines because of the significantly increased spoil handling costs associated with minimizing the size of fills. WVHC asserted that WVDEP's plan does not even mention these costs, and OSM did not consider these increased costs. Morgan Consultants stated that older permits have significantly less stringent reclamation requirements than are included in current permits.

In response, we note that the impact of the AOC+ guidelines on bond forfeiture reclamation costs has not been quantified. Many factors impact reclamation costs, including how much area has been disturbed and left unreclaimed and how much overburden must actually be moved. We believe that with the increased bond amounts and the mechanism for future adjustments in revenues, a positive balance in the Fund can be attained and maintained. In addition, the site-specific bonds for these sites, while not adequate to fully cover the cost of reclamation, will be significantly greater than previously required. Any increased reclamation costs will be partially offset by those increases. Furthermore, given the reduction in the number and size of excess spoil fills due to implementation of the State's AOC+ Policy and better contemporaneous reclamation, the cost of reclaiming larger mines may actually go down when compared to past mining practices. These are some of the factors that the Advisory Council will have to consider when making future recommendations regarding the Fund.

i. Costs of Reclaiming to Approved PMLU

WVHC stated that WVDEP failed to calculate the cost of completing the reclamation plan at forfeited sites, as Federal law requires. WVHC stated that historically, WVDEP has not required strict adherence to the reclamation plan for permits for which bond has been forfeited. As a result, WVHC asserted, WVDEP's calculations do not include all expenditures "sufficient to assure completion of the reclamation plan" as section 509(a) of SMCRA requires. Therefore, WVHC asserted, WVDEP's cost projections are incorrect because they are based on calculations that do not consider the full cost of reclaiming to the approved postmining land use. WV Coal Association stated that this comment is not consistent with a State official's testimony.

We agree that the approved State program provides that reclamation of bond forfeiture sites must be done in accordance with the approved reclamation plan and must provide for any necessary water treatment. In our evaluation of some bond forfeiture sites, we found that trees have not been planted when woodland was the designated postmining land use. In some cases, this may increase the costs of reclamation. However, in some other cases, we consider it an administrative process breakdown rather than a reclamation deficiency, because permit revision changes were made to the reclamation plan in consultation with the landowner, but without other public participation. A permittee may revise a permit if certain administrative processes are followed and the regulatory authority makes the requisite findings. Similarly, the regulatory authority may revise the reclamation plan of a revoked permit in accordance with proper administrative procedures, including opportunity for public involvement when required.

j. Costs of Reclaiming Active Sites Where All Coal Has Been Removed and AMD Discharges Remain

WVHC stated that WVDEP further failed to calculate the cost of reclaiming "active" mine sites that have not mined coal for many years and should be considered to be at a much higher risk of forfeiture than those mines where coal extraction (and an income stream) is continuing. WVHC stated that WVDEP has underestimated the future default rate by ignoring the impact of inactive operations.

WV Coal Association stated that "[E]xisting West Virginia regulations establish several criteria under which a permit can be granted inactive status. While market conditions is one such instance, for the commenter to claim that because the price of coal is high and three permits have not been reactivated that they are bound for forfeiture is assumption of the greatest proportions and one offered by Morgan to mislead OSM."

WVHC did not suggest how to consider the cost to reclaim "active" mine sites that have been idle for several years. If these sites are in compliance with the backfilling and regrading requirements they should not pose large liabilities for completion of land reclamation. In regard to the potential liability for AMD treatment, we believe, as discussed above, that the Fund will eliminate the deficit and retain a positive cash balance for several years based on historic data. A more thorough analysis will be necessary if the State is to make accurate cost estimates and long-term predictions regarding water treatment. This is one of the responsibilities that the Advisory Council is charged with under law.

5. Federal Counterpart to State Plan

WV Coal Association asserted that since the Plan [7-Up Plan] establishes a mechanism that has no equal in Federal law, and exceeds any program currently in place in any other primacy state, OSM has a duty to finalize the approval of the Plan that the agency first addressed in December 2001.

We disagree with this comment. The State's efforts to improve its ABS, including the development of the 7-Up Plan, specifically relate to the requirements at 30 CFR 800.11(e) concerning alternative bonding systems.

6. Submittal of Comments on the Amendment

WV Coal Association stated that WVHC's motion before a U.S. District Court seeking to have the second comment period declared illegal, make it improper for WVHC to submit comments during the second comment period.

We disagree that the WVHC has waived its right to comment by arguing that the comment period that we opened on December 28, 2001, was invalid. When we opened that comment period, we opened it to all interested persons to provide them additional time to consider all comments submitted to date and so they could submit additional comments on this very complex and important topic.

7. Alternative Methods To Assure Long-Term Reclamation

A commenter stated that history has shown that a per-ton tax on coal will not get abandoned mines reclaimed. The commenter provided the following recommendations to ensure total reclamation of all mined lands and long-term water treatment and to place the financial burden on the coal companies:

1. A cash bond in the amount of the estimated actual reclamation cost should be in place before any mine permit is issued.

2. A per-ton tax on that permit to create a trust to fund any water treatment that might be needed. This trust must be sufficient to fund the water treatment from the interest generated from the trust. If no water treatment or additional reclamation is needed after a 10-year period, the trust can be turned over to the permittee.

3. A per-ton tax on all coal mined to pay for the reclamation of abandoned mine lands that have been previously left unreclaimed.

In response, we note that we have no authority to dictate the specific form of the State's ABS. The State's AT currently requires a site-specific bond with a $5,000 per acre limit. We believe that the State's site-specific bond plus the State's increased special reclamation tax rates will provide sufficient revenue to ensure complete reclamation of bond forfeiture sites. The State has confronted the issue of long-term water treatment by establishing the Advisory Council and assigning it the task of identifying long-term solutions.

8. Deletion of 25-Percent Limitation at CSR 38–2–12.5.d

The WV Coal Association urged OSM to approve the proposed amendment to CSR 38–2–12.5.d. As noted above in Finding 1, we are approving the amendment.

The WV Coal Association also stated that despite its support of the State's revisions to the ABS, the WV Coal Association maintains that OSM lacks the statutory authority to request changes related to water treatment at bond forfeiture sites, and to characterize the amendment as "consistent" with SMCRA and its implementing regulations is incorrect.

We have previously responded to similar WV Coal Association assertions in our final rule decision published on December 28, 2001. See 66 FR 67446, 67451.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on September 28, 2001, and April 26, 2002, we requested comments on these amendments from various Federal agencies with an actual or potential interest in the West Virginia program (Administrative Record Numbers WV–1239 and WV–1299). We responded to a comment from the U.S. Department of Labor, Mine Safety and Health Administration (MSHA) on December 28, 2001 (66 FR 67446, 67452). By letter dated May 13, 2002, MSHA stated that it found no issues or impact on coal miner's health and safety.

Environmental Protection Agency (EPA) Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that West Virginia made and we approved on December 28, 2001, or that we are approving today, pertain to air or water quality standards. Therefore, we did not ask EPA for its concurrence on any of the proposed amendments.

Under 30 CFR 732.17(h)(11)(i), on September 28, 2001, and April 26, 2002, we requested comments from EPA on these amendments (Administrative Record Numbers WV–1239 and WV–1299). The EPA responded by letter dated November 13, 2001 (Administrative Record Number WV–1247). We responded to EPA's comments on December 28, 2001 (66 FR 67446, 67452). By letter dated May 16, 2002, EPA stated it supports the deletion of the 25-percent limit on expenditure of bond funds for treating water at bond forfeiture sites.

VI. OSM's Decision

Based on the above findings, we are approving the amendment to CSR 38–2-12.5.d submitted to us on April 9, 2002. We are also removing the required program amendments codified at 30 CFR 948.16(jjj) and (lll).

To implement this decision, we are amending the Federal regulations at 30 CFR part 948, which codify decisions concerning the West Virginia program. Our regulations at 30 CFR 732.17(h)(12) specify that all decisions approving or disapproving amendments will be published in the **Federal Register** and that they will be effective upon publication, unless the notice specifies a different date. We are making this final rule effective immediately to expedite the State program amendment process and to assist the State in making its program conform with the Federal standards as required by the Act.

VII. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR

730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 22, 2002.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR 948 is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for Part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 948.15 is amended in the table by adding a new entry in chronological order by "Date of publication of final rule" to read as follows:

948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission dates	Date of publication of final rule	Citation/description
* * * * * * *		
September 24, 2001 April 9, 2002	May 29, 2002	CSR 38–2–12.5.d.

§ 948.16 [Amended]

3. Section 948.16 is amended by removing and reserving paragraphs (jjj) and (lll).

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Wednesday,
May 29, 2002

Part VI

Department of Education

Office of Elementary and Secondary Education; Improving Literacy Through School Libraries Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.364]

Office of Elementary and Secondary Education; Improving Literacy Through School Libraries Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions you need to apply for a grant under this competition.

Purpose of Program: The purpose of this program is to improve student literacy skills and academic achievement by providing students with increased access to up-to-date school library materials; a well-equipped, technologically advanced school library media center; and well-trained, professionally certified school library media specialists.

This competition focuses on projects designed to meet the priority described in the PRIORITY section of this notice.

Eligible Applicants: Local educational agencies (LEAs) in which at least 20 percent of the students served by the LEA are from families with incomes below the poverty line. (20 U.S.C. 6383)

Deadline for Notification of Intent to Apply for Funding: June 28, 2002.

We will be able to develop a more efficient process for reviewing grant applications if we have an estimate of the number of entities that intend to apply for funding under this competition. Therefore, we strongly encourage each potential applicant to notify us by e-mail of your intent to submit an application for funding via this Internet address: *literacyandschoollibraries@ed.gov*

Please put "Notice of Intent" in the subject line. Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Transmittal of Applications: July 24, 2002.

Deadline for Intergovernmental Review: September 23, 2002.

Estimated Available Funds: $12,125,000.

Estimated Range of Awards: $20,000 to $250,000.

Estimated Average Size of Awards: The size of the awards will be commensurate with the nature and scope of the work proposed and the number of schools to be served. The Department estimates the average amount of each award based on a maximum of $25,000 per school to be served.

Estimated Number of Awards: 75.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Page Limit: The application must include the following sections: title page form (ED 424), one-page abstract, program narrative, individual resumes (up to 3 pages) for project directors and other key personnel, budget summary form (ED 524) with budget narrative, and statement of equitable access (GEPA 427). The program narrative must address the selection criteria that reviewers use to evaluate your application. Applicants are strongly encouraged to limit the program narrative (text plus all figures, charts, tables, and diagrams) to the equivalent of 15 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the program narrative.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).
- Include all critical information in the program narrative, eliminating the need for appendices.
- The page limit does not apply to the title page form (ED 424), the one-page abstract, the budget summary form and narrative budget justification, the resumes, or the assurances and certifications.

We have found that reviewers are able to conduct the highest quality review when applications are concise and easy to read, with pages consecutively numbered.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 97, 98 and 99.

Description of Program: The Improving Literacy through School Libraries (LSL) program, subpart 4 of part B of Title I of the Elementary and Secondary Education Act, as amended, promotes comprehensive local strategies to improve student reading achievement by improving school library services and resources. The LSL program is one component of the Department's commitment to dramatically improving student reading achievement by focusing available resources, including those of school library media centers, on ensuring that no child is left behind. School library media centers have an important role to play in contributing to the success of local improvement plans, especially in the literacy area, by increasing collaboration among instructional and school library media center staff, providing additional instructional materials and resources, and extending hours of operation during non-school hours.

Recent studies on the impact of school library media centers on student achievement show that a well-designed and effective school library media program includes the following attributes:

- Book collections and other media resources that are well-stocked and varied.
- Increased hours of access, such as during times outside the regular school day (such as in the morning, afternoon or weekends).
- Professional development to train school library media specialists to work closely with teachers in curriculum planning and with students in using the library.
- Improved student access via technology within the school.
- Collaboration to provide computer access to resources from other libraries, including university and public libraries.

Studies that examined the relation between school library media centers and student achievement indicated that reading test scores were higher when—

- Library media specialists were full time;
- Library hours of operation were extended; and
- Library staff spent time planning instructional units with teachers, teaching students how to access information, and serving on school-based curriculum and standards committees.

While ongoing research on libraries is expected to provide further information, studies already demonstrate a positive relationship between effective school library media centers and student achievement in reading.

Priorities

Absolute Priority

This competition focuses on projects designed to meet the following absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

To improve the services of a school library media center and the achievement of the students it serves, applicants must propose programs in their districts that incorporate the critical elements of a school library media center.

Applicants must propose programs that address two or more of the following critical elements:

1. Library media specialists will actively collaborate with teachers and work with students.
2. The applicant's plan for the acquisition of books and other resources will reflect and support this collaboration.
3. A school library media center will possess the technology necessary to expand its reach to classrooms or other libraries, or to both.
4. A school library media center will provide expanded hours to give students more access.

Invitational Priority

Within the absolute priority, we are particularly interested in applications that meet the following invitational priority.

The Secretary strongly encourages applicants to focus their efforts on elementary schools to maximize the impact of the project on improving reading achievement. Coordination and collaboration among school library and media staff, teachers, and parents are important to ensure high-quality projects as well as the sustainability of the activities.

Under 34 CFR 75.105(c)(1) we do not give an application that meets the invitational priority a competitive or absolute preference over other applications.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed requirements. However, in order to make timely grant awards in FY 2002, the Secretary has decided to issue this application notice without first publishing these proposed requirements for public comment. These requirements will apply to the FY 2002 grant competition only. The Secretary takes this action under section 437(d)(1) of the General Education Provisions Act.

Selection Criteria

We use the following selection criteria to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

We evaluate an application by determining how well the proposed project meets the following provisions:

(a) *Needs Assessment* (15 points). Demonstrated need for school library media improvement, based on the age and condition of book collections and other school library media resources, access of school library media centers to advanced technology, the availability of well-trained, professionally certified school library media specialists in schools served by the eligible local educational agency, and the educational achievement of the students to be served.

(b) *Use of Funds* (25 points). How well the applicant will use the funds made available through the grant to carry out those of the following activities that meet its needs and satisfy the Absolute Priority section of this notice, by proposing programs that address two or more of the critical elements of a school library media center identified in that priority.

(1) Acquiring up-to-date books and other school library media resources.

(2) Acquiring and using advanced technology incorporated into the curricula of the school to develop and enhance the research and critical thinking skills of students.

(3) Facilitating Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible.

(4) Providing professional development for school library media specialists that is based on scientifically based reading research, and includes, to the extent relevant to the project, knowledge of early language and reading development, and activities that foster increased collaboration between school library media specialists, teachers, and administrators.

(5) Providing students with access to school libraries during nonschool hours, which may include the hours before and after school, during weekends, and during summer vacation periods.

(c) *Use of Scientifically Based Research* (10 points). The manner in which the applicant will carry out the activities described in paragraph (b) of this section using programs and materials that are grounded in scientifically based research, as defined by the statute, including using scientifically based programs and activities that support the essential components of reading research.

(d) *Broad-based Involvement* (10 points). How the applicant will extensively involve school library media specialists, teachers, administrators, and parents in the proposed project activities.

(e) *Coordination* (15 points). How the applicant will effectively coordinate the funds and activities provided under this program with other literacy, library, technology, and professional development funds and activities.

(f) *Adequacy of Resources* (5 points). The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support; and

(g) *Evaluation of Quality and Impact* (20 points). How the applicant will collect and analyze data on the quality and impact of the project activities, including their impact on student achievement, in a manner that is rigorous, systematic, objective, and will yield data on program effectiveness and best practices.

Geographic Distribution

In making funding decisions we will also consider the equitable distribution of grants across geographic regions and among local educational agencies serving urban and rural areas.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant, you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive Order 12372. If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order.

If you want to know the name and address of any SPOC, see the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants/spoc.html.* In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this application notice

to the following address: The Secretary, E.O. 12372–CFDA No. 84.364, U.S. Department of Education, room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

We will determine proof of mailing under 34 CFR 75.102 (deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH AN APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE* ADDRESS.

Application Instructions and Forms

The Appendix to this notice contains forms and instructions, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act, and various assurances and certifications. Please organize the parts and additional materials in the following order:

- Application for Federal Education Assistance (ED 424 (Exp. 11/30/2004)) and instructions and definitions.
- Protection of Human Subjects in Research (Attachment to ED 424).
- Budget Information—Non-Construction Programs (ED Form No. 524) and instructions. An applicant must provide a budget narrative that provides budget information for the 12-month budget period of the proposed project.
- Application Narrative (including an abstract that identifies the selected program elements from the Absolute Priority section of this notice).
- Assurances—Non-Construction Programs (Standard Form 424B) (Rev. 7–97).
- Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013, 12/98) and instructions.
- Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

- Disclosure of Lobbying Activities (Standard Form LLL (Rev. 7–97)) and instructions.

You may submit information on a photocopy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. We will not award a grant unless we have received a completed application form.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. However, the Department is not able to reproduce in an alternative format the standard forms included in this application notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

FOR FURTHER INFORMATION CONTACT: Margaret McNeely or Beth Fine, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C130, FOB–6, Washington, DC 20202–6200. Telephone: (202) 260–1335 (Margaret McNeely) or (202) 260–1091 (Beth Fine) or via Internet: *literacyandschoollibraries@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Instructions for Transmitting Applications

If you want to apply for a grant and be considered for funding, you must meet the following deadline requirements:

(a) *If You Send Your Application by Mail*

You must mail the original and two copies of the application on or before the deadline date. To help expedite our review of your application, we would appreciate your voluntarily including an additional three copies of your application. We request that you staple or otherwise secure one of these copies. Mail your application to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.364), 7th & D Streets, SW., Room 3671, Regional Office Building 3, Washington, DC 20202–4725.

You must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(b) *If You Deliver Your Application by Hand*

You or your courier must hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date. To help expedite our review of your application, we would appreciate your voluntarily including an additional three copies of your application. We request that you staple or otherwise secure one of these copies. Deliver your application to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.364), 7th & D Streets, SW., Room 3671, Regional Office Building 3, Washington, DC 20202–4725

The Application Control Center accepts application deliveries daily between 8 a.m. and 4:30 p.m. (Washington, DC time), except Saturdays, Sundays, and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A person delivering an application must show identification to enter the building.

Notes

(1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(2) If you send your application by mail or if you or your courier deliver it by hand, the Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application receipt within 15 days from the date of mailing the application, you should call the U.S. Department of Education Application Control Center at (202) 708–9493.

(3) If your application is late, we will notify you that we will not consider the application.

(4) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424 (exp. 11/30/2004)) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

Special Note: Due to recent disruptions to normal mail delivery, the Department encourages you to consider using an alternative delivery method (for example, a commercial carrier, such as Federal Express or United Parcel Service; U.S. Postal Service Express Mail; or a courier service) to transmit your application for this competition to the Department. If you use an alternative delivery method, please obtain the appropriate proof of mailing under (a) "If You Send Your Application by Mail", then follow the instructions for "(b) If You Deliver Your Application by Hand."

Program Authority: 20 U.S.C. 6383.

Dated: May 22, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

Appendix

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, you are not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is [1810–0652]. Expiration date: May 31, 2005. We estimate the time required to complete this collection of information to average 30 hours per response, including the time to review instructions, search existing data sources, gather the data needed, and complete and review the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your submission of this form, write directly to: Literacy Through School Libraries Program, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C130, FOB–6, Washington, DC 20202–6200.

Instructions for Application Narrative

Before preparing the Application Narrative you should read carefully the description of the program, the information regarding the priority, and the selection criteria we use to evaluate applications.

The narrative should—

1. Begin with an abstract; that is, a summary of your proposed project (please remember to identify your selection of program elements as required by the absolute priority section of this notice);

2. Describe your proposed project in light of each of the selection criteria in the order in which we list the criteria in this notice;

3. List each function or activity for which you are requesting funds; and

4. Include any other pertinent information that might assist us in reviewing your application.

Note: The section on PAGE LIMIT elsewhere in this application notice applies to your application.

BILLING CODE 4000–01–P

Application for Federal Education Assistance (ED 424)

U.S. Department of Education
Form Approved
OMB No. 1875-0106
Exp. 11/30/2004

Applicant Information

1. Name and Address
Legal Name: _____ Organizational Unit
Address: _____
City _____ State _____ County _____ ZIP Code + 4 _____

2. Applicant's D-U-N-S Number _____

3. Applicant's T-I-N _____

4. Catalog of Federal Domestic Assistance #: 8 4 3 6 4
Title: Improving Literacy Through School Libraries Program

5. Project Director: _____
Address: _____
City _____ State _____ ZIP Code + 4 _____
Tel. #: _____ Fax #: _____
E-Mail Address: _____

6. Novice Applicant ☐ Yes ☐ No

7. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

8. Type of Applicant (Enter appropriate letter in the box.) ____

A State
B Local
C Special District
D Indian Tribe
E Individual
F Independent School District
G Public College or University
H Private, Non-Profit College or University
I Non-Profit Organization
J Private, Profit-Making Organization
K Other (Specify): _____

Application Information

9. Type of Submission:
—PreApplication ☐ Construction ☐ Non-Construction
—Application ☐ Construction ☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes (Date made available to the Executive Order 12372 process for review): _____
☐ No (If "No," check appropriate box below.)
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: _____ End Date: _____

12. Are any research activities involving human subjects planned at any time during the proposed project period?
☐ Yes (Go to 12a.) ☐ No (Go to item 13.)

12a. Are all the research activities proposed designated to be exempt from the regulations?
☐ Yes (Provide Exemption(s) #): _____
☐ No (Provide Assurance #): _____

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	0.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Authorized Representative (Please type or print name clearly.)
b. Title
c. Tel. #: _____ Fax #: _____
d. E-Mail Address:
e. Signature of Authorized Representative Date: _____

Instructions for ED 424

1. Legal Name and Address. Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. D-U-N-S Number. Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: http://www.dnb.com.

3. Tax Identification Number. Enter the taxpayer's identification number as assigned by the Internal Revenue Service.

4. Catalog of Federal Domestic Assistance (CFDA) Number. Enter the CFDA number and title of the program under which assistance is requested. The CFDA number can be found in the federal register notice and the application package.

5. Project Director. Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. Novice Applicant. Check "Yes" or "No" only if assistance is being requested under a program that gives special consideration to novice applicants. Otherwise, leave blank.

Check "Yes" if you meet the requirements for novice applicants specified in the regulations in 34 CFR 75.225 and included on the attached page entitled "Definitions for Form ED 424." By checking "Yes" the applicant certifies that it meets these novice applicant requirements. Check "No" if you do not meet the requirements for novice applicants.

7. Federal Debt Delinquency. Check "Yes" if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check "No."

8. Type of Applicant. Enter the appropriate letter in the box provided.

9. Type of Submission. See "Definitions for Form ED 424" attached.

10. Executive Order 12372. See "Definitions for Form ED 424" attached. Check "Yes" if the application is subject to review by E.O. 12372. Also, please enter the month, day, and four (4) digit year (e.g., 12/12/2001). Otherwise, check "No."

11. Proposed Project Dates. Please enter the month, day, and four (4) digit year (e.g., 12/12/2001).

12. Human Subjects Research. (See I.A. "Definitions" in attached page entitled "Definitions for Form ED 424.")

If Not Human Subjects Research. Check "No" if research activities involving human subjects are not planned at any time during the proposed project period. The remaining parts of Item 12 are then not applicable.

If Human Subjects Research. Check "Yes" if research activities involving human subjects are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution. Check "Yes" even if the research is exempt from the regulations for the protection of human subjects. (See I.B. "Exemptions" in attached page entitled "Definitions for Form ED 424.")

12a. If Human Subjects Research is Exempt from the Human Subjects Regulations. Check "Yes" if all the research activities proposed are designated to be exempt from the regulations. Insert the exemption number(s) corresponding to one or more of the six exemption categories listed in I.B. "Exemptions." In addition, follow the instructions in II.A. "Exempt Research Narrative" in the attached page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. If Human Subjects Research is Not Exempt from Human Subjects Regulations. Check "No" if some or all of the planned research activities are covered (not exempt). In addition, follow the instructions in II.B. "Nonexempt Research Narrative" in the page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. Human Subjects Assurance Number. If the applicant has an approved Federal Wide (FWA) or Multiple Project Assurance (MPA) with the Office for Human Research Protections (OHRP), U.S. Department of Health and Human Services, that covers the specific activity, insert the number in the space provided. If the applicant does not have an approved assurance on file with OHRP, enter "None." In this case, the applicant, by signature on the face page, is declaring that it will comply with 34 CFR 97 and proceed to obtain the human subjects assurance upon request by the designated ED official. If the application is recommended/selected for funding, the designated ED official will request that the applicant obtain the assurance within 30 days after the specific formal request.

Note about Institutional Review Board Approval. ED does not require certification of Institutional Review Board approval with the application. However, if an application that involves non-exempt human subjects research is recommended/selected for funding, the designated ED official will request that the applicant obtain and send the certification to ED within 30 days after the formal request.

13. Project Title. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. Estimated Funding. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. Certification. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, day, and four (4) digit year (e.g., 12/12/2001) in the date signed field.

Paperwork Burden Statement. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0106. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form write directly to: Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

Definitions for Form ED 424

Novice Applicant (See 34 CFR 75.225). For discretionary grant programs under which the Secretary gives special consideration to novice applications, a novice applicant means any applicant for a grant from ED that—

- Has never received a grant or subgrant under the program from which it seeks funding;
- Has never been a member of a group application, submitted in accordance with 34 CFR 75.127-75.129, that received a grant under the program from which it seeks funding; and
- Has not had an active discretionary grant from the Federal government in the five years before the deadline date for applications under the program. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In the case of a group application submitted in accordance with 34 CFR 75.127-75.129, a group includes only parties that meet the requirements listed above.

Type of Submission. "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). "Construction" also includes remodeling to meet standards, remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries. For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

Executive Order 12372. The purpose of Executive Order 12372 is to foster an intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The application notice, as published in the Federal Register, informs the applicant as to whether the program is subject to the requirements of E.O. 12372. In addition, the application package contains information on the State Single Point of Contact. An applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a State Single Point of Contact. For additional information on E.O. 12372 go to http://www.cfda.gov/public/eo12372.htm.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH

I. Definitions and Exemptions

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Research

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, it is research. Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Human Subject

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." (1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met. [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of exemptions are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. If the subjects are children, exemption 2 applies only to research involving educational tests and observations of public behavior when the investigator(s) do not participate in the activities being observed. Exemption 2 does not apply if children are surveyed or interviewed or if the research involves observation of public behavior and the investigator(s) participate in the activities being observed. [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

II. Instructions for Exempt and Nonexempt Human Subjects Research Narratives

If the applicant marked "Yes" for Item 12 on the ED 424, the applicant must provide a human subjects "exempt research" or "nonexempt research" narrative and insert it immediately following the ED 424 face page.

A. Exempt Research Narrative.

If you marked "Yes" for item 12a. and designated exemption numbers(s), provide the "exempt research" narrative. The narrative must contain sufficient information about the involvement of human subjects in the proposed research to allow a determination by ED that the designated exemption(s) are appropriate. The narrative must be succinct.

B. Nonexempt Research Narrative.

If you marked "No" for item 12a. you must provide the "nonexempt research" narrative. The narrative must address the following seven points. Although no specific page limitation applies to this section of the application, be succinct.

(1) Human Subjects Involvement and Characteristics: Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable

(2) Sources of Materials: Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Recruitment and Informed Consent: Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Potential Risks: Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Protection Against Risk: Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Importance of the Knowledge to be Gained: Discuss the importance of the knowledge gained or to be gained as a result of the proposed research. Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

(7) Collaborating Site(s): If research involving human subjects will take place at collaborating site(s) or other performance site(s), name the sites and briefly describe their involvement or role in the research.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff, Office of the Chief Financial Officer, U.S. Department of Education, Washington, D.C. 20202-4248, telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://www.ed.gov/offices/OCFO/humansub.html

OMB Control No. 1890-0007 (Exp. 09/30/2004)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Public Law (P.L.) 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1890-0007.** The time required to complete this information collection is estimated to average 1.5 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3652, GSA Regional Office Building No. 3). Washington, DC 20202-4248.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred; suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

[FR Doc. 02–13313 Filed 5–28–02; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Wednesday,
May 29, 2002

Part VII

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for Developing Models To Promote the Use of NIDRR Research under the Disability and Rehabilitation Research (DRRP) Program of the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2002. We take this action to focus research attention on an identified national need. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before June 28, 2002.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880 or via the Internet: *donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this priority in room 3412, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

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Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP Program is to plan and conduct research, demonstration projects, training, and related activities that help (1) to maximize the full inclusion and integration of individuals with disabilities into society, and (2) to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (the Act).

This priority reflects issues discussed in the New Freedom Initiative (NFI) and NIDRR's Long-Range Plan (the Plan). The NFI can be accessed on the Internet at: *http://www.whitehouse.gov/news/freedominitiative/freedominiative.html.*

The Plan can be accessed on the Internet at: *http://www.ed.gov/offices/OSERS/NIDRR/Products.*

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. If we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute Priority

Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive Preference Priority

Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational Priority

Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

Background

NIDRR proposes to develop models to ensure that the findings of NIDRR-sponsored research and products have practical applications in activities related to serving individuals with disabilities. This proposed priority invites an examination of the ways in which NIDRR-supported research findings can be of use to individuals with disabilities, researchers, and professionals, such as vocational rehabilitation counselors. The models to be developed under this proposed priority are to be based on NIDRR research topics related to the NFI and the Plan.

The models would be used to help researchers plan for the widespread use of NIDRR research results and measure success. The models must be well documented so that they can be replicated by other grantees. The models will vary depending on the kind and level of information, the intended users of the information, and the circumstances available to disseminate the information.

NIDRR emphasizes the participation of individuals with disabilities in the formulation and conduct of research studies. It also stresses that the ultimate purpose of NIDRR research is to further the NIDRR mission and increase the participation of individuals with disabilities in all aspects of education, employment, and community participation.

You may obtain additional information about the background of this priority by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Proposed Priority—Developing Models To Promote the Use of NIDRR Research

This proposed priority is intended to develop models for the increased and more effective use of NIDRR research results.

To be funded under this priority a project would be required to—

(1) Analyze research information produced by NIDRR grantees to determine the extent to which any of the information has not been disseminated or has been disseminated but not effectively used.

(2) Develop models for particular kinds of information, such as engineering, health, employment, education, and independent living, and for particular intended groups such as professionals, individuals with disabilities, families, and researchers.

(3) Describe the models and prepare training materials to assist others to use the models.

(4) Test each model.

(5) Evaluate the success of each model.

In carrying out these activities, the project must:

- Provide training for NIDRR research projects and centers;
- Ensure the relevance of all activities to individuals with disabilities;
- Include techniques to reach individuals from diverse racial, ethnic, and cultural backgrounds; and
- Collaborate with NIDRR-funded projects and centers.

Applicable Program Regulations

34 CFR part 350.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 762(g) and 764(b).

Dated: May 15, 2002.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–13400 Filed 5–28–02; 8:45 am]

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Federal Register

Wednesday,
May 29, 2002

Part VIII

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority on Mental Health Service Delivery to Deaf, Hard of Hearing, and Deaf-Blind Individuals from Diverse Racial, Ethnic, and Linguistic Backgrounds under the Disability and Rehabilitation Research Projects (DRRP) Program of the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2002. We take this action to focus research attention on an identified national need. We intend this priority to improve rehabilitation service and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before June 28, 2002.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov*.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880 or via the Internet: *donna.nangle@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this priority in room 3412, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP Program is to plan and conduct research, demonstration projects, training, and related activities that help (1) to maximize the full inclusion and integration of individuals with disabilities into society, and (2) to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (the Act).

This priority reflects issues discussed in the New Freedom Initiative (NFI) and NIDRR's Long-Range Plan (the Plan). The NFI can be accessed on the Internet at: *http://www.whitehouse.gov/news/freedominitiative/freedominiative.html*.

The Plan can be accessed on the Internet at: *http://www.ed.gov/offices/OSERS/NIDRR/Products*.

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice published in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute Priority

Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive Preference Priority

Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational Priority

Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

Background

In the field of mental health, help is based largely on the relationship between the provider and recipient of services. This relationship, in turn, is based primarily on communication. For individuals who are deaf, hard-of-hearing, or deaf-blind, spoken English often is an ineffective means of communication. The question is how methods used to augment communication, such as the use of sign language interpreters and assistive listening devices, affect results in the delivery of mental health services for these individuals.

The Surgeon General noted in a report that individuals from racial, cultural, and linguistic minorities in the United States face serious barriers to competent mental health care, suffer a greater loss of overall health and productivity, and bear a greater burden from unmet mental health needs. Further, the Surgeon General recommended that future studies identify effective services for minority subpopulations, including persons with both mental and physical health conditions (*Mental Health: Culture, Race, and Ethnicity, a Supplement to Mental Health: A Report of the Surgeon General*, U.S. Public Health Service, 2001). Deaf, hard of hearing, and deaf-blind members from diverse racial and ethnic populations are an important example of this type of subpopulation.

Even assuming that these individuals seek and receive treatment from providers familiar with their cultural, communicative, and linguistic backgrounds, psychological test measures often are inadequate (Vernon M., *An Historical Perspective on Psychology and Deafness*, Journal of the American Deafness and Rehabilitation Association, Vol. 29(2), pg. 11, 1995). Few psychological tests and assessment instruments have been developed for the deaf population in general, and none have been developed for the Asian-American deaf population (Wu C.L. and Grant N.C., Asian-American and Deaf, in Irene Leigh (Ed.), *Psychotherapy with Deaf Clients from Diverse Backgrounds*, Washington, D.C.: Gallaudet University Press; pg. 212, 1999).

You may obtain additional information about the background of this priority by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Proposed Priority—Mental Health Service Delivery to Deaf, Hard of Hearing, and Deaf-Blind Individuals From Diverse Racial, Ethnic, and Linguistic Backgrounds

This proposed priority is intended to enhance the quality of the delivery of mental health services for deaf, hard-of-hearing, or deaf-blind individuals from diverse racial, ethnic, and linguistic backgrounds. For purposes of this proposed priority, "individuals from diverse linguistic backgrounds" includes not only individuals who are fluent in languages other than English, but also individuals with minimal language skills who are not fluent in any language.

To be funded under this priority, a project would be required to choose at least one, but, no more than four of the following research activities:

(1) Investigate, compare, and evaluate the effectiveness of mental health services provided by mental health providers using qualified sign language interpreters as opposed to services provided by mental health providers fluent in sign language. The research project must consider the educational, clinical, and professional credentials of each provider.

(2) Investigate, evaluate, and develop, as needed, model psychological testing instruments and mental health outcome measures for deaf, hard-of-hearing, or deaf-blind individuals from diverse racial, ethnic, and linguistic backgrounds.

(3) Identify, evaluate, and develop, as needed for use in mental health settings, model communication strategies for individuals with minimal language skills who are deaf, hard-of-hearing, or deaf-blind.

(4) Identify and evaluate factors that assist or hinder entrance into the delivery system of mental health services for deaf, hard-of-hearing, or deaf-blind individuals from diverse racial, ethnic, and linguistic backgrounds.

(5) Identify and evaluate factors that have an impact on the effectiveness of the delivery of mental health services to deaf, hard-of-hearing, or deaf-blind individuals from diverse racial, ethnic, and linguistic backgrounds.

In addition, each project would have to:

- Involve in all phases of research individuals with disabilities, including deaf, hard-of-hearing, and deaf-blind individuals and individuals from diverse racial, ethnic, and linguistic backgrounds; and
- As directed by the NIDRR Project Officer for these programs, collaborate with other NIDRR projects and the National Center for the Dissemination of Disability Research.

Applicable Program Regulations

34 CFR part 350.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 762(g) and 764(b).

Dated: May 15, 2002.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and, Rehabilitative Services.

[FR Doc. 02–13401 Filed 5–28–02; 8:45 am]

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Federal Register

Wednesday,
May 29, 2002

Part IX

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for Health Services Research projects under the Disability and Rehabilitation Research Projects (DRRP) Program of the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2002. We take this action to focus research attention on an identified national need. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before June 28, 2002.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880 or via the Internet: *donna.nangle@ed.gov.*

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SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this priority in room 3412, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

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Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP Program is to plan and conduct research, demonstration projects, training, and related activities that help (1) to maximize the full inclusion and integration of individuals with disabilities into society, and (2) to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (the Act).

This priority reflects issues discussed in the New Freedom Initiative (NFI) and NIDRR's Long-Range Plan (the Plan). The NFI can be accessed on the Internet at: *http://www.whitehouse.gov/news/freedominitiative/freedominiative.html.*

The Plan can be accessed on the Internet at: *http://www.ed.gov/offices/OSERS/NIDRR/Products.*

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. If we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute Priority

Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive Preference Priority

Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational Priority

Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

Background

Access to high quality health care, including preventive, acute, and long-term care, is critical to the quality of life and independent living of individuals with disabilities. Research on the organization, delivery, and financing of health services has not traditionally focused on the needs of individuals with disabilities. With this proposed priority, NIDRR intends to examine emerging issues that have an impact on access to health services by individuals with disabilities. We have identified the following issues as the focus of needed research: access to community-based health services; the impact of prospective payment on access to medical rehabilitation services; and ways in which using quality indicators in assessments of services may affect delivery of health services to individuals with disabilities.

You may obtain additional information about the background of this priority by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Proposed Priority—Health Services Research Projects

This proposed priority is intended to improve delivery of health services to individuals with disabilities. We encourage applicants to propose research projects under one of the following specific topic areas:

(1) *Availability and Access to Community-Based Health Services.* To be funded under the priority, a project would be required to:

(a) Investigate the availability and accessibility of community-based health services for individuals with disabilities who move from institutional care to community living or who are at risk for institutional care;

(b) Document the extent to which access to appropriate health services, including home-health, is a component of State task force recommendations regarding transitioning of individuals from institutional to community settings; and

(c) Evaluate the role of accessible community-based mental health services in the successful integration of individuals with long-term mental illness into community settings.

(2) *Impact of the Prospective Payment System for Medical Rehabilitation.* To be funded under the priority, a project would be required to:

(a) Evaluate the impact of the prospective payment system for medical rehabilitation on access to medical rehabilitation services by individuals with disabilities, examining the impact on settings, services, and length of stay; and

(b) Identify the impact of multiple, health-related conditions, commonly called co-morbidities, on classification and reimbursement in the medical rehabilitation prospective payment system.

(3) *Analysis of Quality Indicators for Assessing Health Services Provided to Individuals with Disabilities.* To be funded under the priority, a project would be required to:

(a) Conduct an assessment of the use of quality indicators in both the private and public sectors to determine the extent to which the needs of individuals with disabilities are reflected in these indicators;

(b) Examine the relationship of function and disability in defining the population of individuals with disabilities to whom the indicators are applied; and

(c) Determine how individuals with disabilities, payers, and providers use information from quality assessment of medical rehabilitation services.

In addition, each project would be required to:

- Consult with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR) to develop and implement, in the first year of the grant, a plan to disseminate the DRRP's research results to: disability organizations, individuals with disabilities or their family members or both, researchers, providers, and policymakers; and
- Ensure the participation of individuals with disabilities in all phases of the research and dissemination activities.

Applicable Program Regulations

34 CFR part 350.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 762(g) and 764(b).

Dated: May 15, 2002.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–13402 Filed 5–28–02; 8:45 am]

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Federal Register

Wednesday,
May 29, 2002

Part X

The President

Notice of May 27, 2002—Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro)

Federal Register
Vol. 67, No. 103
Wednesday, May 29, 2002

Presidential Documents

Title 3—

The President

Notice of May 27, 2002

Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro)

In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared on May 30, 1992, with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)"), as expanded on October 25, 1994, in response to the actions and policies of the Bosnian Serbs. In addition, I am continuing for 1 year the national emergency declared on June 9, 1998, with respect to the FRY (S&M)'s policies and actions in Kosovo. This notice shall be published in the **Federal Register** and transmitted to the Congress.

On May 30, 1992, by Executive Order 12808, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro. Under this emergency, President Bush first blocked all property and interests in property of the Governments of the FRY (S&M), Serbia, and Montenegro and subsequently prohibited trade and other transactions with the FRY (S&M).

On October 25, 1994, President Clinton expanded the scope of the national emergency by issuing Executive Order 12934 to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions and policies of the Bosnian Serb forces and the authorities in the territory that they controlled within Bosnia and Herzegovina.

On December 27, 1995, President Clinton issued Presidential Determination 96–7, directing the Secretary of the Treasury, *inter alia*, to suspend the application of sanctions imposed on the FRY (S&M) pursuant to the above-referenced Executive Orders and to continue to block property previously blocked until provision is made to address claims or encumbrances, including the claims of the other successor states of the former Yugoslavia. This sanctions relief, in conformity with United Nations Security Council Resolution 1022 of November 22, 1995, was an essential factor motivating the FRY (S&M)'s acceptance of a peace agreement initialed by the parties in Dayton on November 21, 1995, and signed in Paris on December 14, 1995 (hereinafter the "Peace Agreement"). Sanctions against both the FRY (S&M) and the Bosnian Serb forces were terminated in conjunction with United Nations Security Council Resolution 1074 of October 1, 1996. This termination, however, did not end a requirement that those blocked funds and assets that are subject to claims or encumbrances remain blocked, until unblocked in accordance with applicable law.

Until the status of all remaining blocked property is resolved, the Peace Agreement implemented, and the terms of the United Nations Security Council Resolution 1022 met, the national emergency declared on May 30, 1992, and the measures adopted pursuant thereto to deal with that emergency, must continue beyond May 30, 2002.

On June 9, 1998, by Executive Order 13088, President Clinton found that the actions and policies of the FRY (S&M) and the Republic of Serbia with respect to Kosovo, constituted an unusual and extraordinary threat

to the national security and foreign policy of the United States. President Clinton therefore declared a national emergency to deal with that threat.

On January 17, 2001, President Clinton issued Executive Order 13192 amending Executive Order 13088 to lift and modify, with respect to future transactions, most of the economic sanctions imposed against the FRY (S&M). At the same time, Executive Order 13192 imposes restrictions on transactions with certain persons described in section 1(a) of the order, namely persons under open indictment for war crimes by the International Criminal Tribunal for the Former Yugoslavia (ICTY). It also provides for the continued blocking of property or interests in property blocked prior to the order's effective date due to the need to address claims or encumbrances involving such property.

Because the crisis with respect to the situation in Kosovo and with respect to Slobodan Milosevic, his close associates and supporters and persons under open indictment for war crimes by the ICTY has not been resolved, and because the status of all previously blocked property has yet to be resolved, I have determined that the national emergency declared on June 9, 1998, and the measures adopted pursuant thereto to deal with that emergency, must continue beyond June 9, 2002.

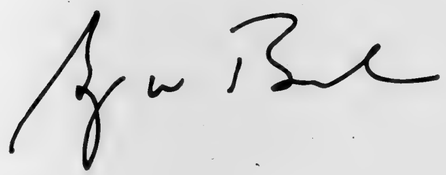

THE WHITE HOUSE,
May 27, 2002.

[FR Doc. 02–13681
Filed 5–28–02; 11:44 am]
Billing code 3195–01–P

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

S. 378/P.L. 107–182

To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the "Paul Simon Chicago Job Corps Center". (May 21, 2002; 116 Stat. 584)

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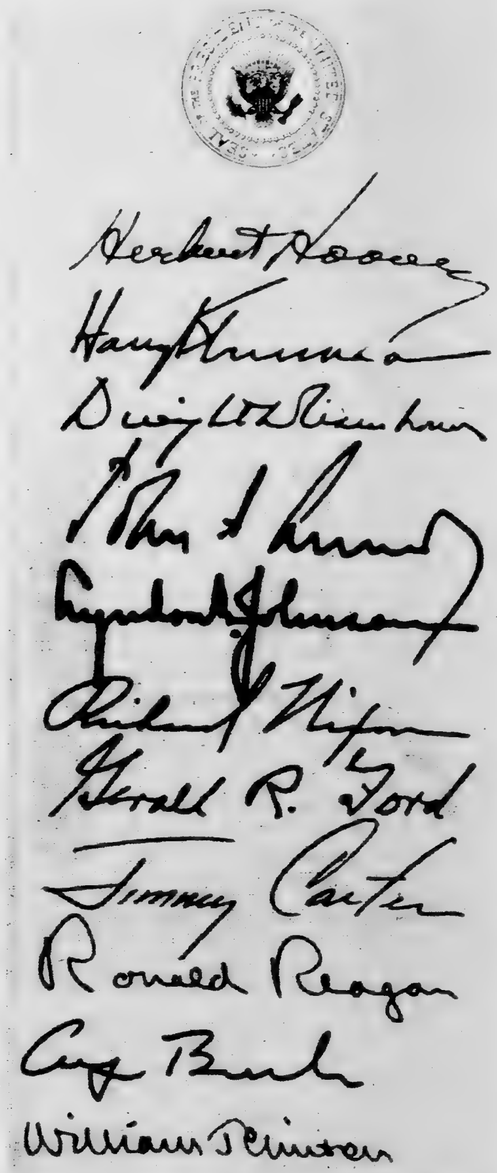

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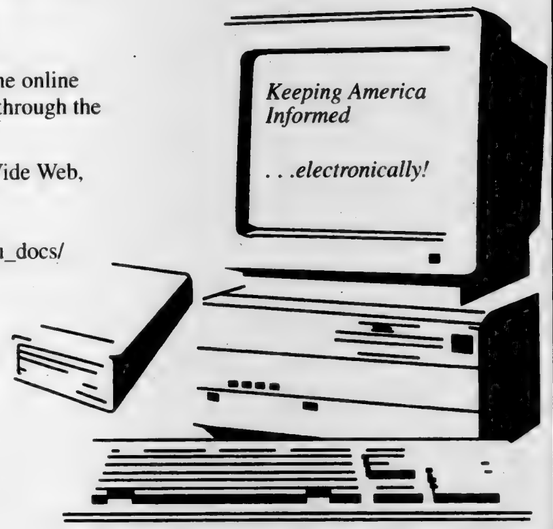

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–041–2]

Change in Disease Status of Estonia With Regard to Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to add Estonia to the list of regions that are considered free of rinderpest and foot-and-mouth disease. We are taking this action because we have determined that Estonia is free of rinderpest and foot-and-mouth disease. We are also amending the regulations to add Estonia to the list of regions that are subject to certain import restrictions on meat and meat products because of their proximity to or trading relationships with rinderpest- or foot-and-mouth disease-affected countries. These actions update the disease status of Estonia with regard to rinderpest and foot-and-mouth disease while continuing to protect the United States from an introduction of those diseases by providing additional requirements for any meat and meat products imported into the United States from Estonia.

EFFECTIVE DATE: June 14, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Hatim Gubara, Staff Veterinarian, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–5538.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other parts of the world not listed. Section 94.11 of the regulations lists regions of the world that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On February 1, 2002, we published in the **Federal Register** (67 FR 4927–4930, Docket No. 01–041–1) a proposal to amend the regulations to add Estonia to the list in § 94.1(a) of regions that are considered free of rinderpest and FMD. In that document, we also proposed to add Estonia to the list in § 94.11(a) of regions declared free of rinderpest and FMD, but that are subject to certain import restrictions on meat and meat products because of their proximity to or trading relationships with rinderpest- or FMD-affected countries.

We solicited comments concerning our proposal for 60 days ending April 2, 2002. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule adds Estonia to the list of regions considered free of rinderpest and FMD. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection Service personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule adds Estonia to the list of regions that are considered free of rinderpest and FMD and to the list of regions subject to certain restrictions because of their proximity to or trading relationships with rinderpest-or FMD-affected countries. These actions update the disease status of Estonia with regard to rinderpest and FMD while continuing to protect the United States from an introduction of those diseases by providing additional requirements for any meat and meat products imported into the United States from Estonia.

We do not expect that this rule will have a significant economic impact on any entities, large or small, in the United States. Estonia does not produce sufficient quantities of ruminants or swine, or products of ruminants or swine, to significantly affect the U.S. market even if all of Estonia's production were exported to the United States.[1] For example, Estonia's production of beef and veal, mutton and lamb, and pigmeat (51,120 metric tons) was equivalent to less than 0.5 percent of those commodities produced in the United States in 2001. During the same period, Estonia's stock of live cattle, sheep, and pigs (585,200 head) was equivalent to less than 0.5 percent of comparable stock in the United States. Similarly, Estonia's milk production (690,000 metric tons) was less than 1 percent of the total production of milk in the United States in 2001.[2]

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. Given the small amount of Estonia's production, domestic producers in the United States are unlikely to be affected in any measurable way. Other entities that might be affected are brokers, agents,

[1] Realistically, not all of Estonia's production would be exported to the United States. Some of Estonia's production will be consumed domestically and some will be exported to countries other than the United States.

[2] Source: Food and Agriculture Organization of the United Nations.

and others in the United States who could become involved in any future importation and sale of ruminants or swine or products of ruminants or swine from Estonia. The number and size of those entities is unknown, but it is reasonable to assume that most of those entities would be small according to the standards set by the U.S. Small Business Administration. However, for the reasons discussed above, any economic impact on those entities, as well as any other affected entities in the United States, should be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal disease, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding, in alphabetical order, the word "Estonia,".

§ 94.11 [Amended]

3. In 94.11, paragraph (a), the first sentence is amended by adding, in alphabetical order, the word "Estonia,".

Done in Washington, DC, this 23rd day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–13529 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 02–08]

RIN 1557–AC07

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulation that addresses assessments for independent trust banks. The final rule updates the regulation to reference the appropriate portion of new forms issued by the Federal Financial Institutions Examination Council (FFIEC), which replace the FFIEC form currently referenced in the regulation.

EFFECTIVE DATE: June 1, 2002.

FOR FURTHER INFORMATION CONTACT: Andra Shuster, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 2002, the OCC published a notice of proposed rulemaking in the **Federal Register** (67 FR 20466) to amend the OCC's assessment regulation for independent trust banks. The comment period ended on May 17, 2002. We received no comments on the proposal, and are therefore adopting it without change except for the addition of a minor technical amendment.

Description of Rule

Section 8.6(c) of the OCC's regulations provides that assessments for independent trust banks will include a "managed asset component" in addition to the assessments calculated under § 8.2. Under § 8.6(c)(1)(i), all independent trust banks must pay a minimum fee. In addition, under § 8.6(c)(1)(ii), independent trust banks with "managed assets" in excess of $1 billion must pay an additional amount. Currently, the regulation defines the asset base upon which the additional assessment is applied by reference to Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form 001). FFIEC Form 001 was replaced effective December 31, 2001 by FFIEC Forms 031 and 041, Schedule RC–T—Fiduciary and Related Assets.

The proposal amended the definition of "Trust assets" in § 8.6(c)(3)(iv). The defined term was changed to "Fiduciary and related assets" to reflect the terminology used in Schedule RC–T of FFIEC Forms 031 and 041. The proposal also replaced the reference to FFIEC Form 001 with a reference to assets reported on Schedule RC–T of FFIEC Forms 031 and 041, any successor form issued by the FFIEC, and any other fiduciary and related assets defined in the Notice of Comptroller of the Currency Fees. "Fiduciary and related assets" reported on Schedule RC–T reflect the types of assets, managed in a trust or fiduciary-related capacity, covered by the now-outdated cross-reference in the current rule, plus certain other similarly managed assets (corporate trust and agency accounts) not reported on the previous FFIEC form due to imprecisions in the instructions to the form.

The proposal also removed references in §§ 8.6(c)(1) and (c)(1)(ii) to "managed assets" and "trust assets under management," and replaced them with the new term "fiduciary and related assets," which is used in Schedule RC–T of FFIEC Forms 031 and 041.

The final rule adopts all of these amendments to part 8 without change.

The proposal also made a technical correction to § 8.1, correcting the reference to "12 U.S.C. 93A" to "12 U.S.C. 93a." The final rule adopts this amendment and also corrects § 8.1 by adding 12 U.S.C. 1867 and 3108 to the list of authorities.

Effective Date

Any new regulation that imposes "additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form," unless certain exceptions apply. Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, sec. 302(b) (September 23, 1994). This rulemaking imposes no such additional reporting, disclosure, or other requirements. Accordingly, the requirement to delay the effective date until the first day of the next calendar quarter does not apply. Further, pursuant to 5 U.S.C. 553(d), the publication of a substantive rule generally shall not be made less than 30 days before its effective date unless certain exceptions apply. One such exception contained in 5 U.S.C. 553(d)(3) permits an agency to publish a rule that is immediately effective if the agency finds good cause to do so and publishes its reasoning with the issuance of the rule. It is necessary for this final rule to become effective on June 1, 2002 in order to avoid inconsistency between the current OCC regulation and the form independent trust banks are required to use to calculate the next semi-annual assessment. Notice of the assessment will be given on June 1, 2002 and the assessment will be due by July 31, 2002.

Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes will have a "significant economic impact" on a "substantial number of small entities." 5 U.S.C. 603, 605. If, after an analysis of a rule, an agency determines that the rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify.

The OCC has reviewed the impact this final rule will have on small national banks. For purposes of this Regulatory Flexibility Analysis and final regulation, the OCC defines "small national banks" to be those banks with less than $100 million in total assets. Based on that review, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is that only 10 trust banks with total assets of less than $100 million will likely be affected. The OCC believes, as a result, that the rulemaking will not have an impact on a substantial number of small institutions.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this rulemaking requires no further analysis under the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 8

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 8 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 8—ASSESSMENT OF FEES

1. The authority citation for part 8 continues to read as follows:

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

2. Section 8.1 is revised to read as follows:

§ 8.1 Scope and application.

The assessments contained in this part are made pursuant to the authority contained in 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

3. In § 8.6:

A. Paragraph (c)(1) is amended by removing the term "managed" and adding in its place "fiduciary and related"; and

B. Paragraphs (c)(1)(ii) and (c)(3)(iv) are revised to read as follows:

§ 8.6 Fees for special examinations and investigations.

* * * * *

(c) * * *

(1) * * *

(ii) *Additional amount for independent trust banks with fiduciary and related assets in excess of $1 billion.* Independent trust banks with fiduciary and related assets in excess of $1 billion will pay an amount that exceeds the minimum fee. The amount to be paid will be calculated by multiplying the amount of fiduciary and related assets by a rate or rates provided by the OCC in the Notice of Comptroller of the Currency Fees.

* * * * *

(3) * * *

(iv) *Fiduciary and related assets* are those assets reported on Schedule RC–T of FFIEC Forms 031 and 041, Line 9 (columns A and B) and Line 10 (column B), any successor form issued by the FFIEC, and any other fiduciary and related assets defined in the Notice of Comptroller of the Currency Fees.

Dated: May 24, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 02–13556 Filed 5–29–02; 8:45 am]

BILLING CODE 4810–33–P

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Final decision to waive the Nonmanufacturer Rule.

SUMMARY: This document advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for bearings, plain, unmounted and bearings mounted. The basis for waivers is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set aside for small business or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: June 14, 2002.

FOR FURTHER INFORMATION: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC, 20416 Tel:(202) 619–0422

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small business or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b) and Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in

the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months.

The SBA defines "class of products" based on six digit coding systems. The North American Industry Classification System (NAICS) replaced the Standard Industrial Classification (SIC) code. The second is the Product and Service Code established by the Federal Procurement Data System.

This document waives the Nonmanufacturer Rule for bearings, plain, unmounted and bearings mounted, North American Industry Classification System (NAICS) 333613.

Documents proposing to waive the nonmanufacturer rule for unmounted and bearings mounted, on April 4, 2002 (67 FR 16063) and on May 8, 2002 (67 FR 30820). No comments were received.

Luz A. Hopewell,

Associate Administrator for Government Contracting.

[FR Doc. 02–13455 Filed 5–29–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–69–AD; Amendment 39–12762; AD 2002–11–01]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland Model EC135 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter Deutschland (Eurocopter) Model EC135 helicopters with Turbomeca Arrius 2B1 engines installed. This action requires modifying the engine electrical control unit (FADEC) software and the collective linear transducer (LVDT). This amendment is prompted by a parameter discrepancy within the engine fuel main metering unit that is transmitted to the FADEC. This condition, if not corrected, could result in deactivation of the engine main fuel-metering valve, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter.

DATES: Effective June 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before July 29, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–69–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov* telephone (972) 641–3460, fax (972) 641–3527. The Turbomeca service information may be obtained from Turbomeca, DSO/T/NORIA Arrius 2 B1 TU 19C, 64 511 Bordes Cedex, France. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, notified the FAA that an unsafe condition may exist on Eurocopter Model EC135 helicopters. The LBA advises that installing modified engine-control software is necessary to sustain automatic engine control.

Eurocopter has issued Alert Service Bulletin No. EC135–71A–019, dated August 30, 2001, which specifies modifications to the FADEC software and modifications to the LVDTs. Turbomeca has issued Service Bulletin No. 319 73 2019, dated March 26, 2001, which provides instructions for replacing the FADEC, or alternatively modifying the FADEC software. The LBA classified these service bulletins as mandatory, and issued AD 2001–304/2, effective October 19, 2001, to ensure the continued airworthiness of these helicopters in the Federal Republic of Germany.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, this AD is being issued to prevent deactivation of the engine main fuel-metering valve, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter. This AD requires modifying the FADEC software and the LVDTs. The actions must be accomplished in accordance with the service bulletins described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the engine power and controllability of the helicopter. Therefore, modifying the FADEC software and the LVDTs are required within 50 hours time-in-service, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 22 helicopters will be affected by this AD, that it will take approximately 10 work hours to accomplish the modifications, and that the average labor rate is $60 per work hour. The manufacturer has stated that parts will be provided at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $13,200.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–69–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–11–01 Eurocopter Deutschland: Amendment 39–12762. Docket No. 2001–SW–69–AD.

Applicability: Model EC135 helicopters with Turbomeca Arrius 2B1 engines installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 50 hours time-in-service, unless accomplished previously.

To prevent deactivation of the engine main fuel-metering valve, an engine electrical control unit (FADEC) fail caution indication display to the pilot, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify the FADEC software in accordance with the Operating Instructions, paragraph 2.B., of Turbomeca Service Bulletin No. 319 73 2019, dated March 26, 2001.

(b) Modify the collective linear transducers (LVDTs) in accordance with the Accomplishment Instructions, paragraph 3.C., of Eurocopter Alert Service Bulletin EC135–71A–019, dated August 30, 2001.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) The modifications shall be done in accordance with Eurocopter Alert Service Bulletin No. EC135–71A–019, dated August 30, 2001, and Turbomeca Service Bulletin No. 319 73 2019, dated March 26, 2001. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527; and Turbomeca, DSO/T/NORIA Arrius 2 B1 TU 19C, 64 511 Bordes Cedex, France. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 14, 2002.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 2001–304/2, dated October 19, 2001.

Issued in Fort Worth, Texas, on May 20, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–13290 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–5]

Amendment to Class E Airspace; Fremont, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Fremont, NE in order to provide a safer Instrument Flight Rules (IFR) environment at Fremont Municipal Airport, Fremont NE. The FAA has developed Nondirectional Radio Beacon (NDB) Runway (RWY) 13, Amendment 3 Standard Instrument Approach Procedure (SIAP) and VHF Omnidirectional Range (VOR) RWY 13, Amendment 1 SIAP to serve Fremont Municipal Airport, Fremont NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to segregate aircraft using instrument approach procedures in instrument

conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, October 3, 2002.

Comments fro inclusion in the Rules Docket must be received on or before July 31, 2002.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 02–ACE–5, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA has developed NDB RWY 13, Amendment 3 and VOR RWY 13, Amendment 1 SIAPs to serve Fremont Municipal Airport, Fremont NE. The modification of Class E airspace at Fremont NE will provide additional controlled airspace at and above 700 feet AGL in order to contain the amended SIAPs within controlled airspace, and thereby enhance safety and efficiency of IFR flight operations in the Fremont NE terminal area. The modified Class E airspace will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 fee or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71,1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where Visual Flight Rules (VFR) pilots may anticipate the presence of IFR aircraft at lower altitudes, specially during inclement weather conditions. A greater degree of safety is achieved by depicting the area of aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 02–ACE–5." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E55 Fremont, NE [Revised]

Fremont Municipal Airport, NE
(lat. 41° 26′ 57″ N., long. 96° 31′ 13″ W.)
Fremont NDB (lat. 41° 27′ 02″ N., long. 96° 31′ 13″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Fremont Municipal Airport, excluding that airspace within the Scribner, NE, Class E and the Wahoo, NE, Class E airspace areas.

* * * * *

Issued in Kansas City, MO, on May 20, 2002.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 02–13549 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM98–10–010]

Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

Issued May 16, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim policy on certain remanded issues.

SUMMARY: On April 5, 2002, the United States Court of Appeals for the District of Columbia Circuit issued an opinion, generally affirming Order No. 637 concerning short-term and interstate natural gas transportation service. However, among other things, the Court vacated and remanded the policy that existing customers need only match a contract term of up to five years when exercising their right of first refusal. To prevent confusion in contracting and disruption to the market during the brief, but unavoidable, interim before the Commission can fully address the issues raised in the Court's remand, the Commission is issuing this Interim Policy, providing for the term cap currently in the pipelines' tariffs to govern the right of first refusal during the interim period.

The Court also remanded the policy adopted in Order No. 637 that pipelines must permit segmented forwardhaul and backhaul transactions to the same delivery point, each of which may use mainline capacity up to the contract demand of the underlying contract. The Commission will not address that issue in the individual pipeline proceedings to comply with Order No. 637 until after the issuance of the order on remand.

EFFECTIVE DATE: The interim policy is effective May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1274.

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell: Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

[Docket No. RM98–10–010]

Interim Policy on Certain Remanded Issues

Issued May 16, 2002.

On April 5, 2002, the United States Court of Appeals for the District of Columbia Circuit issued an opinion,[1] generally affirming Order No. 637.[2] However, among other things, the Court vacated and remanded the policy adopted in Order Nos. 636 and 637 that existing customers need only match a contract term of up to five years when exercising their right of first refusal. To prevent confusion in contracting and disruption to the market during the brief, but unavoidable, interim before the Commission can fully address the issues raised in the Court's remand, the Commission is issuing this Interim Policy, providing for the term cap currently in the pipelines' tariffs to govern the right of first refusal during the interim period.

The Court also remanded the policy adopted in Order No. 637 that pipelines must permit segmented forwardhaul and backhaul transactions to the same delivery point, each of which may use mainline capacity up to the contract demand of the underlying contract. The Commission will not address that issue in the individual pipeline proceedings to comply with Order No. 637 until after the issuance of the order on remand.

This order is in the public interest because it clarifies for pipelines and their customers the policies to be in effect while the Commission considers the Court's remand.

Background

In Order No. 436, the Commission adopted a regulation giving pipelines pre-granted abandonment authority under Section 7(b) of the NGA, 15 U.S.C. 717f(b), to terminate open access transportation service to a shipper once its contract had expired and it had no contractual right of renewal.[3] In Order Nos. 500–H and 500–I, the Commission interpreted that regulation as applying to all open access transportation services, including transportation service provided to the pipelines' historic sales customers who converted their sales service to transportation service. On review of Order Nos. 500–H and 500–I, the court remanded the issue of pre-granted abandonment authority to the Commission, finding that the Commission had not "adequately explained how pregranted abandonment trumps another basic precept of natural gas regulation—protection of gas customers from pipeline exercise of monopoly power through refusal of service at the end of a contract period."[4]

In the subsequent Order No. 636 proceeding, the Commission determined that pre-granted abandonment authority would be tempered with a right of first refusal for firm customers with a contract longer than one year.[5] Accordingly, Order No. 636 adopted a regulation providing that such a shipper could retain its service under a new contract by matching the term and the rate (up to the maximum rate) offered by the highest competing bidder.[6] In Order No. 636, the Commission contemplated that the bids the existing shipper must match could be for any contract length. However, on rehearing, in Order No. 636–A, the Commission capped the contract length the existing shipper must match at 20 years. The Commission did not, however, amend

[1] Interstate Natural Gas Association of America v. FERC, 2000 U.S. App. LEXIS 6219 at *70–*78 (No. 98–1333) (D.C. Cir. April 5, 2002) (*INGAA*).

[2] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,091 (February 9, 2000); *order on rehearing*, Order No. 637–A, FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,099 (May 19, 2000); *order denying reh'g*, Order No. 637–B, 92 FERC ¶ 61,062 (2000).

[3] 18 CFR 284.221(d) (2001).

[4] American Gas Association v. FERC, 912 F.2d 1496, 1518 (D.C. Cir. 1990). (*AGA*).

[5] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992), FERC Statutes and Regulations, Regulations Preambles January 1991–June 1996 ¶ 30,939 at 30,446–48 (April 8, 1992); *order on reh'g*, Order No. 636–A, 57 FR 36,128 (August 12, 1992), FERC Statutes and Regulations, Regulations Preambles January 1991–June 1996 ¶ 30,950 (August 3, 1992); *order on reh'g*, Order No. 636–B, 57 Fed. Reg. 57,911 (December 8, 1992), 61 FERC ¶ 61,272 (1992); *reh'g denied*, 62 FERC ¶ 61,007 (1993); *aff'd in part and remanded in part*, United Distribution Companies v. FERC, 88 F.3d 1105 (D.C. Cir. 1996); *order on remand*, Order No. 636–C, 78 FERC ¶ 61,186 (1997).

[6] 18 CFR 284.221(d)(2)(ii) (2001).

the regulation adopted in Order No. 636 to include the 20-year cap.

On appeal, however, the Court found the 20-year cap was not justified by the record and remanded it for further explanation.[7] The Court stated that the Commission had not adequately explained how the twenty-year term matching cap protects against the pipelines' preexisting market power, particularly why the 20-year cap would prevent bidders on capacity constrained pipelines from using long contract duration as a price surrogate to bid beyond the maximum approved rate, to the detriment of captive customers. On remand, the Commission changed its policy and adopted a five-year term matching cap in Order No. 636–C. It relied on the fact most commenters in the Order No. 636 proceeding had supported a term matching cap in the range of five years and more recent evidence showed that five years was about the median length of all contracts of one year or longer between January 1, 1995 and October 1, 1996.[8] Since the 20-year term matching cap had not been included in the Commission's regulations, this change did not require any change in the Commission's regulations. However, the Commission required all pipelines whose current tariffs contained term caps longer than five years to revise their tariffs consistent with the new policy.

On rehearing, in Order No. 636–D, the Commission recognized that pipelines had raised legitimate concerns about whether the five year term matching cap was causing a bias toward short-term contracts, with adverse economic consequences for both pipelines and captive customers. However, the Commission deferred further consideration of the term cap to the proceeding which became the Order No. 637 proceeding in Docket No. RM98–10–000, where a more current record could be developed.

In the Order No. 637 proceeding, the Commission continued the five-year cap policy, finding that none of the parties presented evidence to support the conclusion that a five-year contract is atypical in the current market. On appeal, the Court found that, in doing so, the Commission did not address any of the objections that had been raised concerning the five-year cap and had relied on the same evidence that it had used to make its decision in Order No. 636–C, namely the fact that five years was about the median length of all contracts of one year or longer.[9] The Court concluded that the only evidence supporting the Commission's final decision to choose a five-year cap was the original record, which in the Commission's own view was incomplete. The Court held the Commission had neither given an affirmative explanation for its selection of five years, nor had it responded to its own or the pipelines' objections to the five-year cap. The Court also questioned why the Commission used a median to function as a ceiling. Consequently, the Court vacated the five-year cap and remanded the issue to the Commission.[10]

In the Order No. 637 proceeding, the Commission also addressed segmentation of capacity, under which shippers may divide their mainline capacity into segments with each mainline segment equal to the contract demand of the original contract. As a general matter, shippers may overlap those mainline segments, but only up to the contract demand of the underlying contract. In Order No. 637–A, the Commission clarified that a shipper using a forwardhaul and backhaul to bring gas to the same delivery point in an amount that exceeds its contract demand is not overlapping mainline capacity. On appeal the Court found that the Commission had not adequately addressed whether this policy modified the contracts between the pipeline and its shippers or adequately supported the need for any contract modification.

Discussion

The Commission lacks a sufficient record at this time to respond to the Court's concerns regarding the term cap used for the right of first refusal. As the Court itself noted, the most recent evidence developed in the prior proceedings concerned contract term lengths during the years 1995 to 1996. In addition, the Commission must address the objections that have been raised by the pipelines and other parties and those which it has raised itself. The Commission intends to proceed expeditiously to solicit evidence and views concerning the length of the term cap.

However, there will inevitably be a gap between the time the Court's mandate issues, and the time the Commission can issue a substantive order on remand responding to the Court's concerns about the term matching cap. This raises the question of how the right of first refusal is to be exercised in the meantime as long-term contracts with right of first refusal rights expire. The Commission is concerned that uncertainty over the exercise of those rights could cause market disruption and believes that existing shippers and competitors for their capacity need to be able to negotiate new contracts without the uncertainty that a contract could be invalidated by the Commission's determinations concerning the term cap in an order on remand.

In the interim, the Commission continues the term cap of five-years currently in pipeline tariffs as an interim policy. The Commission will not apply its subsequent order on the merits of the Court's remand on this issue to overturn any contracts entered into under this interim policy. This will enable existing shippers with a right of first of refusal, and competitors for their capacity, to compete for that capacity under known rules that will not change, and thus avoid upsetting their expectations.

This Interim Policy will govern the term cap for contracts with the right of first refusal and will be effective from the date of issuance of this policy statement until the Commission adopts a different policy or rule on the maximum term that a holder of a contract with a right of first refusal must meet to retain its contract.

The Commission also intends to solicit comments on the remanded forwardhaul/backhaul issue. The Commission required pipelines to allow a shipper to deliver full contract quantities via forwardhauls and backhauls to a single delivery point as part of its general requirement that shippers be permitted to segment their capacity. Whether individual pipeline tariffs improperly restrict segmentation is currently being addressed pursuant to NGA section 5 in the pipeline filings to comply with Order No. 637. Until the Commission has acted on the Court's remand of the backhaul/forwardhaul issue, the Commission will not be in a position to make the necessary section 5 findings in the compliance proceedings to require pipelines to permit backhauls and forwardhauls to the same point. Therefore, the Commission will not address that issue in the compliance proceedings until after the issuance of the order on remand.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12940 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

[7] United Distribution Companies v. FERC, 88 F.3d 1105, 1140–41 (D.C. Cir. 1996) (*UDC*).

[8] Order No. 636–C at 61,774 and 61,792.

[9] *INGAA* at *78.

[10] The Court also remanded to the Commission the question of whether the Commission's ROFR regulation or the provisions in a pipeline's tariff govern the conduct of the ROFR process.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8990]

RIN 1545–AX66

Equity Options With Flexible Terms; Qualified Covered Call Treatment; Suspension of Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Suspension of final rule and announcement of new effective date.

SUMMARY: This document suspends a final rule that was published in the **Federal Register** on Monday, April 29, 2002 (67 FR 20896) providing guidance on the application of the rules governing qualified covered calls.

DATES: The final rule published April 29, 2002 (67 FR 20896) is suspended effective April 29, 2002. That rule will be effective July 29, 2002.

FOR FURTHER INFORMATION CONTACT: Pamela Lew, (202) 622–3950 (not a toll-free number).

LaNita Van Dyke,

Paralegal Specialist, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–13579 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301 and 602

[TD 8992]

RIN 1545–AW67

Information Reporting for Payments of Interest on Qualified Education Loans; Magnetic Media Filing Requirements for Information Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 8992) which were published in the **Federal Register** on Monday, April 29, 2002 (67 FR 20901). The final regulations relate to the information reporting requirements under section 6050S for payments of interest on qualified education loans, including the filing of information returns on magnetic media.

DATES: This correction is effective April 29, 2002.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to this correction are under section 6050 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8992) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (TD 8992), which were the subject of FR Doc. 02–9931, is corrected as follows:

1. On page 20902, column 2, in the preamble, the second line from the bottom of the first full paragraph, the language "regulations (REG–106388–01) under" is corrected to read "regulations (REG–106388–98) under".

Guy R. Traynor,

Federal Register Certifying Officer, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 02–13170 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 588

Western Balkans Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Interim final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing regulations to carry out the purposes of Executive Order 13219 of June 26, 2001, "Blocking Property of Persons Who Threaten International Stabilization Efforts in the Western Balkans."

DATES: Effective Date: May 30, 2002.

Comments: Written comments must be received no later than July 29, 2002.

ADDRESSES: Comments may be sent either via regular mail to the attention of Chief, Policy Planning and Program Management Division, rm. 2176, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave. NW., Annex—2d Floor, Washington, DC 20220, or via OFAC's website (*http://www.treas.gov/ofac*).

FOR FURTHER INFORMATION CONTACT: Chief of Licensing, tel.: 202/622–2480, or Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On June 26, 2001, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 13219 (66 FR 34777, June 29, 2001), effective at 12:01 a.m. eastern daylight time on June 27, 2001. The order declared a national emergency with respect to "the actions of persons engaged in, or assisting, sponsoring, or supporting, (i) extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo, threaten the peace in or diminish the security and stability of those areas and the wider region, undermine the authority, efforts, and objectives of the United Nations, the North Atlantic Treaty Organization (NATO), and other international organizations and entities present in those areas and the wider region, and endanger the safety of persons participating in or providing support to the activities of those organizations and entities, including United States military forces and Government officials."

Section 1 of the order blocks, with certain exceptions, all property and interests in property of (1) persons listed in the Annex to the order and (2) persons designated by the Secretary of the Treasury, pursuant to criteria set forth in the order. Section 1 of the order further states that the blocking of property and interests in property includes, but is not limited to, the prohibition of the making or receiving by a United States person of any contribution or provision of funds, goods or services to or for the benefit of a person designated in or pursuant to the order.

Section 2 of the order prohibits any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the order, as well as any conspiracy formed to violate such prohibitions.

Section 4 of the order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. In furtherance of those purposes, the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), acting under authority delegated by the Secretary of the Treasury, is promulgating the Western Balkans Regulations, 31 CFR Part 588 (the "Regulations").

Subpart B of the Regulations sets forth the prohibitions contained in sections 1 and 2 of the order. See: §§ 588.201, 588.204. Appendix A to 31 CFR chapter V has previously been amended to incorporate the names of persons set forth in the Annex to the order. Persons identified in the Annex to the order or designated by or under the authority of the Secretary of the Treasury pursuant to the order are referred to throughout the Regulations as "persons whose property or interests in property are blocked pursuant to § 588.201(a)." Their names are or will be published on OFAC's website, announced in the **Federal Register** and incorporated on an ongoing basis into appendix A to 31 CFR chapter V, which lists persons subject to various sanctions programs administered by OFAC.

Sections 588.202 and 588.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and the required holding of blocked property in interest-bearing blocked accounts. Section 588.205 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds. The section further provides that blocked property may, in the discretion of the Director of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 588.206 of subpart B details transactions that are exempt from the prohibitions of part 588. These exemptions derive from the exemptions set out in sections 203(b)(1), (3) and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)) and relate to personal communications, the importation and exportation of information or informational materials, and travel. The President determined in sec. 1(b) of the order that donations of the type specified in sec. 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), i.e., donations of articles such as food, clothing and medicine intended to be used to relieve human suffering, would seriously impair the President's ability to deal with the declared national emergency. Accordingly, the donation of such articles is not exempted from the scope of these Regulations and is prohibited, unless authorized by OFAC.

Subpart C of part 588 defines key terms used throughout the Regulations and subpart D sets forth interpretive sections regarding the general prohibitions contained in subpart B. Transactions otherwise prohibited under part 588 but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of 31 CFR chapter V.

Subpart F of part 588 refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty.

Subpart H of part 588 refers to subpart D of part 501 for applicable provisions relating to administrative procedures. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Request for Comments; Procedural Requirements

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. However, because of the importance of the issues addressed in these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments may address the impact of the Regulations on the submitter's activities, whether of a commercial, non-commercial or humanitarian nature, as well as changes that would improve the clarity and organization of the Regulations.

The period for submission of comments will close July 29, 2002. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the submission be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such submission to the originator without considering them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these Regulations will be a matter of public record. Copies of the public record concerning these Regulations will be made available not sooner than August 28, 2002 and will be obtainable from OFAC's website (*http://www.treas.gov/ofac*). If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, Attn: Chief, Records Division.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or

sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 588

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Penalties, Reporting and recordkeeping requirements, Securities, Services, Western Balkans.

For the reasons set forth in the preamble, part 588 is added to 31 CFR chapter V to read as follows:

PART 588—WESTERN BALKANS STABILIZATION REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
588.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

588.201 Prohibited transactions involving blocked property.
588.202 Effect of transfers violating the provisions of this part.
588.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
588.204 Evasions; attempts; conspiracies.
588.205 Expenses of maintaining blocked property; liquidation of blocked account.
588.206 Exempt transactions.

Subpart C—General Definitions

588.301 Blocked account; blocked property.
588.302 Effective date.
588.303 Entity.
588.304 Information or informational materials.
588.305 Interest.
588.306 Licenses; general and specific.
588.307 Person.
588.308 Property; property interest.
588.309 Transfer.
588.310 United States.
588.311 U.S. financial institution.
588.312 United States person; U.S. person.

Subpart D—Interpretations

588.401 Reference to amended sections.
588.402 Effect of amendment.
588.403 Termination and acquisition of an interest in blocked property.
588.404 Transactions incidental to a licensed transaction.
588.405 Provision of services.
588.406 Offshore transactions.
588.407 Payments from blocked accounts to satisfy obligations prohibited.
588.408 Charitable contributions.
588.409 Credit extended and cards issued by U.S. financial institutions.
588.410 Setoffs prohibited.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

588.501 General and specific licensing procedures.
588.502 Effect of license or authorization.
588.503 Exclusion from licenses.
588.504 Payments and transfers to blocked accounts in U.S. financial institutions.
588.505 Entries in certain accounts for normal service charges authorized.
588.506 Investment and reinvestment of certain funds.
588.507 Provision of certain legal services authorized.
588.508 Authorization of emergency medical services.

Subpart F—Reports

588.601 Records and reports.

Subpart G—Penalties

588.701 Penalties.
588.702 Prepenalty notice.
588.703 Response to prepenalty notice; informal settlement.
588.704 Penalty imposition or withdrawal.
588.705 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

588.801 Procedures.
588.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

588.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; E.O. 13219, 66 FR 34777, June 29, 2001, 3 CFR, 2001 Comp., p. 778.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 588.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 588.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, property or interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13219 of June 26, 2001 (3 CFR, 2001 Comp., p. 778); and

(2) Any person designated by the Secretary of the Treasury, in consultation with the Secretary of State, because they are found:

(i) To have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of threatening the peace in or diminishing the stability or security of any area or state in the Western Balkans region, undermining the authority, efforts, or objectives of international organizations or entities present in the region, or endangering the safety of persons participating in or providing support to the activities of those international organizations or entities; or

(ii) To have actively obstructed, or to pose a significant risk of actively obstructing, implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo; or

(iii) Materially to assist in, sponsor, or provide financial support for, or goods or services in support of, such acts of violence and obstructionism; or

(iv) To be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any person designated in the Annex to Executive Order 13219 or any person otherwise designated by the Secretary of the Treasury pursuant to this section.

Note to paragraph (a) of § 588.201: The names of persons whose property or interests in property are blocked pursuant to paragraph (a) of this section will be published on OFAC's website, announced in the **Federal Register** and incorporated on an ongoing basis with the identifier [BALKANS] into appendix A to 31 CFR chapter V. Section 501.807 of this chapter V sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation pursuant to paragraph (a)(2) of

this section or who wish to assert that the circumstances resulting in designation no longer apply. Similarly, when a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds to have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

(b) The blocking of property and interests in property pursuant to paragraph (a) of this section includes, but is not limited to, the prohibition of the making or receiving by a United States person of any contribution or provision of funds, goods or services to or for the benefit of a person whose property or interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

§ 588.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 588.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 588.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 588.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of a person whose property or interests in property are blocked pursuant to § 588.201(a).

§ 588.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations subject to § 588.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term blocked *interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 588.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 588.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 588.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to § 588.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 588.204 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 588.205 Expenses of maintaining blocked property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m., eastern daylight time, June 27, 2001, all expenses incident to the maintenance of physical property blocked pursuant to § 588.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 588.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 588.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials, as defined in § 588.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to § 588.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 588.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 588.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 588.201 held in the name of a person whose property or interests in property are blocked pursuant to § 588.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 588.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property or interests in property are blocked pursuant to § 588.201(a)(1), 12:01 a.m. eastern daylight time, June 27, 2001;

(b) With respect to a person whose property or interests in property are blocked pursuant to § 588.201(a)(2), the earlier of the date on which is received actual or constructive notice of such person's designation by the Secretary of the Treasury.

§ 588.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 588.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

Note to paragraph (a) of § 588.304. To be considered information or informational

materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 588.305 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., "an interest in property") means an interest of any nature whatsoever, direct or indirect.

§ 588.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 588.306: See § 501.801 of this chapter on licensing procedures.

§ 588.307 Person.

The term *person* means an individual or entity.

§ 588.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 588.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 588.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 588.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 588.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 588.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 588.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 588.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property

blocked pursuant to § 588.201(a), unless there exists in the property another interest that is blocked pursuant to § 588.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 588.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 588.404 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An incidental transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 588.201(a); or

(b) An incidental transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 588.405 Provision of services.

(a) Except as provided in § 588.206, the prohibitions on transactions involving blocked property contained in § 588.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 588.201(a); or

(2) With respect to property interests subject to § 588.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property or interests in property are blocked pursuant to § 588.201(a).

Note to § 588.405: See §§ 588.507 and 588.508, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§ 588.406 Offshore transactions.

The prohibitions in § 588.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to § 588.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to § 588.201(a) has or has had an interest since the effective date.

§ 588.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 588.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized pursuant to this part.

§ 588.408 Charitable contributions.

Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology may be made to or for the benefit of a person whose property or interests in property are blocked pursuant to § 588.201(a). For purposes of this part, a contribution or donation is made to or for the benefit of a person whose property or interests in property are blocked pursuant to § 588.201(a) if made to or in the name of such a person; if made to or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade or to avoid the bar on the provision of contributions or donations to such a person.

§ 588.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 588.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property or interests in property are blocked pursuant to § 588.201(a).

§ 588.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 588.201 if effected after the effective date.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 588.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 588.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 588.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 588.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 588.201(a) has any interest, that comes within the possession or control of a U.S. financial

institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note to § 588.504. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 588.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 588.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 588.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 588.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 588.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to § 588.201(a).

§ 588.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property or interests in property are blocked pursuant to § 588.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 588.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 588.201(a) is prohibited unless specifically licensed in accordance with § 588.202(e).

§ 588.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 588.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 588.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 588.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act;

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined not more than $50,000, and if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 588.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30 day period set forth in § 588.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 588.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph (a) shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Default.* If the respondent elects not to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will conclude that the respondent has decided not to respond to the prepenalty notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the prepenalty notice.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the

prepenalty notice was served upon the respondent in care of the representative.

§ 588.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 588.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 588.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart D, of this chapter.

§ 588.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13219 of June 26, 2001 (3 CFR, 2001 Comp., p. 778), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 588.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: April 2, 2002.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 19, 2002.

Jimmy Gurulé,

Under Secretary (Enforcement), Department of the Treasury.

[FR Doc. 02–13425 Filed 5–24–02; 3:11 pm]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–99–038]

RIN 2115–AE47

Drawbridge Operation Regulations: Lady's Island Bridge, Atlantic Intracoastal Waterway (AIWW), Beaufort, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting, with changes, the interim rule published in the **Federal Register** on July 20, 1999, governing the operation of the Lady's Island Bridge at Beaufort, South Carolina. This rule changes the operating requirements from a seasonal operating schedule to an annual schedule that coincides with daily traffic volume. This rule will accommodate the needs of roadway traffic and still provide for the reasonable needs of navigation.

DATES: This rule is effective July 1, 2002.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–99–38] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida, 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 20, 1999, the Coast Guard published an interim rule entitled, Drawbridge Operation Regulations, Atlantic Intracoastal Waterway SC in the **Federal Register** (64 FR 38829). The Coast Guard received 43 comments on the interim rule, although 12 of these were actually in response to the since-discontinued test period preceding the interim rule. A public hearing was not requested and one was not held.

Background and Purpose

The Lady's Island Bridge (also known as the Woods Memorial Bridge) over the Atlantic Intracoastal Waterway (Beaufort River), mile 536.0 at Beaufort, South Carolina, has a vertical clearance of 30 feet at mean high water and 37 feet at mean low water. Before August 23, 1999, the draw opened on signal, except that from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Saturday the draw only had to open on the hour. During the months of April, May, June, September, October, and November, Monday through Friday from 9 a.m. to 4 p.m., the draw only had to open on the hour, twenty minutes after the hour, and forty minutes after the hour.

The City of Beaufort requested that the Coast Guard change the existing regulations by eliminating openings during morning and evening rush hours and limiting the openings to twice an hour between rush hours. The operating regulations for this bridge had not been changed since 1986 and vehicular traffic had increased. The new schedule allows individuals crossing the bridge to plan their transit times and avoid delays from bridge openings, while still meeting the reasonable needs of navigation.

Discussion of Comments and Changes

The Coast Guard has received 43 comments regarding the interim rule and the test period that preceded it. Thirty responses were in favor of the new schedule and 13 were against the new schedule. Of the 13 comments against the schedule, 12 comments responded to a three-month test period which provided that the bridge need not open from 7 a.m. until 9 a.m., Monday through Friday. These comments requested the schedule begin at 7:30 a.m. instead of 7 a.m. each weekday.

The interim rule addressed this issue by beginning the schedule at 7:30 a.m. Additional information since the implementation of the interim rule from the City of Beaufort and other commenters shows that changing the regulation to 7:30 a.m. rather than 7 a.m. has aggravated vehicle traffic flow because vessels accumulate at the bridge at 7:30 a.m. awaiting the last opening and the bridge opens longer to pass the vessels. By changing this final rule from 7:30 a.m. to 7 a.m., we hope to alleviate the vehicle traffic congestion that has occurred as a result of the longer bridge openings. The one commenter against the interim rule did not want the rush hour closures at all and wanted to change the schedule so the bridge would open on the hour and half-hour between 7 a.m. and 6 p.m. We have carefully considered these comments and believe the interim rule should be adopted with the following change, the morning weekday schedule should begin at 7 a.m. instead of 7:30 a.m.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory polices and procedures of DOT is unnecessary because the rule will meet the needs of navigation while easing the flow of vehicular traffic during peak traffic periods.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because the rule will meet the needs of navigation while easing the flow of vehicular traffic during peak traffic periods with scheduled openings.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this action and concluded that, under figure 2–1, paragraph (32) (e)

of Commandant Instruction M16475.1D, this rule is categorically excluded for further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the interim rule amending 33 CFR part 117 which was published at 64 FR 38829 on July 20, 1999, is adopted as a final rule with the following change:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

2. Amend § 117.911 by revising paragraph (f) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(f) *Lady's Island Bridge, across the Beaufort River, Mile 536.0 at Beaufort.* The draw shall operate as follows:

(1) On Monday through Friday, except Federal holidays:

(i) From 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open; and,

(ii) Between 9 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(2) At all other times the draw shall open on signal.

Dated: April 30, 2002.

James S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 02–13511 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–2001–10689]

RIN 2115–AG24

Temporary Requirements for Notification of Arrival in U.S. Ports

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change of effective date.

SUMMARY: The Coast Guard is extending the effective period for the temporary final rule on "Temporary Requirements for Notification of Arrival in U.S. Ports" to September 30, 2002, to ensure public safety and security and to ensure the uninterrupted flow of commerce.

DATES: Section 160.201(e) and (f), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002; § 160.201(g), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001; the definitions for "certain dangerous cargo", "crewmember", "nationality", and "persons in addition to crewmembers" in § 160.203; § 160.T204, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002; § 160.T208, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and 67 FR 2571, January 18, 2002; and §§ 160.T212 and 160.T214, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, are all extended in effect until September 30, 2002. Section 160.201(c) and (d); the definition of "certain dangerous cargo" in § 160.203; and §§ 160.207, 160.211, and 160.213, which were suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LTJG Marcus A. Lines, U.S. Coast Guard (G–MMP), at 202–267–6854. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for security checks on all modes of travel, particularly those modes by which foreign nationals can enter the country. In the maritime context, extra time is needed for security checks. Vessels bound for U.S. ports and places could experience delays in entering port if required arrival information is not received early enough.

On October 4, 2001, we published a temporary final rule entitled "Temporary Requirements for Notification of Arrival in U.S. Ports" in the **Federal Register** (66 FR 50565). Subsequently, we published two corrections in the **Federal Register** [November 19, 2001 (66 FR 57877)] and [January 18, 2002 (67 FR 2571)]. The temporary rule increased the time for submission of a notice of arrival (NOA) from 24 to 96 hours prior to arriving at port; required centralized submissions; temporarily withdrew exemptions from reporting requirements for some groups of vessels; and required passenger, crew, and cargo information.

We are extending the effective period of the temporary final rule so that we can complete a rulemaking [(USCG–2001–11865), RIN 2115–AG35, "Notification of Arrival in U.S. Ports"] to permanently change the notice of arrival requirements. Extending the effective date until September 30, 2002, should provide us enough time to complete the rulemaking.

We did not publish a notice of proposed rulemaking (NPRM) for this rule and it is being made effective less than thirty days after publication in the **Federal Register**. When we promulgated the October 4 rule, we intended to either allow it to expire on June 15, 2002, or to cancel it if we made permanent changes before that date. We are now preparing an NPRM to make permanent changes to the notice of arrival requirements. That rulemaking will follow normal notice and comment procedures, and a final rule should be published before September 30, 2002. Continuing the temporary rule in effect while the permanent rulemaking is in progress will help to ensure the security of our ports and the uninterrupted flow of maritime commerce during that period. Therefore, the Coast Guard finds good cause under 5 U.S.C. 553 (b)(B) and (d)(3) for why a notice of proposed

rulemaking and opportunity for comment is not required and why this rule will be made effective fewer than 30 days after publication in the **Federal Register**.

Regulatory Evaluation

This temporary rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Assessment under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary; however, a Regulatory Assessment has been prepared and may be viewed in the docket for this project. As discussed in the temporary final rule preamble, the Coast Guard has temporarily changed the notice of arrival (NOA) regulations. When assessing the impact of the temporary requirements, we estimated that providing the Coast Guard with the additional information about passengers, crew, and cargo will impose minimal burden on vessels already complying with the notification requirements of 33 CFR part 160, subpart C. We estimated that, by suspending some exemptions, the temporary rule imposed a heavier burden on vessels that were exempt from reporting but that are now required to report in accordance with § 160.T208. As explained below, the total cost of this temporary rule should not exceed $754,648:

Cost and Burden. Coast Guard data on Notification of Arrival information for 1998 and 1999 were used to estimate the maximum populations affected by the temporary rule. Table 1 categorizes the affected vessel population into four sub-populations. They are:

- "Non-AMVER/Non-Great Lakes Vessels"—vessels already required to comply with NOA regulations;
- "AMVER"—vessels complying with the Automated Mutual Assistance Vessel Rescue system and that were exempt from NOA requirements prior to the temporary rule;
- "Great Lakes Vessels"—vessels greater than 300 gross tons, on Great Lakes routes, that were exempt from NOA requirements prior to the temporary rule; and
- "Vessels on Scheduled Routes"—vessels operating upon a route that is described in a schedule that is submitted to the Captain of the Port for each port or place of destination listed in the schedule.

The table also sets out the number of vessels and their total number of U.S. port calls (arrivals) for each vessel sub-population.

TABLE 1.—NUMBER OF VESSELS AND U.S. PORT CALLS FOR 1998 AND 1999*

	1998	1999	Annual average	Monthly average
Non-AMVER/Non-Great Lakes:				
Vessels	9,795	9,538	9,667	NA
U.S. Port Calls	63,090	63,482	63,286	5,274
AMVER:				
Vessels	625	609	617	NA
U.S. Port Calls	4,027	4,052	4,040	337
Great Lakes:				
Vessels	83	82	83	NA
U.S. Port Calls	840	786	813	68
Totals:				
Vessels	10,503	10,229	10,367	NA
U.S. Port Calls	67,957	68,320	68,139	5,679

*These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Vessels less than 300 gross tons making ports of call in the Seventh Coast Guard District have to file NOA reports with the COTP. The temporary rule maintained this requirement, and the estimate of the vessels and port calls presented in Table 1 accounted for this special group.

Before the temporary final rule, vessels had to file multiple NOA reports if they were visiting multiple U.S. ports on the same voyage. Under the temporary rule, vessels making calls to multiple U.S. ports do not have to file multiple NOA reports; rather, the temporary rule allows a single report listing all destinations in the United States along with estimated arrival dates for each port. The Coast Guard did not collect or maintain information on the number of vessels that made multiple U.S. port calls under separate NOA reports to estimate the number of consolidated reports under the temporary rule. The totals above, therefore, represent a conservative estimate, a "worst-case scenario," of the numbers of vessels and NOA reports that will be affected by the temporary rule.

Finally, vessels that make scheduled trips outside of their COTP zones will no longer be exempt from reporting requirements. We do not know how many of these vessels and port calls exist, though we know they are included in the population of non-AMVER/non-Great Lakes vessels. For the purposes of analysis, these vessels and port calls are included in the non-AMVER/non-Great Lakes population.

Cost of the Temporary Rule

Minimal burden will be imposed on vessels whose applicability to the NOA reporting requirements was upheld by the temporary rule because the cargo, crew, and passenger information they provide to the Coast Guard is already collected on a form submitted to the Immigration and Naturalization Services (INS) (INS form I–418). We assumed 10 minutes (0.167 hours) will be spent retrieving and transmitting the cargo, crew, and passenger information. We assumed that there will be a $2 transmittal fee (fax, email, telephone, etc.) to provide this information to the Coast Guard. We assumed that clerical labor will complete these tasks at a cost of $31.00 per hour (loaded labor rate, 2001). Based on 1998 and 1999 data, we estimated 63,286 port calls will be made over the time period of this rulemaking (12 months—until September 30, 2002). The summary of unit costs and total rulemaking costs for non-AMVER/non-Great Lakes vessels is presented in Table 2.

TABLE 2.—TOTAL RULEMAKING COSTS FOR NON-AMVER/NON-GREAT LAKES VESSELS

[October 2001–September 2002]

Port calls during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rule-making cost for these vessels
63,286	0.167	10,548	$31.00	$2.00	$453,564

Detail may not calculate to total due to independent rounding.
* These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Vessels that were previously exempt from NOA requirements must now, as a result of the temporary rule, provide the Coast Guard with NOA reports in addition to providing the cargo, crew, and passenger information. These vessels (AMVER and vessels that transit only the Great Lakes) will incur the new cost of submitting an NOA report, since they did not have to submit this report in the past. Based on the OMB-approved Collection of Information for NOA (OMB–2115–0557), we estimated that it will take 10 minutes (0.167 hours) to complete the report, plus an additional 5 minutes (0.083 hours) for the general description of the cargo. We assumed that clerical labor will complete the report at a cost of $31.00 per hour. Additionally, these vessels will need to develop and submit the cargo, crew, and passenger information. Based on information from the INS (OMB–1115–0083), it will require 60 minutes (1.000 hour) to complete both lists, for a total of 75 minutes (1.250 hours) for the entire submission (NOA report, cargo description, crew and passenger information). There will be a $2 transmittal fee to provide the information to the Coast Guard. Based on 1998 and 1999 data, we estimated that 4,853 port calls will be made over the time period of this rulemaking. The summary of unit costs and total rulemaking costs for AMVER/Great Lakes vessels is presented in Table 3.

TABLE 3.—TOTAL RULEMAKING COSTS FOR AMVER/GREAT LAKES VESSELS

[October 2001–September 2002]

Port calls during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rule-making cost for these vessels
4,853	1.250	6,065	$31.00	$2.00	$197,741

Detail may not calculate to total due to independent rounding.

Finally, all vessels affected will need to communicate with the National Vessel Movement Center (NVMC) upon departure from a U.S. port when their next port of call is also a U.S. port. Vessels are to phone or fax the date of departure to the NVMC along with the name of the port just departed. The NVMC will transmit this information to the COTP in the next port of call. We assumed that reporting this will require 1 minute (0.017 hours) per departure and that clerical labor ($31.00 per hour) will make the call or send the fax. We assumed the transmittal fee will be $1.00 per call/fax. There will be an estimated 68,139 departures over the 12-month period of the temporary rule (until September 30, 2002). The cost and burden for notifying NVMC of the date of departure and last port of call is presented in Table 4.

TABLE 4.—TOTAL RULEMAKING COSTS FOR PROVIDING NVMC WITH DATE OF DEPARTURE AND LAST PORT OF CALL INFORMATION

[October 2001–September 2002]

Port departures during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rule-making cost for these vessels
68,139	0.017	1,136	$31.00	$1.00	$103,343

Detail may not calculate to total due to independent rounding.

The total cost and burden of the rule is presented in Table 5.

TABLE 5.—TOTAL RULEMAKING COST FOR ALL AFFECTED VESSELS

[October 2001–September 2002]

	Arrivals/ departures	Cost per arrival/ departure	Burden per arrival/ departure (hours)	Total rule-making cost	Total rule-making burden
Arr. Non-AMVER/Non-Great Lakes	63,286	$7.17	0.167	$453,564	10,548

TABLE 5.—TOTAL RULEMAKING COST FOR ALL AFFECTED VESSELS—Continued

[October 2001–September 2002]

	Arrivals/ departures	Cost per arrival/ departure	Burden per arrival/ departure (hours)	Total rule-making cost	Total rule-making burden
Arr. AMVER/Great Lakes	4,853	40.75	1.250	197,741	6,065
Dep. all vessels	68,139	1.52	0.017	103,343	1,136
Totals	136,278			754,648	17,749

Detail may not calculate to total due to independent rounding.
* These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Need for the Temporary Rule

This rule will ensure the timely receipt of advance information about vessels and people entering U.S. ports and will help minimize disruption to commerce. The additional information required by this temporary rule will increase security and provide protection for the nation's ports and waterways. There will be some savings from the consolidated NOA submission for two or more consecutive arrivals at U.S. ports.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule was not preceded by a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule modifies an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Advance Notice of Vessel Arrival and Departure.

OMB Control Number: 2115–0557.

Summary of the Collection of Information: The Coast Guard requires pre-arrival messages from any vessel entering a port or place in the United States. This rule will amend 33 CFR part 160 to temporarily require:

- Earlier receipt of the notice of arrival—96 hours instead of 24 hours—from vessels currently required to provide advance notification of arrival;
- Submission of NOA reports to a central clearinghouse, the National Vessel Movement Center;
- Suspension of the current exemption from notice of arrival reporting requirements for vessels operating in compliance with the Automated Mutual Assistance Vessel Rescue System, some vessels operating on the Great Lakes, and vessels on scheduled routes; and
- Additional information about crewmembers, passengers, cargoes on board the vessel to be provided as items in the notice of arrival report.

The temporary changes will be in effect until September 30, 2002.

Need for Information: To ensure port safety and security and to ensure the uninterrupted flow of commerce, the Coast Guard must temporarily change regulations relating to the Notifications of Arrival requirements.

Proposed Use of Information: This information is required to control vessel traffic, develop contingency plans, and enforce regulations.

Description of the Respondents: The respondents are owners, agents, masters, operators, or persons in charge of vessels bound for or departing from U.S. ports.

Number of Respondents: The existing OMB-approved collection number of respondents is 9,834. This temporary rule will increase the number of respondents by 533 to a total of 10,367.

Frequency of Response: The existing OMB-approved collection annual number of responses is 126,722. This temporary rule will increase the number of responses by 9,556 to a total of 136,278.

Burden of Response: The existing OMB-approved collection burden of response is 10 minutes (0.167 hours). This temporary rule will increase the burden of response by 5 minutes (0.083 hours) to a total of 15 minutes (0.250 hours).

Estimate of Total Annual Burden: The existing OMB-approved collection total annual burden is 21,288 hours. This temporary rule will increase the total annual burden by 17,749 hours to a total of 39,037 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted a copy of this

rule to the Office of Management and Budget (OMB) for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for "emergency processing" of our request. We received OMB approval for the collection of information on September 26, 2001. It is valid until September 30, 2002.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. We received OMB approval for the collection of information on September 26, 2001. It is valid until September 30, 2002.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, the effects of this rule are discussed elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This temporary final rule changes the requirements established in the notification of arrival regulations. They are procedural in nature and therefore are categorically excluded. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 160

Administrative practice and procedure; Harbors; Hazardous materials transportation; Marine safety; Navigation (water); Reporting and recordkeeping requirements; Vessels; Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

Subpart C—Notifications of Arrival, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

1. The authority citation for part 160 is amended to read as follows:

Authority: 33 U.S.C. 1223, 1226, 1231; 49 CFR 1.46.

§ 160.201 [Amended]

2. In § 160.201, paragraphs (c) and (d), which were suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002 and paragraphs (e) and (f), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and paragraph (g), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, are extended in effect until September 30, 2002.

§ 160.203 [Amended]

3. In § 160.203, the definition of "certain dangerous cargo," which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002; and the definitions for "certain dangerous cargo", "crewmember", "nationality", and "persons in addition to crewmembers" which were added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, are extended in effect until September 30, 2002.

§ 160.T204 [Amended]

4. Section 160.T204, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, is extended in effect until September 30, 2002.

§ 160.207 [Amended]

5. Section 160.207, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

§ 160.T208 [Amended]

6. Section 160.T208, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and by 67 FR 2571, January 18, 2002, is extended in effect until September 30, 2002.

§ 160.211 [Amended]

7. Section 160.211, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

§ 160.T212 [Amended]

8. Section 160.T212, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, is extended in effect until September 30, 2002.

§ 160.213 [Amended]

9. Section 160.213, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

§ 160.T214 [Amended]

10. Section 160.T214, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, is extended in effect until September 30, 2002.

Dated: May 23, 2002.

J.P. High,

Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–13548 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–01–015]

RIN 2115–AA97

Security Zones, Naval Submarine Base Bangor and Naval Submarines, Puget Sound and Strait of Juan De Fuca, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In June 2001, we issued an interim rule establishing a fixed security zone around U.S. Naval Submarine Base Bangor. This interim rule also established moving security zones around U.S. Naval submarines while underway on Puget Sound, and the Strait of Juan De Fuca, WA and adjoining waters. This interim rule was established to safeguard U.S. Naval Submarine Base Bangor, and U.S. Naval submarines from sabotage, other subversive acts, or accidents, and otherwise protect Naval assets vital to national security. Based on the issuance of a naval vessel protection rule and the actions of other agencies, the Coast Guard is removing this interim rule because it is no longer needed.

DATES: This rule is effective 11:59 p.m. PDT, June 20, 2002.

ADDRESSES: Coast Guard Marine Safety Office Puget Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT P. M. Stocklin, Jr., c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217–6232.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard issued an interim final rule, effective June 20, 2001, that was published in the **Federal Register** (66 FR 35758, July 9, 2001). We are removing that interim final rule.

Under 5 U.S.C. 553(d)(3), we find that good cause exists to make this rule effective less than 30 days after publication in the **Federal Register**. This rule removes security zones that are no longer needed because of other regulatory changes designed to provide adequate security for U.S. Naval Submarine Base Bangor and submarines.

Background and Purpose

The Coast Guard established a fixed security zone around Naval Submarine Base Bangor, WA, and moving security zones around Naval submarines while underway on Puget Sound, and the Strait of Juan De Fuca, WA and adjoining waters because we determined it was necessary to prevent access to these areas in order to safeguard this U.S. Naval base and submarines from sabotage, other subversive acts, or accidents, and otherwise protect U.S. Naval assets vital to national security. Events such as the bombing of the USS COLE highlight the fact that there were hostile entities operating with the intent to harm U.S. national security by attacking or sabotaging Naval assets including those in Puget Sound. The events of September 11, 2001, demonstrated that there were real, credible, and immediate threats.

The Coast Guard, through our interim final rule, assisted the U.S. Navy in protecting vital national security assets by establishing security zones to exclude persons and vessels from the immediate vicinity of U.S. Naval Submarine Base Bangor and submarines. Entry into these zones was prohibited unless authorized by the Captain of the Port or his designee. These security zones are patrolled and enforced by Coast Guard and Navy personnel.

These zones are not needed after June 20, 2002 because regulatory changes, designed to provide adequate security for U.S. Naval Submarine Base Bangor and submarines, will be in effect by June 20, 2002. In particular, the Protection of Naval Vessels rule issued under the authority in 14 U.S.C. 91 immediately following the September 11, 2001 attacks (66 FR 48780, September 21, 2001; and 66 FR 48782, September 21, 2001) will provide protective measures for both vessels and bases. Additionally, the Army Corps of Engineers will also be providing a Naval Restricted Area around Submarine Base, Bangor, Washington. As a result this interim rule is no longer needed, and the Coast Guard is withdrawing the interim rule and closing this rulemaking docket.

Discussion of Comments and Changes

The Coast Guard received 15 responses to the interim final rule. The paragraphs in this section discuss the comments we received and provide the

Coast Guard's response. The Coast Guard is not making any changes to the rule based on the comments. Instead, the interim final rule is being withdrawn because other protective measures make the rule unnecessary.

General comments are discussed first, followed by comments on specific sections of the regulations.

General Comments

Five comments expressed support for the expanding of the security zone around the Naval Subase Bangor and the mobile security zones around submarines in order to protect them from sabotage, other subversive acts, or accidents. In addition, these responses contained issues that were outside the scope of this regulation.

One comment in favor of the security zone also stated that just because there is not a specific threat we should still act as prudent military commanders and extend security zones despite what intelligence agencies know but cannot share with the public in detail.

Two comments stated that, due to recent terrorist attacks on the United States military, we as a country should ensure the safety of the military.

One comment from a boater agreed with the security zone and stated that the security zone in no way will hinder navigation in the Puget Sound area.

One commenter in support of the security zone stated that, because he was a taxpayer, the submarines belonged to him and that the Coast Guard and Navy should use all appropriate means to protect them from enemy attack.

Four comments opposed the expedited implementation of this regulation and requested public hearings. Some of these expressed concern that the public was not allowed to ask questions and voice their concerns on the expanding of the security zone. In light of the threat and vulnerability concerns for naval installations and vessels, as highlighted by the terrorist attack on the USS Cole, the Navy and Coast Guard decided that a security zone around the subase and submarines was needed immediately. Following the terrorist attack on the World Trade Centers in New York and the Pentagon in Washington, D.C., the security zones have proven to be an appropriate necessity.

Three comments suggested that the security zones would hinder peaceful marine protesting of the nuclear submarines and the submarine base. This rule does not prevent people from engaging in constitutionally-protected expression. People are still able to peacefully protest outside the security zones. The zones are designed to protect Navy assets to the maximum extent possible without unreasonably impacting the right to free speech.

One comment mentioned that protection of civilian marine traffic during a terrorist attack on a submarine is not addressed in the interim final ruling. This comment is outside the scope of this rulemaking.

Four comments suggested other ways the Navy could increase security for its submarines and the subase. These suggestions were not practical due to the inherent dangers involved in submarine navigation and/or would create added unnecessary burdens.

Two comments expressed concern over automobile traffic being impeded on the Hood Canal Bridge. These comments are outside the scope of this regulation.

Three comments questioned what and whether there is a credible threat to U.S. submarines. It would be contrary to the public interest to disclose the exact nature of the threats to U.S. Naval assets, as this information is highly classified, and if divulged would greatly damage U.S. intelligence sources and security postures. The terrorist attacks of September 11, 2001 have proven that there are very credible threats to our nation and its capability to conduct war.

One comment questioned if a bomb threat on one of the submarines in May 2000 was one of the reasons for the security zone. This comment is out of the scope of this regulation.

One comment questioned if a November 2000 arrest for sabotage of a Navy Petty Officer assigned to a submarine was one of the reasons for the security zone. This comment is out of the scope of this regulation.

Three comments discussed protesters being unable to enter Elliot Bay while a nuclear submarine was moored there in August 2000 for Sea Fair festivities. These comments are out of the scope of this regulation.

One comment questioned if there is a similar security zone for Trident Submarines and the subase at Kings Bay, Georgia. That base has different geographical parameters than Puget Sound, and does not serve as a good comparison.

One comment suggested that the number of times a Trident Submarine passes through the Strait of Juan De Fuca and Hood Canal should be estimated in order to determine if the distances established by the zones will still permit adequate freedom of movement on the waterways. Due to the required secrecy of Trident submarine movements, the number of submarine passages cannot be made public.

One comment questioned if the Indian Tribal Governments had been contacted. The commenter stated it was not reasonable to expect Indian Tribes to review the **Federal Register** in order to comment on the impact to their tribes. The Coast Guard is required to consult Indian Tribes for rules that would have a significant impact on Tribal activities. The interim final rule did not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it did not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. As a result, the Indian Tribes were not consulted on the interim final rule.

One comment questioned why the environmental impact was left off the interim final ruling. The Coast Guard was not required to prepare environmental documentation prior to issuing the interim final rule, but has subsequently done so.

One comment suggested that the regulation would have an impact on commercial and civilian navigation. Since the interim regulation has been in affect, there has only been minimal impact on recreational and commercial navigation. This rule is being withdrawn so it will no longer have any impact on recreational or commercial navigation.

Comments on Specific Sections of the Rule

One comment questioned what response the Coast Guard or Navy would give to an infraction of the security zone. Specific Coast Guard enforcement actions depend on the circumstances of each case, and can, in accordance with policy, range from education and verbal warnings up to the maximum penalties provided by law. The Coast Guard and Navy will take all legally appropriate and necessary law enforcement measures to ensure compliance with the zone.

Four comments opposed the expedited implementation of this regulation and requested public hearings. Some of these expressed concern that the public was not allowed to ask questions and voice their concerns on the establishment of the security zones. The Coast Guard did not hold public hearings prior to the rulemaking because good cause existed to make the rule effective sooner than the normal rulemaking process would allow, as discussed in the interim final rule. The Coast Guard was also available to answer any questions posed by the public.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the regulated areas established by the interim final rule are being cancelled For the above reason, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This final rule will not affect any small entities. Because the impacts of this final rule are expected to be minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

If you believe that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you believe it qualifies and how and to what degree this final rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the (**FOR FURTHER INFORMATION CONTACT**) section.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This final rule would not impose an unfunded mandate.

Taking of Private Property

This final rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This final rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.lC, this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for security zones. A Categorical Exclusion Determination and an Environmental Analysis Checklist are available in the docket at the location specified under the **ADDRESSES** portion of this rulemaking.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Final Rule

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.1311 [Removed]

2. Remove § 165.1311.

Dated: May 20, 2002.

M.R. Moore,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 02–13509 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–002]

RIN 2115–AA97

Safety and Security Zones; Pilgrim Nuclear Power Plant, Plymouth, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety and security zones around the Pilgrim Nuclear Power Plant in Cape Cod Bay, Plymouth, MA. The safety and security zones will close certain waters of Cape Cod Bay near the Pilgrim Nuclear Power Plant and land adjacent to those waters. The safety and security zones prohibit entry into or

movement within a portion of Cape Cod Bay and adjacent shore areas and are needed to ensure public safety and prevent sabotage or terrorist acts.

DATES: This rule is effective June 16, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dave Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3030.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 29, 2002, we published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (67 FR 4218). The comment period for that NPRM expired on April 15, 2002. The Coast Guard is now proceeding to implement a final rule taking into account all comments received.

Good cause exists for making this regulation effective in less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest. Based upon comments received and evaluations of the proposed rulemaking and the hardships it threatened to impose on local waterway users, the zones have been reduced to less than one half of their original sizes in this final rule. As discussed below, the new zone descriptions will allow waterway users access to much more area than the previously proposed zones while still providing adequate protection to the Plant.

The public has been dealing with larger zones since September 2002, and has been anticipating the implementation of a final rule to coincide with the expiration on June 15, 2002 of current temporary safety and security zones around the Plant. Their comments indicate they want safety and security zones around the plant, but want smaller boundaries.

It is necessary for this zone to come into effect on June 16, 2002 to ensure there is no gap between its implementation and the expiration of the temporary safety and security zones published January 14, 2002 currently in effect around the Plant (67 FR 1607). If a gap between rulemakings occurs, the Coast Guard will have no viable enforcement options around the Plant waterfront during this period.

Because this final rule significantly decreases the impact on the public by implementing smaller zones, and because of the need to ensure there is no gap between the expiration of temporary safety and security zones published in January (67 FR 1607) that expire on June 15, 2002, and the implementation of this rulemaking, it is necessary for this regulation to become effective on June 16, 2002 in the interest of public safety and security. The public will still have substantial advance notice of this final rule before it becomes effective.

Background and Purpose

In light of terrorist attacks on New York City and Washington D.C. on September 11, 2001, safety and security zones are being established to safeguard the Pilgrim Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Pilgrim Nuclear Power Plant presents a possible target of terrorist attack, due to the potential catastrophic impact nuclear radiation would have on the surrounding area, its large destructive potential if struck, and its proximity to a population center. These safety and security zones prohibit entry into or movement within the specified areas.

This rulemaking establishes security and safety zones having identical boundaries delineated as follows: all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′5″ N, 070°34′42″ W; then running southeast to position 41°56′42″ N, 070°41′6″ W; then running southwest to position 41°56′30″ N, 070°34′21″ W; then running northwest to position 41°56′51″ N, 070°34′55″ W; then running northeast back to position 41°57′5″ N, 070°34′42″ W.

No person or vessel may enter or remain in the prescribed safety and security zones at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port or designated Coast Guard representative on-scene. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than $100,000), in rem liability against the offending vessel, and license sanctions.

Discussion of Comments and Changes Implemented in the Final Rule

The Coast Guard received 23 oral comments at one public meeting and 17 written comments during the comment period for the NPRM. All comments received were considered in the development of this final rule. Changes implemented in the final rule are the result of inter-Coast Guard evaluations of how to better employ and enforce the regulation and comments and recommendations of stakeholders in the COTP Boston zone. These stakeholders include the maritime industry, commercial and recreational fishermen, the maritime law community, and local townspeople.

As a result of the comments, review, and public recommendations the zones' delineation will change from the following: all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′30″ N, 070°34′36″ W; then running southeast to position 41°56′36″ N, 070°33′30″ W; then running southwest to position 41°56′28″ N, 070°34′38″ W; then running northwest to position 41°56′50″ N, 070°34′58″ W; then running northeast back to position 41°57′30″ N, 070°34′36″ W; to the following revised coordinates: all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′5″ N, 070°34′42″ W; then running southeast to position 41°56′40.5″ N, 070°34′4.5″ W; then running southwest to position 41°56′32″ N, 070°34′14″ W; then running northwest to position 41°56′55.5″ N, 070°34′52″ W; then running northeast back to position 41°57′5″ N, 070°34′42″ W.

These changes remove the majority of the Rocky Point shoal area and all of the White Horse Rocks area from the zones, and reduce the approximate size of the zones by more than half. The specific comment topics and resultant changes (if any) are addressed below.

I. Adequate Protection Can Be Provided By Smaller Zones

The Coast Guard received comments from both the public and Pilgrim Nuclear Power Plant advocating smaller zones. Pilgrim Nuclear Power Plant conducted evaluations based upon Nuclear Regulatory Commission data and concluded that zones approximately 500 yards offshore from the plant would provide adequate protection against waterside threats. Based upon this evaluation and the hardships (as outlined below) the proposed zones threatened to impose on local waterway users, the zones have been reduced in size as described above in this discussion of comments and inthe Background and Purpose section.

II. The Size of the Proposed Zones Would Place an Excessive Burden on the Commercial Lobster Industry By Excluding Fishermen From Frequently Fished Areas, Forcing Fishermen to Crowd Into Other Areas and Reducing Their Income

Many comments related concerns that the proposed zones' boundaries would exclude lobstermen from highly productive lobstering areas, namely the White Horse Rocks and the Rocky Point shoal areas. At the time the NPRM was issued the Coast Guard was still investigating the potential impacts of the zones on the commercial fishing community. Upon consulting with local and state lobsterman officials as well as the Massachusetts Division of Marine Fisheries, it was determined that a significant amount of the lobster landings for Plymouth, MA, come from these areas and a significant amount of lobstermen depend upon those areas for their livelihoods. The revised and reduced boundaries, as supported by the studies conducted by the Pilgrim Plant and Nuclear Regulatory Commission, will allow the lobstermen to fish the vast majority of the highly productive lobstering areas from which they would have been originally excluded. A small portion of Rocky Point shoal area must remain inside the revised boundaries due to its proximity to the Pilgrim Plant.

III. The Regulation May Affect Private Boat Ramps on the Adjacent Priscilla Beach and Access to This Beach. It May Also Affect Private Property Abutting the Pilgrim Nuclear Power Plant

Some comments raised concerns regarding the extent of the proposed zones' boundaries, and that they might extend over public beaches, property, and boat ramps. The boundaries of the zones (both proposed and revised) at no time extended over any public beaches, private property, or public or private boat ramps outside Pilgrim Nuclear Power Plant property. As a result, we made no changes in response to these comments.

IV. The Proposed Zones Prevent Recreational Boats From Using the Safest Transit Path To and From Priscilla Beach Between White Horse Rocks and the Beach

Many comments stated concerns that proposed zones extended far enough offshore that it would force recreational boats to go around White Horse Rocks to transit to and from Priscilla Beach. They stated this could be dangerous in the instance boats needed to quickly return to shore due to a storm. The revised boundaries will allow recreational boaters to safely utilize their desired transit path between the zones and the White Horse Rocks area.

V. Additional Public Meetings and an Extension of the Comment Period Are Needed To Allow More Involvement of the Priscilla Beach Residents, and To Determine the Economic Impacts on the Local Lobstermen

A few comments requested extension of the comment period and additional public meetings. The comment period for the proposed rule was nearly 3 months long and numerous comments from Priscilla Beach residents were received. A public meeting was held with 87 participants, some of whom were Priscilla Beach residents. Due to the fact that the zones will not encompass any of Priscilla Beach, its adjacent private property, or the surrounding public and private boat ramps, and the fact that impacts on recreational boat transits to and from the beach will be negligible under the revised boundaries, the Coast Guard did not extend the comment period or schedule another public meeting.

In addition, lobstermen wished to have a separate meeting with the Coast Guard to determine the potential income loss they might experience due to the implementation of the zones. It was determined at the February 6, 2002 public meeting that the comment submission process provided a better avenue to document and address these issues, since lobstermen could easily determine their incomes and potential losses on their own without Coast Guard aid. All lobstermen who felt their livelihoods might be impacted by the zones were asked to submit comments supporting these claims during the comment period. The Coast Guard received four comments specifically detailing potential economic losses and the amount of lobstermen who would be impacted by the proposal.

VI. Safety and Security Zones Are Not Needed Due to the Large Number of Local Mariners Watching the Water as They Operate Off of the Pilgrim Plant

Many comments were from local mariners convinced that the zones are not necessary because the local mariners know each other in the vicinity of the plant, and would notice anything or anyone out of the ordinary. While the Coast Guard appreciates reports of suspicious activity from the public, such a public "neighborhood watch" group would not serve the same purpose, nor offer the same protection, as the safety and security zones. Local mariners cannot prevent potential terrorists from entering the area, they cannot board suspicious vessels, and they cannot remove suspicious persons or vessels from the area, and thus cannot be used in place of these safety and security zones.

VII. A Check-In System Should Be Established To Let People In and Out of the Zones

Some comments advocated a system to allow mariners to check in and out of the zones. Many systems were proposed including coded gates, tracking devices, and special identification and call in procedures, among others. A check-in procedure was established for the small number of commercial lobstermen whose livelihoods were effected by the temporary zones around the Plant. However, we feel such a system would be unpractical for recreational boats due to their large numbers. In addition, the need for any such system at this time is unnecessary considering the new boundaries of the zones, which will allow mariners to fish and transit within approximately 500 yards of the plant.

VIII. Buoys or Other Markers May Be Needed To Delineate the Zones

Some comments stated that markers to delineate the zones were essential. Others stated they did not want markers that would cause too much noise or be lit too brightly (such as buoys). The purpose of this regulation is solely to establish zones, it will not be used to mandate marking systems for the zones. However, the Coast Guard has determined marking of the zones may be beneficial and, along with the Pilgrim Power Plant, is considering whether to permit marking the zones with private aids to navigation. Markings placed, if any, will be certified by the First Coast Guard District Aids to Navigation Office, and their lights and sounds will not negatively impact communities on nearby Priscilla Beach.

IX. The Zones Should Be Made "Impenetrable" With Physical Barriers Such as Submarine Nets and Defense Systems Such as Missiles

Some comments sought the establishment of additional defense systems including physical barriers and anti-aircraft systems. The Coast Guard is currently in consultation with the Plant on static enforcement measures. However, it is beyond the scope of this rulemaking to address landside and air security improvements, or specify enforcement techniques. Thus, no action will be taken on comments within these categories.

X. The Public Wants To Know Who Will Enforce the Zones, When They Will Be There, and How Violators Will Be Dealt With

Some comments sought information on the enforcement of the zones. Coast Guard cutters, small boats, and air assets will enforce the zones with the assistance of others, including but not limited to, Massachusetts State Police and Environmental Police, and local harbormasters. In addition, Pilgrim Plant security will report any suspicious activity immediately to the Coast Guard.

Patrolling of the zones will be varied. Patrol schedules are a matter of agency discretion and will not be divulged to the public in advance. Violators of the zones will be subject to all provisions of applicable law and at a minimum will be escorted out of the zones by the Coast Guard or representative on scene. Depending on the circumstances, zone violators may receive any penalty up to the maximum penalties prescribed under the *Background and Purpose* section.

XI. The Public Wants To Know What Types of Vessels or Attacks Could Damage the Plant

Some comments sought information on what types of vessels could damage the plant. Potentially any vessel or person that could get inside these zones could damage the Pilgrim Nuclear Power Plant. This is why these zones are needed to prevent people and vessels from approaching the plant waterfront, and access to the zones will not be allowed without COTP Boston, MA approval.

XII. Small Recreational Vessels Traveling Far Offshore To Avoid Entering the Plant May Be Forced Into Rough Seas.

Some comments expressed concerns that the size of the proposed zones would force small recreational boats far offshore as they transited around it, posing a danger even in moderate weather. The revised boundaries of the zones will allow mariners to use traditionally available routes and transit much closer to shore as they pass across the front of the plant, as close as approximately 500 yards.

XIII. The Coast Guard Needs To Ensure Strict Interpretation of the Boundaries of the Zones

Some comments expressed concerns that local and state law enforcement assisting the Coast Guard might misinterpret the boundaries of the zones or not uniformly enforce them. The Coast Guard has a long history of working with local and state authorities in the enforcement of safety and security zones. The public can be certain that any agency assisting the Coast Guard will appropriately enforce the boundaries of the zones.

XIV. Allowances Should Be Made for the Event a Boat or Fishing Gear Is Forced Into the Zones By Inclement Weather

Some comments sought information on how fishermen could retrieve gear that happened to drift into the zones, or what would happen to a vessel if it were accidentally forced into the zones by bad weather. The Coast Guard understands that accidental or unforeseen situations sometimes arise. The Coast Guard will make allowances for vessels to enter the zones to retrieve gear, and will not typically take enforcement action against vessels forced into the zones by inclement weather, except to remove them from the zones. In all cases, it is expected that mariners who have a legitimate need to enter the zones will request permission in advance of entering.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be minimal enough that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant because there is ample room for vessels to navigate around the zones in Cape Cod Bay, and due to the reasons enumerated under the *Discussion of Comments* section.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, fish, or anchor in a portion of Cape Cod Bay. For the reasons enumerated in the *Discussion of Comments* section above, these safety and security zones will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant Dave Sherry, Marine Safety Office Boston, at (617) 223–3000.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.115 to read as follows:

§ 165.115 Safety and Security Zones: Pilgrim Nuclear Power Plant, Plymouth, Massachusetts.

(a) *Location.* All waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′5″ N, 070°34′42″ W; then running southeast to position 41°56′40.5″ N, 070°41′4.5″ W; then running southwest to position 41°56′32″ N, 070°34′14″ W; then running northwest to position 41°56′55.5″ N, 070°34′52″ W; then running northeast back to position 41°57′5″ N, 070°34′42″ W.

(b) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters or land area within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Boston or his authorized patrol representative.

Dated: May 16, 2002.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–13550 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles–Long Beach 02–011]

RIN 2115–AA97

Safety Zone; Offshore Gran Prix powerboat race, Long Beach, California

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of Long Beach Outer Harbor, Long Beach, California, for the Second Annual Long Beach Offshore Gran Prix powerboat race. This safety zone is needed to provide for the safety of the crews and participants of the race and to protect the participating vessels. Persons and vessels are prohibited from entering into or transiting through this safety zone unless authorized by the Captain of the Port.

DATES: This rule is effective from 12 p.m. to 3 p.m. (PDT) on June 2, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (COTP Los Angeles-Long Beach 02–011) and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Jessica Walsh, Waterways Management Division, at (310) 732–2020.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Final details for the event, including the racetrack coordinates and event dates and times, were not provided to the Coast Guard in time to draft and publish an NPRM or a final rule 30 days in advance of its effective date. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the safety of the participant vessels, their crew, and spectators.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The precise location of the event necessitating the promulgation of this safety zone and other logistical details surrounding the event were not finalized until a date fewer than 30 days prior to the event. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the safety of the participant vessels and their crew.

Background and Purpose

The Second Annual Long Beach Offshore Gran Prix powerboat race is scheduled to be held from 12 p.m. to 3 p.m. (PDT) on June 2, 2002. This safety zone is needed to provide for the safety of both the contestants and the estimated 100 spectator vessels expected to attend this event. This new rule differs slightly from last year's rule in three ways. First, the date of this year's event is 15 days earlier than last year's event. Second, at the request of the local pilot organization, the location of the racecourse was adjusted to the North slightly to encompass less of the commercial anchorage grounds in the Port of Long Beach. Finally, the location of the racecourse was adjusted to the East slightly to allow for a wider traffic fairway for non-participants transiting between the Long Beach downtown marinas and Long Beach gate.

Discussion of Rule

The Coast Guard is establishing a safety zone within the navigable waters of Long Beach Outer Harbor around the offshore oil islands. The area of the safety zone will commence at latitude 33°45′46″ N, longitude 118°10′11″ W; thence proceed to 33°44′48″ N, 118°11′03″ W; thence to 33°43′50″ N, 118°10′08″ W; thence to 33°43′50″ N, 118°08′06″ W; thence to 33°44′56″ N, 118°07′40″ W; thence returning westerly along the shore to the point of origin. [NAD 1983] This safety zone allows for a fairway from the Long Beach downtown marina to Long Beach Gate, and will allow vessels to transit from Alamitos Bay east of the racecourse.

Persons and vessels are prohibited from entering into or transiting through this safety zone unless authorized by the Captain of the Port. By prohibiting all vessel traffic from entering the waters surrounding the racecourse, the risk of high-speed collision will be greatly reduced. U.S. Coast Guard personnel will enforce this safety zone with assistance from the Coast Guard Auxiliary and the Long Beach Gran Prix event staff.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Since the rule will be in effect for only a short duration, during the time of the Gran Prix event, the Coast Guard expects the economic impact of this rule to be so minimal that full regulatory evaluation under paragraph 10 (e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

We expect this rule will not affect small entities. This rule is closing a small portion of the waterway only for a limited period of time. The rule provides for a fairway from the Long Beach downtown marina to Long Beach Gate, and allows vessels to transit to and from Alamitos Bay east of the racecourse.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because we are establishing a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.T11–067 to read as follows:

§ 165.T11–067 Safety Zone; Offshore Gran Prix powerboat race, Long Beach, California.

(a) *Location.* The following area constitutes a safety zone within the navigable waters of Long Beach Outer Harbor around the oil islands: commencing at latitude 33°45′46″ N, longitude 118°10′11″ W; thence to 33°44′48″ N, 118°11′03″ W; thence to 33°43′50″ N, 118°10′08″ W; thence to 33°43′50″ N, 118°08′06″ W; thence to 33°44′56″ N, 118°07′40″ W; thence returning westerly along the shore to the point of origin. [NAD 1983]

(b) *Effective period.* This section is effective from 12 p.m. to 3 p.m. (PDT) on June 02, 2002. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via broadcast notice to mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Los Angeles-Long Beach, California or his designated representative.

Dated: May 22, 2002.

G.P. Cummings,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Los Angeles-Long Beach, California.

[FR Doc. 02–13513 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AK66

Special Monthly Compensation for Women Veterans Who Lose a Breast as a Result of a Service-Connected Disability; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: In a document published in the **Federal Register** on February 14, 2002 (67 FR 6872), we amended VA's adjudication regulations to provide for payment of special monthly compensation for a woman veteran who loses one or both breasts as a result of service-connected disability. The document contains typographical errors in the "Note" at the end of diagnostic code 7626 in § 4.116 "Schedule or ratings—gynecological conditions and disorders of the breast." This document corrects those typographical errors.

DATES: *Effective Date:* This correction is effective March 18, 2002.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Policy and Regulations Staff (211A), Compensation and Pension, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7230.

SUPPLEMENTARY INFORMATION: In rule FR Doc. 02–3677, published on February 14, 2002 (67 FR 6872), make the following correction:

PART 4—[CORRECTED]

§ 4.116 [Corrected]

On page 6874, in column 1, in § 4.116, in the entry for diagnostic code 7626, immediately following "Note: For VA purposes:" remove the horizontal rule and remove the superscript designations 1 through 4 and add, in their place, paragraph designations (1) through (4), respectively.

Approved: May 21, 2002.

Roland Halstead,

Acting Director, Office of Regulatory Law.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE04

Endangered and Threatened Wildlife and Plants; Reclassification of Certain Vicuña Populations From Endangered to Threatened With a Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reclassifying the vicuña *Vicugna vicugna*) in Argentina, Bolivia, Chile, and Peru from endangered to threatened under the U.S. Endangered Species Act (Act or ESA) of 1973, as amended. The recently introduced population of Ecuador,

treated as a distinct population segment under the Act in accordance with the Service's Policy on Distinct Vertebrate Population Segments (61 FR 4722), will remain listed as endangered.

We also establish a special rule (under Section 4(d) of the Act) allowing the importation into the United States of legal fiber and legal products produced with fiber from vicuña populations listed as threatened under the Act and in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), if certain conditions are satisfied by the exporting (*i.e.*, range country) or re-exporting country. Importation into the United States of legal fiber and legal products made from fiber that originated from threatened, Appendix II vicuña populations will require valid CITES export permits from the country of origin and also the country of re-export, when applicable. We are aligning U.S. importation practices with those approved by the CITES Parties, in order to facilitate effective conservation of the vicuña in range countries, and the enforcement and management efforts of those countries.

This rule *requests* range countries to submit a country-wide Management Plan prior to exporting to the United States. The special rule *requires* range countries exporting specimens of vicuña to the United States for commercial purposes to provide the Service with an annual report. The Service will conduct a review every two years, using information in the annual reports and other available information, to determine whether range country management programs are effectively achieving conservation benefits for the vicuña. Failure to submit an annual report could result in a restriction or suspension of trade. Based on the results of its review, the Service may administratively restrict or suspend trade from a range country if it determines that the conservation or management status of the threatened vicuña population in that range country has changed, such that continued recovery of that population may be compromised.

If, at any time after the effective date of the special rule, the conservation or management status of threatened vicuña populations changes in one or more range countries such that those vicuña populations are not continuing to recover, the potential exists to administratively suspend the approval of imports under the special rule.

EFFECTIVE DATE: This final rule is effective on July 1, 2002. The special rule in 50 CFR 17.40(m) is effective on July 1, 2002.

ADDRESSES: The complete file for this rule is available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in Room 750, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Kurt A. Johnson, Division of Scientific Authority, U. S. Fish and Wildlife Service, Mail Stop ARLSQ–750, Washington, DC 20240 [phone: 703–358–1708; fax: 703–358–2276; e-mail: *fw9ia_dsa@fws.gov*].

SUPPLEMENTARY INFORMATION:

Note: Portions of the original proposed rule and proposed special rule were re-written to conform to the new Federal policy on the use of "plain English" in Federal documents. However, the original intent of the text remains the same. Some text in the proposed rule has also been amended in this final rule in response to comments submitted by the public (see "Comments Received" below), and additional technical information that we have gathered since publication of the proposed rule.

Background

The vicuña (*Vicugna vicugna*) was listed as endangered under the U.S. Endangered Species Act on June 2, 1970. Among other things, that listing prohibited U.S. interstate and international commerce in vicuña products. The vicuña was included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on July 1, 1975 (the date of entry into force of CITES), which thereby prohibited all primarily commercial, international trade in vicuña products. Certain populations of vicuña in Chile and Peru were transferred to CITES Appendix II at the sixth meeting of the Conference of the Parties to CITES (COP6) in 1987. The remaining vicuña populations of Peru were transferred to Appendix II in 1994 at the ninth meeting of the Conference of the Parties (COP9), and certain populations in Argentina and Bolivia were transferred to Appendix II in 1997 at the tenth meeting of the Conference of the Parties (COP10). These transfers to Appendix II, reflecting improved conservation status for the specified vicuña populations, allowed the resumption of commercial, international trade—under carefully controlled conditions—of vicuña fiber and products manufactured from vicuña fiber. This international trade, however, is still excluded from the United States, because of the species' listing as endangered under the ESA, a stricter domestic measure than CITES. The United States supported the above transfers of the specified vicuña populations to Appendix II, based on information contained in the supporting statements for the various CITES amendment proposals. The relevant CITES amendment proposals and their supporting statements are available on request from the Division of Scientific Authority (see **ADDRESSES** Section).

The vicuña produces a fiber of very fine texture (about 12 microns in diameter) that can be woven into luxury garments. Raw fiber from vicuña has been legally auctioned at up to US $500 per kg (US $200 per lb) and an average vicuña fleece provides about 0.2 kg (0.5 lbs) of fiber. Individual vicuña thus have a fleece that is worth many times that of a sheep and several times that of other species in the family Camelidae, such as alpacas and llamas. This high value, in a resource-poor area, can represent both a threat to the species and an opportunity for economic development and sustainable management. The threat comes from illegal hunting if protection and incentives for management are poor. The opportunity exists if proceeds from the sale of vicuña fiber from live-shorn animals are substantially used to conserve and protect vicuña by enhancing the economic well-being of native people in the Andean highlands, and by linking that improved economic status directly to conservation and sustainable use of the vicuña, and recovery of vicuña populations.

We received a petition on October 5, 1995, from the President of the International Vicuña Consortium, an association of companies in the fiber industry, requesting that the vicuña be removed from the U.S. list of endangered and threatened wildlife, or reclassified with a special rule that would allow for commercial trade that would benefit the conservation of the species. The petitioners cited the following reasons for the requested action: (1) Improved management of vicuña populations, (2) improved enforcement and trade controls, and (3) recognition that regulated commerce could be beneficial to both rural communities that share landscapes with vicuñas and the vicuñas themselves. The petitioners provided limited supporting documentation.

Our 90-day finding on whether the petition presents substantial information and our 12-month finding on whether the petitioned action is warranted were subsumed within the proposed rule, which was published in the **Federal Register** on September 8, 1999 (64 FR 48743). In the proposed rule we found that: (1) Reclassification of the vicuña from endangered to threatened was warranted for all range countries except Ecuador; and (2) that a special rule (also referred to as a 4(d) rule) was warranted for all threatened, Appendix II populations, with the exception of the Appendix II "semi-captive" populations of Catamarca, Jujuy, La Rioja, Salta, and San Juan Provinces in Argentina, which were specifically excluded until such time as their conservation benefit for wild vicuña was demonstrated adequately.

We based our findings and the proposed rule on information provided in the petition, the supporting statements for the aforementioned CITES amendment proposals, other published literature and articles, and the Service's status review of the vicuña. This status review included interviews with knowledgeable persons from the vicuña range countries, responses to questions asked of authorities in each range country, and a 1997 on-site assessment of vicuña populations and management in Argentina, Bolivia, Chile and Peru, which was prepared by a contractor (Dr. Henry L. Short) working for the National Fish and Wildlife Foundation (NFWF). The Service contracted with NFWF to evaluate the conservation and management status of vicuña populations, and to make recommendations about the species' status. All personal communications and question responses cited in the text of the final rule were received by Dr. Short, unless otherwise noted (see "References Cited" section).

Through information obtained during the public comment period, we have learned that the "semi-captive" populations of Argentina are actually populations of semi-domestic vicuña that are maintained in fully-fenced enclosures of a few hectares (ha). Peru also has "semi-captive" populations, but they differ from those of Argentina in being populations of wild vicuña maintained in fully-fenced enclosures of up to 1,000 ha. Chile may soon begin establishing "semi-captive" populations similar to those in Argentina, but perhaps in slightly larger enclosures. Hereafter in this document we refer to all of these fenced populations as "captive" populations or "captive" herds, and to this type of management as a "captive" management system, operation, or program. This will distinguish them from "wild, free-ranging" populations or herds, and "wild, free-ranging" management systems, operations, or programs.

Comments Received

The formal public comment period on the proposed rule closed on December 7, 1999. Much additional information was contained in the 85 comments we received during the public comment period. Comments pertaining exclusively or primarily to vicuña in a single range country are summarized below under each country. Comments of a more general nature or pertaining to vicuña in more than one range country are summarized immediately below.

Comment: The Cashmere and Camel Hair Manufacturers Institute (Mr. Karl Spilhaus), Loro Piana, N.Y. (Mr. Pier L. Guerci), Northern Textile Association (Mr. Karl Spilhaus), and Warren Corporation (Mr. Roberto Modica), wrote in support of reclassification of the vicuña populations of Argentina, Bolivia, Chile, and Peru from endangered to threatened. Their principal argument is that opening of the U.S. market will create a powerful economic incentive for sustainable management and conservation of vicuña populations in the areas covered by the proposed reclassification.

Response: While we agree that opening of the U.S. market may create an economic incentive, we are also aware that such incentive can be either a positive force or a negative force for conservation of vicuña in the wild. The ESA requires that we ensure, to the best of our ability, that it be a positive force for conservation. We agree that the vicuña can and should be used sustainably. Any decision on downlisting a species from endangered to threatened must be primarily based on the biological status of the species in the wild, and the five listing factors in the Act.

Comment: Dr. Henry L. Short and Mr. Joseph Ramos provided specific comments on various aspects of the proposed rule and proposed special rule. Dr. Short stated that the Service erred in considering vicuña populations in Argentina, Bolivia, Chile, and Peru to be threatened until they are fully recovered, because we did not define "fully recovered population" and any range state should have the right to determine the population level that they wish to achieve and sustain. Dr. Short also objected to excluding the captive populations of Argentina from the special rule; he believes that the captive management operations are advantageous to wild vicuña populations. Finally, Dr. Short felt that the Service should exercise restraint when demanding information from and making management recommendations to range countries. The Service should only request information that is necessary for making a determination under the ESA. Most of Mr. Ramos's comments were similar to those of Dr. Short, but he also commented on protection and management of the vicuña, and about possible disease transmission.

Response: We agree with Dr. Short and Mr. Ramos that we did not define "fully recovered population." However, if any of the range countries have set recovery goals for vicuña populations, we are not aware of it, nor were any such recovery goals provided to us during the comment period. Our use of the term "fully recovered" was meant in the context of ESA standards for determining if a species is threatened or endangered, not in the context of its recovery to historical population levels or its satisfying range country recovery goals. Although any range state has the right to determine the population level they wish to achieve and sustain, we have an obligation under the ESA to determine if that population qualifies for threatened or endangered status in terms of the five ESA listing factors.

Section 4(d) of the Act requires that a prohibited activity, such as the import of fiber or fiber products from a threatened vicuña population, have a demonstrable conservation benefit before it is allowed under a special rule. When we published the proposed rule (reclassification) and proposed special rule, we felt that available information was inadequate to determine that the captive vicuña populations in Argentina were contributing to conservation of wild vicuña populations. Therefore, these populations were excluded from the proposed special rule, but with an appeal for additional information that would assist us in making our final determination. Likewise, we are always trying to obtain the best information available in regard to the five listing factors specified in the Act. That is why the proposed rule included a request for any additional information that range countries could provide on habitat, vicuña population numbers and utilization, disease and predation, existing regulatory mechanisms, and other factors. We base our decision here on the best available scientific information. We note that detailed information has been received from South American biologists with extensive expertise on this species. Based on this additional information, captive populations in Argentina have been included in the final rule.

Comment: Dr. Paul J. Taylor supported the proposed reclassification, but had a number of specific comments. Dr. Taylor agreed with the previous two

commenters in stating that the Service had erred in excluding the captive vicuña populations of Argentina. He believes the Service has adopted unreasonable criteria in judging Argentina's vicuña policies. He also believes it is unreasonable to expect that the conservation benefits of Argentina's management system must be proved. Dr. Taylor feels that vicuña are "not as wild as most wild species," and believes that the time is coming when commercial vicuña ranching in many countries of the world will co-exist with effective continuing conservation of wild vicuña populations in their historic range. Finally, Dr. Taylor discussed the possibilities of embryo transfer from vicuña into llamas as a tool that could dramatically increase the number of vicuña in managed populations. He feels that frozen vicuña embryos can and should provide a safe way of creating vicuña herds in parts of the world where they have never existed.

Response: We believe that we have adopted reasonable criteria in evaluating the status of vicuña populations. We are not endorsing range countries' policies, but, rather, we are evaluating the status of populations in those countries. The ESA requires that a special rule be promulgated only if it is "necessary and advisable for the conservation of the species." Thus, a special rule that allows international commercial trade must have demonstrated conservation benefits; it is not sufficient for a special rule to be neutral in terms of its impact on conservation or to only have potential benefits. We consider the vicuña to be a wild species in every sense. We are aware that the species was domesticated in the past, resulting in the domestic alpaca (Jane Wheeler, IVITA, Facultad de Medicina Veterinaria, Universidad Nacional Mayor de San Marcos, Lima, Peru, pers. comm. with K. Johnson, Division of Scientific Authority (DSA), 2000), and does not need to be domesticated again. We do not support or advocate the development of commercial ranching operations for vicuña, especially ranching operations outside the species' natural range. We find that such operations would undermine the conservation efforts of range countries to sustainably utilize this species. Likewise, the special rule does not provide for the importation without an ESA permit of live vicuña, or of embryos, gametes, or tissue samples of vicuña. We do not intend to encourage such imports as a means for establishing populations outside the species' natural range, because of our concern that such populations could undermine range country conservation efforts and preclude any benefits to local indigenous communities. For those reasons, and the fact that they are still in Appendix I of CITES, the special rule precludes imports without a threatened species permit for live vicuña, and for embryos, gametes, and tissue samples of vicuña.

Comment: Dr. Bill Jordan of Care for the Wild wrote that trying to farm vicuña cannot succeed because they do not thrive at a lower altitude.

Response: Dr. Jordan's comment is duly noted.

Comments Related to Argentina

Approximately 60 comments received in response to the proposed rule pertained exclusively or primarily to vicuña in Argentina.

Comment: The Government of Argentina (Victoria Lichtschein, Directora de Fauna y Flora Silvestres, Secretaria de Recursos Naturales y Desarrollo Sustentable) expressed the view that the draft proposed rule goes beyond the provisions of CITES for species included in Appendix I. It is not a presently accepted condition for the transfer of a species from Appendix I to II to demonstrate that such transfer will benefit the wild populations of that species. Rather, it must be demonstrated that the proposed use will not harm the wild species. Argentina noted that it would be practically impossible to demonstrate that breeding operations in Europe or the United States have any benefit for the wild populations of the species. Argentina also expressed the opinion that it would be virtually impossible, due to cost and complexity of the task, to determine if decreases in grazing by domestic livestock were having a beneficial effect on wild vicuña populations. Argentina is also implementing an Action Plan for the Fight Against Desertification, and these activities should be kept in mind when evaluating Argentina's efforts to improve the habitat of the vicuña. Argentina stated that, in general terms, the utilization of the species and the high value of the products that may be obtained from it no doubt constitute an incentive for the species' conservation. This concept, which is the basis of sustainable utilization, may be demonstrated reliably only through monitoring the wild populations, which are plainly on the increase.

Response: We appreciate Argentina's detailed commentary on our proposed rule, but we must emphasize that the proposal involves the vicuña's listing under the ESA and not CITES. An endangered listing under the ESA is not equivalent to an Appendix I listing under CITES, nor is a threatened listing under the ESA equivalent to a CITES Appendix II listing. The U.S. List of Endangered and Threatened Wildlife is not equivalent to CITES Appendices I and II. CITES is an international convention, while the ESA is domestic legislation. Each has its own set of implementing regulations within the United States, as well as criteria for listing. The ESA has many provisions that are stricter than CITES, thus it is considered a "stricter domestic measure" allowable under provisions of Article XIV of CITES. Threatened species are generally covered by all prohibitions applicable to endangered species under section 4(d) of the Act (see discussion in "Available Conservation Measures" section). We may promulgate special rules if the activities allowed therein are deemed necessary and advisable to provide for the conservation of the species. Furthermore, under CITES, the criteria for transferring species from Appendix I to II require far more information than a finding of non-detriment. The non-detriment finding is required for export of CITES Appendix II species; the listing criteria are more detailed (and can be found in CITES Resolution Conf. 9.24).

We do not believe that the information we requested to address conservation is too difficult or too costly to obtain. In the proposed rule and other correspondence, we have specifically mentioned a number of possible indicators of conservation benefit, including: (a) A reduction in poaching of wild vicuña in areas with captive vicuña populations; (b) improvement in habitat conditions as a result of decreased domestic livestock numbers in areas with captive populations; (c) documented decreases in the number of domestic livestock in the immediate vicinity of captive populations; and (d) whether some of the funds generated by the sale of fiber from captive vicuñas are allocated to conservation programs for wild vicuñas. Any of these indicators could be useful in demonstrating consistency with the conservation purposes of the ESA. Some of the indicators we have mentioned are basic, and the relevant information could be obtained with minimal effort.

We have considered Argentina's anti-desertification efforts in development of the final rule.

Comment: The Comision Regional de las Provincias Vicuneras provided five specific comments on the proposed rule and proposed special rule. First, the Comision stated, captive management diminishes poaching pressure for fiber, and could meet the demand for fiber for craft use for an important sector of the population of the vicuña provinces. The vicuña provinces, which have a great craft tradition, see captive management as an important alternative for obtaining fiber that can later be exported to a country where demand is high, such as the United States. Captive management allows the majority of the wild vicuña population to remain in a wild state, constituting a large genetic pool and permitting normal evolution of the species. Second, most wild vicuña populations exist in protected areas or in areas of low human population density. The implementation of the relevant regulations is accomplished by provincial wildlife authorities, provincial and national protected areas agencies, and the security forces of the National Gendarmes. Although, in the 1997 CITES proposal the national population of vicuñs was estimated to be 32,000, the latest census has estimated a population of 50,000 wild vicuñs. Third, the intent of the management system is to get local residents to change from introduced domestic ruminants to vicuña. Fourth, the faunal legislation of each province assures the protection of the vicuña, and generates special funds in order to achieve the objectives of conserving fauna in general and the vicuña in particular. Among the national and provincial protected areas for vicuña, there are three Biosphere Reserves in three separate provinces.

Response: We appreciate the comments from the Regional Commission of Vicuña Provinces. We do not understand how captive herds can meet the demand for vicuña fiber for local craft use. We understand that the fiber produced by captive vicuña populations in Argentina is sold to a single company based in Buenos Aires; the fiber is not retained locally and does not satisfy local craft demand. Thus, local demand for fiber apparently still exists.

We appreciate that local authorities are implementing laws and regulations to the best of their ability, and that the National Gendarmes have succeeded in reducing poaching of wild vicuña. We question the accuracy of the total population estimate of 50,000, considering that certain vicuña populations have reportedly declined substantially in the last few years due to drought (Dr. A. Canedi *in litt.* to FWS 1999). We have not seen any reports that would corroborate this population estimate on the basis of a scientifically-sound survey. We believe it unlikely that captive vicuña management will replace domestic livestock management on the Puna, at least in the near future. We understand that, at present, only about 20 individual ranchers have captive herds established with vicuña from CEA INTA at Abra Pampa (see below). Apparently there are not enough captive vicuña at Abra Pampa to establish many more captive herds at the present time.

Comment: Dr. Gustavo Rebuffi, Director of the Campo Experimental de Altura (CEA) of the Instituto Nacional de Tecnologia Agropecuaria (INTA) (High-Elevation Experiment Station of the National Institute of Agricultural Technology) located at Abra Pampa in Jujuy Province, wrote in support of the captive management system developed and implemented by the CEA (hereafter referred to as the INTA captive management system, program, or model; this program is described in greater detail in the "Argentina: Population Utilization" section). Dr. Rebuffi provided specific comments on the proposal, and attached a summary of his doctoral dissertation "Characterization of Vicuña Wool Production in the Argentine High Plateau." According to Dr. Rebuffi, there are no demonstrated adverse effects associated with captive management. Rather, the benefits of captive management are enormous for the conservation of wild vicuñas, among many reasons, because the market prefers to be supplied with legal wool. Dr Rebuffi stated that poaching in Argentina has almost disappeared since the captive management program was initiated, and the wild population now numbers close to 50,000. The National Gendarmes has entered into an agreement to cooperate in the implementation of INTA's captive management program, and the Vicuña Convention recognizes captive management as a valid option for the species. Dr. Rebuffi said that there are no genetic or disease problems associated with captive management, and that vicuñas in captivity have their health guaranteed by good veterinary care. Dr. Rebuffi also cited economic benefits of the captive management program for those persons with captive herds. He believes that the INTA captive management program is not more widespread because there are not enough vicuña in captivity, otherwise it would displace the domestic livestock alternative over time.

We also received comments in support of the INTA captive management program from a number of individuals, including: 14 current or former employees of CEA INTA; 6 other employees of INTA; 12 agronomists, animal production agents, economists, rural extension agents, or veterinarians in northwestern Argentina (Salta and Jujuy Provinces) some of whom are possibly INTA employees; 8 individuals who have captive vicuña populations provided by CEA INTA; one rancher; one former director of natural resources of Salta Province; one zoo director; one professor at Catholic University of Argentina; one reproductive technologist; one agricultural engineer; one "advisor"; and one foundation representative. These commenters primarily emphasized the economic benefits that would accrue to poor residents of the Argentine Puna from allowing the import of vicuña fiber into the United States. Many commenters mentioned that captive vicuña were maintained in healthy condition, and that there was little if any mortality associated with fiber harvest. Many commenters also noted that captive management operations reduce poaching pressure on wild populations, and that this alternative could lower the numbers of domestic livestock on the Puna rangelands.

Response: Clearly, a tremendous amount of work has gone into development of the INTA program. While we appreciate and support the need to address the socioeconomic plight of poor residents of the Argentine Puna, the ESA is principally concerned with the conservation of threatened and endangered species in the wild. We understand that the INTA captive management system has been developed primarily in the context of a rural development program for small producers in the Puna of Salta and Jujuy, and, therefore, places great emphasis on the economic betterment of the local people. This is a vital concern. However, in relation to listings under the ESA, economic arguments are only important in the context of providing direct or indirect conservation benefits for listed species.

We note that the INTA captive management model (i.e., the development of individual captive herds) is based on the socio-economic system of the Argentine Puna. However, we also understand that only around 20 individual ranchers have captive herds, so the number of people benefitting from this program is small in comparison to the total number of local Puna residents. The number of captive herds is not likely to increase substantially in the near future. We believe that one cornerstone of successful sustainable use programs is sustainable economic benefits for a broad spectrum of local indigenous people, not just a few.

We recognize that the majority of captive populations are probably well maintained and in good health, and that mortality associated with shearing is

probably low. However, we are aware of one instance where most of the animals in a captive population died because the animals were sheared in winter and developed pneumonia soon thereafter. We continue to welcome documentation that captive populations reduce poaching pressure on wild populations.

Comment: Dr. Arturo Canedi of the Centro de Estudios & Investigaciones de Uso Sustentable of the Universidad Nacional de Jujuy wrote to support the captive management of vicuña in Argentina. He stated that the vicuña population of Olaroz-Cauchari Reserve in Jujuy Province has exhibited a logistic growth curve since monitoring began in 1987, and now exceeds the carrying capacity of the environment. That, added to a drought in 1996–1998, has produced a grave decline of the population (from 6,500 in 1995 to 4,800 in 1998). This situation has been repeated in other provinces. Drought is the environmental variable that has the greatest impact on recovering vicuña populations. Dr. Canedi stated that rational utilization of the species requires establishment of a culling process whereby live animals can be captured to repopulate other potential areas, and implementation of systems of captive management. These require creation of an infrastructure adequate to provide drinking water and increase the carrying capacity of the corrals in order to mitigate the effects of drought.

Response: We appreciate Dr. Canedi's new information on population declines in the Olaroz-Cauchari Reserve in Jujuy Province resulting from drought. Although we agree that management in a sustainable utilization program may involve the translocation of vicuña from one location to another, we believe that translocations should be based on previously-developed protocols that consider the possible population, genetic, and disease consequences of translocation. We are not aware that Argentina, or any other vicuña range country, has developed such protocols. The provision of drinking water and improvement of range conditions within corrals would entail extra costs, and takes management one step further away from natural conditions.

Comment: Pelama Chubut (Mr. Carlos Leers), an Argentine company dedicated to commercialization of fiber from South American camelids, wrote in support of including the INTA captive management program in the special rule. The company has invested significant funds to finance "Productores Minifundistas" who do not have funds to invest and who cannot get credit from a bank or financial institution. The company has decided to have a stake in this undertaking, associating itself with producers to obtain the fiber, and guaranteeing the producers a competitive price at the international level.

Response: We understand that this company has invested in the captive management operations in northwest Argentina (by providing loans to individual ranchers to purchase fencing material for the vicuña corrals), and therefore has an economic interest in the success of this program. We also understand that the loans are repaid through fiber sales to the company. Although such an arrangement may assure a competitive price to the ranchers, it may also put them at a disadvantage by preventing them from seeking or obtaining the highest possible economic return from their vicuña fiber. It does not appear that the company contributes any proceeds from sales of vicuña fiber or fiber products to conservation programs for wild vicuña.

Comment: Dr. Bibiana Vila of Profauna, Conicet, Universidad Nacional de Lujan, provided a number of specific comments regarding vicuña populations and conservation in Argentina. She expressed opposition to the captive management system of Argentina, principally because it alters the process of natural selection in vicuña, and because it does not provide the claimed social and economic benefits to campesino (peasant) communities. She provided a paper she presented at a camelid conference in Cuzco, Peru (Vila 1999) arguing that "wildness" in vicuña is a characteristic essential to the species' conservation and management. Lilian Villalba, a Bolivian member of the Grupo Especialista en Camelidos Sudamericanos (GECS—South American Camelid Specialist Group) of the World Conservation Union/Species Survival Commission (IUCN/SSC) expressed concern over the captive management system in Argentina for biological and socioeconomic reasons. She stated that, on a biological basis, captive management does not guarantee vicuña conservation, and may result in changes to captive populations through artificial selection and intensive management. Also, from a socioeconomic standpoint, captive populations require a major investment that communities cannot afford, and benefits a reduced number of people. Finally, she opined that captive management focuses more on economic gain than on conservation of the species in the wild, and allows private companies to become involved to the detriment of local communities. In this way captive management may foster increased poaching rather than reduce it.

Response: We appreciate these comments from South American scientists with significant expertise in this species. We agree that it is not desirable to re-domesticate the vicuña through artificial selection in captive management systems. We do not have enough information to determine the exact financial return realized by individual ranchers participating in the INTA captive management program, but it appears that most or all individual ranchers have taken loans from, and, therefore, are indebted to the company that also purchases their fiber. We understand that only around 20 individual ranchers are participating in the INTA program, so the number of people realizing a benefit from this program is very small in comparison to the total number of Puna residents. The number of captive herds is not likely to increase substantially in the near future. However, there is another captive management program—the Criadero Coquena—El Refugio de las Vicuñas of the Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos"—that appears to be benefitting an entire campesino community. This program is discussed immediately below, and in the "Argentina: Population Utilization" section. We believe that management of wild vicuña populations is the best approach to ensure ecological and equitable socioeconomic sustainability.

Comment: Dr. Silvia Puig, writing on behalf of the Grupo Especialista en Camelidos Sudamericanos (GECS), stated that GECS regards management of wild, free-ranging vicuña populations (where wild vicuña are herded, shorn, and released in their natural habitats) as more advisable than captive management, because it implies a minor modification in natural conditions of both the species and environment, and gives greater guarantee of both sustainability and local reinvestment of revenues for social and ecological betterment. However, captive management could be compatible with conservation of vicuña populations and natural habitats if four conditions are met (see "Argentina: Population Utilization" section). According to Dr. Puig, technical evaluations to determine whether these four conditions have been met are still pending for most of the captive management operations in Argentina. Dr. Puig stated that there is one captive management operation that appears to have begun fulfilling these criteria—the Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos). Dr. Puig noted that, among other things, Los Molinos has a structure wherein its participants share tasks and benefits of using the vicuña, has established a captive management operation (Criadero Coquena—El Refugio de las Vicuñas) in an area not immediately within occupied vicuña habitat, has conducted a vicuña population survey in the Molinos Department of Salta Province, and is interested in further developing and implementing a conservation program for the wild vicuña.

Response: We appreciate the comments from Dr. Puig on behalf of GECS, the leading organization of South American camelid specialists. We agree that programs satisfying the conditions mentioned by Dr. Puig are more likely to have a demonstrable conservation benefit, and a direct link between conservation and equitable economic benefits to local human populations, which, in our opinion, is a requisite of sustainable utilization. We agree that sustainable management of wild vicuña populations offers the best prospects for conservation and socioeconomic benefit to local populations.

Comment: The Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos) provided additional information on its history and its captive management operation (Criadero Coquena—El Refugio de las Vicuñas). Significant points include: Los Molinos obtained its vicuña from CEA INTA in 1994, but does not rely on CEA INTA for technical support. Los Molinos has not accepted any financial support for developing its operation, and does not sell the raw fiber but uses the fiber to produce a finished product on site. Los Molinos has multiple participants; and is based on conservation of wild populations.

Response: Los Molinos' captive management program is based on a different model than the INTA program. The Los Molinos model includes: a component of research and conservation of wild vicuñas; an effort to "add value" to the raw fiber by producing traditional crafts, thereby increasing the financial return to the local community; and economic benefits that accrue to multiple persons rather than an individual rancher. As such, this program appears to have a demonstrable conservation benefit, and a direct link between conservation and equitable economic benefit to local peoples.

Comment: The Asociacion Criadores de Camelidos de Argentina (ACCA—Argentine Association of Camelid Raisers), the Programa Regional de Apoyo al Desarrollo de Camelidos Sudamericanos (Regional Program to Support the Development of South American Camelids), and the Fondo Internacional Desarrollo Agricola (FIDA—International Fund for Agricultural Development) all wrote in support of Los Molinos and its captive management operation.

Response: These responses indicate that Los Molinos' program has financial and technical support of a number of regional organizations.

Comments Related to Bolivia

Two comments pertained exclusively to vicuña in Bolivia.

Comment: The Government of Bolivia (Mario Baudoin Weeks, Director General de Biodiversidad, Ministerio de Desarrolo Sostenible y Planificacion) agreed with the proposal to reclassify all populations listed as endangered (Appendix I) to threatened (Appendix II) under the ESA. Bolivia noted that they intend to manage their vicuña as wild populations.

Response: We appreciate Bolivia's comments, and agree that Bolivia's population should be classified as threatened. We support the Government of Bolivia's intention to manage its vicuña as wild, free-ranging populations.

Comments Related to Chile

Three comments pertained exclusively or primarily to vicuña in Chile.

Comment: The Director de Medio Ambiente of Ministerio de Relaciones Exteriores de Chile (Rolando Stein Brygin) commented on several aspects of the proposed rule and proposed special rule. He stated that prohibiting the entry of products from animals maintained in semi-captivity will restrict management and commercialization which can be carried out autonomously by the countries affected by the proposal. The signatory countries of the Vicuña Convention have already stated and re-affirmed that semi-captive management is a valid option for managing the species. The Director further stated that Chile has a solid and substantial system for control and protection of wild fauna, and that the present Hunting Law provides the Government with necessary tools and mechanisms for control and administration of sustainable management programs for the species and/or the establishment of breeding operations, so long as hunting the vicuña is prohibited and its capture is strictly regulated. He also noted that about 81 percent of vicuña in Chile are found within protected areas, and that only about 3 percent of the vicuña in the First Region of Chile will be included in the present project on sustainable use. He does not believe that Chile, either now or in the future, will have the problem of overusing the species, since utilization will not be centered exclusively on wild specimens, but also on specimens maintained in captivity. He noted that there have been a number of chromosomal and DNA studies on the taxonomic differences between the two subspecies.

Response: We appreciate Chile's comments. We continue to have concerns about captive management systems for vicuña, because the conservation value and socioeconomic benefits of captive management have yet to be demonstrated over the long term. These concerns are discussed in greater detail in the "Chile: Population Utilization" and "Description of the Special Rule" sections that follow. With regard to the threats posed by overutilization and inadequacy of existing regulatory mechanisms, we recognize that Chile has established significant protected areas and put in place substantial regulatory mechanisms to manage the species and to control illegal harvest. For that reason we do not believe that these factors endanger vicuña populations in Chile. However, we believe that regulatory mechanisms for harvest and commercialization as part of a sustainable use program must be tested and demonstrated to be adequate before this factor can be discounted as a potential threat to the species.

Since publication of the proposed rule, we have received and reviewed additional information regarding the issue of subspecies of the vicuña. This issue is discussed in greater detail in the introductory paragraphs of the "Summary of Factors Affecting the Species" section that follows.

Comment: Cristian Bonacic, a Chilean veterinarian and wildlife biologist at Oxford University who has many years of experience working on vicuña conservation and sustainable use, questioned the conservation value and economic benefits of captive vicuña management systems. He suggested that a free-ranging management system where wild vicuña are herded, shorn, and released would be the best alternative to sustainably utilize this species.

Response: We continue to have concerns over the conservation value and socioeconomic benefits of captive management systems for vicuña. These concerns are discussed in greater detail in the "Chile: Population Utilization" and "Description of the Special Rule" sections that follow. We agree that sustainable management of wild vicuña

populations offers the best prospects for long-term conservation and equitable socioeconomic benefit to local populations.

Comments Related to Ecuador

Two comments pertaining exclusively to vicuña in Ecuador were received, both from the Government of Ecuador.

Comment: According to the submission from the Executive Director of Ecuador's Ministerio del Ambiente (Danilo Silva Chiriboga), the vicuña was first introduced in Ecuador in July 1988 (not 1993 as stated in the proposed rule), and the population had increased to 1,104 individuals as of 1999. He stated that Ecuador's goal is to have a vicuña population of 3,000 after 5 years, at which time it intends to propose that its population be downlisted to Appendix II of CITES in order to commercialize fiber production. However, according to the submission from the Wildlife Department within that Ministerio del Ambiente (Sergio Lasso B.), Ecuador will require at least 10 years to obtain a population sufficiently large to harvest fiber. The Executive Director stated that retention of the vicuña population of Ecuador as endangered under the ESA would prevent its reclassification under CITES. He further stated that the status of vicuña in Ecuador is no longer in the "experimental stage." Ecuador provided us with a copy of its report to the 19th Meeting of the Technical Committee of the Vicuña Convention, entitled "Report of the Vicuña Reintroduction Project in Ecuador" (hereafter referenced as Government of Ecuador 1999) which discusses the current status of its vicuña population.

Response: We appreciate Ecuador's comments. We continue to believe that downlisting the vicuña population of Ecuador is not warranted because of its small population size (only 1,100 animals) and its relatively recent history as an introduced population. Our rationale is discussed in greater detail in the "Distinct Vertebrate Population Segment" section. However, we also note that continued retention of this population as endangered under the ESA has no bearing on its listing under CITES, because CITES and the ESA have different implementing regulations and listing criteria. If the population of Ecuador is proposed for downlisting to Appendix II at a future meeting of the Conference of the Parties to CITES, Parties may vote to adopt that proposal. Adoption of a CITES downlisting proposal would not affect the species' status under the ESA. We would evaluate any such proposal based on the CITES listing criteria (Resolution Conf. 9.24), and not the ESA criteria.

Comment: The Vicuña Convention Resolution No. 207/99, submitted as a comment, states that the proposed rule excludes the vicuña populations of Ecuador without establishing the bases and considerations to support such restriction, demonstrating a lack of information on the status of the species in this country.

Response: We have reviewed information provided by the Government of Ecuador, including its report to the 19th Meeting of the Technical Committee of the Vicuña Convention, entitled "Report of the Vicuña Reintroduction Project in Ecuador" (Government of Ecuador 1999). We continue to believe that the vicuña population of Ecuador is properly classified as endangered, and that reclassification to threatened status is not warranted at this time (see "Distinct Vertebrate Population Segment" section).

Comments Related to Peru

Several comments pertaining exclusively or primarily to vicuña in Peru were received, including comments from the Government of Peru (Consejo Nacional de Camelidos Sudamericanos—CONACS).

Comment: CONACS (Domingo Hoces Roque) stated that vicuña must be fully and effectively used in any of the options for legal management that have been adopted by range countries, or vicuña will continue to be seen as troublesome pests that interfere with economic development. This would discourage interest in exploiting vicuña and, finally, in protecting it. Vicuña populations in "semi-captivity" in Argentina (approximately 1,000 animals) and Peru (21,301 animals in Sustainable Use Modules in 1999) represent a relatively unimportant proportion of the general vicuña population in each country (2% and 15% respectively). CONACS said that research on and changes in profitability of management options in relation to social and economic development needs may cause current management options to change over time. Therefore, the adoption of commercial restrictions is not recommended if they are based solely on one management option. In Peru, stated CONACS, the commercial exploitation of vicuña fiber, whether it comes from wild, free-ranging populations or captive populations (called Sustainable Use Modules, or SUMs, in Peru), not only generates economic income for poor rural populations, but also protects the species itself since a large part of the income goes to financing protection systems in the field through payments to community park guards, and the purchase of radio equipment, binoculars, and firearms. With an increase in fiber value, the sustainable use of the species will be assured.

In consideration of the above, CONACS made the following recommendations. First, commerce in fiber, cloth or garments containing vicuña fiber from range countries to the United States should have no more requirements and/or restrictions than those contained in the Vicuña Convention and CITES. Whatever legal management methods that have been independently adopted by range countries should be acceptable to the United States, provided that they are in line with the principles and agreements of the Vicuña Convention and CITES. Second, each range country should be subject to the same treatment in regard to trade of vicuña products with the United States. Treating Ecuador and Argentina differently would put them at a disadvantage in relation to other Vicuña Convention countries, and would promote the resurgence of poaching and the illegal market. And, third, that vicuña fiber, textiles and/or garments entering the United States should only have to meet the following general requirements: (1) That they come from vicuña populations in Appendix II of CITES; (2) that they are of fiber sheared from live animals, or in exceptional and technically justified cases, from animals taken legally and by authorization; (3) that they bear the brand, logo, and/or weave adopted and authorized by the countries of the Vicuña Convention and CITES; and (4) that they bear the official control certificates of the countries of origin, of CITES, and of others who adopt safeguarding the species by mutual agreement.

Response: We appreciate the comments of the Government of Peru. The CONACS recommendations imply that the vicuña should be delisted from the ESA, thus removing all ESA protections and limiting restrictions to only those contained in the Vicuña Convention and CITES. Although vicuña populations are growing throughout the species' range, we believe that some populations have not recovered to the point that they are no longer threatened by one or more of the five ESA-listing factors (see "Summary of Factors Affecting the Species" section). Consequently, we continue to believe that reclassification to threatened status under the ESA is the most appropriate course of action at present (except for the population of

Ecuador). We do not agree that all management systems or all countries must be treated the same in regard to trade of vicuña products with the United States, because each vicuña range country has chosen to pursue a slightly different management system, which can impact in different ways on the recovery of the species. We continue to believe that the conservation value and economic benefit of specific vicuña management systems must be tested and demonstrated over the long term before they can be approved without restriction. We agree that imports to the United States must satisfy the four points specified by CONACS; each of these points is contained in the special rule, although they are not the only requirements contained in the special rule (see "Description of the Special Rule" section).

Comment: Dr. Edgar Sanchez of La Molina University mentioned a number of potential problems with the captive management system being implemented for Peruvian vicuña populations. First, fencing populations could prevent the movement of vicuña between metapopulations, interfering with metapopulation dynamics. Second, disease problems, ectoparasites in particular, could increase. Third, there is potential for overgrazing within the enclosures (corrals) if the carrying capacity is exceeded. Fourth, there are potential genetic problems if the initial population within each enclosure is small, and if animals are translocated from one area to another without consideration of genetic consequences. Sanchez nevertheless felt that even if all proposed enclosures (SUMs) were actually constructed, they would constitute a very small percentage (less than 5%) of the total area with vicuña in Peru, so that any problems would be limited to a small area. Thus, Sanchez felt the main problem is demonstrating the biological and economic viability of the captive management system. These two goals could be achieved with an effective monitoring program for each enclosure (SUM). Sanchez believes that the most effective results, both for conservation and production of economic benefits, would be achieved with management of wild, free-ranging populations. The most successful experiences with vicuña population management (Lucanas and San Cristobal) have involved wild, free-ranging populations. Sanchez also emphasized that Peru needs to pay special attention to the vicuñas in protected areas, to ensure that there are some places where wild populations can exist without human interference with behavior and natural selection.

Response: Dr. Sanchez has identified a number of factors of concern with captive management systems. We agree that the main problem is demonstrating the biological and economic viability of captive management over the long term, and that the necessary information will only be obtained through an effective monitoring program for each SUM. We also agree that the most effective results, both for conservation and economic benefits, are likely to be achieved with management of wild, free-ranging populations. We agree that close attention should be paid to vicuñas in protected areas, and that vicuña would benefit from expansion of the size and number of protected areas throughout their range, and reduction of the level of competition with domestic livestock. See additional discussion in the "Peru: Population Utilization" and "Description of the Special Rule" sections.

Comment: Dr.Gabriela Lichtenstein of the Instituto Internacional de Medio Ambiente y Desarrollo—America Latina (IIED–AL) provided two reports summarizing her research on the two vicuña management systems currently being utilized in Peru (Lichtenstein et al. 1999a, Lichtenstein et al. 1999b). Her research team assessed and compared the captive management system (SUMs) with the wild, free-ranging management system from ecological, social, and economic perspectives, and conducted a feasibility analysis of both systems. Their findings strongly suggest that management of wild, free-ranging vicuña populations is a better alternative than captive management from all three perspectives—ecological, economic, and social. They suggested that the SUM project would greatly benefit if it were accompanied by solid research on ecological carrying capacities, and on the genetic, behavioral, and population impacts of enclosures on vicuñas. The captive management program includes an effort to translocate vicuña from areas with many animals to areas with few or none in order to encourage communities with few or no vicuñas to participate in the program; this program has potential negative genetic and disease consequences.

Response: Dr. Lichtenstein's research is the first to systematically examine and compare the costs and benefits of captive management versus wild, free-ranging management systems from ecological, social, and economic perspectives. Therefore, we attach great importance to her conclusions that, in Peru, management of wild, free-ranging vicuña populations is likely a better alternative than captive management (although we recognize that these conclusions would benefit from additional research). We agree that corrals can generate a conflict between ecological and economic interests. Corrals have a very fine line between economic viability and negative ecological impact. Additional research and monitoring of SUMs is needed to assess the ecological, economic, and social viability of the program. As mentioned above, we believe that translocations should be based on a previously-developed protocol which considers the possible genetic and disease consequences of those translocations. We are not aware of such protocols in Peru.

Summary of Factors Affecting the Species

Section 4 (a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) set forth the procedures for adding species to or deleting species from the list of endangered and threatened wildlife or changing the status of any listed species. A species shall be listed or reclassified if we determine, on the basis of the best scientific and commercial data available, that the species is endangered or threatened because of any one or a combination of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or human-made factors affecting its continued existence.

We base this final rule on an assessment of the five listing factors in the Act, utilizing the best scientific and commercial data available including information provided in the original petition, supporting statements for the various CITES amendment proposals related to vicuña, other published literature and articles, unpublished reports, the Service's status review of vicuña, and comments received during the formal public comment period. The assessment considered the present biological status of the vicuña within the range countries of Argentina, Bolivia, Chile, and Peru. The small population that has recently been introduced into Ecuador is treated separately under the "Distinct Vertebrate Population Segment" section below. We do not propose to change that population's endangered classification under the Act.

There is no scientific consensus on the number of valid vicuña subspecies. Two subspecies have been described—*V. v. mensalis* (Molina 1782 cited in Wheeler 1995) in the northern portion of the range and *V. v. vicugna* (Thomas 1917 cited in Wheeler 1995) to the south. These putative subspecies have been described on the basis of slight differences in size and color, and the lack of a prominent chest fringe in *V. v. vicugna* (Canedi and Pasini 1996). However, many authors do not accept this division, because no clearly defined geographic separation exists between the two supposed subspecies, and because they feel that genetic and phenotypic evidence does not support differentiation. Other authors feel that available genetic and phenotypic information supports the existence of two subspecies or two geographic races of vicuña. Dr. Eduardo Palma (Departamento de Ecologia, Pontificia Universidad Catolica de Chile) studied a sequence of the cytochrome b gene of the vicuña, and concluded that the subspecific separation is valid (Jane Wheeler, pers. comm. with K. Johnson, DSA, 2000). He concluded that *V. v. vicugna* is the more primitive form, and *V. v. mensalis* is closely associated with the domestic alpaca. In contrast, Dr. Jane C. Wheeler (pers. comm. with K. Johnson, DSA, 2000) studied a different sequence of the cytochrome b gene and did not identify any unique genetic markers differentiating the two supposed subspecies in the animals she sampled from Argentina, Chile, and Peru. Sarno et al. (submitted) likewise did not find molecular genetic distinctions between both subspecies in the vicuña they sampled from Chile and Bolivia.

Because the vicuña's distribution is more or less continuous from north to south, without any distinct geographic or genetic barriers defining the supposed subspecies (Sarno et al. submitted), it would be inappropriate and arbitrary to draw a boundary between the two supposed subspecies for purposes of management or listing under the Act. Both Sarno et al. (submitted) and Wheeler (pers. comm. with K. Johnson, DSA, 2000) emphasize the need to manage vicuña at the population level. Therefore, the supposed subspecies are not differentiated in this rule and the term vicuña, used herein, refers to all populations of the species throughout its total range.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Vicuña are estimated to occur at varying densities on approximately 20.5 million ha of Andean highlands extending in a rather narrow strip from central Peru through Bolivia, and into northwest Argentina (between 8 and 30 degrees South latitude). The historical range of the vicuña may have been twice the present distributional area. A small, disjunct, recently-introduced population also occurs in Ecuador.

Vicuña habitats occur in the high Andean plateau region from 3,000 to 4,800 m above sea level (Hoces 1992, Torres 1992). The habitats vary climatically on both elevational and latitudinal scales but are generally arid and cold, resulting in limited vegetation cover. Principal vegetation types are halophytic vegetation associated with salt pans, grassy steppes, shrub-steppes, and wet meadow areas (vegas) (Cajal 1992). This highland habitat has been somewhat degraded by humans and their domesticated livestock, but still represents an extensive habitat for vicuña. The average vicuña population density is very low, reflecting the limited carrying capacity of the high Andean habitats as well as the fact that many vicuña habitats are understocked. The carrying capacity of vicuña habitats varies widely, consequently vicuña tend to be patchily distributed throughout their range. Protected areas, including national reserves, national parks, and provincial reserves, are scattered throughout vicuña habitat in each of the four countries considered in this final rule.

Argentina

Vicuña distribution in Argentina includes portions of the northwestern provinces of Jujuy, Salta, Catamarca, La Rioja, and San Juan at approximately 3,200 to 4,600 m elevation (Cajal 1992). Vicuña habitats in Argentina cover a surface area of about 9 to 10 million ha (Cajal 1992, Canedi 1997, pers. comm.). During the 1800's the vicuña's distribution covered over 12 million ha of Argentina (Cajal 1992).

Vicuña in Argentina occur in three ecoregions or biogeographical provinces: Prepuna, Puna, and Altoandina (S. Puig, *in litt.* to the Fish and Wildlife Service (FWS), 1999). The Prepuna Ecoregion comprises high Andean foothills, escarpments and outcroppings; the Puna Ecoregion represents higher-elevation areas of plains or tablelands between mountain ranges; and the Altoandina Ecoregion is the highest mountains. The general area of the vicuña's distribution in Argentina is characterized by uplifted mountains surrounding extensive valleys featuring alkaline or saline flats and a rolling topography. The area is generally arid and cold (frost can occur year-round). Principal vegetation types are halophytic vegetation associated with salt pans, grassy steppes, shrub-steppes, and wet meadows (many water courses are temporary but there are occasional areas of damp ground where surface water and green vegetation in the form of rushes, grasses and a variety of succulent plants occur). Much of the thin vegetation cover over most of the Puna consists of grasses and xerophilous half-shrubs (Comisión Regional de la Vicuña 1994).

The Vicuña Provinces (Jujuy, Salta, Catamarca, La Rioja, and San Juan) have created six provincial reserves for vicuña: Laguna de los Pozuelos, Olaróz-Cauchari, Los Andes, Laguna Blanca, Laguna Brava, and San Guillermo. In Jujuy Province, Los Pozuelos Reserve was created in 1980 and consists of 308,000 ha. About 15,000 ha of this Reserve have been incorporated into the UNESCO Man and Biosphere (MAB) program as a natural area of international significance. The vicuña population in the Reserve was estimated to be 2,000 in 1992 (Cajal 1992), and 2,750 in 1997 (CITES 1997a). The Olaróz-Cauchari Flora and Fauna Reserve was created in 1981 to enhance vicuña populations and consists of 543,300 ha. The vicuña population in the Reserve in 1994 was estimated to be 6,500 and growing (Canedi 1995, CITES 1997a). Dr. A. Canedi (*in litt.* to FWS 1999) commented that a drought in 1996–1998 produced a substantial decline in the vicuña population of the Olaróz-Cauchari Reserve, from 6,500 in 1995 to 4,800 in 1998.

In Salta Province, the Los Andes Wildlife Reserve of 1.44 million ha was created in 1980. The rigorous climate restricts the human population to very low densities. Agriculture does not exist in this area, and the ranching of cattle, sheep, goats and llamas is rudimentary. A partial census in the Reserve in 1993 counted 2,000 vicuña (CITES 1997a).

In Catamarca Province, the Laguna Blanca Wildlife Reserve was created in 1979 and enlarged in 1982 to 973,270 ha at which time it became recognized by the UNESCO MAB program as a natural area of international significance. The human population is very sparse and scattered in the Reserve. The 1993 vicuña population in Laguna Blanca Reserve was estimated to be 3,505 (CITES 1997a). Rabinovich et al. (1991) studied potential biological and

economic consequences of vicuña use in Laguna Blanca Reserve.

In La Rioja Province, the Laguna Brava Reserve for Vicuñas and the Protection of Ecosystems was created in 1980 and consists of 405,000 ha. Human habitations do not exist in the Reserve, which is contiguous with the San Guillermo Faunal Reserve in San Juan Province. The 1996 vicuña population in the Reserve was estimated to be 2,187 (CITES 1997a).

In San Juan Province, San Guillermo Faunal Reserve was created in 1972 and consists of 880,260 ha. In 1982 it became part of the UNESCO MAB program as a natural area of international significance. This was the first Provincial Reserve dedicated primarily to the protection of the vicuña. The area is devoid of human and domestic animal populations. In 1992, the vicuña population in the Reserve was estimated to be 7,100 (CITES 1997a).

In Jujuy Province, several areas have been designated as "centers of protection" for vicuña, including Vilama (97,000 ha), Santa Victoria (54,600 ha), Palca de Aparzo (55,800 ha), Caballo Muerte (18,500 ha), Casa Colorado (31,000 ha), Abra de Zenta (69,000 ha) and Serranias del Chani (158,900 ha) (CITES 1997a; V. Lichtschein, CITES Management Authority of Argentina, pers. comm. with K. Johnson, DSA, 1999). We understand that these areas are not provincial reserves at the present moment (S. Puig, pers. comm. with K. Johnson, DSA, 2000), although Vilama is within the project area for a proposed, bi-national Biosphere Reserve "Lagos del Cielo de America" which has been presented to the MAB committee but not yet approved (B. Vila, pers. comm. with K. Johnson, DSA, 2000). These areas do not have any protection staff at present (B. Vila, pers. comm. with K. Johnson, DSA, 2000).

The high-altitude experimental station (Campo Experimental de Altura or CEA) of the Instituto Nacional de Tecnologia Agropecuaria (INTA) is located at Abra Pampa in Jujuy Province. This experimental station of 3,000 ha is dedicated to the development of management procedures to enhance fiber production of vicuña, assure the survival of the species, and to enhance the economic well-being of certain Puna ranchers (Rebuffi 1995).

We have little quantitative information on the extent or condition of vicuña habitats outside of protected areas in Argentina. Anecdotal information suggests that overgrazing by domestic livestock (leading to soil compaction and desertification), and direct competition for forage with domestic livestock may be important factors limiting the growth of vicuña populations outside protected areas (CITES 1997a). Other information indicates that some competition with domestic herbivores occurs in the arid Puna where precipitation is less than 300 mm per year but that competition is not as much of a problem in the humid Puna where precipitation may exceed 500 mm per year. The Argentine Government has implemented a program to combat desertification (el Programa de Acción Nacional de Lucha contra la Desertificación), which has included projects within the vicuña's distribution in Jujuy and Salta Provinces (V. Lichtschein, CITES Management Authority of Argentina, *in litt.* to FWS, 1999).

Information presently available to the Service indicates that vicuña populations throughout Argentina are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range. However, vicuña populations remain threatened by this factor throughout Argentina because of ongoing problems related to overgrazing and desertification and direct competition with domestic livestock.

Bolivia

Vicuña occur in western and southwestern Bolivia in the Departments of Cochabamba, La Paz, Oruro, Potosi, and Terija (CITES 2000a). It has been suggested (DNCB 1997, pers. comm.) that vicuña may once have ranged over 13 to 16.7 million ha in the Puna and high Andean region of Bolivia before European colonization.

Vicuña are found in a number of protected areas in Bolivia. Within the National System of Protected Areas (Sistema Nacional de Areas Protegidas, or SNAP), vicuña occur in the Ulla Ulla National Fauna Reserve (240,000 ha), Eduardo Avaroa National Andean Fauna Reserve (714,745 ha), and Sajama National Park (120,000 ha) (CITES 2000a). Other protected areas with vicuña are the Huancaroma Wildlife Refuge (8,000 ha), Llica National Park (13,100 ha), Yura National Fauna Reserve (10,000 ha), and the Incakasani-Altamachi Andean Fauna Reserve (23,300 ha) (CITES 2000a).

The Bolivian Government has established Vicuña Conservation Units (VCU) for administrative and management purposes (CNVB 1996). Eight VCUs were originally established by the Instituto Nacional de Fomento Lanero (INFOL 1985); a ninth unit was subsequently added as a result of the National Vicuña Census of 1996 (CNVB 1996). These nine VCUs encompass all of the vicuña's geographic range within Bolivia, an area of 10.1 million ha (CNVB 1996). The National Vicuña Census of 1996 recorded vicuña populations in 76 "registered census areas" totaling 3,428,356 ha within the nine VCUs (CNVB 1996). These registered census areas are distributed throughout the Bolivian highlands at an elevation range between 3,600 and 4,800 m. Thirty of these registered census areas did not have any vicuña in the previous national census (1986), indicating a significant increase in the vicuña's distribution within Bolivia over a 10-year period. Sixty-nine percent of the vicuña counted in 1996 (23,393 of 33,844) occurred in the Conservation Units of Lipez-Chichas, Mauri-Desaguadero and Ulla Ulla.

The present distribution of vicuña in Bolivia is expanding, but will likely never equal the former distribution range because of habitat changes caused by overgrazing by sheep and other domestic livestock, and human developments such as roads, villages, and cities. Vicuña generally occur on communal property lands in Bolivia. In the northern highlands vicuña share habitats mainly with alpacas; in the central highlands, with cattle, sheep, llamas, alpacas and agriculture; and in the southern highlands, with llamas (CITES 1997b). Overgrazing, especially by sheep, has reduced range carrying capacity in many areas. Bolivia's Programa Nacional de Conservacion de la Vicuña (National Program for Conservation of the Vicuña) includes several measures intended to conserve and improve vicuña habitats, including the development of vicuña management plans in communal management areas and the development of Planes de Uso del Suelo (Soil Use Plans) (CITES 2000a). Bolivia also has a program to combat desertification on the altiplano, the Programa Nacional de Lucha contra la Desertificacion y la Sequia (PRONALDES) (CITES 2000a). We have no specific information on projects included in this program.

Information presently available to us indicates that vicuña populations throughout Bolivia are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range. However, vicuña populations throughout Bolivia remain threatened by this factor due to overgrazing by domestic livestock and direct competition for forage with domestic livestock.

Chile

The vicuña occurs in extreme northeastern Chile in the Regions of

Tarapaca, Antofagasta, and Atacama. Most vicuña in Chile are found within protected areas. National protected areas within the Sistema Nacional de Areas Silvestres Protegidas del Estado (SNASPE) include Lauca National Park (137,883 ha), Vicuña National Reserve (209,131 ha), and Salar de Surire Natural Monument (11,298 ha) within Parinacota Province of Tarapaca Region, and Isluga Volcano National Park (174,744 ha) in Iquique Province, Tarapaca Region. Caquena Management Zone (90,146 ha) is a special management area on private lands (Bonacic 2000b). Over 96 percent of the vicuña in Chile are found within the Caquena Management Zone, Lauca National Park, and the Vicuña National Reserve within Parinacota Province (Galaz 1997, pers. comm.). These areas have typical vicuña habitats and limited human populations.

Information presently available to the Service indicates that vicuña populations in Chile are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range, but they remain threatened by this factor due to competition for forage and space with domestic livestock.

Peru

Vicuña in Peru in 1997 were estimated to occur on about 6.4 million ha throughout the 15 to 17 million ha of suitable habitat in the Peruvian highlands. Factors that could impact areas of vicuña habitat in the future include increased urbanization, successful re-introductions of vicuña into present areas of suitable but unoccupied habitat, the replacement of domestic livestock by vicuña, and large-scale watershed reclamation schemes. Vicuña are better adapted to the rigorous climatic and ecological conditions of the Puna, than are many species of domestic livestock. Overgrazing by domestic livestock remains the greatest threat to habitat conditions in the Puna (and all other ecoregions where vicuña occur).

Vicuña occur in 782,186 ha of Peruvian protected areas, including Huascaran National Park (340,000 ha), Pampa Galeras National Reserve (75,250 ha) and the Salinas and Aguada Blanca National Reserve (366,936 ha) (Hoces 1997, pers. comm.).

The Peruvian Government has embarked on a large-scale watershed reclamation and soil conservation project, the Proyecto Nacional de Manejo de Cuencas Hidrograficas y Conservation de Suelos (PRONAMACHCS), that has already negatively impacted vicuña habitats in certain areas, and has potential to impact habitats over a much wider geographic area. PRONAMACHCS's "Sierra Verde" project impacted approximately 20,000 ha of high-elevation rangelands used by vicuña within the Salinas and Aguada Blanca National Reserve through the contour terracing of natural slopes, and planting of grasses and shrubs. The contour terracing created large ditches that vicuña would have difficulty crossing (see PRONAMACHCS Web Site http://www.pronamachcs.gob.pe), and conservationists are concerned that the disturbance may cause vicuña to leave the area.

Information presently available to the Service indicates that vicuña populations in Peru are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range. However, vicuña populations in Peru remain threatened by this factor as a consequence of overgrazing by domestic livestock, direct competition for forage and space with domestic livestock, and large-scale watershed reclamation schemes.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Estimates suggest there may have been 1.0 to 1.5 million vicuñas in the Andean region during the Incan period. Vicuña fiber was valued by the Incas, and although utilized by the Incas, there is no evidence that the species was exploited at unsustainable levels. After the downfall of the Inca Empire, vicuñas were slaughtered in large numbers for both meat and fiber. In the 1950's populations may still have totaled 400,000, but hunting pressures and livestock competition may have reduced the total population to around 7,000 to 12,000 individuals by 1965 (Jungius 1971). Vicuña populations have begun recovering throughout the species' range during the last 30 years (Wheeler 1995). Approximately 200,000 vicuña are now estimated to occur throughout the species' Andean highland distribution (CITES 2000a). However, this recovery has not been without setbacks due to political, economic, and environmental fluctuations. For example, vicuña numbers in Peru were at a low point in 1965, grew steadily until a prolonged drought in 1978–1979 caused numbers in Pampa Galeras to decline substantially, gradually built to high levels in 1990, were significantly reduced by illegal hunting from 1991 to 1994, while there was civil unrest in the region, and have since recovered to and even exceeded 1990 levels.

The vicuña remains a potentially easily exploited resource. It has great economic value and is a highly visible, diurnal occupant of open landscape. Some poaching for skins or subsistence hunting for meat still occurs, as does killing of vicuñas because of perceived competition with domestic livestock. These sources of mortality could have a potentially serious impact on vicuña numbers, as they have done in the past.

All signatory countries (Argentina, Bolivia, Chile, Ecuador, and Peru) to the Conveño para la Conservación y Manejo de la Vicuña (Convention for the Conservation and Management of the Vicuña, or the Vicuña Convention), have agreed not to export fertile specimens of vicuña. The sole exception has been exports to the Republic of Ecuador to aid in their vicuña establishment efforts. This was accomplished within the multilateral frameworks of both the Vicuña Convention and the CITES Convention. We believe it would be desirable if this prohibition were to be extended to embryos, gametes, and tissue samples not intended for bona fide scientific research related to conservation of the species in the wild, and not in support of range country programs. This would help prevent establishment of captive vicuña herds outside the natural range of the species, which would undermine the conservation efforts of the range countries.

Argentina

Population Status. In 1997, the vicuña population of Argentina was estimated to be approximately 32,000 animals, based on censuses completed in various protected areas between 1992 and 1996 (CITES 1997a). The most complete data were from Jujuy Province, where the Olaróz-Cauchari Reserve has been surveyed regularly since 1973–74. Estimates from protected areas in other provinces were somewhat dated and incomplete (CITES 1997a).

The vicuña population of Argentina is believed to have increased over the past 10 to 25 years. Data from the Olaróz-Cauchari Reserve showed a steady increase from about 330 individuals in 1973 to about 6,500 in 1994 (Canedi 1995). Laguna Brava Reserve also showed substantial population increases (CITES 1997a). Possible factors contributing to the population increases include the newly developed support for vicuña by some campesino communities of the Puna, the creation of protected areas, and the control of illegal hunting (Canedi 1997, pers. comm.). Dr. A. Canedi anticipates that some transplanting will occur from certain areas if populations grow to exceed carrying capacity.

In response to the proposed rule, two commenters stated that the vicuña population of Argentina is currently estimated to be 50,000 animals, however, we have not seen any reports that would corroborate this population estimate on the basis of scientifically-sound survey methodology. Vicuña populations may have actually declined during the later 1990's as a result of a prolonged drought. Dr. A. Canedi (*in litt.* to FWS 1999) stated that a drought in 1996 to 1998 contributed to a substantial decline in the vicuña population of the Olaróz-Cauchari Reserve (from 6,500 in 1995 to 4,800 in 1998). He said that similar declines had occurred in other provinces. Thus, the current population estimate for Argentina is uncertain.

Population Utilization. Poaching is not considered by national authorities to be a major problem at present (V. Lichtschein, CITES Management Authority of Argentina, pers. comm. with K. Johnson, DSA, 1999; E. Hoffman, journalist, pers. comm. with K. Johnson, DSA, 1999), although instances of poaching have been observed. Sport hunting of vicuña is not permitted in Argentina, and no permits have been issued for the capture of wild vicuñas for scientific or educational purposes.

Vicuña utilization in Argentina consists of a developing effort to sustainably use wild populations in Jujuy Province, and efforts to develop captive management programs in the provinces of Catamarca, Jujuy, La Rioja, Salta, and San Juan. Two different captive management systems are in operation in Argentina. The first has been developed by personnel of the National Institute of Agriculture and Cattle Technology (INTA) at their High Altitude Experiment Station (CEA) at Abra Pampa (Rebuffi 1995). A second captive management operation has been implemented by the Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos) in the Molinos Department of Salta Province.

The CEA INTA captive management model consists of maintaining a variable number (20 to 36) of semi-domestic vicuña in fully-fenced enclosures of a few hectares. The vicuña are on loan from the CEA INTA semi-domestic herd at Abra Pampa; vicuña family groups are placed into the enclosures. The fenced enclosures are constructed on private lands with fencing material provided through loans from a private company. Individual ranchers who have been trained in vicuña management are responsible for protecting and caring for the vicuña. This model has been developed to be relevant to the conditions of the Argentine Puna where lands are owned by individual ranchers, human populations are very sparse, and vast areas of potential habitat with limited vicuña populations exist (CITES 1997a). The model is based on almost 30 years of study and experimentation with captive vicuña (Rebuffi 1995). Studies have emphasized efficient fences to contain vicuña, the determination of the carrying capacity of different range types, and the capturing and shearing of vicuña and fiber processing procedures.

Young vicuña, produced under these captive conditions, are either used as replacement stock or are returned to CEA INTA as compensation for the initial vicuña loan. The captive herds are sheared at two year-intervals using the techniques developed at CEA. At the time of shearing, representatives of INTA, the Provincial Department of Renewable Natural Resources, the National Gendarmes (military police), a Doctor of Veterinary Medicine, and the fiber buyer are present to observe and/or supervise the operation. The fiber buyer in 1997 was an Argentine fiber processing company that provided the fencing materials through loans. The fiber purchase is used to retire the debt on the fencing materials, and to provide immediate payment to the individual rancher. The fiber, at the time of shearing, is weighed, bagged, marked, sealed, recorded and stored in a sealed warehouse until all commercial authorizations have been completed.

We understand that, to date, about 20 individual ranchers have captive herds established with vicuña from the captive herd at CEA INTA Abra Pampa. Apparently there are not enough captive vicuña at Abra Pampa to establish many more captive herds at the present time. Most of the captive herds have been established in Jujuy and Salta Provinces. We believe that the majority of captive populations are probably well maintained and in good health, and that mortality associated with shearing is probably low. However, we are aware of one instance where most of the animals in a captive population died because the animals (20 of 36 vicuñas) were sheared in winter and died of pneumonia soon thereafter ("Las Esquilaron en Pleno Invierno: Denuncian Muerte de Vicuñas," PREGON, San Salvador de Jujuy, Wednesday, July 28, 1999).

The production of vicuña fiber under captive conditions is said to benefit the individual campesino rancher, and is said to be growing in popularity. Proponents claim that this program benefits the status of vicuña in the wild, because the ranchers support the program and, therefore, tolerate the presence of non-captive vicuña in the provinces. The program also is claimed to have enhanced the relationship between ranchers and the National Gendarmes, which has improved protective measures for vicuña. The National Gendarmes have apparently succeeded in reducing poaching of wild vicuña, although we have not been able to obtain any quantitative information that demonstrates a clear link between establishment of captive vicuña populations and improved conservation status of wild vicuña populations. Growth of wild vicuña populations is not necessarily an indicator of the success of the captive management program, because some populations have increased in areas without captive populations, and because growth of wild populations began in some areas long before captive populations were established.

Based on information available to us, we continue to have concerns over the effectiveness of this captive management model as a conservation tool for wild populations of vicuña. The captive population at Abra Pampa has been developed from a limited number of founder animals (16 females and 6 males). Some scientists have expressed concerns over the genetic fitness of animals in this population. In the proposed rule, we expressed concern about possible genetic and disease consequences if vicuña from the Abra Pampa population were translocated to different provinces and subsequently escape to mingle with the wild population. We no longer believe that these are major threats, primarily because of the very small number of animals involved and the level of veterinary care the captive animals receive. In the proposed rule, we expressed concern that captive populations might be established in the most favorable vicuña habitat areas, thus potentially depriving wild vicuña populations of important resources such as water or forage; we no longer believe that this is a major threat, primarily because of the very small amount of land involved. We are concerned, however, that economic gains realized from sales of vicuña fiber may be used by individual ranchers to increase the size of their domestic livestock herds, thus increasing grazing pressure on vicuña habitats outside enclosures. Such a result was predicted in a study of campesino communities and vicuña utilization in Catamarca Province, conducted by Rabinovich et al. (1991), although Rabinovich cautioned that those results were site-specific.

We are not yet convinced that the INTA captive management program will

be able to provide socioeconomic benefits to a large number of people over the long term, thereby reducing pressure on wild vicuña populations, for the following reasons. We understand that only about 20 individual ranchers have captive herds, so the number of people realizing a benefit from this program is very small in comparison to the total number of Puna residents. The number of captive herds is not likely to increase substantially in the near future. We do not have enough information to determine the exact financial return realized by individual ranchers participating in the captive management program, because it varies based on the price of the fiber and the amount obtained per shearing, but average annual income appears to be in the range of US $750 to $1,100 per year per rancher. This may or may not constitute a substantial return, depending on the individual ranchers involved. However, it appears that all or most individual ranchers are indebted (for the fencing materials) to the same company that purchases their fiber. This may put the ranchers at a disadvantage in obtaining the highest price possible for their fiber. Last, it does not appear that any of the proceeds from sales of vicuña fiber or fiber products are channeled into conservation programs for wild vicuña, thus there is no direct or even indirect financial link between these programs.

The Grupo Especialista en Camelidos Sudamericanos (GECS) of the IUCN/SSC believes that captive management could be compatible with conservation of wild vicuña populations and natural habitats if the following conditions are met: (1) That habitat and food availability for free populations is not threatened by captive operations; (2) that the risk of mingling captive and wild, free-ranging vicuñas is minimized with efficient fencing and continued monitoring; (3) that local human communities have an active participation in tasks and also in revenues emerging from vicuña use; and (4) that part of these revenues be reinvested in the conservation goal. One captive management operation in Argentina appears to have begun fulfilling the criteria outlined by GECS. The Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos) has a structure wherein its 25 participating families (120 individuals) share tasks and benefits of using the vicuña, has established a captive management operation (Criadero Coquena-El Refugio de las Vicuñas) in an area not immediately within occupied vicuña habitat, has conducted a vicuña population survey in the Molinos Department of Salta Province, and is interested in further developing and implementing a conservation program for wild vicuña. Los Molinos obtained its vicuña on loan from CEA INTA in 1994, but does not rely on CEA INTA for technical support. It has not accepted any financial support for developing its operation, but has accepted a variety of technical support from different regional agencies. Los Molinos does not sell the raw fiber but uses it to produce a finished product on site.

Los Molinos' model of captive vicuña management differs from the CEA INTA management model in that it includes a component of research and conservation of wild vicuñas, attempts to "add value" to the raw fiber by producing traditional crafts, thereby increasing the financial return to the local community, and provides economic benefits to multiple persons rather than to an individual rancher. The Los Molinos program appears to have a demonstrable conservation benefit for wild vicuña populations, and a link between conservation activities and economic benefits to members of the cooperative.

Vicuña population trends throughout Argentina are positive, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. We do, however, consider the vicuña to be threatened by overutilization throughout Argentina because appropriate conservation mechanisms are not yet fully implemented, and populations have not yet recovered to the extent practicable, based on successful conservation and management.

Bolivia

Population Status. A country-wide census in 1996 recorded 33,844 vicuña in Bolivia (CNVB 1996). In 1997, the total population was estimated at about 35,500 (DNCB 1997, pers. comm.), while in 1999, the total population was estimated at 45,000 animals (CITES 2000a). Population data determined by direct and total counts of individuals on selected habitat areas are best for the three experimental pilot areas—Ulla Ulla, Mauri-Desaguadero and Lipez Chichas—whose populations were transferred to CITES Appendix II in 1997. Periodic censuses have occurred over a 30-year period for Ulla Ulla, and over a 15-year period for the other two pilot areas. Populations have been growing steadily in each area during the period that censuses have been conducted (CITES 2000b).

The Bolivian vicuña population is believed to be increasing, and perhaps has reached carrying capacity in a few areas. Population growth has been accomplished by increases in vicuña population density in known habitat areas, and population expansion into heretofore unoccupied habitat areas. It is believed that the principal reason for the growth in the general vicuña population is the protection provided by the campesino communities, especially those that have government supported game wardens.

Population Utilization. Some campesino communities in Bolivia remain hostile to vicuñas because of crop depredation or perceived competition with domestic livestock, and the fact that few economic benefits are presently realized from vicuña. Some vicuña may be killed as a consequence. In addition, vicuña are known to be poached in Bolivia (CITES 1997b). Poaching levels may be high enough to warrant concern. For examples, one person was arrested outside La Paz with 324 vicuña skins in his possession, and tour operators in remote areas claim to encounter skinned vicuña carcasses on a regular basis (E. Hoffman, pers. comm. with K. Johnson, DSA, 1999). Game wardens report isolated cases of poaching of 3 to 20 animals (CITES 2000a). Vicuña products, including rugs made from many skins, can be seen for sale in the San Francisco Plaza in La Paz (E. Hoffman, pers. comm. with K. Johnson, DSA, 1999). Local authorities use vicuña ponchos, scarves, and blankets, especially at traditional celebrations (CITES 1997b). The fiber used in these products comes from animals killed illegally (CITES 1997b). The granting of custodianship to local communities, and the delegation of monitoring responsibilities to the provincial governments is expected to provide a mechanism to address this issue.

Vicuña are not captured in Bolivia for educational or scientific purposes. There is no intent to have commercial meat operations as the only authorized commerce will be in fiber and fiber products from live-shorn vicuñas from wild populations.

Bolivia's National Program for the Conservation of Vicuña is in the early stages of implementation. Bolivia is developing a program for harvesting and marketing fiber shorn from wild, free-ranging vicuña; this program borrows significantly from the successful program of wild population management and utilization in Peru. The initial step of the National Program was to transfer three substantial vicuña populations in areas where campesino commitment was high (Ulla Ulla, Mauri-Desaguadero, Lipez Chichas) from

CITES Appendix I to II, with a zero quota for export. This proposal was adopted by the CITES Parties at COP 10 in 1997. The transfer allowed the development and refinement of pilot management and shearing programs that would eventually be expanded to other vicuña habitats. The second step was the conclusion of an agreement between the Programma Quinua Potosi (PROQUIPO) and the DNCB (Direcciõn Nacional de Conservación de la Biodiversidad Unidad de Vida Silvestre) to operate the Pilot Center of Sud Lipez to actually develop and demonstrate those management and shearing programs. The pilot project involves the capture and shearing of live vicuñas, and the manufacture of fabric and eventually the sale of vicuña fiber for the manufacture of textiles to demonstrate the potential economic benefit to campesino communities. The third step was the removal of the zero quota for export at COP 11 in 2000; this would help provide the basis for implementing the program on a more widespread basis. Bolivia subsequently reported an export quota of 1,975 kilograms for 2000 with the CITES Secretariat. A fourth step, a proposal to transfer all remaining populations in Bolivia to Appendix II (CITES 2000a), was presented at COP 11 but withdrawn because of opposition by the other Vicuña Convention countries. That proposal is likely to be re-submitted at a future COP, perhaps COP 12. With approval of such a program the live-shearing program could be expanded country-wide.

Vicuña population trends throughout Bolivia are positive, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. We do, however, consider the vicuña to be threatened by overutilization throughout Bolivia because appropriate conservation mechanisms are not yet fully implemented, and populations have not yet recovered to the extent practicable, based on successful conservation and management. Vicuña currently occur on approximately 3.4 million ha in Bolivia, whereas their potential range in Bolivia has been estimated at approximately 10 million ha (INFOL 1985 cited in CITES 2000a). Although vicuña will never occupy that range fully, due to habitat changes, grazing by domestic livestock, and human developments, there still appears to be considerable room for continued vicuña population recovery in Bolivia.

Chile

Population Status. Over 96 percent of the vicuña (19,200 of an estimated 19,850) in Chile occur in Parinacota Province in the extreme northeastern portion of the country. The populations in the Caquena Management Zone (estimated to be 3,700 vicuña) and in the National Vicuña Reserve (estimated to be 8,050 vicuña) in this Province were transferred to CITES Appendix II in 1987; these would be the only populations utilized commercially should a program to capture and shear live vicuña be initiated (Galaz 1997, pers. comm.). The adjacent population in Lauca National Park (estimated to be 7,410 vicuña) was retained on Appendix I to provide further control over vicuña in this protected natural area. The remaining four percent of Chile's vicuñas occur elsewhere in the upper Andean tablelands in northeastern Chile. About 650 vicuña are believed to occur in small scattered groups over about 215,000 ha elsewhere in the Tarapaca Region and in the neighboring Antofagasta and Atacama Regions.

The vicuña population of Chile has grown steadily since 1975 (Bonacic 2000). The vicuña population in Parinacota Province is believed to be near carrying capacity in typical vicuña habitat.

Population Utilization. The hunting, capture, and sale of vicuña and vicuña products is unlawful in Chile without the authorization of the Servicio Agricola y Ganadero (SAG–Agriculture and Livestock Service) of the Chilean government as specified in the new hunting law of 1996 (Ley No. 19.473) (Iriarte 2000). At present, there is no national or international trade in vicuña fiber, no exports of living vicuña and no known illegal trade in vicuña products. Poaching is not considered to be a problem in Chile (E. Hoffman, pers. comm. with K. Johnson, DSA, 1999).

For more than 10 years, the Chilean government investigated the development of a sustainable use program based on capture, live-shearing, and release of wild vicuña (Bonacic 2000a). Now, we understand that Chile is planning to develop a captive management program that may take up to 3,000 vicuña from the wild and maintain them in captivity in the altiplano (Galaz, pers. comm., cited in Bonacic 2000a). We do not know if, to date, Chile has actually authorized the capture of wild vicuñas to develop the program. The new 1996 law gives SAG the authority to authorize sustainable use of the vicuña when certain conditions have been met (Iriarte 2000). The only exports of raw fiber, as of 1997, were in order to obtain analyses of the fiber's physical properties (SAG 1997, pers. comm.).

Vicuña population trends in Chile are positive or stable, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. However, because a vicuña fiber industry could potentially be approved in Chile, this factor is still considered to threaten the Chilean population until such time as control mechanisms for harvest and commercialization are demonstrated to be adequate to control overutilization.

Peru

Population Status. The 1997 census in Peru estimated a population of 103,650 vicuña on 6,361,000 ha of habitat (Hoces 1997, pers. comm.) in the high Andean tablelands of the departments of Ancash, Apurimac, Arequipa, Ayacucho, Cajamarca, Cusco, Huancavelica, Huanuco, Junin, La Libertad, Lima, Moquegua, Pasco, Puno and Tacna. More recent estimates suggest a total population of around 142,000 vicuña (Bonacic 2000a), however, we have not seen any reports that would corroborate this population estimate on the basis of scientifically-sound survey methodology.

The recovery of vicuña populations in Peru has not been steady, a consequence of political, economic, and environmental fluctuations over the past 35 years. Vicuña numbers were at a low point in 1965, grew steadily until a prolonged drought in 1978 to1979 caused numbers in Pampa Galeras to decline substantially, gradually built to high levels in 1990, but were significantly reduced by illegal hunting from 1991 to 1994, while there was civil unrest in the region (Wheeler and Hoces 1997). Vicuña populations have been increasing since 1994. This is believed to be due to a combination of factors—the decrease in civil unrest in the high Andean region, increased efforts to control vicuña poaching, and the development of a vicuña fiber utilization program. Several campesino communities now participate in the protection, management and utilization of vicuña in cooperation with the National Council of South American Camelids (CONACS) and the National Institute of Natural Resources (INRENA), which is the designated CITES Management Authority for Peru.

Population Utilization. At present, legislation in Peru permits the taking of vicuña if properly authorized and technically supported. Some culling of vicuñas (about 1,000 per year) did occur from 1977 to 1983 but no quotas have

been declared and little if any legal take has occurred since that date. Any take for scientific studies is rare and, when authorized, is tightly controlled. There is no legal utilization of vicuña for meat or parts.

Commercialization of vicuña fiber products in Peru is under a system of controls that include monitoring fiber collections, governmental supervision by CONACS and INRENA, and the involvement of local campesino communities. CONACS and INRENA are responsible for protecting and monitoring vicuñas within protected areas such as Huascaran National Park, Pampa Galeras National Reserve, and the Salinas and Aguada Blanca National Reserve. The protection and monitoring of vicuñas in the rural communities is a major responsibility of participating campesino communities in coordination with CONACS and INRENA.

Two models of vicuña utilization are being pursued in Peru at the present time. The first model is based on the management of wild populations, utilizing capture methods based on the traditional "chaku," a surround technique used by the Incas to capture and shear vicuñas and release them back to the wild (Wheeler and Hoces 1997). The second model is based on captive management of vicuña. Since 1996, CONACS has been promoting the establishment of Sustainable Use Modules (SUMs) which are fully fenced enclosures of approximately 500 to 1,000 ha, each with about 250 vicuña.

The "chaku" model was the initial approach to wild vicuña population management undertaken in Peru after populations began to recover. The most successful experiences with wild vicuña population management have been in the campesino communities of Lucanas and San Cristobal around Pampa Galeras. CONACS developed the "chaku" technique for capturing and harvesting fiber from living wild vicuña at Pampa Galeras, and has taught and supervised campesino communities in this technique and other aspects of vicuña management. The process used to capture and shear vicuñas was observed in August 1997 by Dr. H. Short (on behalf of the National Fish and Wildlife Foundation) and described in the proposed rule. That description will not be repeated here, but readers are referred to the proposed rule (64 FR 48743, September 8, 1999).

At Pampa Galeras and in other areas of the Peruvian Puna, vicuñas occur on communal lands and campesinos represent a plentiful and important work force. As described in the proposed rule, vicuña management essentially provides full-time employment for many members of the Lucanas community-building fences, obtaining and cleaning fleeces, providing protection to vicuña and providing instruction to other communities wishing to establish a vicuña industry. It was reported that as part of the arrangement between the Lucanas community and the government, 500 vicuñas were used to restock vicuña habitats in neighboring communities, in exchange for both a hydro-electric project and other economic assistance. The Pampa Galeras experience has been the model for other campesino communities in Peru, and is the model for similar efforts in Bolivia.

Efforts are underway in Peru to implement a large-scale captive management program for vicuña (Lichtenstein et al. 1999b, Sahley 1999, Sahley et al. submitted). Since 1996, CONACS has been promoting the establishment of Sustainable Use Modules (SUMs), which are fully fenced enclosures (corrals) of approximately 500 to 1,000 ha, each with about 250 vicuña. We understand that long-range plans were to establish SUMs in 600 campesino communities by the year 2000 according to the Sociedad Nacional de Criadores de la Vicuña (SNV–National Society of Vicuña Breeders) (SNV 1997, cited in Sahley 1999). We do not know if this goal was achieved, but by 1999 approximately 21,000 vicuña (D. Hoces, Technical Director, CONACS, *in litt.* to FWS, 1999) were being held in approximately 250 Sustainable Use Modules in Peru (Lichtenstein et al. 1999b). Translocation of animals is involved in this management model; vicuña are relocated from areas where they are abundant to establish captive populations in new areas.

Dr. Gabriela Lichtenstein of the Instituto Internacional de Medio Ambiente y Desarrollo-America Latina (IIED–AL) and her research team assessed and compared the two vicuña management systems in Peru (i.e., captive management versus wild, free-ranging management) from ecological, social, and economic perspectives, and conducted a feasibility analysis of both systems (Lichtenstein et al. 1999b). Two projects in the Department of Ayacucho-Proyecto Barbara D'Achille, Lucanas and Proyecto de San Cristobal y aledañas-were evaluated as case studies. Their findings strongly indicate that management of wild, free-ranging vicuña populations is a better alternative than captive management from all three perspectives—ecological, economic, and social. They concluded that the economic viability of enclosures (corrals) for campesino communities is questionable, especially when the enclosures have fewer than 250 vicuñas. They characterized captive management as a high risk venture with low profit potential. Conversely, wild management was characterized as a medium to high risk investment with potential high profits. After considering the low carrying capacity of the habitat, they determined that placing more than 333 vicuñas per corral would have a negative impact on the environment and increase desertification. They noted that genetic interchange and dispersal were limited by enclosures, and expressed concern about translocating animals without paying proper attention to health and genetic concerns. They suggested that the SUM project would greatly benefit if it were accompanied by solid research on ecological carrying capacities, and on the genetic, behavioral, and population impacts of enclosures on vicuñas.

Sahley (1999) and associates (Sahley et al. submitted) have also compared the two management systems in Peru, and evaluated two projects as case studies—Tambo Cañahuas and Toccra in Arequipa. Their results are similar to those of the Lichtenstein group—that the wild, free-ranging management model (*i.e.*, capture, shearing, and release of wild vicuñas) is biologically sustainable in the short- and long-terms, and is economically more viable that the captive (corral) management model.

These two projects are the only research efforts we are aware of that have systematically examined and compared the costs and benefits of both captive and wild, free-ranging vicuña management systems from ecological, social, and economic perspectives. Therefore, we attach great importance to their conclusions, although we recognize that these conclusions would benefit from additional research. Certainly additional research and monitoring of SUMs is needed to assess the ecological, economic, and social viability of that program. We are concerned about the genetic and population dynamics implications of captive management, as well as habitat implications (*i.e.*, how are carrying capacities of corrals determined, and what happens when that capacity is reached?). We are also concerned about possible disease and genetic implications of vicuña translocations to start new populations, and believe that such translocations should be based on a previously-developed protocols that consider the possible genetic and disease consequences. We are not aware that Peru has developed such protocols. Wheeler et al. (2000) have identified four genetically distinct groups of vicuñas in Peru. They urge caution with regard to repopulation efforts, and suggest that translocations occur within the four distinct groups rather than among the groups.

Vicuña population trends throughout Peru are positive, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. We do, however, consider the vicuña to be threatened by overutilization throughout Peru because appropriate conservation mechanisms are not yet fully implemented, and populations have not yet recovered to the extent practicable, based on successful conservation and management. Vicuña in Peru in 1997 were estimated to occur on about 6.4 million ha throughout the 15 to 17 million ha of suitable habitat in the Peruvian highlands Although vicuña will never occupy that range fully, due to habitat changes, competition with domestic livestock, and human developments, there still appears to be considerable room for continued vicuña population recovery in Peru.

C. Disease or Predation

Vicuñas, like most mammals, suffer from a variety of endo- and ecto-parasites. Mange caused by parasitic mites can result in skin lesions and loss of hair, especially in those populations that coexist with domestic livestock, and during drought conditions. Major predators on vicuña include the puma (*Felis concolor*), the Andean fox or zorro (*Dusicyon culpaeus*) and perhaps the Andean condor (*Vultur gryphus*), which may kill newborn and sick animals.

Vicuña populations in the four range countries are not believed to be endangered or threatened by the impacts of disease or predation, because populations are increasing or stable and there is no evidence of widespread disease outbreaks as an actual or potential mortality factor. We remain concerned about the potential for disease transmission from vicuña that are translocated for the development of new captive populations or for release to the wild to supplement wild populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The regulatory mechanisms in place vary among the four range countries under consideration. However, all four countries are signatories to both CITES and the Vicuña Convention.

Argentina

In Argentina, the First Interprovincial Technical Conference on the Conservation of the Vicuña met in 1972, and agreed to develop methods to capture and transport vicuña to recolonize vicuña habitats, and to develop a plan for the management, shearing, and the manufacture of handicrafts from vicuña fiber. Additional meetings integrated the provincial vicuña programs, established a national program, and established the "Vicuña Regional Commission" as a mechanism to attain national coordination on the vicuña management program (Comisión Regional de la Vicuña 1994).

In 1988, Argentina signed the Vicuña Convention, and has since carried out its programs within the context of this agreement. Argentine National Law for the Conservation of Wildlife 22.421 and its Regulatory Decree No. 691, provides for vicuña protection. The Constitution of Argentina, reformed in 1994, assures the rights of the provinces over their respective natural resources, assures the rights of indigenous people to use these natural resources in traditional ways, and embraces the conservation of biological diversity and the sustainable development of natural resources.

Several laws and decrees within the Vicuña Provinces (Jujuy, Salta, Catamarca and La Rioja) list the vicuña as a protected species, establish protected areas for the species, prohibit hunting, and prohibit commercialization, transportation, or manufacturing of parts or products from hunted animals, regardless of origin. Laws and decrees also allow the installation of captive breeding operations, and the commercialization and industrialization of products from captive-bred animals (Canedi 1997, pers. comm.).

The Departments of Renewable Natural Resources for Jujuy, Salta, Catamarca and La Rioja Provinces have signed agreements with the Secretariat of Natural Resources and Human Environment and the National Gendarmes, a Federal Law Enforcement group, to enforce provisions of Provincial and National laws that prohibit illegal hunting and smuggling. The Gendarmes conduct extensive patrols in rural areas and on the borders, and have officers at the ports, airports, and borders. They are charged with conducting inspections and investigations involving the illegal trafficking of vicuña fiber. Their environmental division meets with campesinos and tries to promote the vicuña program. Although the Department of Renewable Natural Resources and the National Gendarmes may not have sufficient resources at their disposal, they are thought to be working effectively with the campesino communities of the Puna as evinced in the increase of vicuña populations of the Puna (Canedi 1997, pers. comm).

At present, the only legal vicuña fiber in Argentina is that obtained from the shearing of live vicuña from officially-authorized captive populations. We understand that a registry of authorized captive populations is maintained by the national CITES Management Authority, the Direccion de Fauna y Flora Silvestres (V. Lichtschein, pers. comm. with K. Johnson, OSA, 1999). Shorn fiber is bagged, tagged, weighed, sealed, recorded, and the government agency that supervised the shearing is identified on the bag. Fiber from an officially-authorized rancher can be directly auctioned for export, or the rancher, if an artisan, can retain the fiber, and make and sell cloth. Either the fiber buyer or the rancher-artisan would need a transport permit, and that transport permit would need to be presented when the CITES export permit is requested.

Fabric or products manufactured by rancher-artisans need to be marked with the official seals or stamps. Such fabrics or products, expected to be limited in numbers, can only be sold to licensed outlets recognized and approved by the government. The check on whether fabrics or products are made from legal vicuña fiber will be made by comparing weights of raw fiber harvested under supervised shearing operations against the combined weight of raw fiber retained by the authorized rancher-artisan and the weights of fiber products produced by that rancher-artisan. From information available to us, it appears that provincial natural resource departments are responsible for supervising shearing. However, at present, it is not clear to us which government agency approves licensed outlets for vicuña products, and which agency conducts checks of producers to ensure that only legal fiber is used in artisan products. There is apparently no national legislation that covers all aspects relating to the trade in vicuña or the administrative aspects relating to this trade (CITES 1997a).

Argentina acceded to CITES in 1981. Wild vicuña populations in Jujuy Province , and so-called "semi-captive populations" of vicuña in Jujuy, Salta, Catamarca, La Rioja and San Juan Provinces were transferred from CITES Appendix I to II at COP10, effective September 18, 1997. Exports are limited to fiber shorn from live animals, cloth

and articles made from that cloth, luxury handicrafts and knitted articles. The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–ARGENTINA." All specimens not meeting the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

Articles bought by a foreign tourist at a government-authorized store are legal to export as personal accompanying baggage only after a CITES export permit containing all required information has been obtained. The only apparent control of artisan goods sold to residents of Argentina and later resold to foreign tourists is the requirement that the tourist have a CITES export permit upon return to his/her country of origin. This is also a requirement for importation of any personal effects or personal accompanying baggage by U.S. residents, under the conditions of the special rule accompanying this rule. If the fiber from an authorized captive breeder is sold at auction, the buyer, presumably a fiber-processing company, would get a permit from the Provincial Natural Resources Department. The buyer would present that permit to the National Secretary for Natural Resources and Human Environment to obtain the required CITES permit for export.

The National Gendarmes are expected to aid provincial authorities in the control of poaching, illegal trade, and transport of unauthorized products within the country and the routine inspection of products of legal origin to certify their origin. Collaboration will also be provided by the National Aeronautical Police at the country's airports to intensify inspections of commercial products and passengers.

We do not consider the vicuña to be endangered by inadequate regulatory mechanisms in Argentina. We do, however, consider the species to be threatened by this factor because many of the regulatory mechanisms are in early stages of implementation, we are still unclear about several aspects related to the control of trade in raw vicuña fiber and artisan products, and there appears to be no national legislation that covers all aspects relating to the trade in vicuña or the administrative aspects relating to this trade.

Bolivia

Bolivia's Programa Nacional de Conservación de la Vicuña (National Program for Vicuña Conservation, or National Program) is in the early stages of implementation. The Ministerio de Desarrollo Sostenible y Medio Ambiente (MDSMA–Ministry of Sustainable Development and the Environment) is the agency responsible for managing all renewable natural resources. The Direction General de Biodiversidad (formerly the Dirección Nacional de Conservación de la Biodiversidad—DNCB) is located within this Ministry and is responsible for policies dealing with conservation of biological diversity. This agency is responsible for executing the National Program for Vicuña Conservation.

Several laws and decrees are relevant to vicuña management in Bolivia. Bolivia and Peru signed the Treaty of La Paz in 1969 to provide a measure of international protection for vicuña (this treaty was a precursor of the current Vicuña Convention). The Agrarian Reform Act of 1953 enabled some rural communities to have private lands and other rural communities to have unfenced communal lands which are advantageous to free-roaming vicuñas. Law 12301 (Ley de Vida Silvestre, Parques Nacionales, Caza Y Pesca) passed in1975, describes the government's obligation to regulate and administer the use of wildlife resources. Law 1333 (Ley del Medio Ambiente), passed in 1992, provides for sustainable use of authorized species, based on technical, scientific, and economic information. Law 1715, passed in 1996, created the National Institute for Agrarian Reform and promoted the sustainable use of land, the promotion of practices favoring conservation and the protection of biodiversity, and the concept that lands where conservation is practiced would not be subject to expropriation.

Decreto Supremo (Supreme Decree) No. 22641 declared a complete and indefinite ban on the killing of all wildlife species, and states that the ban can only be lifted through legislation indicating the species and conditions that have lead to the lifting of the ban (CITES 1999). Supreme Decree No. 25458 of July 1999 ratified the general and indefinite ban established by Supreme Decree No. 22641, and modifies Articles 4 and 5 of that decree, related to lifting of the ban.

Supreme Decree No. 24529, passed in March 1997, authorized regulations for the protection and management of vicuñas in Bolivia. These regulations grant custodianship of vicuña populations to the rural communities (although the national government maintains ownership of the vicuña), give the rural communities the exclusive rights to use vicuña fibers, subject to the listed regulations, defines the conditions under which use of vicuña fiber is carried out, and establishes the Sistema de Vigilancia de Vicuña (SVV–System for the Protection of the Vicuña). We understand that the government has begun implementation of regulations by holding workshops in campesino communities to explain the regulations, by publishing print media guides describing the regulations and by helping campesino communities begin their compliance with the regulations (DNCB 1997, pers. comm.). We also understand that the government has begun coordinating with the National Police and military to help curb illegal activities dealing with vicuña and their products.

Under the regulations, all existing vicuña fiber products, including those in the domestic market, are to be inventoried and registered and all new products or fibers will also be registered. In the future, any non-registered vicuña products will be considered illegal. The only fiber that will be allowed for commercial purposes will be that obtained from live-shorn vicuña that have been captured according to regulations. Only raw fiber for the manufacture of cloth will be exported. Bolivia does not have a textile industry with the capability to manufacture vicuña fiber cloth (DNCB 1997, pers. comm.).

The overall management of vicuña in Bolivia is based on National Program for Vicuña Conservation. The National Program emphasizes the management and use of wild free-ranging populations of vicuña, population monitoring, and the improvement of habitat quality. Under the regulations, the harvesting of vicuña fiber will only be allowed in organized campesino communities that (1) have the rights to capture and shear vicuña and utilize vicuña fiber, and (2) have delegated authority to work with government authorities in the management and conservation of the vicuña. These campesino communities are the only legal benefactors of the sale of vicuña fiber. The National Program will be carried out in these communities. Management will be based on Planes de Manejo de la Vicuña (PMV) (Vicuña Management Plans) prepared by and for each Area de Manejo Communal (AMC) (Communal Management Area). Management plans will include population monitoring and habitat management and improvement measures. This information will be basic to decisions to conduct vicuña drives, and in the conduct of capture and shearing operations. Monitoring information will be provided by game guards and recommendations for management actions will be produced

in the campesino communities. Government authorities will be present when vicuña capturing and shearing occurs. The authorities will register the number of vicuña captured, the number shorn, the weights of fleeces, etc., and supervise the bagging, weighing, marking and sealing of vicuña fiber. This information will be provided to the CITES authorities for reference purposes and information later provided in support of export permit applications must correspond to the on-site records. The Netherlands government has provided financial support to underwrite initial efforts to implement the National Program.

The regulations also establish the SVV, which provides for the development of an inter-community network for the management and protection of the species. This network will have direct control over activities such as fiber sales, and will also have responsibilities for determining status and trends in vicuña populations. The SVV will be composed of game guards made up of local vicuña protection officers and Park Rangers who are the enforcement officers within protected areas such as National Parks. The game guards will be responsible for the protection and control of vicuña in each conservation unit. Protection and control efforts will also be supported by special units of the National Police. The DGB will regulate and coordinate the activities and participants within the SVV.

Bolivia has been a CITES Party since 1979. The vicuña populations of the Mauri-Desaguadero, Ulla Ulla and Lipez-Chichas Conservation Units were transferred from CITES Appendix I to II, with a zero annual export quota, at COP10, effective September 18, 1997. The zero quota was removed at COP11; Bolivia subsequently reported an export quota of 1.975 kilograms for 2000 to the CITES Secretariat. Exports will be limited to fiber shorn from live animals, and to cloth and articles made from such cloth, including luxury handicrafts and knitted articles. The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–BOLIVIA." All specimens not meeting the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

The military will assist in patrols, inspections and the seizures of illegal products. Customs will assist in the control of the export and import of fiber at the ports of entry, border posts and airports to assure that CITES requirements are fulfilled.

We do not consider the vicuña to be endangered by inadequate regulatory mechanisms in Bolivia. We do, however, consider the species to be threatened by this factor because many of the regulatory mechanisms are in early stages of implementation, and because poaching continues to be a threat in Bolivia.

Chile

The existing regulatory mechanisms in Chile are dedicated to the protection of vicuña. Law No. 4.601 passed in 1929, modified by Law No. 19.473 passed in 1996, indefinitely closed the hunting season for vicuña throughout the Republic of Chile. The hunting, capturing and selling of vicuña (and vicuña parts) is outlawed. Persons possessing, transporting or involved in commercial operations with vicuña products need to prove their actions are authorized by these laws. The Servicio Agricola y Ganadero (SAG) of the Ministry of Agriculture is the CITES Management Authority, and has a Department for the Protection of Renewable Natural Resources and a Wildlife Division. Authorized customs officers (uniformed police), accredited officials from SAG, and representatives of the National Forest Corporation (CONAF) provide protection to vicuñas within the national protected areas system (SAG 1997, pers. comm.).

As of 1997, it was illegal to possess vicuña parts and products in Chile, and the only exports of raw fiber were in order to obtain analyses of the fiber's physical properties (SAG 1997, pers. comm.). Because it was illegal to possess vicuña parts and products, no mechanisms had been developed for registering or identifying raw fiber, or for establishing warehouses for storing fiber (SAG 1997, pers. comm.). At that time (1997), preliminary plans for a vicuña fiber industry, should it become authorized, indicated that the responsible party would need to provide an application to SAG indicating, among other things, the likely number of animals to be captured and sheared, the expected yield of the fiber harvest, the logistics of the capture and shearing operation, where and how the fiber would be stored and its eventual destination (SAG 1997, pers. comm.). SAG, should they approve the application, would oversee the capture process, register the quantity of harvested fiber, and seal the warehouse where the fiber was being stored. SAG would also provide the necessary export permits, after determining that the quantities for export correspond to quantities authorized and actually harvested. Preliminary plans also suggested that a mechanism would be established to deal with the production and sale of luxury handicrafts and knitted articles. That organization would be responsible for receiving the fiber, registering and offering the fiber products for sale, for recording the sale of registered craft items and providing an accounting of the sale of registered craft items (SAG 1997, pers. comm.).

We are aware that plans are currently underway to develop a captive management program in Chile, and that it is expected that vicuña will be captured from the wild and kept in captivity in the altiplano (Galaz, pers. comm., cited in Bonacic 2000a). We do not know if Chile has thus far authorized the capture of any vicuñas to develop the program. Bonacic (2000a) states that, at present, the legal, social, and ecological framework for vicuña captive management in Chile is complex and unresolved. However, the Government of Chile, in its comments to our proposed rule, stated that the present Hunting Law (Ley No. 19.473) provides Chile with the necessary tools and mechanisms for control and administration for sustainable management of the vicuña, and/or the establishment of captive breeding operations, so long as hunting is prohibited and its capture is strictly regulated.

Chile acceded to CITES in 1975. The vicuña populations of Paranicota Province, Region of Tarapaca (specifically, the populations in the Caquena Management Zone and the Vicuña National Reserve) were transferred from CITES Appendix I to II in 1987 at COP6. Any future export of vicuña products would be limited to fiber sheared from live animals in Appendix II populations and to cloth and items made from that cloth including luxury handicrafts, and knitted articles. The reverse side of cloth and cloth products would need to bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–CHILE." All specimens not meeting any of the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

We do not consider the vicuña to be endangered by inadequate regulatory mechanisms in Chile. However, because a vicuña fiber industry is likely to be approved in Chile but the adequacy of the specific regulatory mechanisms for harvest and commercialization have not yet been demonstrated, we consider that

the vicuña is still threatened by this factor in Chile.

Peru

The major breakthroughs in the management of vicuña in Peru were new laws transferring the custodianship of vicuñas to campesinos and campesino communities, giving the campesinos the responsibility to protect vicuñas, the implementation of protective measures, the determination that it was not necessary to kill vicuña in order to obtain fiber from their hides, and the development of management techniques to herd, capture, and shear living vicuñas (Wheeler and Hoces 1997). The key factor has been allowing the benefits of vicuña management and utilization to accrue collectively to campesino communities (rather than to middlemen or other individuals) (Wheeler and Hoces 1997).

The Peruvian infrastructure promoting vicuña management and commerce in vicuña fiber products includes the Consejo Nacional de Camelidos Sudamericanos (CONACS—Council of South American Camelids) which is a public, decentralized organization of the Ministry of Agriculture in charge of the promotion, standardization, and control of activities with the South American camelids. CONACS has offices in Lima and throughout the vicuña range, and is the proprietor of the trademarks "VICUÑA–PERU" and "VICUÑA–PERU–ARTESANIA." The Institute of Natural Resources (INRENA) is also a public, decentralized organization of the Ministry of Agriculture, and is in control of all renewable natural resources in Peru, and is the CITES Management Authority for Peru. The National Society of Vicuña Breeders (SNV) is a private organization which represents approximately 780 campesino communities, and coordinates vicuña management within and between campesino communities ("Communal Committees of the Vicuña") and with CONACS at both regional and national levels (Hoces 1997, pers comm.).

Several national laws protect vicuña and regulate its management. Law 26496, passed in 1995, has been especially important as it promotes protection and provides penalties for the illegal hunting of vicuña, gives the custodianship of vicuña herds that occupy campesino community lands to those campesino communities, and allows the campesinos to be responsible for the conservation, management and the utilization of the species. The law also establishes the Official Registry of the Vicuña which provides a record-keeping process that controls and tracks volumes of fiber from the time the vicuña are sheared in the field to the time that fiber is sold as cloth or merchandise on the international market. Pertinent laws are implemented through the "Communal Committees of the Vicuña" which form the basis for the national conservation and management of the vicuña. There is a system of park rangers shared by groups of communities and these park rangers can access the National Ecological Police and Peruvian Army units to help control the illegal killing of vicuña.

CONACS and INRENA authorize and control management activities, including vicuña capture. The shearing, collecting, processing and commercialization of vicuña fiber from wild vicuñas or from groups contained within permanent enclosures, is controlled by CONACS and INRENA. The processing and commercialization of the fiber is done by a single company that obtained that right through a competitive bidding process at a supervised auction. A cooperative agreement exists between the SNV, and the company winning the competitive bid, apparently to ensure that campesino communities will be correctly represented in the distribution of monies from the sale of vicuña fiber and fiber products. There is an authorized shearing season, and shearing is supervised by personnel representing CONACS, SNV and INRENA. Pertinent information is gathered at the time of shearing, and a report describing the shearing operation (numbers of animals, fiber weights per animal, etc.) and signed by a representative of the Communal Committee and CONACS, becomes part of the record at the Official Registry of the Vicuña.

After vicuña populations in Peru began to recover, management was initially based on wild, free-ranging populations, utilizing capture methods based on the traditional "chaku," a surround technique used by the Incas to capture and shear vicuñas and release them back to the wild (Wheeler and Hoces 1997). Since 1996 CONACS has promoted a captive management program where up to 250 or more vicuñas are maintained in enclosures of approximately 500 to 1,000 ha (Lichtenstein et al. 1999b, Sahley 1999, Sahley et al. submitted). Described in a Ministry of Agriculture project entitled "Programa de fortalecimiento de la competitividad communal en la crianza le vicuñas," this program significantly changed the management orientation in Peru from wild, free-ranging populations to captive populations. This approach has detracted from the management of wild vicuña populations, and has cost campesino communities more than $2 million to build fences—incurring a substantial debt in the process—while little has been spent strengthening anti-poaching efforts (Sahley et al. submitted).

In September 2000, then-President Fujimori issued a Supreme Decree (Decreto Supremo No. 053–2000–AG, titled "Facultan al Ministerio a traves del CONACS, entregar en custodia y usufructo hatos de vicuña y/o guanaco a personas naturales y juridicas, distintas de comunidades campesinas") that, among other things, extended custodianship of vicuña to all persons having vicuña on their lands, and not just campesino communities as specified in Law 26496. This Decree appears to undermine the very basis for recent vicuña management in Peru—management by campesino communities, with benefits accruing to those communities—by allowing other individuals or companies with land holdings to commercialize fiber from vicuña on their lands. The SNV adamantly opposes this Decree, and is working to get the new government to drop or reverse it.

A second source of legal fiber is from vicuña that die from natural causes or are found or obtained by campesinos or park rangers, or from skins that are seized in successful anti-poaching operations. Such specimens, to become legal, must be declared to SNV and CONACS, and entered into the vicuña registry. Legal fiber is gathered and stored in private warehouses belonging to the campesino communities, registered in the vicuña registry, and is under the control of CONACS. Illegal fiber is prevented from entering commerce because it is not registered with the vicuña registry, and consequently not included in the fiber stores represented in the single legal auction. The vicuña registry records weights of fiber sheared or collected, carded or cleaned, and these weights are used by CONACS and SNV throughout the processing and commercialization process to indicate whether final products likely only contain legal fiber. The CITES Management Authority controls commerce by requiring records of fiber weights and opinions from CONACS before any products (fiber, cloth or articles) can be legally either imported or exported from Peru.

The processing of vicuña fiber and the commercialization of vicuña products involves a joint venture "Association in Participation" between SNV and the consortium that won the right to commercialize the vicuña fiber. We understand that the consortium has the unilateral right to acquire fiber at least through 2002 (Lichtenstein et al. 1999b). The SNV provides the fiber to the consortium which includes a Peruvian company that fabricates cloth from the vicuña fibers, which is then sent to an Italian manufacturing plant where luxury clothing items are produced. A second Italian firm then handles the promotion and marketing of the finished vicuña products (Hoces 1997, pers. comm.). CONACS supervises production to guarantee that all articles will contain 100 percent vicuña fiber. This process is designed to maximize the financial returns from the vicuña fibers; the profits from the final sales are distributed, under the supervision of CONACS and INRENA, to the campesino participants. Additionally, a percentage of the final sale price on the completed product goes to the campesino communities. As of 1997, raw vicuña fiber was selling for approximately $500 per kilogram in Peru; current prices are around $300 per kilogram (Lichtenstein et al. 1999b, Sahley et al. submitted).

The vicuña populations of Pampa Galeras National Reserve and Nuclear Zone, Pedregal, Oscconta and Sawacocha (Province of Lucanas), Sais Picotani (Province of Azangaro), Sais Tupac Amaru (Province of Junin), and Salinas Aguada Blanca National Reserve (Provinces of Arequipa and Cailloma) were transferred from CITES Appendix I to II in 1987 at COP6. All remaining Peruvian vicuña populations were transferred to Appendix II in 1994 at COP9, effective February 16, 1995. All exports are limited to cloth fabricated from the 3,294 kg (7,260 lbs) of stored fiber present in November 1994 or from the fiber stores obtained from the recent authorized shearing of live animals or from dead animals listed in the vicuña registry, and items made from that cloth and to certain luxury handicrafts and knitted articles produced in Peru. The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–PERU–ARTESANIA." This trademark will also occur on all luxury artisan products and knitted articles of vicuña fiber. Peru also plans to add to the produced articles, a seal or identification tag with codes indicating the origin of the product, the assigned trademark or label and the CITES permit number. All specimens not meeting any of the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

The vicuña is not considered to be endangered by inadequate regulatory mechanisms in Peru. The species is, however, considered to be threatened by this factor, especially in light of the potential threats posed by Supreme Decree No. 053–2000–AG.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Vicuña are susceptible to extended periods of drought. Vicuña populations in Argentina may have actually declined during the later 1990's as a result of a prolonged drought. Drought conditions or extremely degraded ranges adversely impact vicuña by causing them to seek new habitats with the possible dissolution of some family groups, reductions in reproductive success, and perhaps increased mortality.

The great potential threat to the vicuña is that pelts can be easily obtained from poached animals and that the fiber industry may actually prefer the longer fibers that can be obtained by soaking and pulling hairs from pelts, rather than the clipped hairs from legal fleeces (Canedi 1997, pers. comm). The vulnerability of the vicuña to political instability is well documented. For example, vicuña populations in Peru were estimated at about 80,000 in 1988, but were reduced to low levels from 1989 to 1993 when vicuña fiber from poached animals was used to help finance guerilla activities.

The vicuña represents one of the most significant natural economic resources available in many Andean highlands that have limited human populations with limited economic opportunities at their disposal. Indigenous people fully realize that a poached vicuña can be used once but that the managed, live-sheared vicuña can be used repeatedly (Wheeler and Hoces 1997). Assigning the responsibility of vicuña management to campesino ranchers and/or campesino communities and granting those people the opportunity to legally realize economic gains from their management and protection efforts represents a significant bio-political decision.

Distinct Vertebrate Population Segment

The definition of "species" in section 3(15) of the Act includes ". . . any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." Distinct vertebrate population segments for purposes of listing under the Act are defined in the Service's February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DVPS) (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.*, is the population segment, when treated as if it were a species, endangered or threatened?). International borders may be used to delineate discrete population segments where there are significant differences in: (1) The control of exploitation; (2) management of habitat; (3) conservation status; or (4) regulatory mechanisms on each side of the border (61 FR 4722). Discrete population segments can also be defined by marked physical, physiological, ecological, or behavioral separation from other populations of the same taxon.

We recognize the vicuña population of Ecuador as a distinct vertebrate population segment for purposes of listing under the ESA. The vicuña population of Ecuador was established only recently, beginning in 1988, through the introduction of animals translocated from Argentina, Bolivia, and Chile. This introduction was accomplished within the multilateral frameworks of both the Vicuña Convention and the CITES Convention (Ecuador is a Party to both). To date, we are unaware of any verified palaeontological, archaeological, anthropological, or historical evidence that the vicuña ever occurred in Ecuador prior to this introduction. According to Wheeler (1995), vicuña remains have not been found in either palaeontological deposits (Hoffstetter 1986 cited in Wheeler 1995) or archaeological sites (Miller and Gill 1990 cited in Wheeler 1995) in Ecuador. There may be some vague references in Spanish colonial documents, but these are not verified. Despite the recent origin of its population, for purposes of consideration under the Act, we consider Ecuador to be part of the range of the species.

The vicuña population of Ecuador is geographically isolated (disjunct) and separate from other vicuña in Argentina, Bolivia, Chile, and Peru. Ecuador's population remains listed in CITES Appendix I, and plans to commercially utilize the species in the future appear to be uncertain. Furthermore, the Parties to the Vicuña Convention view this as a separate population, worthy of special recovery efforts. Although the countries of the region that are Parties to the

Vicuña Convention view this as an "experimental" population, that should not be seen in the domestic U.S. context of experimental populations under the Act, where criteria and definitions differ. For these reasons, the Ecuadoran population of vicuña satisfies the discreteness and significance criteria of the DVPS Policy, and, therefore, merits treatment as a distinct population segment under the ESA. Furthermore, because of its small size, recent origin, and uncertain management and protective status, we continue to believe that this population warrants a classification of endangered under the Act.

In contrast to the rather strict requirements for listing entities (species, subspecies, or distinct vertebrate population segments) under the ESA, CITES has retained a degree of flexibility in the listing process through the use of annotations. There is no specific requirement that populations be delimited by national borders or marked biological differences. CITES Article I defines a species as "any species, subspecies, or geographically separate population thereof", and different populations of a species can be listed in different CITES Appendices (although it is generally discouraged). Thus, it has been possible to transfer sub-national populations of vicuña in Argentina, Bolivia, and Chile from Appendix I to Appendix II. This accounts for the lack of perfect symmetry between populations determined to be threatened and those currently listed in Appendix II of CITES.

Summary of Findings

The Service finds that the vicuña is a highly vulnerable species whose populations are generally increasing over a large area of the high Andean tablelands of Argentina, Bolivia, Chile and Peru. The current status of the vicuña appears attributable to decisions made in the range countries to protect and, more recently, to sustainably use this species with direct involvement of local people and communities. Laws, decrees, and infrastructures have been or are being developed to help local people manage and protect the species. In return the local people are beginning to receive, or appear likely to receive, socio-economic benefits from that management that will benefit both individuals and their communities. The management and protection accorded to the vicuñas, by local people in cooperation with governmental entities, provides the best opportunity for the vicuña to survive as a species and as a very important part of the Puna and Altoandina ecosystems.

In developing this rule, we have carefully assessed the best available biological and conservation status information regarding the past, present, and future threats faced by vicuña. Criteria for reclassification of a threatened or endangered species, found in 50 CFR part 424.11(d), include extinction, recovery of the species, or error in the original data for classification. Available information indicates that the vicuña is not endangered (in danger of extinction) in all or a significant portion of its range. The population of Ecuador, a distinct population segment under the Act in accordance with the Service's Policy on Distinct Vertebrate Population Segments, remains endangered. Available information further indicates that the vicuña remains threatened throughout its range by: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) previous or current overutilization; and (3) the possibility of inadequately controlled harvest pressures, including poaching, in Argentina, Bolivia, Chile, and Peru. A reclassification of the vicuña from endangered to threatened under the Act will, with the attendant special rule, allow carefully regulated commerce of vicuña products into the United States. Funds generated in range countries by opening the United States market should help provide the resources necessary to enhance the conservation and management of the species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition of conservation status, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed to be listed or is listed as endangered or threatened and with respect to its proposed or designated critical habitat, if any is being designated. However, because the vicuña is not native to the United States, no critical habitat is being proposed for designation with this rule. Currently, with respect to vicuña, no Federal activities, other than the issuance of CITES re-export certificates, are known that would require conferral or consultation. According to the CITES Convention, Appendix-II species need only a CITES export permit issued by the exporting country for their importation into another country. However, because of its listing as endangered under the Act, the importation and exportation of specimens of *Vicugna vicugna* presently require an Endangered Species Act permit issued by the Division of Management Authority. Consequently, a consultation with the Division of Scientific Authority is currently required before the Division of Management Authority can issue any import or export permit for vicuña.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Sections 4(d) and 9 of the Act, and implementing regulations found at 50 CFR part 17.31, (which incorporate certain provisions of 50 CFR part 17.21), set forth a series of prohibitions and exceptions that generally apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (within U.S. territory or on the high seas), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees or agents of the Service, other Federal land management agencies, the National Marine Fisheries Service, and State conservation agencies (50 CFR part 17.21(c)(3) and part 17.31(b)).

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR part 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: scientific research, enhancement of propagation or survival, zoological exhibition or education, incidental taking, or special purposes consistent with the Act. All such permits must also be consistent with the

purposes and policy of the Act as required by section 10(d). Such a permit will be governed by the provisions of § 17.32 unless a special rule applicable to the wildlife (appearing in § 17.40 to § 17.48) provides otherwise. Because a special rule is being promulgated concurrently with this reclassification, permits will be issued under section 10 only for bona fide scientific research contributing to conservation of the species in the wild (*e.g.*, blood samples for genetic analyses or tissue samples for disease diagnosis). No additional permits are required as a result of this rule; rather, this rule removes restrictions.

Threatened species are generally covered by all prohibitions applicable to endangered species, under 50 CFR part 17.31. We may, however, develop special rules if deemed necessary and advisable to provide for the conservation of the species. The special rule described here for § 17.40 allows commercial importation to and re-exportation from the United States of certain specimens from threatened populations of vicuña which are also listed in CITES Appendix II. Importation could be restricted in the future from a particular country of origin or re-export if that country has been identified as a subject to a recommended suspension of trade by the CITES Standing Committee or at a CITES Conference of the Parties. Interstate commerce within the United States and re-export of legally imported vicuña parts will not require U.S. threatened species permits.

Effects of This Rule

This rule revises § 17.11(h) to reclassify *Vicugna vicugna* from endangered to threatened in Argentina, Bolivia, Chile and Peru to reflect more accurately the present status of this species.

Description of the Special Rule

The intent of the special rule is to enhance the conservation of the vicuña through support for properly designed and implemented programs for vicuña conservation throughout their native range. The special rule is intended to support appropriate conservation efforts of the four range states of Argentina, Bolivia, Chile, and Peru, by encouraging certain of their management programs that allow utilization of vicuña fiber from live-sheared animals, with benefits accruing to local communities.

We believe that the most effective results, both for conservation of vicuña and production of economic benefits for local people, are likely to be achieved with management of wild, free-ranging populations, such as the systems being undertaken in certain parts of Peru and in Bolivia. We continue to have concerns about captive management systems for vicuña, especially the extensive captive management program being undertaken in much of Peru, because the conservation value and socioeconomic benefits of captive management have yet to be demonstrated as sustainable over the long term (Lichtenstein 1999, Sahley 1999). Our conservation concerns relate to issues of disease transmission, genetic effects, impacts on population dynamics and social organization, and habitat impacts. We believe that the best opportunity for captive management is provided by the management recommendations of the South American Camelid Specialist Group, and we believe that demonstration of the long-term biological and economic viability of captive management will require (1) further research by trained ecologists, geneticists, sociologists, and economists, and (2) an effective monitoring program for the captive management systems.

These concerns notwithstanding, we believe that progress has been and is being made, and that range countries should be allowed time to demonstrate the conservation value and related socioeconomic benefits of the management system or systems they have adopted. From a law enforcement perspective, it would be difficult if not impossible for the United States to allow importation of fiber only from wild management systems and exclude fiber from captive management systems, especially if both wild and captive management occur in a single country. Thus, the special rule pertains to all threatened, Appendix II populations. The special rule has provisions that are intended to encourage range countries to demonstrate the conservation value of the management system or systems they have adopted. The special rule: (1) *Requests* range countries wishing to export to the United States to submit a country-wide Management Plan for vicuña; (2) *requires* range countries to submit an annual report documenting the status of vicuña populations and implementation of management programs in each country; (3) calls for the Service to conduct a biennial review of range country management programs to determine if those programs are effectively achieving conservation benefits for the vicuña; and (4) can be administratively suspended if the conservation or management status of threatened vicuña populations change in one or more range countries such that continued recovery of vicuña populations is compromised.

The special rule allows commercial importation and re-exportation into/from the United States of certain products (raw, unprocessed vicuña fiber or cloth, or items made from that fiber, including luxury handicrafts and knitted articles) that are properly identified, and have accompanying valid, legal CITES Appendix II export permits or re-export certificates. Under the special rule, a threatened species permit for individual shipments would not be required under 50 CFR part 17 for these products only. To be imported, vicuña products must originate in populations that are listed both as threatened under the Act and in Appendix II of CITES. Vicuña fiber and products from Appendix I populations, as well as any live vicuña, embryos, gametes, and tissue samples, are not covered. Their importation would still require a threatened species permit, a CITES Appendix I import permit (issued by the U.S.), and an Appendix I export permit.

We are aware that there have been poaching and illegal trade problems with this highly valuable species in the past, and any loss of control would seriously undermine the conservation programs of the range countries, thereby potentially jeopardizing vicuña populations. Therefore, we will not allow the import of vicuña products from threatened, Appendix II vicuña populations from countries of origin or countries of manufacture or re-export that have been determined by the CITES Conference of the Parties or the CITES Standing Committee not to be effectively implementing the Convention. Specifically, the special rule prohibits importation from countries of export or re-export that have either (1) failed to designate a Management Authority or Scientific Authority, or (2) have been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the Secretariat as a country from which Parties should not accept CITES permits. Trade restrictions or a suspension of trade can be placed on a range country if the Service administratively determines that the conservation or management status of vicuña in that country has changed such that continued recovery of vicuña populations is compromised as a result of one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

The decision will be made by the Service's Division of Scientific Authority, and the Service will inform range countries and re-exporting countries if a suspension goes into effect, and will post the decision on our web site.

For vicuña and vicuña products, there is no personal effects exemption in the special rule, since the CITES listings (and associated annotations) specifically do not allow for a personal effects exemption. The specific removal of the personal effects exemption for Appendix II populations was adopted by the CITES Parties at the request of range countries, to assist their enforcement efforts. Therefore, items purchased by travelers overseas or personal items owned by people moving to the United States will require appropriate CITES export documents (permits or re-export certificates) from countries of export or re-export, to be imported legally into the United States. This is based on analysis of the annotation for the vicuña in the official CITES Secretariat list of the CITES Appendices, and dialogue with the CITES Secretariat in Geneva. It is also based on domestic law of the four range countries, which all require CITES export documents, even for items purchased by tourists. The vicuña annotations in the CITES Appendices are unique, and require that only certain products be exported from the range countries, under very strict conditions. In Argentina, articles bought by a foreign tourist at a government-authorized store can be exported as personal accompanying baggage only after a CITES export permit has been obtained. In countries of re-export as well, very strict controls are required. The items manufactured from vicuña fiber are very expensive luxury articles, and illegal trade poses a serious risk to the species and the conservation programs of the range states. Furthermore, all range countries require CITES permits for export of vicuña products, and do not recognize any personal effects exemption. It would be inappropriate and unfair to require export documents from range countries but not from countries of manufacture (re-export). Therefore, all tourist souvenirs or other personal items require a CITES export document from the country of export or re-export in order to be legally imported into the United States. We have clarified this in the final special rule, which may have been unclear in the proposed rule.

All vicuña products must comply with all product annotations as described in the CITES Secretariat's official annotated list of the CITES Appendices (available at http://www.cites.org). If those product annotations change at a future meeting of the Conference of the Parties (COP) to CITES, the Service will have to re-evaluate its 4(d) rule. The criteria for determining if a vicuña product is properly identified are drawn directly from the CITES Appendices, and the product annotations for vicuña contained therein. For cloth and cloth products, the only products that can be imported are those where the reverse side of cloth and cloth products bear the logo adopted by countries signatory to the Conveño para la Conservación y Manejo de la Vicuña (Vicuña Convention), and the words "VICUÑA–(Country of Origin)" (country of origin of the vicuña fiber in the products—Argentina, Bolivia, or Chile) or "VICUÑA–PERU–ARTESANIA" (for Peru only). For finished vicuña products (including luxury handicrafts and knitted articles) and any bulk shipments of raw fiber, the product or shipment must have a seal or identification tag with codes describing the origin of the vicuña product, the trademark or label ("VICUÑA—(Country of Origin)" or "VICUÑ–PERU–ARTESANIA") and the CITES export permit number. These criteria for properly identified vicuña products are contained in the CITES Appendices themselves. The product annotations were proposed by the range countries and adopted by the CITES Conference of the Parties. Therefore, we are aligning U.S. importation practices with those approved by the CITES Parties, in order to facilitate effective conservation of the vicuña in range countries, and the enforcement and management efforts of those countries.

The Monitoring of Vicuña

Requirements of the Act for the monitoring of species also apply to foreign species (see final rule "Endangered and Threatened Wildlife and Plants; Removal of Three Kangaroos From the List of Endangered and Threatened Wildlife" published in the **Federal Register** on March 9, 1995; 60 FR 12887). Monitoring programs are conducted to ensure that species continue to fare well after delisting or downlisting occurs. These monitoring programs frequently include population and species distribution surveys, assessment of the condition of important habitats for the species, and assessment of threats identified as relevant to the species. We depend on range countries to monitor their vicuña populations. To assist in our efforts to monitor vicuña populations, we will ask range countries to submit a Management Plan (voluntary), and will require range countries to submit annual reports (mandatory).

Management Plan. Governments of range countries wishing to export specimens of vicuña to the United States for commercial purposes (Argentina, Bolivia, Chile, and Peru) will be *requested* to provide the Service with a Management Plan that specifies how vicuña are currently being managed and will be managed in that country during the period after this rule takes effect. The voluntary submission of a Management Plan will help the Service in its biennial review of country management programs (discussed in the section immediately below). For each range country, the following information should be provided in its Management Plan:

(A) Recent data on vicuña distribution, populations numbers, and population trends for the entire country, and for specific protected areas, and a detailed description of the methodology used to obtain such estimates;

(B) A description of research projects currently being conducted related to the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(C) A description of national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(D) A description, including approximate acreage, of land set aside as natural reserves or national parks that provide protected habitat for the vicuña;

(E) A description of programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(F) A description of current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: the location and population size of all wild populations being managed for sustainable use; the harvest management practices being used for each population; current harvest quotas for wild populations, if any; protocols for vicuña translocations undertaken as part of the use program; the specific financial costs of and anticipated revenues to be generated by the sustainable use program; and the anticipated conservation benefits that will result from the sustainable use program;

(G) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: the number and location of all captive and "semi-captive" populations; the size in hectares of each captive enclosure and the number of vicuña maintained therein; protocols for vicuña translocations undertaken as part of the use program; the anticipated financial costs of and revenues to be generated by the sustainable use program; and the anticipated conservation benefits that will result from the sustainable use program (information on management of captive and "semi-captive" populations must be separate from that provided for management of wild populations).

Annual Report. Governments of range countries wishing to export specimens of vicuña to the United States for commercial purposes (Argentina, Bolivia, Chile, and Peru) will be *required* to provide the Service with an annual report that includes the most recent information available on the conservation and management status of the species, gathered by the respective range countries to fulfill their CITES scientific and management requirements. Failure to submit an annual report could result in a restriction on trade or a total suspension of trade in specimens of vicuña from the range country concerned. For each range country, the following information should be provided in the annual report:

(A) A description of any revisions to the management program, especially any changes in management approaches or emphasis;

(B) New information obtained in the last year on vicuña distribution, population status, or population trends, for the country as a whole or for specific protected areas, and a detailed description of the methodology used to obtain such estimates;

(C) Results of any research projects concluded in the last year on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics, and a description of any new research projects undertaken on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(D) A description of any changes to national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(E) A description of any changes in the number or size of natural reserves or national parks that provide protected habitat for the vicuña;

(F) A summary of law enforcement activities undertaken in the last year, and a description of any changes in programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(G) A description of the current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: any changes in the location and population size of wild populations being managed for sustainable use; any changes in the harvest management practices being used for each population; any changes in current harvest quotas for wild populations, if any; any changes in protocols for translocations undertaken as part of the use program; a summary of the specific financial costs of and revenues generated by the sustainable use program over the last year; and a summary of documented conservation benefits resulting from the sustainable use program over the last year (*e.g.*, revenues returned to conservation activities as a result of the program, demonstrated reductions in poaching as a result of the program, or improved habitat conditions as a result of the program);

(H) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: any changes in the number and location of all captive and "semi-captive" populations; any changes in the size (ha) of each captive enclosure and the number of vicuña maintained therein; any changes in protocols for translocations undertaken as part of the use program; a summary of the financial costs of and revenues generated by the sustainable use program over the last year; and documented conservation benefits resulting from the sustainable use program over the last year (*e.g.*, revenues returned to conservation activities as a result of the program, demonstrated reductions in poaching as a result of the program, or improved habitat conditions as a result of the program). Information provided for captive and "semi-captive" populations must be clearly separate in the report from information related to wild populations;

(I) Export data for the last year.

The first annual report will be due one year after the special rule goes into effect, with subsequent reports due every year on the anniversary of that date. All information provided by the range countries will be available for public review.

The Service will conduct a review every two years, using information in the annual reports and any other pertinent information it has available, to determine whether range country management programs are effectively achieving conservation benefits for wild vicuña populations. Based on information contained in the annual reports, the Service may administratively restrict or suspend trade from a range country if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions or suspension may result from one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

Effects of the Special Rule

Consistent with sections 3(3) and 4(d) of the Act, this rule also contains a special rule that amends 50 CFR 17.40 to allow commercial importation and re-exportation, under certain conditions, of raw (unprocessed) vicuña fiber or cloth, or items made from that fiber, including luxury handicrafts and knitted articles, without a threatened species import permit otherwise required by 50 CFR part 17, if all requirements of the special rule and 50 CFR part 13 (General Permit Procedures), part 14 (Importation, Exportation, and Transportation of Wildlife), and part 23 (Endangered Species Convention—CITES) are met.

The reclassification of vicuña to "threatened" and the accompanying special rule allowing commercial trade into the United States for certain products without a threatened species import permit does not end protection for the species. To be imported, vicuña products must originate in populations that are listed both as threatened under the Act and in Appendix II of CITES, and be accompanied by valid, legal CITES Appendix II export permits or re-export certificates that are consistent with all requirements of both CITES and

the laws and regulations of the exporting country concerned.

Commerce with the United States in vicuña products will only be allowed with countries that have designated both a CITES Management Authority and Scientific Authority, and have not been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the CITES Secretariat, whereby Parties are asked not to accept shipments of specimens of any CITES-listed species from the country in question. This restriction will also apply to intermediary countries, when vicuña products are exported for manufacturing and other purposes, and the finished products are re-exported from intermediary countries to the United States. The U.S. Management Authority will provide on request a list of those countries that have not designated both a Management Authority and Scientific Authority, or that have been identified as a country from which Parties are asked not to accept shipments of specimens of any CITES-listed species. The list will be published on our web site *(http://international.fws.gov)*.

This special rule does not cover the importation of live vicuña, vicuña embryos, gametes, or tissue samples, because these specimens remain in Appendix I. Furthermore, we discourage most such imports, which could be used to establish populations outside the species' natural range, because we believe that such operations would undermine the conservation efforts of range countries to manage and sustainably utilize this species. Imports of blood or tissue samples for bona fide scientific research contributing to the conservation of the species in the wild could be allowed with the necessary CITES Appendix I import and export permits and a threatened species permit issued under section 10.

Trade restrictions or a trade suspension can be placed on a range country if the Service's Division of Scientific Authority administratively determines that the conservation or management status of vicuña in that country has changed, such that continued recovery of vicuña populations is compromised, as a result of one or more of the six factors listed in the preceding section (*e.g.*, a change in range country laws or regulations that lessens protection for vicuña). This provision gives the Service ability to react effectively to potential conservation concerns that may emerge, such as dramatic increases in poaching in some areas, or changes in laws or regulations that appear to be detrimental to the species in the wild, or the lack of submission of the required annual report.

The Service's Division of Scientific Authority will conduct a review every two years, using information in the annual reports, to determine whether range country management programs are effectively achieving conservation benefits for wild vicuña populations. Based on information contained in the annual reports, the Service may restrict or suspend trade from a range country if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions or suspension may result from one or more of the six factors listed in the preceding section (*e.g.*, a change in range country laws or regulations that lessens protection for vicuña).

In our judgment the protective regulations set out in the final special rule contain all of the measures that are necessary and advisable to provide for the conservation of the vicuña in Argentina, Bolivia, Chile, and Peru.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the ESA. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Bonacic, C. 2000a. Sustainable use of the vicuña *(Vicugna vicugna)* in Chile. Paper presented at the 16th Annual Camelid Medicine, Surgery, and Reproductive Conference. Ohio State University, Columbus, Ohio. March 22–25, 2000.

Bonacic, C. 2000b. Dinamica poblacional de la vicuña *(Vicugna vicugna)* y determinacion de la capacidad de carga en la Provincia de Parinacota-Chile. Pages 93–101 *in* Manejo sustentable de la vicuña y el guanaco. Edited by B. Gonzalez, F. Bas, C. Tala, and A. Iriarte. SAG, Pontificia Universidad Católica de Chile, Fundación para la Innovación Agraria.

Cajal, J. L. 1992. Argentina: The Vicuña. A portion of Chapter 2. Argentina in: South American camelids: An Action Plan for their Conservation. IUCN/SSC South American Camelid Specialist Group.

Canedi, A. A. 1995. Evaluacion de las poblaciones de vicuña en la Reserva Olaroz-Cauchari. Pages 63–69 *in* Bioecologia y uso sustentable de las poblaciones de vicuñas en la Provincia de Jujuy-Argentina. Edited by A. A. Canedi.

Canedi, A. A. and P. S. Pasini. 1996. Repoblamiento y bioecologia de la vicuña silvestre en la Provincia de Jujuy, Argentina. pp. 7–24 *in* Animal Genetic Resources Information. United Nations Environment Programme. Food and Agriculture Organization of the United Nations. Rome.

Canedi, A. A. 1997. Responses to questions regarding the status of vicuña *in* Argentina. Personal communication with Dr. Henry L. Short, NFWF contractor. August 25, 1997.

CITES. 1997a. Proposal: Transfer of the vicuña *(Vicugna vicugna)* population in the province of Jujuy (21 47′S—24 38′S; 64 80′W—67 19′W) from Appendix I to Appendix II and of the populations in semi-captivity in the provinces of Jujuy, Salta, Catamarca, La Rioja, and San Juan, with the sole purpose of permitting international trade in fibre from live vicuña, in cloth and manufactured products, under the trademark "VICUÑA—ARGENTINA." Submitted for consideration at CITES COP 10 by Republic of Argentina.

CITES. 1997b. Proposal: Transfer of the populations *(Vicugna vicugna)* of the Conservation Units: Mauri-Desaguadero (17 30′S—18 30″S and 68 30′W—69 30″W), Ulla Ulla (14 45′S—15 25″S and 69 00′W—69 20′W) and Lipez-Chichas (21 30′—23 00′S and 66 20′W—68 10″W) from CITES Appendix I to Appendix II for the sole purpose of allowing international trade of fabrics made with fiber from the shearing of live animals under the trademark "VICUÑA—BOLIVIA." Submitted for consideration at CITES COP 10 by Republic of Bolivia.

CITES. 2000a. Proposal: Transfer of all populations of vicuña (Vicugna vicugna) from Appendix I to Appendix II of CITES, for the exclusive purpose of allowing international trade in cloth made from wool sheared from live animals under the name "VICUÑA—BOLIVIA." Submitted for consideration at CITES COP 11 by the Republic of Bolivia.

CITES. 2000b. Proposal: Deletion of the zero quota for trade in cloth made from wool from the shearing of live animals under the name Vicuña -Bolivia originating in populations listed in CITES Appendix II in accordance with a decision taken at the 10th meeting of the Conference of the Parties in Harare (Zimbabwe), 9 to 20 June 1997. Submitted for consideration at CITES COP 11 by the Republic of Bolivia.

CNVB. 1996. Censo Nacional de la Vicuña en Bolivia: Gestion 1996. Dirección Nacional de Conservación de la Biodiversidad.

Comisión Regional de la Vicuña. 1994. Acciones de las Provincias Argentinas para su Conservación y Uso Sustentable. Republica Argentina, Salta. 25 pp.

DNCB (Dirección Nacional de Conservación de la Biodiversidad, Unidad de Vida Silvestre). 1997. Responses to questions regarding the status of vicuña in Bolivia. Personal communication with Dr. Henry L. Short, NFWF contractor. August 1997.

Galaz, J. 1997. Personal communication with Dr. Henry L. Short, NFWF contractor. August 1997.

Government of Ecuador. 1999. Report of the Vicuña Reintroduction Project in Ecuador. Report to the 19th Meeting of the Technical Committee of the Vicuña Convention.

Hoces, D. 1992. Chapter 5. Peru. South American camelids: An Action Plan for their Conservation. IUCN/SSC South American Camelid Specialist Group.

Hoces, D. 1997. Responses to questions regarding the status of vicuña in Peru. Personal communication with Dr. Henry L. Short, NFWF contractor. September 1997.

Hoffstetter, R. 1986. High Andean mammalian faunas during the Plio-Pleistocene. Pages 218–245 *in*: High altitude tropical biogeography. Edited by F. Vulleumier, and M. Monasterio. Oxford University Press.

INFOL. 1985. Memoria VI Reunion Ordinaria de la Comision Tecnico Administradora del Convenio para la Conservación de la Vicuña. La Paz, Bolivia.

Iriarte, A. 2000. Normativa legal sobre conservacion y uso sustentable de vicuña y guanaco en Chile. Pages 209-221 *in* Manejo sustentable de la vicuña y el guanaco. Edited by B. Gonzalez, F. Bas, C. Tala, and A. Iriarte. SAG, Pontificia Universidad Católica de Chile, Fundación para la Innovación Agraria.

Lichtenstein, G., E. F. Oribe, M. Grieg-Gran, and S. Mazzucchelli. 1999a. Is community wildlife management a sustainable alternative for local communities in South America? Submitted to Proceedings of 2nd International Wildlife Management Congress.

Lichtenstein, G., E. F. Oribe, M. Grieg-Gran, and S. Mazzucchelli. 1999b. Analisis del Manejo Comunitario de Vicuñas en el Peru. Evaluando el Eden: Manejo Comunitario de Vida Silvestre. Instituto Internacional de Medio Ambiente y Desarrollo-America Latina.

Miller, G. R., and A. R. Gill. 1990. Zooarchaeology at Pirincay, a Formative Period site in highland Ecuador. J. of Field Archaeology 17: 49–68.

Molina, J. I. 1782. Saggio Sulle Storia Naturale del Chile. Bologna.

Rabinovich, J. E., A. F. Capurro, and L. L. Pessina. 1991. Vicuña use and the bionomics of an Andean peasant community in Catamarca, Argentina. Pages 337–358 *in* Neotropical wildlife use and conservation. Edited by J. G. Robinson and K. H. Redford. University of Chicago Press, Chicago, IL.

Rebuffi, G. 1995. Modelo de criadero de vicuñas con aprovechamiento racional de la especie. Pages 73–76 *in* Bioecologia y uso sustentable de las poblaciones de vicuñas en la Provincia de Jujuy-Argentina. Edited by A. A. Canedi.

SAG (Servicio Agricola y Ganadero). 1997. Responses to questions regarding the status of vicuña in Chile. Personal communication with Dr. Henry L. Short, NFWF contractor. August 22, 1997.

Sahley, C. T. 1999. Propiedad comunitaria y esquila en vivo de vicuñas en el Peru: Evaluando la sostenibilidad biologica y economica. Pages 77-82 *in*: Manejo y conservacion de fauna silvestre en America Latina. Edited by T. G. Fang, O. L. Montenegro, and R. E. Bodmer.

Sahley, C. T., J. T. Vargas, and J. S. Valdivia. submitted. Community ownership and live shearing of vicuñas in Peru: Evaluating management strategies and their sustainability. A chapter in: Latin American Wildlife Management. Edited by R. Bodmer, J. Fragoso, and K. Silvius.

Sarno, R. J., L. Villalba, C. Bonacic, B. Gonzalez, B. Zapata, S. J. O'Brien, and W. E. Johnson. submitted. Phylogeography and subspecies assessment of vicuñas in Chile and Bolivia utilizing mtDNA and microsatellite markers: Implications for vicuña conservation and management. Submitted to Conservation Genetics.

Thomas, O. 1917. Preliminary diagnosis of new mammals obtained by the Yale National Society Peruvian expedition. Smithsonian Miscellaneous Collection 68.

Torres, H. 1992. Chapter 1. Background, objectives, and limitations of the Action Plan. South American camelids: An Action Plan for their Conservation. IUCN/SSC South American Camelid Specialist Group.

Vila, B. 1999. La silvestria de las vicuñas, una caracteristica esencial para su conservacion y manejo. Presented at South American Camelid Conference, Cuzco, Peru.

Wheeler, J. C. 1995. Evolution and present situation of the South American Camelidae. Biol. J. Linnean Society 54: 271–295.

Wheeler, J. C., M. Fernandez, R. Rosadio, D. Hoces, M. Kadwell, and M. W. Bruford. 2000. Genetic diversity and management implications for vicuña populations in Peru: The results of Grant #N251 of the Darwin Initiative for the Survival of Species. Final Report.

Wheeler, J. C., and D. Hoces. 1997. Community participation, sustainable use, and vicuña conservation in Peru. Mountain Research and Development 17(3): 283-287.

Author

The primary author of this rule is Dr. Kurt A. Johnson, Division of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 [703–358–1708].

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulations Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201-4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.11(h) is amended by revising the entry for the vicuña, under "Mammals", on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Vicuña	*Vicugna vicugna*	Argentina, Bolivia, Chile, Ecuador, Peru.	Entire, except Ecudator.	T	3, 724	NA	17.40 (m)
Do	Do	Do	Ecuador	E	3, 724	NA	NA

3. Paragraph (m) is added to § 17.40 and reads as follows:

§ 17.40 Special rules—mammals.

* * * * *

(m) *Vicuña.* This paragraph (m) applies to the threatened vicuña *(Vicugna vicugna)*.

(1) *What activities involving vicuña are prohibited by this rule?* (i) *Appendix I populations.* All provisions of § 17.31 (a) and (b) and § 17.32 apply to vicuña and vicuña parts and products originating from populations currently listed in Appendix I of the Convention

on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

(ii) *Import, export, and re-export.* Except as provided in paragraph (m)(2) of this section, you must not import, export, or re-export, or present for export or re-export without valid CITES permits vicuña or vicuña parts and products originating from populations listed in Appendix II of CITES.

(iii) *Commercial activity.* Except as provided in paragraph (m)(2) of this section, you must not sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity vicuña or vicuña parts and products from populations listed in Appendix II of CITES.

(iv) It is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit to commit, or cause to be committed any acts described in paragraphs (m)(1)(ii)-(iii) of this section.

(2) *What activities involving vicuña are allowed by this rule?* You may import, export, or re-export, or place in interstate or foreign commerce, vicuña products, consisting of either raw fiber or items and cloth made, or partially made, from vicuña fiber, without a threatened species permit issued according to § 17.32 only when the provisions in parts 13, 14, and 23 of this chapter and the requirements of the applicable subparagraphs of this paragraph (m)(2) have been met:

(i) *Import, export, or re-export.* You may import, export, or re-export into or from the United States vicuña products, consisting of either raw fiber or items and cloth made, or partially made, from vicuña fiber originating in a country authorized under paragraph (m)(4) of this section, provided the following conditions are met:

(A) The vicuña product must comply with all CITES product annotations as given in the CITES Secretariat's official list of the CITES Appendices, and all imports, exports, and re-exports must be identified as follows:

(*1*) *Cloth and cloth products:* The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the "Conveño para la Conservación y Manejo de la Vicuña", and the words "VICUÑA–(Country of Origin)" (where country of origin is the name of the original exporting country where the vicuña fiber in the products originated, either Argentina, Bolivia, or Chile) or "VICUÑA–PERU–ARTESANIA" (for Peru only).

(*2*) *Finished vicuña products (including luxury handicrafts and knitted articles) and any bulk shipments of raw fiber:* The product or shipment must have a seal or identification tag with codes describing the origin of the vicuña product, the trademark or label ("VICUÑA–(Country of Origin)" (where country of origin is the name of the original exporting country where the vicuña fiber in the products originated, either Argentina, Bolivia, or Chile) or "VICUÑA–PERU–ARTESANIA" (for Peru only), and the CITES export permit number, where country of origin is the name of the original exporting country where the vicuña fiber in the products originated.

(B) The shipment must be accompanied by a CITES permit or certificate that contains the following information:

(*1*) The country of origin, its export permit number, and date of issuance.

(*2*) If re-export, the country of re-export, its certificate number, and date of issuance.

(*3*) If applicable, the country of last re-export, its certificate number, and date of issuance.

(C) At the time of import, for each shipment covered by this exception, the country of origin and each country of re-export involved in the trade of a particular shipment must have designated both a CITES Management Authority and Scientific Authority, and have not been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the CITES Secretariat as a country from which Parties should not accept permits. A listing of all countries that have not designated both a Management Authority and Scientific Authority, or that have been identified as a country from which Parties should not accept permits is available by writing: The Division of Management Authority, ARLSQ Room 700, 4401 N. Fairfax Drive, U.S. Fish and Wildlife Service, Arlington, VA 22203. The list is also on our website (http://international.fws.gov).

(ii) *Noncommercial accompanying baggage.* The conditions described in paragraph (m)(2)(i) of this section also apply to noncommercial personal effects in accompanying baggage or household effects from Appendix II populations. Such items are treated the same as Appendix II commercial shipments, and must comply with the same documentary requirements. All other noncommercial personal effects in accompanying baggage or household effects require both a CITES Appendix I permit and a permit as described in § 17.32.

(iii) *Embryos, gametes, blood, other tissue samples, and live animals.* This special rule does not apply to embryos, gametes, blood, or other tissue samples of vicuña, or to live vicuña. Import of such specimens requires an import permit as described in § 17.32 in addition to CITES Appendix I import and export permits, and will be issued only for bona fide scientific research contributing to conservation of the species in the wild.

(3) *When and how will the Service inform the public of additional restrictions in trade of vicuña?* Except in rare cases involving extenuating circumstances that do not adversely affect the conservation of the species, we will issue an information notice that identifies a restriction on trade in specimens of vicuña addressed in this paragraph (m) if any of the following criteria are met:

(i) The country is listed in a Notification to the Parties by the CITES Secretariat as lacking a designated Management or Scientific Authority that issues CITES documents or their equivalent.

(ii) The country is identified in any action adopted by the Conference of the Parties to the Convention, the Convention's Standing Committee, or in a Notification issued by the CITES Secretariat, whereby Parties are asked not to accept shipments of specimens of any CITES-listed species from the country in question.

(iii) The Service's Division of Scientific Authority administratively determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised, as a result of one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

(iv) A listing of all countries that have not designated both a Management Authority and Scientific Authority, or that have been identified as a country from which Parties should not accept permits is available by writing: The Division of Management Authority, ARLSQ Room 700, 4401 N. Fairfax Drive, U.S. Fish and Wildlife Service, Arlington, VA 22203. The list is also on our website (http://international.fws.gov).

(4) *What must vicuña range countries do in order to be authorized under the special rule to export to the United States?* (i) *Annual Report.* Range country governments (Argentina, Bolivia, Chile, and Peru) wishing to export specimens of vicuña to the United States will need to provide an annual report containing the most recent information available on the status of the species, following the information guidelines specified below. The first submission of a status report will be required as of July 1, 2003, and every year thereafter on the anniversary of that date. For each range country, the following information should be provided in the annual report:

(A) A description of any revisions to the management program, especially any changes in management approaches or emphasis;

(B) New information obtained in the last year on vicuña distribution, population status, or population trends, for the country as a whole or for specific protected areas, and a detailed description of the methodology used to obtain such information;

(C) Results of any research projects concluded in the last year on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics, and a description of any new research projects undertaken on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(D) A description of any changes to national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(E) A description of any changes in the number or size of natural reserves or national parks that provide protected habitat for the vicuña;

(E) A summary of law enforcement activities undertaken in the last year, and a description of any changes in programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(F) A description of the current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: any changes in the location and population size of wild populations being managed for sustainable use; any changes in the harvest management practices being used for each population; any changes in current harvest quotas for wild populations, if any; any changes in protocols for translocations undertaken as part of the use program; a summary of the specific financial costs of and revenues generated by the sustainable use program over the last year; and a summary of documented conservation benefits resulting from the sustainable use program over the last year;

(G) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: any changes in the number and location of all captive and "semi-captive" populations; any changes in the size (ha) of each captive enclosure and the number of vicuña maintained therein; any changes in protocols for translocations undertaken as part of the use program; a summary of the financial costs of and revenues generated by the sustainable use program over the last year; and documented conservation benefits resulting from the sustainable use program over the last year (information on captive and "semi-captive" populations must be separate from that provided for wild populations); and

(H) Export data for the last year.

(ii) The Service's Division of Scientific Authority will conduct a review every 2 years, using information in the annual reports, to determine whether range country management programs are effectively achieving conservation benefits for the vicuña. Failure to submit an annual report could result in a restriction on trade in specimens of vicuña as addressed in paragraph (m)(3) of this section. Based on information contained in the annual reports and any other pertinent information it has available, the Service may restrict trade from a range country, as addressed in paragraph (m)(3) of this section, if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions may result from one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

Dated: May 21, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13342 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 020523129-2129-01; I.D. No.052202A]

RIN 0648–AQ06

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is imposing, for a 30–day period, additional restrictions on shrimp trawlers in offshore Atlantic waters west of 77 57.5' W. longitude (approximately Cape Fear, NC) and north of 30 N. latitude (just north of St. Augustine, FL). Shrimp fishermen operating in this area are required to use turtle excluder devices (TEDs) with escape openings modified to exclude leatherback turtles and are prohibited from fishing at night between 1 hour after sunset and 1 hour before sunrise. NMFS is taking this action because we have determined that higher than normal shrimping effort, particularly long tows conducted at night, and the use of less efficient TEDs by some shrimpers are the causes of extraordinarily high mortality and strandings of sea turtles that are listed as endangered or threatened. This action is necessary to reduce mortality of listed sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from May 24, 2002 through June 24, 2002. Comments on this action are requested, and must be received by June 24, 2002.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Bob Hoffman, (727) 570–5312, or Barbara A.

Schroeder, (301) 713–1401. For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone (228) 762–4591 or by fax (228) 769–8699.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (Lepidochelys kempii), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for nesting populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and in the Atlantic Ocean. Under the Endangered Species Act (ESA) and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round. The use of TEDs reduces mortality of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

Through a final rule (60 FR 47713, September 14, 1995), NMFS established regulations to provide protection for leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard ("the Leatherback Contingency Plan"). Within the Leatherback Conservation Zone, NMFS may close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to § 223.206(d)(2)(iv)(A) through (C).

NMFS has recently proposed amending the sea turtle conservation regulations to provide more comprehensive protection to all sizes and species of sea turtles from trawling (66 FR 50148, October 2, 2001). A major element of the proposed amendment is the use of larger escape openings on TEDs. Recent data have shown that the current regulatory minimum opening sizes of TEDs are not sufficient to allow large green and loggerhead turtles to escape. In addition, the Leatherback Contingency Plan which was developed to ensure that larger openings would be deployed when necessary to protect leatherbacks has been insufficient because the plan is limited to a geographic area that does not always encompass areas where the larger opening is needed. Implementation of the 2 week actions specified in the plan also often lag behind the time when they are most needed.

The sea turtle conservation regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that would violate the terms and conditions of an incidental take statement or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and to avoid unauthorized takings. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 223.206(d)(4)).

Recent Events

NMFS has been notified by the Georgia Department of Natural Resources (GADNR) that extraordinarily high numbers of threatened and endangered sea turtles have stranded, especially off southern Georgia. From May 5, 2002, through May 19, 2002, a total of 89 dead sea turtles have washed ashore along the Georgia coast (shrimp zones 30 and 31). Of these, 66 are loggerheads, 10 are Kemp's ridleys, 3 are leatherbacks, and 10 have not been identified to species. By comparison, the 12–year average of stranded sea turtles in Georgia for this 2–week period is 18, so the 89 strandings are 5 times more than normal. Considering that strandings are only a minimum estimate of actual mortality, these strandings represent a serious impact to the recovery and survival of the local sea turtle populations.

Information from GADNR and NOAA enforcement indicates that there is a high level of shrimp effort off Georgia, which is typical for this time of year. Georgia state waters are closed to shrimping, so the fishery is currently operating only in Federal waters, targeting high-value, large white shrimp. These sources also indicate that the behavior of the fishery is somewhat different than in previous years. There are a large number of very large, powerful shrimp vessels from Gulf states (estimated at 25–30 boats) that are participating in the fishery. These boats are generally capable of fishing more, larger trawls at higher speeds than the local boats. Although white shrimp are generally only caught during the day, these large vessels are fishing 24–hours-a-day and using long tow times (up to 12 hours in some cases) to maximize effort given the distance from their local ports. Local fishermen fish mostly in the day to target white shrimp using tow times of 2 to 4 hours. The 24–hour fishing, in conjunction with long tow times, represents a significant increase in effort in this area. An aerial survey to monitor shrimping effort on May 21 found that most of the large trawlers were concentrated in the southern part of the state, in the area of highest strandings.

This spring has seen a very high abundance of leatherback turtles migrating close to the Atlantic coast in Florida, Georgia, South Carolina, and North Carolina. Under the Leatherback Contingency Plan, a 14–day requirement to use leatherback-excluding TEDs was implemented for Zone 31 (north and central Georgia) through May 3. Weather and logistical problems have prevented effective aerial surveys since then, and the requirement to use the larger-opening TEDs has lapsed. GADNR estimates that up to 70 percent of the local fishermen are using leatherback-excluding TEDs, which are also effective at releasing large green and loggerhead turtles. The large, Gulf vessels have been fishing south of Zone 31 or arrived after May 3, and NMFS believes that most are not using TEDs with large openings.

NMFS believes that the increased shrimping effort, particularly the switch to nighttime fishing and very long tow-times, in conjunction with the use of TEDs with smaller escape openings is responsible for the sharp increase in turtle mortality and strandings along the Georgia coast.

Analysis of Other Factors

NMFS has analyzed other factors that might have contributed to the turtle strandings, including environmental conditions. No possible causes other than shrimp trawling have been identified. A single vessel fishing for sharks using drift gillnets a fishing method that is known to capture and kill sea turtles has been operating in Federal waters in the Florida-Georgia border area in the past month. A NMFS observer has been aboard that vessel for every trip since April 29 and no sea turtle interactions have been observed. There is no evidence of a red tide or other harmful plankton bloom event or any major disease factor. The condition of the stranded turtles has indicated that they were generally healthy and actively foraging prior to their deaths, which is consistent with strandings resulting from shrimp trawling. The carcasses have primarily been coming ashore in the vicinity of areas where shrimping effort has been concentrated. NMFS and state personnel will continue to investigate factors other than shrimping that may contribute to sea turtle mortality in the area, including other fisheries and environmental factors.

Restrictions on Fishing for Shrimp Trawlers

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an ITS or incidental take permit, or may be likely to jeopardize the continued existence of a species listed under the ESA. Therefore, the Assistant Administrator for Fisheries, NOAA (AA) issues this determination that further takings of threatened and endangered sea turtles in Atlantic Ocean waters off the southeast coast of the U.S. by shrimp trawlers using TEDs with small escape openings and shrimping during nighttime hours are unauthorized because such takes may be likely to jeopardize the continued existence of the sea turtle populations. The AA, thus, imposes this additional restriction to shrimp trawling activities to conserve threatened and endangered sea turtles. The AA has determined that conservation measures are necessary in an area larger than the current hot-spot of strandings to prevent fishing with practices that are harmful to sea turtles from simply relocating to other areas in the South Atlantic. Additionally, the use of large, leatherback size TED openings will allow for easier escape for all turtle species, decreasing stress and mortality to the turtles. Specifically, the AA requires shrimp trawlers, who are required to use TEDs, fishing in offshore Atlantic waters west of 77 57.5' W. longitude (approximately Cape Fear, NC) and north of 30 N. latitude (just north of St. Augustine, FL) to use TEDs with escape openings modified to exclude leatherback turtles (meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B)(1) or (2) or § 223.207(c)(1)(iv)(B)) and prohibits shrimp trawling in the same area between 1 hour after sunset and 1 hour before sunrise. This restriction is effective from May 24, 2002 through 11:59 p.m. (local time) June 24, 2002.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call (727)570–5312 for updated information on shrimping restrictions.

Additional Conservation Measures

The AA may withdraw or modify a determination concerning unauthorized takings or any restriction on shrimping activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30–day action, will be published in the **Federal Register** pursuant to 50 CFR 223.206(d)(4).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to respond to an emergency situation to provide adequate protection for threatened and endangered sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be impracticable to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect threatened and endangered sea turtles. Notice and opportunity to comment was provided on the proposed rule (57 FR 18446, April 30, 1992) on the final rule establishing the procedures for taking this action. Furthermore, the AA finds good cause under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. Such delay would also prevent the agency from implementing this action in a timely manner to protect threatened and endangered sea turtles. Accordingly, the AA is making the rule effective May 24, 2002 through June 24, 2002.. As stated above, this restriction has been announced on the NOAA weather channel, in newspapers, and other media.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.* are inapplicable.

As required by 50 CFR 223.207(d)(4)(iv), NMFS has consulted with the marine fisheries officials in Florida, Georgia, South Carolina, and North Carolina on this emergency action. The required nighttime closure will complement existing nighttime closures of state waters in Georgia, South Carolina, and North Carolina.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notifications such as this. The AA also prepared an EA for this action. Copies of the EA are available (see **ADDRESSES**).

Dated: May 24, 2002.

John Oliver

Acting Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 02–13564 Filed 5–24–02; 3:04 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011005244–2011–02; I.D. 052102A]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for Loligo Squid

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS announces that the directed fishery for *Loligo* squid in the exclusive economic zone (EEZ) will be closed effective May 28, 2002. Vessels issued a Federal permit to harvest *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo* squid per trip for the remainder of the quarter. This action is necessary to prevent the fishery from exceeding its Quarter II quota and allow for rebuilding of this overfished stock.

DATES: Effective 0001 hours, May 30, 2002, through 0001 hours, July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH),

domestic annual processing, joint venture processing and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The procedures for setting the annual initial specifications are described in § 648.21.

The 2002 specification of DAH for *Loligo* squid was set at 16,898 mt (67 FR 3623, January 25, 2002). This amount is allocated by quarter, as shown below.

TABLE. 1 *Loligo* QUARTERLY ALLOCATIONS

Quarter	Percent	Metric Tons
I (Jan—Mar)	33.23	5,615
II (Apr—Jun)	17.61	2,976
III (Jul—Sep)	17.30	2,923
IV (Oct—Dec)	31.86	5,384
Total	100.00	16,898

Section 648.22 requires NMFS to close the directed *Loligo* squid fishery in the EEZ when 80 percent of the quarterly allocation is harvested in Quarters I, II and III, and when 95 percent of the total annual DAH has been harvested. NMFS is further required to notify, in advance of the closure, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils; mail notification of the closure to all holders of *Loligo* squid permits at least 72 hours before the effective date of the closure; and publish notification of the closure in the **Federal Register**. The Administrator, Northeast Region, NMFS, based on dealer reports and other available information, has determined that 80 percent of the DAH for *Loligo* squid in Quarter II, will be harvested. Therefore, effective 0001 hours, May 30, 2002, the directed fishery for Loligo squid is closed and vessels issued Federal permits for *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo*. Such vessels may not land more than 2,500 lb (1.13 mt) of *Loligo* during a calendar day. The directed fishery will reopen effective 0001 hours, July 1, 2002, when the Quarter III quota becomes available.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 23, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13531 Filed 5–24–02; 3:04 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 052402A]

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 24, 2002, until 1200 hrs, A.l.t., June 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002) for the second season, the period April 1, 2002, through June 30, 2002, as 300 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: all rockfish of the genera Sebastes and Sebastolobus, deep water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2002.

John H. Dunnigan,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13559 Filed 5–24–02; 3:04 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 104
Thursday, May 30, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 2100–00]

RIN 1115–AF97

Academic Honorarium for B Nonimmigrant Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Naturalization Service (Service) is proposing to amend its regulation relating to the acceptance of academic honoraria by nonimmigrant aliens admitted to the United States as B visitors. This is necessary to implement changes to section 212 of the Immigration and Nationality Act (Act) made by the American Competitiveness and Workforce Improvement Act of 1998. The amendment outlines the proposed procedures necessary for a nonimmigrant alien visiting the United States in valid B status to accept honoraria in connection with usual academic activities.

DATES: Written comments must be submitted on or before July 29, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC, 20536. To ensure proper handling, please reference INS No. 2100–00 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov*. When submitting comments electronically, please include INS No. 2100–00 in the subject heading. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION:

Background

What Is a B Nonimmigrant Alien?

A B nonimmigrant is an alien whose admission to the United States is based on a temporary visit for business (B–1) or a temporary visit for pleasure (B–2). Section 101(a)(15)(B) of the Act defines the visitor classification as:

> An alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

Based on the statutory language, the Service has long held a B–1 nonimmigrant to be one seeking admission for legitimate activities of a commercial or professional nature, and a B–2 nonimmigrant to be one seeking admission for activities relating to pleasure.

Legislative Authority

How Does the American Competitiveness and Workforce Improvement Act (ACWIA) Affect the B Nonimmigrant Classification?

On October 21, 1998, President Clinton approved enactment of the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), Public Law 105–277, Div. C, Title IV, 112 Stat. 2681–641. Section 431 of the ACWIA amended the Act at section 212 by adding a new subsection 212(q):

> (q) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for usual academic activity or activities (lasting not longer than 9 days at any single institution) as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in subsection (p)(1) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than five institutions or organizations in the previous 6-month period.

Section 212(p)(1) of the Act, as amended by ACWIA, defines the relevant institutions and organizations as:

> (A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or
>
> (B) a nonprofit research organization or a Government research organization. * * *

Note that the Service and the Department of Labor have previously defined the organizations described in section 212(p)(1) of the Act. See 65 FR 10678 (2/29/00) and 65 FR 80209 (12/20/00), respectively. For consistency, the Service plans to adopt these previously published definitions for this proposed rulemaking.

On November 30, 1999, the Service provided policy guidance to its field offices that noted the amendatory language in the ACWIA. In addition, the guidance noted that no new documentary requirements were to be imposed upon aliens applying for admission and stating the intent to accept an honorarium from an academic organization until the Service published implementing regulations.

Why Is the Service Proposing This Regulatory Change?

This regulation will aid the Service in administering section 212(q) of the Act and will provide guidance to the public. Since the new section 212(q) of the Act alters how the Service has historically viewed the B nonimmigrant classification, a proposed rule is first being published. This will offer the public a chance to comment on the Service proposals. *See Matter of Hira*, 11 I. & N. Dec. 824 (BIA 1965, 1966; A.G. 1966) and *Matter of Neill*, 15 I. & N. Dec. 331 (BIA 1975) for more information on how Board of Immigration Appeals decisions have affected the Service's interpretations of the B nonimmigrant classification.

Amendment of Existing Regulation

Are both B–1 Visitors for Business and B–2 Visitors for Pleasure Covered by This Proposed Regulation?

Section 212(q) of the Act applies to "[a]ny alien admitted under section 101(a)(15)(B)" of the Act. Thus, both nonimmigrant visitors for business (B–1 nonimmigrants) and nonimmigrant visitors for pleasure (B–2, nonimmigrants) may accept honoraria as provided in section 212(q) of the Act.

(Note that aliens exempt from the nonimmigrant visa requirements pursuant to 8 CFR 212.1 or who possess a valid border crossing card are also eligible to engage in honorarium-related events.) This proposed rule, however, makes an important distinction. Participation in academic conferences and other academic activities is more properly a B–1, rather than a B–2, activity. Therefore, if an alien is coming to the United States to engage in activities for which he or she may accept honoraria under section 212(q) of the Act, the alien must seek admission to the United States as a B–1, rather than as a B–2 nonimmigrant. For those eligible to seek admission under the Visa Waiver Program (VWP), the corresponding WB classification (Visa Waiver/Business) is the proper one.

The B–1 and B–2 classifications are separate nonimmigrant classifications with distinct purposes. A B–1 nonimmigrant is one who is seeking admission for legitimate activities of a commercial or professional nature, such as business meetings or to engage in litigation. A B–2 nonimmigrant is one who is seeking admission for activities relating to pleasure, namely touring, vacations, or family visits. Therefore, the Service believes that the award of an honorarium for services performed on behalf of an organization is not consistent with the interpretation of a visitor for pleasure.

The proposed rule does make it clear that an alien who has already been admitted as a B–2 nonimmigrant (or as a WT (Visa Waiver/Tourist) nonimmigrant under the VWP) does not violate the terms of admission by accepting honoraria in accordance with section 212(q) of the Act. But if the events for which the honoraria are offered are arranged before the alien travels to the United States, the alien must seek admission as a B–1 or WB nonimmigrant.

The Service also notes that nothing in the amendatory language relieves an alien from first meeting all the statutory requirements placed upon those applying for admission to the United States as B visitors. Namely, the alien must maintain an unabandoned foreign domicile and ties to his or her country of citizenship or residence. Only after the alien has satisfied the requirements of section 101(a)(15)(B) of the Act and is deemed admissible may the alien participate in activities where an honorarium may be awarded.

How Does the Service Propose to Define Honorarium?

The Service is proposing the addition of a new 8 CFR 214.8. At § 214.8(a) the Service provides definitions of various terms used throughout 8 CFR 214.8. Honorarium is defined as a gratuitous payment of money or any other thing of value to a person for the person's participation in a usual academic activity for which no fee is legally required and that an honorarium may be of any dollar amount with no minimum or maximum dollar amount required. This definition makes clear that honorarium is altogether different than a salary that an individual receives on a continuing basis.

How is the Term "Usual Academic Activity" Defined?

Section 212(q) of the Act directs the Attorney General to consult with the Secretary of Education in order to formulate a definition of "usual academic activity." As directed by section 212(q) of the Act, the Service has consulted with the Education Department in developing a workable definition of the term, "usual academic activity."

At 8 CFR 214.8(a), the Service proposes a broad definition of "usual academic activity" that includes lecturing, teaching, and sharing knowledge. In addition, the Service includes activities such as meetings of boards or committees that benefit the institution within the text of the definition.

While the Service also includes performances, master classes, and readings within the definition of "usual academic activity," the proposed rule does place limitations on the commercial nature of such events. The Service proposes that such events must be open to students and/or the general public free of charge, with no sale of general admission tickets. An alien performing artist wishing to perform before a paying audience and who would otherwise be charging a set fee for the performance must avail him or herself of another type of nonimmigrant visa specifically intended for use by such an artist. For example, the O and P nonimmigrant categories were, in part, created to accommodate performing artists. The Service notes that section 212(q) of the Act does not create a new method for performing artists to circumvent the prescribed nonimmigrant visa petition process.

Is the Service Proposing Limitations on Honorarium Activity and Frequency?

Yes, section 212(q) of the Act provides that during a 6-month period, an alien may accept an honorarium and reimbursement of the associated expenses from no more than five organizations, and that the event may not last more than 9 days at any single institution. While Congress did not offer an explanation about why these limitations are included in the amendatory language, the Service interprets these stated limitations as evidence of congressional concern that organizations may be tempted to circumvent the nonimmigrant petition process in order to augment staff with alien professors or teachers. Without any limitations, any organization included within the statutory language could in effect hire an alien professor to teach a full course-load, but state that the individual is only "visiting" and is being awarded an honorarium for his or her contributions to the benefit of the institution.

The Service therefore proposes at 8 CFR 214.8(c) reasonable limitations on honorarium activity and frequency that are consistent with section 212(q) of the Act. The Service notes that while limits are proposed on honorarium-related activity and frequency, nothing within the proposed rule prevents an alien from obtaining employment with an academic organization through the normal petition process, or through programs such as the Short Term Scholar program (a J-visa program administered by the Department of State at 22 CFR 62.21).

The Service also attempts to provide an interpretation of the term "single institution" that is specified in section 212(q) of the Act. The Service proposes that the term "single institution" may apply to an organization that has more than one branch or campus. For example, if an alien is making the same presentation at three different campuses of a State university during a 9-day period and is being reimbursed with one honorarium payment, the Service will regard this as a single visit. However, if the alien's intention is to address three different topics at a multi-campus organization over the 9-day period and the different campuses are paying the alien separate honorarium payments for the visits, the Service will consider this to be three separate visits. These visits will be charged against the overall five visits allowed during the 6-month period.

Will the Service Require Documentation From Arriving Aliens Stating the Intent to Participate in Honorarium-related Activities?

Yes, the Service proposes, at 8 CFR 214.8(d), that aliens presenting themselves for admission to the United States as B–1 or WB visitor for business, and who state the intent to participate in honorarium-related activities, be in possession of the letter of invitation that has been issued by the institution sponsoring the activity. It is reasonable to expect that any organization sponsoring an honorarium-related event to have issued a letter of invitation to the alien. Invitation letters should clearly specify the honorarium-related event or activity as well as the date and location of the activity. In addition, the letter may assist the inspecting Service officer in verifying that the activity the alien plans to participate in qualifies pursuant to section 212(q) of the Act and the regulations at 8 CFR 214.8. The Service sees no particular hardship by proposing this reasonable documentary requirement.

Does the Service Consider Organizations Sponsoring Honorarium-Related Events to be Employers Subject to the Provisions of Section 274A of the Act?

No, the Service intends that organizations sponsoring honorarium-related events will not be considered to be employers subject to the provisions of section 274A of the Act as long as their actions are consistent with this rule.

Section 274A of the Act and implementing regulations at 8 CFR part 274a relate to the control of the employment of aliens in the United States. These provisions require persons or entities who hire individuals for employment in the United States to verify such individuals' employment eligibility and identity on the Employment Eligibility Verification form (Form I–9). These provisions also prohibit persons or entities from: hiring an alien knowing that he or she is unauthorized to work in the United States; continuing to employ an alien knowing that he or she is or has become unauthorized to work; or using a contract, subcontract, or exchange to obtain the labor or an alien in the United States knowing that he or she is unauthorized with respect to performing such labor. In essence, therefore, the prohibitions and requirements of section 274A of the Act and 8 CFR part 274a only apply in the employment and contract services contexts.

In the context of honorarium-related events, however, the relationship between the organization sponsoring the event and the individual providing the honorarium-related academic activity is neither one of employer/employee nor based upon contract services. The definitions of "employee," "employer," and "employment" in 8 CFR 274a.1(f), (g) and (h) respectively make clear that, for purposes of section 274A of the Act, "employment" has the common meaning of the provision of labor or service for a wage, salary or other remuneration, to which the employee has a legal entitlement, once the employee performs the labor or service. This proposed rule defines an honorarium, by contrast, as "a gratuitous payment of money or any other thing of value to a person for the person's participation in a usual academic activity, for which no fee is legally required." Thus, an activity for which a person may accept an honorarium under this rule is not "employment" nor is it contractual, given its gratuitous nature.

However, the fact that an activity for which an entity may offer an honorarium is not "employment" or contract services does not mean an entity can abuse the honorarium process to circumvent the prescribed nonimmigrant petition process that all United States employers must follow, in those cases where it will, in fact, be employing the services of a qualified alien worker. Organizations, in particular colleges, universities, and other institutions of higher education, may not use the honorarium provisions to hire or contract with an alien worker in order to provide salaried or otherwise compensated services. If the individual is to be the entity's employee, both the entity and the alien must comply with section 274A and all other provisions of the Act—such as visa petition, labor certificate, and visa requirements—governing the alien's ability to accept employment in the United States. For example, organizations that connect events together where the 9-day periods run back-to-back or are otherwise structured in such a way as to allow the instructor to continue the program during a regular semester or other established instructional period must be prepared to substantiate why the Service should not consider this arrangement as employment.

If the alien is to provide contract services, he or she will be violating his or her status by providing such services unless the alien is employment-authorized with respect to this activity. While the entity is not required by section 274A of the Act to verify the employment eligibility on Form I–9 of individuals providing contract services, the entity may be violating the prohibition against knowingly hiring an unauthorized alien if the individual is providing the contract services without being employment-authorized, and the entity is aware of this fact.

What Penalties Might an Alien Incur Should he or she be Found to be in Violation of Status?

The Service has every reason to believe that the vast majority of aliens that intend to take advantage of these honorarium-related provisions will maintain and abide by the B–1 or WB status under which the alien was admitted. However, the Service would be remiss not to address the possible consequences an alien may face should he or she violate the provision of the admitted B–1 or WB status. The Service therefore notes at 8 CFR 214.8(e) that an alien who collects honorarium in excess of the limitations stipulated by the Act will be considered to be in violation of his or her B or WB nonimmigrant status and amenable to removal under the provisions of section 237(a)(1)(C)(i) of the Act.

In addition, an alien who is applying for admission to the United States in order to participate in honorarium-related activities, and who is found to have exceeded the limitations on such activities stipulated by the Act, and who knowingly misrepresents himself or herself to the admitting Service inspector about material facts regarding the alien's honorarium-related activities, may be found to be inadmissible pursuant to the misrepresentation provisions found in section 212(a)(6)(C)(i) of the Act.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies to nonimmigrant aliens visiting the United States in valid B status to accept honoraria in connection with usual academic activities. It does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in

costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Under Executive Order 12866, section 6(a)(3)(B)–(D), this proposed rule has been submitted to and reviewed by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This proposed rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedures, Aliens, Employment.

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note and 1931 note, respectively; 8 CFR part 2.

2. Section 214.8 is added to read as follows:

§ 214.8 Academic honorarium for B visitors.

(a) This section establishes the rules that govern an alien's receipt of honoraria in accordance with section 212(q) of the Act, while the alien is present in the United States after having been admitted as a nonimmigrant visitor for business or pleasure (B nonimmigrant). As used in this section the term:

Associated incidental expenses means reimbursements or payments for travel costs, lodging, meals, uniforms, or supplies.

Government research organization means an organizational unit of the Federal Government whose primary mission is the performance or promotion of basic research and/or applied research. See § 214.2(h)(19)(iii)(C) for a complete definition of this term.

Honorarium means a gratuitous payment of money or any other thing of value to a person for the person's participation in a usual academic activity for which no fee is legally required. The value of an honorarium may be of any dollar amount with no minimum or maximum dollar amount required, as distinguished from set compensation (*i.e.*, salary) for services that are rendered on a continuing basis.

Institution of higher education means an institution meeting the requirements of section 101(a) of the Higher Education Act of 1965.

Nonprofit research organization means an organization defined as tax exempt under the Internal Revenue Code of 1986, section 501(c)(3), (c)(4) or (c)(6), 26 U.S.C. 551(c)(3), (c)(4) or (c)(6) and has been approved as a tax exempt organization for research or educational purposes by the Internal Revenue Service. See § 214.2(h)(19)(iii)(C) and (h)(19)(iv) for a complete definition of this term.

Pre-arranged academic activity means any academic activity for which an alien will accept an honorarium, if the institution invited the alien's participation before the alien's admission to the United States.

Usual academic activity (or activities) means those activities for the benefit of the institution that include, but are not limited to, lecturing, teaching, consulting, conducting research, attending meetings, symposia or seminars, or otherwise sharing knowledge, experience, or skills in master classes, readings, and performances (when the audience is composed of non-paying students and/or open to the general public and general admission tickets to the public have not been sold), and meetings of boards, committees, or merit review panels.

Visitor for business means a person admitted to the United States as a B–1 nonimmigrant or a Visa Waiver Program visitor for business pursuant to 8 CFR part 217.

Visitor for pleasure means a person admitted to the United States as a B–2 nonimmigrant or a Visa Waiver Program visitor for pleasure pursuant to 8 CFR part 217.

(b) *B nonimmigrants eligible to accept honorarium.* Both nonimmigrant visitors for business and nonimmigrant visitors for pleasure may accept honoraria in accordance with section 212(q) of the Act. Aliens who are exempt from the nonimmigrant visa requirements of 8 CFR 212.1 or who possess a valid border crossing card are also eligible to engage in honorarium-related events. If, however, the alien is coming to the United States to participate in pre-arranged academic activities for which the alien will accept honoraria the alien must seek admission as a nonimmigrant visitor for business. An alien may not be admitted as a nonimmigrant visitor for pleasure if the alien's plans include participating in pre-arranged academic activities for which the alien will accept honoraria.

(c) *Limitations on honorarium activity and frequency.* The acceptance of honoraria under this paragraph is subject to the following limitations.

(1) During a 6-month period, an alien may accept an honorarium and reimbursement of the associated expenses from no more than five organizations that are defined in paragraph (a) of this section. If questioned by the admitting Service Inspector or by any Service officer after admission, the alien shall provide a complete accounting of his or her honorarium-related activities within the applicable 6-month period.

(2) The academic activity or activities that the alien is providing for the institution is limited to no more than 9 days per activity at any single institution (a total of 45 possible days during the 6-month period). The term "single institution" also applies to an organization that has branches or campuses in more than one location. For purposes of applying the 9-day limit, if the alien is providing the identical service at more than one location of the institution during the 9-day period and is being reimbursed with one honorarium payment, this shall be considered one activity. However, if the alien is providing different activities at different branches of an organization and the different campuses are paying the alien separate honorarium payments for the visits, each visit to each branch or campus shall be considered a separate visit and be calculated against the maximum of five allowed activities within the 6-month period.

(3) An institution may not use the honorarium provisions of section 212(q) of the Act as a vehicle to circumvent the otherwise prescribed nonimmigrant petition process. Institutions desiring to employ nonimmigrant aliens must comply with section 274A of the Act and all other applicable provisions of the Act and the Service regulations at 8 CFR part 274a that govern an alien's ability to legally accept employment in the United States.

(d) *Documentation.* Any alien applying for admission to the United States as a B–1 visitor for business or as a WB visitor, stating the intent to participate in an academic activity for which an honorarium payment will be awarded, will be required to be in possession of the letter of invitation that the institution sponsoring the activity has issued to the alien. At a minimum, an invitation letter should clearly specify the honorarium-related event or activity, as well as the date(s) and location of the event. The letter of invitation must be produced for inspection if requested by an inspecting Service officer at the United States port-of-entry where the alien is applying for admission.

(e) *Applicability of employment requirements.* A nonimmigrant visitor for business or pleasure who accepts honoraria as provided in this section will not be considered as engaging in employment or providing contract services since doing so impedes the ability of the Service to properly administer section 212(q) of the Act.

(f) *Violation(s) of status.* (1) A nonimmigrant visitor for business or pleasure who collects honoraria in excess of the limitations noted in paragraph (c) of this section is in violation of his or her nonimmigrant status and amenable to removal under section 237(a)(1)(C)(i) of the Act.

(2) It is not a violation of status for an alien who has been admitted as a nonimmigrant visitor for pleasure to accept honoraria under section 212(q) of the Act for the alien's participation in academic activities, if the institution invited the alien's participation after the alien's admission. It is, however, a misrepresentation of a material fact for an alien who is coming to the United States to participate in pre-arranged academic activities for which the alien will accept honoraria to seek and obtain admission as a nonimmigrant visitor for pleasure, rather than as a nonimmigrant visitor for business.

(3) It is not a violation of status for a B–1 alien to participate in more than one academic activity at more than one organization during a single admission. However, the academic activities must comport with the limitations noted in section 212(q) of the Act.

Dated: May 21, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–13433 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 93–076–17]

Animal Welfare; Marine Mammals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: We are considering amendments to the Animal Welfare regulations concerning the marine mammal standards for which consensus language was not developed during negotiated rulemaking we conducted in 1995 and 1996, as well as the standards for interactive programs such as swim-with-the-dolphin programs. We are soliciting comments regarding appropriate changes or additions to the present standards.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 29, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 93–076–17, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 93–076–17. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 93–076–17" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1228; (301) 734–7833.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and other regulated entities. The Secretary of Agriculture has delegated the responsibility for enforcing the Act to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3.

Under the Act, APHIS established regulations in 1979 for the humane handling, care, treatment, and transportation of marine mammals used for research or exhibition purposes. These regulations are found in 9 CFR part 3, subpart E, "Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals" (§§ 3.100 through 3.118). Some sections of these standards have not been substantively amended since 1984.

Marine Mammal Regulations

In 1995, we established a Marine Mammal Negotiated Rulemaking Advisory Committee (the Committee) to advise the Department on revisions to the marine mammal regulations. The Committee met for three sessions between 1995 and 1996. Under the rules governing the negotiated rulemaking process, and in accordance with the organization protocols established by

the Committee, APHIS agreed to publish as a proposed rule any consensus language developed during the meetings unless substantive changes were made as a result of authority exercised by another Federal Government entity. The Committee developed consensus language for changes to 13 of the 18 sections that comprise the regulations and for 1 paragraph in a 14th section.

On February 23, 1999, we published a proposed rule in the **Federal Register** (64 FR 8735–8755, Docket No. 93–076–11) that contained the language developed by the Committee for those sections of the regulations for which consensus had been reached. The rule was made final, with some changes, on January 3, 2001 (66 FR 239–257, Docket No. 93–076–15) and became effective on April 3, 2001 (66 FR 8744, Docket No. 93–076–16).

Remaining Issues

Although consensus language was developed by the Committee for 13 of the 18 sections of the regulations in their entirety, and for 1 paragraph of another section, the Committee conducted extensive discussions on all sections of the regulations. No consensus language was developed for four sections of the standards—§ 3.100 on variances and implementation dates; § 3.102 on indoor facilities; § 3.103 on outdoor facilities; and § 3.106 on water quality. Consensus language was developed for general space requirements in § 3.104, but not on the specific space requirements for particular marine mammals. The Committee agreed that APHIS would develop and promulgate a proposed rule to address those parts of the regulations for which consensus language was not developed.

Interactive Programs

On January 23, 1995 (60 FR 4383–4389, Docket No. 93–076–2), we published in the **Federal Register** a proposed rule to establish standards for swim-with-the-dolphin (SWTD) programs in a new § 3.111. After reviewing the comments, we published a final rule in the **Federal Register** on September 4, 1998 (63 FR 47128–47151, Docket No. 93–076–10), that made final some of the proposed provisions, along with changes we made based on the comments received. The final rule became effective October 5, 1998.

Following publication of the final rule, a number of parties affected by the rule contacted us and asserted that they did not fully understand issues raised in the proposed and final rules regarding wading programs, encounter programs, and other interactive programs. Specifically, these regulated parties stated that it had not been clear to them that we intended the provisions of the rule to apply to shallow-water interactive programs. Shallow-water interactive programs are programs in which members of the public enter the primary enclosure of a cetacean to interact with the animal, and in which the participants remain primarily stationary and nonbuoyant. The regulated parties stated that, because of this misunderstanding, they had not been able to participate fully in the rulemaking process.

In response to these concerns, on October 14, 1998 (63 FR 55012, Docket No. 93–076–12), we announced that, as of the effective date of the September 4, 1998, final rule, and until further notice, we would not apply the standards relating to space for the interactive area and human participant/attendant ratio to shallow-water interactive programs. Subsequently, on April 2, 1999 (64 FR 15918–15920, Docket No. 93–076–13), we suspended enforcement of all of the regulations and standards concerning SWTD programs.

Request for Comments

Since advances continue to be made, new information developed, and new concepts implemented with regard to the handling, care, treatment, and transportation of marine mammals in captivity, we are now reviewing the standards to determine what amendments, if any, are necessary. Specifically, we are requesting comments regarding the standards for which the Committee did not develop consensus language (§§ 3.100, 3.102, and 3.103; the specific space requirements for particular marine mammals in § 3.104; and § 3.106) and for the standards for SWTD programs in § 3.111.

In particular, we invite responses to the following questions:

1. Should maximum temperature ranges for air and water be established for each species? If so, what should these temperature ranges be? Please submit any scientific data available to support maximum and/or minimum temperature ranges for each species.

2. Should noise thresholds be established for each species? If so, please submit specific scientific data to support any proposed noise thresholds as well as specific methodologies for measuring sound levels.

3. What components should we consider when determining space requirements for each species (e.g., surface area, volume, length, width, depth)? Has a method or system been developed by any marine mammal facility or other entity to address space requirements? If so, please describe it.

4. Should we revise the representative average adult lengths used in the tables? If so, why? Please submit any scientific data that supports revising the representative average adult lengths used in the tables.

5. Should we establish minimum depths for each species? If so, what should these depths be? Please submit any supporting scientific data for each species.

6. Which is more important, minimum width or longest straight-line swimming distance? Should we require any specific straight-line swimming distance?

7. Interactive programs are programs in which members of the public enter the primary enclosure of a marine mammal in order to interact with the animal. There are a wide range of interactive programs currently available to the public (e.g., wading, swimming, snorkeling, or scuba diving with marine mammals; sitting on a dock, ledge, or similar arrangement while the marine mammal approaches; "trainer for the day" and/or immersion experiences; and therapeutic sessions). Are there any interactive activities not listed here? If so, please provide a detailed description of the activity.

8. How should the interactive activities described above be regulated? What, if any, paragraphs in § 3.111 should be amended? How? Are there any other specific standards needed for interactive programs?

9. Do you have any other specific concerns or recommendations for the sections mentioned above?

We welcome all comments on the issues outlined above and encourage the submission of ideas on the specific standards for the humane handling, care, treatment, and transportation of marine mammals in captivity found in §§ 3.100, 3.102, 3.103, 3.104, 3.106, and 3.111. We also invite data on the costs and benefits associated with any recommendations. We will consider all comments and recommendations we receive regarding changes to the current regulations and will initiate rulemaking for any changes deemed appropriate.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 23rd day of May 2002 .

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 02–13528 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

Rulemaking Communications Improvements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is seeking comments and recommendations from all interested persons regarding options for improving NRC communications with the public on agency rulemaking activities.

DATES: Submit comments by July 1, 2002. Comments received after this date will be considered only if it is practical to do so.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O–16C1, or deliver written comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking Web site at *http://ruleforum.llnl.gov*. This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher at (301) 415–5905 or by e-mail to *cag@nrc.gov*. Copies of any comments received and certain documents related to this notice may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The NRC maintains an electronic Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Public comments on this notice may be accessed In ADAMS through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: William Huffman, Policy and Rulemaking Program, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone: (301) 415–1141; E-mail: *wch@nrc.gov* or Merri Horn, Rulemaking and Guidance Branch, Office of Nuclear Material Safety and Safeguards; Telephone: (301) 415–8126; E-mail: *mlh1@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC currently communicates with the public about rulemaking activities in a number of ways. The agency notices all rulemaking actions in the **Federal Register**, and invites the public to comment on noticed actions *via* mail, hand delivery, or by uploading a file to the agency's RuleForum Web site (*http://ruleforum.llnl.gov*). The RuleForum site contains extensive information on both specific rulemakings under development and general rulemaking activities, and allows visitors to read comments submitted to the NRC by other members of the public. Documents related to rulemaking activities, including public comments, can also be accessed online through the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html*.

In addition, the NRC's Public Document Room (PDR), located at the agency's headquarters in Rockville, MD, is open to the public on all Federal work days. Occasionally, the agency conducts meetings or workshops related to specific rulemakings, events which are publicized in the **Federal Register** and on the NRC's home page (*http://www.nrc.gov*).

As part of an ongoing effort to improve stakeholder satisfaction with the way the NRC communicates with the public, the agency is considering enhancements to its current methods of informing the public about rulemaking activities and to encourage public participation in the rulemaking process. To support this endeavor, the NRC is requesting comment on its rulemaking communications process. Comment is requested on, but need not be limited to, the topics below:

(1) In addition to the use of the **Federal Register** and the NRC rulemaking Web site, what other forums would be effective in informing the public about rulemaking activities?—e.g., e-Mail, mailing lists, announcements on related Web sites, public meetings, or other suggestions.

(2) The general process used by the public to provide comments on rulemakings published in the **Federal Register** is to either mail the comments to the Secretary, U.S. Nuclear Regulatory Commission or use the NRC's interactive rulemaking Web site. In addition, public meetings are occasionally used for obtaining public comments for some rulemakings. Are there any other methods that might be used to facilitate public comments on rulemaking activities?

(3) At what stage(s) of the rulemaking process is interaction with the public most effective and beneficial?—e.g., at the beginning of the process before a rulemaking plan has been approved; shortly after a rulemaking plan has been approved; shortly before issuing a proposed rule; during the public comment period; or after a rulemaking has been proposed to the public and comments have been received and assessed but before the final rule has been approved?

(4) What method of public interaction on rulemaking activities is preferred?—e.g., **Federal Register** notice; posting draft rule language on the Web; meetings; or other suggestions?

(5) How useful are public meetings for communicating NRC rulemaking activities to all stakeholders?

A. Are there occasions where public meetings are important in conducting rulemaking activities?

B. For those that consider public meetings on rulemaking activities an important part of the process, at what stage of the rulemaking process would meetings be most beneficial and effective?—e.g., at the beginning of the process before a rulemaking plan has been approved; shortly after a rulemaking plan has been approved; shortly before issuing a proposed rule; during the public comment period; or after a rulemaking has been proposed to the public and comments have been received and assessed but before the final rule has been approved?

(6) Are published responses to public comments on proposed rules generally comprehensive, clearly written, and well-argued?

(7) How useful is the initiative by the NRC to place draft rulemaking language on the NRC Web site with or without the associated statement of considerations?

(8) How can the NRC obtain better information and comments on the cost or benefit of a rulemaking under development—i.e., information used to create a regulatory analysis?

(9) Is the NRC's typical 75-day comment period for proposed rules sufficient?

Dated at Rockville, Maryland, this 23rd day of May, 2002.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Program Director, Policy and Rulemaking Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

Patricia K. Holahan,

Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–13468 Filed 5–29–02; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–85–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections to detect evidence of wear damage in the area at the interface between the vertical stabilizer and fuselage skin, and corrective actions, if necessary. This proposal also would provide for an optional terminating action for the repetitive inspections. This action is necessary to detect and correct wear damage of the fuselage skin, which could result in thinning and cracking of the fuselage skin, and consequent in-flight depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2002–NM–85–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 227–1119, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *judy.golder@faa.gov*. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NM–85–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of wear damage at the interface area of the vertical stabilizer and fuselage skin in section 46 and section 48 on certain Boeing Model 747 series airplanes. The damage has been attributed to movement of the adjacent vertical stabilizer blade seal and subsequent wear through the enamel coating on the fuselage skin. Such wear damage of the fuselage skin in the area at the interface between the vertical stabilizer and fuselage skin, if left undetected, could result in thinning and cracking of the fuselage skin, and consequent in-flight depressurization of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin (ASB) 747–53A2478, dated February 7, 2002, which describes procedures for repetitive detailed inspections to detect wear damage of the fuselage skin at the interface areas of the vertical stabilizer seal and fuselage skin, and corrective actions, if necessary. The ASB describes the corrective actions that include removal of the exterior surface finish and measurement of the wear depth if wear exists on the fuselage skin. If wear damage is detected, the ASB refers operators to the Structural Repair Manual (SRM). If no wear damage is found, the ASB describes procedures for refinishing the fuselage skin with BMS 10–86 Teflon-filled coating, which would eliminate the need for repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 1,104 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 253 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,180, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator elect to accomplish the proposed optional terminating action per paragraph (b) of this AD, it would take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the optional termination action would be $360 per airplane.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2002–NM–85–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–53A2478, dated February 7, 2002; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct wear damage of the fuselage skin in the area at the interface between the vertical stabilizer and fuselage skin, which could result in thinning and cracking of the fuselage skin, and consequent in-flight depressurization of the airplane; accomplish the following:

Inspections for Damage

(a) Prior to the accumulation of 15,000 total flight cycles or within 1,200 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection to detect evidence of wear damage of the fuselage skin at the interface area of the vertical stabilizer seal and fuselage skin, per Boeing Alert Service Bulletin 747–53A2478, dated February 7, 2002.

(1) If no wear damage of the fuselage skin is detected or any existing blendout is within the structural repair manual (SRM) allowable damage limits: Repeat the detailed inspection at intervals not to exceed 6,000 flight cycles.

(2) If any wear damage of the fuselage skin is detected or any existing blendout exceeds the allowable damage limits specified in the SRM: Before further flight, repair the vertical stabilizer seal interface and refinish the skin with BMS 10–86 Teflon filled coating, per the alert service bulletin. Accomplishment of the repair and refinishing is terminating action for the repetitive inspections required by paragraph (a) of this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Optional Terminating Action

(b) Refinishing the fuselage skin with BMS 10–86 Teflon-filled coating, per Boeing Alert Service Bulletin 747–53A2478, dated February 7, 2002, terminates the repetitive inspections required by paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 22, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13424 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–105316–98; REG–161424–01]

RIN 1545–AW67; 1545–BA43

Information Reporting for Qualified Tuition and Related Expenses; Magnetic Media Filing Requirements for Information Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to proposed regulations.

SUMMARY: This document contains a correction to proposed regulations (REG–105316–98; REG–161424–01) which were published in the **Federal Register** on Monday, April 29, 2002 (67 FR 20923). The proposed regulations relate to the information reporting requirements under section 6050S for payments of interest on qualified education loans, including the filing of information returns on magnetic media.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are subject to this correction are under section 6050 of the Internal Revenue Code.

Need for Correction

As published, these proposed regulations (REG–105316–98; REG–161424–01) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (REG–105316–98; REG–161424–01) which were the subject of FR Doc. 02–9932, is corrected as follows:

§ 1.6050S–1 [Corrected]

1. On page 20931, column 3, § 1.6050S–1(b)(2)(vii), *Example 4.* (iii), line 14, the language "2004. Under paragraph (b)(2)(v) of this" is corrected to read "2003. Under paragraph (b)(2)(v) of this".

Guy R. Traynor,

Federal Register Certifying Officer, Regulations Unit, Associate Chief Counsel, (Income Tax & Accounting).

[FR Doc. 02–13171 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA29

Financial Crimes Enforcement Network; Due Diligence Anti-Money Laundering Programs for Certain Foreign Accounts

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Treasury and FinCEN are issuing a proposed regulation to implement section 312 of the USA PATRIOT Act of 2001, which requires U.S. financial institutions to establish due diligence policies, procedures, and controls reasonably designed to detect and report money laundering through correspondent accounts and private banking accounts that U.S. financial institutions establish or maintain for non-U.S. persons.

DATES: Written comments may be submitted to FinCEN on or before July 1, 2002.

ADDRESSES: Submit comments (preferably an original and four copies) to FinCEN, P.O. Box 39, Vienna, VA 22183, Attn: Section 312 Regulations. Comments may also be submitted by electronic mail to *regcomments@fincen.treas.gov* with the caption in the body of the text, "Attention: Section 312 Regulations." Comments may be inspected at FinCEN between 10 a.m. and 4 p.m. in the FinCEN Reading Room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of the Assistant General Counsel for Enforcement (Treasury), (202) 622–1927; the Office of the Assistant General Counsel for Banking and Finance (Treasury), (202) 622–0480; or Office of the Chief Counsel (FinCEN), (703) 905–3590 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, President Bush signed into law the USA PATRIOT Act of 2001, Public Law 107–56 (the Act). Title III of the Act, captioned "International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001," includes certain amendments to the Bank Secrecy Act (BSA), 31 U.S.C. 5311 *et seq.*, intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing.

Section 312 of the Act adds new subsection (i) to 31 U.S.C. 5318. This provision requires each U.S. financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-U.S. person to take certain anti-money laundering measures with respect to such accounts. In particular, financial institutions must establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures and controls that are reasonably designed to enable the financial institution to detect and report instances of money laundering through those accounts.

In addition to this general requirement, which applies to all correspondent and private banking accounts for non-U.S. persons, section 312 of the Act specifies additional standards for certain correspondent accounts. For a correspondent account maintained for a foreign bank operating under an offshore license or a license granted by a jurisdiction designated as being of concern for money laundering, a financial institution must take reasonable steps to identify the owners of the foreign bank, to conduct enhanced scrutiny of the correspondent account to guard against money laundering, and to ascertain whether the foreign bank provides correspondent accounts to other foreign banks and, if so, to conduct appropriate related due diligence.

Section 312 also sets forth minimum standards for the due diligence requirements for a private banking account for a non-U.S. person. Specifically, a financial institution must take reasonable steps to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, the private banking account, as necessary to guard against money laundering. The institution must also conduct enhanced scrutiny of private banking accounts requested or maintained by or on behalf of senior foreign political figures (or their family members or close associates). Enhanced scrutiny must be reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

Section 312(b)(2) provides that subsection 5318(i) takes effect on July 23, 2002, and applies with respect to accounts covered by the requirement, regardless of when they were opened.

II. The Proposed Rule

The proposed rule, which was developed by Treasury in consultation with the staffs of the Federal functional regulators, requires covered financial institutions (which for purposes of this provision includes all U.S. financial institutions required under Treasury regulations to establish an anti-money laundering program) to implement programs to ensure that the due diligence requirements of the Act are met. The proposed regulation sets forth certain minimum requirements and otherwise adopts a risk-based approach, permitting covered financial institutions to tailor their programs to their own lines of business, financial products and services offered, size, customer base, and location. The proposed rule contemplates that covered financial institutions will pay close attention to the risks presented by different foreign financial institution and private banking customers, the jurisdictions in which they operate, and the types of transactions for which the accounts are used. A covered financial institution's program under the proposed rule should include evaluation and consideration of any risks associated with these and other relevant factors. Covered financial institutions are expected to exercise sound business judgment in complying with the proposed rule and in addressing risks presented by foreign financial institution and private banking customers.

Treasury intends covered financial institutions to incorporate the due diligence programs required under the proposed rule into their existing programs under the BSA; it is not necessary for these financial institutions to establish separate programs for correspondent and private banking account due diligence. All federally insured depository institutions and credit unions are currently subject to regulations requiring them to maintain BSA compliance programs,[1] as are casinos.[2] In addition, effective April 24, 2002, securities broker-dealers, futures commission merchants and introducing brokers were required by section 352 of the Act and by rules of their respective self-regulatory organization to develop and implement anti-money laundering programs.[3] Also, on April 23, 2002, FinCEN issued interim final regulations under section 352 requiring mutual funds, money services businesses, and operators of credit card systems to establish anti-money laundering programs.[4] These program requirements include, at a minimum, (1) internal policies, procedures and controls to ensure ongoing BSA compliance; (2) the designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs.

[1] *See* 12 CFR 21.21 (Office of the Comptroller of the Currency (OCC)); 12 CFR 208.63 (Board of Governors of the Federal Reserve System (Federal Reserve)); 12 CFR 326.8 (Federal Deposit Insurance Corporation (FDIC)); 12 CFR 563.177 (Office of Thrift Supervision (OTS)); 12 CFR 748.2 (National Credit Union Administration).

[2] 31 CFR 103.64

[3] *See* NASD Regulation Rule 3011 and NYSE Rule 445, approved by the Securities and Exchange Commisison (SEC) on April 22, 2002, Release No. 34–45798, 67 FR 20854 (April 26, 2002); National Futures Association Compliance Rule 2–9(c), approved by the Commodity Futures Trading Commission on April 23, 2002.

III. Section-by-Section Analysis

1. Overview.

On December 28, 2001, Treasury published in the **Federal Register** a notice of proposed rulemaking to implement sections 313 and 319(b) of the Act (the Section 313/319 NPRM).[5] This proposed rule concerned provisions that: prohibit certain financial institutions from providing correspondent accounts to foreign shell banks; require such financial institutions to take reasonable steps to ensure that correspondent accounts provided to foreign banks are not being used to indirectly provide banking services to foreign shell banks; require certain financial institutions that provide correspondent accounts to foreign banks to maintain records of the ownership of such foreign banks and their agents in the United States designated for service of legal process for records regarding the correspondent account; and require the termination of correspondent accounts of foreign banks that fail to turn over their account records in response to a lawful request of the Secretary of the Treasury (Secretary) or the Attorney General. The Section 313/319 NPRM proposed to codify these requirements in a new Part 104 of title 31 of the Code of Federal Regulations.

The interim final rules published by Treasury on April 29, 2002, concerning anti-money laundering programs under section 352 of the Act, were codified in a new Subpart I of Part 103 of title 31 of the Code of Federal Regulations.

For clarity and convenience concerning the obligations of financial institutions with respect to the related requirements of sections 312, 313, 319(b), and 352 of the Act, Treasury intends to codify all of the regulations implementing these sections in Subpart I of Part 103. Accordingly, the "reserved" definitions in proposed section 103.175 are for terms used in the Section 313/319 NPRM that are not relevant for purposes of this proposed rule under Act section 312. In addition, "reserved" §§ 103.177, 103.185, and 103.190 correspond to the three sections proposed in the Section 313/319 NPRM.

2. Section 103.175 B Definitions.

The proposed rule defines *beneficial ownership interest* to mean any noncontingent legal authority to fund, direct, or manage an account, or noncontingent legal entitlement to all or any part of the corpus or income of the account (other than an interest of less than the lesser of $1,000,000 or five percent of either the corpus or income of the account). Thus, the holder of any current right to any assets in a private banking account whose interest exceeds the minimum threshold would need to be identified; however, a financial institution would not be obliged to identify holders of contingent rights in an account, such as inheritance or similar interests.

The proposed rule's definition of *correspondent account* is the definition in 31 U.S.C. 5318A(e) (as added by section 311 of the Act) and is statutorily applicable for purposes of 31 U.S.C. 5318(i) with respect to banks. The proposal defines the term to mean an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution. In the case of a U.S. bank, this broad definition would include most types of banking relationships between a U.S. bank and a foreign financial institution. In the case of securities broker-dealers, futures commission merchants, and introducing brokers, a correspondent account would include any account that permits the foreign financial institution to engage in securities or futures transactions, funds transfers, or other types of financial transactions. With respect to the other types of covered financial institutions, a correspondent account would include any account such financial institution maintains for a foreign financial institution that falls within the definition: an account for receiving deposits from, making payments on behalf of, or handling other transactions related to such foreign financial institution. Treasury received many comments in connection with the Section 313/319 NPRM regarding the breadth of the definition of the term correspondent account for depository institutions and securities broker-dealers, and is continuing to consider those comments. Treasury is using the same definition as in the Section 313/319 NPRM for purposes of the proposed rule, except that the term applies to such accounts maintained by any covered financial institution, and

[4] 67 FR 21110 (April 29, 2002).

[5] 66 FR 67460 (Dec. 28, 2001).

applies to such accounts maintained for any foreign financial institution.

The proposed definition of *covered financial institution* is broader than the definition of "covered financial institution" in the Section 313/319 NPRM.[6] Unlike sections 313 and 319(b) of the Act, which impose certain restrictions and requirements on correspondent accounts for foreign banks, section 312 does not limit its application to "covered financial institutions" as defined in section 313 (primarily depository institutions and securities broker-dealers). Based upon the meaning of the term correspondent account and the requirements of section 312, Treasury is proposing to define covered financial institution to include, in addition to most of the financial institutions subject to the Section 313/319 NPRM, the other financial institutions that are subject to an anti-money laundering program requirement. This includes futures commission merchants and introducing brokers, casinos, mutual funds, money services businesses, and operators of credit card systems.

Treasury and FinCEN are engaged currently in the process of reviewing all categories of U.S. financial institutions to craft regulations requiring the development of anti-money laundering programs tailored to the risks presented by the products and services offered by these industries. Implicit in Congress' direction to Treasury to engage in this process is the recognition that all financial institutions may well pose risks that their products and services can be used unwittingly to launder money or finance terrorism. If the same functions are performed by foreign based financial institutions, similar risks are posed. When those foreign based financial institutions interface with a U.S. financial institution—any financial institution—through a correspondent account, section 312 requires appropriate due diligence to minimize the risk of money laundering or terrorist financing.

It may well be that many types of U.S. financial institutions simply do not offer and do not establish "correspondent accounts," but section 312 will capture any such account if it is subsequently established. Moreover, the statutory definition of a correspondent account is not limited to a traditional banking account. Treasury and FinCEN are specifically requesting comment concerning how the definition may or may not apply to the covered financial institutions. Treasury anticipates that, as additional U.S. financial institutions are required to establish anti-money laundering programs, they will also become subject to the requirements of this provision as well, to the extent they may maintain correspondent accounts for foreign financial institutions.

As in the case of the Section 313/319 NPRM, the definition includes foreign branches of insured depository institutions within the term covered financial institution. This means that any correspondent or private banking account established, maintained, administered, or managed at a foreign branch of an insured depository institution would be subject to the regulation. This issue was also the subject of substantial comment in the previous rulemaking, and Treasury is continuing to consider this issue in connection with both rulemakings.

The proposed definition of *foreign bank* is identical to the definition proposed in Treasury's Section 313/319 NPRM. For these purposes, a foreign bank is any organization that (1) is organized under the laws of a foreign country, (2) engages in the business of banking, (3) is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations, and (4) receives deposits in the course of its business. A foreign bank also includes a branch of a foreign bank located in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands. A foreign bank does not include an agency or branch of a foreign bank located in the United States or an insured bank organized in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands. In addition, a foreign central bank or foreign monetary authority that functions as a central bank is not a foreign bank, nor are certain international financial institutions of which the U.S. is a member, or which Treasury otherwise designates.

The proposed definition of *foreign financial institution* is based upon the definition of "covered financial institution" in this proposed rule. It includes any foreign bank (as defined in the proposed rule). It also includes other entities organized under foreign (non-U.S.) law (other than branches or offices of such entities in the United States) that, if they were organized in the U.S., would fall within the proposed definition of covered financial institution; *i.e.*, financial institutions that are required pursuant to Treasury's regulations implementing section 352 of the Act to have an anti-money laundering program. At the date of this proposal, this would include federally insured depository institutions and credit unions, securities broker-dealers, futures commission merchants and introducing brokers, casinos, mutual funds, money services businesses and operators of credit card systems. Over the coming months Treasury will be requiring additional financial institutions to adopt anti-money laundering programs, at which time the corresponding foreign entities would be included within the definition of foreign financial institution.

The proposal defines *non-U.S. person* as an individual that is neither a U.S. citizen nor a lawful permanent resident as defined in 26 U.S.C. 7701(b)(6).

The proposed rule adopts, with one change, the language of section 312 of the Act that defines *offshore banking license* as a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license. The proposed regulation uses the term "jurisdiction" rather than "country," as there may be political subdivisions of certain countries that issue offshore banking licenses.

The proposed rule defines *person* by reference to 31 CFR 103.11(z).

The proposed rule adopts the definition of *private banking account* in section 312 of the Act, which defines the term to mean an account that requires a minimum deposit of at least $1,000,000, that is established for one or more individuals, and that is assigned to or administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.

The proposal defines the term *senior foreign political figure* to include a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned commercial enterprise; a corporation, business, or other entity formed by or for the benefit of any such individual; an immediate family member of such an individual; or any individual publicly known (or actually known by the relevant financial institution) to be a close personal or professional associate of such an individual. Unless the financial institution has actual knowledge of the association, it must be public in some degree; an individual will not be brought within the definition if there is no readily available information about his or her ties to foreign officials. For this purpose, (1) an *immediate family member* means an individual's spouse, parents, siblings, children, and spouse's parents or siblings, and (2) *senior official* or *senior executive* means an individual with substantial authority over policy, operations, or the use of government-owned resources. The proposed definition is similar to the definition of "Covered Person" in the Guidance on Enhanced Scrutiny issued in 2001 by Treasury, the bank regulators, and the Department of State,[7] and includes both current and former senior foreign political figures.

3. Section 103.176—Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions.

The proposed rule adds to the BSA regulations new § 103.176, which sets forth the due diligence requirements for correspondent accounts maintained by covered financial institutions for foreign financial institutions. It should be noted that the statute takes effect on July 23, 2002 and applies to all correspondent accounts for foreign financial institutions subject to the requirement, regardless of when they were opened.

Section 103.176(a) requires every covered financial institution to maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report any known or suspected money laundering conducted through or involving any correspondent account maintained by such financial institution for a foreign financial institution. This provision contains five specific elements that must be included in all due diligence programs.

The first element is a determination whether the correspondent account is subject to the enhanced due diligence requirements of § 103.176(b). This requires the financial institution to determine, when the correspondent account is maintained for a foreign bank, whether the foreign bank operates under any of certain offshore banking licenses or under a banking license issued by any of certain jurisdictions (as provided in § 103.176(c)).

The second required element is a risk assessment to determine whether the correspondent account poses a significant risk of money laundering activity. The covered financial institution may consider any relevant factors in making this assessment, including the foreign financial institution's line or lines of business, size, customer base, location, products and services offered, the nature of the correspondent account, and the type of transaction activity for which it will be used.

The third required element is consideration of any publicly available information from U.S. governmental agencies and multinational organizations with respect to regulation and supervision, if any, applicable to the foreign financial institution. Covered financial institutions should take steps to avail themselves of public information about jurisdictions in which their foreign financial institution customers are organized or licensed, to assist in determining whether particular correspondent accounts pose significant risks.

The fourth required element of the due diligence program requires a covered financial institution to consider any guidance issued by Treasury or the covered financial institution's functional regulator regarding money laundering risks associated with particular foreign financial institutions and types of correspondent accounts. Again, covered financial institutions should be familiar with any information disseminated by Treasury and other federal regulators that may assist financial institutions in making informed risk assessments with respect to correspondent accounts.

Finally, the due diligence program requires a covered financial institution to review public information to ascertain whether the foreign financial institution has been the subject of any criminal action of any nature, or of any regulatory action relating to money laundering, to determine whether the circumstances of such action may reflect an increased risk of money laundering through the correspondent account.

This list of required elements is intended as a minimum standard for an effective due diligence program. Programs should be risk-focused to ensure that all correspondent accounts receive appropriate due diligence and that correspondent accounts presenting more significant risks of money laundering activity receive scrutiny reasonably designed to detect and report such activity. Programs may include policies and procedures that are more detailed than the basic required elements. Policies and procedures should be tailored to the covered financial institution's business and operations and the types of financial services it offers through correspondent accounts.

Section 103.176(b) imposes three additional due diligence requirements for correspondent accounts for foreign banks operating under certain types of licenses (as provided in § 103.176(c)). For each such correspondent account, a covered financial institution's program must include the three additional elements of (1) enhanced scrutiny, (2) a determination whether the foreign bank maintains its own correspondent accounts for other foreign banks, and (3) identification of certain owners of the foreign bank.

First, § 103.176(b)(1) requires a covered financial institution to take reasonable steps to conduct enhanced scrutiny of such correspondent accounts, to guard against money laundering and to detect and report known or suspected illegal activity occurring through the correspondent account. Enhanced scrutiny shall include obtaining and reviewing documentation from the foreign bank about its own anti-money laundering program and considering the extent to which such program is reasonably designed to detect and prevent money laundering. This is a required element of the program, and the program must include it for all correspondent accounts subject to enhanced scrutiny.

In addition, enhanced scrutiny shall, when appropriate, also include (1) monitoring transactions through the correspondent account reasonably designed to detect money laundering; and (2) obtaining information about the sources and beneficial ownership of funds in the correspondent account, as well as information about the identity of any persons who will have authority to direct transaction activity of the correspondent account. While these two components of enhanced scrutiny are not required in every instance, they may be a necessary element of enhanced scrutiny in some cases based on the financial institution's risk assessment of the correspondent account. These elements are also not a comprehensive list of the components of enhanced scrutiny, and the program may provide for additional steps when appropriate in light of the risk assessment of an account. A financial institution's due diligence program should provide for when these and other measures are necessary to ensure that the financial institution has taken reasonable steps, on a risk-based analysis, to guard against money laundering through foreign correspondent accounts.

[6] 31 U.S.C. 5318(j). For the Section 313/319 NPRM, "covered financial institutions" are those described in BSA section 5312(a)(2)(A) through (G) (insured depository institutions, trust companies, private bankers, U.S. branches of foreign banks, credit unions, and securities broker-dealers).

[7] Guidance on Enhanced Scrutiny for Transactions that May Involve the Proceeds of Foreign Official Corruption, issued by Treasury, the Federal Reserve, OCC, FDIC, OTS, and the Department of State, January 2001 ("2001 Guidance").

The second additional requirement, set forth in § 103.176(b)(2), is that for any correspondent account for a foreign bank described in § 103.176(c), a covered financial institution must take reasonable steps to determine whether the foreign bank itself maintains correspondent accounts for other foreign banks. Each covered financial institution's program should include policies and procedures for assessing and minimizing risks associated with doing business with foreign banks that have further correspondent relationships. The due diligence program required by the proposed rule must include procedures for the financial institution to follow in these circumstances, including determining the identity of the other foreign banks and, where appropriate in light of the risks involved, identifying the measures in place at the foreign correspondent bank to prevent money laundering through the financial institution's correspondent account.

Finally, § 103.176(b)(3) requires a covered financial institution to take reasonable steps to determine the ownership of any foreign bank described in § 103.176(c) whose shares are not publicly traded. For purposes of this requirement, an *owner* is defined as any person who directly or indirectly owns, controls, or has power to vote 5 percent or more of any class of securities of a foreign bank. A reasonable step would be to obtain from the foreign bank a statement as to whether its shares are publicly traded, and if not, a list of its owners (as defined), including the percentage of shares held by each and nature of interest (*e.g.*, direct or indirect). Also for purposes of this requirement, *publicly traded* means shares that are traded on an exchange or an organized over-the-counter market that is regulated by a foreign securities authority as defined in section 3(a)(50) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(50)).

Section 103.176(c) lists the categories of foreign banks for which the additional requirements of § 103.176(b) apply. Under section 312 of the Act, these additional requirements apply to a correspondent account for any foreign bank operating under (1) an offshore banking license; (2) a banking license issued by a foreign country that is designated as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member,[8] with which designation the United States representative to the group or organization concurs; or (3) a banking license issued by a foreign country that has been designated by Treasury as warranting special measures due to money laundering concerns.

Section 103.176(c) incorporates the requirements of section 312, with some clarification. Correspondent accounts for a branch of a foreign bank operating under an offshore branch license would not be subject to the additional requirements of § 103.176(b) if the foreign bank has been found, or is chartered in a jurisdiction where one or more foreign banks have been found, by the Federal Reserve to be subject to comprehensive supervision or regulation on a consolidated basis by the relevant supervisors in that jurisdiction,[9] and such foreign bank does not fall within either of the other two categories of foreign banks for which the additional requirements apply. A covered financial institution's due diligence program should nevertheless include consideration of the location of the foreign bank's branch in the due diligence program required by § 103.176(a). In identifying the jurisdictions referred to in § 103.176(c)(2) and (3), covered financial institutions should refer to Treasury guidance available on the FinCEN Web site, or guidance available on the FATF Web site (*www.oecd.org/fatf*).

Section 103.176(d) states that a covered financial institution's due diligence program for foreign correspondent accounts must also include procedures to be followed when due diligence cannot be adequately performed. That is, if the financial institution is unable to take reasonable steps to detect and report possible instances of money laundering, or to obtain adequate information regarding correspondent accounts for banks described in § 103.176(c), the due diligence program should provide for steps to be taken, including, as appropriate, refusing to open the account, suspending transaction activity, filing suspicious activity reports, or closing the account.

4. Section 103.178—Due Diligence Programs for Private Banking Accounts for Non-U.S. Persons.

The proposed rule adds to the BSA regulations new § 103.178, which sets forth the due diligence requirements applicable to private banking accounts for non-U.S. persons. It should be noted that, as with correspondent accounts, the statute takes effect on July 23, 2002 and applies to all private banking accounts for non-U.S. persons subject to the requirement, regardless of when they were opened.

Section 103.178(a) requires each financial institution to maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering conducted through or involving any private banking account that the financial institution maintains for or on behalf of a non-U.S. person.

Section 103.178(b) sets forth minimum due diligence requirements for such accounts. Under paragraphs (b)(1)–(3), a covered financial institution's due diligence program must include reasonable steps to ascertain the identity of all nominal holders and holders of any beneficial ownership interest in the private banking account, including the lines of business and source of wealth of such persons, source of funds deposited into the account, and whether any such holder may be a senior foreign political figure. Reasonable steps may include various means of ascertaining identity and source of funds, including confirming information provided by accountholders or their agents, and contacting beneficial owners, as appropriate, to confirm their ownership interests and source of funds. The level of confirmation necessary to ascertain all nominal and beneficial owners may vary depending upon the particular customer, and an effective due diligence program will provide for consideration of the various risk factors that may be involved. Reasonable steps to ascertain whether any holder may be a senior foreign political figure should generally include some review of public information, including information available on databases on the Internet. Financial institutions should carefully consider the best methods of discharging their due diligence obligations in this regard, giving consideration to the characteristics of the various foreign jurisdictions and types of senior political figures that are relevant, and the availability of databases that are useful in making this determination. Should a financial institution learn at any time that an account holder is a senior foreign political figure, it would be required to apply enhanced scrutiny as required by § 103.178(c)(2).

Section 103.178(b)(4) requires the due diligence program to include procedures ensuring that the covered financial institution will take reasonable steps to detect and report any known or suspected violation of law conducted through or involving a private banking account for a non-U.S. person.

Section 103.178(c)(1) specifies that if a financial institution's due diligence program reveals information indicating that a particular individual may be a senior foreign political figure, it should exercise reasonable diligence in seeking to determine whether the individual is, in fact, a senior foreign political figure.[10] The paragraph provides further that if the institution does not learn of any information indicating that an individual may be a former senior foreign political figure (which by definition includes an immediate family member or close associate of such a person), and the individual states that he or she is not a former senior foreign political figure, the institution may rely on such statement, in addition to the results of their due diligence, in determining whether the account is subject to the enhanced due diligence requirements of § 103.178(c)(2).

Section 103.178(c)(2) specifies that the covered financial institution's due diligence program must include enhanced scrutiny of private banking accounts held by or on behalf of senior foreign political figures that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption. At the outset, the decision to open such an account should generally be approved by senior management. The appropriate level of enhanced scrutiny will vary according to the circumstances and risk factors presented. For example, if a private banking customer is from a jurisdiction where it is well known through publicly available sources that current or former political figures have been implicated in large-scale corruption, it may be appropriate to probe regarding employment history and sources of funds to a greater extent than for a customer from a jurisdiction with no such history. The length of time since a former senior political figure has been in office could influence the degree of scrutiny applied to the source of their funds. The enhanced scrutiny required by § 103.178(c)(2) should take all risk factors into consideration, including but not limited to the purpose and use of the private banking account, location of the account holder(s), source of funds in the account, the type of transactions engaged in through the account, and the jurisdictions involved in such transactions. Although the rule does not specify the extent, if any, that transaction monitoring must take place, an effective due diligence program should dictate when risk factors will require transaction monitoring, and to what extent, as necessary to detect and report proceeds of foreign corruption.[11]

For purposes of § 103.178(c), *proceeds of foreign corruption* means assets or property that are acquired by, through, or on behalf of a senior foreign political figure through misappropriation, theft, or embezzlement of public funds, or the unlawful conversion of property of a foreign government, or through acts of bribery or extortion, and shall include other property into which such assets have been transferred.

Section 103.178(d) states that a financial institution's due diligence program for private banking accounts must also include procedures to be followed when due diligence cannot be adequately performed. That is, if the financial institution is unable to take reasonable steps to detect and report possible instances of money laundering, the due diligence program should provide for steps to be taken, including, as appropriate, not opening the account, suspending transaction activity, filing suspicious activity reports, or closing the account.

IV. Request for Comments

Treasury invites comment on all aspects of the proposed regulation, and specifically seeks comment on the following issues:

1. Is the definition of *correspondent account* appropriate for the purposes of this proposal? Should Treasury modify the definition of the term "correspondent account" for certain covered financial institutions?

2. Is the application of the proposed rule to *covered financial institutions* (as defined) appropriate? Do all of these U.S. financial institutions maintain correspondent accounts for foreign financial institutions?

3. Is the inclusion of foreign branches of U.S. depository institutions within the *covered financial institution* definition appropriate? Do other covered financial institutions have foreign branches that maintain correspondent accounts for foreign financial institutions?

4. Is the definition of *foreign financial institution* appropriate? Are there foreign financial institutions that should not be included within the definition? Alternatively, should the regulation apply to correspondent accounts maintained for other types of foreign financial institutions as well?

5. Is the definition of *beneficial ownership interest* sufficiently clear? Should it be further narrowed or clarified?

6. Does the definition of *private banking account* require clarification, for banks, securities or futures firms? Are there other covered financial institutions that maintain private banking accounts? Is the limitation in the statutory definition to accounts that require a minimum deposit of $1,000,000 consistent with the purposes of this provision?

7. Does the definition of *senior foreign political figure* require further clarification? If so, how might this be achieved?

8. Is the exclusion contained in § 103.176(c)(1) from the enhanced due diligence requirements for certain foreign banks operating under offshore banking licenses appropriate? For example, should correspondent accounts for offshore-licensed branches of foreign banks affiliated with covered financial institutions also be excluded from the enhanced due diligence requirement?

9. Should the rule generally adopt a more risk-based approach to the due diligence program and include fewer prescriptive and detailed provisions? Alternatively, should it include more prescriptive provisions in order to ensure that financial institutions will take additional steps to detect and report suspicious activity?

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*), it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule provides guidance to financial institutions concerning the mandated due diligence requirements in section 312. Moreover, the financial institutions covered by the rule tend to be larger institutions. Accordingly, a regulatory flexibility analysis is not required.

VI. Executive Order 12866

This interim final rule is not a "significant regulatory action" as

[8] The only intergovernmental organization that currently designates countries as noncooperative with international anti-money laundering standards is the Financial Action Task Force on Money Laundering (FATF), an intergovernmental body whose purpose is the development of policies, at both the national and international levels, to combat money laundering. The U.S. has concurred in all designations made to date.

[9] As of May 10, 2002, the Federal Reserve has made such a finding with respect to one or more foreign banks chartered in the following jurisdictions: Austria, Belgium, France, Germany, Greece, Italy, Ireland, the Netherlands, Portugal, Spain, Switzerland, the United Kingdom, Canada, Mexico, Argentina, Brazil, Chile, Australia, Hong Kong Special Administrative Region, Israel, Japan, Korea, Taiwan, and Turkey.

[10] *See* 2001 Guidance, Part II.C.

[11] For an enumeration of some risk factors that may warrant further scrutiny, see 2001 Guidance, Part II.D.

defined in Executive Order 12866. Accordingly, a regulatory assessment is not required.

List of Subjects in 31 CFR Part 103

Banks, banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth above, FinCEN is proposing to amend subpart I of 31 CFR Part 103 as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5331; title III, secs. 312, 313, 314, 319(b), 352, Pub. L. 107–56, 115 Stat. 307.

2. Add the undesignated centerheading "ANTI-MONEY LAUNDERING PROGRAMS" immediately before § 103.120.

§ 103.120 [Amended]

3. Section 103.120 is amended as follows:

a. Paragraph (b) is amended by adding "the requirements of §§ 103.176 and 103.178 and" immediately after the words "complies with".

b. Paragraph (c)(1) is amended by adding "the requirements of §§ 103.176 and 103.178 and" immediately after the words "complies with".

4. Add new undesignated centerheadings and §§ 103.175 through 103.178, 103.185, and 103.190 to subpart I to read as follows:

SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS

103.175 Definitions.
103.176 Due diligence programs for correspondent accounts for foreign financial institutions.
103.177 Records concerning owners of foreign banks and agents designated to receive service of legal process; prohibition on correspondent accounts for foreign shell banks. [Reserved]
103.178 Due diligence programs for private banking accounts for non-U.S. persons.

LAW ENFORCEMENT ACCESS TO FOREIGN BANK RECORDS

103.185 Summons or subpoena of foreign bank records. [Reserved]
103.190 Termination of correspondent relationship. [Reserved]

SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS

§ 103.175 Definitions.

Except as otherwise provided, the following definitions apply for purposes of §§ 103.176 through 103.190:

(a) [Reserved]

(b) *Beneficial ownership interest* in an account means:

(1) A noncontingent legal authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account); provided, that a legal authority to fund or to direct payments into an account shall mean a specific contractual or judicial authority to do so; or

(2) A noncontingent legal entitlement to all or any part of the corpus or income of the account, but shall not include any interest of less than the lesser of $1,000,000 or five percent of either the corpus or income of the account.

(c) *Correspondent account* means:

(1) For purposes of § 103.176, an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution; and

(2) [Reserved]

(d) *Covered financial institution* means:

(1) For purposes of §§ 103.176 and 103.178:

(i) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))) and any foreign branch of an insured bank;

(ii) A commercial bank;

(iii) An agency or branch of a foreign bank in the United States;

(iv) A federally insured credit union;

(v) A thrift institution;

(vi) A corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*);

(vii) A broker or dealer registered, or required to register, with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*);

(viii) A futures commission merchant registered, or required to register, under, and an introducing broker as defined in § 1a23 of, the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ix) A casino (as defined in § 103.11(n)(5));

(x) A mutual fund (as defined in § 103.130);

(xi) A money services business (as defined in § 103.11(uu)); and

(xii) An operator of a credit card system (as defined in § 103.135).

(2) [Reserved].

(e) *Foreign bank.* (1) The term *foreign bank* means any organization that:

(i) Is organized under the laws of a foreign country;

(ii) Engages in the business of banking;

(iii) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations; and

(iv) Receives deposits in the regular course of its business.

(2) For purposes of this definition:

(i) The term *foreign bank* includes a branch of a foreign bank in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

(ii) The term *foreign bank* does not include:

(A) An agency or branch of a foreign bank in the United States, other than in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands;

(B) An insured bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands;

(C) A foreign central bank or foreign monetary authority that functions as a central bank; and

(D) The African Development Bank, African Development Fund, Asian Development Bank; Bank for International Settlements, European Bank for Reconstruction and Development, Inter-American Development Bank, International Bank for Reconstruction and Development (the World Bank), International Finance Corporation, International Monetary Fund, North American Development Bank, International Development Association, Multilateral Investment Guarantee Agency, and similar international financial institutions of which the United States is a member or as otherwise designated by the Secretary.

(f) *Foreign financial institution* means a foreign bank and any other person organized under foreign law (other than a branch or office of such person in the United States) which, if organized in the United States, would be required to establish an anti-money laundering program pursuant to §§ 103.120 through 103.169. For purposes of this definition:

(1) The dollar limitations in §§ 103.11(uu)(1) through (4) shall not be taken into account when determining whether a person organized under foreign law would, if organized in the United States, be a money services business required to establish an anti-money laundering program pursuant to § 103.125; and

(2) No person organized under foreign law shall be deemed to be a foreign financial institution by virtue of § 103.11(uu)(6).

(g) [Reserved]

(h) [Reserved]

(i) *Non-United States person* or *non-U.S. person* means an individual who is neither a United States citizen nor a lawful permanent resident as defined in 26 U.S.C. 7701(b)(6).

(j) *Offshore banking license* means a license to conduct banking activities that prohibits the licensed entity from conducting banking activities with the citizens of, or in the local currency of, the jurisdiction that issued the license.

(k) [Reserved]

(l) *Person* has the same meaning as provided in § 103.11(z).

(m) [Reserved]

(n) *Private banking account* means an account (or any combination of accounts) that:

(1) Requires a minimum aggregate amount of funds or other assets of not less than $1,000,000;

(2) Is established on behalf of or for the benefit of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

(3) Is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a covered financial institution acting as a liaison between the covered financial institution and the direct or beneficial owner of the account.

(o) *Senior foreign political figure.* (1) The term *senior foreign political figure* means:

(i) A current or former senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned commercial enterprise;

(ii) A corporation, business or other entity that has been formed by, or for the benefit of, any such individual;

(iii) An immediate family member of any such individual; and

(iv) A person who is widely and publicly known (or is actually known by the relevant covered financial institution) to maintain a close personal or professional relationship with any such individual.

(2) For purposes of this definition:

(i) *Senior official or executive* means an individual with substantial authority over policy, operations, or the use of government-owned resources; and

(ii) *Immediate family member* means a spouse, parents, siblings, children, and a spouse's parents or siblings.

(p) [Reserved]

§ 103.176 Due diligence programs for correspondent accounts for foreign financial institutions.

(a) *In general.* A covered financial institution shall maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report any known or suspected money laundering activity conducted through or involving any correspondent account maintained by such financial institution for a foreign financial institution. Such procedures shall include:

(1) Determining whether the correspondent account is subject to paragraph (b) of this section;

(2) Assessing whether the foreign financial institution presents a significant risk of money laundering, based on any relevant factors;

(3) Considering information available from U.S. governmental agencies and multinational organizations with respect to supervision and regulation, if any, applicable to the foreign financial institution;

(4) Reviewing guidance issued by Treasury or its Federal functional regulator regarding money laundering risks associated with particular foreign financial institutions and correspondent accounts for foreign financial institutions generally; and

(5) Reviewing public information to ascertain whether the foreign financial institution has been the subject of criminal action of any nature, or regulatory action relating to money laundering.

(b) *Enhanced due diligence for certain foreign banks.* In the case of a correspondent account maintained for a foreign bank described in paragraph (c) of this section, the due diligence program required by paragraph (a) of this section shall also include, at a minimum, the following elements:

(1) Enhanced scrutiny of such correspondent account to guard against money laundering and to ensure detection and reporting of known or suspected illegal activity. Enhanced scrutiny shall also include obtaining and reviewing documentation relating to the foreign bank's anti-money laundering program and considering the extent to which such program is reasonably designed to detect and prevent money laundering, and when appropriate shall also include:

(i) Monitoring of transactions through the correspondent account reasonably designed to detect money laundering; and

(ii) Obtaining information from the foreign bank about the identity of any persons that will have authority to direct transactions through the correspondent account, and the sources and beneficial ownership of funds or other assets of such persons in the correspondent account.

(2) A determination whether the foreign bank holding the account maintains correspondent accounts for other foreign banks. If the foreign bank does maintain correspondent accounts for other foreign banks, the due diligence program required by paragraph (a) of this section shall provide for:

(i) Documentation of the identity of the other foreign banks for which the foreign bank maintains correspondent accounts; and

(ii) Policies and procedures for assessing and minimizing risks associated with the foreign bank's correspondent accounts for other foreign banks.

(3)(i) For any foreign bank whose shares are not publicly traded, the identification of each owner of the foreign bank and the nature and extent of each owner's ownership interest.

(ii) For purposes of paragraph (b)(3)(i) of this section:

(A) *Owner* means any person who directly or indirectly owns, controls, or has voting power over 5 percent or more of any class of securities of a foreign bank; and

(B) *Publicly traded* means shares that are traded on an exchange or an organized over-the-counter market that is regulated by a foreign securities authority as defined in section 3(a)(50) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(50)).

(c) *Foreign banks to be accorded enhanced due diligence.* The due diligence program elements of paragraph (b) of this section are required for any correspondent account maintained for a foreign bank that operates under:

(1) An offshore banking license, other than a branch of a foreign bank if such foreign bank:

(i) Does not fall within paragraph (c)(2) or (3) of this section; and

(ii) Has been found, or is chartered in a jurisdiction where one or more foreign banks have been found, by the Board of Governors of the Federal Reserve System under the Bank Holding Company Act or the International Banking Act, to be subject to comprehensive supervision or regulation on a consolidated basis by the relevant supervisors in that jurisdiction;

(2) A license issued by a foreign country that has been designated by an intergovernmental group or organization to which the United States belongs as noncooperative with international anti-money laundering principles or procedures and with which designation the U.S. representative concurs; or

(3) A license issued by a foreign country that Treasury has identified (by regulation or other public issuance) as warranting special measures due to money laundering concerns.

(d) *Special procedures when due diligence cannot be performed.* The due diligence program required by paragraph (a) of this section shall include procedures to be followed in circumstances in which a covered financial institution cannot perform appropriate due diligence with respect to a correspondent account, including when the institution should refuse to open the account, suspend transaction activity, file a suspicious activity report, or close the account.

§ 103.177 Records concerning owners of foreign banks and agents designated to receive service of legal process; prohibition on correspondent accounts for foreign shell banks. [Reserved]

§ 103.178 Due diligence programs for private banking accounts for non-U.S. persons.

(a) *In general.* A covered financial institution shall maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering conducted through or involving any private banking account maintained by such financial institution in the United States by or on behalf of a non-U.S. person.

(b) *Minimum requirements.* The due diligence program required by paragraph (a) of this section shall, at a minimum, ensure that the financial institution takes reasonable steps to:

(1) Ascertain the identity of all nominal holders and holders of any beneficial ownership interest in the private banking account, including information on those holders' lines of business and source of wealth;

(2) Ascertain the source of funds deposited into the private banking account;

(3) Ascertain whether any such holder may be a senior foreign political figure; and

(4) Report, in accordance with applicable law and regulation, any known or suspected violation of law conducted through or involving the private banking account.

(c) *Special requirements for senior foreign political figures.* (1) In performing the due diligence program required by paragraph (a) of this section:

(i) If a covered financial institution learns of information indicating that a particular individual may be a senior foreign political figure, it should exercise reasonable diligence in seeking to determine whether the individual is, in fact, a senior foreign political figure.

(ii) If a covered financial institution does not learn of any information indicating that an individual may be a former senior foreign political figure, and the individual states that he or she is not a former senior foreign political figure, the financial institution may rely on such statement in determining whether the account is subject to the due diligence requirements of paragraph (c)(2) of this section.

(2) In the case of any private banking account for which a senior foreign political figure is a nominal holder or holds a beneficial ownership interest, the due diligence program required by paragraph (a) of this section shall include policies and procedures reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

(3) For purposes of this paragraph (c), the term *proceeds of foreign corruption* means assets or property that are acquired by, through, or on behalf of a senior foreign political figure through misappropriation, theft or embezzlement of public funds, or the unlawful conversion of property of a foreign government, or through acts of bribery or extortion, and shall include other property into which such assets have been transformed or converted.

(d) *Special procedures when due diligence cannot be performed.* The due diligence program required by paragraph (a) of this section shall include procedures to be followed in circumstances in which a covered financial institution cannot perform appropriate due diligence with respect to a private banking account, including when the institution should refuse to open the account, suspend transaction activity, file a suspicious activity report, or close the account.

LAW ENFORCEMENT ACCESS TO FOREIGN BANK RECORDS

§ 103.185 Summons or subpoena of foreign bank records.

[Reserved]

§ 103.190 Termination of correspondent relationship.

[Reserved]

Dated: May 22, 2002.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 02–13411 Filed 5–29–02; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–054]

RIN 2115–AE47

Drawbridge Operation Regulations; Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the Long Beach Bridge, at mile 4.7, across Reynolds Channel, New York. This proposed temporary change to the drawbridge operation regulations would allow the bridge to operate only one lift span for openings to be granted at specific times after a one-hour notice is given. The bridge also would be closed at night from 11 p.m. to 5 a.m., daily. Two five-day bridge closures between September 30, 2002 and April 30, 2003, will also be required. This action is necessary to facilitate structural repairs at the bridge.

DATES: Comments must reach the Coast Guard on or before July 29, 2002.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–054), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

The Long Beach Bridge has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water. The existing regulations are listed at 33 CFR 117.799(g).

The bridge owner, Nassau County Department of Public Works, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate structural repairs at the bridge. The bridge will not be able to open both spans at all times for vessel traffic during these repairs and will be closed to marine traffic during other periods. Single-leaf openings will occur on the even hours 8 a.m. to 4 p.m., daily, after a one-hour notice is given and the bridge will be closed daily from 11 p.m. and 5 a.m. Additionally, two Monday through Friday, five day closures will be required between September 30, 2002 and April 30, 2003, to perform several phases of the bridge structural repairs. The single span, timed opening schedule, advance notice and closure periods are necessary in order to perform the required repair work.

Discussion of Proposal

This proposed temporary change to the drawbridge operation regulations would allow the bridge to operate, from September 3, 2002 through June 30, 2003, as follows:

Only one span need be opened for vessel traffic on the even hour from 8 a.m. to 4 p.m., daily, after at least a one-hour advance notice is given.

The draw need not open from 11 p.m. to 5 a.m., daily.

The draw need not open for vessel traffic for two Monday through Friday five-day periods between September 30, 2002 and April 30, 2003, each to be announced in the Local Notice to Mariners as well as in a Broadcast Notice to Mariners.

The total number of bridge openings indicated in the bridge opening logs show two or less openings daily on weekdays with a small increase on weekends.

The Coast Guard believes this rulemaking is reasonable based upon the relatively low number of bridge openings at this bridge during past years and the fact that this work is vital, necessary maintenance required to assure continued safe operation of the bridge.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that there have been few requests to open the bridge historically.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that there have been few requests historically.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant

Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From September 3, 2002 through June 30, 2003, § 117.799 is amended by suspending paragraph (g) and adding a new paragraph (j) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(j) The Long Beach Bridge, mile 4.7, across Reynolds Channel, shall open on signal; except that:

(1) Only one lift span need be opened for vessel traffic, on the even hour, 8 a.m. to 4 p.m., daily, after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) The draw need not open for vessel traffic from 11 p.m. to 5 p.m., daily.

(3) The draw need not open for vessel traffic for two periods of five consecutive days between September 30, 2002 and April 30, 2003, to be announced in the Local Notice to Mariners and in a Broadcast Notice to Mariners.

Dated: May 13, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–13512 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–02–014]

RIN 2115–AE47

Drawbridge Operation Regulation; Northeast Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the regulations that govern the operation of the Isabel S. Holmes Bridge across the Northeast Cape Fear River, mile 1.0, in Wilmington, North Carolina. The proposed rule will reduce the number of bridge openings for transit of pleasure craft during a four-year bridge repair project. This change would reduce traffic delays while still providing for the reasonable needs of navigation.

In addition, an administrative correction is being made to the name of the waterway in 33 CFR Part 117.829. The "Northeast River" will be changed to the "Northeast Cape Fear River".

DATES: Comments and related material must reach the Coast Guard on or before July 29, 2002.

ADDRESSES: You may mail comments and related material to Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The Commander (Aowb), Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–02–014), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Commander, Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Isabel S. Holmes Drawbridge is owned and operated by the North Carolina Department of Transportation (NCDOT). The regulation in 33 CFR 117.5 requires the bridge to open promptly and fully once a request to open is received. When the bridge is closed there is 40 feet of vertical clearance.

The Isabel S. Holmes Bridge crosses the Northeast Cape Fear River. It makes connections with Route 133 and the US–17 corridor, which supports the general north/south flow of traffic through the region. The bridge is one of two river crossings under high vehicular use in the region. According to figures from 1999, approximately 19,000 vehicles pass over the bridge every day. Between 1999 and the present, an average of 12 pleasure craft per month

transited the area and required bridge openings between the hours of 6 a.m. and 6 p.m. Motorists do not have an alternate route when traveling this stretch of highway unless they drive several traffic congested miles. Boaters do not have an alternate route to transit this waterway when the drawbridge is closed.

NCDOT requested permission to decrease the number of openings for pleasure craft to avoid excessive/hazardous traffic back-ups during repairs. NCDOT proposes an inter-modal compromise that would limit the times of draw openings during hours of bridge repair. NCDOT asserts that by closing the bridge to pleasure craft during daytime hours, except for two scheduled openings per day for waiting vessels, vehicular traffic congestion will be reduced and highway safety will be enhanced. NCDOT provided statistical data, which supports the traffic counts for a two-way four-lane bridge being changed to a two-way two-lane bridge. The data also revealed that the draw was opened an average of 12 times/month for pleasure craft, between the hours of 6 a.m. and 6 p.m. Overall, the Coast Guard believes that closure during the proposed time periods would not overburden recreational marine traffic while allowing the continued use of two lanes for the two-way flow of vehicular traffic.

33 CFR 117.829 currently regulates the scheduled opening of the Seaboard System Railroad Bridge across Northeast Cape Fear River at mile 27.0. The existing regulatory text contains no paragraph number. The regulatory text describes the "Northeast River." This regulation is incorrectly titled the "Northeast River." The proposed rule for the Isabel S. Holmes Bridge will be included in the same section.

Discussion of Proposed Rule

This proposed rule will be in place for four years while bridge repairs are conducted. The bridge must remain usable during repairs to avoid traffic hazards, increased traffic from the Smith Creek Parkway and any other potential local economic impacts. It must also remain operational to accommodate the needs of navigation.

The draw currently opens on signal. The proposed rule will allow the draw to remain closed to pleasure craft from 6 a.m. to 6 p.m., except at 10 a.m. and 2 p.m. when the draw will be opened. The draw will open on signal 24 hours/day to Government and commercial vessels. The draw will open on signal for all waiting vessels between 6 p.m. and 6 a.m. The new schedule will be effective seven days per week.

The proposed rule changes the name of the waterway from the "Northeast River" to the "Northeast Cape Fear River." The name change will accurately reflect the name of this waterway.

The proposed regulation will designate the current regulatory text at 33 CFR 117.829 as paragraph (b). The current regulatory text will be revised to refer to the "Northeast Cape Fear River" rather than the "Northeast River."

Regulatory Evaluation

This proposed temporary rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

We reached this conclusion based on the fact that the proposed changes will not impede maritime traffic transiting the bridge, but merely require mariners to plan their transits in accordance with the scheduled bridge openings, while still providing for the needs of the bridge owner.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed temporary rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed temporary rule would not have a significant economic impact on a substantial number of small entities.

This proposed temporary rule would not have a significant economic impact on a substantial number of small entities because the regulation does not restrict the movement of commercial navigation, but only restricts the movement of pleasure craft (approx. 12 openings/month). In addition, to avoid any potential restriction to navigation, maritime advisories will be widely available to users of the river.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed temporary rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398–6222.

Collection of Information

This temporary proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed temporary rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed temporary rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed temporary rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference

with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed temporary rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed temporary rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed temporary rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed temporary rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed temporary rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The proposed temporary rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub.L.102–587, 106 Stat. 5039.

2. Section 117.829 is revised to read as follows:

§ 117.829 Northeast Cape Fear River.

(a) The draw of the Isabel S. Holmes Bridge, at mile 1.0, at Wilmington, North Carolina will operate as follows:

(1) The draw will be closed to pleasure craft from 6 a.m. to 6 p.m. every day except at 10 a.m. and 2 p.m. when the draw will open for all waiting vessels.

(2) The draw will open on signal for Government and commercial vessels at all times.

(3) The draw will open for all vessels on request signal from 6 p.m. to 6 a.m.

(b) The draw of the Seaboard System Railroad Bridge across the Northeast Cape Fear River, mile 27.0, at Castle Hayne, North Carolina shall open on signal if at least 4 hours notice is given.

Dated: May 16, 2002.

James D. Hull,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 02–13510 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–005]

RIN 2115–AA97

Security Zones; Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish four permanent security zones on the navigable waters of Lake Ontario and the St. Lawrence River in the Captain of the Port Buffalo Zone. These security zones are necessary to protect nuclear power plants and the St. Lawrence Seaway system from possible acts of terrorism. These security zones are intended to restrict vessel traffic from a portion of the St. Lawrence River and Lake Ontario.

DATES: Comments and related material must reach the Coast Guard on or before July 1, 2002.

ADDRESSES: You may mail comments to U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203. The telephone number is (716) 843–9570. Marine Safety Office Buffalo maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LCDR David Flaherty, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843–9574.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–02–005), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office Buffalo at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely.

This proposed rule would establish four permanent security zones: (1) Nine Mile Point and Fitzpatrick Nuclear Power Plants; (2) Moses-Saunders Power Dam; (3) Long Sault Spillway Dam; and (4) Ginna Nuclear Power Plant.

These security zones are necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Buffalo, or his designated representative, would be prohibited from entering or moving within this zone. The Captain of the Port Buffalo, or his on scene representative, may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. In addition to publication in the **Federal Register**, the public will be made aware of the existence of these security zones, exact locations, and the restrictions involved via Local Notice to Mariners and Broadcast Notice to Mariners.

Discussion of Proposed Rule

Following the catastrophic nature and extent of damage realized from the attacks of September 11, this proposed rulemaking is necessary to protect the national security interests of the United States against future attacks.

On September 27, 2001, we published several temporary final rules establishing the following security zones: on the waters of Lake Ontario around Nine Mile Point and Fitzpatrick Nuclear Power Plants (66 FR 49285); on the waters of the St. Lawrence River around the Moses-Saunders Power Dam (66 FR 49288); and on the waters of Lake Ontario around Ginna Nuclear Power Plant (66 FR 49284).

This current rulemaking proposes to establish permanent security zones that are smaller in size in place of those temporary security zones already established for the Moses-Saunders Power Dam and the Ginna Nuclear Power Plant.

This proposed rule would establish an additional security zone on the St. Lawerence River around the Long Sault Spillway Dam. Currently, a security zone is not in place surrounding the spillway.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has exempted it from review under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The proposed security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would not obstruct the regular flow of commercial traffic and would allow vessel traffic to pass around the security zones.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action, therefore it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.T09–999 [Removed]

2. Remove § 165.T09–999.

§ 165.T09–101 [Removed]

3. Remove § 165.T09–101.

§ 165.T09–103 [Removed]

4. Remove § 165.T09–103.

5. Add § 165.911 to read as follows:

§ 165.911 Security Zones; Captain of the Port Buffalo Zone.

(a) *Location.* The following are security zones:

(1) *Nine Mile Point and Fitzpatrick Nuclear Power Plants.* The waters of Lake Ontario bounded by the following area, starting at 43°30.8′ N, 076°25.7′ W; then north to 43°31.2′ N, 076°25.7′ W; then east-northeast to 43°31.6′ N, 076°24.9′ W; then east to 43°31.8′ N, 076°23.2′ W; then south to 43°31.5′ N, 076°23.2′ W; and then following the shoreline back to the point of origin (NAD 83).

(2) *Ginna Nuclear Power Plant.* The waters of Lake Ontario bounded by the following area, starting at 43°16.9′ N, 077°18.9′ W; then north to 43°17.3′ N, 077°18.9′ W; then east to 43°17.3′ N, 077°18.3′ W; then south to 43°16.7′ N, 077°18.3′ W; then following the shoreline back to starting point (NAD 83).

(3) *Moses-Saunders Power Dam.* The waters of the St. Lawrence River bounded by the following area, starting at 45°00.73′ N, 074°47.85′ W; southeast following the international border to 45°00.25′ N, 074°47.56′ W; then southwest to 45°00.16′ N, 074°47.76′ W; then east to the shoreline at 45°00.16′ N, 074°47.93′ W; then northwest to 45°00.36′ N, 074°48.16′ W; then northeast back to the starting point (NAD 83).

(4) *Long Sault Spillway Dam.* The waters of the St. Lawrence River bounded by the following area, starting at 44°59.5′ N, 074°52.0′ W; north to 45°00.0′ N, 074°52.0′ W; east to 45°00.0′ N, 074°51.6′ W, then south to 44°59.5′ N, 074°51.6′ W; then west back to the starting point (NAD 83).

(b) *Regulations.* (1) In accordance with § 165.33, entry into these zones is prohibited unless authorized by the Coast Guard Captain of the Port Buffalo.

(2) Persons desiring to transit the area of the Nine Mile Point and Fitzpatrick Nuclear Power Plants or Ginna Nuclear Power Plant security zones must contact the Captain of the Port Buffalo at telephone number (716) 843–9570, or on VHF/FM channel 16 to seek permission to transit the area. Persons desiring to transit the area of the Moses-Saunders Power Dam or Long Sault Spillway Dam security zones must contact the Supervisor, Marine Safety Detachment Massena at telephone number (315) 764–3284, or on VHF/FM channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: May 17, 2002.

S.D. Hardy,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 02–13515 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB DOCKET NO. 02–30; FCC 02–37]

Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (FCC) is proposing to terminate its Alaska Bush Earth Station Policy. The policy bars telephone carriers from obtaining licenses to install and operate satellite earth stations to provide interexchange service in any rural Alaskan community of less than 1,000 population where such service is already available through a satellite link provided by another carrier. The Bush Policy, which stems from a 1972 decision, is an exception to the FCC's current general policy of allowing facilities-based competition in carriage of interstate, interexchange telephone calls. Last year the Regulatory Commission of Alaska repealed a mirror-image regulation barring facilities-based competition in carriage of intrastate calls to or from Bush communities. The Commission contends that no showing has ever been made that the Bush exception to the general pro-competition policy is necessary to protect the public interest. The intended effect is to invites public comment on this proposal.

DATES: Comment are due on or before July 1, 2002 and reply comment are due on or before July 15, 2002.

ADDRESSES: Electronic comments may be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed though the ECFS can be sent as an electronic file via Internet to *http://www.fcc.gov/e-file/ecfs.html*. All other filing must be sent to Office of Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–A325; Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William Bell at (202) 418–0771. Internet: *wbell@fcc.gov*, International Bureau, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) CC Docket No. 92–297, FCC 01–164, adopted May 22, 2001 and released on May 24, 2001. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893; facsimile (202) 863–2898 or via e-mail *qualexint@aol.com*. It is also available on the commission's Web site at *http://www.fcc.gov*.

Summary of the Notice of Proposed Rulemaking

The Bush Policy is an isolated exception to the Commission's interstate MTS open-entry policy. The Commission adopted the restrictive Bush Policy on the basis of a finding that applications for "duplicative" Bush earth stations were mutually exclusive. The finding was made before the advent of MTS competition, and was based on a regulatory policy designed to prevent monopoly carriers from building unneeded facilities in order to obtain larger disbursements from pooled MTS revenues at the expense of other carriers and ratepayers. We see no reason to continue to prevent non-dominant carriers from investing in facilities at their own expense to compete with a carrier with an established facilities monopoly.

We believe that in the current environment—particularly now that the Alaska Commission has eliminated the parallel intrastate entry barrier—it is time to remove the remaining barrier against facilities-based interstate MTS competition in Bush Alaska. We expect that facilities-based competition in the provision of interstate MTS in Bush communities will produce public interest benefits of the same kind that the Commission envisioned when it adopted the general open-entry policy for the interstate MTS market, that the Bureau envisioned when granting GCI's waiver request, and that the Alaska Commission envisioned when it repealed §§ 52.355 of the Commission's rules. As the Commission observed in the MTS–WATS Second Report and Order, 47 FR 54944–01, November 30, 1982 moreover, even the mere possibility of facilities-based competition would establish an incentive for Alascom to operate more efficiently. The potential for such competition would also tend to deter Alascom from overcharging for use of its facilities to provide interstate MTS to subscribers in Bush communities or to complete calls to Bush residents from subscribers in other states.

We invite comment from interested members of the public on our proposal to eliminate the Bush Policy. Any commenter advocating retention of the Policy should demonstrate with clear and convincing evidence that allowing installation and operation of Bush earth stations for facilities-based interstate MTS competition would result in impairment of the quality of service, reduction of the availability of service, or increased cost burdens for ratepayers.

I. Conclusion

Accordingly, we propose to abolish the Alaska Bush Policy. This will eliminate a significant regulatory entry barrier to facilities-based competition in provision of interstate MTS service, advancing a deregulatory process begun two decades ago that has proven enormously beneficial to the general public.

II. Procedural Matters

A. Ex Parte Presentations

This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission rules.

B. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended, ("RFA"), 5 U.S.C. 601, *et seq.* requires preparation of an Initial Regulatory Flexibility Analysis ("IRFA") for comments on proposed rulemaking proceedings, unless the agency certifies that the proposed rules would not have significant economic impact on "a substantial number" of "small entities." The RFA generally defines "small entity" as having the same meaning as the term "small business concern" under the Small Business Act—i.e., a business firm that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Such analysis or certifications need only address the impact on small businesses that would be directly regulated under the proposed rules.

In this Notice of Proposed Rulemaking, the Commission proposes to repeal a regulatory policy that prevents companies from obtaining licenses to operate earth stations in rural Alaska that would carry telephone calls between users in certain Alaskan communities and users in other states if such service is already available in those communities via facilities provided by an established carrier. Because this proposed policy change would not impose any regulatory burden, we certify that it would not have a significant direct impact on a substantial number of small businesses. Anyone who believes that the proposal discussed in this NPRM requires additional RFA analysis may raise that contention in comments filed pursuant to the procedure specified in the next paragraph, labeling the discussion on point as "RFA Comments." The Commission will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy will also be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

C. Deadlines and Instructions for Filing Comments

Members of the public may file comments on the Further Notice of Proposed Rulemaking. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 1, 2002, and reply comments are due on or before July 15, 2002. Comments may be filed using the Commission's electronic comment Filing System (ECFS) or be filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of

an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electric copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "et form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the filing. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capital Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested persons must file an original and four copies of all comments, reply comments, and supporting comments. Those who want each Commissioner to receive a personal copy of their comments should file an original plus nine copies. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Persons not filing via ECFS are encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Interested persons may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, send an e-mail to *ecfs@fcc.gov*, including the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

Those filing paper comments must submit an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, and Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. Comments are also available on the ECFS, at *https://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts*.

III. Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(f), 303(g), and 303(r), GCI's Petition for Rulemaking filed on January 10, 1990 *is granted* and this *Notice of Proposed Rulemaking is adopted*.

It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *Notice of Proposed Rulemaking* to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–13298 Filed 5–29–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI51

Endangered and Threatened Wildlife and Plants; Listing of the Flat-Tailed Horned Lizard as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reinstated proposed rule; reopening of comment period and announcement of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). The reopened comment period will allow all interested parties to submit written comments on the proposal. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final determination. Additionally, we are announcing that public hearings will be held on the proposed listing determination. Because of budgetary constraints, we are only able to hold public hearings on June 19, 2002, as described below. We welcome all substantive comments and want to stress that written comments on the proposal are given equal consideration as verbal comments presented at the public hearings.

DATES: The original public comment period on the proposed listing determination closed on June 9, 1997, and the second comment period on the reinstated proposed listing determination closed on April 25, 2002. The public comment period is reopened, and we will accept comments until July 29, 2002. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action. The public hearings will be held on June 19, 2002, from 1:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 8:00 p.m. in El Centro, California.

ADDRESSES: *Public Hearings:* The public hearings will be held at Southwest High School Performing Arts Theatre, 2001 Ocotillo Drive, El Centro, CA.

Comments: If you wish to comment on the reinstated proposed rule or provide additional information concerning the status and distribution of the species, as well as information pertaining to threats to the species or its habitat, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information by mail or hand delivery to Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, CA 92008.

2. You may send comments by electronic mail (e-mail) to fthl@r1.fws.gov. Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760/431–9440.

Document Availability: Comments and materials received, as well as supporting documentation used in the preparation of the proposed rule and subsequent withdrawal, and additional information obtained since the withdrawal that will be used for this final determination are available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the above address.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Branch Chief, Listing, or Sandy Vissman, Wildlife Biologist, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section; telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION: The flat-tailed horned lizard is a small, cryptically colored lizard that reaches a maximum adult body length (excluding the tail) of approximately 81 millimeters (3.2 inches). The lizard has a flattened body, short tail, and dagger-like head spines like other horned lizards. It is distinguished from other horned lizards in its range by a dark vertebral stripe, two slender elongated occipital spines, and the absence of external ear openings. The upper surface of the flat-tailed horned lizard is pale gray to light rusty brown. The underside is white and unmarked, with the exception of a prominent umbilical scar.

The flat-tailed horned lizard is endemic (restricted) to the Sonoran Desert in southern California and Arizona and in northern Mexico. The species inhabits desert areas of southern Riverside, eastern San Diego, and Imperial counties in California; southwestern Arizona; and adjacent regions of northwestern Sonora and northeastern Baja California Norte, Mexico. Within the United States, populations of the flat-tailed horned lizard are concentrated in portions of the Coachella Valley, Ocotillo Wells, Anza Borrego Desert, West Mesa, East Mesa, and the Yuma Desert in California; and the area between Yuma and the Gila Mountains in Arizona. The flat-tailed horned lizard occurs at elevations up to 520 meters (m) (1,700 feet (ft)) above sea level, but most populations are below 250 m (820 ft) elevation.

According to Hodges (1997), approximately 51.2 percent of the historic range of the flat-tailed horned lizard habitat within the United States remains. This remaining habitat includes an estimated 503,500 hectares (ha) (1,244,000 acres (ac)) of habitat in the United States, of which approximately 56,800 ha (140,300 ac) occur in Arizona and 446,670 ha (1,103,800 ac) occur in California. Within this range, the lizard typically occupies sparsely vegetated, sandy desert flatlands with low plant species diversity, but it is also found in areas with small pebbles or desert pavement, mud hills, dunes, alkali flats, and low, rocky mountains.

Based on information obtained since the withdrawal of the proposed listing rule and the information documented in the proposed rule itself, threats to the flat-tailed horned lizard may include one or more of the following: commercial and residential development, agricultural development, off-highway vehicle activity, energy developments, military activities, introduction of nonnative plants, pesticide use, and border patrol activities along the United States-Mexico border.

In 1982, we first identified the flat-tailed horned lizard as a category 2 candidate species for listing under the Act (47 FR 58454). Service regulations defined category 2 candidate species as "taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules." In 1989, we elevated the species to category 1 status (54 FR 554). Category 1 included species "for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule." Subsequently, on November 29, 1993, we published a proposed rule to list the flat-tailed horned lizard as a threatened species pursuant to the Act (58 FR 62624).

On May 16, 1997, in response to a lawsuit filed by the Defenders of Wildlife to compel us to make a final listing determination on the flat-tailed horned lizard, the United States District Court for the District of Arizona ordered us to issue a final listing decision within 60 days. A month after the District Court's order, several State and Federal agencies signed a Conservation Agreement (CA) implementing a recently completed range-wide management strategy to protect the flat-tailed horned lizard. Pursuant to the CA, cooperating parties agreed to take voluntary steps aimed at "reducing threats to the species, stabilizing the species' populations, and maintaining its ecosystem."

On July 15, 1997, we issued a final decision to withdraw the proposed rule to list the flat-tailed horned lizard as a threatened species (62 FR 37852). The withdrawal was based on three factors: (1) population trend data did not conclusively demonstrate significant population declines; (2) some of the threats to the flat-tailed horned lizard habitat had grown less serious since the proposed rule was issued; and (3) the belief that the recently approved "conservation agreement w[ould] ensure further reductions in threats."

Six months following our withdrawal of the proposed listing rule, the Defenders of Wildlife filed a lawsuit challenging our decision. On June 16, 1999, the United States District Court for the Southern District of California granted summary judgment in our favor upholding our decision not to list the flat-tailed horned lizard. However, on July 31, 2001, the Ninth Circuit Court of Appeals reversed the lower court's ruling and directed the District Court to remand the matter back to us for further consideration in accordance with the legal standards outlined in its opinion. On October 24, 2001, the District Court ordered us to reinstate the previously effective proposed listing rule within 60 calendar days and to make a final listing decision within 12 months of reinstating the proposed listing. On December 26, 2001, we published a notice announcing the reinstatement of the 1993 proposed listing of the flat-tailed horned lizard as threatened and the opening of a 120–day public comment period on the reinstated proposed rule (66 FR 66384).

This notice announces the reopening of the public comment period on this proposed rulemaking. The public comment period is being opened for 60 days to hold public hearings on the proposed listing of the flat-tailed horned

lizard as a threatened species, accept public comment on the reinstated proposed rule, and collect updated information concerning its ecology and distribution, threats, conservation/management actions, and any additional available information to assist us in making a final listing determination based on the best scientific and commercial data available.

We are specifically seeking information about the flat-tailed horned lizard and its habitat concerning: (1) threats to the species as a whole or to local populations and its habitat, (2) the size, number, and/or distribution of known populations, (3) sufficiency of current conservation/management and regulatory mechanisms for the flat-tailed horned lizard and its habitat, and (4) the conservation value of different populations across the range of the species.

Author

The primary author of this notice is Douglas Krofta, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 3, 2002.

Thomas O. Melius,

Acting Director, Fish and Wildlife Service.

[FR Doc. 02–13533 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 67, No. 104

Thursday, May 30, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–059–1]

Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the control of yellow starthistle, *Centaurea solstitialis* (Asteraceae). The environmental assessment considers the effects of, and alternatives to, the release of a nonindigenous rust fungus, *Puccinia jaceae* var. *solstitialis* (Urendinales), into the environment for use as a biological control agent to reduce the severity of yellow starthistle infestations. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 1, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–059–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–059–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02–059–1" on the subject line.

You may read any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Divan, Plant Pathologist, PPD, APHIS, 4700 River Road Unit 135, Riverdale, MD 20737–1236; (301) 734–3367.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) is considering an application from the California Department of Food and Agriculture (CDFA) for a permit to release a nonindigenous rust fungus, *Puccinia jaceae* var. *solstitialis* (Urendinales), in California to reduce the severity of yellow starthistle (YST), *Centaurea solstitialis*, infestations.

YST is an exotic weed that has become one of California's worst pests since its introduction prior to 1860. Since then, it has spread steadily throughout California and other western States. YST infests rangelands, orchards, vineyards, pastures, parks, and natural areas. Uncontrolled, it dominates the local plant community. It is capable of invading undisturbed areas.

APHIS has completed an environmental assessment that considers the effects of, and alternatives to, releasing *P. jaceae* var. *solstitialis* into the environment as part of a biological control program to reduce the severity of YST infestations. There are currently several control methods for YST, including mowing, timed grazing, prescribed burns, and other methods. However, these approaches are very expensive, may damage the environment, and take several years to be effective. The United States Department of Agriculture's Agricultural Research Service and CDFA are cooperatively developing biological controls for YST. We anticipate that biological control will significantly reduce control costs and possibly permanently reduce the abundance and impact of YST.

APHIS' review and analysis of the potential environmental impacts associated with releasing this biological control agent into the environment are documented in detail in an environmental assessment entitled "Field Release of a Rust Fungus, *Puccinia jaceae* var. *solstitialis* (Urendinales), For Biological Control of Yellow Starthistle, *Centaurea solstitialis* (Asteraceae)" (April 2002). We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive by the date listed under the heading **DATES** at the beginning of this notice.

You may request copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice.)

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 23rd day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–13530 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farmland Protection Program

AGENCY: Commodity Credit Corporation, Department of Agriculture (USDA).

ACTION: Notice of request for proposals.

SUMMARY: Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 established the Farmland Protection Program (FPP). The Secretary of Agriculture delegated the authority for FPP to the Chief of the Natural Resources Conservation Service (NRCS), who is a vice president of the Commodity Credit Corporation (CCC). Section 2503 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) amended the Food Security Act of 1985 to include FPP, providing up to $50 million in financial and technical assistance for the purposes described in FPP. The CCC requests proposals from federally recognized Indian tribes, States, units of local government, and nongovernmental organizations to cooperate in the acquisition of conservation easements or other interests in farms and ranches. Eligible land includes farm and ranch land that has prime, unique, or other productive soil, or that contains historical or archaeological resources. These lands must also be subject to a pending offer from eligible entities for the purpose of protecting topsoil by limiting conversion of that land to nonagricultural uses.

DATES: Proposals must be received in the NRCS State Office by July 15, 2002.

ADDRESSES: Written proposals should be sent to the appropriate NRCS State Conservationist, Natural Resources Conservation Service, USDA. The telephone numbers and addresses of the NRCS State Conservationists are in the appendix of this notice.

FOR FURTHER INFORMATION CONTACT: Douglas J. Lawrence, NRCS; phone: (202) 720–1510; fax: (202) 720–0745; or e-mail: *doug.lawrence@usda.gov;* Subject: FPP or consult the NRCS Web site at: *http://www.nrcs.usda.gov/programs/farmbill/2002/PubNotc.html.*

SUPPLEMENTARY INFORMATION:

Background

Urban sprawl continues to threaten the Nation's farmland. Social and economic changes over the past three decades have influenced the rate at which land is converted to non-agricultural uses. Population growth, demographic changes, preferences for larger lots, expansion of transportation systems, and economic prosperity have contributed to increases in agricultural land conversion rates.

The amount of farmland lost to development is not the only significant concern. Another cause for concern is the quality and pattern of farmland being converted. In most States, prime farmland is being converted at two to four times the rate of other, less-productive agricultural land.

There continues to be an important national interest in the protection of farmland. Land use devoted to agriculture provides an important contribution to environmental quality, protection of the Nation's historical and archaeological resources, and scenic beauty.

Availability of Funding

Effective on the publication date of this notice, the CCC announces the availability of up to $50 million for FPP, until September 30, 2002. The CCC, acting through the applicable NRCS State Conservationist, must receive proposals for participation within 45 days of the date of this notice. State, tribal, and local government entities and nongovernmental organizations may apply.

Selection will be based on the criteria established in this notice and additional criteria developed by the applicable State Conservationist. Selected eligible entities may receive no more than 50 percent of the appraised fair market value for each conservation easement from FPP. A landowner donation of up to 25 percent of the appraised fair market value of the conservation easement or other interest in land may be considered part of the entity's matching offer. Where a landowner's donation is considered to be part of an entity's matching offer, the entity is required to match the landowner's donation with 25 percent of the appraised fair market value of the easement or 50 percent of the purchase price. Pending offers by an eligible entity must be for acquiring an easement for perpetuity except where State law prohibits a permanent easement.

Definitions

For the purposes of this notice, the following definitions apply:

Chief means the Chief of NRCS, USDA.

Conservation plan means the document that—

- Applies to highly erodible cropland;
- Describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules; and
- Is approved by the local soil conservation district in consultation with the local communities established under section 8 (b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Natural Resources Conservation Service (NRCS) for purposes of compliance with 7 CFR Part 12.

Eligible entities means federally recognized Indian tribes, States, units of local government, and nongovernmental organizations that have pending offers for acquiring conservation easements for the purpose of protecting agricultural use.

Eligible land is land on a farm or ranch that has prime, unique, statewide, or locally important soil, or contains historical or archaeological resources, and is subject to a pending offer by an eligible entity. Eligible land includes cropland, rangeland, grassland, pastureland, and incidental forest land that is an incidental part of an agricultural operation. Other incidental land that would not otherwise be eligible, but when considered as part of a pending offer, may be considered eligible if inclusion of such land would significantly augment protection of the associated eligible farmland.

Fair market value of the conservation easement is ascertained through standard real property appraisal methods. Fair market value is the amount in cash, for which in all probability the easement or other interest in land would have sold on the effective date of the appraisal, after a reasonable exposure of time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

Farmland that is of statewide or local importance is land used to produce food, feed, fiber, forage, or oilseed crops. The appropriate State or local government agency determines statewide or locally important farmland with concurrence from the Secretary.

Field Office Technical Guide (FOTG) contains the official NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Historic and archaeological resources are—

- Listed in the National Register of Historic Places established under the National Historic Preservation Act (NHPA), 16 U.S.C. 470, *et seq.*, or
- Formally determined eligible for listing in the National Register of Historic Places by the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and the Keeper of the National Register in accordance with Section 106 of the NHPA, or
- Formally listed in the State or Tribal Register of Historic Places of the SHPO that is designated under Section 101 (b)(1)(B) of the NHPA or the THPO that is designated under Section 101(d)(1)(C) of the NHPA.

Land Evaluation and Site Assessment (LESA) is the Federal land evaluation site assessment system used to rank land. The ranking is based on soil potential for agriculture, as well as social and economic factors, such as location, access to market, and adjacent land use.

Nongovernmental organization is any organization that—

- is organized for, and at all times since the formation of the organization, has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;
- is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code;
- is described in section 509(a)(2) of that Code; or
- is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

Pending offer is a written bid, contract, commitment, or option extended to a landowner by one or more eligible entities to acquire a conservation easement or other interest in land for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, without intolerable soil erosion, as determined by the Secretary.

State conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, (Puerto Rico and the Virgin Islands) or the Pacific Basin Area (Guam, American Samoa, and the Commonwealth of the Northern Marianna Islands).

Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables. Additional information on the definition of prime, unique, or other productive soil can be found in section 1540(c)(1) of the Farmland Protection Policy Act (Public Law 97–98) (7 U.S.C. 4201, *et seq.*) and 7 CFR part 658.

Overview of the Farmland Protection Program

The CCC will accept proposals submitted to the NRCS State Offices from eligible entities, including federally recognized Indian tribes, States, units of local government, and nongovernmental organizations that have pending offers for acquiring conservation easements for the purposes of protecting topsoil by limiting nonagricultural use of the land and/or protecting historical and archaeological sites on farm and ranch lands. Reference information regarding the FPP can be found in the "Catalog of Federal Domestic Assistance #10.913."

All proposals must be submitted to the appropriate NRCS State Conservationist within 45 days of the date of this notice. The NRCS State Conservationist may consult with the State Technical Committee (established pursuant to 16 U.S.C. 3861) to evaluate the merits of the proposals.

The NRCS State Conservationist will review and evaluate the proposals based on State, Tribal or local government or nongovernmental organization eligibility, land eligibility, and the extent to which the proposal adheres to the objectives outlined in the NRCS State FPP plan. Proposals must provide adequate proof of a pending offer for the subject land. Adequate proof includes a written bid, contract, commitment, or option extended to a landowner. Pending offers based upon appraisals completed and signed by State-certified or licensed appraisers shall receive higher priority for FPP funding. Proposals submitted directly to the NRCS National Office will not be accepted and will be returned to the submitting entity.

Development of the State Farmland Protection Program Plan

Funding awards to participants will be based on National and State criteria. FPP will be available in those States for which an NRCS State Office submits a State FPP Plan to the NRCS National Office. At a minimum, the State FPP Plan contains the following:

- Acreage of prime and important farmland estimated to be protected;
- Acreage of prime and important farmland lost;
- Number or acreage of historic and archaeological sites estimated to be protected on farm or ranch lands;
- Degree of development pressure;
- Degree of leveraging guaranteed by cooperating entities;
- History of cooperating entities' commitments to conservation planning and implementing conservation practices;"
- Participating entities' histories of acquiring, managing, holding, and enforcing easements (including annual farmland protection expenditures, accomplishments, and staff);
- Amount of FPP funding requested; and
- Participating entities' estimated unfunded backlog of conservation easements on prime, unique, and important farmland acres.

At the State level, each State Conservationist will develop a State FPP Plan to submit to NRCS National Office every three years. State allocations may be adjusted every three years based on new State FPP plan submissions. This State FPP Plan may be completed in consultation with the State Technical Committee. The State FPP Plan shall include ranking considerations used by the State, including the above-mentioned National criteria and other State ranking criteria. The following examples of State ranking criteria may be used to evaluate and rank specific parcels, including but not limited to proximity to protected clusters, viability of the agricultural operations, parcel size, type of land use, maximum cost expended per acre, degree of leveraging by the entity. State ranking criteria will be developed on a State-by-State basis and will be available to interested participating entities before proposal submission. Interested entities should contact the State Conservationist located in their State for a complete listing of applicable National and State ranking criteria.

The National Office will allocate funds to States based on the information provided in the State FPP Plan. Within 30 days after the Request for Proposals has closed, the NRCS State

Conservationist may make awards to eligible entities based on the funds provided. Once selected, eligible entities must work with the appropriate NRCS State Conservationist to finalize and sign cooperative agreements, incorporating all FPP requirements.

The conveyance document (*e.g.*, conservation easement deed) used by the eligible entity must be reviewed and approved by the USDA Office of General Counsel before being recorded. Since title to the easement is held by an entity other than the United States, the conveyance document must contain a clause that all rights conveyed by the landowner under the document will become vested in the United States should the federally recognized Indian tribe, State, local government entity, or nongovernmental organization (*i.e.*, the participant(s)) abandon, fail to enforce, or attempt to terminate the conservation easement). As a condition for participation, all land in the easement shall be included in a conservation plan in accordance with 7 CFR part 12. The conservation plan shall be developed according to the NRCS Field Office Technical Guide and shall be implemented in a timely manner, as determined by the State Conservationist, following FPP enrollment.

Organization and Land Eligibility Selection Criteria

To be eligible, a federally recognized Indian tribe, State, unit of local government, or nongovernmental organization must have a farmland protection program that purchases agricultural conservation easements for the purpose of protecting prime, unique, or other productive soil or historical and archaeological resources by limiting conversion of farm or ranch land to nonagricultural uses.

Criteria for Proposal Evaluation

Proposals must contain the information set forth below in order to receive consideration for assistance:

1. Organization and programs: Eligible entities must describe their farmland protection program and their record of acquiring and holding permanent agricultural land protection easements or other interests. Information provided in the proposal should:

(a) Demonstrate a commitment to long-term conservation of agricultural lands through the use of voluntary easements or other interests in land that protect farmland from conversion to nonagricultural uses;

(b) Demonstrate the capability to acquire, manage, and enforce easements and other interests in land;

(c) Demonstrate the number and ability of staff that will be dedicated to monitoring easement stewardship;

(d) Demonstrate the availability of funds equal to at least 50 percent of the purchase of the conservation easement, not to exceed the appraised fair market value of the conservation easement, or when accompanied by a landowner donation, funds equal to or more than 25 percent of the appraised fair market value of the conservation easement; and

(e) Include pending offer(s). A pending offer is a written bid, contract, commitment, or option extended to a landowner by an eligible entity to acquire a conservation easement or other interest in land that limits nonagricultural uses of the land before the legal title to these rights has been conveyed. The primary purpose of the pending offers must be for protecting topsoil by limiting conversion to nonagricultural uses. Pending offers having appraisals completed and signed by State-certified appraisers will receive higher funding priority by the NRCS State Conservationist. Appraisals completed and signed by a State-certified or licensed appraiser must contain a disclosure statement by the appraiser. The disclosure statement should include as a minimum the following: The appraiser accepts full responsibility for the appraisal, the enclosed statements are true and unbiased, the value of the land is limited by stated assumptions only, the appraiser has no interest in the land, and the appraisal conforms to the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisitions, or another land valuation system used by the State, where the land transaction will occur, in purchasing real estate.

2. Lands to be acquired: The proposal must describe the lands to be acquired with assistance from FPP. Specifically, the proposal must include the following:

(a) A map showing the proposed protected area(s);

(b) The amount and source of funds currently available for each easement (or other interest) to be acquired;

(c) The criteria used to set the acquisition priorities; and

(d) A detailed description of the land parcel(s), including—

(i) The priority of the offer;

(ii) The name(s) of the landowner(s);

(iii) The address and location map(s) of the parcel(s);

(iv) The size of the parcel, in acres;

(v) The acres of the prime, unique, or statewide and locally important soil in the parcels;

(vi) The number or acreage of historical or archaeological sites, if any, proposed to be protected, and a brief description of the sites' significance;

(vii) A map showing the location of other protected parcels in relation to the land parcels proposed to be protected;

(viii) Estimated cost of the easement(s): The consideration to be paid to any landowners for the conveyance of any lands or interests in lands cannot be more than the fair market value of the land or interests conveyed, as determined by an appraiser licensed in the State.

(ix) An example of the cooperating entity's proposed easement deed used to prevent agricultural land conversion;

(x) Indication of the accessibility to markets;

(xi) Indication of an existing agricultural infrastructure, on- and off-farm, and other support system(s);

(xii) Statement regarding the level of threat from urban development;

(xiii) Other factors from an evaluation and assessment system used to set priorities. If the eligible entity used the LESA system or a similar land evaluation system as its tool, include the score(s) for the land parcels slated for acquisition;

(xiv) Other partners involved in acquisition of the easement and their estimated financial contribution; and

(xv) Other information that may be relevant as determined by the NRCS State Conservationist.

In submitting proposals, entities should indicate on the cover of the proposal whether they are a State, Tribal, local agency or a nongovernmental organization.

Ranking Considerations

When the NRCS State Office has assessed organization eligibility and the merits of each proposal, the NRCS State Conservationist will determine whether the farmland is eligible for financial assistance from FPP. NRCS will use the National and State criteria and/or a LESA system or similar system to evaluate the land and rank the parcels. NRCS will only consider enrolling eligible land in the program that is of sufficient size and has boundaries that allow for efficient management of the area. The land must have access to markets for its products and an infrastructure appropriate for agricultural production. NRCS will not enroll land in FPP that is owned in fee title by an agency of the United States, or land that is already subject to an easement or deed restriction that limits the conversion of the land to nonagricultural use. NRCS will not enroll otherwise eligible lands if NRCS determines that the protection provided by the FPP would not be effective because of onsite or offsite conditions. For example, a proposal may nominate an agricultural parcel surrounded by a developed area or a parcel may contain hazardous materials. In addition, NRCS may learn that the local government's long-term plan or zoning regulations earmark the parcel for future development. The parcel's isolation from other farms and the local government's position, expressed in either its land use plan or zoning, may cause NRCS to determine that the use of FPP funds is not appropriate.

NRCS will place a priority on acquiring easements or other interests in lands that provide permanent protection from conversion to nonagricultural use. NRCS will place a higher priority on easements acquired by entities that have extensive experience in managing and enforcing easements. NRCS may place a higher priority on lands and locations that help create a large tract of protected area for viable agricultural production and that are under increasing urban development pressure. NRCS may place a higher priority on lands and locations that correlate with the efforts of Federal, State, Tribal, local, or nongovernmental organizations' efforts that have complementary farmland protection objectives (*e.g.*, open space or watershed and wildlife habitat protection). NRCS may place a higher priority on lands that provide special social, economic, and environmental benefits to the region. A higher priority may be given to certain geographic regions where the enrollment of particular lands may help achieve National, State, and regional goals and objectives, or enhance existing government or private conservation projects.

Cooperative Agreements

The CCC, through NRCS, will use a cooperative agreement with a selected eligible entity to document participation in FPP. The cooperative agreement will address, among other subjects—

(1) The interests in land to be acquired, including the form of the easements to be used and terms and conditions;

(2) the management and enforcement of the rights acquired;

(3) the role of NRCS;

(4) the responsibilities of the easement manager on lands acquired with FPP assistance; and

(5) other requirements deemed necessary by the CCC to protect the interests of the United States.

The cooperative agreement will also include an attachment listing the pending offers accepted in FPP, landowners' names, addresses, location map(s), and other relevant information. An example of a cooperative agreement may be obtained from the NRCS State Conservationist.

Signed in Washington, DC, on May 21, 2002.

Bruce I. Knight,

Vice President, Commodity Credit Corporation; and Chief, Natural Resources Conservation Service.

Appendix

NRCS State Conservationists

Alabama: Robert N. Jones, 3381 Skyway Drive, Post Office Box 311, Auburn, AL 36830; phone: (334) 887–4500; fax: (334) 887–4552; *robert.jones@al.usda.gov*.

Alaska: Shirley Gammon, Atrium Building, Suite 100, 800 West Evergreen, Atrium Building, Suite 100, Palmer, AK 99645–6539; phone: (907) 761–7760; fax: (907) 761–7790; *sgammon@ak.nrcs.usda.gov*.

Arizona: Michael Somerville, Suite 800, 3003 North Central Avenue, Phoenix, AZ 85012–2945; phone: (602) 280–8810; fax: (602) 280–8809 or 8805; *msomervi@az.nrcs.usda.gov*.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–002N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Pub. L. 103–465, 108 Stat. 4809. It also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers the time periods from June 1, 2001, to May 31, 2002, and June 1, 2002, to May 31, 2003, seeks comments on standards currently under consideration and recommendations for new standards.

ADDRESSES: Submit any written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., United States Manager for Codex, U.S. Department of Agriculture, Office of the Undersecretary for Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700; (202) 205–7760. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Attachment 2* to this notice.) Documents pertaining to Codex are accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net*. The U.S. Codex Office also maintains a web site at *http://www.fsis.usda.gov/OA/Codex/index.htm*.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office, FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS); and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and

2. For each sanitary or phytosanitary standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

To obtain copies of those standards listed in Attachment 1 that are under consideration by Codex, please contact the Codex delegate or the U.S. Codex Office. This notice also solicits public comments on those standards that are under consideration or planned for consideration and recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States' delegate will facilitate public participation in the United States Government's activities relating to Codex Alimentarius. The United States' delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States' delegation activities to interested parties. This information will include the current status of each agenda item; the United States Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following Codex committee sessions. In addition, the U.S. Codex Office makes much of the same information available through its web page, *http://www.fsis.usda.gov/OA/Codex*. Please visit the web page or notify the appropriate U.S. delegate or the Office of U.S. Codex Alimentarius, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, if you would like to access or receive information about specific committees.

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex Committees for the time periods from June 1, 2001 to May 31, 2002, and June 1, 2002 to May 31, 2003. In addition, the following attachments are included:

Attachment 2 List of U.S. Codex Officials (includes U.S. delegates and alternate delegates).
Attachment 3 Timetable of Codex Sessions (June 2001 through June 2003).
Attachment 4 Definitions for the Purpose of Codex Alimentarius.
Attachment 5 Part 1—Uniform Procedure for the Elaboration of Codex Standards and Related Texts; Part 2—Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts.
Attachment 6 Nature of Codex Standards.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page, located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience. For more information contact the Congressional and Public Affairs Office, at (202) 720–9113.

To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC on: May 24, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

Attachment 1: Sanitary and Phytosanitary Activities of Codex.

Codex Alimentarius Commission And Executive Committee

The Codex Alimentarius Commission will hold its Twenty-fifth Session June 30–July 5, 2003, in Rome, Italy. At that time it will consider the standards, codes of practice, and related matters brought to its attention by the general subject committees, commodity committees, *ad hoc* Task Forces, and member delegations.

Prior to the Commission meeting, the Executive Committee will meet in June 2002 and June 2003. It is composed of the chairperson, vice-chairpersons and seven members elected from the Commission, one from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific.

The Executive Committee at its Fiftieth Session, June 26–28, 2002, will consider matters arising from reports of Codex Committees including review of standards at step 5, requests for new work, and other items brought to its attention.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. A veterinary drug is defined as any substance applied or administered to a food producing animal, such as meat or dairy animals, poultry, fish or bees, for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

A Codex Maximum Limit for Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is adopted by the Codex Alimentarius

Commission to be permitted or recognized as acceptable in or on a food. An MRLVD is based on the Acceptable Daily Intake (ADI)* and indicates the amount of residue in food that is considered to be without appreciable toxicological hazard. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical analytical methods are available.

* Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

The following matters, contained in ALINORM 03/31, will be considered by the Codex Alimentarius Commission at its 25th Session in July 2003 or the Executive Committee at its 50th Session in June 2002.

To be considered at Step 8 by the 25th Session of the Commission:

- Abemectin
- Carazolol
- Chlortetracycline/oxytetracycline/tetracycline
- Clenbuterol
- Cyfluthrin
- Eprinomectrin
- Phoxim
- Porcine somatotropin

To be considered at Step 5/8 by the 25th Session of the Commission:

- Cyhalothrin
- Ivermectin
- Lincomycin

To be considered at Step 5 Accelerated Procedure by the 25th Session of the Commission:

- Draft amendments to the Glossary of Terms and Definitions

To be considered at Step 5 by the 50th Session of the Executive Committee:

- Clenbuterol
- Deltamethrin
- Dicyclanil
- Melengestrol acetate
- Trichlorfon (metrifinate)

The Committee will continue to work on:

- Proposed Draft Code of Practice to Minimize and Contain Antimicrobial Resistance
- Proposed Draft Revised Guidelines for the Establishment of a Regulatory Programme for Control of Veterinary Drug Residues in Foods
- Revised Discussion Paper on Residue Issues for the Codex Committee on Residues of Veterinary Drugs in Foods
- Risk Analysis Principles and Methodologies, including Risk Assessment Policies, in the Codex Committee on Residues of Veterinary Drugs in Foods
- Proposed Draft Appendix on the Prevention and Control of Veterinary Drug Residues in Milk and Milk Products
- Priority List of Veterinary Drugs Requiring Evaluation or Reevaluation
- Methods of Analysis and Sampling Issues
- Performance-based Criteria
- Identification of Routine Methods of Analysis

Responsible Agency: HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants (CCFAC) (a) establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed; (b) prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); (c) recommends specifications of identity and purity for food additives for adoption by the Commission; (d) considers methods of analysis for food additives and contaminants; and (e) considers and elaborates standards and codes for related subjects such as labeling of food additives when sold as such and food irradiation. The following matters are under consideration by the Commission at its 25th Session in July 2003 or the Executive Committee at its 50th Session in June 2002. The relevant document is ALINORM 03/12.

Risk Analysis

The 34th CCFAC agreed to circulate the "Proposed Risk Assessment Policy Statement for the Application of Risk Analysis Principles to the Standard Setting Activities of the Codex Committee on Food Additives and Contaminants (CCFAC) in Conjunction with Risk Assessments Performed by the Joint FAO/WHO Expert Committee on Food Additives (JECFA)" for comments at Step 3 and further consideration at its next meeting. The CCFAC also agreed to inform the Codex Executive Committee and the Codex Committee on General Principles of this document. The Discussion Paper entitled "Application of Risk Analysis Principles to the Work of the Codex Committee on Food Additives and Contaminants (CCFAC) and the Joint FAO/WHO Expert Committee on Food Additives (JECFA)" will be revised and forwarded to the 59th Meeting of the JECFA (Geneva, June 2002) for review and comment.

Food Additives

To be considered at Step 8 by the 25th Session of the Codex Commission (July 2003):

- Codex General Standard for Food Additives: Draft Food Additive Provisions in Table 1
- Codex Advisory Specifications for the Identity and Purity of Food Additives

To be considered at Step 5/8 of the Accelerated Procedure by the 25th Session of the Codex Commission (July 2003):

- Draft Revisions to the Codex International Numbering System for Food Additives
- Proposed Draft Revisions to the Codex General Standard for Food Additives
- Proposed Draft Revision to the Recommended International Code of Practice for Radiation processing of Food

The Committee is continuing work on:

- General Standard for Food Additives: Food Category System
- General Standard for Food Additives: Draft Food Additive Provisions (in Table 1 and Table 3)
- General Standard for Food Additives: Revisions to the Preamble to the clarify relationship between the General Standard and food additive provisions in Codex Commodity Standards and to clarify the principles for establishing food additive provisions in the General Standard
- Proposed Draft Revision to the Codex Standard for Irradiated Foods
- International Numbering System
- Specifications for the Identity and Purity of Food Additives
- Discussion Paper on Processing Aids and Additives Used as Carriers for Other Additives
- Discussion Paper on the Use of Active Chlorine Compounds in Food Processing

Contaminants

To be considered at Step 8 by the 25th Session of the Codex Commission (July 2003):

- Codex General Standard for Contaminants and Toxins: Maximum Level for Patulin in Apple Juice and Apple Juice Ingredients in Other Beverages
- Codex General Standard for Contaminants and Toxins: Maximum Level for Ochratoxin A in Wheat, Barley, Rye and derived products

To be considered at Step 5 by the 50th Session of the Codex Executive Committee (June 2002):

- Proposed Draft Code of Practice for the Prevention of Mycotoxin Contamination in Cereals, including Annexes on Ochratoxin A, Zearalenone, Fumonisins, and Tricothecenes
- Proposed Draft Code of Practice for the Reduction of Patulin Contamination in Apple Juice and Apple Juice Ingredients

The Committee is continuing work on:

- Codex General Standard for Contaminants and Toxins: Proposed Draft Principles for Exposure Assessment of Contaminants and Toxins in Foods
- Codex General Standard for Contaminants and Toxins: Draft maximum levels for lead in fish
- Codex General Standard for Contaminants and Toxins: Maximum levels for lead in milk and milkfat
- Codex General Standard for Contaminants and Toxins: Proposed Draft Maximum Levels for Cadmium in fruit, wheat grain, milled rice, soybean and peanuts, meat of cattle, poultry, pig and sheep, horse meat, vegetables, peeled potatoes, stem and root vegetables, leafy vegetables, fresh herbs, fungi, celeriac, and mollusks
- Codex General Standard for Contaminants and Toxins: Proposed Draft Maximum Levels for Tin in liquid canned foods and solid canned foods
- Proposed Draft Code of Practice for Source Directed Measures to Reduce Dioxin and Dioxin-like PCB Contamination of Foods
- Discussion paper on Dioxins and Dioxin-like PCBs
- Position Paper on Chloropropanols
- Position Paper on Aflatoxin in Tree Nuts
- Discussion Paper on Deoxynivalenol

New Work:

- Proposed Draft Code of Practice for the Reduction of Aflatoxin Contamination in Tree Nuts
- Proposed Draft Code of Practice for the Prevention and Reduction of Lead in Food
- Discussion Paper on the Development of a Code of Practice for the Reduction of Aflatoxin Contamination in Peanuts

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues recommends to the Codex Alimentarius Commission establishment of maximum limits for pesticide residues for specific food items or groups of food commodities. A Codex Maximum Residue Limit for Pesticide Residues (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg) recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. Foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable, that is, consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI*, should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex MRLPs are primarily intended to apply in international trade and are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices (GAP). Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices, and

(b) Toxicological assessment of the pesticide and its residue.

The following items will be considered by the Codex Commission at its 25th Session in July 2003. The relevant document is ALINORM 03/24.

To be considered at Step 8:

- Proposed Draft Amendments to the "Guidelines on Good Laboratory Practice in Pesticide Residue Analysis and the Introduction Section of the Recommended Methods of Analysis for Pesticide Residues"
- Draft and Draft Revised Maximum Residue Limits

To be considered at Step 5/8:

- Proposed Draft and Proposed Draft Revised Maximum Residue Limits

To be considered at Step 5 by the Executive Committee at its 50th Session June 2002:

- Proposed Draft and Proposed Draft Revised Maximum Residue Limits

The committee is continuing work on:

- Consideration of Draft and Proposed Draft Residue Limits in Foods and Feeds
- Paper on Trade Vulnerabilities Resulting from the Lengthy Codex MRL Process
- Paper on Cumulative Risk Assessment Methodology
- Paper on Acute Dietary Risk Assessment
- Revision of Regional Diets and Information on Processing
- Revision of the List of Recommended Methods of Analysis for Pesticide Residues
- Revision of the Codex Classification of Foods and Animal Feeds
- Revision of Codex Priority Lists of Pesticides for review by JMPR

* Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

Responsible Agency: EPA, USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling:

(a) Defines the criteria appropriate to Codex Methods of Analysis and Sampling;

(b) Serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories;

(c) Specifies, on the basis of final recommendations submitted to it by the other bodies referred to in (b) above, Reference Methods of Analysis and Sampling appropriate to Codex Standards which are generally applicable to a number of foods;

(d) Considers, amends, if necessary, and endorses, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives do not fall within the terms of reference of this Committee;

(e) Elaborates sampling plans and procedures, as may be required;

(f) Considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and

(g) Defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The next session of the Committee will take place in Budapest, Hungary on November 18–22, 2002. The Committee will continue work on:

- Proposed Draft Guidelines on Measurement Uncertainly
- Proposed Draft Guidelines for Evaluating Acceptable Methods of Analysis
- Proposed Draft General Guidelines on Sampling
- Validation of Methods
- Single Laboratory Validation
- Use of Proficiency Testing Schemes
- Endorsement of Methods of Analysis and Sampling Provisions in Codex Standards

Responsible Agency: HHS/FDA, USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Food Import and Export Certification and Inspection Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems is charged with developing principles and guidelines for food import and export inspection and certification systems to protect consumers and to facilitate trade. Additionally, the Committee develops principles and guidelines for the application of measures by competent authorities to provide assurance that foods comply with requirements, especially statutory health requirements. This encompasses work on: equivalence of food inspection systems including equivalence agreements, processes and procedures to ensure that sanitary measures are implemented; guidelines on food import control systems; and guidelines on food product certification and information exchange. The development of guidelines for the appropriate utilization of quality assurance systems to ensure that foodstuffs conform to requirements and to facilitate trade also are included in the Committee's terms of reference.

The following guidelines, found in ALINORM 03/30, will be considered for adoption by the Codex Alimentarius Commission at its 25th Session in July 2003.

To be considered at Step 8:

- Draft Guidelines for Food Import Control Systems

The committee is continuing work on:

- Draft Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems
- Proposed Draft Guidelines for the Utilization and Promotion of Quality Assurance Systems to Meet Requirements in Relation to Food.
- Proposed Revised Draft Guidelines for the Exchange of Information in Food Control Emergency Systems
- Discussion paper to examine the need for elaboration of Proposed Draft Guidelines on the Judgement of Equivalence of Technical Regulations Associated with Food Inspection and Certification Systems
- Discussion paper on traceability in the context of inspection and certification systems

Responsible Agency: HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on General Principles

The Codex Committee on General Principles deals with procedure and general matters as are referred to it by the Codex Alimentarius Commission. The 17th Session of the Committee met in Paris, France, on April 15–19, 2002. The following will be considered by the 50th Session of the Executive Committee in June 2002. The relevant document is ALINORM 03/33, Appendix II.

To be considered at Step 5 by the 50th Session of the Executive Committee:

• Proposed Draft Working Principles for Risk Analysis for Application within the Framework of Codex, at Step 5

The Committee continues to work on:

• Proposed Draft Working Principles for Risk Analysis as Guidance to National Governments, with consideration of traceability as a risk management option

• Proposed Draft Revised Code of Ethics for International Trade in Foods

• Guidelines for Cooperation with International Intergovernmental Organizations

• Membership in the Codex Alimentarius Commission of Regional Economic Integration Organizations

Responsible Agency: USDA/FSIS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling is responsible for drafting provisions on labelling issues assigned by the Codex Alimentarius Commission. The Committee held its Thirtieth Session in Halifax, Canada on May 6–10, 2001. It considered the following items:

• Draft Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods Proposed Revised Sections: Section 5—Criteria and Annex 2—Permitted Substances

• Draft Amendment to the General Standard for the Labelling of Prepackaged Foods—(Draft Recommendations for the Labelling of Foods Obtained through Certain Techniques of Genetic Modification/Genetic Engineering) Section 4.2.2 (allergenicity) and Section 2. (Definitions)

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods (Class Names) (milk protein/milk protein products)

• Proposed Draft Amendment to the Guidelines on Nutrition Labelling

• Proposed Draft Recommendations for the Use of Health Claims: Proposed Draft Guidelines for the use of Nutrition and Health Claims

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods: Quantitative Declaration of Ingredients

• Discussion paper on Misleading Claims

• Discussion paper on Country of Origin Labelling

Responsible Agency: HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene drafts basic provisions on food hygiene applicable to all food. The Committee suggests and prioritizes areas where there is a need for microbiological risk assessment at the international level and considers microbiological risk management matters in relation to food hygiene and in relation to the risk assessment activities of FAO and WHO. The Committee considers, amends if necessary, and endorses food hygiene provisions that are incorporated into specific Codex commodity standards by the Codex commodity committees. The Committee provides such other general guidance to the Commission on matters relating to food hygiene as may be necessary.

The following item will be considered by the Codex Alimentarius Commission at its 25th Session in July 2003. The relevant document is ALINORM 03/13.

To be considered at Step 8:

• Draft Code of Hygienic Practice for Fresh Fruits and Vegetables

The following will be considered at Step 5 by the Executive Committee

• Proposed Draft Revised Guidelines for the Application of HACCP System

The committee continues to work on:

• Proposed Draft Code of Hygienic Practice for Milk and Milk Products

• Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Management

• Proposed Draft Guidelines for the Control of *Listeria monocytogenes* in Foods

• Proposed Draft Guidelines for Validation of Food Hygienic Control Measures

• Proposed Draft Revision of the Code of Hygienic Practice for Eggs and Egg Products

• Discussion paper on Risk Management Strategies for *Salmonella* spp. in Poultry

• Discussion paper on Risk Management Strategies for *Campylobacter* spp. in Poultry

• Discussion paper on Risk Management Strategies for *Vibrio* spp. in finfish and shellfish.

• Risk Profile for Enterohemorrhagic *E. coli* Including the Identification of Commodities of Concern, including Sprouts, Ground Beef and Pork

Responsible Agency: HHS/FDA, FSIS/USDA.

U.S. Participation: Yes.

Codex Committee on Fresh Fruits And Vegetables

The Codex Committee on Fresh Fruits and Vegetables is responsible for elaborating world-wide standards and codes of practice for fresh fruits and vegetables. The next session of the Committee will be held June 10–14, 2002 in Mexico City, Mexico.

The committee is continuing work on:

• Draft Standard for Cassava

• Draft Standard for Yellow Pitahaya

• Draft Standard for Oranges including Guide for Use in Scoring Freezing Injury

• Sizing sections of the grapefruit, lime and pummelo standards.

• Proposed Draft Standard for Tomatoes

• Proposed Draft Standard for Table Grapes

• Proposed Draft Standard for Apples

• Proposed Draft Guide for the Quality Control of Fresh Fruits and Vegetables

• Discussion paper on definitions of terms

Responsible Agency: USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts general provisions, as appropriate, on nutritional aspects of all foods and develops standards, guidelines, or related texts for foods for special dietary uses.

The committee continues work on:

• Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children

• Proposed Draft Revised Standard for Infant Formula

• Proposed Draft Guidelines for Vitamin and Mineral Supplements

• Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Children

When new scientific information becomes available, the committee plans to resume work on:

• Discussion Paper on Energy Conversion Factors

• Guidelines for Use of Nutrition Claims—Draft Table of Conditions for Nutrient Contents Claims (Part B containing Provisions on Dietary Fibre)

• Proposed Draft Revised Standards for Gluten-Free Foods

Responsible Agency: HHS/FDA.

U.S. Participation: YES.

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh, frozen and otherwise processed fish, crustaceans and mollusks. The Committee will hold its 25th Session on June 3–7, 2002 in Alesund, Norway. The Committee is working on these standards and codes of practice:

• Inclusion of additional species (Proposed Draft Amendment to the Canned Sardines Standard)

• Proposed Draft Standard for Salted Atlantic Herring and Salted Sprats

• Proposed Draft Code of Practice for Fish and Fishery Products

• Draft Standard for Dried Salted Anchovies

• Proposed Draft Standard for Smoked Fish

• Proposed Draft Standard for Molluscan Shellfish

• Proposed Draft Model Certificate for Fish and Fishery Products

• Proposed Draft Standard for Live, Quick Frozen and Canned Bivalve Molluscs

• Proposed Draft Amendment to the Standard for Quick Frozen Lobsters

• Fish Content Definition and its Method of Determination

• Proposed Draft Standard for Scallops

Responsible Agency: HHS/FDA, USDC/NOAA/NMFS.

U.S. Participation: Yes.

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products is responsible for establishing international codes and standards for milk and milk products. The following will be considered by the 25th Session of the Commission when it meets in June 2003. The relevant document is ALINORM 03/11.

To be considered at Step 8:

• Proposed Draft Revised Standard for Cream and Prepared Creams

• Proposed Draft Revised Standard for Fermented Milks

• Proposed Draft Revised Standard for Whey Powders

• Proposed Draft Amendment to the Codex General Standard for Cheese (Appendix on cheese rind, surface, and coating)

The following will be considered by the 50th Session of the Executive Committee when it meets in June 2002:

To be considered at Step 5:

• Proposed Draft Standard for Products in Which Milk Components are Substituted by Non-Milk Components

• Evaporated Skimmed Milk with Vegetable Fat

• Sweetened Condensed Skimmed Milk with Vegetable Fat

• Skimmed Milk Powder with Vegetable Fat

• Proposed Draft Amendment to Section 3.3 (Composition) of the Codex General Standard for Cheese

To be considered as new work:

• Proposed Draft Model Export Certificate for Milk and Milk Products

The Committee continues work on:

• Methods of Analysis and Sampling for Milk Products

• Draft Revised Standards for Individual Cheeses

• Draft Revised Standard for Processed Cheese

• Draft Revised Standard for Dairy Spreads

• Proposals for new standards: Parmesan, Cheese Specialties

Responsible Agency: USDA/AMS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin. The Committee will hold its 18th Session in London in February 2003.

To be considered by the Committee at its next session:

• Draft Standard for Olive Oils and Olive-Pomace Oils

• Proposed Draft Amendments to the Standard for Named Vegetable Oils

• Super palm olein

• Mid-oleic sunflower oil

• Inclusion of new desmethysterol data and tocopherol and tocotrienol data for palm olien, palm stearin, rapeseed oil (high erucic acid) and mustard oil

• Inclusion of new data on Table 3 expressed in mg/kg

• Draft Standard for Fat Spreads

• Proposed Draft Amendments to the List of Acceptable Previous Cargoes and of Banned Immediate Previous Cargoes

Responsible Agency: HHS/FDA, USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Cocoa Products and Chocolate

The Codex Committee on Cocoa Products and Chocolate is responsible for elaborating world-wide standards for cocoa products and chocolate. The following standard will be considered by the 25th Session of the Commission in June 2003. The relevant document is ALINORM 03/14.

To be considered at Step 8:

• Draft Revised Standard for Chocolate and Chocolate Products

The Committee agreed to adjourn *sine die* as it had completed its program of work.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables is responsible for elaborating standards for processed fruits and vegetables. The Twenty-first Session of the Committee will be hosted by the United States in September 2002.

To be considered at step 7:

• Draft Standard for Canned Stone Fruit

• Draft Standard for Canned Pickled Products

• Draft Standard for Canned Bamboo Shoots

• Draft Standard for Aqueous Coconut Products

• Draft Codex Guidelines for Packing Media for Canned Fruits

To be considered at step 4:

• Proposed Draft Standard for Canned Citrus Fruits

• Proposed Draft Revised Standard for Canned Tomatoes

• Proposed Draft Revised Standard for Processed Tomato Concentrates

• Proposed Draft Standard for Canned Vegetables

• Proposed Draft Standard for Jams, Jellies, and Marmalades

• Proposed Draft Standard for Soy Sauce

• Proposed Draft Standard for Ginseng

• Proposed Draft Guidelines for Packing Media for Canned Vegetables.

The Committee will also discuss:

• Proposed Draft Codex Guidelines for the Processing and Handling of Quick Frozen Foods

Responsible Agency: USDA/AMS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Meat and Poultry Hygiene

The 24th Session of the Commission decided to reactivate the Codex Committee on Meat Hygiene and agreed to rename it the Codex Committee on Meat and Poultry Hygiene with New Zealand as Host Government. The Terms of Reference were amended to reflect the inclusion of poultry in its mandate. The reconstituted committee held its 8th Session in Wellington, New Zealand on February 18–22, 2002. The following, contained in ALINORM 03/16, will be considered by the Executive Committee at its 50th Session in June 2002.

To be considered at Step 5:

• Proposed Draft General Principles of Meat Hygiene

Requested the Commission to change the name back to the Codex Committee on Meat Hygiene.

The Committee continues to work on:

• Proposed Draft Code of Hygienic Practice for Fresh Meat

• Discussion paper on hygiene provisions for processed meat

• Discussion paper on principles and guidelines for establishing risk based ante- and post-mortem inspection systems for particular slaughter populations

• Discussion paper on principles and guidelines on systems for microbiological process control for meat

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Certain Codex Commodity Committees [1]

Several Codex Alimentarius Commodity Committees have adjourned *sine die*. The following Committees fall into this category:

• *Cereals, Pulses and Legumes*

Responsible Agency: HHS/FDA, USDA/GIPSA.

U.S. Participation: Yes.

• *Natural Mineral Water*

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

• *Sugars*

Responsible Agency: USDA/ARS; HHS/FDA.

U.S. Participation: Yes.

• *Vegetable Proteins*

Responsible Agency: USDA/ARS, HHS/FDA.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

The Commission, at its 23rd Session, established this task force to develop standards, guidelines, or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate, to other legitimate factors relevant to the health of consumers and the promotion of fair trade practices.

The following, contained in ALINORM 03/34, will be considered by the Codex Alimentarius Commission at its 25th Session in June 2003.

To be considered at Step 8:

• Draft General Principles for the Risk Analysis of Foods Derived from Modern Biotechnology

• Draft Guideline for the Conduct of Safety Assessment of Foods Derived from Recombinant-DNA Plants

To be considered by the Executive Committee in June 2002 at Step 5:

• Proposed Draft Guidelines for the Conduct of Food Safety Assessment of Recombinant-DNA Microorganisms

The Task Force will continue to:

• Discuss traceback/traceability

Responsible Agency: HHS/FDA, USDA/APHIS.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Animal Feeding

The Commission at its 23rd Session established the *ad hoc* Intergovernmental Task Force on Animal Feeding to develop guidelines or standards as appropriate on good animal feeding practices. An Interim Report of the work of the Task Force, as required under its Terms of Reference, was presented to the 24th Commission by Denmark, the host government. The Task Force will hold its 3rd Session on June 17–20, 2002 and continue discussing:

[1] Adjourned sine die. The main tasks of these Committee are completed. However, the committees may be called to meet again if required

- Revised Draft Code of Practice for Good Animal Feeding

Responsible Agency: HHS/FDA, USDA/APHIS.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices

The Commission at its 23rd Session established this Task Force to revise and consolidate the existing Codex standards and guidelines for fruit and vegetable juices and related products, giving preference to general standards. These standards were originally developed by the Joint UNECE/Codex Group of Experts on the Standardization of Fruit Juices, which had been abolished by its parent organizations. The Task Force held its second session in Rio de Janeiro, Brazil, on April 23–26, 2002. The reference document is ALINORM 03/39.

The committee is discussing:

- Proposed Draft Codex General Standard for Fruit Juices and Nectars
- Proposed Draft Revised Codex General Standard for Vegetable Juices
- Methods of Analysis and Sampling for Fruit and Vegetable Juices and Nectars

Responsible Agency: HHS/FDA, USDA/AMS.

U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 30 subsidiary bodies. Included in these subsidiary bodies are coordinating committees for groups of countries located in proximity to each other who share common concerns. There are currently six Regional Coordinating Committees:

- Coordinating Committee for Africa
- Coordinating Committee for Asia
- Coordinating Committee for Europe
- Coordinating Committee for Latin America and the Caribbean
- Coordinating Committee for the Near East
- Coordinating Committee for North America and the South-West Pacific

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings. Each regional committee:

- Defines the problems and needs of the region concerning food standards and food control;
- Promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;
- Recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future; and
- Exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South-West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the region. The Seventh Session of the Committee will be hosted by Canada October 29–November 1, 2002. Work priorities include the following ongoing and new areas of work:

- Changes to food regulatory systems and food laws;
- Policy-related issues including the areas of biotechnology, anti-microbial resistance, animal feeding and improving the effectiveness of Codex responses in meeting the needs of its members;
- Issues facing small and less developed businesses;
- Ongoing capacity building and monitoring compliance within developing countries;
- The responses by relevant Codex Committees to the public health and trade vulnerability issues resulting from the lengthy Codex MRL setting process.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Attachment 2

U.S. Codex Alimentarius Officials

Codex Committee Chairpersons

Codex Committee on Food Hygiene

Dr. Karen Hulebak, Senior Advisor for Scientific Affairs, Office of the Administrator, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Ave., SW., Room 3130–South Building, Washington, DC 20250. Phone: 202–720–8609; Fax: 202–720–9893; E-mail: *karen.hulebak@fsis.usda.gov*

Codex Committee on Processed Fruits and Vegetables

Mr. David L. Priester, Head, Standardization Section, AMS Fruit & Vegetable Programs, Fresh Products Branch, USDA Stop 0140, Room 2049–S, 1400 Independence Avenue, SW., Washington, DC 20250–0240. Phone #: (202) 720–2185; Fax #: (202) 720–8871; E-mail: *david.priester@usda.gov*

Codex Committee on Residues of Veterinary Drugs in Foods

Dr. Stephen F. Sundlof, Director, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place (HFV–1), Rockville, MD 20855. Phone #: (301) 594–1740; Fax #: (301) 594–1830; E-mail: *ssundlof@cvm.fda.gov*

Codex Committee on Cereals, Pulses and Legumes (adjourned *sine die*)

Mr. Steven N. Tanner, Director, Technical Services Division, Grain Inspection, Packers & Stockyards Administration, U.S. Department of Agriculture, 10383 N. Executive Hills Blvd., Kansas City, MO 64153–1394. Phone #: (816) 891–0401; Fax #: (816) 891–0478; E-mail: *stanner@tsd.fgiskc.usda.gov*

Listing of U.S. Delegates and Alternates Worldwide General Subject Codex Committees

Codex Committee on Residues of Veterinary Drugs in Foods (Host Government—United States)

U.S. Delegate

Dr. Pamela L. Chamberlain, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place HFV–130, Rockville, MD 20855. Phone (301) 827–0121; FAX: (301) 594–2298; E-mail: *pchambe1@cvm.fda.gov*

Alternate Delegate

Dr. Dennis M. Keefe, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740–3835. Phone: (202) 418–3113; Fax: (202) 418–3131. E-mail: *dennis.keefe@cfsan.fda.gov*.

Codex Committee on Pesticide Residues (Host Government—The Netherlands)

U.S. Delegate

Edward Zager, Associate Director, Health Effects Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460, Phone: (703) 305–5035; Fax: (703) 305–5147. E-mail: *Zager.Ed@epamail.epa.gov*.

Alternate Delegate

Dr. Robert Epstein, Associate Deputy Administrator, Science and Technology, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 3522S, Mail Stop 0222, 1400 Independence Ave., SW, Washington, DC 20090. Phone (202) 720–2158; Fax: (202) 720–1484. E-mail: *Robert.Epstein@usda.gov*.

Codex Committee on Methods of Analysis and Sampling, (Host Government—Hungary)

U.S. Delegate

Dr. Gregory Diachenko, Director, Division of Chemistry Research and Environmental Review, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition (CFSAN), Food and Drug Administration (HFS–245), Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740–3835. Phone 301–436–2387; Fax: (301) 436–2364. E-mail: *Gregory.Diachenko@cfsan.fda.gov*.

Alternate Delegate

Dr. Thomas B. Whitaker, Senior Scientist, Agricultural Research Service, U.S. Department of Agriculture, 124 Weaver Laboratory, North Carolina State University, Raleigh, North Carolina. Phone: (919) 515–6731; Fax: (919) 515–7760. E-mail: *thomas_whitaker@ncsu.edu*.

Codex Committee on Food Import and Export Certification and Inspection Systems, (Host Government—Australia)

U.S. Delegate

Dr. Catherine Carnevale, Director, Office of Constituent Operations, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–550), Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740–3835. Phone: (301) 436–2380; Fax: (301) 436–2618. E-mail: *Catherine.Carnevale@cfsan.fda.gov*.

Alternate Delegate

Karen Stuck, Chief, International Policy Staff, Food Safety and Inspection Service, U.S. Dept. of Agriculture, Room 2137 South Bldg., 1400 Independence Ave., SW, Washington, DC 20250–3700. Phone: 202–720–3470; Fax: 202–720–7990. E-mail: *Karen.Stuck@fsis.usda.gov*.

Codex Committee on General Principles, (Host Government—France)

Delegate

Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Codex Committee on Food Labeling, (Host Government—Canada),

U.S. Delegate

Dr. Christine Taylor, Director, Office of Nutritional Products, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition, Food and Drug Administration, Harvey E. Wiley Federal Building, 5100 Paint Branch Parkway (HFS–800), College Park, MD 20740–3835. Phone: (301) 436–2373; Fax: (301) 436–2636. E-mail: *Christine.Taylor@cfsan.fda.gov*.

Alternate Delegate

Dr. Robert Post, Director, Labeling & Compounds Review Division, OPPDE, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 602, 300 12th Street, SW, Washington, DC 20250. Phone: (202) 205–0279; Fax: (202) 205–3625. E-mail: *Robert.Post@fsis.usda.gov*.

Codex Committee on Food Hygiene (Host Government—United States)

U.S. Delegate

Dr. Robert L. Buchanan, Director, Office of Science, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–006), Harvey W. Wiley Federal Building 5100 Paint Branch Parkway, College Park, MD 20740–3835. Phone: (301) 436–2369; Fax: (301) 436–2642. E-mail: *Robert.Buchanan@cfsan.fda.gov*.

Alternate Delegate

Dr. H. Michael Wehr, U.S. Food and Drug Administration, Office of Constituent Operations, Food and Drug Administration (HFS–550), Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740–3835. Phone: (301) 436–1725; Fax: (301) 436–2618. E-mail: *Michael.Wehr@cfsan.fda.gov*.

Codex Committee on Nutrition and Food for Special Dietary Uses (Host Government—Germany),

U.S. Delegate

Dr. Elizabeth Yetley, FDA Lead Scientist for Nutrition, Center for Food Safety and Applied Nutrition, Food and Drug Administration, Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway (HFS–006), College Park, MD 20740–3835. Phone: (301) 436–1671; Fax: (301) 436–2641. E-mail: *Elizabeth.Yetley@cfsan.fda.gov*.

Alternate Delegate

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Worldwide Commodity Codex Committees,

Codex Committee on Fresh Fruits and Vegetables, (Host Government—Mexico)

U.S. Delegate

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Ad Hoc Intergovernmental Task Forces

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices (Host government—Brazil)

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Ad Hoc Intergovernmental Task Force on Foods Derived from Biotechnology (Host government—Japan)

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Ad Hoc Intergovernmental Task Group on Animal Feeding (Host government—Denmark)

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There are six regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean
Coordinating Committee for the Near East
Coordinating Committee for North American and the South-West Pacific

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Attachment 3

Timetable of Codex Sessions

(June 2001 through June 2003)

2001:			
CX 702–48	Executive Committee of the Codex Alimentarius Commission (48th Session).	28–29 June	Geneva.
CX 701–24	Codex Alimentarius Committee (24th Session) ..	2–7 July	Geneva.
CX 702–49	Executive Committee of the Codex Alimentarius Commission (49th Extraordinary Session).	26–27 September	Geneva.
CX 708–19	Codex Committee on Cocoa Products and Chocolate (19th Session).	3–5 October	Fribourg.
CX 712–34	Codex Committee on Food Hygiene (34th Session).	15–20 October	Bangkok.

CX 720–23	Codex Committee for Nutrition and Foods for Special Dietary Uses (23rd Session).	26–30 November	Berlin.
CX 730–13	Codex Committee on Residue of Veterinary Drugs in Foods (13th Session).	4–7 December	Charleston, SC.
2002:			
CX 723–8	Codex Committee on Meat Hygiene (8th Session).	18–22 February	Wellington.
CX 733–10	Codex Committee on Food Import and Export Certification and Inspection Systems (10th Session).	25 February-1 March	Brisbane.
CX 802–03	*ad hoc* Intergovernmental Task Force on Biotechnology (3rd Session).	4–8 February	Yokohama.
CX 711–34	Codex Committee on Food Additives and Contaminants (34th Session).	11–15 March	Rotterdam.
CX 703–5	Codex Committee on Milk and Milk Products (5th Session).	8–12 April	Wellington.
CX 716–17	Codex Committee on General Principles (17th Session).	15–19 April	Paris.
CX 801–2	*ad hoc* Intergovernmental Task Force on Fruit Juice (2nd Session).	23–26 April	Rio de Janeiro.
CX 714–30	Codex Committee on Food Labelling (30th Session).	6–10 May	Halifax.
CX 718–34	Codex Committee on Pesticide Residues (34th Session).	13–18 May	The Hague.
CX 722–25	Codex Committee on Fish and Fishery Products (25th Session).	3–7 June	Alesund.
CX 731–10	Codex Committee on Fresh Fruits and Vegetables (10th Session).	10–14 June	Mexico City.
CX 803–03	*ad hoc* Intergovernmental Task Force on Animal Feeding (3rd Session).	17–20 June	Copenhagen.
CX 702–50	Executive Commission of the Codex Alimentarius Commission (50th Session).	26–28 June	Rome.
CX 706–23	FAO/WHO (Codex) Regional Coordinating Committee for Europe (23rd Session).	10–13 September	Bratislava.
CX 727–13	FAO/WHO (Codex) Regional Coordinating Committee for Asia (13th Session).	17–20 September	Kuala Lumpur.
CX 713–21	Codex Committee on Processed Fruits and Vegetables (21st Session).	23–27 September	San Antonio, TX.
CX 712–35	Codex Committee on Food Hygiene (35th Session).	21–26 October	Washington, DC.
CX 732–7	FAO/WHO (Codex) Regional Coordinating Committee for North America and the South-West Pacific (7th Session).	29 October-1 November	Canada.
CX 720–24	Codex Committee on Nutrition and Foods for Special Dietary Uses (24th Session).	4–8 November	Berlin.
2003:			
CX 734–3	FAO/WHO (Codex) Regional Coordinating Committee for the Near East (2nd Session).	20–23 January	Cairo.
CX 709–18	Codex Committee on Fats and Oils (18th Session).	3–7 February	London.
CX 723–9	Codex Committee on Meat Hygiene (9th Session).	17–21 February	Wellington.
CX 730–14	Codex Committee on Residues of Veterinary Drugs in Foods (14th Session).	4–7 March	TBA.
CX 802–4	*ad hoc* Intergovernmental Task Force on Biotechnology (4th Session).	10–14 March	Yokohama.
CX 711–35	Codex Committee on Food Additives and Contaminants (35th Session).	17–21 March	The Hague.
CX 803–4	*ad hoc* Intergovernmental Task Force on Animal Feeding (4th Session).	24–26 March	Copenhagen.
CX 718–35	Codex Committee on Pesticide Residues (35th Session).	31 March-4 April	The Hague.
CX 716–18	Codex Committee on General Principles (18th Session).	7–11 April	Paris.
CX 714–31	Codex Committee on Food Labelling (31st Session).	28 April-2 May	Ottawa.
CX 801–3	*ad hoc* Intergovernmental Task Force on Fruit and Vegetable Juices (3rd Session).	6–9 May	Brasilia.
CX 702–51	Executive Committee of the Codex Alimentarius Commission (51st Session).	26–27 June	Rome.
CX 701–25	Codex Alimentarius Commission (25th Session)	30 June-5 July	Rome.

Attachment 4

Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before of after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner that leaves a residue, which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxological affects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) toxological assessment of the pesticide and its residue, and

(b) review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or (µg/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD)is the official recommended or authorized usage including withdrawal periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Definitions of Risk Analysis Terms Related to Food Safety

Hazard: A biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.

Risk: A function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard(s) in food.

Risk analysis: A process consisting of three components: risk assessment, risk management and risk communication.

Risk assessment: A scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization.

Hazard identification: The identification of biological, chemical, and physical agents capable of causing adverse health effects and which may be present in a particular food or group of foods.

Hazard characterization: The qualitative and/or quantitative evaluation of the nature of the adverse health effects associated with biological, chemical and physical agents that may be present in food. For chemical agents, a dose-response assessment should be performed. For biological or physical agents, a dose-response assessment should be performed if the data are obtainable.

Dose-response assessment: The determination of the relationship between the magnitude of exposure (dose) to a chemical, biological or physical agent and the severity and/or frequency of associated adverse health effects (response).

Exposure assessment: The qualitative and/or quantitative evaluation of the likely intake of biological, chemical, and physical agents via food as well as exposures from other sources if relevant.

Risk characterization: The qualitative and/or quantitative estimation, including attendant uncertainties, of the probability of occurrence and severity of known or potential adverse health effects in a given population based on hazard identification, hazard characterization and exposure assessment.

Risk management: The process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options.

Risk communication: The interactive exchange of information and opinions throughout the risk analysis process concerning risk, related risk factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions.

Attachment 5

Part 1

Uniform Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission decides, taking into account the "Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies," to elaborate a Worldwide Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

Part 2

Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission or the Executive Committee between Commission sessions, on the basis of a two-thirds majority of votes cast, taking into account the "Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies", shall identify those standards which shall be the subject of an accelerated elaboration process. The identification of such standards may also be made by subsidiary bodies of the Commission, on the basis of a two-thirds majority of votes cast, subject to confirmation at the earliest opportunity by the Commission or its Executive Committee by a two-thirds majority of votes cast.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to Members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests. When standards are subject to an accelerated procedure, this fact shall be notified to the Members of the Commission and the interested international organizations.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

In the case of standards identified as being subject to an accelerated elaboration procedure, the draft standard is submitted through the Secretariat to the Commission together with any written proposals received from Members and interested international organizations for amendments with a view to its adoption as a Codex standard. In taking any decision at this step, the Commission will give due consideration to any comments that may be submitted by any of its Members regarding the implications which the proposed draft standard or any provisions thereof may have for their economic interests.

Attachment 6

Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

Format for Codex Commodity Standards Including Standards Elaborated Under the Code of Principles Concerning Milk and Milk Products

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also

indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard
Scope
Description
Essential Composition and Quality Factors
Food Additives
Contaminants
Hygiene
Weights and Measures
Labelling
Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, a subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definitions are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors that are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on page 84 of the Codex Procedural Manual and may take the following form:

"The following provisions in respect of food additives and their specifications as contained in section. * * * .of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants."

A tabulation should then follow, viz.: "*Name of additive, maximum level* (in percentage or mg/kg)."

Contaminants

(a) *Pesticide Residues:* This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants:* In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

"The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants."

A tabulation should then follow, viz.: "*Name of contaminant, maximum level* (in percentage or mg/kg)."

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given in the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

"The following provisions in respect of the food hygiene of the product are subject to endorsement [have been endorsed] by the Codex Committee on Food Hygiene."

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to weights and measures, e.g., where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, e.g. multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given in the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

"The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling."

Methods of Analysis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given in the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternatives and included in this section either specifically or by reference. The following statement should also appear:

"The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling."

[FR Doc. 02–13527 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–022N]

Codex Alimentarius Commission: Meeting of the Codex Committee on Nutrition and Foods for Special Dietary Uses

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, of the U.S. Department of Agriculture (USDA), the Food and Drug Administration (FDA), and the U.S. Department of Health and Human Services (HHS) are sponsoring a public meeting on July 30, 2002. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States' positions that will be discussed at the 24th Session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) to be held in Berlin, Germany, November 4–8, 2002. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 24th Session of CCNFSDU and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, July 30, 2002 from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the Auditorium (1A003), Food and Drug Administration, Harvey Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD. To receive copies of the Codex documents pertaining to the agenda items for the 24th CCNFSDU session, contact the Food Safety Inspection Service (FSIS) Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also become accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net*. If you would like to submit comments on one or more agenda items, please send them, in triplicate, to the FSIS Docket Room and reference Docket #02–022N. The U.S. Delegate to the CCNFSDU, Dr. Elizabeth Yetley of the Food and Drug Administration, also invites U.S. interested parties to submit their comments electronically to the following e-mail address (*ncrane@cfsan.fda.gov*). All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

To gain admittance to this meeting, individuals must present a photo ID for identification and are required to pre-register. In addition, no cameras or videotaping equipment will be permitted in the meeting room. To pre-register, please send the following information to this e-mail address (*ncrane@cfsan.fda.gov*) by July 15, 2002:

—Your Name
—Organization
—Mailing Address
—Phone number
—E-mail address

FOR FURTHER INFORMATION CONTACT: Ellen Matten, Staff Officer, U.S. Codex Office, FSIS, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250, Telephone (202) 205–7760; Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Matten at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations' organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Nutrition and Foods for Special Dietary Uses was established to study specific nutritional problems assigned to it by the Commission and advise the Commission on general nutritional issues; to draft general provisions, as appropriate, concerning the nutritional aspects of all foods; to develop standards, guidelines, or related texts for foods for special dietary uses, in cooperation with other committees when necessary; and to consider, amend if necessary, and endorse provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines and related texts. The committee is hosted by the Federal Republic of Germany.

Issues To Be Discussed at the Public Meeting

The following items will be on the Agenda for the 24th Session of the Committee:

- Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children
- Proposed Draft Revised Standard for Infant Formula
- Proposed Draft Guidelines for Vitamin and Mineral Supplements
- Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Young Children (CAC/GL 10–1979)

In addition, one or more of the following items may be on the Agenda, depending on whether the Committee has received additional scientific information:

- Guidelines for Use of Nutrition Claims: Draft Table of Conditions for Nutrient Contents (Part B, containing provisions on Dietary Fibre)
- Discussion Paper on Energy Conversion Factors
- Draft Revised Standard for Gluten-Free Foods

Note: The provisional agenda for the 24th CCNFSDU session will be posted on the World Wide Web in advance of the meeting at the following address: *http://www.codexalimentarius.net*.

Public Meeting

At the July 30th public meeting, the issues and draft United States positions on the issues will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). In addition, they may be sent electronically to the U.S. Delegate (see **ADDRESSES**). Please state that your comments relate to CCNFSDU activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC on: May 24, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 02–13526 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Glenn/Colusa County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Glenn/Colusa County Resource Advisory Committee (RAC) will hold a meeting.

DATES: The meeting will be held on June 24, 2002, and will begin at 1:30 p.m. until approximately 4:30 p.m.

ADDRESSES: The meeting will be held at the Mendocino National Forest Supervisor's Office, 825 N. Humboldt Ave., Willows, CA.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968-5329; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Approve the Minutes from Last Meeting, (2) Operating Guidelines/Possible Action, (3) Project Selection Criteria/ Possible Action, (4) Review By-Laws/ Possible Action, (5) Further Review of Ford Hill Project Proposal, (6) Public Comment, (7) Next Agenda.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 23, 2002.

James F. Giachino,

Designated Federal Officer.

[FR Doc. 02–13450 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Committee Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Public Law 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, June 17, 2002. The Madera Resource Advisory Committee will meet at the Yosemite Sierra Visitor Bureau, 40637 Highway 41, Oakhurst, CA, 93644. The purpose of the meeting is to review current project proposal applications.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, June 17, 2002. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Yosemite Sierra Visitor Bureau, 40637 Highway 41, Oakhurst, CA, 93644.

FOR FURTHER INFORMATION CONTACT: Dave Martin, U.S.D.A., Sierra National Forest, 57003, Road 225, North Fork, CA, 93643 (559) 877–2218 ext. 3100; e-mail: *dmartin05@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) review current project proposal applications, (2) public comments. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 22, 2002.

David W. Martin,

District Ranger.

[FR Doc. 02–13451 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet on June 17, 2002, in Downieville, California. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting will be held June 17, 2002 from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Downieville Community Hall, Downieville, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St, Nevada City, CA, 95959, (530) 478–6205, EMAIL: *awestling@fs.fed.us*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and announcements; (2) National Forest Fuels Reduction Priorities; and (3) Review of RAC project criteria and the process for project submittal and public notification. The meeting is open to the public and the public will have an opportunity to comment at the meeting.

Dated: May 23, 2002.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 02–13606 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes in the National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: Notice is hereby given of the intention of the Natural Resources Conservation Service (NRCS) to issue a series of new or revised conservation practice standards in its National Handbook of Conservation Practices. These standards include: Animal Trails and Walkways; Channel Bank Vegetation; Clearing and Snagging; Dike; Residue Management, Ridge Till; Residue Management, Seasonal; Row Arrangement. These standards are used to convey national guidance in developing Field Office Technical Guide Standards used in the States and the Pacific Basin and Caribbean Areas. NRCS State Conservationists and Directors for the Pacific Basin and Caribbean Areas, who choose to adopt these practices for use within their States/Areas; will incorporate them into Section IV of their Field Office Technical Guide. These practices may be used in resource management systems that treat highly erodible land, or on land determined to be wetland.

DATES: Comments will be received for a 30-day period, starting on the date of this publication. This series of new or revised conservation practice standards will be adopted after the close of the 30-day period.

FOR FURTHER INFORMATION CONTACT: Single copies of these standards are available from NRCS–CED in Washington, DC. Submit individual inquiries and return any comments in writing to William Hughey, National Agricultural Engineer, Natural Resources Conservation Service, Post Office Box 2890, Room 6139–S, Washington, DC 20013–2890. Telephone number: (202) 720–5023. The standards are also available, and can be downloaded from the Internet, at: http://www.ftw.nrcs.usda.gov/ practice_stds.html.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996, requires NRCS to make available for public review and comment proposed revisions to conservation practice standards used to carry out the highly erodible land and wetland provisions of the law. For the next 30 days, NRCS will receive comments on the proposed changes. Following that period, a determination will be made by NRCS regarding disposition of those comments, and a final determination of change will be made.

Signed in Washington, DC, on May 13, 2002.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 02–13429 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from RUS to finance the construction of a 230 kV electric transmission line in Colquitt, Brooks, and Lowndes Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: Georgia Transmission Corporation proposes to construct approximately 37.5 miles of 230 kV transmission line from Georgia Power Company's East Moultrie Substation to Georgia Power Company's West Valdosta Substation. The East Moultrie Substation is located northeast of Moultrie approximately ¾ miles west of the intersection of State Road 35 and J.O. Stewart Road. The West Valdosta Substation is located on Snake Nation Road west of Valdosta approximately 0.4 miles west of the intersection of Snake Nation Road and Shiloh Road (County Road 775). The transmission line will traverse through southwestern Colquitt County, Georgia, the northeast corner of Brooks County, Georgia, and western Lowndes County, Georgia. Single pole and H-frame structures will be used to support the transmission line conductors and shield wires. Where single pole structures are used, the width of the right-of-way will be 100 feet. Normally, where the proposed right-of-way parallels a road, the centerline will be located approximately 9 feet outside the road right-of-way and the transmission line easement will extend another 50 feet. Where H-frame structures are used, primarily to cross large center-pivot irrigation systems, the width of the right-of-way will be 125 feet. Approximately 286 single pole concrete structures will be used for the majority of this project. Four concrete H-frame structures, typically with steel crossarms, will be used to span large center-pivot irrigation systems. Typical pole structures for this project will be approximately 95 feet in height. The conductors will be approximately 1⅓ inches in diameter. Three-eighths inch diameter shield wire will be used for lightning protection.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Vince Howard, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7635. Mr. Howard's e-mail address is *vince.howand@gatrans.com.*

Dated: May 23, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–13525 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]; [C–122–839]

Corrections to Notice of Amended Final Determination of Sales of Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products from Canada and Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Regarding the Antidumping Investigation, contact Constance Handley at (202) 482–0631 or Charles Riggle at (202) 482–0650, Office of AD/ CVD Enforcement V, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Regarding the Countervailing Duty Investigation, contact Eric B. Greynolds at (202) 482–6071, Office of AD/CVD Enforcement VI, at the address set forth above.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR Part 351 (2000).

Correction to Scope of Antidumping and Countervailing Duty Orders

On May 22, 2002, the Department of Commerce published its Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products from Canada, 67 FR 36068, and its Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada, 67 FR 36070 (Softwood Lumber Orders). In the "Scope of the Order" sections of the Softwood Lumber Orders, we inadvertently omitted certain language in the exclusion of softwood lumber products contained in

single family home packages or kits. See item (6)B of the "Scope of the Order" sections of the Softwood Lumber Orders, 67 FR at 36068 and 67 FR at 36071, respectively. We correct and amend the "Scope of the Order" sections by replacing item (6)B with the following language:

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint.

This notice is published pursuant to sections 706(a) and 736(a) of the Act and 19 CFR 351.211.

Dated: May 24, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13733 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02–017. *Applicant:* Emory University, Department of Biology, 2006 Rollins Research Center, 1510 Clifton Road, Atlanta, GA 30322. *Instrument:* Micromanipulator Assembly for Slice Physiology Setup. *Manufacturer:* Luigs & Neumann, Germany. *Intended Use:* The instrument is intended to be used to do electrophysiological studies using rat brain slices. The experiments consist of preparing slices of rat brain, putting them under the microscope and inserting microelectrodes into single nerve cells. Once the microelectrode is inserted, a fluorescent dye will be injected into the cell body to visualize fine dendritic processes. The microscope will then be moved to focus on one of the visualized fine processes, and a second electrode can be inserted into the same cell. The main objective of this research is to understand neuronal activity and information processing in the mammalian brain. In particular, nerve cells in brain structures involved in motor control will be studied. In addition, the instrument will be used for educational purposes in the course Bio. 498. Application accepted by Commissioner of Customs: May 14, 2002.

Gerald A. Zerdy,

Statutory Import Programs Staff.

[FR Doc. 02–13566 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Akron; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02–009. *Applicant:* The University of Akron, Akron, OH 44325. *Instrument:* Shielded Room (Low Field Cage). *Manufacturer:* Magnetic Measurements Ltd., United Kingdom. *Intended Use:* See notice at 67 FR 18862, April 17, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A cage design allowing visibility of students making measurements inside, (2) very low (about 1% of ambient field) magnetic field space over a large area (up to 2 cubic meters) allowing room for several instruments and (3) ability to actively compensate for a changing magnetic field in the building using a 3-axis fluxgate magnetometer with a sensitivity of 3nT. A domestic manufacturer of similar equipment advised May 16, 2002 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–13565 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 051602B]

Notice of Public Scoping and Preparation of an Environmental Impact Statement for a Middle Fork Nooksack River Habitat Conservation Plan

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act, this notice advises the public that the Fish and Wildlife Service and National Marine Fisheries Service (Services) intend to gather information necessary to prepare an Environmental Impact Statement (Statement). The Statement will examine the proposed approval of a Habitat Conservation Plan (Plan) and issuance of an incidental take permit (Permit) to take threatened species in accordance with the Endangered Species Act of 1973, as amended (Act). The Permit applicant is the City of Bellingham (City). The application is related to water withdrawals from the Middle Fork Nooksack River and Lake Whatcom, and related activities located in Whatcom County, Washington. The applicant intends to request Permits for chinook salmon, bull trout, and Dolly varden, which are listed as threatened under the Act. The City also plans to seek coverage for coho salmon and eight other currently unlisted fish and wildlife species under specific provisions of the Permit, should these species be listed in the future. In accordance with the Act, the City will prepare a Plan for, among other things, minimizing and mitigating any such take that could occur incidental to the proposed Permit activities.

The Services are furnishing this notice to: advise other agencies and the public of our intentions; and to obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Written comments from all interested parties must be received on or before July 1, 2002. A public scoping meeting will be held June 6, 2002, 6:30–9 p.m.

ADDRESSES: The scoping meeting will be held at the City of Bellingham Public Works Building (Training Room Facility), 2221 Pacific Street, Bellingham, WA. Comments and requests for information should be sent to Mark Ostwald, Project Manager, U.S. Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite 102, Lacey, Washington 98503–1273, facsimile (360) 753–9518; or Tom Sibley, Project Manager, National Marine Fisheries Service, 7600 Sand Point Way, N.E., Seattle, Washington, 98115, facsimile (206) 526–4746. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Mark Ostwald, telephone (360) 753–9564; or Tom Sibley, telephone (206) 526–4656.

SUPPLEMENTARY INFORMATION: Section 9 of the Endangered Species Act and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term take is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined by the U.S. Fish and Wildlife Service to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). The National Marine Fisheries Service's definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, feeding, and sheltering (64 FR 60727, November 8, 1999).

The Services may issue permits, under limited circumstances; to take listed species incidental to, and not the purpose of, otherwise lawful activities. U.S. Fish and Wildlife Service regulations governing permits for endangered species are promulgated in 50 CFR 17.22; and, regulations governing permits for threatened species are promulgated in 50 CFR 17.32. National Marine Fisheries Service regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

The City of Bellingham owns and operates a diversion dam on the Middle Fork Nooksack River, a water withdrawal facility on Lake Whatcom, and a water treatment facility near Lake Whatcom. These facilities are located in and adjacent to the City of Bellingham, which is located in Whatcom County, WA. Water is diverted from the Middle Fork Nooksack River at the City's diversion dam, transported via underground pipeline and an above ground canal to the upper end of Lake Whatcom where the water is stored. Withdrawal of water for treatment and ultimate municipal and industrial use occurs near the lower end of Lake Whatcom.

Some of these water withdrawal and related activities have the potential to impact species subject to protection under section 9 of the Act, as described above. Section 10 of the Act contains provisions for the issuance of permits to non-federal landowners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities, and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In addition, the applicant must prepare and submit to the Services for approval, a Plan containing a strategy for minimizing and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

The City of Bellingham has initiated discussions with the Services regarding the possibility of developing a Plan and securing a Permit for their water withdrawal from the Middle Fork Nooksack and Lake Whatcom and related activities. Activities proposed for coverage under the Permit include the following:

(1) Diversion of water from the Middle Fork Nooksack River to Lake Whatcom, storage of water in Lake Whatcom, withdrawal of water from Lake Whatcom, and transport of water to the City of Bellingham's water treatment plant.

(2) Maintenance and operation of the City of Bellingham's Middle Fork Diversion Dam, including dam repairs, screens (as appropriate), and a fish ladder (as appropriate).

(3) Maintenance and operation of the City of Bellingham's Lake Whatcom withdrawal system from the water intake to, but not including, the water treatment plant; and regulation of discharge to Whatcom Creek.

(4) Maintenance of water supply capacity and operational flexibility necessary for efficient water supply operations that minimize and/or avoid operational disruptions.

The Services will conduct an environmental review of the proposed Plan and prepare a Statement. The environmental review will analyze the proposal, as well as a full range of reasonable alternatives and the associated impacts of each. The Services are currently in the process of developing alternatives for analysis.

Comments and suggestions are invited from all interested parties to ensure that the full range of alternatives related to this proposed action and all significant issues are identified. Comments or questions concerning this proposed action and the environmental review should be directed to the Fish and Wildlife Service or National Marine Fisheries Service [see **ADDRESSES**]. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations.

Dated: May 23, 2002.

Anne Badgley,

Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: May 23, 2002.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–13558 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–22–S, 4310–55–S

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service, (NTIS) Commerce.

ACTION: Notice; solicitation of applications for NTIS Advisory Board.

SUMMARY: The National Technical Information Service (NTIS) is seeking qualified Candidates to serve as members of its Advisory Board (Board). The Board will meet semiannually to advise the Secretary of Commerce, the Under Secretary for Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure.

DATES: Applications must be received no later than August 28, 2002.

ADDRESSES: Applications should be submitted to Ronald E. Lawson, Director, NTIS, 5285 Port Royal Road, Springfield, Virginia 22161.

FOR FURTHER INFORMATION CONTACT: Walter L. Finch, (703) 605–6507 or via e-mail at *wfinch@ntis.gov*.

SUPPLEMENTARY INFORMATION: The National Technical Information Service (NTIS) is seeking five qualified candidates to serve as members of its Advisory Board, one of whom will also be designated chairperson. The Board was established pursuant to Section 3704b(c) of Title 15, United States Code. It will meet semiannually to advise the Secretary of Commerce, the Under Secretary for Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure. Members will be appointed by the Secretary and will serve for three-year terms. They will receive no compensation but will be authorized travel and per diem expenses. NTIS is seeking candidates who can provide guidance on trends in the information industry and changes in the way NTIS's customers acquire and use its products and services. Interested candidates should submit a resume and a statement explaining their interest in serving on the Board.

Dated: April 25, 2002.

Ronald E. Lawson,

Director.

[FR Doc. 02–13570 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of the Paperless ELVIS (Electronic Visa Information System) Requirement for Certain Cotton, Wool, Man-Made Fiber, and Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

May 23, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs eliminating the paper visa requirement.

EFFECTIVE DATE: June 15, 2002.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On May 16, 2002, the Governments of the United States and the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) signed the Electronic Visa Information System (ELVIS) Arrangement. This arrangement provides for electronic transmission of visa information to the U.S. Customs Service by the Government of Hong Kong for textiles and textile products exported to the United States which describes the shipment and includes the visa number assigned to the shipment. A paper visa will no longer be required. The transmission certifies the country of origin and authorizes the shipment to be charged against any applicable quota.

Effective on June 15, 2002 for entry into the United States, the paper visa requirement is eliminated for textiles and textile products, produced or manufactured in Hong Kong and exported on or after June 15, 2002. The Government of the HKSAR must issue an ELVIS transmission for each shipment of textiles and textile products, as defined in the Arrangement, for textiles and textile products exported on or after June 15, 2002.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to eliminate the paper visa requirement and to require an ELVIS transmission for shipments of certain textiles and textile products, produced or manufactured in Hong Kong and exported to the United States on or after June 15, 2002. A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001. Also see 58 FR 2400, published on January 19, 1983; 51 FR 27235, published on July 30, 1986, and 63 FR 71621, published on December 29, 1998.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 14, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Hong Kong for which the Government of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) has not issued an appropriate export visa and Electronic Visa Information System (ELVIS) transmission.

Effective on June 15, 2002, the paper visa will no longer be required for the entry of shipments of textiles and textile products, produced or manufactured in Hong Kong and exported to the United States on or after June 15, 2002.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), Executive Order 11651 of March 3, 1972, as amended, the Uruguay Round Agreement on Textiles and Clothing (ATC); and pursuant to the Electronic Visa Information System (ELVIS) Arrangement dated May 16, 2002 between the Governments of the United States and the HKSAR, you are directed to prohibit, effective on June 15, 2002, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200-239, 300-369, 400-469, 600-670, and 800-899, including part categories and merged categories, produced or manufactured in Hong Kong and exported on or after June 15, 2002 for which the Government of the HKSAR has not transmitted an appropriate ELVIS transmission fully described below. Should additional textile products become subject to quantitative restrictions, the product shall be included in the coverage of this directive.

An ELVIS message must accompany each commercial shipment of the aforementioned textile products.

A. Each ELVIS message will include the following information:

i. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for the HKSAR is "HK"), and a six digit numerical serial number identifying the shipment; e.g., 1HK123456.

ii. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

iii. The correct category(s), part category(s), merged category(s), quantity(s) and unit(s) of quantity provided for in the 1992-1995 bilateral agreement and notified to the Textiles Monitoring Body of the WTO Agreement on Textiles and Clothing and listed in Annexes A and B to the Arrangement. Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

iv. The manufacturer identification number (MID). The MID shall begin with 'HK,' followed by the first three characters from each of the first two words of the name of the manufacturer, followed by the largest number on the address line up to the first four digits, followed by the first three letters from the city name where the manufacturer is located.

B. Entry of a shipment shall not be permitted:

i. if an ELVIS transmission has not been received for the shipment from the Government of the HKSAR;

ii. if the ELVIS transmission for that shipment is missing any of the following:

a. visa number,
b. category, part category or merged category,
c. quantity,
d. unit of measure,
e. date of issuance, or
f. MID;

iii. if the ELVIS transmission for the shipment does not match the information supplied by the importer or by its representatives regarding:

a. visa number
b. category, part category, or merged category, or
c. unit of measure;

iv. if the quantity being entered is greater than the quantity in the transmission.

v. if the visa number has previously been used (except in the case of a split shipment) or canceled, except when an entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the HKSAR is required before a shipment that has been denied entry for one of the circumstances mentioned above will be released.

D. Visa waivers will only be considered if the shipment qualifies as a one-time special purpose shipment that is not part of an ongoing commercial enterprise. A visa waiver may be issued by the Department of Commerce at the request of the Hong Kong Economic and Trade Office in Washington, D.C. for the Government of the HKSAR. A visa waiver only waives the requirement to present a transmission at entry and does not waive any quota requirements.

E. In the event of a systems failure, shipments will not be released for twenty-four hours or one full business day. If system failure exceeds twenty-four hours or one full business day, for the remaining period of the system failure the U.S. Customs Service shall release shipments on the basis of the visa data provided by the Government of the HKSAR.

F. If a shipment from the HKSAR is allowed entry into the commerce of the United States with an incorrect ELVIS transmission, or no ELVIS transmission, or system failure, and redelivery is requested but cannot be made, and where the Government of the HKSAR does not issue a new ELVIS transmission or request a visa waiver (if applicable), the shipment will be charged to the correct category limit whether a visa waiver is provided or a new ELVIS message is transmitted.

Other Provisions:

A. The date of export is the actual date the merchandise finally leaves the country of origin. For merchandise exported by carrier, this is the day on which the carrier last departs the country of origin.

B. With the exception of suits of wool, man-made fibers, silk blend and/or non-cotton vegetable fibers, all textile and apparel products, including bona fide gifts valued at U.S. $50 or less, shipped for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. $800 or less do not require a transmission for entry and shall not be charged to agreement levels. Notwithstanding the above, personal shipments of suits of wool, man-made fibers, silk blend and/or non-cotton vegetable fibers accompanying the traveler, regardless of value, do not require a transmission for entry and shall not be charged to any agreement levels.

C. Textile product integrated into the General Agreement on Tariffs and Trade 1994 by the United States in accordance with the WTO Agreement on Textiles and Clothing do not require a transmission.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13471 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

May 24, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used, carryover, swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63035, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 24, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other

vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 30, 2002, you are directed to adjusting the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	496,747 dozen.
314	6,272,349 square meters.
331pt./631pt. [2]	1,188,599 dozen pairs.
333/633	28,178 dozen.
334/634	1,392,652 dozen.
335	274,501 dozen.
336/636	731,188 dozen.
338/339	2,373,506 dozen.
340/640	1,942,683 dozen.
341/641	3,339,264 dozen of which not more than 2,226,176 dozen shall be in Category 341 and not more than 2,094,115 dozen shall be in Category 641.
342/642	1,122,967 dozen.
345/845	306,045 dozen.
351/651	591,656 dozen.
352/652	2,102,738 dozen.
359–C/659–C [3]	1,694,184 kilograms.
360	1,327,477 numbers.
363	21,656,745 numbers.
369–S [4]	768,141 kilograms.
434	9,068 dozen.
435	19,432 dozen.
440	9,638 dozen.
611	3,474,240 square meters.
635	728,219 dozen.
638/639	1,603,686 dozen.
644	952,654 numbers.
645/646	229,079 dozen.
647/648	1,588,840 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13472 Filed 5–29–02; 8:45 a.m.]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denying Entry to Textiles and Textile Products Allegedly Manufactured in Certain Companies in Cambodia

May 23, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs directing Customs to deny entry to shipments allegedly manufactured in certain companies in Cambodia.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 12475 of May 9, 1984, as amended.

The U.S. Customs Service has conducted on-site verification of textile and textile product production in a number of foreign countries. Based on information obtained through on-site verifications and from other sources, U.S. Customs has informed CITA that certain companies were illegally transshipping, were closed, or were unable to produce records to verify production. The Chairman of CITA has directed the U.S. Customs Service to issue regulations regarding the denial of entry of shipments from such companies. (See Federal Register notice 64 FR 41395, published on July 30, 1999). In order to secure compliance with U.S. law, including Section 204 and U.S. customs law, to carry out textile and textile product agreements, and to avoid circumvention of textile agreements, the Chairman of CITA is directing the U.S. Customs Service to deny entry to textile and textile products allegedly manufactured by G. T. Garment (Cambodia) Co., Ltd.; Kao Sing Co., Ltd.; and Horus Industrial Corporation for two years. Customs has informed CITA that these companies were found to have been illegally transhipping, closed, or unable to produce records to verify production.

Should CITA determine that this decision should be amended, such amendment will be published in the Federal Register.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The U.S. Customs Service has conducted on-site verification of textile and textile product production in a number of foreign countries. Based on information obtained through on-site verifications and from other sources, U.S. Customs has informed CITA that certain companies were illegally transshipping, were closed, or were unable to produce records to verify production. The Chairman of CITA has directed the U.S. Customs Service to issue regulations regarding the denial of entry of shipments from such companies (see directive dated July 27, 1999 (64 FR 41395), published on July 30, 1999). In order to secure compliance with U.S. law, including Section 204 and U.S. customs law, to carry out textile and textile product agreements, and to avoid circumvention of textile agreements, the Chairman of CITA directs the U.S. Customs Service, effective for goods exported on and after May 30, 2002 and extending through May 29, 2004, to deny entry to textiles and textile products allegedly manufactured by the Cambodian companies G. T. Garment (Cambodia) Co., Ltd.; Kao Sing Co., Ltd.; and Horus Industrial Corporation. Customs has informed CITA that these companies were found to have been illegally transshipping, closed, or unable to produce records to verify production.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13470 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is conducting a Study of the Community, Higher Education, and School Partnerships (CHESP) supported with Learn and Serve America School-based funds. This notice concerns the collection of information from CHESP grantees and subgrantee organizations which will describe the organizations, the CHESP activities that they are involved in, and their perceptions of their CHES Partnerships. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by July 29, 2002.

ADDRESSES: Send comments to the Corporation for National and Community Service, Department of Research and Policy Development, Attn: William Ward, 1201 New York Avenue, NW, Washington, DC, 20525, or *wward@cns.gov*.

FOR FURTHER INFORMATION CONTACT: William Ward (202) 606–5000, ext. 375 or wward@cns.gov.

SUPPLEMENTARY INFORMATION:

Background

The intent of the Community, Higher Education, and School Partnerships (CHESP), a service-learning initiative, is for communities, institutions of higher education, and schools to work together to identify and meet the needs of the community and create valuable learning opportunities for young people. The program's purpose is to encourage strategic collaborations among institutions to improve education and communities through service-learning and develop comprehensive demonstration models of service-learning and community, higher education, and school collaborations that can be replicated. A key aspect of CHESP, and what distinguishes it from other service-learning programs, is its emphasis on three-way partnerships among schools, community-based organizations and institutions of higher education.

In February 2000, the Corporation awarded 20 competitive three-year CHESP grants supported with Learn and Serve America: School-based funds to state education agencies, grantmaking entities, and one Indian Tribe. Each grantee then funded between two and 18 local subgrantees (for a total of approximately 166 subgrantees).

The study of the Community, Higher Education, and School Partnerships (CHESP) seeks to describe CHESP grantees and subgrantees and their partnerships; identify facilitators and barriers to establishing service-learning partnerships among CHESP partners; determine whether CHESP programs provide effective models or value-added strategies for service-learning initiatives that can be replicated; and determine whether CHESP programs suggest an appropriate direction for future grantmaking policy.

Current Action

The Corporation seeks approval of two telephone survey forms that will be used to collect information about CHESP grantee and subgrantee partnerships and programs. This requires collecting information from grantee and subgrantee organization staff that will address: (1) CHESP project characteristics and information about the implementation of the partnerships; and (2) the impact of the CHESP partnerships on the grantee and the subgrantee organizations.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: CHESP Grantee/ Subgrantee Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Project staff at CHESP grantee organizations such as state education agencies, grantmaking entities, and one Indian Tribe, and project staff at subgrantee organizations such as community based organizations, elementary and secondary schools and school districts, and institutions of higher education.

Total Respondents: 20 grantees, and approximately 166 subgrantees.

Frequency: One time survey.

Average Time Per Response: Grantee Survey: 60 minutes, Subgrantee Survey: 50 minutes.

Estimated Total Burden Hours: 160.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 22, 2002.

David Reingold,

Director, Department of Research and Policy Development.

[FR Doc. 02–13465 Filed 5–29–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0053]

Federal Acquisition Regulation; Submission for OMB Review; Permits, Authorities, or Franchises Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR)

Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning permits, authorities, or franchises certification. A request for public comments was published in the **Federal Register** at 67 FR 17677, on April 11, 2002.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Respondents: 1,106.
Responses Per Respondent: 3.
Annual Responses: 3,318.
Hours Per Response: .094.
Total Burden Hours: 312.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

Dated: May 23, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13431 Filed 5–29–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0055]

Federal Acquisition Regulation; Submission for OMB Review; Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0055).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning freight classification description. A request for public comments was published in the **Federal Register** at 67 FR 17678, on April 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full uniform freight classification or national motor freight classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Respondents: 2,640.
Responses Per Respondent: 3.
Annual Responses: 7,920.
Hours Per Response: .167.
Total Burden Hours: 1,323.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

Dated: May 23, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13432 Filed 5–29–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Defense Contract Audit Agency Senior Executive Service Performance Review Boards

AGENCY: Defense Contract Audit Agency, DoD.

ACTION: Notice of membership of the Defense Contract Audit Agency Senior Executive Service Performance Review Boards.

SUMMARY: This notice announces the appointment of members to the Defense Contract Audit Agency (DCAA) Performance Review Boards. The Performance Review Boards provide fair and impartial review of Senior Executive Service (SES) performance appraisals and make recommendations to the Director, Defense Contract Audit Agency, regarding final performance ratings and performance awards for DCAA SES members.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Dale R. Collins, Chief, Human Resources Management Division, Defense Contract Audit Agency, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, Virginia 22060–6219, (703) 767–1039.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of DCAA career executives appointed to serve as members of the DCAA Performance Review Boards. Appointees will serve one-year terms, effective upon publication of this notice.

Headquarters Performance Review Board

Mr. Earl Newman, Assistant Director, Operations, DCAA, Chairperson.

Mr. Lawrence Uhlfelder, Assistant Director, Policy and Plans, DCAA, member.

Mr. Kirk Moberley, General Counsel, DCAA, member.

Regional Performance Review Board

Ms. Barbara Reilly, Regional Director, Mid-Atlantic Region, DCAA, Chairperson.

Mr. David Dzivak, Regional Director, Northeast Region, DCAA, member.

Mr. Christopher Andrezze, Deputy Regional Director, Western Region, DCAA, member.

Dated: May 24, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–13592 Filed 5–29–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) for the Design, Construction, and Operation of One or More Pilot Test Facilities for Assembled Chemical Weapons Destruction Technologies at One or More Sites

AGENCY: Program Manager (PM), Assembled Chemical Weapons Assessment (ACWA), DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the FEIS which assesses the potential impacts of the design, construction, operation, and closure of one or more pilot-scale test facilities for an assembled chemical weapons destruction system at one or more chemical weapons stockpile sites. The FEIS examines the potential environmental impacts of the following alternatives, to include technologies that could be incorporated into a pilot-scale facility: (1) No action (continued storage on site with no ACWA pilot plant or destruction of the stockpile with no ACWA pilot plant); (2) chemical neutralization followed by biological treatment; (3) chemical neutralization followed by supercritical water oxidation; (4) chemical neutralization followed by transpiring wall supercritical water oxidation and gas phase chemical reduction; and (5) electrochemical oxidation.

The chemical stockpile sites are Anniston Army Depot in Alabama, Pine Bluff Arsenal in Arkansas, Pueblo Chemical Depot in Colorado (neutralization followed by transpiring wall supercritical water oxidation, and electrochemical oxidation are not alternatives at Pueblo due to restrictions of Public Law 106–398) and Blue Grass Army Depot in Kentucky. The PM ACWA pilot tests will not halt or delay the operation or construction of any baseline incineration facility currently in progress.

DATES: The waiting period for this FEIS will end 30 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain copies of the FEIS, contact the Program Manager for Assembled Chemical Weapons Assessment, Attention: Mr. Miguel Morales, 5183 Blackhawk Road, Building E5101/223, Aberdeen Proving Ground, MD 21010–4005 or by e-mail at *Miguel.Morales@SBCCOM.apgea.army.mil.*

FOR FURTHER INFORMATION CONTACT: Kimberly Collins, Home Engineering, 2014 Tollgate Road, Suite 208, Bel Air, MD 21015, by phone at 888–482–4312 or via e-mail at *kimberly.collins@horne.com.*

SUPPLEMENTARY INFORMATION: This proposed action continues the process that began when Congress established the ACWA Program through passage of the Omnibus Consolidated Appropriations Act, 1997 (Pub. L. 104–208). With the National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261), Congress directed the PM ACWA to plan for the pilot-scale testing of alternatives to baseline incineration for the destruction of assembled chemical weapons. The DoD published a Notice of Intent in the **Federal Register** on April 14, 2000 (65 FR 20139–20140) which provides notice (pursuant to the National Environmental Policy Act and implementing regulations), that it was preparing a draft EIS for follow-on tests including design, construction and operation of one or more pilot test facilities for assembled chemical weapons destruction technologies at one or more sites.

Assembled chemical weapons are munitions containing both chemical agents and explosives that are stored in the United States unitary chemical weapons stockpile. This includes cartridges, land mines, mortar rounds, projectiles, and rockets. Unitary agents include chemical blister agents (e.g., the mustard agents HD and HT) and nerve agents (e.g., GB (Sarin) and VX).

The PM for ACWA demonstrated the technologies considered to be viable. However, the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) limited the technologies to be considered at Pueblo Chemical Depot to those demonstrated prior to May 1, 2000, by the PM for ACWA. The sites considered were selected based on the availability of assembled chemical weapons at the time actual testing would begin. All public comments received on the Draft EIS have been addressed in the FEIS.

Dated: May 23, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety, and Occupational Health), OASA (I&E).

[FR Doc. 02–13453 Filed 5–29–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Draft environmental Impact Statement (DEIS) for the Disposal of Chemical Munitions at Blue Grass Army Depot (BGAD), Kentucky

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the DEIS that assesses the potential environmental impacts of the design, construction, operation and closure of a facility to destroy the chemical agents and munitions stored at BGAD. The DEIS examines the potential environmental impacts of the following destruction facility alternatives: (1) A baseline incineration facility used by the Army at Johnston Atoll Chemical Agent Disposal System on Johnston Island and currently in use at Desert Chemical Depot, (2) chemical neutralization followed by supercritical water oxidation (SCWO), (3) chemical neutralization followed by SCWO and gas phase chemical reduction, (4) electrochemical oxidation, and (5) no action (continued storage of chemical munitions at BGAD). Although the no action alternative is not viable under Public Law 99–145 (Department of Defense Authorization Act of 1986); it was analyzed to provide a baseline comparison to the proposed action.

DATES: The public comment period of the DEIS will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain copies of the DEIS or submit comments, contact the Program Manager for Chemical Demilitarization, Public Outreach and information Office (ATTN: Mr. Greg Mahall), Building E–4585, Aberdeen Proving Ground, Maryland 21010–4005.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Mahall at (410) 436–1093, by fax at (410) 436–5122, by e-mail at *gregory.mahall@pmcd.apgea.army.mil* or by mail at the above listed address.

SUPPLEMENTARY INFORMATION: In its Record of Decision (ROD) (53 FR 5816, February 26, 1988) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program (CSDP), the Army selected on-site disposal by incineration at all eight chemical munition storage sites located within the continental United States as the method by which it would destroy its lethal chemical stockpile. The Notice of Intent was published in the **Federal Register** (65 FR 75677–75678, December 4, 2000) providing notice that, pursuant to the National Environmental Policy Act and its implementing regulations, a site-specific EIS for the Blue Grass Chemical Agent Disposal Facility was being prepared. Public scoping meetings were held in Richmond, KY on January 9, 2001. All public comments received during the scoping process have been considered in preparation of this DEIS.

This site-specific EIS continues the process that began when Congress established the Chemical Demilitarization program in Public Law 99–145 (1985). This law, as amended, requires the destruction of the chemical weapons stockpile by a stockpile elimination deadline. This requirement still exists, notwithstanding the establishment of the Assembled Chemical Weapons Assessment (ACWS) Program. The Chemical Demilitarization program published a Programmatic Environmental Impact Statement (PEIS) in January 1988. The ROD states that the stockpile of chemical agents and munitions should be destroyed in a safe and environmentally acceptable manner by on-site incineration. Site-specific EISs that tier off the PEIS have been prepared for Johnston Atoll Chemical Agent Disposal System, Tooele Chemical Agent Disposal Facility, Anniston Chemical Agent Disposal Facility, Umatilla Chemical Agent Disposal Facility, and for the Pine bluff Chemical Agent Disposal Facility.

The specific purpose of the current analysis is to determine the environmental impacts of the alternatives identified in this summary that could accomplish the destruction of the stockpile at BGAD by the required destruction date. In the course of the environmental impact analysis, it will be determined whether construction of a full-scale plant operated initially as a pilot facility and utilizing any of the technologies successfully demonstrated in the ACWA Program is capable of destroying the stockpile at BGAD by the required destruction date (or as soon thereafter as could be achieved by constructing a destruction facility using the baseline incineration technology) and as safely as use of the baseline incineration technology. The ROD (based on the 1988 PEIS) does not limit or predetermine the results of this consideration, and it does not dictate the decision to be made in the ROD following completion of the EIS for this action at BGAD.

The second document announcing the programmatic analysis for follow-on pilot testing of successful ACWA Program demonstration tests pursuant to the process established by Congress in Public Laws 104–208 and 105–261 addresses a distinct but related purpose. That purpose is to determine which technologies can be pilot tested and, if so, at which site or sites. That PEIS can be distinguished from this site-specific EIS in that its emphasis will be on the feasibility of pilot testing one or more of the demonstrated and approved ACWA Program technologies considering the unique characteristics of the alternative sites to include BGAD. The PEIS will not consider the use of a full-scale facility operated initially as a pilot facility at BGAD. As discussed above, this alternative will be considered in the site-specific EIS for BGAD.

A decision on which of the alternatives will be implemented in carrying out the destruction of the chemical munitions at BGAD will be made by the Defense Acquisition Board through a process that will consider a wide range of factors. The factors include, but are not limited to, environmental considerations, laws and regulations, mission needs (at BGAD as well as from a national perspective), implications for compliance with the Chemical Weapons Convention, budget considerations, schedule and public concerns.

Dated: May 23, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I&E).

[FR Doc. 02–13452 Filed 5–29–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 1, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 23, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Report of Randolph-Sheppard Vending Facility Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 702.

Abstract: The information is needed to evaluate the effectiveness of the Program and to promote growth. The information is transmitted to State agencies to assist in the conduct and expansion of the Program at the State level. Respondents are the designated Vocational Rehabilitation Agencies.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 1982. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov*. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–13434 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.359]

Early Reading First Program

AGENCY: Department of Education.

ACTION: Notice revising deadline requirement for State lists of eligible local educational agencies (LEAs) for the initial year's (fiscal year (FY) 2002) Early Reading First grant competition.

SUMMARY: The Secretary revises the requirement that State educational agencies (SEAs) submit lists of eligible LEAs so that the Department receives those lists by a certain deadline (April 30, 2002), to allow lists to be either received by the Department by that deadline or postmarked by that deadline. The Secretary takes this action to allow the Department to accept lists of eligible LEAs where receipt was delayed due to disruptions in normal mail delivery.

Eligibility: The change of deadline procedures affects you only if you are an SEA that submitted a list of eligible LEAs for the Early Reading First competition for FY 2002 that was not received by the Department by April 30, 2002, but that was postmarked by that date.

DATES: *State Data Submission Deadline:* The Department (1) must have received the submission by April 30, 2002; or (2) the SEA must have had its submission postmarked by April 30, 2002, and the Department must have received that submission by June 21, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia McKee, Tracy Bethel, or Jennifer Flood at 202–260–4555, or by e-mail at *ERF@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. If you are an individual with a disability, you may obtain a copy of this notice in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

The Early Reading First Program is a direct competitive grant program that will support early education programs and teach preschool-age children to develop the early language and cognitive skills that they need to enter kindergarten ready to learn to read and succeed under State standards. Eligible entities are eligible LEAs, and public and private organizations in communities served by those LEAs.

The statute bases LEAs eligibility for the Early Reading First Program on the statutory criteria for LEA eligibility for Reading First State Grants Program subgrants. On April 10, 2002, the Secretary published a notice in the **Federal Register** (67 FR 17594) for the Early Reading First Program inviting SEAs, by April 30, 2002, to identify and provide to the Department, for the purposes of the Early Reading First grant competition for FY 2002, a list of eligible LEAs in the State under the Reading First statutory criteria. That notice indicated that if the Department did not *receive* a State's submission of a list of eligible LEAs by April 30, 2002, the Department would itself identify eligible LEAs in the State for the Early Reading First grants for FY 2001. However, the Department recently has experienced disruptions to normal mail delivery. For this reason, the Department did not receive some submissions that States mailed in sufficient time for the Department normally to have received them by April 30, 2002. The Secretary therefore changes the submission procedures to allow for those submissions of State lists of eligible LEAs that either (1) were received by the Department by the deadline; or (2) that were postmarked by that deadline so long as the Department receives the postmarked submission by June 21, 2002.

Waiver of Proposed Rulemaking

It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed requirements that are not taken directly from statute. Ordinarily, this practice would have

applied to the requirements in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. To ensure timely awards of Early Reading First grants, the Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment with respect to this change in the State data submission deadline requirements.

Paperwork Reduction Act Considerations

As required by the Paperwork Reduction Act, the Office of Management and Budget has approved this information collection under OMB control number 1810–0647, which expires August 31, 2002.

Electronic Access to This Document

You may view this document, as well as all of other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo/nara/index.html*

Program Authority: Subpart 2, part B, title I of the ESEA, Pub. L. 107–110.

Dated: May 24, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13573 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.215V—State Educational Agencies]

[CFDA No. 84.215S—Local Educational Agencies]

Office of Educational Research and Improvement; Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Correction

On May 21, 2002, we published in the **Federal Register** (67 FR 35888–35890) a notice inviting applications for new awards for FY 2002 for the Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education. At 67 FR 35889, third column, seventh bullet, ninth line "84.305G" is corrected to read: "84.215V for State Educational Agencies and 84.215S for Local Educational Agencies".

FOR FURTHER INFORMATION CONTACT: Beverly A. Farrar, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502J, Washington, DC 20208–5645. FAX: (202) 219–2053 or via the Internet: *beverly.a.farrar@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format, e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access/gpo.gov/nara/index.html*.

Program Authority: 20 U.S.C. 7247.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–13428 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.184A]

Grants To Reduce Alcohol Abuse; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of this program is to provide grants to local educational agencies (LEAs) to develop and implement innovative and effective alcohol abuse prevention programs for secondary school students.

Eligible Applicants: LEAs.

Applications Available: May 29, 2002.

Deadline for Transmittal of Applications: July 8, 2002.

Deadline for Intergovernmental Review: September 6, 2002.

Estimated Available Funds: $23,250,000.

Estimated Range of Awards: $250,000–$750,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 47.

Project Period: Up to 36 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 97, 98 and 99.

Statutory Priority: Under the Elementary and Secondary Education Act, as amended, Title IV, Part A, Subpart 2, Section 4129, this grant competition solicits applications for projects to develop and implement innovative and effective alcohol abuse prevention programs for secondary school students. We will consider only applications that meet this statutory priority.

Supplementary Information: In making awards under this grant program, we will reserve up to 25 percent of the available funds for rural and low-income LEAs.

Contingent upon the availability of funds, we may make additional awards in FY 2003 from the rank-ordered list of non-funded applications from this competition.

Definitions

(1)"Rural and low-income local educational agency" is an LEA: (a) That is designated with a locale code of 6, 7, or 8, as determined by the Department's National Center for Education Statistics (NCES); and (b) in which 20 percent or more of the children ages 5 through 17 years served by the LEA are from families with incomes below the poverty line.

In order to determine its locale code, an LEA should use the information provided by NCES at: *www.ed.gov/offices/OESE/SDFS/grants*.

For purposes of this competition, locale codes of 6, 7 and 8 are described as follows: (1) Locale code 6: a large town (an incorporated place or a Census-designated place (CDP) with a population of at least 25,000 and located outside a consolidated metropolitan statistical area (CMSA) or metropolitan statistical area (MSA)); (2) locale code 7: a small town (an incorporated place or CDP with a population between 2,500 and 24,999 and located outside a CMSA or MSA); or (3) locale code 8: any incorporated place, CDP, or non-place territory designated as rural by the U.S. Bureau of the Census.

In the case where there are missing data or no data in the NCES table to determine the locale code, applicants may substitute certification by the State educational agency that the LEA is located in an area defined as rural by a governmental agency of the State.

In the case where there are missing data or no data in the NCES table to determine the low-income status of the LEA, applicants may substitute evidence that 20 percent or more of the children ages 5 through 17 years served by the LEA are from families with incomes below the poverty line.

(2) "Secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

Other Requirements

Application Requirements

LEAs submitting an application under this program must:

(1) Describe the activities to be carried out under the grant;

(2) Provide an assurance that such activities will include one or more of the proven strategies for reducing underage alcohol abuse as determined by the Substance Abuse and Mental Health Services Administration, whose evidence of effectiveness includes scientifically based research (a list is provided in the application package); and

(3) Explain how activities to be carried out under the grant that are not described in (2) of this section will be effective in reducing underage alcohol abuse, including references to the past effectiveness of such activities.

Post-Award Requirements

LEAs receiving a grant under this program must:

(1) Submit an annual report concerning the effectiveness of the programs and activities funded under the grant;

(2) Participate in any technical assistance meetings required by the Department; and

(3) Use a qualified evaluator to design and implement an evaluation of the project using outcomes-based (summative) performance indicators related to behavioral change and process (formative) measures that assess and document the strategies used.

Participation by Private School Children and Teachers

LEAs that receive a grant are required to provide for the equitable participation of eligible private school children and their teachers or other educational personnel. In order to ensure that grant program activities address the needs of private school children, timely and meaningful consultation with appropriate private school officials must occur during the design and development of the program. Administrative direction and control over grant funds must remain with the grantee.

Maintenance of Effort

LEAs may receive a grant only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

Selection Criteria

Applications submitted under this competition will be reviewed using one of two sets of selection criteria in order to respond to a statutory requirement to streamline the application process for rural and low-income LEAs. The first set of criteria may be used by any applicant. The second set may be used only by rural and low-income applicants. Applications will be reviewed and scored separately according to the selection criteria the applicant chooses. Applications using the rural and low-income selection criteria that do not meet the definition for a rural and low income LEA will not be read. The maximum score for all of these criteria is 100 points.

Selection Criteria for Non-Rural, Non-Low-Income LEAs

(1) Need for the Project (20 Points)

In determining the need for the proposed project the following factor is considered: The magnitude or severity of the problem to be addressed by the proposed project.

(2) Quality of the Project Design (50 Points)

In determining the quality of the design of the proposed project, the following factors are considered:

(i) The extent to which the design of the program reflects up-to-date knowledge from research and effective practice.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(3) Quality of the Project Evaluation (30 Points)

In determining the quality of the evaluation, the following factors are considered: (i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iii) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

Selection Criteria for Rural and Low-Income LEAs

(1) Need for the Project (20 Points)

In determining the need for the proposed project the following factor is considered: The magnitude or severity of the problem to be addressed by the proposed project.

(2) Quality of the Project Design (50 Points)

In determining the quality of the design of the proposed project, the following factor is considered: The extent to which the design of the

program reflects up-to-date knowledge from research and effective practice.

(3) Quality of the Project Evaluation (30 Points)

In determining the quality of the evaluation, the following factor is considered: The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

Waiver of Proposed RuleMaking

Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on a proposed priority and selection criteria. Section 437(d)(1) of the General Education Provision Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program. This is the first competition under the Grants to Reduce Alcohol Abuse program. These requirements will apply to the FY 2002 grant competition only.

For Applications and Other Information Contact

Copies of the application for this competition are available from EDPubs at 1–877–4EDPubs. The complete application package is also available on-line via Internet at: *www.ed.gov/offices/OESE/SDFS*. For all other questions please contact Ann Weinheimer, U.S. Department of Education, 400 Maryland Avenue, SW—Room 3E330, Washington, DC 20202–6123. Telephone: (202) 708–5939, e-mail address: *Ann.Weinheimer@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under *For Applications and Further Information Contact*. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Grants to Reduce Alcohol Abuse program is one of the programs included in the pilot project. If you are an applicant under this grant competition, you may submit your application in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We will continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

—Your participation is voluntary.
—You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
—You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs, (ED 524), and all necessary assurances and certifications.
—Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-Application system.
2. Make sure that the institution's Authorized Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right corner of the ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

We may request that you give us original signatures on all other forms at a later date.

You may access the electronic application for Grants to Reduce Alcohol Abuse Program at: *http://e-grants.ed.gov*.

We have included additional information about the e-APPLICATION pilot project (*see* Parity Guidelines between Paper and Electronic Applications) in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*.

To use PDF, you must have the Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO); toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Number 84.184A, Grants to Reduce Alcohol Abuse)

Program Authority: 20 U.S.C. 7139.

Dated: May 24, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13572 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting; Correction

AGENCY: Department of Education

ACTION: Correction notice.

SUMMARY: On May 13, 2002, a notice of a public meeting of the Federal Interagency Coordinating Council (FICC) was published in the **Federal Register** (67 FR 32022). This notice corrects the last paragraph in the **SUMMARY** section, as well as, the **DATE AND TIME** and **ADDRESSES** section that were included in the notice. In the last paragraph of the **SUMMARY** section the published date of the FICC committee meetings was June 12, 2002, and has been changed to June 25, 2002. The published date, time, and location for the FICC meeting was Thursday, June 13, 2002, from 9 a.m. to 4:30 p.m. in the U.S. Department of Education, Departmental Auditorium, 400 Maryland Avenue, SW., Washington, DC. It is corrected to read, Wednesday, June 26, 2002, from 9 a.m. to 4:30 p.m. in the U.S. Department of Health and Human Services, 330 Independence Avenue, SW., Room 5051, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bobbi Stettner-Eaton or Obral Vance, U.S. Department of Education, 330 C Street, SW., Room 3090, Switzer Building, Washington, DC 20202.

Telephone: (202) 205–5507 (press 3). Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5637.

Individuals who need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative format) should notify Obral Vance at (202) 205–5507 (press 3) or (202) 205–5637 (TDD) ten days in advance of the meeting. The meeting location is accessible to individuals with disabilities.

Electronic Access To This Document

You may view this notice as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov.legislative/FedRegister*.

To use PDF you must have Adobe Acrobat Reader which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rebabilitative Services.

[FR Doc. 02–13569 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Worker Advocacy Advisory Committee Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Worker Advocacy Advisory Committee.

The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that public notice of this meeting be published in the **Federal Register**.

DATES: Tuesday, June 18, 2002, 12:30–5:30 p.m. Wednesday, June 19, 2001, 8 a.m.–12:30 p.m.

ADDRESSES: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Judy Keating, Executive Administrator, Worker Advocacy Advisory Committee, U.S. Department of Energy, EH–8, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone Number 202–586–7551, E-mail: *judy.keating@eh.doe.gov*.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice to the Director of the Office of Worker Advocacy of the Department of Energy on plans, priorities, and strategies for assisting workers who have been diagnosed with work-related illnesses.

Tentative Agenda

Welcome and Introductions
Organization of the Office of Worker Advocacy
Status of Interagency Work
Discussion of Subcommittee Topics, including claims processing, and Insurer and Contractor Relations
Public Comment
Next Steps/Path Forward

Public Participation: This two-day meeting is open to the public on a first-come, first-serve basis because of limited seating. Written statements may be filed with the committee before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Judy Keating at the address or telephone listed above. Requests to make oral statements must be made and received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC on May 24, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–13466 Filed 5–29–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–16–000]

Calpine Texas Pipeline, L.P.; Notice of Petition for Rate Approval

May 23, 2002.

Take notice that on May 2, 2002, Calpine Texas Pipeline, L.P. (Calpine) filed, pursuant to Section 284.224(c)(7) and Section 284.123(b)(1)(ii) of the Commission's Regulations, a petition for rate approval, requesting that the Commission approve the following maximum rates for transportation under Section 311 of the Natural Gas Policy Act. Calpine proposes rates of $0.0121/MMBtu for the Baytown System and $0.0218/MMBtu for the Freestone System.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before June 7, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13492 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–045]

Columbia Gas Transmission Corporation; Notice of Filing

May 23, 2002.

Take notice that on May 10, 2002, Columbia Gas Transmission Corporation

(Columbia) filed to report on the sharing with its customers of a portion of the profits from the sale of certain base gas as provided in Columbia's Docket No. RP95–408 rate case settlement. See Stipulation II, Article IV, Sections A through E, in Docket No. RP95–408 approved at Columbia Gas Transmission Corp., 79 FERC ¶ 61,044 (1997). Sales of base gas have generated additional profits of $6,285,545 requiring a sharing of 50 percent of the excess profits with customers in accordance with Stipulation II, Article IV, Section C. Consequently, $3,362,403, inclusive of interest, has been allocated to affected customers and credited as a line item to their April 2002 invoices, which credits remain subject to Commission acceptance of this filing.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13494 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–050]

Columbia Gulf Transmission Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 20, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective May 1, 2002:

First Revised Sheet No. 306
Original Sheet No. 316

Columbia Gulf states on April 18, 2002, it made a filing with the Federal Energy Regulatory Commission (Commission) seeking approval of a Rate Schedule PAL negotiated rate agreement with Duke Energy Trading and Marketing, L.L.C. in Docket No. RP96–389–047. Also, on April 25, 2002, Columbia Gulf made a similar filing with the Commission seeking approval of a Rate Schedule PAL negotiated rate agreement with Reliant Energy Services, Inc. in Docket No. RP96–389–048. On May 9, 2002, the Commission issued an order on both filings, approving the service agreements effective May 1, 2002, and directing Columbia Gulf to file a tariff sheet identifying the agreements as non-conforming agreements in compliance with Section 154.112(b) of the Commission's regulations. The instant filing is being made to comply with Section 154.112(b) and reference the non-conforming service agreements in its Volume No. 1 tariff.

Columbia Gulf states that copies of its filing is being mailed to each of the parties listed on the service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13498 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–232–000]

Dominion Transmission, Inc.; Notice of Application

May 22, 2002.

Take notice that on May 8, 2002, Dominion Transmission, Inc. ("DTI"), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP02-232-000 an application pursuant to Sections 157.205 and 157.214 of the Commission's Rules for a certificate of public convenience and necessity authorizing DTI to increase the storage capacity (without native gas) of the Fink-Kennedy/Lost Creek Storage Complex by approximately 10.1 Bcf, from 151.432 to 161.5 Bcf. The Fink-Kennedy/Lost Creek Storage Complex is located in central West Virginia, primarily in Lewis County.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http: // www.ferc.gov* using the "Rims" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

DTI seeks authorization to increase the maximum storage capacity of the Fink- Kennedy/Lost Creek Storage Complex from its currently certificated capacity of 151.432 (without native gas) to potentially 161.5 Bcf (without native gas). It is anticipated that Lost Creek region of the reservoir will increase in capacity by approximately 3 Bcf, and the Fink-Kennedy region of the reservoir will increase in capacity by approximately 7 Bcf. The currently certificated maximum stabilized shut-in wellhead pressure in lost Creek is 975 psig and Fink and Kennedy is 1,000 psig. DTI is requesting no changes to these maximum stabilized shut-in wellhead pressures. As there is no increase in the maximum stabilized shut-in wellhead pressures, DTI does not believe that the increase in storage capacity will cause any additional migration of storage gas.

Any question regarding the application should be directed to Sean R. Sleigh, certificate Manager, Dominion Transmission, Inc., at: (304) 627–3462.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Comments, protest and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13435 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–17–000]

Gulf States Pipeline Corporation; Notice of Petition for Rate Approval

May 23, 2002.

Take notice that on April 30, 2002, Gulf States Pipeline Corporation (GSP) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve the proposed rates as fair and equitable for transportation services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA). GSP requests that the Commission determine that its current maximum rates of $.3448 per MMBtu for interruptible transportation and $.1314 per MMBtu commodity charge and $6.49 monthly demand charge for firm transportation remain fair and equitable at this time. GSP also requests continuation of the maximum fuel retention percentage of 2%.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before June 7, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13493 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–134–001]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 15, 2002, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing a compliance filing as directed by the Commission's April 25, 2002 Order in the above captioned proceeding.

Maritimes states that the purpose of the filing is to comply with the Commission's requirement in the April 2002 Order that Maritimes file certain information as a supplement to its cost-and-revenue study filed on December 27, 2001, in this proceeding.

Maritimes states that copies of its filing have been mailed to all parties on the Commission's Official Service List in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13504 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1324–000]

Mt. Carmel Cogen, Inc.; Notice of Issuance of Order

May 23, 2002.

Mt. Carmel Cogen, Inc. (Mt. Carmel) submitted for filing an application for authority to sell energy in wholesale transactions at negotiated market-based rates. Mt. Carmel also requested waiver of various Commission regulations. In particular, Mt. Carmel requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Carmel.

On May 9, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-East, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Mt. Carmel should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Mt. Carmel is authorized to issue securities and assume obligations or liabilities as

a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Mt. Carmel, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Mt. Carmel's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 10, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13488 Filed 5–29–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–246–005]

Natural Gas Pipeline Company of America; Notice of Filing Rate Schedule LPS Activity Report

May 23, 2002.

Take notice that on May 15, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing its Activity Report for Rate Schedule LPS.

Natural states that the purpose of this filing is to comply with the Commission's February 1, 2002 order which required Natural to file a report on its Rate Schedule LPS activity forty-five (45) days after its first year of operation.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13503 Filed 5–29–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL01–56–002 and EC01–63–002]

Niagara Mohawk Holdings, Inc. and National Grid USA; Notice of Filing

May 23, 2002.

Take notice that on July 13, 2001, Niagara Mohawk Holdings, Inc. (Holdings) and National Grid USA (Collectively, Applicants), tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance filing in response to the Commission's June 13, 2001 order in the above proceedings. Applicants explain, among other things, that even with the requested authority to pay dividends, they will continue to have adequate liquidity and an ability to fund necessary utility expansion. They also commit to an additional limitation on payment of dividends.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Comment Date: June 3, 2002.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13486 Filed 5–29–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–043]

Northern Natural Gas Company; Notice of Negotiated Rates

May 23, 2002.

Take notice that on May 15, 2002, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet proposed to be effective on May 16, 2002:

21 Revised Sheet No. 66A

Northern states that the above sheet is being filed to implement a specific negotiated rate transaction with Dynegy Marketing and Trade in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13495 Filed 5–29–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–044]

Northern Natural Gas Company; Notice of Negotiated Rates

May 23, 2002.

Take notice that on May 17, 2002, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on May 18, 2002:

25 Revised Sheet No. 66
22 Revised Sheet No. 66A

Northern states that the above sheets are being filed to implement specific negotiated rate transactions with Dynegy Marketing and Trade and Reliant Energy Services in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13496 Filed 5–29–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–045]

Northern Natural Gas Company; Notice of Negotiated Rates

May 23, 2002.

Take notice that on May 20, 2002 Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on May 21, 2002:

26 Revised Sheet No. 66
23 Revised Sheet No. 66A

Northern states that the above sheets are being filed to implement specific negotiated rate transactions with Dynegy Marketing and Trade and Reliant Energy Services in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.
[FR Doc. 02–13497 Filed 5–29–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–39–024]

Northern Natural Gas Company; Notice of Filing of Annual Report

May 23, 2002.

Take notice that on May 20, 2002, Northern Natural Gas Company (Northern) submitted its annual report pursuant to the Commission's Order in Public Service Company of Colorado, et al., Docket Nos. RP97–369–000, et al.

Northern further states that copies of the filing have been mailed to each of its affected jurisdictional sales customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13499 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–404–005]

Northern Natural Gas Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 10, 2002, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following pro forma tariff sheets:

Pro Forma Fifth Revised Volume No. 1

Tenth Revised Sheet No. 201
Third Revised Sheet No. 304
Second Revised Sheet No. 305
Sheet No. 306

Northern states it is supplementing its Order No. 637 compliance filing proposal by: (1) implementing a virtual segmentation proposal on Northern's system; (2) applying the Commission's CIG discount policy; and (3) setting forth the timing for certain computer modifications as set forth herein.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13501 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–25–000]

Petal Gas Storage, L.L.C.; Notice of Material Deviation Tariff Filing

May 23, 2002.

Take notice that on May 16, 2002, Petal Gas Storage, L.L.C. (Petal), tendered for filing its Material Deviation Tariff Filing.

Petal's filing requests that the Commission approve a Firm Storage Service Agreement between Petal and Southern Company Services, Inc., which contains certain deviations from Petal's pro forma service agreement. Petal requests that the Commission approve the filing effective June 1, 2002.

Petal states that copies of the filing have been mailed to each of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13490 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1327–000]

PPL University Park, LLC; Notice of Issuance of Order

May 23, 2002.

PPL University Park, LLC (PPL University) submitted for filing a tariff that provides for sales of electric energy, capacity, and ancillary services at market -based rates, and for the resale of transmission rights. PPL University also requested waiver of various Commission regulations. In particular, PPL University requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PPL University.

On May 9, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PPL University should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, PPL University is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of PPL University, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PPL University's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 10, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. 02–13489 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–397–003 and RP01–33–005]

Questar Pipeline Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 15, 2002, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets with an effective date of December 1, 2002:

First Revised Volume No. 1

Third Revised Sheet No. 41
Fourth Revised Sheet No. 42
Seventh Revised Sheet No. 43 and 44
Eighth Revised Sheet No. 45
Tenth Revised Sheet No. 46
Seventh Revised Sheet No. 56
Eighth Revised Sheet No. 71
Fourth Revised Sheet No. 71A
Seventh Revised Sheet No. 73
Fifth Revised Sheet No. 73A
First Revised Sheet No. 99I
Second Revised Sheet No. 99J
Original Sheet No. 99K

Original Sheet No. 99L

Questar states that it is also submitted the following pro forma tariff sheets to Pro Forma First Revised Volume No. 1 that it will later file for a December 1, 2003, effective date:

Pro Forma Tariff Sheets

Fourth Revised Sheet No. 41
Ninth Revised Sheet No. 45
Eleventh Revised Sheet No. 46
Ninth Revised Sheet No. 71
Fifth Revised Sheet No. 71A
Third Revised Sheet No. 75D
Third Revised Sheet No. 99J

Questar states that the filing is being made in compliance with the Commission's February 14, 2002 Order, (the February 14th order) proposed tariff sheets to listed below, to be effective December 1, 2002.

In the Commission's February 14th order, the Commission approved, in part, Questar's pro forma tariff sheets and directed Questar to make revisions to its pro forma tariff sheets as discussed in the order and file actual tariff sheets within 30 days of the date of issuance of the February 14th order. On March 4, 2002, Questar requested an extension of time until May 15, 2002, to file certain revised tariff sheets relating to the segmentation portion of the February 14th order. The Commission granted the Extension of Time by notice issued March 7, 2002. On March 18, 2002, Questar submitted its compliance filing addressing all but the segmentation requirements of the February 14th order. With this filing Questar is proposing to implement a two-phase approach to segmentation to comply with the Commission's directives in the February 14th order.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13500 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–242–002]

Southern Natural Gas Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 15, 2002, Southern Natural Gas Company (Southern) tendered for filing its report of activities during the first year of service under Rate Schedule PAL, Southern's park and loan service.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13502 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–88–000]

Wrightsville Power Facility, L.L.C., Complainant, v. Entergy Arkansas, Inc., Respondent; Notice of Complaint

May 22, 2002.

Take notice that on May 21, 2002, Wrightsville Power Facility L.L.C. (Wrightsville) filed a complaint under section 206 of the Federal Power Act, 16 U.S.C. 824e (1994), and section 206 of the Commission's Rules of Practice and Procedure, 18 CFR 206, against Entergy Arkansas, Inc. (Entergy) requesting that the Commission find that the terms and conditions of Wrightsville's Interconnection Agreement with Entergy violate Commission policy and precedent, and are unjust and unreasonable.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). All such motions or protests must be filed on or before June 10, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before June 10, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests, interventions and answers may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13436 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1319–000]

Zion Energy LLC; Notice of Issuance of Order

May 23, 2002.

Zion Energy LLC (Zion) submitted for filing a tariff that provides for sales of electric energy, capacity, and ancillary services at market -based rates, and for the resale of transmission rights and for the reassignment of transmission capacity. Zion also requested waiver of various Commission regulations. In particular, Zion requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Zion.

On May 10, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Zion should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Zion is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Zion, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Zion's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 10, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13487 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1289–001, et al.]

Midwest Independent Transmission System Operator, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 23, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1289–001]

Take notice that on May 21, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the Midwest ISO Transmission Owners jointly submitted for filing a second substitute page of the Midwest ISO Agreement regarding the implementation of the revenue distribution for revenues from the Regional Through and Out Rate (RTOR) surcharge (RTOR Adder) to Michigan Electric Transmission Company, LLC once it becomes a transmission owner in the Midwest ISO. The second substitute page is intended to correct the lost revenue share of Michigan Electric Transmission's Company's total lost revenues amount, which amount originally contained numbers that were transposed.

The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001), with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: June 11, 2002.

2. Public Service Company of New Mexico

[Docket No. ER02–1847–000]

Take notice that on May 20, 2002, Public Service Company of New Mexico (PNM) submitted for filing an executed copy of a service agreement with Mohave Electric Cooperative, Inc., dated May 1, 2002, for electric energy and/or capacity sales at negotiated market-based rates under PNM's Power and Energy Sales Tariff (FERC Electric Tariff, First Revised volume No. 3).

PNM has requested an effective date of June 1, 2002 for the service agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico. Copies of this filing have been served upon Mohave Electric Cooperative, Inc., the New Mexico Public Regulation Commission, and the New Mexico Attorney General.

Comment Date: June 10, 2002.

3. Maine Public Service Company

[Docket No. ER02–1848–000]

Take notice that on May 20, 2002, Maine Public Service Company (Maine Public) submitted for filing an executed

Service Agreement for Network Integration Transmission Service under Maine Public's open access transmission tariff with Van Buren Light & Power District.

Comment Date: June 10, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1849–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Edison Sault Electric Company.

A copy of this filing was sent to Edison Sault Electric Company.

Comment Date: June 11, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1850–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Energy America, LLC.

A copy of this filing was sent to Energy America, LLC.

Comment Date: June 11, 2002.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1851–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Village of Pardeeville.

A copy of this filing was sent to Village of Pardeeville.

Comment Date: June 11, 2002.

7. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1852–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Village of Georgetown.

A copy of this filing was sent to Village of Georgetown.

Comment Date: June 11, 2002.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1853–000

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Village of Ripley.

A copy of this filing was sent to Village of Ripley.

Comment Date: June 11, 2002.

9. PacifiCorp

[Docket No. ER02–1854–000]

Take notice that PacifiCorp on May 21, 2002, tendered for filing in accordance with 18 CFR 35 of the Federal Energy Regulatory Commission 's Regulations, a Notice of Filing, and Mutual Netting/Settlement Agreements with El Paso Electric Company.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: June 11, 2002.

10. Wisconsin Electric Power Company

[Docket No. ER02–1855–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on May 21, 2002, tendered for filing a notice of Cancellation effective October 30, 2001 of an Interconnection and Energy Agreement designated as Rate Schedule FERC No. 94 on January 1, 1999 between Wisconsin Electric Power Company and City of Marquette Board of Light and Power.

Comment Date: June 11, 2002.

11. Virginia Electric and Power Company

[Docket No. ER02–1856–000]

Take notice that Virginia Electric and Power Company (the Company) on May 21, 2002, respectfully tendered for filing the Service Agreement by Virginia Electric and Power Company to DTE Energy Trading, Inc. designated as Service Agreement No. 14 under the Company's Wholesale Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 6, effective on June 15, 2000.

The Company requests an effective date of April 22, 2002, as requested by the customer. Copies of the filing were served upon DTE Energy Trading, Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: June 11, 2002.

12. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1857–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by City of St. Charles.

A copy of this filing was sent to City of St. Charles.

Comment Date: June 11, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at http://www.ferc.gov using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13485 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–70–000, et al.]

North Atlantic Energy Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 22, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. North Atlantic Energy Corporation, The United Illuminating Company, Great Bay Power Corporation, New England Power Company, The Connecticut Light and Power Company, Canal Electric Company, Little Bay Power Corporation, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, and FPL Energy Seabrook, LLC

[Docket Nos. EC02–70–000 and ER02–1832–000]

Take notice that on May 17, 2002, North Atlantic Energy Corporation, The United Illuminating Company, Great Bay Power Corporation, New England Power Company, The Connecticut Light and Power Company, Canal Electric Company, Little Bay Power Corporation, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, and FPL Energy Seabrook, LLC (FPLE Seabrook) (collectively, Applicants) tendered for filing with the Federal Energy Regulatory Commission a joint application pursuant to Sections 203 and 205 of the Federal Power Act, seeking approvals and acceptances relating to the sale of the Seabrook Nuclear Power Station in Seabrook, New Hampshire.

Comment Date: July 16, 2002.

2. Central Illinois Generation, Inc.

[Docket No. EG02–126–000]

Take notice that on April 29, 2002, Central Illinois Generation, Inc. (CIGI), 17751 North CILCO Road, Canton, IL 61520, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

CIGI is a corporation located in the State of Illinois which states it will be engaged exclusively in the business of generating electric energy and selling that energy at wholesale. The eligible facilities include (1) the Edwards facility, a 740 MW coal-fired station located in Bartonville, Illinois, (2) the Duck Creek facility, a 366 MW coal-fired station located in Canton, Illinois, and (3) the Sterling Avenue facility, a 30 MW gas-fired peaking station located in Peoria, Illinois.

Comment Date: June 5, 2002.

3. CED Rock Springs, Inc.

[Docket No. EG02–127–000]

Take notice that on May 1, 2002, CED Rock Springs, Inc. (CEDRS) tendered for filing with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

CEDRS owns and operates two units of a six (6) unit, natural gas fired, simple cycle, combustion turbine generating facility with a total capacity of 1,020 MW, known as the Rock Springs Generating Facility (to be located in Rock Springs, Maryland). When completed, the Project will be interconnected to the transmission system of PJM. The units owned and operated by CEDRS are scheduled to begin commercial operation during the summer of 2002.

Comment Date: June 6, 2002.

4. Cabazon Wind Partners, LLC

[Docket No. EG02–128–000]

Take notice that on May 1, 2002, Cabazon Wind Partners, LLC (the Applicant), with its principal office at 7260 Siete Leguas, P. O. Box 675143, Rancho Santa Fe, California 92067, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a California limited liability company engaged directly and exclusively in the business of developing, owning and operating an approximately 41 MW generating facility located near the town of Cabazon in Riverside County, California. Electric energy produced by the facility will be sold exclusively at wholesale by Applicant.

Comment Date: June 6, 2002.

5. ISO New England Inc.

[Docket No. EL00–62–045]

Take notice that on May 15, 2002, ISO New England Inc. (the ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance filing pursuant to the Commission's April 15, 2002 order issued in the above proceeding.

Comment Date: June 5, 2002.

6. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–011, ER00–1969–013, ER00–3038–006, and EL00–70–007]

Take notice that on May 15, 2002, the New York Independent System Operator, Inc. (NYISO) made a compliance filing to effectuate revisions to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff that would ensure that a fixed block generating unit that forces a more economical unit to be backed down will not set an hourly price in the day-ahead market. The NYISO also requests avoidance of retroactive application of the revisions and a deferral of their effective date in a separate motion.

The NYISO has mailed a copy of this compliance filing to all parties on the service list in the above-captioned proceedings and upon all persons that have executed Service Agreements under the NYISO's Market Administration and Control Area Services Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: June 5, 2002.

7. NRG Sterlington Power LLC

[Docket No. ER00–3718–001]

Take notice that on May 15, 2002, NRG Sterlington Power LLC tendered for filing an updated market power study in compliance with the Commission's order in Koch Power Louisiana, LLC, Docket No. ER99–637–000, 86 FERC ¶ 61,029 (1999).

Comment Date: June 5, 2002.

8. New York Independent System Operator, Inc.

[Docket No. ER02–1796–000]

Take notice that on May 16, 2002, the New York Independent System Operator, Inc. (NYISO) tendered for filing proposed revisions to the NYISO Agreement. The NYISO requests an effective date of one business day after this filing (May 17, 2002).

Copies of this filing were served upon all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: June 6, 2002.

9. NEO California Power LLC

[Docket No.ER02–1809–000]

On May 14, 2002, NEO California Power LLC (NEO California) filed with the Federal Energy Regulatory Commission (1) an amended and restated Summer Reliability Agreement dated December 5, 2001 between the California Independent System Operator Corporation (Cal ISO) and NEO California (Chowchilla II), as Service Agreement No. 2 to NEO California's FERC Electric Tariff, Original Volume No. 1; and (2) an amended and restated Summer Reliability Agreement dated December 5, 2001 between the California Independent System Operator Corporation (Cal ISO) and NEO California (Red Bluff), as Service Agreement No. 3 to NEO California's FERC Electric Tariff, Original Volume No. 1.

Comment Date: June 4, 2002.

10. PPL Electric Utilities Corporation

[Docket No. ER02–1810–000]

Take notice that on May 14, 2002, PPL Electric Utilities Corporation (PPL Electric) filed an Interchange Scheduling Procedures and Data Access Agreement between PPL Electric and Allegheny Electric Cooperative, Inc. (Allegheny).

PPL Electric states that a copy of this filing has been provided to Allegheny.

Comment Date: June 4, 2002.

11. PPL Electric Utilities Corporation

[Docket No. ER02–1811–000]

Take notice that on May 14, 2002, PPL Electric Utilities Corporation (PPL Electric) filed an Interchange Scheduling Procedures and Data Access Agreement between PPL Electric and Allegheny Electric Cooperative, Inc. (Allegheny).

PPL Electric states that a copy of this filing has been provided to Allegheny.

Comment Date: June 4, 2002.

12. Global Advisors Power Marketing L.P.

[Docket No. ER02–1812–000]

Take notice that on May 14, 2002, Global Advisors Power Marketing L.P. (Global Advisors) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to Sections 35.16 and 131.51 of the Commission's Regulations, 18 CFR 35.16 and 131.51. As a result of a name change, Global Advisors is succeeding to the FERC Electric Tariff of GA Power Marketing L.P., effective May 6, 2002. The tariff sheets filed by GA Power Marketing L.P. in Docket No. ER02–1256–000 are cancelled.

Comment Date: June 4, 2002.

13. Commonwealth Edison Company

[Docket No. ER02–1813–000]

Take notice that on May 14, 2002, Commonwealth Edison Company (ComEd) submitted for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service between ComEd and UBS AG, London Branch (UBS London) and a Service Agreement for Non-Firm Point-to-Point Transmission Service and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service between ComEd and enXco, Inc. (enXco) under ComEd's FERC Electric Tariff, Second Revised Volume No. 5.

ComEd seeks an effective date of April 17, 2002 for the Agreements with UBS London and an effective date of April 22, 2002 for the Agreements with enXco and, accordingly, seeks waiver of the Commission's notice requirements. ComEd states that a copy of this filing has been served on UBS London, enXco and the Illinois Commerce Commission.

Comment Date: June 4, 2002.

14. NRG Sterlington Power LLC

[Docket No. ER02–1814–000]

On May 14, 2002, NRG Sterlington Power LLC (NRG Sterlington) filed with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Amended and Restated Power Purchase Agreement with Louisiana Generating LLC, as First Revised Service Agreement No. 1 to NRG Sterlington's FERC Electric Tariff, Original Volume No. 1.

Comment Date: June 4, 2002.

15. NRG Sterlington Power LLC

[Docket No. ER02–1815–000]

On May 14, 2002, NRG Sterlington Power LLC filed under section 205 of the Federal Power Act, Part 35 of the regulations of the Federal Energy Regulatory Commission (Commission), and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. NRG Sterlington's proposed tariff revisions will permit NRG Sterlington to sell ancillary services, in addition to selling electric capacity and energy at market based rates. The revisions also seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for NRG Sterlington's affiliates.

Comment Date: June 4, 2002.

16. American Electric Power Service Corporation

[Docket No. ER02–1816–000]

Take notice that on May 15, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Northwest Fuel Development, Inc. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP request an effective date of July 13, 2002. A copy of this filing was served upon the Public Utilities Commission of Ohio.

Comment Date: June 5, 2002.

17. American Electric Power Service Corporation

[Docket No. ER02–1817–000]

Take notice that on —May 15, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Lima Energy Company. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of July 13, 2002. A copy of the filing was served upon Lima Energy Company and the Public Utilities Commission of Ohio.

Comment Date: June 5, 2002.

18. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–1818–000]

Take notice that on May 15, 2002, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered an informational filing in compliance with Service Agreements on file with the Federal Energy Regulatory Commission. The filing sets forth the revised approved costs for member-owned generation resources and the revised approved reimbursements under its Resource Integration Agreements with two of its members, Garkane Power Association, Inc. and Moon Lake Electric Association, Inc. A copy of this filing has been served upon all of Deseret's members.

Comment Date: June 5, 2002.

19. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–1819–000]

Take notice that on May 15, 2002, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed umbrella service agreements with Sempra Energy Trading Corp., El Paso Merchant Energy, LP, and FPL Energy Marketing, Inc. pursuant to Deseret's open access transmission tariff and the provisions of Order No. 888-A.

Deseret requests a waiver of the Commission's notice requirements for an effective date of May 10, 2002. Each of the transmission customers has been provided a copy of this filing.

Comment Date: June 5, 2002.

20. Consolidated Edison Company of New York, Inc.

[Docket No. ER02–1820–000]

Take notice that on May 15, 2002, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement entitled "Amendment to April 24, 1987 Agreement for the Delivery of Power & Energy from the James A. Fitzpatrick Nuclear Power Project," dated November 29, 2001 (November 29, 2001 Agreement), and a proposed supplement to its Rate Schedule FERC No. 92.

The proposed supplement—supplement No. 9 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the County of Westchester Public Service Agency (COWPUSA) or the New York City Public Utility Service (NYCPUS) identifies the November 29, 2001 Agreement on the title page of the rate schedule and conforms terminology in the rate schedule to that in the November 29, 2001 Agreement.

Con Edison seeks permission to make the rate increase to NYPA public customer service effective as of June 1, 2002. A copy of this filing has been served on COWPUSA, NYCPUS, and the New York Public Service Commission.

Comment Date: June 5, 2002.

21. Entergy Services, Inc.

[Docket No. ER02–1821–000]

Take notice that on May 15, 2002, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Gulf States and Amelia Energy Center, LP.

Comment Date: June 5, 2002.

22. Entergy Services, Inc.

[Docket No. ER02–1822–000]

Take notice that on May 15, 2002, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc. (Entergy Louisiana), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Louisiana and CII Carbon LLC.

Comment Date: June 5, 2002.

23. Entergy Services, Inc.

[Docket No. ER02–1823–000]

Take notice that on May 15, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Arkansas and GenPower Keo, LLC.

Comment Date: June 5, 2002.

24. Northern Indiana Public Service Company

[Docket No. ER02–1824–000]

Take notice that on May 15, 2002, Northern Indiana Public Service Company tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and UBS AG, London Branch, c/o UBS Warburg Energy LLC (UBS).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Non-Firm Point-to-Point Transmission Service to UBS pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of May 16, 2002.

Comment Date: June 5, 2002.

25. Cleco Power LLC

[Docket No. ER02–1825–000]

Take notice that on May 16, 2002, Cleco Power LLC, tendered for filing service agreements under which Cleco Power will provide short-term firm point-to-point transmission service and non-firm point-to-point transmission service to Cleco Power LLC under its Open Access Transmission Tariff.

Comment Date: June 6, 2002.

26. ALLETE, Inc.(formerly Minnesota Power, Inc., d/b/a Minnesota Power)

[Docket No. ER02–1826–000]

Take notice that on May 16, 2002, ALLETE, Inc. (formerly Minnesota Power, Inc., d/b/a Minnesota Power) (MP) tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter requesting Commission approval of MP's assignment of its membership in the Western Systems Power Pool (WSPP) to Rainy River Energy Corporation. Such assignment is allowed under Section 14 of the WSPP Agreement.

A copy of the filing was served upon the General Counsel to the WSPP.

Comment Date: June 6, 2002.

27. FirstEnergy Solutions Corp.

[Docket No. ER02–1827–000]

Take notice that on May 16, 2002, FirstEnergy Solutions Corp. (FirstEnergy) submitted for informational purposes a Service Agreement No. 4 under FirstEnergy's market-based rate power sales tariff, FirstEnergy Solutions Corp., FERC Electric Tariff, Original Volume No. 1, between FirstEnergy and Duquesne Light Company.

Comment Date: June 6, 2002.

28. Wisconsin Public Service Corporation

[Docket No. ER02–1828–000]

Take notice that on May 16, 2002, Wisconsin Public Service Corporation (WPSC) tendered for filing a revised partial requirements service agreement with Washington Island (WIEC). Third Revised Service Agreement No. 9 provides WIEC's contract demand nominations for January 2002—December 2006, under WPSC's W–2A partial requirements tariff.

The company states that copies of this filing have been served upon WIEC and to the State Commissions where WPSC serves at retail.

Comment Date: June 6, 2002.

29. Exelon Generation Company, LLC

[Docket No. ER02–1829–000]

Take notice that on May 16, 2002, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Select Energy, Inc., under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2

Comment Date: June 6, 2002.

30. PacifiCorp

[Docket No. ER02–1830–000]

Take notice that PacifiCorp on May 16, 2002, tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Cancellation of Service Agreements No. 51 and 66 under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 12 for Long Term Service Agreements entered on June 6, 2000 and November 5, 1998 between Flathead Electric Cooperative and PacifiCorp.

Copies of this filing were supplied to Flathead Electric Cooperative, the Public Utility Commission of Oregon and Montana Public Service Commission.

Comment Date: June 6, 2002.

31. ManChief Power Company, L.L.C.

[Docket No. ER02–1831–000]

Take notice that on May 15th, 2002, ManChief Power Company, L.L.C., filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to 18 CFR 35.16 and 131.51 of the Commission's regulations. ManChief has partially succeeded to Fulton Cogeneration Associates, L.P."s FERC Electric Tariff, Original Volume No. 1, Docket No. ER01–324 and Service Agreement No. 1 Under FERC Tariff, Original Volume No. 1.

Comment Date: June 5, 2002.

32. California Independent System Operator Corporation

[Docket No. ER02–1833–000]

Take notice that on May 17, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Scheduling Coordinator Agreement between the ISO and FPL Energy Power Marketing, Inc. for acceptance by the Commission.

The ISO states that this filing has been served on FPL Energy Power Marketing, Inc. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of May 15, 2002.

Comment Date: June 7, 2002.

33. California Independent System Operator Corporation

[Docket No. ER02–1834–000]

Take notice that on May 17, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), an unexecuted Participating Generator Agreement between the ISO and the City of Riverside, California (Riverside) for acceptance by the Commission.

The ISO states that this filing has been served on Riverside and the Public Utilities Commission of the State of California.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 10, 2002.

Comment Date: June 7, 2002.

34. Rochester Gas and Electric Corporation

[Docket No. ER02–1836–000]

Take notice that on May 17, 2002, Rochester Gas and Electric Corporation (RG&E) filed with the Federal Energy Regulatory Commission (Commission), an Application in the above-referenced proceeding requesting that the Commission extend the authorization previously granted to RG&E to make sales to an affiliate in conjunction with the Retail Access Program.

Comment Date: June 7, 2002.

35. Canal Electric Company

[Docket No. ER02–1837–000]

Take notice that on May 17, 2002, Canal Electric Company (Canal Electric) tendered for filing an amendment (Ninth Amendment) to its FPC Rate Schedule No. 33 supplementing and providing for the termination of its contract (the Power Contract) for the sale of electricity from Canal Electric's ownership share in the Seabrook Unit 1 nuclear power plant in Seabrook, New Hampshire to Cambridge Electric Light Company and Commonwealth Electric Company. Canal Electric requests a July 17, 2002 effective date for the Ninth Amendment.

Canal Electric states that the Ninth Amendment is filed in conjunction with the sale by Canal Electric of its 3.52% ownership share in the Seabrook Nuclear Power Plant and in Seabrook Unit 1 nuclear fuel.

Copies of the filing were served upon Canal Electric's jurisdictional customers, the Massachusetts Attorney General, and the Massachusetts Department of Telecommunications and Energy.

Comment Date: June 7, 2002.

36. FPL Energy Seabrook, LLC

[Docket No. ER02–1838–000]

Take notice that on May 17, 2002, FPL Energy Seabrook, LLC (FPLE Seabrook) filed an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

Comment Date: June 7, 2002.

37. Ameren Services Company

[Docket No. ER02–1839–000]

Take notice that on May 17, 2002, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between ASC and UBS AG, London Branch. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to UBS AG, London Branch pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: June 7, 2002.

38. Public Service Company of New Mexico

[Docket No. ER02–1840–000]

Take notice that on May 17, 2002, Public Service Company of New Mexico (PNM) submitted for filing three executed service agreements for firm point-to-point transmission service and ancillary services, between PNM Transmission Development and Contracts (Transmission Provider) and PNM Wholesale Power Marketing (Transmission Customer), under the terms of PNM's Open Access Transmission Tariff. The first agreement is for 100 MW of reserved transmission capacity from the San Juan Generating Station 345kV Switchyard (San Juan) to the Coronado Generating Station 500kV Switchyard. The second agreement is for 18 MW of reserved transmission capacity from the Palo Verde Generating Station 500kV Switchyard to the Westwing 345kV Switching Station. These two agreements are the result of the Transmission Customer exercising its Right of First Refusal to extend service under respective predecessor service agreements. The third agreement represents a change in reserved transmission capacity requirements in a corresponding pre-Order 888 bundled transmission agreement (through an intervening system) from which the Transmission Provider obtains transmission service for the Transmission Customer. The agreement is for 13 MW of reserved transmission capacity from San Juan to the Greenlee 345kV Switching Station. PNM requests an effective date of May 1, 2002 for the first agreement and June 1, 2002 for the other two agreements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to PNM Wholesale Power Marketing, PNM Transmission Development and Contracts, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: June 7, 2002.

39. Public Service Company of New Mexico

[Docket No. ER02–1841–000]

Take notice that on May 17, 2002, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements for point-to-point transmission service with Florida Power & Light Energy Power Marketing, Inc. (FPL), under the terms of PNM's Open Access Transmission Tariff. One agreement is for Non-Firm service and one agreement for Short-Term Firm Service. PNM requests May 3, 2002, as the effective date for each agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to FPL, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: June 7, 2002.

40. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1843–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing a Service Agreement for transmission service for Northwestern Wisconsin Electric under MAPP Schedule F.

A copy of this filing was sent to Northwestern Wisconsin Electric.

Comment Date: June 7, 2002.

41. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1844–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing a Service Agreement for transmission service for Northwestern Wisconsin Electric under MAPP Schedule F.

A copy of this filing was sent to Northwestern Wisconsin Electric.

Comment Date: June 7, 2002.

42. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1845–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing a Service Agreement for transmission service for Split Rock Energy under MAPP Schedule F.

A copy of this filing was sent to Split Rock Energy.

Comment Date: June 7, 2002.

43. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1846–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing Service Agreements for transmission service for UBS AG, London Branch under MAPP Schedule F.

A copy of this filing was sent to UBS AG, London Branch.

Comment Date: June 7, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13484 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Solicitation of Motions To Intervene and Protests

May 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License (5MW or More).

b. *Project No.:* P–2000–036.

c. *Date Filed:* October 31, 2001.

d. *Applicant:* Power Authority of the State of New York.

e. *Name of Project:* St. Lawrence-FDR Power Project.

f. *Location:* Located on the St. Lawrence River near Massena, in St. Lawrence County, New York. There are no Federal lands located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

Mr. Joseph J. Seymour, Chairman and Chief Executive Officer, Power Authority of the State of New York, 30 South Pearl Street, Albany, NY 12207–3425, (518) 433–6751.

Mr. John J. Suloway, Director, Licensing Division, Power Authority of the State of New York, 123 Main Street, White Plains, NY 10601–3170, (914) 287–3971.

i. *FERC Contact:* Ed Lee, (202) 219–2809 or E-mail *eddie.lee@ferc.gov.*

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (http://www.ferc.gov) under the "e-Filing" link.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. The existing St. Lawrence-FDR Power Project is part of the International St. Lawrence Power Project which spans the international portion of the St. Lawrence River and consists of two power developments: (1) the Robert H. Saunders Generating Station and (2) St. Lawrence-FDR Power Project. The Power Authority of the State of New York operates the St. Lawrence-FDR Power Project and the Ontario Power Generation operates the Robert H. Saunders Generating Station (located in Canada and not subject to the jurisdiction of the Commission).

The St. Lawrence-FDR Power Project facilities include (a) all or portions of four dams (Robert Moses Power Dam, Long Sault Dam, Massena Intake, and the U.S. portion of the Iroquois Dam), (b) generating facilities, (c) the U.S. portion of a reservoir (Lake St. Lawrence), (d) seven dikes, and (e) appurtenant facilities. The project has a total installed capacity of 912,000-kW and an average annual generation of about 6,650,000 megawatt hours. All generated power is utilized within the applicant's electric utility system.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at both of the addresses in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Milestone	Activity
	Notice soliciting final terms and conditions
	Notice of the availability of the draft NEPA document
	Notice of the availability of the final NEPA document
	Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 45 days from the issuance date of the notice soliciting final terms and conditions.

p. With this notice, we are initiating consultation with the *New York State Historic Preservation Officer (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13437 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. JR00–2–000 and Project No. 9100–011]

James M. Knott, Sr.; Errata Notice

May 23, 2002.

The Notice of Petition for Declaratory Order and Solicitation of Comments, Protests, and Motions to Intervene issued on May 15, 2002 (FR Vol. 67, page 35986, published 5/22/02) in the above-referenced proceedings, listed the Applicant Contact, person incorrectly in paragraph "h". It should be corrected as follows:

Jamy B. Buchanan, Esq., Buchanan & Associates, 33 Mt. Vernon St., Boston, MA 02108, telephone: (617) 227–8410 to James M. Knott, Riverdale Power and Electric Co., Inc., 130 Riverdale St., Northbridge, MA 01534, telephone: (518) 234–4408.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13491 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7217–6]

Office of Solid Waste Notice of Availability of Report to Congress

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document announces the availability of the Agency's Report to Congress, "Evaluating the Consensus Best Practices Developed through the Howard Hughes Medical Institutes's Collaborative Hazardous Waste Management Demonstration Project and the Need for Regulatory Changes to Carry Out Project Recommendations." The Report was prepared at the direction of the Fiscal Year 2001 Departments of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Committee (Senate Report 106–410 and House Report 106–674 accompanying H.R. 4635). The Report discusses a collaborative project EPA participated in with the Howard Hughes Medical Institute, ten major academic research institutions, and states. The collaborative project established and evaluated a performance-based approach to management of hazardous wastes in the laboratories of academic research institutions.

ADDRESSES: Electronic copies of the Report may be downloaded from EPA's Web site, *http://www.epa.gov/osw/specials/labwaste/index.html.*

FOR FURTHER INFORMATION CONTACT: Kristin Fitzgerald, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460 or 703–308–8286 or *fitzgerald.kristin@epa.gov.*

Dated: May 22, 2002.
Elizabeth Cotsworth,
Office Director, Office of Solid Waste.
[FR Doc. 02–13518 Filed 5–28–02; 8:45 am]
BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Renewable Energy Exports Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Renewable Energy Exports Advisory Committee was established by the Board of Directors at Ex-Im Bank to assist the Bank in meeting its objective of supporting U.S. exporters in renewable energy industries. In addition, the goal is to seek advice from the private sector about best practices when addressing renewable energy exports.

TIME AND PLACE: Monday, June 10, 2002, at 8:30 AM to 11:30 PM. The meeting will be held at Ex-Im Bank in room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: Agenda items include the introduction of the Advisory Committee's themes and goals, an overview of Ex-Im Bank's activity in the renewable energy sector, and presentations from both the private and public sector.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 4, 2002, Nichole Westin, Room 1257, 811 Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3542.

Peter Saba,
General Counsel.
[FR Doc. 02–13416 Filed 5–29–02; 8:45 am]
BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 23, 2002, 10 a.m. meeting open to the public. The following item was continued: Final Audit of Bauer for President 2000, Inc.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 6, 2002, Executive Session; this meeting has been rescheduled for Monday, June 3, 2002, at 11 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:
Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Tuesday, June 4, 2002 and Wednesday, June 5, 2002 to begin at 9:30 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth floor).

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Soft Money Rules: Notice of Proposed Rulemaking.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 6, 2002, meeting open to the public. This meeting has been cancelled.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,
Secretary of the Commission.
[FR Doc. 02–13741 Filed 5–28–02; 2:51 pm]
BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011806.
Title: Industrial Maritime Carriers/ Nordana Line Slot Charter and Sailing Agreement.
Parties:
Industrial Maritime Carriers (USA), Inc.
Nordana Line (Dannebrog Rederi) AS.
Synopsis: The proposed agreement establishes a vessel-sharing agreement under which Industrial Maritime will make space available to Nordana on Industrial Maritime's vessels operating in the trade between U.S. Gulf ports and ports in Colombia and Venezuela. The parties request expedited review.

By Order of the Federal Maritime Commission.
Dated: May 24, 2002.
Theodore A. Zook,
Assistant Secretary.
[FR Doc. 02–13535 Filed 5–29–02; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Cargomax Express, Inc., 1171 Landmeier Road, Suite 132, Elk Grove Village, IL 60007. Officers: Jong Dae Lee, President (Qualifying Individual), Jennifer Lee, C.F.O.
CK Logistics, Inc., 500 Sandau Road, Suite 600, San Antonio, TX 78216. Officers: Christopher S. Kuehler, President (Qualifying Individual).
Pella Moving & Storage dba BBS, 291 Marlin Street, Port Newark, NJ 07114. Officer: Nicholas Iacopella, President (Qualifying Individual).
Overseas Shipping and Logistics, Inc., 122 Scribner Avenue, Staten Island, NY 10301. Officer: Gulamhyder Shroff, President (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Diarama Export, Inc., 2754 NW North River Dr., Suite 6, Miami, FL 33142. Officer: Diinorah Aguiar, President (Qualifying Individual).
Uniworld Cargo Shipping Lines LLC, 4000 West Side Avenue, North Bergen, NJ 07047. Officers: Helen Shany, Member (Qualifying Individual), Ayal Shany, Member.
Shipping Services of America, LLC, 373 Broadway, Suite B–17, New York, NY 10013. Officers: Armando D. Dabalus, President (Qualifying Individual), Elsa D. Patriarca, Vice President.
JVL America, Inc., 1515 W. 178 Street, Gardena, CA 90248. Officers: Carol Wang, Operations Director (Qualifying Individual), Takashi Miyazawa, President.
DLM Ventures, Inc., 1850 NW 84th Avenue, Suite 114, Miami, FL 33126. Officers: Debbie M. Lawrence-Martinez, President (Qualifying Individual), Jose Felix Ramirez, Vice President.
E.T.F. Services, Inc. dba Global Link Enterprises, 2500 83rd Street, Door #9B2, North Bergen, NJ 07047. Officers: Alexander Duran, President (Qualifying Individual), Edward Duran, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Maersk Logistics, Inc., Giralda Farms, Madison, NJ 07940–0880. Officers: Anthony A. Chiarello, President (Qualifying Individual), Thomas Thune Andersen, Chairman.
Panmet Group Incorporated, 1399 Hodlmair Lane, Elk Grove Village, IL 60007. Officers: Ross Flynn, President (Qualifying Individual), Katharine Flynn, Treasurer.
API Network, Inc., 3318 SW 2nd Avenue, Fort Lauderdale, FL 33315. Officer: John Thomason, President (Qualifying Individual).
Eagle Pacific, Corp., 182–16 149th Road, Rm #288, Jamaica, NY 11413. Officer: Luyin (Grace) Zhang, President (Qualifying Individual).
Daga Cargo, Inc., 8061 N.W. 67th Street, Miami, FL 33166. Officers: Alfonso Vallejo, Secretary (Qualifying Individual), Armando Ujueta, President.
Fletamentos Y. Cargas Miami, Inc., 1320 Drexel Avenue, #300, Miami Beach, FL 33139. Officer: Carlos J. Pelaez, President (Qualifying Individual).
Charter Brokerage Corporation, One Atlantic Street, Stamford, Conn. 06901. Officers: William J. Phelan, President (Qualifying Individual), Michael F. Mitri, Vice President.
China Linq, LLC, 20675 Manhattan Place, Torrance, CA 90501. Officers: Jacob Bech-Hansen, Managing Director (Qualifying Individual), Greg Ruggles, Managing Member.

Dated: May 24, 2002.
Theodore A. Zook,
Assistant Secretary.
[FR Doc. 02–13536 Filed 5–29–02; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

AGENCY: Federal Maritime Commission.
ACTION: Notice of availability of Draft Information Quality Guidelines.

SUMMARY: Pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554, 114 Stat. 2763) and guidelines issued by the Office of Management and Budget ("OMB"), the Federal Maritime Commission ("Commission") has published draft Information Quality Guidelines ("Guidelines") on its Web site at *www.fmc.gov*. The draft Guidelines set forth the Commission's policies and programs for ensuring and maximizing the quality, objectivity, utility, and integrity of certain information disseminated to the public. Following its review of any comments received, and making any appropriate changes, the Commission will send the final draft of its Guidelines to OMB for review. The Commission's final Guidelines will then be published in the **Federal Register** and posted on the agency's Web site.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than June 13, 2002.

ADDRESSES: Address all comments concerning the draft Guidelines to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1046, Washington, DC 20573–0001. E-mail: *secretary@fmc.gov*.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1046, Washington, DC 20573–0001. E-mail: *secretary@fmc.gov*.

By the Commission.
Theodore A. Zook,
Assistant Secretary.
[FR Doc. 02–13557 Filed 5–29–02; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Request Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.
ACTION: Notice of Form R–43 submitted for revision and extension.

SUMMARY: This notice announces that the Federal Mediation and Conciliation Service is requesting an extension and revision of its Form R–43 (OMB 3076–0002).

DATES: Comments must be submitted within 60 days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attn: Desk Officer for the Federal Mediation and Conciliation Service, Room 10235, Washington, DC 20503.

Comments may be submitted also by fax at (202) 606–3749 or electronic mail (e-mail) to *arbitration@fmcs.gov*. All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as "CBI". Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. FMCS may disclose information not marked confidential publicly without prior notice. All written comments will be available for inspection in Room 704 at the Washington, DC address above form 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Vella M. Traynham, Director of Arbitration Services, FMCS, 2100 K Stret, NW., Washington, DC 20427. Telephone (202) 606–5111; Fax (202) 606–3749.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Office of Arbitration Services by calling, faxing or writing to the individual's whose name appears in the

heading **FOR FURTHER INFORMATION CONTACT**.

I. Information Collection Requests

FMCS is seeking comments on the following Information Collection Request (ICR).

Title: Request for Arbitration Services. Form R–43, OMB No. 3076–0002.

Type of Request: Revision and extension of expiration date of a currently approved collection with minor changes in the substance.

Affecting Entities: Employers and their representatives, employees, labor unions and their representatives who request arbitration services.

Frequency: This form is completed each time an employer or labor union requests a panel of arbitrators.

Abstract: Pursuant to 29 U.S.C. 171(b) and 29 CFR part 1404, FMCS offers panels of arbitrators for selection by labor and management to resolve grievances and disagreements arising under their collective bargaining agreements and to deal with fact findings and interest arbitration issues as well. The need for this form is to obtain information such as name, address, and type of assistance desired, so that FMCS can respond to requests efficiently and effectively for various arbitration services. The purpose of this information collection is to facilitate the processing of the parties' request for arbitration assistance. No third party notification or public disclosure burden is associated with this collection. This notice for comments refers to a revision of the current form to include the new proposed fees and to include more payment options for requesting arbitration services.

Burden Statement: The current total annual burden estimate is that FMCS will receive requests from approximately 18,000 respondents per year. In most instances, the form is completed many times by the same parties throughout a year and takes about ten minutes to complete.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, *e.g.*, permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper electronic record maintained at the address at the beginning of this document. FMCS will transfer all electronically received comments into printed-paper form as they are received.

George W. Buckingham, Jr.,

Deputy Director.

[FR Doc. 02–13479 Filed 5–29–02; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 21, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. ITLA Capital Corporation, La Jolla, California; to acquire ITLA Mortgage Loan Securitization 2002-1, L.L.C., La Jolla, California; and thereby engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 24, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–13610 Filed 5–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Bancshares of Florida, Inc. (formerly Citizens Bancshres of Southwest Florida), Naples, Florida; to acquire 100 percent of the voting shares of Bank of Florida (in organization).

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Orchid Financial Bancorp, Inc., St. Charles, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of American Eagle Bank, South Elgin, Illinois (in organization), Fort Lauderdale, Florida.

Board of Governors of the Federal Reserve System, May 24, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–13611 Filed 5–29–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–58]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: The National Health and Nutrition Examination Survey (NHANES) OMB No. 0920–0237—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

The National Health and Nutrition Examination Survey (NHANES) has been conducted periodically since 1970 by the National Center for Health Statistics, CDC. The current cycle of NHANES began in February 1999 and will now be conducted on a continuous, rather than periodic, basis. About 5,000 persons will be examined annually. They will receive an interview and a physical examination. Participation in the survey is completely voluntary and confidential.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of questionnaires, physical examinations, and laboratory tests, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors related to health such as coronary heart disease, arthritis, osteoporosis, pulmonary and infectious diseases, diabetes, high blood pressure, high cholesterol, obesity, smoking, drug and alcohol use, environmental exposures, and diet. NHANES data are used to establish the norms for the general population against which health care providers can compare such patient characteristics as height, weight, and nutrient levels in the blood. Data from NHANES can be compared to those from previous surveys to monitor changes in the health of the U.S. population. NHANES will also establish a national probability sample of genetic material for future genetic research for susceptibility to disease.

Users of NHANES data include Congress; the World Health Organization; Federal agencies such as NIH, EPA, and USDA; private groups such as the American Heart Association; schools of public health; private businesses; individual practitioners; and administrators. NHANES data are used to establish, monitor, and evaluate recommended dietary allowances, food fortification policies, programs to limit environmental exposures, immunization guidelines and health education and disease prevention programs. The current submission requests approval through January 2005.

There is no net cost to respondents other than their time. Respondents are reimbursed for any out-of-pocket costs such as transportation to and from the examination center.

Category	Number of respondents	Number of responses/respondent	Avg. burden per response (in hours)	Total burden (in hours)
1. Screening interview only	13,333	1	0.167	2,227
2. Screener and family interviews only	500	1	0.434	217
3. Screener, family, and SP interviews only	882	1	1.101	971
4. Screener, family, and SP interviews and primary MEC exam only	4,951	1	6.669	33,018
5. Screener, household, and SP interviews, primary MEC exam and full MEC replicate exam	248	1	11.669	2,894
6. Screener, household, and SP interviews, and home exam	50	1	1.851	93
7. Quality control verification	1,333	1	0.030	40
8. Special studies	2,067	1	0.500	1,034
Total				40,493

Dated: May 21, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13419 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–57]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404)498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Gene-Environment Interactions in Beryllium Sensitization and Disease Among Current and Former Beryllium Industry Workers (OMB No. 0920–0463)—Extension—National Institute for Occupational Safety and Health (NIOSH)—Centers for Disease Control and Prevention (CDC).

Background: Beryllium is a light weight metal with wide application in modern technology. The size of the USA workforce at risk of beryllium exposure is estimated at approximately one million, with exposed workers in primary production, nuclear power and weapons, aerospace, scrap metal reclaiming, specialty ceramics, and electronics industries. Demand for beryllium is growing worldwide, which means that increasing numbers of workers are likely to be exposed. An acute pneumonitis due to occupational exposure to beryllium was common in the 1940s and 1950s, but has virtually disappeared with improvements in work-site control measures. However, even with improved controls, as many as 5% of currently-exposed workers will develop chronic beryllium disease (CBD).

CBD is a chronic granulomatous lung disease mediated through a poorly understood immunologic mechanism in workers who become sensitized. Sensitization can be detected using a blood test, that is used by the industry as a surveillance tool. The blood test for sensitization was first reported in 1989, but many questions remain about the natural history of sensitization and disease, as well as exposure risk factors. Sensitized workers, identified through workplace surveillance programs, undergo clinical diagnostic tests to determine whether they have CBD. The proportion of sensitized workers who have beryllium disease at initial clinical evaluation has varied from 41–100% in different workplaces. Sensitized workers often develop CBD with follow-up, but whether all sensitized workers will eventually develop beryllium disease is unknown. Early diagnosis at the subclinical stage and careful follow-up seems prudent in that CBD usually responds to corticosteroid treatment. However, the efficacy of screening in preventing adverse outcomes of the disease has not yet been evaluated. Research has indicated certain genetic determinants in the risk of CBD; follow-up studies will be invaluable for further characterizing the genetic contribution to sensitization and disease.

The National Institute for Occupational Safety and Health (NIOSH) wants to determine how beryllium workers and former workers develop beryllium disease and how to prevent it. Through the proposed study, NIOSH has the opportunity to contribute to the scientific understanding of this disease in the context of environmental and genetic etiologic factors. The goals of this investigation are to: (1) Determine the occurrence of beryllium sensitization or disease; (2) seek an association with exposure measurements; (3) explore genetic determinants of susceptibility to CBD; and (4) characterize genetic determinants to ascertain if they are associated with clinical impairment or progression of disease. Through a greater understanding of the environmental and genetic risk factors associated with the onset and progression of CBD, NIOSH will be able to develop strategies for both primary and secondary prevention applicable to beryllium-exposed workers. There is no cost to respondents.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hours)	Total burden (in hours)
Former Workers	525	1	30/60	262.5
Total				262.5

Dated: May 21, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13420 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–29–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Public Health Performance Standards Program State Public Health System Assessment—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC).

Since 1998, the CDC National Public Health Performance Standards Program has convened workgroups with the National Association of County and City Health Officials (NACCHO), the Association of State and Territorial Health Officials (ASTHO), the National Association of Local Boards of Health NALBOH), the American Public Health Association (APHA), and the Public Health Foundation (PHF) to develop performance standards for public health systems based on the essential services of public health. In the fall of 2000, CDC conducted field tests with the state public health survey instruments in Hawaii, Minnesota, and Mississippi.

CDC is now proposing to implement a formal, voluntary data collection, based on the lessons learned during field testing, to assess the capacity of state public health systems to deliver the Essential Services of Public Health. Electronic data submission will be the method of choice when state and territorial health departments complete the public health assessment.

An estimated 33 percent of the 59 state and territorial health departments are expected to participate in the National Performance Standards Program during the first year. In year two, an additional 25 percent and in year three, 22 percent. The total burden hours are estimated to be 720.

Data collection period	Number of respondents	Number of responses per respondent	Average Burden per Response (in hrs.)
Year 1 ...	20	1	15
Year 2 ...	15	1	15
Year 3 ...	13	1	15

Dated: May 21, 2002.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13417 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–31–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Hospital Ambulatory Medical Care Survey (NHAMCS) OMB No. 0920–0278—Revision—National Center for Health Statistics, (NCHS) Centers for Disease Control and Prevention (CDC). The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992 and is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of the NHAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The target universe of the NHAMCS is in-person visits made in the U.S. to outpatient departments and emergency departments of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) or those whose specialty is general (medical or surgical) or children's general. The NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234) which provides similar data concerning patient visits to physicians' offices. The NAMCS and NHAMCS are the principal sources of data on approximately 90 percent of ambulatory care provided in the United States.

The NHAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include patients' demographic characteristics and reason(s) for visit, and the physicians' diagnosis(es), diagnostic equipment and services, medications, and disposition. These data, together with trend data , may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population.

Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies such as NIH, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, as well as individual practitioners, researchers, administrators, and health planners. Uses vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NHAMCS data set covering several years. The estimated annualized burden for this data collection is 8,809 hours.

Respondents (non-Federal general and short-stay hospitals)	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)
Induction form: Ineligible hospitals	50	1	15/60
Induction form: Eligible hospitals	440	1	75/60
Emergency departments	400	1	1
Outpatient departments	240	5	1
ED Patient Record	400	100	5/60
OPD Patient Record	240	150	5/60
Pediatric emergency services and equipment	400	1	30/60
ESA Staffing and Capacity and Ambulance Diversion Supplement	450	1	15/60

Dated: May 21, 2002.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13418 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–838]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Credit Balancing Reporting Requirements and Supporting Regulations at 42 CFR 405.371, 405.378, and 413.20; *Form No.:* CMS–838 (OMB# 0938–0600); *Use:* The collection of credit balance information is needed to ensure that millions of dollars in improper program payments are collected. Approximately 46,700 providers will be required to submit a quarterly credit balance report that identifies the amount of improper payments due Medicare. Fiscal intermediaries will monitor the reports to ensure these funds are collected; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 46,700; *Total Annual Responses:* 186,800; *Total Annual Hours:* 1,120,800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS–838, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 21, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13618 Filed 5–29–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–37]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Medicaid Program Budget Request; *Form No.:* CMS–37 (OMB# 0938–101); *Use:* The Medicaid Program Budget Request is prepared by the State agencies and is used by CMS for (1) developing National Medicaid Budget estimates; (2) qualification of budget assumptions; (3) the issuance of quarterly Medicaid grant awards, and (4) collection of projected State receipts of donations and taxes; *Affected Public:* State, local, or tribal gov't; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 8064.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 21, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13619 Filed 5–29–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCSE 99SIP–02]

Child Support Enforcement Demonstration and Special Projects—Special Improvement Projects

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of the availability of funds and request for competitive applications under the Office of Child Support Enforcement's Special Improvement Projects.

SUMMARY: The Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE) invites eligible applicants to submit competitive grant applications for special improvement projects which further the national child support mission, vision, and goals which are: all children to have parentage established; all children in IV–D cases to have financial and medical orders; and all children in IV–D cases to receive financial and medical support. Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is August 13, 2002. *See* Part IV of this announcement for more information on submitting applications.

ADDRESSES: Application kits (Forms 424, 424A-B; Certifications; and Administration for Children and Families Uniform Project Description [UPD]) containing the necessary forms and instructions to apply for a grant under this program announcement are available from: Administration for Children and Families, Office of Child Support Enforcement, Division of State, Tribal and Local Assistance, 370 L Enfant Promenade, SW., 4th Floor, East Wing, Washington, DC 20447 (This is Not the Mailing Address for Submission of Applications, see Part IV, B.); or accessible via OCSE s Web site (*www.acf.dhhs.gov/programs/cse/*) under news and announcements; or contact Jean Robinson, Program Analyst, phone (202) 401–5330, FAX (202) 205–4315; e-mail, *jrobinson@acf.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), OCSE, Susan A. Greenblatt at (202) 401–4849, for specific questions regarding the application or program concerns regarding the announcement.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background— program purpose and objectives, legislative authority, availability of funds, and CFDA number.

Part II: Applicant and Project Eligibility— eligible applicants, project priorities, design elements in the application, project and budget periods, and project budget.

Part III: The Review Process— intergovernmental review, initial ACF screening, competitive review and evaluation criteria, and funding reconsideration.

Part IV: The Application—application development, and application submission.

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970–0139 which expires 12/31/2003. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I. Background

A. Program Purpose and Objectives

The purpose of the program is to fund a number of special improvement projects which further the national child support mission to ensure that all children receive financial and medical support from both parents and which advance the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA strengthens the ability of the nation's child support program to collect support on behalf of children and families. The law also enables the testing of child support innovations to improve program performance. For FY 2002, we are looking for projects which collaborate with new partners, especially community and faith-based organizations, which will help the child support community better address the needs of harder-to-serve populations, such as low-income non-custodial fathers and culturally diverse populations, so we can produce greater impacts on child support outcomes (e.g., increasing the establishment of child support orders and child support collections.) We are looking for grants in the following priority areas:

- Helping low-income fathers meet their child support and family responsibilities.
- Encouraging new ways to approach unwed parents to emphasize the importance of healthy marriage to a child's well-being.
- Increasing the number of child support cases with medical coverage for children.
- Expanding use of automation tools and best practices
- Improving child support services for ethnic and culturally diverse populations, Tribes and the international community.
- Furthering the child support mission to ensure all children receive financial and medical support from both parents.

Specific design specifications for each of these priority areas are set forth under Part II.

Applicants should understand that OCSE will not award grants for special improvement projects which (a) duplicate automated data processing and information retrieval system requirements/enhancements and associated tasks which are specified in PRWORA; or (b) which cover costs for routine activities which should be

normally borne by the Federal match for the Child Support Program or by other Federal funding sources (*e.g.* adding staff positions to perform routine CSE tasks). Proposals should be developed with these considerations in mind. Proposals and their accompanying budgets will be reviewed from this perspective.

B. Legislative Authority

Section 452(j), 42 U.S.C. 652(j) of the Social Security Act provides Federal funds for technical assistance, information dissemination and training of Federal and State staff, research and demonstration programs and special projects of regional or national significance relating to the operation of State child support enforcement programs.

Section 453 (42 U.S.C. 653) of the Social Security Act provides Federal funds to cover costs incurred for the operation of the Federal Parent Locator Service.

C. Availability of Funds

Approximately $4 million is available for all priority areas. Refer to each priority area for estimated number of projects and funding. All grant awards are subject to the availability of appropriated funds. A non-Federal match is not required.

D. CFDA NUMBER: 93.601—Child Support Enforcement Demonstrations and Special Projects.

Part II. Applicant and Project Eligibility

A. Eligible Applicants

Eligible applicants for these special improvement project grants are State (including District of Columbia, Guam, Puerto Rico, and the Virgin Islands) Human Services Umbrella agencies, other State agencies (including State IV–D agencies), Tribes and Tribal Organizations, local public agencies including IV–D agencies), nonprofit organizations (including faith-based organizations and universities such as Historically Black Colleges and Universities) and consortia of State and/or local public agencies. The Federal OCSE will provide the State CSE agency the opportunity to comment on the merit of local CSE agency applications before final award. Given that the purpose of these projects is to improve child support enforcement programs, it is critical that applicants have the cooperation of IV–D agencies to operate these projects. Preferences will be given to applicants representing CSE agencies and applicant organizations which have letters of commitment or cooperative agreements with CSE agencies. All applications developed jointly by more than one agency organization must identify a single lead organization as the official applicant. The lead organization will be the recipient of the grant award. Participating agencies and organizations can be included as co-participants, subgrantees, or subcontractors with their written authorization.

B. Project Priorities

The following are the specified priority areas for special improvement projects for FY 2002.

Priority Area 1: Helping low-income fathers meet their child support and family responsibilities.

1. Purpose: The purpose of this solicitation is to demonstrate effective child support strategies to help low-income fathers meet their child support and family responsibilities.

2. Background and Information: A principal aim of the Child Support Enforcement Program has always been to secure payment of child support by low-income and welfare related non-custodial parents. This goal is more critical than ever due to time limited welfare under Temporary Assistance for Needy Families (TANF). Accordingly, there have been accelerated efforts to try to secure child support payments from low-income non-custodial parents especially for welfare mothers and children. Recent studies by the Urban Institute and National Conference of State Legislatures indicate that for many low-income fathers non-payment may be caused by poverty, job instability, unemployment and/or incarceration. A study by the Urban Institute indicates that 60% of non-payers have a limited ability to pay child support due to low-incomes, low education levels, high rates of institutionalization and intermittent employment history. In addition, an Office of Inspector General study indicates that lower payment rates for low-income cases are associated with specific child support measures used in establishing orders such as use of *imputed incomes* (incomes estimated where non-custodial parents (NCP) either have no income or do not report incomes at child support order hearings); setting *minimum orders* (a child support amount based upon an arbitrary non-income figure or the minimum wage); or reluctance by some states to modify orders downward even when changes in circumstances warrant. Poor child support payment rates have caused high arrearages which are difficult to modify or forgive. States generally do not reduce or limit arrearages even though a 1999 Federal policy issuance (OCSE–PIQ–99–03) has indicated that States can compromise or settle child support debt owed to the State as state legislation allows.

3. Design Elements in the Application: Given that OCSE has funded a number of projects addressing the needs of low-income NCPs, for this solicitation, OCSE is interested in large scale projects which would incorporate a variety of strategies to provide a comprehensive approach addressing the special circumstances of low-income NCPs. This comprehensive approach should include strategies which would provide a fair approach in establishing orders and setting payment levels; establishing reasonable repayment or suspension of arrears, as appropriate; providing employment services to unemployed low-income fathers in partnership with workforce development agencies and/or provide a variety of services to incarcerated, or paroled NCPs to help them pay child support and encourage reunification with their family, as appropriate. Projects should reflect an institutionalized approach among state or local child support agencies and community- and faith-based organizations in providing employment and other services to low-income NCPs. Design elements for these projects should include at least three of the following:

- Develop, implement and determine the effectiveness of alternative measures to avoid default cases and/or using imputed income/minimum order amounts in establishing child support orders which can create excessive payment levels for low-income NCPs. These alternatives could include adopting more customer friendly approaches in establishing orders for low-income fathers, in order to avoid a high level of default orders; and/or secure and use more complete income information, *e.g.* from New Hire data, for the NCP and CP in default situations or where incomplete income information is given. Order amounts should be reasonable for low-income NCPs, taking into account their ability to pay when confronted with intermittent unemployment. Applicants must provide assurance that under state guidelines, orders can be established based upon the NCP's ability to pay. We are looking for outcome measures which would demonstrate effective alternatives for establishing child support orders in low-income cases, resulting in increased payment rates for low-income NCPs.
- Design, implement and determine the effectiveness of appropriate strategies to permit arrears forgiveness in low-income cases. These strategies should include: (a) referral to employment services for unemployed or under-employed NCPs that would enable them to obtain employment (leading to more consistent payment of their child support) and thus, permitting arrears forgiveness, after a sustained period of child support payments; or (b) referral to family formation/relationship counseling that, if resulting in marriage, would permit the forgiveness of arrears or fees owed for birth-related costs. These projects would involve a collaborative relationship between State/local CSE agencies, workforce development agencies, and other public agencies, and local organizations (including community- and faith-based organizations) to provide employment services, and/or family formation/relationship counseling services. Applicants must provide assurance (including names of service providers and letters of commitment) that employment, training, or relationship/healthy marriage counseling services are available in the community. We are looking for outcome measures, for example, which would demonstrate either: (a) that the combination of provision of employment services and forgiveness of arrears leads to increased child support collections; or (b) the impact of referrals to relationship counseling increases positive contact between the NCP and his children, increased child support payments or increases in marriage rates when combined with the forgiveness of arrears or birth-related costs.
- Design and implement strategies to provide employment services to low-income fathers who are unemployed or under-employed and cannot meet their child support obligation. Projects should include voluntary and mandatory referral, as appropriate, of NCPs to employment and training services, by child support agencies or the courts/tribunals, to local workforce development agencies or other public employment agencies and local organizations, including community- and faith-based organizations. These projects would involve a formalized partnership [*i.e.*, provide letter(s) of commitment] with the workforce development agency, or other local employment organization, to ensure that the referring child support enforcement agency or tribunal can properly track and monitor NCP's progress, provide intervention if needed, and track outcomes. Outcome measures would include increased payment rates on orders, as well as increases in employment, job retention rates and wages.
- Design and implement strategies to prepare an inmate parent (via pre-release programs) or ex-offender for reintegration into the community that would enable them to obtain employment, successfully reunite with their families, provide financial and emotional support for their children, and avoid recidivism through the use of community- or faith-based support services. These projects would involve a collaborative relationship between State/local CSE agencies, correctional systems, employment and other public agencies, local organizations (including faith-based organizations), or universities such as Historically Black Colleges and Universities, in order to provide the array of services necessary to address the needs of incarcerated parents or ex-offenders. A body of research demonstrates that the establishment (or regular maintenance) of family ties during a parent's incarceration—coupled with employment upon release—are important variables that need to be in place in order to keep ex-offender parents from committing repeat criminal offenses. OCSE is also interested in learning the extent to which prison-based parenting programs, in conjunction with an increase in contact between children and their incarcerated parent, provide enough of an incentive for parents to readily support their children and return to their families upon release from prison. Applicants must provide assurance (including names of service providers and letters of commitment) that employment, training, or parenting/healthy marriage counseling services are available in the community. We are looking for outcomes which can demonstrate results, such as, (a) employment and increased contact with their children help incarcerated or ex-offender NCPs pay child support and reduce recidivism; or (b) parenting/family counseling programs and increased contact with their children while incarcerated results in more incarcerated NCPs paying child support or returning to their families upon release.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up to three grants, about $200,000 each, depending on scale of project, for a total of about $600,000.

Priority Area 2: Encouraging new ways to approach unwed parents to emphasize the importance of healthy marriage to a child's well-being.

1. Purpose: The purpose of this solicitation is to demonstrate new ways to approach unwed parents, during pregnancy, at paternity establishment, or at other opportunities after the birth of the child, to encourage healthy marriage while also encouraging paternity establishment as part of the process of taking parental responsibility and strengthening families.

2. Background and Information: Research suggests that non-custodial fathers may not voluntarily abandon their children. Over 80% percent of them show up at the hospital of their child's birth. Many of these young, never-married, non-custodial fathers want to be good parents for their children, but may face obstacles. Many are unemployed or under-employed with insufficient incomes to support a marriage and children, or provide support payments on a regular basis. Many also lack parenting and relationship skills; or lack the knowledge, understanding and importance of child support, family stability and marriage in the lives of their children. Programs need to create new approaches to unwed parents to emphasize the importance of a healthy marriage environment to a child's overall healthy and successful development.

3. Design Elements in the Application: OCSE is looking for projects which implement strategies to improve and strengthen family stability by offering a combination of services to low-income, non-married, non-custodial and custodial parents. Services should include, at a minimum, referral to marriage and parental skills training and could also be combined with job development, enhanced employment opportunities, and financial management skills development. The design should include collaboration with hospitals, clinics, IV–D agencies, TANF agencies, Head Start, child development agencies, community- or faith-based organizations, or other agencies that provide voluntary paternity acknowledgment services, employment, or marriage and parental skills development. These services would be offered to couples throughout the mother's pregnancy, at the time of providing information on paternity establishment, or at other opportunities after the birth of the child. A primary time to offer these services is when the parents are provided information on paternity establishment, recognizing that paternity establishment is an important component of parental responsibility, and that referral of unwed couples to relationship building/marriage skills training services should not reduce paternity establishment rates. Applicants must provide assurance (including names of service providers and letters of commitment)

that employment, training, or relationship/healthy marriage counseling services are available in the community. We are looking for outcomes which would demonstrate, for example, that referral to counseling or other types of relationship skills training and healthy marriage services, results in an increased number of unmarried low-income fathers marrying or providing child support to their children, without reducing paternity establishment rates.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: There will be up to two grants (ranging from about $100,000 to $200,000, depending on scale of project, for a total of about $200,000).

Priority Area 3: Increasing the number of child support cases with medical coverage for children.

1. Purpose: The purpose of this solicitation is to demonstrate new and or more effective strategies to increase the number of children in IV–D cases receiving medical support.

2. Background and Information: Based on OCSE's most recent technical assistance and training needs assessment, States indicated a need for more effective strategies in the area of medical support. For example, States indicated a need for approaches which would provide better coordination between CSE agencies and employers regarding health insurance providers; and/or improving linkages between CSE agencies and Medicaid and SCHIP programs. Improved coordinated processes between CSE agencies and employers' insurance providers or medical agencies should result in an increased number of child support cases with medical coverage for children.

3. Design Elements in the Application: In order to increase the number and accuracy of child support cases with medical coverage for children, OCSE is interested in projects which develop effective/innovative strategies, within Federal law and regulations, to address one or more of the following design elements:

- Develop and implement approaches, including automation enhancements, which would encourage employers to provide CSE agencies information about their health insurance providers so CSE agencies could better track enrollment and monitor enforcement of medical support coverage.
- Develop and implement approaches which improve referrals, automated data interfaces and other related types of information exchange between State/local CSE agencies and agencies administering Medicaid and SCHIP programs for Medicaid and SCHIP cases.
- Develop and implement innovative strategies to test or demonstrate effective approaches for maximizing the enrollment of children in IV-D cases in appropriate health care coverage.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up three grants (ranging from $100,000 to $300,000, depending on scale of project, for a total of about $300,000).

Priority Area 4: Expanding Use of automation tools and best practices

1. Purpose: The purpose of this solicitation is to fund projects that continue to demonstrate the effectiveness of various promising automation tools, in order to modify them for different environments or expand them to involve more child support cases. The ultimate goal is to improve child support performance and customer satisfaction.

2. Background and Information: There have been a number of promising projects using automation to identify and/or increase child support collections and improve customer service. Given the advances in technology and resulting improvement in child support program performance, OCSE, under this solicitation, is providing more opportunities for more States/Tribes to demonstrate effectiveness of automation tools to increase collections, especially for interstate cases, and/or improve customer service. OCSE is specifically interested in projects which: (a) Can demonstrate increased collections by using technology to process interstate cases, provide data matches and attach assets; (b) improve interstate customer satisfaction using automated tools to provide interstate caseworkers more timely access to case information; and (c) help OCSE develop a Common Methodology for estimating annual child support collections attributable to Income Withholding Orders.

3. Design Elements in the Application: In order to expand the use of promising automation tools that help to increase collections and improve customer satisfaction with the child support program, OCSE is interested in projects which use automation tools or expand the use of automation tools in new ways to significantly impact child support program performance. Projects should address one of the following design elements:

- Design, implement or expand, under Cooperative Agreement, the use of automated tools to process intra-state and interstate case files, to provide data matching and the attachment of assets (such as for financial institutions data matches and levies) in order to automatically seize assets and track information on interstate cases. Applicants are encouraged to form collaborative partnerships in development and implementation of this type of project. Consortia of States, with other entities, are encouraged to apply, designating a lead entity as the recipient of the grant award. Applicants must provide written assurances from any participating agencies and organizations involved with this project.

Grantee(s) selected for the Cooperative Agreement are expected to demonstrate an implementation or expansion of projects which take a proven enforcement technique to a larger, regional or national, scale and produces measurable results (*e.g.*, increasing the numbers of interstate cases processed and child support collections obtained).

The grantee will provide a final report that summarizes the baseline data before the grant, the increased child support collections due to actions from this grant, demographic information regarding the collections, the data specifications used, the lessons learned and best practices related to this effort. The grantee must also provide assurance that the Federal government reserves the right to reproduce, publish or otherwise use and to authorize others to use for Federal government purposes, any software, modifications and documentation that are produced under this project.

OCSE will provide the grantee(s) selected for the Cooperative Agreement with files or tapes of child support cases that meet a designated amount of arrearage from those states that have agreed to submit these types of case files or tapes. OCSE will also assist the grantee(s) in disseminating the availability of this process and the results of this automated match.

- Design and implement internet, intranet, or CSENet interactive customer service sites to test methods that provide interstate customers and caseworkers from other states with 24/7 access to their child support case status and payment information. Projects would include the design of central web sites and/or private networks, and other innovative practices. Projects need to address security/privacy considerations. Measurable outcomes could include usage, determining needs of interstate customers and addressing those needs, common definitions or explanation of data elements (i.e. arrearage), improvement in interstate client and caseworker satisfaction, and cost-effectiveness.
- Demonstrate and test OCSE s Common Methodology to estimate annual child support collections, under a Cooperative Agreement, in order to ensure that the best practices identified are applicable in other jurisdictions. OCSE has developed a Common Methodology as a set of standardized processes and procedures, including an automated statistical model, for use by IV-D agencies in estimating annual child support collections attributable to Income Withholding Orders issued as a result of NDNH matches. The Common Methodology was successfully tested in Delaware by OCSE earlier this year. Eligibility in this priority area is limited to State IV-D Agencies. The grantees will work closely with and report their results once a month, via conference calls, to the OCSE Economic Analysis Team.

OCSE will provide each State selected for the Cooperative Agreement with:

—An electronic and paper copy of the Common Methodology, including a guidebook or narrative explanation of the tasks to be completed and an Excel spreadsheet for entering data for the automated analysis;
—An electronic copy of a random representative sample of 1,000 NDNH (W–4) proactive matches from their State to be studied;
—A point of contact person for the OCSE Economic Analysis Team, who will be available to respond to questions and to offer additional explanations; and
—A written guide for the reports on best practices expected by OCSE by the end of the project.

Each State will provide OCSE with a written final report that (a) identifies best practices using the Common Methodology; (b) all statistical results and findings generated by the Common Methodology; and (c) if appropriate, recommendations for improvement modifications in the Common Methodology Guidebook. OCSE expects that the Cooperative Agreements will lead to rigorous field tests that will yield an optimally user friendly tool and a Guidebook with simple, clear, and sufficiently detailed instructions for users who anticipate and respond to the most frequently asked questions.

4. Project and Budget Period: The project period for this priority area is up to 17 months but the common methodology cooperative agreement projects will be up to six months.

5. Project Budget: It is estimated that, depending on the scale of projects, up to $2 million will be available for cooperative agreement projects addressing data matching and attachment of assets; for the interactive customer service site projects, it is estimated that there will be up to two grants, of approximately $100,000 each, depending on scale, for a total of about $200,000; and for the cooperative agreements common methodology projects, there will be up to three grants, of about $60,000 each, for a total of about $180,000.

Priority Area 5: Improving child support services for ethnic and culturally diverse populations, Tribes and the international community.

1. Purpose: The purpose of this solicitation is to develop new approaches and methods of delivering improved child support enforcement services to better address the needs of underserved ethnic and culturally diverse populations, Tribes, and the international community.

2. Background and Information: OCSE is looking for projects that target underserved ethnic and culturally diverse populations so that they may receive child support enforcement services. More is being done to develop outreach media campaigns and language appropriate materials to better explain the purpose and objectives of the child support program to these groups. In fact, OCSE is funding a number of relatively small scale Hispanic/Latino outreach projects which are developing language appropriate media campaigns, videos, brochures and posters, as well as using community and volunteer resources to engage this community. Under this solicitation, OCSE is interested in collaborations between units of State/local governments and the courts, with other entities such as Tribal governments, community-based and faith-based organizations, or with other nations, to offer model service approaches that will result in larger scale, more systematic, institutionalized approaches to service delivery to underserved populations. Such approaches should have a greater program impact, resulting in measurable improvements (*e.g.*, in rates of paternity establishment, child support orders and collections.) This solicitation is not designed to provide funding for the development and implementation of Tribal CSE programs when these provisions are being addressed through federal regulation.

3. Design Elements in the Application: In order to improve the delivery and responsiveness of the child support system to address the needs of underserved ethnic and culturally diverse populations including, but not limited to, the Hispanic/Latino community, the Asian-American and Pacific Islander community, the African-American community, Tribes, or the international community, OCSE seeks projects which will have a large scale impact on child support outcomes, such as increases in the numbers of orders established and collections. Design elements for these projects should include one or more of the following:

- Design and implement new models and methods of making child support enforcement services more accessible to underserved ethnic and culturally diverse populations, in collaboration with state, local or Tribal governments, the tribunal systems, faith-based, community, and educational organizations (including Historically Black Colleges and Universities). Applicants must provide assurance (*i.e.*, letters or agreements) from collaborative partners that they are committed to the project. Projects should identify the nature/causes of barriers to effective child support enforcement service delivery for customers with language and diversity barriers, and develop and implement approaches to reduce or eliminate them in the provision of child support services. This could include providing bilingual staff, resources, training, *etc.* to judges/attorneys to address the needs of these customers and assure judicial fairness (including the establishment of realistic payment plans which encourage obligor involvement, and the development of new delivery strategies within the community to increase paternity establishment, child support orders, and child support collection rates.) Such projects should be directly linked to the delivery of child support services with a holistic family approach and be large enough in scale to have a substantial impact on child support performance outcomes for underserved populations.
- Design and implement collaborative activities between a state, or states, and Tribes or foreign jurisdictions to improve inter-jurisdictional child support cooperation in ways which will improve child support program outcomes. Applicants must provide assurance (*i.e.*, letters or agreements) from collaborative partners that they are committed to the project. Other sovereign partners should be encouraged to adopt additional UIFSA-like procedures which facilitate interstate cooperation. Variations in procedures between sovereign systems will require additional measures to be developed and implemented to achieve the full benefits of interstate cooperation. Projects should

demonstrate methods leading to improvement of partners' judicial and child support agency cooperation, such as procedures not requiring the physical presence of a petitioner at hearings, utilizing standardized bilingual bi-directional case processing forms, and developing secure and efficient electronic communication methods (including currency transfer and conversion mechanisms) with one or more states. Projects should produce measurable increases in child support enforcement program outcomes (*e.g.*, increased rates of paternity establishment, child support orders and/or collections) in cases between residents of the U.S., Tribes, and other nations.

4. Project and Budget Period: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up to three grants (ranging from about $100,000 to $200,000, depending on scale of project, for a total of about $300,000)

Priority Area 6—Projects which further the child support mission to ensure that all children receive financial and medical support from both parents.

1. Purpose: To design and test new models for operating a child support program which further the accomplishment of national goals, *i.e.*, all children have paternity established; all children in IV-D cases have financial and medical support orders; and all children in IV-D cases receive financial and medical support.

2. Background and information: This priority area announcement is meant to solicit proposals and ideas for research and demonstration projects that are not covered by any of the above priority areas. OCSE is looking for projects that will test new interventions and approaches to increase paternity establishments, support orders and collections. We are particularly interested in projects which identify issues and propose/implement solutions to problems that have caused a leveling off of child support collection rates over the past couple of years. As feasible, OCSE encourages collaborations among State/local governments, tribal governments, non-profit, faith-based and community-based organizations, and universities (including Historically Black Colleges and Universities).

3. Design Elements in the Application: Applicants would propose new ways of doing business, within Federal law and regulations, and put them into effect. Applicants are encouraged to apply innovative thinking in approaching how to apply and test new interventions. If the applicant is proposing to replicate an effective child support or social service agency management strategy, the proposal must provide supporting documentation of the success of this model within the last three years and its applicability to improving child support performance. Applicants should not propose using the grant award to simply augment IV–D staff or computer resources that State or local decision makers have been unwilling to fund. Applicants shall enclose letters of commitment from all key entities (*e.g.*, hospitals, courts or other public entities, community- and faith-based organizations, *etc.*) whose cooperation will be needed in the project.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up to two grants (ranging from about $100,000 to $200,000, depending on scale of project, for a total of about $200,000).

Part III: The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. Note: State/territory participation in the intergovernmental review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its single point of contact (SPOC), if applicable, or to ACF. The following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, *etc.*, does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Alece Morgan, Grants Management Officer, 370 L Enfant Promenade, SW., 4th Floor, West Wing, Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included with the application materials for this program announcement.

B. Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding. It is necessary that applicants state specifically which priority area they are applying for. Applications will be screened for priority area appropriateness. If applications are found to be inappropriate for the priority area in which they are submitted, applicants will be contacted for verbal approval of redirection to a more appropriate priority area.

C. Competitive Review and Evaluation Criteria

Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The results of these reviews will assist the Commissioner and OCSE program staff in considering competing applications. Reviewers scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding because other factors are taken into consideration. These include, but are not limited to, the number of similar types of existing grants or projects funded with OCSE funds in the last five years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; an applicant's progress in resolving any final audit disallowance on previous OCSE or other Federal agency grants. OCSE will consider the geographic distribution of funds among states and the relative proportion of funding among rural and urban areas. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

Proposed projects will be reviewed using the following evaluation criteria:

(1) Criterion I: Objectives and Need for Assistance (Maximum 30 points)

The application should demonstrate a thorough understanding and analysis of the problem(s) being addressed in the project, the need for assistance and the importance of addressing these problems in improving the effectiveness of the child support program. The applicant should describe how the project will address this problem(s) through implementation of changes, enhancements and innovative efforts and specifically, how this project will improve program results. The applicant should address one or more of the activities listed under the "Design Elements in the Application" described above for the specific priority area they are applying for (refer to Part II.B. Project Priorities). The applicant should identify the key goals and objectives of the project; describe the conceptual framework of its approach to resolve the identified problem(s); and provide a rationale for taking this approach as opposed to others.

(2) Criterion II: Approach (Maximum: 30 points)

A well thought-out and practical management and staffing plan is mandatory. The application should include a detailed management plan that includes time-lines and detailed budgetary information. The main concern in this criterion is that the applicant should demonstrate a clear idea of the project's goals, objectives, and tasks to be accomplished. The plan to accomplish the goals and tasks should be set forth in a logical framework. The plan should identify what tasks are required of any contractors and specify their relevant qualifications to perform these tasks. Staff to be committed to the project (including supervisory and management staff) at the state and/or local levels must be identified by their role in the project along with their qualifications and areas of particular expertise. In addition, for any technical expertise obtained through a contract or subgrant, the desired technical expertise and skills of proposed positions should be specified in detail. The applicant should demonstrate that the skills needed to operate the project are either on board or can be obtained in a reasonable time.

(3) Criterion III: Evaluation (Maximum 25 points)

The application describes how the success of this project can be measured and how the success of this project has broader application in contributing to child support enforcement policies, practices, and/or providing solutions that could be adapted by other states/jurisdictions. The applicant should describe the specific results/products that will be achieved; as appropriate, identifies the kinds of data to be collected and maintained; describes procedures for informed consent of participants, where applicable, and discusses the criteria to be used to evaluate the results of the project. The application describes the evaluation methodology to be used to determine if the process proposed was implemented and if the project goals/objectives were achieved. Sound evaluations to determine whether or not project goals have been realized are of importance to child support enforcement policy makers and administrators. Thus, the proposal should include a process evaluation component and comparison of before/and after the project site(s) experience, as appropriate, to demonstrate the results achieved.

(4) Criterion IV: Budget and Budget Justification (Maximum 10 points)

The project costs need to be reasonable in relation to the identified tasks, including the evaluation component. A detailed budget (*e.g.*, the staff required, equipment and facilities that would be leased or purchased) should be provided identifying all agency and other resources (*i.e.*, state, community, or other programs such as TANF or Head Start) that will be committed to the project. Grant funds cannot be used for capital improvements or the purchase of land or buildings. Explain why this project's resource requirements cannot be met by the state/local agency's regular program operating budget.

(5) Criterion V: Preferences (Maximum 5 points)

Preference will be given to those grant applicants representing IV-D agencies and applicant organizations who have documented IV-D agency commitment to the project, either through a cooperative agreement or letter of commitment, which needs to be attached to the application.

D. Funding Reconsideration

After Federal funds are exhausted for this grant competition, applications which have been independently reviewed and ranked but have no final disposition (neither approved nor disapproved for funding) may again be considered for funding. Reconsideration may occur at any time funds become available within twelve (12) months following ranking. ACF does not select from multiple ranking lists for a program. Therefore, should a new competition be scheduled and applications remain ranked without final disposition, applicants are informed of their opportunity to reapply for the new competition, to the extent practical.

Part IV. The Application

A. Application Development

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Application materials including forms and instructions are available from the contact named under the **ADDRESSES** section in the preamble of this announcement.

The length of the application, excluding the application forms, certifications, and resumes, should not exceed 20 pages. A page is a single-side of an 8 ½" × 11 sheet of plain white

paper. The narrative should be typed double-spaced on a single-side of an 8 ½" x 11 plain white paper. Applicants are requested not to send pamphlets, maps, brochures or other printed material along with their application as these are difficult to photocopy. These materials, if submitted, will not be included in the review process. Each page of the application will be counted (excluding required forms, certifications and resumes) to determine the total length. The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part III.C. The Administration for Children and Families Uniform Project Description in the application kit provides general requirements for these evaluation criteria (*i.e.*, Objectives and Need for Assistance; Approach; Evaluation; Budget and Budget Justification).

B. Application Submission

1. Mailed applications postmarked after the closing date will be classified as late and will not be considered in the competition.

2. *Deadline.* Mailed applications shall be considered as meeting an announced deadline, if they are either received on or before the deadline date, or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: SIP Application, 370 L Enfant Promenade, SW., 4th Floor West, Washington, DC 20447. Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine-produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s).

To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed). Express/overnight mail services should use the 901 D Street address instructions as shown below.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant using express/overnight mail services, will be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: SIP Application, and delivered at ACF Mailroom, 2nd Floor (near loading dock), Aerospace Building, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application. ACF cannot accommodate transmission of applications by fax or through other electronic media.

Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

3. *Late applications.* Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

4. *Extension of deadlines.* ACF may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there is widespread disruption of the mail service, or in other rare cases.

Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Dated: May 20, 2002.

Sherri Z. Heller,

Commissioner, Office of Child Support Enforcement.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–02–02]

Developmental Disabilities: Final Notice of Availability of Financial Assistance and Request for Applications for Support Demonstration Projects Under the Projects of National Significance Program

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), DDHS.

ACTION: Notice.

SUMMARY: The Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), is accepting applications for Fiscal Year 2002 Projects of National Significance (PNS).

This Program Announcement (Number 93631–02–02) consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD, while Part II provides background information on ADD for applicants. Part III describes the application review process. Part IV contains several components including: description of eligible applicants, purpose of project funds, requirements of project design, and evaluation criteria for each of the Priority Areas which ADD requests applications for Fiscal Year 2002 funding of projects. Additionally, Part IV describes the five (5) Priority Areas, identifies the purpose of each Priority Area, and provides background information specific to each Priority Area in detail for the eligible applicants. The Priority Areas for Fiscal Year 2002 and the primary objective for each Priority Area are as follows:

- Priority Area 1: *Learning through Assisting.* The Primary Objective of Primary Area 1 is to create opportunities for and provide support to high school students to earn service learning credits by assisting children with developmental disabilities in inclusive environments.
- Priority *Area 2: Creating and Celebrating One Community for All Citizens.* The Primary Objective of Priority Area is to build and support local communities of diverse citizens where individuals with developmental disabilities feel welcome and able to make contributions.
- Priority *Area 3: Enhancing Early Literacy and Education for Children with Developmental Disabilities.* The Primary Objective of Priority Area 3 is to identify, evaluate, and promote promising practices in inclusive early literacy and educational programs for young children with developmental disabilities.
- Priority *Area 4: Increasing Access in Rural Communities.* The Primary Objective for Priority Area 4 is to identify, develop, and promote inclusive transportation opportunities and coalitions in rural communities with individuals who experience developmental disabilities.
- Priority *Area 5: Expanding Positive Youth Development Activities for Young People with Developmental Disabilities.* The Primary Objective for Priority Area 5 is to expand youth development activities and provide positive community college experiences for young adults with developmental disabilities.

Finally, Part V describes the process for preparing and submitting the application.

DATES: The closing date for submittal of applications under this announcement is July 24, 2002.

Deadline: Applications Submitted by Mail. Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, ACF/Office of Grants Management, 370 L'Enfant Promenade SW., Mail Stop 326–F, Washington, DC 20447–0002, Attention: Lois Hodge. Any applications received after 4:30 p.m. on the deadline date will not be considered for competition.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the Commercial Mail Service Company and must reflect the date the package was received by the Commercial Mail Service Company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. All applications shall be mailed or hand-carried at the request and expense of the applicant.

Application Submitted by Courier

Applications hand-carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the closing date, between the hours of 8:00 a.m. and 4:30 p.m., EST, Monday through Friday (excluding Federal holidays), at the U.S. Department of Health and Human Services, ACF/Office of Grants Management, ACF Mail Center, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). This mailing address must appear on the envelope/package containing the application with the note "Attention: Lois Hodge." Applicants using express/overnight services should allow two working days (working days are defined as Monday through Friday, excluding Federal Holidays) prior to the closing date for receipt of applications.

Note to Applicants: Express/overnight mail services do not always deliver in the agreed upon timeframe.

Receipt of Applications: Applications must either be hand delivered or mailed to the addresses listed above (under DEADLINE). ACF cannot accommodate transmission of applications by fax or through other electronic media. Applications transmitted electronically will not be accepted. Videotapes and cassette tapes may not be included as part of a grant application for panel review. Additional material will not be accepted, or added to an application, unless it is postmarked by the deadline date.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend application deadlines when circumstances such as acts of God (e.g., floods, hurricanes) occur, or when there is widespread disruption of the mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

FOR FURTHER INFORMATION CONTACT: For information about the application process, program information and application materials contact, ADD at the Administration for Children and Families (ACF), Attention: April Myers, 370 L'Enfant Promenade, SW., Rm. 300F, Washington, DC, 20447, send e-mail to *AMyers@acf.hhs.gov*, or call 202/690–5985. Copies of this Program Announcement and many of the required forms may be obtained electronically at the ADD World Wide Web Page: *http://www.acf.hhhs.gov/programs/add/.*

Notice of Intent to Submit Application: If you intend to submit an application, please fax the following information to April Myers, (202) 690–6904 at, ADD; the number and title of this announcement, the Priority Area you wish to apply under, your organization's name and address, and your contact person's name, your contact's phone and fax numbers, and their e-mail address. This information will be used to determine the number of expert reviewers needed and to update the mailing list for future program announcements.

SUPPLEMENTARY INFORMATION:

Part I: General Information

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF) at the Department of Health and Human Services (DHHS). ADD shares goals with other ACF programs that promote the economic and social well being of families, children, individuals, and communities. ACF and ADD envision:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States, and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access;
- A strong commitment to working with Native Americans, persons with developmental disabilities, refugees and migrants to address their individual needs, strengths and abilities; and
- A community-based approach that recognizes and expands on the resources and benefits of diversity.

The goals will enable more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance (PNS) Program is one means through which ADD promotes the achievement of these goals.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs to promote the self-sufficiency and protect the rights of persons with developmental disabilities. ADD implements the Developmental Disabilities Assistance and Bill of Rights Act, the DD Act, that was reauthorized in 2000. The DD Act defines developmental disabilities, reauthorizes four major programs under ADD, devolves advocacy to the States, promotes consumer oriented systems change and capacity building activities and facilitates network formations.

The Act supports and provides assistance to States, public agencies, and private nonprofit organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, integration, and inclusion into the community.

As defined in the DD Act, the term "Developmental disabilities" means a severe, chronic disability of an individual that is attributable to a mental or physical impairment or combination of mental and physical impairments that is manifested before the individual attains age 22 and is likely to continue indefinitely. Developmental Disabilities result in substantial limitations in three or more of the following functional areas; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and capacity for economic self-sufficiency.

In the DD Act, Congress cited the following findings:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity, integration, and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely; and
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families.

The DD Act further promotes the best practices and policies presented below:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, integration and inclusion into the community, and often require the provision of services, supports, and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities, and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual; and
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families.

Toward these ends, ADD seeks to support and accomplish the following:

- Enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential;
- Support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination and to engage in leadership activities in their communities; and
- Ensure the protection of individuals with developmental disabilities' legal and human rights.

The four programs funded under the DD Act are:

- State Council on Developmental Disabilities that engage in advocacy, capacity building and systematic change activities.
- State Protection and Advocacy System (P&A's) that protect the legal and human rights of individuals with developmental disabilities.
- The National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCDD's) that engages in training, outreach and dissemination activities.
- The Projects of National Significance (PNS), including Family Support Grants, support the development of family centered and directed systems for families of children with disabilities.

All ADD programs must engage in activities related to advocacy, capacity building and systems change in one or more areas of emphasis. These areas of emphasis are: child-care related activities; early intervention and education activities; employment-related activities; health-related activities; housing-related activities; recreation-related activities; transportation-related activities; and quality assurance activities.

C. Statutory Authorities Covered Under This Announcement

This Announcement is covered under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15000, et. seq. The Projects of National Significance (PNS) is Part E of the DD Act of 2000, 42 U.S.C. 15081, et. seq. Provision under this section provides for the award of grants, contracts, or cooperative agreements for projects of national and state policies that reinforce and promote the self-determination, independence, productivity, and integration and inclusion in all facets of community life of individuals with developmental disabilities through family support and data collection activities and other projects that hold promise to expand or improve opportunities for individuals with developmental disabilities.

Part II. Background Information For Applicants

A. Description of Projects of National Significance

Under Part E of the Act, grants and contracts are awarded for Projects of National Significance (PNS) that support the development of National and State policies to enhance the independence, productivity, integration, and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State Councils on Developmental Disabilities, Protection and Advocacy Systems, and University Centers in Developmental Disabilities; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for people with developmental disabilities, including:

(a) Technical assistance for the development of information and referral systems;
(b) Educating policy makers;
(c) Federal interagency initiatives;
(d) The enhancement of participation of minority and ethnic groups in public and private sector initiatives in developmental disabilities; and
(e) Transition of youth with developmental disabilities from school to adult life.

The purpose of the Projects of National Significance (PNS) program is not only to provide technical assistance to the Developmental Disabilities Councils, the Protection and Advocacy Systems, and the University Centers in Developmental Disabilities, but also to support projects "that hold promise to expand or improve opportunities for people with developmental disabilities." PNS funds have initiated cutting edge projects, such as the "Reinventing Quality: Promising Practices in Person-Centered Community Services and Quality Assurance for People with Development Disabilities" that are at the forefront of the developmental disabilities field challenging traditional thinking and practices. The 2002 Priority Areas relate to the outcomes contained in ADD's plan for implementing the Government Performance Reporting Act (GPRA). In general, Projects are expected to increase community support and services, promote self-determination and productivity, and encourage interaction and collaboration among all sectors of the Developmental Disabilities field.

Part III. The Application Review Process

A. Eligible Applicants

Before applications under this Program Announcement (Number 93631–02–02) are reviewed, each one will be screened to determine whether the applicant is eligible for funding as public or non-profit private entities under the selected Priority Area. Applications from organizations that do not meet the eligibility requirements for the Priority Area will not be considered or reviewed in the competition, and the applicant will be so informed.

Only public or non-profit private entities, not individuals, are eligible to apply under any of the Priority Areas. All applications developed jointly by more than one agency or organization must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations may be included as co-participants, sub-grantees, or subcontractors. Under this solicitation, a few of the Priority Areas may specify that a certain type of organization, such as a Community College, must be the official applicant.

Nonprofit organizations must submit proof of their nonprofit status in the applications at the time of submission. Proof of status includes providing a copy of the applicant's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501 (c) (3) of the IRS code, a copy of a valid IRS tax exemption certificate, or a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. ADD cannot fund a nonprofit applicant without acceptable proof of its nonprofit status.

Faith-based organizations are eligible to apply for PNS grants if they meet the eligibility requirements stated above and for the specified Priority Area.

B. Review Process and Funding Decisions

Applications under this Program Announcement (Number 93631–02–02) from eligible applicants received by the deadline date will be competitively reviewed and scored. Experts in the field, generally persons from outside of the Federal government, will use the evaluation criteria listed later in this Part of the Program Announcement to review and to score the applications. The results of this review are a primary factor in making funding decisions.

ADD reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government and/or the applicant. ADD may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States, and the general public. These comments, along with those of the expert reviewers, will be considered by ADD in making funding decisions.

In making PNS decisions for 2002 grant awards, ADD will consider whether applications focus on or feature the following aspects/activities in their project design:

- Services to culturally diverse or ethnic populations;
- A substantially innovative strategy with the potential to improve theory or practice in the field of human services;
- A model practice or set of procedures that holds the potential for replication by organizations administering or delivering human services;
- A substantial involvement of volunteers, the private sector (either financial or programmatic), and/or national or community foundations;
- A favorable balance between Federal and non-Federal funds available for the proposed project, which is likely to result in the potential for high benefit for low Federal investment; and
- A programmatic focus on those most in need of services and assistance, such unserved and underserved populations.

This year, 5 additional points will be added to the applicant's total in the scoring process for any project that includes partnership and collaboration with one or more of the 140 Empowerment Zones/Enterprise Communities. To receive the additional 5 points, the applicant must provide a clear outline for the collaboration and a discussion of how the involvement of the EZ/EC is related to the objectives and the activities of the project. Also, a letter from the appropriate representatives of the EZ/EC must accompany the application indicating its agreement to participate and describing its role in the project.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ADD may also take into account the need to avoid unnecessary duplication of effort and to address each of the Priority Areas.

C. Evaluation Process

Using the evaluation criteria (described under each Priority Area in Part IV), a panel of at least three reviewers (primarily experts from outside the Federal government) will evaluate and score the applications. To facilitate this review, applicants should ensure that they address the minimum requirements identified in the Priority Area description under the appropriate section of the Program Narrative Statement.

Reviewers will: Determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below; provide comments; and assign numerical scores. The point value following each criterion heading under the Priority Area in Part VI indicates the maximum numerical weight that each applicant may receive per section in the review process.

D. Structure of Priority Area Descriptions

The Priority Area Description is composed of the following sections:

- *Eligible Applicants:* This section specifies the type of organization eligible to apply under the particular Priority Area. Specific restrictions are also noted, where applicable.
- *Purpose:* This section presents the basic focus and/or broad goal(s) of the Priority Area.
- *Background Information:* This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular Priority Area. Relevant information on projects previously funded by ACF, ADD, and/or other State models are noted, where applicable.
- *Minimum Requirements for Project Design:* This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers to evaluate the applications against the evaluation criteria. Project products, continuation of the project after Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.
- *Key Elements of Project Designs:* As a general guide, ADD expects to fund only those proposals for projects that incorporate the elements listed in this section under each Priority Area.
- *Evaluation Criteria:* This section presents the basic set of issues that must

be addressed in the application. Typically, they relate to need for assistance, results expected, project design, and organizational and staff capabilities. Inclusion and discussion of these items is important since the information provided will be used by the reviewers in evaluating the application against the evaluation criteria. Applicants should carefully review the section on the Uniform Project Description and the evaluation criteria under the Priority Area.

• *Project Duration:* This section specifies the maximum allowable length of the project period; it refers to the amount of time for which Federal funding is expected to be available to support the project's activities.

• *Federal Share of Project Costs:* This section specifies the maximum amount of Federal support for the project.

• *Matching Requirement:* This section specifies the minimum non-Federal contribution, either cash or in-kind match, required to receive Federal project funds.

• *Anticipated Number of Projects To Be Funded:* This section specifies the number of projects ADD anticipates funding under the Priority Area.

• *CFDA:* This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in the Priority Areas will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applications under this Program Announcement that do not comply with their specific Priority Area requirements in the section on "Eligible Applicants" will not be reviewed.

Applicants under this Program Announcement must clearly identify the specific Priority Area under which they wish to have their applications considered, and tailor their applications accordingly. Applications that are more clearly focused on and directly responsive to the concerns of their specific Priority Area usually score better than those that are less specific and more generally defined.

E. Available Funds

Subject to the availability of funding, ADD intends to award new grants resulting from this Program Announcement during the fourth quarter of Fiscal Year 2002. For the purpose of the awards under this Program Announcement, the successful applicants should expect a project start date of October 1, 2002. The Priority Area descriptions include information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term "budget period" defines a one-year (12 months) interval of time. Where applicable, a multi-year period of assistance (referred to as the project period) is divided for budgetary and funding purposes into one-year budget periods. The term "project period" means to the total time a project is approved for support, including continuation applications and any federally approved extensions.

Where appropriate, applicants may propose shorter project periods than the maximums specified in the various Priority Areas. Non-Federal share contributions may exceed the minimums specified in the various Priority Areas.

For multi-year projects, continued Federal funding beyond the first budget period, but within the approved project period, is subject to the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

F. Grantee Share of Project Costs

Grantees must match $1 for every $3 requested in Federal funding; to provide 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (total project cost is $133,333, of which $33,333 is 25%).

An exception to the grantee cost-sharing requirement relates to applications originating from American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Applications from these areas are covered under Section 501(d) of Public Law 95–134, which requires that the Department waive any requirement for local matching funds for grants under $200,000.

The applicant contribution must be secured from non-Federal sources, except as provided by Federal statute. A cost-sharing or matching requirement may not be met by costs from another Federal grant, unless Federal statue sanctions such. For example, funds from Federal programs that benefit Tribes and Native American organizations have been used to provide valid sources of matching funds. Any Tribe or Native American organization submitting an application to ADD should identify the Federal program(s) that will provide the matching funds in its application. If the applicant is selected to receive PNS funds, then ADD will determine whether there is statutory authority for use of such funds. The Administration for Native Americans and the DHHS Office of General Counsel will assist ADD in making this determination.

G. General Instructions for the Uniform Project Description

The following ACF Uniform Project Description (UPD) has been approved under OMB Control Number 0970–0139. Applicants required to submit a full project description should prepare the project description statement in accordance with the following instructions.

Project summary/abstract: Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance: Clearly identify the physical, economic, social, financial, institutional and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonies from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated) some of which may be outside the scope of the program announcement.

Results or Benefits Expected: Identify the results and benefits to be derived. Extent to which the applicant is consistent with the objectives of the application indicates the anticipated contributions to policy practice, theory and/or research. Extent to which the proposed project cost is reasonable in view of the expected results.

Approach: Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cites factors, which might accelerate or decelerate the work, and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time,

or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

1. *Organization Profile:* Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Part IV: Fiscal Year 2002 Priority Areas for Projects of National Significance Description and Requirements

The following section presents the Priority Areas for Fiscal Year 2002 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 2002 Priority Area 1: Learning Through Assisting

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.

• *Purpose:* To create opportunities for and provide support to high school students to earn service learning credits by assisting children with developmental disabilities in inclusive environments.

• *Background Information:* Increasingly high schools throughout the country are requiring their students to earn community or service learning credits prior to graduation. In most circumstances, students are able to receive their credit hours by volunteering their time and skills in a wide range of community settings with the approval of the appropriate school personnel. This trend proposes a unique opportunity and a potential resource for families and agencies desiring to support children with disabilities in inclusive educational and recreational settings.

With a little training and on-going supervision, high school students can provide a valuable set of capable hands to support children with disabilities in activities and environments where paid professionals are limited or not available to families. Additionally, the non-material benefits of the formation of a relationship between a child with developmental disabilities and a young adult are endless to all involved parties. For example, the high school students will gain insights into the lives and dreams of individuals with disabilities that will carry into their future professional and private lives in the adult world. The children with disabilities will also have the opportunity to develop a friendship with an individual who can blend into their environment and even be looked up to by the children's peers, in a manner that few adults can achieve.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects, which include the following activities and desired outcomes:

• Developing and implementing a model program for recruiting, preparing, and supporting high school students to work with children who have developmental disabilities and their families;

• Fostering partnerships between State Developmental Disabilities Networks (the Councils, Protection and Advocacy Systems, and University Centers), private and public high schools, community volunteer groups/organizations, service coalitions, businesses, and agencies to support and promote service learning opportunities with individuals who experience disabilities;

• Identifying and/or developing materials for high schools on professional opportunities and career paths in supporting individuals with developmental disabilities and their families, including educators and direct support workers;

• Building the capacity of community volunteer groups/organizations and high school service learning programs to include and support individuals with developmental disabilities and their families;

• Identifying existing model programs, best practices, and resources for high school students providing assistance to children with disabilities and their families;

• Providing training, guidance, supervision, and mentoring to high school students volunteering to assist children with developmental disabilities in inclusive community, recreational, and/or educational settings;

• Developing and disseminating educational and recruiting resources on the benefits of high school students being involved in the lives of children with developmental disabilities and their families for school high school administrators, educators, guidance counselors, volunteer coordinators, students, and parents; and

• Designing and disseminating web-based technical assistance materials on training and supporting high school students to assist children with developmental disabilities in inclusive environments.

• Key Elements of Project Designs:

As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities;

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• Description of how individuals with disabilities and their families will

be involved in all aspects of the design, implementation, and evaluation of the project;

- Attention to unserved and inadequately served individuals with disabilities and their families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Public Law 102–569);
- Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;
- Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;
- Develop and establish practices and programs beyond the project period from ADD;
- Dissemination of models, products, best practices, and strategies to the disability networks and others;
- Widespread distribution of grant funded products (reports, summary documents, audio-visual materials, etc.) in accessible format and in languages other than English;
- Describe and develop methods/plans to be used to continue the transfer of knowledge and information once the project period ends;
- Develop and implement an evaluation process to ensure that systematic and objective information is available about the utilization and effectiveness of the products from this project; and
- Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description. Additional Information that must be addressed is described below.

Criterion 1: Objectives and Need for Assistance (20 points)

The application must identify the following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application are being met and if the results and benefits identified are being achieved.

Criterion 4: Organization Profile (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include description of any current or previous relevant experience; or it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

- *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover funding would be in the best interest of the Government.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period.
- *Matching Requirement:* Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).
- *Anticipated Number of Projects To Be Funded:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631— Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF424.

Fiscal Year 2002 Priority Area 2: Creating and Celebrating One Community for All Citizens

- *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- *Purpose:* To build and support local communities of diverse citizens where individuals with developmental disabilities feel welcome and able to make contributions.
- *Background Information:* Throughout our Nation's history, America has taken great pride in the strength and diversity of its communities. Citizens of such a free land have the right, opportunity, and responsibility to work together in partnerships and coalitions to address their collective community of needs. Yet, most formal and informal groups elect to pledge their alliance to organizations with the mission to assist similar populations of citizens.

The end result is organizations and agencies working with one group of citizens rarely extend invitations of partnerships and coalitions to agencies and organizations assisting another segment of the community with similar issues and needs. As long as this standard of doing business remains the dominant practice, persons with developmental disabilities will continue to be segregated into separate programs, treated differently by their peers, and generally feel isolated from their own community. Additionally, generic service providers and business owners will continue to view the needs of individuals with the most significant disabilities as being "too special" to address and beyond their capacity and/or expertise.

In light of this, ADD is seeking applications to build, document, and disseminate information on community-based coalitions and grassroots efforts around pressing community needs that will result in increased productivity, independence, and inclusion of persons with developmental disabilities. Proposed projects should identify an Area of Emphasis (childcare, housing, education, employment, transportation, health, recreation, or quality assurance) from the DD Act of 2002 to develop community-based initiatives and coalitions that encompass the State Developmental Disabilities Network, cross-disability groups, and agencies and organizations with traditionally a non-disability focus. Example of agencies, groups, and organizations with traditionally a non-disability focus include, but are not limited to, the following: Inter-Faith Coalitions, Girls' and Boys' Clubs, Care Givers Associations, Rotary Clubs, Minority Colleges and Universities (Historical Black Colleges and Tribal Universities), Commerce and Business Associations, Rural Economic Development Councils, Main Street Improvement Funds, Safe Neighborhoods Projects, Small Business Organizations, Employment Networks, Youth Recreational Programs, Outdoor Adventure Clubs, Affordable Day Care or Housing Coalitions, and Health Promotion Campaigns.

- *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects, which include the following activities and desired outcomes:
  - Developing and fostering partnerships between State Developmental Disabilities Networks (the Councils, Protection and Advocacy Systems, and University Centers) and other groups, organizations, coalitions, businesses, and agencies with traditionally a non-disability focus;
  - Identifying an Area of Emphasis (transportation, child care, education, housing, recreation, health, employment, or quality assurance) and supporting local and/or State coalitions between disability related groups/agencies and other community groups/organizations to create system change and/or build capacity;
  - Building the capacity of community groups and organizations to include and support individuals with developmental disabilities in community, social, and civic activities;
  - Identifying opportunities and resources for individuals with developmental disabilities to participate in community events, organizations, and activities;
  - Providing training and mentoring to individuals with developmental disabilities to prepare them for community involvement and leadership roles;
  - Developing and disseminating a guidebook or manual for State Developmental Disabilities Networks to foster partnerships and coalitions with non-disability groups, agencies, coalitions, businesses, and organizations; and
  - Designing and disseminating web-based technical assistance materials on coalition building and sustainability.
- Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:
  - Involvement of consumers/self-advocates in planning and implementation;
  - Key project personnel whom have direct life experience with living with a disability;
  - Strong advisory components that consist of a majority of individuals with disabilities;
  - A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;
  - Research reflecting the principles of participatory action;
  - Cultural competency;
  - Description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project;
  - Attention to unserved and inadequately served individuals with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;
  - Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Public Law 102–569);
  - Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;
  - Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;
  - Develop and establish practices and programs beyond the project period from ADD;
  - Dissemination of models, products, best practices, and strategies to the disability networks and others;
  - Widespread distribution of grant funded products (reports, summary documents, audio-visual materials, etc.) in accessible format and in languages other than English;
  - Describe and develop methods/plans to be used to continue the transfer

of knowledge and information once the project period ends;

• Develop and implement an evaluation process to ensure that systematic and objective information is available about the utilization and effectiveness of the products from this project; and

• Specific outcomes tied to the ADD increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description. Additional Information that must be addressed is described below.

Criterion 1: Objectives and Need for Assistance (20 points)

The application must identify the following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application are being met and if the results and benefits identified are being achieved.

Criterion 4: Organization Profile (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include description of any current or previous relevant experience; or it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

• *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover funding would be in the best interest of the Government.

• *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period.

• *Matching Requirement:* Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).

• *Anticipated Number of Projects To Be Funded:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631— Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF424.

Fiscal Year 2002 Priority Area 3: Enhancing Early Literacy and Education for Children With Developmental Disabilities

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions, or agencies, including a consortia of some or all of the above.

• *Purpose:* To identify, evaluate, and promote "Promising Practices" in inclusive early literacy and educational programs for young children with developmental disabilities.

• *Background Information:* With the emergence of welfare-to-work programs and the increase in two income families, the impact and importance of quality childcare and early education is rapidly growing in our Nation. The Americans with Disabilities Act was enacted over ten years ago and continues to expand

opportunities for children with developmental disabilities and their families to enter childcare centers. For most children, their day care and early education experiences will sharply shape how they tackle educational opportunities well into young adulthood. Ensuring and promoting quality early education environments where all children feel welcome, safe, and included is key to our Nation's children with developmental disabilities future educational success, self-confidence, and overall mental health. As a step towards improving childcare services for all children and increasing early literacy, it is imperative for a knowledge basis to be identified, developed, and fostered on best practices and disseminated throughout the country for children with developmental disabilities.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting creative projects, which include the following types of activities and desired outcomes:

• Identifying and evaluating a diverse sample of inclusive childcare providers with promising best practices in early literacy and education;

• Providing web-based, user-friendly materials and information on promising practices in early literacy and education for children with developmental disabilities;

• Developing and disseminating tools for parents of children with developmental disabilities to evaluate the quality of educational services from their childcare providers;

• Offering technical assistance to childcare providers on promising practices in inclusive education and early literacy;

• Collaborating with Head Start Programs and Early Intervention Projects to strengthen early literacy skills in young children with developmental disabilities;

• Collecting data on the impact of early literacy programs on and the unmet needs of children with developmental disabilities;

• Identifying and promoting after school care for young children with developmental disabilities that include an educational component;

• Increasing the parental involvement of young children with developmental disabilities in early literacy and education programs; and

• Promoting and establishing partnerships between parent advocacy organizations, childcare providers, disability-related groups, foundations/groups interested in early literacy, and others to improve early literacy in children with developmental disabilities.

• Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• Description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project;

• Attention to unserved and inadequately served individuals with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;

• Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Public Law 102–569);

• Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;

• Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;

• Develop and establish practices and programs beyond the project period from ADD;

• Dissemination of models, products, best practices, and strategies to the disability networks and others;

• Widespread distribution of grant funded products (reports, summary documents, audio-visual materials, etc.) in accessible format and in languages other than English;

• Describe and develop methods/plans to be used to continue the transfer of knowledge and information once the project period ends;

• Develop and implement an evaluation process to ensure that systematic and objective information is available about the utilization and effectiveness of the products from this project; and

• Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description. Additional Information that must be addressed is described below.

Criterion 1: Objectives and Need for Assistance (20 points)

The application must identify the following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application are being met and if the results and benefits identified are being achieved.

Criterion 4: Organization Profile (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include description of any current or previous relevant experience; or it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

• *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover funding would be in the best interest of the Government.

• *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period.

• *Matching Requirement:* Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).

• *Anticipated Number of Projects To Be Funded:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF424.

Fiscal Year 2002 Priority Area 4: Increasing Access in Rural Communities With Individuals Who Have Developmental Disabilities

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions, or agencies, including a consortia of some or all of the above.

• *Purpose:* To identify, develop, and promote inclusive transportation opportunities and coalitions in rural communities with individuals who experience developmental disabilities.

• *Background Information:* Improving and expanding the Department of Health and Human Services programs in rural communities is a priority of Secretary Thompson's Administration and the President's New Freedom Initiative is a national emphasis to enhance the quality of life for Americans with disabilities. For individuals with developmental disabilities residing in rural communities, the lack of reliable, dependable, affordable transportation remains their greatest barrier to achieving self-sufficiency and becoming an inclusive member of their community. The size of the general population in most rural communities is not believed to be ample to financially support on-going public transportation systems. Where taxi companies do exist in the rural community, the expense of taking private taxis on a routine basis for most individuals with developmental disabilities is cost prohibited. Access to transportation is a community issue, which requires creative, collaborative, local solutions.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting creative projects, which include the following types of activities and desired outcomes:

• Identifying and evaluating a diverse sample of promising programs and best practices in providing inclusive transportation in rural communities;

• Organizing and hosting a National Summit on transportation for individuals with developmental disabilities residing in rural communities;

• Designing and offering web-based, user-friendly materials and information on promising practices in providing inclusive transportation services to individuals with developmental disabilities in rural communities;

• Identifying funding resources and opportunities for the development of and on-going costs associated with delivering inclusive transportation services in rural communities;

• Collecting and compiling data on the impact of barriers to transportation in rural areas for individuals with developmental disabilities on their productivity, independence, and inclusion, as well as the local economy, their community, family members, and the State's health care and service systems;

• Providing technical assistance to rural communities on how to develop and/or expand model programs for delivering inclusive transportation services; and

• Promoting and establishing partnerships between consumer/parent advocacy organizations, transportation providers, disability-related groups, public/private entities, other groups serving populations who experience transportation barriers, (such as the elderly, individuals living in poverty, and migrant workers), and others to improve access to transportation services for individuals with developmental disabilities in rural communities.

• Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project designs:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities;

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• Description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project;

• Attention to unserved and inadequately served individuals with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;

• Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (P.L. 102–569);

• Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;

• Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;

• Develop and establish practices and programs beyond the project period from ADD;

• Dissemination of models, products, best practices, and strategies to the disability networks and others;

• Widespread distribution of grant funded products (reports, summary documents, audio-visual materials, etc.) in accessible format and in languages other than English;

• Describe and develop methods/plans to be used to continue the transfer of knowledge and information once the project period ends;

• Develop and implement an evaluation process to ensure that systematic and objective information is available about the utilization and effectiveness of the products from this project; and

• Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description. Additional Information that must be addressed is described below.

Criterion 1: Objectives and Need for Assistance (20 points)

The application must identify the following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application are being met and if the results and benefits identified are being achieved.

Criterion 4: Organization Profile (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include description of any current or previous relevant experience; or it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

• *Project Duration:* ADD is soliciting applications for project periods up to one year (12 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover funding would be in the best interest of the Government.

• *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period.

• *Matching Requirement:* Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).

• *Anticipated Number of Projects To Be Funded:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631— Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF424.

Fiscal Year 2002 Priority Area 5: Expanding Positive Youth Development Activities for Young People With Developmental Disabilities

• *Eligible Applicants:* Community Colleges. (While applicants competing under this Priority Area are encouraged to work in partnership with disability-related organizations and groups, the led grantee for these projects will be required to submit documentation of their legal status as a Community College to ADD.)

• *Purpose:* To expand youth development activities and provide positive community college experiences for young adults with developmental disabilities.

• *Background Information:* Community colleges represent a viable, active resource for our Nation with the potential to positive impact the lives of individuals with developmental disabilities and their families at the local level. According to the American Association of Communities Colleges' (AACC) web site, America has a total of 1,166 community colleges (1,004 public institutions and 147 independent institutions) providing quality, affordable higher education to over 10 million students annually. In a consumer satisfaction survey, 95% of businesses and organizations that make use of the services offered through community colleges would recommend the workforce education and training programs to their colleagues. Additionally, it is reported that 65% of our Nation's new healthcare workers each year receive their training at community colleges and 48% of community colleges offer welfare-to-work programs.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects, which include the following types of activities and desired outcomes:

• Identifying, promoting, and establishing collaborative initiatives among community colleges, Department of Labor's "One Stop Centers," Vocational Rehabilitation Agencies, and disability-related groups;

• Expanding and/or developing community college based models for offering positive college experiences to youth with developmental disabilities;

• Developing and offering non-traditional and innovative career developmental programs for persons with disabilities;

• Identifying, promoting, and/or forming community-based employment networks to assist young people with developmental disabilities in securing paid internships and jobs; and

• Exploring offering training to direct support workers while supporting college students with developmental disabilities to achieve their educational and vocational goals.

• Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities;

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• Description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project;

• Attention to unserved and inadequately served individuals with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;

• Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Public Law 102–569);

• Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;

• Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;

• Develop and establish practices and programs beyond the project period from ADD;

• Dissemination of models, products, best practices, and strategies to the disability networks and others;

• Widespread distribution of grant funded products (reports, summary documents, audio-visual materials, etc.) in accessible format and in languages other than English;

• Describe and develop methods/plans to be used to continue the transfer of knowledge and information once the project period ends;

• Develop and implement an evaluation process to ensure that systematic and objective information is available about the utilization and effectiveness of the products from this project; and

• Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description. Additional Information that must be addressed is described below.

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The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information; (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application are being met and if the results and benefits identified are being achieved.

Criterion 4: Organization Profile (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include description of any current or previous relevant experience; or it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

• *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover funding would be in the best interest of the Government.

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• *Matching Requirement:* Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).

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• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631— Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF424.

Part V: Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this Program Announcement. An application package, containing all of the federal required forms, can be obtained by April Myers, Program Specialist: ADD, 370 L'Enfant Promenade SW, Washington, DC, 20447, 202/690–5985; *http://www.acf.dhhs.gov/programs/add*; or *AMyers@acf.hhs.gov*.

Potential applicants should read this section carefully in conjunction with the information contained within the specific Priority Area under which their application is being submitted. The Priority Area descriptions are in Part IV.

A. Required Notification of the State Single Point of Contact (SPOC)

All applications under the ADD Priority Area are required to follow the Executive Order (E.O.) 12372 process, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/territory participation in the intergovernmental review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its state single point of contact (SPOC), if applicable, or to ACF.

As of November 20, 1998, all States and territories, except Alabama, Alaska, American Somoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these jurisdictions or for projects administered by Federally recognized Indian Tribes need take no action regarding Executive Order 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions.

Applicants must submit all required materials to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials and indicate the date of this submittal (or date SPOC was contacted, if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application due date to comment on proposed new or competing continuation awards. However, there is insufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 30 days from the closing date for applications. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in delays in awarding grants.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations that may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF/ADD, they should be addressed to: Department of Health and Human Services, Administration on Children Youth and Families, Office of Grants Management, 370 L'Enfant Promenade, SW, Mail Stop 326F–HHH, Washington, DC 20447, Attn: Lois Hodge ADD—Projects of National Significance.

Contact information for each State's SPOC can be found on the OMB website at *http://www.whitehouse.gov/omb/grants/spoc* or by contacting your State Governor's office.

B. Notification of State Developmental Disabilities Councils

A copy of the application must also be submitted for review and comment to the State Developmental Disabilities Council in each State in which the applicant's project will be conducted. The Council review comments are not required concurrently with the grant application, but must be received by ADD prior to the award process. A list of the State Developmental Disabilities Councils can be found at ADD's website: *http://www.acf.dhhs.gov/programs/add* under Programs, or by contacting April Myers, ADD, 370 L'Enfant Promenade SW, Mailstop 300F, Washington, DC, 20447, (202) 690–5985.

C. Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A-Page 2 and Certifications/ Assurances are contained in the application package. Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page: Enter the selected Priority Area under which the application is being submitted.

Item 1. "Type of Submission"—Preprinted on the form.

Item 2. "Date Submitted" and "Applicant Identifier" —Date application is submitted to ACF/ADD and applicant's own internal control number, if applicable.

Item 3. "Date Received By State"—State use only (if applicable).

Item 4. "Date Received by Federal Agency"—Leave blank.

Item 5. "Applicant Information".

"Legal Name"—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

"Organizational Unit"—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

"Address"—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

"Name and telephone number of the person to be contacted on matters involving this application (give area code)"—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. "Employer Identification Number (EIN)"—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. "Type of Applicant"—Self-explanatory.

Item 8. "Type of Application"—Preprinted on the form.

Item 9. "Name of Federal Agency"—Preprinted on the form.

Item 10. "Catalog of Federal Domestic Assistance Number and Title"—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title. For the Priority Area, the following should be entered, "93.631—Developmental Disabilities: Projects of National Significance."

Item 11. "Descriptive Title of Applicant's Project"— Enter the project title. The title is generally short and is descriptive of the project, not the Priority Area title.

Item 12. "Areas Affected by Project"— Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. "Proposed Project"—Enter the desired start date for the project and projected completion date.

Item 14. "Congressional District of Applicant/Project"—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If Statewide, a multi-State effort, or nationwide, enter "00."

Items 15. Estimated Funding Levels in completing 15a through 15f, the dollar amounts entered should reflect, for a 17-month project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the Priority Area description.

Items 15b-e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b-e are considered cost sharing or "matching funds." The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific area of emphasis description.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project.

Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. "Is Application Subject to Review by State Executive Order 12372 Process?" If yes, enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. "Is Application Subject to Review by State Executive Order 12372 Process?" If no, Check the appropriate box if the application is not covered by Executive Order 12372 or if the program has not been selected by the State for review.

Item 17. "Is the Applicant Delinquent on any Federal Debt?"— Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. "To the best of my knowledge and belief, all data in this application/pre-application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded."— To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. "Typed Name of Authorized Representative, Title, Telephone Number"— Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. "Signature of Authorized Representative"—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. "Date Signed"—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering; (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed project period exceeds 15 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) the total project period of 17 months or less or (2) the first-year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, "Other."

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, "Other."

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, "equipment" is tangible, non-expendable personal property having a useful life of more than one year and acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including: (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, "Other."

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited

to: insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as "miscellaneous" and "honoraria" are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter "none." Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled "Totals." In-kind contributions are defined in title 45 of the Code of Federal Regulations, Parts 74.51 and 92.24, as "property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant."

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column "(b) First." If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under "(c) Second." Columns (d) and (e) are not applicable in most instances, since ACF/ADD funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Description

The Project Description is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the Area of Emphasis description in Part IV. The narrative should also provide information concerning how the application meets the evaluation criteria, using the following headings:

(a) *Objectives and Need for Assistance;*

(b) *Results and Benefits Expected;*

(c) *Approach; and*

(d) *Organization Profile.*

The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

The narrative should be typed double-spaced on a single-side of an 8½" x 11" plain white paper, with 1" margins on all sides, using black print no smaller than 12 pitch or 12 point size. All pages of the narrative, including attachments (such as charts, references/footnotes, tables, maps, exhibits, etc.) and letters of support must be sequentially numbered, beginning with "Objectives and Need for Assistance" as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including all attachments, must not exceed 60 pages. The federally required forms should not be count towards the total number of pages. The 60 page limit will be strictly enforced and reviewers will be instructed to not evaluate the contents of the applications beyond the first 60 pages of text. A page is a single side of an 8½" x 11" sheet of paper.

Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose Xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

4. Part V: Assurances/Certifications

Applicants are required to file a SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. Applicants must also provide certifications regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities certifications, and need not be mailed back with the application.

In addition, applicants are required under Section 162(c)(3) of the Act to provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who will receive services under projects assisted under Part E will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities). Each application must include a statement providing this assurance.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

E. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.—

—One original, signed and dated application, plus two copies. Applications for different Priority Area are packaged separately;

—Applications must specifically identify one Priority Area to compete under on the first page of the application.

—Applications for different Priority Areas must be package and identified separately;

Application is from an organization that is eligible under the eligibility requirements, defined in the Priority Area description;

—Application length does not exceed 60 pages, including attachments and excluding federally required forms.

A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424, REV 4–88);

—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.

—Budget Information—Non-Construction Programs (SF 424A, REV 4–88);

—Budget justification for Section B—Budget Categories;

—Table of Contents;

—Letter from the Internal Revenue Service, etc. to prove non-profit status, if necessary;

—Copy of the applicant's approved indirect cost rate agreement, if appropriate;

—Project Description (See Part III, Section C);

—Any appendices/attachments;

—Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);

—Certification Regarding Lobbying; and

—Certification of Protection of Human Subjects, if necessary.

—Certification of the Pro-Children Act of 1994; signature on the application represents certification.

F. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

G. Paper Reduction Act of 1995 (Public Law 104–13)

The Uniform Project Description information collection within this announcement is approved under the Uniform Project Description (0970–0139), Expiration Date 12/31/2003.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

Any federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: May 23, 2002.

Patricia Morrissey,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 02–13427 Filed 5–29–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0052]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by July 1, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i) (OMB Control Number 0910–0133)—Extension

Section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341) directs FDA to issue regulations establishing definitions and standards of identity for food "[w]henever * * * such action will promote honesty and fair dealing in the interest of consumers * * *." Under section 403(g) of the act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate

commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) specifies the information that a firm must submit to FDA to obtain a temporary marketing permit. The information required in a temporary marketing permit application under §130.17(c) enables the agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions of standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
130.17(c)	7	1	7	25	175
130.17(i)	4	2	8	2	16
Total					191

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of temporary marketing permit applications and hours per response is an average based on the agency's experience with applications received October 1, 1998, through September 30, 2001, and information from firms that have submitted recent requests for temporary marketing permits.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13589 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0215]

Agency Information Collection Activities; Proposed Collection; Comment Request; Export of FDA Regulated Products—Export Certificates

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed information collection requirements imposed on firms that intend to export to countries that require an export certificate as a condition of entry for FDA regulated products.

DATES: Submit written or electronic comments on the collection of information by July 29, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Requesting Export Certificates for FDA Regulated Products under U.S.C. Sections 801(e) and 802—New Collection

FDA is requesting approval from the Office of Management and Budget (OMB) for the collection of information from the public associated with the export of FDA-regulated products as indicated in sections 801(e) and 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 381(e) and 382), as amended.

In April 1996, a new law entitled "The FDA Export Reform and Enhancement Act of 1996" was enacted. It was designed to ease restrictions on exportation of unapproved products regulated by FDA and to facilitate such exportation by provide foreign governments certificates verifying that the products may be legally exported. Specifically, section 801(e)(4) of the act provides that persons exporting certain FDA-regulated products may request that FDA certify that the products meet the requirements of section 801(e) or 802 of the act, or other requirements of the act. Section 801(e)(4) of the act requires FDA to issue export certificates within 20 days of receipt of the request and to charge firms up to $175 for the certificates.

FDA has developed seven types of certificates that satisfy the requirements of section 801(e)(4)(B) of the act: (1) Certificates to foreign governments are issued for legally marketed products that are in compliance with the requirements of the act; (2) certificates of exportability are for the export of products that cannot be marketed legally in the United States, but meet the requirements of section 801(e) or 802 of the act and may be exported legally; (3) certificates of a pharmaceutical product are used for the export of drug products that are legally marketed in the United States. They conform to the format established by the World Health Organization (WHO) and attest to the acceptable current good manufacturing practice status of the manufacturing facility of the drug product; (4) nonclinical research use only certificates for the export of nonclinical research use only product, material, or component that is not intended for human use which may be marketed in and legally exported from the United States under the act; (5) certificate of free sale; (6) health certificates for food/feed; and (7) specified risk materials of bovine, ovine, and caprine origin certificate.

FDA has relied and will continue to rely on information provided by manufacturers for all types of export certificates. Manufacturers are requested to state that they are in compliance with all applicable requirements of the act at the time that they submit their request to the appropriate center.

FDA will check all information submitted by firms in support of their certificates and any suspected case of fraud will be referred to FDA's Office of Criminal Investigations for followup. Firms making or submitting false statements on any documents submitted to FDA may be violating the United States Code title 18, chapter 47, section 1001 and be subject to penalties including up to $250,000 in fines and up to 5 years imprisonment.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Centers	No. of Respondents	Annual Frequency Per Response	Total Annual Responses	Hours per Response	Total Hours
Center for Biologics Evaluation and Research	1,479	1	1,479	1	1,479
Center for Drug Evaluation and Research	4,542	1	4,542	1	4,542
Center for Devices and Radiological Health (CDRH)	3,500	1	3,500	2[2]	7,000[2]
Center for Veterinary Medicine	621	1	621	1	621
Total	10,142		10,142		13,642

[1] There are no capital costs or operating and maintenance costs associated with this collection of information. The above estimates are based on each center's latest calendar year counts.

[2] Based on the CDRH policy of allowing multiple devices to appear on the certificate.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13585 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0208]

Agency Information Collection Activities; Proposed Collection; Comment Request; State Enforcement Notifications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing State enforcement notifications.

DATES: Submit written or electronic comments on the collection of information by July 29, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250),

Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

State Enforcement Notifications—21 CFR 100.2(d) (OMB Control Number 0910–0275—Extension)

Section 310(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 337(b)) authorizes States to enforce certain sections of the act in their own names, but provides that States must notify FDA before doing so. Section 100.2(d) (21 CFR 100.2 (d)) sets forth the information that a State must provide to FDA in a letter of notification when it intends to take enforcement action under the act against a particular food located in the State. The information required under § 100.2(d) will enable FDA to identify the food against which the State intends to take action and advise the State whether Federal action has been taken against it. With certain narrow exceptions, Federal enforcement action precludes State action under the act.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
100.2(d)	1	1	1	10	10

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.2(d) is insignificant because enforcement notifications are seldom used by States. During the last 3 years, FDA has not received any enforcement notifications. Since the enactment of section 403A(b) of the act (21 U.S.C. 343–1(b)) as part of the Nutrition Labeling and Education Act of 1990, FDA has received only a few enforcement notifications. Although FDA believes that the burden will be insignificant, it believes these information collection provisions should be extended to provide for the potential future need of a State government to submit enforcement notifications informing FDA when it intends to take enforcement action under the act against a particular food located in the State.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13587 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0053]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Devices; State Petitions for Exemption From Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by July 1, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

State Petitions for Exemption From Preemption—21 CFR 100.1(d) (OMB Control Number 0910–0277)—Extension

Under section 403A(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343–1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard of identity requirements. Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under § 100.1(d) enables FDA to determine whether the State food labeling or standard of identity requirement satisfies the criteria of section 403A(b) of the act for granting exemption from Federal preemption.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
100.1(d)	1	1	1	40	40

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.1(d) is insignificant because petitions for exemption from preemption are seldom submitted by States. In the last 3 years, FDA has not received any new petitions; therefore, the agency estimates that one or fewer petitions will be submitted annually. Because § 100.1(d) implements a statutory information collection requirement, only the additional burden attributable to the regulation has been included in the estimate. Although FDA believes that the burden will be insignificant, it believes these information collection provisions should be extended to provide for the potential future need of a State or local government to petition for an exemption from preemption under the provisions of section 403(A) of the act.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13588 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Safety and Effectiveness of Products for the Treatment of Naturally Occurring Human Plague (Bubonic, Pneumonic, Meningitic, or Septicemic); Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is announcing its Office of Pediatric Drug Development and Program Initiatives (OPDDPI) grant program for fiscal year (FY) 2002. FDA is announcing the expected availability of FY 2002 funds for awarding grants to support clinical trials on the safety and effectiveness of drug products for the treatment of human plague (bubonic, pneumonic, meningitic, or septicemic) caused by *Yersinia pestis*. This grant program is part of FDA's counter-terrorism efforts.

DATES: The application receipt date is July 29, 2002.

ADDRESSES: Application forms are available from, and completed applications should be sent to: Rosemary Springer, Grants Management Specialist, Division of Contracts and Procurement Management (HFA–522), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7182, rspringe@oc.fda.gov. Application forms can also be found at http://www.nih.gov/grants/phs398/forms_toc.html. Please do not send applications to the Center for Scientific Review (CSR), National Institutes of Health (NIH). Applications mailed to CSR and not received by FDA in time for orderly processing will be returned to the applicant without consideration. (Note: completed applications that are hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857.) FDA is unable to receive applications electronically.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management issues of this notice: Rosemary Springer (see **ADDRESSES**).

Regarding the programmatic issues of this notice: Joanne M. Holmes, Office of Pediatric Drug Development and Program Initiatives (HFD–950), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2350, e-mail: holmesj@cder.fda.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the expected availability of FY 2002 funds for awarding grants to support clinical trials on the safety and effectiveness of drug products for the treatment of human plague (bubonic, pneumonic, meningitic, or septicemic). Subject to the availability of FY 2002 funds, it is anticipated that $2.1 million should be available. FDA anticipates making up to three awards each for up to $700,000 (direct and indirect costs). Funding will be provided one time at the beginning of the project and will cover both years of the project period. The budget and project periods will coincide for these awards. These awards will start before September 30, 2002.

FDA will support the clinical studies covered by this notice under the authority of section 301 of the Public Health Service Act (the PHS Act) (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103. The Public Health Service (PHS) strongly encourages all grant recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

FDA is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2010," a national effort to reduce morbidity and mortality and to improve the quality of life. Applicants may obtain a hard copy of the "Healthy People 2010" objectives, vols. I and II, conference edition (B0074) for $22 per set, by writing to the Office of Disease Prevention and Health Promotion (ODPHP) Communication Support Center (Center), P.O. Box 37366, Washington, DC 20013–7366. Each of the 28 chapters of "Healthy People 2010" is priced at $2 per copy. Telephone orders can be placed to the Center on 301–468–5690. The Center also sells the complete conference edition in CD–ROM format (B0071) for $5. This publication is available as well on the Internet at http://www.health.gov/healthypeople/. Internet viewers should proceed to "Publications."

PHS policy is that applicants for PHS clinical research grants should include minorities and women in study populations so research findings can be of benefit to all people at risk of the disease, disorder, or condition under study. Special emphasis should be placed on the need for inclusion of minorities and women in studies of diseases, disorders, and conditions that disproportionately affect them. This policy applies to research subjects of all ages. If women or minorities are

excluded or poorly represented in clinical research, the applicant should provide a clear and compelling rationale that shows inclusion is inappropriate.

I. Program Research Goals

OPDDPI has as one of its goals the identification and facilitation of development of drug products that may be used in the treatment of conditions caused by agents released in a terrorist event. These agents can be of a pathogenic, radiological, or chemical nature.

To ensure that the needs of the public health, including special populations, are met, it is necessary to have an array of approved drug products available and labeled to treat such conditions. One approach to facilitating drug product availability is to support clinical research to determine if drug products approved for another indication are safe and effective for use in an indication related to terrorism and to utilize such information to provide appropriate dosing and use information in the label. All funded studies are subject to the requirements of the Federal Food, Drug, and Cosmetic Act (the act) and regulations issued under it.

Although gentamicin is not FDA approved for treatment of pneumonic plague, the Center for Civilian Biodefense Studies Working Group on Civilian Biodefense has recommended it along with streptomycin as a preferred therapy. FDA obtained from the Centers for Disease Control and Prevention (CDC) at Fort Collins, CO, the limited data on all reported U.S. pneumonic plague cases, both primary and secondary, from the 1950s to the present. Because of multiple confounders in this limited population and because no patients received gentamicin alone, no conclusions could be reached to support labeling gentamicin as monotherapy for pneumonic plague. Therefore, the goal of FDA's OPDDPI grant program is the clinical development of products for use in plague (bubonic, pneumonic, meningitic, or septicemic). FDA provides grants for clinical studies that will either result in or substantially contribute to the addition of a plague indication to gentamicin. Applicants should keep this goal in mind and must include an explanation in the application's "Background and Significance" section of how their proposed study will either help gain product approval of this indication or provide essential data needed for product development. The applicant should provide a summary of any meetings or discussions about the clinical study that have occurred to date with FDA review division staff as an appendix to the application.

Except for medical foods that do not need premarket approval, FDA will only consider awarding grants to support premarket clinical studies to find out whether the products are safe and effective for approval under the act (21 U.S.C. 301 *et seq.*) or under section 351 of the PHS Act (42 U.S.C. 262). All studies of new drug products must be conducted under the FDA's investigational new drug (IND) procedures. Although gentamicin is an approved product, studies of approved products to evaluate new indications must be conducted under an IND to support a change in labeling. (See Program Review Criteria in section V.B of this document for important requirements about IND status of products to be studied under this grant.)

Studies proposed for this grant must be in phase 2 or phase 3 of investigation. Phase 2 trials include controlled clinical studies conducted to evaluate the effectiveness of the product for a particular indication in patients with the disease or condition and to determine the common or short-term side effects and risks associated with it. Phase 3 trials gather more information about effectiveness and safety that is necessary to evaluate the overall risk-benefit ratio of the product and to provide an acceptable basis for physician labeling.

Applications must propose a controlled clinical trial of gentamicin versus an antibiotic already approved for plague (doxycycline or streptomycin) in the treatment of human plague (bubonic, pneumonic, meningitic, or septicemic). Historical data from untreated patients will be considered as the negative control. A plan to obtain a minimum of 30 plague-confirmed patients per arm is required. The diagnosis of plague should be confirmed by culture and/or serology. The applicant must provide supporting evidence that the product to be studied is available to the applicant in the form and quantity needed for the clinical trial. The applicant must also provide supporting evidence that the patient population has been surveyed and reasonable assurance that the necessary number of eligible patients is available for the study. Funds may be requested in the budget to travel to FDA for meetings with review division staff about the progress of product development.

II. Human Subject Protection and Informed Consent

A. Protection of Human Research Subjects

All institutions engaged in human subject research supported by the Department of Health and Human Services (DHHS) must file an "assurance" of protection for human subjects with the Office for Human Research Protection (OHRP) (45 CFR part 46). Some activities carried out by a recipient under this announcement may be governed as well by the FDA Research Involving Human Subjects Committee part 50 (21 CFR part 50) and (21 CFR part 56). Applicants may wish to visit the OHRP Internet site at http://ohrp.osophs.dhhs.gov for guidance on human subjects issues. The requirement to file an assurance includes both "awardee" and collaborating "performance site" institutions. Awardee institutions are automatically considered to be engaged in human subject research whenever they receive a direct DHHS award to support such research, even where all activities involving human subjects are carried out by a subcontractor or collaborator. In such cases, the awardee institution bears ultimate responsibility for protecting human subjects under the award. The awardee is also responsible for ensuring that all collaborating institutions engaged in the research hold an approved assurance prior to their initiation of the research. No awardee or performance site may spend funds on human subject research or enroll subjects without the approved and applicable assurance(s) on file with OHRP.

Existing assurances, multiple project assurances (MPAs), cooperative project assurances (CPAs), and single project assurances (SPAs), will remain in effect through their current expiration date, or December 31, 2003, whichever comes first. However, OHRP no longer accepts changes to existing MPAs, CPAs, and SPAs. MPA, CPA, and SPA institutions should file a new Federal wide assurance with OHRP if changes are necessary. Applicants must provide certification of Institutional Review Board (IRB) review and approval for every site taking part in the study. However, this documentation need not be on file with the grants management officer, FDA before the award. Applicants should review the section on human subjects in the application kit entitled "Section C. Specific Instructions—Forms, Item 4, Human Subjects" (pp. 7 and 8 of the application kit), for IRB review requirements.

B. Key Personnel Human Subject Protection Education

The awardee institution should ensure that all key personnel receive appropriate training in their human subject protection responsibilities. Within 30 days of award, the principal investigator should provide a letter describing the human subjects protection training for each individual identified as "key personnel" in the proposed research. Key personnel include all principal investigators, coinvestigators, and performance site investigators responsible for the design and conduct of the study. The description of training should be submitted in a letter that includes the names of the key personnel, the title of the education program completed by each named personnel, and a one-sentence description of the program. This letter should be signed by the principal investigator and cosigned by an institution official and sent to the Grants Management Office. OPDDPI does not prescribe or endorse any specific education programs. Many institutions already have developed educational programs on the protection of research subjects and have made participation in such programs a requirement for their investigators. Other sources of appropriate instruction might include the online tutorials offered by the Office of Human Subjects Research, NIH at http://ohsr.od.nih.gov/ and by OHRP at http://ohrp.osophs.dhhs.gov/educmat.htm. Also, the University of Rochester has made available its training program for individual investigators. Their manual can be obtained through Centerwatch, Inc., at http://www.centerwatch.com.

C. Informed Consent

Consent forms, assent forms, and any other information given to a subject, should be sent with the grant application. Information given to the subject or his or her representative must be in language the subject or representative can understand. No informed consent, whether verbal or written, may include any language through which the subject or representative waives any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability. If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

D. Elements of Informed Consent

The elements of informed consent are stated in the DHHS regulations at 45 CFR 46.116 and § 50.25 as follows:

1. Basic Elements of Informed Consent

In seeking informed consent, the following information shall be provided to each subject.

(a) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures that are experimental.

(b) A description of any reasonably foreseeable risks or discomforts to the subject.

(c) A description of any benefits to the subject or to others that may reasonably be expected from the research.

(d) A discussion of proper alternative procedures or courses of treatment, if any, that might be helpful to the subject.

(e) A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained, and that notes the possibility that FDA may inspect the records.

(f) For research involving more than slight risk, an explanation of whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of or where further information may be gained.

(g) An explanation of whom to contact for answers to relevant questions about the research and research subject's rights, and whom to contact if the subject is injured by the research.

(h) A statement that participation is voluntary, that refusal to take part will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may stop participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Other Elements of Informed Consent

When suitable, one or more of the following elements of information shall also be provided to each subject:

(a) A statement that the particular treatment or procedure may involve risks to the subject (or the embryo or fetus, if the subject is or may become pregnant) that are unforeseeable.

(b) Anticipated circumstances under which the investigator, without regard to the subject's consent, may stop the subject's participation.

(c) Any costs to the subject that may result from participation in the research.

(d) The consequences of a subject's decision to withdraw from the research and procedures for orderly ending of participation by the subject.

(e) A statement that significant new findings developed during the research that may affect the subject's willingness to continue participation will be provided to the subject.

(f) The estimated number of subjects involved in the study.

The informed consent requirements do not intend to preempt any applicable Federal, State, or local laws that require other information to be disclosed for informed consent to be legally effective. Nothing in the notice intends to limit the authority of a physician to provide emergency medical care as permitted under applicable Federal, State, or local law.

III. Reporting Requirements

The original and two copies of the annual Financial Status Report (FSR) (SF–269) must be sent to FDA's grants management officer at two occasions during these projects. The first FSR will be due 15 months after date of award and the final FSR will be due 90 days after the end of the grant. Failure to file the FSR in a timely fashion will be grounds for suspension or termination of the grant. All grants must comply with all regulatory requirements necessary to keep active status of their IND. This includes, but is not limited to, submission of an annual report to the proper regulatory review division within FDA. Failure to meet regulatory requirements will be grounds for suspension or termination of the grant.

The program project officer will monitor grantees quarterly and will prepare written reports. The monitoring may be in the form of telephone conversations or e-mail between the project officer/grants management specialist and the principal investigator. Periodic site visits with officials of the grantee organization may also occur. The results of these reports will be recorded in the official grant file and may be available to the grantee on request consistent with FDA disclosure regulations.

In addition to annual reports submitted to the IND according to the requirements under 21 CFR 312.33, the grantee must file a final program progress report, FSR, and invention statement within 90 days after the end date of the project period as noted on the notice of grant award. Progress reports throughout the project will be required semiannually (every 6 months). These progress reports must be sent to the Grants Management Officer and should include the following cumulative and incremental counts: Patients enrolled; patients who are

culture positive for *Y. pestis*; patients with a positive seroconversion to *Y. pestis*; pneumonic, septicemic, meningitic, and/or bubonic plagues cases; patients treated; treatment outcomes; and adverse events (categorized by type and severity).

IV. Mechanism of Support

A. Award Instrument

Support will be in the form of a grant. All awards will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program. The NIH's modular grant program does not apply to this FDA grant program. All grant awards are subject to applicable requirements for clinical investigations imposed by sections 505, 512, and 515 of the act (21 U.S.C. 355, 360b, and 360e), section 351 of the PHS Act (42 U.S.C. 262), and regulations issued under any of these sections.

B. Eligibility

These grants are available to any foreign or domestic, public or private nonprofit entity (including State and local units of government) and any foreign or domestic, for-profit entity. For-profit entities must commit to excluding fees or profit in their request for support to receive grant awards. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive grant awards.

C. Length of Support

The length of support will be for 2 years.

D. Funding Plan

It is anticipated that three new awards will be funded for up to 2 years each. Before an award will be made, OPDDPI will confirm the active status of the protocol under the IND. If the protocol is under FDA clinical hold for any reason, no award will be made. Also, if the IND for the proposed study is not active and in complete regulatory compliance, no award will be made. Documentation of IRB approvals for all performance sites must be on file with the Grants Management Office, FDA (see **ADDRESSES**), before research can begin at that site.

V. Review Procedure and Criteria

A. Review Method

Grants management and program staff will first review all applications sent in response to this request for application (RFA). A responsive application is defined as being in compliance with the program review criteria in section V.B of this document. Applications found to be nonresponsive will be returned to the applicant without further consideration.

B. Program Review Criteria

Applicants are strongly encouraged to contact FDA to resolve any questions about criteria before submitting their application. Direct all questions of a technical or scientific nature to the OPDDPI program staff and all questions of an administrative or financial nature to the grants management staff. (See the **FOR FURTHER INFORMATION CONTACT** section). Applications considered nonresponsive will be returned to the applicant unreviewed. Responsiveness criteria include the following:

1. The application must propose a clinical trial intended to provide safety and efficacy data of gentamicin for plague (bubonic, pneumonic, meningitic, or septicemic) compared to either doxycycline or streptomycin. There should be a plan to recruit a minimum of 30 plague confirmed patients per treatment arm. The diagnosis of plague should be confirmed by culture and/or serology.

2. There must be an explanation in the "Background and Significance" section of how the proposed study will either contribute to approval of gentamicin for plague (bubonic, pneumonic, meningitic, or septicemic) or provide essential data needed for product development.

3. The protocol proposed in the grant application must already be under an active IND (not under review or on hold) before the grant application deadline, described as follows:

(a) The IND with the proposed clinical protocol must be submitted to the FDA IND reviewing division a minimum of 30 days before the grant application deadline. The IND must be in active status, in compliance with all regulatory requirements and cannot have any type of FDA clinical hold placed on it at the time the grant application is submitted.

(b) The number assigned to the IND that includes the proposed study must appear on the face page of the application with the title of the project.

(c) The applicant should submit an IND verification with the application. The verification includes the IND number, the date the subject protocol was submitted to FDA for the IND review, the IND serial number (if known), and a statement that the IND contains the same protocol as proposed in the grant application and that this IND is active (not under review or on hold).

(d) Protocols that would otherwise be eligible for an exemption from the IND regulations must be conducted under an IND to be eligible for funding under this FDA grant program.

(e) If the sponsor of the IND is other than the principal investigator listed on the application, a letter from the sponsor permitting access to the IND must be submitted. Both the principal investigator named in the application and the study protocol must have been submitted to the IND.

(f) Studies of already approved products are also subject to these IND requirements.

4. The requested budget must be within the limits as stated in this request for applications. Any application received that requests support over the maximum amount allowable for that particular study will be considered nonresponsive.

5. Proposed consent forms, assent forms, and any other information given to a subject, should be included in the grant application.

6. Evidence that the product to be studied is available to the applicant in the form and quantity needed for the clinical trial must be included in the application. A current letter from the supplier as an appendix will be acceptable.

7. Applicants must follow guidelines named in the PHS 398 (Rev. 5/01) or (Rev. 4/98) grant application kit.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Consultation with the proper FDA review division may also occur during this first review to determine whether the proposed study will provide data that could result in or contribute to product approval. Responsive applications will be subject to a second review by a National Advisory Council for concurrence with the recommendations made by the first-level reviewers, and funding decisions will be made by the Commissioner of Food and Drugs.

C. Scientific/Technical Review Criteria

The ad hoc expert panel will provide the first review. The application will be judged on the following scientific and technical merit criteria:

1. The soundness of the rationale for the proposed study.

2. The quality and appropriateness of the study design to include the rationale for the statistical procedures.

3. The statistical justification for the number of patients chosen for the study (to demonstrate superiority of the gentamicin treatment arm to that of a no treatment historical control), based on the proposed outcome measures and the appropriateness of the statistical procedures for analysis of the results.

4. The adequacy of the evidence that the proposed number of eligible subjects can be recruited in the requested timeframe.

5. The qualifications of the investigator and support staff, and the resources available to them.

6. The adequacy of the justification for the request for financial support.

7. The adequacy of plans for complying with regulations for protection of human subjects.

8. The ability of the applicant to complete the proposed study within its budget and within time limits stated in this RFA.

The priority score will be based on the scientific/technical review criteria cited in section V.C of this document. Also, the reviewers may advise the program staff about the appropriateness of the proposal to the goals of the OPDDPI grant program described under Program Research Goals in section I of this document.

VI. Submission Requirements

The original and two copies of the completed Grant Application Form PHS 398 (Rev. 5/01) or (Rev 4/98) or the original and two copies of the PHS 5161–1 (Rev. 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Rosemary Springer (see **ADDRESSES**). State and local governments may use the PHS 398 (Rev. 5/01) or (Rev. 4/98) application form instead of the PHS 5161–1. The application receipt date is July 29, 2002.

Other than evidence of final IRB approval, no material will be accepted after the receipt date. The mailing package and item two of the application face page should be labeled, "Response to RFA–FDA–CDER–02–2".

VII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, from 8 a.m. to 4:30 p.m., Monday through Friday, by the established receipt dates. Applications will be considered received on time if sent or mailed by the receipt dates as shown by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.) Do not send applications to the Center for Scientific Research (CSR), NIH. Any application sent to NIH that is then forwarded to FDA and received after the applicable due date will be judged nonresponsive and returned to the applicant. Applicants should know FDA does not adhere to the page limits or the type size and line spacing requirements imposed by NIH on its applications. FDA is unable to receive applications electronically.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 398 (Rev. 5/01) or (Rev. 4/98). All "General Instructions" and "Specific Instructions" in the application kit should be followed except for the receipt dates and the mailing label address. Do not send applications to the CSR, NIH. Applications from State and local governments may be sent on Form PHS 5161–1 (Rev. 7/00) or Form PHS 398 (Rev. 5/01) or (Rev. 4/98). The face page of the application should reflect the request for applications number RFA–FDA–CDER–02–2. The title of the proposed study should include the name of the product (gentamicin versus either doxycycline or streptomycin) and the disease/disorder (human plague) to be studied and the IND number. The format for all following pages of the application should be single-spaced and single-sided. Data information included in the application will generally not be publicly available prior to the funding of the application. Data included in the application may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61) even after funding has been granted. To designate information that an applicant believes to be trade secret or confidential commercial information that remains exempt from disclosure after funding, sponsors should use the legend below. Information collection requirements requested on Form PHS 398 (Rev. 5/01) and (Rev. 4/98) has been sent by the PHS to the Office of Management and Budget (OMB) and was approved and assigned OMB control number 0925–0001.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by the applicant as containing restricted information shall not be disclosed to the public or used except for evaluation purposes.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13461 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 13, 2002, from 8 a.m. to 5:30 p.m., and on June 14, 2000, from 8 a.m. to 1:30 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–302), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 19516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 13, 2002, the following committee updates are tentatively scheduled: (1) End user notification, and (2) human immunodeficiency virus (HIV) rapid tests. The committee will hear an informational presentation on the shortage of western blot tests for HIV and electronic submission of biological

license applications (BLAs), and discuss and provide recommendations on standards for recovered plasma. In the afternoon, the committee will hear presentations, discuss, and make recommendations on the uniform donor history questionnaire. On June 14, 2002, the following committee updates are tentatively scheduled: (1) Summaries of FDA/Plasma Protein Therapeutic Association workshop on comparability of plasma derivatives, and (2) the American Association of Blood Bank conference on oxygen therapeutics. The committee will hear an informational presentation on premarket submissions: In-vitro diagnostic software and instruments. The committee will hear presentations, discuss, and make recommendations on the warning label for hetastarch and bleeding.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 3, 2002. Oral presentations from the public will be scheduled between approximately 12:30 p.m. and 1 p.m. and between approximately 4 p.m. and 4:30 p.m. on June 13, 2002; and between approximately 12 noon and 12:30 p.m. on June 14, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 3, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Linda A. Smallwood or Pearline K. Muckelvene at 301–827–1281 at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the June 13 and 14, 2002, Blood Products Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Blood Products Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13586 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 23 through July 25, 2002, from 8:30 a.m. until 4:30 p.m.

Location: Sheraton College Park Hotel, Salons A, B, and C, 4095 Powder Mill Rd., Beltsville, MD 20705, 301–937–4422.

Contact Person: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–006), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2397, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 10564. Please call the Information Line for up-to-date information on this meeting.

Agenda: The purpose of the meeting is to discuss FDA's consumer advisory regarding methyl mercury and seafood.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 11, 2002. Oral presentations from the public will be scheduled between approximately 4:30 p.m. and 5 p.m. on July 23, 2002, and between approximately 1:30 p.m. and 2 p.m. on July 24, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 11, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Catherine DeRoever at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13584 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

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Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 20, 2002, from 9 a.m. to 6 p.m. and june 21, 2002, from 8:30 a.m. to 2 p.m.

Location: Holiday Inn, Ballrooms A and B, 10000 Baltimore Ave., College Park, MD 301–345–6700.

Contact Person: Constance J. Hardy, Center for Food Safety and Applied Nutrition (HFS–811), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1433, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 10564. Please call the Information Line for up-to-date information on this meeting

Agenda: The purpose of this meeting is to discuss the scientific issues and principles involved in assessing and evaluating whether a "new" infant formula supports normal physical growth in infants when consumed under its intended conditions of use. This is the second meeting of a series of advisory committee meetings to discuss the scientific issues involved in evaluating whether a new infant formula meets quality factors as required under section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a).

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 14, 2002. Oral presentations from the public will be scheduled on June 20, 2002, between approximately 11 a.m. and 3 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 17, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Constance J. Hardy at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13590 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Transmissible Spongiform Encephalopathies Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Transmissible Spongiform Encephalopathies Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 26, 2002, from 8 a.m. to 5:30 p.m.; and June 27, 2002, from 8:30 a.m. to 12 noon.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: William Freas or Sheila D. Langford, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12392. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 26, 2002, the committee will discuss validation of procedures to prevent contamination and cross-contamination with transmissable spongiform encephalopathies agents of human tissue intended for transplantation. In the afternoon the committee will discuss the "FDA Draft Guidance on Preventive Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) and Variant Creutzfeldt-Jakob Disease (vCJD) by Human Cells, Tissues, and Cellular and Tissue-Based Products." On June 27, 2002, the committee will listen to updates on: (1) Implementation of blood donor deferrals for risk of vCJD; (2) recent reports of infectivity detected in blood of sheep experimentally infected with bovine spongiform encephalopathies and scrapie agents; and (3) recent reports of abnormal prion proteins and infectivity detected in muscles of experimentally infected mice.

Procedure: On June 26, 2002, from 8 a.m. to 2:15 p.m. and from 3 p.m. to 5:30 p.m.; and on June 27, 2002, from 8:30 a.m. to 12 noon, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 19, 2002. Oral presentations from the public will be scheduled between approximately 12:15 p.m. and 1:15 p.m. on June 26, 2002; and between 10:30 a.m. and 11:30 a.m. on June 27, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 21, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 26, 2002, from 2:15 p.m. to 3 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this material.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact William Freas or Sheila D. Langford at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13591 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National

Advisory body scheduled to meet during the month of June 2002.

Name: National Advisory Council on the National Health Service Corps.

Dates and Times: June 6, 2002; 5 p.m.–7 p.m.; June 7, 2002; 8:30 a.m.–5 p.m.; June 8, 2002; 9 a.m.–5:30 p.m.; June 9, 2002; 8 a.m.–10:30 a.m.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21044–3408, (410) 730–3900.

The meeting is open to the public.

Agenda: The agenda will focus on goals set by the Council during the March 2002 meeting and the development of a set of recommendations for the management team from the Agency and the Bureau of Health Professions regarding the Administration's vision and goals for the National Health Service Corps and the designation of health professional shortage areas.

For further information contact: Tira Robinson, Division of National Health Service Corps, at (301) 594–4140.

Agenda items and times are subject to change as priorities dictate.

Dated: May 23, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13462 Filed 5–29–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2002.

Name: National Advisory Council on Nurse Education and Practice.

Date and Time: June 19, 2002, 8:30 a.m.–3:30 p.m.

Place: The Melrose Hotel, 2430 Pennsylvania Avenue, NW, Washington, DC 20037.

The meeting is open to the public.

Agenda: Presentations by national experts, including a panel of Council members on topics related to the nurse workforce shortage in the practice arena and best practices for retention of nurses; review of Health Professions Education Summit; and review of the draft version of the Second Report to the Secretary of Health and Human Services and the Congress.

Anyone interested in obtaining a roster of members, minutes of the meeting, or other relevant information should write or contact Ms. Elaine G. Cohen, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–1405.

Dated: May 23, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13463 Filed 5–29–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2002.

The National Advisory Committee on Rural Health will convene its forty-first meeting in the time and place specified below:

Name: National Advisory Committee on Rural Health.

Dates and Times: June 9, 2002; 10:30 a.m.–4:15 p.m.; June 10, 2002; 8:30 a.m.–3:30 p.m.; June 11, 2002; 7:30 a.m.–9:30 a.m.

Place: Sheraton El Conquistador, 10000 N. Oracle Road, Tucson, AZ 58737, Phone: 520–544–5000.

Copper Queen Plaza, 2 Copper Queen Plaza Road, Bisbee, AZ 85603–0414, Phone: 520–366–0066.

The meeting is open to the public.

Purpose: The National Advisory Committee on Rural Health provides advice and recommendations to the Secretary with respect to the delivery, research, development and administration of health care services in rural areas.

Agenda: Sunday, June 9, at the Sheraton El Conquistador at 10:30 a.m. the chairperson, the Honorable David Beasley, will open the meeting and welcome the Committee members. The first plenary session will be a breakout session for the Quality and Workforce workgroups. This will be followed by a lunch program during which the Committee will hear presentations on the healthcare infrastructure and chronic disease at the Border. Lunch will not be provided to the general public. Beginning at 1:30 p.m. the presentations will include discussions by the U.S.-Mexico Border Health Commission on general health issues at the Border and a discussion on the impact of undocumented aliens on the healthcare infrastructure.

Monday, June 10, at 8:30 a.m. the Committee will depart to Bisbee, Arizona, for the remainder of the meeting. At 10:30 a.m. the Committee will tour the Copper Queen Hospital. Transportation to these locations will not be provided to the general public. From 11:30 a.m. to 3:30 p.m. at the Copper Queen Plaza the Committee will hear presentations on the effects of the closure of hospitals obstetric units on area clinics, the impact of uncompensated care from Naco and Aqua Prieta residents on border hospitals, the effects of the closure of a long-term care unit, the Emergency Medical Treatment and Active Labor Act, and obtaining healthcare resources across the border.

The final plenary session will be convened on Tuesday, June 11. Beginning at 7:30 a.m. there will be a review of the site visit and reports from the workgroups. The meeting will conclude with a discussion of what issues to raise in the Committee's meeting summary that will be sent to the Secretary. The meeting will be adjourned at 9:30 a.m.

Anyone requiring information regarding the subject Committee should contact Marcia K. Brand, Ph.D., Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray, Office of Rural Health Policy (ORHP), (301) 443–0835. The National Advisory Committee meeting agenda will be posted on ORHP's Web site, *http://www.ruralhealth.hrsa.gov.*

Dated: May 23, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13464 Filed 5–29–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is herey given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Clinical Research.

Date: May 28, 2002.

Time: 10 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sheryl K. Brining, Phd, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892, 301–435–0809, *Brinings@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13446 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Registries and Repository for the Evaluation of Temporomandibular Joint Implants.

Date: June 28, 2002.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Anne P. Clark, PhD, Chief, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892–7924, 301/435–0310.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13448 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Development of Innovative E-Learning Products for Worker Safety and Health Training in the Hazardous Waste and Chemical Emergency Response (RFA–ES–02–002).

Date: June 24, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Governors Inn, I–40 Exit 280 @ Davis Drive, Research Triangle Park, NC 27709.

Contact Person: Sally Eckert-Tilotta, MBA, Scientific Review Administrator, National Inst. of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–1446, *eckertt1 niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13441 Filed 5–19–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council, Council Review of Grants.

Date: June 10, 2002.

Open: 8:30 a.m. to 12:30 p.m.

Agenda: Directors Report, Update Reports, Concept Clearances.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: 12:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: J. Ricardo Martinez, MD, MPH, Associate Director for Program Development, Office of the Director, National Institute of Dental and Craniofacial Research, 31 Center Drive, Bldg. 31, Rm. 5B55, Bethesda, MD 20892.

Information is also available on the Institute's/Center's home page:

www.nidcr.nih.gov/discover/nadrc/index.htm, where an agenda and any additional information for the meeting will be posed when available.

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13442 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–69, Review of RFA DE 02–006, Stem Cell in Repair/Dev. Orofacial.

Date: June 17, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, MD, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–86, Review of R44 Grants.

Date: June 26, 2002.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Room 3AN12, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892. (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–68, Review of RFA DE 02–002, Saliva oral/fluid diagnostics.

Date: June 18–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda, Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Contact Person: H. George Hausch, PhD, Acting Director, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892. (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–84, Review of R44 Gramts.

Date: July 18, 2002.

Time: 1 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892. (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13443 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, R01—Application Review.

Date: May 24, 2002.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003. 301–443–9787 *etaylor@niaaa.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of Prevention and Epidemiology Alcohol Applications.

Date: June 7, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW, Washington, DC 20037.

Contact Person: Sean N. O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003. 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13444 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Services Research Review Committee.

Date: June 18–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: Martha Ann Carey, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608. 301–443–1606. *mcarey@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians; and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13445 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, R25—Grant Applications.

Date: May 24, 2002.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003. 301–443–9787. *etaylor@niaaa.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13447 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given by the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 AARR–2 50—Review of Applications responsive to RFA PAS02–031.

Date: June 3, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, N.W., Washington, DC 20009.

Contact Person: Abraham P. Bautista, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MEP 02—Radiation therapy.

Date: June 4, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, (301) 435–1715, *nga@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–3 03.

Date: June 13, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *sharmag@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Respiratory Physiology Study Section.

Date: June 17, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW, Washington, DC 20037–1417.

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–W (46)—SAT member conflict.

Date: June 17, 2002.

Time: 8 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Chemical Pathology Study Section.

Date: June 17–19, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, (301) 435–3504, *fungv@csr.nih.gov*.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Human Embryology and Development Subcommittee 1.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Experimental Cardiovascular Sciences Study Section.

Date: June 17–18, 2002.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Lung Biology and Pathology Study Section.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037.

Contact Person: George M. Barnas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0696, *george_barnas@nih.gov*.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Endocrinology Study Section.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102–2205.

Contact Person: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043, *amirs@csr.nih.gov*.

Name of Committee: Pathophysiological Sciences Integrated Review Group, General Medicine A Subcommittee 2.

Date: June 17–18, 2002.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, (301) 435–1778, *khanm@csr.nih.gov*.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 4.

Date: June 17–18, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 1.

Date: June 17–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwelp@csr.nih.gov*.

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine A Subcommittee 1.

Date: June 17–19, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Harold M. Davidson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov*.

Name of Committee: Biochemical Sciences Integrated Review Group, Medical Biochemistry Study Section.

Date: June 17–18, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue NW., Washington, DC 20036.

Contact Person: Alexander S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Study Section.

Date: June 17–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7816, Bethesda, MD 20892, (301) 435–1716, *strudlep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–W (47)—SAT member conflict.

Date: June 17, 2002.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov*.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: June 17–18, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20037.

Contact Person: Gerald L Becker, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1—Nursing Study Section (02S).

Date: June 18–19, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Gertrude K. McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1748, *mcfarlag@drg.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–201.

Date: June 18, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, richard.marcus@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (11)—Electromagnetics.

Date: June 18, 2002.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CDF–302.

Date: June 18, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gerhard Ehrenspeck, PhD, Scientific REview Administrator, National Institute of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5138, mSC 7840, Bethesda, MD 20892, (301) 435–1022, *ehrenspeckg@nih.csr.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PHRA 01—Molecular Modeling.

Date: June 18, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, *gibson@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MEP 03—HSP and HSP-based therapy.

Date: June 18, 2002.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y. Ng, Phd, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, nga@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.844, 93.837–93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13449 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4769–N–01]

Notice of Availability of HUD Information Quality Guidelines and Request for Public Comment

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD is advising the public that its draft for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated to the public by HUD ("Information Quality Guidelines") is available for review and comment on HUD's Web site at *www.hud.gov*.

DATES: Comments on HUD's Information Quality Guidelines will be accepted through July 1, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Dorf, Director, Office of Grant Management and Compliance, Office of Administration, Department of Housing and Urban Development, Room 2182, 451 Seventh Street, SW., Washington, DC 20410–0500; telephone—(202) 708–0667 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8399.

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including statistical information) disseminated by Federal agencies." Within one year after OMB issues its guidelines, agencies must issue their own guidelines that will describe internal mechanisms by which agencies will ensure that their information meets the standards of quality, objectivity, utility and integrity. The mechanism also must allow affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines.

OMB issued its final guidelines on September 28, 2001 (66 FR 49718), but requested additional comment on one component of the OMB guidelines. The OMB guidelines addressing additional public comment were published on January 3, 2002 (67 FR 369) and republished on February 22, 2002 (67 FR 6452).

Agencies must issue their final guidelines by October 1, 2002. OMB is also requiring that agencies issue draft guidelines for public comment by May 1, 2002. The agencies' draft guidelines need not be published in the **Federal Register** but agencies should provide notification in the **Federal Register** that the draft guidelines are available on agencies' Web sites.

This notice advises the public that HUD's draft guidelines are available on its Web site for review and public comment. While the public is reviewing these guidelines and providing comment, HUD will continue to review as well. HUD will notify the public of any significant changes made as a result of internal HUD review and provide the opportunity for further public comment. By July 1, 2002, OMB is requiring agencies to submit draft guidelines to OMB for review that take into consideration public comment.

HUD welcomes your comments on the draft guidelines.

Dated: May 22, 2002.

Vickers B. Meadows,

Assistant Secretary for Administration.

[FR Doc. 02–13414 Filed 5–29–02; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Associated Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge Complex (Refuge Complex)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Intent to prepare a Comprehensive Conservation Plan and associated Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge Complex.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to prepare a Comprehensive Conservation Plan and an associated Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge Complex. The Refuge Complex includes the Upper Mississippi River National Wildlife and Fish Refuge in Minnesota, Wisconsin, Iowa, and Illinois; the Trempealeau National Wildlife Refuge in Wisconsin; and the Driftless Area National Wildlife Refuge in Iowa. The Service is furnishing this notice in compliance with Service Comprehensive Conservation Plan policy and the National Environmental Policy Act and implementing regulations to achieve the following: (1) Advise other agencies and the public of our intentions; (2) Obtain suggestions and information on the scope of issues, opportunities, and concerns for inclusion in the Comprehensive Conservation Plan and Environmental Impact Statement; and (3) Solicit information from the public about archaeological sites, buildings and structures, historic places, cemeteries, and traditional use sites that could influence decisions about management of the Refuge.

DATES: Beginning in August 2002, the Service will solicit information from the public via public meetings, workshops, focus groups, and written comments. Special mailings, newspaper articles, radio announcements, and the Services Web site *http://midwest.fws.gov/planning/uppermisstop.htm* will inform people of the times and places of public involvement opportunities.

FOR FURTHER INFORMATION CONTACT: Address comments and requests for additional information to: Thomas Magnuson, Project Manager, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota 55111. Telephone: 1–800–247–1247 extension 5467.

SUPPLEMENTARY INFORMATION: It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved Comprehensive Conservation Plan. The Comprehensive Conservation Plan will guide management decisions and identify refuge goals, objectives, and strategies for achieving refuge purposes. Public input into this planning process is encouraged. The Comprehensive Conservation Plan will provide other agencies and the public with a clear understanding of the desired future conditions of the Refuge Complex and how the Service will implement management strategies.

The Upper Mississippi River National Wildlife and Fish Refuge was established by public law in 1924 to protect and preserve habitats for migratory birds, fish, and a variety of other wildlife. The refuge extends 261 miles along the Mississippi River from the Chippewa River in Wisconsin almost to Rock Island, Illinois. It encompasses approximately 230,000 acres in parts of Minnesota, Wisconsin, Iowa, and Illinois and is a component of the Service-managed National Wildlife Refuge System. Parts of 19 counties and two Army Corps of Engineers districts are included in the Refuge. More than half of the land within the Refuge is owned by the Army Corps of Engineers. Those lands are managed by the Refuge under a cooperative agreement.

The Trempealeau Wildlife Refuge was established in 1936 to provide breeding and migration habitat for migratory birds and other wildlife. It is located in Buffalo and Trempealeau counties Wisconsin, and currently consists of 5,754 acres of land.

The Driftless National Wildlife Refuge was established in 1989 to protect and enhance populations of the federally endangered Iowa Pleistocene snail and federally threatened Northern monkshood plant. It is located in Clayton, Dubuque, Jackson, and Allamakee counties, Iowa, and currently consists of 775 acres of land.

Dated: May 2, 2002.

Marvin Moriarty,

Acting Regional Director, Region 3.

[FR Doc. 02–13288 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 1, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT—056128

Applicant: Coronas Entertainment, Bradenton, Florida.

The applicant requests a permit to export, re-export, and re-import one tiger (*Panthera tigris*) and to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

PRT–056214

Applicant: Richard W. Corzine, Jr., Sioux Falls, SD.

The applicant requests a permit to import the sport-hunted trophy of two male bonteboks (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Marine Mammals and Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and the regulations governing marine mammals (50 CFR part 18) and endangered species (50 CFR part 17). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–056326

Applicant: Dr. Graham Worthy/ University of Central Florida, Orlando, FL

Permit Type: Take for Scientific Research.

Name and Number of Animals: Manatee (Trichecus manatus) 20.

Summary of Activity to be Authorized: The applicant requests a permit for continued research regarding the metabolic rate of captive held manatees. Activities originally authorized under permit number PRT–766146.

Source of Marine Mammals: Captive held animals.

Period of Activity: Up to 5 years if authorized.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–740507

Applicant: Alaska Science Center, U.S. Geological Survey, Anchorage, AK.

Permit Type: Take for Scientific Research.

Name and Number of Animals: Northern sea otter (*Enhydra lutris lutris*), 300.

Summary of Activity to be Authorized: The applicant requests renewal and amendment of their permit authorizing the following annual activities: take up to 300 animals, including but not limited too, incidental take, capture/recapture, release, collect biological samples, tag, mark, implant, and import biological samples as part of a long term study on the species.

Source of Marine Mammals: Wild live animals and material salvaged from animals found dead, or collected as may be available through the Native Alaskan subsistence harvest.

Period of Activity: Up to 5 years if authorized.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–056324

Applicant: John D. Frost, Anchorage, AK

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994, from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–056309

Applicant: Winston Stalcup, Alpharetta, GA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 3, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13438 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 1, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–054555

Applicant: Robert Goins, Kinston, NC.

The applicant requests a permit to import a sport-hunted trophy cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of

enhancement of the survival of the species.

PRT–056627

Applicant: Robert Pat Collins, Granbury, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–056536

Applicant: Charles Cochran, Plano, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–056562

Applicant: Edwin Dean, Hesperia, MI.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–056814

Applicant: Lester Wollam, Continental, OH.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–054030

Applicant: National Zoological Park, Washington, DC.

The applicant requests a permit to import a male captive born maned wolf (*Chrysocyon brachyurus*) from Criadouro Conservacionista da CBMM, Araxa—Minas Gerais, Brazil for the purpose of enhancement of propagation of the species.

PRT–022729

Applicant: National Marine Fisheries Service/Southwest Region/Pacific Island Area Office, Long Beach, CA.

The applicant requests renewal of a permit to introduce from the high seas samples and/or whole carcasses of loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), leatherback sea turtle (*Dermochelys coriacea*), hawksbill sea turtle (*Eretmochelys imbricata*), olive Ridley sea turtle (*Lepidochelys olivacea*), and Kemp's Ridley sea turtle (*L. kempii*) and amendment of the same permit to include introducing from the high seas samples and/or whole carcass of short-tailed albatross (*Diomedea albatrus*) for the purpose of enhancement of the species through scientific research. This notice covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–056485

Applicant: David Hussey, Cavecreek, AZ.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

PRT–056483

Applicant: Theodore L. Priem, St. Croix Falls, WI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056418

Applicant: Stanley Wilczek, Hazleton, PA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056815

Applicant: William Dodge, Brunswick, ME.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056495

Applicant: John F. Baker, Richboro, PA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 29, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13439 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 1, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–056867

Applicant: Wilson H. Wohler, San Angelo, TX.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) from Zimbabwe for the purpose of enhancement of the survival of the species.

PRT–056833

Applicant: Jack B. Middleton, Manchester, NH.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–057016

Applicant: David M. Newcomb, Santa Fe, NM.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–051921

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to export two captive born male Baird's tapir (*Tapirus bairdii*) to Zoologico Guadalajara, Guadalajara, Mexico, for the purpose of enhancement of survival of the species through conservation education.

Marine Mammals and Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and the regulations governing marine mammals (50 CFR part 18) and endangered species (50 CFR part 17).

Written data, comments, or requests for copies of the complete application or requests for a public hearing on this application should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: David Mann, University of South Florida, St. Petersburg, FL, PRT–051709.

Permit Type: Take for scientific research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus*), 250.

Summary of Activity to be Authorized: The applicant requests a permit to record and play back manatee sounds using a hydrophone, speakers, and dataloggers deployed in the areas of Sarasota Bay, Matlacha Canals, and Crystal River. The hydrophones will record sounds from up to 30 manatees annually; play back may incidentally harass up to 20 manatees annually.

Source of Marine Mammals: Waters in the State of Florida.

Period of Activity: Up to 5 years, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–056915

Applicant: Mike J. Goodart, Alamosa, CO.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–057032

Applicant: Ronald L. Smits, Green Bay, WI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056909

Applicant: William C. Myer, Kelseyville, CA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Viscount Melville Sound polar bear population in Canada for personal use.

PRT–057052

Applicant: Peter C. Nalos, Bakersfield, CA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 17, 2002.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13440 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Endangered Species Recovery Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section

10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*). The U.S. Fish and Wildlife Service solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests.

Permit No. TE–794784

Applicant: Affinis Environmental Services, El Cajon, California.

The permittee requests a permit amendment to remove/reduce to possession the *Eryngium aristulatum* var. *parishii* (San Diego button celery), the *Orcuttia californica* (California orcutt grass), the *Rorippa gambellii* (Gambel's water cress), and the *Dodecahema leptoceras* (Slender-horned spineflower) in San Diego County, California in conjunction with species documentation surveys for the purpose of enhancing their survival.

Permit No. TE–004939

Applicant: Gordon Pratt, Riverside, California.

The permittee requests a permit amendment to take (live capture, handle, remove from the wild, propagate, conduct research, and release) the Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*) in Los Angeles and Riverside Counties, California in conjunction with species enhancement efforts and research for the purpose of enhancing its survival.

Permit No. TE–054395

Applicant: Bureau of Land Management, Medford, Oregon.

The applicant requests a permit to remove/reduce to possession the Fritillaria gentneri (Gentner's fritillary) in Jackson and Josephine Counties, Oregon in conjunction with species augmentation efforts for the purpose of enhancing its survival.

Permit No. TE–749872

Applicant: David Germano, Bakersfield, California.

The permittee requests a permit amendment to take (radio-tag) the giant kangaroo rat (*Dipodomys ingens*), the tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), and the blunt-nosed leopard lizard (*Gambelia sila*) in California in conjunction with ecological research throughout the range of each species for the purpose of enhancing their survival.

Permit No. TE–003483

Applicant: U.S. Geological Survey, Hawaii National Park, Hawaii.

The permittee requests a permit amendment to take (capture, collect blood, and band) the Molokai creeper (=kakawahie)(*Paroreomyza flammea*), the Molokai thrush (=oloma'o) (*Myadestes lanaiensis rutha*), the crested honeycreeper (='akohekohe) (*Palmeria dolei*), the Maui' akepa (*Loxops coccineus ochraceus*), the Maui parrotbill (*Pseudonestor xanthophyrys*), the po'ouli (*Melamprosops phaeosoma*), and the Maui nukupu'u (*Hemignathus lucidus affinis*) on the Islands of Hawaii, Kauai, Oahu, Maui, Molokai, Lanai, and Laysan in conjunction with demographic and ecological studies for the purpose of enhancing their survival.

Permit No. TE–781485

Applicant: Kurt Campbell, Temecula, California.

The permittee requests a permit amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Nevada and Arizona in conjunction with surveys for the purpose of enhancing its survival.

Permit No. TE–702631

Applicant: Regional Director, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

The permittee requests a permit amendment to take the Buena Vista Lake shrew (*Sorex ornatus relictus*) and remove/reduce to possession the *Hackelia venusta* (showy stickseed). Take and remove/reduce to possession activities will be conducted throughout the range of each species in conjunction with recovery efforts for the purpose of enhancing their propagation and survival.

Permit No. TE–667512

Applicant: Howard Shellhammer, San Jose, California.

The permittee requests a permit amendment to take (collect and clip hair) the salt marsh harvest mouse (*Reithrodontomys raviventris*) throughout the range of the species in conjunction with genetic research and population studies for the purpose of enhancing its survival.

Permit No. TE–055011

Applicant: Bureau of Land Management Pine Hill Preserve, Folsom, California.

The applicant requests a permit to remove/reduce to possession the *Fremontodendrom californicum* ssp. *Decumbens* (Pine Hill flannelbush) in El Dorado County, California in conjunction with population research for the purpose of enhancing its survival.

Permit No. TE–758175

Applicant: John and Jane Griffith, Calumet, Michigan.

The permittee requests a permit amendment to take (harass by survey using taped vocalizations) the least Bell's vireo (*Vireo bellii pusillus*) in Monterey, San Luis Obispo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Imperial, and Ventura Counties, California and Yuma County, Arizona in conjunction with surveys for the purpose of enhancing its survival.

Permit No. TE–005956

Applicant: U.S. Geological Survey, Biological Resources Division, Western Fisheries Research Center, Reno, Nevada.

The permittee requests a permit amendment to take (capture with minnow traps, dip nets, and seines; and harass by installing underwater video equipment) the White River spinedace (*lepidomeda albivalis*), and to take (capture, mark, and translocate) the Ash Meadows speckled dace (*Rhinichthys osculus*) in Nye County, Nevada in conjunction with surveys for the purpose of enhancing their survival.

Permit No. TE–055013

Applicant: San Bernardino National Forest, Fawnskin, California.

The applicant requests a permit to remove/reduce to possession the *Astragalus* albens (Cushenbury milk-vetch), the *Astragalus brauntonii* (Braunton's milk-vetch), the *Astragalus lentiginosus* var. *coachellae* (Coachella Valley milk-vetch), the *Astragalus tricarinatus* (triple-ribbed milk-vetch), the *Berberis nevinii* (Nevin's barberry), the *Dodecahema leptoceras* (slender-horned spineflower), the *Eriastrum densifolium* ssp. *sanctorum* (Santa Ana River wollystar), the *Eriogonum ovalifolium* var. *vineum* (Cushenbury buckwheat), the *Lesquerella kingii* ssp. *Bernardina* (San Bernardino bladderpod), the *Oxytheca parishii* var. *goodmaniana* (Cushenbury oxytheca), the *Poa atropurpurea* (San Bernardino bluegrass), the *Sidalcea pedata* (bird-foot checkerbloom), the *Taraxacum californicum* (California dandelion), and the *Thelypodium stenopetalum* (Slender-petaled mustard) in San Bernardino County, California in conjunction with species documentation surveys and restoration efforts for the purpose of enhancing their survival.

Permit No. TE–055397

Applicant: California Department of Parks and Recreation, Santa Cruz, California.

The applicant requests a permit to take (harass by survey and kill by fire) the Ohlone tiger beetle (*Cicendela ohlone*) in Santa Cruz County, California in conjunction with habitat enhancement for the purpose of enhancing its survival.

Permit No. TE–025203

Applicant: David Griffin, Jamul, California.

The permittee requests a permit amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in San Diego County, California in conjunction with demographic studies for the purpose of enhancing its survival.

Permit No. TE–821967

Applicant: Paul Galvin, Irvin, California.

The permittee requests a permit amendment to take (harass by banding) the least Bell's vireo (*Vireo bellii pusillus*) and to take (harass by survey) the California least tern (*Sterna antillarum browni*) throughout the range of each species in California in conjunction with surveys for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication of this notice.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 1, 2002.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 02–13421 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for a Storm Water Retention Pond, in Volusia County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Volusia County, Public Works, Engineering Department (Applicant), seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize the take of two families of the threatened Florida scrub-jay, *Aphelocoma coerulescens* and the threatened eastern indigo snake, *Drymarchon corais couperi*, in Volusia County, Florida, for a period of five (5) years. A description of the mitigation and minimization measures outlined in the Applicant's Habitat Conservation Plan (HCP) to address the effects of the Project to the protected species is described further in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an environmental assessment (EA) and HCP for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE054160–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to "david_dell@fws.gov". Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before July 1, 2002.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments and requests for the documentation must be in writing to be processed. Please reference permit number TE054160–0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313; or Ms. Jane Monaghan, Fish and Wildlife Biologist, Jacksonville Field Office, (see **ADDRESSES** above), telephone: 904/232–2580, extension 128.

SUPPLEMENTARY INFORMATION: The proposed taking is incidental to land clearing activities, road widening and storm water retention pond excavation on the 3.21-acre project site. (Project). The Project contains about 3.21 acres of occupied Florida scrub-jay habitat, and the potential exists for the entire Project site to provide habitat to the Eastern indigo snake.

Florida scrub-jays are geographically isolated from other species of scrub-jays found in Mexico and the western United States. The Florida scrub-jay is found exclusively in peninsular Florida and is restricted to scrub habitat. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub-jay population has been reduced by at least half in the last 100 years. Surveys have indicated that two families of Florida scrub-jays utilize habitat associated with the proposed storm water retention pond site along Howland Boulevard on the Project site. Construction of the storm water retention pond will likely result in death of, or injury to, Florida scrub-jay incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development will reduce the availability of habitat used for feeding and shelter.

Historically, the eastern indigo snake occurred throughout Florida and into the coastal plain of Georgia, Alabama, and Mississippi. Georgia and Florida currently support the remaining, endemic populations of eastern indigo snake. Over most of its range, the eastern indigo snake frequents a diversity of habitat types such as pine flatwoods, scrubby flatwoods, xeric sandhill communities, tropical hardwood hammocks, edges of freshwater marshes, agricultural fields, coastal dunes and human altered habitats. Due to its relatively large home range, this snake is especially vulnerable to habitat loss, degradation, and fragmentation. The wide distribution and territory size requirements of the eastern indigo snake makes evaluation of status and trends very difficult. Surveys for this species on site were negative, however the habitat is suitable. If any eastern indigo snakes are present, construction of the Project's infrastructure may result in their death or injury incidental to the carrying out of these otherwise lawful activities.

The EA considers the environmental consequences of two alternatives. The no action alternative may result in loss of habitat for Florida scrub-jay and eastern indigo snakes and exposure of the Applicant under section 9 of the Act. The proposed action alternative is issuance of the ITP with off-site mitigation. The off-site preservation alternative would provide funding for the restoration and management of 6.42 acres of occupied habitat within a 357-acre county-owned scrub habitat preserve known as the Lyonia Scrub Preserve. The affirmative conservation measures outlined in the HCP to be employed to offset the anticipated level of incidental take to the protected species are the following:

1. The impacts associated with the proposed project include 3.21 acres of impacts to occupied scrub-jay habitat for the excavation of a storm water retention pond associated with the widening of Howland Boulevard. To mitigate for the proposed impacts to occupied habitat the applicant will provide funds for the restoration and management of 6.42 acres of county owned occupied scrub habitat. This amount is based on mitigation at a ratio of 2:1 (two acres restored for every one acre impacted). Management will be conducted on a regular basis by Volusia County. After initial habitat restoration of the 6.42 acre mitigation area, the property would then be managed as part of the Lyonia Scrub Preserve, requiring preservation and management for Florida scrub-jays and eastern indigo snakes into perpetuity.

2. No construction activities would occur within 150 feet of an active Florida scrub-jay nest during the nesting season.

3. The HCP provides a funding mechanism for these mitigation measures.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.

2. The proposed take is incidental to an otherwise lawful activity.

3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: May 17, 2002.

Christine Eustis,

Acting Regional Director.

[FR Doc. 02–13454 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–600–1820–00 IA]

National Historic Oregon Trail Interpretive Center Advisory Board; Notice of Reestablishment

AGENCY: Bureau of Land Management (BLM), Oregon State Office, Interior.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972, Public Law 92–463. Notice is hereby given that the Secretary of the Interior has reestablished the Bureau of Land Management's National Historic Oregon Trail Interpretive Center Advisory Board.

The purpose of the Board will be to advise the Bureau of Land Management Vale District Manager regarding policies, programs, and long-range planning for the management, use, and further development of the Interpretive Center; establish a framework for an enhanced partnership and participation between the Bureau and the Oregon Trail Preservation Trust; ensure a financially secure, world-class historical and educational facility, operated through a partnership between the Federal Government and the community, thereby enriching and maximizing visitors' experiences to the region; and improve the coordination of advice and recommendations from the publics served.

FOR FURTHER INFORMATION CONTACT: Melanie Wilson Gore, Intergovernmental Affairs (640), Bureau of Land Management, 1620 L Street, NW., Room 406 LS, Washington, D.C. 20240, telephone (202) 452–0377.

Certification Statement

I hereby certify that the reestablishment of the National Historic Oregon Trail Interpretive Center Advisory Board is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: May 23, 2002.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02–13568 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–01–1220–JG–064B]

Notice of Intent To Prepare an Amendment to the California Desert Conservation Area Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an amendment to the California Desert Conservation Area (CDCA) Plan and Environmental Impact Statement (EIS) for Surprise Canyon in Panamint Mountains, Inyo County, CA.

SUMMARY: Pursuant to 43 CFR 1610.2(c), notice is hereby given that the Bureau of Land Management (BLM) proposes to amend the CDCA Plan (1980 as amended). The proposed amendment will establish or revise trail designations for off-road vehicles within the Surprise Canyon Area of Critical Environmental Concern (ACEC). The authority to designate is in accordance with 43 CFR 8342. The proposals will pertain to public lands addressed by the California Desert Conservation Area Plan in Inyo County that lie east of Highway 178 and approximately 23 miles north of the community of Trona. The proposed plan amendment will include an EIS in accordance with the National Environmental Policy Act and CFR 1610.5–5.

The EIS will evaluate a full range of alternative means of access into the Surprise Canyon ACEC. During the 30 days scoping period, the public can assist the BLM in developing the range of alternatives that will be addressed.

DATES: The public is invited to submit comments on the scope of the plan amendment and EIS. Written comments will be accepted for 30 days from the publication date of this notice in the **Federal Register**. The specific date, time, and location of public scoping meetings will be announced by the Ridgecrest Field Office.

ADDRESSES: Scoping comments in response to this notice should be sent to Hector Villalobos, Field Manager, Bureau of Land Management, 300 South Richmond Road, Ridgecrest CA 93555, (760) 384–5405. Comments, including names and addresses of respondents, will be available for public review at the Ridgecrest Field Office during normal working hours (7:45 AM to 4:30 PM, except holidays), and may be published as part of the EIS or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of you comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Jeffery Aardahl, Bureau of Land Management, Ridgecrest Field Office, 300 South Richmond Road, Ridgecrest CA 93555, (760) 384–5420.

SUPPLEMENTARY INFORMATION: On May 29, 2001, BLM implemented an interim closure to all motorized vehicles on Route P71 in the Surprise Canyon Area of Critical Environmental Concern. The closure will remain in effect until the plan amendment is approved and implemented.

The following are preliminary issues identified: (1) The canyon area currently does not meet the BLM's minimum standards for a properly functioning riparian system due to soil erosion and streambed alternations caused by motorized vehicle use; (2) several federal and state sensitive plant and animal species that inhabit the area are being affected; and (3) value of the canyon area for recreation, including use of motorized vehicles.

The preliminary planning criteria include: (1) The CDCA amendment will be consistent with officially approved resource related plans, policies and programs of other Federal agencies, State and local governments, and Indian Tribes; (2) the amendment process and ORV trail designations shall be conducted in compliance with the Federal Land Policy Management Act of 1976 (FLPMA), planning regulations (43 CFR 1600), ORV trail designation regulations (43 CFR 8340), BLM manual guidance, and all applicable Federal laws affecting BLM land use decisions and ORV designations; (3) the planning process shall include an EIS with a biological evaluation prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the President's Council of Environmental Quality (CEQ) regulations (40 CFR 1500), and BLM guidance.

The public is invited to submit written information to the BLM that will be used to identify issues, concerns and opportunities related to various alternative means of access in the Surprise Canyon ACEC. Those members of the public who simply want to be placed on the mailing list for this project can make such a request in writing. All such information and requests should be submitted in writing to: Field Manager, Bureau of Land Management, Ridgecrest Field Office, 300 S. Richmond Rd., Ridgecrest, CA 93555, Attn: Resources Management Branch Chief.

Digital electronic photos and maps of the Surprise Canyon area can be found at: *http://www.ca.blm.gov/ridgecrest*.

Dated: April 12, 2002.

Alan Stein,

Acting California Desert District Manager.

[FR Doc. 02–13571 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet Monday, June 24, 2002, from 8 a.m. to 5 p.m. local time, and on Tuesday, June 25, 2002 from 8 a.m. to 12 p.m. local time.

ADDRESSES: The Advisory Board will meet at the Marriott Denver Tech Center, 4900 South Syracuse Street, Denver, CO 80237.

Written comments pertaining to the Advisory Board meeting should be sent to: Bureaú of Land Management, National Wild Horse and Burro Program, WO260, Attention: Ramona Delorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business June 14, 2002. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Janet Nordin, Wild Horse and Burro Public Outreach Specialist, at (775) 861–6583. Individuals who use a telecommunications device for the deaf (TDD) may reach Ms. Nordin at any time by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, June 24, 2002 (8 a.m.–5 p.m.)

Call to Order & Introductions

Co-chairs Comments & Housekeeping—Robin Lohnes, Gary Zakotnik
Welcoming Remarks—Ann Morgan—CO State Director; Henri Bisson, Elena Daly, John Fend
Old Business
Approval of March 2002 Minutes—Robin Lohnes
BLM Action on March 2002 Recommendations—John Fend
Charter Renewal & 2003 Nominations Update—John Fend
Annual WH&B Specialist Meeting Overview—Tom Pogacnik

Break

Ad-Hoc Committee Report on Budget Initiative—Hilleary Bogley, Wayne Burkhardt,
Discussion of Proposed Alternatives—Larry Johnson, Gary Zakotnik
Working Lunch (Board Members/Staff Only)
Old Business (Continued)
Update on Pending Litigation—John Fend
Discussion on AML High/Low Numbers—John Fend, Tom Pogacnik

Break

Old Business (Continued)

BLM Science Advisory Board Report—Linda Coates-Markle
Update on Immunocontraception—Linda Coates-Markle
Field Applicability—Linda Coates-Markle
Public Comments—Robin Lohnes, Janet Nordin
Recap/Summary—Robin Lohnes, E K James
Adjourn; Roundtable to Follow—All
Dinner with BLM Staff (location TBA)

Tuesday, June 25, 2002

New Business

Sonora Desert Proposal—Merle Edsall

Break

Board Recommendations—Robin Lohnes, E K James
Report to Congress—Robin Lohnes, Gary Zakotnik
Next Meeting/Date/Site—All

Adjourn—Robin Lohnes

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal advisory committee management regulations (41 CFR 101–6.1015(b),) require BLM to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the Advisory Board on June 24, 2002, at the appropriate point in the agenda. This opportunity is anticipated to occur at 4:00 p.m. local time. Persons wishing to make statements should register with the BLM by noon June 24, 2002, at the meeting location. Depending on the number of speakers, the Advisory Board may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address. However, if you do not want the BLM to release your name and address in response to a FOIA request, you must state this prominently at the beginning of your comment. BLM will honor your request to the extent allowed by law. BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, in their entirety, including names and addresses.

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: *Janet_Nordin@blm.gov*. Please include the identifier "WH&B" in the subject of your message and your name and address in the body of your message.

Henri R. Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 02–13476 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted a request for emergency processing for review and clearance of questionnaires to the Office of Management and Budget (OMB). The Commission has requested OMB approval of this submission by June 3, 2002.

Effective Date: May 14, 2002.

Purpose of Information Collection: The questionnaires are for use by the Commission in connection with investigation No. 332–435, Tools, Dies, and Industrial Molds: Competitive Conditions in the United Sates and Selected Foreign Markets, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the House Committee on Ways and Means (the Committee). The Commission expects to deliver the results of its investigation to the Committee by October 21, 2002.

Summary of Proposal:

(1) *Number of forms submitted:* 2.

(2) *Title of form:* U.S. Producers' Questionnaire—Tools, Dies, and Industrial Molds: Competitive Conditions in the United States and Selected Foreign Markets: and U.S. Purchasers' Questionnaire—Questionnaire—Tools, Dies, and Industrial Molds: Competitive Conditions in the United States and Selected Foreign Markets:

(3) *Type of request:* New.

(4) *Frequency of use:* Producer/Purchaser questionnaires, single data gathering, scheduled for 2002.

(5) *Description of respondents:* U.S. firms that produce and purchase tools, dies, and industrial molds.

(6) *Estimated number of respondents:* Producers: 333; Purchasers: 100.

(7) *Estimated total number of hours to complete the forms:* Producer: 4,995 hours; Purchaser: 1,000.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the forms and supporting documents will be posted on the Commission's Internet site at *http://www.usitc.gov* or may be obtained from Karen Taylor (USITC, telephone no. (202) 708–4101). Comments about the proposal should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Desk Officer for the International Trade Commission. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal (telephone no. 202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

By order of the Commission.

Issued: May 24, 2002.

Marilyn Abbott,

Secretary.

[FR Doc. 02–13617 Filed 5–29–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–747 (Review)]

Fresh Tomatoes from Mexico; Import Investigation

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION: On May 2, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigation (67 FR 30962, May 8, 2002). Subsequently, the Department of Commerce extended the date for its final determination in its sunset review of the suspended antidumping duty investigation on fresh tomatoes from Mexico from May 29, 2002, to August 27, 2002 (67 FR 35099, May 17, 2002). Pursuant to 19 U.S.C. 1675(c)(5)(B), the Commission is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 24, 2002; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 26, 2002; the prehearing staff report will be placed in the nonpublic record on September 13, 2002; the deadline for filing prehearing briefs is September 24, 2002; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 3, 2002; the deadline for filing posthearing briefs is October 15, 2002; the Commission will make its final release of information on November 1, 2002; and final party comments are due on November 5, 2002.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: May 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13415 Filed 5–29–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–016]

Sunshine Act Meeting

Agency Holding the Meeting: International Trade Commission.

Time and Date: June 10, 2002 at 2 p.m.

Place: Room 101, 500 E Street SW, Washington, DC 20436. Telephone: (202) 205–2000.

Status: Open to the public.

Matters To Be Considered:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. Nos. 701–TA–415 and 731–TA–933–934 (Final) (Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before June 18, 2002.)
5. Outstanding action jackets:

(1) Document No. EC–02–005: Approval of final report in Inv. No. 332–325 (The Economic Effects of Significant U.S. Import Restraints: Third Update).

(2) Document No. EC–02–006: Approval of The Year in Trade 2001, Operation of the Trade Agreements Program, 53rd Report.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: May 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–13612 Filed 5–24–02; 4:17 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Reinstatement, with change, of a previously approved collection for which approval has expired Department Annual Report.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 36, page 8318 on February 22, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:

(2) Evaluate the accuracy of the agencies estimated of the burden of the proposed collection of information, including the validity of the methodology and assumptions used:

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: The title of the collection is the Department Annual Report.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form: none. Office of Community Oriented Policing Service, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, Local, or Tribal Government. Other: None. Progress Reports are survey instruments that the COPS Office uses to monitor the community policing activities for the Funding Accelerated for Small Towns, the Accelerated Hiring, Education and Development, and/or the Universal Hiring Grant Programs.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: The estimated number of agencies that are eligible to receive and complete the Department Annual report is 6,100. The estimated amount of time required for the average respondent to complete and return the form is 1 hour.

(6) An estimate of the total public burden (in hours) associated with the collection: An estimate of the total burden hours to conduct this survey is 6,100 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: May 23, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–13555 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act

Notice is hereby given that a proposed Consent Decree in *United States, et al.* v. *Torch Energy Company, et al.* Civ. No. CV–02–3977 RSWL (Ex) (C.D. Cal), was lodged on May 16, 2002 with the United States District Court for the Central District of California.

The consent decree resolves claims under section 1002 of the Oil Pollution Act of 1990, 33 U.S.C. 2702, brought against Torch Energy Company, Nuevo Energy Company, and Black Hawk Oil & Gas Company collectively, ("Defendants"), for natural resource damages arising from the September 27, 1997 spill of oil from the offshore drilling platform named "Irene."

The proposed consent decree requires the Defendants to pay $2,397,000 for natural resource damages to the United States and State of California. The consent decree includes a covenant not to sue by the United States and State under the Oil Pollution Act.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States, et al.* v. *Montrose Chemical Corporation of California, et al.*, No. CV 90–3122–R (C.D. Cal), and DOJ Ref. #90–11–3–06140.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Central District of California, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012; and the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.25 (25 cents per page reproduction costs), payable to the U.S. Treasury.

Ellen Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–13626 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: application for waiver of passport and/or visa; Form I–193.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 5, 2002 at 67 FR 9999, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Waiver of Passport and/or Visa.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–193, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by an alien who wishes to waive the documentary requirements for passports and/or visas due to an unforeseen emergency. The Service will use the information to determine whether applicants are eligible for entry into the United States under 8 CFR parts 212.1(b)(3) and 212.1(g).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,150 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13596 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: supplementary statement for graduate medical trainees; Form I–644.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4, 2002 at 67 FR 9783, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002.

This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electionic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Supplementary Statement for Graduate Medical Trainees.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–644, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection will be used by foreign exchange visitors who are seeking an extension of stay in order to complete a program of graduate education and training.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13597 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: application for naturalization; Form N–400.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 15, 2002 at 67 FR 11714, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–400, Business Process and Reengineering Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is used by the INS to determine eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 700,000 responses at 6 hours and 8 minutes (6.13) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,291,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13598 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: 30–Day notice of information collection under review: application for transfer of petition for naturalization; Form N–455

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4, 2002 at 67 FR 9782, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer. Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Transfer of Petition for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–455, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by the applicant to request transfer of his or her petition to another court in accordance with section 405 of the Immigration and Nationality Act. The Service will also use this information to make recommendations to the court.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 17 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13599 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: application to payoff or discharge alien crewman; Form I–408.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4, 2002 at 67 FR 9783, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget.

Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Payoff or Discharge Alien Crewman.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–408, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection is required by Section 256 of the Immigration and Nationality Act for use in obtaining permission from the Attorney General by master or commanding officer for any vessel or aircraft, to pay off or discharge any alien crewman in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 85,000 responses at 25 minutes (.416 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 35,360 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13600 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Visa waiver program carrier agreement; Form I–775.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 20, 2002 at 67 FR 13009, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Visa Waiver Program Carrier Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–775, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The agreement between a transportation company and the United States is needed to ensure that the transportation company will remain responsible for the aliens it transports to the United States under the Visa Waiver Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 800 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13601 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: reinstatement, with change, of a previously approved collection for which approval has expired; accounting system and financial capability questionnaire.

The Department of Justice (DOJ), Office of Justice Program, has submitted the following information collection request of the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 29, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cynthia J. Schwimer, Comptroller (202) 307–0623, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired.

(2) *Title of the Form/Collection:* Accounting System and Financial Capability Questionnaire.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* OJP Form 7120/1. Office of Justice Programs, US Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Not-for-profit institutions. Other: For-profit institutions. This form will be completed by applicants that are newly-formed firms or established firms with no previous grants awarded by the Office of Justice Programs. It is used as an aide to determine those applicants/grantees that may require special attention in matters relating to the accountability of Federal funds. This information is required for assessing the financial risk of a potential recipient in administrating federal funds in accordance with OMB Circular A–110 and 28 CFR part 70.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100 respondents will complete a 4-hour form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 400 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: May 24, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–13602 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,659 and NAFTA–05058]

Tower Automotive, Sebewaing, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application of March 6, 2002, the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO–CLC, Local 6–0111 requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) under petition TA–W–39,659 and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) under petition NAFTA–5058. The TAA and NAFTA–TAA denial notices applicable to workers of Tower Automotive, Sebewaing, Michigan, were signed on February 13, 2002 and published in the **Federal Register** on February 28, 2002 (67 FR 9326 & 9327, respectively).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Tower Automotive, Sebewaing, Michigan engaged in

employment related to the production of metal stamping for the automobile industry, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed that none of the respondents imported products like or directly competitive with what the subject plant produced during the relevant period.

The NAFTA–TAA petition for the same worker group was denied because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. The survey revealed that none of the respondents increased their imports of products like or directly competitive with what the subject plant produced from Canada or Mexico during the relevant period. The subject firm did not import from Canada or Mexico products like or directly competitive with what the subject plant produced, nor was the subject plant's production shifted from the workers' firm to Mexico or Canada.

The petitioner alleges that the Dodge pickup inner box panel jobs that left the plant in mid 2001 went to the Chrysler plant in Saltillo, Mexico.

Review of the initial investigation and data supplied by the respondents during the corresponding survey indicate that the customer of the Dodge pickup inner box panel ceased purchasing the product from the subject firm during July 2001, in favor of purchasing the product from other domestic sources.

Further review of the findings in the initial decision, indicate that the company did not shift production of Dodge pickup inner box panels to Mexico or Canada, nor did they import the panels from Mexico or Canada during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13539 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,967]

Bethlehem Steel Corp., Lackawanna Coke Division, Lackawanna, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application of January 23, 2002, the United Steel Workers of America, AFL–CIO–CLC, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on December 11, 2001 and published in the **Federal Register** on December 26, 2001 (66 FR 66426).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Bethlehem Steel Corporation, Lackawanna Coke Division, New York engaged in the production of blast furnace coke, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of blast furnace coke. The survey revealed that none of the customers purchased imported blast furnace coke during the relevant period. United States aggregate imports of coke and semicoke declined in the January through September 2001 period over the corresponding January through September 2000 period. The investigation further revealed that although Bethlehem Steel Corporation imports blast furnace coke, these imports had no effect on the Lackawanna plant because they went to facilities never supplied by the Lackawanna plant.

The petitioner alleges that increased imports of steel had a direct effect on coke consumption, thus impacting the Lackawanna coke plant. The petitioner further states that "the long term trends of higher coke and steel imports resulted in the shutdown of Lackawanna."

Steel imports into the United States is not relevant to the TAA investigation that was filed on behalf of workers producing blast furnace coke. The product imported must be "like or directly" competitive with what the subject firm plant produced and the imports must "contribute importantly" to the layoffs at the subject plant to meet the eligibility requirements for adjustment assistance under section 223 of the Trade Act of 1974. Further examination of the facts developed in the initial investigation show that company imports, customer imports and aggregate U.S. imports of blast furnace coke did not "contribute importantly" to the layoffs at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 24th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13540 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,449]

Clebert's Hosiery Mill, Inc., Connelly Springs, NC; Notice of Revised Determination on Reconsideration

By letter of March 29, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on February 15, 2002, based on the finding that imports of socks did not contribute importantly to worker separations at the Connelly Springs plant. The denial notice was published in the **Federal Register** on February 28, 2002 (67 FR 9324).

The company requested that the Department examine industry data concerning the amount of sock imports entering the United States.

A review of relevant industry data, not available during the initial investigation, shows that sock imports increased significantly in the 2001 period indicating an increased reliance on imported socks during the 2001 period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Clebert's Hosiery Mill, Inc., Connelly Springs, North Carolina, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Clebert's Hosiery Mill, Inc., Connelly Springs, North Carolina, who became totally or partially separated from employment on or after November 7, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13545 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,328]

Drexel Heritage Furnishings, Inc., Machine Shop, Morganton, NC; Notice of Revised Determination on Reconsideration

By letter of February 21, 2002, the petitioners, requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on January 22, 2002, based on the finding that imports did not contribute importantly to worker separations at the subject plant. The declines in employment at the subject plant were attributed to the outsourcing of products produced by the subject plant (saw blades, shaper knives and other cutting bits) used in the manufacturing of furniture. The denial notice was published in the **Federal Register** on February 5, 2002 (67 FR 5293).

The petitioners allege that the importing of furniture by an affiliate, Drexel Heritage Furnishings at Morganton, North Carolina, in which they were in direct support of drastically reduced the production of furniture and thus impacted the subject plant.

Information provided by the petitioner and information provided by the company show that the subject plant workers were in direct support, producing saw blades, shaper knives and other cutting bits for of an affiliated plant(s) (Drexel Heritage Furnishings Inc., Plant #3 and #5, Morganton, North Carolina). The workers of Drexel Heritage Furnishings Inc., Plants #3 and #5 produced residential furniture and were certified eligible to apply for Trade Adjustment Assistance on June 4, 2001 under TA–W–39,275. Therefore, since the workers of Drexel Heritage Furnishings, Inc., Machine Shop, North Carolina were in direct support (meaningful portion) of the residential furniture produced at the certified affiliated facilities, they meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Drexel Heritage Furnishings, Inc., Morganton, North Carolina, in which the subject firm was in direct support, contributed importantly to the declines in the firm's sales or production and to the total or partial separation of workers at the Drexel Heritage Furnishings, Inc., Machine Shop, Morganton, North Carolina. In accordance with the provisions of the Act, I make the following certification:

All workers of Drexel Heritage Furnishings, Inc., Machine Shop, Morganton, North Carolina, who became totally or partially separated from employment on or after October 9, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13543 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,522]

JLG Industries Inc., Bedford, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application post marked March 1, 2002, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 14, 2002, and published in the **Federal Register** on January 31, 2002 (67 FR 4749).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of JLG Industries Inc., Bedford, Pennsylvania was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported scissor lift aerial work platforms, while decreasing their purchases from the subject firm during the relevant period. The investigation further revealed that the company did not import products like or directly competitive with scissor lift aerial work platforms produced at the subject firm during the relevant period.

The petitioner requested that the Department of Labor examine the facts pertaining to the company opening up

a new plant located in Belgium that produces the same product as the subject firm.

A review of the initial investigation shows that the Belgium plant produced scissor lift aerial work platforms exclusively for the European market.

The company also filed a request dated March 5, 2002 for administrative reconsideration of the Department's negative determination regarding eligibility to apply for TAA. However, the request was received beyond the 30 day requirement to apply from the date the decision was published in the **Federal Register**.

That request expressed concerns that a major foreign producer of products, like or directly competitive with what the subject plant produced cut into the subject firm's market share after the closure of the subject firm.

The survey conducted by the Department of Labor examines the customer's purchases of products like or directly competitive with what the subject plant produces during the relevant time period. The survey requests information regarding customer's purchases from the subject firm, purchases from other domestic sources (including a breakout of imported products purchased from other domestic sources) and purchases of imported products "like or directly competitive" with what the subject plant produces. The survey shows that the respondents reported simultaneous declines in their purchases from the subject firm, other domestic sources and imports, indicating that the layoffs at the subject plant are a factor of reduced demand rather than "imports contributing importantly" to the layoffs at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13537 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,593]

Muruta Electronics, North America Inc., State College Operations, State College, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 5, 2002, the workers requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 20, 2002, and published in the **Federal Register** on March 5, 2002 (67 FR 9324).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Muruta Electronics, North America Inc., State College Operations, State College, Pennsylvania was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported capacitors, while decreasing their purchases from the subject firm during the relevant period. The investigation further revealed that the subject firm decreased their purchases of imported capacitors during the relevant period.

The petitioner believes that the company shifted a meaningful portion of plant capacitor production to a foreign source, and is importing the capacitors back to the State College plant.

A review of the data supplied by the company during the initial investigation shows that company capacitors imports declined during the relevant period. In fact, the imports declined at a greater rate than the capacitor production at the subject plant.

The petitioner also feels that the survey results may not reflect accurate reported customer capacitor imports, since customers may not know if the capacitors they purchased were produced at the subject firm or produced in a foreign country.

One customer reported that they were not sure if the capacitors purchased from the subject firm were produced domestically or imported. That customer, however, estimated the amounts they believed were imported during the specified periods of the survey. That respondent and the other respondent(s) reported capacitor imports declined sharply during the relevant period.

Further review shows that aggregate U.S. imports of capacitors declined sharply in 2001 over the corresponding 2000 period, followed by further steep declines during the January through February 2002 period over the corresponding 2001 period.

Based on the declining import factors discussed above, imports did not "contribute importantly" to the declines in employment at the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13538 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,453]

Penley Corp., West Paris, ME; Notice of Revised Determination on Reconsideration

By letter of March 24, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on March 1, 2002, based on the finding that imports of wooden spring clothespins did not contribute importantly to worker separations at the subject plant. The denial notice was published in the **Federal Register** on March 20, 2002 (67 FR 13012).

To support the request for reconsideration, the company in their request for reconsideration indicated that they were importing clothespins.

A review of the allegation and information provided by the company shows that the company began importing clothespins during the relevant period. The company further indicated that all production at the subject firm is being replaced by imported clothespins, thus impacting the workers at the subject plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Penley Corporation, West Paris, Maine contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Penley Corporation, West Paris, Maine, who became totally or partially separated from employment on or after December 6, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed in Washington, DC, this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13546 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,368]

SEH–America, Vancouver, WA; Notice of Negative Determination Regarding Application for Reconsideration

By application received February 26, 2002, the petitioner, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on January 2, 2002 and published in the **Federal Register** on January 11, 2002 (67 FR 1511).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at SEH–America, Vancouver, Washington engaged in the production of polished silicon wafers (6 & 8 inch), was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The subject firm did not import 6-inch silicon wafers produced by SEH–America at Vancouver, Washington. The subject firm has always imported 8-inch wafers (a different product entirely), but company imports of that item have been declining in recent years.

The investigation further revealed that the subject firm intended to shift some 6-inch wafer production offshore, and in the future import the product back into the U.S. for sale and distribution in this country. The move, however, was scheduled for later in 2002.

The petitioner alleges that another company was certified under NAFTA–Transitional Adjustment (NAFTA–TAA) when that company shifted their production to Mexico and thus feels that a shift in 6-inch wafer production by the subject firm to Malaysia should qualify the workers of SEH–America, Vancouver, Washington eligible to apply for TAA.

Under NAFTA–TAA, a shift in subject plant production to Mexico or Canada normally meets the eligibility requirements. However, under TAA a shift in plant production to any foreign source is not relevant to meeting the eligibility requirement of section 222(3) of the Trade Act of 1974. Imports "like or directly competitive" with what the subject plant produced must "contribute importantly" to the layoffs at the subject firm. The imports must be entering the Untied States during the relevant period.

A review of the initial decision shows that imports of the 6-inch wafers were not scheduled to begin arriving until mid-2002, well beyond the relevant period of the investigation. The workers were advised to submit a new petition during the relevant period of time the 6-inch wafers were scheduled to arrive into the United States from Malaysia.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13544 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,295]

TNS Mills, Spartanburg, SC; Notice of Negative Determination Regarding Application for Reconsideration

By application post marked on February 4, 2002, a petitioner, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on December 31, 2001 and published in the **Federal Register** on January 11, 2002 (67 FR 1510).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at TNS Mills, Spartanburg, South Carolina engaged in the production of greige bottom-weight cotton rich apparel fabrics, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The

"contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of greige bottom-weight cotton rich apparel fabrics. The survey revealed that none of the customers increased their import purchases of greige bottom-weight cotton rich apparel fabrics during the relevant period.

The petitioner alleges that price and illegal imports are factors leading to the downturn in the textile industry. The petitioner further states that studies done by the North Carolina State University show this.

As noted above, the Department of Labor normally examines if the "contributed importantly" test is met through a survey of the workers" firm's customers. A review of the survey results shows that the customers did not increase their imports of greige bottom-weight cotton rich apparel fabrics during the relevant period.

In reference to petitioner's allegation concerning price, the price of a product is not relevant to meeting the "contributed importantly" criterion of the Trade Act of 1974.

Further, studies such as those by the North Carolina State University are considered, however the Department puts the overwhelming majority of weight on the direct impact of imports on the subject firm by the use of customer surveys to test if the "contributed importantly" test is met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13542 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,039]

TNS Mills Inc., Rockingham Plant, Rockingham, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 19, 2002, the company, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on February 15, 2002 and published in the **Federal Register** on February 28, 2002 (67 FR 9324).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at TNS Mills Incorporated, Rockingham Plant, Rockingham, North Carolina engaged in the production of ring spun carded cotton yarn, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of ring spun carded cotton yarn. The survey revealed that none of the customers increased their import purchases of ring spun carded cotton yarn during the relevant period.

The petitioner alleges that various customers of the subject firm were certified for TAA. Therefore, they believe that due to the number of customers certified for TAA, they should be certified for TAA.

The certification of the subject firm's customers is irrelevant unless the customers are affiliated with the subject firm by corporate ownership. If there was corporate affiliation the workers could receive consideration for eligibility under TAA. The customers certified under TAA were outside the TNS Mills corporate structure, and therefore cannot be considered eligible for TAA under those certifications.

The petitioner also alleges that imports of ring spun cotton yarn are lower in price than the domestic market, thus impacting the subject firm workers.

The price of ring spun cotton yarns is not relevant to the TAA investigation that were filed on behalf of workers producing ring spun cotton yarns.

The petitioner further claims that imported carded yarns impacted the closing of the subject plant. The petitioner supplied a chart with import trends of various yarn imports.

Although, the Department uses industry data in their TAA determinations, the Department of Labor normally examines if the "contributed importantly" test is met through a survey of the workers' firm's customers. A review of the survey results shows that the customers did not increase their imports of ring spun carded cotton yarn during the relevant period. Further, the ratio of imports of carded yarn to U.S. production is relatively low during the relevant period and therefore not a major contributing factor relating to the declines in sales and employment at the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13541 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–066]

Notice of Information Collection Under Emergency Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under emergency review

SUMMARY: The National Aeronautics and Space Administration (NASA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). Emergency review and approval of this collection has been requested from OMB by June 30, 2002. NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this information collection concurrent with the OMB review period. The information obtained in this collection will assist NASA in assessing the effectiveness of aviation safety programs.

DATES: All comments should be submitted by June 30, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: National Aviation Operations Monitoring Service: General Aviation Pilots

OMB Number: 2700–

Type of review: New collection

Need and Uses: The information collected will be analyzed and used by NASA Aviation Safety Program managers to evaluate their progress in improving aviation over the next decade.

Affected Public: Individuals or households

Number of Respondents: 10,000

Responses Per Respondent: 1

Annual Responses: 10,000

Hours Per Request: Approx. ½ hour

Annual Burden Hours: 6,280

Frequency of Report: Quarterly; Annually

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–13459 Filed 5–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–067]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Thursday, June 20, 2002, 8 a.m. to 12 Noon.

ADDRESSES: Country Inns & Suites-Huntsville, 4880 University Drive, Huntsville, AL 35816. Tele: (256) 837–4070. The meeting will be held in the Commons Room.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0391. Members of the public should contact Ms. Vickie Smith on 202/358–1650, if you plan to attend.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will meet to deliberate topics for inclusion in its Annual Report for 2002. This is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The Aerospace Safety Advisory Panel is currently chaired by Ms. Shirley C. McCarty and is composed of 9 members and 7 consultants.

The meeting will be open to the public up to the capacity of the room (approximately 40 persons including members of the Panel). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Members of the public will be requested to sign a visitor's register.

Dated: May 22, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–13460 Filed 5–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–065]

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the National Aeronautics and Space Administration

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of guidelines and request for comments.

SUMMARY: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) directed the Office of Management and Budget (OMB) to issue government-wide information quality guidelines. OMB's final guidelines, re-published on February 22, 2002, require each Federal agency to issue Agency-specific implementing guidelines for ensuring the quality of disseminated information. The National Aeronautics and Space Administration (NASA) is seeking comments on its draft information quality guidelines. The draft sets out guidelines for ensuring the quality, objectivity, utility, and integrity of NASA's information and describes an administrative mechanism for seeking correction of information publicly disseminated by NASA.

DATES: Written comments regarding NASA's draft information quality guidelines must be submitted on or before 30 days after date of publication in the **Federal Register**.

ADDRESSES: Comments should be sent to Nancy R. Kaplan, Code AO, National Aeronautics and Space Administration, Washington, DC 20546–0001. Comments may also be e-mailed to *nkaplan@hq.nasa.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy R. Kaplan, Code AO, National Aeronautics and Space Administration, Washington, DC 20546–0001. Telephone: (202) 358–1372.

SUPPLEMENTARY INFORMATION:

National Aeronautics and Space Administration Draft Guidelines for Ensuring the Quality of Information

A. Purpose

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658; hereafter referred to as Section 515) directed the Office of Management and Budget (OMB) to issue government-wide information quality guidelines. OMB's final guidelines, entitled "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," were re-published on February 22, 2002 (67 FR 8451.) The OMB guidelines require each Federal agency to issue their own, Agency-specific, implementing guidelines for ensuring the quality of disseminated information.

This document outlines the National Aeronautics and Space Administration's (NASA's) information quality guidelines; details corresponding

procedures, administrative mechanisms, and reporting requirements; and establishes NASA's responsibilities for ensuring that its information adheres to the quality guidelines. Included in this document are the procedures for affected persons to seek and obtain correction of information disseminated by NASA.

B. Background

Section 203(2)(3) of the National Aeronautics and Space Act, Public Law 85–568, as amended, chartered NASA to "provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof." NASA makes available a diverse wealth of information to government, industry, academia, and the public. Some examples include scientific and technical information from its world-class research and operational programs, such as reports, journal articles, data, and imagery; information concerning its current vision, mission, goals, programs, and performance, such as performance plans and reports; information regarding the missions it aspires to pursue, such as strategic plans; and educational information, such as curricula, lesson and technology plans, and educational briefs, for K–12 through post-graduate students.

Information from NASA's missions and programs is used by a number of organizations and individuals including, but not limited to, government, national, and international policymakers formulating public policy; NASA's scientists and others cooperating with NASA to pursue their important work; the media reporting on the importance of NASA's research; the educational community educating a new generation of citizens in science, math, and engineering; and members of the public learning about NASA's goals and accomplishments.

C. Policy and Procedures

C.1. Scope

These guidelines are applicable to NASA Headquarters and Centers, including Component Facilities; and to the Jet Propulsion Laboratory and other contractors where specified by contract. They prescribe policy and procedures for a wide variety of dissemination media, such as printed, electronic (including websites), and other forms of publication.

The definitions of information, dissemination, quality, and other terms used within this document were adapted from those established by OMB in its government-wide quality guidelines. Where appropriate, NASA has expanded on the OMB definitions to provide guidance that is more applicable to Agency-specific information.

The guidelines for pre-dissemination review in this document shall apply to information that NASA first disseminates on or after October 1, 2002. Other guidelines in this document shall pertain to information disseminated on or after October 1, 2002, regardless of when it was first disseminated by NASA.

C.2. Guidelines

NASA will ensure and maximize the quality, including the utility, objectivity, and integrity, of its disseminated information, except where specifically exempted. Categories of information that are exempt from these guidelines are detailed in Section C.3.

NASA's "disseminated information" includes any communication or representation of knowledge, such as facts or data, conveyed in any media or form, such as textual, numerical, graphic, cartographic, narrative, or audiovisual, whether on paper, film, or electronic media, and whether disseminated via formal publication, recording, machine-readable data, or website.

C.2.a. Basic Standard of Information Quality

This section outlines the basic standard of information quality that NASA's disseminated information must meet. NASA will treat information quality as integral to every step of its development of information, including creation, collection, maintenance, and dissemination.

A level of information quality assurance greater than the basic standard is required in those situations that involve influential scientific, financial, or statistical information. The quality standard for influential information is defined in Section C.2.b. Additionally, principles of information quality beyond the basic standard may be adopted as appropriate for specific categories of NASA's disseminated information. Section C.2.c outlines principles of information quality that may apply to certain categories of NASA's information.

The basic standard of information quality, for the purposes of these guidelines, has three components: utility, objectivity, and integrity. The guidelines sometimes refer to these terms collectively as "quality." In ensuring the quality of its disseminated information, NASA must ensure that all of these components are sufficiently addressed.

C.2.a.1. *Utility.* The measure of utility refers to the extent that the information can be used for its intended purpose, by its intended audience. The following principles relate to these dimensions of information utility:

Intended Purpose

- To provide useful, relevant information, NASA will stay informed about the information needs of its stakeholders and develop new data, models, and information where appropriate.
- When currency of information is critical, NASA will ensure that relevant information is made available in a timely manner and updated as appropriate.
- NASA's information will be reviewed by content owners, at a frequency appropriate to the type of information, to ensure that it remains relevant and timely.

Intended Audience

- NASA's information dissemination process will make the Agency's information widely available and broadly accessible, as appropriate and practical for the target audience.
- NASA will ensure that its information is accessible to all potential users, including individuals with disabilities, per Federal law, statute, and Agency guidance.

C.2.a.2. *Objectivity.* The measure of objectivity refers to the extent that the information is accurate, clear, complete, and unbiased. The following principles relate to these dimensions of information objectivity:

Accuracy

- Information disseminated by NASA will be based on reliable, accurate data that has been validated.
- NASA's information will be proofread before release to ensure that they are free from typographical and grammatical errors.
- Where feasible and appropriate, NASA will inform users of corrections to the Agency's information resulting from discovery of errors.

Clarity

- NASA's information will be reviewed before release to ensure clarity and coherence of the material presented.

Completeness

- NASA's information will include, to the extent feasible, the proper context to ensure completeness of the material presented.
- Where feasible, data presented by NASA will have full and accurate documentation, and circumstances affecting data quality will be identified and disclosed to users.

Lack of Bias

- NASA will utilize systematic analysis and review processes to remove potential biases from its information.
- To the extent possible, NASA will ensure that information is presented without the appearance of bias.

C.2.a.3. *Integrity.* The measure of integrity refers to the protection of NASA's information from unauthorized access, revision, modification, corruption, falsification, and unintentional or inadvertent destruction. The following principles relate to information integrity:

- NASA employees responsible for classified information, draft materials, and otherwise sensitive information will utilize appropriate security controls and mechanisms to protect the information from improper dissemination.
- When information integrity has been compromised, NASA will take immediate steps to remedy the situation and facilitate correction of the compromised information.

A key aspect of information integrity is ensuring that NASA's computer systems remain protected from unauthorized access or other threats that could damage the information residing therein. NASA's Information Technology (IT) Security Program is the responsibility of the NASA Chief Information Officer (CIO). The roles and responsibilities of the CIO with respect to IT Security are outlined in detail in NASA Procedures and Guidelines (NPG) 2810.1, "Security of Information Technology."

C.2.b. Quality Level for Influential Information

NASA requires a higher standard of quality for information that is considered influential. Influential scientific, financial, or statistical information is defined as NASA information that, when disseminated, will have or does have clear and substantial impact on important public policies or important private sector decisions.

Each NASA organizational director will be responsible for determining which of its disseminated information falls into this limited category. Where information is considered influential, the responsible organization shall document the safeguards and policies that are in place to ensure the quality (utility, objectivity, and integrity) of the information.

OMB requires more stringency for ensuring the quality of influential scientific, financial, or statistical information. For these categories of influential information to be considered compliant with quality guidelines, the information must be transparent and reproducible to the greatest possible extent (see C.2.b.1 and C.2.b.2 for definitions of these terms). It is important to note that applying the reproducibility standard to all influential data may not be practical or warranted; i.e., where it may be impractical or unethical to duplicate the circumstances of an experiment or investigation.

Principles related to ensuring the transparency and reproducibility of information are outlined below.

C.2.b.1. *Transparency.* The measure of transparency refers to the extent that information, particularly that of a scientific or statistical nature, has supporting data documented and made available.

- In disseminating information of an influential nature, NASA will specifically describe the data used, the various assumptions employed, the specific analytic methods applied, and the statistical procedures utilized.

C.2.b.2. *Reproducibility.* The measure of reproducibility refers to the extent that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. In other words, independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable margin of error.

- Each NASA organization will be responsible for determining which categories of original and supporting data will be subject to the reproducibility requirement.
- NASA will make the information it disseminates and the methods used to produce this information as transparent as possible so that they can, in principle, be reproducible by qualified individuals.
- When it is not practical to apply the reproducibility standard to data or information, NASA will ensure greater transparency of the methods used to produce the data or information.

C.2.c. Principles for Specific Categories of Information

OMB's information quality guidelines encourage Federal agencies to address principles of quality for specific categories of information that they produce. NASA's experience has been that the information used in conducting the Agency's daily business falls into five categories, as documented in NPG 2810.1.

NASA will ensure the quality of information in each information category by adhering to the key principles outlined below.

C.2.c.1. Mission Information

This category consists of information that directly supports NASA's human space flight, launch operations, space vehicle operations, wind tunnel operations, training simulation vehicles, and other mission-related activities.

- NASA will use special protections to preserve its mission information from alteration or destruction, particularly where proprietary or sensitive information is involved.
- NASA will exercise special care in handling, disseminating, and ensuring the protection of information pertaining to missions involving human life.
- NASA will protect information related to individuals involved in NASA's missions, per the requirements of the Privacy Act of 1974 (5 U.S.C 552A, as amended.)

OMB's guidelines require special considerations for analysis of risks to human health, safety, and the environment. OMB directs agencies to adopt or adapt the quality standards contained in the 1996 amendments to the Safe Drinking Water Act for analysis of these types of risks. With respect to information in this category, NASA will ensure that it has analyzed and/or documented, to the extent practical:

- Each population addressed by any risk estimate and the expected risk for each population;
- Acceptable upper and lower bounds of risk;
- Uncertainties identified during the risk assessment process and how the uncertainties were or will be addressed;
- Peer review studies related to risk estimates;
- Methodologies used to reconcile inconsistencies in the scientific data.

C.2.c.2. Business and Restricted Technology Information

This category consists of information related to financial, legal, payroll, personnel, procurement, source selection, and other business and restricted technology activities. NASA is required by law to protect much of the information in this category.

- NASA will ensure that categories of information requiring protection or restricted access under law or statute (i.e., Export Administration Regulations and International Traffic in Arms regulations) are appropriately handled and protected from inappropriate dissemination.

C.2.c.3. Scientific, Engineering, and Research Information

This category consists of information that supports basic research, engineering, and technology development, but that is less protected than mission information.

OMB's guidelines give special consideration to scientific, technical, and statistical information. OMB regards information in this category that has been subject to formal, independent, external peer review as presumptively objective and therefore of higher quality. With respect to NASA's peer reviewed scientific, engineering, and research information, the following principles for ensuring information quality apply:

- NASA will ensure that peer reviews conducted by the Agency are performed in an open and rigorous manner
- Reviewers in NASA-sponsored peer reviews will be selected on the basis of technical expertise and will be requested to disclose prior technical or policy positions that may affect the issues at hand and to disclose sources of personal and institutional funding that may affect or appear to affect their technical judgment.

It is important to note that some types of scientific, engineering, and research information disseminated by NASA may be exempt from NASA's information quality guidelines. Specifically, when scientists and researchers use the "academic process" to communicate their findings, i.e., through conference presentations and papers, peer reviewed journal articles, peer reviewed summary and assessment reports, and other dissemination practices that are standard in the research community, their research data, conclusions, and results may not represent an official product or position of the Agency. If this is the case, the information disseminated should clearly indicate via a disclaimer or other means that the views expressed are the author's, and not necessarily those of NASA. More specifics about this exception are outlined in Section C.3, Exempted NASA Information.

C.2.c.4. Administrative Information

This category consists of information such as electronic or written correspondence, briefing information, program/project status documents, organizational documentation, strategic plans, and other information of an administrative or general nature.

- NASA will ensure that administrative information is reviewed regularly to ensure its continued relevance and accuracy.

C.2.c.5. Public Access Information

This category consists of information that is intended for public use, such as material related to NASA's educational programs.

- NASA will ensure that its key information is made available to the general public through the widest possible dissemination.
- NASA will carefully review references and links to external sources of information to ensure that they are business related and will not lead to an apparent conflict of interest, inappropriate endorsement, or embarrassment to the Agency.

C.3. Exempted NASA Information

The OMB information quality guidelines permit exceptions for certain types of information. These categories of information do not have to meet a minimum standard of information quality.

The biggest category of information that is exempt from this policy is information that is disseminated by but neither authored by NASA nor adopted as representing NASA's views. This category includes, but may not be limited to:

- Information communicated by scientists and researchers via the "academic process" (as defined in Section C.2.c.3);
- Information that is funded by NASA but published by a contractor, grantee, or other government organization without NASA's direction.

The following types of information dissemination are also exempted from this policy:

- Information in which distribution is limited to government employees, Agency contractors, or grantees, including intra-agency use or sharing of information;
- Responses to requests for Agency records under the Freedom of Information Act (FOIA), the Privacy Act, the Federal Advisory Committee Act (FACA), and other applicable laws and regulations;
- Correspondence with individuals or persons;
- Press releases;
- Public filings, subpoenas, or other adjudicative processes;
- Archival information;

C.4. Ongoing Process for Ensuring NASA's Information Quality

NASA currently has a number of policies and processes in place to ensure that information produced and disseminated by the Agency meets a basic level of quality. Much of the information that NASA issues in the Agency's name, uses to support policy, or utilizes to reach mission decisions is subject to independent, external peer review, and the remainder is generally subject to one or more levels of quality review.

The review and approval process for NASA's disseminated information will be documented as much as possible and practical. The level of documentation will be commensurate with the importance of the information.

Some of the review processes utilized by NASA are described below. These review processes are utilized at the discretion of the organizations that produce NASA's content, depending on the type of information, intended audience, and other factors relevant to the situation.

Editorial Review

Much of NASA's information is subject to editorial review by a qualified technical editor or other professional. The editorial review ensures that spelling, grammatical, and punctuation errors are discovered and corrected before an information product is disseminated.

Compliance Review

The author, technical monitor, or other NASA official responsible for an information product will ensure that, when appropriate, the information is reviewed for compliance with Federal law, statute, and NASA policy. NASA's information may be subject to limited dissemination if export control limitations, International Traffic in Arms Regulations, confidentiality considerations, proprietary or copyright concerns, or other circumstances dictate the information's protection.

Content Review

NASA's information is subject to content review to ensure its quality and integrity. The author, content owner, or other NASA official responsible for an information product ensures that content reviews are conducted before the information is disseminated. As described in NPG 2200.2, "Management of NASA Scientific and Technical Information," scientific and technical information undergoing formal publication by NASA is subject to review before release. These reviews assess the quality of the information product in terms of readability, its communication of information, and its suitability for a particular audience.

Peer Review

The use of peer review helps NASA to ensure the quality of its information. In general, NASA evaluates program

merit and priorities on the basis of peer review and advice from committees broadly representative of NASA's customers. NASA strives to form diverse, expert review panels that encompass the full range of scientific and technical expertise required.

While the general principle regarding the use of peer review applies across the Agency, there is not a uniform peer review process for all types of information, and not all of NASA's information requires peer review. Different approaches are warranted by differences in goals, customer base, etc. among the various disciplines.

Other Review Processes

NASA Enterprise, Center, Mission, Program, Project, or other organizational managers may establish and apply their own guidelines related to the quality review and dissemination of their own information. This is acceptable as long as the component organizations' guidelines do not conflict with the Agency's information quality guidelines.

D. Administrative Mechanisms

The NASA CIO will establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the Agency if the information, upon further review, does not comply with NASA's quality standards. The administrative mechanisms are intended to be flexible, appropriate for the nature of NASA's information dissemination activities, and complementary to NASA's existing information resources management and administrative practices.

For the purposes of these guidelines, affected persons are defined as persons who may benefit from or be harmed by the disseminated information. The term persons includes groups, organizations, and corporations as defined by the Paperwork Reduction Act (PRA) of 1995.

NASA will address genuine and valid needs of its users without disrupting Agency processes. NASA can reject claims made in bad faith or without justification, and can decide upon and undertake the degree of correction deemed appropriate to fit the nature and timeliness of the information involved.

D.1. Requesting Correction of Information by NASA

If an affected person believes that information disseminated by NASA does not meet the guidelines for quality (utility, objectivity, and integrity), he or she may seek correction of the information.

Requestors wishing to seek correction of information under NASA's information quality guidelines must follow the procedures outlined below. These procedures apply only to requests for the correction of information relevant to the information quality guidelines.

- Requests must be in writing, and may be submitted by regular mail, electronic mail, or fax. (Final guidelines will include explicit submission mechanisms, such as addresses)
- Requests must indicate that the correction of information is requested under NASA's information quality guidelines.
- Requests must include the requestor's name, phone number, preferred mechanism for receiving a written response from NASA (fax, e-mail, regular mail) with applicable contact information, and organizational affiliation (if any).
- Requests must clearly describe the information that the requestor believes needs correcting, and include the name of the report or information source, the location if electronic, and the date of issuance.
- Requests must indicate how the requestor is an affected person for the purposes of these guidelines (as defined in Section D, Administrative Mechanisms, and Section F, Definitions).
- Requests must state specifically what information should be corrected and what changes to the information, if any, are proposed. If possible, provide supporting evidence to document the claim.

The NASA CIO will have the responsibility for receiving suggestions for correction of information. The CIO will coordinate with such Agency officials as appropriate, including technical experts, content owners, legal counsel, and others, to determine whether or not to correct the information.

In its review, NASA will determine if the information in question does not meet the appropriate quality standards and needs to be corrected. The review of the information will be limited to that part or parts of the information that are indicated to be in error.

If NASA decides that correction of the information is warranted, NASA will correct the information in accordance with existing statutes, regulations, and procedures. The NASA CIO will inform the requester in writing of the decision and the action taken.

If NASA decides not to correct the information, the requester shall be informed promptly in writing by the CIO of the decision not to correct the information, the reason for refusal, the date of the refusal, and the opportunity for appeal.

NASA will respond to a request for correction of information within 60 calendar days of receipt of the information. NASA may extend the 60-day response period if additional time is required to review the request for correction of information. NASA will contact the requestor if an extension of response time is needed, and will indicate the reason for the delay in responding and an estimated decision date.

NASA may reject a request for information correction without taking action on it if NASA determines that:

- The requestor is not an affected person (as defined in Section F., Definitions);
- The information required to process a review is not provided in full;
- The request for correction is frivolous.

The NASA CIO will maintain file records of each request for information correction, including copies of the original request, the response from NASA, and notification to the requestor of NASA's decision and action taken.

D.2. Appeal Process

If a requestor disagrees with NASA's decision, he or she may file an appeal in writing within 30 calendar days of the decision. [Final guidelines will include explicit appeal submission mechanisms] The request for appeal will be considered by an internal review panel, convened by the CIO. The exact membership of the appeals panel will vary depending on the specifics of the information under review, but will include representatives from appropriate scientific and technical, legal, policy, and other functional areas as needed. The appeals panel will not include any personnel who were involved in the original review of the correction request.

If, after review, the appeals panel determines that the original decision should be overturned, the appeals panel will notify the CIO, who will in turn advise the requestor of NASA's decision. If applicable, NASA will then correct the information in accordance with existing statutes, regulations, and procedures. If the appeals panel determines that correction of the information is not warranted, the CIO will advise the requestor of the denial and the reason and authority for the denial.

All appeals will be processed within 30 calendar days unless NASA

determines that a fair review cannot be made within this time frame. NASA will contact the requestor if an extension of response time is needed, and will indicate the reason for the delay in responding and an estimated decision date.

The NASA CIO will maintain file records of each appeal request, the response from NASA, and notification to the requestor of the appeal decision.

E. NASA Reporting Requirements

Pursuant to OMB requirements, the NASA CIO will submit an annual report on the number and nature of complaints received by the Agency regarding the accuracy of the information it disseminates. The report will contain, as appropriate, both quantitative and qualitative information about the complaints received, the resolution of the complaints, and the number of NASA staff hours that were devoted to handling requests related to the information quality guidelines. The report will also include an explanation of Agency decisions to deny or limit corrective action. The first annual report, due to OMB by January 1, 2004, will document requests received and actions taken during FY2003.

F. Definitions Based on OMB Guidance

F.1. Affected persons

Persons who may benefit from or be harmed by the disseminated information. This includes persons who are seeking to address information about themselves as well as persons who use information. "Persons" includes groups, organizations and corporations as defined by the Paperwork Reduction Act (PRA) of 1995.

F.2. Dissemination

NASA-initiated, -directed, or -sponsored distribution of information to the public. Dissemination does not include distribution limited to government employees or contractors or grantees or sharing of government information or responses to requests for records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

F.3. Influential

When used in the context of scientific, financial, or statistical information, influential means that NASA can reasonably determine that dissemination of the information will have or does have clear and substantial impact on important public policies or important private sector decisions.

F.4. Information

Any communication such as facts or data, in any media or form, including text, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that NASA disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where it is made clear that that what is being offered is someone's opinion rather than fact or NASA's views.

This includes information in any media, such as paper, electronic, web page, CD-ROM, etc.

F.5. Integrity

Integrity means the security of information (e.g., that it is protected from unauthorized access or revision so that it is not compromised through corruption or falsification)

F.6. Objectivity

Objectivity means that the information is accurate, clear, complete, and unbiased.

F.7. Quality

Quality is an encompassing term comprised of three elements: integrity, objectivity, and utility. Therefore, the terms are sometimes referred to collectively as "quality." Integrity, objectivity, and utility are individually defined within this document.

F.8. Reproducibility

The information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. With respect to analytic results, "capable of being substantially reproduced" means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.

F.9. Transparent/Transparency

Information that has transparency is clear and well documented. For scientific information, transparency refers to the extent that underlying assumptions, methodologies, and analytical processes are made available as context.

F.10. Utility

Utility means that the information can be used for its intended purpose to its intended audience.

Lee B. Holcomb,

Chief Information Officer, Office of the Administrator.

[FR Doc. 02–13458 Filed 5–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL INSTITUTE FOR LITERACY

Notice of Closed Meeting

AGENCY: National Institute for Literacy (NIFL).

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Board (Advisory Board). This notice also describes the function of the Advisory Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (FACA). This document is intended to notify the general public of their opportunity to attend the meeting.

Date and Time: June 6, 2002 from 9 a.m. to 4:30 p.m.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, e-mail: *scoles@nifl.gov*.

SUPPLEMENTARY INFORMATION: The Advisory Board is established under the Workforce Investment Act of 1998, Title II of Pub. L. 105–220, Sec. 242, the National Institute for Literacy. The Advisory Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Advisory Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Advisory Board 's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Advisory Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Advisory Board on the award of fellowships. The National Institute for Literacy Advisory Board meeting on June 6, 2002, will focus on future and current NIFL program activities, and other relevant literacy activities and issues.

On June 6, 2002 from 1:30–2:30 p.m., the meeting will be closed to the public to discuss personnel issues of a sensitive nature relating to the internal personnel rules and practices of an agency and are likely to disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personnel privacy if conducted in open session. Such matters are protected by exemption under the Sunshine Act, 5 U.S.C. 552b(c)(2) and (6). A summary of the activities at the closed session and related matters which are informative to the public and consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Furthermore, due to the sensitive nature of this request, this meeting notice will not meet the fifteen-day requirement under FACA.

Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 a.m. to 5 p.m.

Dated: May 24, 2002.

Sharyn Abbott,

Executive Officer.

[FR Doc. 02–13582 Filed 5–29–02; 8:45 am]

BILLING CODE 6055–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Renewal Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: This notice is to announce the renewal of the Advisory Committee on Nuclear Waste (ACNW) for a period of two years.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the charter for the Advisory Committee on Nuclear Waste for the two year period commencing on May 23, 2002, is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the Advisory Committee on Nuclear Waste is to report to and advise the Nuclear Regulatory Commission (NRC) on nuclear waste management. The bases of ACNW reviews include 10 CFR parts 20, 40, 50, 60, 61, 63, 70, 71 and 72, and other applicable regulations and legislative mandates. In performing its work, the Committee will examine and report on those areas of concern referred to it by the Commission and may undertake studies and activities on its own initiative, as appropriate. Emphasis will be on protecting the public health and safety in the disposal of nuclear waste. The Committee will undertake studies and activities related to nuclear waste management such as transportation, storage and disposal facilities, the effects of low levels of ionizing radiation, decommissioning, materials safety, application of risk-informed, performance-based regulations, and evaluation of licensing documents, rules and regulatory guidance. The Committee will interact with representatives of the public, NRC, ACRS, other Federal agencies, State and local agencies, Indian Tribes, and private, international and other organizations as appropriate to fulfill its responsibilities.

FOR FURTHER INFORMATION PLEASE CONTACT: John T. Larkins, Executive Director of the Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7360.

Dated: May 23, 2002.

Andrew L. Bates,

Federal Advisory Committee Management Officer.

[FR Doc. 02–13467 filed 5–29–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. (as shown in Attachment 1), License Nos. (as shown in Attachment 1), EA–02–077]

In the Matter of All Decommissioning Power Reactor Licensees; Order Modifying Licenses (Effective Immediately)

I

The licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing possession of nuclear power plants in accordance with the Atomic Energy Act of 1954 and 10 CFR part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 CFR part 73, appendix C. Specific safeguards requirements are contained in 10 CFR 73.55.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent, interim measures to address the current threat environment in a consistent manner throughout the nuclear reactor community. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 [1] of this Order, on all decommissioning power reactor licensees. These interim requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

[1] Attachment 2 contains SAFEGUARDS information and will not be released to the public.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued advisories or on their own. It is also recognized that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safety.

Although the additional security measures implemented by the licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that the security measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

III.

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 50 and 73, *It is hereby ordered,* effective immediately, that all licenses identified in attachment 1 to this order are modified as follows:

A. All Licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The Licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by November 22, 2002.

B. 1. All Licensees shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensees' justification for seeking relief from or variation of any specific requirement.

2. Any Licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact safety of the facility must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. 1. All Licensees shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 2.

2. All Licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding the provisions of 10 CFR 50.54(p), all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

Licensee responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 50.4. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific plant; and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations or error.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 23rd day of May 2002.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Attachment 1—Decommissioning Nuclear Power Plants With Spent Fuel in the Spent Fuel Pool Senior Executive Contacts

Mr. Robert A. Fenech,
Senior Vice President, Nuclear, Fossil, and Hydro Operations,
Big Rock Point Nuclear Plant,
[Docket No. 50–155]
License No. DPR–6,
Consumers Energy Company,
212 West Michigan Avenue,
Jackson, MI 49201.

Mr. K. J. Heider,
Vice President—Operations and Decommissioning,
Haddam Neck Plant,
Connecticut Yankee Atomic Power Co.,
[Docket No. 50–213]
License No. DPR–61,
362 Injun Hollow Road,
East Hampton, CT 06424–3099.

Mr. Gregory Rueger,
Senior Vice President Generation and Chief Nuclear Officer,
Humboldt Bay Power Plant Unit III,
Pacific Gas and Electric Co.,
[Docket No. 50–133]
License No. DPR–7,
Pacific Gas and Electric Company,
77 Beale Street, 32nd Floor,
San Francisco, California 94105.

Mr. Michael Kansler,
Chief Nuclear Officer,
Indian Point Nuclear Generating Unit 1,
[Docket No. 50–003]
License No. DPR–5,
Entergy Nuclear Operations, Inc.,
440 Hamilton Avenue, Suite 12 A,
White Plains, NY 10601.

Mr. William L. Berg,
President & CEO,
La Crosse Boiling Water Reactor,
[Docket No. 50–409]
License No. DPR–45,
Dairy Land Power Cooperative,
3200 East Avenue South,
La Crosse, WI 54601.

Mr. Michael J. Meisner,
Chief Nuclear Officer,
Maine Yankee Atomic Power Station,
[Docket No. 50–309]
License No. DPR–36,
Maine Yankee Atomic Power Company,
321 Old Ferry Road,
Wiscasset, Maine 04578–4922.

Mr. William R. Matthews,
Vice President & Senior Nuclear Executive—Millstone,
Millstone Power Station—Unit 1,
[Docket No. 50–245]
License No. DPR–21,
Dominion Nuclear Connecticut, Inc.,
Rope Ferry Road,
Waterford, CT 06385.

Mr. Steve Redeker,
Manager, Plant Closure & Decommissioning,
Rancho Seco,
[Docket No. 50–312]
License No. DPR–54,
Sacramento Municipal Utility District,
14440 Twin Cities Road,
Herald, CA 95638.

Mr. Harold B. Ray,
Executive Vice President,
San Onofre Nuclear Generating Station, Unit 1,
[Docket No. 50–206]
License No. DPR–13,
Southern California Edison,
8631 Rush Street,
Rosemead, CA 91770.

Mr. Stephen M. Quennoz,
Vice President Power Supply/Generation,
Trojan Nuclear Plant,
[Docket No. 50–344]
License No. NPF–1,
Portland General Electric Company,
121 South West Salmon Street,
Portland, OR 97204.

Mr. Russell A. Mellor,
President,
Yankee Nuclear Power Station,
[Docket No. 50–29]
License No. DPR–3,
Yankee Atomic Electric Company,
19 Midstate Drive, Suite 200,
Auburn, MA 01501.

Mr. John L. Skolds,
President and Chief Nuclear Officer,
Zion Nuclear Power Station, Units 1 and 2,
[Docket Nos. 50–295 & 50–304]
License Nos. DPR–39 & DPR–48,
Exelon Nuclear,
Exelon Generation Company, LLC,
4300 Winfield Road,
Warrenville, IL 60555.

[FR Doc. 02–13469 Filed 5–29–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27531]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

May 24, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 18, 2002, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 18, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Progress Energy, Inc. et al. (70–10035)

Progress Energy, Inc. ("Progress Energy"), a registered holding company, Carolina Power & Light Company ("CP&L"), its wholly-owned utility subsidiary and Eastern North Carolina Natural Gas Company ("Eastern NCNG"), a newly formed company (collectively, "Applicants"), all of 410 South Wilmington Street, Raleigh, NC 27602, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 12(f) and 13(b) of the Act and rules 45, 54, 87(b), 90 and 91 under the Act.

Progress Energy is registered holding company that owns, directly or indirectly, all of the issued and outstanding common stock of two electric utility subsidiary companies, CP&L and Florida Power Corporation. Florida Power Corporation generates, transmits, purchases and sells electricity in parts of Florida. Progress Energy also owns all of the issued and outstanding common stock of North Carolina Natural Gas Corporation, a gas utility company which serves customers primarily in eastern and south central North Carolina.[1] CP&L is an electric utility company which generates, transmits, purchases and sells electricity in parts of North Carolina and South Carolina. The territory served by CP&L includes a substantial portion of the coastal plain of North Carolina extending to the Atlantic coast between the Pamlico River and the South Carolina border.

[1] *See CP&L Energy, Inc., et al.*, Holding Co. Act Release No. 27284 (Nov. 27, 2000) ("Merger Order").

Progress Energy owns 50% of the issued and outstanding common stock of Eastern NCNG. The remaining 50% is owned by the Albermarle Pamlico Economic Development Corporation ("APEC"), a North Carolina nonprofit corporation created to encourage infrastructure and economic development in eastern North Carolina. Eastern NCNG is currently engaged in developing and constructing a "greenfield" natural gas transmission and distribution system in eastern North Carolina. Eastern NCNG is a newly-formed company that has been granted a certificate of convenience and necessity by the North Carolina Utilities Commission ("NCUC") to provide natural gas service in 14 counties in eastern North Carolina that are not now being served with natural gas.[2] Eastern NCNG will become a "gas utility company" within the meaning of section 2(a)(4) of the Act at such time as it commences deliveries of natural gas.

The transmission and distribution system owned by Eastern NCNG is being designed and constructed and will be operated by CP&L. Gas supply commodity purchases for Eastern NCNG will be arranged and contracted in the gas market by CP&L's Energy Trading Department. Upstream transportation capacity and any long-term supply arrangements will be arranged by CP&L's Term Marketing Department.

Generally, Applicants request authorization for: (1) CP&L to provide intra-system services to Eastern NCNG; (2) Progress Energy to acquire and retain stock of Eastern NCNG as an additional public utility subsidiary;[3] and (3) Progress Energy to provide inter-company loans to Eastern NCNG as more specifically described below.

Specifically, Applicants request authorization for CP&L to provide services to Eastern NCNG under a Construction, Operation and Maintenance Agreement ("Construction Agreement"), under which CP&L would be responsible for the design, engineering and construction of the transmission and distribution facilities to be owned by Eastern NCNG. CP&L would also provide or cause to be provided both day-to-day operating and maintenance services associated with operation of the pipeline facilities and administrative liaison and related services associated with the conduct of its business. Services to be provided by CP&L to Eastern NCNG under the Construction Agreement would be charged at cost in accordance with rules 90 and 91 under the Act and in accordance with the form of service agreement approved by the Commission as part of the Merger Order.

Eastern NCNG is obligated to reimburse CP&L for all costs and expenses that CP&L incurs in constructing and operating the Eastern NCNG gas system. All administrative and general expenses of CP&L would be charged as 3.1% of direct labor expenses under the Construction Agreement. It is estimated that the total cost of constructing the Eastern NCNG natural gas system will be approximately $210.2 million and that when the completed system is fully operational, operating and maintenance expenses (not including the cost of natural gas) will be approximately $3.2 million annually.

Progress Energy has committed to fund 100% of the economic portion of the transmission and distribution facilities of Eastern NCNG (i.e., the portion not funded by the state of North Carolina under a state bond package). Progress Energy proposes to provide the funding for construction of the economic portion of the project primarily through the purchase by Progress Energy of 500 shares of common stock of Eastern NCNG at a price $1.00 per share and through the purchase of 500 shares of Series A Preferred Stock of Eastern NCNG at a price of $44,200.00 per share in cash. The Articles of Incorporation of Eastern NCNG provide that the dividend of the Series A Preferred Stock shall be equal to 8.688% per year. Progress Energy requests authorization to acquire and retain such common stock and preferred stock of Eastern NCNG. Progress Energy's equity investment would be made on a phase by phase basis after the state bond funds have been exhausted. Progress Energy is obligated to invest a total of $7.676 million in the Series A Preferred Stock of Eastern NCNG in 2002. Under the original projections filed with the NCUC, Progress Energy's equity investment would be fully funded in year sixteen.

Additional funding for the construction of the Eastern NCNG transmission and distribution system, if needed, may be provided through unsecured loans from its shareholders, including Progress Energy. Progress Energy and Eastern NCNG request authorization for Progress Energy to make loans to Eastern NCNG from time to time through September 30, 2003 with the total principal amount outstanding at any time not to exceed $30 million. The loans would be made under the terms of a 364-Day Revolving Credit Facility ("Credit Facility") dated June 1, 2001. Interest on any loans by Progress Energy under the Credit Facility would equal the then-current thirty day London Interbank Offered Rate plus 0.30%.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13621 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–M

[2] The 14 counties are Dare, Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Washington, Hyde, Tyrrell, Pamlico, Jones, Carteret and Pender.

[3] As indicated in the Merger Order, Eastern NCNG was originally formed as a limited liability company, with CP&L holding a 50% membership interest. Since the merger, Eastern NCNG was converted into a stock corporation and CP&L's 50% interest was transferred to Progress Energy.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45975; File No. SR–Amex–2002–31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Requesting Permanent Approval of Pilot Program Eliminating Position and Exercise Limits for XMI and XII Index Options and Related Flex Options

May 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 12, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex seeks permanent approval of the pilot program that provides for the elimination of position and exercise limits for the Major Market ("XMI") and Institutional ("XII") broad-based index options, as well as FLEX Options on these indexes. On January 3, 2002, the Commission granted a six-month extension of the pilot program until July 3, 2002.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45234 (January 3, 2002), 67 FR 1377 (January 10, 2002).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 1, 1999, the Commission approved the elimination of position and exercise limits for the XMI and XII index options, as well as FLEX options on these indexes on a two-year basis (the "Pilot Program").[4] The Pilot Program originally ended on February 1, 2001, with extensions for an additional six-month period approved on July 3, 2001[5] and January 3, 2002,[6] respectively. The purpose of this proposed rule change is to request approval of the Pilot Program on a permanent basis.

The Original Approval Order required the Exchange to submit a report to the Commission regarding the status of the Pilot Program so that the Commission could use this information to evaluate any effects of the program.[7] The Exchange submitted the required report to the Commission on May 22, 2001 in connection with the first six-month extension of the Pilot Program (Amex File No. 2001–31). The report indicated that from February 1, 1999 through March 30, 2001, no customer and/or firm accounts reached a level of 100,000 or more options contracts in XMI or XII options. The Amex during this review period did not discover any instances where an account maintained an unusually large unhedged position. In addition, during the period from April 2, 2001 through February 28, 2002, the Amex did not experience accounts establishing positions in excess of the standard limit applicable to each index at the time the Pilot Program was approved.[8] Accordingly, the Amex seeks Commission approval to eliminate position and exercise limits for XMI and XII options, as well as related FLEX options, on a permanent basis based on the Amex's experience administering the Pilot Program.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5)[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[4] *See* Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999) ("Original Approval Order").

[5] *See* Securities Exchange Act Release No. 44507 (July 3, 2001), 66 FR 36348 (July 11, 2001).

[6] *See* Securities Exchange Act Release No. 45234 (January 3, 2002), 67 FR 1377 (January 10, 2002).

[7] In the Original Approval Order, the Commission stated:

Furthermore, three months prior to the end of the pilot program, Amex will provide the Commission with a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program. The Commission expects that Amex will take prompt action, including timely communications with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.

Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999).

[8] Telephone call between Jeffrey P. Burns, Assistant General Counsel, Amex, and Susie Cho, Special Counsel, Division of Market Regulation, Commission, May 21, 2002. At the time the Commission approved the Pilot Program, the position limits for XMI and XII were 34,000 and 200,000, respectively.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–Amex–2002–31 and should be submitted by June 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Secretary.

[FR Doc. 02–13480 Filed 5–29–02; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45972; File No. SR–Amex–2002–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Amendment No. 3 to a Proposed Rule Change by the American Stock Exchange LLC Relating to Specialist Unit Fees

May 21, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on February 7, 2002, the American Stock Exchange LLC ("Exchange" or "Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On March 13, 2002, the Amex submitted Amendment No. 1 to the proposed rule change.[3] On March 18, 2002, the Amex submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended by Amendment Nos. 1 and 2, was published in the **Federal Register** on April 17, 2002.[5] The Commission received one comment on the proposed rule change.[6] On May 16, 2002, the Amex submitted Amendment No. 3 to the proposed rule change.[7] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is proposing to modify its Member Fee Schedule to pass through to Amex specialist units any fee paid by the Exchange to a third party in connection with the listing and trading of a security allocated to such specialist unit.

The text of the proposed rule change, as amended, is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In connection with the listing and trading of certain securities on the Exchange, the Exchange may be required to pay fees to third parties as a condition to listing. For example, the Exchange may pay license fees to index providers to list index options or exchange-traded funds based on a stock index. The Exchange may also pay other types of fees to third parties in connection with a particular listing.

The Exchange proposes to pass such fees through to the Amex specialist unit allocated a security for which the Exchange pays such fees. This fee, which would be included in the Amex Member Fees Schedule under "Membership Fees," would be applicable to any securities traded on the Exchange for which the Exchange pays a fee in connection with Amex listing or trading, including equities, options, structured products, exchange-traded funds and Trust Issued Receipts.

The Exchange currently imposes license fees on a per transaction basis applicable to specialists and registered options traders in connection with trading of options on the Nasdaq 100 Index Tracking Stock (symbol: QQQ), Nasdaq 100 Index (symbol: NDX), Mini NDX (symbol: MNX), and options on S&P 100 iShares (symbol: OEF). These fees were filed with the Commission in SR–Amex–2001–101.[8] The Exchange represents that it will not pass through fees that the Exchange pays to third parties to the specialist unit, if the Exchange imposes a license fee on a per transaction basis with respect to the allocated security, (*e.g.*, the Options Licensing Fee imposed under the Options Fee Schedule, as described in SR–Amex–2001–101).

The Exchange represents that any fee passed through to the specialist unit pursuant to this filing will reflect only actual costs incurred by the Exchange in connection with Exchange listing or trading of the allocated security. Such fee could be imposed in connection with any security traded on the Exchange, whether a listed security or a security traded pursuant to unlisted trading privileges. The proposed fee is not intended to cover any form of payment for order flow by the Exchange (in the event the Exchange determines to engage in such payment), and any imposition of fees on members or member organizations to permit the Exchange to recoup such payment would be filed separately with the Commission pursuant to Rule 19b–4.[9]

2. Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6 of the Act,[10] in general, and with Section 6(b)(4) of the Act,[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange believes that the proposed fees are equitable because they would apply to all specialists equally for all third party payments, operate on a cost recovery basis, and could not be reduced or waived by the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated March 12, 2002 ("Amendment No. 1").

[4] *See* letter from Claire McGrath, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 14, 2002 ("Amendment No. 2").

[5] *See* Exchange Act Release No. 45727 (April 10, 2002), 67 FR 18962. Because as described below, the Form 19b–4 submitted in Amendment No. 2 was not complete, the proposed rule change was not considered filed and thus not effective on March 18, 2002.

[6] *See* letter from Brandon Becker, Wilmer, Cutler & Pickering, to Jonathan G. Katz, Secretary, Commission, dated May 2, 2002 ("May 2 Letter"). The Commission notes that the Amex responded to the issues raised in the comment letter in Amendment No. 3 to the proposed rule change. *See infra* Section II.C.

[7] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated May 16, 2002 ("Amendment No. 3"). In Amendment No. 3, the Amex responded to issues raised by a commenter identified in Item II.C. below. *See also id.* The Amex also elaborated in greater detail in its statement on the burden on competition in Item II.B. below, and modified its statutory basis for the proposed rule change as described in Item II.A.2. below. For purposes of determining the effective date and calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers May 16, 2002 to be the effective date of the proposed rule change, the date the Amex filed Amendment No. 3. 15 U.S.C. 78s(b)(3)(C). *See also* note 5 *supra*.

[8] *See* Securities Exchange Act Release No. 45163 (December 18, 2001), 66 FR 66958 (December 27, 2001).

[9] 17 CFR 240.19b–4.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed Specialist Fee would impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed Specialist Fee would apply to all specialists in all securities traded on the Amex for which the Amex is required to pay a fee to a third party in connection with Amex listing or trading. The Exchange represents that the proposed fee would be for cost recovery only and the Exchange could not waive or reduce the fee.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Susquehanna Investment Group ("Susquehanna") submitted a letter to the Exchange, dated March 1, 2002 regarding Susquehanna's understanding that Amex would propose to file either a new licensing fee or authorize imposition of such a fee in the future. [12] Susquehanna stated that the Amex sought to impose a fee of approximately $5 million in connection with trading of the QQQs, for which Susquehanna is the Amex specialist. Susquehanna stated that a proposal to impose a license fee only on Susquehanna is inconsistent with Sections 6(b)(4), 6(b)(5), and 6(b)(8) of the Act; [13] that such a proposal, to the extent it is an indirect attempt to reallocate the QQQs to another specialist, is inconsistent with Amex Rule 27(f); and that the proposed fee had not been submitted to the Amex Committee Floor Members for review under Section 9.19 of the Amex/NASD Transaction Agreement, which was implemented at the time of the merger of the Amex and the NASD in 1998. Susquehanna also stated that, even if the fee were allocated between the specialist and the crowd, the fee "would make no economic sense" under current competitive market conditions. The Amex responded in writing to the March 1 Letter on April 5, 2002, stating that the Amex Board discussed the issues raised in the March 1 Letter, and expressed its view that Amex management should continue to proceed on its current course.

An additional letter, dated May 2, 2002, was submitted to the Commission on behalf of Susquehanna by Wilmer, Cutler & Pickering [14] regarding SR–Amex–2002–08. The May 2 Letter stated that the Amex's rule change should be abrogated and noticed for comment under Section 19(b)(2) of the Act;[15] that the Amex's filing did not discuss comments made in the March 1 Letter as required by Rule 19b–4 [16] and Form 19b–4 thereunder and did not discuss, in connection with the Statement on Burden on Competition in SR–Amex–2002–08, the March 1 Letter's statement that a licensing fee imposed on Susquehanna would be discriminatory and anti-competitive; and that the filing violates Sections 6(b)(4), 6(b)(5) and 6(b)(8) of the Act [17] and Amex Rule 27(f). On May 14, 2002, Susquehanna submitted a second letter to the Exchange, which the Amex believes is substantially the same as the March 1 Letter, and attached a copy of the May 2 Letter.[18]

The Amex strongly believes that the proposed Specialist Fee falls squarely within existing self-regulatory organization ("SRO") precedent applicable to member fee filings made under Section 19(b)(3)(A) of the Act.[19] The Amex believes that if the Commission were to accept Susquehanna's proposition, SROs would be required to delay imposing revised fees filed under Section 19(b)(3)(A) of the Act [20] based solely on objections by affected members. The Amex believes that this could have a significant adverse effect on an SRO's ability to conduct its business and carry out its responsibilities under the Act, including member firm surveillance, implementation of trading facilities, or development of new products and services.

The Amex believes that the Commission has provided SROs with broad discretion to impose member fees immediately upon filing, including the following recent examples:

1. Marketing and licensing fees imposed on Chicago Stock Exchange specialists, including licensing fees for ETF products; [21]

2. Options Clearing Corporation license fee imposed on clearing members for use of risk management software package; [22]

3. New York Stock Exchange ("NYSE") Regulatory Fee, under which specialists pay a total of $16 million per year to be allocated among specialist firms based on the number of memberships affiliated with each specialist firm; [23]

4. NYSE specialist allocation fee, with a maximum of $250,000 per allocation; [24] and

5. Boston Stock Exchange ("BSE") pass through to specialists of all third party fees billed to BSE on behalf of specialists trading Nasdaq securities.[25]

The Exchange believes the proposed fee change is consistent with Sections 6(b)(4), 6(b)(5), and 6(b)(8) of the Act,[26] as discussed below.

1. Section 6(b)(8) of the Act.[27] The Amex believes that the proposed Specialist Fee would impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Amex represents that the proposed Specialist Fee would apply to all specialists in all securities traded on the Amex for which the Amex is required to pay a fee to a third party in connection with Amex listing or trading. The Amex asserts that the proposed fee would be for cost recovery only and the Exchange could not waive or reduce the fee. The Exchange understands that the Nasdaq Stock Market imposes a license fee on other exchanges that trade the QQQ pursuant to unlisted trading privileges, and such fee is being, or can be, passed on to the specialist on at least one regional exchange. The May 2 Letter states that increased costs to specialists "hinders their ability to offer a competitive spread" and is, therefore, inconsistent with Section 6(b)(8) of the Act.[28] The Exchange's rules governing specialists require the specialist to make fair and orderly markets under prevailing market conditions. The Amex believes that the existence of, or the level of, particular Exchange fees should be irrelevant to any consideration of the

[12] *See* letter from Jeffrey Yass, Managing Director, Susquehanna, to Salvatore F. Sodano, Chairman and Chief Executive Officer, Amex, dated March 1, 2002 ("March 1 Letter").

[13] 15 U.S.C. 78f(b)(4), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(8).

[14] *See* May 2 Letter, note 6 *supra*.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 240.19b–4.

[17] 15 U.S.C. 78f(b)(4), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(8).

[18] *See* letter from Jeffrey Yass, Managing Director, Susquehanna, to Salvatore F. Sodano, Chairman and Chief Executive Officer, Amex, dated May 14, 2002.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 45282 (January 15, 2002), 67 FR 3517 (January 24, 2002) (SR–CHX–2001–30).

[22] *See* Securities Exchange Act Release No. 45028 (November 6, 2001), 66 FR 57141 (November 14, 2001) (SR–OCC–2001–13).

[23] *See* Securities Exchange Act Release No. 43726 (December 14, 2000), 65 FR 82428 (December 28, 2000) (SR–NYSE–2000–57).

[24] *See* Securities Exchange Act Release No. 43700 (December 11, 2000), 65 FR 79147 (December 18, 2000) (SR–NYSE–2000–48).

[25] *See* Securities Exchange Act Release No. 44971 (October 23, 2001), 66 FR 54557 (October 29, 2001) (SR–BSE–2001–06).

[26] 15 U.S.C. 78f(b)(4), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(8).

[27] 15 U.S.C. 78f(b)(8).

[28] *Id.*

appropriateness of the specialist's quoted market.

2. Section 6(b)(4) of the Act.[29] The Amex believes that the proposed Specialist Fee does not violate Section 6(b)(4) of the Act[30] requirements regarding equitable allocation of dues and other charges. The Amex represents that the proposed fees would be equitable because they would apply to all specialists equally for all third party payments, operate on a cost recovery basis, and could not be reduced or waived by the Exchange. The Amex believes that the Commission has not historically involved itself with the level of fees set by an SRO for its members as long as they are equitably applied.

3. Section 6(b)(5) of the Act.[31] The Amex believes that the proposed Specialist Fee does not violate Section 6(b)(5) of the Act[32] requirements that an SRO's rules avoid unfair discrimination among dealers and promote just and equitable principles of trade. The Amex believes that the proposed Specialist Fee would not be unfairly discriminatory against Susquehanna as the QQQ specialist. As specialist, Susquehanna has the principal Exchange obligations with respect to QQQ under Amex rules, and also has the potentially largest financial reward of any member group. The Amex believes that the Act does not require that all exchange fees, or any fee in particular, be allocated among all member groups, or to all members permitted to trade a product. The Exchange, in exercise of its appropriate business discretion consistent with its SRO responsibilities under the Act, has determined that the specialist unit allocated a security should assume the burden of third party fees required to be paid by the Exchange to list a particular product.

4. Amex Rule 27(f). The Amex believes that allegations of indirect reallocation are wholly unfounded. In the event of reallocation proceedings for QQQ, or any other security, the Exchange would follow the requirements of Amex Rule 27(f).

5. The Amex/NASD Transaction Agreement. The March 1 letter also asserts that Amex Committee Floor Members are required to review the fee under Section 9.19 of the Amex/NASD Transaction Agreement. The Amex represents that the proposed Specialist Fee would not be the type of fee to which Section 9.19 applies. The Exchange also notes that the Amex in recent years has increased a number of member fees to better align Exchange fees with the actual cost of delivering services and reduce Exchange subsidization of such services.[33] The Amex believes that the proposed Specialist Fee would be consistent with reduced or eliminated subsidies.

[29] 15 U.S.C. 78f(b)(4).
[30] *Id.*
[31] 15 U.S.C. 78f(b)(5).
[32] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has become effective on May 16, 2002 [34] pursuant to Section 19(b)(3)(A)(ii) of the Act [35] and subparagraph (f)(2) of Rule 19b–4 [36] thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of May 16, 2002, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[37]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2002–08 and should be submitted by June 21, 2002.

[33] *See e.g.*, Securities Exchange Act Release Nos. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002) (SR–Amex–2001–102); and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001) (SR–Amex–2001–22).
[34] *See supra* note 5.
[35] 15 U.S.C. 78s(b)(3)(A)(ii).
[36] 17 CFR 240.19b–4(f)(2).
[37] *See* 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,
Deputy Secretary.

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[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45974; File No. SR–Amex–2001–65]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 3 and 4 to the Proposed Rule Change Relating to the Implementation of Quick Trade

May 22, 2002.

I. Introduction

On August 22, 2001, the American Stock Exchange LLC ("Amex") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement Quick Trade, an enhancement to the Amex Order File ("AOF") and Amex Options Display Book ("AODB").[3] On October 19, 2001 and December 4, 2001, respectively, the Amex filed Amendment Nos. 1 and 2 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 31, 2001.[4] The Commission received no comments on the proposal. On April 23, 2002 and May 7, 2002, respectively, the Amex filed Amendment Nos. 3 and 4 to the proposed rule change.[5] This order approves the proposed rule change, accelerates approval of Amendment Nos. 3 and 4, and solicits comments from interested persons on those amendments.

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] The AODB is the Exchange's specialist's book.
[4] *See* Securities Exchange Act Release No. 45180 (December 20, 2001), 66 FR 67585 ("Notice").
[5] *See* Letters from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 25, 2002 and May 6, 2002, respectively. In Amendment No. 3, the Amex added proposed rule text to codify the ratios that would be used by Quick Trade in allocating orders among the specialist and registered options traders; eliminated "Sweep of the Book" as one of the proposed functions for which Quick Trade would be used; and elaborated on the manner in which the opening price for an options series is established. In Amendment No. 4, the Amex amended the proposed rule text submitted in Amendment No. 3 to clarify that Quick Trade would allocate orders on a rotating basis in lots of ten contracts or less. *See* more at *infra* note and accompanying text.

II. Description of the Proposal

Currently, for orders executed through the AODB in which some or all of the contra-parties are registered options traders, the specialist or the specialist's clerk must manually allocate the contracts to those registered options traders participating in the trade. The Amex states that, for option classes with large trading crowds, the procedure can be very time consuming and can delay the processing of trades.

The Amex thus proposes to implement a feature, to be known as "Quick Trade," that would automate the process of allocating trades for the three situations described below, and thereby obviate the need for the specialist or the specialist's clerk to allocate the trades manually in those situations.

Quick Trade would allocate trades by means of a rotational wheel, as further detailed below. Registered options traders would be able to log on to the Quick Trade wheel through the AOF, and the specialist would be able to activate the wheel at the opening of trading and throughout the day. While registered options traders would not be required to participate in Quick Trade, they would be encouraged to sign on and remain on the Quick Trade wheel throughout the trading day. Each registered option trader signed on to Quick Trade would have the ability to advise the specialist, prior to the feature's activation on any given trade, that he or she does not want to receive an allocation through Quick Trade. In this situation, and in the situation where a registered options trader wishes to participate in a given trade but is not signed on to Quick Trade, the specialist would not use Quick Trade to allocate the trade but would allocate the trade manually.[6]

The Quick Trade wheel would allocate executed orders of ten or fewer contracts among the specialist and registered options traders in accordance with the ratios set forth below. If an executed order is greater than ten contracts, Quick Trade would divide the execution into lots of ten (or fewer) and allocate a lot to each participant in the rotation. Each lot would be considered a separate trade for purposes of Quick Trade allocations.

ALLOCATION RATIO[7]

Number of traders on Quick Trade	Approximate percentage of trades allocated to the specialist	Approximate percentage trades allocated to the traders (as a group)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

[7] The ratios set forth below were described in the Notice in terms of the number contracts allocated to the specialist and traders. In Amendment No. 4, Amex proposed new rule text to codify these ratios, expressing them in terms of the percentage of trades allocated to the specialist and traders. This reflects the rotational system described above, in which orders are divided into lots of ten or fewer contracts, with the allocation wheel rotating one turn for each lot.

Quick Trade would provide automated allocation of trades for three AODB functions:

(1) Quick Openings. The Amex states that a specialist opens trading in each options series by establishing an opening price for that series based on the market orders to buy and sell and the prices of limit orders prior to the opening, and executing by pairing off all market and marketable limit orders at this price.[8] If, after all opening orders have been paired off, an imbalance exists, Quick Trade would automatically allocate the imbalance of executed contracts to the specialist and registered options traders signed on to Quick Trade in accordance with the ratios set forth above.

(2) Block Window. The Amex represents that this function enables a specialist, in situations when there are limit orders on the book at various prices, to execute such limit orders at a single price.[9] For example, assume the specialist has limit orders on the book to sell at $5.00, $5.05, $5.10, $5.15, and $5.20, and these orders represent in aggregate 50 contracts. The specialist has determined to buy all 50 contracts at $5.20. The contracts would be allocated by Quick Trade to the specialist and registered traders in accordance with the ratios set forth above.

(3) Auto-Match. According to the Exchange, the Auto-Match feature of AODB automatically matches and executes market and marketable limit orders that have bypassed the Exchange's automatic execution system ("Auto-Ex") with limit orders on the AODB. This feature is proposed to be modified to include registered options trader participation when an imbalance occurs.[10] Quick Trade would distribute the imbalance among the specialist and registered options traders. For example, assume the best bid is represented by a limit order to buy 10 contracts in an option class in which the Auto-Ex eligible size is 20 contracts. A market order of 20 contracts to sell bypasses Auto-Ex and is routed to the AODB. Ten contracts would be matched and executed with the limit order and the remaining 10 contracts would be allocated through Quick Trade to the specialists and registered options traders in accordance with the allocation ratios set forth above.

[6] As indicated above, the specialist would have the ability to determine on a trade-by-trade basis whether to use Quick Trade or to allocate the contracts manually. However, once Quick Trade was activated, it would be assumed to remain on and would be used to allocate contracts in all the functions described below, unless the specialist informed the crowd that he was turning it off. See Notice, at note 5.

[8] *See* Amendment No. 3.
[9] The Amex represents that the specialist unilaterally determines this clean-up price. Telephone conversation between Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, and Ira L. Brandriss, Special Counsel, Division, Commission, on May 16, 2002.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of Section 6 of the Act [11] and the rules and regulations thereunder.[12] The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act [13] because it will enable the Exchange to automate a process that until now has been performed manually, thus enhancing the speed and efficiency with which the allocation of trades can be effected.

The Commission further believes that it is reasonable to allocate to the specialist the percentage of trades specified in the chart above, in view of the specialist's obligations under Exchange rules. The Commission notes that the proposed entitlement would never be greater than 40 percent (except in the one case where only one registered options trader is participating

[10] *See* Securities Exchange Act Release No. 42652 (April 7, 2000), 65 FR 20235 (April 14, 2000) (notice of immediate effectiveness of proposed rule change relating to Auto-Match, in which Amex indicated that this function would be enhanced to allow the excess portion of an Auto-Ex eligible order to be allocated to the specialist and any registered options traders participating in the crowd).
[11] 15 U.S.C. 78f.
[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).
[13] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of a national securities exchange be designed to, among other things, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

in the trade). The Commission has found with respect to participation guarantees in other contexts that 40 percent is not inconsistent with statutory standards of competition and free and open markets.[14] In addition, the Commission believes that the allocation of orders among the specialist and registered options traders on a rotating basis, as described above, is consistent with the Act.

The Commission finds good cause for approving Amendment Nos. 3 and 4 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 strengthens the proposed rule change in that it would codify the proposed allocation ratios as part of the Exchange's rules.[15] The removal in Amendment No. 3 of "Sweep of the Book" as a Quick Trade function, on account of the inability of the system's technology to accommodate that function, poses no regulatory issues. Amendment No. 4 simply clarified the operation of the rotating wheel to be used by Quick Trade. The Commission believes that accelerating approval of these amendments will enable the Amex to expeditiously implement a feature that may serve to enhance the speed and efficiency of its marketplace.

Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5)[16] and 19(b)(2)[17] of the Act to accelerate approval of Amendments Nos. 3 and 4 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 3 and 4, including whether Amendment Nos. 3 and 4 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–65 and should be submitted by June 20, 2002.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[18], that the proposed rule change (File No. SR–Amex–2001–65) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13622 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–P

[14] *See, e.g.*, Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) at 11398; and 43100 (July 31, 2000), 65 FR 48778 (August 9, 2000) at notes 96–99 and accompanying text.

[15] The Commission is approving Quick Trade only with respect to its implementation for the "Quick Openings," "Block Window," and "Auto-Match" features described herein.

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45967; File No. SR–CBOE–2002–22]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to a Pilot Program To Give the Index Floor Procedure Committee the Authority To Permit Broker-Dealer Orders for Options on the QQQs to be Executed on RAES

May 20, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 26, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. CBOE submitted Amendment No. 1 to the proposed rule change on May 3, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Interpretations and Policies .01 of CBOE Rule 6.8 to give the Index Floor Procedure Committee ("IFPC"), on a six-month pilot, the authority to permit broker-dealer orders for options on Nasdaq-100 Index® Tracking Stock ("QQQ") to be executed on the Exchange's Retail Automatic Execution System ("RAES"). Below is the text of the proposed rule change. Proposed new language is italicized.

Rule 6.8

* * * * *

* * * Interpretations and Policies:

.01 [[Reserved.]] a. *Notwithstanding 6.8(c)(ii), for a six-month pilot period ending [insert date six months from approval of proposed rule change], the Index Floor Procedure Committee may determine to allow the following types of orders for options on Nasdaq-100 Index® Tracking Stock ("QQQ") to be executed on RAES:*

1. Broker-dealer orders; or

2. Broker-dealer orders that are not for the accounts of market-makers or specialists on an exchange who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to Section 7(c)(2) of the Securities Exchange Act of 1934.

b. Broker-dealer orders entered through the Exchange's order routing system will not be automatically executed against orders in the limit order book. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to a floor broker for representation in the trading crowd. Broker-dealer orders are not eligible to be placed in the limit order book pursuant to Rule 7.4.

c. If the Index Floor Procedure Committee permits broker-dealer orders to be automatically executed in the QQQ pursuant to this Interpretations and Policies .01 of Rule 6.8, then it may also permit the following with respect to such orders:

1. The maximum order size eligibility for the broker-dealer orders may be less than the applicable order size eligibility for non-broker-dealer orders.

2. Non-broker-dealer orders may be eligible for automatic execution at the NBBO pursuant to Interpretations and Policies .02 of Rule 6.8, while broker-dealer orders are not so eligible.

d. CBOE market-makers must assure that orders for their own accounts are not entered on the Exchange and represented or executed in violation of the following provisions: Interpretations and Policies .02 of Rule 6.55 and Interpretations and Policies .06 of Rule 8.9 (concurrent representation of a joint account), Rule 6.55(concurrent representation of a market-maker account), and Section 9 of the Securities Exchange Act of 1934 (wash sales).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised Exhibit 1 to conform to the requirements of the Act. *See* letter from Madge M. Hamilton, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 2, 2002 ("Amendment No. 1").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to amend CBOE Rule 6.8 by adding a new Interpretation and Policy .01, which would establish a six-month pilot program that would give the IFPC the authority to allow orders for the accounts of brokers or dealers to be executed on RAES. [4] According to the CBOE, this proposed rule change mimics the Pacific Exchange's ("PCX") Rule 6.87(a), which was approved by the Commission on November 6, 2001.[5]

The proposed rule change would permit IFPC to allow RAES access in the options on QQQ for (1) all broker-dealer orders or (2) broker-dealer orders, except for market-makers and specialists who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to Section 7(c)(2) of the Act.[6] In addition, broker-dealer orders would not be automatically executed against the limit order book, but would be rerouted to a floor broker for execution in the crowd. The broker-dealer orders could not be placed in the limit order book.

RAES currently distinguishes between customer and non-customer orders based upon the order origin information required to be provided as part of each order. Manual and electronic order tickets must specify, for each order, a valid order origin code which designates whether the order is, for example, for a "non-broker-dealer public customer" account, a "firm" account, a "market-maker" account, or a "broker-dealer" account by the designators "C", "F", "M", or "B" respectively. These designators are intended to assure that orders executed on CBOE clear into the proper margin accounts at the Options Clearing Corporation. They are also intended to assure that the orders are handled in a manner that is consistent with various CBOE rules, such as eligibility for placement in the limit order book (CBOE Rule 7.4(b)), order identification requirements (CBOE Rule 6.24), priority of bids and offers (CBOE Rule 6.45), firm quote size guarantees (CBOE Rule 8.51), and eligibility for RAES (CBOE Rule 6.8). Currently only orders with "C" designators are allowed on RAES. The proposed rule change would give the IFPC the discretion to allow orders for the QQQ with "F", "M", or "B" designators on RAES.

IFPC would also have the authority to permit the maximum order size for broker-dealer orders for the QQQs that are executed on RAES to be set at a lower level than the RAES size requirement for non-broker-dealer orders. IFPC would also be able to allow non-broker-dealer orders for the QQQs to be eligible for automatic execution at the National Best Bid or Offer ("NBBO") pursuant to Interpretations and Policies .02 of CBOE Rule 6.8, while broker-dealer orders for the QQQs that are RAES eligible would not be eligible for automatic step-up unless so authorized by IFPC. Unless automatic step-up executions on RAES are authorized by IFPC for RAES eligible broker-dealer orders, such orders would be rejected from RAES and re-routed for manual handling by a floor broker.

If CBOE market-makers and other broker-dealer accounts are permitted to enter orders on RAES, they must assure that orders for their accounts do not violate any of the following CBOE Rules: CBOE Rule 6.55 Interpretation and Policy .02 and CBOE Rule 8.9, regarding multiple representation of orders for market-maker accounts and joint accounts; CBOE Rule 6.55, which prohibits a market-maker from entering or being present in a trading crowd while a floor broker present in the trading crowd is holding an order on behalf of the market-maker's individual account or account in which the market-maker has an interest, unless the market-maker or floor broker cancels the order pursuant to Interpretation .01 of such rule; and Section 9 of the Act,[7] which prohibits wash sales. In other words, a market-maker or broker-dealer would be prohibited from "dual representation." This prohibition against "dual representation" would be violated, for example, in the following situation: A market-maker in the XYZ trading crowd enters an order in XYZ options for his or her own account with a floor broker (via telephone, electronically or in-person), and the floor broker then represents the order while the market-maker is still present in the XYZ trading crowd. A similar violation would occur if, under the proposed rule change, a market-maker in the XYZ trading crowd initiated an order in XYZ options with his or her upstairs brokerage firm and the brokerage firm then routed the order to the CBOE, where it was either automatically executed or defaulted for manual handling by a floor broker. In either case, the market-maker will have violated CBOE Rule 6.55 (even if the order is automatically executed via RAES). Likewise, if the market-maker were trading in person for a joint account in that situation, and that same market-maker initiated the order on behalf of the same joint account which order was then routed to the CBOE for execution then that market-maker would have violated CBOE Rule 6.55 and CBOE Rule 8.9 Interpretation and Policy .06, which provide a similar prohibition on concurrent representation when a market-maker is trading in a joint account. Furthermore, if a market-maker enters an order for his or her own account with a brokerage firm, and the order is routed to CBOE where it is executed against the same

[4] The Exchange represented that this proposal is consistent with the interim intermarket options linkage. Telephone conversation among Madge Hamilton, Legal Division, CBOE, Angelo Evangelou, Legal Division, CBOE, Kelly Riley, Senior Special Counsel, Division, Commission, and Jennifer Lewis, Attorney, Division, Commission, on May 10, 2002.

[5] *See* Exchange Act Release No. 45032, 66 FR 57145 (November 14, 2001). According to the CBOE, this proposed rule change has minor differences from the PCX rule to accommodate for the differences in rule numbers and the names of the automatic execution systems. In addition, PCX Rule 6.87(b)(2)(C) has not been included in CBOE's proposed rule change. Under the PCX rule, the PCX Options Floor Trading Committee may determine that when the NBBO is crossed and locked, broker-dealer orders will be re-routed for manual representation. CBOE will treat customer orders and broker-dealer orders in the same manner when the NBBO is crossed and locked.

[6] 15 U.S.C. 78g(c)(2).

[7] 15 U.S.C. 78i.

market-maker's account via RAES or as a result of an open outcry trade, there will be a possible "wash sale" rule violation regardless of whether the trade was subsequently nullified.

For competitive reasons, the CBOE believes that it is appropriate, in the limited context of options on QQQs, to give the IFPC the discretion to permit broker-dealers orders to be entered and executed on RAES.[8] The CBOE is proposing to implement this rule on a six-month pilot basis, so that it can evaluate the program and determine what changes, if any, should be made. In addition, the CBOE believes that options on the QQQs are the appropriate product to use in the pilot, given the unique nature of this product and its liquidity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general and furthers the objectives of Section 6(b)(5),[10] in particular, because it is designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest. The CBOE believes that the proposed rule change could enhance competition for the automatic execution of the orders of broker-dealers in options on the QQQs. The CBOE also believes that this pilot program will give the Exchange the ability to evaluate the appropriateness of competing for orders of the accounts of broker-dealers in this manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2002–22 and should be submitted by June 20, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.[13]

The Commission finds that the proposed rule change should allow the Exchange to improve the efficiency with which orders for the accounts of broker-dealers in options on the QQQs are currently executed. Currently, broker-dealer orders are not eligible to receive automatic execution in RAES. By providing broker-dealers with access to RAES for orders for options on QQQs, the Exchange should enhance executions in options on QQQs. Specifically, broker-dealer orders for options in QQQs that are RAES eligible should receive faster executions. By providing prompt execution for broker-dealer orders for options in QQQs, the proposal may help attract broker-dealer options orders to the Exchange, and thus help to improve the depth and liquidity of the Exchange's options market.

The Commission notes that CBOE represented that RAES has sufficient capacity to handle the processing of the potential increased order flow.[14] The Commission expects that during the six-month pilot period, the Exchange will monitor RAES in light of the additional order flow and will implement any necessary systems enhancements to accommodate any increase in volume resulting from this proposal.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Both the Philadelphia Stock Exchange[15] and PCX permit, to some extent, broker-dealer orders to be executed on their automatic execution systems. Accordingly, the Commission believes that no new issues are being raised by CBOE's proposed rule change. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 6 and 19(b) of the Act.[16]

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–CBOE–2002–22), as amended, is approved on a six-month pilot basis, until November 15, 2002, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13481 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–M

[8] This Rule gives discretion to IFPC to permit broker-dealer orders for options on QQQs to be executed on RAES by saying that IFPC "may determine to allow" these orders to be executed on RAES. Under the proposed rule change, if IFPC voted to permit broker-dealer orders that are not for the account of market makers or specialists on an exchange who are exempt from Regulation T to be executed on RAES for options on the QQQs, pursuant to CBOE Rule 6.8.01(a)(2), it could at a later time determine pursuant to CBOE Rule 6.8.01(a)(1) that all broker-dealer orders could be executed on RAES for options on the QQQs. Or, it could determine that broker-dealer orders for options on QQQs will no longer be permitted to be executed on RAES.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] The Exchange submitted a letter to the Division representing that the proposal is consistent with Section 11(a) of the Act and Rule 11a2–2(T) under the Act. *See* letter to Catherine McGuire, Chief Counsel, Division, Commission, from Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated April 25, 2002. In response to the Exchange's request, Commission staff has provided interpretive guidance to the Exchange under Section 11(a) of the Act, 15 U.S.C. 78k(a). *See* letter from Paula R. Jenson, Deputy Chief Counsel, Division, Commission, to Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated May 16, 2002.

[14] Telephone conversation between Madge Hamilton, Legal Division, CBOE and Kelly Riley, Senior Special Counsel, Division, Commission, on May 8, 2002.

[15] *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002).

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45980; File No. SR–ISE–2002–07]

Self-Regulatory Organizations; International Securities Exchange LLC; Order Granting Approval to Proposed Rule Change Relating to Mandatory System Testing

May 23, 2002.

On February 13, 2002, the International Securities Exchange LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to mandatory systems testing. Specifically, the ISE proposed a new rule, ISE Rule 419 ("Mandatory Systems Testing"), to allow the Exchange to designate certain systems tests as mandatory for specified classes of members and to discipline members that failed to engage in a mandatory test. In addition, the Exchange proposed modifications to ISE Rule 1614 ("Imposition of Fines for Minor Rule Violations") to set forth the applicable fines for a member's failure to engage in a mandatory systems test under ISE Rule 419.

The proposed rule change was published for comment in the **Federal Register** on April 17, 2002.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the Commission believes that the proposal is consistent with Section 6(b)(6) of the Act,[7] which requires the Exchange's rules to provide that its members and persons associated with its members be appropriately disciplined for violation of the provisions of the Act, the rules or regulations thereunder, or the rules of the Exchange.

The Commission believes that the rule change should improve ISE's ability to work closely with its members in testing new systems changes in a timely manner. In addition, the Commission believes that the rule change should allow the Exchange to ascertain whether its members' systems are compatible with the Exchange's systems, which should benefit ISE's members as well as investors that transact business on the Exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–ISE–2002–07) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13483 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 45726 (April 10, 2002), 67 FR 18964.

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3418]

State of Illinois

As a result of the President's major disaster declaration on May 21, 2002, I find that Alexander, Clay, Clinton, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Washington, Wayne, White and Williamson Counties in the State of Illinois constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on April 21, 2002 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 20, 2002 and for economic injury until the close of business on February 21, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bond, Clark, Crawford, Cumberland, Jersey, Lawrence, Macoupin, Montgomery, Shelby and Wabash in the State of Illinois; Gibson and Posey Counties in the State of Indiana; Ballard, Crittenden, Livingston, McCracken and Union Counties in the Commonwealth of Kentucky; and Cape Girardeau, Jefferson, Mississippi, Perry, Scott, St. Charles, St. Louis and Ste. Genevieve Counties and the Independent City of St. Louis in the State of Missouri.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury: Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341811. For economic injury the number is 9P7800 for Illinois; 9P7900 for Indiana; 9P8000 for Kentucky; and 9P8100 for Missouri.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 22, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–13456 Filed 5–29–02; 8:45 am]

BILLING CODE 8025–02–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is hereby given that Chapter S4 which covers the Office of the Deputy Commissioner, Systems, is being amended to reflect a reorganization. Notice is given that the following Subchapters are being deleted:

Subchapter S4G, The Office of Systems Design and Development
Subchapter S4J, The Office of Systems Planning and Integration
Subchapter S4K, The Office of Information Management
Subchapter S4N, The Office of Information Technology Architecture
Subchapter S4P, The Office of Systems Analysis

Notice is further given that the following Subchapters are being established:

Subchapter S4R, The Office of Disability and Supplemental Security Income
Subchapter S4S, The Office of Earnings, Enumeration and Administrative Systems
Subchapter S4V, The Office of Enterprise Support Architecture and Engineering
Subchapter S4W, The Office of Retirement and Survivors Insurance Systems

Also, Subchapter S4M, The Office of Systems Electronic Services is being amended to reflect a realignment. The Division of Client and Organizational Services Application Development (S4MB) is being abolished. The functions of this division are being distributed to two new divisions. The Division of Project Support (S4ME) is also being abolished. The functions of this division are moving to a new front office staff. The Office of Telecommunications and Systems Operations is excluded from this realignment. The new material and changes are as follows:

Section S4.00 The Office of the Deputy Commissioner, Systems—(Mission)

Replace: Mission Statement with the following:

The Office of the Deputy Commissioner, Systems (ODCS) directs the conduct of systems and operational integration and strategic planning processes, and the implementation of a comprehensive systems configuration management, data base management and data administration program. Initiates software and hardware acquisition for SSA and oversees software and hardware acquisition procedures, policies and activities. Directs the development of operational and programmatic specifications for new and modified systems, and oversees development, validation and implementation phases.

Section S4.10 The Office of the Deputy Commissioner, Systems—(Organization)

Replace: C. with the following:

C. The Immediate Office of the Deputy Commissioner, Systems (S4C).

1. The Budget Staff (S4C–1)
2. The Planning Staff (S4C–2)
3. The Systems Acquisition and Contract Management Staff (S4C–3)

Delete: E. through J.

Add: E. through I.

E. The Office of Systems Electronic Services (S4M).

F. The Office of Disability and Supplemental Security Income Systems (S4R).

G. The Office of Earnings, Enumeration and Administrative Systems (S4S).

H. The Office of Enterprise Support Architecture and Engineering (S4V).

I. The Office of Retirement and Survivors Insurance Systems (S4W).

Section S4.20 The Office of the Deputy Commissioner, Systems—(Functions)

Replace: C. with the following:

C. The Immediate Office of the Deputy Commissioner, Systems provides the Deputy Commissioner with management support on the full range of his/her responsibilities to include budget, planning, systems acquisition, audit liaison, and recruitment, administrative, and senior technical support.

1. The Budget Staff (S4C–1) develops the Information Technology Systems Budget for Systems, prepares the detailed budget submission and develops monitoring and tracking systems.

2. The Planning Staff (S4C–2) directs and conducts comprehensive integration and systems planning processes and is responsible for long-range planning and analyses to define new and improved systems processes in support of Agency requirements and maintains a comprehensive, updated and integrated set of system requirement specifications.

3. The Systems Acquisition and Contract Management Staff (S4C–3) is responsible for the technical and business review of Information Technology acquisitions and for the management of major Information Technology support service contracts for the Deputy Commissioner for Systems.

Delete: E. through J.

Add: E. through I.

E. The Office of Systems Electronic Services (OSES) (S4M) directs the development of the SSA-wide mission critical software applications that support the Agency's Electronic Service Delivery (ESD) initiatives. It performs long range planning and analysis, and the design, development, implementation and maintenance of eGovernment solutions in support of SSA's social insurance and income maintenance programs. These applications will provide access to SSA services over such service delivery channels as the Internet, Extranet, 800# and future direct service data collection channels. It provides a means for the public to have direct access to selected SSA services. It directs the coordination of general systems requirements definition among key SSA stakeholders, and representatives of the user community. It maintains a comprehensive software engineering program that provides tools, and a software infrastructure in support of SSA's eGovernment development goals. It defines the agency standards for Internet software development. It conducts software validation and testing for all Internet software solutions required to run on, or extract data from, any of SSA's host processor's or its mission critical systems and creates the necessary ESD management information to satisfy SSA's global management information requirements.

F. The Office of Disability & Supplemental Security Income Systems (ODSSIS) (S4R) directs, develops and coordinates information technology requirements, application programs and management information systems for new and modified systems in direct support of the SSI, Disability and Representative (Rep) Payee programs. ODSSIS is responsible for most phases in the systems development life cycle. These responsibilities include determining automation solutions for user needs, developing software systems specifications, analyzing existing computer applications, preparing recommendations (including costs and benefits of alternatives), software design and development, testing and validating systems, implementing security standards, documenting systems, accepting systems on behalf of SSA's user community and conducting post-installation evaluation. ODSSIS is responsible for long-range planning and analyses to define new and improved systems processes for ODSSIS in support of Agency needs and maintains a comprehensive, updated and integrated set of system requirement specifications and software programs. ODSSIS implements systems required by new legislation, regulations and SSA policy directives. Based on input from users, ODSSIS translates organizational information requirements and priorities into plans and, develops and maintains systems plans. ODSSIS validates computer programs that are part of SSA's large, integrated, programmatic systems against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It develops procedures and instructions to support user needs in effective implementation of all systems.

G. The Office of Earnings, Enumeration and Administrative Systems (OEEAS) (S4S) designs, develops, and maintains SSA's earnings, enumeration and administrative systems. Responsibilities include the development of functional requirements for new systems and modifications to existing systems. The office evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure that user needs are accurately captured and defined. The office develops automated solutions, including the procurement of commercial software products. It tests and validates software to assure that user requirements have been met, and conducts post-implementation reviews of new systems. The broad systems areas for which OEEAS is responsible include: enumeration (SSN) and verification, earnings establishment and employer data, integrity review and audit, work measurement, financial processing and accounting, human resource and payroll, a variety of workload control and tracking applications, and data exchanges with external entities.

H. The Office of Enterprise Support, Architecture and Engineering (OESAE) (S4V) identifies the strategic information technology resources needed to support SSA business processes and operations and the transition processes for researching, demonstrating and implementing new technologies in response to the Agency's strategic vision. The office develops policies and procedures to implement the Section 508 legislation Agency-wide. It incorporates user-centered design principles and techniques, including usability and accessibility testing, as an integral part of the systems development life cycle to ensure that the requirements of SSA's customers and users are being met. It directs the design, development and maintenance of SSA's information technology architecture program and directs SSA's data base integration activities to improve the administration of SSA's Programmatic and Management Information/Administrative data bases and to implement modern data base management systems technology. The office directs a comprehensive information technology architecture program to modernize the Agency's infrastructure and establishes enterprise policies for the management of all hardware and software. It develops and oversees the implementation of legislative initiatives, standards, methods and procedures for software planning, requirements, design, development and validation. OESAE plans and directs multi-platform software development facilities to support applications development and validation personnel. The office designs, develops, implements and maintains automated test methods, test data systems and test utilities for systems-level functional and user acceptance testing of programmatic, administrative and management information systems. It provides support for project management and control and resource management. OESAE develops the requirements for and performs security, functional security, and access control validations to ensure that the requirements have been properly integrated with SSA's programmatic and administrative systems. The office plans for, acquires and administers technical training for systems and non-systems personnel.

I. The Office of Retirement and Survivors Insurance Systems (ORSIS) (S4W) is responsible for programmatic and management information systems which support the Nation's Retirement and Survivors Insurance program and Medicare enrollment, including initial claims, post-entitlement, payments, audit, integrity review, Treasury operations and notices. ORSIS designs, develops, coordinates and implements new or redesigned software to meet SSA's automation needs in the broad area of title II programmatic processes for such areas as earnings, eligibility/entitlement, pay/computations and debt management. The Office is responsible for long-range planning and analysis to modify existing systems and define new systems for ORSIS in support of the Agency's mission and operational and management information needs. It evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops requirements and procedures to implement required changes. ORSIS is responsible for both programmatic and management information applications through each stage of the systems lifecycle, including: determining automation solutions for user needs; developing software specifications; designing and developing software programs; testing and validating systems against user-defined requirements; conducting post-implementation reviews; implementing security standards; and maintaining a comprehensive, updated and integrated set of systems requirements, specifications and software documentation. Procedures and instructions are developed to support users in effectively implementing all systems.

Delete Subchapters S4E through S4P.

Add: Subchapters S4M, S4R, S4S, S4V and S4W:

Subchapter S4M

Office of Systems Electronic Services

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S4M.00 Mission
S4M.10 Organization
S4M.20 Functions

Section S4M.00 The Office of Systems Electronic Services—(Mission)

The Office of Systems Electronic Services (OSES) directs the development of the SSA-wide mission critical software applications that support the Agency's Electronic Service Delivery (ESD) initiatives. It performs long range planning and analysis, and the design, development, implementation and maintenance of eGovernment solutions in support of SSA's social insurance and income maintenance programs. These applications will provide access to SSA services over such service delivery channels as the Internet, Extranet, 800# and future direct service data collection channels. It provides a means for the public to have direct access to selected SSA services. It directs the coordination of general systems requirements definition among key SSA stakeholders, and representatives of the user community. It maintains a comprehensive software engineering program that provides tools, and a software infrastructure in support of SSA's eGovernment development goals. It defines the Agency standards for Internet software development. It conducts software validation and testing for all Internet software solutions required to run on, or extract data from, any of SSA's host processor's or its

mission critical systems and creates the necessary ESD management information to satisfy SSA's global management information requirements.

Section S4M.10 The Office of Systems Electronic Services— (Organization)

The Office of Systems Electronic Services (S4M), under the leadership of the Associate Commissioner for Systems Electronic Services, includes:

A. The Associate Commissioner for Systems Electronic Services (S4M).

B. The Deputy Associate Commissioner for Systems Electronic Services (S4M).

C. The Immediate Office of the Associate Commissioner for Systems Electronic Services (S4M).

1. The Project Support Staff (S4M–1)

D. The Division of Architecture and Support Software Development (S4MA).

E. The Division of Quality, Testing and Validation (S4MC).

F. The Division of Client Services Application Development (S4MG).

G. The Division of Organizational Services Application Development (S4MH).

Section S4M.20 The Office of Systems Electronic Services—(Functions)

A. The Associate Commissioner for Systems Electronic Services (S4M) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OSES mission and providing general supervision to the major components of OSES.

B. The Deputy Associate Commissioner for Systems Electronic Services (S4M) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Electronic Services (S4M) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of his/her responsibilities.

1. The Project Support Staff (S4M–1):

A. Analyzes eGovernment requirements and needs of other OSES components, and provides appropriate systems support capability.

B. Provides standards, procedures, systems support and technical assistance to OSES project managers to facilitate preparation of work plans.

C. Directs review of project work plans to ensure completeness, compatibility with standards and managerial directives, and requirements and conformity to the ADP Plan and other management decisions.

D. Monitors OSES workloads, resource estimates and resource usage for eGovernment applications. Provides comprehensive resource information to DCS management to support workload priority decisions. Directs resource estimation and reporting processes for OSES.

E. Coordinates OSES input to Agency and DCS planning processes.

D. The Division of Architecture and Support Software Development (S4MA).

1. Develops and maintains the software engineering architecture appropriate for delivering eGovernment services to SSA's customers in accordance with the Agency's Electronic Service Delivery (ESD) Strategy.

2. Identifies and procures software tools necessary for the design, development, implementation and maintenance of SSA's eGovernment applications.

3. Designs, develops and maintains eGovernment framework components of the architecture for data interface, security, authentication, management information, audit and messaging objects.

4. Researches, evaluates and analyzes current and emerging technologies relevant to SSA's eGovernment architecture.

5. Designs, develops and maintains repositories to support eGovernment application development.

E. The Division of Quality, Testing and Validation (S4MC).

1. Develops project specific test plans in support of SSA's eGovernment strategy.

2. Performs front-end systems validations as necessary to support implementation of eGovernment software.

3. Develops, maintains, and implements quality control standards in support of the development of eGovernment software.

4. Designs, develops and maintains software for the testing, validation and quality control of eGovernment applications.

5. Works in conjunction with other SSA components in conducting pilots and focus groups testing eGovernment software prior to implementation.

F. The Division of Client Services Application Development (S4MG).

1. Plans, designs, develops and maintains Government-to-Client Internet software integral to SSA's eGovernment Internet strategy.

2. Plans, designs, develops and maintains Government-to-Client Internet software integral to SSA's eGovernment Extranet strategy.

3. Defines specific functional specifications in support of SSA's Government-to-Client eGovernment applications.

4. Coordinates SSA's Government-to-Client Internet applications development with legacy and management information systems.

G. The Division of Organizational Services Application Development (S4MH).

1. Plans, designs, develops and maintains Government-to-Government and Government-to-Business Internet software integral to SSA's eGovernment strategy.

2. Plans, designs, develops and maintains Government-to-Government and Government-to-Business Extranet software integral to SSA's eGovernment strategy.

3. Defines specific functional specifications in support of SSA's eGovernment applications.

4. Coordinates eGovernment applications development with legacy and management information systems.

Subchapter S4R

Office of Disability and Supplemental Security Income Systems

S4R.00 Mission
S4R.10 Organization
S4R.20 Functions

Section S4R.00 Office of Disability and Supplemental Security Income Systems (ODSSIS)—(Mission)

The Office of Disability and Supplemental Security Income Systems (ODSSIS) directs, develops and coordinates information technology requirements, application programs and management information systems for new and modified systems in direct support of the SSI, Disability and Representative (Rep) Payee programs. ODSSIS is responsible for most phases in the systems development life cycle. These responsibilities include determining automation solutions for user needs, developing software systems specifications, analyzing existing computer applications, preparing recommendations (including costs and benefits of alternatives), software design and development, testing and validating systems, implementing security standards, documenting systems, accepting systems on behalf of SSA's user community and conducting post-installation evaluation. ODSSIS is responsible for long-range planning and analyses to define new and improved systems processes for ODSSIS in support of agency needs and maintains a comprehensive, updated and integrated set of system requirement specifications and software programs. ODSSIS implements systems required by new legislation, regulations and SSA policy directives. Based on input from users, ODSSIS translates organizational information requirements and priorities into plans and develops and maintains systems plans.

ODSSIS validates computer programs that are part of SSA's large, integrated, programmatic systems against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It develops procedures and instructions to support user needs in effective implementation of all systems.

Section S4R.10 Office of Disability and Supplemental Security Income Systems—(Organization)

The Office of Disability and Supplemental Security Income Systems (S4R), under the leadership of the Associate Commissioner for Disability and Supplemental Security Income Systems, includes:

A. The Associate Commissioner for Disability and Supplemental Security Income Systems (S4R).

B. The Deputy Associate Commissioner for Disability and Supplemental Security Income Systems (S4R).

C. The Immediate Office of the Associate Commissioner for Disability and Supplemental Security Income Systems (S4R).

D. The Division of SSI Processing Systems (S4RA).

E. The Division of SSI Management Systems (S4RB).

F. The Division of SSI Information Systems (S4RC).

G. The Division of Disability Processing Systems (S4RE).

H. The Division of Disability Management Systems (S4RG).

I. The Division of Disability Information Systems (S4RH).

J. The Division of Electronic Processing Support (S4RJ).

Section S4R.20 Office of Disability and Supplemental Security Income Systems—(Functions)

A. The Associate Commissioner for Disability and Supplemental Security Income Systems (S4R) is directly responsible to the Deputy Commissioner, Systems, for carrying out the ODSSIS mission and providing general supervision to the major components of ODSSIS.

B. The Deputy Associate Commissioner for Disability and Supplemental Security Income Systems (S4R) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Disability and Supplemental Security Income Systems (S4R) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of their responsibilities.

D. The Division of SSI Processing Systems (S4RA):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, software, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment for title XVI (SSI) and title XVIII processes. Edits new records and transactions; maintains and updates the SSI Master File to reflect changes; computes both the Federal SSI benefit and State supplementary payments; identifies and controls overpayment activity; and controls diaries.

2. With the technical assistance of the Office of Enterprise Support and Architecture Engineering (OESAE), plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-term SSI programmatic initiatives for Initial Claims and Post-entitlement Updates and Computations.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI initial claims and post-eligibility operations, computation and record balancing operations.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI and title VIII processes. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI and title VIII process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

E. The Division of SSI Management Systems (S4RB):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, software, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment for title XVI (SSI) and title XVIII processes including payment, internal interface, due process and redetermination operations. This includes updates to and selections from the Supplemental Security Income Record (SSR).

2. With the technical assistance of OESAE, plans and conducts unit and system-wide functional validation tests of newly developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic systems. Develops plans as they relate to SSI & title VIII redeterminations, interfaces, due process & payments.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI redeterminations, internal interfaces, due process and payments.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI and title VIII processes. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI and title VIII process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

F. The Division of SSI Information Systems (S4RC):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment, for title XVI (SSI) and VIII Notices, SSI Interfaces and SSI Management Information.

2. With the technical assistance of OESAE Validation staff, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to SSI Notices, SSI Interfaces and SSI Management Information. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI Notices, SSI Interfaces and SSI Management Information.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI Notices, SSI Interfaces and SSI Management Information. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI Notices, SSI Interfaces and SSI Management Information process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

G. The Division of Disability Processing Systems (S4RE):

1. Plans, analyzes, designs, develops, tests, validates, and implements new or redesigned software to meet SSA Disability Program needs. Also, evaluates programmatic information and data requirements, writes functional specifications, procedures, instructions and standards (including security and fraud detection) for the Disability program.

2. With the technical assistance of the OESAE, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to Disability.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation, source code for programmatic software and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs, determines system design alternatives and documents requirements for automated data processing services for Disability.

6. Evaluates legislative proposals, regulations and policy changes affecting SSA's Disability program. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Disability process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

9. Supports Individual State Disability Determination Service offices automated systems development by establishing national practices and contracts and optional local area software. The Division evaluates State Disability Determination Systems development requests with the objective of integrating State efforts into overall SSA automation plans.

10. Resolves systems discrepancies and performance issues for all DDS offices, Federal and State. The State DDS systems interface with SSA central systems. The division is responsible for testing and validation of applications software that exchanges the required disability data between the offices involved.

H. The Division of Disability Management Systems (S4RG):

1. Plans, analyzes, designs, develops, tests, validates, and implements new or redesigned software to meet SSA Disability Program needs. Also, evaluates programmatic information and data requirements, writes functional specifications, procedures, instructions and standards (including security and fraud detection) for the Disability program, including service to the State Disability Determination Service (DDS) offices.

2. With the technical assistance of the OESAE, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to disability. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation, source code for programmatic software and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs, determines system design alternatives and documents requirements for automated data processing services for Disability.

6. Evaluates legislative proposals, regulations and policy changes affecting disability. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing disability process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

9. Supports individual State Disability Determination Service offices automated systems development by establishing national practices and contracts and optional local area software. The Division evaluates State Disability Determination Services development requests with the objective of integrating State efforts into overall SSA automation plans.

10. Resolves systems discrepancies and performance issues for all DDS offices, Federal and State. The State DDS systems interface with SSA central systems. The division is responsible for testing and validation of applications software that exchanges the required disability data between the offices involved.

11. Builds quality assurance computer systems for the payment stewardship, index of dollar accuracy (IDA) and other servicing quality assessment activities. These system help monitor all levels (initial, reconsideration, and hearing) of social security program administration.

I. The Division of Disability Information Systems (S4RH):

1. Produces automated solutions that provide management information supporting the Agency's Disability Insurance program. Designs, develops and maintains computer systems that collect, process and distribute Disability MI.

2. Designs, develops and maintains computer systems that support SSA's Hearings, Appeals, Litigation and Rep Payee workloads. Produces enterprise-wide automation solutions that provide for data capture workload control and management information for SSA's Title II and Title XVI Hearings, Appeals, Litigation and Rep Payee workloads.

3. Plans, analyzes, designs, develops, tests, validates, and implements new or redesigned software to meet SSA Rep Payee program needs. Also, evaluates programmatic information and data requirements, writes functional specifications, procedures, instructions and standards (including security and fraud detection) for the disability program, including service to the Office of Hearings and Appeals (OHA) and the Office of the General Counsel.

4. With the technical assistance of the OESAE, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

5. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to Hearings, Appeals, Litigation and Rep Payee. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

6. Develops and maintains a comprehensive, updated and integrated set of system documentation, source code for programmatic software and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

7. Performs requirement analyses, defining SSA-approved user needs, determines system design alternatives and documents requirements for automated data processing services for Rep Payee.

8. Evaluates legislative proposals, regulations and policy changes affecting Rep Payee. Reports on the impact to those processes as well as on the short and long-range plans.

9. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Rep Payee process with representatives of other Office of Systems components.

10. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

11. Resolves systems discrepancies and performance issues for all OHA offices.

J. The Division of Electronic Processing Support (S4RJ):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment for Hearings, Appeals, Litigation, and Customer Help and Information Program (CHIP).

2. With the technical assistance of OESAE, plans and conducts unit testing, integrated testing and unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to Hearings, Appeals, Litigation, and CHIP. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for Hearings, Appeals, Litigation, and CHIP.

6. Evaluates legislative proposals, regulations and policy changes affecting Hearings, Appeals, Litigation, and CHIP software. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Hearings, Appeals, Litigation, and CHIP processes with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

Subchapter S4S

Office of Earnings, Enumeration and Administrative Systems

S4S.00 Mission
S4S.10 Organization
S4S.20 Functions

Section S4S.00 The Office of Earnings, Enumeration and Administrative Systems—(Mission)

The Office of Earnings, Enumeration and Administrative Systems (OEEAS) is responsible for the design, development, and maintenance of SSA's earnings, enumeration and administrative systems. Responsibilities include the development of functional requirements for new systems and modifications to existing systems. The office evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure that user needs are accurately captured and defined. The office develops automated solutions, including the procurement of commercial software products. It tests and validates software to assure that user requirements have been met, and conducts post-implementation reviews of new systems.

The broad systems areas for which OEEAS is responsible include: enumeration (SSN) and verification, earnings establishment and employer data, integrity review and audit, work measurement, financial processing and accounting, human resource and payroll, a variety of workload control and tracking applications, and data exchanges with external entities.

Section S4S.10 The Office of Earnings, Enumeration and Administrative Systems—(Organization)

The Office of Earnings, Enumeration and Administrative Systems (S4S), under the leadership of the Associate Commissioner for Earnings, Enumeration and Administrative Systems, includes:

A. The Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S).

B. The Deputy Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S).

C. The Immediate Office of the Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S).

1. The Independent Verification and Validation Staff (S4S–1).

D. The Division of Measurement and Control Systems (S4SA).

E. The Division of Information and Integrity Systems (S4SB).

F. The Division of Financial and Human Resource Systems (S4SC).

G. The Division of Enumeration and Exchanges (S4SE).

H. The Division of Annual Wage Reporting and Balancing (S4SG).

I. The Division of Earnings Correction and Use (S4SH).

Section S4S.20 The Office of Earnings, Enumeration and Administrative Systems—(Functions)

A. The Associate Commissioner for Earnings, Enumeration and Administrative Systems (OEEAS) (S4S) is directly responsible to the Deputy Commissioner, Systems for carrying out OEEAS' mission and provides general supervision to the major components of OEEAS.

B. The Deputy Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of his/her responsibilities.

1. The Independent Verification and Validation Staff (S4S–1).

A. Responsible for using a system engineering process that employs a variety of software engineering methods, techniques, and tools for evaluating the correctness and quality of a software product throughout its life cycle to support OEEAS' project development.

B. Responsible for planning, validation, and implementation of the broad range of systems, methods, and procedures necessary to support the independent verification and validation of OEEAS' systems processes.

C. Develops project specific test/validation plans in support of OEEAS' systems.

D. Works closely with the component responsible for the Independent Validation Environment (IVEN) to schedule the execution of Independent Verification and Validation (IV&V) test/validation plans in support of OEEAS' projects.

E. Performs complete systems validations as necessary to support implementation of earnings, enumeration, administrative and control systems software. Provides the IV&V findings and recommendations to the project team and project manager.

F. Develops, maintains, and implements quality control standards in support of the development of earnings, enumeration, administrative and control systems.

G. Works in conjunction with other SSA components in conducting pilots and focus groups testing OEEAS systems prior to implementation.

D. The Division of Measurement and Control Systems (S4SA).

1. Performs requirements analyses and software development activities for control and tracking systems, and other administrative support systems.

2. Develops functional requirements and validations for audit and integrity review systems within programmatic applications and for SSA-wide work measurement systems.

3. Performs requirements analyses and develops earnings and enumeration management information application systems and enhancements to existing systems.

4. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

5. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

6. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

7. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

E. The Division of Information and Integrity Systems (S4SB)

1. Designs, develops, and implements application systems and enhancements to existing systems to support work measurement, quality assurance, integrity reviews and audit and internal controls.

2. Responsible for data warehouse development and maintenance in support of Agency systems. Maintains the data warehouse repository which houses data definition, calculations, and transformation and business rules in support of performance measures. Runs data mining software to identify patterns for potential fraud.

3. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

4. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

5. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

6. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

F. The Division of Financial and Human Resource Systems (S4SC).

1. Designs, develops, and implements administrative application systems and enhancements to existing systems in the broad areas of financial/budget, human resources and payroll processes.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software. Evaluates the potential application of Commercial-off-the-Shelf and Government-developed-off-the-Shelf software.

3. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

G. The Division of Enumeration and Exchanges (S4SE).

1. Designs, develops and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of enumeration and data exchanges.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services for enumeration and data exchange. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

3. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

H. The Division of Annual Wage Reporting and Balancing (S4SG).

1. Designs, develops and implements new or redesigned systems to meet SSA's automated data processing needs in the broad area of annual employer wage reporting.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

3. Develops design specifications and systems to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

I. The Division of Earnings Correction and Use (S4SH).

1. Designs, develops, and implements new or redesigned systems to meet SSA's automated data processing needs in the broad area of correcting, maintaining and using earnings and employer data.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

3. Develops design specifications and systems to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

Subchapter S4V

Office of Enterprise Support, Architecture and Engineering

S4V.00 Mission
S4V.10 Organization
S4V.20 Functions

Section S4V.00 Office of Enterprise Support, Architecture and Engineering—(Mission)

The Office of Enterprise Support, Architecture and Engineering (OESAE) identifies the strategic information technology resources needed to support SSA business processes and operations and the transition processes for researching, demonstrating and implementing new technologies in response to the Agency's strategic vision. The office develops policies and procedures to implement the Section 508 legislation Agency-wide. It incorporates user-centered design principles and techniques, including usability and accessibility testing, as an integral part of the systems development life cycle to ensure that the requirements of SSA's customers and users are being met. It directs the design, development and maintenance of SSA's information technology architecture program and directs SSA's data base integration activities to improve the administration of SSA's Programmatic and Management Information/Administrative data bases and to implement modern data base management systems technology. The office directs a comprehensive information technology architecture program to modernize the Agency's infrastructure and establishes enterprise policies for the management of all hardware and software. It develops and oversees the implementation of legislative and other initiatives, standards, methods and procedures for software planning, requirements, design, development and validation. OESAE plans and directs multi-platform software development facilities to support applications development and validation personnel. The office designs, develops, implements and maintains automated test methods, test data systems and test utilities for systems-level functional and user acceptance testing of programmatic, administrative and management information systems. It provides support for program/project management and control and resource management. OESAE develops the requirements for and performs security, functional security, and access control validations to ensure that the requirements have been properly integrated with SSA's programmatic and administrative systems. The office plans for, acquires and administers information technology training for systems and non-systems personnel.

Section S4V.10 Office of Enterprise Support, Architecture and Engineering—(Organization):

The Office of Enterprise Support, Architecture and Engineering (OESAE) (S4V), under the leadership of the Associate Commissioner for Enterprise Support, Architecture and Engineering, includes:

A. The Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V).

B. The Deputy Associate Commissioners for Enterprise Support, Architecture and Engineering (S4V).

C. The Immediate Office of the Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V).

D. The Division of Enterprise Architecture and Data Administration (S4VA).

E. The Division of Data Base Systems (S4VB).

F. The Division of Enterprise Software Engineering Infrastructure (S4VC).

G. The Division of Systems Engineering (S4VE).

H. The Division of Usability, Security and Application Support (S4VG).

I. The Division of Configuration Management and Validation Technology (S4VH).

Section S4V.20 Office of Enterprise Support, Architecture and Engineering—(Functions)

A. The Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OESAE mission and providing general supervision to the major components of OESAE.

B. The Deputy Associate Commissioners for Enterprise Support, Architecture and Engineering (S4V) assist the Associate Commissioner in carrying out his/her responsibilities and perform other duties as the Associate Commissioner may prescribe.

C. The immediate Office of the Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V) provides the Associate Commissioner and Deputy Associate Commissioners with management assistance, technology leadership, planning, systems process improvement, customer relations, and support for legislation and other initiatives on the full range of their responsibilities.

D. The Division of Enterprise Architecture and Data Administration (S4VA).

1. Works with SSA technical staff to define application, data and infrastructure architectures.

2. Develops and provides the infrastructure to generate notices that meet SSA standards.

3. Supports the Online Notice Retrieval System (ONRS) and the Field Office Notice System (FONS).

4. Maintains the Central Language Repository for all notice language used by SSA.

5. Provides notice generation and formatting of manual notice processing.

6. Works with business components to identify and coordinate enterprise-wide technology needs and projects.

7. Directs the development of Systems-wide data and process administration policies, procedures and standards for the specific phases of the life cycle development process and development of methods to assure the quality of systems products.

8. Directs the integration of data and process models, as well as software designs.

9. Directs the development of requirements for standardizing data collection, storage and use across application areas.

10. Provides program expertise and process management direction and oversight for crosscutting segments for all SSA systems initiatives, legislative initiatives or projects involving the initiation, interpretation and/or the implementation of administrative and programmatic systems.

11. Provides a variety of high level coordinative, analytical, consultative and advisory services to SSA as a whole relative to very visible and complex systems initiatives.

E. The Division of Data Base Systems (S4VB).

1. Develops and maintains the Data Resource Management System which is the official repository of data and metadata for the SSA programmatic systems.

2. Develops and maintains the Master Data Access Method (MADAM) software that manages the major programmatic master files.

3. Directs the development and enforcement of technical standards and data resource policies.

4. Directs the establishment of automated documentation products and analytical products to support software engineering and data base integration.

5. Directs the definition of data storage architectures to support data management based upon performance characteristics and capabilities required in the SSA environment.

6. Directs the design, development (or acquisition), validation, and implementation of data base management systems and data support software.

7. Directs the design and development of new or modified software for accessing SSA data bases and files used in ADP processes; and directs the selection and implementation of commercial packages for this purpose.

8. Provides direction in the design, development and implementation of applications support software to facilitate interaction between data bases and applications software.

9. Provides direction in identifying techniques and tools that support data resource management as well as evaluating new data resource technology to the SSA environment.

10. Provides overall management and development of access to SSA's major master files.

11. Performs design, data base administration, and technical support of the major master files, and auxiliary programmatic applications files and data bases using multiple commercial database management systems.

12. Directs the analyses of SSA processes and software related to data usage and administration.

13. Directs the development of project plans reflecting the tasks and schedules required to implement data base management and data administration projects as designated by SSA's Software Modernization Plan.

14. Serves as the Agency focal point for technologies related to document imaging, electronic document management and electronic workflow processes.

15. Provides direction in the design, development and implementation of applications support software to facilitate interaction between document imaging and workflow processing and applications software.

16. Directs the definition of data and image management to facilitate workflow processing and re-engineering of processes to support data management based upon performance characteristics and capabilities required in the SSA environment.

F. The Division of Enterprise Software Engineering Infrastructure (S4VC).

1. Manages the multi-platform Software Engineering Facility (SEF) environment which includes Mainframe, Client Server/Web (Internet/Intranet) platforms, Server/Workstation and mobile computing configurations, SEF environment electronic mail, and transaction processing software configurations (e.g., CICS) which provide an integrated set of automated tools, techniques and services in support of SSA's application development and validation community.

2. Administers and engineers software engineering laboratory (SEL) facilities which provide a wide range of IWS/LAN based hardware and software solutions for developers and validators of Client/Server and Web-based (Internet/Intranet) applications. SEL provides test sites for Client/Server and web ideas, concepts, news technology and code without interfering with production Client/Server or Web-based systems. Facilities include real connections from the Internet into a pseudo web site allowing secure testing of live Internet technology, a simulated Internet inside the firewall allowing for complete multi-platform internet applications to be built, joint application design center for real time collaborative planning, analysis and design activities, labs for evaluating user centered design features and technology and complete testing facilities for employees with disabilities configurations.

3. Administers and engineers SEF environment servers, workstations, and mobile devices such as laptops for the software engineering components in Systems. This includes both hardware and software configurations used by application software engineers and their management.

4. Manages SSA's Information Center that provides technical support and guidance in client based technology, tools and products for the enterprise.

5. Manages and coordinates a security program for the SEF environment which includes administration/configuration and management of SEF environment security software, control of SEF environment access, security auditing; disaster recovery; Continuity of Operations Planning (COOP) for SEF server-based equipment, and coordination of security initiatives with other components.

6. Provides support for both programmatic and management information applications throughout each phase of the systems development life cycle including analysis, design, development, validation, testing, production and maintenance.

7. Provides automated software configuration management, quality control and library migration for all SEF environment platforms.

8. Provides technical assistance to users of the SEF environment that includes help desk and automated call tracking, technical information dissemination, and support for software tools used by the SSA programming community.

9. Serves as liaison between the SEF user community and the computer center to ensure that user needs are being met.

10. Conducts performance evaluation and capacity planning for SEF environment hardware and software to ensure that appropriate service levels are continuously maintained.

11. Conducts testing and performance impact analysis of new or upgraded software engineering tools before they are installed in the SEF environment.

12. Manages the SEF environment storage capacity including server and mainframe storage devices.

G. The Division of Systems Engineering (S4VE).

1. Assesses new technologies and plans for, acquires and administers information technology training for systems personnel. Maintains and operates the Systems training facilities.

2. Provides program/project management and integration support for DCS executives, managers and project teams. Develops and implements web-based systems and subsystems to communicate status, progress and problems for all "key" programs/projects.

3. Provides process analysis, re-engineering, and web development in support of SSA's Capital Planning and Investment Control, high-priority projects and Software Process Improvement (SPI) initiatives. Provides the facility and technical expertise to facilitate Joint Application Design for Systems.

4. Manages a modern multi-media center, the Systems Management Center (SMC), for the Deputy Commissioner for Systems. Schedules and provides technical support for meetings, conferences, teleconferencing/videoconferencing, vendor product demonstrations, etc. Develops multi-media presentations and productions.

5. Develops and supports a Technology Infusion Process lifecycle, a process for identifying and evaluating technologies that will enable SSA to achieve its strategic objectives.

6. Monitors, researches, and evaluates technologies related to achieving SSA's Service Vision.

7. Serves as the DCS entry point for providing Systems services to business components interested in demonstrating and evaluating the potential of new technologies to support SSA's service vision.

8. Designs, develops and implements Web sites for OESAE and DCS, i.e., the Project Resource Guide (PRIDE), the

Architecture Review Board, information technology workforce planning, etc.

9. Provides QA oversight review for the Software Process Improvement program.

H. The Division of Usability, Security and Application Support (S4VG):

1. Establishes and coordinates efforts on Section 508 compliance and serves as a principal planner and advisor in the development of Agency and government-wide Section 508 directives, standards, specifications, policies, implementation strategies, management guidelines, procedures, practices and new developments and advanced techniques.

2. Performs a key role in very difficult assignments with responsibility and accountability as a technical authority and advisory in information technology accessibility, covering a wide range of technology and applications.

3. Integrates Section 508 accessibility needs into Agency budget plans, strategic plans and information technology capital plans.

4. Directs the user-centered design processes including usability and accessibility testing for software and web-based applications.

5. Develops OS Security Policy and Implementation Guidance, as needed.

6. Establishes and manages OS' ITS security awareness and training program, including developing and teaching some courses.

7. Provides a focal point for Financial Management Systems reviews and other audits/reviews not under the jurisdiction of the DCS audit liaison.

8. Manages routine security-related compliance activities (e.g., updating, reviewing and/or establishing sensitive systems security plans annually).

9. Responsible for Principal Security Officer functions for Systems.

10. Provides a Systems' focal point for Continuity of Operations (COOP) planning initiatives related to PDD 67 compliance.

11. Makes recommendations on security, audit, and internal control issues for all SSA programmatic and administrative systems, and ensures the implementation of security standards within all areas of component functional responsibilities. Develops methods to improve control and security features based on established standards and cost/benefit considerations.

12. Leads and/or coordinates reviews of programmatic processes and systems to identify weaknesses in control, auditability and security. Makes recommendations for improvement and coordinates activities with other SSA components to ensure that approved recommendations are implemented.

13. Manages a secure, service-oriented test facility responsible for providing automated support for fraud investigations, audits and analytical studies for OIG, GAO and all levels of SSA management.

14. Provides requirements for and performs security, functional security, and access control validations to ensure that the requirements have been properly integrated with SSA's programmatic and administrative systems.

15. Recommends and approves requests for systems access including TOP SECRET access.

16. Develops, implements and maintains personal computer applications to support software development/validation; e.g., the Problem and Issues Reporting System (PAIRS), Validation Transaction Tracking System (VTTS), METRIX Activity Reporting Subsystem (MARS), the TSTRAC (Top Secret Tracking System) system for automated control of security matrix changes, the Information Technology Systems Plan system, and various utility and administrative systems.

17. Provides a wide range of support for knowledge engineering tools, including CASE (Computer Aided Software Engineering) tools, used for requirements definition, management, and analysis. Support includes defining requirements, procuring, testing, upgrading, and integrating tools into the SSA environment and lifecycle. Develops guidelines, procedure manuals and course materials; providing direct consultative services to project teams; assists project teams in generating their lifecycle documentation and reports; and provides ongoing training.

18. Manages the acquisition, customization, license administration, and distribution of Commercial and Government Off-the-Shelf (COTS and GOTS) software providing support to software development staff. Provides or obtains technical support for tools.

I. The Division of Configuration Management and Validation Technology (S4VH):

1. Develops Office of Systems global software change control policies and practices.

2. Designs, develops, maintains and manages global repositories of systems development life cycle products.

3. Records and reports the status of software change request items and verifies the completeness of life cycle products.

4. Designs, develops, maintains and oversees automated software migration methods to ensure segregation of duties under the Federal Financial Management Improvement Act of 1996 (FFMIA).

5. Provides life cycle documentation to internal and external auditors on request.

6. Designs, develops and maintains publication methodologies for the Modernized Systems Operations Manual.

7. Designs, develops, implements, and maintains automated test methods, techniques, and procedures, test files, test databases, and tester productivity tools used in the systems-level functional, integration, acceptance and usability testing of SSA's programmatic, administrative, and management information systems.

8. Builds test systems that simulate the target production system within the parameters of SSA's Software Engineering Facility using in-house and commercially available software development tools and products.

9. Controls and executes systems-level functional tests of programmatic, administrative, and management information systems; ensures that the correct software versions are under test and provides appropriate test output for evaluation and systems acceptance and certification.

10. Develops test procedure specifications and test design specifications for use in systems-level functional testing.

11. Performs test case design for regression testing of programmatic systems.

12. Performs software quality assurance and quality control regarding test coverage and test risk analysis as they relate to management decisions to release new or modified software to the production environment.

13. Develops standards of functional testing and software validation for the Office of Systems.

14. Develops and manages the environment in which functional testing occurs.

15. Defines standards for test planning and participates, along with other Office of Systems components, in the development of test plans for systems-level functional testing.

16. Serves as the Manager for the Software Evaluation Stage of SSA's Software Engineering Environment and Systems Development Life Cycle.

Subchapter S4W

Office of Retirement and Survivors Insurance Systems

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S4W.00 Mission

S4W.10 Organization

S4W.20 Functions

Section S4W.00 Office of Retirement and Survivors Insurance Systems—(Mission)

The Office of Retirement and Survivors Insurance Systems (ORSIS) is responsible for programmatic and management information systems which support the Nation's Retirement and Survivors Insurance program and Medicare enrollment, including initial claims, post-entitlement, payments, audit, integrity review, Treasury operations and notices. ORSIS designs, develops, coordinates and implements new or redesigned software to meet SSA's automation needs in the broad area of title II programmatic processes for such areas as earnings, eligibility/entitlement, pay/computations and debt management. The Office is responsible for long-range planning and analysis to modify existing systems and define new systems for ORSIS in support of the Agency's mission and operational and management information needs. ORSIS evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops requirements and procedures to implement required changes. ORSIS is responsible for both programmatic and management information applications through each stage of the systems lifecycle, including: determining automation solutions for user needs; developing software specifications; designing and developing software programs; testing and validating systems against user-defined requirements; conducting post-implementation reviews; implementing security standards; and maintaining a comprehensive, updated and integrated set of systems requirements, specifications and software documentation. Procedures and instructions are developed to support users in effectively implementing all systems.

Section S4W.10 Office of Retirement and Survivors Insurance Systems—(Organization)

The Office of Retirement and Survivors Insurance Systems (S4W), under the leadership of the Associate Commissioner for Retirement and Survivors Insurance Systems, includes:

A. The Associate Commissioner for Retirement and Survivors Insurance Systems (S4W).

B. The Deputy Associate Commissioner for Retirement and Survivors Insurance Systems (S4W).

C. The Immediate Office of the Associate Commissioner for Retirement and Survivors Insurance Systems (S4W).

D. The Division of Notices and Management Information Systems (S4WA).

E. The Division of Payments & Accounting (S4WB).

F. The Division of Title 2 Eligibility (S4WC).

G. The Division of Title 2 Processing (S4WE).

H. The Division of Title 2 Control and Queries (S4WG).

Section S4W.20 Office of Retirement and Survivors Insurance Systems—(Functions)

A. The Associate Commissioner for Retirement and Survivors Insurance Systems (S4W) is directly responsible to the Deputy Commissioner, Systems, for carrying out the ORSIS mission and providing general supervision to the major components of ORSIS.

B. The Deputy Associate Commissioner for Retirement and Survivors Insurance Systems (S4W) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Retirement and Survivors Insurance Systems (S4W) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of their responsibilities.

D. The Division of Notices & Management Information Systems (S4WA).

1. Designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of specialized support for Notices.

2. Provides support for notice language development and maintenance, notice generation and formatting, manual notice processing and notice storage and retrieval.

3. Develops SSA-wide work measurement and performance management systems, as well as component work measurement systems for the field, State agencies and Regional Program and Integrity Review offices.

4. Develops audit and analyses of management information systems and reports to ensure adherence to users' and Agency needs, Federal and SSA guidelines and integrity standards.

5. Plans, develops and coordinates management information policy and integration among all involved SSA components, and plans for the transition to, and integration with, current SSA automated information systems and with those of the future.

6. Designs, develops, coordinates and implements new management information application systems and enhancements to existing systems which include workload management, work measurement, program demographics, earnings and employee/employer statistics, support quality assurance, audit, investigations, action tracking, and actuarial activities.

7. Designs, develops and implements enterprise-wide assignment tracking and document management applications in the IWS/LAN environment.

8. Develops systems to support the quality assurance and quality control reviews performed by the Office of Quality Assurance and Performance Assessment at the central office, regional office and satellite office level.

9. Manages the planning, validation and implementation of the broad range of systems, methods and procedures necessary to support the administrative or programmatic management information systems processes.

10. Performs user needs analyses and develops detailed functional requirements for SSA's mainframe and client server programmatic and administrative systems.

11. Manages ORSIS' project management process; provides standards, procedures, training and technical assistance to project managers.

E. The Division of Payments and Accounting (S4WB).

1. Responsible for the planning and analysis, design, development, testing, validation, implementation and evaluation of programmatic data requirements, functional specifications, new or redesigned software, instructions, procedures and standards needed to support title II infrastructure, Master Beneficiary Record updates, payments & accounting and debt management.

2. Designs, develops, coordinates and implements new or revised software to meet SSA's automated data processing needs in the area of data gathering, data base establishment and maintenance for programmatic post-entitlement, payments, debt management and Treasury operations.

3. Designs software to edit transactions, control in-process and stored transactions, produce monthly benefit payment information and yearly benefit payment statements and provide Treasury data.

4. Manages the planning, validation and implementation of the broad range of systems methods and procedures

necessary to maintain payment and accounting systems.

5. Performs user needs analysis and develops detailed functional requirements for SSA's title II mainframe systems.

6. Conducts liaison with other SSA components and Federal agencies to determine feasibility and to plan development and implementation activities.

F. The Division of Title II Eligibility (S4WC).

1. Responsible for planning, analysis, design, development, testing, validation, implementation and evaluation of programmatic data requirements, functional specifications, new or redesigned software, instructions, procedures, and standards (including security and fraud detection), for title II (RSI) initial claims and post-entitlement systems processing, and for title XVIII Medicare enrollment, withdrawal and termination actions. Coordinates such processes with the Centers for Medicare and Medicaid (CMS).

2. Plans and conducts unit tests and system-wide functional validation tests of newly developed title II systems software, and modifications to existing systems software, against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the systems Information Technology (IT) Plans) as they relate to title II initial claims and post-entitlement/Medicare systems. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications, software libraries, and validation tests of systems changes against user requirements and performance criteria, and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for title II initial claims and post-entitlement systems and Medicare systems. Prepares and performs service impact assessments, and software development plans for title II initial claims and post-entitlement systems and Medicare systems.

6. Evaluates legislative proposals, regulations, and policy changes affecting the title II initial claims and post-entitlement systems processes, and title XVIII Medicare systems processes. Reports on the impact to those processes as well as on short-term and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing title II initial claims and post-entitlement process, or Medicare systems processes, with representatives of other Office of Systems components.

8. Coordinates user requirements and software delivery with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

G. The Division of Title II Processing (S4WE).

1. Designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of title II (Retirement and Survivors) programmatic processes for such areas as earnings eligibility/entitlement and pay/computations.

2. Provides the software to process the annual benefit rate increase (BRI) for all title II beneficiaries, the automated earning reappraisal operations (AERO) and the earnings enforcement operations.

3. Provides certified earnings records for the field offices and outside agencies.

4. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for title II initial claims and post-entitlement systems and Medicare systems. Prepares and performs service impact assessments, and software development plans for title II initial claims and post-entitlement systems and Medicare systems.

H. The Division of Title II Control & Queries (S4WG).

1. Designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of RSDI processing including batch transaction processing, PSC Action Control and data exchange for other SSA and non-SSA systems.

2. Designs software to edit incoming new records and transactions; control in-process transactions including PSC Action Control and OHA Case Control.

3. Develops queries and extracts software to retrieve and display transactions and Master Beneficiary Record-related data both in on-line and off-line environments.

4. Develops software to suspend benefits and produce alerts and notices for prisoners and pay bounties to prisons.

5. Develops software to update and maintain a variety of records which provide management, statistical and actuarial study data including epidemiological information.

Dated: May 21, 2002.

Jo Anne B. Barnhart,

Commissioner.

[FR Doc. 02–13412 Filed 5–29–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During March 25, through May 17, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–12023.
Date Filed: April 2, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0556 dated 26 March 2002
Mail Vote 213—Resolution 010L
TC3 between Japan, Korea and South East Asia Special Passenger Amending Resolution between Korea and China (excluding Hong Kong SAR and Macau SAR) r1–r5
Intended effective date: 15 April 2002.

Docket Number: OST–2002–12035.
Date Filed: April 3, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 NMS–AFR 0133 dated 8 March 2002
North Atlantic-Africa Resolutions r1-r22
Minutes: PTC12 NMS–AFR 0138 dated 2 April 2002
Tables: PTC12 NMS–AFR Fares 0069 dated 8 March 2002
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12036.
Date Filed: April 3, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 NMS–AFR 0132 dated 5 March 2002 (Mail Vote 212)
Mid Atlantic-Africa Resolutions r1–r11
PTC12 NMS–AFR 0139 dated 2 April 2002 adopting Mail Vote 212
PTC12 NMS–AFR 0134 dated 8 March 2002
South Atlantic-Africa Resolution r12–r26
Minutes: PTC12 NMS–AFR 0138 dated 2 April 2002 filed with TC12 North Atlantic-Africa agreement
Tables: PTC12 NMS–AFR Fares 0070 dated 8 March 2002
PTC12 NMS–AFR Fares 0071 dated 2 April 2002
Intended effective date: 1 May 2001.

Docket Number: OST–2002–12037.
Date Filed: April 3, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0557 dated 2 April 2002
Mail Vote 214—Resolution 010m
TC3 between Japan, Korea and South East Asia
Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macau SAR) and Japan r1–r9
Intended effective date: 25 April 2002.

Docket Number: OST–2002–12058.
Date Filed: April 4, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 EUR–ME 0136 dated 5 April 2002
Mail Vote 216–Resolution 010o
TC2 Europe-Middle East Special Passenger Amending Resolution From Cyprus to Lebanon
Intended effective date: 25 April 2002.

Docket Number: OST–2002–12109.
Date Filed: April 15, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0560 dated 16 April 2002
Mail Vote 215—Resolution 010n
TC3 Special Passenger Amending Resolution Between Chongking and Bangkok r1–r5
Intended effective date: 25 April 2002.

Docket Number: OST–2002–12116.
Date Filed: April 16, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP 0916 dated 16 April 2002
Mail Vote 219—Resolution 010r
TC1, TC12 South Atlantic-Europe, TC31 South Pacific
Special Passenger Amending Resolution
Childrens fares from Brazil
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12130.
Date Filed: April 16, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 AFR–TC3 0165 dated 16 April 2002
Mail Vote 218—Resolution 010q
TC23 Africa–TC3 Special Passenger Amending Resolution from Uganda
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12182.
Date Filed: April 24, 2002.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 220—Resolution 010s
Special Passenger Amending Resolution from Spain
PTC12 MEX–EUR 0052 dated 26 April 2002
PTC12 MATL–EUR 0065 dated 26 April 2002
PTC12 SATL–EUR 0091 dated 26 April 2002
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12256.
Date Filed: May 6, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0567 dated 7 May 2002
Mail Vote 217—Resolution 010p
TC3 between Japan, Korea and South East Asia Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macau SAR) and Korea r1–r4
Intended effective date: 26 May 2002.

Docket Number: OST–2002–12257.
Date Filed: May 6, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 EUR 0462 dated 30 April 2002 r1–r4
PTC2 EUR 0463 dated 3 May 2002 r5–r20
PTC2 EUR 0464 dated 3 May 2002 r21–r23
PTC2 EUR 0465 dated 3 May 2002 r24
PTC2 EUR 0466 dated 3 May 2002 r25
PTC2 EUR 0467 dated 3 May 2002 r26–r27
TC2 Within Europe Expedited Resolutions
Minutes: PTC2 EUR 0468 dated 3 May 2002
Tables: No Tables
Intended effective dates: 1 June, 15 June, 1 July, 1 September, 1 October, 1 November 2002.

Docket Number: OST–2002–12312.
Date Filed: May 13, 2002.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 222—Resolution 010u
IATA telexes TW975 of 24 April 2002, TW977 of 29 April 2002, TW980 dated 8 May 2002
TC2, TC12, TC23/123 Special Passenger Amending Resolution from Libya
Intended effective date: 15 May 2002.

Docket Number: OST–2002–12335.
Date Filed: May 15, 2002.
Parties: Members of the International Air Transport Association.
Subject:

PTC123 0185 dated 17 May 2002
Mail Vote 223—Resolution 010v
TC123 North/Mid/South Atlantic Special Passenger Amending Resolution from Korea (Rep.of)
Intended effective date: 1 June 2002.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 02–13551 Filed 5–29–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) filed With the Department between March 25, and May 17, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Applications filed during week ending: March 29, 2002.

Docket Number: OST–2002–11966.
Date Filed: March 27, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 17, 2002.
Description: Application of Triair (Bermuda) Limited, pursuant to 49 U.S.C. 41301 and Subpart B, requesting a foreign air carrier permit to conduct commercial operations in foreign air transportation between the United States, United Kingdom and Ireland.

Applications filed during week ending: April 12, 2002.

Docket Number: OST–2002–12080.
Date Filed: April 9, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 30, 2002.
Description: Application of China Cargo Airlines Ltd., pursuant to 49 U.S.C. 41302, 14 CFR §211.20 and Subpart B, requesting an initial foreign air carrier permit to engage in foreign air transportation of property and mail between Beijing and Shanghai, People's Republic of China and Anchorage, Los Angeles, San Francisco, Seattle, Chicago (O'Hare) and New York (JFK).

Applications filed during week ending: April 19, 2002.

Docket Number: OST–1999–5062.
Date Filed: April 15, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 6, 2002.
Description: Motion of Daystar Airways, Ltd. d/b/a Nevis Express, to amend its certificate of public convenience and necessity for Route 786, to include the points Dominican Republic, Antigua, Anguilla, Barbados and the Netherlands Antilles.

Docket Number: OST–1999–6425.
Date Filed: April 16, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 7, 2002.
Description: Motion of Polar Air Cargo, Inc. for leave to file; and Supplement No. 1 to its application to expand its certificate of public convenience and necessity for Route 651, authorizing Polar to offer scheduled foreign air transportation of property and mail to the countries detailed herein.

Docket Number: OST–2002–12135.
Date Filed: April 16, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 7, 2002.
Description: Application of Van Gaever & Co. N.V. d/b/a VG Airlines, pursuant to 49 U.S.C. 41301, § 211.20 and Subpart B, requesting an initial foreign air carrier permit to provide foreign air transportation of persons, property, and mail between Belgium and the United States.

Docket Number: OST–2002–12145.
Date Filed: April 18, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 2002.
Description: Application of BNJ Charter Company LLC, pursuant to 49 U.S.C. 41102 and Subpart B, requesting a certificate of public convenience and necessity to provide foreign charter transportation of persons, property, and mail.

Docket Number: OST–2002–12147.
Date Filed: April 18, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 2002.
Description: Application of BNJ Charter Company LLC, pursuant to 49 U.S.C. 41102 and Subpart B, requesting a certificate of public convenience and necessity to provide interstate charter air transportation of persons, property, and mail.

Applications filed during week ending: April 26, 2002.

Docket Number: OST–2002–12158.
Date Filed: April 22, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 13, 2002.
Description: Application of European Aviation Air Charter Limited, pursuant to 49 U.S.C. 41305, Part 211 and Subpart B, requesting a foreign air carrier permit authorizing charter air transportation of persons, property, and mail between a point or points in the United Kingdom and a point or points in the United States, and also authorizing applicant to engage in other charter trips in foreign air transportation subject to the terms, condition, and limitations of the Department's regulations governing charters.

Applications filed during week ending: May 10, 2002.

Docket Number: OST–1996–1131.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR part 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 130, segments 1, 4, 6, 7, 9, and 10, which authorizes United to engage in scheduled foreign air transportation of persons, property, and mail between various points in the United States and Japan, the Philipines and Vietnam.

Docket Number: OST–1996–1248.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 29, 2002.
Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR part 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 130, segments 1, 4, 6, 7, 9, and 10, which authorizes United to engage in scheduled foreign air transporation of persons, property, and mail between various points in the United States and Japan, the Philipines and Vietnam.

Docket Number: OST–1996–1530.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of Federal Express Corporation, pursuant to 49 U.S.C. 41102 and Subpart B, requesting renewal of its experimental certificate of public convenience and necessity for Route 638, to provide scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in China, on the other hand, via intermediate points, and beyond to any points outside of China.

Docket Number: OST–1996–1873.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of United Airlines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR part 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 130, segments 1, 4, 6, 7, 9, and, 10 which authorizes United to engage in scheduled foreign air transporation of persons, property and mail between various points in the United States and Japan, the Philipines and Vietnam.

Docket Number: OST–1997–2046.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR parts 201 and 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 632, segments 1 and 6, which authorizes United to engage in scheduled foreign air tranportation of persons, property, and mail between various named points in the United States and Sao Paulo, Rio de Janeiro, Brasilia and Belem, Brazil; Brranquilla, Colombia; and Buenos Aires, Argentina.

Docket Number: OST–2002–12274.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of Twinjet Aircraft Sales Limited, d/b/a Twinjet Aircraft, pursuant to 49 U.S.C. 41302, 14 CFR part 211, and subpart B, requesting a foreign air carrier permit to engage in ad hoc charter foreign air transportation of passengers (and their accompanying baggage) and cargo between: (1) Any point or points in the United Kingdom and any points in the United States; (2) between any point or points in the United States and any point or points in a third country or countries; and, (3) on any other charter flights authorized pursuant to Part 212.

Docket Number: OST–1997–2558.
Date Filed: May, 8, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 29, 2002.
Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. 41002 and subpart B, requesting renewal of its certificate authority for Route 171, segments 3, 4, 5, 6 and 12.

Docket Number: OST–2002–12295.
Date Filed: May, 8, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 29, 2002.
Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. 41002 and subpart B, requesting renewal of its certificate authority for Route 171, segments 3, 4, 5, 6 and 12.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 02–13552 Filed 5–29–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–12376]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.
ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC). GLPAC advises the Coast Guard on matters related to regulations and policies on the pilotage of vessels on the Great Lakes.

DATES: Application forms should reach us on or before July 1, 2002.

ADDRESSES: You may request an application form by writing to Commandant (G-MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–6164; by faxing 202–267–4700; or by e-mailing Jshort@comdt.uscg.mil. Send your completed application to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Margie Hegy, Executive Director of GLPAC, at (202) 267–0415, fax (202) 267–4700.

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee (GLPAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Secretary of Transportation, via the Commandant of the Coast Guard, on the rules and regulations that govern the registration of pilots, the operating requirements for U.S. registered pilots, pilot training policies, and the policies and regulations that establish rates charges and conditions for pilotage services.

GLPAC meets at least twice a year at various locations in the continental United States. It may also meet for extraordinary purposes. Subcommittees or working groups may be designated to consider specific problems and will meet as required.

We will consider applications for two positions that expired on April 30, 2002. The two positions we are seeking to fill represent the interests of Great Lakes' ports, and the interests of shippers whose cargoes are transported through Great Lakes' ports. To be eligible, you must represent the interests of one of these two industry groups and have particular expertise, knowledge, and experience regarding the regulations and policies on the pilotage of vessels on the Great Lakes, and at least 5 years of practical experience in maritime operations.

Each member serves for a term of 3 years. A few members may serve consecutive terms. All members serve without compensation from the Federal Government, although travel reimbursement and per diem will be provided.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: May 23, 2002.

Jeffrey P. High,
Acting, Assistant Commandant for Marine Safety, Security and Environmental Protection.
[FR Doc. 02–13514 Filed 5–29–02; 8:45 am]
BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–11714]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.
ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 30 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m.,

e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

Thirty individuals petitioned FMCSA for an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Ronald M. Aure, Steven S. Bennett, Joe W. Brewer, Trixie L. Brown, James D. Coates, Michael D. DeBerry, James W. Ellis, IV, John E. Engstad, Jose D. Espino, Dan M. Francis, David W. Grooms, Joe H. Hanniford, David A. Inman, Harry L. Jones, Teddie W. King, Richard B. Leonard, Robert P. Martinez, Michael L. McNeish, David E. Miller, Bobby G. Minton, Lawrence C. Moody, Stanley W. Nunn, William R. Proffitt, Charles L. Schnell, Charles L. Shirey, James R. Spencer, Sr., David E. Steinke, Kevin R. Stoner, Carl J. Suggs, and James A. Torgerson.

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 30 petitions on their merits and made a determination to grant the exemptions to all of them. On April 2, 2002, the agency published notice of its receipt of applications from these 30 individuals, and requested comments from the public (67 FR 15662). The comment period closed on May 2, 2002. One comment was received, and its contents were carefully considered by FMCSA in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supports FMCSA's (and previously FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 30 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular scar, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but seven of the applicants were either born with their vision impairments or have had them since childhood. The seven individuals who sustained their vision conditions as adults have had them for periods ranging from 8 to 34 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctor's opinions are supported by the applicant possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 30 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 43 years. In the past 3 years, the 30 drivers had 13 convictions for traffic violations among them. Seven of these convictions were for Speeding, and four were for "Failure to Obey Traffic Sign." The other convictions consisted of: "Traveling in the Car Pool Lane"; and "Drive on Wrong Side of Undivided Street/Road." Two drivers were involved in an accident in a CMV, but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in an April 2, 2002, notice (67 FR 15662). Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group is supported by the information published at 67 FR 15662.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicant's vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (*See* Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 30 applicants receiving an exemption, we note that cumulatively the applicants have had only 2 accidents and 13 traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicant's ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicant's intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 30 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and is discussed below.

Advocates for Highway and Auto Safety (Advocates) expresses continued opposition to FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 30 exemption applications in accordance with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration*, 95 F.3d 715 (8th Cir. 1996), FMCSA exempts Ronald M. Aure, Steven S. Bennett, Joe W. Brewer, Trixie L. Brown, James D. Coates, Michael D. DeBerry, James W. Ellis, IV, John E. Engstad, Jose D. Espino, Dan M. Francis, David W. Grooms, Joe H. Hanniford, David A. Inman, Harry L. Jones, Teddie W. King, Richard B. Leonard, Robert P. Martinez, Michael L. McNeish, David E. Miller, Bobby G. Minton, Lawrence C. Moody, Stanley W. Nunn, William R. Proffitt, Charles L. Schnell, Charles L. Shirey, James R. Spencer, Sr., David E. Steinke, Kevin R. Stoner, Carl J. Suggs, and James A. Torgerson from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's

or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 24, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–13553 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34203]

Tri-City Railroad Company, L.L.C.—Lease and Operation Exemption—Hanford Site Rail System in Richland, WA

Tri-City Railroad Company, L.L.C. (Tri-City), a Class III rail carrier, has filed a verified notice of exemption [1] under 49 CFR 1150.41 *et seq.* to lease and operate 37 miles of rail line, including connecting spur tracks, known as the Tri-City Railroad "Northern Connection," extending from milepost 28.3 at Horn Rapids Road, to milepost 0 at Susie Junction at the northwest end of the rail line within the U.S. Department of Energy's Hanford Site Rail System, in Richland, WA.

Tri-City certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

The transaction was scheduled to be consummated on or after May 15, 2002.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34203, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Randolph Peterson, 2355 Stevens Drive, P.O. Box 1700, Richland, WA 99352.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV.*"

Decided: May 21, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13385 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34196]

Illinois Central Railroad Company—Trackage Rights Exemption—The City of New Orleans, LA

The City of New Orleans, LA (NO), pursuant to a written trackage rights agreement among Illinois Central Railroad Company (IC or Applicant), NO, and the New Orleans Public Belt Railroad Commission for the City of New Orleans, has agreed to grant nonexclusive overhead trackage rights to IC over NO's rail line-from a connection between NO's railroad and IC near Southport Junction interlocking to Union Passenger Terminal, including station tracks, via the Western Connection, the 2nd Main and the Outbound Main; from a connection between NO's railroad and IC at a point 580 feet north of the centerline of Dupre Street to Union Passenger Terminal via the Earhart Running Track and the Backup Main; and from North Wye Junction to South Wye Junction via the Wye Track-all in the City of New Orleans a distance of approximately 5.3 miles.

Applicant confirmed that the consummation of the transaction was anticipated to be on May 17, 2002, the effective date of the exemption (7 days after the exemption was filed).[1]

The purpose of the trackage rights is to grant IC the right to operate its freight trains, locomotives, cabooses and rail cars (including business cars) and roadway equipment over the line, and to grant IC the right to operate business cars into the Union Passenger Terminal in the City of New Orleans. The trackage rights agreement will replace a 1947 agreement granting operations in and around that terminal.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—dash;BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34196, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Michael J. Barron, Jr., 455 North Cityfront Plaza Drive, Chicago, IL 60611–5317.

Board decisions and notices are available on our Web site at "*www.stb.dot.gov.*"

Decided: May 22, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13506 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The verified notice was filed on April 30, 2002, and was amended on May 10, 2002.

[1] Applicant initially indicated a proposed consummation date of May 14, 2002, but because applicant did not include the required filing fee, the applicable filing date was May 10, 2002, when the Board received the correct filing fee. Consummation could may not occur prior to May 17, 2002 (7 days after the May 10, 2002 filing date of the verified notice). IC's representative subsequently confirmed that consummation could not occur before May 17, 2002.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34202]

Tri-City Railroad Company, L.L.C.—Lease and Operation Exemption—Port of Olympia Rail System in Olympia, WA

Tri-City Railroad Company, L.L.C. (Tri-City), a Class III rail carrier, has filed a verified notice of exemption [1] under 49 CFR 1150.41 *et seq.* to lease and operate a line of railroad owned by the Port of Olympia between milepost 0 at the ship pier and milepost 2 at the intersection of Franklin Street and A Avenue, a total distance of 2 miles in Olympia, WA.

Tri-City certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

The transaction was scheduled to be consummated on or after May 15, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34202, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Randolph Peterson, 2355 Stevens Drive, Post Office 1700, Richland, WA 99352.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV.*"

Decided: May 21, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13386 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The verified notice was filed on April 30, 2002, and amended on May 10, 2002.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub–No. 10X); STB Docket No. AB–55 (Sub–No. 616X)]

New York Central Lines, LLC—Abandonment Exemption—in Worcester County, MA; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Worcester County, MA

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 Subpart F-*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately 4.2 miles of railroad between milepost QBU–0.0 and milepost QBU–4.2 from Fitchburg to Leominster, in Worcester County, MA. The line traverses United States Postal Service Zip Codes 01420 and 01453.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on June 29, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 10, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 19, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 4, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NYC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NYC's filing of a notice of consummation by May 30, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV.*"

Decided: May 23, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13507 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which, as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Specially Designated Narcotics Traffickers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control is publishing the names of additional persons designated as specially designated narcotics traffickers and whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act and 31 CFR part 598.

DATES: The designations of additional persons whose property and interests in property have been blocked were effective on January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: *fedbbs.access.gpo.gov*. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On January 31, 2002, the Treasury Department's Office of Foreign Assets Control ("OFAC"), acting under authority delegated by the Secretary of the Treasury, designated fifteen individuals and twelve entities as significant foreign narcotics traffickers pursuant to subsections 805(b)(2) and (3) of the Foreign Narcotics Kingpin Designation Act, 21 U.S.C. 1904(b)(2) & (3), and § 598.314 of the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598. On March 7, 2002, OFAC, acting pursuant to § 501.807 of 31 CFR chapter V, rescinded the designation of one entity, DHL Worldwide Express, St. Kitts & Nevis, on the basis of changed circumstances.

OFAC's designations of these additional individuals and entities, as listed below, were effective on January 31, 2002. All property and interests in property owned or controlled by the designated individuals and entities, including but not limited to all accounts, that are or come within the United States or that are or come within the possession or control of U.S. persons, including their overseas branches, are blocked, and all transactions or dealings by U.S. persons or within the United States in property or interests in property of any of those individuals or entities are prohibited, unless authorized by OFAC or exempted by statute.

The list of additional designations follows:

I. INDIVIDUALS

AGUILAR AMAO, Miguel,
Avenida Del Sol 4551, Fraccionamiento La Escondida, Tijuana, Baja California, Mexico;
Avenida Del Sol 4551–2, Fraccionamiento La Escondida 22440, Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 29 Sep 1953; POB Santa Agueda, Baja California Sur, Mexico;
Credencial electoral No. 101924629544 (Mexico);
R.F.C. # AUAM–530929 (Mexico)

AGUIRRE GALINDO, Manuel,
c/o COMPLEJO TURISTICO OASIS, S.A. de C.V. Rosarito, Baja California Norte, Mexico;
DOB 2 Nov 1950;
R.F.C. # AUGM–501102–PM3 (Mexico)

ALBA CERDA, Salvador,
Avenida P acifico No. 2834, Seccion Costa de Oro Fraccionamiento Playas de Tijuana 22250, Tijuana, Baja California, Mexico;
Avenida Pacifico No. 2408, Seccion Costa de Oro Fraccionamiento Playas de Tijuana 22250, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 25 Dec 1947; POB Patzcuaro, Michoacan, Mexico;
Credencial electoral No. 125324910951 (Mexico)(individual)

ARELLANO FELIX, Enedina
(a.k.a. ARELLANO FELIX DE TOLEDO, Enedina), c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
DOB 12 Apr 1961

FREGOSO AMEZQUITA, Maria Antonieta,
Calle Jerez 538, Fraccionamiento Chapultepec, Tijuana, Baja California, Mexico;
Calle Jerez 552–B, Fraccionamiento Chapultepec, CP 22420, Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
c/o FORPRES, S.C., Tijuana, Baja California, Mexico;
c/o ACCESOS ELECTRONICOS, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o OPERADORA VALPARK, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 29 Oct 1952; POB Guadalajara, Jalisco, Mexico; Driver's License No. 180839 (Mexico);
Credencial electoral No. 088455751391 (Mexico);
R.F.C. # AEL–980417-S51 (Mexico)

GALINDO LEYVA, Esperanza,
c/o COMPLEJO TURISTICO OASIS, S.A. de C.V., Playas de Rosarito, Baja California Norte, Mexico;
DOB 16 Aug 1920;
R.F.C. # GALE–200816–6IA (Mexico)

GIL GARCIA, Jose Alejandro,
Avenida Ejercito Trigarante 7865–J, Infonavit Cuchanilla 22680, Tijuana, Baja California, Mexico;
Avenida Altabrisa 15401, Fraccionamiento Altabrisa, Otay Universidad, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 22 Jan 1952; POB Culiacan, Sinaloa, Mexico;
Credencial electoral No. 103624690069 (Mexico);
R.F.C. # GIGA–520122

(Mexico)(individual)

HERNANDEZ PULIDO, Maria Elda,
Calle Juan de Dios Peza 1015, Colonia Mexico 22150, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 18 Aug 1971; POB Baja California Norte, Mexico
MATTHEW, Karen,
c/o FREIGHT MOVERS INTERNATIONAL, Basseterre, St. Kitts & Nevis, West Indies;
DOB 27 Jan 1964; POB St. Vincent & Grenadines

MIJARES TRANCOSO, Gilberto,
Calle Luis Echeverria 6329-B, Infonavit Presidentes, Tijuana, Baja California, Mexico; P.O. Box 43440, San Ysidro, California 92173, U.S.A.;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 4 Feb 1951; POB Vicente Guerrero, Durango, Mexico;
Driver's License No. 210082884 (Mexico); Passport No. ASDI1418 (Mexico)

MORENO MEDINA, Luis Ignacio,
Calle Guadalupe Victoria 6, Colonia Lomas Hipodromo, Tijuana, Baja California, Mexico;
Calle Guadalupe Victoria 9, Colonia Lomas Hipodromo, Tijuana, Baja California, Mexico;
Avenida David Alfaro Siqueiros 2789–102, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Avenida de las Americas 3048, Fraccionamiento El Paraiso, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
c/o FORPRES, S.C., Tijuana, Baja California, Mexico;
c/o ACCESOS ELECTRONICOS, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o OPERADORA VALPARK, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o VALPARK, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o GEX EXPLORE, S. de R.L. de C.V., Tijuana, Baja California, Mexico;
DOB 26 May 1953; POB Distrito Federal, Mexico;
Passport No. 96020025125 (Mexico), Passport No. ATIJ07154 (Mexico);
R.F.C. # MOML–530526–ED4 (Mexico)

OROPEZA MEDRANO, Francisco Javier,
Avenida Los Reyes 18108–D, Fraccionamiento Villa de Baja California 22684, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
DOB 23 Feb 1968; POB Coahuila, Mexico

OROZCO CARDENAS, Adrian,
Privada Colonia del Valle 7001, Fraccionamiento Residencial Agua Caliente, Tijuana, Baja California, Mexico;
Calle Circunvalacion Sur 273–5, Colonia Las Fuentes 45070, Zapopan, Jalisco, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
c/o FORPRES, S.C., Tijuana, Baja California, Mexico;
DOB 14 Sept 1953, POB Distrito Federal, Mexico

RAMIREZ AGUIRRE, Sergio Humberto,
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 22 Nov 1951

TOLEDO CARREJO, Luis Raul,
Calle De Los Olivos 10549, Colonia Jardines de Chapultepec, Tijuana, Baja California, Mexico;
Ave. Xavier Villaurrutia 9950, Colonia Zona Urbana Rio, Tijuana, Baja California, Mexico;
Ave. Queretaro 2984, Colonia Francisco I. Madero, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE IMUEBLES VIDA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 30 Jan 1959; POB Guadalajara, Jalisco, Mexico

II. ENTITIES

ACCESOS ELECTRONICOS, S.A. de C.V.,
Blvd. Cuauhtemoc 1711, Oficina 305, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Avenida Cuauhtemoc 1209, CP 22290, Colonia Zona Rio, Tijuana, Baja California, Mexico;
David Alfaro 25, CP 22320, Tijuana, Baja California, Mexico

ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V.,
Blvd. Agua Caliente 1381, Colonia Revolucion, Tijuana, Baja California, Mexico

ADP, S.C.,
Tijuana, Baja California, Mexico

COMPLEJO TURISTICO OASIS, S.A. de C.V.
(a.k.a. OASIS BEACH RESORT & CONVENTION CENTER), Km 25 Carr. Tijuana-Ensenada, Colonia Leyes de Reforma,
CP 22710, Playas de Rosarito, Baja California Norte, Mexico;
R.F.C. # CTO–880909–R38 (Mexico)

DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V.
(a.k.a. DISTRIBUIDORA IMPERIAL, a.k.a. DIBC), Blvd. Agua Caliente 1381, Colonia Revolucion, Tijuana, Baja California, Mexico;
Avenida Rio Nazas 10202, Tijuana, Baja California, Mexico;
Heroes de Nacozari 3213 Colonia Maya, Culiacan, Sinaloa, Mexico;
Lerdo de Tejada 1879 Sector Juarez, Guadalajara, Jalisco, Mexico;
Ramon Morales No. 732 Colonia El Mirador, Guadalajara, Jalisco, Mexico;
Rio Balsas 1579 Los Nogales, Ciudad Juarez, Chihuahua, Mexico;
Luz Savinon 718–C Colonia del Valle, Mexico City, Distrito Federal, Mexico;
P.O. Box 434440, San Ysidro, California 92173, U.S.A.
R.F.C. # DIB–771110–HQ1 (Mexico)

FARMACIA VIDA SUPREMA, S.A. de C.V.
(a.k.a. FARMACIAS VIDA, a.k.a. FARMACIA VIDA), Blvd. Agua Caliente 1381, Colonia Revolucion, Tijuana, Baja California, Mexico;
Avenida Constitucion No. 1300,Tijuana, Baja California, Mexico;
Avenida Negrete No. 1200, Tijuana, Baja California, Mexico;
Avenida Segunda No. 1702, Tijuana, Baja California, Mexico;
Avenida 16 de Septiembre No. 1100,

Tijuana, Baja California, Mexico;
Calle 4ta. 1339 y "G" Tijuana, Baja California, Mexico;
Blvd. D. Ordaz No. 700–316, Tijuana, Baja California, Mexico;
Avenida Benito Juarez No. 16–2, Rosarito, Baja California, Mexico;
Avenida Las Americas, Int. Casa Ley, Tijuana, Baja California;
Avenida Constitucion y 10ma., Tijuana, Baja California, Mexico;
Avenida Constitucion 823, Tijuana, Baja California, Mexico;
Calle Benito Juarez 1941, Tijuana, Baja California, Mexico;
Calle 4ta. Y Niños Heroes 1802, Tijuana, Baja California, Mexico;
Calle Benito Juarez 1890–A, Tijuana, Baja California, Mexico;
Blvd. Benito Juarez 20000, Rosarito, Baja California, Mexico;
Blvd. Diaz Ordaz 915, La Mesa, Tijuana, Baja California, Mexico;
Blvd. Fundadores 8417, Fraccionamiento El Rubi, Tijuana, Baja California, Mexico;
Avenida Tecnologico 15300–308, Centro Comercial Otay Universidad Tijuana, Baja California, Mexico;
Avenida Revolucion 651, Zona Centro, Tijuana, Baja California, Mexico;
Blvd. Sanchez Taboada 4002, Zona Rio, Tijuana, Baja California, Mexico;
Paseo Estrella del Mar 1075–B, Placita Coronado, Playas de Tijuana, Baja California, Mexico;
Avenida Jose Lopez Portillo 131–B, Modulos Otay Tijuana, Baja California, Mexico;
Avenida Braulio Maldonado No. 1409–C, Local 3, Fraccionamiento Soler, Tijuana, Baja California, Mexico;
Toribio Ortega No. 6072–1 Colonia Fco. Villa, Tijuana, Baja California, Mexico;
Blvd. Diaz Ordaz No. 1159–101, Tijuana, Baja California, Mexico;
Plaza del Norte, M. Matamoros No. 10402, Frac. M. Matamoros, Tijuana, Baja California, Mexico;
Calle Carrillo Puerto (3ra.) No. 1434–131, Tijuana, Baja California, Mexico;
Blvd. Ejido Matamoros No. 402–1 Lomas Granjas la Española, Tijuana, Baja California, Mexico;
Calz. Cucapah 20665–1B Colonia Buenos Aires Norte, Tijuana, Baja California, Mexico;
R.F.C. # FVS–870610–LX3 (Mexico)
FORPRES, S.C.,
Tijuana, Baja California, Mexico
FREIGHT MOVERS INTERNATIONAL,
Airport Road, Basseterre, St. Kitts & Nevis, West Indies;
Church Street, Basseterre, St. Kitts & Nevis, West Indies
GEX EXPLORE S. de R.L. de C.V.,
Avenida David Alfaro Siqueiros 2789–102, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Avenida David Alfaro 25, CP 22320, Tijuana, Baja California, Mexico;
Calle Nezahualcoyotyl No. 1660, CP 22320, Colonia Zona Rio, Tijuana, Baja California, Mexico
OPERADORA VALPARK, S.A. de C.V.,
Avenida Cuauhtemoc 1711, Ofc. 305A, Zona Rio, Tijuana, Baja California, Mexico;
Calle Netzahuacoyotl y Paseo Centenario, Tijuana, Baja California, Mexico
VALPARK, S.A. de C.V.,
Avenida David Alfaro Siquieiros 2789, Ofc. 201A, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Paseo de los Heroes y Sanchez Taboada, CP 22320, Tijuana, Baja California, Mexico

Dated: May 8, 2002.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 9, 2002.

Kenneth E. Lawson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 02–13426 Filed 5–24–02; 2:33 pm]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–52–88]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–52–88 (TD 8455), Election to Expense Certain Depreciable Business Assets. (§§ 1.179–2, 1.179–3).

DATES: Written comments should be received on or before July 29, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the internet (*Allan.M.Hopkins@irs.gov*) Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election to Expense Certain Depreciable Business Assets.

OMB Number: 1545–1201.

Regulation Project Number: PS–52–88 Final.

Abstract: The regulations provide rules on the election described in Internal Revenue Code section 179(b)(4); the apportionment of the dollar limitation among component members of a controlled group; and the proper order for deducting the carryover of disallowed deduction. The recordkeeping and reporting requirements are necessary to monitor compliance with the section 179 rules.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, farms, and business or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 45 min..

Estimated Total Annual Burden Hours: 15,000 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13580 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, Board, FDIC, and OTS (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed extension, without change, of a continuing information collection, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the Agencies are soliciting comment concerning the proposed extension of OMB approval of the information collections contained in their respective Community Reinvestment Act (CRA) regulations.

DATES: Comments should be submitted by July 29, 2002. .

ADDRESSES: Comments should be directed to the Agencies and the OMB Desk Officer for the Agencies as follows:

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1–5, Attention: 1557–0160, Washington, DC 20219. Due to temporary disruptions in the OCC's mail service, commenters are encouraged to submit comments by fax or electronic mail. Comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy comments at the OCC's Public Information Room. You can make an appointment to inspect the comments by calling (202) 874–5043.

Board: Written comments may be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by electronic mail to *regs.comments@federalreserve.gov*, or faxing them to the Office of the Secretary at (202) 452–3819 or (202) 452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in Room M–P–500 between 9 a.m. and 5 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Tamara Manly, Management Analyst, Office of the Executive Secretary, Room F–4060, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to "Community Reinvestment Act Regulation, 3064–0092." Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [Fax number (202) 898–3838; Internet address: *comments@fdic.gov*]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC between 9 a.m. and 4:30 p.m. on business days.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention: 1550–0012, Fax number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

OMB Desk Officer for the Agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: You may request additional information from:

OCC: Jessie B. Dunaway, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Tamara Manly, Management Analyst, (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Title:

OCC: Community Reinvestment Act Regulation—12 CFR 25.

Board: Recordkeeping, Reporting, and Disclosure Requirements in Connection with Regulation BB (Community Reinvestment Act).

FDIC: Community Reinvestment Act

OTS: Community Reinvestment Act

OMB Control Number:

OCC: 1557–0160

Board: 7100–0197

FDIC: 3064–0092

OTS: 1550–0012

Type of Review: Extension, without change, of a currently approved collection.

Form Number: None.

Abstract: This submission covers an extension of the Agencies' currently

approved information collections in their CRA regulations (12 CFR part 25 (OCC), 12 CFR part 228 (Board), 12 CFR part 345 (FDIC), and 12 CFR part 563e (OTS)). The submission involves no change to the regulations or to the information collections.

The Agencies need the information collected to fulfill their obligations under the CRA (12 U.S.C. 2901 *et seq.*) to evaluate and assign ratings to the performance of institutions, in connection with helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices. The Agencies use the information in the examination process and in evaluating applications for mergers, branches, and certain other corporate activities. Financial institutions maintain and provide the information to the Agencies.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents:

OCC: 2,141
Board: 976
FDIC: 5,484
OTS: 1,020

Estimated Annual Responses:

OCC: 2,141
Board: 976
FDIC: 5,484
OTS: 1,020

Estimated Annual Burden Hours:

OCC: 322,307
Board: 159,160
FDIC: 607,603
OTS: 158,221

Frequency of Response: Annually.

Comments

Comments submitted in response to this notice will be summarized in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 6, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, May 22, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 3rd day of May, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: May 6, 2002.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.

[FR Doc. 02–13413 Filed 5–29–02; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

Corrections

Federal Register
Vol. 67, No. 104
Thursday, May 30, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AK66

Special Monthly Compensation for Women Veterans Who Lose a Breast as a Result of a Service-Connected Disability

Correction

In proposed rule document 01–18207 beginning on page 37940 in the issue of Friday, July 20, 2001, make the following correction:

§ 4.116 [Corrected]

On page 37941, in the third column, the table is being reprinted in part to read as follows:

	Rating
Both or one	0

NOTE: For VA purposes:

(1) *Radical mastectomy* means removal of the entire breast, underlying pectoral muscles, and regional lymph nodes up to the coracoclavicular ligament..

(2) *Modified radical mastectomy* means removal of the entire breast and axillary lymph nodes (in continuity with the breast). Pectoral muscles are left intact..

	Rating
(3) *Simple (or total) mastectomy* means removal of all of the breast tissue, nipple, and a small portion of the overlying skin, but lymph nodes and muscles are left intact..	
(4) *Wide local excision* (including partial mastectomy, lumpectomy, tylectomy, segmentectomy, and quadrantectomy) means removal of a portion of the breast tissue..	

* * * * *

[FR Doc. C1–18207 Filed 5–29–02; 8:45 am]

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Federal Register

Thursday,
May 30, 2002

Part II

Department of Transportation

Coast Guard

33 CFR Parts 148, 149, and 150
Deepwater Ports; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 148, 149, and 150

[USCG–1998–3884]

RIN 2115–AF63

Deepwater Ports

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations governing deepwater ports. These regulations are over 25 years old and were written at a time when no deepwater ports existed on which to base regulations. This rulemaking is necessary to update the regulations with current technology and industry standards. It will also align them with certain regulations for other fixed offshore facilities.

DATES: Comments and related material must reach the Docket Management Facility on or before July 29, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 29, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG 1998–3884), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

You may inspect the material proposed for incorporation by reference at room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1181. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Commander Mark Prescott, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), Coast Guard, telephone 202–267–0225. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–1998–3884), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Related Rulemaking

This notice of proposed rulemaking (NPRM) refers to sections in another Coast Guard NPRM. References in §§ 149.305, 149.405, 149.640, 149.690, 150.250, 150.505, 150.510, and 150.600 of the deepwater ports NPRM to sections in parts 142 and 143 refer to those sections as they appear in the NPRM entitled "Outer Continental Shelf Activities" published in the **Federal Register** on December 7, 1999, not as they appear in the current Code of Federal Regulations (CFR). A note is placed at the end of each paragraph that references a section in the Outer Continental Shelf (OCS) Activities NPRM. For example, paragraph (a) of § 149.305 in this document refers to §§ 143.810 through 143.885. The note following that paragraph indicates that the sections referred to are proposed in the December 7, 1999, issue of the **Federal Register**, volume 64, at pages 68476 through 68480. A copy of the OCS Activities NPRM (docket number USCG–1998–3868) is available in the **Federal Register** at volume 64, page 68416, December 7, 1999, or at *http://dms.dot.gov*.

The OCS Activities NPRM proposes to revise 33 CFR chapter I, subchapter N, which contains the requirements for units, other than deepwater ports, on the OCS. Because of similarities between deepwater ports and fixed OCS facilities, representatives within the deepwater port industry requested that the deepwater regulations be aligned, to the extent practicable, with the OCS regulations. Also, this alignment furthers a major goal of the 1996 Deepwater Ports Modernization Act (Public Law 104–324) concerning improving the competitiveness of deepwater ports by eliminating unduly burdensome, unnecessary, and duplicative regulations. See House of Representatives Report 104–692.

Should you have comments on provisions in the OCS Activities NPRM that are referenced in this Deepwater Ports NPRM and would like those comments considered under the deepwater ports rulemaking, please submit them to the Deepwater Ports docket (USCG–1998–3884) under **ADDRESSES.**

What Is the Regulatory History of This Rulemaking?

On August 29, 1997, the Coast Guard published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) (62 FR 45775) for deepwater ports. The ANPRM sought answers to several questions, each of which is discussed, along with responses, later in this preamble.

What Is the Background for This Rulemaking?

A deepwater port is a structure located beyond the territorial sea and off the coast of the United States that is used to receive, store, and distribute oil to refineries in the U.S. At present, the Louisiana Offshore Oil Port (LOOP) is the only licensed deepwater port.

The regulations for deepwater ports in 33 CFR chapter I, subchapter NN, (parts 148, 149, and 150) were written in 1975. At that time, there were no deepwater ports in the United States and, therefore, we had little experience in formulating regulations for them. From the experience gained in applying these regulations to LOOP and from the comments received in response to the advance notice of proposed rulemaking, we found that some of the regulations are overly burdensome or more extensive than those for fixed facilities on the OCS. The application process for a deepwater port license requires information no longer necessary in today's economy. Technology and industry standards have changed over the years, causing some regulations to become obsolete.

In 1996, Congress passed the Deepwater Port Modernization Act (Public Law 104–324, title V, sec. 501–508, October 19, 1996). This Act amended the Deepwater Port Act of 1974 (33 U.S.C. 1501–1524) for the following reasons:

(1) To update and improve the Deepwater Port Act of 1974.

(2) To assure that the regulations for deepwater ports are not more burdensome or stringent than necessary in comparison to the regulations of other modes for importing or transporting oil.

(3) To recognize that deepwater ports are generally subject to effective competition from alternate transportation modes and to eliminate unnecessary Federal regulatory oversight or involvement in the port's business and economic decisions.

(4) To promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or licensing provisions.

(5) To encourage the construction of additional deepwater ports and to improve the competitiveness of the existing deepwater port (LOOP).

What Are Our Objectives for This Rulemaking?

(1) *Update the regulations.* We propose updates to various sections of the regulations, such as the requirements for license applications, fire extinguishing systems, fire detection systems, and construction and design. Also, we use modern, plain-language techniques in drafting the proposal to better benefit the reader.

(2) *Exclude unnecessary regulations.* We have tried to limit the regulations in this proposal to only those that should be in regulations, that is, those that apply to all deepwater ports, and to exclude from the regulations all requirements applicable only to a specific port. Provisions peculiar to a specific port would be included in that port's license or operations manual. This is consistent with 33 U.S.C. 1503(e)(1) and House of Representatives Report 104–692, page 4, section 4(c).

(3) *Ensure that the regulations are consistent with those for similar structures.* We have tried to align, to the extent practicable, these proposed regulations with those proposed for fixed facilities on the OCS. (See the discussion in the "Related Rulemaking" section of this preamble.) Also, we have tried to align these regulations with those for facilities transferring oil or hazardous materials in bulk (33 CFR part 154). Certain aspects of operating a deepwater port are similar to those for facilities transferring oil or hazardous materials in bulk (OHMB facilities). For example, similarities exist in areas of cargo transfer operations, communications, and operations manuals.

(4) *Improve the competitiveness of the current deepwater port and encourage the construction of additional deepwater ports.* The Deepwater Port Modernization Act makes certain changes to the Deepwater Port Act to improve competitiveness, such as by clarifying the definition of "deepwater port" to include a broader range of activities. Working within the limits of these changes to the Act, we have tried to simplify the use of the regulations by clarifying and streamlining them. In developing these proposals, we also kept in mind the objective of promoting the use of deepwater ports by improving the regulatory framework and the procedure for applying for a license. We propose to eliminate unduly burdensome regulations. For example, we delete the need for Secretarial review of relatively routine, non-controversial matters.

We are particularly interested in your comments on how well we have achieved each of these objectives.

What Comments Were Received in Response to the 1997 Advance Notice of Proposed Rulemaking?

We received four letters in response to the questions raised in our 1997 Advance Notice of Proposed Rulemaking (ANPRM). You can view the letters on the Internet at *http://dms.dot.gov* under this rulemaking's docket number (USCG–1998–3884). The following is a list of the questions asked in the ANPRM and the responses to them. The citations used (e.g., § 150.123) refer to the regulations presently in effect in title 33 of the Code of Federal Regulations (CFR), not to those in this proposed rule.

(1) What provisions of the regulations should be moved from the regulations and placed in the license conditions?

One comment states that nothing should be moved from the regulations to the license.

One of our objectives in this rulemaking is to limit the regulations to requirements applicable to all deepwater ports. What you see in this proposal are only those requirements that we believe should be in regulations.

(2) What provisions of the regulations can be moved from the regulations and placed in the operations manual?

(a) One comment suggests that the requirements for weather monitoring (§ 150.123), oil transfers (§ 150.413), and stopping transfer operations (§ 150.419) be moved to the operations manual.

We agree and propose that these requirements be moved to the operations manual. This proposal is aligned with the requirements in 33 CFR part 154 for onshore facilities transferring oil or hazardous materials in bulk (OHMB facilities), where oil transfers and stopping oil transfers are dealt with in the operations manual.

(b) Several comments suggest that certain provisions in part 150, subparts B through F, be transferred to the operations manual. One comment suggests that §§ 150.123, 150.201 through 150.217, 150.305 through 150.311, 150.313(a), (b), and (c), 150.341, 150.342, 150.413, 150.415, 150.419, 150.423, 150.503, 150.519, 150.521, 150.523, 150.751, and 150.755 be moved to the manual. Another comment suggests moving the personnel requirements, the description of fire extinguishing equipment and their locations, and the vessel navigation requirements in part 150, subpart C, to the manual. Unfortunately, these comments do not adequately explain why these moves should be made.

We tried to include in the regulations only provisions that should apply to all deepwater ports. We do propose to transfer some of the sections suggested to the operations manual. In particular, we propose to move §§ 150.123, 150.305, 150.311, 150.313, 150.419, 150.519, 150.521, 150.523, and 150.755 to the operations manual. However, we believe that the remaining sections apply to all deepwater ports and, therefore, should stay in the regulations.

(3) What regulations are obsolete, unnecessary, redundant, or restrictive?

(a) One letter states that the regulations for deepwater ports, particularly those on the application for a license, are far more onerous and costly than those for other offshore facilities. The comments remark that the Coast Guard should delete information that was a concern in the 1970's but is no longer a concern today. The comments suggest that information on Petroleum Administration for Defense (PAD) Districts (See definition in proposed § 148.5.) in § 148.109(e) should be deleted. The comments also suggest that financial and technical information required in §§ 148.109(f), (k), and (p), 148.111, and 148.503 is unnecessary.

In the 1970's, the Government thought that deepwater ports would dominate the market. Therefore, the regulations required much information on affiliates, contractors, and PAD Districts. We propose to remove §§ 148.109(e)(6)(i) and (ii), (e)(7) through (e)(13), and (f) and 148.323(b)(6), as the comment suggests.

(b) One comment says that the requirements in §§ 149.313 and 149.315 for an oil transfer alarm were duplicative of the general alarm and public address requirements and that these issues should be addressed in the operations manual.

A separate oil transfer alarm is needed to immediately distinguish between an oil transfer emergency and a general emergency because of the environmental consequences involved. We have retained these provisions in the proposed regulations because they would be applicable to all deepwater ports.

(c) One comment states that § 149.403, concerning wastes being gathered in reservoirs, is inconsistent with industry practices where wastes are treated and expelled into the Gulf of Mexico.

We do not agree. The Minerals Management Service requires offshore facilities, in 30 CFR 250.300, to have a sump system that collects all oil drainages and contaminants not authorized for discharge into the ocean. This system is comparable to the requirement for a reservoir for a deepwater port. This requirement remains in the regulations.

(d) One comment suggests that §§ 150.203 through 150.217 be deleted and a single section entitled "Person in Charge" be added.

Unfortunately, we were not given a reason for this suggestion and cannot gather from the context why it was suggested.

(e) One comment recommends deleting § 150.713 on sabotage as unnecessary because of industry standards and other Federal and State laws.

Though sabotage is covered under other Federal laws, § 150.713 requires that sabotage be reported to the Coast Guard. Since these incidents must be reported to the Coast Guard, we retain the provision in this proposed rule, except for the requirement for written confirmation of sabotage. We propose to remove the requirement for written confirmation to lessen the reporting burden.

(f) One comment suggests that the notification of new construction at a deepwater port be given to the Coast Guard Captain of the Port (COTP), rather than to the District Commander, as required in § 150.117. Also, a comment suggested that the notification of issuance of the American Bureau of Shipping (ABS) Classification Certificate for a single point mooring (SPM) be given to the COTP, rather than to the Commandant, as required in § 150.119.

We agree with these comments. However, as the COTP is usually advised of construction occurring in his or her area of operation, we propose no change to § 150.117. In § 150.119, the COTP, rather than the Commandant, should be given written confirmation of the licensee's receipt of ABS certificates on SPM's, so we have proposed this change.

(g) Two comments state that § 149.206, concerning construction, should be changed to require steel walls and decks only for manned spaces and that the existing regulations are inappropriately based on those for vessels.

We agree and propose to incorporate the standards for fixed facilities in the OCS Activities NPRM.

(h) One comment remarks that the emergency equipment requirements in § 149.211 are duplicative of other, more detailed sections.

We agree and propose to remove this section.

(i) One comment suggests that the requirement in § 149.215 prohibiting the installation of navigation, communication, or radar equipment so as to interfere with helicopter operations is unnecessary because it is addressed in the National Fire Protection Association, National Fire Code No. 407, which is already incorporated by reference and required by § 149.213 (proposed § 149.655).

NFPA 407 has been revised and no longer addresses physical interferences with helicopter operations. Instead, we propose to incorporate the American Petroleum Institute standard API RP 2L, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, in proposed § 149.625(f). This standard would apply to fixed deepwater ports and does address physical interferences with helicopter operations. Therefore, we propose to remove existing § 149.215.

(j) One comment states that discharge containment and removal requirements in §§ 149.319, 150.407, and 150.409 are already covered in the facility's response plan required by the Oil Pollution Act of 1990 (OPA 90).

We agree with this comment and have removed the pollution response equipment requirements found in §§ 149.319, 150.407, and 150.409.

(k) Two comments state that §§ 149.451 through 149.479, 150.504, 150.505, and 150.507 are unnecessary because a fixed fire-main system for water is not required on Outer Continental Shelf (OCS) and Oil or Hazardous Material in Bulk (OHMB) facilities and because the regulations should allow for use of dry chemicals.

In limited circumstances, MMS does allow the use of dry chemical systems without a fire main system. However, on facilities that are permanently manned, as are deepwater ports, MMS requires the installation of a fire main system. Dry chemical extinguishers may be used in addition to the fire main system. Therefore, we do not propose to delete these requirements.

(l) One comment on § 149.481 states that halogenated agents are no longer considered safe and should be removed from the regulations.

We agree and propose to remove the references to halogenated fixed fire fighting system agents.

(m) One comment addressing § 149.483 states that the Coast Guard should allow the use of dry chemicals in the fire fighting system for helicopter landing pads.

The provision in the OCS Activities NPRM, which we propose to use for deepwater ports, includes, as an option, the use of dry chemicals in the fire protection system.

(n) One comment addresses § 149.491, concerning fire detection systems. The comment recommends that fire detection systems be required only for enclosed, non-sleeping spaces.

We propose to adopt the regulations for fire detection systems in the OCS Activities NPRM, except that the existing deepwater port (LOOP) would be allowed to use its currently installed system until replaced. The proposed change calls for the system to be installed in all accommodation and service spaces, which would resolve the issue addressed by the first comment.

(o) One comment states that there are no requirements for fire detection systems for OCS and OHMB facilities and, therefore, these systems are unnecessary for deepwater ports.

We do not agree. Requirements for fire detection systems are proposed for fixed facilities in the OCS Activities NPRM and, therefore, are being proposed for deepwater ports.

(p) One comment states that the requirement in § 149.505 for the carriage of spare charges for 50 percent of all portable extinguishers is unnecessary.

We agree and propose to delete this requirement.

(q) Two comments on § 149.517 state that firemen's outfits are unnecessary on deepwater ports because personnel generally make some attempt to put out a fire first. Then, if the fire is not brought under control, they evacuate the facility.

We do not agree. Firemen's outfits are necessary for personnel who may have to rescue others who are trapped by fire. The OCS Activities NPRM proposes a requirement for two firemen's outfits. Therefore, we propose this requirement for deepwater ports.

(r) One comment states that the requirements in § 149.539 for portable lights are overly intrusive and detailed, requiring the selection and use of specific equipment.

We agree and propose to allow personnel on deepwater ports to use lights and supply cords suitable for the environment in which they are used.

(s) One comment concerning markings for piles in § 149.793 states that this requirement should not be applicable to deepwater ports because of the water depth.

The objective of this section is to require that objects protruding from the water, other than platforms and SPM's, be marked so that they are visible to vessels transiting the area. To avoid any further confusion, we propose to amend this section to clarify this point.

(t) Three comments recommend adopting the operations manual requirements in §§ 154.300 through 154.320.

We agree and have aligned, to the extent practicable, the proposed operations manual requirements with those in 33 CFR 154.310 through 154.320 for OHMB facilities.

(u) One comment recommends that the Captain of the Port (COTP), instead of the Commandant as in § 150.105, be the approval authority for the original approval of the operations manual.

We do not agree that the COTP should be the final approval authority for the operations manual, because the Commandant reviews the submitted operations manual as part of the application process for a deepwater port license. Therefore, we propose no change to this requirement.

(v) One comment suggests that the requirement in § 150.106 for 25 copies of the operations manual is unnecessary and should be reduced to five.

We agree and propose to require the licensee to provide at least five copies of the operations manual to the Commandant (G–M).

(w) One comment states that the requirement in § 150.125, concerning water depth measurements, is unnecessary because deepwater ports are designed, located, and approved with a stable ocean floor.

This provision is not in the OCS Activities NPRM. We agree that this regulation is unnecessary and propose to delete it.

(x) One comment suggests that we remove § 150.419 on stopping oil transfers and move it to the operations manual.

We agree. We propose to move the shut down procedures for stopping oil transfers to the operations manual. See § 150.15(h)(6) in this proposal.

(y) One comment states that the requirement in § 150.421, concerning the displacement of oil in a single point mooring-oil transfer system (SPM–OTS), is impractical for deepwater ports.

We have decided to retain this provision. It is primarily intended for situations where the hose will not be used for long periods of time or when heavy weather threatens. Operators may apply for an exemption on a case-by-case basis, under proposed part 148, subpart F.

(z) One comment states that § 150.513, Sanitation, was unnecessary because of accepted industry standards.

We agree and propose to remove this regulation.

(aa) Two comments suggest that the requirement in § 150.516 that fire-fighting and rescue personnel present during aircraft operations be "appropriately clothed and sufficiently qualified" is impractical, vague, and not addressed in the regulations for OCS and OHMB facilities.

The deepwater ports regulations do not state what clothing is "appropriate" and what qualifications are "sufficient."

We agree that these provisions are unnecessary and propose to remove them.

(bb) One comment states that the regulations for housekeeping (§ 150.521) and illumination of walking and working areas (§ 150.523) are unnecessary because of Occupational Safety and Health Administration (OSHA), industry, and insurance standards.

We agree and propose that these provisions be removed from the regulations and addressed in the operations manuals.

(cc) Two comments state that the requirements for emergency medical technicians in § 150.525 are unnecessary.

We propose to adopt the workplace safety and health requirements in proposed § 142.366(c) of the OCS Activities NPRM, which would require that the technician be registered with the National Registry of Emergency Technicians (EMT) at the EMT-Intermediate level.

(dd) One comment states that the oil throughput report required in § 150.707 is no longer needed because the Deepwater Port Liability Fund was superseded by the Oil Spill Liability Trust Fund under the Oil Pollution Act of 1990 (OPA 1990).

We agree and propose to remove this requirement because the National Pollution Funds Center no longer requires this report for any purpose.

(ee) One comment suggests that we remove § 150.757, concerning the oil throughput log, because U.S. Customs already requires this log for customs tariffs.

We agree and propose to remove this requirement.

(4) Should the Outer Continental Shelf Activities regulations (33 CFR chapter I, subchapter N) be applied to Deepwater Ports?

Three comments suggest that certain sections of the deepwater port regulations should be similar to those for fixed facilities on the OCS. These sections, primarily concerning safety equipment, are §§ 149.206, 149.217, 149.421, 149.431, 149.441, 149.515, 149.521, 149.523, 149.525, 149.527, 150.509, and 150.527.

We propose to adopt, for deepwater ports, the provisions on these subjects found in the OCS Activities NPRM for fixed facilities.

(5) Should the regulations for facilities transferring oil or hazardous material in bulk (OHMB facilities) in 33 CFR part 154 be applied to deepwater ports?

(a) One comment states that, though the OHMB facility regulations contain a number of operating standards that are followed by the petroleum industry, not all of them are applicable to deepwater ports. It contends that a deepwater port is unique in its licensing and application protocols and environmental risks and should not have all of the same requirements as an onshore facility. Another comment suggests that we align the deepwater port regulations with those for OHMB facilities in §§ 154.300 and 154.320 (operations manual), 154.560 (communications), 154.735 (safety requirements), and 156.150 (declaration of inspection).

We agree with the suggestion, except as to §§ 154.300 and 154.735. Section 154.735 is not suitable for deepwater ports because it addresses concerns for onshore facilities. Only certain provisions of § 154.300 are suitable for deepwater ports, such as the provisions on what should be in the operations manual and how the manual should be maintained.

(b) Another comment states that we should organize all of part 150 along the lines of 33 CFR part 154.

We disagree. Though there are similarities between deepwater ports and onshore facilities, not all regulations are suitable for both.

(6) Should the environmental monitoring program be revised?

The comments received concerning the environmental monitoring program suggest that we eliminate the program. One comment states that the environmental monitoring program should not be addressed in the regulations but be kept in the operations manual or licensing process, as appropriate.

We agree with the comment that suggests that we not include it in the regulations. Under the proposed rule, the environmental monitoring program is addressed in the operations manual and may also be part of the license.

(7) What other regulations, if any, should we align the deepwater port regulations with?

(a) One comment suggests that we delete the aids to navigation requirements in parts 149 and 150 and refer to 33 CFR chapter I, subchapter C, Aids to Navigation, instead.

We do not agree. The requirements for aids to navigation for deepwater ports contain detailed provisions not found in subchapter C, such as the technical requirements for lights.

(b) One comment concerning notice of arrival of tankers at a deepwater port (§ 150.333) suggests that we rely on 33 CFR 160.207 and 160.211, which already address notice of arrival for vessels.

We agree that this section should reference 33 CFR 160.207 and 160.211 and propose this change.

(c) One comment suggests that extra lifesaving and fire fighting equipment be approved by the American Bureau of Shipping (ABS) rather than under 46 CFR parts 160 or 162, as required by 33 CFR 149.402.

We do not agree. Although ABS provides some technical review and inspection functions, it does not approve lifesaving gear or fire fighting equipment on behalf of the Coast Guard.

What Methods Did We Use To Make the Proposed Regulations More Readable?

One of the most noticeable changes in the proposed rule is in its organization and style. We use many plain-language techniques in this document. These techniques are intended to make the regulations easier to follow and understand. Some plain-language techniques include the use of—

1. The active voice to clarify who is responsible;
2. Section headings with text in a question-and-answer format to organize and convey the information in a logical way;
3. Common, everyday words, except for standard technical terms;
4. Short sentences for easier readability; and
5. Personal pronouns that directly address the reader.

These and similar techniques are consistent with the requirements of the Presidential Memorandum, "Plain Language in Government Writing" (63 FR 31885, June 1, 1998). We ask for your comments on the organization, style, and readability of this document.

What Are the Proposed Substantive Changes?

The following is a discussion of the proposed, substantive changes to the existing regulations. They are arranged in sequential order, by section number, as the sections appear in the current Code of Federal Regulations.

33 CFR 148.3 and 150.403 on Definitions

We propose to move the definitions in § 150.403 to § 148.3. This will simplify the reading of the regulations. The definitions of "Affiliate" and "Deepwater port" are defined by statute and will be revised to cite their statutory definitions. We propose to add the definitions of "Adjacent coastal state," "Administrator of the Maritime Administration," "Applicant," "Application," "Approval series," "Citizen of the United States," "Coastal environment," "Coastal state," "Commandant (G–M)," "Construction," "Control," "District Commander," "Governor," "Lease block," "License," "Marine environment," "Officer in Charge Marine Inspection," "Person," "Personnel," "Safety zone," "State," "Secretary," and "Survival craft." We propose to delete the term "Marine site" because of changes in the proposed regulations that eliminate its use. We propose to update the definitions of "PAD District" and "Refining District" to reflect the change in agencies' handling of information on production of crude petroleum and revise the definition of "crude oil."

33 CFR 148.105, 148.107, and 148.213 on Application for a License

After reconsidering the number of copies of an application that the applicant must submit, we propose to reduce the number of copies required in these sections from 60 to 16, plus two copies for each adjacent coastal State.

We propose to change the $100,000 nonrefundable fee in § 148.107 to $350,000 to reflect the cost of inflation since 1975, when this provision was issued. The proposed amount is based on the Consumer Price Index of the Bureau of Labor Statistics, U.S. Department of Labor, and was calculated using the average percentage change year to year from 1975 to 1999.

33 CFR 148.109(e)(6)(i) and (ii), 148.109(e)(7), and (e)(9) Through (e)(13), and 148.323(b)(6) on Financial Information

We propose to remove these sections. They deal with the antitrust review that the Deepwater Port Modernization Act of 1996 eliminated.

33 CFR 148.109(f) on Reporting the Experience of the Applicant's Contractors

We propose to remove the requirement for reporting the experience of contractors with which a deepwater port proposes to make a contract. The proposed regulation would require information only from the contractor with whom the deepwater port applicant actually makes a contract or has a letter of intent.

33 CFR 148.109(t) on the "Guide to Preparation of Environmental Analyses for Deepwater Ports."

As suggested by the Environmental Protection Agency (EPA) and industry, we propose to remove the reference to the "Guide to Preparation of Environmental Analysis for Deepwater Ports" because of its outdated information. As a result, the current guidelines for environmental analyses are added to proposed appendix A to part 148. This will provide more flexibility in developing the environmental analysis and be more consistent with current practices and existing guidance.

33 CFR 148.211(c) on Processing an Application

We propose to remove this section to reduce the paperwork burden on the applicant.

33 CFR 148.507(c) and (d) on Reports of Site Evaluation and Pre-Construction Testing

We propose to combine paragraphs (c) and (d), which require preliminary and final reports, and require only a final report. The applicant would be given 120 days to submit this report.

33 CFR 149.203(d) on Photographic Records

We propose to remove the requirements for submitting drawings and specifications on 105-mm negatives and propose to let the licensee determine the most feasible way to record these drawings and specifications.

33 CFR 149.205 on Design Standards

In § 149.205(b), we propose to reference the updated American Petroleum Institute (API) recommended practice, API RP 2A–WSD (Working Strength Design), instead of the currently referenced API RP 2A. This updated recommended practice would apply to all deepwater ports contracted for on or after the effective date of the final rule.

As an alternative to API RP 2A–WSD, API developed API RP 2A–LRFD, Load and Resistance Factor Design. It contains the engineering design principles and practices that form the basis of API RP 2A–WSD and uses reliability-based calibration on individual structural members. We propose to allow the use of either API RP 2A–WSD or API RP 2A–LRFD.

For heliports on fixed deepwater ports, we propose to add API RP 2L as the standard for design and construction of heliports. See proposed § 149.625(f).

33 CFR 149.206 on Construction

We propose to align the requirements for structural fire protection with those in proposed §§ 143.1115 through 143.1135 of the OCS Activities NPRM.

33 CFR 149.209, 150.119, and 150.121 on Classification Society Certificates for Single Point Moorings

We propose to combine §§ 150.119 and 150.121 with § 149.209 for easier reading. In addition, we propose to allow a deepwater port licensee to request the use of an alternate classification society's rules for building a single point mooring. We published a final rule (62 FR 67525) on December 24, 1997, on alternate compliance via recognized classification societies for U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units (MODU's).

33 CFR 149.211 on Installed Mountings for Emergency Equipment

We propose to remove this section because this subject is already dealt with in other sections of the OCS Activities NPRM.

33 CFR 149.215 on Interference With Helicopter Operations

We propose to remove this section because it has already been covered in NFPA 407, which is incorporated by reference in this subchapter.

33 CFR 149.217 on First Aid Stations

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.305 (b) on Shutoff Valves for Pipeline End Manifolds

Based on LOOP's experience, we propose to delete the redundant phrase "Cargo Transfer Supervisor's normal place of duty," and replace it with "pumping platform complex." The pumping platform complex is the cargo transfer supervisor's normal place of duty.

33 CFR 149.311(b) on Monitoring the Malfunction Detection System

Section 149.311(a) requires that the oil transfer system have a system to detect and locate leaks. Paragraph (b) requires that the detection system be monitored at the Cargo Transfer Supervisor's place of duty. We propose to remove paragraph (b) because it is vague and unnecessarily restrictive. A system to detect leaks under paragraph (a) would necessarily involve monitoring.

33 CFR 149.317 on Communications Equipment

We propose to align the communications requirements with those in § 154.560.

33 CFR 149.321 on Special Requirements for On-Loading Ports

Based on LOOP's experience, we propose to add a sentence clarifying that, when a vessel-to-vessel transfer occurs at a deepwater port, the deepwater port is not required to receive oil residues.

33 CFR 149.403 on Curbs, Gutters, Drains, and Reservoirs

We propose to amend this section to require only that oil drainages and contaminants not authorized for discharge into the waters be collected in reservoirs.

33 CFR 149.421 on Means of Escape From a Platform

We propose to align this section with the proposed requirements for means of escape in the OCS Activities NPRM.

33 CFR 149.423 on Means of Escape From a Helicopter Landing Pad

We propose to align this section with the proposed requirements for means of escape in the OCS Activities NPRM.

33 CFR 149.441 on Guardrails, Fences, Nets, and Toeboards

We propose to align this section with the requirements in the OCS Activities NPRM.

33 CFR 149.477 on Spray Applicators

The final rule published in the **Federal Register** on May 23, 1996, (CGD 95–027, 61 FR 26009) eliminates the requirement for spray applicators. Newer nozzles may be approved without spray applicators. But, all fire hose nozzles approved under 46 CFR part 162, subpart 162.027, before 1996 need to have a spray applicator as approved under that subpart. We propose to include this provision in § 149.425.

33 CFR 149.479 on International Shore Connections

We propose to remove this requirement. Based on experience at LOOP, the connections are rarely used and are an unnecessary cost.

33 CFR 149.481 through 149.483 on Other Fire Extinguishing Systems

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.491 on Fire Detection and Alarm Systems

We propose to align this section with the OCS Activities NPRM, with the following exception. An existing deepwater port would be able to use the fire detection system it currently has installed until the system is replaced.

33 CFR 149.505 and 149.507 on Spare Charges and Marking of Extinguishers

We propose to align these sections with the OCS Activities NPRM.

33 CFR 149.511 and 149.513 on Helicopter Landing Areas

We propose to align these sections with the OCS Activities NPRM.

33 CFR 149.515 on Fire Axes

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.521 Through 149.537 on Lifesaving Equipment

We propose to align these sections with the OCS Activities NPRM. An existing deepwater port would be able to keep their existing equipment until it needs replacement.

33 CFR 149.539 on Portable Lights

We propose to revise this section by making it less detailed and by allowing the use of any light or supply cord suitable for the environment where they will be used.

33 CFR 149.543 on the Marking of the General Alarm

As a result of LOOP's experience and to better differentiate between the general alarm and the oil transfer system alarm, we propose to require the letters on the general alarm to be yellow on a red background.

33 CFR 149.703 through 149.775 on Aids to Navigation

We propose to update this section with the latest technological advances and to reorganize it for easier reading.

33 CFR 149.793 on Marking for Piles and Pile Clusters

We propose to clarify this section. The objective of this section is to require that objects protruding from the water, other than platforms and SPM's, be marked so that they are visible from vessels transiting the area.

33 CFR 150.105, 150.106, and 150.107 on the Operations Manual

We propose to remove the reference in § 150.105 to the "Guidelines for Preparation of a Deepwater Port Operations Manual." Instead of this reference, we propose to list, in § 150.15, the items that an operations manual should include. This change would be consistent with the requirements for onshore facilities, which do not reference a separate document listing the items. The new list would require less information than the detailed Guidelines.

Section 150.106 requires that 25 operations manuals be submitted to the Coast Guard. We see no need for this many manuals and propose that only five are submitted.

We propose to align § 150.107, concerning amendments to the operations manual, with the requirements for facilities transferring oil and hazardous material in bulk in § 154.320.

33 CFR 150.119 on Notice of an ABS Certificate

We propose to delete this section, which requires written notification from the licensee to the Commandant upon receipt of the American Bureau of Shipping (ABS) certificates for a single point mooring at a deepwater port.

33 CFR 150.123 on Weather Monitoring

We propose to move these requirements to the operations manual, as suggested by one comment. The day-to-day operation is a more appropriate subject for the operations manual.

33 CFR 150.125 on Water Depth Measurements

We propose to remove this section, as requested in several comments.

33 CFR 150.211 on Qualifications of a Mooring Master

In 1980, LOOP requested that the qualifications for a mooring master include a person with 1 year of experience in charge of an offshore crude oil lightering operation involving tankers of 70,000 DWT or larger. The Coast Guard approved the petition because it maintained a high level of qualification for the job, while expanding the number of U.S. citizens qualified for the job. We propose to include this qualification in this section.

33 CFR 150.333 on Advance Notice of Arrival

To remain consistent with other Coast Guard regulations, we propose to align, to the extent practicable, the regulations for advance notice of arrival with those in 33 CFR 160.207.

33 CFR 150.417 on the Declaration of Inspection

We propose to align the requirement for the declaration of inspection for transferring oil with that for OHMB facilities in 33 CFR 156.150.

33 CFR 150.509 on the Use of Personal Protection Equipment

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.511 on Maintenance of Personal Protection Equipment

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.513 on Sanitation

One comment states that this regulation was unnecessary in light of accepted industry standards. We agree and propose to remove this section.

33 CFR 150.516 on Aircraft Operations

Helicopter operations on offshore facilities are routine and relatively safe. They do not require that appropriately clothed personnel, as called for in § 150.516, be available on the helicopter deck during helicopter operations. Other offshore facilities are not required to have someone on the deck. Therefore, as one comment requests, we propose to remove this requirement.

33 CFR 150.521 and 150.523 on Housekeeping and Illumination

We propose to move these requirements to the operations manual.

33 CFR 150.525 on Emergency Medical Technicians (EMT's)

One comment suggests that we delete this requirement. In § 142.366(c) of the OCS Activities NPRM, an EMT is required for the rescue team for confined-space entry. We propose to delete § 150.525 because proposed § 150.600 incorporates the OCS Activities provision.

33 CFR 150.527 on First Aid Kits

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.707 on the Oil Throughput Report

We propose to remove this section because, under the Oil Pollution Act of 1990 (OPA 90), the Deepwater Port Liability Fund (DPLF) was superseded by the Oil Spill Liability Trust Fund (OSLTF). All funds remaining in the DPLF were deposited in the OSLTF and oil throughput reports were no longer required.

33 CFR 150.711 on Casualty or Accident Reporting

We propose to update this section to reflect the Coast Guard's changes to the requirements for casualty reporting in other Coast Guard regulations.

33 CFR 150.713 on Sabotage and Subversive Activities

We propose to remove the requirement for a written confirmation following a report of sabotage or subversive activity, because we found that the confirmation is unnecessary.

33 CFR 150.755 on Port Inspection Records

We propose to replace this section with a requirement for an annual self-inspection report to be completed and sent to the local COTP. This self-inspection report would be similar to the Fixed OCS Facility Inspection Report, form CG–5432, required for all fixed OCS facilities.

33 CFR 150.757 on the Oil Throughput Log

One comment in response to the ANPRM suggests that this requirement was covered in other regulations, particularly the U.S. Customs Service, and should be removed. We agree and propose to remove this section.

Where Are Current Deepwater Ports Regulations Located in the Proposed Rule?

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
148.1	148.1	148.1	148.1
148.3	148.5	148.2	149.105, 150.103
148.101	148.100	148.3	
148.103	148.115	148.5	148.3, 150.204, 150.303, 150.403
148.105	148.110	148.10	
148.107(a) and (b)	148.115	148.100	148.101
148.107(c) through (e)	148.125	148.105	148.109
148.109	148.105	148.107	148.109(z)(1)
148.109(z)(1)	148.107	148.108	148.109(z)(5)
148.109(z)(5)	148.108	148.110	148.105
148.111	148.130	148.115	148.103, 148.107(a), (b)
		148.125	148.107(c) through (e)
		148.130	148.111
148.201	148.200	148.200	148.201
148.203(b)	148.232	148.203	
148.205	148.205	148.205	148.205
148.207	148.207	148.207	148.207
148.211	148.209	148.209	148.211
148.213	148.211	148.211	148.213
148.215	148.213	148.213	148.215
148.216	148.215	148.215	148.216
148.217	148.217	148.217	148.217
148.219	148.221	148.221	148.219
148.231	148.222(a) and (b)	148.222(a) and (b)	148.231
148.233	148.222(c)	148.222(c)	148.233
148.235	148.227	148.227	148.235
148.251	148.228	148.228	148.251
148.253	148.230	148.230	148.253, .283
		148.232	148.203(b), .287, .291
148.255	148.234	148.234	148.255
148.257	148.236	148.236	148.257
148.259	148.232(a)		
148.261	148.238	148.238	148.261
148.263	148.240	148.240	148.263
148.265	148.242	148.242	148.265
148.267	148.244	148.244	148.267
148.269	148.232(a)		
148.271	148.232(a)		
148.273(a) and (c)	148.246	148.246	148.273(a) and (c)
148.273(b)	148.248	148.248	148.273(b)
148.275	148.250	148.250	148.275
148.277	148.232(a)		
148.279	148.232(a)		
148.281	148.252	148.252	148.281
148.283	148.230		
148.285	148.254	148.254	148.285
148.287	148.232		
148.289	148.232, .242		
148.291	148.232(a)		
		148.256	
148.321(a)	148.277	148.276	148.321(b)
148.321(b)	148.276	148.277	148.321(a)
148.323	148.279	148.279	148.323
148.325	148.281	148.281	148.325
148.327	148.283	148.283	148.327
148.400	148.300	148.300	148.400
148.403	148.305	148.305	148.403
		148.307	148.407(a)
148.405	148.310	148.310	148.405
148.407	148.277, .307		
		148.315	
148.501	148.400	148.400	148.501

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
148.503	148.405	148.405	148.503
148.505	148.410	148.410	148.505
148.507	148.415	148.415	148.507
148.509	148.420	148.420	148.509
148.601	148.500	148.500	148.601
148.603	148.505	148.505	148.603
148.605	148.510	148.510	148.605
148.607	148.515	148.515	148.607
148.701	148.600	148.600	148.701
148.703	148.605	148.605	148.703
		148.610	
148 Appendix A	148 Appendix A	148 Appendix A	148 Appendix A
148 Annex A	148 Annex A	148 Annex A	148 Annex A
149.101	149.1	149.1	149.101
149.105	148.2	149.5	
149.201	149.600	149.10	
149.203(a) through (c)	149.615	149.100	149.301
149.203(d)	149.620	149.105	149.303
149.205	149.625	149.110	149.305
149.206	149.640	149.115	149.307
149.209	149.650	149.120	149.309
149.211		149.125	149.311
149.213	149.655	149.130	149.313
149.215		149.135	149.315
149.217	149.680	149.140	149.317
149.301	149.100	149.145	149.403
149.303	149.105	149.150	149.321
149.305	149.110	149.300	
149.307	149.115	149.305	
149.309	149.120	149.310	149.402
149.311	149.125	149.400	
149.313	149.130	149.405	
149.315	149.135	149.410	149.451
149.317	149.140	149.415	149.453
149.319		149.420	149.457
149.321	149.150	149.425(a)	149.467
149.401		149.425(b)	149.469
149.402	149.310 and 149.430	149.425(c)	149.471
149.403	149.145	149.425(d) and (e)	149 473
149.411	149.660	149.430	149.402
149.421	149.690	149.500	149.701
149.423	149.690	149.505	149.705
149.431	149.690	149.510	149.707
149.433	149.690	149.520	
149.441	149.690	149.521	149.703
149.451	149.410	149.523	
149.453	149.415(a) through (c)	149.525	149.727
149.455	149.415(d)	149.527	149.723
149.457	149.420(a) through (c)	149.530	149.751 and 149.753
149.459	149.420(d)	149.531	149.755 and 149.757
149.461	149.420(e)	149.533	149.759
149.463	149.420(f)	149.535	149.797
149.465	149.420(g)	149.540	149.751
149.467	149.425(a)	149.545	149.755
149.469	149.425(b)	149.550	149.753
149.471	149.425(c)	149.555	149.755 and 149.757
149.473	149.425(d)	149.560	149.771 and 149.773
149.477	149.425(e)	149.565	149.773
149.479		149.570	149.791
149.481	149.405	149.575	149.793
149.483	149.405	149.580	149.795
149.491	149.405	149.585	149.799
149.501	149.405	149.600	149.20l
149.503	149.405	149.610	150.117
149.505	149.405	149.615	149.203 (a) and (b)
149.507	149.405	149.620	149.203 (c) and (d)
149.511	149.405	149.625	149.205
149.513	149.405	149.630	New
149.515	149.405	149.640	149.206
149.517	149.405	149.650	149.209 and 150.121
149.521 through 149.537	149.305	149.655	149.213

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
149.539	149.695	149.660	149.411
149.541	149.665	149.665	149.541
149.543	149.670	149.670	149.543
149.545	149.675	149.675	149.545
149.701	149.500	149.680	149.217 and 150.527
149.703	149.521	149.685.	
149.705	149.505	149.690	149.421, .423, .431, .433 and .441
149.707	149.510	149.695	149.539
149.721			
149.723	149.527		
149.724	149.520		
149.725			
149.727	149.525		
149.729			
149.751	149.540		
149.753	149.550		
149.755 (a) and (b)	149.531 (a) and (b)		
149.755 (c)	149.555 (a) and (b)		
149.757 (a)	149.531 (c).		
149.757 (b)	149.545 (a)(3)		
149.757 (c)	149.555 (c)		
149.759	149.533		
149.771			
149.773 (a)	149.560		
149.773 (b)			
149.775	149.565		
149.791	149.570		
149.793	149.575		
149.795	149.580		
149.797	149.535		
149.799	149.585		
150.101	150.1	150.1	150.101
150.103	148.2	150.5	
150.105 (a)—(b)	150.10, 150.105	150.10 (a)—(b)	150.105 (a)—(b)
150.106	150.20	150.10 (c)	150.109
150.107 (a)—(c)	150.25	150.15	150.105
150.107 (d)	150.35	150.20	150.106
150.109	150.10 (c)	150.25	150.107 (a)—(c)
150.113	150.40	150.30	150.107 (a)—(c)
150.115	150.45	150.35	150.107 (d)
150.117		150.40	150.113
150.119		150.45	150.115
150.121		150.50	150.129
150.123		150.100	
150.125			
150.127			
150.129	150.50		
150.201	150.200	150.200	150.201
150.203	150.210	150.205	
150.204	148.5	150.210	150.203
150.205	150.220	150.215	150.217
		150.220	150.205
150.207	150.225	150.225	150.207
150.209	150.230	150.230	150.209
150.211	150.235	150.235	150.211
150.213	150.240	150.240	150.213
150.215	150.245	150.245	150.215
150.217	150.215	150.250	
150.301	150.300	150.300	150.301
150.303	148.5		
150.305			
150.307	150.310	150.310	150.307
150.309 (a) and (b)	150.320		
150.309 (c)	150.365	150.320	150.309 (a) and (b)
150.311		150.325	150.333
150.313		150.330	150.335
150.315	150.345		
150.317	150.355	150.340	150.337
150.333	150.325	150.345	150.315
150.335	150.330	150.350	150.338

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NPRM cite—	It is derived from 33 CFR—
150.337	150.340	150.355	150.317, 150.339
150.338	150.350		
150.339	150.355		
		150.365	150.309
150.341	150.370	150.370	150.341
150.342	150.375	150.375	150.342
150.345	150.380	150.380	150.345
		150.385	
150.400	150.400	150.400	150.400
150.403	148.5		
150.405	150.405	150.405	150.405
150.407			150.407
150.409			150.409
150.411	150.420	150.420	150.411
150.413	150.425	150.425	150.413
150.415	150.430	150.430	150.415
150.417	150.435	150.435	150.417
150.419			
150.421	150.447	150.440	150.423
150.423	150.440	150.445	150.425
150.425	150.445	150.447	150.421
150.500	150.500	150.500	150.500
150.503	150.505	150.505	150.503
		150.510	
150.504	150.515	150.515	150.504
150.505	150.520	150.520	150.505
150.507	150.525	150.525	150.507
150.509	150.600	150.530	150.515
150.511	150.600	150.535	150.517
150.513			
150.515	150.530		
150.516		150.600	150.509
150.517	150.535		
150.519			
150.521			
150.523			
150.525	150.600		
150.527	149.680		
150.601	150.700	150.700	150.601
150.603	150.705	150.705	150.603
150.605	150.710	150.710	150.605
150.607	150.715	150.715	150.607
150.611	150.720	150.720	150.611
150.701	150.800	150.800	150.701
150.703	150.805	150.805	150.703
150.705	150.810	150.810	150.705
150.707		150.815	150.711
150.711	150.815	150.820	150.711
150.713	150.835	150.825	
150.751	150.840	150.830	
150.753	150.845	150.835	150.713
150.755		150.840	150.751
150.757		150.845	150.753
150.759	150.850	150.850	150.759
150 Appendix A	150.900 thorough 150.915	150.900	150 Appendix A
150 Annex A	150.935	150.905	150 Appendix A
		150.910	150 Appendix A
		150.915	150 Appendix A
		150.920	147.30
		150.925	147.35
		150.930	147.105
		150.935	150 Annex A

Safety and Environmental Management Program (SEMP)

In keeping with our belief that overall performance should be placed ahead of rote equipment testing and reliance on prescriptive regulations, we are requesting comments on the feasibility of allowing the voluntary use of safety and environmental management programs (SEMP's) as alternatives to certain regulations on workplace safety and health. The Minerals Management Service (MMS) has promoted this approach for offshore facilities since 1991. You can find more information about MMS by accessing the following web site: *http://www.mms.gov/semp/index.htm*. Also, you may refer to the American Petroleum Industry Recommended Practice 75 (API RP 75) entitled, "Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities." API RP 75 is available for a fee from API on the Internet at *http://www.api.org*.

We would like your comments on the pros and cons of the voluntary use of SEMP as an alternative to, or as a complement to, specific provisions in these proposed regulations.

Security and Terrorism

The terrorist attacks of September 11, 2001, have increased our awareness of the vulnerability of deepwater ports to attack. As a result, we are emphasizing a requirement already in the deepwater port regulations that an applicant for a deepwater port license include, within the port's operating manual, a plan to provide for port security that addresses actions to detect and deter potential terrorist threats and to mitigate the consequences of an attack. It is the operator's responsibility to identify risks and describe the actions that will be taken to increase security at a deepwater port. These actions will be developed by the operator, licensee, or both in consultation with the Coast Guard on a case-by-case basis and may include, but not be limited to, control of access to the port, monitoring and alerting vessels that approach or enter the port's security zone, notification requirements in the event of a perceived threat to the port, and response requirements in the event of an attack.

Incorporation by Reference

Material proposed for incorporation by reference appears in proposed § 148.10. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in § 148.10.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket as indicated under **ADDRESSES.** A summary of the Evaluation follows.

The proposed changes include those to clarify the language and structure of the regulations and also those to update the regulations with current technology and industry standards. In particular, many of the changes proposed in this rulemaking result from our attempt to align, to the extent feasible, the deepwater port regulations with those for fixed facilities in the OCS Activities NPRM. This alignment is accomplished by cross-references, in the deepwater ports NPRM, to provisions in the OCS Activities NPRM. For a complete list of the proposed changes to 33 CFR parts 148, 149, and 150, refer to appendices A and B in the Regulatory Evaluation, located in the docket as indicated under **ADDRESSES.**

Currently, there is only one licensed deepwater port, which is the Louisiana Offshore Oil Port (LOOP), located 18 miles offshore of Louisiana in the Gulf of Mexico. We estimate that this existing deepwater port is already compliant with many of the proposed regulations and also assume that LOOP represents industry standards. Therefore, the baseline we are using to estimate the benefits and costs of this proposed regulation is not the current 25-year old regulation, but rather the existing industry standard established by LOOP. Furthermore, we assume that new deepwater port construction will follow the industry standard. Based upon discussion with industry, we expect two additional deepwater ports will apply for a license within the next decade.

Costs. The total present value cost for the proposed rule for the 10-year period would be $19,996. This estimate was derived as follows. The existing deepwater port is already compliant with many of the proposed regulations. In addition to the existing population (LOOP), costs are also considered for two new deepwater ports, which we estimate will enter the industry in each of the years 2002 and 2005. We expect that these entrants would follow existing industry standards and would, therefore, face the same costs as the existing industry. Proposed changes that would have a quantitative impact are the following:

1. This proposal would require the facility to perform periodic weight testing of survival craft falls if a survival craft has a fall replaced or every 5 years, whichever comes first. This weight testing would ensure the delivery system is operational and ready for use in an emergency. We estimate the present value cost to total $2,311 for all three deepwater ports.

2. This proposal would require the deepwater port to change the marking of the general alarm to yellow letters on a red background. We estimate the one-time present value cost to total $67 for all three deepwater ports.

Although we assume the existing industry is compliant with the majority of the proposed rules, we do not assume that it meets the exact collection of information requirements. Therefore, we have integrated the costs associated with the paperwork burden into the total industry costs. The paperwork burden amounts to the present value cost of $17,618 for all three deepwater ports.

Benefits. The total present value of industry benefits for the proposed rule for the 10-year period would be $4,159. This estimate was derived as follows.

The proposed rulemaking is consistent with the deepwater port industry's request to have its regulations aligned with the OCS regulations. Hence, the accumulated benefits are the result of updating the regulations and removing any that are obsolete or unnecessary. Many of these proposed changes would neither change existing practice nor have a quantitative impact on the existing deepwater port, because the original regulations are obsolete.

Although the collection-of-information requirements represent a majority of the costs of this proposed regulation, they also represent a qualitative benefit. The Coast Guard considers that the proposal would aid its ability to enforce regulations, thereby promoting the safety of life and property on deepwater ports. Furthermore, by deepwater ports recording training and safety inspection information, their own safety level would increase by improving accident readiness, noise

level awareness, and lifesaving equipment preparation.

Some of the proposed changes, which are simply a sunk cost for the existing deepwater port, represent a quantitative benefit for the two new deepwater ports that are expected to enter the industry. These benefits include (1) Lowering the requirement for fire axes from eight to two ($356 present value (PV)), (2) removing the requirement for the carriage of spare charges for 50 percent of all portable extinguishers ($340 PV), and (3) removing the requirement to have appropriately clothed personnel during aircraft operations ($340 PV). In addition, new deepwater ports would also accrue benefits due to the decrease in the collection of information requirements in the license application process. These reductions include (1) removing the requirement for various financial information ($815 PV), (2) reducing the number of application copies ($1,969 PV), and (3) removing the preliminary-report requirement for site evaluation and pre-construction testing ($339 PV).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is one company that owns a deepwater port, LOOP. The NAICS code for LOOP is 488320 Marine Cargo Handling. According to the Small Business Administration's definition, a company with this NAICS code and earning revenue less than $18.5 million per year is considered a small entity. LOOP does not qualify as a small entity because its gross revenue exceeds $18.5 million. We assume that new industry entrants will be comparable in size to LOOP and, thus, would not be small businesses.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Robert Spears, Project Development Division (G–MSR–2), telephone 202–267–1099, fax 202–267–4547.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The titles and descriptions of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follows. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collections.

The information collection requirements of this proposed rule are addressed in the OMB collections 2115–0569 and 2115–0580.

1. OMB Collection 2115–0569.

Title: Outer Continental Shelf Activities and Deepwater Ports—Self-Inspection of Fixed Facilities, Confined-Space Entry, and Lifesaving/Firefighting Equipment.

Summary of the Collection of Information: This proposal would add collection-of-information requirements, which would result from the alignment with the OCS Facilities NPRM. The burden is incorporated into the section of this analysis entitled "Costs." In addition to affecting LOOP, we assume the collection would affect a new industry entrant in 2002. The additional requirements would be as follows:

1. Record all onboard training (abandonment drills, fire drills, other lifesaving appliances, and musters) in an official logbook.
2. Maintain a report of monthly tests and inspections of all lifesaving equipment under proposed § 143.615 of the OCS Activities NPRM.
3. Maintain weight-testing written attestments and a report of all inspections.
4. Maintain records of annual tests and inspections of hand-portable fire extinguishers, semi-portable fire extinguishers, and fixed fire extinguishing systems.
5. Establish a written program to reduce the risk of naturally occurring radioactive material (NORM) if there are operations that introduce NORM.
6. Establish a written program to prevent exposure from blood-borne pathogens or other infectious material.
7. Before doing work on equipment that is disconnected from the power source, place a tag at the location where the power is disconnected.
8. Conduct noise-level surveys and maintain results.
9. Issue confined-space entry permits.
10. Provide a certificate for all confined-space entry training.
11. Provide a certificate for all offshore competent persons.
12. Establish a written program for confined-space entry.
13. Establish a written hazard communication program.

Need for Information: The primary need for this information would be to determine if a deepwater port is in compliance with the regulations.

Proposed Use of Information: This information also can help determine, in the event of a casualty, whether failure to meet these regulations contributed to the casualty.

Description of the Respondents: Licensees or operators of deepwater ports.

Number of Respondents: Two.

Frequency of Response: Varies.

Burden of Response: The burden of response would vary depending upon the collection.

Estimate of Total Annual Burden: The average annual reporting burden to industry is 74 hours.

2. OMB Collection 2115–0580

Title: Outer Continental Shelf Activities—Emergency Evacuation Plans for Manned OCS Facilities, MODU's, and MIDU's; Design & Plan Approvals; In-service Inspection Plan & Letter of Compliance. Deepwater Ports—License Application and Notice and Report of Site Evaluation and Pre-construction Testing.

Summary of the Collection of Information: This proposal would change the collection-of-information requirements for the license application. The burden is not incorporated into "Costs" because it is not a new cost. Instead, the proposed regulation reduces the requirements for a deepwater port license applicant. The associated benefits are reflected in the section entitled "Benefits." The proposed requirements include the following:

1. License application.
2. Notice and report for site evaluation and pre-construction testing.

Need for Information: The primary use of this information would determine if an applicant for a deepwater port meets the necessary requisites.

Proposed Use of Information: The information determines whether a proposed deepwater port is constructed.

Description of the Respondents: Deepwater port applicants.

Number of Respondents: One.

Frequency of Response: Once.

Burden of Response: The burden of response would be 221 hours for the license application and 12 hours for the notice and report for site evaluation and pre-construction testing.

Estimate of Total Annual Burden: The average annual reporting burden to industry is 78 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES,** by the date under **DATES.**

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. This rulemaking applies to deepwater ports only in waters beyond the territorial limits of the United States (33 U.S.C. 1501(a)(1)). As regulation of these deepwater ports is outside of the jurisdiction of the States, this rulemaking would not preempt State law.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights:

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraphs (34)(a), (c), (e), and (i), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The environmental impact associated with requiring additional equipment, training, and improved facilities under this rulemaking would be insignificant. The environmental impact of an individual deepwater port is assessed under the licensing process. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 148

Administrative practice and procedure, Environmental protection,

Harbors, Incorporation by reference, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to revise 33 CFR chapter I, subchapter NN, as follows:

PART 148—DEEPWATER PORTS: GENERAL

SUBCHAPTER NN—DEEPWATER PORTS

Subpart A—General

Sec.
148.1 What is the purpose of this subchapter?
148.2 Who is responsible for carrying out this subchapter?
148.3 What Federal agencies are responsible for carrying out the Deepwater Port Act?
148.5 How are terms used in this subchapter defined?
148.10 How can I get a copy of a publication referenced in this subchapter?

Subpart B—Application for a License

148.100 What is the purpose of this subpart?
148.105 What must I include in my application?
148.107 What additional information may be required?
148.108 What if a Federal or State agency or other interested party requests additional information?
148.110 How do I prepare my application?
148.115 How many copies of the application must I send and where must I send them?
148.125 What are the application fees?

Subpart C—Processing Applications

General

148.200 What is the purpose of this subpart?
148.203 What is the role of MARAD in the processing of applications?
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Appendix A to Part 148—Environmental Review Criteria for Deepwater Ports

Authority: 33 U.S.C. 1504; 49 CFR 1.46.

Subpart A—General

§ 148.1 What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design and equipment, and operation of deepwater ports under the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501–1524) (the Act).

§ 148.2 Who is responsible for carrying out this subchapter?

Unless otherwise specified, the owner of a deepwater port must ensure that the requirements of this subchapter are carried out at that port.

§ 148.3 What Federal agencies are responsible for carrying out the Deepwater Port Act?

Under 49 CFR 1.46(s), the Coast Guard is authorized to do the following:

(a) To process applications for the issuance, transfer, or amendment of licenses for deepwater ports in coordination with the Administrator of the Maritime Administration; and

(b) To carry out the functions and responsibilities vested in the Secretary of Transportation by the Act, except for those—

(1) Reserved by the Secretary of Transportation under 49 CFR 1.44(o) (authority to issue, transfer, and amend a license);

(2) Delegated to the Administrator of the Maritime Administration under 49 CFR 1.66(aa) (approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses); and

(3) Delegated to the Administrator of the Research and Special Programs Administration under 49 CFR 1.53(a)(3) (pipelines).

§ 148.5 How are terms used in this subchapter defined?

(a) Quotation marks around terms in this section mean that those terms are defined in this section.

(b) As used in this subchapter—

Act means the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501–1524).

Adjacent coastal State means any "coastal State" that—

(1) Would be directly connected by pipeline to a "deepwater port";

(2) Would be located within 15 miles of a "deepwater port"; or

(3) Is designated as an "adjacent coastal State" by the Secretary of Transportation under 33 U.S.C. 1508(a)(2).

Administrator of the Maritime Administration means the Associate Administrator, Port, Intermodal and Environmental Activities, Maritime Administration, or that individual's authorized representative, at 400 Seventh Street SW., Washington, DC 20590, telephone 202–366–4721.

Affiliate means a "person"—

(1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";

(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;

(3) That owns or "controls" an "applicant" or an entity under paragraphs (1) or (2) of this definition; or

(4) That is owned or "controlled" by, or under common ownership with, an "applicant" or an entity under paragraphs (1), (2), or (3) of this definition.

Applicant means a "person" that is the owner of a proposed deepwater port and that is applying for a license under this part for that port.

Application means an application submitted under this part for a license to own, construct, and operate a deepwater port.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g__m/mse/equiplistexpl.htm*. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Document, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202–512–1800.

Approved means approved by the "Commandant (G–M)".

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60° Fahrenheit (16° Celsius).

Captain of the Port or *COTP* means a Coast Guard officer who commands a Captain of the Port zone described in part 3 of this chapter and who is immediately responsible for enforcing port safety and security and marine environmental protection regulations within that area.

Citizen of the United States means—

(1) An individual who is a United States citizen by law, birth, or naturalization;

(2) A "State";

(3) An agency of a "State" or a group of "States"; or

(4) A corporation, partnership, or association—

(i) That is organized under the laws of a "State" or the United States;

(ii) That has, as its president or other executive officer, an individual who is a United States citizen by law, birth, or naturalization;

(iii) That has, as its chairman of the board of directors or holder of a similar office, an individual who is a United States citizen by law, birth, or naturalization; and

(iv) That has at least the number of directors required for a quorum necessary to conduct the business of the board who are United States citizens by law, birth, or naturalization.

Coastal environment means the navigable waters (including the lands in and under those waters), internal waters, and the adjacent shorelines (including waters in and under those shorelines). The term includes transitional and inter-tidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife, and other living resources of those waters and lands; and the recreational and scenic values of those lands, waters, and resources.

Coastal State means a State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans or the Gulf of Mexico.

Commandant (G–M) means the Assistant Commandant for Marine Safety, Security and Environmental Protection, or that individual's authorized representative, at Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

Construction means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a "deepwater port" or any of its components. The term includes, but is not limited to, pile driving and bulkheading and alterations, modifications, or additions to the "deepwater port".

Control means the power, directly or indirectly, to determine the policy, business practices, or decision-making process of another "person", whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or by other means.

Crude Oil means a mixture of hydrocarbons that exist in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and includes—

(1) Liquids technically defined as crude oil;

(2) Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casing head) gas in lease separators; and

(3) Small amounts of non-hydrocarbons produced with the oil.

Deepwater port means a fixed or floating man-made structure (other than a "vessel"), or a group of structures, located beyond the territorial sea and off the coast of the United States and that are used, or intended for use, as a port or terminal for the transportation, storage, and further handling of oil for transportation to any "State" (except as otherwise provided in 33 U.S.C. 1522), and for other uses not inconsistent with the purposes of this subchapter, including transportation of oil from the United States Outer Continental Shelf. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark.

District Commander means an officer who commands a Coast Guard District described in part 3 of this chapter or that individual's authorized representative.

Governor means the Governor of a "State" or the "person" designated by State law to exercise the powers granted to the Governor under the Act.

Gross under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is moored or anchored in calm water free of wind, current, or tide conditions that would cause the tanker to move.

Hose string means the part of a "single point mooring oil transfer connection" made out of flexible hose of the floating or float/sink type that connects the tanker's manifold to the "single point mooring".

Lease block means an area established either by the Secretary of the Interior under section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) or by a State under section 3 of the Submerged Lands Act (43 U.S.C. 1311).

License means a license issued under this part to own, construct, and operate a "deepwater port".

Licensee means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed under this subchapter.

Marine environment includes the "coastal environment", waters of the contiguous zone, the exclusive economic zone, and the high seas; the fish, wildlife, and other living resources of those waters; and the recreational and scenic values of those waters and resources.

Net under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is underway, anchored, or moored and subject to actual wind, waves, current, and tide motion.

Officer in Charge, Marine Inspection, or *OCMI* means an individual who commands a Marine Inspection Zone described in part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing a "deepwater port".

Oil means petroleum, crude oil, and any substance refined from petroleum or crude oil.

PAD District means one of the five Petroleum Administration for Defense Districts defined by the Energy Information Administration (EIA), Department of Energy, in their Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil_gas/petroleum/pet_frame.html.*

Person means an individual, corporation, partnership, limited liability partnership, limited liability company, association, joint venture, or trust arrangement and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Personnel means individuals who are employed by licensees, operators, contractors, or subcontractors and who are on a "deepwater port" by reason of their employment.

Pipeline end manifold means the pipeline end manifold at a "single point mooring".

Platform means a fixed structure that rests on or is embedded in the seabed and that has floors or decks where an activity or specific function may be carried out.

Production District means the States of Louisiana, New Mexico, and Texas and each district within those states for which the Energy Information Administration (EIA), Department of Energy, separately reports production of crude oil.

Pumping platform complex means a "platform" or a series of interconnected "platforms" that have one or more of the following features or capabilities:

(1) Can pump oil between a "vessel" and the shore.

(2) Can handle the mooring and loading of small "vessels".

(3) Have berthing and messing facilities.

(4) Have a landing area for helicopters.

Refining District means a refining district as defined by the Energy Information Administration (EIA), Department of Energy, for reporting refining operations. The refining districts are subsidiaries of "PAD Districts" and can be found listed in EIA's Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil_gas/petroleum/pet_frame.html.*

Safety zone means the safety zone established around a "deepwater port" under part 150, subpart J, of this chapter.

Single point mooring or *SPM* means an offshore berth that links an undersea pipeline to a tanker moored to the mooring and allows for the transfer of oil between the tanker and the pipeline.

Single point mooring-oil transfer system or *SPM–OTS* means the part of the oil transfer system from the "pipeline end manifold" to the end of the "hose string" that connects to the tanker's manifold.

State includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Support vessel means a—

(1) Tug;

(2) Linehandling boat;

(3) Crewboat;

(4) Supply vessel;

(5) Bunkering vessel;

(6) Barge; or

(7) Other similar vessel working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a port. The term includes lifeboats, life rafts, buoyant apparatus, survival capsules, and life floats. The term does not include "rescue boats," unless the "rescue boats" are also "approved" as lifeboats.

Tanker means a vessel that calls at a "deepwater port" to unload oil at a "single point mooring."

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on or through the water.

§ 148.10 How can I get a copy of a publication referenced in this subchapter?

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)	
ABS Technical Publications, 16855 Northcase Drive Houston, TX 77060	
Rules for Building and Classing Single Point Moorings, 1996	149.650 150.405
American National Standards Institute (ANSI)	
11 West 42nd Street, New York, NY 10036, or on the Internet at http://www.ansi.org	
ANSI B31.4–98, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, 1998 edition	149.625
American Petroleum Institute (API)	
Order Desk, 1220 L Street, NW, Washington, DC, 20005–4070, or on the Internet at http://www.api.org	
API RP 2A–WSD, Working Stress Design, Twentieth Edition, December, 2000	149.625
API RP 2A–LRFD, Load and Resistance Factor Design, First Edition, February, 1997	149.625
API RP 2L, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, May 1996	149.625
API RP T–1, Orientation Programs for Personnel Going Offshore for the First Time, Fourth Edition, October 1995	150.250
API RP T–4, Training of Offshore Personnel in Non-operating Emergencies, Second Edition, November 1995	150.250
API RP T–7, Training of Personnel in Rescue of Persons in Water, Second Edition, October 1995	150.250
American Society of Mechanical Engineers (ASME)	
3 Park Avenue, New York, NY 10016–5990	
Boiler and Pressure Vessel Code, sections I, IV, and VIII, 2001 edition	149.625
International Association of Marine Aids to Navigation and Lighthouse Authorities (AISM/IALA)	
20 ter, rue Schnapper, 78100 Saint Germain en Laye, France	
Recommendations for the Colours of Light Signals on Aids to Navigation	149.525
Recommendations on the Determination of the Luminous Intensity of a Marine Aid to Navigation Light, December 1977	149.521
National Fire Protection Association (NFPA)	
Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101.	
NFPA 72, National Fire Alarm Code®, 1999 Edition	149.405
NFPA 407, Standard for Aircraft Fuel Servicing, 1999 Edition	149.655
Underwriters Laboratories, Inc. (UL)	
Available from: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112; telephone 800–854–7179	
UL 19 Lined Fire Hose and Hose Assemblies, 2001	149.425
UL Hazardous Location Equipment Directory, 2001, Portable Lighting Units	149.645

Subpart B—Application for a License

§ 148.100 What is the purpose of this subpart?

This subpart describes how to apply for a license to own, construct, and operate a deepwater port.

§ 148.105 What must I include in my application?

Your application must include the following:

(a) *The identity of the applicant and its affiliates and consultants.* (1) The name, address, telephone number, citizenship, and principal business activity of the applicant and its affiliates.

(2) The name, address, and principal business activity of each subsidiary or division of the applicant or its affiliates that participated in the decision to apply for a license to build a deepwater port.

(3) A description of how each affiliate is associated with the applicant and of the ownership interest each affiliate has in the applicant.

(4) A list of corporate officers and directors of the applicant and each affiliate that participated in the decision to apply for a license to build a deepwater port.

(5) A statement on the history of the applicant and affiliates for the last 5 years, including whether they filed for bankruptcy and if so the dates, the disposition and any reorganization that may have resulted; whether there have been any violations of state or federal laws; and whether there is outstanding litigation.

(6) A declaration regarding lobbying activities on behalf of either the applicant or an affiliate under 31 U.S.C. 1352.

(b) *Experience in matters relating to deepwater ports.* (1) A description of the experience of the applicant, its affiliates, and its consultants in offshore operations, particularly operations involving the transfer and storage of liquid cargo and the loading and unloading of vessels.

(2) For each affiliate with which the applicant has made a significant contract for the construction of any part of the deepwater port, a description of that affiliate's experience in construction of marine terminal facilities, offshore structures, underwater pipelines, and seabed foundations and a description of other experiences that would bear on the affiliate's qualification to participate in the construction of a deepwater port.

(c) *The identity of each engineering firm, if known, that will design the deepwater port or a portion of the port.* The firm's—

(1) Name;

(2) Address;

(3) Citizenship;

(4) Telephone number; and

(5) Qualifications.

(d) *Information on citizenship, incorporation, and authority of the applicant.*

If the applicant is applying as—	Then the applicant must submit—
(1) An individual, a group of individuals, or a partnership	An affidavit from each individual stating that each is a citizen of the United States of America.
(2) A corporation	One copy of the charter signed by the Secretary of State or authorized official of the State of incorporation and one copy of the corporate by-laws certified by the corporation's secretary or assistant secretary.
(3) A State or combination of States or any political subdivision, agency, or instrumentality of a State, including a wholly owned corporation.	A copy of the State laws authorizing the operation of a deepwater port.
(4) A Limited Liability Company	Article of organization and any related amendments.

(e) *Address for service of documents.* The name and address of one individual who may be served with documents in case a formal hearing is held concerning the application, and the name and address of one individual who may receive other documents.

(f) *Location and use.* The proposed location and capacity of the deepwater port and a general description of the anticipated use of the port.

(g) *Financial information.* (1) For the applicant and each affiliate—

(i) Annual financial statements, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; and

(ii) Interim income statements and balance sheets for each quarter, unless included in the most recent annual financial statement, that ends at least 30 days before submission of the application.

(2) An estimate of construction costs, including—

(i) A phase-by-phase breakdown of costs;

(ii) The estimated completion dates for each phase; and

(iii) A detailed estimate of the cost of removing all of the marine components of the deepwater port, other than pipelines that lie beneath the seabed, when operations at the port cease.

(3) Annualized projections or estimates of each of the following, along with the underlying assumptions, for the next 5 years and at reasonable intervals throughout the life of the deepwater port:

(i) Total oil throughput and subtotals showing throughput owned by the applicant and its affiliates and throughput owned by others.

(ii) Projected financial statements, including a balance sheet and income statement.

(iii) Annual operating expenses, showing separately any payment made to an affiliate for any management duties carried out in connection with the operation of the deepwater port.

(4) A copy of all proposals or agreements concerning the management and financing of the deepwater port, including agreements relating to throughputs, capital contributions, loans, guarantees, commitments, charters, and leases.

(5) To the extent known to the applicant or its affiliates, the anticipated—

(i) Total refinery capacity;

(ii) Total runs to stills; and

(iii) Total demand for gasoline, jet aviation fuel, distillate fuel oils, and other refinery products for each Refining District in the PAD where oil from the deepwater port will be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(h) *Construction contract and studies.* (1) A copy of each contract that the applicant made for the construction of any component of the deepwater port or for the operation of the port.

(2) A listing and abstract of—

(i) All completed or ongoing studies on deepwater ports conducted by or for the applicant; and

(ii) All other related studies used by the applicant.

(i) *Compliance with Federal water pollution requirements.* (1) Evidence that the requirements of section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1341(a)(1), will be satisfied.

(2) In those cases where certification under 33 U.S.C. 1341(a)(1) must be obtained from the Administrator of the Environmental Protection Agency, the request for certification.

(j) *Coastal zone management.* Each certification required by section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456).

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification should be made on Official Outer Continental Shelf Leasing Maps or Protraction diagrams, where they are available. For each lease block, provide the following:

(i) A description of each pipeline, or other right-of-way crossing, in enough detail to allow plotting of the rights-of-way to the nearest one-tenth of a second in latitude and longitude.

(ii) The identity of the lessee of each pipeline or other right-of-way.

(2) Detailed information concerning any interest that anyone, including the applicant, has in each block; and

(3) Detailed information concerning the present and planned use of each block.

(l) *Overall site plan.* Single-line drawings showing the location and type of each component of the proposed deepwater port and its necessary facilities, including—

(1) Floating structures;

(2) Fixed structures;

(3) Aids to navigation;

(4) Manifold systems; and

(5) Onshore storage areas, pipelines, and refineries.

(m) *Site plan for marine components.* A site plan consisting of the following:

(1) The proposed size and location of all—

(i) Fixed and floating structures;

(ii) SPM swing circles;

(iii) Maneuvering areas;

(iv) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;

(v) Recommended anchorage areas;

(vi) Recommended mooring areas for support vessels;

(vii) Required and recommended aids to navigation; and

(viii) Pipelines and cables within the marine site.

(2) The charted water depth throughout the proposed marine site, as verified by the reconnaissance hydrographic survey in paragraph (m)(3) of this section.

(3) A reconnaissance hydrographic survey of the proposed marine site. A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a condition in the license.

(n) *Soil data.* An analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site and along the path of the pipeline to the shore and onshore. The analysis must include an opinion by a registered professional engineer specializing in soil mechanics concerning—

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to or supported on the ocean floor;

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms or lesser forces that occur over time, including any history of accretion or erosion of the coastline near the marine site.

(o) *Operational information.* (1) The maximum length, draft, and deadweight tonnage of the tankers to be accommodated at each SPM.

(2) Calculations, with supporting data and other documentation, to show that the charted water depth at each proposed SPM location is sufficient to provide at least a net under-keel clearance of 5 feet (1.5 meters) for each tanker that the applicant expects to be accommodated at the SPM.

(3) A detailed description of the manner of forecasting the wind, wave, and current conditions described in the draft operations manual during which the following would occur:

(i) Shutdown of oil transfer operations.

(ii) Departure of the tanker from the mooring.

(iii) Prohibition on mooring to an SPM.

(iv) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers in the safety zone around the proposed port.

(p) *Data on floating components.* (1) A description and preliminary design drawing of each floating component, including the hoses, anchoring or securing structure, and navigation lights if the component is a mooring buoy.

(2) The design criteria, developed under part 149 of the chapter, to which each floating component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of safety, fire fighting, and pollution prevention equipment to be used on each floating component.

(6) A description of lighting to be used on floating hoses for night detection.

(q) *Data on fixed offshore components.* (1) A description and preliminary design drawing for each fixed offshore component.

(2) The design criteria, developed under part 149 of the chapter, to which each fixed offshore component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any fixed offshore component and used in the development of the application.

(6) A description of the following equipment to be installed:

(i) Navigational lighting.

(ii) Safety equipment.

(iii) Lifesaving equipment.

(iv) Fire fighting equipment.

(v) Pollution prevention and removal equipment.

(vi) Waste treatment equipment.

(7) A description and preliminary design drawing of the following:

(i) The oil pumping equipment.

(ii) The piping system.

(iii) The control and instrumentation system.

(iv) Any associated equipment, including oil-throughput-measuring equipment, leak-detection equipment, emergency-shutdown equipment, and the alarm system.

(8) The personnel capacity of each pumping platform complex.

(r) *Data on offshore pipelines.* (1) A description and preliminary design drawing of the marine pipeline, including—

(i) Size;

(ii) Throughput capacity;

(iii) Length;

(iv) Depth; and

(v) Protective devices.

(2) The design criteria to which the marine pipeline will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the metering system to be used to measure flow rate.

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and how each crossing will be made.

(s) *Data on onshore components.* (1) A description of the location, capacity, and ownership of all planned and existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities that will be served by the deepwater port. A deepwater port serves a facility if the facility is within a PAD District for which information is required under paragraph (g)(5) of this section and is either served by connection to a common carrier pipeline or to a component or auxiliary of a common carrier pipeline. Crude oil gathering lines and lines wholly within a facility must be included in data on onshore components only if specifically required under paragraph (cc) of this section. Entry points and major connections between lines and with bulk purchasers must be included.

(2) A chart showing the location of all planned and existing—

(i) Onshore pipelines;

(ii) Storage facilities;

(iii) Refineries;

(iv) Petrochemical facilities; and

(v) Transshipment facilities to be served by the deepwater port.

(3) The throughput reports for the calendar year preceding the date of the application for the applicant and each of the applicant's affiliates engaged in producing, refining, or marketing oil, along with a copy of each existing or proposed throughput agreement. Each throughput report must list the throughput of the following products:

(i) Crude oil.

(ii) Gasoline.

(iii) Jet aviation fuel.

(iv) Distillate fuel oils.

(v) Other refinery products.

(t) *Data on miscellaneous components.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used in operation of the deepwater port to include—

(i) The type of radar;

(ii) The characteristics of the radar; and

(iii) The antenna location.

(3) A description of the method to be used for bunkering vessels using the deepwater port.

(4) Type, size, and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description and exact location of shore-based support facilities, if any, to be provided for vessels described in paragraph (t)(4) of this section.

(u) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port, including anticipated dates of completion for each specific component for each phase of construction.

(v) *Operations manual.* A draft of the operations manual for the proposed port containing the information under § 150.15 of this chapter. If the information required for the manual is not available, state why it is not and when it will be available.

(w) *Environmental impact analysis.* An analysis, as required by the National Environmental Policy Act, of the potential for impacts on the natural and human environments, including evidence of compliance with all applicable environmental laws. See appendix A to this part.

(x) *Aids to navigation.* (1) For each proposed aid to navigation, the proposed position of the aid described by latitude and longitude coordinates to the nearest second or tenth of a second as determined from the largest scale chart of the area in which the aid is to be located. Specify latitude and longitude to a level obtained by visual interpolation between the finest graduation of the latitude and longitude scales on the chart.

(2) For each proposed obstruction light and rotating lighted beacon—

(i) The color;

(ii) Characteristic;

(iii) Effective intensity (See § 149.521 of this chapter.);

(iv) Height above water; and

(v) General description of illumination apparatus.

(3) For each proposed fog signal on a structure, a general description of the apparatus.

(4) For each proposed buoy—

(i) The shape;

(ii) The color;

(iii) The number or letter;

(iv) The depth of water in which located; and

(v) A general description of any light or fog signal apparatus on the buoy.

(5) For the proposed radar beacon (RACON), height above water and a general description of the apparatus.

(y) *Telecommunications equipment.* A description of each radio station or other communications facility to be used during construction and operation of the deepwater port and their proposed concept of operation.

Note to paragraph (y): When applying for a Federal Communication Commission (FCC) license for these communications facilities, you may submit the application directly to the FCC when sufficient technical information is available to meet the rules of that agency. The holding of the appropriate FCC licenses is a condition on a deepwater port license.

(z) *National Pollutant Discharge Elimination System (NPDES).* To the extent available, the information prescribed by, and submitted on, the NPDES Application for Permit to Discharge, Short Form D, for applying for a discharge permit from the Environmental Protection Agency (EPA). If complete information is not available by the time the Secretary of Transportation must either approve or deny the application for a designated application area under 33 U.S.C. 1504(i)(1), the license for the deepwater port is conditioned upon the applicant receiving the required discharge permit from the EPA before the start of any discharge requiring such a permit.

(aa) *Placement of structures and the discharge of dredged or fill material.* The information prescribed on the application for a Department of Army permit for placement of structures and the discharge of dredged or fill material.

(bb) *Additional Federal authorizations.* All other applications for Federal authorizations not listed elsewhere in this subpart that are required for ownership, construction, and operation of a deepwater port.

(cc) *A statement that the information in the application is true.* This statement must be placed at the end of the application, sworn to before a notary public, and signed by a responsible official of the applicant.

§ 148.107 What additional information may be required?

(a) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, may require the applicant or the applicant's affiliates to file, as a supplement to the application, any analysis, explanation, or detailing of information in the application or any other information the Commandant (G–M) deems necessary.

(b) The applicant must identify the locations where the applicant and its affiliates have filed documents relating to deepwater ports that were prepared within 4 years of the date of the application for a license and that fall under one or more of the following categories:

(1) Prepared by or for, or submitted to, a Board of Directors or an executive, management, or planning committee.

(2) Concern the financing of construction or operation of a deepwater port, including throughput nominations and membership in and financing of any existing or proposed joint venture.

(3) Concern existing, proposed, or anticipated rates or joint rates.

(4) Determined by the Commandant (G–M) to be required to review and process the application.

(c) The application must identify the location of documents under paragraph (a) of this section. The Commandant (G–M) may require the documents to be consolidated into one or more locations.

(d) The Commandant (G–M) makes the documents under this section available for copying and inspection under § 148.207. Any claim of privilege or immunity with respect to any document required under this section must comply with § 148.221 and be submitted to the Commandant (G–M).

(e) The Commandant (G–M) may require the applicant or the applicant's affiliates to make available for examination, under oath or for interview, persons having, or believed to have, necessary information. The Commandant (G–M), or its designee, conducts the interviews and examination.

(f) The Commandant (G–M) may set a deadline for receiving the information. If the applicant states that the required information is not yet available but will be at a later date, the Commandant (G–M) may specify a later deadline. If a requirement is not met by a deadline fixed under this paragraph, the Commandant (G–M) may determine whether compliance with the requirement is important to processing the application within the time prescribed by the Act. If the requirement is important to processing the application within the time limit set by the Act, the Secretary of Transportation may either not approve the application or may suspend it indefinitely. The deadline for the Secretary's review under the Act is extended for a period of time equal to the time of the suspension.

§ 148.108 What if a Federal or State agency or other interested party requests additional information?

(a) Any Federal or State agency or other interested person may recommend that the applicant provide information in addition to that required to be in the application.

(b) Recommendations must include a brief statement of why the information is needed.

(c) The Commandant (G–M) must receive the request within 30 days after publication of the notice of application. The request is considered before any final determination is made.

§ 148.110 How do I prepare my application?

(a) Any person may confer with the Commandant (G–M) or the Administrator of the Maritime Administration concerning the preparation of an application.

(b) The applicant may incorporate, by clear and specific reference in the application, the following:

(1) Standard reference material that the applicant relied on and that is readily available to Federal and State agencies.

(2) Current information contained in previous applications or reports that the applicant has submitted to the application staff.

(3) Current information contained in a tariff, report, or other document previously filed for public record with the Surface Transportation Board or the Securities and Exchange Commission, if—

(i) A certified true and complete copy of the document is attached to 5 of the 15 copies of the application required by § 148.115(a);

(ii) The date of filing and the document number or other locator are on the cover of the document; and

(iii) Any verification or certification required for the original filing (other than from auditors or other independent persons) is dated no earlier than 30 days before the date of the application.

§ 148.115 How many copies of the application must I send and where must I send them?

Send copies of the application as follows:

(a) Fifteen copies, plus two copies for each adjacent coastal State, to the Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

(b) One copy to the U.S. Army Corps of Engineers District Office having jurisdiction over the proposed port. For the address, see http://www.usace.army.mil/.

§ 148.125 What are the application fees?

(a) The applicant must submit to the Commandant (G–M) a nonrefundable application fee of $350,000 with each application for a license. If additional information is necessary to make an application complete, no additional application fee is required.

(b) The costs incurred by the Federal Government in processing an application will be charged to the application fee until it is exhausted. If the fee is exhausted and the Federal Government incurs further processing costs, the applicant will be charged the additional costs. These additional costs must be submitted to the Commandant (G–M) when they are assessed.

(c) Application fees and additional costs assessed under this section must be made payable to the "United States Treasury."

Subpart C—Processing Applications

General

§ 148.200 What is the purpose of this subpart?

This subpart prescribes the requirements for processing an application for a deepwater port license, including the procedures for maintaining the docket, designating adjacent coastal States, holding informal and formal public hearings, and approving or denying an application.

§ 148.203 What is the role of MARAD in the processing of applications?

The Commandant (G–M) coordinates the processing of applications with the Maritime Administrator.

§ 148.205 How are documents related to the application maintained?

(a) The Commandant (G–M) maintains the docket for each application.

(b) The docket contains a copy of all documents filed or issued as part of application process.

(c) Recommendations submitted by Federal departments and agencies under 33 U.S.C. 1504(e)(2) are docketed when they are received. Copies of the draft and final environmental impact statements prepared under 33 U.S.C. 1504(f) are docketed when they are sent to the Environmental Protection Agency.

(d) For a document designated as protected from disclosure under 33 U.S.C. 1513(b), the Commandant (G–M)—

(1) Prevents the document from being made available for public inspection;

(2) Prevents the information in the document from being disclosed, unless the Commandant (G–M) states that the disclosure is not inconsistent with 33 U.S.C. 1513(b); and

(3) Keeps a record of all individuals who have a copy of the document.

§ 148.207 How and where can I view docketed documents?

(a) All material in a docket under § 148.205 is available to the public for inspection and copying at Commandant (G–M) at the address under "Commandant (G–M)" in § 148.5, except for—

(1) Contracts under 33 U.S.C. 1504(c)(2)(B) for the construction or operation of a deepwater port; and

(2) Material designated under paragraph (b) of this section as a trade secret or commercial or financial information that is claimed to be privileged or confidential.

(b) A person submitting material that contains either a trade secret or commercial or financial information under paragraph (a)(2) of this section must designate those portions of the material that are privileged or confidential. Section 148.221 contains procedures for objecting to these claims.

§ 148.209 How is the application processed?

The Commandant (G–M) processes each application and publishes the notice of application under 33 U.S.C. 1504(c) in the **Federal Register**. Upon publication of a notice of application, the Commandant (G–M) delivers copies of the application to the following:

(a) To each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. At a minimum, these must include the Environmental Protection Agency, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Minerals Management Service, the State Historic Preservation Officer, and relevant State environmental and natural resources protection agencies.

(b) To each adjacent coastal State.

§ 148.211 What must I do if I need to change my application?

If, at any time before the Secretary approves or denies an application, the information in it changes or becomes incomplete, the applicant must promptly submit, to Commandant (G–M), 15 copies of the change or the additional information, plus 2 copies for each adjacent coastal State.

§ 148.213 How do I withdraw my application?

The applicant may withdraw its application at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the Commandant (G–M) for docketing.

§ 148.215 What if a port has plans for a deep draft channel and harbor?

If a port of a State that will be directly connected by pipeline with a proposed deepwater port has existing plans for a deep draft channel and harbor, a representative of the port may request a determination under 33 U.S.C. 1503(d). The request must be sent, in writing, to Commandant (G–M) within 30 days after the date that the notice of application for the deepwater port is published in the **Federal Register**. The request must meet the following requirements:

(a) Be signed by the highest official of the port submitting the request.

(b) Contain a copy of the existing plans for the construction of a deep draft channel and harbor.

(c) Certify that the port has an active study by the Secretary of the Army for the construction of a deep draft channel and harbor or that the port has pending an application for a permit under 33 U.S.C. 403 for the construction.

(d) Provide any available documentation on—

(1) Initial costs (by phases, if development is staged) for the proposed onshore project, including dredging, ship terminal, and attendant facilities;

(2) Estimated annual operating expenses (by phases, if development is staged), including labor, for 30 years for all elements of the project;

(3) Estimated time of completion of all elements of the project;

(4) Estimated volume of ship traffic and volume and variety of the tonnage;

(5) Potential traffic congestion conditions in the port and the port's capability to control vessel traffic as a result of the proposed dredging project;

(6) Estimated economic benefits of the project, including—

(i) Economic contribution to the local and regional area;

(ii) Induced industrial development;

(iii) Increased employment; and

(iv) Increases in tax revenues; and

(7) Environmental and social impact of the project on elements of the local and regional community.

(e) State whether the port seeks a determination that the port best serves the national interest.

§ 148.217 How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the **Federal Register**. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must—

(1) Be submitted in writing to the Commandant (G–M) within 14 days after the date of publication of the notice of application in the **Federal Register**;

(2) Be signed by the Governor of the State;

(3) List the facts and any available documentation or analyses concerning the risk of damage to the coastal environment of the State; and

(4) State why the State believes the risk of damage to its coastal environment is equal to or greater than the risk to a State connected by a pipeline to the proposed deepwater port.

(c) Upon receipt of a request, the Commandant (G–M) sends a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and asks for the Administrator's recommendations within a period of time that will allow the Commandant (G–M) 45 days from receipt of the request to determine the matter.

(d) If, after receiving NOAA's recommendations, the Commandant (G–M) determines that the State should be considered as an adjacent coastal State, the Commandant (G–M) designates it as an adjacent coastal State. If the Commandant (G–M) denies the request, the Commandant (G–M) notifies the Governor of the requesting State of the denial.

§ 148.221 What must I do to make a claim or object to a claim?

(a) Persons required to furnish information under this part may assert a claim of privilege or immunity as grounds for relief from the requirement. The claim must be submitted in writing to the Commandant (G–M).

(b) If the claim concerns a document protected from disclosure under 33 U.S.C. 1513(b), the document must be placed in a sealed envelope with the name of the person claiming the protection, the applicant's name, the date or anticipated date of the application, and a brief statement of the basis of the claim. If a number of documents are involved, they must be grouped according to the nature of the claim and both the documents and their envelopes must be numbered using a self-explanatory numbering system.

(c) If the claim concerns the attorney-client privilege, the claim must identify the communication by date, type, persons making and receiving it, and general subject matter. If the required information is in a separable part of a communication, such as an attachment to a letter, the separate part must be identified the same way as the communication. The identification must be filed with the Commandant (G–M).

(d) A Federal or State agency, the applicant, an affiliate of the applicant, or other interested person may object to a claim. The objection must be in writing, must include a brief statement of the basis for the objection, and must identify the document to which the claim applies.

(e) Commandant (G–M) determines issues raised by claims filed under this section and may specify procedures to be used to resolve the issues. Any person may submit recommendations to the Commandant (G–M) as to the procedures to be used.

(f) The presiding officer at any formal or informal hearing may allow claims or objections that could be filed under this section to be made and may issue a decision or refer the matter to the Commandant (G–M).

(g) The filing of a claim under this section, other than a claim under paragraph (b) of this section, stays the time for meeting any deadline for submitting information related to an issue raised in a claim or objection. However, the filing of a claim does not stay the periods for processing and reviewing applications, unless the Commandant (G–M) determines that compliance with the requirement is material to the processing of the application within the required time. If the Commandant (G–M) determines that the information is material, the Commandant (G–M) may suspend the processing of the application. The period of suspension is not counted toward the time limits in 33 U.S.C. 1503(c)(6), 1504(d)(3), (e)(2), and (g), and 1508(b)(1).

Public Meetings

§ 148.222 When must public meetings be held?

(a) Before a license is issued, at least one public meeting under 33 U.S.C. 1504(g) must be held in each adjacent coastal State.

(b) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, publishes a notice of public meetings in the **Federal Register** and mails or delivers a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy.

(c) Anyone may attend the public meetings and provide oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 How is a public meeting reported?

(a) After completion of a meeting, the presiding officer forwards a report on the hearing to the Commandant (G–M) for docketing.

(b) The report contains at least—

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing, the presiding officer announces what the report must contain.

Formal Hearings

§ 148.228 What if a formal hearing is necessary?

(a) After all public meetings under § 148.222 are concluded, the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, considers whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard holds at least one formal evidentiary hearing under 5 U.S.C. 554 in the District of Columbia.

(c) The Commandant (G–M) files a request for assignment of an administrative law judge with the ALJ Docketing Center. The Chief Administrative Law Judge designates an administrative law judge (ALJ) or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under paragraph (b) of this section are considered by the Secretary of Transportation in deciding whether to approve or deny a license.

§ 148.230 How is notice of a formal hearing given?

(a) The Commandant (G–M) publishes a notice of the hearing in the **Federal Register** and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the administrative law judge (ALJ) assigned to conduct the hearing, a list of the factual issues to be resolved, the address of the place where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

§ 148.232 What are the rules for a formal hearing?

(a) The Commandant (G–M) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G–M) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G–M) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

§ 148.234 What are the limits of an administrative law judge's jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.

(b) An ALJ's jurisdiction ends after the recommended findings are filed with the Commandant (G–M) or immediately after the ALJ issues a notice of withdrawal from the proceeding.

§ 148.236 What authority does an administrative law judge have?

When assigned to a formal hearing, an ALJ may—

(a) Administer oaths and affirmations;

(b) Issue subpoenas;

(c) Issue rules of procedure for written evidence;

(d) Rule on offers of proof and receive evidence;

(e) Examine witnesses;

(f) Rule on motions of the parties;

(g) Suspend or bar an attorney from representing a person in the proceeding for unsuitable conduct;

(h) Exclude any person for disruptive behavior during the hearing;

(i) Set the hearing schedule;

(j) Certify questions to the Commandant (G–M);

(k) Proceed with a scheduled session of the hearing in the absence of a party who has failed to appear;

(l) Extend or shorten a non-statutorily imposed deadline under this subpart within the 240 day time limit for the completion of public hearings in 33 U.S.C. 1504(g);

(m) Set deadlines not specified in this subpart or the Act; and

(n) Take any other action authorized by or consistent with this subpart, the Act, or 5 U.S.C. 551–559.

§ 148.238 Who are the parties to a formal hearing?

The parties to a formal hearing are—

(a) The applicant;

(b) The Commandant (G–M); and

(c) Any person intervening in the proceedings.

§ 148.240 How does a State or a person intervene in a formal hearing?

(a) Any person or adjacent coastal State may intervene in a formal hearing.

(b) A person must file a petition of intervention within ten days after notice of the formal hearing is issued. The petition must—

(1) Be addressed to the ALJ Docketing Center;

(2) Identify the issues and the petitioner's interest in those issues; and

(3) Designate the name and address of a person who can be served if the petition is granted.

(c) An adjacent coastal State need only file a notice of intervention with the ALJ Docketing Center.

(d) The ALJ has the authority to limit the scope and period of intervention during the proceeding.

(e) If the ALJ denies a petition of intervention, the petitioner may file a notice of appeal with the ALJ Docketing Center within 7 days of the denial. A brief may be submitted with the notice of appeal. Parties who wish to file a brief in support of or against the notice of appeal may do so within 7 days of the filing of the notice.

(f) The Commandant (G–M) will rule on the appeal. The ALJ does not have to delay the proceedings for intervention appeals.

§ 148.242 How does a person who is not a party to a formal hearing present evidence at the hearing?

(a) For a person who is not a party to a formal hearing to present evidence at the hearing, the person must send a petition to present evidence to the ALJ Docketing Center before the beginning of the formal hearing. The petition must describe the evidence that the person will present and show its relevance to the issues listed in the notice of formal hearing.

(b) If a petition is granted, the ruling will specify which evidence is approved to be presented at the hearing.

§ 148.244 Who must represent the parties at a formal hearing?

(a) All organizations that are parties to the proceeding must be represented by an attorney. Individuals may represent themselves.

(b) Any attorney representing a party to the proceeding must file a notice of appearance according to § 20.301(b) of this chapter.

(c) Each attorney must be in good standing and licensed to practice before a court of the United States or the highest court of any State, territory, or possession of the United States.

§ 148.246 When is a document considered filed and where must it be filed?

(a) If a document to be filed is submitted by mail, it is considered filed on the date it is postmarked. If a document is submitted by hand delivery or electronically, it is considered filed on the date received by the clerk.

(b) File all documents and other materials related to an administrative proceeding at the U.S. Coast Guard Administrative Law Center, Attention: Hearing Docket Clerk, room 412, 40 South Gay Street, Baltimore, MD, 21201–4022.

§ 148.248 What happens when a document does not contain all necessary information?

Any document that does not satisfy the requirements in §§ 20.303 and 20.304 of this chapter will be returned to the person who submitted it with a statement of the reasons for denial.

§ 148.250 Who must be served before a document is filed?

Before a document may be filed by any party, it first must be served upon—

(a) All other parties; and

(b) The Commandant (G–M).

§ 148.252 What is the procedure for having a subpoena served?

(a) A party submit a request for a subpoena to the ALJ. The request must show the relevance and scope of the evidence sought.

(b) Requests should be submitted sufficiently in advance of the hearing so that exhibits and witnesses can be included in the lists required by § 20.601 of this chapter but may be submitted later before the end of the hearing if good cause is shown for the late submission.

(c) A request for a subpoena must be submitted to the ALJ.

(d) A proposed subpoena, such as the form in *http://cgweb.comdt.uscg.mil/g-cj/subpoena.doc*, must be submitted with the request. If you don't use this form, the proposed subpoena must contain—

(1) The docket number of the proceedings;

(2) The captions "Department of Transportation," "Coast Guard," and "Licensing of deepwater port for coastal waters off (insert name of the coastal State closest to the proposed deepwater port and the docket number of the proceeding)";

(3) The name and the address of the office of the ALJ;

(4) For a subpoena to give testimony, a statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony;

(5) For a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(6) An explanation of the procedure in § 20.309(d) of this chapter and paragraph (f) of this section for quashing a subpoena.

(e) The procedure for serving a subpoena must follow rule 45 of the Federal Rules of Civil Procedure, unless the ALJ authorizes another procedure.

(f) The witness fees for a subpoenaed witness are the same as the fees for witnesses subpoenaed in U.S. District Courts. The person requesting the subpoena must pay these fees.

(g) When serving a subpoena, a party must include witness fees in the form of a check to the individual or organization for one day plus mileage or, in the case of a government-issued subpoena, a form SF–1157 for reimbursement for witness fees and mileage.

(h) Any person served with a subpoena has 10 days from the time of service to move to quash the subpoena.

(i) If a person does not comply with a subpoena, the ALJ decides whether judicial enforcement of the subpoena is necessary. If the ALJ decides it is, the Commandant (G–M) reviews this decision.

§ 148.254 How is a transcript of the hearing prepared?

(a) Under the supervision of the ALJ, the reporter prepares a verbatim transcript of the hearing. Nothing may be deleted from the transcript, unless ordered by the ALJ and noted in the transcript.

(b) After a formal hearing is completed, the ALJ certifies and forwards the record, including the transcript, to the clerk for docketing.

(c) At any time within the 20 days after the record is docketed, the ALJ may make corrections to the certified transcript. When corrections are filed, they are attached as appendices.

(d) Any motion to correct the record must be submitted within 10 days after the record is docketed.

§ 148.256 What happens at the conclusion of a formal hearing?

After closing the record of a formal hearing, the ALJ prepares a recommended finding on the issues that were the subject of the hearing. The ALJ submits that finding to the Commandant (G–M).

Approval or Denial of the Application

§ 148.276 When must the application be approved or denied?

Within 90 days after the close of the last public meeting or formal hearing, the Secretary of Transportation either approves or denies the application.

§ 148.277 How may Federal agencies and States participate in the application process?

(a) Under § 148.209, Federal agencies and adjacent coastal States are sent copies of the application. The agencies and States are encouraged to begin submitting their comments at that time.

(b) To be considered by the Secretary of Transportation, the Commandant (G–M), and the Administrator of the Maritime Administration, comments from Federal agencies and adjacent coastal States must reach the Commandant (G–M), at the latest, within 45 days after the completion of the last of the public meetings and formal hearings on an application.

(c) Comments should identify problems, if any, and suggest possible solutions.

§ 148.279 What are the criteria and considerations for approval of an application?

(a) The Secretary of Transportation approves an application if the Secretary determines that—

(1) The applicant is financially responsible and will carry insurance, or give other evidence of financial responsibility to meet its limit of liability established under subpart G of this part for removal costs and damages that could result from a discharge of oil from the deepwater port or a vessel moored at the deepwater port;

(2) The applicant can and will comply with applicable laws, regulations, and license conditions;

(3) The construction and operation of the deepwater port will be—

(i) In the national interest;

(ii) Consistent with national security;

(iii) Consistent with other national policy goals and objectives, including energy sufficiency and environmental quality; and

(iv) Consistent with the Act, this subchapter, and other applicable laws, including those listed in appendix A to this part;

(4) The deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) The applicant has demonstrated that the deepwater port will be constructed and operated according to the environmental review criteria in appendix A to this part and will use the best available technology, so as to prevent or minimize adverse impact on the marine environment; and

(6) Any State connected to the deepwater port by pipeline—

(i) Is receiving a planning grant under section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454); or

(ii) Has developed, or is developing, an approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1465). This program must include the area that will be directly and primarily impacted by land and water development in the coastal zone resulting from the deepwater port.

(b) After making the determinations under paragraph (a) of this section, the Secretary considers the following:

(1) The information in the application and any other applications for licenses submitted under 33 U.S.C. 1504(d)(3) for the same application area.

(2) The information from the public meetings and formal hearings held under this part.

(3) The final environmental impact statement for the application area concerned.

(4) The views on the adequacy of the application and its effects on programs within their respective jurisdictions by the Secretaries of the Army, State, and Defense.

(5) The comments of the Maritime Administration and other Federal departments and agencies that have a specific duty under the Act or expertise concerning, or jurisdiction over, any aspect of the ownership, construction, or operation of a deepwater port.

(6) The comments from the adjacent coastal States.

§ 148.281 What happens when more than one application is submitted for the same application area?

(a) When more than one application is submitted for the same application area under 33 U.S.C. 1504(d), the Secretary of Transportation approves only one application. Except as provided in paragraph (b) of this section, applicants receive priority in the following order:

(1) An adjacent coastal State (or combination of States), political subdivision of the State, or an agency or instrumentality, including a wholly owned corporation of the State.

(2) A person—

(i) Not engaged in producing, refining, or marketing oil;

(ii) Not an affiliate of a person engaged in producing, refining, or marketing oil; or

(iii) Not an affiliate of an affiliate of a person engaged in producing, refining, or marketing oil.

(3) Any other applicant.

(b) The Secretary of Transportation may also approve one of the proposed deepwater ports if the Secretary determines that that port will best serve the national interest. In making this determination, the Secretary considers—

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in appendix A to this part;

(2) The differences between the anticipated completion dates of the deepwater ports; and

(3) The differences in costs for construction and operation of the ports that would be passed on to consumers of oil.

§ 148.283 When is the application process stopped before the application is approved or denied?

The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, stops the application process before the application is approved or denied if—

(a) All applications are withdrawn before the Secretary of Transportation approves one of them; or

(b) There is only one application, it is incomplete, and the applicant does not respond to a request by the Commandant (G–M) for further information.

Subpart D–Licenses

§ 148.300 What does this subpart concern?

This subpart concerns the license for a deepwater port and the procedures for transferring, amending, suspending, reinstating, revoking, and enforcing a license.

§ 148.305 What is included in a deepwater port license?

A deepwater port license contains the following:

(a) The name, and the number or other identification, of the port.

(b) The name of the owner and operator of the port.

(c) The conditions prescribed under 33 U.S.C. 1503(e) for ownership, construction, and operation of the deepwater port.

(d) A statement that—

(1) There will be no substantial change from the plans, operational systems, methods, procedures, and safeguards in the license, as approved, without the written approval, in advance, of the Secretary of Transportation; and

(2) The owner will comply with any condition that the Secretary may prescribe under the Act or this subchapter.

§ 148.307 Who may consult with the Commandant G–M and the Administrator of the Maritime Administration on developing the conditions of a license?

Federal agencies, the adjacent coastal States, and the owner of the deepwater port may consult with the Commandant (G–M) or the Administrator of the Maritime Administration on the conditions of the license being developed under 33 U.S.C. 1503(e).

§ 148.310 How long does a license last?

Each license remains in effect indefinitely unless—

(a) It is suspended or revoked by the Secretary of Transportation; or

(b) It is surrendered by the owner.

§ 148.315 How is a license amended, transferred, or reinstated?

(a) The Secretary of Transportation may amend, transfer, or reinstate a license if the Secretary finds that the amendment, transfer, or reinstatement, is consistent with the requirements of the Act and this subchapter.

(b) The owner must submit a request for an amendment, transfer, or reinstatement to the Commandant (G–M).

§ 148.320 How is a license enforced, suspended, or revoked?

The Secretary of Transportation may enforce, suspend, or revoke a license under 33 U.S.C. 1507(c).

Subpart E—Site Evaluation and Pre-Construction Testing

§ 148.400 What does this subpart do?

(a) This subpart prescribes requirements under 33 U.S.C. 1504(b) for the activities that are involved in site evaluation and pre-construction testing at potential locations for deepwater ports and that may—

(1) Adversely affect the environment;

(2) Interfere with authorized uses of the Outer Continental Shelf; or

(3) Pose a threat to human health and welfare.

(b) For the purpose of this subpart, "site evaluation and pre-construction testing" means studies performed at potential deepwater port locations, including—

(1) Preliminary studies to determine the feasibility of a site;

(2) Detailed studies of the topographic and geologic structure of the ocean bottom to determine its ability to support offshore structures and other equipment; and

(3) Studies done for the preparation of the environmental analysis required under § 148.105(w).

§ 148.405 What are the procedures for notifying the Commandant (G–M) of proposed site evaluation and pre-construction testing?

(a) Any person who wants to conduct site evaluation and pre-construction testing at a potential site for a deepwater port must submit a written notice to the Commandant (G–M) at least 30 days before the beginning of the evaluation or testing. The Commandant (G–M) advises and coordinates with appropriate Federal agencies and the States concerning activities covered by this subpart.

(b) The written notice must include the following:

(1) The names of all parties participating in the site evaluation and pre-construction testing.

(2) The type of activities and the way they will be conducted.

(3) Charts showing where the activities will be conducted and the locations of all offshore structures, including pipelines and cables, in or near the proposed area.

(4) The specific purpose for the activities.

(5) The dates when the activities will begin and end.

(6) The available data on the environmental consequences of the activities.

(7) A preliminary report, based on existing data, of the historic and archeological significance of the area where the proposed activities are to take place. A report of each contact made with any appropriate State liaison officer for historic preservation must be included.

(8) Additional information, if necessary, in individual cases.

(c) For the following activities, the notice need have only the information required in paragraphs (b)(1), (b)(2), and (b)(5) of this section, as well as a general indication of the proposed location and purpose of the activities:

(1) Gravity and magnetometric measurements.

(2) Bottom and sub-bottom acoustic profiling without the use of explosives.

(3) Sediment sampling of a limited nature using either core or grab samplers, if geological profiles indicate no discontinuities that may have archeological significance.

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if the sampling is permitted by another Federal agency.

(5) Meteorological measurements, including the setting of instruments.

(6) Hydrographic and oceanographic measurements, including the setting of instruments.

(7) Small diameter core sampling to determine foundation conditions.

(d) A separate written notice is required for each site.

§ 148.410 What are the conditions for conducting site evaluation and pre-construction testing?

(a) No persons may conduct site evaluation and pre-construction testing unless they comply with this subpart and other applicable laws.

(b) Measures must be taken to prevent or minimize the effect of activities under § 148.400(a).

§ 148.415 When conducting site evaluation and pre-construction testing, what must be reported?

(a) When conducting site evaluation or pre-construction testing, the following must be immediately reported by any means to the Commandant (G–M):

(1) Any evidence of objects of cultural, historical, or archeological significance.

(2) Any adverse effect on the environment.

(3) Any interference with authorized uses of the Outer Continental Shelf.

(4) Any threat to human health and welfare.

(5) Any adverse effect on an object of cultural, historical, or archeological significance.

(b) Within 120 days after the site evaluation or pre-construction testing, a final written report must be submitted to the Commandant (G–M) that contains—

(1) A narrative description of the activities performed;

(2) A chart, map, or plat of the area where the activities occurred;

(3) The dates that the activities were performed;

(4) Information on the adverse effects of items reported under paragraph (a) of this section;

(5) Data on the historical or archeological significance of the area where the activities were conducted, including a report by an underwater archeologist, if the physical data indicate the need for such an expert; and

(6) Any additional information required by the Commandant (G–M) on a case-by-case basis.

§ 148.420 When may the Commandant (G–M) suspend or prohibit site evaluation or pre-construction testing?

(a) The Commandant (G–M) may order, either in writing or orally with written confirmation, the prohibition or immediate suspension of any activity related to site evaluation or pre-construction testing, when the activity threatens harm to—

(1) Human life;

(2) Biota;

(3) Property;

(4) Cultural resources;

(5) Any valuable mineral deposits; or

(6) The environment.

(b) The Commandant (G–M) consults with the applicant on measures to remove the cause for suspension.

(c) The Commandant (G–M) may lift a suspension after the applicant assures the Commandant (G–M) that the activity will no longer cause the threat on which the suspension was based.

Subpart F—Exemption from Requirements in this Subchapter

§ 148.500 What does this subpart do?

This subpart provides procedures for requesting an exemption from a requirement in this subchapter.

§ 148.505 How do I apply for an exemption?

(a) Any person required to comply with a requirement in this subchapter may submit a petition for exemption from that requirement.

(b) The petition must be submitted in writing to the Commandant (G–M).

(c) The Commandant (G–M) may require the petition to provide an alternative to the requirement.

§ 148.510 What happens when a petition for exemption involves the interests of an adjacent coastal State?

If the petition for exemption concerns an adjacent coastal State, the Commandant (G–M) forwards the petition to the Governor of the State for the Governor's recommendation.

§ 148.515 When is an exemption allowed?

The Commandant (G–M) allows an exemption if the Commandant (G–M) determines that—

(a) Compliance with the requirement would be contrary to public interest;

(b) Compliance with the requirement would not enhance safety or the health of the environment;

(c) Compliance with the requirement is not practical because of local conditions or because the materials or personnel needed for compliance are unavailable;

(d) National defense or national economy justify a departure from the rules; or

(e) The alternative, if any, proposed in the petition would—

(1) Ensure comparable or greater safety, protection of the environment, and quality of construction, maintenance, and operation of the deepwater port; and

(2) Be consistent with recognized principles of international law.

Subpart G—Limit of Liability

§ 148.600 What is the purpose of this subpart?

This subpart concerns the establishment of the limit of liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) for deepwater ports.

§ 148.605 How is the limit of liability determined?

(a) The Secretary of Transportation establishes the limit of liability for deepwater ports according to 33 U.S.C. 2704(d)(2).

(b) Requests to adjust the limit of liability for a deepwater port must be submitted to Commandant (G–M). Adjustments are established by a rulemaking based on the request of the applicant. This may be done concurrently with the processing of the deepwater port license application.

§ 148.610 What is the limit of liability for LOOP?

The limit of liability for the Louisiana Offshore Oil Port (LOOP) is $62,000,000.

Appendix A to Part 148—Environmental Review Criteria for Deepwater Ports

Authority

(a) Under section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505), the Commandant is required to establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard consulted with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Maritime Administration, and other Federal agencies having jurisdiction over any aspect of the construction or operation of a deepwater port. Both the construction and operation phases of a deepwater port will be evaluated by the following criteria:

(1) The effect on the marine environment.

(2) The effect on oceanographic currents and wave patterns.

(3) The effect on alternate uses (e.g., scientific study, fishing, and exploitation of other living and nonliving resources) of the oceans and navigable waters.

(4) The potential dangers to a deepwater port from waves, winds, weather, and geological conditions and the steps that can be taken to protect against or minimize these dangers.

(5) The potential for risks to the marine and terrestrial environments under normal operating scenarios and a range of spill or failure scenarios.

(6) The effects of land-based developments related to deepwater port development.

(7) The effect on human health and welfare.

(8) Other considerations deemed necessary by the Commandant (G–M).

(b) The Commandant (G–M) periodically reviews and revises, as necessary, these criteria. These reviews and revisions are performed in the same way as the originally developed criteria. The criteria established are consistent with the National Environmental Policy Act (42 U.S.C. 4321–4347) and were developed concurrently with the regulations under 33 U.S.C. 1504(a) for deepwater ports.

Purpose

(a) The Secretary of Transportation may issue a license to construct a deepwater port under the Act if, among other things, the Secretary determines—

(1) That the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, and protection from the threat of terrorist attack and other subversive activity against persons and property on the port and the vessels and crews calling at the port.

(2) That, under the environmental review criteria in this appendix, the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology to prevent or minimize adverse impact on the environment (33 U.S.C. 1503(c)(3) and 1504).

(b) Under 33 U.S.C. 1504(f), these criteria must be considered in the preparation of a single, detailed environmental impact statement for all timely applications covering a single application area. Additionally, 33 U.S.C. 1504(i)(3) specifies that, if more than one application is submitted for an "application area" (as defined in 33 U.S.C. 1504(d)(2)), the criteria must be used, among other factors, in determining whether any one proposed deepwater port clearly best serves the national interest.

Environmental Review Criteria

(a) The environmental review of a proposed deepwater port consists of the following two parts:

(1) The assessment of the probable negative and positive environmental impacts that will result from construction and operation of the port. (See "Part I of Environmental Review: Environmental Impacts in this appendix.) This is also discussed in the Council on Environmental Quality's regulations at 40 CFR parts 1500 through 1508.

(2) The effort made by the applicant to prevent or minimize adverse environmental effects. (See "Part II of Environmental Review: Environmental Mitigation" in this appendix.) This effort will be closely considered in the review.

(b) The overall intent of the review is to obtain a comprehensive evaluation of the significance of both the separate and cumulative environmental impacts, adverse and beneficial, of the proposed deepwater port project. In addition, the overall intent of the review is to determine whether or not the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology, thereby preventing or minimizing the adverse impact on the marine environment.

Part I of Environmental Review: Environmental Impacts

(a) The proposed deepwater port will be evaluated to assess the extent and importance of its probable negative and positive environmental impacts. The information needed for this evaluation will be provided by the Federal Environmental Impact Statement and other necessary sources. This review will include comparisons with reasonable alternative actions, such as the no-action case, alternative schemes for transporting oil, alternative sites, designs, and systems, and other deepwater ports.

(b) The evaluation should provide a clear picture of the relative net environmental impact of the proposed project. It should identify the procedures that might be taken and the technology applied to prevent or minimize probable adverse effects.

Part II of Environmental Review: Environmental Mitigation

Under this part, the proposed project will be appraised for the effort made to prevent or minimize the probable adverse impacts on the environment. This appraisal is primarily concerned with the project as it is proposed. The alternatives are relevant only insofar as they may represent an array of possible actions that the proposal will be judged against. The review will consider the degree of adherence to the following guidelines:

(a) *Siting.*

(1) A proposed deepwater port should be sited in an optimum location to prevent or minimize detrimental environmental effects. For example, the deepwater port and all its components (including receiving terminals, inline transportation facilities and stations, ancillary and service facilities, and pipelines) should occupy the minimum space necessary for safe and efficient operation and should be located, to the extent possible, in areas where permanent alteration of wetlands is not necessary. Buffer zones should be provided to separate onshore facilities from incompatible adjacent land uses.

(2) The deepwater port facility and its offshore components should be located in areas that have stable sea-bottom characteristics; and its onshore components should be located in areas where a stable foundation can be developed and flood protection levees, if appropriate, can be constructed.

(3) The deepwater port facility should be located in an area where existing offshore structures and activities will not interfere with its safe operation, and where the facility or navigation to and from that facility, will not interfere with the safe operation of existing offshore structures. Water depths and currents in and around the deepwater port and its approaches should pose no undue hazard to safe navigation. Extensive dredging or removal of natural obstacles, such as reefs, should be avoided. The siting procedure should select an area where projected weather, wave conditions, and seismic activity minimize the probability that damage will occur to the deepwater port, tankers, pipeline, and component shore-side facilities from storms, earthquakes, or other natural hazards.

(4) Sites should maximize the permitted use of existing work areas and facilities and access routes for construction and operations activities. Where temporary work areas, facilities, or access routes must be used, they should be, to the fullest extent possible, designed and constructed in such a manner as to permit restoration to the pre-construction environmental conditions or better.

(5) The deepwater port facility, navigational fairways, and pipelines should be sited where the interactions of requirements of the facility and the natural environment are optimized to prevent adverse impacts or to produce acceptably low adverse effects. Key factors in assessments should include, but are not be limited to, projected winds, waves, current, spill size, spill frequency, and cleanup capability; shoreline, estuarine, and bay sensitivity; biological resources, damage potential and recovery rate; facility design; and project economics.

(6) The deepwater port, pipelines, and attendant facilities should be located as far as practicable from the vicinity of critical habitats for biota, including, but not limited to, commercial and sports fisheries and threatened and endangered species.

(7) Sites should reflect negligible displacement of existing or potentially important uses, such as the following:

(i) Fisheries.

(ii) Recreation.

(iii) Mining.

(iv) Oil and gas production.

(v) Transportation.

(8) Siting should favor areas already allocated for similar use and the implications of density of these uses.

(i) Port facilities—existing tanker and barge traffic—existing ports, which can be used for service vessels.

(ii) Pipelines—use of existing corridors.

(iii) Secondary facilities—use of (or expansion of) existing storage, refinery, and other support facilities.

(iv) Construction facilities—use of existing equipment and personnel staging yards.

(9) The deepwater port, pipelines, and other offshore facilities should be sited so that they will not permanently interfere with the natural littoral process and will not significantly alter any tidal pass or other part of the physical environment that is important to natural currents and wave patterns.

(10) Pipelines, or other deepwater port components or facilities requiring dredging, should not be located where sediments with high levels of heavy metals, biocides, oil, or other pollutants or hazardous materials exist.

(b) *Design, construction, and operation.* Selection of design and procedures for construction and operation of a deepwater port must reflect the use of the best available technology. The following are some examples:

(1) All oil transfer, transportation, and storage facilities and their systems and equipment should include appropriate safeguards and backup systems or should be operated under procedures both to minimize the possibility of pollution incidents resulting from personnel and equipment failures, natural calamities, and casualties, such as tanker collisions or groundings, and to minimize the adverse effects of those

pollution incidents that do occur. These facilities, systems, and equipment should be designed to permit safe operation, including appropriate safety margins, under maximum operating loads and the most adverse operating conditions.

(2) All facilities should be provided with a safe, environmentally sound method for the collection, storage, and disposal of solid and liquid wastes generated by these facilities. When prescribed by law or regulation, the deepwater port may be required to be fitted with additional facilities for the collection and treatment of ship-generated liquid and solid wastes, such as oily bilge and oily ballast water, tank cleaning residues, sludge wastes, and sewage and garbage.

(3) The proposed project should be designed, constructed and operated so it will not permanently interfere with natural littoral processes or other significant aspects of currents and wave patterns. Additionally, harmful erosion or accretion, both onshore and offshore, should be prevented. Groundwater drawdown or saltwater intrusion should not be permitted. Moreover, the mixing of salt, brackish, and fresh waters should be minimized. Designs should not include factors that will disrupt natural sheet flow, water flow, and drainage patterns or systems.

(4) The proposed project should not interfere with biotic populations. Potential effects on breeding habitats or migration routes should receive particular attention.

(5) The proposed project should be designed, constructed, and operated to make maximum, feasible use of already existing local facilities, such as roads, pipelines, docking facilities and communications facilities.

(6) Disposal of spoil and refuse material should be effected only at disposal sites specifically selected and approved by competent authorities. Whenever and wherever possible, the proposal should provide for resource recovery, reclamation of affected areas, or enhancing uses of spoil and waste.

(7) Personnel trained in oil spill prevention should be present at critical points at the deepwater port (as identified in the accident analysis). Personnel should also be trained in oil spill control to mitigate the effects of any spill that may occur.

(c) *Land Use and Coastal Zone Management.* A deepwater port should not conflict with existing or planned land use, including management of the coastal region. A measure of whether or not conflict exists will be made by the following means:

(1) The proposed project should adhere closely to approved master plans or other plans of competent local or State authorities in designated adjacent coastal States or in other States where significant effects are likely to occur. A minimum of special exceptions or zoning variances should be required. Non-conforming uses should not be prolonged where reasonable alternatives are available.

(2) The proposed project should conform with approved or planned coastal zone management programs of the relevant adjacent coastal States.

(3) The proposed use of floodplains should not—

(i) Entail loss of wetlands;

(ii) Pose an undue risk of exposure of that use to flood damage;

(iii) Increase the potential need for Federal expenditures for flood protection or flood disaster relief; and

(iv) Decrease the unique public value of the floodplain as an environmental resource or provide an incentive for other uses of the floodplains that have similar ultimate results.

(4) The use of or effect on wetlands should be considered in the following manner:

(i) Uses that would permanently alter or adversely affect wetlands should be avoided; or

(ii) Positive action must be taken to minimize adverse effects on wetlands.

Environmental Statutes

(a) In constructing and operating a deepwater port, the port must comply with all applicable environmental statutes, including the National Environmental Policy Act 42 U.S.C. 4321 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 *et seq.*), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 661 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liabilities Act.

(b) In addition, the port must comply with section 5 of the Deepwater Port Act of 1974 on preparation of a single, detailed environmental impact statement (33 U.S.C. 1504(f)) and section 6 on the effect of the port on the marine environment (33 U.S.C. 1505(a)).

PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

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Authority: 33 U.S.C. 1504; 49 CFR 1.46.

Subpart A—General

§ 149.1 What does this part do?

This subpart provides requirements for the design and construction of deepwater ports. It also provides the requirements for equipment for deepwater ports.

§ 149.5 Where can I find the definition of a term used in this part?

(a) See § 148.5 for the definition of certain terms used in this part.

(b) See § 140.25 of this chapter for the definition of the following terms: "accommodation module," "major conversion," "sleeping spaces," and "temporary accommodation module."

§ 149.10 What is the Coast Guard publication for equipment type approval, and where can I obtain it?

(a) Where equipment in this subchapter must be of an approved type, the equipment must be specifically approved by the Commandant (G–M). A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm*. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202–512–1800.

(b) Specifications for certain items required to be of an approved type are in 46 CFR parts 160 through 164.

Subpart B—Pollution Prevention Equipment

§ 149.100 What does this subpart do?

This subpart provides requirements for pollution equipment on deepwater ports.

§ 149.103 What are the requirements for discharge containment and removal material and equipment?

(a) Each deepwater port must have oil discharge containment and removal material and equipment that, to the extent best available technology allows, can contain and remove an oil discharge of at least 10,000 U.S. gallons. The material and equipment must be stored on the pumping platform or on a service craft operating at the deepwater port.

(b) Each deepwater port must have readily accessible additional containment and removal material and equipment for containing and removing oil discharges larger than those specified in paragraph (a) of this section. For purposes of this paragraph, access may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) The type of discharge containment and removal material and equipment that best meets the requirements of paragraphs (a) and (b) of this section must be determined on the basis of—

(1) The oil handling rates of the deepwater port;

(2) The volume of oil susceptible to being spilled;

(3) The frequency of oil transfer operations at the deepwater port;

(4) The prevailing wind and sea state condition at the deepwater port;

(5) The age, capability, and arrangement of, and the licensee's experience with, the oil transfer system equipment at the deepwater port; and

(6) The expected availability and frequency of use of the discharge containment material and equipment and whether they are shared.

§ 149.105 What are the requirements for the overflow and relief valves?

(a) Each oil transfer system (OTS) must include a relief valve that, when activated, prevents pressure on any component of the OTS from exceeding its maximum rated pressure.

(b) The oil transfer system overflow or relief valve must not allow an oil discharge into the sea.

§ 149.110 What are the requirements for pipeline end manifold shutoff valves?

Each pipeline end manifold must have a shutoff valve capable of operating both manually and from the pumping platform complex.

§ 149.115 What are the requirements for blank flange and shutoff valves?

Each floating hose string must have a blank flange and a shutoff valve at the vessel's manifold end.

§ 149.120 What are the requirements for manually operated shutoff valves?

Each oil transfer line passing through an SPM buoy must have a manual shutoff valve on the buoy.

§ 149.125 What are the requirements for the malfunction detection system?

Each oil system between a pumping platform complex and the shore must have a system that can detect and locate all leaks and other malfunctions.

§ 149.130 What are the requirements for the oil transfer system alarm?

(a) Each oil transfer system must have an alarm to signal a malfunction or failure in the system.

(b) The alarm must be—

(1) Capable of being activated at the pumping platform complex;

(2) A signal audible in all areas of the pumping platform complex, except in areas under paragraph (b)(3) of this section;

(3) A high intensity flashing light in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter; and

(c) Distinguishable from the general alarm.

§ 149.135 What should be marked on the oil transfer system alarm switch?

Each switch for activating an alarm, and each audio or visual device for signaling an alarm, under § 149.130 must be identified by the words "OIL TRANSFER ALARM" in red letters at least 1-inch (2.5 centimeters) high on a yellow background.

§ 149.140 What communications equipment must be on a deepwater port?

Each deepwater port must have the following communications equipment:

(a) A means of continuous two-way voice communication among the deepwater port and the tankers, support vessels, and other vessels operating at the port. The means must be usable and effective in all phases of a transfer and in all conditions of weather at the port.

(b) A means to effectively indicate the need to use the communication system required by paragraph (a) of this section, even if the means is the communication system itself.

(c) For each portable means of communication used to meet the requirements of this section, equipment that is—

(1) Certified under 46 CFR 111.105–11 to be operated in Group D, Class 1, Division 1 Atmosphere; and

(2) Permanently marked with the certification required in paragraph (c)(1) of this section. As an alternative to this marking requirement, a document certifying that the portable radio devices in use are in compliance with this section may be kept at the deepwater port.

§ 149.145 What are the requirements for curbs, gutters, drains, and reservoirs?

Each pumping platform complex must have enough curbs, gutters, drains, and reservoirs to collect, in the reservoirs, all oil and contaminants not authorized for discharge into the ocean according to the port's National Pollution Discharge Elimination System (NPDES) permit.

§ 149.150 What are the requirements for the receipt of oil residues from vessels?

(a) Each deepwater port that receives oil from vessels must have a means for receiving oil residues from those vessels.

(b) A deepwater port is not required to receive oil residues from vessels that are engaged in a vessel-to-vessel transfer.

Subpart C—Lifesaving Equipment

§ 149.300 What does this subpart do?

This subpart provides requirements for lifesaving equipment on deepwater ports.

§ 149.305 What are the requirements for lifesaving equipment?

(a) Each deepwater port on which at least one person occupies an accommodation space for more than 30 consecutive days in any successive 12-month period must comply with the requirements for lifesaving equipment in §§ 143.810 through 143.885 of this chapter.

Note: Sections 143.810 through 143.885 referred to in this paragraph are as proposed in 64 FR 68476–68480, December 7, 1999.

(b) Each deepwater port not under paragraph (a) of this section must comply with the requirements for lifesaving equipment in §§ 143.910 through 143.925 of this chapter.

Note: Sections 143.910 through 143.925 referred to in this paragraph are as proposed in 64 FR 68480, December 7, 1999.

§ 149.310 What are the requirements for lifesaving equipment that is not required by this subchapter?

Each item of lifesaving equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G–M).

Subpart D—Fire-Fighting and Fire-Protection Equipment

§ 149.400 What does this subpart apply to?

This subpart applies to all deepwater ports; except that, for deepwater ports in existence on [the effective date of the final rule], this subpart applies on [date 2 years after effective date of the final rule].

§ 149.405 What are the general requirements for fire-fighting and fire-protection equipment?

(a) Each deepwater port must comply with the requirements for fire-fighting and fire-protection equipment in §§ 143.1010 through 143.1050 and 143.1060 through 143.1063 of this chapter.

Note: Sections 143.1010 through 143.1050 and 143.1060 through 143.1063 referred to in this paragraph are as proposed in 64 FR 68481–68485, December 7, 1999.

(b) A fire detection and alarm system on a deepwater port on [the effective date of the final rule.] need not meet the requirements in § 143.1050 of this chapter until the system needs replacing.

Note: Section 143.1050 referred to in this paragraph is as proposed in 64 FR 68484, December 7, 1999.

§ 149.410 What are the requirements for a fixed fire main system?

Each pumping platform complex must have a fixed fire main system.

§ 149.415 What are the requirements for fire pumps?

(a) Each pumping platform complex must have at least two independently driven fire pumps. Each pump must be able to simultaneously deliver two streams of water at a pitot tube pressure of at least 75 p.s.i. measured at each fire hose nozzle.

(b) Each fire pump must have—

(1) A relief valve on its discharge side that is set to relieve at 25 p.s.i. in excess of the pressure necessary to meet the requirement in paragraph (a) of this section;

(2) A pressure gauge on its discharge side; and

(3) Its own sea connection.

(c) Fire pumps may only be connected to the fire main system.

(d) The fire pumps required by paragraph (a) of this section shall be located in separate spaces and the arrangement of pumps, sea connections and sources of power shall be such as to ensure that a fire in any one space will not put all of the fire pumps out of service.

§ 149.420 What are the requirements for fire hydrants?

(a) Except for machinery spaces, each part of the pumping platform complex that is accessible to a person must have enough fire hydrants so that it can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(b) Each pumping platform complex must have enough fire hydrants so that each machinery space can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(c) A single length of fire hose, with an attached nozzle, must be connected to each fire hydrant at all times. If the hose is exposed to freezing weather, it may be removed from the location during freezing weather.

(d) The outlet on each fire hydrant must not point above the horizontal.

(e) Each fire hydrant must have a shutoff valve.

(f) Any equipment that is located in the same space as the fire hydrant must not impede access to the hydrant.

(g) Each fire hydrant must have at least one spanner wrench at the fire hydrant.

§ 149.425 What are the requirements for fire hoses?

(a) At each fire hydrant, there must be a fire hose rack that is—

(1) Prominently marked;

(2) In an exposed location; and

(3) Protected from freezing weather.

(b) Each length of fire hose must be—

(1) 1 ½ or 2½ inches (4 or 6 centimeters) nominal hose size diameter;

(2) 50-feet (15-meters) nominal hose size length; and

(3) Lined commercial fire hose that conforms to UL 19.

(c) Each fire hose coupling must—

(1) Be made of brass, bronze, or material that has strength and corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have nine threads per inch for 1½-inch (4-centimeter) hose or seven and a half threads per inch for 2½-inch (6-centimeter) hose.

(d) Each fire hose nozzle must be a combination solid-stream and water-spray fire hose nozzle that is approved under 46 CFR part 162, subpart 162.027. Nozzles approved under that subpart before June 24, 1996, may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection (OCMI).

(e) A combination solid-stream and waterspray fire hose nozzle approved under 46 CFR part 162, subpart 162.027, before June 24, 1996, must have a low-velocity water spray applicator (also approved under the provisions of that subpart in effect before June 24, 1996 and contained in the 46 CFR parts 156 to 165 volume revised as of October 1, 1995) when installed—

(1) In a machinery space containing oil fired boilers, internal combustion machinery, or fuel oil units; or

(2) On a helicopter deck.

§ 149.430 What are the requirements for fire-fighting equipment that is not required by this subchapter?

Each item of fire-fighting equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G–M).

Subpart E—Aids to Navigation

General

§ 149.500 What does this subpart do?

This subpart provides requirements for aids to navigation on deepwater ports.

§ 149.505 What are the general requirements for aids to navigation?

The following requirements apply to aids to navigation under this subpart:

(a) Section 66.01–5 of this chapter on application to establish, maintain, discontinue, change, or transfer ownership of an aid, except as under § 149.510.

(b) Section 66.01–25(a) and (c) of this chapter on discontinuing or removing an aid. For the purposes of § 66.01–25(a) and (c) of this chapter, aids to navigation at a deepwater port are considered Class I aids under § 66.01–15 of this chapter.

(c) Section 66.01–50 of this chapter on protection of an aid from interference and obstruction.

(d) Section 66.01–55 of this chapter on transfer of ownership of an aid.

§ 149.510 How do I get permission to establish an aid to navigation?

(a) To establish an aid to navigation on a deepwater port, the licensee must submit an application under § 66.01–5 of this chapter, except the application must be sent to the Commandant (G–M).

(b) At least 180 days before the installation of any structure at the site of a deepwater port, the licensee must submit an application for obstruction lights and other private aids to navigation for the particular construction site.

(c) At least 180 days before beginning oil transfer operations or changing the mooring facilities at the deepwater port, the licensee must submit an application for private aids to navigation.

Lights

§ 149.520 What kind of lights are required?

(a) Lights required by this subpart must be generated by omnidirectional lanterns or rotating beacons.

(b) An omnidirectional lantern must generate a fan beam, where the beam is concentrated in a horizontal plane.

(c) A rotating beacon must generate one or more pencil beams, where each beam is conical, similar to the beam from a flashlight.

(d) Lanterns and beacons must have a way to focus the light or must be certified by the manufacturer as not requiring focusing.

§ 149.521 What is "effective intensity," as used in this subpart?

For the purpose of this subpart, "effective intensity" means the intensity of an intermittent light signal calculated by using the following equation:

$$I_e = \frac{J}{C + \frac{J}{I_o}},$$

where I_e is the effective intensity of the light; I_o is the maximum intensity of the flash; C is a visual time constant taken to be 0.2 seconds for nighttime observation; and J is the integrated intensity of the flash. J is calculated by the following equation:

$$J = \int_{t_1}^{t_2} I\,(t)\,dt,$$

where t_1 is the starting time and t_2 is the ending time for the light. This equation is valid for both flashed and rotated light signals.

§ 149.523 What are the requirements for flash intervals?

The flash interval (i.e., time difference between the beginning and end of any single flash) from an omnidirectional lantern must not be less than 0.2 seconds. For lights that are pulsed during the flash interval, the pulse frequency must not be less than 100 Hz.

§ 149.525 What are the chromaticity requirements for lights?

The color emitted by a light must be uniform at all angles and in all directions and have chromaticity coordinates lying within the regions defined by the corner coordinates in table 149.525 of this section, when plotted on the CIE Standard Observer Diagram.

TABLE 149.525—CHROMATICITY COORDINATES

Color	Chromaticity coordinates	
	x Axis	y Axis
White	0.285	0.332
	.453	.440
	.500	.440
	.500	.382
	.440	.382
	.285	.264
Green	0.009	0.720
	.284	.520
	.207	.397
	.013	.494
Red	0.665	0.335
	.645	.335
	.680	.300
	.700	.300
Yellow	0.560	0.440
	.555	.435
	.612	.382
	.618	.382

§ 149.527 What are the requirements for vertical divergence of lights?

(a) Each light on a buoy, hose string, or SPM must—

(1) Meet the effective intensity required by this subpart within ±1° from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within

±2° from the focal plane of the light for the arc.

(b) Each light on a platform must—

(1) Meet the effective intensity required by this subpart within ±0.5° from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within ±1° from the focal plane of the light for the arc.

Lights on Platforms

§ 149.530 How many obstruction lights must a platform have, and where must they be located?

(a) A platform that is 30 feet (9 meters) or less on any side, or in diameter, must have at least one obstruction light.

(b) A platform that is more than 30 feet (9 meters) but less than 50 feet (15 meters) on any side, or in diameter, must have at least two obstruction lights located as far apart from each other as possible.

(c) A platform that is more than 50 feet (15 meters) on any side must have at least one obstruction light located on each corner.

(d) A circular platform that has a diameter of more than 50 feet (15 meters) must have at least four obstruction lights located as far apart from each other as possible.

(e) Obstruction lights on platforms must be located at least 20 feet (6 meters) above mean high water.

(f) If a platform has more than one obstruction light, the lights must all be located in the same horizontal plane.

(g) At least one obstruction light on a platform must be visible from the water, regardless of the angle of approach to the structure.

§ 149.531 What are the required characteristics and intensity of obstruction lights on platforms?

(a) Each obstruction light on a platform must—

(1) Display a white light signal; and

(2) Flash 50 to 70 times per minute.

(b) If a platform has more than one obstruction light, the lights must flash simultaneously.

(c) Each obstruction light on a platform must have an effective intensity of at least 75 candela.

§ 149.533 What are the requirements for leveling obstruction lights on platforms?

Each obstruction light on a platform must have—

(a) Mounting hardware that allows the light to be leveled horizontally; and

(b) One or more leveling indicators permanently attached to the light, each with an accuracy of ±0.25° or better.

§ 149.535 What are the requirements for rotating beacons on platforms?

In addition to obstruction lights, the tallest platform of a deepwater port must have a rotating lighted beacon that—

(a) Has an effective intensity of at least 15,000 candela;

(b) Flashes at least once every 20 seconds;

(c) Provides a white light signal;

(d) Operates in wind speeds up to 100 knots at a rotation rate that is within 6 percent of the operating speed displayed on the beacon;

(e) Has one or more leveling indicators permanently attached to the light, each with an accuracy of ±0.25°, or better; and

(f) Is located—

(1) At least 60 feet (18 meters) above mean high water;

(2) Where the structure of the platform, or equipment mounted on the platform, does not obstruct the light in any direction; and

(3) So that it is visible all around the horizon.

Lights on Single Point Moorings

§ 149.540 What are the requirements for obstruction lights on an SPM?

(a) An SPM must have at least one obstruction light.

(b) At least one obstruction light must be visible from the water, regardless of the angle of approach to the SPM.

(c) Obstruction lights on an SPM must be located at least 10 feet (3 meters) above mean high water.

(d) If an SPM has more than one obstruction light, the lights must all be installed in the same horizontal plane.

§ 149.545 What are the required characteristics and intensity of obstruction lights on an SPM?

(a) Each obstruction light on an SPM must—

(1) Display a white light signal;

(2) Flash 50 to 70 times per minute; and

(3) Have an effective intensity of at least 15 candela.

(b) If an SPM has more than one obstruction light, the lights must flash simultaneously.

Lights on Floating Hose Strings

§ 149.550 What are the requirements for lights on a floating hose string?

(a) A floating hose string must have at least one omnidirectional light, mounted on the hose-end support buoy.

(b) Lights marking the floating hose string must be located at the same height 2 to 5 feet (.6 meters to 1.5 meters) above the surface of the water.

(c) Lights on the hose-end support buoy must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

(d) Additional lights may be installed along the length of the floating hose string. Any additional lights marking the floating hose string must comply with the requirements for lights on the hose-end support buoy.

§ 149.555 What are the required characteristics and intensity of lights on a floating hose string?

Each light marking a floating hose string must—

(a) Display a yellow light signal;

(b) Flash 50 to 70 times per minute; and

(c) Have an effective intensity of at least 10 candela.

Lights on Buoys Used to Define Traffic Lanes

§ 149.560 How must buoys used to define traffic lanes be marked and lighted?

(a) Each buoy that is used to define the lateral boundaries of a traffic lane at a deepwater port must meet § 62.25 of this chapter.

(b) The buoy must have an omnidirectional light located at least 8 feet (2.4 meters) above the water.

(c) The buoy light must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

§ 149.565 What are the required characteristics and intensity of lights on buoys used to define traffic lanes?

(a) The color of the light on a buoy that is used to define the lateral boundaries of a traffic lane must correspond with the color schemes for buoys in § 62.25 of this chapter.

(b) The buoy light may be fixed or flashing. If it is flashing, it must flash at intervals of not more than 6 seconds.

(c) Buoy lights must have an effective intensity of at least 25 candela.

Miscellaneous

§ 149.570 How is a platform or SPM identified?

(a) Each platform and SPM must display the name of the deepwater port and the name or number identifying the structure, so that the information is visible—

(1) From the water at all angles of approach to the structure; and

(2) If the structure is equipped with a helicopter pad, from aircraft on approach to the structure.

(b) The information required in paragraph (a) of this section must be displayed in numbers and letters that are—

(1) At least 12 inches (30 centimeters) high;

(2) In vertical block style; and

(3) Displayed against a contrasting background.

§ 149.575 How must objects protruding from the water, other than platforms and SPM's, be marked?

(a) Each object protruding from the water that is within 100 yards (91 meters) of a platform or SPM must be marked with white reflective tape.

(b) Each object protruding from the water that is more than 100 yards (91 meters) from a platform or SPM must meet the obstruction lighting requirements in this subpart for a platform.

§ 149.580 What are the requirements for a radar beacon?

(a) A radar beacon must be located on the tallest platform of a pumping platform complex.

(b) The beacon must meet the following:

(1) Be an FCC-type-accepted radar beacon (RACON).

(2) Transmit—

(i) In both the 2900–3100 MHz and 9300–9500 MHz frequency bands; or

(ii) If installed before July 8, 1991, in the 9320–9500 MHz frequency band.

(3) Transmit a signal of at least 250 milliwatts radiated power that is omnidirectional and polarized in the horizontal plane.

(4) Transmit a two or more element Morse code character, the length of which does not exceed 25 percent of the radar range expected to be used by vessels operating in the area.

(5) If of the frequency agile type, be programmed so that it will respond at least 40 percent of the time but not more than 90 percent of the time with a response time duration of at least 24 seconds.

(6) Be located at a minimum height of 15 feet (4.5 meters) above the highest deck of the platform and where the structure of the platform, or equipment mounted on the platform, does not obstruct the signal propagation in any direction.

§ 149.585 What are the requirements for fog signals?

(a) Each pumping platform complex must have a fog signal approved under part 67, subpart 67.10, of this chapter that has a 2-mile (3-kilometer) range. A list of Coast Guard approved fog signals is available from any District Commander.

(b) Each fog signal must be—

(1) Located at least 10 feet (3 meters) but not more than 150 feet (46 meters) above mean high water; and

(2) Located where the structure of the platform, or equipment mounted on it, does not obstruct the sound of the signal in any direction.

Subpart F—Design and Equipment

General

§ 149.600 What does this subpart do?

This subpart provides general requirements for equipment and design on deepwater ports.

§ 149.610 What must the District Commander be notified of and when?

The District Commander must be notified of the following:

When—	The District Commander must be notified—
(a) Construction of a pipeline, platform, or SPM is planned	At least 30 days before construction begins.
(b) Construction of a pipeline, platform, or SPM begins	Within 24 hours, from the date construction begins, that the lights and fog signals are in use at the construction site.
(c) A light or fog signal is changed during construction	Within 24 hours of the change.
(d) Lights or fog signals used during construction of a platform, buoy, or SPM are replaced by permanent fixtures to meet the requirements of this part.	Within 24 hours of the replacement.
(e) The first oil transfer operation begins	At least 60 days before the operation.

§ 149.615 What construction drawings and specifications are required?

(a) To show compliance with the Act and this subchapter, the licensee must submit to the Commandant (G–M) three copies of—

(1) Each construction drawing and specification; and

(2) Each revision to a drawing and specification.

(b) Each drawing, specification, and revision under paragraph (a) of this section must bear the seal, or a facsimile imprint of the seal, of the registered professional engineer responsible for the accuracy and adequacy of the material.

§ 149.620 What happens when the Commandant (G–M) reviews and evaluates the construction drawings and specifications?

(a) The Commandant (G–M) reviews and evaluates construction drawings and specifications to ensure compliance with the Act and this subchapter.

(b) Construction may not begin until the drawings and specifications are approved by the Commandant (G–M).

(c) Once construction begins, the Coast Guard periodically inspects the construction site to ensure that the construction complies with the drawings and specifications approved under paragraph (b) of this section.

(d) When construction is complete, the licensee must submit two complete sets of as-built drawings and specifications to the Commandant (G–M).

§ 149.625 What are the design standards?

(a) Each component, except for hoses, mooring lines, and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur at the deepwater port in any period of 100 years.

Note to § 149.625(a): "Recommended Procedure for Developing Deepwater Ports Design Criteria" describes a method to prepare the wind, wave, and current criteria for use in determining the forces of the storm described by this paragraph. You may obtain this guide from the Commandant (G–M).

(b) Each port that is contracted for on or after [effective date of final rule.] must be designed according to API RP 2A–WSD (working stress design) or API RP 2A–LRFD (load and resistance factor design) to the extent that they are consistent with this subchapter.

(c) Each electrical installation on a port must be designed, to the extent practicable according to 46 CFR chapter I, subchapter J, (Electrical Equipment).

(d) Each boiler and pressure vessel on a port must be designed according to ASME "Boiler and Pressure Vessel Code," sections I, IV, and VIII, to the extent that they are consistent with this subchapter.

(e) Main oil transfer piping on a port must be designed according to ANSI B 31.4 (Liquid Petroleum Transportation Piping Systems).

(f) Heliports on fixed deepwater ports must be designed according to API RP 2L. Heliports on floating deepwater ports must meet the design requirements for heliports on mobile offshore drilling units in 46 CFR part 108.

Systems Fire Protection

§ 149.630 What do the systems fire protection regulations apply to?

Sections 149.635 through 149.690 apply to the following:

(a) Each deepwater port that—

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.]; or

(2) Underwent a major conversion that began on or after [effective date of final rule.].

(b) When on a deepwater port under paragraph (a)(1) of this section—

(1) Each accommodation module; or

(2) Each temporary accommodation module.

§ 149.640 What are the requirements for systems fire protection?

The pumping platform complex must comply with the requirements for systems fire protection in §§ 143.1115 through 143.1135 of this chapter, except for the requirements on Emergency Evacuation Plans under § 143.1125 of this chapter.

Note: Sections 143.1115 through 143.1135 referred to in this paragraph are as proposed in 64 FR 68488, December 7, 1999.

Single Point Moorings

§ 149.650 What are the requirements for single point moorings and their attached hoses?

(a) Before operating an SPM and its attached hose, the SPM and hose must meet—

(1) ABS Rules for Building and Classing Single Point Moorings; or

(2) If approved by the Commandant (G–M), the standards of another recognized classification society that provide the same or a greater level of safety.

(b) As evidence of compliance with the standards under paragraph (a) of this section, the licensee must obtain—

(1) An Interim Class Certificate or a Classification Certificate issued by the American Bureau of Shipping (ABS); or

(2) A similar certificate issued under paragraph (a)(2) of this section by another recognized classification society.

(c) The SPM and hose must be maintained in class.

Helicopter Fueling Facilities

§ 149.655 What are the requirements for helicopter fueling facilities?

Helicopter fueling facilities must comply with the NFPA 407, part 2–5 (fueling on elevated heliports). For the purposes of this section, "ground level" as used in NFPA 407 means below the lowest platform working level.

Emergency Power

§ 149.660 What are the requirements for emergency power?

(a) Each pumping platform complex must have emergency power equipment to provide power to operate simultaneously all of the following for a continuous period of 8 hours:

(1) Emergency lighting circuits.

(2) Aids to navigation equipment.

(3) Communications equipment.

(4) Radar equipment.

(5) Alarm systems.

(6) Electrically operated fire pumps.

(7) Other electrical equipment identified as emergency equipment in the Operations Manual for the deepwater port.

(b) No emergency power generating equipment may be located in any enclosed space on a platform that contains oil transfer pumping equipment or other power generating equipment.

General Alarm System

§ 149.665 What are the requirements for a general alarm system?

Each pumping platform complex must have a general alarm system that meets the following:

(a) Is capable of being activated manually by the use of alarm boxes located according to NFPA 72.

(b) Is audible in all parts of the pumping platform complex , except in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter.

(c) Has a high intensity flashing light in areas where hearing protection is used.

§ 149.670 What are the requirements for marking a general alarm system?

Each of the following must be marked with the words "GENERAL ALARM" in yellow letters at least 1-inch high on a red background:

(a) Each general alarm box.

(b) Each audio or visual device under § 149.665 for signaling the general alarm.

Public Address System

§ 149.675 What are the requirements for the public address system?

Each pumping platform complex must have a public address system operable from two locations on the complex.

Medical Treatment Rooms

§ 149.680 What are the requirements for medical treatment rooms?

Each deepwater port with sleeping spaces for 12 or more persons, including persons in accommodation modules and temporary accommodation modules, must have a medical treatment room that has—

(a) A sign at the entrance designating it as a medical treatment room;

(b) An entrance that is wide enough and arranged to readily admit a person on a stretcher;

(c) A single berth or examination table that is accessible from both sides; and

(d) A washbasin located in the room.

§ 149.685 May I use a medical treatment room for other purposes?

Yes, you may use a medical treatment room as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. You may also use it as an office. However, when you use the room for medical purposes, it may not be used as a sleeping space or office.

Miscellaneous

§ 149.690 What are the requirements for means of escape, personnel landings, guardrails, and similar devices and for noise limits?

The deepwater port must comply with §§ 143.1220 through 143.1236 of this chapter on means of escape, personnel landings, guardrails and similar devices, and noise limits.

Note: Sections 143.1220 through 143.1236 referred to in this paragraph are as proposed in 64 FR 68487–68490, December 7, 1999.

§ 149.695 What kind of portable lights may be used on a pumping platform complex?

Each portable light and its supply cord on a pumping platform complex must be designed for the environment where it is used.

PART 150—DEEPWATER PORTS: OPERATIONS

Subpart A—General

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Authority: 33 U.S.C. 1231, 1321(j)(1)(c), (j)(5), (j)(6) and (m)(2), 33 U.S.C. 1509(a); sec. 2, E.O. 12777, 56 54757; 49 CFR 1.46.

Subpart A—General

§ 150.1 What does this part do?

This part provides requirements for the operation of deepwater ports.

§ 150.5 Where can I find the definition of a term used in this part?

See § 148.5 of this chapter for the definition of certain terms used in this part.

§ 150.10 What are the general requirements for operations manuals?

(a) Each deepwater port must have an operations manual that is approved by the Commandant (G–M) as meeting the requirements of the Act and this subchapter. The original manual is approved as part of the application process in part 148 of this chapter.

(b) The manual must be readily available on the deepwater port for use by personnel.

(c) The licensee must ensure that all personnel follow the procedures in the manual while at the deepwater port.

§ 150.15 What must the operations manual include?

The operations manual required by § 150.10 must identify the deepwater port and include the following:

(a) A description of the geographic location of the deepwater port.

(b) A physical description of the port.

(c) A description of the communication system.

(d) A plan of the layout of the mooring areas, aids to navigation, cargo transfer locations, and control stations.

(e) The hours of operation.

(f) The size, type, number, and simultaneous operations of tankers that the port can handle.

(g) The procedures for the navigation of tankers, including—

(1) The operating limits, maneuvering capability, draft, net under-keel clearance, and dimensions of the tanker;

(2) Any special navigation or communication equipment that may be required for operating in the safety zone;

(3) The measures for routing vessels;

(4) Any mooring equipment needed to make up to the SPM;

(5) The procedures for clearing tankers, support vessels, and other vessels during emergency and routine conditions;

(6) Any special illumination requirements for arrival, discharge, and departure operations;

(7) Any special watchstanding requirements for transiting, mooring, or while at anchor;

(8) The hours when a radio watch is maintained and the frequencies monitored;

(9) The weather limits for tankers; and

(10) The duties, title, qualifications, and training of personnel of the port.

(h) The procedures for transferring cargo, including—

(1) The requirements for oil transfers;

(2) The shipping name of, and Material Safety Data Sheet on, the product transferred;

(3) The duties, title, qualifications, and training of personnel of the port;

(4) Minimum requirements for watch personnel on board the vessel during transfer operations (i.e., personnel necessary for checking mooring gear, monitoring communications and having propulsion/steering on standby);

(5) The start-up and completion of pumping;

(6) Emergency shutdown;

(7) The maximum relief valve settings, the maximum available working pressure and hydraulic shock to the system without relief valves, or both;

(8) Equipment necessary to discharge cargo to the port complex; and

(9) Describe the method to be used to water and de-water the SPM hoses when required.

(i) Unusual arrangements that may be applicable, including—

(1) A list and description of any extraordinary equipment or assistance available to vessels with inadequate pumping capacity, small cargoes, small diameter piping, or inadequate crane capacity; and

(2) A description of special storage or delivery arrangements for unusual cargoes.

(j) Safety and fire protection procedures, including—

(1) Housekeeping and illumination of walking and working areas;

(2) Emergency internal and external notifications;

(3) Quantity, type, location, and use of safety and fire protection equipment;

(4) Personal protection equipment; and

(5) Helicopter landing pad operations.

(k) A port security plan that addresses security issues, including but not be limited to controlling access of personnel and the introduction of goods and material into the deepwater port, monitoring and alerting vessels that approach or enter the port's security zone, identifying risks and procedures for increasing the probability of detecting and deterring terrorist or subversive activity (such as using security lighting and designating restricted areas within the port and remotely alarming them, as appropriate), notification requirements (both internally and externally) and response requirements in the event of a perceived threat or an attack on the port, designating the Port Security Officer, providing positive and verifiable identification of personnel with access to the port, the training (including drills) required for all personnel regarding security issues, and the scalability of actions and procedures for the various levels of threat.

(l) Procedures for any special operations, including—

(1) Evacuation and re-manning procedures;

(2) Refueling operations;

(3) Diving operations;

(4) Support vessel operations; and

(5) Providing logistical services.

(m) The maintenance procedures, tests, and recordkeeping for—

(1) Oil transfer equipment;

(2) Fire prevention equipment;

(3) Safety equipment; and

(4) Cranes.

(n) Emergency drills, including—

(1) Type;

(2) Frequency; and

(3) Documentation.

(o) A program for monitoring the environmental effects of the port and its operations in order to maintain compliance with the environmental conditions in the license and applicable environmental laws. The program must provide for the periodic re-examination of the physical, chemical, and biological factors contained in the port's environmental impact analysis and baseline study submitted with the license application.

§ 150.20 How many copies of the operations manual must I give to the Coast Guard?

The licensee must give the Commandant (G–M) at least five copies of the original operations manual approved when the deepwater port license was issued and five copies of each subsequent amendment to the manual.

§ 150.25 When must I amend the operations manual?

(a) Whenever the Captain of the Port (COTP) finds that the operations manual does not meet the requirements of this part, the COTP notifies the licensee in writing of the inadequacies in the manual.

(b) Within 45 days after the notice under paragraph (a) of this section is sent, the licensee must submit written amendments to eliminate the inadequacies.

(c) The COTP reviews the amendments, makes a determination as the adequacy of the amendments and notifies the licensee of the determination.

(d) If the COTP decides that an amendment is necessary, the amendment goes into effect 60 days after the COTP notifies the licensee of the amendment.

(e) The licensee may petition the Commandant (G–M) to review the decision of the COTP. In this case, the effective date of the amendment is delayed pending the Commandant's decision. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G–M).

(f) If the COTP finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, the COTP may issue an amendment effective on the date that the licensee receives it. The COTP must include a brief statement of the reasons for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

§ 150.30 How may I propose an amendment to the operations manual?

(a) The licensee may propose an amendment to the operations manual—

(1) By submitting in writing the amendment and reasons for the amendments to the COTP not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the COTP in writing.

(b) The COTP responds to a proposed amendment by notifying the licensee, in writing, before the requested date of the amendment whether the request is approved. If the request is disapproved, the COTP includes the reasons for disapproval in the notice. If the request is for an immediate amendment, the COTP responds as soon as possible.

§ 150.35 How may an adjacent coastal State request an amendment to the operations manual?

(a) An adjacent coastal State connected by pipeline to the deepwater port may petition the COTP to amend the operations manual. The petition must include sufficient information to allow the COTP to reach a decision concerning the proposed amendment.

(b) After the COTP receives a petition, the COTP requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the COTP may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The adjacent coastal State may petition the Commandant (G–M) to review the decision of the COTP. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G–M) via the District Commander.

§ 150.40 When may I deviate from the operations manual?

If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the COTP explaining why the deviation is necessary and what alternative is proposed. If the COTP determines that the deviation would ensure equivalent or greater protection and safety, the COTP authorizes the deviation and notifies the licensee in writing.

§ 150.45 In an emergency, when may I deviate from this subchapter or the operations manual?

In an emergency, any person may deviate from any requirement in this subchapter or any procedure in the operations manual to ensure the safety of life, property, or the environment. Each deviation must be reported to the COTP at the earliest possible time.

§ 150.50 What are the requirements for an oil spill response plan?

(a) Each deepwater port must have an oil spill response plan that meets part 154, subpart F, of this chapter.

(b) The response plan must be submitted to the COTP in writing not less than 60 days before the deepwater port begins operation.

Subpart B—Inspections

§ 150.100 What are the requirements for inspecting deepwater ports?

Under the direction of the OCMI, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the OCMI deems necessary.

Subpart C—Personnel

§ 150.200 What does this subpart do?

This subpart prescribes qualifications for personnel on deepwater ports.

§ 150.205 Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meets the qualifications for that position in this subpart.

§ 150.210 What are the language requirements for personnel?

Only persons who read, write, and speak English may occupy the following positions:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

§ 150.215 What are the restrictions on serving in more than one position?

No person may serve in more than one of the following positions at any one time:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

§ 150.220 What are the qualifications for a Port Superintendent?

(a) A Port Superintendent must meet the following:

(1) Have enough experience in managing an oil transfer facility to demonstrate the capability of managing a deepwater port;

(2) Know the operational requirements in this part;

(3) Know the hazards of each product handled at the port;

(4) Know the procedures in the operations manual; and

(5) Be designated as Port Superintendent by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.225 What are the qualifications for a Cargo Transfer Supervisor?

(a) A Cargo Transfer Supervisor must meet the following:

(1) Have enough experience in managing cargo transfers at an oil transfer facility to demonstrate the capability of managing cargo transfers at a deepwater port.

(2) Have had at least 1 year of continuous employment as supervisor at an oil transfer facility in charge of offloading tank vessels of 70,000 deadweight tons (DWT) or larger.

(3) Have supervised at least 25 cargo transfer evolutions from tankers of 70,000 DWT or larger or served in a training capacity for cargo transfer supervisor at a deepwater port in the United States for at least 1 year.

(4) Know the requirements for oil transfer operations in subpart E of this part.

(5) Know the oil transfer procedures and transfer control systems, in general, of tankers serviced at the port.

(6) Know the special handling characteristics of each product transferred at the port.

(7) Know the procedures in the operations manual for—

(i) Oil transfers;

(ii) Spill prevention, containment, and cleanup;

(iii) Accidents and emergencies; and

(iv) Voice radio-telecommunications.

(8) Be designated as Cargo Transfer Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.230 What are the qualifications for a Vessel Traffic Supervisor?

(a) A Vessel Traffic Supervisor must meet the following:

(1) Have worked with radar plotting and analysis of vessel movement for 1 of the previous 5 years or successfully completed a marine radar operators school acceptable to the Commandant (G–M).

(2) Know the procedures for using the port's radar equipment.

(3) Know the procedures in the operations manual for vessel control and voice radio-telecommunications.

(4) Be designated as Vessel Traffic Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.235 What are the qualifications for a Mooring Master?

(a) A Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as—

(i) A master of ocean steam or motor vessels of any gross tons, endorsed as radar observer, and have 1 year of experience as—

(A) A master on tankers of 70,000 DWT or larger and have satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G–M); or

(B) A Mooring Master at any deepwater port servicing tankers of 70,000 DWT or larger;

(ii) Master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tons for at least one port in the area of the deepwater port, and have one year of experience—

(A) Piloting ocean going vessels, including tankers of 70,000 DWT or larger; or

(B) As assistant mooring master at the facility and satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G–M); or

(iii) Master of ocean steam or motor vessels of limited tonnage or chief mate of ocean, steam, or motor vessels of unlimited tonnage with 1-year experience in charge of an offshore crude oil lightering operation.

(2) Know the procedures in the operations manual for—

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Mooring Master by the licensee.

(b) The COTP must be notified, in writing, of the designation.

(c) Applicants for Mooring Master must have observed 20 mooring evolutions at a deepwater port.

§ 150.240 What are the qualifications for a Cargo Transfer Assistant?

(a) A Cargo Transfer Assistant must meet the following:

(1) Have 1 year of experience, or must have performed 15 cargo transfer evolutions, at an oil transfer facility servicing tankers of 70,000 DWT or larger. This experience must include connecting and disconnecting tankers to a floating hose string for a single point mooring.

(2) Know the requirements for oil transfer operations in subpart E of this part.

(3) Know the oil transfer procedures and transfer control systems, in general, of tankers serviced at the facility.

(4) Know the special handling characteristics of each product to be transferred.

(5) Know the procedures in the operations manual for—

(i) Oil transfers;

(ii) Spill prevention, containment, and cleanup;

(iii) Accidents and emergencies; and

(iv) Voice radio-telecommunications.

(6) Be designated as Cargo Transfer Assistant by the licensee.

(b) This designation must be kept in writing at the deepwater port.

§ 150.245 What are the qualifications for an Assistant Mooring Master?

(a) An Assistant Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as—

(i) A master of ocean steam or motor vessels of any gross tonnage, endorsed as radar observer, and have 6-months experience as master or chief mate on tankers of 70,000 DWT or larger; or

(ii) A master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tonnage for at least one port in the area of the deepwater port.

(2) Know the procedures in the operations manual for—

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Assistant Mooring Master by the licensee.

(b) The COTP must be notified in writing of the designation.

§ 150.250 What training and instruction are required?

Personnel must receive training and instruction under §§ 143.510 and 143.515 of this chapter. [*Note:* Sections 143.510 and 143.515 referred to in this paragraph are as proposed in 64 FR 68473, December 7, 1999.]

Subpart D—Vessel Navigation

§ 150.300 What does this subpart do?

(a) This subpart prescribes requirements that—

(1) Apply to the navigation of all vessels at or near a deepwater port; and

(2) Describe the activities that vessels may or may not engage in a safety zone under subpart J of this part.

(b) These requirements supplement the International Regulations for Preventing Collisions at Sea (COLREGS).

§ 150.310 When is radar surveillance required?

The Vessel Traffic Supervisor must maintain radar surveillance of the safety zone when—

(a) A tanker is proceeding to the safety zone after submitting the report required in § 150.325;

(b) A tanker or support vessel is underway in the safety zone; or

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone.

§ 150.320 What advisories are given to tankers?

The Vessel Traffic Supervisor must advise the master of each tanker underway in the safety zone of the following:

(a) At intervals not exceeding 10 minutes, the vessel's position by range and bearing from the pumping platform complex.

(b) The position and the estimated course and speed, if moving, of all other vessels that may interfere with the movement of the tanker within the safety zone.

§ 150.325 What is the first notice required before a tanker enters the safety zone?

(a) The owner, master, agent, or person in charge of a tanker bound for a deepwater port must report the following information to the Vessel Traffic Supervisor of the port and to the COTP at least 96 hours before entering the safety zone at the port:

(1) The name, gross tonnage, and draft of the tanker.

(2) The type and amount of cargo in the tanker.

(3) The location of the tanker at the time of the report.

(4) Any conditions on the tanker that may impair its navigation, such as fire or malfunctioning propulsion, steering, navigational, or radiotelephone equipment. The testing requirements in § 164.25 of this chapter are applicable to vessels arriving at a deepwater port.

(5) Any leaks, structural damage, or machinery malfunctions that may impair cargo transfer operations or cause a discharge of oil.

(6) The operational condition of the equipment listed under § 164.35 of this chapter on the tanker.

(b) If the estimated time of arrival changes by more than 6 hours from the last reported time, the COTP and Vessel Traffic Supervisor of the port must be notified of the correction as soon as the change is known.

(c) If the information reported in paragraphs (a)(4) or (a)(5) of this section changes at any time before the tanker enters the safety zone at the deepwater port, or while the tanker is in the safety zone, the master of the tanker must report the changes to the COTP and Vessel Traffic Supervisor of the port as soon as possible.

(d) In addition to the requirements in paragraphs (a), (b), and (c) of this section, the notice of arrival requirements in § 160.207 of this chapter are applicable to vessels arriving at a deepwater port.

§ 150.330 What is the second notice required before a tanker enters the safety zone?

When a tanker bound for a deepwater port is 20 miles (32 kilometers) from the entrance to the port's safety zone, the master of the tanker must notify the port's Vessel Traffic Supervisor of the tanker's name and location.

§ 150.340 What are the rules of navigation for tankers in the safety zone?

(a) A tanker must not enter or depart a safety zone except within a designated safety fairway.

(b) A tanker must not anchor in the safety zone except in a designated anchorage area.

(c) A tanker underway in a safety zone must keep at least 5 miles (8 kilometers) behind any other tanker underway ahead of it in the safety zone.

(d) A tanker must not operate, anchor, or moor in any area of the safety zone in which the net under-keel clearance would be less than 5 feet (1.5 meters).

§ 150.345 How are support vessels cleared to move within the safety zone?

All movements of support vessels within the safety zone must be cleared in advance by the Vessel Traffic Supervisor.

§ 150.350 What are the rules of navigation for support vessels in the safety zone?

A support vessel must not anchor in the safety zone, except—

(a) In an anchorage area; or

(b) For vessel maintenance that is cleared by the Vessel Traffic Supervisor.

§ 150.355 How are other vessels cleared to move within the safety zone?

(a) The Vessel Traffic Supervisor's clearance is required before a vessel, other than a tanker or support vessel, is allowed to enter the safety zone.

(b) The Vessel Traffic Supervisor may clear a vessel under paragraph (a) of this section only if its entry into the safety zone would not—

(1) Interfere with the purpose of the deepwater port;

(2) Endanger the safety of life or property or the environment; or

(3) Otherwise be prohibited by regulation.

§ 150.365 What are the responsibilities of the Vessel Traffic Supervisor?

(a) The Vessel Traffic Supervisor controls the movement of vessels entering, moving within, and departing the safety zone around a deepwater port.

(b) The Vessel Traffic Supervisor must provide information concerning other vessels underway or moored in the safety zone.

(c) If the Vessel Traffic Supervisor determines that a vessel may be in danger with respect to any other vessel in the safety zone or to any part of the deepwater port, the Vessel Traffic Supervisor must attempt to inform the vessel's master by radio or by other means.

§ 150.370 What are the responsibilities of the Mooring Master?

(a) A Mooring Master must be onboard each tanker when it is underway in the safety zone.

(b) The Mooring Master must advise the master of the tanker on operational and ship-control matters that are particular to the specific deepwater port, such as—

(1) The port's navigational aids;

(2) The depth and current characteristics of the maneuvering area;

(3) The mooring equipment and procedures; and

(4) The port's vessel traffic control procedures.

§ 150.375 What are the responsibilities of the Assistant Mooring Master?

When a tanker is mooring at an SPM, an Assistant Mooring Master must be stationed on the forecastle of the tanker to assist the Mooring Master by—

(a) Reporting position approach data relative to the SPM; and

(b) Advising the tanker personnel in the handling of mooring equipment peculiar to the deepwater port.

§ 150.380 Under what circumstances may vessels operate within the safety zone?

(a) Table 150.380(a) of this section lists the areas within a safety zone where a vessel may operate and the clearance needed for that location.

TABLE 150.380(A).—REGULATED ACTIVITIES OF VESSELS AT DEEPWATER PORTS

Regulated Activities	Safety Zone		
	Areas to be avoided around each platform pumping complex and SPM [1]	Anchorage areas	Other areas within safety zone
1. Tankers calling at port	C	C	C
2. Support vessel movements	C	C	C
3. Transit by vessels other than tankers or support vessels	N	P	P
4. Mooring to SPM by vessels other than tankers or support vessels	F		
5. Anchoring by vessels other than tankers or support vessels	N	F	N
6. Fishing, including bottom trawl (shrimping)	N	P	P
7. Mobile drilling operations or erection of structures [2]	N	N	N
8. Lightering/transshipment [3]	N	N	N

[1] Areas to be avoided are in subpart J of this part.
[2] Not part of Port Installation.
[3] Exception, 33 CFR 150.440(e).
Key to regulated activities: F—Only in an emergency. N—Not permitted. C—Movement of the vessel is permitted when cleared by the Vessel Traffic Supervisor. P—Transit is permitted when the vessel is not in the immediate area of a tanker and when cleared by the Vessel Traffic Supervisor. Communication with the Vessel Traffic Supervisor is required. For transiting foreign-flag vessels, the requirement for clearance to enter the safety zone is advisory in nature.

(b) If the activity is not listed in table 150.380(a) of this section or is not otherwise provided for in this subpart, the COTP's permission is required first.

§ 150.385 What is required in an emergency?

In an emergency for the protection of life or property, a vessel may deviate from a vessel movement requirement in this subpart without clearance from the Vessel Traffic Supervisor if the master advises the Vessel Traffic Supervisor of the reasons for the deviation at the earliest possible moment.

Subpart E—Oil Transfer Operations

§ 150.400 What does this subpart do?

This subpart prescribes rules that apply to the transfer of oil at a deepwater port.

§ 150.405 How must an Oil Transfer System (OTS) be tested and inspected?

(a) No person may transfer oil through an OTS at a deepwater port unless it has

been inspected and tested according to this section.

(b) The SPM–OTS must be maintained as required by the ABS Rules for Building and Classing Single Point Moorings or by the rules for maintenance of an SPM–OTS of another classification society approved by the Commandant (G–M).

(c) If the manufacturer's maximum pressure rating for any oil transfer hose in the SPM–OTS has been exceeded (unless it was exceeded for testing required by this section), the hose must be—

(1) Removed;

(2) Hydrostatically tested to 1.5 times its maximum working pressure; and

(3) Visually examined externally and internally for evidence of—

(i) Leakage;

(ii) Loose covers;

(iii) Kinks;

(iv) Bulges;

(v) Soft spots; and

(vi) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(d) Each submarine hose used in oil transfer operations in the SPM–OTS must have been removed from its coupling, surfaced, and examined as described in paragraphs (c)(2) and (c)(3) of this section within the preceding 2 years; and

(e) Before resuming oil transfer operations, each submarine hose in the SPM–OTS must be visually examined in place as described in paragraph (c)(3) of this section after oil transfer operations are shut down due to sea conditions at the deepwater port.

§ 150.420 What actions must be taken when oil transfer equipment is defective?

When any piece of equipment involved in oil transfer operations is defective—

(a) The piece of equipment must be replaced or repaired before making any further oil transfers; and

(b) The repaired or replaced piece must meet or exceed its original specifications.

§ 150.425 What are the requirements for transferring oil?

No person may transfer oil through an OTS unless the following occur:

(a) Before connecting the hose string to the vessel manifold at the start of each oil transfer operation, the hose string in use for that transfer operation must be visually examined and found to have no—

(1) Leakage;

(2) Loose covers;

(3) Kinks;

(4) Bulges;

(5) Soft spots; and

(6) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(b) During each oil transfer operation, the hose string in use for that transfer operation must be visually examined for leakage.

(c) The vessel's mooring attachment to the SPM must be strong enough to hold in all expected conditions of surge, current, and weather.

(d) The oil transfer hoses must be long enough to allow the vessel to move to the limits of its mooring attachment to the SPM without placing strain on the hoses.

(e) Each oil transfer hose must be supported in a manner that prevents strain on its coupling.

(f) Each part of the OTS necessary to allow the flow of oil must be lined up for the transfer.

(g) Each part of the OTS not necessary for the transfer operation must be securely blanked or shut off.

(h) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems must be sealed, lashed, or locked in the closed position.

(i) Each connection in the OTS must meet § 150.430.

(j) The discharge containment and removal material and equipment required by the deepwater port's response plan must be in place.

(k) Each scupper and overboard drain on the vessel must be closed.

(l) The drip pan under the vessel manifold must not overflow.

(m) The communications equipment required by § 149.140 of this chapter must be tested and found operational for the transfer operation.

(n) The means of emergency shutdown must be in position and operative.

(o) The Cargo Transfer Supervisor, Cargo Transfer Assistant, and any other required personnel must be on duty and present to conduct the transfer operations according to the operations manual and the oil transfer procedures that apply to the vessel during transfer operations.

(p) The vessel's officer in charge of cargo transfers and the port's Cargo Transfer Assistant must have held a conference and each must understand the following details of the transfer operation:

(1) The identity of the product to be transferred.

(2) The sequence of transfer operations.

(3) The transfer rate.

(4) The name or title and location of each person participating in the transfer operation.

(5) The particulars of the transferring and receiving systems.

(6) The critical stages of the transfer operation.

(7) The Federal regulations that apply to the transfer of oil.

(8) The emergency procedures.

(9) The discharge containment procedures.

(10) The discharge reporting procedures.

(11) The watch or shift arrangement.

(12) The transfer shutdown procedures.

(q) The vessel's officer in charge of cargo transfers and Cargo Transfer Assistant must agree to begin the transfer operation.

(r) The flame screens must be structurally sound and securely fastened in place in all cargo tank vents and ullage holes on the vessel.

(s) The declaration of inspection required by § 150.435 is completed.

§ 150.430 What are the requirements for connections to vessels?

(a) The licensee must provide adapters that allow connection of the hose string to the vessel manifold. The adapters must meet the design and material standards of any one of the following:

(1) American National Standards Institute (ANSI).

(2) British Standard (BS).

(3) German Standard (DIN).

(4) Japanese Industrial Standard (JIS).

(5) Universal Metric Standard.

(b) Each temporary connection between the hose string and a vessel manifold must meet the following:

(1) Be made using either—

(i) A bolted coupling; or

(ii) A quick-connect coupling acceptable to the Commandant (G–M).

(2) Have suitable materials in joints and couplings to make a tight seal.

(3) If using an ANSI-standard bolted flange coupling, have a bolt in at least every other hole of the coupling and in no case less than four bolts.

(4) If using a bolted flange coupling other than ANSI-standard coupling, have a bolt in each hole of the coupling.

(5) Have bolts in a bolted coupling that are all—

(i) The same size;

(ii) Tightened so they uniformly distribute the load around the coupling; and

(iii) Free of any signs of strain, elongation, or deterioration.

(6) Made and broken under the direct supervision of the Cargo Transfer Assistant.

§ 150.435 What are the requirements for a declaration of inspection?

(a) No person may transfer oil or hazardous materials from a tanker to a deepwater port unless a declaration of inspection meeting § 156.150(c) of this chapter has been filled out and signed by the vessel's officer in charge of cargo transfer and the Cargo Transfer Assistant.

(b) Before signing a declaration of inspection, the vessel's officer in charge of cargo transfer must inspect the tanker and the Cargo Transfer Assistant must inspect the deepwater port. They must indicate by initialing each item on the declaration of inspection form that the tanker and deepwater port meet § 156.150 of this chapter.

§ 150.440 When are oil transfers not allowed?

No person may transfer oil at a deepwater port—

(a) When the Port Superintendent is not on duty at the port;

(b) During an electrical storm in the port's vicinity;

(c) During a fire at the port, at the onshore receiving terminal, or aboard a vessel berthed at the port, unless the Port Superintendent determines that an oil transfer should be resumed as a safety measure;

(d) When there are not enough personnel and equipment at the port dedicated to contain and remove the discharges as specified in the port's response plan under part 154 of this chapter;

(e) By lighterage, except in bunkering operations, unless otherwise authorized by the COTP; or

(f) When the weather at the port does not meet the minimum operating conditions for oil transfers in the port's operations manual.

§ 150.445 How may the COTP order suspension of oil transfers?

(a) In case of emergency, the COTP may order the suspension of oil transfers at a port to prevent the discharge, or threat of discharge, of oil or to protect the safety of life and property.

(b) An order of suspension may be made effective immediately.

(c) The order of suspension must state the reasons for the suspension.

(d) The licensee may petition the District Commander in writing, or by any means if the suspension is effective immediately, to reconsider the order of suspension. The decision of the District Commander is considered final agency action.

§ 150.447 When is oil in an SPM–OTS displaced with water?

The Port Superintendent must ensure that the oil in an SPM–OTS is displaced with water and that the valve at the pipeline end manifold is closed whenever—

(a) A storm warning is received forecasting weather conditions that will exceed the design operating criteria listed in the operations manual for the SPM–OTS;

(b) A vessel is about to depart the SPM because of storm conditions; or

(c) The SPM is not scheduled for use in an oil transfer operation within the next 7 days.

Subpart F—Operations

§ 150.500 What does this subpart do?

This subpart concerns operations at a deepwater port.

§ 150.505 How must emergency equipment be maintained and repaired?

All lifesaving, fire-fighting, and other emergency equipment at a deepwater port must be maintained and repaired according to §§ 143.610 through 143.645 of this chapter. [*Note:* Sections 143.610 through 143.645 referred to in this paragraph are as proposed in 64 FR 68473–68475, December 7, 1999.]

§ 150.510 How must emergency equipment be tested and inspected?

All lifesaving, fire-fighting, and other emergency equipment at a deepwater port must be tested and inspected according to §§ 143.710 through 143.765 of this chapter. [*Note:* Sections 143.710 through 143.765 referred to in this paragraph are as proposed in 64 FR 68474–68475, December 7, 1999.]

§ 150.515 What may the fire main system be used for?

The fire main system may be used only for fire fighting and for deck washing.

§ 150.520 How many fire pumps must be kept ready for use at all times?

At least one of the fire pumps required by this subchapter must be kept ready for use at all times.

§ 150.525 What are the requirements for connection and stowage of firehoses?

(a) At least one length of firehose with a combination nozzle must be connected to each fire hydrant at all times. If in a location exposed to the weather, the firehose may be removed from the hydrant during freezing weather.

(b) When not in use, firehose connected to a fire hydrant must be stowed on a hose rack.

(c) If the edge of a platform deck is in an exposed location, the hydrant nearest that edge must have enough lengths of firehose connected to it to allow 10 feet (3 meters) of hose, when pressurized, to curve over the edge.

§ 150.530 What are the restrictions on fueling aircraft?

If the deepwater port is not equipped with a permanent fueling facility, the COTP's approval is necessary before aircraft may be fueled at the port.

§ 150.535 What are the requirements for the muster list?

(a) A muster list must be posted on each pumping platform complex.

(b) The muster list must—

(1) List the name and title of each person, in order of succession, who is the person in charge of the pumping platform complex for purposes of supervision during an emergency.

(2) List the special duties and duty stations for each person on the pumping platform complex in the event of an emergency that requires the use of equipment covered by part 149 of this chapter; and

(3) Identify the signals for calling persons to their emergency stations and for abandoning the pumping platform complex.

Subpart G—Workplace Safety and Health

§ 150.600 What are the requirements for workplace safety and health?

The requirements for workplace safety and health in part 142 of this chapter must be complied with on each deepwater port. [*Note:* Part 142 referred to in this paragraph is as proposed in 64 FR 68457–68467, December 7, 1999.]

Subpart H—Aids to Navigation

§ 150.700 What does this subpart do?

This subpart provides requirements for the operation of aids to navigation at a deepwater port.

§ 150.705 What are the requirements for the maintaining and inspecting aids to navigation?

(a) All aids to navigation must be maintained in proper operating condition at all times.

(b) The Coast Guard may inspect all aids to navigation at any time without notice.

§ 150.710 What are the requirements for supplying power to aids to navigation?

The power to all aids to navigation must be maintained, at all times, at or above the level recommended by the equipment's manufacturer.

§ 150.715 What are the requirements for lights used as aids to navigation?

(a) Each light under part 149, subpart E, of this chapter used as an aid to navigation at a deepwater port must be lit continuously from sunset to sunrise.

(b) During construction, a platform or SPM must be marked with at least one of the following:

(1) The obstruction lights required for the structure in part 149, subpart E, of this chapter.

(2) The fixed lights of a vessel attending the structure.

(3) The general illumination lights on the structure, if they meet or exceed the intensity required for obstruction lights required for the structure.

(c) The focal plane of each obstruction light and rotating lighted beacon must always coincide with the horizontal plane that passes through the light source.

§ 150.720 What are the requirements for fog signals?

(a) The fog signal on each pumping platform complex must be operated whenever the visibility in any horizontal direction from the structure is less than 5 miles (8 kilometers).

(b) If, during construction of a platform, the requirements in paragraph (a) of this section can not be met, a 2-second whistle blast made every 20 seconds by a vessel moored at the platform must be used instead of a fog signal.

Subpart I—Reports and Records

§ 150.800 What does this subpart do?

This subpart concerns reports that must be submitted, and records that must be kept, by the licensee.

Reports

§ 150.805 What reports must I send both to a classification society and to the Coast Guard?

A copy of each report submitted to ABS (or other classification society approved by the Coast Guard) for maintenance of an SPM's class under the rules of that society for the building and classing of SPM's must also be submitted the Commandant (G–M).

§ 150.810 How do I report a problem with an aid to navigation?

(a) Any problem affecting the operation or characteristics of an aid to navigation at the deepwater port must be reported, by the fastest means available, to the District Commander. The report must identify—

(1) The aid to navigation affected;

(2) The location of that aid;

(3) The nature of the problem; and

(4) The estimated time of repair.

(b) When the problem is corrected, the District Commander must be notified.

§ 150.815 How do I report a casualty?

(a) Immediately after aiding the injured and stabilizing the situation, the owner, operator, or person in charge of a deepwater port must notify the nearest Marine Safety Office, Coast Guard Activity , or Coast Guard Group Office of each event on or involving the deepwater port that results in one or more of the following:

(1) Death.

(2) Injury to five or more persons.

(3) Injury to a person requiring hospitalization for more than 48 hours within 5 days of the event.

(4) A fractured bone (other than in a finger, toe, or nose); a loss of a limb; severe hemorrhaging; severe damage to a muscle, nerve, or tendon; or damage to an internal organ.

(5) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment.

(6) Property damage in excess of $100,000, including damage resulting from a vessel or aircraft striking the port. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the port and the vessel or aircraft to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage of the port, vessel, or aircraft.

(b) The notice under paragraph (a) of this section must identify the following:

(1) The deepwater port involved.

(2) The owner, operator, or person in charge of the port.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

§ 150.820 When must I submit a written report of casualty and what must it contain?

(a) In addition to the notice of casualty under § 150.815, the owner, operator, or person in charge of a deepwater port must submit a written report of the event to the nearest OCMI within 10 days after the notice of casualty. The report may be on Form 2692 (Report of Marine Accident, Injury, or Death) or in narrative form if it contains all of the applicable information requested in Form 2692. Copies of Form 2692 are available from the OCMI.

(b) The written report must also include the information relating to alcohol and drug involvement specified by 46 CFR 4.05–12.

(c) If filed immediately after the event, the written report required by paragraph (a) of this section serves as the notice required under § 150.815.

§ 150.825 How must I report a diving-related casualty?

Diving-related deaths and injuries within the safety zone of a deepwater port must be reported according to 46 CFR 197.484 and 197.486, rather than to §§ 150.815 and 150.820.

§ 150.830 How must I report a pollution incident?

Oil pollution incidents involving a deepwater port are reported according to §§ 135.305 and 135.307 of this chapter.

§ 150.835 How must I report sabotage or a subversive activity?

The owner, operator, or person in charge of a deepwater port must immediately report to the COTP, by the fastest possible means, any evidence of sabotage or subversive activity against any vessel at the deepwater port or against the deepwater port itself.

Records

§ 150.840 What records must I keep?

(a) The licensee must keep copies at the deepwater port of the reports, records, test results, and operating data required by this part.

(b) The copies must be readily available to Coast Guard inspectors.

(c) Except for personnel records under § 150.845, the copies must be kept for 3 years.

§ 150.845 What personnel records must I keep?

The licensee must keep documentation on the designation and qualification under subpart C of this part of the following individuals:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

§ 150.850 How long must I keep a declaration of inspection form?

The licensee must keep signed copies of the declaration of inspection forms required by § 150.435 for one month from the date of signature.

Subpart J—Safety Zones

§ 150.900 What does this subpart do?

(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones around deepwater ports.

(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.

(c) Shipping safety fairways associated with deepwater ports are described in part 166 of this chapter.

§ 150.905 Why are safety zones established?

Safety zones under this subchapter are established to promote safety of life and property, marine environmental protection, and navigational safety at deepwater ports and adjacent waters. Safety zones accomplish these objectives by preventing or controlling specific activities, limiting access by vessels or persons, and by protecting the living resources of the sea from harmful agents.

§ 150.910 What installations, structures, or activities are prohibited in a safety zone?

No installations, structures, or activities that are incompatible with port operations are allowed in the safety zone of a deepwater port.

§ 150.915 How are safety zones established and modified?

(a) A safety zone is developed and designated during the application process for a deepwater port license and may be modified according to this section.

(b) Before a safety zone is established, all factors detrimental to safety, including the congestion of vessels, the presence of unusually harmful or hazardous substances, and the presence of obstructions around the site of the deepwater port, are considered.

(c) The District Commander may modify a safety zone by publishing a notice of proposed rulemaking in the **Federal Register** and providing an opportunity for public comment. After considering the comments, the District Commander may publish a final rule modifying the zone and its regulations.

(d) When there is an imminent threat to the safety of life and property within the zone, the District Commander may modify the safety zone and its regulations in an interim rule without first publishing a notice of proposed rulemaking. The interim rule makes the safety zone and its regulations effective on publication in the **Federal Register** and requests public comments. After considering the comments received, the District Commander publishes a final rule, which may adopt the interim rule with or without changes or remove it.

(e) If required by circumstances, safety zones may be placed into effect immediately but must be followed promptly by the procedures in paragraph (d) of this section.

§ 150.920 How am I notified of new or proposed safety zones?

In addition to documents published in the **Federal Register** under § 150.915, the District Commander may provide public notice of new or proposed safety zones by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, and broadcast stations, or other means.

§ 150.925 How long may a safety zone last?

A safety zone and its regulations may go into effect as early as when equipment and materials for construction of the deepwater port arrive at the zone and may remain in effect until the deepwater port is removed.

§ 150.930 What datum is used for the geographic coordinates in this subpart?

The geographic coordinates used in this subpart are not intended for plotting on charts or maps using coordinates based on the North American Datum of 1983 (NAD 83). If you use the geographic coordinates in this subpart to plot on a chart or map referencing NAD 83, you must make corrections as shown on the chart or map.

§ 150.935 What is the safety zone for LOOP?

(a) *Location.* The safety zone for the Louisiana Offshore Oil Port (LOOP) is as follows:

TABLE 150.155(A).—SAFETY ZONE FOR LOOP, GULF OF MEXICO

Latitude N.	Longitude W.
(1) Starting at: 28°55′23″	90°00′37″
(2) A rhumb line to: 28°53′50″	90°04′07″
(3) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port's pumping platform complex: 28°53′06″	90°01′30″
(4) To a point: 28°51′07″	90°03′06″
(5) Then a rhumb line to: 28°50′09″	90°02′24″
(6) Then a rhumb line to: 28°49′05″	89°55′54″
(7) Then a rhumb line to: 28°48′36″	89°55′00″
(8) Then a rhumb line to: 28°52′04″	89°52′42″
(9) Then a rhumb line to: 28°54′52″	89°57′00″
(10) Then a rhumb line to: 28°54′52″	89°57′00″
(11) Then a rhumb line to: 28°54′52″	89°59′36″
(12) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port's pumping platform complex;	
(13) To the point of starting: 28°55′23″	90°00′37″

(b) *Areas to be avoided.* The areas to be avoided within the safety zone are as follows:

(1) The area encompassed within a circle having a 600 meter radius around the port's pumping platform complex and centered at—

Latitude N.	Longitude W.
28°53′06″	90°–1′30″

(2) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at—

Latitude N.	Longitude W.
28°54′12″	90°00′37″
28°53′16″	89°59′59″
28°52′15″	90°00′19″
28°51′45″	90°01′25″
28°52′08″	90°02′33″
28°53′07″	90°03′02″

(c) *Anchorage area.* The anchorage area within the safety zone is enclosed by the rhumb lines joining points at—

Latitude N.	Longitude W.
28°52′21″	89°57′47″
28°54′05″	89°56′38″
28°52′04″	89°52′42″
28°50′20″	89°53′51″
28°52′21″	89°57′47″

Dated: April 22, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

S. 378/P.L. 107–182
To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the "Paul Simon Chicago Job Corps Center". (May 21, 2002; 116 Stat. 584)
Last List May 22, 2002

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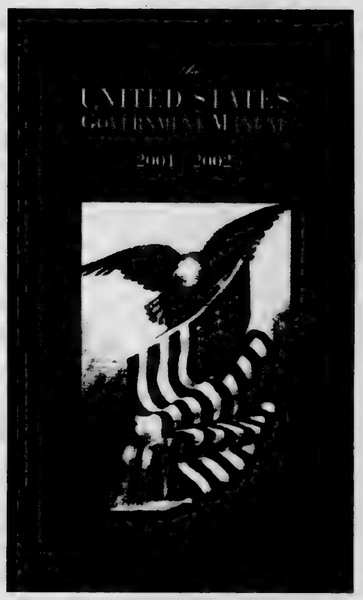

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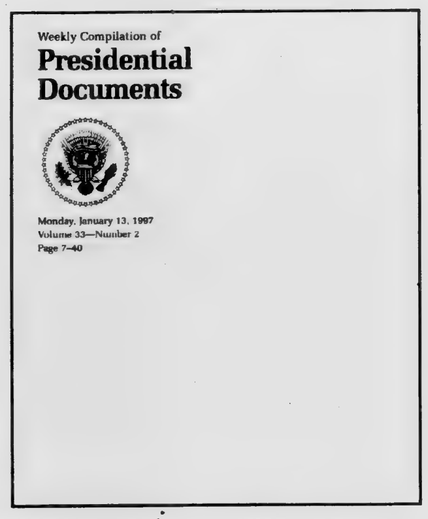

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2634

RIN 3209–AA00

Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture; Financial Disclosure Requirements for Interests in Revocable Inter Vivos Trusts

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; clarifying amendment.

SUMMARY: The Office of Government Ethics is issuing a final rule to amend the regulation that describes the financial disclosure requirements of the Ethics in Government Act with respect to trusts in which employees, their spouses and their dependent children have certain interests. The amendment clarifies OGE's interpretation that the Act does not require filers of financial disclosure reports to disclose the holdings or income of a revocable inter vivos trust with respect to which they, their spouses or their dependent children have a beneficial interest or receive a discretionary distribution, provided that neither the filer, the filer's spouse, nor the filer's dependent child is the grantor of the trust.

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Richard M. Thomas, Associate General Counsel, Office of Government Ethics; Telephone: 202–208-8000; TDD: 202–208–8025; FAX: 202–208–8037.

SUPPLEMENTARY INFORMATION:

I. Revocable Inter Vivos Trusts ("Living Trusts")

Revocable inter vivos trusts, so-called "living trusts," have become a popular estate planning device in the last several decades. In the typical living trust, the grantor (or settlor) conveys property in trust to a trustee (who is often the grantor) and retains a life estate, with the remainder to go to specified beneficiaries upon the termination of the life estate—all *subject to the power of the grantor* to revoke the trust entirely and to make lessor changes, such as substitutions of beneficiaries or trustees. In this regard, revocable living trusts have less in common with traditional irrevocable trusts, in which the grantor no longer retains substantial control over the administration of the trust or the disposition of the property, than with wills, which remain ambulatory until the death of the testator. Therefore, it is widely recognized that living trusts are "will substitutes."

II. Legislative and Regulatory Background of Financial Disclosure Requirements

Section 102(f)(1) of the Ethics in Government Act of 1978, as amended (the Act), sets out the general financial disclosure requirements for beneficiaries of trusts and other financial arrangements:

> each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child. 5 U.S.C. app. 102(f)(1).

The legislative history indicates several related purposes for this provision. First, there was an intent to prevent filers from avoiding reporting requirements "simply by transferring interests" to a trust or other entity that would still benefit the filer financially. H.R. Rep. No. 95–642, Part 1, at 40 (1977) (reporting on H.R. 6954). Second, there was concern that situations could arise in which there is an actual or apparent conflict of interest because "any impact on the financial status of the * * * trust also impacts significantly upon the financial status of the reporting individual." *Id.* Third, it appears that the trust provision was included at least in part to deal with the fact that Federal officials already had created a variety of "blind" trusts, which did not follow any generally accepted standards, in an attempt to comply with conflict of interest requirements; Congress determined that any such pre-existing trusts should be subject to full disclosure if the trusts could not be brought into compliance with the new uniform standards for qualified blind trusts under the Act. *See* S. Rep. No. 95–170, at 123–124 (1977) (reporting on S. 555).

In 1980, OGE first published its "final regulations to state in greater detail than the Act the information which must be contained in the financial disclosure report (SF 278)." 45 FR 69776 (October 21, 1980). Included in those regulations was a provision stating in greater detail what kinds of interests in trusts and estates needed to be reported under the Act. Although the Act itself did not specifically address the distinction between vested and nonvested beneficial interests, the OGE regulation specified that nonvested interests in an estate need not be reported and that nonvested interests in certain trusts needed to be evaluated on a case-by-case basis in consultation with OGE. *See* 45 FR 69784. In 1992, this regulation was amended to provide even greater detail with respect to those interests in trusts that were deemed reportable under the Act. *See* 57 FR 11800 (April 7, 1992). In particular, nonvested beneficial interests were excluded altogether, and a definition of vested interests was provided. *See* 5 CFR 2634.310(a)(2). Although there is no discussion of the subject of nonvested interests in the preambles to these two rules, OGE clearly recognized that the statutory phrase "beneficial interest in principal or income" should not be read so broadly as to require the public disclosure of interests the enjoyment of which is so speculative and uncertain: "the uncertainty of the right of enjoyment * * * differentiates a 'vested' and a 'nonvested' interest." 5 CFR 2634.310(a)(2). Furthermore, the reporting of nonvested interests would not further the statutory purpose of disclosing interests that pose a potential conflict of interest, because OGE determined that such interests generally are too uncertain to implicate the financial conflict of interest statute, 18 U.S.C. 208. *See* OGE's Public Financial Disclosure: A Reviewer's Reference 7–30 revised (1996), which is available in the publications section of the OGE Web site (http://www.usoge.gov).

On a related subject, OGE also has provided guidance concerning the reporting of potential interests as a beneficiary under a will. Of particular

relevance, OGE determined that section 102(f)(1) of the Act and 5 CFR 2634.310 do not require filers to report the holdings and income of an estate of a living person just because they are named as beneficiaries under that person's will. *Id.* The Office of Government Ethics concluded that any potential beneficial interest created by the will of a living person is not vested, within the meaning of § 2634.310(a)(2). Likewise, OGE has determined that an employee does not have a disqualifying financial interest, under 18 U.S.C. 208(a), as a result of being named a beneficiary in a will of a person still living; in such cases, "the employee's interest in the assets to be distributed under the will is merely speculative since he may never inherit them." 60 FR 47207, 47209 (September 11, 1995) (preamble to OGE's proposed financial conflict of interest regulation subsequently codified at 5 CFR part 2640).

III. Treatment of Revocable Living Trusts Under Financial Disclosure Requirements

Until now, OGE's regulations and other written guidance have not explicitly addressed the reporting requirements of beneficiaries under revocable living trusts. However, the approach taken in this final rule is consistent with, and follows from, OGE's prior treatment of nonvested interests in trusts and estates, including OGE's prior treatment of beneficiaries under the will of a living testator.

As a technical matter, it may be open to debate whether a remainder interest in a revocable living trust best should be viewed as vested or nonvested. *Compare Randall* v. *Bank of America National Trust and Savings Ass'n.*, 119 P.2d 754 (Cal. App. 1941) (vested), *with Bezzini* v. *Department of Social Services*, 715 A.2d 791 (Conn. App. 1998) (not vested interest, but mere expectancy). Nevertheless, OGE finds it unnecessary to settle this technical question, in view of the fact that revocable living trusts clearly have evolved into widely accepted will substitutes. The Office of Government Ethics has determined, for purposes of section 102(f)(1) of the Act, that any "interest" in the remainder of a revocable living trust is just as speculative as the mere expectancy enjoyed by the beneficiary of a living testator. The Office of Government Ethics sees little connection between the purposes of section 102(f)(1), as described above, and the disclosure of expectations that are so speculative and subject to the complete control of someone other than the filer, the filer's spouse or the filer's dependent children. Moreover, such disclosures necessarily would reveal the interests—and estate planning decisions—of persons beyond the filer and the filer's own spouse and dependent children, thus intruding unnecessarily into the private affairs of persons beyond the ordinary scope of financial disclosure under the Act.

Therefore, the final rule adds a note indicating that nothing in § 2634.310 requires the reporting of the holdings or income of a revocable living trust with respect to which the reporting individual has only a remainder interest. Under the language of this note, it is not necessary to determine whether the remainder is vested or nonvested. However, the note makes clear that filers are not excused from reporting the holdings and income of a revocable trust if the filer—or the filer's spouse or dependent child—also is the grantor of the trust. As should be clear from the discussion above, the grantor of a revocable living trust retains such rights of control and enjoyment with respect to the trust property that OGE must view the grantor as the true owner of the property; OGE believes this to be the case whether or not the grantor actually receives any distribution of trust income and whether or not the grantor actually serves as trustee.

The new note also provides that nothing in § 2634.310 requires the reporting of holdings or income of a revocable living trust from which the reporting individual receives any discretionary distribution, provided again that the filer (or the filer's spouse or dependent child) is not the grantor. It is true that section 102(f)(1) of the Act requires the disclosure of trusts "from which income is received" by the reporting individual, and that section 109(7) of the Act defines "income" as including "income from an interest in an estate or trust." However, OGE does not view discretionary distributions to a beneficiary under a revocable living trust as income within the meaning of these provisions. In OGE's view, such a discretionary distribution is no different from a gift, because the distribution is made at the pleasure of the grantor. For purposes of financial disclosure, OGE sees no meaningful distinction between, for example, a gift of money from a filer's parent and a discretionary distribution of money from the parent's revocable living trust. The Act clearly treats income and gifts separately, and gifts are subject to different reporting requirements (and exclusions) than those found in section 102(f). *Compare* 5 U.S.C. app. 102(a)(1) (income), *with* section 102(a)(2) (gifts).

OGE emphasizes that nothing in the final rule changes the reporting requirements with respect to irrevocable trusts. In this connection, it should be noted that revocable living trusts themselves may become irrevocable upon the occurrence of certain events, such as the death of the grantor or circumstances specified in the trust instrument or State law.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking, public comment procedures, and 30-day delay in effectiveness as to this revision. The notice, comment, and delayed effective date are being waived because this minor amendment to OGE financial disclosure regulations is an interpretative rule clarifying OGE's view concerning the scope of section 102(f)(1) of the Ethics in Government Act. Furthermore, it is in the public interest that this amendment become effective promptly, because the amendment has the effect of relieving an unnecessary burden on filers of financial disclosure reports.

Executive Order 12866

In promulgating this final rule amendment, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Review and Planning. This amendment has not been reviewed by the Office of Management and Budget under that Executive order, since it is not deemed "significant" thereunder.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this proposed amendatory rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this final rule amendment does not contain information collection requirements that require the approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this final rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Congressional Review Act

The Office of Government Ethics has determined that this proposed rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has submitted a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law.

List of Subjects in 5 CFR Part 2634

Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: May 24, 2002.

Amy L. Comstock,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2634 as follows:

PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104–134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. Section 2634.310 is amended by adding a note following paragraph (a)(2) to read as follows:

§ 2634.310 Trusts, estates, and investment funds.

(a) * * *

Note to paragraph (a): Nothing in this section requires the reporting of the holdings or income of a revocable inter vivos trust (also known as a "living trust") with respect to which the filer, his spouse or dependent child has only a remainder interest, whether or not vested, provided that the grantor of the trust is neither the filer, the filer's spouse, nor the filer's dependent child. Furthermore, nothing in this section requires the reporting of the holdings or income of a revocable inter vivos trust from which the filer, his spouse or dependent child receives any discretionary distribution, provided that the grantor of the trust is neither the filer, the filer's spouse, nor the filer's dependent child.

* * * * *

[FR Doc. 02–13734 Filed 5–30–02; 8:45 am]

BILLING CODE 6345–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–36–AD; Amendment 39–12766; AD 2002–11–05]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–400, AT–401, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–802, and AT–802A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 2001–10–04 R1, which lowered the safe life for the wing lower spar cap on certain Air Tractor, Inc. (Air Tractor) AT–400, AT–500, and AT–800 series airplanes. AD 2001–10–04 R1 resulted from numerous reports of cracks in the 3/8-inch bolthole of the wing lower spar cap on the affected airplanes. This AD retains the safe life for the wing lower spar cap and requires you to eddy-current inspect the wing lower spar cap immediately prior to the replacement/modification in order to detect and correct any crack in a bolthole before it extends to the modified center section of the wing. This AD further reduces the safe life for certain Models AT–401, AT–401B, AT–402, AT–402A, AT–402B, and AT–501 airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets and removes the Models AT–502, AT–502A, AT–502B, and AT–503A airplanes from the applicability. We are issuing another AD action to cover these airplanes. The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

DATES: This AD becomes effective on July 12, 2002.

The Director of the Federal Register previously approved the incorporation by reference of certain publications listed in the regulation as of June 8, 2001 (66 FR 27014, May 16, 2001).

ADDRESSES: You may get the service information referenced in this AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893–1420 or (701) 774–0230; facsimile: (701) 572–2602. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–36–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Direct all questions to:

—For airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; and

—For certain Models AT–402, AT–402A, AT–402B, and AT–501 airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA Taken Any Action to This Point?

Several reports of cracked wing lower spar caps on Air Tractor AT–500 series airplanes caused the manufacturer (Air Tractor) to recalculate the fatigue life of the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. One report was of an accident where the wing separated from the

airplane during flight. The cracks are originating in the outboard 3/8-inch bolthole of the wing lower spar cap. To address this condition, FAA issued AD 2001–10–04, Amendment 39–12230 (66 FR 27014, May 16, 2001), to lower the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes.

AD 2001–10–04 also allowed for inspection, using eddy current methods, of the wing lower spar cap for airplanes that are at or over the lower safe life and parts are not available. Operation of the airplane was not allowed if cracks were found and inspections had to be terminated when parts become available or after three repetitive inspections were done.

AD 2001–10–04 superseded AD 2000–14–51, Amendment 39–11837 (65 FR 46567, July 31, 2000). AD 2000–14–51 required inspection of the wing lower spar cap for cracks on Air Tractor Models AT–501, AT–502, and AT–502A airplanes, and modification or replacement of any cracked wing lower spar cap.

We inadvertently included certain AT–800 series airplanes in the Applicability of AD 2001–10–04. The AD should not have affected the AT–800 series airplanes equipped with the factory-supplied part number 80540 computerized fire gate. Therefore, we revised AD 2001–10–04 to incorporate this change. AD 2001–10–04 R1, Amendment 39–12247, was published in the **Federal Register** on June 4, 2001 (66 FR 29900).

What Has Happened Since AD 2001–10–04 R1 To Initiate This Action?

In response to AD 2001–10–04 R1, FAA received a comment from the National Transportation Safety Board that recommended an eddy-current inspection requirement immediately prior to the accomplishment of the two-part modification described in Snow Engineering Service Letters #202 or #203, both Revised March 26, 2001, as applicable. This is to eliminate the possibility that a crack existing in a bolt hole prior to the modification is still present after accomplishing the modification. Prior to the modification, any crack present will be larger than it would appear after the outermost bolt holes are enlarged. This makes the crack easier to detect and gives the mechanic an area to concentrate on any post-modification inspections.

Additional analysis also indicates a higher wing root bending moment, which reveals the need to further reduce the safe life for certain AT–400 and AT–500 series airplanes with a certain configuration. Airplanes with this configuration either incorporate or have incorporated Marburger Enterprises, Inc. winglets on the wing lower spar cap. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA. We have developed criteria for determining what the new safe life will be for airplanes that either incorporate or have incorporated these winglets.

What Is The Potential Impact if FAA Took No Action?

This condition could result in fatigue cracks in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Air Tractor, Inc. (Air Tractor) AT–400, AT–500, and AT–800 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 27, 2001 (66 FR 66823). The NPRM proposed to supersede AD 2001–10–04 R1 with a new AD that would retain the safe life and would require you to eddy-current inspect the wing lower spar cap immediately prior to the replacement/modification in order to detect and correct any crack in a bolthole before it extends to the modified center section of the wing. The NPRM also proposed to further reduce the safe life for AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

Was the Public Invited To Comment on the NPRM?

The FAA encouraged interested persons to participate in the making of this amendment. In addition to the comments, we received reports of several cracks originating in the outboard 3/8-inch hole of the main spar lower cap on Air Tractor Models AT–502, AT–502A, AT–502B, and AT–503A airplanes at hours time-in-service (TIS) lower than the established safe life.

Based on this information, we have determined that:

—The safe life on Models AT–502, AT–502A, AT–502B, and AT–503A airplanes should be further reduced;

—These airplanes should be removed from the NPRM; and

—Final rule; request for comments (immediately adopted rule) AD action should be taken to address this condition.

We received one comment in favor of the NPRM as written. The following presents other comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Change Step 8 of the Winglet Calculation

What Is the Commenter's Concern?

Several commenters state that Step 8 of the Appendix to the proposed AD gives an overly conservative safe life for airplanes with the Marburger winglets installed when compared to that recommended by Air Tractor. The commenters recommend that FAA revise this calculation to be more in line with Air Tractor's recommendation.

What Is FAA's Response to the Concern?

After further evaluating this step in the calculation, we concur that Step 8 results in a more conservative safe life than we intended. We have modified these instructions for computing the safe life of the airplanes with the winglets installed. These modified instructions are included in the Appendix to this AD.

The accomplishment of these instructions will provide an increase in the safe life of the affected airplanes over that proposed in the NPRM. Therefore, the burden upon the public is reduced and there is no regulatory requirement for FAA to solicit additional public comments.

Comment Issue No. 2: Allow Repetitive Inspections Instead of Mandatory Modification

What Is the Commenter's Concern?

One commenter recommends repetitive inspections provided no cracks are found instead of mandatory modification as proposed in the NPRM and required by AD 2001–10–04 R1. The commenter states that this would reduce the economic impact on operators and minimize the risk of reduced agricultural production if the safe life limit is reached during the agricultural spraying season.

What Is FAA's Response to the Concern?

Although we concur that repetitive inspections may reduce the economic impact and minimize the risk of reduced agricultural production, this will not meet the safety intent of the AD. The FAA has determined that reliance on critical repetitive inspections carries an unnecessary safety risk when parts replacement or modifications exist. In determining what inspections are critical, FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

We have included a provision for an alternative method of compliance that allows for repetitive 400-hour time-in-service (TIS) inspections up to 1,200 hours TIS after the safe life limit is reached. However, the replacement/modification must be scheduled. This will allow operators to continue operating during the agricultural spraying season.

We have not changed the final rule AD based on this comment.

Comment Issue No. 3: Incorporate One or More Proposed Options Instead of the Required Life Limits for Airplanes with Winglets

What Is the Commenter's Concern?

One commenter opposes the required life limits for the affected airplanes with Marburger winglets installed because the commenter believes that there are other alternatives. The commenter believes that accomplishing one or more of the following options will meet the safety intent of the AD for those affected airplanes with winglets installed:

—Require a takeoff weight limitation that would include a placard and airplane flight manual changes. This weight reduction would offset increased wing bending moments due to the winglet installation;

—Place a maximum maneuver load factor limit (n_z) limitation to reduce the maximum wing bending moment and alleviate the effects of the winglet installation;

—Incorporate a damage tolerance-based inspection program. This program could be based on the initial inspection and subsequent 400-hour TIS inspections detailed in the alternative method of compliance in AD 2001–10–04 R1 and the NPRM and the Snow Engineering service letters; and/or

—Incorporate an inspection program and allow cold-working or reaming of the area where small cracks are found. The inspections could be based on the initial inspection and subsequent 400-hour TIS inspections detailed in the alternative method of compliance in AD 2001–10–04 R1 and the NPRM and specified in the Snow Engineering service letters.

What Is FAA's Response to the Concern?

We do not concur with incorporating any of these alternatives for the following reasons:

—Takeoff weight limitation: The FAA has determined that a weight placard limitation is not a reliable method of reducing wing root bending in airplanes utilized in CAM 8 operations. CAM 8 allows for the operation of restricted category agricultural airplanes at weights higher than that specified in the type certification data sheet (TCDS). To effectively alleviate fatigue spectrum loading, any weight limitation must reduce the typical or average weight seen in operation. We have determined that a maximum weight placard will not reliably reduce the fatigue spectrum loading the CAM 8 agricultural operations;

—Maximum Maneuver Load Factor Limits (n_z): These limits would have little effect on the fatigue loading spectrum seen in operation. Fatigue damage accumulates due to maneuvering, gusts, and ground load occurrences. The ground-air-ground cycle also contributes to fatigue damage. The aerial application spectrum displayed in DOT/FAA/CT–91–20 "General Aviation Aircraft—Normal Acceleration Data Analysis and Collection Project" shows only one occurrence of limit load factor in every 16,500 nautical miles flown. It also shows only one occurrence of 90 percent of limit load factor in every 3,300 nautical miles flown. Based on this, we have determined that reducing the maximum maneuver limit load factor would affect only a small percentage of fatigue damage and would not appreciably affect the fatigue safe life;

—Damage tolerance-based inspection program: Damage tolerance and service history-based inspection programs are acceptable methods to ensure continuing structural integrity. However, the commenter does not provide adequate substantiating data to justify an inspection-based system instead of the proposed safe life approach. Such a program should include a detailed crack growth analysis with a threshold or initial inspection time and repetitive inspection intervals. Such intervals would be based on the crack growth analysis. Service history-based inspection programs should be based on an extensive review and statistical analysis of the existing fleet's service experience. The commenter provides no substantiating data and refers only to the inspections proposed in the NPRM and required by AD 2001–10–04 R1. These inspections are limited in duration and used only to provide relief in the event that repair or replacement parts are not available; and

—Repair small cracks through cold-working or reaming the affected area: This is already allowed in limited capacity. Snow Engineering Service Letter #197, which is referenced in the NPRM, specifies drilling the bolt hole to the next larger size if a crack is detected during the eddy-current inspection. If a crack is still detected after the hole is drilled to the next larger size, the service bulletin specifies replacing the cracked part. The FAA infers that the commenter wants this concept used with an inspection program instead of the mandatory safe life modification/replacement program. As previously discussed, this would not meet the safety intent of the AD.

We have not changed the final rule (after NPRM) AD based on this comment.

Comment Issue No. 4: Modify the Winglet Usage Factor for Certain Model AT–502A Airplanes

What Is the Commenter's Concern?

One commenter states that certain Model AT–502A airplanes are equipped with a modification commonly known as the "Hoerner Tip." The commenter suggests that FAA change the winglet usage factor for these airplanes.

What Is FAA's Response to the Concern?

We concur. Later serial numbers of the Model AT–502A airplanes should have a lower winglet usage factor. As discussed earlier, we are initiating final rule; request for comments (immediately adopted rule) AD action to further reduce the safe life of the Models AT–502, AT–502A, AT–502B, and AT–503A airplanes. We will take the commenter's concern into consideration when preparing this AD.

We have not changed the final rule (after NPRM) AD based on this comment.

Comment Issue No. 5: Reduce Winglet Usage Factor for All Airplanes

What Is the Commenter's Concern?

One commenter recommends that FAA reduce the winglet usage factor for all airplanes. This recommendation is based on the weight usage penalty used on Dromader M–18 airplanes compared to the winglet usage factors on the affected Air Tractor airplanes.

What Is FAA's Response to the Concern?

We do not concur. We extensively reviewed the safe life limits specified in the Snow Engineering service letters along with the substantiating

engineering analysis. We are confident in Air Tractor's relative analysis between the baseline airplanes and those modified with the Marburger winglet STC.

Relative fatigue life comparisons between different airplane models are difficult when the airplanes operate in different regions of the fatigue S–N curve, especially when even later serial numbers of the same model may operate at different stress levels. Relative comparisons based on ratios (as the commenter performed) assume a linear or "one-to-one" relationship between operating stress and fatigue life. When the operating stress of the two airplanes is significantly different, this "one-to-one" relationship assumption is inaccurate.

We have not changed the final rule (after NPRM) AD based on this comment.

Comment Issue No. 6: Use Configuration Changes To Reduce the Aerodynamic Effect of the Winglet Installation

What Is the Commenter's Concern?

One commenter suggests using airplane configuration changes to reduce the aerodynamic effect of the winglet installation and increase the inertia relief available from the winglet installation. This includes winglet incidence, flap droop, and ballast weight in the winglet to offset the increased wing bending moments due to the winglet installation.

What Is FAA's Response to the Concern?

While we acknowledge that configuration changes may successfully offset the effect of the winglet installation on the wing bending moments, the commenter provides no engineering data to specifically show the changes and substantiate reduced aerodynamic effect. The commenter may send this information to FAA at any time for consideration of an alternative method of compliance to the AD.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the winglet safe life calculation, the removal of certain airplanes from the applicability, and minor editorial corrections. We have determined that the change, removal, and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 1,179 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours at $60 per hour = $120	No parts required for inspection	$120	$141,480

We estimate the following costs to accomplish the replacement/modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
120 workhours at $60 per hour = $7,200	$4,300	$11,500	$13,558,500

What Is the Difference Between the Cost Impact of This AD and the Cost Impact of AD 2001–10–04 R1?

AD 2001–10–04 R1 already established the safe life for the lower wing spar cap on the affected airplanes. Therefore, the replacement/modification is already required through that AD. The only difference in the cost impact upon the public of this AD and AD 2001–10–04 R1 is the cost for the eddy-current inspection upon replacement and the further safe life reduction for those AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2001–10–04 R1, Amendment 39–12247 (66 FR 29900, June 4, 2001), and by adding a new AD to read as follows:

2002–11–05 Air Tractor, Inc.: Amendment 39–12766; Docket No. 2001–CE–36–AD.

(a) *What airplanes are affected by this AD?* This AD applies to certain Models AT–400, AT–401, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–802, and AT–802A airplanes. Use paragraph (a)(1) of this AD for affected airplanes that do not incorporate and never have incorporated winglets. Use paragraph (a)(3) of this AD for certain Models AT–401, AT–401B, AT–402, AT–402A, AT–402B, and AT–501 airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

(1) The following presents airplanes (certificated in any category) that are affected by this AD, along with the new safe life (presented in hours time-in-service (TIS)) of the wing lower spar cap for all affected airplane models and serial numbers:

Model	Serial numbers	Safe life
AT–400	all serial numbers beginning with 0416	13,300 hours TIS.
AT–401	0662 through 0951	10,757 hours TIS.
AT–401B	0952 through 1014 and 1016 though 1020	6,948 hours TIS.
AT–401B	1015 and 1021 through 1124	7,777 hours TIS.
AT–402	0694 through 0951	7,440 hours TIS.
AT–402A	0738 through 0951	7,440 hours TIS.
AT–402A	0952 through 1020	4,589 hours TIS.
AT–402A	1021 through 1124	5,268 hours TIS.
AT–402B	0966 through 1020	4,589 hours TIS.
AT–402B	1021 through 1124	5,268 hours TIS.
AT–501	0002 through 0061	4,531 hours TIS.
AT–501	all serial numbers beginning with 0062	7,693 hours TIS.
AT–802	0001 through 0059 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,132 hours TIS.
AT–802	0060 through 0091 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,188 hours TIS.
AT–802	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,163 hours TIS.
AT–802A	0003 through 0059 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,969 hours TIS.
AT–802A	0060 through 0091 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,531 hours TIS.
AT–802A	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,648 hours TIS.

Note 1: This AD still applies to those airplanes that have converted between fire fighting and agricultural dispersal.

(2) If piston powered aircraft have been converted to turbine power, you must use the limits for the corresponding serial number turbine-powered aircraft.

(3) The following presents airplanes (certificated in any category) that could incorporate or could have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA. Use the winglet usage factor in the table in this paragraph, the safe life specified in paragraph (a)(1) of this AD, and the instructions included in the Appendix to this AD to determine the new safe life of these airplanes:

Model	Serial numbers	Winglet usage factor
AT–401	0662 through 0951	1.6

Model	Serial numbers	Winglet usage factor
AT–401B	0952 through 1014 and 1016 though 1020	1.1
AT–401B	1015 and 1021 through 1124	1.1
AT–402	0694 through 0951	1.6
AT–402A	0738 through 0951	1.6
AT–402A	0952 through 1020	1.1
AT–402A	1021 through 1124	1.1
AT–402B	0966 through 1020	1.1
AT–402B	1021 through 1124	1.1
AT–501	0002 through 0061	1.6
AT–501	all serial numbers beginning with 0062	1.6

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

Note 2: The 10-hour TIS compliance time is maintained from AD 2001–10–04 R1.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance	Procedures
(1) Modify the applicable aircraft records (logbook) as follows to show the reduced safe life for the wing lower spar cap (use the information from the table in paragraph (a)(1) of this AD and utilize the information in paragraph (a)(3) of this AD and the Appendix to this AD, as applicable. (i) For the affected Models AT–802 and AT–802A airplanes: update the Owners Manual, Section 6—Airworthiness Limitations, Life Limited Parts. (ii) For all affected airplanes other than Models AT–802 and AT–802A airplanes, incorporate the following into the Aircraft Logbook: "In accordance with this AD, the wing lower spar cap is life limited to _____." Insert the applicable safe life number from the applicable tables in paragraphs (a)(1) and (a)(3) and the Appendix of this AD. (iii) If, as of the time of the logbook entry requirement of paragraph (d)(1) of this AD, your airplane is over or within 10 hours of the safe life, an additional 10 hours TIS is allowed to accomplish the replacement/modification.	Accomplish the logbook entry within the next 10 hours TIS after July 12, 2002 (the effective date of this AD).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the aircraft records as specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). Accomplish the actual replacement/modification when the safe life is reached in accordance with Snow Engineering Service Letter #202 or #203, both Revised March 26, 2001, as applicable. The owner/operator may not accomplish the replacement/modification, unless he/she holds the proper mechanic authorization.

Actions	Compliance	Procedures
(2) If you have ordered parts from the factory when it is time to replace the wing lower spar cap (as required when you reach the established safe life), but the parts are not available, you may eddy-current inspect the wing lower spar cap. These inspections are allowed until one of the following occurs, at which time the replacement/modification must be accomplished: (i) Crack(s) is/are found; (ii) Parts become available from the manufacturer; or (iii) Not more than three inspections or 1,200 hours TIS go by: the first inspection would have to be accomplished upon accumulating the safe life; the second inspection would have to be accomplished within 400 hours TIS after accumulating the safe life; the third inspection would have to be accomplished 400 hours TIS after the second inspection; and the replacement/modification would have to be accomplished within 400 hours TIS after the third inspection (maximum elapsed time would be 1,200 hours TIS).	Inspect prior to further flight after ordering the parts and thereafter at intervals not to exceed 400 hours TIS until one of the criteria in paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD are met.	In accordance with the procedures in Snow Engineering Service Letter #202 or #203, both Revised March 26, 2001, as applicable.
(3) Eddy-current inspect the wing lower spar cap in order to detect any crack before it extends to the modified center section of the wing and repair that crack or replace the wing section. This replacement must be accomplished by a Level 2 or Level 3 inspector that is certified for eddy-current inspection using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410. The inspection must be accomplished by one of the following: (i) a Level 2 or Level 3 inspector that is certified for eddy-current inspection using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410; or (ii) A person authorized to perform AD work who has completed and passed the Air Tractor, Inc. training course on Eddy Current Inspection on wing lower spar caps.	Immediately prior to the replacement/modification required when you reach the new safe life. For airplanes that had this replacement/modification accomplished in accordance with either AD 2001–10–04 or AD 2001–10–04 R1, accomplish this inspection and any necessary corrective action within the next 400 hours TIS after July 12, 2002 (the effective date of this AD), unless already accomplished (have the mechanic who accomplished the work mark the logbook accordingly).	In accordance with the procedures in Snow Engineering Service Letter #202 or #203, both Revised March 26, 2001, as applicable.

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth or Los Angeles Airplane Certification Office (ACO), as applicable, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector. The inspector may add comments before sending it to the Manager, Fort Worth or Los Angeles ACO.

(2) Alternative methods of compliance approved for AD 2001–10–04 and/or AD 2000–14–51 are not considered approved for this AD.

(3) Alternative methods of compliance approved for AD 2001–10–04 R1 are considered approved for this AD.

Note 3: This AD applies to each airplane identified in paragraphs (a)(1) and (a)(3) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Are there any alternative methods of compliance already approved or being considered for this AD?* The FAA may approve, as an alternative method of compliance, inspection of the wing lower spar cap. You must submit the request in accordance with the procedures in paragraph (e) of this AD and adhere to the following:

(1) If you are over or within 10 hours TIS of the safe life for the wing lower spar cap and you have ordered parts and scheduled a date for the replacement/modification, but having the replacement/modification done on this date grounds the airplane, accomplish the following:

(i) Inspect the wing lower spar cap within 10 hours TIS after approval of the alternative method of compliance;

(ii) Reinspect thereafter at intervals not to exceed 400 hours TIS until either cracks are found, the date of the scheduled replacement/modification occurs, or 1,200 hours TIS after the initial inspection are accumulated, whichever occurs first; and

(iii) Accomplish the inspections in accordance with the procedures in Snow Engineering Service Letter #202 or #203, both Revised March 26, 2001, as applicable.

(2) Submit the following to the Fort Worth or Los Angeles ACO, as applicable, using the procedures described in paragraph (e) of this AD:

(i) The airplane model serial number designation, and airplane registration number (N-number);

(ii) The number of hours TIS on the airplane;

(iii) The scheduled date for the replacement/modification; and

(iv) The name and location of the authorized repair shop.

(3) For more information about this issue, contact:

(i) For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; and

(ii) For the airplanes that incorporate or have incorporated winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Only operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(h) *Are any service bulletins incorporated into this AD by reference?* Replacement and inspection actions required by this AD must be done in accordance with Snow Engineering Service Letter #202 or 203, both Revised March 26, 2001, as applicable. The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51, as of June 8, 2001 (66 FR 27014, May 16, 2001). You can get copies from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 2001–10–04 R1, Amendment 39–12247.

(j) *When does this amendment become effective?* This amendment becomes effective on July 12, 2002.

Appendix to AD 2002–11–05

The following provides procedures for determining the safe life for those Models AT–401, AT–401B, AT–402, AT–402A, AT–402B, and AT–501 airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA.

What if I removed the Marburger winglets prior to further flight after the effective date of this AD or prior to the effective date of this AD:

1. Review your airplane's logbook to determine your airplane's time in service (TIS) with winglets installed per Marburger Enterprises STC SA00490LA. This includes all time spent with the winglets currently installed and any previous installations where the winglet was installed and later removed.

Example: A review of your airplane's logbook shows that you have accumulated 350 hours TIS since incorporating the Marburger STC. Further review of the airplane's logbook shows that a previous owner had installed the STC and later removed the winglets after accumulating 150 hours TIS. Therefore, your airplane's TIS with the winglets installed is 500 hours.

If you determine that the winglet STC has never been incorporated on your airplane, then your safe life is presented in paragraph (a)(1) of this AD. Any future winglet installation will be subject to a reduced safe life per these instructions.

2. Determine your airplane's unmodified safe life from paragraph (a)(1) of this AD.

Example: Your airplane is a Model AT–401B, serial number 1022. From paragraph (a)(1) of this AD, the safe life of your airplane is 7,777 hours TIS.

All examples from hereon will be based on the Model AT–401B, serial number 1022 airplane.

3. Determine the winglet usage factor from paragraph (a)(3) of this AD.

Example: Again, your airplane is a Model AT–401B, serial number 1022. From paragraph (a)(3) of this AD, your winglet usage factor is 1.1.

4. Adjust the winglet TIS to account for the winglet usage factor. Multiply the winglet TIS (result of Step 1 above) by the winglet usage factor (result of Step 3 above).

Example: Winglet TIS is 500 hours X a winglet usage factor of 1.1. The adjusted winglet TIS is 550 hours.

5. Calculate the winglet usage penalty. Subtract the winglet TIS (result of Step 1 above) from the adjusted winglet TIS (result of Step 4 above).

Example:

Adjusted winglet TIS − the winglet TIS = winglet usage penalty.

(550 hours) − (500 hours TIS) = (50 hours TIS).

6. Adjust the safe life of your airplane to account for winglet usage. Subtract the winglet usage penalty (result of Step 5 above) result from the unmodified safe life from paragraph (a)(1) of this AD (result of Step 2 above.).

Example:

Unmodified safe life − winglet usage penalty = adjusted safe life.

(7,777 hours TIS) − (50 hours TIS) = (7,727 hours TIS).

7. If you remove the winglets from your airplane prior to further flight or no longer have the winglets installed on your airplane, the safe life of your airplane is the adjusted safe life (result of Step 6 above). Enter this number in paragraph (d)(1)(ii) of this AD and the airplane logbook.

What if I have the Marburger winglet installed as of the effective date of this AD and plan to operate my airplane without removing the winglet?

1. Review your airplane's logbook to determine your airplane's TIS without the winglets installed.

Example: A review of your airplane's logbook shows that you have accumulated 1,500 hours TIS, including 500 hours with the Marburger winglets installed. Therefore, your airplane's TIS without the winglets installed is 1,000 hours.

2. Determine your airplane's unmodified safe life from paragraph (a)(1) of this AD.

Example: Your airplane is a Model AT–401B, serial number 1022. From paragraph (a)(1) of this AD, the safe life of your airplane is 7,777 hours TIS.

All examples from hereon will be based on the Model AT–401B, serial number 1022 airplane.

3. Determine the winglet usage factor from paragraph (a)(3) of this AD.

Example: Again, your airplane is a Model AT–401B, serial number 1022. From paragraph (a)(3) of this AD, your winglet usage factor is 1.1.

4. Determine the potential winglet TIS. Subtract the TIS without the winglets installed (result of Step 1 above) from the unmodified safe life (result of Step 2 above).

Example:

Unmodified safe life − TIS without winglets = Potential winglet TIS.

(7,777 hours TIS) − (1,000 hours TIS) = (6,777 hours TIS).

5. Adjust the potential winglet TIS to account for the winglet usage factor. Divide the potential winglet TIS (result of Step 4 above) by the winglet usage factor (result of Step 3 above).

Example:

Potential winglet TIS + Winglet usage factor = Adjusted potential winglet TIS.

(6,777 hours TIS) + (1.1) = (6,155 hours TIS).

6. Calculate the winglet usage penalty. Subtract the adjusted potential winglet TIS (result of Step 5 above) from the potential winglet TIS (result of Step 4 above).

Example:

Potential winglet TIS − Adjusted potential winglet TIS = Winglet usage penalty.

(6,777 hours TIS) − (6,155 hours TIS) = (622 hours TIS).

7. Adjust the safe life of your airplane to account for the winglet installation. Subtract the winglet usage penalty (result of Step 6 above) from the unmodified safe life from paragraph (a)(1) of this AD (the result of Step 2 above).

Example:

Unmodified safe life − Winglet usage penalty = Adjusted safe life.

(7,777 hours TIS) − (622 hours TIS) = (7.155 hours TIS).

8. Enter the adjusted safe life (result of Step 7 above) in paragraph (d)(1)(ii) of this AD and the airplane logbook.

What if I install or remove the Marburger winglet from my airplane in the future?

If, at anytime in the future, you install or remove the Marburger winglet STC from your airplane, you must repeat the procedures in this Appendix to determine the airplane's safe life.

Issued in Kansas City, Missouri, on May 23, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13609 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–38–AD; Amendment 39–12714; AD 2002–08–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain Boeing Model 777–200 and –300 series airplanes. That AD currently requires a one-time torque check (inspection) of the bolts that attach the pivot fittings to the horizontal stabilizer through the upper and lower titanium straps, to determine if the bolts are adequately torqued, and follow-on actions. The actions required by that AD are intended to prevent failure of the pivot fittings, which could result in loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

Need for the Correction

Information obtained recently from the manufacturer indicates that the compliance time for the reporting requirement in paragraph (d) of AD 2002–08–06 does not allow operators who have already done the inspection required by paragraph (a) of the AD enough time to submit the required information.

The FAA has determined that a correction to AD 2002–08–06 is necessary. The correction will add an option to allow operators a 30-day grace period for submission of the reporting requirements specified in paragraph (d) of the AD. The correction will add subparagraphs (d)(1) and (d)(2) to the AD to include that option.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains May 3, 2002.

Since this action only corrects a current requirement, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

DATES: Effective May 3, 2002.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of May 3, 2002 (67 FR 19104, April 18, 2002).

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On April 11, 2002, the Federal Aviation Administration (FAA) issued AD 2002–08–06, amendment 39–12714 (67 FR 19104, April 18, 2002), applicable to certain Boeing Model 777–200 and –300 series airplanes. That AD requires a one-time torque check (inspection) of the bolts that attach the pivot fittings to the horizontal stabilizer through the upper and lower titanium straps, to determine if the bolts are adequately torqued, and follow-on actions. This document corrects the requirements of the existing AD by adding an option to allow operators a 30-day grace period for submission of the report required by paragraph (d) of the AD. This correction is prompted by communication received from the manufacturer that the current requirements of the AD could put operators out of compliance.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2002–08–06 Boeing: Amendment 39–12714. Docket 2002–NM–38–AD.

Applicability: Model 777–200 and –300 series airplanes as listed in Boeing Alert Service Bulletin 777–55A0013, Revision 1, dated January 31, 2002; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the pivot fittings of the horizontal stabilizer, which could result in loss of control of the horizontal stabilizer and consequent loss of control of the airplane, accomplish the following:

Torque Check (Inspection)

(a) Within 90 days after the effective date of this AD, do the following inspections of the aft bolts of the pivot fittings attached to the horizontal stabilizer, per the Accomplishment Instructions of Boeing Alert Service Bulletin 777–55A0013, Revision 1, dated January 31, 2002:

(1) Do a torque check (inspection) to determine if the bolts are adequately torqued per the service bulletin.

(2) Do a detailed inspection of the bolt thread protrusion through the nut. Replace any bolt that has less than the chamfer of the bolt or more than three threads protruding through the nut per Steps 6.d. and 6.e. or Steps 7.d. and 7.e. of the Work Instructions of the service bulletin for Group 1 or Group 2 airplanes, as applicable.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: For Group 1 airplanes and Group 2 airplanes with WBnnn variable numbers (where nnn is any three digits), inspections and follow-on actions done before the effective date of this AD per Boeing Service Bulletin 777–55A0013, dated December 19, 2001, are considered acceptable for compliance with the corresponding actions specified in paragraph (a)(1) of this AD.

Follow-On Actions

(3) Do Steps 8. and 9. of the Work Instructions in Part B of the service bulletin, if the torque value of all attachment bolts is found to be within the specified limits, then no further action is required by this AD.

(b) During the inspection required by paragraph (a)(1) of this AD, if the torque value of any attachment bolt is found to be less than or equal to the value specified in Step 4. of the Work Instructions of Boeing Alert Service Bulletin 777–55A0013, Revision 1, dated January 31, 2002: Before further flight, do all actions (includes removing the nut and measuring run-on torque; replacing any nut that does not meet the run-on torque requirements; doing a visual inspection for indications of galling, fretting, and wear; replacing the bolt if any discrepancies are found; and doing an open-hole high frequency eddy current (HFEC) inspection for cracks); as specified in and per Steps 5., 6., and 7., as applicable, of the Work Instructions of Boeing Alert Service Bulletin 777–55A0013, Revision 1, dated January 31, 2002, for Group 1 or Group 2 airplanes, as applicable.

(c) If any cracking is found during the HFEC inspection and the service bulletin specifies contacting Boeing for repair instructions: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Reporting Requirement

(d) After doing the inspections required by paragraph (a) of this AD: Submit a report of the bolt torque values and run-on torque values of the nut, and/or any damaged areas found, to the FAA Certification Management Office—Boeing, ANM–108B, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is done after the effective date of this AD: Submit the report within 10 days after doing the inspection.

(2) For airplanes on which the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 777–55A0013, Revision 1, dated January 31, 2002. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of May 3, 2002 (67 FR 19104, April 18, 2002). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Effective Date

(h) The effective date of this amendment remains May 3, 2002.

Issued in Renton, Washington, on May 23, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13607 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–18]

Establishment of Class E Airspace; Calipatria, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Calipatria, CA. The establishment of a Area Navigation (RNAV) Global Positing System (GPS) Standard Instrument Approach Procedure (SIAP) RNAV (GPS) Runway (RWY) 08 SIAP to Cliff Hatfield Memorial Airport, Calipatria, CA has made action necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the RNAV (GPS) RWY 08 SIAP to Cliff Hatfield Memorial Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules operations at Cliff Hatfield Memorial Airport, Calipatria, CA.

EFFECTIVE DATE: 0901 UTC June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION:

History

On April 29, 2002, the FAA proposed to amend 14 CFR part 71 establishing a Class E airspace area at Calipatria, CA (67 FR 20921). Additional controlled airspace extending upward from 700 feet or more above the surface is needed to contain aircraft executing the RNAV (GPS) RWY 08 SIAP to Cliff Hatfield Memorial Airport. This action will provide adequate controlled airspace for aircraft executing the RNAV (GPS) RWY 08 SIAP to Cliff Hatfield Memorial Airport, Calipatria, CA.

Interested parties were invited to participate in this rulemaking, proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes a Class E airspace area at Calipatria, CA. The establishment of a RNAV (GPS) RWY 08 SIAP to Cliff Hatfield Memorial Airport has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the RNAV (GPS) RWY 08 SIAP to Cliff Hatfield Memorial Airport, Calipatria, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120;E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP CA E5 Calipatria, CA [New]

Cliff Hatfield Memorial Airport, CA
(Lat 33°07′47″ N, long. 115°31′18″ W)
Brawley Municipal Airport, CA
(Lat. 32°59′35″ N., long. 115°31′01″ W)

That airspace extending upward from 700 feet above the surface within a 6.3 mile radius of the Cliff Hatfield Memorial Airport; excluding that portion within the Brawley Municipal Airport, CA, Class E airspace area.

* * * * *

Issued in Los Angeles, California, on May 14, 2002.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 02–13710 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 736, 738, 740, 742, 745, and 774

[Docket No. 020509118–2118–01]

RIN 0694–AC62

Revisions and Clarifications to the Export Administration Regulations—Chemical and Biological Weapons Controls: Australia Group; Chemical Weapons Convention

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS), formerly the Bureau of Export Administration (BXA), is amending the Export Administration Regulations (EAR) to implement the understandings reached at the October 2001 plenary meeting of the Australia Group (AG). This final rule amends the Commerce Control List (CCL) and the corresponding export licensing provisions in the EAR to: authorize exports and reexports without a license, to most destinations, of medical, analytical, diagnostic, and food testing kits containing small quantities of any chemicals controlled only by the AG (*i.e.*, not also listed on any Schedule to the Chemical Weapons Convention (CWC)), provided that the testing kits meet certain criteria specified in the EAR; clarify the scope of the AG controls that apply to certain genetic elements and genetically modified organisms; establish controls on exports and reexports of critical components of

certain AG-controlled chemical manufacturing equipment, in which all surfaces that come into direct contact with the chemical(s) being processed or contained are made from specified materials; and add Bulgaria to Country Group A:3 (AG participating countries).

This rule also implements three AG intersessional decisions that affect AG controls on valves, freeze-drying equipment, and protective and containment equipment (including protective suits). This rule revises AG controls on valves to include all valves with nominal sizes greater than 1.0 cm in which all surfaces that come into direct contact with the chemical(s) being processed or contained are made from specified materials. The rule revises AG controls on freeze-drying equipment by changing the control threshold for such equipment from a minimum condenser capacity of "greater than 50 kgs of ice in 24 hours" to a minimum condenser capacity of "10 kgs of ice or greater in 24 hours." The rule revises AG controls on protective suits to apply to hoods, as well as protective full and half suits, that are dependant upon a tethered external air supply and operate under positive pressure. Suits designed to be worn with self-contained breathing apparatus are excluded from control. Furthermore, the rule clarifies the AG controls that apply to Class III biological safety cabinets and isolators with similar characteristics by including several examples of the types of equipment subject to these controls.

In addition to making the 2001 AG plenary and intersessional changes described above, this rule creates a new entry and restructures several entries on the CCL in order to clarify which mixtures are controlled for CB (chemical/biological: AG-based) or CW (chemical weapons: CWC-based) reasons. The restructuring does not alter the scope of the controls that apply to these mixtures.

This rule also harmonizes AT (anti-terrorism) controls among a number of entries on the CCL that describe chemicals controlled for CB or CW reasons and mixtures that contain these chemicals. Specifically, this rule expands AT controls to apply to all chemicals previously controlled for CW reasons only and to all mixtures that contain these chemicals. This rule further harmonizes the application of AT controls by requiring a license, for AT reasons, to export or reexport mixtures containing chemicals controlled for CB or CW reasons to all of the designated terrorist supporting countries.

In addition, this rule imposes a license requirement for exports to Canada of human pathogens and toxins, animal and plant pathogens, and genetically modified organisms that are controlled for CB reasons. This change harmonizes export controls on biological agents and related technology by requiring a license to export such items to all destinations, worldwide.

Finally, this rule makes two changes related to the CWC requirements in the EAR. First, the rule updates the list of countries that are currently States Parties to the CWC by adding the following countries: Nauru and Uganda. Second, the rule clarifies that a license is required to reexport CWC Schedule 3 chemicals and mixtures controlled on the CCL for CW reasons from a State not Party to the CWC to any other State not Party to the CWC and that applications for such reexports generally will be denied.

DATES: This rule is effective May 31, 2002.

FOR FURTHER INFORMATION CONTACT: James Seevaratnam, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 501–7900.

SUPPLEMENTARY INFORMATION:

Background

A. Revisions to the EAR Based on the October 2001 Plenary Meeting of the Australia Group

The Bureau of Industry and Security (BIS), formerly the Bureau of Export Administration (BXA), is amending the Export Administration Regulations (EAR) to implement understandings reached at the annual plenary meeting of the Australia Group (AG) chemical and biological weapons nonproliferation control regime that was held in Paris on October 1–4, 2001. The Australia Group is a multilateral forum, consisting of 33 participating countries, that maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. The AG periodically reviews items on its control list to enhance the effectiveness of participating governments' national controls and to achieve greater harmonization among these controls.

This final rule amends the EAR to implement an understanding on test kits that was reached at the October 2001 AG plenary meeting. Specifically, this rule authorizes exports without a license, to most destinations, of medical, analytical, diagnostic, and food testing kits containing small quantities of any chemicals controlled only by the AG, provided that the kits: (1) Are pre-packaged materials of defined composition, (2) are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes, and (3) contain no more than 300 grams of any single AG-controlled chemical. In addition, an export license for such test kits continues to be required, to certain destinations and entities, for anti-terrorism (AT) reasons or for other reasons specified in the EAR (*e.g.*, embargoes).

The following license requirements apply to such test kits. Test kits that contain CWC Schedule 1 chemicals continue to be controlled under ECCN 1C350 (note that this rule restructures 1C350.a to control certain Schedule 1 chemicals that are subject to the EAR). These test kits require a license for all destinations, including Canada, for CW reasons, and also require a license to certain destinations for chemical/biological (CB) and anti-terrorism (AT) reasons. Test kits that contain CWC Schedule 2 or 3 chemicals listed in restructured 1C350.b or .c, respectively, are now controlled under new ECCN 1C395 and continue to require a license to States not Party to the CWC, for CB and CW reasons, and to designated terrorist supporting countries (*i.e.*, Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria), for AT reasons. Test kits that contain precursor chemicals listed in restructured 1C350.d, which are not subject to the CW controls described in that ECCN, are controlled under ECCN 1C995 for AT reasons only. This rule also amends Section 742.2 of the EAR by revising the license requirements to reflect the AG understanding on test kits described above.

Participants at the October 2001 AG plenary meeting also reached an understanding to control exports and reexports of critical components of certain AG-controlled chemical manufacturing equipment listed in ECCN 2B350. Specifically, this rule revises ECCN 2B350 to control the following components: (1) Impellers, blades or shafts designed for agitators controlled by 2B350.b; (2) tubes, plates, coils or blocks (cores) designed for heat exchangers or condensers controlled by 2B350.d; (3) liquid distributors, vapor distributors or liquid collectors designed for distillation or absorption columns controlled by 2B350.e; (4) casings (valve bodies) or preformed casing liners designed for valves controlled by 2B350.g; and (5) casing (pump bodies), preformed casing liners, impellers, rotors or jet pump nozzles designed for pumps controlled by 2B350.i.

The October 2001 AG plenary meeting also resulted in an understanding concerning the scope of controls on the genetic elements and genetically modified organisms controlled by ECCN 1C353. This rule adds a technical note to ECCN 1C353 to indicate that "genetic elements include, inter alia, chromosomes, genomes, plasmids, transposons, and vectors, whether genetically modified or unmodified."

Finally, this rule amends the EAR to add Bulgaria as the newest participating country in the Australia Group (which now includes a total of 33 countries). Supplement No. 1 to Part 740 (Country Groups) is revised to add Bulgaria to Country Group A:3 (Australia Group) and Supplement No. 1 to Part 738 (Commerce Country Chart) is revised to remove the licensing requirements for Bulgaria under CB Columns 2 and 3 in conformance with the licensing policy that applies to other AG participating countries.

B. Revisions to the EAR Based on Intersessional Decisions by the Australia Group

BIS is amending the EAR to implement three intersessional decisions by the AG, made subsequent to the October 2001 plenary meeting, that affect AG controls on valves, freeze-drying equipment, and protective and containment equipment. This rule revises AG controls on valves by amending ECCN 2B350 to control valves with nominal sizes greater than 1.0 cm in which all surfaces that come into direct contact with the chemical(s) being processed or contained are made from specified materials. The change more clearly defines valves that would pose a concern for proliferation reasons.

This rule also revises AG controls on freeze-drying equipment controlled by ECCN 2B352 by changing the control threshold for such equipment from a minimum condenser capacity of "greater than 50 kgs of ice in 24 hours" to a minimum condenser of "10 kgs of ice or greater in 24 hours." As a result of this change, 2B352.e now controls steam sterilizable freeze-drying equipment that has a condenser capacity of 10 kgs of ice or greater, but less than 1,000 kgs of ice, in 24 hours.

In addition, this rule revises AG controls on the protective suits controlled by ECCN 2B352 to apply to hoods, as well as protective full and half suits, that are dependant upon a tethered external air supply and operate under positive pressure. A technical note is added to 2B352.f.1 to exclude from control those suits that are designed to be worn with self-contained breathing apparatus. In addition, this rule clarifies the controls that apply to Class III biological safety cabinets and isolators with similar characteristics by adding, in ECCN 2B352.f.2, several examples of the types of equipment subject to these controls (*e.g.*, flexible isolators, dry boxes, anaerobic chambers, glove boxes or laminar flow hoods (closed with vertical flow)).

C. Restructuring of AG and CWC-Related Entries on the Commerce Control List (CCL)

In addition to implementing the 2001 AG plenary and intersessional changes described above, BIS is amending the EAR by restructuring several entries on the CCL in order to clarify which chemicals and mixtures are controlled for CB (chemical/biological: AG-based) or CW (chemical weapons: CWC-based) reasons. This restructuring does not, by itself, alter the scope of the controls that apply to these chemicals and mixtures. Specifically, this rule amends ECCN 1C350 to reorganize the List of Items Controlled into four categories: (1) 1C350.a, which lists certain AG-controlled chemicals also identified on CWC Schedule 1 and controlled for CB, CW, and AT (anti-terrorism) reasons; (2) 1C350.b, which lists certain AG-controlled chemicals also identified on CWC Schedule 2 and controlled for CB, CW, and AT reasons; (3) 1C350.c, which lists certain AG-controlled chemicals also identified on CWC Schedule 3 and controlled for CB, CW, and AT reasons; and (4) 1C350.d, which lists AG-controlled chemicals controlled for CB and AT reasons only. This rule also amends ECCN 1C350 and ECCN 1C355 to place the description of the mixtures controlled by each entry in the List of Items Controlled for that entry. As part of this change, the mixtures notes for these two ECCNs have been revised to simplify the language describing the license requirements that apply to mixtures containing chemicals controlled by these ECCNs.

This rule also restructures ECCN 1C995 and adds a new ECCN 1C395 to provide greater clarity concerning the license requirements that apply to certain mixtures and test kits containing chemicals controlled by ECCN 1C350. Specifically, ECCN 1C995 is revised to control mixtures and test kits that require a license for AT reasons only. As a result of this change ECCN 1C995 now controls all mixtures that contain AG-controlled chemicals (*i.e.*, chemicals controlled by ECCN 1C350) in concentrations less than the control thresholds specified for mixtures identified in ECCN 1C350, except for those mixtures that contain greater than 10 percent, but less than 30 percent, by weight of any single AG-controlled chemical also identified under Schedule 2 of the CWC. The latter are controlled under new ECCN 1C395, because they require a license, for CB and CW reasons, for export to States not Party to the CWC. ECCN 1C995 continues to control the following mixtures for AT reasons only: (1) Mixtures that contain 10 percent or less, by weight, of any single AG-controlled chemical also identified under Schedule 2 of the CWC, (2) mixtures that contain less than 30 percent by weight of any single AG-controlled chemical also identified under Schedule 3 of the CWC, and (3) mixtures that contain less than 30 percent by weight of any single AG-controlled chemical not also identified under any schedule of the CWC (i.e., AG-controlled chemicals in ECCN 1C350 not also controlled for CW reasons). As noted below (see harmonization of AT controls), ECCN 1C995 is revised by this rule to also control, for AT reasons, mixtures not controlled by ECCN 1C355 that contain chemicals controlled by that ECCN. In addition, ECCN 1C995 controls test kits that contain precursor chemicals listed in 1C350.d, which are not subject to CW controls.

New ECCN 1C395 controls test kits excluded from control under ECCN 1C350.b and .c by License Requirement Note 4 of that ECCN (*i.e.*, test kits containing CWC Schedule 2 or 3 chemicals). These test kits are included in new ECCN 1C395, instead of ECCN 1C995, because they are controlled for CB and CW reasons to States not Party to the CWC. ECCN 1C395 also controls mixtures containing greater than 10 percent, but less than 30 percent, by weight of any single AG-controlled chemical also identified under Schedule 2 of the CWC. These mixtures are controlled under ECCN 1C395 for CB and CW reasons. All items controlled by new ECCN 1C395 require a license, for AT reasons, to designated terrorist supporting countries (*i.e.*, Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria).

This rule amends General Prohibition Seven (Section 736.2(b)(7) of the EAR) and the AG and CWC licensing requirements and policies in Sections 742.2 and 742.18 of the EAR to include references to new ECCN 1C395. The rule also amends the CWC licensing requirements and policies in Section 742.18 of the EAR to include references to mixtures controlled by ECCN 1C350, ECCN 1C355, or new ECCN 1C395.

D. Harmonization of Anti-Terrorism (AT) Controls in the AG and CWC-Related Entries on the Commerce Control List (CCL)

BIS is also amending several AG and CWC-related entries on the CCL to harmonize the application of anti-terrorism (AT) controls among these entries. Specifically, this rule revises ECCN 1C355 to require a license, for AT reasons, to export or reexport any of the chemicals or mixtures controlled by this ECCN to all of the designated terrorist supporting countries (*i.e.*, Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria). Prior to the publication of this rule, the chemicals and mixtures listed in ECCN 1C355 required a license for CW reasons only. This action will have no impact on exports to Cuba, Iran, Iraq, Libya, and Sudan, which are subject to comprehensive trade sanctions, or on exports to Syria and North Korea, which continue to be subject to CW controls.

In addition, this rule revises ECCN 1C995 to harmonize the application of AT controls among ECCNs containing chemicals and chemical mixtures by requiring a license to export or reexport any mixture controlled by ECCN 1C995 to all of the designated terrorist supporting countries. Prior to the publication of this rule, mixtures controlled by ECCN 1C995 that contained chemicals controlled by ECCN 1C350 required a license, for AT reasons, only to Cuba, Libya, North Korea, and Iran. In practice, this action will have no impact on exports to Sudan and Iraq, which are subject to comprehensive trade sanctions, but it may have a slight impact on exports of these mixtures to Syria.

This rule also revises ECCN 1C995 to control, for AT reasons, mixtures not controlled by ECCN 1C355 that contain chemicals controlled by 1C355. Prior to the publication of this rule, these mixtures were classified as EAR99 and generally could be exported to most destinations, except embargoed destinations and entities (*i.e.*, Cuba, Iran, Iraq, Libya, and Sudan), without prior U.S. Government authorization. In practice, this action will have no impact on exports to Cuba, Iran, Iraq, Libya, and Sudan, which are subject to comprehensive trade sanctions, but it may have a slight impact on exports of these mixtures to Syria and North Korea.

In addition, this rule expands AT controls on test kits that were previously controlled under ECCN 1C995, but which are now controlled under ECCN 1C395 (*i.e.*, test kits containing AG-controlled chemicals also identified on CWC Schedule 2 or 3), by requiring a license, for AT reasons, to export these test kits to Iraq. This rule also expands AT controls, to include Iraq, for certain test kits that were previously controlled under ECCN 1C350, but which are now controlled under ECCN 1C995.c (*i.e.*, test kits containing AG-controlled chemicals that are not also controlled for CW reasons). Previously, exports of these test kits required a license, for AT reasons, only to Cuba, Iran, Libya, North Korea, Sudan, and Syria. This action will have no impact on exports of these test kits to Iraq, since that country is subject to comprehensive trade sanctions and a license also continues to be required, for CB and CW reasons, to export these test kits to Iraq.

Finally, this rule revises ECCN 1C350 to expand AT controls to include Iraq. Previously, items controlled by ECCN 1C350 were controlled for AT reasons to all designated terrorist-supporting countries, except Iraq (*i.e.*, Cuba, Iran, Libya, North Korea, Sudan, and Syria).

E. Establishment of Worldwide Export Controls on Certain Australia Group-Controlled Biological Items

This rule also imposes a license requirement for exports to Canada of human pathogens and toxins, animal and plant pathogens, and genetically modified organisms that are controlled for CB reasons under ECCNs 1C351, 1C352, 1C353, and 1C354 and related technology controlled for CB reasons under ECCNs 1E001 and 1E351. Specifically, this rule amends the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) by inserting an "X" for Canada under CB Column 1. Prior to the publication of this rule, these items required a license to all destinations, except Canada. As a result of this action, these pathogens, toxins, and microorganisms require a license for export to all destinations, including Canada. This change harmonizes export controls on biological agents and related technology by requiring a license to export such items, worldwide.

F. Clarification of Controls on Mixtures That Contain Trace Amounts of Controlled Chemicals

This rule clarifies the control status of certain mixtures that contain only trace amounts of controlled chemicals. First, License Requirements Note 2 in ECCN 1C350 is revised to clarify that this entry does not control mixtures containing less than 0.5% aggregate quantities, by weight, of the CWC Schedule 1 chemicals controlled by 1C350.a as unavoidable by-products or impurities. Such mixtures are classified as EAR99, instead. However, all other mixtures containing these Schedule 1 chemicals are controlled by ECCN 1C350.a. Second, a new License Requirements Note is added in ECCN 1C995 to clarify that this ECCN does not control mixtures containing less than 0.5% of any single AG-controlled chemical listed in ECCN 1C350 (except those also identified as CWC Schedule 1 chemicals) or any single CW-controlled chemical listed in ECCN 1C355 as unavoidable by-products or impurities. Such mixtures are classified as EAR99, instead.

G. Addition of New States Parties to the Chemical Weapons Convention (CWC) and Clarification of EAR Licensing Policy for Reexports of CWC Schedule 3 Chemicals

This rule makes two changes related to the CWC requirements in the EAR. First, the rule revises Supplement No. 2 to Part 745 (titled "States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction") by adding the names of countries that have recently become States Parties to the CWC (i.e., Nauru and Uganda). Second, the rule clarifies (in Section 742.18 of the EAR and in the License Requirements sections of ECCNs 1C350, 1C355, and 1C395) that a license is required, for CW reasons, to reexport CWC Schedule 3 chemicals and mixtures identified in these ECCNs from a State not Party to the CWC (a destination not listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC and that applications for such reexports generally will be denied.

The Department of Commerce is taking these measures having consulted with the Department of State. The harmonization and expansion of AT controls on chemicals and chemical mixtures and the revised CB controls are described in a report to the Congress, dated May 30, 2002.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. This rule contains collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0694–0088 and 0694–0117.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2705, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230.

List of Subjects

15 CFR Parts 736 and 742

Exports, Foreign trade.

15 CFR Part 738

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 745

Administrative practice and procedure, Chemicals, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, Parts 736, 738, 740, 742, 745, and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2001, 66 FR 56965, November 13, 2001.

2. The authority citation for 15 CFR part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

3. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

4. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2001, 66 FR 56965, November 13, 2001.

5. The authority citation for 15 CFR part 745 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp., p. 408.

6. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287(c); 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466(c); 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

PART 736—[AMENDED]

7. Section 736.2 is amended by revising the phrase "ECCN 1C350 or ECCN 1C355" to read "ECCN 1C350, ECCN 1C355, or ECCN 1C395" in paragraph (b)(7)(i)(C).

PART 738—[AMENDED]

8. Supplement No. 1 to Part 738 is amended by revising the entries for "Bulgaria" and "Canada" to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

[Reason for control]

Countries	Chemical and biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Bulgaria	X					X	X	X	X	X		X	X			
Canada	X										X					

PART 740—[AMENDED]

9. In Supplement No. 1 to Part 740, Country Group A is amended by revising the entry for "Bulgaria" to read as follows:

Supplement No. 1 to Part 740

Country Group A

Country	[A:1]	Missile technology control regime [A:2]	Australia group [A:3]	Nuclear suppliers group [A:4]
. . . . .				
Bulgaria			X	X
. . . . .				

PART 742—[AMENDED]

10. Section 742.2 is amended by revising paragraphs (a)(1) introductory text, (a)(2)(i)(A), and (a)(2)(i)(C), and by adding a new paragraph (a)(4) to read as follows:

§ 742.2 Proliferation of chemical and biological weapons.

(a) * * *

(1) If CB Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations, including Canada, for the following:

* * * * *

(2) * * *

(i) * * *

(A) This licensing requirement includes chemical mixtures identified in ECCN 1C350.a, .b, .c, or .d, except as specified in License Requirements Note 2 to that ECCN.

* * * * *

(C) This licensing requirement does not apply to any of the following medical, analytical, diagnostic, and food testing kits that consist of pre-packaged materials of defined composition that are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes:

(*1*) Test kits containing no more than 300 grams of any chemical controlled by ECCN 1C350.b or .c (CB-controlled chemicals also identified as Schedule 2 or 3 chemicals under the CWC) that are destined for export or reexport to CWC States Parties (destinations listed in Supplement No. 2 to Part 745 of the EAR). Such test kits are controlled by ECCN 1C395 for CB and CW reasons, to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR), and for AT reasons.

(*2*) Test kits that contain no more than 300 grams of any chemical controlled by ECCN 1C350.d (CB-controlled chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC). Such test kits are controlled by ECCN 1C995 for AT reasons.

* * * * *

(4) A license is required, to States not Party to the CWC (destinations not listed in Supplement No. 2 to Part 745 of the EAR), for mixtures controlled by 1C395.a and test kits controlled by 1C395.b.

* * * * *

11. Section 742.18 is revised to read as follows:

§ 742.18 Chemical Weapons Convention (CWC or Convention).

States that are parties to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), undertake never to develop, produce, acquire, stockpile, transfer, or use chemical weapons. As a State Party to the Convention, the United States is subjecting certain toxic chemicals and their precursors listed in Schedules within the Convention to trade restrictions. Trade restrictions include: a prohibition on the export of Schedule 1 chemicals to States not Party to the CWC; a prohibition on the reexport of Schedule 1 chemicals to all destinations (both States Parties to the CWC and States not Party to the CWC); license requirements for the export of Schedule 1 chemicals to all States Parties; a prohibition on the export of Schedule 2 chemicals to States not Party to the CWC; and an End-Use Certificate requirement for exports of Schedule 3 chemicals to States not Party to the CWC. Exports of CWC chemicals that do not require a license for CW reasons (*e.g.*, exports and reexports of Schedule 2 and Schedule 3 chemicals to States Parties to the CWC) may require a license for other reasons set forth in the EAR. (*See*, in particular, the license requirements in § 742.2 of the EAR that apply to exports and reexports of precursor chemicals controlled by ECCN 1C350, for CB reasons. Also note the end-use and end-user restrictions in part 744 of the EAR and the restrictions that apply to embargoed countries in part 746 of the EAR.)

(a) *License requirements.* (1) *Schedule 1 chemicals and mixtures controlled under ECCN 1C350 or ECCN 1C351.* A license is required for CW reasons to export or reexport Schedule 1 chemicals and mixtures controlled under ECCN 1C350.a or Schedule 1 chemicals controlled under ECCN 1C351.d.5 or d.6 to all destinations *including Canada.* CW applies to 1C351.d.5 for ricin in the form of Ricinus Communis Agglutinin$_{II}$ (RCA_{II}), which is also known as ricin D or Ricinus Communis Lectin$_{III}$ (RCL_{III}), and Ricinus Communis Lectin$_{IV}$ (RCL_{IV}), which is also known as ricin E. CW applies to 1C351.d.6 for saxitoxin identified by C.A.S. #35523–89–8. (Note that the advance notification procedures and annual reporting requirements described in § 745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

(2) *Schedule 2 and 3 chemicals and mixtures controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C395.* (i) *States Parties to the CWC.* Neither a license nor an End-Use Certificate is required for CW reasons to export or reexport Schedule 2 or 3 chemicals and mixtures controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C395 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR).

(ii) *States not Party to the CWC.* (A) *Schedule 2 chemicals.* A license is required for CW reasons to export or reexport Schedule 2 chemicals and mixtures controlled under ECCN 1C350.b, ECCN 1C355.a, or ECCN 1C395 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

(B) *Schedule 3 chemicals.* (*1*) *Exports.* A license is required for CW reasons to export Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR), *unless* the exporter obtains from the consignee an End-Use Certificate (issued by the government of the importing country) prior to exporting the Schedule 3 chemicals and submits it to BIS in accordance with the procedures described in § 745.2 of the EAR. Note, however, that obtaining an End-Use Certificate does not relieve the exporter from the responsibility of complying with other license requirements set forth elsewhere in the EAR.

(*2*) *Reexports.* (*i*) *Reexports from States Parties to the CWC.* Neither a license nor an End-Use Certificate is required for CW reasons to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) to States not Party to the CWC. However, a license may be required for other reasons set forth elsewhere in the EAR. In addition, reexports of Schedule 3 chemicals may be subject to an End-Use Certificate requirement by governments of other countries when the chemicals are destined for States not Party to the CWC.

(*ii*) *Reexports from States not Party to the CWC.* A license is required for CW reasons to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from a State not Party to the CWC (a destination *not* listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC.

(C) *Technology controlled under ECCN 1E355.* A license is required for CW reasons to export or reexport technology controlled under ECCN 1E355 to all States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR), except for Israel and Taiwan.

(b) *Licensing policy.* (1) *Schedule 1 chemicals and mixtures.* (i) *Exports to States Parties to the CWC.* Applications to export Schedule 1 chemicals and mixtures controlled under ECCN 1C350.a or Schedule 1 chemicals controlled under ECCN 1C351.d.5 or d.6 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, *unless* all of the following conditions are met:

(A) The chemicals are destined only for purposes not prohibited under the CWC (*i.e.*, research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The Schedule 1 chemicals were not previously imported into the United States (this does not apply to Schedule 1 chemicals imported into the United States prior to April 29, 1997, or imported into the United States directly from the same State Party to which they now are to be returned, *i.e.*, exported); *and*

(D) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time is equal to or less than one metric ton *and* receipt of the proposed export will *not* cause the country of destination to acquire or to have acquired one metric ton or more of Schedule 1 chemicals in any calendar year.

(ii) *Exports to States not Party to the CWC.* Applications to export Schedule 1 chemicals and mixtures controlled under ECCN 1C350.a or Schedule 1 chemicals controlled under ECCN 1C351.d.5 or d.6 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(iii) *Reexports.* Applications to reexport Schedule 1 chemicals and mixtures controlled under ECCN 1C350.a or Schedule 1 chemicals controlled under ECCN 1C351.d.5 or d.6 generally will be denied to all destinations (including both States Parties to the CWC and States not Party to the CWC).

(2) *Schedule 2 chemicals and mixtures.* Applications to export or reexport Schedule 2 chemicals and mixtures controlled under ECCN 1C350.b, ECCN 1C355.a, or ECCN 1C395 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(3) *Schedule 3 chemicals and mixtures.* (i) *Exports.* Applications to export Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied.

(ii) *Reexports from States not Party to the CWC.* Applications to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from a State not Party to the CWC (a destination *not* listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC generally will be denied.

(4) *Technology controlled under ECCN 1E355.* Exports and reexports of technology controlled under ECCN 1E355 will be reviewed on a case-by-case basis.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

PART 745—[AMENDED]

12. Supplement No. 2 to Part 745 is amended by revising the undesignated center heading "List of States Parties as of August 1, 2001" to read "List of States Parties as of May 1, 2002" and by adding, in alphabetical order, the countries Nauru and Uganda.

PART 774—[AMENDED]

13. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," & "Toxins," is amended by revising ECCN 1C350 to read as follows:

1C350 Chemicals that may be used as precursors for toxic chemical agents.

License Requirements

Reason for Control: CB, CW, AT

Control(s)	*Country Chart*
CB applies to entire entry.	CB Column 2

CW applies to 1C350.a, .b, and .c. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required, for CW reasons, to export or reexport Schedule 1 chemicals and mixtures identified in 1C350.a to all destinations, including Canada. A license is required, for CW reasons, to export or reexport Schedule 2 chemicals and mixtures identified in 1C350.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR). A license is required, for CW reasons, to export Schedule 3 chemicals and mixtures identified in 1C350.c to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country has been obtained by the exporter prior to export. A license is required, for CW reasons, to reexport Schedule 3 chemicals and mixtures identified in 1C350.c from a State not Party to the CWC to any other State not Party to the CWC. (*See* § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons. *See* § 745.2 of the EAR for End-Use Certificate requirements that apply to exports of Schedule 3 chemicals to countries not

listed in Supplement No. 2 to part 745 of the EAR.) AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. (*See* Part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See Part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba, Iran, Iraq, and Libya.)

License Requirement Notes:

1. *SAMPLE SHIPMENTS:* Subject to the following requirements and restrictions, a license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of a single chemical to any one consignee during a calendar year. A consignee that receives a sample shipment under this exclusion may not resell, transfer, or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons.

a. *Chemicals Not Eligible:*

A. *CWC Schedule 1 chemicals (all destinations).* The CWC Schedule 1 chemicals and mixtures identified in 1C350.a are *not* eligible for sample shipment to any destination without a license.

B. *CWC Schedule 2 chemicals (States not Party to the CWC).* No CWC Schedule 2 chemical or mixture identified in 1C350.b is eligible for sample shipment to *States not Party to the CWC* (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) without a license.

b. *Countries Not Eligible:* The following countries are *not* eligible to receive sample shipments of any chemicals controlled by this ECCN without a license: Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria.

c. *Sample shipments that require an End-Use Certificate for CW reasons:* No CWC Schedule 3 chemical or mixture identified in 1C350.c is eligible for sample shipment to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR) without a license, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export (*see* § 745.2 of the EAR for End-Use Certificate requirements).

d. *Sample shipments that require a license for reasons set forth elsewhere in the EAR:* Sample shipments, as described in this Note 1, may require a license for reasons set forth elsewhere in the EAR. See, in particular, the end-use/end-user restrictions in Part 744 of the EAR, and the restrictions that apply to embargoed countries in Part 746 of the EAR.

e. *Quarterly report requirement.* The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled "Report of Sample Shipments of Chemical Precursors" at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Industry and Security, P.O. Box 273, Washington, DC 20044, Attn: "Report of Sample Shipments of Chemical Precursors".

2. *MIXTURES:*

a. Mixtures that contain precursor chemicals identified in ECCN 1C350, in concentrations that are below the levels indicated in 1C350.a through .d, are controlled by ECCN 1C395 or 1C995 and are subject to the license requirements specified in those ECCNs.

b. A license is not required for mixtures controlled under this ECCN when the controlled chemical in the mixture is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

c. A license is not required for mixtures containing less than 0.5% aggregate quantities, by weight, of the CWC Schedule 1 chemicals controlled by 1C350.a as unavoidable by-products or impurities. Such mixtures are classified as EAR99. All other mixtures containing these Schedule 1 chemicals are controlled by ECCN 1C350.a.

Note to Mixtures: Calculation of concentrations of controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. Percent Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents.

3. *COMPOUNDS:* Compounds created with any chemicals identified in this ECCN 1C350 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

4. *TESTING KITS:* Certain medical, analytical, diagnostic, and food testing kits containing small quantities of chemicals identified in this ECCN 1C350, except chemicals identified as Schedule 1 chemicals under the CWC, are excluded from the scope of this ECCN and are controlled under ECCN 1C395 or ECCN 1C995. (Note that replacement reagents for such kits are controlled by this ECCN 1C350 if the reagents contain at least one of the precursor chemicals identified in 1C350 in concentrations equal to or greater than the control levels for mixtures indicated in 1C350.)

Technical Notes: 1. For purposes of this entry, a "mixture" is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (*see* 1C350.d.7 in the List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Liters or kilograms, as appropriate.
Related Controls: 1C350.a controls certain CWC Schedule 1 chemicals (*see* § 742.18 of the EAR). The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. *See* §§ 742.18 and 745.1 of the EAR for notification and annual report requirements. *See* 22 CFR part 121, Category XIV and § 121.7 for additional CWC Schedule 1 chemicals controlled by the Department of State. Also see ECCNs 1C355, 1C395, and 1C995.
Related Definitions: See § 770.2(k) of the EAR for synonyms for the chemicals listed in this entry.
Items:

a. Australia Group-controlled precursor chemicals also identified as Schedule 1 chemicals under the CWC, as follows, and mixtures containing any amount of the following chemicals, except mixtures that contain less than 0.5% aggregate quantities (by weight) of these chemicals as unavoidable by-products or impurities (*i.e.*, the Schedule 1 chemicals are not intentionally produced or added):

a.1. (C.A.S. #57856–11–8) 0-Ethyl-2-diisopropylaminoethyl methyl phosphonite (QL);

a.2. (C.A.S. #753–98–0) Ethyl phosphonyl difluoride;

a.3. (C.A.S. #676–99–3) Methyl phosphonyl difluoride.

b. Australia Group-controlled precursor chemicals also identified as Schedule 2 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:

b.1. (C.A.S. #7784–34–1) Arsenic trichloride;

b.2. (C.A.S. #76–93–7) Benzilic acid;

b.3. (C.A.S. #78–38–6) Diethyl ethylphosphonate;

b.4. (C.A.S. #15715–41–0) Diethyl methylphosphonite;

b.5. (C.A.S. #2404–03–7) Diethyl-N,N-dimethylphosphoramidate;

b.6. (C.A.S. #5842–07–9) N,N-Diisopropyl-beta-aminoethane thiol;

b.7. (C.A.S. #4261–68–1) N,N-Diisopropyl-beta-aminoethyl chloride hydrochloride;

b.8. (C.A.S. #96–80–0) N,N-Diisopropyl-beta-aminoethanol;

b.9. (C.A.S. #96–79–7), N,N-Diisopropyl-beta-aminoethyl chloride;

b.10. (C.A.S. #6163–75–3) Dimethyl ethylphosphonate;

b.11. (C.A.S. #756–79–6) Dimethyl methylphosphonate;

b.12. (C.A.S. #1498–40–4) Ethyl phosphonous dichloride [Ethyl phosphinyl dichloride];

b.13. (C.A.S. #430–78–4) Ethyl phosphonus difluoride [Ethyl phosphinyl difluoride];

b.14. (C.A.S. #1066–50–8) Ethyl phosphonyl dichloride;

b.15. (C.A.S. #676–83–5) Methyl phosphonous dichloride [Methyl phosphinyl dichloride];

b.16. (C.A.S. #753–59–3) Methyl phosphonous difluoride [Methyl phosphinyl difluoride];

b.17. (C.A.S. #676–97–1) Methyl phosphonyl dichloride;

b.18. (C.A.S. #464–07–3) Pinacolyl alcohol;

b.19. (C.A.S. #1619–34–7) 3-Quinuclidinol;

b.20. (C.A.S. #111–48–8) Thiodiglycol.

c. Australia Group-controlled precursor chemicals also identified as Schedule 3 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:

c.1. (C.A.S. #762–04–9) Diethyl phosphite;

c.2. (C.A.S. #868–85–9) Dimethyl phosphite (dimethyl hydrogen phosphite);

c.3. (C.A.S. #10025–87–3) Phosphorus oxychloride;

c.4. (C.A.S. #10026–13–8) Phosphorus pentachloride;

c.5. (C.A.S. #7719–12–2) Phosphorus trichloride;

c.6. (C.A.S. #10025–67–9) Sulfur monochloride;

c.7. (C.A.S. #10545–99–0) Sulfur dichloride;

c.8. (C.A.S. #7719–09–7) Thionyl chloride;

c.9. (C.A.S. #102–71–6) Triethanolamine;

c.10. (C.A.S. #122–52–1) Triethyl phosphite;

c.11. (C.A.S. #121–45–9) Trimethyl phosphite.

d. Other Australia Group-controlled precursor chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:

d.1. (C.A.S. #1341–49–7) Ammonium hydrogen fluoride;

d.2. (C.A.S. #107–07–3) 2-Chloroethanol;

d.3. (C.A.S. #100–37–8) N,N-Diethylaminoethanol;

d.4. (C.A.S. #108–18–9) Di-isopropylamine;

d.5. (C.A.S. #124–40–3) Dimethylamine;

d.6. (C.A.S. #506–59–2) Dimethylamine hydrochloride;

d.7. (C.A.S. #7664–39–3) Hydrogen fluoride;

d.8. (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine;

d.9. (C.A.S. #76–89–1) Methyl benzilate;

d.10. (C.A.S. #1314–80–3) Phosphorus pentasulfide;

d.11. (C.A.S. #75–97–8) Pinacolone;

d.12. (C.A.S. #151–50–8) Potassium cyanide;

d.13. (C.A.S. #7789–23–3) Potassium fluoride;

d.14. (C.A.S. #7789–29–9) Potassium bifluoride;

d.15. (C.A.S. #3731–38–2) 3-Quinuclidone;

d.16. (C.A.S. #1333–83–1) Sodium bifluoride;

d.17. (C.A.S. #143–33–9) Sodium cyanide;

d.18. (C.A.S. #7681–49–4) Sodium fluoride;

d.19. (C.A.S. #1313–82–2) Sodium sulfide;

d.20. (C.A.S. #637–39–8) Triethanolamine hydrochloride.

14. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," & "Toxins," is amended by revising ECCN 1C353 to read as follows:

1C353 Genetic elements and genetically modified "microorganisms", as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	Country Chart
CB applies to entire entry.	CB Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Vaccines that contain genetic elements or genetically modified organisms identified in this entry are controlled by ECCN 1C991.
Related Definitions: N/A
Items:

a. Genetic elements, as follows:

a.1. Genetic elements that contain nucleic acid sequences associated with pathogenicity of organisms controlled by 1C351.a. to .c, 1C352, or 1C354;

a.2. Genetic elements that contain nucleic acid sequences coding for any of the "toxins" controlled by 1C351.d or "sub-units of toxins" thereof.

Technical Note: Genetic elements include, inter alia, chromosomes, genomes, plasmids, transposons, and vectors, whether genetically modified or unmodified.

b. Genetically modified organisms, as follows:

b.1. Genetically modified organisms that contain nucleic acid sequences associated with pathogenicity of organisms controlled by 1C351.a. to .c, 1C352, or 1C354;

b.2. Genetically modified organisms that contain nucleic acid sequences coding for any of the "toxins" controlled by 1C351.d or "sub-units of toxins" thereof.

15. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," & "Toxins," is amended by revising ECCN 1C355 to read as follows:

1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and families of chemicals not controlled by ECCN 1C350 or by the Department of State under the ITAR.

License Requirements

Reason for Control: CW, AT
Control(s)
CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required to export or reexport CWC Schedule 2 chemicals and mixtures identified in 1C355.a to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745). A license is required to export CWC Schedule 3 chemicals and mixtures identified in 1C355.b to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter, prior to export. A license is required to reexport CWC Schedule 3 chemicals and mixtures identified in 1C355.b from a State not Party to the CWC to any other State not Party to the CWC. (*See* § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C355. A license is required, for AT reasons, to export or reexport items controlled by 1C355 to Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. (*See* Part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. *See* Part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba, Iran, Iraq, and Libya.)

License Requirements Notes:

1. *MIXTURES:*

a. Mixtures containing toxic and precursor chemicals identified in ECCN 1C355, in concentrations that are below the control levels indicated in 1C355.a and .b, are controlled by ECCN 1C995 and are subject to the license requirements specified in that ECCN.

b. Mixtures containing chemicals identified in this entry are not controlled by ECCN 1C355 when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use or packaged for individual use. Such consumer goods are classified as EAR99.

Note to Mixtures: Calculation of concentrations of CW-controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. Percent Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents.

2. *COMPOUNDS:* Compounds created with any chemicals identified in this ECCN 1C355 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

Technical Notes: For purposes of this entry, a "mixture" is defined as a solid, liquid, or gaseous product made up of two or more components that do not react together under normal storage conditions.

License Exceptions

LVS: N/A.
GBS: N/A.
CIV: N/A.

List of Items Controlled

Unit: Liters or kilograms, as appropriate.
Related Controls: See also ECCNs 1C350, 1C351, 1C395, and 1C995. See §§ 742.18 and 745.2 of the EAR for End-Use Certification requirements. See 22 CFR part 121, Category

XIV and § 121.7 for chloropicrin (trichloronitromethane) (C.A.S. 76–06–2) (Schedule 3). Mixtures containing chloropicrin (trichloronitromethane) that have been transferred to the Department of Commerce from the Department of State through a commodity jurisdiction determination are controlled under this entry.

Related Definitions: N/A.

Items:

a. CWC Schedule 2 chemicals and mixtures containing Schedule 2 chemicals:

a.1. Toxic chemicals, as follows, and mixtures containing toxic chemicals:

a.1.a. PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (C.A.S. 382–21–8) and mixtures in which PFIB constitutes more than 1 percent of the weight of the mixture;

a.1.b. [Reserved].

a.2. Precursor chemicals, as follows, and mixtures in which at least one of the following precursor chemicals constitutes more than 10 percent of the weight of the mixture:

a.2.a. FAMILY: Chemicals except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl, or propyl (normal or iso) group with no additional carbon atoms in the structure;

Note: 1C355.a.2.a does not control Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate (C.A.S. 944–22–9).

a.2.b. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides;

a.2.c. FAMILY: Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr, or i-Pr)-phosphoramidates;

a.2.d. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts;

a.2.e. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts;

Note: 1C355.a.2.e. does not control N,N-Dimethylaminoethanol and corresponding protonated salts (C.A.S. 108-01-0) or N,N-Diethylaminoethanol and corresponding protonated salts (C.A.S. 100–37–8).

a.2.f. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.

b. CWC Schedule 3 chemicals and mixtures containing Schedule 3 chemicals:

b.1. Toxic chemicals, as follows, and mixtures in which at least one of the following toxic chemicals constitutes 30 percent or more of the weight of the mixture:

b.1.a. Phosgene: Carbonyl dichloride (C.A.S. 75–44–5);

b.1.b. Cyanogen chloride (C.A.S. 506–77–4);

b.1.c. Hydrogen cyanide (C.A.S. 74–90–8).

b.2. Precursor chemicals, as follows, and mixtures in which at least one of the following precursor chemicals constitutes 30 percent or more of the weight of the mixture:

b.2.a. Ethyldiethanolamine (C.A.S. 139–87–7);

b.2.b. Methyldiethanolamine (C.A.S. 105–59–9).

b.3. Mixtures containing chloropicrin (trichloronitromethane)(C.A.S. 76–06–2), transferred from the Department of State (see Related Controls).

16. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," & "Toxins," is amended by adding a new ECCN 1C395 immediately following ECCN 1C355 to read as follows:

1C395 Mixtures and Medical, Analytical, Diagnostic, and Food Testing Kits Not Controlled by ECCN 1C350, as follows (See List of Items Controlled).

License Requirements

Reason for Control: CB, CW, AT

Control(s)	Country Chart

CB applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CB reasons in 1C395. A license is required, for CB reasons, to export or reexport mixtures controlled by 1C395.a and test kits controlled by 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required for CW reasons, as follows, to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR): (1) Exports and reexports of mixtures controlled by 1C395.a, (2) exports and reexports of test kits controlled by 1C395.b that contain CWC Schedule 2 chemicals controlled by ECCN 1C350, (3) exports of test kits controlled by 1C395.b that contain CWC Schedule 3 chemicals controlled by ECCN 1C350, except that a license is not required, for CW reasons, to export test kits containing CWC Schedule 3 chemicals if an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export, and (4) reexports from States not Party to the CWC of test kits controlled by 1C395.b that contain CWC Schedule 3 chemicals. (*See* § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C395. A license is required, for AT reasons, to export or reexport items controlled by 1C395 to Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. (*See* Part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. *See* Part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba, Iran, Iraq, and Libya.)

License Requirement Notes:

1. 1C395.b does not control mixtures that contain precursor chemicals identified in ECCN 1C350.b or .c in concentrations below the control levels for mixtures indicated in 1C350.b or .c. 1C395.a and 1C995.a.1 and a.2.a control such mixtures, unless they are consumer goods as described in License Requirements Note 2 of this ECCN.

2. This ECCN does not control mixtures when the controlled chemicals are normal ingredients in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: 1. ECCN 1C350 controls mixtures containing 30 percent or higher concentrations, by weight, of any single CWC Schedule 2 chemical identified in ECCN 1C350.b; ECCN 1C995 controls such mixtures containing concentrations of 10 percent or less. 2. ECCN 1C995 controls "medical, analytical, diagnostic, and food testing kits" (as defined in the Related Definitions paragraph of this ECCN) that contain precursor chemicals listed in 1C350.d. ECCN 1C350 controls any such kits that contain CWC Schedule 1 chemicals listed in 1C350.a or testing kits in which the amount of any single chemical listed in 1C350.b, .c, or .d exceeds 300 grams by weight.

Related Definitions: For the purpose of this entry, "medical, analytical, diagnostic, and food testing kits" are pre-packaged materials of defined composition that are specifically developed, packaged and marketed for medical, analytical, diagnostic, or public health purposes. Replacement reagents for medical, analytical, diagnostic, and food testing kits described in 1C395.b are controlled by ECCN 1C350 if the reagents contain at least one of the precursor chemicals identified in that ECCN in concentrations equal to or greater than the control levels for mixtures indicated in 1C350.b. or .c.

Items:

a. Mixtures containing more than 10 percent, but less than 30 percent, by weight of any single CWC Schedule 2 chemical identified in ECCN 1C350.b (For controls on other mixtures containing these chemicals, see Note 1 in the Related Controls paragraph of this ECCN.).

b. "Medical, analytical, diagnostic, and food testing kits" (as defined in the Related Definitions for this ECCN) that contain CWC Schedule 2 or 3 chemicals controlled by ECCN 1C350.b or .c in an amount *not* exceeding 300 grams per chemical. (For controls on other such test kits containing these and other controlled chemicals, see Note 2 in the Related Controls paragraph of this ECCN.)

17. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," & "Toxins," is amended by revising ECCN 1C995 to read as follows:

1C995 Mixtures not controlled by ECCN 1C350, ECCN 1C355 or ECCN 1C395 that contain chemicals controlled by ECCN 1C350 or ECCN 1C355 and medical, analytical, diagnostic, and food testing kits not controlled by ECCN 1C350 or ECCN 1C395 that contain chemicals controlled by ECCN 1C350.d, as follows (see List of Items controlled).

License Requirements

Reason for Control: AT

Control(s)	Country Chart

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C995. A license is required, for AT reasons, to export or reexport items controlled by 1C995 to Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. (*See* Part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. *See* Part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba, Iran, Iraq, and Libya.)

License Requirement Notes:

1. This ECCN does not control mixtures containing less than 0.5% of any single toxic or precursor chemical controlled by ECCN 1C350.b, .c, or .d or ECCN 1C355 as unavoidable by-products or impurities. Such mixtures are classified as EAR99.

2 1C995.c does not control mixtures that contain precursor chemicals identified in 1C350.d in concentrations below the control levels for mixtures indicated in 1C350.d. 1C995.a.2.b controls such mixtures, unless they are consumer goods as described in License Requirements Note 3 of this ECCN.

3. This ECCN does not control mixtures when the controlled chemicals are normal ingredients in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: 1. ECCN 1C350 controls mixtures containing 30 percent or higher concentrations of any single CWC Schedule 2 chemical identified in ECCN 1C350.b. ECCN 1C395 controls mixtures containing concentrations of more than 10 percent, but less than 30 percent, of any single CWC Schedule 2 chemical identified in ECCN 1C350.b. 2. ECCN 1C350 controls mixtures containing chemicals identified in ECCN 1C350.c or .d that exceed the concentration levels indicated in 1C995.a.2. 3. ECCN 1C355 controls mixtures containing chemicals identified in ECCN 1C355 that exceed the concentration levels indicated in 1C995.b. 4. ECCN 1C395 controls "medical, analytical, diagnostic, and food testing kits" (as defined in the Related Definitions paragraph of this ECCN) that contain CWC Schedule 2 or 3 chemicals listed in 1C350.b or .c. ECCN 1C350 controls any such kits that contain CWC Schedule 1 chemicals listed in 1C350.a or testing kits in which the amount of any single chemical listed in 1C350.b, .c, or .d exceeds 300 grams by weight.

Related Definitions: For the purpose of this entry, "medical, analytical, diagnostic, and food testing kits" are pre-packaged materials of defined composition that are specifically developed, packaged and marketed for medical, analytical, diagnostic, or public health purposes. Replacement reagents for medical, analytical, diagnostic, and food testing kits described in 1C995.c are controlled by ECCN 1C350 if the reagents contain at least one of the precursor chemicals identified in that ECCN in concentrations equal to or greater than the control levels for mixtures indicated in 1C350.d.

Items:

a. Mixtures containing the following concentrations of precursor chemicals controlled by ECCN 1C350 (For controls on other mixtures containing these chemicals, see Notes 1 and 2 in the Related Controls paragraph of this ECCN.):

a.1. Mixtures containing 10 percent or less, by weight, of any single CWC Schedule 2 chemical controlled by ECCN 1C350.b;

a.2. Mixtures containing less than 30 percent, by weight, of:

a.2.a. Any single CWC Schedule 3 chemical controlled by ECCN 1C350.c; or

a.2.b. Any single precursor chemical controlled by ECCN 1C350.d.

b. Mixtures containing the following concentrations of toxic or precursor chemicals controlled by ECCN 1C355 (For controls on other mixtures containing these chemicals, see Note 3 in the Related Controls paragraph of this ECCN.):

b.1. Mixtures containing the following concentrations of CWC Schedule 2 chemicals controlled by ECCN 1C355.a:

b.1.a. Mixtures containing 1 percent or less, by weight, of any single CWC Schedule 2 chemical controlled by ECCN 1C355.a.1 (i.e., mixtures containing PFIB); or

b.1.b. Mixtures containing 10 percent or less, by weight, of any single CWC Schedule 2 chemical controlled by 1C355.a.2;

b.2. Mixtures containing less than 30 percent, by weight, of any single CWC Schedule 3 chemical controlled by ECCN 1C355.b.

c. "Medical, analytical, diagnostic, and food testing kits" (as defined in the Related Definitions for this ECCN) that contain precursor chemicals controlled by ECCN 1C350.d in an amount *not* exceeding 300 grams per chemical. (For controls on other such test kits containing these and other controlled chemicals, see Note 4 in the Related Controls paragraph of this ECCN.)

18. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing, is amended by revising the List of Items Controlled section in ECCN 2B350 to read as follows:

2B350 Chemical manufacturing facilities and equipment, as follows (see List of Items Controlled).

List of Items Controlled

Unit: Equipment in number

Related Controls: The controls in this entry do not apply to equipment that is: a.) specially designed for use in civil applications (*e.g.*, food processing, pulp and paper processing, or water purification); AND b.) inappropriate, by the nature of its design, for use in storing, processing, producing or conducting and controlling the flow of chemical weapons precursors controlled by 1C350.

Related Definitions: For purposes of this entry the term "chemical warfare agents" are those agents subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121)

Items:

a. Reaction vessels or reactors, with or without agitators, with total internal (geometric) volume greater than 0.1 m^3 (100 liters) and less than 20 m^3 (20,000 liters), where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

a.1. Alloys with more than 25% nickel and 20% chromium by weight;

a.2. Fluoropolymers;

a.3. Glass (including vitrified or enamelled coating or glass lining);

a.4. Nickel or alloys with more than 40% nickel by weight;

a.5. Tantalum or tantalum alloys;

a.6. Titanium or titanium alloys; *or*

a.7. Zirconium or zirconium alloys.

b. Agitators for use in reaction vessels or reactors, and impellers, blades or shafts designed for such agitators, where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

b.1. Alloys with more than 25% nickel and 20% chromium by weight;

b.2. Fluoropolymers;

b.3. Glass (including vitrified or enamelled coatings or glass lining);

b.4. Nickel or alloys with more than 40% nickel by weight;

b.5. Tantalum or tantalum alloys;

b.6. Titanium or titanium alloys; *or*

b.7. Zirconium or zirconium alloys.

c. Storage tanks, containers or receivers with a total internal (geometric) volume greater than 0.1 m^3 (100 liters) where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

c.1. Alloys with more than 25% nickel and 20% chromium by weight;

c.2. Fluoropolymers;

c.3. Glass (including vitrified or enamelled coatings or glass lining);

c.4. Nickel or alloys with more than 40% nickel by weight;

c.5. Tantalum or tantalum alloys;

c.6. Titanium or titanium alloys; *or*

c.7. Zirconium or zirconium alloys.

d. Heat exchangers or condensers with a heat transfer surface area of less than 20 m^2, but greater than 0.15 m^2, and tubes, plates, coils or blocks (cores) designed for such heat exchangers or condensers, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:

d.1. Alloys with more than 25% nickel and 20% chromium by weight;

d.2. Fluoropolymers;

d.3. Glass (including vitrified or enamelled coatings or glass lining);

d.4. Graphite or carbon-graphite;

d.5. Nickel or alloys with more than 40% nickel by weight;

d.6. Silicon carbide;
d.7. Tantalum or tantalum alloys;
d.8. Titanium or titanium alloys;
d.9. Titanium carbide; *or*
d.10. Zirconium or zirconium alloys.
e. Distillation or absorption columns of internal diameter greater than 0.1 m, and liquid distributors, vapor distributors or liquid collectors designed for such distillation or absorption columns, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
e.1. Alloys with more than 25% nickel and 20% chromium by weight;
e.2. Fluoropolymers;
e.3. Glass (including vitrified or enamelled coatings or glass lining);
e.4. Graphite or carbon-graphite;
e.5. Nickel or alloys with more than 40% nickel by weight;
e.6. Tantalum or tantalum alloys;
e.7. Titanium or titanium alloys; *or*
e.8. Zirconium or zirconium alloys.
f. Remotely operated filling equipment in which all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
f.1. Alloys with more than 25% nickel and 20% chromium by weight; *or*
f.2. Nickel or alloys with more than 40% nickel by weight.
g. Valves with nominal sizes greater than 1.0 cm (3/8 in.), in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
g.1. Nickel or alloys with more than 40% nickel by weight;
g.2. Alloys with more than 25% nickel and 20% chromium by weight;
g.3. Fluoropolymers;
g.4. Glass or glass lined (including vitrified or enameled coatings);
g.5. Tantalum or tantalum alloys;
g.6. Titanium or titanium alloys; *or*
g.7. Zirconium or zirconium alloys.
h. Multi-walled piping incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
h.1. Alloys with more than 25% nickel and 20% chromium by weight;
h.2. Fluoropolymers;
h.3. Glass (including vitrified or enamelled coatings or glass lining);
h.4. Graphite or carbon-graphite;
h.5. Nickel or alloys with more than 40% nickel by weight;
h.6. Tantalum or tantalum alloys;
h.7. Titanium or titanium alloys; *or*
h.8. Zirconium or zirconium alloys.
i. Multiple-seal, canned drive, magnetic drive, bellows or diaphragm pumps, with manufacturer's specified maximum flow-rate greater than 0.6 m^3/hour, or vacuum pumps with manufacturer's specified maximum flow-rate greater than 5 m^3/hour (under standard temperature (273 K (0° C)) and pressure (101.3 kPa) conditions), and casing (pump bodies), preformed casing liners, impellers, rotors or jet pump nozzles designed for such pumps, in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the of the following materials:
i.1. Alloys with more than 25% nickel and 20% chromium by weight;
i.2. Ceramics;
i.3. Ferrosilicon;
i.4. Fluoropolymers;
i.5. Glass (including vitrified or enamelled coatings or glass lining);
i.6. Graphite or carbon-graphite;
i.7. Nickel or alloys with more than 40% nickel by weight;
i.8. Tantalum or tantalum alloys;
i.9. Titanium or titanium alloys, *or*
i.10. Zirconium or zirconium alloys.
j. Incinerators designed to destroy chemical warfare agents, chemical weapons precursors controlled by 1C350, or chemical munitions having specially designed waste supply systems, special handling facilities and an average combustion chamber temperature greater than 1000°C in which all surfaces in the waste supply system that come into direct contact with the waste products are made from or lined with any of the following materials:
j.1. Alloys with more than 25% nickel and 20% chromium by weight;
j.2. Ceramics; *or*
j.3. Nickel or alloys with more than 40% nickel by weight.

Technical Note: Carbon-graphite is a composition consisting primarily of graphite and amorphous carbon, in which the graphite is 8 percent or more by weight of the composition.

19. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing, is amended by revising the List of Items Controlled section in ECCN 2B352 to read as follows:

2B352 Equipment capable of use in handling biological materials, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: Equipment in number.
Related Controls: N/A.
Related Definitions: For purposes of this entry, isolators include flexible isolators, dry boxes, anaerobic chambers and glove boxes.
Items:
a. Complete containment facilities at P3 or P4 containment level.

Technical Note: P3 or P4 (BL3, BL4, L3, L4) containment levels are as specified in the WHO Laboratory Biosafety Manual (Geneva, 1983).

b. Fermenters capable of cultivation of pathogenic microorganisms, viruses, or for toxin production, without the propagation of aerosols, having a capacity equal to or greater than 100 liters.

Technical Note: Fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic microorganisms, without the propagation of aerosols, and having all of the following characteristics:
c.1. One or more sealing joints within the steam containment area;
c.2. A flow rate greater than 100 liters per hour;
c.3. Components of polished stainless steel or titanium; *and*
c.4. Capable of *in situ* steam sterilization in a closed state.

Technical Note: Centrifugal separators include decanters.

d. Cross (tangential) flow filtration equipment capable of continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having all of the following characteristics:
d.1. Equal to or greater than 5 square meters;
d.2. Capable of *in situ* sterilization.
e. Steam sterilizable freeze-drying equipment with a condenser capacity of 10 kgs of ice or greater in 24 hours, but less than 1,000 kgs of ice in 24 hours.
f. Protective and containment equipment, as follows:
f.1. Protective full or half suits, or hoods dependant upon a tethered external air supply and operating under positive pressure;

Technical Note: This entry does not control suits designed to be worn with self-contained breathing apparatus.

f.2. Class III biological safety cabinets or isolators with similar performance standards, *e.g.*, flexible isolators, dry boxes, anaerobic chambers, glove boxes or laminar flow hoods (closed with vertical flow).
g. Chambers designed for aerosol challenge testing with microorganisms, viruses, or toxins and having a capacity of 1 m^3 or greater.

Dated: May 23, 2002.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 02–13581 Filed 5–30–02; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 314 and 601

[Docket No. 98N–0237]

RIN 0910–AC05

New Drug and Biological Drug Products; Evidence Needed to Demonstrate Effectiveness of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its new drug and biological product regulations to allow appropriate studies in animals in certain cases to provide substantial evidence of the effectiveness of new drug and biological products used to reduce or prevent the toxicity of chemical, biological, radiological, or nuclear substances. This rule will apply when adequate and well-controlled clinical studies in humans cannot be ethically conducted and field efficacy studies are not feasible. In these situations, certain new drug and biological products that are intended to reduce or prevent serious or life-threatening conditions may be approved for marketing based on evidence of effectiveness derived from appropriate studies in animals and any additional supporting data.

DATES: This rule is effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT:
Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041;
or Karen L. Goldenthal, Center for Biologics Evaluation and Research (HFM–475), 1401 Rockville Pike, suite 370 North, Rockville, MD 20852, 301–827–3070.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of October 5, 1999 (64 FR 53960), we (FDA) proposed to amend our new drug and biological product regulations to identify the information needed to provide substantial evidence of the effectiveness of certain new drug and biological products used to reduce or prevent the toxicity of chemical, biological, radiological, or nuclear substances. We are finalizing that proposed rule by adding subpart I to part 314 (21 CFR part 314) and subpart H to part 601 (21 CFR part 601).

This final rule provides for approval of certain new drug and biological products based on animal data when adequate and well-controlled efficacy studies in humans cannot be ethically conducted because the studies would involve administering a potentially lethal or permanently disabling toxic substance or organism to healthy human volunteers and field trials are not feasible prior to approval. Under this rule, in these situations, certain new drug and biological products that are intended to reduce or prevent serious or life-threatening conditions can be approved for marketing based on evidence of effectiveness derived from appropriate studies in animals, without adequate and well-controlled efficacy studies in humans (§ 314.126). In assessing the sufficiency of animal data, the agency may take into account other data, including human data, available to the agency. Under this rule, FDA can rely on the evidence from animal studies to provide substantial evidence of the effectiveness of these products when:

1. There is a reasonably well-understood pathophysiological mechanism for the toxicity of the chemical, biological, radiological, or nuclear substance and its amelioration or prevention by the product;
2. The effect is demonstrated in more than one animal species expected to react with a response predictive for humans, unless the effect is demonstrated in a single animal species that represents a sufficiently well-characterized animal model (meaning the model has been adequately evaluated for its responsiveness) for predicting the response in humans;
3. The animal study endpoint is clearly related to the desired benefit in humans, which is generally the enhancement of survival or prevention of major morbidity; and
4. The data or information on the pharmacokinetics and pharmacodynamics of the product or other relevant data or information in animals and humans is sufficiently well understood to allow selection of an effective dose in humans, and it is therefore reasonable to expect the effectiveness of the product in animals to be a reliable indicator of its effectiveness in humans.

All studies subject to this rule must be conducted in accordance with preexisting requirements under the good laboratory practices (21 CFR part 58) regulations and the Animal Welfare Act (7 U.S.C. 2131 *et. seq.*).

Safety evaluation of products is not addressed in this rule. Products evaluated for effectiveness under subpart I of part 314 and subpart H of part 601 will be evaluated for safety under preexisting requirements for establishing the safety of new drug and biological products. The agency believes that the safety of most of these products can be studied in human volunteers similar to the people who would be exposed to the product. FDA recognizes that some safety data, such as data on possible adverse interactions between the toxic substance itself and the new product, may not be available. This is not expected to keep the agency from making an adequate safety evaluation. FDA's procedures and standards for evaluating the safety of new drug and biological products are sufficiently flexible to provide for the safety evaluation of products evaluated for efficacy under subpart I of part 314 and subpart H of part 601.

This rule will not apply if product approval can be based on standards described elsewhere in our regulations (for example, accelerated approval based on human surrogate markers or clinical endpoints other than survival or irreversible morbidity).[1]

II. Comments on the Proposed Rule and Our Response

We received comments on the proposed rule from two pharmaceutical companies and one physician affiliated with a university. We also received comments from the National Institutes of Health (NIH). The NIH comments were based on a prepublication draft of the proposed rule, but the comments were received too late to be addressed in the proposed rule. The NIH comments have been placed in the docket for this rule and are addressed in this document.

In addition to the changes we have made in response to comments, we have changed the titles of subpart I of part 314 and subpart H (formerly subpart G) of part 601 to better describe the scope of the subparts. Subpart I of part 314 is now entitled "Approval of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible" and subpart H of part 601 is now entitled "Approval of Biological Products When Human Efficacy Studies Are Not Ethical or Feasible." Proposed subpart G has been redesignated as subpart H in the final rule because subpart G has since been designated for regulations on postmarketing studies. Proposed §§ 601.60 through 601.65 have been renumbered §§ 601.90 through 601.95 in subpart H.

We have also changed, on our own initiative, the requirements proposed in §§ 314.610(c) and 601.61(c) (§§ 314.610(b)(3) and 601.91(b)(3) in this final rule). We have deleted the requirement that self-administered drug products approved under this rule be in unit-of-use packaging with attached patient labeling. In addition, we have eliminated the distinction between self-

[1] An example of a drug approval based on human surrogate markers is our August 30, 2000, approval of an efficacy supplement for ciprofloxacin. Ciprofloxacin HCl was approved for postexposure management of inhalational anthrax. The approval was based, in part, on human studies demonstrating that ciprofloxacin achieved serum concentrations reaching or exceeding levels associated with improved survival of animals exposed to aerosolized *Bacillus anthracis* spores. The results from these studies were combined with the knowledge of effectiveness in humans of ciprofloxacin for other bacterial infections, including pneumonia. The validity of the human surrogate marker was supported by animal studies.

administered products and products administered by health professionals.

Whether a product is self-administered or administered by a health professional, it is important to inform patient recipients that a product approved under this rule has not been studied for efficacy in humans because of ethical or feasibility reasons.[2] It is also important that patient recipients receive information about indications, dosage and administration, contraindications, reasonably foreseeable risks, adverse reactions, anticipated benefits, and drug interactions. This rule requires that all of this information be provided to patient recipients of products approved under subpart I of part 314 and subpart H of part 601.

We believe, however, that the proposed unit-of-use packaging and attached patient-labeling requirement could have had the unintended effect of hampering the distribution and dispensing of these products in the event of an emergency. The added bulk of unit-of-use packaging could have made stockpiling and transporting more difficult in many cases. The proposed requirement might also have hampered the speedy distribution of products for additional indications previously approved outside of this rule.

Applicants may meet the requirements of new §§ 314.610(b)(3) and 601.91(b)(3) in a variety of ways, as long as sponsors make provisions to get the information to patients. For example, the sponsor could provide reproducible master copies of labeling information or presentations for patient recipients that would be appropriate in the event of an emergency.

We have also changed proposed §§ 314.610(c) and 601.61(c) (§§ 314.610(b) and 601.91(b) in this final rule) to require that the patient labeling explain that, for ethical or feasibility reasons, the product's approval was based on efficacy studies conducted only in animals. This explanation will better inform patient recipients about the nature and ethical basis of the product approval under this rule and how that approval differs from approval of products based on standard human efficacy studies.

Finally, we have added to §§ 314.610(b)(1) and 601.91(b)(1) (proposed §§ 314.610(a) and 601.61(a)) a requirement that applicants include a plan or approach to fulfilling postmarketing study commitments as part of their application. We recognize that such studies normally will not be conducted unless an emergency arises that requires the product's use. Furthermore, when the product is used in an emergency, it may not be feasible for sponsors to conduct postmarketing studies in a timely manner, nor is it our intention to require sponsors to send investigators into areas of exposure. We do, however, believe that applicants can plan a postmarketing study approach, in consultation with the agency, as part of an overall response to an event.

The requirement to submit a plan for postmarketing studies is consistent with the requirements for sponsors under the accelerated approval process provided for in subpart H of part 314.

The procedures in subpart H and in this rule are similar because, to assess efficacy, both allow use of an endpoint that is not a clinical endpoint showing a benefit. Instead the rules under subpart H allow for reliance on a clinical surrogate endpoint and this rule allows for the use of animal data as an endpoint.

Postmarketing studies are critical in both of these situations to verify and describe the clinical benefit of the drug or biological product. The postmarketing studies may provide us with data that directly verify that the product provides the desired benefit in humans, such as increased survival or prevention of major morbidity.

(Comment 1) One comment suggested that we define "lethal" and "permanently disabling." The comment expressed concern that without such definitions, subpart I of part 314 and subpart H of part 601 will be misapplied in situations where clinical testing can and should be carried out.

The definitions of "lethal" and "permanently disabling" would seem to be well understood. Although we share the concern that too expansive an interpretation of "lethal" or "permanently disabling" could lead to attempts to apply this rule when human studies are, in fact, feasible, we are also concerned that too restrictive a definition of "lethal" or "permanently disabling" could lead to failure to apply subpart I of part 314 and subpart H of part 601 in situations where they should be applied to protect the public health. We believe that, as a general matter, we must rely on the good sense and responsibility of those health professionals who will be seeking to apply subpart I of part 314 and subpart H of part 601 in the future, and on responsible review of specific cases by FDA. Nevertheless, we can provide guidance for applying subpart I of part 314 and subpart H of part 601 by clarifying that a "lethal substance" is one that is likely to kill at least some of the humans who have been exposed to the substance and a "permanently disabling substance" is one that is likely to cause a permanent physical or mental impairment that substantially limits one or more of the major life activities in at least some of the humans who have been exposed to the substance.

(Comment 2) One comment stated that the rule does not explicitly cover infectious substances and pointed out that not all infectious substances produce toxins. The comment suggested replacing "toxic" with "toxic and/or infectious" in proposed §§ 314.600 and 601.60 (§ 601.90 in this final rule).

The rule is certainly intended to cover products for treatment of infections. At some level, an infectious agent that is lethal or permanently disabling is toxic to its host, even if that agent is not itself a "toxin" or a producer of "toxins" within a strict definition of the word. Because we do not use "toxin" in the rule, and "toxic" is accurate, we do not believe we need to replace "toxic" with "toxic and/or infectious" to indicate that products for the treatment of infections may be approved under this rule.

(Comment 3) One comment noted that the proposed rule did not discuss criteria that should be applied in determining if "an important medical need is not adequately met by currently available therapies." The comment suggested that we state that we will use the criteria given in our guidance for industry entitled "Fast Track Drug Development Programs—Designation, Development, and Application Review" (September 1998).

We have decided to eliminate the requirement that "products would be expected to provide meaningful therapeutic benefits to patients over existing treatments," as well as the limitation that the toxic agent be "without a proven treatment" (proposed §§ 314.600 and 601.60). Recent events involving the multiple exposures to anthrax in our population, and deaths resulting from those infections, have indicated a need for a wide range of therapeutic options that, in some instances, might be inappropriately limited by requiring new products to have a therapeutic benefit over existing treatments, or to be used only in the absence of a proven treatment. Availability of a variety of drug and biological products is important because, for example, patient recipients may be allergic to one product and require another, may be intolerant of a product because of side effects, or may respond more favorably to one product than another. We also believe that a wider variety of therapeutic choices will limit potential problems with availability, accessibility, and distribution of products. We have modified the final rule to address these concerns and help ensure the availability of more than one therapeutic option.

(Comment 4) One comment requested that antivenin and antitoxin products of animal origin be considered for inclusion specifically on the list of new drugs and biological products to which the rule applies.

There is no list of products that may be approved based on evidence of effectiveness from efficacy studies in animals. The rule provides criteria to determine if evidence of effectiveness from efficacy studies in animals may support approval of a product. If an antivenin or antitoxin product of animal origin meets the criteria specified in the rule, it may be approved on the basis of evidence of effectiveness from efficacy studies in animals.

(Comment 5) One comment requested that we revise proposed §§ 314.610 and 601.61 (§ 601.91 in this final rule) to state that substantiation in multiple animal species is required only where appropriate. The comment stated we should not limit ourselves to approvals only when there is substantiation in "multiple" animal species. The comment contended that where independent studies in a single species meet the general principles of independent substantiation as described in the guidance for industry entitled "Providing Clinical Evidence of Effectiveness for Human Drugs and Biological Products" (May 1998), those studies are sufficient to substantiate effectiveness as a matter of science and a requirement of substantiation in multiple species would result in an unnecessary delay of agency approval. According to the comment, these concerns are particularly important where viruses have a narrow host range and conducting efficacy trials in more than one animal species in such cases either is not feasible or provides only limited additional information that is relevant to the full-blown disease in humans. The comment suggested that the requirement of substantiation in multiple species in a given case should depend on the known host range and the availability of animal model systems.

We share some of the concerns expressed in the comment, but we believe the proposed remedy goes too far. Approval of the use of a drug lacking human evidence of effectiveness represents a significant departure from ordinary practice. There are countless examples of treatments with favorable effects in animals that did not prove effective in humans. Although this rule does, for good reason, allow reliance on animal studies when human studies cannot be conducted, in general we expect that the evidence, to be persuasive, should be developed in more than one animal species unless the effect is demonstrated in a single animal species that represents a sufficiently well-characterized animal model for predicting the response in humans. We recognize that conducting studies in more than one species can result in added expense, but we believe this is warranted because of the additional assurance they would provide.

Furthermore, reliance on our guidance entitled "Providing Clinical Evidence of Effectiveness for Human Drugs and Biological Products" is misplaced. That guidance was drafted to provide advice on the quantity of data from clinical studies needed to support a finding of effectiveness and, specifically, on when the agency ought to rely on a single human study. The guidance addressed cases in which the issue is the credibility of the data itself, not the relevance of the data to humans. In this rule, the issue is the ability of results from animal studies to predict the human response, and not the credibility of the animal finding itself (although, of course, the animal studies should be replicated or substantiated in each species as needed to ensure credible results). The need for multiple species in certain cases is to enhance the likelihood that the data are pertinent to humans.

We do recognize, however, that the multiple species requirement could be inappropriate or unnecessary in certain situations. For example, there may be only one species capable of reacting with a response predictive for humans. This would occur where there is only one nonhuman host for the targeted microorganism. There may also be other situations in which studies in a particular species are specifically well recognized as predictors of effectiveness in humans. Thus, circumstances in which the agency will rely on evidence from studies in one animal species to provide substantial evidence of the effectiveness of these products in humans would generally be limited to situations where the study model is sufficiently well-recognized so as to render studies in multiple species unnecessary. In addition, other human data for the product could provide support for such approvals.

Accordingly, we have changed proposed §§ 314.610 and 601.61 (§ 601.91(c) in this final rule) to require that approval be based on studies in more than one animal species unless the effect is demonstrated in a single animal species that represents a sufficiently well-characterized animal model for predicting the response in humans. The agency believes that demonstrating effectiveness in studies conducted in a single animal species using a well-characterized animal model will most often be done for anti-infective drug products. The pathophysiological mechanisms of infectious diseases are usually very well understood, and animal models for many infectious diseases have been studied for years and are very well characterized.

(Comment 6) One comment suggested we remove the requirement that there be a reasonably well-understood pathophysiological mechanism of the toxicity of the substance and its prevention or substantial reduction by the product. The comment stated it is hard to say when we understand something reasonably well and that, if we decide to retain the requirement, we should state at what level (e.g., cellular, molecular) the mechanism must be understood.

A disease's or toxin's mechanism of action does not need to be understood before a safe and effective treatment or preventative can be devised. Quinine and Jenner's smallpox vaccine were both developed before the acceptance of the germ theory of disease. Neither is there a general requirement that an applicant who is relying on human testing to establish effectiveness demonstrate the mechanism of action of the drug or biological product that is the subject of the marketing application. It is generally sufficient to demonstrate that a product is safe and effective. It is generally not required that an applicant demonstrate how or why the product is safe and effective.

It is true that a pathophysiologic understanding of a disease and treatment is not required when human studies are used to support approval. In the case of human drug or biological products approved on the basis of evidence of effectiveness from studies in animals, however, we are requiring an understanding of the mechanism of the toxic substance or infectious organism and its prevention or reduction by the product. This understanding helps provide assurance that the efficacy data from studies in animals can be applied to humans. We have not specified exactly what degree of pathophysiologic understanding is needed, and that will be a matter of judgment. The level of understanding could range from a complete understanding of how a toxic

[2] In some cases, however, such as with anti-infective drug products, it would usually be expected that human data on safety and effectiveness for other indications may be available.

substance works at the cellular level in both human and animal cells together with a clear understanding of what the antidote does at the molecular level to a less complete understanding. The level of required understanding of the mechanism of action of the toxic substance or infectious organism and the product may vary from toxic substance to toxic substance or infectious organism to infectious organism and could even vary from one product to another intended to treat the same condition.

(Comment 7) One comment suggested that an institutional review board (IRB) or other ethical scientific review body determine if it would be unethical to conduct studies in humans. The comment also said we do not mention who would make the determination that it would be unethical to conduct studies in humans.

The final determination that it is unethical to conduct studies in humans will be made by the reviewing officials in FDA. We anticipate that in most cases the determination as to whether it would be unethical to conduct studies in humans will not be difficult. In those cases that are difficult, the views of one or more IRBs, individual ethicists and clinicians, and FDA advisory committees could be sought by a sponsor or FDA. A case where such a consultation could be useful is one in which a putatively subtoxic dose would be used in humans to establish at least a mechanism for protection, if not actual protection.

(Comment 8) One comment noted that we said in the proposed rule:

> The agency also intends in most cases to consult on applications to market such products with an advisory committee, supplemented with appropriate expert consultants, in meetings open to the public in order to receive expert advice on whether a particular set of animal data support efficacy of a product under this rule (64 FR 53960 at 53964 and 53965).

The comment asked us to consider requiring consultation with an advisory committee either before conducting the animal studies or before approval of the product, or both.

We want to reiterate our statement in the proposed rule that we intend usually to consult with an advisory committee during the approval process. Indeed, we may consult with an advisory committee more than once on a single product if circumstances warrant it. Consultation with an advisory committee could occur early in the development process, to discuss whether the concept of using certain animal data to support efficacy is reasonable.

Even though consultation with an advisory committee is generally desirable, it is not always practical. For example, products reviewed under this rule may be part of the response to a public health emergency; therefore, there may not be time to convene an advisory committee. Accordingly, we believe that it would be inappropriate to absolutely require consultation with an advisory committee.

(Comment 9) One comment questioned whether patient labeling is adequate to inform patients that a product has been approved on the basis of animal efficacy data, particularly in situations where military personnel are ordered to take a product approved under this rule. The comment did not suggest an alternative to the provisions of the rule.

Sections 314.610(b)(3) and 609.91(b)(3) provide that for products or specific indications approved under this rule, applicants must prepare, as part of their proposed labeling, labeling to be provided to patients or potential patients. The patient labeling, written in language that can be easily understood by the general public, must explain that, for ethical or feasibility reasons, the product's approval was based on efficacy studies conducted in animals alone. The labeling must give the product's indication(s), directions for use (dosage and administration), contraindications, a description of any reasonably foreseeable risks, adverse reactions, anticipated benefits, drug interactions, and any other relevant information required by FDA at the time of approval. If possible, the patient labeling must be available with the product to be provided to patients or potential patients prior to administration or dispensing of the product for the use approved under this rule. We intend that in interpreting §§ 314.610(b)(3) and 601.91(b)(3), the word "possible" be given its ordinary and literal meaning. Situations in which it would be inconvenient or require some effort to make the labeling available for patients should not be equated with situations in which it would be impossible to do so.

These provisions, coupled with communications within a health care provider-patient relationship should, as a general matter in both civilian and military contexts, adequately ensure that patients are informed that the product they are taking has been approved based on animal efficacy data.

(Comment 10) One comment suggested that labeling a drug or biological product approved on the basis of evidence of effectiveness from studies in animals as "FDA approved" is misleading, because patients would assume that the product had been approved based on human studies. The comment suggested that we treat the product as an investigational new drug, but waive certain requirements generally applied to investigational new drugs, if those requirements would provide obstacles to the product's use in an emergency.

We agree that the labeling would be misleading if information were not included to explain to patients or potential patients that the effectiveness of the product was demonstrated in animals not humans, and that this reliance on animal efficacy data was based on ethical and feasibility concerns. Therefore, under sections 502(a) and 701(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(a) and 372(a)) (and consistent with the legal authority cited in the preamble to the proposed rule (64 FR 53960 at 53964)), we have revised the language in §§ 314.610(b)(3) and 601.91(b)(3) to require that this information be included in the patient labeling.

Where the evidence of effectiveness comes from studies in animals, regulating new drug or biological products as investigational drugs presents several difficulties. These difficulties have led us to this rulemaking. The proposed rule describes our concerns with relying solely on the investigational new drug regulations (64 FR 53960 at 53963) for such approvals. There may be cases, however, when an application does not meet the criteria of this rule, and approval of the product is not feasible. Should an emergency situation arise under such circumstances, it is conceivable that the product could be used under the investigational new drug regulations.

(Comment 11) Another comment suggested that, unless "lay persons" may use the product, we prohibit advertising of drug or biological products approved on the basis of evidence of effectiveness from studies in animals. The comment further recommended stringent controls on the advertising of products that could be used by "lay persons."

Such a sweeping prohibition would likely give rise to constitutional issues regarding the regulation of commercial speech. In addition, the suggestion presents serious public health concerns. A prohibition on advertising could limit health care providers' and public health and emergency preparedness officials' awareness of the products approved under this rule. Limiting awareness of these products, which are intended to reduce or prevent life-threatening or disabling toxicity, does not seem desirable or appropriate.

We believe that the advertising provisions in §§ 314.640 and 601.94 of this rule provide adequate protection against false or misleading advertising, and no additional requirements are needed. As discussed in the preamble to the proposed rule (64 FR 53960 at 53964), we proposed the requirements pertaining to promotional materials in order to provide for the safe and effective use of these products. These requirements, along with others, are similar to those in the accelerated approval regulations in subpart H of part 314 and in subpart E of part 601. In issuing the accelerated approval regulations, we stated that the special circumstances under which those products would be approved and the possibility that promotional materials could adversely affect the sensitive risk/benefit balance justified review of promotional materials before and after approval (57 FR 58942 at 58949). Similarly, the special circumstances of all product approvals under subpart I of part 314 and subpart H of part 601 and the possibility that promotional materials could adversely affect the even more sensitive risk/benefit balance justifies advance review of promotional materials.

We intend to review all such promotional materials under these new regulations promptly, and to notify the applicant of any identified problems as soon as possible (see also 57 FR 58942 at 58950). Also as with the accelerated approval regulations' requirements for promotional materials (§§ 314.560 and 601.46), FDA may terminate the requirements for advance submission of promotional materials under these new regulations at §§ 314.650 and 601.95 if the agency determines, on its own initiative or in response to a petition submitted by the sponsor, that the requirements are no longer necessary for safe and effective use of the product. When we remove the requirement for advance submission of promotional materials, we will continue to offer a prompt review of all voluntarily submitted promotional materials.

(Comment 12) We received some comments addressing questions posed in section VII, "Discussion," of the proposed rule. In this final rule, we have addressed comments that dealt with the rule itself. Comments that dealt with questions related to the application of this rule, rather than the requirements, will be addressed if and when we draft a guidance on this subject.

III. Legal Authority

We did not receive any comments discussing our legal authority to approve new drugs and biological products based on evidence of effectiveness from studies in animals. We have concluded, for the reasons set out in section V of the proposed rule, "Legal Authority," (64 FR 53960 at 53964), that we have the legal authority to approve new drugs and biological products based on evidence of effectiveness from studies in animals.

(Comment 13) We received a comment asserting that under the court's holding in *American Pharmaceutical Association* v. *Weinberger*, 377 F.Supp. 824 (D.C.D.C. 1974) *aff'd sub nom. American Pharmaceutical Association* v. *Mathews*, 530 F.2d 1054 (D.C. Cir. 1976) (*per curiam*), we do not have the legal authority to impose the distribution controls proposed in §§ 314.610(b) and 601.61(b) (§§ 314.610(b)(2) and 601.91(b)(2) in this final rule). The comment asked that, if we disagree with their characterization of the law, distribution controls not be applied just because a product was approved under the provisions of this rule. The comment also asked that we give examples of situations where we would impose distribution restrictions.

For a full discussion of FDA's authority to impose distribution restrictions to ensure the safe use of drug products, see the agency's proposed and final rules amending part 314 by adding subpart H on accelerated approval of new drugs for serious or life-threatening illnesses (proposed rule at 57 FR 13234, April 15, 1992; final rule at 57 FR 59842, December 11, 1992). Those rules relied on sections 501, 502, 503, 505, and 701 of the act (21 U.S.C. 351, 352, 353, 355, and 372) as authority for FDA to issue regulations to help ensure the safety and effectiveness of new drugs.

We agree with the comment that distribution controls should not be placed on a product solely because it is approved under the provisions of this rule. New §§ 314.610(b)(2) and 601.91(b)(2) authorize distribution controls—they do not require them.

We do not believe it would be useful to give examples of situations where distribution controls may be necessary to ensure safe use of the product. Products approved under this rule could be indicated for widely differing conditions, and those products could be used in unique circumstances presenting many distinct safety concerns. It would not be practical to try to devise a list of representative examples of situations where distribution controls would be appropriate.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VI. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)) and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Unless the agency certifies that the rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. Section 202 of the Unfunded Mandates Reform Act (Public Law 104–4) requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation).

The agency has determined that the rule is consistent with the principles set forth in the Executive order and in these statutes. FDA finds that this rule will not have an effect on the economy that exceeds $100 million in any one year (adjusted for inflation). The current inflation-adjusted statutory threshold is about $110 million. Therefore, no further analysis is required under the Unfunded Mandates Reform Act. Because this rule does not impose any new costs on small entities, FDA certifies that this rule will not result in a significant economic impact on a substantial number of small entities. Thus, the agency need not prepare a Regulatory Flexibility Analysis. The agency reached the same conclusions in its proposed rule. FDA has not received any new information or comments that would alter its previous determinations.

VII. The Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: New Drug and Biological Products; Animal Efficacy Studies.

Description: FDA is amending its new drug and biological product regulations to allow appropriate studies in animals in certain cases to provide substantial evidence of effectiveness of new drug and biological products used to reduce or prevent the toxicity of chemical, biological, radiological, or nuclear substances when adequate and well-controlled efficacy studies in humans cannot be ethically conducted because the studies would involve administering a potentially lethal or permanently disabling toxic substance or organism to healthy human volunteers and field trials are not feasible prior to approval. In these circumstances, when it may be impossible to demonstrate effectiveness through adequate and well-controlled studies in humans, FDA is providing that certain new drug and biological products intended to treat or prevent serious or life-threatening conditions could be approved for marketing based on studies in animals, without the traditional efficacy studies in humans. FDA is taking this action because it recognizes the importance of improving medical response capabilities to the use of lethal or permanently disabling chemical, biological, radiological, and nuclear substances in order to protect individuals exposed to these substances.

Respondent Description: Businesses and other for-profit organizations, and nonprofit institutions.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
314.610(b)(2) and 314.630 601.91(b)(2) and 601.93	1	1	1	5	5
314.610(b) and 314.640 601.91(b) and 601.94	1	1	1	240	240
Total					245

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL DISCLOSURE/RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Record-keepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
314.610(b)(2) and 314.630 601.91(b)(2) and 601.93	1	1	1	1	1
314.610(b) 601.91(b)	1	1	1	1	1
Total					2

[1] There are no capital costs or operating and maintenance costs with this collection of information.

FDA estimates that only one application of this nature may be submitted every 3 years; however, for calculation purposes, FDA is estimating the submission of one application annually. FDA estimates 240 hours for a manufacturer of a new drug or biological product to develop patient labeling and to submit the appropriate information and promotional labeling to FDA. At this time, FDA cannot estimate the number of postmarketing reports for adverse drug or biological experiences associated with a newly approved drug or biological product. Therefore, FDA is using one report for purposes of this information collection. These reports are required under parts 310 and 600 (21 CFR parts 310 and 600), and 314. Any burdens associated with these requirements will be reported under the adverse experience reporting (AER) information collection requirements. The estimated hours for postmarketing reports range from 1 to 5 hours based on previous estimates for AER; however FDA is estimating 5 hours for the purpose of this information collection.

The majority of the burden for developing the patient labeling is included under the reporting requirements; therefore, minimal burden is calculated for providing the guide to patients. As discussed previously, no burden can be calculated at this time for the number of AER reports that may be submitted after approval of a new drug or biologic. Therefore, the number of records that may be maintained also cannot be determined. Any burdens associated with these requirements will be reported under the AER information collection requirements. The estimated recordkeeping burden of 1 hour is based on previous estimates for the recordkeeping requirements associated with the AER system.

The information collection provisions in this final rule have been approved under OMB control number 0910–0423. This approval expires December 31, 2002. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 314 and 601 are amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

1. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 355a, 356, 356a, 356b, 356c, 371, 374, 379e.

2. Subpart I, consisting of §§ 314.600 through 314.650, is added to read as follows:

Subpart I—Approval of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible

Sec.

314.600 Scope.
314.610 Approval based on evidence of effectiveness from studies in animals.
314.620 Withdrawal procedures.
314.630 Postmarketing safety reporting.
314.640 Promotional materials.
314.650 Termination of requirements.

Subpart I—Approval of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible

§ 314.600 Scope.

This subpart applies to certain new drug products that have been studied for their safety and efficacy in ameliorating or preventing serious or life-threatening conditions caused by exposure to lethal or permanently disabling toxic biological, chemical, radiological, or nuclear substances. This subpart applies only to those new drug products for which: Definitive human efficacy studies cannot be conducted because it would be unethical to deliberately expose healthy human volunteers to a lethal or permanently disabling toxic biological, chemical, radiological, or nuclear substance; and field trials to study the product's effectiveness after an accidental or hostile exposure have not been feasible. This subpart does not apply to products that can be approved based on efficacy standards described elsewhere in FDA's regulations (e.g., accelerated approval based on surrogate markers or clinical endpoints other than survival or irreversible morbidity), nor does it address the safety evaluation for the products to which it does apply.

§ 314.610 Approval based on evidence of effectiveness from studies in animals.

(a) FDA may grant marketing approval for a new drug product for which safety has been established and for which the requirements of § 314.600 are met based on adequate and well-controlled animal studies when the results of those animal studies establish that the drug product is reasonably likely to produce clinical benefit in humans. In assessing the sufficiency of animal data, the agency may take into account other data, including human data, available to the agency. FDA will rely on the evidence from studies in animals to provide substantial evidence of the effectiveness of these products only when:

(1) There is a reasonably well-understood pathophysiological mechanism of the toxicity of the substance and its prevention or substantial reduction by the product;

(2) The effect is demonstrated in more than one animal species expected to react with a response predictive for humans, unless the effect is demonstrated in a single animal species that represents a sufficiently well-characterized animal model for predicting the response in humans;

(3) The animal study endpoint is clearly related to the desired benefit in humans, generally the enhancement of survival or prevention of major morbidity; and

(4) The data or information on the kinetics and pharmacodynamics of the product or other relevant data or information, in animals and humans, allows selection of an effective dose in humans.

(b) Approval under this subpart will be subject to three requirements:

(1) *Postmarketing studies.* The applicant must conduct postmarketing studies, such as field studies, to verify and describe the drug's clinical benefit and to assess its safety when used as indicated when such studies are feasible and ethical. Such postmarketing studies would not be feasible until an exigency arises. When such studies are feasible, the applicant must conduct such studies with due diligence. Applicants must include as part of their application a plan or approach to postmarketing study commitments in the event such studies become ethical and feasible.

(2) *Approval with restrictions to ensure safe use.* If FDA concludes that a drug product shown to be effective under this subpart can be safely used only if distribution or use is restricted, FDA will require such postmarketing restrictions as are needed to ensure safe use of the drug product, commensurate with the specific safety concerns presented by the drug product, such as:

(i) Distribution restricted to certain facilities or health care practitioners with special training or experience;

(ii) Distribution conditioned on the performance of specified medical procedures, including medical followup; and

(iii) Distribution conditioned on specified recordkeeping requirements.

(3) *Information to be provided to patient recipients.* For drug products or specific indications approved under this subpart, applicants must prepare, as part of their proposed labeling, labeling to be provided to patient recipients. The patient labeling must explain that, for ethical or feasibility reasons, the drug's approval was based on efficacy studies conducted in animals alone and must give the drug's indication(s), directions for use (dosage and administration), contraindications, a description of any reasonably foreseeable risks, adverse reactions, anticipated benefits, drug interactions, and any other relevant information required by FDA at the time of approval. The patient labeling must be available with the product to be provided to patients prior to administration or dispensing of the drug product for the use approved under this subpart, if possible.

§ 314.620 Withdrawal procedures.

(a) *Reasons to withdraw approval.* For new drugs approved under this subpart, FDA may withdraw approval, following a hearing as provided in part 15 of this chapter, as modified by this section, if:

(1) A postmarketing clinical study fails to verify clinical benefit;

(2) The applicant fails to perform the postmarketing study with due diligence;

(3) Use after marketing demonstrates that postmarketing restrictions are inadequate to ensure safe use of the drug product;

(4) The applicant fails to adhere to the postmarketing restrictions applied at the time of approval under this subpart;

(5) The promotional materials are false or misleading; or

(6) Other evidence demonstrates that the drug product is not shown to be safe or effective under its conditions of use.

(b) *Notice of opportunity for a hearing.* The Director of the Center for Drug Evaluation and Research (CDER) will give the applicant notice of an opportunity for a hearing on CDER's proposal to withdraw the approval of an application approved under this subpart. The notice, which will ordinarily be a letter, will state generally the reasons for the action and the proposed grounds for the order.

(c) *Submission of data and information.* (1) If the applicant fails to file a written request for a hearing within 15 days of receipt of the notice, the applicant waives the opportunity for a hearing.

(2) If the applicant files a timely request for a hearing, the agency will publish a notice of hearing in the **Federal Register** in accordance with §§ 12.32(e) and 15.20 of this chapter.

(3) An applicant who requests a hearing under this section must, within 30 days of receipt of the notice of opportunity for a hearing, submit the data and information upon which the applicant intends to rely at the hearing.

(d) *Separation of functions.* Separation of functions (as specified in § 10.55 of this chapter) will not apply at any point in withdrawal proceedings under this section.

(e) *Procedures for hearings.* Hearings held under this section will be conducted in accordance with the provisions of part 15 of this chapter, with the following modifications:

(1) An advisory committee duly constituted under part 14 of this chapter will be present at the hearing. The committee will be asked to review the issues involved and to provide advice and recommendations to the Commissioner of Food and Drugs.

(2) The presiding officer, the advisory committee members, up to three representatives of the applicant, and up to three representatives of CDER may question any person during or at the conclusion of the person's presentation. No other person attending the hearing may question a person making a presentation. The presiding officer may, as a matter of discretion, permit questions to be submitted to the presiding officer for response by a person making a presentation.

(f) *Judicial review.* The Commissioner of Food and Drugs' decision constitutes final agency action from which the applicant may petition for judicial review. Before requesting an order from a court for a stay of action pending review, an applicant must first submit a petition for a stay of action under § 10.35 of this chapter.

§ 314.630 Postmarketing safety reporting.

Drug products approved under this subpart are subject to the postmarketing recordkeeping and safety reporting requirements applicable to all approved drug products, as provided in §§ 314.80 and 314.81.

§ 314.640 Promotional materials.

For drug products being considered for approval under this subpart, unless otherwise informed by the agency, applicants must submit to the agency for consideration during the preapproval review period copies of all promotional materials, including promotional labeling as well as advertisements, intended for dissemination or publication within 120 days following marketing approval. After 120 days following marketing approval, unless otherwise informed by the agency, the applicant must submit promotional materials at least 30 days prior to the intended time of initial dissemination of the labeling or initial publication of the advertisement.

§ 314.650 Termination of requirements.

If FDA determines after approval under this subpart that the requirements established in §§ 314.610(b)(2), 314.620, and 314.630 are no longer necessary for the safe and effective use of a drug product, FDA will so notify the applicant. Ordinarily, for drug products approved under § 314.610, these requirements will no longer apply when FDA determines that the postmarketing study verifies and describes the drug product's clinical benefit. For drug products approved under § 314.610, the restrictions would no longer apply when FDA determines that safe use of the drug product can be ensured through appropriate labeling. FDA also retains the discretion to remove specific postapproval requirements upon review of a petition submitted by the sponsor in accordance with § 10.30 of this chapter.

PART 601—LICENSING

3. The authority citation for 21 CFR part 601 continues to read as follows:

Authority: 15 U.S.C. 1451–1561; 21 U.S.C. 321, 351, 352, 353, 355, 356b, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263, 264; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

4. Subpart H, consisting of §§ 601.90 through 601.95, is added to read as follows:

Subpart H—Approval of Biological Products When Human Efficacy Studies Are Not Ethical or Feasible

Sec.

601.90 Scope.
601.91 Approval based on evidence of effectiveness from studies in animals.
601.92 Withdrawal procedures.
601.93 Postmarketing safety reporting.
601.94 Promotional materials.
601.95 Termination of requirements.

Subpart H—Approval of Biological Products When Human Efficacy Studies Are Not Ethical or Feasible

§ 601.90 Scope.

This subpart applies to certain biological products that have been studied for their safety and efficacy in ameliorating or preventing serious or life-threatening conditions caused by exposure to lethal or permanently disabling toxic biological, chemical, radiological, or nuclear substances. This subpart applies only to those biological products for which: Definitive human efficacy studies cannot be conducted because it would be unethical to deliberately expose healthy human volunteers to a lethal or permanently disabling toxic biological, chemical, radiological, or nuclear substance; and field trials to study the product's efficacy after an accidental or hostile exposure have not been feasible. This subpart does not apply to products that can be approved based on efficacy standards described elsewhere in FDA's regulations (e.g., accelerated approval based on surrogate markers or clinical endpoints other than survival or irreversible morbidity), nor does it address the safety evaluation for the products to which it does apply.

§ 601.91 Approval based on evidence of effectiveness from studies in animals.

(a) FDA may grant marketing approval for a biological product for which safety has been established and for which the requirements of § 601.90 are met based on adequate and well-controlled animal studies when the results of those animal studies establish that the biological product is reasonably likely to produce clinical benefit in humans. In assessing the sufficiency of animal data, the agency may take into account other data, including human data, available to the agency. FDA will rely on the evidence from studies in animals to provide substantial evidence of the effectiveness of these products only when:

(1) There is a reasonably well-understood pathophysiological mechanism of the toxicity of the substance and its prevention or substantial reduction by the product;

(2) The effect is demonstrated in more than one animal species expected to react with a response predictive for humans, unless the effect is demonstrated in a single animal species that represents a sufficiently well-characterized animal model for predicting the response in humans;

(3) The animal study endpoint is clearly related to the desired benefit in humans, generally the enhancement of survival or prevention of major morbidity; and

(4) The data or information on the kinetics and pharmacodynamics of the product or other relevant data or information, in animals and humans, allows selection of an effective dose in humans.

(b) Approval under this subpart will be subject to three requirements:

(1) *Postmarketing studies.* The applicant must conduct postmarketing studies, such as field studies, to verify and describe the biological product's clinical benefit and to assess its safety when used as indicated when such studies are feasible and ethical. Such postmarketing studies would not be feasible until an exigency arises. When such studies are feasible, the applicant must conduct such studies with due diligence. Applicants must include as part of their application a plan or approach to postmarketing study commitments in the event such studies become ethical and feasible.

(2) *Approval with restrictions to ensure safe use.* If FDA concludes that a biological product shown to be effective under this subpart can be safely used only if distribution or use is restricted, FDA will require such postmarketing restrictions as are needed to ensure safe use of the biological product, commensurate with the specific safety concerns presented by the biological product, such as:

(i) Distribution restricted to certain facilities or health care practitioners with special training or experience;

(ii) Distribution conditioned on the performance of specified medical procedures, including medical followup; and

(iii) Distribution conditioned on specified recordkeeping requirements.

(3) *Information to be provided to patient recipients.* For biological products or specific indications approved under this subpart, applicants must prepare, as part of their proposed labeling, labeling to be provided to patient recipients. The patient labeling must explain that, for ethical or feasibility reasons, the biological product's approval was based on efficacy studies conducted in animals alone and must give the biological product's indication(s), directions for use (dosage and administration), contraindications, a description of any reasonably foreseeable risks, adverse reactions, anticipated benefits, drug interactions, and any other relevant information required by FDA at the time of approval. The patient labeling must be available with the product to be provided to patients prior to administration or dispensing of the biological product for the use approved under this subpart, if possible.

§ 601.92 Withdrawal procedures.

(a) *Reasons to withdraw approval.* For biological products approved under this subpart, FDA may withdraw approval, following a hearing as provided in part 15 of this chapter, as modified by this section, if:

(1) A postmarketing clinical study fails to verify clinical benefit;

(2) The applicant fails to perform the postmarketing study with due diligence;

(3) Use after marketing demonstrates that postmarketing restrictions are inadequate to ensure safe use of the biological product;

(4) The applicant fails to adhere to the postmarketing restrictions applied at the time of approval under this subpart;

(5) The promotional materials are false or misleading; or

(6) Other evidence demonstrates that the biological product is not shown to be safe or effective under its conditions of use.

(b) *Notice of opportunity for a hearing.* The Director of the Center for Biologics Evaluation and Research (CBER) will give the applicant notice of an opportunity for a hearing on CBER's proposal to withdraw the approval of an application approved under this subpart. The notice, which will ordinarily be a letter, will state generally the reasons for the action and the proposed grounds for the order.

(c) *Submission of data and information.* (1) If the applicant fails to file a written request for a hearing within 15 days of receipt of the notice, the applicant waives the opportunity for a hearing.

(2) If the applicant files a timely request for a hearing, the agency will publish a notice of hearing in the **Federal Register** in accordance with §§ 12.32(e) and 15.20 of this chapter.

(3) An applicant who requests a hearing under this section must, within 30 days of receipt of the notice of opportunity for a hearing, submit the data and information upon which the applicant intends to rely at the hearing.

(d) *Separation of functions.* Separation of functions (as specified in § 10.55 of this chapter) will not apply at any point in withdrawal proceedings under this section.

(e) *Procedures for hearings.* Hearings held under this section will be conducted in accordance with the provisions of part 15 of this chapter, with the following modifications:

(1) An advisory committee duly constituted under part 14 of this chapter will be present at the hearing. The committee will be asked to review the issues involved and to provide advice and recommendations to the Commissioner of Food and Drugs.

(2) The presiding officer, the advisory committee members, up to three representatives of the applicant, and up to three representatives of CBER may question any person during or at the conclusion of the person's presentation. No other person attending the hearing may question a person making a presentation. The presiding officer may, as a matter of discretion, permit questions to be submitted to the presiding officer for response by a person making a presentation.

(f) *Judicial review.* The Commissioner of Food and Drugs' decision constitutes final agency action from which the applicant may petition for judicial review. Before requesting an order from a court for a stay of action pending review, an applicant must first submit a petition for a stay of action under § 10.35 of this chapter.

§ 601.93 Postmarketing safety reporting.

Biological products approved under this subpart are subject to the postmarketing recordkeeping and safety reporting applicable to all approved biological products.

§ 601.94 Promotional materials.

For biological products being considered for approval under this subpart, unless otherwise informed by the agency, applicants must submit to the agency for consideration during the preapproval review period copies of all promotional materials, including promotional labeling as well as advertisements, intended for dissemination or publication within 120 days following marketing approval. After 120 days following marketing approval, unless otherwise informed by the agency, the applicant must submit promotional materials at least 30 days prior to the intended time of initial dissemination of the labeling or initial publication of the advertisement.

601.95 Termination of requirements.

If FDA determines after approval under this subpart that the requirements established in §§ 601.91(b)(2), 601.92, and 601.93 are no longer necessary for the safe and effective use of a biological product, FDA will so notify the applicant. Ordinarily, for biological products approved under § 601.91, these requirements will no longer apply when FDA determines that the postmarketing study verifies and describes the biological product's clinical benefit. For biological products approved under § 601.91, the restrictions would no longer apply when FDA determines that safe use of the biological product can be ensured through appropriate labeling. FDA also retains the discretion to remove specific postapproval requirements upon review of a petition submitted by the sponsor in accordance with § 10.30 of this chapter.

Dated: May 23, 2002.

Lester M. Crawford,

Deputy Commissioner.

[FR Doc. 02–13583 Filed 5–30–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8998]

RIN 1545–BA74

Loss Limitation Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments to temporary regulations issued under sections 337(d) and 1502. The amendments clarify certain aspects of the temporary regulations relating to the deductibility of losses recognized on dispositions of subsidiary stock by members of a consolidated group. The amendments in these temporary regulations apply to corporations filing consolidated returns, both during and after the period of affiliation, and also affect purchasers of the stock of members of a consolidated group. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective May 31, 2002.

Applicability Date: For dates of applicability *see* § 1.337(d)–2T(g) and 1.1502–20T(i).

FOR FURTHER INFORMATION CONTACT: Sean P. Duffley (202) 622–7530 or Lola L. Johnson (202) 622–7550 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these regulations has been previously reviewed and approved by the Office of Management and Budget under control number 1545–1774. Responses to this collection of information are voluntary. No material changes to this collection of information are made by these regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On March 12, 2002, the IRS and Treasury published in the **Federal Register** at 67 FR 11034 (2002–13 I.R.B. 668) temporary regulations under sections 337(d) and 1502 (the temporary regulations). The temporary regulations set forth rules that limit the deductibility of loss recognized by a consolidated group on the disposition of stock of a subsidiary member and that require certain basis reductions on the deconsolidation of stock of a subsidiary member. Section 1.1502–20T(i) of the temporary regulations provides that, in the case of a disposition or deconsolidation of a subsidiary before March 7, 2002, and for such transactions effected pursuant to a binding written contract entered into before March 7, 2002, that was in continuous effect until the disposition or deconsolidation, a consolidated group may determine the amount of allowable stock loss or basis reduction by applying § 1.1502–20 in its entirety, § 1.1502–20 without regard to the duplicated loss component of the loss disallowance rule, or § 1.337(d)-2T. For dispositions and deconsolidations that occur on or after March 7, 2002, and that are not within the scope of the binding contract rule, § 1.1502–20T(i) provides that allowable loss and basis reduction are determined under § 1.337(d)-2T, not § 1.1502–20.

Explanation of Provisions

Since the publication of the temporary regulations, several questions have been raised concerning the interpretation and application of the temporary regulations. In response to these questions, the IRS and Treasury are promulgating the regulations in this Treasury decision as temporary regulations to clarify and amend the temporary regulations as described below in this preamble. The following paragraphs describe these amendments.

Netting Rule

Commentators requested that § 1.337(d)-2T be amended to provide a netting rule similar to that set forth in § 1.1502–20(a)(4), pursuant to which gain and loss from certain dispositions of stock may be netted. This Treasury decision adds § 1.337(d)-2T(a)(4) to provide such a rule and also adds § 1.337(d)-2T(b)(4), which provides a similar netting rule for basis reductions on deconsolidations of subsidiary stock.

Time For Filing Election Described in § 1.1502–20T(i)

Section 1.1502–20T(i) currently provides that an election to determine allowable loss by applying § 1.1502–20 (without regard to the duplicated loss component of the loss disallowance rule) or § 1.337(d)–2T must be made by including a statement with or as part of the original return for the taxable year that includes the later of March 7, 2002, and the date of the disposition or deconsolidation of the stock of the subsidiary, or with or as part of an amended return filed before the date the original return for the taxable year that includes March 7, 2002, is due. Commentators noted that this provision may not permit the election to be made on an original return for the 2001 taxable year where the disposition occurs during the 2001 taxable year. The IRS and Treasury believe that it is appropriate to permit the election to be made on such a return. Therefore, this Treasury decision amends § 1.1502–20T(i) to provide that the statement may be filed with or as part of a timely filed (including any extensions) original return for any taxable year that includes any date on or before March 7, 2002. In addition, if the date of the disposition or deconsolidation of the stock of the subsidiary is after March 7, 2002, the statement may be filed with or as part of a timely filed (including any extensions) original return for the taxable year that includes such date. This latter alternative effectively permits the statement to be filed with the original return that includes the date of the disposition or deconsolidation if, as of March 7, 2002, the disposition or deconsolidation was subject to a binding written contract entered into before March 7, 2002, that was in continuous effect until the date of the disposition or deconsolidation.

Requirements for Perfecting Election Described in § 1.1502–20T(i)

Commentators questioned whether an election to determine allowable loss by applying § 1.1502–20 (without regard to the duplicated loss component of the loss disallowance rule) or § 1.337(d)–2T was valid only if a statement of allowed loss described in § 1.337(d)–2T(c) or 1.1502–20(c), as appropriate, was or is filed with respect to the disposition or deconsolidation of subsidiary stock. The amendments to the temporary regulations in this Treasury decision clarify that no statement other than the one described in § 1.1502–20T(i)(4) is necessary to perfect an election to compute allowable loss or basis reduction by applying the provisions described in § 1.1502–20T(i)(2)(i) or (ii). Therefore, an election pursuant to § 1.1502–20T(i) may be made regardless of whether a statement of allowed loss described in § 1.337(d)–2T(c) or 1.1502–20(c) was or is filed with respect to the disposition or deconsolidation.

In addition, taxpayers determining allowable loss under § 1.1502–20 in its entirety will generally be treated as having satisfied the requirement to file a statement of allowed loss otherwise imposed by § 1.1502–20(c) even if no such statement is filed. Nothing in the temporary regulations or these amendments to the temporary regulations, however, affects the filing requirements regarding the election provided in § 1.1502–20(g).

Effect of Election

Finally, a number of questions have been raised regarding the extent to which the election described in § 1.1502–20T(i) affects a taxpayer's items of income, gain, deduction, or loss other than the loss allowed on a disposition of subsidiary stock. In response to these questions, the temporary regulations are amended to explain that if, pursuant to an election under § 1.1502–20T(i), the loss allowed with respect to a disposition of subsidiary stock is increased, but the year of the disposition (or the year to which such loss would have been carried back or carried forward) is closed, to the extent that the absorption of such excess loss in such year would have affected the tax treatment of another item (*e.g.*, another loss that was absorbed in such year) that has an effect in an open year, the election will affect the treatment of such other item.

In addition, the regulations provide a special rule for situations in which a subsidiary of the group (the disposing member) recognized a loss on the disposition of stock of a lower-tier subsidiary member of the group, the loss was disallowed under § 1.1502–20, and, as a result, a group member's basis in the stock of the disposing member was reduced pursuant to § 1.1502–32 (because the disallowed loss was treated as a noncapital, nondeductible expense). In such cases, to the extent that all or some portion of the disallowed loss is allowed as a result of an election under § 1.1502–20T(i), but such loss would have been properly absorbed or expired in a closed year, the basis in the stock of the disposing member may be increased. This adjustment is to be made for purposes of determining the group's or the shareholder-member's Federal income tax liability for all open years.

Special Analyses

In light of the Federal Circuit's decision in *Rite Aid Corp.* v. *United States*, 255 F.3d 1357 (Fed. Cir. 2001), the temporary regulations were necessary to provide taxpayers with immediate guidance regarding allowable loss and basis reductions in connection with dispositions and deconsolidations of subsidiary stock and to carry out the principles of *General Utilities* repeal pending the issuance of further guidance. These amendments to the temporary regulations clarify those rules and simplify their application in order to ease taxpayer compliance. Accordingly, good cause is found for dispensing with notice and public procedure pursuant to 5 U.S.C. 553(b)(B) and with a delayed effective date pursuant to 5 U.S.C. 553(d)(1) and (3). It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

Drafting Information

The principal authors of these regulations are Sean P. Duffley and Lola L. Johnson, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for part 1 is amended by removing the entry for "Section 1.1502–20T(i)" and adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–20T also issued under the authority of 26 U.S.C. 337(d) and 1502.* * *

Par. 2. In § 1.337(d)–2T, paragraphs (a)(4) and (b)(4) are added to read as follows:

§ 1.337(d)–2T Loss limitation window period (temporary).

(a) * * *

(4) *Netting.* Paragraph (a)(1) of this section does not apply to loss with respect to the disposition of stock of a subsidiary, to the extent that, as a consequence of the same plan or arrangement, gain is taken into account by members with respect to stock of the same subsidiary having the same material terms. If the gain to which this paragraph applies is less than the amount of the loss with respect to the disposition of the subsidiary's stock, the gain is applied to offset loss with respect to each share disposed of as a consequence of the same plan or arrangement in proportion to the amount of the loss deduction that would have been disallowed under paragraph (a)(1) of this section with respect to such share before the application of this paragraph (a)(4). If the same item of gain could be taken into account more than once in limiting the application of paragraphs (a)(1) and (b)(1) of this section, the item is taken into account only once.

(b) * * *

(4) *Netting.* Paragraph (b)(1) of this section does not apply to reduce the basis of stock of a subsidiary, to the extent that, as a consequence of the same plan or arrangement, gain is taken into account by members with respect to stock of the same subsidiary having the same material terms. If the gain to which this paragraph applies is less than the amount of basis reduction with respect to shares of the subsidiary's stock, the gain is applied to offset basis reduction with respect to each share deconsolidated as a consequence of the same plan or arrangement in proportion to the amount of the reduction that would have been required under paragraph (b)(1) of this section with

respect to such share before the application of this paragraph (b)(4).

* * * * *

Par. 3. Section 1.1502–20T is amended by revising paragraphs (i)(3)(v) and (i)(4) to read as follows:

§ 1.1502–20T Disposition or deconsolidation of subsidiary stock (temporary).

* * * * *

(i) * * *

(3) * * *

(v) *Items taken into account in open years*—(A) *General rule.* An election under paragraph (i)(2) of this section affects a taxpayer's items of income, gain, deduction, or loss only to the extent that the election gives rise, directly or indirectly, to items or amounts that would properly be taken into account in a year for which an assessment of deficiency or a refund of overpayment, as the case may be, is not prevented by any law or rule of law. Under this paragraph, if the election increases the loss allowed with respect to a disposition of subsidiary stock, but the year of the disposition (or the year to which such loss would have been carried back or carried forward) is a year for which a refund of overpayment is prevented by law, to the extent that the absorption of such excess loss in such year would have affected the tax treatment of another item (e.g., another loss that was absorbed in such year) that has an effect in a year for which a refund of overpayment is not prevented by any law or rule of law, the election will affect the treatment of such other item. Therefore, if the absorption of the excess loss in the year of the disposition (which is a year for which a refund of overpayment is prevented by law) would have prevented the absorption of another loss (the second loss) in such year and such loss would have been carried to and used in a year for which a refund of overpayment is not prevented by any law or rule of law (the other year), the election makes the second loss available for use in the other year.

(B) *Special rule.* If a member's basis in stock of a subsidiary was reduced pursuant to § 1.1502–32 because a loss with respect to stock of a lower-tier subsidiary was treated as disallowed under § 1.1502–20, then, to the extent such disallowed loss is allowed as a result of an election under paragraph (i) of the section but would have been properly absorbed or expired in a year for which a refund of overpayment is prevented by law or rule of law, the member's basis in the subsidiary stock may be increased for purposes of determining the group's or the shareholder-member's Federal income tax liability in all years for which a refund of overpayment is not prevented by law or rule of law.

* * * * *

(4) *Time and manner of making the election.* An election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) or (ii) of this section is made by including the statement required by this paragraph with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before March 7, 2002, or, if the date of the disposition or deconsolidation of the stock of the subsidiary is after March 7, 2002, then such date, or with or as part of an amended return filed before the date the original return for the taxable year that includes March 7, 2002, is due (including any extensions). Filing a statement in accordance with the provisions of this paragraph satisfies the requirement to file a "statement of allowed loss" otherwise imposed under § 1.1502–20(c)(3) or § 1.337(d)–2T(c)(3). The statement required by this paragraph satisfies the requirement that a statement be filed in order to claim allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) or (ii). The statement filed under this paragraph shall be entitled "Allowed Loss under Section [Specify Section under Which Allowed Loss Is Determined] Pursuant to Section 1.1502–20T(i)" and must include the following information—

(i) The name and employer identification number (E.I.N.) of the subsidiary and of the member(s) that disposed of the subsidiary stock;

(ii) In the case of an election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) of this section, a statement that the taxpayer elects to determine allowable loss or basis reduction by applying such provisions;

(iii) In the case of an election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(ii) of this section, a statement that the taxpayer elects to determine allowable loss or basis reduction by applying such provisions;

(iv) If an election described in § 1.1502–20(g) was made with respect to the disposition of the stock of the subsidiary, the amount of losses originally treated as reattributed pursuant to such election and the amount of losses treated as reattributed pursuant to paragraph (i)(3)(i) or (ii) of this section;

(v) If an apportionment of a separate section 382 limitation, a subgroup section 382 limitation, or a consolidated section 382 limitation is adjusted pursuant to paragraph (i)(3)(iii)(A), (B), or (C) of this section, the original and redetermined apportionment of such limitation; and

(vi) If the application of paragraph (i)(3)(i) or (ii) of this section results in a reduction of the amount of losses treated as reattributed pursuant to an election described in § 1.1502–20(g), a statement that the notification described in paragraph (i)(3)(iv) of this section was sent to the subsidiary and, if the acquirer was a member of a consolidated group at the time of the stock sale, to the person that was the common parent of such group at such time, as required by paragraph (i)(3)(iv) of this section.

* * * * *

Approved: May 20, 2002.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: May 20, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

(FR Doc. 02–13574 Filed 5–30–02; 8:45 am)

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8997]

RIN 1545–BA76

Carryback of Consolidated Net Operating Losses to Separate Return Years

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains regulations under section 1502 that affect corporations filing consolidated returns. These regulations permit certain acquiring consolidated groups to elect to waive all or a portion of the pre-acquisition portion of the 5-year carryback period under section 172(b)(1)(H) for certain losses attributable to certain acquired members. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These temporary regulations are effective May 31, 2002.

Applicability Date: These regulations apply to consolidated net operating losses arising in taxable years ending during 2001 and 2002.

FOR FURTHER INFORMATION CONTACT: Marie Milnes-Vasquez of the Office of Associate Chief Counsel (Corporate), (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1790. Responses to this collection of information are required to obtain a benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On July 2, 1999, the IRS and Treasury published in the **Federal Register** (64 FR 36092 (1999–2 C.B. 34)) final regulations regarding certain deductions and losses of members that join a consolidated group. These regulations added § 1.1502–21(b)(3)(ii)(B), which permits an acquiring consolidated group to elect to waive, with respect to all consolidated net operating losses attributable to certain acquired members, the portion of the carryback period for which the corporation was a member of another group.

Section 172(b)(1) provides, in part, that a net operating loss for any taxable year must generally be carried back to each of the 2 taxable years preceding the taxable year of the loss. Section 172(b)(3) provides that any taxpayer entitled to a carryback period under section 172(b)(1) may elect to relinquish the carryback period with respect to a loss for any taxable year. An election to relinquish the carryback period under section 172(b)(3) must be made by the due date (including extensions) of the taxpayer's return for the taxable year of the loss and in the manner prescribed by the Secretary. Normally, this election is irrevocable.

Section 172(b)(1)(H), which was enacted as part of the Job Creation and Worker Assistance Act of 2002 (the Act), extended the 2-year carryback period to 5 years for losses arising in taxable years ending during 2001 and 2002 (hereafter, 2001 and 2002). Section 172(j), which was also enacted as part of the Act, allows a taxpayer entitled to the 5-year carryback period under section 172(b)(1)(H) to elect to relinquish that carryback period with respect to a loss for any taxable year. A taxpayer making this election generally must apply the 2-year carryback period set forth in section 172(b)(1), unless the taxpayer also elects to relinquish that carryback period under section 172(b)(3).

As described in Revenue Procedure 2002–40 (2002–23 I.R.B.), in order to give effect to the intent of Congress to allow taxpayers a 5-year carryback period to the maximum extent possible, the Service is permitting any taxpayer that previously elected under section 172(b)(3) to forgo the carryback period for losses arising in 2001 or 2002 to revoke such election in order to take advantage of the 5-year carryback period, provided the taxpayer revokes the election no later than October 31, 2002. Revenue Procedure 2002–40 also permits a taxpayer that filed an application for a tentative carryback adjustment or an amended return using the 2-year carryback period for a net operating loss arising in 2001 or 2002 to file certain forms to claim the 5-year carryback period provided under section 172(b)(1)(H).

Given the enactment of section 172(b)(1)(H) and taxpayers' ability to revoke prior elections under section 172(b)(3) and to make certain other filings in order to take advantage of the 5-year carryback period, the IRS and Treasury believe that it is appropriate to afford certain acquiring consolidated groups that did not make an election described in § 1.1502–21(b)(3)(ii)(B) with respect to certain acquired members an opportunity to waive the portion of the entire carryback period or the portion of the extended carryback period for 2001 and 2002 losses attributable to the acquired members, for pre-acquisition years. In this regard, the regulations in this Treasury decision add § 1.1502–21T(b)(3)(ii)(C), which sets forth two elections.

Pursuant to the first election, an acquiring group may waive the portion of the 5-year carryback period for 2001 and 2002 losses attributable to a member acquired from another group after June 25, 1999, for which the member was a member of another group. While this election effectively permits a waiver of the entire 5-year carryback period to the extent that it is prior to the acquisition with respect to a consolidated net operating loss arising in a particular taxable year, it is only available where none of such losses have previously been carried back to a taxable year of a group of which the acquired member was previously a member.

Pursuant to the second election, an acquiring group may waive the portion of the pre-acquisition carryback period for 2001 and 2002 losses attributable to a member acquired from another group to the extent that the Act increased the carryback period for such losses. This second election effectively permits a waiver of the third, fourth, and fifth carryback years to the extent that such years are prior to the acquisition and is available even where 2001 or 2002 losses have been carried back to the first or second carryback years of the acquired member that are pre-acquisition years. This second election, however, is only available with respect to consolidated net operating losses arising in a particular taxable year where none of such losses have been carried back to a taxable year of a group of which the acquired member was previously a member that is prior to the second taxable year preceding the taxable year of the loss.

Unlike the election under § 1.1502–21(b)(3)(ii)(B), the elections provided in these regulations apply only to losses for 2001 and 2002. In addition, the elections are made on a year-by-basis. That is, one election may be made for 2001 losses while another election, or no election, may be made for 2002 losses. An election that relates to consolidated net operating losses attributable to a taxable year ending during 2001 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001, provided that such original or amended return is filed on or before October 31, 2002. An election that relates to consolidated net operating losses attributable to a taxable year ending during 2002 must be filed

with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001 or 2002, provided that such original or amended return is filed on or before September 15, 2003.

If the acquiring consolidated group files or filed a valid election described in § 1.1502–21(b)(3)(ii)(B) with respect to the acquisition of a member, no election under § 1.1502–21T(b)(3)(ii)(C) needs to be (or should be) filed to ensure that 2001 or 2002 losses are not carried back to pre-acquisition years of the acquired member.

Special Analyses

These temporary regulations are necessary to provide taxpayers with immediate elective relief from section 172(b)(1)(H), which was enacted as the part of the Job Creation and Worker Assistance Act of 2002. These regulations permit certain acquiring consolidated groups to elect to waive the 5-year carryback period with respect to certain acquired members. The regulations apply to losses arising in taxable years ending in 2001 and 2002. Based on these considerations, it is determined that this temporary regulation will provide taxpayers with the necessary guidance and authority to ensure equitable administration of the tax laws. Because of the need for immediate guidance, notice and public procedure are impracticable and contrary to the public interest pursuant to 5 USC 553(b)(B) and delayed effective date is not required pursuant to 5 USC 553(d)(1) and (3).

Further, it has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Marie Milnes-Vasquez. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–21T also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.1502–21 is amended by adding paragraph (b)(3)(ii)(C) to read as follows:

§ 1.1502–21 Net operating losses.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) [Reserved]. For further guidance, see § 1.1502–21T(b)(3)(ii)(C).

* * * * *

Par. 3. Section 1.1502–21T is added to read as follows:

§ 1.1502–21T Net operating losses (temporary).

(a) through (b)(3)(ii)(B) [Reserved]. For further guidance, see § 1.1502–21(a) through (b)(3)(ii)(B).

(C) *Partial waiver of carryback period for 2001 and 2002 losses—(1) Application.* The acquiring group may make the elections described in paragraphs (b)(3)(ii)(C)(*2*) and (*3*) of this section with respect to an acquired member or members only if it did not file a valid election described in § 1.1502–21(b)(3)(ii)(B) with respect to such acquired member or members on or before May 31, 2002.

(*2*) *Partial waiver of entire pre-acquisition carryback period.* If one or more members of a consolidated group become members of another consolidated group after June 25, 1999, then, with respect to all consolidated net operating losses attributable to the member for the taxable year ending during either 2001 or 2002, or both, the acquiring group may make an irrevocable election to relinquish the portion of the carryback period for such losses for which the corporation was a member of another group, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver and that the conditions of this paragraph are satisfied. The acquiring group cannot make the election described in this paragraph with respect to any consolidated net operating losses arising in a particular taxable year if any carryback is claimed, as provided in paragraph (b)(3)(ii)(C)(*4*) of this section, with respect to any such losses on a return or other filing by a group of which the acquired member was previously a member and such claim is filed on or before the date the election described in this paragraph is filed. The election must be made in a separate statement entitled "THIS IS AN ELECTION UNDER SECTION 1.1502–21T(b)(3)(ii)(C)(*2*) TO WAIVE THE PRE-[insert first day of the first taxable year for which the member (or members) was a member of the acquiring group] CARRYBACK PERIOD FOR THE CNOLS ATTRIBUTABLE TO THE [insert taxable year of losses] TAXABLE YEAR(S) OF [insert names and employer identification numbers of members]." Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(*5*) of this section.

(*3*) *Partial waiver of pre-acquisition extended carryback period.* If one or more members of a consolidated group become members of another consolidated group, then, with respect to all consolidated net operating losses attributable to the member for the taxable year ending during either 2001 or 2002, or both, the acquiring group may make an irrevocable election to relinquish the portion of the carryback period for such losses for which the corporation was a member of another group to the extent that such carryback period includes one or more taxable years that are prior to the taxable year that is 2 taxable years preceding the taxable year of the loss, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver and that the conditions of this paragraph are satisfied. The acquiring group cannot make the election described in this paragraph with respect to any consolidated net operating losses arising in a particular taxable year if a carryback to one or more taxable years that are prior to the taxable year that is 2 taxable years preceding the taxable year of the loss is claimed, as provided in paragraph (b)(3)(ii)(C)(*4*) of this section, with respect to any such losses on a return or other filing by a group of which the acquired member was previously a member and such claim is filed on or before the date the election described in this paragraph is filed. The election must be made in a separate statement entitled "THIS IS AN ELECTION UNDER SECTION 1.1502–21T(b)(3)(ii)(C)(*3*) TO WAIVE THE PRE-[insert first day of the first taxable year for which the member (or members) was a member of the acquiring group] EXTENDED CARRYBACK PERIOD FOR THE CNOLS ATTRIBUTABLE TO THE [insert taxable year of losses] TAXABLE YEAR(S) OF [insert names and employer identification numbers of members]." Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(*5*) of this section.

(*4*) *Claim for a carryback.* For purposes of paragraphs (b)(3)(ii)(C)(*2*) and (*3*) of this section, a carryback is claimed with respect to a consolidated net operating loss if there is a claim for refund, an amended return, an application for a tentative carryback adjustment, or any other filing that claims the benefit of the net operating loss in a taxable year prior to the taxable year of the loss, whether or not subsequently revoked in favor of a claim based on a 5-year carryback period.

(*5*) *Time and manner for filing statement.* A statement described in paragraph (b)(3)(ii)(C)(*2*) or (*3*) of this section that relates to consolidated net operating losses attributable to a taxable year ending during 2001 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001, provided that such original or amended return is filed on or before October 31, 2002. A statement described in paragraph (b)(3)(ii)(C)(*2*) or (*3*) of this section that relates to consolidated net operating losses attributable to a taxable year ending during 2002 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001 or 2002, provided that such original or amended return is filed on or before September 15, 2003.

(iii) through (h) [Reserved]. For further guidance, see § 1.1502–21(b)(3)(iii) through (h).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (b) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1502–21T	1545–1790
* * * * *	

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

Approved: May 20, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 02–13576 Filed 5–30–02; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

RIN 1212–AA82

PBGC Benefit Payments; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; correction.

SUMMARY: The Pension Benefit Guaranty Corporation's final rule on PBGC Benefit Payments, published on April 8, 2002 (at 67 FR 16950), contains an inadvertent error relating to the PBGC's regulation on Allocation of Assets in Single-Employer Plans. This document corrects that error.

EFFECTIVE DATE: June 1, 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: On April 8, 2002 (at 67 FR 16950), the PBGC published a final rule on PBGC Benefit Payments. That final rule inadvertently (1) drops existing regulatory text from § 4044.13(b) of the PBGC's regulation on Allocation of Assets in Single-Employer Plans; and (2) omits two conforming amendments in the text that was dropped from that regulation. The conforming amendments that were omitted were included in the PBGC's proposed rule on PBGC Benefit Payments published December 26, 2000 (at 65 FR 81456). This document corrects that error.

In rule document 02–8340, make the following corrections:

PART 4044—[CORRECTED]

§ 4044.13 [Corrected].

1. On page 16959, in the second column, correct amendatory instruction 17 to read as follows:

17. Amend § 4044.13 as follows:

a. Revise paragraphs (a), (b) introductory text, and (b)(1);

b. In paragraph (b)(2)(i), revise the second sentence; and

c. In paragraph (b)(5), remove "before the beginning" and add "on or before the first day" in their place.

The revisions read as follows:

2. On page 16959, in the third column, following paragraph (b)(1)(iii), add the following text:

§ 4044.13 Priority category 3 benefits.

* * * * *

(b) * * *

(2) * * *

(i) * * * Benefit increases that were effective throughout the 5-year period ending on the termination date, including automatic benefit increases during that period to the extent provided in paragraph (b)(5) of this section, shall be included in determining the priority category 3 benefit. * * *

* * * * *

Issued in Washington, DC, this 24th day of May, 2002.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 02–13656 Filed 5–30–02; 8:45 am]

BILLING CODE 7708–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201 and 212

[Docket No. RM 2002–3]

Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress is publishing a final rule establishing adjusted fees for certain of its services. The basic fee for registration of an original work of authorship is not affected; however, related registration and recordation fees will be adjusted. These adjustments include a number of increased fees, the elimination of one fee, and the lowering of another. Adjusted fees will be effective July 1, 2002. This final rule assumes that no legislative action will take place before July 1, 2002.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel or Patricia Sinn, Senior Attorney, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380; Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: This final rule adjusts Copyright Office fees in accordance with the applicable provisions of title 17, United States Code, and the Technical Amendments Act, Pub. L. No. 105–80, 111 Stat. 1529 (1997).

The Office submitted its proposed fee schedule to Congress on February 28, 2002. Congress has 120 days in which it could enact a law if it does not approve the schedule. If no such legislation is enacted the fees may be instituted. Should such legislation be enacted, the Copyright Office will publish a document in the **Federal Register** to notify its customers that this final rule and certain of the fees established herein will not take effect. Copyright customers should refer to the official Copyright Office website (*www.copyright.gov*) for the most current fee amounts. Official notices of any fee changes will also be published in the **Federal Register**.

Background

Statutory Provisions

In 1997 Congress authorized the Register of Copyrights to implement fees for services that were formerly set by Congress under a new procedure which first required the Register to conduct a study of the costs incurred for the registration of claims, the recordation of documents, and the provision of services. If the Register determines that fees should be adjusted after the review of all statutory criteria, the Register prepares a proposed fee schedule and submits the schedule and the accompanying economic analysis to Congress. The fees proposed in that schedule may be instituted in 120 days unless Congress enacts a law within that 120 day period stating that it does not approve the schedule. Technical Amendments Act, Pub L. 105–80, 111 Stat. 1529 (1997).

In 1998, the Copyright Office initiated a process to adjust fees by publication of a notice. 63 FR 43426 (August 13, 1998). At the end of the process, the Register forwarded a report with a proposed fee schedule to Congress on February 1, 1999, and increased most of its fees including the basic registration fees on July 1, 1999. *See* 64 FR 29518 (June 1, 1999). Implementation of the new system established by Congress means that the Office's fee schedule for certain services specified in title 17 as well as other special services is set out in regulations rather than in title 17. *See* 37 CFR 201.3.

Fee Adjustment Level

When it adjusted fees in 1998–1999, the Office decided that it should next consider adjusting fees three years after that adjustment. Following a cost analysis initiated in fiscal year 2000, and completion of the other necessary steps, the Register forwarded a proposed fee schedule and the accompanying economic analysis to Congress on February 28, 2002. In the absence of legislation directing otherwise, the new fee schedule will take effect on July 1, 2002.

The proposed new fee schedule was submitted after the Office had both (1) completed the economic analysis required, evaluating the costs of providing the mandatory services identified in title 17, and (2) made a determination that the other statutory criteria, including the requirement that fees "should also be fair and equitable and give due considerations to the objectives of the copyright system," 17 U.S.C. 708(b)(4), had been met.

At the conclusion of this analysis, the Register concluded that a number of fees needed to be increased to recover the full cost of providing the service; certain other fees needed to be increased slightly by the rate of inflation to maintain cost recovery; and the rest of the fees based on current and projected cost recovery should not be adjusted at this time. Services for which fees were increased to achieve or maintain cost recovery for providing the service include making a renewal registration, registering an original vessel hull design, recording a document, searching and preparing a report from Copyright Office records, and recording a designated online service provider agent.

For a number of reasons, the Register determined that an adjustment of the basic registration filing fee, which the Office had increased by 50% in 1999, was not warrented at this time. In her submission to Congress, the Register noted the level of cost recovery registration fees enjoyed in FY 2000 and FY 2001, the large increases imposed on the public in recent years, the negative effects of the decline in registrations that follow every fee increase, the costs associated with increasing the fee, and the changes in processing anticipated from the Copyright Office's business process re-engineering effort.

For public policy reasons, the Office eliminated the fee for inspection of Copyright Office records and also reduced the minimum cost for the first 15 pages of photocopying. Other statutory fees remain at the same level set in 1999.

In July of 1998, the Office adjusted non-statutory fees in a separate proceeding. For convenience, the non-statutory fees are slated for adjustment on the same schedule as statutory fees.

The "Analysis and Proposed Copyright Fee Schedule To Go Into Effect July 1, 2002" which was submitted to Congress is posted online at *http://www.copyright.gov/reports/fees2002.html,* in PDF format.

Other Considerations

As discussed above, this final rule establishes copyright fees for certain services adjusted in the manner required by Congress. Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law). The Office did post the proposed schedule on its website and is publishing the new fees in the **Federal Register** more than 30 days before they go into effect.

Regulatory Flexibility Act

Although the Copyright Office, as a department of the Library of Congress and part of the legislative branch, is not an "agency subject to the Regulatory Flexibility Act," 5 U.S.C. 601–612, the Register of Copyrights has considered the effect of these fee adjustments on individual authors and small entities. The Register does not propose increasing the basic registration fee and has issued more regulations permitting group registrations for individual authors. The Register has determined that the final regulations will not have a significant economic impact on a substantial number of individual authors or small entities that would require provision of special relief for small entities in the regulations, and that the final regulations are, to the extent consistent with the stated objectives of applicable statutes, designed to minimize any significant economic impact on small entities.

A comparison of existing and new fee amounts is included as an Appendix to the preamble.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 212

Design, Fees, Registration, Vessel hulls.

Final Rule

In consideration of the foregoing, parts 201 and 212 of 37 CFR chapter II are amended as follows:

PART 201–GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.3(c) and (d) are revised to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) *Registration, recordation and related service fees.* The Copyright Office has established the following fees for these services:

Registration, recordation and related services	Fees
(1) Registration of a basic claim in an original work of authorship: Forms TX, SE, PA, VA (including Short Form) and Form SR	$30
(2) Registration of a claim in a group of contributions to a periodical (GR/CP)	30
(3) Registration of a renewal claim (Form RE):	
Claim without Addendum	60
Addendum	30
(4) Registration of a claim in a mask work (Form MW)	75
(5) Registration of a claim in a group of serials (Form SE/Group) [per issue, with $45 minimum]	15
(6) Registration of a claim in a group of daily newspapers and qualified newsletters (Form G/D N)	55
(7) Registration of a claim in a restored copyright (Form GATT)	30
(8) Registration of a claim in a group of restored works (Form GATT/Group) [per issue, with $45 minimum]	15
(9) Registration of a correction or amplification to a claim (Form CA)	100
(10) Providing an additional certificate of registration	30
(11) Certification of other Copyright Office records (per hour)	80
(12) Search—report prepared from official records (per hour)	75
(13) Location of Copyright Office records (per hour)	80
Location of in-process materials (per hour)	100
(14) Recordation of document (single title)	80
Additional titles (per group of 10 titles)	20
(15) Recordation of a Notice of Intention to Enforce (NIE) a restored copyright containing no more than one title	30
Additional NIE titles (each)	1
(16) Recordation of Notice of Intention to Make and Distribute Phonorecords	12
(17) Issuance of a receipt for a § 407 deposit	10

(d) *Special service fees.* The Copyright Office has established the following fees for special services:

Special services	Fees
(1) Service charge for deposit account overdraft	$100
(2) Service charge for dishonored deposit account replenishment check	35
(3) Appeals:	
(i) First appeal	200
Additional claim in related group	20
(ii) Second appeal	500
Additional claim in related group	20
(4) Secure test processing charge, per hour	60
(5) Copying of Copyright Office Records by staff, per page (black & white)	.50
(6) Special handling fee for a claim	580
Each additional claim using the same deposit	50
(7) Special handling fee for recordation of a document	330
(8) Full-term retention of a published deposit	425
(9) Expedited Reference and Bibliography search and report (surcharge, per hour)	250
(10) Expedited Certification & Documents services (surcharge, per hour)	200

* * * * *

§ 201.38 [Amended]

3. Section 201.38 is amended as follows:

a. In paragraph (e), remove "$20.00" and add "$30" in its place.

b. In paragraph (f), remove "$20.00" and add "$30" in its place.

PART 212—PROTECTION OF VESSEL HULL DESIGNS

4. The authority citation for Part 212 continues to read as follows:

Authority: 17 U.S.C. chapter 13.

§ 212.2 [Amended]

5. Section 212.2 is amended as follows:

a. In paragraphs (a) and (b), remove "$75" each place it appears and add "$140" in its place.

b. In paragraph (d)(1), remove "$500" and add "$580" in its place.

c. In paragraph (e), remove "$65" and add "$100" in its place.

d. In paragraph (f), remove "$50" and add "$80" in its place.

e. In paragraph (g), remove "$25" and add "$30" in its place.

f. In paragraph (h), remove "$65" and add "$75" in its place.

§ 212.5 [Amended]

6. In § 212.5(c)(4), remove "$50" and add "$80" in its place.

Dated: May 16, 2002.

Marybeth Peters,

Register of Copyright.

Approved by:

James H. Billington,

The Librarian of Congress.

Note: The following appendix will not appear in the Code of Federal Regulations.

APPENDIX.—COMPARISON OF EXISTING AND NEW FEE AMOUNTS

	Old Fee	Fee
Registration, Recordation and Related Service		
(1) Registration of a basic claim in an original work of authorship (Forms TX, SE, PA, SR, VA including Short Form and Form SR).	$30	$30
(2) Registration of a claim in a group of contributions to a periodicals (GR/CP)	30	30
(3) Registration of a renewal claim (Form RE) claim without addendum	45	60
RE addendum	15	30
(4) Registration of a claim in a mask work (Form VA)	75	75
(5) Registration of a claim in a group of serials (Form SE/Group)	10/issue—30 minimum	15/issue—45 minimum
(6) Registration of a claim in a group of daily newspapers, and qualified newsletters (Form G/DN)	55	55
(7) Registration of a restored copyright (Form GATT)	30	30
(8) Registration of a claim in a group of restored works (Form GATT/Group)	10/claim—30 minimum	15/claim—45 minimum
(9) Registration of a claim in a vessel hull (§ 212.2)	75	140
(10) Registration of a correction or amplification to a claim (Form CA)	65	100
(11) Providing an additional certificate of registration	25	30
(12) Certification of other Copyright Office records (per hour)	65	80
(13) Search—report prepared from official records (per hour)	65	75
Location and retrieval of Copyright Office records (per hour)	65	80
Location and retrieval of in-process materials (per hour)	65	100
(14) Recordation of document (single title)	50	80
Additional titles (per group of 10 titles)	20	20
(15) Recordation of a notice of intention to enforce (NIE) a restored copyright containing no more than one title.	30	30
Additional NIE titles (each)	1	1
(16) Recordation of Notice of Intention to Make and Distribute Phonorecords	12	12
(17) Issuance of a Receipt for a § 407 deposit	4	10
(18) Recording on-line service provider designation (§ 201.38)	20	30
Special Services		
(1) Service charge for deposit account overdraft	$70	$100
(2) Service charge for dishonored deposit account replenishment check	35	35
(3) Appeals:		
(i) First appeal	200	200
Additional claim in related group	20	20
(ii) Second appeal	500	500
Additional claim in related group	20	20
(4) Secure test processing charge, per hour	60	60
(5) Copying of Copyright Office Records by staff, per page (black & white)	$15 min	.50
(6) Inspection Charge (per hour)	65	N/A
(7) Special handling fee for a claim	500	580
Each additional claim using the same deposit	50	50
(8) Special handling fee for recordation of a document	330	330
(9) Full-term retention of a published deposit	365	425
(10) Expedited Bibliography and Reference search & report (surcharge, per hour)	125/first hr. 95/add'l hrs.	250
(11) Expedited Certification & Documents (surcharge, per hour)	variable ($75–$95/hour)	200

[FR Doc. 02–13387 Filed 5–30–02; 8:45 am]
BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN141–1a; FRL–7213–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on July 18, 2000, with additional material submitted on January 11, 2002 and March 13, 2002. The revised SIP pertains to vapor tightness standards for the loading of gasoline cargo tanks at bulk gasoline terminals and pipeline breakout stations in Indiana. The purpose of this action is to approve amendments to Indiana's gasoline transport testing requirements which will tighten current state rules. These amendments are based on EPA's National Emissions Standard for Hazardous Pollutants (NESHAP) for Bulk Gasoline Terminals and Pipeline Breakout Stations, which includes new vapor tightness standards for gasoline cargo tanks, in addition to a pressure standard for the internal valve of the tanks.

DATES: This rule is effective on July 30, 2002, unless EPA receives adverse written comments by July 1, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: Patricia Morris, Acting Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604,Telephone: (312)886–6061, E-Mail: acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the term "me" refers to the reader of this rulemaking and the terms "we," "us," or "our" refer to the EPA.

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I. Background

A. What Is a SIP?

Section 110 of the Clean Air Act (Act or CAA) requires states to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards established by the EPA. Each state must submit the regulations and emission control strategies to the EPA for approval and promulgation into the federally enforceable SIP.

Each federally approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling attainment demonstrations.

B. What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the federally enforceable SIP, states must formally adopt the regulations and emission control strategies consistent with state and federal requirements. This process generally includes public notice, public hearings, public comment periods, and formal adoption by state-authorized rulemaking bodies.

Once a state has adopted a rule, regulation, or emissions control strategy it submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If we receive adverse comments we address them prior to any final federal action (we generally address them in a final rulemaking action).

The EPA incorporates into the federally approved SIP all state regulations and supporting information it has approved under section 110 of the Act. Records of such SIP actions are maintained in 40 CFR, part 52, titled "Approval and Promulgation of Implementation Plans." The actual state regulations the EPA has approved are not reproduced in their entirety in the CFR, but are "incorporated by reference," which means that EPA has approved a given state regulation (or rule) with a specific effective date.

C. What Does Federal Approval of a State Rule Mean to Me?

Enforcement of a state rule before and after it is incorporated into a federally approved SIP is primarily a state responsibility. After the rule is federally approved as part of the SIP, however, it becomes enforceable by the EPA, which can then take enforcement actions against violators. The CAA also offers citizens legal recourse to address SIP violations, as provided in section 304 of the Act.

D. What Is Section 112 of the Clean Air Act?

Section 112 of the Clean Air Act Amendments of 1990 requires that the EPA develop regulations for the control of hazardous air pollutant (HAP) emissions from major sources. On July 16, 1992, EPA published a list of source categories that emit one or more of these air toxics. For listed categories of major sources (those that emit 10 tons/year or more of a listed pollutant or 25 tons or more of a combination of pollutants), the Act requires EPA to develop standards that will reflect the application of maximum achievable control technology (MACT). On December 14, 1994 (59 FR 64303), EPA issued a final NESHAP for Bulk Gasoline Terminals and Pipeline Breakout Stations, 40 CFR part 63, Subpart R, which includes new vapor tightness standards for gasoline transports and a pressure standard for the tank internal vapor valve. EPA later published amendments changing compliance dates and making other corrections and clarifications (60 FR 7627, February 8, 1995; 60 FR 32912, June 26, 1995; 61 FR 7718, February 29, 1996; 62 FR 9087, February 28 1997). The CAA authorizes states to implement and enforce the NESHAP upon EPA approval.

E. What Is the Purpose of Indiana's Gasoline Transport Testing Requirements?

Indiana's gasoline transport requirements contained in 326 IAC Article 8 provide for vapor tightness standards for the loading of gasoline cargo tanks at bulk gasoline terminals and pipeline breakout stations in Indiana.

Current State regulations at 326 IAC 8–4–7 (Gasoline transports) and 326 IAC 8–4–9 (Leaks from transports and vapor collection systems; records) require that gasoline transports loading at bulk gasoline terminals and pipeline breakout stations be vapor tight and tested annually for vapor tightness, following procedures consistent with Appendix A of "Control of Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA–450/2–78–051. The regulations apply to transport loading at terminals and breakout stations in Clark, Elkhart, Floyd, Hendricks, Lake, Marion, Porter, St. Joseph, Boone, Dearborn, Hamilton, Hancock, Harrison, Johnson, Morgan, and Shelby counties, and to all new sources.

Gasoline emissions are a significant source of air pollution within the State of Indiana. The amendments to 326 IAC Article 8 will tighten vapor standards for the loading of gasoline transports and will reduce HAP emissions, as well as volatile organic compound (VOC) emissions that contribute to the formation of ozone.

F. What Public Review Opportunities Did Indiana Provide for This Rule?

Indiana held public hearings on this rule on December 2, 1998 and May 5, 1999, in Indianapolis, Indiana. The Indiana Air Pollution Control Board adopted final rules on May 5, 1999. The rule revisions became effective

November 5, 1999, and were formally submitted to EPA on July 18, 2000, as a revision to the Indiana SIP for ozone. In addition, Indiana submitted two addendums on January 11, 2002 and March 13, 2002 correcting typographical, clerical, or spelling errors found in the final rules submitted on July 18, 2000.

II. Evaluation of the Rule

A. What Are the Changes to the State's Gasoline Transport Testing Requirements?

Indiana's amendments to 326 IAC 8–4–7 (Gasoline transports) and 326 IAC 8–4–9 (Leaks from transports and vapor collection systems; records) expand the NESHAP's new standards to apply to gasoline transports loading at all sources in the previously named counties and to new sources.

The NESHAP for Bulk Gasoline Terminals and Pipeline Breakout Stations (40 CFR part 63, subpart R) establishes an internal vapor valve pressure standard and more stringent limits for maximum allowable pressure or vacuum change in "Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test," 40 CFR part 60, appendix A, Method 27, commonly referred to as the "modified Method 27 test." The Indiana rule amends the testing requirement in 326 IAC 8–4–9 (Leaks from transports and vapor collection systems; records) for gasoline transports in order to be consistent with the standards in the modified Method 27 test.

The Indiana rule also expands the definition of "leak" in 326 IAC 8–4–7(a)(3), consistent with that found in the NESHAP at 40 CFR 63.425(f), and revises language in 326 IAC 8–4–7 to allow the use of instruments, in addition to visible detection, to detect leaks in gasoline transports. The rule adds the same definition of "leak" to 326 IAC 8–4–9(d) and changes the test method for vapor balance systems to be consistent with current test methods found at 40 CFR part 60, appendix A, Method 21. In addition, 326 IAC 20–10–1 (Applicability; incorporation by reference of federal standards) incorporates by reference the portions of the NESHAP for Bulk Gasoline Terminals and Pipelines Breakout Stations, 40 CFR part 63, subpart R, pertaining to the new standards.

The rest of the changes to the rule are administrative in nature and are intended to enhance the clarity of the rule.

B. Is This Rule Approvable?

Our review of the material submitted indicates that the changes made to the Indiana gasoline transports rule address and exceed the federal program requirements. These rule revisions are, therefore, approvable.

III. EPA Rulemaking Action

We are approving, through direct final rulemaking, revisions to Indiana's gasoline transport testing requirements. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by July 1, 2002. Should we receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on July 30, 2002.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 30, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 9, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770, is amended by adding paragraph (c)(150) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(150) On July 18, 2000 the Indiana Department of Environmental Management submitted a State Implementation Plan (SIP) revision amending certain provisions of Indiana's gasoline transport testing requirements with additional material submitted on January 11, 2002 and March 13, 2002. The Air Pollution Control Board amended 326 IAC 8–4–7 and 326 IAC 8–4–9 and added 326 IAC 20–10.

(i) Incorporation by reference.

(A) 326 Indiana Administrative Code 8–4–7; 8–4–9; and 20–10–01 adopted May 5, 1999, effective November 5, 1999.

(ii) Additional materials.

(A) July 18, 2000 letter and enclosures from the Indiana Department of Environmental Management (IDEM) Commissioner to the Regional Administrator of the United States Environmental Protection Agency (EPA) submitting Indiana's revision to the ozone SIP.

(B) January 11, 2002 letter and enclosures from IDEM to EPA submitted as an addendum to the July 18, 2000 revision to the ozone SIP.

(C) March 13, 2002 letter and enclosures from IDEM to EPA submitted as an addendum to the July 18, 2000 revision to the ozone SIP.

[FR Doc. 02–13516 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[WO–850–1820–XZ–24–1A]

RIN 1004–AD34

Application Procedures; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule; correction.

SUMMARY: The Bureau of Land Management (BLM) published a final rule in the **Federal Register** of May 6, 2002, containing the new address of the BLM Oregon State Office, which moved in January 2002. Inadvertently, we omitted the amendatory language for the change. This document corrects that error.

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Michael H. Schwartz, (202) 452–5198. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: The BLM published a final rule in the **Federal Register** of May 6, 2002, containing the new address of the BLM Oregon State Office, which moved in January 2002. Inadvertently, we omitted amendatory language for the change. This document corrects that error.

In the **Federal Register** of May 6, 2002 (67 FR 30329), in the first column of page 30329, following the authority citation, add the following amendatory language:

2. Amend § 1821.10 by revising paragraph (a) to read as follows:

Dated: May 28, 2002.

Michael H. Schwartz,

Group Manager, Regulatory Affairs.

[FR Doc. 02–13737 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 162

[CMS–0047–F]

RIN 0938–AI59

Health Insurance Reform: Standard Unique Employer Identifier

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes a standard for a unique employer identifier and requirements concerning its use by health plans, health care clearinghouses, and health care providers. The health plans, health care clearinghouses, and health care providers must use the identifier, among other uses, in connection with certain electronic transactions.

The use of this identifier will improve the Medicare and Medicaid programs, and other Federal health programs and private health programs, and the effectiveness and efficiency of the health care industry in general, by simplifying the administration of the system and enabling the efficient electronic transmission of certain health information. It will implement some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996.

EFFECTIVE DATE: This regulation is effective July 30, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Peyton, (410) 786–1812.

SUPPLEMENTARY INFORMATION:

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. You may also obtain a copy from the following web sites:

http://www.access.gpo.gov/nara/index.html; http://aspe.hhs.gov/admnsimp/.

I. Background

Employers may need to be identified when they transmit information to health plans to enroll or disenroll an employee as a participant in a health plan. Employers, health care providers, and health plans may need to identify the source or receiver of eligibility or benefit information. Although the source is usually a health plan, it could be an employer. Employers and health plans may need to identify the employer when making or keeping track of health plan premium payments or contributions relating to an employee. In all cases, in health care transactions, where information about the employer is transmitted electronically, it will be beneficial to identify the employer using a standard identifier.

A. Legislation

The Congress included provisions to address the need for a standard unique employer identifier and other administrative simplification issues in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, which became effective on August 21, 1996. Through subtitle F of title II of that law, the Congress added to title XI of the Social Security Act a new part C, titled Administrative Simplification (Public Law 104–191) affects several titles in the United States Code. Hereafter, we refer to the Social Security Act as the Act; we refer to the other laws cited in this document by their names.) The purpose of this part is to improve the Medicare and Medicaid programs in particular and the efficiency and effectiveness of the health care system in general by encouraging the development of a health information system through the establishment of standards and requirements to facilitate the electronic transmission of certain health information.

Part C of title XI consists of sections 1171 through 1179 of the Act. These sections define various terms and impose several requirements on the Secretary, health plans, health care clearinghouses, and certain health care providers concerning electronic transmission of health information, and security and privacy.

We discussed the legislation in greater detail in a final rule for Standards for Electronic Transactions (the Transactions Rule) published on August 17, 2000 (65 FR 50312), and in a final rule for Privacy of Individually Identifiable Health Information (the Privacy Rule), published on December 28, 2000 (65 FR 82462). Rather than repeating the discussion here, we refer the reader to those documents for further information.

Section 1172 of the Act makes any standard adopted under part C applicable to (1) all health plans, (2) all health care clearinghouses, and (3) any health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173 (a)(1).

In complying with the requirements of part C of title XI, the Secretary must rely on the recommendations of the National Committee on Vital Health Statistics (NCVHS), consult with appropriate State, Federal, and private agencies or organizations, and publish the recommendations of the NCVHS in the **Federal Register**.

Paragraph (b) of section 1173 of the Act requires the Secretary to adopt standards for unique health identifiers for all employers (in addition to identifiers for individuals, health plans, and health care providers) for use in the health care system, and requires further that the adopted standards specify for what purposes unique health identifiers may be used.

II. Provisions of the Proposed Regulations

On June 16, 1998 (63 FR 32784), we proposed a national standard employer identifier and requirements concerning its implementation. That rule would have established requirements that health plans, health care clearinghouses, and health care providers would have to meet to comply with the requirements for use of a unique employer identifier in electronic transactions.

We proposed to add a new part to title 45 of the Code of Federal Regulations (63 FR 32784) for health plans, health care providers, and health care clearinghouses in general. The new part would have been part 142 of title 45 and would have been titled Administrative Requirements. Subpart F would have contained provisions specific to the employer identifier. In this final rule, we have codified these provisions in Part 162.

The proposed rule for the employer identifier (63 FR 32784) discussed applicability of HIPAA to all health plans, all health care clearinghouses, and those health care providers that transmit any health information in electronic form in connection with transactions referred to in section 1173(a)(1) of the Act.

The Transactions Rule (65 FR 50312) contains general requirements for administrative simplification, including applicability of the regulations, general effective dates, and definitions. We refer the reader to that rule for the discussion of comments and responses and for the actual regulations that were codified in the Code of Federal Regulations for the general requirements (45 CFR part 160 Subpart A, and 45 CFR part 162 Subparts A and I). In addition, some provisions in part 160 were further revised by the Privacy Rule published on December 28, 2000 (65 FR 82462).

A. Definitions

We proposed to define "employer" as 26 U.S.C. 3401(d) does: a person (or an entity) for whom an individual performs or performed any service, of any nature, as the employee of that person (or that entity) except for the following:

(1) If the entity for whom the individual performs or performed the services does not have control of the payment of the wages for the services, the term "employer" means the entity having control of the payment of the wages.

(2) If the entity pays wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" means that entity.

We did not receive any comments on our definition of "employer." We note here that our proposed definition incorrectly omitted a reference to 26 U.S.C. 3401(a) of the Internal Revenue Code that is part of the definition at 26 U.S.C. 3401(d) of the Internal Revenue Code. We clarify in this rule that our definition of "employer" is as it appears in 26 U.S.C. 3401(d). We also note that the use of the term "individual" in the definition at 26 U.S.C. 3401(d) is not the same as in the final Privacy Rule. In the Privacy Rule, the word "individual" means a person who is the subject of protected health information. In the definition of employer, the word "individual" means a person who is an employee.

The EIN is defined in 26 CFR 301.7701–12. We proposed to define "Employer identification number" (EIN) as 26 CFR 301.7701–12 does: "the taxpayer identifying number of an individual or other person (whether or not an employer) which is assigned pursuant to 26 U.S.C. 6011(b) or corresponding provisions of prior law, or pursuant to 26 U.S.C. 6109, and in which nine digits are separated by a hyphen, as follows: 00–0000000."

In this final rule, we deleted the formatting description from our definition of EIN. We continue to define EIN as the employer identification number, as assigned by the IRS.

Deletion of the formatting description from our regulatory definition gives us flexibility, in case the IRS should decide in the future to change the format of the EIN.

B. Employer Identifier Standard

We proposed that § 142.602, National employer identifier standard, would describe the employer identifier standard. There currently exists no standard for employer identification that has been developed, adopted, or modified by a standard setting organization after consultation with the National Uniform Billing Committee (NUBC), the National Uniform Claim Committee (NUCC), the Workgroup for Electronic Data Interchange (WEDI), and the American Dental Association (ADA). Therefore, we would designate a new standard.

We proposed as the standard the employer identification number (EIN), which is assigned by the Internal Revenue Service (IRS), Department of the Treasury. As stated in II. Provisions of the Proposed Regulations, *A. Definitions*, we define EIN as the employer identification number assigned by the IRS, and we delete the formatting description in our definition.

Proposed § 142.602 has become § 162.605.

C. Requirements

In the proposed rule (63 FR 32787), we noted that the Act does not bind employers to use the standard. However, covered health care providers, health plans, and health care clearinghouses are bound to use the standard, where required, in electronic health transactions.

1. Health plans.

In § 142.604, Requirements: Health plans, we proposed to require health plans to accept the EIN on all standard transactions and transmit the EIN on all standard transactions that require an employer identifier to identify a person or entity as an employer.

2. Health care clearinghouses.

We proposed to require in § 142.606, Requirements: Health care clearinghouses, that each health care clearinghouse use the EIN on all standard transactions that require an employer identifier to identify a person or entity as an employer.

3. Health care providers.

In § 142.608, Requirements: Health care providers, we proposed to require each health care provider to use the EIN, wherever required, on all standard transactions that require an employer identifier to identify a person or entity as an employer.

4. Employers.

In § 142.610, Requirements: Employers, we proposed to require each employer to disclose its EIN, when requested, to any entity that conducts standard electronic transactions that require that employer's identifier to identify a person or entity as an employer.

Proposed §§ 142.604, 142.606, and 142.608 have been consolidated into § 162.610, and proposed § 142.610 has been removed in this final rule.

D. Effective Dates and Compliance Dates of the Employer Identifier

We proposed that health plans would be required to comply with our requirements as follows:

- Each health plan that is not a small health plan would have to comply with the requirements of § 142.604, now consolidated into § 162.610, no later than 24 months after the effective date of the final rule. (Note, proposed § 142.104, General requirements for health plans, is addressed in the final Transactions Rule (65 FR 50369).)
- Each small health plan would have to comply with the requirements of § 142.604, now consolidated into § 162.610, no later than 36 months after the effective date of the final rule. (Note, proposed § 142.104, General requirements for health plans, is addressed in the final Transactions Rule (65 FR 50369).)
- If the Secretary adopts a modification to a standard or implementation specification, the implementation date of the modification would be no earlier than the 180th day following the adoption of the modification. The Secretary would determine the actual date, taking into account the time needed to comply due to the nature and extent of the modification. The Secretary would be able to extend the time for compliance for small health plans.
- We proposed that health care clearinghouses and health care providers must begin using the standard specified in § 142.602, now § 162.605, no later than 24 months after the effective date of the final rule.

III. Comments and Responses Concerning the Proposed Provisions

All general comments on applicability of the HIPAA standards were addressed in the Transactions Rule. These comments will not be repeated here.

There were 61 commenters on the proposed rule. These commenters included Federal and State government agencies, private organizations (including health plans and health care provider professional organizations), and individuals.

A. Employer Identifier Standard

Comment: Two commenters said there should be no regulation as to the use or non-use of the hyphen as part of the format for the EIN. Eight commenters stated the hyphen should be omitted when transmitting standard transactions. One commenter said it should be omitted on standard transactions but used in human-readable formats. One commenter stated that the use of a modifier would be beneficial for identifying specific State agencies under a single EIN; another commenter recommended that the EIN not be used with a modifier. A few commenters recommended a check digit be used with the EIN; a larger number of commenters recommended a check digit not be used.

Response: The hyphen is part of the EIN, as it is defined at 26 CFR 301.7701–12 and assigned by the IRS. The standard transaction formats use alphanumeric fields for the EIN. These fields can accommodate the EIN with or without the hyphen. The implementation guides for the standard transactions are silent on whether the hyphen must be transmitted. Most translator software can easily add the hyphen to or remove it from the EIN field within standard transactions. In spite of the flexibility of the standard transaction formats and the capability of translators to handle EINs with and without the hyphen, we believe that we should require standardization of the identifier format within the standard transactions, in order to promote simplification and savings. We further believe that it would be confusing to adopt the EIN as the standard unique employer identifier, but then to direct that the adopted standard be modified, by removing the hyphen, before use in standard transactions. It would be equally confusing to adopt "the EIN minus the hyphen" as the standard, because this identifier would still be referred to informally as the EIN, and it would not be clear when the hyphen is needed and when it is not. We believe it is advantageous to adopt the EIN exactly as assigned by the IRS. This strategy is clearer and more flexible, should the IRS, at some time in the future, modify its defined format of the EIN for any reason. We therefore require that the EIN as assigned by the IRS be used in the standard transactions, which means at present that the hyphen must be transmitted as part of the EIN.

The EIN was selected as a cost-effective choice for the standard employer identifier because the IRS is already issuing it and employers already have this identifier. The IRS has no

project initiated at this time to modify the format of the EIN or to add a check digit to the EIN.

The presence of a check digit can help in detection of keying errors made in data entry of a number. We could have specified a check digit to be used with the IRS-issued EIN. However, we believe that in many cases where the EIN is used in standard transactions, it will be on file electronically and will not need to be inserted through data entry. Therefore, the benefits of a check digit would be modest.

Modification of the IRS-issued identifier by addition of modifiers or a check digit for use in health care transactions would require costly additional processes and would negate the benefits of using the existing IRS infrastructure; therefore, we do not add modifiers or a check digit to the IRS format.

Comment: Several commenters thought that the EIN was proposed to identify health care providers. Some stated that the EIN was not specific enough to uniquely identify health care providers. Others expressed privacy concerns if the EIN were used to identify health care providers.

Response: The same entity may have multiple roles in health care transactions. On May 7, 1998, we proposed that the National Provider Identifier, not the EIN, be adopted to uniquely identify health care providers (63 FR 25320). The EIN will be used to identify an entity in the employer role. For example, a hospital may be both an employer and a health care provider. The hospital would use its EIN to identify itself when conducting transactions in an employer role, for example, making premium payments on behalf of its employees. When making claims for health care services furnished, it would use its National Provider Identifier.

Comment: Several commenters thought that the EIN was proposed to identify the patient's health plan or insurance coverage. One commenter stated one identifier should be used for both payer and employer. One commenter stated it would be confusing to use a different identifier for employee welfare benefit plans and employers, since such plans are sponsored by employers.

Response: The EIN will be used to identify an entity acting in the employer role in standard transactions. It will not identify the patient's health plan or insurance coverage. It will not replace the group number, account number, policy number, or subscriber number. Although it is true that the employee welfare benefit plans are often sponsored by employers, the EIN will be used to identify only the employer, not the health plan. In a future proposed rule, HHS intends to propose a health plan identifier to identify health plans. Employee welfare benefit plans would be identified by a health plan identifier.

Comment: Several commenters supported the choice of the EIN. Two commenters stated the EIN did not meet the 10 criteria established for selection of a standard under the Act.

Response: Of the two commenters stating that the EIN did not meet the criteria (see 65 FR 50351–50352 for the list of criteria), one commenter was not specific about how the EIN did not meet the criteria. The second commenter incorrectly believed that the EIN was being proposed to identify the insurance coverage of a patient rather than to identify an employer in standard transactions.

B. Requirements

Comment: One commenter stated that we should clarify the meaning of the terms "required" and "situational." Many commenters stated that the usage of the EIN of the employer in health care transactions was unclear and requested clarification, i.e., whether the EIN was required, situational, etc. One commenter said the EIN of the employer should be a situational data element on all electronic data interchange (EDI) transactions. Several commenters stated that the EIN should be required only on transactions exchanged between an employer and a health plan. Several commenters said they needed clarification on which transactions would use the EIN.

Response: As used with respect to a data element in a standard transaction, the word "required" means that the data element is required according to the standard implementation guide for that transaction. The word "situational" means that the data element or choice of a specific code value is required if the data condition described in the standard implementation guide occurs. For purposes of this rule, if use of the employer identifier is situational and the data condition occurs, the EIN is considered to be required.

The X12N Version 4010 transaction implementation guides are the authority for specific information on the use of the EIN to identify the employer in X12N transactions. The following summarizes use of the EIN to identify the employer in X12N transactions:

- X12N 270/271 Eligibility for a Health Plan—Situational (Used to identify the employer as the source of eligibility information when the employer maintains that information.) (Note: Although the implementation guide does support the use by employers, and the information receiver can be identified specifically as an employer, employer participation in this transaction is not a HIPAA business purpose.)
- X12N 276/277 Health Care Claims Status—Situational (Used to identify the employer in worker's compensation claims. This usage covers situations where the employer is considered the subscriber for a patient when the claim is a result of a work-related injury or illness. In this circumstance, the health care provider and health plan are using the standard named in the final Transactions Rule although this is not required by the Final Rule because one or both are not covered entities or this is a business purpose not covered under the final Transactions Rule. In most cases, the health care provider will already know the EIN because it will have a relationship with the employer for worker's compensation cases or because provision of the EIN is required by local, State, or other regulation.)
- X12N 820 Health Plan Premium Payments—Situational (Used to identify an entity who is an employer as the remitter of the premium or as the entity to which the premium payment applies.)
- X12N 834 Enrollment and Disenrollment in a Health Plan—Required (when used to identify the sponsor of the health plan when the sponsor is an employer.) Situational (when used to identify the employer of a person covered under a health plan when that employer is not the sponsor. The non-sponsor employer is identified only when the contract between the sponsor and the health plan requires that the sponsor report this information.)

An employer identifier is not used to identify an entity as an employer in the following X12N standard transactions:

- X12N 278 Referral Certification and Authorization
- X12N 835 Health Care Payment and Remittance Advice
- X12N 837 Health Care Claims or Equivalent Encounter Information—Dental
- X12N 837 Health Care Claims or Equivalent Encounter Information—Professional
- X12N 837 Health Care Claims or Equivalent Encounter Information—Institutional

The EIN of the employer is optional in the NCPDP retail pharmacy transactions. The implementation guides for the NCPDP transaction standards are the authorities for specific information on the use of the EIN of the employer in the NCPDP standard transactions.

Comment: Many commenters expressed concern that health care providers would be required to report the EIN of the patient's or subscriber's employer on standard transactions. They requested more specific data related to the costs to health care providers of reporting these EINs. They noted that health care providers do not routinely obtain and patients do not generally know these EINs. Some commenters noted that, with the exception of the X12N 834 enrollment transaction, the X12N implementation guides specify the employer identifier is situational in all occurrences. Health care providers are not a party to the X12N 834 and thus would not be required to report a patient's employer's EIN. Many commenters therefore recommended that all references to the use of employer identifiers by health care providers be deleted from the regulation. One commenter noted that third party administrators sometimes require health care providers to report the employer on eligibility transactions, and that subcontracting health care providers in Provider Sponsored Organizations sometimes direct eligibility transactions to the employer. Some commenters stated that if health care providers were required to report or use the EIN of the patient's employer, health insurance cards should carry this EIN; otherwise, health cards should not carry the EIN.

Response: Health care providers do not conduct the X12N 834 enrollment transaction, the only standard transaction where the employer identifier is required. In all standard transactions that a health care provider might conduct, the employer identifier is either not a permitted value or is one of a choice of alternate values. In the situations where the employer identifier may be used in a standard transaction used by covered entities under HIPAA, the employer identifier is used only if the party being identified is an employer and its identifier has been given to the health care provider as the electronic transaction identifier for the employer as an information source in an eligibility transaction. The standard transaction for eligibility inquiry and response does not contain data elements for identifying the subscriber's employer. We expect that health care providers will be able to obtain the EIN from the employer, as is the current practice, for the limited cases when an EIN is needed in covered standard transactions initiated by the health care provider.

Comment: Some commenters stated that employers may not want to disclose their EINs and requested that the final rule explicitly state the penalties for an employer that does not disclose its EIN. Some were concerned that the EIN may not be accessible to parties needing the EIN for health care transactions. One commenter said that because of administrative costs, employers will not want to provide their EINs. Another commenter stated that employers would be so overwhelmed by requests for their EINs that they would place them on everything to limit staff time required for answering these requests.

Response: These concerns were generated because commenters incorrectly thought that EINs would be required in transactions initiated by health care providers or others who would not know the EIN. Although identification of the subscriber's employer was part of the data content of the institutional health care claim transaction in the proposed Transactions Rule, that data element was removed from the institutional health care claim transaction that was adopted by the final Transactions Rule. In fact, the EIN will be used, for the most part, in transactions initiated by the employer itself. The EIN is required for the enrollment in a health plan standard transaction, which is usually initiated by employers (which are not covered entities). In other transactions, such as the eligibility for a health plan transaction, the employer identifier only occurs in conjunction with the use of the standard transaction between one or more organizations who are noncovered entities under HIPAA, or as one of the possible choices of identifiers for the employer. In the eligibility for a health plan transaction, the employer identifier can be used as one of the permitted identifiers for the employer as the source or receiver of eligibility information. Thus, when a health care provider is initiating the eligibility for a health plan transaction to an employer, in the process of determining the proper electronic routing identifiers and other electronic identifiers, the health care provider has the opportunity to obtain an EIN if required by the employer as its electronic routing or other electronic identifier. We believe that use of the EIN will not generally create compliance problems for covered entities.

We had proposed to require each employer to disclose its EIN, upon request, to any covered entity that needed to use that employer's EIN in a standard transaction. This requirement is not adopted in this final rule because employers are not covered entities under the Administrative Simplification provisions of HIPAA. However, we believe that employers will have a strong incentive to continue the common business practice of providing their EINs voluntarily in those rare cases where it is not already known in order to maintain or improve the efficiency of administrative processes.

Comment: Many commenters thought that the EIN of the patient's employer or of the patient would be required in health care claim and encounter transactions. These commenters stated that use of the EIN in these transactions is an invasion of privacy, both personal and medical. Several commenters stated that implementation of a national standard employer identifier will permit unwarranted Federal monitoring of patient care and linking of medical records through employers. They stated that the possibility of Federal monitoring and linking of medical records will create barriers of distrust between doctors and patients and between employers and employees. They stated use of the EIN will eventually lead to a numbering system on citizens that will make it easier to track citizens from one employer to another, build citizen profiles, or discriminate against citizens based upon health status. One commenter thought that the use of the EIN would result in the collection of centralized medical records and had potential for abuse. Several commenters stated this regulation was an improper role of government. Several commenters said they would like to shelve the proposed rule, while others said there should be a nationally publicized hearing or that the use of the EIN should go to a public vote and not be decided by the government. Several commenters were concerned about the security of medical records stored in central computer locations. One commenter supported a "Patients' Bill of Rights" with enforcement through the court systems. One commenter requested clarification of penalties for patients who refuse to give the names or EINs of their employers. One commenter said that States should not be required to give employers access to benefit information. This commenter stated this would be unacceptable, based on confidentiality and administrative burden.

Response: Many commenters misunderstood the proposed application of the employer identifier. The inclusion of the employer identifier is optional in the NCPDP retail pharmacy claim. The employer identifier is not used at all to identify an entity as an employer in the X12N standard health care claim or equivalent encounter information transactions. It is used

primarily to identify employers that are sending or receiving transactions for enrollment in a health plan or payment of premiums. Those transactions do not carry information about the treatment of individuals. We do not believe the employer identifier will facilitate federal monitoring of patient care, collection of central medical records, or tracking of citizens. We do not believe it will lead to barriers of distrust between doctors and patients, or between employers and employees. HHS proposed standards for security of health information, including medical records, in a proposed rule (63 FR 43242) published on August 12, 1998. HHS also adopted standards for privacy of individually identifiable health information in the Privacy Rule (65 FR 82462) published December 28, 2000. We do not require patients to give the EIN of their employers to anyone or require States to give employers access to benefit information.

Comment: One commenter recommended the revision of §§ 142.604 and 142.608 as follows: "Each health plan/health care provider must accept and transmit the national employer identifier of any employer that must be identified in any standard transaction." One commenter stated that § 142.606 should be deleted since clearinghouses do not collect, validate, or supply data elements to the transaction.

Response: We agree that §§ 142.604 and 142.608 should be revised for clarity. We do not agree that § 142.606 should be deleted because health care clearinghouses are covered entities and are required to use the standards, but we made a similar revision as that made to §§ 142.604 and 142.608. These revisions are reflected in § 162.610.

C. Implementation Concerns

Comment: One commenter recommended HHS notify employers of this proposal for national use of EINs.

Response: Employers are not covered entities, and this rule places no requirements upon them. In many cases, employers already use the EIN to identify themselves in standard transactions. Use of the EIN by employers in standard transactions will continue to be voluntary. While employers are not covered entities under this rule, health plans are free, as part of their business arrangements with employers, to require employers to use the standard transactions and to provide their EINs for this purpose. We have provided public notice of this proposal by publication of the proposed rule in the **Federal Register** on June 16, 1998 (63 FR 32784) and by publication of this final rule in the **Federal Register**.

Comment: Several commenters requested clarification of the employer enumeration process and how information in the employer identifier system would be maintained. They also stated that timely and accurate updates to this system are critical to accurate public health data collection efforts. One commenter wanted confirmation that the plans for authenticating prior to the IRS's issuance of an EIN would remain the same as today. It was suggested that one or more centers be established to answer questions about the employer identifier and redirect questions to the IRS or other Departments.

Response: The IRS maintains the EIN enumeration system and database, and makes information on the EIN available through its web site at *http://www.irs.ustreas.gov/*. The IRS authentication, enumeration and update processes and the IRS enumeration system will not be changed as a result of this regulation. The IRS answers questions about the EIN through its web site. HHS answers questions about the Administrative Simplification regulations through its web site at *http://aspe.hhs.gov/admnsimp*.

Comment: One commenter asked whether the EIN is always the same as the taxpayer identifying number.

Response: The taxpayer identifying number may be an EIN, a Social Security Number, or an IRS individual taxpayer identification number. The IRS, at 26 CFR 301.7701–12, defines the Employer Identification Number as "the taxpayer identifying number of an individual or other person (whether or not an employer) which is assigned pursuant to section 6011(b) or corresponding provisions of prior law, or pursuant to section 6109, and in which nine digits are separated by a hyphen, as follows: 00–0000000."

Comment: A commenter wanted to know the IRS policy on reusing an EIN.

Response: Currently, the IRS does not reuse EINs; that is, it does not assign a previously used EIN to a new applicant for an EIN. IRS Publication Number 1635, "Understanding Your EIN, Employer Identification Numbers," includes information on business and corporate changes that would allow continued use of an organization's EIN or would require issuance of a new EIN. This publication can be ordered by calling (800) 829–3676 or can be downloaded from the IRS web site at *http://www.irs.ustreas.gov/plain/bus_info/pub1635.html*.

Comment: Several commenters recommended the use of an online EIN database and suggested an IRS directory be established. Several commenters recommended use of a standards-based directory schema. Another stated it would be necessary to have a directory only if transactions other than the X12N 834 Health Care Benefit Enrollment were to require use of the EIN. This commenter stated the X12N 834 transaction would not require a directory since it is initiated by employers.

Response: For the most part, the EIN will be used in HIPAA transactions initiated by the employer. The employer will know its own EIN; therefore, an on-line public directory will not be necessary. In the few cases where a standard transaction that requires an employer's identifier is initiated by an entity other than the employer, we expect that the entity will obtain the EIN from the employer, as is the current practice.

Comment: A concern was raised by one commenter about the length of time it would take to receive an EIN and how both Medicare and Medicaid claims would be paid if the employer did not have an EIN. One commenter said that the proposed rule makes electronic transmissions impossible for any employer that lacks an EIN or refuses to disclose its EIN. Two commenters suggested that the IRS determine those employers that do not already have EINs and that HHS require those named by the IRS to obtain EINs. Another commenter suggested that instructions be made available on what to do if an employer does not have an EIN. One commenter stated that employers utilizing Social Security Numbers for tax reporting purposes should be required to apply for EINs.

Response: Many of these concerns were based on an incorrect belief that the patient's employer's EIN would be required in standard claim transactions. Actually, the patient's employer's EIN is not included in the X12N standard claim transactions and is optional in the NCPDP retail pharmacy claim. We know of no situation where an employer identifier would be required in a standard transaction and the employer would not have an EIN. The employer identifier is used in standard transactions to identify the employer of employees who are subjects in the transaction. Any business that pays wages to one or more employees is required to have an EIN as its taxpayer identifying number. A sole proprietor who has no employees or who files no excise or pension tax return is the only business person who is not required to obtain an EIN; a sole proprietor with no employees would not need to be identified as an employer in standard transactions. The IRS publication, "Understanding Your EIN, Employer Identification Numbers," Publication 1635, states that the IRS generally assigns an EIN within 4–5 weeks of receiving an application by mail or assigns an EIN immediately via the tele-TIN telephone process. For the telephone number in each state, see the "Where to Apply" section in Publication 1635. Publication 1635 can be downloaded from the IRS web site at *http://www.irs.ustreas.gov/plain/bus_info/pub1635.html* or can be ordered by calling (800) 829–3676.

Comment: One Medicaid State agency requested clarification on whether Medicaid State agencies would use the EIN when making health plan premium payments or when making capitation payments to managed care plans. Other commenters had concerns of how health plan sponsors that are not employers would be identified in standard transactions. One commenter requested that the description on how to obtain an EIN (63 FR 32793) be expanded to include those non-employer entities that will need an identifier for HIPAA transactions.

Response: HIPAA requires that the Secretary adopt a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. If the Medicaid State agency is making premium payments or capitation payments as an employer on behalf of its own employees, it would use its EIN. The law does not provide for adoption of a standard identifier for health plan sponsors that are not employers but that may enroll or make premium payments on behalf of other persons. We recognize that in some situations, the EIN is used to identify health plan sponsors that are not employers. This practice will not be affected by this final rule.

Comment: One commenter asked how foreign employers would be identified in standard transactions.

Response: Foreign employers are treated the same as all other employers under this rule. In this rule, we have intentionally adopted a definition of "employer" that is identical to the definition used by the Internal Revenue Service in 26 U.S.C. 3401(d). This definition covers foreign employers who pay wages to employees for whom tax withholding is required by the IRS. For purposes of this rule, it is important that any employer that enrolls or disenrolls employees in a health plan or that makes premium payments on behalf of employees to a health plan be able to be identified by the standard employer identifier. Since any business that pays wages to one or more employees is required to obtain an EIN as its taxpayer identifying number, we know of no employer that would not be able to be identified by an EIN when enrolling or disenrolling employees in a health plan or making premium payments on behalf of employees to a health plan.

Comment: In the proposed rule (63 FR 32793) we noted that some employer organizations have more than one EIN. We asked for comment on whether one EIN should be used consistently in health care transactions. One commenter noted that in some cases employer organizations with multiple EINs may be doing business with multiple health plans and using a different EIN with each plan, resulting in coordination of benefits problems. Several commenters recommended that specific guidelines be defined for using a single EIN across the board in health-related transactions. Several commenters stated that the use of multiple EINs would not be a problem. Several commenters made suggestions on which EIN should be designated for use in health care transactions, for example, the one that appears on the IRS Form W–2, Wage and Tax Statement, of the employee that is a subject of the transaction, the one that identifies the employee's employment address, or the one with the lowest numeric value. Some commenters noted that the intended purpose of the employer identifier is to identify the employer and that the employer should decide which EIN to use. Several commenters suggested that an IRS publication include information on IRS protocols for multiple EINs. Two commenters requested information about the IRS maintenance of EINs when corporate changes such as mergers occur.

Response: When a business entity is a consolidated group consisting of several corporations, each corporation may be separately identified for certain Federal tax reporting purposes, and may have its own EIN. The consolidated group may also have an EIN, under which it files a consolidated income tax return. For any relationship of an employer to an employee of that employer, only one unique EIN designates the employer. The standard unique employer identifier of an employer of a particular employee is the EIN that appears on that employee's IRS Form W–2, Wage and Tax Statement, from the employer.

The IRS regulations at 26 CFR 301.7701 contain definitions of entities that may be identified for Federal tax purposes. The instructions accompanying IRS Form SS–4, "Application for Employer Identification Number," detail the kinds of entities that must have EINs and the situations that require an entity to obtain a new EIN. IRS publication 1635, "Understanding Your EIN, Employer Identification Numbers," gives further information on business or corporate changes that do and do not require an entity to obtain a new EIN. IRS publications can be downloaded from the IRS web site at *http://www.irs.ustreas.gov/plain/forms_pubs/index.html* or ordered by calling (800) 829–3676.

Comment: One commenter was concerned about possibly conflicting Federal and State regulations for use of the EIN.

Response: This commenter did not note any particular conflicts in use of the EIN and we are not aware of any conflicts. Section 1178 of the Act discusses the effect of the Administrative Simplification provisions on State law. The general rule is that the standards adopted under the Act supersede any contrary provision of State law. For a more detailed discussion of the statutory preemption provisions and the regulatory implementation of those provisions, see 65 FR 82480 through 82481 and 65 FR 82579 through 82588.

D. Approved Uses

Comment: One commenter stated that the regulations should not require the EIN on "past" health information. Another commenter expressed concern over the lack of guidelines and controls in dissemination and use of EINs for health care purposes. These commenters said that the regulation should clearly define the approved uses and cross-refer to penalties for misuse.

Response: This regulation does not require use of the EIN in transactions conducted before the compliance date. HHS intends to publish a proposed rule concerning enforcement of the HIPAA standards. Civil penalties for failure to comply with requirements and standards are covered in Section 1176 of the Act. Criminal penalties for misuse of an employer identifier are covered in Section 1177 of the Act.

Comment: One commenter questioned if the EIN would replace the United Business Identifier used in non-health transactions. Another asked if the EIN would replace other employer identifiers, or be used in addition to them.

Response: This rule does not address non-health care transactions. We cannot speak to the issue of what will happen in such transactions. The EIN is the only employer identifier in standard transactions.

Comment: Some commenters were concerned that employers would not want to use their EINs because of privacy issues. One commenter stated that effective security and confidentiality measures should protect the EIN. Three commenters stated that health data organizations and public policy researchers should have access to the EIN for public health surveillance. They wanted this access to be clarified.

Response: The confidentiality of the EIN is protected under the Internal Revenue Code. Section 26 U.S.C. § 6103 provides that, generally, taxpayer return information, including taxpayer identity (which includes a taxpayer identifying number), must be kept confidential and may not be disclosed by, among others, federal officers or employees, except as permitted by Title 26.

In this rule we make no changes to the existing access that health data organizations and public policy researchers have to the EIN. Health data organizations and researchers desiring access to data from a Federal system of records that contains the EIN should address their requests to the Freedom of Information Act official in the agency responsible for the system.

E. The Specific Impact of the Employer Identifier

Comment: One commenter stated that the cost to implement the EIN would add to premiums paid by individuals and their families. Several commenters said the expense and resources to implement this identifier are greater than estimated. One commenter stated that more specific data related to the exact costs to health care providers should be made available for public comment prior to publication of the final rule.

Response: Those concerned with the cost of the identifier consisted primarily of commenters that incorrectly thought that health care providers would be required to use the EIN on health care claims. As noted in our previous responses, the EIN will be used primarily by employers on transactions they initiate; therefore, we do not expect the costs to be higher than those estimated in the proposed rule. When the employer identifier is used in standard transactions initiated by entities other than the employer, we expect that these entities will obtain the EIN from the employer, as is the current practice.

IV. Provisions of Final Rule

We are implementing the employer identifier standard, which we now refer to as the standard unique employer identifier, as we proposed in the proposed rule, incorporating minor revisions. Any revisions are noted in Section VI (Summary of Changes to the Proposed Rule).

V. Implementation of the Standard Unique Employer Identifier

A. Obtaining an EIN

The Internal Revenue Service (IRS) maintains the process for assigning EINs. A business can obtain an EIN by submitting, to the Internal Revenue Service, Internal Revenue Service Form SS–4, Application for Employer Identification Number. Any business that is required to furnish a taxpayer identification number (generally one that pays wages to one or more employees) must use an EIN as its taxpayer identifying number. (26 CFR 301.6109–1(a)(1)(ii)(C)). A sole proprietor who has no employees or who files no excise or pension tax returns is the only business person who does not need to have an EIN as the taxpayer identifying number. We know of no situations where an employer having employees would not be able to obtain an EIN. The EIN is currently the employer identifier in most widespread use in the enrollment and disenrollment in a health plan, the eligibility for a health plan, and the health plan premium payment transactions. Employers are not required by the Act to use the EIN or conduct standard transactions. However, we believe that many employers will find that it will be to their advantage to do so.

B. Approved Uses

The IRS, in a letter to us dated January 16, 1998, stated that "the use of the EIN as a unique identifying number in all health care transactions would not present a problem for the (Internal Revenue) Service in any way." The IRS further expressed the "hope that the use of the EIN in this capacity will bring about the consistency and accuracy that are required for these types of transactions." Two years after adoption of this standard (3 years for small health plans) covered entities must use the EIN as the employer identifier in the health-related financial and administrative transactions for which standards have been adopted by the Secretary under 45 CFR Subchapter C that require an employer identifier. We note that employers that are not health plans, health care clearinghouses, or health care providers are not bound by the Act, and use of the EIN by employers to identify themselves in the employer role is voluntary.

Examples of approved uses in standard health care transactions are the following:

- Employers could use their EINs to identify themselves in transactions making health plan premium payments to health plans on behalf of their employees.
- Employers could use the EIN to identify themselves or other employers as the source or receiver of information about eligibility.
- Employers could use their EINs to identify themselves in transactions to enroll or disenroll their employees in a health plan.

VI. Summary of Changes to the Proposed Rule

We changed the title of this regulation from National Standard Employer Identifier to Standard Unique Employer Identifier to accurately reflect the requirement under the Act for the Secretary to adopt a standard unique health identifier for each employer for use in the health care system.

We deleted the formatting description from the definition of EIN. We continue to define EIN as the employer identification number as assigned by the IRS.

We clarified that our definition of employer is as it appears in 26 U.S.C. 3401(d).

We removed the requirement for each employer to disclose its EIN, upon request, to covered entities that need to use that employer's EIN in standard transactions.

We consolidated the requirements for health care providers, health plans, and health care clearinghouses in § 162.610.

VII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 30-day notice in the **Federal Register** and solicit public comment on a collection of information requirement submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency.
- The accuracy of the agency's estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following section of this document that contains information collection requirements.

Subpart F—Standard Unique Employer Identifier

§ 162.610 Requirements for covered entities

Discussion

While this standard would replace the use of multiple identifiers, resulting in a reduction of burden, the requirement to use and disclose information using this standard meets the definition of an agency-sponsored third-party disclosure under the Paperwork Reduction Act of 1995 (PRA). However, the burden associated with the routine or ongoing use of this requirement is excluded under the definition of "burden" at 5 CFR 1320.3(b)(2). Health care clearinghouses do not normally obtain or use the EIN except to reformat it as part of translating one transaction format to another. Adoption of the EIN does not require any changes to the way health care clearinghouses process employer identifiers. Thus, the cost of this regulation for health care clearinghouses is negligible.

As explained earlier in this document in section III. Comments and Responses Concerning the Proposed Provisions, health care providers do not conduct the only standard transaction in which the employer identifier is a required data element. In standard transactions that include the employer identifier and which may be conducted by a health care provider, the employer identifier use is situational. In such transactions, if the employer identifier is not known by the health care provider, the health care provider does not have to furnish it. The cost of this regulation for health care providers, therefore, is negligible.

The remaining burden associated with this requirement, which is subject to the PRA, is the initial one-time burden on health plans and covered health care providers to modify their current computer systems.

In most cases where a health plan would need to use an employer identifier, the health plan would have received the identifier on an incoming transaction from the employer. We estimate the one-time burden over a 3-year period on the estimated 2.55 million health plans to modify their current computer systems software would be 2 hours/$60 per entity, for a total burden of 5.1 million hours/$153 million. The maximum annual burden would be 5.1 million hours divided by 3, or 1.7 million hours, and $153 million divided by 3, or $51 million. These figures are based on the assumption that this and the other burden calculations associated with HIPAA, Title II systems modifications, may overlap. This average also takes into consideration that: (1) this standard may already be in use by several of the estimated entities; (2) modifications may be performed in an aggregate manner during the course of routine business and/or; (3) modifications may be made by contractors such as practice management vendors, in a single effort for a multitude of affected entities.

As required by section 3504(h) of the Paperwork Reduction Act of 1995, we have submitted a copy of this document to the Office of Management and Budget (OMB) for its review of these information collection requirements.

Centers for Medicare & Medicaid Services, Office of Information Services, DCES, SSG, Attn: John Burke, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850; ATTN: CMS 0047–F

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Brenda Aguilar, CMS Desk Officer

VIII. Final Impact Analysis of the Employer Identifier

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We estimate the total maximum annual costs for all health plans to modify their computer systems software to implement the employer identifier standard to be $51 million per year, for 3 years. Therefore, we do not believe that this rule is a major rule under Executive Order 12866 or 5 U.S.C. 804(2).

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We have determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

We note that the costs and savings for the administrative simplification standards were presented in the final Transactions Rule (65 FR 50350). Due to a lack of data that would permit an analysis of each individual standard, the Department chose to analyze the impact of all of the standards in total, with the exception of the privacy standards. As the effect of any one standard is affected by the implementation of other standards, it can be misleading to discuss the impact of one standard by itself. Therefore, we have done an impact analysis on the total effect of all the standards in the final Transactions Rule (65 FR 50350). This employer identifier rule is expected to represent a minor portion of the costs or savings expected from the administrative simplification standards, because of the voluntary nature of the use of this identifier by employers and the limited use of an employer identifier in standard transactions conducted by covered entities.

A. Unfunded Mandates

This final rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 et seq.) and Executive Order 12866. Section 202 of UMRA requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. As discussed in the combined impact analysis published at 65 FR 50350, HHS estimates that implementation of the administrative simplification standards overall will require the expenditure of more than $110 million by the private sector. However, we do not believe the implementation of the employer identifier standard to be a significant regulatory action under UMRA.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980, Pub. L. 96–354, requires us to prepare a regulatory flexibility analysis

if the Secretary certifies that a regulation would have a significant economic impact on a substantial number of small entities. On November 17, 2000, the Small Business Administration (SBA) published a final rule (65 FR 69432) changing the small business size standards for the health care industry. This SBA final rule became effective December 18, 2000. The size standards that the SBA now uses are those defined by the North American Industry Classification System. Prior to that, the SBA used size standards as defined by the Standard Industrial Codes. The size standard is no longer a uniform $5 million in annual revenues for all components in the health care sector. Rather, the size standard now ranges from $6 million to $29 million. The regulatory flexibility analysis for the employer identifier is linked to the aggregate regulatory flexibility analysis for all the administrative simplification standards that appeared in the final Transactions Rule published on August 17, 2000, which predated the SBA change. It is appropriate, for the purposes of this rule, to continue to use the $5 million small business size standard that was in effect at the time of publication of the final Transactions Rule. Nonprofit organizations are considered small entities. Small government jurisdictions with a population of less than 50,000 people are also considered small entities. Individuals and States are not considered small entities.

We do not believe that this regulation will have a significant economic impact on a substantial number of small entities. The EIN is already one of the identifiers most frequently used to identify the employer in electronic health care transactions. Most clearinghouses, including small clearinghouses, already have the ability to accept and transmit the EIN when an employer identifier is required. Many health plans and health care providers already use the EIN to identify the employer in any transactions that require an employer identifier. Their current practice is to obtain the EIN from the employer, if they are the initiator of the transaction and they do not already know the EIN. We believe these entities will incur few conversion costs as a result of this regulation. There are few situations when an employer identifier is required in standard transactions initiated by health plans and no such situations for those initiated by health care providers. Converting from other employer identifiers to the EIN primarily involves the database administration task of substituting one record identifier for another in a limited number of records, which is not a costly activity. Therefore, we believe this regulation will not impose a significant economic impact on small health plans or small health care providers that convert their systems to use the EIN to identify the employer in those few situations. As stated in the Collection of Information Requirements section in this rule, we estimate the total maximum annual costs for all health plans to modify their computer systems software to be $51 million per year, for 3 years. Employers are not bound by the Act to use the standards; therefore, any use of the EIN by employers will be voluntary. Most of the use of the employer identifier in transactions will be voluntary use by employers in transactions they initiate. Therefore, we believe this regulation will not impose a significant economic impact on small employers.

C. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

This portion of the impact analysis relates specifically to the standard that is the subject of this regulation—the employer identifier. This section describes specific impacts that relate to the employer identifier. As we indicated in the introduction to this impact analysis, however, we do not associate the specific costs and savings to the specific standards.

1. Affected Entities

a. Health Care Providers

In all standard transactions conducted by the health care provider, the employer identifier is not used or is situational. The employer identifier is used only if the data condition described in the implementation guide occurs. In the instances when an EIN could be used by a health care provider, the EIN is situationally required only if the entity being identified is an employer and the identifier is known to the health care provider. We expect health care providers will obtain the EIN from the employer in these limited cases. However, if the health care provider cannot obtain the EIN, then the data condition has not been met and its use is not required. There are no situations in which an employer identifier is required in a standard transaction initiated by a health care provider. Any negative impact on health care providers generally will be related to the initial implementation period for health care providers that currently use an identifier other than the EIN to identify the employer in electronic health transactions. Those health care providers will incur implementation costs for converting systems from use of other employer identifiers to use of the EIN. Some health care providers will incur those costs directly and others will incur them in the form of fee increases from billing agents and health care clearinghouses.

b. Health Plans

Health plans that engage in electronic commerce will have to modify their systems to use the EIN if they do not currently use the EIN to identify the employer in standard electronic health transactions that require an employer identifier. In most cases, health plans currently obtain and use the EIN of the employer in those standard transactions that require an employer identifier. Health plans currently using an employer identifier other than the EIN will have a one-time cost impact. We estimate the total maximum cost for all health plans to be $51 million per year, over 3 years, to make these systems modifications.

c. Health Care Clearinghouses

Health care clearinghouses will have to modify their systems to use the EIN if they do not currently use the EIN to identify the employer in standard electronic health transactions that require an employer identifier. In most cases, health care clearinghouses currently use the EIN of the employer in those standard transactions that require an employer identifier. Health care clearinghouses currently using an employer identifier other than the EIN will have a one-time cost impact.

2. Effects of Various Options

a. Guiding Principles for Standard Selection

The implementation teams charged with designating standards under the statute have defined, with significant input from the health care industry, a set of common criteria for evaluating potential standards (see 65 FR 50351–50352). These criteria are based on direct specifications in HIPAA, the purpose of the law, and principles that support the regulatory philosophy set forth in Executive Order 12866 of September 30, 1993, and the Paperwork Reduction Act of 1995.

We assessed the various options for an employer identifier against those criteria with the overall goal of achieving the maximum benefit for the least cost. We found that the EIN met all the criteria. No other alternative employer identifier is in widespread use. No other alternative met a majority of the criteria, especially those supporting the regulatory goal of cost-effectiveness. We assessed the costs and benefits of the EIN, but we did not assess the costs and benefits of other identifier options, because they did not meet the criteria.

b. Need To Convert

All covered health care providers, health plans, and health care clearinghouses that do not currently use the EIN to identify the employer in electronic health transactions that require an employer identifier would have to convert. Because the EIN is currently in widespread use as an employer identifier throughout the industry, adopting the EIN would not require conversion for most health care providers, health plans or health care clearinghouses. The selection of the EIN imposes a far smaller burden on the industry than any nonselected option and presents significant advantages in terms of cost-effectiveness, universality, and flexibility.

c. Complexity of Conversion

The first two digits of the EIN reflect the issuing Internal Revenue district. However, the EIN does not rely significantly on embedded intelligence (coded information that is part of the identifier) to identify the specific employer. For those health care providers, health plans, and health care clearinghouses that must convert to use the EIN, the complexity of the conversion would be significantly affected by the degree to which their processing systems currently rely on employer identifiers that contain embedded intelligence. Converting from one identifier that contains no embedded intelligence to another is less complex than modifying software logic to obtain needed information from other data elements. However, the use of an identifier that does not contain embedded intelligence meets the guiding principle of assuring flexibility.

In general, the shorter the identifier, the easier it is to implement. It is more likely that a shorter identifier, such as the EIN, would fit into existing data formats.

The selection of the EIN does not impose a greater burden on the industry in terms of the complexity of conversion than the nonselected options.

Executive Order 13132 of August 4, 1999, Federalism, published in the **Federal Register** on August 10, 1999 (64 FR 43255) requires us to ensure meaningful and timely input by State and local officials in the development of rules that have Federalism implications. Although the proposed rule (63 FR 32784) was published before the enactment of this Executive Order, the Department consulted with State and local officials as part of an outreach program early in the process of developing the proposed regulation. The Department received comments on the proposed rule from State agencies and from entities who conduct transactions with State agencies. Many of the comments referred to the costs incurred by State and local governments that will result from implementation of the HIPAA standards. We assume that government entities will have these costs offset by future savings, consistent with our projections for the private sector (see the combined impact analysis (65 FR 50350)). A Congressional Budget Office analysis made the following points: States are already in the forefront of administering the Medicaid program electronically. Medicaid State agencies can compensate (for these costs) by reducing other expenditures, and the Federal Government pays a portion of the cost of converting State Medicaid Management Information Systems.

Other comments regarding States expressed the need for clarification as to when State agencies were subject to the standards. Responses to comments from States and State organizations regarding the employer identifier standard are found elsewhere in this preamble.

In complying with the requirements of part C of title XI, the Secretary established interdepartmental implementation teams that consulted with appropriate State and Federal agencies and private organizations. These external groups consisted of the NCVHS' Subcommittee on Standards and Security, the Workgroup for Electronic Data Interchange (WEDI), the National Uniform Claim Committee (NUCC), the National Uniform Billing Committee (NUBC) and the American Dental Association (ADA). The teams also received comments on the proposed regulation from a variety of organizations, including State Medicaid agencies and other Federal agencies.

List of Subjects

45 CFR Part 160

Electronic transactions, Health, Health care, Health facilities, Health insurance, Health records, Medicaid, Medical research, Medicare, Reporting and recordkeeping requirements.

45 CFR Part 162

Administrative practice and procedure, Electronic transactions, Health facilities, Health insurance, Hospitals, Incorporation by reference, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons stated in the preamble of this final rule, 45 CFR subchapter C is amended to read as follows:

PART 160—GENERAL ADMINISTRATIVE REQUIREMENTS

A. Part 160 is amended as follows:

1. The authority citation for part 160 continues to read as follows:

Authority: Secs. 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d–1320d–8), as added by sec. 262 of Pub. L. 104–191, 110 Stat. 2021–2031, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)).

2. Section 160.103 is amended by republishing the introductory text and adding the definitions of "EIN" and "Employer" in alphabetical order to read as follows:

§ 160.103 Definitions.

Except as otherwise provided, the following definitions apply to this subchapter:

* * * * *

EIN stands for the employer identification number assigned by the Internal Revenue Service, U.S. Department of the Treasury. The EIN is the taxpayer identifying number of an individual or other entity (whether or not an employer) assigned under one of the following:

(1) 26 U.S.C. 6011(b), which is the portion of the Internal Revenue Code dealing with identifying the taxpayer in tax returns and statements, or corresponding provisions of prior law.

(2) 26 U.S.C. 6109, which is the portion of the Internal Revenue Code dealing with identifying numbers in tax returns, statements, and other required documents.

Employer is defined as it is in 26 U.S.C. 3401(d).

* * * * *

PART 162—ADMINISTRATIVE REQUIREMENTS

B. Part 162 is amended as follows:

1. The authority citation for part 162 continues to read as follows:

Authority: Secs. 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d–1320d–8), as added by sec. 262 of Pub. L. 104–191, 110 Stat. 2021–2031, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)).

Subparts B Through E—[Reserved]

2. Subparts B through E are reserved.

3. A new subpart F, consisting of §§ 162.600, 162.605 and 162.610, is added to read as follows:

Subpart F—Standard Unique Employer Identifier

Sec.

162.600 Compliance dates of the implementation of the standard unique employer identifier.
162.605 Standard unique employer identifier.
162.610 Implementation specifications for covered entities.

Subpart F—Standard Unique Employer Identifier

§ 162.600 Compliance dates of the implementation of the standard unique employer identifier.

(a) *Health care providers.* Health care providers must comply with the requirements of this subpart no later than July 30, 2004.

(b) *Health plans.* A health plan must comply with the requirements of this subpart no later than one of the following dates:

(1) *Health plans other than small health plans*— July 30, 2004.

(2) *Small health plans*— August 1, 2005.

(c) *Health care clearinghouses.* Health care clearinghouses must comply with the requirements of this subpart no later than July 30, 2004.

§ 162.605. Standard unique employer identifier.

The Secretary adopts the EIN as the standard unique employer identifier provided for by 42 U.S.C. 1320d–2(b).

§ 162.610 Implementation specifications for covered entities.

(a) The standard unique employer identifier of an employer of a particular employee is the EIN that appears on that employee's IRS Form W–2, Wage and Tax Statement, from the employer.

(b) A covered entity must use the standard unique employer identifier (EIN) of the appropriate employer in standard transactions that require an employer identifier to identify a person or entity as an employer, including where situationally required.

Subparts G Through H—[Reserved]

4. Subparts G through H are reserved.

Dated: March 20, 2002.

Tommy G. Thompson

Secretary.

[FR Doc. 02–13616 Filed 5–24–02; 4:50 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 213, 247, and 252

[DFARS Case 2000–D014]

Defense Federal Acquisition Regulation Supplement; Ocean Transportation by U.S.-Flag Vessels

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to specify that requirements for use of U.S.-flag vessels, in the transportation of supplies by sea, apply to contracts at or below the simplified acquisition threshold as well as those that exceed the simplified acquisition threshold.

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

The clause at DFARS 252.247–7023, Transportation of Supplies by Sea, contains requirements for use of U.S.-flag vessels when transporting supplies by sea under a DoD contract. The clause requires a contractor to (1) submit any request for use of other than U.S.-flag vessels in writing to the contracting officer;

(2) provide a copy of the bill of lading to the contracting officer and the Maritime Administration after each shipment of supplies by sea; (3) provide with the final invoice a representation as to whether ocean transportation and U.S.-flag vessels were used in performance of the contract; and (4) include the clause in subcontracts for construction supplies, noncommercial items, and certain commercial items.

Prior to this rule, the DFARS exempted contracts and subcontracts at or below the simplified acquisition threshold from use of the clause at DFARS 252.247–7023. In accordance with 10 U.S.C. 2631, Supplies: Preference to United States Vessels, this rule eliminates the exemption. However, the rule prescribes an alternate version of the clause for contracts and subcontracts at or below the simplified acquisition threshold. The alternate version excludes the requirement for a contractor or subcontractor to provide a representation regarding ocean transportation with its final invoice.

DoD published a proposed rule at 66 FR 47153 on September 11, 2001. Five sources submitted comments on the proposed rule. A summary of the comments and the DoD response is provided below:

Comment: The rule is contrary to Section 4101 of the Federal Acquisition Streamlining Act of 1994 (FASA) (Public Law 103–355; 41 U.S.C. 429), which requires the Federal Acquisition Regulation (FAR) to include 10 U.S.C. 2631 in a list of laws that are inapplicable to contracts and subcontracts at or below the simplified acquisition threshold unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt such contracts and subcontracts.

DoD Response: The list of laws referred to by the respondent applies to laws enacted after FASA. 10 U.S.C. 2631 has been in existence since 1904. There is no statutory authority to exempt 10 U.S.C. 2631 for contracts or subcontracts at or below the simplified acquisition threshold. In addition, the policy in this DFARS rule is consistent with the FAR rule published at 65 FR 24324 on April 25, 2000, which applies the preference for U.S.-flag vessels to contracts awarded using simplified acquisition procedures.

Comment: The rule is contrary to Section 4201(a) of FASA (41 U.S.C. 427(a)), which requires that the FAR provide special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold. Compliance with 10 U.S.C. 2631 for such purchases of property would impose unreasonable administrative burdens on affected contractors and subcontractors.

DoD Response: The rule is consistent with the provisions of 41 U.S.C. 427 in that it seeks to avoid overly burdensome reporting requirements for acquisitions at or below the simplified acquisition threshold. The rule does not require use of the provision at DFARS 252.247–7022, Representation of Extent of Transportation by Sea, or the clause at DFARS 252.247–7024, Notification of Transportation of Supplies by Sea, in acquisitions at or below the simplified acquisition threshold. Additionally, the rule limits the requirements of the clause at DFARS 252.247–7023, Transportation of Supplies by Sea, in contracts and subcontracts at or below the simplified acquisition threshold by excluding from those contracts and subcontracts the requirement for a contractor or subcontractor to provide a representation regarding ocean transportation with its final invoice.

Comment: DFARS 247.573(a)(2) exempts solicitations valued at or below the simplified acquisition threshold from the requirement for offerors to represent whether or not ocean transportation will be used in performance of the contract. This representation (252.247–7022) helps to ensure that an offeror is cognizant of requirements for use of U.S.-flag vessels and that the contracting officer is aware of requirements for ocean transportation. Elimination of this representation is likely to increase incidents of non-compliance with Cargo Preference laws and adversely impact the U.S.-flag merchant marine. In addition, the new Alternate III for the clause at 252.247–7023, Transportation of Supplies by Sea, eliminates the following requirements for contracts and subcontracts at or below the simplified acquisition threshold: (1) The requirement for a contractor to provide a representation regarding ocean transportation with its final invoice; (2) The requirement for the Government to reject and return an invoice that does not contain the required representation; and (3) The right of the Government to equitably adjust the contract for unauthorized use of non-U.S.-flag vessels. Elimination of these requirements diminishes the ability of the contracting officer to monitor and enforce compliance with Cargo Preference laws.

DoD Response: Due to the increased potential for use of ocean transportation in contracts exceeding the simplified acquisition threshold, the DFARS requires contractors to provide multiple representations and requires contracting officers to determine whether ocean transportation will be required during the solicitation phase of an acquisition. These actions ensure that the contracting officer has the information needed to perform the appropriate level of oversight for high dollar value acquisitions. Since only a very limited number of procurements at or below the simplified acquisition threshold will require ocean transportation, the type of representations required above the simplified acquisition threshold would create an unnecessary burden on the majority of contractors receiving contracts at or below the threshold. Therefore, DoD believes that the costs of enforcing these requirements in contracts with an anticipated value at or below the simplified acquisition threshold would far outweigh the benefits and would be contrary to the provisions of 41 U.S.C. 427. DoD believes that the rule is an appropriate balance between the need to enforce the Cargo Preference laws and the need to impose minimal burden on contractors and subcontractors (many small businesses) when the value of the contract or subcontract does not exceed the simplified acquisition threshold.

Comment: The rule removes DFARS 247.572–1(c), which (1) requires the contracting officer to ask each offeror if it will transport supplies by sea, (2) requires a contractor that did not anticipate transportation of supplies by sea when it submitted its offer to notify the Government if it later intends to use ocean transportation, and (3) requires the contractor to use U.S.-flag vessels in the transportation of supplies by sea and comply with other requirements of the clause at 252.247–7023, Transportation of Supplies by Sea. Elimination of these requirements will decrease Government oversight and will allow offerors and contractors to circumvent the requirements of the Cargo Preference laws.

DoD Response: The DFARS still contains these requirements. The text at DFARS 247.572–1(c) was removed because it was redundant of the policy found at DFARS 247.571(a), 247.573(a), 252.247–7022, 252.247–7023, and 252.247–7024.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most entities that provide ocean transportation of freight are not small businesses, and the rule minimizes the information required from offerors and contractors for acquisitions valued at or below the simplified acquisition threshold.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. This rule increases the number of contractors subject to the information collection requirements in paragraphs (d) and (e) of the clause at DFARS 252.247–7023. DoD estimates that this change will increase paperwork burden by approximately 240 hours. The Office of Management and Budget (OMB) has approved this information collection for use through July 31, 2004, under OMB Control Number 0704–0245.

List of Subjects in 48 CFR Parts 213, 247, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 213, 247, and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 213, 247, and 252 continues to read as follows:

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

2. Section 213.301 is amended in paragraph (2)(i)(E) by removing the word "and", and by adding paragraph (2)(i)(G) to read as follows:

213.301 Governmentwide commercial purchase card.

* * * * *

(2) * * *

(i) * * *

(G) Does not require transportation of supplies by sea; and

* * * * *

PART 247—TRANSPORTATION

247.572–1 [Amended]

3. Section 247.572–1 is amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

4. Section 247.573 is amended by revising paragraph (b)(1) and adding paragraph (b)(4) to read as follows:

247.573 Solicitation provision and contract clauses.

* * * * *

(b)(1) Use the clause at 252.247–7023, Transportation of Supplies by Sea, in all solicitations and resultant contracts, except those for direct purchase of ocean transportation services.

* * * * *

(4) Use the clause with its Alternate III in solicitations and contracts with an anticipated value at or below the simplified acquisition threshold.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

5. Section 252.212–7001 is amended as follows:

a. By revising the clause date to read "(MAY 2002)"; and

b. In paragraph (b), in the entry "252.247–2023", by removing "(MAR 2000)" the first time it appears and adding in its place "(MAY 2002)".

6. Section 252.247–7023 is amended by revising the clause date, paragraph (e) introductory text, paragraph (f) introductory text, and paragraph (h), and by adding Alternate III to read as follows:

252.247–7023 Transportation of Supplies by Sea.

* * * * *

Transportation of Supplies by Sea (May 2002)

* * * * *

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

* * * * *

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

* * * * *

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

* * * * *

Alternate III (May 2002)

As prescribed in 247.573(b)(4), substitute the following paragraph (f) for paragraphs (f), (g), and (h) of the basic clause:

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in subcontracts that are for a type of supplies described in paragraph (b)(2) of this clause.

[FR Doc. 02–13359 Filed 5–30–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 226 and 252

[DFARS Case 2000–D024]

Defense Federal Acquisition Regulation Supplement; Utilization of Indian Organizations and Indian-Owned Economic Enterprises

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8022 of the DoD Appropriations Act for Fiscal Year 2001. Section 8022 provides for incentive payments to DoD contractors, and subcontractors at any tier, that use Indian organizations and Indian-owned economic enterprises as subcontractors.

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Angelina Moy, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–1302; facsimile (703) 602–0350. Please cite DFARS Case 2000–D024.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements Section 8022 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106–259). Section 8022 provides funding for incentive payments to DoD contractors, and subcontractors at any tier, that use Indian organizations and Indian-owned economic enterprises as subcontractors.

DoD published an interim rule at 66 FR 47110 on September 11, 2001. The rule revised DFARS 226.104 and added a new clause at DFARS 252.226–7001. The new clause is similar to the clause at FAR 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, but contains the DoD requirement to provide for incentive payments to subcontractors at any tier.

Nineteen sources submitted comments in response to the interim rule. A summary of the comments and the DoD response is provided below:

Comment: The DFARS policy excludes contracts awarded using FAR Part 12 (commercial item) procedures from the Indian Incentive Program. This exclusion should be removed.

DoD Response: This exclusion was established under previous DFARS Case 99–D300, published at 65 FR 19858 on April 13, 2000. A change to this exclusion is outside the scope of the present case. However, the DoD Office of Small and Disadvantaged Business Utilization is continuing to study this issue.

Comment: The definition of "Indian" should be amended to include Native Hawaiians.

DoD Response: Do not concur. The statutory basis for the Indian Incentive Program is 25 U.S.C. Chapter 17 (Section 1544). The definition of "Indian" provided in 25 U.S.C. Chapter 17 (Section 1452) does not include Native Hawaiians.

Comment: Prime contractors should be required to sponsor subcontractor claims for incentive payments.

DoD Response: Do not concur. The statute authorizing the Indian Incentive Program (25 U.S.C. 1544) provides that a contractor or subcontractor *may* be allowed an additional amount of compensation for subcontracts awarded to Indian organizations or Indian-owned economic enterprises. There is no statutory authority for DoD to require a contractor to submit or sponsor claims for incentive payments for its subcontractors.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because DoD already was implementing the Indian Incentive Program through use of the clause at FAR 52.226–1, Indian Organizations and Indian-Owned Economic Enterprises. The FAR clause permits incentive payments to large and small contractors that use Indian organizations or enterprises as subcontractors. The new DFARS clause expands the incentive payments to subcontractors at any tier. While this expansion should benefit small businesses that award lower-tier subcontracts to Indian organizations or enterprises, the economic impact should not be substantial.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 226 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Parts 226 and 252, which was published at 66 FR 47110 on September 11, 2001, is adopted as a final rule without change.

[FR Doc. 02–13360 Filed 5–30–02; 8:45 am]

BILLING CODE 5001–08–U

DEPARTMENT OF DEFENSE

48 CFR Part 244

[DFARS Case 2000–D028]

Defense Federal Acquisition Regulation Supplement; Subcontract Commerciality Determinations

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the responsibilities of contractors and administrative contracting officers regarding determinations as to whether a subcontract item meets the definition of "commercial item" specified in the Federal Acquisition Regulation (FAR).

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0293; facsimile (703) 602–0350. Please cite DFARS Case 2000–D028.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the DFARS to specify that—

(1) The contractor will determine whether a particular subcontract item meets the definition of "commercial item"; and

(2) When conducting a contractor purchasing system review (CPSR), the administrative contracting officer will review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of "commercial item" in FAR 2.101.

DoD published a proposed rule at 66 FR 47159 on September 11, 2001. Three sources submitted comments on the proposed rule. A summary of the comments and the DoD response is provided below:

Comment: Amend DFARS subpart 244.3 to add a requirement for the administrative contracting officer, when performing a CPSR, to ascertain whether the contractor is requiring its subcontractors to provide any form of cost or pricing data. This will provide insight as to whether prime contractors are correctly adhering to the definition of a commercial item.

DoD Response: The recommended additional requirement is beyond the intent of this DFARS rule. The intent of the rule is to clarify the responsibilities of contractors and administrative contracting officers regarding commercial item determinations for subcontracts, not to add new requirements for the performance of CPSRs. FAR subpart 44.3, as supplemented by this DFARS rule, provides sufficient policy regarding the extent of CPSRs.

Comment: The rule introduces additional confusion to the process of conducting CPSRs, which are now done on a risk evaluation basis. The rule does not have a threshold for the value of the prime contract or the subcontract. The rule will result in significant additional effort on the part of the buying organization to justify and support the commercial item determination for the subcontract.

DoD Response: Do not concur. In accordance with FAR 44.302, a CPSR is not performed for a specific contract. Rather, when a contractor's sales to the Government are expected to exceed $25 million during the next 12 months, the administrative contracting officer must perform a review to determine if a CPSR is needed. This rule does not change the CPSR process or increase the amount of Government oversight. The Government already had the authority to review all aspects of subcontracts that are subject to review as part of the CPSR. Documentation for commercial item determinations should be part of a contractor's normal business procedures; therefore, this rule should not result in significant additional effort.

Comment: Amend DFARS 244.402 to clarify that subcontractors are responsible for making commerciality determinations for lower-tier subcontracts.

DoD Response: The additional clarification is unnecessary, as the Government does not have privity of contract with subcontractors, and DoD administrative contracting officers do not review lower-tier subcontracts when conducting CPSRs.

Comment: The reference to FAR 15.403–1(c)(3) is unnecessary in that it pertains to the exceptions from obtaining cost or pricing data and does not clarify responsibilities for commercial item determinations.

DoD Response: The reference to FAR 15.403–1(c)(3) is relevant in situations where subcontract items are improperly designated as commercial and, as a result, are improperly exempted from cost or pricing data requirements. As outlined in FAR 44.305–3, recurring noncompliance with FAR 15.403 is a condition for withholding or withdrawing a contractor*s purchasing system approval. The language in DFARS 244.402(a) has been modified to make the point of the FAR reference clearer.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely clarifies responsibilities regarding commercial item determinations for subcontracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 244

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 244 is amended as follows:

1. The authority citation for 48 CFR part 244 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

2. Section 244.303 is added to read as follows:

244.303 Extent of review.

Also review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of "commercial item" in FAR 2.101.

3. Section 244.402 is added to read as follows:

244.402 Policy requirements.

(a) Contractors shall determine whether a particular subcontract item meets the definition of a commercial item. This requirement does not affect the contracting officer's responsibilities or determinations made under FAR 15.403–1(c)(3). Contractors are expected to exercise reasonable business judgment in making such

determinations, consistent with the guidelines for conducting market research in FAR part 10.

[FR Doc. 02–13358 Filed 5–30–02; 8:45am]
BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 67, No. 105
Friday, May 31, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–103823–99]

RIN 1545–AX12

Guidance on Cost Recovery Under the Income Forecast Method

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to deductions available to taxpayers using the income forecast method of depreciation under section 167(g). These proposed regulations reflect changes to the law made by the Small Business Job Protection Act of 1996 and the Taxpayer Relief Act of 1997 and affect taxpayers that produce, own, or license films, videos, sound recordings, books, copyrights, patents, and certain other similar properties. This document also provides notice of a public hearing on these regulations.

DATES: Written comments must be received by August 29, 2002. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for September 4, 2002, at 10 a.m., must be received by August 13, 2002.

ADDRESSES: Send submissions to: CC:IT&A:RU (REG–103823–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:IT&A:RU (REG–103823–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments directly to the IRS Internet site at *www.irs.gov/regs*. A public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Bernard P. Harvey, (202) 622–3110; concerning submissions and the hearing, and/or to be placed on the building access list to attend the hearing, Guy R. Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 to provide regulations under section 167(g) of the Internal Revenue Code of 1986 (Code). Section 167(g) was added to the Code by the Small Business Job Protection Act of 1996, Public Law 104–188, 1604 (110 Stat. 1755, 1836) (Aug. 20, 1996), and significant amendments were made to the provision by the Taxpayer Relief Act of 1997, Public Law 105–34, 1086 (111 Stat. 788, 957) (Aug. 5, 1997).

Explanation of Provisions

The income forecast method of depreciation has been a permissible method for certain properties since the early 1960s. The income forecast method permits taxpayers to recover the depreciable basis in property over the anticipated income to be earned from the property. The income forecast method is available for interests (including interests involving limited rights in property) in motion picture films, videotapes, sound recordings, copyrights, books, and patents. *See* Rev. Rul. 60–358 (1960–2 C.B. 68); Rev. Rul. 64–273 (1964–2 C.B. 62); Rev. Rul. 79–285 (1979–2 C.B. 91); and Rev. Rul. 89–62 (1989–1 C.B. 78). The income forecast method is appropriate for these types of property because they possess unique income earning characteristics (for example, the income earning potential of a film may vary as a direct result of the film's popularity) and, therefore, the economic usefulness of these properties cannot be measured adequately by the property's physical condition or by the passage of time. In 1996, Congress enacted statutory income forecast rules to ensure that, for certain properties, the allowances for depreciation appropriately match the basis of an income forecast property with the income derived therefrom. In 1997, Congress placed limitations on the type of property that could be depreciated using the income forecast method.

Computation of Allowances for Depreciation

The proposed regulations provide that, under the income forecast method, a taxpayer's allowance for depreciation for a given year for an income forecast property generally is an amount that bears the same relationship to the depreciable basis of the property that the "current year income" for that year bears to the "forecasted total income" for the property. The proposed regulations provide a revised computation for computing a taxpayer's allowance for depreciation in years when conditions necessitate using a revised forecasted total income that differs from the forecasted total income used in computing depreciation allowances in previous years. Pursuant to these rules, taxpayers may revise forecasted total income and use the revised computation in taxable years after income forecast property is placed in service when information becomes available that indicates that forecasted total income (or revised forecasted total income) previously used to compute income forecast depreciation is inaccurate. Under the revised computation, a taxpayer's allowance for depreciation for the current and all future years for an income forecast property is an amount that bears the same relationship to the unrecovered depreciable basis of the property that the current year income for that year bears to the result obtained by subtracting from revised forecasted total income for the property the amounts of current year income for prior taxable years. Taxpayers are required to use the revised computation in certain situations (discussed in this preamble under the heading of *Income From the Property*).

The proposed regulations also provide several special rules for computing allowances for depreciation under the income forecast method. A special rule applies for certain basis redeterminations whereby an additional "catch up" allowance for depreciation is allowed in the year that basis is redetermined. Under this special rule, the additional depreciation allowance is an amount equal to the cumulative allowances for depreciation that would have been permitted in previous years

had the basis redetermination amount been included in basis in the year the property was placed in service. It is intended that this additional allowance will ameliorate the potential back-loading of depreciation deductions that may otherwise occur if the additional amount were taken into account over the remaining income from the property and diminish the amount of look-back interest that may otherwise accrue. This special rule does not apply if the additional basis is treated as separate property.

Pursuant to section 167(g)(1)(C), a taxpayer's adjusted basis in an income forecast property is to be recovered by the end of the tenth taxable year following the taxable year in which the income forecast property is placed in service. The proposed regulations also provide that generally a taxpayer may deduct the adjusted basis in income forecast property in the year income from the property ceases completely and permanently (unless the income cessation arises in connection with the disposition of income forecast property). If additional amounts are paid or incurred with respect to income forecast property in taxable years after either of these special rules is applied, the additional amounts may be deducted when paid or incurred unless such amounts give rise to separate property.

Use of the income forecast method is elected on a property-by-property basis. Once elected, the income forecast method is a method of accounting that may not be changed without the consent of the Commissioner. Modifications to forecasted total income to take into account information that becomes available after the property is placed in service in accordance with these proposed regulations is not a change in a method of accounting requiring the Commissioner's consent.

Section 167(g) sets forth rules for the use of the income forecast method and any similar method. Thus, any method that calculates depreciation based on the flow of income generated by a property (or group of properties) is a "similar method" subject to the requirements of this regulation, including, e.g., the requirement that the look-back method be applied in certain circumstances. Congress did not identify any method that should be treated as a similar method. Treasury and the IRS seek comments on other methods that should be treated as coming within the scope of the term *any similar method*.

Commentators suggested that we specifically approve a method of depreciation based on the application of percentages derived from historical patterns of income for similar properties as a similar method because to do so would simplify the computation of depreciation deductions for large groupings of properties. This suggestion has not been adopted because it is not clear that the historical patterns of income used to apply the suggested approach will accurately reflect the income from any particular income forecast property. Moreover, this suggested approach is not predicated upon the unique income earning characteristics of an income forecast property.

Basis Rules

The cost of producing income forecast property is capitalized and recovered through an allowance for depreciation. The proposed regulations follow the general principles set forth in the regulations under sections 263, 263A, 446, and 461 for determining the basis of income forecast property. Commentators have written to Treasury and the IRS requesting guidance on various issues involving the timing of inclusion in basis of direct costs of income forecast property that are contingent upon the amount of income earned from the property (or other similar factors) and the means by which those costs may be deducted. In accordance with these requests, and in light of section 167(g)(1)(B), the proposed regulations address certain basis issues that are peculiar to the income forecast method of computing depreciation allowances.

Section 263A applies to income forecast property produced by the taxpayer. Section 1.263A–1(c)(2)(ii) provides that an amount required to be capitalized under section 263A may not be included in basis any earlier than the taxable year during which the amount is incurred within the meaning of § 1.446–1(c)(1)(ii). Section 1.446–1(c)(1)(ii) provides that under an accrual method of accounting a liability is incurred, and generally is taken into account for Federal income tax purposes, in the taxable year in which the "all events test" is satisfied. Sections 1.446–1(c)(1)(ii) and 1.461–1(a)(2) set forth the "all events test" which provides that a liability is incurred in the taxable year in which: (1) All the events have occurred that establish the fact of liability; (2) the amount of the liability can be determined with reasonable accuracy; and (3) economic performance has occurred with respect to the liability. Because section 167(g)(1)(B) provides that the adjusted basis of income forecast property depreciated using the income forecast method includes only amounts with respect to which the requirements of section 461(h) are satisfied, these rules are specifically restated in the proposed regulations.

The proposed regulations reiterate that contingent amounts that are either direct costs of the production of income forecast property or indirect costs properly allocable to the production of income forecast property are not added to basis until the taxable year in which the all events test, including the economic performance requirement of section 461(h), is satisfied. Under the proposed rules, the timing of the inclusion of certain of these costs in basis may be affected by § 1.461–1(a)(2)(iii)(A), § 1.461–1(a)(2)(iii)(D) and section 404.

Thus, the proposed regulations provide that contingent basis amounts that are either direct costs of income forecast property or indirect costs properly allocable to income forecast property are generally treated as basis redetermination amounts which increase the basis of income forecast property in the year paid or incurred. As noted above, the proposed regulations provide a special allowance applicable to certain basis redetermination amounts.

Commentators have also suggested that *Transamerica Corp.* v. *United States*, 999 F.2d 1362 (9th Cir. 1993), supports including contingent amounts in the basis of income forecast property beginning in the year the property is placed in service. In *Transamerica*, the Ninth Circuit interpreted Rev. Rul. 60–358, supra, as it applied in taxable years prior to the enactment of section 167(g), the economic performance requirements of section 461(h), the uniform capitalization requirement of section 263A, and other changes. The Ninth Circuit held that contingent basis amounts may be included in the basis of income forecast property in the year that the property is placed in service so long as the forecasted total income used in the computation of depreciation under the income forecast method includes an amount of income from the property sufficient to indicate that the contingency will be satisfied. Commentators urge the continuing application of the *Transamerica* approach because this approach matches most closely the costs of creating an income forecast property with the income earned therefrom. Treasury and the IRS recognize that it may appear to be reasonable to include estimated amounts in the basis of income forecast property when the operation of the income forecast formula requires the use of estimated amounts in the forecasts of income that are used to determine the amount of income forecast depreciation, particularly where the income forecasts indicate that the contingencies will be resolved, and resolved relatively quickly, after the property is placed in service. Treasury and the IRS also recognize that the historic operation of the income forecast formula deters taxpayers from increasing their forecast of income in order to increase the contingent basis amounts includible in the basis of income forecast property because the increases in forecasted total income operate to increase the denominator of the income forecast formula and thus diminish the amount of depreciation of the income forecast property. This deterrent effect operates in most (but not all) situations to prevent the cumulative amount of income forecast depreciation deductions in any given taxable year from exceeding the total amount actually incurred in any given taxable year, which is the primary concern with the inclusion of contingent amounts in basis. However, because Congress specifically provided in section 167(g)(1)(B) that the adjusted basis of income forecast property includes only those amounts which satisfy the requirements of section 461(h) and because all events that establish the fact of the liability for contingent amounts have not occurred, the proposed regulations do not follow the *Transamerica* approach.

Commentators have also argued that *Associated Patentees, Inc.* v. *Commissioner*, 4 T.C. 979 (1945), supports an immediate deduction for contingent basis amounts arising from the provision of either property or services in the production of income forecast property that are paid or incurred in years after the year in which income forecast property is placed in service. The proposed regulations do not adopt this interpretation of *Associated Patentees* because providing a more favorable cost recovery rule for contingent basis amounts than for fixed amounts would create an unwarranted incentive for characterizing costs as contingent amounts. Contingent basis amounts arising from the provision of either property or services in the production of income forecast property must be capitalized into the basis of income forecast property in accordance with § 1.263A–1(e).

Salvage Value

The proposed regulations do not provide that the basis upon which depreciation is computed under the income forecast method is reduced for salvage value. The unique statutory scheme Congress adopted for income forecast property requires this departure from the rules generally applicable to property depreciated under section 167, and from the provisions of Rev. Rul. 60–358, supra, which had governed income forecast depreciation prior to the enactment of section 167(g). Based on the provisions of section 167(g), Congress intended that taxpayers be able to recover their entire basis in income forecast property within the period beginning with the year income forecast property is placed in service and ending with the 10th taxable year after the year the property is placed in service and that basis be recovered over the total income earned in connection with the property within that same time frame.

Section 167(g)(1)(C) requires taxpayers to recover the adjusted basis of income forecast property as of the beginning of the 10th taxable year after the property is placed in service as an allowance for depreciation in such year. The term *adjusted basis* refers to the basis of property for purposes of determining gain or loss, which is determined generally by adjusting the cost or other basis in property prescribed by section 1012 by the adjustments required by section 1016. See § 1.1011–1. The use of this term in section 167(g)(1)(C) indicates that Congress intended that the entire basis of an income forecast property be recovered within the period beginning with the year income forecast property is placed in service and ending with the 10th taxable year after the year the property is placed in service. The legislative history confirms this reading of the provision, stating that "(a)ny costs that are not recovered by the end of the tenth taxable year after the property was placed in service may be taken into account as depreciation in such year." H.R. Conf. Rep. No. 737, 104th Cong., 2d Sess. 299 (1996).

Consistent with this rule, the estimated income from the property is all the income projected to be earned over the first eleven taxable years the property is used by any taxpayer. Under section 167(g)(1)(A), the adjusted basis of income forecast property is to be recovered through allowances for income forecast depreciation over the "amount of income earned in connection with the property" through the end of the tenth taxable year after the year in which the income forecast property is placed in service. The legislative history to section 167(g)(1)(A) states that "income to be taken into account under the income forecast method includes all estimated income generated by the property." H.R. Conf. Rep. No. 737, at 297. By referring to income generated by the property, and not to income to be earned by the taxpayer, Congress established a regime whereby a taxpayer using the income forecast method must include within forecasted total income amounts that are to be earned not only by the taxpayer, but also by any subsequent owner during the eleven year period.

Income From the Property

The income forecast formula uses the ratio of current year income to forecasted total income from the property to determine the current allowance for depreciation. Both current year income and forecasted total income are to be computed in accordance with a taxpayer's method of accounting. Pursuant to Code section 167(g)(1)(A) and (g)(5)(C), forecasted total income is to include all anticipated income from any source through the end of the tenth taxable year following the year in which the income forecast property is placed in service (except, as discussed below, in the year of disposition of income forecast property). Thus, for example, in the case of a film, such income includes income from foreign and domestic theatrical, television, and other releases and syndications; income from video tape releases, sales, rentals, and syndications; and incidental income associated with the property such as income from the financial exploitation of characters, designs, titles, scripts, and scores, but only to the extent that such incidental income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related to the taxpayer (within the meaning of section 267(b)). Apportionment rules are provided for situations when income from the exploitation of characters, designs, titles, scripts, scores, and other incidental income may relate to more than one income forecast property.

Under the proposed regulations, taxpayers are required at the end of the taxable year in which income forecast property is placed in service to make an accurate projection of all anticipated income to be earned from the income forecast property based on the conditions known to exist at that time. This estimate is referred to as forecasted total income. As discussed above, forecasted total income includes not only the income that the taxpayer forecasts it will earn by the end of the tenth taxable year after the year in which the income forecast property is placed in service, but also income that may be earned by other owners of the income forecast property during that same period.

The proposed regulations also require taxpayers to evaluate the accuracy of their forecasts annually. In order to perform these evaluations of forecasted total income, taxpayers must compute revised forecasted total income. Revised forecasted total income is the sum of current year income for the current taxable year and all prior taxable years, plus all income from the income forecast property that the taxpayer reasonably believes will be includible in current year income in taxable years after the current taxable year up to and including the 10th taxable year after the year in which the income forecast property is placed in service. Taxpayers are required to use the revised computation if forecasted total income in the immediately preceding taxable year falls outside a range bounded on the low end by 90 percent of revised forecasted total income for the current taxable year, and on the upper end by 110 percent of revised forecasted total income for the current taxable year. (In the situation where revised forecasted total income was used to compute income forecast depreciation in the immediately preceding taxable year, this comparison is made by comparing the revised forecasted total income for the current taxable year to revised forecasted total income for the immediately preceding taxable year.) Taxpayers may elect to alter their computations of income forecast depreciation (using the revised computation detailed below) when revised forecasted total income differs from forecasted total income.

Pursuant to Code section 167(g)(5)(B), income from the syndication of a television series need not be included in the income forecast computation prior to the fourth taxable year beginning after the date the first episode of the series is placed in service, unless an arrangement relating to future syndication exists. In such a case, syndication income is included in the income forecast computation at the time the arrangement relating to future syndication is made. This special rule also applies for purposes of applying the look-back method.

Special rules apply if income forecast property is disposed of prior to the end of the 10th taxable year after the year the property is placed in service. In such a case, section 167(g)(5)(E) requires that for purposes of applying the look-back method, income from the disposition of the property is to be taken into account. Failure to apply a similar rule for purposes of computing income forecast depreciation in the year of disposition may permit a depreciation differential that would not be corrected through the operation of the look-back method (because the differential would arise in a year for which the period of time to which look-back interest would apply would be zero). Accordingly, the proposed regulations require taxpayers to take income from the disposition of income forecast property into account in the year of disposition in computing revised forecasted total income both for purposes of computing its income forecast depreciation and for purposes of applying the look-back method.

Income Forecast Property

Section 167(g)(6) limits the types of property for which the income forecast method may be utilized. The income forecast method is available for interests (including interests involving limited rights in property) in motion picture films, video tapes, sound recordings, copyrights, books, and patents. In addition, section 167(g)(6)(E) provides the authority for Treasury and the IRS to extend the income forecast method to other types of property. The proposed regulations extend the method to theatrical productions and authorize the Commissioner to publish guidance designating other properties.

The proposed regulations generally require the income forecast method to be applied on a property-by-property basis. In certain limited circumstances, interests in multiple properties may be grouped together and treated as a single income forecast property. The ability to treat multiple income forecast properties as a single property for purposes of applying the income forecast method of depreciation is limited, however, to certain episodes of a television series or to multiple interests in specified income forecast properties acquired for broadcast pursuant to a single contract. The special allowance applicable to certain basis redetermination amounts is not available to basis redetermination amounts associated with interests in multiple income forecast properties treated as a single income forecast property under these rules. Commentators have requested that broad groupings of dissimilar properties be permitted in accordance with historic financial accounting practices. Because it is not clear that income would be clearly reflected if broader groupings of properties were permitted, this suggestion has not been incorporated into the proposed regulations. Treasury and the IRS request comments on whether the proposed permitted groupings are appropriate and whether additional groupings should be allowed.

Under section 167(g)(5)(A)(ii), an amount incurred after income forecast property is placed in service that is significant and that gives rise to a significant increase in income when compared to the previous amount of forecasted total income is treated as a separate income forecast property and depreciated accordingly. Under the proposed regulations, an amount that does not exceed the lesser of 5 percent of the depreciable basis of the income forecast property with which the amount is associated or $100,000 is not considered significant for this purpose. An amount incurred after income forecast property is placed in service that is not significant or that does not give rise to a significant increase in income is subject to the general rules and is treated as a basis redetermination amount.

In addition, a cost incurred in a taxable year following the year in which the taxpayer has recovered through depreciation the entire adjusted basis of an income forecast property is treated as a separate income forecast property. If it is expected to give rise to a significant increase in income, the amount of the cost is treated as income forecast property that is newly placed in service. Otherwise, it is deductible in the year paid or incurred.

Look-back .

In general, the look-back method applies any time property is depreciated using the income forecast method. A taxpayer using the income forecast method is required to pay, or is entitled to receive, interest computed under the look-back method for any year to which the look-back requirement applies. A taxpayer must pay look-back interest if deductions are accelerated due to the underestimation of total income expected to be earned with respect to the property. Conversely, a taxpayer is entitled to receive look-back interest if deductions are delayed as a result of overestimating total income expected to be earned with respect to the property. The look-back method applies separately to each income forecast property, unless properties are aggregated pursuant to special rules contained in the proposed regulations.

Generally, the look-back method is applied in the third and tenth taxable years following the year in which the income forecast property is placed in service. The look-back method also applies in the year income from the income forecast property ceases with respect to the taxpayer (and with respect to all persons who would be treated as a single taxpayer with the taxpayer under rules similar to those in section 41(f)(1)).

The look-back method does not apply to any income forecast property the basis of which is $100,000 or less in the year the look-back method would otherwise apply (redetermined without any reduction for depreciation allowed or allowable). In addition, the look-back method is not applicable for any year which would otherwise be a recomputation year if a 10 percent test is satisfied. The 10 percent test is met if forecasted total income (and, if applicable, revised forecasted total income) for each prior year is greater than 90 percent of revised forecasted total income for the year which would otherwise be a recomputation year and is less than 110 percent of revised forecasted total income for the year which would otherwise be a recomputation year. If the look-back method is applied for the third taxable year following the year in which income forecast property is placed in service, a special rule applies in determining whether the 10 percent test is satisfied in any subsequent year. Under the special rule, the amount of the forecasted total income or the revised forecasted total income for each taxable year up to and including the third taxable year following the year in which income forecast property is placed in service is deemed to be equal to the revised forecasted total income that was used for purposes of applying the look-back method in the third taxable year following the year in which income forecast property is placed in service.

In order to apply the look-back method, prior year allowances for depreciation for income forecast property are recomputed using revised forecasted total income for the recomputation year in lieu of forecasted total income (or, if appropriate, revised forecasted income) from the property that was used in the computation of depreciation under the income forecast method in the prior year. If a taxpayer sells or otherwise disposes of income forecast property, the amount realized upon the disposition of the property is included in determining revised forecasted total income from the property in the year of disposition. These recomputed depreciation allowances are then used to determine either a hypothetical overpayment of tax or a hypothetical underpayment of tax.

Generally, taxpayers must determine the hypothetical overpayment or underpayment of tax arising from the change in depreciation allowances by recomputing their tax liability. Thus, a taxpayer's tax liability for each prior year is recomputed by substituting the recomputed depreciation allowances for the depreciation allowances originally claimed. The recomputed tax liability is then compared to the taxpayer's actual liability. For purposes of this comparison, the taxpayer must determine the actual tax liability for each prior year based on the information available on the later of (1) The due date of the return, including extensions, (2) the date of an amended return, (3) the date a return is adjusted by examination, or (4) the date of any previous application of the look-back requirement for the income forecast property. The result of this comparison is a hypothetical overpayment or underpayment of tax for each prior year in which allowances for depreciation were claimed for income forecast property subject to the look-back method.

Pass-through entities that are not closely-held pass-through entities must use a simplified method to compute their hypothetical overpayment or underpayment for each prior year in which allowances for depreciation were claimed for income forecast property subject to the look-back method. Under the simplified method, taxpayers apply a set rate (i.e., the highest rate applicable under section 1 or 11) to the net changes in depreciation allowances for each year. Treasury and the IRS considered, but did not provide, an election for other taxpayers to use the simplified method similar to the election set forth in § 1.460–6(d)(4)(ii). Treasury and the IRS request comments on whether the use of the simplified method should be extended to taxpayers other than those required to use the simplified method, and if so, whether additional safeguards beyond the consistency rules for related taxpayers, the rules precluding changes from the simplified method without permission, and the overpayment ceiling would be appropriate.

Regardless of the method used, the resulting hypothetical overpayments or underpayments are then used to compute interest that is to be charged or credited on each of these amounts. Interest is generally computed from the due date of the return (not including extensions) for the years in which changes in depreciation allowances occur to the due date of the recomputation year (not including extensions). Special rules are provided for taxpayers who do not use the simplified method where changes in depreciation allowances affect tax liability in years other than the year in which the changes in depreciation allowances occur. Interest is computed using the overpayment rate under section 6621. The amounts resulting from these computations are netted to arrive at look-back interest due to the taxpayer or payable to the government for the recomputation year. For purposes of computing taxable income, look-back interest is treated as interest on an overpayment or underpayment of tax. Under section 167(g)(5)(D), look-back interest required to be paid is treated as a tax liability for penalty purposes.

Proposed Effective Date

The regulations are proposed to apply to property placed in service on or after the date that final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written or electronic comments (a signed original and eight (8) copies, if written) that are submitted timely (in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 4, 2002, at 10 a.m. in the Internal Revenue Service Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts at the Constitution Avenue entrance. For information about having your name

placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to this hearing. Persons that wish to present oral comments at the hearing must submit timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic (preferably a signed original and eight (8) copies) by August 13, 2002.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Bernard P. Harvey, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Sections 1.167(n)–0 through 1.167(n)–7 are added to read as follows:

§ 1.167(n)–0 Outline of regulation sections for section 167(g).

This section lists the major captions contained in § 1.167(n)–1 through § 1.167(n)–7

§ 1.167(n)–1 Income forecast method.

(a) Overview.
(b) Method of accounting.
(1) In general.
(2) Election of the income forecast method.

§ 1.167(n)–2 Basis.

(a) Depreciable basis.
(1) In general.
(2) Timing of basis determinations and redeterminations.
(3) Separate Property.
(b) Basis redeterminations.
(c) Unrecovered depreciable basis.
(d) Example.

§ 1.167(n)–3 Income from the property.

(a) Current year income.
(1) In general.
(2) Special rule for advance payments.
(b) Forecasted total income.
(c) Revised forecasted total income.
(d) Special rules.
(1) Disposition of the property.
(2) Syndication income from television series.
(3) Apportionment of income in certain circumstances.
(4) Examples.

§ 1.167(n)–4 Computation of depreciation using the income forecast method.

(a) Computation of depreciation allowance.
(b) Revised computation.
(1) Change in estimated income.
(2) Requirement to use the revised computation.
(c) Basis redeterminations.
(1) Calculation of depreciation allowance.
(2) Example.
(d) Special rules.
(1) Final year depreciation.
(2) Certain basis redeterminations.
(3) Disposition of property.
(4) Separate property.
(e) Examples.

§ 1.167(n)–5 Property for which the income forecast method may be used.

(a) In general.
(b) Specific exclusions.
(c) Costs treated as separate property.
(1) Costs giving rise to a significant increase in income.
(2) Significant increase in income.
(3) Special rule for costs paid or incurred after the end of the final year.
(4) Time separate property is placed in service.
(5) Examples.
(d) Aggregations treated as a single income forecast property.
(1) Multiple episodes of a television series produced in the same taxable year.
(2) Multiple episodes of a television series produced in more than one taxable year.
(3) Multiple interests acquired pursuant to a single contract.
(4) Videocassettes and DVDs.

§ 1.167(n)–6 Look-back method.

(a) Application of the look-back method.
(b) Operation of the look-back method.
(1) In general.
(2) Property-by-property application.
(c) Recalculation of depreciation allowances.
(1) Computation.
(2) Revised forecasted total income from the property.
(3) Special rule for basis redeterminations.
(d) Hypothetical overpayment or underpayment of tax.
(1) In general.
(2) Hypothetical overpayment or underpayment, actual recomputation.
(3) Hypothetical overpayment or underpayment, simplified method.
(4) Definitions.
(e) Recomputation year.
(1) In general.
(2) Look-back method inapplicable in certain de minimis cases.
(f) De minimis basis exception.
(g) Treatment of look-back interest.
(1) In general.
(2) Additional interest due on interest only after tax liability due.
(3) Timing of look-back interest.
(4) Statute of limitations; compounding of interest on look-back interest.
(h) Example.

§ 1.167(n)–7 Effective date.

§ 1.167(n)–1 Income forecast method.

(a) *Overview.* This section and §§ 1.167(n)–2 through 1.167(n)–7 provide rules for computing depreciation allowances under section 167 for property depreciated using the income forecast method. Because the income forecast method is only appropriate for property with unique income earning characteristics, only property specified in § 1.167(n)–5 may be depreciated under the income forecast method. A taxpayer using the income forecast method generally computes depreciation allowances each year based upon the ratio of current year income to forecasted total income from the property as described in § 1.167(n)–4. Current year income and forecasted total income are determined in accordance with the provisions of § 1.167(n)–3. In addition, a taxpayer must determine depreciable basis for income forecast property in accordance with the basis rules of § 1.167(n)–2. Property depreciated under the income forecast method generally is subject to the look-back rules of § 1.167(n)–6 whereby taxpayers must determine the amount of interest owed on any hypothetical underpayment of tax, or due on any hypothetical overpayment of tax, attributable to the use of estimated income in the computation of income forecast depreciation. Under these rules, look-back computations must be performed in specified recomputation years, which are generally the 3rd and 10th taxable years after the taxable year that the property is placed in service.

(b) *Method of accounting*—(1) *In general.* The computation of depreciation under the income forecast method is elected on a property-by-property basis, and is a method of accounting under section 446 that may not be changed without the consent of the Commissioner. However, a change in forecasted total income in accordance with the rules of § 1.167(n)–4 is not a change in method of accounting requiring the Commissioner's consent.

(2) *Election of the income forecast method.* A taxpayer elects the income forecast method by computing allowances for depreciation for the eligible property in accordance with the provisions of this section and

§§ 1.167(n)–2 through § 1.167(n)–6. See § 1.167(n)–5 for rules regarding eligible property.

§ 1.167(n)–2 Basis.

(a) *Depreciable basis*—(1) *In general.* The basis upon which the allowance for depreciation is computed with respect to income forecast property is the basis of the income forecast property for purposes of section 1011 without regard to the adjustments described in section 1016(a)(2) and (3).

(2) *Timing of basis determinations and redeterminations.* Costs paid or incurred in or after the taxable year in which the income forecast property is placed in service are taken into account in accordance with a taxpayer's method of accounting in redetermining the basis of income forecast property in the taxable year paid or incurred (i.e., when all events have occurred that establish the fact of the liability, the amount of the liability can be determined with reasonable accuracy, and economic performance has occurred with respect to the liability). See § 1.446–1(c)(1)(i) and (ii), 1.461–1(a)(1) and (2), and 1.263A–1(c). Accordingly, contingent payments may not be included in the basis of income forecast property when the property is placed in service, but are included in the basis of income forecast property in the taxable year in which they are paid or incurred, even if the forecasted total income used in the computation of income forecast depreciation allowances is sufficient to indicate that the contingency will be satisfied.

(3) *Separate property.* Certain amounts paid or incurred in taxable years after income forecast property is placed in service are treated as separate property for purposes of computing depreciation allowances under the income forecast method. See § 1.167(n)–5(c).

(b) *Basis redeterminations.* If an amount required to be capitalized into the basis of income forecast property is paid or incurred after the income forecast property is placed in service, and if the amount required to be capitalized is not treated as separate property in accordance with § 1.167(n)–5(c), the basis of the income forecast property is redetermined and the amount required to be capitalized is the basis redetermination amount. The redetermined basis of the income forecast property is the depreciable basis of the income forecast property increased by the basis redetermination amount. In the year basis is redetermined (and in subsequent taxable years), the redetermined basis must be used to determine depreciation under the income forecast method. An additional allowance for depreciation under the income forecast method is allowed in the taxable year the basis of certain income forecast property is redetermined. See § 1.167(n)–4(c).

(c) *Unrecovered depreciable basis.* For any taxable year, the unrecovered depreciable basis of an income forecast property is the depreciable basis of the property less the adjustments described in section 1016(a)(2) and (3).

(d) *Example.* The provisions of § 1.167(n)–2 are illustrated by the following example:

(i) *Studio* contracts with *Actor* to star in a motion picture film to be produced by *Studio*. Both *Studio* and *Actor* are calendar year taxpayers; *Studio* is an accrual basis taxpayer and *Actor* is a cash basis taxpayer. As compensation for Actor's services, the contract guarantees *Actor* a payment of five percent of the gross income from the film, beginning after the film has earned a total gross income (net of distribution costs) of $100x. *Studio* estimates that the film will earn a total gross income of $160x by the end of the 10th taxable year following the taxable year that the film is placed in service. The film is placed in service and earns $65x of gross income in year one, $30x in year two, and $25x in year three. Because the income from the film does not exceed $100x in either year one or year two, *Studio* pays nothing under the contract to *Actor* in years one and two. In year three, the cumulative income from the film reaches $120x, which exceeds the $100x threshold by $20x. Based on this excess, *Studio* calculates that it owes *Actor* $1x, calculated by multiplying $20x by *Actor*'s contractual percentage of five percent. *Studio* pays $1x to *Actor* 20 days after the end of year three.

(ii) *Studio* may not include the $1x paid to *Actor* in the basis of the film in years one or two because *Studio* does not have a fixed liability to pay *Actor* any amount under the contract in years one and two. Furthermore, while *Studio* does have a fixed liability to pay *Actor* $1x in year three, the requirements of section 404 are not met in year three and *Studio* thus may not include the $1x in the basis of the film in year three. In year four, when section 404 is satisfied, *Studio* incurs the $1x in accordance with § 1.263A–1(c) and increases its basis in the film. The $1x is treated as a basis redetermination amount under § 1.167(n)–2(b) in year four.

§ 1.167(n)–3 Income from the property.

(a) *Current year income*—(1) *In general.* Current year income is the income from an income forecast property for the current year (less the distribution costs of the income forecast property for such year), determined in accordance with the taxpayer's method of accounting. All income earned in connection with the income forecast property is included in current year income, except as provided in paragraph (d) of this section. In the case of a film, television show, or similar property, such income includes, but is not limited to—

(i) Income from foreign and domestic theatrical, television, and other releases and syndications;

(ii) Income from releases, sales, rentals, and syndications of video tape, DVD, and other media; and

(iii) Incidental income associated with the property, such as income from the financial exploitation of characters, designs, titles, scripts, and scores, but only to the extent that such incidental income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related to the taxpayer (within the meaning of section 267(b)).

(2) *Special rule for advance payments.* In the year that income forecast property is placed in service, current year income for an income forecast property includes income included in gross income for any prior taxable year in connection with the property. This paragraph applies separately to any cost treated as separate property under § 1.167(n)–5(c).

(b) *Forecasted total income.* Forecasted total income is the sum of current year income for the year that income forecast property is placed in service, plus all income from the income forecast property that the taxpayer reasonably believes will be includible in current year income in subsequent taxable years (as adjusted for distribution costs) up to and including the 10th taxable year after the year in which the income forecast property is placed in service. Forecasted total income is based on the conditions known to exist at the end of the taxable year for which the income forecast property is placed in service.

(c) *Revised forecasted total income.* If information is discovered in a taxable year following the year in which income forecast property is placed in service that indicates that forecasted total income is inaccurate, a taxpayer must compute revised forecasted total income for the taxable year. Revised forecasted total income is based on the conditions known to exist at the end of the taxable year for which the revised forecast is being made. Revised forecasted total income for the taxable year is the sum of current year income for the taxable year and all prior taxable years, plus all income from the income forecast property that the taxpayer reasonably believes will be includible in current year income in taxable years after the current taxable year up to and including the 10th taxable year after the year in which the income forecast property is placed in service. Where a taxpayer

computes revised forecasted total income in accordance with this § 1.167(n)–3(c), see § 1.167(n)–4(b) for the computation of the allowance for income forecast depreciation.

(d) *Special rules*—(1) *Disposition of the property.* In computing the depreciation allowance for an income forecast property, income from the sale or other disposition of income forecast property is not included in current year income. However, if the income forecast property is disposed of prior to the end of the 10th taxable year following the taxable year in which the property is placed in service, income from the sale or other disposition of income forecast property is taken into account in calculating revised forecasted total income both for purposes of calculating the allowance for depreciation in the year of disposition and for purposes of applying look-back. See § 1.167(n)–4(d)(3) and § 1.167(n)–6(c)(2).

(2) *Syndication income from television series.* (i) In the case of a television series produced for distribution on television networks, current year income and forecasted total income (or, if applicable, revised forecasted total income) used in the computation of the depreciation allowance for such property under § 1.167(n)–4 need not include income from syndication of the television series before the earlier of—

(A) The fourth taxable year beginning after the date the first episode in the series is placed in service; or

(B) The earliest taxable year in which the taxpayer has an arrangement relating to the syndication of the series.

(ii) For purposes of this paragraph (d)(2), an arrangement relating to syndication of a series of television shows means any arrangement other than the first run exhibition agreement. For example, an arrangement for exhibition of a television series by individual television stations is an arrangement for syndication if it results in an exhibition of one or more episodes of the series beginning after one or more episodes of the series have been exhibited on a television network. A first run exhibition agreement is an agreement under which any episode (including a pilot episode) of a television series is first placed in service within a particular market.

(3) *Apportionment of income in certain circumstances.* When income from a particular source relates to more than one income forecast property the taxpayer must make a reasonable allocation of the income among those properties based on all relevant factors. Situations where allocation is necessary include income generated by a syndication arrangement involving more than one income forecast property, incidental income described in paragraph (a)(1)(iii) of this section that relates to more than one motion picture, and income associated with income forecast property when expenditures relating to the property have given rise to separate property as defined in § 1.167(n)–5(c). For example, when a taxpayer sells or licenses merchandise that features the likeness of a character that has appeared in more than one film, relevant factors might include merchandise sales figures prior to the release of the subsequent film, specific identification of certain merchandise with one particular film, and the taxpayer's prior experience with similar situations.

(4) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. C produces a motion picture film featuring the adventures of a fictional character. *C* sells merchandise using the character's image, enters into licensing agreements with unrelated parties for the use of the image, and uses the image to promote a ride at an amusement park that is wholly owned by *C*. Pursuant to paragraph (a)(1) of this section, income from the sales of merchandise by *C* to consumers and income from the licensing agreements are included in current year income. No portion of the admission fees for the amusement park is included in current year income because the amusement part is wholly owned by *C*.

Example 2. Assume the same facts as in *Example 1*. *C* forecasts that the cumulative amount of current year income it will earn (net of distribution costs) from the year it places the motion picture film in service through the end of the 7th taxable year thereafter to be $345x. *C* also forecasts that the motion picture film will earn current year income of $155x from the beginning of the 8th taxable year through the end of the 10th taxable year after the year the income forecast property is placed in service. *C* anticipates the sale of the motion picture film at the end of the 7th taxable year after the year the property is placed in service and in fact sells the motion picture film for $200x on the last day of the 7th taxable year after the year the property is placed in service. *C*'s computations of forecasted total income must reflect the fact that *C* forecasts that $500x will be earned by the motion picture film through the end of the 10th taxable year after the year the property is placed in service ($345x from the year the film is placed in service through the end of the 7th taxable year after the taxable year that the property was placed in service, plus $155x *C* forecasts from the beginning of the 8th taxable year through the end of the 10th taxable year after the year the property is placed in service). Even though *C* only expects to earn $345x prior to the sale of the film, *C* may not use $345x as forecasted total income in computing its depreciation allowance under the income forecast method. Similarly, *C* may not use the combination of the amounts it expects to earn prior to the sale ($345x) plus the anticipated sales proceeds ($200x) or $545x as forecasted total income, except when computing its depreciation allowance for the 7th taxable year after the year in which the income forecast property was placed in service and for purposes of computing look-back interest.

§ 1.167(n)–4 Computation of depreciation using the income forecast method.

(a) *Computation of depreciation allowance.* Generally, the depreciation allowance for an income forecast property for a given taxable year is computed by multiplying the depreciable or redetermined basis of the property (as defined in § 1.167(n)–2) by a fraction, the numerator of which is current year income (as defined in § 1.167(n)–3(a)) and the denominator of which is forecasted total income (as defined in § 1.167(n)–3(b)).

(b) *Revised computation*—(1) *Change in estimated income.* The depreciation allowance for an income forecast property for any taxable year following the year in which income forecast property is placed in service may be computed using the computation provided in this paragraph (b)(1) if revised forecasted total income differs from forecasted total income. Thus, for example, a taxpayer using the income forecast method for a motion picture may revise upward the forecast of total income from the motion picture (to arrive at revised forecasted total income) in a taxable year wherein the taxpayer discovers that the motion picture is more popular than originally expected, and may thereafter use the revised computation to compute the allowance for income forecast depreciation for the motion picture. Under the revised computation, the unrecovered depreciable basis of the income forecast property (as defined in § 1.167(n)–2(c)) is multiplied by a fraction, the numerator of which is current year income and the denominator of which is obtained by subtracting from revised forecasted total income the amounts of current year income from prior taxable years.

(2) *Requirement to use the revised computation.* The revised computation described in paragraph (b)(1) of this section must be used in any taxable year following the year in which income forecast property is placed in service if forecasted total income (as defined in § 1.167(n)–3(b)) (or, if applicable, revised forecasted total income (as defined in § 1.167(n)–3(c)) in the immediately preceding taxable year is either—

(i) Less than 90 percent of revised forecasted total income for the taxable year; or

(ii) Greater than 110 percent of revised forecasted total income for the taxable year.

(c) *Basis redeterminations*—(1) *Calculation of depreciation allowance.* An additional depreciation allowance is available under this paragraph in the taxable year that basis is redetermined under § 1.167(n)–2(b) when that taxable year is subsequent to the taxable year in which income forecast property is placed in service, but prior to the 10th taxable year following the taxable year in which the property is placed in service. The additional depreciation allowance is that portion of the basis redetermination amount that would have been recovered through depreciation allowances in prior taxable years if the basis redetermination amount had been included in depreciable basis in the taxable year that the property was placed in service. This § 1.167(n)–4(c) does not apply to property treated as a single income forecast property pursuant to § 1.167(n)–5(d)(1) through (4).

(2) *Example.* The provisions of paragraph (c)(1) of this section are illustrated by the following example:

Example. D, an accrual basis movie producer, enters into a contract with *E*, an author, under which *D* will make a film based on *E*'s book. *E* performs no services for *D*, but merely permits *D* to use the book as a basis for *D*'s film. *D* pays *E* a fixed dollar amount upon entry into the agreement and promises to pay *E* a contingent payment of five percent of *D*'s income from the film, beginning after the film has earned $100,000 (net of distribution costs). *D* estimates that forecasted total income from the film will be $200,000. The film earns $65,000 of current year income in year one, $30,000 in year two, and $25,000 in year three. *D* takes allowances for depreciation in year one ($65,000 divided by $200,000, multiplied by the basis of the film) and year two ($30,000 divided by $200,000, multiplied by the basis of the film). In year three, *D*'s liability to *E* becomes fixed and *D* pays *E* $1,000. The $1,000 incurred by *D* is a basis redetermination amount that increases the basis of the film for purposes of computing *D*'s depreciation allowance for the film for year three. In addition to the year three allowance based on current year income ($25,000 divided by $200,000 multiplied by the basis of the film, which includes for year three the $1,000 basis redetermination amount), *D* is entitled to an additional allowance for depreciation for year three under paragraph (c)(1). This additional allowance is $475, the sum of the allowance of $325 that would have been allowed in year one ($65,000 divided by $200,000, multiplied by the $1,000 payment to *E*) and the allowance of $150 that would have been allowed in year two ($30,000 divided by $200,000, multiplied by $1,000) if the $1,000 had been included in basis in the year that the film was placed in service.

(d) *Special rules*—(1) *Final year depreciation.* Except as provided in paragraphs (d)(2) and (3) of this section, a taxpayer may deduct as a depreciation allowance the remaining depreciable basis of income forecast property depreciated under the income forecast method in the earlier of—

(i) The year in which the taxpayer reasonably believes, based on the conditions known to exist at the end of the taxable year, that no income from the income forecast property will be included in current year income in any subsequent taxable year up to and including the 10th taxable year following the taxable year the income forecast property is placed in service; or

(ii) The 10th taxable year following the taxable year the income forecast property is placed in service.

(2) *Certain basis redeterminations.* A taxpayer may deduct as a depreciation allowance the amount of any basis redetermination that occurs in a taxable year in which the taxpayer reasonably believes, based on the conditions known to exist at the end of the taxable year, that no income from the income forecast property will be included in current year income in any subsequent taxable year. In addition, a taxpayer may deduct as a depreciation allowance the amount of any basis redetermination that occurs in a taxable year following a taxable year in which a deduction is allowable under paragraph (d)(1) of this section.

(3) *Disposition of property.* Paragraph (d)(1) of this section does not apply to income forecast property that is sold or otherwise disposed of before the end of the 10th taxable year following the taxable year that the property is placed in service. In the case of such a disposition, the allowance for depreciation in the year of disposition is calculated by multiplying the depreciable basis (or, if applicable, the redetermined basis) of the property by a fraction, the numerator of which is current year income and the denominator of which is the sum of the amount realized on the disposition of the property plus all amounts included in current year income in the year of disposition and in taxable years prior to the year of disposition.

(4) *Separate property.* The deductions provided in paragraphs (d)(1) and (2) of this section apply separately to property that is treated as separate property under § 1.167(n)–5(c).

(e) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. F places in service income forecast property with a depreciable basis of $100x, and estimates that forecasted total income from the property will be $200x. In taxable year one, current year income is $80x. The depreciation allowance for year one is $40x, computed by multiplying the depreciable basis of the property of $100x by the fraction obtained by dividing current year income of $80x by forecasted total income of $200x.

Example 2. Assume the same facts as in *Example 1*. In year two, *F*'s current year income is $40x. In addition, *F* computes revised forecasted total income to be $176x. *F* is required to compute its depreciation allowance for this property using the revised computation of paragraph (b)(1) of this section because forecasted total income in year one of $200x is greater than 110 percent of revised forecasted total income in year two (110 percent of $176x = $193.6x). The depreciation allowance for taxable year two computed under the revised computation is $25x, computed by multiplying the unrecovered depreciable basis of $60x by the fraction obtained by dividing current year income of $40x by $96x (revised forecasted total income of $176x less current year income from prior taxable years of $80x).

Example 3. Assume the same facts as in *Example 2*. Because *F* used the revised computation in year two, the revised computation applies in year three. In year three, *F*'s current year income is $32x. The depreciation allowance for year three computed under the revised computation is $20x, computed by multiplying the unrecovered depreciable basis of $60x by the fraction obtained by dividing current year income of $32x by $96x (revised forecasted total income of $176x less current year income from taxable years prior to the change in estimate taxable year of $80x).

§ 1.167(n)–5 Property for which the income forecast method may be used.

(a) *In general.* The depreciation allowance under § 1.167(n)–4 may be computed under the income forecast method only with respect to eligible property. Eligible property is limited to an interest (including interests involving limited rights in property) in the following property—

(1) Property described in section 168(f)(3) and (4);

(2) Copyrights;

(3) Books;

(4) Patents;

(5) Theatrical productions; and

(6) Other property as designated in published guidance by the Commissioner.

(b) *Specific exclusions.* The income forecast method does not apply to any amortizable section 197 intangible (as defined in section 197(c) and § 1.197–2(d)).

(c) *Costs treated as separate property*—(1) *Costs giving rise to a significant increase in income*—(i) *In general.* For purposes of § 1.167(n)–1 through § 1.167(n)–6, any amount paid or incurred after the income forecast

property is placed in service must be treated as a separate property if the cost is significant and gives rise to an increase in income that is significant and that was not included in either forecasted total income or revised forecasted total income in a prior taxable year.

(ii) *Exception for de minimis amounts.* For purposes of this paragraph, a cost that is less than the lesser of 5 percent of the depreciable basis (as of the date the amount is paid or incurred) of the income forecast property to which the amount relates or $100,000 is not significant. Such a cost is therefore not treated as separate property but is instead treated as a basis redetermination amount in accordance with § 1.167(n)–2(b).

(2) *Significant increase in income.* For purposes of this paragraph, whether an increase in income is significant is determined by comparing the amount that would be considered revised forecasted total income from the amounts treated as separate property to the most recent estimate of forecasted total income or revised forecasted total income used in calculating an allowance for depreciation with respect to the income forecast property.

(3) *Special rule for costs paid or incurred after the end of the final year.* For purposes of § 1.167(n)–1 through § 1.167(n)–6, any amount paid or incurred with respect to an income forecast property in a taxable year following the year in which the taxpayer claims a depreciation allowance in accordance with the final year depreciation rules of § 1.167(n)–4(d)(1) is treated as a basis redetermination amount under § 1.167(n)–2(b) provided the amount is not expected to give rise to a significant increase in current year income in any taxable year.

(4) *Time separate property is placed in service.* Separate property is treated as placed in service in the year the amount giving rise to the property is paid or incurred.

(5) *Examples.* The provisions of this paragraph (c) are illustrated in the following examples:

Example 1. *G* releases a film in 2001 and begins to recover the depreciable basis in the film using the income forecast method in the year 2001. In 2003, the film is re-edited and restored, and director's commentary is added in order to prepare the film for release on DVD. The total cost of preparing the film for the DVD release exceeds both 5 percent of the depreciable basis of the film and $100,000. *G* did not anticipate the income from the DVD market, and did not include any DVD release income in the income projections for the film in prior years. If *G* anticipates that the additional DVD release income will be significant in relation to the forecasted total income used in calculating an allowance for depreciation for 2002 (the previous taxable year), the additional amount gives rise to separate property and must be recovered over the forecasted total income from the DVD. If not, *G* must treat the additional amounts as additions to basis under § 1.167(n)–2(b).

Example 2. *G* releases a film in 2001 and recovers the depreciable basis in the film using the income forecast method in the years 2001 through 2011. In 2018, the film is re-edited and restored, and director's commentary is added in order to prepare the film for release on a newly discovered technology. If *G* anticipates that the additional new technology release income will be significant in relation to the revised forecasted total income used in calculating an allowance for depreciation for 2011 (the last taxable year for which an allowance was claimed), the cost of preparing the release gives rise to separate property and must be recovered over the forecasted total income from the new technology release. If not, *G* may deduct the cost in 2018, the year paid or incurred.

(d) *Aggregations treated as a single income forecast property.* Taxpayers must apply the income forecast method on a property-by-property basis, unless one of the aggregation rules provided in paragraphs (d)(1) through (4) of this section applies. If a taxpayer applies one of the aggregation rules provided in paragraphs (d)(1) through (4) of this section, costs incurred in taxable years after the initial income forecast property is placed in service are treated as basis redeterminations under § 1.167(n)–2; however, the additional allowance for depreciation provided in § 1.167(n)–4(c)(1) does not apply. The application of the provisions of paragraphs (d)(1) through (d)(4) is a method of accounting that may not be changed without the consent of the Commissioner. Permissible aggregations are limited to the following:

(1) *Multiple episodes of a television series produced in the same taxable year.* The producer of a television series may treat multiple episodes of a single television series produced in the same taxable year as a single unit of property for purposes of the income forecast method.

(2) *Multiple episodes of a television series produced in more than one taxable year.* The producer of a television series may treat multiple episodes of a single television series that are produced as a single season of episodes and placed in service over a period not in excess of twelve consecutive calendar months as a single unit of property for purposes of the income forecast method notwithstanding that the twelve-month period may span more than one taxable year.

(3) *Multiple interests acquired pursuant to a single contract.* Multiple interests in specifically identified income forecast properties acquired for broadcast pursuant to a single contract may be treated as a single unit of property for purposes of the income forecast method.

(4) *Videocassettes and DVDs.* The purchaser or licensee of videocassettes and DVDs for rental to the public may treat multiple copies of the same title purchased or licensed in the same taxable year as a single unit of property for purposes of the income forecast method.

§ 1.167(n)–6 Look-back method.

(a) *Application of the look-back method.* If a taxpayer claims a depreciation deduction under the income forecast method for any eligible income forecast property, such taxpayer is required to pay (or is entitled to receive) interest computed as described in this paragraph for any year to which the look-back method applies (a recomputation year). The look-back method generally must be applied when income forecast property is disposed of or ceases to generate income. Further, the look-back method generally applies in the 3rd and 10th taxable years following the year in which income forecast property is placed in service. Under the look-back method, taxpayers must pay interest on deductions accelerated by the underestimation of either forecasted total income or revised forecasted total income from income forecast property. Conversely, taxpayers are entitled to receive interest on deductions delayed by the overestimation of either forecasted total income or revised forecasted total income from income forecast property. If either forecasted total income or revised forecasted total income are overestimated or underestimated, interest may arise from basis redeterminations. The computation of adjusted tax liability as part of the look-back method is hypothetical; application of the look-back method does not require a taxpayer to adjust tax liability as reported on the taxpayer's tax returns, on an amended return, or as adjusted on examination for prior years.

(b) *Operation of the look-back method*—(1) *In general.* Under the look-back method, a taxpayer must perform a series of computations to determine look-back interest that the taxpayer is either required to pay or entitled to receive. As specified in paragraph (c) of this section, a taxpayer must first recompute depreciation allowances using revised forecasted total income rather than forecasted total income from income forecast property for the recomputation year (as defined in paragraph (e) of this section) and each prior year. These recomputed depreciation amounts are then used to determine a hypothetical tax liability that would have arisen had the taxpayer used revised forecasted total income rather than forecasted total income in determining depreciation allowances. The hypothetical tax liability is compared to the taxpayer's prior tax liability and interest is calculated in accordance with paragraph (d) of this section on the resulting hypothetical overpayments or underpayments of tax for each year. Reporting requirements and special rules for the resulting amounts of interest are specified in paragraph (g) of this section.

(2) *Property-by-property application.* Except as provided in this section, the look-back method applies to each property for which the income forecast method is used. Aggregations properly treated as a single income forecast property pursuant to § 1.167(n)–5(d) are treated as a single property for purposes of applying the look-back method.

(c) *Recalculation of depreciation allowances*—(1) *Computation.* Under the look-back method, a taxpayer must compute the depreciation allowances for each income forecast property subject to the look-back method that would have been allowable under § 1.167(n)–1 through § 1.167(n)–5 for prior taxable years if the computation of the amounts so allowable had been made using revised forecasted total income as calculated at the end of the recomputation year.

(2) *Revised forecasted total income from the property*—(i) *In general.* Except as provided in this paragraph (c)(2), revised forecasted total income is determined in accordance with § 1.167(n)–3(c).

(ii) *Syndication income from television series.* Income excluded from forecasted total income (or, if appropriate revised forecasted total income) in any taxable year prior pursuant to § 1.167(n)–3(d)(2) is excluded from revised forecasted total income for purposes of this section for that year.

(iii) *Disposition of income forecast property.* For purposes of this section, income from the disposition of property must be taken into account in determining the amount of revised forecasted total income. Thus, when income forecast property is disposed of prior to the end of the 10th taxable year following the taxable year the property is placed in service, revised forecasted total income from the property for the year of disposition is deemed to be the sum of the amount realized on the disposition of the property plus all amounts included in current year income in the year of disposition and in taxable years prior to the year of disposition.

(3) *Special rule for basis redeterminations.* For purposes of the look-back calculation, any amount that is not treated as a separate property under § 1.167(n)–5(c) that is paid or incurred with respect to income forecast property after the property is placed in service is taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time the cost is paid or incurred) the amount to its value as of the date the property is placed in service. The taxpayer may elect for the recomputation year with respect to any income forecast property to have the preceding sentence not apply to the property by taking the amount into account in the year that the amount was paid or incurred in the same manner as it was taken into account under § 1.167(n)–2.

(d) *Hypothetical overpayment or underpayment of tax*—(1) *In general*—(i) *Years for which a hypothetical overpayment or underpayment must be computed.* After recalculating depreciation allowances in accordance with paragraph (c) of this section, a taxpayer must calculate a hypothetical overpayment or underpayment of tax for each prior taxable year for which income tax liability is affected by the change in depreciation allowances. A redetermination of income tax liability is required for every tax year for which the income tax liability would have been affected by a change in the allowance for income forecast depreciation in any year. For example, if the change in depreciation allowance results in a net operating loss carryforward that affects income tax liability in a subsequent taxable year, income tax liability must be recomputed for such subsequent year.

(ii) *Methods of determining a hypothetical overpayment or underpayment.* Generally, the calculation of the hypothetical overpayment or underpayment of tax must be made under the method described in paragraph (d)(2) of this section. Certain taxpayers are required to use the simplified method contained in paragraph (d)(3) of this section.

(iii) *Cumulative determination of hypothetical income tax liability.* The redetermination of income tax liability in any prior taxable year for which income tax liability is affected by the change in depreciation allowances must take into account all previous applications of the look-back calculation. Thus, for example, in computing the amount of a hypothetical overpayment or underpayment of tax for a prior taxable year for which income tax liability is affected by the change in depreciation allowances, the hypothetical income tax liability is compared to the hypothetical income tax liability for that year determined as of the previous application of the look-back method.

(2) *Hypothetical overpayment or underpayment, actual recomputation*—(i) *Computation of change in income tax liability.* The hypothetical overpayment or underpayment is calculated first by redetermining the tax liability for each prior taxable year (either as originally reported, or as subsequently adjusted on examination or by amended return) using depreciation allowances calculated in paragraph (c) of this section for each prior taxable year in which depreciation allowances were determined under the income forecast method for the income forecast property (affected year). These recomputed depreciation allowances are then substituted for the depreciation allowances allowed (or allowable) for each affected year (whether originally reported, or as subsequently adjusted on examination or by amended return) and a revised taxable income is computed. A hypothetical income tax liability is then computed for each affected year using revised taxable income for that year. The hypothetical income tax liability for any affected year must be computed by taking into account all applicable additions to tax, credits, and net operating loss carrybacks and carryforwards. The tax, if any, imposed under section 55 (relating to alternative minimum tax) must be taken into account. Hypothetical income tax liability for each affected year is then compared to the tax liability determined as of the latest of the following dates—

(A) The original due date of the return (including extensions);

(B) The date of a subsequently amended or adjusted return; or

(C) The date of the previous application of the look-back method, in which case the hypothetical income tax liability for the affected year used in the most recent previous application of the look-back method (previous hypothetical tax liability) is used.

(ii) *Determination of interest.* Once the hypothetical overpayment or underpayment for each year is computed, the adjusted overpayment rate under section 460(b)(7), compounded daily, is applied to the overpayment or underpayment determined under paragraph (d)(2)(i) of

this section for the period beginning with the due date of the return (determined without regard to extensions) for the year in which either an overpayment or underpayment arises, and ending on the earlier of the due date of the return (determined without regard to extensions) for the redetermination year, or the first date by which both the income tax return for the filing year is filed and the tax for that year has been paid in full. The amounts of interest on overpayments are then netted against interest on underpayments to arrive at look-back interest that must be paid by the taxpayer or that the taxpayer is entitled to receive.

(iii) *Changes in the amount of a loss or credit carryback or carryforward.* If a recomputation of income forecast depreciation results in an increase or decrease to a net operating loss carryback (but not a carryforward), the interest a taxpayer is entitled to receive or required to pay must be computed on the decrease or increase in tax attributable to the change to the carryback only from the due date (not including extensions) of the return for the prior taxable year that generated the carryback and not from the due date of the return for the prior taxable year in which the carryback was absorbed. In the case of a change in the amount of a carryforward as a result of applying the look-back method, interest is computed from the due date of the return for the years in which the carryforward was absorbed.

(iv) *Changes in the amount of income tax liability that generated a subsequent refund.* If the hypothetical income tax liability for any affected year is less than the amount of the affected year tax liability (as reported on the taxpayer's original return, as subsequently adjusted on examination, as adjusted by amended return, or as redetermined by the last previous application of the look-back method), and any portion of the affected year tax liability was refunded as a result of a loss or credit carryback arising in a year subsequent to the affected year, the look-back method applies as follows to properly reflect the time period of the use of the tax overpayment. To the extent the amount of refund because of the carryback exceeds the hypothetical income tax liability for the affected year, the taxpayer is entitled to receive interest only until the due date (not including extensions) of the return for the year in which the carryback arose.

(v) *Example.* The provisions of this paragraph (d)(2) are illustrated by the following example:

Example. Upon the cessation of income from an income forecast property in 2003, the taxpayer computes a hypothetical income tax liability for 2001 under the look-back method. This computation results in a hypothetical income tax liability ($1,200x) that is less than the actual income tax liability the taxpayer originally reported ($1,500x). In addition, the taxpayer had already received a refund of some or all of the actual 2001 income tax liability by carrying back a net operating loss (NOL) that arose in 2002. The time period over which interest would be computed on the hypothetical overpayment of $300x for 2001 would depend on the amount of the refund generated by the carryback, as illustrated by the following three alternative situations:

(i) If the amount refunded because of the NOL is $1,500x, interest is credited to the taxpayer on the entire hypothetical overpayment of $300x from the due date of the 2001 return, when the hypothetical overpayment occurred, until the due date of the 2002 return, when the taxpayer received a refund for the entire amount of the 2001 tax, including the hypothetical overpayment.

(ii) If the amount refunded because of the NOL is $1,000x, interest is credited to the taxpayer on the entire amount of the hypothetical overpayment of $300x from the due date of the 2001 return, when the hypothetical overpayment occurred, until the due date of the 2003 return. In this situation interest is credited until the due date of the return for the recomputation year, rather than the due date of the return for the year in which the carryback arose, because the amount refunded was less than the hypothetical income tax liability of $1,200x. Therefore, no portion of the hypothetical overpayment is treated as having been refunded to the taxpayer before the recomputation year.

(iii) If the amount refunded because of the NOL is $1,300x, interest is credited to the taxpayer on $100x ($1,300x–$1,200x) from the due date of the 2001 return until the due date of the 2002 return because only this portion of the total hypothetical overpayment is treated as having been refunded to the taxpayer before the recomputation year. However, the taxpayer did not receive a refund for the remaining $200x of the overpayment at that time and, therefore, is credited with interest on $200x through the due date of the tax return for 2003, the recomputation year.

(3) *Hypothetical overpayment or underpayment, simplified method*—(i) *Introduction.* This paragraph provides a simplified method for calculating look-back interest. A pass-through entity that is not a closely held pass-through entity is required to apply the simplified method at the entity level with respect to income forecast property and the owners of the entity do not calculate look-back interest for the property. Under the simplified method, a taxpayer calculates the hypothetical underpayments or overpayments of tax for a prior year based on an assumed marginal tax rate.

(ii) *Operation of the simplified method.* Under the simplified method, depreciation allowances for income forecast property are first recomputed in accordance with the procedures contained in paragraph (c) of this section. These recomputed depreciation allowances are then compared with depreciation allowances allowed (or allowable) for each prior taxable year (whether originally reported, as subsequently adjusted on examination or by amended return, or as recomputed in the most recent previous application of the look-back method) to arrive at changes in depreciation allowances for the income forecast property. When multiple properties are subject to the look-back method in any given affected year, the changes in depreciation allowances attributable to each income forecast property determined in accordance with paragraph (c) of this section for each such year are cumulated or netted against one another to arrive at a net change in income forecast depreciation for purposes of computing the hypothetical overpayment or underpayment attributable to the year. The hypothetical underpayment or overpayment of tax for each affected year is then determined by multiplying the applicable regular tax rate (as defined in paragraph (d)(3)(iv) of this section) by the increase or decrease in depreciation allowances.

(iii) *Determination of interest.* Interest is credited to the taxpayer on the net overpayment and is charged to the taxpayer on the net underpayment for each affected year by applying the adjusted overpayment rate under section 460(b)(7), compounded daily, to the overpayment or underpayment determined under paragraph (d)(3)(ii) of this section for the period beginning with the due date of the return (determined without regard to extensions) for the affected year, and ending on the earlier of the due date of the return (determined without regard to extensions) for the recomputation year, or the first date by which both the income tax return for the recomputation year is filed and the tax for that year has been paid in full. The resulting amounts of interest are then netted to arrive at look-back interest that must be paid by the taxpayer or that the taxpayer is entitled to receive.

(iv) *Applicable tax rate.* For purposes of determining hypothetical underpayments or overpayments of tax under the simplified method, the applicable regular rate is generally the highest rate of tax in effect for corporations under section 11. However, the applicable regular tax rate is the highest rate of tax imposed on individuals under section 1 if, at all times during all affected years, more than 50 percent of the interests in the entity were held by individuals directly or through 1 or more pass-through entities. The highest rate of tax imposed on individuals is determined without regard to any additional tax imposed for the purpose of phasing out multiple tax brackets or exemptions.

(4) *Definitions*—(i) *Pass-through entity.* For purposes of this section, a pass-through entity is either a partnership, an S corporation, an estate or a trust.

(ii) *Closely-held pass-through entity.* A closely-held pass-through entity is a pass-through entity that, at any time during any year for which allowances for depreciation are recomputed, 50 percent or more (by value) of the beneficial interests in that entity are held (directly or indirectly) by or for 5 or fewer persons. For this purpose, the term *person* has the same meaning as in section 7701(a)(1), except that a pass-through entity is not treated as a person. In addition, the constructive ownership rules of section 1563(e) apply by substituting the term *beneficial interest* for the term *stock* and by substituting the term *pass-through entity* for the term *corporation* used in that section, as appropriate, for purposes of determining whether a beneficial interest in a pass-through entity is indirectly owned by any person.

(e) *Recomputation year*—(1) *In general.* Except as provided in this paragraph (e), the term recomputation year means, with respect to any income forecast property—

(i) The earlier of—

(A) The year the income from the income forecast property ceases with respect to the taxpayer (and with respect to any person who would be treated as a single taxpayer with the taxpayer under rules similar to those in section 41(f)(1)); or

(B) The 3rd taxable year beginning after the taxable year in which the income forecast property was placed in service; and

(ii) The earlier of—

(A) The year the income from the income forecast property ceases with respect to the taxpayer (and with respect to any person who would be treated as a single taxpayer with the taxpayer under rules similar to those in section 41(f)(1)); or

(B) The 10th taxable year following the taxable year the income forecast property is placed in service.

(2) *Look-back method inapplicable in certain de minimis cases*—(i) *De minimis difference between actual and forecasted income.* A taxable year described in paragraph (e)(1) of this section is not a recomputation year if forecasted total income (as defined in § 1.167(n)–3(b)) or, where applicable, revised forecasted total income (as defined in § 1.167(n)–3(c)), for each preceding taxable years is—

(A) Greater than 90 percent of revised forecasted total income for the taxable year that would otherwise be a recomputation year; and

(B) Less than 110 percent of revised forecasted total income for the taxable year that would otherwise be a recomputation year.

(ii) *Application of the de minimis rule where the look-back method was previously applied.* For purposes of applying paragraph (e)(2)(i) of this section in any taxable year after a taxable year in which the look-back method has previously been applied, revised forecasted total income for the year the look-back method was applied, forecasted total income for the year the income forecast property was placed in service, and revised forecasted total income for all taxable years preceding the taxable year in which the look-back method was previously applied are deemed to be equal to the amount of revised forecasted total income that was used for purposes of applying the look-back method in the most recent taxable year for which the look-back method was applied.

(f) *De minimis basis exception.* The look-back method does not apply to any income forecast property with an adjusted basis, determined in accordance with section 1011 but without regard to the adjustments described in section 1016(a)(2) and (3), as of the close of any year that would otherwise be a recomputation year of $100,000 or less.

(g) *Treatment of look-back interest*—(1) *In general.* The amount of interest a taxpayer is required to pay is treated as an income tax under Subtitle A of the Internal Revenue Code, but only for purposes of Subtitle F of the Internal Revenue Code (other than sections 6654 and 6655), which addresses tax procedure and administration. Thus, a taxpayer that fails to report look-back interest when due is subject to any penalties under Subtitle F of the Internal Revenue Code applicable to a failure to report and pay a tax liability. However, look-back interest to be paid is treated as interest arising from an underpayment of tax under Subtitle A of the Internal Revenue Code, even though it is treated as an income tax liability for penalty purposes. Thus, look-back interest required to be paid by an individual, or by a pass-through entity on behalf of an individual owner (or beneficiary) under the simplified method, is personal interest and, therefore, is not deductible in accordance with § 1.163–9T(b)(2). Interest received under the look-back method is treated as taxable interest income for all purposes, and is not treated as a reduction in tax liability. The determination of whether interest computed under the look-back method is treated as income tax under Subtitle A of the Internal Revenue Code is determined on a net basis for each recomputation year. Thus, if a taxpayer computes both hypothetical overpayments of tax and hypothetical underpayments of tax for years prior to any given recomputation year, the taxpayer has an increase in tax only if the total interest computed on underpayments for all prior taxable years for which income tax liability is affected by the application of the look-back method exceeds the total interest computed on overpayments for such years, taking into account all income forecast property for which the look-back method is required. Interest determined at the entity level under the simplified method is allocated among the owners (or beneficiaries) for reporting purposes in the same manner that interest income and interest expense are allocated to owners (or beneficiaries) and subject to the allocation rules applicable to such entities.

(2) *Additional interest due on interest only after tax liability due.* For each recomputation year, taxpayers are required to file a Form 8866, "Interest Computation Under the Look-back Method for Property Depreciated Under the Income Forecast Method," at the time the return for that recomputation year is filed to report the interest a taxpayer is required to pay or entitled to receive under the look-back method. Even if the taxpayer has received an extension to file its income tax return for the recomputation year, look-back interest is computed with respect to the hypothetical increase (or decrease) in the tax liability determined under the look-back method only until the initial due date of that return (without regard to the extension). Interest is charged, unless the taxpayer otherwise has a refund that fully offsets the amount of interest due, (or credited) with respect to the amount of look-back interest due (or to be refunded) under the look-back method from the initial due date of the return through the date the return is filed. No interest is charged (or credited) after the due date of the return with respect to the amount of the

hypothetical increases (or decreases) in tax liability determined under the look-back method.

(3) *Timing of look-back interest.* For purposes of determining taxable income under Subtitle A of the Internal Revenue Code, any amount refunded to the taxpayer as a result of the application of the look-back method is includible in gross income in accordance with the taxpayer's method of accounting for interest income. Any amount required to be paid is taken into account as interest expense arising from an underpayment of income tax in the tax year it is properly taken into account under the taxpayer's method of accounting for interest expense.

(4) *Statute of limitations; compounding of interest on look-back interest.* For guidance on the statute of limitations applicable to the assessment and collection of look-back interest owed by a taxpayer, see sections 6501 and 6502. A taxpayer's claim for credit or refund of look-back interest *previously paid by or collected from a taxpayer* is a claim for credit or refund of an overpayment of tax and is subject to the statute of limitations provided in section 6511. A taxpayer's claim for look-back interest (or interest payable on look-back interest) that is not attributable to an amount previously paid or collected from a taxpayer is a general claim against the federal government. For guidance on the statute of limitations that applies to general claims against the federal government, see 28 U.S.C. 2401 and 2501. For guidance applicable to the compounding of interest when the look-back interest is not paid, see sections 6601 to 6622.

(h) *Example.* The provisions of this section are illustrated by the following example:

Example. (i) *H*, a calendar year corporation, creates a motion picture at a cost of $60x. *H* completes the motion picture in 2001 and begins exhibition of the film that same year. Assume that $60x is greater than $100,000. In 2001, *H* anticipates that it will earn $200x from the motion picture (net of distribution costs). *H* therefore uses this amount as Forecasted Total Income when computing depreciation allowances for the motion picture.

(ii) *H* earns current year income of $80x in 2001, $60x in 2002, and $40x in 2003. During the period from 2001 to 2004, one of the actors who appeared in *H*'s film became more popular, and this increase in the actor's popularity increased the demand for *H*'s film. In 2004, therefore, *H* revised its forecast of income from the film upward to $240x. *H* earns $20x in 2004 from the motion picture and $10x in 2005.

(iii) Based on these facts, *H*'s allowances for depreciation for the motion picture for 2001 would be $24x, computed by multiplying the depreciable basis of the motion picture of $60x by current year income of $80x divided by forecasted total income of $200x under § 1.167(n)-4(a). Similarly, *H*'s allowances for depreciation for the motion picture for 2002 would be $18x, computed by multiplying the depreciable basis of the motion picture of $60x by current year income of $60x divided by forecasted total income of $200x, and *H*'s allowances for depreciation for the motion picture for 2003 would be $12x, computed by multiplying the depreciable basis of the motion picture of $60x by current year income of $40x divided by forecasted total income of $200x.

(iv) In 2004, *H* determines revised forecasted total income of $240x in accordance with § 1.167(n)-3(c). Because revised forecasted total income in 2004 of $240x is greater than 110 percent of forecasted total income used in computing the allowance for depreciation in the immediately preceding year (110 percent of $200x equals $220x), *H* is required under § 1.167(n)-4(b)(2) to compute the allowance for depreciation in 2004 and thereafter using the revised computation. *H* first computes its unrecovered depreciable basis in the motion picture under § 1.167(n)-2(c) of $6x by subtracting from the depreciable basis of $60x the depreciation allowances for 2001, 2002, and 2003 of $24x, $18x, and $12x. *H* then multiplies the unrecovered depreciable basis of $6x by the current year income for 2004 of $20x divided by $60x (revised forecasted total income $240x less current year income for all years prior to 2004 ($80x + $60x + $40x or $180x), resulting in a depreciation allowance for 2004 of $2x.

(v) In 2005, *H* is required to use the revised computation because *H* used it in 2004. Thus, *H* multiplies the unrecovered depreciable basis of $6x times current year income for 2005 of $10x divided by $60x (revised forecasted total income as computed in 2004), resulting in a depreciation allowance for 2005 of $1x.

(vi) Thus, *H*'s allowances for depreciation may be summarized as follows:

Year	Current year income	Forecasted total income	Revised forecasted total income	Depreciable basis	Unrecovered depreciable basis	Depreciation allowance
2001	80x	200x	.....	60x	.....	24x
2002	60x	200x	.....	60x	.....	18x
2003	40x	200x	.....	60x	.....	12x
2004	20x	.....	240x	.....	6x	2x
2005	10x	.....	240x	.....	6x	1x

(vii) Under paragraph (e)(1)(i)(B) of this section, 2004 is a recomputation year (because 2004 is the third taxable year after the year in which the motion picture was placed in service) unless a de minimis rule applies. The de minimis rule in paragraph (e)(2) of this section does not apply in 2004 because forecasted total income of $200x used in the computation of income forecast depreciation in 2001, 2002 and 2003 is not greater than 90 percent of year 2004 revised forecasted total income of $240x (90 percent of $240x = $216x). Thus, *H* must apply the look-back method for 2004.

(viii) If *H* sells the motion picture in 2006 for $25x prior to earning any current year income from the motion picture, *H* would not be entitled to any allowance for depreciation in 2006. (The special rule of § 1.167(n)-3(d)(1) precludes *H* from including income from the sale of the motion picture in current year income, *H* has no other current year income, and § 1.167(n)-4(d)(3) precludes the use of the final year depreciation rule of § 1.167(n)-4(d)(1).) Under paragraph (e)(1)(ii)(A) of this section, 2006 is a recomputation year (because in 2006 the income from the property to *H* ceases) unless a de minimis rule applies.

(ix) To determine whether the de minimis rule applies, *H* is required to determine revised forecasted total income for 2006. Under paragraph (c)(2) of this section, revised forecasted total income for 2006 is deemed to be the sum of current year income for the years 2001–2006 of $210x ($80x + $60x + $40x + $20x + $10x + $0x) plus the amount realized from the sale of the motion picture of $25x or $235x. Revised forecasted total income for 2005 is $240x, and pursuant to paragraph (e)(2)(ii) of this section, revised forecasted total income for the years 2001–2004 is deemed (for purposes of determining whether 2006 is a recomputation year) to be the amount of revised forecasted total income used in the 2004 application of the look-back method of $240x. Because $240x is greater than $212x (90 percent of $235x) and less than $259x (110 percent of $235x), the de minimis rule applies and *H* is not required to apply the look-back method in 2006.

§ 1.167(n)–7 Effective date.

The regulations under § 1.167(n)-1 through § 1.167(n)-6 are applicable for property placed in service on or after

the date that final regulations are published in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–122564–02]

RIN 1545–BA73

Carryback of Consolidated Net Operating Losses to Separate Return Years

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 1502 that affect corporations filing consolidated returns. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations permitting certain acquiring consolidated groups to elect to waive all or a portion of the pre-acquisition portion of the 5-year carryback period under section 172(b)(1)(H) for certain losses attributable to certain acquired members. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by July 30, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU, Room 5226 (REG–122564–02), Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU, Room 5226 (REG–122564–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at *www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Marie C. Milnes-Vasquez (202) 622–7770; concerning submissions and/or requests for a public hearing, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by July 30, 2002. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.1502–21(b)(3)(ii)(C). This information is required to document the taxpayer's election to relinquish portions of its carryback period for 2001 and 2002 losses attributable to acquired members. The data will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with their elections. The collection of information is required to obtain a benefit. The likely respondents are businesses.

Estimated total annual reporting burden: 1,000 hours.

Estimated average annual burden hours per respondent: 15 minutes.

Estimated number of respondents: 4,000.

Estimated annual frequency of responses: Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1502. The temporary regulations provide rules permitting certain acquiring consolidated groups to elect to waive all or a portion of the pre-acquisition portion of the 5-year carryback period under section 172(b)(1)(H) for certain losses attributable to certain acquired members. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations principally affect persons filing consolidated Federal income tax returns. Available data indicates that most consolidated return filers are large companies (not small businesses). Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are timely submitted to the IRS. All comments will be made available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public

hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Marie C. Milnes-Vasquez, Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1502–21 is amended by adding paragraph (b)(3)(ii)(C) to read as follows:

§ 1.1502–21 Net operating losses.

[The text of proposed § 1.1502–21(b)(3)(ii)(c) is the same as the text of § 1.1502–21T(b)(3)(ii)(c) published elsewhere in this issue of the **Federal Register**].

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

[FR Doc. 02–13577 Filed 5–30–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–102305–02]

RIN 1545–BA52

Loss Limitation Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: This document contains proposed amendments to temporary regulations issued under sections 337(d) and 1502. The amendments clarify certain aspects of the temporary regulations relating to the deductibility of losses recognized on dispositions of subsidiary stock by members of a consolidated group. The proposed amendments in these proposed regulations apply to corporations filing consolidated returns, both during and after the period of affiliation, and also affect purchasers of the stock of members of a consolidated group. The text of the temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these regulations.

DATES: Written or electronic comments must be received by July 10, 2002. Requests to speak (with outlines of oral comments to be discussed) at the public hearing scheduled for July 17, 2002, at 10 a.m., must be received by June 26, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–102740–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 6 p.m. to CC:ITA:RU (REG–102740–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *www.irs.gov/regs*. The public hearing will be held in the Internal Revenue Service Auditorium, in the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Sean P. Duffley, (202) 622–7530, or Lola L. Johnson, (202) 622–7550; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita VanDyke (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been previously reviewed and approved by the Office of Management and Budget under control number 1545–1774. No material changes to these collections of information are proposed in these regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1 relating to sections 337(d) and 1502. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issuance of these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses, and, moreover, that any burden on taxpayers is minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing has been scheduled for July 17, 2002, at 10 a.m., in the IRS Auditorium, IRS Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 30 minutes before the hearing starts.

Drafting Information

The principal authors of these regulations are Sean P. Duffley and Lola L. Johnson, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury participated in their development.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for "Section 1.1502–20T(i)" and adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–20 also issued under the authority of 26 U.S.C. 337(d) and 1502. * * *

Par. 2. In § 1.337(d)–2, paragraphs (a)(4) and (b)(4) are added to read as follows:

§ 1.337(d)–2 Loss limitation window period.

[The text of this proposed section is the same as the text of § 1.337(d)–2T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.1502–20 is amended by revising paragraphs (i)(3)(v) and (i)(4) to read as follows:

§ 1.1502–20 Disposition or deconsolidation of subsidiary stock.

[The text of this proposed section is the same as the text of § 1.1502–20T published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–13575 Filed 5–30–02; 8:45 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 111

Proposed Changes to the Move Update and Address Matching Requirements

AGENCY: Postal Service.

ACTION: Advance notice of proposed rulemaking and request for comment.

SUMMARY: The Postal Service requests comments from the mailing industry on several proposals to reduce the volume of undeliverable-as-addressed (UAA) mail. The Postal Service intends to extend the Move Update requirement for presorted rate mailings beyond First-Class Mail to also include Periodicals, Standard Mail, and Package Services; to decrease from 180 days to 90 days the window a mailer has to process addresses through a USPS-approved Move Update process prior to the mailing date; and to remove manual notifications from ancillary service endorsements as a stand-alone option to satisfy the Move Update requirement. Also being considered is a requirement for more frequent use of address matching software and a requirement for that software to utilize more current address matching directories. The Postal Service is not proposing any immediate changes to the Domestic Mail Manual (DMM) or the elimination of manual ancillary service endorsements for single-piece rated mail. The Postal Service will give due notice of these changes with an intended implementation date of no sooner than 18 months from the publication of this notice.

DATES: Comments must be received on or before August 29, 2002.

ADDRESSES: Written comments should be delivered to the Office of Product Management—Addressing, National Customer Support Center, United States Postal Service, 6060 Primacy Pkwy, Ste. 201, Memphis, TN 38188–0001. Comments may be transmitted via facsimile to 901–821–6206 or via e-mail to *chunt1@email.usps.gov*. Copies of all written comments will be available for inspection and photocopying at USPS Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington DC 20260–1450 between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Wayne Orbke, 901–681–4658; or Charles B. Hunt, 901–681–4651.

SUPPLEMENTARY INFORMATION: On October 15, 2001, the Mailing Industry Task Force, a joint workgroup of mailing industry and Postal Service leaders, released its findings and recommendations in the report Seizing Opportunity (this report can be viewed at *www.usps.com/strategicdirection/mitf.htm*). To help drive costs out of the postal delivery system and to reduce the volume of UAA mail, the Task Force recommended that mailer requirements be revised to facilitate more frequent use of Move Update and address matching software.

It is the intent of the Postal Service to implement the proposals contained in this notice as part of the Product Redesign effort that is currently under way. Product Redesign is a joint mailing industry and Postal Service initiative to evaluate and implement ideas that improve the overall value of the mail. Product Redesign has also focused on these same address quality initiatives with a goal of creating incentives for mailers to take steps to reduce the costs associated with UAA mail. The value of these proposals to both the mailing industry and the Postal Service is clearly recognized. In addition to the direct UAA mail impact on postage rates, the mailing industry incurs substantial indirect costs associated with wasted mail production, additional labor required to handle manual corrections, and lost business opportunities when their strategic messages cannot be delivered. Implementation of these "Best Practices" addressing proposals will benefit both the mailing industry and the Postal Service by substantially mitigating the impact of UAA mail and enhancing the value and viability of the mail as a communications medium of choice.

(1) Move Update Requirement for All Classes of Mail

UAA mail is a persistent problem for both the mailing industry and the Postal Service. In testimony presented before the Postal Rate Commission during omnibus rate case Docket No. R–2001–1, USPS costs associated with UAA mail in fiscal year 2000 were $1.8 billion. UAA volume for that year totaled 5.7 billion pieces. By comparison, a 1998 Postal Service study of the UAA problem commissioned through Price Waterhouse revealed UAA costs for fiscal year 1998 were $1.5 billion and its associated volume was 5.4 billion pieces. Overall UAA volume has grown by 5.26% in two years.

When UAA volume was tracked through the Computerized Forwarding System (CFS) sites by class of mail, it was noted that First-Class Mail UAA volume actually decreased from 1998 to 2000 by 0.29%, while UAA volume for all other classes increased. First-Class Mail is the only class currently with a Move Update requirement for presort and automation postage rates. Clearly the Move Update requirement is working to contain the growth of UAA within First-Class Mail. The 1998 Price Waterhouse study also revealed that if it were not for the change of address programs, such as National Change of Address (NCOA), Address Change Service (ACS), and FASTforward®, UAA costs would have been over $3 billion.

If the Move Update requirement was expanded to other classes of mail, the Postal Service and the mailing industry could realize even greater cost savings. These savings may help to contribute to rate stabilization and improved delivery service.

(2) Frequency of Use of Move Update Processing

Currently the DMM requires that addresses on all Presorted and automation rate First-Class Mail be updated within 180 days before the mailing date using an USPS-approved method (i.e., NCOA, ACS, FASTforward®, an ancillary service endorsement, or other methods approved by the National Customer Support Center). It is proposed that this 180-day window be reduced to 90 days and linked to the previous proposal of expanding the Move Update requirement to the other classes of mail.

Approximately 17% of all Americans move every year. In Fiscal Year 2000, families and individuals filed over 41 million change-of-address orders. In the same year, there were 2.6 million business filings. With such a dynamic environment, managing addresses affected by customer moves is challenging. The monthly rate of deterioration of address currency, due to family and individual moves alone, is approximately 1.4%. In 6 months (the current Move Update requirement), about 8.4% of addresses in the mailer's files has the potential to be inaccurate. To minimize this natural deterioration, the Postal Service has recommended, since the inception of the Move Update requirement in July 1997, that Move Update processing be completed as close to the mailing date as possible. While this is desirable, the Postal Service understands that it may not always be possible for the mailer. However, it is in the best interests of both the mailing industry and the Postal Service to require Move Update processing at most 90 days before the mailing date. Reducing by one-half the natural deterioration of address currency can be expected to significantly decrease UAA volume and the costs associated with the re-handling and redirection of mail.

(3) Removal of Manual Hardcopy Notifications as a Move Update Option

The Postal Service is proposing the elimination of manual notifications resulting from ancillary service endorsements, as a method to meet the Move Update requirement. There are currently six USPS-approved methods to meet the Move Update requirement. They are: (1) NCOA, (2) FASTforward®, (3) ACS, (4) an appropriate ancillary service endorsement, (5) the NCSC-approved alternate method for mailers that have statutory or regulatory restrictions that prohibit changing customer addresses without direct notification from the addressee, and (6) the NCSC-approved alternative for mailers' processes that effectively produces a Move Update accuracy of at least 99% as measured against the Postal Service's Change-of-Address (COA) systems.

NCOA and FASTforward® are processes that occur before or at the time of mailing and are known as pre-mailing methods. ACS and use of ancillary service endorsements are Move Update methods that are post-mailing in nature. The two alternative methods may be pre-or post-mailing processes. With the exception of ancillary service endorsements that require manually produced address notices, all of the current options would remain available to mailers for Move Update qualification.

Providing mailers with manually prepared address notifications is the least effective and most costly Move Update method for the Postal Service requiring high cost carrier and clerk labor. For mailers, the higher fee per notice (currently $0.60 versus $0.20 for ACS electronic notifications) must be added to their high labor costs associated with manually processing and incorporating the COA information into their address files. These costs often far exceed the fee for the address correction notice. This will be further impacted when the manual notification fee increases from $0.60 to $0.70 when the rate case Docket No. R2001–1 is implemented. The ACS fee will remain at $0.20.

When one considers the impact on both the Postal Service and the mailing industry of these inherent problems related to cost, quality, and timeliness of manual updates, it does not make sense to continue to allow manual address notifications as a method for obtaining automation and presorted rate discounts. Another point to consider is the fact that many of these endorsements require the Postal Service to return the mailpiece to the mailer at a significant cost. There is a viable cost-effective replacement available for mailers who cannot process electronic address corrections and must use hardcopy. This replacement method is the electronic ACS hardcopy option that provides a computer-formatted, high quality printout in a timely manner at a reasonable cost to the Postal Service and the mailer. The current fee is $0.20, the same as the cost for ACS electronic notification. No additional carrier or clerk labor is required to prepare the ACS channel hardcopy address corrections. This option requires minimal initial cost for a mailer to implement.

(4) Frequency of Use of Address Matching Software

Currently the DMM requires that addresses on all non-carrier route automation rate mailings (First-Class Mail, Periodicals, and Standard Mail) must be ZIP+4 coded within 180 days before the mailing date. The mailer must use current Coding Accuracy Support System (CASS)-certified address matching software and the current USPS Address Information System (AIS) directory. It is proposed that this 180-day window be reduced to 90 days. Starting June 30, 2002 (R2001–1), the Postal Service will require a delivery point barcode (DPBC) on all Enhanced Carrier Route (ECR) high density and saturation rate pieces claimed at letter rates, in addition to the carrier route coding. Carrier route coding is already required within 90-days of mailing.

Today, the Postal Service is delivering mail to over 137 million delivery points. Each year, on average, 2.8 million new delivery points are added and 1.1 million are deleted, and approximately 6.5 million change transactions are processed (changes to the ZIP+4 code, carrier route number, or address elements). The total average number of changes to delivery points and ZIP+4 range-based records is 10.4 million per year. These address element and Postal Code changes that affect mail deliverability are distinct from, and in addition to, the COA orders filed each year by families, individuals, and businesses.

Edits to the Address Management System (AMS) result in a 26.6% annual change rate, which translates to 2.22% of the records changed per month. It is a daunting challenge to keep addresses current with the proper ZIP+4 codes and carrier route number in such a dynamic environment.

By going from a 180-day to a 90-day matching and coding requirement to obtain automation rate discounts, we would potentially reduce by half (from approximately 13.3% to 6.65%) the number of mailpieces containing inaccurate address coding.

(5) Address Matching Directory Update Frequency

When processing address files through CASS-certified address matching software, the system must use the "current USPS database/directory" to obtain the correct ZIP+4 codes. The update standards in DMM A950.3.0 define a "current USPS database" by the following matrix:

CURRENT DMM STANDARDS

File Release Date Use of file released on . . .	Required Use Date Must begin no later than . . .	Last Permissible Use Date And must end no later than . . .
February 15	April 1	May 31.
April 15	June 1	July 31.
June 15	August 1	September 30.
August 15	October 1	November 30.
October 15	December 1	January 31.
December 15	February 1	March 31.

New AIS product releases must be included in address matching systems no later than 45 days after the release date. Mailers are expected to update their systems with the latest data files as soon as practicable. This provides mailers a maximum of 105 days for product release use (45 days for installation and testing, and 60 days of use thereafter) as noted in the above table. This built-in overlap in dates for product use allows mailers adequate time to install the new data files and test their systems.

The Postal Service is proposing the reduction of these timeframes for permissible use of any product release from 60 days to 30 days. The 45-day allowance for installation and testing remains unchanged. As a result, mailers would have a maximum of 75 days for AIS product release use (45 days for installation and testing, and 30 days of use thereafter). Therefore, the new USPS database/directory product cycle would be as follows:

PROPOSED DMM STANDARDS

File Release Date Use of file released on . . .	Required Use Date Must begin no later than . . .	Last Permissible Use Date And must end no later than . . .
January 15	March 1	March 31.
February 15	April 1	April 30.
March 15	May 1	May 31.
April 15	June 1	June 30.
May 15	July 1	July 31.
June 15	August 1	August 31.
July 15	September 1	September 30.
August 15	October 1	October 31.
September 15.	November 1	November 30.
October 15	December 1	December 31.
November 15	January 1	January 31.
December 15	February 1	February 28.

As stated in the previous section, over 26.6% of the Postal Service's AMS database experiences some change over the course of a year. The required use of monthly instead of bi-monthly directories may help to further reduce UAA mail caused by inaccurate address coding by another 2.22%.

This proposal to use monthly directories coupled with the proposal for more frequent address coding are inextricably linked and must be considered as an integrated two-part solution to reduce UAA mail that results from poor physical address quality. More frequent coding against old database directories or less frequent coding against newer database directories adds no real value. It is the combination of the two that is expected to provide an increase in the accuracy of address information on mailpieces.

Consider an illustrative automation rate mailing submitted on November 30 as the most extreme example of the results of using current standards. The addresses within the mailing were ZIP+4 coded on the last permissible day of May 31 using the oldest "current" ZIP+4 file of February 15. The AMS data source that was used to process the mailer's addresses is over nine months old. When factored against the 2.22% monthly AMS change rate, approximately 19.98% (9 months x 2.22%) of the mailpieces within the mailing may potentially contain the wrong ZIP+4 code and therefore the wrong POSTNET barcode.

Under this proposal, using the same extreme example, the automation rate mailing is submitted on November 30. The addresses within the mailing were ZIP+4 coded on the last permissible day that is now August 31 using the oldest "current" ZIP+4 file of June 15. The AMS data source that was used to process the mailer's addresses is now only five months old. Again when factored against the 2.22% monthly AMS change rate, only 11.1% (5 months x 2.22%) of the mailpieces may potentially contain the wrong ZIP+4 code.

	Current Standards	Proposed Standards
Date of Mailing	November 30	November 30.
Oldest Permissible Date Address List was Matched & Coded	May 31	August 31.
Oldest Date of Valid AIS Directory Used for Matching & Coding	February 15	June 15.
Age of Addressing Data Used for Matching & Coding	9 Months	5 Months.
Percentage of Addressing File Containing Potentially Incorrect ZIP+4 codes	19.98%	11.1%.

The proposed standards would significantly reduce the number of mailpieces with potentially inaccurate ZIP+4 codes that would have to be redirected. This combined approach should decrease the volume of UAA mail within the postal delivery system and thereby reduce the total costs associated with UAA mail.

For the reasons stated above, the Postal Service seeks comments on the impact of strengthening address quality standards in the mutual pursuit of reducing UAA costs and enhancing delivery service standards. In particular, the Postal Service seeks comments on the intended implementation time of not less than 18 months; the extension of the Move Update requirement for presorted rate mailings to Periodicals, Standard Mail, and Package Services mailers; the impact to mailers who currently use manual ancillary service endorsements as an option to satisfy the Move Update requirement; and the impact of more frequent use of Move Update and address matching software.

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–13712 Filed 5–30–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN141–1b; FRL–7213–6]

Approval and Promulgation of State Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on July 18, 2000 with additional material submitted on January 11, 2002 and March 13, 2002. The revised SIP pertains to vapor tightness standards for the loading of gasoline cargo tanks at bulk gasoline terminals and pipeline breakout stations in Indiana. The purpose of this action is to approve amendments to Indiana's gasoline transport testing requirements which will tighten current state rules. In the Final Rules section of this **Federal Register**, EPA is approving as described herein, the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further action in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: EPA must receive written comments on this proposed rule by July 1, 2002.

ADDRESSES: You should mail written comments to: Patricia Morris, Acting Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us", or "our" are used we mean EPA.

Table of Contents

I. What action is EPA taking today?
II. Where can I find more information about this proposal and the corresponding direct final rule?

I. What Action Is EPA Taking Today?

In this action, we are proposing to approve changes to Indiana's gasoline transport testing requirements contained in 326 IAC 8–4 and 326 IAC 20–10. Our approval makes the changes to the Indiana rules part of the federally enforceable SIP.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 9, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 02–13517 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0003–P]

RIN 0938–AK64

Health Insurance Reform: Modifications to Standards for Electronic Transactions and Code Sets

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: This rule proposes to adopt modifications to certain standards for retail pharmacy transactions adopted in our regulations entitled "Health Insurance Reform: Standards for Electronic Transactions" published in the **Federal Register** on August 17, 2000 (65 FR 50312), which implemented some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. This rule proposes to adopt the National Council for Prescription Drug Programs (NCPDP) Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record, in place of NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 0 (Version 1.0), February 1996, for the following standards for retail pharmacy transactions: health care claims or equivalent encounter information; eligibility for a health plan; and coordination of benefits.

Additionally, we propose to modify the standard for the health care payment and remittance advice transaction as the standard for retail pharmacy transactions by adopting, in place of the current standard, the ASC X12N 835—health care claim payment/advice. We also propose to adopt the NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record, as the referral certification and authorization transaction standard, to replace the current standard, ASC X12N 278, for retail pharmacy transactions only.

This rule also proposes to repeal the adoption of National Drug Codes as the standard medical data code set for reporting drugs and biologics in all standard transactions, except those for retail pharmacy transactions, for which standards have been adopted.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 1, 2002.

ADDRESSES: In commenting, please refer to file code CMS–0003–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0003–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

Comments may also be submitted electronically to the following e-mail address: CMS0003@cms.hhs.gov. For e-mail procedures, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Marilyn Abramovitz, (410) 786–5939 and Gladys Wheeler, (410) 786–0273.

SUPPLEMENTARY INFORMATION:

Public Comments: Normally, we provide a 60-day public comment period for a proposed rule; for this rule, however, there is a 30-day comment period. After publication of the Standards for Electronic Transactions final rule (65 FR 50312), we received an overwhelming response from the affected industry and industry representatives requesting that we make the changes proposed in this rule. Because this proposed rule is in direct response to those industry requests, we believe it is unnecessary to provide more than a 30-day comment period for this rule.

Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5–12–17, at the headquarters Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD, on Monday through Friday of each week from 8:30 a.m. to 4 p.m. To make an appointment to view the public comments, please call telephone number (410) 786–9994.

Electronic Comments: We will consider all electronic comments that include the full name, postal address, and affiliation (if applicable) of the sender and are submitted to the electronic address identified in the **ADDRESSES** section of this preamble. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at 7500 Security Boulevard, Baltimore, MD 21244.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 (or toll-free at 1–888–293–6498) or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The web site address is: *http://www.access.gpo.gov/nara/index.html.*

I. Background

On August 17, 2000, we published the Standards for Electronic Transactions final rule in the **Federal Register** (65 FR 50312). That regulation implemented some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It adopted standards, in 45 CFR part 162, for eight electronic transactions and for code sets to be used in those transactions. It also contained requirements concerning the use of these standards by health plans, health care clearinghouses, and certain health care providers. (Please refer to that rule for a detailed discussion of electronic data interchange, the statutory background, and an analysis of the public comments received during the promulgation of the rule.) The compliance dates set forth in the rule are October 16, 2002 for all covered entities, with the exception of small health plans, for which the compliance date is October 16, 2003.

A. The Standards for Retail Pharmacy

The Standards for Electronic Transactions final rule (65 FR 50312), published on August 17, 2000, adopted transaction standards for eight different transactions, some of which are transactions for retail pharmacy. In this section of the proposed rule, we address only those retail pharmacy transaction standards that would be affected by the modifications proposed herein. The standards adopted in the final rule for retail pharmacy transactions for health care claim status, enrollment and disenrollment in a health plan, and health plan premium payments, would not be affected by the changes proposed in this rule. The August 17, 2000 final rule adopted the National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Implementation Guide, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 0 (Version 1.0), February 1, 1996, as the standards for the retail pharmacy sector for the following transactions: health care claims or equivalent encounter information, eligibility for a health plan, health care payment and remittance advice, and coordination of benefits. The rule also adopted the ASC X12 N278 Request for Review and Response as the standard for the referral certification and authorization transaction to be used for retail pharmacy transactions.

B. The Standard Medical Data Code Set for Drugs and Biologics

In the Standards for Electronic Transactions proposed rule (65 FR 25285), we proposed the adoption of National Drug Codes (NDC), as maintained and distributed by HHS in collaboration with drug manufacturers for reporting drugs and biologics, as the standard medical data code set for reporting drugs and biologics in standard transactions. We addressed comments on that proposal in the August 17, 2000 final rule. See 65 FR 50328 for a detailed discussion of the comments and responses. Generally, NDC were favored by commenters as the most appropriate and efficient coding system available for identifying drugs. In the final rule, we adopted NDC as the medical data code set for reporting drugs and biologics in standard transactions. The decision to adopt NDC, rather than another code set such as HCPCS drug codes as the standard medical data code set for reporting drugs and biologics was based upon the following factors:

- NDC have several significant advantages over other formats we considered. The NDC is a unique number that is capable of identifying each drug or biological product. The Food and Drug Administration (FDA) and drug manufacturers assign NDC to approved drugs. The NDC format is an 11-digit number that specifies detailed information about each drug. The first grouping of five numbers represents a labeler code that identifies a drug manufacturer and is assigned by the FDA. The second grouping of four numbers is the product code, which identifies drug strength, dosage form, and formulation, and is assigned by the drug manufacturer. The third grouping of two numbers represents package size and uniquely identifies the package by the quantity of contents and type of package, and is assigned by the drug manufacturer.

• NDC are an existing code set already in moderate use for reporting drugs and biologics by some entities, and in widespread use by retail pharmacies.

• The adoption of NDC as the standard coding system for reporting drugs and biologics on standard transactions would reduce the need for local codes since NDC are assigned on a continuous basis.

II. Provisions of the Proposed Regulations

A. Modification of Standards for Retail Pharmacies

1. Retail Pharmacy Batch Transactions

We propose to adopt modifications to the standards for retail pharmacy batch transactions in §§ 162.1102, 162.1202, and 162.1802. The modifications would be the adoption of the NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record, to replace the NCPDP Batch Standard Implementation Guide, Version 1, Release 0, (Version 1.0), February 1996.

We propose to adopt these modifications because the current standard version of the NCPDP Batch Standard Batch Implementation Guide (Version 1, Release 0, February 1, 1996) does not coordinate with the current standard version of the NCPDP Telecommunication Standard Implementation Guide (Version 5, Release 1, September 1999 (version 5.1)). As a practical matter, it was our intent to adopt the batch standard that is the equivalent companion to the telecommunication standard. However, the NCPDP has confirmed with us that Batch Standard Version 1.0 is only compatible with Telecommunication Standard Version 3, Release 2 (Version 3.2). As currently written, our regulations do not permit batched transactions. If the regulations in 45 CFR part 162 were to remain unchanged as of October 16, 2002 (the compliance date for most covered entities), in order to be in compliance with our rules at 45 CFR part 162, as they are currently written, covered entities conducting retail pharmacy transactions would technically not be able to batch transactions but would have to conduct all transactions individually. Therefore, we are proposing to modify our regulations and adopt Batch Standard Version 1, Release 1 (Version 1.1), as the Batch Standard Batch Implementation Guide in place of the NCPDP Batch Standard Batch Implementation Guide Version 1, Release 0 (Version 1.0.)

2. Referral Certification and Authorization Transaction

For retail pharmacy transactions only, we propose to modify the standard for the referral certification and authorization transaction by adopting the NCPDP Telecommunication Guide, Version 5 Release 1, September 1999 as the standard in place of the ASC X12N 278—Health Care Services Review-Request for Review and Response as the standard for the Referral Certification and Authorization transaction. It has come to our attention that, in fact, the ASC X12N 278 is not appropriate for retail pharmacy prior authorization transactions. We have consulted with the NCPDP and the National Association of Chain Drug Stores and have concluded that the ASC X12N 278 implementation specification does not support data critical to retail pharmacy prior authorization transactions. The implementation specification could not be changed to support the transaction before we issued the final regulation because the X12 standards development process for modifying standards could not be completed in time. Because the NCPDP standard adequately supports this transaction for retail pharmacy, and is currently in widespread industry use, we propose to modify the referral certification and authorization standard by adopting the NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record, in place of the ASC X12N 278. This modification will not affect the standards for dental, professional, and institutional referral certification and authorization transactions.

In the proposed rule titled CMS–0005–P, published elsewhere in this **Federal Register**, we are proposing to amend the same section by redesignating the existing text as paragraph (b), revising paragraph (b), and adding introductory text.

3. Health Care Payment and Remittance Advice Transaction

In the August 17, 2000 final rule, we adopted the ASC X12N 835 as the standard for dental, professional, and institutional transactions for the health care payment and remittance advice transaction. We adopted the NCPDP Telecommunications Standard Implementation Guide, Version 5 Release 1, September 1999 as the standard for retail pharmacy drug claims and remittance advice transactions. However, since publication of the final rule, we have concluded that the NCPDP Telecommunications Standard and batch equivalent do not sufficiently support the remittance advice data for this transaction. Consequently, it would not be possible for covered entities to comply with the NCPDP standards for retail pharmacy drug claims and remittance advice transactions. Therefore, we propose to modify the standard for the health care payment and remittance advice transaction for retail pharmacy transactions by adopting the ASC X12N 835 in place of the NCPDP standard. With the implementation of this proposal, the ASC X12N 835 would be the only standard for health care payment and remittance advice transactions. All covered entities, including retail pharmacies (§ 162.1602), would be required to use ASC X12N 835 when conducting a health care payment and remittance advice transaction.

B. Medical Data Code Set for Drugs and Biologics

We propose to repeal the adoption of NDC as the standard medical data code set for reporting drugs and biologics in all standard transactions, except for retail pharmacy transactions, for which standards have been adopted in § 162.1002(c). We would make a conforming change to § 162.1002(f) to specify that the Healthcare Common Procedure Coding System (HCPCS), as maintained and distributed by HHS, would not be required for reporting drugs and biologics. The result of this repeal would be no standard medical data code set in place for reporting drugs and biologics on standard transactions that are not retail pharmacy (hereafter, referred to as nonretail pharmacy transactions).

The absence of a code set standard would not preclude the use of NDC for reporting drugs and biologics by covered entities on standard transactions. Covered entities could continue to report drugs and biologics as they preferred, for example, according to trading partner agreements or as reported before the adoption.

1. Reasons for Proposed Repeal

Since publication of the final rule, numerous health care industry concerns about the use of NDC have been reported. Although the intent of the final rule was to standardize the reporting of drugs and biologics by using one coding system, the industry has indicated that this may not be practical within the industry at this time. The magnitude and scope of issues concerning the implementation of NDC for reporting drugs and biologics in standard transactions, and the relevance of those issues to industry goals of administrative simplification and HIPAA compliance, prompted HHS to re-examine the adoption of NDC.

The following concerns reported by the industry since publication of the final rule illustrate the industry's view of the escalating cost burden for institutional and professional health care providers who are unfamiliar with the use of NDC.

a. Compliance with the NDC standard for electronic transactions by health care providers on professional claims would require the expansion of data field sizes in nearly all modules of physician practice management systems in order to store and display the thousands of available NDC. Some financial estimates for health care providers suggest complete systems re-engineering and replacements or both would be necessary. The industry has reported that the costs of changing from using HCPCS to NDC for reporting drugs and biologics on institutional claims could exceed an institution's costs for adopting all other combined HIPAA standard transactions.

b. The National Uniform Billing Committee (NUBC) outlined its concerns with the requirement to use NDC on institutional claims, particularly hospital claims, in a letter to former Secretary Donna Shalala, dated September 22, 2000. The following issues were raised by the NUBC in that letter:

• Reporting specific drugs on institutional claims introduces a systems technology requirement that is inconsistent with inpatient claims submission and institutional provider reimbursement, which commonly are based on a Diagnosis-Related Group or per diem payment methodology.

• NDC formats indicate how a drug was acquired but provide no information related to actual dosages administered. Although the NDC second grouping of four numbers identifies drug strength, dosage form, and formulation of the product, it does not reflect the administered dose. An NDC for multiple billing increments is not formulated.

• Operational issues of systems incompatibility among institutional pharmacies, inpatient medical records, and inpatient accounting systems compound expensive system retooling with major training initiatives. Physicians typically order drugs for patients through the hospital pharmacy department by name, unit, and dosage frequency. The pharmacy department does not reference the NDC to pull the drug or initiate a charge transaction. Typically, an NDC is not recorded in a patient's medical record. There is little or no electronic linkage and communication among institutional drug inventory, patient billing, and medical records computer systems.

• Typical institutional patient accounting systems and professional health care provider practice management systems do not accommodate the 11 digits inherent to NDC assignment.

• The lack of sufficiently defined benefits for health care providers for required system upgrade costs to accommodate NDC risks the alternative of providers submitting paper claims to avoid the costs of reporting NDC. Attempts by industry experts to develop a complete 1:1 crosswalk from the currently used HCPCS codes to NDC have been unsuccessful. Different NDC may be assigned to the same drug to identify the various manufacturers of that drug. In contrast, because the HCPCS code is more generic and does not reference the manufacturer, only one code applies to the drug.

The NUBC believes that the NDC coding system is suited more for inventory control and is not appropriate for institutional provider billing, and that the reporting of NDC pertains to retail pharmacy claims only and should not be applicable to institutional claims.

c. HHS posted an e-mail address on its Administrative Simplification web site in October 2000 (*http://www.aspe.hhs.gov/admnsimp/index.htm*). HHS directed inquiries about the August 17, 2000 final rule on standards for electronic transactions to this e-mail address. HHS responses to these inquiries are posted to a "Frequently Asked Questions" location on the web site. HHS received and posted numerous separate inquiries reiterating concerns similar to those expressed by the NUBC in its September 22, 2000 letter to former Secretary Shalala referenced above under section II.B of this proposed rule.

d. After publication of the final rule, the Workgroup for Electronic Data Interchange (WEDI) (which is named in the Social Security Act (the Act) as one of the organizations with which the Secretary must consult in adopting HIPAA Administrative Simplification standards) established a Strategic National Implementation Process (SNIP) for consistent industry implementation of the HIPAA Administrative Simplification standards. SNIP workgroups have reiterated some of the concerns expressed by the NUBC about NDC.

e. The NUBC submitted a formal request through the Designated Standards Maintenance Organization (DSMO) process on November 28, 2000 to change the Institutional Implementation Guide to make NDC "Not Used" for inpatient claims.

f. A large provider workgroup for implementing HIPAA standards suggested that NDC not be required for reporting drugs and biologics on professional or institutional claims. The workgroup submitted this request through the DSMO process on January 31, 2001 and recommended paper and electronic claim transaction consistency in reporting codes for drugs and biologics. The workgroup stated that neither the institutional nor the professional paper claim can accommodate the 11-digit NDC in the space where a 5-position HCPCS code currently is reported and that HCPCS drug codes should be used to report drugs and biologics on paper and electronic claims for institutional and professional health care providers.

g. The Subcommittee on Standards and Security of the National Committee on Vital and Health Statistics (NCVHS) held public hearings on HIPAA implementation issues on February 1, 2001. Health care industry representatives presented testimony on concerns relating to use of NDC. Those who testified and other attendees are members of health care industry workgroups that support HIPAA and are involved in HIPAA implementation activities. Concerns expressed in the testimony include:

• NDC use by hospitals is limited to the purchase of drugs and maintaining inventory control. The fact that NDC are not (1) used within hospitals for order entry from pharmacies, (2) written in patients' medical records, or (3) accommodated in patient accounting systems, means that extensive system conversions and enhancements are required for institutions to achieve HIPAA compliance.

Additional ancillary staff training on the use of NDC also would be required. Potential for medication errors increases when new system interfaces for drug dispensing systems are created. Routine repackaging of drugs in convenient quantities and brand substitutions by hospitals complicate NDC reporting because many NDC can represent a single drug. The complicated problems with calculating and capturing drug dose information when partial or fractional units are administered makes reporting burdensome and subject to errors.

• While costs could vary with facility size, hospitals estimate a minimum cost

of $200,000 per hospital facility, or a total of $1,296,000,000 for approximately 6480 affected hospital entities, to transition from HCPCS to NDC for reporting drugs and biologics. The expense to expand fields, accommodate thousands of NDC, and upgrade physicians' practice management systems for HIPAA compliance could exceed 10 percent of the total practice management system cost, increasing the financial burden for professional health care providers. Institutional health care providers do not report any accrued benefits from using NDC, despite the high costs for conversion, because drugs are rarely reported on claims. Hospital inpatient claims are paid prospectively based on Diagnosis-Related Groups or per diem basis. Only procedures and diagnoses are recorded. Most drugs are not individually submitted for line-item payment.

• Some industry representatives identified perceived deficiencies in the NDC maintenance process that could potentially result in the re-use of an NDC and the possibility that an NDC for a particular drug could change over time.

h. In a letter to the Secretary, dated February 22, 2001, the NCVHS described the problems with the requirement to use NDC to report drugs and biologics on the standard institutional and professional claims, and the impact of those problems on the health care industry for meeting HIPAA compliance dates. The NCVHS recommended that the Secretary retract the adoption of NDC as the standard medical data code set for reporting drugs and biologics in standard transactions other than retail pharmacy transactions, and that HCPCS codes as well as NDC continue to be used in the standard institutional and professional claim transactions. The NCVHS further stated that it believes that no drug coding system in existence today meets all the needs of the health care industry, and that future needs of the health care industry are for a drug coding system that can be used efficiently for drug inventory, pharmacy transactions, patient care, billing arenas, and ensuring patient safety.

The Office of the Secretary recognizes the need to develop specific criteria for evaluating drug coding systems, and it is initiating steps for coordinating efforts with other agencies and representatives from the health care industry in the evaluation and development of any future proposed drug coding systems.

2. Alternative Under Consideration: Comment Solicited

An advantage to not adopting a replacement standard code set for NDC for reporting drugs and biologics in nonretail pharmacy standard transactions at this time is that the industry and HHS would have time to fully evaluate the alternatives available and explore the possibility of the development of a new drug coding system that could meet the current and future needs of the health care industry. However, we recognize that the industry may prefer the certainty of an established standard at this time. We also are considering, as an alternative to not adopting any standard in place of the NDC, the adoption of HCPCS as the code set for reporting drugs and biologics for nonretail pharmacy transactions. As discussed above, the HCPCS code set is in widespread use today by many health care providers that are not retail pharmacies. Were we to adopt HCPCS, we would amend § 162.1002(c) to reflect the adoption of NDC as the standard medical data code set for reporting drugs and biologics in standard transactions for retail pharmacy transactions. We would also amend § 162.1002(f) to reflect the adoption of the HCPCS coding system as the standard medical data code set for reporting drugs and biologics in nonretail pharmacy transactions. We are particularly interested in whether commenters believe the adoption of HCPCS for reporting drugs and biologics on nonretail pharmacy transactions would present operational problems, and what particular operational problems commenters believe would be presented.

C. Compliance Dates

Under the Act, as reflected in § 160.104, the Secretary establishes the compliance date for modifications to standards. The compliance date must not be earlier than 180 days after the adoption date of the modification. We expect the compliance dates for this proposed rule would be 180 days after the effective date of the subsequent final rule.

Additionally, the Administrative Simplification Compliance Act (Pub. L. 107–105) was enacted on December 27, 2001. This law provides an extension to the compliance dates adopted in the Standards for Electronic Transactions final rule of August 17, 2000 (65 FR 50368), in which covered entities, with the exception of small health plans, may submit a plan to the Secretary of Health and Human Services indicating how the entity will come into compliance by October 16, 2003. Since this proposed rule is modifying transactions adopted in the Standards for Electronic Transactions final rule of August 17, 2000 (65 FR 50368), The Administrative Simplification Compliance Act will apply to this proposed rule. In order to obtain an extension, covered entities must submit the plan to the Secretary before October 16, 2002.

D. Implementation Specifications and Incorporation by Reference

This rule would not change the availability of the NCPDPs Telecommunication Standard Implementation Guide or the Batch Standard Batch Implementation Guide.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA) requires that we solicit comment on the following issues:

• The need for the information collection and its usefulness in carrying out the proper functions of our agency.

• The accuracy of our estimate of the information collection burden.

• The quality, utility, and clarity of the information to be collected.

• Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The collection of information requirements associated with the transaction regulation are currently approved by OMB under OMB approval number 0938–0866. We are soliciting public comments on each of the above issues for the information collection requirements (ICRs) contained in the sections covered by this proposed rule.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Centers for Medicare & Medicaid Services, Office of Information Services, DCES, SSG, Attn: John Burke, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850; ATTN: CMS–0003–P

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Brenda Aguilar, CMS Desk Officer.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Analysis

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually).

The proposed repeal of the NDC for nonretail pharmacy transactions would result in minimal costs or savings since the industry would continue to use the formats that are currently being used in the health care marketplace. This is due to the fact that most covered entities have not begun to implement NDC because they are aware that this regulation is in process. In the absence of this regulation, health plans and providers would incur a significant future cost for implementing the NDC, including:

• Training provider clinical staff to learn to report NDCs.

• Conversion of plan and provider legacy systems to accommodate the larger size of the NDC.

• Modification of provider clinical systems to interface with pharmacy systems to capture the NDC.

• Modification of plan reimbursement systems to crosswalk NDCs to J codes. Publication of this regulation would permit covered entities to avoid these costs. Industry recognizes the benefit of this change, and has demonstrated wide-spread support for it.

The alternative of adopting HCPCS drug codes as a standard for reporting drugs and biologics for covered entity transactions referenced above under section II. B. 2 would also have minimal costs or savings due to its already current widespread use in the health care industry.

The modifications to the standards for retail pharmacy transactions would also neither increase nor decrease the industry costs or savings. Those modifications to the standards are ones that would simply implement changes that reflect the way the particular segment of the affected industry already operates. Therefore, this is not a major rule because it does not have an economically significant effect of $100 million or more.

The RFA requires agencies to determine whether a rule will have a significant economic impact on a substantial number of small entities. On November 17, 2000, the Small Business Administration (SBA) published a final rule (65 FR 69432) changing the small business size standards for the health care industry. This SBA final rule became effective December 18, 2000. The size standards that the SBA now uses are those defined by the North American Industry Classification System. Before that, the SBA used size standards as defined by the Standard Industrial Codes. The size standard is no longer a uniform $5 million in annual revenues for all components in the health care sector. Rather, the size standard now ranges from $5 million to $25 million. The regulatory flexibility analysis for this proposed rule is linked to the aggregate regulatory flexibility analysis for all the Administrative Simplification standards that appeared in the final rule on Standards for Electronic Transactions (65 FR 50312), published on August 17, 2000, which predated the SBA change. It is appropriate, for purposes of this proposed rule; to continue to use the $5 million small business size standard that was in effect at the time of publication of the final rule on Standards for Electronic Transactions. Nonprofit organizations are considered small entities. Small government jurisdictions with a population of less than 50,000 are considered small entities. Individuals and States are not considered small entities. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all retail pharmacies are considered to be small entities. We have determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We do not need to prepare analyses under section 1102(b) of the Act because we have determined, and we certify, that this rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandate Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. The rule as proposed would have little effect, if any, on annual expenditures incurred by State, local, or tribal governments because it would result in the reestablishment of the current status for professional and institutional providers.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have determined that this proposed rule would not significantly affect the rights, roles, and responsibilities of States.

This proposed rule would not affect the final impact analysis of the Standards for Electronic Transactions final rule of August 17, 2000 (65 FR 50350). This rule also would not affect the Regulatory Flexibility Analysis (65 FR 50359) or the Federalism implications of that rule (65 FR 50364).

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 45 CFR Part 162

Administrative practice and procedure, Electronic transactions, Health facilities, Health insurance, Hospitals, Incorporation by reference, Medicare, Medicaid, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services would amend 45 CFR

subtitle A, subchapter C, part 162 as follows:

PART 162—ADMINISTRATIVE REQUIREMENTS

1.The authority citation for part 162 continues to read as follows:

Authority: Secs. 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d—1320d–8), as added by sec. 262 of Pub. L. 104–191, 110 Stat. 2021–2031, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)).

2. Revise § 162.920(a)(2)(i) and (ii) to read as follows:

§ 162.920 Availability of implementation specifications.

(a) * * *

(2) * * *

(i) The Telecommunication Standard Implementation Guide, Version 5, Release 1, September 1999, National Council for Prescription Drug Programs, as referenced in §§ 162.1102, 162.1202, 162.1302, and 162.1802.

(ii) The Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record, National Council for Prescription Drug Programs, as referenced in §§ 162.1102, 162.1202, 162.1302, and 162.1802.

* * * * *

3. In § 162.1002, republish the introductory text, and revise paragraphs (c) and (f) to read as follows:

§ 162.1002 Medical data code sets.

The Secretary adopts the following code set maintaining organization's code sets as the standard medical data code sets:

* * * * *

(c) *National Drug Codes (NDC),* as maintained and distributed by HHS, in collaboration with drug manufacturers, for reporting the following in retail pharmacy transactions for which standards have been adopted:

(1) Drugs.

(2) Biologics.

* * * * *

(f) *The Healthcare Common Procedure Coding System (HCPCS),* as maintained and distributed by HHS, for all other substances, equipment, supplies, or other items used in health care services except drugs and biologics. These items include, but are not limited to, the following:

(1) Medical supplies.

(2) Orthotic and prosthetic devices.

(3) Durable medical equipment.

4. In § 162.1102, republish the introductory text, and revise paragraph (a) to read as follows:

§ 162.1102 Standards for health care claims or equivalent encounter information.

The Secretary adopts the following standards for the health care claims or equivalent encounter information transaction:

(a) *Retail pharmacy drug claims.* The National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Implementation Guide, Version 5, Release 1, September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record. The implementation specifications are available at the addresses specified in § 162.920(a)(2).

* * * * *

5. In § 162.1202, republish the introductory text, and revise paragraph (a) to read as follows:

§ 162.1202 Standards for eligibility for a health plan.

The Secretary adopts the following standards for the eligibility for a health plan transaction:

(a) *Retail pharmacy drugs.* The NCPDP Telecommunication Standard Implementation Guide, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record. The implementation specifications are available at the addresses specified in § 162.920(a)(2).

* * * * *

6. In § 162.1302, add paragraph (a) to read as follows:

§ 162.1302 Standard for referral certification and authorization.

* * * * *

(a) *Retail pharmacy referral certification and authorization.* The NCPDP Telecommunication Standard Implementation Guide, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record. The implementation specifications are available at the addresses specified in § 162.920(a)(2).

(b) [Reserved]

7. Revise § 162.1602 to read as follows:

§ 162.1602 Standard for health care payment and remittance advice.

Dental, professional, and institutional health care claims and remittance advice. The Secretary adopts the ASC X12N 835—Health Care Claim Payment/Advice, Version 4010, May 2000, Washington Publishing Company, 004010X091 as the standard for the health care payment and remittance advice transaction. The implementation specification is available at the addresses specified in § 162.920(a)(1).

(b) [Reserved]

8. In § 162.1802, republish the introductory text and revise paragraph (a) to read as follows:

§ 162.1802 Standards for coordination of benefits.

The Secretary adopts the following standards for the coordination of benefits information transaction:

(a) *Retail pharmacy drug claims.* The NCPDP Telecommunication Standard Implementation Guide, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000, supporting Telecommunication Version 5.1 for the NCPDP Data Record in the Detail Data Record. The implementation specifications are available at the addresses specified in § 162.920(a)(2).

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CMS–0003–P

DBB 02/22/2002 4:10 PM

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 20, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–13614 Filed 5–24–02; 4:51 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0005–P]

RIN 0938–AK76

Health Insurance Reform: Modifications to Transactions and Code Set Standards for Electronic Transactions

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: This rule proposes to adopt modifications to certain standards adopted in our regulations entitled "Health Insurance Reform: Standards for Electronic Transactions" published in the **Federal Register** on August 17, 2000 (65 FR 50312), which implemented some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. The proposed modifications are a result of the Designated Standard Maintenance Organization (DSMO) process to maintain standards adopted by the Secretary and to process requests for adopting new standards or modifying adopted standards.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 1, 2002.

ADDRESSES: In commenting, please refer to file code CMS–0005–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare and Medicaid Services, Department of Health and Human Services, Attention: CMS–0005–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays. If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

Comments may also be submitted electronically to the following e-mail address: *CMS0005@cms.hhs.gov.* For e-mail procedures, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Stanley Nachimson, (410) 786–6153.

SUPPLEMENTARY INFORMATION:

Public Comments: Normally, we provide a 60-day public comment period for a proposed rule; for this rule, however, there is a 30-day comment period. After publication of the Standards for Electronic Transactions final rule (65 FR 50312), we received an overwhelming response from the affected industry and industry representatives requesting that we modify the standards. The changes we are proposing already were subjected to the public DSMO process and were discussed and approved by the National Committee on Vital and Health Statistics (NCVHS) in public sessions. Therefore, we believe it is unnecessary to provide more than a 30-day comment period for this rule.

Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, please call (410) 786–9994.

Electronic Comments: We will consider all electronic comments that include the full name, postal address, and affiliation (if applicable) of the sender and are submitted to the electronic address identified in the **ADDRESSES** section of this preamble. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at 7500 Security Boulevard, Baltimore, MD 21244.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 (or toll-free at 1–888–293–6498) or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access,* a service of the U.S. Government Printing Office. The web site address is: *http://www.access.gpo.gov/nara/index.html.*

I. Background

A. Legislation

The Congress included provisions to address the need for standards for electronic transactions and other administrative simplification issues in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 104–191, which became effective on August 21, 1996. Through subtitle F of title II of that statute, the Congress added to title XI of the Social Security Act (the Act) a new Part C, titled Administrative Simplification. Pub. L. 104–191 affects several titles in the United States Code. The purpose of this part is to improve the Medicare and Medicaid programs in particular and the efficiency and effectiveness of the health care system in general by encouraging the development of a health information system through the establishment of standards and requirements to facilitate the electronic transmission of certain health information.

Part C of title XI consists of sections 1171 through 1179 of the Act. These sections define various terms and impose several requirements on the Secretary, health plans, health care clearinghouses, and certain health care providers.

We discussed the legislation in greater detail in the Standards for Electronic Transactions final rule (Transactions Rule) published on August 17, 2000 (65 FR 50312), and in a final rule for Privacy of Individually Identifiable Health Information (Privacy Rule) published on December 28, 2000 (65 FR 82462). Rather than repeating the discussion here, we refer the reader to those documents for further information about electronic data interchange and the statutory background.

Section 1172 of the Act makes any standard adopted under part C applicable to (1) health plans, (2) health care clearinghouses, and (3) health care providers who transmit any health information in electronic form in connection with a transaction covered by 45 CFR part 162.

In general, section 1172 of the Act requires any standard adopted by the Secretary under this part to be a standard that has been developed, adopted, or modified by a standard setting organization (SSO). The Secretary may adopt a different standard if the standard will substantially reduce administrative costs to providers and health plans compared to the alternatives, and the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of Title 5, United States Code.

Section 1172 of the Act also sets forth consultation requirements that must be met before standards are adopted by the Secretary. In the case of a standard that is developed, adopted, or modified by an SSO, the SSO must consult with the following Data Content Committees (DCCs) in the course of the development, adoption, or modification

of the standard: the National Uniform Billing Committee (NUBC), the National Uniform Claim Committee (NUCC), the Workgroup for Electronic Data Interchange (WEDI), and the American Dental Association. In the case of any other standard, the Secretary is required to consult with each of the above-named groups before adopting the standard and must also comply with the provisions of section 1172(f) of the Act regarding consultation with the National Committee on Vital and Health Statistics (NCVHS).

B. The Transactions Rule

The SSOs have developed a broad range of implementation instructions for implementing standards for particular industry sectors, for example, instructions on how to use the ASC X12N 837 to claim payment for hospital services. The implementation instructions for implementing standards are detailed and highly specific. Section 1172(d) of the Act requires the Secretary to establish specifications for implementing each of the adopted standards, which were adopted in the Transactions Rule. However, because the implementation instructions are voluminous, they were incorporated by reference in the Transactions Rule. This approach, to incorporate by reference, commonly is used by the Office of the Federal Register when external standards developed by SSOs are adopted as national standards. The approach allows the agency to avoid publication of extraordinarily voluminous documents.

C. Designated Standard Maintenance Organizations

The Transactions Rule acknowledged the need for a group of organizations to maintain the standards for health care transaction standards adopted by the Secretary, and to receive and process requests for adopting new standards or modifying adopted standards. "Designated Standard Maintenance Organization" (DSMO) is the term used in the Transactions Rule to identify the organizations designated by the Secretary to undertake those functions. Section 162.910 of the Transactions Rule sets forth the conditions under which an organization may be designated a DSMO by the Secretary and the functions to be performed by a DSMO. On August 17, 2000, the Secretary published a **Federal Register** notice (65 FR 50373) designating the following six organizations (three SSOs and three DCCs) as DSMOs. The organization names are followed by their respective websites. All of the SSOs (X12, NCPDP, and HL 7) that developed standards that the Secretary adopted or expects to propose in the near future were designated as DSMOs:

- Accredited Standards Committee X12 (ASC X12) (*http://www.x12.org*).
- Health Level Seven, Inc. (HL 7) (*http://www.hl7.org*).
- National Council for Prescription Drug Programs (NCPDP) (*http://www.ncpdp.org*).
- National Uniform Billing Committee (NUBC) (*http://www.nubc.org*).
- National Uniform Claim Committee (NUCC) (*http://www.nucc.org*).
- Dental Content Committee of the American Dental Association (*http://www.ada.org*).

The six organizations signed a Memorandum of Understanding (MOU) agreeing to undertake the functions specified in § 162.910 and to follow a framework of cooperation with each other and HHS. The initial term of the MOU is 3 years and is automatically renewed for subsequent 1-year periods. The MOU document sets forth a general process to be followed by the DSMOs when a request is made to change the HIPAA standards. The DSMOs designated a steering committee to facilitate implementation of the MOU. In order to manage the change request process, the signatory organizations agreed to:

- Allow open public access
- Provide for timely review
- Cooperate and communicate
- Consider all viewpoints
- Evaluate the impact of each change request
- Maintain a national perspective
- Conform to law

A web site (*http://www.hipaa-dsmo.org*) was established for requesting changes. For additional information regarding the general change request management process, see the MOU document which is available at: *www.hipaa-dsmo.org/mou.pdf*.

After the initial standards were adopted in the Transactions Rule, a significant number of change requests were submitted through the DSMO process. Many of those change requests were for changes that were considered by the submitters to be essential to permit initial implementation of the standards throughout the entire healthcare industry. Those essential changes address specific details or elements within the implementation specifications.

You can review all change requests reviewed by the DSMOs and sent to NCVHS for adoption as addenda to the final rule at *http://hipaa-dsmo.org/crs/fasttrack.pdf*. (Nonessential changes are still addressed by the general change request management process set forth in the MOU.) The procedure for electronically submitting change requests to the DSMOs and specific details on submitted requests such as business needs and disposition are available at the DSMO change request web site: *http://www.hipaa-dsmo.org*.

The DSMOs as a group presented their list of proposed modifications that they judged essential for implementation to the NCVHS. The NCVHS held public hearings on those proposed changes (transcripts of those hearings are available at *http://www.ncvhs.hhs.gov*). The NCVHS made its own determination about the modification requests and recommended that the Secretary adopt all of the changes proposed by the DSMOs as modifications to the national standards.

II. Provisions of the Proposed Regulations

The Secretary reviewed the changes recommended by the NCVHS and is proposing their adoption in this rule.

A. Summary

This rule proposes to make some limited technical modifications to some of the transactions standards, specifically the implementation specifications, adopted in the Transactions Rule by adopting those changes identified by the DSMOs, and approved by the NCVHS, as necessary to permit initial implementation of the standards within the industry. Details of the proposed modifications are not set forth specifically in this document, but are available at *http://hipaa-dsmo.org/crs/fasttrack.pdf*. A summary of those details follows:

A total of 231 change requests were submitted to the DSMOs for consideration. 85 requests were rejected because the implementation specifications already met the specified business need, or the business need was not well substantiated. 21 requests were recommended for future changes. 6 requests were withdrawn by the submitter. 7 requests were referred to the Department as policy issues. The remaining 115 change requests were approved and are included in the draft addenda. They fell into 2 categories—48 maintenance changes (minor error corrections, clarifications) and 67 modifications to the standards. Details of these 67 modifications include:

- Changing required data elements to situational (about 20 % of changes)

Submitters pointed out several data elements that were required by the original standards, but were really only needed in some situations. These data elements were made situational in the addenda, with clearly defined situations. Examples are:

1. Provider Taxonomy codes on claims-many health plans store this information on their systems when providers enroll, so there is no need to continually send this information. The code will now only be reported "when adjudication is known to be impacted by the code."

2. Date last seen by physician (used for certain physical therapy claims)—this is only needed by Medicare, so usage was changed from required on all claims to "required on Medicare claims."

- Removal of certain data elements (about 20% of changes)

Several data elements were removed since they do not appear to be needed. Examples are:

1. Referral date
2. Estimated date of birth

- Allowing certain items to be reported via external code sets rather than data elements in the transaction (about 20% of changes)

There were several instances where codes could be used to indicate certain data elements. This will allow external code set organizations to easily update codes and reporting, as opposed to having the DSMOs make changes to the standards.

Examples are:

1. Special program indicator codes
2. Newborn birth weights

- Adding additional functionality to some transactions (about 40% of changes) Requestors suggested several additional data elements, codes, or loops to enable them to do certain business functions in the transactions. These include:

1. Cross-referencing two subscriber IDs (surviving spouse and dependents)
2. Sending a patient's primary care physician number

The DSMOs and the NCVHS determined that these proposed modifications would respond to industry requests for changes that would facilitate HIPAA implementation.

The SSOs have incorporated the proposed modifications for each transaction into draft addenda for each implementation specification. These draft addenda represent the final product of the DSMO change request process, in that the requested change successfully completed the DSMO change request process in the form of proposed draft addenda to the adopted implementation specifications. As previously discussed, the original implementation specifications are incorporated by reference. This rule proposes to adopt the modifications in the draft addenda. The addenda would be incorporated by reference just as are the original implementation specifications. We are are soliciting comments specifically on those modifications found in the draft addenda. Comments may be submitted for specific individual proposed modifications or for the proposed modifications collectively. The full text of the draft addenda can be obtained from the Washington Publishing Company, PMB 161, 5284 Randolph Road, Rockville, Md., 20852–2116; telephone 301–949–9740. They are also available through the Washington Publishing Company on the Internet at *http://hipaa.wpc-edi.com/HIPAAAddenda_40.asp*.

B. Proposed Modifications

The Transactions Rule established standards for eight electronic transactions, including, when appropriate, specific standards tailored to specific industry sectors, for example, retail pharmacy, institutional, and professional. The modifications proposed here would affect some of the transaction standards (identified below). The new standards would consist of the implementation guide plus the addenda. The addenda are identified below:

1. Health care claims or equivalent encounter information (§ 162.1102).

a. Dental Health Care Claims. The ASC X12N Addenda to Health Care Claim: Dental, Version 4010, May 2000, Washington Publishing Company, 004010X097A1 (NPRM Draft Addenda October 2001).

b. Professional Health Care Claims. The ASC X12N Addenda to Health Care Claim: Professional, Volumes 1 and 2, Version 4010, May 2000, Washington Publishing Company, 004010X098A1 (NPRM Draft Addenda October 2001).

c. Institutional Health Care Claims. The ASC X12N Addenda to Health Care Claim: Institutional, Volumes 1 and 2, Version 4010, May 2000, Washington Publishing Company, 004010X096A1 (NPRM Draft Addenda October 2001).

2. Eligibility for a health plan (§ 162.1202).

Dental, professional, and institutional. The ASC X12N Addenda to Health Care Eligibility Benefit Inquiry and Response, Version 4010, May 2000, Washington Publishing Company, 004010X092A1 (NPRM Draft Addenda October 2001).

3. Referral certification and authorization (§ 162.1302).

The ASC X12N Addenda to Health Care Services Review-Request for Review and Response, Version 4010, May 2000, Washington Publishing Company, 004010X094A1 (NPRM Draft Addenda October 2001). In the proposed rule titled CMS–0003–P, published elsewhere in this **Federal Register** issue, we are proposing to add a new paragraph (a) to this section.

4. Health care claim status (§ 162.1402).

The ASC X12N Addenda to Health Care Claim Status Request and Response, Version 4010, May 2000, Washington Publishing Company 004010X093A1 (NPRM Draft Addenda October 2001).

5. Enrollment and disenrollment in a health plan (§ 162.1502).

The ASC X12N Addenda to Benefit Enrollment and Maintenance, Version 4010, May 2000, Washington Publishing Company 004010X095A1 (NPRM Draft Addenda October 2001).

6. Health care payment and remittance advice (§ 162.1602).

a. Dental, professional, and institutional health care claims and remittance advice. The ASC X12N Addenda to Health Care Claim Payment/Advice, Version 4010, May 2000, Washington Publishing Company, 004010X091A1 (NPRM Draft Addenda October 2001).

C. Compliance Dates

The compliance date for the standards for the transactions adopted in the Transactions Rule is October 16, 2002 for covered entities, with the exception of small health plans, for which the compliance date is October 16, 2003 (65 FR 50368). Under § 160.104, the Secretary establishes the compliance date for modifications. The date must not be earlier than 180 days after the adoption date of the modification.

The Administrative Simplification Compliance Act (Pub. L. 107–105) was enacted on December 27, 2001. This law provides an extension to the compliance dates adopted in the Standards for Electronic Transactions final rule of August 17, 2000 (65 FR 50368), for covered entities, with the exception of small health plans, that submit a plan to the Secretary of Health and Human Services indicating how the entity will come into compliance by October 16, 2003. This plan must be submitted to the Secretary before October 16, 2002. Entities that obtain such an extension will also have a corresponding extension of the compliance dates set forth in this proposed rule.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is

submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The collection of information requirements associated with the transaction regulation are currently approved by OMB under OMB approval number 0938–0866. We are soliciting public comments on each of the above issues for the information collection requirements (ICRs) contained in the sections covered by this proposed rule.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Centers for Medicare & Medicaid Services,
Office of Information Services,
DCES, SSG,
Attn: John Burke,
Room N2–14–26, 7500 Security Boulevard,
Baltimore, MD 21244–1850; and
Office of Information and Regulatory Affairs,
Office of Management and Budget,
Room 10235, New Executive Office Building,
Washington, DC 20503,
Attn: Brenda Aguilar, CMS Desk Officer.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

IV. Regulatory Impact Analysis

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). An impact analysis was published in the Standards for Electronic Transactions final rule of August 17, 2000 (65 FR 50350). This analysis detailed the significant costs and benefits of adopting standard electronic transactions and codes sets. The analysis assumed that the adopted standards would be able to be implemented successfully by the industry. The changes in this proposed rule are a result of industry analyses that showed certain minor modifications in the adopted standards would be necessary to permit industry compliance with the standards. These modifications would make limited adjustments and corrections to the overall standards and would facilitate the Congressional intent of implementation of national electronic standards. Thus, the impact analysis previously published would reflect industry experience if the changes proposed in this rule are adopted.

In relation to the prior impact analysis, this rule would impose no additional burdens and create no additional costs. All of the proposed changes in this rule are required to facilitate successful implementation of the standards. Their implementation would, in fact, avoid costs that were not anticipated in the initial impact analysis. Therefore, no additional impact analysis under Executive Order 12866 is required.

It is estimated that substantial costs would incur for the health care industry without the adoption of these proposed changes. The proposed changes eliminate the need for expensive computer system changes, and in some cases, facilitate an implementation that might not have been possible without the proposed changes. The industry has approved these proposed changes as an essential component to their HIPAA implementation.

A total of 231 change requests were submitted to the DSMOs for consideration. 85 requests were rejected because the implementation specifications already met the specified business need, or the business need was not well substantiated. 21 requests were recommended for future changes. 6 requests were withdrawn by the submitter. 7 requests were referred to the Department as policy issues. The remaining 115 change requests were approved and are included in the draft addenda. They fell into 2 categories –48 maintenance changes (minor error corrections, clarifications) and 67 modifications to the standards. Details of these 67 modifications include:

- Changing required data elements to situational (about 20% of changes)

Submitters pointed out several data elements that were required by the original standards, but were really only needed in some situations. These data elements were made situational in the addenda, with clearly defined situations. Examples are:

1. Provider Taxonomy codes on claims—many health plans store this information on their systems when providers enroll, so there is no need to continually send this information. The code will now only be reported "when adjudication is known to be impacted by the code."
2. Date last seen by physician (used for certain physical therapy claims)—this is only needed by Medicare, so usage was changed from required on all claims to "required on Medicare claims."

- Removal of certain data elements (about 20% of changes)

Several data elements were removed since they do not appear to be needed. Examples are:

1. Referral date.
2. Estimated date of birth.

- Allowing certain items to be reported via external code sets rather than data elements in the transaction (about 20% of changes)

There were several instances where codes could be used to indicate certain data elements. This will allow external code set organizations to easily update codes and reporting, as opposed to having the DSMOs make changes to the standards. Examples are:

1. Special program indicator codes.
2. Newborn birth weights.

- Adding additional functionality to some transactions (about 40% of changes)

Requestors suggested several additional data elements, codes, or loops to enable them to do certain business functions in the transactions. These include:

1. Cross-referencing two subscriber IDs (surviving spouse and dependents).
2. Sending a patient's primary care physician number.

These changes recognize that several pieces of information initially required by the standards were unduly burdensome to collect, so have been changed to only be collected in a more limited set of circumstances.

One particular example is that of the provider information to be collected for each service on a hospital claim. The initial standards required that this information be collected if the provider is different for each service (which it usually is in a hospital—radiologists read x-rays, physical therapists provide therapy, etc.). Many hospitals said that their systems do not routinely collect the different providers for each claim, that this information is not currently used by health plans for processing most claims, and it would be extremely burdensome to collect such information.

As a result, the condition under which this information was collected was revised in the implementation guide to state "Required when the line level information is known to impact adjudication". This will substantially reduce the number of claims for which this information needs to be collected.

There are other examples of data elements that have been removed or will be required under more limited circumstances.

The RFA requires agencies to determine whether a rule will have a significant economic impact on a substantial number of small entities. On November 17, 2000, the Small Business Administration (SBA) published a final rule (65 FR 69432) changing the small business size standards for the health care industry. This SBA final rule became effective December 18, 2000. The size standards that the SBA now uses are those defined by the North American Industry Classification System. Before that, the SBA used size standards as defined by the Standard Industrial Codes. The size standard is no longer a uniform $5 million in annual revenues for all components in the health care sector. Rather, the size standard now ranges from $6 million to $29 million. The regulatory flexibility analysis for this proposed rule is linked to the aggregate regulatory flexibility analysis for all the Administrative Simplification standards that appeared in the final rule on Standards for Electronic Transactions (65 FR 50312), published on August 17, 2000, which predated the SBA change. It is appropriate, for purposes of this proposed rule, to continue to use the $5 million small business size standard that was in effect at the time of publication of the final rule on Standards for Electronic Transactions. Nonprofit organizations are considered small entities. Small government jurisdictions with a population of less than 50,000 are considered small entities. Individuals and States are not considered small entities. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all retail pharmacies are considered to be small entities. We have determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We have determined that this proposed rule would not have a significant impact on a substantial number of small rural hospitals. Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This rule would have no mandated consequential effect on State, local, or tribal governments, or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have determined that this proposed rule would not significantly affect the rights, roles and responsibilities of States.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 45 CFR Part 162

Administrative practice and procedure, Electronic transactions, Health facilities, Health insurance, Hospitals, Incorporation by reference, Medicare, Medicaid, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services would amend 45 CFR subtitle A, subchapter C, part 162 as follows:

PART 162—ADMINISTRATIVE REQUIREMENTS

1. The authority citation for part 162 continues to read as follows:

Authority: Secs. 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d—1320d–8), as added by sec. 262 of Pub. L. 104–191, 110 Stat. 2021–2031, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)).

2. Revise § 162.1102 (b), (c) and (d) to read as follows:

§ 162.1102 Standards for health care claims or equivalent encounter information.

* * * * *

(b) *Dental Health Care Claims.* The ASC X12N 837–Health Care Claim Dental, Version 4010, May 2000, Washington Publishing Company, 004010X097 and Addenda to Health Care Claim Dental, Version 4010, October 2001, Washington Publishing Company, 004010X097A1. The implementation specification is available at addresses specified in § 162.920(a)(1).

(c) *Professional Health Care Claims.* The ASC X12N 837–Health Care Claim: Professional, Volumes 1 and 2, version 4010, May 2000, Washington Publishing Company, 004010X098 and Addenda to Health Care Claim: Professional, Volumes 1 and 2, version 4010, October 2001, Washington Publishing Company, 004010X098A1. The implementation specification is available at the address specified in § 162.920(a)(1).

(d) *Institutional Health Care Claims.* The ASC X12N 837–Health Care Claim: Institutional, Volumes 1 and 2, Version 4010, May 2000, Washington Publishing Company, 004010X096 and Addenda to Health Care Claim: Institutional, Volumes 1 and 2, Version 4010, October 2001, Washington Publishing Company, 004010X096A1. The implementation specification is available at the addresses specified in § 162.920(a)(1).

3. Revise § 162.1202(b) to read as follows:

§ 162.1202 Standards for eligibility for a health plan.

* * * * *

(b) *Dental, professional, and institutional.* The ASC X12N 270/271–Health Care Eligibility Benefit Inquiry and Response, Version 4010, May 2000, Washington Publishing Company, 004010X092 and Addenda to Health Care Eligibility Benefit Inquiry and Response, Version 4010, October 2001, Washington Publishing Company, 004010X092A1. The implementation specification is available at the addresses specified in § 162.920(a)(1).

* * * * *

4. Revise § 162.1302 to read as follows:

§ 162.1302 Standard for referral certification and authorization.

The Secretary adopts the following standards for the referral certification and authorization transaction:

(a) [Reserved]

(b) *Dental, professional, and institutional referral certification and authorization.* The Secretary adopts the ASC X12N 278–Health Care Services Review-Request for Review and Response, Version 4010, May 2000, Washington Publishing Company, 004010X094 and Addenda to Health Care Services Review-Request for Review and Response, Version 4010, October 2001, Washington Publishing Company, 004010X094A1 as the standard for the referral certification and authorization transaction. The implementation specification is available at the addresses specified in § 162.920(a)(1).

5. Revise § 162.1402 to read as follows:

§ 162.1402 Standard for health care claims status.

The Secretary adopts the ASC X12N–276/277 Health Care Claim Status Request and Response, Version 4010, May 2000, Washington Publishing Company, 004010X093 and Addenda to Health Care Claim Status Request and Response, Version 4010, October 2001, Washington Publishing Company, 004010X093A1 as the standard for the health care claim status transaction. The implementation specification is available at the addresses specified in § 162.920(a)(1).

6. Revise § 162.1502 to read as follows:

§ 162.1502 Standard for enrollment and disenrollment in a health plan.

The Secretary adopts the ASC X12N 834–Benefit Enrollment and Maintenance, Version 4010, May 2000, Washington Publishing Company, 004010X095 and Addenda to Benefit Enrollment and Maintenance, Version 4010, October 2001, Washington Publishing Company, 004010X095A1 as the standard for enrollment and disenrollment in a health plan transaction. The implementation specification is available at the addresses specified in § 162.920(a)(1).

7. Revise § 162.1602(b) to read as follows:

§ 162.1602 Standards for health care payment and remittance advice.

* * * * *

(b) *Dental, professional, and institutional health care claims and remittance advice.* The ASC X12N 835–Health Care Claim Payment/Advice, Version 4010, May 2000, Washington Publishing Company, 004010X091 and Addenda to Health Care Claim Payment/Advice, Version 4010, October 2001, Washington Publishing Company, 004010X091A1. The implementation specification is available at the addresses specified in § 162.920(a)(1).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 20, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–13615 Filed 5–24–02; 4:53 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1198, MB Docket No. 02–116, RM–10233]

Digital Television Broadcast Service; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by KTVQ Communications, Inc., licensee of station KTVQ(TV), NTSC channel 2, Billings, Montana, requesting the substitution of DTV channel 10 for station KTVQ(TV)'s assigned DTV channel 17. DTV Channel can be allotted to at reference coordinates 45–46–00 N. and 108–27–27 W. with a power of 160, a height above average terrain HAAT of 165 meters. Since the community of Billings is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before July 15, 2002, and reply comments on or before July 30, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceedings involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802 (Counsel for KTVQ Communications, Inc.)

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–116, adopted May 17, 2002, and released May 24, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Montana is amended by removing DTV channel 17 and adding DTV channel 10 at Billings.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–13646 Filed 5–30–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

[DFARS Case 2002–D001]

Defense Federal Acquisition Regulation Supplement; Electronic Submission and Processing of Payment Requests

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 1008 of the National Defense Authorization Act for Fiscal Year 2001. Section 1008 requires contractors to submit, and DoD to process, payment requests in electronic form.

DATES: DoD will consider all comments received by July 30, 2002.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2002–D001 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra Haberlin, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2002–D001.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to add a new DFARS subpart and a contract clause to implement Section 1008 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). Section 1008 provides that—

- Contractors must submit electronically, and DoD must process electronically, requests for payment under DoD contracts;
- DoD must transmit any supporting documentation electronically within DoD;
- The Secretary of Defense may exempt cases in any category if the Secretary determines that the requirement for using electronic means for submitting or transmitting payment requests is unduly burdensome; and
- This requirement shall apply to contracts for which solicitations are issued after June 30, 2001. DoD may delay implementation if the Secretary of Defense makes a finding that it is impracticable to implement this requirement by June 30, 2001, and publishes such notice in the **Federal Register**. In no event may implementation be delayed to a date after October 1, 2002.

Consistent with Section 1008(b) of the Defense Authorization Act, DoD submitted a plan to Congress describing how Section 1008 would be implemented. On August 21, 2001, DoD published a notice in the **Federal Register** (66 FR 43841) which announced a delay in implementation of Section 1008 until October 1, 2002.

This proposed DFARS rule—

- Requires contractors to submit requests for contract financing and invoice payments in electronic form;
- Requires DoD officials receiving payment requests in electronic form to process the payment requests and supporting documentation in electronic form;
- Identifies three acceptable electronic forms for transmission of payment requests. The rule also permits the contracting officer to authorize the contractor to use another electronic form, with the concurrence of the payment office and the contract administration office; and
- Identifies exemption categories being considered by DoD. The Director of Defense Procurement intends to process a request for the Secretary of Defense to approve exemptions for the categories identified in the rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because any start-up costs that contractors will incur to comply with the rule are expected to be minimal, and should be offset by the reduced administrative costs that are expected to result from the electronic submission and processing of invoices. In addition, the rule provides for an exemption to the requirement for electronic submission in cases where the requirement would be unduly burdensome. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002–D001.

C. Paperwork Reduction Act

This rule does not impose any additional information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* The information collection requirements for contractors to provide non-electronic payment requests already have been approved by OMB as indicated below:

FAR clause No.	Clause title	OMB control No.	Expiration date
52.216–7	Allowable Cost and Payment	9000–0069	June 30, 2002.

FAR clause No.	Clause title	OMB control No.	Expiration date
52.232–7	Payments Under Time-and-Materials and Labor-Hour Contracts	9000–0070	June 30, 2002.
52.232–12	Advance Payments	9000–0073	June 30, 2002.
52.232–16	Progress Payments	9000–0010	Sept 30, 2002.
52.232–32	Performance-Based Payments	9000–0138	Sept 30, 2004.

Extensions of the currently approved information collection requirements under OMB control numbers 9000–0069, 9000–0070, 9000–0073, and 9000–0010 are current being processed (see the following **Federal Register** notices, respectively, for further information: 67 FR 19558, April 22, 2002; 67 FR 17675, April 11, 2002; 67 FR 17676, April 11, 2002; 67 FR 34683, May 15, 2002).

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 232 and 252 as follows:

1. The authority citation for 48 CFR Parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 232—CONTRACT FINANCING

2. Subpart 232.70 is added to read as follows:

Subpart 232.70—Electronic Submission and Processing of Payment Requests

Sec.
232.7000 Scope of subpart.
232.7001 Definitions.
232.7002 Policy.
232.7003 Procedures.
232.7004 Contract clause.

232.7000 Scope of subpart.

This subpart prescribes policies and procedures for submitting and processing payment requests in electronic form to comply with 10 U.S.C. 2227.

232.7001 Definitions.

Electronic form and *payment request*, as used in this subpart, are defined in the clause at 252.232–7XXX, Electronic Submission of Payment Requests.

232.7002 Policy.

(a) Contractors must submit payment requests in electronic form, except for—

(1) Purchases paid for with a Governmentwide commercial purchase card;

(2) Awards made to foreign vendors for work performed outside the United States;

(3) Classified contracts or purchases (see FAR 4.401) when electronic submission and processing of payment requests could compromise the safeguarding of classified information or national security;

(4) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(7), or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies;

(5) Purchases to support unusual or compelling needs of the type described in FAR 6.302–2; and

(6) Cases where the Secretary of Defense determines that the requirement for using electronic means for submitting or processing payment requests and supporting documentation is unduly burdensome.

(b) DoD officials receiving payment requests in electronic form must process the payment requests in electronic form. Any supporting documentation necessary for payment, such as receiving reports, contracts, contract modifications, and required certifications, also must be processed in electronic form.

232.7003 Procedures.

(a) The accepted electronic forms for transmission are—

(1) Web Invoicing System (see website—*https://ecweb.dfas.mil*);

(2) Wide Area WorkFlow Receipts and Acceptance (see website—*https://rmb.ogden.disa.mil*); and

(3) American National Standards Institute (ANSI) X.12 electronic data interchange (EDI) formats (see website—*http://www.x12.org* for information on EDI formats; see website—*http://www.dfas.mil/ecedi* for EDI implementation guides).

(b) If the payment office and the contract administration office concur, the contracting officer may authorize a contractor to submit a payment request—

(1) Using an electronic form other than those listed in paragraph (a) of this section; or

(2) In other than electronic form if, after contract award, the contractor is unable to submit, or DoD is unable to receive, the payment request in electronic form.

232.7004 Contract clause.

Except as provided in 232.7002(a), use the clause at 252.232–7XXX, Electronic Submission of Payment Requests, in solicitations and contracts.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

3. Section 252.212–7001 is amended as follows:

a. By revising the clause date to read "(XXX 2002)"; and

b. In paragraph (b) by adding, in numerical order, the entry "252.232–7XXX Electronic Submission of Payment Requests (XXX 2002) (10 U.S.C. 2227)".

4. Section 252.232–7XXX is added to read as follows:

252.232–7XXX Electronic Submission of Payment Requests.

As prescribed in 232.7004, use the following clause:

Electronic Submission of Payment Requests (XXX 2002)

(a) *Definitions.* As used in this clause—

(1) *Contract financing payment* and *invoice payment* have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) *Electronic form* means any automated system that transmits information electronically from the initiating system to all affected systems.

(3) *Payment request* means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests using one of the following electronic forms:

(1) Web Invoicing System (WInS). Information regarding WInS is available on the Internet at *https://ecweb.dfas.mil*.

(2) Wide Area WorkFlow Receipts and Acceptance (WAWF–RA). Information regarding WAWF–RA is available on the Internet at *https://rmb.ogden.disa.mil*.

(3) American National Standards Institute (ANSI) X.12 electronic data interchange (EDI) formats.

(i) Information regarding EDI formats is available on the Internet at *http://www.x12.org*.

(ii) EDI implementation guides are available on the Internet at *http://www.dfas.mil/ecedi*.

(4) Another electronic form authorized by the Contracting Officer.

(c) If, after contract award, the Contractor is unable to submit a payment request in electronic form, or the Government is unable to receive a payment request in electronic form, the Contractor shall submit the payment request using a method mutually agreed to by the Contractor and the Contracting Officer.

(d) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(End of clause)

[FR Doc. 02–13532 Filed 5–30–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI15

Endangered and Threatened Wildlife and Plants; Listing of Roswell Springsnail, Koster's Tryonia, Pecos Assiminea, and Noel's Amphipod With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), give notice that we are holding a public hearing for the proposed rule to list the Roswell springsnail (*Pyrgulopsis roswellensis*), Koster's tryonia (*Tryonia kosteri*), Pecos assiminea (*Assiminea pecosensis*) and Noel's amphipod (*Gammarus desparatus*) as endangered with critical habitat under the authority of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). We also give notice of the extension of the comment period for the proposed rule for these species. The extension of the comment period will be for 90 additional days and will allow all interested parties to submit written comments on the proposal. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: We will hold a public hearing in Carlsbad, New Mexico, from 6 to 8 p.m. on Tuesday, June 18, 2002, to solicit comments on the proposed rule. We will consider all comments received at the public hearing or those submitted in writing by July 14, 2002.

ADDRESSES: The location for the public hearing is room 153 of the Instructional Building on the New Mexico State University Campus in Carlsbad, NM.

You may submit written comments and materials concerning the proposal at the hearing or send them directly to Joy Nicholopoulos, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113. Written comments may also be sent by facsimile to (505) 346–2542 or *R2FWE_AL@fws.gov*. You may also hand-deliver written comments to our New Mexico Ecological Services Field Office, at the above address. Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8 a.m. to 4:30 p.m., at the above address. You may obtain copies of the proposed rule from the above address, by calling 505/346–2542, or from our website at *http://ifw2es.fws.gov/Library/*.

FOR FURTHER INFORMATION CONTACT: Joy Nicholopoulos, Field Supervisor, New Mexico Ecological Services Field Office (see **ADDRESSES** section) (telephone 505/346–2525, ext. 143; facsimile 505/346–2542) or visit our website at *http://ifw2es.fws.gov/*.

SUPPLEMENTARY INFORMATION: On November 22, 1985, we received a petition from Mr. Harold F. Olson, Director of the New Mexico Department of Game and Fish, to add 11 species of New Mexican mollusks to the Federal list of endangered and threatened wildlife. Roswell springsnail (*Pyrgulopsis roswellensis* formerly *Fontelicella* sp. (Hershler 1994)), Koster's tryonia, and Pecos assiminea were among the 11 species. We determined the petition presented substantial information and found that the requested action may be warranted and published a positive 90-day petition finding in the **Federal Register** on August 20, 1986 (51 FR 29671). A subsequent 12-month finding published in the **Federal Register** on July 1, 1987 (52 FR 24485), concluded that the petitioned action was warranted but precluded by other higher priority listing actions. A proposed rule to list these four species as endangered with critical habitat was published in the **Federal Register** on February 12, 2002 (67 FR 6459). The proposed rule constitutes our 12-month recycled petition finding for the Roswell springsnail, Koster's tryonia, and Pecos assiminea. The proposed rule includes a proposal for Noel's amphipod, which is found in the same locations as the other three species and shares the same threats and management needs.

These species occur at sinkholes, springs, and associated spring runs and wetland habitats. They are found at two sites in Chaves County, NM, one site in Pecos County, TX, and one site in Reeves County, TX. Pecos assiminea is also known from one area in Coahuila, Mexico.

In the proposed rule we determined that these three snails and one amphipod have an exceedingly limited distribution and are imperiled by local and regional groundwater depletion, surface and groundwater contamination, oil and gas extraction activities within the supporting aquifer and watershed, and direct loss of their habitat (*e.g.*, through burning or removing marsh vegetation, cementing, or filling of habitat). This proposal, if made final, will implement the Federal protection and recovery provisions of the Act for these invertebrate species.

Public hearings are designed to gather relevant information that the public may have that we should consider in our rule-making. During the hearing we will present information about the proposed action. We invite the public to submit information and comments either at the hearings or in writing. This notice and public hearing will allow all interested parties to submit comments on the proposed rule and proposed designation. We are seeking comments or suggestions from the public, other concerned governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning the proposal.

We may have to limit the time allotted for oral statements if the number of people who wish to comment necessitates such a limitation. We encourage persons wishing to comment at the hearings to provide a written copy of their statement at the start of the hearing. There is no limit on the length of written comments. Persons may send written comments to our office (*see* **ADDRESSES** section) at any time during the open comment period. We will give equal consideration to oral and written comments. Concurrently with the

publication of this notice we are publishing legal notices in local newspapers announcing the date, time, and location of this hearing.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the National Environmental Policy Act (NEPA) in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (Douglas County v. Babbitt, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as those of the Roswell springsnail, Koster's tryonia, Pecos assiminea, and Noel's amphipod, pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for the critical habitat designation. We will notify the public of the availability of the draft NEPA document for this proposal so that interested and affected parties may participate and contribute to a final decision. The draft NEPA document will be sent out for a minimum 45-day public comment period, during which comments will be solicited.

In addition, we will conduct a robust economic analysis on the effects of the proposed critical habitat designation prior to a final determination. We will conduct an analysis that complies with the ruling by the Tenth Circuit Court of Appeals in *New Mexico Cattle Growers Association, et. al.* v. *U.S. Fish and Wildlife Service*. When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**, and we will reopen the comment period at that time to accept comments on the draft economic analysis, draft NEPA document, or further comment on the proposed rule. We will also transmit the draft documents to all who commented on the proposed rule, and send the documents to anyone who requests a copy. We are particularly interested in comments or suggestions on reasons why any particular area should or should not be designated as critical habitat, information on the distribution and quality of habitat for these four invertebrate species, land use practices and current or planned activities in areas that may be affected by a designation of critical habitat, and any other pertinent issues of concern.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 21, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13534 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 051302B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Amendment Addressing Sustainable Fisheries Act Definitions and Other Required Provisions in Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands; Scoping Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (DSEIS); notice of scoping meetings; request for comments.

SUMMARY: The Caribbean Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environment of the various managed fisheries related to the management measures proposed under the draft Comprehensive Amendment Addressing Sustainable Fishery Act (SFA) Definitions and Other Required Provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in the Fishery Management Plans (FMPs) of Puerto Rico and the U.S. Virgin Islands (Comprehensive SFA Amendment).

DATES: Written comments on the scope of issues to be addressed in the DSEIS must be received by July 1, 2002. The scoping meetings will be held in June 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times for the scoping meetings.

ADDRESSES: Written comments on the scope of the DSEIS and requests for additional information on the proposed management measures should be sent to the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-1920; telephone: (787) 766–592; fax: (787) 766–6239; or you can send comments by e-mail to: miguel.a.rolon@noaa.gov or graciela.garcia-moliner@noaa.gov. The scoping meetings will be held in Puerto Rico, St. Thomas, and St. Croix, USVI. See **SUPPLEMENTARY INFORMATION** for specific meeting locations.

FOR FURTHER INFORMATION CONTACT: Graciela García-Moliner, phone: (787) 766–5926, e-mail: graciela.garcia-moliner@noaa.gov or Michael C. Barnette; phone: (727) 570–5305; fax: (727) 570–5583, e-mail: michael.barnette@noaa.gov.

SUPPLEMENTARY INFORMATION: The Caribbean fisheries for Corals and Reef Associated Plants and Invertebrates, Queen Conch, Reef Fish, and Spiny Lobster in the exclusive economic zone are managed under FMPs prepared by the Council and approved and implemented by NMFS. In January 1985 NMFS prepared an Environmental Impact Statement (EIS) for the Spiny Lobster FMP. In February 1985 NMFS prepared an EIS for the Reef Fish Fishery FMP. In July 1994 NMFS prepared an EIS for the Corals and Reef Associated Plants and Invertebrates FMP. In January 1996 NMFS prepared an EIS for the Queen Conch FMP. This DSEIS would supplement all of the previous EISs.

The Council is preparing to amend the FMPs for Corals and Reef Associated Plants and Invertebrates, Queen Conch, Reef Fish Fishery, and Spiny Lobster to: (1) Address the consistency with new definitions; (2) address bycatch management measures and bycatch reporting requirements; (3) provide descriptions of the commercial, recreational, and charter fisheries and quantify trends in landings and data specified for each sector; (4) address fishery impact statements to insure they incorporate the likely effects of management measures on fishing communities; and (5) address overfishing provisions specifying objective and measurable criteria for identifying whether a species is overfished and provide subsequent measures to rebuild overfished stocks.

The DSEIS will describe the proposed management measures in the Comprehensive SFA Amendment and will assess the environmental impacts of these proposed and alternative measures. To ensure compliance with the requirements of the SFA in the various FMPs, the Council intends to evaluate numerous management measures, such as permits, commercial reporting requirements (including species-specific and bycatch reporting), limited entry, time/area closures (including closures for spawning aggregations and habitat protection), size limits, trip limits, gear restrictions, mandatory and/or voluntary observers, the addition and/or deletion of species from the management unit, and recreational possession limits. However, the Council is requesting written comments on the scope of the issues to be addressed in the DSEIS.

Once the Council completes the DSEIS, it will submit it to NMFS for filing with the EPA. The EPA will publish a notice of availability of the DSEIS for public comment in the Federal Register. The DSEIS will have a 45-day comment period. The procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508) for implementing the procedural provisions of the National Environmental Policy Act (NEPA) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations. The Council will consider public comments received on the DSEIS before adopting final management measures for the Comprehensive SFA Amendment. The Council intends to prepare a final supplemental environmental impact statement (FSEIS) in support of the final Comprehensive SFA Amendment and submit the final Comprehensive SFA Amendment and supporting FSEIS to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Act. NMFS will announce availability of the Comprehensive SFA Amendment for public review during the Secretarial review period through a notice published in the **Federal Register**. During Secretarial review, NMFS will also file the FSEIS with the EPA for a final 30-day public comment period. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve the Comprehensive SFA Amendment. All public comment periods on the Comprehensive SFA Amendment, its proposed implementing regulations, and its associated FSEIS will be announced through a notice published in the **Federal Register**. NMFS will consider all public comments received during the 60–day Secretarial review period, whether they are on the Comprehensive SFA Amendment, the FSEIS, or the proposed regulations, prior to final agency action.

The scoping meetings will be held at the following dates and locations:

1. *June 4, 2002:* Conference Room of Torres de la Parguera Hotel, Carr. Principal #304, La Parguera, Lajas, Puerto Rico, from 2 p.m. to 5 p.m.;
2. *June 6, 2002:* Conference Room of the Best Western Pierre Hotel, De Diego Avenue, Santurce, Puerto Rico, from 2 p.m. to 5 p.m.;
3. *June 10, 2002:* Conference Room of the Caravelle Hotel, 44A Queen Cross St., Christiansted, St. Croix, U.S.V.I., from 7 p.m. to 10 p.m.; and
4. *June 12, 2002:* Conference Room of the Windward Passage Holiday Inn, Veterans Drive, Charlotte Amalie, St. Thomas, U.S.V.I., from 1 p.m. to 3 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Graciela Garcia-Moliner at the Council (see **ADDRESSES**).

Dated: May, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13707 Filed 5–30–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 105
Friday, May 31, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before July 30, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC, 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov*.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0536.

Form No.: AID 1420–62.

Title: AID Contractor Employee Physical Examination Form

Type of Review: Renewal of Information Collection.

Purpose: When USAID awards contracts that require contractor employees to be assigned overseas, the contractor employees are required to obtain a physician's certification that they are physically qualified to engage in the type of activity for which they will be employed. Physicians who do not regularly deal with patients going to lesser-developed countries do not appreciate the difficulties of providing even the most basic medical services in many such areas. This form requests the minimum information needed in order to make a determination as to whether or not the individual should travel to the post in question. If problematic medical conditions are identified prior to overseas travel, the number of medical evacuations are reduced. In addition, the information on the form is used by the U.S. Embassy Health Unit to determine if the individual is eligible to receive access to and medical care from the Health Unit, if such access is routinely granted to individuals with the status of USAID contractor employees. The individual therefore receives a valuable benefit in that those posts with this policy typically do not have adequate medical care available in the local economy.

Annual Reporting Burden: Respondents: 1,280. *Total annual responses:* 1,280. *Total annual hours requested:* 7,680 hours.

Dated: May 22, 2002.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 02–13644 Filed 5–30–02; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Day Use on the National Forests of Southern California

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on extending the agency's information collection regarding day use on the national forests of southern California.

DATES: Comments must be received in writing on or before July 30, 2002. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Dr. Deborah J. Chavez, Pacific Southwest Research Station, 4955 Canyon Crest Drive, Riverside, CA 92507. Comments also may be submitted via facsimile to (909) 680–1501 or send an e-mail to *dchavez@fs.fed.us*.

The public may inspect comments received at the Pacific Southwest Research Station's Riverside Fire Lab at 4955 Canyon Crest Drive, Riverside, CA, during normal business hours (8 a.m. to 4:30 p.m., Pacific Standard Time, Monday through Friday). Visitors are encouraged to call (909) 680–1500 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Dr. Deborah J. Chavez, Pacific Southwest Research Station, (909) 680–1558 or *dchavez@fs.fed.us*. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Day Use on the National Forests of Southern California.

OMB Number: 0596–0129.

Expiration Date of Approval: 10/31/2002.

Type of Request: Extension.

Abstract: Users of national forests near urban areas in southern California come from a variety of ethnic/racial, income, age, educational, and other socio-demographic backgrounds. These socio-demographic differences affect the activities people pursue on national forest lands, the sources of information about national forests people utilize, and the site attributes people prefer. Past studies completed through the previously approved collection of information have provided baseline information from which managers have made decisions, revised forest plans, and renovated/redesigned recreation sites. Additional information is needed for the managers of national forests in southern California to validate previous results and to address the continuously changing profile of the visitor population recreating on the national forests of southern California. In the absence of the information potentially gained from the proposed information collection, the Forest Service will be ill-equipped to implement management changes required to respond to the needs and preferences of day-use visitors.

Data will be collected from visitors at outdoor recreation day-use sites (these include developed picnic areas, general forest day-use sites, off-road staging areas, trails, etc.) on national forests in southern California. Sites, dates of data collection, and individuals participating in the study will be randomly selected for inclusion in the study. Survey instruments will be available in English and Spanish and bilingual research teams will collect the data. Participation in this study is voluntary. The amount of time for completion of a survey is estimated at approximately 15 minutes or less. Participants will answer questions on the following topics: socio-demographic profile, national forest visitation history and patterns, activity patterns, information and communication, site amenities/characteristics, knowledge of place, sense of place/perceptions of place, and general comments. In addition to adjusting management of forests in southern California, results have been presented at local, national, and international meetings. If the Forest Service continues to gather this information, it will be utilized in a similar manner as in previous studies. In addition, the information collected will provide opportunities for comparisons of visitor profiles and use over time. Data will be evaluated and analyzed at the Pacific Southwest Research Station. The consequences of not collecting this data would be: (1) Decreased service delivery due to decreased quality and breadth of information provided to resource managers on the socio-demographic profile of visitors, visitation history and patterns, information and communication, site amenities/characteristics, knowledge of place, and sense of place/perceptions of place; (2) decreased ability of the research unit to continue and expand approved and assigned study topics such as understanding visitor profiles; (3) an increase in the amount of time the research unit needs to answer inquiries from managers and university contacts; (4) increased dependency on cooperator availability to carry out the research unit mission; and (5) loss of information represented in follow-up longitudinal studies.

Estimate of Annual Burden: 15 minutes per respondent.

Type of Respondents: Recreation visitors to national forests near urban areas in southern California.

Estimated Annual Number of Respondents: 600 per year.

Estimated Annual Number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden on Respondents: 150 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the Department's submission to the Office of Management and Budget for approval.

Dated: May 24, 2002.

Robert Lewis, Jr.,

Deputy Chief, Research & Development.

[FR Doc. 02–13692 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

P-Pine Project; Coeur d'Alene River Ranger District; Idaho Panhandle National Forests; Kootenai and Shoshone Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Coeur d'Alene River Ranger District of the Panhandle National Forest is proposing vegetation rehabilitation in the Deerfoot Ridge watershed located east of Hayden Lake, Idaho in Kootenai County (identified as the Ponderosa Pine Restoration Area for the purpose of this assessment). Only dry-site ecosystems within the watershed are proposed for rehabilitation at this time. The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of implementing vegetative restoration activities within the project area.

DATES: Written comments and suggestions should be received no later than 45 days from the date of publication of this notice.

ADDRESSES: Submit written comments and suggestions on the proposal, or requests to be placed on the project mailing list, to the Coeur d'Alene River Ranger District, Attn: Ponderosa Pine Restoration Project, 2502 E. Sherman Avenue, Coeur d'Alene, ID 83814.

FOR FURTHER INFORMATION CONTACT: Sarah Jerome, Project Team Leader, Coeur d'Alene River Ranger District, (208) 664–2318.

SUPPLEMENTARY INFORMATION: The purpose and need for this project is derived from the National Fire Plan, the Upper Columbia River Basin Ecosystem Management Project, and the Coeur d'Alene River Basin Geographic Assessment. Each of these provide documentation of the currently dense, fire-prone state of dry-site ecosystems across the Idaho Panhandle National Forests and in the Coeur d'Alene Basin, and the marked change these ecosystems have undergone over the past century. Site-specific information indicates that these same conditions are occurring on the stand level in the Deerfoot Ridge watershed. Key objectives are to: restore historical conditions in ponderosa pine stands based on the fire ecology of these forest types; trend vegetative species composition toward seral species more resistant to insects and disease; reduce the incidence of noxious weeds; reduce the risk of wildlife in the urban interface; reduce the overall risk of high-intensity, stand-replacing fires; and reduce fragmentation to improve wildlife habitat.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, under which there would be no change from current management of the area. Additional alternatives will represent a range of strategies to manage natural resources in the area. The Idaho Panhandle National Forest Land and Resource Management Plan provides guidance for management objectives within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. Inland Native Fish Strategy guidelines (USDA Forest Service, 1995)

amend Forest Plan guidelines established for riparian areas.

The public was first notified of this proposal and the intention to prepare an environmental impact statement in February 2002. Initially, two areas were under consideration. In addition to the Deerfoot Ridge area, similar activities were proposed in the Two-Mile watershed (north of Silverton, Idaho). Based on additional information gathered, it was determined that these areas are sufficiently different to warrant separate analyses. The Deerfoot Ridge area was selected as the first priority; opportunities to restore ponderosa pine stands in the Two-Mile area will be evaluated under a separate assessment later in the year.

Comments provided by the public and other agencies will be used to develop strategies for management of natural resources in the project area. The public is encouraged to visit with Forest Service officials during the analysis and prior to the decision. The Forest Service is also seeking information, comments, and assistance from federal, state and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in October 2002. At that time, the EPA will publish a Notice of Availability of the draft environmental impact statement in the **Federal Register**. The comment period on the draft environmental impact statement will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978)). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental statement may be waived or dismissed by the courts (*City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns regarding the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denies, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

I am the responsible official for this environmental impact statement. My address is 3815 Schreiber Way, Coeur d'Alene, ID 83815. Comments should be sent to the Coeur d'Alene River Ranger District, Attn: Ponderosa Pine Restoration Project, 2502 E. Sherman Avenue, Coeur d'Alene, ID 83814.

Dated: May 21, 2002.

Ranotta McNair,

Forest Supervisor.

[FR Doc. 02–13643 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southeast Galena Restoration, Malheur National Forest, Grant County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: July 15, 1999, a Notice of Intent (NOI) to prepare an environmental impact statement for the Southeast Galena Restoration on the Long Creek Ranger District of the Malheur National Forest, was published in the **Federal Register** (64 FR 38176). Since the project proposed action is being redesigned, the date of any further environmental analysis is unknown. The 1909 NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Jan Fauntleroy, Project Leader, PO Box 909, John Day, Oregon 97845, phone 541–3446.

Dated: May 20, 2002.

Bonnie J. Wood,

Forest Supervisor.

[FR Doc. 02–13638 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Central Idaho Resource Advisory Committee Salmon-Challis National Forest Butte, Custer, and Lemhi Counties, ID

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of meeting of the Resource Advisory Committee.

SUMMARY: The Central Idaho Resource Advisory Committee will meet at 2:00 p.m., June 6, 2002 at the Challis Ranger District Office, Highway 93 North, Challis, Idaho. The 15-member committee will evaluate proposed resource projects for recommendation to Salmon-Challis National Forest for the year 2002. The meeting is open to the public and time will be scheduled for public comments.

The Central Idaho Resource Advisory Committee was established by the Secretary of Agriculture under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000 to work collaboratively with the Salmon-Challis National Forest to provide advice and recommendations consistent with the purposes of the Act.

Pam Mihelich,

Administrative Officer, Salmon-Challis National Forest, Designated Federal Official.

[FR Doc. 02–13554 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Colville Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Colville Resource Advisory Council will meet on Wednesday, June 19, 2002 at the Spokane Community College, Colville Campus, Dominion Room at 985 S. Elm Street, Colville, Washington. The meeting will begin at 9 a.m. and conclude at 4 p.m.

Agenda items include: (1) Review, modify and approve minutes from March 21st meeting; (2) review and recommend Title II Projects for FY2003 to be submitted to the forest designated official; (3) develop agenda for next meeting, and (4) Public Forum.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to designated federal official, Nora Rasure or Cynthia Reichelt, Public Affairs Officer, Colville National Forest, 765 S. Main, Colville, Washington 99114: (509) 684–7000.

Dated: May 22, 2002.

Nora B. Rasure,

Forest Supervisor.

[FR Doc. 02–13629 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou Resource Advisory Committee (RAC) will meet at 10 a.m. on Thursday, June 25, 2002 and will conclude at approximately 3 p.m. The meeting will be held at the Cave Junction City Hall, 222 Lister Street, Cave Junction, Oregon 97523. The agenda for June 25 meeting includes: (1) Establishing selection criteria and a process to recommend future projects; (2) agreement on what kind of projects the Siskiyou RAC would like to review; and (3) public forum. The public forum is scheduled from 2 to 2:30 p.m. and will be limited to 3–4 minutes for individual presentations (depending on the number of presenters). Written comments are encouraged, particularly if the material cannot be presented within the time limits for the public forum. Written comments may be submitted prior to the June 25th meeting by sending them to the Designated Federal Official Thomas K. Reilly at the address given below.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official Thomas K. Reilly; Acting Rogue and Siskiyou National Forests Supervisor; P.O. Box 520, Medford, Oregon 97501; (541) 858–2200.

Dated: May 22, 2002.

Thomas K. Reilly,

Acting Forest Supervisor.

[FR Doc. 02–13636 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Southwest Idaho Resource Advisory Committee, Boise, ID, Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will meet Wednesday, June 19, 2002 in Boise, Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Randy Swick, McCall District Ranger and Designated Federal Officer, at (208) 634–0400.

SUPPLEMENTARY INFORMATION: The business meeting on June 19th, begins at 10 a.m., at the Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho. Agenda topics will include review and approval of project proposals, and an open public forum.

Dated: May 23, 2002.

Carol Feider,

Acting Forest Supervisor, Payette National Forest.

[FR Doc. 02–13645 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Administration of Educational Land Grant Act Requests for Conveyance of National Forest System Lands; Interim Direction

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Forest Service has issued an Interim Directive to provide internal administrative direction to guide its employees in the processing of proposals and applications to transfer National Forest System lands to public school districts for educational purposes under the Educational Land Grant Act of 2000 (114 Stat. 368; 16 U.S.C. 479a). The interim directive was issued to Chapter 30 of the Forest Service Handbook (FSH) 5509.11 on Title Claims, Sales, and Grants as Interim Directive No. 5509.11–2002–1.

DATES: The Interim Directive was issued May 24, 2002, and will be effective on June 4, 2002.

ADDRESSES: The interim directive is available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives*. Single paper copies of the interim directive are also available from the Lands Staff, Mail Stop 1124, Forest Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Forest Service Lands Staff, Greg Smith at (202) 205–1769 or Ben Bibb at (202) 205–1238.

Dated: May 24, 2002.

Gloria Manning,

Associate Deputy Chief, National Forest System.

[FR Doc. 02–13693 Filed 5–30–02; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 30, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On April 5, and April 12, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 F.R. 16367 and 17966) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Janitorial/Custodial, Naval and Marine Corps Reserve Center, Mobile, AL.
NPA: GWI Services, Inc., Mobile, AL.
Contract Activity: Naval Facilities Engineering Command, North Charleston, SC.
Service Type/Location: Janitorial/Custodial, FBI Information Technology Center, Fort Monmouth, NJ.
NPA: Monmouth Center for Vocational Rehabilitation, Eatontown, NJ.
Contract Activity: FBI Information Technology Center, Fort Monmouth, NJ.
Service Type/Location: Mess Attendant, 192d FW VA Air National Guard, Sandston, VA.
NPA: The Arc of the Virginia Peninsula, Inc., Hampton, VA.
Contract Activity: 192d FW VA Air National Guard, Sandston, VA.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 02–13694 Filed 5–30–02; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: June 30, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Base Supply Center, U.S. Army Garrison, Fort Lee, VA.
NPA: Virginia Industries for the Blind, Charlottesville, VA.
Contract Activity: U.S. Army Garrison, Fort Lee, VA.
Service Type/Location: Janitorial/Custodial, FAA, Air Traffic Control Tower, Detroit Metropolitan Airport, Detroit, MI.
NPA: Jewish Vocational Service and Community Workshop, Inc., Southfield, MI.
Contract Activity: Federal Aviation Administration.
Service Type/Location: Janitorial/Custodial, Marine Corps Reserve Center, Brook Park, OH.
NPA: Goodwill Industries of Greater Cleveland, Inc., Cleveland, OH.
Contract Activity: Naval Facilities Engineering Command—Crane, Crane, IN.
Service Type/Location: Mail Support Services, Department of Justice, Drug Enforcement Agency, Newark, NJ.
NPA: The First Occupational Center of New Jersey, Orange, NJ.
Contract Activity: Drug Enforcement Agency.

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 02–13695 Filed 5–30–02; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 052802B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: State Coastal Program/National Estuarine Research Reserve Performance Measurement Questionnaire.

Form Number(s): None.
OMB Approval Number: None.
Type of Request: Emergency request.
Burden Hours: 2,400.
Number of Respondents: 60.
Average Hours Per Response: 40 hours.

Needs and Uses: The information collected will be used to continue to develop a national performance measurement system for the Coastal Zone Management Act. The respondents will be Coastal Zone Management Programs and National Estuary Research Reserve System sites. The information will provide a list of measurable goals, objectives, and indicators and how they are measured by the state coastal program and National Esturaine Research Reserves in order to inform the development of a national performance measurement system.

Affected Public: State, Local, or Tribal Government.
Frequency: One-time.
Respondent's Obligation: Voluntary.
OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 23, 2002.

Madeleine Clayton,
Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.
[FR Doc. 02–13706 Filed 5–30–02; 8:45 am]
BILLING CODE 3510–08–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 14–2001]

Foreign-Trade Zone 126—Sparks, NV, Application for Subzone, Taiyo America, Inc., Carson City, NV; Reopening of Public Comment Period

The comment period for the above case, submitted by the Economic Development Authority of Western Nevada, grantee of FTZ 126, requesting subzone status at the Taiyo America, Inc. facility in Carson City, Nevada (66 FR 14126, 3/9/01), is reopened to allow interested parties time in which to comment on additional information that has been submitted.

The comment period is reopened until July 1, 2002. Rebuttal comments may be submitted during the subsequent 15 day period, until July 15, 2002. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW, Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW, Washington, DC 20230.

Dated: May 24, 2002.

Dennis Puccinelli,
Executive Secretary.
[FR Doc. 02–13732 Filed 5–30–02; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052802A]

Proposed Information Collection; Comment Request; Requirements for Taking Endangered or Threatened Species for Research/ Enhancement Purposes

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 30, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at *MClayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lillian Becker or Lamont Jackson at (301)713–2289, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et. seq.*) imposed prohibitions against the taking of endangered species. Section 10 of the ESA allows permits authorizing the taking of endangered species for research/enhancement purposes. The corresponding regulations established procedures for persons to apply for such permits. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain two sets of information collections: (1) applications for research/enhancement permits, and (2) reporting requirements for permits issued.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions. In order to issue permits as under ESA section 10(a)(1)(A), the National Marine Fisheries Service (NMFS) must determine that(1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of the ESA.

II. Method of Collection

The collection of information will be in the form of applications, annual reports, and final reports responding to requirements in regulations and instructions; no forms are required.

III. Data

OMB Number: 0648–0402.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Non-profit institutions; state, local, or tribal government; and businesses or other for-profit organizations.
Estimated Number of Respondents: 175.
Estimated Time Per Response: 40 hours for permit applications; 20 hours for permit modification requests; 10 hours for annual reports; and 20 hours for final reports.
Estimated Total Annual Burden Hours: 8000.
Estimated Total Annual Cost to Public: $300.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 23, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13705 Filed 5–30–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend Systems of Records.

SUMMARY: The Department of the Air Force is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on (insert date thirty days after publication in **Federal Register**) unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF—CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: May 24, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F044 AF SG Q

SYSTEM NAME:

Family Advocacy Program Record (February 12, 2002, 67 FR 6506).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Substantiated Cases and Unsubstantiated-Unresolved Cases. Destroy as a family group 25 years after the end of the calendar year in which the case review committee determination was made or treatment ends. Unsubstantiated/Did Not Occur: Destroy 2 years after the end of the calendar year in which the case review committee determination was made.

* * * * *

F044 AF SG Q

SYSTEM NAME:

Family Advocacy Program Record.

SYSTEM LOCATION:

Headquarters United States Air Force, Office of the Surgeon General, 110 Luke Avenue, Room 400, Bolling Air Force Base, Washington, DC 20332–7050;

Headquarters, Air Force Medical Operations Agency, Family Advocacy Program, 2601 Doolittle Road, Building 801, Brooks Air Force Base, TX 78235–5254;

Major Command Surgeons' offices; Air Force hospitals, medical centers and clinics. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD beneficiaries who are entitled to care at Air Force medical facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of suspected and established cases of family maltreatment, assessments and evaluations, investigative reports, check lists, family advocacy case management team minutes and reports, follow-up and evaluative reports, correspondence, and any other supportive data gathered relevant to individual family advocacy program cases. Records of family member exceptional medical and/or educational needs, medical summaries, individual educational program plans, general supportive documentation and correspondence. Secondary prevention records, assessment and survey instruments, service plans, and chronological data. Prevention contact activity files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 40–301, Air Force Family Advocacy Program, and E.O. 9397 (SSN).

PURPOSE(S):

To document the activities of the Family Advocacy Program as they relate to allegations of and substantiated cases of family maltreatment, exceptional educational and/or medical needs of family members, prevention activities, assessment and survey activities; compile database for statistical analysis, tracking, and reporting; evaluate program effectiveness and conduct research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

IN ADDITION TO THOSE DISCLOSURES GENERALLY PERMITTED UNDER 5 U.S.C. 552A(B) OF THE PRIVACY ACT, THESE RECORDS OR INFORMATION CONTAINED THEREIN MAY SPECIFICALLY BE DISCLOSED OUTSIDE THE DOD AS A ROUTINE USE PURSUANT TO 5 U.S.C. 552A(B)(3) AS FOLLOWS:

To any member of the family in whose sponsor's name the file is maintained, in furtherance of treating any member of the family.

To the Attorney General of the United States or his authorized representatives in connection with litigation, or other matters under the direct jurisdiction of the Department of Justice.

To officials and employees of the Department of Veterans Affairs in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force.

To officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies and relating to the coordination of family advocacy programs, medical care and research concerning family maltreatment and neglect and exceptional educational or medical conditions.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force.

To officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs.

To the Federal, state or local governmental agencies when appropriate in the counseling and treatment of individuals or families with exceptional medical or educational needs or when involved in child abuse or neglect.

To authorized surveying bodies for professional certification and accreditations.

To the individual organization or government agency as necessary when required by Federal statute, E.O., or by treaty. Drug/Alcohol and Family Advocacy information maintained in connection with Abuse Prevention Programs shall be disclosed only in accordance with applicable statutes.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system, except as stipulated in the 'NOTE' below.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The DoD "Blanket Routine Uses" do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, in computers, and on computer output products.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the sponsor or the sponsor's spouse.

SAFEGUARDS:

Records are maintained in various types of lockable filing equipment in monitored or controlled access lockable rooms or areas. Records are accessible only to authorized personnel that are properly screened and trained. Computer terminals are located in supervised areas with access controlled by password or other user-code systems. Records on computer storage devices are protected by computer system security software or physically stored in lockable filing equipment.

RETENTION AND DISPOSAL:

Substantiated Cases and Unsubstantiated-Unresolved Cases. Destroy as a family group 25 years after the end of the calendar year in which the case review committee determination was made or treatment ends. Unsubstantiated/Did Not Occur: Destroy 2 years after the end of the calendar year in which the case review committee determination was made.

SYSTEM MANAGER(S) AND ADDRESS:

Division Chief, Air Force Medical Operations Agency, Family Advocacy Division, 2601 Doolittle Road, Building 801, Brooks Air Force Base, TX 78235–5254, Major Command Surgeons, and Commanders of Air Force medical treatment facilities. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains information on them should address inquiries to the Family Advocacy Officer at the Air Force medical treatment facility where services were provided. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices

Requests should include the name and Social Security Number of the individual concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking to access their records in this system should address requests to the Patient Affairs Officer at the Air Force medical treatment facility where services were provided. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Requests should include the name and Social Security Number of the individual concerned.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, reports from physicians and other medical department personnel; reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b.

[FR Doc. 02–13593 Filed 5–30–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 4, 5 & 6 June 2002.

Time of Meeting: 0730–1700, 4 June 2002; 0800–1700, 5 June 2002; 0730–1630, 6 June 2002.

Place: SAIC.

Agenda: The Army Science Board's (ASB) Study "Ensuring the Financial Viability of the Objective Force" will have a Plenary Meeting on 4, 5 and 6 June. The meeting will be held at SAIC, 4001 Fairfax Drive, Arlington, VA. The Meeting will begin at 0730 hours on the 4th and end at approximately 1630 hours on June 6th.

FOR FURTHER INFORMATION CONTACT: Major Robert Grier, 703–604–7478 or e-mail: *Robert.grier@saalt.army.mil.*

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 02–13640 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: 10–11 June 2002.

Time(s) of Meeting: 0800–1700, 10 June 2002. 0800–1700, 11 June 2002.

Place: MITRE, McLean, VA.

Agenda: The Army Science Board's (ASB) Study "Meeting the Future Army Aviation Needs" will meet for briefings and discussions on the study subject. These meetings will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings.

FOR FURTHER INFORMATION CONTACT: Mr. Ira J. Kuhn @ 703–243–3383 or email: Ira Kuhn@directedtechnologies.com.

Wayne Joyner,

Executive Assistant, Army Science Board.

[FR Doc. 02–13641 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Detection of Antibodies to Squalene in Serum

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 09/859,389 entitled "Detection of Antibodies to Squalene in Serum" filed May 18, 2001. Foreign rights are also available (PCT/US01/16096). The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention is a method for detecting squalene in sera.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–13686 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend two systems of records.

SUMMARY: The Department of the Army is amending two systems of records notices in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on July 1, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: May 24, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

AAFES 1609.02

SYSTEM NAME:

AAFES Customer Service (August 9, 1996, 61 FR 41592).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add 'address' and 'shipping/delivery information' to entry.

* * * * *

PURPOSE(S):

Add 'shipment/delivery information' to entry.

* * * * *

STORAGE:

Delete entry and replace with 'Paper in file folders and on electric storage media'.

* * * * *

AAFES 1609.02

SYSTEM NAME:

AAFES Customer Service.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598;

Army and Air Force Exchange Service-Europe Region, Building 4001, In der Witz 14–18, 55252 Mainz-Kastel, Germany, APO 09251–4580; and

Exchange Regions and Area Exchanges at posts, bases, and satellites world-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army and Air Force Exchange Service (AAFES) customers who use the services of the Customer Service Desk, including but not limited to those who purchase merchandise on a time payment, layaway, or special order basis, or who need purchase adjustments or refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, address, and Social Security Number, copies of layaway tickets, requests for refunds, special order forms/procurement request/logs, cash receipt/charge or credit vouchers, rebate coupons, register transaction journal/log, repair vouchers, warranty documents, shipping/delivery information, correspondence between AAFES and the customer and/or vendor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 8013, Secretary of the Air Force; Army Regulation 25–1, Morale, Welfare, and Recreation Activities and Non-Appropriated Fund Instrumentalities; Army Regulation 60–10, Army and Air Force Exchange Service General Policies; and E.O. 9397 (SSN).

PURPOSE(S):

To record customer transactions/payment for layaway and special orders; to determine payment status before finalizing transactions; to identify account delinquencies and prepare customer reminder notices; to mail refunds on canceled layaway or special orders; to process purchase refunds; to document receipt from customer of merchandise subsequently returned to vendors for repair or replacement, shipping/delivery information, and initiate follow-up actions; to monitor individual customer refunds; to perform market basket analysis; to improve efficiency of marketing system(s).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Disclosure of records is limited to the individual's name, address, Social Security Number, and other information necessary to establish the individual's identity; the amount, status, and history of the claim; and the agency program under which the claim arose. This disclosure will be made only after the procedural requirement of 31 U.S.C. 3711(f) has been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper in file folders and on electric storage media.

RETRIEVABILITY:

By customer's surname, Social Security Number, document control number, and/or due date.

SAFEGUARDS:

Records are maintained in secured areas, accessible only to authorized personnel having need for the information in the performance of their duties.

RETENTION AND DISPOSAL:

Cancelled or completed layaway tickets are held for 6 months after cancellation or delivery of merchandise; purchase orders are retained for 2 years; transaction records are retained for 2 years; refund vouchers are retained for 6 years; returned merchandise slips are retained for 6 years; cash receipt vouchers are retained for 3 years; repair/replacement order slips are held 2 years. All records are destroyed by shredding, all electronic records are destroyed by erasing/reformatting the media.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: SD, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

Individual should provide name and sufficient details of purchase to enable locating pertinent records, current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: SD, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

Individual should provide name and sufficient details of purchase to enable locating pertinent records, current address and telephone number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual and/or vendor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0600–8–23 DAPE

SYSTEM NAME:

Standard Installation/Division Personnel System (August 14, 2000, 65 FR 49551).

CHANGES:

SYSTEM IDENTIFIER:

Replace 'DAPE' with 'TAPC'.

SYSTEM NAME:

Add to entry '(SIDPERS)'.

* * * * *

A0600–8–23 TAPC

SYSTEM NAME:

Standard Installation/Division Personnel System (SIDPERS).

SYSTEM LOCATION:

National Guard records are located at the Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve Component records are located at the U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132–5200.

Regular Army records are located at the Army Information Processing Centers located in Chambersburg, PA 17201–4150; Huntsville, AL 35898–7340; Rock Island, IL 61299–7210; and St. Louis, MO 63120–1798.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty Army personnel, personnel attached from National Guard and/or Army reserve members of the Army National Guard, and individuals currently assigned to a U.S. Army Reserve unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, sex, race, citizenship, status, religious denomination, marital status, number of dependents, date of birth, physical profile, ethnic group, grade and date of rank, term of service for enlisted personnel, security clearance, service agreement for non-regular officers, promotion data and dates, special pay and bonus, unit of assignment and identification code, military occupational specialty, civilian occupation, additional skill identifiers, civilian and military education levels, languages, military qualification, assignment eligibility, availability and termination date thereof, security status, suspension of favorable personnel action indicator, Privacy Act disputed record indicator, and similar relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–8–23, Standard Installation/Division Personnel System Database Management; and E.O 9397 (SSN).

PURPOSE(S):

To support personnel management decisions concerning the selection, distribution and utilization of all personnel in military duties, strength accounting and manpower management, promotions, demotions, transfers, and other personnel actions essential to unit readiness; to identify and fulfill training needs; and to support automated interfaces with authorized information systems for pay, mobilization, and other statistical reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, discs, microfiche, punched cards, and computer printouts.

RETRIEVABILITY:

By Name, Social Security Number, or other individually identifying characteristics.

SAFEGUARDS:

Access to data and data storage is controlled and accessible only to authorized personnel and authorized personnel with password capability for the electronic media access.

RETENTION AND DISPOSAL:

Records are maintained one year in records holding area or current file area then retired to National Personnel Records Center. Maintained there for 75 years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

National Guard: Chief, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve Component: Deputy Chief of Staff for Personnel, Headquarters, Department of the Army 300 Army Pentagon, Washington, DC 20310–0300.

Regular Army: Commander, U.S. Army Personnel Center, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

National Guard and Reserve Component: From the individual, individual's personnel and pay files, other Army records and reports.

Regular Army: From individual, commanders, Army records and documents, other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–13594 Filed 5–30–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on (insert date thirty days after publication in the **Federal Register**) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: May 24, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.15 DMDC

SYSTEM NAME:

Defense Incident-Based Reporting System (DIBRS) (July 12, 1999, 64 FR 37518).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

In the first line, replace 'Defense Protective Service' with 'Pentagon Force Protection Agency.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'The master file is retained permanently. Input and source records are destroyed after data have been entered into the master file or when no loner needed for operational purposes, whichever is later. Output products (electronic or paper) are destroyed when no longer needed for operational purposes.'

* * * * *

S322.15 DMDC

SYSTEM NAME:

Defense Incident-Based Reporting System (DIBRS).

SYSTEM LOCATION:

Primary Location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up Location: Defense Manpower Data Center, DoD Center, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military (includes Coast Guard) or civilian personnel who have been apprehended or detained for criminal offenses which must be reported to the Department of Justice pursuant to the Uniform Crime Reporting Handbook as required by the Uniform Federal Crime Reporting Act.

Active duty military (includes Coast Guard) personnel accused of criminal offenses under the Uniform Code of Military Justice and investigated by a military law enforcement organization.

Active duty military (includes Coast Guard) personnel accused of fraternization, sexual harassment, a sex-related offense, a hate or bias crime, or a criminal offense against a victim who is a minor and investigated by a commander, military officer, or civilian in a supervisory position.

Active duty military (includes Coast Guard) personnel accused of a criminal incident, which is not investigated by a military law enforcement organization, but which results in referral to trial by court-martial, imposition of nonjudicial punishment, or an administrative discharge.

Active duty military (includes Coast Guard) personnel convicted by civilian authorities of felony offenses as defined by State or local law.

Active duty military (includes Coast Guard) personnel who attempt or commit suicide.

Individuals who are victims of those offenses which are either reportable to the Department of Justice or are reportable for having committed criminal incidents in violation of law or regulation.

Active duty military (includes Coast Guard) personnel who must be reported to the Department of Justice under the Brady Handgun Violence Prevention Act because such personnel have been referred to trial by a general courts-martial for an offense punishable by imprisonment for a term exceeding one year; have left the State with the intent of avoiding either pending charges or giving testimony in criminal proceedings; are either current users of a controlled substance which has not been prescribed by a licensed physician (Note: includes both current and former members who recently have been convicted by a courts-martial, given nonjudicial punishment, or administratively separated based on drug use or failing a drug rehabilitation program) or using a controlled substance and losing the power of self-control with respect to that substance; are adjudicated by lawful authority to be a danger to themselves or others or to lack the mental capacity to contract or manage their own affairs or are formally committed by lawful authority to a mental hospital or like facility (Note: includes those members found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice); have been discharged from the Armed Services pursuant to either a dishonorable discharge or a dismissal adjudged by a general courts-martial; or have been convicted in any court of a misdemeanor crime of domestic violence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records compiled by law enforcement authorities (*e.g.*, Pentagon Force Protection Agency, military and civilian police, military criminal investigation services or commands); DoD organizations and military commands; Legal and judicial authority (*e.g.*, Staff Judge Advocates, courts-martial); and Correctional institutions and facilities (*e.g.*, the United States Disciplinary Barracks) consisting of personal data on individuals, to include but not limited to, name; social security number; date of birth; place of birth; race; ethnicity; sex; identifying marks (tattoos, scars, etc.); height; weight; nature and details of the incident/offense to include whether alcohol, drugs and/or weapons were involved; driver's license information; actions taken by military commanders (*e.g.*, administrative and/or non-judicial measures, to include sanctions imposed); court-martial results and punishments imposed; confinement information, to include location of correctional facility, gang/cult affiliation if applicable; and release/parole/clemency eligibility dates.

Records also consist of personal information on individuals who were victims. Such information does not include the name of the victim or other personal identifiers (*e.g.*, Social Security

Number, date of birth, etc.), but does include the individual's residential zip code; age; sex; race; ethnicity; and type of injury.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 18 U.S.C. 922 note, Brady Handgun Violence Prevention Act; 28 U.S.C. 534 note, Uniform Federal Crime Reporting Act; 42 U.S.C. 10601 et seq., Victims Rights and Restitution Act; DoD Directive 7730.47, Defense Incident-Based Reporting System (DIBRS); and E.O. 9397 (SSN).

PURPOSE(S):

To provide a single central facility within the Department of Defense (DoD) which can serve as a repository of criminal and specified other non-criminal incidents which will be used to satisfy statutory and regulatory reporting requirements, specifically to provide crime statistics required by the Department of Justice (DoJ) under the Uniform Federal Crime Reporting Act; to provide personal information required by the DoJ under the Brady Handgun Violence Prevention Act; and statistical information required by DoD under the Victim's Rights and Restitution Act; and to enhance DoD's capability to analyze trends and to respond to executive, legislative, and oversight requests for statistical crime data relating to criminal and other high-interest incidents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) only as follows:

To the Department of Justice:

(1) To compile crime statistics so that such information can be both disseminated to the general public and used to develop statistical data for use by law enforcement agencies.

(2) To compile information on those individuals for whom receipt or possession of a firearm would violate the law so that such information can be included in the National Instant Criminal Background Check System which may be used by firearm licensees (importers, manufactures or dealers) to determine whether individuals are disqualified from receiving or possessing a firearm.

The DoD 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices do not apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, incident number, or any other data element contained in system.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted by the use of locks, guards, and administrative procedures. Access to personal information is limited to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords which are changed periodically.

RETENTION AND DISPOSAL:

The master file is retained permanently. Input and source records are destroyed after data have been entered into the master file or when no loner needed for operational purposes, whichever is later. Output products (electronic or paper) are destroyed when no longer needed for operational purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquires to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–CF, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–CF, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–CF, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The military services (includes the U.S. Coast Guard) and Defense agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–13595 Filed 5–30–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Arkansas River Navigation Study, Phase II, AR and OK

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE), Little Rock District will prepare an Environmental Impact Statement (EIS) for the Arkansas River Navigation Study, Phase II.

The purpose of the EIS will be to present alternatives and assess the impacts associated with the deepening of several portions of the McClellan-Kerr Arkansas River Navigation System (McKARNS) channel, so that portions of or the entire system would have a navigable depth up to 12 feet, instead of the existing 9-foot deep channel. Under direction of the U.S. Congress, the USACE is conducting this study. The study area includes the Arkansas River Basin in Arkansas and Oklahoma. Deepening the navigation channel would allow the hauling of heavier loads on barges that use the system. Proposed improvements resulting from the study could impact (positively or negatively) agriculture, hydropower, recreation, flood control, and fish and wildlife along the McKARNS.

The EIS will evaluate potential impacts (positive and negative) to the natural, physical, and human environment as a result of implementing any of the proposed project alternatives that may be developed during the EIS process.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the proposed action should be addressed to: Ms. Tricia Anslow, Chief, Environmental Section, Planning Branch, P.O. Box 867, Little Rock, AR 72203–0867, Telephone 501–324–5032, e-mail: *Patricia.Anslow@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *McKARNS:* The McClellan-Kerr Arkansas River Navigation System consists of a series of 18 locks and dams (17 existing and 1 currently under construction) and provides navigation from the Mississippi River to the Port of Catoosa near Tulsa, OK. River flow in the Arkansas River is modified primarily by 11 reservoirs in Oklahoma. The reservoirs are: Keystone, Oologah, Pensacola, Hudson, Fort Gibson, Tenkiller Ferry, Eufaula, Kaw, Hulah, Copan, and Wister. These lakes provide flood control, water supply, hydropower, fish & wildlife, water quality, recreation, and other benefits.

2. *Study History:* The Arkansas River Navigation Study, Phase II is being undertaken by USACE, Little Rock and Tulsa Districts under the direction of the U.S. Congress. The study includes major hydraulics investigations, economics analyses, alternatives development and related analyses in addition to the EIS.

3. *Comments/Scoping Meeting:* Interested parties are requested to express their views concerning the proposed activity. The public is encouraged to provide written comments in addition to or in lieu of, oral comments at scoping meetings. To be most helpful, scoping comments should clearly describe specific environmental topics or issues, which the commentator believes the document should address. Oral and written comments receive equal consideration.

Scoping meetings will be held with government agencies and the public. Public Scoping Meetings will be held in the summer of 2002 in Pine Bluff, AR, Fort Smith, AR, and Tulsa, OK. The location, time, and date will be published at least 14 days prior to each scoping meeting. Comments received as a result of this notice and the news releases will be used to assist the Districts in identifying potential impacts to the quality of the human or natural environment. Affected local, state, or Federal agencies, affected Indian Tribes, and other interested private organizations and parties may participate in the scoping process by forwarding written comments to the above noted address. Interested parties may also request to be included on the mailing list for public distribution of meeting announcements and documents.

4. *Alternatives/Issues:* The EIS will evaluate the effects of channel deepening and other practical alternatives, and other identified concerns. Anticipated significant issues to be addressed in the EIS include impacts on: (1) navigation, (2) flooding, (3) hydropower production, (4) recreation and recreation facilities, (5) river hydraulics, (6) fish and wildlife resources and habitats, and (7) other impacts identified by the Public, agencies or USACE studies.

5. *Availability of the Draft EIS:* The Draft EIS is anticipated to be available for public review in the fall of 2004 subject to the receipt of federal funding.

6. *Authority:* The River and Harbor Act of 1946 authorized the development of the Arkansas River and its tributaries for the purposes of navigation, flood control, hydropower, water supply, recreation, and fish and wildlife. Public Law 91–649 stated that the project would be known as the McClellan-Kerr Arkansas River Navigation System. The Arkansas River Navigation Study began as a Fiscal Year (FY99) Congressional Add to investigate flooding problems along the Arkansas River in Crawford and Sebastian Counties in the vicinity of Fort Smith, AR.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–13684 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–57–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement in Conjunction With Proposed Flood Control and Ecosystem Restoration Measures on the Upper Des Plaines River and Tributaries in Kenosha County, WI, and in Cook and Lake Counties, IL

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Project involves construction of flood control and ecosystem restoration measures along the Upper Des Plaines River and Tributaries in Kenosha County, WI, and in Cook and Lake Counties, IL. Alternative plans are likely to include setback levees, retention ponds, dam modification, sediment traps, meander restoration, bank stabilization, wetland restoration, non-structural measures, and vegetative buffer strips.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Ryder, 312/353–6400 ext. 2020; U.S. Army Corps of Engineers, Suite 600, 111 North Canal Street; Chicago, IL 60606–7206.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Statement is expected to be released for public review in December 2004. Public scoping meetings will be held on the following dates:

(1) June 4, 2002, 7–9 PM—Kenosha County Center, 19600 75th Street, Bristol, WI.

(2) June 5, 2002, 7–9 PM—Byron Colby Barn at Prairie Crossing, Jones Point Road west of Route 45, Graylake, IL.

(3) June 6, 2002, 7–9 PM—Oakton Community College Conference Center, 1600 E. Golf Road, Des Plaines, IL.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–13685 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–HN–M

DEPARTMENT OF DEFENSE

Department of Army; Corps of Engineers

Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the Marina del Rey and Ballona Creek Sediment Control Management Plan Feasibility Study, Marina del Rey, Los Angeles County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) and the County of Los Angeles propose to prepare a sediment control management plan to reduce the sedimentation and contamination within Marina del Rey's navigation channels that result from Ballona Creek discharges. The Ballona Creek sediment control management plan is intended to act as a long-term solution to Marina del Rey's contaminated dredged material problem.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the EIS/EIR may be directed to Mr. Paul Rose, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, P.O. Box

532711, Los Angeles, CA, 90053–2325, (213) 452–3840.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action:* Measures to control sediment discharges from Ballona Creek are needed because the Marina del Rey entrance channel suffers from sediment accretion, which inhibits navigation and makes periodic maintenance dredging necessary. The deposited sediment is contaminated with pollutants that originate from the Ballona Creek watershed. The elevated contaminant levels in entrance channel sediments make the disposal of dredge sediments problematic and expensive. The Corps has found it difficult to dredge the south entrance channel because of a lack of suitable disposal sites for the contaminated material. Because of the difficulty of properly maintaining the entrance channel, navigation safety may be threatened. Furthermore, resuspension of these sediments during dredging operations raises concerns of environmental impacts.

Control of contaminated sediments from Ballona Creek would help alleviate the problem of contaminated sediment dredging in the Marina del Rey Harbor entrance channel. A substantial reduction or elimination of the need to dispose of contaminated sediments would provide such benefits as improved water quality, decrease in maintenance dredging costs, and increased beach nourishment from the disposal of clean dredged sediments.

2. *Alternatives:* Alternatives that may be considered include selection of various sediment control measures including in-steam sediment basins, construction of a jetty extension, a combined in-steam sediment basin and jetty extension, and no-project.

3. *Scoping Process;* The Corps and the County of Los Angeles are preparing a joint environmental Impact Statement/ Environmental Impact Report (EIS/EIR) to address potential impacts associated with the proposed project. The Corps is the Lead Federal Agency for compliance with National Environmental Policy Act (NEPA) for the project, and the County of Los Angeles is the Lead State Agency for compliance with the California Environmental Quality Act (CEQA) for the non-Federal aspects of the project. The Draft EIS/EIR (DEIS/EIR) document will incorporate public concerns in the analysis of impacts associated with the Proposed Action and associated project alternatives. The DEIS/EIR will be sent out for a 45-day public review period, during which time both written and verbal comments will be solicited on the adequacy of the document. The Final EIS/EIR (FEIS/EIR) will address the comments received on the DEIS/EIR during public review, and will be furnished to all who commented on the DEIS.EIR, and is made available to anyone that requests a copy during the 30-day public comment period. The final step involves, for the federal EIS, preparing a Record of Decision (ROD) and, for the state EIR, certifying the EIR and adopting a Mitigation Monitoring and Reporting Plan. The ROD is a concise summary of the decisions made by the Corps from among the alternatives presented in the FEIS/EIR.

The ROD can be published immediately after the FEIS public comment period ends. A certified EIR indicates that the environmental document adequately assesses the environmental impacts of the proposed project with the respect to CEQA. A formal scoping meeting to solicit public comment and concerns on the proposed action and alternatives will be held on June 4, 2002, at 10:00 A.M., in the Burton Chace Community Center, 13650 Mindanao Way, Marina del Rey, California.

Luz D. Ortiz,

Army Federal Register Liaison Office.

[FR Doc. 02–13688 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the San Diego Shoreline Feasibility Study, Oceanside, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers (USACE), DOD.

ACTION: Notice of intent.

SUMMARY: The Los Angeles District of the USACE will prepare a Draft Environmental Impact Statement (DEIS) to support the San Diego Shoreline Feasibility Study, Oceanside, California. The Study Area includes the shoreline between Oceanside Harbor and the Agua Hedionda Lagoon within the cities of Oceanside and Carlsbad in northwest San Diego County. The study area shoreline is approximately seven miles in length. The project environment includes predominantly beach, coastal strand and/or marine inter-tidal/littoral/ pelagic zones.

The predominant problem that threatens the shoreline is continual beach erosion averaging 1.1 meters per year, despite the considerable amount of beach fill deposited, (totaling approx. 2.3 million cubic meters), on a periodic basis. Causes for this erosion has been attributed to upcoast harbor construction, dam construction, storm damage, and river sand mining.

The loss of beach width and increased exposure of property has resulted in increased coastal damage, safety issues, and loss of recreation opportunities. This feasibility study will focus on addressing the problems and needs cause by beach erosion. The DEIS will analyze the potential impacts (beneficial and adverse) on the environment for the range of alternatives, including the recommended plan.

The Los Angeles District and the City of Oceanside will cooperate in conducting this Feasibility Study.

ADDRESSES: District Engineer, U.S. Army Corps of Engineers, Los Angeles District, ATTN: CESPL–PD–RN (L. Young), PO Box 532711, Los Angeles, CA 90053–2325.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Young, Environmental Coordinator, telephone (213) 452–3852, or Mr. Tony Risko, Chief, Coastal Studies, Group, telephone (213) 452–3833.

SUPPLEMENTARY INFORMATION:

1. Authorization

This Feasibility Study was authorized by the House Public Works and Transportation Committee Resolution adopted April 30, 1992 which states: "Resolved by the Committee on Public Works and Transportation of the Unites States House of Representatives, that in accordance with Section 110 of the River and Harbor Act of 1962, the Secretary of the Army, acting through the Chief of Engineers, is requested to investigate the feasibility of providing shore protection improvements along the shores of the City of Oceanside, San Diego County, California, in the interest of shoreline protection and storm damage reduction and other related purposes."

2. Background

During the 1880's Oceanside Beach was approximately 90 meters wide. This shoreline width was further advanced in the floods of 1889, 1891, and 1916 bringing large volumes of sediment from the San Luis Rey and Santa Margarita Rivers. The City used the widened beach as a resource, and in 1927 a recreational pier, beachfront, strand, parking lots and houses were constructed in front of the seacliff. During this period a dam was also constructed on the San Luis Rey River to control flooding. At the start of the U.S. involvement in World War II, the U.S. Marine Corps designed and contracted construction of a small boat basin in a narrow lagoon between the Santa Margarita and San Luis Rey Rivers to support an amphibious training base. This included four jetties, which were later extended. Another dam was constructed on the Santa Margarita River to control flooding in 1949.

The presence of the coastal structures, such as jetties and breakwaters, has resulted in the disruption of sediment transport, creating a variety of localized shoreline effects. Sediment tends to accumulate at the beach north of the harbor, within the harbor entrance, and south of the harbor south jetty. However, erosion tends to occur downcoast of the labor. Damages reported by residents consist mainly of inundation damages and damages to revetment. These damages occur when storm wave conditions coincident with high tidal elevations or storm surge causes an elevated sea surface and higher wave run-up elevation. The majority of damages in Oceanside occurred during storms in 1977–1978, 1982–83, 1988, 1993–1994, and 1997–1998. In addition to high waves and water surface elevations, damage is intensified by shoreline erosion and beach retreat. Oceanside has historically experienced a narrow beach, but has recently undergone accelerated erosion. A large volume of material has been placed back on the beach during construction and maintenance dredging, but a deficit in sand for the beach still exists. The average recession of Oceanside Beach from 1940–1999 is approximately 60 meters or 1.1 m/yr. In 1974, the USACE issued a position paper on beach erosion that tentatively indicated that the harbor was the primary cause of erosion.

3. Alternatives

The Feasibility Study will focus on the problems and needs caused by beach erosion. In general, alternative plans will focus on reducing the beach erosion and improving sand accumulation through either construction or management project features such as groins, reefs, and/or dredge and disposal. Other features may include coordinated environmental enhancement of the lagoons or river mouths in the project area.

The primary undesirable impacts of concern from any of the alternatives will likely be related to temporary turbidity and displacement of sand dwelling organisms and their predators. These will be addressed in the study as part of the plan formulation of the Feasibility Study, and potential impacts will be analyzed in the DEIS.

4. Scoping Process

Participation of all interested Federal, State, and County agencies, groups with environmental interests, and any interested individuals is encouraged. Public involvement will be most beneficial and worthwhile in identifying the scope of pertinent, significant environmental issues to be addressed; identifying and eliminating from detailed study issues that are not significant; offering useful information such as published or unpublished data; providing direct personal experience or knowledge which informs decision making; and recommending suitable mitigation measures to offset potential impacts from the proposed action or alternatives.

5. Public Scoping Meeting

The specific date, location, and time of the public scoping meeting will be announced in the local news media at least two weeks prior to the meeting. A separate notice of this meeting will be sent to all parties on the study mailing list. The purpose of the scoping meeting will be to gather information from the general public or interested organizations about issues and concerns that they would like to see addressed in the DEIS. Comments may be delivered in writing or verbally at the meeting or sent in writing to the Los Angeles District at the address given above.

Dated: May 20, 2002.

Richard G. Thompson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 02–13683 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Hillsboro Aquifer Storage & Recovery Pilot Project adjacent to the Hillsboro Canal, Palm Beach County, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), intends to prepare an integrated Pilot Project Design Report and Draft Environmental Impact Statement (DEIS) for the Hillsboro Aquifer Storage and Recovery (ASR) Pilot Project. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperating agency for this DEIS. One of the recommendations of the final report of the Central & South Florida (C&SF) Comprehensive Review Study (Restudy) was the Hillsboro ASR Pilot Project. This project will determine the feasibility of using ASR technology for water storage, and the capacity and treatment capabilities of the impoundment and horizontal wells. It will also collect scientific data to address the uncertainties associated with the ASR technology and for future optimization and design studies.

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca Weiss, U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019, or by telephone at 904–899–5025.

SUPPLEMENTARY INFORMATION: a. *Authorization:* Section 101(a)(16) of the Water Resources Development Act of 1999 (WRDA 1999) (Pub. L. 106–53) authorized construction of the two pilot projects, Lake Okeechobee Aquifer Storage and Recovery (ASR) and Hillsboro ASR. Although these two pilot projects were authorized separate from the Central and Southern Florida Project, they are also integral elements of the Comprehensive Everglades Restoration Plan (CERP) as authorized in Title VI or WRDA 2000 (Pub. L. 105–541, Section 601). Therefore, these two projects were included in the CERP Design Agreement between the USACE and the local sponsor, the South Florida Water Management District (SFWMD) and required design studies are now proceeding.

b. *Project Scope:* The Pilot project will determine the feasibility of ASR technology for water storage at the site, the water quality characteristics of source waters, native subsurface waters and recovered waters and appropriate water treatment requirements, the efficiency of horizontal collection wells technology, and recommend operational goals for a full scale ASR project at the Hillsboro site. The pilot project includes the construction of 3 ASR wells into the upper Floridian Aquifer with design capacities of 5 million gallons a day per well, a 50-acre impoundment structure with a subsurface horizontal well seepage and groundwater collection system, pre-injection and post recovery water treatment facilities, and other associated piping, treatment systems, and monitoring wells between the surface collection and discharge sites.

Operational plans for the test pilot are to collect surface water from horizontal wells under the 50-acre impoundment, treat collected water to drinking water standards, and inject water into the

Floridan Aquifer System for a minimum of two cycle tests. Each cycle test includes a period of water storage followed by a period of recovery and discharge. Recovered water will be monitored and treated, if needed, to insure compliance with appropriate water quality standards prior to discharge into surface water or canal.

c. *Preliminary Alternatives:* Formulation of alternative plans will involve the selection of the most suitable site for the ASR wells, impoundment depth and configuration, collection well configuration, water treatment technologies, investigation of intake and discharge sites, and investigation of best configuration of surface facilities of the project.

The Environmental Impact Statement (EIS) evaluation of the pilot project will include an evaluation of adverse environmental impacts, including but not limited to, water quality, socio-economic, archaeological and biological. In addition to adverse impacts, the evaluation will also focus on how well the plans perform with regard to specific technologic performance measures.

d. *Issues:* The EIS will consider impacts on water quality, ecosystem habitat, threatened and endangered species, health and safety, aesthetics and recreation, fish and wildlife resources, cultural resources, water availability, flood protection, and other potential impacts identified through scoping, public involvement, and interagency coordination.

e. *Scoping:* Initial project scoping began in January 2001 at a public meeting in Palm Beach County. Additional workshops have been held in West Palm Beach on January 2002 to identify additional public concerns related to ASR and regional implementation. A scoping letter will be issued in May 2002 to interested parties. In addition, all parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process. At this time, there is no plan for a public scoping meeting.

f. *Public Involvement:* We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties.

g. *Coordination:* The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the State Historic Preservation Officer.

h. *Other Environmental Review and Consultation:* The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements and right of ways, and determination of Coastal Zone Management Act consistency.

i. *Agency Role:* As cooperation agency, non-Federal sponsor, and leading local expert, SFWMD will provide information and assistance on the resources to be impacted and alternatives.

j. *DEIS Preparation:* The integrated Pilot Project Design Report, including a DEIS, is currently estimated for publication in June 2003.

Dated: May 15, 2002.

James C. Duck,

Chief, Planning Division.

[FR Doc. 02–13687 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement on the Future Dredging of Capron Shoal for the Fort Pierce Shore Protection Project in St. Lucie County, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Jacksonville District intends to prepare a Draft Environmental Impact Statement (DEIS) for further dredging at Capron Shaol to renourish the Fort Pierce Shore Protection Project (SPP) in St. Lucie County, FL.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lang Jr., U.S. Army Corps of Engineers, Planning Division, Environmental Branch, PO Box 4970, Jacksonville, FL, 32232–0019, by e-mail *William.j.lang@usace.army.mil,* or by telephone at 904–232–2615.

SUPPLEMENTARY INFORMATION:

a. *Project background and Authorization.* Fort Pierce Inlet, originally cut by local interests in 1921, affects the littoral transport of sand north and south of the inlet. The north has accreted while there's been a significant loss of sand to the south. Accordingly, the Fort Pierce SPP, authorized by the River and Harbor Act of 1965, provided for restoration of 1.3 miles of shoreline south of Fort Pierce Inlet and for subsequent periodic renourishment as needed. Since 1971 more than 2 million cubic yards (cy) of beach nourishment and maintenance dredge sand has been placed on the beach. The project provides for a fifty-foot protective berm extending 1.3 miles south of Fort Pierce Inlet. Extension of the project an additional one mile has been addressed in the Environmental Assessment (EA) dated August 1998. Groins are being considered for the eroding area south of the inlet and will be addressed in an EA.

b. *Need or Purpose.* This Environmental Impact Statement (EIS) evaluates the potential impacts of further dredging of Capron Shoal. The environmental analysis will incorporate the results of studies/surveys of bryozoans, reef (hard bottom) and borrow area impacts. This EIS fulfills term and condition 4 of the March 12, 1999 Joint Stipulation for Entry of Dismissal of the Case Winston, et al., vs. Lt. Gen. Ballard.

c. *Proposed Solution and Forecast completion Date.* Sand dredged from Capron Shoal would be used for placement on the Ft. Pierce Beach SPP as needed and appropriate.

d. *Prior EAs, EISs.* EAs were completed in 1998; 1993-revised 94 & 95 and in 1978 specifically for the nourishment of Ft. Pierce Beach SPP. In addition to National Environmental Policy Act (NEPA) documents prepared specifically for the Ft. Pierce Beach SPP; a 1993 EIS associated with the widening/deepening of the Ft. Pierce navigation channel; and, EAs for channel maintenance dredging were also prepared when sand from the channel was to be placed on Fort Pierce Beach.

e. *Alternatives.* A reevaluation of alternatives, including structural alternatives to minimize the frequency and extent of dredging and beach placement will be done. Alternatives will include the No Action alternative. This EIS will analyze reasonable alternatives to dredging at Capron Shoal, including potential alternatives that would avoid or minimize the need for dredging.

f. *Issues.* Those issues identified in b above shall be addressed in depth as well as the effects on Federally listed threatened and endangered species, essential fish habitat and community response to beach restoration impacts. Additionally, health and safety, water quality, aesthetics and recreation, fish and wildlife resources, cultural resources, energy conservation, socio-economic resources, and other impacts identified through scoping, public involvement, and interagency coordination will be discussed.

g. *Scoping Process.* A scoping meeting is not scheduled. The public will be involved in the planning process through mail solicitations and advisements. As a minimum, all parties who have expressed interest in the Fort Pierce SPP will be invited to participate in the planning process. Federal, state and local agencies, and other interested groups will also be involved. Meetings to address discrete issues or parts or functions of the study area may be called.

h. *Public Involvement.* We invite the participation of affected Federal, state and local agencies, other interested private organizations, parties and the public.

i. *Coordination.* The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act, with the NMFS concerning Essential Fish Habitat and with the State Historic Preservation Officer.

j. *Other Environmental Review and Consultation.* The proposed action would involve evaluation for compliance with guidelines pursuant to section 404(b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to section 401 of the Clean Water Act; certification of state lands, easements, and rights of way; and determination of Coastal Zone Management Act consistency.

k. *Agency Role.* The Corps and the non-Federal sponsor, St. Lucie County, will provide extensive information and assistance on the resources to be impacted, mitigation measures, and alternatives.

l. *DEIS Preparation.* It is estimated that the DEIS will be available to the public on or about June 2002.

Dated: May 21, 2002.

James C. Duck,

Chief, Planning Division.

[FR Doc. 02–13682 Filed 5–30–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of revision of the Federal need analysis Methodology for the 2003–2004 award year.

SUMMARY: The Secretary of Education announces the annual updates to the tables that will be used in the statutory "Federal Need Analysis Methodology" to determine a student's expected family contribution (EFC) for award year 2003–2004 under Part F of Title IV of the Higher Education Act (HEA) of 1965, as amended, Title IV, HEA Programs. An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs for purposes of determining financial aid eligibility. The Title IV, HEA Programs include the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs), Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Management and Program Analyst, U.S. Department of Education, Federal Student Aid, Union Center Plaza, 830 First Street NE, Washington, DC 20002–5345. Telephone: (202) 377–3231.

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SUPPLEMENTARY INFORMATION: Part F of Title IV of the HEA specifies the criteria, data elements, calculations,and tables used in the Federal Need Analysis Methodology EFC calculations.

Section 478 of Part F of the HEA requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 2003–2004 the Secretary is charged with updating the income protection allowance, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 2001 and December 2002. However, since the Secretary must publish these tables before December 2002, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban Consumers for 2001. The Secretary estimates that the increase in the Consumer Price Index for all urban Consumers for the period December 2001 through December 2002 will be 2.8 percent. The updated tables are in sections 1, 2, and 4 of this notice.

The Secretary must also revise, for each award year, the table of asset protection allowances as provided for in section 478 (d) of the HEA. The Education Savings and Asset Protection Allowance table for the award year 2003–2004 has been updated in section 3 of this notice.

Section 477(B)(5) of Part F of the HEA also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5 of this notice.

The HEA provides for the following annual updates:

1. *Income Protection Allowance.* This allowance is the amount of living expenses associated with the maintenance of an individual or family that may be offset against the family's income. It varies by family size and number in college. The income protection allowance for the dependent student is $2,380. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for award year 2003–2004 are:

	Number in College—				
	1	2	3	4	5
Family size:					
2	13,470	11,160	.....	.....	.....
3	16,770	14,480	12,170	.....	.....
4	20,710	18,410	16,120	13,810	.....
5	24,440	22,130	19,840	17,540	15,240
6	28,580	26,280	23,900	21,680	19,390

For each additional family member add $3,230.
For each additional college student substract $2,290.

The income protection allowances for single independent students and for independent students without dependents other than a spouse for award year 2003–2004 are:

Marital status	Number in college	Amount
Single	1	$5,400
Married	2	5,400

Marital status	Number in college	Amount
Married	1	8,640

2. *Adjusted Net Worth (NW) of a Business or Farm.* A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since—(1) the income produced from these assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule.

This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1 to $95,000	$0 + 40% of NW
$95,001 to $290,000	$38,000 + 50% of NW over $95,000
$290,001 to $480,000	$135,000 + 60% of NW over $290,000
$480,001 or more	$249,500 + 100% of NW over $480,000

3. *Education Savings and Asset Protection Allowance.* This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one of parents of dependent students, one for independent students without dependents other than a spouse, and one for the independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parent is—	And there are	
	two parents	one parent
	then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,500	1,200
27	5,000	2,500
28	7,500	3,700
29	9,900	5,000
30	12,400	6,200
31	14,900	7,400
32	17,400	8,700
33	19,900	9,900
34	22,400	11,200
35	24,900	12,400
36	27,400	13,600
37	29,800	14,900
38	32,300	16,100

DEPENDENT STUDENTS—Continued

If the age of the older parent is—	And there are	
	two parents	one parent
39	34,800	17,400
40	37,300	18,600
41	38,200	19,000
42	39,200	19,400
43	40,200	19,800
44	41,200	20,300
45	42,200	20,700
46	43,300	21,100
47	44,300	21,600
48	45,400	22,200
49	46,600	22,600
50	47,700	23,100
51	49,200	23,700
52	50,400	24,200
53	51,700	24,800
54	53,200	25,400
55	54,500	26,200
56	56,200	26,800
57	57,900	27,400
58	59,600	28,200
59	61,400	28,900
60	63,200	29,700
61	65,100	30,500
62	67,300	31,200
63	69,200	32,100
64	71,600	33,100
65 and over	74,000	34,100

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	And the student is	
	married	single
	then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,500	1,200
27	5,000	2,500
28	7,500	3,700
29	9,900	5,000
30	12,400	6,200
31	14,900	7,400
32	17,400	8,700
33	19,900	9,900
34	22,400	11,200
35	24,900	12,400
36	27,400	13,600
37	29,800	14,900
38	32,300	16,100
39	34,800	17,400
40	37,300	18,600
41	38,200	19,000
42	39,200	19,400
43	40,200	19,800
44	41,200	20,300
45	42,200	20,700
46	43,300	21,100
47	44,300	21,600
48	45,400	22,200
49	46,600	22,600
50	47,700	23,100
51	49,200	23,700

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is—	And the student is	
	married	single
52	50,400	24,200
53	51,700	24,800
54	53,200	25,400
55	54,500	26,200
56	56,200	26,800
57	57,900	27,400
58	59,600	28,200
59	61,400	28,900
60	63,200	29,700
61	65,100	30,500
62	67,300	31,200
63	69,200	32,100
64	71,600	33,100
65 and over	74,000	34,100

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the Age of the student is—	And the student is	
	married	single
	then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,500	1,200
27	5,000	2,500
28	7,500	3,700
29	9,900	5,000

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the Age of the student is—	And the student is	
	married	single
30	12,400	6,200
31	14,900	7,400
32	17,400	8,700
33	19,900	9,900
34	22,400	11,200
35	24,900	12,400
36	27,400	13,600
37	29,800	14,900
38	32,300	16,100
39	34,800	17,400
40	37,300	18,600
41	38,200	19,000
42	39,200	19,400
43	40,200	19,800
44	41,200	20,300
45	42,200	20,700
46	43,300	21,100
47	44,300	21,600
48	45,400	22,200
49	46,600	22,600
50	47,400	23,100
51	49,200	23,700
52	50,400	24,200
53	51,700	24,800
54	53,200	25,400
55	54,500	26,200
56	56,200	26,800
57	57,900	27,400
58	59,600	28,200
59	61,400	28,900
60	63,200	29,700
61	65,100	30,500

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the Age of the student is—	And the student is	
	married	single
62	67,300	31,200
63	69,200	32,100
64	71,600	33,100
65 and over	74,000	34,100

4. *Assessment Schedules and Rates.* Two schedules that are subject to updates, one for dependent students and one for independent students with dependents other than a spouse, are used to determine the expected contribution toward educational expenses from family financial resources. For dependent students, the expected parental contribution is derived from an assessment of the parents adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The parents' contribution for a dependent student is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than −$3,409 ($3,409)	−$750
($3,409) to $12,000	22% of AAI
$12,001 to $15,100	$2,640 + 25% of AAI over $12,000
$15,101 to $18,200	$3,415 + 29% of AAI over $15,100
$18,201 to $21,200	$4,314 + 34% of AAI over $18,200
$21,201 to $24,300	$5,334 + 40% of AAI over $21,200
$24,301 or more	$6,574 + 47% of AAI over $24,300

The contribution for an independent student with dependents other than a spouse is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than −$3,409 ($3,409)	−$750
($3,409) to $12,000	22% of AAI
$12,001 to $15,100	$2,640 + 25% of AAI over $12,000
$15,101 to $18,200	$3,415 + 29% of AAI over $15,100
$18,201 to $21,200	$4,314 + 34% of AAI over $18,200
$21,201 to $24,300	$5,334 + 40% of AAI over $21,200
$24,301 or more	$6,574 + 47% of AAI over $24,300

5. *Employment Expense Allowance.* This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two wage-earner family compared to a one-wage earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $3,000 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* This allowance for State and other taxes protects a portion of the parents' and student's income from being considered available for postsecondary educational expenses. There are four tables for State and other taxes, one each for parents of dependent

students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory for residence is—	And student's total income is—	
	less than $15,000	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

DEPENDENT STUDENTS

If student's State or territory of residence is—	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is—	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If student's State or territory of residence is—	The percentage is—
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; William D. Ford Federal Direct Loan Program, 84.268)

Dated: May 28, 2002.

Candy Kane,

Acting Chief Operating Officer, Federal Student Aid.

[FR Doc. 02–13704 Filed 5–30–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Scoping Meetings for Radioisotope Thermoelectric Generator Relocation Environmental Assessment (EA)

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the Department of Energy (DOE, the Department) is announcing its intent to prepare an Environmental Assessment (EA) to assess the environmental impacts related to determining the future location of the Department's Heat Source/Radioisotope Power System (HS/RPS) assembly and test operations. The HS/RPS operations include those identified as HS/Radioisotope Thermoelectric Generator (HS/RTG) operations in prior NEPA documents. These activities are currently conducted at the Mound site near Miamisburg, Ohio. The EA will evaluate continuation of the HS/RPS operations in the currently used facilities (the No Action alternative) or alternative facilities at the Mound site. Alternative sites to be evaluated in the EA include the Pantex Plant (Pantex), near Amarillo, Texas, and the Argonne National Laboratory-West located on the Idaho National Engineering and Environmental Laboratory site, near Idaho Falls, Idaho. Any other reasonable site(s) identified during the scoping will also be evaluated in the EA. This EA will be prepared in accordance with the Council on Environmental Quality's NEPA Implementing Regulations at 40 CFR parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508, and the Department's NEPA Implementing Procedures at 10 CFR part 1021.

The potential relocation of the HS/RTG assembly and test operations was previously evaluated in 1998. The Department issued a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in the **Federal Register** on October 2, 1998. While the draft EIS was under preparation, the Department determined that no benefit would result from relocation of the HS/RPS mission and consolidated operations in an optimum configuration at the Mound site. The potential environmental impacts of these consolidation activities at the Mound site were assessed in the *Environmental Assessment for the Consolidation of Heat Source/Radioisotope Thermoelectric Generator (HS/RTG) Assembly and Testing Operations at Mound* (DOE/EA–1343, April 2000). As explained in the supplementary information below, in consideration of the events of September 11, 2001, the Department now considers it appropriate to review the location of the HS/RPS operations in the context of new requirements. The information gathered during preparation of the aforementioned EA revealed the absence of any significant impacts due to the HS/RPS activities. Therefore, the Department believes that initially an EA should be prepared to evaluate future location for the HS/RPS operations. Based on the analysis of potential environmental impacts in the EA, the Department will issue either a Finding of No Significant Impact or a NOI to prepare an EIS. The Department is inviting comments from the public and the Federal, State, Tribal, and local agencies on the consideration of future locations for these operations and scope of the EA. A preferred alternative would be identified in the draft EA after analysis of alternatives and consideration of the comments received during the scoping period.

DATES: The public scoping period begins with the publication of this Notice and will continue for 21 days. Comments received or postmarked by that date will be considered in the preparation of the EA. Comments postmarked after that date will be considered to the extent practicable.

ADDRESSES: The Department will conduct public meetings to solicit comments on the consideration of future locations for these operations and the scope of the EA as follows:

June 18, 2002—Washington, DC Metropolitan Area, 7:00pm to 9:00pm, Monroe/Arlington Rooms, Days Inn Crystal City, 2000 Jefferson Davis Highway, Arlington, VA.

June 20, 2002—Miamisburg, OH, 7:00pm to 9:00pm, Carnegie Center, Lower Level Room, 426 East Central Avenue, Miamisburg, OH.

June 24, 2002—Amarillo, TX, 7:00pm to 9:00pm, Oak Room, College Union Building, Washington Street Campus, Amarillo College, 24th and Jackson Streets, Amarillo, TX.

June 26, 2002–Idaho Falls, ID, 7:00pm to 9:00pm, Grand Teton Room, Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, ID.

These meetings will also be advertised in the local media.

FOR FURTHER INFORMATION CONTACT: Please direct comments on the proposed relocation and scope of the EA, requests for copies of the EA, and questions concerning the project to: Mr. Timothy A. Frazier, U.S. Department of Energy, P.O. Box 66, Miamisburg, OH 45343–0066, Telephone: (937) 865–3748, Facsimile (937) 865–4489, Electronic mail: *Tim.Frazier@hq.doe.gov*. For general information on DOE's NEPA process, please contact Ms. Carol Borgstrom, Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Avenue, SW. Washington, DC 20585, telephone (202) 586–4600 or leave message at 1–(800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

DOE and its predecessor agencies have been developing HS/RPSs and supplying them to user agencies for more than 35 years. The radioisotope used in these systems is plutonium-238 (Pu-238), a non-fissile, non-weapons-usable form. A HS/RPS converts thermal energy that is generated by the spontaneous radioactive decay of Pu-238 to electrical energy. These systems have demonstrated their value as key technologies in various harsh, remote, and inaccessible environments, such as space, where it is impractical to provide the fuel and maintenance that conventional electrical power sources would need. The HS/RPS assembly and test operations have been conducted at the Department's Mound site for over 15 years. The HS/RPS assembly and test operations are contained in one building at the Mound site. The HSs are assembled in glove boxes (large enclosures that separate workers from equipment used to process hazardous and nuclear materials while allowing the workers to be in physical contact with the equipment) using parts manufactured or procured by the Mound site and encapsulated Pu-238 shipped from the Los Alamos National Laboratory in New Mexico. The RPSs are assembled in a large inert atmosphere chamber and then tested.

The Mound site was established in 1946 as the first permanent installation associated with the Atomic Energy Commission. Until the early 1990s, the Mound site manufactured critical nuclear weapons components. The site is currently being environmentally restored under a Comprehensive Environmental Response, Compensation and Liability Act Section 120 agreement. DOE plans to complete the environmental restoration and release the site for public use by February 2006. It is anticipated that the future use of the site will involve establishment of an industrial park.

Purpose and Need

It is DOE's responsibility to maintain the availability of HS/RPS for other Federal agencies, as needed. The radioisotope Pu-238 used in the assembly of HS/RPS is a special nuclear material requiring security and safeguards. As long as other programs requiring security and safeguards were also conducted the security costs at the site were spread among all such programs. However, once the site is cleaned up and released for public use, HS/RPS operations would be the only such DOE program remaining at the site, and all of the security costs would then have to be borne by that program. In 1999, the Department consolidated HS/RPS operations in a single building to minimize the security and safeguards costs. However, due to additional security measures for the special nuclear materials necessitated by the terrorist attacks of September 11, 2001, those costs have increased considerably. These security costs could render continuation of the program, as currently configured at the Mound site, impractical. Hence the Department proposes to evaluate modifications to its HS/RPS operations at the Mound site as well as alternative DOE sites which already have the added security/safeguards infrastructure in place for other ongoing programs and which would also have facilities suitable for the transfer of assembly and test operations for HS/RPSs.

The EA will analyze the potential environmental impacts associated with the HS/RPS operations at Mound and each of the alternative sites, including any other reasonable site(s) identified during scoping, as well as the transportation routes associated with alternative sites. The following issues have been tentatively identified for analysis in the EA: health and safety, waste management, pollution prevention, hazardous materials, radiation materials, water resources, air quality, earth resources, land use, infrastructure, transportation, noise, ecological resources, cultural resources, socioeconomics, and environmental justice. This list is neither intended to be all-inclusive nor is it a predetermination of potential environmental impacts. The list is presented to facilitate comment on the scope of the EA.

The purpose of this Notice is to encourage public involvement in the NEPA process and to solicit comments on the proposed scope of the EA and the potential environmental impacts of the alternatives. Comments will be considered in preparation of the EA, which is expected to be issued for public and agency comments in July 2002. The Department will finalize the EA and decide whether to issue a Finding of No Significant Impact or prepare an EIS.

Issued in Washington, DC, May 24, 2002.

William D. Magwood, IV,

Director, Office of Nuclear Energy, Science and Technology.

[FR Doc. 02–13648 Filed 5–30–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, June 20, 2002, 5:30 p.m.–9:00 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda:

5:30 p.m.—Informal Discussion
6:00 p.m.—Call to Order; Introductions; Approve May Minutes; Review Agenda
6:10 p.m.—DDFO's Comments
- Budget Update
- ES & H Issues
- EM Project Updates
- CAB Recommendation Status
- Other

6:30 p.m.—Ex-officio Comments
6:40 p.m.—Public Comments and Questions
6:50 p.m.—Action Item Review
7:05 p.m.—Break
7:10 p.m.—Presentations
- Environmental Review by Southern Illinois Univ. Students

8:10 p.m.—Break
8:20 p.m.—Task Force and Subcommittee Reports
- Water Task Force
- Waste Operations Task Force
- Long Range Strategy/Stewardship
- Nomination and Membership/Public Involvement

9:05 p.m.—Administrative Issues
- Review of Workplan
- Review of Next Agenda
- Federal Coordinator Comments

9:20 p.m.—Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat J. Halsey at the address or by telephone at 1–800–382–6938, #5. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday thru Friday or by writing to Pat J. Halsey, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling her at 1–800–382–6938, #5.

Issued at Washington, DC, on May 28, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–13735 Filed 5–30–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Saturday, June 15, 2002, 8:30 p.m.—12:00 p.m.

ADDRESSES: Crosby Senior Center, 8910 Willey Road, Hamilton, OH.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, Phoenix Environmental, 6186 Old Franconia Road, Alexandria, VA 22310, at (703) 971–0030 or (513) 648–6478, or e-mail; *djsarno@theperspectivesgroup.com*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

8:30 a.m.—Call to Order
8:30—8:45 a.m.—Chair's Remarks and Ex Officio Announcements
8:45—9:30 a.m.—Update on Site Acceleration Activities
9:30—10:30 a.m.—Silos Update
10:30—10:45 a.m.—Break
10:45—11:30 a.m.—Budget and Schedule for Long-Term Stewardship and Records Disposition
11:30—11:45 a.m.—Results of Design Charrette and Next Steps
11:45—12:00 p.m.—Public Comment
12:00 p.m.—Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to the Fernald Citizens' Advisory Board, % Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC, on May 28, 2002.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–13736 Filed 5–30–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: Submission for OMB review; Comment request.

SUMMARY: The EIA has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed by July 1, 2002. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX (202–395–7285) or e-mail (*BAllen@omb.eop.gov*) is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3087. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller. To ensure receipt of the comments by the due date, submission by FAX (202–287–1705) or e-mail (*herbert.miller@eia.doe.gov*) is recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 287–1711.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (*i.e.*, the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (*i.e.*, new, revision, extension, or reinstatement); (5) response obligation (*i.e.*, mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (*i.e.*, the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. EIA–882T, "Generic Clearance for Questionnaire Testing and Research".
2. Energy Information Administration.
3. OMB Number 1905–0186.
4. Three-year approval requested.
5. Voluntary.
6. The EIA–882T is used to conduct pretest/pilot surveys (face-to-face interviews, telephone interviews, mail questionnaires, electronic questionnaires), focus groups, and cognitive interviews. Data are used to modify questionnaires to improve the quality of data. Samples of potential respondents to proposed surveys are selected to participate.
7. Individuals or households; Business or other for-profit; Not-for profit institutions; Farms; Federal Government; and State, Local or Tribal Government.
8. 1,000 hours (4,000 respondents × response per year × .25 hours per response).

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) (44 U.S.C. 3501 *et seq*).

Issued in Washington, DC, May 28, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–13649 Filed 5–30–02; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC02–510–000]

Proposed Information Collection and Request for Comments

May 24, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No.104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before July 30, 2002.

ADDRESSES: Written comments on the proposed collection of information may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)208–1415, by fax at (202)208–2425 and by E-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–510, "Application for Surrender of Hydropower License" (OMB No. 1902–0068) is used by the Commission to implement the statutory provisions of Sections 4(e), and 6 and 13 of the Federal Power Act (FPA), 16 U.S.C. Sections 797(e), 799 and 806. Section 4(e) gives the Commission authority to issue licenses for the purposes of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other power project works necessary or convenient for developing and improving navigation, transmission and utilization of power over which Congress has jurisdiction. Section 6 gives the Commission the authority to prescribe conditions of the licenses including the revocation or surrender of the license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun. Surrender of a license may be desired by a licensee when a licensed project is retired or not constructed or natural catastrophes have damaged or destroyed the project facilities. The information collected under the designation FERC–510 is in the form of a written application for a surrender of a hydropower license. The information is used by Commission staff to determine the broad impact of such a surrender. The Commission will issue a notice soliciting comments from the public and other agencies and conduct a careful review of the prepared application before issuing an order for Surrender of a License. The order is the result of an analysis of the information produced, i.e., economic, environmental concerns, etc., which are examined to determine if the application for surrender is warranted. The order implements the existing regulations and is inclusive for surrender of all types of hydropower licenses issued by FERC and its predecessor, the Federal Power Commission. The Commission implements these mandatory filing requirements in the Code of Federal Regulations (CFR) under 18 CFR 6.1–6.4.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents	Annual responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1)×(2)×(3)
8	1	10	80

Estimated cost burden to respondents is $4,502; (*i.e.*, 80 hours divided by 2,080 hours per full time employee per year multiplied by $117,041 per year equals $4,502).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than anyone particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information *technology*, *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13663 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–340–000]

ANR Pipeline Company; Notice of Tariff Filing

May 24, 2002.

Take notice that on May 14, 2002, ANR Pipeline Company ("ANR") filed tariff sheets that provide for contract demand reduction rights under specified circumstances. The proposed tariff would allow shippers to elect from four types of contract demand reduction options if they meet specified eligibility requirements. These options are designed to address specified circumstances that may result in the need for a shipper to reduce its contract demand. They include (1) a Loss of Load; (2) a Plant Outage; and (3) a Regulatory Unbundling Order. ANR has also included a fourth option for shippers that are captive to ANR for transportation service ("Sole Supply Customers") to reduce specified levels of contract demand for any reason. ANR proposes an effective date of June 15, 2002.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13680 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–321–001 and RP01–86–001]

Destin Pipeline Company, L.L.C.; Notice of Compliance Filing

May 24, 2002.

Take notice that on May 10, 2002, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the revised tariff sheets as listed on Appendix A attached to the filing.

Destin states that purpose of this filing is to comply with the Commission's Order on Compliance with Order Nos. 637, 587-G, and 587-L issued on April 12, 2002.

A copy of this filing is available for public inspection during regular business hours at Destin's offices at 501 WestLake Park Boulevard, Houston, Texas 77079–2696. In addition copies of this filing are being served on all parties to the proceedings in Docket Nos. RP00–321–001 and RP01–86–001, affected shippers and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This

filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13672 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–24–000]

Distrigas of Massachusetts LLC; Notice of Proposed Changes in FERC Gas Tariff

May 24, 2002.

Take notice that on May 14, 2002, Distrigas of Massachusetts LLC (DOMAC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective June 1, 2002:

Thirteenth Revised Sheet No. 94
states that the purpose of this filing is to record semiannual changes in DOMAC's index of customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13662 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–632–009]

Dominion Transmission, Inc.; Notice of Addendum to Report of Refunds

May 24, 2002.

Take notice that on May 8 and May 13, 2002, Dominion Transmission, Inc. (DTI) filed an addendum and an errata to the addendum to the report of refunds originally filed on February 26, 2002, the above-captioned proceeding. DTI states that the reported refunds and billing adjustments reflect DTI's implementation of the TCRA settlement in the above-captioned proceeding.

DTI states that the purpose of these filings is to correct certain entries in the refund report that DTI previously filed with the Commission. Mistakes were made in the original filing due to a programming anomaly in the allocation process that was not discovered before the original refund report was filed.

DTI states that copies of its report and summary workpapers are being mailed to affected customers, interested state commissions and all parties to the above-captioned proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 31, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13677 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–3615–002]

Drew River Mill, Inc.; Notice of Site Review

May 24, 2002.

Drew River Mill, Inc. (DRMI), licensee for the Branch River Mill Project (Project), requests to surrender its exemption from licensing for the existing, non-operational Project. On June 20, 2002, the staff of the Office of Energy Projects (OEP) will conduct a site review of the Project. Representative(s) of DRMI will accompany the OEP staff. All interested parties may meet at 9:30 A.M. at the Project dam. Attendees must provide their own transportation.

For further information, please contact the Commission's Office of External Affairs at (202) 208–1088.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13666 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–233–000]

Equitrans, L.P., Carnegie Interstate Pipeline Company; Notice of Application

May 24, 2002.

On May 20, 2002, the affiliated interstate natural gas pipelines, Equitrans, L.P. (Equitrans) and Carnegie Interstate Pipeline Company (CIPCO), located at 100 and 150 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212–5331, respectively, tendered for filing an application for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act for authorization permitting Equitrans to acquire and operate by merger CIPCO's gas pipeline services and facilities, and for authorization permitting CIPCO to abandon such services and facilities, all as more fully explained in the application. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call (202) 208–2222 for assistance).

Any questions regarding this application should be directed to Fredrick K. Dalena, Vice President, Administration, Equitrans, L.P., 100 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212, at (412) 395–3270.

Applicants state that no new construction is proposed in the application. Further, Applicants state that upon Commission approval of the application, Equitrans proposes to operate the merged facilities under the open access provisions of its existing FERC Gas Tariff. Applicants state that the merger will be reflected at the net utility plant balance of the CIPCO assets to be merged into Equitrans.

Applicants state that Equitrans' existing customers will experience no impact on the settlement rates that are currently in effect. Applicants further state that the transportation services performed by the merged facilities will continue to be charged the same rate as under CIPCO's current FERC Gas Tariff until Equitrans' next general section 4 rate proceeding, which is required by settlement to be filed in 2003. Accordingly, CIPCO's existing customers also will not experience any impact on the currently effective rates.

There are two ways to become involved in the Commission's review of this abandonment. First, any person wishing to obtain legal status by becoming a party to the proceedings for this abandonment should, on or before June 14, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this abandonment. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the abandonment provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this abandonment should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying the application will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13660 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–81–012]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Tariff Filing

May 24, 2002.

Take notice that on May 10, 2002, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing an original and six copies of the following tariff sheets, to be effective June 1, 2002:

Fourth Revised Volume No. 1–A

Sixth Revised Sheet No. 4G
Second Revised Sheet No. 41

The above-referenced tariff sheets reflect a negotiated rate contract effective June 1, 2002. The tariff sheets are being filed pursuant to Section 36 of KMIGT's FERC Gas Tariff Fourth Revised Volume No. 1–A, and the procedures prescribed by the Commission in its December 31, 1996 "Order Accepting Tariff Filing Subject to Conditions", in Docket No. RP97–81 (77 FERC ¶ 61,350) and the Commission's Letter Orders dated March 28, 1997 and November 30, 2000 in Docket Nos. RP97–81–001, and RP01–70–000, respectively.

KMIGT states that a copy of this filing has been served upon all parties to this proceeding, KMIGT's customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for

assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13671 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–134–001]

Maritimes and Northeast Pipeline L.L.C.; Notice of Compliance Filing

May 24, 2002.

Take notice that on May 15, 2002, Maritimes and Northeast Pipeline, L.L.C. (Maritimes) tendered for filing a supplement to its cost and revenue study filed with the Commission on December 27, 2001, pursuant to the Commission letter order issued April 25, 2002, in this proceeding.

Maritimes states that copies of the filing are being served to all parties in the referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 31, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13679 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–18–000]

Nicor Gas; Notice of Petition for Rate Approval

May 24, 2002.

Take notice that on May 1, 2002, Nicor Gas (Nicor) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve the proposed rates as fair and equitable for transportation and storage services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA). Nicor proposes an effective date of May 1, 2002.

Nicor states that it is an intrastate gas distribution company providing services under the blanket certificate issued to it in Docket No. CP92–481–000. Nicor owns and operates transportation and storage facilities in the State of Illinois.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before June 10, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the"RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13667 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–35–001 and RP01–92–001]

Norteño Pipeline Company; Notice of Tariff Compliance Filing

May 24, 2002.

Take notice that on May 13, 2002, Norteño Pipeline Company ("Norteño"), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following *pro forma* tariff sheets:

Pro Forma Sheet No. 252
Pro Forma Sheet No. 257

Norteño states that these *pro forma* tariff sheets reflect the limited changes to its tariff that are required to comply with the Commission's April 12, 2002 Order.

Norteño states that copies of this filing have been served on Norteño's jurisdictional customers and public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13678 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–041]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 24, 2002.

Take notice that Northern Natural Gas Company (Northern) on May 14, 2002 tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheet proposed to be effective on May 15, 2002:

Fifth Revised Volume No. 1

20 Revised Sheet No. 66A

The above sheet is being filed to implement a specific negotiated rate transaction with Dynegy Marketing and Trade in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13669 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–042]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 24, 2002.

Take notice that Northern Natural Gas Company (Northern) on May 13, 2002 tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheet proposed to be effective on May 14, 2002:

Fifth Revised Volume No. 1

Nineteenth Revised Sheet No. 66A

The above sheet is being filed to implement a specific negotiated rate transaction with Dynegy Marketing and Trade in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13670 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–404–005]

Northern Natural Gas Company; Notice of Compliance Filing

May 24, 2002.

Take notice that Northern Natural Gas Company (Northern), on May 10, 2002, tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1 the following pro forma tariff sheets:

Pro Forma Fifth Revised Volume No. 1

Tenth Revised Sheet No. 201
Third Revised Sheet No. 304
Second Revised Sheet No. 305
Sheet No. 306

Northern states it is supplementing its Order No. 637 compliance filing proposal by: (1) Implementing a virtual segmentation proposal on Northern's system; (2) applying the Commission's CIG discount policy; and (3) setting forth the timing for certain computer modifications as set forth herein.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13673 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–470–001 and RP00–612–001]

Sea Robin Pipeline Company; Notice of Compliance Filing

May 24, 2002.

Take notice that on May 13, 2002, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets as listed on Appendix A attached to the filing.

Sea Robin states that the purpose of this filing is to comply with the Commission's Order on Compliance With Order Nos. 637, 587–G, and 587–L issued on April 12, 2002.

Sea Robin states that a copy of this filing is available for public inspection during regular business hours at Sea Robin's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13675 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–229–000, CP02–230–000 and CP02–231–000]

SG Resources Mississippi, L.L.C.; Notice of Application

May 24, 2002.

Take notice that on May 17, 2002, SG Resources Mississippi L.L.C. (SGRM), 7500 San Felipe, Suite #600, Houston, Texas 77063 filed in Docket Nos. CP02–229–000, CP02–230–000 and CP02–231–000 an application pursuant to Section 7(c) of the Natural Gas Act and Parts 284 and 157 of the Commission's Regulations for a certificate of public convenience and necessity to construct, own and operate a natural gas storage facility subject to the jurisdiction of the Commission, to provide open-access firm and interruptible storage services and to engage in certain routine activities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Specifically, SGRM seeks (1) a certificate of public convenience and necessity that would authorize SGRM to construct, own, operate and maintain a high-deliverability salt-dome gas storage facility that will accommodate the injection, storage and subsequent withdrawal of natural gas for redelivery in interstate commerce; (2) a blanket certificate pursuant to Subpart G of Part 284 that will permit SGRM to provide open-access firm and interruptible natural gas storage services on behalf of others in interstate commerce with pre-granted abandonment of such services; (3) a blanket certificate pursuant to Subpart F of Part 157 that will permit SGRM to construct, acquire, operate, rearrange and abandon certain facilities following construction of the proposed project; (4) authorization to provide the proposed storage services at market-based rates; and (5) approval of a pro forma FERC Gas Tariff, pursuant to which SGRM will provide open access natural gas storage services in interstate commerce consistent with Order Nos. 636 and 637. SGRM also requests that the Commission waive the requirements of (i) Sections 157.6(b)(8) and 157.14(a), (13), (14), (16) and (17) which relate to the filing of information required to justify rates on a cost-of-service basis, given that SGRM proposes to charge market-based rates for the services it will provide; (ii) Section 157.14 (a)(10) which requires a showing regarding accessible gas supplies that is not applicable to a storage project to which third parties will deliver their gas; (iii) Section 260.2 and Part 201 which are accounting and reporting requirements appropriate for cost-of-service rate structure; and (iv) Sections 284.7(e) and 284.10 which impose requirements relating to the design of rates that are not applicable to market-based rates.

SGRM states that it is a new company which seeks authorization to construct and operate the proposed storage facility to accommodate the injection, storage and subsequent withdrawal of natural gas for redelivery in interstate commerce. SGRM maintains that the Southern Pines Energy Center Project would help support service to growing peak winter heating and summer cooling loads in the U.S. Southeast and Mid-Atlantic regions, increase the reliability of natural gas supply during periods of production and transportation interruptions, enhance the interstate pipeline grid's ability to serve new gas-fired electric generation, and facilitate the continued growth of local distribution companies serving Southeast and Mid-Atlantic energy markets. SGRM states that the proposed project will provide approximately 12.0 Bcf of working gas storage capacity in two salt caverns, with 1.2 Bcf per day of maximum deliverability and up to 0.6 Bcf per day of injection capabilities. SGRM states that the caverns will be created in a domal salt structure, known as the Byrd Dome, in Greene County, Mississippi. SGRM states that the project will include a Gas Handling Facility designed to utilize four gas engine-driven compressors of 8,000 hp each. It is stated that an interconnecting pipeline, consisting of two 24-inch pipelines approximately 3.13 miles long, will be constructed from the Gas Handling Facility to a point of connection with the facilities of Destin Pipeline Company, L.L.C. Further, SGRM states that the infrastructure required to support cavern development will include water supply and brine disposal wells, associated pumping and piping systems and non-jurisdictional temporary gas-fired electric generation facilities.

SGRM asserts that in a recently concluded open season, SGRM received requests for service for more than 34 Bcf of capacity. SGRM states that of that total amount, SGRM has determined that requests for more than 16 Bcf of capacity are viable. It is stated that SGRM is currently discussing binding commitments with the requesting parties, and has executed a binding precedent agreement with one such party for firm storage service making use of 3 Bcf of the project's capacity for a primary term of ten years.

SGRM states that it is proposing to provide open-access firm and interruptible storage services to its customers, and is requesting authorization to charge market-based rates for such services. SGRM states that its market power study demonstrates that SGRM will not have market power in any relevant market.

Questions regarding the details of this proposed project should be directed to Jack W. Gatewood, Anthony J. Clark or Xavier Allemandou at SG Resources Mississippi, L.L.C., 7500 Felipe, Suite #600, Houston, Texas 77063 at (713) 914–8188 (phone), (713) 914–8189 (fax), jwgatewood@aol.com or James F. Bowe, Jr., Dewey Ballantine LLP, 1775 Pennsylvania Avenue, NW., Washington, DC 20006–4605, (202) 429–1444 (phone), (202) 429–1579 (fax), jbowe@dbllp.com.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before June 14, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13659 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–464–001, RP00–620–001 and RP00–620–002]

Stingray Pipeline Company, L.L.C.; Notice of Compliance Filing

May 24, 2002.

Take notice that on May 10, 2002 Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 the following tariff sheets:

Fourth Revised Sheet No. 1
Fifth Revised Sheet No. 2
Third Revised Sheet No. 49
Fifth Revised Sheet No. 58
Second Revised Sheet No. 69
First Revised Sheet No. 115
Sixth Revised Sheet No. 129
Fourth Revised Sheet No.130
Second Revised Sheet No. 131
Fourth Revised Sheet No. 133
Third Revised Sheet No. 138
Third Revised Sheet No. 148
Second Revised Sheet No. 148A
Second Revised Sheet No. 148B
Original Sheet No. 204
Sheet Nos. 205–209

Stingray states that the purpose of this filing is to comply with the Commission's March 29, 2002 order on Stingray's Order No. 637 pro forma compliance filing. Pursuant to Ordering Paragraph (B) of that order, Stingray is not proposing an effective date for the revised tariff sheets at this time.

Stingray states that a copy of this filing has been served to all parties on the official service lists compiled by the Secretary of the Commission in these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13674 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–89–000]

Tenaska Power Services Co., Complainant, v. Southwest Power Pool, Inc., Respondent; Notice of Complaint

May 24, 2002.

Take notice that on May 22, 2002, Tenaska Power Services Co. (Tenaska Power) submitted a complaint against Southwest Power Pool Inc. (SPP). Tenaska Power alleges that SPP has violated its Tariff and Commission precedent and policy by refusing to honor Tenaska Power's valid request to rollover a long-term, firm transmission service contract.

A copy of Tenaska Power's Complaint was served on SPP on May 22, 2002.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before June 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before June 3, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests, interventions and answers may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13661 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–487–001]

Tuscarora Gas Transmission Company; Notice of Compliance Filing

May 24, 2002.

Take notice that on May 1, 2002, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, to become effective on July 1, 2002:

Second Revised Sheet No. 77

Tuscarora states that the purpose of this filing is to comply with Order No. 587–N, issued on March 11, 2002 in Docket No. RM96–1–019. In accordance with Order No. 587–N, Tuscarora is making this tariff filing to provide its shippers with the ability to recall scheduled and unscheduled capacity at the Timely and Evening Nomination cycles and to recall unscheduled capacity at the Intra-Day 1 and Intra-Day 2 Nomination times. In addition, in compliance with Order No. 587–N, Tuscarora is removing NAESB Standard 5.3.7 and the first sentence of NAESB Standard 5.3.7 from its tariff.

Tuscarora states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 31, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13676 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.2899–105 Idaho]

Idaho Power Company; Notice of Availability of Environmental Assessment

May 24, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Energy Projects has reviewed Idaho Power Company's application for license amendment for extension of temporary amendment of license, approved by the May 8, 2001, order, at the Milner Hydroelectric project, located on the Snake River in Twin Falls and Cassia Counties, Idaho, and has prepared an environmental assessment (EA). The project includes about 109 acres of federal land administered by the Bureau of Land Management.

The EA contains the staff's analysis of the potential environmental impacts of the proposed amendment and concludes that the approval of the proposed amendment would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA is attached to a Commission order issued on May 21, 2002 for the above application. Copies of the EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371. Copies of the EA can also be obtained through the Commission's homepage at *http://www.ferc.gov*.

For further information, contact Kenneth Hogan at (202) 208–0434.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13665 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–002]

Millennium Pipeline Company, L.P.; Notice Requesting Comments on Environmental Issues for a Route Variation in the City of Mount Vernon, NY on the Millennium Pipeline Project

May 24, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) is requesting comments on environmental issues related to the impacts of constructing and operating the Mount Vernon Variation for the Millennium Pipeline Project (Project) proposed by Millennium Pipeline Company (Millennium) in New York.[1] The Mount Vernon Variation would substitute 0.67 mile of pipeline for about 1.2 miles of the Project in the City of Mount Vernon, New York.

The route was modified pursuant to the Commission's December 19, 2001 Interim Order for the Project in which the Commission asked representatives from Millennium, the City of Mount Vernon, other interested parties, and the citizens of Mount Vernon to work toward reaching an agreement on a route for the Project through Mount Vernon to an interconnection with Consolidated Edison Company of New York, Inc.'s (Con Edison) high pressure line. The parties reached an agreement about routing in Mount Vernon from the meter station at Oak Street and MacQuesten Parkway. Millennium filed a request that the Commission authorize this route, called the Mount Vernon Variation, on May 6, 2002. The modified route would change the final portion of the pipeline routing for the Project.

Most of the route variation would require in-street construction generally affecting a curb to curb area within the road right-of-way. Therefore, if you are a landowner receiving this notice, construction may occur in the street next to your property. However, along South Street, the variation would deviate from the road right-of-way so that construction across Metro North's New Haven Line railroad tracks may be completed as a bored crossing. Millennium would use the parking areas on both sides of the railroad for staging and the bore pits. Therefore, the parking lot landowners may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (*www.ferc.gov*).

We are seeking environmental comments on the portion of the route along the Mount Vernon Variation. Your comments will be part of the environmental review of the Project that will be used by the Commission in its decision-making process to determine whether approval of this portion of the Project instead of the original route is in the public convenience and necessity.

Summary of the Mount Vernon Variation

Millennium has proposed the Mount Vernon Variation which would replace about 1.2 miles of the Project between approximate mileposts (MPs) 421.8 and 423.0. The route variation is proposed to minimize construction within the City of Mount Vernon. These facilities would transport up to 350,000 dekatherms per day of gas for shippers to Mount Vernon, New York. Millennium seeks authority to construct and operate the following facilities on the Mount Vernon Variation:

- About 0.67 mile of 24-inch-diameter pipeline in Mount Vernon, New York.

The location of the Mount Vernon Variation is shown in appendix 1. The Mount Vernon Variation would extend to the southwest along the west side of MacQuesten Parkway from the intersection with Oak Street to South Street. At this point it would turn to the southeast on South Street for about 300 feet. Near the Metro North Railroad crossing, the variation would move out of the road right-of-way and into a parking area along the south side of the road and northwest of the railroad. The railroad crossing would be completed as a bored crossing from this parking area to the parking area on the southeast side of the railroad. Therefore, about 400 feet of the variation would be constructed parallel to the South Street road right-of-way, rather than under the road surface. After the bored crossing of the railroad, the variation would continue to the southeast through the parking area to Beach Street. At Beach Street the variation would turn to the southwest again and would be installed beneath the Beach Street Road surface for a distance of about 500 feet. The variation would end at the Bronx/Mount Vernon border at a new interconnection with high pressure facilities of Con Edison.

Land Requirements and Construction Procedures

Most of the pipeline construction along the variation would be within streets. The pipe would be installed using stove-pipe construction techniques and a 35-foot-wide construction work area between the curbs. Millennium does not anticipate using any sidewalk areas. MacQuesten Parkway is a divided, 4-lane street and Millennium would use the entire west side of the divided road for construction. In-street construction on South and Beach Streets would occupy the entire road surface. The segment of the streets needed for construction would be closed to vehicle traffic which would be reuted around the work area. The length of the construction segment would vary, but would typically be between 200 and 500 feet to allow for trenching, staging and welding of the pipe, and backfill. Construction would require about 2.8 acres of land for in-street construction plus about 0.74 acre needed for extra workspaces for the bored railroad crossings. All intersecting roads would be open cut. Millennium is required to restore all road surfaces immediately after backfilling the trench.

The Interim Order requires certain construction procedures that Millennium must use when constructing the Project in the City of Mount Vernon. These requirements will apply to Project construction anywhere in the City of Mount Vernon, as appropriate, including along the Mount Vernon Variation if the Commission approves this route. These requirements include:

- Preparing site-specific construction and mitigation plans;
- Providing affected parties with information about construction related issues, including construction schedules, timing, and traffic detours around construction activities;
- Providing alternate parking locations for loss of parking spaces;
- Maintaining access to businesses and residential buildings;

[1] Millennium Pipeline Company, L.P. and Columbia Gas Transmission Corporation filed their applications with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

• Properly maintaining construction equipment to reduce air and noise pollution; and

• Having appropriate utility repair crews and materials on site at all times during construction to facilitate repairs to damaged utilities, if needed.

The Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis on the important environmental issues. By this Notice, the Commission requests public comments on the scope of the issues related to the Mount Vernon Variation. All comments received are considered. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

To ensure your comments are considered, please carefully follow the instructions in the public participation section.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Millennium along the Mount Vernon Variation. This preliminary list of issues may be changed based on your comments and our analysis.

• In-street construction would be required.

• Construction may temporarily affect traffic.

• Access to businesses and residences could be affected.

• In-street construction may affect the buried utility infrastructure.

• Construction activities are noisy.

• Public safety.

We will also evaluate possible alternatives, if any, to the Mount Vernon Variation or portions of it, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed and considered by the Commission. You should focus on the potential environmental effects of the Mount Vernon Variation, alternatives to the variation, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your letter to: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

• Label one copy of the comments for the attention of Gas Branch 2.

• Reference Docket No. CP98–150–002.

• Mail your comments so that they will be received in Washington, DC on or before June 24, 2002.

Please note that we are continuing to experience delays in deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on "Login to File" and then "New User Account."

Becoming an Intervenor

In addition to involvement in the scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[2] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Information is also available on the FERC website (*www.ferc.gov*) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222. Additional information about the proposed project is also available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13657 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

[2] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–204–000]

Transcontinental Gas Pipe Line Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Trenton Woodbury Expansion Project and Request for Comments on Environmental Issues

May 24, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Trenton Woodbury Expansion Project involving construction and operation of facilities by Transcontinental Gas Pipeline Company/Williams (Transco) in Mercer and Burlington Counties, New Jersey and Bucks County, Pennsylvania.[1] These facilities would consist of about 7.2 miles of 36-inch-diameter pipeline loop; [2] one new lateral pipeline (about 2.5 miles in length, 24-inch-diameter pipe); and one new meter station. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Transco provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (*www.ferc.gov*).

Summary of the Proposed Project

Transco wants to expand the capacity of its facilities in New Jersey and Pennsylvania to transport an additional 51,037 dekatherms per day of natural gas to two shippers PECO Energy Company (PECO) and Virginia Power Energy Marketing, Inc./Dominion Energy (VPEM). Transco seeks authority to construct and operate:

• 7.2 miles of 36-inch-diameter loop and appurtenant facilities from milepost (MP) 8.2 to MP 15.4 on Transco's existing Trenton Woodbury Line in Mercer and Burlington Counties, New Jersey (Trenton Woodbury Loop);

• 2.5 miles of 24-inch-diameter pipeline from a tap located near MP 17.5 on Transco's existing Trenton Woodbury Line in Burlington County, New Jersey, to a point of interconnect with the Fairless Energy Power Generation Plant in Bucks County, Pennsylvania (Fairless Delivery Lateral); and

• One new meter station at the Fairless Energy Power Generation Plant site in Bucks County, Pennsylvania.

The location of the project facilities is shown in appendix 1.[3]

Land Requirements for Construction

Construction of the proposed facilities would require about 121.7 acres of land. Following construction, about 75.4 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

• Geology and soils.

• Water resources, fisheries, and wetlands.

• Vegetation and wildlife.

• Endangered and threatened species.

• Public safety.

• Land use.

• Cultural resources.

• Air quality and noise.

• Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

• The U.S. Fish and Wildlife Service identified the potential for the Federally-protected bald eagle, bog turtle, and the endangered shortnose sturgeon to occur in the vicinity of the Fairless Lateral.

• A total of 10.12 acres of wetlands, including 4.8 acres of forested, would be affected by construction of the proposed project.

• The Trenton Woodbury Loop would cross five tracts of land designated and maintained as open space under the New Jersey Green Acres Program.

• A total of 19 residences are located within 50 feet of the construction right-of-way along the proposed Trenton Woodbury Loop.

Also, Fairless Energy LLC is currently constructing a 1,180 megawatt combined cycle power plant in Bucks County, Pennsylvania. We have made a preliminary decision to not address the impacts of this nonjurisdictional facility. We will briefly describe the location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential

[1] Transco's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] A loop is a segment of pipeline installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[4] "We", "us", and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 1 Branch.
- Reference Docket No. CP02–204–000.
- Mail your comments so that they will be received in Washington, DC on or before *June 26, 2002.*

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on "Login to File" and then "New User Account."

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[5] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. By this notice we are also asking governmental agencies, especially those in appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs. Information is also available on the FERC website (*www.ferc.gov*) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13658 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

[5] Interventions may also be filed electronically via the Internet in lieu of paper. *See*,the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures in Preparing a License Application

May 24, 2002.

Take notice that the following request to use alternative procedures to prepare a new license application has been filed with the Commission.

a. *Type of Application:* Request to use alternative procedures to prepare a license application.

b. *Project No.:* 2150.

c. *Date filed:* May 20, 2002.

d. *Applicant:* Puget Sound Energy, Inc.

e. *Name of Project:* Baker River Hydroelectric Project.

f. *Location:* On the Baker River in Skagit and Whatcom Counties, Washington. The project occupies 5,335 acres of United States lands managed by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Connie Freeland, Puget Sound Energy, Inc., P.O. Box 97034, Bellevue, WA, 98009–9734; *cfreel@puget.com* (425) 462–3556.

i. *FERC Contact:* Steve Hocking, *steve.hocking@ferc.gov* (202) 219–2656.

j. *Deadline for Comments:* 30 days from the date of this notice.

All documents (an original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. The existing Baker River Project has two developments. The Upper Baker Development is located at river mile 9.35 on the Baker River about 8 miles upstream of the City of Concrete, Washington. This development has the following existing facilities: (1) A 312-foot-high and 1,200-foot-long dam with an ogee-type spillway containing three radial gates that are each 25 feet wide and 30 feet high; (2) a 115-foot-high and 1,200-foot-long West Pass dike; (3) a 9-mile-long reservoir (Baker Lake) with a surface area of 4,797 acres at a normal maximum pool elevation of 724 feet mean sea level (fmsl); (4) a 122-foot-long and 59-foot-wide reinforced concrete powerhouse located in the north half of the existing riverbed and housing two turbine-driven generators with an authorized capacity of 90.7 megawatts (MW) and a hydraulic capacity of 5,100 cubic feet per second (cfs); (5) transmission lines; (6) downstream fish passage facilities and artificial spawning beaches; and (7) appurtenant facilities.

The Lower Baker Development is located 0.5 mile upstream of the confluence of the Baker and Skagit Rivers. This development has the following existing facilities: (1) A 285-foot-high and 570-foot-long concrete gravity arch dam with a spillway containing 23 vertical slide gates that are each 14 feet high and 9.5 feet wide; (2) a concrete intake equipped with trashracks and gatehouse located near the left dam abutment; (3) one concrete and steel-lined penstock; (4) a 7-mile-long reservoir (Lake Shannon) with a surface area of 2,190 acres at a normal maximum pool elevation of 438.6 fmsl; (5) a reinforced concrete powerhouse that is 90 feet long and 66 feet wide housing a single turbine-generator with an authorized capacity of 71.4 MW and a hydraulic capacity of 4,100 cfs; (6) transmission lines; (7) a barrier dam; (8) upstream and downstream fish passage facilities; and (9) appurtenant facilities.

l. A copy of the request to use alternative procedures is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Puget Sound Energy, Inc. has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. Puget Sound Energy Inc. has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. Puget Sound Energy Inc. has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on Puget Sound Energy Inc.'s request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. Puget Sound Energy Inc. will develop and file a preliminary National Environmental Policy Act Document, in lieu of an exhibit E in its license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Puget Sound Energy Inc. has met with federal and state resources agencies, NGOs, elected officials, environmental groups, business and economic development organizations, and members of the public regarding the Baker River Project. Puget Sound Energy Inc. intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application by April 30, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13664 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

May 24, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. Copies of these filings are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

EXEMPT

Docket No.	Date filed	Presenter or requester
1. Project No. 1354–000.	5–15–02	Noreen L. McDonald.
2. CP00–40–000.	5–15–02	Senator Bill Nelson (U. S. Senate).
3. CP00–36–000.	5–15–02	Senator Russell D. Feingold (U. S. Senate).
4. Project No. 2055–010.	5–16–02	
Carol Gleichman..		
5. Project No. 2342–000.	5–21–02	Gwill Ging.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13668 Filed 5–30–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0076; FRL–7179–3]

Solutions By Design II, LLC and Roy Hiler; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be

transferred to Solutions By Design II, LLC and its subcontractor, Roy Hiler, in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Solutions By Design II, LLC and its subcontractor, Roy Hiler, have been awarded a contract to perform work for OPP, and access to this information will enable Solutions By Design II, LLC and its subcontractor, Roy Hiler, to fulfill the obligations of the contract.

DATES: Solutions By Design II, LLC and its subcontractor, Roy Hiler, will be given access to this information on or before June 5, 2002.

FOR FURTHER INFORMATION CONTACT: By mail: Erik Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. Contractor Requirements

Under Contract No. GS–35F–4717G, Solutions By Design II, LLC and its subcontractor, Roy Hiler, will perform the following : Provide analysis, design, development, installation and maintenance of OPP applications developed in Lotus Notes and their interconnectivity to other applications developed in Oracle. The Project Officer or his/her designee, after a written determination by the appropriate program office, may disclose FIFRA CBI to the contractor necessary to carry out work required under this contract.

For this work assignment, the contractor will be creating Lotus Notes applications that interface with the Oracle, Office of Pesticide Programs Information Network (OPPIN) System. The contractor will not be working on specific chemicals, however, the contractor may have access to FIFRA CBI information by troubleshooting a user issue containing this data. The contractor may have access to FIFRA CBI by testing applications that manipulate this data in the following data bases but not limited to: IHAD, LRS, and State Label Issue Tracking.

The OPP has determined that access by Solutions By Design II, LLC and its subcontractor, Roy Hiler, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Solutions By Design II, LLC and its subcontractor, Roy Hiler, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Solutions By Design II, LLC and its subcontractor, Roy Hiler, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Solutions By Design II, LLC and its subcontractor, Roy Hiler, until the requirements in this document have been fully satisfied. Records of information provided to Solutions By Design II, LLC and its subcontractor, Roy Hiler, will be maintained by EPA Project Officers for this contract. All information supplied to Solutions By Design II, LLC and its subcontractor, Roy Hiler, by EPA for use in connection with this contract will be returned to EPA when

Solutions By Design II, LLC and its subcontractor, Roy Hiler, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: May 13, 2002.

Linda Vlier Moos,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 02–13523 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6629–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements

Filed May 20, 2002 Through May 24, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020205, Draft EIS, FHW, CO, CO–9 (Frisco to Breckenridge) Highway Improvements Project, To Improve a 14.5-kilometer (9–mile) stretch of SH 9 between the Towns of Frisco and Breckenridge, To Decrease Travel Time, Improve Safety, Support Transportation needs of Local and Regional Travelers, Funding, Right-of-Way and COE Section 404 Permits, Summit County, CO, Comment Period Ends: July 15, 2002, Contact: Scott Sands (303) 969–6730.

EIS No. 020206, Draft EIS, FHW, MD, I–270/US 15 Multi-Modal Corridor Study, From Shady Grove Metro Station northwesterly to the US 15/ Biggs Ford Road Intersection, To Relieve Congestion and Improve Safety Conditions, Montgomery and Frederick Counties, MD, Comment Period Ends: August 16, 2002, Contact: Dan Johnson (410) 962–4342.

EIS No. 020207, Final EIS, FHW, TX, President George Bush Turnpike (PGBT) Segment IV, Improvement from Interstate Highway 35E to Interstate Highway 635, Funding and COE Section 404 Permit, Dallas County, TX, Wait Period Ends: July 01, 2002, Contact: C. D. Reagon (512) 536–5950.

EIS No. 020208, Draft EIS, FHW, OH, KY, Ironton-Russell Bridge Replacement Project, LAW–93C–0.00, PID 17359, To Replace the Structurally-Deficient and Functionally-Obsolete Bridge, Funding, NPDES, US Coast Guard Section 9 Bridge Permits and COE Section 10 and 404 Permits, Lawrence County, OH and Greenup County, KY, Comment Period Ends: July 15, 2002, Contact: Peter Jilek (614) 280–6835.

EIS No. 020209, Draft Supplement, COE, FL, PCS Phosphate—White Springs Mine Continuation Mining Operations, Proposes to Discharge Dredged/ Fill Material into 1,858 Acres of Jurisdictional Wetlands, Applications of "Life of Mine" Permit, Hamilton County, FL, Comment Period Ends: July 15, 2002, Contact: Richard Legere (352) 331–0732. This document is available on the Internet at: *http://www.saj.usace.army.mil/permit/occidental.htm.[sic].*

EIS No. 020210, Draft EIS, BLM, NV, Toquop Energy Project, Toquop Land Disposal Amendment to the Caliente Management Framework Plan (MFP), Constructing an 1,100-megawatt (MW) Natural Gas-Fired Water-Cooled Electric Power Generating Plant and Associated Features on Public Lands, Right-of-Way Permit, Lincoln, Clark and Washoe Counties, NV, Comment Period Ends: August 29, 2002, Contact: Dan Netcher (775) 289–1872. This document is available on the Internet at: *http://www.nv.blm.gov.*

EIS No. 020211, Draft EIS, AFS, MT, Pipestone Timber Sale and Restoration Project, To Propose Timber Harvest, Prescribed Fire Burning, Watershed Restoration, Associated Activities, Kootenai National Forest, Libby Ranger District, Lincoln County, MT, Comment Period Ends: July 15, 2002, Contact: Tim Charnon (406) 293–7773.

EIS No. 020212, Final EIS, COE, MS, Yalobusha River Watershed, Demonstration Erosion Control Project, Construction of Six Floodwater-Retarding Structures, Yazoo Basin, Webster, Calhoun and Chickasaw Counties, MS, Wait Period Ends: July 01, 2002, Contact: Wendell King (601) 631–5967.

EIS No. 020213, Draft EIS, FHW, PA, Mon/Fayette Transportation Project, Improvements from PA Route 51 to I–376 in Monroeville and Pittsburg, Funding, U.S. Coast Guard Bridge Permit and COE Section 404 Permit, Allegheny County, PA, Comment Period Ends: August 14, 2002, Contact: James A. Cheatham (717) 221–1720.

EIS No. 020214, Draft EIS, BLM, CA, Headwaters Forest Reserve, Implementation Resource Management Plan, Long-Term Management Plan and Planning Framework, Located in the northwestern Coast Ranges near Humboldt Bay in Humboldt County, CA, Comment Period Ends: September 06, 2002, Contact: Lynda J. Roush (916) 737–3010. This document is available on the Internet at: *www.ca.blm.gov/arcata.*

EIS No. 020215, Draft EIS, USA, KY, Blue Grass Army Depot the Destruction of Chemical Munitions, To Address the Design, Construction, Operation, and Closure of Facility, Madison County, KY, Comment Period Ends: July 15, 2002, Contact: Penny Robitaille (410) 436–4178.

EIS No. 020216, Final EIS, DOD, AL, CO, AR, KY, Assembled Chemical Weapons Destruction Technologies at One or More Sites: Design, Construction and Operation of One or More Pilot Test Facilities, Anniston Army Depot, AL; Pine Bluff Arsenal, AR; Blue Grass Army Depot, KY and Pueblo Chemical Depot, CO, Wait Period Ends: July 01, 2002, Contact: Jon Ware (410) 436–2210.

EIS No. 020217, Final EIS, DOE, SC, Savannah River Site, High-Level Waste Tank Closure (DOE/EIS–0303D), Implementation, Industrial Wastewater Closure Plan for the F and H-Area High-Level Waste Tank Systems, Aiken County, SC, Wait Period Ends: July 01, 2002, Contact: Andrew R. Grainger (800) 881–7292.

EIS No. 020218, Final EIS, NOA, Deep-sea Red Crab (chaceon quinquedens) Fisheries, Fishery Management Plan, Development and Implementation, Norfolk Canyon in the south to the Haque Line in the north, Continental United States and Exclusive Economic Zone (EEZ), Wait Period Ends: July 01, 2002, Contact: Steve Kokkinakis (978) 281–9300.

EIS No. 020219, Final EIS, FAA, NY, Adoption-Plattsburgh Air Force Base (AFB) Disposal and Reuse, Implementation for Use in Preparing a Record of Decision for US Department of Transportation's (USDOT), Federal Aviation's (FAA) Decisions Relative to Reuse, Clinton County, NY, Contact: Marie Jenet (516) 227–3811. USDOT, FAA has *adopted* the Department of Defense's, United States Air Force FEIS #950514, filed with the US Environmental Protection Agency on 11/09/1995. FAA was a *cooperating* Agency on the above project. Recirculation of the document is not necessary under 1506.3(c) of the Council on Environmental Regulations.

Dated: May 28, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–13690 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6629–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–FAA–B51020–CT Rating EC2, Groton-New London Airport, Construction of Runway 5–23 Safety Area, Permits and Approvals, Town of Groton, New London County, CT.

Summary: EPA has environmental concerns and requested additional information regarding alternatives, impacts and mitigation associated with the proposed project.

ERP No. D–HHS–E80003–GA Rating LO, Chamblee Campus Centers for Disease Control and Prevention (CDC) Expansion, Atlanta Metro Area, City of Chamblee, Dekalb County, GA.

Summary: While EPA has no objection to the proposed action, EPA did request that some additional information be provided to help clarify certain issues.

ERP No. DS–AFS–E65036–00 Rating NC, Vegetation Management in the Coastal Plain/ Piedmont, Proposal to Clarify Direction for Conducting Project-Level Inventories for Biological Evaluations (BEs), US Forest Service Southern Region, AL, GA, FL, SC, NC, LA, MS and TX.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. DS–AFS–E65037–00 Rating NC, Vegetation Management in the Appalachian Mountains, Proposal to Clarify Direction for Conducting Project-Level Inventories for Biological Evaluations (BEs), AL, GA, KY, NC, SC, TN, VA and WV.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. DS–NPS–J61102–00 Rating EO2, Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway, Winter Use Plans, Updated and New Information on New Generation of Snowmobiles that Produce fewer Emissions and are Quieter, Fremont County, ID; Gallatin and Park Counties, MT and Park and Teton Counties, WY.

Summary: EPA expressed environmental objections based on the potential adverse impacts from three action alternatives, 1b, 2 and 3 which could result in noncompliance with air quality standards and potential adverse impacts on human health.

Final EISs

ERP No. F–AFS–B65009–NH Loon Mountain Ski Resort Development and Expansion Project, Implementation, Special Use Permit and NPDES Permit Issuance, White Mountain National Forest, Pemgewasset Ranger District, Grafton County, NH.

Summary: EPA expressed environmental concerns about growth impacts and associated mitigation and made recommendations about hydrogeologic and air quality issues.

ERP No. F–FHW–E40781–TN I–40 Transportation Improvements from I–75 to Cherry Street in Knoxville, Funding, NPDES and US Army COE Section 404 Permits Issuance, Knox County, TN.

Summary: EPA continues to have environmental concerns regarding noise and cultural resources impacts. EPA supports the construction of noise barriers that were proposed but were not committed to be constructed.

Dated: May 28, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–13691 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2002–0001; FRL–7181–7]

EPA Dockets; EPA's New Electronic Public Docket and Comment System; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of a new electronic public docket and comment system designed to greatly expand access to EPA's public dockets, and facilitate the submission of public comments to EPA, providing an unprecedented level of online access to EPA's programs and rulemaking processes. Known as EPA Dockets, this online system will allow you to search the Agency's major public dockets online, view the index listing of the contents for the dockets included in the system, and access those materials that are available online. You will be able to submit your comments online when a particular public docket available in EPA Dockets is open for public comments, and you will be able to view public comments online for that docket. This new capability will be a valuable tool to support the Agency's regulatory process by enabling more efficient access to EPA's rulemaking development process, and will create a new means for the Agency to share other non-rulemaking information for comment purposes. This capability will enable Agency rulemakers and decision-makers to carry out their responsibilities more efficiently. It will greatly enhance the public's access to the materials used in EPA's decision-making process, simplify electronic commenting, and access to the public comments in those public dockets available in EPA Dockets. This document provides a brief introduction to EPA Dockets, along with an overview of EPA's policies related to the implementation of the system.

FOR FURTHER INFORMATION CONTACT: Shivani Desai, Information Strategies Branch, Collection Strategies Division (Mail Code 2822T), Office of Environmental Information (OEI), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–1674; fax number: (202) 566–1639; e-mail address: desai.shivani@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Electronic government is a core component of the President's Management Agenda with stated goals to: Make it easy for citizens to obtain service and interact with the federal government; improve government efficiency and effectiveness; and improve government's responsiveness to citizens. With those goals in mind, twenty-four projects with the most potential to simplify and unify agency processes and information flows, provide one-stop services to citizens and increase agency effectiveness were identified by the Office of Management and Budget (OMB) for implementation. One of those projects, On-Line Rulemaking, will create an easy-to-use, government-wide on-line portal to find and comment on proposed rules. The project will ultimately improve quality, efficiency, and consistency in the federal rulemaking processes. EPA Dockets is consistent with the approach contained in the On-Line Rulemaking project and can serve as an important building block for development. More information regarding the projects included in the President's Management Agenda for E-gov can be obtained from the federal government's E-Government Strategy on the OMB website at http://www.whitehouse.gov/omb/inforeg/egovstrategy.pdf.

There are also several statutory mandates for federal agencies to provide electronic access to agency information. For example, the Government Paperwork Elimination Act (GPEA), Public Law 105–277, Title XVII (1998), mandates that agencies give citizens the option to submit information and conduct transactions with the agency electronically, when practicable, by October 2003. The Electronic Freedom of Information Act (E-FOIA), Amendments of 1996, 5 U.S.C. 552(a), require agencies to ensure the electronic availability of the agency-created records that must be available for public inspection and copying, through on-line access where possible, or by other electronic means, and that agencies provide an electronic copy of the information if readily reproducible electronically when requested in that format. Other mandates require agencies to consider revising their operations or procedures to maximize the use of today's electronic technology.

EPA initiated the development of an electronic public docket system after a 1996 survey of docket customers revealed the desire of docket customers to have electronic access to docket materials and the ability to search across all of the EPA dockets for information. Initiated prior to the online rulemaking initiative included in the President's Management Agenda for E-gov, and before the enactment of the electronic access mandates, today's announcement of the EPA Dockets demonstrates EPA's commitment to ensuring that the public has access to the information that is used to inform the Agency's decisions regarding potential risks to the environment and public health, and that the public has an opportunity to participate in the Agency's decision process. By providing online access to EPA's public dockets, and an online mechanism for the submission of public comments, EPA is advancing the E-Government Strategy, as well as satisfying the mandate under GPEA.

II. EPA's New Electronic Docket

The following is a brief introduction to EPA Dockets, along with an overview of EPA's policies related to the implementation of the system.

A. What is a Docket?

The official docket serves as the repository for the collection of documents or information related to a particular agency action or activity. The official docket generally consists of the documents specifically referenced in the **Federal Register** document, any public comments received, and other information used by decision-makers, or otherwise related to the Agency action or activity. Agencies most commonly use dockets for rulemaking actions, but dockets may also be used for various other non-rulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under the Paperwork Reduction Act, and other non-rule activities.

The public docket is the collection of materials in the official docket that is available for public inspection and copying. Although a part of the official docket for an action or activity, the public docket does not include Confidential Business Information (CBI) or other information whose public disclosure is restricted by statute.

The Agency will continue to maintain the official docket in paper form at the EPA docket facilities established for the particular program or office, where the public docket will be made available for public inspection and copying. The public can continue to view the public dockets at the facility, as well as request a copy of the docket's index or a copy of a listed publicly available document(s).

B. What is EPA Dockets?

The EPA Dockets, known during the development and pilot stages as the Regulatory Public Access System (RPAS), is an online system that provides electronic access to EPA's public dockets. During the development of EPA Dockets, the system was initially intended to enhance public access to rulemaking information, so most of the public dockets that are currently available in EPA Dockets will be rulemaking dockets. However, since EPA Dockets provides an effective and efficient mechanism for the public to access electronic records and submit electronic comments, you will also notice that EPA Dockets provides electronic access to other non-rulemaking dockets. The type of docket (i.e., rulemaking docket or general docket) is clearly identified within the system. In addition, when the Agency issues a **Federal Register** document after today, it will specifically identify in that **Federal Register** document whether a docket has been established, and whether the public docket has been included in EPA Dockets, and it will identify the specific identification number assigned to that docket.

1. *Which Dockets Facilities are Using EPA Dockets?* EPA Dockets is being phased-in across the Agency, starting with the following four Headquarter offices: The Office of Solid Waste and Emergency Response (OSWER), the Office of Air and Radiation (OAR), the Office of Water (OW), and the Office of Prevention, Pesticides, and Toxic Substances (OPPTS). Participation is expected to be expanded to include other EPA Headquarter offices, with the Office of Environmental Information (OEI), and the Office of Enforcement and Compliance Assurance (OECA) slated to implement the system for their dockets in the Fall of 2002.

Since the Agency is phasing-in the implementation of EPA Dockets, you will notice that not all **Federal Register** documents with a docket that publish after today will be included in EPA Dockets. For those offices that are already using EPA Dockets, this will occur because the docket related to that **Federal Register** document was already established prior to the implementation of EPA Dockets, and is therefore not available in EPA Dockets. **Federal Register** documents with a docket that are issued by EPA offices that have not yet implemented EPA Dockets will be included in EPA Dockets at a later date, when the system is implemented by their docket facility.

In addition, EPA Dockets will provide online public access to several legacy public dockets, i.e., dockets that were originally created in paper, including dockets that were transferred to EPA Dockets from an existing electronic docket system, as well as dockets that were entered into EPA Dockets during the pilot and initial implementation stages.

As of May 31, 2002, the following docket facilities will use EPA Dockets to establish the public docket, index the docket contents, and, to the extent feasible, provide the electronic version of publicly available docket materials:

Air Docket; telephone number: (202) 260–7549; e-mail address: a-and-r-Docket@epa.gov

Pesticides Docket; telephone number: (703) 305–5805; e-mail address: opp-docket@epa.gov

RCRA Docket; telephone number: (703) 603–9230; e-mail address: rcra-docket@epa.gov

Superfund Docket; telephone number: (703) 603–9232; e-mail address: superfunddocket@epa.gov

Toxics Docket; telephone number: (202) 260–7099; e-mail address: oppt-ncic@epamail.epa.gov

UST Docket; telephone number: (703) 603–9230; e-mail address: rcra-docket@epa.gov

Water Docket; telephone number: (202) 260–3027; e-mail address: OW-Docket@epa.gov

The following docket facilities are preparing to implement EPA Dockets later this year:

OEI Docket; telephone number: (202) 566–1677.

OECA Docket; telephone number: (202) 564–2614; e-mail address: oeca.docket@epa.gov

EPA will consolidate all the Headquarter paper docket facilities into a "Combined Docket Facility" in August of 2002. This new facility will continue to be located in Washington, DC, and will provide state-of-the-art technology, security, and comfort to and for the public docket user community. Prior to the opening of the "Combined Docket Facility," EPA will publish a notice in the **Federal Register** announcing the facility's contact information. This information will also be posted on the EPA website at http://www.epa.gov/epahome/dockets.htm. If you have questions about a particular docket, please contact the appropriate docket facility directly.

2. *What Docket Materials will be Accessible Through EPA Dockets?* The content of EPA Dockets will generally mirror that of the public docket, with a few exceptions. Since the public docket does not include CBI or other information whose public disclosure is restricted by statute, the EPA Dockets will not include any of this information. Although included in the paper public docket, EPA has determined that the following material will not be included in EPA Dockets:

- Material subject to copyright protection.
- Audio and video materials.
- Oversized printed materials (e.g., greater than 11″ x 14″).
- Other physical, three dimensional items.

In addition, since the paper docket currently remains the official docket, EPA Dockets may not contain electronic copies of all of the materials that are available in the paper public docket. For example, if EPA only has access to a paper copy of a document that is included in the official docket, EPA

intends to scan and create an electronic copy of that document so that it can also be accessed in EPA Dockets. At times, however, the Agency may not be able to complete this conversion for all of the materials in the paper public docket. Eventually, however, EPA intends to provide electronic access to all of the publicly available docket materials through EPA Dockets, and will be working to designate EPA Dockets as the official public docket.

With regard to public comments, EPA will continue to place all public comments in the public docket as EPA receives them and without change. For those comments that contain CBI, or other information whose disclosure is restricted by statute, EPA will continue to ask the commenter to provide a non-CBI version of the comment for inclusion in the public docket.

For EPA Dockets, EPA's policy is that public comments will be made available for public viewing in EPA Dockets, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA Dockets. The entire printed comment, including the copyrighted material, will be available in the paper public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA Dockets. Public comments that are mailed or delivered in paper form to the docket facility will be scanned and placed in EPA Dockets. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA Dockets. Although not all docket materials may be available electronically, you may still access paper copies of any of the publicly available docket materials through the docket facility identified in the **Federal Register** document.

3. *How Can I Access and Use EPA Dockets?* You may access EPA Dockets on the Internet at http://www.epa.gov/edocket. You may use EPA Dockets to access available public docket materials online, as well as submit electronic comments to EPA during the open comment period for a particular docket available in EPA Dockets. To search for an available public docket or to search for a particular docket material, the system provides two basic methods of searching to retrieve dockets and docket materials that are available in the system: "Quick Search" to search using a full-text search engine, or through an "Advanced Search," which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in EPA Dockets that is relevant to the requested subject or topic.

You may also use EPA Dockets to submit your comments online when a particular docket available in EPA Dockets is open for public comments. The **Federal Register** document will identify whether a docket has been established in EPA Dockets, and will provide detailed instructions identifying the various methods that can be used to submit public comments to EPA.

If the docket for the **Federal Register** document was established prior to May 31, 2002, it may not identify EPA Dockets as an available method for submitting electronic comments on that **Federal Register** document. In such cases, if you do not find that public docket in EPA Dockets, you will not be able to use EPA Dockets to submit electronic comments to that particular docket, and you will need to follow the instructions in that **Federal Register** document for submitting your comments to EPA. If that public docket is nonetheless available in the system, EPA encourages you to use the system to submit your electronic comments. If the **Federal Register** document does not discuss EPA Dockets, only those comments submitted through EPA Dockets will be available in their entirety for online viewing in EPA Dockets.

Your use of EPA Dockets to submit comments to EPA electronically is EPA's preferred method for receiving comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment to ensure that you can be identified as the submitter of the comment, and it allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

You should continue to ensure that your comments are submitted within the specified open comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments in formulating a final decision.

III. Additional Information

Additional details about EPA Dockets, as well as detailed instructions and assistance for using the system, is available online. Be sure to use the feedback function to let us know about your experiences using the system. We will use that feedback to help us identify potential improvements that would better service your needs. You may also contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Docket, Electronic, Public comment, Records.

Dated: May 22, 2002.

Mark A. Luttner,

Director of Information Collection, Office of Environmental Information.

[FR Doc. 02–13521 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0083; FRL–7180–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 3–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (FIFRA SAP) to consider and review two topics. The first topic is to update the FIFRA SAP on the status of preliminary results from cumulative risk estimates for organophosphate pesticides (OP) using alternative models (Calendex™, LifeLine™, and CARES™) and similar input data and parameters. The second topic is review of cumulative risk assessments for OPs: Susceptibility and age dependent sensitivity.

DATES: The meeting will be held from June 25–27, 2002, from 8:30 a.m. to 5 p.m, eastern standard time.

For dates on requests to present oral comments, submission of written comments, or requests for special seating arrangements, see Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Hwy., Arlington, VA. The telephone number for the Sheraton Crystal City Hotel is (703) 486–1111.

Requests to present oral comments, submission of written comments, or requests for special seating arrangements may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your request must identify docket ID number OPP–2002–0083 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Olga Odiott, Designated Federal Official (DFO), for topic 1 or Paul Lewis, DFO, for topic 2, Office of Science Coordination and Policy (7202M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8450; fax number: (202) 564–8382; e-mail addresses: olga.odiott@epa.gov or lewis.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and FQPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult one of the DFOs listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

A meeting agenda and background documents relevant to this meeting are now available. EPA's position paper, questions to the FIFRA SAP, and the FIFRA SAP composition (i.e., members and consultants) will be available as soon as possible, but no later than mid-June. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap.

2. *In person.* The Agency has established an official record for this meeting under docket ID number OPP–2002–0083. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other material information, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. In addition, the Agency may provide additional background documents as the material becomes available. The public version of the official record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How May I Participate in this Meeting?

You may submit requests to present oral comments, written comments, or requests for special seating arrangements through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0083 in the subject line on the first page of your request.

1. *Oral comments.* Oral comments presented at the meetings should not be repetitive of previously submitted oral or written comments.

Although requests to present oral comments are accepted until the date of the meeting (unless otherwise stated), to the extent that time permits, interested persons may be permitted by the Chair of the FIFRA SAP to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to the FIFRA SAP is strongly advised to submit their request to one of the DFOs listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern standard time, Thursday, June 20, 2002, in order to be included on the meeting agenda. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before the FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, the speaker should bring to the meeting 30 copies of the oral comments and presentation slides for distribution to the FIFRA SAP at the meeting.

2. *Written comments.* Although submission of written comments are accepted until the date of the meeting (unless otherwise stated), the Agency encourages that written comments be submitted no later than noon, eastern standard time, Thursday, June 20, 2002, to provide the FIFRA SAP the time necessary to consider and review the written comments. There is no limit on the extent of written comments for consideration by the FIFRA SAP. Persons wishing to submit written comments at the meeting should contact one of the DFOs listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies.

3. *Seating at the meeting.* Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact the DFOs at least 5 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT** so that appropriate arrangements can be made.

Contact DFO, Olga Odiott, for topic 1 and DFO, Paul Lewis for topic 2.

4. *Submission of requests and written comments*—a. *By mail.* Submit your request or written comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Pennsylvania Ave., NW., Washington, DC 20460.

b. *In person or by courier.* Deliver your request or written comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

c. *Electronically.* You may submit your request or written comments electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 9.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket ID number OPP–2002–0083. You may also file a request online at many Federal Depository Libraries.

II. Background

A. Purpose of the Meeting

The FIFRA SAP will meet to review two topics:

1. *Update the FIFRA SAP on the status of preliminary results from cumulative risk estimates for organophosphate pesticides (OP) using alternative models (Calendex™, LifeLine™, and CARES™) and similar input data and parameters.*

Cumulative risk estimates for OPs derived by EPA using the Calendex™ model (Novigen Sciences, Inc.) will be compared to preliminary results derived by The LifeLine Group using the LifeLine™ model and the Sound Science Policy Alliance (SSPA) using the CARES™ model. The LifeLine™ assessments were conducted under contract to EPA. CARES™ assessments were conducted by a group of OP registrants and their consultants (SSPA). These preliminary results will be presented to the FIFRA SAP by EPA for informational purposes only. The FIFRA SAP will not be asked to formally review and comment on these preliminary results.

2. *Cumulative risk assessments for organophosphate pesticides: Susceptibility and age dependent sensitivity.* The FQPA instructs EPA, in making its "reasonable certainty of no harm" finding, that in "the case of threshold effects,...an additional tenfold margin of safety for the pesticide chemical residue and other sources of exposure shall be applied for infants and children to take into account potential prenatal and postnatal toxicity and completeness of data with respect to exposure and toxicity to infants and children." In implementing the FQPA safety factor provision in the context of assessing cumulative risk, the Agency has evaluated pertinent data concerning the potential for prenatal and postnatal effects associated with the common mechanism of toxicity for OP pesticides (namely, inhibition of acetylcholinesterase), the completeness of the hazard data with respect to common mechanism of toxicity to infants and children, and the completeness of the exposure database. The Agency seeks the FIFRA SAP's review on the interpretation of the available laboratory studies on cholinesterase activity in fetal, neonatal and juvenile rats. In addition, the FIFRA SAP is asked to consider the mechanistic basis underlying the age dependent sensitivity of young to cholinesterase inhibition caused by OP pesticides.

B. The FIFRA SAP Report

The FIFRA SAP will prepare a report of its recommendations to the Agency in approximately 60 days. The report will be posted on the FIFRA SAP web site or may be obtained by contacting the Public Information and Records Integrity Branch at the address or telephone number listed in Unit I. of the **SUPPLEMENTARY INFORMATION.**

List of Subjects

Environmental protection, Organophosphate pesticides, Pesticides and pests.

Dated: May 22, 2002.

Sherell A. Sterling,

Director, Office of Science Coordination and Policy.

[FR Doc. 02–13522 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0017; FRL–7180–3]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Subtances; Second List of Priority Chemicals for Guideline Development

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL), established by EPA under the Federal Advisory Committee Act (FACA), develops AEGLs on an ongoing basis to assist with Federal, State, and other organization needs for short-term hazardous chemical exposure information. NAC/AEGL encourages the submission of acute toxicology data or other pertinent information on these chemicals and all other chemicals on the list to the Designated Federal Officer, listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPTS–2002–0017 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul S. Tobin, Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8557; e-mail address: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons interested in the development of AEGLs for chemical emergency planning purposes. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the **Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket ID number OPPTS–2002–0017. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPTS–2002–0017 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* You may submit your comments electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPPTS–2002–0017. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the various options we propose, new approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

This list of 371 priority chemicals is a composite of numerous priority lists of acutely toxic chemicals and represents the selection of chemicals for AEGL development by the NAC/AEGL during the next several years. The list has been assembled from the individual lists of chemicals nominated by NAC/AEGL member organizations for AEGL development. Although the priority list of chemicals, published in this notice, is subject to modification as priorities of the NAC/AEGL committee or the NAC/AEGL member organizations change, it is anticipated that most of the chemicals on the priority list will remain as high priority for AEGL development during the next several years. The NAC/AEGL intends to address at least 30 chemicals per year in the AEGL development process. There are 137 chemicals on this list of 371 priority chemicals that are considered a higher priority (indicated by an asterisk below), based on considerations of toxicity, volatility, presence on numerous organization chemical lists, and other factors. These chemicals are planned to be addressed prior to the other listed chemicals. Any suggested additions to this priority list and the rationale for their addition may be addressed to the Designated Federal Officer. An initial listing of 85 priority chemicals was published in the **Federal Register** of May 21, 1997 (62 FR 27733) (FRL–5713–7), to facilitate participation by the public in the AEGL process.

It is believed that publication of today's list of chemicals will provide individuals and organizations with

ample time to gather existing data and information and, where appropriate, to develop new data and information on the acute toxicity of the chemicals listed herein, for the consideration of the NAC/AEGL. Parties possessing such data and information or those anticipating the future conduct of toxicity studies on any of these chemicals should contact the Designated Federal Officer.

TABLE 1.—SECOND LIST OF AEGL PRIORITY CHEMICALS FOR GUIDELINE DEVELOPMENT

CAS No.	Chemical Name
50–00–0	Formaldehyde*
50–29–3	4,4'-DDT
50–32–8	Benzo(a)pyrene*
54–11–5	Nicotine
56–38–2	Parathion*
56–55–3	Benzo(a)anthracene
56–72–4	Coumaphos
57–24–9	Strychnine*
57–57–8	Beta-Propiolactone
57–74–9	Chlordane*
58–89–9	Lindane (hexachlorocyclohexane)
60–29–7	Ethyl ether
60–51–5	Dimethoate
60–57–1	Dieldrin
62–38–4	Phenylmercuric acetate*
62–73–7	Dichlorvos
62–74–8	Sodium fluoroacetate*
62–75–9	Nitrosodimethylamine
64–18–6	Formic acid
64–19–7	Acetic acid
67–64–1	Acetone*
74–82–8	Methane
74–83–9	Methyl bromide*
74–87–3	Methyl chloride*
74–88–4	Methyl iodide
74–89–5	Methyl amine*
74–98–6	Propane*
75–00–3	Chloroethane
75–01–4	Vinyl chloride*
75–02–5	Vinyl fluoride
75–04–7	Ethyl amine*
75–05–8	Acetonitrile
75–07–0	Acetaldehyde*
75–08–1	Ethyl mercaptan*
75–12–7	Formamide
75–15–0	Carbon disulfide*
75–18–3	Dimethyl sulfide
75–25–2	Bromoform
75–34–3	1,1-Dichloroethane
75–36–5	Acetyl chloride*
75–50–3	Trimethylamine*
75–54–7	Methyl dichlorosilane*
75–65–0	t-Butyl alcohol
75–93–4	Methyl sulfate
76–02–8	Trichloroacetyl chloride*
76–06–2	Chloropicrin*
76–44–8	Heptachlor
77–47–4	Hexachlorocyclopentadiene
77–78–1	Dimethyl sulfate*
78–00–2	Tetraethyl lead
78–71–7	Oxetane, 3,3-bis(chloromethyl)-
78–85–3	Methacrylaldehyde*
78–87–5	1,2-Dichloropropane
78–94–4	Methyl vinyl ketone*
78–95–5	Chloroacetone (stabilized)*
78–97–7	Lactonitrile
79–04–9	Chloroacetyl chloride*
79–06–1	Crylamide
79–09–4	Propionic acid
79–14–1	Glycolic acid
79–19–6	Thiosemicarbazide
79–38–9	Trifluorochloroethylene
79–41–4	Methacrylic acid*
79–57–2	Terramycin*
80–15–9	Cumene hydroperoxide
80–56–8	alpha-Pinene
80–62–6	Methyl methacrylate*

TABLE 1.—SECOND LIST OF AEGL PRIORITY CHEMICALS FOR GUIDELINE DEVELOPMENT—Continued

CAS No.	Chemical Name
80–63–7	Methyl 2-chloroacrylate
81–81–2	Warfarin
82–66–6	Diphacinone
84–66–2	Diethyl phthalate
84–74–2	di-n-Butyl phthalate
85–68–7	Butyl benzyl phthalate
86–50–0	Azinphos-methyl*
86–74–8	Carbazole
87–86–5	Pentachlorophenol
92–52–4	Biphenyl
94–75–7	2,4-Dichlorophenyoxy acetic acid
95–48–7	o-Cresol
95–63–6	Trimethyl benzene
96–29–7	2-Butanone oxime
97–02–9	2,4-Dinitroaniline*
98–05–5	Phenyl arsonic acid
98–07–7	Benzyl trichloride
98–09–9	Benzenesulfonyl chloride
98–13–5	Trichlorophenyl silane
98–16–8	3-(Trifluoromethyl) Aniline
98–82–8	Cumene
98–87–3	Benzal chloride
98–88–4	Benzoyl chloride
98–95–3	Nitrobenzene
100–14–1	Benzene, 1-(chloromethyl)-4-nitro-
100–41–4	Ethyl benzene
100–42–5	Styrene*
100–44–7	Benzyl chloride
100–51–6	Benzyl alcohol
101–68–8	4,4-Methylenediphenyl diisocyanate*
103–71–9	Phenyl isocyanate
105–60–2	Caprolactam
106–44–5	p-Cresol
106–50–3	p-Phenylenediamine
106–88–7	1,2-Butylene oxide
106–93–4	Dibromoethane*
106–96–7	Propargyl bromide
106–97–8	Butane*
106–99–0	Butadiene*
107–05–1	Allyl chloride
107–06–2	1,2-Dichloroethane
107–07–3	Chloroethanol
107–13–1	Acrylonitrile*
107–14–2	Chloroacetonitrile*
107–16–4	Formaldehyde cyanohydrin
107–19–7	Propargyl alcohol
107–20–0	Chloroacetaldehyde*
107–21–1	Ethylene glycol
107–37–9	Allyl trichlorosilane
107–72–2	Amyltrichlorosilane
108–05–4	*Vinyl acetate monomer
108–10–1	4–Methyl–2–pentanone
108–24–7	Acetic anhydride*
108 31–6	Maleic anhydride*
108–39–4	m-Cresol
108–65–6	Propylene glycol monomethyl ether acetate
108–67–8	Mesitylene
108–90–7	Chlorobenzene*
108–98–5	Phenylmercaptan*
109–73–9	n–Butylamine
109–77–3	Malononitrile*
109–89–7	Diethyl amine
109–90–0	Ethyl isocyanate
109–99–9	Tetrahydrofuran*
110–54–3	Hexane*
110–57–6	Trans-1,4-dichlorobutene
110–78–1	n-Propyl isocyanate
110–82–7	Cyclohexane*
110–86–1	Pyridine
111–34–2	Butyl vinyl ether
111–36–4	n-Butyl isocyanate*
111–42–2	Diethanolamine

TABLE 1.—SECOND LIST OF AEGL PRIORITY CHEMICALS FOR GUIDELINE DEVELOPMENT—Continued

CAS No.	Chemical Name
111–44–4	Dichloroethyl ether
111–48–8	Thiodiglycol
111–69–3	Adiponitrile
111–77–3	Diethylene glycol monomethyl ether
111–88–6	n-Octylmercaptan*
115–21–9	Trichloroethyl silane
116–06–3	Aldicarb*
116–14–3	Tetrafluoroethylene
116–15–4	Hexafluoropropylene
117–84–0	Dioctyl phthalate
118–52–5	1,3-Dichloro-5,5-dimethylhydantoin
120–82–1	1,2,4-Trichlorobenzene
121–75–5	Malathion
122–14–5	Fenitrothion
123–31–9	Hydroquinone
123–38–6	Propionaldehyde*
123–86–4	n–Butyl acetate*
124–40–3	Dimethyl amine*
124–63–0	Methanesulfonyl chloride
124–65–2	Sodium cacodylate
129–00–0	Pyrene
131–11–3	Dimethyl phthalate
140–88–5	Ethyl acrylate*
141–32–2	Butylacrylate*
141–43–5	Monoethanolamine
141–59–3	t-Octyl mercaptan
141–66–2	Dicrotophos
141–78–6	Ethyl acetate*
143–33–9	Sodium cyanide*
144–62–7	Oxalic acid
149–74–6	Dichloromethylphenyl silane
150–76–5	p-Methoxyphenol
151–38–2	Methoxyethyl mercury*
207–08–9	Benzo(k)fluoranthene
218–01–9	Chrysene
287–92–3	Cyclopentane
297–78–9	Isobenzan
298–00–0	Methyl parathion*
298–02–2	Phorate*
298–04–4	Disulfoton*
300–62–9	Amphetamine
333–41–5	Diazinon
334–88–3	Diazomethane*
353–50–4	Carbonyl fluoride*
354–32–5	Trifluoroacetyl chloride
371–62–0	Ethylene fluorohydrin
382–21–8	Perfluoroisobutylenene
453–18–9	Methyl fluoroacetate*
460–19–5	Cyanogen*
463–51–4	Ketene*
463–58–1	Carbonyl sulfide*
463–71–8	Thiophosgene
503–38–8	Diphosgene
506–68–3	Cyanogen bromide*
506–78–5	Cyanogen iodide
506–96–7	Acetyl bromide
534–52–1	4,6-Dinitro-o-cresol
538–07–8	Bis(2-chloroethyl)ethylamine
541–25–3	Lewisite
541–41–3	Ethyl chloroformate*
542–88–1	bis-Chloromethyl ether*
543-27-1	i-Butyl chloroformate
555-77-1	Tris(2-chloroethyl)amine (N-Mustard)
556–61–6	Methyl isothiocyanate
556–64–9	Methyl thiocyanate*
563–12–2	Ethion
578–94–9	Adamsite
592–34–7	n-Butyl chloroformate
593–53–3	Methyl fluoride
593–89–5	Methyl dichloroarsine
598–14–1	Ethyl dichloroarsine
598–31–2	Bromoacetone

TABLE 1.—SECOND LIST OF AEGL PRIORITY CHEMICALS FOR GUIDELINE DEVELOPMENT—Continued

CAS No.	Chemical Name
622–44–6	Phenyl carbylamine chloride
624–92–0	Dimethyl disulfide*
625–55–8	Isopropyl formate
627–44–1	Diethyl mercury
640–19–7	Fluoroacetamide
646–06–0	Diulane
674–82–8	Diketene*
675–14–9	Cyanuric fluoride
676–83–5	Methyl phosphonous dichloride
676–97–1	Methyl phosphonic dichloride
681–84–5	Tetamethoxysilane
684–16–2	Hexafluoroacetone*
696–28–6	Phenyl dichloroarsine
732–11–6	Phosmet
757–58–4	Hexaethyl tetraphosphate
813–78–5	Dimethyl phosphate
919–86–8	Demeton S–methyl
920–46–7	Methacryloyl chloride
944–22–9	Fonofos*
950–37–8	Methidathion*
993–00–0	Methyl chlorosilane*
993–13–5	Methylphosphonic acid
993–43–1	Ethylphosphonodithioicdichloride
999–81–5	Clormequat chloride
1024–57–3	Heptachlor epoxide
1120–71–4	1,3-Propane sultone
1303–28–2	Arsenic pentoxide
1306–02–1	Lewisite oxide
1314–84–7	Zinc phosphide
1319–77–3	Cresol*
1327–53–3	Arsenic trioxide*
1336–36–3	Polychlorinated biphenyl
1341–24–8	Chloroacetophenone*
1341–49–7	Ammonium bifluoride
1397–94–0	Antimycin A
1498–40–4	Ethylphosphonous dichloride
1498–51–7	Ethylphosphorodichloridate
1558–25–4	Chloromethyl (trichloro) silane
1563–66–2	Carbofuran*
1582–09–8	Trifluralin
1609–86–5	t-Butyl isocyanate
1634–04–4	Methyl t-butyl ether*
1675–54–3	Bisphenol A diglycidyl ether
1737–93–5	3,5-Dichloro-2,4,5-trifluoropyridine
1746–01–6	2,3,7,8-Tetrachlorodibenzo-p-dioxin*
1832–54–8	Isopropyl methyl phosphonic acid
1873–29–6	Isobutyl isocyanate
1910–42–5	Paraquat dichloride*
2032–65–7	Methiocarb
2231–57–4	Thiocarbazide
2487–90–3	Trimethoxysilane
2524–03–0	Dimethyl phosphorochloridothioate
2696–92–6	Nitrosyl chloride*
2698–41–1	o-Chlorobenzylidene malononitrile*
2699–79–8	Sulfuryl fluoride*
2937–50–0	Allylchloroformate
2941–64–2	Ethyl chlorothioformate
3048–64–4	Vinyl norbornene
3173–53–3	Cyclohexyl isocyanate*
3282–30–2	Trimethylacetyl chloride
3689–24–5	Tetraethyl dithiopyrophosphate (Sulfotep)*
3691–35–8	Chlorophacinone
4098–71–9	Isophorone diisocyanate
4109–96–0	Dichlorosilane
4300–97–4	Chloropivaloyl chloride
4418–66–0	Phenol, 2,2'-thiobis(4-chloro-6-methyl-)
5332–73–0	3-Methoxypropyl amine
5798–79–8	Bromobenzyl cyanide
6427–21–0	Methoxymethyl isocyanate
6581–06–2	3-Quinuclidinyl benzilate
6923–22–4	Monocrotophos*
7439–92–1	Lead & compounds including lead phosphate*

TABLE 1.—SECOND LIST OF AEGL PRIORITY CHEMICALS FOR GUIDELINE DEVELOPMENT—Continued

CAS No.	Chemical Name
7439–96–5	Manganese & compounds
7439–97–6	Mercury & compounds including methyl mercury*
7440–02–0	Nickel and compounds*
7440–38–2	Arsenic & compounds*
7440–39–3	Barium & compounds
7440–41–7	Beryllium & compounds*
7440–43–9	Cadmium & compounds*
7440–48–4	Cobalt & compounds
7440–50–8	Copper & compounds
7440–62–2	Vanadium & compounds
7440–66–6	Zinc & compounds
7446–18–6	Thallium sulfate*
7446–70–0	Aluminum chloride
7521–80–4	Butyltrichlorosilane
7550–45–0	Titanium tetrachloride*
7580–67–8	Lithium hydride
7616–94–6	Perchloryl fluoride
7631–89–2	Sodium arsenate
7647–19–0	Phosphorus pentafluoride*
7664–38–2	Phosphoric acid*
7705–07–9	Titanium chloride
7719–09–7	Thionyl chloride*
7722–84–1	Hydrogen peroxide (concentration greater than 52%)*
7723–14–0	Phosphorus
7727–15–3	Aluminum bromide
7738–94–5	Chromic acid
7782–65–2	Germane
7782–68–5	Iodic acid
7783–07–5	Hydrogen selenide*
7783–41–7	Oxygen difluoride*
7783–54–2	Nitrogen trifluoride*
7783–61–1	Silicon tetrafluoride*
7783–70–2	Antimony pentafluoride
7783–71–3	Tantalum V fluoride
7783–79–1	Selenium hexafluoride*
7783–80–4	Tellurium hexafluoride*
7783–82–6	Tungsten hexafluoride
7784–46–5	Sodium arsenite*
7786–34–7	Mevinphos*
7787–71–5	Bromine trifluoride*
7789–21–1	Fluorosulfonic acid
7789–30–2	Bromine pentafluoride*
7789–59–5	Phosphorus oxybromide
7789–69–7	Phosphorus pentabromide
7789–75–5	Calcium fluoride
7790–94–5	Chlorosulfonic acid*
7791–23–3	Selenium oxychloride
7791–25–5	Sulfuryl chloride*
7803–49–8	Hydroxylamine*
7803–52–3	Stibine (antimony hydride)*
7803–62–5	Silane*
8001–35–2	Camphechlor
8006–61–9	Gasoline*
10025–67–9	Disulfur dichloride
10025–73–7	Chromic chloride
10026–13–8	Phosphorus pentachloride
10028–15–6	Ozone*
10034–85–2	Hydrogen iodide*
10035–10–6	Hydrogen bromide*
10265–92–6	Methamidophos*
10294–33–4	Boron tribromide*
10544–72–6	Nitrogen tetroxide
10544–73–7	Nitrogen trioxide
10545–99–0	Sulfur dichloride*
11099–02–8	Nickel oxide*
12002–03–8	Copper acetoarsenite*
12108–13–3	Manganese, tricarbonyl methylcyclopentadienyl
13071–79–9	Terbufos*
13194–48–4	Ethoprophos
13470–08–1	Titanium III fluoride
13637–63–3	Chlorine pentafluoride*
13863–41–7	Bromine chloride*

TABLE 1.—SECOND LIST OF AEGL PRIORITY CHEMICALS FOR GUIDELINE DEVELOPMENT—Continued

CAS No.	Chemical Name
16752–77–5	Methomyl*
17462–58–7	iso-Butyl chloroformate
19624–22–7	Pentaborane*
20816–12–0	Osmium tetroxide*
20859–73–8	Aluminum phosphide*
22224–92–6	Fenamiphos
22967–92–6	Methyl mercury
23135–22–0	Oxamyl
23422–53–9	Formetanate hydrochloride
25321–14–6	Dinitrotoluene
25321–22–6	Dichlorobenzene
26419–73–8	Tirpate
27137–85–5	Trichloro (dichlorophenyl) silane
28772–56–7	Bromodiolone
30674–80–7	Methacryloyloxyethyl isocyanate
32315–10–9	Triphosgene

*Indicates Higher Current Priority

List of Subjects

Environmental protection.

Dated: May 23, 2002.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 02–13700 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7221–2]

Sole Source Aquifer Petition Denial

AGENCY: Environmental Protection Agency.

ACTION: Notice of sole source aquifer petition denial.

SUMMARY: The United States Environmental Protection Agency (EPA) today provides notice that it denies a petition to designate the La Cienega Valley Area Aquifer a Sole Source Aquifer. The aquifer is not eligible for designation because it is not the principal source of drinking water for the area covered by the petition.

ADDRESSES: The administrative record underlying today's decision is available for inspection and copying in the offices of EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202. Copies of the record or portions thereof may also be obtained by mailing a written request to Region 6 and payment of a reasonable fee for copying. EPA has also posted a fact sheet, summary of public comments and responses, and a decision support document on its website at *http://www.epa.gov/earth1r6/6wq/swp/index.htm.*

FOR FURTHER INFORMATION CONTACT: Clay Chesney, geologist, Source Water Protection Branch (6WQ-SG), EPA Region 6, 1445 Ross Ave., Dallas, TX 75202–2733, phone (214) 665–7128, *chesney.claybourne@epa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 1424(e) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300h–3(e), EPA may designate an aquifer a "sole source aquifer" if it serves as the sole or principal drinking water source for an area and contamination of that aquifer would create a significant hazard to public health. EPA may essentially "veto" financial assistance proposed by other Federal agencies for projects it finds may contaminate such a designated aquifer. To date, EPA has designated 72 sole source aquifers.

On October 25, 2000, EPA received a petition for sole source aquifer designation from the La Cienega Valley Citizens for Environmental Safeguards. The petition sought designation for the La Cienega Valley Area Aquifer, which covers approximately 320 square miles in north-central New Mexico including the City of Santa Fe. To show the aquifer was the primary source of drinking water for the area, the petitioner relied on documentation of water rights allocated to water users by the New Mexico State Engineer.

EPA published notice of the petition in the Albuquerque Journal and the Santa Fe New Mexican and requested comments thereon. It received a number of comments and carefully considered them in reaching today's decision. EPA also performed an independent review of the hydrology and water use in the area covered by the petition. The Agency concludes that the State Engineer's water rights allocations do not reflect actual usage of drinking water in the area covered by the petition and that approximately 61% of such drinking water is derived from sources other than the aquifer, i.e., the Santa Fe River and wells outside the area proposed for designation. EPA thus denies the petition.

Dated: May 20, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 02–13696 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7221–3]

Public Water System Supervision Program Revision for the State of Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Mississippi is revising its approved Public Water System Supervision Program. Mississippi has adopted drinking water regulations for Lead and Copper Minor Revision. EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA intends on approving this State program revision.

All interested parties may request a public hearing. A request for a public hearing must be submitted by July 1, 2002, to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by July 1, 2002, a public hearing will be

held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on July 1, 2002. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing, and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Mississippi State Department of Health, Office of Environmental Health, Division of Water Supply, 570 E. Woodrow Wilson Blvd., Underwood Building, Suite 232, Jackson, Mississippi 39215–1700 or at the Environmental Protection Agency, Region 4, Drinking Water Section, 61 Forsyth Street SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Shaun McMullen, EPA Region 4, Drinking Water Section at the Atlanta address given above or at telephone (404) 562–9294.

Authority: (Section 1420 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations).

Dated: May 7, 2002.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 02–13697 Filed 5–30–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

May 22, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments July 30, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley Herman, Federal Communications Commission, 445 12th Street, SW, Room 1–C804, Washington, DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0185.

Title: Section 73.3613, Filing of Contracts.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,080.

Estimated Time Per Response: .50–.75 hours.

Frequency of Response: On occasion reporting requirement, and recordkeeping requirement.

Total Annual Burden: 910 hours.

Annual Reporting and Recordkeeping Cost Burden: $52,000.

Needs and Uses: Section 73.3613 requires that licensees of TV and low power TV broadcast stations file copies of network affiliation contracts, instruments, and documents together with amendments, supplements and cancellations with the FCC. In addition, all radio and full service TV broadcast station licensees are required to file contracts, instruments or documents relating to ownership or control and certain personnel agreements with the Commission. Section 73.3613 also requires licensees to file, within 30 days of execution, a copy of any radio time brokerage agreement which would result in the arrangement being counted in determining the brokering licensee's compliance with local and national multiple ownership rules with the FCC. Certain contracts, agreements or understandings need not be filed with the FCC under Section 73.3613(e), but must be retained at the station and be made available for inspection upon request by the FCC. The contracts filed with the FCC and filed in the station file are used by FCC staff to assure that a licensee maintains full control over the operation and maintenance of the station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–13647 Filed 5–30–02; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

President's Homeland Security Advisory Council

AGENCY: Office of Governmentwide Policy, General Services Administration.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The President's Homeland Security Advisory Council (PHSAC or Council) will meet in partially closed session on Wednesday, June 12, 2002, in Washington, DC. The PHSAC will meet for the purposes of: (1) Welcoming and introducing the members of the Council; (2) reinforcing the necessity and urgency of developing and coordinating the implementation of a comprehensive national strategy on homeland security; (3) holding roundtable discussions with and among Council members; (4) receiving briefings by senior government officials on the state of homeland security; and (5) discussing and reviewing the draft national strategy for homeland security. The open portion of the meeting, for purposes (1) and (2) above and certain discussions of purposes (3) through (5) above, will be held in the Indian Treaty Room of the Eisenhower Executive Office Building, 725 Seventeenth Street, NW., from 9 to 11:10 a.m. The closed portion of the meeting, for certain discussions of purposes (3) through (5) above, will be held in the White House, 1600 Pennsylvania Ave., NW., from 11:30 a.m. to 3 p.m.

Objectives

The President's Homeland Security Advisory Council was established by Executive Order 13260 (67 FR 13241, March 21, 2002). The objectives of the PHSAC are to provide advice and recommendations to the President of the United States through the Assistant to the President for Homeland Security (Assistant), on matters relating to homeland security.

Due to critical mission and schedule requirements, there is insufficient time to provide the full 15 calendar days notice in the **Federal Register** prior to advisory committee meetings, pursuant to the final rule on Federal Advisory Committee Management codified at 41 CFR 102–3.150. Moreover, in accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.), it has been determined that this PHSAC meeting concerns matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7) and (9)(B) and that, accordingly, the meeting will be partially closed to the public. In addition, due to the security requirements of the Eisenhower Executive Office Building, any members of the public who wish to attend this meeting of the President's Homeland Security Advisory Council must provide their name, social security number, and date of birth no later than 5:00 p.m. EDT, Friday, June 7, 2002, to Mr. Fred Butterfield, General Services Administration, phone: (202) 273–3566, or e-mail: *fred.butterfield@gsa.gov*. Photo identification will be required for entry into the building. Persons with disabilities who require assistance should indicate this in their message. Due to limited availability of seating, members of the public will be admitted on a first-come, first-served basis. Furthermore, members of the public who wish to file a written statement with the PHSAC may do so either in person or send it to Fred Butterfield via the e-mail address provided immediately above or at the following mailing address: General Services Administration (GSA/MC, Room G230), 1800 F St., NW., Washington, DC 20405.

Dated: May 28, 2002.

James L. Dean,

Director, Committee Management Secretariat, Office of Governmentwide Policy, General Services Administration.

[FR Doc. 02–13857 Filed 5–30–02; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02172]

Surveillance and Epidemiologic Research of Duchenne and Becker Muscular Dystrophy and Other Single Gene Disorders; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program on surveillance and epidemiologic research of (1) Duchenne and Becker Muscular Dystrophy (DBMD) and other single gene disorders, and (2) genetic and other disorders identified through tandem mass spectrometry and other newborn screening technologies. This program addresses the "Healthy People 2010" priority areas for Disability and Secondary Conditions.

The purpose of the program is to: (1) Develop and/or expand surveillance systems to characterize the epidemiology of DBMD and other single gene disorders and their complications; and (2) develop long-term follow-up tracking of children identified through tandem mass spectrometry and other newborn screening technologies.

This program consists of two types of projects (Type I and Type II):

Type I: Surveillance and Tracking of DBMD and Other Single Gene Disorders Without Universal Screening Programs

The purpose of Type I funding is to determine the prevalence of DBMD and other single gene disorders that are not detected through newborn screening programs and that therefore require active case finding activities. Long-term population-based follow-up research activities will be planned to describe history of treated and/or untreated cases, and to determine factors that affect the outcome of the condition among three populations: (a) Those who access care at specialty clinics (*e.g.*, Muscular Dystrophy Association (MDA) or other muscular dystrophy clinics), (b) those who receive their care elsewhere, and (c) those who are not receiving care or are undiagnosed.

Type II: Surveillance and Tracking of Conditions With Universal Screening Programs

The purpose of Type II funding is to determine the prevalence of single gene or other conditions identified using existing or potential newborn screening programs, and to conduct population-based long-term follow-up research to describe the history of treated and/or untreated cases. Potential newborn screening programs include, but are not limited to, newborn blood spot screening using tandem mass spectrometry.

Quantifiable outcomes of the cooperative agreement will be measured against the following Government Performance Results Act performance goal: To find causes and risk factors for birth defects and developmental disabilities in order to develop prevention strategies.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301, 311 and 317(C) of the Public Health Service Act [42 U.S.C. 241, 243, and 247b–4 as amended]. The Catalog of Federal Domestic Assistance number is 93.184.

C. Eligible Applicants

Assistance will be provided only to the health departments of States or their bona fide agents including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments.

To be eligible, applicants must document a study population of at least 30,000 live births per year within a State, a contiguous area of a State (such as the catchment of a local health agency), or a contiguous area comprising a combination of States, based on U.S. Census Data. This information should be placed directly behind the face page of the application. Applications that fail to submit the evidence requested above will be considered non-responsive and returned without review.

If an applicant chooses to apply for both a Type I and a Type II award, a separate complete application must be submitted for each type.

Note: Title 2 of the United States Code, Section 1611 states that an organization

described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

D. Availability of Funds

Approximately $1,600,000 is available in FY 2002 funding to fund up to five awards. It is expected that up to three Type I awards will be made, ranging from $350,000 to $450,000, and that up to two Type II awards will be made, ranging from $100,000 to $150,000. It is expected that the award will begin on or about September 1, 2002, and will be made for a 12-month budget period within a three year project period. Funding estimates may change.

Continuation awards within the project period will be made on the basis of satisfactory programmatic progress and the availability of funds.

Funding preference will include: (1) Geographic balance, (2) Type I programs that target DBMD, and (3) Type II programs that target fatty acid oxidation and/or organic acid disorders.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities for Type I projects or 2. Recipient Activities for Type II projects. CDC will be responsible for the activities listed under 3. CDC Activities.

1. Recipient Activities for Type I Projects

a. Develop, implement and evaluate methods and approaches that will improve or expand the capacity of the applicant's existing surveillance system to ascertain cases and generate timely population-based data of DBMD and other single gene disorders and their complications.

b. Establish or enhance collaborative relationships with appropriate stakeholders, *i.e.*, specialty treatment centers (*e.g.*, MDA clinics, other muscular dystrophy clinics), state or regional chapters or associations related to genetic conditions, hospitals, emergency care centers, private physicians, managed care organizations, clinical and diagnostic laboratories that provide diagnosis of genetic conditions (*e.g.*, creatine kinase measurements, muscle biopsy analysis, genetic analysis, etc.), and others.

c. Collaborate with other Type I funded recipients to design and develop one common protocol for all recipients to implement and evaluate.

d. Implement active case ascertainment of DBMD and other genetic condition(s) among reporting sources to determine the prevalence of the genetic condition(s) in the defined geographic area, including a complete count of all prevalent cases, including ages birth to 21 years, and supplemented in later years by newly diagnosed cases.

e. Describe the source, frequency, and type of preventive and medical care among persons with DBMD and other genetic condition(s), among three populations: (a) Those who access care at specialty clinics (*e.g.*, MDA or other muscular dystrophy clinics), (b) those who receive their care elsewhere, and (c) those who are not receiving care or are undiagnosed.

f. Determine the prevalence of related complications.

g. Conduct population-based long-term follow-up of persons with DBMD and other genetic condition(s) to relate health outcomes to the source, frequency, and type of preventive and therapeutic care.

h. Obtain buccal samples or other biologics, as agreed upon by awardees, from children with DBMD and genetic conditions and other family members.

i. Evaluate and disseminate the findings.

2. Recipient Activities for Type II Projects

a. Collaborate with other Type II funded recipients to design and develop one common protocol for all recipients to implement and evaluate.

b. Describe the source, frequency, type of and access to preventive and medical care among persons with the genetic condition(s), and determine the prevalence of related complications.

c. Conduct population-based long-term follow-up of persons with genetic condition(s) to relate health outcomes to the source, frequency, type of, and access to preventive and therapeutic care, including both primary and specialty care settings.

d. Assess the option of obtaining buccal samples or other biologics, as agreed upon by awardees, from children with the genetic condition(s) and other family members.

e. Evaluate and disseminate the findings.

3. CDC Activities

a. Participate in designing, developing, and evaluating methodologies and approaches used for population-based surveillance of genetic conditions.

b. Participate in the collection, management, and analysis of surveillance data related to genetic conditions.

c. Participate in the development and planning of the study protocol. Provide final approval for the study protocol.

d. Assist in the analysis and reporting of aggregate surveillance data collected from funded initiatives; coordinate and consolidate the transfer of tabulated data, analyses, and conclusions among recipients.

e. Assist national, state, or regional programs in the use of data to develop or improve care programs for genetic conditions.

f. Assist recipients in developing a plan for the collection, storage and access of biologic samples.

g. Assist recipients in the evaluation and dissemination of the findings.

F. Content

Letter of Intent (LOI)

A LOI is requested for this program. The LOI will not be used to eliminate potential applicants, but it will enable CDC to determine the level of interest and plan the review more efficiently. The LOI should be no more than two, double-spaced pages, printed on one side, with one-inch margins and 12 point font. The LOI should denote the intent to submit a Type I or Type II application, and should include the following information: program announcement number; applicant's name and address; project director's name, phone number, and e-mail address; a brief description of the number of births in the defined geographic region; and a brief description of the planned cooperative agreement activities.

Application

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan.

The proposal narrative (excluding budget narrative and any appendices) should be no more than 35 double-spaced pages, printed on one side, with one inch margins, and 12 point font. Number each page consecutively and provide a complete table of contents.

The application should contain the following:

1. Executive Summary (one page, may be single spaced):

This section should briefly summarize:

a. Type of request (I or II).

b. Amount of federal assistance requested.

c. Existing capacity.

d. Key objectives and activities.

2. Proposal Narrative:

a. Introduction, statement of need, proposed goals and objectives.

b. Existing program and capacity.

c. Proposed methods and activities.

d. Project management and project staff.

e. Proposed methods to evaluate the attainment of objectives.

3. Budget Narrative.

4. Human Subjects.

5. Appendices, which may include letters of commitment from key collaborators (including specialty clinics such as MDA clinics and other muscular dystrophy clinics), resumes of key staff, brief summary reports of analyses of surveillance data for other genetic conditions.

G. Submission and Deadline

Letter of Intent

On or before June 28, 2002, submit the LOI to the Program Officer listed as the point of contact for programmatic technical assistance identified in the Where to Obtain Additional Information section of this announcement.

Application

On or before 5:00 p.m. Eastern Time August 2, 2002, submit the original and two copies of PHS–5161 (OMB Number 0920–0428). Forms are available at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

Submit the application to: Technical Information Management-PA02172, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are received before 5:00 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disaster, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications that do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals as stated in section "A. Purpose" of this announcement. Measures must be objective/quantitative and must measure the intended outcome. These Measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated and scored individually by an objective review panel. Evaluations and scoring will be conducted according to the following criteria:

1. Methods and Activities (30 Points)

a. The quality of the applicant's plan for conducting program activities and the extent to which surveillance methods proposed are: (1) Appropriate to accomplish stated goals and objectives; (2) adaptable to a variety of health care settings, and to the collection of longitudinal data; (3) accurate to produce valid and reliable data, and (4) feasible within programmatic and fiscal restrictions.

b. The applicant's willingness to cooperate with CDC and other funded applicants to (1) identify optimal surveillance methods, (2) develop standardized surveillance protocols, data collection instruments, interview questionnaires, progress report forms, and database software, and (3) modify proposed methods and activities to conform to standardized protocols.

2. Capacity (20 Points)

a. The extent to which the applicant can access the state or regional community with genetic conditions that is receiving care within and outside of the specialty clinics (e.g., MDA and other muscular dystrophy clinics), as measured by (1) the extent that this proposal incorporates shared responsibility between specialty clinics and state or local health departments as delineated in letters of agreement; and (2) the extent of collaboration obtained from these entities with other organizations involved in the delivery of care and/or services to persons with genetic conditions.

b. A copy of the State Legislation that allows the authority for State Health Departments to collect information on birth defects, genetic diseases or related conditions needs to be included.

3. Goals and Objectives (20 Points)

The extent to which the project goals and objectives are relevant, specific, achievable, measurable, time-linked and can be addressed through the proposed methods.

4. Management and Staffing (20 Points)

a. The extent to which the scientific resources for project planning and data management/analysis are demonstrated within the applicant's organization or through collaboration with universities or other agencies.

b. The extent to which proposed staffing, staff qualifications and experience, and project organization indicates ability to accomplish the active case findings and other objectives of the program.

5. Evaluation (10 Points)

The degree to which the applicant includes plans to evaluate the attainment of proposed objectives and to evaluate the quality of the data collected.

6. Human Subjects (Not Scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks are so inadequate as to make the entire application unacceptable.)

7. Budget (Not Scored)

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports which should include:

a. Brief project description.

b. Comparison of the actual accomplishments to the goals and objectives established for the period.

c. Data requirement that demonstrates measures of effectiveness. In the case that established goals and objectives may not be accomplished or are delayed, documentation of both the reason for the deviation and the anticipated corrective action or a request for deletion of the activity from the project.

d. Other pertinent information, including preliminary findings from the analysis of available data.

e. Financial recap of obligated dollars to date as a percentage of total available funds.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment II in the Application Kit.

AR–1—Human Subjects Requirements
AR–2—Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7—Executive Order 12372 Review
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–22—Research Integrity

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov. Click on Funding then Grants and Cooperative Agreements.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sheryl L. Heard, Grants Management Specialist, Acquisition and Assistance Branch B, Centers for Disease Control and Prevention, Announcement 02172, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2723, Email address: slh3@cdc.gov.

Programmatic technical assistance may be obtained from: William Ramsey, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention, 4770 Buford Highway N.E. MailStop F–15, Atlanta, GA 30341–3724, Telephone: (770) 488–7226, Email address: *wkr1@cdc.gov.*

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13632 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02100]

University Technical Assistance Projects in Support of the Global AIDS Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) Global AIDS Program (GAP) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for providing technical assistance to ministries of health and other organizations working on HIV/AIDS prevention and HIV/AIDS care and treatment programs in 25 countries in Africa, the Caribbean, South America and Asia that are participating in CDC's Global AIDS Program (GAP). This program addresses the international goal and objectives contained in CDC's Five-Year HIV Prevention Strategic Plan:

Goal: Reduce HIV transmission and improving HIV/AIDS care and support in partnership with resource-constrained countries.

Objectives:

1. Decrease sexually transmitted HIV infections.
2. Develop the capacity of partners in host countries for prevention and care efforts.
3. Expanding and strengthening HIV/STD/TB surveillance programs.
4. Improve basic scientific knowledge of HIV and the safety and efficacy of newly developed biomedical interventions.
5. Decrease HIV infections transmitted from mother to child.
6. Increase access to improved HIV care and support, including prevention and treatment of opportunistic infections.
7. Decrease parenterally transmitted HIV infections.

Additional information on the strategic plan is available at: *http://www.cdc.gov/hiv/pubs.htm#prevention.*

Future iterations of this program announcement will reflect the results of the current process GAP is undertaking to identify priorities in accomplishing the goal and objectives of the strategic plan.

The purpose of this program is to augment and expand CDC's efforts to provide technical assistance to GAP countries in the development, implementation and evaluation of HIV prevention programs, care and treatment programs and the necessary infrastructure (*e.g.,* laboratory services) to support prevention and care programs and services.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 (k)(2) of the Public Health Service Act, [42 U.S.C. section 241 (a) and 247 (k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.943. There are no matching requirements for this program announcement.

C. Eligible Applicants

Eligible applicants include universities and colleges, based in the U.S. that have medical schools or colleges, schools of nursing, and/or schools or departments of public health; with at least one year of experience in providing technical assistance to an international public health project or a governmental or non-governmental organization working on a public health problem in a foreign country. Applications may be submitted by public and private universities in the U.S. including the District of Columbia, the Commonwealth of Puerto Rico, The Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.

D. Availability of Funds

Approximately $4,000,000 is available in FY 2002 to fund approximately five awards. It is expected that the average award will be $750,000, ranging from $500,000 to $1,000,000. It is expected that the awards will begin on or about September 30, 2002 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made in the basis of satisfactory progress as evidenced by required reports and the availability of funds.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under "1. Recipient activities" and CDC will be responsible for activities listed under "2. CDC activities."

Activities eligible for support include providing faculty, staff and students to work in cooperation with CDC and host country governments to assist in:

1. Recipient Activities:

a. Design, conduct and evaluate training activities relevant to HIV/AIDS prevention, care and treatment and/or program infrastructure development.

These training activities should mostly be conducted within the host country, but proposals could also be made for short-term training within the United States of key country program staff in areas critical to their program responsibilities. Examples of other supportable activities include designing and assisting in implementing "train-the-trainer" programs, developing curricula and training materials in the appropriate language, providing technical assistance regarding behavioral science and science-based interventions for populations at risk, blood safety, and developing and implementing informatics systems.

b. Design, implement, and evaluate strategies to expand the scope of successful HIV prevention, care and treatment, or infrastructure development projects to have an impact on large populations and be sustained beyond the project period.

Examples of supportable activities include expanding successful pilot projects to prevent mother-to-child transmission of HIV or provide home and community-based health care into national programs, and developing national-level community empowerment models to guide local responses to HIV prevention and care.

c. Operational research with the goals of assessing HIV prevention or relevant care and treatment needs and providing findings that can be used to design and develop new or innovative program efforts or services.

d. Conduct reviews and program evaluation activities of HIV prevention or care and treatment program progress, services and achievements.

Such reviews may assess the entire country program effort or be focused on specific components.

e. Provide technical assistance in implementing HIV prevention, care and treatment programs, in infrastructure and capacity development to support such programs, and in monitoring and evaluation at program and/or national levels.

2. CDC Activities

a. Provide information to recipients regarding GAP goals, progress, country needs and other information relevant to the recipient's activities.

b. Facilitate coordination with other organizations both domestic, international and in GAP countries who are working with CDC on HIV prevention and care activities.

c. Where needed, provide consultation, training and technical support to University Staff participating to help them prepare to meet programmatic needs of GAP.

F. Content

Letter of Intent (LOI)

A LOI is required for this program. The narrative should be no more than three single-spaced pages, printed on one side with one-inch margins, and unreduced font. Your letter of intent will be used to determine eligibility and pre-application technical assistance needs, and should include a brief description of the university, its international programs and/or experience a brief summary of the proposed activities.

Application

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of Effectiveness must relate to the performance goal (or goals) as states in section "A. Purpose" of this announcement. Measures must be objective and quantitative and must measure the intended outcomes. These Measures of Effectiveness will be submitted with the application and will be an element of evaluation. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one-inch margins, and unreduced font. The narrative should consist of, at a minimum, a Plan, Objectives, Methods and Evaluation Plan and Budget.

Eligible universities may submit proposals that involve projects related to HIV prevention, care and treatment and/or program infrastructure development. Universities should describe international experience relevant to the proposed HIV/AIDS-related activities, history of collaboration with host governments or other in-country organizations on such activities and what capabilities and resources they can marshal to work with and augment the efforts of CDC. As monitoring and evaluation (M&E) is integral to all GAP activities, universities should include in their proposals their specific experience with M&E activities (including M&E at project and/or national levels; use of quantitative and/or qualitative methods; utilization of M&E data). Proposals may indicate countries for which activities may be targeted or needed, but CDC may request the University to work with it on projects in other countries with greater or more relevant needs.

G. Submission and Deadline

Letter of Intent (LOI)

On or before July 8, 2002, submit the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information." Section of this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before 5 p.m. Eastern Time, July 30, 2002, submit the application to:

Technical Information Management, PA #02100, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

Deadline: Letters of Intent and applications will be considered as meeting the deadline if they are received on or before 5 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications that do not meet the above criteria will not be eligible for competition and will be discarded.

H. Evaluation Criteria

Letter of Intent (LOI)

The letter of intent will be reviewed only to ensure that the applicant is an eligible university that has a medical school or college, school of nursing, and/or school or department of public health and to determine needs for pre-application technical assistance.

Application

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC. The criteria below will be applied in reviewing and

evaluating your proposal. For example, if you propose to provide support to design and assist in the implementation of a voluntary HIV prevention counseling and testing program (VCT), your proposal should specify the capabilities, experience, degree that the proposed VCT program would enhance CDC efforts and be feasible, innovative and relevant to country needs.

1. The degree that the applicant university has demonstrated that it has the relevant capabilities to provide technical assistance and augment CDC's efforts to provide technical support to GAP country programs. (20 points)

2. Past experience of the university in developing or providing technical assistance and related support to HIV/AIDS or relevant public health programs. Both the applicant's relevant international and domestic experience will be considered. (20 points)

3. The degree that the proposal of the applicant university, if implemented, addresses identified priorities CDC's planned technical assistance to GAP countries, and is likely to enhance and be well coordinated with GAP's activities, and the need for geographic (Africa, Asia and South America/Caribbean regions) and programmatic (prevention, care and treatment, infrastructure development foci) balance within the GAP program. (20 points)

4. The degree that the proposed activities are feasible, innovative and relevant to country needs. (15 points)

5. Past experience of the university in developing and implementing appropriate monitoring and evaluation procedures and/or in providing technical assistance on M&E activities at program and/or national levels The applicant's relevant domestic and international experience will be considered. (15 points)

6. The extent that the applicant is willing to provide university resources (both financial and in kind) to support the project. (10 points)

7. The extent that the budget is reasonable, clearly justified, consistent with the intended use of funds, and allowable. All budget categories should be itemized. (not scored)

8. Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (not scored)

_____Yes _____No Comments:

An application can be disapproved if research risks are sufficiently serious and protection against risks is deemed insufficient.

Applications under consideration for funding will be provided to the appropriate CDC country office and the host country Ministry of Health for additional review.

These reviews will focus on the degree to which the proposal is needed, is consistent with country priorities and the National AIDS Control Plan, and coordinated with and nonduplicative of other activities. Findings from this review will be used to make final funding decisions and as the basis of negotiations concerning the final program plan.

Pre-application Technical Assistance:

Pre-application technical assistance can be obtained through three means: (1) Applicants may call CDC at (404) 639–8016 and talk with a CDC representative to obtain background information; (2) The CDC Global AIDS Program website *www.cdc.gov/nchstp/od/gap* will include background information relevant to applicants and (3) for those applicants who provide an LOI, CDC will hold a pre-application technical assistance workshop and based on volume of calls and inquiries audio conference calls may be scheduled prior to the application due date. Information on the date and location of the workshop will be provided directly to each applicant who submits an LOI and posted on the CDC website.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of the following:

1. Annual progress report.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial status and performance reports, no more than 90 days after the end of the project period.
4. Applicants are required to provide measures of effectiveness to evaluate the accomplishment of the various identified objectives of the cooperative agreement. These measures must be objective and quantitative and must measure the intended outcome.

The submission of these measures will be a data element to be submitted with, or incorporated into the annual progress reports.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see attachment I of this announcement.

AR–1 Human Subjects Requirements
AR–4 HIV/AIDS Confidentiality Provisions
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address *http://www.cdc.gov* Click on "Funding" then "Grants and Cooperative Agreements."

For business management technical assistance, contact:

Dorimar Rosado, Grants Management Specialist, International & Territories Acquisition and Assistance Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2782, email address: *drosado@cdc.gov.*

For program technical assistance, contact: Gary R. West, Global AIDS Program, National Center for HIV, STD and TB Prevention, 1600 Clifton Road, Mailstop E–07, Atlanta, GA 30333, Telephone number: 404–639–8016, email address: *GAW2@cdc.gov.*

Dated: May 24, 2002.

Sandra R. Manning, CGFM,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–13634 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02190]

Support for Strengthening Voluntary Counseling and Testing Services and Expansion of Tuberculosis (TB) Diagnosis, Treatment and Prevention in the Republic of Uganda; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program to strengthen the capacity of existing voluntary counseling and testing (VCT) services and to expand TB diagnosis, treatment, referral and prevention within VCT sites in the Republic of Uganda.

Goals

1. Improve the quality and expand laboratory and data management capacity in four stand-alone VCT sites that provide VCT services to their own clients and technical and program support to affiliated VCT sites in the Republic of Uganda.

2. Support TB diagnosis, treatment, and prevention activities in the four main sites while screening and referral will be provided in the affiliated sites.

3. Support other targeted HIV/AIDS prevention and care interventions within the context of VCT services at these centers.

CDC has established partnerships with local and international non-governmental organizations, the Ugandan Ministry of Health, and the Uganda AIDS Commission in discovering and applying effective interventions to prevent HIV infection and associated opportunistic infections and subsequent deaths from Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS).

As a key partner in the United States (U.S.) Government's international activities, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in many countries.

TB prevention and treatment programs that are provided in an integrated manner in an existing VCT service is one potential way of improving current VCT services in Uganda. Tuberculosis diagnosis, treatment, and prophylaxis using Isoniazid for Purified Protein Derivative (PPD) positive persons with HIV have been shown to be feasible to add to existing VCT services in Uganda.

This program will also support the documentation and production of counseling protocols adapted to address new psycho-social needs related to (VCT). This will contribute to improvements in counseling provided to individuals and couples.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the Global AIDS Program (GAP):

Reduce the number of new HIV infections among 15 to 24 year olds in sub-Saharan Africa from an estimated two million by 2005 by working with other countries, United States Agency for International Development (USAID), international, and U.S. government agencies.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 307 of the Public Health Service Act, [42 U.S.C. section 242l], as amended. The Catalog of Federal Domestic Assistance number is 93.118. There are no matching requirements for this program announcement.

C. Eligible Applicants

Assistance will be provided only to Ugandan non-governmental organizations with more than five years of experience in the implementation of voluntary counseling and testing services in multiple rural locations of Uganda. The applicants should have at least one year of experience in implementing an integrated TB program within existing VCT services.

D. Availability of Funds

Approximately U.S. $200,000 is available in FY 2002 to fund one award. It is expected that the award will begin on or about August 30, 2002 and will be made for a 12-month budget period within a project period of three (3) years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may only be utilized to implement activities as described in the goals, objectives, and activities of the submitted and funded program.

The purchase of antiretroviral, reagents, and laboratory equipment for antiretroviral treatment projects requires pre-approval from the Global AIDS Program Headquarters.

Applicants may contract with other organizations under this cooperative agreement, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the U.S. or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, will be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

No funds appropriated under this Act will be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under "1. Recipient Activities," and CDC will be responsible for the activities listed under "2. CDC Activities."

1. Recipient Activities

a. Identify staffing needs; hire and train staff.

b. Identify and acquire programmatic needs, including space, furnishings, fittings, equipment, and computers.

c. Establish maintenance contracts for program facilities, equipment, and fittings.

d. Carry out training needs assessment for medical and counseling staff as needed.

e. Produce training manuals and referral and treatment algorithms.

f. Identify and subcontract refresher training for all relevant staff in the specific areas identified.

g. Acquire source reagents, and other clinic and laboratory supplies.

h. Develop and implement monitoring and evaluation plans, customized for each program component.

i. Provide training in new content areas through apprenticeships and other skills development methodologies.

j. Procure, supply, and maintain VCT sites with materials required for TB clinical activities.

k. Develop and establish a regular distribution system for diagnostic and other supplies in all participating VCT sites.

l. Schedule regular supervisory visits for new program activities.

m. Develop a data management plan and provide training for all relevant staff.

n. Initiate collaborations with National TB and Leprosy Program, Ministry of Health and other relevant institutions.

o. Establish administrative and management systems for the program.

p. Prepare and submit quarterly progress activity and financial reports.

2. CDC Activities

a. Monitor project and budget performance.

b. Approve the selection of key personnel to be involved in the activities performed under this cooperative agreement.

c. Provide technical assistance in the design and implementation of a monitoring and evaluation plan and other programmatic areas as needed.

d. Assist in the planning for data management and analysis.

e. Participate in training activities.

f. Provide technical and programmatic oversight to the program.

g. Collaborate with recipient in writing papers for publication or other dissemination activities if needed.

F. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with a one-inch margins, and unreduced font.

Each activity for which funds are requested should be specifically identified with goals, Plan, Objectives, Activities, Method of Evaluation and Budget provided. A summary budget by line item should be provided.

G. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

Application forms must be submitted in the following order:

Cover Letter
Table of Contents
Application
Budget Information Form
Budget Justification
Checklist
Assurances
Certifications
Disclosure Form
HIV Assurance Form (if applicable)
Human Subjects Certification (if applicable)
Indirect Cost Rate Agreement (if applicable)
Narrative

On or before 5:00 p.m. Eastern Time July 30, 2002, submit the application to: Technical Information Management Section (TIM), PA# 02190, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications will be considered as meeting the deadline if they are received before 5:00 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: 1. Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time; or 2. significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications that do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement. Measures of Effectiveness must relate to the performance goal (or goals) as stated in section "A. Purpose" of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness will be submitted with the application and will be an element of evaluation.

Each application will be evaluated individually, against the following criteria by an independent review group appointed by CDC.

1. Program Capacity (25 Points)

The proposal should demonstrate capacity and experience needed to implement a project of this magnitude and scope including infrastructure, staffing levels and laboratory capacity.

2. Personnel (25 Points)

The extent that professional personnel involved in this project are qualified including evidence of experience in working in ACT and TB diagnosis, treatment and prevention programs.

3. Program Plan (20 Points)

The proposal demonstrates capacity and plans to rapidly roll out this program to multiple sites in the country.

4. Understanding of the Problem (15 Points)

The extent that the applicants demonstrate a clear and concise understanding of the HIV/AIDS epidemic in Uganda specifically the gaps in current prevention efforts including voluntary counseling and testing.

5. Technical and Programmatic Approach (15 Points)

The extent that the applicants' proposal demonstrates an understanding of how to develop, implement, monitor and evaluate an integrated VCT and TB program.

6. Budget (Will Review But Not Scored)

The extent that the itemized budget for conducting the project is reasonable and well justified.

7. Human Subjects (Not Scored)

The extent that the application adequately addresses the requirements listed in the 45 CFR 46 for the protection of human subjects.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of the following:

1. Quarterly progress reports. (The progress report will include a data requirement that demonstrates measures of effectiveness.)

2. Final financial and performance reports, no more than 90 days after the end of the project period.

3. Financial status report, no more than 90 days after the end of budget period.

4. Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement.

Awardee is required to obtain an annual audit of these CDC funds (program specific audit by an audit firm based in the U.S. with international branches and current licensure/authority in country, and in accordance with the international accounting standards of equivalent standards approved in writing by CDC.

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the office of management and budget (OMB) under the paperwork reduction act.

A fiscal recipient capability assessment may be required with the potential awardee, prior or post award, in order to review business management and fiscal capabilities regarding the handling of U.S. Federal funds.

Send all reports to both the program contact in Uganda and Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement. Some of the more complex requirements have additional information provided below:

AR–1—Human Subjects Requirements
AR–2—Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4—HIV/AIDS Confidentiality Provisions
AR–6—Patient Care
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–14—Accounting System Requirements

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov*

Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2782, E-mail: *dpr7@cdc.gov.*

For program technical assistance, contact: Jonathan Mermin, MD, MPH, Global AIDS Program, Uganda Country Team, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention, PO Box 49, Entebbe, Uganda, Telephone: +256–410320776, E-mail: *jhm@cdc.gov.*

Dated: May 24, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–13635 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02125]

Cooperative Agreement for Violence Against Women Planning and Implementation; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for planning and implementing state initiatives that address Violence Against Women (VAW). This funding opportunity was created in support of the recommendations set forth in the "Agenda for the Nation on VAW" which was developed by the National Advisory Council on VAW (refer to: *http://www.4woman.gov/violence/nations.htm).* This program addresses the Healthy People 2010 priority area of Injury and Violence Prevention.

The purpose of the program is to:

1. Develop effective and culturally competent initiatives that address VAW issues.

2. Foster effective community collaborations to respond to emerging policy and program issues.

3. Provide an opportunity for state health agencies to take a leadership role in addressing violence, specifically VAW to ensure these issues are raised to a public health priority within the state.

4. Facilitate the process of seeking data driven solutions to the prevention of VAW by identifying key data elements that provide compelling evidence of the impact of VAW on families and communities and gaps in data collection that can be addressed by traditional and non-traditional sources.

5. Develop a more comprehensive approach to preventing VAW through community collaboration and coalition building. The planning and implementation projects from this funding should address the intersection of risks for violence that cross the different types of violence (for example, child maltreatment as a risk for sexual violence and intimate partner violence, and identifying community approaches to support protective seeking behaviors that prevent subsequent violence).

6. Identify issues and implementation strategies that address specific challenges and barriers to VAW prevention efforts for priority populations such as racial and ethnic populations, gay and lesbian, elderly, rural or other "hard to reach" populations and women with disabilities.

For the purposes of this funding, VAW includes intimate partner violence, sexual violence by any perpetrator, and other forms of VAW committed by acquaintances or strangers.

This program consists of two parts:

Part 1: Planning—To assist recipients to: (1) Conduct an assessment of the state/territory/tribe's current VAW prevention and intervention efforts, and (2) develop a statewide action plan that addresses their intent and documents strategies to garner support for sustaining and enhancing these activities and efforts that address VAW issues.

Part 2: Implementation—To assist recipients, who have developed an action plan that addresses VAW (under CDC Program Announcements 99136 and 00119), to implement priority activities from their action agenda/plan.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for Injury Prevention and Control:

1. Reduce VAW.

2. Enhance the capacity of states to implement effective rape prevention and education programs.

B. Eligible Applicants

Part 1: Assistance will be provided only to state health departments or their bona fide agents that have not received funds to support VAW planning activities under the CDC Program Announcements 99136 and 00119, including District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of Northern Mariana Islands, American Samoa, Guam, Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian Tribal Governments.

Part 2: Assistance will be provided only to the state health departments or their bona fide agents that have received supplemental funds to support VAW planning activities under CDC Program Announcements 99136 and 00119.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Availability of Funds

Part 1: Planning

Approximately $1.5 million is available in FY 2002 to fund approximately 29 awards. It is expected that the average award will be $50,000.

It is expected that the awards will begin on or about September 30, 2002 and will be made for a 12-month budget period with a project period of one year.

There are no matching requirements for this program.

Use of Funds

Appropriate use of funds includes personnel (contractual, consultant, or temporary staff); support for conferences, meetings; support for writing, publishing, and disseminating the results of the plan; and travel to CDC-related training. Funds may not be used for program implementation.

Part 2: Implementation

Approximately $500,000 is available in FY 2002 to fund approximately ten awards. It is expected that the average award will be $50,000.

It is expected that the awards will begin on or about September 30, 2002 and will be made for a 12-month budget period with a project period of one year.

There are no matching requirements for this program.

Use of Funds

Appropriate use of funds includes personnel (contractual, consultant, or temporary staff); publicity and media events; development of educational or training material and curricula; conducting training workshops and conferences; and travel to CDC-related training.

Funding Preference

Priority consideration will be given to projects proposed by the state injury program or in collaboration with the state injury program for parts 1 and 2.

Pre-Application Conference Call: In addition, for interested applicants, two pre-application technical assistance calls will be held. One for VAW Planning (Part I) applicants and one for VAW Implementation (Part II) applicants. The Part I planning call will be held on Friday, June 7, 2002, from 1:00 p.m. to 2:00 p.m., Eastern Standard Time. The conference name is VAW Planning Workshop and the bridge number for the conference call is 1–800–713–1971, and the pass code is #103902. The Part II planning call will be held on Friday, June 7, 2002, from 2:30 p.m. to 3:30 p.m., Eastern Standard Time. The conference name is VAW Implementation Workshop and the bridge number for the conference call is 1–404–639–3277, and the pass code is #713668.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities:

a. All applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures must be objective/quantitative and must measure the intended outcome.

b. Develop, expand, or maintain a VAW advisory committee

c. Participate in CDC Technical Assistance activities such as conference calls, site visits, and training for cooperative agreement recipients.

d. Collaborate with CDC on national campaigns or other relevant national efforts as appropriate.

e. Submit required reports on time.

In addition, there are requirements specific to the type of funding requested:

Part I: Planning

a. Conduct an assessment of the following VAW issues:
—Policy and Research
—Prevention Programs
—Intervention Programs and Victim Services

b. Identify issues and strategies that will garner support for sustaining and enhancing future VAW prevention and intervention activities by addressing the following:
—Ongoing Collaboration and Community Involvement
—Ongoing Communication
—Evaluation
—Other Issues Associated with VAW

c. Produce and publish an action plan

Part II: Implementation

a. Review the VAW plan developed under Program Announcements 99136 and 00119 and select and carry out activities that can be implemented within the budget period.

b. Establish an evaluation plan for those activities to be implemented.

2. CDC Activities:

a. Provide technical assistance and consultation in the VAW prevention planning and implementation activities.

b. Provide resources and tools that will assist these planning and implementation efforts.

c. Provide opportunities for sharing successes and challenges.

d. Collaborate with national partners to develop protocols for state VAW related data profiles that can be used to facilitate data-driven planning and implementation.

e. Compile state/territory/tribal plans and develop and disseminate "lessons learned" to assist with future planning and implementation efforts.

E. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative (excluding executive summary, budget narrative and any appendices) should be no more than 10 double-spaced pages, printed on one side with one inch margins, and no smaller than 12 point font. Number each page consecutively and provide a complete table of contents.

The application should consist of, at a minimum:

1. Executive Summary (one page, may be single spaced, and is not included in the Proposal Narrative page count) which briefly summarizes:
—Amount of federal assistance requested
—Key assessment, planning, and implementation activities proposed
2. Proposal Narrative (no more than 10 pages, double spaced)
—Introduction
—Statement of Need
—Goals and Objectives
—Workplan, timeline and staffing
—Collaboration
—Evaluation
3. Budget Narrative
4. Appendices, (not included in the Proposal Narrative page count) which may include letters of commitment from key collaborators.

Applicants should review and consider CDC's Assessment and Planning Tools in their VAW planning efforts. Please refer to *www.cdc.gov/ncipc* to review and obtain additional information on these tools.

F. Submission and Deadline

Application: Submit the original and 2 copies of PHS 5161–1 (OMB Number 0920–0428).

Forms are in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

Application forms must be submitted in the following order:

Cover letter
Table of Contents
Application
Budget Information Form
Budget Justification
Checklist
Assurances
Certifications
Disclosure Form
HIV Assurance Form (if applicable)
Human Subjects Certification (if applicable)
Indirect Cost Rate Agreement (if applicable)
Narratives

On or before 5:00 p.m. Eastern Time July 12, 2002, submit the application to the: Technical Information Management Section, 2920 Brandywine Road, Suite 300, Atlanta, Georgia 30341.

Deadline: The applications shall be considered as meeting the deadline if they are received before 5:00 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

Part 1: Planning

a. Workplan, Timeline and Staffing (35 points)

A detailed description of how staffing and planning resources will be allocated and used to accomplish each objective and the overall program goals. The extent to which a clear workplan and time line is included and provides for appropriate methods of assessment, planning, and implementation. This includes the appropriate identification and use of data for planning.

The extent to which the proposed workplan and timeline are realistic, given available resources.

The extent to which the proposal identifies issues and implementation strategies that address specific challenges and barriers to VAW prevention efforts for priority populations such as, but not limited to, racial and ethnic or immigrant populations, gay and lesbian, elderly, rural or other "hard to reach" populations and women with disabilities.

b. Collaboration (25 points)

The extent to which the agencies/institutions/organizations who are named as members of the state advisory committee represent broad areas of expertise. Minimally this committee should include the state/territory/tribal agency's injury prevention department; the state or territory rape prevention and education coordinator; a representative from the state sexual assault coalition; a representative from the state domestic violence coalition; a representative from the state justice agency; and a representative from the state education department. A description of the roles and responsibilities of the member organizations, methods for making decisions, etc. should be included. The extent to which the letters of support from these organizations are included in an Appendix and demonstrate that the applicant and the other collaborating organizations have established a "working partnership" (*e.g.*, all will have active roles in the project).

c. Evaluation (15 points)

The extent to which the applicant has provided Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. The extent to which these measures are objective/quantitative and measure the intended outcome.

The extent to which there is a feasible plan to disseminate the results of the assessment, planning and implementation activities to key stakeholders and to local communities.

Goals and Objectives (10 points)

The extent to which the project goals are relevant and the process or outcome objectives related to the assessment, planning and implementation activities are specific, achievable, measurable, time-linked and can be addressed through the proposed methods.

d. Statement of Need (15 points)

The extent to which the applicant describes the state health agency's current level of activities related to VAW issues.

The extent to which the applicant demonstrates the agency's commitment to planning and implementing effective and culturally competent initiatives addressing VAW, and its capacity to foster effective community collaborations to respond to emerging policy and program issues.

e. Goals and Objectives (10 points)

The extent to which the project goals are relevant and the process or outcome objectives related to the assessment, planning and implementation activities are specific, achievable, measurable, time-linked and can be addressed through the proposed methods.

f. Budget (reviewed, not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with state objectives and proposed activities described in this announcement.

g. Measures of Effectiveness (reviewed, but not scored)

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement. Measures of Effectiveness must relate to the following NCIPC performance goals: (1) Reduce VAW and (2) enhance the capacity of states to implement effective rape prevention and education programs.

Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness shall be submitted with the application and shall be an element of evaluation.

Part 2: Implementation

a. Workplan, Timeline and Staffing (35 points)

A detailed description of how staffing and planning resources will be allocated and used to accomplish each objective and the overall program goals.

The extent to which a clear workplan and timeline is included and provides for appropriate methods of assessment, planning, and implementation. Applicants should demonstrate how data is used in directing the activities to be implemented.

The extent to which the proposed workplan and timeline are realistic, given available resources. The extent to which the proposal identifies issues and implementation strategies that address specific challenges and barriers to VAW prevention efforts for priority populations such as, but not limited to, racial and ethnic or immigrant populations, gay and lesbian, elderly, rural or other "hard to reach" populations and women with disabilities.

b. Collaboration (25 points)

The extent to which the agencies, institutions and/or organizations who are named as members of the state advisory committee represent broad areas of expertise. Minimally this committee should include the state/territory/tribal agency's injury

prevention department; the state or territory rape prevention and education coordinator; a representative from the state sexual assault coalition; a representative from the state domestic violence coalition; a representative from the state justice agency; and a representative from the state education department. A description of the roles and responsibilities of the member organizations, methods for making decisions, etc. should be included. The extent to which the letters of support from these organizations are included in an Appendix and demonstrate that the applicant and the other collaborating organizations have established a "working partnership" (*e.g.*, all will have active roles in the project).

c. Statement of Need (15 points)

The extent to which the applicant describes the state health agency's current level of activities related to VAW issues. The extent to which the applicant demonstrates the agency's commitment to planning and implementing effective and culturally competent initiatives addressing VAW, and its capacity to foster effective community collaborations to respond to emerging policy and program issues. Describe the outcome or product of the previous VAW funding received under PA 99136 and 00119 and the extent to which that process informs this proposal.

d. Evaluation (15 points)

The extent to which the applicant has provided Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. The extent to which these measures are objective/quantitative and measure the intended outcome.

The extent to which there is a feasible plan to disseminate the results of the assessment, planning and implementation activities to key stakeholders and to local communities.

e. Goals and Objectives (10 points)

The extent to which the project goals are relevant and the process or outcome objectives related to the assessment, planning and implementation activities are specific, achievable, measurable, time-linked and can be addressed through the proposed methods.

f. Budget (reviewed, not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with state objectives and proposed activities described in this announcement.

g. Measures of Effectiveness (reviewed, but not scored)

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement. Measures of Effectiveness must relate to the following NCIPC performance goals: (1) Reduce VAW and (2) enhance the capacity of states to implement effective rape prevention and education programs.

Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness shall be submitted with the application and shall be an element of evaluation.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of—

1. Semi-annual progress reports (The progress report will include a data requirement that demonstrates measures of effectiveness).
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial and performance reports, no more than 90 days after the end of the project period.
4. Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the application kit:

AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section I.1]of the Public Health Service Act, [42 U.S.C. section [I.2]], as amended. The Catalog of Federal Domestic Assistance number is 93.136.

J. Where To Obtain Additional Information

In addition to the pre-application conference calls, CDC will provide a guidance document which addresses the program requirements, application content, and evaluation criteria. This guidance document is available as an attachment and also online at *www.cdc.gov/ncipc*.

If you have questions after the technical assistance conference call or with regards to the contents of all the documents, business management assistance may be obtained from: Angie Nation, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2719. E-mail address: *aen4@cdc.gov*.

For program technical assistance, contact: Jocelyn Wheaton, MPH, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop K60, Atlanta, GA 30341–3724, Telephone number: (770) 488–1125, E-mail address: *jwheaton@cdc.gov*.

Dated: May 24, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13637 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Advisory Committee meeting.

Name: Advisory Committee to the Director, CDC.

Time and Date: 8 a.m.–4 p.m., July 18, 2002.

Place: Centers for Disease Control and Prevention, Chamblee Campus; 4770 Buford Highway, Building 102, Rooms 2201 & 2202, Chamblee, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The committee will anticipate, identify, and propose solutions to strategic and broad issues facing CDC.

Matters to be Discussed: Agenda items will include updates from Dr. David W. Fleming, M.D., Acting Director, CDC regarding CDC priorities with discussions of program activities including updates on CDC scientific and programmatic activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Kathy Cahill, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–23, Atlanta, Georgia 30333. Telephone 404/639–7060.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13642 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors Meeting, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.—3 p.m., June 27, 2002.

Place: Washington Court Hotel on Capitol Hill, 525 New Jersey Avenue, NW., Washington, DC 20001, telephone 202/628–2100, fax 202/879–7938.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors shall provide guidance to the Director, National Institute for Occupational Safety and Health on research and preventions programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board shall evaluate the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters to be Discussed: Agenda items include a report from the Acting Director of NIOSH; Report from the BSC Beryllium Subcommittee; Approaches to Occupational Health and Safety for Under-Served Populations; Update on Extramural Grant Programs; Dermal Exposure Research.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Roger Rosa, Executive Secretary, BSC, NIOSH, CDC, 200 Independence Avenue, SW., Room 715H, Washington, DC 20201, telephone (202)205–7856, fax (202)260–4464.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2002.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13633 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: National Institute for Occupational Safety and Health (NIOSH), Standards Development Efforts for Full Facepiece Air-Purifying Respirators (APR) Used to Protect Emergency Response Workers Against Chemical, Biological, Radiological and Nuclear (CBRN) Agents.

Times and Dates: 1 p.m.–5 p.m., June 18, 2002. 9 a.m.–5 p.m., June 19, 2002.

Place: Sheraton Station Square, Pittsburgh, Pennsylvania.

Status: The meeting will be open to the public, limited only by the space available. The meeting room accommodates approximately 200 people.

Requests to make presentations at the public meeting should be mailed to the NIOSH Docket Officer, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone (513) 533–8303, fax (513) 533–8285, or e-mailed to *NIOCINDOCKET@CDC.GOV*. All requests to present should contain the name, address, and telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. Oral presentations should be limited to 15 minutes. After reviewing the requests for presentations, NIOSH will notify each presenter of the approximate time that their presentation is scheduled to begin. If a participant is not present when their presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

The US. Army Soldier and Biological Chemical Command (SBCCOM) and National Institute for Standards and Technology (NIST) plan to hold a related meeting on June 20, 2002 at the same location to discuss the development of chemical and biological personal protection equipment standards and guidelines (other than respirators). They are the lead agencies associated with the development of standards for personal protective equipment, other than respirators, against CBRN agents. For information concerning this June 20, 2002 meeting, please contact: Ms. Elaine Stewart-Craig, Edgewood Chemical Biological Center, SBCCOM, 5183 Blackhawk Road, Aberdeen Proving Ground, MD 21010–5424, ATTN: AMSSB–REN–HD–T, telephone 410–436–2102, fax 410–436–2998, and/or e-mail *Elaine.stewartcraig@sbccom.apgea.army.mil*.

Comments on the topics presented in this notice and at the meeting should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513–533–8303, fax 513/533–8285. Comments may also be submitted by e-mail to: *NIOCINDOCKET@CDC.GOV*. E-mail attachments should be formatted as WordPerfect 6/7/8/9, or Microsoft Word. Comments should be submitted to NIOSH no later than July 15, 2002, and should reference docket number, NIOSH–002, in the subject heading.

Purpose: The purpose of the meeting is to present concepts for proposed approval standards and testing precesses for full facepiece Air-Purifying Respirators (APR) suitable for use by first responders against CBRN

agents; concepts and priorities for the development and implementation of standards for other classes of respirators; and research work to identify stimulant materials for use as CBRN test surrogates for respirator research and development efforts. NIOSH and its standards development partners, U.S. Army Soldier and Biological Chemical Command (SBCCOM) and the National Institute for Standards and Technology (NIST), will present information to attendees concerning the development of the concepts and priorities being considered for the development of standards for the various classes of respirators. Participants will be given an opportunity to ask questions and to present individual comments that they may wish to have considered. Interested participants may obtain a copy of the APR CBRN standard concept paper from the NIOSH contact identified below, or from the NIOSH National Personal Protective Technology Laboratory Web site, address: *http://www.cdc.gov/niosh/npptl.*

Recent acts of terrorism have created an urgent awareness of domestic security and preparedness issues. Municipal, states, and federal responder groups, particularly those in locations considered potential targets, have been developing and modifying response and consequence management plans. Since the World Trade Center and anthrax incidents, most emergency response agencies have operated with a heightened appreciation of the potential scope and sustained resources requirements for coping with such events. The federal Interagency Board for Equipment Standardization and Interoperability (IAB) has worked to identify personal protective equipment that is already available on the market for responders' use. The IAB has identified the development of standards or guidelines for respiratory protection equipment as a top priority. NIOSH, NIST, National Fire Protection Association and the Occupational Safety and Health Administration have entered into a Memorandum of Understanding defining each agency or organization's role in developing, establishing and enforcing standards or guidelines for responders' respiratory protective devices. NIST has initiated Interagency Agreements with NIOSH and SBCCOM to aid in the development of appropriate protection standards or guidelines. NIOSH has the lead in developing standards or guidelines to test, evaluate and approve respirators.

NIOSH, SBCCOM, and NIST hosted a public meeting April 17 and 18, 2001, and presented their progress in assessing respiratory protection needs of responders to chemical, biological, radiological and nuclear incidents. The methods or models for developing hazard and exposure estimates, and the status in evaluating test methods and performance standards that may be applicable as future chemical biological, radiological, and nuclear respirator standards or guidelines were discussed at that meeting. On December 28, 2001, NIOSH announced standards for the evaluation and approval of Self Contained Breathing Apparatus to protect emergency responders against chemical, biological, radiological, and nuclear agents. NIOSH and SBCCOM are in the process of developing chemical, biological, radiological and nuclear respiratory protection standards and guidelines for full facepiece Air-Purifying Respirators (APR) as well as other classes of respirators. The June 18 and 19, 2002 public meeting will provide an update on those activities.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Szalajda, NIOSH, PO Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236, telephone 412/386–6627, fax 412/386–6747 and/or e-mail: *respcert@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13639 Filed 5–30–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1209–N]

Medicare Program; Notice of Modification of Beneficiary Assessment Requirements for Skilled Nursing Facilities

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: As part of the Secretary's Regulatory Reform Initiative, this notice offers to skilled nursing facilities (SNFs) the option of using a modified, shorter version of the minimum data set (MDS) to satisfy the Medicare SNF payment and quality requirements. The Medicare SNF prospective payment system rates are based on the assignment of beneficiaries to case-mix classification groups. Beneficiaries are assigned to groups based on the information collected by the SNF staff and recorded on the MDS. The quality measures are also derived from the information recorded on the MDS and all of those items are included in this modified, shorter version. This shorter version of the MDS will reduce the burden on SNFs by approximately one-half, which may result in saving a significant amount of time that could be made available to staff for the provision of beneficiary care. We are offering to SNF providers the option of using the shorter version of the MDS to meet the requirements to receive payment for Part A SNF stays.

DATES: This notice is effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Dana Burley (410) 786–4547.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) has made regulatory reform a priority. To further this goal, the Secretary established an Advisory Committee on Regulatory Reform to provide advice on potential administrative and regulatory changes that could reduce burdens and costs while maintaining or enhancing effectiveness and access to health care. In order to fulfill its mandate, among other activities, the committee has held public hearings, heard testimony from providers and beneficiary groups, and visited a skilled nursing facility (SNF) to examine the regulatory burdens imposed on SNFs.

During the course of its deliberations, the Advisory Committee examined the minimum data set (MDS) and identified almost two dozen MDS areas for review. While affirming the critical contribution of the MDS to quality, the committee has identified some MDS issues that relate to the size of the instrument and the need to focus data collection on payment, outcome, and survey purposes. The modifications announced in this notice address one of the issues identified in the course of the activities undertaken by the Advisory Committee.

In this notice, we are announcing the option of using a shorter MDS developed for use by providers to assess Medicare beneficiaries for purposes of the SNF prospective payment system (PPS) assessment requirements during their Part A covered SNF stays. This is one step in our ongoing effort to streamline our regulatory requirements for providers who participate in the Medicare program and for our beneficiaries.

The current Medicare assessment requirements are based on section 4432(a) of the Balanced Budget Act of 1997 (BBA), that amended section 1888(e) of the Social Security Act (the Act), which mandated implementation of a Medicare skilled nursing facility (SNF) prospective payment system. Section 1888(e)(4) of the Act provides the basis for establishing the per diem Federal payment rates applied under the PPS and sets forth the formula for the rates, including the data on which they are based. In addition, this section of the Act requires annual adjustments to the PPS rates based on geographic variation and SNF case-mix and prescribes the methodology for updating the rates in future years.

The PPS case-mix adjustments are derived from the clinical information collected by providers about Medicare Part A covered beneficiaries during their SNF stays, using the minimum data set (MDS). As a result of a mandate contained in the nursing home reform legislation in the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), a uniform MDS was required as a part of the comprehensive resident assessment for all certified long-term care facilities. The provisions of OBRA '87 require that certified long-term care facilities collect information concerning all residents to support care planning activities. Comprehensive assessments, using the MDS, are required at admission (no later than 14 days following admission), annually, and upon a significant change in a resident's condition. In addition, quarterly reviews of each resident are required. A shorter version of the MDS has been developed for these quarterly assessments.

With implementation of the SNF PPS, providers were required to perform MDS assessments of all beneficiaries in Medicare Part A covered stays on days 5, 14, 30, 60, and 90 of their Medicare covered stays. The assessments required for the SNF PPS are in addition to those required by the OBRA '87, although there is often overlap in the timing of the required assessments so that one assessment may be used to satisfy both the OBRA '87 and SNF PPS requirements.

At the time of implementation of the SNF PPS, we were aware that some refinements to the payment system might be required as we learned more during the national operational period. However, because of what we learned from the demonstration, and in order to have full national level data on Medicare beneficiaries (including their resource use requirements), we did not believe that a shorter version of the MDS was appropriate at that time.

The SNF PPS has now been in place for more than 2 full years and we believe that it is now feasible to offer providers the option of using a shorter version of the MDS. There is no regulatory impediment to our making available, as an option, a shorter version of the MDS for purposes of Medicare payment and quality monitoring. We find that the information that we have collected from the full MDS since implementation of the Medicare SNF PPS, which is stored in the National MDS Repository, in addition to the continued collection of information from both the full MDS and the optional shorter version, are adequate to support payment, program integrity, quality monitoring, and provider and beneficiary educational activities.

The OBRA '87 requirements remain unchanged. Only those MDS assessments that are performed solely for the purpose of satisfying the Medicare SNF PPS assessment requirements are affected by this decision to offer a shorter version of the MDS. For those Medicare SNF PPS assessments, SNFs may, at their option, use a shorter version of the MDS, the Medicare PPS Assessment Form, Version 2002 (MPAF). This shorter version of the MDS will be available for provider use beginning July 1, 2002 and is currently available on the SNF PPS web site at *www.hcfa.gov/medicare/SNFPPS.htm.* The MPAF contains all of the MDS items needed to calculate the beneficiary's RUG–III classification and Quality Indicators.

The nursing home reform provisions of the OBRA '87 established the MDS as key to the process for ensuring the quality of care for nursing home residents. All current assessments address quality of care, although the OBRA '87-required 14-day and 90-day assessments are intended primarily for quality evaluation and care planning support. The shorter version of the MDS offered in this notice in no way undermines the important quality assurance and care planning support functions of the process. We remain committed to the ongoing collection of information, as specified in the OBRA '87, as a cornerstone of the provision of high quality care for all long term care facility residents.

In addition to the quality provisions of OBRA '87, the Secretary has initiated a Nursing Home Quality Initiative, designed to assess the quality of care provided by SNFs. As an integral part of this initiative, we are making information about local nursing homes available to members of the communities in which they operate. The first step in this process, to pilot test quality measures and publish those scores, is underway in 6 States (Florida, Maryland, Ohio, Rhode Island, Washington, and Colorado). Quality measurement and assuring that high quality care is provided to all residents in certified nursing facilities remains a priority and will be the focus of ongoing research activity. Therefore, the MPAF was designed so that it includes all of the data elements required to derive all of the current quality measures.

Due to our strong interest in quality assurance and our ongoing research efforts related to outcome measures for quality, as well as MDS accuracy, new payment and classification systems and assessment instruments across post-acute care settings, it is certain that, over time, the scope and content of items included on all MDS assessment instruments will change. For example, we are planning to modify the full MDS in order to simplify some items and update others, according to clinical practices. This modification will be the MDS 3.0, which we expect to complete in 2004. Similarly, we are engaged in a significant effort to develop tools to help providers educate staff and assure the accuracy of their MDS assessments. This work is being performed through a Program Safeguard contract and includes monitoring of other aspects of nursing facility practices, in addition to the MDS accuracy studies. We will also work on developing systems by which we can monitor MDS assessments on a national level.

II. Development of the MPAF

Development of this new, shorter version of the MDS was based on the RUG–III Quarterly, Optional Version, 1997 Update. This version of the MDS contains almost all of the items needed to calculate the Medicare RUG–III case-mix classification groups and is already part of the State standard MDS systems. However, the RUG–III Quarterly does not include Sections AA8b and T of the MDS that are essential for the PPS, the risk adjustment items necessary for calculating the Quality Indicators, certain items required for the Quality Medical Review function of the Peer Review Organizations (PROs), or items we believed may be useful for refinements to the payment system.

The addition of items to the RUG–III Quarterly from the MDS to satisfy the

requirements of ongoing Medicare payment policy research, PRO tasks, and quality monitoring resulted in an assessment form that is somewhat longer than the RUG–III Quarterly, but still significantly shorter than the full MDS.

III. Optional Use of the MPAF

The MPAF will be available for use July 1, 2002. Providers may choose to use this shorter version of the MDS to satisfy the Medicare SNF PPS requirements for assessments at days 5, 14, 30, 60, and 90 of Medicare Part A covered stays. The requirement for an Other Medicare Required Assessment (OMRA) 8 to 10 days after cessation of all rehabilitation therapy may also be satisfied by using the MPAF.

With the implementation of the SNF PPS, compliance with the OBRA '87 requirement for an Initial Admission Assessment by the 14th day and the Medicare SNF PPS requirements for an assessment at days 5 and 14 has been met routinely by performing one assessment to meet both requirements. This has been a fairly seamless combination of requirements, since the SNF PPS requirements, before the implementation of this optional MPAF, called for a full MDS assessment and the Initial Admission Assessment also required the full MDS, as well as additional care planning activities. It will still be possible to use one assessment to comply with both the OBRA '87 clinical rules and the Medicare SNF PPS assessment requirements. The provider will be required to meet the more rigorous standard (comprehensive assessment to comply with the requirement for an initial admission assessment) and may use that assessment to comply with the lesser Medicare requirement.

IV. Implementation

The items on the MPAF are the same as they appear on the full MDS. We have not altered wording, instructions for completion, or numbering in development of the MPAF. For example, MDS item I1m (hip fracture) on the full MDS is also item I1m (hip fracture) on the MPAF, even though on the MPAF this item is followed by I1r (aphasia), rather than I1n (missing limb), which has been removed from this shorter version of the assessment form. Since our intent in providing this revised, shortened version of the MDS is to alleviate burden on providers, we have maintained the ordering and numbering system of the MDS items. We believe that this will minimize confusion for clinical staff who are used to the item numbering as it exists on the full version of the MDS and support ease of use of the revised version.

With the implementation of the MPAF, the burden on SNF providers will also be lessened. Once the MPAF is implemented, we will no longer require a Medicare SNF PPS assessment to be performed using the full MDS. Rather, only the new MPAF will be required. The MPAF will be essentially a RUG–III 1997 Update Quarterly assessment form with items added to allow evaluation of SNF quality of care.

Beginning July 1, 2002, facilities will have the option to (1) submit Medicare SNF PPS records using only the MPAF items, or (2) continue to submit Medicare SNF PPS records using the full MDS. The standard MDS system used by the States will accept either type of record as valid. The standard system will validate and store only the set of MPAF items. Additional items will be ignored by the system. Some providers may wish to continue to send a full MDS assessment to avoid revising MDS data entry software. If that is the case, no submission errors or warnings will result.

When a Medicare SNF PPS assessment would be coupled with a required clinical assessment (for example, a 14-day Medicare SNF PPS assessment combined with an initial admission assessment) we will require the MDS record to include all of the MPAF items plus any additional items required by the clinical assessment, in order to satisfy both sets of assessment requirements.

If any Medicare SNF PPS assessment is combined with a comprehensive assessment (initial assessment, annual assessment, significant change in status assessment, or significant correction of prior full MDS assessment), we will require the record submitted to include all comprehensive assessment items.

When a Medicare SNF PPS assessment is coupled with a quarterly assessment or a significant correction of a prior quarterly assessment, we will require the record submitted to include all MPAF items and any additional items required on the State's quarterly assessment. In States using our standard minimum quarterly or standard RUG–III quarterly assessment, the MPAF items will include all items on the quarterly assessments, and only the MPAF will be required. In States that require additional quarterly items, not included on the MPAF, those additional items will be required to be included on a combined Medicare SNF PPS and quarterly assessment record. For example, in the 7 States that require a full MDS assessment as the quarterly assessment, a record combining a Medicare SNF PPS assessment and a quarterly assessment will have to include all of the full MDS items.

V. Collection of Information Requirements

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA), the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper functions of the agency's functions; (2) the accuracy of our estimate of the information collection burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the PRA, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320. We cannot reasonable comply with the normal clearance procedures because the MPAF will be effective on July 1, 2002.

We are requesting OMB review and approval of this collection within 15 days of the date of this publication, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 14 days of this publication. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements.

Summary: SNFs are required to submit the resident assessment data described at 42 CFR 483.20, in the manner necessary to administer the payment rate methodology described in § 413.337. Pursuant to sections 4204(b) and 4214(d) of OBRA '87, the current requirements related to the submission and retention of resident assessment data are not subject to the PRA. However, the requirement to maintain performance of patient assessment data for days 5, 30, and 60 following admission, necessary to administer the payment rate methodology described in § 413.337, is subject to the PRA, and is approved by OMB under approval number 0938–0739, with a current expiration date of April 30, 2003.

Since we are now making the collection and submission of certain MDS items optional, as referenced in this notice, we are soliciting comments on the optional data elements and burden reduction associated with the revised reporting requirements.

We have submitted a copy of this notice to OMB for its review of the information collection requirements.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access our web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, telephone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office at (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within 14 days of the publication of this notice:

Centers for Medicare & Medicaid Services, Office of Information Services, Standards and Security Group, Division of CMS Enterprise Standards, 7500 Security Boulevard, Room N2–14–26, Baltimore, MD 21244–1850, Fax: (410) 786–0262 Attn: John Burke, CMS–1209–N, and,

Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, Fax: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, CMS Desk Officer, CMS–1209–N.

VI. Regulatory Impact Analysis

We have examined the impact of this notice as required by Executive Order 12866, the Unfunded Mandates Reform Act (UMRA, Pub. L. 104–4), the Regulatory Flexibility Act (RFA, Pub. L. 96–354), and the Federalism Executive Order 131232.

Executive Order 12866 directs agencies to assess costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). This notice is not significant as defined in Title 5, United States Code, section 804(2).

The UMRA also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure in any year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million or more. This notice will have no consequential effect on State, local, or tribal governments. We believe the private sector cost of this notice falls below these thresholds as well.

Executive Order 13132 (effective November 2, 1999) establishes certain requirements that an agency must meet when it promulgates regulations that impose substantial direct compliance costs on State and local governments, preempt State law, or otherwise have Federalism implications. As stated above, this notice will have no consequential effect on State and local governments.

The RFA requires agencies to analyze options for regulatory relief on small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and governmental agencies. Most SNFs and most other providers and suppliers are small entities, either by virtue of their nonprofit status or by having revenues of $10 million or less annually. For purposes of the RFA, all States and tribal governments are not considered to be small entities, nor are intermediaries or carriers. Individuals are also not included in the definition of a small entity. The provisions of this notice, to make available a shorter version of the MDS to meet Medicare payment requirements, creates no additional regulatory burden on small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. This notice only applies to those few small rural hospitals that have distinct-part skilled nursing units. For those few providers, the option provided by this notice decreases the regulatory burden and requires no action by the provider.

We do not believe that there will be any negative effect on either the quality of care delivered, or on our ability to monitor the quality of that care, as a result of decreasing the amount of clinical information that will be collected for Medicare beneficiaries during their SNF stays. The MPAF includes all of the assessment items required for the resident assessment instrument by the OBRA '87, as well as all of the items to support current quality monitoring. Further, the Secretary's Advisory Committee on Regulatory Reform strongly favored a reduction of the amount of data collection required from nursing facilities, an indication of the expected reception by the public of this new version of the MDS.

Facilities may be concerned about making changes to their computer systems in order to be able to enter and transmit the MPAF electronically. We note that there is no requirement for facilities to integrate this version of the MDS into their systems. The facility has complete discretion regarding when, and if, it chooses to begin use of this assessment form. The RAVEN grouper and MDS transmission software that is available at no cost from our web site at *www.hcfa.gov/medicare/mds20/mdssoftw.htm* will support the use of the MPAF. Also, the State systems will accept the MPAF beginning July 1, 2002.

We estimate that the MPAF will require approximately half as much time to complete as the full MDS. Completion of the MPAF will require approximately 45 minutes, compared to approximately 90 minutes required to complete the MDS currently in use. Depending on the SNF's level of Medicare participation, use of the MPAF may result in saving a significant amount of time that could be made available to staff for the provision of beneficiary care.

VII. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice such as this take effect. We can waive this procedure, however, if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of

the finding and its reasons in the notice issued.

We find that it is unnecessary and contrary to the public interest to undertake notice and comment rulemaking because this notice merely provides SNFs with the option to use a shorter version of the MDS to satisfy the Medicare assessment requirements, thus, lessening the burden on the SNF providers. There is no change to the current practices of SNF providers in completing the MDS resident assessment instrument. Therefore, for good cause, we waive prior notice and comment procedures.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 12, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 24, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–13613 Filed 5–24–02; 4:53 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation; Grant to Montana Child Care Resource and Referral Network

AGENCY: Office of Planning, Research and Evaluation, ACF, DHHS.

ACTION: Award Announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to Montana Child Care Resource and Referral Network to develop a revolving fund program that will offer low-interest loans to child care businesses.

As a Congressional set-aside, this 17-month project is being funded noncompetitively. This project has the potential for creating innovative collaborative mechanisms at the local level for building a quality child care system. The cost of this 17-month project is $200,000.

FOR FURTHER INFORMATION CONTACT: K.A. Jagannathan, Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone: 202–205–4829.

Dated: May 20, 2002.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 02–13628 Filed 5–30–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Special Volunteer and Guest Researcher Assignment

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on January 31, 2002, (Volume 67, Number 21) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Special Volunteer and Guest Researcher Assignment.

Type of Information Collection Request: Extension of OMB No. 0925–0177; 07/31/02.

Need and Use of Information Collection: Form NIH–590 records, names, address, employer, education, and other information on prospective Special volunteers and Guest Researchers, and is used by the responsible NIH approving official to determine the individual's qualifications and eligibility for such assignments. The form is the only official record of approved assignments.

Frequency of Response: On occasion.

Affected Public: Individuals or households.

Type of Respondents: Guest Researcher and Special Volunteer candidates.

Estimated Number of Respondents: 1,630.

Estimated Number of Responses Per Respondent: 1.

Average Burden Hours Per Response: .1.

Estimated Total Annual Burden Hours Requested: 163. There are no Capitol Costs, Operating Costs, and/or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Guest Researcher	400	1	.1	40
Special Volunteer	1230	1	.1	123
TOTAL	1630	1	.1	163

Requests for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and the clarity of information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments To: Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Edie Bishop, HR Consultant, OD, NIH, Office of Human Resource Management, Senior and Scientific Employment Division, Building 31, Room B3C07, 31 Center Drive MSC 2203, Bethesda, MD 20892–2272.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: February 27, 2002.

Stephen C. Benowitz,

Director, Office of Human Resource Management.

[FR Doc. 02–13713 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Enhanced Distribution of Therapeutic Agents After Local Delivery

Krys Bankiewicz et al. (NINDS)
U.S.P.A. Nos. 60/250,286 filed 30 Nov 2000 and 60/286,308 filed 25 Apr 2001
Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: *np59n@nih.gov*

Many experimental therapies will rely on the local parenchymal delivery of macromolecules or nucleic acids for their success. However, the volume of distribution of many of these potential therapeutic agents is restricted by their interactions with the extracellular matrix and cellular receptors. Heparin-sulfate proteoglycans are a cell surface component which bind to many different types of molecules such as growth factors, cytokines and chemokines and viruses such as cytomegalovirus, herpes simplex virus and HIV.

These inventions provide a method of dramatically increasing the volume of distribution and effectiveness of certain therapeutic agents after local delivery by the use of facilitating agents as described in Neuroreport. 2001 Jul 3;12(9):1961–4 entitled "Convection-enhanced delivery of AAV–2 combined with heparin increases TK gene transfer in the rat brain" and in Exp Neurol. 2001 Mar;168(1):155–61 entitled "Heparin coinfusion during convection-enhanced delivery (CED) increases the distribution of the glial-derived neurotrophic factor (GDNF) ligand family in rat striatum and enhances the pharmacological activity of neurturin." These methods are especially useful when used in conjunction with technology described and claimed in U.S. Patent 5,720,720 entitled "Convection-enhanced drug delivery." Licenses for methods to enhance the distribution of all claimed therapeutics except adeno-associated viral vectors are available.

Sol Fusin: Use of GP64–6HIS to Catalyze Membrane Fusion

D. H. Kingsley and J. J. Zimmerberg (NICHD)
DHHS Reference Nos. E–113–99/0 filed 18 Feb 1999 and E–113–99/1 filed 15 Nov 2001
Licensing Contact: Pradeep Ghosh; 301/496–7736 ext. 211; e-mail *ghoshp@od.nih.gov*

An efficient drug delivery system is a necessity for a wide range of therapeutic interventions. This technology pertains to a process related to the solubilizing of insoluble membrane proteins, thus generating soluble and functional version (sol-proteins) of previously insoluble proteins. Specifically, the invention relates to the addition of histidine amino acids to the cytoplasmic domains of membrane and viral envelope proteins for the purpose of solubilizing, purifying and/or reconstituting functional viral envelope proteins in lipid-containing vesicles. The modified protein mediates fusion of the resulting vesicular membrane with other lipid membranes, thus creating an efficient delivery system. The proteins in this form have been referred to as "sol-fusin" and the resultant sol-fusin/liposome complex is potentially able to catalyze delivery of therapeutic, genetic, or antigenic compounds both in vivo and in vitro. Thus, pharmaceutical and vaccine manufacturers may use these proteoliposomes as tools to deliver active therapeutic, genetic or antigenic agents without destruction by lysosomes. In addition to being useful as a delivery tool, the sol-fusin/ liposomes can be used to mimic viral infections. The triggering of sol-fusin is low pH-dependent, and thus may perhaps facilitate oral ingestion and gastrointestinal absorption of the bioactive agents because of their direct membrane fusion mediating activity.

Dated: May 23, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–13731 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, NIH, June 6, 2002, 8:30 AM to June 6, 2002, 4:30 PM, 31 Center Drive, Building 31, Room 4C32 (NIAMS Conference Room), Bethesda, MD, 20892 which was published in the **Federal Register** on May 22, 2002, 67 FR 97.

The Advisory Committee to the Director, NIH, will be meeting in Conference 10, Building 31C, National Institutes of Health, Bethesda, Maryland. The meeting date and time remain the same. The meeting is open to the public.

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13717 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NHLBI, June 6, 2002, 8 a.m. to June 7, 2002, 5 p.m., National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7S235, Bethesda, MD 20892 which was published in the **Federal Register** on April 18, 2002, FR Vol. 67 Pg. 19197.

The Board of Scientific Counselors, NHLBI meeting date was changed from June 6–7, 2002, to June 6, 2002. Time and location remain the same. The meeting is closed to the public.

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13716 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, CIPRA R03 Review.

Date: June 21, 2002.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yen Li, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7616, 301–496–2550. *yli@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13714 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Effects of Hypoglycemia on Neuronal and Glial Cell Function.

Date: June 28, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Embassy Row, 2100 Massachusetts Ave., Washington, DC 20008.

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0600.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders, 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13715 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Population Research Subcommittee.

Date: July 10–11, 2002.

Time: 7:30 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Jon M. Ranhand, PHD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Blvd., Rm. 5E01, MSC 7510, Bethesda, MD 20892. (301) 435–6884,

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13718 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel—Cognition in Schizophrenia.

Date: July 1, 2002.

Time: 8:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC 9606, Bethesda, MD 20892–9606, (301) 443–1225, *rweise@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13719 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associate with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Services RISP.

Date: June 17, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20892–9608. 301/443–7216. *hhaigler@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Minority Training in Genetics, Neuroendocrinology, and Psychopathology.

Date: June 19, 2002.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606. 301/443–1513. *psherida@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, "Binge eating Intervention".

Date: June 20, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606. 301–443–6470. *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Minority Clinical Training in Mental Health.

Date: July 1, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606. 301–443–1513. *psherida@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, "Intermittent Explosive Disorder".

Date: July 16, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606. 301–443–6470. *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, "Depression and Treatment Intervention".

Date: July 19, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606. 301–443–6470. *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13720 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, CIPRA.

Date: June 20, 2002.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Yen Li, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7616. 301 496–2550. *yli@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13721 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee, AIDS Research Review Committee.

Date: June 26–27, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Ave., Washington, DC 20007.

Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2209, 6700B Rockledge Drive, Bethesda, MD 20892–7616. 301–496–2550. *rb169n@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13722 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Inhalant Abuse: Supporting Broad-Based Research Approaches.

Date: June 20–21, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Khursheed Asghar, PhD, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

Date: June 26, 2002.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Khursheed Asghar, PhD, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Centers Review Committee.

Date: July 1–2, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1388.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13723 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Neurological Disorders and Stroke Council, May 30, 2002, 8:00 a.m. to May 30, 2002, 10:00 a.m., National Institutes of Health, Building 31, A Wing, Conference Room 8A28, 31 Center Drive, Bethesda, MD, 20892, which was published in the **Federal Register** on May 2, 2002, 67 FR 02–10911.

The location of the Clinical Trials Subcommittee meeting has been changed to Building 31, Conference Room 10, The meeting is partially Closed to the public.

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13724 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Cancellation of Meeting

Notice is hereby given of the cancellation of the Infrastructure, Neuroinformatics, and Computational Neuroscience Subcommittee meeting scheduled on May 30, 2002, 8:00 AM to 10:00 AM, National Institutes of Health, Building 31, C Wing, Conference Room 9, 9000 Rockville Pike, Bethesda, MD, 20892 which was published in the **Federal Register** on May 2, 2002, 67 FR 02–10911.

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13725 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, U.S. Based Collaboration in Emerging Viral abd Prion Diseases (Prion).

Date: June 21, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mark S. Hanson, PHD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 2217, 6770B Rockledge Drive, MSC–7616, Bethesda, MD 20892. 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13726 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Comprehensive International Program for Research on AIDS (CIPRA).

Date: June 18, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, Rm 2155, Bethesda, MD 20892, 301–496–7966, *rb169n@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 24, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13727 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Cortical Control of Neural Prostheses.

Date: June 20, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6001 Executive Blvd, Room 3203, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5388.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13729 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Reproductive Endocrinology Study Section, June 12, 2002, 8:00 AM to June 13, 2002, 3:00 PM, Bethesda Marriott Suites, 6711

Democracy Boulevard, Bethesda, MD, 20817 which was published in the **Federal Register** on May 17, 2002, 67 FR 35126–35128.

The meeting has been changed to June 10–11, 2002. The time and location remain the same. The meeting is closed to the public.

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13728 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associate with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Infectious Diseases and Microbiology integrated Review Group, Experimental Virology Study Section.

Date: June 11–12, 2002.

Time: 8:30 am to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 General Medicine B(17).

Date: June 12, 2002.

Time: 12 pm to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Hematology Subcommittee 1.

Date: June 13–14, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert Su. PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Tropical Medicine and Parasitology Study Section.

Date: June 13–14, 2002.

Time: 8:30 am to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship (F02A) Study Section.

Date: June 18, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Robert Eskay, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, 301–435–1247.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 4.

Date: June 19–20, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo, 2121 P Street, NW, Washington, DC 20037.

Contact Person: Dan Kenshalo, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 19, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin, Avenue, Bethesda, MD 29814.

Contact Person: Richard Marcus, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245.

Name of Committee: Infectious Diseases and Microbiology Integrated Review, Group, Bacteriology and Mycology Subcommittee 2.

Date: June 19–20, 2002.

Time: 8:30 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, N.W., Washington, DC 20037.

Contact Person: Timothy J Henry, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, 301–435–1147.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–F (01).

Date: June 19, 2002.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Weston Grand Hotel, 2350 M Street, NW, Washington, DC 20037–1417.

Contact Person: Calbert A. Laing, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, 301–435–1221, laingc@csr.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–X (21 Imaging.

Date: June 19, 2002.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 Biochemistry (01).

Date: June 19, 2002.

Time: 5 pm to 8 pm.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BDCN–3 (01).

Date: June 19–21, 2002.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Swissotel Washington, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, simpsod@mail.nih.gov

Name of Committee: Integrative, Functional and Cognitive Neuroscinece Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 1.

Date: June 19–20, 2002.

Time: 8:30 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Social Sciences, Nursing, Epidemilogy and Methods Integrated Review Group, Social Sciences, Nursing, Edipemiology and Methods 2.

Date: June 20–21, 2002.

Time: 8 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Yvette Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Retina Study Section, ZRG1 VISC (01) Q.

Date: June 20–21, 2002.

Time: 8 am to 4 pm

Agenda: To review and evaluate grant applications.

Place: Crowe Plaza Hotel, 14th & K Streets, NW., Washington, DC 20005.

Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910. *chaitinm@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1—Surgery, Radiology and Bioengineering (08)—DK RFA.

Date: June 20, 2002.

Time: 8 am to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eileen W. Bradley, DSC, Chief and Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179.*bradleye@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 RPHB–4 (01).

Date: June 20–21, 2002.

Time: 8:30 am to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street, NW., Washington, DC 20004.

Contact Person: Michael Micklin, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258.*micklinm@csr.nih.gov*

Name of Committee: Social Sciencies, Nursing, Epidemiology and Methods Integrated Review Group, Nursing Research Study Section.

Date: June 20–21, 2002.

Time: 8:30 am to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Gertrude McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BECM (01).

Date: June 20–21, 2002.

Time: 8:30 am to 6 pm

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Noni Byrnes, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, 301–435–1217.*byrnesn@csr.nih.gov*

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Bio-Organic and Natural Products Chemistry Study Section.

Date: June 20–21, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*•

Name of Committee: Biochemical Sciences Integrated Review Group, Biochemistry Study Section.

Date: June 20–21, 2002.

Time: 8:30 am to 2 pm.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739, *gangulyc@csr.nih.gov.*

Name of Committee: Immunological Sciences Integrated Review Group, Immunological Sciences Study Section.

Date: June 20–21, 2002.

Time: 8:30 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, *politisa@csr.nih.gov.*

Name of Committee: Immunological Sciences Integrated Review Group 5, Experimental Immunology Study Section.

Date: June 20–21, 2002.

Time: 8:30 am to 11 pm.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 30892, (301) 435–3566, *cooperc@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 3.

Date: June 20–21, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue NW., Washington, DC 20036.

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 1.

Date: June 20–21, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.

Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *sayrem@csr.nih.gov*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Microbial Physiology and Genetics Subcommittee 2.

Date: June 20–21, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036–3305.

Contact Person: Rona L. Hirschberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Biophysical Chemistry Study Section.
Date: June 20–21, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Hilton Hotel, 8727 Colesville Road, Silver Spring, MD 20910.
Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SNEM–1 (01)
Date: June 20–21, 2002.
Time: 9 am to 3 pm.
*Agenda:*To review and evaluate grant applications.
Place: Madison Hotel, Fifteenth & M Street, NW., Washington, DC 20005.
Contact Person: Ellen K. Schwartz, EDD Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, *schwarte@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 8.
Date: June 20–21, 2002.
Time: 9 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Holidiay Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PTHB (03).
Date: June 20, 2002.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call.
Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–U (02).
Date: June 20–22, 2002.
Time: 6 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Randolph Addison, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025, addisonr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SNEM–5 (01).
Date: June 21, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Madison Hotel, Fifteenth & M Streets NW., Washington, DC 20005.
Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301–435–0695.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BBBP–7 (01).
Date: June 21, 2002.
Time: 9 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507, niw@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PC (03)—Biotin-Dependent Enzymes.
Date: June 21, 2002.
Time: 11:30 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CVB (02)—Novel RNA promoting heart development.
Date: June 21, 2002.
Time: 1:30 pm to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892, (301) 435–1169, dowellr@drg.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BBBP–6 (02).
Date: June 21, 2002.
Time: 4 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 23, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Commitee Policy.

[FR Doc. 02–13730 Filed 5–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Modification/Clarification of Eligibility for the SAMHSA/HRSA Collaboration To Link Health Care for the Homeless Programs and Community Mental Health Agencies Grant Program

AGENCY: Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice of modification/clarification of eligibility the SAMHSA/HRSA Collaboration to Link Health Care for the Homeless Programs and Community Mental Health Agencies.

SUMMARY: This notice is to inform the public of a correction to the SAMHSA/CMHS grant announcement No. SM02–013, SAMHSA/HRSA Collaboration to Link Health Care for the Homeless Programs and Community Mental Health Agencies (Short Title: HCH/CMHA Collaboration Project). SAMHSA has made a correction to the eligibility requirement to include public community mental health facilities that are licensed, accredited, certified, or chartered by appropriate certification or credentialing bodies to provide mental health services. Check the **Federal Register** dated May 3, 2002, and/or the SAMHSA web site for notice of the grant announcement at *http://www.samhsa.gov/.*

The HCH/CMHA Collaboration Project foster collaborations between Health Care for the Homeless programs and community mental health agencies to increase the availability of mental health and primary care services for persons with serious mental illnesses who are homeless. Awards range from $150,000 to $200,000 in total costs.

Program Contact: For questions concerning this program, contact:

Pamela J. Fischer, Ph.D., Homeless Programs Branch, Suite 11C–05, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4569, Fax 301–443–0256, E-mail: *pfischer@samhsa.gov.*

Dated: May 24, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–13738 Filed 5–30–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreement for National Community Antidrug Coalition Institute (SP 02–006), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2002 (in millions)	Est. number of awards	Protect period (in years)
Cooperative Agreement for National Community Antidrug Coalition Institute.	July 10, 2002	$2.0	1	6

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention (CSAP) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement to develop and implement the National Community Antidrug Coalition Institute. The goal of the National Community Antidrug Coalition Institute is to develop and build the capacity of community coalitions to successfully reduce substance abuse. Public Law 107–82, section (4) (c) authorizes the Institute to use approaches to address this goal:

(1) Provide education, training, and technical assistance for coalition leaders and community teams, with emphasis on the development of coalitions serving economically disadvantaged areas;

(2) Develop and disseminate evaluation tools, mechanisms, and measures to better assess and document coalition performance measures and outcomes; and

(3) Bridge the gap between research and practice by translating knowledge from research into practical information.

Eligibility: Any national nonprofit organization that represents, provides technical assistance and training to, and has special expertise and broad, national-level experience in community antidrug coalitions under the Drug-Free Communities Support Program. (See Public Law 107–82, section 4(b), which cites section 1032 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1532) which also may be cited as the Drug-Free Communities Act of 1997.)

Availability of Funds: In FY 2002, approximately $2,000,000 will be available for the total costs (direct and indirect) for one awards. Estimated subsequent annual awards are anticipated to be $2 million in FY 2003; $1 million in FY 2004; $1 million in FY 2005; $750,000 in FY 2006, and $750,000 in FY 2007. Awards may be requested for up to 6 years. Annual continuation of the award depends on the availability of funds and progress achieved.

Period of Support: An award may be requested for a project period of up to 6 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Boris Aponte, Ph.D., CSAP/SAMHSA, Rockwall II Building, Suite 800, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2290, E-Mail: baponte@samhsa.gov.

For questions regarding grants management issues, contact: Steve

Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: shudak@samhsa.gov

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2002 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 24, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–13739 Filed 5–3–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–22]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 22, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 02–13302 Filed 5–30–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final Environmental Impact Statement for the Stillwater National Wildlife Refuge Complex Comprehensive Conservation Plan and Boundary Revision

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the U.S. Fish and Wildlife Service (Service) announces the availability of the Final Environmental Impact Statement for the Stillwater National Wildlife Refuge Complex Comprehensive Conservation Plan and Boundary Revision (Final CCP EIS), Churchill and Washoe Counties, Nevada. Five alternatives for management of the Stillwater National Wildlife Refuge Complex, including a no-action alternative, and four alternative boundaries were considered during the planning process.

DATES: A Record of Decision will be signed no sooner than July 1, 2002.

ADDRESSES: The Final CCP EIS is available on the internet via the Fish and Wildlife Service Region 1 Planning Home Page at http://www.r1.fws.gov/planning/plnhome.html. Public reading copies of the Final CCP EIS may be inspected at the following locations: U.S. Fish and Wildlife Service, Division of Planning, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Stillwater NWR Complex, 1000 Auction Road, Fallon, NV 89406; Churchill County Library, 553 South Main Street, Fallon, NV 89406; Carson City Library, 900 North Roop Street, Carson City, NV 89701; Downtown Reno Library, 301 S. Center Street, Reno, NV 89501. Printed copies have been sent to agencies, organizations, officials, and individuals who participated in the scoping process. A planning update summarizing the CCP EIS and Alternative E has also been mailed to all individuals and organizations on the CCP mailing list (Planning Update #7, July 2001). Individuals wishing to receive a compact disk copy of the Final CCP EIS should immediately contact the Project Leader, Stillwater National Wildlife Refuge Complex, 1000 Auction Road, Fallon, Nevada, 89406, phone (775) 423–5128.

FOR FURTHER INFORMATION CONTACT: Kim Hanson, Project Leader, Stillwater National Wildlife Refuge Complex, at the above address.

SUPPLEMENTARY INFORMATION: The Stillwater National Wildlife Refuge Complex currently includes Stillwater NWR, Stillwater Wildlife Management Area (WMA), Fallon NWR, which are located in west-central Nevada, about six miles northeast of Fallon, Churchill County, and Anaho Island NWR, located about 30 miles northeast of Reno, Nevada, in Washoe County. Stillwater NWR encompasses about 79,570 acres of Federal land, Stillwater WMA about 65,603 acres, and Fallon NWR about 17,848 acres, for a combined total of 163,021 acres of Federal land. Non-Federal inholdings within the approved boundaries are about 59,708 acres. Anaho Island NWR encompasses the entire island, which has fluctuated in size from 220 to 745 acres in recent history due to the fluctuating water levels of Pyramid Lake. During winter of 2001 it was estimated to be 523 acres.

Anaho Island NWR was established in 1913 by Executive Order 1819 as a " * * * preserve and breeding ground for native birds." Public Law 101–618 (§ 210(b)(2)) more narrowly defined the purpose of Anaho Island NWR, stating that it was to be managed and administered " * * * for the benefit and protection of colonial-nesting species and other migratory birds." The Public Law also recognized that Anaho Island NWR is part of the Pyramid Lake Indian Reservation, but is to be managed and administered by the Service as a component of the National Wildlife Refuge System (Refuge System).

Fallon NWR was established in 1931 by Executive Order 5606 "as a refuge and breeding ground for birds and other wild animals." It is located at the terminus of the Carson River and encompasses the delta wetlands of the river.

Stillwater WMA and Stillwater NWR were established through a 50-year agreement (Tripartite Agreement) signed in 1948 by the Truckee-Carson Irrigation District, Nevada State Board of Fish and Game Commissioners, and the Service. Although the Tripartite Agreement expired on November 26, 1998, the Service continues to cooperatively manage the Stillwater WMA with the U.S. Bureau of Reclamation under most provisions of the Tripartite Agreement. Stillwater WMA, comprised mainly of U.S. Bureau of Reclamation withdrawn public lands, was established in 1948 for the purposes of conserving and managing wildlife and their habitat, and for public hunting. Stillwater NWR was established in 1949 as a wildlife sanctuary, closed to hunting, adjacent to the public hunting area.

In 1990, the approved boundary of Stillwater NWR was expanded, under subsection 206(b)(1) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Title II of Public Law 101–618), to encompass Stillwater Marsh, most of which was previously in the Stillwater WMA. In addition to the boundary expansion, Public Law 101–618 also outlined four purposes for which the Service must manage Stillwater NWR: (1) Maintaining and restoring natural biological diversity within the refuge; (2) providing for the conservation and management of fish and wildlife and their habitats within the refuge; (3) fulfilling international treaty obligations of the United States with respect to fish and wildlife; and (4) providing opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

Each alternative in the Final CCP EIS consists of two main parts: (1) A boundary revision for Stillwater NWR, and (2) the framework of a comprehensive conservation plan, including refuge goals, objectives, and strategies for achieving the purposes for which each refuge was established and for contributing toward the mission of the Refuge System.

Boundary Revision

Public Law 101–618 authorized the Secretary of the Interior (Secretary), to recommend to Congress, boundary revisions to Stillwater NWR that may be appropriate to carry out the purposes of the refuge and to facilitate the protection and enhancement of Lahontan Valley wetland habitat. The law authorized the Secretary to submit to Congress recommendations to revise the boundaries of Stillwater NWR as may be appropriate to carry out the refuge purposes and to recommend the transfer of any Bureau of Reclamation withdrawn public lands within the existing wildlife use areas in the Lahontan Valley to the Service for addition to the Refuge System. Furthermore it authorized the identification of lands in the Lahontan Valley currently under the jurisdiction of the Service that no longer warrant continued status as units of the Refuge System.

Comprehensive Conservation Plan

A comprehensive conservation plan is required by the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*). The purpose of developing a comprehensive conservation plan for the Stillwater NWR Complex is to provide managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the Refuge System, consistent with sound principles of fish and wildlife conservation and legal mandates. In addition to outlining broad management direction on conserving wildlife and their habitat, the comprehensive conservation plan highlights wildlife-dependent recreation opportunities available to the public, including opportunities for hunting, environmental education and interpretation, and wildlife observation and photography.

Development of the Final CCP EIS

Public involvement on the development of this CCP EIS has been by means of open houses, public meetings, work group meetings, agency and Tribal consultation, planning update mailings, and **Federal Register** notices. Four previous notices were published in the **Federal Register** concerning this CCP EIS (61 FR 65591, Dec. 13, 1996; 63 FR 39884, July 24, 1998; 64 FR 24168, May 5, 1999; 64 FR 36712, July 7, 1999;).

During the Draft CCP EIS comment period that occurred from April 12 to August 12, 2000, the Service received a total of 56 communications (letters, faxes, postcards, email, visits, or telephone calls). All substantive issues raised in the comments to the Draft CCP EIS have been addressed through revisions to pertinent sections the Final CCP EIS text or in Volume III of the Final CCP EIS.

The Final CCP EIS identifies and provides an evaluation of four alternative boundaries for Stillwater NWR and five alternative management approaches for managing the Stillwater NWR Complex for the next 15 years. The five alternatives considered in detail in the Final CCP EIS are described below. Under all Alternatives, Anaho Island NWR management would remain as it has been, and the Island would be closed to public use.

Alternative A (No Action Alternative) would retain the existing boundaries

and entails baseline management as outlined in the 1987 Management Plan for Stillwater WMA and modified by the U.S. Fish and Wildlife Service's (Service's) water rights acquisition program. Water rights acquired for refuge wetlands would continue to be delivered to the refuge according to the traditional agricultural seasonal pattern of delivery in the irrigation district. Habitat management would emphasize breeding habitat for waterfowl and other waterbirds and would also provide for the needs of migrating and wintering waterfowl; livestock grazing and muskrat trapping would be managed commensurate with wildlife objectives on a large part of the area; and hunting would remain the priority public use and would continue to be a coequal purpose with wildlife conservation.

Alternative B would result in the lands within Stillwater WMA reverting back to U.S. Bureau of Reclamation or public land status, thus reducing the amount of Federal land managed primarily for wildlife conservation in the Lahontan Valley. This alternative would focus on providing fall and winter habitat for waterfowl on Stillwater NWR and would emphasize fall deliveries of acquired water rights, but would also provide habitat for breeding waterbirds. Livestock grazing and muskrat trapping would only be used as habitat management tools. Opportunities for waterfowl hunting on Stillwater NWR would continue to be emphasized, although opportunities for wildlife viewing and environmental education would be expanded. Providing breeding habitat for waterbirds would be emphasized on Fallon NWR.

Under Alternative C, Stillwater NWR would be expanded to include most of Stillwater WMA and Fallon NWR, as well as additional riparian and dune habitat. A more thorough description of the boundary revision process for Alternative C is included in the Alternative E discussion (*i.e.*, the proposed boundary for Alternatives C and E are identical). This alternative would emphasize the approximation of natural biological diversity, including breeding habitat for waterbirds. The natural seasonal pattern of water inflow would be approximated, with adjustments to minimize nest flooding and to enhance fall and winter habitat for waterfowl. Livestock grazing would have limited application in the habitat management program, and muskrat trapping would primarily be undertaken to prevent damage to water control structures. Waterfowl hunting would continue to be an integral part of the public use program under Alternative C, but environmental education and wildlife observation would receive considerably greater emphasis.

Alternative D would expand the boundary of Stillwater NWR to include all of Stillwater WMA (except the Indian Lakes area) and Fallon NWR, as well as additional riparian and dune habitat. This alternative would focus on restoring natural hydrologic patterns and other ecological processes. Protection and restoration of riparian habitat would receive enhanced emphasis, and livestock grazing and muskrat trapping would not be used in the habitat management program and would be prohibited. Public use management would focus on providing opportunities for wildlife observation and environmental education, and hunting opportunities would diminish.

Alternative E (the Service preferred Alternative) proposes that the revised boundary of Stillwater NWR exclude the western portions of the Stillwater WMA and the northern portions of Fallon NWR. In the Stillwater WMA this would be accomplished by recommending that Congress withdraw certain project lands giving FWS primary jurisdiction. To include the southern portion of Fallon NWR, The FWS would recommend that Congress revoke the E.O. that gave Bureau of Reclamation primary jurisdiction over portions of Fallon NWR and withdraw those lands giving FWS primary jurisdiction.

Major habitats added to Stillwater NWR would include the lower Carson River and its delta marsh, the sand dunes along the southern edge of the Carson Sink, and the stabilized dunes and salt desert shrub habitat between the Carson River and Stillwater Marsh. In addition to lands currently in Stillwater WMA and Fallon NWR, the boundary would expand to include six sections of land along the lower Carson River and 26 sections north of the existing Stillwater NWR. Although the size of Stillwater NWR would increase under this alternative, the acreage of Federal lands managed primarily for wildlife in the Lahontan Valley would decline by about 25,517 acres. The most important lands with respect to refuge purposes and wetlands protection would be retained. Under this proposal, the approved boundary of Stillwater NWR would be about 172,254 acres, of which about 137,504 acres would be Federal. The acreage of non-Federal inholdings within the boundaries of Federal wildlife areas in the Lahontan Valley would decline by about 40 percent.

This alternative would attempt to approximate natural biological diversity, including breeding habitat for waterbirds, but would also emphasize adaptive management to refine broad management strategies to meet the needs of key wetland dependent wildlife guilds and to provide additional fall and winter habitat for migratory waterbirds. Livestock grazing would have limited application in the habitat management program, and muskrat trapping would primarily be undertaken to prevent damage to the water management infrastructure. Waterfowl hunting would continue to be an integral part of the visitor services program under Alternative E, but a more balanced approach to managing other wildlife dependent recreational activities including environmental education and interpretation, and wildlife observation and photography, would receive considerably greater emphasis.

Dated: May 23, 2002.

Steve Thompson,

Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 02–13631 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of the approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendment to the Tribal-State Compact for Class III Gaming between the Lower Brule Sioux Tribe and the State of South Dakota, which was executed on February 14, 2002.

DATES: This action is effective May 31, 2002.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 1, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–13651 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–4N–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of the approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Eighth Renewal of Agreement between the Northern Cheyenne Tribe and the State of Montana regarding the Class III Gaming on the Northern Cheyenne Reservation.

DATES: This action is effective May 31, 2002.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 2, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–13650 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–4N–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–02–1610–DS]

Notice of Availability of Draft California Desert Conservation Area Plan Amendment for the Coachella Valley, Draft Trails Management Plan and Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft California Desert Conservation Area (CDCA) Plan Amendment for the Coachella Valley, Draft Trails Management Plan and Draft Environmental Impact Statement (DEIS).

SUMMARY: In compliance with Title 43 Code of Federal Regulations (CFF) Part 1610.2(f)(3) and Title 40 CFR part 1500, the Bureau of Land Management (BLM) hereby gives notice that the Draft CDCA Plan Amendment for the Coachella Valley, Draft Trails Management Plan, and DEIS is available for public review and comment.

DATES: Comments will be accepted until 90-days have elapsed after publication of notice in the **Federal Register** by the Environmental Protection Agency (EPA).

ADDRESSES: If you wish to comment, you may submit your comments by any of several methods. You may mail comments to: James G. Kenna, Field Manager; Bureau of Land Management, Palm Springs-South Coast Field Office, P.O. Box 581260, North Palm Springs, CA 92258.

You may also comment via the Internet to *emisquez@ca.blm.gov*. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include in the subject line: "Draft CDCA Plan Amendment and EIS" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Elena Misquez at (760) 251–4810. Finally, you may hand-deliver comments to: Bureau of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet Avenue, North Palm Springs, CA 92258.

Oral comments will be accepted and recorded at any of three public meetings to be held during the month of July, 2002. Notice published in local media will also be provided at least 15 days prior to the scheduled public meetings.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Elena Misquez at (760) 251–4810 or *emisquez@ca.blm.gov*.

SUPPLEMENTARY INFORMATION: A copy of the Draft CDCA Plan Amendment for the Coachella Valley, Draft Trails Management Plan, and DEIS is available for review via the internet at *www.ca.blm.gov/palmsprings*. Electronic (on CD-ROM) and paper copies may also be obtained by contacting Elena Misquez at the aforementioned addresses and phone number.

This Draft CDCA Plan Amendment for the Coachella Valley and draft Trails Management Plan is being developed in partnership with the Coachella Valley Association of Governments (CVAG) in support of their efforts to prepare a Coachella Valley Multi-Species Habitat Conservation Area Plan (CVMSHCP). The Trails Management Plan will be incorporated into the CVMSHCP. Upon completion of the environmental impact statement/environmental impact report for the CVMSHCP, BLM may adopt the CVMSHCP as an activity (implementation) level plan in accordance with Bureau Manual guidance and the National Environmental Policy Act of 1969 (NEPA). A separate record of decision will be prepared for the CDCA Plan Amendment for the Coachella Valley in accordance with the planning regulations at Title 43 CFR 1610 and NEPA.

Dated: May 6, 2002.

James G. Kenna,

Field Manager.

[FR Doc. 02–13475 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–02–5101–ER–F330; (N–74943)]

Notice of Realty Action; Notice of Availability of Draft Amendment and Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action and notice of availability of the Draft Toquop Land Disposal Amendment to the Caliente Management Framework Plan (MFP) and Draft Environmental Impact Statement (DEIS) for the Toquop Energy Project.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, a DEIS has been prepared by the Bureau of Land Management (BLM), Ely Field Office for the Toquop Energy Project. This document evaluates the environmental

effects from constructing a 1,100-megawatt (MW) natural gas-fired electric power generating plant and associated features on public lands in Lincoln and Clark Counties, southern Nevada. This document also evaluates the effects of amending the Caliente MFP, to identify 640 acres of land for disposal. This document evaluates the exchange of approximately 640 acres of private land (the Pah Rah parcel) in Washoe County, northwestern Nevada, for a similarly valued parcel of public land at one of the power plant sites under consideration. The Pah Rah parcel would come under BLM administration if the Pah Rah/Toquop land exchange is approved.

DATES: The DEIS will be made available to the public on May 31, 2002. Copies of the DEIS will be mailed to individuals, agencies, or companies who previously requested copies. Mailed comments on the DEIS must be postmarked by August 29, 2002. Written comments on the document should be addressed to Gene A. Kolkman, District Manager, Bureau of Land Management, Ely Field Office, HC 33, Box 33500, Ely, NV 89301–9408. Oral and/or written comments may also be presented at four scheduled public meetings to be held at the following locations.

—Monday, July 8, 2002, from 7 p.m. to 9 p.m.; City Hall, 100 Depot Avenue, Caliente, Nevada
—Tuesday, July 9, 2002, from 7 p.m. to 9 p.m.; City Hall, 10 E. Mesquite Boulevard, Mesquite, Nevada
—Wednesday, July 10, 2002, from 7 p.m. to 9 p.m.; BLM Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, Nevada
—Thursday, July 11, 2002, from 7 p.m. to 9 p.m.; Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada

ADDRESSES: Public reading copies of the DEIS will be available for reading at public libraries listed below:

—Caliente Branch Library, P.O. Box 306, Caliente, NV 89008
—Clark County Library, 1401 East Flamingo Road, Las Vegas, NV 89109
—Las Vegas Public Library, 1726 East Charleston Boulevard, Las Vegas, NV 89104
—Lincoln County Library, P.O. Box 330, Pioche, NV 89043
—Mesquite Library, 121 West 1st North Street, Mesquite, NV 89027
—North Las Vegas Library, 2300 Civic Center, North Las Vegas, NV 89030
—Panaca High School Library, P.O. Box 268, Panaca, NV 89042
—University of Nevada-Las Vegas, James R. Dickinson Library, Documents Department, 4505 South Maryland Parkway, Las Vegas, NV 89154
—University of Nevada-Reno, Getchell Library, Government Publication Dept., Reno, NV 89507
—Washoe County Library, 301 South Center Street, Reno, NV 89501
—White Pine County Library, 950 Campton Street, Ely, NV 89301

A limited number of copies of the document will be available at the following BLM offices:

—Bureau of Land Management, Caliente Field Station, U.S. Highway 93, Caliente, NV 89008–0237
—Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701
—Bureau of Land Management, Ely Field Office, 702 North Industrial Way, Ely, NV 89301–9408
—Nevada State Office, 1340 Financial Boulevard, Reno, NV 89502–7147
—Washington Office of Public Affairs, 18th and C Street, NW, Washington, DC 20240

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this definitively at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dan Netcher, Team Lead, Bureau of Land Management, Ely Field Office, HC 33, Box 33500, Ely, NV 89301–9408.

SUPPLEMENTARY INFORMATION: The DEIS addresses alternatives to resolve the following major issues: Air quality, surface water, ground water, threatened or endangered species, transportation, visual resources, noise, cultural and historical resources, Native American religious concerns, and socioeconomics.

The Proposed Action, two other action alternatives, and the No Action Alternative include the following: Proposed Action (MFP Amendment Land Exchange and/or Southern Power Plant Site right-of-way (ROW), Western Utility Alignment ROW, and access road ROW); Alternative 1 (MFP Amendment, Land Exchange and/or Southern Power Plant Site, Eastern Utility Alignment, and access road ROW); Alternative 2 (MFP Amendment, Land Exchange, and/or Northern Power Plant Site, Eastern Utility Alignment ROW, and access road ROW); No Action Alternative.

The Proposed Action and each action alternative include the following project actions and features: amending the Caliente MFP, exchanging BLM-managed public land for a privately owned parcel of land, and/or issuing ROWs by the BLM for Toquop Energy Project construction and operation; constructing, operating, and maintaining a 1,100–MW natural gas-fired electric power generating plant on one of two candidate plant sites with an expected life of 42 years; developing a wellfield in the Tule Desert to meet the water needs of the power plant; and developing the linear infrastructure necessary to connect the power plant to the new water source, to existing natural gas and electric transmission lines serving the region, and to access site facilities. The Proposed Action and Alternative 1 differ primarily in the location of the utility alignment (western vs. eastern). The Proposed Action and Alternative 2 differ primarily in the location of the power plant site (southern vs. northern) and, therefore, the parcel of BLM-managed public land to be exchanged. An option to the Proposed Action, Alternative 1, and Alternative 2 is for the BLM to issue ROWs for all project features rather than amend the Caliente MFP and approve the proposed land exchange.

The No Action Alternative represents the status quo condition of not approving or implementing the Proposed Action or either of the action alternatives. Analysis of the No Action Alternative is required by NEPA guidelines.

Based upon input received during public scoping, the BLM has combined the Toquop Energy Project DEIS with a related Environmental Assessment (EA) that the Carson City field office of the BLM had been preparing for the proposed Pah Rah/Toquop Land Exchange. That EA had been evaluating the exchange of approximately 640 acres of private land owned by the NLRC in the Pah Rah Range in Washoe County for a similarly valued, BLM-managed parcel of public land near the Toquop Wash in Lincoln County. The proposed land exchange is now being evaluated as part of the Proposed Action and Alternative 1 in this DEIS. The separate EA process for the proposed Pah Rah/Toquop land exchange has been discontinued. In addition, BLM elected to initiate amendment of the Caliente MFP.

A different land exchange would occur under Alternative 2. Under this alternative, the same privately owned parcel in Washoe County would be exchanged for a parcel of BLM-managed public land approximately 12 miles north-northwest of the Toquop Wash plant site. This alternative site would be adjacent to and contiguous with the proposed wellfield in the Tule Desert. That wellfield is necessary for the Proposed Action and both action alternatives. These proposed land exchanges are part of the Proposed Action and action alternatives being addressed in this Draft Caliente MFP Amendment/DEIS. To proceed with the land exchange, the public land to be disposed of must be identified in the Caliente MFP as being suitable for disposal through sale or exchange. It has been determined that additional analysis is needed in the Caliente MFP for the 640 acres of public land that have been identified for exchange under the Proposed Action or action alternatives. Therefore, this document contains a focused Plan Amendment that addresses the proposed land exchange. The Pah Rah section of land to be acquired already meets the criteria for land acquisition in the Lahonton RMP, which is contained within the Consolidated RMP developed and administered by the BLM's Carson City Field Office. Therefore, no amendments to those RMPs are needed. The project might optionally proceed by building the power plant on public land with the issuance of appropriate ROWs from the BLM.

Public participation is occurring throughout the processing of this project. A Notice of Intent was published in the **Federal Register** on November 7, 2001. Two rounds of public meetings were held. Comments presented throughout the process have been considered.

Dated: April 10, 2002.

Eric K. Luse,

Associate Field Manager.

[FR Doc. 02–13379 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Klamath Project, Oregon

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Order Establishing Prohibitions in Areas of Bureau of Reclamation Lands and Projects.

SUMMARY: Pursuant to 43 CFR part 423, Public Conduct on Bureau of Reclamation Lands and Projects, the Bureau of Reclamation has established a Closure Order for certain lands and waters of the Klamath Project in the State of Oregon. The Order prohibits trespassing, entering, or remaining in or upon the closure areas as described; tampering or attempting to tamper with the facilities, structures or other property located within the closure areas; or moving, manipulating, or setting in motion any parts thereof; vandalism or destroying, injuring, defacing, or damaging property or real property that is not under one's lawful control or possession.

In accordance with 43 CFR part 423, Public Conduct on Bureau of Reclamation Lands, Reclamation is publishing the Closure Order in the **Federal Register**.

DATES: April 25, 2002 until October 15, 2002.

ADDRESSES: Klamath Basin Area Office, 6600 Washburn Way, Klamath Falls, Oregon 97603.

FOR FURTHER INFORMATION CONTACT: Dave Sabo, Area Manager, (541) 883–6935.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in me under the regulations of the Secretary of the Interior, 43 CFR part 423, public access to the following facilities, lands, or waters is closed until October 15, 2002:

A Canal Headgate Area—The closure area includes all lands, waters and facilities within 100 feet of either side of the centerline of the A Canal which lies between the Highway 97 onramp and the canal's confluence with Upper Klamath Lake. This closure area includes the entire A Canal headgate facility and related structures, walkways, gate operating mechanisms and all lands surrounding such structures within the described area.

Link River Dam—The closure area includes the entire dam structure and surrounding lands and water 100 feet downstream and 50 feet upstream of the dam and 50 feet from the right and left abutments.

Station 48 Drop—The closure area includes the land, water and facilities within and including the existing fence surrounding the headgate structure.

Klamath Basin Area Office Headquarters Area—The closure area includes the land and facilities immediately adjacent to and south of the KBAO office building and lying within and including the existing chain link fence which is bounded on the north by Joe Wright Road and on the east by Washburn Way and excludes the formal offices of the Fish and Wildlife Service and the Bureau of Reclamation.

The following acts are prohibited on the facilities, lands and waters in the closure area:

1. Trespassing, entering, or remaining in or upon the closure areas described above. Exceptions: Operations and Maintenance personnel that have express authorization from Reclamation, law enforcement officers and Reclamation employees acting within the scope of their employment, and any others who have received express written authorization from Reclamation to enter the closure areas.

2. Tampering or attempting to tamper with the facilities, structures or other property located within the closure areas or moving, manipulating, or setting in motion any of the parts thereof. Exceptions: *see* 1 above.

3. Vandalism or destroying, injuring, defacing, or damaging property within the closure areas or real property that is not under one's lawful control or possession. This order is posted in accordance with 43 CFR part 423.3(b).

Dated: May 7, 2002.

Dave Sabo,

Area Manager, Klamath Basin Area Office.

[FR Doc. 02–13630 Filed 5–30–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on May 2, 2002, a proposed Consent Decree in *United States* v. *Stallworth Timber Co., Inc.*, Civil Action No. 02–0864 was lodged with the United States District Court for the Western District of Louisiana.

In this action the United States sought response costs pursuant to Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 107, 42 U.S.C. 9607. The proposed Consent Decree resolves civil claims of the United States against Stallworth Timber Company, Inc. ("Stallworth"), the former owner and operator at the time of disposal of hazardous substance at the American Creosote Works, Inc. Superfund Site (the "Site") located in the City of Winnfield, Winn Parish, Louisiana. Under the proposed Consent Decree, Stallworth agrees to pay $100,000 of the United States' past response costs related to the Site in installment payments over the course of four years.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources

Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Stallworth Timber Co., Inc.* (W.D.La.), D.J. Ref. 90–11–3–07436.

The Consent Decree may be examined at the Office of the United States Attorney, Western District of Louisiana, 800 Lafayette Street, Lafayette Louisiana, and at the offices of U.S. Environmental Protection Agency Region 6, 1445 Ross Ave, Suite 1200, Dallas, Texas. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Thomas Mariani,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–13627 Filed 5–30–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part I, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein. Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and States:

Volume VII

Mariana Islands
CM020001 (May 31, 2002)

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

South Carolina
SC020023 (Mar. 01, 2002)

Volume IV

Michigan
MI020004 (Mar. 01, 2002)
MI020027 (Mar. 01, 2002)

Volume V

None

Volume VI

None

Volume VII

California
CA020009 (Mar. 01, 2002)
CA020029 (Mar. 01, 2002)
CA020030 (Mar. 01, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determination issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 23rd Day of May, 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–13547 Filed 5–30–02; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Voluntary Reporting of Performance Indicators.
2. *Current OMB approval number:* 3150–0195.
3. *How often the collection is required:* Quarterly.
4. *Who is required or asked to report:* Power reactor licensees.
5. *The number of annual respondents:* 103 reactors.

6. *The number of hours needed annually to complete the requirement or request:* 83,720 hours (813 hours per unit).

7. *Abstract:* As part of a joint industry-NRC initiative, the NRC receives information submitted voluntarily by power reactor licensees regarding selected performance attributes known as performance indicators (PIs). PIs are objective measures of the performance of licensee systems or programs. The NRC's reactor oversight process uses PI information, along with the results of audits and inspections, as the basis for NRC conclusions regarding plant performance and necessary regulatory response. Licensees transmit PIs electronically to reduce burden on themselves and the NRC.

Submit, by July 30, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at *Infocollects@nrc.gov*.

Dated at Rockville, Maryland, this 23rd day of May 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13654 Filed 5–30–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB); Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.
2. *The title of the information collection:* NRC Form 241, "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters".
3. *The form number if applicable:* NRC Form 241.
4. *How often the collection is required:* NRC Form 241 must be submitted each time an Agreement State licensee wants to engage in or revise its activities involving the use of radioactive byproduct material in a non-Agreement State, areas of exclusive Federal jurisdiction, or offshore waters. The NRC may waive the requirements for filing additional copies of NRC Form 241 during the remainder of the calendar year following receipt of the initial form from a licensee engaging in activities under the general license.
5. *Who will be required or asked to report:* Any licensees who hold a specific license from an Agreement State and want to conduct the same activity in non-Agreement States, areas of exclusive Federal jurisdiction, or offshore waters under the general license in 10 CFR 150.20.
6. *An estimate of the number of responses:* 4,232.
7. *The estimated number of annual respondents:* 184 respondents from Agreement State licensees.
8. *An estimate of the number of hours needed annually to complete the requirement or request:* 1,104 hours.
9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.
10. *Abstract:* Under the reciprocity provisions of 10 CFR part 150, any

Agreement State licensee who engages in activities (use of radioactive byproduct material) in non-Agreement States, areas of exclusive Federal jurisdiction, or offshore waters, under the general license in section 150.20, is required to file four copies of NRC Form 241, "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters," and four copies of its Agreement State license at least 3 days before engaging in such activity. This mandatory notification permits NRC to schedule inspections of the activities to determine whether the activities are being conducted in accordance with requirements for protection of the public health and safety.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/OMB/index/html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 1, 2002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Bryon Allen, Office of Information and Regulatory Affairs (3150–0013), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 23rd day of May 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13652 Filed 5–30–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB); Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 483, "Registration Certificate—*in vitro* Testing with Byproduct Material Under General License".

3. *The form number if applicable:* NRC Form 483.

4. *How often the collection is required:* There is a one-time submittal of information to receive a validated copy of NRC Form 483 with an assigned registration number. In addition, any changes in the information reported on NRC Form 483 must be reported in writing to the Commission within 30 days after the effective date of such change.

5. *Who will be required or asked to report:* Any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital which desires a general license to receive, acquire, possess, transfer, or use specified units of byproduct material in certain *in vitro* clinical or laboratory tests.

6. *An estimate of the number of responses:* 364.

7. *The estimated number of annual respondents:* 364 (104 NRC licensees and 260 Agreement State licensees).

8. *An estimate of the number of hours needed annually to complete the requirement or request:* 42 hours.

9. *An indication of whether section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* Section 31.11 of 10 CFR establishes a general license authorizing any physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital to possess certain small quantities of byproduct material for *in vitro* clinical or laboratory tests not involving the internal or external administration of the byproduct material or the radiation therefrom to human beings or animals. Possession of byproduct material under 10 CFR 31.11 is not authorized until the physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital has filed NRC Form 483 and received from the Commission a validated copy of NRC Form 483 with a registration number.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/OMB/index/html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 1, 2002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Bryon Allen, Office of Information and Regulatory Affairs (3150–0038), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 23rd day of May 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–13653 Filed 5–30–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15, issued to the Southern California Edison Company (SCE/the licensee), for operation of the San Onofre Generating Station (SONGS), Units 2 and 3 located in San Diego County, California.

The proposed amendment would revise Technical Specification 5.5.2.11.f.1.h, "Steam Generator (SG) Tube Surveillance Program," to more clearly delineate the scope of the SG tube inspection required in the tubesheet (TS) region.

Recent conference calls were held between NRC staff members and SCE to discuss the planned SONGS SG tube inspections. During the teleconferences, the NRC staff asked questions on the extent of the tube inspections that were being planned with a rotating probe within the TS region. SCE stated that the extent of its rotating plus point probe inspections in the TS region would cover 5 inches (as a minimum) below the top of the hot leg TS. SCE also stated it will repair or plug on detection any tubes with indications of cracking. The NRC requested that SCE clarify the tube inspection criteria within the TS for this region of the tube. Consequently, SCE is proposing a technical specification change to clarify the extent of the current SONGS technical specification tube inspections. For SONGS Unit 2, the technical specification change is needed by June 12, 2002, to support entry into Mode 4 from the current refueling outage. Therefore, SCE has requested an exigent technical specification change to clarify the SG inspections to be performed so that the plant can be restarted.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Southern California Edison (SCE) proposes to modify the San Onofre Units 2 and 3 Technical Specifications to define the SG tube inspection scope. The San Onofre Nuclear Generating Station (SONGS)-specific analysis takes into account the reinforcing effect the TS has on the external surface of an expanded SG tube.

Tube-bundle integrity will not be adversely affected by the implementation of the TEA [tube engagement area] tube inspection scope. SG tube burst or collapse cannot occur within the confines of the TS; therefore, the tube burst and collapse criteria of draft Regulatory Guide (RG) 1.121 are inherently met. Any degradation below the TEA length is shown by analyses and test results to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

Tube burst is precluded for cracks within the TS by the constraint provided by the TS. Thus, structural integrity is maintained by the TS constraint. However, a 360-degree circumferential crack or many axially oriented cracks could permit severing of the tube and tube pullout from the TS under the axial forces on the tube from primary to secondary pressure differentials. Testing was performed to define the length of non-degraded tubing that is sufficient to compensate for the axial forces on the tube and thus prevent pullout.

In conclusion, incorporation of the TEA inspection scope into San Onofre Units 2 and 3 Technical Specifications maintains existing design limits and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Tube-bundle integrity is expected to be maintained during all plant conditions upon implementation of the proposed tube inspection scope. Use of this scope does not induce a new mechanism that would result in a different kind of accident from those previously analyzed. Even with the limiting circumstances of a complete circumferential separation of a tube occurring below the TEA length, SG tube pullout is precluded and leakage is predicted to be maintained within the Final Safety Analysis Report limits during all plant conditions. Therefore, a possibility of a new or different kind of accident from any accident previously evaluated is not created.

The proposed change does not involve a significant reduction in a margin of safety.

Upon implementation of the TEA inspection scope, operation with potential cracking below the TEA length in the explansion region of the SG tubing meets the margin of safety as defined by RG 1.121 and RG 1.83 and the requirements of General Design Criteria 14, 15, 31, and 32. Accordingly, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 1, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and available electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr.* If a

request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(is)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 22, 2002, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 24th day of May, 2002.

For the Nuclear Regulatory Commission.

Alan Wang,

Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–13655 Filed 5–30–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45983; File No. SR–NASD–2002–60]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Permanent Approval of the Primex Auction System ®

May 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is seeking permanent approval of its application of the Primex Auction System® ("Primex" or "System"). The System began operating as a Pilot Trading System on December 17, 2001, pursuant to Rule 19b–5 of the Act.[3] Pursuant to paragraph (f) of Rule 19b–5 of the Act,[4] Nasdaq has filed a companion proposed rule change to continue operating the System while the Commission considers granting permanent approval.[5] The companion proposed rule change is effective upon filing. The Exchange represents that the proposed rule language contained in the companion filing and set forth below is identical and is the same language that governs use of the System today.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

5010. NASDAQ Application of the PRIMEX AUCTION SYSTEM ®

5011. Definitions

For purposes of this Rule Series, unless the context requires otherwise:

(a) "Application" or "Nasdaq Application" as used in this Rule Series, and "Nasdaq Application of the Primex Auction System" as used throughout the NASD Rules means the voluntary Nasdaq trading service facility that permits NASD member firms, among other things, to submit orders in Primex Eligible Securities to be exposed to a Crowd of Participants in an anonymous, electronic auction format for the purpose of obtaining an execution for their own account or the account of a customer; to have required reports of any resulting trades automatically disseminated to the public and the industry; and to "lock in" these trades as necessary by sending both sides to the applicable clearing agency designated by the Participants involved for clearance and settlement, all in accordance with this Rule Series and other applicable rules and policies of Nasdaq.

(b) "Primex Auction System Participant," "Participant," or "Participant Firm" means a broker-dealer registered with the NASD that, when authorized, can access and participate in the Application for its customers or its own account, consistent with this Rule Series. Participants access the Application through one or more Subscribers associated with that Participant within the Application.

(c) "Subscriber" means a user associated with a Participant who, when authorized, can access and participate in the Application on behalf of that Participant, consistent with this Rule Series. A user also can access and participate directly in the Application on its own behalf, but in the name of a Participant, subject to a sponsored arrangement with that Participant, and consistent with these Rules.

(d) "Firm Administrator" means a Subscriber who, for a particular Participant, is authorized among other things to: (1) Monitor and control access to and participation in the Application by all of that Participant's Subscribers, including establishing Credit Limits for each of the Participant's Subscribers who access and participate in the Application on behalf or in the name of that Participant; and (2) view the status of the Clearing Limits applicable to the Participant overall.

(e) "Nasdaq Supervisor" means the Nasdaq staff responsible for establishing and supervising certain operational functions with respect to the operation of the Application.

(f) "Credit Limits" means the dollar amount of aggregated purchases or sales established within the Application by a Participant's Firm Administrator for each of the Participant's Subscribers which, when reached, causes the Application to: (1) Inhibit any future executions or the entry of future interest for that Subscriber; (2) cancel any orders and withdraw any Indications resident within the Application for that Subscriber; and (3) send a notice to that Subscriber, its Firm Administrator, and the Nasdaq Supervisor. Credit Limits may be established, monitored, and modified by the Firm Administrator on a real-time basis directly through the Application.

(g) "Clearing Limits" means the dollar amount of aggregated purchases and sales (calculated separately and not netted) of all Subscribers, collectively for a Participant, effected through or in the name of that Participant, that is established within the Application for that Participant, which, when reached, causes the Application to: (1) Inhibit any future executions for all Subscribers associated with that Participant; (2) cancel any orders and withdraw any Indications resident within the Application for all Subscribers associated with that Participant; and (3) send a notice to that Participant's Firm Administrator, the Nasdaq Supervisor, and to the clearing broker for that Participant provided that the clearing broker also is a Participant. If the clearing broker is not a Participant in the Application, then the Nasdaq Supervisor will notify the clearing broker that the Clearing Limits have been reached as soon as practicable. Clearing Limits for a Participant may be monitored on a real-time basis by the Participant's Firm Administrator and can be established, monitored, and modified by the Firm Administrator of the Participant's clearing broker, provided the clearing broker also is a Participant. Clearing Limits also can be established and modified by the Nasdaq Supervisor on behalf of the clearing broker.

(h) "Crowd," "Primex Crowd" or "Crowd Participant" means Primex Auction System Participants that, when authorized, can access and participate in the Application consistent with this Rule Series by: (1) Submitting orders to be exposed to other Participants; (2) viewing orders submitted by other Participants; and (3) submitting Responses and Indications for the purpose of interacting with the orders of other Participants.

(i) "Watch List" means the list of Primex Eligible Securities identified by a Crowd Participant for which the Crowd Participant will be notified by Nasdaq electronically when one or more orders in such securities is exposed in an Auction and made available for response by the Crowd.

(j) "Primex Auction Market Maker" means a Participant that, when authorized, may participate in the Application: (1) As a Primex Auction Market Maker consistent with Rule 5020 with respect to those Primex Eligible Securities for which the Participant is registered as a Primex Auction Market Maker; and (2) as a Crowd Participant consistent with Rule 5019 with respect to any Primex Eligible Security.

(k) "Primex Eligible Security" means any security listed on the Nasdaq Stock Market and any exchange-listed security eligible for participation in the Intermarket Trading System.

(l) "Mandatory Eligible Order" means a public customer order, as more fully defined in Rule 5020, that a Primex Auction Market Maker must submit to the System for exposure in order for the Primex Auction Market Maker to maintain its status as such, subject to any exclusions or minimum permissible amount provided therein.

(m) "Market Order" means an order submitted to the Application to purchase or sell a security at the most advantageous price(s) obtainable, without a specified, fixed price.

(n) "Fixed Price Order" means an order submitted to the Application to purchase or sell a security at a specified, fixed price or better.

(o) "Minimum Relative Price Improvement" means a condition that a Participant may attach to a market order consistent with Rule 5014(a), expressed in terms of the minimum relative price improvement required to execute the order. This condition is expressed in

[3] 17 CFR 240.19b–5.

[4] 17 CFR 240.19b–5(f).

[5] *See* Securities Exchange Act Release No. 45982 (May 23, 2002) (publishing SR–NASD–2002–58 for notice and comment).

terms relative to the best bid (for orders to sell) or best offer (for orders to buy) displayed in the NBBO at the time the order is eligible to be executed against within the Application. Neither the existence nor amount of any Minimum Relative Price Improvement condition is displayed, exposed or communicated to any Participant when attached to an order.

(p) "Response" means an instruction submitted to the Application by a Participant, for the purpose of responding to an order or orders being exposed to the Crowd, consistent with Rule 5018.

(q) "Predefined Relative Indication" or "PRI" means an instruction that a Participant can submit to the Application for the purpose of responding to an order(s) in an Auction, and which does not contain a specific, fixed price, but is expressed in terms relative to the best bid (for PRIs to buy) or offer (for PRIs to sell) publicly displayed for the security, consistent with Rule 5018. While resident within the Application, PRIs are ranked to respond to incoming orders in relative price/time priority, but are not displayed, exposed or communicated to any other Participant.

(r) "Go-Along Indication" means an instruction that a Participant can submit to the Application for the purpose of responding to an order(s) in an Auction, and which does not contain a specific, fixed price, consistent with Rule 5018. A Go-Along Indication will be triggered to respond to an Auction at a price equal to the best bid (for Go-Along Indications to buy) or best offer (for Go-Along Indications to sell) publicly displayed whenever there has been at least one contemporaneous Crowd execution at such bid or offer, provided there are no PRIs or other orders available to execute against the order(s) in the Auction. While resident within the Application, Go-Along Indications are not displayed, exposed or communicated to any other Participant.

(s) "Auction" means the automated process through which orders in Primex Eligible Securities are exposed to Crowd Participants. Orders for the same security being exposed simultaneously (i.e. those which have overlapping exposure periods) are available on an aggregate basis, in whole or in part, for interaction with other Crowd participants, but only during the period of overlapping exposure. An Auction begins when an order is accepted by the Application and exposed to the Primex Crowd, and ends whenever such order(s) (including any orders that subsequently join the Auction in progress) are completely executed or their exposure ceases.

(t) "Public Order" or "Public Customer Order" means an order for the account of a customer, and not for the account of a broker-dealer, regardless of whether the customer is that of the Participant entering the order or another firm that has routed the customer order to the Participant.

(u) "Professional Order" means an order for the proprietary account of a broker-dealer, regardless of whether the broker-dealer is a market maker or specialist, and regardless of whether it is the Participant's own order or the proprietary order of another broker-dealer routed to the Participant.

(v) "Market Maker Guarantee" means the feature within the Application that allows a Participant registered as a Primex Auction Market Maker to provide an automatic execution against public customer orders it submits to the Application for exposure in an Auction where such orders are not otherwise subject to an execution. The Application will automatically execute any unexecuted balance of the order against that Primex Auction Market Maker, after the Auction exposure period for the order has expired, consistent with Rule 5020. The Market Maker Guarantee shall be provided at a price equal to the best publicly quoted offer price (for orders to buy) or best publicly quoted bid price (for orders to sell) existing for the security at the time when such exposure period for the order has expired, for any amount of shares established by the Primex Auction Market Maker for the order.

5012. Access

(a) The Application shall be available on a voluntary basis to any NASD member in good standing that chooses to register as a Participant in the Primex Auction System. Such registration shall be conditioned upon the Participant's initial and continuing compliance with the following requirements:

(1) Execution of the necessary agreements with Nasdaq or its affiliate;

(2) Membership in, or access arrangement with, a clearing agency registered with the Commission which maintains facilities through which Primex Auction System compared trades may be settled;

(3) Compliance with all applicable rules and operating procedures of Nasdaq (including these rules) and the Commission;

(4) Maintenance of the physical security of the equipment located on the premises of the Participant to prevent the improper use or access to Nasdaq systems, including unauthorized entry of information into the Primex Auction System; and

(5) Acceptance and settlement of each trade that is executed through the facilities of the Primex Auction System, or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such execution by the clearing member on the regularly scheduled clearing date.

(b) Non-NASD members may access the Application in the name of a Participant by becoming a sponsored Subscriber of the Participant, provided the Participant and sponsored Subscriber have executed the necessary agreements with Nasdaq or its affiliate, and the NASD member Participant assumes the responsibilities set forth in paragraph (a) of this Rule 5012 with respect to any activity conducted by the sponsored Subscriber.

(c) The Application may be made available through Nasdaq-provided network(s) via:

(1) Primex Auction System Workstation Service;

(2) An Application Programming Interface ("API"); or

(3) A FIX protocol interface. Certain functionality of the Application also may be made available via Computer to Computer Interface (CTCI).

5013. Order Acceptance and Exposure

(a) Order Types

The Application shall accept the following types of orders in Primex Eligible Securities, subject to any conditions or match parameters attached thereto to the extent permitted by the Application and Rule 5014, and other rules applicable to Participants with respect to the entry of orders. Conditions and match parameters, to the extent attached to an order, are never communicated to any Participant:

(1) Market Orders;

(2) Fixed Price Orders, when the specified price is equal to or between the best bid or offer publicly displayed, or is a buy (sell) order priced higher (lower) than the best offer (bid) publicly displayed. Fixed Price Orders to buy (sell) priced below (above) the best bid (offer) publicly displayed will be rejected.

For example: If the best bid and offer publicly displayed in Nasdaq is $20—$20.10, then the Application will accept orders to buy priced at $20.00 and higher, including orders to buy priced higher than the offer of $20.10 (although no execution can take place outside of the NBBO prevailing at the time of execution). An order submitted to buy at $19.95, however, would not be accepted by the Application in this situation and will be returned to the Participant that entered it.

(b) Order Size

The Application will accept orders that are either round lots, or mixed lots. Odd lot orders will not be accepted.

(c) Exposure Times Available

(1) The Application allows Participants to expose orders to the Primex Crowd. Only the size associated with an order is communicated to the Crowd, and only for the time during which the order is available for execution. Crowd Participants may monitor the availability of orders exposed in an auction through the use of their Watch List.

(2) For each Market Order submitted to the Application, a Participant can specify a maximum exposure time of either 0 (*i.e.*, immediate), 15, or 30 seconds. Participants that are Primex Auction Market Makers for a security may submit Market Orders in that security for an immediate (*i.e.* "zero second") Auction, provided the Participant attaches certain match parameters as set forth in Rule 5014(b). Market Orders for at least 10,000 shares or $200,000 in market value are also eligible for a zero second Auction, regardless of whether or not match parameters are attached.

(3) Fixed Price Orders that are accepted by the Application can only be exposed for an immediate execution, in whole or in part.

5014. Conditions and Match Parameters

(a) For All Participants

Subject to any other rules applicable to Crowd Participants and Primex Auction Market Makers with respect to the entry of orders, any Participant may enter an order with the following condition attached:

Minimum Relative Price Improvement

Market Orders may be submitted with a condition for Minimum Relative Price Improvement. The Minimum Relative Price Improvement established for an order is the minimum amount of price improvement superior to the best bid or offer publicly displayed (as applicable) that the order must receive before it may be executed against in whole or in part by any interest from the Crowd. This condition must be attached before the order is entered into the Application. Such condition may be expressed only in terms relative to the best bid or offer on the opposite side of the market existing at such time when any Indication, Response, or other order is or becomes available to interact with the order in an Auction, as permitted by the Application and this Rule Series. Neither the existence nor amount of any Minimum Relative Price Improvement condition is displayed, exposed or communicated to any Participant when attached to an order. This condition shall not be available for orders submitted solely for the proprietary account of a Nasdaq market maker or CQS market maker (including Primex Auction Market Makers) and not involving a customer order.

For example: an order to buy 500 shares entered into the Application may contain a condition for Minimum Relative Price Improvement requiring that any Indication or Response (or sell order exposed in an Auction and which is available for a match) provide to that order at least a certain amount (*e.g.*, 3 cents) of price improvement superior to the best offer publicly displayed at such time the Indication, Response or sell order is available to be matched with the order to buy.

(b) For Primex Auction Market Makers Only

A Participant registered as a Primex Auction Market Maker for a particular security is entitled, but not required, to enter customer orders with any of the following match parameters as discussed below. These allow the Primex Auction Market Maker to provide liquidity in addition to that which may be provided by the Crowd. The match parameters contained in this paragraph are only available to Participants who are Primex Auction Market Makers, and only for those securities for which they are so registered. Neither the existence nor type of any match parameter associated with an order is displayed, exposed or communicated to any other Participant:

(1) Two Cent Match

A Participant registered as a Primex Auction Market Maker for a particular security may enter an order with the Two Cent Match parameter.

(A) If there is interest from the Crowd that can satisfy the order, the order entered with the Two Cent Match will be executed against such interest by the Crowd during its exposure, provided that such Crowd interest offers to provide price improvement greater than two cents superior to the best quote publicly displayed in the NBBO at the time such Crowd interest is available.

Note: Because the system will never execute an order at a price outside of the NBBO, any Crowd interest offering an amount of price improvement that would potentially be outside of the NBBO will be executed, if matched with an order, at a price bounded by the NBBO, in effect adjusting the execution price to allow for the maximum amount of price improvement within that NBBO without trading through the NBBO at that time. As a result, it is possible that an order subject to the Two Cent Match parameter may be matched with interest from the Crowd, and not the Primex Auction Market Maker that entered it, notwithstanding the fact that the actual execution price results in price improvement of two cents or less. This can happen, for example, where there is Crowd interest available that is offering three cents of relative price improvement, but the Application causes the actual execution price to be equal to two cents of price improvement, due to a prevailing NBBO spread of two cents at the time of execution.

(B) If there is interest from the Crowd that can satisfy the order but such Crowd interest would only offer price improvement of two cents or less in relation to the best quote publicly available, then this will immediately cause the Application to execute the entire order against the Primex Auction Market Maker that entered it, and not against such Crowd interest, thereby allowing the execution of that order to be retained by the Primex Auction Market Maker. In this situation, the entire order will be executed with that Primex Auction Market Maker at the best price the Crowd interest would have otherwise provided, regardless of the size associated with such Crowd interest.

(C) Any unexecuted balance of the order remaining at the end of its exposure will be executed against the Primex Auction Market Maker. With respect to Market Orders, this execution price will be at the best quote then publicly displayed. With respect to Fixed Price Orders, the execution price will be the price specified in the Fixed Price Order, unless such price is outside the best quote publicly displayed, in which case the execution price will be at the best quote publicly displayed in the NBBO.

(D) A Primex Auction Market Maker may enter customer orders of any size with the Two Cent Match parameter.

(E) A Primex Auction Market Maker that enters a Market Order with the Two Cent Match parameter may elect immediate ("zero seconds"), 15 or 30 second maximum exposure duration for that order. A Fixed Price Order can be exposed only for an immediate "zero second" auction.

(2) 50% Match

A Participant registered as a Primex Auction Market Maker for a particular security may enter an order with a 50% Match parameter.

(A) Orders entered with the 50% Match parameter will be executed against any interest by the Crowd that satisfies the order during its exposure at the price(s) and size of such Crowd interest, for no more than 50% of the

order. Any execution with the Crowd will immediately cause the Application to provide the order with an additional execution of like size and price against the Primex Auction Market Maker that entered the order.

(B) Any unexecuted balance of the order remaining at the end of its exposure will be automatically executed against the Primex Auction Market Maker. With respect to Market Orders, this execution price will be at the best quote then publicly displayed. With respect to Fixed Price Orders, the execution price will be at the price specified in the Fixed Price Order, unless such price is outside the best quote publicly displayed, in which case the execution price will be at the best quote publicly displayed.

(C) A Primex Auction Market Maker may enter customer orders of any size with the 50% Match parameter.

(D) A Primex Auction Market Maker that enters a Market Order with the 50% Match parameter may elect immediate ("zero seconds"), 15 or 30 second maximum exposure duration for that order. A Fixed Price Order can be exposed only for an immediate "zero second" auction.

For example: The best bid and offer publicly displayed for a security is $20–20.10. A Primex Auction Market Maker for that security enters into the Application a Market Order to buy 2,000 shares for a customer and selects the 50% Match Parameter. The Participant selects an exposure time of 30 seconds. During its exposure, the order elicits the following executions by other Crowd Participants (which could be in the form of Indications, Responses, or contra-side orders to sell): 500 at $20.04, and 200 at $20.05. The Application will execute these transactions, and immediately match each one as they occur by executing an additional 500 and 200 shares, at $20.04 and $20.05, respectively, against the Primex Auction Market Maker entering the order. If there is no other interest from the Crowd at the end of the 30 second exposure period, the Application will cause the remaining balance of 600 shares to be automatically executed against the Primex Auction Market Maker entering the order at the best offer publicly displayed at that time. Assuming the best offer publicly displayed is still $20.10 at this time, this would result in the Primex Auction Market Maker selling the balance of 600 shares to the customer at $20.10.

(3) Block Facilitation Match

A Participant registered as a Primex Auction Market Maker for a particular security may enter an order with a Block Facilitation match parameter, provided the order is for at least 10,000 shares. The Primex Auction Market Maker may elect to expose the order in an Auction for a maximum of 0, 15, or 30 seconds. Any Crowd interest that executes against the order during the selected exposure period, up to a maximum of 50% of the order size, will be immediately matched with an execution of like size and price against the entering Participant until the order is fully executed. If any unexecuted portion remains at the end of the exposure period, it will be automatically executed against the entering Participant. With respect to Market Orders, the execution price will be the then existing best offer (for orders to buy) or best bid (for orders to sell) publicly displayed. With respect to a Fixed Price Order, the execution price will be the price specified in the Fixed Price Order, unless such price is outside of the best quote publicly displayed, in which case the execution price will be at the best quote publicly displayed.

For example: The best bid and offer publicly displayed is $20–20.10. A Participant enters into the Application an order to buy a block of 10,000 shares for a customer and selects the Block Facilitation Match Parameter. The Participant selects an exposure time of 15 seconds. During its exposure, the order elicits the following executions by other Crowd Participants (in the form of Indications, Responses, or contra-side orders to sell): 1000 at $20.05, and 2000 at $20.07. The Application will execute these transactions, and immediately match each one as they occur by executing an additional 1000 and 2000 shares, at $20.05 and $20.07, respectively, against the Participant entering the block order. If there is no other interest from the Crowd at the end of the 15 second exposure period, the Application will cause the remaining balance of 4000 shares to be automatically executed against the Participant entering the block order at the best offer publicly displayed at that time. Assuming the best offer publicly displayed is still $20.10 at this time, this would result in the Participant selling the balance of 4000 shares to the customer at $20.10.

(4) Clean Cross

A Participant registered as a Primex Auction Market Maker for a particular security may enter a Clean Cross order for the accounts of two separate customers where the order represents both sides of a cross for at least 10,000 shares to be exposed to the Crowd in an immediate, zero second Auction. The two sides will be executed against each other at the midpoint of the best bid and offer publicly displayed unless superior-priced interest within the Application breaks up one or both sides of the cross. In order to break up a side of the cross, there must be Crowd contra-side interest resident within the Application (e.g., resident PRIs) that totals at least 10,000 shares in the aggregate at a price or prices that are all superior to the bid-ask midpoint by at least the nearest whole cent. Any portion of a side that is not executed against either the opposite side of the Clean Cross order or contra-side interest resident within the Application will be returned unexecuted.

5015. Public and Professional Orders

All orders submitted to the Application shall be identified as either a Public Order or a Professional Order, as those terms are defined in Rule 5011. This Public or Professional status is not displayed, exposed or communicated to any other Participant in the Application, but is used to determine whether an order is available to interact with the Response or Indication of a Crowd Participant. As indicated in Rule 5018(e), a Participant that responds to orders in an Auction can choose whether its Responses and Indications interact with all orders (both Public and Professional Orders) or just Public Orders. When entering an order, however, a Participant entering an order does not have the ability to select or control whether Public or Professional interest may interact with the order.

5016. Option To Route Orders Outside of the System After Exposure in the Application

(a) All Market Orders submitted to the Application shall include an identifier as to whether any unexecuted balance, after the order is exposed to the Crowd, should be forwarded to SuperSoes℠, in the case of a Nasdaq security, or to ITS/CAES, in the case of an exchange-listed security, or whether the order should be returned to the entering Participant. This option to route orders outside of the Application is available for Market Orders only. Orders submitted to the Application with a specified, fixed price cannot be automatically forwarded to Nasdaq's other execution systems. Routing identifiers are not displayed, exposed or communicated to any other Participant in the Application.

(b) With respect to exchange-listed securities, only Primex Auction Market Makers (which also must be ITS/CAES market makers with respect to these securities, as required by these rules) may elect to have Market Orders in exchange-listed securities routed out to ITS when there is a balance remaining following exposure in the System, provided, however, that customer orders so routed must first be exposed in the Application for at least 15 seconds. In addition, to the extent the best price publicly quoted at that time is available within Nasdaq's CAES system, regardless of whether the same price also is being publicly quoted by another ITS market center, such orders designated for routing to ITS/CAES will be delivered to CAES for execution up to the size publicly quoted by CAES participants and will not be routed out to another market center through ITS.

5017. Short Sales

Participants are responsible for complying with applicable short sale rules when using the Application. No Participant shall submit to the Application an order for a security that, if executed, would result in a "short sale" as that term is defined in Exchange Act Rule 3b-3, unless the transaction would be exempt from, or otherwise permissible under, the requirements of NASD Rule 3350 or Exchange Act Rule 10a-1, as applicable.

5018. Responses and Indications

(a) *General*—Participants may submit Responses and Indications to the Application, consistent with this Rule Series, for the purpose of interacting with orders in an Auction, as described herein. Responses and Indications are not displayed, exposed or communicated to any Participant, except to the extent they result in an execution with an order. Responses and Indications cannot execute against other Responses or Indications.

(b) *Responses*—Responses are instructions submitted to the Application by Participants to interact with available orders exposed in an Auction. Responses may be either a Fixed Price Response (e.g. buy 1000 at $20) or a Relative Priced Response (e.g., buy 1000 at the bid plus 3 cents). All Responses must be entered in an amount of at least one round lot, but also may be for a mixed lot.

(c) *Indications*—Indications are instructions, with the characteristics set forth below, submitted to the Application by Participants to interact with orders exposed in an Auction. An Indication may be a Predefined Relative Indication ("PRI") or a Go-Along Indication.

(1) Predefined Relative Indications

(A) PRIs can be submitted to the Application for the purpose of automatically responding to an Auction at a point in time when one or more orders becomes available. PRIs have no specific, fixed price, but are expressed at time of entry in terms relative to the best bid or offer publicly displayed at such time when the Application activates the PRI against orders in an Auction. While resident within the Application, PRIs are ranked in relative price/time priority among all other PRIs resident within the Application and any same-side orders currently being exposed in an Auction, as indicated in paragraph (e) of this Rule. Neither the existence nor terms of a PRI are displayed, exposed or communicated to any other Participant while resident in the Application. When activated by the Application, a PRI will match against orders in an Auction at a price equal to the best bid (for PRIs to buy) or offer (for PRIs to sell) publicly displayed at that time in the NBBO, plus or minus (respectively) the relative price term associated with that PRI; provided that such price also satisfies any applicable condition associated with the order(s) in the Auction to which it is responding.

(B) At the time of its original entry, each PRI submitted to the Application must be for the following share amounts:

(i) NBBO PRIs must be for at least 3000 shares upon entry;

(ii) NBBO ±.01or .02 must be for at least 2000 shares upon entry;

(iii) NBBO ±.03 or greater must be for at least 1000 shares upon entry.

(C) The Application will accept a PRI with the following amounts of relative price improvement:

(i) If the NBBO, at the time the PRI is submitted, has a spread equal to three cents or more, the PRI will be accepted if it offers any amount of price improvement between zero and the actual NBBO spread prevailing at that time;

(ii) If the NBBO, at the time the PRI is submitted, has a spread that is less than three cents, the PRI may offer any amount of price improvement between zero and three cents.

(D) Participants may elect to limit their exposure when using PRIs by entering a Per Auction Maximum size for each PRI submitted. The Per Auction Maximum represents the maximum share amount of a PRI available for a single Auction. It cannot be greater than the size of the PRI, but is subject to the same minimum values applicable to the original entry of a PRI with that relative price term. Once the Per Auction Maximum, if any, for a PRI is exhausted, the Participant will have 15 seconds to withdraw the PRI, during which time no further executions against that PRI will occur. In the absence of a withdrawal during this period, the Application will restore the PRI up to the Per Auction Maximum and the PRI will become available again for any subsequent Auctions to the extent there is an eligible balance remaining for that PRI. For purposes of relative price/time priority, the restored PRI will receive a new timestamp within the Application.

(E) Participants may select a maximum residency period of one (1) or five (5) days, during which time the PRI remains resident within the Application unless fully executed or withdrawn. The Application will automatically withdraw any PRIs that remain at the end of the applicable residency period.

(2) Go-Along Indications

(A) A Go-Along Indication can be submitted to the Application for the purpose of automatically responding in an Auction at a point in time when one or more orders becomes available in an Auction and there has been at least one other contemporaneous Crowd execution within the Application at the NBBO; provided there are no PRIs available or orders being exposed in an Auction (executions resulting from a Primex Auction Market Maker Guarantee do not trigger Go-Along Indications). Go-Along Indications have no specific, fixed price when entered, but will match against orders at a price equal to the best bid (for Go-Along Indications to buy) or best offer (for Go-Along Indications to sell) that exists at such time the Go-Along Indication is activated. While resident within the Application, Go-Along Indications are not displayed, exposed or communicated to any other Participant.

(B) At the time of its original entry, each Go-Along Indication submitted to the Application must be for at least 10,000 shares.

(C) Participants may select a maximum residency period of one (1) or five (5) days, during which time the Go-Along Indication remains resident within the Application unless fully executed or withdrawn. The Application will automatically withdraw any Go-Along Indications that remain at the end of the applicable residency period.

(d) *Executions Bounded by the NBBO*—Application will never execute an order outside of the NBBO prevailing at the time of execution. Indications such as PRIs that potentially would offer an amount of price improvement that could result in an execution outside of the NBBO will be priced at the NBBO if matched with an order, in effect providing the maximum amount of price improvement permissible within the NBBO at that time.

(e) *Relative Priority Of Predefined Relative Indications and Orders*—(1) While resident within the Application, Predefined Relative Indications are ranked in relative price/time priority while they await activation against incoming orders notwithstanding that PRIs have no specified, fixed price associated with them. For example, among resident PRIs for the same security on the same side of the market, PRIs offering greater relative price improvement are ranked ahead of PRIs

offering less relative price improvement. PRIs offering the same relative amount of price improvement are ranked by time of entry (or the time the Indication was restored after exhausting its Per Auction Maximum).

(2) Market Orders being exposed within the Application also are ranked in relative price/time priority during the life of their exposure, notwithstanding that Market Orders have no specified, fixed price associated with them. For example, among Market Orders in the same security being exposed on the same side of the market, those orders not seeking any relative price improvement are ranked ahead of orders seeking some relative amount of Minimum Relative Price Improvement. Orders seeking a greater relative amount of Minimum Relative Price Improvement are ranked behind orders seeking a lesser relative amount of Minimum Relative Price Improvement. Orders seeking the same relative amount of price improvement are ranked by time of entry.

(3) Among and between Indications and orders on the same side of the market, the relative price/time priorities for each are integrated, based on their respective ranking relative to the best bid and offer publicly displayed. The Application recalculates and maintains these relative priorities whenever there is a change in the best bid or offer prices publicly displayed in the NBBO. Market Orders that are matched with other Market Orders being auctioned are executed at the midpoint of the best bid and offer publicly displayed, provided that such price satisfies any condition for Minimum Relative Price Improvement associated with each order.

(f) *Responding to All Orders or Public Orders Only*—All Responses and Indications shall include an identifier as to whether it may interact with either: (1) All available orders (both Public Orders and Professional Orders); or (2) Public Orders only. Such identifier is not displayed, exposed or communicated to any Participant at any time, but is used by the Application for determining the universe of orders with which the Response or Indication may interact.

5019. Crowd Participation

(a) There are two levels of participation in the Application: Crowd Participant and Primex Auction Market Maker. Becoming a Participant in the Application automatically entitles the Participant to be a Crowd Participant for any security, allowing participation consistent with this Rule 5019. A Crowd Participant may also choose to register as a Primex Auction Market Maker, but only on a security-by-security basis, as set forth in Rule 5020, and only consistent with the requirements for participation under that Rule.

(b) Unless otherwise specified, a Crowd Participant may enter orders, Indications, and Responses in any Primex Eligible Security at any time, for its own account or for the account of a customer. Crowd Participants have no mandatory obligation to submit to the Application any order at any time.

5020. Market Maker Participation

(a) A Participant may register as a Primex Auction Market Maker in one or more Primex Eligible Securities, and may maintain such registration while in compliance with the requirements of this Rule. Unless otherwise specified, a Primex Auction Market Maker is automatically subject to the same rights and obligations of Crowd Participants pursuant to Rule 5019 with respect to customer orders in any and all Primex Eligible Securities. In addition, a Primex Auction Market Maker is entitled, but not obligated, to use either of the following features of the Application when submitting customer orders, but only with respect to those securities in which it is currently registered as a Primex Auction Market Maker:

(1) A Primex Auction Market Maker, for securities in which it is registered as such, may submit customer orders to the Application with any of the available match parameters that enable the Primex Auction Market Maker to exercise certain matching rights facilitated by the Application, as set forth in Rule 5014(b). When associated with an order, these match parameters are not displayed, exposed or communicated to any other Participant; or

(2) A Primex Auction Market Maker, for securities in which it is registered as such, may submit customer orders to the Application with a Market Maker Guarantee enabling the Primex Auction Market Maker to guarantee an execution within the Application where such orders are not otherwise subject to an execution as a result of either satisfactory Crowd interest or matching rights processing elected by the Primex Auction Market Maker pursuant to Rule 5014(b) for the order.

(i) Public customer orders of any size are eligible for the Market Maker Guarantee. The Application will facilitate the Market Maker Guarantee by automatically executing any unexecuted balance of the order against the Primex Auction Market Maker that submits the order, after the Auction exposure period for the order has expired.

(ii) The Market Maker Guarantee is automatically provided at a price equal to the best publicly quoted offer price (for orders to buy) or best publicly quoted bid price (for orders to sell) existing for the security at the time when such exposure period for the order has expired (including "zero second" auctions), for any amount of shares established by the Primex Auction Market Maker for the order.

(b) With respect to each security in which a Participant is registered as a Primex Auction Market Maker, the Participant shall:

(1) If the security is a Nasdaq-listed security, be registered as a Nasdaq market maker in such security (or become so registered), and at all times comply with all applicable NASD rules and interpretations relating to Nasdaq market makers, including the requirement to enter and maintain two-sided quotations in Nasdaq for such security, subject to the excused withdrawal procedures set forth in Rule 4619;

(2) if the security is an ITS/CAES eligible security, be registered as an ITS/CAES Market Maker (or become so registered) in such security, and at all times comply with all applicable NASD rules and interpretations relating to ITS/CAES Market Makers, including the requirement to enter and maintain two-sided quotations in CQS for such security, subject to the excused withdrawal procedures set forth in Rule 6350;

(3) Submit to the Application a minimum of 80%* of the number of its Mandatory Eligible Orders (including customer orders of another broker-dealer that has directed such orders to the Participant) as soon as practicable upon receipt by the Participant, for the purpose of exposing such orders to the Primex Crowd. Mandatory Eligible Orders do not include:

(A) Any customer order that is greater than 1099 shares at origination, except that nothing in these rules prohibits a Participant from submitting orders of greater size at any time;

(B) Any customer order that, when initially received by the Participant, is a Fixed Price Order with a specified price that is not eligible for acceptance by the Application because it is priced outside the NBBO and is not otherwise marketable pursuant to Rule 5013(a)(2), regardless of whether or not the order becomes eligible for acceptance and exposure at a subsequent point in time;

(C) Any customer order placed by a customer who authorizes the Participant to not expose the order, either at the time the order is placed or prior thereto pursuant to an individually negotiated agreement with respect to such customer's orders;

(D) Any customer order that is an odd lot order (*e.g.*, less than 100 shares);

(E) Any customer order to be executed outside of the hours of operation of the Application; or

(F) Any other order that would not fall within the definition of the term "covered order" as defined in Exchange Act Rule 11Ac1–5(a)(8).

(4) Not attach a condition for Minimum Relative Price Improvement to any order submitted to the Application solely for its own principal account and not involving a customer order.

5021. Anonymity, Execution, Reporting, and Clearing

(a) *Anonymity*—The Application will process all activity among Participants on an anonymous basis until the end of the day. After facilitating an execution, the Application will send an execution report to all Participants involved as soon as practicable. The execution report will indicate the details of the transaction, but will not contain the identity of the contra-party. At the end of each trading day, the actual contra-party for executions obtained within the Application will be made available to the Participants involved through Nasdaq's systems. For regulatory and other necessary purposes, the NASD and Nasdaq will have the ability to determine the identity of the actual contra-parties at any time.

(b) *Tape Reporting and Clearing*—Matches within the Application are executed and reported through Nasdaq systems for public tape reporting and forwarding to NSCC for clearing, where necessary. Participants (or their clearing brokers) are the parties responsible for the clearance and settlement of all trades executed through the Application. Once a transaction is executed, Participants do not have the ability within the Application to modify or reallocate any portion of the execution to a clearing broker other than the clearing broker that the Application associates with the Participant at the time of execution. Neither the NASD (and its affiliates) nor any operator or administrator of the Primex Auction System shall be directly or indirectly a party to any transaction entered into, matched, or otherwise effected through the Application, notwithstanding that, for the remainder of the trading day after a transaction, the actual contra-parties have not had their identities disclosed to each other by the Application.

5022. Credit Limits and Clearing Limits

(a) *Credit Limits*—The Application shall allow a Participant's Firm Administrator to establish Credit Limits for each of its associated Subscribers, including sponsored Subscribers, on an individual Subscriber basis. The limits are established as a dollar amount of aggregated purchases or sales which, when reached, causes the Application to: (1) Inhibit any future executions or the entry of future interest for that Subscriber; (2) cancel any orders and withdraw any Indications resident within the Application for that Subscriber; and (3) send a notice to that Subscriber, its Firm Administrator, and the Nasdaq Supervisor. Credit Limits may be monitored and modified by the Firm Administrator on a real-time basis directly through the Application.

(b) *Clearing Limits*—The Application shall allow a Participant's clearing broker to establish Clearing Limits within the Application for the Participant on a firm-wide basis. The limits are established as a dollar amount of both purchases and sales (calculated separately, and not netted) of all Subscribers, collectively for a Participant, effected within the Application through or in the name of that Participant. When the Clearing Limits for a Participant are reached, the Application will: (1) Inhibit any future executions for all Subscribers associated with that Participant; (2) cancel any orders and withdraw any Indications resident within the Application for all Subscribers associated with that Participant; and (3) send a notice to that Participant's Firm Administrator, the Nasdaq Supervisor, and to the clearing broker for that Participant provided that the clearing broker also is a Participant. Clearing Limits for a Participant may be monitored on a real-time basis by the Participant's Firm Administrator and can be established, monitored, and modified by the Firm Administrator of the Participant's clearing broker, provided the clearing broker also is a Participant. If the clearing broker is not a Participant in the Application, then the Nasdaq Supervisor will notify the clearing broker that the Clearing Limits have been reached as soon as practicable. Clearing Limits also can be established and modified by the Nasdaq Supervisor on behalf of the clearing broker.

5023. Hours of Operation

(a) The Application is available for executing securities transactions during regular Nasdaq trading hours whenever there is a free and open quote (*i.e.*, not locked or crossed), subject to the general authority and regulatory responsibilities of Nasdaq or its affiliates in operating the Application as a facility of Nasdaq or its affiliate (including but not limited to its authority to implement trading halts in one or more securities due to regulatory reasons, market-wide emergencies, and system malfunctions).

(b) Nasdaq may permit certain functionality of the Application to be available outside of the time period during which securities transactions may be effected through the Application, including but not limited to, the monitoring, entering, canceling, withdrawing, or modifying resident Indications, Credit Limits, or Clearing Limits.

5024. Limitation of Liability

(a) Neither Nasdaq, the NASD (including their affiliates), Primex Trading N.A., L.L.C. (including its affiliates) nor any other operator, licensor, or administrator (including their affiliates) of the Nasdaq Application of the Primex Auction System shall have any liability for any loss, damages, claim or expense arising from or occasioned by any inaccuracy,

*The 80% test will be applied on a quarterly basis, and will be phased in as follows: For the calendar quarters commencing on October 1, 2001; January 1, 2002; April 1, 2002; and July 1; 2002, any participant may register in any eligible security as a Primex Auction Market Maker and maintain that status during such calendar quarters without regard to the percentage of its orders it submits to the System for such security during that time, provided it also satisfies all other requirements of a Primex Auction Market Maker pursuant to these rules. Beginning with the calendar quarter that commences on October 1, 2002, a participant previously registered as a Primex Auction Market Maker for a particular security may maintain its status as such until December 31, 2002 only if it submitted at least 50% of its Mandatory Eligible Orders during the calendar quarter that commences on July 1, 2002 (or during such portion of the calendar quarter that commences on July 1, 2002 in which the participant was so registered if the participant registered in mid quarter), provided it also satisfies all other requirements of a Primex Auction Market Maker pursuant to these rules. A participant that is newly registering as a Primex Auction Market Maker for a particular security any time after the start of the calendar quarter that commences on October 1, 2002 may maintain its status as such until the end of the calendar quarter in which it registered without regard to the percentage of its orders it submits to the System for such security during that time.

Beginning with the calendar quarter that commences on January 1, 2003, and each calendar quarter thereafter, a participant previously registered as a Primex Auction Market Maker for a particular security may maintain its status as such until the end of that calendar quarter only if it submitted at least 80% of its Mandatory Eligible Orders during the previous calendar quarter (or during the portion of such previous calendar quarter in which it was so registered if the participant registered in mid quarter), provided it also satisfies all other requirements of a Primex Auction Market Maker pursuant to these rules.

error or delay in, or omission of or from: (1) The Nasdaq Application; or (2) the collection, processing, reporting or dissemination of any information derived from the Nasdaq Application, resulting either from any act or omission by Nasdaq or any affiliate, or any operator, licensor, or administrator of the Nasdaq Application or from any act, condition or cause beyond the reasonable control of Nasdaq or any affiliate, operator, licensor or administrator of the Nasdaq Application, including, but not limited to, flood, extraordinary weather conditions, earthquake or other act of nature, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction. If a Participant that enters, authorizes its Subscribers (including sponsored Subscribers) to enter, or is authorized by other Participants to enter orders, Responses, or Indications that result in a transaction through the Application fails to perform its settlement or other obligations under the terms of such transaction, the NASD (and its affiliates) and Primex Trading N.A., L.L.C. (and its affiliates) shall have no liability for such failure to settle.

(b) Neither Nasdaq, the NASD (including their affiliates), Primex Trading N.A., L.L.C. (including its affiliates) nor any other operator, licensor, or administrator (including their affiliates) of the Nasdaq Application of the Primex Auction System makes any express or implied warranties or conditions to Participants or their associated Subscribers (including sponsored Subscribers) as to results that any person or party may obtain from the Nasdaq Application for trading or for any other purpose, and all warranties of merchantability or fitness for a particular purpose or use, title, and non-infringement with respect to the Nasdaq Application are hereby disclaimed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pilot Trading System

The Primex Auction System is a facility of Nasdaq that has been operating as a Pilot Trading System, as defined in paragraph (c)(2) of Rule 19b–5 of the Act.[6] As such, Nasdaq was not required to file a proposed rule change pursuant to Rule 19b–4 of the Act[7] as long as the System maintained its status as a Pilot Trading System. Under paragraph (c)(2) of Rule 19b–5 of the Act, a system must comply with three criteria to maintain its status as a Pilot Trading System.[8] One such criteria is that, for each security traded in the System, the System cannot trade more than one percent of the average daily consolidated trading volume of any such security, during at least two of the last four consecutive calendar months. Nasdaq represents that Primex has exceeded this threshold for many securities. Nasdaq also represents that while not all eligible securities have been phased in as of this date, the Primex Auction System has already executed approximately 1.7 million trades representing almost 500 million shares since it began operation just over four months ago. Therefore, Nasdaq is seeking permanent approval of the System pursuant to Section 19(b) of the Act[9] and Rule 19b–4 under the Act.[10]

Background

Nasdaq represents that as market structure continues to evolve, Nasdaq is committed to providing its participants with a variety of sophisticated execution services to automate the trading process in the most efficient manner possible. The Primex Auction System is a hybrid that combines an extended, electronic auction mechanism with the speed and liquidity of Nasdaq's competing market maker environment. By incorporating an automated auction process into Nasdaq's existing multi-dealer environment, the System allows participants to facilitate the exposure of their customer orders to the entire market while still allowing these participants to commit liquidity and execution guarantees to their customers. Nasdaq believes that as a consequence, the Primex Auction System can provide increased opportunities for price improvement, enhanced liquidity, and order interaction.

Nasdaq believes that the System can improve upon the traditional auction market model, where market participants gather in a "crowd" at a physical location to bid for incoming orders. The crowd sometimes improves the best bid or offer, enhances the liquidity otherwise available, or validates the current quoted prices in the absence of any improvement to the published quotations. Most auction markets employ a single specialist that manages trading in a security and supplies liquidity when there is no buying or selling interest in the crowd.

The Primex Auction System automates many of these elements. By facilitating an "electronic crowd," not bound by the physical limitations of space or the number of persons that can be at any one place at a given time, the System can provide the benefits of an auction model on a larger and more efficient scale. By further combining this within a competitive, multi-dealer structure that has been Nasdaq's hallmark, Nasdaq believes it can make available a greater amount of liquidity than would be available in a market with only one provider of capital. Nasdaq believes the result of this combination and automation is a market-based solution for providing price improvement opportunities and enhanced liquidity.

System Overview

The following is a brief overview of how the System typically will operate. Additional details on the System and its tools can be found within the rules of the System and the Form PILOT.[11]

A customer sends an order to his or her broker, who, in turn, can forward it to the System. The System is voluntary. Once an order is submitted, an auction for that order commences. Through a unique mechanism, the order is exposed to the System's electronic crowd, which can be composed of market makers, proprietary traders, institutions, ECNs and even the orders of other customers. The System's electronic crowd is open to any NASD member (or their customers, through a sponsored arrangement), and thus the universe of participants who may have access to these orders is very broad. Using the System's auction response tools, crowd participants anonymously bid for the order at prices at or within the parameters of the National Best Bid and Offer ("NBBO"). The order will be executed if an appropriate match is found in the electronic crowd or if the participant submitting the order provided an execution guarantee. The types of orders that can be submitted and the System's response tools are specified in the attached rules and generally are described below.

Participation in the System

Primex is a voluntary System available to any NASD member and other entities that a member chooses to sponsor. To access the System, a member must be in good standing and have executed the necessary agreements with Nasdaq. Members granted access to the System are referred to as Primex Auction System Participants ("Participants"), and can access the facility for their customers or for themselves. Participants in the System are classified as either Primex Auction Market Makers ("PAMMs") or Crowd Participants.

Entities that are not members can access the System by becoming a Sponsored Subscriber of a Participant ("Sponsored Subscriber"). The Participant assumes responsibility for all activity conducted through the System by the Sponsored Subscriber and will have the ability to monitor and control such activity, including the ability to monitor and establish credit limits for each Sponsored Subscriber. Participants and their Sponsored Subscribers must have the necessary agreements executed with Nasdaq with respect to these sponsored arrangements.

As mentioned above, there are two categories of Primex Participants: PAMMS and Crowd Participants. By becoming a Participant, a member automatically receives the right to trade as a Crowd Participant for any security eligible for trading in the System. To become a PAMM, a member must register as such with Nasdaq for each security in which the member wishes to trade in such capacity. Members that seek to become PAMMs also must be registered as Nasdaq market makers with respect to Nasdaq-listed securities (*i.e.*, Nasdaq National Market® and The Nasdaq SmallCap Market℠ securities) or Consolidated Quotation Services ("CQS") market makers with respect to exchange-listed securities. Because Primex is a voluntary service, however, Nasdaq and CQS market makers, or other members for that matter, are neither required to become Participants in the System, nor are they required to become PAMMs.

The rights and obligations of each class of Participant are specified in the rules. Generally, however, for any security eligible for trading in the System, Crowd Participants can do the following: view all orders exposed in the System; interact with any order put to auction in the System by responding to auctions; submit orders to be put to auction; and trade as principal, agent, or riskless principal.

PAMMS have certain obligations when they participate in the System. With respect to any security eligible for trading in the System for which a Participant is registered as a PAMM, it must: maintain a two-sided quote in Nasdaq (or Nasdaq's InterMarket for CQS securities) with respect to any security for which it is registered as a PAMM, and otherwise be in compliance with all applicable NASD rules; and submit to the System a minimum percentage[12] of its Mandatory Eligible[13] public customer orders (including customer orders of another broker-dealer that directs such orders to the PAMM) for those securities in which it is registered as a PAMM.

PAMMs have the same privileges as Crowd Participants, but because they have certain obligations, PAMMs also have additional privileges. PAMMs are entitled but not obligated to: exercise certain matching rights that allow a PAMM to commit capital to its customer orders in conjunction with the auction exposure process; provide execution guarantees for its own customer orders submitted to the System; and use certain types of orders that permit the PAMM to facilitate block trades and "clean crosses." PAMMs also are entitled to share in transaction revenue paid by other Participants when those other Participants execute against a PAMM's customer orders.

System Features

The System is designed to be highly flexible in the types of orders it accepts, how orders are auctioned, and how PAMMs and Crowd Participants can respond to auctions. As such, the System accepts unpriced market orders, as well as orders that have specified, fixed prices that are marketable or priced between the NBBO. Orders can be submitted in any round lot or mixed lot, but odd lot orders are not accepted. The System is not an "ECN Display Alternative" under the Order Handling Rules[14] because it does not display limit orders. Fixed price orders are eligible only for "immediate or cancel" treatment.

The System also provides a variety of features that allow participants to control the manner in which their orders are exposed for auction. For example, Participants can choose the maximum duration of the exposure for their orders. PAMMs can submit orders with match parameters, or execution guarantees. An order also can be submitted with a condition attached requiring a minimum amount of price improvement relative to the current NBBO at the time of execution. A participant utilizing this feature for an order to buy would specify, when entering the order into the System, that the order be executed only if the auction yields an execution with price improvement of 3 cents below the "Best Offer" as publicly displayed in the NBBO at the time of execution.

PAMMs are entitled to attach certain match parameters to customer orders they submit to the System. This feature provides PAMMs the ability to provide additional liquidity to their customer orders, in conjunction with the exposure process. For example, a PAMM may submit a customer order with a 50% match parameter. Any interest provided by the crowd is matched in both size and price by a corresponding execution with the PAMM. This function effectively can double the amount of liquidity otherwise available from the crowd, at prices established by the crowd, for a customer order. It also ensures that the PAMM will participate in no less than 50% of the order. The PAMM must be willing to execute the entire order when using this match parameter, in the absence of sufficient response from the crowd.

PAMMs also can submit customer orders with a Two Cent Match parameter. This function allows the PAMM entering the order to execute the customer order, provided it is willing to match the price established by the crowd for the entire order to the extent the price offered by the crowd is within two cents of the NBBO. If there is crowd interest willing to provide more than two cents of price improvement, the

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[6] 17 CFR 240.19b–5(c)(2).

[7] 17 CFR 240.19b–4.

[8] Pursuant to Rule 19b–5(c)(2), to qualify as a Pilot Trading System, a system must: (1) be in operation for less than two years; (2) with respect to each security traded on such Pilot Trading System, during at least two of the last four consecutive calendar months, has traded no more than one percent of the average daily trading volume in the United States; and (3) with respect to all securities traded on such Pilot Trading System, during at least two of the last four consecutive calendar months, has traded no more than 20 percent of the average daily trading volume of all trading systems operated by the self-regulatory organization. 17 CFR 240.19b–5(c)(2).

[9] 15 U.S.C. 78s(b).

[10] 17 CFR 240.19b–4.

[11] *See supra* note 3.

[12] *See* NASD Rule 5020.

[13] *See* NASD Rule 5011 (definition of "Mandatory Eligible") and NASD Rule 5020.

[14] Commission Rules 11Ac1–1 (Quote Rule), and 11Ac1–4 (Limit Order Display Rule), together are commonly referred to as the Order Handling Rules. Specifically, the System is not an ECN Display Alternative under paragraph (c)(5)(ii) of Rule 11Ac1–1 and paragraph (c)(5) of Rule 11Ac1–5.

PAMM loses that portion of the order to the crowd.

PAMMs also are entitled to provide execution guarantees within the System. This feature ensures that any balance of an order remaining after exposing it to the crowd will receive a liquidity guarantee, established by the PAMM for each order submitted, at a price at least as good as the NBBO at that time.

Nasdaq believes the match parameter and execution guarantee features will encourage market maker participation by providing PAMMs the opportunity to continue to commit capital to their own customer orders, in conjunction with a broad exposure process. The process ensures that the PAMM submitting a customer order and the Participants in the electronic crowd both have opportunities to interact with orders in the System in a fair and balanced manner. In all cases, customers receive the benefit of any improved prices generated by the auction process.

Any condition, match parameter, or guarantee must be attached to an order at the time it is submitted to the System. The existence of any condition, match parameter, or guarantee that may be attached to an order is never communicated or displayed to the crowd.

The System also provides participants the option of having the balance of an unexecuted order returned to them or forwarded to other Nasdaq systems for execution. Participants must indicate their preference upon submission of an order to the System. For example, a Participant can submit an order with an indication that it should be forwarded to another Nasdaq system if the order is not completely executed in Primex. To the extent the auction concludes and there is a portion of the order remaining, that balance will be converted by the System to an order that is forwarded to SuperSoes (for Nasdaq National Market securities), SuperMontage (when implemented), or ITS/CAES (for exchange-listed securities, provided the participant also is an ITS/CAES market maker). A Participant's preference is not displayed, exposed or communicated to any other Participant.

The entire auction process is designed to give participants maximum flexibility and choice in how their orders are exposed while allowing for the fastest execution possible. For example, although unpriced market orders generally have a default *maximum* broadcast period of 15 seconds, executions can take place sooner if there are satisfactory responses from the crowd at any time during the exposure of the order. In addition, executions can occur instantaneously when there is crowd trading interest residing in the System. Trading interest can reside in the System when Participants define their interest in advance of an order being auctioned, or when other, contra side orders are already in the process of being exposed in an auction. In addition, participants also may elect to have the order exposed for an immediate or "zero second" auction, depending on the size of the order or, as described above, guarantee an execution by committing liquidity in the absence of satisfactory interest from the crowd. Transactions always are executed at or within the NBBO.

Another feature of the System is that it processes all activity among Participants on an anonymous basis until the end of the trading day. After facilitating an execution, the System sends an execution report to all Participants involved. The execution report indicates the details of the transaction, but the identity of the counterparty is withheld. At the end of each trading day, the counterparties' identities are revealed to each other. Nasdaq, however, has the ability to determine the identity of the parties at any time.

Trades executed within the System are reported and settled through the same process as trades executed using other Nasdaq systems. Through ACT, trades are reported to the public tape and forwarded to DTCC for clearing, if necessary. Participants (or their clearing brokers) are the parties responsible for clearing and settling all trades executed through the System. Once a transaction is executed, Participants do not have the ability within the System to modify or reallocate any portion of the execution to a clearing broker other than the clearing broker that the System associates with the participant at the time of execution. Neither the NASD (and its affiliates), Primex Trading, N.A., LLC (and its affiliates) nor any operator or administrator of the System will be directly or indirectly a party to any transaction entered into, matched, or otherwise effected through the System, notwithstanding that, for the remainder of the trading day after a transaction is executed, the identities of the counterparties will not be disclosed to each other by the System.

Trades executed within the System are subject to several levels of risk management. All trades are included in the existing risk management feature of ACT, which allows firms to rely on ACT to monitor all trading activity of executing brokers that clear through them, even when those firms use the System to effect trades.

The System itself provides additional risk management controls. Participants and their clearing firms can closely monitor and control their exposure specifically with respect to System activity, both at an individual subscriber/user level, as well as across an entire firm. Specifically, through the System, supervisory personnel at a Participant firm have the ability to establish credit limits applicable to each individual subscriber/user authorized by that firm to access the System (including any Sponsored Subscriber). The limits are established as a dollar amount of aggregated purchases or sales within the System, which, when reached, cause the System to: (1) Inhibit any future executions or the entry of future interest for that subscriber; (2) cancel any orders and withdraw any indications resident within the System for that subscriber; and (3) send a notice to that subscriber, its firm administrator, and the Nasdaq supervisor. Credit limits can be monitored and modified by the Participant on a real-time basis directly through the System. As a backup, clearing limits also can be established and modified by the Nasdaq supervisor on behalf of the Participant firm.

The System also allows a Participant (or its clearing firm) to establish clearing limits within the System for that Participant on a firm-wide basis. The limits are established as a dollar amount of both purchases and sales (calculated separately, and not netted) of all subscribers of the Participant. When the clearing limits for a Participant are reached, the System will: (1) Inhibit any future executions for all subscribers associated with that Participant; (2) cancel any orders and withdraw any indications resident within the System for all subscribers associated with that Participant; and (3) send a notice to that Participant's firm administrator, the Nasdaq supervisor, and to the clearing firm for that Participant provided that the clearing firm also is a Participant. Clearing limits for a Participant can be monitored on a real-time basis by the Participant's firm administrator, and can be established, monitored, and modified by the firm administrator of the Participant's clearing firm, provided the clearing firm also is a Participant. If the clearing firm is not a Participant, the Nasdaq supervisor, as soon as practicable, will notify the clearing firm that the clearing limits have been reached. Clearing limits also can be established and modified by the Nasdaq supervisor on behalf of the clearing firm.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b) of the Act,[15] in general, and furthers the objectives of Section 15A(b)(6),[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principals of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq also believes that the proposed rule change is consistent with Section 11A(a)(1) of the Act,[17] which sets forth findings of Congress that new data processing and communications techniques create opportunity for more efficient and effective market operations. Nasdaq believes its application of Primex is consistent with the NASD's obligations under the Act, as well as the finding of Congress, because the System provides members with an additional electronic, execution system, which is designed to provide members with flexibility in executing orders and the opportunity to obtain price improvement. Nasdaq believes the System is a hybrid that combines an extended, electronic auction mechanism with the speed and liquidity of Nasdaq's competing market maker environment. Nasdaq believes the System can improve on the traditional auction market model by automating many of its elements, including the trading crowd, but will not be bound by physical limitations of space or the number of persons that can be in one physical location at any given time. Nasdaq believes this attribute, combined with a multiple market maker structure provides an opportunity for enhanced liquidity.

Another attribute of the System is that all orders may be exposed to a wider audience and thus have the opportunity to obtain price improvement. Nasdaq believes this provides for order interaction and can facilitate best execution. At the same time, however, the System continues to provide PAMMs with incentives to expose orders and provide liquidity to those orders. To ensure the protection of investors, orders will not be executed at prices inferior to the NBBO.

Nasdaq believes the System also is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Trades executed using the System will be processed through ACT in the same manner as trades executed using other Nasdaq systems. As such, information on these trades will be incorporated in Nasdaq's audit trail, ACT's risk management function, and forwarded to DTCC for clearance and settlement, if necessary. Trades executed in the System also will be disseminated on the public tape.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Prior to filing the Form PILOT, Nasdaq published a Notice to Members describing the operation of the System.[18] One letter was received in response thereto.[19] A copy of the Notice to Members is attached as Exhibit 2 to Nasdaq's proposal. A copy of the comment letter is attached as Exhibit 3 to Nasdaq's proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File Number SR–NASD–2002–60 and should be submitted by June 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13623 Filed 5–30–02; 8:45 am]

BILLING CODE 8010–01–P

[15] 15 U.S.C. 78*o*–3(b).

[16] 15 U.S.C. 78*o*–3(b)(6).

[17] 15 U.S.C. 78k–1(a)(1).

[18] NASD Notice to Members 00–65 (September 2000).

[19] *See* letter from Antonio Cecin, Managing Director, Director of Equity Trading, U.S. Bancorp Piper Jaffray Inc., to Eugene Lopez, Senior Vice President, Nasdaq, dated January 2, 2001.

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45982; File No. SR–NASD–2002–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Temporary Approval of the Primex Auction System®

May 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 30, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to continue operating Nasdaq's application of the Primex Auction System® ("Primex" or "System"). The System began operating as a Pilot Trading System on December 17, 2001, pursuant to Rule 19b–5 of the Act.[3] Pursuant to paragraph (f) of Rule 19b–5 of the Act,[4] Nasdaq is filing this proposed rule change effective immediately so that it can continue operating the System until the Commission grants permanent approval. Nasdaq has filed a companion proposed rule change which seeks permanent approval of Primex.[5] The proposed rule language contained in the companion filing and set forth below is identical and is the same language that governs use of the System today.

5010. NASDAQ Application of the PRIMEX AUCTION SYSTEM®

5011. Definitions

For purposes of this Rule Series, unless the context requires otherwise:

(a) "Application" or "Nasdaq Application" as used in this Rule Series, and "Nasdaq Application of the Primex Auction System" as used throughout the NASD Rules means the voluntary Nasdaq trading service facility that permits NASD member firms, among other things, to submit orders in Primex Eligible Securities to be exposed to a Crowd of Participants in an anonymous, electronic auction format for the purpose of obtaining an execution for their own account or the account of a customer; to have required reports of any resulting trades automatically disseminated to the public and the industry; and to "lock in" these trades as necessary by sending both sides to the applicable clearing agency designated by the Participants involved for clearance and settlement, all in accordance with this Rule Series and other applicable rules and policies of Nasdaq.

(b) "Primex Auction System Participant," "Participant," or "Participant Firm" means a broker-dealer registered with the NASD that, when authorized, can access and participate in the Application for its customers or its own account, consistent with this Rule Series. Participants access the Application through one or more Subscribers associated with that Participant within the Application.

(c) "Subscriber" means a user associated with a Participant who, when authorized, can access and participate in the Application on behalf of that Participant, consistent with this Rule Series. A user also can access and participate directly in the Application on its own behalf, but in the name of a Participant, subject to a sponsored arrangement with that Participant, and consistent with these Rules.

(d) "Firm Administrator" means a Subscriber who, for a particular Participant, is authorized among other things to: (1) Monitor and control access to and participation in the Application by all of that Participant's Subscribers, including establishing Credit Limits for each of the Participant's Subscribers who access and participate in the Application on behalf or in the name of that Participant; and (2) view the status of the Clearing Limits applicable to the Participant overall.

(e) "Nasdaq Supervisor" means the Nasdaq staff responsible for establishing and supervising certain operational functions with respect to the operation of the Application.

(f) "Credit Limits" means the dollar amount of aggregated purchases or sales established within the Application by a Participant's Firm Administrator for each of the Participant's Subscribers which, when reached, causes the Application to: (1) Inhibit any future executions or the entry of future interest for that Subscriber; (2) cancel any orders and withdraw any Indications resident within the Application for that Subscriber; and (3) send a notice to that Subscriber, its Firm Administrator, and the Nasdaq Supervisor. Credit Limits may be established, monitored, and modified by the Firm Administrator on a real-time basis directly through the Application.

(g) "Clearing Limits" means the dollar amount of aggregated purchases and sales (calculated separately and not netted) of all Subscribers, collectively for a Participant, effected through or in the name of that Participant, that is established within the Application for that Participant, which, when reached, causes the Application to: (1) Inhibit any future executions for all Subscribers associated with that Participant; (2) cancel any orders and withdraw any Indications resident within the Application for all Subscribers associated with that Participant; and (3) send a notice to that Participant's Firm Administrator, the Nasdaq Supervisor, and to the clearing broker for that Participant provided that the clearing broker also is a Participant. If the clearing broker is not a Participant in the Application, then the Nasdaq Supervisor will notify the clearing broker that the Clearing Limits have been reached as soon as practicable. Clearing Limits for a Participant may be monitored on a real-time basis by the Participant's Firm Administrator and can be established, monitored, and modified by the Firm Administrator of the Participant's clearing broker, provided the clearing broker also is a Participant. Clearing Limits also can be established and modified by the Nasdaq Supervisor on behalf of the clearing broker.

(h) "Crowd," "Primex Crowd" or "Crowd Participant" means Primex Auction System Participants that, when authorized, can access and participate in the Application consistent with this Rule Series by: (1) Submitting orders to be exposed to other Participants; (2) viewing orders submitted by other Participants; and (3) submitting Responses and Indications for the purpose of interacting with the orders of other Participants.

(i) "Watch List" means the list of Primex Eligible Securities identified by a Crowd Participant for which the Crowd Participant will be notified by Nasdaq electronically when one or more orders in such securities is exposed in an Auction and made available for response by the Crowd.

(j) "Primex Auction Market Maker" means a Participant that, when authorized, may participate in the Application: (1) As a Primex Auction Market Maker consistent with Rule 5020 with respect to those Primex Eligible Securities for which the Participant is registered as a Primex Auction Market Maker; and (2) as a Crowd Participant consistent with Rule 5019 with respect to any Primex Eligible Security.

(k) "Primex Eligible Security" means any security listed on the Nasdaq Stock Market and any exchange-listed security eligible for participation in the Intermarket Trading System.

(l) "Mandatory Eligible Order" means a public customer order, as more fully defined in Rule 5020, that a Primex Auction Market Maker must submit to the System for exposure in order for the Primex Auction Market Maker to maintain its status as such, subject to any exclusions or minimum permissible amount provided therein.

(m) "Market Order" means an order submitted to the Application to purchase or sell a security at the most advantageous price(s) obtainable, without a specified, fixed price.

(n) "Fixed Price Order" means an order submitted to the Application to purchase or sell a security at a specified, fixed price or better.

(o) "Minimum Relative Price Improvement" means a condition that a Participant may attach to a market order consistent with Rule 5014(a), expressed in terms of the minimum relative price improvement required to execute the order. This condition is expressed in terms relative to the best bid (for orders to sell) or best offer (for orders to buy) displayed in the NBBO at the time the order is eligible to be executed against within the Application. Neither the existence nor amount of any Minimum Relative Price Improvement condition is displayed, exposed or communicated to any Participant when attached to an order.

(p) "Response" means an instruction submitted to the Application by a Participant, for the purpose of responding to an order or orders being exposed to the Crowd, consistent with Rule 5018.

(q) "Predefined Relative Indication" or "PRI" means an instruction that a Participant can submit to the Application for the purpose of responding to an order(s) in an Auction, and which does not contain a specific, fixed price, but is expressed in terms relative to the best bid (for PRIs to buy) or offer (for PRIs to sell) publicly displayed for the security, consistent with Rule 5018. While resident within the Application, PRIs are ranked to respond to incoming orders in relative price/time priority, but are not displayed, exposed or communicated to any other Participant.

(r) "Go-Along Indication" means an instruction that a Participant can submit to the Application for the purpose of responding to an order(s) in an Auction, and which does not contain a specific, fixed price, consistent with Rule 5018. A Go-Along Indication will be triggered to respond to an Auction at a price equal to the best bid (for Go-Along Indications to buy) or best offer (for Go-Along Indications to sell) publicly displayed whenever there has been at least one contemporaneous Crowd execution at such bid or offer, provided there are no PRIs or other orders available to execute against the order(s) in the Auction. While resident within the Application, Go-Along Indications are not displayed, exposed or communicated to any other Participant.

(s) "Auction" means the automated process through which orders in Primex Eligible Securities are exposed to Crowd Participants. Orders for the same security being exposed simultaneously (i.e. those which have overlapping exposure periods) are available on an aggregate basis, in whole or in part, for interaction with other Crowd participants, but only during the period of overlapping exposure. An Auction begins when an order is accepted by the Application and exposed to the Primex Crowd, and ends whenever such order(s) (including any orders that subsequently join the Auction in progress) are completely executed or their exposure ceases.

(t) "Public Order" or "Public Customer Order" means an order for the account of a customer, and not for the account of a broker-dealer, regardless of whether the customer is that of the Participant entering the order or another firm that has routed the customer order to the Participant.

(u) "Professional Order" means an order for the proprietary account of a broker-dealer, regardless of whether the broker-dealer is a market maker or specialist, and regardless of whether it is the Participant's own order or the proprietary order of another broker-dealer routed to the Participant.

(v) "Market Maker Guarantee" means the feature within the Application that allows a Participant registered as a Primex Auction Market Maker to provide an automatic execution against public customer orders it submits to the Application for exposure in an Auction where such orders are not otherwise subject to an execution. The Application will automatically execute any unexecuted balance of the order against that Primex Auction Market Maker, after the Auction exposure period for the order has expired, consistent with Rule 5020. The Market Maker Guarantee shall be provided at a price equal to the best publicly quoted offer price (for orders to buy) or best publicly quoted bid price (for orders to sell) existing for the security at the time when such exposure period for the order has expired, for any amount of shares established by the Primex Auction Market Maker for the order.

5012. Access

(a) The Application shall be available on a voluntary basis to any NASD member in good standing that chooses to register as a Participant in the Primex Auction System. Such registration shall be conditioned upon the Participant's initial and continuing compliance with the following requirements:

(1) Execution of the necessary agreements with Nasdaq or its affiliate;

(2) Membership in, or access arrangement with, a clearing agency registered with the Commission which maintains facilities through which Primex Auction System compared trades may be settled;

(3) Compliance with all applicable rules and operating procedures of Nasdaq (including these rules) and the Commission;

(4) Maintenance of the physical security of the equipment located on the premises of the Participant to prevent the improper use or access to Nasdaq systems, including unauthorized entry of information into the Primex Auction System; and

(5) Acceptance and settlement of each trade that is executed through the facilities of the Primex Auction System, or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such execution by the clearing member on the regularly scheduled clearing date.

(b) Non-NASD members may access the Application in the name of a Participant by becoming a sponsored Subscriber of the Participant, provided the Participant and sponsored Subscriber have executed the necessary agreements with Nasdaq or its affiliate, and the NASD member Participant assumes the responsibilities set forth in paragraph (a) of this Rule 5012 with respect to any activity conducted by the sponsored Subscriber.

(c) The Application may be made available through Nasdaq-provided network(s) via:

(1) Primex Auction System Workstation Service;

(2) An Application Programming Interface ("API"); or

(3) A FIX protocol interface. Certain functionality of the Application also may be made available via Computer to Computer Interface (CTCI).

5013. Order Acceptance and Exposure

(a) Order Types

The Application shall accept the following types of orders in Primex Eligible Securities, subject to any conditions or match parameters attached thereto to the extent permitted by the Application and Rule 5014, and other rules applicable to Participants with respect to the entry of orders. Conditions and match parameters, to the extent attached to an order, are never communicated to any Participant:

(1) Market Orders;

(2) Fixed Price Orders, when the specified price is equal to or between the best bid or offer publicly displayed, or is a buy (sell) order priced higher (lower) than the best offer (bid) publicly displayed. Fixed Price Orders to buy (sell) priced below (above) the best bid (offer) publicly displayed will be rejected.

[3] 17 CFR 240.19b–5.

[4] 17 CFR 240.19b–5(f).

[5] See Securities Exchange Act Release No. 45983 (May 23, 2002) (publishing SR–NASD–2002–60 for notice and comment).

For example: if the best bid and offer publicly displayed in Nasdaq is $20—$20.10, then the Application will accept orders to buy priced at $20.00 and higher, including orders to buy priced higher than the offer of $20.10 (although no execution can take place outside of the NBBO prevailing at the time of execution). An order submitted to buy at $19.95, however, would not be accepted by the Application in this situation and will be returned to the Participant that entered it.

(b) Order Size

The Application will accept orders that are either round lots, or mixed lots. Odd lot orders will not be accepted.

(c) Exposure Times Available

(1) The Application allows Participants to expose orders to the Primex Crowd. Only the size associated with an order is communicated to the Crowd, and only for the time during which the order is available for execution. Crowd Participants may monitor the availability of orders exposed in an auction through the use of their Watch List.

(2) For each Market Order submitted to the Application, a Participant can specify a maximum exposure time of either 0 (i.e., immediate), 15, or 30 seconds. Participants that are Primex Auction Market Makers for a security may submit Market Orders in that security for an immediate (i.e. "zero second") Auction, provided the Participant attaches certain match parameters as set forth in Rule 5014(b). Market Orders for at least 10,000 shares or $200,000 in market value are also eligible for a zero second Auction, regardless of whether or not match parameters are attached.

(3) Fixed Price Orders that are accepted by the Application can only be exposed for an immediate execution, in whole or in part).

5014. Conditions and Match Parameters

(a) For All Participants

Subject to any other rules applicable to Crowd Participants and Primex Auction Market Makers with respect to the entry of orders, any Participant may enter an order with the following condition attached:

Minimum Relative Price Improvement

Market Orders may be submitted with a condition for Minimum Relative Price Improvement. The Minimum Relative Price Improvement established for an order is the minimum amount of price improvement superior to the best bid or offer publicly displayed (as applicable) that the order must receive before it may be executed against in whole or in part by any interest from the Crowd. This condition must be attached before the order is entered into the Application. Such condition may be expressed only in terms relative to the best bid or offer on the opposite side of the market existing at such time when any Indication, Response, or other order is or becomes available to interact with the order in an Auction, as permitted by the Application and this Rule Series. Neither the existence nor amount of any Minimum Relative Price Improvement condition is displayed, exposed or communicated to any Participant when attached to an order. This condition shall not be available for orders submitted solely for the proprietary account of a Nasdaq market maker or CQS market maker (including Primex Auction Market Makers) and not involving a customer order.

For example: an order to buy 500 shares entered into the Application may contain a condition for Minimum Relative Price Improvement requiring that any Indication or Response (or sell order exposed in an Auction and which is available for a match) provide to that order at least a certain amount (e.g., 3 cents) of price improvement superior to the best offer publicly displayed at such time the Indication, Response or sell order is available to be matched with the order to buy.

(b) For Primex Auction Market Makers Only

A Participant registered as a Primex Auction Market Maker for a particular security is entitled, but not required, to enter customer orders with any of the following match parameters as discussed below. These allow the Primex Auction Market Maker to provide liquidity in addition to that which may be provided by the Crowd. The match parameters contained in this paragraph are only available to Participants who are Primex Auction Market Makers, and only for those securities for which they are so registered. Neither the existence nor type of any match parameter associated with an order is displayed, exposed or communicated to any other Participant:

(1) Two Cent Match

A Participant registered as a Primex Auction Market Maker for a particular security may enter an order with the Two Cent Match parameter.

(A) If there is interest from the Crowd that can satisfy the order, the order entered with the Two Cent Match will be executed against such interest by the Crowd during its exposure, provided that such Crowd interest offers to provide price improvement greater than two cents superior to the best quote publicly displayed in the NBBO at the time such Crowd interest is available.

Note: Because the system will never execute an order at a price outside of the NBBO, any Crowd interest offering an amount of price improvement that would potentially be outside of the NBBO will be executed, if matched with an order, at a price bounded by the NBBO, in effect adjusting the execution price to allow for the maximum amount of price improvement within that NBBO without trading through the NBBO at that time. As a result, it is possible that an order subject to the Two Cent Match parameter may be matched with interest from the Crowd, and not the Primex Auction Market Maker that entered it, notwithstanding the fact that the actual execution price results in price improvement of two cents or less. This can happen, for example, where there is Crowd interest available that is offering three cents of relative price improvement, but the Application causes the actual execution price to be equal to two cents of price improvement, due to a prevailing NBBO spread of two cents at the time of execution.

(B) If there is interest from the Crowd that can satisfy the order but such Crowd interest would only offer price improvement of two cents or less in relation to the best quote publicly available, then this will immediately cause the Application to execute the entire order against the Primex Auction Market Maker that entered it, and not against such Crowd interest, thereby allowing the execution of that order to be retained by the Primex Auction Market Maker. In this situation, the entire order will be executed with that Primex Auction Market Maker at the best price the Crowd interest would have otherwise provided, regardless of the size associated with such Crowd interest.

(C) Any unexecuted balance of the order remaining at the end of its exposure will be executed against the Primex Auction Market Maker. With respect to Market Orders, this execution price will be at the best quote then publicly displayed. With respect to Fixed Price Orders, the execution price will be the price specified in the Fixed Price Order, unless such price is outside the best quote publicly displayed, in which case the execution price will be at the best quote publicly displayed in the NBBO.

(D) A Primex Auction Market Maker may enter customer orders of any size with the Two Cent Match parameter.

(E) A Primex Auction Market Maker that enters a Market Order with the Two Cent Match parameter may elect immediate ("zero seconds"), 15 or 30 second maximum exposure duration for that order. A Fixed Price Order can be exposed only for an immediate "zero second" auction.

(2) 50% Match

A Participant registered as a Primex Auction Market Maker for a particular security may enter an order with a 50% Match parameter.

(A) Orders entered with the 50% Match parameter will be executed against any interest by the Crowd that satisfies the order during its exposure at the price(s) and size of such Crowd interest, for no more than 50% of the order. Any execution with the Crowd will immediately cause the Application to provide the order with an additional execution of like size and price against the Primex Auction Market Maker that entered the order.

(B) Any unexecuted balance of the order remaining at the end of its exposure will be automatically executed against the Primex Auction Market Maker. With respect to Market Orders, this execution price will be at the best quote then publicly displayed. With respect to Fixed Price Orders, the execution price will be at the price specified in the Fixed Price Order, unless such price is outside the best quote publicly displayed, in which case the execution price will be at the best quote publicly displayed.

(C) A Primex Auction Market Maker may enter customer orders of any size with the 50% Match parameter.

(D) A Primex Auction Market Maker that enters a Market Order with the 50% Match parameter may elect immediate ("zero seconds"), 15 or 30 second maximum exposure duration for that order. A Fixed Price Order can be exposed only for an immediate "zero second" auction.

For example: The best bid and offer publicly displayed for a security is $20–20.10. A Primex Auction Market Maker for that security enters into the Application a Market Order to buy 2,000 shares for a customer and selects the 50% Match Parameter. The Participant selects an exposure time of 30 seconds. During its exposure, the order elicits the following executions by other Crowd Participants (which could be in the form of Indications, Responses, or contra-side orders to sell): 500 at $20.04, and 200 at $20.05. The Application will execute these transactions, and immediately match each one as they occur by executing an additional 500 and 200 shares, at $20.04 and $20.05, respectively, against the Primex Auction Market Maker entering the order. If there is no other interest from the Crowd at the end of the 30 second exposure period, the Application will cause the remaining balance of 600 shares to be automatically executed against the Primex Auction Market Maker entering the order at the best offer publicly displayed at that time. Assuming the best offer publicly displayed is still $20.10 at this time, this would result in the Primex Auction Market Maker selling the balance of 600 shares to the customer at $20.10.

(3) Block Facilitation Match

A Participant registered as a Primex Auction Market Maker for a particular security may enter an order with a Block Facilitation match parameter, provided the order is for at least 10,000 shares. The Primex Auction Market Maker may elect to expose the order in an Auction for a maximum of 0, 15, or 30 seconds. Any Crowd interest that executes against the order during the selected exposure period, up to a maximum of 50% of the order size, will be immediately matched with an execution of like size and price against the entering Participant until the order is fully executed. If any unexecuted portion remains at the end of the exposure period, it will be automatically executed against the entering Participant. With respect to Market Orders, the execution price will be the then existing best offer (for orders to buy) or best bid (for orders to sell) publicly displayed. With respect to a Fixed Price Order, the execution price will be the price specified in the Fixed Price Order, unless such price is outside of the best quote publicly displayed, in which case the execution price will be at the best quote publicly displayed.

For example: The best bid and offer publicly displayed is $20– 20.10. A Participant enters into the Application an order to buy a block of 10,000 shares for a customer and selects the Block Facilitation Match Parameter. The Participant selects an exposure time of 15 seconds. During its exposure, the order elicits the following executions by other Crowd Participants (in the form of Indications, Responses, or contra-side orders to sell): 1000 at $20.05, and 2000 at $20.07. The Application will execute these transactions, and immediately match each one as they occur by executing an additional 1000 and 2000 shares, at $20.05 and $20.07, respectively, against the Participant entering the block order. If there is no other interest from the Crowd at the end of the 15 second exposure period, the Application will cause the remaining balance of 4000 shares to be automatically executed against the Participant entering the block order at the best offer publicly displayed at that time. Assuming the best offer publicly displayed is still $20.10 at this time, this would result in the Participant selling the balance of 4000 shares to the customer at $20.10.

(4) Clean Cross

A Participant registered as a Primex Auction Market Maker for a particular security may enter a Clean Cross order for the accounts of two separate customers where the order represents both sides of a cross for at least 10,000 shares to be exposed to the Crowd in an immediate, zero second Auction. The two sides will be executed against each other at the midpoint of the best bid and offer publicly displayed unless superior-priced interest within the Application breaks up one or both sides of the cross. In order to break up a side of the cross, there must be Crowd contra-side interest resident within the Application (e.g., resident PRIs) that totals at least 10,000 shares in the aggregate at a price or prices that are all superior to the bid-ask midpoint by at least the nearest whole cent. Any portion of a-side that is not executed against either the opposite side of the Clean Cross order or contra-side interest resident within the Application will be returned unexecuted.

5015. Public and Professional Orders

All orders submitted to the Application shall be identified as either a Public Order or a Professional Order, as those terms are defined in Rule 5011. This Public or Professional status is not displayed, exposed or communicated to any other Participant in the Application, but is used to determine whether an order is available to interact with the Response or Indication of a Crowd Participant. As indicated in Rule 5018(e), a Participant that responds to orders in an Auction can choose whether its Responses and Indications interact with all orders (both Public and Professional Orders) or just Public Orders. When entering an order, however, a Participant entering an order does not have the ability to select or control whether Public or Professional interest may interact with the order.

5016. Option to Route Orders Outside of the System After Exposure in the Application

(a) All Market Orders submitted to the Application shall include an identifier as to whether any unexecuted balance, after the order is exposed to the Crowd, should be forwarded to SuperSoes℠, in the case of a Nasdaq security, or to ITS/CAES, in the case of an exchange-listed security, or whether the order should be returned to the entering Participant. This option to route orders outside of the Application is available for Market

Orders only. Orders submitted to the Application with a specified, fixed price cannot be automatically forwarded to Nasdaq's other execution systems. Routing identifiers are not displayed, exposed or communicated to any other Participant in the Application.

(b) With respect to exchange-listed securities, only Primex Auction Market Makers (which also must be ITS/CAES market makers with respect to these securities, as required by these rules) may elect to have Market Orders in exchange-listed securities routed out to ITS when there is a balance remaining following exposure in the System, provided, however, that customer orders so routed must first be exposed in the Application for at least 15 seconds. In addition, to the extent the best price publicly quoted at that time is available within Nasdaq's CAES system, regardless of whether the same price also is being publicly quoted by another ITS market center, such orders designated for routing to ITS/CAES will be delivered to CAES for execution up to the size publicly quoted by CAES participants and will not be routed out to another market center through ITS.

5017. Short Sales

Participants are responsible for complying with applicable short sale rules when using the Application. No Participant shall submit to the Application an order for a security that, if executed, would result in a "short sale" as that term is defined in Exchange Act Rule 3b–3, unless the transaction would be exempt from, or otherwise permissible under, the requirements of NASD Rule 3350 or Exchange Act Rule 10a–1, as applicable.

5018. Responses and Indications

(a) General—Participants may submit Responses and Indications to the Application, consistent with this Rule Series, for the purpose of interacting with orders in an Auction, as described herein. Responses and Indications are not displayed, exposed or communicated to any Participant, except to the extent they result in an execution with an order. Responses and Indications cannot execute against other Responses or Indications.

(b) Responses—Responses are instructions submitted to the Application by Participants to interact with available orders exposed in an Auction. Responses may be either a Fixed Price Response (e.g. buy 1000 at $20) or a Relative Priced Response (e.g., buy 1000 at the bid plus 3 cents). All Responses must be entered in an amount of at least one round lot, but also may be for a mixed lot.

(c) Indications—Indications are instructions, with the characteristics set forth below, submitted to the Application by Participants to interact with orders exposed in an Auction. An Indication may be a Predefined Relative Indication ("PRI") or a Go-Along Indication.

(1) Predefined Relative Indications

(A) PRIs can be submitted to the Application for the purpose of automatically responding to an Auction at a point in time when one or more orders becomes available. PRIs have no specific, fixed price, but are expressed at time of entry in terms relative to the best bid or offer publicly displayed at such time when the Application activates the PRI against orders in an Auction. While resident within the Application, PRIs are ranked in relative price/time priority among all other PRIs resident within the Application and any same-side orders currently being exposed in an Auction, as indicated in paragraph (e) of this Rule. Neither the existence nor terms of a PRI are displayed, exposed or communicated to any other Participant while resident in the Application. When activated by the Application, a PRI will match against orders in an Auction at a price equal to the best bid (for PRIs to buy) or offer (for PRIs to sell) publicly displayed at that time in the NBBO, plus or minus (respectively) the relative price term associated with that PRI; provided that such price also satisfies any applicable condition associated with the order(s) in the Auction to which it is responding.

(B) At the time of its original entry, each PRI submitted to the Application must be for the following share amounts:

(i)NBBO PRIs must be for at least 3000 shares upon entry;

(ii) NBBO +/ − .01or .02 must be for at least 2000 shares upon entry;

(iii) NBBO +/ − .03 or greater must be for at least 1000 shares upon entry.

(C) The Application will accept a PRI with the following amounts of relative price improvement:

(i) if the NBBO, at the time the PRI is submitted, has a spread equal to three cents or more, the PRI will be accepted if it offers any amount of price improvement between zero and the actual NBBO spread prevailing at that time;

(ii) if the NBBO, at the time the PRI is submitted, has a spread that is less than three cents, the PRI may offer any amount of price improvement between zero and three cents.

(D) Participants may elect to limit their exposure when using PRIs by entering a Per Auction Maximum size for each PRI submitted. The Per Auction Maximum represents the maximum share amount of a PRI available for a single Auction. It cannot be greater than the size of the PRI, but is subject to the same minimum values applicable to the original entry of a PRI with that relative price term. Once the Per Auction Maximum, if any, for a PRI is exhausted, the Participant will have 15 seconds to withdraw the PRI, during which time no further executions against that PRI will occur. In the absence of a withdrawal during this period, the Application will restore the PRI up to the Per Auction Maximum and the PRI will become available again for any subsequent Auctions to the extent there is an eligible balance remaining for that PRI. For purposes of relative price/time priority, the restored PRI will receive a new timestamp within the Application.

(E) Participants may select a maximum residency period of one (1) or five (5) days, during which time the PRI remains resident within the Application unless fully executed or withdrawn. The Application will automatically withdraw any PRIs that remain at the end of the applicable residency period.

(2) Go-Along Indications

(A) A Go-Along Indication can be submitted to the Application for the purpose of automatically responding in an Auction at a point in time when one or more orders becomes available in an Auction and there has been at least one other contemporaneous Crowd execution within the Application at the NBBO; provided there are no PRIs available or orders being exposed in an Auction (executions resulting from a Primex Auction Market Maker Guarantee do not trigger Go-Along Indications). Go-Along Indications have no specific, fixed price when entered, but will match against orders at a price equal to the best bid (for Go-Along Indications to buy) or best offer (for Go-Along Indications to sell) that exists at such time the Go-Along Indication is activated. While resident within the Application, Go-Along Indications are not displayed, exposed or communicated to any other Participant.

(B) At the time of its original entry, each Go-Along Indication submitted to the Application must be for at least 10,000 shares.

(C) Participants may select a maximum residency period of one (1) or five (5) days, during which time the Go-Along Indication remains resident within the Application unless fully executed or withdrawn. The Application will automatically withdraw any Go-Along Indications that remain at the end of the applicable residency period.

(d) Executions Bounded by the NBBO—The Application will never execute an order outside of the NBBO prevailing at the time of execution. Indications such as PRIs that potentially would offer an amount of price improvement that could result in an execution outside of the NBBO will be priced at the NBBO if matched with an order, in effect providing the maximum amount of price improvement permissible within the NBBO at that time.

(e) Relative Priority of Predefined Relative Indications and Orders—(1) While resident within the Application, Predefined Relative Indications are ranked in relative price/time priority while they await activation against incoming orders notwithstanding that PRIs have no specified, fixed price associated with them. For example, among resident PRIs for the same security on the same side of the market, PRIs offering greater relative price improvement are ranked ahead of PRIs offering less relative price improvement. PRIs offering the same relative amount of price improvement are ranked by time of entry (or the time the Indication was restored after exhausting its Per Auction Maximum).

(2) Market Orders being exposed within the Application also are ranked in relative price/time priority during the life of their exposure, notwithstanding that Market Orders have no specified, fixed price associated with them. For example, among Market Orders in the same security being exposed on the same side of the market, those orders not seeking any relative price improvement are ranked ahead of orders seeking some relative amount of Minimum Relative Price Improvement. Orders seeking a greater relative amount of Minimum Relative Price Improvement are ranked behind orders seeking a lesser relative amount of Minimum Relative Price Improvement. Orders seeking the same relative amount of price improvement are ranked by time of entry.

(3) Among and between Indications and orders on the same side of the market, the relative price/time priorities for each are integrated, based on their respective ranking relative to the best bid and offer publicly displayed. The Application recalculates and maintains these relative priorities whenever there is a change in the best bid or offer prices publicly displayed in the NBBO. Market Orders that are matched with other Market Orders being auctioned are executed at the midpoint of the best bid and offer publicly displayed, provided that such price satisfies any condition for Minimum Relative Price Improvement associated with each order.

(f) Responding to All Orders or Public Orders Only—All Responses and Indications shall include an identifier as to whether it may interact with either: (1) All available orders (both Public Orders and Professional Orders); or (2) Public Orders only. Such identifier is not displayed, exposed or communicated to any Participant at any time, but is used by the Application for determining the universe of orders with which the Response or Indication may interact.

5019. Crowd Participation

(a) There are two levels of participation in the Application: Crowd Participant and Primex Auction Market Maker. Becoming a Participant in the Application automatically entitles the Participant to be a Crowd Participant for any security, allowing participation consistent with this Rule 5019. A Crowd Participant may also choose to register as a Primex Auction Market Maker, but only on a security-by-security basis, as set forth in Rule 5020, and only consistent with the requirements for participation under that Rule.

(b) Unless otherwise specified, a Crowd Participant may enter orders, Indications, and Responses in any Primex Eligible Security at any time, for its own account or for the account of a customer. Crowd Participants have no mandatory obligation to submit to the Application any order at any time.

5020. Market Maker Participation

(a) A Participant may register as a Primex Auction Market Maker in one or more Primex Eligible Securities, and may maintain such registration while in compliance with the requirements of this Rule. Unless otherwise specified, a Primex Auction Market Maker is automatically subject to the same rights and obligations of Crowd Participants pursuant to Rule 5019 with respect to customer orders in any and all Primex Eligible Securities. In addition, a Primex Auction Market Maker is entitled, but not obligated, to use either of the following features of the Application when submitting customer orders, but only with respect to those securities in which it is currently registered as a Primex Auction Market Maker:

(1) A Primex Auction Market Maker, for securities in which it is registered as such, may submit customer orders to the Application with any of the available match parameters that enable the Primex Auction Market Maker to exercise certain matching rights facilitated by the Application, as set forth in Rule 5014(b). When associated with an order, these match parameters are not displayed, exposed or communicated to any other Participant; or

(2) A Primex Auction Market Maker, for securities in which it is registered as such, may submit customer orders to the Application with a Market Maker Guarantee enabling the Primex Auction Market Maker to guarantee an execution within the Application where such orders are not otherwise subject to an execution as a result of either satisfactory Crowd interest or matching rights processing elected by the Primex Auction Market Maker pursuant to Rule 5014(b) for the order.

(i) Public customer orders of any size are eligible for the Market Maker Guarantee. The Application will facilitate the Market Maker Guarantee by automatically executing any unexecuted balance of the order against the Primex Auction Market Maker that submits the order, after the Auction exposure period for the order has expired.

(ii) The Market Maker Guarantee is automatically provided at a price equal to the best publicly quoted offer price (for orders to buy) or best publicly quoted bid price (for orders to sell) existing for the security at the time when such exposure period for the order has expired (including "zero second" auctions), for any amount of shares established by the Primex Auction Market Maker for the order.

(b) With respect to each security in which a Participant is registered as a Primex Auction Market Maker, the Participant shall:

(1) If the security is a Nasdaq-listed security, be registered as a Nasdaq market maker in such security (or become so registered), and at all times comply with all applicable NASD rules and interpretations relating to Nasdaq market makers, including the requirement to enter and maintain two-sided quotations in Nasdaq for such security, subject to the excused withdrawal procedures set forth in Rule 4619;

(2) If the security is an ITS/CAES eligible security, be registered as an ITS/CAES Market Maker (or become so registered) in such security, and at all times comply with all applicable NASD rules and interpretations relating to ITS/CAES Market Makers, including the requirement to enter and maintain two-sided quotations in CQS for such security, subject to the excused withdrawal procedures set forth in Rule 6350;

(3) Submit to the Application a minimum of 80%* of the number of its Mandatory Eligible Orders (including customer orders of another broker-dealer that has directed such orders to the Participant) as soon as practicable upon receipt by the Participant, for the purpose of exposing such orders to the Primex Crowd. Mandatory Eligible Orders do not include:

(A) Any customer order that is greater than 1099 shares at origination, except that nothing in these rules prohibits a Participant from submitting orders of greater size at any time;

(B) Any customer order that, when initially received by the Participant, is a Fixed Price Order with a specified price that is not eligible for acceptance by the Application because it is priced outside the NBBO and is not otherwise marketable pursuant to Rule 5013(a)(2), regardless of whether or not the order becomes eligible for acceptance and exposure at a subsequent point in time;

(C) Any customer order placed by a customer who authorizes the Participant to not expose the order, either at the time the order is placed or prior thereto pursuant to an individually negotiated agreement with respect to such customer's orders;

(D) Any customer order that is an odd lot order (*e.g.*, less than 100 shares);

(E) Any customer order to be executed outside of the hours of operation of the Application; or

(F) Any other order that would not fall within the definition of the term "covered order" as defined in Exchange Act Rule 11Ac1–5(a)(8).

(4) Not attach a condition for Minimum Relative Price Improvement to any order submitted to the Application solely for its own principal account and not involving a customer order.

5021. Anonymity, Execution, Reporting, and Clearing

(a) Anonymity—The Application will process all activity among Participants on an anonymous basis until the end of the day. After facilitating an execution, the Application will send an execution report to all Participants involved as soon as practicable. The execution report will indicate the details of the transaction, but will not contain the identity of the contra-party. At the end of each trading day, the actual contra-party for executions obtained within the Application will be made available to the Participants involved through Nasdaq's systems. For regulatory and other necessary purposes, the NASD and Nasdaq will have the ability to determine the identity of the actual contra-parties at any time.

(b) Tape Reporting and Clearing—Matches within the Application are executed and reported through Nasdaq systems for public tape reporting and forwarding to NSCC for clearing, where necessary. Participants (or their clearing brokers) are the parties responsible for the clearance and settlement of all trades executed through the Application. Once a transaction is executed, Participants do not have the ability within the Application to modify or reallocate any portion of the execution to a clearing broker other than the clearing broker that the Application associates with the Participant at the time of execution. Neither the NASD (and its affiliates) nor any operator or administrator of the Primex Auction System shall be directly or indirectly a party to any transaction entered into, matched, or otherwise effected through the Application, notwithstanding that, for the remainder of the trading day after a transaction, the actual contra-parties have not had their identities disclosed to each other by the Application.

5022. Credit Limits and Clearing Limits

(a) Credit Limits—The Application shall allow a Participant's Firm Administrator to establish Credit Limits for each of its associated Subscribers, including sponsored Subscribers, on an individual Subscriber basis. The limits are established as a dollar amount of aggregated purchases or sales which, when reached, causes the Application to: (1) Inhibit any future executions or the entry of future interest for that Subscriber; (2) cancel any orders and withdraw any Indications resident within the Application for that Subscriber; and (3) send a notice to that Subscriber, its Firm Administrator, and the Nasdaq Supervisor. Credit Limits may be monitored and modified by the Firm Administrator on a real-time basis directly through the Application.

(b) Clearing Limits—The Application shall allow a Participant's clearing broker to establish Clearing Limits within the Application for the Participant on a firm-wide basis. The limits are established as a dollar amount of both purchases and sales (calculated separately, and not netted) of all Subscribers, collectively for a Participant, effected within the Application through or in the name of that Participant. When the Clearing Limits for a Participant are reached, the Application will: (1) Inhibit any future executions for all Subscribers associated with that Participant; (2) cancel any orders and withdraw any Indications resident within the Application for all Subscribers associated with that Participant; and (3) send a notice to that Participant's Firm Administrator, the Nasdaq Supervisor, and to the clearing broker for that Participant provided that the clearing broker also is a Participant. Clearing Limits for a Participant may be monitored on a real-time basis by the Participant's Firm Administrator and can be established, monitored, and modified by the Firm Administrator of the Participant's clearing broker, provided the clearing broker also is a Participant. If the clearing broker is not a Participant in the Application, then the Nasdaq Supervisor will notify the clearing broker that the Clearing Limits have been reached as soon as practicable. Clearing Limits also can be established and modified by the Nasdaq Supervisor on behalf of the clearing broker.

5023. Hours of Operation

(a) The Application is available for executing securities transactions during regular Nasdaq trading hours whenever there is a free and open quote (*i.e.*, not locked or crossed), subject to the general authority and regulatory responsibilities of Nasdaq or its affiliates in operating the Application as a facility of Nasdaq or its affiliate (including but not limited to its authority to implement trading halts in one or more securities due to regulatory reasons, market-wide emergencies, and system malfunctions).

(b) Nasdaq may permit certain functionality of the Application to be available outside of the time period during which securities transactions may be effected through the Application, including but not limited to, the monitoring, entering, canceling, withdrawing, or modifying resident Indications, Credit Limits, or Clearing Limits.

5024. Limitation of Liability

(a) Neither Nasdaq, the NASD (including their affiliates), Primex Trading N.A., L.L.C. (including its affiliates) nor any other operator, licensor, or administrator (including their affiliates) of the Nasdaq Application of the Primex Auction System shall have any liability for any loss, damages, claim or expense arising from or occasioned by any inaccuracy, error or delay in, or omission of or from: (1) the Nasdaq Application; or (2) the collection, processing, reporting or dissemination of any information derived from the Nasdaq Application, resulting either from any act or omission by Nasdaq or any affiliate, or any operator, licensor, or administrator of the Nasdaq Application or from any act, condition or cause beyond the reasonable control of Nasdaq or any affiliate, operator, licensor or administrator of the Nasdaq Application, including, but not limited to, flood, extraordinary weather conditions, earthquake or other act of nature, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction. If a Participant that enters, authorizes its Subscribers (including sponsored Subscribers) to enter, or is authorized by other Participants to enter orders, Responses, or Indications that result in a transaction through the Application fails to perform its settlement or other obligations under the terms of such transaction, the NASD (and its affiliates) and Primex Trading N.A., L.L.C. (and its affiliates) shall have no liability for such failure to settle.

(b) Neither Nasdaq, the NASD (including their affiliates), Primex Trading N.A., L.L.C. (including its affiliates) nor any other operator, licensor, or administrator (including their affiliates) of the Nasdaq Application of the Primex Auction System makes any express or implied warranties or conditions to Participants or their associated Subscribers (including sponsored Subscribers) as to results that any person or party may obtain from the Nasdaq Application for trading or for any other purpose, and all warranties of merchantability or fitness for a particular purpose or use, title, and non-infringement with respect to the Nasdaq Application are hereby disclaimed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Primex Auction System is a facility of Nasdaq that has been operating as a Pilot Trading System, as defined in paragraph (c)(2) of Rule 19b–5 of the Act.[6] As such, Nasdaq was not required to file a proposed rule change under Rule 19b–4 of the Act[7] as long as the System maintained its status as a Pilot Trading System. Under paragraph (c)(2) of Rule 19b–5 of the Act, a system must comply with three criteria to maintain its status as a Pilot Trading System.[8] One such criteria is that, for each security traded in the System, the System cannot trade more than one percent of the average daily consolidated trading volume of any such security, during at least two of the last four consecutive calendar months. Nasdaq represents that Primex has exceeded this threshold for many securities. Nasdaq also represents that while not all eligible securities have been phased in as of this date, Primex has already executed approximately 1.7 million trades representing almost 500 million shares since it began operation just over four months ago. Therefore, Nasdaq files this proposed rule change to continue operating the System until the Commission grants permanent approval.

Generally, Nasdaq states that Primex is a hybrid system that combines an extended, electronic auction mechanism with the speed and liquidity of Nasdaq's competing market maker environment.[9] In a traditional auction market model, market participants gather in a "crowd" at a physical location to bid for incoming orders. In addition, most auction markets employ a single specialist that manages trading in a security and supplies liquidity when there is no buying or selling interest in the crowd.

Primex automates many of these elements. By facilitating an "electronic crowd," not bound by the physical limitations of space or the number of persons that can be at any one place at a given time, the System can provide the benefits of an auction model on a larger and more efficient scale. By further combining this within a competitive, multi-dealer structure that has been Nasdaq's hallmark, Nasdaq believes it can make available a greater amount of liquidity than would be available in a market with only one provider of capital. The result of this combination and automation, Nasdaq believes, is a market-based solution for providing price improvement opportunities and enhanced liquidity.

The following is a brief overview of how the System typically will operate. Additional details on the System and its tools can be found within the rules of the System, the Form PILOT[10] and the proposing release seeking permanent approval of the System.[11]

A customer sends an order to his or her broker, who, in turn, can forward it to the System. The System is voluntary. Once an order is submitted, an auction for that order commences. Through a unique mechanism, the order is exposed to the System's electronic crowd, which can be composed of market makers, proprietary traders, institutions, ECNs and even the orders of other customers. The System's electronic crowd is open to any NASD member (or their customers, through a sponsored arrangement), and thus the universe of participants who may have access to

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* The 80% test will be applied on a quarterly basis, and will be phased in as follows: For the calendar quarters commencing on October 1, 2001; January 1, 2002; April 1, 2002; and July 1, 2002; any participant may register in any eligible security as a Primex Auction Market Maker and maintain that status during such calendar quarters without regard to the percentage of its orders it submits to the System for such security during that time, provided it also satisfies all other requirements of a Primex Auction Market Maker pursuant to these rules.

Beginning with the calendar quarter that commences on October 1, 2002, a participant previously registered as a Primex Auction Market Maker for a particular security may maintain its status as such until December 31, 2002 only if it submitted at least 50% of its Mandatory Eligible Orders during the calendar quarter that commences on July 1, 2002 (or during such portion of the calendar quarter that commences on July 1, 2002 in which the participant was so registered if the participant registered in mid quarter), provided it also satisfies all other requirements of a Primex Auction Market Maker pursuant to these rules. A participant that is newly registering as a Primex Auction Market Maker for a particular security any time after the start of the calendar quarter that commences on October 1, 2002 may maintain its status as such until the end of the calendar quarter in which it registered without regard to the percentage of its orders it submits to the System for such security during that time.

Beginning with the calendar quarter that commences on January 1, 2003, and each calendar quarter thereafter, a participant previously registered as a Primex Auction Market Maker for a particular security may maintain its status as such until the end of that calendar quarter only if it submitted at least 80% of its Mandatory Eligible Orders during the previous calendar quarter (or during the portion of such previous calendar quarter in which it was so registered if the participant registered in mid quarter), provided it also satisfies all other requirements of a Primex Auction Market Maker pursuant to these rules.

[6] 17 CFR 240.19b–5(c)(2).

[7] 17 CFR 240.19b–4.

[8] Pursuant to Rule 19b–5(c)(2) of the Act, to qualify as a Pilot Trading System, a system must: (1) be in operation for less than two years; (2) with respect to each security traded on such Pilot Trading System, during at least two of the last four consecutive calendar months, has traded no more than one percent of the average daily trading volume in the United States; and (3) with respect to all securities traded on such Pilot Trading System, during at least two of the last four consecutive calendar months, has traded no more than 20 percent of the average daily trading volume of all trading systems operated by the self-regulatory organization. 17 CFR 240.19b–5(c)(2).

[9] A detailed description of the System is contained in the Form PILOT and the companion proposed rule change, as well as the rules.

[10] See *supra* note 3.

[11] See *supra* note 5.

these orders is very broad. Using the System's auction response tools, crowd participants anonymously bid for the order at prices at or within the parameters of the National Best Bid and Offer ("NBBO"). The order will be executed if an appropriate match is found in the electronic crowd or if the participant submitting the order provided an execution guarantee. The types of orders that can be submitted and the System's response tools are specified in the above rules and are generally described below.

Primex is available to any NASD member and other entities members choose to sponsor. To access the System, a member must be in good standing and have executed the necessary agreements with Nasdaq. Members granted access to the System are referred to as Primex Auction System Participants ("Participants"), and can access the facility for their customers or for themselves. Participants in the System are classified as either Primex Auction Market Makers ("PAMMs") or Crowd Participants.

The rights and obligations of each class of Participant are specified in the rules. Generally, however, for any security eligible for trading in the System, Crowd Participants can: view all orders exposed in the System; interact with any order put to auction in the System by responding to auctions; submit orders to be put to auction; and trade as principal, agent, or riskless principal.

PAMMs have certain obligations when they participate in the System. With respect to any security eligible for trading in the System for which a Participant is registered as a PAMM, it must: maintain a two-sided quote in Nasdaq (or Nasdaq's InterMarket for CQS securities) with respect to any security for which it is registered as a PAMM, and otherwise be in compliance with all applicable NASD rules; and submit to the System a minimum percentage [12] of its Mandatory Eligible [13] public customer orders (including customer orders of another broker-dealer that directs such orders to the PAMM) for those securities in which it is registered as a PAMM.

PAMMs have the same privileges as Crowd Participants, but because they have certain obligations, PAMMs also have additional privileges. PAMMs are entitled but not obligated to: exercise certain "matching rights" that allow a PAMM to commit capital to its customer orders in conjunction with the auction exposure process; provide execution guarantees within the System for its own customer orders submitted; and use certain types of orders that permit the PAMM to facilitate block trades and "clean crosses." PAMMs also are entitled to share in transaction revenue paid by other Participants when those other Participants execute against a PAMM's customer orders.

The System accepts unpriced market orders, as well as orders that have specified, fixed prices that are marketable or priced between the NBBO. Orders can be submitted in any round lot or mixed lot, but odd lot orders are not accepted. The System is not an ECN Display Alternative under the Order Handling Rules [14] because it does not display limit orders. Fixed price orders are eligible only for "immediate or cancel" treatment, whereas Participants can choose the duration for which their market orders will be exposed.

Participants also have the option to specify that the balance of an unexecuted order be returned to them or forwarded to other Nasdaq systems for execution. Participants must indicate their preference upon submission of an order to the System. A Participant's preference is not displayed, exposed or communicated to any other Participant.

Another feature of the System is that it processes all activity among Participants on an anonymous basis until the end of the trading day, at which time the counterparties' identities are revealed to each other. Nasdaq, however, has the ability to determine the identity of the parties at any time.

In all other aspects, trades executed within the System are reported and settled using ACT, just as any other trade executed using Nasdaq systems. Trades are reported to the public tape, included in ACT's risk management features, and forwarded to DTCC for clearing, if necessary. The System itself provides additional risk management controls through which Participants and their clearing firms can closely monitor and control their exposure specifically with respect to System activity, both at an individual subscriber/user level, as well as across an entire firm.

(2) Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6) [15] and 11A(a)(1) of the Act.[16] Section 15A(b)(6) of the Act [17] requires the rules of the NASD to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 11A(a)(1) of the Act [18] sets forth finding of Congress that new data processing and communications techniques create opportunity for more efficient and effective market operations.

Nasdaq believes its application of Primex is consistent with the NASD's obligations under the Act, as well as the finding of Congress, because the System provides members with an additional electronic, execution system, which is designed to provide members with flexibility in executing orders and the opportunity to obtain price improvement. Nasdaq states that the System is a hybrid that combines an extended, electronic auction mechanism with the speed and liquidity of Nasdaq's competing market maker environment. Nasdaq believes that the System can improve on the traditional auction market model by automating many of its elements, including the trading crowd, but will not be bound by physical limitations of space or the number of persons that can be in one physical location at any given time. Nasdaq believes this attribute, combined with a multiple market maker structure, provides an opportunity for enhanced liquidity.

Nasdaq states that another attribute of the System is that all orders may be exposed to a wider audience and thus have the opportunity to obtain price improvement. This provides for order interaction and can facilitate best execution. At the same time, however, Nasdaq believes the System can continue to provide PAMMs with incentives to expose orders and provide liquidity to those orders. To ensure the protection of investors, orders will not be executed at prices inferior to the NBBO.

[12] *See* NASD Rule 5020.

[13] *See* NASD Rules 5011 and 5020.

[14] The SEC's Quote Rule, Rule 11Ac1–1, and Limit Order Display Rule, Rule 11Ac1–4, together are commonly referred to as the Order Handling Rules. Specifically, the System is not an ECN Display Alternative under paragraph (c)(5)(ii) of Rule 11Ac1–1 and paragraph (c)(5) of Rule 11Ac1–5.

[15] 15 U.S.C. 78*o*–3(b)(6).

[16] 15 U.S.C. 78k–1(a)(1).

[17] 15 U.S.C. 78*o*–3(b)(6).

[18] 15 U.S.C. 78k–1(a)(1).

Nasdaq further states that the System also is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions is securities. Trades executed using the System will be processed through ACT in the same manner as trades executed using other Nasdaq systems. As such, information on these trades will be incorporated in Nasdaq's audit trail, ACT's risk management function, and forwarded to DTCC for clearance and settlement, if necessary. Trades executed using the System also will be disseminated on the public tape.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Prior to filing the Form PILOT, Nasdaq published a Notice to Members describing the operation of the System.[19] One letter was received in response thereto.[20]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii),[21] subparagraph (f)(5) of Rule 19b–4,[22] and subparagraph (f)(2) of Rule 19b–5.[23] The proposal would permit Nasdaq to continue operating Primex until the Commission grants permanent approval, but not for a period longer than six months. The proposal does not modify any rule or the operation of Primex. As such, it does not affect the protection of investors or the public interest; does not impose any burden on competition; and does not have the effect of limiting access to or availability of the system.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act,[24] the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–58 and should be submitted by June 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13625 Filed 5–30–02; 8:45 am]

BILLING CODE 8010–01–P

[19] NASD Notice to Members 00–65 (September 2000).

[20] *See* letter from Antonio Cecin, Managing Director, Director of Equity Trading, US Bancorp Piper Jaffray, to Eugene Lopez, Senior Vice President, Nasdaq, dated January 2, 2001.

[21] 15 U.S.C. 78s(b)(3)(A)(iii).

[22] 17 CFR 240.19b–4(f)(5).

[23] 17 CFR 240.19b–5(f)(2).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45981; File No. SR–PCX–2002–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Bid-Ask Spread Differentials for Options

May 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 22, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. On May 3, 2002, the PCX filed an amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to amend Exchange Rule 6.37 to increase the maximum bid/ask spread differential for options from $.75 to $.80 where the bid price of an option is greater than $10 but does not exceed $20. The text of the proposed rule change is set forth below. Additions are in italics; deletions are in brackets.

* * * * *

Rule 6.37

* * * * *

(b)(1) Bidding and/or offering so as to create differences of no more than

(A)–(C)—No change.

(D) no more than *.80* [.75] where the bid is more than $10 but does not exceed $20, and

(E) No change.

(2)–(4)—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Mai S. Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, dated May 2, 2002 ("Amendment No. 1"). The proposed rule change was originally submitted pursuant to Section 19(b)(3)(A)(i) of the Act and Rule 19b–4(f)(1) thereunder. The Exchange filed Amendment No. 1 to designate the filing as having been filed pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. The Exchange also requested the Commission to waive the 5-day pre-filing requirement and the 30-day delayed operative period.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to the industry-wide conversion of pricing from fractions to decimals, the Exchange converted all options prices in its rules to decimals, *i.e.*, dollars and cents. Among the rules affected by the conversion of prices was PCX Rule 6.37, which relates to obligations of market makers. This rule stated that in the course of maintaining fair and orderly markets, market makers could set price differentials of ¾ of a point where the bid was more than $10 but does not exceed $20. Upon conversion to decimal pricing, the Exchange converted ¾ of a point price differential to a $.75 price differential.

A related rule regarding trading differentials provides that the maximum price variation ("MPV") for issues traded at $3.00 or greater is $.10. As a consequence of the conversion, the .10 MPV bars market makers from setting price differentials of 75 cents as exists under the current rules and instead requires them to quote the differentials as either $.70 or $.80. Because the $.70 value provides less of a spread differential than was permitted before the conversion, and because current PCX Rule 6.37 does not permit a spread differential higher than $.75, the Exchange proposes to amend Rule 6.37 to increase the price differential by $.05 so that it may set the price differential to $.80 for issues that trade for over $3.00, but less than $10.00.

2. Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[4] in general, and further the objectives of Section 6(b)(5),[5] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended, does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate,[6] it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6)[8] thereunder. At any time within 60 days of the filing of Amendment No. 1 to the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The PCX has requested that the Commission accelerate the operative date. The Commission believes that it is consistent with the protection of investors and the public interest and therefore finds good cause to designate the proposal to become immediately operative upon filing. Acceleration of the operative date and waiver of the 5-day pre-filing requirement will permit the PCX to amend Rule 6.37 to reflect the PCX's $.10 MPV without undue delay. For these reasons, the Commission finds good cause to designate that the proposal become operative immediately upon filing.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to the File No. SR–PCX–2002–22 and should be submitted by June 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13624 Filed 5–30–02; 8:45 am]

BILLING CODE 8010–01–P

[6] The Exchange requested the Commission to waive 5-day pre-filing notice requirement and the 30-day operative period. *See* Amendment No. 1, *supra* note 3.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19–4(f)(6).

[9] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4031]

Culturally Significant Objects Imported for Exhibition; Determinations: "Neo-Impressionism: Artists on the Edge"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Neo-Impressionism: Artists on the Edge," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Portland Museum of Art, Portland, ME from on or about June 27, 2002 to on or about October 20, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice

of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact David S. Newman, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202–619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: May 23, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–13702 Filed 5–30–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4730]

Determination Related to the Participation of the Magen David Adom Society of Israel in the Activities of the International Red Cross and Red Crescent Movement

Pursuant to the requirements contained in the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115), under the heading of Migration and Refugee Assistance, I hereby determine that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

This Determination shall be published in the **Federal Register**, and copies shall be provided to the appropriate committees of the Congress.

Dated: May 5, 2002.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 02–13701 Filed 5–30–02; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the six Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collections. The ICR describes the nature of the information collections and the expected burdens. The **Federal Register** Notices with a 60-day comment period soliciting comments on the following collections of information were published on November 14, 2001 on pages 57149–57150 for (2120–0514) and January 31, 2002 on page 4775 for (2120–0003, 2120–0027, 2120–0507, 2120–0574, 2120–0644).

DATES: Comments must be submitted on or before July 1, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

1. Title: Malfunction or Defect Report (Other than scheduled air carriers).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0003.

Forms(s): FAA Form 8010–4.

Affected Public: Repair station operators certified under Part 145 and air taxi operators certified under Part 135.

Abstract: The information collection required by FAR 135 and 145 are authorized by U.S. Code, Title 49, Chapter 447, Subsection 44702, as amended, which empowers the Secretary of Transportation to issue certificates for air taxi operators and repair stations, respectively, and to prescribe such terms, conditions, and limitations on those certificates, as necessary to ensure safety in air transportation. Submission of malfunction or defect reports are necessary to ensure that safety.

Estimated Annual Burden Hours: An estimated 8,407 hours annually.

2. Title: Application for Certificate of Waiver or Authorization.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0027.

Forms(s): FAA Form 7711–2.

Affected Public: Airmen, state & local governments, and businesses that wish to apply for authorization to occupy navigable airspace, generating around 25,000 responses.

Abstract: Part A of Subtitle VII of the Revised Title 49, United States Code, authorizes the issuance of regulations governing the use of navigable airspace. 14 CFR parts 91, 101, and 105 prescribe regulations governing the general operation and flight of aircraft, moored balloons, kites, unmanned rockets, unmanned free balloons, and parachute jumping. Applicants are individual airmen, state and local governments, and businesses.

Estimated Annual Burden Hours: An estimated 12,202 hours annually.

3. Title: Special Federal Aviation Regulation (SFAR) 36, Development of Major Repair Data.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0507.

Form(s): FAA form 8100–8.

Affected Public: A total of 19 aircraft maintenance personnel, either already holding authorization to develop major repair data or applying for that authorization.

Abstract: SFAR 36 (to part 121) relieves qualifying applicants (Aircraft maintenance, commercial aviation, aircraft repair stations, air carriers, commercial operators) of the burden to obtain FAA approval of data developed by them for the major repairs on a case-by-case basis; and provides for one-time approvals.

Estimated Annual Burden Hours: An estimated 326 hours annually.

4. Title: War Risk Insurance.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0514.

Form(s): N/A.

Affected Public: A total of 76 estimated claimants for War Risk Insurance.

Abstract: The information submitted by applicants for Chapter 443 insurance is used by the FAA to determine the reasonableness of the terms and conditions on which commercial insurance is available, assess the risks for which insurance coverage is being sought, and determine what risks of aircraft operators' are customarily covered by insurance. Without this information, the FAA could not fulfill the statutory requirements or due diligence for issuance of insurance. Therefore, without this information, the FAA could not issue insurance.

Estimated Annual Burden Hours: An estimated 1,668 hours annually.

5. Title: Aviation Safety Counselor of the Year Award.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0574.

Form(s): FAA Form 8740–14.

Affected Public: A total of 180 private citizens involved in aviation who nominate individuals for the award.

Abstract: The form is used to nominate individuals for recognition of their volunteer service to the FAA. The agency will use the information on the form to select nine regional winners and one national winner.

Estimated Annual Burden Hours: An estimated 180 hours annually.

6. Title: Commercial Space Transportation Licensing Requirements for Operation of a Launch Site.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0644.

Form(s): N/A.

Affected Public: A total of 2 licensees authorized to operate commercial launch sites.

Abstract: The information collected includes data required for performing launch site location analysis. The launch site license is valid for a period of five years.

Estimated Annual Burden Hours: An estimated 1,592 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 17, 2002.

Judith D. Street,

Acting Manager, Standards and Information Division, APF–100.

[FR Doc. 02–13708 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Little Rock National Airport, Little Rock, Arkansas

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the city of Little Rock, acting through the Little Rock Municipal Airport Commission for Little Rock National Airport, under the provisions of Title 49, U.S.C., Chapter 475, (hereinafter referred to as "Title 49") and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the Noise Exposure Maps is May 13, 2002.

FOR FURTHER INFORMATION CONTACT: Edward N. Agnew, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas 76137, (817) 222–5630.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Little Rock National Airport are in compliance with applicable requirements of part 150, effective May 13, 2002. Under Title 49, an airport operator may submit to the FAA, Noise Exposure Maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. Title 49 requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted Noise Exposure Maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title 49, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The city of Little Rock, acting through the Little Rock Municipal Airport Commission submitted to the FAA on May 1, 2002, Noise Exposure Maps, descriptions and other documentation, which were produced during 2001 and 2002. It was requested that the FAA review this material as the Noise Exposure Maps, as described in Title 49.

The FAA has completed its review of the Noise Exposure Maps and related descriptions submitted by the city of Little Rock, acting through the Little Rock Municipal Airport Commission. The specific maps under consideration are Noise Exposure Map: 2000, Exhibit V–1 (page V–2) and Noise Exposure Map: 2006, Exhibit V–2 (page V–5) in the submission. The FAA has determined that these maps for Little Rock National Airport are in compliance with applicable requirements. This determination is effective on May 13, 2002. FAA's determination on an airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information, or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Title 49, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Title 49. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface, rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with which consultation is required under Title 49. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the Noise Exposure Maps and the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, Airports Division, 2601 Meacham Boulevard, Fort Worth, Texas 76137; Little Rock National Airport, One Airport Drive, Little Rock, Arkansas 72202–4489.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, May 13, 2002.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 02–13709 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In March 2002, there were eight applications approved. This notice also includes information on one application, approved in February 2002, inadvertently left off the February 2002 notice. Additionally, eight approved amendments to previously approved applications are listed.

SUMMARY: The FAA published a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: Mobile Airport Authority, Mobile, Alabama.

Application Number: 02–04–C–00–MOB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $3,998,879.

Earliest Charge Effective Date: October 1, 2004.

Estimated Charge Expiration Date: February 1, 2008.

Class of Air Carriers Not Required To Collect PFCS: Air taxi/commercial operators filing FAA Form 1800.31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Mobile Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Flight information display system.
Jet bridge.
Escalator.
Public address system.
Baggage belt system.
Roof replacement.
Cooling system upgrade.
Land acquisition.
Install security fence.
Rehabilitate airfield signage.
Passenger loading bridge.
Airfield marking.
Airfield generator.
Interior terminal signs.
Aircraft rescue and firefighting vehicle.
Part 150 noise study update.

Decision Date: February 22, 2002

FOR FURTHER INFORMATION CONTACT: William Schuller, Jackson Airports District Office, (601) 664–9883.

Public Agency: City of San Jose, California.

Application Number: 02–13–C–00–SJC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $142,846,000.

Earliest Charge Effective Date: September 1, 2008.

Estimated Charge Expiration Date: May 1, 2011.

Class of Air Carriers Not Required to Collect PFC'S: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at San Jose International Airport.

Brief Description of Project Approved for Collection and Use:

Expanded noise attenuation within the 65 CNEL noise contour.

Decision Date: March 1, 2002.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650)876–2806.

Public Agency: County of Natrona, Casper, Wyoming.

Application Number: 02–05–C–00–CPR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $2,590,000.

Earliest Charge Effective Date: June 1, 2003.

Estimated Charge Expiration Date: November 1, 2011.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate aircraft parking apron.
Terminal renovation.
Rehabilitate taxiway C.

Brief Description of Project Approved in Part for Collection and Use:

Acquire snow removal equipment.

Determination: The two pick-up snowplows were determined to be in excess of the eligible equipment in the public agency's snow removal plan and, thus, were not approved.

Decision Date: March 1, 2002.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Lawton Metropolitan Airport Authority, Lawton Oklahoma.

Application Number: 02–03–C–00–LAW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $361,000.

Earliest Charge Effective Date: June 1, 2002.

Estimated Charge Expiration Date: June 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators operating under Part 135 and filing FAA Form 1800–31.

Determination: Approved. Based on information containd in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lawton-Ft. Sill Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Develop pavement management system.
PFC application and administrative costs.
Install security perimeter fence.
Construct perimeter road.
Upgrade runway markings.
Runway safety area drainage improvements.
Acquire snow removal equipment.
Construct apron.
Acquire land for airport development.

Decision Date: March 20, 2002.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: San Francisco Airport Commission, San Francisco, California.

Application Number: 02–02–C–00–SFO.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $224,034,821.

Earliest Charge Effective Date: June 1, 2003.

Estimated Charge Expiration Date: April 1, 2008.

Class of Air Carriers Not Required To Collect PFC'S: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has

determined that the approved class accounts for less than 1 percent of the total annual enplanements at San Francisco International Airport.

Brief Description of Projects Approved for Collection and Use:

Taxiway improvements and realignment, and boarding areas A and G apron construction.
Common use systems (baggage system security screening devices, passenger loading bridges, baggage handling system, gate room podiums and seating).

Decision Date: March 21, 2002.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Greater Orlando Aviation Authority, Orlando, Florida.

Application Number: 02–09–C–00–MCO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $219,494,000.

Earliest Charge Effective Date: February 1, 2014.

Estimated Charge Expiration Date: February 1, 2017.

Class of Air Carriers Not Required To Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use:

Landside terminal level 1 modification.
Six bank elevator improvements.
Baggage conveyor system—landside terminal levels 1 and 2.
Central plant improvements, phase 3.
Fourth runway.
Drainage improvements (wildlife attractants mitigation).
Intermodal transit system.
Runway 17/35 pavement joint rehabilitation.
Satellite aircraft rescue and firefighting facility.
800 MHz radio system—digital upgrade.
Baggage sorting system upgrade.
Taxiway lighting improvements.
Mobile command post.
Surface movement guidance control system.
Automated guideway transit program rehabilitation.
Emergency operations center.
Aircraft rescue and firefighting vehicles.

Decision Date: March 26, 2002.

FOR FURTHER INFORMATION CONTACT: Bud Jackman, Orlando Airports District Office, (407) 812–6331, ext. 22.

Public Agency: City of Chicago—Department of Airports, Chicago, Illinois.

Application Number: 02–13–U–00–ORD.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $53,000,000.

Earliest Charge Effective Date: May 1, 2008.

Estimated Charge Expiration Date: June 1, 2003.

Class of Air Carriers Not Required To Collect PFC'S: No change from previous decision.

Brief Description of Project Approved for Use:

Touhy Avenue Reservoir.

Decision Date: March 26, 2002.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, Chicago Airports District Office, (847) 294–7335.

Public Agency: Jackson County, Medford, Oregon.

Application Number: 02–07–C–00–MFR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $816,466.

Earliest Charge Effective Date: June 1, 2003.

Estimated Charge Expiration Date: May 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: Operations by air taxi/commercial operators when enplaning revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are concluded within a 25-mile radius of the airport and other similar limited, irregular, special service operations by such air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Rogue Valley International—Medford Airport.

Brief Description of Projects Approved for Collection and Use:

Realignment and rehabilitation of taxiway A.
Terminal Area plan (planning study).

Decision Date: March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: Gulfport-Biloxi Regional Airport Authority, Gulfport, Mississippi.

Application Number: 02–05–C–00–GPT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $3,765,993.

Earliest Charge Effective Date: June 1, 2002.

Estimated Charge Expiration Date: June 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Land acquisition, runway protection zone, runways 14, 18, and 36.
Blast study.
Clear, grub, and preserve Padgett and Cuevas property.
Upgrade closed circuit television, security improvements for terminal, general aviation, and cargo areas.
Acquire explosives detection dog.
Construct perimeter road—schedule B (north).
Rehabilitation perimeter fence security improvements.
South central cargo area expansion road, utilities, and site work.
Construct south west general aviation area, phase II.
Terminal expansion—baggage claim area, federal inspection service, baggage search area at ticket counters, and security screening.
Conduct pavement condition index update, all taxiways, ramps, and runway 18/30.

Decision Date: March 28, 2002.

FOR FURTHER INFORMATION CONTACT: Patrick D. Vaught, Jackson Airports District Office, (601) 664–9885.

Amendments to PFC Approvals

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
00–06–C–01–COS, Colorado Springs, CO	01/29/02	$6,764,710	$8,441,519	04/01/03	09/01/03
*99–02–C–01–CID, Cedar Rapids, IA	03/06/02	$4,210,583	$4,210,583	02/01/04	12/01/03
99–03–C–01–LBB, Lubbock, TX	03/15/02	$4,527,023	$4,275,774	08/01/02	09/01/02
*00–04–C–01–TPA, Tampa, FL	03/22/02	$124,728,400	$133,732,200	10/01/07	07/01/06

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
*92–01–I–04–BWI, Baltimore, MD	03/26/02	$225,826,453	$225,826,453	10/01/02	11/01/02
94–02–C–01–BWI, Baltimore, MD	03/26/02	NA	NA	04/01/09	04/01/09
95–03–U–01–BWI, Baltimore, MD	03/26/02	NA	NA	04/01/09	04/01//09
*00–01–C–01–VPS, Valparaiso, FL	03/28/02	$38,358,314	$34,278,718	07/01/28	11/01/19

(**Note**: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Cedar Rapids, IA, this change is effective on May 1, 2002. For Tampa, FL, Valparaiso, FL, and Baltimore, MD, this change is effective on June 1, 2002.

Issued in Washington, DC on May 24, 2002.

Barry Molar,

Manager, Airports Financial Assistance Division.

[FR Doc. 02–13711 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Draft Environmental Impact Statement; Summit County, Colorado

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, the FHWA, in cooperation with the Colorado Department of Transportation (CDOT), have prepared a Draft Environmental Impact Statement (EIS) for proposed transportation improvements to State Highway 9, Frisco to Breckenridge in Summit County, Colorado. The Draft EIS identifies the Four Build Alternatives and No-Action Alternative and their associated environmental impacts. Interested citizens are invited to review the Draft EIS and submit comments. Copies of the Draft EIS may be obtained by telephoning or writing the contact person listed below under Addresses. Public reading copies of the Draft EIS are available at the locations listed under Supplementary Information.

DATES: A 45-calendar-day public review period will begin on May 31, 2002, and conclude on July 15, 2002. Written comments on the alternatives and impacts to be considered must be received by CDOT by July 15, 2002. A public hearing to receive oral comments on the Draft EIS will be held at the Summit High School on June 19, 2002.

ADDRESSES: Written comments on the Draft EIS should be addressed to Lisa Kassels, Project Manager, Colorado Department of Transportation, Region 1, 18500 East Colfax Avenue, Aurora, CO 80011. Requests for a copy of the Draft EIS may be addressed to Lisa Kassels at the address above. Please see **SUPPLEMENTARY INFORMATION** section for a listing of available documents and formats in which they may be obtained. Copies of the Draft EIS are also available for public inspection and review. See Supplementary Information section for locations.

FOR FURTHER INFORMATION CONTACT: To request copies of the Draft EIS or for additional information, contact: Mr. Scott Sands, FHWA, Colorado Division, 555 Zang Street, Room 250, Lakewood, CO, 80228, Telephone: (303) 969–6730 extension 362; or Lisa Kassels, Colorado Department of Transportation, Region 1, 18500 East Colfax Avenue, Aurora, CO 80011, Telephone: (303) 757–9156.

SUPPLEMENTARY INFORMATION:

Hearing Date and Location

Wednesday, June 19, 2002, 4:00 p.m. to 6:30 p.m. at Summit High School.

Copies of the Draft EIS are available in hard copy format for public inspection at:

- CDOT Headquarters, Public Information Offices, 4201 Arkansas St., Room 277, Denver, CO 80222, 303–757–9228
- CDOT Region 1, 18500 E Colfax Avenue, Aurora, CO 80011, 303–757–9371
- CDOT Office of Environmental Programs, 1325 South Colorado Boulevard, Suite B400, Denver, CO 80222, 303–757–9259
- Summit County Engineering Department, 37 County Rd. 1005, Frisco, CO 80443, 970–668–4200
- Town of Breckinridge Engineering Department, 150 Ski Hill Rd., Breckenridge, CO 80424, 970–547–3191
- Town of Frisco Town Clerk, 1 Main St. Frisco, CO 80443, 970–668–5276
- Summit County Library—Frisco Branch, 37 County Rd. 1005, Frisco, CO 80443 970–668–5555
- Summit County Library—Breckenridge Branch, 504 Airport Rd., Breckenridge, CO 80424, 970–453–6098
- CDOT Mountain Residency Office, west side of Eisenhower Tunnel at I–70, Silverthorne, CO 80498, 303–512–5750
- Federal Highway Administration, Colorado Division Office, 555 Zang Street, Room 250, Lakewood, CO 80228, 303–969–6730 extension 362

Background

This Draft EIS provides a detailed evaluation of the proposed transportation improvements for SH 9 between Breckenridge and Frisco. The study area lies within Summit County, Colorado. The study area extends approximately 14.5 kilometers (9 miles) from the northern end of Frisco at approximate milespost 97 to the southern limit of Breakenridge at approximate milepost 85. This Draft EIS includes an examination of the purpose and need, alternatives under consideration, travel demand, affected environment, environmental consequences, and mitigation measures as a result of the improvements under consideration. Four build alternatives and a No-Action Alternative are presented in the Draft EIS and are under consideration by FHWA and CDOT.

The FHWA, CDOT, and other local agencies invite interested individuals, organizations, and Federal, State, and local agencies to comment on the evaluated alternatives and associated social, economic, or environmental impacts related to the alternatives.

Issued on: May 17, 2002.

Douglas Bennett,

Assistant Division Administrator, Federal Highway Administration, Lakewood, Colorado.

[FR Doc. 02–12776 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12395]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SIR THOMAS MORE.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 1, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12395. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW, Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: SIR THOMAS MORE. *Owner:* Danny Kopels.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* "LOD: 40.0 feet, Gross: 24 Tons, Net: 21 Tons"

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* "Small group (6 or fewer passengers) pleasure charters; small group scuba diving training sailing instruction and excursions." "The Pacific Ocean extending from San Francisco Bay on the north, to the Mexican border on the south."

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1978. *Place of construction:* Taiwan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ". . . I believe that I will be appealing to a different segment of the market than the commercial dive vessels, and will have no impact upon their operations. As far as sailing instruction is concerned, most sailing schools rely on boats in the 30ft and under size range for their instruction."

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* "None."

Dated: May 28, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13703 Filed 5–30–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34185]

Cloquet Terminal Railroad Company, Inc.—Acquisition and Operation Exemption—Duluth & Northeastern Railroad Company

Cloquet Terminal Railroad Company, Inc. (Cloquet), a noncarrier,[1] has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Duluth & Northeastern Railroad Company (DNRC) and operate the assets currently owned by DNRC, including a line of railroad between milepost 0.0 and milepost 1.24, a distance of 1.24 miles in Cloquet, Carlton County, MN.[2]

Cloquet indicates that it intends to consummate the transaction on or after the effective date of the exemption (7 days after the exemption was filed).[3]

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34185, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Diane P. Gerth, Leonard, Street and Deinard, 150 South Fifth St., Suite 2300, Minneapolis, MN 55402.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: May 23, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13508 Filed 5–30–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Cloquet is a wholly owned subsidiary of Northern Holdings LLC (Northern), a noncarrier, which has been or will be renamed Sappi Cloquet LLC. Northern has entered into an Asset Purchase Agreement with Potlatch Corporation, DNRC's owner, pursuant to which Cloquet will acquire and operate the assets of DNRC.

[2] According to Cloquet, there is additional trackage that is industrial or spur trackage serving only an adjacent paper production facility.

[3] Cloquet certifies that its projected annual revenues will not exceed those that would quality it as a Class III carrier.

Corrections

Federal Register
Vol. 67, No. 105
Friday, May 31, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting

May 23, 2002.

Correction

In notice document 02–13473 appearing on page 37414 in the issue of Wednesday, May 29, 2002, make the following corrections:

1. In the third column, the date after the subject heading should read as set forth above.

2. In the same column, after the heading **DATE AND TIME:**, the date "May 15, 2002", should read "May 30, 2002".

[FR Doc. C2–13473 Filed 5–30–02; 8:45 am]

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Federal Register

Friday,
May 31, 2002

Part II

Small Business Administration

13 CFR Parts 121 and 123
Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program; Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 123

RIN 3245–AE93

Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: SBA is finalizing the size standard promulgated in the interim final rule published on March 15, 2002 that increased the size standard for Travel Agencies, North American Industry Classification System (NAICS) code 561510, from $1 million to $3 million for economic injury disaster loan (EIDL) assistance attributed to the September 11, 2001 terrorist attacks on the World Trade Center, New York, NY and the Pentagon, Arlington, VA. This rule also changes the time at which size status is determined for EIDL assistance in connection with the September 11, 2001 attacks. This final rule is published in conjunction with SBA's final rule that increases the size standard for travel agencies for all Federal small business assistance programs. This action better defines the size of businesses in this industry that SBA believes should be eligible for Federal EIDL assistance.

DATES: This rule is effective May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Diane Heal, Office of Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: SBA is publishing elsewhere in this issue of the **Federal Register** a separate final rule addressing the travel agencies size standard for all small business programs.

EIDL Assistance

On March 15, 2002, SBA issued an interim final rule that increased the size standard for the Travel Agencies industry, NAICS code 561510, from $1 million to $3 million for EIDL assistance. 67 FR 11874. We believe that this action better defines the size of businesses in this industry that should be eligible for EIDL loans as a result of the September 11, 2001 Terrorist Attacks, 13 CFR Subpart G, and for EIDL assistance to businesses in the declared disaster areas under 13 CFR Subpart D (September 11 EIDL assistance), especially after the September 11, 2001 terrorist attacks. The events of September 11, 2001 directly impacted travel agencies. The traveling public cancelled and rescheduled existing travel arrangements and many postponed further travel. Consequently, airlines rescinded travel agencies' commissions on flights cancelled or rescheduled due to the attacks. Thus, many small travel agencies saw their business decline by 20 to 50 percent. On January 23, 2002, SBA issued an inflation adjustment as an interim final rule which increased revenue based size standards by 15.8 percent and which had an applicability date of September 11, 2001, for the purpose of eligibility for September 11 EDIL assistance resulting from the terrorist attacks. 67 FR 3041. The travel agencies' $1 million size standard was not increased because SBA decided to handle this industry by separate rulemaking.

At the time of the attacks, SBA was preparing a proposed adjustment to the travel agencies size standard. The proposed rule, which was issued simultaneously with the interim final rule, resulted from recent changes in the Travel Agencies industry and SBA's analysis of the latest industry data from the U.S. Bureau of the Census, Federal contract award data, and information provided by travel agencies trade associations.

SBA found that there was an urgent need to make disaster loans available to travel agencies that should be considered small, but that did not qualify under SBA's existing size standard of $1 million. For more information on the reasons for establishing a $3 million size standard, see the March 15, 2002 interim final rule and the proposed rule.

Change in the Date of Determination of Size Status

SBA changed the date of determination of the small business size status for purposes of EIDL assistance attributable to the September 11, 2001 attacks, in order to be able to assist small businesses before the deadlines for application of September 11, 2001 EIDL assistance under 13 CFR Subpart G expired.

Discussion of Comments on the Interim Final Rule

SBA received no comments in response to the interim final rule. However, in support of the proposed rule to increase the travel agencies' size standard for all small business programs, one commenter endorsed SBA's actions on EIDL assistance. This commenter stated that the need to increase the standard became apparent after the September 11, 2001 terrorist attacks when many travel agencies were disqualified for EIDL assistance due to their revenue size. SBA recognized that serious harm would result to the Travel Agencies industry by not publishing, as an interim final rule, the increase to the travel agencies' size standard for EIDL assistance resulting from September 11, 2001 terrorist attacks. As pointed out by the commenter, because of the $1 million size standard, travel agencies were being harmed by being disqualified for EIDL assistance because of their revenue size. For more information, see "Justification for Publication as an Interim Final Rule" in SBA's Interim Final Rule of March 15, 2002. 67 FR 11874 at 11878–79.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612).

This is not a major rule under the Congressional Review Act, 5 U.S.C. 800. For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch.35, SBA has determined that this rule would not impose new reporting or record keeping requirements, other than those already required of SBA. For purposes of Executive Order 13132, SBA had determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that Order. The Office of Management and Budget (OMB) reviewed this rule as a "significant regulatory action" for purposes of Executive Order 12866. Size standards determine which businesses are eligible for Federal small business programs. Below is a regulatory impact analysis of this size standard change. SBA received no comments on the analysis presented in the interim final rule.

Regulatory Impact Analysis

i. Is There a Need for the Regulatory Action?

SBA is chartered to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist intended beneficiaries of these programs, SBA must establish distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to the SBA Administrator the responsibility for establishing small business definitions. It also requires that small business definitions vary to reflect industry differences. The preamble of the interim final rule explained the approach SBA follows when analyzing a size standard for a particular industry. Based on that analysis, SBA believes that a revision to the current size standard for travel agencies is needed to better define small businesses in this industry for purposes of September 11 EIDL assistance.

In addition, the interim final rule explained SBA's reasons for changing the date size status is determined for September 11, 2001 EIDL assistance. SBA believes that this change is necessary to assist travel agencies and other small businesses that should have been considered small for purposes of September 11, 2001 EIDL assistance. On January 23, 2002, SBA increased its size standards to reflect the effects of inflation since 1994. Businesses recognized as small under that rule are able to file applications for September 11, 2001 EIDL assistance. Moreover, of all the industries severely impacted by the September 11 attacks, the Travel Agencies industry is the only one that did not have its size standard adjusted to reflect the effect of inflation. SBA did not increase the size standard for this industry at that time since SBA was already in the process of re-evaluating the travel agencies size standard to reflect changing industry conditions. The combination of these unique circumstances necessitate changing the date of determination of size status for purposes of September 11, 2001 EIDL assistance only. SBA does not foresee the need to apply this approach in the future.

ii. What Are the Potential Benefits and Costs of This Regulatory Action?

The most significant benefit to businesses obtaining small business status as a result of this rule is eligibility for EIDL assistance resulting from the September 11, 2001 attacks. Under this rule, 732 additional firms may obtain small business status and become eligible for this assistance. SBA estimates that $1.3 to $2.8 million in additional EIDL assistance may result from increasing the size standard for travel agencies. SBA also estimates an additional $2.3 million to $2.7 million in EIDL assistance to businesses that became eligible small businesses as a result of the recent inflation adjustment to monetary size standards. These estimates are based on participation rates and EIDL loan amounts of travel agencies and small businesses in the industries covered by the size standard inflation adjustment.

The revision to current size standards for travel agencies is consistent with SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, government contracts, and management and technical assistance. Reviewing and modifying size standards when appropriate ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with state, local, and tribal governments in the exercise of their government functions. In a few cases, state and local governments have voluntarily adopted SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. Immediately below, SBA sets forth a final regulatory flexibility analysis (FRFA) of this rule addressing the reasons and objective of the rule; SBA's description and estimate of small entities to which the rule will apply; the projected reporting, record keeping, and other compliance requirements of the rule; the relevant Federal rules which may duplicate, overlap or conflict with the rule; and alternatives to the final rule considered by SBA that minimize the impact on small businesses.

(1) What Is the Need for and Objectives of This rule?

The revision to the travel agencies size standard more appropriately defines the size of businesses in this industry that SBA believes should be eligible for EIDL assistance. The change in date status for the sole purpose of September 11, 2001 EIDL assistance is necessary to assist travel agencies and other small businesses that should have been considered small for the purposes of this assistance.

(2) What Significant Issues Were Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA)?

There were no comments received in response to the IRFA in the Interim Final Rule.

(3) What Is SBA's Description and Estimate of the Number of Small Entities to Which the Rule Will Apply?

Within the Travel Agencies industry, 21,505 out of 22,687 businesses are small under the $1 million size standard for travel agencies. Thus, with the increase in the size standard to $3 million, the likely impact of this rule would be limited to the 732 small businesses that gain small business status as a result of this rule. This is based on the U.S. Census Bureau's special tabulation of the 1997 Economic Census for SBA's Office of Size Standards, using size distribution of firms' tables. Businesses becoming eligible for SBA EIDL assistance as a result of this rule cumulatively generate approximately $1.0 billion out of a total of $10 billion in revenues. The small business coverage for EIDL assistance for travel agencies will increase by 10 percent of total receipts.

Only a small proportion of businesses utilize SBA's EIDL assistance program. It is difficult to estimate the number of small businesses that will apply for EIDL assistance, as this program focuses solely on disasters that occur within the United States and its territories. Thus, loan assistance depends on the number of disasters, the severity of the disaster, geographic condition, and the type of industries affected by the disaster. However, in fiscal year 2001, 917 travel agencies applied for EIDL assistance, of which half were declined because of credit and other eligibility requirements, and 28 were declined due to size requirements. In addition, prior to the publication of the interim final rule on March 15, 2002, 144 travel agencies applied for September 11 EIDL assistance. As a result of the interim final rule 36 additional travel agencies have applied for September 11 EIDL assistance as of May 10, 2002.

(4) Will This Rule Impose Any Additional Reporting or Record Keeping Requirements on Small Businesses?

This rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. A new size standard or change in date status does not impose any additional reporting, record keeping or compliance requirements on small entities. Increasing size standards and changing the status date expands access to SBA programs that assist small businesses, but these actions do not impose a regulatory burden as they neither regulate nor control business behavior.

(5) What Are the Steps SBA Has Taken To Minimize the Significant Economic Impact on Small Businesses?

Most of the economic impact on small businesses will be positive. The most significant benefit to businesses that will obtain small business status as a

result of this final rule is the September 11 EIDL assistance. SBA estimates that $1.3 to $2.8 million in September 11 EIDL assistance may result from increasing the size standard for travel agencies. SBA also estimates an additional $2.3 million to $2.7 million in September 11 EIDL assistance to businesses that became eligible small businesses as a result of the recent inflation adjustment to monetary size standards. These estimates are based on participation rates and EIDL loan amounts of travel agencies and small businesses in the industries covered by the size standard inflation adjustment. The small increase in EIDL business loans that may result from the size standard increase will not crowd out other small travel agencies or small businesses from obtaining assistance as a result of the September 11 terrorist attacks since funding continues to be available for this program.

(6) Alternatives

(a) What Are the Legal Policies or Factual Reasons for Selecting the Alternative Adopted in the Final Rule?

As stated in the Small Business Act 15 U.S.C. 631 and 13 CFR 121, SBA establishes size standards based on industry characteristics and for non-manufacturing concerns on the basis of the annual average gross receipts of a business concern over a period of three years. For certain industries, including the Travel Agencies industry, receipts are measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue. The changing structure of the industry, Census Bureau data, Federal contracting data, travel agencies trade association data, and SBA EIDL assistance data support increasing the size standard to $3 million.

(b) What Alternatives Did SBA Reject?

At the time of the September 11, 2001 Terrorist Attacks, SBA was preparing a proposed adjustment to the travel agencies size standard. SBA found that under the $1 million size standard for travel agencies, small travel agencies were no longer competitive in the corporate and government travel markets. Because of technology advances and demands by corporate and government clients, most firms must adapt to deal with higher costs to maintain their businesses, making greater investments in technology to meet the needs of their customers, and switching to a fee-based compensation system from a commission-based system. Data from the GSA Travel Management Center's Program Office also showed that small travel agencies obtained only 3.5 percent of total revenues to travel agencies, even though small travel agencies account half of total industries revenues. In addition, many travel agencies were declared ineligible because of size reasons for EIDL assistance as a result of the September 11, 2001 terrorist attacks.

SBA considered two additional alternatives to this rule. First, adopting the $6 million anchor size standard to the Travel Agencies industry. As discussed in the interim final rule SBA applies the $6 million anchor size standard to the nonmanufacturing industries unless an industry's characteristics are significantly different from the typical nonmanufacturing industry. The analysis of the various industry factors show that the characteristics of travel agencies are significantly below those of the nonmanufacturing anchor group industries. To establish a $6 million size standard would increase the size standard six fold and assist successful travel agencies that tend to operate at several locations and potentially take away assistance from small travel agencies this rule is intended to assist. Thus, a size standard below the anchor size standard is appropriate for this industry.

Second, SBA considered relevant to this rule comments received in response to our March 15, 2002 proposed rule to increase the size standard for travel agencies for all small business programs. For the proposed rule, SBA considered the commenters' recommendation to not increase the travel agencies size standard beyond the amount of inflation since 1994 (15.8 percent). These commenters raised three significant issues pertaining to the percentage of travel agencies defined as small, the overall decline of the industry, and the competitiveness of currently defined small businesses. SBA rejected these comments because it had also received comments supporting the $3 million size standard that used, in part, similar facts to show the proposed size standard was needed. Also, SBA's analysis of the changing structure of the industry, Census Bureau data, Federal contracting data, and EIDL assistance data support the need and basis to support increasing the size standard above $1 million.

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

13 CFR Part 123

Disaster assistance, Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

PART 121—SMALL BUSINESS SIZE REGULATIONS

PART 123—DISASTER LOAN PROGRAM

Accordingly, for the reasons set forth in the preamble, the interim rule amending parts 121 and 123 of title 13 of the Code of Federal Regulations which was published at 67 FR 11874 on March 15, 2002, is adopted as a final rule without change.

Dated: May 15, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–13604 Filed 5–30–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE95

Small Business Size Standards; Travel Agencies

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is adopting the proposed increase to the size standard for Travel Agencies, North American Industry Classification System (NAICS) code 561510, from $1 million to $3 million. This action will better define the size of businesses in this industry that the SBA believes should be eligible for Federal small business assistance programs.

DATES: This rule is effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Diane Heal, Office of Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: This final rule applies to all SBA small business programs. SBA is publishing elsewhere in this issue of the **Federal Register** a separate final rule addressing the Travel Agencies size standard for purposes of

economic injury disaster loan (EIDL) assistance attributed to the September 11 terrorist attacks.

On March 15, 2002, SBA issued a proposed rule to increase the size standard for Travel Agencies, NAICS code 561510, from $1 million to $3 million (67 FR 11881). We believe that this action will better define the size of businesses in this industry that should be eligible for Federal small business assistance programs. SBA proposed the new size standard based on recent changes in the Travel Agencies industry and its analysis of the latest industry data from the U.S. Bureau of the Census, Federal contract award data, and information provided by travel agencies trade associations. For more information on the reasons for proposing a $3 million size standard, see the March 15, 2002, proposed rule.

SBA is adopting the $3 million proposed size standard for the Travel Agencies industry. The comments received endorsing the proposal provided support to SBA's basis for the size standard and the need for an increase. The comments opposing the proposal did not provide compelling reasons for SBA to consider a different size standard.

Discussion of Comments on the Proposed Rule

SBA received five timely comments on the proposed size standard. Two of the comments were from travel agencies trade associations and three were from firms in the industry.

In summary, two commenters supported the proposed size standard while one commenter supported a smaller increase to $2 million. Two commenters submitted their responses to SBA's inflation increase to its monetary size standard, published in the **Federal Register** on January 22, 2002 (67 FR 3041). Both provided detailed reasons for supporting an increase to the Travel Agencies size standard no greater than the 15.8 percent inflation factor applied to most monetary-based size standards. (The interim final rule did not apply an inflation adjustment to the Travel Agencies industry.) Both commenters also provided detailed reasons for their opposition to the proposed $3 million size standard. Below is a summary of the comments received on the proposed rule.

Support for Proposed Increase to $3 Million

Two trade associations submitted comments supporting the size standard increase to $3 million. One association cited a number of changes in the Travel Agencies industry as supporting the need for a higher size standard. It stated that it is witnessing a dramatic change in the structure of the travel agencies industry distribution; the substitution of up-front capital intensive investments for the more flexible labor costs of prior travel processes; and the drying up of the pool of eligible small businesses performing government and corporate travel services. It also stated that the collapse of the airline and car rental commission structure creates a greater need for financially viable small travel agencies that can survive in the new corporate/government arena. It concluded by agreeing with SBA's analysis for increasing the size standard.

The other association also cited changes in the marketplace for supporting a higher size standard and the need for assistance of SBA programs on the part of more travel agencies. It cited a 1998 Lou Harris survey of travel agencies showing that since 1995 the number of firms with revenues under $1 million has decreased by 35 percent and that the number with revenues over $2 million increased by 46 percent. The commenter attributed this pattern to the advancement of technology and a more diverse revenue base. It also stated that a size standard increase would restore competitive viability to locally-owned family businesses and encourage more small travel agencies to explore Federal contracting opportunities. This increase will provide an opportunity for hundreds of travel agencies to take advantage of SBA's loan programs which were "off limits" because many travel agencies were considered large under the $1 million size standard. The association stressed that this was made apparent when many travel agencies found themselves ineligible for Economic Injury Disaster Loans after the September 11, 2001, Terrorist Attacks.

Opposition to Proposed Increase to $3 Million

Increase Size Standard to $2 Million

One firm stated that it supported an increase to $2 million "as a compromise" to the proposed $3 million size standard. It claimed that "this would satisfy most travel agencies." This firm, however, did not provide detailed reasons, statistics, or other data to support its position.

Increase No Greater Than 15.8 Percent Inflation Adjustment

Two commenters opposed an increase to $3 million and recommended applying the 15.8 percent inflation adjustment that SBA recently applied to other monetary-based size standards. One commenter contended that increasing the size standard to $3 million is "tantamount to declaring the entire Travel Agencies industry small except for the handful of mega-agencies." The commenter stated that under the current size standard, 18,000 travel agencies are small and that 200–300 agencies are mid-sized. This commenter also contends that "a small business travel agency is one that is actively owner operated" and that it outgrows being small when it needs a "high amount of internal structure is necessary." The commenter believes that the $1 million size standard has been effective in helping small travel agencies to develop and then compete against larger travel agencies. The commenter provided examples of two travel agencies that grew over $1 million and went on to successfully compete against large travel agencies for Federal travel contracts.

The other commenter that recommended only an inflation adjustment to the travel agencies size standard provided two reasons for its position. First, it contended that increasing the size standard to a level between $2.5 million and $5 million would include all travel agencies as small except for 10–12 "mega-sized" agencies. Information was provided showing that the average size travel agency is about $125,000 in commissions and fees, and that 98 percent of the agencies qualify as small under the current size standard. The commenter believes these facts suggest that no large increase in the size standard is needed. Second, it cited industry statistics showing that the Travel Agencies industry is declining in all aspects of sales, revenue, number of locations, and number of employees. This contraction is making the industry smaller, and thus, an increase to the size standard beyond an inflation adjustment is inappropriate.

Response to Significant Issues Raised by Comments

The comments opposing the $3 million size standard raised three significant issues as reasons for their position. These issues are discussed below along with SBA's assessment and response to each of them.

1. Almost All Travel Agencies Are Defined as Small Under a $3 Million Size Standard

Two commenters contend that only an inflation adjustment to the travel agencies size standard is warranted since almost all travel agencies would be defined as small under a $3 million size standard. SBA does not agree with

this position. It is correct that under the current size standard 95 percent of the firms are small and that by increasing the size standard to $3 million, 732 additional firms will be eligible for SBA assistance programs. The total percentage of firms that will be small would increase to 98 percent of the 22,687 travel agencies and their 29,332 establishments. The Census Bureau's data also show that over 450 firms will be considered other than small businesses, not 10–12 as one commenter suggested. In fact, the Census Bureau's data shows that these 450 firms, on average, generate $7.3 million in revenues and that the 70 largest travel agencies generate, on average, $37 million in revenues.

The coverage of a size standard based on the percent of small businesses masks the more important question as to the economic significance within the industry of small businesses. The 450 travel agencies not defined as small generate 47 percent of total Travel Agencies' industry revenues while the 22,237 travel agencies with $3 million or less in revenues generate 53 percent. In relations to other SBA size standards, a size standard that results in small business coverage of approximately half of industry revenues is a reasonable and widely accepted size standard. Thus, we disagree with the argument that a high percentage of travel agencies defined as small is a reason not to adopt a $3 million size standard.

2. Travel Agencies Industry Is Declining

One commenter pointed out that the revenues and number of travel agencies is declining as a result of changes in the industry and the terrorist attacks of September 11, 2001. SBA disagrees that these trends serve as the basis for not adopting a $3 million size standard. Rather, SBA believes, as did the two travel agencies associations that supported the proposed $3 million size standard, that the industry trends affecting compensation, technology, and government and corporate requirements justify a higher size standard. SBA realizes the impact on travel agencies evolving over the last several years from a commission-based one to a fee-based industry. These are due to the reduction in airline commissions and the advances in technology, specifically, the use of the internet. Because of technology advances and demands by corporate and government clients, most firms must adapt to the higher costs of maintaining their businesses, making greater investments in technology to meet the needs of their customers, and switching to a fee-based compensation system from a commission-based system. A higher size standard makes travel agencies between $1 million and $3 million eligible for Federal small business programs that can help them meet these new challenges and become competitive with larger travel agencies. Furthermore, the industry trends of the last several years have had the greatest impact on the smallest travel agencies. Travel agencies with $1 million or less will continue to have access to small business programs. SBA strongly believes that travel agencies with up to $3 million need and should also have access to these programs.

3. Travel Agencies Above $1 Million in Size Are Competitive

One commenter contended that SBA programs have been effective in developing small travel agencies to be competitive after they have grown beyond the $1 million level; and therefore, an increase beyond an inflation adjustment is not needed. SBA disagrees with this comment. Although some small travel agencies have successfully competed for Federal travel contracts against large travel agencies, the experiences of small travel agencies in Federal contracting clearly indicate that they are at a disadvantage. As shown in the proposed rule, small travel agencies have obtained an extremely small share of Federal contracting dollars. Data from the U.S. General Services Administration's (GSA) Travel Management Center's Program Office showed small travel agencies obtaining only 3.5 percent of total revenues to travel agencies, even though small travel agencies account for half of total industry revenues. The reasons for this outcome are directly related to change in the structure of how travel agencies and government clients, as well as corporate clients, do business. Travel agencies competing on Federal and corporate travel service contracts must be able to meet technological requirements that include interfacing with a Federal agency's, or corporation's systems, as well as various airline ticketing services, and other ticketing and reservation services. Today's travel agencies must also be able to handle various geographical requirements. These were discussed in the proposed rule and were part of the reasons given by the comments supporting the $3 million size standard. The opposing commenter's argument is not consistent with the overwhelming evidence to the contrary.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612).

This is not a major rule under the Congressional Review Act, 5 U.S.C. 800. For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch.35, SBA has determined that this rule would not impose new reporting or recordkeeping requirements, other than those already required of SBA. For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that Order. The Office of Management and Budget (OMB) has determined that the final rule is a "significant regulatory action" for purposes of Executive Order 12866. Size standards determine which businesses are eligible for Federal small business programs. Below is a regulatory impact analysis of this size standard change. SBA received no comments on the analysis presented in the proposed rule.

Regulatory Impact Analysis

i. Is There a Need for the Regulatory Action?

SBA is chartered to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist intended beneficiaries of these programs, SBA must establish distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to the SBA Administrator the responsibility for establishing small business definitions. It also requires that small business definitions vary to reflect industry differences. The preamble of the proposed rule explained the approach SBA follows when analyzing a size standard for a particular industry. Based on that analysis, SBA believes that a revision to the current size standard for travel agencies is needed to better define small businesses in this industry.

ii. What Are the Potential Benefits and Costs of This Regulatory Action?

The most significant benefit to businesses obtaining small business status as a result of this rule is eligibility for Federal small business assistance programs. Under this rule, 732 additional firms may obtain small business status and become eligible for these programs. These include SBA's financial assistance programs and Federal procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses, small businesses located in Historically Underutilized Business Zones (HUBZone), as well as those awarded through full and open competition after application of the HUBZone or small disadvantaged business price evaluation adjustment. Other Federal agencies use SBA size standards for a variety of regulatory and program purposes. SBA does not have information on each of these uses to evaluate the impact of size standards changes. In researching the Travel Agencies industry, SBA contacted representatives of GSA and the Depart of Defense. These two agencies account for the largest proportion of Federal contracting for travel services. Also, discussions with a major travel agencies association indicated that SBA's travel agencies size standard are not used for other Federal programs or regulations, other than those discussed in this rule, but are at times referred to by the private sector as guidelines for various purposes. In cases where SBA size standards are not appropriate, an agency may establish its own size standards with the approval of the SBA Administrator (see 13 CFR 121.801). Through the assistance of these programs, small businesses may benefit by becoming more knowledgeable, stable, and competitive businesses.

The benefits of a size standard increase to a more appropriate level would affect three groups. First, businesses that benefit by gaining small business status from the proposed size standard and use small business assistance programs. Second, growing small businesses that may exceed the current size standard in the near future and who will retain small business status from the proposed size standard. Third, Federal agencies that award contracts under procurement programs that require small business status.

Newly defined small businesses would benefit from the SBA's 7(a) Guaranteed Loan Program. SBA estimates that approximately $400,000 in new Federal loan guarantees could be made to these newly defined small businesses. This represents approximately 10 percent of the $3.8 million in loans that were guaranteed by SBA under this financial program to travel agencies in FY 2001. Because of the size of the loan guarantees, most loans are made to small businesses well below the size standard. Thus increasing the size standard will likely result in only a small increase in small business guaranteed loans to travel agencies, and the $400,000 estimated figure may overstate the actual impact.

The newly defined small businesses would also benefit from SBA's economic injury disaster loan program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected.

SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $347 million in sales out of approximately $9 billion in total Federal travel expenditures under the small business set-aside program, the 8(a), Small Disadvantaged Business, and HUBZone programs, or unrestricted contracts. Since most of these travel dollars will pass through to airlines, hotels, and automobile rental companies, SBA estimates actual revenues to travel agencies will range between $25 million and $42 million (7 percent to 12 percent of the estimated $347 million in sales). This also represents approximately $36 million of additional Federal contracts that may be awarded to businesses becoming newly designated small businesses. These estimates reflect a 10 percent increase in the awards to small businesses that the Federal government expends for travel services.

Federal agencies may benefit from the higher size standards if the newly defined and expanding small businesses compete for more set-aside procurements. The larger base of small businesses would likely increase competition and would lower the prices on set-aside procurements. A large base of small businesses may create an incentive for Federal agencies to set aside more procurements creating greater opportunities for all small businesses. Small business opportunities will be enhanced in open procurements as they gain experience in Federal contracting through the set-aside and other small business procurement preference programs. Large businesses with small business subcontracting goals may also benefit from a larger pool of small businesses by enabling them to better achieve their subcontracting goals and at lower prices. No estimate of cost savings from these contracting decisions can be made since data are not available to directly measure price or competitive trends on Federal contracts.

To the extent that 732 additional firms become active in Government programs, this may entail some additional administrative costs to the Federal government associated with additional bidders for Federal small business SBA's procurement programs, additional firms seeking SBA guaranteed lending programs, and additional firms eligible for enrollment in SBA's PRO-Net data base program. Among businesses in this group seeking SBA assistance, there will be some additional costs associated with compliance and verification associated with certification of small business status and protests of small business status. These costs are likely to generate minimal incremental costs since mechanisms are currently in place to handle these administrative requirements.

The costs to the Federal government may be higher on some Federal contracts. With greater number of businesses defined as small, Federal agencies may choose to set-aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside is likely to result in competition among fewer bidders for a contract. Also, higher costs may result if additional full and open contracts are awarded to HUBZone and SDB businesses as a result of a price evaluation preference. The additional costs associated with fewer bidders, however, are likely to be minor since, as a matter of policy, procurements may be set-aside for small businesses or reserved for the 8(a), HUBZone Programs only if awards are expected to be made at fair and reasonable prices.

The proposed size standard may have distributional effects among large and small businesses. Although the actual outcome of the gains and loses among small and large businesses cannot be estimated with certainty, several trends are likely to emerge. First, a transfer of some Federal contracts to small businesses from large businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set-aside more Federal procurements for small businesses. Also, some Federal contracts may be awarded to HUZone or small disadvantaged businesses instead of a large businesses since those two categories of small business are eligible for price evaluation adjustment for contracts competed on a full and open basis. Similarly, currently defined small businesses may obtain fewer Federal contacts due to the increased competition from more businesses defined as small. This transfer may be offset by a greater number of Federal procurements set-aside for all small businesses. The number of newly defined and expanding small businesses that were willing and able to sell to the Federal Government would limit the

potential transfer of contracts away from large and currently defined small businesses. The potential distributional impacts of these transfers may not be estimated with any degree of precision since the data on the size of business receiving a Federal contract are limited to identifying small or other-than-small businesses.

The revision to current size standards for travel agencies is consistent with SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, government contracts, and management and technical assistance. Reviewing and modifying size standards when appropriate ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with state, local, and tribal governments in the exercise of their government functions. In a few cases, state and local governments have voluntarily adopted SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. Immediately below, SBA sets forth a final regulatory flexibility analysis (FRFA) of this rule addressing the reasons and objective of the rule; SBA's description and estimate of small entities to which the rule will apply; the projected reporting, record keeping, and other compliance requirements of the rule; the relevant Federal rules which may duplicate, overlap or conflict with the rule; and alternatives to the final rule considered by SBA that minimize the impact on small businesses.

(1) What Is the Need for and Objectives of This Rule?

The revision to the size standard for the Travel Agencies industry more appropriately defines the size of businesses in this industry that SBA believes should be eligible for Federal small business assistance programs. Significant changes in the industry and in the requirements of government and corporate clients support the need for a different size standard.

(2) What Significant Issues Were Raised by the Public Comments in Response to the Initial Regulatory Flexibility Act (IRFA)?

There were no comments received in response to the IRFA in the proposed final rule.

(3) What is SBA's Description and Estimate of the Number of Small Entities to Which the Rule Will Apply?

Within the Travel Agencies industry, 21,505 out of 22,687 businesses are currently small. Only a small proportion of businesses in this industry utilize SBA programs. In SBA's PRO-Net (a SBA database of small businesses interested in contracting with the Federal Government) 166 travel agencies are currently registered. In fiscal year 2001, 40 small travel agencies received 7(a) guaranteed loans. Thus, with an increase in the size standard to $3 million, the likely impact of this rule would be limited to the 732 firms that will gain small business status as a result of this rule. This is based on the U.S. Census Bureau's special tabulation of the 1997 Economic Census for SBA's Office of Size Standards, using size distribution of firms' tables. The following table shows these data for the Travel Agencies Industry.

TABLE 1.—TRAVEL AGENCIES INDUSTRY DATA

Category	Travel agencies
Total Businesses	22,687
Current Small Businesses	21,505
Small Businesses with the adoption of this rule	22,237
Small Businesses Registered in PRO-Net	166
Small Businesses with 7(a) Loans	54

The 732 travel agencies gaining small business status will become eligible to seek available SBA assistance provided that they meet other program requirements. These businesses cumulatively generate approximately $1.0 billion out of a total of $10 billion in revenues. The small business coverage in the Travel Agencies industry will increase by 10 percent of total industry receipts.

(4) Will This Rule Impose Any Additional Reporting or Record Keeping Requirements on Small Businesses?

This rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(5) What Are the Steps SBA Has Taken To Minimize the Significant Economic Impact on Small Businesses?

Most of the economic impact on small businesses will be positive. The most significant benefits to businesses that will obtain small business status as a result of this final rule are (1) eligibility for the Federal government's procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses, and businesses located in Historically Underutilized Business Zones; and (2) eligibility for SBA's financial assistance programs such as 7(a), 504 business loans, and EIDL assistance. SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $347 million per year under the small business set-aside program, the 8(a) program or unrestricted contracts. This represents approximately 4 percent of the $9 billion in total Federal travel expenditures.

Currently defined small businesses are obtaining a very small share of Federal contracting relative to their share of total industry revenues. (On GSA contracts, small travel agencies obtained 3.5 percent of total contracting dollars while their share of total industry revenues is 53 percent.) Increasing the size standard to $3 million will not significantly impact currently defined small businesses since contract requirements already make it difficult for them to successfully compete. This outcome will continue unless small travel agencies can grow to a size that enables them to develop and finance the capabilities to perform the Federal travel management requirements. In addition, the small increase in 7(a) business loans that may result from the size standard increase will not crowd out other small travel agencies or small businesses from obtaining SBA financial assistance. SBA estimates that 7(a) loans may increase by $400,000 out of program that approve approximately 50,000 loans for over $9 billion per year.

(6) Alternatives

(a) What Are the Legal Policies or Factual Reasons for Selecting the Alternative Adopted in the Final Rule?

As stated in the Small Business Act 15 U.S.C. 631 and 13 CFR part 121, SBA establishes size standards based on industry characteristics and for non-manufacturing concerns on the basis of the annual average gross receipts of a business concern over a period of three years. For certain industries, including the Travel Agencies industry, receipts are measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue. The changing structure of the industry, Census Bureau data, Federal contracting data, and SBA EIDL assistance data support increasing the size standard from $1 million to $3 million.

(b) What Alternatives Did SBA Reject?

SBA is adopting the $3 million size standard because under the current $1 million size standard for travel agencies. Small travel agencies are no longer competitive in the corporate and government travel markets. Because of technology advances and demands by corporate and government clients, most firm must adapt to deal with higher costs to maintain their businesses, making greater investments in technology to meet the needs of their customers, and switching to a fee-based compensation system from a commission-based system. Data from the GSA Travel Management Center's Program Office showed that small travel agencies obtained only 3.5 percent of total revenues to travel agencies, even though small travel agencies account for half of total industry revenues. In addition, many travel agencies were declared ineligible because of size reasons for EIDL assistance as a result of the September 11, 2001 terrorist attacks.

SBA considered two additional alternatives to this rule. First, adopting the $6 million anchor size standard to the Travel Agencies industry. As discussed in the proposed rule SBA applies the $6 million anchor size standard to the nonmanufacturing industries unless an industry's characteristics are significantly different from the typical nonmanufacturing industry. The analysis of the various industry factors show that the characteristics of travel agencies are significantly below those of the nonmanufacturing anchor group industries. To establish a $6 million size standard would increase the size standard six fold and assist successful travel agencies that tend to operate at several locations and potentially take away assistance from small travel agencies this rule is intended to assist. Thus, a size standard below the anchor size standard is appropriate for this industry.

Second, SBA considered the commenter's recommendation of increasing the travel agencies size standard by only the amount of inflation since 1994 (15.8 percent). These commenters raised three significant issues pertaining to the percentage of travel agencies defined as small, the overall decline of the industry, and the competitiveness of currently defined small businesses. As discussed in the supplementary information, SBA rejected these comments as a basis to adopt the inflation alternative. The comments received supporting the $3 million size standard used, in part, similar facts to show the proposed size standard was needed. Also, SBA's analysis of the changing structure of the industry, Census Bureau data, Federal contracting data, and SBA EIDL assistance support the need and basis to substantially increase the size standard above $1 million.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Small businesses.

Accordingly, for reasons stated in the preamble, the Small Business Administration amends part 121 of title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation of part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. In § 121.201, the table "Small Business Size Standards by NAICS Industry", under the heading Subsector 561—Administrative and Support Services, revise the entry for 561510 to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	Description (N.E.C.=not elsewhere classified)	Size standards in number of employees or millions of dollars
	Subsector 561—Administrative and Support Services	
561510	Travel Agencies	[10] $3

Footnotes

10. NAICS codes 488510 (part), 531210, 541810, 561510 and 561920—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

* * * * *

Dated: May 15, 2002.

Hector V. Barreto,

Administrator.

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H.R. 4592/P.L. 107–183
To name the chapel located in the national cemetery in Los Angeles, California, as the "Bob Hope Veterans Chapel". (May 29, 2002; 116 Stat. 585)

H.R. 4608/P.L. 107–184
To name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the "Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center". (May 29, 2002; 116 Stat. 586)

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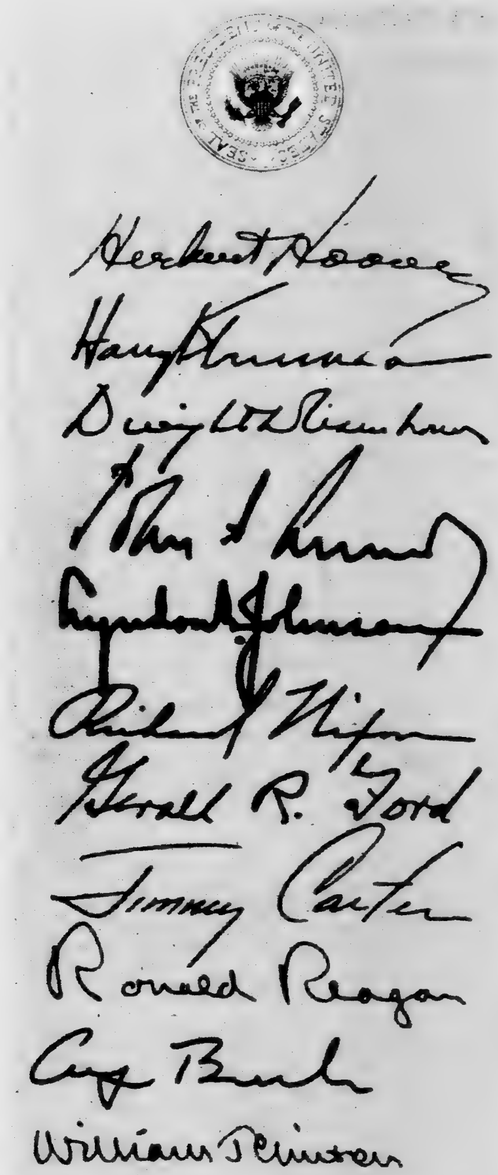

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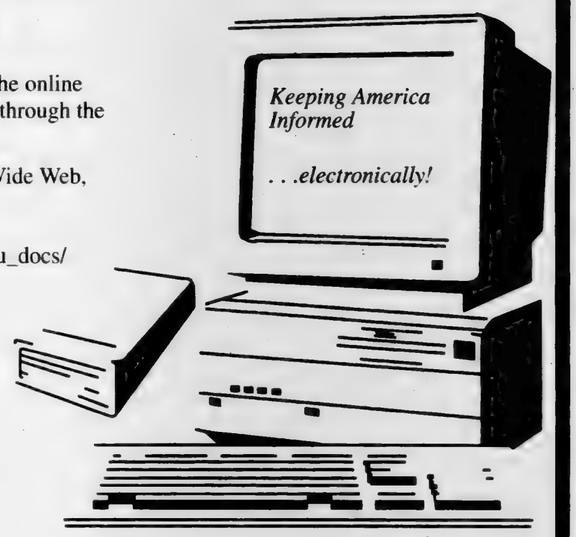

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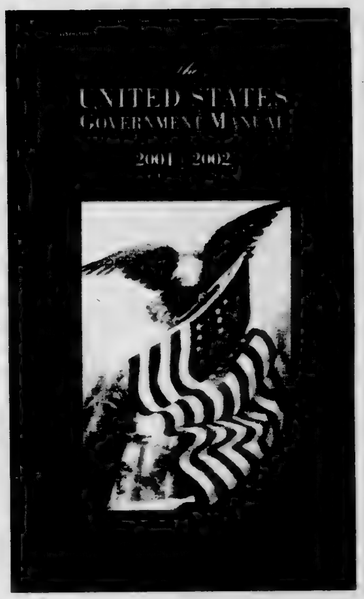

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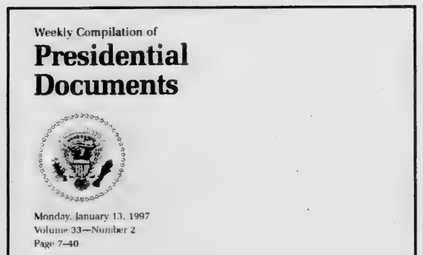

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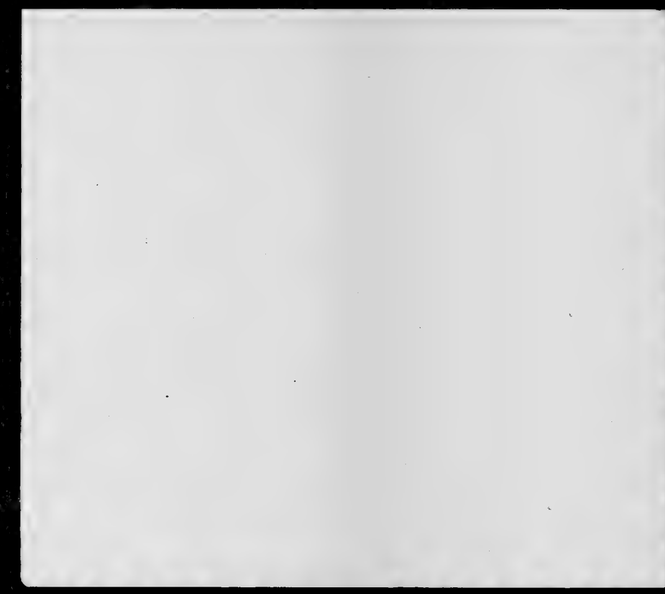

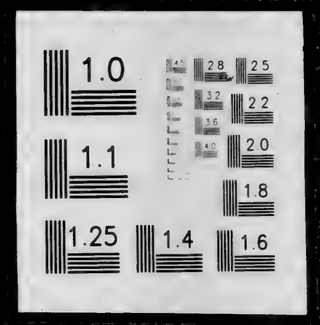

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–322–AD; Amendment 39–12765; AD 2002–11–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600 and A300 B4–600R Series Airplanes, and Model A300 F4–605R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Airbus Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (A300–600), that currently requires an inspection to detect cracks of certain attachment holes; and installation of new fasteners and follow-on inspections or repair if necessary. This amendment requires repetitive inspections to detect cracks of certain attachment holes, installation of new fasteners, follow-on inspections or repair if necessary, and modification of the angle fittings of frame FR47. This amendment revises the applicability of the existing AD. The actions specified by this AD are intended to prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

DATES: Effective July 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–16–06, amendment 39–10097 (62 FR 44888, August 25, 1997), which is applicable to all Airbus Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (A300–600), was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on November 19, 2001 (66 FR 57896). The supplemental NPRM proposed to require repetitive inspections to detect cracks of certain attachment holes, installation of new fasteners, follow-on inspections or repair if necessary, and modification of the angle fittings of frame FR47.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received from the single commenter on the supplemental NPRM. The commenter generally supports the proposal.

Request To Allow Use of Alternative Fasteners

The commenter requests that the supplemental NPRM be revised to approve the use of alternative fasteners listed in the Airbus A300 Structural Repair Manual (SRM), Chapter 51–40–32 ("Fastener Alternative—Metallic Structure"). This would relieve operators of initiating, and the FAA of approving, requests for alternative methods of compliance to use fasteners not specified by the AD.

We do not concur with this request. Airbus Service Bulletin A300–57–6049, Revision 4, dated July 27, 2000, is cited in paragraph (a) of the supplemental NPRM (and this final rule) as the appropriate source of service information for the rotating probe inspection of the internal angles of the wing center box. In consonance with the parallel French airworthiness directive, this AD requires operators to follow the specifications of that service bulletin. SRM Chapter 51–40–32 is not listed as a reference in the service bulletin; therefore, this AD does not provide credit for the use of fasteners identified in that SRM chapter. However, under the provisions of paragraph (f)(1) of this final rule, as the commenter suggests, the FAA may approve requests to use alternative fasteners if data are submitted to substantiate that such alternative fasteners would provide an acceptable level of safety.

Operators should note that SRM Chapter 51–40–31, which is listed as a reference in Service Bulletin A300–57–6049, does allow different, oversized fasteners to be installed, which will provide operators some additional flexibility in accomplishing the requirements of this AD. Because SRM Chapter 51–40–31 is cited in the service bulletin, use of the fasteners identified in that chapter is implicitly allowed by this AD; therefore, no change to the final rule is necessary in this regard.

Coordination of Global Review

The commenter suggests that the FAA, Airbus, and the DGAC perform a global review of other areas of the A300–600 wing box area that are also subject to the inspection requirements of existing ADs. According to the commenter, reviewing the whole box section, instead of concentrating on one area at a time, may enhance safety of flight.

We recognize the potential value of a global approach in addressing multiple inspections of the same general area, and we will take the commenter's suggestion under advisement. However, in this case the identified unsafe condition is a more immediate concern that should be addressed in a unique AD. Coordinating a global review of related ADs would further delay issuance of this AD, which, in any event, is not the proper forum to address such a review. No change to the final rule is necessary in this regard.

Request To Revise Compliance Times

The commenter requests that a single threshold/interval be established for all of the inspections of the wing center

section currently required by different ADs. These ADs have different inspection thresholds, and the required actions are labor-intensive. Coinciding compliance times would greatly reduce the downtime that would be required if the actions of each AD are performed separately.

We do not concur with the request. The compliance times and requirements of each related AD are based on the manufacturer's case-by-case analysis of each individual structural condition. Operators are responsible for scheduling the actions required for each applicable AD. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Interim Action

This is considered to be interim action. The manufacturer is currently developing procedures for an inspection of the repaired and reinforced area on those airplanes on which the actions of Service Bulletin A300–57–6069 have been accomplished. If the FAA finds these actions appropriate to address the unsafe condition identified by this AD, the FAA may consider further rulemaking once these inspection procedures are developed, approved, and available.

Cost Impact

The FAA estimates that 74 airplanes of U.S. registry will be affected by this AD. The average labor rate is $60 per work hour. The FAA provides cost estimates for the actions specified by this AD, as follows:

Action	Work hours	Parts cost	Per-airplane cost
Inspection per paragraph (a)	7 or 13 (depending on configuration).	$0	$420 or $780, per inspection.
Inspection per paragraph (b)	30	$6,637 or $19,091, depending on kit required.	$8,437 or $20,891, per inspection.
Modification per paragraph (c)	65 to 365	$3,370	$7,270 to $25,270.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10097 (62 FR 44888, August 25, 1997) and by adding a new airworthiness directive (AD), amendment 39–12765, to read as follows:

2002–11–04 Airbus Industrie: Amendment 39–12765. Docket 99–NM–322–AD. Supersedes AD 97–16–06, Amendment 39–10097.

Applicability: All Model A300 B4–600 and A300 B4–600R series airplanes, and all Model A300 F4–605R airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame, accomplish the following:

Inspections

(a) Perform a rotating probe inspection to detect cracking of the applicable attachment holes on the left and right internal angles of the wing center box, in accordance with Airbus Service Bulletin A300–57–6049, Revision 4, dated July 27, 2000. Do the inspection at the applicable time specified by paragraph 1.A.(2), Planning Information, of the service bulletin, except as required by paragraph (e) of this AD. Repeat the inspection thereafter at intervals not to exceed the applicable interval specified in the service bulletin, except that all touch-and-go landings must be counted in determining the total number of flight cycles between consecutive inspections.

(1) If no cracking is found: Prior to further flight, install new fasteners in accordance with the service bulletin.

(2) If any cracking is found: Prior to further flight, perform applicable corrective actions (including reaming, drilling, drill-stopping holes, chamfering, performing follow-on inspections, and installing new or oversize

fasteners) in accordance with the service bulletin, except as required by paragraph (d) of this AD.

(b) Perform a rotating probe inspection to detect cracking of the applicable attachment holes in the horizontal flange of the internal corner angle fitting of frame FR47, in accordance with Airbus Service Bulletin A300–57–6086, dated June 6, 2000. Do the inspection at the applicable time specified by the service bulletin, except as required by paragraph (e) of this AD. Repeat the inspection thereafter at intervals not to exceed the applicable interval specified in the service bulletin, except that all touch-and-go landings must be counted in determining the total number of flight cycles between consecutive inspections.

(1) If no cracking is detected: Prior to further flight, install new fasteners in accordance with the service bulletin.

(2) If any cracking is detected: Prior to further flight, perform applicable corrective actions (including inspecting hole T, reaming the holes, and installing oversize fasteners) in accordance with the service bulletin, except as required by paragraph (d) of this AD.

Modification

(c) Modify the left and right internal angle fittings of the wing center box. The modification includes performing a rotating probe inspection to detect cracking, repairing cracks, cold expanding holes, and installing medium interference fitting bolts. Perform the modification in accordance with and at the applicable time specified by paragraph 1.B.(4), Accomplishment Timescale, of Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000; except as required by paragraphs (d) and (e) of this AD.

Note 2: Modification prior to the effective date of this AD in accordance with Airbus Service Bulletin A300–57–6050, dated September 9, 1994, or Revision 01, dated May 31, 1999, is acceptable for compliance with the requirements of paragraph (c) of this AD.

Exceptions to Specifications in Service Bulletins

(d) If any crack is detected during any inspection required by paragraph (b) or (c) of this AD, and the applicable service bulletin specifies to contact the manufacturer for disposition of certain corrective actions: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

(e) Where the service bulletins specified in paragraphs (a), (b), and (c) of this AD specify a grace period relative to receipt of the service bulletin, this AD requires compliance within the applicable grace period following the effective date of this AD, if the threshold has been exceeded.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 97–16–06, amendment 39–10097, are approved as alternative methods of compliance with the applicable requirements of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except as required by paragraph (d) of this AD: The actions shall be done in accordance with Airbus Service Bulletin A300–57–6049, Revision 4, dated July 27, 2000; Airbus Service Bulletin A300–57–6086, dated June 6, 2000; and Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000; as applicable. Revision 02 of Airbus Service Bulletin A300–57–6050 contains the following effective pages:

Page number	Revision level shown on page	Date shown on page
1, 4, 8, 9, 17–32, 41, 42, 57, 58, 61–63, 75, 77	02	February 10, 2000.
2, 3, 5–7, 10–12, 33, 34, 37, 38, 47, 59, 60, 76	01	May 31, 1999.
13–16, 35, 36, 39, 40, 43–46, 48–56, 64–74	Original	September 9, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2000–533–328(B), dated December 27, 2000.

Effective Date

(i) This amendment becomes effective on July 8, 2002.

Issued in Renton, Washington, on May 22, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13422 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30311; Amdt. No. 3007]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operation at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to provide safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase— Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printed Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4165.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types of effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPS are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is a not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Navigation (Air)

Issued in Washington, DC on May 26, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amendment, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§ 97.23, § 97.25, § 97.27, § 97.29, § 97.31, § 97.33, § 97.35 [Amended]

By amending: § 97.23 VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.35 COPTER SIAPs, identified as follows:

** * * Effective June 13, 2002*

San Francisco, CA, San Francisco Intl, ILS RWY 19L, Amdt 2
San Francisco, CA, San Francisco Intl, ILS RWY 28L, Amdt 21
San Francisco, CA, San Francisco Intl, ILS RWY 28R, Amdt 10
San Francisco, CA, San Francisco Intl, RNAV (GPS) Y RWY 10R, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) Z RWY 10R, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) Y RWY 19L, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) Z RWY 19L, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) Y RWY 19R, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) Z RWY 19R, Orig
San Francisco, CA, San Francisco Intl, GPS RWY 19L, Orig, CANCELLED
San Francisco, CA, San Francisco Intl, RNAV (GPS) RWY 28L, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) RWY 28R, Amdt 1
Orlando, FL, Orlando Intl, ILS RWY 17, Amdt 3
Orlando, FL, Orlando Intl, ILS RWY 18R, Amdt 6
Orlando, FL, Orlando Intl, ILS RWY 35, Amdt 4
Orlando, FL, Orlando Intl, ILS RWY 36R, Amdt 7
Orlando, FL, Orlando Intl, RNAV (GPS) RWY 18L, Orig
Orlando, FL, Orlando Intl, GPS RWY 36L, Amdt 1B, CANCELLED
Orlando, FL, Orlando Intl, RNAV (GPS) RWY 17, Orig
Orlando, FL, Orlando Intl, RNAV (GPS) RWY 18R, Orig
Orlando, FL, Orlando Intl, RNAV (GPS) RWY 35, Orig
Orlando, FL, Orlando Intl, RNAV (GPS) RWY 36L, Orig
Orlando, FL, Orlando Intl, RNAV (GPS) RWY 36R, Orig
Honolulu, HI, Honolulu Intl, RNAV (GPS) RW 4L, Orig
Honolulu, HI, Honolulu Intl, RNAV (GPS) RWY 4R, Orig
Honolulu, HI, Honolulu Intl, RNAV (GPS) RWY 8L, Orig
Honolulu, HI, Honolulu Intl, RNAV (GPS) RWY 8R, Orig
Newburgh, NY, Stewart Intl, ILS RWY 27, Orig
Cleveland, OH, Cleveland-Hopkins Intl, ILS RWY 6R, Amdt 17
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 28, Orig
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 10, Orig
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) Z RWY 6R, Orig
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) Y RWY 6R, Orig
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 24L, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, ILS RWY 15R, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, RNAV (GPS) RWY 15R, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, ILS RWY 15L, Amdt 12, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, RNAV (GPS) RWY 15L, Orig, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, VOR/DME RWY 15L, Amdt 16, CANCELLED

** * * Effective August 8, 2002*

Pahokee, FL, Palm Beach County Glades, VOR/DME–A, Orig
Pahokee, FL, Palm Beach County Glades, VOR OR GPS RWY 17, Amdt 8A, CANCELLED
Huntinburg, IN, Huntingburg, VOR RWY 9, Amdt 4
Baton Rouge, LA, Baton Rouge Metro Ryan Field, ILS RWY 13, Amdt 27
Aurora, OR, Aurora State, NDB RWY 17, Amdt 1, CANCELLED
Memphis, TN, Memphis Intl, RADAR–1, Amdt 39, CANCELLED
Temple, TX, Draughon-Miller Central Texas Region, LOC BC RWY 33, Amdt 4

[FR Doc. 02–13817 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30312; Amdt. No. 3008]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporated by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs

are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 26, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§ 97.23, § 97.25, § 97.27, § 97.29, § 97.31, § 97.33, § 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN: § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

FDC Date	State	City	Airport	FDC No.	Subject
02/22/01	OK	Oklahoma City	Will Rogers World	1/1950	RNAV (GPS) Rwy 17L, Orig.
10/26/01	TX	San Antonio	San Antonio Intl	1/1648	NDB Rwy 12R, Amdt 20C.
12/27/01	TX	El Paso	El Paso Intl	1/3499	VOR Rwy 26L, Amdt 29C.
12/27/01	TX	El Paso	El Paso Intl	1/3500	GPS Rwy 26L, Orig.
12/27/01	TX	El Paso	El Paso Intl	1/3501	GPS Rwy 4, Orig.
12/27/01	TX	El Paso	El Paso Intl	1/3502	LOC/DME Rwy 4, Amdt 2A.
02/21/02	MO	Springfield-Branson Regional.	Springfield	2/1512	RNAV (GPS) Rwy 14, Orig.
04/11/02	OK	Oklahoma City	Will Rogers World	2/2925	NDB Rwy 35L, Orig.
04/11/02	TX	McKinney	McKinney Muni	2/2938	ILS Rwy 17, Amdt 1B. This Corrects 2/2828 IN TL 02–11.
04/11/02	TX	Denton	Denton Muni	2/2959	NDB or GPS Rwy 17, Amdt 6B.
04/18/02	CA	Willits	Ells Field-Willits Muni	2/3175	RNAV (GPS) Rwy 16, Orig.
04/18/02	VA	Richmond	Richmond Intl	2/3224	ILS Rwy 34, Amdt 13.
04/18/02	PW	Babelthuap Island	Koror	2/3238	GPS Rwy 9, Amdt 1A.
04/18/02	PW	Babelthuap Island	Koror	2/3239	GPS Rwy 27, Amdt 1A.
04/25/02	TX	Eastland	Eastland Regional	2/3481	NDB Rwy 35, Amdt 2.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3726	ILS Rwy 8, Amdt 20A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3727	ILS Rwy 9, Amdt 5A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3728	ILS Rwy 26, Amdt 16A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3729	ILS Rwy 27, Amdt 4A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3730	NDB Rwy 26, Amdt 2A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3731	VOR/DME Rwy 33R, Amdt 14A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3736	RNAV (GPS) Rwy 8, Orig–A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3738	RNAV (GPS) Rwy 26, Orig–A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3740	RNAV (GPS) Rwy 27, Orig–A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3742	RNAV (GPS) Rwy 33R, Orig–A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3744	RNAV (GPS) Y Rwy 9, Orig–A.
05/03/02	TX	Houston	George Bush Intercontinental Arpt/ Houston.	2/3746	RNAV (GPS) Z Rwy 9, Orig–A.
05/08/02	AR	Fort Smith	Fort Smith Regional	2/3855	VOR or TACAN Rwy 25, Amdt 20C.
05/08/02	IA	Cedar Rapids	The Eastern Iowa	2/3887	GPS Rwy 31, Orig–D.
05/08/02	TN	Portland	Portland Muni	2/3890	VOR/DME Rwy 19, Amdt 3.

FDC Date	State	City	Airport	FDC No.	Subject
05/09/02	MD	Easton	Easton/Newman Field	2/3919	NDB or GPS Rwy 22, Amdt 8.
05/09/02	GA	Griffin	Griffin-Spalding County	2/3926	GPS Rwy 14, Orig.
05/09/02	GA	Griffin	Griffin-Spalding County	2/3927	GPS Rwy 32, Orig.
05/09/02	GA	Griffin	Griffin-Spalding County	2/3928	NDB Rwy 32, Orig.
05/09/02	GA	Athens	Athens/Ben Epps	2/3929	VOR or GPS Rwy 2, Amdt 10.
05/09/02	GA	Athens	Athens/Ben Epps	2/3930	VOR Rwy 27, Amdt 11.
05/09/02	GA	Athens	Athens/Ben Epps	2/3931	ILS Rwy 27, Orig.
05/09/02	GA	Athens	Athens/Ben Epps	2/3932	NDB or GPS Rwy 27, Orig.
05/09/02	LA	Natchitoches	Natchitoches Regional	2/3940	NDB or GPS Rwy 34, Amdt 4B.
05/09/02	LA	Natchitoches	Natchitoches Regional	2/3942	LOC Rwy 34, Amdt 3B.
05/10/02	KY	Mount Sterling-Montgomery.	Mount Sterling-Montgomery County	2/3964	NDB Rwy 21, Amdt 1A.
05/10/02	KY	Mount Sterling-Montgomery.	Mount Sterling-Montgomery County	2/3965	NDB or GPS Rwy 3, Amdt 1B.
05/10/02	KY	Mount Sterling-Montgomery.	Mount Sterling-Montgomery County	2/3966	GPS Rwy 21, Amdt 1.
05/12/02	TX	Houston	Ellington Field	2/3959	ILS Rwy 22, Amdt 3A.
05/13/02	OH	Columbus	Columbus/Port Columbus Intl	2/4027	ILS Rwy 10R, Amdt 7.
05/13/02	OH	Bowling Green	Wood County	2/4036	VOR/DME RNAV Rwy 27, Amdt 1.
05/13/02	OH	Bowling Green	Wood County	2/4037	GPS Rwy 27, Orig.
05/13/02	NC	Raleigh-Durham	Raleigh-Durham Intl	2/4040	ILS Rwy 5L, Amdt 4.
05/13/02	NC	Raleigh-Durham	Raleigh-Durham Intl	2/4041	ILS Rwy 5R, Amdt 26.
05/15/02	GA	Columbus	Columbus Metropolitan	2/4114	RADAR–1, Amdt 8A.
05/15/02	GA	Columbus	Columbus Metropolitan	2/4115	ILS Rwy 5, Amdt 24B.
05/15/02	GA	Columbus	Columbus Metropolitan	2/4116	VOR/DME RNAV or GPS Rwy 23, Amdt 2.
05/15/02	GA	Columbus	Columbus Metropolitan	2/4117	NDB or GPS Rwy 5, Amdt 27A.
05/15/02	MN	Benson	Benson Muni	2/4125	NDB or GPS Rwy 14, Amdt 6.
05/15/02	AL	Decatur	Pryor Field Regional	2/4127	RNAV (GPS) Rwy 36, Orig.
05/16/02	WA	Richland	Richland	2/4159	VOR or GPS Rwy 25, Amdt 6A.
05/16/02	WA	Richland	Richland	2/4160	NDB or GPS Rwy 19, Amdt 5.
05/16/02	WA	Richland	Richland	2/4161	LOC Rwy 19, Amdt 5.
05/16/02	NY	Canandaigua	Canandaigua	2/4163	VOR–A Orig.
05/16/02	KS	Wichita	Cessna Aircraft Field	2/4171	VOR or GPS–C, Orig–A.
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4197	NDB Rwy 35, Amd 7B.
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4198	RNAV (GPS) Rwy 35, Orig.
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4199	RNAV (GPS) Rwy 17, Orig.
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4200	ILS Rwy 8, Amdt 5B.
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4201	ILS Rwy 3, Orig–D.
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4202	NAV (gps) Rwy 3, Orig.
05/17/02	TX	Denton	Denton Muni	2/4209	ILS Rwy 17, Amdt 6B.
05/17/02	OK	Holdenville	Holdenville Muni	2/3239	GPS RWY 17, Amdt 1.
05/20/02	TN	Millington	Millington Muni	2/4282	VOR/DME Rwy 22, Orig–A.
05/21/02	IL	Moline	Quad City Intl	2/4321	NDB or GPS Rwy 9, Amdt 27C.
05/21/02	IL	Moline	Quad City Intl	2/4322	ILS Rwy 27, Orig–B.
05/21/02	IL	Moline	Quad City Intl	2/4323	ILS Rwy 9, Amdt 29C.
05/21/02	OH	Wilmington	Airborne Airpark	2/4332	VOR or GPS Rwy 4L, Amdt 5C.
05/21/02	OH	Wilmington	Airborne Airpark	2/4333	VOR/DME or GPS Rwy 22R, Amdt 4C.
05/21/02	OH	Wilmington	Airborne Airpark	2/4335	NDB Rwy 4L, Amdt 2D.
05/21/02	OH	Wilmington	Airborne Airpark	2/4336	VOR Rwy 22R, Amdt 4B.

[FR Doc. 02–13818 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8988]

RIN 1545–BA55

Guidance Under Section 355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection With an Acquisition; Corrections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Corrections to temporary regulations.

SUMMARY: This document contain corrections to temporary regulations that were published in the **Federal Register** on Friday, April 26, 2002 (67 FR 20632) relating to recognition of gain on certain distributions of stock or securities of a controlled corporation in connection with an acquisition.

DATES: *Effective Date:* These corrections are effective April 26, 2002.

FOR FURTHER INFORMATION CONTACT: Amber R. Cook, (202) 622–7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections are under section 355(e) of the Internal Revenue Code.

Need for Correction

As published, TD 8988 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 8988), which is the subject of FR Doc. 02–9929 is corrected as follows:

1. On page 20635, column 2, in the preamble under the caption "Explanation of Provisions", line 13 of paragraph H.(1.), the language "reasonable certainty" that, within six" is corrected to read "reasonable certainty" that, within 6".

§ 1.355–0 [Corrected]

2. On page 20636, column 2, § 1.355–7T(k), the language "Effective date." is corrected to read "Effective dates.".

§ 1.355–7T [Corrected]

3. On page 20637, column 1, § 1.355–7T(b)(3)(iii), line 13, the language "before a distribution where a person" is corrected to read "before a distribution, a person".

4. On page 20637, column 1, § 1.355–7T(b)(3)(iii), line 15, the language "intends to cause a distribution and, as" is corrected to read "intended to cause a distribution and, as".

5. On page 20641, column 2, § 1.355–7T(j) *Example 4.*(v), line 2, the language "of C and acquisition of X by D are part of a" is corrected to read "of C and the acquisition of X by D are part of a".

Cynthia Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7222–4]

RIN 2060–AJ34

National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: On June 23, 1999, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production (40 CFR part 63, subpart MMM). On August 19 and 20, 1999, petitions for judicial review of the June 1999 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. This action is in response to an issue raised by two of those petitioners—the American Crop Protection Association (ACPA) and the American Cyanamid Company (now BASF Corporation). On March 22, 2002 (67 FR 13504), EPA proposed an amendment to change the existing source compliance date of the NESHAP for PAI Production to December 23, 2003. Under the promulgated rule, existing affected sources would be required to be in compliance by August 22, 2002. With this final action, existing sources will be required to be in compliance with the rule by December 23, 2003.

EFFECTIVE DATE: June 3, 2002.

ADDRESSES: Docket No. A–95–20 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated category and entities affected by this action include:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry	Typically, 325199 and 325320.	Typically, 2869 and 2879 ..	• Producers of pesticide active ingredients that contain organic compounds that are used in herbicides, insecticides, or fungicides. • Producers of any integral intermediate used in on-site production of an active ingredient used in herbicides, insecticides, or fungicides.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the proposed revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR part 63, subpart MMM. If you have questions regarding the applicability of this proposed amendment to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. What Is the History of the PAI Production NESHAP?

On June 23, 1999, we promulgated NESHAP for PAI Production as subpart MMM in 40 CFR part 63 (64 FR 33550). On August 19 and 20, 1999, the American Crop Protection Association and American Cyanamid Company (now BASF Corporation) filed petitions for judicial review of the promulgated PAI Production NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *ACPA* v. *EPA,* No. 99–1332, and *American Cyanamid Company* v. *EPA,* No. 99–1334 (Consolidated with *ACPA* v. *EPA,* No. 99–1332) (D.C. Cir.).

On January 18, 2002, EPA entered into a Settlement Agreement with ACPA and BASF, resolving petitioners' litigation. Notice of this agreement was published in the **Federal Register** on February 4, 2002 (67 FR 5116), pursuant to the requirements of CAA section 113(g). The Agreement called for EPA to propose a number of amendments to the PAI Production NESHAP, including an amendment to extend the compliance date to December 23, 2003. The proposed amendment to change the compliance date was published on March 22, 2002 (67 FR 13504). The other agreed-upon proposed amendments were published on April 10, 2002 (67 FR 17492).

II. What Public Comments Were Received on the March 22, 2002 Proposal and What Changes Were Made for the Final Rule?

Although EPA received no comment on the proposed settlement agreement through the section 113(g) process, one commenter, representing an environmental legal defense fund, commented on the proposal to extend the rule's effective date. The commenter maintains that such an extension is illegal because it would establish an effective date for the rule which is longer than the maximum 3 years allowed by section 112(i)(3) of the CAA (assuming no case-by-case 1 year extension). The commenter further maintained that the delay would forestall the health benefits resulting from the emissions reductions required by the underlying rule.

We appreciate the commenter's point. Nonetheless, it should be noted that section 112(i)(3) deadlines are not as inflexible as the commenter maintains. First, section 112(i)(3) is ambiguous as to whether an initial compliance date applies to a rule which has been substantially amended. Section 112(i)(3) applies to "any emissions standard." If a rule is amended so extensively as to be a different regulation, then compliance set from the date of that amended rule would still be established for "any emission standard," in this case, the new rule. Put another way, there will be circumstances where EPA changes a rule so extensively that the amended rule should be regarded as a new standard, triggering a new effective date. Indeed, it is only common sense that this must be so. For example, suppose that we were to conclude legitimately that data supporting a standard was flawed, and that a new standard was needed, likely necessitating a different means of air pollution control. There should be no doubt that we can promulgate a new compliance date for this new standard. See also, section 112(d)(6) of the CAA, requiring EPA to periodically reexamine and, if necessary, revise MACT standards. If such a standard were revised, it is obvious that a new compliance date would be needed to reflect the time needed to come into compliance with the new standards.

We believe that the proposed changes to the PAI rule, if adopted, are extensive and significant enough to result in a new rule necessitating a new compliance date. We proposed these amendments on April 10, 2002, and the amendments include revisions to every section of the regulation. The public comment period on the proposed amendments closed on May 10, 2002. Therefore, final action on the amendments is still several months in the future.

As explained in detail in the April 10 proposal, the amendments include approximately 100 revisions to the rule. The revisions address numerous issues, make significant amendments, and also make needed corrections to the rule. Several amendments address applicability issues. For example, we proposed to amend the definition of *intermediate* to cover products of extraction, as well as products of chemical synthesis. We also proposed to clarify the demarcation between new and existing sources by clarifying new source applicability. The proposed amendments go to the most basic feature of the rule—to what does it apply—a question which must be answered before any source can begin to comply.

Several amendments include provisions for compliance alternatives and alternative standards that give the source additional compliance options, which necessarily require time for sources to adopt. One example is providing sources the option of demonstrating compliance through the use of a common control device, shared among several processes, provided they demonstrate compliance using a continuous emissions monitor (CEM) instead of parametric monitoring on a per-process basis. A source desiring to use the environmentally beneficial alternative of CEM-based compliance needs time to obtain, install, and calibrate the device. See section 504 (b) of the CAA, which allows alternatives to a CEM, but in doing so, places the CEM by inference at the top of the monitoring hierarchy.

Given the pervasive nature of the proposed amendments, and the fact that final action cannot occur until after the current existing source compliance date, we believe it is both appropriate and necessary to provide time for sources in the category to review the final changes and take appropriate steps to come into compliance with the amended rule.

III. What Are the Administrative Requirements for This Action?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this final rule amendment is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13132, Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that

have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule amendment does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because State and local governments do not own or operate any sources that would be subject to the PAI Production NESHAP. Thus, Executive Order 13132 does not apply to this final rule amendment.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

This final rule amendment does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule amendment.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This final rule amendment is not subject to Executive Order 13045 because it is based on technology performance, not health or safety risks. Furthermore, this final rule amendment has been determined not to be economically significant as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this final rule amendment does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. For existing sources, the total annual cost of the PAI Production NESHAP has been estimated to be approximately $39.4 million (64 FR 33559, June 23, 1999). Today's amendment does not add new requirements that would increase this cost. Thus, this rule amendment is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this rule amendment contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, this rule amendment is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule amendment. For purposes of assessing the impacts of this final rule amendment on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325320 that has as many as 500 employees; (2) a small business in NAICS code 325199 that has as many as 1,000 employees; (3) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (4) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's amendment on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact on small entities" (5 U.S.C. Sections 603 and 604). Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Today's final rule amendment imposes no additional regulatory requirements on owners or operators of affected sources. We have, therefore, concluded that today's final rule amendment will have no impact on small entities.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the 1999 PAI Production NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0370.

This final rule amendment will have no impact on the information collection burden estimates made previously, and consequently, the ICR has not been revised. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency adopting the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule amendment and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule amendment in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This final rule amendment is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

2. Section 63.1364 is amended by revising paragraph (a)(1) to read as follows:

§ 63.1364 Compliance dates.

(a) *Compliance dates for existing sources.* (1) An owner or operator of an existing affected source must comply with the provisions in this subpart by December 23, 2003.

* * * * *

[FR Doc. 02–13804 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3730, 3820, 3830, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD52

Locating, Recording, and Maintaining Mining Claims or Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is promulgating this final rule to amend regulations on locating, recording, and maintaining mining claims or sites. In this rule, BLM amends its regulations to respond to a recent law extending until September 30, 2003, the provisions that require claimants to pay location and annual maintenance fees for unpatented mining claims or sites, and allow qualified "small miners" to seek a waiver from the annual maintenance fee. BLM has collected these fees and provided for waivers under the existing regulations based on previous laws, the most recent of which expired on September 30, 2001. The final rule is necessary to describe and publicize the statutory extension of the fee requirement, and to remove conflicts between the current regulations and the new statute.

EFFECTIVE DATE: This administrative final rule is effective June 3, 2002.

ADDRESSES: You may mail suggestions or inquiries to Bureau of Land Management, Solid Minerals Group, Room 501 LS, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355. For assistance in reaching Mr. Haskins, persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–(800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Administrative Final Rule
III. Procedural Matters

I. Background

Since 1992, Congress has required mining claimants to pay certain fees when locating, recording, and maintaining mining claims or sites on public lands. In order to collect the fees, BLM has promulgated regulations to implement the statutory fee requirements.

On October 5, 1992, Congress enacted the first fee requirements in the Interior and Related Agencies Appropriations Act for Fiscal Year 1993 (the FY93 Act). Public Law 102–381, 106 Stat. 1374, 1378–1379. The FY93 Act required claimants to pay two $100 rental fee payments per mining claim or site by August 31, 1993, in order to hold the claim for the 1992 and 1993 assessment years. It allowed certain claimants to seek an exemption from the fee requirement if the claimant held ten or fewer claims or sites, had an approved notice or plan of operations for actual exploration work or mineral production, and had less than ten acres of unreclaimed surface disturbance. BLM implemented the FY93 Act by promulgating regulations at 43 CFR parts 3730, 3821, 3833, and 3850 (1993). 58 FR 38197 (July 15, 1993).

On August 10, 1993, Congress enacted the Omnibus Budget Reconciliation Act (the FY94 Act). Public Law 103–66, 107 Stat. 405, 30 U.S.C. 28f–k. The FY94 Act required claimants to pay an annual $100 maintenance fee by August 31 of each year beginning in 1994 and ending in 1998. The FY94 Act also required claimants to pay a $25 fee when locating any new mining claims. The FY94 Act allowed claimants to seek a waiver from the maintenance fee if the claimant and all related parties held ten or fewer mining claims or sites. To implement the FY94 Act, BLM amended 43 CFR parts 3730, 3821, 3833, and 3850 (1994). 59 FR 44857 (August 30, 1994).

On October 21, 1998, Congress enacted the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act). Public Law 105–277, 112 Stat. 2681–232, 2681–235, 30 U.S.C. 28f–28k. The FY99 Act moved the payment deadline from August 31 to September 1 and extended the fee requirements until 2001. The Act also provided a means by which a claimant who had filed for a waiver from the fee could either cure a defective fee waiver application or pay the fee after the deadline if the application could not be cured.

On November 5, 2001, Congress enacted the Interior and Related Agencies Appropriation Act for Fiscal Year 2002 (the FY02 Act). Public Law 107–63, 115 Stat. 414, 30 U.S.C. 28f–28k. This final rule implements the requirements of the FY02 Act. The FY02 Act extends the fee requirements through 2003.

II. Discussion of the Final Rule

Why the Rule Is Being Published as a Final Rule

BLM is adopting this final rule solely to amend its regulations to implement the mining law fee provisions of the FY02 Act. We are not making any other changes in this rule.

The Department of the Interior finds under 5 U.S.C. 553(b)(3)(B) that for good cause notice and public procedure for this rule are unnecessary and this rule may properly take effect upon publication. The FY02 Act merely extends previously-existing fee requirements until 2003. This rule will implement this statutory fee extension as Congress requires.

We also determine under 5 U.S.C. 553(d) that there is good cause to place the rule into effect on the date of publication because the matters addressed in the rule are explicitly required by statute.

Changes Made by the FY02 Act in BLM's Current Requirements

The FY02 Act does not change the requirements that mining claimants (1) pay $25 when locating a new mining claim or site; (2) pay a $100 maintenance fee per year for each mining claim or site; or (3) meet certain qualifications in order to obtain a waiver from the maintenance fee requirement. BLM collected these fees under its current regulations but was authorized to do so only until September 30, 2001. In the FY02 Act, Congress authorized BLM to continue to collect these fees until September 30, 2003. This rule implements this extension.

Organization of the Final Rule

This final rule amends the existing regulations. It contains only the specific amendments necessary to implement the FY02 Act. Most of the amendments appear as line-by-line edits. While this presentation may be somewhat difficult to follow, especially if you do not have the Code of Federal Regulations containing the existing regulations, we have chosen this method to make it clear that we are not making changes beyond those needed to implement the FY02 Act.

The only change we have made in these line-by-line edits is to change the expiration date of the regulations from 2001 to 2003.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget (OMB) has determined that this rule is not a significant regulatory action.

- The rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The extensions of the fee requirements do not change the substance of BLM's current mining claim administration. The annual revenue received from the collection of the congressionally-mandated oil shale, maintenance, and location fees has averaged $26 million since October 1998. This rule will not change the fee amounts and thus will not have a significant impact on fees collected.
- This rule will not create inconsistencies with other agencies' actions. It does not change BLM's relationship with other agencies and their actions.
- This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. The rule does not address any of these programs.
- This rule will not raise novel legal or policy issues because it makes no major substantive changes in the regulations. The constitutionality of the rental and maintenance fees has been challenged in the Federal courts. The Courts have consistently upheld the FY03 and FY04 Acts and their implementing regulations.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The rule will not have an impact because the fees paid by small entities will not change. The rule merely extends the authority for collecting them. A final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

For the purposes of this section a "small entity" is an individual, limited partnership, or small company, at "arm's length" from the control of any parent companies, with fewer than 500 employees or less than $5 million in revenue. This definition accords with Small Business Administration regulations at 13 CFR 121.201.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of $100 million or more. As explained in section 1 above, the revised regulations will not materially alter current BLM policy or the fee amounts paid by mining claimants.
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule does not change the cost to locate, record, or maintain a mining claim.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

- This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is unnecessary.
- This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The changes implemented in this rule do not require anything of any non-Federal governmental entity.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking. Federal courts have concluded that the rental and maintenance fee statutes and regulations do not cause a taking of any property interests.

Executive Order 12612, Federalism

In accordance with Executive Order 12612, BLM finds that the rule does not have significant federalism effects. A federalism assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities, nor does it relate to the structure and role of States or have direct, substantive, or significant effects on States.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, BLM finds that the rule does not unduly burden the judicial system and therefore meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the regulations that this administrative final rule is extending, under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004–0114.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 318 DM 2.2(g) and 6.3(D). Since the rule only extends BLM's authority to collect certain fees, this rule does not constitute a major Federal action significantly affecting the quality of the human environment. *See* the Environmental Analysis and Finding of No Significant Impact dated April 17, 2002.

Because this rule does not substantially change BLM's overall management objectives or environmental compliance requirements, it would have no impact on, or only marginally affect, the following critical elements of the human environment as defined in Appendix 5 of the BLM National Environmental Policy Act Handbook (H–1790–1): air quality, areas of critical environmental concern, cultural resources, Native American religious concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice, and wilderness.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have considered the impact of this rule on the interests of Tribal governments. Because this rule does not specifically involve Indian reservation lands, government-to-government relationships will remain unaffected.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a significant energy action. It will not have an adverse effect on energy supplies. To the extent that the rule affects the mining of energy minerals (*i.e.*, uranium and other fissionable metals), the rule only extends BLM's statutory authority for collecting mining claim location and maintenance fees that BLM has been collecting for many years. It will not change financial obligations of the mining industry.

Authors

The principal author of this administrative final rule is Roger Haskins in the Solid Minerals Group, assisted by Ted Hudson in the Regulatory Affairs Group, Washington Office, BLM.

List of Subjects

43 CFR Part 3730

Administrative practice and procedure; mines; public lands-mineral resources; reporting and recordkeeping requirements; surety bonds.

43 CFR Part 3820

Mines; monuments and memorials; national forests; national parks; public lands-mineral resources; reporting and recordkeeping requirements; surety bonds; wilderness areas.

43 CFR Part 3830

Maintenance fees; mines; public lands-mineral resources; reporting and recordkeeping requirements.

43 CFR Part 3850

Mines; public lands-mineral resources.

Dated: April 24, 2002.

Tom Fulton,

Acting Assistant Secretary of the Interior.

For the reasons stated in the preamble, and under the authorities cited below, parts 3730, 3820, 3830, and 3850, Groups 3700 and 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as follows:

PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS: GENERAL

1. The authority citation for part 3730 continues to read as follows:

Authority: 69 Stat. 681, 30 U.S.C. 621–625; 43 U.S.C. 1701 *et seq.*; 30 U.S.C. 28f–28k, as amended.

2. Amend section 3730.0–9 by revising the last sentence of paragraph (a) to read as follows:

§ 3730.0–9 Information collection.

(a) * * * A response is required to obtain a benefit in accordance with the Act of August 11, 1955 (30 U.S.C. 621–625), Section 314 of the Federal Land Policy and Management Act of 1976, as

amended (43 U.S.C. 1744), and 30 U.S.C. 28f–28k, as amended by the Act of November 5, 2001 (115 Stat. 414).

* * * * *

PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

3. The authority citation for part 3820 continues to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201 and 1740.

Subpart 3821—O and C Lands

4. Revise section 3821.0–3 to read as follows:

§ 3821.0–3 Authority.

The authorities for the regulations in this subpart are the Act of April 8, 1948 (62 Stat. 162); Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744); and 30 U.S.C. 28f–28k, as amended by the Act of November 5, 2001 (115 Stat. 414).

PART 3830—LOCATION OF MINING CLAIMS

5. The authority citation for part 3830 is revised to read as follows:

Authority: 30 U.S.C. 22, 28, and 28f–k; 43 U.S.C. 299 and 1201; 31 U.S.C. 9701; 16 U.S.C. 1901, 1907; 43 U.S.C. 1740 and 1744; 30 U.S.C. 242; 50 U.S.C. Appendix 565; 112 Stat. 2861–235; 115 Stat 414.

6. Amend section 3833.0–3 by revising the first sentence of paragraph (a) and the first sentence of paragraph (e) to read as follows:

§ 3833.0–3 Authority.

(a) Sections 314(a) and (b) of the Federal Land Policy and Management Act (43 U.S.C. 1744), and 30 U.S.C. 28f–28k, as amended by the Act of November 5, 2001 (115 Stat. 414), require the recordation of unpatented mining claims, mill sites, and tunnel sites, and the filing of information concerning annual assessment work performed on unpatented mining claims in the proper BLM office within specified time periods. * * *

* * * * *

(e) The Acts of October 21, 1998 (112 Stat. 2681–232, 2681–235), and November 5, 2001 (115 Stat. 414) (30 U.S.C. 28f–28k), require an annual maintenance fee of $100 to be paid to the proper State Office of the Bureau of Land Management for each non-waived mining claim, mill site, or tunnel site. * * *

* * * * *

§ 3833.0–5 [Amended]

7. Amend section 3833.0–5 as follows:

a. Remove from the second sentence of paragraph (o) the phrases "December 30, 2002," and "the Act of October 21, 1998," and add in their place, respectively, the phrases "December 30, 2004," and "the Act of November 5, 2001,".

b. Remove from the first sentence of paragraph (v) the phrase "Act of October 21, 1998 (112 Stat. 2681–235)" and add in its place the phrase "Act of November 5, 2001 (115 Stat. 414)";

c. Remove from the second sentence of paragraph (v) the phrase "September 29, 2001" and add in its place the phrase "September 29, 2003";

d. Remove from the first sentence of paragraph (w) the phrases "Act of October 21, 1998," and "September 30, 2001," and add in their place, respectively, the phrases "Act of November 5, 2001," and "September 30, 2003,"; and

e. Remove from the first sentence of paragraph (y) the phrase "the Act of October 21, 1998," and add in its place the phrase "the Act of November 5, 2001."

§ 3833.0–9 [Amended]

8. Amend section 3833.0–9 by removing from the last sentence of paragraph (a) the phrase "the Act of October 21, 1998 (112 Stat. 2681–235)" and adding in its place the phrase "the Act of November 5, 2001 (115 Stat. 414)."

§ 3833.1–4 [Amended]

9. Amend section 3833.1–4 by removing from paragraph (b) the phrase "September 30, 2001" and adding in its place the phrase "September 30, 2003."

§ 3833.1–5 [Amended]

10. Amend section 3833.1–5 as follows:

a. Remove from the last sentence of the introductory text the date "September 1, 2002" and add in its place the date "September 1, 2004,".

b. Remove from the second sentence of paragraph (b) the date "2001" and add in its place the date "2003".

§ 3833.1–6 [Amended]

11. Amend section 3833.1–6 by revising the heading to read as follows:

§ 3833.1–6 Maintenance fee waiver qualifications under the Act of November 5, 2001, and other exceptions.

§ 3833.1–7 [Amended]

12. Amend section 3833.1–7 by removing from paragraph (d) the date "2002" and adding in its place the date "2004".

§ 3833.2–3 [Amended]

13. Amend section 3833.2–3 as follows:

a. Remove from the section heading the phrase "the Act of October 21, 1998" and add in its place the phrase "the Act of November 5, 2001";

b. Remove from paragraph (d) the phrases "September 1, 2002," and "December 30, 2003," and add in their place, respectively, the phrases "September 1, 2004," and "December 30, 2005"; and

c. Remove from paragraph (e) the phrases "September 1, 2001", "September 29, 2001", and "September 1, 2002", and add in their place, respectively, the phrases "September 1, 2003", "September 29, 2003", and "September 1, 2004".

PART 3850—ASSESSMENT WORK

14. The authority citation for part 3850 continues to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 28–28k; 50 U.S.C. Appendix 565; 107 Stat. 405.

Subpart 3851—Assessment Work: General

§ 3851.3 [Amended]

15. Amend section 3851.3 by removing from the first sentence of paragraph (c) the first instance of the word "the".

[FR Doc. 02–13567 Filed 5–31–02; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1156; MM Docket No. 00–69; RM–9850, 9945 & 9946]

Radio Broadcasting Services; Cheboygan, Rogers City, Bear Lake, Bellaire, Rapid River, Manistique, Ludington, Walhalla & Onaway, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Notice* in this proceeding requested the allotment of Channel 260C2 at Cheboygan, MI and substitution of Channel 292C2 for Channel 260C2 at Rogers City, MI, in response to a petition filed by Escanaba License Corp. *See* 65 FR 30558, May 12, 2000. The counterproposal filed jointly by D&B Broadcasting and Fort Bend Broadcasting Company requesting changes at Rogers City, Bear Lake, Bellaire, Rapid River, Manistique, Ludington and Walhalla, MI has been denied. The counterproposal filed by Northern Radio Network Corporation requesting the allotment of Channel 292C2 at Onaway, MI at coordinates 45–26–28 and 84–00–37 and the allotment of Channel 249C3 at Cheboygan, MI at coordinates 45–34–45 and 84–15–05 has been granted. Canadian concurrence has been received for the allotments at Onaway and Cheboygan. The issue of opening these allotments for auction will be addressed by the Commission in a subsequent order. With this action, this proceeding is terminated.

DATES: Effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–69, adopted May 1, 2002, and released May 17, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC. 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Channel 249C3 at Cheboygan and by adding Onaway, Channel 292C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

[FR Doc. 02–13823 Filed 5–31–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1155; MM Docket No. 01–186; RM–9976 & RM–10320]

Radio Broadcasting Services; Honor, Bear Lake, Ludington, Walhalla, & Custer, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Notice* in this proceeding proposed the substitution of Channel 264C3 for Channel 264A at Honor, Michigan, and modification of the authorization for Station WIAR to specify operation on Channel 2643C in response to a petition filed by Northern Radio of Michigan, Inc. Substitutions were also requested at Bear Lake, Ludington and Walhalla, Michigan. *See* 66 FR 44586, August 24, 2001. In response to a counterproposal filed by Mason County Broadcasting Company, action in this document allots Channel 263A at Custer, Michigan, as a first local service at coordinates 43–59–10 and 86–14–11. There is a site restriction 4 kilometers (2.5 miles) north of the community. Canadian concurrence has been received for the allotment of Channel 263A at Custer. The issue of opening this allotment for auction will be addressed by the Commission in a subsequent order. With this action, this proceeding is terminated.

DATES: Effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–186, adopted May 1, 2002, and released May 17, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554 telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Custer, Channel 236A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

[FR Doc. 02–13824 Filed 5–31–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1154, MM Docket No. 02–31; RM–10351]

Radio Broadcasting Services; Horn Lake & Olive Branch, MS and Memphis, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 239A from Olive Branch, Mississippi, to Horn Lake, Mississippi, and modifies the license for Station WOTO accordingly in response to a petition filed by Clear Channel Broadcasting Licenses, Inc. *See* 67 FR 14664, March 27, 2002. The coordinates for Channel 239A at Horn Lake are 35–04–19 and 89–59–13. We shall also reallot Channel 266C1 from Memphis, Tennessee, to Olive Branch, Mississippi, and modify the license for Station KJMS to specify operation at Olive Branch. The coordinates for Channel 266C1 at Olive Branch are 35–08–01 and 90–05–38, accordingly. With this action, this proceeding is terminated.

DATES: Effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 02–31, adopted May 1, 2002, and released May 17, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the Commission's Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. This document may also be purchased from the

Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 239A and adding Channel 266C1 at Olive Branch and by adding Horn Lake, Channel 239A.

3. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 266C1 at Memphis.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

[FR Doc. 02–13825 Filed 5–31–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Parts 11 and 37

Civil Penalty Procedures—Change of Address for Office of Hearings and Appeals

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (FWS) is revising its regulations governing administrative appeals to reflect a change of address for the Office of Hearings and Appeals (OHA). OHA is moving to a new building in Arlington, Virginia. This move was effective February 11, 2002.

DATES: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Robert More, Director, U.S. Department of the Interior, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia, 22203, telephone (703) 235–3810.

SUPPLEMENTARY INFORMATION:

Background

In 50 CFR part 11, FWS has established procedures for the assessment of civil penalties for violations of various fish and wildlife protection laws. In 50 CFR part 37, FWS has provided guidelines governing the surface exploration for oil and gas within the coastal plain of the Arctic National Wildlife Refuge. Under § 37.47, civil penalties may be assessed for violations of an approved exploration plan, a special use permit, or the regulations.

Both sets of regulations include provisions for the Department of the Interior's Office of Hearings and Appeals (OHA) to conduct appeals of civil penalty assessment. OHA consists of a headquarters office located in Arlington, Virginia, and nine field offices located throughout the country. Since 1970, the headquarters office has been located at 4015 Wilson Boulevard. This address appears in four sections in 50 CFR parts 11 and 37.

Effective February 11, 2002, the OHA headquarters office relocated to 801 North Quincy Street, Arlington, Virginia. In anticipation of that move, FWS is revising its administrative appeals regulations to reflect OHA's new street address.

Procedural Requirements

A. Determination To Issue Final Rule Effective in Less Than 30 Days

FWS has determined that the public notice and comment provisions of the Administrative Procedures Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure and practice. These changes meet the exemption for notice and comment periods in 5 U.S.C. 553(b)(A).

FWS has also determined that there is good cause to waive the requirement for publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d)(3). Construction schedules dictated the timing of OHA's relocation. While OHA has known for months that it would be moving, the actual move date was confirmed only in the past few weeks.

B. Required Determinations Under Procedural Statutes and Executive Orders

FWS has reviewed this rule under the following statutes and executive orders governing rulemaking procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; the National Environmental Policy Act of 1969, 42 U.S.C. 4231 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). FWS has determined that this rule does not trigger any of the procedural requirements of those statutes and executive orders since this rule only changes the street address for OHA's headquarters office.

List of Subjects in 50 CFR Parts 11 and 37

Administrative practice and procedure.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends parts 11 and 37 of Title 50 of the Code of Federal Regulations as set forth below.

PART 11—[AMENDED]

1. The authority citation for part 11 continues to read as follows:

Authority: Lacey Act, 83 Stat. 279–281, 18 U.S.C. 42–44; Lacey Act Amendments of 1981, 95 Stat. 1073–1080, 16 U.S.C. 3371 *et seq.*; Bald Eagle Protection Act, sec. 2, 54 Stat. 251, 16 U.S.C. 668a; Endangered Species Act of 1973, sec. 11(f), 87 Stat. 884, 16 U.S.C. 1540(f); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, 16 U.S.C. 1382.

2. In part 11, revise all references to "4015 Wilson Boulevard" to read "801 North Quincy Street."

PART 37—[AMENDED]

3. The authority citation for part 37 continues to read as follows:

Authority: Sec. 1002, Pub. L. 96–487, 94 Stat. 2449, as amended by sec. 110, Pub. L. 97–394, 96 Stat. 1982 (16 U.S.C. 3142); sec. 110, Pub. L. 89–665, as added by sec. 206, Pub. L. 96–515, 94 Stat. 2996 (16 U.S.C. 470h–2); sec. 401, Pub. L. 148, 49 Stat. 383, as amended (16 U.S.C. 715s); 31 U.S.C. 9701; 5 U.S.C. 301; 209 DM 6.1.

§ 37.47 [Amended]

4. In § 37.47, revise all references to "4015 Wilson Boulevard" to read "801 North Quincy Street."

Dated: February 1, 2002.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–13788 Filed 5–31–02; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 67, No. 106
Monday, June 3, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR PARTS 831, 842, 870, AND 890

RIN 3206–AJ55

Continuation of Eligibility for Certain Civil Service Benefits for Former Federal Employees of the Civilian Marksmanship Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is amending its regulations to describe conditions and procedures applicable to continuation of eligibility for certain Civil Service benefits for former Federal employees of the Civilian Marksmanship Program.

DATES: Comments must be received by August 2, 2002.

ADDRESSES: Send comments on this proposed rule to Mary Ellen Wilson, Director, Retirement Policy Center, Office of Personnel Management, Washington, DC 20415–3200. You may also submit comments by sending electronic mail (e-mail) to: *commbox@opm.gov*.

FOR FURTHER INFORMATION CONTACT: Ted Newland, 202–606–0299.

SUPPLEMENTARY INFORMATION:

Introduction

The Office of Personnel Management (OPM) is amending parts 831, 842, 870, and 890 of title 5, Code of Federal Regulations, to implement benefit-related provisions of the "Corporation for the Promotion of Rifle Practice and Firearms Safety Act," Public Law 104–106, 110 Stat. 515.

Background

The "Corporation for the Promotion of Rifle Practice and Firearms Safety Act," Public Law 104–106, 110 Stat. 515, created a private, non-profit, corporation, and transferred the Civilian Marksmanship Program from the Department of Defense to the new corporation. Section 1622 of the Act provided that individuals employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation who were offered and accepted employment by the Corporation as part of the transition would continue to be eligible during continuous employment with the Corporation for the Federal health, retirement, and similar benefits (including life insurance) for which the employee would have been eligible had the employee continued to be employed by the Department of Defense.

Analysis

The proposed regulations provide that the affected employees will be treated under all of the applicable benefits programs on the same basis as if the individuals had remained as employees of the Federal Government.

Section 1622 of the Act provided that the affected employees "may" continue to be eligible to continue Federal benefits. Accordingly, the proposed regulations provide that individuals may elect to irrevocably discontinue coverage under all of the Federal benefit programs. Individuals could also achieve the same result by a break in continuous employment with the corporation for any period.

However, the proposed regulations do not permit affected individuals to terminate eligibility under some benefit programs, while retaining it under others. Such a choice of eligibility is not an option available to individuals employed by the Federal Government, and neither the statutory language nor the legislative history of the Act reflects an intent to provide such a choice to the affected employees. Nevertheless, affected employees of the Corporation will continue to have the same enrollment choices under the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program that are available to Federal employees, including the right for non-covered but eligible employees to elect coverage during open seasons or based upon other qualifying events.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities because the proposed rule only affects the employment benefits of a small number (estimated to be fewer than a dozen) former Federal employees now employed by the Corporation for the Promotion of Rifle Practice and Firearms Safety.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 831

Administrative practice and procedure, Alimony, Claims, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Kay Coles James,

Director.

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR parts 831, 842, 870, and 890, as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under section 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.206 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 831.301 also issued under section 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106–554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–125; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart B—Coverage

2. Add § 831.206 to subpart B to read as follows:

§ 831.206 Continuation of coverage for former Federal employees of the Civilian Marksmanship Program.

(a) A Federal employee who was covered under the CSRS; was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety; and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104–106, 110 Stat. 517; shall remain covered by the CSRS during continuous employment with the Corporation unless the individual files an election under paragraph (c) of this section. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the CSRS. The individual shall be entitled to the benefits of, and be subject to all conditions under, the CSRS on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under the CSRS during any subsequent employment by the Corporation.

(c) An individual described by paragraph (a) of this section may at any time file an election to terminate continued coverage under the Federal benefits described in § 1622(a) of Public Law 104–106, 110 Stat. 521. Such an election shall be in writing and filed with the Corporation. It shall take effect immediately when received by the Corporation. It shall apply to all Federal benefits described by § 1622(a) of Public Law 104–106, 110 Stat. 521, and shall be irrevocable. Upon receipt of an election, the Corporation shall transmit the election to OPM with the individual's retirement records.

(d) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the percentage withheld from Federal employees' pay for periods of service covered by CSRS and, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from the individual's pay.

(e) The Corporation shall, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions required under CSRS.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

3. The authority citation for Part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.109 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105–174, 112 Stat. 58, as amended by section 651 of Pub. L. 106–58, 113 Stat. 430; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106–554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–125.

Subpart A—Coverage

4. Add § 842.109 to subpart A to read as follows:

§ 842.109 Continuation of coverage for former Federal employees of the Civilian Marksmanship Program.

(a) A Federal employee who was covered under the FERS; was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety; and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104–106, 110 Stat. 517; shall remain covered by the FERS during continuous employment with the Corporation unless the individual files an election under paragraph (c) of this section. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the FERS. The individual shall be entitled to the benefits of, and be subject to all conditions under, the FERS on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under the FERS during any subsequent employment by the Corporation.

(c) An individual described by paragraph (a) of this section may at any time file an election to terminate continued coverage under the Federal benefits described in § 1622(a) of Public Law 104–106, 110 Stat. 521. Such an election shall be in writing and filed with the Corporation. It shall take effect immediately when received by the Corporation. It will apply to any and all Federal benefits described by § 1622(a) of Public Law 104–106, 110 Stat. 521, and shall be irrevocable. The Corporation shall transmit the election to OPM with the individual's retirement records.

(d) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the percentage withheld from Federal employees' pay for periods of service covered by FERS

and, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from the individual's pay.

(e) The Corporation shall, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions required under FERS.

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

5. The authority citation for Part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; subpart J also issued under section 599C of Public Law 101–513, 104 Stat. 2064, as amended; § 870.302(a)(3)(ii) also issued under sec. 153 of Public Law 104–134, 110 Stat. 1321; § 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Public Law 105–33, 111 Stat. 251 and section 721 of Pub. L. 105–261, 112 Stat. 2061; § 870.510 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521

Subpart E—Coverage

6. Add § 870.510 to subpart E to read as follows:

§ 870.510 Continuation of eligibility for former Federal employees of the Civilian Marksmanship Program.

(a) A Federal employee who was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety, and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104–106, 110 Stat. 517, shall be deemed to be an employee for purposes of this part during continuous employment with the Corporation unless the individual files an election under § 831.206(c) or § 842.109(c) of this title. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to FEGLI. The individual shall be entitled to the benefits of, and be subject to all conditions under, FEGLI on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under FEGLI as an employee during any subsequent employment by the Corporation.

(c) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the premiums withheld from Federal employees' pay for FEGLI coverage and, in accordance with procedures established by OPM, pay into the Employees' Life Insurance Fund the amounts deducted from the individual's pay.

(d) The Corporation shall, in accordance with procedures established by OPM, pay into the Employees' Life Insurance Fund amounts equal to any agency contributions required under FEGLI.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

7. The authority citation for Part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

Subpart A—Administration and General Provisions

8. Add § 890.111 to subpart A to read as follows:

§ 890.111 Continuation of eligibility for former Federal employees of the Civilian Marksmanship Program.

(a) A Federal employee who was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety, and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104–106, 110 Stat. 517, shall be deemed to be an employee for purposes of this part during continuous employment with the Corporation unless the individual files an election under § 831.206(c) or § 842.109(c) of this title. Such a covered individual shall be treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the FEHB Program. The individual shall be entitled to the benefits of, and be subject to all conditions under, the FEHB Program on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period shall terminate eligibility for coverage under the FEHB Program as an employee during any subsequent employment by the Corporation.

(c) The Corporation shall withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the premiums withheld from Federal employees' pay for the FEHB Program coverage and, in accordance with procedures established by OPM, pay into the Employees Health Benefits Fund the amounts deducted from the individual's pay.

(d) The Corporation shall, in accordance with procedures established by OPM, pay into the Employees Health Benefits Fund amounts equal to any agency contributions required under the FEHB Program.

[FR Doc. 02–13740 Filed 5–31–02; 8:45 am]

BILLING CODE 6325–50–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–57–AD]

RIN 2120–AA64

Airworthiness Directives; Titeflex Corporation

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to certain Titeflex Corporation high-pressure and medium-pressure hoses. This proposal would require inspecting certain Titeflex hoses for a date of manufacture, and if necessary, replacing the hose with a serviceable part. This proposal is prompted by reports of hoses that failed to meet the fire test requirements during laboratory testing. The actions specified by the proposed AD are intended to prevent failure of a hose when exposed to fire.

DATES: Comments must be received by August 2, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–57–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected, by appointment, at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "*9-ane-adcomment@faa.gov*". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Titeflex Corporation, 603 Hendee Street, P.O. Box 90054, Springfield, MA 01139, Tel. (413) 271–8244. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7155; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NE–57–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–57–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Titeflex Corporation has notified the FAA of high- and medium-pressure hoses failing to meet the fire test requirements of AS1072 for their Teflon (PTFE) hoses. The failures were first encountered during a new hose qualification test. All of the failures occurred during laboratory testing. The causes of those failures have been determined to be the result of the firesleeves shrinking away from the end fittings during the flame test due to incorrect clamping force on the metal bands. No failures in the field have been reported. The group of suspect hoses consists of high- and medium-pressure hoses. The suspect high-pressure hoses were fabricated at the Springfield, MA facility from January 1996 through June 2000. The suspect medium-pressure hoses were fabricated at the Springfield, MA facility from February 2000 through May 2000. This condition, if not corrected, could result in failure of a hose when exposed to fire.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Titeflex Corporation Service Bulletin (SB) 73–2, dated November 27, 2000, that provides part numbers (P/N's) of the suspect hoses, and dates of manufacture of the hoses.

FAA's Determination of Compliance Period

The 48 month compliance period was established based on allowing sufficient time for operators to incorporate hose replacement within their maintenance schedules, ensuring availability of parts from Titeflex, and the risk analysis indicating this to be an acceptable compliance period.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other hoses of the same type design, the proposed AD would require inspection of the applicable P/N hoses to determine where they were fabricated and the date on which they were fabricated. If the hose is part of the suspect hose population, this proposal would require replacing the hose within 48 months after the effective date of this AD. The actions would be required to be done in accordance with the service bulletin described previously. The technical requirements of this proposed AD were coordinated with Transport Airplane Directorate.

Economic Analysis

The FAA estimates that 2,500 hoses installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 5 work hours per product to do the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,000 per product. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be $3,250,000.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Titeflex Corporation: Docket No. 2000–NE–57–AD.

Applicability

This airworthiness directive (AD) is applicable to certain part number (P/N) Titeflex Corporation high- and medium-pressure hoses that were fabricated at the Titeflex Springfield, MA, facility from January 1996 through June 2000. These hoses are installed on Airbus A300, A310, A340, Boeing, 737, 777, Cessna 650, Bombardier CL–600, BAE Avro 146 and Bae 146, McDonnell Douglas Corporation DC8 series airplanes, General Electric CF6–80C and CFM–56 series, and Honeywell International Inc. ALF502 and LF507 series turbofan engines.

Note 1: This AD applies to each engine and airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines or airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner or operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required within 48 months after the effective date of this AD, unless already done.

To prevent failure of a hose when exposed to fire, do the following:

(a) Inspect all high-pressure and medium-pressure hoses, with a P/N specified in paragraph 1.A. of Titeflex Corporation service bulletin (SB) 73–2.

(b) If the hose has a brown, integral firesleeve, no further action is required. If the hose has an orange, slip-on firesleeve, then inspect the metal tag for the assembly location.

(1) If the assembly location on the metal tag is TITEFLEX/API, TITEFLEX/API LGB, TITEFLEX E, TITEFLEX EUROPE, or SHAC 1S353, no further action is required.

(2) If the assembly location on the metal tag is TITEFLEX, inspect for a date and disposition as specified in the following Table:

If the hose is	And the date is	Then
(i) High-pressure,	(A) Before January 1996 or after June 2000,	No further action is required.
	(B) January 1996 through June 2000,	Replace hose with a serviceable part.
(ii) Medium-pressure,	(A) Before February 2000 or after May 2000,	No further action is required.
	(B) February 2000 through May 2000,	Replace hose with a serviceable part.

Definition of a Serviceable Hose

(c) For the purposes of this AD, a serviceable hose is defined as a hose that has an assembly location listed in paragraph (b)(1) of this AD, that has an integral brown firesleeve, as a high-pressure hose that was fabricated before January 1996 or after June 2000, and as a medium-pressure hose that was fabricated before February 2000 or after May 2000.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office (ACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Issued in Burlington, Massachusetts on May 24, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–13766 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125626–01]

RIN 1545–BA25

Unit Livestock Price Method; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 471 of the Internal Revenue Code.

DATES: The public hearing originally scheduled for June 12, 2002, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Regulations Unit, Associate Chief Counsel (Income Tax and Accounting), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on February 4, 2002, (67 FR 5074), announced that a public hearing was scheduled for June 12, 2002, at 10 a.m., in room 4716, Internal Revenue Service Building, 1111 Constitution Avenue, NW, Washington, DC. The subject of the public hearing is proposed regulations under section 471 of the Internal Revenue Code. The public comment period for these proposed regulations expired on May 6, 2002.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of May 22, 2002, no one has requested to speak. Therefore, the public hearing scheduled for June 12, 2002, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–13847 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–248110–96]

RIN 1545–AY48

Guidance Under Section 817A Regarding Modified Guaranteed Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations affecting insurance companies that define the interest rate to be used with respect to certain insurance contracts that guarantee higher returns for an initial, temporary period. Specifically, the proposed regulations define the appropriate interest rate to be used in the determination of tax reserves and required interest for certain modified guaranteed contracts. The proposed regulations also address how temporary guarantee periods that extend past the end of a taxable year are to be taken into account. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by August 20, 2002. Requests to speak (with outlines of oral comments to be discussed) at the public hearing scheduled for August 27, 2002, at 10 a.m., must be received by August 6, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–248110–96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Comments may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (REG–248110–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS internet site at: *http://www.irs.gov/regs*. The public hearing will be held in Room 4718, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Ann H. Logan, 202–622–3970. Concerning the hearing, LaNita Van Dyke of the Regulations Unit, 202–622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

History

Section 817A was added by section 1612 of the Small Business Job Protection Act of 1996, Public Law 104–188, 110 Stat. 1755. Section 817A is effective for taxable years beginning after December 31, 1995. See Small Business Job Protection Act section 1612(c)(1).

Previous guidance on the matters addressed by these proposed regulations is provided in Notice 97–32 (1997–1 C.B. 420), which specifies the appropriate interest rate to be used during the temporary guarantee period of modified guaranteed contracts. Generally, the specified rate is the greater of the interest rate assumed by the insurance company to determine future guaranteed benefits or Moody's Corporate Bond Yield Average—Monthly Average Corporates (Moody's rate). For equity-indexed modified guaranteed contracts whose market value adjustment is based on the performance of stocks, other equity instruments or equity-based derivatives, the specified rate is obtained by multiplying whichever of the two rates is greater by 1.1. Notice 97–32 was to be effective pending the publication of further guidance. Comments received after publication of the Notice indicated the need for further consideration of the appropriate rate to be used.

Interest Rates Affecting Modified Guaranteed Contracts

These proposed regulations govern the interest rate to be used when life insurance companies issue certain modified guaranteed annuity and life insurance contracts. A modified guaranteed contract temporarily guarantees a higher return than the permanently guaranteed crediting rate, in exchange for shifting additional investment risk to the policyholder in the form of a market value adjustment. The temporary guarantee may be a fixed rate (non-equity-indexed modified guaranteed contracts) or a rate based on bond or equity yields (equity-indexed modified guaranteed contracts). During the temporary guarantee period, the amount paid to the policyholder upon surrender is increased or decreased by a market value adjustment, which is determined by a formula in the modified guaranteed contract. Modified guaranteed contracts can be issued out of a life insurance company's general account or one or more segregated accounts.

Section 817A provides special tax treatment for certain modified guaranteed contracts issued out of a segregated account. For this purpose, the term modified guaranteed contract is defined as an annuity, life insurance, or pension plan contract (other than a variable contract described in section 817) under which all or part of the amounts received under the contract are allocated to a segregated account. Assets and reserves in this segregated account must be valued from time to time with reference to market values for annual statement purposes. Further, a modified guaranteed contract must provide either for a net surrender value or for a policyholder's fund (as defined in section 807(e)(1)). If only a portion of a contract is not described in section 817, such portion is treated as a separate contract for purposes of applying section 817A.

The tax reserves for a modified guaranteed contract are computed under either sections 807(c)(3) or (d)(2), depending upon whether the reserves are also life insurance reserves as defined by section 816(b). If the reserves are not life insurance reserves, section 807(c)(3) provides that reserves for obligations under insurance and annuity contracts not involving life, accident, or health contingencies are computed using an appropriate rate of interest. The appropriate rate of interest is the highest (as of the time the obligation first did not involve life, accident, or health contingencies) of the following rates: (1) The applicable Federal interest rate (as defined in section 807(d)(2)(B)(i)); (2) the prevailing State assumed interest rate (as defined in section 807(d)(2)(B)(ii)); or (3) the rate of interest assumed by the insurance company to determine the contract's guaranteed benefit. Section 807(c) also provides that the reserves computed under section 807(c)(3) are never less than the net surrender value of the contract.

For a modified guaranteed contract that does give rise to life insurance reserves, as defined in section 816(b), reserves are computed under section 807(d). Under section 807(d)(1), the life insurance reserves for a contract cannot exceed the statutory reserves for the contract. Subject to that cap, a contract's life insurance reserves equal the greater of: (1) The contract's net surrender value; or (2) the contract's Federally prescribed reserve determined under section 807(d)(2).

Section 807(d)(2) provides that the Federally prescribed reserves for a contract are determined using: (1) The tax reserve method applicable to the contract; (2) the greater of the applicable Federal interest rate or the prevailing State assumed interest rate in effect on the date of the issuance of the contract; and (3) the prevailing commissioners' standard tables for mortality and morbidity. In the case of a life insurance contract covered by the Commissioners' Reserve Valuation Method (CRVM) or an annuity contract covered by the Commissioners' Annuities Reserve Valuation Method (CARVM), section 807(d)(3) provides that the tax reserve method applicable to a contract is the CRVM or CARVM prescribed by the National Association of Insurance Commissioners (NAIC), which is in effect on the date of the issuance of the contract.

Section 811(d) imposes an additional reserve computation rule for contracts that guarantee beyond the end of the

taxable year payment or crediting of amounts in the nature of interest in excess of the greater of the prevailing state assumed interest rate or the applicable Federal interest rate. In those circumstances, section 811(d) requires that the contract's future guaranteed benefits be determined as though the interest in excess of the greater of the prevailing state assumed interest rate or the applicable Federal rate were guaranteed only to the end of the taxable year.

Required Interest

Section 812(b) defines the company's share of net investment income for the taxable year the computation of which also requires use of an interest rate. The company's share equals the excess, if any, of the net investment income over the sum of the policy interest (as defined in section 812(b)(2)) and the gross investment income's proportionate share of policyholder dividends (as defined in section 812(b)(3)) for the taxable year. Policy interest includes required interest on reserves under section 807(c) (other than section 807(c)(2) reserves), determined under section 812(b)(2)(A) by using the greater of the prevailing State assumed rate or the applicable Federal interest rate. If neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate is used to calculate required interest.

Legislation Affecting Modified Guaranteed Contracts

The interest rates used for both reserves and required interest for modified guaranteed contracts are governed by section 817A. Under section 817A(e)(2), the IRS is authorized to determine annually the applicable interest rate to be used under sections 807(c)(3), 807(d)(2)(B) and 812 for a modified guaranteed contract. The IRS is authorized to exercise this authority by issuing a periodic announcement of the appropriate market interest rates or formula for determining such rates. H.R. Conf. Rept. No. 737, 104th Cong. 2d Sess. 313 (1996). Section 817A(e) also authorizes the IRS to modify or waive the application of section 811(d) (relating to interest guaranteed beyond the end of the taxable year), and to prescribe other regulations that are necessary or appropriate to carry out the purposes of section 817A.

The legislative history of section 817A indicates that an appropriate interest rate is a current market rate. H.R. Conf. Rep. No. 737, at 313. The interest rate may be determined, for example, using either a rate that is appropriate for the obligations under the contract to which the reserve relates or the yield on the assets underlying the modified guaranteed contract. In light of this legislative history and the purpose of section 817A, the statutory grant of authority to prescribe regulations to specify the appropriate interest rate is broad, granting discretion to the Secretary to determine that rate which will best match the obligations under modified guaranteed contracts to the market fluctuations of the underlying assets.

Explanation of Provisions

This document contains proposed amendments to 26 CFR part 1 under sections 807, 811, 812, and 817A of the Internal Revenue Code (Code). These proposed rules specify the appropriate interest rates to be used by insurance companies in the determination of tax reserves under sections 807(c)(3) and (d)(2)(B), and the company's share of net investment income under 812(b)(2)(A), for certain modified guaranteed contracts, as defined in section 817A(d). It also describes the manner in which section 811(d) governing the calculation of reserves for certain insurance contracts is to be applied to these contracts. The proposed regulations do not adopt the position set forth in Notice 97–32, and instead provide that the appropriate interest rate for each non-equity-indexed modified guaranteed contract is the current market rate. These proposed regulations define the current market rate as the Treasury constant maturity interest rate published by the Board of Governors of the Federal Reserve System. The Treasury constant maturity interest rates are released each Monday as part of statistical release H.15, Selected Interest Rates, and can also be found at *http://www.federalreserve.gov/releases/#weekly*. Availability of the release is announced on (202) 452–3206. The proposed regulations do not take a position as to the appropriate interest rate to be used for an equity-indexed modified guaranteed contract whose market value adjustment is based on the performance of stocks, other equity instruments or equity-based derivatives.

The proposed regulations under section 817A, relating to the definition of the appropriate interest rate to be used in determining tax reserves under sections 807(c)(3) and (d)(2), the appropriate interest rate to be used under section 811(d), and required interest under 812(b)(2)(A), will be effective on the date that the regulations become final. However, pursuant to section 7805(b)(7), taxpayers will be permitted to apply the final regulations retroactively for all tax years beginning after December 31, 1995, the effective date of section 817A.

Effect on Other Documents

Notice 97–32 will not be revoked or superseded until final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (preferably a signed original and eight copies) or electronic comments that are timely submitted to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

Comments are specifically requested on the use of a different current market rate for non-equity-indexed modified guaranteed contracts than the rate specified in these proposed regulations. Comments are also requested concerning the appropriate interest rate to use for equity-indexed modified guaranteed contracts. Any comments on these topics should address not only the definitions of such rates, but whether such approaches are presently in use among taxpayers, why such rates would produce superior measures of reserves and net income than the current market rate proposed in these regulations, and whether the use of such rates would produce simpler and less costly compliance burdens than the current market rate proposed in these regulations.

With regard to any comments submitted regarding non-equity-indexed modified guaranteed contracts that suggest the use of a insurer's contract crediting rate offered for newly issued contracts with temporary guarantee periods equal in duration to the remaining duration of the temporary guarantee period of the original contract, several additional questions should be addressed. In the event the insurer does not offer modified guaranteed contracts with an identical temporary guarantee period as the temporary guarantee period remaining for the original contract, what rule should be used? If an interpolation of other rates should be used, what rule should be used? In the event interpolation is not meaningful because (1) The duration periods of the modified guaranteed contracts being newly issued are too dissimilar from the contract's remaining duration, (2) there are not enough newly issued modified guaranteed contracts to make a reasonable interpolation, or (3) the insurer has ceased issuing modified guaranteed contracts, what rule should be used? For example, should the federal rate defined in section 1272(d) applicable for the number of years remaining in the temporary guarantee period of the contract be used?

Comments may also be submitted requesting that section 811(d) be modified or waived regarding modified guarantee contracts. The requested waiver or modification should include details on the implementation of any proposed rules.

Finally, if the application of the regulation for earlier tax years, once made final, requires clarification or amplification, affected taxpayers should detail their concerns and proposed solutions. All comments will be available for public inspection and copying in their entirety.

A public hearing has been scheduled for August 27, 2002, at 10 a.m., in Room 4718 in the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Because of access restrictions, visitors must enter at the main entrance, located at 1111 Constitution Avenue, NW. All visitors must present photo identification to enter the building and visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments, an outline of the topics to be discussed, and the time to be devoted to each topic (preferably a signed original and eight (8) copies) by August 6, 2002. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Ann H. Logan, Office of the Associate Chief Counsel (Financial Institutions and Products), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.807–2 also issued under 26 U.S.C. 817A(e) * * *

Section 1.811–3 also issued under 26 U.S.C. 817A(e) * * *

Section 1.812–9 also issued under 26 U.S.C. 817A(e) * * *

Section 1.817A–1 also issued under 26 U.S.C. 817A(e) * * *

2. Section 1.807–2 is added to read as follows:

§ 1.807–2 Cross-Reference.

For special rules regarding the treatment of modified guaranteed contracts (as defined in section 817A and § 1.817A–1(a)(1)), see § 1.817A–1.

3. Section 1.811–3 is added to read as follows:

§ 1.811–3 Cross-Reference.

For special rules regarding the treatment of modified guaranteed contracts (as defined in section 817A and § 1.817A–1(a)(1)), see § 1.817A–1.

4. Section 1.812–9 is added to read as follows:

§ 1.812–9 Cross-Reference.

For special rules regarding the treatment of modified guaranteed contracts (as defined in section 817A and § 1.817A–1(a)(1)), see § 1.817A–1.

5. Sections 1.817A–0 and 1.817A–1 are added to read as follows:

§ 1.817A–0 Table of contents.

This section lists the captions that appear in section 1.817A–1:

§ 1.817A–1 Certain modified guaranteed contracts.

(a) Definitions.
(1) Modified guaranteed contract.
(2) Temporary guarantee period.
(3) Equity-indexed modified guaranteed contract.
(4) Non-equity-indexed modified guaranteed contract.
(5) Current market rate for non-equity-indexed modified guaranteed contract.
(6) Current market rate for equity-indexed modified guaranteed contract. [Reserved.]
(b) Applicable interest rates for non-equity-indexed modified guaranteed contracts.
(1) Tax reserves during temporary guarantee period.
(2) Required interest during temporary guarantee period.
(3) Application of section 811(d).
(4) Periods after the end of the temporary guarantee period.
(5) Examples.
(c) Applicable interest rates for equity-indexed modified guaranteed contracts. [Reserved.]
(d) Effective date.

§ 1.817A–1 Certain modified guaranteed contracts.

(a) *Definitions*—(1) *Modified guaranteed contract.* The term *modified guaranteed contract* (MGC) is defined in section 817A(d) as an annuity, life insurance, or pension plan contract (other than a variable contract described in section 817) under which all or part of the amounts received under the contract are allocated to a segregated account. Assets and reserves in this segregated account must be valued from time to time with reference to market values for annual statement purposes. Further, an MGC must provide either for a net surrender value or for a policyholder's fund (as defined in section 807(e)(1)). If only a portion of a contract is not described in section 817, such portion is treated as a separate contract for purposes of applying section 817A.

(2) *Temporary guarantee period.* An MGC may temporarily guarantee a return other than the permanently guaranteed crediting rate for a period specified in the contract (the *temporary guarantee period*). During the temporary guarantee period, the amount paid to the policyholder upon surrender is usually increased or decreased by a market value adjustment, which is determined by a formula set forth under the terms of the MGC.

(3) *Equity-indexed modified guaranteed contract.* An equity-indexed MGC is an MGC, as defined in paragraph (a)(1) of this section, that provides a return during or at the end

of the temporary guarantee period based on the performance of stocks, other equity instruments, or equity-based derivatives.

(4) *Non-equity-indexed modified guaranteed contract.* A non-equity-indexed MGC is an MGC, as defined in paragraph (a)(1) of this section, that provides a return during or at the end of the temporary guarantee period not based on the performance of stocks, other equity instruments, or equity-based derivatives.

(5) *Current market rate for non-equity-indexed modified guaranteed contracts.* The current market rate for a non-equity-indexed MGC issued by an insurer (whether issued in that tax year or a previous one) is the appropriate Treasury constant maturity interest rate published by the Board of Governors of the Federal Reserve System for the month containing the last day of the insurer's taxable year. The appropriate rate is that rate published for Treasury securities with the shortest published maturity that is greater than (or equal to) the remaining duration of the current temporary guarantee period under the MGC.

(6) *Current market rate for equity-indexed modified guaranteed contracts.* [Reserved]

(b) *Applicable interest rates for non-equity-indexed modified guaranteed contracts*—(1) *Tax reserves during temporary guarantee period.* An insurance company is required to determine the tax reserves for an MGC under sections 807(c)(3) or (d)(2). During a non-equity-indexed MGC's temporary guarantee period, the applicable interest rate to be used under sections 807(c)(3) and (d)(2)(B) is the current market rate, as defined in paragraph (a)(5) of this section.

(2) *Required interest during temporary guarantee period.* During the temporary guarantee period of a non-equity-indexed MGC, the applicable interest rate to be used to determine required interest under section 812(b)(2)(A) is the same current market rate, defined in paragraph (a)(5) of this section, that applies for that period for purposes of sections 807(c)(3) or (d)(2)(B).

(3) *Application of section 811(d).* An additional reserve computation rule applies under section 811(d) for contracts that guarantee certain interest payments beyond the end of the taxable year. Section 811(d) is not modified or waived for the taxable year in which a non-equity-indexed MGC is issued. The current market rate, as defined in paragraph (a)(5) of this section, is to be applied to the remaining years of the MGC's temporary guarantee period.

(4) *Periods after the end of the temporary guarantee period.* For periods after the end of the temporary guarantee period, sections 807(c)(3), 807(d)(2)(B), 811(d) and 812(b)(2)(A) are not modified when applied to non-equity-indexed MGCs. None of these sections are affected by the definition of current market rate contained in paragraph (a)(5) of this section once the temporary guarantee period has expired.

(5) *Examples.* The following examples illustrate this paragraph (b):

Example 1. (i) *IC*, a life insurance company as defined in section 816, issues a MGC (the Contract) on August 1 of 1996. Assume that the conditions invoking the application of section 811(d) are not present. The Contract is an annuity contract that gives rise to life insurance reserves, as defined in section 816(b). *IC* is a calendar year taxpayer. The Contract guarantees that interest will be credited at 8 percent per year for the first 8 contract years and 4 percent per year thereafter. During the 8-year temporary guarantee period, the Contract provides for a market value adjustment based on changes in a published bond index and not on the performance of stocks, other equity instruments or equity based derivatives. *IC* has chosen to avail itself of the provisions of these regulations for 1996 and taxable years thereafter. The 10-year Treasury constant maturity interest rate published for December of 1996 was 6.30 percent. The next shortest maturity published for Treasury constant maturity interest rates is 7 years. As of the end of 1996, the remaining duration of the temporary guarantee period for the Contract was 7 years and 7 months.

(ii) To determine under section 807(d)(2) the end of 1996 reserves for the Contract, *IC* must use a discount interest rate of 6.30 percent for the temporary guarantee period. The interest rate to be used in computing required interest under section 812(b)(2)(A) for 1996 reserves is also 6.30 percent.

(iii) The discount rate applicable to periods outside the 8-year temporary guarantee period is determined under sections 807(c)(3), 807(d)(2)(B), 811(d) and 812(b)(2)(A) without regard to the current market rate.

Example 2. Assume the same facts as in *Example 1* except that it is now the last day of 1998. The remaining duration of the temporary guarantee period under the Contract is now 5 years and 7 months. The 7-year Treasury constant maturity interest rate published for December of 1998 was 4.65 percent. The next shortest duration published for Treasury constant maturity interest rates is 5 years. A discount rate of 4.65 percent is used for the remaining duration of the temporary guarantee period for the purpose of determining a reserve under section 807(d) and for the purpose of determining required interest under section 812(b)(2)(A).

Example 3. Assume the same facts as in *Example 1* except that it is now the last day of 2001. The remaining duration of the temporary guarantee period under the Contract is now 2 years and 7 months. The 3-year Treasury constant maturity interest rate published for December of 2001 was 3.62 percent. The next shortest duration published for Treasury constant maturity interest rates is 2 years. A discount rate of 3.62 percent is used for the remaining duration of the temporary guarantee period for the purpose of determining a reserve under section 807(d) and for the purpose of determining required interest under section 812(b)(2)(A).

(c) *Applicable interest rates for equity-indexed modified guaranteed contracts.* [Reserved.]

(d) *Effective date.* Paragraphs (a), (b) and (d) of this proposed regulation are effective on the date this notice is filed as a final regulation in the **Federal Register**. However, pursuant to section 7805(b)(7), taxpayers may elect to apply the final regulations retroactively for all taxable years beginning after December 31, 1995, the effective date of section 817A.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–13848 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–02–001; FRL–7220–3]

Approval and Promulgation of Carbon Monoxide Implementation Plan; State of Alaska; Anchorage

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a State Implementation Plan (SIP) revision submitted by the State of Alaska. This revision provides for attainment of the carbon monoxide (CO) national ambient air quality standards (NAAQS) in the Anchorage CO nonattainment area.

DATES: Comments must be received on or before July 3, 2002.

ADDRESSES: Written comments should be addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's submittal, and other information relevant to this proposal are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "us," or "our" is used, we mean EPA. This supplementary information is organized as follows:

I. Background information
- A. *What NAAQS is being considered in today's proposal?*
- B. *What is the history behind this proposal?*
- C. *What statutory, regulatory, and policy requirements must be met to approve this proposal?*

II. EPA's review of the Anchorage CO plan
- A. *Does the Anchorage CO Plan meet all the procedural requirements as required by Section 110(a)(2) of the Act?*
- B. *Does the Anchorage CO plan include a comprehensive, accurate, current base year inventory from all sources as required in section 187(a)(1)?*
- C. *Does the Anchorage CO plan include periodic inventories as required in section 187(a)(5) of the Act?*
- D. *Does the Anchorage CO plan meet the requirement of section 187(a)(7) of the Act that serious CO areas submit an Attainment Demonstration which includes annual emissions reductions necessary for reaching attainment by the deadline?*
- E. *Has Anchorage adopted transportation control measures (TCMs) for the purpose of reducing CO emissions as required by section 182(d)(1) and described in section 108(f)(1)(A) of the Act?*
- F. *Does the Anchorage CO plan include a forecast of vehicle miles traveled (VMT) for each year before the attainment year of 2000 as required by 187(a)(2)(A) of the Act?*
- G. *Does the Anchorage CO plan include contingency measures required by Section 187(a)(3) of the Act?*
- H. *Does the Anchorage CO plan provide for reasonable further progress (RFP) as required by Section 172(c)(2) and Section 171(1) of the Act?*
- I. *Is the motor vehicle emission budget approvable as required by Section 176(c)(2)(A) of the Act and outlined in conformity rules, 40 CFR 93.118(e)(4)?*
- J. *Does Anchorage have an I/M program in place that meets EPA requirements in section 182(a)(2)(B)of the Act?*
- K. *Are there controls on stationary sources of CO as required by Section 172(c)(5) of the Act?*
- L. *Has Anchorage implemented an oxygenated fuel program as described in Section 187(b)(3)?*

III. Summary of EPA's proposal

IV. Administrative Requirements

I. Background Information

A. What NAAQS Is Considered in Today's Proposal?

CO is among the ambient air pollutants for which EPA has established a health-based standard and is the pollutant that is the subject of this proposal. CO is a colorless, odorless gas emitted in combustion processes. CO enters the bloodstream through the lungs and reduces oxygen delivery to the body's organs and tissues. Exposure to elevated CO levels is associated with impairment of visual perception, work capacity, manual dexterity, and learning ability, and with illness and death for those who already suffer from cardiovascular disease, particularly angina or peripheral vascular disease.

Under section 109(a)(1)(A) of the Act, we have established primary, health-related NAAQS for CO: 9 parts per million (ppm) averaged over an 8-hour period, and 35 ppm averaged over 1 hour. Anchorage has never exceeded the 1-hour NAAQS; therefore, the State CO Implementation Plan (Anchorage CO plan), and this proposal address only the 8-hour CO NAAQS. Attainment of the 8-hour CO NAAQS is achieved if the non-overlapping 8-hour average per monitoring site does not exceed 9 ppm (values below 9.5 are rounded down to 9.0 and are not considered exceedances) more than once per year during a consecutive 2-year period.

B. What Is the History Behind This Proposal?

Upon enactment of the 1990 Act, areas meeting the requirements of section 107(d) of the Act were designated nonattainment for CO by operation of law. Under section 186(a) of the Act, each CO nonattainment area was also classified by operation of law as either moderate or serious depending on the severity of the area's air quality problems. Anchorage was classified as a moderate CO nonattainment area. Moderate CO nonattainment areas were expected to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Anchorage did not have the two years of clean data required to attain the standard by the required attainment date for CO moderate areas, and under section 186(a)(4) of the Act, Alaska requested and EPA granted a one-year extension of the attainment date deadline to December 31, 1996 (61 FR 33676, June 28, 1996). If a moderate CO nonattainment area was unable to attain the CO NAAQS by the attainment date deadline, the area was reclassified as a serious CO nonattainment area by operation of law. Anchorage was unable to meet the CO NAAQS by December 31, 1996, and was reclassified as a serious nonattainment area effective July 13, 1998. As a result of the reclassification, the State had 18 months or until January 13, 2000, to submit a new Anchorage CO plan demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the Act attainment date for all serious CO areas.

The required Anchorage CO plan was not submitted by January 13, 2000, and we made a finding of failure to submit the required plan (*See* 65 FR 43700, July 14, 2000) which triggered the 18-month time clock for mandatory application of sanctions and a 2-year time clock for additional sanctions and the requirement for a Federal Implementation Plan under the Act.

On July 12, 2001, EPA made a determination based on air quality data that the Anchorage CO nonattainment area in Alaska attained the NAAQS for CO by December 31, 2000, the deadline required by the Act. (*See* 66 FR 36476, July 12, 2001.)

On January 4, 2002, the Alaska Department of Environmental Conservation (ADEC) submitted the Anchorage CO plan as a revision to the Alaska SIP. A complete Anchorage CO plan was due by January 13, 2002, to stop the sanctions clocks. We determined the revision to be complete and stopped the sanctions' clocks effective January 11, 2002.

C. What Statutory, Regulatory, and Policy Requirements Must Be Met To Approve This Action?

Section 172 of the Act contains general requirements applicable to SIP revisions for nonattainment areas. Sections 186 and 187 of the Act set out additional air quality planning requirements for CO nonattainment areas.

EPA has issued a "General Preamble" describing the agency's preliminary views on how EPA intends to review SIP revisions submitted under Title I of the Act. *See* generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I requirements. In this proposed rulemaking, we are applying these policies to the Anchorage CO plan, taking into consideration specific factual issues presented.

II. EPA's Review of the Anchorage CO Plan

A. Does the Anchorage CO Plan Meet All the Procedural Requirements as Required by Section 110(a)(2) of the Act?

Yes. The Act requires States to observe certain procedural requirements in developing implementation plans and revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Public notice for a public meeting held on October 1, 2001, occurred through advertisements in the Anchorage Daily News and the Internet. The SIP submittal includes a description of the public meeting where the public had the opportunity to comment on the issues addressed in the plan. Also included are the comments received from the public and the response developed by the ADEC staff. Following the required public participation, the State adopted the Anchorage CO plan on December 20, 2001.

B. Does the Anchorage CO Plan Include a Comprehensive, Accurate, Current Base Year Inventory From All Sources as Required in Section 187(a)(1)?

Yes. ADEC submitted a base year inventory for 1996 based on EPA guidance that determined that an inventory for 1996 would satisfy the requirement for a base year inventory. The inventory contains point, area, on-road and non-road mobile source data, and documentation. The inventory was prepared for a typical winter day.

TABLE 1.—1996 BASE YEAR EMISSIONS

Emission category	Point sources	Area sources	Non-road mobile sources	On-road mobile sources	Total emissions (tons/day)
Base Year 1996	1.42	8.79	14.92	71.68	96.81

The methodologies used to prepare the emissions inventory, as described in the Anchorage CO plan, are acceptable. A discussion of how the inventory meets the requirements needed for approval is in the technical support document (TSD) for this proposal. Detailed inventory data is contained in the docket maintained by EPA.

C. Does the Anchorage CO Plan Include Periodic Inventories as Required in Section 187(a)(5) of the Act?

Yes. Section 187(a)(5) of the Act requires the submission of periodic emission inventories at three year intervals until an area is redesignated to attainment. ADEC submitted a 2000 attainment year inventory with the Anchorage CO Plan and has agreed to submit periodic inventories at three-year intervals until Anchorage is redesignated to attainment.

D. Does the Anchorage CO Plan Meet the Requirement of Section 187(a)(7) of the Act That Serious CO Areas Submit an Attainment Demonstration Which Includes Annual Emissions Reductions Necessary for Reaching Attainment by the Deadline?

Yes. The Anchorage CO Plan contains an attainment demonstration using rollback modeling to show that emission reductions resulting from implementation of control measures are sufficient to "roll back" the design value to a concentration at or below the NAAQS for CO of 9 ppm. Alaska showed that the 8-hour design value concentration of 9.0 predicted for 2000, the attainment year, documents attainment of the 8-hour CO NAAQS.

A summary of the EPA approved emission reductions for the control measures contained in the Anchorage CO Plan is listed in Table 2.

TABLE 2.—SUMMARY OF ATTAINMENT YEAR 2000 EMISSION REDUCTIONS FOR LOCAL CONTROL MEASURES

Control measure	Tons/day reduction—percent
I/M Program	7.48
Ethanol blended gasoline	7.61
Share-A-Ride Program	.24
Promotion of Engine Preheaters	.48
Free Winter Transit Service	.21
Total	16.02–16.5%

The emission reductions reduced the total emissions for 2000 to 82.46 tons per day. Reductions to 82.57 tons per day were needed to show attainment. Our full review of all of the control measures is contained in the TSD for this proposal.

E. Has the State Adopted Transportation Control Measures (TCMs) for the Purpose of Reducing CO Emissions as Required by Section 182(d)(1) and Described in Section 108(f)(1)(A) of the Act?

Yes. Section 187(b)(2) of the Act requires States with serious CO nonattainment areas to submit a SIP revision that includes transportation control strategies and measures to offset any growth in emissions due to growth in vehicle miles traveled (VMT) or vehicle trips. In developing such strategies, a State must consider measures specified in section 108(f) of the Act and choose and implement such measures as are necessary to demonstrate attainment with the NAAQS. TCMs are designed to reduce mobile pollutant emissions by either improving transportation efficiency or reducing single-occupant vehicle trips. The EPA has reviewed two new TCMs in the Anchorage CO plan and proposes to approve them. Following is a brief description of the new TCMs included in the plan. Our full review is included in the TSD for this proposal.

Promotion of Engine Preheaters

Engine preheaters are used extensively throughout Anchorage to ensure vehicles can be easily started under extremely cold conditions. Vehicle emission testing in Alaska has confirmed that preheating vehicles, a practice commonly referred to as "plugging-in," provides a substantial reduction in motor vehicle idling time and cold start emissions as described in section 108(f)(1)(A)(xi)and (xii). Recognizing the many benefits of plugging-in, the Municipality of Anchorage (MOA) conducted a public awareness campaign to urge motorists to use their engine block heaters prior to their morning commute and when parked at parking spaces with electrical outlets. During the winters of 1999–2000 and 2000–2001, television commercials, radio advertising and newspaper inserts were used to promote the advantages of using block heaters. Telephone surveys were conducted at the end of each winter's campaign. Results of the survey show that plug-in rates increased from 10% prior to the campaign to 20% by the end of the 2000–2001 winter. This amounts to a reduction of approximately 1.1% in the year 2000 motor vehicle emissions.

Free Winter Transit Service

Free Winter Transit Service was provided during the winters of 1999–2000, 2000–2001. Ridership surveys conducted by the Transit Department show that transit usage increased by as much as 35%. The number of daily trips increased from an average of 11,000 to an average of 14,000.

EPA previously approved the Share-A-Ride Program (51 FR 32638, September 15, 1986).

F. Does the Anchorage CO Plan Include a Forecast of Vehicle Miles Traveled (VMT) for Each Year Before the Attainment Year of 2000 as Required by 187(a)(2) (A) of the Act?

Because this plan is for the 1996–2000 period, actual count-based VMT estimates from the Highway Performance Monitoring System were available for comparison with the model forecasts used to develop the year 2000 attainment projection. Modeled VMT estimates for 2000 fall within the 3% margin of error allowed by EPA guidance.

The MOA has committed to preparing annual VMT estimates and forecasts and to submitting VMT tracking reports to EPA until Anchorage is redesignated to attainment. Under section 187(a)(3) of the Act, annual VMT tracking reports provide a potential basis for triggering implementation of contingency measures in the event that estimates of actual VMT exceed the forecasts contained in the prior annual VMT tracking report.

G. Does the Anchorage CQ Plan Include Contingency Measures Required by Section 187(a)(3) of the Act?

Yes. Section 187(a)(3) of the Act requires serious CO nonattainment areas, such as Anchorage, to submit a plan revision that provides for contingency measures. The Act specifies that such measures are to be implemented if any estimate of VMT submitted in an annual VMT tracking report exceeds the VMT predicted in the most recent prior forecast or if the area fails to attain the NAAQS by the attainment date. As a general rule, contingency measures must be structured to take effect without further action by the State or EPA upon the occurrence of certain triggering events.

ADEC has committed to implementing an enhanced I/M evader enforcement program. ADEC will be implementing this program whether or not they have a violation which automatically triggers contingency measures. Funding for this program is included in the current MOA Transportation Improvement Program.

The 1990 Act does not specify how many contingency measures are needed or the magnitude of emission reductions (or VMT reductions) they must provide. However, if the contingency measures do not provide enough benefit, additional contingency measures will, within one year of finding VMT levels are exceeding forecasts, be included in a required plan revision. Thus, the submittal satisfies EPA's minimum criteria for contingency measure effectiveness.

H. Does the Anchorage CO Plan Provide for Reasonable Further Progress (RFP) as Required by Section 172(c)(2) and Section 171(1) of the Act?

Under the Act, states have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas toward attainment. Section 172(c)(1) of the Act requires all nonattainment plans to contain provisions to provide for "the implementation of all reasonably available control measures as expeditiously as practicable" and to provide for the attainment of the applicable national ambient standard. Further, section 172(c)(2) states that such plan provisions shall require RFP.

Anchorage has made considerable progress in reducing carbon monoxide emissions over the past three decades. CO concentrations have decreased from a second-high eight-hour average of 26.3 ppm and 66 exceedances in 1980 to a second high eight-hour average of 10.5 ppm and 6 exceedances in 1996, and to a second-high eight-hour average of 5.5 ppm and zero exceedances in calendar year 2000. The implementation of local control programs contributed to these reductions. These programs in combination with state and federal programs such as the Federal Motor Vehicle Control Program and activity changes have produced a 16.5% reduction in total emissions in the nonattainment area between 1996, and 2000, and RFP has been demonstrated.

I. Is the Motor Vehicle Emission Budget Approvable as Required by Section 176(c)(2)(A) of the Act and Outlined in Conformity Rules, 40 CFR 93.118(e)(4)?

Yes. Section 176(c)(2)(A) of the Act requires regional transportation plans to be consistent with the motor vehicle emissions budget contained in the applicable air quality plans for the Anchorage area. We propose to approve the motor vehicle emissions budget that is established for Anchorage.

ANCHORAGE MOTOR VEHICLE EMISSIONS BUDGET

Source category	CO emissions for 2000 (tons/day)
On-Road Sources—Initial Idle	22.98
On-Road Sources—Traveling	33.07
Motor Vehicle Emissions Budget (total on-road source emissions)	56.05

The TSD summarizes how the CO motor vehicle emissions budget meets the criteria contained in the conformity rule (40 CFR 93.118(e)(4)). The initial idle emissions are based on actual vehicle testing and the traveling emissions are based on an emissions model.

A previous action approved the use of the "CO Emissions Model" for SIP development purposes (67 FR 5064, February 4, 2002). The CO Emissions Model is an on-road motor vehicle emission factor model that was specifically developed for cases like the Anchorage CO plan.

The CO Emissions Model is considered an interim update to MOBILE5b developed to take advantage of the best information available on CO emissions, particularly for cold climates, such as Alaska. As such, the CO Emissions Model is not required to be used for SIP development in any area, however, it was approved for use on a voluntary basis for SIP development prior to the official release of MOBILE6, EPA's newest motor vehicle emission factor model. MOBILE6 was not available at the time that the Anchorage CO plan was being developed to meet Anchorage's regulatory time constraints. However, since EPA released MOBILE6 on January 29, 2002, MOBILE6 should be used for the next control strategy SIP for Anchorage. Anchorage must rely upon either the CO Emissions Model or MOBILE6 for new conformity analyses that begin prior to the end of the grace period for use of MOBILE6, which EPA established under 40 CFR 93.111 as two years after MOBILE6's official release. After the end of the MOBILE6 conformity grace period, all new conformity analyses must be based on MOBILE6.

J. Does Anchorage Have an Inspection and Maintenance (I/M) Program in Place That Meets EPA Requirements in Section 182(a)(2)(B) of the Act?

Yes. Anchorage's I/M program was initially implemented in 1985. Since then, Anchorage has continued to improve its performance. Improved program elements include: test equipment and procedures, quality assurance and quality control procedures, vehicle repair requirements and enforcement. The Anchorage I/M program, improvements and amendments, have been adopted through previous SIP revisions (51 FR 8203, September 15, 1986; 54 FR 31522, July 31, 1989; 60 FR 17232, April 5, 1995; 64 FR 72940, December 29, 1999, 67 FR 822, January 8, 2002).

K. Are There Controls on Stationary Sources of CO as Required by Section 172(c)(5) of the Act?

Yes. Section 172(c)(5) of the Act requires States with nonattainment areas to include in their SIPs a permit program for the construction and operation of new or modified major stationary sources in nonattainment areas. In a separate, prior action, we approved the new source review permit program for Alaska. (See 60 FR 8943, February 16, 1995.)

L. Has Anchorage Implemented an Oxygenated Fuel Program as Described in Section 187(b)(3)?

Yes. In a separate, prior action, we approved the oxygenated gasoline program for Anchorage (61 FR 24712, May 16, 1996).

III. Summary of EPA's Proposal

We are proposing approval of the following elements of the Anchorage CO Attainment Plan, as submitted on January 4, 2002:

A. Procedural requirements, under section 110(a)(1) of the Act;

B. Base year emission inventory, periodic emission inventory and commitments under sections 187(a)(1) and 187(a)(5) of the Act;

C. Attainment demonstration, under section 187(a)(7) of the Act;

D. The TCM programs under 182(d)(1) and 108(f)(1)(A) of the Act

E. Contingency measures under section 187(a)(3) of the Act.

F. RFP demonstration, under sections 171(1) and 172(c)(2) of the Act; and

H. The conformity budget under section 176(c)(2)(A) of the Act and § 93.118 of the transportation conformity rule (40 CFR part 93, subpart A).

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 22, 2002.

Elbert Moore,

Acting Regional Administrator, Region 10.

[FR Doc. 02–13698 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7221–8]

RIN 2040–AD61

Announcement of Preliminary Regulatory Determinations for Priority Contaminants on the Drinking Water Contaminant Candidate List

AGENCY: Environmental Protection Agency.

ACTION: Notice of preliminary regulatory determination.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, directs the Environmental Protection Agency (EPA) to publish a list of contaminants (referred to as the Contaminant Candidate List, or CCL) to assist in priority-setting efforts. SDWA also directs the Agency to select five or more contaminants from the current CCL and determine by August 2001 whether or not to regulate these contaminants with a National Primary Drinking Water Regulation (NPDWR). Today's action presents the preliminary regulatory determinations for nine contaminants and describes the supporting rationale for each.

DATES: Comments must be received on or before August 2, 2002.

ADDRESSES: Please send your comments to the W–01–14 Comments Clerk. Submit electronic comments to: *ow-docket@epa.gov*. Written comments should be mailed to: Water Docket (MC–4101), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460. Hand deliveries should be delivered to EPA's Water Docket at East Tower Basement (EB Room 57), Waterside Mall, 401 M Street, SW., Washington, DC, 20460. You may contact the docket at (202) 260–3027 between 9 a.m. and 3:30 p.m. Eastern Time, Monday through Friday. Comments may be submitted electronically. *See* **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing and docket review.

FOR FURTHER INFORMATION CONTACT: For information regarding today's action, contact Karen Wirth, Office of Ground Water and Drinking Water, EPA, 1200 Pennsylvania Avenue, NW. (MC 4607M), Washington, DC 20460; telephone 202–564–5246, e-mail: *wirth.karen@epa.gov*. General information may also be obtained from the EPA Safe Drinking Water Hotline, phone: (800) 426–4791 or its local number (703) 412–3330, e-mail: *hotline.sdwa@epa.gov*. The Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Submission of Comments

EPA will accept written or electronic comments (please do not send both). EPA prefers electronic comments. Commenters should use a separate paragraph for each issue discussed. No facsimiles (faxes) will be accepted. Commenters who want EPA to acknowledge receipt of their comments should also send a self-addressed, stamped envelope. If you submit written comments, please submit an original and three copies of your comments and enclosures (including references).

Electronic comments must be submitted in WordPerfect 8 (or an older version) or ASCII file format. Compressed or zipped files will not be accepted. You may file electronic comments on this action online at many Federal Depository Libraries.

The Agency's response-to-comments document for the final decision will address the comments received on this action. The response-to-comments document will be made available in the docket.

Obtaining Docket Materials

The docket is available for inspection from 9:00 a.m. to 4:00 p.m. Eastern Time, Monday through Friday, excluding legal holidays, at the Water Docket, East Tower Basement (EB Room 57), Waterside Mall, USEPA, 401 M Street, SW; Washington, D.C. For access to docket (Docket Number W–01–03) materials, please call (202) 260–3027 between 9:00 a.m. and 3:30 p.m., Eastern Time, Monday through Friday, to schedule an appointment.

Abbreviations and Acronyms

<—Less than
>—Greater than
μ—Microgram, one-millionth of a gram
μg/L—Micrograms per liter
AIDS—Acquired immunodeficiency syndrome
ATSDR—Agency for Toxic Substances and Disease Registry
AWWA—American Water Works Association
AWWARF—American Water Works Association Research Foundation
BW—Body weight for an adult, assumed to be 70 kilogram (kg)
CASRN—Chemical Abstract Services Registry Number
CCL—Contaminant Candidate List
CDC—Centers for Disease Control and Prevention
CFR—Code of Federal Regulations
CMR—Chemical Monitoring Reform
DASH—Dietary Approaches to Stop Hypertension
DW—Drinking water consumption, assumed to be 2 L/day
EPA—U.S. Environmental Protection Agency
FR—Federal Register
g/day—Grams of contaminant per day g/L—Grams of the contaminant per liter
G6PD—Glucose-6-phosphate dehydrogenase
GAE—Granulomatous amoebic encephalitis
HIV—Human immunodeficiency virus
HRL—Health reference level
IOC—Inorganic compound
IRIS—Integrated Risk Information System
kg—Kilogram
L—Liter
LD_{50}—Lethal Dose 50; the dose at which 50% of the test animals died; a calculated value (LD_{50})
LOAEL—Lowest-observed-adverse-effect level
MCLG—Maximum contaminant level goal
mg—Milligram, one-thousandth of a gram
mg/kg—Milligrams of contaminant per kilogram body weight
mg/L—Milligrams of the contaminant per liter
mg/m^3—Milligrams per cubic meter
NAS—National Academy of Sciences
NDWAC—National Drinking Water Advisory Council
NIH—National Institute of Health
NIRS—National Inorganic and Radionuclide Survey
NOAEL—No-observed-adverse-effect level
NPDWR—National Primary Drinking Water Regulation
NRC—National Research Council
NTP—National Toxicology Program
OW—Office of Water
PWS—Public Water System
RfD—Reference dose
RSC—Relative source contribution
SDWA—Safe Drinking Water Act
SDWIS/FED—Safe Drinking Water Information System, Federal version
SOC—Synthetic organic compound
TRI—Toxic Release Inventory
UCM—Unregulated Contaminant Monitoring
UF—Uncertainty factor
URIS—Unregulated Contaminant Information System
U.S.—United States of America
USGS—United States Geological Survey
VOC—Volatile organic compound
WHO—World Health Organization

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I. Background and Summary of Today's Action

A. What Is the Purpose of Today's Action?

Section 1412(b)(1)(A) of the SDWA, as amended in 1996, directs EPA to make determinations by August 2001 of whether or not to regulate at least five contaminants from EPA's Contaminant Candidate List of unregulated contaminants. For those contaminants that EPA determines to regulate, EPA has 24 months to propose Maximum Contaminant Level Goals (MCLGs) and National Primary Drinking Water Regulations (NPDWRs) and has 18 months following proposal to publish final MCLGs and promulgate NPDWRs. Today's action presents EPA's preliminary regulatory determinations for nine CCL contaminants together with the determination process, rationale, and supporting technical information for each.

The contaminants discussed in today's action include: Three inorganic compounds (IOCs) (manganese, sodium, and sulfate); three synthetic organic compounds (SOCs) (aldrin, dieldrin, and metribuzin); two volatile organic compounds (VOCs) (hexachlorobutadiene and naphthalene); and one microbial contaminant, *Acanthamoeba*.

B. What Is EPA's Preliminary Determination, and What Happens Next?

EPA's preliminary determination is that no regulatory action is appropriate for the contaminants *Acanthamoeba*, aldrin, dieldrin, hexachlorobutadiene, manganese, metribuzin, naphthalene, sodium, and sulfate.

EPA will make final determinations on these contaminants after a 60-day comment period and a public meeting. The public meeting will be held in the spring of 2002 in the Washington, D.C. area, to provide an information exchange with stakeholders on issues related to today's action. Further information about this meeting will be given in a future **Federal Register** Notice and will be available from the Drinking Water Hotline at 1–800–426–4791.

EPA is making preliminary regulatory determinations on CCL contaminants that have sufficient information to support a regulatory determination at this time. The Agency continues to conduct research and/or to collect occurrence information on the remaining CCL contaminants. EPA has been aggressively conducting research to fill identified data gaps and recognizes that stakeholders may have a particular interest about the planned timing for future regulatory determinations for other contaminants on the CCL. The Agency is not precluded from taking action when information becomes available and will not necessarily wait until the end of the next regulatory determination cycle before making other regulatory determinations.

C. What Is the CCL?

SDWA, as amended in 1996, directs EPA to publish a list of contaminants to assist in priority setting for the Agency's drinking water program. This list is called the Contaminant Candidate List or CCL. Section 1412(b)(1)(B) states that the EPA Administrator shall publish a list of contaminants which " * * * are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this title [SDWA]."

The CCL was developed with considerable input from the scientific community and stakeholders. A draft CCL requesting public comment was published on October 6, 1997 (62 FR 52193). The first CCL was published on March 2, 1998 (63 FR 10273). The SDWA requires that a new CCL will be published every five years thereafter (e.g., February 2003). The 1998 CCL contained 60 contaminants, including 50 chemicals or chemical groups and 10 microbiological contaminants or microbial groups. Many of these contaminants lacked some of the information necessary to support a regulatory determination and were identified as having data needs. CCL contaminants were divided into categories to represent next steps and data needs associated with each contaminant. The categories were: (1) Regulatory determination priorities (i.e., no data needs); (2) health effects research priorities; (3) treatment research priorities; (4) analytical methods research priorities; and (5) occurrence priorities. Twenty contaminants were classified as regulatory determination priorities on the 1998 CCL because EPA believed in 1998 that there were sufficient data to evaluate both exposure and risk to public health, and to support a determination of whether or not to proceed to promulgation of a NPDWR.

Since the March 1998 CCL, EPA found that there was insufficient information to support a regulatory determination for 12 of the 20 priority contaminants (see Table 1). In addition, sodium was added to the list of eight remaining regulatory determination priorities primarily as a means of reassessing the current guidance level. Thus, EPA is now presenting preliminary regulatory determinations for nine priority contaminants that have sufficient information to support a regulatory determination at this time: *Acanthamoeba*, aldrin, dieldrin, hexachlorobutadiene, manganese, metribuzin, naphthalene, sodium, and sulfate.

TABLE 1.—1998 PRIORITY CONTAMINANTS WHICH ARE NOW JUDGED TO LACK INFORMATION SUFFICIENT TO SUPPORT A REGULATORY DETERMINATION

Chemical contaminant	Research needs
Boron	Treatment technology and finalization of a health risk assessment (reference dose—RfD).
Bromobenzene	Non-cancer health effects data including subchronic toxicity tests, immunotoxicity, neurotoxicity, and structure-activity analyses. Further work to identify an appropriate treatment technology.
1,1-dichloroethane	Health effects data—cancer, reproductive, developmental, and pharmacokinetic studies. Further work to identify an appropriate treatment technology.
1,3-dichloropropene	Occurrence information using revised sample preservation method.
2,2-dichloropropane	Health effects data—mutagenicity and carcinogenicity screening tests, and structure-activity analysis. Further work to identify an appropriate treatment technology.
p-isopropyltoluene	Health effects data—subchronic, chronic, cancer, neurodevelopmental, reproductive, and developmental. Evaluate related findings on cumene and other alkylbenzenes.
Metolachlor, s-metolachlor, and metolachlor degradation products: ethane sulfonic acid, and oxanilic acid.	Analysis of health effects of metolachlor degradation degradates and occurrence information.

TABLE 1.—1998 PRIORITY CONTAMINANTS WHICH ARE NOW JUDGED TO LACK INFORMATION SUFFICIENT TO SUPPORT A REGULATORY DETERMINATION—Continued

Chemical contaminant	Research needs
Organotins	Non-cancer health effects data—developmental and reproductive toxicity, neurotoxicity, and immunotoxicity. Pharmacokinetic studies and structure-activity analysis recommended. Further work needed to identify appropriateness of treatment technology and analytical methods. Additional occurrence information.
1,1,2,2-tetrachloroethane	Non-cancer health effects data—developmental and reproductive toxicity, neurotoxicity, and immunotoxicity. Carcinogenicity studies. Further work to identify an appropriate treatment technology.
Triazines & degradation products	Analytical methods data and occurrence information. Finalize list of degradates to evaluate.
1,2,4-trimethylbenzene	Health effects data—neurotoxicity screening tests. Further work to identify an appropriate treatment technology.
Vanadium	Health effects data on neurotoxicity and toxicokinetics of inhalation and oral routes. Further work to identify an appropriate treatment technology.

The Agency continues to conduct research and/or to collect occurrence information for all other contaminants on the CCL. The overall research approach is closely aligned with the 1983 National Research Council (NRC) risk assessment/risk management paradigm, which involves a systematic evaluation of data on health effects, exposure, and risk management options (NRC 1983) and is detailed in the Draft CCL Research Plan (USEPA 2001a). The plan was drafted in close consultation with outside stakeholders including the American Water Works Association (AWWA), the AWWA Research Foundation (AWWARF), other governmental agencies, universities, as well as other public and private sector groups. EPA and the AWWARF jointly sponsored a conference, in late September of 1999, to review all aspects of the proposed CCL Research Plan and to make suggestions for future research activities. The three-day meeting was attended by representatives from the water utility industry, State and Federal health and regulatory agencies, professional associations, academia, and public interest groups. The recommendations and results from this meeting have been incorporated into the draft research plan (USEPA 2001a).

EPA's Science Advisory Board reviewed the research plan in August of 2000 and again in June of 2001. The plan is targeted for completion in 2002. It will be available to the public at that time and will be posted on EPA's web site. Implementation of the research plan will require the coordinated efforts of both governmental and non-governmental entities. EPA intends to make all aspects of CCL research planning, implementation, and communication a collaborative process.

D. Does Today's Action Apply to My Public Water System?

Today's action itself does not impose any requirements on anyone. Instead, it notifies interested parties of EPA's preliminary determination not to regulate nine CCL contaminants.

II. What Criteria and Approach Did EPA Use To Make the Preliminary Regulatory Determinations?

Section 1412(b)(1)(A) of SDWA directs that EPA shall publish a MCLG and promulgate a NPDWR for a contaminant if the Administrator determines that (i) the contaminant may have adverse effects on the health of persons; (ii) the contaminant is known to occur, or there is substantial likelihood that the contaminant will occur, in public water systems with a frequency, and at levels of public health concern; and (iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

This section presents the decision-making framework for selecting contaminants from a CCL for future action. It also discusses criteria that EPA used for making the preliminary regulatory determinations announced in today's action.

The process of making preliminary regulatory determinations benefitted from substantial expert input and reflects major recommendations and themes suggested by different groups including stakeholders, the NRC, and the National Drinking Water Advisory Council (NDWAC).

A. Recommended Criteria and Approaches

The Agency held a stakeholders meeting on November 16–17, 1999. The purpose of the meeting was to provide an update and to seek comment from stakeholders on the following: The regulatory determination process, specific factors to consider when making regulatory determinations, the draft CCL research plan, and the process for developing future CCLs. Participants at the meeting included representatives of public water utilities, State drinking water programs, public health and environmental groups, local government, the private sector, EPA and other Federal agencies. EPA intends to hold an additional stakeholders meeting in the spring of 2002 to solicit input on the preliminary regulatory determinations that are outlined in today's action.

1. The National Research Council's Recommended Approach

EPA asked the NRC for assistance in developing a scientifically sound approach for deciding whether or not to regulate contaminants on the current and future CCLs. In response to the request, the NRC's Committee on Drinking Water Contaminants published the report, Setting Priorities for Drinking Water Contaminants (NRC 1999). This report evaluated various existing schemes for setting priorities among environmental contaminants and recommended a framework to guide EPA in deciding which contaminants on the CCL to regulate.

The recommended framework applies to both chemical and microbial contaminants and would proceed as follows: (1) Gather and analyze health effects, exposure, treatment, and analytical methods data for each contaminant; (2) conduct a preliminary risk assessment for each contaminant based on the available data; and (3) issue a decision document for each contaminant describing the outcome of the preliminary risk assessment. The NRC notes that in using this decision framework, EPA should keep in mind the importance of involving all interested parties, recognize that the

process requires considerable expert judgment to address uncertainties from gaps in information about exposure potential and/or health effects, evaluate the many different effects that contaminants can cause, and interpret available data in terms of statutory requirements.

2. The National Drinking Water Advisory Council's Recommended Criteria and Approach

One of the formal means by which EPA works with its stakeholders is through the NDWAC. The Council comprises members from the general public, State and local agencies, and private groups concerned with safe drinking water. It advises the EPA Administrator on key aspects of the Agency's drinking water program. The NDWAC provided specific recommendations to EPA on a protocol to assist the Agency in its efforts to make regulatory determinations for current and future CCL contaminants. These recommendations were the result of a working group formed by the NDWAC charged with developing regulatory determination criteria and protocols. Separate but similar protocols were developed for chemical and microbial contaminants. These protocols are intended to provide a consistent approach to evaluating contaminants for regulatory determinations.

The NDWAC protocol uses the three statutory requirements of SDWA section 1412(b)(1)(A)(i)–(iii) (specified in section II of today's action) as the foundation for guiding EPA in making regulatory determination decisions. For each statutory requirement, evaluation criteria were developed and are summarized later in this section for the chemical contaminants only.

To address whether a contaminant may have adverse effects on the health of persons (a statutory requirement in section 1412(b)(1)(A)(i)), the NDWAC recommended that EPA characterize the health risk and estimate a health reference level for evaluating the occurrence data for each contaminant.

To evaluate the known or likely occurrence of a contaminant, (required by statute 1412(b)(1)(A)(ii)), the NDWAC recommended that EPA consider: (1) The actual and estimated national percent of public water systems (PWSs) reporting detections above half the health reference level; (2) the actual and estimated national percent of PWSs with detections above the health reference level; and (3) the geographic distribution of the contaminant.

To address whether regulation of a contaminant presents a meaningful opportunity for health risk reduction (a statutory requirement in section 1412(b)(1)(A)(iii)), the NDWAC recommended that EPA consider estimating the national population exposed above half the health reference level and the national population exposed above the health reference level.

B. EPA's Criteria and Approach

EPA developed its evaluation approach based on the recommendations from NRC and NDWAC. For the nine contaminants addressed in today's action, EPA evaluated the following: the adequacy of current analytical and treatment methods; the best available peer reviewed data on health effects; and approximately seven million analytical data points on contaminant occurrence. For those contaminants with adequate monitoring methods, as well as health effects and occurrence data, EPA employed an approach to assist in making preliminary regulatory determinations that follows the themes recommended by the NRC and NDWAC to satisfy the three SDWA requirements under section 1412(b)(1)(A)(i)–(iii). The process was independent of many of the more detailed and comprehensive risk management factors that will influence the ultimate regulatory decision making process. Thus, a decision to regulate is the beginning of the Agency regulatory development process, not the end.

Specifically, as described in section III.A. of today's action, EPA characterized the human health effects that may result from exposure to a contaminant found in drinking water. Based on this characterization, the Agency estimated either a health reference level (HRL) or a benchmark value for each contaminant.

As described in section III.B., for each contaminant EPA estimated the number of PWSs with detections greater than one-half the HRL (>½ HRL) and greater than the HRL (>HRL); the population served at these benchmark values; and the geographic distribution using a large number of State occurrence data (approximately seven million analytical points) that broadly reflect national coverage. If a benchmark value was used instead of a HRL, the same process was carried out with ½ the benchmark value and the full benchmark value. Use and environmental release information, as well as ambient water quality data were used to augment the State data and to evaluate of the likelihood of contaminant occurrence.

The findings from these evaluations were used to determine if there was adequate information to evaluate the three SDWA statutory requirements and to make a preliminary determination of whether to regulate a contaminant.

EPA prepared Regulatory Determination Support Documents that are available for review and comment in the EPA Water Docket. These documents present summary information and data on a contaminant's physical and chemical properties, uses and environmental release, environmental fate, health effects, occurrence, and exposure. The documents discuss in detail the rationale used to support the preliminary regulatory determination.

As a parallel effort during the comment period, EPA intends to have the Science Advisory Board review the analysis, the approach used for making regulatory determinations, and the preliminary regulatory determinations.

III. What Analysis Did EPA Use To Support the Preliminary Regulatory Determinations?

Sections III.A. and B. of today's action outline the evaluation steps EPA used to support the preliminary determinations.

A. Evaluation of Adverse Health Effects

The purpose of this section is to discuss the health effects information evaluated, the approach used to derive a HRL for evaluating the occurrence data, and to briefly describe the support documents that provide detailed information on adverse health effects and their dose response.

As discussed previously, section 1412(b)(1)(A)(i) directs EPA to determine whether each candidate contaminant has an adverse effect on public health. The potential for adverse health effects for each contaminant are presented in section IV.B. of today's action.

For those contaminants considered to be human carcinogens or likely to be human carcinogens, EPA evaluated data on the mode of action of the chemical to determine the method of low dose extrapolation. When this analysis indicates that a low dose extrapolation is needed and when data on the mode of action are lacking, EPA uses a default low dose linear extrapolation to calculate risk specific doses. These are estimated oral exposures associated with risk levels that range from one cancer in ten thousand (10^{-4}) to one cancer in a million (10^{-6}). These risk specific doses are combined with drinking water consumption data to estimate drinking water concentrations corresponding to this risk range, which are then used as HRLs for these contaminants. Of the nine contaminants discussed in today's action, only aldrin, dieldrin, and hexachlorobutadiene had data to consider them to be likely or possible human carcinogens. They are also the only contaminants for which linear low dose extrapolation was done. The Agency selected the 10^{-6} risk specific concentration as the HRL for these three contaminants.

For those chemicals not considered to be carcinogenic to humans, EPA generally calculates a reference dose (RfD). An RfD is an estimate of a daily oral exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. It can be derived from a "no-observed-adverse-effect level (NOAEL)," "lowest-observed-adverse-effect level (LOAEL)," or benchmark dose, with uncertainty factors generally applied to reflect limitations of the data used.

The Agency uses an uncertainty factor (UF) to address uncertainty resulting from incompleteness of the toxicological database. Generally, the UFs are factors ranging from 3 to 10-fold that are multiplied together and used in deriving the RfD from experimental data. UFs are intended to account for: (1) The variation in sensitivity among the members of the human population (*i.e.*, intraspecies variability); (2) the uncertainty in extrapolating animal data to humans (*i.e.*, interspecies variability); (3) the uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure to lifetime exposure (*i.e.*, extrapolating from subchronic to chronic exposure); (4) the uncertainty in extrapolating from a LOAEL rather than from a NOAEL; and (5) the uncertainty associated with extrapolation from animal data when the data base is incomplete.

For manganese, metribuzin and naphthalene EPA derived the HRLs using the RfD approach as follows: HRL = (RfD × BW)/DW × RSC.

Where:

RfD = Reference Dose
BW = Body weight for an adult, assumed to be 70 kilograms (kg)
DW = Drinking water consumption, assumed to be 2 L/day (90th percentile)
RSC = The relative source contribution, or the level of exposure believed to result from drinking water when compared to other sources (*e.g.*, air). The RSC is assumed to be 20% unless noted otherwise.

The HRL for sulfate was not established using the RfD approach. The available data do not provide the necessary dose-response information to support the derivation of an RfD for sulfate. However, 500 milligram/liter (mg/L) is a concentration at which adverse effects did not occur in any of the reported studies. This value was used as the HRL. Further details on the sulfate HRL are included in section IV.B.8.

In the case of sodium, the benchmark value used to evaluate the occurrence data is not designated as an HRL because of the lack of suitable dose-response data and the considerable controversy regarding the role of sodium in the etiology of hypertension. The benchmark value for sodium of 120 mg/L was derived from the recommended daily dietary intake of 2.4 grams/day (g/day). Additional information regarding the sodium benchmark value is included in section IV.B.7.

Monitoring data are not available from PWSs for Acanthamoeba. Accordingly, an HRL was not established.

EPA has prepared Health Effects Support Documents for each contaminant that are available for review and comment at the EPA Water Docket. These documents address the following: exposure from drinking water and other media; toxicokinetics; hazard identification; dose-response assessment; and an overall characterization of risk from drinking water. The Acanthamoeba health effects support document addresses the details of the following: occurrence in water and soil, exposure, populations at risk, association with contact lenses and poor hygiene, symptoms of keratitis eye infections, incidence, diagnosis and treatment of granulomas amoebic encephalitis (GAE), risk factors and prevention.

EPA used the best available peer reviewed data and analyses in evaluating adverse health effects. Health effects information is available for aldrin, dieldrin, hexachlorobutadiene, manganese, metribuzin, and naphthalene in the Integrated Risk Information System (IRIS) database. IRIS is an electronic EPA data base (*www.epa.gov/iris/index.htm*) containing peer reviewed information on human health effects that may result from exposure to various chemicals in the environment. These chemical files contain descriptive and quantitative information on hazard identification and dose response, RfDs for chronic noncarcinogenic health effects; as well as slope factors and unit risks for carcinogenic effects. In all cases, the IRIS information was supplemented with more recent data from peer reviewed publications. In cases where the new data impacted the IRIS evaluation, the Office of Water (OW) Health Effects Support Documents are being independently peer reviewed.

B. Evaluation of National Occurrence and Exposure

As noted previously in today's action, section 1412(b)(1)(A)(ii) directs EPA to determine whether each candidate for regulation is known to occur, or is substantially likely to occur, in PWSs with a frequency, and at levels, of public health concern. A substantial amount of State finished drinking water occurrence data for unregulated contaminants are provided under the Agency's Unregulated Contaminant Monitoring (UCM) program. These data form part of the Agency's basis for its estimates of national occurrence. The UCM program was initiated in 1987 to fulfill a SDWA requirement of the 1986 amendments that PWSs monitor for specified "unregulated" contaminants to gather scientific information on their occurrence for future regulatory decision making purposes. An additional EPA study conducted in the mid-1980s, the National Inorganic and Radionuclide Survey (NIRS), provides a statistically representative sample of the national occurrence of many regulated and unregulated inorganic contaminants in ground water CWSs.

EPA prepared a report entitled Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminants in Public Water Systems (USEPA 2001b) that provides detailed reviews of the State monitoring data for each CCL regulatory determination priority contaminant. This report includes detailed information regarding how the data were assessed for quality, completeness, and representativeness, how the data were aggregated into national cross-sections, and presents summary occurrence findings. In EPA's contaminant-specific Regulatory Determination Support Documents described earlier (*see* section II.B. of today's action), additional information is included that presents an analysis of the occurrence data for special trends as well as populations served by PWSs with detections. EPA also reviewed information on the use, environmental release, and ambient occurrence of each contaminant to augment the State drinking water data (UCM and supplemental State monitoring data) and aid in the evaluation of occurrence. Summary descriptions of these data and analyses for each regulatory determination priority contaminant are presented in section IV. of today's action.

Section III.B. describes how the drinking water data sets were used to evaluate the occurrence of the regulatory determination priority

contaminants, including data sources, data quality, and analytical methods. Also included are summary descriptions of the ambient occurrence data, as well as the use and environmental release information that were considered.

The primary drinking water occurrence data for the regulatory determination priority contaminants are from the UCM program and the NIRS (*see* Table 2). The sources of these data, their quality, national aggregation, and the approach used to estimate a given contaminant's occurrence are discussed in the following sections.

TABLE 2.—PRIMARY DRINKING WATER OCCURRENCE DATA SOURCES USED IN THE REGULATORY DETERMINATION PROCESS

Contaminant	UCM round 1 cross section	UCM round 2 cross section	NIRS
Aldrin		X	
Dieldrin		X	
Hexachlorobutadiene	X	X	
Manganese			X
Metribuzin		X	
Naphthalene	X	X	
Sodium			X
Sulfate		X	

1. The Unregulated Contaminant Monitoring Program

Occurrence data for most of the regulatory determination priority contaminants (aldrin, dieldrin, hexachlorobutadiene, metribuzin, naphthalene, and sulfate) are from the monitoring results of the UCM program. This program was implemented in two phases, or "rounds." The first round of UCM monitoring began in 1987, and the second in 1993. EPA reviewed and edited the data for the purposes of this analysis.

a. UCM Rounds 1 and 2. The 1987 UCM (52 FR 25720, July 8, 1987) contaminants include 34 VOCs including the regulatory determination priority contaminants hexachlorobutadiene and naphthalene. The UCM (1987) contaminants were first monitored during the period 1988–1992. This period is referred to as "Round 1" monitoring. The Round 1 data were put into a database called the Unregulated Contaminant Information System (URIS).

The 1993 UCM contaminants included 34 VOCs (including naphthalene and hexachlorobutadiene), 13 SOCs, and sulfate (52 FR 25720, July 8, 1987). Aldrin, dieldrin, and metribuzin were among the 13 SOCs monitored. Monitoring for the UCM (1993) contaminants began in 1993 and continued through 1999. This is referred to as "Round 2" monitoring. The UCM (1987) contaminants (the 34 VOCs monitored in Round 1) were also included in the Round 2 monitoring. As with other monitoring data, PWSs reported these results to the States. During the past several years, States have submitted Round 2 data to EPA's Safe Drinking Water Information System (Federal version; SDWIS/FED) database.

The details of the actual individual monitoring periods are complex. The timing and procedures for required monitoring are outlined in the report entitled Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminants in Public Water Systems (USEPA 2001b). Round 1 and Round 2 data were analyzed separately because they represent different time periods, include different States (only eight States are represented in the data from both rounds), and only two CCL priority contaminants are common to both rounds.

b. Development of occurrence data cross-sections. The Round 1 database contains contaminant occurrence data from 38 States, Washington, D.C. and the United States (U.S.) Virgin Islands. The Round 2 database contains data from 34 States and Tribes. Therefore, neither database contains data from all States. Also, data from some of the States in the databases are incomplete. As a result, unadjusted national results could be skewed to low-occurrence or high-occurrence settings (*e.g.*, some States only reported detections). To address this lack of representativeness, national cross-sections from the Round 1 and Round 2 State data were established using a similar approach developed for the EPA report entitled A Review of Contaminant Occurrence in Public Water Systems (USEPA 1999a). The cross-section approach in this report was developed to support occurrence analyses for EPA's Chemical Monitoring Reform (CMR) evaluation, and was supported by scientific peer reviewers and stakeholders.

For SOCs and VOCs on the CCL, two national cross-sections were developed from the UCM data. The Round 1 national cross-section consists of data from 24 States with approximately 3.3 million analytical data points from approximately 22,000 unique PWSs. The Round 2 national cross-section consists of data from 20 States with approximately 3.7 million analytical data points from slightly more than 27,000 unique PWSs. The actual number of systems and records varies for each contaminant according to the number of reported records for a particular contaminant. The support document, Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminants in Public Water Systems (USEPA 2001b), provides a summary description of how the national cross-sections for the Round 1 and Round 2 data sets were developed.

All samples in the Round 1 and Round 2 State data sets were taken from finished drinking water, representing the product delivered to the public. Data were limited to samples with confirmed water source and sampling type information. Only routine monitoring samples were used; "special" samples, "investigation" samples (investigating a contaminant problem, that would likely bias the results), and samples of unknown type were excluded from the data set. Various quality control and review checks were made of the results, including follow-up questions to the States providing the data to clarify potential reporting inconsistencies, records with invalid codes, or use of analytical units. The State data sets were then compiled into single database in a unified format.

While the national cross-sections of States provides a good picture of national occurrence, there are limitations in the data in that the original monitoring data were not collected by a statistical random sample. Since the data sets do not include the entire U.S., they cannot capture all local variations in contaminant occurrence. However, EPA believes the cross-sections do provide a reasonable estimate of the overall distribution, including the central tendency, of contaminant occurrence across the U.S.

c. Occurrence analysis. The summary descriptive statistics presented in section IV of today's action for each contaminant generally include the following: The number of samples, the total number of systems, the percent of samples with at least one observed detection that has a concentration above the HRL (the HRL is an estimated health effect level used for the purposes of this analysis), and the 99th percentile concentration and median concentration of the observed detections. As described in section III. A, in the case of sodium, the benchmark was used to evaluate the occurrence data rather than a designated HRL. The 99th percentile concentration is commonly used to characterize upper bound data to avoid maximum values that are often problematic outlier observations. Because most of the regulatory determination priority contaminants have very low occurrence (<1% of samples with detections), these statistics are presented for the detections only. One exception is sulfate, for which the median and 99th percentile concentrations are presented for all samples (i.e., the entire universe of samples) because of its relatively high occurrence. The percentages of PWSs, and population served, having at least one detected concentration above >½HRL and >HRL are also presented. As noted, the occurrence values and summary statistics presented are the actual data from the aggregated State cross-sections. EPA considered this the most straightforward and accurate way to present the data that were available for the determination process. EPA extrapolated values for national occurrence (based on the actual cross-section data). However, because the State data used for the cross-section are not a statistical sample, national extrapolations can be problematic, especially for contaminants with such low occurrence as was the case for many of these CCL contaminants. National extrapolations based on peak concentrations, such as the percent of systems with at least one observed concentration above the HRL, may also be misleading, since peak concentrations are highly variable from one location to another. For these reasons, the nationally extrapolated estimates of occurrence and exposure are not presented in today's action and are not used as the basis for the preliminary regulatory determinations. However, to provide additional perspective, the nationally extrapolated occurrence and exposure values are presented in the support documents and are available for review and comment.

At this phase of consideration, more involved statistical modeling of the data was not performed. The presentation of the actual results of the cross-section analysis provides a straight-forward presentation and demonstrates the integrity of the data available for stakeholder review. As noted, however, the cross-section analysis should provide a reasonable estimate of the central tendency of occurrence for these contaminants because of the large number of States included with complete monitoring data sets for the intended purposes (Round 1 consists of approximately 3.3 million analytical data points from 22,000 PWSs in 24 States; and Round 2 consists of approximately 3.7 million analytical data points from 27,000 PWSs in 20 States) that are representative of the range of pollution potential indicators and spatial/hydrogeologic diversity in the nation. EPA believes that the current approach is appropriate and protective but is seeking comments on the necessity of applying a further, more rigorous statistical modeling effort that could be conducted on the cross-section data. This additional effort could use probabilistic modeling to estimate the distribution of mean contaminant concentrations in PWSs in the U.S. Because this approach is based on estimating mean concentrations, instead of peaks as in the current approach, the results would be more statistically robust and more suitable to national extrapolation. This approach allows for better quantification of estimation error. It would also allow an assessment of systems with mean, rather than peak concentrations which exceed the HRL and ½ the HRL, which may be more appropriate for chronic health effects. However, EPA does not believe that such an undertaking would fundamentally change the conclusions drawn from the data for these nine contaminants or the resulting preliminary regulatory determinations. The approach is currently being peer reviewed for use by the Agency to review and revise, if necessary, existing NPDWRs (*i.e.*, the "six-year review"). The model is described in the report entitled, Occurrence in Estimation Methodology and Occurrence Findings Report for Six-Year Regulatory Review (USEPA 2001c).

d. Comparison to the Six-Year Review. EPA is using a similar methodology for occurrence analysis for the six-year review of existing NPDWRs. For this effort, EPA compiled a separate and different contaminant occurrence database and constructed a cross-section that consists of 13 million compliance monitoring results from approximately 41,000 PWSs in 16 States. Also, as for the CCL, contaminant occurrence is reported in terms of the number of PWSs having at least one sample concentration above the levels of regulatory interest. For the six-year review effort, however, the Agency has also performed the more detailed statistical modeling as previously described, in order to estimate, for a certain number of the regulated contaminants, the number of PWSs with mean concentrations over time that exceed the levels of interest. This effort is driven by the underlying nature of the data and the type of data analysis it can support (i.e., the data base has a significant number of detections) as contrasted with the CCL data set.

2. National Inorganic and Radionuclide Survey and Supplementary IOC Occurrence Data

The NIRS database includes 36 IOCs (including 10 now-regulated IOCs), two regulated radionuclides, and four unregulated radionuclides. Manganese and sodium were two of the IOCs monitored. The NIRS provides contaminant occurrence data from 989 community water systems served by ground water. The NIRS does not include surface water systems. The selection of CWSs included in NIRS was designed so that the contaminant occurrence results are statistically representative of national occurrence at CWSs using ground water sources (the survey was focused on ground water systems, in part, because ground water has a higher occurrence and concentrations of naturally occurring IOCs). Most of the NIRS data are from smaller systems (based on population served) and each of the 989 statistically randomly selected CWSs was sampled at a single time between 1984 and 1986.

The NIRS data were collected from ground water CWSs in 49 States. Data were not available for the State of Hawaii. NIRS data were designed to be stratified based on system size (population served by the system), and uniform analytical detection limits were employed.

The summary descriptive statistics presented in section IV of today's action

for manganese and sodium are derived from NIRS data analyses and generally include the total number of systems and samples, the percent systems with detections, the 99th percentile concentration of all samples, the 99th percentile concentration of samples with detections, and the median concentration of samples with detections. The percentages of PWSs, and population served, with detections >½ HRL and >HRL are also presented. Because the NIRS data were collected in a statistically designed sample survey, these summary statistics are representative of national occurrence in ground water PWSs. The actual values for the NIRS analyses are also reported, similar to the treatment for the cross-section data.

One limitation of the NIRS study is a lack of occurrence data for surface water systems. To provide perspective on the occurrence of the CCL determination priority contaminants in surface water systems relative to ground water systems, additional State monitoring data were reviewed. These State ground water and surface water PWS occurrence data were available to EPA from an independent review of the occurrence of regulated contaminants in PWSs and published in the report A Review of Contaminant Occurrence in Public Water Systems (USEPA 1999a). The review contains data from Alabama, California, Illinois, New Jersey, and Oregon for manganese (approximately 38,700 samples from 5,500 systems total) and sodium (approximately 36,000 samples from 6,500 PWSs total). The data were subject to the same quality review and editing process as the Round 1 and Round 2 data described previously. The data analysis, and presentation of results, were similar as well. However, because State surface water and ground water data were available from only a few States for manganese and sodium, the State data were analyzed individually. National cross-sections could not be developed for them.

3. Supplemental Data

EPA collected supplemental data for each contaminant, including use and environmental release information (*e.g.*, EPA's Toxic Release Inventory, academic and private sector publications) and ambient water quality data (*i.e.*, source water existing in surface waters and aquifers before extraction and treatment as drinking water), to augment the drinking water data and better characterize the contaminant's presence in the environment. Data from the U.S. Geological Survey's National Water Quality Assessment program, the most comprehensive and nationally consistent data describing ambient water quality in the U.S. were included when available. A detailed discussion of the supplemental data collected for each contaminant can be found in the respective Regulatory Determination Support Document.

IV. Preliminary Regulatory Determinations

A. Summary

The Agency is soliciting public comment on whether a preliminary determination that nine contaminants do not meet all three SDWA requirements is appropriate and thus no NPDWRs should be considered for those nine contaminants, identified by chemical abstract service registry number (CASRN) in Table 3.

TABLE 3.—PRELIMINARY REGULATORY DETERMINATIONS

Contaminant	CASRN	Preliminary Regulatory Determination
Acanthamoeba.	N/A	Do not regulate.
Aldrin	309–00–2	Do not regulate.
Dieldrin	60–57–1	Do not regulate.
Hexachlorobutadiene.	87–68–3	Do not regulate.
Manganese	7439–96–5	Do not regulate.
Metribuzin	21087–64–9.	Do not regulate.
Naphthalene	91–20–3	Do not regulate.
Sodium	7440–23–5	Do not regulate.
Sulfate	14808–79–8.	Do not regulate.

As previously stated, EPA is only making regulatory determinations on CCL contaminants that have sufficient information to support a regulatory determination at this time. The Agency continues to conduct research and/or to collect occurrence information on the remaining CCL contaminants. EPA has been aggressively conducting research to fill identified data gaps and recognizes that stakeholders may have a particular interest in the timing of future regulatory determinations for other contaminants on the CCL. Stakeholders may be concerned that regulatory determinations for such contaminants should not necessarily wait until the end of the next regulatory determination cycle.

In this regard, it is important to recognize that the Agency is not precluded from monitoring, conducting research, developing guidance, or regulating contaminants not included on the CCL to address an urgent threat to public health (see SDWA section 1412(b)(1)(D)); or taking action on CCL contaminants when information becomes available. As previously mentioned, the Agency continues to conduct research and/or to collect occurrence information for contaminants on the CCL (except the nine mentioned in today's action) and may proceed with regulatory determination prior to the end of the next regulatory determination cycle. EPA solicits comment on which of the remaining CCL contaminants stakeholders believe should have the highest priority for future regulatory determinations and their reasons in support of such comments.

The following sections summarize the data and rationale used by the Agency to reach these preliminary decisions.

B. Contaminant Profiles

This section discusses the following background information for each regulatory priority contaminant: The available human and toxicological data; how the drinking water data sets were used to evaluate occurrence in PWSs; and the population served at levels of public health concern. The findings from these evaluations were used to determine if the three SDWA statutory requirements were satisfied for each contaminant, and in making preliminary determinations whether to regulate the contaminants. Table 4 presents summary statistics describing the occurrence of the regulatory determination priority contaminants. Monitoring data are not available from PWSs for Acanthamoeba, therefore, summary statistics are not represented in Table 4. In reviewing these statistics it is important to keep in mind that they are based on peak rather than mean concentrations at the sampled systems. In general, the percentages of systems with mean concentrations exceeding the HRL and ½ the HRL would be lower.

TABLE 4.—OCCURRENCE SUMMARY FOR THE CHEMICAL REGULATORY DETERMINATION PRIORITY CONTAMINANTS

Contaminant	Actual cross-section and NIRS data			
	Systems >½HRL	Systems >HRL	Population >½HRL	Population >HRL
Aldrin (R2) HRL = 0.002 µg/L	0.02% (2 of 12,165)	0.02% (2 of 12,165)	0.02% (8,700 of 47.7 M)	0.02% (8,700 of 47.7 M)
Dieldrin (R2) HRL = 0.002 µg/L	0.09% (11 of 11,788)	0.09% (11 of 11,788)	0.07% (32,200 of 45.8 M)	0.07% (32,200 of 45.8 M)
Hexachlorobutadiene (R1 & R2) HRL = .9 µg/L	Round 1: 0.16% (20 of 12,284) Round 2: 0.08% (18 of 22,736)	Round 1: 0.11% (14 of 12,284) Round 2: 0.02% (4 of 22,736)	Round 1: 0.57% (407,600 of 71.6 M) Round 2: 2.3% (1.6 M of 67.1 M)	Round 1: 0.37% (262,500 of 71.6 M) Round 2: 0.005% (3,100 of 67.1 M)
Manganese (NIRS) HRL = 300 µg/L	6.1% (60 of 989)	3.2% (32 of 989)	4.6% (68,100 of 1.5 M)	2.6% (39,000 of 1.5 M)
Metribuzin (R2) HRL = 91 µg/L	0% (0 of 13,512)	0% (0 of 13,512)	0% (0 of 50.6 M)	0% (0 of 50.6M)
Naphthalene (R1 & R2) HRL = 140 µg/L	Round 1: 0.01% (2 of 13,452) Round 2: 0.01% (2 of 22,923)	Round 1: 0.01% (2 of 13,452) Round 2: 0% (0 of 22,923)	Round 1: 0.007% (5,600 of 77.2 M) Round 2: 0.002% (1,700 of 67.5 M)	Round 1: 0.007% (5,600 of 77.2 M) Round 2: 0% (0 of 67.5 M)
Sodium (NIRS) Benchmark = 120,000 µg/L	22.6% (224 of 989)	13.2% (131 of 989)	18.5% (274,300 of 1.5 M)	8.3% (123,600 of 1.5 M)
Sulfate (R2) HRL = 5000,000 µg/L	4.97% (819 of 16,495)	1.8% (295 of 16,495)	10.2% (5.2 M of 50.4 M)	0.9% (446,200 of 50.4 M)

1. Acanthamoeba

After reviewing the best available public health and occurrence information, EPA has made a preliminary determination not to regulate Acanthamoeba with a National Primary Drinking Water Regulation (NPDWR). EPA's finding is that Acanthamoeba does have adverse effects on the health of persons primarily as a result of infections affecting the eye, lung, brain, and skin. EPA has no national monitoring data for Acanthamoeba occurrence in PWSs. The Agency, however, believes that filtration practices commonly used to treat drinking water in the U.S. have a high removal rate for Acanthamoeba cysts. Moreover, EPA finds that the disease incidence for Acanthamoeba is extremely low and that exposure to Acanthamoeba-related infections are not typically produced by ingestion of drinking water, inhalation during showering, or other standard uses of drinking water. Rather, Acathamoeba related infections are typically associated with poor hygiene practices among contact lens wearers. Thus, EPA finds that regulation of Acanthamoeba does not present a meaningful opportunity for health risk reduction for persons served by PWSs. The Agency believes issuing guidance targeted to individuals at risk is a more appropriate action at this time. Detailed information supporting EPA's finding and tentative determination is provided in the Health Effects Support Document for Acanthamoeba, and is summarized later in this section.

a. Background. Acanthamoeba is a common free-living microbe found in water, soil, and air. The protozoa exists in two stages: an active infective trophozoite form, and a dormant cyst form. The cyst stage also has potential to cause infection as it reverts to a trophozoite under appropriate conditions (Ferrante 1991). The cysts are resistant to inactivation by the levels of chlorine routinely used to disinfect municipal drinking water, swimming pools, and hot tubs and can survive for many years in the environment. However, because the cysts are fairly large (larger than *Giardia* and *Cryptosporidium*), they are very likely removed by filtration practices commonly used to treat drinking water.

b. Health effects. Acanthamoeba species have been associated with human infections affecting the eye, lung, brain, and skin. There are two major clinically distinct human infections: Acanthamoeba keratitis and GAE.

Acanthamoeba keratitis infection is a chronic ulceration and perforation of the cornea. Infection occurs predominantly in individuals who wear soft contact lenses and is thought to be a consequence of improper storage, handling, and disinfection of the lenses or lense case (Stehr-Green *et al.* 1989, Seal *et al.* 1992); wearing lenses in hot tubs and during swimming; and the formation of bacterial biofilms on contact lenses and lens storage cases (Schaumberg, *et al.* 1998). Acanthamoeba keratitis does not result from ingestion of contaminated drinking water.

GAE can be caused by some species of Acanthamoeba. GAE is diagnosed more frequently in people with compromised immune systems including individuals with human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) (Martinez and Visvesvera 1997). Reports indicate that possible routes of entry of Ancanthamoeba in immunocompromised individuals may be through the respiratory tract and skin lesions. Once inside the body, it spreads throughout the bloodstream to other parts of the body, and the central nervous system and may cause personality changes, cranial nerve palsies, nausea and headaches (Martinez and Visvesvera 1997, Marshall *et al.* 1997).

c. Occurrence and exposure. i. Acanthamoeba occurrence. Members of the genus Acanthamoeba are widespread in nature and have been isolated worldwide from brackish and sea water, tap water, bottled water, airborne dust, swimming pools, hot springs, thermal effluents of power plants, ocean sediments, vegetables, and hot tubs. *Acanthamoeba* has also been recovered from the nose and throat of humans with impaired respiratory function and from apparently healthy persons, suggesting that the amoeba is

commonly inhaled. There are no monitoring data for *Acanthamoeba* under the UCMR or other programs. There is a published report on a presumed *Acanthamoeba* contamination of municipal drinking water supply occurring after a flooding incident in Iowa during 1993–1994 (Meier *et al.* 1998). The report suggests that increase in the incidence of *Acanthamoeba* keratitis in areas affected by flooding was associated with a higher than normal concentration of *Acanthamoeba* in surface water supplies. However, the overall risk of keratitis in the U.S., even with the Iowa flooding, is less than the 1:10,000 risk of infection per year that EPA has set as a goal for surface water supplies.

ii. *Acanthamoeba* keratitis disease incidence. The Centers for Disease Control and Prevention (CDC) published a survey identifying 208 cases of *Acanthamoeba* keratitis (between 1973 and 1988) in the U.S. based on requests made to their laboratories for analysis of samples from individuals affected with ocular keratitis and from a limited survey of eye health care practitioners in four States. The data indicate that keratitis has been reported from 34 States and the District of Columbia. While most cases were reported from California, Texas, Florida, and Pennsylvania (Stehr-Green *et al.* 1989), there were no distinct regional patterns of occurrence. Because keratitis is not a disease which is required to be reported to CDC, these reports may underestimate a national occurrence.

Between 1973 and 1996 an estimated 700 *Acanthamoeba* keratitis cases have occurred in the U.S. (Martinez and Visvesvera 1997, Stehr-Green et al. 1989). There appears to be an increased keratitis incidence over the past decade that may be attributed to the increase in the number of contact lens wearers. The available published data on incidence from 1985 to 1987 (Schaumberg et al. 1998) was used to conservatively estimate incidence at 1.65 to 2.01 cases per million contact-lens wearers. This would forecast a total of 64 cases per year for the U.S. contact-lens wearing population (about 34 million people wear contact lenses). The estimated number of Acanthamoeba keratitis cases is small compared to the population at risk.

iii. GAE Disease Incidence. GAE is not a reportable disease in the U.S. Between 1957 and 1998 about 110 cases of GAE have been reported world-wide; 64 of the 110 cases were reported in the U.S., of which 30 cases were diagnosed in AIDS patients. GAE has been reported to occur predominantly in patients who are immunocompromised, those with diabetes or alcoholism, and those receiving radiation therapy (Visvesvera and Stehr-Green 1990). Based on an EPA demographic distribution of sensitive population groups, there are approximately two million people in the U.S. who are considered immunocompromised from cancer chemotherapy, genetic factors, and HIV/AIDS (CDC 1997 and USEPA 1998a). Diabetics are also more vulnerable to GAE (Visvesvera and Stehr-Green 1990). Because the number of diabetics in the U.S. is about eight million (USEPA 1998a), the total population group more vulnerable to GAE because of preexisting disease is about 10 million. Note that cases in these populations are more likely to be diagnosed since the individuals are under a degree of medical surveillance not typical of the general population. The number of cases of GAE is very small when compared to the population of the U.S. even considering the more vulnerable subgroups.

d. *Preliminary determination.* The Agency has made the preliminary determination not to regulate *Acanthamoeba* with a NPDWR since regulation would not present a meaningful opportunity for health risk reduction for the people served by public drinking water systems. Several species of *Acanthamoeba* infect humans and can be found worldwide in a range of environmental media (*e.g.*, soil, dust, and fresh water). Because of this, it is assumed that finished drinking water may be a source of exposure. However, *Acanthamoeba* keratitis is not known to be produced by ingestion of drinking water, inhalation during showering, or other standard uses of drinking water. Rather, keratitis is associated with poor hygiene practices among contact lens wearers. GAE has been reported in a very small number of individuals known to be at risk for developing this disease; there have been a total of 64 U.S. cases which is a low incidence even considering the possible vulnerability of an estimated number of immunocompromised and diabetic individuals of 10 million. Reports indicate that the possible routes of entry of *Acanthamoeba* in immunocompromised individuals are through the respiratory tract and from skin lesions. Thus, it is unlikely that any of the 64 U.S. cases were associated with ingestion of *Acanthamoeba* in drinking water.

EPA does not believe that there is an opportunity for meaningful public health protection through issuance of a drinking water regulation for *Acanthamoeba*. An effective means to protect public health is to identify those groups of individuals who may be at risk or more sensitive than the general population to the harmful effects of *Acanthamoeba* in drinking water and target them with protective measures (*e.g.*, encourage contact lens wearers to follow manufacturers' or health care practitioners' instructions for cleaning and rinsing their contact lens). EPA intends to release a guidance document addressing the risks of *Acanthamoeba* infection.

2. Aldrin and Dieldrin

After reviewing the best available public health and occurrence information, EPA has made a preliminary determination not to regulate the contaminants aldrin and dieldrin with National Primary Drinking Water Regulations (NPDWRs). EPA's findings are that aldrin and dieldrin may have adverse effects on the health of persons, and both are classified by EPA as likely to be carcinogenic to humans. EPA also finds that aldrin and dieldrin occur in PWSs, but not at a frequency or level of public health concern. Aldrin at >½ health reference level (HRL) was found at approximately 0.02% of PWS surveyed, affecting approximately 0.02% of the population served; dieldrin at >½ HRL was found at approximately 0.09% of PWS surveyed, affecting approximately 0.07% of the population served. As discussed later, EPA does not consider exposure to aldrin and dieldrin to be widespread nationally. Most uses of these compounds were canceled in 1987. Thus, EPA finds that regulating aldrin and dieldrin would not present a meaningful opportunity for health risk reduction for persons served by PWSs.

Detailed information supporting our findings and preliminary determinations is provided in the Health Effect Support Document for Aldrin and Dieldrin, the Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminant in Public Water Systems, and the Regulatory Determination Support Document for Aldrin and Dieldrin. This information is summarized later in this section.

a. Background. Aldrin and dieldrin (CASRNs 309–00–2 and 60–57–1, respectively) are the common names of two structurally similar insecticides. They are discussed together in today's action because aldrin readily changes to dieldrin in the body and in the environment, and they cause similar adverse health effects.

The Shell Chemical Company was the sole U.S. manufacturer and distributor of aldrin and dieldrin; although neither

compound has been produced in the U.S. since 1974 (ATSDR 1993). From 1950–1970, aldrin and dieldrin were popular pesticides used for crops such as corn and cotton. Because of concerns about damage to the environment and the potential harm to human health, EPA banned most uses of aldrin and dieldrin in 1974 except for the control of termites. In 1987, EPA banned all uses.

b. Health effects. EPA issued health advisories for aldrin and dieldrin in 1992 and 1988, respectively. These chemicals caused liver tumors in mice, but not in rats, and are classified as Group B2, probable human carcinogens, under the 1986 cancer guidelines. Under EPA's 1999 proposed Guidelines for Carcinogen Risk Assessment (USEPA 1999b), aldrin and dieldrin are classified as likely to be carcinogenic to humans.

In animals, oral exposure to aldrin and dieldrin has produced a variety of dose-dependent systemic, neurological, immunological, endocrine, reproductive, developmental, genotoxic and tumorigenic effects over a collective dose range of at least three orders of magnitude (<0.05–50 mg/kg body weight), depending on the specific endpoint and the duration of exposure.

In general, animal studies have provided only mixed evidence that exposures to aldrin and dieldrin at moderate-to-high levels can result in adverse reproductive or developmental effects such as reduced fertility or litter size, reduced pup survival, fetotoxicity, or teratogenicity. Various in vivo and in vitro studies have provided evidence that aldrin and dieldrin may be weak endocrine disruptors (ATSDR 2000a), that is to say, they may weakly disrupt the hormones responsible for the maintenance of normal body function and the regulation of developmental processes.

EPA derived the RfD of 3×10^{-5} mg/kg/day for aldrin by dividing the LOAEL for liver toxicity from a lifetime study on rats of 0.025 mg/kg/day by an uncertainty factor (UF) of 1,000 (USEPA 1988, see section III.A. of today's action). The UF is a product of three 10-fold factors that account for the variation in sensitivity among the members of the human population, the uncertainty in extrapolating animal data to humans, and the uncertainty in extrapolating from a LOAEL rather than from a NOAEL.

EPA derived the RfD of 5×10^{-5} mg/kg/day for dieldrin by dividing the NOAEL for liver toxicity from a lifetime study on rats of 0.005 mg/kg/day by a UF of 100 (10 to extrapolate from rats to humans, and 10 to protect sensitive humans) (USEPA 1990).

The most sensitive endpoint of concern is cancer for both aldrin and dieldrin. The Agency used a linearized multi-stage model to extrapolate from effects seen at high doses in animal studies to predict tumor response at low doses. This model is based on the biological theory that a single exposure to a carcinogen can initiate tumor formation, and it assumes that a threshold does not exist for carcinogenicity. Based on this approach, it is estimated that aldrin and dieldrin carcinogenic potencies are 17 per mg/kg-day and 16 per mg/kg-day, respectively. Using these cancer potencies, the concentrations associated with a specific risk levels for both contaminants are 0.2, 0.02, and 0.002 µg/L at the theoretical cancer risk of 10^{-4}, 10^{-5}, and 10^{-6}, respectively (*i.e.*, 1 case in 10,000; 1 case in 100,000; and 1 case in 1,000,000) (USEPA 1993a and 1993b). EPA adopted the dose level of 0.002 µg/L for both contaminants as the HRL, or the benchmark against which to evaluate the occurrence data.

Potential susceptibility of life-stages and other sensitive populations. Aldrin and dieldrin are found as residues in food and mother's milk; however, no long-term studies demonstrating adverse effects on children are available. Although these chemicals are thought to be weak endocrine disruptors the HRL should adequately protect sensitive individuals from this and other adverse effects because cancer is assumed to be the most sensitive endpoint of concern.

No other sensitive subpopulations were identified that may be affected by exposure to these contaminants.

c. Occurrence and exposure. For most people, exposure to aldrin and dieldrin occurs when people eat contaminated foods. Contaminated foods might include fish or shellfish from contaminated lakes or streams, root crops, dairy products, and meats. Exposure to aldrin and dieldrin also occurs when you drink water, breathe air, or touch contaminated soil at hazardous waste sites containing these contaminants.

Aldrin was monitored under Round 2 of the Unregulated Contaminant Monitoring (UCM). Cross-section occurrence estimates are very low with only 0.006% of the samples (2 out of 31,083) showing detections at 0.58 µg/L and 0.69 µg/L.

The cross-section analysis shows that 0.02% of the reporting PWSs (2 out of 12,165) experienced detections of aldrin at both >½ HRL and >HRL, affecting 0.02% of the population served (8,600 out of 47.8 million people).

Dieldrin was also monitored under Round 2 of the UCM. The cross-section occurrence estimates are also very low with only 0.064% of samples (19 out of 29,603) showing detections. For samples with detections, the median and the 99th percentile concentrations are 0.16 µg/L and 1.36 µg/L, respectively.

The cross-section analysis shows that 0.09% of the reporting PWSs (11 out of 11,788) have detections of dieldrin at both >½ HRL and >HRL, affecting 0.07% of the population served (32,000 out of 45.8 million).

To augment SDWA drinking water data analysis, and to provide additional coverage of the corn belt States where aldrin and dieldrin use as agricultural insecticides was historically high but not represented in the Round 2 data, independent analyses of SDWA drinking water data from the States of Iowa, Illinois, and Indiana were undertaken. There were no detections of aldrin in Iowa or Indiana surface or ground water PWSs (Hallberg et al. 1996, USEPA 1999a). While Illinois had no detections in ground water, aldrin was detected in 2 out of 109 (1.8%) surface water PWSs, the maximum concentrations of aldrin was 2.4 µg/L. A survey of Illinois community water supply wells during the mid-1980s also showed very low occurrence of aldrin.

Dieldrin was not reported in Iowa surface or ground water PWSs (Hallberg et al. 1996). While Illinois and Indiana also had no detections of the compound in ground water PWSs, dieldrin was detected in surface water PWSs in those States (USEPA 1999a). Dieldrin occurrence was relatively low in both States: 2 out of 109 (1.8%) surface water systems showed detections in Illinois and 1 out of 47 (2.1%) surface water systems showed detections in Indiana. For Illinois and Indiana surface water PWSs, the maximum concentrations of dieldrin were 0.1 µg/L and 0.04 µg/L, respectively (USEPA 1999a).

Even the data from all Round 2 reporting States, including States with incomplete or potentially skewed data, show very low occurrence of aldrin and dieldrin. Approximately 0.21% (32 out of 15,123) of the reporting PWSs have detections of aldrin at both >½ HRL and >HRL, affecting approximately 291,000 of the population served (out of 59 million). For dieldrin, approximately 0.21% (31 out of 14,725) of the reporting PWSs have detections at both >½ HRL and >HRL, affecting about 212,000 of the population served (out of 57 million).

d. Preliminary determination. The Agency has made a preliminary determination not to regulate aldrin or dieldrin with a NPDWR. Since the

contaminants occur in PWSs at a very low frequency and at low levels, a regulation would not present a meaningful opportunity for health risk reduction for the people served by public drinking water systems. EPA recognizes that aldrin and dieldrin are probable human carcinogens, but the chemicals have been banned for most uses since 1974, and have relatively low levels of occurrence in drinking water supplies. It is likely that there will be so few people exposed to aldrin and dieldrin in their drinking water that a national regulation to control these two pesticides in drinking water would not provide a meaningful opportunity to reduce risk.

EPA will work closely with those few States that show aldrin and dieldrin contamination and encourage them to work with affected systems to evaluate site specific protective measures and to consider State-level regulation.

3. Hexachlorobutadiene

After reviewing the best available public health and occurrence information, EPA has made a preliminary determination not to regulate hexachlorobutadiene with a National Primary Drinking Water Regulation (NPDWR). EPA's finding is that hexachlorobutadiene may have adverse effects on the health of persons. It is classified by EPA as likely to be carcinogenic to humans. EPA also finds that hexachlorobutadiene occurs in PWSs, but not at a frequency or level of public health concern. Hexachlorobutadiene at >½ health reference level (HRL) was found at approximately 0.16% of PWS surveyed in Round 1 cross section samples and 0.08% of Round 2 cross section samples, affecting approximately 0.57% of the population served in Round 1 and 2.3% in Round 2. (The Round 2 affected population percentage is strongly influenced by a >½ HRL detection at one PWS serving 1.5 million people.) Thus, EPA finds that regulating hexachlorobutadiene with a NPDWR would not present a meaningful opportunity for health risk reduction for persons served by PWSs.

Detailed information supporting our finding and tentative determination is provided in the Health Effects Support Document for Hexachlorobutadiene, the Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminant in Public Water Systems, and the Regulatory Determination Support Document for Hexachlorobutadiene. These findings are summarized later in this section.

a. Background. Hexachlorobutadiene (CASRN 87–68–3) is a VOC that is relatively insoluble in water (solubility of 2–2.55 mg/L) and has never been manufactured as a commercial product in the U.S. However, significant quantities of the chemical are generated in the U.S. as a waste by-product from the chlorination of hydrocarbons, and lesser quantities are imported mostly from Germany as a commercial product. Hexachlorobutadiene is mainly used to make rubber compounds. It is also used as a solvent, to make lubricants, in gyroscopes, as a heat transfer liquid, and as a hydraulic fluid.

Eight million pounds of hexachlorobutadiene were generated as a waste by-product in the U.S. in 1975, with 100,000 pounds released into the environment. By 1982, the annual U.S. by-product generation of the chemical increased to 28 million pounds. In contrast, the annual import rate of hexachlorobutadiene dropped from 500,000 pounds per year imported annually in the late 1970's, to 145,000 pounds per year imported in 1981 (ATSDR 1994, Howard 1989).

Hexachlorobutadiene is listed by EPA as a toxic release inventory (TRI) chemical. Air emissions constitute most of the on-site releases. Also, over a 10-year period (1988–1998), surface water discharges generally increased, peaked in 1992–93, and then decreased significantly through the late-1990s. The TRI data for hexachlorobutadiene are reported from eight States (USEPA 2001d).

b. Health effects. There are no reliable data of human health effects following exposure to hexachlorobutadiene. Hexachlorobutadiene is classified by EPA as a Group C, Possible Human Carcinogen, (USEPA 1991) in accordance with EPA's 1986 Guidelines for Carcinogen Risk Assessment (USEPA 1986), and is considered likely to be a carcinogen to humans by the 1999 Proposed Guidelines for Carcinogen Risk Assessment (USEPA 1999b). Studies in animals show the selective effect of hexachlorobutadiene on the proximal tubule of the kidney. Subchronic (NTP 1991) and chronic (Kociba *et al.* 1977) studies in rodents present a clear picture of dose-related renal (kidney) damage at 2 mg/kg/day and above. Progressive events over time include changes in kidney weight, altered renal function (as shown by increased excretion of coproporhyrin), renal tubular degeneration and regeneration, hyperplasia (abnormal growth of cells), and renal tumor formation. Developmental effects were also observed in the offspring of hexachlorobutadiene exposed female rats (Harleman and Seinen 1979). However, these effects were observed at higher doses than for renal toxicity. Pups with lower birth weights and reduced growth were reported at maternal dose of 8.1–15 mg/kg/day in rats (Badaeva 1983, Harleman and Seinen 1979).

Only one study of lifetime oral exposure to hexachlorobutadiene has been reported in peer reviewed literature (Kociba *et al.* 1977). At the highest dose of 20 mg/kg/day in the study, benign and malignant tumors were seen in approximately 23% (9/39) of the male rats, and 15% (6/40) of the female rats. This dose exceeded the maximum tolerated dose at which increased mortality, severe renal toxicity, and significant weight loss were also observed. There were no tumors found in rats at the second highest dose of 2 mg/kg/day. The conclusion from the dose response analysis is that hexachlorobutadiene is a weak carcinogen with its demonstrated carcinogenicity only at a cytotoxic dose.

EPA divided the NOAEL for damage to kidney cells (specifically, renal tubular epithelial cell degeneration and regeneration) in rats from the Kociba *et al.* (1977) study and in mice from the National Toxicology Program (NTP 1991) study of 0.2 mg/kg/day by an uncertainty factor (UF) of 1000 (see section III.A. of today's action). The UF is a product of four factors, and rounded from 900 to 1000, that account for: the uncertainty in extrapolating animal data to humans (UF=10), the variation in sensitivity among the members of the human population (UF=10), using a minimum effect NOAEL, that may be a minimal LOAEL (UF=3), and the uncertainty associated with extrapolation from an incomplete animal data base (UF=3, the data base lacks chronic oral exposure studies and 2-generation reproductive toxicity studies) to arrive at an RfD of 2×10^{-4} mg/kg/day (USEPA 1998b). The RfD was used to develop the HRL of 1 µg/L as a benchmark against which to evaluate the occurrence data as described in section III.A. of today's action.

The nonlinear approach for low dose extrapolation (i.e., point of departure of 0.054 mg/kg/day divided by a margin of exposure 300), gives a result equal to the RfD. Thus, the RfD of 2×10^{-4} mg/kg/day which protects against damage to kidney tubule cells will also be protective against tumor formation in the kidney.

Potential susceptibility of life-stages and other sensitive populations. Individuals with preexisting kidney damage may be more sensitive to

adverse health effects from hexachlorobutadiene. Studies in animals showed that young rats and mice were more sensitive to the acute effects of hexachlorobutadiene (Hook *et al.* 1983, Lock *et al.* 1984), suggesting that infants may also be more susceptible to hexachlorobutadiene toxicity, perhaps as a result of immature organ systems.

c. Occurrence and exposure. Most exposure to hexachlorobutadiene comes from breathing it in workplace air. People living near hazardous waste sites containing hexachlorobutadiene may be exposed to it by breathing air or by drinking contaminated water.

Hexachlorobutadiene was monitored under both Rounds 1 and 2 of the Unregulated Contaminant Monitoring (UCM). The cross-section occurrence estimates are low for Round 1 and Round 2 with only 0.13% (54 of 42,839) and 0.05% (43 of 93,585) of all samples showing detections, respectively. For Round 1 cross-section samples with detections, the median and the 99th percentile concentrations are 0.25 µg/L and 10 µg/L, respectively. For Round 2 cross-section samples with detections, the median and the 99th percentile concentrations are 0.30 µg/L and 1.5 µg/L, respectively.

For Round 1, the cross-section analysis shows that 0.16% of the reporting PWSs (20 out of 12,284) had detections >½ HRL, affecting 0.57% of the population served (407,000 out of 71.6 million). The percentage of reporting PWSs with detections >HRL is 0.11% (14 out of 12,284), affecting 0.37% of the population served (263,000 out of 71.6 million).

For Round 2, the cross-section analysis shows that 0.08% of the reporting PWSs >½ HRL (18 out of 22,736), affecting 2.3% of the population served (1.6 out of 67 million). The percentage of the reporting PWSs with detections >HRL is 0.02% (4 out of 22,736), affecting 0.005% of the population served (3,350 out of 67 million).

The Round 1 cross-section estimates of PWSs affected by hexachlorobutadiene are influenced by the State of Florida. Florida reports 5.4% of its PWSs experienced detections >HRL, a value considerably greater than the next highest State (1.5%). In addition, only 13% of the PWSs in Florida (112 out of 855 PWSs) provided data, suggesting that only systems experiencing problems submitted data for hexachlorobutadiene, thereby biasing Florida's results for occurrence measures.

The large values for the Round 2 cross-section estimates of population served with detections >½ HRL are influenced by the inclusion of one PWS serving a very large population (1.5 million people). While the percentages of systems with detections of hexachlorobutadiene >½ HRL are low for both rounds, the difference in population served is larger.

d. Preliminary determination. The Agency has made a preliminary determination not to regulate hexachlorobutadiene with a NPDWR since the contaminant occurs in PWSs at a very low frequency and at very low levels and would therefore not present a meaningful opportunity for health risk reduction for persons served by public drinking water supplies. Monitoring data indicate that hexachlorobutadiene is infrequently detected in public water supplies. It is important to note that when hexachlorobutadiene is detected, it very rarely exceeds the HRL or even a value of one-half the HRL.

4. Manganese

After reviewing the best available public health and occurrence information, EPA has made a preliminary decision not to regulate manganese with a National Primary Drinking Water Regulation (NPDWR). EPA's finding is that manganese is essential for normal physiological functioning in humans and all animal species, however, several diseases are associated with both deficiencies and excess intake of manganese. Nonetheless, manganese is generally considered to have low toxicity when ingested orally. EPA also finds that manganese occurs in PWSs, with 6.1% of reporting ground water PWSs having detections above the >½ health reference level (HRL) and 3.2% having detections above the HRL. But, because the toxicity of manganese by oral ingestion is low, EPA finds that regulation of manganese in drinking water does not present a meaningful opportunity for health risk reduction for persons served by PWSs.

Detailed information supporting our finding and tentative determination is provided in the Health Effects Support Document for Manganese, the Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminant in Public Water Systems, and the Regulatory Determination Support Document for Manganese. These findings are summarized later in this section.

a. Background. Manganese (CASRN 7439–96–5) is a naturally occurring element that constitutes approximately 0.1% of the earth's crust. It does not occur in the environment in its pure metal form, but is ubiquitous as a component of more than 100 minerals including many silicates, carbonates, sulfides, oxides, phosphates, and borates (ATSDR 2000b). Manganese occurs naturally at low levels in soil, water, and food, and is essential for normal physiological functioning in humans and all animal species.

EPA established a National Secondary Drinking Water Standard for manganese at 0.05 mg/L to prevent clothes from staining and to minimize taste problems. Secondary standards are non-enforceable Federal guidance for aesthetic effects (such as color, taste, or odor) or cosmetic effects (such as skin or tooth discoloration) and are provided as a guideline for States and PWSs.

b. Health effects. Manganese is needed for normal growth and function; however, several diseases are associated with both deficiencies and excess intake of manganese.

There is no information available on the carcinogenic effects of manganese in humans, and animal studies have reported mixed results. EPA considers manganese to be not classifiable with respect to carcinogenicity; Group D according to the Guidelines for Carcinogen Risk Assessment (1999b). Data from oral exposure suggest that manganese has a low developmental toxicity.

There are several reports of toxicity to humans exposed to manganese by inhalation. Inhaled manganese can lead to neurological symptoms (*e.g.*, tremor, gait disorders, etc.) as seen in miners exposed to manganese dusts or fumes. Much less is known about oral intake of manganese. The major source of manganese intake in humans (with the exception of possible occupational exposure) is dietary ingestion; however, manganese is not considered to be very toxic when ingested with food, and reports of adverse effects are rare.

An epidemiological study performed in Peloponnesus, Greece (Kondakis *et al.* 1989) showed that lifetime consumption of drinking water containing naturally high concentrations of manganese oxides may lead to neurological symptoms and increased manganese retention as reflected in the concentration of manganese in hair for people over 50 years old. For the group consuming the highest concentration (around 2 mg/L) for more than 10 years, the authors suggested that some neurologic impairment might be present. The study raises concerns about possible adverse neurological effects following chronic ingestion from drinking water at doses within ranges deemed essential. However, the study did not examine

manganese intake data from other routes/sources (*i.e.*, dietary intake, inhalation from air, etc.), precluding its use as a basis for the RfD.

Another long-term drinking water study in Germany (Vieregge *et al.* 1995) found no neurological effects in people older than 50 years of age who drank water containing 0.3 to 2.16 mg/L of manganese for more than 10 years. However, this study also lacks exposure data from other routes and sources, and the manganese concentration range in water is very wide. Thus, the study cannot be used for quantitative assessment.

A small Japanese community (total 25 individuals) ingested high levels of manganese in contaminated well water (leaked from dry cell batteries buried near the wells) over a three-month period (Kawamura *et al.* 1941). Manganese intake was not determined at the time of intoxication, but was assayed months later; it was estimated to be close to 29 mg/L (*i.e.*, 58 mg/day or 1.45 mg/kg/day). Symptoms included lethargy, increased muscle tonus (tension), tremor, mental disturbances, and even death. Autopsies revealed macroscopic and microscopic changes in the brain tissue. In contrast, six children (1 to 10 years old) were not as affected as were the adults by this exposure. The elderly were more severely affected. Some effects may have resulted from factors other than manganese exposure.

In various surveys, manganese intakes of adults eating western type and vegetarian diets ranged from 0.7 to 10.9 mg per day (Freeland-Graves 1994, Gibson 1994). Depending on individual diets, a normal intake may be well over 10 mg/day, especially from a vegetarian diet. Thus, from the dietary surveys taken together, EPA concluded that an appropriate RfD for manganese is 10 mg/day (0.14 mg/kg/day) (USEPA 1996). The Agency applied an uncertainty factor (UF) of 1 (see section III.A. of today's action) because the information used to determine the RfD was considered to be complete—it was taken from many large human populations consuming normal diets over an extended period of time with no adverse health effects. EPA derived a HRL for evaluating the occurrence data of 0.30 mg/L. The HRL is based on the dietary RfD and application of a modifying factor of 3 for drinking water as recommended by IRIS (USEPA 1996) (see the description of an RfD in section III.A. of today's action) and allocation of an assumed 20% relative source contribution from water ingestion. The modifying factor accounts for concerns raised by the Kondakis study (1989); the potential for higher absorption of manganese in water compared to food; consideration of fasting individuals; and the concern for infants with potentially higher absorption and lower excretion rates of manganese.

Potential susceptibility of life-stages and other sensitive populations. There are no data to indicate that children are more sensitive to manganese than adults. Because manganese is an essential nutrient in developing infants, the potential adverse effects from manganese deficiency may be of greater concern than potential toxicity from over-exposure. Potential sensitive sub-populations include the elderly, pregnant women, iron-deficient individuals and individuals with impaired liver and bile duct function.

c. Occurrence and exposure. Manganese has been detected in ground water PWS samples collected through the National Inorganics and Radionuclide Survey (NIRS). Approximately 68% (671 of 989) of the systems that were sampled, showed manganese above detection levels. However, for samples with detections, the median and the 99th percentile concentrations are 0.01 mg/L and 0.72 mg/L, respectively. NIRS samples show that 6.1% of the reporting ground water PWSs had detections >½ HRL (60 out of 989), affecting about 4.6% of the population served (68,200 out of 1.5 million). The percentage of reporting ground water PWSs with detections >HRL is 3.2% (32 out of 989) affecting 2.6% of the population served (39,000 out of 1.5 million).

d. Preliminary determination. The Agency has made a preliminary determination not to regulate manganese with a NPDWR because it is generally not considered to be very toxic when ingested with the diet and because drinking water accounts for a relatively small proportion of manganese intake. Thus, regulation would not present a meaningful opportunity for health risk reduction for persons served by PWSs.

5. Metribuzin

After reviewing the best available public health and occurrence information, EPA has made a preliminary determination not to regulate metribuzin with a National Primary Drinking Water Regulation (NPDWR). EPA's finding is that metribuzin is not classifiable as a human carcinogen, but there may be other adverse health effects related to metabolic activity from chronic exposure to high doses. EPA also finds that metribuzin has a very low occurrence in PWSs. Only one sample out of 34,507, in Round 2 of the Unregulated Contaminant Monitoring (UCM), was reported as having a detection and the concentration of that sample was below ½ health reference level (HRL). Because metribuzin has such low occurrence, EPA finds that the regulation of metribuzin in drinking water does not present a meaningful opportunity for health risk reduction for persons served by PWSs.

Detailed information supporting our findings and preliminary determinations is provided in the Health Effect Support Document for Metribuzin, the Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminant in Public Water Systems, and the Regulatory Determination Support Document for Metribuzin. These findings are summarized later in this section.

a. Background. Metribuzin (CASRN 21087–64–9) is an SOC that does not volatilize readily, yet is very soluble in water. Metribuzin is relatively persistent in the environment and degrades primarily through exposure to sunlight.

Metribuzin is used as an herbicide on crops and has limited non-agricultural utility. Applications are primarily targeted to soybeans, potatoes, alfalfa, and sugar cane, and the geographic distribution of use largely reflects the distribution of these crops across the U.S. In terms of use, the herbicide is ranked 200th out of approximately 1,150 active ingredients used in agricultural pesticides (USGS 1999). According to the U.S. Department of Agriculture's Agricultural Resources Management Study, the amount of metribuzin used annually and the number of acres treated appears to be modestly declining over the 10-year survey period (1990–1999).

b. Health effects. Metribuzin is not classifiable as to human carcinogenicity (Group D) (USEPA 1998c). This classification is based on the lack of evidence of carcinogenicity in the following studies: (1) A mouse study in which there were no increases in tumor incidences at dosing levels up to 438 mg/kg/day in the diet for males and 567 mg/kg/day for females in the diet; (2) a rat study in which there were no statistically significant increases in tumor incidence at dosing levels up to 14.36 mg/kg/day for males and 20.38 mg/kg/day for females; and (3) a rat study which indicated no evidence for carcinogenicity at dosing levels up to 42.2 mg/kg/day for males and 53.6 mg/kg/day for females (USEPA 1998c).

Acute exposures to metribuzin, as reflected in high LD_{50} values, are

indicative of low toxicity (USEPA 1998c). Subchronic studies in rats and dogs suggest that metribuzin causes decreased body weight gain, increased organ weight (liver, thyroid and brain) and small decreases in blood serum activities. Chronic effects of metribuzin exposure at high doses, in rats and dogs, include changes in body weight gain, mortality, elevated liver enzyme activity and histopathological changes in the liver. There are a few studies available on metribuzin exposure and reproductive and developmental effects. Developmental studies in rabbits and rats show that maternal toxicity occurs at or above doses of 1.3 mg/kg/day in the diet (USEPA 1998c). In general, effects to the fetus occur only as a result of maternal toxic effects. Similarly, in reproductive studies in rats, systemic toxicity was observed at mid- and high-doses (7.5 mg/kg/day and 37.5 mg/kg/day) in both parental animals and pups. Effects were expressed as slightly decreased body weights, decreased body weight gain and exaggerated liver cell growth (USEPA 1998c). Metribuzin exposure can also produce some endocrine effects in vivo as seen in the principal study used to derive the RfD.

A few inhalation studies are available on metribuzin exposure and the effects are comparable to the existing oral exposure studies. At high exposure (720 mg/m^3), increases in organ weights as well as liver enzyme activities were reported (USEPA 1998c).

The RfD for metribuzin is 0.013 mg/kg/day based on a two-year feeding study in rats where statistically significant increases in blood levels of T4 (thyroxine), decreases in blood levels of T3 (triiodothyronine), increased absolute and relative weight of the thyroid and decreased lung weight were observed at 1.3 mg/kg/day (LOAEL). However, these effects were of marginal biological significance and the 1.3 mg/kg/day dose was regarded as a NOAEL in the derivation of the RfD. The Agency applied an uncertainty factor (UF) of 100 (see section III.A. of today's action). The UF is a product of two 10-fold factors that account for the variation in sensitivity among the members of the human population and the uncertainty in extrapolating animal data to humans (USEPA 1998c).

EPA derived a HRL for evaluating the occurrence data of 91 µg/1 using the RfD approach (described in section III.A. of today's action).

Potential susceptibility of life-stages and other sensitive populations. There is no evidence to suggest that children, or any other population subgroup, would be more sensitive than others when exposed to metribuzin. In addition, the UF applied for variation in sensitivity for humans adequately protects sensitive subgroups of the population.

c. Occurrence and exposure. Metribuzin has been monitored under Round 2 of the UCM program. The cross-section shows that only 1 out of 34,507 samples had detections from the 13,512 PWSs sampled (0.10 µg/L). No cross-section PWSs had detection >½ HRL or >HRL.

The heaviest use of metribuzin is across the nation's corn-soybean production area. These States are not well represented in the Round 2 database. Therefore, additional data from the Midwest corn belt were also evaluated. Drinking water data from Iowa, Indiana, Illinois, and Ohio also show very low occurrence of metribuzin.

d. Preliminary determination. The Agency has made a preliminary determination not to regulate metribuzin with a NPDWR because it is not known to occur in PWSs at levels of public health concern. Monitoring data indicate that metribuzin is infrequently detected in public water supplies. When metribuzin is detected, it very rarely exceeds the HRL or a value of one-half of the HRL.

6. Naphthalene

After reviewing the best available public health and occurrence information, EPA has preliminarily determined not to regulate naphthalene with a National Primary Drinking Water Regulation (NPDWR). EPA's finding is that there is inadequate data to support a conclusion about carcinogenicity of naphthalene by the oral route of exposure. But, there may be other adverse health effects from exposure to naphthalene such as hemolytic anemia from very high doses of naphthalene (e.g. ingestion of mothballs). EPA also finds that naphthalene has a very low occurrence in PWSs. Naphthalene at >½ health reference level (HRL) was found at approximately 0.01% of public water supplies surveyed in Round 1 and Round 2 cross section samples, affecting less than 0.007% of the population served. Because naphthalene has such a low occurrence level, EPA finds that the regulation of naphthalene in drinking water does not present a meaningful opportunity for health risk reduction for persons served by PWSs.

Detailed information supporting our findings and preliminary determination is provided in the Health Effect Support Document for Naphthalene, the Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminant in Public Water Systems, and the Regulatory Determination Support Document for Naphthalene. These findings are summarized later in this section.

a. Background. Naphthalene (CASRN 91–20–3) is a VOC that is naturally present in fossil fuels such as petroleum and coal and is formed when wood or tobacco are burned. Naphthalene is produced in commercial quantities from either coal tar or petroleum. Most of naphthalene use (60%) is as an intermediary in the production of phthalate plasticizers, resins, phthaleins, dyes, pharmaceuticals, and insect repellents. Crystalline naphthalene is used as a moth repellent and as a solid block deodorizer for diaper pails and toilets.

Naphthalene production in the U.S. dropped from 900 million pounds per year in 1968 to 354 million pounds per year in 1982. Approximately seven million pounds of naphthalene were imported and nine million pounds were exported in 1978. By 1989, imports had dropped to four million pounds, and exports increased to 21 million pounds (ATSDR 1995).

b. Health effects. In inhalation studies (NTP 1992, 2000), rats and mice exposed to naphthalene developed tumors of the respiratory tract (nose, lungs). This appears to be a route-specific effect. Naphthalene is currently categorized as Group C, a possible human carcinogen, based on inadequate data in humans and limited evidence in animals (NTP 1992) via the inhalation route. According to the proposed 1999 cancer guidelines for carcinogen risk assessment, the carcinogenic potential of naphthalene cannot be determined via the oral or inhalation routes. A recent finding of clear evidence for nasal tumors in male and female mice (NTP 2000) suggests a need to reevaluate the carcinogenicity of naphthalene via the inhalation route of exposure.

The data on naphthalene's ability to cause cancer by the oral route of exposure are inadequate to support a conclusion about its carcinogenicity by this route. The tumor data from the only long term oral exposure study (Schmahl 1955) indicates that naphthalene was not carcinogenic by the oral route, but the published study did not present quantitative data on tumor incidence. Most of the studies of naphthalene's ability to damage DNA are negative.

Naphthalene can cause methemoglobinemia in humans, and humans are more sensitive to this effect than rats and mice. Methemoglobinemia is a condition where some of the red blood cells are chemically changed so

that they are not able to carry oxygen. It often leads to changes in the affected red blood cells so that they are broken down by the spleen (hemolysis) and removed from the bloodstream causing what is called hemolytic anemia. In the case of naphthalene, most of the data on methemoglobinemia and hemolysis come from cases in which large amounts of naphthalene (*e.g.*, mothballs) were ingested causing significant hemolysis and requiring medical attention.

In animal studies, high doses of naphthalene lead to cataracts in certain strains of rabbits, rats, and mice. The data on cataracts in humans are very limited and are confounded by exposure to other contaminants in addition to naphthalene. In the respiratory tract, naphthalene causes irritation, inflamation, and an increase in the number of cells (hyperplasia).

To calculate the RfD, EPA divided the NOAEL of 71 mg/kg/day for impaired weight gain in rats from the Battelle Columbus Laboratory study (1980) by an uncertainty factor (UF) of 3,000 (see section III.A. of today's action) to arrive at an RfD of 0.02 mg/kg-day (USEPA 1998d). The UF is a product of four factors that account for: the variation in sensitivity among the members of the human population (UF=10), the uncertainty in extrapolating animal data to humans (UF=10), the uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure to lifetime exposure (UF=10), and the uncertainty associated with extrapolation from an incomplete animal data set (UF=3, the data set lacks chronic oral exposure studies and 2-generation reproductive toxicity studies). The RfD of 0.02 mg/kg/day was used to develop the HRL of 140 µg/L as a benchmark against which to evaluate the occurrence data as described in section III.A. of today's action.

Potential susceptibility of life-stages and other sensitive populations. Newborn infants with one or two copies of a defective gene for the enzyme, glucose-6-phosphate dehydrogenase (G6PD) are most sensitive to the hemolytic effects of naphthalene. There is evidence of naphthalene toxicity in infants who reportedly were exposed by dermal contact with diapers or clothing that had been stored with naphthalene mothballs or naphthalene flakes (ATSDR 1995). However, inhalation of the naphthalene vapors was likely a contributing route of exposure in each case (ATSDR 1995, EPA 1998d). Adults with the G6PD defect are also susceptible to naphthalene, but to a lesser extent than infants. In infants, production of the enzyme methemoglobin reductase is delayed rendering them more sensitive than adults to methemoglobinemia. Based on the available data the 10-fold UF for intraspecies differences (*i.e.*, sensitivity among the members of the human population) used in developing the RfD will adequately protect individuals who are sensitive to naphthalene.

c. Occurrence and exposure. The major source of human exposure to naphthalene is through the use of mothballs containing naphthalene. This exposure can be from breathing the vapors or handling the mothballs. People also may be exposed by breathing tobacco smoke and air near industries that produce naphthalene. Usually naphthalene is not found in water because it evaporates or biodegrades quickly. When it is found in water, it is usually at levels lower than 0.01 mg/L (ATSDR 1995).

Naphthalene was monitored under both Rounds 1 and 2 of the Unregulated Contaminant Monitoring (UCM). For Round 1 samples with detections, the median and the 99th percentile concentrations are 1.0 µg/L and 900 µg/L, respectively. There are indications that two ground water systems in one cross-section State had outlier values (i.e., atypically high values not consistent with the rest of the data) and, thus, the 99th percentile value is suspect. Excluding these outliers from the analyses, no other State that contributed Round 1 monitoring data had any detections that exceeded the HRL (140 µg/L). For Round 2 samples with detections, the median and the 99th percentile concentrations are 0.73 µg/L and 73 µg/L, respectively.

For Round 1, the cross-section analysis shows that 0.01% of the reporting PWSs (1 out of 13,452) had detections at both >½ HRL and >HRL, affecting 0.007% of the population served (5,400 out of 77.2 million).

For Round 2, the cross-section analysis shows that 0.01% of the reporting PWSs had detections >½ HRL (2 out of 22,923), affecting 0.002% of the population served (1,300 out of 67.5 million). No Round 2 PWSs had detections >HRL.

d. Preliminary determination. The Agency has made a preliminary determination not to regulate naphthalene with a NPDWR because it is not known to occur in PWSs at levels of public health concern. Monitoring data indicate that naphthalene is infrequently detected in public water supplies. When naphthalene is detected, it very rarely exceeds the HRL or a value of one-half of the HRL.

7. Sodium

After reviewing the best available public health and occurrence information, EPA has made a preliminary determination not to regulate sodium with a National Primary Drinking Water Regulation (NPDWR). Sodium is essential for normal physiological functioning in humans and all animal species; however, in humans several disorders are associated with excess intake of sodium, in particular, high blood pressure. EPA finds that sodium occurs in PWSs. Sodium at >½ benchmark value (60 mg/L) was found at approximately 22.6% of PWS in the National Inorganic and Radionuclides Survey (NIRS) samples. Sodium at > the benchmark value (120 mg/L) was found at 13.2% of PWS. EPA believes that the contribution of drinking water to daily sodium intake is very small when compared to the total dietary intake and that short-term excursions beyond the benchmark values pose no adverse health risk for most individuals, including the majority of persons with hypertension. Because sodium in drinking water is a very small contributor to daily dietary intake and because the levels at which sodium intake can contribute to increasing the blood pressure of individuals with normal blood pressures is not clearly established, EPA does not believe that a NPDWR presents a meaningful opportunity for public health protection. Concurrent with today's action, EPA intends to issue an updated advisory to provide guidance to communities that may be exposed to drinking water with elevated levels of sodium chloride and other sodium salts, so that those individuals with restricted sodium intake may take appropriate actions.

Detailed information supporting our finding and preliminary determination is provided in the Draft Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis on Sodium, Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminants in Public Water Systems, and Regulatory Determination Support Document for Sodium. These documents are available for review and comment at the EPA Water Docket.

a. Background. Sodium (CASRN 7440–23–5) is the sixth most abundant element on Earth and is widely distributed in soils, plants, water, and foods. Most of the world has numerous deposits of sodium-containing minerals. The sodium ion is ubiquitous in water, due to the high solubility of many sodium salts. Ground water typically contains higher concentrations of minerals and salts than do surface waters. In addition to naturally occurring sources of sodium, it is used in deicing roads, water treatment chemicals, and domestic water softeners; sewage effluents can also contribute significant quantities of sodium to water.

Research indicates that the lower level of the taste threshold for sodium chloride in water is 30–60 mg/L (Pangborn and Pecore 1982). Individuals who are sensitive to the taste of sodium chloride can detect the taste in water at a concentration of 30 mg/L and recognize that taste as salty at a concentration of 60 mg/L. Accordingly, a moderate amount of sodium can be tolerated without any adverse impact on the aesthetic acceptability of the water. The taste threshold for sodium is influenced by a number of factors. It increases with the age of the consumer, in the presence of other dissolved minerals, and in waters with low chloride concentrations.

Sodium consumption and source contribution of drinking water. Sodium is a normal component of the body, and adequate levels of sodium are required for good health. Food is the main source of daily human exposure to sodium, primarily in the form of sodium chloride (table salt). Most of the sodium in our diet is added to food during food processing and preparation. Various studies have reported dietary intakes of sodium that range from 1,800 to 5,000 mg/day (Abraham and Carroll 1981, Dahl 1960, Pennington *et al.* 1984). Discretionary sodium intake is variable and can be quite large. The Food and Drug Administration has found that most American adults tend to eat between 4,000 and 6,000 mg/day. Sodium-restricted diets range from below 1,000 to 3,000 mg/day (Kurtzweil 1995). The NRC recommended daily dietary intake for sodium is 2,400 mg/day.

Drinking water generally accounts for a relatively small proportion of total sodium intake. An estimated 75% of dietary sodium comes from the sodium in processed foods, 15% is from discretional use of table salt during cooking and serving of foods, and 10% is from sodium naturally present in foods (Sanchez-Castillo *et al.* 1987). Drinking water is not considered in dietary intake surveys.

b. Health end points. The primary health effect of concern from long term exposures to excess sodium is increased blood pressure (hypertension). A large body of evidence suggests that excessive sodium intake may contribute to age-related increases in blood pressure (NAS 1977, WHO 1979). High blood pressure is a multi-factorial disorder with dietary sodium as one of a number of factors influencing its incidence.

Frost *et al.* (1991) conducted an analysis of 14 published studies (12,773 subjects) from the U.S., Europe, and Asia, which measured blood pressure and sodium intake. The analysis indicated that there is a significant positive association between blood pressure and dietary sodium within populations. Elliot (1991) performed a similar analysis of 14 studies in 16 populations (12,503 subjects) relating 24-hour urinary sodium excretion and blood pressures. This analysis also showed a significant positive correlation between urinary sodium and both systolic and diastolic blood pressure for both males and females.

Sullivan (1991) analyzed data on 183 subjects to determine sodium sensitivity, which was defined as an increase of mean blood pressure of more than five percent when progressing from low- to high-sodium intake. Using this criterion, sodium sensitivity was detected in 15% of Caucasian subjects with normal blood pressure, 29% of Caucasian borderline hypertensive subjects, 27% of African-American subjects with normal blood pressure and 50% of African-American borderline hypertensive subjects.

Recent controlled studies of borderline hypertensive subjects called the Dietary Approaches to Stop Hypertension (DASH) trials demonstrated decreases in blood pressure with a diet that combined a moderate sodium intake (3,000 mg/day) with a high fruit and vegetable diet (DASH diet). The DASH diet was (two to three times) higher in potassium, calcium, magnesium, and fiber than the control diet. It reduced average blood pressures compared with the control diet in this clinical study (Vogt et al. 1999). When the study was repeated with differing degrees of salt restriction, small but additional decreases in blood pressure were observed for subjects on the sodium restricted DASH diet as opposed to subjects on the control diet (Sacks *et al.* 2001). These results add to the weight-of-evidence that sodium is not the only factor in the diet to consider when managing blood pressure.

Some clinical studies on the effect of decreased sodium intake on blood pressure have not detected convincing evidence of a protective effect of low sodium intake on the risk of cardiovascular disease (Muntzel and Drueke 1992, Salt Institute 2000, NIH 1993, Callaway 1994, Kotchen and McCarron 1998, McCarron 1998). Thus, it has been difficult to clearly define the role of sodium in the development of hypertension. Experts at the National Heart, Lung and Blood Institute, the scientific experts at the American Heart Association, American Society of Hypertension, and the European and International Societies of Hypertension do not feel that universal salt reduction is warranted for individuals with normal blood pressure (Taubes 1998). However, the National Institutes of Health, National Academy of Sciences, American Heart Association and U.S. Department of Agriculture all recommend restricting daily dietary sodium intake to 2.4 g/day or less, even though present average intake of most people exceed this value. The current outdated EPA guidance level for sodium in drinking water is 20 mg/L. It was developed to protect those individuals restricted to a total sodium intake of 500 mg/day (EPA, 1976). The recently updated guidance document, Draft Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis on Sodium, is available for review and comment at the EPA Water Docket. It is based on current health effects and occurrence data, includes the taste effects of sodium in drinking water, and allows EPA to provide appropriate guidance to water suppliers.

Ingestion of sodium ion is not believed to cause cancer. However, some studies suggest that sodium chloride may enhance risk of gastrointestinal tract cancer caused by other chemicals. Sodium salts have generally produced inconclusive results in in vitro or in vivo genotoxicity tests.

Very high doses of sodium chloride (1,667 mg/kg) have been observed to cause reproductive effects in various strains of pregnant rats. Effects on the pregnant rats have included decreases in pregnancy rates and maternal body weight gain. Effects in offspring have included increased blood pressure and high mortality. No studies on developmental effects from exposure to sodium were identified.

Benchmark Value. In the case of sodium, the value used to evaluate the occurrence data is not designated as an health reference level (HRL) because of the lack of suitable dose-response data and the considerable controversy regarding the role of sodium in the etiology of hypertension. Instead a benchmark value is used. The benchmark value for sodium was derived from the recommended daily dietary intake of 2.4 g/day (NRC 1989). It is important to note that the recommended intake is not related

directly to dose-response information and is lower than most estimates of the present average daily intake of the U.S. population. A relative source contribution of 10% was applied in recognition that foods and other discretional use of table salt are the major source of sodium exposure. This results in a benchmark value of 120 mg/L, assuming 2 liters of water per day (i.e., 2,400 mg/day/2L x 10% = 120 mg/L). The ½ benchmark value coincides with the upper limit of the concentration at which those who are sensitive to the taste of sodium chloride in water are able to detect the salt taste. The EPA derived benchmark value of 120 mg/L was used as a means for evaluating the occurrence data. This value is more conservative than the values used for evaluating the other regulatory determination contaminants in today's action. It was derived from the NRC dietary guideline (NRC 1989) for adults of 2,400 mg/day for sodium from salt rather than from the highest NOAEL in a toxicological study or even average dietary intake.

Potential susceptibility of life-stages and other sensitive populations. Several studies have shown that children are more sensitive than adults to the acute effects of high sodium intake (Elton et al. 1963, DeGenaro and Nyhan 1971). This increased sensitivity is associated with a lower ability of the immature kidney to control sodium levels compared to the adult. The elderly may be sensitive to the hypertensive effects of sodium because they have a higher incidence of cardiovascular disease (including high blood pressure) than younger subjects (Sowers and Lester 2000). African-Americans may also be more susceptible to sodium-induced adverse health effects due to high prevalence of hypertension and increased salt sensitivity characteristics in this population (Sullivan 1991, Svetkey *et al.* 1996). Individuals with decreased kidney function or kidney insufficiency are more sensitive to high sodium intake compared to individuals with healthy kidneys.

c. Occurrence and exposure. Sodium was detected in 100% (989 of 989) of the ground water PWS samples collected through the National Inorganics and Radionuclides Survey (NIRS). The median and the 99th percentile concentrations of all samples are 16.4 mg/L and 517 mg/L, respectively.

Analysis of NIRS samples shows 22.6% of the reporting ground water PWSs have detections > ½ the benchmark level (60 mg/L) (224 out of 989) affecting approximately 18.5% of the population served (274,000 out of 1.5 million people). The percentage of reporting ground water PWSs with detections > the benchmark level (120 mg/L) is 13.2% (131 out of 989), affecting approximately 8.3% of the population served (123,000 out of 1.5 million people).

Additional SDWA data from the States of Alabama, California, Illinois, New Jersey, and Oregon, including both ground water and surface water PWSs, were examined through independent analyses and also show substantial sodium occurrence. These data add an additional perspective to the NIRS estimates that only include data for ground water systems. The supplemental State data show that all five States reported almost 100% detections in both ground water and surface water systems. For all PWSs in the five States, the median concentrations of all samples ranged from 5.26 to 31 mg/L and 99th percentile concentrations of all samples ranged from 150 to 370 mg/L. Surface water PWS detection frequencies > the benchmark value are slightly lower than those for ground water.

d. Preliminary determination. The Agency has made a preliminary determination not to regulate sodium with a NPDWR since the relatively small amount of sodium in drinking water is not projected to cause adverse health effects in most individuals. This preliminary decision is based on the minor impact of sodium in drinking water. Drinking water generally accounts for a relatively small proportion of total sodium intake. Thus, restriction of the amount of sodium in drinking water would not present a meaningful opportunity for health risk reduction for persons served by PWSs.

Sodium intake is a matter of concern for salt-sensitive individuals with hypertension. However, blood pressure is greatly influenced by other nutrients in the diet, lifestyle, and behavioral factors in addition to sodium itself, and is best treated under medical supervision giving consideration to the multiple factors that contribute to the blood pressure problems.

EPA's Draft Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis for Sodium provides guidance to communities that may be exposed to elevated concentrations of sodium chloride or other sodium salts in their drinking water. The advisory provides appropriate cautions for individuals on low-sodium or sodium-restricted diets. It is based on current health effects and occurrence data, includes the taste effects of sodium in drinking water, and allows EPA to provide appropriate guidance to water suppliers.

EPA presently requires periodic monitoring of sodium at the entry point to the distribution system. Monitoring is to be conducted annually for surface water systems and every three years for ground water systems (as defined in 40 CFR 141.41). The water supplier must report sodium test results to local and State public health officials by direct mail within three months of the analysis, unless this responsibility is assumed by the State. This requirement provides the public health community with information on sodium levels in drinking water to be used in counseling patients and is the most direct route for gaining the attention of the affected population.

8. Sulfate

After reviewing the best available public health and occurrence information, EPA has made a preliminary determination not to regulate sulfate with a National Primary Drinking Water Regulation (NPDWR). EPA's finding is that sulfate may have adverse health affects on persons, primarily as a laxative effect following high acute exposures. EPA also finds that sulfate occurs in PWSs. Approximately 87% of the Round 2 Unregulated Contaminant Monitoring (UCM) samples showed detections of sulfate. Sulfate at >½ health reference level (HRL) was found at 4.97% of PWS surveyed in the Round 2 cross section samples, affecting 10.2% of the population served; at >HRL, it was found at 1.8% of the PWS, affecting 0.9% of the population served. EPA finds that the weight of evidence suggests that the risk of adverse health effects to the general population is limited, of short duration, and only occurs at high concentrations. Hence, the regulation of sulfate in drinking water does not present a meaningful opportunity for health risk reduction for persons served by PWSs. EPA is issuing a Drinking Water Advisory, with today's action, to provide guidance to communities that may be exposed to drinking water with high sulfate concentrations.

Detailed information supporting our finding and preliminary determination is provided in the Draft Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis on Sulfate, the Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminant in Public Water Systems, and the Regulatory Determination Support Document for Sulfate. These findings are summarized later in this section.

a. Background. EPA was required by the 1986 SDWA amendments to issue a proposed and final standard for sulfate. EPA grouped sulfate with 23 other organic and IOCs in the "Phase V" regulatory package that was proposed in 1990 (55 FR 30371, July 25, 1990). The notice stated that the adverse health effect from ingesting high levels of sulfate is diarrhea and associated dehydration. Because local populations usually acclimate to high sulfate levels, the impact is primarily on infants, transient populations (e.g., business travelers, visitors, and vacationers), and new residents.

In the 1990 notice, EPA proposed alternative MCLG levels for sulfate of 400 mg/L and 500 mg/L. Given the high cost of the rule, the relatively low risk, and the need to explore alternative regulatory approaches targeted at the transient consumer, EPA deferred the final regulatory decision on sulfate. A new schedule was established, in connection with litigation, that required EPA to finalize its regulatory action for sulfate by May 1996. In December of 1994, EPA re-proposed the MCLG at 500 mg/L. Before the rule was promulgated, SDWA, as amended in 1996, directed EPA to determine by August 2001 whether to regulate sulfate in drinking water. In addition, section 1412(b)(12)(B) of SDWA directs EPA and the CDC to conduct a study, discussed in more detail later in this section, to establish a reliable dose-response relationship for the adverse human health effects from exposure to sulfate in drinking water, including the health effects that may be experienced by sensitive subpopulations (i.e., infants and travelers). SDWA specifies that the study be conducted using the best available peer-reviewed science in consultation with interested States, and completed by February 1999.

Sulfate (SO_4^{-2}, CASRN 14808–79–8) exists in a variety of inorganic salts. Sulfate salts such as sodium, potassium and magnesium are very water soluble and are often found in natural waters. Sulfate salts of metals such as barium, iron, or lead have very low water solubility.

Sulfate is found in soil, sediments and rocks and occurs in the environment as a result of both natural processes and human activities. Sulfate is used for a variety of commercial purposes, including pickle liquor (sulfuric acid) used in the steel and metal industries and as a reagent in the manufacturing of products such as copper sulfate (a fungicide/algicide). Specific data on the total production of all sulfates are not available, but production is expected to be in the thousands of tons per year.

Sulfate may enter surface or ground water as a result of discharge or disposal of sulfate-containing wastes. In addition, sulfur oxides produced during the combustion of fossil fuels are transformed to sulfuric acid in the atmosphere. Through precipitation (acid rain), sulfuric acid can enter surface waters, lowering the pH and raising sulfate levels.

Sulfate is present in the diet. A number of food additives are sulfate salts and most (such as copper sulfate and zinc sulfate) are approved for use as nutritional supplements.

EPA established a National Secondary Drinking Water Regulation for sulfate at 250 mg/L based on aesthetic effects (i.e., taste and odor) in 1979 (40 CFR part 43.3). This value was adopted from the 1962 Public Health Service Drinking Water Standards. The taste threshold for sulfate is reported to range from 200 to 900 mg/L depending on the specific sulfate salt. The threshold for unpleasant taste for sodium sulfate is about 800 to 1,000 mg/L, based on the results of a study by Heizer et al. (1997) and a study conducted under a cooperative agreement by the CDC and EPA (USEPA 1999c).

b. Health effects. Sulfate induces a laxative effect following high acute exposures (Anderson and Stothers 1978, Fingl 1980, Schofield and Hsieh 1983, Stephen *et al.* 1991, Cocchetto and Levy 1981, Gomez *et al.* 1995, Heizer *et al.* 1997). The concentrations of sulfate that induced these effects varied, but all occurred at concentrations >500 mg/L. A sulfate intake sufficient to produce a laxative effect when taken in one dose (5,400 mg) did not have the same effect when divided into four sequential hourly doses (Cocchetto and Levy 1981).

Chronic exposure to sulfate may not have the same laxative effect as an acute exposure since humans appear to develop a tolerance to drinking water with high sulfate concentrations (Schofield and Hsieh 1983). It is not known when this acclimation occurs; however in adults, acclimation is thought to occur within one to two weeks (USEPA 1999c).

Evidence indicates that sulfate concentrations do not exert adverse reproductive or developmental effects at concentrations as high as 5,000 mg/L (Andres and Cline 1989).

Although several studies (Peterson 1951, Moore 1952, Cass 1953) have been conducted on the long-term exposure of humans to sulfate in drinking water, none of them can be used to derive the relationship between a quantified exposure and adverse health effects (a dose-response characterization).

As required by SDWA, and discussed previously in this section, EPA and the CDC completed a study, "Health Effects from Exposure to High Levels of Sulfate in Drinking Water Study", (CDC and USEPA 1999b) in January 1999. The overall purpose of the Sulfate Study was to examine the association between consumption of tap water containing high levels of sulfate and reports of osmotic diarrhea (an increase in stool volume) in susceptible populations (infants and transients). Specifically, the CDC researchers designed field investigations of infants naturally exposed to high levels of sulfate in the drinking water provided by PWSs and an experimental trial of exposure in adults.

The CDC investigators were unable to study infants receiving their first bottles containing tap water with high levels of sulfate because the population of infants exposed to sulfate through their formula was not large enough to support the statistical requirements of such a study (USEPA 1999b). In the study of adult volunteers representing a transient population, the investigators did not find an association between acute exposure to sodium sulfate in tap water and reports of diarrhea. A total of 105 adult participants were randomly assigned to five sulfate-exposure groups (0, 250, 500, 800, and 1,200 mg/L) and were exposed to sulfate in bottled water over a period of six days. There was no significant dose-response association between acute exposure to sodium sulfate in water and reports of diarrhea. However, there was a weak (not statistically significant) increase in reports of increased stool volume at the highest dose level when it was compared to the combined lower doses.

As a supplement to the Sulfate Study, the CDC, in coordination with EPA, convened an expert workshop (USEPA 1999d), open to the public, in Atlanta, Georgia, on September 28, 1998 (64 CFR 7028). The expert scientists reviewed the available literature and the Sulfate Study results. They favored a health advisory for sulfate-containing drinking water at levels greater than 500 mg/L (USEPA 1999d). The most sensitive endpoint was considered by the panelists to be osmotic diarrhea. The panel noted that none of the reported data for humans identify laxative effects at concentrations of 500 mg/L or below. In most situations where laxative effects were observed at concentrations below 800 mg/L, the water contained other osmotically active contaminants such as magnesium or had been mixed with powdered infant formula. These data

suggest that the total concentration of osmotically active contaminants needs to be significantly higher than the 500 mg/L health-based advisory. The Agency used an HRL of 500 mg/L for evaluating the occurrence data, based on the recommendations of the CDC and EPA Panel (USEPA 1999d).

Potential susceptibility of life-stages and other sensitive populations. A potential sensitive population for dehydration resulting from diarrhea are infants receiving formula made with unfiltered tap water containing sulfate. Other groups include transient populations (i.e., tourists, hunters, students, and other temporary visitors) and people moving from areas with low sulfate drinking water concentrations into areas with high concentrations.

The health-based advisory value of 500 mg/L will protect against sulfate's laxative effects, even in formula-fed infants, in the absence of high concentrations of other osmotically active chemicals in the water. In situations where the water contains high concentrations of total dissolved solids and/or other osmotically active ions, laxative-like effects may occur if the water is mixed with concentrated infant formula or powdered nutritional supplements. In such situations, an alternate low-mineral-content water source is advised.

c. Occurrence and exposure. Sulfate was monitored under Round 2 of the UCM program. The State cross-section occurrence estimate is very high with 87% of the samples (35,221 of 40,484) showing detections. The median and the 99th percentile concentrations of all samples are 24 mg/L and 560 mg/L, respectively.

The Round 2 cross-section analysis shows that approximately 5% of the reporting PWSs have detections >½ HRL (820 out of 16,495 PWSs), affecting about 10.2% of the population served (5.1 million out of 50.4 million people). The percentage of the reporting PWSs with detections >HRL is approximately 1.8% (300 out of 16,495 PWSs), affecting about 0.9% of the population served (448,300 out of 50.4 million people).

Additional data from the States of Alabama, California, Illinois, Montana, New Jersey, and Oregon were examined. Of these States three had 99th percentile concentrations that exceeded the suggested HRL. A comparison between the 20-State cross-section data and the supplemental State data shows very similar results for sulfate detection frequencies in PWSs.

d. Preliminary determination. The Agency has made a preliminary determination not to regulate sulfate with a NPDWR since regulation would not present a meaningful opportunity for health risk reduction for persons served by public drinking water systems. This preliminary decision is based on the weight of evidence suggesting that the risk of adverse health effects to the general population is limited and acute (a short duration laxative-related response) and occurs at high drinking water concentrations (>500 mg/L, and in many cases >1,000 mg/L). In addition, people either develop a tolerance for high concentrations of sulfate in drinking water, or they decrease the amount of water they drink at one time, most likely because of the taste of the water (the taste threshold is 250 mg/L).

EPA intends to issue an advisory to provide guidance to communities that may be exposed to drinking water contaminated with high sulfate concentrations.

V. Specific Requests for Comment, Data or Information

EPA is requesting public comment on today's action. EPA intends to respond to the public comments it receives and issue final regulatory determinations in late 2002. If the Agency determines that regulations are warranted, the regulations would then need to be formally proposed within 24 months of the determination to regulate, and promulgated 18 months following the proposal.

VI. References

Abraham, S. and M.D. Carroll. 1981. Fats, cholesterol, and sodium intake in the diet of persons 1–74 years: United States. Advance data From Vital and Health Statistics of the National Center for Health Statistics. no. 54. pp. 1–11.

Agency for Toxic Substances and Disease Registry (ATSDR). 1993. Toxicological Profile for Aldrin/Dieldrin (Update). Atlanta, GA. U.S. Department of Health and Human Services, Public Health Service. 184 pp.

ATSDR. 1994. Toxicological Profile for Hexachlorobutadiene. U.S. Department of Health and Human Services, Public Health Service. 135 pp. and Appendices.

ATSDR. 1995. Toxicological Profile for Naphthalene (Update). Atlanta, GA. U.S. Department of Health and Human Services, Public Health Service. 200 pp.

ATSDR. 2000a. Toxicological Profile for Aldrin and Dieldrin. Draft for public comment. Atlanta, GA. U.S. Department for Health and Human Services, Public Health Service. Available on the Internet at: http://www.atsdr.cdc.gov/toxprofiles/tp1.html.

ATSDR. 2000b Toxicological Profile for Manganese (Update). Atlanta, GA. U.S. Department of Health and Human Services, Public Health Service. 466 pp. and Appendices.

Anderson, D.M. and S.C. Stothers. 1978. Effects of saline water high in sulfates, chlorides and nitrates on the performance of young weanling pigs. Journal of Animal Science. v. 47, no. 4. pp. 900–907.

Andres, C.J. and T.R. Cline. 1989. Influence of sulfate in drinking water on mouse reproduction during two parities. Journal of Animal Science. v. 67, pp. 1313–1317.

Badaeva, L.N. 1983. Structural and metabolic indexes of the postnatal neurotoxicity of organochloride pesticides. Dopov. Akad. Nauk. Ukr. pp. 55–58. (CA 099:083463W), (As cited in USEPA, 1991).

Battelle Columbus Laboratory. 1980. Unpublished subchronic toxicity study: naphthalene (C52904) Fisher 344 rats. Report to the U.S. Department of Health and Human Services, National Toxicology Program, Research Triangle Park, NC, by Battelle Columbus Laboratories, Columbus, OH, under Subcontract No. 76–34–106002.

Callaway, W. 1994. Reexamining cholesterol and sodium recommendations. Nutrition Today. v. 29, no. 5, pp. 32–36.

Cass, J.S. 1953. Report on the Physiological Effects of some Common Inorganic Salts in Water on Man and Domestic Animals. Cincinnati, OH: The Ohio River Valley Water Sanitation Commission.

Center for Disease Control and Prevention (CDC). HIV/AIDS Surveillance Report. 1997. 9(1): 32.

Cocchetto, D.M. and G. Levy. 1981. Absorption of orally administered sodium sulfate in humans. Journal of Pharmaceutical Sciences. v. 70, no. 3, pp. 331–333.

Dahl, L.N. 1960. Possible Role of Salt Intake in the Development of Essential Hypertension. In Essential Hypertension: An International Symposium. Cottier, P. and K.D. Bock, eds. Heidelberg, Federal Republic of Germany: Springer-Verlag. (As cited in NRC, 1989).

DeGenaro, F. and W.L. Nyhan. 1971. Salt—a dangerous "antidote." The Journal of Pediatrics. v. 78, no. 6, pp. 1048–1049.

Elliot, P. 1991. Observational Studies of Salt and Blood Pressure. Hypertension. v. 17 (Supplement I), no. 1., pp. I3–I8.

Elton, N.W., W.J. Elton, and J.P. Nazareno. 1963. Pathology of acute salt poisoning in infants. The American Journal of Clinical Pathology. v. 29, no. 3, pp. 252–264.

Federal Register, Vol. 51, No. 185. Guidelines for carcinogen risk assessment. September 24, 1986. 33992–34003. (51 FR 33992).

Federal Register, Vol. 52, No. 130. Drinking water, proposed substitution of contaminants and prosed list of additional substances which may require regulation under the Safe Drinking Water Act. July 8, 1987. 25720–25734. (52 FR 25720).

Federal Register, Vol. 62, No. 193. Announcement of the Draft Drinking Water Contaminant Candidate List; Notice. October 6, 1997. 52193–52219. (62 FR 52193).

Federal Register, Vol. 63, No. 40. Announcement of the Draft Drinking Water Contaminant Candidate List; Notice. March 2, 1998. 10273. (63 FR 10273).

Federal Register, Vol. 59, No. 145. National Primary Drinking Water Regulation Enhanced Surface Water Treatment Rule. July 29, 1999. 38835. (59 FR 38835).

Ferrante, A. 1991. Free-living amoeba: Pathogenicity and immunity. Parasite Immunology. v. 13, pp. 31–47.

Fingl, E. 1980. The Pharmacology Basis of Therapeutics. Chapter 43: Laxatives and Cathartics. 6th ed. A.G. Gilman, L.S. Goodman, and A. Gilman, eds. New York, NY: MacMillan Publication Co., Inc.

Freeland-Graves, J. 1994. Derivation of Manganese Estimated Safe and Adequate Daily Dietary Intakes. In Risk Assessment of Essential Elements. Merts, W., C.O. Abernathy, and S.S. Olin, eds. Washington, D.C.: ILSI Press.

Frost, C.D., M.R. Law, and N.J. Wald. 1991. By how much does dietary salt reduction lower blood pressure? II: Analysis of observational data within populations. British Medical Journal. v. 302, pp. 815–818.

Gibson, 1994. Gibson, R.S. 1994. Content and bioavailability of trace elements in vegetarian diets. Am J Clin Nutr 59(5 Suppl):1223S–1232S. (As cited by NIM. 2001)

Gomez, G.G., R.S. Sandler, and E. Seal. 1995. High levels of inorganic sulfate cause diarrhea in neonatal piglets. Human and Clinical Nutrition. pp. 2325–2332.

Hallberg, G.R., D.G. Riley, J.R. Kantamneni, P.J. Weyer, and R.D. Kelley. 1996. Assessment of Iowa Safe Drinking Water Act Monitoring Data: 1988–1995. Research Report No. 97–1. Iowa City: The University of Iowa Hygienic Laboratory. 132 pp.

Harleman, J.H. and W. Seinen. 1979. Short-term toxicity and reproduction studies in rats with hexachloro-(1,3)-butadiene. Toxicology and Applied Pharmacology. v. 47, pp. 1–14.

Heizer, W.D., R.S. Sandler, E. Seal, S.C. Murray, M.C. Busby, B.G. Schliebe, and S.N. Pusek. 1997. Intestinal effects of sulfate in drinking water on normal human subjects. Digestive Diseases and Sciences. v. 42, no. 5, pp. 1055–1061.

Hook, J.B., J. Ishmael, and E.A. Lock. 1983. Nephrotoxicity of hexachloro-1,3-butadiene in the rat: the effect of age, sex, and strain. Toxicology and Applied Pharmacology. v. 67, pp. 122–131.

Howard, P.H. 1989. Handbook of Environmental Fate and Exposure Data for Organic Chemicals. Volume 1: Large Production and Priority Pollutants. Chelsea, MI: Lewis Publishers, Inc.

Kawamura, R., H. Ikuta, S. Fukuzimi, R. Yamada, and S. Tsubaki. 1941. Intoxication by manganese in well water. Kitasato Archives of Experimental Medicine. v. 18, pp. 145–169.

Kociba, R.J., D.G. Keyes, G.C. Jersey, J.J Ballard, D.A. Dittenber, J.F. Quast, C.E. Wade, C.G. Humiston, and B.A. Schwetz. 1977. Results of a two year chronic toxicity study with hexachlorobutadiene in rats. American Industrial Hygiene Association. v. 38, pp. 589–602.

Kondakis, X.G., N. Makris, M. Leotsinidis, M. Prinou, and T. Papapetropoulos. 1989. Possible health effects of high manganese concentration in drinking water. Achieves of Environmental Health. v. 44, no. 3, pp. 175–178.

Kotchen, T.A. and D.A. McCarron. 1998. Dietary electrolytes and blood pressure: A statement for healthcare professionals from the American heart association nutrition committee. AHA Nutrition Committee. pp. 613–617.

Kurtzweil, P. 1995. The New Food Label: Scouting for Sodium And Other Nutrients Important to Blood Pressure. U.S. Food and Drug Administration. Available on the Internet at: http://www.cfsan.fda.gov/dms/fdsodium.html, accessed April, 27, 2001.

Lock, E.A., J. Ishmael, and J.B. Hook. 1984. Nephrotoxicity of Hexachloro-1,3-butadiene in the Mouse: The Effect of Age, Sex, Strain, Monooxygenase Modifiers, and the Role of Glutathione. Toxicology and Applied Pharmacology. v. 72, pp. 484–494.

Marshall, M.M., D. Naumovitz, Y.O. Ortega, and C.R. Sterling. 1997. Waterborne protozoan pathogens. Clinical Microbiology Reviews. v. 10, no. 1, pp. 67–85.

Martinez, A.J. and G.S. Visvesvera. 1997. Free living, amphizoic and opportunistic amoebas. Brain Pathology. v. 7, no. 1, pp. 583–98.

McCarron, D. 1998. Diet and Blood Pressure-The Paradigm Shift. Science's Compass. v. 281, pp. 933–943.

Meier, P.A., W.D. Mathers, J.E. Sutphin, R. Folberg, T. Hwang, and R.P. Wenzel. 1998. An epidemic of presumed Acanthamoeba keratitis that followed regional flooding. Results of a case-control investigation. Archives of Ophthalmologica. v. 116, pp. 1090–1094.

Moore, E.W. 1952. Physiological effects of the consumption of saline drinking water. A progress report to the subcommittee on water supply of the committee on sanitary engineering and environment. Water Supply Bulletin. Appendix B.

Muntzel, M. and T. Drueke. 1992. A Comprehensive Review of the Salt and Blood Pressure Relationship. The American Journal of Hypertension. v. 5, no. 4, pp. 1S–42S.

National Academy of Sciences (NAS). 1977. Drinking Water and Health. Safe Drinking Water Committee. Advisory Center on Toxicology Assembly of Life Sciences National Research Council, Washington, D.C.

National Institute of Health (NIH). 1993. Working Group Report on Primary Prevention of Hypertension. National High Blood Pressure Education Program. National Heart, Lung, and Blood Institute. Public Health Service. U.S. Department of Health and Human Services. NIH Publication No. 93–2669.

National Institute of Medicine (NIM). 2001. Dietary Reference Intakes. Chapter 10 Manganese. National Academy Press. Washington, D.C.

National Research Council (NRC). 1983. Risk Assessment in the Federal Government: Managing the Process. National Research Council, National Academy Press, Washington, D.C.

NRC. 1989. Recommended dietary allowances. National Academy of Sciences. National Academy Press, Washington, D.C. pp. 247–261.

NRC. 1994. Science and Judgment in Risk Assessment, National Academy Press, Washington, D.C.

NRC. 1999. Setting priorities for drinking water contaminants. National Academy Press, Washington, D.C.

National Toxicology Program (NTP). 1991. Toxicity studies of hexachloro-1,3-butadiene in B6C3F$_1$ mice (feed studies). U.S. Department of Health and Human Services, Public Health Service. National Institutes of Health, Research Triangle Park, NC. NIH Publication No. 91–3120.

NTP. 1992. Toxicology and carcinogenesis studies of naphthalene (CAS no. 91–20–3) in B6C3F$_1$ mice (inhalation studies). National Toxicology Program, U.S. Department of Health and Human Services. National Institutes of Health, Rockville, MD. Technical Report No. 410. NIH Publication No. 92–3141.

NTP. 2000. Draft technical report on the toxicology and carcinogenesis studies of naphthalene in F344/N rats (inhalation studies). National Toxicology Program, U.S. Department of Health and Human Services. National Institutes of Health, Rockville, MD. Technical Report No. 500. NIH Publication No. 00–4434.

Pangborn, M.R. and S.D. Pecore. 1982. Taste perception of sodium chloride in relation to dietary intake of salt. The American Journal of Clinical Nutrition. v. 35, pp. 510–520.

Pennington, J.A.T., B.E. Young, and D.B. Wilson. 1984. Nutritional elements in US diets: Results form the Total Diet Study, 1982 to 1986. The Journal of the American Dietetic Association. v. 89, no. 5, pp. 659–670.

Peterson, N.L. 1951. Sulfates in Drinking Water. Official Bulletin: North Dakota Water and Sewage Works Conference 18(10&11): 6–11.

Sacks, FM, L.P. Svetkey, W.M. Vollmer, L.J. Appel, G.A. Bray, D. Harsha, E. Obarzanek, P.R. Conlin, E.R. Miller, D.G. Simons-Morton, N. Karanja, P.H. Lin. 2001. Effects on blood pressure of reduced dietary sodium and the dietary approaches to stop hypertension (DASH) diet. New England Journal of Medicine. v. 344, no. 1, pp 3–10.

Sanchez-Castillo, C.P., S. Warrender, T.P. Whitehead, and W.P. James. 1987. An assessment of the sources of dietary salt in a British population. Clin Sci 72:95–102. (As cited in NRC 1989).

Salt Institute. 2000. SI Report. Available on the Internet at: http://www.saltinstitute.org/news00–8.html. accessed on March 6, 2000.

Schaumberg, D.A., K.K. Snow, and M.R. Dana. 1998. The Epidemic of Ancanthamoeba keratitis: Where do we stand? Cornea. v. 17, no. 1, pp. 3–10.

Schmähl, D. 1955. (Testing of naphthalene and anthracene as carcinogenic agents in the rat). Zeit. Krebsforsch. v. 60, pp. 697–710. (In German), (As cited in USEPA, 1998d).

Schofield, R. and D. Hsieh. 1983. Criteria and Recommendations for Standards for Sulfate in Military Field Water Supplies. Lawrence Livermore National Laboratory. University of California, Livermore, CA: Department of Environmental Toxicology, University of California at Davis, Davis, CA. UCRL–53481–4.

Seal, D., F. Stapleton, and J. Dart. 1992. Possible Environmental sources of Acanthamoeba spp. in contact lens wearers. British Journal of Ophthalmology. v. 76, pp. 424–427.
Sowers, J.R. and M. Lester. 2000. Hypertension, hormones, and aging. The Journal of Laboratory and Clinical Medicine. v. 135, pp. 379–386.
Stehr-Green, J.K., T.M. Bailey, and G.S. Visvesvara. 1989. The epidemiology of Ancanthamoeba keratitis in the United States. American Journal of Ophthalmology. v. 107, no. 4, pp. 331–336.
Stephen, A.M., W.J. Dahl, and D.R. Morgan. 1991. Effect of high sulfate drinking water on gastrointestinal function and methane production in healthy subjects—A pilot study. Proceedings of the Canadian Federal Biological Society. Annual Meeting Publication No. 301 (Abstract).
Sullivan, J.M. 1991. Salt sensitivity: definition, conception, methodology, and long-term issues. Hypertension. v. 17, no. 1, pp. I61–I68.
Svetkey, L.P., S.P. McKeown, and A.F. Wilson. 1996. Heritability of salt sensitivity in black Americans. Hypertension. v. 28, no. 5, pp. 854–858.
Taubes, G. 1998. The (political) science of salt. Science. v. 281, pp. 898–907.
United States Environmental Protection Agency (USEPA). 1976. National Interim Primary Drinking Water Regulations, Office of Water Supply.
USEPA. 1988. Integrated Risk Information System (IRIS), Aldrin. Available on the Internet at: http://www.epa.gov/iris/subst/0130.htm, last updated March 1, 1988.
USEPA. 1990. Integrated Risk Information System (IRIS), Dieldrin. Available on the Internet at: http://www.epa.gov/iris/subst/0225.htm, last updated September 1, 1990.
USEPA. 1991. Integrated Risk Information System (IRIS), Hexachlorobutadiene. Available on the Internet at: http://www.epa.gov/iris/subst/0058.htm, last updated May 5, 1993.
USEPA. 1993a. Integrated Risk Information System (IRIS), Aldrin. Available on the Internet at: http://www.epa.gov/iris/subst/0130.htm, last updated July 1, 1993.
USEPA. 1993b. Integrated Risk Information System (IRIS), Dieldrin. Available on the Internet at: http://www.epa.gov/iris/subst/0225.htm, last updated July 1, 1993.
USEPA. 1996. Integrated Risk Information System (IRIS), Manganese. Available on the Internet at: http://www.epa.gov/iris/subst/0373.htm, last updated November 1, 1995.
USEPA. 1998a. Demographic Distribution of Sensitive Population Groups. Final Report. Prepared by SRA Technologies, Inc., Falls Church, VA. Work Assignment No. B–11/22 (SRA 557–05/14: February 24). 95 pp.
USEPA. 1998b. Ambient Water Quality Criteria for the Protection of Human Health: Hexachlorobutadiene (HCBD): Draft. EPA Report 822–R–98–004. Office of Water, USEPA. 49 pp.
USEPA. 1998c. Reregistration Eligibility Decision (RED) Metribuzin. EPA 738–R–97–006. Office of Prevention, Pesticides, and Toxic Substances, USEPA. Available on the Internet at http://www.epa.gov/REDs/0181.red.pdf
USEPA. 1998d. Integrated Risk Information System (IRIS), Toxicological Review of Naphthalene. Available on the Internet at: http://www.epa.gov/iris/toxreviews/0436-tr.pdf, last updated September 17, 1998.
USEPA. 1999a. A Review of Contaminant Occurrence in Public Water Systems. EPA Report 816–R–99–006. Washington, D.C.: Office of Water, USEPA. 78 pp.
USEPA. 1999b. Guidelines for Carcinogen Risk Assessment. Review Draft. July 1999 U.S. Environmental Protection Agency Risk Assessment Forum. Washington, DC:
USEPA. 1999c. Health Effects From Exposure to High Levels of Sulfate in Drinking Water Study. EPA Report 815–R–99–001. Washington, DC: Office of Water, USEPA.
USEPA. 1999d. Health Effects From Exposure to High Levels of Sulfate in Drinking Water Workshop. EPA Report 815–R–99–002. Washington, DC: Office of Water, USEPA.
USEPA. 2001a. Research Plan for the Drinking Water Contaminant Candidate List. Draft. 103 pp. and Appendices.
USEPA. 2001b. Analysis of National Occurrence of the 1998 Contaminant Candidate List (CCL) Regulatory Determination Priority Contaminants in Public Water Systems. EPA Report 815–D–01–002. Washington, DC: Office of Water, USEPA. 77 pp. and Appendices.
USEPA. 2001c. Occurrence in Estimation Methodology and Occurrence Findings Report for Six-Year Regulatory Review. Draft Report. Washington, DC: Office of Ground Water and Drinking Water, USEPA. 50 pp.
USEPA. 2001d. TRI Explorer: Trends. Available on the Internet at: http://www.epa.gov/triexplorer/trends.htm, last updated May 5, 2000.
United States Geological Survey (USGS). 1999. The Quality of Our Nation's Waters: Nutrients and Pesticides. U.S. Geological Survey Circular 1225. Reston, VA: USGS. pp. 82.
Vieregge, P., B. Heinzow, G. Korf, H.M. Teichert, P. Schleifenbaum, and H.U. Mösinger. 1995. Long term exposure to manganese in rural well water has no neurological effects. The Canadian Journal of Neurological Sciences. v. 22, pp. 286–289.
Visvesvara, G. S. and J. K Stehr-Green. 1990. Epidemiology of free-living ameba infections. J. Protozool. v. 37, pp. 25S–333.
Vogt, T.M., L.J Appel, E. Obarzanek, T.J. Moore, W.M. Vollmer, L.P. Svetkey, F.M. Sacks, G.A. Bray, J.A. Cutler, M.M.Windhauser, L. Pao-Hwa and N.M. Karanja. 1999. Dietary approaches to stop hypertension: Rationale, design, and methods. Journal of American Dietetics Association. v. 99, no. 8, pp. S12–S18.
World Health Organization (WHO). 1979. Sodium, Chlorides, and Conductivity in Drinking-Water. Euro Reports and Studies. Copenhagen, Denmark: Regional Office for Europe, WHO.

Dated: May 24, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–13796 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[DA 02–1158, MB Docket No. 02–110, RM–10406]

Radio Broadcasting Services; Rose Hill and La Grange, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Conner Media, Inc. requesting the substitution of Channel 284C3 for Channel 284A at Rose Hill, North Carolina, reallotment of Channel 284C3 from Rose Hill, North Carolina, to La Grange, North Carolina, and modification of the license for Station WZUP to specify operation on Channel 284C3 at La Grange, North Carolina, as its community of license. The coordinates for Channel 284C3 at Rose Hill are 35–16–00 and 77–58–00. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 284C3 at La Grange.

DATES: Comments must be filed on or before July 8, 2002, and reply comments on or before July 23, 2002.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Peter Gutmann, Pepper & Corazzini, 1776 K Street, NW, Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–110, adopted May 1, 2002, and released May 17, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Rose Hill, Channel 284A and adding La Grange, Channel 284C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

[FR Doc. 02–13822 Filed 5–31–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020523131–2131–01; I.D. 051502C]

RIN 0648–AQ01

Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; American Samoa; Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; establishment of a revised control date.

SUMMARY: NMFS announces that persons who enter the pelagic longline fishery in the U.S. exclusive economic zone (EEZ) around American Samoa after March 21, 2002, ("control date") are not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) prepares and NMFS approves a program limiting entry or effort. This action does not commit the Council or NMFS to limit entry, or prevent any other date from being selected for eligibility to participate in the American Samoa longline fishery. The Council or NMFS may also use other criteria to limit fishing effort or participation in a limited entry program that is developed in the future.

DATES: Comments must be submitted in writing by July 3, 2002.

ADDRESSES: Comments may be mailed to Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700; or faxed to 808–973–2941. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Council Executive Director, at 808–522–8220.

SUPPLEMENTARY INFORMATION: Between 1996 and 2001, the domestic longline fishery operating in waters of the EEZ around American Samoa grew appreciably in both size and landings. In 1996, 13 small vessels using longline gear landed approximately 233,000 lb (106 mt) of albacore in American Samoa; however, by the end of 2001 more than seven million lb (3,176 mt) of albacore were landed by 78 longline fishing vessels of various sizes. Due to their size and limited fishing range, the smaller local longline vessels generally do not travel beyond 50 nm offshore from the islands. Although the larger domestic longline vessels (≤50 ft in length) are capable of fishing beyond 200 nm from the islands of American Samoa, only a few have agreements with neighboring Pacific island nations, such as Tonga or Samoa (formerly known as Western Samoa), to fish the EEZs of Tonga and Samoa. Furthermore, U.S. longline fishing vessels do not have access to the high seas in proximity to American Samoa under the South Pacific Tuna Act. However, it is expected that access to those waters will be available no later than June 2003. Hence, domestic longline vessels are predominantly confined to fishing within the EEZ around American Samoa. In anticipation of an eventual need to limit this fishing effort due to the concentration of longliners operating around American Samoa, the Council recommended and NMFS established 50–nm area closures in nearshore EEZ waters around the islands to all large fishing vessels, including longliners, that target pelagic species (67 FR 4369, January 30, 2002). Also, the Council previously established two control dates (November 13, 1997 and July 15, 2000) for this fishery. Control dates are intended to discourage speculative entry into fisheries, as new entrants entering the fishery after the control date are forewarned that they are not guaranteed future participation in the fishery. The Council recommended that NMFS issue a third control date of March 21, 2002, while it develops a limited entry system for the domestic longline fishery based in American Samoa. The Council recommended this new control date, which is hereby established by NMFS, because fishery data up to March 21, 2002, did not indicate that the number of vessels or level of fishing effort was causing gear conflict or adverse impact on fishery stocks. It is assumed that limiting entry to the participants in the fishery before the previous control date would unnecessarily restrict fishing effort and limit economic returns from this resource. This new control date supersedes both the 1997 and 2000 control dates.

This control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the American Samoa longline fishery. Fishermen are not guaranteed future participation in this fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of commercial landings and sales, may be used to determine eligibility for participation in a limited access fishery. The Council also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 28, 2002.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 02–13854 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 106
Monday, June 3, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant BTG International, Inc. of West Conshohocken, Pennsylvania, an exclusive license to U.S. Patent Application Serial No. 09/522,401, "Transformation of Plants with a Chloroperoxidase Gene to Enhance Disease Resistance," filed on March 9, 2000. Notice of Availability of this invention for licensing was published in the **Federal Register** on March 13, 2001.

DATES: Comments must be received within thirty (30) calendar days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as BTG International, Inc. has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Michael D. Ruff,
Assistant Administrator.
[FR Doc. 02–13772 Filed 5–31–02; 8:45 am]
BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant Princeton Multimedia Technologies Corp. of Princeton, New Jersey, an exclusive license to U.S. Patent No. 5,233,520, "Method and System for Measurement of Intake of Foods, Nutrients and Other Food Components in the Diet," issued on August 3, 1993. Notice of Availability of this invention for licensing was published in the **Federal Register** on July 3, 1991.

DATES: Comments must be received within thirty (30) calendar days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Princeton Multimedia Technologies Corp. has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Michael D. Ruff,
Assistant Administrator.
[FR Doc. 02–13771 Filed 5–31–02; 8:45 am]
BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–018N]

National Advisory Committee on Meat and Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The National Advisory Committee on Meat and Poultry Inspection (NACMPI) will hold a public meeting on June 5–6, 2002, to review and discuss three issues: New Technologies in Meat and Poultry Operations, the Farm Security and Rural Investment Act of 2002 (Public Law 107–171), and the FSIS Field Workforce. Three subcommittees of the full committee will also meet on June 5, 2002, to work on the issues discussed during the full Committee session. All interested parties are welcome to attend the meetings and to submit written comments and suggestions concerning issues the Committee will review and discuss.

DATES: The full Committee will hold a public meeting on Wednesday, June 5, and Thursday, June 6, 2002 from 8:30 a.m. to 5 p.m. Subcommittees will hold open meetings on Wednesday, June 5, 2002 from 7 p.m. to 9 p.m.

Note: FSIS was not able to publish notification of this public meeting in the **Federal Register** at least 15 days prior to the meeting, as required by Departmental Regulation 1041–001, due to late changes to the agenda.

ADDRESSES: All Committee meetings will take place at the Georgetown University Conference Center, 3800 Reservoir Road NW, Washington, DC.

20057. The full committee will meet in the Grand Ballroom A & G. The subcommittee meetings will be held in Conference Room 2, Conference Room 4, and Conference Room 5 and 6. A meeting agenda is available on the FSIS Web site at *http://www.fsis.usda.gov/OPPDE/nacmpi*, which is a sub-Web page of the FSIS home page at *http://www.fsis.usda.gov*. Submit one original and two copies of written comments to FSIS Docket Room, Docket #02–018N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex, 300 12th Street SW, Washington, DC 20250–3700. Comments may also be sent by facsimile (202) 205–0381. The comments and the official transcript of the meeting, when they become available will be kept in the FSIS Docket Room at the address provided above. All comments received in response to this notice will be considered part of the public record and will be available for reviewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles L. Gioglio for technical information at (202) 205–0256 and Sonya L. West for meeting information at (202) 720–2561, FAX (202) 205–0157, or e-mail *sonya.west@usda.gov*. Persons requiring a sign language interpreter or other special accommodations should notify Ms. West by May 29, 2002, at the above numbers or by e-mail. Information is also available on FSIS Web site at *http://www.fsis.usda.gov/OPPDE/nacmpi*.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 2001, the Secretary of Agriculture renewed the charter for the NACMPI. The Committee provides advice and recommendations to the Secretary of Agriculture pertaining to the Federal and State meat and poultry inspection programs pursuant to sections 301 (a)(4),7(c), 24, 205, 301(a)(3), and 301(c) of the Federal Meat Inspection Act and sections 5(a)(3), 5 (a)(4), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act. The Administrator of FSIS is the chairperson of the Committee. Membership of the Committee is drawn from representatives of consumer groups; producers, processors, and marketers from the meat and poultry industry; State government officials; and academia. The current members of the NACMPI are: Dr. Gladys Bayse, Spelman College; Nancy Donley, Safe Tables Our Priority; Sandra Eskin, American Association of Retired Persons; Dr. James Denton, University of Arkansas; Carol Tucker Foreman, Food Policy Institute, Consumer Federation of America; Michael Govro, Oregon Department of Agriculture; Martin Holmes, North American Meat Processors; Dr. Lee C. Jan, Texas Department of Health; Dr. Alice Johnson, National Food Processors Association; Collette Schulty Kaster, Premium Standard Farms; Dr. Daniel E. Lafontaine, South Carolina Meat-Poultry Inspection Department; Dr. Irene Leech, Virginia Tech; Charles Link, Cargill Turkey Products; Dr. Catherine Logue, North Dakota State University; Dr. Dale Morse, New York Department of Health; John Neal, Courseys Smoked Meats, and Michael Mamminga, Iowa Department of Agriculture and Land Stewardship.

The Committee has three subcommittees to deliberate on specific issues and make recommendations to the whole Committee.

Members of the public will be required to register before entering the meeting.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC, on May 29, 2002.
William J. Hudnall,
Acting Administrator.
[FR Doc. 02–13797 Filed 5–31–02; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Kennedy-Cottonwood Stewardship Project, Boise National Forest, Gem and Valley Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Emmett Ranger District of the Boise National Forest will prepare an environmental impact statement (EIS) for a resource management project within the Squaw Creek drainage. The entire project area is within the Kennedy and Pine Creek subwatersheds, which are tributaries to Squaw Creek. The project area is located about 50 miles north of Boise, Idaho.

The Forest Service invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decisionmaking process that will occur on the proposal so interested and affected Federal, State, tribal, and local agencies, as well as individuals and organizations are aware of how they may participate and contribute to the final decision. The information received will be used in preparing a final EIS.

DATES: Written comments concerning the proposed project should be postmarked within 30 days from the date of publication of this announcement in the **Federal Register**.

ADDRESSES: Comments should be addressed to John Erickson, District Ranger, Emmett Ranger District, 1805 Highway 16, Emmett, ID 83617.

FOR FURTHER INFORMATION CONTACT: terry Hardy, Project Team Leader, by telephone at 208–373–4235.

SUPPLEMENTARY INFORMATION: *Proposed Action:* Two primary objectives have been identified for the project: (1) modify travel and access management in the North Kennedy-Cottonwood project area by improving road conditions and decreasing the open road density. These actions would decrease big game vulnerability, restore fish habitat connectivity, and reduce sediment delivery from roads to streams while enhancing motorized recreational vehicle opportunities, and (2) restore seral, shade intolerant species (e.g., ponderosa pine) by adjusting tree

stocking levels, stand structure, and species composition to conditions more consistent with the long-term disturbance regimes characteristic of the North Kennedy-Cottonwood project area. These action would promote the late- and early-seral forest structures that have declined within the project area and reduce the current and future stand susceptibility to forest insects.

The Proposed Action would eliminate yearlong travel by full-size motorized vehicles on 21 miles of roads, designate and sign 16 miles of roads as multiple-use to promote safe operation of motorized all-terrain vehicles (ATVs), decommission 2.5 miles of classified roads, reconstruct approximately 7 miles of classified roads to facilitate harvest activities, and replace/remove three culverts that are barriers to fish passage. Approximately 1 mile of unclassified roads would be improved to provide temporary access to facilitate harvest activities; these roads would be closed and revegetated upon completion of management activities.

The Proposed Action provides for vegetation management on approximately 4,500 acres in the 8,570-acre project area. The Proposed Action would employ a variety of silvicultural prescriptions that utilize commercial timber harvest and precommercial thinning. Silvicultural prescriptions for the proposed action are shaded fuel break (120 acres), commercial/precommercial thinning (3,380 acres), shelterwood regeneration (450 acres), and improvement (360 acres). Timber would be harvested using ground-based and skyline yarding systems. In addition, approximately 200 acres would be planted with seedlings to ensure desired species are established in a timely manner.

Preliminary Issues: A March 2001 scoping letter generated the following:

Issue 1: Too many open roads invite 4x4 vehicles and ATVs to drive off designated roads and harass wildlife. All roads that are either not graveled or a main access route should be closed after use. If roads are closed after use, big game security and vulnerability would be improved and the area will recover more quickly than if the public has too much access to keep the area disturbed.

Issue 2: Administrative road closures, as applied in the past, have been ineffective. Reclosing rather than obliterating, ineffectively closed roads will only prolong the ecological detriment associated with roads and illegal access. In addition, proposed road reconstruction, especially on those roads involving stream crossings, will not be adequate to substantially decrease sediment to area streams. Road obliteration/decommissioning of roads would be more effective in eliminating future risks to water quality and wildlife.

Possible Alternatives to the Proposed Action: The following alternatives to the proposed action have been discussed thus far and will be considered in the draft environmental impact statement: a no action alternative; a second action alternative that increases the miles of roads in a yearlong closure status and increases miles of roads decommissioned.

Decisions to be Made: The Boise National Forest supervisor will decide the following: (1) Should roads be closed, decommissioned and/or reconstructed within the North Kennedy-Cottonwood Stewardship project area at this time; and if so, where within the project area, and how many miles of road should be treated; (2) based on these management decisions for roads status, which culverts should be replaced or removed to provide habitat connectivity for aquatic species; and (3) should commercial thinning, precommercial thinning and timber harvest be conducted within the project area; and if so, where within the project area and how many acres.

Public Involvement and Comments: Written comments concerning the proposed project should be postmarked within 30 days from the day after publication of this announcement in the **Federal Register.**

Comments received in response to this solicitation, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available to public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality might be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentially, and where the request is denied, the agency will return the submission and notify the requester the comments may be resubmitted with or without name and address within 10 days.

Schedule: The draft EIS is anticipated to be available for public review and comment in June 2002, the final EIS is anticipated to be available in September 2002.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions, (*Vermont Yankee Nuclear Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978)). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts, (*City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (Ninth Circuit 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: David D. Rittenhouse, Forest Supervisor, Boise National Forest is the responsible official, 1249 South Vinnell Way, Suite 200, Boise, Idaho 83709.

Dated: May 17, 2002.

Paul W. Bryant,

Acting Forest Supervisor.

[FR Doc. 02–13743 Filed 5–31–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[02–02–A]

Opportunity for Designation in the Alabama, California, Kankakee (IL), Springfield (IL), and Washington Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in December 2002. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies: Alabama Department of Agriculture and Industries (Alabama); California Department of Food and Agriculture (California); Kankakee Grain Inspection, Inc., (Kankakee); Springfield Grain Inspection, Inc., (Springfield); and Washington Department of Agriculture (Washington).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before July 1, 2002.

ADDRESSES: Submit applications and comments to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604; FAX 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at Room 1647–S, 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail *Janet.M.Hart@usda.gov.*

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act.

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Alabama	Mobile, AL	03/01/2000	12/31/2002
California	Sacramento, CA	02/01/2000	12/31/2002
Kankakee	Essex, IL	02/01/2000	12/31/2002
Springfield	Springfield, IL	03/01/2000	12/31/2002
Washington	Olympia, WA	02/01/2000	12/31/2002

a. Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Alabama, except those export port locations within the State, is assigned to Alabama.

b. Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of California, except those export port locations within the State, is assigned to California.

c. Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Kankakee.

Bounded on the North by the northern Bureau County line; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast to Interstate 57;

Bounded on the East by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the Kankakee County line;

Bounded on the South by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 west to the western Peoria County line; and

Bounded on the West by the western Peoria and Stark County lines; the northern Stark County line east to State Route 88; State Route 88 north to the Bureau County line.

d. Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Springfield.

Bounded on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded on the South by State Route 16 west to the eastern Macoupin County line; the eastern, southern, and western Macoupin County lines; the southern and western Greene County lines; the southern Pike County line; and

Bounded on the West by the western Pike County line west to U.S. route 54; U.S. Route 54 northeast to State Route 107; State Route 107 northeast to State Route 104; State Route 104 east to the western Morgan County line. The western Morgan, Cass, and Schuyler County lines.

The following grain elevator, located outside of the above contiguous geographic area, are part of this geographic area assignment: East Lincoln Farmers Grain Co., Lincoln, Logan County (located inside Central Illinois Grain Inspection, Inc.'s, area).

e. Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Washington, except those export port locations within the State, is assigned to Washington.

2. Opportunity for Designation

Interested persons, including Alabama, California, Kankakee, Springfield, and Washington, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and section 800.196(d) of the

regulations issued thereunder. Designation in the specified geographic areas is for the period beginning January 1, 2003, and ending December 31, 2005. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

3. Request for Comments

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the Alabama, California, Kankakee, Springfield, and Washington official agencies. Commenters are encouraged to submit pertinent data concerning these official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: May 13, 2002.

David R. Shipman,

Deputy Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 02–13783 Filed 5–31–02; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–04–S]

Designation for the Georgia, Mid-Iowa (IA), Montana, Oregon, and Schneider (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

Georgia Department of Agriculture (Georgia);

Mid-Iowa Grain Inspection, Inc. (Mid-Iowa);

Montana Department of Agriculture (Montana);

Oregon Department of Agriculture (Oregon); and

Schneider Inspection Service, Inc. (Schneider).

EFFECTIVE DATES: July 1, 2002.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail *Janet.M.Hart@usda.gov.*

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 4, 2001, **Federal Register** (66 FR 63015), GIPSA asked persons interested in providing official services in the geographic areas assigned to the official agencies named above to submit an application for designation. Applications were due by January 2, 2002.

Georgia, Mid-Iowa, Montana, Oregon, and Schneider were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for additional comments on them.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(l)(A) of the Act and, according to Section 7(f)(l)(B), determined that Georgia, Mid-Iowa, Montana, Oregon, and Schneider are able to provide official services in the geographic areas specified in the December 4, 2001, **Federal Register**, for which they applied. Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start–end
Georgia	Atlanta, GA, 404–656–3600; Additional Service Location: Tifton, GA	07/01/2002–06/30/2005
Mid-Iowa	Cedar Rapids, IA, 319–363–0239; Additional Service Location: Clayton, IA	07/01/2002–06/30/2005
Montana	Helena, MT, 406–444–3144; Additional Service Location: Great Falls	07/01/2002–06/30/2005
Oregon	Salem, OR, 503–986–4620; Additional Service Location: Pendleton, OR	07/01/2002–06/30/2005
Schneider	Lake Village, IN, 219–992–2306	07/01/2002–06/30/2005

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.).

Dated: May 8, 2002.

David R. Shipman,

Deputy Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 02–13784 Filed 5–31–02; 8:45 am]

BILLING CODE 3410–EN–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Public Rights-of-Way Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) established a Public Rights-of-Way Access Advisory Committee (Committee) to assist the Board in developing a proposed rule on accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968. This document announces the next meeting of the technical assistance sub-committee of that Committee, which will be open to the public.

DATES: The meeting of the sub-committee is scheduled for June 19, 2002 (beginning at 1 p.m. and ending at 5 p.m.), June 20, 2002 beginning at 9 a.m. and ending at 5 p.m.) and June 21, 2002 (beginning at 9 a.m. and ending at 12:30 p.m.).

ADDRESSES: The meeting will be held at the Northwest Marriott, 5605 Blazer Parkway, Dublin, OH 43017.

FOR FURTHER INFORMATION CONTACT: Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–0025 (Voice); (202) 272–5449 (TTY). E-mail *windley@access-board.gov*. This document is available in alternate formats (cassette tape, Braille, large print, or ASCII disk) upon request. This document is also available on the Board's Internet Site *(http://www.access-board.gov/prowmtg.htm).*

SUPPLEMENTARY INFORMATION: On October 20, 1999, the Architectural and Transportation Barriers Compliance Board (Access Board) published a notice appointing members to a Public Rights-of-Way Access Advisory Committee (Committee). 64 FR 56482 (October 20, 1999). The objectives of the Committee include providing recommendations for developing a proposed rule addressing accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968, recommendations regarding technical assistance issues, and guidance for best practices for alterations in the public rights-of-way.

On January 10, 2001, the Committee presented its recommendations on accessible public rights-of-way in a report entitled "Building a True Community". The report is available on the Access Board's Web site at *www.access-board.gov* or can be ordered by calling the Access Board at (800) 872–2253 (voice) or (800) 993–2822 (TTY).

At its June meeting, the technical assistance sub-committee will continue to address the development and format of technical assistance materials relating to public rights-of-way. The sub-committee meeting will be open to the public and interested persons can attend the meeting and participate on subcommittees of the Committee. All interested persons will have the opportunity to comment when the proposed accessibility guidelines for public rights-of-way are issued in the **Federal Register** by the Access Board.

Individuals who require sign language interpreters or real-time captioning systems should contact Scott Windley by June 10, 2002. Notices of future meetings will be published in the **Federal Register**.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–13786 Filed 5–31–02; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Preliminary Results of the Sixth Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of sixth antidumping duty new shipper review.

SUMMARY: In response to a request from one exporter, Longkou TLC Machinery Co., Ltd., the Department of Commerce is conducting a new shipper administrative review of the antidumping duty order on brake rotors from the People's Republic of China. The review covers the period April 1, 2001, through September 30, 2001.

We have preliminarily determined that U.S. sales have not been made below normal value. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess no antidumping duties on the exports subject to this review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1280, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On October 30, 2001, the Department received a request from Longkou TLC Machinery Co., Ltd. ("Longkou TLC"), for a new shipper review pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b).

Section 751(a)(2) of the Act and 19 CFR 351.214(b)(2)(i) govern determinations of antidumping duties for new shippers. These provisions state that, in requesting a review, an exporter or producer of the subject merchandise must meet the following conditions: (1) It did not export the merchandise to the United States during the period covered by the original less-than-fair-value ("LTFV") investigation; and (2) it is not affiliated with any exporter or producer who exported the subject merchandise during that period. If these provisions are met, the Department will conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer. The regulations require that the exporter or producer include in its request, with appropriate certifications, the following information: (i) The date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States, or, if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; (iii) a statement from the exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the period of investigation ("POI"); and (iv) in an antidumping proceeding involving inputs from a non-market-economy ("NME") country, a certification that the export activities of such exporter or producer are not controlled by the central government. *See* 19 CFR 351.214(b)(ii) and (iii).

Longkou TLC's request was accompanied by information and certifications establishing the effective date on which it first shipped and entered brake rotors. The respondent also claims that it is not affiliated with companies which exported brake rotors from the People's Republic of China ("PRC") during the POI and has certified that its export activities are not controlled by the central government. Based on the above information, the Department initiated a new shipper review covering Longkou TLC (*see Brake Rotors from the People's Republic of China: Initiation of Sixth New Shipper Antidumping Duty Review* (66 FR 63362, December 6, 2001)). The Department is now conducting this review in accordance with section 751 of the Act and 19 CFR 351.214.

On December 5, 2001, we issued the antidumping duty questionnaire to Longkou TLC. On December 17, 2001, the Department provided the parties an opportunity to submit publicly available information for consideration in these preliminary results.

On January 15, 2002, Longkou TLC submitted its questionnaire response.

On February 20 and 27, 2002, the petitioner and Longkou TLC submitted publicly available information and rebuttal comments, respectively.

On March 6, 2002, the Department issued a supplemental questionnaire to Longkou TLC, to which it received a response on April 5, 2002.

On March 12, 2002, the petitioner submitted a letter requesting that the Department conduct a verification of the response submitted by Longkou TLC.

Scope of Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in the order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Period of Review

The period of review ("POR") is from April 1, 2001, through September 30, 2001.

Verification

As provided in section 782(i)(2) of the Act and 19 CFR 351.307, we intend to verify Longkou TLC's information.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate).

The respondent in this review, Longkou TLC, is a joint venture. Thus, a separate-rates analysis is necessary to determine whether this exporter is independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China* ("*Bicycles*") 61 FR 56570 (April 30, 1996)).

To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. De Jure Control

Longkou TLC has placed on the administrative record documents to demonstrate absence of *de jure* control, including the "The Enterprise Legal Person Registration Administrative Regulations," promulgated on June 3, 1988, the 1990 "Regulation Governing Rural Collectively-Owned Enterprises of PRC," and the 1994 "Foreign Trade Law of the People's Republic of China."

As in prior cases, we have analyzed these laws and have found that they establish a sufficient absence of *de jure* control of collectively owned enterprises. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* ("*Furfuryl Alcohol*"), 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to Longkou TLC.

2. De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol*. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Longkou TLC has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, Longkou TLC's questionnaire responses indicate that its pricing during the POR does not suggest coordination among exporters. This information supports a preliminary finding that there is absence of *de facto* governmental control of export functions performed by Longkou TLC. *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Administrative Review*, 62 FR 55215 (October 23, 1997). Consequently, we have preliminarily determined that Longkou TLC has met the criteria for the application of separate rates.

Normal Value Comparisons

To determine whether sales of the subject merchandise by Longkou TLC to the United States were made at prices below normal value ("NV"), we compared its export prices to NV, as described in the "Export Price" and "Normal Value" sections of this notice, below.

Export Price

We used export price methodology in accordance with section 772(a) of the Act because the subject merchandise was sold by the exporter directly to an unaffiliated customer in the United States prior to importation and constructed export price was not otherwise indicated.

For Longkou TLC, we calculated export price based on an FOB foreign port price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC in accordance with section 772(c) of the Act. Because foreign inland freight and brokerage and handling fees were provided by PRC service providers or paid for in an NME currency (*i.e.*, renminbi), we based those charges on surrogate rates from India (*see* "Surrogate Country" section below for further discussion of our surrogate-country selection). To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies. To value foreign brokerage and handling expenses, we relied on public information reported in the 1997–1998 new shipper review of the antidumping duty order on stainless steel wire rod from India.

Normal Value

A. Non-Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority (*see Notice of Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat From the People's Republic of China*, 66 FR 52100, 52103 (October 12, 2001)). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India and Indonesia are among the countries comparable to the PRC in terms of overall economic development (see Memorandum from the Office of Policy to Irene Darzenta Tzafolias, Program Manager, dated December 6, 2001). In addition, based on publicly available information placed on the record, India is a significant producer of the subject merchandise. Accordingly, we considered India the primary surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection. Where we could not find surrogate values from India, we used values into Indonesia.

C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to the following elements: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by Longkou TLC which produced the brake rotors it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian or Indonesian values.

The Department's selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices.

To value pig iron, steel scrap, ferrosilicon, ferromanganese, limestone, lubrication oil, firewood, and coking coal, we used April 2001–July 2001 average import values from *Monthly Statistics of the Foreign Trade of India*. We relied on the factor specification data submitted by the respondent for the above-mentioned inputs in its April 5, 2002, submission for purposes of selecting surrogate values from *Monthly Statistics*. We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line*.

We based our surrogate value for electricity on data obtained from *Conference of Indian Industries: Handbook of Statistics* ("*CII Handbook*") and from the *Centre for Monitoring Indian Economy* ("*CMIE data*").

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value selling, general, and administrative ("SG&A") expenses, factory overhead and profit, we used the 1998 financial data of Jayaswals Neco Limited ("Jayaswals"), the 1998–1999 financial data of Rico Auto Industries Limited ("Rico"), and the 2000–2001 financial data of Kalyani Brakes Limited ("Kalyani"). We have relied on fiscal data for three companies rather than just one company's fiscal data for purposes of calculating the surrogate-value percentages. In this case, Jayaswals' 1998 fiscal data and Rico's 1998–1999 fiscal data are reasonably contemporaneous with the POR and otherwise as suitable as Kalyani's data. Accordingly, we find it more reliable to use data of three companies than to use data of a single company. We have not used the 1999–2000 fiscal data suggested by the respondent from Rico's internet website because the data provided by its website is incomplete for purposes of calculating ratios for SG&A, factory overhead, and profit. Specifically, the website data provided only expense data based on general categories of expenses and not on the basis of specific expenses. Specific expense data (*i.e.*, line-item expense categories such as advertising, repair and maintenance, etc.) is necessary for determining whether a particular expense should be considered an overhead or selling expense and for calculating accurate surrogate-value percentages.

Where appropriate, we removed from the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. We made certain adjustments to the ratios calculated as a result of reclassifying certain expenses contained in the financial reports. For further discussion of the adjustments made, *see* the *Preliminary Results Valuation Memorandum*, dated May 29, 2002.

All inputs were shipped by truck. Therefore, to value PRC inland freight, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued based on CIF import values in the surrogate country. We have added to CIF surrogate values from India a surrogate

freight cost using the shorter of the reported distances from either the closest PRC port of importation to the factory or from the domestic supplier to the factory on an input-specific basis.

To value corrugated cartons, nails, paper cartons, paper cover, plastic bags, steel strip, tape, and clamps, we used April-July 2001 average import values from *Monthly Statistics*. To value pallet wood, we used a 2000 pallet-wood value from the Indonesian publication *Indonesia Foreign Trade Statistics* which the Department has used to value pallet wood in two recent antidumping duty proceedings (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the PRC: Final Results of 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 1953, 1955 (January 10, 2001) (*"TRBs"*), and accompanying decision memorandum at Comment 10, and *Persulfates from the PRC: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review*, 65 FR 46691 (July 31, 2000)).

Preliminary Results of the Review

We preliminarily determine that the following margin exists for Longkou TLC during the period April 1, 2001, through September 30, 2001:

Manufacturer/producer/exporter	Margin percent
Longkou TLC Machinery Co., Ltd.	0.00

We will disclose the calculations used in our analysis to the parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on July 30, 2002.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain (1) the party's name, address, and telephone number, (2) the number of participants, and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than July 19, 2002. Rebuttal briefs, limited to issues raised in the case briefs, will be due not later than July 26, 2002. Parties who submit case briefs or rebuttal briefs are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this new shipper review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 90 days after the date of issuance of this notice.

Assessment Rates

In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Cash Deposit Requirements

Upon completion of this review, for entries from Longkou TLC, we will require cash deposits at the rate established in the final results pursuant to 19 CFR 351.214(e) and as further described below.

The following deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Longkou TLC will be the rate determined in the final results of review (except that, if the rate is *de minimis, i.e.*, less than 0.50 percent, a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213.

Dated: May 28, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13845 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the antidumping duty new shipper review of potassium permanganate from the People's Republic of China.

SUMMARY: On January 3, 2002, the Department of Commerce (Department) published the preliminary results of the new shipper review of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC). This review covers one manufacturer/exporter. The period of review (POR) is January 1, 2000 through December 31, 2000. For the reasons discussed below, we are rescinding this review.

EFFECTIVE DATE: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: John Conniff or Chris Brady, AD/CVD Enforcement Group II, Office 4, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–1009 and (202) 482–4406, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (the Act)are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Scope of the Review

Imports covered by this review are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. During the review period, potassium permanganate was classifiable under item 2841.60.0010 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Background

On January 3, 2002, the Department published in the **Federal Register** its notice of the preliminary results of the new shipper review of potassium permanganate from the PRC. *See Potassium Permanganate From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 67 FR 303. In that notice, we invited interested parties to comment on our preliminary results. Since publication of this notice, the following significant events have occurred.

On March 19, 2002, Carus Chemical Company (Carus) (petitioner) submitted evidence that the business license which Groupstars Chemical Co. Ltd. (Groupstars) (respondent) placed on the record in this review had been altered. Although this information was submitted after the deadline for submitting factual information in this review (June 25, 2001), the Department accepted it because of its relevance to respondent's status as a new shipper. *See Memorandum to the File from John Conniff: Submission of New Information and Schedule for Case Briefs and Hearing (April 1, 2002)*. On April 10, 2002, petitioner and respondent submitted case briefs regarding the preliminary results of this review. On April 17, 2002, petitioner submitted rebuttal comments to the Department. On April 19, 2002, the respondent withdrew its request for a new shipper review. On May 16, 2002, the Department issued a memorandum that proposed rescission of this new shipper review. *See Memorandum to Bernard Carreau from Holly A. Kuga: Rescission of New Shipper Review (May 16, 2002) (Rescission Memorandum)*. We invited interested parties to submit comments regarding this memorandum by no later than May 20, 2002. No parties submitted comments.

Rescission of Review

As noted above, information has been placed on the record which calls into question the status of Groupstars as a new shipper. This information indicates that Groupstars' business license, as submitted to the Department, is altered from its original form. Moreover, Groupstars did not make all of the certifications required in a new shipper review under section 351.214(b)(2)(ii)(B) of the Department's regulations. Finally, both the petitioner and the respondent have requested that the Department rescind this new shipper review. Therefore, we are rescinding this new shipper review. See Rescission Memorandum.

Notification

This notice serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: May 23, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13839 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–806]

Silicon Metal from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 28, 2001, we initiated a new shipper review of Groupstars Chemical Company, Ltd. (Groupstars China) because the company submitted a timely request for a new shipper review to the Department of Commerce, which appeared to meet all of the requirements set forth in 19 CFR 351.214(b)(2). *See* 66 FR 41508. We have now determined that information contained in Groupstars China's request for a new shipper review was either inaccurate or incomplete. Accordingly, the Department is rescinding this new shipper review.

EFFECTIVE DATE: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–5255.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (2001).

Background

On July 31, 2001, the Department initiated a new shipper review of Groupstars China. *See* 66 FR 41508 (August 8, 2001). On August 6, 2001, we received comments from Globe Metallurgical, Inc. and Elkem Metals Company (collectively, petitioners), requesting that we not initiate, or rescind, the review. We issued a questionnaire to Groupstars China on October 5, 2001 and we received responses from Groupstars China on November 2, 2001 and November 14, 2001. On November 20, 2001, we rejected these responses for being improperly filed because Groupstars China failed to properly identify business proprietary and public data. *See* Letter from Barbara E. Tillman, Director, Office 7, to Spring, Spring & Associates, dated November 20, 2001. Groupstars China resubmitted its responses on November 27, 2001, and on December 4, 2001, we again rejected these responses for being improperly filed for the same reason. *See* Letter from Barbara E. Tillman, Director, Office 7, to Spring, Spring & Associates, dated December 4, 2001. On December 7, 2001, we received and accepted revised responses, dated December 6, 2001.

On January 2, 2002, we published the *Notice of Extension of Time Limit for Preliminary Results of Antidumping New Shipper Review: Silicon Metal From the People's Republic of China*. *See* 67 FR 5901 (January 2, 2002).

On January 18, 2002 and January 23, 2002, we received submissions from petitioners providing new factual information and deficiency comments.

On January 28, 2002, we rejected petitioners' submissions for not adhering to the Department's filing requirements; petitioners failed to provide a translation of one of their exhibits. *See* Letter from Barbara E. Tillman, Director, Office 7, to petitioners. Petitioners' submissions were refiled and accepted on January 30, 2002 and February 6, 2002, respectively.

Based on our analysis of the record, including data submitted by petitioners and Groupstars China, we determined that there was factual information submitted by petitioners that contradicted information submitted by Groupstars China in its request for a new shipper review and its questionnaire responses. On February 13, 2002, we issued a letter to Groupstars China giving the company the opportunity to counter the information and documentation filed by the petitioners on each of three critical points: (1) Whether the initial and all subsequent shipments of silicon metal were reported; (2) whether Groupstars China was a legal entity before the date of sale of its first shipment of silicon metal; and (3) whether Groupstars China produced the merchandise that is the basis of this new shipper review. *See* Letter from Barbara E. Tillman, Director, Office 7, to Groupstars China, dated February 13, 2002. We stated that unless Groupstars China demonstrated that the requirements for a new shipper review had been met, we would have no choice but to rescind its new shipper review.

On February 19, 2002, we received Groupstars China's response to our February 13, 2002 letter. On March 12, 2002, we received a letter from petitioners reiterating their view that the new shipper review should be rescinded. On April 1, 2002, Groupstars China filed a letter arguing that it deserved a new shipper review.

Rescission of Review

Based on the Department's analysis of Groupstars China's response to the Department's February 13th letter, as well as the other submissions made by Groupstars China and petitioners, we find that Groupstars China did not meet the requirements set forth in section 351.214(b)(2) of the regulations for requesting a new shipper review. On May 9, 2002, the Department issued a memorandum which set forth the Department's analysis and which recommended rescission of this new shipper review. (*See* "Rescission of New Shipper Review for Groupstars Chemical Company (Groupstars China): Silicon Metal from the People's Republic of China" from Barbara E. Tillman, Director, Office 7, to Joseph A. Spetrini, Deputy Assistant Secretary, dated May 9, 2002 (*Silicon Metal Rescission Analysis Memo*), a public document which is on file in the Central Records Unit, Room B–099 of the Department of Commerce.) On May 9, 2002, we sent out the *Silicon Metal Rescission Analysis Memo* to the interested parties (*See* "Memorandum to The File through Barbara E. Tillman, Director, Office 7, from Jacqueline Arrowsmith," also dated May 9, 2002) and asked that any new comments be properly filed and served on interested parties no later than Tuesday, May 14, 2002. On May 14, 2002, we received comments from petitioners stating that they agree with our decision to rescind this review. *See* "Memorandum To Barbara E. Tillman, Director, Office VII from Jacqueline Arrowsmith," dated May 16, 2002.

As discussed in detail in the *Silicon Metal Rescission Analysis Memo,* we find that Groupstars China provided inaccurate information with respect to two of the required criteria for requesting a new shipper review. First, as set forth in section 351.214(b)(iv)(B) of the regulations, new shipper requests are required to include documentation for the first and all subsequent shipments of the silicon metal. Groupstars China's request for a new shipper review only provided information and documentation with respect to one shipment. Petitioner provided documentation showing another shipment during the period of review (POR). A query of proprietary U.S. Customs data that the Department obtained as part of this proceeding confirmed this shipment. Even though this shipment was shipped and entered during the POR (June 1, 2000 through May 31, 2001), Groupstars China did not provide information or documentation on this shipment in its original new shipper request as required by the regulations, nor did Groupstars China provide this information in its response to our questionnaire. Based on the information on the record, the unreported shipment was one of only two shipments made during the POR, and was by far the largest during the POR. *See Silicon Metal Rescission Analysis Memo.* Further, it was Groupstars China's responsibility to report this shipment. This failure to report this shipment in its request for a new shipper review was compounded by Groupstars China's decision not to report this sale in its questionnaire response.

Second, as set forth in section 351.214(b)(2)(iii)(A) of the Department's regulations, a new shipper request must contain certifications by either the producer/exporter of the subject merchandise or the producer and the exporter of the subject merchandise. Although Groupstars China stated in its new shipper request that it was both the exporter and the producer of the subject merchandise, the record is now clear that Dayinjiang Silicon Metal Plant was the producer of this subject merchandise and that Groupstars China was only the exporter. See Silicon Metal Rescission Analysis Memo and Groupstars China's February 19, 2002 submission. Given that Groupstars China was the exporter and that Dayinjiang Silicon Metal Plant was the producer of the subject merchandise, Groupstars China's request for a new shipper review should have contained a certification from Dayinjiang Silicon Metal Plant indicating whether it was affiliated with any producer or exporter that shipped subject merchandise during the period of investigation, among other things. Therefore, Groupstars China did not provide the required certification from the producer of the silicon metal required under section 351.214(b)(2)(iii)(A) of the Department's regulations.

With respect to an additional issue of concern, whether Groupstars China was, in fact, a legal entity before the date of its first shipment of silicon metal, we have not made a conclusive finding. In our May 9, 2002 *Silicon Metal Rescission Analysis Memo,* we stated that after reviewing all the information on the record, we could not determine whether Groupstars China had the necessary documentation (*e.g.* business license and certificate of approval) demonstrating the date on which it became a legal entity. Thus, because Groupstars did not provide any documentation or other information which conclusively demonstrated the date on which it became a legal business entity, we cannot make a conclusion on this issue and cannot determine whether it was a legal entity prior to its first shipment.

Hence, because Groupstars China did not report or submit documentation on its subsequent shipments in accordance with section 351.214(b)(2)(iv)(B) and failed to provide the required certification from the producer of silicon metal as required under section 351.214(b)(2)(iii)(A), we find that Groupstars China did not meet the requirements set forth in section 351.214(b) of the regulations for requesting a new shipper review. Thus, the Department is rescinding this new shipper review.

Administrative Protective Order Procedures

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1), 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: May 28, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13844 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review.

SUMMARY: On September 28, 2001, the Department of Commerce (Department) published a notice of initiation in the above-named case. As a result of this review, the Department preliminarily finds that the new name of Inchon Iron & Steel Co., Ltd. (Inchon) is INI Steel Company (INI).

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Richard Herring, AD/CVD Enforcement Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2001).

Background

The Department published on June 8, 1999, a *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636, (Sheet and Strip) and published on August 6, 1999 the *Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 64 FR 42923. In the original investigation and a subsequent review, the Department determined that Inchon received countervailable subsidies and therefore the Department calculated a cash deposit rate for Inchon. In an August 6, 2001, letter to the Department, INI notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. On September 28, 2001, the Department published a *Notice of Initiation of Changed Circumstances Countervailing Duty Administrative Review*, 66 FR 49639.

Scope of the Review

For purposes of this changed circumstances review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States*(HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[1], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

The Department has determined that certain additional specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper valve steel is excluded from this review. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less,

[1] Due to changes to the HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."[2]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials ("ASTM") specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."[3]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this review. This high-strength, ductile stainless steel product is designated under the Unified Numbering System ("UNS") as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."[4]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[5] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6".[6]

Preliminary Results

In determining that Inchon changed its name to INI, we reviewed documents submitted on the record, including: (1) the minutes of Inchon's shareholder's meeting; (2) official certification of name change registration; and (3) INI's business registration certificate. The minutes of the shareholder's meeting shows that the name change was approved under item two: "Topic of Bill of a Partial Amendment to Articles of Incorporation." Article 1, which refers to the name of the company, shows that, prior to the amendment, the name of the company was Inchon Iron & Steel Co., Ltd, and that, after the partial amendment to the Articles of Incorporation, the company's name is INI Steel Company. We also reviewed a translated copy of the official certification of name change that INI provided to the Inchon District Court on July 31, 2001. Finally, we reviewed INI's business registration certificate as issued on August 1, 2001 by the Inchon City Tax Office. This document states that the reason the document was issued was for a "change of company name."

Based upon the information on the record, we preliminarily determine that Inchon has changed its name to INI Steel company. If the final results of this review remain unchanged, we intend to update our instructions to U.S. Customs to reflect this name change; INI (Inchon) will receive Inchon's cash deposit *ad valorem rate.*

[2] "Arnokrome III" is a trademark of the Arnold Engineering Company.

[3] "Gilphy 36" is a trademark of Imphy, S.A.

[4] "Durphynox 17" is a trademark of Imphy, S.A.

[5] This list of uses is illustrative and provided for descriptive purposes only.

[6] "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

Public Comments

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 10 days of publication of this notice. Persons interested in attending the hearing should contact the Department for the date and time of any hearing. Case briefs and/ or written comments from interested parties may be submitted no later than 10 days after the date of publications of this notice. Rebuttal briefs and rebuttals comments, limited to the issues raised in those case briefs or comments, may be filed no later than 17 days after the publication of this notice. All written comments must be submitted and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. The Department will publish in the Federal Register a notice of final results of this changed circumstance countervailing duty administrative review, including the results of its analysis of any issues raised in any written comments.

During the course of this changed circumstance review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change is determined to be warranted pursuant to the final results of this review.

This notice is in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(c)(3) and 19 CFR 351.216.

Dated: May 28, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13840 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–842]

Structural Steel Beams from the Republic of Korea: Notice of Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review.

SUMMARY: On September 28, 2001, the Department of Commerce (Department) published a notice of initiation in the above-named case. As a result of this review, the Department preliminarily finds that the new name of Inchon Iron & Steel Co., Ltd. (Inchon) is INI Steel Company (INI).

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Richard Herring, AD/ CVD Enforcement Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2001).

Background

The Department published on July 3, 2000, a *Final Affirmative Countervailing Duty Determination: Structural Steel Beams From the Republic of Korea*, 65 FR 41051, (Structural Beams); and published on August 14, 2000, the *Notice of Countervailing Duty Order: Structural Steel Beams From the Republic of Korea*, 65 FR 49542. The Department determined that Inchon was excluded from suspension of liquidation pursuant to that order because it received a de minimis net subsidy during the period of investigation. In an August 6, 2001, letter to the Department, INI notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. On September 28, 2001, the Department published a *Notice of Initiation of Changed Circumstances Countervailing Duty Administrative Review*, 66 FR 49641.

Scope of the Review

The products covered by this review include structural steel beams that are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S"or "I" shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Preliminary Results

In determining that Inchon changed its name to INI, we reviewed documents submitted on the record, including: (1) the minutes of Inchon's shareholder's meeting; (2) official certification of name change registration; and (3) INI's business registration certificate. The minutes of the shareholder's meeting shows that the name change was approved under item two: "Topic of Bill of a Partial Amendment to Articles of Incorporation." Article 1, which refers to the name of the company, shows that, prior to the amendment, the name of the company was Inchon Iron & Steel Co., Ltd, and that, after the partial amendment to the Articles of Incorporation, the company's name is INI Steel Company. We also reviewed a translated copy of the official certification of name change that INI provided to the Inchon District Court on July 31, 2001. Finally, we reviewed INI's business registration certificate as issued on August 1, 2001 by the Inchon City Tax Office. This document states that the reason the document was issued was for a "change of company name."

Based upon the information on the record, we preliminarily determine that Inchon has changed its name to INI Steel company. If the final results of this review remain unchanged, we intend to update our instructions to U.S. Customs to reflect this name change, and INI (Inchon) will continue to be excluded from this order.

Public Comment

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 10 days of publication of this notice. Persons interested in attending the hearing should contact the Department for the date and time of any hearing. Case briefs and/ or written comments from interested parties may be submitted no later than 10 days after the date of publications of this notice. Rebuttal briefs and rebuttals comments, limited to the issues raised in those case briefs or comments, may be filed no later than 17 days after the publication of this notice. All written comments must be submitted and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. The Department will publish in the Federal Register a notice of final results of this changed circumstance countervailing duty administrative review, including the results of its analysis of any issues raised in any written comments.

During the course of this changed circumstance review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change is determined to be warranted pursuant to the final results of this review.

This notice is in accordance with sections 751(b)(1) and 777(i)(1) of the Act, 19 CFR 351.221(c)(3) and 19 CFR 351.216.

Dated: May 28, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13841 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of initiation of process to revoke Export Trade Certificate of Review No. 84–00027.

SUMMARY: On October 9, 1984, the Secretary of Commerce issued an export trade certificate of review to N.B. Carson & Company, Inc. Because this certificate holder has failed to file an annual report as required by law the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to N.B. Carson & Company, Inc.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325. Pursuant to this authority, a Certificate of Review was issued on October 9, 1984 to N.B. Carson & Company, Inc.

A certificate holder is required by law (section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (Sections 325.14 (a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation. (Sections 325.10 (a) and 325.14 (c) of the Regulations).

The Department of Commerce sent to N.B. Carson & Company, Inc., on October 01, 2001, a letter containing annual report questions with a reminder that its annual report was due on November 23, 2001. Additional reminders were sent on March 25, 2002 and on April 11, 2002. The Department has received no written response to any of these letters.

On May 22, 2002, and in accordance with Section 325.10 (c)(1) of the Regulations, a letter was sent by certified mail to notify N.B. Carson & Company, Inc. that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10 (c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (Section 325.10 (c)(2) of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10 (c)(3) of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)(4) of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: May 28, 2002.

Jeffrey Anspacher,

Director, Office of Export Trading Company Affairs.

[FR Doc. 02–13785 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052102H]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Scientific and Statistical Selection Committee, Habitat Committee, Personnel Committee, Finance Committee, Protected Resources Committee, Snapper Grouper Committee, NEPA (National Environmental Policy Act)/EIS (Environmental Impact Statement) Committee. A spiny lobster public scoping meeting will be held and a public comment period on the use of powerheads and spearguns to harvest cobia will be held during the meeting. There will also be a full Council session.

DATES: The meetings will be held June 17, 2002 through June 20, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Wyndham Reach Resort, 1435 Simonton Street, Key West, FL 33040; telephone: (1–800) 626–0777 or (305) 296–3535.

Copies of documents are available from Kim Iverson, Public Information Officer, and South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: 843–571–4366; fax: 843–769–4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION:

Meeting Dates

1. *Scientific and Statistical Committee Meeting: June 17, 2002, 1 p.m.–5:30 p.m.*

The Scientific and Statistical Committee (SSC) will meet to hear a status report on Snapper Grouper Amendment 14 (Marine Protected Areas), review and discuss options for Snapper Grouper Amendment 13, and hear reports on the results of the Red Porgy Stock Assessment Workshops and Stock Assessment Review (SAW/SARC) meetings, the development of a preliminary Ecopath model for the South Atlantic Bight, the Cost and Returns Economic Study, and the status of the ongoing Fishing Communities Study. Beginning at 6:00 p.m. on Monday, June 17, a public scoping meeting will be held to address issues in the spiny lobster fishery.

2. *Habitat Committee Meeting: June 18, 2002, 8:30 a.m.–12 Noon*

The Habitat Committee will meet to hear a presentation on economic and governance perspectives on ecosystem management, a presentation on the Essential Fish Habitat (EFH), ecosystem and Ecopath model development workshop process, and a presentation on EFH Final Guidelines. The Committee will also discuss policy statement revisions, guidance and timelines.

3. *Personnel Committee Meeting: June 18, 2002, 1:30 p.m.–2:30 p.m. (closed)*

The Personnel Committee will meet in closed session to discuss personnel issues.

4. *Finance Committee Meeting: June 18, 2002, 2:30 p.m.–3:30 p.m.*

The Finance Committee will meet to hear an update on the Calendar Year (CY) 2002 budget.

5. *Protected Resources Committee Meeting: June 18, 2002, 3:30 p.m.–5:30 p.m.*

The Protected Resources Committee will meet to review the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) with regards to fishery management, discuss objectives of the newly formed committee, develop a structure for the advisory panel, and discuss the impacts of the trawl fishery for jelly balls (jellyfish) on sea turtles and the potential need for management.

6. *Snapper Grouper Committee Meeting: June 19, 2002, 8:30 a.m.–12 Noon and 1:30 p.m. until 5 p.m.*

The Snapper Grouper Committee will meet to review the status of the Council's request for stock assessments from NMFS, hear reports on: the status of Marine Protected Area (MPA) workshops, red porgy stock assessment review, NMFS capacity work and the Black Seabass Pot Study. The Committee will also discuss the NMFS 2001 Status of U.S. Fisheries Report to Congress and review options and make recommendations regarding Snapper Grouper Amendment 13.

7. *Snapper Grouper Committee Meeting:June 20, 2002, 8:30 a.m.–12 Noon*

The Snapper Grouper Committee will continue its meeting to review and make recommendations to staff regarding options for Snapper Grouper Amendment 13.

8. NEPA/EIS Committee Meeting: June 20, 2002, 1:30 p.m.– 2:30 p.m.

The NEPA/EIS Committee will meet to discuss the objectives, purpose and functions of the new Committee and establish a Committee name. The Committee will review NEPA requirements and receive a presentation on Programmatic Environmental Impacts Statements.

9. *Council Session: June 20, 2002, 3 p.m.–6 p.m.*

From 3 p.m.–3:15 p.m., the Council will have a Call to Order, introductions and roll call, adoption of the agenda, and approval of the March 2002 meeting minutes.

From 3:15 p.m.–3:30 p.m., the Council will hear a report from the Habitat Committee.

From 3:30 p.m.–3:45 p.m., the Council will hear a report from the Protected Resources Committee and address Committee recommendations.

Beginning at 3:45 p.m., a public comment period will be held on the issue of using powerhead gear and spears by divers for targeting cobia. Immediately following the comment period, the Council will discuss the issue and make recommendations to staff.

From 4:45 p.m.–6 p.m., the Council will hear a report from the Snapper Grouper Committee and provide direction to staff regarding options for Amendment 13 to the Snapper Grouper FMP.

10. *Council Session: June 21, 2002, 8:30 a.m.–1 p.m.*

From 8:30 a.m.–8:45 a.m., the Council will hear a report from the Personnel Committee (closed session).

From 8:45 a.m.–9:45 a.m., the Council will receive a legal briefing on litigation affecting the Council and address Committee recommendations.

From 9:45 a.m.–10 a.m., the Council will hear a report from the NEPA/EIS Committee and address Committee recommendations

From 10 a.m.–10:15 a.m., the Council will hear a report from the Finance Committee.

From 10:15 a.m.–10:45 a.m., the Council will receive a presentation on Vessel Monitoring Systems (VMS).

From 10:45 a.m.–11:00 a.m., the Council will hear a report on the Highly Migratory Species (HMS) and Billfish Advisory Panel meetings.

From 11 a.m.–11:15 a.m., the Council will receive an update on the Magnuson-Stevens Act Reauthorization.

From 11:15 a.m.–11:30 a.m., the Council will receive a report on the Council Chairmen's Meeting.

From 11:30 a.m.–11:45 a.m., the Council will hear an update on the Atlantic Coastal Cooperative Statistics Program (ACCSP).

From 11:45 a.m.–1 p.m., the Council will hear NMFS status reports on the Golden/Red Crab FMP management unit emergency request and Shrimp Amendment 5. NMFS will also give status reports on landings for Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, snowy grouper & golden tilefish, wreckfish, greater amberjack and south Atlantic octocorals.

From 12 Noon–1 p.m., the Council will hear agency and liasion reports, discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's

intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by June 12, 2002.

Dated: May 24, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13856 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052102C]

Marine Mammals; File No. 1029–1675

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Andrew R. Szabo,Whale Research Lab, Department of Geography, University of Victoria, Victoria, British Columbia, V8W 2Y2, Canada, has applied in due form for a permit to take humpback whales (*Megaptera Novaeangliea*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before July 3, 2002.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Lynne Barre or Jill Lewandowski, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The objective of the study is to examine the behavior of humpback whale mother/calf pairs on their summer feeding grounds and compare the maternal behavior of solitary and social foragers. The study will also attempt to identify differences in the early behavior of the mother/calf pairs that may lead to the adoption of a particular foraging strategy in juveniles. A total of 250 humpbacks from all age classes will be approached annually for photo-identification, hydrophone recordings and video taping of behavior. Research activities will be conducted in southeastern Alaska through October 15, 2006.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 23, 2002.

Trevor R. Spradlin,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–13855 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0061]

Federal Acquisition Regulation; Submission for OMB Review; Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning transportation requirements. A request for public comments was published at 67 FR 17677, on April 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 3, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503 and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Part 47 and related clauses contain policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies and acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items. This information is required to ensure proper and timely shipment of Government supplies.

B. Annual Reporting Burden

Respondents: 65,000.
Responses Per Respondent: 4.4.
Annual Responses: 286,000.
Hours Per Response: .23.
Total Burden Hours: 65,780.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

Dated: May 28, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13758 Filed 5–31–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0057]

Federal Acquisition Regulation; Submission for OMB Review; Evaluation of Export Offers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning evaluation of export offers. A request for public comments was published in the **Federal Register** at 67 FR 17678, on April 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 3, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Offers submitted in response to Government solicitations must be evaluated and awards made on the basis of the lowest laid down cost to the Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Offers are evaluated on the basis of shipment through the port resulting in the lowest cost to the Government. This provision collects information regarding the vendor's preference for delivery ports. The information is used to evaluate offers and award a contract based on the lowest cost to the Government.

B. Annual Reporting Burden

Respondents: 100.
Responses Per Respondent: 4.
Annual Responses: 400.
Hours Per Response: .25.
Total Burden Hours: 100.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0057, Evaluation of Export Offers, in all correspondence.

Dated: May 28, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13759 Filed 5–31–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0054]

Federal Acquisition Regulation; Submission for OMB Review; U.S.-Flag Air Carriers Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning U.S.-Flag Air Carriers Certification. A request for public comments was published in the **Federal Register** at 67 FR 17676, on April 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate

technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 3, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag carrier is available to provide such services. In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a certification on vouchers involving such transportation. The contracting officer uses the information furnished in the certification to determine whether adequate justification exists for the contractor's use of other than a U.S.-flag air carrier.

B. Annual Reporting Burden

Respondents: 150.
Responses Per Respondent: 2.
Annual Responses: 300.
Hours Per Response: .25.
Total Burden Hours: 75.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0054, U.S.-Flag Air Carriers Certification, in all correspondence.

Dated: May 28, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13760 Filed 5–31–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Issuance of Record of Decision Regarding an Air-to-Ground Training Range in Blaine County, MT

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of record of decision.

SUMMARY: The Air Force issued a Record of Decision (ROD) on May 13, 2002. The ROD reflected the Air Force decision to develop an air-to-ground training range in Blaine County, Montana (Alternative 1). The range is designed to enhance the training for the Montana Air National Guard's 120th Fighter Wing stationed at Great Falls International Airport.

FOR FURTHER INFORMATION CONTACT: John J. Cabala, Maj, USAF (703) 697–1731.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–13768 Filed 5–31–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1367–001]

Calpine Oneta Power, L.P.; Notice of Filing

May 28, 2002.

Take notice that on May 21, 2002, Calpine Oneta Power, L.P tendered for filing supplemental information and a request for deferral of action and a shortened notice period concerning a filing made on March 22, 2002 for a request for authorization to make wholesale sales of electric energy, capacity and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Comment Date: June 7, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13793 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–117–000]

Las Vegas Cogeneration II, L.L.C.; Notice of Filing

May 28, 2002.

Take notice that on May 6, 2002, Las Vegas Cogeneration II, L.L.C., (LV Cogen II) filed a supplement to its Application for Determination of Exempt Wholesale Generator Status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. *Comment Date:* June 7, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13791 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–487–001]

Tuscarora Gas Transmission Company; Notice of Compliance Filing

May 28, 2002.

Take notice that on May 1, 2002, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, to become effective on July 1, 2002:

Second Revised Sheet No. 77

Tuscarora states that the purpose of this filing is to comply with Order No. 587–N, issued on March 11, 2002 in Docket No. RM96–1–019. In accordance with Order No. 587–N, Tuscarora is making this tariff filing to provide its shippers with the ability to recall scheduled and unscheduled capacity at the Timely and Evening Nomination cycles and to recall unscheduled capacity at the Intra-Day 1 and Intra-Day 2 Nomination times. In addition, in compliance with Order No. 587–N, Tuscarora is removing NAESB Standard 5.3.7 and the first sentence of NAESB Standard 5.3.7 from its tariff.

Tuscarora states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 31, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13794 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[EL02–91–000]

Williams Energy Marketing & Trading Company, Complainant, v. Southern Company Service, Inc., Respondent Notice of Filing

May 28, 2002.

Take notice that on May 24, 2002, Williams Energy Marketing & Trading Company (Williams) filed a complaint and request for fast track processing under section 206 of the Federal Power Act, 16 USC 824e and section 206 of the Commission's rules of practice and procedure, 18 CFR 385.206, against Southern Company Services, Inc. Williams charges that Southern's unilateral annulment of a previously queued, accepted and confirmed transmission service redirect request is unjust and unreasonable. The Complaint also charges that Southern's interpretation of the effect of the exercise of rollover rights pursuant to Section 2.2 of the Southern Open Access Tariff is unjust and unreasonable. Williams, lastly, charges that the methodology used by Southern to perform generation interconnection studies is flawed and that the application of and reliance on such studies is untimely and unreasonable.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and § 385.214). All such motions or protests must be filed on or before June 17, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall be due on or before June 17, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR § 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13792 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–71–000, *et al.*]

American Transmission Systems, Incorporated, *et al.*; Electric Rate and Corporate Regulation Filings

May 24, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

[Docket Nos. EC02–71–000 and ER02–1865–000]

Take notice that on May 21, 2002 pursuant to Section 203 of the FPA and part 33 of the Commission's regulations, American Transmission Systems, Incorporated (ATSI) and PJM Interconnection, L.L.C. (PJM) filed with the Federal Energy Regulatory Commission (Commission), a joint application for approval of the transfer by ATSI of operational control over certain of its jurisdictional transmission facilities to PJM (Transfer). Pursuant to section 205 of the FPA and part 35 of the Commission's regulations, PJM filed three agreements related to the Transfer.

Copies of this filing were served upon all members of PJM and the state electric utility regulatory commissions within the PJM region.

Comment Date: June 11, 2002.

2. San Diego Gas and Electric Company, Complainant v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents, California Independent System Operator Corporation

[Docket Nos. EL00–95–001 and Docket No. ER02–1656–001]

Take notice that on May 21, 2002, the California Independent System Operator Corporation (ISO) tendered for filing in the above-captioned dockets errata to its proposals for a Comprehensive Market Redesign filed on May 1, 2002. The ISO requests that certain elements of the errata filing be made effective on July 1, 2002 and others on October 1, 2002. The ISO states that this filing has been served on the California Public Utilities Commission, all California ISO Scheduling Coordinators, and all parties in Docket No. EL00–95 and ER02–1656.

Comment Date: June 11, 2002.

3. Ameren Services Company

[Docket No. ER02–929–001]

Take notice that on May 22, 2002, Ameren Services Company (Ameren Services), as agent for Central Illinois Public Service Company (d/b/a AmerenCIPS) and Union Electric Company (d/b/a AmerenUE), submitted a revised unexecuted service agreement for Network Integration Transmission Service and a revised unexecuted Network Operating Agreement with Citizens Electric Corporation (CEC), the customer under the proposed agreements. Ameren Services requests an effective date of January 1, 2002 for these agreements.

A copy of the filing was served upon CEC and the affected state commissions.

Comment Date: June 12, 2002.

4. Central Maine Power Company

[Docket No. ER02–1277–001]

Take notice that on May 21, 2002, Central Maine Power Company (Central Maine) filed with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, its first-revised version of the executed S.D. Warren Somerset Entitlement Agreement. Central Maine originally submitted this agreement for filing with the Commission on February 19, 2002 and requested confidential treatment for certain material contained in the agreement that the parties considered sensitive business information. On May 6, 2002, the Commission issued a letter order conditionally accepting the agreement, but rejecting Central Maine's request for confidential treatment of certain portions of the contract, as well as requiring compliance with Order No. 614. The Commission ordered Central Maine to file non-confidential versions of the agreement within fifteen days of the issuance of that order. Accordingly, Central Maine Power Company has timely re-filed a non-confidential version of the agreement, which the Commission has designated as FERC Rate Schedule No. 148.

Comment Date: June 11, 2002.

5. Tampa Electric Company

[Docket No. ER02–1858–000]

Take notice that on May 21, 2002, Tampa Electric Company (Tampa Electric) tendered for filing Original Sheet No. 14A for inclusion in its First Revised Rate Schedule FERC No. 16, the agreement for interchange service between Tampa Electric and the Kissimmee Utility Authority (Kissimmee). Tampa Electric states that the material on the tendered sheet was inadvertently left out when the rate schedule was reformatted in accordance with Order No. 614.

Tampa Electric proposes that Original Sheet No. 14A be made effective on August 1, 2001, and therefore requests waiver of the Commission's prior notice requirement. Tampa Electric states that copies of the filing have been served on Kissimmee and the Florida Public Service Commission.

Comment Date: June 11, 2002.

6. Duke Energy Corporation

[Docket No. ER02–1859–000]

Take notice that on May 21, 2002, Duke Energy Corporation filed with the Federal Energy Regulatory Commission (Commission) a notice of cancellation for Service Agreements Nos. 139 and 140 under its FERC Electric Tariff No. 4, effective date July 31, 1999.

This notice of the proposed cancellation has been served on the parties on the Commission's official service list in these proceedings.

Comment Date: June 11, 2002.

7. Tampa Electric Company

[Docket No. ER02–1860–000]

Take notice that on May 21, 2002, Tampa Electric Company (Tampa Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission) service agreements with American Electric Power Service Corporation (AEP) for firm point-to-point transmission service and non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of May 21, 2002, for the tendered service agreements, and therefore requests waiver of the Commission's notice requirement. Copies of the filing have been served on AEP and the Florida Public Service Commission.

Comment Date: June 11, 2002.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1861–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Marshfield Electric & Water Department.

A copy of this filing was sent to Marshfield Electric & Water Department.

Comment Date: June 11, 2002.

9. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1862–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Independence Light & Power, Telecommunications.

A copy of this filing was sent to Independence Light & Power, Telecommunications.

Comment Date: June 11, 2002.

10. West Texas Utilities Company

[Docket No. ER02–1863–000]

Take notice that on May 21, 2002, West Texas Utilities Company (WTU) submitted for filing a restated and amended Interconnection Agreement between WTU and Taylor Electric Cooperative, Inc. (Taylor) that supersedes, in its entirety, the Interconnection Agreement between WTU and Taylor, dated January 1, 2000. The only changes to the Interconnection Agreement are the addition of a new point of interconnection to be established near Taylor's new Potosi Substation and administrative changes to reflect that WTU is an operating company of the American Electric Power System.

WTU seeks an effective date of June 18, 2002 for the Interconnection Agreement, and, accordingly, seeks waiver of the Commission's notice requirements. WTU served copies of the filing on Taylor and the Public Utility Commission of Texas.

Comment Date: June 11, 2002.

11. Delmarva Power & Light Company

[Docket No. ER02–1864–000]

Take notice that on May 21, 2002, Delmarva Power & Light Company (Delmarva) tendered for filing an Interconnection Agreement between Delmarva and Conectiv Delmarva Generation, Inc. (CDG). The Interconnection Agreement provides for the interconnection of CDG's generating facilities with the Delmarva transmission system.

Delmarva respectfully requests that the Interconnection Agreement become effective on July 21, 2002. Copies of the filing were served upon the Delmarva Public Service Commission, Maryland Public Service Commission and the Virginia State Corporation Commission.

Comment Date: June 11, 2002.

12. Desert Southwest Power, LLC

[Docket No. ER02–1866–000]

Take notice that on May 21, 2002, Desert Southwest Power, LLC submitted a Notice of Succession pursuant to 18 CFR 35.16 and 131.51 of the Federal Energy Regulatory Commission's Regulations. Caithness Energy Marketing, LLC has changed its name to Desert Southwest Power, LLC and effective April 23, 2002 succeeded to Caithness Energy Marketing, LLC Rate Schedule FERC No. 1, Market-Based Rate Schedule filed in Docket No. ER01–2353–000, which was effective July 15, 2001.

Comment Date: June 11, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13776 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–49–000, et al.]

The Cleveland Electric Illuminating Company, et al.; Electric Rate and Corporate Regulation Filings

May 28, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. The Cleveland Electric Illuminating Company, The Toledo Edison Company, FirstEnergy Ventures Corp., Bay Shore Power Company and NRG Northern Ohio Generating LLC, NRG Ashtabula Generating LLC, NRG Lakeshore Generating LLC

[Docket No. EC02–49–000]

The Commission issued the following text as a Notice of Filing (Notice) on February 11, 2002. Because the February 11, 2002 Notice was not published in the **Federal Register**, the Commission is reissuing the original Notice with a new due date for comments. Parties that have already filed comments, interventions, and protests need not do so again.

Take notice that on February 1, 2002, The Cleveland Electric Illuminating Company, The Toledo Edison Company, First Energy Ventures Corp., and Bay Shore Power Company (collectively, FirstEnergy Companies) and NRG Northern Ohio Generating LLC, (NRG Northern Ohio), NRG Ashtabula Generating LLC, and NRG Lakeshore Generating LLC (collectively the NRG Companies) (the FirstEnergy Companies and NRG Companies together, Applicants) filed with the Federal Energy Regulatory Commission (Commission) a joint application requesting authorization pursuant to Section 203 of the Federal Power Act for FirstEnergy Companies to transfer certain jurisdictional facilities associated with four electric generating stations, which are located in Ohio and total 2,535 MW, to the NRG Companies and passive participant owner lessors, which will in turn enter into long-term leases with NRG Northern Ohio. Additionally, pursuant to a Transition Power Purchase Agreement, FirstEnergy Solutions Corp., a wholly owned subsidiary of FirstEnergy Corp., engaged in wholesale and retail power marketing, will have the ability to schedule up to 92 percent of the capacity of the Facilities (excluding certain combustion turbines) through 2005. *Comment Date:* June 5, 2002.

1. KeySpan Ravenswood, Inc.

[Docket No. ER99–2387–001]

Take notice that on May 23, 2002, KeySpan-Ravenswood, Inc. (Ravenswood) tendered for filing its triennial market power analysis in compliance with the Federal Energy Regulatory Commission Order granting it market based rate authority in Docket No. ER99–2387–000 on May 27, 1999.

Comment Date: June 13, 2002.

2. Panda-Rosemary Limited Partnership

[Docket Nos. QF89–241–002 EL02–90–000]

Take notice that on May 17, 2002, Panda-Rosemary Limited Partnership (Panda-Rosemary), filed with the Federal Energy Regulatory Commission (Commission) a Request for Waiver of QF Operating and Efficiency Standards and Application for Recertification as a Qualifying Cogeneration Facility pursuant to 292.205" and 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a nominal 180–MW, natural gas fired, topping cycle cogeneration facility (the Facility) located in Roanoke Rapids, North Carolina. The Facility is interconnected with the North Carolina Power system and power from the Facility is sold to North Carolina Power.

Comment Date: June 27, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person

designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13789 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–142–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Rock Springs Expansion Project and Request for Comments on Environmental Issues

May 28, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Rock Springs Expansion Project involving the abandonment, construction and operation of facilities by Columbia Gas Transmission Corporation (Columbia) in Chester County, Pennsylvania.[1] The facilities being abandoned consist of 8.6 miles of 14-inch-diameter pipeline which would be replaced with 8.6 miles of 24-inch-diameter pipeline. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Columbia provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

Columbia is proposing the Rock Springs Energy Expansion Project to expand its existing system in Pennsylvania to provide firm transportation service to Rock Springs Generation, L.L.C.'s and CED Rock Springs, Inc.'s power plant to be built in Cecil County, Maryland. This project would allow Columbia to deliver 270,000 Dekatherms per day of gas to the power plant.

Columbia proposes to abandon its existing 8.6 mile 14-inch-diameter Line 1278 in Chester County, Pennsylvania and replace it with 24-inch-diameter pipeline beginning at Columbia's Downingtown Compressor Station and extending to its Eagle Compressor Station. The Rock Springs Generation, L.L.C. and CED Rock Springs, Inc. would construct 800 feet of nonjurisdictional 16-inch-diameter pipeline from the existing Rock Springs Meter Station in Cecil County, Maryland to the power plant. See appendix 2 for a location map of Columbia's Line 1278.

Land Requirements for Construction

Construction of Columbia's proposed facilities would require about 97 acres of land, including construction right-of-way for the pipeline and extra work areas needed for access and staging areas. Columbia would generally use a 50-to 75-foot-wide construction right-of-way during replacement. Line 1278 parallels for 6.5 miles Columbia's existing Line 1896 which will be replaced the summer of 2002 under the order issued in Docket No. CP01–439–000. The majority of the construction right-of-way for Line 1278 would overlap the construction right-of-way used for Line 1896. About 53 acres would be maintained as permanent right-of-way.

Construction access to Columbia's project generally would be via the construction right-of-way, private drives, and existing road network. Columbia has identified 10 existing access roads necessary for the construction of its project. No new access roads would be constructed.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. We call this "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

—geology and soils
—water resources and wetlands
—vegetation and wildlife
—threatened and endangered species
—cultural resources
—land use
—reliability and safety
—air quality and noise

We will evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

[1] Columbia's application was filed with the Commission on April 5, 2002, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] "We", "us", and "our", refer to the environmental staff of the Office of Energy Projects (OEP).

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. This preliminary list of issues may be changed based on your comments and our analysis.

Water Resources and Wetlands

—Crossing 8 perennial waterbodies
—Crossing 20 wetlands

Vegetation

—About 5.5 acres of forest to be cleared

Federally-Listed Threatened and Endangered Species

—Potential impact on the bog turtle

Land Use

—Impact on 97 residences and 13 buildings located within 50 feet of the construction work area

Public Participation and Site Visit

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas 1, PJ–11.1;
- Reference Docket No. CP02–142–000; and
- Mail your comments so that they will be received in Washington, DC on or before June 28, 2002.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link and link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on "Login to File" and then "New User Account".

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 2)[3]. If you do not return the Information Request, you will be removed from the environmental mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 1). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13790 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–2002–0016; FRL–7179–1]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on June 17–19, 2002, at Rutgers University Environmental and Occupational Health Sciences Institute in Piscataway, NJ. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: (a) Proposed AEGL Chemicals: allyl alcohol; benzene; methyl mercaptan; tetrachloroethylene; and toluene; (b) comments from the National Academy of Sciences Subcommittee for AEGLs: allyl amine; cis and trans crotonaldehyde; cyclohexyl amine; diborane; ethylene diamine; hydrogen chloride; hydrogen fluoride; hydrogen sulfide; iron pentacarbonyl; nickel carbonyl; perchloromethyl mercaptan; and phosgene; and (c) comments from the **Federal Register** of February 15, 2002 (67 FR 7164) (FRL–6815–8), and decision to raise to Interim AEGL status: Carbon tetrachloride; chlorine; chlorine dioxide; and propylene oxide.

DATES: A meeting of the NAC/AEGL Committee will be held from 10:00 a.m. to 5 p.m. on June 17, 2002; from 8:30 a.m. to 5 p.m. on June 18, 2002, and from 8:30 a.m. to noon on June 19, 2002.

ADDRESSES: The meeting will be held at the Rutgers University Environmental and Occupational Health Sciences Institute Conference Room C 170 Frelinghuysen Rd, in Piscataway, New Brunswick, NJ 08854. Guest Parking is available in parking Lot 54 and directions to the Institute are available on the Internet a http://www.eohsi.rutgers.edu/indexinfo.shtml.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara

Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8557; e-mail address: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**"—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–2002–0016. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oralpresentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for September, 2002.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: May 23, 2002.

William A. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 02–13812 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0090; FRL–7181–3]

Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group (SFIREG)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2–day meeting, beginning on June 24, 2002, and ending June 25, 2002. This notice announces the location and times for the meeting and sets forth the tentative agenda topics. The purpose of this meeting is to provide an opportunity for States to discuss with EPA environmental matters relating to pesticide registration, enforcement, training and certification, water quality, and disposal.

DATES: Comments identified by docket ID number OPP–2002–0090, must be received on or before July 3, 2002. The meeting will be held on Monday, June 24, 2002, from 8:30 a.m. to 5 p.m., and Tuesday, June 25, 2002, from 8:30 a.m. to noon.

ADDRESS: This meeting will be held at the Doubletree Hotel, 300 Army Navy Drive, Arlington Crystal City, VA. Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0090 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Georgia A. McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: mcduffie.georgia@epa.gov, or Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax (802) 472–6957; e-mail address: aapco@vtlink.net

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process, and they are invited and encouraged to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0090. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m. Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0090 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0090. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Tentative Agenda

The following outlines the tentative agenda for the 2–day meeting.

1. Recommendations of the water quality registration review team.
2. Residual homeowner use chlorpyrifos stocks in the marketplace.
3. An issue review team to study conflicts among FIFRA and other environmental statutes (discussion).
4. Discussion of Certification and Training Advisory Group recommendations.
5. Discussion on e-Labeling.
6. Committee reports and introduction of issue papers.
7. Update on current Office of Enforcement and Compliance Assurance activities.
8. Update on current OPP activities.
9. SFIREG issue paper status reports.
10. Regional reports.
11. Other topics as appropriate.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: May 23, 2002.

Jay S. Ellenberger,

Acting Division Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 02–13813 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7223–1]

National Advisory Council for Environmental Policy and Technology (NACEPT) Superfund Subcommittee; Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) gives notice that the National Advisory Council for Environmental Policy and Technology (NACEPT) Superfund Subcommittee will meet on the dates and times described below. The meeting is open to the public, but, due to limited space, seating will be on a first-come basis.

DATES: The meeting will be held on June 18, 2002, from 8:30 a.m. to 5 p.m., and on June 19, 2002, from 8:30 p.m. to 12:15 p.m.

ADDRESSES: Holiday Inn and Suites, 625 First Street, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Lois H. Gartner, Designated Federal Officer, Office of Emergency and Remedial Response (OERR), MC 5204G, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, 703–603–9046, e-mail: *gartner.lois@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA created the Superfund Subcommittee to undertake a dialogue about the future direction of the Superfund program in the context of other federal, state, and tribal cleanup programs. The Agency's charge to the Subcommittee requests that they discuss three key issues relevant to the Superfund program's future: the role of the National Priorities List (NPL), mega sites and program performance measures.

This first meeting of the Superfund Subcommittee will focus on discussions regarding the Subcommittee's charge and will also include presentations by EPA staff on relevant background information. On each day, there will be a limited time for public comment on the future direction of the Superfund program. Time allowed for individual presentations will be limited to 3 minutes, and all presenters must contact Lois Gartner (see contact information below) before June 10, 2002, and submit a brief statement of the general nature of the material to be presented. Presentations will be organized on a first-come basis. Written comments are encouraged, particularly if the material cannot be presented within the designated time limits, and must be sent to Ms. Gartner no later than June 14, 2002. To look at the complete agenda and to get more information, go to: *www.epa.gov/oswer/sfsub.htm*.

Dated: May 29, 2002.

Lois H. Gartner,

Designated Federal Officer, NACEPT Superfund Subcommittee.

[FR Doc. 02–13815 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0077; FRL–7179–8]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on December 2, 2002.

FOR FURTHER INFORMATION CONTACT: By mail: James A.Hollins, Information Resources Services Division 7502C, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5761; e-mail address:hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHERINFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

Electronically. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel 67 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit:

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product Name	Chemical Name
000052–00208	Germ Warfare Concentrated Detergent Germicide	Sodium 2-benzyl-4-chlorophenate Sodium o-phenylphenate p-tert-Amylphenol, sodium salt
000100–01019	Eptam 2.3 G	S-Ethyl dipropylthiocarbamate
000100 FL–89–0025	D.Z.N. Diazinon AG 500	O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
000100 FL–90–0002	Pennant Liquid Herbicide	2-Chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylphenyl)acetamide (9CI)

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000192–00195	Dexol Lawn & Garden Fungicide with Daconil 2787	Tetrachloroisophthalonitrile
000241 OR–00–0031	Raptor Herbicide	(+-)-2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-
000264–00639	Brestan H 47.5 WP Fungicide	Triphenyltin hydroxide
000264 OR–94–0014	Dodine 65W	Dodecylguanidine acetate
000264 WA–93–0011	Nortron Flowable Herbicide	2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate, (+-)-
000264 WA–95–0020	Nortron Flowable Herbicide	2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate, (+-)-
000279 FL–77–0039	Niagara Ethion 4 Miscible Miticide Insecticide	O,O,O',O'-Tetraethyl S,S'-methylene bis(phosphorodithioate)
000432 OR–96–0022	Acclaim 1EC Herbicide	2-(4-((6-Chloro-2-benzoxazolyl)oxy)phenoxy)propionic acid, ethyl ester, (+-)-
000524 ND–99–0013	MON-65005 Herbicide	Isopropylamine glyphosate (N-(phosphonomethyl)glycine)
000675–00025	Amphyl Disinfectant Deodorant Spray	Ethanol o-Phenylphenol
000675–00046	New O-Syl Disinfectant - Detergent	2-Benzyl-4-chlorophenol o-Phenylphenol
000769–00633	Smcp Ethion EM-4	O,O,O',O'-Tetraethyl S,S'-methylene bis(phosphorodithioate)
001769–00174	Watrol	6,7-Dihydrodipyrido(1,2-a:2',1'-c)pyrazinediium dibromide
002517–00060	Sergeant's Dual Action Flea and Tick Collar for Dogs	o-Isopropoxyphenyl methylcarbamate 2,2-Dichlorovinyl dimethyl phosphate
002935 OR–97–0003	Orthene 75 S Soluble Powder	O,S-Dimethyl acetylphosphoramidothioate
003125–00173	Di-Syston Seed Treatment Insecticide	O,O-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate
003125 ID–99–0001	Admire 2 Flowable	1-((6-Chloro-3-pyridinyl)methyl)-N-nitro-2-imidazolidinimine
003862–00118	Di-Elec Wasp & Hornet Spray	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds20% Bendiocarb (2,2-dimethyl-1,3-benzoldioxol-4-yl methylcarbamate)
005481–00270	AMVAC Ethion 4 Miscible for Citrus	O,O,O',O'-Tetraethyl S,S'-methylene bis(phosphorodithioate)
007173–00080	Rozol Ready-To-Use Rat and Mouse Bait	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00128	Rozol Rat and Mouse Killer	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00161	Rozol Rat and Mouse Killer Pellets	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00171	Maki Rat and Mouse Meal Bait	3-(3-(4'-Bromo-(1,1'-biphenyl)-4-yl)-3-hydroxy-1-phenylpropyl)-4-hydroxy-2H-1-
007173–00184	Rozol Pocket Gopher Bait	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00186	Maki Rat and Mouse Meal Bait	3-(3-(4'-Bromo-(1,1'-biphenyl)-4-yl)-3-hydroxy-1-phenylpropyl)-4-hydroxy-2H-1-
007173–00190	Rozol Paraffin Blocks	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00195	Ridall-Zinc Rodent Field & Agricultural Bait	Zinc phosphide (Zn3P2)
007173 AZ–77–0006	Rozol Ground Squirrel Bait	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 ID–92–0003	Rozol Paraffinized Pellets	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 OR–78–0018	Rozol Rodenticide Ground Spray Concentrate	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 UT–77–0001	Rozol Paraffinized Pellets	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
007173 UT–78–0006	Rozol Rodenticide Ground Spray Concentrate	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 WA–78–0060	Rozol Rodenticide Ground Spray Concentrate	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 WV–77–0003	Rodenticide Ground Spray Concentrate	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007401–00113	Ferti-Lome Citrus & Ornamental Spray	O,O,O',O'-Tetraethyl S,S'-methylene bis(phosphorodithioate) Aliphatic petroleum hydrocarbons
007501–00098	Gustafson 2% Reldan Dust Insecticide	O,O-Dimethyl O-(3,5,6-trichloro-2-pyridyl) phosophorothioate
007501–00099	Gustafson 3% Reldan Dust Insecticide	O,O-Dimethyl O-(3,5,6-trichloro-2-pyridyl) phosophorothioate
007501 ID–99–0002	Gaucho 75 St Insecticide	1-((6-Chloro-3-pyridinyl)methyl)-N-nitro-2-imidazolidinimine
007501 ID–99–0005	MZ - Curzate	Gas cartidge (as a device for burrowing animal control) Zinc ion and manganese ethylenebisdithiocarbamate, coordination product 2-Cyano-N-((ethylamino)carbonyl)-2-(methoxyimino)acetamide
007501 NE–00–0001	Evolve Potato Seed-Piece Treatment	Zinc ion and manganese ethylenebisdithiocarbamate, coordinationproduct Dimethyl ((1,2-phenylene)bis(iminocarbonothioyl))bis(carbamate) 2-Cyano-N-((ethylamino)carbonyl)-2-(methoxyimino)acetamide
007501 NE–01–0001	Tops-MZ-Gaucho	Gas cartidge (as a device for burrowing animal control) Zinc ion and manganese ethylenebisdithiocarbamate, coordination product Dimethyl ((1,2-phenylene)bis(iminocarbonothioyl))bis(carbamate) 1-((6-Chloro-3-pyridinyl)methyl)-N-nitro-2-imidazolidinimine
007501 NE–99–0004	MZ - Curzate Potato Seed-Piece Treatment	Gas cartidge (as a device for burrowing animal control) Zinc ion and manganese ethylenebisdithiocarbamate, coordination product 2-Cyano-N-((ethylamino)carbonyl)-2-(methoxyimino)acetamide
007501 WA–99–0004	Tops - MZ - Gaucho Potato Seed-Piece Treatment	Gas cartidge (as a device for burrowing animal control) Zinc ion and manganese ethylenebisdithiocarbamate, coordination product Dimethyl ((1,2-phenylene)bis(iminocarbonothioyl))bis(carbamate) 1-((6-Chloro-3-pyridinyl)methyl)-N-nitro-2-imidazolidinimine
007501 WA–99–0011	Tops - MZ - CZ	Gas cartidge (as a device for burrowing animal control) Zinc ion and manganese ethylenebisdithiocarbamate, coordination product Dimethyl ((1,2-phenylene)bis(iminocarbonothioyl))bis(carbamate) 2-Cyano-N-((ethylamino)carbonyl)-2-(methoxyimino)acetamide
008536 FL–97–0006	Methyl Bromide 98%	Methyl bromide
009198–00122	The Andersons Turcam Insecticide I	Bendiocarb (2,2-dimethyl-1,3-benzoldioxol-4-yl methylcarbamate)
009688–00118	Chemsico Granules Formula B	Bendiocarb (2,2-dimethyl-1,3-benzoldioxol-4-yl methylcarbamate)
010145–00007	Vita-San WS	2-Benzyl-4-chlorophenol Sodium o-phenylphenate
010163–00080	Gowan Azinphos-M 2 EC	O,O-Dimethyl S-((4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl) phosphorodithioate
010163 OR–94–0045	Imidan 70-WP Agricultural Insecticide	N-(Mercaptomethyl)phthalimide S-(O,O-dimethyl phosphorodithioate)
010163 OR–94–0047	Imidan 70-WP Agricultural Insecticide	N-(Mercaptomethyl)phthalimide S-(O,O-dimethyl phosphorodithioate)
010807–00095	Pine Oil Disinfectant	Pine oil
045639 OR–00–0009	Hoelon 3EW Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
048598–00003	Insecto Formula 7	Pine oil
051036 AZ–89–0011	Dimethoate 4E Systemic Insecticide	O,O-Dimethyl S-((methylcarbamoyl)methyl) phosphorodithioate
051161 OR–93–0013	Orthene 75 S Soluble Powder	O,S-Dimethyl acetylphosphoramidothioate
054555 TX–00–0001	Dormex	Cyanamide
062719–00404	Stampede CM Herbicide	3',4'-Dichloropropionanilide 2-Ethylhexyl 2-methyl-4-chlorophenoxyacetate
067752 OR–93–0014	Orthene 75 S Soluble Powder	O,S-Dimethyl acetylphosphoramidothioate
071368 WA–80–0081	Weedar 64 Broad Leaf Herbicide	Dimethylamine 2,4-dichlorophenoxyacetate
071368 WA–85–0021	Weedar 64 Broad Leaf Herbicide	Dimethylamine 2,4-dichlorophenoxyacetate
071368 WA–95–0037	Weedar 64 (R) Broadleaf Herbicide	Dimethylamine 2,4-dichlorophenoxyacetate
071768–00001	Bear Pause Attack Deterrent	Capsaicin (in oleoresin of capsicum)

There is a 30-day comment period on registrations for EPA companynumbers 000279, 005481, 071768.

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180-day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company Name and Address
000052	W.P. Chemical Products, Inc., W. Penetone Corp., 74 Hudson Ave., Tenafly, NJ 07670.
000100	Syngenta Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000192	Value Gardens Supply, LLC, Box 585, St. Joseph, MO 64502.
000241	BASF Corp., Box 13528, Research Triangle Park, NC 27709.
000264	Aventis Cropscience USA LP, 2 T.W. Alexander Drive Box 12014, Research Triangle Park, NC 27709.
000279	FMC Corp. Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000432	Aventis Environmental Science USA LP, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000524	Monsanto Co., 600 13th Street, NW, Suite 660, Washington, DC 20005.
000675	Reckitt Benckiser Inc., 1655 Valley Rd., Wayne, NJ 07474.
000769	Value Gardens Supply, LLC, Box 585, St. Joseph, MO 64502.
001769	NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062.
002517	Sergeant's Pet Products, Box 18993, Memphis, TN 38181.
002935	Wilbur Ellis Co., 191 W. Shaw Ave, #107, Fresno, CA 93704.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
003862	ABC Compounding Co, Inc., Box 16247, Atlanta, GA 30321.
005481	AMVAC Chemical Corp., Attn: Jon C. Wood, 4695 Macarthur Ct., Suite 1250, Newport Beach, CA 92660.
007173	LiphaTech, Inc., 3600 W. Elm Street, Milwaukee, WI 53209.
007401	Brazos Associates, Inc., Agent For: Voluntary Purchasing Group Inc., 2001 Diamond Ridge Drive, Carrollton, TX 75010.
007501	Gustafson LLC, 1400 Preston Rd., Suite 400, Planos, TX 75093.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company Name and Address
008536	Soil Chemicals Corp., D/b/a Cardinal Professional Products, Box 782, Hollister, CA 95024.
009198	The Andersons Inc., Lawn Fertilizer Division, Box 119, Maumee, OH 43537.
009688	Chemsico, Div of United Industries Corp., Box 142642, St Louis, MO 63114.
010145	Blumberg Co. Inc., Box 1329, Newburyport, MA 01950.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010807	AMREP, Inc., 990 Industrial Dr, Marietta, GA 30062.
045639	Agrevo USA Co., Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19808.
048598	Natural Insecto Products, Inc., 221 Sherwood Place, Box 12138, Costa Mesa, CA 92627.
051036	Micro-Flo Co. LLC, Box 772099, Memphis, TN 38117.
051161	Round Butte Seed Growers Inc., 505 C Street, Box 117, Culver, OR 97734.
054555	Siemer & Associates, Inc., Agent For: Degussa Ag., 4672 W. Jennifer, Suite 103, Fresno, CA 93722.
062719	Dow AgroSciences LLC, 9330 Zionsville Rd., 308/2E225, Indianapolis, IN 46268.
067752	Central Oregon Seed Inc., 1747 NW Mill St., Madras, OR 97741.
071368	Nufarm, Inc., 500 Lower Lake Rd., St. Joseph, MO 64504.
071768	Chemarmor, 625 North Ave.W., Box 4363, Missoula, MT 59806.

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before December 2, 2002. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice.If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **FederalRegister** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 14, 2002.

Linda Vlier Moos,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 02–13811 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0078; FRL–7179–2]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number OPP–2002–0078, must be received on or before July 3, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0078 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja Brothers, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194 and e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**"—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0078 official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–2002–0078 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–2002–0078. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your

response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 17,2002.

Robert Forrest,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the Interregional Research Project Number 4, and represents the view of the Interreional Research Project. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

PP 1E6322

EPA has received a pesticide petition (1E6322) from the Interregional Research Project Number 4, 681 U.S. Highway 1 South, North Brunswick, New Jersey 08902–3390] proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.479 by establishing a tolerance for residues of the herbicide [halosulfuron, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl) amino]carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate] in or on the raw agricultural commodities (RAC) dry bean and succulent snap bean at 0.05 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This notice includes a summary of the petition prepared by Gowan Company, Yuma, Arizona 85366.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of halosulfuron-methyl as well as the nature of the residues in plants is adequately understood for purposes of this tolerance.

2. *Analytical method.* A practical analytical method, gas chromatography with a nitrogen specific detector (TSD) which detects and measures residues of halosulfuron-methyl, is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. This enforcement method has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual (PAM II). It has undergone independent laboratory validation and validation at the Beltsville laboratory.

3. *Magnitude of residues.* In snap and dry bean residue studies, there were no quantifiable residues found in the RAC using an analytical method with limit of quantitation (LOQ) of 0.05 ppm.

B. Toxicological Profile

The nature of the toxic effects caused by halosulfuron-methyl is discussed in unit II.B of the **Federal Register** on April 31, 2001 (66 FR 45993) (FRL–6796–1).

C. Aggregate Exposure

1. *Dietary exposure.* Tolerances have been established (40 CFR 180.479) for residues of halosulfuron-methyl in or on a variety of plant and animal RACs.

i. *Food*— a. *Acute exposure.* For purposes of assessing the potential dietary exposure from food under existing and proposed tolerances, the aggregate exposure is based on the Theoretical Maximum Residue Contribution (TMRC) which is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance.

The calculated TMRC value using the 99.9th percentile consumption data was 0.006 milligrams/kilograms bodyweight day (mg/kg bwt day) or 1.2% acute Reference Dose (aRfD) for the general U.S. population. TMRC is obtained by multiplying the tolerance levels for each commodity by the daily consumption of the food forms of that commodity eaten by the U.S. population and various population subgroups.

In conducting this exposure assessment, conservative assumptions were made resulting in a large overestimate of human exposure. Thus, the dietary exposures to halosulfuron-methyl are less 3.0% aRfD for all subpopulations. Food consumption data from DEEM software were used in the calculation.

b. *Chronic exposure.* The chronic Reference Dose (cRfD) is 0.1 mg/kg/day. For all established and proposed tolerances of halosulfuron-methyl, the calculated TMRC value for the U.S. population is 0.00049 mg/kg/day or 0.5% RfD.

ii. *Drinking water.* The estimated environmental concentrations (EECs) in ground water (acute and chronic) is 0.008 µg/L. The estimated EECs (acute and chronic) for surface water are 4.3 µg/L and 1.1 µg/L, respectively. These estimates are based on a maximum application rate of 0.063 lbs. active per acre, which may be applied twice per season. There is no Maximum Contaminant Level (MCL) established for residues of halosulfuron-methyl.

2. *Non-dietary exposure.* The non-dietary exposure assessment for halosulfuron-methyl is discussed in unit II.C of the **Federal Register** on April 31, 2001 (66 FR 45993) (FRL–6796–1).

D. Cumulative Effects

The potential for cumulative effects for halosulfuron-methyl is discussed in unit II.D of the **Federal Register** on April 31, 2001 (66 FR 45993) (FRL–6796–1).

E. Safety Determination

1. *U.S. population.* Aggregate chronic exposure to halosulfuron-methyl from "food only" utilizes less than 1% of the chronic populated adjusted dose (cPAD) for the most sensitive subgroup, children (1–6 years). The lowest drinking water level of concern (DWLOC) calculated was 1,000 µg/L for infants and children which is significantly higher than the EEC for chronic ground water (0.008 µg/L) and surface water (1.1 µg/L). As a result, the aggregate risk from chronic exposure to halosulfuron-methyl residues from all anticipated dietary exposures does not pose appreciable risks to human health.

Short-term risk—short-term aggregate exposure takes into account chronic dietary food and water plus short-term residential exposure. For halosulfuron-methyl, the EPA has determined that it is appropriate to aggregate exposure via oral exposure route (food and water) with those via oral and dermal exposure routes from residential uses. The MOEs for "food only" and residential exposure routes are 113, 600, and 330 for females 13+ years. Short-term DWLOC for females 13+ is 10,000 µg/L which is substantially higher than the EECs for acute surface water (4.3 µg/L). The food only and residential (oral and dermal) MOEs are well above the acceptable short-term aggregate MOE of 100. Therefore, exposure to halosulfuron-methyl residues resulting from current and proposed uses does not pose a short-term aggregate risk.

Intermediate-term risk—intermediate-term aggregate exposure takes into account chronic dietary food and water plus intermediate-term residential exposure. The MOEs for "food only" and residential exposure routes are 22,800 and 120 for adult males, and 23,000 and 100 for females 13+ years. The intermediate-term DWLOCs are 590 µg/L and 57 µg/L, respectively, for adult males and females 13+. Intermediate-term DWLOCs are substantially higher than the EEC for chronic surface water (1.1 µg/L). The food only and residential (dermal) MOEs are above the acceptable short-term aggregate MOE of 100. Therefore, exposure to halosulfuron-methyl residues resulting from current and proposed uses does not pose a intermediate-term aggregate risk.

Halosulfuron-methyl has been classified as a Group E chemical based upon the lack of evidence of carcinogenicity in mice and rats, and has been classified as not likely to be a human carcinogen.

Therefore based upon this risk assessment, there is reasonable certainty that no harm will result from aggregate exposure to halosulfuron-methyl residues resulting from current and proposed uses.

2. *Infants and children.* FFDCA section 408 provides that EPA may apply an additional safety factor (up to 10) in the case of threshold effects for infants and children to account for pre-natal and post-natal toxicity and the completeness of the data base. Except for the pending request for a developmental neurotoxicity study, the toxicity data base is complete for halosulfuron-methyl.

The chronic RfD was determined to be 0.1 mg/kg/day based upon the chronic dog study. The percent of RfD occupied is 0.9% for the most sensitive population subgroup, children (1–6 years old). The DWLOC for chronic exposure for infants and children is 1,000 µg/L and is significantly greater than the maximum concentration of halosulfuron-methyl in drinking water (0.008 µg/L in ground water and 1.1 µg/L in surface water).

Based upon reliable toxicity data, the use of an additional 10X safety factor is not warranted. Dietary assessments do not indicate a level of concern for potential risks to infants and children based upon the low use rates of halosulfuron-methyl, and the results of field and animal RAC studies conclude that detectable residues are not expected in human foods.

Therefore, based on complete and reliable toxicity data and the conservative exposure assessment, it is concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to halosulfuron-methyl residues with respect to the proposed new uses on dry and succulent snap beans.

F. International Tolerances

Maximum residue levels have not been established for residues of halosulfuron-methyl on any food or feed crop by the Codex Alimentarius Commission.

[FR Doc. 02–13814 Filed 5–31–02 8:45 am]

BILLING CODE 6560–50–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Countryside Square Bancshares, Inc., Meriden, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Countryside Bank, Meriden, Kansas.

Board of Governors of the Federal Reserve System, May 28, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13777 Filed 5–31–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Information Quality Guidelines

AGENCY: Office of the Chief Information Officer, General Services Administration.

ACTION: Notice of availability.

SUMMARY: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) requires all Federal agencies covered by the Paperwork Reduction Act (44 U.S.C. Chapter 35), including the General Services Administration, to issue guidelines by October 1, 2002, for the purpose of "ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency." (Pub. L. 106–554). The Agency guidelines must be consistent with governmentwide guidelines published by the Office of Management and Budget (66 FR 49718, September 28, 2001; 67 FR 8452, February 22, 2002) and must include "administrative mechanisms allowing affected persons to seek and obtain correction of information" that the Agency maintains and disseminates, and that does not comply with the OMB or agency guidelines.

This Notice of Availability informs the public that the General Services Administration has written draft guidelines, which are available for public information and comment as described in this notice.

DATES: We must receive your comments on or before June 30, 2002.

ADDRESSES: Address all comments about the guidelines to the Office of the Chief Information Officer, General Services Administration, 1800 F St., NW., room 3245, Washington, DC 20405.

If you prefer to send your comments through the Internet, use the following e-mail address: *section515@gsa.gov*.

You must include the term "Section 515 Information Quality Guidelines" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: For a Copy of the Guidelines and Further Information: The guidelines are available through the Internet at the following site: *http://www.gsa.gov/Portal/content/offerings_content.jsp?contentOID=121870&contentType=1004&P=1&S=1*. Alternatively, you may contact Jane Morgan, General Services Administration, 1800 F St., NW., room 2213, Washington, DC 20405. Telephone: (202) 501–2907. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under For a Copy of the Guidelines and Further Information.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding the guidelines. During and after the comment period, you may view all public comments about these guidelines at the following site: *http://www.gsa.gov/Portal/content/offerings_content.jsp?contentOID=121870&contentType=1004&P=1&S=1*.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public record for these guidelines. If you want to schedule an appointment for this type of aid, please contact the person listed under For a Copy of the Guidelines and Further Information.

Electronic Access to This Document

You may view this document in text form at the following site: *http://www.gsa.gov/Portal/content/offerings_content.jsp?contentOID=121870&contentType=1004&P=1&S=1*.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*.

L. Diane Savoy,

Director, Office of Policy and Plans.

[FR Doc. 02–13757 Filed 5–31–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–182]

Availability of Draft Guidance Manual and Draft Interaction Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a draft guidance manual and six draft interaction profiles prepared by ATSDR for review and comment.

DATES: To ensure consideration, comments on these draft documents must be received on or before September 2, 2002. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for copies of the draft interaction profiles should be sent to the attention of Ms. Franchetta Stephens, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Requests for the draft interaction profiles must be in writing, and must specifically identify the interaction profile(s) that you wish to receive. The documents will be primarily available in electronic Adobe Acrobat (pdf) files. If you do not have a computer, you can ask for a hard copy. ATSDR reserves the right to provide only one copy of each profile requested, free of charge. In case of extended distribution delays, requestors will be notified.

Interaction profiles and the guidance manual will also be available on ATSDR's Web site at *http://www.atsdr.cdc.gov*.

Written comments and other data submitted in response to this notice and the draft interaction profiles or draft guidance document should bear the docket control number ATSDR–182. Send one copy of all comments and three copies of all supporting documents to Dr. Hana Pohl, ATSDR, Division of Toxicology, Mailstop E–29, 1600 Clifton Road, Atlanta, Georgia 30333 by the end of the comment period. Because all public comments regarding ATSDR interaction profiles and the guidance manual are available for public inspection after they are published in final, no confidential business information or other confidential information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Franchetta Stephens, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone (888) 422–8737 or (404) 498–0720.

SUPPLEMENTARY INFORMATION: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) mandates that the Agency for Toxic Substances and Disease Registry (ATSDR) shall assess whether adequate information on health effects is available for the priority hazardous substances. Where such information is not available or under development, ATSDR shall, in cooperation with the National Toxicology Program, initiate a program of research to determine these health effects. The Act further directs that where feasible, ATSDR shall develop methods to determine the health effects of substances in combination with other substances with which they are commonly found. The Food Quality Protection Act (FQPA) of 1996 requires that factors to be considered in establishing, modifying, or revoking tolerances for pesticide chemical residues shall include the available information concerning the cumulative effects of substances that have a common mechanism of toxicity, and combined exposure levels to the substance and other related substances. The FQPA requires that the Administrator of the Environmental Protection Agency consult with the Secretary of the Department of Health and Human Services (which includes ATSDR) in implementing some of the provisions of the act.

To carry out these legislative mandates, ATSDR has developed a chemical mixtures program. As part of the mixtures program, ATSDR developed a guidance manual that outlines the latest methods for mixtures health assessment. In addition, a series of documents called interaction profiles are being developed for certain priority mixtures that are of special concern to ATSDR. The purpose of an interaction profile is to evaluate data on the toxicology of the "whole" priority mixture (if available) and on the joint toxic action of the chemicals in the mixture in order to recommend approaches for the exposure-based assessment of the potential hazard to public health.

Although key studies for each of the mixtures were considered during the profile development process, this **Federal Register** notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profiles now or in the future.

The following draft documents will be available to the public on or about, June 1, 2002.

Document 1

Guidance manual for the assessment of joint toxic action of chemical mixtures.

Document 2

Interaction profiles for persistent chemicals found in fish. Chlorinated dibenzo-p-dioxins (CDDs), hexachlorobenzene, dichlorodiphenyl dichloroethane (p,p'-DDE), methyl mercury, and polychlorinated biphenyls (PCBs).

Document 3

Interaction profiles for persistent chemicals found in breast milk. Chlorinated dibenzo-p-dioxins (CDDs), hexachlorobenzene, dichlorodiphenyl dichloroethane (p,p'-DDE), methyl mercury, and polychlorinated biphenyls (PCBs).

Document 4

Interaction profile for 1,1,1-trichloroethane, 1,1-dichloroethane, trichloroethylene, and tetrachloroethylene.

Document 5

Interaction profile for benzene, ethylbenzene, toluene, and xylenes (BTEX).

Document 6

Interaction profile for arsenic, cadmium, chromium, and lead.

Document 7

Interaction profile for copper, lead, manganese, and zinc.

All documents issued as "Drafts for Public Comment" represent ATSDR's best efforts to provide important toxicological information on interactions of priority hazardous substances. We are seeking public comments and additional information which may be used to supplement these documents. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our clients.

Dated: May 24, 2002.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 02–13767 Filed 5–31–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01154]

Expansion of Prevention, Care and HIV/AIDS Surveillance Activities for Injection Drug Users With the Bangkok Metropolitan Administration, Bangkok, Thailand; Notice of Availability of Funds

Amendment

A notice announcing the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for expansion of prevention, care and HIV/AIDS surveillance activities for injection drug users with the Bangkok Metropolitan Administration, Thailand, was published in the **Federal Register** on July 25, 2001, [Vol. 66, No. 143, Pages 38706–38707]. The notice is amended as follows:

On page 38706, First Column, Under Title, delete: "for Injection Drug Users."

On page 38706, First Column, Under Section A. Purpose, first paragraph, delete "among injection drug users (IDUs)."

On page 38706, First Column, Under Section A. Purpose, second paragraph, delete "among IDUs."

On page 38706, Third Column, Under Section C. Availability of Funds, Subsection Use of Funds, delete "Funds received from this announcement may not be used for the direct purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapin in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care." and change to "The purchase of antiretrovirals, reagents, and laboratory equipment for antiretroviral treatment projects requires pre-approval from the Global AIDS Program headquarters."

Dated: May 26, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–13781 Filed 5–31–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01153]

Expansion of Prevention, Care and HIV/AIDS Surveillance With the Ministry of Public Health in the Kingdom of Thailand; Notice of Availability of Funds

Correction

A notice announcing the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for expansion of prevention, care and HIV/AIDS surveillance with the Ministry of Public Health in the Kingdom of Thailand, was published in the **Federal Register** on July 16, 2001, [Vol. 66, No. 136, Pages 37036–37038]. The notice is corrected as follows:

On page 37038, First Column, Under Section C. Availability of Funds, remove: "Funds received from this announcement may not be used for the direct purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapin in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care." and add in its place "The purchase of antiretrovirals, reagents, and laboratory equipment for antiretroviral treatment projects requires pre-approval from the Global AIDS Program headquarters."

On page 37038, First Column, Under Section E. Availability of Funds, remove: "1. Alterations and Renovations: Unallowable. 2. Customs and Import Duties: Unallowable. This includes consular fees, customs surtax, value added taxes, and other related charges."

Dated: May 26, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).

[FR Doc. 02–13780 Filed 5–31–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02169]

Enhanced Surveillance for Newly Vaccine Preventable Diseases; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds to expand the current New Vaccine Surveillance Network (NVSN) cooperative agreement program to conduct broader-based surveillance and research projects. This program complements existing local, State, and national surveillance efforts and facilitates research on issues related to new vaccine introduction or new vaccine policies and their impact. This program addresses the "Healthy People 2010" focus area, Immunization and Infectious Diseases. The purpose of the program is to support a network of sites that provide surveillance and data collection on new vaccine use, the impact of new vaccines, and new vaccine policies through enhanced inpatient and outpatient surveillance, applied epidemiologic research, and investigator-initiated investigations. The two current NVSN sites are affiliated with the University of Rochester, NY, and Vanderbilt University, TN. They are currently in year three of the project.

As new vaccines are licensed and recommended for use, new strategies are needed for surveillance and monitoring. The NVSN currently conducts surveillance and studies in children, but future NVSN activities could extend to the adult population. CDC has identified several areas that are considered programmatic priorities: (1) Population-based collection of clinical and etiological data from children hospitalized for selected current and prospective vaccine preventable diseases such as viral respiratory illnesses caused by influenza, respiratory syncytial virus (RSV), and parainfluenza; (2) collection of similar data from a representative sample of outpatients such that conclusions drawn can be considered population-based; (3) collection of data on illnesses and syndromes among outpatients and inpatients that may be affected by use of new vaccines (e.g., otitis media, lobar pneumonia); and (4) assessment of the impact of new vaccines or policies on clinical practices. CDC also values the flexibility to respond to emerging issues as new vaccines are introduced and new questions arise.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301, 317(k)(1) and 2102(a) of the Public Health Service Act, [42 U.S.C. sections 241, 247b(k), and 300aa–2(a)], as amended. The Catalog of Federal Domestic Assistance number is 93.185.

C. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, faith-based organizations, community-based organizations, other public and private nonprofit organizations, health departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Preference will be given to applicants whose geographic areas are not covered by an existing NVSN site.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award or loan.

D. Availability of Funds

Approximately $500,000 is available in FY 2002 to fund one award. It is expected that the award will begin on or before September 30, 2002, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds cannot be used for construction or renovation, to purchase or lease vehicles or vans, to purchase a facility to house project staff or carry out project activities, or to supplant existing support.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities shown below under item 1. Recipient Activities, and CDC will be responsible for the activities listed under item 2. CDC Activities.

1. Recipient Activities

a. Establish and operate an NVSN site. To effectively function as part of this network, the site should have the following characteristics and capabilities:

(1) Be established in a defined population, which could include either an entire state or a geographically defined area (or areas) within a state, in order to conduct population-based surveillance. A minimum population base of approximately 500,000 persons may be necessary to accomplish the objectives of certain NVSN activities (e.g., obtaining population-based estimates of influenza and RSV in children less than five years of age).

(2) Have the capacity to simultaneously conduct population-based inpatient surveillance for Acute Respiratory Illness (ARI) among children less than five years old, outpatient ARI surveillance in a representative sample of children, and two other joint projects with one or more of the other NVSN sites. As examples, ongoing projects include: analysis of an existing database to assess vaccine impact among outpatients in the study area, chart reviews from a broad sample of pediatric care providers in the community to assess uptake of Pneumococcal Conjugate Vaccine (PCV) and its clinical impact and impact on vaccination practices (e.g., timeliness in administering other vaccines, number of injections per vaccination visit, etc.).

(3) Have the flexibility to accommodate changes in specific projects and priorities as the public health system's need for information changes or new vaccines are licensed and implemented into the vaccination program. Function effectively as part of a network where projects and protocols are developed collaboratively among investigators at the NVSN sites and CDC.

(4) Have an established relationship with pediatric care providers in both inpatient and outpatient facilities so that surveillance and other studies can be conducted with them during the first year of participation.

b. Develop plans for obtaining additional support to supplement assistance from CDC.

c. Have a relationship with state and local health departments, and other public and private organizations, that have an interest in addressing public health issues relating to new vaccines.

d. Conduct activities addressing section d.(1) through d.(4), below. As an option, propose an additional study addressing section d.(5) that can be implemented as a network-wide project or that can be completed at the recipient's site with or without the participation of other NVSN sites. Specific protocols for activities conducted at more than one surveillance site must be developed collaboratively by investigators at those sites and CDC. Specific protocols for activities conducted at a single site must be approved by CDC.

(1) Conduct year-round enhanced surveillance according to NVSN protocol, for selected current and prospective vaccine preventable diseases by performing the following activities in all surveillance area hospitals that admit children less than five years old: Provide staff to screen admissions year-round and enroll children with ARIs; collect information on demographics, insurance coverage, medical history, risk factors, hospital course, admission and discharge diagnoses, and laboratory results from parents and medical records; collect nasal and throat swabs from all enrolled children; perform viral culture and Polymerase Chain Reaction (PCR) testing for influenza, RSV, and parainfluenza on all collected samples (PCR primers will be supplied by CDC); conduct quality assurance checks of the data in accordance with NVSN procedures; and enter data and send it to CDC using the NVSN web-based data collection system. Have the flexibility to extend surveillance to other vaccine preventable diseases (e.g., pertussis) which may require the conduct of other laboratory tests.

(2) Conduct surveillance similar to that described in section d.(1) among a representative sample of children less than five years old seen at outpatient practices in the surveillance area such that results can be considered population-based. Only PCR will be used to test specimens from outpatients.

(3) Study the impact of incorporating new vaccines on provider policies, practices, and utilization. Collect data from a network of pediatric outpatient care providers to document the impact of new vaccines recommended for routine use among children, potentially including combination vaccines.

(4) Investigate the impact of new vaccines on disease burden and health care utilization through analysis of local databases. Have established access, or propose developing one or more data sources that are representative of children in the surveillance area. Possible sources of data include insurance databases, managed care organization data, Medicaid databases, or other sources that would include vaccination and disease burden data.

(5) Develop and conduct other applied epidemiologic and/or health services research projects related to new vaccine introduction. Examples of completed or current projects include: ARI inpatient surveillance of about 1,000 patients recruited during the first 18 surveillance months; complementary outpatient surveillance of ARIs; analyses of Medicaid and private insurance databases to assess the impact of PCV on the burden of pneumococcal disease-related outcomes; survey of provider attitudes and practices regarding PCV; conduct a feasibility study of implementing a recommendation for universal influenza vaccination of young children 6–35 months old (focus groups, national provider survey, time and motion study in seven practices, and a database analysis).

e. Routinely evaluate progress in achieving the purpose of this program.

f. Analyze and interpret data from NVSN projects, and publish and disseminate findings in collaboration with CDC.

2. CDC Activities

a. Provide CDC investigator(s) to monitor the NVSN cooperative agreement as project officer(s). At least one CDC investigator will be assigned to each NVSN project.

b. Provide consultation, scientific, and technical assistance in designing and conducting individual NVSN projects.

c. Assist in the development of research protocols for Institutional Review Boards (IRB) review by all cooperating institutions participating in the research projects. For each protocol, the CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

d. As needed and arranged with investigators, perform laboratory evaluation of specimens or isolates (e.g., molecular epidemiologic studies, evaluation of diagnostic tools) obtained in NVSN projects; provide PCR primers and quality control specimens; and integrate results with data from other NVSN sites.

e. Manage, maintain, and update the secure, encrypted CDC web-based system which is used by the NVSN for data entry of ARI surveillance data at the sites, transfer of data from sites to CDC, merging of data from NVSN sites, and creation of data sets and data summaries which are accessible by each site. Each NVSN site will be able to download only its own site's raw data through the web-based system.

f. Analyze and interpret data from NVSN projects, and publish and disseminate findings in collaboration with NVSN site investigators.

F. Content

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated based on the criteria listed in this program announcement, so it is important to follow them in preparing your program plan. The narrative (excluding budget, appendices, and required forms) should be no more than 30 single-spaced pages, printed on one side, with one-inch margins, and 12 point font. Only the following information should be presented in appendices: Letters of support, documentation of bona fide agent status, curricula vitae of key project personnel, and budget. Letter of support should clearly indicate collaborators' willingness to be participants in the NVSN activities. All other materials or information that should be included in the narrative will not be accepted if placed in the appendices.

Applicants should propose at least one project from the activities provided in Program Requirements. Each specific project proposal should be clearly identified in a distinct portion of the Operational Plan and should not exceed four pages. Descriptions should include objectives, methods, analytic approach, and illustrative sample size calculations recognizing that data from two or more sites may be aggregated for analysis. Although the specific activities described address distinct issues and needs, they may be implemented in an integrated manner such that staff members work on more than one activity, and supplies and equipment are shared, etc. The specific project proposal(s) will be reviewed as a potential project that could be conducted under the award, but the NVSN may choose not to conduct the project depending on other NVSN competing interests, needs, and resources.

Since enhanced surveillance will be done in collaboration with the other NVSN sites, most projects will need to be designed so that data can be integrated with data from the other sites. The ARI surveillance data from hospitals and outpatient clinics must be merged with data from other sites. Some local databases of vaccination or disease burden (e.g., registries or insurance company data) may be proprietary; however, for joint NVSN projects, the data can be analyzed locally and presented in joint publications.

This would require that variables be available and defined in a way that is compatible with data from other sites. Sites are expected to make every effort to ensure that data can be integrated with those of other NVSN sites.

In describing the impact of incorporation of new vaccines on provider policies, practices, and utilization (Recipient activities, d.(3)), applicants may include, but are not limited to, a description of the number of vaccine and injections offered at visits during the first two years of life; vaccine-specific coverage rates of all recommended vaccines at specified ages, both before and after incorporating new vaccines; the number of visits used to complete administration of all recommended vaccine by ages one and two; and revenues and costs associated with incorporating new vaccines in practice.

Budget Instructions:

For each line-item (as identified on the Form 424a of the application), show both Federal and non-Federal (e.g., State or other funding) shares of total cost for the NVSN. For each staff member listed under the Personnel line item, indicate their specific responsibilities relative to each of the proposed projects. Include provisions for the principal investigator and one NVSN participant to travel to two meetings at CDC in Atlanta during the first year of participation, and one meeting at CDC in Atlanta during subsequent years of participation.

G. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1. Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm*. On or before July 15, 2002, submit the application to: Technical Information Management-PA02169, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are received on or before the deadline date.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals as stated in section "A. Purpose" of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated against the following criteria by an independent review group appointed by CDC:

1. Surveillance and Research Plan (30 points)

The application will be evaluated based on: (a) Methodology for conducting population-based surveillance among inpatients at all surveillance area hospitals; (b) methodology for conducting population-based surveillance among outpatients at a representative sample of outpatient practices; and (c) quality of the proposed additional research projects, as requested in the Application Content section above, regarding objectives, methodology/design, feasibility, and collaboration and participation of partner organizations and CDC. The applicant also must state the degree to which they have met CDC policy requirements regarding representation of women, ethnic, and racial groups in the proposed research, including: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; (4) a statement as to whether plans for recruitment and outreach for study participants include the process of establishing partnerships with community ties and recognition of mutual benefits.

2. Personnel Qualifications and Management Plan (30 points)

The extent to which the applicant can demonstrate qualifications for establishing an NVSN site and managing projects will be evaluated: (a) The extent to which the applicant's plan for establishing and operating the NVSN site clearly describes the organizational structure and procedures and identifies all participating persons and groups including identifying key professional staff and their roles and responsibilities; (b) past experience of key professional staff in conducting work similar to that proposed in this announcement (provide curriculum vitae of each in appendix); (c) identifying key professional personnel from other collaborating organizations, agencies, etc. outside of the applicant's agency who will participate in NVSN activities (provide curriculum vitae for each in an appendix), with roles described; (d) description of support staff and services to be assigned to the NVSN; (e) description of approach to flexible staffing to accommodate the changing requirements of NVSN projects that may occur due to changing public health needs and new vaccines or vaccine policies.

3. Description of Existing Relationships With Pediatric Vaccination Providers in the Surveillance Area and Ability to Obtain Their Participation for Surveillance and Research Activities (20 points)

The extent to which the applicant demonstrates: (a) Past experience working with pediatric inpatient facilities and outpatient care providers in conducting epidemiologic and health services research of vaccines or other health care practices or interventions; (b) the ability to develop and maintain strong cooperative relationships broadly with both public and private vaccine providers at the NVSN site, including public health agencies, academic centers, managed care organizations, and community organizations; and (c) support from non-applicant participating agencies, institutions, organizations, laboratories, consultants, etc. indicated in applicant's operational plan. Applicant should provide (in an appendix) letters of support which clearly indicate collaborators' willingness to contribute to NVSN activities. Do not include letters of support from CDC personnel.

4. Description of the Population Base and the Vaccine Providers in the NVSN Site (10 points)

The extent to which the applicant provides a: (a) Clear definition of the geographic area and population base in which the NVSN site will operate; (b) description of the demographics of the proposed population base including a description of various special populations as they relate to the proposed activities of the NVSN site; and (c) description of vaccination providers within the NVSN site and availability of or participation in a vaccination registry.

5. Understanding the Objectives of the NVSN (5 points)

The extent to which the applicant demonstrates: (a) A clear understanding of the background and objectives of this cooperative agreement program; (b) a clear understanding of the requirements, responsibilities, problems, constraints, and complexities that may be encountered in establishing and operating the NVSN site; (c) a clear understanding of the roles and responsibilities of participation in the NVSN network.; and (d) knowledge and understanding of current research and activities performed in this area, past studies, and existing literature.

6. Evaluation (5 points)

The quality of the plan for monitoring and evaluating the quality of vaccine coverage data, quality and timeliness of laboratory data, completeness of case ascertainment, population representativeness of surveillance data, and the scientific and operational accomplishments of the NVSN site and individual NVSN projects, including plans to monitor and evaluate progress in achieving the goals of the cooperative agreement program.

7. Budget (not scored)

The application will be evaluated on the extent to which the line-item budget is detailed, clearly justified, consistent with the purpose and objectives of the program, and reflects both Federal and non-Federal (e.g., State funding) shares of total cost for the NVSN site.

If requesting funds for any contracts, provide the following information for each proposed contract: name of proposed contractor, breakdown and justification for estimated costs, description and scope of activities to be performed by contractor, period of performance, and method of contractor selection (e.g., sole-source or competitive solicitation).

8. Human Subjects (not scored)

The application should adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects. (not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable).

I. Other Requirements

Technical Reporting Requirements

Applicants should submit an original plus two copies of:

1. Annual progress reports. The results of the Measures of Effectiveness shall be a data requirement to be submitted with or incorporated into progress report.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–8 Public Health System Reporting Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address—*http://www.cdc.gov*. Click on "Funding" then "Grants and Cooperative Agreements."

For business management assistance contact: Peaches Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta GA 20241–4146, Telephone number: 770–488–2738, E-mail address: *prb0@cdc.gov*.

For program technical assistance, contact:

Ben Schwartz, M.D., Epidemiology and Surveillance Division, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, MS E–61, Atlanta GA 30333, Phone: 404–639–8254, E-mail: *bxs1@cdc.gov*.

Marika K. Iwane, Ph.D., M.P.H., Epidemiology and Surveillance Division, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, MS E–61, Atlanta GA 30333, Phone: 404–639–8257, E-mail: *miwane@cdc.gov*.

Dated: May 26, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13779 Filed 5–31–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Exclusive License: Systems and Methods for Aerosol Delivery of Agents

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a worldwide exclusive license to practice the inventions embodied in the patent application referred to below to D. J. Schweihs of Nashville, Tennessee. The patent rights in these inventions have been assigned to the government of the United States of America. The patent application to be licensed is:

Title: Systems and Methods for Aerosol Delivery of Agents. U.S. Patent Application Serial No. 60/276,539.

Filing Date: 03/15/01.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

This invention comprises an aerosol vaccination system designed for the administration of measles vaccine. The device is a hand held, battery powered ultrasonic nebulizer which delivers vaccine to the respiratory tract via disposable nasal prongs. The prototype vaccine is measles; however, this device may be adapted for any vaccine suitable for respiratory administration.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments, and other materials relating to the contemplated license should be directed to Andrew Watkins, Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K–79, Atlanta, GA 30341, telephone: (770)

488–8600; facsimile: (770) 488–8615. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by CDC within sixty days of this notice will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552. A signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent application.

Dated: May 24, 2002.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–13782 Filed 5–31–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Docket Identifier: CMS–R–191]

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Granting and Withdrawal of Deeming Authority to National Accreditation Organizations and Supporting Regulations at 42 CFR 488.4 to 488.9 and 400.201; *Form No.:* CMS–R–191 (OMB# 0938–0690); *Use:* The information required is necessary to determine whether a private accreditation organization is equal to or more stringent than those of the conditions of participation or coverage for a fee-for-service provider or supplier, excluding clinical laboratories; *Frequency:* Quarterly, on occasion; *Affected Public:* Not-for-profit institutions, businesses or other for-profit; *Number of Respondents:* 5; *Total Annual Responses:* 28; *Total Annual Hours:* 451.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS R 191, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 15, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13762 Filed 5–31–02; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–485]

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Home Health Services Under Hospital Insurance, Manual Instructions and Supporting Regulations in 42 CFR 409.40–.50, 410.36, 410.170, 411.4–.15, 421.100, 424.22, 484.18 and 489.21; *Form No.:* HCFA–485 (OMB# 0938–0357); *Use:* The "Home Health Services Under Hospital Insurance" is a certification and plan of care used by the Regional Home Health Intermediaries to ensure reimbursement is made to Home Health agencies only for services that are covered and medically necessary under Part A and Part B. The attending physician must sign the HCFA–485 (OMB 0938–0357) authorizing the home services for a period not to exceed 60 days; *Frequency:* Other: Every 60 days; *Affected Public:* Business or other for-profit; *Number of Respondents:* 6,892; *Total Annual Responses:* 4,750,000; *Total Annual Hours:* 1,583,333.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 15, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13763 Filed 5–31–02; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Docket Identifier: CMS–10036]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Inpatient Rehabilitation Assessment Instrument and Data Set for PPS for Inpatient Rehabilitation Facilities and Supporting Regulations in 42 CFR, Parts 412 and 413; *Form No.:* CMS–10036 (OMB# 0938–0842); *Use:* This is a request to use the IRF–PAI and its supporting manual for the implementation phase of the inpatient rehabilitation PPS. There have been no revisions or modifications to the instrument; however, this submission includes the current manual/instructions which has been revised. Use of this instrument will enable CMS to implement a classification system and payment system for the Legislatively mandated inpatient rehabilitation hospital and exempt units Prospective Payment System (PPS).; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, and not-for-profit institutions; *Number of Respondents:* 359,000; *Total Annual Responses:* 359,000; *Total Annual Hours:* 269,250.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 14, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Officer of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13761 Filed 5–31–02; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4737–N–03]

Notice of Proposed Information Collection or Public Comment: Telephone Survey of Sponsor/Managers of HUD-Assisted Properties Housing People With Disabilities Regarding Property Size and Type, Resident Characteristics, and Program Operations

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposal.

DATES: Comments Due Date: August 2, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development & Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8228, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Levine, Program Evaluation Division, Office of Policy Development and Research, Department of Department of Housing and Urban Development, 451 7th Street, SW, Room 8140, Washington, DC 20410; telephone (202) 708–3700, extension 3928; e-mail *cheryl_a._Levine@hud.gov*. This is not a toll free number. Copies the proposed forms and other available documents submitted to OMB may be obtained from Ms. Levine.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed information collection package to OMB for review as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Telephone survey of sponsor/managers of HUD-assisted properties housing people with disabilities regarding property size and type, resident characteristics, and program operations.

OMB Control Number:

Description of the need for the information and proposed use: The information to be collected is part of a larger study, mandated by Congress and conducted by Abt Associates Inc., of the social and economic benefits and problems of providing housing for people with disabilities in projects of

varying sizes. Specifically, the study will look at HUD's Section 811 and Section 202 programs and will explore how project size influences the properties, their residents, and the immediate neighborhoods. The telephone survey of sponsor/managers will administered to a nationally representative sample of Section 811 and 202 property sponsor/managers. The topics will include project and resident characteristics, services offered on site, off-site services available to residents, other links between the project and the surrounding neighborhood, factors that contribute to development and operating costs, and opinions on how project scale relates to costs, access to services, acceptance by the community, and residents' quality of life. This information is not currently available from any other source. The data will be compiled in a database for analysis for the study's final report. This research is intended to help HUD respond to Congress' interest in project scale and, more broadly, to explore effective project-based housing solutions for low-income people with disabilities.

Members of affected public: Sponsor/managers of Section 811 and Section 202 properties.

Estimation of the total number of hours needed to prepare the information collection, including the number of respondents, frequency of response, and hours of response:

Types of respondents	Number of respondents	Number of responses	Minutes per respondent	Total burden hours
Sponsor/managers of Section 811 and 202 projects	150	1	50	125

Status of the proposed information collection: Pending OMB approval.

Authority: The paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and section 8(C)(1) of the United States Housing Act of 1937.

Dated: May 21, 2002.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 02–13835 Filed 5–31–02; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4736–N–04]

Notice of Proposed Information Collection for Public Comment—Assessment of Resident Satisfaction With Their Living Conditions

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 2, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4218, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Assessment of resident satisfaction with their living conditions.

OMB Control Number: 2577–– (Formerly 2507–0001).

Description of the need for the information and proposed use: HUD conducts a resident survey of assisted and insured housing residents on an annual basis to assess the overall living conditions. Residents of public housing agencies (PHAs) are surveyed annually in accordance with requirements of the Public Housing Assessment System (PHAS) regulation. PHAs are required to implement the survey and follow up on substandard scores. Twenty percent of multifamily property residents are surveyed annually. Properties are selected randomly. No implementation or follow-up is required.

Agency form numbers, if applicable: Not applicable.

Members of affected public: Individuals or households, businesses or other for-profit, not-for-profit institutions.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 631,261 residents receive the survey, 3,173 PHAS submit implementation and follow-up plans, HUD receives a total 269,091 responses from residents and PHAs (total based on 47% resident response rate for survey); annual submission per resident respondents and PHAs; average hours for resident response is 15 minutes; average hours for PHA response is 5.45 hours; the total reporting burden is 82,903 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 24, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 02–13836 Filed 5–31–02; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4740–N–04]

Notice of Proposed Information Collection: Comment Request; Commitment To Guarantee Mortgage-Backed Securities

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* August 2, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya Suarez, Office of Program Operations, Department of Housing & Urban Development, 451 7th Street, SW, Room 6206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya Suarez, Ginnie Mae, (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Commitment to Guarantee Mortgage-Backed Securities.

OMB Control Number, if applicable: 2503–0001.

Description of the need for the information and proposed use: This form is used by Mortgage-Backed Securities issuers to apply for Ginnie Mae commitment authority to guarantee mortgage-backed securities.

Agency form numbers, if applicable: HUD Form 11704.

Members of affected public: For-profit business (mortgage companies, thrifts, savings & loans, *etc.*),

Estimation of the total number of hours needed to prepare the information collection, including number of respondents, frequency of response, and hours of response:

Number of respondents—297 (end of 2001)
Frequency of responses—4 (per year)
Total annual responses—1,188
Hours per response—.25 (15 minutes)
Total burden hours—297

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 27, 2002.

George S. Anderson,

Executive Vice President, Ginnie Mae.

[FR Doc. 02–13837 Filed 5–31–02; 8:45 am]

BILLING CODE 4210–86–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of a Programmatic Environmental Assessment for Exploration Activities in the Sale Area of the Eastern Planning Area of the Gulf of Mexico Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Preparation of a Programmatic Environmental Assessment.

SUMMARY: The Minerals Management Service (MMS) is preparing a programmatic environmental assessment (EA) for exploration drilling and associated activities in the sale area of the Eastern Planning Area (EPA) on the Gulf of Mexico outer continental shelf (OCS). The MMS will receive Exploration Plans (EP) from industry operators with valid leases within the 256-block area that was offered in Lease Sale 181 (December 2001), from operators with valid leases acquired prior to Lease Sale 181, or from operators with valid leases that may be issued in any subsequent lease sales held in this area. This programmatic EA is intended to consider the areawide environmental impacts of exploration drilling in this area. Subsequent site-specific EA's prepared by MMS for an operator's EP can then be tiered from the programmatic EA and the analyses can be focused on the specific activities proposed. Three mitigation measures in the form of lease stipulations are included in the leases issued as result of Lease Sale 181.

This programmatic EA implements the tiering process outlined in 40 CFR 1502.20, which encourages agencies to tier environmental documents, eliminating repetitive discussions of the same issue. This programmatic EA will be tiered from the recent final environmental impact statement (EIS) for Gulf of Mexico OCS Oil and Gas Lease Sale 181 (MMS 2001–051) and the EA (MMS 2001–083) prepared for the reduced area proposed for Lease Sale 181.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. Thomas W. Bjerstedt, telephone (504) 736–5743.

SUPPLEMENTARY INFORMATION: In July 2001, the MMS released the final EIS for proposed Eastern Gulf of Mexico Lease Sale 181. The final EIS evaluated three sale-area configurations and a no action alternative, as well as eleven mitigation measures in the form of lease stipulations. The Revised Proposal for Eastern Gulf of Mexico Lease Sale 181 was not one of the alternatives evaluated in the final EIS because the Revised Proposal was developed after publication of the final EIS. An EA was prepared to evaluate potential impacts within the area of the Revised Proposal and a finding of no new significant impacts was made on September 26, 2001. Only three of the eleven proposed lease stipulations evaluated in the final EIS were applicable to the reduced area for Lease Sale 181.

The issues and resources identified for and addressed in the final EIS (MMS 2001–051) that were applicable to the Revised Proposal were evaluated in the EA (MMS 2001–083). The programmatic EA that is the subject of this Notice is being prepared to evaluate the issues and potential environmental impacts related to exploratory drilling and associated activities in the EPA sale area.

Public Comments

The MMS requests interested parties to submit comments regarding any new information or issues that should be addressed in the programmatic EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Comments should be submitted no later than 30 days after the publication of this Notice in the **Federal Register**.

Dated: May 2, 2002.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 02–13787 Filed 5–31–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 11, 2002. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St., NW, Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by June 18, 2002.

Carol D. Shull,

Keeper of the National Register.

Georgia

Forsyth County

Cumming Bandstand,
Jct. of Main and Dahlonega Sts., Forsyth, 02000658

Louisiana

Lafayette Parish

Brandt House,
614 Madison St.,
Lafayette, 02000654

Pointe Coupee Parish

First National Bank,
102 E. Main St.,
New Roads, 02000653

Michigan

Calhoun County

Bryant, James and Anne Atmore, Farmstead,
12557 L Dr. N. (Convis Township),
Wattles Park, 02000667

Kalamazoo County

Gregory, Richard and Mary Woodward, House,
913 E. Augusta Rd.,
Augusta, 02000666

Oakland County

Reuther, Walter P. and May Wolf, House,
3924–3950–3954 Ellamae (Oakland Township),
Rochester, 02000668

North Dakota

Ramsey County

Episcopal Church of the Advent—Guild Hall,
(Episcopal Churches of North Dakota MPS)
501 6th St. E.,
Devil's Lake, 02000669

Ohio

Summit County

Becker, Francis, House,
(Clinton MRA)
3010 Hickory St.,
Clinton, 02000672

Oklahoma

Grant County

Bank of Nashville, Jct. US 64 and Main Ave.,
Nash, 02000655

Tillman County

Grandfield Downtown Historic District,
100 blk. of W. 2nd St., ½ blk of E. 2nd St., bounded by N. and S. alleys,
Grandfield, 02000656

Tulsa County

Yorktown Historic District,
Roughly bounded by 16th and 17th Sts., Victor and Wheeling Aves., 20th St., and Lewis Ave.,
Tulsa, 02000657

Oregon

Douglas County

Roseburg Downtown Historic District,
Roughly bounded by SP tracks, Deer Creek, Fowler, Chadwick, Kane & Mosher Sts.,
Roseburg, 02000661

Jackson County

Medford Grocery Company Warehouse,
40 E. 10th St.,
Medford, 02000659

Marion County

Oregon State Fair Stadium and Poultry Building Ensemble,
2330 17th St. NE.,
Salem, 02000671

Silver Creek Youth Camp—Silver Falls State Park,
20024 Silver Falls Hwy.,
Sublimity, 02000673

Multnomah County

Hines, Pierre Rossiter and Charlotte, House,
02393 SW. Military Rd.,
Portland, 02000660

Lynch, Matthew J. and Florence, House and Garden,
337 SW. Kingston Ave.,
Portland, 02000674

Portland Railway, Light and Power Sellwood Division Carbarn Office and Clubhouse,
8825 SE. 11th Ave.,
Portland, 02000670

Vermont

Chittenden County

Underhill State Park,
(Historic Park Landscapes in National and State Parks MPS)
352 Mountain Rd.,
Underhill, 02000665

Orange County

West Fairlee Center Church,
(Religious Buildings, Sites and Structures in Vermont MPS)
3870 Middlebrook Rd.,
West Fairlee, 02000662

Orleans County

King Block,
117 High St.,
Barton, 02000663

Windham County

West Brattleboro Green Historic District,
870–950 Western Ave., 19–35 South St., and town common.,
Brattleboro, 02000675

Windsor County

Ascutney State Park,
(Historic Park Landscapes in National and State Parks MPS)
1826 Back Mountain Rd.,
Windsor, 02000664

[FR Doc. 02–13832 Filed 5–31–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 18, 2002.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St., NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by June 18, 2002.

Carol D. Shull,

Keeper of the National Register.

ALASKA

Juneau Borough-Census Area

Pribilof Aleut Internment Historic District, Address Restricted, Juneau, 02000676

CALIFORNIA

Contra Costa County

Forest Home Farms, 19953 San Ramon Valley Blvd., San Ramon, 02000677

Los Angeles County

Ziegler Estate, 4601 N. Figueroa Blvd., Los Angeles, 02000679

COLORADO

Jefferson County

Denver and Rio Grande Western Railroad Caboose No. 0578, 17155 W. 44th Ave., Golden, 02000678

FLORIDA

Jefferson County

Lloyd Historic District (Boundary Decrease), Roughly Main St. N of Bond St. and Bond E of Main, Lloyd, 02000710

Marion County

West Ocala Historic District, Roughly NW 4th St., W. Silver Springs Blvd., NW 12 Ave., Ocala, 02000682

Miami-Dade County

Virginia Key Beach Park, E of Biscayne Bay and N of Rickenbacker Causeway, Miami, 02000681

Pinellas County

Sanitary Public Market, 1825 4th St. N, St. Petersburg, 02000680

INDIANA

Adams County

Lenhart Farmhouse, 6929 N. Piqua Rd., Decatur, 02000688

Carroll County

Delphi Lime Kilns, NNW of Delphi, Delphi, 02000693

Lock No. 33 Lock Keeper's House, and Wabash and Erie Canal Lock No. 33, SW of Delphi, Delphi, 02000684

Sunset Point, SW of Delphi, Delphi, 02000685

Fountain County

Fountain County Clerk's Building, 516 4th St., Covington, 02000692

Marion County

Indianapolis Fire Headquarters and Municipal Garage, 301 E. New York St., and 235 N. Alabama St., Indianapolis, 02000686

Tippecanoe County

Hills and Dales Historic District, Roughly bounded by Northwester Ave., Meridian St., Hillcrest Rd., and Grant St., West Lafayette, 02000689

Vigo County

State Normal Library, 626 Eagle St., Terre Haute, 02000690

Wabash County

North Manchester Historic District, Roughly bounded by Maple, 3rd, and Mill Sts., and N bank of the Eel R., North Manchester, 02000687

Teague Barn Wabash Importing Company Farm Stable, 4568 W. Mill Creek Pike, Wabash, 02000691

KANSAS

Shawnee County

Devon Apartments, 800–808 W. 12th St., Topeka, 02000683

MASSACHUSETTS

Barnstable County

Nye, Elnathan, House, 33 Old Main Rd., Falmouth, 02000697

Essex County

Olmsted Subdivision Historic District, Roughly bounded by New Ocean Paradise Rd., Swampscott Ave., Redington Rd. and Burrill St., Swampscott, 02000696

Salem Common Historic District (Boundary Increase), 3–25 Pleasant St., Salem, 02000694

Worcester County

Fernside—Vacation House for Working Girls, 162 Mountain Rd., Princeton, 02000695

MISSOURI

Cape Girardeau County

Huhn-Harrison House, 340 S. Lorimier St., Cape Girardeau, 02000699

Washington County

Queen, Harrison, House, Hwy C, 1.3 mi. W of MO 21, Caledonia, 02000700

MONTANA

Valley County

First National Bank of Glasgow, 110 Fifth St. S, Glasgow, 02000698

NEVADA

Mineral County

Hawthorne USO Building, 950 E St., Hawthorne, 02000703

NEW JERSEY

Hunterdon County

Reaville Historic District, Old York, Amwell, Barley Sheaf, Kuhl, Manners Rds., East Amwell, 02000709

OHIO

Clermont County

Williams House, 112 Gay St., Williamsburg, 02000704

Cuyahoga County

Euclid Avenue Historic District, Roughly bounded by Public Square, Euclid Ave. to E. 17th St., E. 21st St., Cleveland, 02000702

Delaware County

West Orange Road—Thomas Bridge, OH 114, E of jct. with OH 315, Powell, 02000701

PENNSYLVANIA

Bucks County

Cuttalossa Valley Historic District, Cuttalossa Rd. from Sugan Rd. to the Delaware R., Solebury, 02000705

SOUTH DAKOTA

Buffalo County

Buffalo County Courthouse and Jail House, Old, 100 Main St., Gann Valley, 02000707

Pennington County

Shaw, Glenn W., House, 803 West St., Rapid City, 02000706

VERMONT

Chittenden County

Burlington Breakwater, Burlington Harbor, Burlington, 02000711

WISCONSIN

Marathon County

Rothschild Pavilion, 1104 Park St., Rothschild, 02000708

[FR Doc. 02–13833 Filed 5–31–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–422–425 and 731–TA–964–983 (Final)]

Certain Cold-Rolled Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela

AGENCY: International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The United States International Trade Commission (Commission) hereby gives notice of the

scheduling of the final phase of countervailing duty investigations Nos. 701–TA–422–425 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–964–983 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports of certain cold-rolled steel products from Argentina, Brazil, France, and Korea, and less-than-fair-value imports of such merchandise from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, provided for in headings 7209, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179 or *ffischer@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce (Commerce) that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Argentina, Brazil, France, and Korea of certain cold-rolled steel products, and that such products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b).

The investigations were requested in petitions filed on September 28, 2001 with the Commission and Commerce by Bethlehem Steel Corporation, Bethlehem, PA; LTV Steel Co., Inc., Cleveland, OH; National Steel Corporation, Mishawaka, IN;[1] Nucor Corporation, Charlotte, NC; Steel Dynamics Inc., Butler, IN; United States Steel LLC, Pittsburgh, PA; WCI Steel, Inc., Warren, OH); and Weirton Steel Corporation, Weirton, WV.[2]

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 3, 2002, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 18, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 8, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference (if necessary) to be held at 9:30 a.m. on July 10, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is July 11, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 25, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 25, 2002. On August 19, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 21, 2002, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. Parties may submit additional final comments pertaining to investigations in which Commerce has extended its final determinations on or before October 11, 2002. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: May 28, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13795 Filed 5–31–02; 8:45 am]

BILLING CODE 7020–02–P

[1] National Steel Corporation is not a petitioner with respect to Japan.

[2] Weirton Steel Corporation is not a petitioner with respect to the Netherlands.

INTERNATIONAL TRADE COMMISSION

Information Quality Guidelines

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission (Commission) announces that its draft Information Quality Guidelines have been posted on the Commission website. The Commission invites public comments on its draft Guidelines and will consider the comments received in developing its final Guidelines.

DATES: Comments are due on or before June 20, 2002. Final Guidelines are to be published by October 1, 2002.

ADDRESSES: Submit comments to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Acting Chief Information Officer, telephone 202–205–3131. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–3105. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Pub. L. 106–554) requires each Federal agency to publish guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of the information it disseminates. Agency guidelines must be based on government-wide guidelines issued by the Office of Management and Budget (OMB). In compliance with this statutory requirement and OMB instructions, the Commission has posted its draft Information Quality Guidelines on the Commission's website (www.usitc.gov).

The Guidelines describe the agency's procedures for ensuring the quality of information that it disseminates and the procedures by which an affected person may obtain correction of information disseminated by the Commission that does not comply with the Guidelines. The Commission invites public comments on its draft Guidelines and will consider the comments received in developing its proposed final Guidelines, which must be submitted to OMB for review. The agency's final Guidelines are to be published by October 1, 2002. Persons who cannot access the draft Guidelines through the Internet may request a paper or electronic copy by contacting the Office of the Secretary.

Issued: May 29, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

International Trade Commission

Draft Information Quality Guidelines

1. *Purpose.* The United States International Trade Commission (Commission) issues these Information Quality Guidelines (Guidelines) to describe the agency's procedures for ensuring and maximizing the quality, objectivity, utility, and integrity of information that it disseminates and to set forth the administrative procedure by which an affected person may obtain correction of disseminated information that does not comply with the Guidelines.

2. *Authority.* The Guidelines are based on section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law No. 106–554) and the implementing guidelines of the Office of Management and Budget (OMB) published on September 28, 2001 (66 FR 49718) and February 22, 2002 (67 FR 8452).

3. *Effective Date.* The Guidelines are effective as of October 1, 2002.

4. *Definitions.* The definitions of "quality," "utility," "objectivity," "integrity," "information," "Government information," "information dissemination product," "dissemination," "influential," and "reproducibility" contained in section V of the notice, "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," as published by the Office of Management and Budget on February 22, 2002 (67 FR 8452), are incorporated herein by reference.

5. *Applicability.* The mission of the Commission is to: (1) Administer U.S. trade remedy laws within its mandate in a fair and objective manner; (2) provide the President, the United States Trade Representative, and Congress with independent, quality analysis, information, and support on matters of tariffs and international trade and competitiveness; and (3) maintain the Harmonized Tariff Schedule of the United States. In so doing, the Commission serves the public by implementing U.S. law and contributing to the development of sound and informed U.S. trade policy.

In carrying out its mission, the Commission generates a variety of information products. Some are subject to section 515 and OMB's implementing guidelines. These and the Commission guidelines corresponding to them are discussed below. Others do not fall within the coverage of the statute and guidelines. Such excluded information includes press releases, responses to Freedom of Information Act and Privacy Act requests, correspondence with individuals, information that is provided in response to individual requests, and links to other website pages from the Commission website. Because the government-wide guidelines also exclude information that is disseminated in "adjudicative

processes," the Commission Guidelines do not apply to decisions, orders, or any other documents disseminated in the course of Commission adjudicative proceedings. Initial determinations issued by Commission administrative law judges are subject to review by the Commission in accordance with applicable laws and regulations. Final Commission decisions, including initial determinations of administrative law judges that become final Commission decisions, are subject to judicial review in accordance with applicable laws and regulations.

The Commission also conducts import injury investigations under a number of statutory authorities. These investigations are not adjudicative proceedings, but are subject to judicial review in accordance with applicable laws and regulations. The Commission considers documents disseminated in such investigations to be sufficiently analogous to adjudicative processes for the purposes of section 515 to conclude that documents disseminated in those investigations are not covered by that statute or the OMB guidelines.

6. *Basic Standard of Quality.* The basic standard of quality for information disseminated by the Commission is "reasonable assurance." The agency's procedures for ensuring the quality of information it disseminates are intended to provide reasonable assurance that the information is accurate, clear, unbiased, and useful for intended users, and secure from unauthorized access or revision. This basic quality standard is consistent with the standard employed in internal management reviews to ensure the effectiveness and efficiency of the agency's operations.

7. *Procedures to Ensure Quality.*

a. *Research program products.* Commission research products are produced by the Office of Operations with assistance from other staff offices. A team prepares a draft report which is then submitted to a rigorous review process, normally involving primary review and senior review by agency staff and then review and approval by the Commission. Once approved, the products are provided to customers. Much of the information that the Commission disseminates is confidential business information and/or national security information, and is made available only to authorized recipients. In general, information that is publicly disclosable is provided to the general public through the Commission's website and other means of dissemination.

The transparency of research products is assured, where appropriate, through inclusion of clear explanations of study methodology in report texts. Thus, to the extent that interested parties have appropriate access to the material, the statistical information and analyses that the Commission disseminates in its reports are available, and if appropriately qualified persons use the same or a similar methodology, they would be expected to generate similar findings and results.

b. *Trade information.* Commission trade information, including the Harmonized Tariff Schedule, is produced by the Office of Operations with assistance from other staff offices. Each product undergoes an internal review by subject matter experts prior to review by the Commission, where appropriate.

c. *General information about the Commission.* The Commission's Offices of External Relations and of the Secretary disseminate a variety of products that provide information about the agency. An example is the Commission's Year in Review publication that summarizes agency activities during the past year. The Office of External Relations reviews each such information product prior to its review and approval by the Commission, and its subsequent public dissemination.

The Commission issues a Strategic Plan, annual Performance Plan, and annual Performance Report in accordance with the Government Performance and Results Act (GPRA). These documents are prepared by subject matter experts and reviewed by Commission office directors, and are approved by the Commission prior to their issuance. The Commission and Commission staff also prepare various documents that describe agency processes, such as the *Antidumping and Countervailing Duty Handbook* and *An Introduction to Administrative Protective Order in Import Injury Investigations,* and these publications are subject to appropriate internal reviews by subject matter experts.

d. *Integrity of information on the Commission website.* Commission office directors and appropriate subject matter experts in their offices are responsible for ensuring that accurate, complete, and current information in each office's area of responsibility is provided to the webmaster for posting to the Commission website. Information maintained on the website for public dissemination is backed up regularly to permit restoration in the event of any compromise of the site.

e. *Use of disclaimers.* As a part of its procedures to ensure information quality, the Commission uses disclaimers where appropriate. A disclaimer notice regarding the accuracy and timeliness of information provided on the DataWeb website is included on that website. Staff research products, such as the *International Economic Review* and the *Industry, Trade, and Technology Review,* contain a disclaimer to advise users that the products are those of staff and do not represent the views of the Commission. Other disclaimers may be used, as appropriate, in future information dissemination products.

8. *Requests for Correction of Disseminated Information.* This section sets forth the administrative procedure by which an affected person may obtain correction of information disseminated by the Commission that does not comply with its Information Quality Guidelines. This administrative procedure applies only to requests for correction of disseminated information to which these Guidelines apply, as described in section 5 above. Only requests from an "affected person," that is, a person who may benefit from or be harmed by reliance on information disseminated by the Commission under these Guidelines, will be considered. Requests for correction of information that are made in bad faith or without justification will be rejected. This procedure for the correction of information is not intended to have any effect on the Commission's conduct of adjudicative proceedings and non-adjudicative import injury investigations.

a. *Request for correction.* A request for correction of disseminated information that allegedly does not comply with the Commission Information Quality Guidelines must be submitted, in writing, to the Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. The request for correction must specifically identify the disseminated information that allegedly does not comply with the Guidelines and explain how the requestor is affected by the information.

b. *Initial decision.* The Secretary to the Commission, or her designee, will review a request for correction of disseminated information and will issue a written initial decision to the requestor within 20 workdays of receipt of the request. The initial decision will advise the requestor of corrections made or, if the request is denied, will explain why no correction was made and advise the request for the opportunity to appeal the initial decision.

c. *Appeal to the Chief Information Officer.* A requestor may appeal an initial decision denying a request for correction of disseminated information to the Chief Information Officer (CIO) of the Commission. The appeal must be submitted, in writing, to the Chief Information Officer (CIO) of the Commission. The appeal must be submitted, in writing, to the Chief Information Officer, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. The appeal must be submitted no later than 10 workdays from the date of the initial decision. The appeal must include a copy of the request for correction, a copy of the Secretary's initial decision, a statement of the reasons why the decision is not satisfactory to the requestor, and a statement of what remedy would be satisfactory to the requestor. The CIO will issue a decision within 20 workdays of receipt of the appeal.

The decision of the CIO is final and is not subject to administrative or judicial review.

d. *Reports.* Beginning on January 1, 2004, and annually thereafter, the Commission will file reports with OMB that provide the number and nature of complaints received regarding information disseminated by the Commission and how the complaints were resolved.

9. *Revisions to the Guidelines.* Each Commission office that produces information dissemination products to which these Guidelines apply is responsible for notifying the CIO of the Commission whenever a change in the Guidelines with respect to the office's products is required. Changes may be required, for example, when a new information dissemination product is created or an existing product is discontinued, or when there is a change in the office's procedures for ensuring the quality of an information dissemination product for which the office is responsible. The CIO will initiate necessary changes to the Guidelines. When changes to the Guidelines are made, a revised version will be posted to the Commission's website.

[FR Doc. 02–13828 Filed 5–31–02; 8:45 am]

BILLING CODE 7020–20–M

DEPARTMENT OF JUSTICE

Office of Justice Programs: Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day notice of information collection under review: Reinstatement with changes of a previously approved collection for which approval has expired: Survey of inmates in State and Federal Correctional Facilities, 2003.

The Department of Justice (DOJ), Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days, until August 2, 2002. This process is in accordance with the 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tracy L. Snell, Statistician, (202) 616–3288, Office of Justice Programs, U.S. Department of Justice, 810 Seventh St., NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, with Change, of a Previously Approved Collection for which Approval has Expired.

(2) *Title of the Form/Collection:* Survey of Inmates in State and Federal Correctional Facilities—2003.

(3) *Agency form number and the applicable component of the Department sponsoring the collection:* Forms: NPS–25 CAPI Instrument and NPS–13 Sampling Questionnaire. Corrections Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: Individuals. Others: State government and Federal government. The pretest survey will include an estimated 100 personal interviews with inmates held in State and Federal prisons. The national survey will include an estimated 16,000 personal interviews with State prison inmates and 4,000 personal interviews with Federal prison inmates. The surveys will include a full-scale implementation of the CAPI questionnaire, automated data control systems, and sample selection. The survey will profile prison inmates nationwide to determine trends in inmate composition, criminal history, drug abuse, mental and physical health status, gun use and crime, and inmate activities while in prison. The Bureau of Justice Statistics uses information from the national survey in published reports, and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics. No other collection series provides these data.

(5) *An estimate of the total number of responses and the amount of time estimated for an average response:* There will be an estimated 295 responses at 1 hour each for the NPS–13; 4,950 hours of prison staff time to escort inmates to/from interview sites; and 20,100 inmate responses at 1 hour each for the NPS–25.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden is 25,435 annual hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Room 1600, Patrick Henry building, 601 D Street, NW., Washington, DC 20530.

Dated: May 28, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–13827 Filed 5–31–02; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 66 FR 57114 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB within 30 days of publication in the **Federal Register**.

ADDRESSES: Written comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of NSF, including whether the information will have practical utility; (b) the accuracy of NSF's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW. Room 10235, Washington DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov*. Copies if the submission may be obtained by calling (703) 292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, NSF Reports Clearance Officer at (703) 292–7556 or send email to *splimpto@nsf.gov*.

An agency may not contact or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Evaluation of the Impact and Use of the National Institutes of Health Curriculum Supplements on Students' Scientific Knowledge.

OMB Control No.: 3145–NEW.

1. Abstract

The National Science Foundation (NSF) has provided funding for systematically developed, research-based curriculum materials beginning in the 1960s. NSF has the responsibility of coordinating evaluations of mathematics and science education programs across government, including agencies such as the National Institutes of Health (NIH). Since its establishment as part of NIH, the Office of Science Education (OSE) has engaged in the development of science curriculum supplements and other educational materials related to medicine and research. NSF and NIH will partner in this evaluation because both desire information on the effectiveness of curriculum materials and the effective means to collect this information. Over the years, there have been changes in the levels of funding for such instructional materials, reflecting changes in public support and concerns for such endeavors. However, concerns about student achievement in science have focused attention on the need for strong curriculum materials to support "systemic reform" (O'Day & Smith, 1993). NSF has responded to these needs by increasing support to research-based instructional materials that have been reviewed by content experts and found to be of high quality and meet the demands of the National Science Education Standards (NSES).

The proposed evaluation's study questions to be addressed are: Do the curriculum supplements promote better science education? Do the curriculum supplements reduce academic inequity? Do the curriculum supplements deepen students' understanding of the importance of basic research to advances in medicine and health? Do the curriculum supplements foster student analysis of the direct and indirect effects of scientific discoveries on their individual and public health? Do the curriculum supplements encourage students to take more responsibility for their own health?

The data to address these questions will be gathered using mixed methods. In addition to assessing student achievement data and using surveys, the mixed-methods evaluation model will include pre-observation questionnaires, observations, and interviews of teachers. Interviews and observations, for example, will enable research evaluators to clarify vague responses in surveys or confirm findings. As part of the evaluation, pre- and post-assessment will be used for NIH Curriculum Supplement Series for Grades 9–12 to compare students' learning of scientific concepts and skills when a supplement of NIH materials will be used, with students who do not receive the NIH materials. Teacher and student surveys, interviews, site visits, document reviews, standardized performance measures, and student work samples will provide the basis for comparison.

2. Expected Respondents

The expected respondents and observation subjects are pre-college teachers and students.

3. Burden on the Public

The total annual burden hours for this collection are 6,952 for a maximum of 6,132 respondents, assuming an 80–100% response rate. The burden on the general public is small because the study is limited to a 10 percent random sample of the 12,000 teachers who have requested the materials being studied, a sample of impacted students, and 60 treatment and 60 comparison teachers.

Dated: May 28, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–13775 Filed 5–31–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by June 30, 2002. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. Applicant

[Permit Application No. 2003–001]

Randall Davis, Marine Biology, Texas A&M University, 5007 Avenue U, Galveston, TX 77551.

Activity for Which Permit Is Requested

Taking. The applicant proposes to capture by net up to 20 free ranging adult Weddell seals and approximately 10 Weddell seal pups. Animal-borne video system/data loggers will be attached to the seals to record diving behavior, physiology, and locomotor performance of marine mammals at depth. This research is part of a project studying Weddell seals to test hypothesis related to general foraging strategy, foraging location, searching mode, prey detection, and the cost of diving and foraging. All captured seals will be released.

Location

McMurdo Sound, Antarctica.

Dates

October 1, 2002 to February 15, 2003.

2. Applicant

[Permit Application No. 2003–002]

David Ainley, H.T. Harvey and Associates, 3150 Almaden Expressway, Suite 3150, San Jose, CA 95118.

Activity for Which Permit Is Requested

Take and Enter Antarctic Specially Protected Areas. The applicant proposes to enter the Adelie penguin rookeries in the Antarctic Specially Protected Areas of Beaufort Island (ASPA 105), Cape Royds, Ross Island (ASPA 121), and Cape Crozier, Ross Island (ASPA 124) to assess (1) reproductive success, annual mortality, and between colony movement rates, and, (2) the environmental context of the populations. Up to 1800 birds will be banded. Up to 70 adult birds will have stomach lavages to collect stomach contents for diet studies. An additional 100 adult birds will have either a satellite tag (PTT) attached to determine foraging area, or a time-depth-recorder (TDR) to determine foraging behavior. These instruments will be removed after 1–2 foraging dives and attached to other birds. Finally, approximately 15 adult birds at each site will have a geolocation tag (GLS) attached to their leg bands to determine the wintering area of each individual. These tags will be removed the following summer and the data downloaded for analysis.

Location

Beaufort Island (ASPA 105), Cape Royds, Ross Island (ASPA 121), and Cape Crozier, Ross Island (ASPA 124).

Dates

November 1, 2002 to February 15, 2005.

3. Applicant

[Permit Application No. 2003–003]

Paul J. Ponganis, Center for Marine Biotechnology & Biomedicine, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, CA 92093–0204.

Activity for Which Permit Is Requested

Take, Enter an Antarctic Specially Protected Areas, and Import into the United States. The applicant proposes to enter the Emperor penguins colonies at Antarctic Specially Protected Areas of Beaufort Island (ASPA 105), and Cape Crozier, Ross Island (ASPA 124) to conduct a census of the bird population. The colonies were severely affected by the B15 iceberg in 2001; there were no living emperors at Cape Crozier, and the census was extremely reduced at Beaufort Island. Access to these sites will allow continuation of the census of these populations from previous research, and will provide continuity with planned censuses in the future. The B15 iceberg has become a natural experiment to evaluate the fidelity of Emperor penguins to colony sites and to examine the resilience of Emperor penguins to short-term disasters. The applicant also proposes to salvage up to 20 Emperor carcasses, if found, for return to the States for autopsy/specimen collection/anatomical study.

Location

Beaufort Island (ASPA 105), and Cape Crozier, Ross Island (ASPA 124).

Dates

October 1, 2002 to October 1, 2003.

4. Applicant

[Permit Application No. 2003–004]

William R. Fraser, Polar Oceans Research Group, P.O. Box 368, Sheridan, MT 59749.

Activity for Which Permit Is Requested

Take. The applicant, as a participant in a long-term ecological research program in the western Antarctic Peninsula, proposes to capture, collect samples, weigh, band and attach transmitters to a number of penguin and seabird species to assess how annual environmental variability affects seabird diets, breeding success, growth rates, survival, recruitment, behavior, population trends, foraging success and seasonal dispersal. The methods and species are listed in the chart below.

Manner of Taking By Capture and Release For (1) Census populations and/or mark breeding territories; (2) capture, mark, band and/or weight adults, chicks and eggs; (3) obtain diet data through stomach lavage, by screening the contents of terrestrial sediment traps and/or by collecting naturally regurgitated prey items; (4) place transmitters on individuals; (5) place instrumented artificial eggs under incubating individuals; and (6) use GIS/GPS technologies to update existing breeding habitat maps.

SPECIMEN INFORMATION

Species	Number	Age	Sex	Size	Condition	Ultimate Disposition
Adelie Penguin	600	AD/CK	Unknown		Take by 1,2,3,4,5,6	Released
Chinstrap	70	Adult	"		Take by 1,3,4	"

SPECIMEN INFORMATION—Continued

Species	Number	Age	Sex	Size	Condition	Ultimate Disposition
Penguin	70	Adult	"		Take by 1,3,4	"
Gentoo	100	AD/CK	"		Take by 1,2,3,4	"
Penguin	500	AD/CK	"		Take by 1,2,3,4	"
Brown Skua	1600	AD/CK	"		Take by 1,2,3,4,5	"
South Polar	250	Adult	"		Take by 1,3	"
Skua	250	AD/CK	"		Take by 1,2,3	"
Southern Giant Petrel						
Blue-Eyed Shag						
Kelp Gulls						

Location

Palmer Station, Anvers Island vicinity, and Marguerite Bay and vicinity.

Dates

October 1, 2002 to September 30, 2007.

5. Applicant

[Permit Application No. 2003–005]

William R. Fraser, Polar Oceans Research Group, P.O. 368, Sheridan, MT 59749.

Activity for Which Permit Is Requested

Take, and Enter Antarctic Specially Protected Areas, and Import into the United States. The applicant is a participant in two long-term ecological research (LTER) programs in the western Antarctic Peninsula region. The focus of the research is to relate variability in seabird ecology to changes in the physical and biological environment, especially sea ice, snow conditions and prey availability. Studies will assess how annual environmental variability affects seabird diets, breeding success, growth rates, survival and recruitment, behavior, population trends, foraging success and seasonal dispersal. To accomplish these objective, the applicant proposes to: (1) Census populations and mark breeding territories; (2) capture, mark, and weight a select number of adults, chicks and eggs; (3) obtain diet samples through stomach lavage, by screening the contents of terrestrial sediment taps and collecting naturally regulagitated prey items; (4) place transmitters on individuals to develop foraging and dispersal profiles; (5) place instrumented artificial eggs under incubating individuals to measure heart-rate and body temperature; and, (6) use GIS/GPS technologies to update existing breeding habitat maps * * * The applicant proposes to enter the following Antarctic Specially Protected Areas:

Dion Islands, Marguerite Bay (ASPA 107)—This site has the only known breeding population of Emperor Penguins in the western Antarctic Peninsula. The applicant proposes to conduct a census in order to update the population data available on this species, since a census has not been conducted in more than two decades.

Litchfield Island, Arthur Harbor (ASPA 113) and Biscoe Point, Anvers Island (ASPA 139)—These two sites near Palmer Station, Anvers Island, serve as research control areas. The applicant proposes to enter Litchfield Island 2–3 times a week and Biscoe Point up to 5 times a season, for 4–5 hours each visit to census, brand, weight, collect diet samples of seabirds and conduct habitat mapping. Heavily vegetated areas will be avoided.

Avian Island, Marguerite Bay (ASPA 117)—This site serves as an alternate site in the Marguerite Bay region for obtaining Adelie Penguin diet samples and censuses during the annual Palmer LTER research cruise. The applicant proposes to obtain diet samples from 20–25 penguins to determine trends in diets and populations of this species in the Marguerite Bay region to determine if it differs from those in the Palmer Station region due to differences in annual sea ice and snow conditions.

Lagotellerie Island, Marguerite Bay (ASPA 115)—This site has a population of Adelie penguins that could be used as an alternate sampling area in the event access to Avian Island is impeded by ice or weather.

Location

Dion Islands, Marguerite Bay (ASPA 107); Litchfield Island, Arthur Harbor (ASPA 113); Lagotellerie Island, Marguerite Bay (ASPA 115); Avian Island, Marguerite Bay (ASPA 117); and, Biscoe Point, Anvers Island (ASPA 139).

Dates

October 1, 2002 to September 30, 2007.

6. Applicant

[Permit Application No. 2003–006]

William R. Fraser, Polar Oceans Research Group. P.O. 368, Sheridan, MT 59749.

Activity for Which Permit is Requested

Take, and Import into the United States. The applicant is a participant in two long-term ecological research (LTER) programs in the western Antarctic Peninsula region, and during the course of normal research occasionally encounters specimens of various species (penguins, seabirds, etc.) that have died of natural causes. The application proposes to salvage and preserve these specimens for import into the U.S. and disposition at teaching and research institutions.

Location

Palmer Station, Anvers Island and vicinity.

Dates

October 1, 2002 to September 30, 2007.

7. Applicant

[Permit Application No. 2003–007]

Mark Buckley, Multimedia Manager, Raytheon Polar Services Company, 7400 S. Tucson Way, Centennial, CO 80112.

Activity for Which Permit is Requested

Enter Antarctic Specially Protected Areas. The applicant is a member of Raytheon Polar Services Company, which is the prime civilian contractor to the U.S. Antarctic Program (USAP), and is tasked by the National Science Foundation (NSF) with video production in Antarctica. During the past year or so, unprecedented ice conditions had adverse impact on penguin colonies in the McMurdo Sound and Ross Sea region. With the recent calving of C–19 and the influence of B–15, it is expected that scientific interest and activities, as well as public interests will continue. Therefore the applicant proposes his staff of videographers be permitted to enter the Antarctic Specially Protected Areas of Beaufort Island (ASPA 105), New College Valley, Cape Bird (ASPA 116), Cape Royds, Ross Island (ASPA 121), and, Cape Crozier, Ross Island (ASPA 124) for the purpose of taking "low impact" documentary film footage. The video team will accompany a similarly permitted researcher into the sites to film scientific research. Access to the sites will be dependant upon operational, scientific conditions, and availability of transportation.

Location

Beaufort Island (ASPA 105), New College Valley, Cape Bird (ASPA 116), Cape Royds, Ross Island (ASPA 121), and, Cape Crozier, Ross Island (ASPA 124).

Dates

October 1, 2002 to February 14, 2003.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 02–13831 Filed 5–31–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (1173).

Date/Time: June 20, 2002, 8 am–5 pm and June 21, 2002, 8 am–2 pm.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: John Wilkinson, Executive Liaison to CEOSE, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Phone (703) 292–8180.

Minutes: May be obtained from the Executive Liaison at the above address.

Purpose of Meeting: To provide advice and recommendations concerning broadening participation in science and engineering.

Agenda

Thursday, June 20, 2002

8 a.m.—Light refreshments with NSF Staff
8:30 a.m.—Welcome; Approval of February 2002 Minutes
8:45 a.m.—Report of NSF Executive Liaison
9 a.m.—Discussion of Committee Agenda
9:15 a.m.—Discussion of Mentoring Conference
9:45 a.m.—Update on Science Resources Statistics Activities
10:15 a.m.—Break
10:30 a.m.—Discussion on Successful Approaches to Increasing Minority Participation in Science and Engineering Careers
12 Noon—Lunch
1 p.m.—Discussion of Decadal Plan for Environmental Research and Education at NSF
1:30 p.m.—Discussion on Merit Review Criterion 2
3 p.m.—Break
3:30 p.m.—Committee Discussion: Report Planning for 2002 CEOSE Report
5 p.m.—Adjourn for the day

Friday, February 8

8 a.m.—Light refreshments
8:30 a.m.—Committee Discussion:
—Items for the Deputy Director, NSFA Status of Cross-Cutting Issues
10 a.m.—Break
10:15 a.m.—Discussion with the Deputy Director, NSF—Dr. Joseph Bordogna
11 a.m.—Committee Discussion: Report Planning for 2002 CEOSE Report
12 Noon—Lunch
1 p.m.—Committee Discussion: Wrap-up and Future Directions
2 p.m.—Adjourn

Dated: May 28, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–13773 Filed 5–31–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Small Business Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Small Business Industrial Innovation (61).

Dates/Time: June 18–19, 2002, 8:30 a.m.–5 p.m.

Type of Meeting: Open.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Contact Person: Dr. Joseph Hennessey, Acting Director, (703) 292–7069, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Minutes: May be obtained from the contact person listed above.

Purposes of Meeting: To provide advice and recommendations concerning research programs pertaining to the small business community.

AGENDA

June 18, 2002, Room 1235

8:30 a.m.—Introductions
8:35 a.m.—Welcome
8:45 a.m.—Overview of the Program
10 a.m.—Commercialization Success
10:30 a.m.—Break
11 a.m.—OLPA
12:00 noon—Lunch
1 p.m.—Phase I Review Process
3:30 p.m.—Phase II Review Process
5 p.m.—Adjourn

June 19, 2002, Room 1235

8:30 a.m.—Commercialization Planning
10:30 a.m.—Break
10:45 a.m.—Discussion and Preparation of Committee Report
12:00 noon—Working Lunch
3:30 p.m.—Feedback from the Committee
5 p.m.—Adjourn

Dated: May 28, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–13774 Filed 5–31–02; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection:

Medical Reports; OMB 3220–0038

Under Sections 2(a)(1)(iv), 2(a)(2) and 2(a)(3) of the Railroad Retirement Act (RRA), annuities are payable to qualified railroad employees whose physical or mental condition is such that they are unable to (1) work in their regular occupation (occupational disability); or (2) work at all (permanent total disability). The requirements for establishment of disability and proof of

continuance of disability are prescribed in 20 CFR 220.

Under Sections 2(c) and 2(d) of the RRA, annuities are also payable to qualified spouses, widow(ers) who have in their care a qualified child who is under a disability which began before age 22; widow(ers) age 50–59 who are under a disability; and remarried widows and surviving divorced wives who would also be entitled under Sections 202(e) and 202(f) of the Social Security Act. For entitlement under Section 2(c), 2(d)(i), and 2(d)(iii) of the RRA, an individual is disabled if he/she is unable to engage in any regular employment. For entitlement under Section 2(d)(v) of the RRA, the individual must have an impairment which is so severe that, in accordance with the regulations of the Social Security Administration, any gainful activity would be precluded. The Railroad Retirement Board (RRB) also determines entitlement to a period of disability or early Medicare entitlement for qualified claimants. To enable the RRB to determine the eligibility of an applicant or annuitant for disability benefits under the RRA, the RRB requests supportive medical evidence from railroad employers, personal physicians, private hospitals and state agencies. The RRB currently utilizes Forms G–3EMP, G–250, G–250a, G–260, RL–11b, and RL–11d to obtain the necessary medical evidence. Completion is voluntary. One response is requested of each respondent.

ESTIMATE OF RESPONDENT BURDEN

Form#	Annual responses	Time (min)	Burden (hrs)
G–3EMP	600	10	100
G–250	12,000	37	7,400
G–250a	12,000	20	4,000
G–260	100	25	42
RL–11b	5,000	10	833
RL–11d	250	10	42
Total	29,950		12,417

Minor non-burden impacting cosmetic and reformatting changes are being proposed to Form RL–11d in the collection.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–13769 Filed 5–31–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application for Reimbursement for Hospital Services in Canada.

Form(s) submitted: AA–104.

(3) *OMB Number:* 3220–0086.

(4) *Expiration date of current OMB clearance:* 7/30/2002.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 50.

(8) *Total annual responses:* 50.

(9) *Total annual reporting hours:* 8.

(10) *Collection description:* The Railroad Retirement Board administers the Medicare program for persons covered by the Railroad Retirement System. The collection obtains the information needed to determine eligibility for and the amount due for covered hospital services received in Canada.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–13770 Filed 5–31–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employee Noncovered Service Pension Questionnaire.

(2) *Form(s) submitted:* G–209.

(3) *OMB Number:* 3220–0154.

(4) *Expiration date of current OMB clearance:* 7/31/2002.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 500.

(8) *Total annual responses:* 500.

(9) *Total annual reporting hours:* 55.

(10) *Collection description:* Under Section 3 of the Railroad Retirement Act, the Tier I portion of an employee annuity may be subjected to a reduction for benefits received based on work not covered under the Social Security Act or Railroad Retirement Act. The questionnaire obtains the information needed to determine if the reduction applies and the amount of such reduction.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–13829 Filed 5–31–02; 8:45 am]

BILLING CODE 0905–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before July 3, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: NMVC Program Application Interview Questions; SSBIC Applicant Tech Proposal; Request for Approval of Management Services Fees.

No's: 2216, 2217.

Frequency: On Occasion.

Description of Respondents: Program Applicants and participants; SSBIC's receiving grants under the NMVC program.

Responses: 38.

Annual Burden: 210.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 02–13742 Filed 5–31–02; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

New Requests for Exclusion of Particular Products From Actions With Regard to Certain Steel Products Under Section 203 of the Trade Act of 1974, as Established in Presidential Proclamation 7529 of March 5, 2002; Information Collection and Procedures for Consideration

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Presidential Proclamation 7529 of March 5, 2002 established actions under section 203 of the Trade Act of 1974, as amended, (19 U.S.C. 2253) (safeguard measures) with regard to certain steel products. The Proclamation authorizes the United States Trade Representative (USTR), in March of each year in which any safeguard measure established by the Proclamation remains in effect and after consultation with the Trade Policy Staff Committee (TPSC), to exclude particular products from the safeguard measure. In a Memorandum of March 5, 2002, the President instructed the USTR to publish in the **Federal Register** a notice of the procedures by which interested persons may request the TPSC to recommend whether to exclude a particular product. This notice describes the annual review process through which future new exclusion requests will be accepted.

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), USTR will be submitting to the Office of Management and Budget (OMB) a request to review and approve an information collection related to interested persons' reasons for requesting an exclusion, and any other interested persons' reasons for opposing the granting of an exclusion.

DATES: Submit public comments on the information collection on or before August 2, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Industry, Office of the United States Trade Representatives, 600 17th Street, NW, Room 501, Washington DC, 20508. Telephone (202) 395–5656.

SUPPLEMENTARY INFORMATION: On October 22, 2001, the U.S. International Trade Commission (ITC) issued affirmative determinations under section 202(b) of the Trade Act (22 U.S.C. 2252(b)) that (1) carbon and alloy steel slabs, plate (including cut-to-length plate and clad plate), hot-rolled sheet and strip (including plate in coils), cold-rolled sheet and strip (other than grain-oriented electrical steel), and corrosion-resistant and other coated sheet and strip; (2) carbon and alloy hot-rolled bar and light shapes; (3) carbon and alloy cold-finished bar; (4) rebar; (5) carbon and alloy welded tubular products (other than oil country tubular goods); (6) carbon and alloy flanges, fittings, and tool joints; (7) stainless steel bar and light shapes; and (8) stainless steel rod are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing those products. The Commissioners voting were equally divided with respect to the determination under section 202(b) of the Trade Act as to whether increased imports of (9) carbon and alloy tin mill products; (10) tool steel, all forms; (11) stainless steel wire; and (12) stainless steel flanges and fittings are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing those products.

On March 5, 2002, the President issued Proclamation 7529, which established safeguard measures in the form of increases in duty and a tariff-rate quota pursuant to section 203 of the Trade Act on imports of the ten steel products described in paragraph 7 of that proclamation. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, Proclamation 7529 modifies the HTS so as to provide for such increased duties and a tariff-rate quota. Proclamation 7529 also authorized the USTR to further consider requests for the exclusion of particular products and, upon publication in the Federal Register of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to that proclamation to exclude such particular product from the pertinent safeguard measure. USTR requested additional information about these exclusions, in the form of a requester's questionnaire from interested persons that had requested exclusions, and an objector's questionnaire from interested persons that had opposed such requests.

Proclamation 7529 authorized the USTR, in March of each year in which any safeguard measure established by the Proclamation remains in effect and after consultation with the TPSC, to exclude particular products from the safeguard measure. In a Memorandum of March 5, 2002, the President instructed the USTR to publish in the **Federal Register** a notice of the procedures by which interested persons may request the TPSC to recommend whether to exclude a particular product.

USTR, in conjunction with the U.S. Department of Commerce (Commerce), has concluded that the new requester and new objector questionnaires used with regard to the new exclusion requests submitted on May 20, 2002, will elicit the information needed to evaluate whether to grant the exclusion of a particular product in March 2003, March 2004, or at such other time as may be permitted by Proclamation 7529. USTR and Commerce have further concluded that interested persons that already submitted requester's

questionnaires for a product should file an updated requester's questionnaire that revises and supplements the previously submitted request. Anyone that previously submitted an objection to such request must also file a revised objector's questionnaire updating the information previously submitted.

Submission of Requests for Exclusion and Opposition to Requests for Exclusion

In November 2002 and November 2003, or at any other time that may be appropriate, USTR will publish in the **Federal Register** a notice inviting any interested persons seeking the exclusion of a particular product to submit (1) for previously submitted product exclusion requests, an updated requester questionnaire, referencing the alphanumeroc tracking number assigned to the product, that revises the previously submitted version and provides any additional information the requester deems necessary for our analysis; or (2) a new requester questionnaire. A list of products for which we have received a requester questionnaire that we have deemed to be appropriately filed is available from the USTR and Commerce Department websites, *http://ia.ita.doc.gov/steel/exclusion/*. Any updated requester questionnaire or new requester questionnaire should be submitted within 30 days of the date of publication of the **Federal Register** notice described in this paragraph.

Within 15 business days after the date for submitting questionnaires, USTR will post a summary of the requested exclusions on its website. Interested persons opposing any request for exclusion should submit (1) for objections previously submitted, an updated objector's questionnaire, referencing the appropriate alphanumeric tracking number, that revises the previously submitted version and provides any additional information the objector deems necessary for our analysis; or (2) a new objector's questionnaire. Interested persons objecting to new requests or filing revised objector's questionnaires regarding previously submitted requests should submit their objections within 30 days following the posting of the product description summaries on the USTR website.

These questionnaires will be available on the USTR and Commerce Department websites at *http://ia.ita.doc.gov/steel/exclusion/*. USTR may disregard an exclusion request for a particular product if a complete response to the requester's questionnaires has not been received with regard to that product by the applicable date. USTR may conclude that there is no opposition with regard to the exclusion of a particular product if a complete response to the new objector's questionnaire with regard to that product has not been received by the applicable date.

Each request will be evaluated on a case-by-case basis. USTR will grant only those exclusions that do not undermine the objectives of the safeguard measures. In analyzing the requests, USTR will consider whether the product is currently being produced in the United States, whether substitution of the product is possible, whether qualification requirements affect the requester's ability to use domestic products, inventories, whether the requested product is under development by a U.S. producer who will imminently be able to produce it in commercial quantities and any other relevant factors. Where necessary, USTR and/or the Commerce Department will meet with interested persons to discuss the information that was submitted and/or to gain additional information.

Every effort will be made to process requests as soon as possible consistent with resources and the quality of information that is received.

Interested persons should follow the instructions posted on the USTR and Commerce Department web sites at *http://ia.ita.doc.gov/steel/exclusion/*. Failure to follow the instructions posted there may result in rejection of the questionnaire submission.

We will assign each product covered by new request an alpha-numeric tracking number such as "N299.3," and will notify requesters as soon as possible after receipt of the submission. All interested persons must use this alpha-numeric designator in every subsequent reference to that exclusion request.

We strongly discourage the submission of business confidential information. Any questionnaire response that contains business confidential information must be accompanied by six copies of a public summary that does not contain business confidential information, and a diskette containing an electronic version of the public summary. Any paper submission and diskette containing business confidential information must be clearly marked "Business Confidential" at the top and bottom of the cover page (or letter) and each succeeding page of the submission, and on the label of the diskette. The version that does not contain business confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "nonconfidential," and on the label of the diskette.

Annual Reporting Burden

Updated Requester's Questionnaire

Respondents: 200.
Responses per respondent: 6.5.
Annual responses: 1300.
Hours per response: 2.
Total burden hours: 2600.

New Requester's Questionnaire

Respondents: 50.
Responses per respondent: 2.
Annual responses: 100.
Hours per response: 15.
Total burden hours: 1500.

Updated Objector's Questionnaire

Respondents: 17.
Responses per respondent: 85.
Annual responses: 1444.
Hours per response: 1.5.
Total burden hours: 2166.

New Objector's Questionnaire

Respondents: 17.
Responses per respondent: 6.5.
Annual responses: 111.
Hours per response: 11.
Total burden hours: 1221.

Request for Public Comments Pursuant to the Paperwork Reduction Act

We particularly invite public comment on: Whether this collection of information is necessary for the proper performance of the functions of the USTR, and whether it will have practical utility; whether our estimate of the public burden of this information collection is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the information collection on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology. Any public comment should be submitted to USTR, Office of Industry, 600 E Street, NW., Washington, DC 20508, Attn. PRA Comments. Comments should clearly indicate the questionnaire (requester's questionnaire or objector's questionnaire) to which they apply.

Obtaining Copies of Proposals

Interested persons may obtain a copy of the requester's questionnaire or the objector's questionnaire from the USTR Office of Industry, 600 E Street, NW., Washington, DC 20508, Attn. Questionnaire Copy, fax 202–395–9674, telephone 202–395–5656. Please indicate clearly the questionnaire sought (requester's questionnaire or objector's questionnaire).

Jon M. Huntsman, Jr.,
Deputy United States Trade Representative.
[FR Doc. 02–13923 Filed 5–30–02; 2:04 pm]
BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2002–11422]

Information Collection Under Review by the Office of Management and Budget (OMB): 2115–0629

AGENCY: Coast Guard, DOT.
ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Report (ICR) abstracted below to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before July 3, 2002.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2002–11422] more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Docket Management Facility at 202–493–2251 and (b) OIRA at 202–395–5806, or e-mail to OIRA at *oira_docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov*. (b) By delivery to OIRA does not have a Web site on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 (Plaza level), 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR are available for inspection and copying in public dockets. A copy of it is available in docket USCG 2002–11422 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the Internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–CIM–2), U.S. Coast Guard, room 6106, 2100 Second Street SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OIRA. The Coast Guard has already published [67 FR 6071 (February 8, 2002)] the 60-day notice required by OIRA. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2002–11422. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Request

1. *Title:* Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls.
OMB Control Number: 2115–0629.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners and operators of tank vessels.
Forms: This collection of information does not require the public to fill out forms, but does require the information to be in written or electronic format, and must be retained onboard the vessels and made readily available to the Coast Guard upon request.
Abstract: The information is needed to ensure compliance with domestic rules regarding operational measures for certain tank vessels while operating in the waters of the U.S.
Annual Estimated Burden Hours: The estimated burden is 18,006 hours a year.

Dated: May 24, 2002.

N.S. Heiner,
Acting Director of Information & Technology.
[FR Doc. 02–13755 Filed 5–31–02; 8:45 am]
BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2002–11351]

Information Collection Under Review by the Office of Management and Budget (OMB): 2115–0539, 2115–0504, 2115–0576, 2115–0581, and 2115–0626

AGENCY: Coast Guard, DOT.
ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded the five Information Collection Reports (ICRs) abstracted below to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. Our ICRs describe the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens

commensurate with our performance of duties.

DATES: Please submit comments on or before July 3, 2002.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2002–11351] more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b), above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Docket Management Facility at 202–493–2251 and (b) OIRA at 202–395–5806, or e-mail to OIRA at *oira_docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*. (b) OIRA does not have a website on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 (Plaza level), 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICRs are available for inspection and copying in public dockets. They are available in docket USCG 2002–11351 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–CIM–2), U.S. Coast Guard, room 6106, 2100 Second Street SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OIRA. The Coast Guard has already published (67 FR 3774 (January 25, 2002)) the 60-day notice required by OIRA. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2002–11351. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Request

1. *Title:* Requirements for Lightering of Oil and Hazardous Material.
OMB Control Number: 2115–0539.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners and operators of vessels.
Forms: This collection of information does not require the public to fill out forms, but does require the information to be in written or spoken form. Advance notices of offshore lightering are most commonly given by telephone, marine radio, or fax.
Abstract: The information for this report allows the Coast Guard to provide timely response to an emergency and minimize the environmental damage from a spill of oil or hazardous material. The information also allows the Coast Guard to control the location and procedures for lightering.
Annual Estimated Burden Hours: The estimated burden is 228 hours a year.

2. *Title:* Letters of Tank Vessel Examination, Certificates of Compliance, Repairs of Boilers and Pressure Vessels, Records of Cargo Gear, and Shipping Papers.
OMB Control Number: 2115–0504.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners and operators of vessels.
Forms: CG–840S–1, CG–840S–2, and CG–3585.
Abstract: This information is needed to enable the Coast Guard to fulfill its responsibilities for maritime safety under title 46 of the United States Code. The affected public includes some owners and operators of large merchant vessels and all foreign-flag tankers calling at U.S. ports.
Annual Estimated Burden Hours: The estimated burden is 17,555 hours a year.

3. *Title:* Instructional Material for Lifesaving, Fire-Protection, and Emergency Equipment.
OMB Control Number: 2115–0576.
Type of Request: Extension of a currently approved collection.
Affected Public: Manufacturers of Equipment.
Forms: This collection of information does not require the public to fill out forms, but does require manufacturers to produce required instructional materials for certain lifesaving, fire-protection, and emergency equipment.
Abstract: This information is needed to ensure that vessel crews have instructional material for lifesaving, fire-protection, and emergency equipment. The material is used during training sessions and during emergencies. It is needed because crewmembers must have complete information on the proper operation of such equipment.
Annual Estimated Burden Hours: The estimated burden is 22,516 hours a year.

4. *Title:* Vapor Control Systems for Facilities and Tank Vessels.
OMB Control Number: 2115–0581.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners, operators of facilities and tank vessels, and certifying entities.
Forms: This collection of information does not require the public to fill out forms, but does require facilities that have vapor-control systems (VCSs) to submit, to a Coast Guard's approved certifying entity, plans and technical information on those systems.
Abstract: The information is needed to ensure compliance with domestic rules for the design of VCSs for facilities and tank vessels. The information is also needed to determine the qualifications of a certifying entity.
Annual Estimated Burden Hours: The estimated burden is 1,073 hours a year.

5. *Title:* Alternate Compliance Program.
OMB Control Number: 2115–0626.
Type of Request: Extension of a currently approved collection.
Affected Public: Recognized classification societies.
Form: CG–3752.
Abstract: This information is used by the Coast Guard to assess vessels participating in the voluntary Alternate Compliance Program before issuance of a Certificate of Inspection.
Annual Estimated Burden Hours: The estimated burden is 150 hours a year.

Dated: May 24, 2002.

N.S. Heiner,

Acting Director of Information & Technology.

[FR Doc. 02–13756 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Advisory Circular 93–1, Reservations for Unscheduled Flights at High Density Traffic Airports

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of draft advisory circular and request for comments.

SUMMARY: This notice requests comments on Advisory Circular "Reservations for Unscheduled Flights at High Density Traffic Airports." This advisory circular would harmonize and clarify procedures currently in the Aeronautical Information Manual and the Aeronautical Information Publication, update methods of obtaining reservations to include a new web-based application, discontinue use of telephone modem access, provide for an increase in the number of hours in advance of operation that reservations may be made, and reflect recent statutory changes affecting operations at Chicago O'Hare International Airport.

DATES: Comments must be received on or before June 24, 2002.

ADDRESSES: Comments should be mailed or delivered in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA–2002–XXXX, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: *http//dms.dot.gov*. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Diane Crean, Manager, Terminal Operations/Procedures, ATP–120, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–3538, or facsimile 202–267–5305.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment by submitting such written data, views, or arguments, as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. Electronic filings should be made to the Docket via the Internet. The FAA will consider comments made on or before the closing date for comments before taking any action on the draft advisory circular.

The FAA will acknowledge receipt of a comment if the commentor includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. FAA–2002–xxxx. When the FAA receives the comment, the postcard will be dated, time stamped, and returned to the commentor.

Discussion

The FAA limits flights during certain hours at four high density traffic airports: John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA), Chicago O'Hare International Airport (ORD), and Ronald Reagan Washington National Airport (DCA). (Although Newark International Airport is also designated as a high density traffic airport, the quotas for that airport have been suspended indefinitely.) Reservations for air carrier and commuter flights (also called slots) are allocated in accordance with Title 14 of the Code of Federal Regulations (CFR) Part 93, Subpart S, and are not allocated by the procedures described in this draft advisory circular. Reservation procedures for the "other" of category operations are currently in the Aeronautical Information Manual and other air traffic publications. The Airport Reservation Office (ARO), a function of the David J. Hurley Air Traffic Control System Command Center, allocates these reservations for unscheduled operations. Reservations are allocated primarily by the Computer Voice Reservation System (CVRS), which is currently available using a touch-tone telephone or a computer and telephone modem.

The FAA notes that certain general aviation and other unscheduled flights are currently limited at DCA. If future FAA actions regarding flights at DCA would require changes to the procedures described in this advisory circular, they will be addressed separately. Users should continue to check current NOTAMs for the latest information. Comments about the current flight limits at DCA are beyond the scope of this advisory circular.

This advisory circular announces several changes to current procedures and adds clarifying language. The major changes are discussed below.

The FAA proposes to change the lead-time during which a reservation for an unscheduled operation may be obtained from 48 hours with exceptions to 72 hours with no exceptions. Current procedures allow an operator to make a reservation no more than 48 hours in advance of the operation, with two exceptions. [The first exception is for weekends, which provides that reservations may be made on Thursday for Monday and on Friday for Tuesday. The second exception provides that an additional reservation beyond the 48-hour period may be made if the second reservation is for the same calendar day and is made during the same telephone call. The second exception was adopted to allow an operator to obtain roundtrip reservation availability beginning 48 hours in advance of the operation and to provide an opportunity to revise operational plans should the requested slot times not be available.] The FAA proposes the adoption of a straight 72-hour window to obtain a reservation and the elimination of the 48-hour window with the related exceptions. This new procedure permits an operator to make an arrival or departure reservation at a high density traffic airport (HDTA) beginning 72 hours in advance of the proposed hour of operation. The FAA believes that a 72-hour limit generally provides more advance time for obtaining reservations and planning operations accordingly. In addition, it will address an abuse of current procedures by some operators who obtain multiple reservations beginning at the earliest possible time for the express purpose of exceeding the 48-hour limits during one telephone call. One example of abuse is when an operator obtains a reservation for a 6 a.m. arrival 48 hours in advance and, in the same telephone transaction, makes a reservation for a 5 p.m. departure. The operator then makes additional reservations by second telephone call for a 6 a.m. departure and a 4 p.m. arrival. The operator ultimately conducts only flights arriving at 4 p.m. and departing at 5 p.m. using reservations that were both made more than 48 hours in advance. This results in inequitable opportunities for the operators who comply with the intent of

the procedures. The FAA also has received numerous complaints from operators about certain peak hour reservations being fully allocated before the 48-hour period. This occurs due to the current exceptions to the 48-hour rule. The proposed 72-hour window addresses these issues and is expected to make the reservation process more open and equitable for all users. The FAA will continue to monitor operations and reservation allocation practices to determine whether additional actions are required to promote equitable access to reservations and the HDTA's for all unscheduled operators.

In Summer 2002, the FAA plans to enhance the current CVRS with a web-based interface that will allow users to make HDTA reservations using the Internet, and improve the response time of the touch-tone telephone interface. This replacement reservation system will be known as the Enhanced Computer Voice Reservation System (e-CVRS). At the same time e-CVRS is deployed, the current computer modem connection will be eliminated. The ability to make on-line reservations using the Internet will bring faster and easier reservation capability to many users. The computer modem interface will be discontinued primarily due to supportability and cost issues. The FAA does not plan to develop a replacement for the computer modem interface since it would largely duplicate the web interface.

The FAA is requesting comments on having users provide optional information on aircraft type and the next airport service point immediately prior to or following the operation at a high density airport. Fields for data input would be available using the Internet interface and the telephone interface of e-CVRS would be programmed to accept similar information. It would not be mandatory to provide this data to obtain a reservation. To the extent that it is available, this operational information would be combined with other data available to air traffic control and used for planning purposes. It may also be used to determine whether additional operations could be accommodated based on the expected demand.

Changes will also be made to incorporate recent statutory changes at certain high density traffic airports. On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) was enacted. AIR–21 provides that (1) effective May 1, 2000, reservations are not required for flights conducting foreign air transportation at ORD; (2) effective July 1, 2001, the high density rule (HDR) will apply from 2:45 p.m. through 8:14 p.m. at ORD; (3) after July 1, 2002, the HDR will be eliminated at ORD; (4) effective January 1, 2007, the HDR will be eliminated at JFK and LGA. Therefore, beginning July 2, 2002, reservations will not be required at ORD and it will be eliminated from e-CVRS after that date.

The FAA will consider other comments beyond those specifically solicited above. However, changes that would require rulemaking are beyond the scope of this proposed advisory circular. In compliance with the Paperwork Reduction Act, a request for approval to collect the necessary information will be submitted to the Office of Management and Budget.

Draft Advisory Circular

1. Purpose

This circular provides information for obtaining instrument and visual flight rule (IFR/VFR) reservations for unscheduled operations at the High Density Traffic Airports (HDTA). The High Density Traffic Airports Rule (Title 14 of the Code of Federal Regulations (CFR), part 93, subpart K) classifies user groups as air carrier, commuter, and other operators. Reservations for regularly scheduled operations conducted by air carrier and commuter operators (also called slots) are allocated in accordance with 14 CFR part 93, subpart S—Allocation of Commuter and Air Carrier IFR Operations at High Density Traffic Airports. Reservations for all other operations are obtained through the Airport Reservation Office (ARO) using the procedures described in this circular.

2. Definitions

a. Reservation

An authorization received in compliance with 14 CFR part 93, subpart K, to operate to and/or from a designated HDTA. A reservation for DCA, JFK, or LGA is allocated on an hourly basis. However, at Chicago O'Hare (ORD) a reservation is allocated on a 30-minute basis. (Reservations at ORD will not be required after July 1, 2002.) A reservation authorizes an operation only within the approved time period unless the flight encounters an air traffic control (ATC) traffic delay. (**Note:** In addition to obtaining a reservation as described in this advisory circular, it is the separate responsibility of the user to comply with all other NOTAMs, security or other regulatory requirements to operate at an HDTA.)

b. Airport Reservation Office (ARO)

An operational unit of the FAA Air Traffic Control System Command Center that is responsible for administration of slot reservations for the "other" category of operations (nonscheduled flights) at HDTA's.

c. Unscheduled Operation

An operation other than one regulatory conducted by an air carrier or commuter between an HDTA and another service point. Certain types of air carrier and commuter operations are also considered for these purposes as unscheduled. These include irregular charter, hired aircraft service, ferry flights, and other nonpassenger flights.

d. Additional Reservation

An approved IFR and VFR reservation above the hourly IFR quota at an HDTA. Additional reservations are available for unscheduled operations only and are allocated in accordance with the procedures described in this circular.

e. Enhanced Computer Voice Reservation System (e-CVRS)

FAA operates the e-CVRS to make arrival and/or departure reservations at airports designated by 14 part 93 subpart K as HDTA. There is a touch-tone telephone interface and an Internet web interface for making reservations.

3. Discussion

a. The FAA designated John F. Kennedy International (JFK) LaGuardia (LGA), Chicaco O'Hare International (ORD), Ronald Reagan Washington National Airport (DCA), and Newark Intternational (EWR) Airports as high density traffic airports and has prescribed air traffic rules and requirements for operating aircraft to and from these airports (14 CFR Part 93, Subpart K). (The HDR at EWR has been suspended indefinitely.) Reservations for JFK are required from 3 p.m. through 7:59 p.m. local time. Reservations at ORD are required from 2:45 p.m. through 8:14 p.m. local time. Reservations for LGA and DCA are required from 6 a.m. through 11:59 p.m. local time. Helicopter operations are excluded from the requirement for a reservation. Reservations at ORD are not required for any aircraft providing foreign air transportation. Air-21 provides for slot restrictions to be removed at ORD after July 1, 2002, and at JFK and LGA on January 1, 2007.

b. The FAA has established an ARO to receive and process all IFR reservation requests for unscheduled operations at the HDTA's. This office monitors operation of the HDR and allocates reservations for the "other" category on a "first-come-first-served" basis determined by the time the request is received at the reservation office. Standby lists are not maintained. The ARO uses e-CVRS to make all reservations. Users may access the computer system using a touch-tone telephone or via the Internet. Requests for IFR reservations will be accepted beginning 72 hours prior to the proposed time of operation at the affected airport. For example, a request for an 11 a.m. reservation on a Thursday will be accepted beginning at 11 a.m. on the previous Monday.

c. A maximum of two transactions per telephone call/Internet session will be accepted.

d. The ARO will not provide scheduling according to planned departure/arrival time. Assignments will be made on an hourly or 30-minute basis, *e.g.*, an approved reservation for 2000 UTC covers an operation any time from 2000 through 2059 at DCA, JFK, and LGA, and an approved reservation for 2145 at ORD covers an operation from 2145 through 2214.

e. A reservation does not ensure against traffic delays nor does it guarantee arrival and/or departure within such allotted hours. A reservation also is not an ATC clearance.

f. Users are advised to check current NOTAMs in effect for HDTA's. A reservation from e-CVRS does not constitute permission to operate at an HDTA if additional operational limits or procedures are required by NOTAM and/or regulation.

g. The filing of a request for an IFR reservation does not constitute the filing of an IFR flight plan as required by regulation. The IFR flight plan should be filed only after the reservation is obtained and should be filed through normal channels. The ARO does not accept or process flight plans.

4. IFR Reservations

a. For an IFR operation, an IFR reservation is required prior to takeoff for any operation to or from an HDTA. Users may obtain IFR reservations by (1) calling the ARO's interactive computer system via touch-tone telephone, or via the Internet; or (2) calling the ARO directly. The telephone number for the e-CVRS computer is 1–800–875–9694. Users would then select option number 1 from the menu to make a reservation using e-CVRS. This toll free number is valid for calls originating within the United States, Canada, and the Caribbean. Users outside those areas may access e-CVRS by calling the toll number of (703) 707–0568. The Internet Web address for accessing e-CVRS is *http://www.fly.faa.gov/ecvrs.*

User may contact the ARO at 703–904–4452 if they have a problem making a reservation using the automated interfaces, if they have a question concerning the HDTA regulations or procedures, of if they wish to make a telephone reservation from outside the United States, Canada, or the Caribbean. (**Note:** The inability to obtain a reservation because all the reservations have been allocated is not considered as having a problem making a reservation).

b. When filing a request for an IFR reservation, the pilot should be prepared to provide the following information:

(1) Name(s) of high density traffic airport(s) for which the pilot wishes reservation(s).

(2) Date(s) and hour(s) (UTC) of proposed operation(s).

(3) Aircraft call sign, flight identification, or tail number(s). Operators should ensure that for each reservation, the ARO has an accurate record of the call sign or aircraft identification number that will be used for communication with air traffic control. Operators using a 3-letter identifier and flight number for ATC communication should obtain a reservation using that same information. Operators using an aircraft tail number should obtain a reservation using the tail number. Note: The FAA monitors compliance with the requirement to obtain a reservation at the HDTA's by comparing ATC flight records with e-CVRS reservation data. Therefore, in order to ensure comparability of data, the operator should ensure that the call sign/tail number data is the same for both ATC and e-CVRS.

(4) Aircraft type identifier. This information is optional and is not required to obtain a reservation.

(5) Origin/Destination Airport immediately prior to or following the proposed operation at a high density traffic airport. This information is optional and is not required to obtain a reservation. The 3-letter identifier for the airport should be used.

c. Should the requested time not be available, the user will be offered the closest time before and after the requested time. If an alternate time is accepted, this will be considered an allocated reservation.

d. Users are encouraged to advise the ARO whenever a change is needed to a reservation. Changes should be made to e-CVRS reservations by using the telephone interface, the Internet web interface, or by calling the ARO.

e. A reservation should be canceled when a user knows that it will not be used. Cancellations should be made through e-CVRS as soon as practical using the telephone interface, the Internet web interface, or by calling the ARO. Early cancellation of reservation will provide opportunities for other operators to use the limited number of airport reservations.

f. The following information is needed to change or cancel a reservation:

(1) Aircraft 3-letter identifier and flight number or tail number, depending on what information was provided for the original reservation.

(2) Airport for which the reservation was made.

(3) Date and Time (UTC) of reservation.

(4) Reservation number.

5. Additional IFR Reservations

a. If ATC weather and capacity conditions are favorable and significant delay is not likely at an HDTA, the ARO may coordinate with the appropriate ATC facility to determine if additional IFR reservations may be accommodated at the HDTA for a specific time period. (*See* 14 CFR 93.129.) Generally, availability of additional reservations will not be determined more than 8 hours in advance. If available, additional IFR reservations will be granted on a first-come-first-serve basis using the procedures described in section 4 of this advisory circular. Reservations for IFR operations are not granted by the local ATC facility.

b. An operator who has been unable to obtain a reservation at the beginning of the 72-hour window may find he or she is able to obtain a reservation on the scheduled day of operation when additional reservations may be authorized.

c. ATC will accommodate declared emergency situations without regard to slot reservations.

6. Visual Flight Rules (VFR) Reservations

a. The operator of an unscheduled VFR operation may take off or land an aircraft under VFR at an HDTA if a departure or arrival clearance is obtained from the FAA ATC facility serving the HDTA.

b. Under 14 CFR 93.129, a VFR operation is an additional operation beyond the hourly and half-hourly quotas. VFR additional operations may be granted by ATC if they can be accommodated without significant delay to operations already allocated. In addition, the reported ceiling at the HDTA must be at least 1,000 feet and the reported ground visibility at least 3 miles.

c. Each HDTA lies within Class B airspace. A clearance from ATC to enter the airspace or depart the airport under VFR constitutes an approval for a VFR additional reservation. No additional reservation under this section is required for VFR operations. Operators who have obtained a reservation from e-CVRS for a VFR operation are encouraged to cancel those reservations at the earliest opportunity so that they may be available for IFR operations.

d. Any time an HDTA is not authorizing VFR operations, a NOTAM to that effect will be issued by the controlling ATC facility and a recording placed on the Automated Terminal Information Service.

7. Making HDTA Reservations Using e-CVRS

a. Telephone users. When using a touch-tone telephone to make a reservation, you are prompted for input of information about what you wish to do. All input is accomplished using the keypad on the telephone. One issue with a touch-tone telephone entry is that most keys have a letter and number associated with them. When the system asks for a date or time, it is expecting an input of numbers. A problem arises when entering a tail number, or 3-letter identifier. The system does not detect if you are entering a letter (alpha character) or a number. Therefore, when entering an aircraft identifier and flight number or aircraft registration/tail number two keys are used to represent each letter or number. When entering a number, precede the number you wish by the number 0 (zero) *i.e.*, 01, 02, 03, 04, * * * If you wish to enter a letter, first press the key on which the letter appears and then pass 1, 2, or 3, depending upon whether the letter you desire is the first, second, or third letter on that key. For example to enter the letter "N" first press the "6" key because "N" is on that key, then press the "2" key because the letter "N" is the second letter on the "6" key. Since there are no keys for the letters "Q" and "Z," e-CVRS pretends they are on the number "1" key. Therefore, to enter the letter "Q," press 11, and to enter the letter "Z," press 12.

Note: Users are reminded to enter the "N" character with their tail numbers (*see Table 1*). Operators using a 3-letter identifier and flight number to communicate with ATC facilities should enter that call sign when making their reservation.

TABLE 1.—CODES FOR CALL SIGN/TAIL NUMBER INPUT

Codes for Call Sign/Tail Number Input Only			
A–21	J–51	S–73	1–01
B–22	K–52	T–81	2–02
C–23	L–53	U–82	3–03
D–31	M–61	V–83	4–04
E–32	N–62	W–91	5–05
F–33	O–63	X–92	6–06
G–41	P–71	Y–93	7–07
H–42	Q–11	Z–12	8–08
I–43	R–72	0–00	9–09

b. Additional helpful key entries: (*See Table 2*).

TABLE 2.—HELPFUL KEY ENTRIES

After entering a call sign/tail number, depressing the "pound key" (#) twice will indicate the end of the tail number.
*2 Will take the user back to the start of the process.
*3 Will repeat the call sign/tail number used in a previous reservation.
*5 Will repeat the previous question.
*8 Tutorial Mode: In the tutorial mode each prompt for input includes a more detailed description of what is expected as input. *8 is a toggle on/off switch. If you are in tutorial mode and enter *8, you will return to the normal mode.
*0 Expert Mode: In the expert mode each prompt for input is brief with little or no explanation. Expert mode is also on/off toggle.

c. *Internet Web Based Interface.* The e-CVRS reservation system includes a Web-based interface. The Internet option is intended to provide a fast, user-friendly environment for making slot reservations. The Internet address is *http://www.fly.faa.gov/ecvrs*. The web-based interface incorporates the current CVRS telephone features and adds new features. In addition to the airport, date, time, and tail number/call sign information, you will be asked to enter the aircraft type and the arrival/departure airport immediately preceding or following your operation at an HDTA. If you are making an arrival reservation at an HDTA, you will be asked to provide the 3-letter identifier for your departure airport. Conversely, if you are making a departure reservation, you will now be asked for your destination airport. This information is optional and is not required to obtain a reservation. This information may be added or edited using e-CVRS after the reservation is initially obtained.

All users of e-CVRS must complete a one-time registration form containing the following information: full name; e-mail address; a personal password; password confirmation; and company affiliation (optional). Your e-mail and password are required each time you login to use e-CVRS. Instructions are provided on each page to guide you through the reservation process. If you need help at any time, you can access page-specific help by clicking the question mark "?" located in the upper right corner of the page.

Issued in Washington, DC, on May 28, 2002.

Michael A. Cirillo,

Program Director for Air Traffic Planning and Procedures.

[FR Doc. 02–13820 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Miscellaneous Non-Required Equipment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) C138, Miscellaneous Non-Required Equipment. This TSO is limited in applicability to equipment that is not intended to be used in the cockpit, nor impact pilot workload. This TSO establishes equipment categories which are classified based upon compliance to published aircraft standards. The TSO equipment manufacturer is provided guidelines for developments and documentation of equipment functional performance requirements and test conditions. The TSO equipment manufacturer is expected to provide evidence of having satisfied the declared functional performance and test conditions under defined environmental test conditions. For those equipment which contain software, the equipment manufacturer must provide evidence of having satisfied minimum software design assurance development criteria. This TSO also identifies equipment classes marked "<RESERVED>" for equipment standards to be defined in the future. These "<RESERVED>" equipment classes are intended to allow for future TSO C138 expansion of aircraft standards for elective compliance by the equipment manufacturer.

DATES: Comments submitted must be received on or before July 31, 2002.

ADDRESSES: Send all comments on the proposed TSO to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Michelle Swearingen, Federal Aviation Administration (FAA), Aircraft Certification Service Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue SW., Washington, DC 20591, Telephone: (202) 267–9897, FAX: (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments, as they desire, to the above specified address. Comments must be marked "Comments to TSO–C138." Comments received on the draft TSO may be examined both before and after the closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing data for comments specified will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

Design and production approval under the FAA Technical Standard Order (TSO) program offers numerous advantages to the equipment manufacturer, equipment installer and the FAA Aircraft Certification Service. The proposed TSO is intended to provide equipment manufacturers ability to produce equipment without specifically tying the equipment to a given make/model of aircraft. Design and production approval under this TSO is intended to afford the equipment manufacturer and installer limited certification reuse credit. Equipment marked as compliant with the proposed TSO is anticipated to require less overall regulatory review during the installation process, since the equipment would be marked as having been found compliant to a given set of equipment standards (e.g., environmental considerations, software design assurance, etc). This inherent certification reuse credit is intended to provide equipment manufacturers increased marketability of equipment currently considered non-traditional TSO articles. Finally, the FAA believes that adoption of this proposed TSO will reduce the overall regulatory review cycle by the Aircraft Certification Offices. The FAA intends to identify success metrics and implements a monitoring program to ensure that any resultant increase in TSO Authorization applications do not result in an unmanageable workload burden upon the Aircraft Certification Offices.

How To Obtain Copies

A copy of the revised draft TSO may be obtained via Internet (*http://www.faa.gov/avr/air/airhome.htm*) or on request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC., on May 29, 2002.

David W. Hempe,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 02–13819 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Hamilton and Clermont Counties, OH, and Campbell County, KY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Tiered Environmental Impact Statement (EIS) may be prepared for proposed multi-modal transportation projects in Hamilton and Clermont Counties, Ohio, and Campbell County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Mark L. Vonder Embse, Urban Programs Engineer, Federal Highway Administration, 200 North High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280–6854.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation (ODOT) and the Hamilton County Transportation Improvement District (HCTID), will prepare a Tiered Environmental Impact Statement for proposed improvements in the Eastern Corridor of the City of Cincinnati, Ohio. Covering approximately 200 square miles, the study area extends from the Cincinnati Business District east to the Communities of Milford, Batavia, and Amelia in Clermont County, and south into Northern Kentucky along I–275 and I–471.

The purpose and need of the project are to improve mobility and alleviate congestion in the Eastern Corridor. Alternatives under consideration include (1) Taking no action; and (2) a combination of the following: (a) Constructing a new highway on new location; (b) construction of new transit facilities; and (c) upgrading existing highway and transit facilities. FHWA, ODOT, HCTID and local agencies will be invited to participate in defining the alternatives to be evaluated in the Tiered EIS, and any significant social, economic, or environmental issues related to the alternatives.

The purpose of this Tiered EIS is to document in a Record of Decision specific segments and their termini within the Eastern Corridor. The first tier will focus on broad issues such as general location, mode choice, and area-wide air quality and land use implications of the major alternatives. These individual projects will then advance as independent projects with individual NEPA decisions. The second tier will address site-specific details on project impacts, costs, and mitigation measures.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in the project

area. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. A draft of the Tiered EIS will be available for public and agency review and comment prior to the public hearing. Scoping activities will be conducted.

To ensure that the full range of issues related to this proposed action are identified and addressed, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action should be sent to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: May 21, 2002.

Mark L. Vonder Embse,

Urban Programs Engineer, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 02–13830 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Kauai County, HI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in the County of Kauai, State of Hawaii. This notice supersedes an earlier notice for the same project, published in the October 9, 1992 edition of the **Federal Register** (Vol. 57, No. 197).

FOR FURTHER INFORMATION CONTACT: Abraham Y. Wong, Division Administrator, Federal Highway Administration, P.O. Box 50206, Honolulu, Hawaii 96850, Telephone (808) 541–2700, x312.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Hawaii, Department of Transportation, Highways Division, will prepare an Environmental Impact Statement for proposed improvements to Kuhio Highway (FAP 56) on the island of Kauai. This notice supersedes an earlier notice for the same project, published in the October 9, 1992 edition of the **Federal Register** (Vol. 57, No. 197).

The objectives of the proposed action are to alleviate existing traffic congestion along Kuhio Highway, accommodate projected traffic growth to the year 2025 for both local circulation and through traffic, provide an alternate emergency access and evacuation route to respond to emergency conditions, and provide additional roadway capacity when traffic incidents impede the normal traffic flow.

It is anticipated that several alternatives will be studied, including the no-build alternative. Possible "build" alternatives may include widening portions of Kuhio Highway, construction of a new bypass road or "relief route," a Transportation System Management (TSM)" alternative, or some combination of these. The proposed action could also include the location and design of connector roads between the relief route and the existing Kuhio Highway.

Stakeholders and interested parties are invited to come forward with ideas for purpose and need, alternatives, alternative selection criteria, environmental concerns in all resource areas, suggestions for outreach, and other information relevant to the planning process.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and County agencies and to private organizations and individuals. Two public informational meetings will be held on Kauai to receive comments and input from the community. In addition, a formal public hearing will be held after the Draft EIS is released for public and agency review. Public notices will be given of the time and place where these meetings will be held.

Comments or questions concerning this proposed project and the EIS to be prepared should be directed to the FHWA at the address provided above.

Abraham Y. Wong,

Division Administrator, FHWA Hawaii.

[FR Doc. 02–13765 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: San Joaquin and Stanislaus Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposal highway project in San Joaquin and Stanislaus counties, California.

FOR FURTHER INFORMATION CONTACT: Maiser Khaled, Team Leader, Federal Highway Administration, 980 Ninth St., Suite 400, Sacramento, California 95809, Telephone: (916) 498–5008.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with California Department of Transportation (Caltrans), will prepare an EIS on a proposal to improve State Route 132 from the State Route 132/33 (SR132/33) Separation Overhead (Bridge 29–167L) in San Joaquin County to 0.16 km (0.1 m) west of the San Joaquin Bridge (Bridge 38–45) in Stanislaus County. The project is approximately 5.63 km (3.5m) in length. It is anticipated that these improvements improve traffic safety and operations by reducing congestion and accidents.

A larger geographic area from Interstate 580 (I–580) to Dakota Avenue west of the City of Modesto will be examined to evaluate indirect and cumulative impacts, and ensure full consideration of alternatives for the corridor. Alternatives under consideration include (1) taking no action; (2) using the existing two-lane highway as two westbound lanes and constructing two new eastbound lanes as a divided, four-lane expressway with limited access; (3) constructing a divided, four-lane expressway with limited access on new alignment; and (4) constructing a divided, four-lane freeway with controlled access on new alignment. Incorporated into and studied with the various build alternatives will be design variations of the existing SR132/33 interchange.

Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed or are known to have interest in this proposal. Scoping meetings with local officials, State and Federal resource agencies will be held during the summer of 2002. Public participation for this study also includes community information meetings and a formal Public Hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing Public notice will be given of the time and place for all meetings and hearings.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: May 20, 2002.

Maiser A. Khaled,

Chief, District Operations—North, Sacramento, California.

[FR Doc. 02–13744 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5748 (OMCS–99–5748), FMCSA–99–6480]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 11 individuals.

DATES: This decision is effective June 3, 2002. Comments from interested persons should be submitted by July 3, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov*. Please include the docket numbers that appear in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit*.

Background

Eleven individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Ronnie F. Bowman, Thomas L. Corey, Oskia D. Johnson, Dennis E. Krone, James F. Laverdure, Christopher P. Lefler, David R. Linzy, Richard J. McKenzie, Jr., Kenneth R. Piechnik, Thomas R. Trumpeter, and John C. Vantaggi. Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, FMCSA has evaluated the 11 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On April 14, 2000, the agency published a notice of final disposition announcing its decision to exempt 34 individuals, including 10 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (65 FR 20251). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 68195 (December 6, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (65 FR 20251). On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 1 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 66962). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 11 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 20251; 64 FR 68195; 64 FR 66962; 64 FR 40404), and each has requested timely renewal of the exemption. These 11 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for a period of 2 years is likely to

achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Ronnie F. Bowman, Thomas L. Corey, Oskia D. Johnson, Dennis E. Krone, James F. Laverdure, Christopher P. Lefler, David R. Linzy, Richard J. McKenzie, Jr., Kenneth R. Piechnik, Thomas R. Trumpeter, and John C. Vantaggi, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

FMCSA has evaluated the qualifications and driving performance of the 11 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by July 3, 2002. All comments will be considered and will be available for examination in the docket room at the above address. FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Issued on: May 28, 2002.

Stephen E. Barber,

Associate Administrator, Enforcement and Program Delivery.

[FR Doc. 02–13753 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on March 27, 2002 (67 FR 14766).

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Debra Steward, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13, section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 27, 2002, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 67 FR 14766. FRA received no comments in response to this notice.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Qualifications for Locomotive Engineers.

OMB Control Number: 2130–0533.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Public Law 100–342, 102 Stat. 624 (June 22, 1988), later amended and re-codified by Public Law 103–272, 108 Stat. 874 (July 5, 1994), required that FRA issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers. The collection of information is also used by FRA to verify that railroads have established the required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

Annual Estimated Burden Hours: 202,741.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on May 29, 2002.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 02–13821 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 12, 2002. No comments were received.

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION CONTACT: Rita Jackson, Maritime Administration, MAR–250, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–0284; FAX: 202–493–2288 or E–MAIL: *rita.jackson@marad.dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Application for Admission to the U.S. Merchant Marine Academy.

OMB Control Number: 2133–0010.

Type of Request: Extension of currently approved collection.

Affected Public: Individuals desiring to become students at the U.S. Merchant Marine Academy.

Form (S): KP–2–65.

Abstract: The collection consists of Parts I, II, and III of Form KP 2–65 (U.S. Merchant Marine Academy Application for Admission). Part I of the form is completed by individuals who desire to be admitted as students to the U.S. Merchant Marine Academy.

Annual Estimated Burden Hours: 12,500 hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments Are Invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on May 28, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–13778 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP02–003

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect finding.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency vacate the March 7, 1995, settlement agreement between the U.S. Department of Transportation (U.S. DOT) and General Motors Corporation (GM), and order an immediate recall of the 1973–1987 C/K series pickup trucks with the fuel tank mounted outboard of the frame rails. The petition is hereinafter identified as DP02–003.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan White, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5226.

SUPPLEMENTARY INFORMATION: Mr. Jere L. Beasley of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. in Montgomery, AL, submitted a petition to NHTSA by letter dated February 27, 2002, requesting that the agency vacate the March 7, 1995, settlement agreement between the U.S. DOT and GM, and order an immediate recall of the model year 1973–1987 C/K series pickup trucks with the fuel tank mounted outboard of the frame rails. The petitioner alleges that since the settlement agreement, numerous persons have been injured and killed as a result of the defective design of the fuel tanks, but has not provided any data in support of this allegation.

On March 7, 1995, the former secretary of the U.S. DOT, Federico Peña, signed a settlement agreement with GM resolving NHTSA's defect investigation, EA92–041, involving an alleged fuel system integrity defect in model year 1970–1991 C/K pickup trucks. Secretary PeZa concluded that the settlement was in the public interest and best furthers DOT's interest in vehicle safety. NHTSA subsequently closed its defect investigation.

The settlement allowed the parties to avoid time-consuming, costly litigation of a complex matter that raised difficult factual and legal issues, and offered an opportunity for meaningful cooperation between government and industry to significantly enhance the safety of the driving public. The petitioner has not provided information, different in kind from that considered by the agency in the past, that leads us to conclude that the investigation should be reopened. Therefore, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: May 24, 2002.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 02–13838 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12316]

Notice of Receipt of Petition for Decision That Nonconforming 1999–2002 Mercedes Benz S Class (W220) Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1999–2002 Mercedes Benz S Class (W220) passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999–2002 Mercedes Benz S Class (W220) passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 3, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Automobile Concepts, Inc. of North Miami, Florida ("AMC") (Registered Importer 01–278) has petitioned NHTSA to decide whether 1999–2002 Mercedes Benz S Class (W220) passenger cars are eligible for importation into the United States. The vehicles which AMC identified as substantially similar are "1999–2002 Mercedes Benz S Class (W220)" passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

After reviewing the petition, the agency discovered that it had already decided that the 1999 model year Mercedes Benz S Class sold in the United States was eligible for importation (VSP 325). The next generation S Class, the W220, entered production during the latter part of 1998. The manufacturer informed us that, beginning in February 1999, it began to import into the United States the W220 as a 2000 model year vehicle. While W220s contemporaneously produced for other markets may have been denominated as 1999 models, the manufacturer appears to have chosen the model year 2000 for U.S. models for marketing reasons alone. This means that it is proper to compare a W220 which may have been denominated a 1999 model outside the United States with a W220 certified for the U.S. market as a 2000 model year vehicle. If the agency finds the W220 eligible for importation, the decision will cover 1999–2002 vehicles as petitioned for, and identify them as W220s.

The petitioner claims that it carefully compared non-U.S. certified 1999–2002 Mercedes Benz S Class (W220) passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

AMC submitted information with its petition intended to demonstrate that non-U.S. certified 1999–2002 Mercedes Benz S Class (W220) passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999–2002 Mercedes Benz S Class (W220) passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) Inscription of the word "brake" on the dash in place of the international ECE warning symbol; (b) recalibration of the speedometer to read in miles per hour and inscription of the letters "MPH" on the speedometer face, or replacement of the entire instrument cluster with the U.S.-model component.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) Installation of U.S.-model headlamps; (b) installation of U.S.-model side markers; (c) installation of U.S.-model tail lamp assemblies which incorporate rear sidemarker lights; (d) installation of a U.S.-model high mounted stop light assembly if the vehicle is not already so equipped.

Standard No. 110 Tire Selection and Rims: installation of a tire information placard.

Standard No. 111 Rearview Mirror: replacement of the passenger side rearview mirror with a U.S.-model component, or inscription of the required warning statement on that mirror.

Standard No. 114 Theft Protection: activation of the warning buzzer.

Standard No. 118 Power Window Systems: reprogramming of the power window system so that the windows will not operate with the ignition off.

Standard No. 201 Occupant Protection in Interior Impact: inspection of each vehicle to ensure that appropriate components have been installed to meet the requirements of the standard, and replacement of any component that is not a U.S.-model part. The petitioner states that the manufacturer has identified the vehicle as meeting the upper interior head impact requirements of the standard.

Standard No. 208 Occupant Crash Protection: (a) Activation of the seat belt warning buzzer by reprogramming the unit; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. Petitioner states that the front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton. Petitioner further states that the vehicles are equipped with a seat belt warning lamp that is identical to the lamp installed on U.S.-certified models.

Standard No. 214 Side Impact Protection: inspection of all vehicles to ensure that they are equipped with door bars identical to those in the U.S. certified model and installation of those components on vehicles that are not already so equipped.

The petitioner states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 29, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–13816 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–12319 Notice 1]

Guardian Industries Corporation; Receipt of Application for Determination of Inconsequential Non-Compliance

Guardian Industries Corporation, (Guardian) of Auburn Hills, Michigan has applied to be exempted from the notification and remedy requirements of the 49 U.S.C. Chapter 301 "Motor Vehicle Safety" for noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 205 "Glazing Materials," on the basis that the noncompliance is inconsequential to motor vehicle safety. Guardian has filed a report of noncompliance pursuant to 49 CFR part 573, "Defect and Noncompliance Information Reports."

This notice of receipt of the application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgement concerning the merits of the application. *See* 49 U.S.C. 30118(d) and 30120(h).

Guardian submitted the following information in accordance with the requirements of 49 CFR part 556, "Exemption for Inconsequential Defect or Noncompliance."

Description of the Noncompliance

Guardian has determined that 11,562 tempered glass sunroof parts manufactured between November 2000 and February 2001, do not meet the labeling requirements of paragraph S6 of FMVSS No. 205, "Glazing Materials," specifically Section 6 of ANSI Z26 as incorporated by reference. They were not marked with the correct model number. The parts were marked with the manufacturer's model number M–934, which corresponds to a tempered glass with 4.0 mm nominal thickness. The correct manufacturer's model number, should have been M–937, which is tempered glass with a 5.0 mm nominal thickness.

Information Supporting the Application

Guardian submitted a test report indicating the tempered glass parts were in full compliance with 49 CFR 571.205 except that the parts were affixed with the incorrect manufacturer's model number. The noncompliance was discovered during a routine in-house quality control inspection.

Guardian asserts that the noncompliance reported herein could not result in the wrong part being used in an OEM or ARG application given that the part would be ordered by its unique part number not the "M number" (which corresponds to the glass construction from which the part is fabricated).

Interested persons are invited to submit written data, views and arguments on the petition of Guardian, described above. Comments should refer to the Docket Number and be submitted to: Docket Management, Room PL 401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date, indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent practicable. When the application is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 3, 2002.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: May 23, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–13754 Filed 5–31–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 189X)]

Union Pacific Railroad Company; Abandonment Exemption in Eau Claire County, WI

On May 14, 2002, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–05 [1] to abandon a line of

[1] In addition to an exemption from 49 U.S.C. 10903, UP seeks exemption from 49 U.S.C. 10904

Continued

railroad known as the Eau Claire Industrial Lead between milepost 0.00 near N. Barstow Street and milepost 1.65 south of Truax Boulevard, a distance of 1.65 miles in Eau Claire, Eau Claire County, WI. The line traverses U.S. Postal Service Zip Code 54703. There are no stations on the line.

The line does not contain Federally granted rights-of-way. Any documentation in the railroad's possession will be made available to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 30, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 24, 2002. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 189X) and must be sent to: (1) Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606. Replies to the UP petition are due on or before June 24, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

(offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). This request will be addressed in the final decision.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: May 28, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13826 Filed 5–31–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8718

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8718 User Fee for Exempt Organization Determination Letter Request.

DATES: Written comments should be received on or before August 2, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage, (202) 622–3945, or through the internet *(CAROL.A.SAVAGE@irs.gov.)*, Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: User Fee for Exempt Organization Determination Letter Request.

OMB Number: To be assigned later.

Form Number: 8718.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a "user fee" with each application for a determination letter. Because of this requirement, Form 8718 was created to provide filers the means to make payment and indicate the type of request.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Business or other for-profit organizations and not-for-profit institution.

Estimated Number of Respondents: 200,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 16,667.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 24, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13849 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13259

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13259, Taxpayer Advocacy Panel (TAP) Membership Application.

DATES: Written comments should be received on or before August 2, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage, (202) 622–3945, or through the internet *(CAROL.A.SAVAGE@irs.gov.)*, Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Taxpayer Advocacy Panel (TAP) Membership Application.

OMB Number: 1545–1788.

Form Number: 13259.

Abstract: Form 13259 is an application to volunteer to serve on the Taxpayer Advocacy Panel (TAP), as an advisory panel to the Internal Revenue Service. The TAP application is necessary for the purpose of recruiting perspective members to voluntarily participate on the Taxpayer Advocacy Panel for the Internal Revenue Service. It is necessary to gather information to rank applicants as well as to balance the panels demographically.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, and business or other for-profit organizations.

Estimated Number of Respondents: 750.

Estimated Time Per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 1,125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 24, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13850 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 12339–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce a paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 12339–A, Tax Check Waiver.

DATES: Written comments should be received on or before August 2, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax Check Waiver.

OMB Number: 1545–1791.

Form Number: 12339–A.

Abstract: Form 12339–A is necessary for the purpose of ensuring that all panel members are tax compliant. Information provided will be used to qualify or disqualify individuals to serve as panel members.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or household, and business or other for-profit organizations.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 42.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of a public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 28, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–13851 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040X, Amended U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before August 2, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet *(CAROL.A.SAVAGE@irs.gov.)*, Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Amended U.S. Individual Income Tax Return.

OMB Number: 1545–0091.

Form Number: 1040X.

Abstract: Form 1040X is used by individuals to amend an original tax return to claim a refund of income taxes, pay additional income taxes, or designate $3 to the Presidential Election Campaign Fund. The information provided on the form is needed to help verify that taxpayers have correctly figured their income tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 2,929,311.

Estimated Time Per Respondent: 3 hours, 32 minutes.

Estimated Total Annual Burden Hours: 10,369,761.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–13852 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8027 and 8027–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, and Form 8027–T, Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips.

DATES: Written comments should be received on or before August 2, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet *(CAROL.A.SAVAGE@irs.gov.)*, Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027), and Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027–T).

OMB Number: 1545–0714.

Form Number: Forms 8027 and 8027–T.

Abstract: To help IRS in its examinations of returns filed by tipped employees, large food or beverage establishments are required to report annually information concerning food or beverage operations receipts, tips reported by employees, and in certain cases, the employer must allocate tips to certain employees. Forms 8027 and 8027–T are used for this purpose.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions and state, local or tribal governments.

Estimated Number of Respondents: 52,050.

Estimated Time Per Respondent: 9 hours, 23 minutes.

Estimated Total Annual Burden Hours: 488,161.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–13853 Filed 5–31–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0556]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information used by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to record a patient's specific instructions about health care decisions in the event the patient no longer has decision-making capacity.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 2, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *ann.bickoff@hq.med.va.gov.* Please refer to "OMB Control No. 2900–0556" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: VA Advance Directive: Living Will and Durable Power of Attorney for Health Care, VA Form 10–0137.

OMB Control Number: 2900–0556.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–0137 is used to record a patient's specific instructions about health care decisions in the event the patient no longer has decision-making capacity. The information will be used by health care professionals to make treatment decisions for the patient.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 101,250 hours.

Estimated Average Burden Per Respondent: 25 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 243,000.

Dated: May 13, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13745 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information used by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection and allow 60 days for public comment in response to the notice. This notice solicits comments on VA's intent to accept credit card donations for the establishment and operation of a National Veterans Museum.

DATES: Written comments and recommendations on the proposed

collection of information should be received on or before August 2, 2002.

ADDRESSES: Submit written comments on the collection of information to Robert Wilson, Office of Management (047F), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *robert.wilson@mail.va.gov*. Please refer to "OMB Control No. 2900–New" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Robert Wilson at (202) 273–8898 or FAX (202) 273–9346.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Donations to National Veterans Museum (Via Credit Card), VA Form 5579a.

OMB Control Number: 2900–New.

Type of Review: New collection.

Abstract: VA Form 5579a will be used to accept donations via credit cards from individuals and corporations who wish to make a contribution to VA's National Veterans Museum. The Museum will tell the story of VA's link to American history. A range of interactive exhibits will introduce visitors to the services provided by VA and its precursors including the: (1) Benefits programs; (2) health care services and medical research and (3) National Cemeteries. The Museum will include state-of-art theatrical presentations, a Connection Center where visitors can use multimedia computer terminals with Internet access, and interactive audio-visual exhibits.

Affected Public: Individuals or households and Business or other for profit.

Estimated Annual Burden: 83 hours.

Estimated Average Burden Per Respondent: 1 minute.

Frequency of Response: One time.

Estimated Number of Respondents: 5,000.

Dated: May 14, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13746 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information used by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to request a beneficiary's current mailing address and to inform him or her that their monthly insurance checks have been suspended.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 2, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–New" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Suspension of Monthly Check, VA Form 29–0759.

OMB Control Number: 2900–New.

Type of Review: New collection.

Abstract: When funds are returned to VA from the Department of the Treasury due to a beneficiary's check not being cashed within one year from the issued date, VA Form 29–0759 is used to inform the beneficiary that his or her monthly insurance checks have been suspended. The form will also be used to obtain the beneficiary's current address or if desired, a banking institution for direct deposit for monthly checks.

Affected Public: Individuals or households.

Estimated Annual Burden: 200 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: May 17, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13747 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0320]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0320."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0320" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

OMB Control Number: 2900–0320.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1849 is provided as a service to veterans, builders/sellers, and escrow agents to use in situations involving escrows. A VA loan amount cannot exceed the reasonable value of the property as determined by the Secretary of Veterans Affairs. The reasonable value is predicated on the completion of all improvements. In certain circumstances, such as adverse weather or other specified unavoidable conditions, the completion of some improvements may have to be postponed. For these situations, VA has developed escrow procedures whereby a builder/seller deposits at least one and one-half times the cost of completing the improvements into an escrow account held by a third party. The funds can only be used for the purpose of finishing the postponed improvements and are released when the improvements have been completed. These escrow procedures provide incentive to builder/sellers to complete all postponed improvements and are standard practices in both the real estate and mortgage lending fields.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 19, 2001, at page 65531.

Affected Public: Individuals or households.

Estimated Annual Burden: 1 hour.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 10,000.

Dated: May 13, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13748 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Agency Information Collection Activities Under OMB Review

AGENCY: Board of Veterans' Appeal, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Board of Veterans' Appeal (BVA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0085."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0085" in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements.

d. Motion for Review of Representative's Charges for Expenses.

e. Request for Changes in Hearing Date.

f. Motion for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract:

a. Appeal to Board of Veterans' Appeals, VA Form 9: May be used by appellants to complete their appeal to the Board of Veterans' Appeals (BVA) from a denial of VA benefits. The information is used by BVA to identify the issues in dispute and prepare a decision responsive to the appellant's contentions and the legal and factual issues raised.

b. Withdrawal of Services by a Representative: When the appellant's representative withdraws from a case, both the appellant and the BVA must be informed so that the appellant's rights may be adequately protected and so that the BVA may meet its statutory obligations to provide notice to the current representative.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements: Agreements for fees charged by individuals or organizations for representing claimants and appellants before VA are filed with, and reviewed by, the Board of Veterans' Appeals. The information is used to determine whether such fees are excessive or unreasonable.

d. Motion for Review of Representative's Charges for Expenses: Expense reimbursements claimed by individuals and organizations for representing claimants and appellants before VA have been monitored for fairness for many years. The information is used to review changes by claimants' representatives for expenses to afford protection to such claimants from overreaching by unscrupulous representatives, to monitor fees charged by representatives, and to ensure that fee limitations are not avoided by mischaracterizing fees as expenses.

e. Request for Changes in Hearing Date: VA provides hearings to

appellants and their representatives, as required by basic Constitutional due process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after appellants fail to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

f. Motion for Reconsideration: Decisions by BVA are final unless the Chairman orders reconsideration of the decision either on the Chairman's initiative, or upon motion of a claimant. The Board Chairman, or his designee, uses the information in deciding whether reconsideration of a Board decision should be granted.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 5, 2002, at pages 5362–5363.

Affected Public: Individuals or households, Business or other for profit, and Not for profit institutions.

Estimated Total Annual Burden: 35,608 hours.

a. Appeal to Board of Veterans' Appeals, VA Form 9—32,500 hours.

b. Withdrawal of Services by a Representative—183.33 hours.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements—287 hours.

d. Motion for Review of Representative's Charges for Expenses—4 hours.

e. Request for Changes in Hearing Date—1,760.75 hours.

f. Motion for Reconsideration—877 hours.

Estimated Average Burden Per Respondent:

a. Appeal to Board of Veterans' Appeals, VA Form 9—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements—1 hour (contract modifications), 10 minutes (basic filing)—2 hours (filing motion or response).

d. Motion for Review of Representative's Charges for Expenses—4 hours (2 hours for motion and 2 hours for response to motion).

e. Request for Changes in Hearing Date—15 minutes (basic request)—1 hour (requests requiring preparation of a motion).

f. Motion for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents: 39,782.

a. Appeal to Board of Veterans' Appeals, VA Form 9—32,500.

b. Withdrawal of Services by a Representative—550.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements—1,279.

d. Motion for Review of Representative's Charges for Expenses—2.

e. Request for Changes in Hearing Date—4,574.

f. Motion for Reconsideration—877.

Dated: May 13, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13749 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0353]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8130, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0353."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0353" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Certification of Lessons Completed, VA Forms 22–6553b and 22–6553b–1, (Chapters 30, 32, and 35, Title 38, U.S.C.; Chapter 1606, Title 10, U.S.C., and Section 903, Pub. L. 96–342).

OMB Control Number: 2900–0353.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 22–6553b and 22–6553b–1 are used to determine the number of lessons completed by the student and serviced by the correspondence school. Students receiving education benefits for correspondence training complete their portions of the forms and submit the forms to the school for certification. The schools' certifying official certifies the number of lessons serviced and submits the forms to VA for processing. VA uses the information to determine continuing eligibility for benefits and the proper amount payable.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on February 28, 2002, at pages 9359–9360.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Annual Burden: 1,780 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Quarterly.

Estimated Number of Respondents: 3,559.

Estimated Number of Responses: 10,617.

Dated: May 9, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13750 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0501."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0501" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

OMB Control Number: 2900–0501.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–0543 is used to report any recent changes in the status of a veteran's mortgage insured under the Veterans Mortgage Life Insurance (VMLI). VMLI is automatically terminated when the mortgage is no longer in the veteran's name. The information collected is used to maintain VMLI accounts.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 7, 2002, at pages 10486—10487.

Affected Public: Individuals or households.

Estimated Annual Burden: 45 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 540.

Dated: May 13, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13751 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0390]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0390."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0390" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application of Surviving Spouse or Child for REPS Benefits (Restored Entitlement Program for Survivors), VA Form 21–8924.

OMB Control Number: 2900–0390.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8924 is used by survivors of deceased veterans to claim Restored Entitlement Program for Survivors (REPS) benefits. REPS benefits are paid to certain surviving spouses and children of veterans who died in service prior to August 13, 1981, or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. The information on the form is used by VBA to determine if the applicant meets REPS eligibility criteria.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 6, 2002, at page 10256.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,500 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 7,500.

Dated: May 13, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–13752 Filed 5–31–02; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 67, No. 106
Monday, June 3, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Under Secretary for Industry and Security

[O1–BXA–01]

In the Matter of: Jabal Damavand General Trading Company, P.O. Box 52130, Dubai United Arab Emirates, Respondent; Decision and Order

Correction

In notice document 02–11581 beginning on page 32009 in the issue of Monday, May 13, 2002 make the following correction:

On page 32009, in the third column, the subject line is corrected to read as set forth above.

[FR Doc. C2–11581 Filed 5–31–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement for the ACME Basin B Discharge Project

Correction

In notice document 02–13043 beginning on page 36577 in the issue of Friday, May 24, 2002 make the following correction:

On page 36578, in the second column, the **BILLING CODE** "3710–AS–M" should read "3710–AJ–M".

[FR Doc. C2–13043 Filed 5–31–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number EE–RM–98–440]

RIN 1904–AA77

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards

Correction

In rule document 02–12680 beginning on page 36368 in the issue of Thursday, May 23, 2002, make the following correction:

§430.32 [Corrected]

On page 36406, in §430.32 (c)(2), the table should read as set forth below.

(c)

* * * * *

(2) Central air conditioners and central air conditioning heat pumps manufactured on or after January 23, 2006 , shall have Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor no less than:

Product class	Seasonal energy efficiency ratio (SEER)	Heating seasonal performance factor (HSPF)
(i) Split system air conditioners	12	—
(ii) Split system heat pumps	12	7.4
(iii) Single package air conditioners	12	—
(iv) Single package heat pumps	12	7.4
(v)(A) Through-the-wall air conditioners and heat pumps—split system	10.9	7.1
(v)(B) Through-the-wall air conditioners and heat pumps—single package	10.6	7.0
(vi) Small duct, high velocity systems	[1] 10.0	[1] 6.8

[1] NAECA-prescribed value subject to amendment.

* * * * *

[FR Doc. C2–12680 Filed 5–31–02; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[CA077–NOD; FRL–7215–1]

Notice of Deficiency for 34 Clean Air Act Operating Permits Programs in California

Correction

In notice document 02–12847 beginning on page 35990 in the issue of Wednesday, May 22, 2002 make the following correction:

On page 35991, in the second column, under the "**III. Administrative Requirements**" heading, in the sixth line, "July 22, 2002" should read "May 22, 2002".

[FR Doc. C2–12847 Filed 5–31–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 241

[INS No. 1847–97; AG Order No. 2579–2002]

RIN 1115–AE82

Requiring Aliens Ordered Removed from the United States to Surrender To the Immigration and Naturalization Service for Removal

Correction

In proposed rule document 02–11141 beginning on page 31157 in the issue of Thursday, May 9, 2002 make the following correction:

§ 241.17 [Corrected]

On page 31163, in the first column, § 241.17, the duplicate paragraph "(a)" should read paragraph "(b)".

[FR Doc. C2–11141 Filed 5–31–02; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[NUREG–1600]

NRC Enforcement Policy; Modification, Medical Use

Correction

In notice document 02–9992 beginning on page 20187 in the issue of Wednesday, April 24, 2002, make the following correction:

On page 20187, in the third column, under the heading **DATES**, in the third line, "November 25, 2002" should read, "October 24, 2002".

[FR Doc. C2–9992 Filed 5–31–02; 8:45 am]

BILLING CODE 1505–01–D

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Federal Register

Monday,
June 3, 2002

Part II

Environmental Protection Agency

40 CFR Part 71

Revision to Regulations Implementing the Federal Permits Program in Areas for Which the Indian Country Status is in Question; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[FRL–7221–6]

Revision to Regulations Implementing the Federal Permits Program in Areas for Which the Indian Country Status Is in Question

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; implementation of court order.

SUMMARY: This action promulgates an amendment to EPA's Federal operating permits program rule in order to comply with a court order. In February 1999, EPA promulgated final regulations setting forth EPA's program for issuing Federal operating permits to stationary sources of air pollution in Indian country, pursuant to title V of the Clean Air Act (Act). On October 30, 2001, the U.S. Court of Appeals for the District of Columbia Circuit vacated and remanded a portion of the regulation that stated EPA will treat areas for which EPA believes the Indian country status is in question as Indian country. To conform with the Court's order, EPA is taking the ministerial step of removing the regulatory language that treats "in question" areas as Indian country as well as related regulatory language regarding the possible reduction of fees for sources located in "in question" areas.

DATES: This rule is effective on June 3, 2002.

ADDRESSES: The EPA does not seek comment on this final rule. Supporting information used in developing the promulgated rule is contained in Docket A–93–51. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket, Room M–1500, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Candace Carraway (telephone 919–541–3189, e-mail *carraway.candace@epa.gov*), Operating Permits Group, Information Transfer and Program Integration Division, Office of Air Quality Planning and Standards, U.S. EPA, Mail Code C304–04, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The court order in *State of Michigan* v. *EPA*, 268 F.3d 1075 (D.C. Cir. 2001) vacating the treatment of "in question" areas as Indian country has been added to Docket A–93–51.

After signature, the final rule will be posted on the policy and guidance page for newly proposed or final rules of EPA's Technology Transfer Network (TTN) at *http://www.epa.gov/ttn/oarpg/t5.html*. For more information, call the TTN HELP line at (919) 541–5384.

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I. Background

On February 19, 1999, pursuant to title V of the Act, EPA promulgated final regulations amending 40 CFR part 71 to establish how EPA would issue Federal operating permits to sources in Indian country. See 64 FR 8247. The final rule amended certain definitions in § 71.2, applicability provisions in § 71.3, program implementation provisions in § 71.4, affected State review requirements in § 71.8, permit fee requirements in § 71.9, and administrative process provisions in § 71.11. See 64 FR 8262–8263. In addition, to help avoid gaps in title V coverage for sources in Indian country, EPA included regulatory language at 40 CFR 71.4(b) that stated as follows: "For purposes of administering the part 71 program, EPA will treat areas for which EPA believes the Indian country status is in question as Indian country." See 64 FR 8249–8250, 8262. Subsequently, the State of Michigan Department of Environmental Quality, the American Forest and Paper Association, the New Mexico Oil & Gas Association, the New Mexico Environment Department, the Public Service Company of New Mexico and Salt River Project Agricultural Improvement and Power District challenged EPA's final rule in the U.S. Court of Appeals for the District of Columbia Circuit. The State and industry petitioners challenged EPA's decision to treat areas that EPA believes are "in question" as Indian country, and the process by which EPA intended to determine Federal jurisdiction in such cases.

In its October 30, 2001 decision, the Court agreed with the Agency that EPA has the authority to administer operating permit programs in Indian country. However, the Court found that EPA had exceeded its authority in deciding to treat "in question areas" as Indian country as provided by the Federal operating permits rule. Therefore, the Court ordered that portion of the EPA rule authorizing EPA to treat lands for which EPA has deemed Indian country status to be in question as Indian country to be vacated and remanded to the EPA for further proceedings. The EPA notes that the Agency had not issued any permits to sources based on the "in question" area approach under the rule.

To conform with the Court's order, EPA is taking the ministerial step of removing the language in § 71.4(b) that provided that for purposes of administering part 71, EPA will treat areas for which EPA believes the Indian country status is in question as Indian country. In addition, to make the rest of part 71 conform with the Court's order regarding the language in § 71.4(b), EPA is removing § 71.9(p) which provided that the permitting authority may reduce fees for sources that are located in "in question" areas that have paid fees to a State or local permitting authority asserting the Act's authority under a part 70 program. In light of the removal of the "in question" language of § 71.4(b), § 71.9(p) has no utility.

The EPA has determined that it has "good cause" under section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), to promulgate this final rule without prior notice and opportunity for comment. The EPA finds it "unnecessary" to provide an opportunity to comment on the strictly legal issue of the impact of the Court's decision on the February 19, 1999, Federal operating permits program provisions addressing EPA's authority in "in question" areas. Today's rule is in direct response to the Court's order and implements that order. It amends only those regulatory provisions directly affected by the Court's order to vacate the portion of the rule authorizing EPA to treat areas for which EPA has deemed Indian country status to be in question as Indian country.

For the same reason, EPA has determined that good cause exists under section 553(d)(3) of the APA, 5 U.S.C. 553(d)(3) to waive the requirement for a 30-day period before the amendment becomes effective, and therefore the amendment will be immediately effective.

Finally, the Administrator hereby designates subsection 307(d) of the Act as applying to this rulemaking.

II. Administrative Requirements

A. Executive Order 12866: "Significant Regulatory Action Determination"

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, adversely affecting in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because this action involves a ministerial removal of regulatory text in direct response to a court order, it has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is not subject to OMB review.

B. Regulatory Flexibility Act Compliance as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0336.

The Administrator has determined today's action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), since it directly imposes no burden at all. Burden means the total time, effort, or financial resources expended to generate and maintain, retain, or provide information as required by a rule. This includes the time needed to review instructions; develop, acquire, install, and use technology and systems for collecting, validating, and verifying information or processing and maintaining information; adjust the existing ways to comply with previous instructions and requirements; train personnel to respond to the collection of information; search data sources; complete and review the information; and transmit the information. Today's rule imposes no such burden on any entity.

D. Submission to Congress and the Comptroller General

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report (which includes a copy of the rule) to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of June 3, 2002, for this rule. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to sections 202 and 205 of the UMRA. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

F. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State

and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has Federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a Federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with Federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. This action would not alter the overall relationship or distribution of powers between governments for the title V program. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

G. Executive Order 13175: Consultation With Tribes

This action does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Accordingly, this rule is not subject to Executive Order 13175.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This action is not subject to Executive Order 13045, because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

I. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble title 40, chapter I of the Code of Federal Regulations is to be amended as set forth below.

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—[Amended]

§ 71.4 [Amended]

2. Section 71.4 is amended by removing the last sentence from paragraph (b) introductory text.

§ 71.9 [Amended]

3. Section 71.9 is amended by removing paragraph (p).

[FR Doc. 02–13806 Filed 5–31–02; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
June 3, 2002

Part III

Department of Commerce

International Trade Administration

International Trade Commission

Persulfates From China; Notices

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

Persulfates From China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of five-year ("Sunset") review of antidumping duty order on Persulfates from the People's Republic of China.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year ("sunset") review of the antidumping duty order listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* covering this same antidumping duty order.

FOR FURTHER INFORMATION CONTACT: James P. Maeder or Amir R. Eftekhari, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–3330 or (202) 482–5331, respectively, or Mary Messer, Office of Investigations, U.S. International Trade Commission, at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the "Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department regulations are to 19 CFR part 351 (2001). Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Background

Initiation of Review

In accordance with 19 CFR 351.218 we are initiating a sunset review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product
A–570–847	731–TA–749	China	Persulfates

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: "*http://ia.ita.doc.gov/sunset/*".

All submissions in this sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in this sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

Dated: May 28, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13842 Filed 5–31–02; 8:45 am]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–749 (Review)]

Persulfates From China

AGENCY: International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on persulfates from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on persulfates from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is July 23, 2002. Comments on the adequacy of responses may be filed with the Commission by August 19, 2002. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background. On July 7, 1997, the Department of Commerce issued an antidumping duty order on imports of persulfates from China (62 FR 36259). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the single *Domestic Like Product* as ammonium, sodium, and potassium persulfates.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of ammonium, sodium, and potassium persulfates.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is July 7, 1997.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 02–5–071, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 23, 2002. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 19, 2002. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise on the Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported Subject Merchandise to the United States or other countries since 1996.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2001 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association:

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2001 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2001 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: May 28, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13843 Filed 5–31–02; 8:45 am]

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Federal Register

Monday,
June 3, 2002

Part IV

Environmental Protection Agency

40 CFR Part 80
Control of Air Pollution From New Motor Vehicles; Amendment to the Tier 2/ Gasoline Sulfur Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–7221–5]

RIN 2060–AI69

Control of Air Pollution From New Motor Vehicles; Amendment to the Tier 2/Gasoline Sulfur Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Due to adverse comments, EPA is removing one amendment included in the direct final rule published in the **Federal Register** on April 13, 2001, related to the Tier 2/Gasoline Sulfur program, hereinafter referred to as the Tier 2 rule (February 10, 2000). EPA published both the direct final rule and a concurrent notice of proposed rulemaking to correct, amend, and revise certain provisions of the Tier 2 rule for purposes of assisting regulated entities with program implementation and compliance. The only amendment removed by today's action is the revision to the provision concerning the definition of "small refiner" for those refiners that acquire and/or reactivate a refinery that was shutdown or was non-operational between January 1, 1998, and January 1, 1999. The language regarding this provision contained in the Tier 2 rule is reinstated. EPA plans no further action on the concurrent notice of proposed rulemaking.

EFFECTIVE DATE: July 12, 2001.

ADDRESSES: Materials relevant to this rulemaking are contained in Public Docket No. A–97–10 at the following address and are available for review from 8 a.m. to 5:30 p.m., Monday through Friday, except on government holidays: U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500, 401 M Street, SW., Washington, DC 20460. You can contact the Air Docket by telephone at (202) 260–7548 and by facsimile at (202) 260–4400. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: Mary Manners, U.S. EPA, National Vehicle and Fuels Emission Laboratory, Assessment and Standards Division, 2000 Traverwood, Ann Arbor MI 48105; telephone (734) 214–4873, fax (734) 214–4051, e-mail *manners.mary@epa.gov*.

SUPPLEMENTARY INFORMATION: On April 13, 2001, we issued a direct final rule (66 FR 19296) which included 27 amendments to correct, amend, and revise certain provisions of the Tier 2 rule (February 10, 2000, 65 FR 6698) for purposes of assisting regulated entities with program implementation and compliance. In that direct final rule, we stated, "If EPA receives adverse comment on one or more distinct amendments, paragraphs, or sections of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions are being withdrawn due to adverse comments. We will address all public comments in a subsequent final rule based on the proposed rule." We also issued a notice of proposed rulemaking (66 FR 19311), in which the Agency proposed and solicited public comment on the same 27 amendments. We received adverse comments on one amendment in this rulemaking: the amendment to 40 CFR 80.225(d) (§ 80.225(d)).

As a result of these adverse comments, we are removing the amendment regarding § 80.225(d) from the direct final rule. The language contained in § 80.225(d) of the prior rule, published on February 10, 2000, is reinstated as it existed prior to the April 13, 2001 direct final rule. In addition, as explained below, we are taking no further action regarding the concurrent notice of proposed rulemaking published on April 13, 2001. The other 26 amendments that did not receive adverse comment became effective on July 12, 2001, as provided in the April 13, 2001 direct final rule.

The revision of § 80.225(d) was included in the direct final rule to clarify that the employee/crude oil capacity criteria for small refiner status applies to parties seeking small refiner status under § 80.225(d). See 66 FR 19296. Although we believe these criteria did apply under the small refiner provisions of the Tier 2 rule as published on February 10, 2000 (pre-existing provisions), application of the employee/crude oil capacity criteria to refiners applying for small refiner status under § 80.225(d) was not explicitly expressed in the pre-existing provision of § 80.225(d). As a result, we added language to § 80.225(d) to make this clarification. However, in amending § 80.225(d) to add this clarifying language, we also reworded the pre-existing language of a separate sentence of this paragraph which resulted in an unintended substantive change to the provisions of § 80.225(d). Specifically, the amendment would have unintentionally limited the scope of eligibility for small refiners applying under § 80.225(d) only to refineries that were shutdown or non-operational between January 1, 1998 and January 1, 1999, rather than also to refineries that were acquired after January 1, 1999. The adverse comments we received on the amendment to § 80.225(d) relate only to this unintended substantive change.

As stated above, the pre-existing language in § 80.225(d) regarding the reactivation of refineries that were shutdown or non-operational between January 1, 1998 and January 1, 1999, and refineries that were acquired after January 1, 1999, is the regulatory language we are reinstating at this time. We are removing the revision to § 80.225(d) without providing prior notice and comment because we find good cause within the meaning of 5 U.S.C. 553(b). Notice and comment would be impracticable, as we need to remove this revision quickly because it went into effect July 12, 2001.

Access to Rulemaking Documents Through the Internet

Today's action is available electronically on the day of publication from EPA's **Federal Register** Internet Web site listed below. Electronic copies of this preamble, regulatory language, and other documents associated with today's final rule are available from the EPA Office of Transportation and Air Quality Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you already incur for connecting to the Internet.

EPA Federal Register Web Site: *http://www.epa.gov/docs/fedrgstr/epa-air/* (Either select a desired date or use the Search feature.).

Tier 2/Gasoline Sulfur home page: *http://www.epa.gov/otaq/tr2home.htm*.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.•

I. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency is required to determine whether this regulatory action would be "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The order defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

• Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

• Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

• Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

• Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that this final rule is not a "significant regulatory action."

B. Regulatory Flexibility

Today's final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because we find good cause within the meaning of 5 U.S.C. 553(b).

Although this final rule is not subject to the RFA, we nonetheless have assessed the potential of this rule to adversely impact small entities subject to the rule. This rule will have no adverse impact on any small entities subject to the rule. As stated above, today's action removes the amendment to § 80.225(d) concerning the definition of "small refiner" for those refiners that acquire and/or reactivate a refinery that was shutdown or was non-operational between January 1, 1998, and January 1, 1999. Specifically, the amendment to § 80.225(d) would have unintentionally limited the scope of eligibility for small refiners applying under § 80.225(d) only to refineries that were shutdown or non-operational between January 1, 1998 and January 1, 1999, rather than also to refineries that were acquired after January 1, 1999. The language regarding this provision that was contained in the Tier 2 rule published on February 10, 2000 (65 FR 6698) is reinstated.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, We generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more for any single year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative that is not the least costly, most cost-effective, or least burdensome alternative if we provide an explanation in the final rule of why such an alternative was adopted.

Before we establish any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government plan pursuant to section 203 of the UMRA. Such a plan must provide for notifying potentially affected small governments, and enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant federal intergovernmental mandates. The plan must also provide for informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no federal mandates for state, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule will significantly or uniquely affect small governments.

We have determined that this rule does not contain a federal mandate that may result in estimated expenditures of more than $100 million to the private sector in any single year. This action has the net effect of removing the amendment regarding 40 CFR 80.225(d) from the direct final rule published on April 13, 2001 and reinstating the language contained in 40 CFR 80.225(d) of the prior rule, published on February 10, 2000 (65 FR 6698). Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

2. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. This final rule removes one amendment included in the direct final rule published in the **Federal Register** on April 13, 2001, related to the Tier 2/Gasoline Sulfur program and reinstates the language contained in 40 CFR 80.225(d) of the prior rule, published on February 10, 2000 (65 FR 6698). Thus, Executive Order 13175 does not apply to this rule.

3. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Under section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or we consults with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for

rules that preempt State or local law, even if those rules do not have federalism implications (i.e., the rules will not have substantial direct effects on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, we also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and Federally protected interests within the agency's area of regulatory responsibility.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The requirements of the rule will be enforced by the federal government at the national level. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, we did consult with State and local officials in developing this rule.

E. Executive Order 13211: Energy Effects

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d) of Public Law 104–113, directs us to use voluntary consensus standards in our regulatory activities unless it would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This rule references technical standards adopted by us through previous rulemakings. No new technical standards are established in today's rule.

G. Executive Order 13045: Children's Health Protection

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5–501 of the Order directs us to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not an economically significant regulatory action as defined by Executive Order 12866. Furthermore, this rule does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children.

H. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of July 12, 2001. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545, and 7601(a).

2. 40 CFR 80.225(d) is revised to read as follows:

§ 80.225 What is the definition of a small refiner?

* * * * *

(d) Notwithstanding the definition in paragraph (a) of this section, refiners who acquire a refinery after January 1, 1999, or reactivate a refinery that was shutdown or was non-operational between January 1, 1998, and January 1, 1999, may apply for small refiner status in accordance with the provisions of § 80.235.

[FR Doc. 02–13807 Filed 5–31–02; 8:45 am]

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 1840/P.L. 107–185
To extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees. (May 30, 2002; 116 Stat. 587)

H.R. 4782/P.L. 107–186
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186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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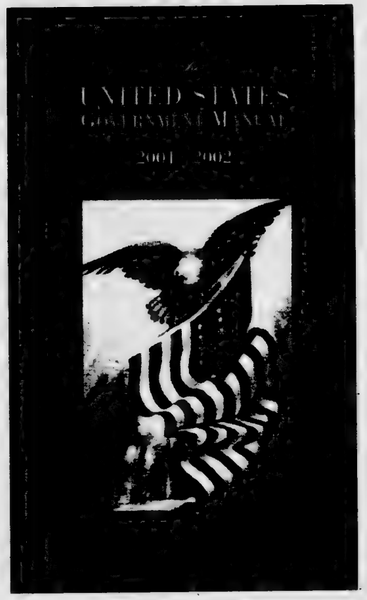

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Vol. 67, No. 107
Tuesday, June 4, 2002

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 100, 103, 236, 245a, 274a and 299

[INS No. 2115–01; AG Order No. 2588–2002]

RIN 1115–AG06

Adjustment of Status Under Legal Immigration Family Equity (LIFE) Act Legalization Provisions and LIFE Act Amendments Family Unity Provisions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: On June 1, 2001, the Attorney General published an interim rule in the **Federal Register** that implemented section 1104 of the Legal Immigration Family Equity Act (LIFE Act) and the LIFE Act Amendments by establishing procedures for certain class action participants to become lawful permanent residents of this country. Persons who may be eligible to adjust status under section 1104 of the LIFE Act and its Amendments are aliens who have filed for class membership with the Attorney General, before October 1, 2000, in one of three legalization lawsuits: (1) *Catholic Social Services, Inc.* v. *Meese*, vacated sub nom. *Reno* v. *Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (*CSS*); (2) *League of United Latin American Citizens* v. *INS*, vacated sub nom. *Reno* v. *Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (*LULAC*); or (3) *Zambrano* v. *INS*, vacated, 509 U.S. 918 (1993) (*Zambrano*). The interim rule provided a 1-year application period from June 1, 2001, to May 31, 2002, for those aliens applying for adjustment of status pursuant to section 1104 of the LIFE Act. The interim rule also implemented section 1504 of the LIFE Act Amendments by providing for a stay of removal and work authorization for certain spouses and unmarried children of those aliens eligible to adjust status under section 1104 of the LIFE Act.

This rule provides final adoption of the interim rule, with certain amendments as appropriate. This final rule is necessary to ensure that those aliens eligible to apply for legalization benefits under the provisions of the LIFE Act and LIFE Act Amendments are able to do so within the application period. This final rule will provide definitive regulations for all applicants under section 1104 of the LIFE Act and section 1504 of the LIFE Act Amendments.

DATES: This final rule is effective June 4, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth N. Lee or Suzy Nguyen, Assistant Directors, Residence and Status Branch, Office of Adjudications, Immigration and Naturalization Service, 425 I Street NW, Room 3214, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION: On December 21, 2000, former President Clinton signed into law the LIFE Act, Title XI of H.R. 5548, enacted by reference in Public Law 106–553 (Dec. 21, 2000), and the LIFE Act Amendments, Title XV of H.R. 5666, enacted by reference in Public Law 106–554 (Dec. 21, 2000), which provide for numerous different immigration benefits. Section 1104 of the LIFE Act and its Amendments (LIFE Legalization) allow certain eligible aliens to apply for adjustment of status to that of a lawful permanent resident (LPR) under a modified version of section 245A of the Immigration and Nationality Act (Act) (8 U.S.C. 1255a). Aliens who are eligible to apply for adjustment under LIFE Legalization are those who, before October 1, 2000, had filed with the Attorney General a written claim for class membership in the *CSS*, *LULAC*, or *Zambrano* legalization class action lawsuits. In order to qualify for adjustment, aliens must establish that they entered the United States before January 1, 1982, and thereafter resided in continuous unlawful status through May 4, 1988. Aliens also must establish that they were continuously physically present in the United States from November 6, 1986, through May 4, 1988. Furthermore, aliens must demonstrate basic citizenship skills. Finally, aliens must be otherwise admissible to the United States under the Act. LIFE Legalization also provides for a stay of removal or deportation and work authorization for eligible aliens under this law while their adjustment applications are pending.

Section 1504 of the LIFE Act Amendments provides that the Attorney General may not remove certain spouses and children of aliens eligible to adjust under LIFE Legalization and shall grant employment authorization to those eligible spouses and children for the period of time in which they have been afforded Family Unity protection. Aliens who might benefit from the Family Unity provisions of the LIFE Act Amendments are those who:

(1) Are currently in the United States;

(2) Are the spouse or unmarried child of an alien who is eligible for adjustment under LIFE Legalization; and

(3) Entered the United States before December 1, 1988, and were residing in the United States on such date.

On June 1, 2001, the Attorney General published an interim rule in the **Federal Register** at 66 FR 29661. The Attorney General amended the Immigration and Naturalization Service (Service) regulations by adding Subparts B and C to 8 CFR part 245a. Subpart B implemented the LIFE Legalization provisions of the LIFE Act and Subpart C implemented the Family Unity provisions of the LIFE Act Amendments.

The interim rule invited interested persons to provide written comments on or before July 31, 2001. The Service received 132 comments during the comment period and has carefully considered all these comments in formulating this final rule. The following is a discussion of the comments and the Service's response.

Comments relating to LIFE Legalization

Fees (8 CFR 103.7)

Five commenters questioned the Service's imposition of a $330 filing fee for LIFE Legalization applications. Many of these commenters argued that the Service disregarded the legislative intent that LIFE Legalization applicants be treated in the same manner that they would have been treated had they filed applications for legalization during the

initial application period.[1] These commenters contended that any alien who is eligible to apply for LIFE Legalization would have been required to pay only a $185 filing fee during the Immigration Reform and Control Act of 1986 (IRCA) legalization application period (the filing fee for the Form I–687, Application to Adjust Status as a Temporary Resident-Applicants, under section 245A of the INA). The Service appreciates that many commenters have concerns regarding what they perceive to be a substantial increase in filing fees for legalization benefits. The Service must note, however, that in addition to the $185 filing fee for the Form I–687, IRCA legalization applicants were required to pay an additional $120 filing fee when applying for LPR status (the filing fee for the Form I–698, Application to Adjust Status From Temporary to Permanent Resident). As such, IRCA legalization applicants paid filing fees totaling $305, just $25 less than the fee imposed by the Service on LIFE Legalization applicants in the interim rule.

That being said, the Service has reconsidered the fee that will be imposed on LIFE Legalization applicants. As was discussed in the preamble to the interim rule (66 FR 29665, 29667–68), in developing fees, the Service must comply with guidance provided in the Office of Management and Budget (OMB) Circular A–25. The Service referred to a preliminary draft of its most recent fee review—the FY 2000 Immigration Examinations Fee Account Review—when determining the fee to be levied on LIFE Legalization applicants using the Form I–485, Application to Register Permanent Residence or Adjust Status. That review conducted an in-depth analysis of both direct and indirect costs using an activity-based costing methodology. The draft of the fee review identified the full cost of the Form I–485 to be $330. Since publication of the interim rule, the Service has re-evaluated the FY 2000 Immigration Examinations Fee Account Review and calculated the full cost of the Form I–485 to be $255 instead (*see* the Service's final rule published on December 21, 2001, at 66 FR 65811). Accordingly, the application fee for LIFE Legalization applicants is reduced to $255. Any individual who previously filed a LIFE Legalization application and paid the $330 filing fee will receive a refund in the amount of the difference ($75) from the Service. If an individual is due a refund, there is no reason or need for that individual to contact the Service; the refund will be generated without any action from the LIFE Legalization applicant.[2]

Some commenters argued that members of the *LULAC* class action lawsuit were previously required to pay the original $185 filing fee and they should be credited this amount when filing for LIFE Legalization. The Service does not agree. The LIFE Act provides for certain class action applicants to apply, under a new procedure, for adjustment of status pursuant to section 245A of the Act. Any prior Form I–687 that may have been filed by these class action applicants has no bearing on any Form I–485 that may be filed pursuant to LIFE Legalization. This is a new program with new filing requirements. As such, all aliens applying for LIFE Legalization are subject to the imposition of the full $255 filing fee.

Some commenters also criticized the Service's position that none of the fees collected from the filing of LIFE Legalization applications will be used in the enforcement of IRCA's anti-discrimination provisions. As was discussed in the supplementary information of the interim rule (66 FR 29662), section 245A(c)(7) of the Act provided for the allocation of up to $3 million of the application fees for section 245A of the Act to immigration-related unfair employment practices programs. Section 1104(c)(6) of the LIFE Act specifically prohibits the use of any funds collected through this program to be used in such a manner. Consequently, the Service is statutorily prohibited from using any LIFE Legalization application fees for the enforcement of immigration-related unfair employment practices.

Definitions (8 CFR 245a.10)

One commenter wanted the Service to amend the requirement that an applicant must establish he or she filed a written claim for class membership in *CSS, LULAC,* or *Zambrano.* Alternatively, this commenter argued that any applicants who had submitted a Form I–687 prior to the enactment of the LIFE Act should be considered by the Service to have already established prima facie eligibility, as well as continuous residence and physical presence requirements. In addition, the commenter argues that anyone who filed a Form I–687 prior to the enactment of the LIFE Act should not have to file a new application pursuant to the LIFE Act. The Service disagrees with these arguments. Sections 1104(b) and (c)(2) of the LIFE Act specifically require that LIFE Legalization applicants must have filed a written claim for class membership, and establish continuous unlawful residence and physical presence, basic citizenship skills, and admissibility as an immigrant. Furthermore, use of the Form I–687 has not been exclusively limited to the *CSS, LULAC,* and *Zambrano* lawsuits, and in some cases, the Form I–687 was not required to be completely filled out or signed by the applicant. Therefore, the fact that an individual may have filed a Form I–687 does not alone establish prima facie eligibility for LIFE Legalization. The Service will not amend the final regulations in response to this comment.

However, the Service has decided to establish a definition for "written claim for class membership." During the past 14 years, the courts have provided sufficient periods of time for aliens alleging class membership to come forward and notify the Attorney General that they believe that they meet the class definitions. Various forms of evidence that would prove notice to the Attorney General are listed in 8 CFR 245a.14. The Service is adding to that list other forms of evidence which would have been issued pursuant to filing a claim for class membership. The Service is adding Form I–765, Application for Employment Authorization, submitted by an alien who filed for class membership, and an application for a stay of removal submitted by an alien who filed for class membership, and notes that the Service will also evaluate all relevant documents offered by the applicant to establish notice.

Aliens in Exclusion, Deportation, or Removal Proceedings (8 CFR 245a.12(b)(1))

Six commenters objected to the requirement of the concurrence of Service counsel before an immigration judge or the Board of Immigration Appeals may administratively close proceedings, arguing that no guidance is provided in the regulations as to when Service counsel will withhold such concurrence. Service counsel will withhold such concurrence if the alien is not prima facie eligible for legalization. Further guidance through the final regulations is not necessary. No amendments to the final regulations will be made as a result of this comment.

These same commenters pointed out that an alien with a final order receives an automatic stay of removal by filing an application for LIFE Legalization, and as such argued that concurrence by Service counsel in order to administratively close the matter of an alien currently in proceedings is pointless because the Service could not remove such alien in any event. The Service points to the distinction between administrative proceedings to determine removability and the actual removal of an alien. Should the Service counsel find an alien in proceedings to be prima facie ineligible for LIFE Legalization benefits, such matter will not be administratively closed. If the alien were ultimately ordered removed, such order will be stayed pending the final outcome of the adjudication of that LIFE Legalization application (*see* 8 CFR 245a.13(f)). The final regulations will not be amended in response to these comments.

Filing From Abroad (8 CFR 245a.12(c))

One commenter stated that the Service regulations governing application for LIFE Legalization from abroad is not specific enough with regards to procedures such as fingerprinting, interviewing, and parole into the United States. As indicated in the interim regulations, the Service will provide the applicant who applies for LIFE Legalization from abroad with specific instructions after his or her application has been reviewed. The Service is coordinating efforts with other Federal agencies and American consulates abroad in order to accommodate applicants who file from abroad. Since there are many scenarios for an applicant from abroad (*e.g.,* he or she may reside in an area with an overseas Service office, or in an area with only an American consulate, or in an area remote from either, *etc.*), the Service will provide each applicant with specific procedures that would best accommodate his or her situation and location. Further, any additional procedural guidelines regarding applications from abroad may be set via Service policy memos. As such, the final regulations will not be amended as a result of this comment.

Proof of Citizenship Skills (8 CFR 245a.12(d)(10))

Five commenters suggested that the Service clarify that a LIFE Legalization applicant may submit proof that he or she is satisfactorily pursuing a course of study to achieve basic citizenship skills at any time during the application process. The commenters stated that the Form I–485 Supplement D, LIFE Legalization Supplement to Form I–485 Instructions, advised applicants that such evidence could be submitted at the time of application, subsequent to filing the application but before the Service interview, or at the time of Service interview. The Service has considered this comment and has made appropriate adjustments to the language at 8 CFR 245a.12(d)(10) to accommodate this suggestion.

Secondary Evidence (8 CFR 245a.12(g))

Four commenters questioned the necessity of 8 CFR 245a.12(g). These commenters contended that the section in the interim regulations that described secondary evidence and the Service's acceptance of such evidence is redundant and unnecessary. Upon further review of this section of the interim regulations, the Service finds that much of the language contained in 8 CFR 245a.12(g) is indeed unnecessary, especially when much of that language is contained in 8 CFR 103.2(b)(2). As such, the Service has adopted these commenters' suggestions and has amended the language at 8 CFR 245a.12(f) and (g).

Employment Authorization (8 CFR 245a.13(d)(2))

Five commenters requested that the Service include a timeframe within which a Form I–765, Application for Employment Authorization, must be adjudicated. The Service does not believe that any regulatory language needs to be included in the final rule to address this issue. Employment authorization shall be granted to certain LIFE Legalization applicants pursuant to 8 CFR 274a.12(c)(24). The regulations at 8 CFR 274a.13(d) provide that a Form I–765 filed pursuant to 8 CFR 274a.12(c) (with certain specific exceptions) be adjudicated within 90 days of receipt. These same regulations provide for the issuance of interim employment authorization if a Form I–765 is not adjudicated within those 90 days. In other words, if a LIFE Legalization applicant applies for, and is eligible for, employment authorization, and does not receive such employment authorization within 90 days of filing, he or she may request interim employment authorization at the Service district office having jurisdiction over his or her place of residence. In light of these existing regulations, the Service will not amend the regulations at 8 CFR 245a.13(d)(2).

Travel Authorization (8 CFR 245a.13(e))

Four commenters expressed concern for the language at 8 CFR 245a.13(e) relating to the issuance of advance parole. Specifically, these commenters were troubled that the interim rule at 8 CFR 245a.13(e) indicated that the Service shall issue advance parole "pursuant to the standards prescribed in section 212(d)(5) of the Act." Section 212(d)(5) of the Act states, in pertinent part, that the "Attorney General may * * * parole [aliens] into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." A review of this reference, especially in light of the language at 8 CFR 245a.13(e)(1) (which indicates that the Service shall approve applications for advance parole filed by any alien eligible for LIFE Legalization), does appear to be too stringent. Accordingly, the Service has amended the regulations in response to these commenters' concerns.

One commenter questioned the Service's requirement that all requests for advance parole be submitted to the lockbox address in Chicago and adjudicated at the Missouri Service Center. The commenter indicated that this filing requirement could pose a problem for those LIFE Legalization applicants who have to travel abroad due to emergent circumstances. The Service appreciates this commenter's concern. Therefore, if a LIFE Legalization applicant must travel abroad due to reasons described in section 212(d)(5) of the Act, he or she will be allowed to file the Form I–131, Application for Travel Document, with the District Director having jurisdiction over his or her place of residence. Such an alien *must* demonstrate to the District Director that he or she is an eligible alien who has filed for adjustment of status pursuant to LIFE Legalization *and* that he or she must travel abroad due to urgent humanitarian reasons. All other Forms I–131 filed by LIFE Legalization applicants must be filed with the Director of the Missouri Service Center. The regulations have been amended accordingly.

Four commenters argued that the interim rule placed an unauthorized evidentiary burden of proof on LIFE Legalization applicants who travel abroad without advance parole. Nothing in the interim rule affects the Service's adjudication of a LIFE Legalization application due to an applicant's travel abroad while the LIFE Legalization application is pending. Section

[1] On November 6, 1986, former President Reagan signed into law the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99–603. Section 201 of IRCA created a "legalization" program under section 245A of the Act that allowed for certain aliens to apply for adjustment to temporary resident status, and later to LPR status. The legalization program had a 1-year application period that began on May 5, 1987, and ended on May 4, 1988.

[2] The Service anticipates that all refunds will be delivered by September 3, 2002. If an individual has not received his or refund by September 3, 2002, he or she should contact Lorraine Juiffre at 802–872–6200 ext. 3035.

1104(c)(3)(B) of the LIFE Act states that "the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness of a close relative or other family need." As the Act directed the Attorney General to issue regulations on the topic, 8 CFR 245a.13(e) was issued. Pursuant to 8 CFR 245a.13(e), an alien who travels abroad will be afforded the opportunity to establish the requirements of section 1104(c)(3)(B) of the LIFE Act to the Service or to an immigration judge.

In addition, the regulation at 8 CFR 245a.13(e)(1) permits each LIFE Legalization applicant to apply for advance parole. Through 8 CFR 245a.13(e)(2) and (3), applicants are encouraged to do so, in two different ways. Under 8 CFR 245a.13(e)(2), an alien who goes abroad and returns under a grant of advance parole is presumed to be entitled to return under section 1104(c)(3)(B) of the LIFE Act unless the Service, having placed the alien in an expedited removal or section 240 of the Act proceeding, proves by a preponderance of the evidence that the alien is not eligible for adjustment pursuant to LIFE Legalization. If the alien goes abroad without obtaining advance parole, however, 8 CFR 245a.13(e)(3) provides that the alien must be denied admission and may be removed, unless the alien establishes "clearly and beyond doubt" that he or she filed a timely LIFE Legalization application showing prima facie eligibility, *and* the alien's absence meets the requirements of section 1104(c)(3)(B) of the LIFE Act.

These commenters object to the "clearly and beyond doubt" standard of proof for 8 CFR 245a.13(e)(3), believing that this standard is impermissibly burdensome on aliens. Section 235(b)(2) of the Act clearly states that the Service must deny admission to an applicant for admission, unless the alien is "clearly and beyond doubt" entitled to admission. The same standard of proof applies in section 240 of the Act proceedings against an applicant for admission (section 240(c)(2)(A) of the Act). Moreover, the Service, under 8 CFR 245a.13(e)(1), must grant advance parole to any advance parole applicant who makes a prima facie showing of LIFE Legalization eligibility.

Establishing Class Membership Application (8 CFR 245a.14)

Some commenters stated that the Service should not require LIFE Legalization applicants to submit evidence that they applied for class membership. These commenters contended that the Service should have all of the necessary evidence in its databases and administrative files, and that requiring LIFE Legalization applicants to file this evidence is an unfair burden. The Service does believe that aliens who filed a written claim for class membership in *CSS, LULAC,* or *Zambrano* prior to October 1, 2000, will appear in the Service's databases as so registered. If for some reason, however, an applicant who did timely file for class membership does not appear in Service databases, then any documentary evidence of such filing provided by the applicant will be reviewed by the Service. If this documentary evidence is provided with the application, the Service will not need to request such evidence from the applicant, thereby expediting the application process. If the applicant does not have this documentary evidence in his or her possession, but believes that the Service has this evidence in the applicant's administrative file, the interim regulations at 8 CFR 245a.12(g) provide that applicants could submit a statement to that effect in lieu of the actual documentation. This language has been moved to 8 CFR 245a.12(f) in the final regulations. The Service is not amending the language in the final rule in response to these comments.

Two commenters requested that the Service accept affidavits, letters, and documents from community agencies as evidence of class membership application. It is noted that the interim regulations at 8 CFR 245a.14(e) (8 CFR 245a.14(g) in the final regulations) permit LIFE Legalization applicants to submit "[a]ny other relevant document(s)" in proving class membership application along with those listed under 8 CFR 245a.14(a) through (d) (8 CFR 245a.14(a) through (f) in the final regulations). This regulatory language does not limit the type of documentation that may be submitted to prove class member application. The Service believes the inclusion of this phrase (other relevant documents) creates a practical, as well as an expansive, definition that encompasses all types of evidence, including those discussed by the commenters. As the Service's interim rule does allow for the submission of the above-mentioned documents, the Service will not amend the regulations in response to these comments.

In addition, the Service clarifies that, where an alien filed a written claim for class membership, he or she is deemed to have also filed a claim for class membership on behalf of a spouse or child who was a spouse or child as of the date the alien (who filed a written claim for class membership) alleges that he or she attempted to file or was discouraged from filing an application for legalization during the original application period. Thus, the definition of "eligible alien" is amended to include a spouse or child who was a spouse or child as of the date the alien (who filed a written claim for class membership) alleges that he or she attempted to file or was discouraged from filing an application for legalization during the original application period. This in no way implies that such spouses and children will derive adjustment of status based on the LIFE Legalization application of the alien who filed a written claim for class membership. Rather, the spouse or child of the alien who filed the claim for class membership will also be considered to be an "eligible alien" who may file a separate application for LIFE Legalization that will be adjudicated based on the merits of such alien's documentation.

Continuous Residence (8 CFR 245a.15)

Many commenters expressed concern over the Service's requirement that LIFE Legalization applicants produce evidence of their continuous residence in an unlawful manner prior to January 1, 1982, through May 4, 1988. Several commenters cited the great length of time that has passed since 1982, while others cited LIFE Legalization applicants' unlawful status and fear of discovery, as possible reasons for not having evidence of their residence during this time period. The Service recognizes that LIFE Legalization applicants will be required to produce documents dated nearly 20 years ago. Because section 1104(c)(2)(B) of the LIFE Act imposes this continuous residence requirement, however, the Service will continue to require LIFE Legalization applicants to document their residence in the United States during the requisite time period.

One commenter suggested that an alien's departure between January 1, 1982, and May 4, 1988, under an order of deportation should not interrupt the alien's continuous residence. The statute clearly provides that departure while a deportation order is in effect ends "continuous residence"; section 245A(g)(2)(B)(i) of the Act states that

"an alien shall not be considered to have resided continuously in the United States if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation." No provision of the LIFE Act revoked this section of the Act. As such, the Service will not amend the final regulations in response to this comment.

One commenter requested clarification of the language at 8 CFR 245a.15(d). This commenter questioned the use of the word "eligible" in the following sentence: "The following categories of aliens, who are otherwise eligible to adjust to LPR status pursuant to LIFE Legalization, may file for adjustment of status provided they resided continuously in the United States in an unlawful status since prior to January 1, 1982, through May 4, 1988." The Service has reviewed this sentence and is confident of its wording. The paragraphs following the sentence quoted above list those categories of nonimmigrants who might be able to establish unlawful residence in the United States. If an alien falls into one of these categories of nonimmigrants, and meets the other eligibility requirements of LIFE Legalization (*i.e.,* he or she applied for class membership in one of the three class action lawsuits prior to October 1, 2000, he or she is admissible as an immigrant, he or she has not been convicted of a felony or of three or more misdemeanors, *etc.*), then he or she may file for adjustment of status pursuant to LIFE Legalization. The Service will not amend the final regulations in response to this comment.

Continuous Physical Presence (8 CFR 245a.16)

Six commenters argued that the standards set out in 8 CFR 245a.16(b) regarding brief, casual, and innocent absences in relation to the continuous physical presence requirement did not allow for case-by-case adjudication. It was never the intent in the interim rule to set out a categorical definition of brief, casual, and innocent absences. The numerical standards were placed in the interim rule to serve as a guide to adjudicators. If the number of days the applicant was absent from the United States fell below the guidelines, the adjudicator need look no further. If the applicant's trip was greater than 30 days or an aggregate of 90 days, the applicant could provide reasons for why his or her return could not be accomplished within the time period(s) allowed. As such, a case-by-case adjudication is necessitated by the interim rule. Given the misinterpretation by these commenters, however, the Service will amend 8 CFR 245a.16(b) to remove the standards. Applicants should now be prepared to offer evidence establishing that absences of any period of time were brief, casual, and innocent.

One commenter stated that the regulations at 8 CFR 245a.16(a) would prevent the submission of Social Security Administration (SSA) or Internal Revenue Service (IRS) printouts as evidence of continuous physical presence. The regulations read, in pertinent part, that evidence "may consist of any documentation issued by any governmental or nongovernmental authority, provided such evidence bears the name of the applicant, was dated at the time it was issued, and bears the signature, seal, or other authenticating instrument of the authorized representative of the issuing authority." The Service does not believe this language would prevent the submission of SSA or IRS printouts, provided these printouts bear the name of the applicant, are dated at the time they are issued (*i.e.,* when they are printed out by the issuing agency), and are appropriately endorsed by the issuing agency. The Service will not amend the regulations in response to these comments.

Grounds of Inadmissibility (8 CFR 245a.18)

Many commenters were concerned about individuals who have contracted a communicable disease of public health significance. LIFE Legalization applicants, like all other applicants for admission to the United States, must be able to establish their admissibility pursuant to section 212(a) of the Act. If a LIFE Legalization applicant is found inadmissible based on any of the health-related grounds described at section 212(a)(1) of the Act, he or she may file for a waiver of these grounds of inadmissibility. The interim rule does not prohibit this. Consequently, the Service will not amend the regulations based on these comments.

Six commenters stated that the interim rule did not take into account the fact that many LIFE Legalization applicants have not been entitled to employment authorization and therefore may not be able to demonstrate consistent employment history. In this context, the application of the phrase "history of employment" is statutory and is found in the Special Rule for Determination of Public Charge at section 245A(d)(2)(B)(iii) of the Act. The statutory Special Rule is found in IRCA and is incorporated by reference in the LIFE Act. The Service believes that the statutory Special Rule is meant to assist a legalization applicant to prevent a finding of being inadmissible on public charge grounds.

One commenter argues that IRCA and the LIFE Act require that an applicant demonstrate that he or she is not likely to become a public charge; that the LIFE Act interim rule provides that an alien with a consistent employment history is not inadmissible; and that, if the adjudication took place during the original application period (May 5, 1987, to May 4, 1988), the determination of whether a given class member was likely to become a public charge would have taken place when there "was no legal bar to class members working in the United States, *see* 8 U.S.C. 1324a." This commenter fails to note that the "employment history" is derived from the statutory Special Rule, and that *employer* sanctions provisions were enacted in IRCA on November 6, 1986. Again, both IRCA and the LIFE Act require that an alien prove that he or she is not likely to become a public charge, clearly a prospective analysis. Both statutes contain the same "Special Rule" to be applied in the public charge analysis and both use the standard of demonstrating "employment history" to overcome a finding that one is likely to become a public charge.

Nevertheless, the Service has decided to amend 8 CFR 245a.18. The Service is adding language to the regulations regarding the adjudication of public charge for a LIFE Legalization applicant. In adjudicating the issue of public charge, the Service will automatically apply the Special Rule. Adjudicating whether one is likely to become a public charge is necessarily a prospective analysis. The Special Rule provides for a retrospective analysis in determining the prospect of becoming a public charge. Accordingly, the Service will take into account an alien's employment history in the United States, to include the period prior to the 1986 advent of employer sanctions. Additional language in the regulation will encourage applicants to submit as much information as possible in order to preclude a public charge finding. The analysis will be on a case-by-case basis and will permit the applicant to prove financial responsibility pursuant to any number of ways, to include pointing to the ability to have a sponsor file a Form I–134, Affidavit of Support, on the applicant's behalf. Anyone can be the sponsor for the Form I–134.

Interviews (8 CFR 245a.19)

Four commenters stated that the interim rule regarding the interviewing of LIFE Legalization applicants implied that they would not be interviewed by

an immigration officer in their jurisdiction. The Service did not intend to convey this message through the interim rule. The interim rule at 8 CFR 245a.19(a) stated that "[a]pplicants will be interviewed by an immigration officer as determined by the Director of the Missouri Service Center." All LIFE Legalization applicants who applied for adjustment of status from within the United States, and who must appear for a Service interview, will be interviewed by a Service officer at the Service office with jurisdiction over their place of residence. Those LIFE Legalization applicants who applied for adjustment of status from abroad, and who must appear for a Service interview, will be interviewed by a Service officer as determined by the Director of the Missouri Service Center. The Service does not, therefore, believe that the final regulations must be amended in response to these comments.

One commenter requested that the Service not require interviews of LIFE Legalization applicants. This commenter argued that many LIFE Legalization applicants had already been interviewed when they applied for class membership in one of the three class action lawsuits. While some applicants may not be required to establish basic citizenship skills because they meet one of the listed exceptions, or they have met the requirements in some other fashion (obtained a GED or are enrolled in an acceptable learning program), there will be many LIFE Legalization applicants who will be required to pass a basic citizenship test at the time of his or her Service interview. Further, in-person interviews are useful to both the Service officer and the applicant. It provides an opportunity for any inconsistencies or gaps in the application to be resolved in a timely manner without having to resort to correspondence through the mail. Moreover, there will be instances where an in-person interview will be necessary because shortcomings or discrepancies in an applicant's file cannot be resolved through correspondence (*e.g.*, an applicant does not have sufficient documentation to establish continuous physical presence, but is able to convince a Service officer at an in-person interview that he or she was physically present in the United States). Accordingly, the regulations will not be amended.

Decisions and Appeals (8 CFR 245a.20)

Four commenters requested that the Service's final rule provide for the issuance of a notice of intent to deny prior to the denial of any LIFE Legalization application. The interim rule at 8 CFR 245a.20(a)(2) does provide for the notification of a LIFE Legalization applicant if the Service intends to deny his or her application based upon information of which the applicant was not aware. The Service does recognize that applicants who filed for legalization under IRCA did receive a "Notice of Intent to Deny" prior to the issuance of a denial that clearly notified the applicant of the Service's intent to deny his or her application. While the Service has been and will be following this same procedure for LIFE Legalization applicants, it recognizes that this intention is not clearly delineated in the regulations as presently drafted. As such, the Service has made an amendment to the language at 8 CFR 245a.20(a)(2) in response to these commenters' concerns.

These same commenters also requested that the Service expressly state that all LIFE Legalization applicants whose applications are denied may appeal their decisions to the Administrative Appeals Office. The interim rule at 8 CFR 245a.20(a)(2) clearly states that "a party affected under this part by an adverse decision is entitled to file an appeal . . . to the Administrative Appeals Unit." The Service believes that the interim rule is quite clear that all decisions of denial issued pursuant to LIFE Legalization may be appealed. As such, the Service makes no changes pursuant to these comments.

Producing Supporting Documentary Evidence

Many commenters stated that they had already submitted all required evidence in support of their claims to eligibility for legalization. Commenters also expressed concern over what could be a lengthy processing time for any Freedom of Information Act (FOIA) requests to obtain these documents, and then presumably submit them in support of their LIFE Legalization applications. The Service acknowledges that there is a designated time period in which to apply for LIFE Legalization and, therefore, all FOIA requests for records of LIFE Legalization applicants will be expeditiously handled. The Service wishes to reiterate that the interim rule at 8 CFR 245a.12(g) advised applicants that, in lieu of the actual documentation, they could submit a statement indicating that supporting documentation is already contained in the Service's records. This language will be moved to 8 CFR 245a.12(f) in the final rule. Also, the Service will be reviewing all previously created administrative files associated with LIFE Legalization applicants.

Regulatory Changes Deemed Necessary by the Service

The interim rule at 8 CFR 245a.12(d)(2) instructed LIFE Legalization applicants to submit a $25 fingerprinting fee if they are between the ages of 14 and 75. Currently, all other applicants for adjustment of status must be fingerprinted if they are between the ages of 14 and 79, inclusive. Upon further consideration, the Service will require all LIFE Legalization applicants between the ages of 14 and 79 to be fingerprinted. This change will bring the fingerprinting requirements for LIFE Legalization applicants into alignment with the fingerprinting requirements for all other applicants for adjustment of status. LIFE Legalization applicants should be aware that the December 21, 2001, final rule at 66 FR 65811 raised the fingerprint fee from $25 to $50. LIFE Legalization applicants are subject to this higher fee.

The interim rule at 8 CFR 245a.17(c) provided exceptions for certain LIFE Legalization applicants to the establishment of basic citizenship skills. This final rule will clarify that the age exception (being 65 years of age or older) must be met at the time the application for adjustment of status is filed. Section 1104(c)(2)(E)(i)(I) of the LIFE Act requires that LIFE Legalization applicants meet the requirements of section 312(a) of the Act. Sections 312(b) and (c) of the Act provide for exceptions to the naturalization citizenship skills if certain criteria are met as of the date of filing. The implementing regulations at 8 CFR 312.1(b) and 312.2(b) also indicate that a person must meet the age requirement in order to meet these exceptions as of the date of filing. Accordingly, the Service will require that any exceptions to the basic citizenship skills requirements based on age must be met at the time of filing.

Section 1104(c)(2)(D)(i) of the LIFE Act provides that an alien must establish that he or she is admissible to the United States as an immigrant except as otherwise provided under section 245A(d)(2) of the Act. Section 245A(d)(2) of the Act references waivers of grounds of exclusion. In particular, section 245A(d)(2)(B)(ii)(II) of the Act references in what capacity section 212(a)(2)(C) of the Act may not be waived. The Service sees a conflict between section 245A(d)(2)(B)(ii)(II) of the Act and section 212(a)(2)(C) of the Act. When originally enacted, IRCA contained a similar admissibility provision at section 245A(d)(2) of the Act barring the waiver of certain

grounds in the then-existing section 212 of the Act. However, section 245A(d)(2) of the Act was amended by section 603(a)(13)(D) of the Immigration Act of 1990 (IMMACT 90) (Public Law 101–649) to comport with the related changes to section 212 of the Act. Specifically, section 245A(d)(2)(B)(ii)(II) of the Act was amended by IMMACT 90 to remove the reference to pre-IMMACT 90 section 212(a)(23) of the Act (relating to a controlled substance and trafficking in controlled substance), insert a reference to section 212(a)(2)(C) of the Act, but retain the exception (so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana). What would correlate to the pre-IMMACT 90 section 212(a)(23)(A) of the Act is now listed at section 212(a)(2)(A)(ii) of the Act and would thus be referenced at section 245A(d)(2)(B)(ii)(I) of the Act. By its express terms, the exception pertains to "simple possession" and as such the Service makes the interpretation that the exception must be applied to the grounds listed at section 212(a)(2)(A)(ii) of the Act and amends the regulations accordingly.

The application period is established by section 1104(c)(2)(A) of the LIFE Act as "the 12-month period beginning on the date on which the Attorney General issues final regulations to implement this section." Given the number of clarifications provided in this final rule and in keeping with congressional intent to permit eligible aliens an opportunity to apply and to end the litigation, the Service has decided to end the application period 1 year from publication of this final rule in the **Federal Register**. As such, the application period commenced with the publication of the interim rule, June 1, 2001, and will end on June 4, 2003.

Congressional Intent To End Litigation

In enacting the provisions for LIFE Legalization, Congress sought to bring an end to the litigation and to permit eligible class members to apply for legalization under section 245A of the Act. Senators Kennedy and Abraham stated that "the LIFE Act * * * directs the Immigration and Naturalization Service (INS) to adjudicate the applications of individuals in * * * lawsuits on the merits, rather than continuing to litigate whether they were timely filed." 146 Cong. Rec. S11, 850–02, Exhibit 2 (daily ed. Dec. 15, 2000) (Joint Memorandum Concerning the Legal Immigration Family Equity Act of 2000 and The LIFE Act Amendments of 2000). Moreover, the Government has represented to Federal courts its willingness to accept applications of any alien who alleges he or she was "front-desked."[3] The Service had set up a Front-Desking Legalization Questionnaire Program so as to permit any alien who established that he or she was "front-desked" to apply for legalization. Prior to the expiration of the Front-Desking Legalization Questionnaire Program, Congress enacted the LIFE Act establishing a new application period for the three identified class actions (*CSS, LULAC,* and *Zambrano*). In *Reno* v. *Catholic Social Services,* 509 U.S. 43, 67 n.28 (1993), the Supreme Court left open the possibility that an alien who was not "front-desked" could show that the "front-desking policy" was a "substantial cause" of their failure to apply. In the LIFE Act, Congress provides benefits for, and identifies to the Attorney General, three lawsuits that include claims not only of aliens who allege that they were "front-desked" but also of aliens who claim that they were discouraged.

The difference in requirements between IRCA and LIFE 245A provisions regarding the continuous unlawful residence requirement could produce results inconsistent with the above goal. In the abstract, a class member may not be able to meet the LIFE Act requirement but may be able to meet the IRCA requirement. Under IRCA, applicants must establish that they resided continuously in the United States in an unlawful status from before January 1, 1982, to the date they applied for legalization (section 245A(a)(2)(A)). The Supreme Court indicated that class members "applied" for legalization at the time they were "front-desked." *See Reno, Id.* Under the LIFE Act, however, aliens must establish that they resided continuously in the United States in an unlawful status before January 1, 1982, to May 4, 1988 (section 1104(c)(2)(B) of the LIFE Act).

Similarly, the continuous physical presence requirement is different in the two statutes. Specifically, IRCA required applicants to prove continuous physical presence in the United States since November 6, 1986 (section 245A(a)(3)(A) of the Act). Service regulations allowed that the applicant's obligation to prove continuous physical presence from November 6, 1986, ran only to the date of application (8 CFR 245a.2(b)(1)). The LIFE Act, however, requires all applicants to prove continuous physical presence from November 6, 1986, to May 4, 1988. Thus, the LIFE Act's legalization provisions do not aid class members who allege they interrupted their continuous physical presence after being "front-desked" or discouraged.

The Joint Memorandum states that "nothing in this legislation is intended to preclude this option, or to preclude the Attorney General from resolving any other IRCA adjustment applications on the merits." Thus, to facilitate congressional intent, and in accordance with the Supreme Court decision and the Government's commitment, the Service has decided to add to the final rule a provision whereby the Service will adjudicate a LIFE Act application as an application under the standards of section 245A of the Act (that is, under the pre-LIFE Act standards) if the applicant is eligible for such relief under section 245A of the Act but not under section 1104 of the LIFE Act.

For example, if an alien fails to meet the continuous unlawful residence requirement pursuant to section 1104(c)(2)(B) of the LIFE Act, the Service will apply the continuous unlawful residence requirement using section 245A(a)(2)(A) of the Act and deem the "date the application is filed" to be the date the applicant establishes that he or she was "front-desked" or discouraged from filing. If the alien then meets the continuous unlawful resident requirement at section 245A(a)(2)(A) of the Act, and all other legalization requirements under section 245A of the Act, such an alien shall be granted temporary resident status pursuant to IRCA. Such an alien would then be required to follow all requirements set forth in 8 CFR 245a, Subpart A, such as filing a Form I–698, Application to Adjust Status from Temporary to Permanent Resident, in order to adjust his or her resident status from temporary to permanent.

Comments Relating to LIFE Act Amendments Family Unity Provisions

Aging Out (8 CFR 245a.31)

The majority of commenters requested that the Service reconsider its position on children of LIFE Legalization applicants who reach the age of 21. As was discussed in the interim rule, section 1504(b) of the LIFE Act Amendments describes an eligible child as an alien who "is" the unmarried child of an alien described in section 1104(b) of the LIFE Act. The statutory language of the Family Unity provisions of the LIFE Act Amendments do not permit Family Unity protection to be extended to aliens who were children

[3] There are certain aliens who claimed that they attempted to physically tender an application for legalization with a fee during the 1-year IRCA application period, at a Service office, but had that application rejected by the Service for filing. This is commonly referred to as having had an application "front-desked."

on December 21, 2000, but who "age-out" of the Act's definition of child by virtue of reaching their 21st birthday before their Family Unity applications are adjudicated. Given the need to implement an interpretation of the statute that is consistent as it applies to both spouses and children, and in view of the interpretation of other provisions of the immigration laws relating to a child who "ages-out" upon reaching the age of 21, the Service interprets section 1504(b) of the LIFE Act Amendments to require the requisite familial status (the spousal or parent-child relationship) both at the time when the application for Family Unity benefits is adjudicated and thereafter. If the familial status does not exist at the time of adjudication, the alien will not be eligible for Family Unity benefits. If the status as a spouse or child exists at the time of adjudication, but ceases to exist thereafter, the alien will no longer be eligible for Family Unity benefits. Similarly, an alien who ceases to be an unmarried child because of the alien's marriage is no longer eligible. Given the statutory constraints imposed by the LIFE Act Amendments, the Service is unable to adopt these commenters' suggestion to "freeze" the age of a child as of the date of enactment of the LIFE Act Amendments (December 21, 2000).

One commenter argued that it would be proper for the Service to continue to grant LIFE Act Amendments Family Unity protection to unmarried adult sons and daughters of LIFE Legalization beneficiaries while denying similar protection to divorced spouses and married children of such beneficiaries. The commenter reasoned that, unlike divorced spouses and married children who have no means of receiving an immigrant visa or adjusting to LPR status through an alien who has adjusted to LPR status pursuant to LIFE Legalization, the unmarried son or daughter of such a LPR may be granted immigrant status based on that relationship. The Service appreciates this comparison; however, section 1504(b) of the LIFE Act Amendments specifically limits protection to "an alien who is the spouse or unmarried child of an alien described in section 1104(b) of the [LIFE] Act." Had Congress intended to shield unmarried sons and daughters from aging out of LIFE Act Amendments Family Unity protection, it could have drafted section 1504 more in line with section 301 of the Immigration Act of 1990 (IMMACT 90), the provision that authorized the pre-existing Family Unity Program (FUP). Section 301 establishes a link between eligibility for immigrant status and continued eligibility for Family Unity protection by providing that the requisite family relationship had to have been established by a specific date and that the alien otherwise be a "qualified immigrant", which the Service has interpreted to mean continuously eligible for immigrant status based upon his or her relationship to a legalized alien. See, 8 CFR 236.12(a)(2). In the absence of similar language, the Service must treat LIFE Act Amendments Family Unity applicants consistently within the existing statutory definitions of child and spouse and therefore cannot adopt this commenter's suggestion.

Other commenters requested that the Service allow for Family Unity benefits to continue to be granted to spouses of LIFE Legalization applicants even if the marriage ends in divorce. Again, section 1504(b) of the LIFE Act Amendments specifically states that an eligible spouse or child "is the spouse or unmarried child of an alien described in section 1104(b) of the [LIFE] Act." The Service is, therefore, unable to grant Family Unity benefits to former spouses of LIFE Legalization applicants.

Some commenters argued that once the principal alien has adjusted to LPR status under section 1104 of the LIFE Act, his or her family members may qualify for the same benefits as those aliens who benefit from the FUP established by section 301 of IMMACT 90. Section 301 of IMMACT 90 provides Family Unity benefits to the spouses and children of legalized aliens. Section 301(b)(2)(B) of IMMACT 90 defined legalized aliens as aliens who adjusted to temporary or permanent resident status pursuant to section 245A of the Act. The FUP applicants were required to establish entry into the United States before May 5, 1988, residence on that date, continuous residence in the United States since that date, and that a qualifying relationship with the legalized alien existed as of May 5, 1988 (8 CFR 236.12). Thus, the old FUP focused on unifying families that were in existence as of May 5, 1988. Beneficiaries of FUP protection do not automatically "age-out" upon turning 21, assuming that they are still eligible for family sponsored immigration status based upon his or her relationship to the legalized alien. These commenters argued that LIFE Legalization applicants may ultimately adjust to LPR status pursuant to section 245A of the Act, and, accordingly, their family members should be entitled to the benefits of the FUP under section 301 of IMMACT 90.

Section 301 of IMMACT 90 provides Family Unity benefits to the relatives of aliens who adjust status under the terms of section 245A of the Act as established by IRCA. Section 1504 of the LIFE Act Amendments provides Family Unity benefits to the relatives of aliens who adjust status under the terms of section 245A of the Act *as modified* by section 1104 of the LIFE Act. Section 1504(b) of the LIFE Act Amendments defines those relatives eligible for Family Unity benefits as the "spouse or unmarried child of an alien described in section 1104(b) of the [LIFE] Act." Section 1504(c) of the LIFE Act Amendments provides for the parole of eligible relatives into the United States if the principal alien "has obtained lawful permanent resident status under section 1104 of the [LIFE] Act." It is clear that Congress established a family unity program for the relatives of the LIFE Legalization beneficiaries that is separate and apart from the FUP established for the relatives of IRCA Legalization beneficiaries.

However, it must be noted that, given the decision to permit the conversion of a LIFE Legalization application to an application for IRCA legalization where such standards are more favorable to the applicant, it follows that if the principal alien's LIFE Legalization application is treated as an application under IRCA, then his or her family members, if eligible, may apply for Family Unity benefits under section 301 of IMMACT 90.

Filing and Decisions (8 CFR 245a.33)

Four commenters noted that the interim rule failed to implement section 1504(c) of the LIFE Act Amendments allowing for the application for Family Unity benefits from outside the United States. The Service is drafting a proposed rule on the LIFE Act Amendments Family Unity provisions that will cover these areas of concern and, accordingly, they will not be addressed in this rulemaking.

One commenter requested that the Service allow for the appeal of denials of applications for Family Unity benefits. This commenter stated that allowing applicants to reapply for Family Unity benefits subsequent to a denial for Family Unity benefits is not sufficient and that there must be an allowance for higher-level review of denied applications. First, there is no statutory instruction to create such a procedure within the Family Unity provisions of the LIFE Act Amendments. Second, 8 CFR 245a.33(c) provides an automatic 90-day delay between the denial of an alien's Form I–817 and the referral of the decision for enforcement action. This delay is designed to create an opportunity for renewed consideration of the alien's claim to benefits under a process that will likely prove faster than the appeal procedure would have been. The Service has, therefore, concluded that the benefits of the more streamlined re-application process outweigh those of the proposed administrative appeal procedure and has not adopted this suggestion.

This same commenter further requested that the Service provide Family Unity applicants the same confidentiality provisions afforded applicants for LIFE Legalization. This commenter expressed concern that applicants seeking Family Unity benefits may subject themselves to removal proceedings should their Forms I–817 be denied. Again, while section 1104 of the LIFE Act does provide specific confidentiality provisions with regards to legalization applicants, section 1504 of the LIFE Act Amendments provides no such confidentiality provisions. Consequently, no amendments to the final rule will be made as a result of this comment.

Duration of Family Unity Benefits (8 CFR 245a.34)

One commenter requested that the Service clarify the length of time Family Unity benefits will be granted to eligible family members. This commenter stated that while it appeared Family Unity benefits would be granted in increments of 1 year, this was not explicit in the interim rule. This commenter also stated that Family Unity benefits should be granted in increments of 2 years, to mirror the existing FUP (whose beneficiaries receive 2-year periods of protection). Applicants for LIFE Legalization receive employment authorization valid for 1-year periods. The Service believes that any family members who derive Family Unity benefits based on the principal alien's application for LIFE Legalization should not receive employment authorization for longer periods than the principal alien. Therefore, the interim rule provided that any Family Unity beneficiary who received Family Unity benefits based on the principal alien's pending application for LIFE Legalization would receive Family Unity benefits only in increments of 1 year. Upon further consideration, however, the Service has decided to grant Family Unity benefits in increments of 2 years once the principal alien has adjusted to LPR status. The final rule is amended accordingly.

The Service has also reconsidered the duration of Family Unity benefits that will be granted to the children of LIFE Legalization applicants. If an alien is 20 years or older and applies for initial, or an extension of, Family Unity benefits based on his or her parent's pending application for LIFE Legalization, he or she will be granted Family Unity benefits that will end on the day before the alien turns 21 years of age. If an alien is 19 years or older and applies for initial, or an extension of, Family Unity benefits pursuant to the LIFE Act Amendments based on his or her parent's adjustment to LPR status pursuant to LIFE Legalization, he or she will be granted Family Unity benefits that will end on the day before the alien turns 21 years of age. This will prevent a situation where the Service will be required to terminate Family Unity benefits when the child ages-out. This has been codified in the final rule.

Congressional Review Act

Although this rule constitutes a "major rule" as that term is defined in 5 U.S.C. 804(2)(A), the Department finds that under 5 U.S.C. 808(2) good cause exists for implementation of this rule on June 4, 2002. The reason for immediate implementation is as follows: The provisions of Public Law 106–553 require that the Service provide a one-year application period for LIFE Legalization applicants. The regulations implemented by the interim rule published on June 1, 2001, provided that the one-year application period would expire on May 31, 2002. Making this rule effective immediately upon publication in the **Federal Register** is necessary to ensure that the new one-year application period will begin before the one year application period under the interim rule ends. Allowing a gap between the two application periods would create confusion and thus be contrary to the public interest.

Administrative Procedure Act

For the reasons just stated with respect to the Congressional Review Act, the Department also finds that this regulation falls within the "good cause" exception found at 5 U.S.C. 553(d)(3). Delaying implementation of this final rule would be contrary to the public interest.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because of the following factors. This rule applies to individuals, not small entities, and allows certain class action participants who entered before January 1, 1982, to apply for adjustment of status. It therefore has no effect on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 804). This rule will result in an effect on the economy of:
$43,293,000 for 2001;
$152,195,875 for 2002; and
$37,920,000 for 2003.

This increase is directly associated with the expected increase in the number of applications as a result of Public Laws 106–553 and 106–554, and the increase in fee that is provided for in section 245A(c)(7) of the Act (8 U.S.C. 1255a(c)(7)). The Service estimates that in fiscal year 2001, a total of 263,000 applications have been submitted because of the LIFE Act Legalization and Family Unity provisions as follows:
100,000 Forms I–485;
50,000 Forms I–131;
5,000 Forms I–193;
100,000 Forms I–765; and
8,000 Forms I–817.

The Service projects that in fiscal year 2002, a total of 894,000 applications will be submitted as follows:
300,000 Forms I–485;
155,000 Forms I–131;
15,000 Forms I–193;
400,000 Forms I–765; and
24,000 Forms I–817.

The Service projects that in fiscal year 2003, a total of 328,000 applications will be submitted as follows:
100,000 Forms I–130;
20,000 Forms I–131;
200,000 Forms I–765; and
8,000 Forms I–817.

Executive Order 12866

This rule is considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been

submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Family Assessment

The Attorney General has reviewed this rule and has determined that it may affect family well-being as that term is defined in section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681, Div. A. Accordingly, the Attorney General has assessed this action in accordance with the criteria specified by section 654 (c)(1). In this rule, the Family Unity provisions of the LIFE Act Amendments positively affect the stability of the family by providing a means for the family unit to remain intact.

Paperwork Reduction Act of 1995

The information collection requirement contained in this rule, Form I–485 Supplement D, is being revised. This form will be submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act.

List of Subjects

8 CFR Part 100

Organization of functions (Government agencies).

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 245a

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedures, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 8 CFR parts 100, 103, 236, 245a, 274a and 299 which was published at 66 FR 29661 on June 1, 2001, is adopted as a final rule with the following changes:

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT

1. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a, and 1255a note.

2. Section 245a.6 is added to part 245a, Subpart A, to read as follows:

§ 245a.6 Treatment of denied application under part 245a, Subpart B.

If the district director finds that an eligible alien as defined at § 245a.10 has not established eligibility under section 1104 of the LIFE Act (part 245a, Subpart B), the district director shall consider whether the eligible alien has established eligibility for adjustment to temporary resident status under section 245A of the Act, as in effect before enactment of section 1104 of the LIFE Act (part 245a, Subpart A). In such an adjudication using this Subpart A, the district director will deem the "date of filing the application" to be the date the eligible alien establishes that he or she was "front-desked" or that, though he or she took concrete steps to apply, the front-desking policy was a substantial cause of his or her failure to apply. If the eligible alien has established eligibility for adjustment to temporary resident status, the LIFE Legalization application shall be deemed converted to an application for temporary residence under this Subpart A.

3. Section 245a.10 is amended by:

a. Revising the definition of "eligible alien"; and by

b. Adding the definition of "written claim for class membership" immediately after the definition of "prima facie."

The addition and revision read as follows:

§ 245a.10 Definitions.

* * * * *

Eligible alien means an alien (including a spouse or child as defined at section 101(b)(1) of the Act of the alien who was such as of the date the alien alleges that he or she attempted to file or was discouraged from filing an application for legalization during the original application period) who, before October 1, 2000, filed with the Attorney General a written claim for class membership, with or without filing fee, pursuant to a court order issued in the case of:

* * * * *

Written claim for class membership means a filing, in writing, in one of the forms listed in § 245a.14 that provides the Attorney General with notice that the applicant meets the class definition in the cases of *CSS, LULAC* or *Zambrano*.

4. Section 245a.11 is amended by revising paragraph (a) to read as follows:

§ 245a.11 Eligibility to adjust to LPR status.

* * * * *

(a) He or she properly files, with fee, Form I–485, Application to Register Permanent Residence or Adjust Status, with the Service during the application period beginning June 1, 2001, and ending June 4, 2003.

* * * * *

5. Section 245a.12 is amended by:

a. Revising paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), (a)(4) introductory text, and (a)(4)(i);

b. Revising paragraphs (d)(1), (d)(2), and (d)(10);

c. Adding a sentence at the end of paragraph (f); and by

d. Removing paragraph (g).

The additions and revisions read as follows:

§ 245a.12 Filing and applications.

(a) *When to file.* The application period began on June 1, 2001, and ends on June 4, 2003. To benefit from the provisions of LIFE Legalization, an alien must properly file an application for adjustment of status, Form I–485, with appropriate fee, to the Service during the application period as described in this section. All applications, whether filed in the United States or filed from abroad, must be postmarked on or before June 4, 2003, to be considered timely filed.

(1) If the postmark is illegible or missing, and the application was mailed from within the United States, the Service will consider the application to be timely filed if it is *received* on or before June 9, 2003.

(2) If the postmark is illegible or missing, and the application was mailed from outside the United States, the Service will consider the application to be timely filed if it is *received* on or before June 18, 2003.

(3) If the postmark is made by other than the United States Post Office, and is filed from within the United States, the application must bear a date on or before June 4, 2003, and must be received on or before June 9, 2003.

(4) If an application filed from within the United States bears a postmark that was made by other than the United States Post Office, bears a date on or before June 4, 2003, and is received after June 9, 2003, the alien must establish:

(i) That the application was actually deposited in the mail before the last collection of the mail from the place of deposit that was postmarked by the United States Post Office June 4, 2003; and

* * * * *

(d) * * *

(1) The Form I–485 application fee as contained in 8 CFR 103.7(b)(1).

(2) The fee for fingerprinting as contained in 8 CFR 103.7(b)(1), if the applicant is between the ages of 14 and 79.

* * * * *

(10) Proof of citizenship skills as described in § 245a.17. This proof may be submitted either at the time of filing the application, subsequent to filing the application but prior to the interview, or at the time of the interview.

* * * * *

(f) *Evidence.* * * * Subject to verification by the Service, if the evidence required to be submitted by the applicant is already contained in the Service's file or databases relating to the applicant, the applicant may submit a statement to that effect in lieu of the actual documentation.

* * * * *

6. Section 245a.13 is amended by:

a. Revising paragraph (e) introductory text;

b. Revising the first sentence in paragraph (e)(1);

c. Redesignating paragraphs (e)(2) through (e)(5), as paragraphs (e)(3) through (e)(6) respectively;

d. Adding a new paragraph (e)(2);

e. Removing the last sentence from redesignated paragraph (e)(4)(ii); and by

f. Revising paragraph (f).

The additions and revisions read as follows:

§ 245a.13 During pendency of application.

* * * * *

(e) *Travel while the application is pending.* This paragraph is authorized by section 1104(c)(3) of the LIFE Act relating to the ability of an alien to travel abroad and return to the United States while his or her LIFE Legalization adjustment application is pending. Parole authority is granted to the Missouri Service Center Director for the purposes described in this section. Nothing in this section shall preclude an applicant for adjustment of status under LIFE Legalization from being granted advance parole or admission into the United States under any other provision of law or regulation for which the alien may be eligible.

(1) An applicant for LIFE Legalization benefits who wishes to travel during the pendency of the application and who is applying from within the United States should file, with his or her application for adjustment, at the Missouri Service Center, a Form I–131, Application for Travel Document, with fee as set forth in § 103.7(b)(1) of this chapter. * * *

(2) An eligible alien who has properly filed a Form I–485 pursuant to this Subpart B, and who needs to travel abroad pursuant to the standards prescribed in section 212(d)(5) of the Act, may file a Form I–131 with the district director having jurisdiction over his or her place of residence.

* * * * *

(f) *Stay of final order of exclusion, deportation, or removal.* The filing of a LIFE Legalization adjustment application on or after June 1, 2001, and on or before June 4, 2003, stays the execution of any final order of exclusion, deportation, or removal. This stay shall remain in effect until there is a final decision on the LIFE Legalization application, unless the district director who intends to execute the order makes a formal determination that the applicant does not present a prima facie claim to LIFE Legalization eligibility pursuant to §§ 245a.18(a)(1) or (a)(2), or §§ 245a.18(c)(2)(i), (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), (c)(2)(v), or (c)(2)(vi), and serves the applicant with a written decision explaining the reason for this determination. Any such stay determination by the district director is not appealable. Neither an Immigration Judge nor the Board has jurisdiction to adjudicate an application for stay of execution of an exclusion, deportation, or removal order, on the basis of the alien's having filed a LIFE Legalization adjustment application.

7. Section 245a.14 is amended by:

a. Redesignating paragraph (e) as paragraph (g); and by

b. Adding paragraphs (e) and (f).

New paragraphs (e) and (f) read as follows:

§ 245a.14 Application for class membership in the CSS, LULAC, or Zambrano lawsuit.

* * * * *

(e) Form I–765, Application for Employment Authorization, submitted pursuant to a court order granting interim relief.

(f) An application for a stay of deportation, exclusion, or removal pursuant to a court's order granting interim relief.

* * * * *

§ 245a.16 [Amended]

8. Section 245a.16 is amended by removing the last sentence of paragraph (b).

§ 245a.17 [Amended]

9. Section 245a.17(c)(1) is amended by revising the term "or older; or" to read "or older on the date of filing; or".

10. Section 245a.18 is amended by:

a. Revising paragraphs (c)(2)(i) and (c)(2)(ii);

b. Redesignating paragraphs (c)(2)(iii) and (c)(2)(iv) as paragraphs (c)(2)(v) and (c)(2)(vi), respectively;

c. Adding paragraphs (c)(2)(iii) and (c)(2)(iv);

d. Removing the introductory text of paragraph (d);

e. Removing paragraph (d)(2);

f. Redesignating paragraph (d)(3) as paragraph (d)(2);

g. Revising newly redesignated paragraph (d)(2); and by

h. Adding paragraph (d)(3).

The additions and revisions read as follows:

§ 245a.18 Ineligibility and applicability of ground of inadmissibility.

* * * * *

(c) * * *

(2) * * *

(i) Section 212(a)(2)(A)(i)(I) (crimes involving moral turpitude);

(ii) Section 212(a)(2)(A)(i)(II) (controlled substance, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana);

(iii) Section 212(a)(2)(B) (multiple criminal convictions);

(iv) Section 212(a)(2)(C) (controlled substance traffickers);

* * * * *

(d) * * *

(2) An alien who has a consistent employment history that shows the ability to support himself or herself even though his or her income may be below the poverty level is not excludable under paragraph (c)(2)(vi) of

this section. The alien's employment history need not be continuous in that it is uninterrupted. In applying the Special Rule, the Service will take into account an alien's employment history in the United States to include, but not be limited to, employment prior to and immediately following the enactment of IRCA on November 6, 1986. However, the Service will take into account that an alien may not have consistent employment history due to the fact that an eligible alien was in an unlawful status and was not authorized to work. Past acceptance of public cash assistance within a history of consistent employment will enter into this decision. The weight given in considering applicability of the public charge provisions will depend on many factors, but the length of time an applicant has received public cash assistance will constitute a significant factor. It is not necessary to file a waiver in order to apply the Special Rule for determination of public charge.

(3) In order to establish that an alien is not inadmissible under paragraph (c)(2)(vi) of this section, an alien may file as much evidence available to him or her establishing that the alien is not likely to become a public charge. An alien may have filed on his or her behalf a Form I–134, Affidavit of Support. The failure to submit Form I–134 shall not constitute an adverse factor.

* * * * *

11. Section 245a.20 is amended by revising paragraph (a)(2), to read as follows:

§ 245a.20 Decisions, appeals, motions, and certifications.

(a) * * *

(2) *Denials.* The alien shall be notified in writing of the decision of denial and of the reason(s) therefor. When an adverse decision is proposed, the Service shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted a period of 30 days from the date of the notice in which to respond to the notice of intent to deny. All relevant material will be considered in making a final decision. If inconsistencies are found between information submitted with the adjustment application and information previously furnished by the alien to the Service, the alien shall be afforded the opportunity to explain discrepancies or rebut any adverse information. An applicant affected under this part by an adverse decision is entitled to file an appeal on Form I–290B, Notice of Appeal to the Administrative Appeals Office (AAO), with required fee specified in § 103.7(b)(1) of this chapter. Renewal of employment authorization issued pursuant to § 245a.13 will be granted until a final decision has been rendered on appeal or until the end of the appeal period if no appeal is filed. After exhaustion of an appeal, an alien who believes that the grounds for denial have been overcome may submit another application with fee, provided that the application is submitted on or before June 4, 2003.

* * * * *

12. Section 245a.31 is amended by revising paragraph (c) to read as follows:

§ 245a.31 Eligibility.

* * * * *

(c) If applying for Family Unity benefits on or after June 5, 2003, he or she is the spouse or unmarried child under the age of 21 of an alien who has filed a Form I–485 pursuant to this Subpart B.

13. Section 245a.34 is amended by revising paragraphs (b) and (c) to read as follows:

§ 245a.34 Protection from removal, eligibility for employment, and period of authorized stay.

* * * * *

(b) *Duration of protection from removal.* When an alien whose application for Family Unity benefits under the LIFE Act Amendments is approved, he or she will receive protection from removal, commencing with the date of approval of the application. A grant of protection from removal under this section shall be considered effective from the date on which the application was properly filed.

(1) In the case of an alien who has been granted Family Unity benefits under the LIFE Act Amendments based on the principal alien's application for LIFE Legalization, any evidence of protection from removal shall be dated to expire 1 year after the date of approval, or the day before the alien's 21st birthday, whichever comes first.

(2) In the case of an alien who has been granted Family Unity benefits under the LIFE Act Amendments based on the principal alien's adjustment to LPR status pursuant to his or her LIFE Legalization application, any evidence of protection from removal shall be dated to expire 2 years after the date of approval, or the day before the alien's 21st birthday, whichever comes first.

(c) *Employment authorization.* An alien granted Family Unity benefits under the LIFE Act Amendments is authorized to be employed in the United States.

(1) In the case of an alien who has been granted Family Unity benefits based on the principal alien's application for LIFE Legalization, the validity period of the employment authorization document shall be dated to expire 1 year after the date of approval of the Form I–817, or the day before the alien's 21st birthday, whichever comes first.

(2) In the case of an alien who has been granted Family Unity benefits based on the principal alien's adjustment to LPR status pursuant to his or her LIFE Legalization application, the validity period of the employment authorization document shall be dated to expire 2 years after the date of approval of the Form I–817, or the day before the alien's 21st birthday, whichever comes first.

* * * * *

14. Section 245a.37 is amended by revising paragraph (a)(3) to read as follows:

§ 245a.37 Termination of Family Unity Program benefits.

(a) * * *

(3) The alien, upon whose status Family Unity benefits under the LIFE Act were based, fails to apply for LIFE Legalization by June 4, 2003, has his or her LIFE Legalization application denied, or loses his or her LPR status; or

* * * * *

PART 299—IMMIGRATION FORMS

15. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

16. Section 299.1 is amended in the table by revising the entry for Form "I–485 Supplement D", to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
* * *	* *	* *
I–485 Supplement D.	.....	LIFE Legalization Supplement to Form I–485 Instructions.
* * *	* *	* *

Dated: May 29, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–13918 Filed 5–30–02; 4:59 pm]

BILLING CODE 4410–10–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, and 113

[Notice 2002–8]

Brokerage Loans and Lines of Credit

AGENCY: Federal Election Commission.

ACTION: Final rules and transmittal of regulations to Congress.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 2001, amended the Federal Election Campaign Act ("FECA" or "the Act") to allow a candidate to obtain a loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate. The Federal Election Commission ("Commission") is issuing this final rule to implement this amendment to the FECA including reporting requirements. Further information is provided in the supplementary information that follows.

DATES: Further action, including the publication of a document in the **Federal Register** announcing an effective date, will be taken after these regulations have been before Congress for 30 legislative days. 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Acting Associate General Counsel, or Ms. Mai T. Dinh, Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: As part of its 1999 legislative recommendations to Congress, the Commission sought guidance " * * * on whether candidate committees may accept contributions which are derived from advances from a financial institution, such as advances on a candidate's brokerage accounts, credit card, or home equity line of credit * * * " *See* 1999 Fed. Election Comm. Annual Rep. at 45 (2000). The Commission recognized that, since the FECA was first enacted, financial institutions have created new financing products to allow consumers more access to credit. The Commission recommended that the FECA be amended to allow candidates to access these new forms of credit to finance their campaigns for federal office, provided that the extension of credit is done in accordance with applicable law, under commercially reasonable terms and by persons who make these loans in the normal course of their business. *Id.*

In the Department of Transportation and Related Agencies Appropriations Act, 2001, Congress amended the FECA (2 U.S.C. 431(8)(B)) to exclude from the definition of contribution "a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate* * * " The amendment also included the three conditions contained in the Commission's legislative recommendation described above. The Department of Transportation and Related Agencies Appropriations Act, 2001, became Public Law 106–346 on October 23, 2000.[1]

The Commission is issuing these final rules to implement this amendment to the FECA. The final rules also include the reporting requirements associated with obtaining and repaying loans derived from brokerage accounts, credit card advances, and lines of credit. In addition to publishing the final rules in the **Federal Register**, the Commission is submitting these final rules to Congress for 30 legislative days before publishing an effective date. *See* 2 U.S.C. 438(d). This submission will satisfy the requirements of the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), requiring agencies to submit final rules to the Speaker of the House of Representatives and the President of the Senate and to publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules on brokerage loans and lines of credit were transmitted to Congress on May 28, 2002.

Explanation and Justification

On July 25, 2001, the Commission published a Notice of Proposed Rulemaking ("NPRM") containing its proposal to make the regulatory changes that would implement the amendment to the FECA to permit candidates to receive advances from their brokerage accounts, credit cards, home equity lines of credit, or other lines of credit. 66 FR 38576. The Commission raised several issues in the NPRM and solicited comments on those issues, as well as the proposed rules in general. The Commission also announced that it would hold a public hearing on September 19, 2001, if there were sufficient requests to testify. The deadline for submitting comments and requesting to testify at the public hearing was August 24, 2001. Because the Commission did not receive any requests to testify, it canceled the public hearing. The notice of the cancellation was published in the **Federal Register** on September 11, 2001. 66 FR 47120. The Commission received only one comment, which was from Mr. Scott Holz, Senior Counsel at the Board of Governors of the Federal Reserve System.

Amendment to Definitions of Contribution and Expenditure

11 CFR 100.7 Contribution (2 U.S.C. 431(8))

1. General Provisions on Brokerage Loans and Lines of Credit

In order to exempt loans covered by this amendment to the FECA from the definition of "contribution," the final rules amend 11 CFR 100.7(b) by changing the introductory language of paragraph (b)(11) and adding a new 11 CFR 100.7(b)(22) to include brokerage loans, credit card advances, and other lines of credit made to candidates as among the items that are not considered contributions. The amended and new paragraphs track the language of the amendment to the FECA including the conditions set forth, along with some additional clarifications and guidance regarding reporting requirements.

The Commission recognizes that commercial banks offer various lines of credit to their customers. Because the amendment to the FECA specifically establishes different criteria for lines of credit for candidates, the Commission is amending 11 CFR 100.7(b)(11) to exempt specifically brokerage loans, credit card advances, and other lines of credit extended to candidates from the requirements of bank loans contained in section 100.7(b)(11). The final rules amend paragraph (b)(11) by adding a sentence at the end of the introductory text that states that brokerage loans, credit card advances, and other lines of credit made to candidates under section 100.7(b)(22) are not subject to section 100.7(b)(11). This exception also includes overdrafts made on personal checking or savings accounts of candidates because overdraft protection is one form of a line of credit. Thus, overdrafts made on a candidate's personal bank accounts are subject to the requirements of new section 100.7(b)(22). It is important to note that section 100.7(b)(11) will still apply to all loans and lines of credit made to a political committee and to conventional bank loans made to a candidate. No substantive comments were received regarding this issue.

[1] Public Law 106–346 included other statutory changes regarding reporting of independent expenditures, which has been addressed in a separate rulemaking. *See* Independent Expenditure Reporting Final Rules, 67 FR 12834 (March 20, 2002).

2. Endorsers, Guarantors, and Co-Signers

New paragraph (b)(22) implements the three statutory requirements for obtaining a loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit, which are: that the loan is made in accordance with applicable law; that the loan is made under commercially reasonable terms; and that persons making the loans make such loans in the normal course of their business. This new regulation also addresses situations where there are endorsers, guarantors, or co-signers of these loans. New paragraph (b)(22), similar to current paragraph (b)(11), provides that an endorser, guarantor, or co-signer is considered a contributor for the amount that the endorser, guarantor or co-signer is liable. This information must be disclosed on the Schedule C or C–P. See below. The exception is when the endorser, guarantor, or co-signer is the spouse of the candidate and the candidate's share of collateral used to obtain a secured loan equals or exceeds the amount of the loan. *See* 11 CFR 100.7(a)(1)(i)(D). Under proposed section 100.7(b)(22)(ii)(B) in the NPRM, when a spouse is an endorser, guarantor, or co-signer of an unsecured loan, the spouse would not be considered a contributor if the candidate uses, in connection with the campaign, only one-half of the available credit. The Commission sought comments on whether the regulations should allow the candidate to use the entire amount of the available credit for use in connection with a campaign in instances where the loan is in the ordinary course of business and the candidate is liable for the entire amount of the loan even though the spouse has endorsed, guaranteed, or co-signed for the loan. The Commission received no comments on this issue. In order for new section 100.7(b)(22)(ii)(B) to be consistent with the existing requirements of current paragraphs 100.7(a)(1)(i)(D) and (b)(11) regarding spouses who are endorsers, guarantors, or co-signers,[2] the Commission decided not to change the language in the proposed rule. Because no collateral is offered for unsecured debt, one-half of the available credit is a reasonable amount.

[2] Paragraph 100.7(a)(1)(i)(D), which paragraph (b)(11) adopts by reference, states that:

The spouse shall not be considered a contributor to the candidate's campaign if the value of the candidate's share of the property equals or exceed, the amount of the loan which is used for the candidate's campaign.

Finally, section 432(e)(2) of the FECA and 11 CFR 101.2 state that a candidate is an agent of the candidate's authorized committee when he or she obtains a loan for use in connection with a campaign. Given that Public Law 106–346 did not distinguish loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit, from other types of loans, a candidate who obtains these loans for use in connection with the candidate's campaign is acting as an agent for his or her authorized committee under 2 U.S.C. 432(e) and 11 CFR 101.2.

3. Loans for Routine Living Expenses

In addition to provisions described above, new section 100.7(b)(22) contains a provision that addresses loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit that are used for the candidate's routine living expenses. The Commission has determined that such loans would not violate 2 U.S.C. 439a or 11 CFR 113.2(d), prohibiting personal use of campaign funds. The loan, however, must be repaid from the candidate's personal funds.

The Commission sought comment in the NPRM on whether the final rules should contain a descriptive and/or inclusive definition of the phrase "personal living expenses." The Commission did not receive any comments on this question. Upon further examination of 11 CFR part 100, the Commission has determined that "personal living expenses" are no different than "routine living expenses" as described in 11 CFR 100.8(b)(22). Because it is unnecessary to introduce a new term into the regulations in this instance, the Commission has decided to use "routine living expenses" in new section 100.7(b)(22)(iii) instead of "personal living expenses."

Although the final rules do not define "personal living expenses," the Commission has determined that it may be useful if this Explanation and Justification includes examples of items that are considered to be "routine living expenses," recognizing that it would be impossible to describe every possible expense of a candidate that is not for the purpose of influencing the candidate's election to Federal office. The examples are: (1) Household items or supplies, including food, furniture, and accessories; (2) funeral, cremation, or burial expenses; (3) clothing, other than clothing purchased to attend campaign related events or appearances; (4) tuition payments, other than those associated with training relating to the campaign; (5) mortgage, rent, and utility payments, and maintenance and repair expenses associated with residential real property; (6) investment expenses such as acquiring securities on margin if no amount of the investment and its proceeds are used for the purpose of influencing the candidate's election for Federal office; (7) vehicle expenses, including loan payments, gas, insurance, maintenance, and repair; (8) charitable donations unless the candidate receives compensation for services to the charitable entity that become personal funds of the candidate and then are used for the purpose of influencing the candidate's election for Federal office; and (9) travel expenses if the travel is unrelated to the campaign.

A. Loans Used Exclusively for Routine Living Expenses. In the NPRM the Commission sought comments on whether the final rule should require the candidate's authorized committee to report loans used exclusively for the candidate's routine living expenses. The Commission did not receive any comments on this issue. If a candidate used all of the loan proceeds for routine living expenses, then it logically follows that none of the loan proceeds is used for the purpose of influencing the candidate's election for federal office. Therefore, the Commission concludes that the reporting requirements in the final rule, which remains unchanged from the proposed rule, are a reasonable approach to loans used for this purpose. Under new paragraph 100.7(b)(22)(iii)(A), loans used *solely* for routine living expenses do not need to be reported in accordance with 11 CFR part 104.

B. Loans Used for Routine Living Expenses and for the Purpose of Influencing the Candidate's Election for Federal Office. Unlike loans that are used exclusively for routine living expenses, the final rules require reporting of loans that are used both for routine living expenses and for the purpose of influencing the candidate's election for federal office. Under new section 100.7(b)(22)(iii)(D), if a loan or an advance that is derived from the candidate's brokerage account, credit card, home equity line of credit, or other line of credit is used for the purpose of influencing the candidate's election for Federal office and for other purposes, including routine living expenses, then the portion that is used for the purpose of influencing the candidate's election for Federal office must be reported under 11 CFR part 104. For example, if a candidate establishes a margin account with a brokerage firm to acquire additional securities on margin and to obtain non-purpose credit to finance the campaign, then the non-purpose credit used to finance the campaign must be reported, but the credit used to purchase securities purchased on margin does not need to be reported.

C. Repayments of Loans Used for Routine Living Expenses by Third Parties. Under new paragraphs (b)(22)(iii)(C), the candidate's principal campaign committee must report a loan that is used for routine living expenses if a third party, except the candidate's spouse, repays, guarantees, endorses, or co-signs the loan, in part or in whole. The third party is deemed to make a contribution in the amount of the endorsement, guarantee, or liability and this amount would be subject to the limitations and prohibitions of the FECA. *See* 11 CFR 113.1(g)(6). Thus, if a third party repays, guarantees, endorses, or co-signs the loan, the authorized committee must report the loan and the repayment under 11 CFR 104.3, 104.8 and 104.9.

D. Defining "Used for the Candidate's Campaign". In addition to seeking comment on whether the term "personal living expenses" is sufficiently descriptive and inclusive, the Commission also sought comment on whether the final rules should define the scope of the phrase "used for the candidate's campaign," which is included in proposed section 100.7(b)(22)(ii)(A) in the NPRM and is derived from 2 U.S.C. 432(e)(2). No comments concerning this issue were received. After additional analysis, the Commission decided not to define the phrase "used for the candidate's campaign." Rather, the phrases "used for the candidate's campaign" and "used in connection with the campaign" (in proposed section 100.7(b)(22(ii)(B) in the NPRM) have been replaced by the phrase "used for the purpose of influencing the candidate's election for Federal office" in the final rules. This new phrase is derived from the statutory language in 2 U.S.C. 431(8)(A)(i).[3] The amendment to the FECA, that is the basis of this rulemaking, added loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, and other lines of credit available to the candidate to the list of valuable services in 2 U.S.C. 431(8)(B) that are not considered as contributions. It is appropriate to use similar terminology because regulatory language should reflect the statutory language on which it is based and section 100.7 is grounded in 2 U.S.C. 431(8).

The only difference is that the regulatory language of new paragraph 100.7(b)(22) limits the application to the *candidate's* election, not to *any* election, for Federal office. For example, if Candidate X uses a draw on his own personal line of credit to make a contribution to Candidate Y's campaign, then Candidate X's committee does not have to report the draw.

The final rules do not contain a definition of "used for the purpose of influencing the candidate's election for Federal office" because the meaning of the phrase "for the purpose of influencing any election for Federal office" has been extensively discussed in advisory opinions, enforcement actions (matter under review or "MUR"), and court cases. *See e.g. FEC* v. *Ted Haley Cong. Comm.*, 852 F.2d 111, 114–16 (9th Cir. 1998); Advisory Opinions 1983–12, 1990–5, and 1992–6; MUR 3918 (Hyatt for Senate). The court cases, advisory opinions, and enforcement actions provide guidance on when a loan is being used for the purpose of influencing the candidate's election for Federal office.

E. Bank Loans Used for Routine Living Expenses. The NPRM sought comments on whether the final rules should make similar clarifications regarding the reporting of bank loans that are used solely for the candidate's personal living expenses. The Commission did not receive any comments on this issue. The FECA standards for bank loans are higher than those for loans derived from a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit. Bank loans are required, among other things, to be made on a basis that assures repayment and must be subject to a due date or amortization schedule, requirements that do not generally exist for loans derived from a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit. See 2 U.S.C. 431(8)(B)(vii)(II). Thus, the FECA already provides for greater safeguards ensuring repayment of bank loans. Consequently, the Commission has concluded that it is not necessary to amend the bank loan rules at this time to address more specifically loans whose proceeds are used for routine living expenses.

4. Repayments of Loans by Authorized Committees to Either the Candidate or the Lending Institution

Under new section 100.7(b)(22)(iv), the candidate's authorized committee will have the option of repaying the loan directly to the lending institution or to the candidate. The NPRM included an alternative approach as to how the candidate's authorized committee must accept and use the proceeds of a loan derived from a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit, and repays that loan. The alternative approach set out in the proposed rules would require that the initial receipt and eventual repayment of the loan must pass through the candidate's personal account. In other words, the lending institution must disburse the loan proceeds to the candidate who would then loan or contribute the money to the authorized committee. If the candidate loans the money to the authorized committee, the committee would be required to repay the loan to the candidate, not to the lending institution, and the candidate would then repay the lending institution. If the candidate makes a contribution as a gift to the campaign, the committee would not repay either the candidate or the financial institution.

The Commission did not receive any comments to this alternative approach. The final rules do not adopt this alternative approach in order to allow the candidates and their authorized committees the flexibility to structure and manage these loans in a manner that fits their needs and circumstances. Requiring that the disbursement and repayment of these loans pass through the candidate's personal bank account may be burdensome and inefficient for some candidates and their committees. Therefore, the final rules allow the candidate and the authorized committee to decide whether the disbursement of the loan proceeds and the loan repayments should pass through the candidate's personal bank account or be paid, and repaid, directly between the financial institution and the authorized committee.

5. Other Amendments to 11 CFR 100.7(b)

The final rules delete an obsolete reference in the introductory text of 11 CFR 100.7(b)(11) to the Federal Savings and Loan Insurance Corporation ("FSLC"). The FSLC has been dissolved and its deposit insurance responsibilities have been transferred to the Federal Deposit Insurance Corporation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101–73 (August 9, 1989).

11 CFR 100.8 Expenditure

Currently, 11 CFR 100.8(b)(12) exempts bank loans from the definition of "expenditure" and contains parallel

[3] The statutory language states that "[t]he term "contribution" includes—(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; * * *"

language to that found in the exceptions to the definition of "contribution" in section 100.7(b)(11). The final rules exempt loans derived from advances on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, from the definition of "expenditure" by amending section 100.8(b)(12) and by adding a new section 100.8(b)(24). The amendments to section 100.8(b)(12) are similar to the amendments to section 100.7(b)(11). *See* above. New section 100.8(b)(24) adopts, by reference, the language of new section 100.7(b)(22).

Reporting Requirements

The NPRM included several reporting requirements pertaining to loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit for use in connection with the candidate's campaign. Under the proposed rules, the candidate's principal campaign committee would report transactions between the lending institution and the candidate, and between the candidate and the principal campaign committee.

The NPRM also included an alternative reporting approach and sought comments on the approach. Under this alternative, a committee would be required only to report certain limited information about loans derived from advances on brokerage accounts, credit cards, home equity lines of credit, or other lines of credit when the candidate has loaned or contributed outright, as a gift, such funds to the committee. This information would include the name of the institution and any applicable interest rate and the due date. Further, in the situation where the candidate has loaned the funds to the committee, the committee would only be required to report repayments to the candidate, and would not report the repayments by the candidate to the lending institution. This limited reporting approach would be applied to loans from banks as well as to the loans derived from other sources covered by the recent statutory amendment. It would rely on the complaint and audit processes to monitor situations where the lending institution forgives the loan, in part or in whole, or where the candidate relies on third parties to make the repayments to the lending institution. The Commission did not receive any comments on this alternative. The Commission has decided to adopt this alternative reporting approach. The new reporting requirements are described below.

11 CFR 104.3 Contents of Reports

As noted above, the final rules require that loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit for use in connection with the candidate's campaign, be reported by the candidate's principal campaign committee. The requirements are set forth in several sections in 11 CFR part 104. In section 104.3, the candidate's principal campaign committee is required to report the loan of money from the candidate as a receipt under revised paragraph (a)(3)(vii)(B). It is also required to report any repayment of the loan to the candidate as a disbursement under revised paragraph (b)(2)(iii)(A). These two paragraphs are amended to reflect that loans from the candidate may derive from a bank loan or an advance from a brokerage account, credit card, home equity line of credit or other lines of credit available to the candidate.

Under the final rules, section 104.3(b)(4)(iii) is amended to specifically include persons who receive repayments from a reporting committee of loans derived from an advance on a candidate's brokerage account, credit card, or lines of credit, as among those who must be identified and itemized in the report. "Persons" in this new section include candidates and lending institutions. Section 104.3(b)(4)(iv) is deleted, removing the requirement that the principal campaign committee report each person who receives a repayment from the candidate.

Current 11 CFR 104.3(d) describes the requirements for reporting debts and obligations. The final rules amend this paragraph to set forth the new reporting requirements for loans derived from advances on a candidate's brokerage account, credit card, home equity line of credit and other lines of credit and for bank loans made to candidates. First, the introductory language of paragraph (d) is amended to make clear that these advances must be reported if they are used for the candidate's campaign even if the advances were received before the individual became a candidate for federal office. Second, the reference to "candidate" in paragraph (d)(1) is deleted to exclude bank loans to candidates from the reporting requirements of that paragraph. Instead of paragraph (d)(1), bank loans to candidates must now be reported in accordance with paragraph (d)(4) in Schedule C–1 or C–P–1. Political committees must continue to report the information listed in paragraph (d)(1) in Schedule C–1 and C–P–1.

The final rules add a new section 104.3(d)(4) to describe the information that must be disclosed in the report about loans to candidates, including bank loans. The new paragraph requires authorized committees to disclose loans derived from an advance from a candidate's brokerage account, credit card, or line of credit on Schedules C, C–P, C–1, and C–P–1. Current Schedules C, C–P, C–1 and C–P–1 have not been revised to reflect the new reporting requirements for loans to candidates from financial institutions. Rather, the instructions to Schedules C, C–P, C–1 and C–P–1, and to the Detailed Summary Pages for Forms 3 and 3P, will be modified to reflect the new reporting requirements under new section 104.3(d)(4). Revisions to the instructions to these schedules will be transmitted to Congress at a later point, and will become effective at the same time as the amendments to the regulations. The revised instructions will be posted on the Commission's Web site (*www.fec.gov*) and will be available to the public through the Commission's Information Division.

Under new section 104.3(d)(4), committees are required to disclose the following information: date, amount and interest rate of the loan; name and address of the lending institution; and type and value of collateral or security, if any. The Commission did not receive any comments pertaining to this section.

11 CFR 104.8 Uniform Reporting of Receipts

Current 11 CFR 104.8 requires that certain receipts, including loans, be disclosed on Schedule A. The final rules add new paragraph (g) to section 104.8 to describe how receipt of bank loans to candidates and loans derived from an advance from a candidate's brokerage account, credit card, or line of credit must be reported on Schedule A. When the candidate's committee receives the funds directly from the lending institution or from the candidate (as a loan or a contribution, as a gift), it is reported as an itemized entry on Schedule A. A cross reference to section 100.7(b)(22)(iii) is also included in new section 104.8(g) regarding the reporting of loans obtained solely for the candidate's routine living expenses. Unlike the proposed rules, the committee is not required to report loan disbursements to the candidate. Also, the loan must be continuously reported on Schedule C or C–P until it is extinguished. The candidate may choose either to loan or to contribute, as a gift, the loan proceeds to the authorized committee.[4] If the money is designated as a contribution when the authorized committee reports the receipt, then the authorized committee cannot repay the underlying loan to the financial institution. Any repayment of the underlying loan would constitute conversion of campaign funds for personal use and is prohibited by 11 CFR 113.2(d). The reporting requirements remain the same. The contribution, as a gift, from the candidate to the authorized committee must be reported as an itemized receipt in Schedule A. The underlying loan must be reported on the Schedule C–1 or C–P–1.

11 CFR 104.9 Uniform Reporting of Disbursements

Current 11 CFR 104.9 requires that certain disbursements, including loan repayments, be disclosed on Schedule B. The final rules add new paragraph (f) to section 104.9 to explain how repayments of bank loans to candidates and loans derived from an advance from a candidate's brokerage account, credit card, or line of credit are to be reported on Schedule B. Repayment by the candidate's committee to the lending institution or the candidate is reported as an itemized entry on Schedule B. Unlike the proposed rules, the committee is not required by the final rules to report repayments by the candidate to the lending institution.

11 CFR 104.14 Formal Requirements Regarding Reports and Statements

Unlike the regulations for bank loans to political committees, the final rules do not require principal campaign committees to submit to the Commission loan agreements or similar documents that are connected with a bank loan to the candidate or a loan derived from an advance from a candidate's brokerage account, credit card, or line of credit. However, the alternative reporting approach, which the Commission has adopted in the final rules, contemplates that in lieu of requiring the candidate's committee to disclose detailed information about these loans, the final rules would require candidates to preserve records pertaining to bank loans to the candidates or loans derived from an advance from a candidate's brokerage account, credit card, or line of credit. This will enable the Commission to conduct investigations and audits when necessary, pursuant to the enforcement and audit authority. *See* 2 U.S.C. 437g and 438(b). Therefore, the final rules added new paragraph (b)(4) to section 104.14 that lists the following types of documents that candidates must preserve for three years following the date of the election for which they were candidates:

a. Records that demonstrate the ownership of the accounts or assets securing the loans such as statements for accounts that identify the account holders, the owners of the credit card account, and the names on the deed for the home used for a line of credit;

b. Copies of the executed loan agreements and all security and guarantee statements;

c. Statements of account for all accounts used to secure any loan for the period the loan is outstanding such as brokerage accounts or credit card accounts, and statements on any line of credit account that was used for the purpose of influencing the candidate's election for Federal office;

d. For brokerage loans or other loans secured by financial assets, documentation to establish the source of the funds in the account at the time of the loan; and

e. Documentation (check copies *etc.*) for all payments made on the loan by any person.

The NPRM solicited comments on whether to require the candidate's principal campaign committee to submit loan agreements and similar documents on loans derived from an advance from a candidate's brokerage account, credit card, or line of credit when the committee files Schedule D. The Commission did not receive any comments on this issue. Because the Commission has decided to adopt the alternative reporting approach, the candidate's principal campaign committee is not required to submit these documents.

The Commission, however, did receive a comment concerning the documents that are required to be maintained under section 104.14. The NPRM listed the Federal Reserve's Form T–4 as among the documents that must be maintained for three years. The commenter stated that non-purpose credit extended from margin accounts does not require a Form T–4. Only those that are extended from non-purpose credit accounts require Form T–4. Also, the brokerage firms generally retain the forms and do not necessarily provide a copy to the customer. Therefore, authorized committees do not need to maintain copies of Form T–4 in their files.

Conforming Amendment

11 CFR 113.1 Definitions

Under the final rules, the third party payments provisions of the definition of "personal use" in 11 CFR 113.1(g)(6) is amended to include a repayment, endorsement, guarantee, or co-signature of a loan derived from a candidate's brokerage account, credit card, home equity line of credit, or other line of credit and used for the candidate's routine living expenses within the meaning of "payment." A cross reference to section 100.7(b)(22) is included in this paragraph.

Additional Topics on Which No Changes to the Rules Are Being Made

Margin Requirements

The NPRM stated that a loan derived from a brokerage account is obtained by opening a non-purpose credit account. The commenter pointed out that non-purpose credit can also be extended from margin accounts but they are subject to the limitations and regulations of Regulation T, 12 CFR part 220. Under 12 CFR 220.6(e), however, non-purpose credit accounts are not subject to Regulation T's margin requirements but are subject to the rules of the self regulating organizations ("SRO") that regulate the exchanges. Recognizing that non-purpose credit accounts contain similar inherent risks to margin accounts, the two largest SRO, the New York Stock Exchange ("NYSE") and the National Association of Securities Dealers ("NASD"), established minimum maintenance margins for non-purpose credit accounts that are applicable to the members in their exchanges.[5] Generally, the minimum maintenance margin is 25 percent.[6] That is, a customer must maintain securities valued at 125 percent of the outstanding non-purpose credit. Individual brokerage firms may require higher maintenance margins.

[4] The contribution is not subject to contribution limitations in 2 U.S.C. 441a(a). *See Buckley* v. *Valeo*, 424 U.S. 1 (1976).

[5] Margin is the amount paid by the customer when using the broker's credit to purchase securities. The maintenance margin is the minimum margin that must be held or maintained in an account. As long as the value of the equity in the customer's account exceeds the maintenance margin, the customer is not required to make payments on the loan. A margin call occurs when the value of a customer's account falls below the maintenance margin and the brokerage firm issues a demand to a customer to deposit more cash or securities into the account so that the value of the account increases to at least the maintenance margin.

[6] However, the Federal Reserve Board may amend Regulation T to change the minimum maintenance for margin accounts. Also, the SRO may change the maintenance margin for non-purpose credit account with the approval of the Securities and Exchange Commission (SEC).

Brokerage firms are supposed to issue a margin call if the equity in a customer's non-purpose credit account falls below the maintenance margin. Both the NYSE and the NASD, however, allow firms not to issue a margin call if the firm is willing to take a charge against its net capital, pursuant to SEC Rule 15c3–1, for the amount the customer would have been required to deposit to meet the margin call.[7] *See* NYSE Rule 431(e)(7) and NASD Rule 2520(e)(7).

Although this practice may be considered to be in the ordinary course of business, nevertheless, the candidate would receive something of value—not having to deposit additional cash or securities into an account—for free. Essentially, the brokerage firm is providing additional collateral to the candidate without being compensated. Even though the brokerage firm may provide the same service to other customers who are not seeking Federal office, the Commission has determined that services offered free of charge by corporations in the ordinary course of business for promotional or good will purposes (if these services might otherwise have required consideration) are prohibited by 2 U.S.C. 441b. *See* Advisory Opinions 1996–2, 1988–25, 1988–12. Moreover, by not making the margin call, the candidate has increased his or her risk exposure and may be less likely to be able to repay the loan.

In the NPRM, the Commission sought comments on whether a brokerage firm that makes a charge against net capital may, under certain circumstances, provide something of value to candidates which is prohibited by 2 U.S.C. 441b. The Commission did not receive any comments on this issue. Given the analysis above, the Commission has concluded that brokerage firms that take a charge against their net capital instead of making a margin call on non-purpose credit accounts used by candidates to finance their campaign are making an unlawful corporate contribution. The final rules do not specifically address this issue because the Federal Reserve Board and the Securities and Exchange Commission have primary jurisdiction over these transactions. Rather, should the situation arise, the Commission may address this issue on a case-by-case basis through its enforcement or advisory opinion processes.

[7] This practice is not available to non-purpose credit extended from margin accounts because the Federal Reserve Board's Regulation T requires that brokers issue a margin call when a margin account falls below the maintenance margin.

Repayment and Termination

Loans derived from a candidate's brokerage account, credit card account, home equity line of credit, or other lines of credit, present several repayment issues. Under 2 U.S.C. 432(e)(2), a candidate is considered an agent of the authorized committee when obtaining a loan for use in connection with the candidate's campaign for federal office. As such, the authorized committee currently has a continuing obligation to report the loan until it is repaid to the lending institution. In practice, customers are not required to make payments on the loans derived from a brokerage account unless the value of the non-purpose credit account falls below the maintenance margin. If the securities in margin and non-purpose credit accounts continually increase in value, then the customer does not have to make any payments. Thus, a candidate could maintain a loan balance well after the candidate is no longer seeking federal office.

Currently, a committee reports the disposition and repayment of its loans, including loans to the candidate that are used for campaign purposes, before it can terminate. For purposes of determining the disposition of these loans, the Commission sought comments on when a brokerage loan should be considered repaid in full and on when a committee can terminate. The Commission did not receive any comments on these questions.

Because the Commission has adopted the alternative reporting approach, the candidate's principal campaign committee no longer must report the candidate's repayments directly to the lending institution. Thus, the committee may terminate once it has repaid the loans made to the committee even if the underlying loan remains outstanding against the candidate. However, it is important to note that the candidate must still preserve the records described in new section 104(b)(4) for three years after the election even if the committee terminates before that date.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached final rules do not have a significant economic impact on a substantial number of small entities. The final rules implement the changes to the FECA expressly permitting candidates to obtain loans from a wider range of financial institutions. This increases the flexibility that candidates would have to seek financing for their campaigns. The requirement to report loans derived from an advance from a candidate's brokerage account, credit card, or line of credit only impacts the candidates and their campaign committees. It does not have a significant economic impact on these committees because they are already required to report all loans that are made in connection with a federal campaign. In fact, the reporting requirements in the final rules are minimal. The changes will not cause committees to devote much additional time or resources to comply with the reporting requirements. Therefore, the attached final rules do not have a significant economic impact on a substantial number of small entities.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 113

Campaign funds.

For the reasons set out in the preamble, Subchapter A, Chapter I of title 11 of the *Code of Federal Regulations* is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 434(a)(11), 438(a)(8).

2. 11 CFR 100.7 is amended by revising the introductory text of paragraph (b)(11) and adding new paragraph (b)(22) to read as follows:

§ 100.7. Contribution (2 U.S.C. 431(8)).

* * * * *

(b) * * *

(11) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a) and (d). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement, except that, in the event of a signature by the candidate's spouse, the provisions of 11 CFR 100.7(a)(1)(i)(D) shall apply. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of this paragraph (b)(11), an overdraft made on a checking or savings account, other than the personal account of a candidate, shall be considered a contribution by the bank or institution unless: The overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule. However, this paragraph (b)(11) shall not apply to any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in paragraph (b)(22) of this section.

* * * * *

(22) (i) Any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, including an overdraft made on a personal checking or savings account of a candidate, provided that:

(A) Such loan is made in accordance with applicable law and under commercially reasonable terms; and

(B) The person making such loan makes loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(i) Each endorser, guarantor, or co-signer shall be deemed to have contributed that portion of the total amount of the loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, for which he or she agreed to be liable in a written agreement, including a loan used for the candidate's routine living expenses. Any reduction in the unpaid balance of the loan, advance, or line of credit shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan, advance, or line of credit for which each endorser, guarantor, or co-signer is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser, guarantor, or co-signer bears to the total number of endorsers or guarantors. However, if the spouse of the candidate is the endorser, guarantor, or co-signer, the spouse shall not be deemed to make a contribution if:

(A) For a secured loan, the value of the candidate's share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate's campaign; or

(B) For an unsecured loan, the amount of the loan used for in connection with the candidate's campaign does not exceed one-half of the available credit extended by the unsecured loan.

(iii) (A) A loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, that is used by the candidate solely for routine living expenses, as described in 11 CFR 100.8(b)(22), does not need to be reported under 11 CFR part 104 provided that the loan, advance, or line of credit is repaid exclusively from the personal funds of the candidate or payments that would have been made irrespective of the candidacy pursuant to 11 CFR 113.1(g)(6).

(B) Any repayment, in part or in whole, of the loan, advance, or line of credit described in paragraph (b)(22)(iii)(A) of this section by the candidate's authorized committee constitutes the personal use of campaign funds and is prohibited by 11 CFR 113.2.

(C) Any repayment or forgiveness, in part or in whole, of the loan, advance, or line of credit described in paragraph (b)(22)(iii)(A) of this section by a third party (other than a third party whose payments are permissible under 11 CFR 113.1(g)(6)) or the lending institution is a contribution, subject to the limitations and prohibitions of 11 CFR parts 110 and 114, and shall be reported under 11 CFR part 104.

(D) Notwithstanding paragraph (b)(22)(iii)(A) of this section, the portion of any loan or advance from a candidate's brokerage account, credit card account, home equity line of credit, or other line of credit that is used for the purpose of influencing the candidate's election for Federal office shall be reported under 11 CFR part 104.

(iv) The candidate's authorized committee may repay a loan from the candidate that is derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, directly to the candidate or the original lender. The amount of the repayment shall not exceed the amount of the principal used for the purpose of influencing the candidate's election for Federal office and interest that has accrued on that principal.

(v) Loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate shall be reported by the candidate's principal campaign committee in accordance with 11 CFR part 104.

* * * * *

3. 11 CFR 100.8 is amended by revising the introductory text of paragraph (b)(12) and adding new paragraph (b)(24) to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(12) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a) and (d). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement, except that, in the event of a signature by the candidate's spouse,

the provisions of 11 CFR 100.7(a)(1)(i)(D) shall apply. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that the loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered an expenditure by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For the purpose of this paragraph (b)(12), an overdraft made on a checking or savings account shall be considered an expenditure unless: The overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule. However, this paragraph (b)(12) shall not apply to any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in paragraph (b)(24) of this section.

* * * * *

(24) Any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, as defined in 11 CFR 100.7(b)(22).

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

4. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432 (i), 434, 438(a), 438(b), 439a.

5. 11 CFR 104.3 is amended as follows:

a. Revise paragraph (a)(3)(vii)(B);
b. Revise paragraph (b)(2)(iii)(A);
c. Revise paragraph (b)(4)(iii);
d. Remove and reserve paragraph (b)(4)(iv);
e. Revise the introductory text of paragraph (d);
f. Revise the introductory text of paragraph (d)(1);
g. Revise paragraph (d)(2);
h. Revise paragraph (d)(3); and
i. Add paragraph (d)(4).

The revisions and additions read as follows:

§ 104.3 Contents of reports (2 U.S.C. 434(b), 439(a))

(a) * * *
(3) * * *
(vii) * * *

(A) Loans made, guaranteed, or endorsed by a candidate to his or her authorized committee including loans derived from a bank loan to the candidate or from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24); and

* * * * *

(b) * * *
(2) * * *
(iii) * * *

(A) Repayment of loans made, guaranteed, or endorsed by the candidate to his or her authorized committee including loans derived from a bank loan to the candidate or from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24);

* * * * *

(4) * * *

(iii) Each person who receives a loan repayment, including a repayment of a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24), from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) [Reserved]

* * * * *

(d) *Reporting debts and obligations.* Each report filed under 11 CFR 104.1 shall, on Schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans, including a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22), obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. *See* 11 CFR 116.7.

(1) In addition, when a political committee obtains a loan from, or establishes a line of credit at, a lending institution as described in 11 CFR 100.7(b)(11) and 100.8(b)(12), it shall disclose in the report covering the period when the loan was obtained, the following information on schedule C–1 or C–P–1:

* * * * *

(2) The political committee shall submit a copy of the loan or line of credit agreement which describes the terms and conditions of the loan or line of credit when it files Schedule C–1 or C–P–1. This paragraph (d)(2) shall not apply to any Schedule C–1 or C–P–1 that is filed pursuant to paragraph (d)(4) of this section.

(3) The political committee shall file in the next due report a Schedule C–1 or C–P–1 each time a draw is made on a line of credit, and each time a loan or line of credit is restructured to change the terms of repayment. This paragraph (d)(3) shall not apply to any Schedule C–1 or C–P–1 that is filed pursuant to paragraph (d)(4) of this section.

(4) When a candidate obtains a bank loan or loan of money derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24) for use in connection with the candidate's campaign, the candidate's principal campaign committee shall disclose in the report covering the period when the loan was obtained, the following information on Schedule C–1 or C–P–1:

(i) The date, amount, and interest rate of the loan, advance, or line of credit;

(ii) The name and address of the lending institution; and

(iii) The types and value of collateral or other sources of repayment that secure the loan, advance, or line of credit, if any.

* * * * *

6. 11 CFR 104.8 is amended by adding paragraph (g) to read as follows:

§ 104.8 Uniform reporting of receipts.

* * * * *

(g) The principal campaign committee of the candidate shall report the receipt of any bank loan obtained by the candidate or loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24), as an itemized entry of Schedule A as follows:

(1) The amount of the loan that is used in connection with the candidate's campaign shall be reported as an itemized entry on Schedule A.

(2) *See* 11 CFR 100.7(b)(22)(iii) for special reporting rules regarding certain loans used for a candidate's routine living expenses.

7. 11 CFR 104.9 is amended by adding paragraph (f) to read as follows:

§ 104.9 Uniform reporting of disbursements.

* * * * *

(f) The principal campaign committee of the candidate shall report its repayment to the candidate or lending institution of any bank loan obtained by the candidate or loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24) as an itemized entry on Schedule B.

8. Amend § 104.14 by revising paragraph (b) to read as follows:

§ 104.14 Formal requirements regarding reports and statements.

* * * * *

(b) Each political committee or other person required to file any report or statement under this subchapter shall maintain all records as follows:

(1) Maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement required to be filed under 11 CFR parts 102 and 104, and all records relevant to such reports or statements;

(3) Keep all reports required to be preserved under this section available for audit, inspection, or examination by the Commission or its authorized representative(s) for a period of not less that 3 years after the report or statement is filed (*See* 11 CFR 102.9(c) for requirements relating to preservation of records and accounts); and

(4) Candidates, who obtain bank loans or loans derived from an advance from the candidate's brokerage account, credit card, home equity line of credit, or other lines of credit available to the candidate, must preserve the following records for three years after the date of the election for which they were a candidate:

(i) Records to demonstrate the ownership of the accounts or assets securing the loans;

(ii) Copies of the executed loan agreements and all security and guarantee statements;

(iii) Statements of account for all accounts used to secure any loan for the period the loan is outstanding such as brokerage accounts or credit card accounts, and statements on any line of credit account that was used for the purpose of influencing the candidate's election for Federal office;

(iv) For brokerage loans or other loans secured by financial assets, documentation to establish the source of the funds in the account at the time of the loan; and

(v) Documentation for all payments made on the loan by any person.

* * * * *

PART 113—EXCESS CAMPAIGN FUNDS AND FUNDS DONATED TO SUPPORT FEDERAL OFFICEHOLDER ACTIVITIES (2 U.S.C. 439a)

9. The authority citation for part 113 continues to read as follows:

Authority: 2 U.S.C. 432(h), 438 (a)(8), 439a, 441a.

10. 11 CFR 113.1 is amended by revising the introductory text in paragraph (g)(6) to read as follows:

§ 113.1 Definitions (2 U.S.C. 439a).

* * * * *

(g) * * *

(6) *Third party payments.* Notwithstanding that the use of funds for a particular expense would be a personal use under this section, payment of that expense by any person other than the candidate or the campaign committee shall be a contribution under 11 CFR 100.7 to the candidate unless the payment would have been made irrespective of the candidacy. "Payment" includes repayment, endorsement, guarantee, or co-signature of a loan described in 11 CFR 100.7(b)(22) and used for the candidate's routine living expenses. Examples of payments considered to be irrespective of the candidacy include, but are not limited to, situations where—

* * * * *

Dated: May 24, 2002.

David M. Mason,

Chairman, Federal Election Commission.

[FR Doc. 02–13689 Filed 6–3–02; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1710

RIN 2550–AA20

Corporate Governance

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is responsible for ensuring the safety and soundness of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (Enterprises). In furtherance of that responsibility, OFHEO is issuing a final regulation to set forth minimum standards with respect to corporate governance practices and procedures of the Enterprises.

EFFECTIVE DATE: August 5, 2002.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, telephone (202) 414–3804 (not a toll-free number); or Isabella W. Sammons, Associate General Counsel, telephone (202) 414–3790 (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, titled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Act) (12 U.S.C. 4501 *et seq.*) established OFHEO as an independent office within the Department of Housing and Urban Development to ensure that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) are adequately capitalized and operate safely and in compliance with applicable laws, rules, and regulations.

The Enterprises were established and operate under the authority of their respective Federal chartering acts as government-sponsored, privately owned corporations, to be directed by their respective boards of directors to fulfill the public purpose of providing a stable

secondary market for residential mortgages.[1]

Corporate Governance

Corporate governance involves the relationships between an Enterprise, its management, board of directors, shareholders, regulators, and other stakeholders. It provides the structure through which the business objectives and strategies of the Enterprises are set as well as delineating the means of attaining those objectives and monitoring business performance. The chartering acts contain several provisions related to matters of corporate governance. For example, Congress therein provided for establishing principal offices, board member composition and qualifications, board of director powers, compensation of executive officers and employees, and common and preferred stock. The chartering acts, however, are silent with respect to other corporate governance provisions that are commonly addressed for state-chartered corporations under State law.

In recent years, regulators, investor organizations, stock exchanges, and corporations themselves have increased their focus on the importance of sound corporate governance practices and procedures to ensure the long-term success of corporations. Sound corporate governance practices and procedures are essential to the safe and sound operations of the Enterprises and accomplishment of their public policy purposes. As one Enterprise noted in its comments to the proposed regulation, "[a] well-qualified and effective board of directors is one of the most important elements in maintaining the safety and soundness of a financial institution." Thus, corporate governance is one category of risk and risk management that is examined by OFHEO under its annual risk-based examination program and the subject of additional policy guidance.

[1] Consistent with the purposes of the chartering acts, the Enterprises are authorized, among other things, to provide stability in the secondary market for residential mortgages; respond appropriately to the private capital market; provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and promote access to mortgage credit throughout the United States (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing. See 12 U.S.C. 1716, with respect to Fannie Mae, and 12 U.S.C. note to 1451, with respect to Freddie Mac.

Examination and Guidance With Respect to Corporate Governance

In furtherance of its safety and soundness supervisory responsibilities, OFHEO routinely conducts risk-based examinations of each Enterprise in four categories: credit, market risk, operations, and corporate governance. As described in the *Examination Handbook* (Dec. 1998),[2] the corporate governance category is comprised of four programs: (1) The Board Governance Program, which assesses the manner in which the Board of Directors discharges its duties and responsibilities in governing the Enterprise; (2) the Management Processes Program, which assesses the processes used to drive behaviors to support the defined corporate goals, standards, and risk tolerances of the Enterprise; (3) the Audit Program, which assesses the appropriateness of reliance of the Board of Directors management on internal or external audits; and lastly, (4) the Management Information Program, which assesses the effectiveness, accuracy, and completeness of information and reports. The factors and criteria used to assess and evaluate the four program areas are set forth in *Risk-based Examinations—Evaluation Criteria (Evaluation Criteria)*.[3]

In addition to safety and soundness standards contained in the *Examination Handbook* and the *Evaluation Criteria*, OFHEO has issued safety and soundness policy guidelines. To date, the guidelines address minimum safety and soundness requirements and safety and soundness standards for information. The policy guideline, titled *Minimum Safety and Soundness Requirements*, sets forth in broad terms various minimum board and management responsibilities and functions.[4]

Corporate Governance Regulation

To further support the supervisory scheme with respect to corporate governance, OFHEO issued a proposed corporate governance regulation, published in the **Federal Register** on September 12, 2001.[5] The proposed regulation builds upon and reinforces the annual risk-based examination and supervisory program in that it restates and amplifies upon the minimum safety and soundness standards affecting the corporate governance policies and practices of the Enterprises.

To a large extent, the minimum corporate governance standards set forth in the proposed regulation reflect the current practices of the Enterprises and the current supervisory standards of OFHEO. OFHEO conducts a comprehensive program of review of corporate governance at each Enterprise. Supervisory and examination policies provide for oversight of all facets of board and senior management attention to their responsibilities. OFHEO has had a significant portion of its examination function focused on corporate governance and conducts a vigorous review of all areas determined to be of importance. OFHEO has reported in annual examination reports to Congress that each Enterprise has met and exceeded its safety and soundness standards.

Response to Comments

OFHEO received eleven comment letters on the proposed regulation. Comment letters were received from (1) Fannie Mae; (2) Freddie Mac; (3) the Board Members of Fannie Mae; (4) the Presidential appointees to the board of Fannie Mae; (5) a former Board Member of Fannie Mae; (6) a lawyer with Gibson, Dunn & Crutcher LLP, who is the Chairman of the American Bar Association's Committee on Corporate Governance, on behalf of Fannie Mae; (7) a Widener University professor, on behalf of Freddie Mac; (8) a Georgetown University Law Center professor, on behalf of Freddie Mac; (9) the National Association of Corporate Directors, an educational, publishing, and consulting organization on board leadership; (10) FM Watch, a coalition of eight trade associations; and (11) Consumer Mortgage Coalition, an association of national residential mortgage lenders and servicers.

General Comments

Many of the comments addressed general issues with the overall regulation as proposed. Several of the comments described the proposed regulation as confusing. Some comments insisted that the proposed regulation should be withdrawn, alleging lack of legal authority for OFHEO to issue a regulation relating to the corporate governance of the Enterprises, inconsistency with prevailing corporate governance principles, lack of necessity in light of supervisory examinations conducted by OFHEO, and likely detrimental effect on the ability of the Enterprises to attract and retain quality board members and senior management. Conversely, other commenters offered that the proposed regulation is a good starting point, but that OFHEO should strengthen the proposal in various recommended ways so as not to limit the supervisory authority of the agency. Other comments objected to certain provisions as having no counterpart in the regulatory schemes of the bank regulatory agencies, or not being appropriate to the Enterprises. Yet others recommended the adoption of additional and more stringent provisions that would be similar to the regulations or guidelines of bank regulatory agencies.

As explained above, OFHEO is responsible under the Act for ensuring the safety and soundness of the Enterprises. Congress charged OFHEO with express statutory authority to do so and to issue regulations to implement and support its statutory responsibilities. The proposed corporate governance regulation was published in furtherance of that authority and to support the risk-based examination process of the agency. The OFHEO regulation neither supplants nor displaces traditional standards of corporate governance as commonly defined by State laws regarding the relationships of corporate board members and management to shareholders and other stakeholders. Indeed, § 1710.10 of the final regulation explicitly clarifies the applicability of such standards to the Enterprises. In contrast, the regulation in largest part sets minimum standards pertaining to the safe and sound operations of the Enterprises under the Act and the respective chartering acts of the Enterprises.

Notably, the comments of both Enterprises and others reflect recognition of the examination program and supervisory process of OFHEO, including the appropriate supervisory role of the agency in relation to the corporate governance practices and procedures of the Enterprises. Indeed, both Enterprises highlighted that the results of recent examinations indicate that OFHEO has determined that they met or exceeded the examination standards in regard to such matters. That is, no commenter asserted that OFHEO lacks statutory authority to oversee and examine the corporate governance program of the Enterprises.

In order to carry out its statutory role and responsibilities, OFHEO is broadly empowered to determine the manner in which it oversees the safe and sound operation of the Enterprises and how it conducts examinations and the scope of such examinations. As set forth in the *Examination Handbook*, OFHEO reviews corporate governance matters as an area of risk appropriately subject to examination and oversight to ensure the safety and soundness of the Enterprises.

The proposed corporate governance regulation, however, differs from the regulatory scheme adopted by the bank regulatory agencies. As several comments noted, the Enterprises are not banks or thrift institutions, inasmuch as the Enterprises do not engage in deposit taking or origination of commercial or consumer loans. Most significantly, the Enterprises have no federal deposit insurance. The Enterprises, however, do enjoy a special status under their federally granted charters. OFHEO, therefore, has fashioned standards to reflect the nature of the Enterprises that generally employ as models the regulatory regimes of bank regulatory agencies without imposing the numerous transaction-related limits and constraints that affect insured banks and thrift institutions. The bank regulatory scheme also imposes stringent conflict-of-interest requirements with respect to insider relationships and transactions beyond the management and corporate governance standards applicable to other companies that are not subject to specific requirements under this regulation.

Assertions that the regulation will engender confusion and be detrimental to the ability of the Enterprises to attract and retain qualified board members and senior management, and those contrary assertions that the regulation should go further are addressed below. In responding to the specific comments, OFHEO is guided primarily by pragmatic objectives for which the comments themselves call, that is, to clarify the relationship of the board of directors with management; to support the examination function by providing both greater transparency and enforceability to supervisory standards; and to ensure clarity of the regulation without narrowing the supervisory prerogatives of OFHEO. These objectives guide the changes to the proposed regulation that OFHEO is adopting in the final regulation.

Specific Comments

Section 1710.1 Purpose

Proposed § 1710.1 reiterates that OFHEO is responsible under the Act for ensuring the safety and soundness of the Enterprises and that, in furtherance thereof, the regulation sets forth certain minimum standards with respect to the corporate governance practices and procedures of the Enterprises. As explained above, the corporate governance regulation establishes a regulatory framework for the performance of the safety and soundness and supervisory responsibilities of OFHEO under the Act. OFHEO received no comments specific to this proposed section and adopts it as proposed with no substantive change.

Section 1710.2 Definitions

As described below, OFHEO received comments with respect to the definitions of several of the defined terms and adopts them as proposed and deletes a few and adopts others as modified to conform to changes elsewhere in the regulation.

Agent, entity, and person. The definitions of these terms are deleted as they are not needed in connection with proposed § 1710.14, discussed below.

Board member. The term was proposed to mean a member of the board of directors; and, for purposes of subpart D of this part, the term "board member" included a current or former board member. The definition has been modified by deleting the reference to subpart D and to current or former board members to conform with changes to proposed §§ 1710.30 and 1710.31, discussed below.

Conflict of interest. The definition of this term is deleted as it is not needed in connection with proposed § 1710.14, discussed below.

Executive officer and senior executive officer. The term "executive officer," was proposed to mean any senior executive officer and any senior vice president of an Enterprise and any individual with similar responsibilities, without regard to title, who is in charge of a principal business unit, division, or function of an Enterprise, or who reports directly to the chairperson, vice chairperson, chief operating officer, or president of an Enterprise; and, for purposes of subpart D (the indemnification provisions), the term "executive officer" included a current or former executive officer. The term "senior executive officer," was proposed to mean the chairperson of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairperson, any executive vice president of an Enterprise, and any individual, without regard to title, who has similar responsibilities.

Two commenters noted that the definition of these terms differ from the combined definition of "executive officer" adopted by OFHEO in the executive compensation regulation.[6]

[2] *Examination Handbook* (Dec. 1998), available at *http://www.ofheo.gov*.

[3] *Risk-based Examinations—Evaluation Criteria*, EG–98–01 (Dec. 31, 1998), available at *http://www.ofheo.gov*.

[4] *Minimum Safety and Soundness Requirements*, PG–00–001 (Dec. 19, 2000), available at *http://www.ofheo.gov*.

[5] 66 FR 47557 (Sept. 12, 2001).

[6] 12 CFR part 1770, 66 FR 47550 (Sept. 12, 2001).

The comments recommended that the proposed definition be conformed to the definition set forth in the executive compensation regulation, including the provision that OFHEO will identify the officers who are covered by the definition.

OFHEO has determined not to make the recommended changes. The proposed definitions are essentially similar to the definitions in the executive compensation regulation and do not warrant modification. In addition, the provision that OFHEO will identify the officers covered by the specific requirements of 12 CFR part 1770 is not relevant to the corporate governance regulation and will thus not be incorporated into the final regulation. Also see the discussion below under proposed § 1710.12. The definition has been modified by deleting the reference to subpart D and to current or former board members to conform with changes to proposed §§ 1710.30 and 1710.31, discussed below.

Independent board member. The definition of this term is deleted as unnecessary. See the discussion below under proposed § 1710.11.

Legal expenses and payment. In conformance with changes to proposed §§ 1710.30 and 1710.31, discussed below, the separate definitions of these terms are unnecessary and are deleted.

Section 1710.10 Applicable Law

The proposed section required each Enterprise to elect to follow the corporate governance practices and procedures of one of the following bodies of law, to the extent such provisions are not inconsistent with applicable Federal law, rules, and regulations: the law of the jurisdiction in which the principal office of the Enterprise is located; Delaware General Corporation Law, Del. Code Ann. tit. 8, as amended; or Revised Model Business Corporation Act (RMBCA), as amended. The proposed section also would have required each Enterprise to designate in its bylaws the body of law elected within 90 calendar days from the effective date of the regulation.

Section 1710.10 was proposed to dispel any legal uncertainty as to whether and to what extent standards and procedures of State law apply to corporate governance of the Enterprises. The intent of the proposed approach is to provide the Enterprises with flexibility in structuring their corporate governance practices and procedures while at the same time providing certainty to shareholders and other stakeholders as to the body of corporate law applicable to each Enterprise. The body of law elected by the Enterprises, and legal precedents thereunder, to the extent not inconsistent with applicable Federal standards, set forth the standards of conduct of board members with respect to shareholders.

Two commenters objected to permitting the Enterprises to elect a body of State law or the RMBCA as an inappropriate delegation of the fundamental responsibility of the Federal government for establishing the legal underpinnings of the Enterprises. The comments alleged that the laws applicable to traditional private companies are not fully appropriate for guiding the governance of federally chartered institutions, such as the Enterprises, which were created by Congress to meet specific public purposes. The comments recommended that OFHEO clearly state that the chartering acts and other applicable Federal law are the sole source of the powers of the Enterprises.

OFHEO agrees that the Enterprises are not simply private companies chartered under State law. They were established by Congress and operate under the authority of their respective Federal chartering acts, as government-sponsored, privately-owned corporations, to be directed by their respective board of directors, in compliance with law and regulation and to fulfill particular public purposes.[7] The chartering acts contain various specific corporate governance provisions that are clearly within the realm of the congressionally mandated oversight by OFHEO of the safe and sound operations of the Enterprises. In addition, OFHEO has broad supervisory authority over the corporate behavior of the Enterprises from a safety and soundness perspective. The regulation does not delegate authority to the States, does not in any manner abrogate Federal authority, and does not expand the lawful powers and activities of the Enterprises under their respective chartering acts.

Moreover, the section requiring the election of a specific body of law establishes, in effect, a "safe harbor" for an Enterprise that undertakes a corporate governance program conforming to corporate practices and procedures of State law or the RMBCA. An Enterprise and its officers and board members may reasonably assume that corporate practices, procedures, and behaviors that conform to those standards shall be deemed to be safe and sound unless inconsistent with the chartering act or other applicable Federal law, rule, or regulation, or other guidance or directive from OFHEO.[8] In order to underscore that neither State corporate law nor the RMBCA is incorporated wholesale by the election of such a body of law by an Enterprise, OFHEO has revised proposed § 1710.10.

Fannie Mae specifically recommended that the election of law provision be expanded to allow the choice of either the District of Columbia or Virginia, the two jurisdictions in which the Enterprise has significant operations. OFHEO believes the location of the corporate headquarters provides a reasonable nexus for choice of law. The additional options of either Delaware State law or the RMBCA allow for a choice of laws that are well developed by the courts. No further expansion of choice of law is appropriate at this time.

Finally, one commenter requested that the time period to implement the designation in the bylaws of the body of law elected be lengthened to provide sufficient time for the drafting, review and adoption of the requisite amendment to the bylaws. OFHEO has determined not to increase the time period for implementation in light of the 60-day delayed effective date, which, when added to the 90-day implementation period, provides the Enterprises sufficient time.

Section 1710.11 Committees of Board of Directors

Paragraph (a) of the proposed section required that an Enterprise provide in its bylaws for the establishment of committees of the board of directors. It also provided that no committee of the board of directors shall have the authority of the board of directors to amend the bylaws and no committee shall operate to relieve the board of directors or any board member of a responsibility imposed by applicable law, rule, or regulation.

Paragraph (b) of the proposed section required that each Enterprise provide in its bylaws, within 90 calendar days after the effective date of this regulation, for the establishment of two committees, however styled: an audit committee that

[7] OFHEO recognizes that the chartering acts provide a mixture of private control and management along with Federal oversight, as has been done, to a greater or lesser degree, with other companies.

[8] For example, although the RMBCA and Virginia and Delaware corporate law would permit a quorum to be one-third of the board of directors under certain circumstances, such a practice would be inconsistent with the requirement under this regulation that a quorum constitutes at least a majority of the board. Bank regulatory agencies, likewise, provide for a higher quorum requirement. See, for example, the requirements of the Comptroller of the Currency at 12 CFR 7.2009, and those of the Office of Thrift Supervision at 12 CFR 552.6–1. It should be noted that the "safe harbor" here is limited; judgment must be exercised in combination with regulatory consultation.

is in compliance with the charter, independence, composition, expertise, and all other requirements of the audit committee rules of the NYSE; and a compensation committee, to include at least three independent board members, the duties of which include, at a minimum, ascertaining that compensation plans for executive officers and employees comply with applicable laws, rules, and regulations and approving the compensation of senior executive officers.

The Enterprises asserted that paragraph (a) is unnecessary in that State law and the RMBCA already provide that board of directors may establish committees and that the board of directors may rely on reports from such board committees in directing the corporation. OFHEO agrees and has modified the final section accordingly. Although board members may rely on reports of various committees, it must be emphasized, however, that the ultimate responsibility for the direction of the Enterprises rests with the entire board of directors.

The Enterprises also objected to the requirement for the establishment of audit and compensation committees as unnecessary because (1) neither the Code of Virginia, District of Columbia Code, the General Delaware Corporation Law, nor the RMBCA require audit or compensation committees; and (2) the Enterprises have established such committees and are required to establish an audit committee by the NYSE listing agreement. Another commenter recommended that OFHEO not adopt the definition of "independent board member" as defined by the NYSE, but rather establish rules specifically adapted to the special circumstances of the Enterprises to ensure that the board members are truly independent.

Audit and compensation committees play important roles in the safe and sound operations of the Enterprises and OFHEO has determined, therefore, to retain the requirement for both committees. With respect to the audit committee, OFHEO has determined to retain the reference to the rules of the NYSE, but with the addition of the proviso "or as otherwise provided by OFHEO," clarifying that OFHEO may issue subsequent guidance with respect to the audit committee's composition in the event that an Enterprise is no longer listed with the NYSE or that the NYSE audit committee rules are no longer found to be adequate.

OFHEO has determined to delete the definition of "independent board member" that was proposed in § 1710.2. What constitutes independence of board members is adequately defined under the NYSE rules, unless OFHEO determines additional guidance is needed.

Section 1710.12 Compensation of Board Members, Executive Officers, and Employees

Proposed § 1710.12 provided that the compensation of board members, executive officers, and employees is not to be in excess of that which is reasonable and commensurate with their duties and responsibilities and comply with applicable laws, rules, and regulations. The Enterprises asserted that the proposed section exceeds the statutory authority of OFHEO under Section 1318 of the Act,[9] which purportedly limits OFHEO to prohibiting an Enterprise from providing compensation to an executive officer that is not reasonable and comparable with compensation for employment in other similar businesses involving similar duties and responsibilities.

Section 1318 specifically charges OFHEO to prohibit excessive compensation with respect to certain executive officers. A regulation to implement that provision of the Act was adopted on September 12, 2001.[10] Section 1318, however, does not address the separate and primary authority of OFHEO to ensure the safe and sound operations of the Enterprises, under which authority § 1710.12 is issued. That authority is founded in Sections 1302(6) and 1313 of the Act.[11]

Congress has made clear that safety and soundness encompasses regulatory action regarding excessive compensation.[12] The bank regulatory agencies explicitly prohibit compensation that is unreasonable or disproportionate to the services performed by an executive officer, employee, or board member, or that could lead to a material financial loss to an institution. See the *Interagency Guidelines Establishing Standards for Safety and Soundness*, for the Office of the Comptroller of the Currency, 12 CFR part 30; for the Board of Governors of the Federal Reserve System, 12 CFR part 263; for the Federal Deposit Insurance Corporation, 12 CFR part 308, subpart R; and for the Office of Thrift Supervision, 12 CFR part 570.

Section 1710.12 provides for OFHEO to review the adequacy of compensation polices and procedures used by each Enterprise under the obligatory oversight of the board of directors.[13] Section 1710.12 reflects OFHEO examination guidelines used to ensure that policies and practices established by the Enterprises avoid compensation that creates perverse incentives for board members, executive officers, and employees.

The Enterprises also suggested that proposed § 1710.12 is essentially an attempt by OFHEO to set salaries at the Enterprises. OFHEO disagrees. Routine practice under similar Federal standards has not demonstrated any "setting" of compensation by Federal regulators.

Two other commenters recommended that OFHEO impose an explicit requirement that the compensation structure of an Enterprise consider the extent to which the individual officer or employee contributes to the fulfillment of the public purpose of the Enterprise. OFHEO has determined that there is no need to reiterate such an expectation in the regulation.

Section 1710.13 Quorum of Board of Directors; Proxies Not Permissible

Proposed § 1710.13 required that each Enterprise provide in its bylaws that, for the transaction of business, a quorum of the board of directors is a majority of the entire board of directors and that a board member may not vote by proxy.

Freddie Mac suggested that the proposed section would unnecessarily and inappropriately supplant otherwise applicable State law and override a Virginia State law provision, which Freddie Mac follows, that permits a company's articles of incorporation or bylaws to adjust the quorum requirement either upward or downward. Freddie Mac asserted that although its bylaws are in compliance with the proposed section, there is no reason for OFHEO to restrict its flexibility.

The Code of Virginia (VA Section 13.1–689), the Delaware General Corporation Law (Section 141), the RMBCA (Section 8.24) include quorum requirements that permit a quorum of no less than one-third of the total number of the members of the board; the District of Columbia Code is silent. None of those bodies of law address proxy requirements. The proposed

[9] 12 U.S.C. 4518.

[10] 12 CFR part 1770, 66 FR 47550 (Sept. 12, 2001).

[11] 12 U.S.C. 4501(6) and 4513, respectively.

[12] Section 39 of the Federal Deposit Insurance Act, 12 U.S.C. 1831p–1(c).

[13] The boards of directors of both Enterprises, as charged by their respective chartering acts, are required to cause the Enterprise to pay such compensation to "officers, attorneys, employees, and agents" as the board of directors "determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities." * * *" *See* 12 U.S.C. 1723a(d)(2) (Fannie Mae) and 12 U.S.C. 1452(c)(9) (Freddie Mac).

quorum and proxy requirements are appropriate minimum standards for Federal safety and soundness purposes necessary to ensure the participation of board members in the deliberative processes of the Enterprises. OFHEO has determined, therefore, to retain the requirements. The proposed language is revised, however, to clarify that the Enterprise may increase the quorum requirement upward when deemed by the Enterprise to be appropriate.

Section 1710.14 Conflict-of-Interest Standards

Section 1710.14, as proposed, required that each Enterprise establish and administer written conflict-of-interest standards that would provide reasonable assurance that board members, executive officers, employees, and agents of the Enterprise discharge their responsibilities in an objective and impartial manner. As proposed, the term "conflict of interest" would be defined in § 1710.2(g) as an interest in a transaction, relationship, or activity that might affect adversely, or appear to affect adversely, the ability to perform duties and responsibilities on behalf of the Enterprise in an objective and impartial manner.

In conducting the risk-based examination of the Enterprises with respect to corporate governance, OFHEO assesses whether the board of directors ensures that executive management appropriately defines the operating parameters and risk tolerances of the Enterprise consistent with, among other things, ethical standards. The evaluation criteria for this assessment factor include: (1) Is there an appropriate Code of Conduct? (2) Does the board receive periodic reports on compliance with the Code of Conduct? [14] OFHEO also assesses whether management effectively conveys an appropriate message of integrity and ethical values.[15] In addition, one of the criteria used to determine if the Enterprise has effective programs for recruiting competent staff, is whether employee retention and promotion criteria are aligned with codes of conducts and other behavioral guidelines of the Enterprise.[16]

One commenter suggested that the definition of the term "conflict of interest" be revised so that it does not refer to a person's ability to perform duties and responsibilities "in an objective and impartial" manner. The commenter suggested that any conflict of interest provision should do no more than require the Enterprises to establish and administer written standards that are designed to preclude situations in which board members, executive officers, and employees face a conflict of interest when discharging their responsibilities on behalf of the Enterprise. Another commenter recommended defining a conflict of interest as a situation in which an actual or apparent question of loyalty arises between a board member's personal interest (financial or otherwise) and his or her responsibilities to the Enterprise.

OFHEO has determined not to adopt these recommendations, but has revised § 1710.14 to clarify that the discharge of duties and responsibilities is on behalf of the Enterprise. In addition, the definition of conflict of interest has been deleted because the examination guidance provided in the *Evaluation Criteria* is adequate and the concept of conflict of interest is a fundamental concept widely understood under traditional precepts of corporate law. OFHEO will continue to review conflict-of-interest standards of the Enterprises and will take action as necessary to ensure that such standards are adequate.

Objections were raised to the use of the term "assurance" with respect to the phrase "standards that will provide reasonable assurance." It is not possible for the Enterprises, the commenters explain, to guarantee the state of mind of the affected individuals. Section 1710.14, as proposed, does not require that the conflict-of-interest standards "guarantee" that board members, executive officers, employees, and agents will always act in an objective and impartial manner. Rather, § 1710.14 is intended to require that the conflict-of-interest standards be so crafted and implemented so as to ensure that compliance with them will provide reasonable assurance that the affected individuals are to act in an objective and impartial manner on behalf of the Enterprise. To clarify this intent, the language of § 1710.14 has been revised to provide that the written conflict-of-interest standards be "reasonably designed to assure" the appropriate conduct.

Objections were also raised to the proposal that the conflict-of-interest standards be required of agents of the Enterprises. Inasmuch as the principal purpose of the regulation is to provide greater transparency as to the respective roles and responsibilities of the board of directors and management, the practices and policies of agents of the Enterprises are beyond the immediate focus of the regulation. Such matters appropriately remain as a matter of course within the proper scope of review by management of each Enterprise in effecting the routine management of its business operations. Therefore, that portion of proposed § 1710.14 related to the inclusion of agents within the conflict-of-interest standards has been deleted. If, at a later time, OFHEO finds it necessary to revisit such matters, it will do so in an appropriate manner. OFHEO expects each Enterprise to ascertain and address any potential or perceived conflict-of-interest an agent may present as a matter of routine business practice.

Two commenters also recommended that OFHEO expand § 1710.14, as proposed, (1) to specifically prohibit an Enterprises from retaliating against an individual or entity that advocates a public policy position adverse to that of the Enterprise, and (2) to require each Enterprise to disclose, at least annually, a list of all employees whose total annual compensation exceeds $100,000 and employees who have been employed, or whose spouse or immediate family member has been employed, by the Federal government, including the Congress, in the last five years. Both recommendations, however, are rejected as being beyond the scope of the proposed regulation.

Section 1710.20 Conduct of Board Members, and Section 1710.21 Responsibilities of Board of Directors

Proposed § 1710.20 would have explicitly required that each board member, in conducting the business of the Enterprise, is to act: (1) On a fully informed, impartial, objective, and independent basis; (2) in good faith and with due diligence, care, and loyalty; (3) in the best interests of the shareholders and the Enterprise; and (4) in compliance with the chartering act of the Enterprise and other applicable laws, rules, and regulations. Furthermore, the proposed section would have required that each board member of an Enterprise is to devote sufficient time and attention to his or her responsibilities in conducting the business of the Enterprise.

Proposed § 1720.21 provided that the board of directors is responsible for managing the conduct and affairs of the Enterprise to ensure that the Enterprise is operated in a safe and sound manner. It included responsibilities such as hiring qualified senior executive officers; ensuring the integrity of the accounting and financial reporting systems of the Enterprise, including independent audits; and remaining informed of the condition, activities, and operations of the Enterprise.

Several commenters objected to proposed §§ 1710.20 and 1710.21 inasmuch as they allegedly depart from prevailing State law by making so-called "aspirational standards" enforceable standards, with the potential threat of civil penalties for nonobservance. That is, the proposed regulation would effectively expose board members to a standard of liability arguably stricter than that of the traditional business judgment rule under State law. The commenters argued that the proposed section could cause a well-advised person not to choose a board position at one of the Enterprises when he or she has attractive opportunities to serve elsewhere in a lower risk environment. In addition, the commenters asserted that the proposed provision would cause confusion when compared to the duty of care standards provided under State law and the RMBCA. The commenters asserted that the potential liability of board members should be limited under the business judgment rule, so that, absent self-dealing or bad faith, a board member would not be held liable for what in hindsight might be determined by the agency to have been unreasonable conduct.

OFHEO agrees that it would be inappropriate for OFHEO to alter the liability standard of the business judgment rule with respect to a board member's potential exposure to shareholder actions against an Enterprise. Neither proposed § 1710.20 nor proposed § 1710.21 does so; neither section addresses nor impinges on the business judgment rule, shareholder rights, or board member accountability to shareholders. Rather, proposed section § 1710.20 would set forth minimum standards of board member conduct and proposed § 1710.21 would enumerate certain of the minimum responsibilities of the board of directors deemed to be integral to the safe and sound operation of the Enterprise for Federal supervisory purposes.[17] OFHEO enforces compliance with minimum standards in furtherance of the congressionally-mandated supervisory responsibilities of OFHEO. OFHEO has revised § 1710.21 and expressly states that the section is not intended to affect the potential exposure of board members to shareholder actions under applicable standards of State law.

The arguments that OFHEO, in proposed §§ 1710.20 and 1710.21, would undo State corporate governance law are not only incorrect, but are contrary to the purpose and intentions of § 1710.10, which would require each Enterprise to elect a body of State law or the RMBCA. The regulation would require that a body of law be selected. OFHEO also addresses its supervisory obligations under Federal law to oversee the safe and sound operations of the Enterprises. The obligations of OFHEO are separate and apart from traditional matters of State law. While the comments made on this topic were instructive on the history, progression, and direction of State corporate governance law, they bear little or no relevance here. OFHEO has been consistent in the proposed rule—election of a State law or the RMBCA is directed, in line with the need to protect shareholders and promote corporate purposes; adherence to Federal standards for safe and sound operations pursuant to a separate and distinct regulatory regime are set forth as well. This is not inconsistent, but rather is the nature of Federal and State relations across a broad range of federal regulatory regimes where private companies operating under State laws (whether or not federally charted) are subject to Federal standards based on the exercise by Congress of its constitutional authorities. In all of these regimes, companies and their boards operate with an eye toward both Federal and State law and regulation.

Several commenters objected to the use of the term "ensure" with respect to board of director responsibilities and the relationship of the responsibilities of management with that of the board of directors. OFHEO has revised the final section to clarify its intent that OFHEO is not requiring the board of directors to "guarantee" outcomes.

Another commenter recommended that proposed § 1710.20 include a specific reference to the obligation of the board of directors to ensure that the activities of the Enterprise are consistent with the authorities under its chartering act and a specific reference to the oversight of internal controls. OFHEO makes no changes in response to these recommendations; references, however, to the chartering acts and internal controls are retained in the revised section.

Two commenters recommended that the list of responsibilities in proposed § 1710.21 specifically require that presidential appointees to the board are to ensure that the Enterprise fulfills its public mission. They also recommended that the regulation require each Enterprise to establish a separate committee composed of presidential appointees with specific responsibility to publish periodic reports on the Enterprise's fulfillment of its public purposes. OFHEO rejects these recommendations inasmuch as each board member, whether elected by shareholders or appointed by the President, is responsible for overseeing the operation and direction of the Enterprise in accordance with its chartering act and the public purposes set forth therein. The chartering acts do not differentiate between elected and appointed board members with respect to their duties and responsibilities.

Two commenters recommended that OFHEO establish rules, modeled after the *Interagency Guidelines Establishing Standards for Safety and Soundness* (Interagency Guidelines) of the bank regulatory agencies, that require review by the board of directors and senior management of areas such as internal controls and information systems, internal audits, external audits, credit underwriting policies and procedures, asset quality and asset growth, and privacy and security safeguards. OFHEO has, however, already published examination and other guidance that addresses those areas and does not deem it necessary to include such explicit requirements in this regulation.

Upon review, OFHEO has determined to revise §§ 1710.20 and 1710.21 to ensure that those provisions best complement the supervisory and examination policies of OFHEO. The new § 1710.15, titled *Conduct and responsibilities of board of directors*, contains general principles while more specific guidance may be found in OFHEO's examination materials. The revised section clarifies that board members are not required to guarantee the successful outcomes of their decisions and deliberations. As discussed above, OFHEO routinely conducts risk-based examinations of the corporate governance operations of the Enterprises, which include regular

[14] EG–98–01, *supra* note 3, at 28.

[15] The evaluation criteria for this assessment factor include the following: (1) Ascertain if codes of conduct are comprehensive, addressing conflicts of interest, illegal or other improper payments and are periodically acknowledged; (2) Verify the establishment of the tone at the top including explicit moral guidance about what is right and wrong; (3) Determine if everyday dealings with employees, investors, customers, creditors, insurers, competitors, and auditors are based on honesty and fairness; determine if management responds to violations of behavioral standards; (4) Determine if management has stringent policies towards overriding established internal controls; (5) Ascertain that deviations from policies are investigated and documented; ascertain that there are no conditions, such as extreme incentives or temptations, that exist that can unnecessarily and unfairly test people's adherence to ethical values; (6) Determine if controls are in place to reduce temptations that might otherwise exist. *Id.* at 27.

[16] *Id.*, at 26.

[17] As noted above, OFHEO conducts risk-based examinations of each Enterprise with respect to, among other areas, corporate governance. The responsibilities listed in proposed § 1710.21 reflect the current corporate governance examination of the Enterprises and further provide the Enterprises with notice of those minimum responsibilities of the board of directors that OFHEO deems essential to the safe and sound operation of the Enterprises.

assessments of the effectiveness with which the board of directors discharges its duties and responsibilities in governing the Enterprise. In doing so, OFHEO may assess individual board member performance, as well as the conduct of the board as a whole.[18] The body of law and legal precedents thereunder elected by the Enterprises pursuant to § 1710.10, to the extent not inconsistent with applicable Federal rules, set forth standards of conduct of board members with respect to shareholders.

Certain revisions and technical modifications, as discussed above, are appropriate to the proposed regulation. These changes are merited because they continue to support the examination program and standards of OFHEO; they do not diminish the flexibility of OFHEO to review corporate behavior and to determine if safe and sound operations are threatened or a violation of law, rule, or regulation has occurred; and they clarify the intent of OFHEO not to alter the relationship of the board to senior management in day-to-day operations. The board of directors remains responsible for seeing that management adopts policies and procedures that adequately address areas of corporate practice and concern. On this last point, the revised regulation maintains the current strong framework for safe and sound operations and supports the continued ability of the Enterprises to retain and attract the strongest board of directors.

Section 1710.30 Permitted Indemnification Payments, and Section 1710.31 Prohibited Indemnification Payments

Proposed § 1710.30 generally permitted indemnification payments to a board member or executive officer of an Enterprise, in civil actions or administrative proceedings not initiated or undertaken by OFHEO, provided that such payment would not materially adversely affect the safe and sound operations of the Enterprise. Proposed § 1710.31 would have prohibited indemnification payments in connection with administrative proceedings initiated or undertaken by OFHEO that result in a final order or settlement pursuant to which the board member or executive officer is assessed a civil money penalty or is required to cease and desist from or take any affirmative action with respect to the Enterprise.[19]

Several commenters strongly objected to the proposed prohibitions against indemnification in certain enforcement actions initiated by the agency. These commenters asserted that the statutory prohibition in section 1376(g)[20] of the Act (subsection (g)), which expressly prohibits an Enterprise from reimbursing or indemnifying certain individuals for so-called "third tier" civil money penalties under section 1376(b)(3),[21] impliedly constrains the authority of OFHEO to impose such sanctions against corporate insiders in any other circumstances such as in "second tier" situations. The commenters also asserted that the expression of broad authority in proposed § 1710.31 of OFHEO to prohibit indemnification other than in connection with third-tier civil money penalties would make it difficult for the Enterprises to attract and retain qualified board members and executive officers.

OFHEO disagrees with the assertion that it has no authority beyond that contained in subsection (g) to address indemnification.[22] Neither that subsection nor other provisions of the Act explicitly nor implicitly purports to constrain the discretion of the agency to fashion remedies as appropriate in varying circumstances consistent with OFHEO's safety and soundness authorities under the Act.

The commenters also assert that subsection (g) is a penal statute because it defines when individuals must bear the full practical consequence of financial sanctions. According to one commenter, the Act must be construed strictly to prohibit OFHEO from denying indemnification for other than third tier civil money penalties. The explicit language of subsection (g), however, relates only to the inability of an Enterprise to indemnify corporate insiders in certain circumstances; it does not purport to in any way address the discretionary remedial authority of OFHEO.[23] Furthermore, the canon cited by the commenter that penal statutes are to be construed strictly is not to be applied so as to defeat the purpose of all other rules of statutory construction.[24]

One commenter would apply the canon of statutory construction known as, *expressio unius est exclusio alterius, i.e,* the expression of one thing excludes others not expressed, to read subsection (g) to preclude impliedly the denial of indemnification in other circumstances. That is, asserting to apply the canon here, the commenter would interpret the law to mean that because subsection (g) explicitly prohibits the *Enterprises* from indemnifying for third tier civil money penalties, it impliedly also prohibits *OFHEO* from denying indemnification in other proceedings. Such an interpretation goes beyond the logical application of the canon, is inconsistent with the limited use of the canon by the courts, and is inappropriate in the context at hand.[25] Indeed, the courts have recognized "an equally pertinent canon of interpretation" that:

> [A] congressional decision to prohibit certain activities does *not* imply an intent to disable the relevant administrative body from taking similar action with respect to activities that pose a similar danger. * * * Indeed, a congressional prohibition of particular conduct may actually *support* the view that the administrative entity can exercise its authority to eliminate a similar danger.[26]

Further, OFHEO remains cognizant of the canon of statutory construction known as the "whole statute" interpretation.[27] Because a statute is passed as a whole and not in parts or sections, this canon requires that each section should be construed in connection with every other part or section so as to produce a harmonious whole.[28] Statutes must be construed to further the statutory scheme; "a statutory subsection may not be considered in a vacuum."[29] Here, the Director is broadly empowered under various sections of the Act to fashion appropriate sanctions and remedies to address varying circumstances of misconduct, such as that resulting from recklessness or fraud, by corporate officials, including officers and directors of an Enterprise. This occurs without regard to other provisions of the Act that curtail the authority of an Enterprise to indemnify such persons in certain extraordinary circumstances.

The commenters also asserted that its restrictive interpretation of subsection (g) is supported by the argument that if Congress had wanted to prohibit indemnification for second tier civil money penalties, it knew how to do so in light of congressional amendment of section 18(k) of the Federal Deposit Insurance Act (FDI Act).[30] More particularly, that law explicitly authorizes the Federal Deposit Insurance Corporation to prohibit indemnification payments to institution-affiliated parties, including board members and executive officers of federally insured banks and thrifts, for penalties and related legal expenses in view of such factors as the agency spells out by regulation. But Congress did not address indemnification in the Act affecting the Enterprises in the same manner as it did for insured banks and thrift institutions under the FDI Act. Logic supports the position that the different statutory formulations of the Act and the FDI Act evidence that Congress knew how to prohibit expressly OFHEO from denying indemnification, but did not do so.

OFHEO rejects the assertion that it has no authority beyond subsection (g) to address indemnification. In order to minimize misunderstanding and to clarify the authority of the agency to fashion appropriate remedies on a case-by-case basis, proposed §§ 1710.30 and 1710.31 have been revised and renumbered as § 1710.20 to require each Enterprise to adopt written policies and procedures concerning indemnification and to recount the authority of OFHEO to fashion appropriate remedies, including indemnification pursuant to its inchoate enforcement authority under various sections of the Act as set forth at 12 CFR part 1780.

Under § 1710.20, the body of law elected by an Enterprise pursuant to § 1710.10 will provide the basis for indemnification by the Enterprise. The Enterprises are authorized to operate under the indemnification requirements set forth by the elected body of State law or the RMBCA. The revisions to the indemnification provision are designed to preclude any misunderstanding as to the applicability of State law or RMBCA provisions that may mandate or provide for indemnification in certain circumstances. Thus, the revised indemnification provisions should not detract from the efforts of the Enterprises to continue to attract and retain qualified board members and executive officers.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The final regulation is not classified as an economically significant rule under Executive Order 12866 because it would not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required. The final regulation was reviewed by the Office of Management and Budget under other provisions of Executive Order 12866.

Executive Order 13132, Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of Government. The Enterprises are federally chartered corporations supervised by OFHEO. The final regulation sets forth minimum corporate governance standards with which the Enterprises must comply for Federal supervisory purposes. The final regulation requires that each Enterprise elect a body of State corporate law or the Revised Model Corporation Act to follow in terms of its corporate practices and procedures. The final regulation does not affect in any manner the powers and authorities of any State with respect to the Enterprises or alter the distribution of power and responsibilities between State and Federal levels of government. Therefore, OFHEO has determined that the final regulation has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a

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[18] For example, OFHEO examiners assess whether board members are able to devote sufficient, well-organized time to carry out their responsibilities, which is evaluated by, among other criteria, how many other boards the individual Enterprise board members sit on simultaneously. EG–98–01 at 29. Furthermore, formal and informal administrative enforcement actions against individual board members are supervisory tools available to OFHEO as authorized by Congress.

[19] The proposed indemnification sections were drawn from elements founded in the indemnification regulations of the bank regulatory agencies.

[20] 12 U.S.C. 4636(g).

[21] 12 U.S.C. 4636(b)(3).

[22] The authority of OFHEO to preclude indemnification of a wrongdoer in connection with an administrative enforcement proceeding by the agency flows from its statutory enforcement and supervisory authorities to ensure the safe and sound operations of the Enterprises and to issue regulations in furtherance of the responsibilities of the agency. OFHEO previously has issued rules of practice and procedure that recount the enforcement powers and their legal foundations that set forth the procedures for the exercise thereof. 12 CFR part 1780.

Under the statutory and regulatory enforcement scheme, OFHEO is afforded broad enforcement powers by Congress to fashion remedies deemed appropriate to the circumstances against board members and executive officers, as well as an Enterprise, including permanent and temporary cease-and-desist orders, sections 1371 and 1372 of the Act (12 U.S.C. 4631 and 4632, respectively) and civil money penalties, section 1376 of the Act (12 U.S.C. 4636). With respect to civil money penalties, which are the narrow focus of the comments from Fannie Mae, the Director may impose such penalties against an Enterprise, board member, or executive officer who (1) violates a provision of the Act, the chartering acts, or any order, rule, or regulation under the Act (with certain exceptions); (2) violates a final or temporary cease-and-desist order; (3) violates a written agreement between the Enterprise and OFHEO or (4) engages in conduct that causes or is likely to cause a loss to the Enterprise. (Section 1376(a) of the Act; 12 U.S.C. 4636(a)) The amounts of the civil money penalties are denominated "tiers." The first tier civil money penalty amount is applicable under the terms of the Act to the Enterprises only.

With respect to executive officers and board members, second tier civil money penalties may be imposed in an amount not to exceed $10,000 for each day that a violation or conduct continues, if the Director finds that the violation or conduct is a part of a pattern of misconduct; or involved recklessness and caused or would be likely to cause a material loss to the Enterprise. Third tier civil money penalties may be imposed on such persons in an amount not to exceed $100,000 for each day that a violation or conduct described above continues, if the Director finds that the violation or conduct was knowing and caused or would be likely to cause a substantial loss to the Enterprise. (Section 1376(b) of the Act; 12 U.S.C. 4636(b)). In subsection (g), Congress fashioned an absolute bar that "[a]n enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3) [third tier civil money penalty]."

[23] *See Mourning v. Family Publications Service, Inc.*, 411 U.S. 356, 375 (1973) (Every section of an act establishing a broad regulatory scheme need not be construed as a penal provision merely because a few sections of the act provide for civil and criminal penalties.)

[24] *See* Norman J. Singer, Statutes and Statutory Construction § 59:8 (6th ed. 2001).

[25] *See, e.g., Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983); *U.S. Dept. of Labor v. Bethlehem Mines, et al.*, 669 F.2d 187, 197 (4th Cir. 1982); *Mobile Communications Corp. of America v. FCC*, 77 F.3d 1399, 1404 (D.D.C. 1996); *Texas Rural Legal Aid, Inc. v. Legal Services Corporation*, 940 F.2d 685, 694 (D.D.C. 1991); *Cheney Railroad Co., Inc. v. ICC*, 902 F.2d 66, 69 (D.D.C. 1990); *National Petroleum Refiners Ass'n v. FTC*, 482 F.2d 672, 676 (D.D.C. 1973). Its application also is inappropriate when, as here, a nonexclusive reading better serves the purposes for which the statute was enacted or allows the exercise of incidental authority necessary to an expressed power or right. *Bailey v. Federal Intermediate Credit Bank of St. Louis*, 788 F.2d 498, 500 (8th Cir. 1986) *cert. denied*, 479 U.S. 915 (1986).

[26] *Texas Rural Legal Aid, Inc.*, at 694 (emphasis in original, citations omitted). Thus, the congressional decision to prohibit the Enterprises from indemnifying board members and executive officers in connection with third tier civil money penalties does not imply congressional intent to disable OFHEO from prohibiting indemnification in connection with other agency actions.

[27] *See* Singer, *supra* note 24, at § 46:05.

[28] *Id.*

[29] *Id.* and *FDA* v. *Brown & Williamson Tobacco Corp., et al.*, 529 U.S. 120, 132–133 (2000) ("It is a 'fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.' A court must therefore interpret the statute 'as a symmetrical and coherent regulatory scheme.'" [citations omitted]). The authority of OFHEO in connection with administrative enforcement proceedings is derived from its statutory enforcement and supervisory responsibilities. It would be wholly inconsistent with the congressional scheme to read subsection (g) so as to constrain the essential flexibility of OFHEO to fashion differing remedies to address particular circumstances.

[30] 30 12 U.S.C. 1828(k).

regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the final regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the final regulation, if adopted, is not likely to have a significant economic impact on a substantial number of small business entities because it is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1710

Administrative practice and procedure, Government Sponsored Enterprises.

Accordingly, for the reasons stated in the preamble, OFHEO adds part 1710 to subchapter C of 12 CFR chapter XXVII to read as follows:

PART 1710—CORPORATE GOVERNANCE

Subpart A—General

Sec.
1710.1 Purpose.
1710.2 Definitions.
1710.3—1710.9 [Reserved]

Subpart B—Corporate Practices and Procedures

1710.10 Law applicable to corporate governance.
1710.11 Committees of board of directors.
1710.12 Compensation of board members, executive officers, and employees.
1710.13 Quorum of board of directors; proxies not permissible.
1710.14 Conflict-of-interest standards.
1710.15 Conduct and responsibilities of board of directors.
1710.16–1710.19 [Reserved]

Subpart C—Indemnification

1710.20 Indemnification.

Authority: 12 U.S.C. 4513(a) and 4513(b)(1).

Subpart A—General

§ 1710.1 Purpose.

OFHEO is responsible under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 *et seq.*, for ensuring the safety and soundness of the Enterprises. In furtherance of that responsibility, this part sets forth minimum standards with respect to the corporate governance practices and procedures of the Enterprises.

§ 1710.2 Definitions.

For purposes of this part, the term:

(a) *Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, section 1301, Oct. 28, 1992, 106 Stat. 3672, 3941 through 4012 (1993) (12 U.S.C. 4501 *et seq.*).

(b) *Board member* means a member of the board of directors.

(c) *Board of directors* means the board of directors of an Enterprise.

(d) *Chartering acts* mean the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act, which are codified at 12 U.S.C. 1716 through 1723i and 12 U.S.C. 1451 through 1459, respectively.

(e) *Compensation* means any payment of money or the provision of any other thing of current or potential value in connection with employment. The term "compensation" includes all direct and indirect payments of benefits, both cash and non-cash, including, but not limited to, payments and benefits derived from compensation or benefit agreements, fee arrangements, perquisites, stock option plans, post employment benefits, or other compensatory arrangements.

(f) *Director* means the Director of OFHEO or his or her designee.

(g) *Employee* means a salaried individual, other than an executive officer, who works part-time, full-time, or temporarily for an Enterprise.

(h) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term "Enterprises" means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(i) *Executive officer* means any senior executive officer and any senior vice president of an Enterprise and any individual with similar responsibilities, without regard to title, who is in charge of a principal business unit, division, or function of an Enterprise, or who reports directly to the chairperson, vice chairperson, chief operating officer, or president of an Enterprise.

(j) *NYSE* means the New York Stock Exchange.

(k) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

(l) *Senior executive officer* means the chairperson of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairperson, any executive vice president of an Enterprise, and any individual, without regard to title, who has similar responsibilities.

§§ 1710.3—1710.9 [Reserved]

Subpart B—Corporate Practices and Procedures

§ 1710.10 Law applicable to corporate governance.

(a) *General.* The corporate governance practices and procedures of each Enterprise shall comply with applicable chartering acts and other Federal law, rules, and regulations, and shall be consistent with the safe and sound operations of the Enterprise.

(b) *Election and designation of body of law.* (1) To the extent not inconsistent with paragraph (a) of this section, each Enterprise shall follow the corporate governance practices and procedures of the law of the jurisdiction in which the principal office of the Enterprise is located, as amended; Delaware General Corporation Law, Del. Code Ann. tit. 8, as amended; or the Revised Model Business Corporation Act, as amended.

(2) Each Enterprise shall designate in its bylaws the body of law elected for its corporate governance practices and procedures pursuant to this paragraph within 90 calendar days from August 5, 2002.

§ 1710.11 Committees of board of directors.

(a) *General.* The board of directors may rely, in directing the Enterprise, on reports from committees of the board of directors, provided, however, that no committee of the board of directors shall have the authority of the board of directors to amend the bylaws and no committee shall operate to relieve the board of directors or any board member of a responsibility imposed by applicable law, rule, or regulation.

(b) *Audit and compensation committees.* Each Enterprise shall provide in its bylaws, within 90 calendar days from August 5, 2002, for the establishment of, however styled:

(1) An audit committee that is in compliance with the charter, independence, composition, expertise, and other requirements of the audit committee rules of the NYSE, as from time to time amended, unless otherwise provided by OFHEO; and

(2) A compensation committee, the membership of which is to include at least three independent board members and the duties of which include, at a minimum, oversight of compensation policies and plans for executive officers and employees and approving the compensation of senior executive officers.

§ 1710.12 Compensation of board members, executive officers, and employees.

Compensation of board members, executive officers, and employees shall not be in excess of that which is reasonable and commensurate with their duties and responsibilities and comply with applicable laws, rules, and regulations.

§ 1710.13 Quorum of board of directors; proxies not permissible.

Each Enterprise shall provide in its bylaws, within 90 calendar days from August 5, 2002, that, for the transaction of business, a quorum of the board of directors is at least a majority of the entire board of directors and that a board member may not vote by proxy.

§ 1710.14 Conflict-of-interest standards.

Each Enterprise shall establish and administer written conflict-of-interest standards that are reasonably designed to assure the ability of board members, executive officers, and employees of the Enterprise to discharge their duties and responsibilities, on behalf of the Enterprise, in an objective and impartial manner.

§ 1710.15 Conduct and responsibilities of board of directors.

(a) *Purpose.* The purpose of this section, and of this subpart, is to set forth minimum standards of the conduct and responsibilities of the board of directors in furtherance of the safe and sound operations of each Enterprise. The provisions of this section neither provide shareholders of an Enterprise with additional rights nor impose liability on any board member under State law.

(b) *Conduct and responsibilities.* The board of directors is responsible for directing the conduct and affairs of the Enterprise in furtherance of the safe and sound operation of the Enterprise and must remain reasonably informed of the condition, activities, and operations of the Enterprise. The responsibilities of the board of directors include having in place adequate policies and procedures to assure its oversight of, among other matters, the following:

(1) Corporate strategy, major plans of action, risk policy, and corporate performance;

(2) Hiring and retention of qualified senior executive officers and succession planning for such senior executive officers;

(3) Compensation programs of the Enterprise;

(4) Integrity of accounting and financial reporting systems of the Enterprise, including independent audits and systems of internal control;

(5) Process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors; and

(6) Responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

(c) *Guidance.* The board of directors should refer to the body of law elected under § 1710.10 and to publications and other pronouncements of OFHEO for additional guidance on conduct and responsibilities of the board of directors.

§§ 1710.16–1710.19 [Reserved]

Subpart C—Indemnification

§ 1710.20 Indemnification.

(a) *Safety and soundness authority.* OFHEO has the authority, under the Act, to prohibit or restrict reimbursement or indemnification of any current or former board member or any current or former executive officer by an Enterprise or by any affiliate of an Enterprise in furtherance of the safe and sound operations of the Enterprise.

(b) *Policies and procedures.* Each Enterprise shall have in place policies and procedures consistent with this part for indemnification, including the approval or denial by the board of directors of indemnification of current and former board members and current or former executive officers. Such policies and procedures should address, among other matters, standards relating to indemnification, investigation by the board of directors, and review by independent counsel.

Dated: May 30, 2002.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–13917 Filed 6–3–02; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–10–AD; Amendment 39–12764; AD 2002–11–03]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–502, AT–502A, AT–502B, and AT–503A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Air Tractor, Inc. (Air Tractor) Models AT–502, AT–502A, AT–502B, and AT–503A airplanes. This AD lowers the safe life for the wing lower spar cap established in AD 2001–10–04 R1 and further reduces the safe life for airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets. This AD also requires you to eddy-current inspect the wing lower spar cap immediately prior to the replacement/modification to detect and correct any crack in a bolthole before it extends to the modified center section of the wing and report the results of this inspection to the Federal Aviation Administration (FAA). This AD is the result of reports of several cracks originating in the outboard 3/8-inch hole of the main spar lower cap on Air Tractor Models AT–502, AT–502A, AT–502B, and AT–503A airplanes at times lower than the established safe life. The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

DATES: This AD becomes effective on June 14, 2002.

The Director of the Federal Register previously approved the incorporation by reference of certain publications listed in the regulation as of June 8, 2001 (66 FR 27014, May 16, 2001).

The FAA must receive any comments on this rule on or before July 5, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–10–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday

through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov*. Comments sent electronically must contain "Docket No. 2002-CE-10-AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get the service information referenced in this AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893-1420 or (701) 774-0230; facsimile: (701) 572-2602. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-CE-10-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Direct all questions to:

For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone: (817) 222-5102; facsimile: (817) 222-5960; and

For airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627-5228; facsimile: (562) 627-5210.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

On December 17, 2001, FAA issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Air Tractor, Inc. (Air Tractor) AT-400, AT-500, and AT-800 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 27, 2001 (66 FR 66823). The NPRM proposed to supersede AD 2001-10-04 R1 with a new AD that would retain the safe life for the wing lower spar cap and require you to eddy-current inspect the wing lower spar cap immediately prior to the replacement/modification to detect and correct any crack in a bolthole before it extends to the modified center section of the wing. The NPRM also proposed to further reduce the safe life for those AT-400 and AT-500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

Since issuance of that NPRM, we received reports of several cracks originating in the outboard 3/8-inch hole of the main spar lower cap on Air Tractor Models AT-502, AT-502A, AT-502B, and AT-503A airplanes at hours time-in-service (TIS) lower than the established safe life.

What Are the Consequences if the Condition Is Not Corrected?

This condition could result in fatigue cracks in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has reviewed all available information and determined that:

—The unsafe condition referenced in this document exists or could develop on other Air Tractor Models AT-502, AT-502A, AT-502B, and AT-503A airplanes of the same type design;

—The safe life on these airplanes should be further reduced;

—These airplanes should be removed from the previous NPRM; and

—Final rule; request for comments (immediately adopted rule) AD action should be taken to address this condition.

What Does This AD Require?

This AD:

—Lowers the safe life for the wing lower spar cap established in AD 2001-10-04 R1;

—Further reduces the safe life for the Models AT-502, AT-502A, AT-502B, and AT-503A airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets;

—Requires you to eddy-current inspect the wing lower spar cap immediately prior to the replacement/modification to detect and correct any crack in a bolthole before it extends to the modified center section of the wing; and

—Requires you to report the results of this inspection to the FAA.

You must accomplish these actions in accordance with Snow Engineering Service Letter #197 or #205, both Revised March 26, 2001, as applicable.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in the wing separating from the airplane during flight, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention to?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2002-CE-10-AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2002-11-03 Air Tractor, Inc.: Amendment 39-12764; Docket No. 2002-CE-10-AD.

(a) *What airplanes are affected by this AD?* This AD applies to certain Models AT-502, AT-502A, AT-502B, and AT-503A airplanes. Use paragraph (a)(1) of this AD for airplanes that do not incorporate and never have incorporated winglets. Use paragraph (a)(3) of this AD for certain AT-500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

(1) The following presents airplanes (certificated in any category) that are affected by this AD, along with the new safe life (presented in hours time-in-service (TIS)) of the wing lower spar cap for all affected airplane models and serial numbers:

Model	Serial Nos.	Safe life
AT-502	0003 through 0236	2,050 hours TIS.
AT-502A	0158 through 0618	1,650 hours TIS.
AT-502B	0187 through 0618	2,050 hours TIS.
AT-503A	All serial numbers beginning with 0067	2,050 hours TIS

(2) If piston powered aircraft have been converted to turbine power, you must use the limits for the corresponding serial number turbine-powered aircraft.

(3) The following presents airplanes (certificated in any category) that could incorporate or could have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA. Use the winglet usage factor in the table below, the safe life specified in paragraph (a)(1) of this AD, and the instructions included in the Appendix to this AD to determine the new safe life of these airplanes:

Model	Serial Nos.	Winglet usage factor
AT-502	0003 through 0236	1.6
AT-502A	0158 through 0238	1.6
AT-502A	0239 through 0618	1.2
AT-502B	0187 through 0618	1.2

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance	Procedures
(1) Modify the applicable "COM001"aircraft records (logbook) as follows to show the reduced safe life for the wing lower spar cap (use the information from the table in paragraph (a)(1) of this AD and utilize the information in paragraph (a)(3) of this AD and the Appendix to this AD, as applicable): (i) Incorporate the following into the Aircraft Logbook "In accordance with AD 2002–11–03, the wing lower spar cap is life limited to ____." Insert the applicable safe life number from the applicable tables in paragraphs (a)(1) and (a)(3) of this AD and the Appendix to this AD) (ii) If, as of the time of the logbook entry requirement of paragraph (d)(1)(i) of this AD, your airplane modification is over or within 50 hours of the safe life, an additional 50 hours TIS is allowed to accomplish the replacement/modification	Accomplish the logbook entry within the next 10 hours TIS after June 14, 2002 (the effective date of this AD).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the aircraft records as specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). Accomplish the actual replacement/modification in accordance with Snow Engineering Service Letter #197 or #205, both Revised March 26, 2001, as applicable. The owner/operator may not accomplish the replacement/modification, unless he/she holds the proper mechanic authorization.

Actions	Compliance	Procedures
(2) If you have ordered parts from the factory when it is time to replace the wing lower spar cap (as required when you reach the established safe life), but the parts are not available, you may eddy-current inspect the wing lower spar cap. These inspections are allowed until one of the following occurs, at which time the replacement/modification must be accomplished: (i) Crack(s) is/are found; (ii) Parts become available from the manufacturer; or (iii) Not more than three inspections or 1,200 hours TIS go by: the first inspection would have to be accomplished upon accumulating the safe life; the second inspection would have to be accomplished within 400 hours TIS after accumulating the safe life; the third inspection would have to be accomplished 400 hours TIS after the second inspection; and the replacement/modification would have to be accomplished within 400 hours TIS after the third inspection (maximum elapsed time would be 1,200 hours TIS)	Inspect prior to further flight after ordering the parts and thereafter at intervals not to exceed 400 hours TIS until one of the criteria in paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD is met.	In accordance with the procedures in Snow Engineering Service Letter #197 or #205, both Revised March 26, 2001, as applicable.
(3) Eddy-current inspect the wing lower spar cap in order to detect any crack before it extends to the modified center section of the wing and repair that crack or replace the wing section. The inspection must be accomplished by one of the following: (i) a Level 2 or Level 3 inspector that is certified for eddy-current inspection using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410; or (ii) A person authorized to perform AD work who has completed and passed the Air Tractor, Inc. training course on Eddy Current Inspection on wing lower spar caps	Immediately prior to the replacement/modification required when you reach the new safe life. For airplanes that had this replacement/modification accomplished in accordance with either AD 2001–10–04 or AD 2001–10–04 R1, accomplish this inspection and any necessary corrective action within the next 400 hours TIS after June 14, 2002 (the effective date of this AD), unless already accomplished (have the mechanic who accomplished the work mark the logbooks accordingly).	In accordance with the procedures in Snow Engineering Service Letter #197 or #205, both Revised March 26, 2001, as applicable.

Actions	Compliance	Procedures
(4) Report to FAA the results of each inspection required by paragraph (d)(3) of this AD. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and assigned OMB Control Number 2120–0056	Within 10 days after the inspection required in paragraph (d)(3) of this AD or within 10 days after June 14, 2002 (the effective date of this AD, whichever occurs later.	Submit the form (Figure 1 of this AD) to FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.

BILLING CODE 4910–13–P

AD 2002-11-03 INSPECTION REPORT

1. Inspection Performed By:	2. Phone:
3. Aircraft Model:	4. Aircraft Serial Number:
5. Engine Model Number:	6. Aircraft Total TIS:
7. Wing Total TIS:	8. Lower Spar Cap TIS:
9. Has the lower spar cap been inspected before? (Eddy-current, Dye penetrant, magnetic particle, ultrasound) ☐ Yes ☐ No	9a. If yes, Date: _____ Inspection Method: _____ Lower Spar Cap TIS: _____ Cracks found? ☐ Yes ☐ No
10. Has there been any major repair or alteration performed to the spar cap? ☐ Yes ☐ No	10a. If yes, specify (Description and TIS)
11. Date of AD inspection: _____	
12. Inspection Results: NOTE: Indicate even if no cracks are found.	12a. ☐ Left Hand ☐ Right Hand
12b. Crack Length: _____	12c. Does drilling hole to next larger size remove all traces of the crack(s)? ☐ Yes ☐ No
12d. Corrective Action Taken:	

Figure 1 of paragraph (d)(4) of this AD

BILLING CODE 4910–13–C

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth or Los Angeles Airplane Certification Office (ACO), as applicable, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector. The inspector may add comments before sending it to the Manager, Fort Worth or Los Angeles ACO.

(2) Alternative methods of compliance approved for AD 2001–10–04 and/or AD 2000–14–51 are not considered approved for this AD.

(3) Alternative methods of compliance approved for AD 2001–10–04 R1 are considered approved for this AD.

Note: This AD applies to each airplane identified in paragraphs (a)(1) and (a)(3) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the

requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Are there any alternative methods of compliance already approved or being considered for this AD?* The FAA may approve, as an alternative method of compliance, inspection of the wing lower spar cap. You must submit the request in accordance with the procedures in paragraph (e) of this AD and adhere to the following:

(1) If you are over or within 50 hours TIS of the safe life for the wing lower spar cap and you have ordered parts and scheduled a date for the replacement/modification, but having the replacement/modification done on this date grounds the airplane, accomplish the following:

(i) inspect the wing lower spar cap within 50 hours TIS after approval of the alternative method of compliance;

(ii) reinspect thereafter at intervals not to exceed 400 hours TIS until either cracks are found, the date of the scheduled replacement/modification occurs, or 1,200 hours TIS after the initial inspection are accumulated, whichever occurs first; and

(iii) accomplish the inspections in accordance with the procedures in Snow Engineering Service Letter #197 or #205, both Revised March 26, 2001, as applicable.

(2) Submit the following to the Fort Worth or Los Angeles ACO, as applicable, using the procedures described in paragraph (e) of this AD:

(i) the airplane model serial number designation, and airplane registration number (N-number);

(ii) the number of hours TIS on the airplane;

(iii) the scheduled date for the replacement/modification; and

(iv) the name and location of the authorized repair shop.

(3) For more information about this issue, contact:

(i) For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; and

(ii) For the airplanes that incorporate or have incorporated winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627-5228; facsimile: (562) 627–5210.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Only operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(h) *Are any service bulletins incorporated into this AD by reference?* Replacement and inspection actions required by this AD must be done in accordance with Snow Engineering Service Letter #197 or #205, both Revised March 26, 2001, as applicable. The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51, as of June 8, 2001 (66 FR 27014, May 16, 2001). You can get copies from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801. You may view copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 14, 2002.

APPENDIX TO AD 2002–11–03

The following provides procedures for determining the safe life for Models AT–502, AT–502A, and AT–502B airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA.

What If I Removed the Marburger Winglets Prior to Further Flight After the Effective Date of This AD or Prior to the Effective Date of This AD?

1. Review your airplane's logbook to determine your airplane's time-in-service (TIS) with winglets installed per Marburger Enterprises STC SA00490LA. This includes all time spent with the winglets currently installed and any previous installations where the winglet was installed and later removed.

Example: A review of your airplane's logbook shows that you have accumulated 350 hours TIS since incorporating the Marburger STC. Further review of the airplane's logbook shows that a previous owner had installed the STC and later removed the winglets after accumulating 150 hours TIS. Therefore, your airplane's TIS with the winglets installed is 500 hours.

If you determine that the winglet STC has never been incorporated on your airplane, then your safe life is presented in paragraph (a)(1) of this AD. Any future winglet installation will be subject to a reduced safe life per these instructions.

2. Determine your airplane's unmodified safe life from paragraph (a)(1) of this AD.

Example: Your airplane is a Model AT–502B, serial number 0292. From paragraph (a)(1) of this AD, the safe life of your airplane is 2,050 hours TIS.

All examples from hereon will be based on the Model AT–502B, serial number 0292 airplane.

3. Determine the winglet usage factor from paragraph (a)(3) of this AD.

Example: Again, your airplane is a Model AT–502B, serial number 0292. From paragraph (a)(3) of this AD, your winglet usage factor is 1.2.

4. Adjust the winglet TIS to account for the winglet usage factor. Multiply the winglet TIS (result of Step 1 above) by the winglet usage factor (result of Step 3 above).

Example: Winglet TIS is 500 hours X a winglet usage factor of 1.2. The adjusted winglet TIS is 600 hours.

5. Calculate the winglet usage penalty. Subtract the winglet TIS (result of Step 1 above) from the adjusted winglet TIS (result of Step 4 above).

Example:

Adjusted winglet TIS – the winglet TIS = winglet usage penalty.

(600 hours) – (500 hours TIS) = (100 hours TIS).

6. Adjust the safe life of your airplane to account for winglet usage. Subtract the winglet usage penalty (result of Step 5 above) result from the unmodified safe life from paragraph (a)(1) of this AD (result of Step 2 above). *Example:*

Unmodified safe life – winglet usage penalty = adjusted safe life.

(2,050 hours TIS) – (100 hours TIS) = (1,950 hours TIS).

7. If you remove the winglets from your airplane prior to further flight or no longer have the winglets installed on your airplane, the safe life of your airplane is the adjusted safe life (result of Step 6 above). Enter this number in paragraph (d)(1)(i) of this AD and the airplane logbook.

What If I Have the Marburger Winglet Installed as of the Effective Date of This AD and Plan to Operate My Airplane Without Removing the Winglet?

1. Review your airplane's logbook to determine your airplane's TIS without the winglets installed.

Example: A review of your airplane's logbook shows that you have accumulated 1,500 hours TIS, including 500 hours with the Marburger winglets installed. Therefore, your airplane's TIS without the winglets installed is 1,000 hours.

2. Determine your airplane's unmodified safe life from paragraph (a)(1) of this AD.

Example: Your airplane is a Model AT–502B, serial number 0292. From paragraph (a)(1) of this AD, the safe life of your airplane is 2,050 hours TIS.

All examples from hereon will be based on the Model AT–502B, serial number 0292 airplane.

3. Determine the winglet usage factor from paragraph (a)(3) of this AD.

Example: Again, your airplane is a Model AT–502B, serial number 0292. From paragraph (a)(3) of this AD, your winglet usage factor is 1.2.

4. Determine the potential winglet TIS. Subtract the TIS without the winglets installed (result of Step 1 above) from the unmodified safe life (result of Step 2 above).

Example:

Unmodified safe life – TIS without winglets = Potential winglet TIS.

(2,050 hours TIS) – (1,000 hours TIS) = (1,050 hours TIS).

5. Adjust the potential winglet TIS to account for the winglet usage factor. Divide the potential winglet TIS (result of Step 4 above) by the winglet usage factor (result of Step 3 above). *Example:*

Potential winglet TIS + Winglet usage factor = Adjusted potential winglet TIS.

(1,050 hours TIS) + (1.2) = (875 hours TIS).

6. Calculate the winglet usage penalty. Subtract the adjusted potential winglet TIS (result of Step 5 above) from the potential winglet TIS (result of Step 4 above). *Example:*

Potential winglet TIS – Adjusted potential winglet TIS = Winglet usage penalty.

(1,050 hours TIS) – (875 hours TIS) = (175 hours TIS).

7. Adjust the safe life of your airplane to account for the winglet installation. Subtract the winglet usage penalty (result of Step 6 above) from the unmodified safe life from paragraph (a)(1) of this AD (result of Step 2 above). *Example:*

Unmodified safe life – Winglet usage penalty = Adjusted safe life.

(2,050 hours TIS) – (175 hours TIS) = (1,875 hours TIS).

8. Enter the adjusted safe life (result of Step 7 above) in paragraph (d)(1)(i) of this AD and the airplane logbook.

What If I Install or Remove the Marburger Winglet From My Airplane in the Future?

If, at anytime in the future, you install or remove the Marburger winglet STC from your airplane, you must repeat the procedures in this Appendix to determine the airplane's safe life.

Issued in Kansas City, Missouri, on May 22, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13423 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 40

Fees for Product Review and Approval

AGENCY: Commodity Futures Trading Commission.

ACTION: Annual update of schedule of fees for product review and approval.

SUMMARY: The Commission charges fees to designated contract markets and registered derivatives transaction execution facilities to recover the costs of its review of requests for product review and approval. The calculation of the fee amounts to be charged for the upcoming year is based on an average of actual program costs incurred in the most recent three full fiscal years, as explained below. The new fee schedule is set forth below.

EFFECTIVE DATE: June 4, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Shilts, Acting Director, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5260.

SUPPLEMENTARY INFORMATION:

I. Summary of Fees

Fees Charged for Processing Requests for Product Review and Approval

Single Applications

- A single futures contract or an option on a physical—$5,000;
- A single option on a previously-approved futures contract—$1,000;

- A combined submission of a futures contract and an option on the same futures contract—$5,500.

Multiple Applications

For multiple contract filings containing related contracts, the product review and approval fees are:

- A submission of multiple related futures contracts—$5,000 for the first contract, plus $500 for each additional contract;
- A submission of multiple related options on futures contracts—$1,000 for the first contract, plus $100 for each additional contract;
- A combined submission of multiple futures contracts and options on those futures contracts—$5,500 for the first combined futures and option contract, plus $550 for each additional futures and option contract.

II. Background Information

1. General

The Commission recalculates each year the fees it charges with the intention of recovering the costs of operating certain programs.[1] All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system operated according to a government-wide standard established by the Office of Management and Budget. The fees are set each year based on direct program costs, plus an overhead factor.

2. Overhead Rate

The fees charged by the Commission are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs consist generally of the following Commission-wide costs: indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 105 percent for fiscal year 1999, 117 percent for fiscal year 2000, and 105 percent for fiscal year 2001. These overhead rates are applied to the direct labor costs to calculate the costs of reviewing contract approval requests.

3. Processing requests for contract approval

Calculations of the fees for processing requests for product review and approval have become more refined over the years as the types of contracts being reviewed have changed.

On August 23, 1983, the Commission established a fee for Contract Market Designation (48 FR 38214). Prior to its recent amendment, the Commodity Exchange Act (Act) provided for "designation" of each new contract as a "contract market." The Commodity Futures Modernization Act (CFMA) amended the Act to limit the concept of "contract market designation" to the approval of certain markets or trading facilities on which futures and options are traded, as opposed to approval of a specific contract or product. Commission rules that implemented the CFMA, therefore, charged a fee for the contract review where approval has been requested by a designated contract market or registered derivatives transaction execution facility (DTF). No fee is charged a board of trade for its initial designation as a contract market or registration as a DTF.

The fee, as originally adopted in 1983, was based on a three-year moving average of the actual costs expended and the number of contracts reviewed by the Commission during that period. The formula for determining the fee was revised in 1985. At that time, most designation applications were for futures contracts and no separate fee was set for option contracts.

In 1992, the Commission reviewed its data on the actual costs for reviewing applications for both futures and option contracts and determined that the percentage-of applications pertaining to options had increased and that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an application for an option contract. The Commission also determined that when applications for a futures contract and an option on that futures contract are submitted simultaneously, the cost is much lower than when the contracts are separately reviewed. To recognize this cost difference, three separate fees were established: one for futures; one for options; and one for combined futures and option contract applications (57 FR 1372, Jan. 14, 1992).

The Commission refined its fee structure further in 1999 to recognize the unique processing cost characteristics of a class of contracts—cash-settled based on an index of non-tangible commodities (64 FR 30384, June 8, 1999). The Commission determined to charge a reduced fee for related simultaneously submitted contracts for which the terms and conditions of all contracts in the filing are identical, except in regard to a specified temporal or spatial pricing characteristic or the multiplier used to determine the size of each contract. Contracts on major currencies, defined as the Australian dollar, British pound, Euro (and its component currencies), Japanese yen, Canadian dollars Swiss franc, New Zealand dollar, Swedish krona, and the Norwegian krone (including contracts based on currency cross rates), were determined to be eligible for the reduced multiple contract fees.[2] The Commission determined that a 10 percent marginal fee for additional contracts in a filing would be appropriate for simultaneously submitted contracts eligible for the multiple contract filing fee.

Commission staff compiled the actual costs of processing a request for product review and contract approval for a futures contract for fiscal years 1999, 2000, and 2001, and found that the average cost over the three-year period was $5,000, including overhead. Review of actual costs of processing contract-approval reviews for an option contract for fiscal years 1999, 2000, and 2001 reveal that the average cost over the period was $1,000 per contract, including overhead.

In accordance with its regulations as codified at 17 CFR part 40 appendix B, the Commission has determined that the fee for approval of a futures contract will be set at $5,000 and the fee for approval of an option contract will be set at $1,000. The fee for simultaneously submitted futures contracts and option contracts on those futures contracts and the fees for filings containing multiple cash-settled indices on non-tangible commodities have been set similarly and as indicated in the schedule set forth in the *Summary of Fee* above.

III. Cost-Benefit Analysis

Section 15 of the Act, as amended by section 119 of the CFMR, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. Section 15 does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15 simply requires the Commission to "consider the costs and benefits" of its action, in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effective any of the provisions or to accomplish any of the purposes of the Act.

The submission of new products for Commission review and approved by designated contract markets or DTFs is voluntary. The Commission has therefore concluded that those entities choosing to make such submissions find that the benefits of doing so equal or exceed the fees, which, as explained above, are derived from the Commission's actual processing costs.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 USC 601, *et seq.*, requires agencies to consider the impact of rules on small business. The fees implemented in this release affect contract markets and registered DTFs. The Commission has previously determined that contract markets and registered DTFs are not "small entities" for purposes of the Regulatory Flexibility Act. Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to 5 USC 605(b), that the fees implemented here will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC, on May 29, 2002 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–13861 Filed 6–3–02; 8:45 am]

BILLING CODE 6351–01–M

[1] *See* Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, *see* 52 FR 46070 (Dec. 4, 1987).

[2] Submissions containing a number of similar cash-settled contracts based on the government debt of different foreign countries would not be eligible for the reduced fee, since the manipulation potential of each contract would be related to the liquidity of the underlying instruments, and the individual trading practices and governmental oversight in each specific country require separate analysis.

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960–AF53

Collection of Supplemental Security Income Overpayments From Special Benefits for Certain World War II Veterans

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising our regulations to permit the Social Security Administration (SSA) to recover Supplemental Security Income (SSI) overpayments under title XVI of the Social Security Act (the Act) by adjusting the amount of Special Benefits for Certain World War II Veterans (SVB) payable under title VIII of the Act. This collection practice is limited to individuals who are not currently eligible to receive any cash payments under any provision of title XVI or any State supplementary payments that we administer. Also, the amount of SVB to be withheld in a month to recover the SSI overpayment will not exceed 10 percent unless the overpaid person requests us to withhold a different amount or the overpaid person (or his or her spouse) willfully misrepresented or concealed material information in connection with the SSI overpayment. If there was willful misrepresentation or concealment, the entire SVB amount will be withheld to recover the SSI overpayment. These revisions will permit SSA to recover SSI overpayments from SVB payable to the overpaid individual when SSI cash benefits are not payable.

EFFECTIVE DATE: These rules are effective on July 5, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Hora, Social Insurance Specialist, Office of Process and Innovation Management, 2109 West Low Rise Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, *regulations@ssa.gov*, (410) 965–7183 or TTY (410) 966–5609 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free numbers, 1–800–772–1213 or TTY 1–800–325–0778 or visit our Internet web site, SSA Online, at *http://www.ssa.gov*.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: *http://www.access.gpo.gov/su—docs/aces/aces140.html*. It is also available on the Internet site for SSA (i.e. Social Security Online): *http://www.ssa.gov/regulations/*. Electronic copies of public comments may also be found on this site.

SUPPLEMENTARY INFORMATION: On December 14, 1999, Pub. L. 106–169, the "Foster Care Independence Act of 1999" was enacted. Section 251(a) of Pub. L. 106–169 added title VIII to the Social Security Act, establishing a new benefit program—Special Benefits for Certain World War II Veterans. Under this program, if you are a World War II veteran who was eligible for SSI for December 1999 and for the month of application for SVB, and who meets other criteria specified in the law, you may be entitled to SVB for each month in which you reside outside the United States.

Section 251(b) of Pub. L. 106–169 amended section 1147 of the Act. Prior to the enactment of Pub. L. 106–169, section 1147 of the Act (added by section 8 of Pub. L. 105–306) allowed SSA to recover SSI overpayments from you, if you were no longer receiving SSI cash payments, by reducing the amount of any benefits payable to you under title II of the Act. Final regulations on recovery of SSI overpayments from title II benefits were published on July 26, 2001, at 66 FR 38902. Section 251(b) of Pub. L. 106–169 amended section 1147 to allow recovery of SSI overpayments from title VIII benefits, as well as title II benefits, payable in a month. Throughout this preamble, this type of overpayment recovery is called "cross-program recovery." With certain exceptions, the amount of the reduction permitted under cross-program recovery cannot exceed 10 percent of the benefits payable in a month.

On July 26, 2001 we published a Notice of Proposed Rulemaking in the **Federal Register** at 66 FR 38963 and provided a 60-day period for interested individuals and organizations to comment on the proposed rules. We received one public comment from an individual. A summary of the comment and our response to it follows.

Comment: The commenter believes we should not reduce an individual's SVB payments to recover an SSI overpayment unless there was willful concealment or misrepresentation on the part of the overpaid person. The commenter points out that the overpaid individual is an aged veteran who may not even understand why the overpayment occurred. The commenter argues that, rather than holding the veteran liable, we should make stronger efforts to eliminate payment errors within SSA.

Response: We are not adopting this comment. As indicated above, Congress specifically amended section 1147 of the Act to give SSA authority to use cross-program recovery to recover SSI overpayments from SVB payments. In recognition of the fact that the veteran is an elderly former SSI recipient, Congress limited to 10 percent the amount we may withhold from an individual's monthly SVB payment to recover an SSI overpayment. In addition, in the cross-program recovery notice that we will send to an overpaid individual, we will explain that he/she has both the right to request that we waive recovery of the overpayment and the right to request that we use a rate of withholding that is less than 10 percent of the monthly payment amount. We will waive recovery of an SSI overpayment in any case where the individual was without fault in causing the overpayment and recovery would either defeat the purpose of title XVI (i.e., deprive the individual of income or resources needed for ordinary and necessary living expenses) or be against equity and good conscience (e.g., the overpaid individual changed his or her position for the worse or relinquished a valuable right in reliance on the overpayment). We believe the final rules strike the proper balance between protecting the rights of the overpaid individual and satisfying our obligation to ensure the fiscal integrity of the SSI program.

Regarding payment errors within SSA, we are pursuing several initiatives that address the causes of overpayments in the benefit programs we administer. We are hopeful that these initiatives will help to reduce the number of overpayments that occur.

We are publishing these final rules with only minor changes from the proposed rule.

Explanation of Changes

In order to implement cross-program recovery from SVB, we are modifying several provisions of § 416.572. Paragraph (a) is revised as follows:

- We are revising the definition of "cross-program recovery" to include the process of collecting title XVI overpayments from SVB payable to you in a month.
- We are revising the definition of "benefits payable in a month" to include the amount of SVB you would actually receive in a given month. Under this definition, "benefits payable in a month" includes the monthly SVB amount and any past due SVB you receive, after any reduction by the amount of income for the month as required by section 805 of the Act (42 U.S.C. 1005). We have added to the definition an example to show how we determine SVB payable in a month.
- We changed the language of paragraph (a)(3), as published with the notice of proposed rulemaking, to conform it to the language of the final regulation published at 66 FR 38902, 38907.

We are revising paragraph (b) of § 416.572 to explain that we may use cross-program recovery to collect title XVI overpayments if you are not currently receiving SSI cash benefits and are receiving benefits under title II or title VIII of the Act. Therefore, if your title II and/or title VIII benefits are being adjusted to recover a title XVI overpayment and you again become eligible for SSI benefits, cross-program recovery will end with the month in which SSI cash benefits resume. We will begin collecting the remaining title XVI overpayment by monthly adjustment of SSI payments. We are also revising paragraph (b) to explain that:

- We will not start cross-program recovery from SVB if we already are adjusting SVB to recover an SVB overpayment, and
- We will not start cross-program recovery from title II benefits if we are already adjusting title II benefits to recover an SVB or title II overpayment.

Adjustment of title VIII and title II benefits to recover SVB overpayments is authorized by section 808(a)(1) of the Act (42 U.S.C. 1008(a)(1)).

Paragraph (c) of § 416.572 lists the information that we include in the notice sent to a person whose benefits are subject to cross-program recovery. We are revising paragraph (c)(2) to add that the information will include the amount we will withhold from SVB payable in a month. The notice will state that you may ask us to review our determination that you still owe the overpayment balance and that you may ask us to waive collection of the overpayment balance. The notice will inform you how to request a waiver. Unless you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, the notice also will state that you may request that we withhold from SVB a different amount than the amount stated in the notice.

Paragraph (d) of § 416.572 currently explains that we will begin to withhold no sooner than 30 days after the date of the notice. If you pay the entire overpayment balance within that 30-day period, we will not impose cross-program recovery. If within the 30-day period you ask us to review the determination that you still owe us the overpayment balance and/or request us to waive recovery of the overpayment balance, we will not begin cross-program recovery until we review the matter(s) and notify you of our decision(s). If within the 30-day period, you request that we withhold a different amount, we will not begin cross-program recovery until we determine the amount we will withhold. These provisions apply when we pursue cross-program recovery to collect SSI overpayments from SVB payable under title VIII of the Act. No revisions to the regulatory text are needed.

We are revising paragraph (e) of § 416.572 to explain that when cross-program recovery is applied, we will collect the overpayment at a rate of 10 percent of the title II benefits and SVB payable in any month, respectively. However, we will collect at a rate of 100 percent of the title II benefits and SVB payable in any month if you (or your spouse) willfully misrepresented or concealed material information in connection with the overpayment.

Other Revisions

We are revising the language of § 416.570 to state that we will not adjust title XVI benefits to recover SVB overpayments without a specific request from the SSI beneficiary. Without the consent of the overpaid person, we have no authority to recover SVB overpayments from SSI payments.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final regulations meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866. Thus, the regulations were reviewed by OMB. However, the estimated amounts of the savings or costs involved do not cross the threshold for an economically significant regulation as defined in E.O. 12866. The estimated program savings from increased collections as a result of implementation of section 251(b)(7) of Pub. L. 106–169 are negligible, less than $2.5 million over the next 10 years. The administrative impact is also negligible.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final rules contain reporting requirements at sections 416.570 and 416.572(e). The public reporting burden is accounted for in the Information Collection Requests for the forms that the public uses to submit the information to SSA. Consequently, a 1-hour placeholder burden is being assigned to the specific reporting requirements contained in these rules. We are seeking clearance of the burden referenced in these rules because the rules were not considered during the clearance of the forms. An Information Collection Request has been submitted to OMB. While these rules will be effective 30 days from publication, these burdens will not be effective until cleared by OMB. We are soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. We will publish a notice in the **Federal Register** upon OMB approval of the information collection requirements. Comments should be submitted to the OMB desk officer for SSA within 30 days of publication of these final rules at the following address: Office of Management and Budget, Attn: Desk Officer for SSA, ≤ New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20530.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416:

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: March 27, 2002.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are amending Chapter III of Title 20, Code of Federal Regulations as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

1. The authority citation for Subpart E of Part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

2. Section 416.570 is amended by revising the third sentence to read as follows:

§ 416.570 Adjustment-general rule.

* * * Absent a specific request from the person from whom recovery is sought, no overpayment made under title II, title VIII or title XVIII of the Act will be recovered by adjusting SSI benefits.

* * * * *

3. Section 416.572 is amended by revising the heading and paragraphs (a), (b), (c)(2), and (e) to read as follows:

§ 416.572 Are title II benefits and title VIII benefits subject to adjustment to recover title XVI overpayments?

(a) *Definitions.*

(1) *Cross-program recovery.* Cross-program recovery is the process that we will use to collect title XVI overpayments from benefits payable to you in a month under title II and title VIII of the Act.

(2) *Benefits payable in a month.* For purposes of this section, benefits payable in a month means the amount of title II or title VIII benefits that you would actually receive in that month. For title II benefits, it includes your monthly benefit and any past due benefits after any reductions or deductions listed in § 404.401(a) and (b) of this chapter. For title VIII benefits, it includes your monthly benefit and any past due benefits after any reduction by the amount of income for the month as required by section 805 of the Act.

Title II Example: A person is entitled to monthly title II benefits of $1000. The first benefit payment the person would receive includes past-due benefits of $1000. The amount of benefits payable in that month for purposes of cross-program recovery is $2000. So, if we were recovering 10 percent of that month's benefit, we would be recovering $200. The monthly benefit payable for subsequent months is $1000. So, if we were recovering 10 percent of that amount, we would be recovering $100. If $200 would be deducted from the person's title II benefits in a later month because of excess earnings as described in §§ 404.415 and 404.416 of this chapter, the benefit payable in that month for purposes of cross-program recovery would be $800. So, if we were recovering 10 percent of that month's benefit, we would be recovering $80.

Title VIII Example: A person qualifies for monthly title VIII benefits of $384. The person is receiving a monthly pension payment of $150 from his employer. The title VIII benefit payable in a particular month would be reduced by $150 under section 805 of the Act (42 U.S.C. 1005). The title VIII benefit payable and subject to withholding in that month for purposes of cross-program recovery would be $234. So, if we were recovering 10 percent of that month's benefit, we would be recovering $23.40.

(3) *Not currently eligible for SSI cash benefits.* This means that you are not receiving any cash payment, including State supplementary payments that we administer, under any provision of title XVI of the Act or under section 212(b) of Pub. L. 93–66 (42 U.S.C. 1382 note).

(b) *When we may collect title XVI overpayments using cross-program recovery.*

(1) Except as provided in paragraphs (b)(2) through (4) of this section, we may use cross-program recovery to collect a title XVI overpayment you owe if:

(i) You are not currently eligible for SSI cash benefits, and

(ii) You are receiving title II or title VIII benefits.

(2) We will not start cross-program recovery against your title II or title VIII benefits if you are refunding your title XVI overpayment by regular monthly installments.

(3) We will not start cross-program recovery against your title II benefits if we are adjusting your title II benefits to recover a title II overpayment under § 404.502 of this chapter or a title VIII overpayment under section 808(a)(1) of the Act (42 U.S.C. 1008(a)(1)).

(4) We will not start cross-program recovery against your title VIII benefits if we are adjusting your title VIII benefits to recover a title VIII overpayment under section 808(a)(1) of the Act (42 U.S.C. 1008(a)(1)).

(c) * * *

(2) We will withhold a specific amount from the title II benefits and/or title VIII benefits payable to you in a month (see paragraph (e) of this section);

* * * * *

(e) *Rate of withholding.*

(1) We will collect the overpayment at the rate of 10 percent of the title II benefits and title VIII benefits payable to you in any month, unless:

(i) You request and we approve a different rate of withholding, or

(ii) You or your spouse willfully misrepresented or concealed material information in connection with the overpayment.

(2) In determining whether to grant your request that we withhold at a lower rate than 10 percent of the title II or title VIII benefits payable in a month, we will use the criteria applied under § 416.571 to similar requests about withholding from title XVI benefits.

(3) If you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, we will collect the

overpayment at the rate of 100 percent of the title II benefits and title VIII benefits payable in any month. We will not collect at a lesser rate. (See § 416.571 for what we mean by concealment of material information.)

[FR Doc. 02–13902 Filed 6–3–02; 8:45 am]
BILLING CODE 4191–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 18, 44, 46, 48, 49, 56, 57, 70, 71, 75 and 90

MSHA Headquarters Address Change

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule.

SUMMARY: The Mine Safety and Health Administration is amending its regulations to reflect changes to the address of the Headquarters office. MSHA is relocating its Headquarters offices and these amendments to the regulations are necessary to inform the public of MSHA's new address.

EFFECTIVE DATE: June 10, 2002.

ADDRESSES: This final rule is available on MSHA's internet site, *http://www.msha.gov*, at the "Statutory and Regulatory Information" icon.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Blvd., Room 627, Arlington, Virginia 22203–1984, *Nichols-Marvin@msha.gov*, (703) 235–1910 (telephone) or (703) 235–5551 (facsimile) before June 10, 2002 and 1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939, (202) 693–9440 (telephone), (202) 693–9441 (facsimile) thereafter.

SUPPLEMENTARY INFORMATION:

A. Background

On June 10, 2002, MSHA will move its Headquarters office from 4015 Wilson Blvd., Arlington, Virginia 22203–1984 to 1100 Wilson Blvd., Arlington, Virginia 22209–3939.

Because this amendment deals with agency management and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 USC 553(a)(2) and (b)(3)(A).

Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a change in address.

B. Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

C. Executive Order 12866 Regulatory Planning and Review

This final rule is not a "regulatory action" under section 3 of Executive Order 12866, and has not been reviewed by the Office of Management and Budget. The rule is an administrative action that changes the address of a Federal agency. Because the rule is limited to agency organization, management and personnel, it falls within the exclusion set forth in section 3(d)(3) of the Executive Order.

In promulgating this rule, the Agency has adhered to the regulatory philosophy and applicable principles of regulation set forth in section 1 of the Executive Order.

D. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any Federal mandate that may result in increased expenditures by State, local or tribal governments, or by the private sector.

Accordingly, Chapter I of Title 30 of the Code of Federal Regulations is amended as follows:

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

1. The authority citation for part 18 continues to read as follows:

Authority: 30 U.S.C. 957 and 961.

§ 18.82 [Amended]

2. In § 18.82(a), the address for the Assistant Secretary of Labor for Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2322, Arlington, Virginia 22209–3939."

PART 44—RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

3. The authority citation for part 44 continues to read as follows:

Authority: 30 U.S.C. 957.

§ 44.10 [Amended]

4. In § 44.10, the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

§ 44.21 [Amended]

5. In § 44.21(a), the address for the Assistant Secretary of Labor for Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2322, Arlington, Virginia 22209–3939."

PART 46—TRAINING AND RETRAINING OF MINERS ENGAGED IN SHELL DREDGING, OR EMPLOYED AT SAND, GRAVEL, SURFACE STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE LIMESTONE MINES.

6. The authority citation for part 46 continues to read as follows:

Authority: 30 U.S.C. 811, 825.

§ 46.2 [Amended]

7. In § 46.2(d)(1)(iii), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

§ 46.3 [Amended]

8. In § 46.3(h), the address for the Office of Educational Policy and Development is revised to read "1100 Wilson Blvd., Room 2100, Arlington, Virginia 22209–3939."

PART 48—TRAINING AND RETRAINING OF MINERS

9. The authority citation for part 48 continues to read as follows:

Authority: 30 U.S.C. 811. 825.

§ 48.3 [Amended]

10. In § 48.3(i), the addresses for the Administrator for MSHA Coal Mine Safety and Health and the Administrator for Metal and Non-metal Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209–3939."

§ 48.23 [Amended]

11–12. In § 48.23(i), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Non-metal Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209–3939."

§ 48.32 [Amended]

13. In § 48.32(a), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Non-metal Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209–3939."

PART 49—MINE RESCUE TEAMS

14. The authority citation for part 49 continues to read as follows:

Authority: 30 U.S.C. 811, 825(e), 957.

§ 49.3 [Amended]

15. In § 49.3(h)(2), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Nonmetal Mine Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209–3939."

§ 49.4 [Amended]

16. In § 49.4(i)(2), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Nonmetal Mine Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209–3939."

§ 49.8 [Amended]

17. In § 49.8(e), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Nonmetal Mine Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209–3939."

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

18. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 56.6000 [Amended]

19. In § 56.6000, in the definition for *laminated partition*, the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 56.6133 [Amended]

20. In § 56.6133(b), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 56.6201 [Amended]

21. In § 56.6201(a)(2), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

22. In § 56.6201(b)(2), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 56.14130 [Amended]

23. In § 56.14130(j), the address for the Administrator for Metal and Nonmetal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 56.14131 [Amended]

24. In § 56.14131(d), the address for the Administrator for Metal and Nonmetal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

25. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 57.6000 [Amended]

26. In § 57.6000, in the definition for *laminated partition*, the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 57.6133 [Amended]

27. In § 57.6133(b), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 57.6201 [Amended]

28. In § 57.6201(a)(2), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

29. In § 57.6201(b)(2), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 57.14130 [Amended]

30. In § 57.14130(j), the address for the Administrator for Metal and Nonmetal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 57.14131 [Amended]

31. In § 57.14131(d), the address for the Administrator for Metal and Nonmetal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209–3939."

§ 57.22005 [Amended]

32. In § 57.22005(b), the address for the Assistant Secretary of Labor for Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2322, Arlington, Virginia 22209–3939."

PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

33. The authority citation for part 70 continues to read as follows:

Authority: 30 U.S.C. 811 and 813(h).

§ 70.204 [Amended]

34. In § 70.204(e), the address for MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939."

§ 70.1900 [Amended]

35. In § 70.1900(c), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

36. The authority citation for part 71 continues to read as follows:

Authority: 30 U.S.C. 811, 951, 957.

§ 71.204 [Amended]

37. In § 71.204(e), the address for MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939."

§ 71.402 [Amended]

38. In § 71.402(b), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939."

§ 71.500 [Amended]

39. In § 71.500(c), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939."

§ 71.700 [Amended]

40. In § 71.700(a), the address for MSHA is revised to read "1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939."

PART 72—HEALTH STANDARDS FOR COAL MINES

41. The authority citation for Part 72 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), 957, 961.

§ 72.710 [Amended]

42. In § 72.710, the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

43. The authority citation for Part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 75.301 [Amended]

44. In § 75.301, in the definitions of *noncombustible structure or area* and *noncombustible material*, the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

§ 75.322 [Amended]

45. In § 75.322, the address for MSHA is revised to read "1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939."

§ 75.333 [Amended]

46. In § 75.333(d)(1), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

47. In § 75.333(e)(1)(i), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

48. In § 75.333(e)(3), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

49. In § 75.333(f), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

§ 75.335 [Amended]

50. In § 75.335(a)(1)(iv), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

51. In § 75.335(a)(2), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

§ 75.523 [Amended]

52. In § 75.523–1(c), the address for the Office of Technical Support is revised to read "1100 Wilson Blvd., Room 2329, Arlington, Virginia 22209–3939."

§ 75.818 [Amended]

53. In § 75.818(b)(4), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

§ 75.1710–1 [Amended]

54. In § 75.1710–1(f), the address for the Office of Technical Support is revised to read "1100 Wilson Blvd., Room 2329, Arlington, Virginia 22209–3939."

§ 75.1712–6 [Amended]

55. In § 75.1712–6(c), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939."

§ 75.1900 [Amended]

56. In § 75.1900, in the definition of *Noncombustible Material*, the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939."

PART 90—MANDATORY HEALTH STANDARDS—COAL MINERS WHO HAVE EVIDENCE OF PNEUMOCONIOSIS

57. The authority citation for Part 90 continues to read as follows:

Authority: 30 U.S.C. 811 and 813(h).

§ 90.3 [Amended]

58. In § 90.3(d), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939."

59. In § 90.3(e), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939."

§ 90.204 [Amended]

60. In § 90.204(e), the address for MSHA Coal Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939."

Signed at Arlington, VA, this 28th day of May 2002.

John R. Caylor,

Deputy Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 02–13906 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–43–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[USCG–2001–9175]

RIN 2115–AG15

Revised Options for Responding to Notices of Violations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard amends the procedure for a Notice of Violation when the recipient fails to either accept or decline it within 45 days. Instead of automatically converting the "fail to respond" Notice of Violation to a marine violation case with its lengthier processing and potentially higher penalties, it is treated as a default and we proceed with the civil penalty. The party retains its option to choose marine violation processing at any time during the 45-day response period.

DATES: This final rule is effective July 5, 2002.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–9175 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LCDR Scott Budka, Project Manager, Office of Investigations & Analysis (G–MOA), Coast Guard, telephone 202–267–2026. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 10, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Revised Options for Responding to Notices of Violations" in the **Federal Register** (66 FR 63640). We received 4 letters commenting on the proposed rule. No public hearing was requested and none was held.

Background

We explained the background of Notices of Violations (NOVs) and our recent review of their use in the NPRM. Today, we use NOVs only in small oil discharge (under 100 gallons) and minor violations of our pollution prevention regulations; we have not expanded their use since their introduction in 1994. The changes this rule makes to the NOV process allow it to be more easily administered through our Marine Information for Safety and Law Enforcement system, which came on line in late 2001, and will support expanding the use of NOVs to other programs.

Discussion of Comments and Changes

A total of 4 letters were sent to the docket, with one being a clarification of an earlier letter. One commenter stated a party's failure to respond to an NOV within 45 days of its issuance might result from misdelivery of the NOV. If a party claims it failed to receive the original NOV, the Coast Guard's procedures allow us to review the case.

Another commenter suggested changes that are beyond the scope of this rulemaking. Since the changes suggested concern internal Coast Guard processes, we have delivered them to the appropriate offices to review and consider them.

The third commenter expressed support for this rulemaking.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

As we discussed in the NPRM, this rule only changes the default when a party fails to respond to an NOV within 45 days; currently, only about 1% of all NOV recipients. These parties can avoid the impact of this rule entirely, by making the required NOV response within 45 days.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

As previously noted, this rule only changes the default when a party fails to respond to an NOV within 45 days. These parties can avoid any impact of this rule, simply by making the required NOV response (to accept or decline the NOV) within 45 days. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. Small entities may call the Project Manager listed under **FOR FURTHER INFORMATION CONTACT.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1,

paragraph (34)(a), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The changes here are procedural and affect only the default treatment of "fail to respond" NOVs. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

1. The authority citation for subpart 1.07 continues to read as follows:

Authority: 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100–690, 102 Stat. 4181; 49 CFR 1.46.

2. In § 1.07–11, a new paragraph (b)(7) is added, paragraph (d) is revised, and paragraphs (e) and (f) are added, as follows:

§ 1.07–11 Notice of Violation.

* * * * *

(b) * * *

(7) A statement that failure to either pay the proposed penalty on the Notice of Violation or decline the Notice of Violation and request a hearing within 45 days will result in a finding of default and the Coast Guard will proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

* * * * *

(d) If a party declines the Notice of Violation within 45 days, the case file will be sent to the District Commander for processing under the procedures described in 33 CFR 1.07–10(b).

(e) If a party pays the proposed penalty on the Notice of Violation within 45 days, a finding of proved will be entered into the case file.

(f) If within 45 days of receipt a party—

(1) Fails to pay the proposed penalty on the Notice of Violation; and

(2) Fails to decline the Notice of Violation—the Coast Guard will enter a finding of default in the case file and proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

Dated: May 23, 2002.

Jeffrey P. High,

Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–13963 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–013]

Drawbridge Operating Regulation; Bonfouca Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117.433 governing the operation of the State Route 433 swing span drawbridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana. This deviation allows the draw of the State Route 433 swing span drawbridge to remain closed to navigation from 8 a.m. until noon on June 12, 2002. This temporary deviation will allow for installation of new electrical parts for continued operation of the draw span of the bridge.

DATES: This deviation is effective from 8 a.m. until noon on Wednesday, June 12, 2002.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at the address given above or telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The SR 433 swing span drawbridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana, has a vertical clearance in the closed-to-navigation position of 3.5 feet above mean high water and 6.7 feet above mean low water at the pivot pier. The vertical clearance at the rest pier is 8.2 feet above mean high water and 11.4 feet above mean low water in the closed-to-navigation position. The bridge provides unlimited vertical clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft.

Presently, the draw operates as follows: The draw need not open for passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m., Monday through Friday except Federal Holidays. The draw need open only on the hour and half-hour from 6 a.m. to 7 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except federal holidays. The draw shall open on signal from 9 p.m. to 5 a.m., if at least 4 hours notice is given to the Louisiana Department of Transportation and Development Security Service at (540) 375–0100. At all other times the draw shall open on signal.

The Louisiana Department of Transportation and Development requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work. The work involves installation of new electrical parts. This work is essential for continued operation of the draw span of the bridge.

This deviation allows the draw of the State Route 433 swing span drawbridge to remain closed to navigation from 8 a.m. until noon on Wednesday, June 12, 2002.

Dated: May 24, 2002.

D.F. Ryan,

Captain. U.S.C.G., Commander, Eighth Coast Guard District, Acting.

[FR Doc. 02–13961 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–014]

Drawbridge Operating Regulation; Three Mile Creek, AL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117 governing the operation of the CSX Transportation railroad swing span drawbridge across Three Mile Creek, mile 0.3, at Mobile, Alabama. This deviation allows the draw of the railroad swing span bridge to remain closed to navigation from 8 a.m. until 5:30 p.m. on June 17 and 18, 2002. This temporary deviation will allow for replacement of machinery struts.

DATES: This deviation is effective from 8 a.m. on Monday, June 17, 2002 until 5:30 p.m. on Tuesday, June 18, 2002.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The CSX Transportation railroad swing span drawbridge across Three Mile Creek, Baldwin County, Alabama has a vertical clearance in the closed-to-navigation position of 10 feet above mean high water and 12 feet above mean low water. The bridge provides unlimited vertical clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows and fishing vessels. Presently, the draw opens on signal for the passage of vessels.

CSX Transportation requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work. The work involves replacement of the deficient machinery struts on the bridge. This work is essential for continued operation of the draw span of the bridge and is expected to eliminate frequent breakdowns resulting in emergency bridge closures.

This deviation allows the draw of the CSX Transportation railroad swing span drawbridge to remain closed to navigation from 8 a.m. until 5:30 p.m. on June 17 and 18, 2002.

Dated: May 24, 2002.

D.F. Ryan,

Captain, U.S.C.G., Commander, Eighth Coast Guard District, Acting.

[FR Doc. 02–13962 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Prince William Sound 02–009]

RIN 2115–AA97

Security Zone: Port Valdez and Valdez Narrows, Valdez, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing the Trans-Alaska Pipeline System (TAPS) Valdez Terminal Complex, Valdez, Alaska and TAPS Tank Vessels and a security zone in the Valdez Narrows, Port Valdez, Alaska. The security zones are necessary to protect the Alyeska Marine Terminal and vessels from damage or injury from sabotage, destruction or other subversive acts. Entry of vessels into these security zones is prohibited unless specifically authorized by the Captain of the Port, Prince William Sound, Alaska.

DATES: This rule is effective from 8 a.m. April 1, 2002 until July 30, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP Prince William Sound 02–009 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, P.O. Box 486, Valdez, Alaska 99686, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Milo Ortiz, U.S. Coast Guard Marine Safety Office Valdez, Alaska, (907) 835–7205.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In accordance with 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. The Coast Guard is taking this action for the immediate protection of the national security interests in light of terrorist acts perpetrated on September 11, 2001. Also, in accordance with 5 U.S.C. 553(d)(3), the Coast Guard finds good cause to exist for making this regulation effective less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of the effective date would be contrary to the public interest because immediate action is necessary to provide for the safety of the Trans-Alaska Pipeline System (TAPS) terminal and TAPS tank vessels. This temporary rule will replace the temporary rules contained in 33 CFR 165.T17–003, 33 CFR 165.T17–004, and 33 CFR 165.T17–005, all of which expire on June 1, 2002.

Discussion of the Regulation

The Coast Guard is establishing a temporary security zone while the notice of proposed rulemaking (NPRM) is drafted and published with a request for comments. This temporary final rule is required to ensure a smooth transition from temporary final rule to final rule. This temporary final rule, which we expected to be our proposed final rule, will help ensure protection of the TAPS terminal and TAPS tank vessels during the notice and comment period for the proposed final rule.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Economic impact is expected to be minimal because of the short duration of this rule and the season in which it is in effect.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The number of small entities impacted by this rule is expected to be minimal because of the short duration of the rule. Since the time frame this rule is in effect may cover commercial harvests of fish in the area, the entities most likely affected are commercial and native subsistence fishermen. The Captain of The Port will consider applications for

entry into the security zone on a case-by-case basis; therefore, it is likely that very few, if any, small entities will be impacted by this rule. Those interested may apply for a permit to enter the zone by contacting Marine Safety Office, Valdez at the above contact number.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this temporary final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16745.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, Vessels, Waterways.

For the reasons set forth in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§§ 165.T17–003—165.T17–005 [Removed]

2. Remove temporary §§ 165.T17–003, 165.T17–004, and 165.T17–005.

3. A new temporary § 165.T17–009 is added to read as follows:

§ 165.T17–009 Port Valdez and Valdez Narrows, Valdez, Alaska—security zone.

(a) *Trans-Alaska Pipeline System (TAPS) Valdez Terminal complex (Terminal), Valdez, Alaska and TAPS Tank Vessels.* (1) The following is a security zone: the enclosed waters within a line beginning on the southern shoreline of Port Valdez at 61°04′57″ N, 146°26′20″ W; thence northerly to 61°06′24″ N, 146°26′20″ W; thence east to 61°06′24″ N, 146°21′15″ W; thence south to 61°05′07″ N, 146°21′15″ W; thence west along the shoreline and including the area 2000 yards inland along the shoreline to the starting point at 61°04′57″ N, 146°26′20″ W. This security zone encompasses all waters approximately one mile north, east and west of the TAPS Terminal between Allison Creek (61°05′07″ N, 146°21′15″ W) and Sawmill Spit (61°04′57″ N, 146°26′20″ W).

(2) The following is a security zone: all waters within 200 yards of the shore and offshore facilities of the TAPS Terminal between Allison Creek (61°05′07″ N, 146°21′15″ W) and Sawmill Spit (61°04′57″ N, 146°26′20″ W).

(3) The following is a security zone: the waters within 200 yards of any TAPS tank vessel maneuvering to approach, moor, unmoor or depart the TAPS Terminal or is transiting, maneuvering, laying to or anchored within the boundaries of the Captain of the Port Zone, Prince William Sound described in 33 CFR 3.85–20(b).

(b) *Valdez Narrows, Port Valdez, Valdez, Alaska.* (1) The following is a security zone: all waters within 200 yards of the Valdez Narrows Tanker Optimum Track line bounded by a line beginning at 61°05′16.0″ N, 146°37′20.0″ W; thence south west to 61°04′00.0″ N, 146°39′52.0″ W; thence southerly to 61°02′33.5″ N, 146°41′28.0″ W; thence north west to 61°02′40.5″ N, 146°41′47.5″ W; thence north east to 61°04′06.0″ N, 146°40′14.5″ W; thence north east to 61°05′23.0″ N, 146°37′40.0″ W; thence south east back to the starting point at 61°05′16.0″ N, 146°37′20.0″.

(2) Valdez Narrows Tanker Optimum Track line is a line commencing at 61°05′23.0″ N, 146°37′22.5″ W; thence south westerly to 61°04′03.2″ N, 146°40′03.2″ W thence southerly to 61°03′00″ N, 146°41′12″ W.

(3) This security zone encompasses all waters approximately 200 yards either side of the Valdez Narrows Optimum Track line.

(c) *Effective dates.* This section is effective from 8 a.m. April 1, 2002 until July 30, 2002.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(e) *Regulations.* (1) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(2) Tank vessels transiting directly to the TAPS terminal complex, engaged in the movement of oil from the terminal or fuel to the terminal, and vessels used to provide assistance or support to the tank vessels directly transiting to the terminal, or to the terminal itself, and that have reported their movements to the Vessel Traffic Service may operate as necessary to ensure safe passage of tank vessels to and from the terminal. All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port and the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a vessel displaying a U.S. Coast Guard ensign by siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed. Coast Guard Auxiliary and local or state agencies may be present to inform vessel operators of the requirements of this section and other applicable laws.

Dated: April 1, 2002.

P.M. Coleman,

Commander, U.S. Coast Guard, Captain of the Port Prince William Sound, Alaska.

[FR Doc. 02–13960 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[PAC AREA–02–001]

RIN 2115–AG33

Protection of Naval Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations for the safety and security of U.S. naval vessels in the navigable waters of the United States. Naval Vessel Protection Zones will provide for the regulation of vessel traffic in the vicinity of many U.S. naval vessels in the navigable waters of the United States.

DATES: This rule is effective beginning June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [PAC AREA 02–001] and are available for inspection or copying at U.S. Coast Guard, Pacific Area Marine Transportation Branch (Pmt), Coast Guard Island, Bldg. 50–6, Alameda, CA 94501 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Commander Steve Danscuk, Commander, Pacific Area Marine Transportation Branch (Pmt), at telephone number (510) 437–2943.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 20, 2002, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Protection of Naval Vessels in the **Federal Register** (67 FR 12940). The Coast Guard received five letters commenting on the proposed rule. No public hearing was requested, and none was held.

On February 21, 2002, Coast Guard Commander, Atlantic Area, Marine Safety Division, Response Branch (Amr), published a notice of proposed rulemaking in the **Federal Register** (67 FR 7992) proposing to establish a permanent subpart G to 33 CFR part 165 and setting out general provisions pertaining to that subpart. On May 13, 2002, Atlantic Area's final rule was published in the **Federal Register** (67 FR 31958). The general provisions of subpart G are discussed in the preamble to the Atlantic Area rule and would apply to Pacific Area naval vessel protection zones. This rule, applicable in Coast Guard Pacific Area, adds a new § 165.2030, which creates restrictions similar to Atlantic Area's § 165.2025.

Under 5 U.S.C. § 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Because naval commanders have an urgent and critical security need to control the movements of vessels in the vicinity of large naval vessels, this rule needs to become effective on June 15, 2002. Otherwise, there will be a regulatory gap when the temporary final rule (66 FR 48780 and 48782), which is now in effect, expires on that date. The Coast Guard believes that its finding of good cause in this instance is consistent with the principle of fundamental fairness which requires that all affected persons be afforded a reasonable time to prepare for the effective date of a rulemaking. This is because the temporary final rule, which has been in effect since September 21, 2002, is very similar to this rule. The Coast Guard believes that the temporary final rule has given the public adequate time to adjust to and prepare for naval vessel protection zones.

Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. On September 21, 2001, the Coast Guard published temporary final rules entitled "Protection of Naval Vessels" in the **Federal Register** (66 FR 48780 and 48782). Before issuing these temporary final rules, no regulations existed implementing 14 U.S.C. 91. The temporary final rules are in effect until June 15, 2002.

We have determined that a continuing need exists for the protection of naval vessels. Therefore, we are implementing a permanent rule that will replace the Pacific Area temporary rule (66 FR 48782) by June 15, 2002.

Discussion of Comments and Changes

The Coast Guard received five letters in response to the March 20, 2002 notice of proposed rulemaking (67 FR 12940). Letters from the Suquamish Tribe, the Muckleshoot Indian Tribal Council, the law firm of Morisset Schlosser representing the Tulalip Tribe, and the Northwest Indian Fisheries Commission expressed concern over the rule's potential impact on the treaty fishing rights of federally recognized Indian Tribes in Puget Sound, Washington. The Office of Hawaiian Affairs, a state agency that represents Native Hawaiian interests, expressed concern over the impacts of the proposed rule on ocean activities conducted by Native Hawaiians.

Comment 1. The Puget Sound Tribes stated that they have reserved rights of access for fishing in usual and accustomed places. They conduct fisheries enforcement patrols, perform fisheries and water quality research and harvest shellfish. They stated that such activities may bring tribal members and their vessels in proximity to naval vessels. The Tribes averred that there is a potential for substantial direct effects

on their activities in the following circumstances: when the naval vessel protection zone around a moored or anchored naval vessel prevents tribal vessels from fishing in a prime tribal area during peak fishing times; when a transiting vessel interrupts a tribal fishing activity in progress; and when a tribal vessel, while engaged in fishing, drifts into a naval vessel protection zone of a moored or anchored naval vessel.

Response 1. The Coast Guard recognizes the rights of the treaty Indian fishers under the Stevens Treaties, as clarified in the well-known *U.S.* v. *Washington* line of cases, beginning with *United States* v. *Washington,* 384 F.Supp. 312 (W.D. Wash. 1974). We took those rights into account during the rulemaking process. The Coast Guard acknowledges that there could be some effects if a naval vessel protection zone causes a tribal vessel to be displaced. The rule has built-in flexibility, however, to address the Tribes' concerns. And, based on the Coast Guard's consideration of the comments received, the Coast Guard Thirteenth District will continue to facilitate dialogue between the Tribes and the Navy to develop local implementation policies in Puget Sound designed to minimize the possibility of effects on the Tribes, consistent with security concerns.

Treaty rights are not absolute and must be balanced against the rights of the United States. The Justice Department articulated the position of the United States as follows: "The Justice Department represents the United States on its own behalf and as a trustee on behalf of the affected Indian Tribes who claim fishing rights under the Stevens treaties. No claims have been made [in this case, *i.e. U.S.* v. *Washington*] against the United States. The United States reserves its right to assert all available defenses, including but not limited to navigational servitude and defense powers." *Response by the Department of Justice to Judicial Interrogatories Posed by the U.S. District Court, Western District of Washington, dated 3 November 1992.*

In this instance, the treaty rights must be balanced against the United States' inherent right and obligation to safeguard and protect its warships and naval vessels from sabotage and attack. Since the October 2000 bombing of the U.S.S. COLE in Yemen, which was carried out by an explosives-laden small boat, the U.S. military has placed increased emphasis on naval force protection. And the terrorist attacks of September 11, 2001 proved that the U.S. mainland is not immune from attack. Therefore, the Coast Guard has implemented this rule as a force protection measure to help Naval commanders within Pacific Area to protect their ships and their crews.

Comment 2. The Tribes commented that naval vessel security and Tribal fishing rights protection can both be achieved if there is improved communication and coordination, scheduling of port calls and routine non-emergency vessel movements to avoid fisheries, and placement of Tribal liaison personnel on Coast Guard and Seattle Harbor Patrol vessels to assist in the identification of Tribal fishers during peak tribal fishing periods. To assist the government, the Tribes can provide information about Tribal fishery openings and the names of authorized fishers and their vessels. There should be a single government point of contact in each geographic area to foster good communication so that accidental encroachment incidents can be quickly and agreeably resolved.

Response 2. The Coast Guard agrees that communication and coordination between the Tribes, the Coast Guard, and the Navy is vital so that any impact of the rule on Tribal treaty fishing rights can be minimized. The Coast Guard has already had an informative meeting with representatives of the Muckleshoot Tribe, Suquamish Tribe, and the Navy on April 25, 2002. The Coast Guard Thirteenth District plans to continue to facilitate discussions between potentially affected Tribes and the Navy to develop local implementation policies in Puget Sound designed to minimize the possibility of effects on the Tribes, consistent with security concerns.

The Coast Guard believes that the Tribes' recommendation to the Navy to schedule port calls and routine non-emergency vessel movements to avoid impacts on Tribal fishers and fisheries has potential merit, when such actions are consistent with naval vessel and national security. The Coast Guard has received assurances from the Navy that the Navy is willing and able to gather information from the Tribes about fishery dates, locations, and expected number of Tribal vessels and relay this information to naval commanders in the area. The Navy's primary point of contact for gathering this information from the Tribes is the Watch Commander, Regional Operations Center, Navy Region Northwest, who can be reached 24 hours per day at (360) 315–5123.

The Coast Guard is committed to working with the Tribes and agrees that additional discussions with representatives of potentially affected Tribes and the Navy are desirable to establish specific local implementation policies to achieve both security and tribal objectives. Towards that end, the Coast Guard's point of contact is the Coast Guard District Thirteen's Tribal Liaison Office, which can be reached 24 hours per day via the District Command Center at (206) 220–7001.

With regard to the Tribes' concern over accidental encroachment into naval vessel protection zones, the rule does not distinguish between an accidental or intentional violation of the 100-yard exclusionary zone. An accidental violation may result in enforcement action. But the rule is written to encourage those who may need to come within 100 yards of a large naval vessel to request permission from the on-scene Coast Guard personnel, senior naval officer present in command, or official patrol. In most cases, the commanding officer of the naval vessel will be the individual to grant or deny permission to enter the 100-yard exclusionary zone because he or she will be in the best position to assess the security needs of his or her ship. Additional coordination suggestions will be given full consideration during a cooperative process to develop practical local implementation guidelines.

Comment 3. The Tribes stated that for local Coast Guard and Navy personnel to have the flexibility to accommodate the needs of the Tribes, it is important that the final regulation provide direction to local Coast Guard and Navy personnel to implement measures that allow tribal members access to fishing rights. The Tribes recommended the insertion of the following language as a new paragraph (g) to § 165.2030: "The Coast Guard, senior naval officer present in command, or the official patrol shall work with affected tribal governments to provide treaty Indian fishers access to usual and accustomed fishing sites within 100 yards of large U.S. naval vessels."

Response 3. The Coast Guard believes that adding a new paragraph (g) to § 165.2030 of the rule is not necessary or prudent. The rule already has built-in flexibility for addressing Tribal issues. In those instances where the 100-yard exclusionary zone would exclude Tribal fishers from their usual and accustomed grounds, the rule allows Tribal fishers to request permission to enter the zone by contacting the Coast Guard, senior naval officer present in command or the official patrol on VHF–FM Channel 16. After making an on-scene assessment of the naval vessel's security situation relative to any perceived threat, the Coast Guard, senior naval officer present in command or the official patrol would have the discretion to allow the requestor within 100 yards.

Addition of the language would not be prudent from a security standpoint because the Coast Guard interprets the proposed paragraph (g)'s use of the term "shall" as requiring the on-scene Coast Guard or Navy commander to notify the Tribes every time a large naval vessel transit takes place. The Coast Guard does not believe the rule should require coordination when it is not needed or when it would not be prudent from a security perspective. By employing language in the rule that would limit the on-scene commander's ability to use his or her discretion on a case-by-case basis, naval vessels might become vulnerable to one of the threats that naval vessel protection zones were designed to guard against-small boats intent on attacking naval vessels.

The Coast Guard and the Navy will work with the affected Tribes on measures to implement the rule in a way that will allow the Tribes to reach their objectives to the fullest extent possible while accomplishing naval vessel and national security objectives.

Comment 4. The Office of Hawaiian Affairs commented that existing human use activities such as ocean access and fishing should not be restricted spatially or in duration beyond that which is reasonable to provide for the security concerns of the proposed rule.

Response 4. Because this rule does not restrict ocean activities permanently in any location and because the duration of any restrictions on human use activities would be limited to the time period that a large naval vessel is in transit or is anchored or moored, the Coast Guard believes the effect of this rule on the public is minimized. In addition, the rule has several built-in mitigation measures to limit public impact. Vessels that need to pass within 100 yards of a large U.S. naval vessel may contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF–FM Channel 16 to obtain the necessary permission. And once security concerns permit, the rule encourages the Coast Guard, senior naval officer present in command, or the official patrol to publicize in advance the movement of the naval vessel.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation will restrict access to some areas and regulate speed in other areas, the effect of this regulation will not be significant because: (1) Individual naval vessel protection zones are limited in size; (2) the Coast Guard, senior naval officer present in command, or official patrol may authorize access to the naval vessel protection zone; (3) the naval vessel protection zone for any given transiting naval vessel will only effect a given geographical location for a limited time; and (4) when conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice of all naval vessel movements on VHF–FM channel 16 so mariners can adjust their plans accordingly. Further, the Coast Guard received no comments related to economic impact following implementation of the temporary final rule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) Individual naval vessel protection zones are limited in size; (2) the official patrol may authorize access to the naval vessel protection zone; (3) the naval vessel protection zone for any given transiting naval vessel will only affect a given geographic location for a limited time; and (4) when conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice of all naval vessel movements on VHF–FM channel 16 so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

The Coast Guard received five letters commenting on the proposed rule, three from Indian Tribal Governments in Puget Sound, Washington, one from the Northwest Indian Fisheries Commission and one from the Office of Hawaiian Affairs. They are discussed under "Comments and Responses." The Coast Guard recognizes the Indian Tribes" rights under the Stevens Treaties. And the Coast Guard is committed to working with the Navy and the Tribal Governments to implement local policies to mitigate the concerns that have been identified. Given the flexibility of the rule to accommodate the special needs of mariners in the vicinity of large naval vessels and the Coast Guard's commitment to working with the Tribes, we have determined that naval vessel security and fishing rights protection need not be incompatible and therefore have determined that this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have conducted an analysis for this action according to the Coast Guard National Environmental Policy Act Manual, COMDTINST M16475.1D, which guides Coast Guard compliance with the National Environmental Policy Act of 1969 (NEPA) and have concluded that there are no factors present which would limit the use of Coast Guard Categorical Exclusion (34)(g). Comments from the public were considered prior to approval of a final Categorical Exclusion Determination (CED) documenting our decision to exclude this action from further environmental review. Refer to *Comments and Changes* for a summary of comments received and the Coast Guard's response. Public comments, an environmental checklist and CED for this action are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Protection of naval vessels, Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

Subpart G—Protection of Naval Vessels

1. The authority citation for part 165 subpart G continues to read as follows:

Authority: 14 U.S.C 91 and 633; 49 CFR 1.45.

2. Add § 165.2030 to read as follows:

§ 165.2030 Pacific Area.

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Pacific Area, which includes the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts.

Note to paragraph (a): The boundaries of the U.S. Coast Guard Pacific Area and the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels greater than 100 feet in length overall at all times in the navigable waters of the United States, whether the large U.S. naval vessel is underway, anchored, moored, or within a floating dry dock, except when the large naval vessel is moored or anchored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone, all vessels shall operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. When within a naval vessel protection zone, no vessel or person is allowed within 100 yards of a large U.S. naval vessel unless authorized by the Coast Guard, the senior naval officer present in command, or official patrol.

(e) To request authorization to operate within 100 yards of a large U.S. naval vessel, contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF–FM channel 16.

(f) When conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should:

(1) Give advance notice on VHF–FM channel 16 of all large U.S. naval vessel movements;

(2) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(3) Permit commercial vessels anchored in a designated anchorage area to remain at anchor when within 100 yards of passing large U.S. naval vessels; and

(4) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored large U.S. naval vessel with minimal delay consistent with security.

Note to paragraph (f): The listed actions are discretionary and do not create any additional right to appeal or otherwise dispute a decision of the Coast Guard, the senior naval officer present in command, or the official patrol.

Dated: May 23, 2002.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Coast Guard Pacific Area.

[FR Doc. 02–13964 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–061]

RIN 2115–AA97

Safety Zone; Charles' Engagement Fireworks Display, Black Point, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located in Long Island Sound off shore of Black Point, CT. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Long Island Sound.

DATES: This rule is effective from 9:30 p.m. on June 7, 2002, until 10:30 p.m. on June 8, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01–02–061) and are available for inspection or copying at Coast Guard Group/Marine Safety Office, 120 Woodward Ave., New Haven, CT 06512, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM2 R. L. Peebles, Marine Events Petty Officer, Coast Guard Group/MSO Long Island Sound at (203) 468–4408.

SUPPLEMENTARY INFORMATION

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and for making the rule effective less than 30 days following publication. An NPRM was considered unnecessary because the fireworks display is a local event that will have minimal impact on the waterway. The zone is only in effect for one hour and vessels can be given permission to transit the zone during all but about 15 minutes of this time. Vessels may transit around the zone at all times. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Background and Purpose

The Coast Guard is establishing a temporary safety zone in the waters of Long Island Sound off shore of Black Point, CT. This safety zone encompasses all waters of Long Island Sound within an 800-foot radius of approximate position 41°17′50″ N, 072°12′06″ W (NAD 1983). The safety zone is intended to protect boaters from the hazards associated with fireworks launched from a barge in the area. This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all vessels.

Discussion of Rule

The safety zone is for a fireworks display in Long Island Sound sponsored by Mr. Wade Thompson. The safety zone will be in effect from 9:30 p.m. to 10:30 p.m. on June 7, 2002. The safety zone encompasses all waters of Long Island Sound within an 800-foot radius of approximate position 41°17′50″ N, 072°12′06″ W (NAD 1983).

Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts. Marine traffic will be allowed to transit around the safety zone at all times. Vessels will not be precluded from mooring at or getting underway from recreational or commercial piers in the vicinity of the zone. No vessel may enter the safety zone without permission from the Captain of the Port, Long Island Sound.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, the opportunity for vessels to transit around the zone during the event, the ability of vessels to moor at or get underway from commercial or recreational piers in the vicinity of the zone, and the advance notifications that will be made.

The size of this safety zone was determined using National Fire Protection Association and the Captain of the Port Long Island Sound Standing Orders for 8-inch mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Long Island Sound during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: it is a local event with minimal impact on the waterway, vessels may still transit around the zone during the event, the zone is only in effect for one hour and vessels can be given permission to transit the zone except for all but about 15 minutes during this time. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via Local Notice to Mariners and Marine Information Broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact BM2 Ryan Peebles, in the Operations at Coast Guard Group/Marine Safety Office Long Island Sound, CT, at (203) 468–4408.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

Part 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From 9:30 p.m. on June 7, 2002, until 10:30 p.m. on June 8, 2002, add temporary § 165.T01–061 to read as follows:

§ 165.T01–061 Safety Zone; Charles' Engagement Fireworks Display, Black Point, CT.

(a) *Location.* The following area is a safety zone: All waters of Long Island Sound within an 800-foot radius of the fireworks barge in approximate position 41°17′50″ N, 072°12′06″ W (NAD 1983).

(b) *Enforcement times and dates.* This section will be enforced from 9:30 p.m. until 10:30 p.m. on June 7, 2002. In the event of inclement weather on June 7, 2002, this rule will be in enforced from 9:30 p.m. until 10:30 p.m. on June 8, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) No vessels will be allowed to transit the safety zone without the permission of the Captain of the Port, Long Island Sound.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 22, 2002.

J.J. Coccia,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 02–13970 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 264–0346a; FRL–7219–2]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from surface cleaning and degreasing. We are approving the local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 5, 2002 without further notice, unless EPA receives adverse comments by July 5, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95812. Ventura County Air Pollution Control District, 669 County Square Dr., 2nd FL., Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 972–3960.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD	74.6	Surface Cleaning and Degreasing	01/08/02	03/15/02

On May 7, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

On December 11, 2000, EPA finalized limited approval and limited disapproval of a previous version of this rule. VCAPCD adopted the revisions to this rule on January 8, 2002, and CARB submitted it to us on March 15, 2002. We are acting on the revised version of this rule.

C. What Is the Purpose of the Submitted Rule?

Rule 74.6 limits surface cleaning and degreasing activities performed with solvents containing VOCs. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating This Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD regulates an ozone nonattainment area (*see* 40 CFR part 81), so Rule 74.6 must fulfill RACT.

Guidance and policy document that we used to define specific enforceability and RACT requirements include the following:

1. Control of Volatile Organic Emissions from Solvent Metal Cleaning (November 1977).

2. Issue Relating to VOC Regulation, Cut Points, Deficiencies, and Deviations (the "Blue Book"), U.S. EPA, May 25, 1988.

3. Determination of Reasonably Available Control Technology and Best Available Control Technology for Organic Solvent Cleaning and Degreasing Operations (July 18, 1991).

B. Does This Rule Meet the Evaluation Criteria?

We believe this rule is consistent with relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation. In particular, the revisions to this rule adequately address the deficiencies identified in our December 11, 2000 limited disapproval.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval and we therefore are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by July 5, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect, and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 5, 2002. This action will incorporate this rule into the federally enforceable SIP.

III. Background Information

Why Was This Rule Submitted?

NO_X and VOC help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions. Table 2 lists some of the national milestones leading to the submittal of this local agency NO_X rule.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, "Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves the state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 13, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(297) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(297) New and amended regulations for the following APCDs were submitted on March 15, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(*1*) Rule 74.6, adopted on January 8, 2002.

* * * * *

[FR Doc. 02–13798 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7222–5]

RIN 2060–AK07

Regulation of Fuels and Fuel Additives: Modifications to Reformulated Gasoline Covered Area Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In today's final action, EPA is making several minor modifications to its reformulated gasoline (RFG) regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. These changes include: Deleting the seven southern counties in Maine from the RFG covered areas list, reflecting their opt-out of the RFG program as of March 10, 1999; adding the Sacramento Metro and San Joaquin Valley nonattainment areas to the list of RFG covered areas, reflecting the Sacramento Metro Area's inclusion in the RFG program as of June 1, 1996 and the San Joaquin Valley Area's inclusion in the RFG program on December 10, 2002; and deleting the text which extended the RFG opt-in provisions to all ozone nonattainment areas including previously designated ozone nonattainment areas, reflecting a court decision in January, 2000, which invalidated this language. This direct final action also makes certain other minor changes in the provisions listing the RFG covered areas for purposes of clarification.

DATES: This direct final rule is effective on August 5, 2002, without further notice, unless EPA receives substantive adverse comments by July 5, 2002. If substantive adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that this direct final rule will not take effect.

ADDRESSES: Comments should be mailed (in duplicate if possible) to John Brophy, Office of Transportation and Air Quality (mail code 6406J), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, and to the following docket address: Docket A–2001–32, Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Materials relevant to today's rulemaking have been placed in the Docket A–2001–32 at the docket address \saves\rules.xmllisted above, and may be inspected on business days from 8 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials relevant to today's rulemaking regarding the removal of the seven Maine counties from the federal RFG program are also available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA–New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

Materials relevant to today's rulemaking regarding the self-executing change in status of the Sacramento Metro and San Joaquin Valley nonattainment areas are also available for inspection during normal business hours in the Air Docket, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. This rule and the Technical Support Documents for the proposed actions are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air.* Interested persons may make an appointment with Ms. Virginia Peterson at (415) 744–1265, to inspect the docket between 9 a.m. and 4 p.m. A reasonable fee may be charged for copying docket material.

There are several other dockets that may also contain related materials of interest to the public:

Materials relevant to EPA's approval of a State Implementation Plan (SIP) revision submitted by the State of Maine are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

Materials regarding the reclassification of the Sacramento Metro Area as a "Severe" ozone nonattainment area are in Docket A–94–09. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials regarding the reclassification of the San Joaquin Valley Area as a "Severe" ozone nonattainment area are available for inspection during normal business hours in the Air Docket, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. This rule and the Technical Support Documents for the proposed actions are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air.* Interested persons may make an appointment with Ms. Virginia Peterson at (415) 744–1265, to inspect the docket between 9 a.m. and 4 p.m. A reasonable fee may be charged for copying docket material.

Materials regarding the extension of the RFG opt-in provisions to all ozone nonattainment areas including previously designated ozone nonattainment areas, and the January, 2000, court decision, are in Docket A–96–30. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials relevant to the removal of the Phoenix area from the federal RFG program are in Docket A–98–23. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: John Brophy, U.S. Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave., NW (Mail Code 6406J), Washington, DC 20460, (202) 564–9068, e-mail address: *brophy.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Availability on the Internet

Copies of this final rule are available electronically from the EPA Internet Web site. This service is free of charge, except for your existing cost of Internet connectivity. An electronic version is made available on the day of publication on the primary Internet site listed below. The EPA Office of Transportation and Air Quality will also publish this final rule on the secondary Web site listed below.

http://www.epa.gov/docs/fedrgstr/EPA-AIR/ (either select desired date or use Search feature),

http://www.epa.gov/otaq/ (look in What's New or under the specific rulemaking topic).

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Regulated Entities

Entities potentially regulated by this action are those which produce, import, supply or distribute gasoline. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Refiners, importers, oxygenate blenders, terminal operators, distributors, retail gasoline stations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your business would have been regulated by this action, you should carefully examine the list of areas covered by the reformulated gasoline program in § 80.70 of Title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Opt-Out of Maine Nonattainment Areas

EPA's reformulated gasoline (RFG) regulations include a list of geographic areas that are covered areas for purposes of the RFG program. 40 CFR 80.70. Section 80.70(j) identifies the nonattainment areas that opted into the RFG program at the beginning of the program. Seven Maine counties opted into the RFG program at that time and are listed in § 80.70(j)(5). Section 80.70(l) provides that, upon the effective date for removal under § 80.72(a), a geographic area that has opted out of the RFG program shall no longer be considered a covered area.

On March 5, 1999, EPA approved an opt-out petition submitted by the Governor of Maine, and the seven Maine counties of Androscoggin; Cumberland; Kennebec; Knox; Lincoln; Sagadahoc; and York were removed from the RFG program effective March 10, 1999.[1] With today's direct final rule, EPA is amending § 80.70(j)(5) of EPA's RFG regulations by removing the seven listed Maine counties to reflect that they are no longer covered areas in the federal RFG program.

II. Inclusion of Sacramento and San Joaquin Valley as Covered Areas

Under Clean Air Act section 211(k)(10)(D), any ozone nonattainment area that is reclassified as a Severe ozone nonattainment area becomes an RFG covered area effective one year after its reclassification. 42 U.S.C. 7545(k)(10)(D).

Effective June 1, 1995, the Sacramento, California, ozone nonattainment area was reclassified from a Serious to a Severe ozone nonattainment area. 60 FR 20237 (April 25, 1995). The Sacramento ozone nonattainment area, therefore, became an RFG covered area as of June 1, 1996.

Effective December 10, 2001, the San Joaquin Valley, California, ozone nonattainment area was reclassified from a Serious to a Severe ozone nonattainment area.[2] The San Joaquin Valley ozone nonattainment area, therefore, will become an RFG covered area as of December 10, 2002.

In today's direct final rule, EPA is amending § 80.70 to reflect that the Sacramento nonattainment area became a covered area in the federal RFG program by operation of law on June 1, 1996 and that the San Joaquin Valley nonattainment area will become a covered area in the federal RFG program by operation of law on December 10, 2002.[3] These amendments, in combination with the amendment described in Section I above, will bring the regulations into conformity with the existing status of "covered areas" in the RFG program.

III. Deletion of Opt-In Language

Section 80.70(k) of the RFG rule as originally promulgated provided that any area classified as a Marginal, Moderate, Serious, or Severe ozone nonattainment area may be included as an RFG covered area (i.e, "opt-in") upon petition of the governor of the state in which the area is located.[4] EPA subsequently modified this language to provide that any area "currently or previously designated as a nonattainment area for ozone" may be included as an RFG covered area. 63 FR 52094 (September 29, 1998). This modification was subsequently challenged in the United States Court of Appeals for the District of Columbia Circuit, which found that EPA lacked authority to promulgate this modification. *American Petroleum Institute* v. *EPA.*, 198 F.3d 275 (D.C. Cir. 2000). Therefore, with today's direct final rule, EPA is amending § 80.70 to remove the text which extended the opt-in provisions and reinstate the language of this section as originally promulgated.

IV. Additional Changes to § 80.70

Today's rule revises the introductory text of § 80.70(j) to distinguish the nonattainment areas that have opted into the RFG program from those that are required to be in the program under the Clean Air Act. In addition, today's rule revises the text of sections 80.70(l) and (n) to make these provisions clearer. These minor revisions are strictly organizational and do not change the substance or intent of these provisions in any way. Today's rule also removes the current provisions of § 80.70(m) relating to Phoenix as an opt-in covered area, since the Phoenix area is no longer a covered area as of June 10, 1998.[5] The provisions for the Sacramento and San Joaquin Valley covered areas, described above, are included in a new § 80.70(m).

V. Public Participation

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This rule will be effective August 5, 2002, without further notice unless the Agency receives adverse comments by July 5, 2002. If EPA receives substantive adverse comments on this action, we will publish in the **Federal Register** a timely withdrawal of the direct final rule informing the public that this direct final rule will not take effect. EPA considers each element of today's direct final rule to be independent and severable, therefore, if we receive adverse comment we will withdraw only those elements (an amendment, section or paragraph) of this action that are addressed by such comments.

EPA is publishing separately, in the "Proposed Rules" section of today's **Federal Register**, a notice of proposed rulemaking that incorporates each of the regulatory amendments included in this direct final rule. In the event that EPA receives adverse comment on all or part of this direct final rule, we will proceed according to ordinary notice and comment rulemaking procedures. We will address all adverse public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

Today's amendments to the CFR reflect changes that have occurred in separate actions in accordance with EPA's regulations and the CAA. This rule is not itself an approval of Maine's or Arizona's opt-out request—Agency action approving those petitions occurred earlier in separate administrative proceedings. Similarly, neither the reclassification of the Sacramento and San Joaquin Valley nonattainment areas, nor the self-executing change in status of these areas to RFG "covered areas," are dependent on today's action. EPA is simply modifying the list of covered areas in the RFG regulations, 40 CFR 80.70, so the list will reflect EPA's earlier approval of the Maine and Arizona opt-out requests, and the self-executing change in the status of the Sacramento and San Joaquin Valley nonattainment areas. Thus, the various elements of today's direct final rule involve little or no exercise of agency discretion. Rather today's actions essentially are ministerial regulatory amendments.

[1] Published elsewhere in the Notice section of today's Federal Register EPA announces and describes its approval of Maine's opt-out petition according to the procedures set forth in 40 CFR 80.72. These regulatory provisions were established pursuant to authority under sections 211(c) and (k) and 301(a) of the Clean Air Act to provide criteria and general procedures for a state to opt-out of the RFG program where the state had previously voluntarily opted into the program. See 61 FR 35673 (July 8, 1996); 62 FR 54552 (October 20, 1997).

[2] In a final rulemaking, EPA took action to change the boundary for the San Joaquin Valley serious ozone nonattainment area by separating out the eastern portion of Kern County into its own nonattainment area. *See* 66 FR 56483 (November 8, 2001). EPA extended the attainment deadline for the new East Kern County serious ozone nonattainment area from November 15, 1999 to November 15, 2001.

[3] In a Notice of Proposed Rulemaking published on July 11, 1997, EPA proposed to update the list of RFG covered areas in § 80.70 to include the Sacramento nonattainment area. *See* 62 FR 37338. In that notice EPA proposed regulatory text describing the Sacramento covered area by its geographic boundaries, however, in today's final rule we are instead describing the Sacramento covered area by reference to the geographic description of its nonattainment area boundaries as specified in 40 CFR part 81, subpart C. We note also that the Sacramento and San Joaquin Valley areas currently receive gasoline that complies with California's State reformulated gasoline (CaRFG) program, and that such gasoline is generally covered by EPA enforcement exemptions. *See* 64 FR 49992 (Sept. 15, 1999); 40 CFR 80.81.

[4] 59 FR. 7716 (February 16, 1994).

[5] Published on August 11, 1998, in the **Federal Register** (at 63 FR 43044) is a public announcement of EPA's approval of the Arizona Governor's petition and the effective date of the Phoenix opt-out. The opt-out effective date for the Phoenix area was June 10, 1998.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's rule merely amends EPA's regulations to reflect the current status of covered areas within the RFG program. These various changes in status are not dependant on today's rulemaking, but have occurred (or will occur) as the result of separate agency action and self-executing statutory provisions. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing [*RFG*] regulations [CFR citation—*40 CFR part 80, Subparts D, E an F,*] under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0277 (EPA ICR No. 1591.13).

Copies of the ICR document(s) may be obtained from Sandy Farmer, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.* Include the ICR and / or OMB number in any correspondence.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does

not establish an environmental standard intended to mitigate health or safety risks.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, Aug. 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. This final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13132 does not apply to this rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. This final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(a).

H. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as: (1) A firm having no more than 1,500 employees and no more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks;[6] according to Small Business Administration (SBA) size standards established under the North American Industry Classification System (NAICS); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. Today's rule revises the introductory text of § 80.70(j) to distinguish the nonattainment areas that have opted into the RFG program from those that are required to be in the program under the Clean Air Act. In addition, today's rule revises the text of § 80.70(l) and (n) to make these provisions clearer. These minor revisions are strictly organizational and do not change the substance or intent of these provisions in any way. Today's rule also removes the current provisions of § 80.70(m) relating to Phoenix as an opt-in covered area, since the Phoenix area is no longer a covered area as of June 10, 1998. Published on August 11, 1998, in the **Federal Register** (at 63 FR 43044) is a public announcement of EPA's approval of the Arizona Governor's petition and the effective date of the Phoenix opt-out. The opt-out effective date for the Phoenix area was June 10, 1998. The provisions for the Sacramento and San Joaquin Valley covered areas, described above, are included in a new § 80.70(m).

Today's amendments to the CFR reflect changes that have occurred in separate actions in accordance with EPA's regulations and the CAA. This rule is not itself an approval of Maine's or Arizona's opt-out request—Agency action approving those petitions occurred earlier in separate administrative proceedings. Similarly, neither the reclassification of the Sacramento and San Joaquin Valley nonattainment areas, nor the self-executing change in status of these areas to RFG "covered areas," are dependent on today's action. EPA is simply modifying the list of covered areas in the RFG regulations, 40 CFR 80.70, so the list will reflect EPA's earlier approval of the Maine and Arizona opt-out requests, and the self-executing change in the status of the Sacramento and San Joaquin Valley nonattainment areas. Thus, the various elements of today's direct final rule involve little or no exercise of agency discretion. Rather today's actions essentially are ministerial regulatory amendments.

I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's rule does not have tribal implications and will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

VII. Statutory Authority

The Statutory authority for the action today is granted to EPA by sections 211(c) and (k), 301, and 307 of the Clean Air Act, as amended; 42 U.S.C. 7545(c) and (k), 7601, 7607; and 5 U.S.C. 553(b).

VIII. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

40 CFR part 80 is amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.70 is amended by revising the paragraph (j) introductory text, removing and reserving paragraph (j)(5), revising paragraphs (k), (l), and (m) and removing paragraph (n) to read as follows:

§ 80.70 Covered areas.

* * * * *

(j) Any other area classified under 40 CFR part 81, subpart C as a marginal, moderate, serious, or severe ozone nonattainment area may be included as a covered area on petition of the Governor of the State in which the area is located. The ozone nonattainment areas listed in this paragraph (j) opted into the reformulated gasoline program prior to the start of the reformulated gasoline program. These areas are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (j) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

* * * * *

(k) The ozone nonattainment areas included in this paragraph (k) have opted into the reformulated gasoline program since the beginning of the program, and are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (k) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

(1) The St. Louis, Missouri, ozone nonattainment area is a covered area beginning June 1, 1999. The prohibitions of section 211(k)(5) of the Clean Air Act apply to all persons in the St. Louis, Missouri, covered area, other than retailers and wholesale purchaser-consumers, beginning May 1, 1999. The prohibitions of section 211(k)(5) of the Clean Air Act apply to retailers and wholesale purchase-consumers in the St. Louis, Missouri, area beginning June 1, 1999.

(2) [Reserved]

(l) Upon the effective date for removal of any opt-in area or portion of an opt-in area included in an approved petition under § 80.72(a), the geographic area covered by such approval shall no longer be considered a covered area for purposes of subparts D, E, and F of this part.

(m) Effective one year after an area has been reclassified as a Severe ozone nonattainment area under section 181(b) of the Clean Air Act, such Severe area shall also be a covered area under the reformulated gasoline program. The ozone nonattainment areas included in this paragraph (m) were reclassified as Severe ozone nonattainment areas, and are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (m) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

(1) The Sacramento, California, ozone nonattainment area, was redesignated as a Severe ozone nonattainment area effective June 1, 1995, and is a covered area for purposes of subparts D, E, and F of this part beginning on June 1, 1996.

(2) The San Joaquin Valley, California, ozone nonattainment area was redesignated as a Severe ozone nonattainment area effective December 10, 2001, and is a covered area for purposes of subparts D, E, and F of this part beginning on December 10, 2002.

[FR Doc. 02–13976 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

[6] Capacity includes owned or leased facilities as well as facilities under a processing agreement or an agreement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder form either crude oil or bona fide feedstocks.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[FRL–7221–1]

Notice of Final Decision on Motor Vehicle Waste Disposal Wells in EPA Region 8; Underground Injection Control (UIC) Class V Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision.

SUMMARY: Today the Environmental Protection Agency's Region 8 Office in Denver, Colorado, is announcing a decision under which each motor vehicle waste disposal well in Colorado, Montana, or South Dakota (regardless of whether it is in Indian country) or in Indian country in North Dakota, Utah, or Wyoming must either be closed or covered by a Class V Underground Injection Control (UIC) permit application no later than January 1, 2007. The term "Indian country" as used in this document is defined in 18 United States Code Section 1151.

DATES: This decision is effective June 4, 2002.

ADDRESSES: The decision and supporting documents, including public comments, are available for review from 8 am to 5 pm on working days at the U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202–2466.

FOR FURTHER INFORMATION CONTACT: Douglas Minter (8P–W–GW), EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Phone: 800–227–8917, extension 6079 or 303–312–6079. E-mail: *minter.douglas@epa.gov*.

SUPPLEMENTARY INFORMATION: Motor vehicle waste disposal wells typically are septic systems or dry wells that can receive or have received waste fluids from floor drains or shop sinks in public or private facilities that service cars, trucks, buses, aircraft, boats, trains, snowmobiles, construction and farm machinery, or other motor vehicles.

Today's decision applies to every motor vehicle waste disposal well that became operational or for which construction had begun by April 5, 2000, if that well is (1) anywhere in Colorado, Montana, or South Dakota, in Indian country or not, or (2) in Indian country in North Dakota, Utah, or Wyoming.

Today's decision does not apply to wells for which construction began after April 5, 2000. Since that date, new or converted motor vehicle waste disposal wells have been prohibited (unless construction began before that date). *See* the **Background** section below for more details.

1. Background

Under the authority of part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300h *et seq.*, the United States Environmental Protection Agency ("EPA") regulates underground injection of fluids into wells. The purpose of EPA's UIC program is to prevent underground injection that may contaminate underground sources of drinking water (USDW). (42 U.S.C. 300h(b) and (d).) A "USDW" is an aquifer, or its portion, that has not been found by the EPA to be an "exempted aquifer" and that (1) supplies any public water system, or (2) contains a sufficient quantity of ground water to supply a public water system and either currently supplies drinking water for human consumption or contains fewer than 10,000 milligrams per liter (mg/l) of dissolved solids. (40 CFR 144.3.)

There are five classes of injection wells. Motor vehicle waste disposal wells are considered Class V wells. (40 CFR 144.80, 144.81, and 146.5.) All owners or operators of Class V wells must comply with various requirements, including submission of inventory information to State or EPA regulatory agencies prior to operating any Class V well. (See 40 CFR part 144, especially §§ 144.26 and 144.83.)

UIC programs are administered either by EPA or by states whose UIC programs EPA has approved. In Region 8, EPA has authorized North Dakota, Utah, and Wyoming to administer Class V UIC programs. For Indian country in these three states, however, EPA directly administers the Class V UIC program. EPA also directly administers the Class V UIC program throughout Colorado, Montana, South Dakota (*i.e.*, in both Indian country and elsewhere).

On December 7, 1999, EPA revised its regulations for Class V wells. (64 FR 68546.) Effective April 5, 2000, all new motor vehicle waste disposal wells were prohibited. (40 CFR 144.88(a)(2).) Motor vehicle waste disposal wells already in operation or under construction by that date are to be closed or permitted, with the final deadlines for closure or permit applications depending on a determination of the susceptibility of the nearby groundwater to contamination. (40 CFR 144.87 and 144.88(b).)

The areas with greatest priority for protection are known as "Ground Water Protection Areas" or "GWPAs." States are required to delineate and assess GWPAs. (*See* section 1453 of the SDWA and 40 CFR 144.86.) An example of a GWPA is a recharge area of an aquifer that serves a "community" or "non-transient non-community" public water supply system. (*See* 40 CFR 144.86.) Any motor vehicle waste disposal well in a GWPA must either close or be covered by a permit application within one year of the state's completion of a local source water assessment, with certain allowances for extensions relating to the timing of the state delineation and assessment. (*See* 40 CFR 144.87(b) and 144.88(b)(1)(i) and (v).)

States and the EPA may also identify other areas where groundwater protection is important. These additional areas are known as "Other Sensitive Ground Water Areas" or "OSGWAs." Any motor vehicle waste disposal well in any designated OSGWA must either close or be covered by a permit application no later than January 1, 2007, again with certain allowances for extensions. (*See* 40 CFR 144.86(g), 144.87(c), and 144.88(b)(1)(ii) and (vi).)

States and the EPA are not required to designate "OSGWAs." If no OSGWAs are designated in a particular state, then all motor vehicle waste disposal wells in that state are to close or be covered by a permit application no later than January 1, 2007 (or the extended deadline, if any). (40 CFR 144.87(f).) If, however, some areas are designated as OSGWAs and others are not, then only those wells within OSGWAs are subject to this particular deadline.

2. Today's Decision and Its Consequences

The purpose of this document is to announce that EPA Region 8 has decided not to designate any OSGWAs. The consequence of this decision is that no later than January 1, 2007, each motor vehicle waste disposal well that is in Colorado, Montana, or South Dakota (regardless of whether it is in Indian country) or that is in Indian country in North Dakota, Utah, or Wyoming must close or be covered by either a permit or permit application.

If EPA Region 8 had decided to designate any OSGWA(s), then any motor vehicle waste disposal well outside of the designated OSGWA(s) would not have been subject to the final January 1, 2007 deadline.

There is no provision in EPA's regulations for extending the January 1, 2007 deadline in jurisdictions where EPA directly administers the Class V UIC program. The extension provisions apply only to state-administered programs, as described in 40 CFR 144.87(c). Consequently, the January 1, 2007 deadline is a final deadline.

To obtain a permit to operate a motor vehicle waste disposal well, an owner or operator must demonstrate, among other things, that the well's waste stream does not contain contaminants in concentrations greater than the Maximum Contaminant Levels (MCLs) established in 40 CFR part 141 or Health Advisory Limits. A Health Advisory Limit (HAL) is an estimate of an acceptable drinking water level for a chemical substance based on health effects information. HALs can be used by UIC programs to establish enforceable limits for contaminants for which no primacy MCL has been established. HAL information can be obtained from EPA at the address given above in the section entitled **FOR FURTHER INFORMATION CONTACT.**

Permits usually require owners or operators of motor vehicle waste disposal wells to sample and analyze their waste streams on a quarterly basis. If a well's owner or operator does not obtain a permit for authorization to inject, then the well must be closed in a manner that cannot allow any waste fluids to be released into the ground, with thirty days' advance notice to Region 8 of the closure. (40 CFR 144.88(b)(1)(vii).) More details on the permit application process are available from EPA upon request. (Please see the preceding section entitled **FOR FURTHER INFORMATION CONTACT.**)

In some cases, motor vehicle waste disposal well owners or operators may be required to close their wells or apply for permits before January 1, 2007. For example, if a Class V well is in a designated GWPA, it must be closed or covered by a permit application within one year of the completion of a source water assessment, as mentioned above. As another example, if EPA finds that a well may cause a violation of a National Primary Drinking Water Regulation at 40 CFR part 141 or may be otherwise adversely affecting the health of persons, then EPA may require the owner or operator of the well to apply for a permit application or to close the well by a date to be specified by Region 8. (*See* 40 CFR 144.12(c) and (d).) Under no circumstance would a well's location in a GWPA or an OSGWA (had Region 8 decided to designate any) postpone a more immediate closure/permit application deadline specified by Region 8.

3. EPA Region 8's Public Participation Process

EPA Region 8 has made extensive efforts to educate and consult with the public, including Indian tribes, concerning the requirements for motor vehicle waste disposal wells and Region 8's options for designating OSGWAs. The Region's efforts are summarized below. The following does not include owner/operator-specific compliance assistance, inspections, enforcement actions, and other efforts that also have served to disseminate information about the new requirements.

March, 2000: Region 8 directly mailed information on the new/existing Class V requirements to sanitarians affiliated with all county health departments in Colorado. County sanitarians are responsible for ensuring that on-site waste water (*e.g.*, septic) systems in their jurisdiction are constructed and used properly.

April, 2000: At the Spring Sanitarians' Educational Conference in Helena, Montana, Region 8 presented a summary of the new/existing Class V requirements.

April, 2000: Region 8 staff presented a summary of the new/existing Class V requirements to the Montana Department of Environmental Quality (DEQ) in Helena, Montana. The DEQ is responsible for implementing the source water assessment program and other ground water protection programs within Montana.

July, 2000: Region 8 presented a summary of the new/existing Class V requirements at the National Environmental Health Association's Annual Education Conference in Denver, Colorado. This conference drew sanitarians from Region 8 and other parts of the country.

August, 2000: Region 8 discussed the new Class V requirements with representatives from the Colorado Department of Public Health and Environment (DPH&E) and Montana DEQ, during the State UIC/Source Water Directors' Meeting in Glenwood Springs, Colorado.

October, 2000: Region 8 discussed the new Class V requirements with representatives of the South Dakota Department of Environment and Natural Resources (DENR) in Pierre, South Dakota. The DENR is responsible for implementing the source water assessment program and other ground water protection programs within South Dakota.

March, 2001: Region 8 sent a letter to all Tribal Chairpersons and Tribal Environmental Program Directors in Indian country in Region 8 describing Region 8's implementation options. The letter included a draft proposal for applying the closure/permitting requirements throughout all Indian country in Region 8.

April, 2001: Region 8 invited potential stakeholders (including motor vehicle-related industry groups) in South Dakota to participate in upcoming workshops on the new/existing Class V requirements. The invitation letter described Region 8's draft proposal to apply the closure/permitting requirements throughout South Dakota.

May, 2001: In Rapid City and Huron, South Dakota, Region 8 presented a summary of the new/existing Class V requirements to federal, state, county, municipal, nonprofit, and private citizen stakeholders. Region 8 described its implementation options and its draft proposal to apply the closure/permitting requirements throughout South Dakota. It also received comments from the public on the draft proposal.

July, 2001: In Fort Yates, North Dakota, Region 8 presented a summary of the new/existing Class V requirements to Tribal Environmental Program Directors attending a Regional Operations Committee meeting, describing Region 8's implementation options and its draft proposal for applying the closure/permitting requirements throughout Indian country in Region 8.

September/October, 2001: Region 8 published a notice announcing its proposal for implementing the motor vehicle waste disposal well permitting/closure requirements on a state and Indian countrywide basis, as described below.

October, 2001: Region 8 discussed the new Class V requirements with representatives from the Colorado DPH&E, Montana DEQ, and the South Dakota DENR during the State UIC/Source Water Directors Meeting held in Lead, South Dakota.

October, 2001: Region 8 presented a summary of the new/existing Class V requirements and Region 8's previously-published formal proposal in Helena, Montana, to General Motors' automobile facility dealerships in Montana.

4. Public Notice of Proposal

In late September and early October of 2001, Region 8 formally announced that it was proposing to implement the 1999 Class V requirements throughout Colorado, Montana, and South Dakota, and only in Indian country in the other three Region 8 states (*i.e.*, North Dakota, Utah, and Wyoming). Region 8 made its announcement by publishing a two-page notice in nineteen newspapers throughout Region 8. It also mailed this notice directly to over 300 potential stakeholders in the Region and posted it on Region 8's Web site.

In this notice, Region 8 made a finding that motor vehicle waste disposal wells are located predominately in unsewered areas with permeable soils, where local populations depend on ground water as a source of drinking water or could do so in the future. Region 8 also found that for wells located in areas with more impermeable soils, motor vehicle wastes (*e.g.*, solvents) can migrate downward through natural (*e.g.*, fractures) and artificial (*e.g.*, abandoned wells) pathways and indirectly contaminate USDWs. Therefore, Region 8 proposed implementing a closure/permitting requirement throughout the area in which it directly implements the Class V program as the most prudent and equitable way to achieve its regulatory goal of protecting all USDWs for current and future uses.

Neither the Safe Drinking Water Act nor any EPA regulation requires Region 8 to publish a formal notification of its proposed or final decision not to delineate OSGWAs. If Region 8 does not designate any OSGWAs by January 1, 2004, then the "default" closure/permit application deadline is January 1, 2007. (*See* 40 CFR 144.87(c).) Thus, as of January 1, 2004, any member of the regulated community could have learned of the January 1, 2007 deadline by finding out that as of that date Region 8 had designated no OSGWAs. Region 8

has chosen, however, not to let the regulated community wait in this manner. Today's document is intended to publicize and clarify well in advance of the January 1, 2007 deadline that motor vehicle waste disposal wells in areas where Region 8 directly implements the Class V UIC program will need to be closed or covered by permit applications by that time. Region 8 is also taking this opportunity to reiterate its ongoing concerns with disposal of motor vehicle waste fluids. The Region will continue to use its authority under 40 CFR 144.12(c) and (d) to take any appropriate action (including requiring permit applications or well closure, as well as to take an enforcement action) upon finding that any Class V well may cause a violation of a National Primary Drinking Water Regulation or otherwise adversely affect public health.

5. Public Comments and EPA Region 8's Response

In the public notice described above, EPA Region 8 asked any interested member of the public to submit written comments within 30 days. Approximately 20 persons responded by the end of the comment period, speaking at the meetings described above and/or sending letters or electronic correspondence to EPA. The substantive comments that Region 8 interprets as objections to its proposal are summarized below, along with the Region's responses.

Comment: Some USDWs are not at risk from motor vehicle disposal well-related contamination, while others are. There are areas where the ground water is not located near the land surface and/or is underlain by soil and rock formations (*e.g.*, clays and shales) that prevent the downward migration of motor vehicle-related waste fluids into an underlying USDW. Region 8 should delineate OSGWAs only where USDWs are relatively shallow and not overlain by an impermeable formation.

Response: Due to hydrogeologic variability, some USDWs are more vulnerable than others. However, deeper, more confined USDWs are at some risk from motor vehicle disposal well-related contamination. Natural (*e.g.*, fractures) and artificial (*e.g.*, abandoned wells) pathways in soil and rock formations, including clays and shales, can facilitate the downward migration of contaminants. This is particularly true for certain chemicals (*e.g.*, solvents), which are heavier than water and routinely used in motor vehicle-related operations.

In addition to large, well-defined shallow aquifer systems, there are less well-defined shallow aquifer systems that have been or could be used extensively in rural areas for drinking water. While often very limited in areal extent, these aquifers constitute USDWs based on their quality (*i.e.*, less than 10,000 mg/l total dissolved solids) and quantity (*i.e.*, sufficient to supply a public water system, which Region 8's UIC program generally interprets as an aquifer yielding two or more gallons of water per minute). These USDWs include: (1) Fractured rock (*e.g.*, granite, shale, and limestone) aquifers; (2) alluvial sand and gravel aquifers adjacent to small drainages; and (3) limited sand lenses within confining (*e.g.*, shale) formations. While there may be economic or other reasons for these USDWs not to be used for supplying public water systems, it is prudent and in keeping with the purposes of the SDWA for EPA to protect them as drinking water sources for future users and for those who now use existing private wells.

Therefore, Region 8 has concluded that the 1999 Class V requirements affecting existing motor vehicle waste disposal wells should not be restricted to certain geographic areas.

Comment: The proposal would place an economic burden on owners/operators of existing motor vehicle waste disposal wells in rural areas where USDWs are not susceptible to contamination. For example, if an owner or operator installs a holding tank to capture motor vehicle-related wastes, there may be a high price for disposing of these wastes properly, because the nearest facility accepting the waste may be many miles away. As a result, some of these owners/operators could be forced out of business.

Response: Applying the new permitting/closure requirements regardless of facility location should not impose an unreasonable economic burden on owners/operators of motor vehicle waste disposal wells. Having overseen the closure of hundreds of existing motor vehicle waste disposal wells in urban and rural areas over the past 15 years, Region 8 has found that owners/operators have been able to find affordable, alternative methods for managing and disposing of their motor vehicle-related wastes.

Rural facilities often have limited options because the greater distances to a sewer line make connection to a municipal system expensive. However, many motor vehicle-related facilities in rural areas are allowed to discharge into municipal sewer systems, and Region 8 has found that owners/operators are able to afford the costs associated with capturing, pumping, and transporting their wastes to these locally-available systems. These costs also have been affordable due to the small amounts of waste (from occasional drips, leaks, and spills) generated from typical motor vehicle-related operations. In the few instances where larger facilities were found to be generating significant volumes of motor vehicle-related fluid wastes, owners/operators have recycled their wastes or obtained permits requiring injection at levels that would not compromise drinking water standards.

Comment: Committing resources to address existing motor vehicle waste disposal wells in areas where no USDWs are at risk from contamination is not a good use of taxpayers' money. Designating OSGWAs would focus resources on USDWs most susceptible to contamination.

Response: First, in order to designate OSGWAs, Region 8 would need to expend considerable resources to develop a delineation methodology and conduct delineations to support implementation and possible enforcement on a site-by-site basis. Rather than conduct a technically complex and legally defensible exercise, Region 8 believes the idea of designating OSGWAs can be put into practice more efficiently by targeting resources in areas overlying the most vulnerable USDWs. Second, having found over the past 15 years that the majority of motor vehicle waste disposal wells are located in populated areas, where local communities depend on accessible (and vulnerable) ground water as a source of drinking water, Region 8 has made these areas its primary focus for implementation in order to achieve the greatest level of risk reduction with its limited resources.

6. EPA Region 8's Final Implementation Decision

Having reviewed all comments received during the public comment period, Region 8 has concluded that no new or compelling information was received to justify substantive changes to its implementation proposal. Therefore, Region 8 has decided to apply the closure/permitting requirements of the December 7, 1999 revisions to all motor vehicle waste disposal wells throughout the States of Colorado, Montana, and South Dakota (regardless of whether they are in Indian country), and throughout Indian country within North Dakota, Utah, and Wyoming.

In making its final decision, Region 8 considered the following additional factors:

Consistency in Implementation: Nationally, almost all State/EPA UIC programs intend to apply the new Class V requirements state and Indian country-wide. The remaining UIC programs nonetheless expect that all motor vehicle waste disposal wells will be either closed or permitted.

Possible Delay of Source Water Assessment Completion: EPA's 1999 rule states that if all four steps (*i.e.*, inventory, delineation, susceptibility analysis, and public notification) of the assessment process for all applicable public water systems (PWSs) are not completed by a state or tribe by January 1, 2004, the new requirements affecting existing motor vehicle waste disposal wells will apply throughout the relevant state or area of Indian country, absent a formal request for a one-year extension. (40 CFR 144.87(b).) Based on feedback Region 8 has received from state and tribal source water program contacts, it is unlikely that assessments will be completed for all PWSs affected by this rule. This is particularly true in Indian country because tribes are not required to complete this work under the SDWA. Therefore, Region 8 expects that the new requirements will most likely apply across all Region 8 states and areas of Indian country, consistent with today's decision.

Reduced Owner/Operator Liability: EPA and State UIC program inspections and environmental audits conducted by property owners, lenders, and insurers have identified motor vehicle waste disposal wells as an unnecessary and long-term environmental liability. The costs of soil and ground water cleanup have far exceeded the preventive costs of adopting alternatives such as sewer connections, holding tanks, and dry shops. Today's decision will encourage these alternative, more environmentally sound means of managing and disposing of motor vehicle waste fluids.

Dated: May 17, 2002.

Kerrigan G. Clough,

Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, Region 8.

[FR Doc. 02–13699 Filed 6–3–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0087; FRL–7178–5]

Cyhalofop-butyl; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of cyhalofop (cyhalofop-butyl plus cyhalofop-acid) and the di-acid metabolite in or on rice grain and rice straw. Dow AgroSciences, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire on June 1, 2007.

DATES: This regulation is effective June 4, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0087, must be received on or before August 5, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0087 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6224; and e-mail address: miller.joanne@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0087. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 25, 2001 (66 FR 20808) (FRL–6774–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–

170), announcing the filing of a pesticide petition (PP 0F6089) by Dow AgroSciences, LLC, 9330 Zionsville Road, Indianapolis, IN 46268. This notice included a summary of the petition prepared by Dow AgroSciences, LLC, theregistrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing tolerances for combined residues of the herbicide cyhalofop-butyl (cyhalofop-butyl, cyhalofop-acid and cyhalofop-diacid) in or on rice grain, rice hull, rice bran and polished rice at 0.03 parts per million (ppm) and rice straw at 8.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of cyhalofop (cyhalofop-butyl plus cyhalofop acid) and the di-acid metabolite in or on rice grain at 0.03 ppm and rice straw at 8.0 ppm. Tolerances are not required for rice processed fractions or for animal commodities. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cyhalofop-butyl are discussed in the following Table 1 and Table 2 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—ACUTE TOXICITY OF CYHALOFOP-BUTYL TECHNICAL

Guideline No.	Study Type	Results
870.1100	Acute Oral (Rat)	LD_{50} >5000 mg/kg (limit test) There was no evidence of toxicity. Toxicity Category IV
870.1100	Acute Oral (Mice)	LD_{50} >5000 mg/kg (limit test) There was no evidence of toxicity. Toxicity Category IV
870.1200	Acute Dermal (Rat)	LD_{50} >5000 mg/kg (2.5 x the limit dose) Chromodacryorrhea was observed in 2/5 males on day 2 only. Delayed weight gain was observed in all rats, with the females being most affected. There was no dermal irritation. Toxicity Category IV
870.1300	Acute Inhalation (Rat)	LC_{50} >5.63 mg/L (2.8 x the limit concentration) Bradypnea was noted in all rats with recovery within two hours following exposure. Abnormal respiratory sounds were noted in all rats after exposure with recovery by day 1. Reddish adhesive materials in the nasorostral and periocular regions were noted from all test rats after exposure with recovery by day 2. No gross abnormalities. Two control rats had reddish adhesive materials in the nasorostral region after exposure with recovery within two hours. Toxicity Category IV
870.2400	Primary Eye Irritation - Rabbit	Minimally irritating Toxicity Category IV
870.2500	Primary Skin Irritation - Rabbit	Essentially nonirritating Toxicity Category IV
870.2600	Dermal Sensitization - Guinea Pig	Not a dermal sensitizer

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	Subchronic (4 and 13 Week) Feeding (Rat)	NOAEL (male)≥400 mg/kg/day (Highest Dose Tested [HDT] in male) NOAEL (female) = 400 mg/kg/day LOAEL (female) = 800 mg/kg/day (HDT in female) based on perineal soiling and reduced body weights and body weight gain.
870.3100	Subchronic Feeding (Rat)	NOAEL = 60.5/65.3 mg/kg/day,M/F LOAEL = 189.5/199.6 mg/kg/day, M/F (HDT) based on kidney toxicity (lipofuscin pigment deposition in proximal tubule cells) in both sexes, and possible liver toxicity (hepatocyte eosinophilic granules) in males.
870.3100	Subchronic Feeding (Mice)	NOAEL (male)≥30 mg/kg/day (HDT in male) NOAEL (female)≥100 mg/kg/day (HDT in female)
870.3100	Subchronic Feeding (Mice)	NOAEL (male) ≥37.5 mg/kg/day (HDT) NOAEL (female) = 4.3 mg/kg/day LOAEL (female) = 14.1 mg/kg/daybased on enlarged kidneys (20% absolute and relative) accompanied by swelling of the proximal tubule cells (4/12 mice).
870.3150	Subchronic Feeding (Dog)	NOAEL = 14.7 / 15.6 mg/kg/day, M/F LOAEL = 75.2 / 79.4 mg/kg/day, M/F (HDT) based on brown and/or atrophied thymuses, and decreased thymus weight.
870.3200	21-Day Dermal (Rat)	Systemic NOAEL ≥1000 mg/kg/day (limit dose) Dermal NOAEL ≥1000 mg/kg/day (limit dose)
870.3700	Gavage Developmental Toxicity (Rat)	Maternal NOAEL =1000 mg/kg/day (limit dose) Developmental NOAEL ≥1000 mg/kg/day (limit dose)
870.3700	Gavage Developmental Toxicity (Rabbit)	Maternal NOAEL = 40 mg/kg/day Maternal LOAEL = 200 mg/kg/day based on maternal death Developmental NOAEL ≥1000 mg/kg/day (limit dose)
870.3800	Feeding Reproductive Toxicity (Rat)	Systemic NOAEL (males) = 100 ppm (4.85-13.75 mg/kg/day) Systemic LOAEL (males) = 1000 ppm (50.0-138.7 mg/kg/day) based on kidney lesions (slight tubular cell swelling) in F_0 and F_1 male rats. Systemic NOAEL (females) ≥1000 ppm (69.2-147.7 mg/kg/day, HDT) Reproductive NOAEL ≥1000 ppm (50.1-138.7 mg/kg/day for males; 69.2-147.7 mg/kg/day for females) Offspring NOAEL ≥1000 ppm (50-147.7 mg/kg/day)
870.4100	Chronic Feeding Toxicity (Dog)	NOAEL ≥46.7 / 45.9 mg/kg/day; M/F (HDT)
870.4200	Carcinogenicity Feeding (Mouse)	NOAEL = 0.99 mg/kg/day LOAEL = 10.06 / 10.28 mg/kg/day, M/F (HDT) based on effects on the kidney including tubular dilatation, chronic glomerulonephritis, and hyaline casts in females, and hyperplasia of the stomach mucosal epithelium in males. There was no evidence of carcinogenic potential under the conditions of this study. Dosing was too low to elicit frank toxicity and inadequate to assess carcinogenic potential.
870.4300	Chronic Feeding Toxicity / Carcinogenicity (Rat)	NOAEL = 0.823 mg/kg/day in males and 2.475 mg/kg/day in females LOAEL = 3.44 mg/kg/day (HDT in males), 24.97 mg/kg/day (HDT in females) based on the early and increased deposition of the pigments lipofuscin and hemosiderin in the renal proximal tubular cells of both sexes, and renal mineralization in female rats. There were no treatment-related increases in tumor incidence, compared to controls. Dosing was too low to elicit frank toxicity and inadequate to assess carcinogenic potential.
870.5100	Bacterial Reverse Gene Mutation Test (Ames Assay)	Negative in *Salmonella* TA strains and *E. coli* WP2 uvrA.
870.5300	Gene Mutation in Mouse	Negative
870.5375	*In Vitro* Cheomosomal Aberration in Chinese Hamster Lung	Polyploidy was induced when CHL (V79) cells were treated for 48 hours in the absence of S9, but there was no clastogenic effect on DNA.

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5395	*In Vivo* Mammalian Cytogenetics - Micronucleus Assay in Mouse Bone Marrow Cells	Negative
870.5550	Unscheduled DNA Synthesis in Rat Hepatocytes	Negative
870.6200	Gavage Acute Neurotoxicity (Rat)	NOAEL ≥2000 mg/kg (limit dose) based on the absence of clinical signs, a lack of effects on FOB parameters and motor activity, and the absence of neuropathologic lesions.
870.6200	Feeding Subchronic Neurotoxicity (Rat)	NOAEL ≥75 male/ ≥250 female mg/kg/day (HDT) based on the absence of clinical signs, lack of effects on FOB parameters and motor activity, and absence of neuropathologic lesions.
Special Study	Pharmacology - Mice and Rabbits	Mice: A single I.P. dose of 1250 or 5000 mg/kg was lethal to all male and female mice within 24 hours. Death occurred as early as three hours at 5000 mg/kg and was preceded by behavioral and motor function abnormalities (e.g., alterations in alertness, visual placing, spontaneous activity, incoordination, decreased muscle tone, and compromised autonomic reflexes), some of which appeared as early as 30 minutes postdosing. Male and female mice responded similarly. NOAEL = 78.1 mg/kg LOAEL = 313 mg/kg (based on minimal effects including decreased spontaneous activity, minor alterations in muscle tone, and minor changes in autonomic functions such as slight hyperthermia, and slightly decreasedrespiratory rate). LD≥1250 mg/kg Rabbits: One of three rabbits gavaged at 5000 mg/kg showed decreased spontaneous activity, prostration, decreased muscle tone, compromised autonomic reflexes, and decreased respiratory and heart rate at one day after dosing, and died on Day 4. There were no clinically significant findings in the remaining rabbits of the 5000 mg/kg dose group or any lower dose groups, and no significant effects on EKGs or blood pressure in any dosed rabbits. NOAEL = 2500 mg/kg LOAEL = 5000 mg/kg (based on the response of one of three test subjects including decreased spontaneous activity, prostration, decreased muscle tone, compromised autonomic reflexes, decreased respiratory and heart rate at one day after dosing, and death on day 4).
870.7485	Absorption, Metabolism, and Excretion (Dog)	No treatment-related adverse effects were reported. Approximately 50% of a single gavage dose was absorbed over several hours. Bloodand plasma radioactivity peaked after 1-2 hours. Clearance from plasma and blood was notespecially rapid but nearly complete at 48 hours. Over 168 hours, excretion was 42.5-43.9% in the urine, and 48.6-50.6% in the feces. Tissue distribution was not measured. The test article appears to be metabolized primarily by hydrolysis to R-(+)-2-[4-cyano-2-fluorophenoxy)phenoxy]propanoic acid which was found in both the urine and feces. Several other metabolites were also formed, each representing <5% of the administered dose. No parent compound was found in the urine, and only minimal amounts were detected in the feces.
870.7485	Metabolism and Pharmacokinetics (Rat)	Absorption of gavaged test article was 93-100%, and urinary excretion was the major route of elimination regardless of dose, label position, or gender. Over 168-hours, 84-100% of the radioactivity was eliminated in urine, with 86-90% eliminated within 24 hours. Fecal excretion was <5%. There was no elimination via expired air. Over a 24-hour period, biliary elimination accounted for 1.7 % and 20.1% of the administered dose in males and females, respectively, in the low-dose [α-^{14}C]XRD–537 BE group, and 17.0% (males) and 11.6% (females) of the administered dose in the [β^{14}C]XRD–537 BE low-dose group. The greatest radioactivity levels were found in liver, kidneys, plasma, whole blood, heart, lung, and stomach, with the highest tissue levels being found in the liver and kidney at 2 hours. Most tissue levels accounted for <1% of the administered dose. Due to rapid excretion,tissue/organ levels declined to near detection limits by 24 hours in all dose groups.

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
		There was a biphasic pattern for both labels with no substantial differences in pharmacokinetic indices (C_{max}, t_{cmax}, $t_{1/2}$, AUC). Time-to-maximum plasma concentration (t_{cmax} of 0.5 to 4 hrs) elimination half-times ($t_{1/2}$) reflected the relatively rapid absorption. Females had somewhat shorter tcmax and lower C_{max} values suggestive ofsaturated absorption processes. The acid metabolite (R-(+)-2-[4-(4-cyano-2-fluoro-phenoxy)phenoxy]propanoic acid) was the most prominent plasma fraction (~90-94% of the dose for males and ~75-81% for females regardless of dose). No parent compound or other metabolites were detected. The acid metabolite was the most common product in urine and feces 71-87% (urine) and 46-75% (feces) of the administered dose.
870.7600	Dermal Penetration (Rat)	Dermal absorption was ~25-34% for the spray formulation and ~11-16% for the EF-1218 formulation following a 24 hour dermal dosing. Within 48 hours, excretion was >85% in the urine and <1% in the feces, which is consistent with metabolism to water soluble metabolites and subsequent urinary excretion. Levels tested: Four Fischer 344 rats were dermally dosed for 24 hours with ^{14}C-labeled DE-537 n-butyl ester and nonlabeled DE-537 n-butyl ester in two formulations 200 mg/mL test article in EF1218 (Clincher EDC with which DE-537 n-butyl ester is normally formulated) and a spray solution at 0.005, 1.0, or 1.8 mg/cm^2.
Special Study	Hepatocellular Proliferation in Rats	In a subchronic oral toxicity study in rats (MRID 45000413), satellite rats dosed for 4 weeks had hepatocellular hypertrophy and focal necrosis at all dose levels. Although multiple necrotic foci accompanied by inflammatory cells were graded very slight, and were not considered dose-related, this study was performed to explore these findings. An initial dramatic increase in DNA synthesis during the first week of treatment was followed by hepatocellular hypertrophy at subsequent observations. This was the reason for enlarged livers observed in XRD-537nBu-treated rats. Levels tested: 0, 3.0, 25, 100, or 400 mg/kg/day in the diet with sacrifices at 1, 2, 4, and 13 weeks. One week prior to sacrifice, 10 µL BrdU/hour was administered via an ALZET osmotic pump implanted subcutaneously. BrdU is a DNA stain used to quantify hepatocellular proliferation.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for cyhalofop-butyl used for human risk assessment is shown in the following Table 3:

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYHALOFOP-BUTYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Acute Dietary	An appropriate endpoint attributable to a single dose was not identified. An acute RfD was not established.		

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYHALOFOP-BUTYL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Chronic Dietary	NOAEL (Female) = 0.99 FQPA SF = 1	Kidney effects in females including tubular dilatation, chronic glomerulonephritis, and hyaline casts at the LOAEL of 10.06 / 10.28 mg/kg/day, M/F.	Carcinogenicity in Mice MRID 45000418
	Chronic RfD = NOAEL/UF = 0.99 mg/kg/day/100 =0.01 mg/kg/day Chronic PAD = cRfD/FQPA SF = 0.01 mg/kg/day/1 = 0.01 mg/kg/day		
Incidental Oral, Short-Term (1–30 days)	NOAEL (Female) = 4.3 FQPA SF = 1	Enlarged kidneys in females accompanied by swelling of the proximal tubule cells in 4/12 mice at the LOAEL of 14.1 mg/kg/day. LOC = 100	Subchronic Feeding in Mice MRID 45014706
Incidental Oral, Intermediate-Term (1–6 months)			
Dermal, Short-Term (1–30 days)	No hazard has been identified to support quantification ofrisk. No systemic effects were observed in the 21-day dermal study in therat at doses up to 1000 mg/kg/day (limit dose). In addition, nodevelopmental effects were observed in the developmental toxicity studies.		
Dermal, Intermediate-Term (1–6 months)			
Dermal, Long-Term[a](>6 months)	NOAEL (Female) = 0.99 FQPA SF = 1	Kidney effects in females including tubular dilatation, chronic glomerulonephritis, and hyaline casts at the LOAEL of 10.06 / 10.28 mg/kg/day, M/F. LOC = 100	Carcinogenicity in Mice MRID 45000418
Inhalation, Short-Term[b](1–30 days)	NOAEL (Female) = 4.3 FQPA SF = 1	Enlarged kidneys in females accompanied by swelling of the proximal tubule cells in 4/12 mice at the LOAEL of 14.1 mg/kg/day. LOC = 100	Subchronic Feeding in Mice MRID 45014706
Inhalation, Intermediate-Term[b](1–6 months)			
Inhalation, Long-Term[b](>6 months)	NOAEL (Female) = 0.99 FQPA SF = 1	Kidney effects in females including tubular dilatation, chronic glomerulonephritis, and hyaline casts at the LOAEL of 10.06 / 10.28 mg/kg/day, M/F. Target MOE = 100	Carcinogenicity in Mice MRID 45000418
Cancer	This herbicide has not been classified. The rat and mouse carcinogenicity studies are identified as data gaps. Since the doses tested in these studies were too low to assess the carcinogenic potential of cyhalofop-butyl, the cancer dietary risk assessment was conducted using the potency factor ($Q1^*$) of 2.3×10^{-1} for the structural analog diclofop-methyl.		

[a]Since an oral endpoint was identified, a 34% dermal absorption factor should be used in route-to-route extrapolations.
[b]Since an oral endpoint was identified, a default oral: inhalation absorption factor of 1 should be used in route-to-route extrapolations.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No tolerances have previously been established for the combined residues of cyhalofop-butyl, in or on raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from cyhalofop-butyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. No toxicological endpoint attributable to a single exposure was identified in the available toxicology studies. No appropriate study available show any acute dietary effects of concern.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA insert 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Residue levels are at the recommended tolerances for rice and 100% of the crop rice is treated with cyhalofop-butyl. All sub-populations had dietary exposure values which represented <1% of the cPAD.

iii. *Cancer.* The cancer dietary risk assessment was conducted using the potency factor ($Q1^*$) of 2.3×10^{-1} for the structural analog diclofop-methyl since the dose levels in the rat and mouse carcinogenicity studies were too low to assess the carcinogenic potential of cyhalofop-butyl. In cancer studies with diclofop-methyl there are tumors at doses similar to those doses which caused no tumors in the cyhalofop-butyl studies. Hypothetical rat and mouse $Q1^*$ values were calculated on the assumption that tumor incidence might rapidly escalate at doses greater than those actually used in the submitted studies. When a hypothetical $Q1^*$ was calculated for cyhalofop-butyl by assigning increased tumors at doses above those actually tested, the results came out slightly less potent than the $Q1^*$ for diclofop-methyl . For risk assessment purposes the diclofop-methyl $Q1^*$ will not underestimate any possible cancer risk. A refined (Tier 3) deterministic cancer risk assessment was conducted. Inputs to the dietary exposure assessment included the anticipated residues of 0.0066 ppm for rice grain from field trials and estimates that a maximum of 17.6% of rice will be treated with cyhalofop-butyl. Based on the anticipated residue and the percent of the crop treated, the refined dietary cancer risk from residues in food is 6.2×10^{-8}.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information in Table 4 and Table 5 as follows.

TABLE 4.—SOUTHERN STATES ESTIMATED PERCENT RICE CROP TREATED

Year	2002	2003	2004	2005	2006
EPA Estimate	2	4.3	4.3	5.02	5.6

TABLE 5.—CALIFORNIA ESTIMATED PERCENT RICE CROP TREATED

Year	2002	2003	2004	2005	2006
EPA Estimate	6.7	12.7	13.2	15.6	17.6

The Agency believes that the three conditions have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The market share was for cyhalofop-butyl on rice was projected based on current percent of crop treated with the existing alternative controls. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. More importantly, EPA has taken steps to ensure this market share projection is not exceeded by imposing, as a condition of registration for cyhalofop-butyl under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, a production limit corresponding to the projection. As to Conditions 2 and 3, regional consumption information and consumption information for significant sub-populations is taken into account through EPA's computer-based model for evaluating the exposure of significant sub-populations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant sub-population group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which cyhalofop-butyl may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for cyhalofop-butyl in drinking water. Because the Agency does not have comprehensive monitoring data,

drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of cyhalofop-butyl.

The GENEEC model is not adequate for predicting the estimated environmental concentrations (EECs) for pesticide applications to rice. The Agency developed a model using available chemical and physical property data, to calculate the EECs for the use of cyhalofop-butyl on rice. The model was based on a hypothetical rice paddy, 1 hectare in size, flooded to a depth of 10 cm, with a sediment interaction zone of 1 cm. Based on these dimensions there are one million liters of water and 100 cubic meters of active sediment in the paddy. The sediment is assumed to weigh 135,000 kg based on a bulk density of 1.35g/cc. This model was used for both dry and water seeded rice.

The peak drinking water concentrations for the Gulf Coast and California are 137 and 36 ppb, respectively. The resulting chronic EECs (annual averages in Index Reservoir) are 14.2 and 3.7 ppb, respectively. The peak drinking water concentration for the Mississippi Valley is 119 ppb, and the chronic EEC annual average is 12.4 ppb. If the (normal) release is on day 78 (90 days from seedling), the peak is 25 ppb and the annual average is 2.6 ppb.

Based on this model and the SCI-GROW model the estimated environmentalconcentrations (EECs) of for acute exposures are estimated to be: In a water-seeded paddy 36 parts per billion (ppb) , and in a dry-seeded paddy 25 ppb for surface water and 0.16 ug/L ppb for ground water. The EECs for chronic exposures are estimated to be 3.7 ppb for water-seeded rice and 2.6 ppb for dry-seeded rice.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cyhalofop-butyl they are further discussed in the aggregate risk sections.

Because EECs calculated using the above models exceeded the DWLOC regarding potential cancer risk, EPA undertook a further analysis of this estimate. It was determined that there was not sufficient reliable data to further refine these estimates. Therefore, the Agency required that the FIFRA label for cyhalofop-butyl mandate a holding time of seven days before the treated paddy water may be released to the environment. This 7–day holding time will result in the concentration of cyhalofop-butyl, expressed as an annual average (conc/365), falling below 0.15 ppb.

3. *From non-dietary exposure.* The term "residentialexposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyhalofop-butyl is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism oftoxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether cyhalofop-butyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, cyhalofop-butyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cyhalofop-butyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

D. Safety Factor for Infants and Children

1.*In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants andchildren. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* or postnatal exposure.

3. *Conclusion.* There is a complete toxicity data base for cyhalofop-butyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor should be reduced to 1x in assessing the risk posed by this chemical because: (1) There is no indication of quantitative or qualitative increased susceptibility; (2) a developmental neurotoxicity study (DNT) is notrequired; (3) the dietary food and drinking water exposure assessments will not underestimate the potential exposures for infants and children; (4) there currently no registered or proposed residential (non-occupational) uses of cyhalofop-butyl, and (5) the database pertaining to threshold effects on infants and children is complete.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level andquantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculatedDWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with apesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* An appropriate endpoint attributable to a single dose was not identified. Therefore, cyhalofop-butyl is not expected to pose an acute risk.

2. *Chronic risk.* For all population subgroups, the chronic DWLOC is greater than the chronic surface EEC, and there is no expectation of migration of cyhalofop-butyl residues to ground water, therefore, aggregate chronic (non cancer) exposure to cyhalofop-butyl is not expected to exceed the Agency's level of concern. There are no residential uses for cyhalofop-butyl that result in chronic residential exposure to cyhalofop-butyl. The DWLOCs for chronic risk are shown in Table 6 as follows:

TABLE 6.—CHRONIC DWLOC CALCULATIONS

Population Subgroup[1]	Chronic Scenario					
	cPAD mg/kg/day	Chronic Food Exp mg/kg/day[2]	Max Chronic Water Exp mg/kg/day[3]	Ground Water EEC (*units*)	Surface Water EEC (*units*)[4]	Chronic DWLOC (µg/L)[4/5]
U.S. Population	0.01	0.000007	0.009993		14.2	350
All Infants	0.01	0.000028	0.009972		14.2	100
Children (1-6 years)	0.01	0.000015	0.009985		14.2	100
Children (7-12 years)	0.01	0.000009	0.009991		14.2	100
Females (13-50 years)	0.01	0.000005	0.009995		14.2	300
Males (13-19 years)	0.01	0.000005	0.009995		14.2	350
Males (20+ years)	0.01	0.000006	0.009994		14.2	350
Seniors (55+ years)	0.01	0.000004	0.009996		14.2	350
Non-hispanic/non-white/non-black	0.01	0.000018	0.009982		14.2	350

[1]The Non-hispanic/non-white/non-black population was included in this table because it has the highest adult dietary exposure level. Body weights used to calculate the DWLOCs are 70 kg for adult males; 60 kg for adult females, and 10 kg for children <12 years.
[2]The chronic food exposure levels are for rice, the sole crop being considered for registration.
[3]Maximum Chronic Water Exposure (mg/kg/day) = [Chronic PAD (mg/kg/day) - Chronic Dietary Exposure (mg/kg/day)]
[4]This table presents the surface water EECs without taking into account the further reduction achieved by the mandated holding period. Even absent the holding period the predicted levels are well within the DWLOCs.
[5]Chronic DWLOC(µg/L) = [maximum chronic water exposure (mg/kg/day) x body weight (kg)]/[water consumption (L/day)x 10^{-3} mg/ µg]

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyhalofop-butyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyhalofop-butyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* Cyhalofop-butyl is not registered for use on any sites that would result in residential exposure. The cancer dietary risk assessment was conducted using the potency factor ($Q1^*$) of 2.3×10^{-1} for the structural analog diclofop-methyl since the dose levels in the rat and mouse carcinogenicity studies were too low to assess the carcinogenic potential of cyhalofop-butyl. In cancer studies with diclofop-methyl there are tumors at doses similar to those doses which resulted in no tumors in the cyhalofop-butyl studies. Hypothetical rat and mouse $Q1^*$ values were calculated on the assumption that tumor incidence might rapidly escalate at doses greater than those actually used in the submitted studies. These hypothetical $Q1^*$s came out slightly less potent than the $Q1^*$ for diclofop-methyl. Thus, given that no data with cyhalofop-butyl

has indicated carcinogenic potential, use of the diclofop-methyl Q1* will produce a conservative (health-protective) estimate of cancer risk. Based on the anticipated residue and the percent of the crop treated, the refined dietary cancer risk from residues in food is 6.2 x 10^{-8}. The cancer DWLOC for the general population is shown in the table below. With a water holding time of 7 days, the concentration of cyhalofop-butyl residues in paddy water, expressed as an annual average (concentration/365) will be less than 0.15 µg/L. Since this value is below the calculated cancer DWLOC of 0.44 µg/L, aggregate cancer risk to cyhalofop-butyl is not expected to exceed EPA's level of concern.

TABLE 7.—CANCER DWLOC CALCULATIONS

Population	Q*	Negligible Risk Level[1]	Target Max Exposure[2] mg/kg/day	Chronic Food Exposure mg/kg/day	Max Water Exposure[3] mg/kg/day	Cancer DWLOC[4](µ/L)
U.S. Population	0.23	3 x 10^{-6}	1.3 x 10^{-5}	3 x 10^{-7}	1.27 x 10^{-5}	0.44

[1] EPA has traditionally regarded risks in the range of the probability of one in one million as negligible, with risks as high as three in one million considered as falling within that range.
[2] Target Maximum Exposure (mg/kg/day) = [negligible risk/Q*]
[3] Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - Chronic Food Exposure (Note: There are no residential uses for this chemical.)
[4] Cancer DWLOC(µg/L) = [maximum water exposure (mg/kg/day) x body weight (kg)]/[water consumption (L) x 10^{-3} mg/µg]² Body weight (kg) = 70

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyhalofop-butyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example—gas chromatography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican tolerances/Maximum Residue Levelsfor cyhalofop-butyl residues. Thus, harmonization is not an issue at this time.

C. Conditions

The following data gaps must be fulfilled: Subacute (28-day) inhalation toxicity study, a carcinogenicity study in rats, and a carcinogenicity study in mice.

V. Conclusion

Therefore, time limited tolerances are established for combined residues of cyhalofop (cyhalofop-butyl plus cyhalofop-acid) and the di-acid metabolite in or on rice grain at 0.03 ppm and rice straw 8.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0087 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 5, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of theHearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you maycontact James Tompkins by phone at (703) 305–5697, by e-mail attompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0087, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one ormore Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on therelationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

James Jones,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Part 180 is amended by adding § 180.579 to read as follows:

§ 180.579 Cyhalofop-butyl; tolerances for residues.

(a) *General.* Time-limited tolerances are established for combined residues of cyhalofop (cyhalofop-butyl, R-(+)-n-butyl-2-(4(4-cyano-2- fluorophenoxy)-phenoxy)propionate, plus cyhalofop acid, R-(+)-2-(4(4-cyano-2-fluorophenoxy)-phenoxy)propionic acid) and the di-acid metabolite, (2R)-4-[4-(1-carboxyethoxy)phenoxy]-3-fluorobenzoic acid, from the application of the herbicide cyhalofop-butyl in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/Revocation Date
Rice, grain	0.03	6/1/2007
Rice, straw	8.0	6/1/2007

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 02–13982 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7223–2]

RIN 2050–AE77

Notification of States Having Interim Authorization for the Amendments to the Corrective Action Management Unit Rule

AGENCY: Environmental Protection Agency.

ACTION: Notification of interim authorization.

SUMMARY: The Environmental Protection Agency ("EPA" or "the Agency") is today notifying the public which States have submitted notifications to EPA under the requirements of 40 CFR 271.27 and thus have interim authorization for the Corrective Action Management Units (CAMU) amendments rule (January 22, 2002, 67 FR 2962). The CAMU amendments rule granted interim authorization to states that are authorized for the 1993 CAMU rule, and that submitted a notification letter to EPA by March 22, 2002.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (hearing impaired) (800) 553–7672. In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of today's document, contact Wayne Roepe, U.S. Environmental Protection Agency (5303W), 1200 Pennsylvania Ave., NW, Washington, DC 20460, at (703) 308–8630, or e-mail *roepe.wayne@epa.gov.*

SUPPLEMENTARY INFORMATION: The January 22, 2002 Corrective Action Management Units (CAMU) amendments rule promulgated amendments to the regulations governing CAMUs. These amendments were promulgated under HSWA statutory authority and are generally more stringent than the previous CAMU regulations, published on February 16, 1993 (58 FR 8658). Thus, in states that are authorized for the 1993 CAMU rule, there was the potential for dual implementation of the CAMU regulations by EPA and states authorized for the 1993 rule if these states are not authorized for the amendments before they become effective.

To avoid this potential disruption in the implementation of the RCRA cleanup program caused by the regulatory authority for CAMUs being split between states and EPA, the CAMU amendments rule promulgated an authorization procedure called interim authorization-by-rule. The rule also granted interim authorization for those amendments to states that have final authorization for the 1993 CAMU rule and submitted a letter to EPA that they are willing and able to implement the amended CAMU regulations by March 22, 2002 (see 40 CFR 271.27(a)).

A total of 25 states authorized for the 1993 CAMU rule, submitted the notification letter to EPA by March 22, 2002 and met the criteria for interim authorization-by-rule. These states are: Alabama, California, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Missouri, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming. Thus, these states have interim authorization for the CAMU amendments rule, effective April 22, 2002.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 28, 2002.

Marianne Lamont Horinko,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 02–13980 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 422

RIN 1006–AA42

Law Enforcement Authority at Bureau of Reclamation Projects

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule with request for comments.

SUMMARY: The Bureau of Reclamation (Reclamation) is issuing this rule to establish criteria for the use of non-Department of the Interior (Department) law enforcement personnel within a Reclamation project or on Reclamation lands. We are required by law to issue this rule in order to provide for the security of dams, facilities, and resources under our jurisdiction.

DATES: This rule is effective on June 4, 2002. We must receive any comments on this final rule no later than August 5, 2002.

ADDRESSES: Any comments on this rule should be sent to Commissioner's Office, Bureau of Reclamation, 1849 C Street NW., Washington, DC 20240, Attn: Henk Willems.

FOR FURTHER INFORMATION CONTACT: Larry Todd, Director, Operations, Bureau of Reclamation, 1849 C Street NW., Washington, DC 20240, telephone (202) 513–0615.

SUPPLEMENTARY INFORMATION:

I. Background

Public Law 107–69 (November 12, 2001), an Act to Amend the Reclamation Recreation Management Act of 1992 (the Act) provides for law enforcement authority at Reclamation facilities. Section 1(g) provides: "REGULATIONS—Except for the authority provided in section 2(c)(1), the law enforcement authorities provided for in this section may be exercised only pursuant to regulations issued by the Secretary of the Interior and approved by the Attorney General." As enacted, however, the Act does not contain a section 2(c)(1), as referred to in section 1(g), but does contain a section 1(c)(1), which "authorize[s] law enforcement personnel from the Department of the Interior to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands." The Department worked closely with the Congress to develop the language in this bill and believes that the congressional intent of section 1(g) was to refer to section 1(c)(1). Reclamation is promulgating these regulations consistent with that interpretation. The Act provides for law enforcement at Reclamation facilities in one of two ways: using Department law enforcement personnel (this would not require us to issue regulations or obtain Department of Justice approval); or, using law enforcement personnel from non-Department Federal agencies (other than the Department of Defense) and State, local or tribal law enforcement organizations (this would require us to issue regulations that the Department of Justice must approve). These regulations have been reviewed and approved by the Department of Justice, as required by the Act.

Since Reclamation plans to use some non-Department law enforcement officials, these regulations provide fitness and training requirements for non-Department law enforcement personnel. Under these regulations, Reclamation will:

(1) Entrust law enforcement authority only to law enforcement professionals possessing adequate education and/or experience, aptitude, and high moral character;

(2) Evaluate law enforcement programs and operations to ensure compliance with applicable Federal laws and regulations; and

(3) Ensure that qualitative standards are attained and maintained during the life of any cooperative agreements or contracts with other Federal agencies or with State, local, or tribal law enforcement organizations.

II. Public Involvement

Reclamation did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b), Reclamation finds that good cause exists for not publishing an NPRM. The time-frame for the NPRM process, which would result in delaying the effective date of this rule, is contrary to the public interest because it may render individuals and facilities vulnerable to subversive activity, sabotage, or terrorist attack. Moreover, with the coming of Spring and planned events for Reclamation's upcoming Centennial, more people will be visiting Reclamation's many recreation areas. The measures in this rule are intended to address a potential terrorist attack as well as other criminal activities against Reclamation lands, dams and powerplants and related facilities or against individuals at those places. Immediate action is required to accomplish these objectives, and any delay in the effective date of this rule is impracticable and contrary to the public interest. For these same reasons, we find that good cause exists under 5 U.S.C. 553 (d)(3) for making this regulation effective less than 30 days after publication in the **Federal Register**.

On September 11, 2001, immediately following the terrorist attacks on the World Trade Center and the Pentagon, security at all Reclamation dams and powerplants was heightened, and armed law enforcement officers from Department agencies began around-the-clock patrols at key facilities. National security officials warn that future terrorist attacks against high visibility civilian targets may be anticipated, and all Reclamation facilities will remain on a heightened security status indefinitely.

Before enactment of Public Law 107–69, Reclamation generally had to rely on law enforcement personnel from other bureaus within the Department of the Interior to protect Reclamation facilities. While other bureaus have been very cooperative in providing law enforcement assistance, the continued need for heightened security at many facilities has strained available Department law enforcement resources. Furthermore, with the coming of Spring, Department law enforcement personnel will have to return to their seasonal duty stations. Accordingly, Reclamation will need to exercise its authority to contract or enter into cooperative agreements for law enforcement services with Department of the Interior bureaus and other Federal, State, tribal or local law enforcement agencies. We need to implement this authority as soon as possible to ensure the safety of the public and Reclamation employees and to protect critical national infrastructure and other critical water and power resource facilities. Reclamation will develop a mandatory orientation session for officers who are to be authorized to perform Reclamation law enforcement duties.

While this rule will be effective on the date published, Reclamation will accept and consider comments on the rule for 60 days after the date of publication. Among the issues on which Reclamation expects comments are the appropriate treatment of non-Department Federal officials under these regulations, the extent to which this framework for State and local law enforcement participation may be consistent with the diverse expectations of local communities across the seventeen Western States, and whether these and other issues should be addressed in regulation or in individual contracts or cooperative agreements.

III. Procedural Matters

National Environmental Policy Act

Reclamation has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment is not required. The rule is categorically excluded from NEPA review under 40 CFR 1508.4, 516 DM 2, Appendix 1, § 1.10.

Executive Order 12866, Regulatory Planning and Review

This document is not a significant rule, and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy or adversely affect the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. While risk assessments at many critical facilities are not yet completed and thus total law enforcement contractual needs cannot be fully determined, it is estimated that the total start-up cost for implementing Public Law 107–69 will be in the range of $50—55 million in the first year. This estimate is based on contracting for around-the-clock law enforcement services at up to 60 critical facilities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The selection process for law enforcement personnel will be consistent with that used by the Department, thereby assuring that high professional law enforcement standards are maintained.

(3) This rule will not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This

rule provides the legal authority to continue to safely provide services to project beneficiaries without the threat of terrorism and to protect their contractual rights and entitlements under Federal reclamation laws.

(4) This rule does not raise novel legal or policy issues. It is Reclamation's intent to utilize the established policies and guidelines on law enforcement being used in the Department.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Fairness Act. The rule:

(1) Will not have an annual effect on the economy of $100 million or more. A farm, according to the Small Business Administration (SBA), is a small business if it has annual receipts of less than $500,000. The vast majority of the 140,000 farms receiving Reclamation project irrigation water can be classified as "small businesses" under the SBA definition. This rule will help maintain water deliveries to those farms.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule will have a negligible impact on local and regional costs or prices, but the presence of law enforcement officers and the enhanced security measures at key Reclamation projects may in fact help to stabilize the existing economic conditions located in the project area.

(3) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. In fact, the rule may create additional employment opportunities for local residents in Reclamation project areas. No effects are anticipated on local competition and/or investment opportunities as a result of this rule.

Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. Moreover, the rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq*) is not required.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. Thus, a takings implication assessment is not required, nor will the rule have any effect on the use and/or value of private property.

Paperwork Reduction Act

This rule does not require any information collection under the Paperwork Reduction Act. Therefore, an OMB Form 83-I is not required.

Executive Order 13132, Federalism

In accordance with Executive Order 13132, this rule does not have Federalism implications. A Federalism assessment is not required. The rule will not affect the roles, rights, and responsibilities of States in any way. Moreover, the rule will not result in the Federal Government taking control of traditional State responsibilities, nor will it interfere with the ability of States to formulate their own policies. In addition, the rule will not affect the distribution of power, the responsibilities among the various levels of government, nor preempt State law.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, the Department's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of section 3(a) and 3(b)(2) of the Executive Order.

Executive Order 13211, Energy Impacts

In accordance with Executive Order 13211, the rule will not have a significant adverse effect on the supply, distribution, and use of energy. Therefore, a Statement of Energy Effects is not required.

Comments

If you wish to comment on this rule, you may submit your comments by one of two methods. You may mail comments to: Bureau of Reclamation, 1849 C Street NW., Washington, DC 20240, Attn: Henk Willems. You may also hand-deliver comments to the Bureau of Reclamation, Room 7610, Main Interior Building, 1849 C Street NW., Washington, DC 20240. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record. We will honor the request to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subjects in 43 CFR Part 422

Law enforcement authority, Law enforcement standards, Law enforcement agreements, Law enforcement officer responsibilities, Law enforcement officer conduct.

Dated: May 28, 2002.

Bennett W. Raley,

Assistant Secretary—Water and Science.

For the reasons stated in the preamble, Reclamation adds a new part 422 to title 43 of the Code of Federal Regulations as follows:

PART 422—LAW ENFORCEMENT AUTHORITY AT BUREAU OF RECLAMATION PROJECTS

Sec.
422.1 Purpose of this part.
422.2 Definitions.
422.3 Reclamation law enforcement policy.

Responsibilities

422.4 Responsibilities of the Commissioner of Reclamation.
422.5 Responsibilities of the Law Enforcement Administrator.
422.6 Responsibilities of the Chief Law Enforcement Officer.

Program Requirements

422.7 Authorization to perform law enforcement duties.
422.8 Requirements for law enforcement functions and programs.
422.9 Reclamation law enforcement contracts and cooperative agreements.
422.10 Requirements for authorizing officers to exercise Reclamation law enforcement authority.
422.11 Position sensitivity and investigations.
422.12 Required standards of conduct.
422.13 Reporting an injury or property damage or loss.

Authority: 16 U.S.C. 460l-31; 43 U.S.C. 373b, 373c

422.1 Purpose of this part.

(a) This part implements Public Law No. 107–69, 115 Stat. 593 (November 12, 2001), an Act to Amend the Reclamation Recreation Management Act of 1992, by:

(1) Establishing eligibility criteria, such as fitness and training requirements, for Federal, State, local, and tribal law enforcement personnel to protect Bureau of Reclamation (Reclamation) facilities and lands; and

(2) Ensuring that Federal, State, local, and tribal law enforcement programs comply with applicable laws and regulations when they discharge the Secretary of the Interior's authority.

(b) This part does not apply to, or limit or restrict in any way, the investigative jurisdiction or exercise of law enforcement authority of any Federal law enforcement agency, under Federal law, within a Reclamation project or on Reclamation lands. The provisions of this part apply to non-Department of the Interior Federal law enforcement agents only where Reclamation has entered into a cooperative agreement or contract with a Federal law enforcement agency, pursuant to Public Law 107–69, for the services of specified individual Federal law enforcement agents.

(c) Nothing in this part shall be construed or applied to affect any existing right of a State or local government, or an Indian tribe, or their law enforcement officers, to exercise concurrent civil and criminal jurisdiction within a Reclamation project or on Reclamation lands.

422.2 Definitions.

(a) *Department* means the United States Department of the Interior.

(b) *Reclamation* means the Bureau of Reclamation of the United States Department of the Interior.

(c) *Law Enforcement Program* means Reclamation's program to provide law enforcement and protective services at Reclamation project facilities and on Federal project lands. The activity is directed toward the preservation of public order, safety, and protection of resources and facilities, and their occupants.

(d) *Law Enforcement Administrator (LEA)* means the person designated by the Commissioner of Reclamation to:

(1) Direct the law enforcement program and units;

(2) Develop the policy, procedures, and standards for the law enforcement program within Reclamation; and

(3) Provide for inspection and oversight to control enforcement activity.

(e) *Chief Law Enforcement Officer (CLEO)* means the highest level duly authorized law enforcement officer for a non-Department law enforcement agency.

(f) *Law Enforcement Officer* means:

(1) A duly authorized Federal law enforcement officer, as that term is defined in Public Law 107–69, from any non-Department Federal agency who is authorized to act as a law enforcement officer on Reclamation projects and lands; or

(2) Law enforcement personnel of any State, local government, or tribal law enforcement agency.

§ 422.3 Reclamation law enforcement policy.

The law enforcement policy of Reclamation is:

(a) To maintain an accountable, professional law enforcement program on Reclamation project facilities, and to protect Federal project lands and their occupants. Reclamation will meet its law enforcement responsibilities by establishing and promoting a law enforcement program which maintains law and order, and protects persons and property within Reclamation property and on Reclamation lands;

(b) To entrust law enforcement authority only to persons deemed to be qualified, competent law enforcement professionals;

(c) To maintain a continuing review and evaluation of Reclamation's law enforcement programs and operations to ensure compliance with applicable Federal laws, regulations, and policies of the Department;

(d) To ensure that approved standards are attained and maintained by each law enforcement unit undertaking a contract or cooperative agreement;

(e) To increase the effectiveness of law enforcement through the efficient handling and exchange of criminal and intelligence information with other Federal, State, local, and tribal agencies, as appropriate;

(f) To provide the public prompt access to information concerning its law enforcement program in accordance with the spirit and intent of the Freedom of Information Act, 5 U.S.C. 552; Department FOIA Regulations, 43 CFR 2; and 383 DM 15, Freedom of Information Act Handbook (*see* www.doi.gov);

(g) To ensure that the use of force by agency personnel under contracts or cooperative agreements with Reclamation complies with the Constitution and the law of the United States; and

(h) To negotiate contracts and cooperative agreements under this part to ensure that:

(1) Reclamation retains flexibility to meet its law enforcement needs; and

(2) Entities entering into contracts and cooperative agreements are appropriately reimbursed.

Responsibilities

422.4 Responsibilities of the Commissioner of Reclamation.

(a) The Secretary of the Interior has designated the Commissioner of Reclamation to implement law enforcement authority at Reclamation facilities. The Commissioner is responsible for:

(1) Implementing the provisions of Public Law 107–69;

(2) Ensuring consistency with applicable Departmental and Reclamation requirements for law enforcement officers;

(3) Carrying out the specific responsibilities listed in paragraph (b) of this section; and

(4) Developing any additional policies necessary for the successful accomplishment of Reclamation's law enforcement responsibilities.

(b) The Commissioner's specific responsibilities include the following:

(1) Designating Reclamation's Law Enforcement Administrator (LEA), with authority to discharge the responsibilities assigned by these regulations;

(2) Overseeing the LEA's ability to ensure that all law enforcement officers under contract or cooperative agreement for law enforcement services to Reclamation are properly trained and receive necessary authorizations; and

(3) Overseeing the LEA's development of policy, procedures, and standards for directing the law enforcement units, and the installation of management controls for proper implementation of the law enforcement program.

422.5 Responsibilities of the Law Enforcement Administrator.

(a) The Law Enforcement Administrator (LEA):

(1) Reports directly to the Commissioner;

(2) Oversees the law enforcement program; and

(3) Is responsible for promulgating mission-oriented policy, procedures, and standards to ensure the effective implementation of Reclamation's law enforcement authority.

(b) The chain of command for law enforcement will run from the Commissioner through the LEA to other positions designated as part of the Reclamation law enforcement managerial structure, which may include a Chief Law Enforcement Officer. The units will be staffed

through cooperative agreements or contracts with law enforcement personnel from Department and non-Department Federal agencies or State, local, or tribal law enforcement organizations, with unit command being provided as part of the cooperative agreement or contract.

(c) Within the chain of command specified in paragraph (b) of this section, the LEA provides policy direction, inspection, and oversight for the law enforcement functions of Reclamation.

§ 422.6 Responsibilities of the Chief Law Enforcement Officer.

The Chief Law Enforcement Officer's (CLEO) responsibilities are to ensure that:

(a) Law enforcement officers working at Reclamation facilities and on Federal project lands are duly authorized under § 422.7;

(b) Law enforcement officers authorized under a contract or cooperative agreement meet training and fitness requirements established in this part and abide by standards of conduct and performance established in this part and in the contract or cooperative agreement;

(c) Law enforcement officers are under the immediate supervision of a commanding officer who is part of each law enforcement unit for which Reclamation enters into a contract or cooperative agreement; and

(d) Required reports are made to the LEA, or to another person designated by Reclamation, for purposes of carrying out the law enforcement functions for which Reclamation has a contract or cooperative agreement.

Program Requirements

§ 422.7 Authorization to perform law enforcement duties.

(a) The CLEO must issue written authorization to each officer who is authorized to perform Reclamation law enforcement duties.

(b) Before issuing an authorization under paragraph (a) of this section, the CLEO must ensure that the officer meets:

(1) All the requirements for officers authorized under the law enforcement contract or cooperative agreement with Reclamation; and

(2) All requirements in §§ 422.10, 422.11, and 422.12.

(c) The CLEO must terminate an officer's authorization under paragraph (a) of this section and must notify the issuing Reclamation official when the officer:

(1) Terminates employment as a full-time police officer for any reason;

(2) Is transferred to another area of jurisdiction, where the continued performance of Reclamation duties would be impractical;

(3) Is suspended for any offense that would impair his/her fitness to perform law enforcement duties; or

(4) Is under indictment or has been charged with a crime.

(d) The LEA can, upon showing just cause, revoke the authorization of an individual officer to perform law enforcement services under Reclamation's law enforcement authority after providing written notice to the CLEO.

§ 422.8 Requirements for law enforcement functions and programs.

The requirements in this section apply to Reclamation and to each law enforcement unit exercising Reclamation's law enforcement authority.

(a) The law enforcement program must provide for control, accountability, coordination, and clear lines of authority and communication. This organizational structure must apply both within the law enforcement units, and between the law enforcement units and the LEA or other personnel designated as responsible under the law enforcement contract or cooperative agreement.

(b) Only duly authorized law enforcement officers may discharge law enforcement duties.

(c) Each law enforcement contract or cooperative agreement must specifically name those individuals within the contracting agency who are authorized to exercise Reclamation law enforcement authority consistent with applicable laws, regulations, and the requirements of this part. A CLEO can authorize only duly authorized officers who meet the standards in § 422.7 to exercise law enforcement authority.

(d) Any uniform worn by law enforcement officers must display distinctive identification to ensure that the officer is:

(1) Distinguishable from non-law enforcement personnel; and

(2) Easily recognized by the public as a law enforcement officer.

(e) Officers investigating a violation of Federal law under a law enforcement contract or cooperative agreement with Reclamation will notify applicable Federal law enforcement authorities, as appropriate, pursuant to 43 U.S.C. 373b(d)(4).

(f) The LEA must:

(1) Establish an incident reporting system for incidents that occur on Reclamation lands; and

(2) Include the reporting requirements for incidents as an element of each contract or cooperative agreement.

§ 422.9 Reclamation law enforcement contracts and cooperative agreements.

(a) The LEA, or a person that the LEA designates, may enter into contracts or cooperative agreements with Federal, State, local, or tribal law enforcement agencies to aid in enforcing or carrying out Federal laws and regulations on Reclamation facilities or Reclamation-managed property. Reclamation will rescind the contract or cooperative agreement if an elected governing body with jurisdiction over the local law enforcement agency adopts a resolution objecting to the use of that agency's personnel to enforce Federal laws.

(b) Each contract and cooperative agreement authorizing the exercise of Reclamation law enforcement authority:

(1) Must expire no later than 3 years from its effective date;

(2) May be revoked earlier by either party with written notice;

(3) May be revised or amended with the written consent of both parties;

(4) Must expressly include the requirements for exercise of Reclamation law enforcement authority listed in § 422.10;

(5) Must expressly state that the officer has completed the Federal Bureau of Investigation criminal history review as required by § 422.11; and

(6) Must expressly include the standards of conduct listed in section 422.12.

§ 422.10 Requirements for authorizing officers to exercise Reclamation law enforcement authority.

(a) The CLEO must ensure that each officer receiving an authorization under § 422.7(a):

(1) Is at least 21 years old;

(2) Is certified as a bona fide full-time peace officer under State Peace Officer Standards and Training (POST) requirements, or its functional equivalent or is certified as a Federal law enforcement officer;

(3) Has passed his/her agency's firearms qualifications (which must be consistent with Federal policy) within the 6-month period immediately preceding the granting of the authority;

(4) Re-qualifies to use firearms with all issued service weapons at least semi-annually;

(5) Has neither been convicted of a felony offense, nor convicted of a misdemeanor offense for domestic violence, preventing him/her from possessing a firearm in compliance with section 658 of Public Law 104–208 (the 1996 amendment of the Gun Control Act of 1968);

(6) Is not the subject of a court order preventing him/her from possessing a firearm;

(7) Has no physical impairments that will hinder performance as an active duty law enforcement officer; and

(8) Attends and successfully completes a mandatory orientation session developed by Reclamation to become familiar with Federal laws and procedures and with all pertinent provisions of statutes, ordinances, regulations, and Departmental and Reclamation rules and policies.

(b) Qualification standards for guards as provided in the Departmental Manual or other Department or Reclamation guidance may only be used for those persons hired exclusively to perform guard duties.

§ 422.11 Position sensitivity and investigations.

Each law enforcement contract or cooperative agreement must include a provision requiring the CLEO to certify that each officer who exercises authority under the Act has completed an FBI criminal history check and is satisfactorily cleared.

§ 422.12 Required standards of conduct.

All law enforcement officers authorized to exercise Reclamation authority must adhere to the following standards of conduct:

(a) Be punctual in reporting for duty at the time and place designated by superior officers;

(b) Be mindful at all times and under all circumstances of their responsibility to be courteous, considerate, patient and not use harsh, violent, profane, or insolent language;

(c) Make required reports of appropriate incidents coming to their attention;

(d) When in uniform and requested to do so, provide their name and identification/badge number orally or in writing;

(e) Immediately report any personal injury or any loss, damage, or theft of Federal government property as required by § 422.13;

(f) Not be found guilty in any court of competent jurisdiction of an offense that has a tendency to bring discredit upon the Department or Reclamation;

(g) Not engage in any conduct that is prejudicial to the reputation and good order of the Department or Reclamation; and

(h) Obey all regulations or orders relating to the performance of the unit's duties under the Reclamation contract or cooperative agreement.

§ 422.13 Reporting an injury or property damage or loss.

(a) An officer must immediately report orally and in writing to his/her supervisor any:

(1) Injury suffered while on duty; and

(2) Any loss, damage, or theft of government property.

(b) The written report must be in detail and must include names and addresses of all witnesses.

(c) When an officer's injuries prevent him/her from preparing a report at the time of injury, the officer's immediate supervisor must prepare the report.

(d) The supervisor must submit all reports made under this section to the Reclamation official designated to receive them, as soon as possible after the incident occurs.

[FR Doc. 02–13877 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–MN–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 02–113; FCC 02–150]

Broadcast Services; Television Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies its Rules to permit the Media Bureau to deny digital television construction deadline extension requests.

DATES: Effective July 5, 2002.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Media Bureau, Office of Broadcast Licensing, Video Division, (202) 418–2324.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Order* ("*Order*") in MM Docket No. 02–113, FCC 02–150, adopted May 16, 2002, and released May 24, 2002. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, CY–B402, Washington, DC 20554. The *Order* is also available on the Internet at the Commission's website: *http://www.fcc.gov.*

Synopsis of Order

1. The Commission has adopted an Order modifying its rules to permit the Media Bureau delegated authority to deny digital television construction deadline extension requests.

Ordering Clauses

2. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and Section 202(h) of the Telecommunications Act of 1996, this *Order* is adopted.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons set forth in the preamble, amend part 73 of title 47 of the Code of Federal Regulations as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read:

Authority: 47 U.S.C. 154, 303, 334 and 336.

2. Revise § 73.624(d)(3)(iii) to read as follows:

§ 73.624 Digital television broadcast stations.

* * * * *

(d) * * *

(3) * * *

(iii) The Bureau may grant no more than two extension requests upon delegated authority. Subsequent extension requests shall be referred to the Commission. The Bureau may deny extension requests upon delegated authority.

* * * * *

[FR Doc. 02–13907 Filed 6–3–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 595

[Docket No. NHTSA–01–8667]

RIN 2127–AI80

Exemption From the Make Inoperative Prohibition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petitions for reconsideration.

SUMMARY: On February 27, 2001, NHTSA issued a final rule establishing a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal motor vehicle safety standards or altering the equipment or features so as to adversely affect their performance. The exemption allows repair businesses to modify certain types of Federally-required safety equipment and features when passenger motor vehicles are modified for use by persons with disabilities.

NHTSA received two petitions for reconsideration of the final rule. The petitioners requested that the agency specify that obtaining a prescription from a certified driver rehabilitation specialist is a necessary pre-condition to making vehicle modifications under the exemption. The petitioners also requested that the agency remove several statements from the preamble of the final rule. The agency is denying both requests.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues, you may contact Gayle Dalrymple, Office of Crash Avoidance Standards (Telephone: 202–366–5559) (Fax: 202–366–4329).

For legal issues, you may contact Dion Casey, Office of Chief Counsel (Telephone: 202–366–2992) (Fax: 202–366–3820).

You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On February 27, 2001, NHTSA issued a final rule establishing a limited exemption from a statutory prohibition against specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal motor vehicle safety standards (FMVSS) or altering the equipment or features so as to adversely affect their performance. (66 FR 12638, Docket No. NHTSA–01–8667). The exemption allows repair businesses to alter or remove certain types of Federally-required safety equipment and features when they modify passenger motor vehicles for use by persons with disabilities. NHTSA established this exemption for the reasons explained below.

Federal law requires vehicle manufacturers to certify that their vehicles comply with all applicable Federal Motor Vehicle Safety Standards (FMVSSs). (49 U.S.C. 30112). Vehicles must continue to comply until the first retail sale. Federal law also prohibits manufacturers, distributors, dealers, and repair businesses from knowingly making inoperative any part of a device or element of design installed in or on a motor vehicle in compliance with an applicable FMVSS. (49 U.S.C. 30122). NHTSA has interpreted the term "make inoperative" to mean any action that removes or disables safety equipment or features installed to comply with an applicable FMVSS, or that degrades the performance of such equipment or features. Violations of this provision are punishable by civil penalties of up to $5,000 per violation.

Individuals with disabilities often are unable to drive or ride in a passenger motor vehicle unless it has been specially modified to accommodate their particular disability. Some modifications, such as the installation of mechanical hand controls or a left foot accelerator, are relatively simple. Others, such as the installation of a joystick that controls steering, acceleration, and braking, can be complex. In some cases, it is necessary to alter or even remove Federally-required safety equipment to make those modifications. However, if a manufacturer, distributor, dealer, or repair business performed these modifications, they would violate the make inoperative provision.[1]

NHTSA has the authority to issue regulations that exempt regulated entities from the make inoperative provision. (49 U.S.C. 30122(c)(1)). Such regulations may specify which equipment and features may be made inoperative, as well as the circumstances under which they may be made so. Before the February 27, 2001 final rule, NHTSA had issued only one such regulation.[2] In all other instances, the agency had addressed the need to remove, disconnect, or otherwise alter mandatory safety equipment by issuing a separate letter to each individual requestor assuring that the agency would not seek enforcement action against the business modifying the vehicle. The vast majority of those instances involved persons seeking modifications to accommodate persons with disabilities.

NHTSA believed that the policy of handling requests for permission to make modifications on an individual, case-by-case basis did not serve the best interests of the driving public, vehicle modifiers, or the agency. NHTSA estimated that close to 2,300 vehicles are modified for persons with disabilities each year, and that this number would increase as the population aged and greater numbers of persons with disabilities pursued employment, travel, and recreational opportunities presented by the passage of the Americans With Disabilities Act (ADA).[3]

NHTSA noted that agency resources for evaluating individual modification requests are limited. Thus, a person with a disability could wait a significant period of time before the agency issued a letter stating its intent not to enforce the make inoperative provision for the vehicle modifications affected. Moreover, the unwieldiness of the case-by-case approach caused many vehicle modifiers to bypass it. Consequently, as the agency noted, only a handful of the vehicles modified annually are covered by a letter from NHTSA granting permission to make federally-required safety equipment inoperative. Most are made without the benefit of any guidance about the opportunities for making modifications without sacrificing safety.

As a result, NHTSA decided to replace the case-by-case approach with a rule exempting certain vehicle modifications from the make inoperative provision. The exemptions are listed in 49 CFR part 595, subpart C.

II. Petitions for Reconsideration and NHTSA's Responses

NHTSA received petitions for reconsideration of the final rule from the Association for Driver Rehabilitation Specialists (ADED) and Louisiana Tech University.

A. Prescriptions

In the final rule, the agency noted that a trained professional often evaluates the driving capabilities of a person with a disability and then writes a prescription detailing needed vehicle modifications. NHTSA considered requiring

> vehicle modifiers to keep a record of vehicle and equipment prescriptions to induce the modifiers to take care that modifications for persons with disabilities were completed in a manner that truly met the particular individual's needs without any unnecessary modifications and to discourage modifiers from circumventing the requirements of the various FMVSSs.

(66 FR at 12651).

NHTSA reviewed the comments and decided not to require such prescriptions as a condition of the exemption, stating:

> [W]e conclude that it is unlikely that persons without disabilities will try to take advantage of the exemptions in today's final rule because they are so narrowly written and because of the expense of such modifications. Additionally, given the current practice in the industry not to require or rely on prescriptions for relatively simple and inexpensive modifications, we see no need to add an additional burden to an already time-consuming and expensive process.

(66 FR at 12652).

Both ADED and Louisiana Tech requested that the agency reconsider its decision not to require prescriptions as a condition of the exemption. Louisiana Tech claimed that prescriptions are necessary for several reasons. First, prescriptions should be issued by "certified driver rehabilitation specialists" who are trained in both occupational therapy and traffic safety and are certified by the ADED. Second, while some adaptive equipment may be simple to install, there are many variables that affect an individual's ability to operate the equipment.[4] Louisiana Tech stated, "To view the provision of these devices only from the view of the physical functioning necessary for operation is short sighted and compromises the individual's and the public safety." Third, according to Louisiana Tech, allowing the disabled person or an equipment dealer to determine the types of modifications that are appropriate is a dangerous practice. Fourth, Louisiana Tech stated that the process is not necessarily expensive or time-consuming, since many individuals need relatively simple adaptive equipment and there are third party funding sources available.

Both ADED and Louisiana Tech also requested that NHTSA require prescriptions for vehicle modifications be written by a "certified driver rehabilitation specialist, or equivalent." The petitioners claimed that the training undergone by certified driver rehabilitation specialists is essential for conducting the clinical aspects of a driver assessment and determining a driver's potential for operating a motor vehicle safely.

NHTSA understands the petitioners' concerns. However, NHTSA does not have the authority to require individuals with disabilities to obtain prescriptions before they have their vehicles modified. The agency does have the authority to condition a repair business's eligibility under the limited exemption to modify a vehicle upon its receipt and keeping on file of a prescription for the modifications to that vehicle. However, NHTSA decided not to exercise this authority for the reasons explained below.

NHTSA does not have the qualifications, nor the authority, to judge who is qualified to conduct a driver evaluation and if there are circumstances under which no evaluation is needed. The basis for our considering a requirement for modifiers to collect prescriptions from clients before making modifications was to ensure that Federal motor vehicle safety standards would not be circumvented unnecessarily.

The petitioners, on the other hand, want to ensure that drivers have the advantage of a physical and cognitive assessment before vehicle modifications are made so that the equipment is correct for their abilities and safe for them to operate. They are also concerned that only safe, able drivers are permitted to drive. NHTSA agrees that the petitioners' goals are laudable. However, those goals are beyond this agency's authority to regulate. Vehicle inspection and driver evaluation, training, and licensing are the regulatory purview of the States.

While NHTSA can place conditions on exemptions from the make inoperative prohibition, the agency cannot directly require drivers to obtain prescriptions in order to ensure that unsafe drivers do not receive vehicle modifications and are therefore prevented from driving, or to ensure that drivers receive only modifications they are capable of using. Such actions are the responsibility of the individual States, because they regulate vehicle registration and driver licensing. NHTSA regulates motor vehicle manufacture and modification. In fact, NHTSA's authority over the modification of vehicles after the first retail sale is limited to those modifications, made by entities for hire, that affect the vehicle's certification to the Federal motor vehicle safety standards.

NHTSA decided not to adopt a requirement under which modifiers would have to obtain prescriptions prior to making vehicle modifications and to keep those prescriptions on file with records of the modifications made because the agency concluded that such a requirement would be an unnecessary and time-consuming burden on the modifier and the consumer. NHTSA did *not* conclude that driver evaluations for modifications are unnecessary. NHTSA believes that driver evaluations are an essential part in the vehicle modification process. The agency simply concluded that a Federal requirement for vehicle modifiers to obtain and keep records of prescriptions for vehicle modifications is unnecessary. The agency believes that requiring prescriptions for vehicle modification is within the regulatory purview of the individual States, and encourages the States to promulgate regulations addressing this issue.

NHTSA also concluded that the agency is not in a position to determine who is qualified to write prescriptions for vehicle modifications. The petitioners requested that NHTSA change the final rule to require that a prescription be written by a "certified driver rehabilitation specialist or equivalent." A certified driver rehabilitation specialist (CDRS) is a person who has fulfilled the requirements for that title as administered by the Association for Driver Rehabilitation Specialists. The agency believes that currently there are fewer than 300 CDRSs in the Unites States, and there may be several States in which no CDRS practices.

In addition, the agency cannot realistically determine whether a person has skills "equivalent" to a CDRS. The agency would have to review the credentials of each person making evaluations and determine if he or she were qualified to do so. Such an action is tantamount to licensing individuals to practice driver evaluation. NHTSA believes that the agency has neither the authority nor the qualifications to make such determinations.

Accordingly, the agency is denying the petitioners' request for a Federal requirement that would make it necessary for individuals to obtain prescriptions for vehicle modifications and provide them to vehicle modifiers. Since NHTSA is denying the petitioners' request to require prescriptions, the petitioners' request that prescriptions be written only by a certified driver rehabilitation specialist is moot.

B. Preamble Language

Both ADED and Louisiana Tech expressed concerns about the language that the agency used in the section of the preamble explaining the agency's decision not to require prescriptions. The specific language they objected to is detailed below. The petitioners requested that the agency remove these

[1] The make inoperative provision does not apply to vehicle owners.

[2] That regulation permits the installation of retrofit air bag on-off switches under certain circumstances.

[3] 42 U.S.C. 12101, *et seq.*

[4] "For example," Louisiana Tech stated, "a left foot accelerator is a 'simple' device [sic] to install and operate. However, these devices are usually used by individuals with amputation or [who] have had head injuries or strokes. An assessment of these individuals is necessary to determine (1) if they can operate the vehicle safely using the device, and (2) if they have the reaction time, cognitive ability, [and] visual-perception skills necessary to perform the driving task safely."

statements from the preamble to the final rule.

At 66 FR 12652, the agency summarized the comments of those opposed to mandatory prescriptions. These commentors said that requiring prescriptions would unnecessarily increase the burden on the disabled community, increasing costs and limiting access to needed vehicle modifications (particularly in rural areas). Also at 66 FR 12652, the agency stated, "[G]iven the current practice in the industry not to require or rely on prescriptions for relatively simple and inexpensive modifications, we see no need to add an additional burden to an already time-consuming and expensive process."

ADED called these statements "erroneous and irresponsible." The petitioner stated that this language "is in direct conflict with the Rehab Act, which requires states *to not limit access or delay services* to their consumers." (Emphasis in original). ADED claimed that Vocational Rehabilitation coordinators are already viewing this language as detrimental to the driver evaluation process. ADED added that there are inadequate data to suggest that the evaluation process constitutes a delay to consumers.

Louisiana Tech also objected to the second statement. The petitioner claimed that the evaluation process is not necessarily time-consuming or expensive since many individuals have relatively simple adaptive needs, and there are third party funding sources available to offset the cost of evaluations.

At 66 FR 12652, the agency referred to a comment made by the American Occupational Therapy Association:

> The American Occupational Therapy Association advocated that prescriptions be issued by either occupational therapists or certified driver rehabilitation specialists. It maintained that occupational therapists are adequately qualified to make driver evaluations based on their specialized training regardless of whether they are certified driver rehabilitation specialists.

Both ADED and Louisiana Tech objected to this statement. Louisiana Tech stated that neither occupational therapists nor traffic safety professionals are adequately trained to perform driver assessments. ADED claimed that occupational therapists are not trained in adaptive driving technology application or on-road assessment, which are necessary to perform driver evaluations.

At 66 FR 12652, the agency referred to comments made by Access Wheels, a vehicle modifier:

> Access Wheels, a modifier, commented that prescriptions are rarely used and then only to justify the payment of the modification costs by a third party. It stated also that the vast majority of modifications involve relative simple, and less expensive vehicle alterations, and thus are modifications for which professional evaluations of capabilities are unnecessary.

ADED objected to the first sentence. The petitioner stated, "Prescriptions are commonplace in the field of modifications and driver rehabilitation" and are used for both simple and complex drier adaptations.

Both petitioners objected to the second sentence. Louisiana Tech claimed, "While there may be some adaptive equipment that appears to be 'simple' to operate, there are many variables that go into an individual's ability to either operate that equipment, perform the driving task or both." ADED stated, "Some of the most difficult evaluations involve simple equipment, because issues revolve around the driver candidate's performance and skill set to use even simple devices."

Finally, ADED stated that the section of the preamble discussing prescriptions "appears to recommend that prescriptions are not only not required, but unnecessary." ADED noted that this conflicts with a brochure written jointly by ADED, NHTSA, and the National Mobility Equipment Dealers Association (NMEDA) entitled "Adapting Motor Vehicles for People With Disabilities."[5] ADED stated that the brochure devotes a significant amount of text to the evaluation process.

A final rule, which consists of a preamble and regulatory text, is a historical document that itself cannot be changed. However, the regulatory text in a final rule can be amended in a subsequent final rule. Further, any misstatements and errors in the preamble of a final rule can be corrected in a subsequent notice.

NHTSA notes that several of the statements to which the petitioners objected are not statements made by the agency, but statements in the comments of various respondents on the proposed rule. The agency is required to consider all comments, whether they represent the same or divergent points of view. To that end, in the final rule preamble, the agency summarized the comments of proponents and opponents of conditioning the exemption upon the obtaining of prescriptions. The agency specifically and correctly attributed those comments to the individuals or groups who made them.

As to the statements made by NHTSA in the preamble to the final rule, the agency believes that the petitioners have misunderstood the agency's position on driver evaluation prior to the modification of a vehicle. NHTSA does believe that driver evaluation is a very important element to a successful vehicle modification for persons with disabilities, and that evaluations should be performed whenever possible. However, the agency believes that requiring persons with disabilities to obtain prescriptions before having their vehicle modified is within the regulatory purview of the States, which regulate driver evaluation, training, and licensing, and vehicle inspection. The agency does not wish to establish such a requirement indirectly by conditioning a vehicle modifier's ability to take advantage of the limited exemption upon the modifier's obtaining a prescription from the person requesting the modifications. The agency also believes it is not qualified to judge who should conduct a driver evaluation and whether there are circumstances under which no evaluation is needed.

Finally, NHTSA addressed above the following statement made by the agency in the final rule preamble: "[G]iven the current practice in the industry not to require or rely on prescriptions for relatively simple and inexpensive modifications, we see no need to add an additional burden to an already time-consuming and expensive process." As noted above, the agency did not conclude that prescriptions for modifications are not beneficial. The agency believes that driver evaluations are an essential part in the vehicle modification process. The agency simply concluded that, for NHTSA's purposes, a new Federal requirement for vehicle modifiers to obtain such prescriptions from persons seeking modifications and keep records of them would be an unnecessary and time consuming burden on the modifier and the consumer.

For these reasons, the agency cannot remove these statements from the preamble of the final rule and is denying the petitioners' request to do so.

III. Conclusion

For the reasons stated above, the agency is denying the petitions for reconsideration.

Issued: May 29, 2002.

Jeffrey W. Runge,

Administrator.

[FR Doc. 02–13968 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–59–P

[5] DOT HS 809 014, December 1999.

Proposed Rules

Federal Register
Vol. 67, No. 107
Tuesday, June 4, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AG84

Financial Information Requirements for Applications To Renew or Extend the Term of an Operating License for a Power Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations to remove the requirement that non-electric-utility power reactor licensees submit financial qualifications information in their license renewal applications, and to add a new requirement that licensees of nuclear power reactors who are electric utilities reorganizing as non-electric-utility entities without a license transfer must notify the NRC and submit information on their financial qualifications. The proposed rule would reduce unnecessary regulatory burden for licensees seeking renewal of operating licenses, and ensure that licensees reorganizing as non-electric-utility entities continue to be financially qualified to operate their facilities and maintain the public health and safety.

DATES: The comment period expires on August 19, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is only able to ensure consideration of comments received on or before this date.

ADDRESSES: Mail comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You also may provide comments via the NRC's interactive rulemaking Website at (*http://ruleforum.llnl.gov*). This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher at 301–415–5905 or e-mail *cag@nrc.gov*.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Public Electronic Reading Room on the NRC Website at *www.nrc.gov*.

FOR FURTHER INFORMATION CONTACT: George J. Mencinsky, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3093, e-mail *gjm@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 182.a. of the Atomic Energy Act of 1954, as amended (AEA), provides that "each application for a license * * * shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant * * * as the Commission may deem appropriate for the license." The NRC's regulations governing financial qualifications reviews of applications for licenses to construct or operate nuclear power plants are provided in 10 CFR 50.33(f).

Section 50.33(f)(2) currently requires all applicants for initial operating licenses and renewal of operating licenses to submit financial qualifications information, except applicants for and holders of operating licenses for nuclear power reactors that are electric utilities. This provision, adopted on September 12, 1984 (49 FR 35747), was based on the premise that the ratemaking process ensures that an applicant that is an electric utility and a holder of an operating license will have funds to operate the plant safely. Because entities other than electric utilities did not have recourse to ratemaking, they were required to submit information on financial qualifications in accordance with § 50.33(f), and the NRC was required to make a finding of financial qualification for these nonutility entities under § 50.57(a)(4).

In issuing the License Renewal Rule, 10 CFR part 54 (56 FR 64943; December 13, 1991), the Commission reaffirmed that the basis of the 1984 rulemaking for eliminating financial qualifications review for electric utilities applies not only for the term of the original license, but also for the period of operation covered by a renewed license (56 FR at 64968). However, the findings required to issue a renewed license based on the standards contained in 10 CFR 54.29 do not require a finding regarding financial qualifications for non-electric-utility entities seeking a renewal license. The 1991 rule left unchanged the requirement in § 50.33(f)(2) that license renewal applicants that are not electric utilities submit financial qualifications information in their renewal applications and extended the 1984 rule's finding to applicants for renewal of operating licenses. The revision to 10 CFR part 54 published on May 8, 1995 (60 FR 22461), did not amend this requirement. Thus, while non-electric-utility entities are required to submit financial qualifications information, there is no requirement for a finding of financial qualifications for non-electric-utility entities, and no basis for the lack of such a finding requirement.

Since the 1995 rulemaking, the NRC has received numerous requests for license renewals and has granted eight renewed licenses for four plant sites to electric utilities. However, because of ongoing deregulation in the power market, new entities other than electric utilities may be created to become licensees of nuclear power plants. Some of these entities may decide to renew their licenses. Under the current rule they would be required to submit financial qualifications information under § 50.33(f)(2). Moreover, despite the language of § 54.29, the NRC must make a case-by-case finding of financial qualifications.

Such a case-by-case determination would be resource-intensive and may result in delays in approving renewal applications. The NRC staff has reviewed the license transfer process to determine if there was a basis in the regulatory process that would obviate the need for such a finding at license renewal. The NRC staff determined that, with one exception, the NRC does not need the financial qualifications

information from license renewal applicants that are not electric utilities since the NRC can obtain and track financial qualifications information from the licensees through means other than the license renewal process. The exception is the potential gap in the financial qualifications regulation for non-electric-utility entities when a licensee transitions from an electric utility to an entity other than an electric utility without transferring its license. Although almost all utilities transfer to non-utility status with a license transfer, this regulatory gap, if not closed, would prevent the NRC from making a generic determination that financial qualifications review is unnecessary at license renewal. Therefore, in this proposed rule the NRC proposes to adopt a provision to close the gap.

Regulatory Oversight of Licensees' Financial Qualifications and Discussion of Proposed Rule

With one exception, the NRC has provisions in its regulations to evaluate a nuclear power reactor applicant's or licensee's financial qualifications at several points—at initial licensing, before license transfers, and when circumstances warrant an ad hoc request for additional financial information. In addition, the NRC staff informally monitors the financial trade press for information on its licensees' financial situations. The one exception relates to a situation when a licensee transitions from an electric utility to an entity other than an electric utility without transferring its license. This proposed rule would rectify the regulatory gap by imposing a request for financial qualifications information from the licensee. With the addition of this provision, the Commission believes it has a basis for concluding that it is unnecessary to review financial qualifications information explicitly during the license renewal process for holders of operating licenses for nuclear power reactors. The NRC does not believe that there are any financial circumstances uniquely associated with license renewal that warrant a concomitant financial review.

The NRC staff relies on the requirement in 10 CFR 50.33(f)(2) to obtain financial qualifications information on applicants seeking renewal of nonpower reactor operating licenses. The license renewal process for nonpower reactors, unlike the license renewal process for power reactors, includes a financial qualifications review. The NRC staff does not propose to amend this requirement since the nature of nonpower reactor operations does not permit the same level of ongoing financial qualifications oversight, thus necessitating a review of financial qualifications for nonpower reactor licensees at renewal.

Initial Licensing Reviews

The NRC performs financial qualifications reviews during initial licensing. These reviews form part of the licensing basis that the licensee must maintain for the 40-year term of the initial license and for any license renewal period. Financial qualifications reviews at the operating license stage distinguish between license applicants that are electric utilities as defined in 10 CFR 50.2 and those that are not. Applicants other than electric utilities are required to submit estimates for total annual operating costs for each of the first five years of operation of the facility, and indicate the sources of funds to cover these costs. The NRC evaluation of the financial qualifications of an entity other than an electric utility applicant is based on the submitted 5-year projections of income and expenses and on current information from a number of major financial rating service publications. The NRC publishes the results of its evaluation in a safety evaluation report. The NRC's regulations do not require additional formal financial qualifications reviews at scheduled intervals.

License Transfer Reviews

A license transfer under 10 CFR 50.80 may occur at any time during the period of the license. The NRC also reviews the financial qualifications of non-electric-utility applicants seeking to become licensees through direct license transfers (plant sales), and considers changes in the financial qualifications of an existing licensee, whether or not it is an electric utility, that might occur in connection with an indirect license transfer by a merger, acquisition, or restructuring action. For a direct license transfer, a non-electric-utility applicant must submit all the information required under § 50.33(f).

Informal Screening of Financial and Nuclear Industry Trade Press and Other Information Sources

To keep abreast of deregulation and other developments potentially affecting its power reactor licensees, the NRC staff screens the financial and trade press and other information sources (e.g., State legislative reports) to determine whether a licensee or license applicant remains an electric utility or otherwise requires additional review of its financial qualifications. To date, all utility-to-nonutility transitions by NRC power reactor licensees have been accomplished through restructurings that involved license transfers. The NRC examines license transfers to determine whether a proposed transferee is, among other requirements, financially qualified to conduct the activities authorized by a license. If the licensee becomes an entity other than an electric utility without going through a license transfer, the NRC believes that it will become aware of the change through its informal screening process. The NRC can then request additional information under § 50.33(f)(4), as described in the next section.

Ad Hoc Reviews Under 10 CFR 50.33(f)(4)

Section 50.33(f)(4) states: "The Commission may request an established entity or newly formed entity to submit additional or more detailed information respecting its financial arrangements and status of funds if the Commission considers this information to be appropriate. This may include information regarding a licensee's ability to continue the conduct of the activities authorized by the license and to decommission the facility." This section permits the NRC to require license applicants or licensees to submit relevant financial information on the qualifications of the licensee to manage licensed activities at any time.

Proposed Requirement for Additional Information That May Not Be Otherwise Obtained Under the NRC's Financial Qualifications Review Framework

In some situations a licensee may transition from an "electric utility," as defined in 10 CFR 50.2, to a company whose rates are not regulated by a public utility commission or the Federal Energy Regulatory Commission on a cost of service basis. If such a transition were to occur in the absence of a license transfer, the NRC would then have no formal process to evaluate the licensee's financial qualifications (although, as discussed previously, the NRC's informal monitoring process would identify such transitions and could trigger, if warranted, a request for additional information pursuant to § 50.33(f)(4)). Therefore, the NRC proposes to create 10 CFR 50.76, a requirement segregated from § 50.33(f)(2), which would require licensees that are transitioning from an electric utility to a non-electric-utility, without going through license transfers, to submit financial information sufficient to allow the NRC to determine whether the licensee remains financially qualified to conduct the activities authorized by the license. Although the NRC expects that this type of transition will occur rarely, if at all, this requirement would ensure a financial qualifications review resulting from all relevant triggering events and, thereby, enhance public confidence while maintaining regulatory efficiency and effectiveness.

The proposed new section 50.76 will be created to provide a separation from § 50.33, since the latter section focuses on applicants rather than licensees.

Retention of Nonpower Reactor Financial Reviews at License Renewal

The NRC will retain the financial qualifications requirements in § 50.33(f)(2) for nonpower reactor (NPR) applicants that wish to renew or extend their licenses. Nonpower reactor licenses are generally renewed for 20 years. The NRC does not normally perform follow-up financial reviews after the initial 20-year license is issued. The NRC staff does not normally follow changes in NPR licensee financial qualifications because NPR owners are primarily financially stable nonprofit educational or research institutions, either privately, State, or Federally owned, and do not report financial information to sources readily available to the NRC. Additionally, license transfers for NPRs and the associated financial reviews are rare. A small number of NPRs are owned and operated by private companies. Therefore, financial qualification problems are not likely to become obvious, at least in part because of the unavailability of accessible information, as cited above. In some cases, the NRC has found financial weaknesses or ambiguities during NPR license renewals that it would not have discovered otherwise. As a result of the review, the NRC was able to require the licensee to take corrective action. Therefore, the NRC considers it appropriate to review NPR licensees' financial qualifications when they apply to renew their licenses. The burden on NPR licensees to demonstrate their financial qualifications every 20 years is offset by the assurance that licensee management is committed to continued operation.

Conclusions on Eliminating Financial Qualifications Reviews for Power Reactor Licensees at License Renewal

Section 50.33(f) requires all applicants for initial and renewed operating licenses to submit financial qualifications information, except applicants for and holders of operating licenses for nuclear power reactors that are electric utilities. Section 50.33(f)(2) requires an entity other than an electric utility that seeks to renew its operating license for a nuclear power plant submit the same financial information in its application that is required for an application for an initial license.

The NRC does not believe that there are any financial circumstances uniquely associated with license renewal that warrant a separate financial review. First, the NRC's regulatory processes for financial qualifications reviews adequately ensure that the NRC can take appropriate regulatory action when warranted by changes in a licensee's financial qualifications. Second, the submission of financial qualifications information and a finding of financial qualifications for a nuclear power plant licensee at the license renewal stage, by itself, is not likely to have any impact on a licensee's financial qualifications, and therefore should not be a factor in the renewal decision. In contrast, there are valid regulatory reasons for conducting specified financial qualifications reviews at other stages—i.e., at initial licensing, when an applicant's financial qualifications need to be determined in accordance with the AEA's requirements; at the time of a license transfer, when deregulation initiatives are likely to affect an applicant's or licensee's financial qualifications through restructuring, plant sales, or other events; or at times of special circumstances, when ad hoc reviews under § 50.33(f)(4) may be warranted.

For these reasons, the NRC proposes to change the requirement in the last sentence of § 50.33(f)(2) with respect to entities other than electric utilities seeking renewal of operating licenses for nuclear power reactors. The proposed rule would (1) eliminate the need for such entities to provide financial qualifications information as part of the license renewal process, (2) retain the existing requirement in § 50.33(f) for nonpower reactors to provide financial qualifications information, and (3) add a new § 50.76, "Licensee's change of status; financial qualifications." Section 50.76 would require that any electric utility power reactor licensee that becomes an entity other than an electric utility without transferring the license must provide the same financial information that is required for obtaining an initial operating license. The proposed rule would not affect the submission of financial qualifications information and the need for a finding of financial qualifications with respect to direct transfers of nuclear power plant operating licenses, nor would the rule affect the review of whether an indirect transfer would change the respective licensee's financial qualifications.

The NRC believes this proposed rule would be consistent with the NRC's Strategic Goals of making NRC activities and decisions more effective and efficient and reducing unnecessary regulatory burden. The proposed rule would help advance these goals by eliminating the need for "entities other than electric utilities" to submit information on financial qualifications, as is the case now for electric utilities, in connection with license renewal, and would make the financial qualifications review requirements consistent with the bases of the License Renewal rule in 10 CFR part 54, which does not require a finding of financial qualifications for those power reactor licensees applying for a renewed nuclear power plant operating license. The proposed rule would not have an adverse impact on maintaining safety; the provisions in § 50.33(f)(4) already ensure that financial information can be obtained from a licensee whenever the NRC considers this information appropriate.

Section-by-Section Analysis

10 CFR 50.33, Contents of applications: general information.

Section 50.33(f)(2) would be amended to replace a requirement that now states license renewal applicants must provide financial qualifications information with a requirement that states power reactor applicants for license renewal no longer need to provide financial qualifications information. Nonpower reactor applicants, on the other hand, would continue to submit financial qualifications information in the applications as is currently required. A new sentence would be added to § 50.33(f)(2) to specify that nonpower reactor license renewal applicants must continue to submit financial qualifications information in their applications.

10 CFR 50.76, Licensee's change of status; financial qualifications.

Section 50.76, a new requirement segregated from § 50.33(f)(2), would be adopted to cover situations in which a licensee changes from an electric utility to a non-electric-utility, *i.e.*, a company that cannot obtain revenue from the cost of service ratemaking process, in a manner other than a license transfer under 10 CFR 50.80. The NRC proposes to require licensees that are transitioning from an electric utility to a non-electric-utility entity without transferring their licenses to submit financial information pursuant to the requirements of this new section. If a

licensee will cease to be an electric utility, the NRC proposes that the licensee shall notify the NRC 75 days before the transition and provide the financial information at that time.

Issues for Public Comment

The NRC encourages comments on the content, level of detail, and the implementation of the proposed amendments. Suggestions or alternatives other than those described in this document and estimates of the cost of implementation are encouraged.

The NRC is particularly interested in receiving comments on the following issues related to this proposed rule:

1. Are there rulemaking alternatives to this proposed rule that were not considered in the regulatory analysis for this proposed rule?

2. Should the requirement that nonpower reactor licensees provide financial qualifications information when they apply for license renewal be eliminated? On what basis?

3. Are the regulations dealing with financial qualifications oversight sufficiently flexible not to require this information from non-electric-utility applicants seeking license renewals for power reactors?

Availability of Documents

This **Federal Register** document, the regulatory analysis, and the environmental assessment are available at the NRC Public Document Room at 11555 Rockville Pike, Rockville, Maryland; through the NRC's interactive rulemaking Website at *http://ruleforum.llnl.gov;* and through the NRC's Public Electronic Reading room at *http://www.nrc.gov/reading-rm.html.*

The ADAMS accession number of the notice is ML020700359. The regulatory analysis number is ML020700372. The environmental assessment number is ML020700379.

Single copies of the **Federal Register** notice, regulatory analysis, and environmental assessment may be obtained from George J. Mencinsky, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 (301–415–3093), or *gjm@nrc.gov.*

Plain Language

The Presidential memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government write in plain language. This memorandum was published on June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in this proposed rule to improve readability of the existing language of those provisions being revised. These types of changes are not discussed further in this document. The NRC requests comment on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address given in the ADDRESSES section.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standard bodies unless the use of such a standard is inconsistent with applicable law or is otherwise impractical. In this proposed rule, the NRC would eliminate the requirement that applicants for power reactor license renewal provide financial qualifications information, and add a new requirement for submission of financial information on electric utilities holding operating licenses for nuclear power reactors, who cease to be electric utilities in a manner other than a license transfer under 10 CFR 50.80. This proposed rule would not constitute a standard that establishes generally applicable requirements, and the requirement to use a voluntary consensus standard is not applicable.

Finding of No Significant Environmental Impact: Availability

The Commission has determined that under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51 that this proposed rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

There are no significant radiological environmental impacts associated with the proposed action, since the proposed action only addresses the submission of financial information to the NRC. The proposed action does not involve nonradiological plant effluents and has no other environmental impact. Therefore, NRC expects that no significant environmental impact would result from the proposed rule.

The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action. However, the general public should note that the NRC is seeking public participation. The NRC has also committed to complying with Executive Order (E.O.) 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," dated February 11, 1994. The NRC evaluated environmental justice for this environmental assessment and has determined that there are no disproportionate high and adverse impacts on minority and low-income populations. In the letter and spirit of E.O. 12898, the NRC is requesting public comment on any environmental justice considerations or questions that the public thinks may be related to this proposed rule but somehow was not addressed. E.O. 12898 describes environmental justice as "identifying and addressing, as appropriate, disproportionately high or adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." Comments on any aspect of the environmental assessment, including environmental justice, may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to all State Liaison Officers and requested their comments.

Paperwork Reduction Act Statement

This proposed rule eliminates the burden on non-electric-utility power reactor licensees to submit financial qualifications information upon license renewal as required by the current § 50.33(f)(2). However, power reactor licensees that become non-electric-utility power reactor entities without transferring the license would still be required to provide this information under new § 50.76. The public burden reduction for this information collection is estimated to average 100 hours per request. Because the burden reduction for this information collection is insignificant, Office of Management and Budget (OMB) clearance is not required. Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The Commission requests public comment on the regulatory analysis. Comments should be submitted to the NRC in accordance with the instructions in the **ADDRESSES** section of this notice.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, as amended, 5 U.S.C. 605(b), the Commission certifies that this proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. This proposed rule would affect only the renewal of nuclear power reactor licenses. The companies that own these reactors are not "small entities" as defined in the Regulatory Flexibility Act or the Size Standards established by the NRC (10 CFR 2.810).

Backfit Analysis

The NRC has determined that the backfit rule does not apply to this proposed rule. The proposed rule would (1) permissively relax the current requirement in § 50.33(f) for submission of financial qualifications information by entities other than electric utilities seeking renewal of their nuclear power plant operating licenses, and (2) impose a new requirement for submission of financial information on electric utilities who hold operating licenses for nuclear power reactors, who cease to be electric utilities in a manner other than a license transfer under 10 CFR 50.80. Such information collection and reporting requirements do not constitute regulatory actions to which the backfit rule applies. In addition, with respect to the permissive relaxation in § 50.33(f), such relaxations do not "impose" a requirement, which is an essential element of "backfitting" as defined in § 50.109(a)(1).

Accordingly, the proposed rule's provisions do not constitute a backfit and a backfit analysis need not be performed. However, the staff has prepared a regulatory analysis that identifies the benefits and costs of the proposed rule and evaluates other options for addressing the identified issues. As such, the regulatory analysis constitutes a "disciplined approach" for evaluating the merits of the proposed rule and is consistent with the intent of the backfit rule.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 and 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.33, paragraph (f)(2) is revised to read as follows:

§ 50.33 Contents of applications; general information.

* * * * *

(f) * * *

(2) If the application is for an operating license, the applicant shall submit information that demonstrates the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license. The applicant shall submit estimates for total annual operating costs for each of the first five years of operation of the facility. The applicant shall also indicate the source(s) of funds to cover these costs. An applicant seeking to renew or extend the term of an operating license for a power reactor need not submit the financial information that is required in an application for an initial license. Applicants to renew or extend the term of an operating license for a nonpower reactor shall include the financial information that is required in an application for an initial license.

* * * * *

3. Section 50.76 is added to read as follows:

§ 50.76 Licensee's change of status; financial qualifications.

An electric utility licensee holding an operating license (including a renewed license) for a nuclear power reactor, no later than 75 days prior to ceasing to be an electric utility in any manner not involving a license transfer under § 50.80 of this part, shall provide the NRC with the financial qualifications information that would be required for obtaining an initial operating license as specified in § 50.33(f)(2). The financial qualifications information must address the first full five years of operation after the date the licensee ceases to be an electric utility.

Dated at Rockville, Maryland, this 29th day of May 2002.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 02–13903 Filed 6–3–02; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 702, 741 and 747

Prompt Corrective Action

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: In 2000, the National Credit Union Administration (NCUA) adopted a comprehensive system of prompt corrective action consisting of minimum capital standards for federally-insured credit unions and corresponding remedies for restoring net worth. After six quarters of implementation experience, NCUA requests public comment on proposed revisions and adjustments intended to improve and simplify the system of prompt corrective action.

DATES: Comments must be received on or before August 5, 2002.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. *You are encouraged to fax comments to (703) 518–6319 or e-mail comments to regcomments@ncua.gov*

instead of hand-delivering them. Whichever method you choose, *please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: *Technical:* Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, at the above address or by telephone (703) 518–6360. *Legal:* Steven W. Widerman, Trial Attorney, Office of General Counsel, at the above address or by telephone (703) 518–6557.

SUPPLEMENTARY INFORMATION:

A. Background
1. Existing Part 702
2. Where Credit Unions Stand Today
3. Request for Comments
B. Section-by-Section Analysis of Proposed Revisions
1. Section 702.2—Definitions
2. Section 702.101—Measure and effective date of net worth classification
3. Section 702.107—Alternative component for loans sold with recourse
4. Section 702.108—Risk mitigation credit
5. Section 702.201—PCA for "Adequately Capitalized" credit unions.
6. Section 702.204—PCA for "Critically Undercapitalized" credit unions
7. Section 702.205—Consultation with State officials on proposed PCA.
8. Section 702.206—Net worth restoration plans
9. Section 702.303—PCA for "Adequately Capitalized" new credit unions
10. Section 702.304—PCA for "Moderately Capitalized," "Marginally Capitalized" and "Minimally Capitalized" new credit unions
11. Section 702.305—PCA for "Uncapitalized" new credit unions
12. Section 702.306—Revised business plans for new credit unions
13. Section 702.401—Charges to the regular reserve
14. Section 702.403—Payment of dividends
15. Section 741.3—Adequacy of reserves
16. Section 747.2005—Enforcement of orders

The following acronyms are used throughout:

CUMAA Credit Union Membership Access Act
DSA Discretionary Supervisory Action
MBL Member Business Loan
MSA Mandatory Supervisory Action
NWRP Net Worth Restoration Plan
OCA Other Corrective Action
PCA Prompt Corrective Action
RBNW Risk-Based Net Worth
RBP Revised Business Plan
RMC Risk Mitigation Credit
ROA Return on assets

Throughout the Supplementary Information section, citations to part 702 refer to the current version of 12 CFR 702 *et seq.* (2002) and are abbreviated to the section number only.

A. Background

1. Existing Part 702

In 1998, the Credit Union Membership Access Act ("CUMAA"), Pub. L. No. 105–219, 112 Stat. 913 (1998), amended the Federal Credit Union Act ("the Act") to require NCUA to adopt by regulation a system of minimum capital standards for federally-insured "natural person" credit unions. 12 U.S.C. 1790d *et seq.* This system, known as "prompt corrective action" ("PCA"), is indexed to five statutory net worth categories.

In February 2000, the NCUA Board adopted part 702 and subpart L of part 747, establishing a comprehensive system of PCA. 65 FR 8560 (Feb. 18, 2000). Subpart A of part 702 consists of standards for calculating a credit union's net worth and classifying it among the five statutory net worth categories. 12 CFR 702.101–108. Subpart B combines mandatory and discretionary supervisory actions indexed to the five categories, as well as PCA-based conservatorship and liquidation. §§ 702.201–206. Subpart C consists of a system of PCA for "new" credit unions. §§ 702.301–307. Subpart D prescribes reserve accounts, requirements for full and fair disclosure of financial condition, and prerequisites for paying dividends consistent with the earnings retention requirement in subpart B. §§ 702.401–403. In addition to these substantive provisions, subpart L of part 747 established an independent review process allowing affected credit unions and officials to challenge PCA decisions. 12 CFR 747.2001 *et seq.* (2000).

In July 2000, the NCUA Board integrated a risk-based net worth ("RBNW") component into part 702, as CUMAA mandated. 65 FR 44950 (July 20, 2000). The RBNW requirement applies to non-"new" credit unions, § 702.102(a)(1)–(2), that satisfy minimum RBNW and asset size requirements, § 702.103, and whose portfolios of assets and liabilities carry above average risk exposure. § 702.104. A credit union whose net worth ratio does not meet its RBNW requirement under any of three methods (standard calculation, alternative components, risk mitigation credit) is classified to the "undercapitalized" net worth category. 12 U.S.C. 1790d(c)(1)(C)(ii); § 702.102(a)(3).

Part 702 and subpart L of part 747 were effective August 7, 2000, and first applied to activity in the fourth quarter of 2000 as reflected in the Call Report for that period. The RBNW component of part 702 was effective January 1, 2001, and first applied (for quarterly Call Report filers) to activity in the first quarter of 2001 as reflected in the Call Report for that period.[1]

At the conclusion of the initial PCA rulemaking process, the NCUA Board directed the "PCA Oversight Task Force" (a working group consisting of NCUA staff and State regulators) to review at least a full year of PCA implementation and recommend necessary modifications. 65 FR at 44964. The proposed revisions presented below for comment are a product of that review.

2. Where Credit Unions Stand Today

a. Net worth classification

As of December 31, 2001, federally-insured credit unions are classified as follows within the PCA net worth categories:

TABLE A.—NET WORTH CLASSIFICATION OF NON-"NEW" FICUS

Net worth category	Net worth ratio	# of non-"new" FICUs	Percent of all non-"new" FICUs
"Well Capitalized"	7% or greater	9634	96.96%
"Adequately Capitalized"	6% to 6.99%	210	2.11%
"Undercapitalized"	4% to 5.99%	53	0.53%
"Significantly Undercapitalized"	2% to 3.99%	23	0.24%
"Critically Undercapitalized"	Less than 2%	15	0.15%

[1] Part 702 has since been amended twice—once to incorporate limited technical corrections, 65 FR 55439 (Sept. 14, 2000), and once to delete sections made obsolete (§§ 702.101(c)(2)–(3) and 702.103(b)) by the recently adopted uniform quarterly schedule for filing Call Reports regardless of asset size. 67 FR 12459 (March 19, 2002).

TABLE B.—NET WORTH CLASSIFICATION OF "NEW" FICUS

"New" net worth category	Net worth ratio	# of "new" FICUs	Percent of all "new" FICUs
"Well Capitalized"	7% or greater	0	0
"Adequately Capitalized"	6% to 6.99%	6	12.50%
"Moderately Capitalized"	3.5% to 5.99%	19	39.58%
"Marginally Capitalized"	2% to 3.49%	8	16.67%
"Minimally Capitalized"	0% to 1.99%	10	20.83%
"Uncapitalized"	Less than 0%	5	10.42%

b. RBNW requirement

As of December 31, 2001, 399 federally-insured credit unions—4 percent of the total—were required to meet an RBNW requirement. Of these, 393 met the requirement using the "standard calculation." § 702.106. The six that failed under the "standard calculation" met their RBNW requirement using the "alternative components." § 702.107. To date, no credit union has completely failed its RBNW requirement, and no credit union has applied for a "Risk Mitigation Credit." § 702.108.

3. Request for Comments

Through this notice, NCUA invites public comment on a series of proposed revisions to part 702 prompted by six quarters of experience implementing PCA. To facilitate consideration of the public's views, we ask commenters to organize and identify their comments by corresponding part 702 section number and/or topic and to include general comments, if any, in a separate section at the end. Also, for purposes of this rulemaking, please confine your comments to the NCUA regulations that implement PCA—part 702 and subpart L of part 747.

In addressing the proposed revisions, we urge commenters to recognize that, while given substantial discretion in certain areas of PCA, NCUA lacks the authority to override or expand by regulation the requirements, limitations and definitions that CUMAA expressly prescribed. *See* 12 U.S.C. 1790d(n) (forbidding action "in derogation" of what CUMAA prescribes). For example, NCUA lacks the statutory authority to expand CUMAA's express, limited definition of "net worth" for PCA purposes. 12 U.S.C. 1790d(o)(2)(A). This rulemaking will not address comments advocating modifications to part 702 that exceed the scope of NCUA's statutory authority.

To ensure that the system of PCA for federally-insured credit unions is "workable, fair and effective in light of the cooperative character of credit unions," S. Rep. No. 193, 105th Cong., 2d Sess. 14 (1998), the NCUA Board welcomes broad public input addressing the revisions proposed below.

B. Section-by-Section Analysis of Proposed Revisions

PART 702—PROMPT CORRECTIVE ACTION

1. Section 702.2—Definitions

a. *Dividend.* Subpart D of part 702 sets various restrictions and requirements regarding the payment of dividends to members. §§ 702.403, 702.401(d), 702.402(d)(5). However, that subpart overlooks the fact that many State-chartered credit unions pay interest on shares rather than dividends. To correct this oversight, the proposed rule adds to § 702.2 a new subsection (e) defining a "dividend" as "a distribution of earnings by a federally-insured credit union and a payment of interest on a deposit by a State-chartered credit union."

b. *Senior executive officer.* The authority to dismiss a director or senior executive officer is a discretionary supervisory action ("DSA") available when a credit union is classified "undercapitalized" or lower. §§ 702.202(b)(8), 702.203(b)(8), 702.204(b)(8). *See also* 12 CFR 747.2004(a) (review of dismissal of senior executive officer). The authority to order the hiring of a "qualified senior executive officer," §§ 702.204(b)(9), and to limit the compensation paid to a senior executive officer, § 702.204(b)(10), are both DSAs available when a credit union is classified "critically undercapitalized." However, none of these provisions defines who is a "senior executive officer." To correct this oversight, the proposed rule adds a new subsection (j) to § 702.2, incorporating by reference the definition of a "senior executive officer" in 12 CFR 701.14(b)(2). That section defines a "senior executive officer" as "a credit union's chief executive officer * * *, any assistant chief executive officer (*e.g.*, any assistant president, any assistant vice president or any assistant treasurer/manager) and the chief financial officer."

c. *Total assets.* Among the methods available to measure a credit union's total assets for PCA purposes is "[t]he average of quarter-end balances of the four most recent calendar quarters." § 702.2(l)(1)(i). In practice, this has been a source of confusion to credit unions; some think "the four most recent calendar quarters" refers to the four consecutive quarters *preceding* the then-current quarter, while others think it means the then-current quarter *plus* the preceding three consecutive quarters. To end this confusion, the proposed rule redefines the "average quarterly balance" as the average of quarter-end balances of "the four most recent calendar quarters."

Another of the methods available to measure a credit union's total assets is the "quarter end balance of the calendar quarter as reported in the credit union's Call Report, and for semi-annual filers as calculated for the quarters ending March 31 and September 30." § 702.2(l)(1)(iv). The proposed rule deletes the exception for the two quarters in which Call Reports are not filed because semiannual Call Reporting has been abolished by the recently adopted uniform quarterly schedule for filing Call Reports regardless of asset size. 67 FR 12457 (March 19, 2002).

2. Section 702.101—Measures and Effective Date of Net Worth Classification

On the effective date of a credit union's net worth classification, it must begin to comply with the mandatory supervisory actions ("MSAs"), if any, applicable to its net worth category, *e.g.*, § 702.202(a). The effective date also triggers part 702's timetables for whatever further action is required in the case of a "critically undercapitalized" credit union. §§ 702.204(c)(1), 702.204(c)(3), 702.206(a)(1). Relying on the quarter-end calculation of net worth, the effective date of classification in nearly all cases is the "quarter-end effective date"—"the last day of the calendar month following the end of the calendar quarter." § 702.101(b)(1). However, § 702.101(b)(2) presently allows for an

interim effective date between quarter-ends when "the credit union's net worth ratio is recalculated by or as a result of its most recent final report of examination."

An interim effective date has occasionally replaced the quarter-end effective date when an NCUA examination is conducted after the quarter-end effective date and it discloses not only that the credit union erred in calculating its net worth ratio, but that the corrected ratio puts it in a different net worth category. Classification to the proper net worth category is not retroactive to the prior quarter-end effective date. Rather, the date the credit union receives the final examination report becomes the new effective date of classification to the proper net worth category, triggering the corresponding MSAs.[2]

Section 702.101(b)(2) has been difficult to implement for several reasons. First, it lacks standards that limit recalculation of net worth to instances of error or misstatement, and that preclude recalculation based simply on changed data or conditions occurring since the last Call Report (which changes will be reflected in the next quarter's Call Report). Second, experience shows that an error or misstatement in calculating net worth may emerge from a supervision contact other than an examination, yet notice to the credit union to correct its net worth ratio must await the "most recent report of final examination." Third, postponing notice of the corrected net worth ratio until receipt of the final report of examination may deprive the credit union of the opportunity to take corrective action sooner. To rectify these flaws, subsection (b)(2) is revised to define the "corrected net worth category" as "the date the credit union receives subsequent written notice * * * of a decline in net worth category due to correction of an error or misstatement in the credit union's most recent Call Report."

[2] A corrected net worth ratio that reduces a credit union to a lower worth category typically has the greatest impact when a "well capitalized" or "adequately capitalized" credit union declines to "undercapitalzied" or lower (and must submit an NWRP for the first time) and when a credit union declines to "critically undercapitalized" from a higher net worth category (and becomes subject to mandatory liquidation of net worth fails to improve). In comparison, when an already "undercapitalized" credit union declines to "significantly undercapitalized," the MSAs are the same in both categories and only the range of availabale DSAs expands.

3. Section 702.107—Alternative Component for Loans Sold With Recourse

Among the eight risk portfolios used to calculate an applicable RBNW requirement is the portfolio of "loans sold with recourse," generally consisting of the outstanding balance of loans sold or swapped with full or *partial* recourse. § 702.104(f). In the "standard calculation" of the RBNW requirement, the entire balance of the "loans sold with recourse" risk portfolio is assigned a single, uniform risk-weighting of 6 percent, § 702.106(f), regardless whether it includes loans sold with only *partial* recourse against the seller. There is no "alternative component" for adjusting the risk-weighting of this portfolio to reflect the limited credit risk associated with loans sold with partial recourse.[3]

Since the adoption of part 702, recourse loan activity among credit unions has nearly doubled, and loan programs have emerged that allow a credit union that sells fixed-rate mortgage loans, for example, to contractually limit the extent of the purchaser's recourse to the seller.[4] This enables credit unions to readily cap their credit risk exposure from the sale of recourse loans. In view of these developments, a single, uniform risk-weighting that assumes maximum credit risk exposure is inequitable.

Therefore, the NCUA Board proposes to add a fourth "alternative component" to § 702.107 that would allow variable risk-weighting that corresponds to the actual credit risk exposure of loans sold with a contractual recourse obligation of less than 6 percent. The "alternative component" proposed in new § 702.107(d) is the sum of two risk-weighted buckets. The first bucket consists of the amount of loans sold with contractual recourse obligations of six percent or greater and is risk-weighted at a uniform six percent. § 702.107(d)(1). The second bucket consists of the amount of loans sold with contractual recourse obligations of less than six percent and is risk-weighted according to the weighted average recourse percent of its contents, as computed by the credit union.[5] § 702.107(d)(2); *see* new Table 5(a) and new Appendixes F and G in rule text below. Like the existing "alternative components," if the "alternative component" proposed for loans sold with recourse reduces the RBNW requirement initially determined under the "standard calculation," the credit union could then substitute it for the corresponding "standard component." § 702.106(f).

[3] Currently, the RBNW requirement can be reduced to reflect *partial* recourse only when a credit union that initially fails its RBNW requirement applies for and receives a "risk mitigatin credit" based upon proof of mitigation of credit risk. § 702.108(a)(1); 65 FR at 44963.

[4] For example, documentation for the loan sale transaction may provide for recourse in the form of a contractually-spaced recourse obligation measured either by a designated dollar amount that is fixed for the life of the loan, or by a designated percentage of the unpaid balance of a pool of loans.

4. Section 702.108—Risk Mitigation Credit

a. *Who may apply.* Section 702.108(a) presently permits a credit union that fails an applicable RBNW requirement to apply for a "risk mitigation credit" ("RMC") that, if granted, will reduce the RBNW requirement it must meet.[6] But NCUA will not consider an application for this relief until *after* the effective date that a credit union fails under both the "standard calculation" and the "alternative components." *Submission Guidelines* § I.3. In practice, this "fail first" prerequisite forces a failing credit union to remain classified "undercapitalized" while its RMC application is pending. *Id.* §§ I.4, I.8. This is true even when a credit union reasonably anticipates failing an RBNW requirement because, in a preceding quarter, it either failed or barely passed.

To spare credit unions that are genuinely in danger of failing an RBNW requirement from this "fail first" prerequisite, the NCUA Board proposes to allow them to apply for an RMC preemptively—that is, to apply in advance of the quarter-end so that the credit union receives any RMC for which it qualifies *before* the approaching effective date when it would fail its RBNW requirement. To that end, the proposed rule revises § 702.108 to allow a credit union to apply for an RMC at any time before the next quarter-end effective date if on any of the current or three preceding effective dates of classification it has either failed an applicable RBNW requirement, or met it by less than 100 basis points. The *Submission Guidelines* would be modified accordingly.

[5] To calculate the "weighted average recourse percent" of the bucket of loans sold with recourse <6%, multiply each percentage of contractual recourse obligation by the corresponding balance of loans sold with that recourse to derive the dollar weighted percent. Divide the total dollar weighted percent by the total dollar balance of loans with <6% recourse to derive the alternative risk weighting. *See* Appendix G in rule text below.

[6] To aid credit unions seeking a "Risk Mitigation Credit," NCUA has released two publications: *Guidelines for Submission of an Application for PCA "Risk Mitigation Credit"* (NCUA form 8507) ("*Submission Guidelines*") and *Guidelines for Evaluation of an Application for PCA* "Risk Mitigation Credit" (NCUA form 8508).

A credit union that has met its RBNW requirement by more than 100 basis points in each of the preceding four quarters would not be able to apply for an RMC until it subsequently fails its RBNW requirement or meets it by less than 100 basis points. The proposed revision will enable credit unions that are genuinely at risk of failing an RBNW requirement to preemptively qualify for and timely receive an RMC that may permit them to seamlessly maintain their initial classification as either "adequately capitalized" or "well capitalized."

b. *Recognizing "call" feature of loans.* The RBNW calculation features both a "standard component" and an "alternative component" for long-term real estate loans and for member business loans outstanding. §§ 702.106(a)–(b), 702.107(a)–(b). The longer the maturity of the loan, the greater the interest rate risk and credit risk exposure, justifying a commensurately higher risk-weighting. *See* 65 FR at 44960–44961. The components for both types of loans schedule them by contractual maturity date regardless whether a loan has a call feature permitting the lender to redeem it before the maturity date. A few credit unions contend that permitting them to schedule such "callable" loans by call date, rather than by maturity date, may reduce their RBNW requirement.

The NCUA Board declines for the following reasons to schedule "callable" loans by call date for purposes of calculating the RBNW requirement. First, the call feature is not a contractual requirement, but rather an option that credit unions may be reluctant to exercise in periods of rising interest rates, when members may lack the capacity to repay or refinance loans at a higher rate. Second, allowing reliance on the call date would be an incentive for credit unions to include a call feature in their loans solely to reduce the RBNW requirement, and with no good faith intention of exercising the option. Third, allowing reliance on the call date would be an incentive to use a call feature as a pretext for refinancing a loan on substantially the same terms except with a later maturity, to circumvent statutory maturity limits. 12 U.S.C. 1757(5).

Without modifying the present RBNW components, however, an RMC is perfectly suited to recognize mitigation of risk when, in practice, a call feature truly reduces a loan's maturity or resets its interest rate. When a credit union's RMC application demonstrates a program and history of efficiently exercising call options on its loans, NCUA staff will evaluate the interplay between credit risk and interest rate risk—something that the simple structure of the "standard calculation" and the "alternative components" is not well suited to address. An RMC reflecting the true risk mitigation impact of a call feature may be granted to offset a credit union's RBNW requirement as calculated in the absence of an RMC.

5. Section 702.201—PCA for "Adequately Capitalized" Credit Unions

a. *Earnings retention.* CUMAA requires credit unions having a net worth ratio of less than 7 percent to "annually set aside as net worth an amount equal to not less than 0.4 percent of its total assets." 12 U.S.C. 1790d(e)(1). To implement this statutory "earnings retention requirement," credit unions classified "adequately capitalized" or lower are generally required to increase their net worth quarterly by an amount *equivalent* to 0.1 percent of total assets and to transfer that amount to the regular reserve account until the credit union becomes "well capitalized." § 702.201(a).

In practice, some credit unions have not understood that it is the dollar amount of net worth that they must increase by the equivalent of 0.1 percent of assets per quarter, not the net worth ratio itself. Changes in the dollar amount of net worth will not match changes in the net worth ratio unless net worth and total assets were to increase or decrease by exactly the same percentage. Other credit unions are making earnings transfers to the regular reserve in the absence of increases in net worth. Still others have pointed out that, as presently written, § 702.201 prevents them from meeting the statutory annual minimum of 0.4 percent of total assets on an average basis over four quarters. Instead, it requires that the *equivalent* of 0.1 percent of assets be set aside in each and every quarter of the year, regardless whether the credit union has set aside more than the quarterly minimum in prior quarters. To clarify how the earnings retention requirement operates, the proposed rule revises subsection (a) in two ways. First, it indicates that it is the "the dollar amount" of net worth that must be increased, and permits the minimum increase to be made "either in the current quarter, or on average over the current and three preceding quarters."

b. *Decrease in retention.* As CUMAA directs, NCUA may, on a case-by-case basis, permit a credit union to increase net worth by an amount that is less than the quarterly minimum (0.1 percent of assets) when necessary to avoid a significant redemption of shares and to further the purpose of PCA. 12 U.S.C. 1790d(e)(2); § 702.201(b). In some cases, credit unions have decreased their quarterly earnings retention, in violation of the earnings retention requirement, in order to pay dividends as they deem necessary, either without seeking NCUA's permission at all or prior to seeking NCUA's permission. Once earnings that should have been retained to build net worth have been paid out in dividends, they cannot be recovered. The proposed rule addresses this problem by revising subsection (b) to provide that NCUA will consider requests to decrease earnings retention only if they are submitted in writing no later than 14 days before the quarter end. NCUA will be under no obligation to grant applications submitted after the 14-day deadline or after the quarter-end. Furthermore, NCUA is entitled to take supervisory or other enforcement action against credit unions that either decrease their earnings retention without permission, or persist in failing to timely apply for permission.

c. *Decrease by FISCU.* NCUA is generally required to consult with the appropriate State official on PCA decisions affecting State-chartered credit unions. 12 U.S.C. 1790d(l). The requirement to "consult and seek to work cooperatively" with State officials when deciding whether a State-chartered credit union may decrease its earnings retention was previously located in § 702.205(c), where it was misidentified as a DSA. The proposed rule inserts the "consult and work cooperatively" requirement into a new subsection (c) of § 702.201.

d. *Periodic review.* CUMAA requires the NCUA Board to "periodically review" any decision permitting a decrease in earnings retention. 12 U.S.C. 1790d(e)(2)(B). Section 702.201, which implements that requirement, states that such decisions are "subject to review and revocation no less frequently than quarterly." § 702.201(b). The "no less frequently than quarterly" timetable is flawed because it simply is too vague to indicate when a decision permitting a decrease must be reviewed. Since part 702 operates almost completely on a quarterly timetable (coinciding with the quarterly Call Reporting schedule), proposed new subsection (d) specifies that "a decision . . . to permit a credit union to decrease its earnings retention is subject to quarterly review and revocation."

For "adequately capitalized" credit unions (for whom earnings retention is the only MSA), quarterly review will be implicit because their requests to

decrease earnings retention are decided on a quarter-by-quarter basis. However, for credit unions classified "undercapitalized" or lower, it is difficult to reconcile periodic review with CUMAA's and part 702's reliance on net worth restoration plans ("NWRPs"). To be approved, an NWRP must prescribe "a quarterly timetable of steps the credit union will take to increase its net worth ratio." § 702.206(c)(1)(i). It also must project the amount of earnings retention, decreased as permitted by NCUA, for each quarter of the term of the NWRP. § 702.206(c)(1)(ii). Typically, approved plans permit decreases in earnings retention extending for successive quarters over the term of the plan.

Independently of the review requirement in § 702.201, these decreases in earnings retention are effectively subject to quarterly review and revocation as a function of the NWRP. A credit union that falls to a lower net worth category because it failed to implement the steps or to meet the quarterly net worth targets in its NWRP may be required to file a new NWRP, § 702.206(a)(3), thereby revoking the then-current NWRP approving future decreases in earnings retention. *See also* 12 CFR 747.2005(b)(3) (civil money penalty for failure to implement NWRP). In contrast, when a credit union *is* implementing the prescribed steps and meeting its net worth targets, there would be no reason to discontinue the decreased earnings retention approved in its NWRP. Because quarterly review is effectively built-in to the NWRP component of PCA, § 702.201's quarterly review requirement is redundant when applied to credit unions operating under an NWRP. For that reason, the proposed rule exempts such credit unions from the quarterly review that § 702.201 imposes on "adequately capitalized" credit unions.

6. Section 702.204—PCA for "Critically Undercapitalized" Credit Unions.

a. *"Other corrective action".* When a credit union becomes "critically undercapitalized" (net worth ratio <2%), part 702 gives the NCUA Board 90 days in which to either place the credit union into conservatorship, liquidate it, or impose "other corrective action * * * to better achieve the purpose of [PCA]." 12 U.S.C. 1790d(i)(1); § 702.204(c)(1). NCUA so far has interpreted the option to impose "other corrective action" ("OCA") as requiring some further action in addition to complying with the steps prescribed in an approved NWRP for meeting quarterly net worth targets. Some further action would seem appropriate when a credit union either is not complying with its approved NWRP, or is implementing the prescribed action steps but still failing to achieve its quarterly net worth targets. In contrast, demanding further action is superfluous, if not punitive, when a credit union is both implementing the steps in its NWRP and timely achieving its net worth targets. NCUA has found it difficult to fashion OCA that is more than a makeweight in these situations.

Congress left it entirely to the NCUA Board to "take such other action" in lieu of conservatorship and liquidation "as the Board determines would better achieve the purpose of [PCA], after documenting why the action would better achieve that purpose." 12 U.S.C. 1790d(i)(1)(b). *See also* S. Rep. at 15. The NCUA Board has determined that the purpose of PCA—building net worth to minimize share insurance losses—is not compromised by declining to impose OCA when it is documented that a credit union already is achieving the purpose of PCA by complying with an approved NWRP and achieving its prescribed net worth targets. In other words, there is no reason to demand more than complete success from a credit union that, so far, is completely successful in building net worth.

To implement a more flexible approach to imposing OCA in lieu of conservatorship and liquidation, the proposed rule provides that "[OCA] may consist, in whole or in part, of complying with the timetable of quarterly steps and meeting quarterly net worth targets prescribed in an approved [NWRP]." § 702.204(c)(1)(iii). This permits, but does not require, NCUA to limit OCA to directing a credit union that already is in compliance with its approved NWRP to simply continue to comply, without undertaking any further action beyond what the NWRP already requires.

b. *10-day appeal period.* The NCUA Board's authority to decide whether to conserve a "critically undercapitalized" credit union, liquidate it, or allow OCA may be delegated only in the case of credit unions having assets of less than $5 million. 12 U.S.C. 1790d(i)(4); § 702.204(c)(4). In such cases, the credit union has a statutory "right of direct appeal to the NCUA Board of any decision made by delegated authority." *Id.* However, neither the FCUA nor part 747 sets a deadline by which a credit union must appeal a delegated decision to the NCUA Board.

The NCUA Board has in fact delegated to its Regional Directors the authority to impose and renew OCA for credit unions having assets of less than $5 million. *See* Delegation of Authority SUP–32. However, the lack of a deadline for exercising the right to appeal delegated decisions to the NCUA Board gives "critically undercapitalized" credit unions at least the appearance of an unlimited opportunity to challenge a Regional Director's decision. The Act itself generally limits credit unions to a 10-day window in which to seek judicial review of any NCUA Board decision to conserve or liquidate. 12 U.S.C. 1786(h)(3), 1787(a)(1)(B). To impose reasonable finality upon the unfolding timetable of decisions the Act requires when a credit union becomes "critically undercapitalized," the proposed rule likewise sets a deadline of ten calendar days in which to appeal a delegated decision to the NCUA Board.

c. *Insolvent FCU.* The NCUA Board generally must liquidate a credit union eventually if it remains "critically undercapitalized." § 702.204(c). Independently of PCA, however, the Act directs that "[u]pon its finding that a Federal credit union . . . is insolvent, the Board shall close such credit union for liquidation." 12 U.S.C. 1787(a)(1)(A). Therefore, in the case of a "critically undercapitalized" *federal* credit union that is insolvent (*i.e.*, has a net worth ratio of less than zero), NCUA has two separate statutory liquidation optionsa PCA—based liquidation, as described in the preceding section, or an insolvency-based liquidation. To clarify that insolvency-based liquidation is an option, the proposed rule adds a new subsection (d) to § 702.204 clarifying that "a 'critically undercapitalized' federal credit union that has a net worth ratio of less than zero percent (0%) may be placed into liquidation on grounds of insolvency pursuant to [§ 1787(a)(1)(A)]."

7. Section 702.205—Consultation with State Officials on Proposed PCA

NCUA is generally required to consult with the appropriate State official before imposing a PCA remedy on a State-chartered credit union. 12 U.S.C. 1790d(l). Subsection (c) of § 702.205 requires NCUA to "consult and seek to work cooperatively with the appropriate State official" before imposing a DSA upon a State-chartered credit union classified "undercapitalized" or lower. However, this provision misidentifies as a DSA the decision whether to permit a decrease in the quarterly earnings retention. § 702.201(b). The proposed rule deletes this erroneous reference to § 702.201(b) and inserts in § 702.201 the requirement for NCUA to consult the appropriate State official before decreasing a State-chartered credit union's earnings retention.

8. Section 702.206—Net Worth Restoration Plans

a. *Contents of NWRP.* Section 702.206 prescribes the contents of an NWRP that must be submitted for approval by credit unions classified "undercapitalized" or lower. Among the items an NWRP must address is how the credit union will comply with MSAs and DSAs. § 702.206(c)(1)(iii). As presently drafted, § 702.206(c)(1)(iii) has been misinterpreted as a demand to either consent to, or prospectively explain how the credit union *would* comply with, DSAs in the event the NCUA Board were to impose any. The proposed rule revises this section to clarify that an NWRP need only address whatever DSAs, if any, the NCUA Board *already* has imposed on the credit union.

b. *Publication of NWRP.* Publication of an NWRP is not a prerequisite to enforcing its provisions as authorized in 12 CFR 747.2005, but this fact is not expressly stated in § 702.206 itself. The omission has led to the misimpression that an NWRP, like a "Letter of Understanding and Agreement," must be published in order to subsequently be enforceable. The Act mandates that a "written agreement or other written statement" must be published in order for a violation to be enforceable "unless the Board, in its discretion, determines that publication would be contrary to the public interest." 12 U.S.C. 1786(s)(1)(A). To the extent an NWRP qualifies as a "written agreement or other written statement" under § 1786(s)(1)(A), the NCUA Board does not intend to publish NWRPs because it believes that publication would expose the credit union to reputation risk that would be contrary to the public interest. Therefore, the proposed rule adds new subsection (i) to § 702.206, clarifying that "An NWRP need not be published to be enforceable because publication would be contrary to the public interest."

c. *"Safe harbor" approval of NWRP.* To assist credit unions that fall marginally below "adequately capitalized" primarily because asset growth outstrips income growth, the NCUA Board is seeking comment on the concept of "safe harbor" approval of an NWRP—that is, notice of certain criteria established by regulation that, when met, will ensure approval. Only credit unions above a certain minimum net worth ratio (*i.e.*, maximum number of basis points short of being "adequately capitalized") would be eligible. Under the concept of "safe harbor" approval, an eligible credit union would agree in its NWRP to achieve a minimum quarterly return on assets ("ROA")—to be set by regulation according to the number of basis points needed to attain a 6 percent net worth ratio—that would offset abundant asset growth sufficiently to improve its net worth ratio quarterly over the term of the plan. The NWRP must specify the means by which the credit union plans to achieve the minimum quarterly ROA while controlling exposure to interest rate risk and credit risk. As CUMAA requires, NCUA would evaluate those plans to determine whether they are "based on realistic assumptions and [are] likely to succeed in restoring the net worth of the credit union." 12 U.S.C. 1790d(f)(5). An NWRP determined by NCUA to satisfy this criterion would be assured of approval.[7] That approval would be revoked automatically if and when the credit union failed either to achieve its quarterly minimum ROA or to improve its net worth ratio, as pledged in the NWRP. Public comment will help the NCUA Board decide whether to pursue the concept of "safe harbor" approval of an NWRP for credit unions that become marginally "undercapitalized" primarily due to asset growth.

9. Section 702.303—PCA for "Adequately Capitalized" New Credit Unions

Under the alternative system of PCA for new credit unions, a credit union that manages to become "adequately capitalized" while still new must comply with the same minimum earnings retention that applies to non-new credit unions that are "adequately capitalized."[8] § 702.201(a). In contrast, "new" credit unions that stay classified below "adequately capitalized" are not subject to minimum earnings retention; they must quarterly increase net worth only "by an amount reflected in the credit union's approved initial or revised business plan." § 702.304(a)(1). This creates a disincentive for "new" credit unions to become "adequately capitalized" because the reward for maintaining a net worth ratio below 6 percent is that they are relieved from complying with a minimum earnings retention amount.

To eliminate the disincentive, the proposed rule revises § 702.303 to put all "new" credit unions having a net worth lower than 7 percent in parity for purposes of earnings retention. An "adequately capitalized" new credit union would no longer be subject to minimum earnings retention as non-new credit unions. Instead, like new credit unions in lower categories, it would be required to increase net worth quarterly by "an amount reflected in its approved initial or revised business plan" until it becomes "well capitalized." In the absence of such a plan, however, the credit union would remain subject to the same quarterly minimum earnings retention as non-"new" credit unions.

10. Section 702.304—PCA for "Moderately Capitalized," "Marginally Capitalized" and "Minimally Capitalized" New Credit Unions

As explained above, § 702.201(a) was modified to specify that earnings retention must increase "the dollar amount" of net worth, not simply the net worth ratio itself. To conform to that modification, the proposed rule revises § 702.304(a)(1) accordingly.

11. Section 702.305—PCA for "Uncapitalized" New Credit Unions

a. *Member business loan restriction.* An "uncapitalized" new credit union presently enjoys full relief from all MSAs while it is operating within the period allowed by its initial business plan to have no net worth. An unintended consequence of this forbearance is that "uncapitalized" credit unions are free of the MSA restricting member business loans ("MBLs"); the restriction is triggered only when a credit union manages to attain some net worth and rise to the "minimally capitalized" net worth category.[9] Yet a "minimally capitalized" credit union arguably is better suited to expand its MBL portfolio than one that remains "uncapitalized." Moreover, making PCA *more* demanding as a credit union's net worth and category classification improve, rather than relaxing it, is contrary to the purpose of PCA. To rectify this unintended consequence, the proposed rule treats all "uncapitalized" new credit unions equally, so that the MBL restriction applies regardless whether a new credit union is operating with no net worth as

[7] "Safe harbor" approval would not exempt a credit union from the statutory requirement to comply with the three other MSAs—earnings retention, the freeze on assets, and the freeze on MBLs, 12 U.S.C. 1790d(e) and (g)—nor from any otherwise applicable DSAs. *E.g.*, § 702.202(c). The asset freeze would end only when the NWRP is approved. 12 U.S.C. 1790d(g)(1)(A).

[8] The proposed rule corrects the wording of current § 702.303, which inadvertently applied that section to "new" credit unions classified lower than "adequately capitalized." In fact, §§ 702.304 and 702.305 prescribe PCA for new credit unions classified lower than "adequately capitalized".

[9] The earnings retention requirement, § 702.305(a)(1), is ineffective against an "uncapitalized" credit union because a credit union that has an undivided earnings deficit has no net worth to retain.

permitted by its initial business plan or has declined to "uncapitalized" from a higher net worth category.

b. *Filing of revised business plan.* Subsection (a)(2) generally requires an "uncapitalized" new credit union to submit a revised business plan ("RBP") within 90 days following either of two events—expiration of the period that the credit union's initial business plan allows it to operate with no net worth, or the effective date that it declined to "uncapitalized" from a higher net worth category. This contrasts with the 30-day period that "moderately capitalized," "marginally capitalized" and "minimally capitalized" credit unions are given to file an RBP. § 702.306(a)(1). Ninety days is, in and of itself, an unduly long filing period given that an "uncapitalized" credit union faces mandatory conservatorship or liquidation if it fails to generate some net worth. Furthermore, it is counterintuitive to give a credit union that has a net worth deficit three times as long to devise a plan for generating positive earnings than is given to credit unions that already have net worth.

The proposed rule puts all new credit unions that must file an RBP in parity. First, it deletes the 90-day filing window for "uncapitalized" credit unions, thereby limiting them to the general 30-day window, once they are required to file an RBP. Second, it reorganizes § 702.305(a)(2) to parallel the conditions that trigger other less than "adequately capitalized" new credit unions to revise their business plans, § 702.304(a)(2), even though only "uncapitalized" credit unions are initially allowed to operate with no net worth. To that end, the proposed rule requires an "uncapitalized" credit union to submit an RBP if it either: fails to increase net worth (*i.e.*, reduce its earnings deficit) as its existing business plan provides; has no approved business plan; or has violated the MSA restricting MBLs.

c. *Liquidation or conservatorship if "uncapitalized" after 120 days.* Section 702.305(c)(2) generally requires the NCUA Board to conserve or liquidate an "uncapitalized" new credit union that remains "uncapitalized" 90 days after its RBP is approved. It is silent, however, regarding conservatorship or liquidation of a credit union whose RBP is rejected. To correct this oversight, the proposed rule mandates conservatorship or liquidation of an "uncapitalized" new credit union after a 120-day period regardless whether an RBP has been approved or rejected. This period combines the 30-day window for submitting an RBP, § 702.306(a)(1), and the original 90-day period allowed for the credit union to avoid conservatorship and liquidation by developing positive earnings. The 120-day period runs from the later of either the effective date of classification as "uncapitalized" or, if a credit union is operating with no net worth in the period prescribed by its initial business plan, the last day of the calendar month after expiration of that period. Because the period for operating with no net worth typically runs on a quarterly basis, the last day of the calendar month after it expires parallels the calendar month that separates the quarter-end and the effective date of classification as "undercapitalized." Finally, a new subsection (c)(3) is added to preserve the exception to mandatory conservatorship or liquidation for a credit union that is able to demonstrate that it is viable and has a reasonable prospect of becoming "adequately capitalized."

d. *"Uncapitalized" new FCU.* As explained above in reference to the new subsection (d) proposed for § 702.204, there are two options for liquidating a federal credit union that has no net worth—a PCA-based liquidation, 12 U.S.C. 1787(a)(3)(A)(ii), or an insolvency-based liquidation. 12 U.S.C. 1787(a)(1)(A). Both are available when a new federal credit union either fails to timely submit an RBP, § 702.305(c)(1), or remains "uncapitalized" 120 days after the effective date of classification, § 702.305(c)(2). The proposed rule adds a new subsection (d) to § 702.305 to clarify that "an 'uncapitalized' federal credit union may be placed into liquidation on grounds of insolvency pursuant to [§ 1787(a)(1)(A)]."

12. Section 702.306—Revised Business Plans for New Credit Unions

a. *Filing schedule.* Section 702.306(a)(1) presently requires "moderately capitalized," "marginally capitalized" and "minimally capitalized" credit unions to file an RBP within 30 days after failing to meet a quarterly net worth target prescribed in an existing business plan. As discussed above, the proposed rule eliminates the 90-day filing window for "uncapitalized" credit unions. § 702.305(a)(2). To conform to that modification, this section is revised to apply the 30-day filing window uniformly to all new credit unions classified less than "adequately capitalized" or that have violated the MSA restricting MBLs. §§ 702.304(a)(3), 702.305(a)(3).

The current rule's 30-day filing period runs from "the effective date (per § 702.101(b)) of the credit union's failure to meet a quarterly net worth target prescribed in its then-present business plan." § 702.306(a)(1). However, § 702.101(b) addresses the effective date of classification among the net worth categories; it says nothing to determine when a quarterly net worth target is met. The subtlety of this distinction may confuse credit unions that have no then-present approved business plan or have violated the MSA restricting MBLs. Therefore, the proposed rule revises subsection (a)(1) to effectively give new credit unions that fail to meet a quarterly target 60 days following the quarter-end to file an RBP. § 702.306(a)(1)(i). The 60-day period combines the calendar month that separates the quarter-end from the effective date of classification, with the uniform 30-day filing period that commences on the effective date. The proposed rule further clarifies that, for new credit unions that either have no approved business plan or that have violated the MBL restriction, the effective date of classification as less than "adequately capitalized" triggers the 30-day window for filing an RBP. § 702.306(a)(1)(ii)–(iii).

b. *Timetable of net worth targets.* Section 702.306(b)(2) prescribes the contents of an RBP, which must include a timetable of quarterly net worth targets extending for the term of the plan "so that the credit union becomes 'adequately capitalized' and remains so for four consecutive quarters." It also warns that a "complex" new credit union that is subject to an RBNW requirement may need to attain a net worth ratio higher than 6 percent to become "adequately capitalized." The proposed rule rectifies two flaws in this section. First, in contrast to an NWRP, the objective of an RBP is to build net worth so that a new credit union becomes "adequately capitalized" by the time it no longer is "new," not by the end of the term of the plan. 65 FR at 8578; 64 FR 27090, 27099 (May 18, 1999) (chart). A credit union remains "new" as long as it is in operation less than 10 years or has assets of $10 million or less. § 702.301(b). The proposed rule revises subsection (b)(2) so that an RBP's net worth targets ensure the new credit union will become "adequately capitalized" by the time it no longer qualifies as "new." Second, under part 702 new credit unions cannot be "complex" nor subject to an RBNW requirement because, by definition, they do not meet the $10 million asset minimum, § 702.103(a)(1). Therefore, the proposed rule deletes the warning to new credit unions that are "complex."

c. *Publication of RBP.* As explained above in proposing to add a new subsection (i) to § 702.206, publication of an NWRP is not a prerequisite to enforcing its provisions as authorized in 12 CFR 747.2005. The same is true of an RBP, but this fact was similarly omitted from § 702.306. To the extent an RBP qualifies as a "written agreement or other written statement" under § 1786(s)(1)(A), the NCUA Board does not intend to publish RBPs because it believes that publication would expose the credit union to reputation risk that would be contrary to the public interest. Therefore, the proposed rule adds new subsection (h) to § 702.306, clarifying that "An RBP need not be published to be enforceable because publication would be contrary to the public interest."

13. Section 702.401—Charges to Regular Reserve

The board of directors of a federally-insured credit union that has depleted the balance of its undivided earnings and other reserves may authorize losses to be charged to the regular reserve account without regulatory approval so long as the charges do not reduce the credit union's net worth classification below "well capitalized" (*i.e.*, net worth ratio of 7 percent or greater). § 702.401(c)(1). That net worth category was established as the minimum for charging losses without regulatory approval because the categories below "well capitalized" trigger MSAs. The proposed rule lowers the minimum category to "adequately capitalized" (*e.g.*, 6 percent net worth ratio), giving credit unions the flexibility to decide whether charging losses is worth triggering the single MSA that applies to that category—the quarterly earnings retention. § 702.201(a). In addition, the proposed rule expressly reminds credit unions that they must deplete their undivided earnings balance before making any charge to the regular reserve.

Subsection (c)(2) presently requires the prior approval of the "appropriate State official," but not the approval of the "appropriate Regional Director," when a State-chartered credit union seeks to charge losses that would cause it to decline below the minimum category. Omitting the approval of NCUA Regional Directors is inconsistent with the protocol applied elsewhere in part 702 requiring joint State and Federal approval of PCA decisions affecting State-chartered credit unions, *e.g.*, §§ 702.206(a)(1), 702.306(a)(1). To correct this inconsistency, the proposed rule modifies § 702.401(c)(2) to require the concurrence of both the "appropriate State official" *and* "the appropriate Regional Director" for a State-chartered credit union to charge losses to the regular reserve. In addition, the proposed rule clarifies that written approval may consist of an approved NWRP that allows such charges.

14. Section 702.403—Payment of Dividends

Section 702.403 presently allows the board of directors of a federally-insured credit union that has depleted the balance of undivided earnings to pay dividends out of the regular reserve account without regulatory approval so long as it does not cause the credit union to decline below "well capitalized." § 702.403(b)(1). As explained in the preceding section regarding approval to charge losses to the regular reserve under § 702.401, the proposed rule lowers to "adequately capitalized" the minimum net worth category in which credit unions may pay dividends out of the regular reserve without regulatory approval. This will give credit unions that have depleted undivided earnings the flexibility to decide whether drawing down the regular reserve to pay dividends is worth triggering the quarterly earnings retention requirement that applies to "adequately capitalized" credit unions. § 702.201(a).

Like § 702.401(c)(2), subsection (b)(2) presently requires the prior approval of the "appropriate State official," but not the approval of the "appropriate Regional Director," when paying dividends out of the regular reserve would cause a State-chartered credit union to decline below the minimum net worth category. In addition, omitting Regional Director approval may suggest, incorrectly, that a State official's approval to pay dividends from the regular reserve under § 702.401(b) overrides the need to independently obtain both the State official's and the Regional Director's approval under § 702.201(b) for a State-chartered credit union to decrease its earnings retention in order to pay dividends. For this reason and the reason explained in the preceding section, the proposed rule corrects this omission by revising subsection (b)(2) to require the concurrence of both the "appropriate State official" *and* "the appropriate Regional Director" for a State-chartered credit union to pay dividends out of its regular reserve. Finally, the proposed rule clarifies that written approval may consist of an approved NWRP that allows such dividend payments.

Subpart A of Part 741—Requirements for Insurance

15. Section 741.3—Adequacy of Reserves

Part 741 presently allows State-chartered credit unions to charge losses other than loan losses to the regular reserve in accordance with State law or procedures, but without regulatory approval, provided that the charges do not cause the credit union to decline below "well capitalized." 12 CFR 741.3(a)(2). The subsection that precedes it already incorporates by reference all of part 702 as a prerequisite for insurability of State-chartered credit unions. As discussed above, § 702.401(c) already imposes on State-chartered credit unions the same conditions for regulatory approval that § 741.3(a)(2) prescribes for an insured credit union seeking to charge losses to the regular reserve. For this reason, § 741.3(a)(2) is redundant and the proposed rule eliminates it.

The absence of § 741.3(a)(2) does not mean that § 702.401(c) would preempt "either state law or procedures established by the appropriate State official" that restrict a State-chartered credit union's ability to charge losses to the regular reserve. On the contrary, such charges would independently remain subject to applicable State laws and procedures. Moreover, an appropriate State official would retain complete discretion to withhold approval, under § 702.401(c)(2), of such charges on grounds that they would violate State law or procedures.

Subpart L of Part 747—Issuance, Review and Enforcement of Orders Imposing PCA

16. Section 747.2005—Enforcement of Orders

The NCUA Board is authorized to "assess a civil money penalty against a credit union which fails to implement a net worth restoration plan * * * or a revised business plan under * * * part 702." 12 CFR 747.2005(b)(2). Publication of either type of plan is not a prerequisite to seeking a civil money penalty against an offending credit union, but this fact is not expressly stated in § 747.2005. The NCUA Board has determined that it is not in the public interest to require publication of an NWRP or an RBP in order for either to be enforceable and, as explained above, proposes to modify §§ 702.206 and 702.306 accordingly. To conform to those modifications, the proposed rule revises § 747.2005(b)(2) to provide that a civil money penalty may be assessed for failure to implement a plan

"regardless whether the plan was published."

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis describing any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed rule improves and simplifies the existing system of PCA mandated by Congress. 12 U.S.C. 1790d. The NCUA Board has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Thus, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget. Control number 3133–0161 has been issued for part 702 and will be displayed in the table at 12 CFR part 795.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on State and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. This proposed rule will apply to all federally-insured credit unions, including State-chartered credit unions. Accordingly, it may have a direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This impact is an unavoidable consequence of carrying out the statutory mandate to adopt a system of prompt corrective action to apply to all federally-insured credit unions. NCUA staff has consulted with a committee of representative State regulators regarding the impact of the proposed revisions on State-chartered credit unions. Their comments and suggestions are reflected in the proposed rule.

Treasury and General Government Appropriations Act, 1999

NCUA has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose a minimal regulatory burden. A purpose of the proposed rule is to improve and simplify the existing system of PCA. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Parts 702 and 741

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 747

Administrative practices and procedures, Credit unions.

By the National Credit Union Administration Board on May 16, 2002.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR parts 702, 741 and 747 are proposed to be amended as follows:

PART 702—PROMPT CORRECTIVE ACTION

1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

2. Amend § 702.2 as follows:

a. Redesignate current paragraphs (i) through (k) as new paragraphs (k) through (m) respectively, and redesignate current paragraphs (e) through (h) as new paragraphs (f) through (i) respectively.

b. Add new paragraphs (e) and (j) to read as set forth below;

c. Revise newly designated paragraph (l)(1)(i) to read as set forth below; and

d. Revise newly designated paragraph (l)(1)(iv) to read as set forth below.

§ 702.2 Definitions.

* * * * *

(e) *Dividend* means a dividend paid by a federal credit union and interest paid by a State-chartered credit union.

* * * * *

(j) *Senior executive officer* means a senior executive officer as defined by 12 CFR 701.14(b)(2).

* * * * *

(l) *Total assets.* (1) * * *

(i) *Average quarterly balance.* The average of quarter-end balances of the current and three preceding calendar quarters; or

* * * * *

(iv) *Quarter-end balance.* The quarter-end balance of the calendar quarter as reported on the credit union's Call Report.

* * * * *

3. Amend § 702.101 as follows:

a. Add a heading to paragraph (b)(1) to read as set forth below;

b. Revise paragraph (b)(2) to read as set forth below;

c. Add a heading to paragraph (b)(3) to read as set forth below; and

d. Revise the heading of paragraph (c), and paragraph (c)(1), to read as follows:

§ 702.101 Measures and effective date of net worth classification.

* * * * *

(b) * * *

(1) *Quarter-end effective date.* * * *

(2) *Corrected net worth category.* The date the credit union received subsequent written notice from NCUA or, if State-chartered, from the appropriate State official, of a decline in net worth category due to correction of an error or misstatement in the credit union's most recent Call Report; or

(3) *Reclassification to lower category.* * * *

(c) *Notice to NCUA by filing Call Report.* (1) Other than by filing a Call Report, a federally-insured credit union need not notify the NCUA Board of a change in its net worth ratio that places the credit union in a lower net worth category;

* * * * *

4. Amend § 702.102 by revising Table 1 immediately preceding paragraph (b) to read as follows:

§ 702.102 Statutory net worth categories.

* * * * *

TABLE 1.—STATUTORY NET WORTH CATEGORY CLASSIFICATION

A credit union's net worth category is—	If its net worth ratio is—	And subject to the following condition(s)—
Well Capitalized"	7% or above	Meets applicable risk-based net worth (RBNW) requirement.
Adequately Capitalized"	6% to 6.99%	Meets applicable RBNW requirement.

TABLE 1.—STATUTORY NET WORTH CATEGORY CLASSIFICATION—Continued

A credit union's net worth category is—	If its net worth ratio is—	And subject to the following condition(s)—
Undercapitalized"	4% to 5.99%	Or fails applicable RBNW requirement.
Significantly Undercapitalized"	2% to 3.99%	Or if "undercapitalized" at <5% net worth ratio and fails to timely submit or materially implement Net Worth Restoration Plan.
Critically Undercapitalized"	Less than 2%	None.

* * * * *

5. Amend § 702.103 as follows:

a. Remove the heading from paragraph (a);

b. Remove paragraph (b);

c. Redesignate current paragraph (a) introductory text as the sectional introductory text, and paragraphs (a)(1) and (a)(2) as (a) and (b), respectively.

6. Amend § 702.104 as follows:

a. Remove the number "1" from the parenthetical "(Table 1)" in the introductory text and add in its place the number "2"; and

d. Redesignate Table 1 immediately following paragraph (h) as Table 2.

7. Amend § 702.105 as follows:

e. Remove the number "2" from the parenthetical "(Table 2)" in the introductory text and add in its place the number "3";

f. Remove the citation "§ 702.2(k)" in the introductory text and add in its place the citation "§ 702.2(m)"; and

g. Redesignate Table 2 immediately following paragraph (h) as Table 3.

8. Amend § 702.106 as follows:

a. Remove the number "3" from the parenthetical "(Table 3)" in the introductory text and add in its place the number "4"; and

b. Redesignate Table 3 immediately following paragraph (h) as Table 4.

9. Amend § 702.107 as follows:

a. Remove the number "4" from the parenthetical "(Table 4)" in the introductory text and adding in its place the number "5";

b. Add new paragraph (d) to read as set forth below; and

c. Redesignate Table 4 immediately following new paragraph (d) as Table 5; and

d. Add new section (d) to Table 5 as follows:

§ 702.107 Alternative Components for Standard Calculation.

* * * * * * *

(d) *Loans sold with recourse.* The alternative component is the sum of:

(1) Six percent (6%) of the amount of loans sold with contractual recourse obligations of six percent (6%) or greater; and

(2) The weighted average recourse percent of the amount of loans sold with contractual recourse obligations of less than six percent (6%), as computed by the credit union.

TABLE 5.—§ 702.107 ALTERNATIVE COMPONENTS FOR STANDARD CALCULATION

* * * * * * *

(d) Loans Sold With Recourse

Amount of loans by recourse	*Alternative risk weighting*
Recourse 6% or greater	.06
Recourse <6%	Weighted average recourse percent
The "alternative component" is the sum of each amount of the "loans sold with recourse" risk portfolio by level of recourse (as a percent of quarter-end total assets) times its alternative factor. The alternative factor for loans sold with recourse of less than 6% is equal to the weighted average recourse percent on such loans. A credit union must compute the weighted average recourse percent for its loans sold with recourse of less than six percent (6%). Substitute for corresponding standard component if smaller.	

10. Amend § 702.108 as follows:

a. Revise the section heading to read as set forth below;

b. Redesignate current paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

c. Add a new paragraph (a) as set forth below; and

d. Revise newly designated paragraph (b) to read as set forth below.

§ 702.108 Risk mitigation credit.

(a) *Who may apply.* A credit union may apply for a risk mitigation credit if on any of the current or three preceding effective dates of classification it either failed an applicable RBNW requirement or met it by less than 100 basis points.

(b) *Application for credit.* Upon application pursuant to guidelines duly adopted by the NCUA Board, the NCUA Board may in its discretion grant a credit to reduce a risk-based net worth requirement under §§ 702.106 and 702.107 upon proof of mitigation of:

(1) Credit risk; or

(2) Interest rate risk as demonstrated by economic value exposure measures.

* * * * *

11. Revise the heading of Appendixes A–F to Subpart A of Part 702 to read as follows:

Appendixes A—H to Subpart A of Part 702

12. Redesignate Appendix F to Subpart A as Appendix H;

13. Add new Appendixes F and G to Subpart A as follows:

APPENDIX F—EXAMPLE LOANS SOLD WITH RECOURSE ALTERNATIVE COMPONENT, § 702.107(D)

[Example calculation in bold]

Percent of contractual recourse obligation	Dollar balance of loans sold with recourse	Percent of total assets (percent)	Alternative risk weighting	Alternative component (percent)
Recourse 6% or greater	5,000,000	2.5000	.06	0.1500
Recourse <6%	35,000,000	17.5000	*.05	0.8750
Sum of above equals Alternative component*				1.03

*Substitute for corresponding standard component if lower.
* The credit union must calculate this alternative risk weighting for loans sold with recourse of less than 6%. For an example computation, see worksheet in Appendix G below.

APPENDIX G—WORKSHEET FOR ALTERNATIVE RISK WEIGHTING OF LOANS SOLD WITH CONTRACTUAL RECOURSE OBLIGATIONS OF LESS THAN 6%

[Example Calculation in Bold]

Percent of contractual recourse obligation less than 6%	Dollar balance of loans sold with recourse	Dollars of recourse	Alternative risk weighting (percent)
5.50%	5,000,000	275,000	
5.00%	25,000,000	1,250,000	
4.50%	5,000,000	2,250,000	
Sum of above equals	35,000,000	1,750,000	
Dollar of recourse divided by dollar balance equals (expressed as %)			5.00

14. Revise newly designated Appendix H to Subpart A to read as follows:

APPENDIX H—EXAMPLE RBNW REQUIREMENT USING ALTERNATIVE COMPONENTS

[Example Calculation in Bold]

Risk portfolio	Standard component (percent)	Alternative component (percent)	Lower of standard or alternative component (percent)
(a) Long-term real estate loans	2.20	2.85	2.20
(b) MBLs outstanding	0.77	0.95	0.77
(c) Investments	1.51	1.37	
(f) Loans sold with recourse	1.20	1.03	1.03
			Standard component
(d) Low-risk assets			0
(e) Average-risk assets			1.83
(g) Unused MBL commitments			0.15
(h) Allowance			(1.02)
RBNW requirement*—Compare to Net Worth Ratio			6.33

*A credit union is "undercapitalized" if its net worth ratio is less than its applicable RBNW requirement.

15. Revise § 702.201 to read as follows:

§ 702.201 Prompt corrective action for "adequately capitalized" credit unions.

(a) *Earnings retention.* Beginning the effective date of classification as "adequately capitalized" or lower, a federally-insured credit union must increase the dollar amount of its net worth quarterly either in the current quarter, or on average over the current and three preceding quarters, by an amount equivalent to at least 1/10th percent (0.1%) of its total assets, and must quarterly transfer that amount (or more by choice) from undivided earnings to its regular reserve account until it is "well capitalized."

(b) *Decrease in retention.* Upon written application received no later than 14 days before the quarter end, the NCUA Board, on a case-by-case basis, may permit a credit union to increase the dollar amount of its net worth and quarterly transfer an amount that is less than the amount required under paragraph (a) of this section, to the extent the NCUA Board determines that such lesser amount—

(1) Is necessary to avoid a significant redemption of shares; and

(2) Would further the purpose of this part.

(c) *Decrease by FISCU.* The NCUA Board shall consult and seek to work cooperatively with the appropriate State official before permitting a federally-insured State-chartered credit union to decrease its earnings retention under paragraph (b) of this section.

(d) *Periodic review.* A decision under paragraph (b) of this section to permit a credit union to decrease its earnings retention is subject to quarterly review and revocation except when the credit union is operating under an approved net worth restoration plan that provides for decreasing its earnings retention as provided under paragraph (b).

16. Amend § 702.202 by removing the word "transfer" from the heading of paragraph (a)(1) and adding in its place the word "retention."

17. Amend § 702.203 by removing the word "transfer" from the heading of paragraph (a)(1) and adding in its place the word "retention."

18. Amend § 702.204 as follows:

a. Revise the heading of paragraph (a)(1) to read as set forth below;

b. Revise paragraph (c)(1)(iii) to read as set forth below;

c. Revise paragraph (c)(4) to read as set forth below; and

d. Add new paragraph (d) to read as follows:

§ 702.204 Prompt corrective action for "critically undercapitalized" credit unions.

(a) * * *

(1) *Earnings retention.* * * *

* * * * *

(c) * * *

(1) * * *

(iii) *Other corrective action.* Take other corrective action, in lieu of conservatorship or liquidation, to better achieve the purpose of this part, provided that the NCUA Board documents why such action in lieu of conservatorship or liquidation would do so, *provided however,* that other corrective action may consist, in whole or in part, of complying with the quarterly timetable of steps and meeting the quarterly net worth targets prescribed in an approved net worth restoration plan. * * *

(4) *Nondelegation.* The NCUA Board may not delegate its authority under paragraph (c) of this section, unless the credit union has less than $5,000,000 in total assets. A credit union shall have a right of direct appeal to the NCUA Board of any decision made by delegated authority under this section within ten (10) calendar days of the date of that decision.

(d) *Mandatory liquidation of insolvent federal credit union.* In lieu of paragraph (c) of this section, a "critically undercapitalized" federal credit union that has a net worth ratio of less than zero percent (0%) may be placed into liquidation on grounds of insolvency pursuant to 12 U.S.C. 1787(a)(1)(A).

19. Amend § 702.205 by removing from paragraph (c) the citation "702.201(b)".

20. Amend § 702.206 as follows:

a. Revise paragraph (c)(1)(ii) to read as set forth below;

b. Revise paragraph (c)(1)(iii) to read as set forth below; and

c. Add new paragraph (i) to read as follows:

§ 702.206 Net worth restoration plans.

* * * * *

(c) * * *

(1) * * *

(ii) The projected amount of earnings to be transferred to the regular reserve account in each quarter of the term of the NWRP as required under § 702.201(a), or as permitted under § 702.201(b);

(iii) How the credit union will comply with the mandatory and any discretionary supervisory actions imposed on it by the NCUA Board under this subpart;

* * * * *

(i) *Publication.* An NWRP need not be published to be enforceable because publication would be contrary to the public interest.

21. Amend § 702.302 as follows:

a. Remove the number "2" from the parenthetical "table 2)" in the introductory text of paragraph (c) and add in its place the number "6";

b. Revise the table immediately preceding paragraph (d) to read as set forth below; and

c. Revise paragraph (d) to read as follows:

§ 702.302 Net worth categories for new credit unions.

* * * * *

TABLE 6.—NET WORTH CATEGORY CLASSIFICATION FOR "NEW" CREDIT UNIONS

A "new" credit union's net worth category is . . .	if its net worth ratio is . . .
"Well Capitalized"	7% or above
"Adequately Capitalized"	6% to 6.99%
"Moderately Capitalized"	3.5% to 5.99%
"Marginally Capitalized"	2% to 3.49%
"Minimally Capitalized"	0% to 1.99%
"Uncapitalized"	Less than 0%

(d) *Reclassification based on supervisory criteria other than net worth.* Subject to § 702.102(b) and (c), the NCUA Board may reclassify a "well capitalized," "adequately capitalized" or "moderately capitalized" new credit union to the next lower net worth category (each of such actions is hereinafter referred to generally as "reclassification") in either of the circumstances prescribed in § 702.102(b).

* * * * *

22. Revise § 702.303 to read as follows:

§ 702.303 Prompt corrective action for "adequately capitalized" new credit unions.

Beginning on the effective date of classification, an "adequately capitalized" new credit union must increase the dollar amount of its net worth by the amount reflected in its approved initial or revised business plan in accordance with § 702.304(a)(2), or in the absence of such a plan, in accordance with § 702.201, and quarterly transfer that amount from undivided earnings to its regular reserve account, until it is "well capitalized."

23. Amend § 702.304 by revising paragraph (a) to read as follows:

§ 702.304 Prompt corrective action for "moderately capitalized," "marginally capitalized" and "minimally capitalized" new credit unions.

(a) *Mandatory supervisory actions by new credit union.* Beginning on the date of classification as "moderately capitalized," "marginally capitalized" or "minimally capitalized" (including by reclassification under § 702.302(d)), a new credit union must—

(1) *Earnings retention.* Increase the dollar amount of its net worth by the amount reflected in its approved initial or revised business plan and quarterly transfer that amount from undivided earnings to its regular reserve account;

(2) *Submit revised business plan.* Submit a revised business plan within the time provided by § 702.306 if the credit union either:

(i) Has not increased its net worth ratio consistent with its then-present approved business plan;

(ii) Has no then-present approved business plan; or

(iii) Has failed to comply with paragraph (a)(3) of this section; and

(3) *Restrict member business loans.* Not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as of the preceding quarter-end unless it is granted an exception under 12 U.S.C. 1757a(b).

* * * * *

24. Amend § 702.305 as follows:

a. Revise paragraph (a) as set forth below;

b. Revise paragraph (c)(2) as set forth below; and

c. Add new paragraph (d) as follows:

§ 702.305 Prompt corrective action for "uncapitalized" new credit unions.

(a) *Mandatory supervisory actions by new credit union.* Beginning on the effective date of classification as "uncapitalized," a new credit union must—

(1) *Earnings retention.* Increase the dollar amount of its net worth by the amount reflected in the credit union's approved initial or revised business plan;

(2) *Submit revised business plan.* Submit a revised business plan within the time provided by § 702.306, providing for alternative means of funding the credit union's earnings deficit, if the credit union either:

(i) Has not increased its net worth ratio consistent with its then-present approved business plan;

(ii) Has no then-present approved business plan; or

(iii) Has failed to comply with paragraph (a)(3) of this section; and

(3) *Restrict member business loans.* Not increase the total dollar amount of member business loans as provided in § 702.304(a)(3).

* * * * *

(c) * * *

(2) *Plan rejected, approved, implemented.* Except as provided in paragraph (c)(3) of this section, must place into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), or conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), an "uncapitalized" new credit union that remains "uncapitalized" one hundred twenty (120) calendar days after the later of:

(i) The effective date of classification as "uncapitalized"; or

(ii) The last day of the calendar month following expiration of the time period provided in the credit union's initial business plan (approved at the time its charter was granted) to remain "uncapitalized," regardless whether a revised business plan was rejected, approved or implemented.

(3) *Exception.* The NCUA Board may decline to place a new credit union into liquidation or conservatorship as provided in paragraph (c)(2) of this section if the credit union documents to the NCUA Board why it is viable and has a reasonable prospect of becoming "adequately capitalized."

(d) *Mandatory liquidation of "uncapitalized" federal credit union.* In lieu of paragraph (c) of this section, an "uncapitalized" federal credit union may be placed into liquidation on grounds of insolvency pursuant to 12 U.S.C. 1787(a)(1)(A).

25. Amend § 702.306 as follows:

a. Revise paragraph (a) to read as set forth below;

b. Revise paragraph (b)(2) to read as set forth below; and

c. Add new paragraph (h) to read as follows:

§ 702.306 Revised business plans for new credit unions.

(a) *Schedule for filing.* (1) *Generally.* Except as provided in paragraph (a)(2) of this section, a new credit union classified "moderately capitalized" or lower must file a written revised business plan (RBP) with the appropriate Regional Director and, if State-chartered, with the appropriate State official, within 30 calendar days of either:

(i) The last of the calendar month following the end of the calendar quarter that the credit union's net worth ratio has not increased consistent with its the-present approved business plan;

(ii) The effective date of classification as less than "adequately capitalized" if the credit union has no then-present approved business plan; or

(iii) The effective date of classification as less than "adequately capitalized" if the credit union has increased the total amount of member business loans in violation of § 702.304(a)(3).

(2) *Exception.* The NCUA Board may notify the credit union in writing that its RBP is to be filed within a different period or that it is not necessary to file an RBP.

(3) *Failure to timely file plan.* When a new credit union fails to file an RBP as provided under paragraphs (a)(1) or (a)(2) of this section, the NCUA Board shall promptly notify the credit union that it has failed to file an RBP and that it has 15 calendar days from receipt of that notice within which to do so.

(b) * * *

(2) Establish a timetable of quarterly targets for net worth during each year in which the RBP is in effect so that the credit union becomes "adequately capitalized" by the time it no longer qualifies as "new" per § 702.310(b);

* * * * *

(h) *Publication.* An RBP need not be published to be enforceable because publication would be contrary to the public interest.

26. Amend § 702.401 by revising paragraph (c) to read as follows:

§ 702.401 Reserves.

* * * * *

(c) *Charges to regular reserve after depleting undivided earnings.* The board of directors of a federally-insured credit union may authorize losses to be charged to the regular reserve after first depleting the balance of the undivided earnings account and other reserves, provided that the authorization states the amount and provides an explanation of the need for the charge, and either—

(1) The charge will not cause the credit union's net worth classification to fall below "adequately capitalized" under subparts B or C of this part; or

(2) If the charge will cause the net worth classification to fall below "adequately capitalized," the appropriate Regional Director and, if State-chartered, the appropriate State official, have given written approval (in an NWRP or otherwise) for the charge.

* * * * *

27. Amend § 702.403 by revising paragraph (b) to read as follows:

§ 702.403 Payment of dividends.

* * * * *

(b) *Payment of dividends if undivided earnings depleted.* The board of directors of a "well capitalized" federally-insured credit union that has depleted the balance of its undivided earnings account may authorize a transfer of funds from the credit union's regular reserve account to undivided earnings to pay dividends, provided that either—

(1) The payment of dividends will not cause the credit union's net worth classification to fall below "adequately capitalized" under subpart B or C of this part; or

(2) If the payment of dividends will cause the net worth classification to fall below "adequately capitalized," the appropriate Regional Director and, if State-chartered, the appropriate State official, have given prior written approval (in an NWRP or otherwise) to pay a dividend.

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781–1790, and 1790d. Section 741.4 is also authorized by 31 U.S.C. 3717.

2. Amend § 741.3 as follows:

a. Remove from the heading of paragraph (a) the words "Adequacy of".

b. Remove paragraph (a)(2); and

c. Redesignate current paragraph (a)(3) as paragraph (a)(2).

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

1. The authority citation for part 747 continues to read as follows:

Authority: 12 U.S.C. 1766, 1786, 1784, 1787, 1790d and 4806(a); and 42 U.S.C. 4012a.

2. Amend § 747.2005 of subpart L by revising paragraph (b)(2) to read as follows:

§ 747.2005 Enforcement of orders.

* * * * *

(b) * * *

(2) *Failure to implement plan.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the NCUA Board may assess a civil money penalty against a credit union which fails to implement a net worth restoration plan under subpart B of part 702 of this chapter or a revised business plan under subpart C of part 702, regardless whether the plan was published.

* * * * *

[FR Doc. 02–13931 Filed 6–3–02; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 50

[Docket Number 020509117–2117–01]

RIN Number 0607–AA36

Bureau of the Census Certification Process

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Bureau of the Census (Census Bureau) proposes to establish the process for requesting certification of Census Bureau documents (*i.e.*, tables, maps, reports, *etc.*) and the pricing structure for that service. A certification confirms that a product is a true and accurate copy of a Census Bureau document. The Census Bureau is proposing this rule to create a centralized system for certifying Census Bureau documents and to accurately reflect the true costs associated with certification.

DATES: Written comments must be submitted on or before July 5, 2002.

ADDRESSES: Please direct all written comments on this proposed program to the Director, U.S. Census Bureau, Room 2049, Federal Building 3, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this proposed rule should be directed to Les Solomon, Chief, Customer Services Center, Marketing Services Office, U.S. Census Bureau, Room 1585, Federal Building 3, Washington, DC 20233, (301) 763–5377 or by fax (301) 457–4714.

SUPPLEMENTARY INFORMATION:

Background

At this time, there are no standard procedures or pricing policies in place regarding the certification process at the Census Bureau. Certifications are currently handled by individual divisions at the Census Bureau, and the prices charged do not reflect the full cost of the work involved.

Over the years, the volume of requests for certified Census Bureau documents has steadily increased. Title 13, section 8, allows the Census Bureau to provide certain statistical materials upon payment of costs for this service. With the release of Census 2000 data, the volume of requests for certified documents is expected to continue increasing. Substantial resources will be necessary to meet this demand. The proposed price structure reflects the cost of the resources used in fulfilling the expected requests, according to the kind of certification requested. Also reflected in the price is the level of difficulty (easy, moderate, or difficult) and time involved in compiling the certification. The two types of certification available are (1) "Impressed," that is, impressing the Census Bureau seal on a document; and (2) "Attestation," a signed statement by Census Bureau officials, attesting to the authenticity, accompanying a document onto which the Census Bureau seal has been impressed. Customers are to be charged a preset fee, as well as the standard cost of the data product (*e.g.*, report or map).

A certification may be needed for many reasons. For example, parties in a legal proceeding may wish to obtain a copy of a Census Bureau table or map that they wish to introduce into evidence, or local governments may need official certification of census counts and boundary changes.

In order to create consistent certification rules, the Census Bureau proposes the following amendment to title 15, Code of Federal Regulations (CFR), part 50:

- Add new section, 50.50, containing the Census Bureau's certification process.
- Establish a consistent pricing structure.
- Require requests for certifications to contain information on Form BC–1868(EF), Request for Official Certification. (*See* the Census Bureau's Web site, <*http://www.census.gov/mso/www/certification/*>.)

Administrative Procedure and Regulatory Flexibility Act

A notice of proposed rulemaking is not required by Title 5, United States Code (U.S.C.), section 553, or any other law, because this rule is procedural in nature and involves a matter relating to public property, loans, grants, benefits or contracts. Accordingly, it is exempt from the notice and comment provisions of the Administrative Procedure Act under 5 U.S.C. 553(a)(2) and 5 U.S.C. (b)(A). Therefore, the analytical requirements of the Regulatory Flexibility Act are not applicable (5 U.S.C. 601, *et seq.*). As a result, a Regulatory Flexibility Analysis is not required and none has been prepared.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), Title 44, U.S.C., Chapter 35, unless that collection of information displays a current Office of Management and Budget control number. This notice does not represent a collection of information and is not subject to the PRA's requirements. The form referenced in the rule, Form BC–1868(EF), will collect only information necessary to process a certification request. As such, it is not subject to the PRA's requirements (5 CFR 1320.3(h)(1)).

List of Subjects in 15 CFR Part 50

Census data, Population census, Seals and insignia, Statistics.

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

1. The authority citation for 15 CFR part 50 continues to read as follows:

Authority: Sec. 3, 49 Stat. 293, as amended; 15 U.S.C. 192a. Interprets or applies sec. 1, 40 Stat. 1256, as amended; sec. 1, 49 Stat. 292; sec. 8, 60 Stat. 1013, as amended; 15 U.S.C. 192, 189a, 13 U.S.C. 8.

2. Add § 50.50 to read as follows:

§ 50.50 Request for certification.

(a) Upon request, the Census Bureau certifies certain statistical materials (such as the population and housing unit counts of government entities, published tabulations, maps, and other documents). The Census Bureau charges customers a preset fee for this service according to the kind of certification requested (either an impressed document or an attestation) and the level of difficulty involved in compiling it (easy, moderate, or difficult, determined according to the resources expended) as well as the set cost of the data product (e.g., report or map) to be certified. Certification prices are shown in the following table:

PRICE BY TYPE OF CERTIFICATION

Product	Estimated price	Estimated time to complete (hours)
Impress-easy	$70.00	1.5
Impress-medium	110.00	3
Impress-difficult	150.00	4.5
Attestation-easy	160.00	3
Attestation-medium	200.00	4.5
Attestation-difficult	240.00	6

(b) There are two forms of certification available: Impressed Documents and Attestation.

(1) *Impressed Documents.* An impressed document is one that is certified by impressing the Census Bureau seal on the document itself. The Census Bureau act, Title 13, United States Code, Section 3, provides that the seal of the Census Bureau shall be affixed to all documents authenticated by the Census Bureau and that judicial notice shall be taken of the seal. This process attests that the document on which the seal is impressed is a true and accurate copy of a Census Bureau record.

(2) *Attestation.* Attestation is a more formal process of certification. It consists of a signed statement by a Census Bureau official that the document is authentic and produced or published by the agency, followed by a signed statement of another Census Bureau official witnessing the authority of the first.

(c) Requests for certification should be submitted on Form BC–1868(EF), Request for Official Certification, to the Census Bureau by fax, (301) 457–4714 or by e-mail, *webmaster@census.gov.* Form BC–1868(EF) will be available on the Census Bureau's Web site at: *http://www.census.gov/mso/www/certification/.* A letter request—without Form BC–1868(EF)—will be accepted only if it contains the information necessary to complete a Form BC–1868(EF). No certification request will be processed without payment of the required fee.

Dated: May 9, 2002.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 02–13603 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–237–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing a proposed amendment to the Kentucky regulatory program (the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposes additions to its statutes about incidental coal removal and intends to revise its program to be consistent with SMCRA. This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., e.s.t. July 5, 2002. If requested, we will hold a public hearing on the amendment on July 1, 2002. We will accept requests to speak at a hearing until 4:00 p.m., e.s.t. on June 19, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Lexington Field Office. William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260–8400. E-mail: *bkovacic@osmre.gov.* Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859) 260–8400. Internet: *bkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program.
II. Description of the Proposed Amendment.
III. Public Comment Procedures.
IV. Procedural Determinations.

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated April 12, 2002 (Administrative Record No. KY–1529), Kentucky sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment at its own initiative. The full text of the amended language follows. The language comprises a new section of the Kentucky Revised Statutes at Chapter 350 and is referenced as Kentucky House Bill 405.

Kentucky defines "private land" as "property that is owned by a not-for-profit organization or by a noncommercial private owner and is subject to the construction of improvements on that property, and includes land that requires alteration, modification, excavation, or landscaping in order to make it relate to, and support the function of, a facility or improvement. Private land includes but is not limited to a parking lot for a church, a recreational facility or court for a school, and land alteration related to improvements to a private residence or other private use."

Kentucky further specifies that "removal of coal on private land, incidentally and as a necessary requirement of facility construction, or as a consequence of the excavation or landscaping required to make the land support the intended function of a facility under construction, shall not require the owner of that private land to obtain a surface mining permit as required under this chapter, or a mining licenses as required under this chapter, if: (a) The coal removed is five thousand tons or less; (b) the coal removed is donated to a charitable, educational, or governmental organization, or the coal is sold and the proceeds are donated to such an organization; and (c) the landowner notifies the cabinet at the time that coal is first encountered and prior to removal, and if after inspection and review of site plans, construction contracts, or other indicia, the cabinet determines that the proposed project is eligible for this exemption. The cabinet may require implementation of such best management practices as are necessary to ensure compliance with stormwater discharge limits."

Kentucky is also requiring that, "the cabinet within ten days of the effective date of this Act, seek an opinion from the Federal Office of Surface Mining relating to the provisions of this section and shall not implement or administer the provisions of subsection (2) of this section until July 1, 2004. However, if the cabinet receives a Federal Office of Surface Mining determination that subsections (1) to (2) of this section, and any related administrative regulations of the cabinet, are consistent with, or otherwise not in violation of, the Federal Surface Mining Control and Reclamation Act of 1977, the cabinet may implement and administer the provisions of subsection (2) of this section prior to July 1, 2004."

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see DATES). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Lexington Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. KY–231-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. June 19, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a)

and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C.804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 26, 2002.

George J. Rieger,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02–13986 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF DEFENSE

National Imagery and Mapping Agency

32 CFR Part 320

[NIMA Instruction 5500.7R1]

Privacy Act; Implementation

AGENCY: National Imagery and Mapping Agency, DoD.

ACTION: Proposed rule.

SUMMARY: The National Imagery and Mapping Agency (NIMA) is proposing to add an exemption rule to an existing system of records. The exemption will increase the value of the system of records for law enforcement purposes, and will protect the privacy of individuals identified in the system of records.

DATES: Comments must be received on or before August 5, 2002 to be considered by this agency.

ADDRESSES: Comments should be sent to the Office of General Counsel, National Imagery and Mapping Agency, Mail Stop D–10, 4600 Sangamore Road, Bethesda, MD 20816–5003.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Willess, Associate General Counsel, at (301) 227–2953.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 320

Privacy.

Accordingly, 32 CFR part 320 is amended as follows:

1. The authority citation for 32 CFR part 320 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

2. Section 320.12 is amended by adding paragraph (b) to read as follows:

§ 320.12 Exemptions.

* * * * *

(b) *System identifier and name.* B0210–07, Inspector General Investigative and Complaint Files.

(1) *Exemptions:* (i) Investigative material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(ii) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(iii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(2) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(3) *Reasons:* (i) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NIMA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(ii) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NIMA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(vi) Consistent with the legislative purpose of the Privacy Act of 1974, NIMA will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NIMA's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

Dated: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–13898 Filed 6–3–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37–132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is proposing to add an exemption rule for the system of records F051 AF JA I, Commander Directed Inquiries. The (k)(2) exemption will increase the value of the system of records for law enforcement purposes.

DATES: Comments must be received on or before August 5, 2002, to be considered by this agency.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043 or DSN 329–4043.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 806b

Privacy.

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

Accordingly, 32 CFR part 806b is revised as follows:

2. Appendix C to part 806b is amended by adding paragraph (b)(22) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Appendix C to Part 806b—General and Specific Exemptions

* * * * *

(b) Specific exemptions. * * *

(22) *System identifier and name:* F051 AF JA I, Commander Directed Inquiries.

(i) *Exemption:* (1) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. *Note:* When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(2) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

Dated: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–13900 Filed 6–3–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan–02–038]

RIN 2115–AA97

Safety Zones; Ponce Bay, Tallaboa Bay, and Guayanilla Bay, Puerto Rico and Limetree Bay, St. Croix, U.S.V.I.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create moving safety zones around all Liquefied Hazardous Gas (LHG) vessels with product aboard in the waters of the Caribbean Sea and the Bays of Ponce, Tallaboa, Guayanilla, Puerto Rico and Limetree Bay, U.S. Virgin Islands. This action is necessary due to the highly volatile nature of this cargo. This proposed rule would enhance public and maritime safety by requiring vessel traffic to maintain a safe distance from these LHG vessels while they are underway.

DATES: Comments and related material must reach the Coast Guard on or before August 5, 2002.

ADDRESSES: You may mail comments and related material to Commanding Officer, Marine Safety Office San Juan, P.O. Box 71526, San Juan, Puerto Rico 00936. You may also deliver them in person to Commanding Officer, Marine Safety Office San Juan, Rodriguez and Del Valle Building, 4th Floor, Calle San Martin, Road #2, Guaynabo, Puerto Rico, 00968. The U.S. Coast Guard Marine Safety Office maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the USCG Marine Safety Office between the hours of 7 a.m. and 3:30 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Chip Lopez at Coast Guard Marine Safety Office San Juan, Puerto Rico, at (787) 706–2444.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP San Juan–02–038], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one by writing to the Commanding Officer, U.S. Coast Guard Marine Safety Office at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

These regulations are needed to provide for the safety of life on navigable waters from the hazards associated with LHG carriers. The safety zones are needed because of the significant risks Liquefied Hazardous Gas (LHG) ships present to public safety due to their size, draft, and volatile cargoes. We anticipate periodic arrivals of vessels carrying LHG in Ponce, Tallaboa and Guayanilla Bays, Puerto Rico and Limetree Bay, St. Croix, U.S.V.I. This proposed rule would keep vessel traffic at least 100 yards away from LHG vessels thereby decreasing the risk of a collision, allision, or grounding.

Discussion of Proposed Rule

This proposed rule would create a 100-yard safety zone in the waters of the Caribbean Sea surrounding all LHG vessels with product aboard while transiting on approach to or departing from the following Ports, north of the latitudes indicated. Port of Ponce, Puerto Rico north of Latitude 17° 56.00′ N. Ports of Tallaboa and Guayanilla, Puerto Rico north of Latitude 17° 57.00′ N. Port of Limetree Bay, St. Croix, U.S. Virgin Islands north of 17° 39.00′ N. (NAD 83) These safety zones would remain in effect until the LHG vessel is safely moored. The Marine Safety Office San Juan would notify the maritime community of periods during which these safety zones would be in effect by providing advance notice of scheduled arrivals and departures on LHG carriers via a broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz).

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary due to the relative infrequent arrivals of LHG carriers, the limited size of the safety zone, and the relatively sparse nature of other commercial traffic in Ponce, Tallaboa, Guayanilla, and Limetree Bays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not

dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities because of the relative infrequent arrivals of LHG carriers, the limited size of the safety zone, and the relatively sparse nature of other commercial traffic in Ponce, Tallaboa, Guayanilla, and Limetree Bays. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its proposed effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Chip Lopez at Coast Guard Marine Safety Office San Juan, Puerto Rico, (787) 706–2444.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that it does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34) (g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because it is establishing safety zones. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.757 to read as follows:

§ 165.757 Safety Zones; Ports of Ponce, Tallaboa, and Guayanilla, Puerto Rico and Limetree Bay, St. Croix, U.S.V.I.

(a) The following areas are established as safety zones during the specified conditions:

(1) *Port of Ponce, Puerto Rico.* A 100-yard radius surrounding all Liquefied Hazardous Gas (LHG) vessels with product aboard while transiting north of Latitude 17°57.0′ N in the waters of the Caribbean Sea on approach to or departing from the Port of Ponce, Puerto Rico. (NAD 83) The safety zone remains in effect until the LHG vessel is docked.

(2) *Port of Tallaboa, Puerto Rico.* 100-yard radius surrounding all Liquefied Hazardous Gas (LHG) vessels with product aboard while transiting north of Latitude 17°56.0′ N in the waters of the Caribbean Sea on approach to or departing from the Port of Tallaboa, Puerto Rico. (NAD 83) The safety zone remains in effect until the LHG vessel is docked.

(3) *Port of Guayanilla, Puerto Rico.* A 100-yard radius surrounding all Liquefied Hazardous Gas (LHG) vessels around with product aboard while transiting north of Latitude 17°57.0′ N in the waters of the Caribbean Sea on approach to or departing from the Port of Guayanilla, Puerto Rico. (NAD 83) The safety zone remains in effect until the LHG vessel is docked.

(4) *Port of Limetree Bay, St. Croix, U.S.V.I.* A 100-yard radius surrounding all Liquefied Hazardous Gas (LHG) vessels with product aboard while transiting north of Latitude 17°39.0′ N in the waters of the Caribbean Sea on approach to or departing from the Port of Limetree Bay, U.S.V.I. (NAD 83) The safety zone remains in effect until the LHG vessel is docked.

(b) In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in these zones is prohibited unless authorized by the Coast Guard Captain of the Port. The Marine Safety Office San Juan will notify the maritime community of periods during which these safety zones will be in effect by providing advance notice of scheduled arrivals and departures on LHG carriers via a broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz).

Dated: May 14, 2002.

J.A. Servidio,

Commander, U.S. Coast Guard, Captain of the Port San Juan.

[FR Doc. 02–13969 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 264–0346b; FRL–7219–3]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from surface cleaning and degreasing. We are proposing to approve the local rule to regulate these emission sources under the Clean Air Act as amended in 1990.

DATES: Any comments on this proposal must arrive by July 5, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95812.

Ventura County Air pollution Control District, 669 County Square Dr., 2nd FL., Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (Air–4), U.S. Environmental Protection Agency, Region IX, (415) 972–3960.

SUPPLEMENTARY INFORMATION: This proposal addresses local rule, VCAPCD 74.6. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Anyone interested in commenting should do so at this time, as we do not plan to open a second comment period. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 13, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–13799 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7222–6]

RIN 2060–AK07

Regulation of Fuels and Fuel Additives: Modifications to Reformulated Gasoline Covered Area Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make several minor modifications to its reformulated gasoline (RFG) regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. These changes include: Deleting the seven southern counties in Maine from the RFG covered areas list, reflecting their opt-out of the RFG program as of March 10, 1999; adding the Sacramento Metro and San Joaquin Valley nonattainment areas to the list of RFG covered areas, reflecting the Sacramento Metro Area's inclusion in the RFG program as of June 1, 1996 and the San Joaquin Valley Area's inclusion in the RFG program on December 10, 2002; and deleting the text which extended the RFG opt-in provisions to all ozone nonattainment areas including previously designated ozone nonattainment areas, reflecting a court decision in January, 2000, which invalidated this language. This proposal also makes certain other minor changes in the provisions listing the RFG covered areas for purposes of clarification. In the Final Rules section of this **Federal Register**, EPA is approving these modifications as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for these modifications is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before July 5, 2002.

ADDRESSES: Comments should be mailed (in duplicate if possible) to John Brophy, Office of Transportation and Air Quality (mail code 6406J), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460, and to the following docket address: Docket A–2001–32, Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall. Materials relevant to today's rulemaking have been placed in the Docket A–2001–32 at the docket address listed above, and may be inspected on business days from 8:00

a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials relevant to today's rulemaking regarding the removal of the seven Maine counties from the federal RFG program are also available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA–New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

Materials relevant to today's rulemaking regarding the self-executing change in status of the Sacramento Metro and San Joaquin Valley nonattainment areas are also available for inspection during normal business hours in the Air Docket, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. This rule and the Technical Support Documents for the proposed actions are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air*. Interested persons may make an appointment with Ms. Virginia Peterson at (415) 744–1265, to inspect the docket between 9:00 a.m. and 4:00 p.m. A reasonable fee may be charged for copying docket material.

There are several other dockets that may also contain related materials of interest to the public:

Materials relevant to EPA's approval of a State Implementation Plan (SIP) revision submitted by the State of Maine are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

Materials regarding the reclassification of the Sacramento Metro Area as a "Severe" ozone nonattainment area are in Docket A–94–09. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials regarding the reclassification of the San Joaquin Valley Area as a "Severe" ozone nonattainment area are available for inspection during normal business hours in the Air Docket, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. This rule and the Technical Support Documents for the proposed actions are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air*. Interested persons may make an appointment with Ms. Virginia Peterson at (415) 744–1265, to inspect the docket between 9:00 a.m. and 4:00 p.m. A reasonable fee may be charged for copying docket material.

Materials regarding the extension of the RFG opt-in provisions to all ozone nonattainment areas including previously designated ozone nonattainment areas, and the January, 2000, court decision, are in Docket A–96–30. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials relevant to the removal of the Phoenix area from the federal RFG program are in Docket A–98–23. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: John Brophy, U.S. Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave., NW (Mail Code 6406J), Washington, DC 20460, (202) 564–9068, e-mail address: brophy.john@epa.gov

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

I. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This proposed action does not impose any new information collection burden. Today's proposed rule merely amends EPA's regulations to reflect the current status of covered areas within the RFG program. These various changes in status are not dependant on today's proposed rulemaking, but have occurred (or will occur) as the result of separate agency action and self-executing statutory provisions. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing *[RFG]* regulations [CFR citation—40 CFR part 80, subparts D, E and F,] under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0277 (EPA ICR No. 1591.13).

Copies of the ICR document(s) may be obtained from Sandy Farmer, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by e-mail at *farmer.sandy@epa.gov*, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. Include the ICR and / or OMB number in any correspondence.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's proposed rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, Aug. 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. This proposed rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13132 does not apply to this proposed rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed action does not involve technical standards. This proposed rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A firm having no more than 1,500 employees and no more than 75,000 barrels per day capacity of petroleum-based inputs, including

crude oil or bona fide feedstocks;.[1] according to Small Business Administration (SBA) size standards established under the North American Industry Classification System (NAICS); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Today's rule revises the introductory text of § 80.70(j) to distinguish the nonattainment areas that have opted into the RFG program from those that are required to be in the program under the Clean Air Act. In addition, today's rule revises the text of sections 80.70(l) and (n) to make these provisions clearer. These minor revisions are strictly organizational and do not change the substance or intent of these provisions in any way. Today's rule also removes the current provisions of § 80.70(m) relating to Phoenix as an opt-in covered area, since the Phoenix area is no longer a covered area as of June 10, 1998. Published on August 11, 1998, in the **Federal Register** (at 63 FR 43044) is a public announcement of EPA's approval of the Arizona Governor's petition and the effective date of the Phoenix opt-out. The opt-out effective date for the Phoenix area was June 10, 1998. The provisions for the Sacramento and San Joaquin Valley covered areas, described above, are included in a new § 80.70(m).

Today's amendments to the CFR reflect changes that have occurred in separate actions in accordance with EPA's regulations and the CAA. This rule is not itself an approval of Maine's or Arizona's opt-out request—Agency action approving those petitions occurred earlier in separate administrative proceedings. Similarly, neither the reclassification of the Sacramento and San Joaquin Valley nonattainment areas, nor the self-executing change in status of these areas to RFG "covered areas," are dependent on today's action. EPA is simply modifying the list of covered areas in the RFG regulations, 40 CFR 80.70, so the list will reflect EPA's earlier approval of the Maine and Arizona opt-out requests, and the self-executing change in the status of the Sacramento and San Joaquin Valley nonattainment areas. Thus, the various elements of today's direct final rule involve little or no exercise of agency discretion. Rather today's actions essentially are ministerial regulatory amendments.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's proposed rule does not have tribal implications and will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13175 does not apply to this proposed rule.

I. Executive Order 13211 (Energy Effects)

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

II. Statutory Authority

The Statutory authority for the proposed action today is granted to EPA by sections 211(c) and (k), 301, and 307 of the Clean Air Act, as amended; 42 U.S.C. 7545(c) and (k), 7601, 7607; and 5 U.S.C. 553(b).

III. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this proposed action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2002. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–13977 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

[1] Capacity includes owned or leased facilities as well as facilities under a processing agreement or an agreement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 02–113; FCC 02–150]

Broadcast Services; Television Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on the policy it should follow when it denies a request to extend a television station's digital television construction deadline.

DATES: Comments are due by July 8, 2002; reply comments are due by July 23, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Media Bureau, Office of Broadcast Licensing, Video Division, (202) 418–2324. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Notice of Proposed Rule Making ("NPRM")* in MM Docket No. 02–113, FCC 02–150, adopted May 16, 2002, and released May 24, 2002. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., CY–B402, Washington, DC 20554. The *Notice* is also available on the Internet at the Commission's website: *http://www.fcc.gov.*

Synopsis

1. The Commission has adopted this *NPRM* to seek comment on the policy it should follow when requests to extend DTV construction deadlines are denied. The Commission proposed a set of graduated sanctions that it would impose. Under the first step of its approach, the Commission would deny the request for an unqualified extension and admonish the station for its failure to comply with its DTV construction obligation. The station would be required to submit a report within thirty (30) days outlining the steps it intends to take to complete construction and the approximate date that it expects to reach each of these construction milestones. Absent extraordinary and compelling circumstances, the construction completion date should be no later than six months from the date of admonishment. Sixty (60) days later, the station would be required to submit a report detailing its progress on meeting its proposed construction milestones and justifying any delays it has encountered. If at any time during this six month period, the station fails to demonstrate that it is taking all reasonable steps to complete construction or fails to justify the further delays it has encountered, or the Commission otherwise find that the licensee has acted in bad faith, the Commission would consider the imposition of additional sanctions including proceeding immediately to the second step.

2. Under the second step in the approach, if the station had not come into compliance with the DTV construction rule within the six month period, then, absent extraordinary and compelling circumstances, the Commission would impose further sanctions against the licensee. The Commission would issue a Notice of Apparent Liability for forfeiture to the licensee. It would require that the station report every thirty (30) days on its proposed construction milestones and its efforts to meet those milestones. Once again, failure to adequately demonstrate that the station was taking all reasonable steps towards construction and to justify any additional delays that were encountered, would result in the imposition of additional sanctions.

3. Under the third and final step in the approach, if the station still had failed to come into compliance with the DTV construction rule within an additional six-month period of time (i.e., one year from the date of the formal admonition), then, absent extraordinary and compelling circumstances, the Commission would consider its construction permit for its DTV facilities to have expired and it would take whatever steps necessary to rescind the station's DTV authorization. The Commission seeks comment as to whether a hearing is necessary under section 312 or section 316 of the Communications Act prior to removal of the station's DTV authorization. The Commission also seeks comment as to whether it should make the station's vacant DTV allotment available to other potential DTV broadcasters through auction, or delete the allotment from the DTV Table altogether. In any event, however, as directed by Congress, the station will be required to surrender its analog authorization at the end of the DTV transition. The Commission tentatively concludes that a licensee whose DTV authorization is rescinded under the above procedures will not be permitted to convert to digital on its analog allotment without being subject to competing applications.

4. The Commission reserved the right to alter its graduated enforcement scheme should circumstances in a particular case warrant it doing so.

Administrative Matters

5. *Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 8, 2002 and reply comments on or before July 23, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998). Written comments by the public on the proposed information collections are due July 8, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before August 5, 2002.

6. Comments filed through ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

7. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, 445 Twelfth Street, SW., Room, 2–C207, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible

format using MS Word 97 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, MM Docket No. 02–113, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Vistronix, Portals II, 445 12th Street SW., CY–B402, Washington, DC 20554.

8. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*, and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Jeanette_I._Thornton@omb.eop.gov*.

9. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, SW., CY–A257, Washington, DC 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418–0270, (202) 418–2555 TTY, or *bcline@fcc.gov*. Comments and reply comments also will be available electronically at the Commission's Disabilities Issues Task Force web site: *www.fcc.gov/dtf*. Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

10. This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Martha Contee at (202) 4810–0260, TTY (202) 418–2555, or *mcontee@fcc.gov*.

11. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

12. *Initial Regulatory Flexibility Analysis.* As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following IRFA of the possible significant economic impact on small entities of the proposals contained in this *NPRM*. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small businesses in the radio broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *NPRM*, but they must have a distinct heading designating them as responses to the IRFA.

13. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided above in paragraph 16. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. 603(a). In addition, the *NPRM* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

14. The Commission adopts the *NPRM* to seek comment on proposed remedial steps for failure to comply with its digital television (DTV) construction schedule. The remedial steps are intended to prevent undue delay in the required build out of DTV facilities.

B. Legal Basis

15. This *NPRM* is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307 and 309.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

16. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business" concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

17. The proposals in the *NPRM* will affect only full-power television broadcasters. As of September 30, 2001 the Commission had licensed a total of 1,686 full-power television stations. SBA defines television broadcasting establishments that have $12 million or less in annual receipts as a small business. According to Census Bureau data for 1997, there were 906 firms in this category, total, that operated for the entire year. Of this total, 728 firms had annual receipts of under $10 million, and an additional 71 had receipts of $10 million to $24,999,999. Thus, under this size standard, the majority of the firms are considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

18. This *NPRM* contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

19. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

20. The *NPRM* seeks comment on proposed remedial steps for failure of broadcast stations to comply with the DTV construction schedule. Adoption of the proposal in the *NPRM* by the Commission is likely to have an insignificant and mixed impact overall on the economic opportunities for small entities. We seek comment from small entities on this issue.

21. One of the sanctions that the Commission proposing using is the issuance of a notice of apparent liability for forfeiture to stations that do not comply with their DTV construction obligation. We seek comment on any small entity concerns that might affect the Commission's enforcement decisions. We note that we already take small entity status, including potential inability to pay, into account when assessing the need for, and amount of, monetary forfeitures.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

22. None.

23. *Paperwork Reduction Act.* This *NPRM* contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this *NPRM*, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB notification of action is due August 5, 2002. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–XXXX.

Title: Remedial Steps for Failure to Comply with Digital Television Construction Schedule.

Form No.: n/a.

Type of Review: New collection.

Respondents: business or other for-profit; not-for-profit institutions.

Number of Respondents: 100.

Estimated Time Per Response: 2 hours (0.5 hours licensee; 1.5 hours contract attorney).

Frequency of Response: reporting, on occasion.

Total Annual Burden: 50 hours.

Total Annual Costs: $30,000.

Needs and Uses: The Commission is seeking comment on proposed remedial steps for failure to comply with its DTV construction schedule. These steps include proposed reporting requirements. The remedial steps are intended to prevent undue delay in the required build out of DTV facilities.

24. *Authority.* This *NPRM* is issued pursuant to authority contained in Sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307, and Section 202(h) of the Telecommunications Act of 1996.

Ordering Clauses

25. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and Section 202(h) of the Telecommunications Act of 1996, this *NPRM* is adopted.

26. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–13908 Filed 6–3–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No.020523130–2130–01; I.D. No. 040102D]

RIN 0648–AP94

Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 90-day Finding for a Petition to Reclassify the Northern and Florida Panhandle Subpopulations of the Loggerhead as Distinct Population Segments with Endangered Status and to Designate Critical Habitat

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of petition finding; request for information and comments.

SUMMARY: The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, announces the 90-day finding for a petition to reclassify the Northern and Florida Panhandle subpopulations of the loggerhead turtle (*Caretta caretta*), now listed as threatened throughout their range, as distinct population segments with endangered status and designate critical habitat under the Endangered Species Act of 1973, as amended (ESA). We find that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

We are initiating a review of the status of the species to determine whether the petitioned action is warranted. To ensure a comprehensive review, we are soliciting information and comments pertaining to this species from any interested party.

DATES: Written comments and information related to this petition finding must be received [see **ADDRESSES**] by August 5, 2002.

ADDRESSES: Written comments and information should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet. The petition is available for public inspection, by appointment, during normal business hours at the above address. The petition may also be found at the following website: *http://www.nmfs.noaa.gov/prot_res/PR3/Turtles/turtles.html*.

FOR FURTHER INFORMATION CONTACT: Barbara Schroeder (ph. 301–713–1401, fax 301–713–0376, e-mail barbara.schroeder@noaa.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires us to make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Our implementing regulations (50 CFR 424.14) define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists, we take into account several factors, including information submitted with, and referenced in, the petition and all other information readily available. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the

finding is to be published promptly in the **Federal Register**. If we find that a petition presents substantial information indicating that the requested action may be warranted, we are also required to conduct a status review of the species. The determination of whether or not the petition is warranted must be made within one year of the receipt of the petition.

Analysis of Petition

On January 14, 2002, we received a petition from the Earthjustice Legal Defense Fund, on behalf of the Turtle Island Restoration Network and the Center for Biological Diversity, requesting that the Northern and Florida Panhandle subpopulations of the loggerhead be reclassified as distinct population segments (see *Petition Finding* for discussion on distinct population segments) with endangered status throughout their range and that critical habitat be designated. In addition, the petition requested an emergency rule be issued for the same.

The petition contains a detailed description of the species legal status, life history parameters, geographic range, population status and trends, and factors contributing to the decline in several subpopulations. The petition cites key documents recognizing the identification of genetically different loggerhead subpopulations (Turtle Expert Working Group (TEWG) 1998, 2000; NMFS Southeast Fisheries Science Center (SEFSC) 2001). At least five different subpopulations in the Western North Atlantic and Gulf of Mexico have been identified (NMFS SEFSC 2001). The subpopulations are divided geographically as follows: (1) A Northern nesting subpopulation, occurring from North Carolina to northeast Florida at about 29° N (approximately 7,500 nests in 1998); (2) a South Florida nesting subpopulation, occurring from 29° N on the east coast to Sarasota on the west coast (approximately 83,400 nests in 1998); (3) a Florida Panhandle nesting subpopulation, occurring at Eglin Air Force Base and the beaches near Panama City, FL (approximately 1,200 nests in 1998); (4) a Yucatán nesting subpopulation, occurring on the eastern Yucatán Peninsula, Mexico (Márquez 1990) (approximately 1,000 nests in 1998) (TEWG 2000); and (5) a Dry Tortugas nesting subpopulation, occurring in the islands of the Dry Tortugas, near Key West, FL (approximately 200 nests per year) (NMFS SEFSC 2001). Recent fine-scale mitochondrial deoxyribonucleic acid (mtDNA) analysis from Florida rookeries indicate that population separations begin to appear between nesting beaches separated by more than 100 kilometers (62 miles) of coastline that do not host nesting (Francisco *et al.*, 2000). Tagging studies of nesting females corroborate these findings (Ehrhart 1979, LeBuff 1990) and affirm loggerhead nest site fidelity, with rare exceptions.

The petition maintains that the Northern subpopulation has declined dramatically over the past 20 years. The petition refers to nesting trends at Cape Island, SC, and Little Cumberland Island, Georgia –nesting beaches that have been consistently surveyed since the early 1970s. From 1973 to 1995, nesting at Cape Island declined on average 3.2 percent per year, and from 1964 to 1995, Little Cumberland nesting activity declined at 2.6 percent per year. Regarding the Florida Panhandle subpopulation, the petition asserts that the population's small size (less than 1,000 annual nesters) would not withstand catastrophic events and warrants rigorous management.

The petition asserts that the Northern and Florida Panhandle subpopulations are endangered because they are in imminent danger of extirpation from their ranges and identifies several threats including commercial fishing, coastal development, and pollution. The petition discusses the significance of the Northern and Florida Panhandle subpopulations and states that if either were extirpated, re-establishment is unlikely and the loss of genetic contribution to the species would be permanent. The petition also states that the Northern subpopulation produces a higher percentage of male hatchlings and the extirpation of this nesting assemblage would seriously hamper male-mediated gene flow.

Petition Finding

Based on the above information and criteria specified in 50 CFR 424.14(b)(2), we find the petitioner presents substantial scientific and commercial information indicating that a reclassification of the Northern and Florida Panhandle loggerhead subpopulations as distinct population segments with endangered status may be warranted. The ESA defines a "species" as "...any subspecies of fish or wildlife or plants and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." NMFS and the U.S. Fish and Wildlife Service published a joint policy defining the phrase "distinct population segment" on February 7, 1996 (61 FR 4722). Three elements are considered in a decision regarding the listing, delisting, or reclassification of a distinct population segment as endangered or threatened under the ESA: discreteness of the population segment in relation to the remainder of the species, significance of the population segment to the species, and conservation status. Under section 4(b)(3) of the ESA, an affirmative 90–day finding requires that we commence a status review on the loggerhead turtle. We are initiating this review and, once it has been completed, a finding will be made as to whether reclassification of the Northern and Florida Panhandle loggerhead subpopulations as distinct population segments with endangered status is warranted, warranted but precluded by higher priority listing actions, or not warranted, as required by section 4(b)(3) of the ESA.

Designation of critical habitat is not subject to the ESA's petition provision; however, the ESA requires us to make a critical habitat determination concurrent with listing determinations. The ESA defines "critical habitat" as "...the specific areas within the geographical area occupied by the species, at the time it is listed... on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and... specific areas outside the geographical area occupied by the species at the time it is listed... upon a determination... that such areas are essential for the conservation of the species."

Species are considered for emergency listing when the immediacy of the threat is so great to a significant proportion of the total population that the routine listing process is not sufficient to prevent large losses that may result in extinction. Expected losses during the normal listing process that would risk the continued existence of the entire species are grounds for an emergency rule. The purpose of the emergency rule provision of the ESA is to prevent species from becoming extinct by affording them immediate protection while the normal rulemaking procedures are being followed. Taking this into consideration, we find that emergency reclassification is not warranted because the species is already afforded protection under the ESA, protection under sections 7 and 9 would remain the same, recovery implementation would not be any different, and we have recently applied cautious management to ensure that irreversible impacts from fisheries interactions do not occur (NMFS 2001). Therefore, we conclude there will be no significant risk to the species as a whole during the normal listing process.

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA and the implementing regulations at 50 CFR 424.11(c), a species can be reclassified, based on the best scientific and commercial data available after conducting a review of the species' status, for any one or a combination of the following: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

Information Solicited

To ensure that the status review is completed and based on the best available data, we are soliciting information and comments on whether the Northern and Florida Panhandle loggerhead subpopulations qualify as distinct population segments and, if so, whether they should be reclassified from threatened to endangered based on the above listing factors. Specifically, we are soliciting information in the following areas: (1) Historical and current abundance for these nesting assemblages; (2) current distribution and movement; (3) population status and trends; (4) genetic stock identification; (5) current or planned activities that may adversely impact these subpopulations; and (6) ongoing efforts to protect the Northern and Florida Panhandle subpopulations and their habitat. We request that all data, information, and comments be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications.

All submissions must contain the submitter's name, address, and any association, institution, or business that the person represents. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES**).

Critical Habitat

We are also requesting information on areas that may qualify as critical habitat for the loggerhead particularly related to the Northern and Florida Panhandle subpopulations. Areas that include the physical and biological features essential to the conservation of the species should be identified. Areas outside the present range should also be identified if such areas are essential to the conservation of the species. Essential features include, but are not limited to: (1) Space for individual growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of the species (50 CFR 424.12).

Peer Review

For listings, delistings, and reclassifications under the ESA, NMFS and the U.S. Fish and Wildlife Service have a joint policy for peer review of the scientific data (59 FR 34270, July 1, 1994). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. We are soliciting the names of recognized experts in the field that could take part in the peer review process for the loggerhead status review. Independent peer reviewers will be selected from the academic and scientific community, applicable tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

References Cited

Ehrhart, L.M. 1979. A survey of marine turtle nesting at Kennedy Space Center, Cape Canaveral Air Force Station, North Brevard County, Florida, 1-122. Unpublished report to Division of Marine Resources, St. Petersburg, Florida, Fla. Dept. Nat. Res.

Francisco, A.M., A.L. Bass, K.A. Bjorndal, A.B. Bolten, R. Reardon, M. Lamont, Y. Anderson, J. Foote, and B.W. Bowen. 2000. Stock structure and nesting site fidelity in Florida loggerhead turtles (*Caretta caretta*) resolved with mtDNA sequences. Unpublished Manuscript. Department of Fisheries and Aquatic Sciences, University of Florida, Gainesville, 23pp.

LeBuff, C.R., Jr. 1990. The loggerhead turtle in the eastern Gulf of Mexico. Caretta Research, Inc., Sanibel, FL, 216 pp.

Márquez-M., R. 1990. FAO Species Catalogue, Vol. 11. Sea turtles of the world, an annotated and illustrated catalogue of sea turtle species known to date. FAO Fisheries Synopsis, 125, 81 pp.

NMFS Biological Opinion, Reinitiation of Consultation on the Atlantic Highly Migratory Species Fisheries Management Plan and Its Associated Fisheries, June 8, 2001 pp: 167.

NMFS Southeast Fisheries Science Center. 2001. Stock assessments of loggerhead and leatherback sea turtles and an assessment of the impact of the pelagic longline fishery on the loggerhead and leatherback sea turtles of the Western North Atlantic. U.S. Department of Commerce, National Marine Fisheries Service, Miami, FL, SEFSC Contribution PRD-00/01-08; Parts I–III and Appendices I–V1.

Turtle Expert Working Group. 1998. (Byles, R., C. Caillouet, D. Crouse, L. Crowder, S. Epperly, W. Gabriel, B. Gallaway, M. Harris, T. Henwood, S. Heppell, R. Marquez-M, S. Murphy, W. Teas, N. Thompson, and B. Witherington). An Assessment of the Kemp's ridley (*Lepidochelys kempii*) and loggerhead (*Caretta caretta*) sea turtle populations in the Western North Atlantic. U.S. Dep. Commer. NOAA Tech. Mem. NMFS-SEFSC-409, 96 pp.

Turtle Expert Working Group. 2000. Assessment update for the Kemp's ridley and loggerhead sea turtle populations in the Western North Atlantic. U.S. Dep. Commer. NOAA Tech. Mem. NMFS-SEFSC-444, 115 pp.

Authority: 16 U.S.C. 1531 et seq.

Dated: May 30, 2002.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13959 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 107
Tuesday, June 4, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Food for Peace; Announcement of Draft Pub. L. 480 Title II Guidelines for FY 2004 Development Assistance Programs

Notice

Pursuant to the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480, as amended), notice is hereby given that the Pub. L. 480 Title II Guidelines for FY 2004 Development Assistance Programs are being made available to interested parties for the required thirty (30) day comment period.

Individuals who wish to receive a copy of these draft guidelines should contact: Office of Food for Peace, Agency for International Development, RRB 7.06–153, 1300 Pennsylvania Avenue, Washington, DC 20523–7600. Individuals who have questions or comments on the draft guidelines should contact Angelique M. Crumbly at the above address or at (202) 712–4279.

The thirty-day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: May 28, 2002.

Lauren Landis,

Director, Office of Food for Peace, Bureau for Democracy, Conflict and Humanitarian Assistance.

[FR Doc. 02–13858 Filed 6–3–02; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 29, 2002.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: 7 CFR 1965–A, Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.

OMB Control Number: 056–0158.

Summary of Collection: The Farm Service Agency's (FSA) Farm Loan Program (FLP) provides supervised credit in the form of loans to family farmers and ranchers to purchase land and finance agricultural production. This regulation is promulgated to implement selected provisions of sections 331 and 335 of the Consolidated Farm and Rural Development Act. Section 331 authorizes the Secretary of Agriculture to grant releases from personal liability where security property is transferred to approved applicants, to permits partial releases and subordinations of mortgages subject to certain conditions, and to consents to leases of security and transfers of security property. Section 335 provides servicing authority for real estate security, operation or lease or realty, disposition of surplus property, conveyance of complete interest of the United States, easement, and condemnation.

Need and Use of the Information: Information is usually provided through the use of several forms that relates to a program benefit recipient or land borrower requesting action on security that they own, purchased and improved with FSA loan funds or otherwise mortgaged to the Agency to secure a government loan. The Farm Loan Program uses this regulation to prescribes policies and procedures for servicing real estate, leaseholds, and certain note-only security for FSA farm loans. Servicing will be carried out in accordance with the security instruments and related agreements, including any authorized modifications, provided the borrower has: (a) A reasonable prospect of accomplishing the loan objectives, (b) properly maintains and accounts for the security, and (c) otherwise meets the loan obligation.

Description of Respondents: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 14,080.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 6,753.

Animal and Plant Health Inspection Service

Title: Phytosanitary Export Certification.

OMB Control Number: 0579–0052.

Summary of Collection: The United States Department of Agriculture (USDA), Animal & Plant Health Inspection Service (APHIS) is responsible for preventing plant diseases, spread of pests not widely distributed in the United States and insect pests from entering the United States, and when feasible eradicating those imported pests. APHIS provides export certification services to assure other countries that the plants and plant products they are receiving from the United States are free of prohibited (or regulated) plant diseases and insect pests.

Need and Use of the Information: APHIS will use the information collected to locate shipments, guide inspection, and issue a certificate to meet the requirements of the importing country. Lack of the information would make it impossible for APHIS to issue a phytosanitary certificate to meet the importing country's requirements.

Description of Respondents: Business or other for-profit; Farm; Individual or households; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 16,437.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 539,681.

Agricultural Marketing Service

Title: Tobacco Reports.

OMB Control Number: 0581–0004.

Summary of Collection: The authority for the collection of information on form TB–26, Tobacco Stocks Report, is Public Law No. 661, known as the Tobacco Statistics Act (7 U.S.C. 501–508) enacted in 1929. The Act directs the Secretary of Agriculture to collect statistics on the quantities of leaf tobacco held by dealers and manufacturers in the United States and Puerto Rico. The TB–26, Tobacco Stocks Report, provides information on the total supply of un-manufactured tobacco available to domestic manufacturers and is used to calculate the amount consumed in manufactured tobacco products.

Need and Use of the Information: The data collected is used by the Agricultural Marketing staff to monitor the size, growth, or decline of the market and is required for the calculation of production quotas for individual types of tobacco under the Agricultural Adjustment Act of 1938. Without the information, the Department would not be able to provide marketing information as directed by the Act.

Description of Respondents: Business or other for-profit.

Number of Respondents: 76.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 278.

Agricultural Marketing Service

Title: Almonds Grown in California, Marketing Order 981.

OMB Control Number: 0581–0071.

Summary of Collection: Marketing Order 981 (CFR Part 981), regulates the handling of almonds grown in California and emanates from enabling legislation the Agricultural Marketing Agreement Act of 1937 (Secs. 1–19, 48 Stats. 31, as amended; 7 U.S.C. 601–674). This legislation was designed to permit regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and improving returns to growers. The Order authorizes the issuance of quality and volume control regulations, the establishment of production and marketing research, as well as inspection and reporting requirements. California accounts for all of the U.S. almond production, approximately 70% of which is exported.

Need and Use of the Information: Information is collected from various forms and reviewed by the Board. These forms are convenient for people who are required to file information with the Board relating to almond supplies, shipments, dispositions, and other information needed to effectively carry out the purposes of the Act and the Order. The information collected is used for publishing of industry statistics, program compliance, to determine industry support for programs or changes and determine qualifications.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 7,150.

Frequency of Responses: Recordkeeping; Reporting: On occasion, Monthly, Other.

Total Burden Hours: 2,638.

Agricultural Marketing Service

Title: National Research, Promotion, and Consumer Information Programs.

OMB Control Number: 0581–0093.

Summary of Collection: In the Federal Agricultural Improvement and Reform Act of 1996 (Public Law 104–127, signed April 4, 1996), Congress authorized the Commodity Promotion, Research, and Information Act of 1996, 7 U.S.C. 7401–7425; hereinafter, referred to as the Act. This Act authorizes the establishment and operation of generic promotion programs, which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments, and designed to maintain or expand markets and uses for U.S. produced commodities. The American Farm Bureau Federation, working in cooperation with 20 states and regional peanut industry organizations representing the 9 major peanut-producing states, has required the establishment of a Peanut Promotion, Research, and Information Order (Order) pursuant to the Act. The Peanut Program will be financed through assessments on peanut producers and will be administered by a 10-member National Peanut Board (Board) appointed by the Secretary of Agriculture for nominations submitted by the peanut industry.

Need and Use of the Information: Agricultural Marketing Service will collect information on the monthly detailed listing of each handler's transactions and the name of applicant, mailing address (handler and producer(s)), name and address of business or operation (handler), telephone number, facsimile number, identification number (collecting handler), period of report, date of last report, and date of application. The Board needs the information on the report to (1) comply with section 517 of the Act and (2) provide the necessary accounting documentation for assessment collection during the monthly reporting period.

Description of Respondents: Business or other for-profit; Farm; Federal Government.

Number of Respondents: 344,342.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 368,514.

Agricultural Marketing Service

Title: Regulations Governing the Voluntary Grading of Shell Eggs.

OMB Control Number: 0581–0128.

Summary of Collection: The Agricultural Marketing Act (AMA) of 1946 (60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627) directs and authorizes the Department to develop standards of quality, grades, grading programs, and services to enable a more orderly marketing of agricultural products so trading may be facilitated and so consumers may be able to obtain products graded and identified under United States Department of Agriculture programs. The Agricultural Marketing Service (AMS) carries out regulations that provide a voluntary program for grading shell eggs on the basis of U.S. standards, grades, and weight classes. In addition, the shell egg industry and users of the products have requested that other types of voluntary services be developed and provided under these regulations. This program is voluntary where respondents would need to request or apply for the specific service they wish.

Need and Use of the Information: Authorized representatives of the Department of Agriculture use the information to administer, conduct and carry out the grading services requested by the respondents. If the information were not collected, the agency would not be able to provide the voluntary grading service authorized and

requested by Congress, provide the types of services requested by industry, administer the program, ensure properly grade-labeled products, calculate the cost of the service or collect for the cost furnishing service.

Description of Respondents: Business or other for profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 625.

Frequency of Responses: Reporting: On occasion; Semi-annually; Monthly; Annually; Other (daily).

Total Burden Hours: 5,608.

Animal and Plant Health Inspection Service

Title: Poultry and Pork Products Transiting the United States.

OMB Control Number: 0579–0145.

Summary of Collection: The United States Department of Agriculture (USDA), Animal & Plant Health Inspection Service (APHIS) is responsible for controlling and eliminating domestic animal diseases such as brucellosis and scrapie, as well as preventing the introduction of exotic animal diseases such as hog cholera, exotic Newcastle disease (END) and other foreign diseases. Title 21, United States Code (U.S.C.) authorizes sections 111, 114, 114a, 114–1, 115, 120, 121, 125, 126, 134a, 134c, 134f, and 134g, which permits the Secretary of Agriculture to take these actions. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the United States' ability to compete in exporting animals and animal products. APHIS has determined that fresh pork and pork products, as well as poultry carcasses, parts and products from Mexican States can transit the United States with minimal risk of introducing hog cholera or END. By allowing these products from certain Mexican States to transit the United States necessitates the use of several activities, which include the completion of an import permit application, the placement of serial numbered seals on product containers, and the forwarding of a written, pre-arrival notification to APHIS port personnel.

Need and Use of the Information: APHIS will collect information to ensure that these products and parts from Mexico pose a negligible risk of introducing hog cholera and END into the United States. APHIS will also collect the name, address of the exporter, the origin and destination points of entry, the date of transportation, the method and route of shipment, the time and date the items are expected to arrive at the port, how long the items are expected to be in the United States, the permit number of the shipment, and the serial numbers of the seals on the shipment containers. If the information is not collected, it would make disease incursion event much more likely, with potentially devastating affects on the U.S. swine and poultry industries.

Description of Respondents: Business or other for-profit; Farm; Individual or households; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 25.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 572.

Food and Nutrition Service

Title: WIC Financial Management and Participation Report with Addendum.

OMB Control Number: 0584–0045.

Summary of Collection: The Women, Infants and Children Program (WIC) is authorized by Section 17 of the Child Nutrition Act (CNA) of 1966 (42 U.S.C. 1786), as amended. The Food and Nutrition Service (FNS) of USDA administers the WIC Program by awarding cash grants to State agencies. The State agencies award subgrants to local agencies to deliver program benefits and services to eligible participants. State agencies complete the FNS–798 to comply with two separate legislative requirements. FNS has added a new data element, migrant participation to the FNS–798. Migrant participation refers to the average number of migrant farm-worker household members who participated in the WIC Program during the most recent 12-month period beginning in July and ending in June. FNS must continue to collect migrant participation data annually to comply with section 17(g)(4) of the Child Nutrition Act (CAN) of 1966 (42 U.S.C. 1786, as amended).

FNS uses FNS–798–A addendum to determine if each State agency has met its statutory nutrition education and breastfeeding promotion and support minimum expenditure requirements.

Need and Use of the Information: FNS will use the information reported each month for program monitoring, funds allocation and management, budget projections, monitoring caseload, policy development, and responding to requests from Congress and the interested public. FNS also uses the data to determine if the State has met the 97 percent performance standard for food and 10 percent performance standard for Nutrition Services Administration. FNS will use migrant participation data to monitor the success of efforts to provide WIC services to migrant populations, and to project a minimum funding amount that State agencies might expect to expend for this purpose based on the prior year's experience.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 88.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 4,638.

Animal and Plant Health Inspection Service

Title: Domestic Quarantines.

OMB Control Number: 0579–0088.

Summary of Collection: Chapter 8 of the Plant Quarantine Act (U.S.C. 161) provides authority for the Secretary of Agriculture to quarantine any State, Territory, or District of the United States to prevent the spread of insect infestation and diseases new to or not widely distributed throughout the United States. The Domestic Quarantines (7 CFR Part 301) are issued under this authority. Implementing these quarantines often requires us to collect information from a variety of individuals who are involved in growing, packing, handling, transporting, and exporting of plants and plant products. The information collected from these individuals is vital to helping ensure that injurious plant diseases and insect pests do not spread within the United States. Information to be collected is necessary to determine compliance with domestic quarantines. Federal/State domestic quarantines are necessary to regulate the movement of articles from infested areas to noninfested area. Collecting information requires the use of a number of forms and documents. The Animal and Plant Health Inspection Service (APHIS) will collect information using various forms and documents.

Need and Use of the Information: APHIS will collect information by interviewing growers and shippers at the time the inspections are being conducted and by having growers and shippers of exported plants and plant products complete an application for a transit permit. Information is collected from the growers, packers, shippers, and exporters of regulated articles to ensure that the articles, when moved from a quarantined area, do not harbor injurious plant diseases and insect pests. The information obtained will be used to determine compliance with regulations and for issuance of forms, permits, certificates, and other required documents.

Description of Respondents: Business or other for-profit; Farm; Individuals or households; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 180,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 87,647.

Food and Nutrition Service

Title: Nutrition Education for Food & Nutrition Service Population Groups.

OMB Control Number: 0584–NEW.

Summary of Collection: Diet has a significant impact on the health of citizen and is linked to four leading causes of disease, which can reduce the quality of life and cause premature death. While these diet-related problems affect all Americans, they have a greater impact on the disadvantaged populations reached by many of the Food and Nutrition Service Programs (FNS). One of FNS' goals includes improving the nutrition of children and low-income families by providing access to program benefits and nutrition education in a manner that supports American agriculture and inspires public confidence. The information collection is based on the Children Nutrition Act of 1966, as amended, the National School Lunch Act of 1966, as amended, the Food Stamp Act of 1977, as amended, the Agriculture and Consumer Protection Act of 1973, as amended, and the Emergency Food Assistance Act of 1983, as amended. The Eat Smart Play Hard (ESPH) Campaign is a multi-phase nutrition education and promotion program geared particularly towards children, including their caregivers, who are eligible for FNS nutrition assistance programs. Phase I of the ESPH will consist of a spokes character with accompanying posters, brochures, activity sheets, and a kit of promotional materials. For Phase II of ESPH Campaign, FNS will develop additional messages and materials for a subsection of children and caregivers group, an interactive children's Internet Web site, and convert existing English education materials to appropriate language and culture for Hispanic audiences. FNS will also develop nutrition education and promotion materials for mothers with 2–18-year-old children in low-literacy and Spanish-speaking population. The educational materials and promotional vehicles will serve as an important means to formulate and relay behavioral and motivational messages encompassed by the Dietary Guidelines for Americans.

Need and Use of the Information: FNS will collect information through interviews or written responses. The information collected will provide FNS with formative input and feedback on how best to reach and motivate preschool and school-age children, caregivers, Hispanic audiences as well as low-literacy groups to make changes consistent with the new Dietary Guidelines for Americans. FNS will also use the information collected to develop program materials to motivate the target audience to change their nutrition and physical activity-related behavior.

Description of Respondents: Individuals or households; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 6,192.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 3,538.

Agricultural Marketing Service

Title: California Prune/Plum Tree Removal Program—Section 32—Final Rule.

OMB Control Number: 0581–0201.

Summary of Collection: The authority to implement the California Prune/Plum Diversion Program or "tree pull" is established under (3) Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) ("Section 32"). The Prune Diversion Program is administered under the supervision of the Agriculture Marketing Service. The Prune Marketing Committee (PMC) is the agency responsible for locally administering the Federal Marketing Order for California prunes. Requirements of this program apply only to those growers who voluntarily participate in the tree removal program. The information provided by the participants is essential to carry out the program and to administer release of payments.

Need and Use of the Information: To meet program requirements, producers are required to fill out two forms, FV–298, Application for Prune Tree Removal Program, and FV–299, Tree Removal Notice and Verification Form. Form FV–298 collects information on the producer, the person completing the application, the number of trees to be removed, acreage, and past production. Form FV–299 provides PMC with the number of trees the producer agrees to remove. AMS and PMC use the information gathered from these forms to determine payment calculation and certify participation in the program.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 481.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 250.

Agricultural Marketing Service

Title: Vidalia Onions grown in Georgia, M.O. No. 955.

OMB Control Number: 0581–NEW.

Summary of Collection: Marketing Order No. 955 (7 CFR Part 955) covers the handling of Vidalia onions grown in Georgia. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The changes in the order for reporting requirements would allow the Committee to obtain shipment reports from handlers on a weekly basis rather than monthly and would increase the amount of information requested. These changes would provide the Committee with an earlier indication of problems with late compliance, thus reducing the problems currently experienced with late reporting.

Need and Use of the Information: The handlers will use FV–181, "Vidalia Onion Handlers Report Form," to inform the Committee of their weekly receipts and shipments of Vidalia onions during the season. The Committee will use the information to ensure compliance with order regulations and assist in oversight and planning. Only authorized representatives of USDA will use the information. Without the handler reports, the Committee would not be able to collect assessments and provide for daily oversight of the order's operation.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 109.

Frequency of Responses: Recordkeeping; Reporting: Weekly.

Total Burden Hours: 136.

Sondra A. Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 02–13874 Filed 6–3–02; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–127–1]

Availability of a Study on Systems Approaches to Mitigating Plant Pest Risk

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: We are advising the public that the National Plant Board, at the request of the Animal and Plant Health Inspection Service, has prepared a study on the role for and application of systems approaches designed to guard against the introduction of plant pathogens into the United States on imported plants and associated

products. We are making this study available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 5, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–127–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–127–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–127–1" on the subject line.

A copy of the study and any comments that we receive on it may be reviewed in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Alan K. Dowdy, Associate Director, Center for Plant Health Science and Technology, PPQ, APHIS, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606; (919) 513–2400.

SUPPLEMENTARY INFORMATION: Title IV of the Agricultural Risk Protection Act of 2000 (Pub. L. 106–224), known as the Plant Protection Act (7 U.S.C. 7701 through 7772, referred to below as the Act), incorporated preexisting plant quarantine and related statutes into a comprehensive law aimed at, among other things, clarifying and augmenting the Secretary's authority to detect, control, and eradicate plant pests and noxious weeds.

Section 412(e) of the Act directs the Secretary of Agriculture to conduct a study of the role for and application of systems approaches designed to guard against the introduction of plant pathogens into the United States on imported plants and associated products. A systems approach is defined in the Act as a defined set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities.

To conduct the study required by § 412(e) of the Act, the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) entered into a cooperative agreement with the National Plant Board (NPB), an organization of the plant pest regulatory agencies of each of the States and the Commonwealth of Puerto Rico, to carry out the study. The agreement directed the NPB to coordinate the project, to conduct the actual research, to prepare a report of the findings, and to provide overall leadership to participating scientists from State departments of agriculture, colleges and universities, the private sector, and the Agricultural Research Service of the USDA.

The NPB has now given its final draft to APHIS. Before the Department presents its report on the results of this study to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, as required by the Act, APHIS is making the study available to the public for review and comment.

The study makes the finding that "systems approaches are both scientifically and theoretically sound." In addition, the study notes that in every case in which a systems approach has been applied to date, it has "facilitated trade and concurrently thwarted the introduction and establishment of unwanted plant pathogens."

The study recommends that APHIS use the process of systems engineering when developing systems approaches for importations of plants or plant products. Systems engineering has seven steps: Requirements development, concept development, full-scale engineering, system development, system test, system operation, and retirement and replacement.

The first step, requirements development, involves defining the problem as the customer sees it; this is the critical step for stakeholder input. The study also recommends that APHIS strengthen its monitoring and verification of systems approaches.

We invite your comments on the study. Please consider the following questions in your comments:

- What are the implications you see for import markets if we accept the NPB's recommendations?
- What are the implications you see for export markets if we accept the NPB's recommendations?
- Do you believe that there would be value in having APHIS use the systems engineering process recommended in the study to develop and evaluate a systems approach for a plant or plant product you wanted to import into the United States?
- Are there particular disadvantages to the use of a systems engineering process which would militate against its adoption?
- What are options for improved verification and monitoring of systems approaches?
- Are there other relevant issues that need to be addressed that are not discussed in the study?

The study is available in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice) or on the Internet at *http://www.aphis.usda.gov/ppq/*. You may also request that a copy be mailed to you by registering at http://www.aphis.usda.gov/ppq/ or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT:** If you request that a copy be mailed to you, please specify whether you desire a printed copy or a copy on compact disk.

Authority: 7 U.S.C. 7701–7772.

Done in Washington, DC, this 29th day of May, 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–13921 Filed 6–3–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Economic Research Service

National Agricultural Statistics Service

DEPARTMENT OF COMMERCE

Census Bureau

Bureau of Economic Analysis

DEPARTMENT OF EDUCATION

DEPARTMENT OF ENERGY

Energy Information Administration

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

DEPARTMENT OF JUSTICE

DEPARTMENT OF LABOR

Bureau of Labor Statistics

NATIONAL SCIENCE FOUNDATION

SOCIAL SECURITY ADMINISTRATION

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Federal Statistical Organizations' Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information

AGENCIES: Economic Research Service (ERS) and National Agricultural Statistics Service (NASS), Department of Agriculture (USDA); U.S. Census Bureau (Census) and Bureau of Economic Analysis (BEA), Department of Commerce (DOC); National Center for Education Statistics (NCES), Department of Education (Education); Energy Information Administration (EIA), Department of Energy (DOE); National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS); Bureau of Justice Statistics (BJS), Department of Justice (DOJ); Bureau of Labor Statistics (BLS), Department of Labor (DOL); Division of Science Resources Statistics (SRS), National Science Foundation (NSF); Office of Research, Evaluation, and Statistics (ORES), Social Security Administration (SSA); Bureau of Transportation Statistics (BTS), Department of Transportation (DOT); Statistics of Income Division (SOI), Internal Revenue Service (IRS), Department of the Treasury (Treasury).

ACTION: Notice.

SUMMARY: Principal Federal statistical organizations are jointly announcing the opportunity to comment on their respective proposed guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of disseminated information. The statistical organizations' quality guidelines are each being developed to be responsive to Office of Management and Budget (OMB) issued government-wide guidelines at 67 FR 8452–8460 (February 22, 2002) and are intended to be included as part of the response from the Department or agency in which the statistical organization is located. Departments and agencies are required to issue their own implementing guidelines, including correction procedures, and to make the guidelines available on their individual Web Sites. Some basic features of how the Nation's principal statistical organizations will be responsive to the OMB guidelines are presented in the Supplementary Information section of this notice. This notice also serves to announce the availability of each organization's draft guidelines and related information (see Section II of Supplementary Information).

A statistical agency or unit, as defined in the **Federal Register** June 27, 1997(62 FR 35043–35050), is an agency or organizational unit of the Executive Branch whose activities are predominantly the collection, compilation, processing or analysis of information for statistical purposes. The above list of statistical organizations consists of the principal statistical agencies and other statistical organizational units belonging to the Interagency Council on Statistical Policy. Statistical organizations have long been leaders in the activities that are being required under the OMB guidelines. It should be noted that each organization will prepare its final guidelines in conjunction with its respective Department or agency.

The Office of Management and Budget recognizes that Federal statistical organizations provide a substantial variety of data. Accordingly, it is understood that the OMB guidelines cannot be implemented in the same way by each organization. In some cases, for example, the data disseminated by an organization are not collected by that organization at a particular point in time; rather, the information the organization must disseminate in a timely manner is compiled from a variety of sources (including surveys, administrative records, and other sources) that are constantly updated and revised and are generally confidential. While organizations' implementation of the guidelines may differ, the essence of the guidelines will apply. That is, these organizations must make their methods transparent by providing documentation, ensure quality by reviewing methods and consulting with experts and users, and inform users about corrections and revisions.

Each organization will take comments received into account, and will prepare its final guidelines in conjunction with its respective Department or agency for submission to OMB by August 1, 2002.

DATES: The dates for submission of comments to the statistical organizations vary. Comments on a specific organization's draft guidelines must be filed by the date provided at that organization's Web Site as listed below in Section II of **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Comments concerning an individual statistical organization's guidelines should be sent to that organization's representative as noted below in Section II of the Supplementary Information. To ensure receipt of the comments by the due date, submission by FAX or e-mail is recommended.

FOR FURTHER INFORMATION CONTACT: Copies of the draft guidelines for individual organizations are at the organizations' Web Sites listed below in Section II of Supplementary Information, along with information on a contact person for each organization.

SUPPLEMENTARY INFORMATION:

I. Background
II. Statistical Organization Actions, Web Sites, and Representatives
III. Agency/Department Process to Respond to Comments

I. Background

Federal statistics play a key role in a broad range of public policy, business, and individual decisions. Federal statistical surveys and compilations of administrative data are extensive undertakings that involve the collection of detailed information, often from large numbers of entities.

The principal functions of Federal statistical organizations generally include the compilation, analysis, and the dissemination of information, although the actual mix of functions varies by organization. Federal statistical organizations seek to maintain

their independence in the production of their statistics; the confidentiality of information provided by respondents; and high quality standards. These features foster credibility with data users and trust among data providers. The heads of the Nation's principal statistical agencies (ERS, NASS, BEA, Census, NCES, EIA, NCHS, BJS, BLS, and BTS) plus the heads of the statistical units in the IRS, NSF, and SSA, serve on the Interagency Council on Statistical Policy (ICSP) which is led by OMB. The ICSP coordinates statistical work across organizations, enables the exchange of information about organization programs and activities, and provides advice and counsel to OMB on statistical activities.

High quality publicly available statistics from Federal statistical organizations are essential for the nation to advance the economic well-being and quality of life of its people. OMB guidelines for the quality, objectivity, utility, and integrity of information disseminated by Federal agencies are encompassed by the statistical organizations' requirements that the statistics produced must be accurate, timely, relevant, and accessible to data users. The statistics should also be reproducible, meaning that there is the capability to use the documented methods on the same data set to achieve a consistent result.

Statistical organizations, as defined above, maintain the quality of their data or information products as well as their credibility by setting high standards of performance in their activities. Such activities generally include:

- Development of concepts and methods;
- Planning and design of surveys and other means of collecting data;
- Collection of data;
- Processing and editing of data;
- Analysis of data;
- Production of estimates or projections;
- Establishment of review procedures; and
- Dissemination of data by published reports, electronic files and other media requested by users.

Statistical organizations undertake these activities in substantially different proportions, and not all statistical organizations engage in each of these activities.

A statistical organization's commitment to quality and professional standards of practice further includes: the use of modern statistical theory and practice in all technical work; the development of strong staff expertise in the disciplines relevant to its mission; the implementation of ongoing quality assurance programs to improve data validity and reliability and to improve the processes of compiling, editing, and analyzing data; and the development of a strong and continuing relationship with appropriate professional organizations in the fields of statistics and relevant subject-matter areas.

To carry out its mission, a Federal statistical organization assumes responsibility for determining sources of data, measurement methods, methods of data collection and processing while minimizing respondent burden; employing appropriate methods of analysis; and ensuring the public availability of the data and documentation of the methods used to obtain the data. Within the constraints of resource availability, a statistical organization continually works to improve its data systems to provide information necessary for the formulation of public policy.

In striving for the widest possible dissemination and greatest usefulness of its data, a statistical organization establishes a publications policy that addresses the types of reports and other data releases, including electronic, to be made available; the frequency and timeliness of such releases; the variety of avenues for data dissemination and formats; and policies for the preservation of data. A statistical organization seeks advice on specific data concepts, methods, and products from data users and from other professional and technical subject-matter and methodological experts. When applicable, a statistical organization seeks advice on its statistical program as a whole, including the setting of statistical priorities and on the statistical methodologies it uses. The organization strives to meet the needs for access to data while maintaining appropriate safeguards for the confidentiality of individual responses.

In accordance with the OMB guidelines, each agency will establish mechanisms providing the public with the opportunity to seek correction of information that does not comply with OMB or agency guidelines. Those mechanisms are addressed in more detail on the Web Sites listed below in Section II of Supplementary Information.

II. Statistical Organization Actions, Web Sites, and Representatives

According to OMB's guidelines, an agency designated in OMB Circular A–130 must publish a notice of availability of its draft quality guidelines in the **Federal Register** and post the draft guidelines on the its Web Site to provide an opportunity for public comment. The statistical organizations participating in this **Federal Register** notice are listed below. As noted above, many statistical organizations will also be formally covered by the quality guidelines of their parent Department or agency, and those draft guidelines are also available for review.

The statistical organizations listed below are requesting comments on the quality guidelines that each has developed for its disseminated information.

The Web Site addresses present each organization's draft guidelines on which the organization is requesting public comments. Also included is the organization's contact person for more information and who should receive any comments. To ensure receipt of the comments by the due date indicated on an agency's Web Site, submission by FAX or e-mail is recommended.

- BEA—The proposed quality guidelines are available at *www.bea.gov/*. For additional information or to comment on the agency's guidelines, contact Stephen Andrews. Mr. Andrews may be contacted by telephone at (202) 606–9653, FAX at (202) 606–5313, or e-mail at *ocs@bea.gov*. His mailing address is Bureau of Economic Analysis, BE–40, 1441 L Street, N.W., Washington, DC 20230.
- BLS—The proposed quality guidelines are available at *www.bls.gov/BLS/Quality.htm*. For additional information or to comment on the agency's guidelines, contact Deborah Klein. Ms. Klein may be contacted by telephone at (202) 691–5900, FAX at (202) 691–5899, or e-mail at *DataQa@bls.gov*. Her mailing address is Bureau of Labor Statistics, 2 Massachusetts Avenue, N.E., Washington, DC 20212.
- BJS—The proposed quality guidelines are available at *www.ojp.usdoj.gov/bjs/whtsnw2.htm*. For additional information or to comment on the agency's guidelines, contact Pete Brien. Mr. Brien may be contacted by telephone at (202) 305–0643, FAX at (202) 307–5846, or e-mail at *askbjs@ojp.usdoj.gov*. His mailing address is Bureau of Justice Statistics, 810 7th St, NW, Washington, DC 20531.
- BTS—The proposed quality guidelines are available at *www.bts.gov/statpol/*. For additional information on the agency's guidelines, contact Eugene Burns. Dr. Burns may be contacted by telephone at (202) 366–3491, FAX at (202) 366–3640, or e-mail at *eugene.burns@bts.gov*. His mailing address is Office of Statistical Quality (K–24), Bureau of Transportation Statistics, 400 Seventh Street, S.W., Washington, DC 20590. To comment on the agency's guidelines, send your comments to the U. S. Department of Transportation, Docket Management System (DMS). You may submit your comments by fax, Internet, in person, or via the U.S. mail to the Docket Clerk, Docket No. OST–2002–11996, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590–0001. Comments should identify the DOT docket number. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, persons should consider an alternative method (the Internet, fax, or professional delivery service) to submit comments. You may fax your comments to the DMS at (202) 493–2251. If you wish to file comments using the Internet, you may use the DOT DMS Web Site at *http://dms.dot.gov/*. Please follow the online instructions for submitting an electronic comment.
- Census—The proposed quality guidelines are available at *www.census.gov/*. For additional information or to comment on the agency's guidelines, contact Cynthia Clark. Dr. Clark may be contacted by telephone at (301) 457–2160, FAX at (301) 457–1902, or e-mail at *quality@census.gov*. Her mailing address is Associate Director for Methodology and Standards, U.S. Census Bureau, Washington, DC 20233–9000.
- EIA—The proposed quality guidelines are available at *www.eia.doe.gov/neic/aboutEIA/aboutus.htm*. For additional information or to comment on the agency's guidelines, contact Jay Casselberry. Mr. Casselberry may be contacted by telephone at (202) 287–1717, FAX at (202) 287–1705, or e-mail at *Jay.Casselberry@eia.doe.gov*. His mailing address is Statistics and Methods Group (EI–70), Energy Information Administration, U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585–0670.
- ERS—The proposed quality guidelines are available at *www.ers.usda.gov/*. For additional information or to comment on the agency's guidelines, contact Phil Fulton. Dr. Fulton may be contacted by telephone at (202) 694–5000, FAX at (202) 694–5757, or e-mail at *pfulton@ers.usda.gov*. His mailing address is Economic Research Service, 1800 M Street, NW, Washington, DC 20036–5831.
- IRS/Statistics of Income Division—The quality guidelines for IRS Statistics of Income Division will be included in the final agency-wide guidelines. The IRS draft guidelines are available at *www.irs.gov/pub/irs-utl/data—quality—draft—guidelines.pdf*. For additional information or to comment on IRS's guidelines, contact Wayne Wiegand by telephone at (202) 927–4412, FAX at (202) 874–0922, e-mail at Wayne.E.Wiegand@irs.gov, or mail at Internal Revenue Service, 1111 Constitution Avenue NW, Room 3524, Washington DC 20224, ATTN: Wayne Wiegand.
- NASS—The proposed quality guidelines are available at *www.usda.gov/nass/*. For additional information or to comment on the agency's guidelines, contact Rich Allen. Mr. Allen may be contacted by telephone at (202) 720–4333, FAX at (202) 720–9013, or e-mail at *rallen@nass:usda.gov*. His mailing address is USDA–NASS, Room 4117 South Bldg., 1400 Independence Ave. S.W., Washington, DC 20250–2001.
- NCES—The proposed quality guidelines are available at *www.nces.ed.gov/statprog*. For additional information or to comment on the agency's guidelines, contact Marilyn McMillen Seastrom. Dr. Seastrom may be contacted by telephone at (202) 502–7303, FAX at (202) 502–1717, or email at *marilyn.mcmillen@ed.gov*. Her mailing address is NCES, Room 9051, 1990 K Street NW, Washington, DC 20006.
- NCHS—The proposed quality guidelines are available at *www.cdc.gov/nchs/*. For additional information or to comment on the agency's guidelines, contact Jennifer Madans. Dr. Madans may be contacted by telephone at 301–458–4500, FAX at (301) 458–4020, or e-mail at *JMadans@cdc.gov*. Her mailing address is National Center for Health Statistics, 6525 Belcrest Road, Room 1140, Hyattsville, MD 20782.
- NSF/Division of Science Resources Statistics—The proposed quality guidelines are available at *www.nsf.gov/sbe/srs/infoqual.htm*. For additional information or to comment on the division's guidelines, contact Jeri Mulrow. Ms. Mulrow may be contacted by telephone at (703) 292–4784, FAX at (703) 292–9092, or e-mail at *JMulrow@nsf.gov*. Her mailing address is Division of Science Resources Statistics, National Science Foundation, 4201 Wilson Blvd., Room 965, Arlington, VA 22230.
- SSA/Office of Research, Evaluation, and Statistics—The proposed quality guidelines are available at *http://www.ssa.gov/515/*. For additional information or to comment on SSA's guidelines, contact Brian Greenberg. Note that quality guidelines for SSA's statistical information products are included in agency-wide guidelines. Dr. Greenberg may be contacted by telephone at (410) 965–0131, FAX at (410) 965–3308, or e-mail at brian.v.greenberg@ssa.gov. His mailing address is Social Security Administration, Office of Research, Evaluation, and Statistics, Room 4C15, Operations Building, 6401 Security Blvd., Baltimore, MD 21235.

III. Agency/Department Process To Respond to Comments

Comments submitted to each individual organization in response to their notices will be summarized by them and/or may be included in their request for OMB approval of the organization's final quality guidelines. In any event, the submitted comments become a matter of public record.

Authorities: Sec. 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the Office of Management and Budget Final Guidelines issued on February 22, 2002 (67 FR 8452–8460).

Issued in Washington, D.C. May 29, 2002.

Susan E. Offutt,

Administrator, Economic Research Service, Department of Agriculture.

R. Ronald Bosecker,

Administrator, National Agricultural Statistics Service, Department of Agriculture.

C. Louis Kincannon,

Director, U.S. Census Bureau, Department of Commerce.

J. Steven Landefeld,

Director, Bureau of Economic Analysis, Department of Commerce.

Gary Phillips,

Deputy Commissioner, National Center for Education Statistics, Department of Education.

Mary J. Hutzler,

Acting Administrator, Energy Information Administration, Department of Energy.

Edward J. Sondik,

Director, National Center for Health Statistics, Centers for Disease Control and Prevention, Department of Health and Human Services.

Mr. Lawrence A. Greenfeld,

Acting Director, Bureau of Justice Statistics, Department of Justice.

Lois Orr,

Acting Commissioner, Bureau of Labor Statistics, Department of Labor.

Lynda T. Carlson,
Director, Division of Science Resources Statistics National Science Foundation.

Susan Grad,
Acting Associate Commissioner, Office of Research, Evaluation, and Statistics, Social Security Administration.

Ashish Sen,
Director, Bureau of Transportation Statistics, Department of Transportation.

Issued in Washington, DC May 7, 2002.

Thomas Petska,
Director, Statistics of Income Division, Internal Revenue Service, Department of Treasury.

[FR Doc. 02–13892 Filed 6–3–02; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions; thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after June 3, 2002. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Appeals and Litigation Group Leader; Northern Region; PO Box 7669; Missoula, Montana 59807. Phone: (406) 329–3696.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana:
The Missoulian, Great Falls Tribune, and The Billings Gazette.
Regional Forester decisions in Northern Idaho and Eastern Washington:
The Spokesman Review.
Regional Forester decisions in North Dakota:
Bismarck Tribune.
Regional Forester decisions in South Dakota:
Rapid City Journal.
Beaverhead/Deerlodge
Montana Standard
Bitterroot
Ravalli Republic
Clearwater
Lewiston Morning Tribune
Custer
Billings Gazette (Montana)
Rapid City Journal (South Dakota)
Dakota Prairie National Grasslands
Bismarck Tribune (North and South Dakota)
Flathead
Daily Inter Lake
Gallatin
Bozeman Chronicle
Helena
Independent Record
Idaho Panhandle
Spokesman Review
Kootenai
Daily Inter Lake
Lewis & Clark
Great Falls Tribune
Lolo
Missoulian
Nez Perce
Lewiston Morning Tribune

Supplemental notices may be placed in any newspaper, but time frames/deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: May 24, 2002.

Kathleen A. McAllister,
Deputy Regional Forester.

[FR Doc. 02–13881 Filed 6–3–02; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: Survey of ITA Client Companies.

Agency Form Number: None.
OMB Number: None.
Type of Request: Emergency.
Burden Hours: 100.
Number of Respondents: 2,000.
Average Hours Per Response: 30 minutes.

Needs and Uses: The Department of Commerce's International Trade Administration (ITA) provides export promotion products to help U.S. firms operate in global markets. ITA's target audience for this assistance is the small to medium size firms. The Office of Management and Budget (OMB) has recently instructed the ITA in budget passback language to conduct a study of the elasticity of the costs for these products. The "Survey of ITA Client Companies," collection of information will be used to: (1) Identify and gather pricing and cost data on ITA products and services; (2) gather information on fee structure, cost and key characteristics of customers; and (3) develop recommendations on pricing strategies.

Affected Public: Business or other for profit organizations, not-for-profit institutions.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th & Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *MClayton@doc.gov*.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: May 29, 2002.

Gwellnar Banks,
Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–13876 Filed 6–3–02; 8:45 am]
BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

[I.D. 053002A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NMFS Alaska Region Vessel Monitoring System (VMS) Program.

Form Number(s): None.

OMB Approval Number: 0648–0445.

Type of Request: Regular submission.

Burden Hours: 13,152.

Number of Respondents: 539.

Average Hours Per Response: 6 hours to install a VMS; 4 hours per year to maintain a VMS; 5 seconds for an automated position report; and 12 minutes to fax a check-in report; and 12 minutes to fax a reimbursement form.

Needs and Uses:

As required in the reasonable and prudent measures in the Endangered Species Act, Section 7 biological opinion on the effects of the Bering Sea and Aleutian Islands pollock, Atka mackerel, and Pacific cod fisheries on the endangered Steller sea lions, NMFS has implemented changes to information collected from fishery participants. Any vessel that is registered for directed fishing for Pacific cod, pollock, and Atka mackerel in the exclusive economic zone off Alaska must install a vessel monitoring system (VMS) unit and operate the VMS while directed fishing for each of the species. The VMS unit automatically transmits location information every 20 minutes. NOAA uses the information for determining vessel locations and enforcing the closure of areas of critical habitat. Participants must also fax NOAA a check-in report when a VMS unit has been installed. Participants may request reimbursement for the cost of the VMS transmitter.*Affected Public*: Business or other for-profit organizations.

Frequency: On occasion, every 20 minutes.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 29, 2002.

Gwellnar Banks,
Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–13957 Filed 6–3–02; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 053002B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Coastal Ocean Program Grants Proposal Application Package.

Form Number(s): None.

OMB Approval Number: 0648–0384.

Type of Request: Regular submission.

Burden Hours: 1,100.

Number of Respondents: 300.

Average Hours Per Response: 30 minutes for a budget form; 30 minutes for a project summary; 5 hours for an annual report; 10 hours for a final report; and 10 minutes to provide the extra copies required.

Needs and Uses: The Coastal Ocean Program (COP) provides direct financial assistance for the management of coastal ecosystems. Applicants for assistance are required to provide information in addition to the Standard Forms and grant application information. These additional requirements include a COP summary proposal budget form and a COP project summary. Applicants may also be required to provide up to 20 copies of their proposals. Successful applicants must file annual progress reports and a project final report in accordance with COP formats.

Affected Public: Not-for-profit institutions, individuals or households, and state, local, or tribal government.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 29, 2002.

Gwellnar Banks
Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–13958 Filed 6–3–02; 8:45 am]
BILLING CODE 3510–JS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Ohio and Georgia Coastal Nonpoint Pollution Control Programs: Conditional Approvals, Final Findings Documents and Records of Decision

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce (NOAA) and Environmental Protection Agency (EPA).

ACTION: Notice of conditional approval of Coastal Nonpoint Pollution Control Programs and availability of Final Findings Documents and Records of Decision for Ohio and Georgia.

SUMMARY: Notice is hereby given of the conditional approval of the Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the Final Findings Documents and Records of Decision for Ohio and Georgia. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA) requires States and Territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs.

NOAA and EPA have approved, with conditions, the coastal nonpoint programs submitted by Ohio and Georgia. In order to receive final approval of their programs, Ohio and Georgia will need to meet the conditions within the associated timeframes as indicated in the Final Findings Documents.

DATES: The conditional approval of the coastal nonpoint pollution control programs for Ohio and Georgia is effective upon the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Copies of the Final Findings Documents and Records of Decision may be obtained upon request from:

John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East–West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155 extension 195, e-mail *john.king@noaa.gov*; or on the internet at: *http://www.ocrm.nos.noaa.gov/czm/6217/*.

FOR FURTHER INFORMATION CONTACT: Chris Rilling, NOAA, 301–713–3155 (x198); or Stacie Craddock, EPA, 202–566–1204.

SUPPLEMENTARY INFORMATION: NOAA and EPA have prepared a Findings Document for each coastal nonpoint program submitted for approval. The Findings Documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to apporove each State and Territory coastal nonpoint program. Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact prepared for the coastal nonpoint programs submitted by Ohio and Georgia were made available for public comment in the **Federal Register** on September 28, 2001 (66 FR 49643). No public comments were received on the programs.

In accordance with the National Environmental Policy Act (NEPA), NOAA has also prepared a Record of Decision on each program. The Record of Decision: (1) States what the decision was; (2) identifies all alternatives considered, specifying the alternative considered to be environmentally preferable; and (3) states whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

In March 1996, NOAA published a programmatic environmental impact statement (PEIS) that assessed the environmental impacts associated with the approval of State and Territory coastal nonpoint programs. The PEIS forms the basis for the environmental assessments NOAA has prepared for each State and Territorial coastal nonpoint program submitted to NOAA and EPA for approval. In the PEIS, NOAA determined that the approval and conditional approval of coastal nonpoint programs will not result in any significant adverse environmental impacts and that these actions will have an overall beneficial effect on the environment. Because the PEIS served only as a "framework for decision" on individual State and Territorial coastal nonpoint programs, and no actual decision was made following its publication, NOAA has prepared a NEPA Record of Decision on each individual State and Territorial program submitted for review.

Dated: May 28, 2002.

Margaret A. Davidson,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Diane C. Regas,

Acting Assistant Administrator for Office of Water, Environmental Protection Agency.

[FR Doc. 02–13911 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052902D]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Ad Hoc Red Snapper Advisory Panel (AP) from June 17–19, 2002.

DATES: The Council's Ad Hoc Red Snapper AP will convene at 8:30 a.m. (CST) on Monday, June 17, 2002 and conclude by 5 p.m. on Wednesday, June 19, 2002.

ADDRESSES: The meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, FL; telephone: 813–877–6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The AP will convene to discuss the issues related to and continue the development of an individual fishing quota (IFQ) profile for the commercial red snapper fishery. The profile will examine the benefits and consequences of using IFQs to manage the commercial red snapper fishery. When the profile is completed by the AP and Council, it will be submitted to the current participants in the fishery for a referendum to determine if the majority of the participants favor management by IFQs.

The AP members consist of commercial fishermen holding Class 1 or Class 2 commercial red snapper licenses, and licensed commercial reef fish dealers. They are assisted by 4 non-voting members with expertise in fishery economics, fishery biology, environmental science, and law enforcement. The completion of the profile will require several subsequent meetings of this AP.

Although other non-emergency issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act (Magnuson-Stevens Act), provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 10, 2002.

Dated: May 30, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13954 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052902E]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Shrimp Stock Assessment Panel (SSAP) from June 17–19, 2002.

DATES: The Council's SSAP will convene at 1:30 p.m. (CST) on Monday, June 17, 2002 and conclude by 3 p.m. on Wednesday, June 19, 2002.

ADDRESSES: The meeting will be held at the New Orleans Airport Hilton Hotel, 109 Airline Highway, Kenner,LA; telephone: 504–469–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Council will convene its SSAP to review an Options Paper for Amendment 13 to the Shrimp Fishery Management Plan (FMP) that contains alternatives for defining maximum sustainable yield (MSY), optimum yield (OY), overfishing and the overfished condition for shrimp stocks in the Gulf of Mexico. The SSAP may also consider these parameters for rock shrimp that are currently not part of the management unit of the Shrimp FMP; however, the Council will be considering adding this stock to the Shrimp FMP. Finally, the SSAP may consider a bycatch quota for the shrimp fishery and what impacts it may have on shrimp and bycatch stocks, particularly red snapper.

Although other non-emergency issues not on the agenda may come before the SSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the SSAP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 10, 2002.

Dated: May 30, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13955 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052302C]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee in June, 2002. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held on Wednesday, June 19, 2002, at 9:30 a.m. and on Thursday, June 20 at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The committee will consider methods for minimizing the effects of monkfish fishing on essential fish habitat. The agenda will include discussion of other Monkfish Amendment 2 issues, possible discussions of Scallop Amendment 10 and Groundfish Amendment 13 issues as they relate to essential fish habitat. The committee will also discuss modeling efforts for potential closed areas or areas of focus. There will be a presentation of the proposed Nova Scotia to New York City pipeline project by the project consultant.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice, that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 29, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13951 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052302D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Recreational Advisory Panel in June, 2002. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Tuesday, June 18, 2002 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Advisory Panel will develop recommendations for the Council with respect to the general strategy and overall policy issues facing recreational (including party/charter) fishermen in fisheries managed by the New England Fishery Management Council. The Panel will also discuss the ongoing development of Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP), and may develop preliminary recommendations for recreational management measures. They will consider these suggested measures and will develop recommendations that will be reviewed by the Council at a later date. After Council approval, the measures will be

analyzed and included in a Draft Supplemental Environmental Impact Statement (DSEIS).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 24, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13952 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052902C]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet June 16-21, 2002. The Council meeting will begin on Tuesday, June 18, at 8 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 9:30 a.m. on Tuesday, June 18 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings and hearing will be held at the Crowne Plaza Hotel, 1221 Chess Drive, Foster City, CA 94404; telephone: 650–570–5700.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97266.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: 503–820–2280 (as of May 15, 2002).

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks, Introductions,
2. Roll Call
3. Executive Director's Report
4. Approve Agenda
5. Approve March and April 2002 Meeting Minutes

B. Administrative Matters

1. Appointments to Advisory Bodies
2. Council Staff Work Load Priorities
3. September 2002 Council Meeting Draft Agenda

C. Groundfish Management

1. NMFS Report on Groundfish Management
2. Stock Assessments for Bocaccio, Canary Rockfish, and Sablefish
3. Rebuilding Analyses for Bocaccio, Canary Rockfish, Yelloweye Rockfish, Widow Rockfish, and Whiting
4. Preliminary Harvest Levels and Other Specifications for 2003
5. Adoption of Draft Rebuilding Plans for Public Review for Pacific Ocean Perch, Lingcod, Cowcod, Widow Rockfish, and Darkblotched Rockfish
6. Fishery Management Plan (FMP) Programmatic Environmental Impact Statement
7. Draft Amendment 17 (Multi-Year) Management
8. Proposed Management Measures for 2003
9. Status of Fisheries and Inseason Adjustments
10. Groundfish Stock Assessment Priorities for 2003
11. Scoping for Delegation of Nearshore Management Authority

D. Highly Migratory Species Management

1. NMFS Report on Highly Migratory Species (HMS) Management
2. HMS Draft FMP Development

E. Habitat Issues

Essential Fish Habitat Issues

F. Marine Reserves

1. Review of Proposal for Marine Reserves in State Waters of the Channel Islands National Marine Sanctuary
2. Update on Other Marine Reserves Processes

G. Coastal Pelagic Species Management

1. NMFS Report on Coastal Pelagic Species (CPS) Management
2. Amendment 10 to the CPS FMP
3. Pacific Mackerel Stock Assessment and Harvest Guideline

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, June 16, 2002	
Groundfish Advisory Subpanel	1 p.m.
Groundfish Management Team	1 p.m.
Scientific and Statistical Committee	1 p.m.
MONDAY, June 17, 2002	
Council Secretariat	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Habitat Committee	8 a.m.
Scientific and Statistical Committee	8 a.m.
Legislative Committee	10 a.m.
Budget Committee	1 p.m.
TUESDAY, June 18, 2002	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Habitat Committee	8 a.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

Highly Migratory Species Advisory Subpanel	8 a.m.
Scientific and Statistical	8 a.m.
Enforcement Consultants	Immediately following Council Session
WEDNESDAY, June 19, 2002	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Coastal Pelagic Species Advisory Subpanel	10 a.m.
Advisory Subpanel Enforcement Consultants	As necessary
THURSDAY, June 20, 2002	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Coastal Pelagic Species Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Enforcement Consultants	As necessary
FRIDAY, June 21, 2002	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Management Team	8 a.m.
Enforcement Consultants	As necessary

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 30, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–13953 Filed 6–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–28]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–28 with attached transmittal, policy justification, and Sensitivity of Technology.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

17 MAY 2002
In reply refer to:
I-02/005888

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-28, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $155 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-28

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$136 million
Other	$ 19 million
TOTAL	$155 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: upgrade of six (6) CH-47C CHINOOK helicopters to the newer CH-47D configuration, spare and repair parts, support equipment, publications and technical data, communications equipment, maintenance, personnel training and training equipment, U.S. Government Quality Assurance Team, contractor representatives, contractor engineering and technical support services, preparation of aircraft for shipment, and other related elements of logistics support

(iv) Military Department: Army (UUW)

(v) Prior Related Cases, if any:
FMS case JBK - $113 million - 22Jan98
FMS case JBN - $114 million - 01Dec99

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.

(viii) Date Report Delivered to Congress: 17 MAY 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - Upgrade of CH-47C to CH-47D CHINOOK Helicopters

The Government of Egypt has requested a possible upgrade of six CH-47C CHINOOK helicopters to the newer CH-47D configuration, spare and repair parts, support equipment, publications and technical data, communications equipment, maintenance, personnel training and training equipment, U.S. Government Quality Assurance Team, contractor representatives, contractor engineering and technical support services, preparation of aircraft for shipment, and other related elements of logistics support. The estimated cost is $155 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The Egyptian Armed Forces will use these helicopters for troop transport and logistics support. They may also be deployed in future joint exercises with the United States such as Operation Bright Star.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be The Boeing Company of Philadelphia, Pennsylvania. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require a U.S. contractor representative for up to two years and four additional U.S. contractor representatives for one week when the aircraft arrives. Up to eight U.S. Government Quality Assurance personnel will be required for one week following delivery of the helicopters in Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-28

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The CH-47 CHINOOK Helicopter includes the following classified or sensitive components:

a. Radar Warning Receiver AN/APR-39A(V)3 - provides warning of a radar directed air defense threat to permit appropriate countermeasures. It is programmed with threat data provided by the purchasing country. Hardware is classified Confidential. Technical manuals for the maintenance levels are classified Confidential. Reverse engineering is not a major concern.

b. Laser Detecting Set AN/AVR-2A - is a passive laser warning system which receives, processes and displays threat information results from other aircraft illuminators, laser range finders or laser guided weapons. Hardware is classified Confidential. Reverse engineering is not a major concern.

c. Missile Approach Detector AN/ALQ-156(V)1 - is an airborne radar system, which provides infrared homing protection to the aircraft by detecting the approach of an anti-aircraft missile. Hardware is classified Confidential. Reverse engineering is not a major concern.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02–13895 Filed 6–3–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

National Imagery and Mapping Agency

Privacy Act of 1974; System of Records

AGENCY: National Imagery and Mapping Agency, DoD.

ACTION: Notice to delete and alter a system of records.

SUMMARY: The National Imagery and Mapping Agency (NIMA) is deleting one notice and altering another system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

The alteration consolidates two existing NIMA systems of records into one system (B0210–07, entitled "Inspector General Investigative and Complaint Files") and proposes to exempt B0210–07 by adding a (k)(2) and (k)(5) exemption. The exemptions will increase the value of the system of records for law enforcement purposes, and will protect the privacy of individuals identified in the system of records.

DATES: This proposed action will be effective without further notice on July 5, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be sent to the National Imagery and Mapping Agency, Office of General Counsel, 4600 Sangamore Avenue, Bethesda, MD 20816–5003.

FOR FURTHER INFORMATION CONTACT: Ms. Christine May on (301) 227–4142.

SUPPLEMENTARY INFORMATION: The National Imagery and Mapping Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 23, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion

B0210–06

SYSTEM NAME:

Inspector General Investigative Files (February 22, 1993, 58 FR 10189).

Reason: These records have been consolidated into the NIMA system of records B0210–07, entitled "Inspector General Investigative and Complaint Files".

Alteration

B0210–07

SYSTEM NAME:

Inspector General Complaint Files (February 22, 1993, 58 FR 10189).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Inspector General Investigative and Complaint Files'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Any individual who has registered a complaint, allegation or query with the NIMA Inspector General (IG) or is the subject of a NIMA IG investigation.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Investigative/complaint files, inquiries or investigative reports pertaining to complaints, allegations of fraud, waste, abuse, mismanagement, malfeasance, or reprisal as procedures pertaining to NIMA personnel, procedures, policies or programs. Files may contain Reports of Investigation, sworn testimony, letters, memorandums and working papers regarding developed or obtained as a result of investigation or complaint wherein someone has made allegations of violations involving fraud, waste, abuse, mismanagement, reprisal, denial of due process pertaining to NIMA personnel, programs, policies and/or procedures developed or obtained as a result of the investigation or complaint.

Letters/transcriptions of complaints, allegations and queries; letters of appointment; reports of reviews, inquiries and investigations with supporting attachments, exhibits and photographs; record of interviews; witness statements; reports of legal review of case files, congressional responses; memoranda; letters and reports of findings and actions taken; letters to complainants and subjects of investigations; letters of rebuttal from subjects of investigations; finance; personnel; administration; adverse information, and technical reports.'

PURPOSE(S):

Delete entry and replace with 'To analyze and evaluate the effectiveness and efficiency of NIMA policies, programs, procedures, activities and operations; to detect and prevent fraud, waste and abuse; to resolve complaints and inquiries; to initiate proper corrective action if the allegation is proven to be true in fact; to be used as basis for corrective actions.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'By individual's last name and Social Security Number.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Disposition pending (until NARA has approved the retention and disposition schedule for these records, treat as permanent).'

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with 'Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 320. For additional information contact the system manager.'

* * * * *

B0210–07

SYSTEM NAME:

Inspector General Investigative and Complaint Files.

SYSTEM LOCATION:

National Imagery and Mapping Agency, Office of the Inspector General, 4600 Sangamore Road, IG (D–34), Bethesda, MD 20816–5003.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who has registered a complaint, allegation or query with the NIMA Inspector General (IG) or is the subject of a NIMA IG investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative/complaint files, inquiries or investigative reports pertaining to complaints, allegations of fraud, waste, abuse, mismanagement, malfeasance, or reprisal as procedures pertaining to NIMA personnel, procedures, policies or programs. Files may contain Reports of Investigation, sworn testimony, letters, memorandums and working papers regarding developed or obtained as a result of investigation or complaint wherein someone has made allegations of violations involving fraud, waste, abuse, mismanagement, reprisal, denial of due process pertaining to NIMA personnel, programs, policies and/or procedures developed or obtained as a result of the investigation or complaint.

Letters/transcriptions of complaints, allegations and queries; letters of appointment; reports of reviews, inquiries and investigations with supporting attachments, exhibits and photographs; record of interviews; witness statements; reports of legal review of case files, congressional responses; memoranda; letters and reports of findings and actions taken; letters to complainants and subjects of investigations; letters of rebuttal from subjects of investigations; finance; personnel; administration; adverse information, and technical reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD Directive 5105.60, National Imagery and Mapping Agency; NIMA Policy Directive 7400.1R1, Oversight and Assessment; NIMA Instruction 7410.8R1, Inspector General Investigations and Complaints; and E.O. 9397 (SSN).

PURPOSE(S):

To analyze and evaluate the effectiveness and efficiency of NIMA policies, programs, procedures, activities and operations; to detect and prevent fraud, waste and abuse; to resolve complaints and inquiries; to initiate proper corrective action if the allegation is proven to be true in fact; to be used as basis for corrective actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and on electronic media.

RETRIEVABILITY:

By individual's last name and Social Security Number.

SAFEGUARDS:

Paper records are stored in file folders and secured in cabinets located in the Inspector General records vault. The electronic files are maintained on a secure server. Access is limited to the Inspector General and investigative staff assigned to the Inspector General's office, requiring restricted user name and password access.

RETENTION AND DISPOSAL:

Disposition pending (until NARA has approved the retention and disposition schedule for these records, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General, Policy, Oversight and Investigations, National Imagery and Mapping Agency, Office of Inspector General, 4600 Sangamore Road, IG (D–34), Bethesda, MD 20816–5003.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves contained in this system of records should address written inquiries to National Imagery and Mapping Agency, Office of General Counsel, 4600 Sangamore Road, Mailstop D–10, Bethesda, MD 20816–5003.

Written requests for information should contain the full name of the individual, Social Security Number, current address and home telephone number, office code (if available), and investigative case file number (if known).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to National Imagery and Mapping Agency, Office of General Counsel, 4600 Sangamore Road, Mailstop D–10, Bethesda, MD 20816–5003.

Written requests for information should contain the full name of the individual, Social Security Number, current address and home telephone number, office code (if available), and investigative case file number (if known).

CONTESTING RECORD PROCEDURES:

NIMA's rules for accessing records and for contesting contents and appealing initial agency determinations are published in NIMA Instruction 5500.7R1; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Source of Inspector General Investigation and Complaint files are letters, memorandums or documents received by NIMA Inspector General staff from military, civilian, or other sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. **Note:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 320. For additional information contact the system manager.

[FR Doc. 02–13897 Filed 6–3–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Draft Deputy Secretary of Defense Policy Memorandum, Subject: Ensuring the Quality of Information Disseminated by the Department of Defense

AGENCY: Assistant Secretary of Defense for Command, Control, Communication, and Intelligence, DoD.

ACTION: Notice of availability; extension of comment period.

SUMMARY: On Tuesday, April 30, 2002, the Department of Defense published in the **Federal Register** (67 FR 21229) a notice of availability on its draft policies for ensuring the quality of information disseminated by the Department of Defense. The draft Policy Memorandum is available on the Assistant Secretary of Defense for Command, Control, and Communications, and Intelligence (ASD(C3I)) public Web site located at *http://www.c3i.osd.mil/org/cio/index.html*. That notice provided a public comment period ending May 30, 2002. This notice is being published to announce the extension of the public comment period until July 1, 2002.

DATES: Consideration will be give to all comments received on or before July 1, 2002.

ADDRESSES: Submit comments to Ellen Law, OASD(C3I), Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence/Chief Information Officer,

6000 Defense Pentagon, Washington, DC 20301–6000.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Law, OASD(C3I), 703–602–0980 Ext. 121, *Ellen.law@osd.mil.*

Dated: May 31, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–14024 Filed 5–31–02; 11:48 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Commitee is publishing Civilian Personnel Per Diem Bulletin Number 224. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 224 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 1, 2002.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 223. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 224 UPDATES RATES FOR FOOTLOOSE, KOTZEBUE, HOMER AND UMIAT ALASKA; AND HAWAII.				
ALASKA				
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	161	85	246	05/01/2002
09/16 - 04/30	85	77	162	05/01/2002
BARROW	159	95	254	05/01/2002
BETHEL	129	66	195	05/01/2002
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER	99	63	162	05/01/2002
CORDOVA	105	89	194	05/01/2002
CRAIG	75	57	132	05/01/2002
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	79	58	137	05/01/2002
DENALI NATIONAL PARK				
06/01 - 08/31	125	66	191	09/01/2001
09/01 - 05/31	90	63	153	09/01/2001
DILLINGHAM	95	69	164	05/01/2002
DUTCH HARBOR-UNALASKA	120	78	198	05/01/2002
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	149	78	227	05/01/2002
09/16 - 04/30	75	70	145	05/01/2002
ELMENDORF AFB				
05/01 - 09/15	161	85	246	05/01/2002
09/16 - 04/30	85	77	162	05/01/2002
FAIRBANKS				
05/01 - 09/15	149	78	227	05/01/2002
09/16 - 04/30	75	70	145	05/01/2002
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	79	58	137	05/01/2002
FT. RICHARDSON				
05/01 - 09/15	161	85	246	05/01/2002
09/16 - 04/30	85	77	162	05/01/2002
FT. WAINWRIGHT				
05/01 - 09/15	149	78	227	05/01/2002
09/16 - 04/30	75	70	145	05/01/2002
GLENNALLEN				
05/01 - 09/30	137	61	198	09/01/2001
10/01 - 04/30	89	56	145	09/01/2001
HEALY				
06/01 - 08/31	125	66	191	09/01/2001
09/01 - 05/31	90	63	153	09/01/2001
HOMER				
05/15 - 09/15	109	76	185	06/01/2002
09/16 - 05/14	76	72	148	06/01/2002
JUNEAU	119	83	202	05/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
04/01 - 10/31	95	76	171	05/01/2002
11/01 - 03/31	60	71	131	05/01/2002
KENNICOTT	159	77	236	05/01/2002
KETCHIKAN				
05/01 - 09/30	130	80	210	05/01/2002
10/01 - 04/30	100	80	180	05/01/2002
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	75	57	132	05/01/2002
KODIAK	105	81	186	05/01/2002
KOTZEBUE				
05/01 - 08/31	167	99	266	06/01/2002
09/01 - 04/30	136	96	232	06/01/2002
KULIS AGS				
05/01 - 09/15	161	85	246	05/01/2002
09/16 - 04/30	85	77	162	05/01/2002
MCCARTHY	159	77	236	05/01/2002
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	149	78	227	05/01/2002
09/16 - 04/30	75	70	145	05/01/2002
NOME	89	64	153	09/01/2001
NUIQSUT	180	53	233	05/01/2002
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/31 - 09/30	179	58	237	05/01/2002
10/01 - 05/30	79	53	132	05/01/2002
SITKA-MT. EDGECUMBE				
05/16 - 09/16	159	98	257	05/01/2002
09/17 - 05/15	139	97	236	05/01/2002
SKAGWAY				
05/01 - 09/30	130	80	210	05/01/2002
10/01 - 04/30	100	80	180	05/01/2002
SPRUCE CAPE	105	81	186	05/01/2002
TANANA	89	64	153	09/01/2001
UMIAT	200	20	220	05/01/2002
VALDEZ				
05/01 - 10/01	124	71	195	05/01/2002
10/02 - 04/30	69	66	135	05/01/2002
WAINWRIGHT	120	83	203	05/01/2002
WASILLA	95	60	155	01/01/2000

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
WRANGELL				
05/01 - 09/30	130	80	210	05/01/2002
10/01 - 04/30	100	80	180	05/01/2002
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	85	67	152	03/01/2000
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	69	204	11/01/2001
HAWAII				
CAMP H M SMITH	112	72	184	06/01/2002
EASTPAC NAVAL COMP TELE AREA	112	72	184	06/01/2002
FT. DERUSSEY	112	72	184	06/01/2002
FT. SHAFTER	112	72	184	06/01/2002
HICKAM AFB	112	72	184	06/01/2002
HONOLULU (INCL NAV & MC RES CTR)	112	72	184	06/01/2002
ISLE OF HAWAII: HILO	189	69	258	06/01/2002
ISLE OF HAWAII: OTHER	89	54	143	05/01/2000
ISLE OF KAUAI				
05/01 - 11/30	158	88	246	06/01/2002
12/01 - 04/30	203	93	296	06/01/2002
ISLE OF KURE	65	41	106	05/01/1999
ISLE OF MAUI	159	89	248	06/01/2002
ISLE OF OAHU	112	72	184	06/01/2002
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 - 11/30	158	88	246	06/01/2002
12/01 - 04/30	203	93	296	06/01/2002
KILAUEA MILITARY CAMP	189	69	258	06/01/2002
LUALUALEI NAVAL MAGAZINE	112	72	184	06/01/2002
MCB HAWAII	112	72	184	06/01/2002
NAS BARBERS POINT	112	72	184	06/01/2002
PEARL HARBOR [INCL ALL MILITARY]	112	72	184	06/01/2002
SCHOFIELD BARRACKS	112	72	184	06/01/2002
WHEELER ARMY AIRFIELD	112	72	184	06/01/2002
[OTHER]	72	61	133	01/01/2000
JOHNSTON ATOLL				
JOHNSTON ATOLL	0	14	14	05/01/2002
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	150	47	197	02/01/2000
NORTHERN MARIANA ISLANDS				
ROTA	149	72	221	04/01/2000
SAIPAN	150	88	238	11/01/2001
TINIAN	85	71	156	05/01/2002
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	93	72	165	01/01/2000
12/15 - 04/14	129	76	205	01/01/2000
ST. JOHN				
04/15 - 12/14	219	84	303	01/01/2000
12/15 - 04/14	382	100	482	01/01/2000
ST. THOMAS				
04/15 - 12/14	163	73	236	01/01/2000
12/15 - 04/14	288	86	374	01/01/2000
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

[FR Doc. 02–13894 Filed 6–4–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Air Force is proposing to add an exempt system of records to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The (k)(2) exemption is intended to increase the value of the system of records for law enforcement purposes.

DATES: This proposed action will be effective without further notice on July 5, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043 or DSN 329–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 23, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F051 AF JA I

SYSTEM NAME:

Commander Directed Inquiries.

SYSTEM LOCATION:

Commander Directed Inquiries are maintained at the installation where the Commander's office is located.

Information copies of a report are kept at the individual's organization and at other organizations which have an interest in a particular incident or problem involving that individual that is addressed in the report. Official Air Force mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who are subjects of reviews, inquiries, or investigations conducted under the inherent authority of a commander or director. All persons who are subjects of administrative command actions for which another system of records is not applicable.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commander-directed investigations; letters/transcriptions of complaints, allegations and queries; letters of appointment; reports of reviews, inquiries and investigations with supporting attachments, exhibits and photographs, record of interviews; witness statements; reports of legal review of case files, congressional responses; memoranda; letters and reports of findings and actions taken; letters to complainants and subjects of investigations; letters of rebuttal from subjects of investigations; finance, personnel; administration; adverse information, and technical reports; documentation of command action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 164, Commanders of Combatant Commands; Air Force Instruction 51–604, Appointment to and Assumption of Command; Inherent authority of commanders to investigate matters or incidents under their jurisdiction or command.

PURPOSE(S):

Used to ensure just, thorough, and timely resolution and response to complaints, allegations, or queries, and as a means of improving morale, welfare, good order, discipline, and efficiency of organizations, units, and personnel.

Portions of the inquiries or investigations may be used in evaluating an individual's overall performance and may be included in their military personnel records.

Documents received or prepared in anticipation of litigation are used by attorneys for the government to prepare for trials and hearings; to analyze evidence; to prepare for examination of witnesses; to prepare for argument before courts, magistrates, and investigating officers; and to advise commanders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To governmental boards or agencies or health care professional societies or organizations if such record or document is needed to perform licensing or professional standards monitoring related to credentialed health care practitioners or licensed non-credentialed health care personnel who are or were members of the United States Air Force, and to medical institutions or organizations wherein such member has applied for or been granted authority or employment to provide health care services if such record or document is needed to assess the professional qualifications of such member.

To certifying and licensing bodies for professional certifications and accreditations not related to health care.

The DoD "Blanket Routine Uses" set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers, and on computer output and storage products.

RETRIEVABILITY:

Retrieved by subject's name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared based upon a need to know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Disposition pending (no records will be destroyed until authorized by the

National Archives and Records Administration).

SYSTEM MANAGER(S) AND ADDRESS:

The Commander who initiated an investigation or that Commander's successor in command, at that Commander's installation office. Official Air Force mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander who initiated the investigation, or that Commander's successor, at the Commander's installation office.

Individual should provide their full name, mailing address, and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address request to the Commander who initiated the investigation, or that Commander's successor in command, at the Commander's installation office.

Individual should provide their full name, mailing address, and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Complainants, subjects, investigations, witnesses, official records, third parties, and Members of Congress. Information from almost any source can be included if it is relevant and material to the investigation, inquiry, or subsequent command action.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source. **Note:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 02–13899 Filed 6–3–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Logistics Agency proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 5, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 23, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.60 DMDC

SYSTEM NAME:

Archival Purchase Card File.

SYSTEM LOCATION:

Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD military members and civilian purchasing agents who have been issued purchase cards for the procurement of supplies, equipment, and services for official business; all DoD military members and civilian personnel who were granted approving authorization.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes cardholder name, purchase card account number, billing address, work telephone number, and merchant data; approving official name, account number, work telephone number and work address; and account processing and management information, including purchase card transactions, purchase and credit limitations, and card cancellation status indictor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; and 10 U.S.C. 2784, Management of Credit Cards.

PURPOSE(S):

The purpose of the system of records is to provide a single central file of credit purchases within the Department of Defense to assess historical purchase card data.

For card recovery purposes, the system is used to identify former cardholders who failed to properly turn in cards. Data from the system is also provided to the Defense Finance and Accounting Service for reporting purchase card transactions to appropriate authorities. Statistical data is used by management for planning, evaluation, and program administration purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records

or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks.

RETRIEVABILITY:

Retrieved by name or purchase card account number.

SAFEGUARDS:

Access to personal information is restricted to those who require access to the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords that are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures. Employees are warned through screen log-on protocols and periodic briefings of the consequences of improper access or use.

RETENTION AND DISPOSAL:

Records are deleted 6 years and 3 months after final payment or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–CF, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name used on the account and the account number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–CF, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name used on the account and the account number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The military services, the Defense components, financial institutions, merchants, and cardholders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–13896 Filed 6–3–02; 8:45 am]

BILLING CODE 3820–08–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.351C]

Professional Development for Music Educators

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

Purpose of Program: The Professional Development for Music Educators program, authorized under Subpart 15 of Part D of Title V of the Elementary and Secondary Education Act (ESEA), as amended by Public Law 107–110, the No Child Left Behind Act of 2001, makes grants to eligible entities for the implementation of high-quality professional development programs in elementary and secondary education. This program will fund professional development model programs based upon innovative instructional methods, especially those linked to scientifically based research.

Eligible Applicants: A local educational agency (LEA), acting on behalf of an individual school or schools where 75 percent or more of the children are from low-income families, based on the poverty criteria described in Title I, Section 1113(a)(5) of the ESEA, in collaboration with at least one of the following: (1) An institution of higher education; (2) a State educational agency; or (3) a public or private non-profit agency with a history of providing high-quality professional development services to public schools. Only schools where 75 percent or more of the children served are from low-income families may receive services under this program. Each school served through this program must submit evidence that it meets the poverty criteria. Applicants may submit records kept for the purpose of Title I of the ESEA that demonstrate proof of eligibility for each school to be served.

Note: The LEA must serve as the fiscal agent for the program.

Applications Available: June 4, 2002.

Deadline for Transmittal of Applications: July 19, 2002.

Deadline for Intergovernmental Review: September 17, 2002.

Available Funds: approximately $2,000,000.

Estimated Number of Awards: 5–10.

Estimated Size of Awards: $200,000–$400,000.

Average size of Awards: $300,000.

Note: The Department is not bound by any estimates in this notice. Funding for the second and third years is subject to the availability of funds and the approval of continuation awards (34 CFR 75.253).

Project Period: up to 36 months.

General Requirements:

Page Limit Requirement: The program narrative is limited to no more than 40 pages. The page limit applies to the narrative section only, however, all of the application narrative must be included in the narrative section. If the narrative section of an application exceeds the page limitation, the application will not be reviewed. In addition, the following standards are required: (1) Each "page" is 8.5" x 11" (on one side only) with one inch margins (top, bottom, and sides); (2) double space (no more than three lines per vertical inch) all text in the application narrative including titles, headings, footnotes, quotations, and captions as well as all text in charts, tables, figures, and graphs; and (3) use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

Project Directors Meeting: Applicants are encouraged to budget for a two-day project directors meeting in Washington, DC.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99.

E-Mail Notification of Intent To Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department by e-mail that it intends to submit an application for funding. The Secretary requests that this e-mail

notification be sent no later than July 5, 2002. The e-mail notification should be sent to Ms. Madeline Baggett at *madeline.baggett@ed.gov*. Applicants that fail to provide this e-mail notification may still apply for funding.

Program Purposes and Goals: This program supports the strengthening of standards-based music education programs, which are an integral part of elementary and secondary school curriculums. It also helps ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the arts. Professional development activities that are developed, enhanced, or expanded through this program will assist music teachers in the implementation of music education standards as well as the integration of music instruction into other subject areas.

Music content and achievement standards have been voluntarily adopted in many States throughout the country. Such standards help school districts to establish student performance standards based upon the unique needs of, and desired outcomes for, the students in their communities. The development and implementation of standards-based music programs enable music educators to assess and document the effectiveness of teaching strategies and materials in addition to student achievement. However, teachers often need professional development on how to implement music education standards for both music programs and programs designed to integrate music into other subject areas.

High-quality professional development programs supported under this program should be linked to the implementation of music standards and/or the integration of music into other content areas and should include: (1) Strategies for addressing student achievement; (2) strategies for increasing the needs of students who come from diverse cultural, linguistic, and socioeconomic backgrounds; (3) the development of intellectual and leadership potential of teachers; (4) rigorous and sustained activities that result in increased content area knowledge and classroom effectiveness of music teachers; (5) technological innovations relevant to music instruction; and (6) increased opportunities for teachers to share and discuss new methods or teaching strategies with their peers.

At the end of the project period, EDGAR (34 CFR 75.590) requires each grantee to submit a final program report. The Department intends to use information from the final report to determine which professional development programs have the greatest potential for improving teacher expertise in music education, and ultimately student performance in, music education. The Department plans to disseminate information regarding successful teaching methods or best practices that are developed or . enhanced through this program to the music education community and to the public in general.

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt rules governing the first competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). This competition is the first Music Educators program competition under the reauthorized Arts in Education program as amended by Public Law 107–110, the No Child Left Behind Act of 2001, and therefore qualifies for this exemption. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards. These rules will apply to the FY 2002 grant competition only.

Coordination Requirement: Under section 5551(f)(1) of the ESEA, the Secretary requires that each entity funded under this competition coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

Supplement, Not Supplant, Requirement: Under section 5551(f)(2) of the authoring statute, the Secretary requires that assistance provided under this program be used only to supplement, and not to supplant, other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

Absolute Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute priority to professional development programs designed for K–12 music teachers that focus on: (1) The development, enhancement, or expansion of standards-based music education programs; or (2) the integration of music instruction into other subject area content. Funded projects will address and strive to achieve all aspects of high-quality professional development programs as described under the Program Purposes and Goals section.

Under 34 CFR 75.105(c)(3), the Secretary will fund under this competition only applicants that meet the absolute priority.

Selection Criteria: The Secretary will use the following selection criteria in 34 CFR 75.210 to evaluate applications under this competition. The maximum score for each criterion is 100 points. The maximum score for each criterion is indicated in parenthesis with the criterion. The criteria are as follows:

(a) *Significance.* (15 points) The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project involves the development of promising new strategies that build on, or are alternatives to, existing strategies.

(ii) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(iii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of the Project Design.* (20 points) The Secretary considers the quality of the project design of the proposed project. In determining the quality of the project design, the Secretary considers the following factors:

(i) The extent to which the proposed project represents an exceptional approach for meeting the priority established for the competition.

(ii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(iii) The quality of the methodology to be employed in the proposed project.

(c) *Quality of Project Services.* (20 points) The Secretary considers the quality of project services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practices.

(ii) The extent to which the professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(d) *Quality of Project Personnel.* (10 points) The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been under-represented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director;

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(e) *Adequacy of Resources.* (10 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the lead applicant organization.

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(iii) The potential for incorporation of project purposes, activities or benefits into the ongoing program of the agencies or organizations involved in the project at the end of Federal funding.

(f) *Quality of the Management Plan.* (10 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring continuous feedback and continuous improvement in the operation of the proposed project.

(iii) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(g) *Quality of the Project Evaluation.* (15 points) The Secretary considers the quality of the project evaluation. In determining the quality of the project evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(ii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

For Applications or Information Contact: Madeline E. Baggett, U.S. Department of Education, 400 Maryland Avenue, SW, FB–6, Room 3E228, Washington, DC 20202–6140. Telephone (202) 260–2502. Internet address: *Madeline.Baggett@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format also by contacting that person. However, the Department is not able to reproduce in an alternative format the standards forms included in the application package.

Electronic Access to this Document: You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*. To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498, or in the Washington, DC area at 202–512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *Http://www.access.gpo.gov/nara/index.html*.

Program Authority: 20 U.S.C. 7271.

Dated: May 30, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13984 Filed 6–3–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Proposed Collection; Comment Request.

SUMMARY: The EIA is soliciting comments on the proposed revisions and three-year extension to the following Petroleum Supply Forms:

EIA–800, "Weekly Refinery Report,"
EIA–801, "Weekly Bulk Terminal Report,"
EIA–802, "Weekly Product Pipeline Report,"
EIA–803, "Weekly Crude Oil Stocks Report,"
EIA–804, "Weekly Imports Report,"
EIA–810, "Monthly Refinery Report,"
EIA–811, "Monthly Bulk Terminal Report,"
EIA–812, "Monthly Product Pipeline Report,"
EIA–813, "Monthly Crude Oil Report,"
EIA–814, "Monthly Imports Report,"
EIA–816, "Monthly Natural Gas Liquids Report,"
EIA–817, "Monthly Tanker and Barge Movement Report,"
EIA–819M, "Monthly Oxygenate Telephone Report," and
EIA–820, "Annual Refinery Report."

DATES: Comments must be filed by August 5, 2002. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Stefanie Palumbo, Petroleum Division. To ensure receipt of the comments by the due date, submission by FAX (202–586–5846) or e-mail (*stefanie.palumbo@eia.doe.gov*) is recommended. The mailing address is Petroleum Division, EI–42, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585. Alternatively, Stefanie Palumbo may be contacted by telephone at (202) 586–6866.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Stefanie Palumbo

at the address listed above. The proposed forms and changes in definitions and instructions are also available on the Internet at *http://www.eia.doe.gov/oil_gas/petroleum/survey_forms/pet_proposed_forms.html*

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 et seq.) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 et seq.) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

The weekly surveys (Forms EIA-800, EIA–801, EIA–802, EIA–803, and EIA–804) are designed to highlight information on petroleum refinery operations, inventory levels, and imports of selected petroleum products in a more timely manner. The information appears in the publications listed below and is also available electronically through the Internet at *http://www.eia.doe.gov/*.

Publications:

DOE/EIA–0208 Report	Weekly Petroleum Status
DOE/EIA–0109	Petroleum Supply Monthly
DOE/EIA–0035	Monthly Energy Review
DOE/EIA–0202	Short-Term Energy Outlook
DOE/EIA–0383	Annual Energy Outlook
Internet only	This Week in Petroleum

The monthly surveys (Forms EIA–810, EIA–811, EIA–812, EIA–813, EIA–814, EIA–816, EIA–817 and EIA–819M) are designed to provide statistically reliable and comprehensive information not available from other sources to EIA, other Federal agencies, and the private sector for use in forecasting, policy making, planning, and analysis activities. The information appears in the publications listed below and is also available electronically through the Internet at *http://www.eia.doe.gov/*.

Publications:

DOE/EIA–0208 Report	Weekly Petroleum Status
DOE/EIA–0109	Petroleum Supply Monthly
DOE/EIA–0340	Petroleum Supply Annual
DOE/EIA–0035	Monthly Energy Review
DOE/EIA–0384	Annual Energy Review
DOE/EIA–0202	Short-Term Energy Outlook
DOE/EIA–0383	Annual Energy Outlook

The annual survey (Form EIA–820) provides data on the operations of all operating and idle petroleum refineries (including new refineries under construction), blending plants, refineries shutdown with useable storage capacity, and refineries shutdown during the previous year. The information appears in the Petroleum Supply Annual (DOE/EIA–0340) and is also available electronically through the Internet at *http://www.eia.doe.gov/*.

II. Current Actions

The EIA will request a 3-year extension of the collection authority for each of the above-referenced surveys except for the Form EIA–807. The Form EIA–807 will be eliminated. Additionally, as a means of improving its petroleum supply surveys to reflect the changing regulations and industry, the EIA proposes the following changes for the 2003 and 2004 collection periods.

- 2003 Survey Changes
- Add product detail for Non-Fuel Propylene, Ethylene, and Refinery Butane
- Add Propane/Propylene to weekly surveys (eliminate EIA–807 survey)
- Collect RBOB (Reformulated Gasoline Blendstock for Oxygenate Blending) as a separate item under gasoline blending components
- Add a gasoline blending section to bulk terminal reports (Forms EIA–801 and EIA–811)
- Modify oxygenate survey EIA–819 to eliminate redundant inventory reporting and capture production of gasoline blending components
- Add a natural gas activity section to the natural gas liquids report EIA–816
- 2004 Survey Changes
- Add finished gasoline product detail
- Modify distillate fuel oil sulfur levels
- Collect product detail for unfinished oils input and production
- Modify reporting categories for hydrocracking and hydrotreating capacity
- Eliminate naphtha-type jet fuel as a separate product

Specific changes to each of the forms are outlined below:

2003 Changes Proposed by EIA

Change the title of the Form EIA–800 from "Weekly Refinery Report" to "Weekly Refinery and Fractionator Report."

Collect three additional products for Form EIA–800 (Weekly Refinery and Fractionator Report), Form EIA–802 (Weekly Product Pipeline Report), and Form EIA–804 (Weekly Imports Report).

- Propane/propylene,
- Reformulated (including RBOB) blending components, and
- All other motor gasoline blending components.

Collect four additional products in the bulk terminal stocks section (Section A) of Form EIA–801 (Weekly Bulk Terminal Report). The products are:

- Reformulated (including RBOB) blending components,
- All other motor gasoline blending components,
- Propane/propylene, and
- Propylene (nonfuel use).

Add a new section for gasoline blending (Section B) to the Form EIA–801 (Weekly Bulk Terminal Report). Data for inputs and/or production of the following products will be collected in the new gasoline blending section:

- Reformulated (including RBOB) blending components (inputs),
- All other motor gasoline blending components (inputs),
- Oxygenates, natural gas plant liquids, and liquefied refinery gases (inputs), and
- Finished motor gasoline in the categories:

—Reformulated (inputs and production),
—Oxygenated (inputs and production), and
—Other finished (inputs and production).

Collect three additional products for Form EIA–810 (Monthly Refinery Report), Form EIA–812 (Monthly Product Pipeline Report), and Form EIA–814 (Monthly Imports Report).

- All other oxygenates (methanol, TAME (tertiary amyl methyl ether), TBA (tertiary butyl alcohol), and other oxygenates),
- Reformulated (including RBOB) blending components, and
- All other motor gasoline blending components.

Collect six additional products in the bulk terminal stocks section (Section A) of Form EIA–811 (Monthly Bulk Terminal Report). The products are:

- Reformulated (including RBOB) blending components,
- All other motor gasoline blending components,
- Ethylene,
- Propylene (nonfuel use),
- Refinery-grade butane, and
- All other oxygenates (methanol, TAME, TBA, and other oxygenates).

Add a new section for gasoline blending (Section B) to the Form EIA–811. Data for inputs and/or production of the following products will be collected in the new gasoline blending section:

- Reformulated (including RBOB) blending components (inputs and production),
- All other motor gasoline blending components (inputs and production),
- Oxygenates (inputs) in the categories:

—Fuel Ethanol (FE),
—Ethyl Tertiary Butyl Ether (ETBE),
—Methyl Tertiary Butyl Ether (MTBE), and
—All other oxygenates (methanol, TAME, TBA, and other oxygenates).

- Natural gas plant liquids, and liquefied refinery gases (inputs) in the categories:

—Normal butane,
—Isobutane, and
—Pentanes plus.

- Finished motor gasoline (inputs and production) in the categories:

—Reformulated,
—Oxygenated, and
—Other finished.

Add a new section for natural gas activity (Part 2) to the Form EIA–816 (Monthly Natural Gas Liquids Report). Quantities of the following will be collected:

- Volume of natural gas received during the month,
- Volume of natural gas consumed as fuel at the facility for all purposes, and
- Volume of natural gas shipments during the month.

Collect two additional products for Form EIA–817 (Monthly Tanker and Barge Movement Report):

- Reformulated (including RBOB) blending components, and
- All other motor gasoline blending components.

Form EIA–819M (Monthly Oxygenate Telephone Report) modifications include:

- Change the number of the Form EIA–819M to Form EIA–819.
- Change filing and publication dates for monthly oxygenate data to match petroleum supply surveys (i.e., change filing date from 7 working days after the end of each report month to 20 calendar days after the end of each report month).
- Change the publication date from 15 working days after the end of each report month to approximately 52 days after the end of each report month.
- Eliminate reporting on Form EIA–819 by bulk terminal and pipeline operators. (This eliminates duplicate reporting of stocks on Form EIA–819 and Forms EIA–811 or Form EIA–812. The EIA–819 will survey merchant and captive oxygenate producers exclusively.)
- Discontinue reporting stocks at captive MTBE plants. This eliminates duplicate reporting of stocks on Form EIA–819 and Form EIA–810.
- Report production of motor gasoline blending components. (This change is needed to capture new gasoline blending components production from merchant MTBE plants that have converted to alkylation plants. Without this change the petroleum supply data system will undercount total gasoline supply.)
- Collect these new data elements:

—MTBE merchant plant production,
—MTBE captive plant production,
—All other oxygenates (methanol, TAME, TBA, and other oxygenates) production, and
—All other oxygenates (methanol, TAME, TBA, and other oxygenates) ending stocks.

Collect one new product for Form EIA–820 (Annual Refinery Report):

- other oxygenates (methanol, TAME, TBA, and other oxygenates)

There are no proposed changes to the Form EIA–803 (Weekly Crude Oil Stocks Report) or the Form EIA–813 (Monthly Crude Oil Report).

2004 Changes Proposed by EIA

Modify the product detail on the Forms EIA–800, EIA–801, EIA–802, EIA–804, EIA–810, EIA–811, EIA–812, EIA–814, and EIA–817 as follows:

Finished Motor Gasoline

- Reformulated (blended with ether)
- Reformulated (blended with alcohol)
- Reformulated (non-oxygenated)
- Oxygenated (blended with ether)
- Oxygenated (blended with alcohol)
- Conventional (blended with ether)
- Conventional (blended with alcohol)
- Conventional (non-oxygenated).

Motor Gasoline Blending Components

- Reformulated (including RBOB) for blending with ether
- Reformulated (including RBOB) for blending with alcohol
- Gasoline treated as blendstock (GTAB)
- All other motor gasoline blending components.

Distillate Fuel Oil

- 15 ppm sulfur and under
- Greater than 15 ppm sulfur to 50 ppm sulfur (inclusive)
- Greater than 50 ppm sulfur to 500 ppm sulfur (inclusive)
- Greater than 500 ppm sulfur to 2000 ppm sulfur (inclusive)
- Greater than 2000 ppm sulfur.

Naphtha-Type Jet Fuel

- Eliminate reporting of Naphtha-Type Jet Fuel on the Forms EIA–800, EIA–801, EIA–802, EIA–804, EIA–810, EIA–811, EIA–812, EIA–814, EIA–817, and EIA–820 as a separate product. Include it in miscellaneous products.

Form EIA–820 Changes

Add new categories for catalytic hydrocracking capacity by type of feed:

- Distillate
- Gas Oil
- Residual

Add new categories for catalytic hydrotreating capacity by product classification:

- Gasoline Desulfurization
- Kerosene and Jet Desulfurization
- Diesel Fuel Desulfurization
- Other Distillate
- Residual
- Other

Modify the product detail for distillate fuel storage capacity:

- 15 ppm sulfur and under
- Greater than 15 ppm sulfur to 50 ppm sulfur (inclusive)
- Greater than 50 ppm sulfur to 500 ppm sulfur (inclusive)
- Greater than 500 ppm sulfur to 2000 ppm sulfur (inclusive)

Greater than 2000 ppm sulfur.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. Please indicate to which form(s) your comments apply.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information to be collected?

B. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

C. Can the information be submitted by the due date?

D. Public reporting burdens for the forms are estimated to average:

With the 2003 Changes (hours per response)

EIA–800, "Weekly Refinery and Fractionator Report,"—1.38 hours
EIA–801, "Weekly Bulk Terminal Report,"—0.83 hours
EIA–802, "Weekly Product Pipeline Report,"—0.83 hours
EIA–803, "Weekly Crude Oil Stocks Report,"—0.50 hours
EIA–804, "Weekly Imports Report,"—1.38 hours
EIA–810, "Monthly Refinery Report,"—4.13 hours
EIA–811, "Monthly Bulk Terminal Report,"—1.93 hours
EIA–812, "Monthly Product Pipeline Report,"—2.48 hours
EIA–813, "Monthly Crude Oil Report,"—1.50 hours
EIA–814, "Monthly Imports Report,"—2.20 hours
EIA–816, "Monthly Natural Gas Liquids Report,"—0.83 hours
EIA–817, "Monthly Tanker and Barge Movement Report,"—1.93 hours
EIA–819, "Monthly Oxygenate Telephone Report,"—0.55 hours
EIA–820, "Annual Refinery Report"—2.00 hours

With the 2004 Changes (hours per response)

EIA–800, "Weekly Refinery and Fractionator Report,"—1.58 hours
EIA–801, "Weekly Bulk Terminal Report,"—0.95 hours
EIA–802, "Weekly Product Pipeline Report,"—0.95 hours
EIA–803, "Weekly Crude Oil Stocks Report,"—0.50 hours
EIA–804, "Weekly Imports Report,"—1.58 hours
EIA–810, "Monthly Refinery Report,"—4.74 hours
EIA–811, "Monthly Bulk Terminal Report,"—2.21 hours
EIA–812, "Monthly Product Pipeline Report,"—2.85 hours
EIA–813, "Monthly Crude Oil Report,"—1.50 hours
EIA–814, "Monthly Imports Report,"—2.53 hours
EIA–816, "Monthly Natural Gas Liquids Report,"—0.95 hours
EIA–817, "Monthly Tanker and Barge Movement Report,"—2.21 hours
EIA–819, "Monthly Oxygenate Telephone Report,"—0.63 hours
EIA–820, "Annual Refinery Report"—2.30 hours

The estimated burdens include the total time necessary to provide the requested information. In your opinion, how accurate are the estimates?

E. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

F. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

G. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

B. Is the information useful at the levels of detail to be collected?

C. For what purpose(s) would the information be used? Be specific.

D. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, May 29, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–13893 Filed 6–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–95–001, Docket No. ER02–1656–001]

San Diego Gas and Electric Company, Complainant v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents; California Independent System Operator Corporation; Notice Shortening Answer Period

May 29, 2002.

On May 21, 2002, the California Independent System Operator Corporation (ISO) filed an errata to its proposals for a Comprehensive Market Redesign originally filed on May 1, 2002. On May 24, 2002, the Commission issued a Notice of Filing that set the comment date as June 11, 2002 on Cal ISO's errata filing. By this notice, the period for filing answers to Cal ISO's errata is hereby shortened to and including June 4, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13913 Filed 5–31–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2699–001, 2019–017, & 11563–002—CA]

Northern California Power Agency; Utica Power Authority; Notice of Availability of Environmental Assessment

Issued: May 29, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the applications for licenses for the Angels Hydroelectric Project, Utica Hydroelectric Project, and the Upper Utica Project. Commission staff, with the U.S. Forest Service as a cooperating agency, has prepared an Environmental Assessment (EA) for the project. These projects are located on the North Fork Stanislaus River, Silver Creek, Mill Creek, and Angels Creek in Alpine, Calaveras, and Tuolumne Counties, California, partially within the Stanislaus National Forest.

The EA contains the our analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The DEA may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Any comments should be filed within 60 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix Project Nos. 2699–001, 2019–017, & 11563–002 to all comments. Comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

For further information, contact Timothy Welch at (202) 219–2666.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–13912 Filed 6–3–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7222–7]

Fuels and Fuel Additives: Removal of the Reformulated Gasoline Program From Seven Counties in Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Today's notice announces and describes EPA's earlier approval of Maine's petition to opt-out of the federal reformulated gasoline (RFG) program. EPA's regulations, promulgated under the Clean Air Act (the Act), establish the procedures and criteria for opting out of the RFG program. In accordance with these procedures and criteria, Maine's withdrawal from the RFG program became effective as of March 10, 1999. Therefore, as of March 10, 1999, EPA no longer requires federal RFG to be sold in the seven southern counties in Maine.

DATES: The effective date for removal of Androscoggin; Cumberland; Kennebec; Knox; Lincoln; Sagadahoc; and York Counties in the State of Maine from the federal RFG program is March 10, 1999.

ADDRESSES: Materials relevant to Maine's withdrawal from the federal RFG program may be found in Docket A–2001–32. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials are also available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

FOR FURTHER INFORMATION CONTACT: John Brophy, U.S. Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave., NW (Mail Code 6406J), Washington, DC 20460, (202) 564–9068, *e-mail: brophy.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Availability on the Internet

Copies of this final rule are available electronically from the EPA Internet Web site. This service is free of charge, except for your existing cost of Internet connectivity. An electronic version is made available on the day of publication on the primary Internet site listed below. The EPA Office of Transportation and Air Quality will also publish this final rule on the secondary Web site listed below. *http://www.epa.gov/docs/fedrgstr/EPA-AIR/* either select desired date or use Search feature) *http://www.epa.gov/otaq/* (look in What's New or under the specific rulemaking topic).

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Background

A. Opt-out Procedures

The process of withdrawing from the RFG program, pursuant to the regulatory provisions of 40 CFR 80.72 (the Opt-out Rule), does not require notice and comment rulemaking either under section 307(d) of the Act or under the Administrative Procedure Act. See 61 FR 35673 at 35675 (July 8, 1996). EPA established a petition process to allow case-by-case consideration of individual state requests to opt-out of the federal RFG program.[1] The Opt-out Rule establishes specific requirements regarding what information a State must submit in connection with an opt-out petition. These regulatory provisions also address when a state's petition is complete and the appropriate transition time for opting out. EPA has applied these criteria, and has approved Maine's petition for withdrawal from the RFG program, effective as of March 10, 1999.

The Opt-out Rule requires the Governor of the state to submit a petition to the Administrator requesting to withdraw from the RFG program, along with certain information necessary for EPA to grant the petition. Finally, if the Administrator approves the petition, the Opt-out Rule requires EPA to notify the state in writing, and set an effective date for the opt-out that is no less than 90 days from the date of the written notification. The Opt-out Rule also directs EPA to publish a notice in the **Federal Register** announcing the approval of any opt-out petition and the effective date for removal of the state from the RFG program.

B. Maine Opt-out of RFG

Maine had participated voluntarily in the federal RFG program since it began in January 1995. By letter dated May 21, 1998, the Governor of Maine announced the state's intent to opt-out, but requested that EPA not act on the petition until the state completed certain testing and made a decision about how it would replace the emission reductions that it was relying on from reformulated gasoline.

The Opt-out Rule required states with voluntary RFG programs to decide by December 31, 1997 whether they wanted to remain in the RFG program; otherwise, these procedures require them to stay in the program through 2003.[2] EPA did not receive any petitions by December 31, 1997. However, EPA's procedures allowed a state to request an extension to the December 31 deadline if the state had legislation pending to opt-out of the program. In a letter to EPA dated December 1, 1997, the Governor of Maine stated that the Maine legislature was considering such legislation. Thus, EPA granted Maine an

[1] Pursuant to authority under sections 211(c) and (k) and 301(a) of the Clean Air Act, EPA promulgated regulations to provide criteria and general procedures for states to opt-out of the RFG program where the state had previously voluntarily opted into the program. The regulations were initially adopted on July 8, 1996 (61 FR 35673); and were revised on October 20, 1997 (62 FR 54552).

[2] 40 CFR 80.72(c).

extension until May 31, 1998. By letter dated May 21, 1998, the Governor requested to withdraw from the RFG program, and met the deadline set by the Administrator. However, the Governor requested that EPA not act on the request until the state had finished certain testing.

At the time of the opt out request, Maine did not rely on RFG as an element of any State Implementation Plan (SIP) or SIP revision that had been approved by the EPA. However, Maine did rely on RFG in a SIP submission that was pending before the Agency. Therefore, EPA's opt-out regulations required the State to indicate whether it would revise its pending SIP submission, and, if so, to describe the air quality measures, if any, that the State would use to replace RFG.

The Governor's May 21, 1998 petition did not identify any replacement measures for the Volatile Organic Compounds (VOC) reductions benefits of the RFG program that the state relied upon in its pending 15% SIP. However, by letter dated October 13, 1998, the Governor requested that EPA approve the petition to opt-out of the RFG program and identified two possible state fuel alternatives to replace the VOC benefits associated with RFG. The letter also noted that Maine intended to initiate rulemaking to adopt an alternative fuel before the next ozone season. EPA responded by letter dated October 30, 1998, conditionally approving the opt-out request and setting an opt-out effective date of January 28, 1999, ninety days from the date of the conditional approval. EPA made the opt-out contingent on Maine and EPA agreeing on (1) identification of the replacement fuel measure or other measure which Maine would implement in order to provide VOC reductions equivalent to RFG, (2) a projected schedule for implementing the replacement measure, and (3) an explanation of how this action affects the state implementation plan. EPA stated that it may extend the opt-out effective date in order to allow EPA and Maine to reach agreement.

Maine scheduled a hearing for January 20, 1999 to consider the two alternative fuels proposals described in the October 13, 1998 letter. EPA offered comments on the two measures at this hearing and suggested another alternative that would provide the long-term VOC reductions that Maine needed to replace RFG. By letter dated January 22, 1999, EPA gave notice to the Governor that it had extended the effective date for Maine's withdrawal from the RFG program until March 10, 1999, in order to provide time for EPA and the state to reach agreement on the conditions of the opt-out. On February 24, 1999, Maine's Board of Environmental Protection adopted the measure suggested by EPA.[3] By letter dated March 5, 1999, EPA notified the Governor that all of the conditions of the opt-out had been satisfied, and that EPA would not extend the opt-out effective date any further.

II. Action

In today's notice, EPA is announcing that it has approved the petition submitted by the Governor of Maine to withdraw the Maine counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, and York from the RFG program. This notice is not itself a final agency action, but a public announcement of EPA's earlier approval of Maine's request to opt out of the RFG program. EPA's approval of Maine's petition was based on the May 21, 1998 and October 13, 1998 letters to the Administrator from the Governor of Maine, and on the regulatory provisions of 40 CFR 80.72. In accordance with the procedures set forth in § 80.72, the effective date for Maine's withdrawal is March 10, 1999. This opt-out effective date applies to retailers, wholesale purchaser-consumers, refiners, importers, and distributors. In a final rule published elsewhere in today's **Federal Register**, EPA is amending § 80.70(j)(5) of the RFG regulations to reflect that these seven counties in Maine are no longer covered areas in the federal RFG program.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–13978 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

[3] In a final rulemaking, EPA recently approved Maine's SIP revision request, including a state fuel control, which demonstrates how the State will achieve attainment in these seven counties without RFG (67 FR 10099, March 6, 2002). As described in EPA's approval of Maine's SIP, the revision Maine ultimately submitted to EPA includes a State fuel control that is different from, and less restrictive than, the one adopted by the State on February 24, 1999.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7223–9]

Technical Peer Review Workshop on the Draft Document Entitled A Review of the Reference Dose and Reference Concentration Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: EPA is announcing a meeting, organized and convened by Versar, Inc., a contractor to EPA's Risk Assessment Forum, for external scientific peer review of the draft document entitled, *A Review of the Reference Dose and Reference Concentration Processes* (EPA/630/P–02/002A). The purpose of the meeting is to discuss technical issues associated with the Risk Assessment Forum Reference Dose/Reference Concentration (RfD/RfC) Technical Panel recommendations. The draft document is not a guidance document but an analysis and review of the current RfD/RfC process and a series of recommendations to improve the process. Final decisions on implementing any of the recommendations from the Technical Panel will be made by the Agency's Science Policy Council. The EPA also is announcing a 30-day public comment period for the draft document. EPA will consider the peer review advice and public comment submissions in revising the document.

DATES: The peer review meeting will be held from 8:00 a.m. to 5:00 p.m. on Wednesday, June 19, 2002. The 30-day public comment period begins June 4, 2002, and ends July 5, 2002. Technical comments should be in writing and must be postmarked by July 5, 2002.

ADDRESSES: The meeting will be held at the Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209. Versar, Inc., an EPA contractor, will convene and facilitate the workshop. To register to attend the workshop as an observer, visit *www.versar.com/epa/rfdrfcreview.htm*, or contact Ms. Traci Bludis, Versar, Inc.; telephone: (703) 750–3000 extension 449; facsimile: 703–642–6954; e-mail *bluditra@versar.com* by 5 p.m. eastern daylight time, June 14, 2002. The draft document, *A Review of the Reference Dose and Reference Concentration Processes*, is available via the Internet on the Risk Assessment Forum Publications home page at *http://www.epa.gov/ncea/raf/rafpub.htm* under What's New. Copies are not available from Versar Inc.

Public comments may be mailed to the Technical Information Staff (8623D), NCEA–W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, or delivered to the Technical Information Staff at 808 17th Street, NW, 5th Floor, Washington, DC 20006; telephone: 202–564–3261; facsimile: 202–565–0050.

FOR FURTHER INFORMATION CONTACT: For further information concerning the technical peer review workshop or the draft document, *A Review of the Reference Dose and Reference Concentration Processes*, please contact Marilyn Brower, U.S. EPA Office of Research and Development (8601–D), 1200 Pennsylvania Ave. NW, Washington, DC 20460; Telephone: (202) 564–3363; Fax: (202) 565–0062; e-mail: *brower.marilyn@epa.gov*.

SUPPLEMENTARY INFORMATION: The RfD/RfC Technical Panel (hereafter the Technical Panel) was established in response to a request from the Agency's 10X Food Quality Protection Act Task Force to the Science Policy Council and the Risk Assessment Forum. A draft toxicology report developed by the 10X Task Force raised a number of issues that relate to the derivation of the oral reference dose (RfD) and inhalation reference concentration (RfC). The Science Policy Council and the Risk Assessment Forum agreed that these issues should be examined on a broader scale than just for pesticides, with input from various program offices within the Agency and from the outside scientific/policy community. This charge was expanded by the Forum to include a more in-depth review of a number of issues related to the RfD/RfC process, in part because of several other Forum activities that were underway (*e.g.*, development of the Framework for the Harmonization of Cancer and Noncancer Risk Assessment, revision of the Benchmark Dose Guidance Document, and revision of the Guidelines for Carcinogen Risk Assessment). In addition, the RfD/RfC derivation process had not been evaluated in detail for a number of years, and several scientific issues concerning children's health, *e.g.*, neurotoxicity and immunotoxicity, have become increasingly important in risk assessment. These activities have prompted the need to re-examine the RfD/RfC process and to coordinate these efforts with other related activities. In particular, it was important that efforts continue to focus on moving toward the goal of harmonization of risk assessment approaches for all health endpoints and making efficient use of animal testing to achieve this goal.

The draft report entitled, *A Review of the Reference Dose and Reference Concentration Processes* is not a guidance document but represents an analysis of the current RfD/RfC processes. The draft report summarizes the review and deliberations of the Technical Panel and presents a number of recommendations to improve the RfD/RfC processes. The review further documents recommendations that should be considered in the implementation of changes in the current process and/or development of needed guidance. The peer reviewers are being asked to review the recommendations of the Technical Panel and to provide comments regarding the scientific rationale for the recommendations. Comments from the external peer reviewers and the public will help inform the process.

Dated: May 28, 2002.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 02–13981 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

May 29, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 5, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1003.

Title: Telecommunications Carrier Emergency Contact Information.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions, state, local or tribal government.

Number of Respondents: 5,000.

Estimated Time Per Response: .166 hours (10 minutes).

Frequency of Response: On occasion and annual reporting requirements.

Total Annual Burden: 830 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission must be able to contact its licensees and permittees in a communications emergency. We will collect emergency contact information from telephone wireless, broadcast, cable and satellite companies. We will also collect emergency contact information for federal, state and local emergency management entities. This information is needed in the event of a communications disruption.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–13920 Filed 6–3–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 98–67; DA 02–1006]

Telecommunications Relay Services Applications for State Certification and Renewal of Current Certification Accepted until October 1, 2002

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the Federal Communications Commission will accept applications for the renewal of state telecommunications relay services (TRS) program certification from July 26, 2002 until October 1, 2002. Current state certification expires July 26, 2003. The Commission's rules provide that states may apply for a renewal of their certified state TRS program one year prior to the expiration of their current certification.

DATES: TRS applications for state certifications and renewal certifications are due on or before October 1, 2002.

ADDRESSES: *See* **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For more information about the TRS state certification and renewal certification, please contact Dana Jackson, of the Consumer and Government Affairs Bureau at (202) 418–2247 (voice), (202) 418–7898 (TTY) or e-mail *dljackso@fcc.gov*.

SUPPLEMENTARY INFORMATION: Parties who choose to submit by paper must submit an original and four copies of each filing on or before October 1, 2002. To expedite the processing of applications, applicants are encouraged to submit an additional copy to Attn: Dana Jackson, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, SW, Room 5–A741, Washington, DC 20554 or by e-mail at *dljackso@fcc.gov*. Applicants should also submit electronic disk copies of their application on a standard 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be submitted in "read-only" mode and must be clearly labeled with the state's name, the filing date and captioned "TRS Certification Application."

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554.

The filings and comments will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*. Copies of this document in other alternative formats (computer diskette, large print and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer and Governmental Affairs Bureau at (202) 418–7426 (voice), (202) 418–7365 (TTY), or e-mail *bmillin@fcc.gov*. This Public Notice can also be downloaded in Text and ASCII formats at *http://www.fcc.gov/cgb/dro*.

Synopsis

The Commission's rules for the provision of TRS, pursuant to Title IV of the Americans with Disabilities Act, 47 U.S.C. 225, are codified at 47 CFR 64.601–605. Pursuant to 47 CFR 64.605(b), a state desiring certification of its TRS program must establish that:

(1) The state program meets or exceeds all operational, technical, and functional minimum standards contained in 47 CFR 64.604;

(2) The state program makes available adequate procedures and remedies for enforcing the state program; and

(3) Where a state program exceeds the mandatory minimum standards contained in Section 64.604, the state establishes that its program in no way conflicts with federal law.

Pursuant to 47 CFR 64.605(a), documentation must be submitted through the state's office of the governor or other delegated executive office empowered to provide TRS. All documentation in support of the application must be submitted in narrative form, and must clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. To the maximum extent possible, states should provide historical, statistical, and illustrative evidence demonstrating compliance with the Commission's TRS rules.

Upon receipt, the Commission will give public notice of state TRS certification applications and provide notification in the **Federal Register**, pursuant to 47 CFR 64.605(a). Interested parties will be invited to comment on each application within a period of time set by the Commission. In the event that a state's application is opposed or incomplete, the Commission may contact the responsible state officer to seek further documentation. If it appears that a state program will not meet certification requirements, the Commission will send notice to the responsible state officer prior to July 26, 2003, giving the state an opportunity to demonstrate that it has taken, or will take measures to bring its program into compliance with the Commission rules by July 26, 2003.

The Commission will act to approve the applications for certification of states that demonstrate compliance with all applicable requirements of the Commission's rules on or before July 26, 2003. Approved certifications will be in effect for five (5) years until July 26, 2008 pursuant to 47 CFR 64.605(c). In the event a state does not apply for certification, the Commission will contact common carriers providing voice transmission service in that state to ensure that TRS service meeting the Commission minimum operational, functional and technical standards is available within their service areas. *See* 47 U.S.C. 225(c).

Federal Communications Commission.

Margaret M. Egler,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 02–13919 Filed 6–3–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1416–DR]

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1416–DR), dated May 21, 2002, and related determinations.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Robuck, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 21, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Illinois, resulting from severe storms, tornadoes, and flooding on April 21, 2002, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and the Individual and Family Grant program will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert R. Colangelo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster:

Alexander, Clay, Clinton, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Washington, Wayne, White, and Williamson Counties for Individual Assistance.

All counties within the State of Illinois are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13890 Filed 6–3–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1412–DR]

Missouri; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri, (FEMA–1412–DR), dated May 6, 2002, and related determinations.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Robuck, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov*.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 6, 2002:

Barton, Macon, Shelby, and Webster Counties for Public Assistance.

Reynolds County for Public Assistance (already designated for Individual Assistance).

Washington County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–13889 Filed 6–3–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 18, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First National Bank Employees Profit Sharing Plan and Trust, Carmi, Illinois; and Alvin Fritschle, Mary Sailer and Jack Martin, all of Carmi, Illinois, to collectively own and vote as a trustee and on an individual basis, an additional 2.98 percent, for total combined control of 13.16 percent, of Southern Illinois Bancorp, Inc., Carmi, Illinois, and thereby indirectly acquire voting shares of The First National Bank of Carmi, Carmi, Illinois.

Board of Governors of the Federal Reserve System, May 29, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13879 Filed 6–3–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 2002.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Overton Financial Corporation, Overton, Texas and Overton Delaware Corporation, Dover, Delaware; to increase ownership in Longview Financial Corporation, Longview, Texas, by 2.95 percent to 38.29 percent, and therefore, indirectly, maintain a 100 percent ownership in Longview Delaware Corporation, Dover, Delaware, and, indirectly a 99 percent ownership in its banking subsidiaries, Longview Bank and Trust Company, Longview, Texas, and First State Bank, Van, Texas.

Board of Governors of the Federal Reserve System, May 29. 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–13878 Filed 6–3–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the President's Council on Bioethics on June 20–21, 2002

AGENCY: The President's Council on Bioethics, HHS.

ACTION: Notice.

SUMMARY: The President's Council on Bioethics will hold its fourth meeting at which it will discuss human cloning, the patentability of human embryos, and other issues.

DATES: The meeting will take place June 20, 2002, from 9:00 am to 4:45 pm ET, and June 21, 2002, from 9:00 am to 12:30 pm ET.

ADDRESSES: Ritz-Carlton, 1150 22nd Street, NW, Washington, DC 20037.

Public Comments: The meeting agenda will be posted at *http://www.bioethics.gov.* Written statements may be submitted by members of the public for the Council's records. Please submit statements to Ms. Diane Gianelli (tel. 202/296–4669 or e-mail info@bioethics.gov). Persons wishing to comment in person may do so during the hour set aside for this purpose beginning at 3:45 p.m. ET on Thursday, June 20, 2002. Comments will be limited to no more than five minutes per speaker or organization. Please give advance notice of such statements to Ms. Gianelli at the phone number given above, and be sure to include name, affiliation, and a brief description of the topic or nature of the statement.

FOR FURTHER INFORMATION CONTACT: Diane Gianelli, 202/296–4669, or visit our website at *http://www.bioethics.gov.*

Dated: May 28, 2002.

Dean Clancy,

Executive Director, The President's Council on Bioethics.

[FR Doc. 02–13925 Filed 6–3–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Presidential Advisory Council on HIV/AIDS

AGENCY: Office of the Secretary, Office of Public Health and Science.

ACTION: Notice of Meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA) will hold a meeting. This meeting is open to the public. A description of the Council's functions is included also with this notice.

DATES: June 21, 2002, 8:30 am to 4:00 pm, and June 22, 2002, 8:30 am to 3:00 pm.

ADDRESSES: Wyndham City Center Hotel; 1143 New Hampshire Avenue, N.W.; Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Patricia F. Ware, Executive Director, Presidential Advisory Council on HIV/AIDS, 734 Jackson Place, NW., Washington, DC 20503; (202) 456–7334.

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996. The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to (a) promote effective prevention of HIV disease, (b) advance research on HIV and AIDS, and (c) promote quality services to persons living with HIV disease and AIDS. PACHA was established to serve solely as an advisory body to the Secretary of Health and Human Services. The Council is to be composed of not more than 35 members. Council membership is selected by the Secretary from individuals who are considered authorities with particular expertise in, or knowledge of, matters concerning HIV/AIDS.

The agenda for this Council meeting includes the following topics: HIV/AIDS prevention, short-term solutions to the AIDS Drug Assistance Program (ADAP) shortage, rapid testing, and international issues. Time will be allotted during the meeting to for public comment.

Dated: May 17, 2002.

Patricia F. Ware,

Executive Director, Presidential Advisory Council on HIV/AIDS.

[FR Doc. 02–13863 Filed 6–3–02; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee on Minority Health will meet to discuss racial and ethnic disparities in health, as well as other related issues. The meeting has been scheduled immediately prior to the Secretary's National Leadership Summit on Eliminating Racial and Ethnic Disparities in Health. The meeting is open to the public and will allow attendees of the Summit an opportunity to participate in the Advisory Committee on Minority Health's public comment period. This is a unique opportunity for the public to provide comments on barriers and strategies for increasing diversity in the health professions and on health issues along the US borders.

Public comments are limited to 3 minutes each. Written comments may be submitted in advance in addition to the oral comments. Comments should be faxed to Sheila P. Merriweather at the Office of Minority Health at least two business days prior to the meeting.

DATES: The Advisory Committee on Minority Health will meet on Tuesday, July 9, 2002 from 9:00 a.m. to 5:00 p.m., and Wednesday, July 10, 2000 from 9:00 a.m. to 12 noon. The public comment period will be held on Wednesday, July 10.

ADDRESSES: The meeting will be held at the Hilton Washington Hotel and Towers, 1919 Connecticut Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Sheila P. Merriweather, Office of Minority Health, Rockwall Building, 5515 Security Lane, Suite 1000, Rockville, MD 20852. Phone: 301–443–9923, Fax: 301–443–8280.

Dated: May 22, 2002.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 02–13864 Filed 6–3–02; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–02–07]

Fiscal Year 2002 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications.

SUMMARY: The Administration on Aging announces that under the Pension Information and Counseling Program, it will hold a competition to fund grant awards for two (2) to three (3) projects at a federal share of approximately $100,000 to $150,000 per year for a project period of up to three (3) years.

Purpose of grant awards: The purpose of these projects is to establish, expand or improve Pension Information and Counseling Projects to ensure that older persons eligible for pension benefits have the requisite knowledge, information and counseling to fully exercise their rights and entitlements.

Eligibility for grant awards and other requirements: Eligibility for grant awards is open to public and/or non-profit agencies, faith-based and community-based organizations with a proven record of providing services related to the retirement of older persons, services to Native Americans, or specific pension counseling. Grantees are required to provide a 25% non-federal match.

DATES: The deadline date for the submission of applications is August 5, 2002.

ADDRESSES: Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Office of Consumer Choice and Protection, 330 Independence Ave., SW., Washington, DC 20201, or by calling 202/619–1058 or on line at: *http://www.aoa.gov/t4.*

Applications must be mailed or hand-delivered to the Office of Grants Management at the same address. Instructions for electronic mailing of grant applications are available at *http://www.aoa.gov/egrants.*

Dated: May 30, 2002.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 02–13930 Filed 6–3–02; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02175]

Applied Research on Antimicrobial Resistance (AR): Validation of National Committee for Clinical Laboratory Standards (NCCLS) Breakpoints for Human Pathogens of Public Health Importance; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of a fiscal year (FY) 2002 funds for a grant program for Applied Research on Antimicrobial Resistance (AR): Validation of National Committee for Clinical Laboratory Standards (NCCLS) Breakpoints for Human Pathogens of Public Health Importance. This program addresses the "Healthy People 2010" focus area Immunization and Infectious Diseases.

The purpose of the program is to provide assistance for applied research aimed at prevention and control of the emergence and spread of antimicrobial resistance in the United States. This program will focus on validation of NCCLS breakpoints for human pathogens of public health importance. This program's design will implement Part 1 of the Public Health Action Plan to Combat Antimicrobial Resistance, Domestic Issues. Visit the Internet site: *www.cdc.gov/drugresistance/actionplan/index.htm* for more information on the Action Plan.

This research includes three components that will provide information needed to prevent and control AR: (1) Validating existing interpretive criteria for pathogens of public health importance; (2) devploping new interpretive criteria for pathogens of public health importance using existing NCCLS methods and quality control; and (3) developing new interpretive criteria and new antimicrobial susceptibility testing methods for pathogens of public health importance using existing NCCLS methods and quality control as a starting point for novel test development.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for Infectious Diseases: (1) Reduce the spread of antimicrobial resistance; (2) protect Americans from priority infectious diseases; and (3) apply scientific findings to prevent and control infectious diseases.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) and 317(k)(2) of the Public Health Service Act, (42 U.S.C. 241(a) and 247b(k)(2)), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

C. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, technical schools, research institutions, hospitals, other public and private nonprofit organizations, community-based organizations, faith-based organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title two of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Availability of Funds

Approximately $600,000 is available in FY 2002 to fund approximately three awards. It is expected that the average award will be $200,000, ranging from $150,000 to $250,000. It is expected that the awards will begin on or about August 30, 2002, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

1. Assemble data from population distributions of susceptible and resistant organisms [based on minimum inhibitory concentration (MIC) data], pharmacokinetic (PK) and pharmacodynamic (PD) parameters, and clinical trials to validate or revise existing breakpoints for bacteria of particular public health importance. The interpretive criteria must be developed using the standard NCCLS susceptibility testing methods outlined in NCCLS documents M2–A7 (2000) and M7–A5 (2000). These documents can be found at: *www.nccls.org.*

2. Provide a method that is in line with other NCCLS methods to be elucidated, including the appropriate quality control organisms, and the ranges of MICs or zone diameters that constituted a test that was in control for organisms which NCCLS has yet to establish and publish a standardized susceptibility testing method. Thus, potential projects include validating existing interpretive criteria for pathogens of public health importance, developing new interpretive criteria for pathogens of public health importance using existing NCCLS methods and quality control, or developing new interpretive criteria and new antimicrobial susceptibility testing methods for pathogens of public health importance using existing NCCLS methods and quality control as a starting point for novel test development.

F. Content

Letter of Intent (LOI)

An LOI is optional for this program. The Program Announcement title and number must appear in the LOI. The narrative should be no more than five double-spaced pages, printed on one side, with one-inch margins, and unreduced font. Your letter of intent will be used to plan the review more effectively and efficiently and should include the following information: (1) the name of the organization's principal investigator, and (2) a brief description of the scope and intent of the proposed research work.

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

The narrative should consist of, at a minimum, a detailed Research Plan, Objectives, Methods, an Evaluation Plan and Budget.

G. Submission and Deadline

Letter of Intent (LOI)

On or before June 15, 2002, submit the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and two copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm. Application forms must be submitted in the following order:

Cover Letter
Table of Contents
Application
Budget Information Form
Budget Justification
Checklist
Assurances
Certifications
Disclosure Form
HIV Assurance Form (if applicable)
Human Subjects Certification (if applicable)
Indirect Cost Rate Agreement (if applicable)
Narrative

On or before 5:00 p.m. Eastern Time July 16, 2002, submit the application to: Technical Information Management Section, PA# 02175, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications will be considered as meeting the deadline if they are received before 5:00 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet submission requirements.

H. Evaluation Criteria

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant. Measures of Effectiveness must relate to the performance goals as stated in section "*A. Purpose*" of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness will be submitted with the application and will be an element of evaluation.

Each application will be evaluated individually against the following criteria by a Special Emphasis Panel appointed by CDC and will be rated in accordance with current CDC peer review procedures:

1. Background and Public Health Importance

Extent to which the applicant's discussion of the background for the proposed project demonstrates a clear understanding of the purpose and objectives of this grant program. Extent to which the applicant illustrates and justifies the need for the proposed project that is consistent with the purpose and objectives of this grant program.

2. Capacity

a. Extent to which the applicant describes adequate resources and facilities (both technical and administrative) for conducting the project.

b. Extent to which the applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc.

c. Extent to which the applicant includes letters of support from appropriate non-applicant organizations, individuals, etc. Extent to which the letters clearly indicate the author's commitment to participate and/or collaborate as described in the operational plan.

3. Objectives and Technical Approach

a. Extent to which the applicant describes specific objectives of the proposed project which are consistent with the purpose and goals of this grant program and which are measurable and time-phased.

b. Extent to which the applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all Program Requirements. Extent to which the applicant clearly identifies and describes appropriate study sites. Extent to which the applicant clearly identifies specific assigned responsibilities for all key professional personnel. Extent to which the plan clearly describes the applicant's technical approach/methods for conducting the proposed studies and extent to which the plan is adequate to accomplish the objectives. Extent to which the applicant describes specific study protocol(s), the roles of partners or collaborators or plans for the development of study protocols that are appropriate for achieving project objectives.

c. If the proposed project involves human subjects, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation. (2) The proposed justification when representation is limited or absent. (3) A statement as to whether the design of the study is adequate to measure differences when warranted. (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits will be documented.

d. Extent to which the applicant provides a detailed and adequate plan for evaluating study results and for evaluating progress toward achieving project objectives.

4. Measures of Effectiveness

The extent to which the applicant provides Measures of Effectiveness that will demonstrate the accomplishment of the purpose of the grant. Are the measures objective/quantitative and do they adequately measure the intended outcome?

5. Budget (Not scored)

The extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of grant funds.

6. Human Subjects (Not scored)

The extent to which the applicant adequately addresses the requirements of Title 45 CFR Part 46 for the protection of human subjects.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. Semiannual progress reports The progress report will include a data requirement that demonstrates measures of effectiveness.

2. Financial status report, no more than 90 days after the end of the budget period

3. Final financial and performance reports, no more than 90 days after the end of the project period

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

J. Where to Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on "Funding" then "Grants and Cooperative Agreements."

For business management technical assistance, contact: Rene' Benyard, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Mailstop K–75, Atlanta, GA 30341–4146. Telephone number: (770)488–2722. E-mail address: *bnb8@cdc.gov.*

For program technical assistance, contact: Marsha Jones, Health Scientist, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop C–12, Atlanta, GA 30333. Telephone number: (404)639–2603. E-mail address: *maj4@cdc.gov.*

Dated: May 29, 2002.

Sandra R. Manning,

CGFM Director, Procurement and Grants Office, Center for Disease Control and Prevention.

[FR Doc. 02–13883 Filed 6–3–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Guide to Community Preventive Services (GCPS) Task Force: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Task Force on Community Preventive Services

Times and Dates: 9 a.m.–6 p.m., June 12, 2002. 8:30 a.m.–3 p.m., June 13, 2002.

Place: The Sheraton Colony Square, 188 14th Street, NE, Atlanta, Georgia 30361, telephone (404) 892–6000.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish a Guide to Community Preventive Services, which is based on the best available scientific evidence and current expertise regarding essential public health services and what works in the delivery of those services.

Matters to be Discussed: Agenda items include: briefings on the administrative information, dissemination activities, economics reviews, and recommendation language; approved recommendations for the following interventions: Informed Decision Making, Interventions to Increase Breast, Cervical and Colorectal Cancer Screening: Group Education, Interventions to Reduce UV Exposure and Increase UV Protective Behaviors in Secondary Schools/Colleges, Disease and Care Management to Prevent Relapse and Recurrence, Mass Media Campaigns for Alcohol-Impaired Driving, Interventions on Transportation/Travel and Urban Design (Form)/Land-Use, Promoting

the Personal Development And Parenting Skills of New and Expectant, Socially Disadvantaged Mothers and Youth Development, Targeted Vaccines Strategies, Therapeutic Foster Care for Prevention of Violence, and updates on the Clinical Guide and the Nutrition Chapter.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Stephanie Zaza, M.D., Chief, Community Guide Branch, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, CDC, 4770 Buford Highway, M/S K–73, Atlanta, Georgia 30341, telephone 770/488–8189.

Persons interested in reserving a space for this meeting should call 770/488–8189 by close of business on June 6, 2002.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 29, 2002.

Joseph Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–13882 Filed 6–3–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10049]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Assessing the CMS Fall Campaign; *Form No.:* CMS–10049 (OMB# 0938–0851); *Use:* CMS will collect information 3 times during its fall media campaigns to assess the campaign. CMS will conduct the survey via telephone, visits to our Web site, and by monitoring of our 1–800–MEDICARE number.; *Frequency:* Once; *Affected Public:* Individuals or Households; *Number of Respondents:* 10,800; *Total Annual Responses:* 10,800; *Total Annual Hours:* 2,700.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards Attention: Melissa Musotto Room N2–14–26, 7500 Security Boulevard Baltimore, Maryland 21244–1850.

Dated: May 21, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13865 Filed 6–3–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10060]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request:; Title of Information Collection:; Form No.: CMS–10060 (OMB# 0938–NEW); *Use:* This project completion report derives from the Quality Improvement System for Managed Care (QISMC) Standards and Guidelines as required by the Balanced Budget Act of 1997 (as amended by the Balanced Budget Refinement Act of 1999) and the related regations, 42 CFR 422.152. These regulations established QISMC as a requirement for Medicare + Choice (M+C) Organizations by requiring improved health outcomes for enrolled beneficiaries. The provisions of QISMC specify that M+C organizations will implement and evaluate quality improvement projects. The form submitted herein will permit M+C organizations to report their completed projects to CMS in a standardized fashion for evaluation by CMS of the M+C organization's compliance with regulatory provisions. This form will improve consistency and reliability in the CMS evaluation process as well as provide a standardized structure for public use and review.; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 155; *Total Annual Responses:* 310; *Total Annual Hours:* 1240 hours.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 22, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13866 Filed 6–3–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB review; comment request

Title: Child and Family Services Plan, Annual Progress and Services Report, and Budget Request

OMB No.: 0980–0047

Description: Under title IV–B, subparts 1 and 2, of the Social Security Act, States and Indian Tribes are to submit a five year Child and Family Services Plan, an Annual Progress and Services Report (APSR), and an annual budget request and estimated expenditure report (CFS–101). The plan is used by States and Indian Tribes to develop and implement services, and describe coordination efforts with other Federal, state and local programs. The APSR is used to provide updates and changes in the goals and services under the five year plan. The CFS–101 will be submitted annually with the APSR to apply for appropriated funds for the next fiscal year. The CFSP also includes the required State plans under Section 106 of the Child Abuse Prevention and Treatment Act and section 477 of title IV–E, the Chafee Foster Care Independence Program.

Respondents: 300

Annual Burden Estimates:

Instrument	Number of respondent	Number of responses per respondent	Average burden hours per response	Total burden hours
CFSP	300	1	500	150,000/5 = 30,000
APSR	300	1	270	81,000
CFS101	300	1	5	1,500
Estimated Total Annual Burden Hours:				112,500

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 470 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: May 29, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–13880 Filed 6–3–02; 8:45 am]

BILLING CODE 4104–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0124]

Draft Guidance for Industry: Notifying FDA of Fatalities Related to Blood Collection or Transfusion; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled "Guidance for Industry: Notifying FDA of Fatalities Related to Blood Collection or Transfusion" dated June 2002. The draft guidance document, when finalized, is intended to provide recommendations to blood collection or transfusion facilities on reporting fatalities related to blood or blood component collection or blood transfusion to FDA's Center for Biologics Evaluation and Research (CBER).

DATES: Submit written or electronic comments on the draft guidance to ensure their adequate consideration in preparation of the final document by September 3, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written or electronic comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled " Guidance for Industry: Notifying FDA of Fatalities Related to Blood Collection or Transfusion" dated June 2002. Under 21 CFR 606.170(b), fatalities related to blood collection or transfusion are required to be reported to CBER. The draft guidance document is intended to provide recommendations to a blood collection or transfusion facility on reporting fatalities related to blood or blood component collection or blood transfusion to CBER.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance document represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this draft guidance document. Submit written or electronic comments to ensure adequate consideration in preparation of the final document by September 3, 2002. Two copies of any written comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: April 26, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13860 Filed 6–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.576]

Office of Refugee Resettlement (ORR) Announcement for Services to Refugees [1]

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Request for applications for projects to support services for recently arrived refugees and ethnic community organizations. This notice announces two of the four Categories of the ORR Standing Announcement for Services to Recently Arrived Refugees published in the **Federal Register** on May 9, 2001 (66 FR 23705).

SUMMARY: This ORR Announcement invites submission of grant applications for funding, on a competitive basis, in two categories of the ORR Standing Announcement for Services to Recently Arrived Refugees: Category 2—Unanticipated Arrivals, to provide services to unanticipated arrivals, i.e., refugees who have been resettled in unexpected numbers in communities where linguistically or culturally appropriate services for these refugees do not exist and Category 4—Ethnic Community Self-Help to connect refugees and their communities with community resources.

DATE: The closing date for applications is July 5, 2002.

Announcement Availability: The program announcement and the application materials are available from Sue Benjamin and Marta Brenden, Office of Refugee Resettlement (ORR), 370 L'Enfant Promenade SW., Washington, DC 20447 and from the ORR Web site at *www.acf.dhhs.gov/programs/orr*.

FOR FURTHER INFORMATION CONTACT: Category 2—Sue Benjamin at (202) 401–4851 or *SBenjamin@acf.hhs.gov* and Category 4—Marta Brenden at (202) 205–3589 or *MBrenden@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background, legislative authority, funding availability, CFDA Number, eligible applicants, project and budget periods, and for each of the four categories—program purpose and objectives, allowable activities, and review criteria.

Part II: The Review Process—intergovernmental review, initial ACF screening, competitive review and evaluation criteria.

Part III: The Application—application forms, application submission and deadlines, certifications, assurances and disclosures required for non-construction programs, general instructions for preparing a full project description, and length of applications.

Part IV: Post-award—applicable regulations, treatment of program income, and reporting requirements.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collections are included in the program announcement: OMB Approval No. 0970–0139, ACF UNIFORM PROJECT DESCRIPTION (UPD) attached as Appendix A, which expires 12/30/03 and OMB Approval No. 0970–0036, ORR Quarterly Performance Report (QPR) and Schedule C which expire 7/31/02. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I: Background

The ORR Director, as stated in the Standing Announcement for Services to Recently Arrived Refugees notice published in the **Federal Register** on May 9, 2001 (66 FR 23705), may invite applications outside of the proposed closing dates, if necessary, to respond to the needs of an imminently arriving refugee population. For this reason, the ORR Director intends to support under this announcement unanticipated arrivals of refugees in U.S. communities. The ORR Director also intends to support refugee ethnic community and faith-based organizations with this announcement.

[1] Eligibility for refugee social services is limited to persons who meet all requirements of 45 CFR 400.43 (as amended by 65 F.R. 1540, March 22, 2000) including: (1) Cuban and Haitian entrants under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons.

Legislative Authority

This program is authorized by section 412(c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S. C. 1522(b)(5)), as amended, which authorizes the Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed-(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services."

Funding Availability

ORR expects to award a total of $500,000 in discretionary social service funds through approximately three to five projects under Category 2—Unanticipated Arrivals ranging from $100,000 to $200,000 for a total of $500,000; and 6 to 12 projects under Category 4—Ethnic Community Self-Help ranging from $50,000 to $300,000 for a total of $3,000,000.

The Director of ORR reserves the right to award less, or more than the funds described in this announcement. In the absence of worthy applications, the Director may decide not to make an award if deemed in the best interest of the government. Funding availability for future years is at the Director's discretion.

CFDA Number—93.576

Eligible Applicants

For Categories 2 and 4, public and private nonprofit organizations are eligible to apply. Faith-based organizations are also eligible to apply under Categories 2 and 4. ORR expects that applicants in these Categories will coordinate in partnerships with other local organizations in considering projects and proposing services. Any private nonprofit organization submitting an application must submit proof of its nonprofit status at the time of submission. A nonprofit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or by providing a copy of the currently valid IRS tax exemption certificate.

An applicant may submit more than one application under this announcement, but must apply separately for each category.

Project and Budget Periods

ORR invites applications under Category 2 for a single 17-month budget period. Applicants should view these resources as a temporary solution to an immediate need created by unanticipated arrivals.

ORR invites applications under Category 4 for project periods of up to three years. Awards, on a competitive basis, will be for one-year budget periods. Applications for continuation grants, to extend activities beyond the one-year budget period, will be entertained on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Category 2—Unanticipated Arrivals

Purpose and Objectives

The purpose ORR seeks to achieve through Category 2, Unanticipated Arrivals, is to provide additional resources to communities where the arrival of refugees is not anticipated and the refugee services are insufficient. Under these circumstances, resources are needed to provide additional service capacity to accommodate the additional refugees. Through Category 2—Unanticipated Arrivals—ORR intends to offer to communities the resources to respond to the unanticipated arrivals with adequate and culturally and linguistically appropriate social services.

Under Category 2, ORR invites applications that propose seventeen-month projects for a minimum of 100 refugees annually. Examples of situations for which applicants may request funds for grants under Category 2 are as follows: (1) The existing service system does not have culturally and linguistically compatible staff; (2) refugee services do not presently exist; or (3) the service capacity is not sufficient to accommodate significant increases in arrivals.

This grant program is intended to provide for services that respond to the needs of new refugee populations shortly after arrival into the community. Grantees should view these resources, therefore, as a *temporary* solution to insufficient services necessitating program adjustment because of the unanticipated arrival of a refugee population in a specific community. Therefore, planning for the application and implementation of the program must be done in concert with the State Refugee Coordinator to assure an orderly transition and complement of services. ORR's expectation is that, by the end of the grant project period, the State government will have incorporated services for these new populations into its refugee services network funded by ORR formula social service dollars. The transition of the services should be described in the last two quarterly performance reports.

Allowable Activities

Allowable activities in the unanticipated arrivals program are social services for refugees that are appropriate and accessible in language and culture. Services provided by all grantees, whether private or public, must comply with the regulations at 45 CFR 400.147, 400.150 (a), and 400.154–156 regarding priorities for services, eligibility for services, scope of services, and service requirements.

Applications under this section should indicate how the grantee will ensure that services are appropriate and accessible in language and culture.

Review Criteria

1. *Objectives and Need*—The application establishes that the unanticipated number of at least 100 refugees or more is significant relative to the resident population. The applicant documents the most recent 12-month period of refugee arrivals, both anticipated and unanticipated. The application includes a description of the need for services and how funding through the Unanticipated Arrivals program would meet those needs. The application, supported by a letter from the relevant voluntary agency headquarters, documents the planned projections of refugees for the next 12 months. (25 points)

2. *Approach*—The strategy and plan are likely to achieve the proposed results; the proposed activities and timeframes are reasonable and feasible. The plan describes in detail how the proposed activities will be accomplished as well as the potential for the project to increase the available services for unanticipated arriving refugees. Assurance is provided that proposed services will be delivered in a manner that is linguistically and culturally appropriate to the target population. Where coalition partners are proposed, the applicant has described each partner agency's respective role and financial responsibilities, and how the coalition will enhance the accomplishment of the project goals. The applicant has described the

planning consultation efforts undertaken. The State Refugee Coordinator indicated an interest in continuing these services to the Unanticipated Arrivals through their State formula social service funds. (20 points)

3. *Results or Benefits Expected*—The application clearly describes the project goals; appropriateness of the performance measures to the project activities; appropriateness of the performance outcomes and the results and benefits to be achieved. The application describes how the impact of the funds will be measured on key indicators associated with the purpose of the project. Proposed outcomes are measurable and achievable within the grant project period, and the proposed monitoring and information collection is adequately planned. (20 points)

4. *Organizational Profiles*—Individual organization staff, including volunteers, are well qualified. The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity, is described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart. The applicant has provided a copy of its most recent audit report. Evidence of commitment of any coalition partners in implementing the activities is demonstrated, e.g., by Memorandum of Understandings (MOUs) among participants. (20 points)

5. *Budget and Budget Justification*—The budget and narrative justification are reasonable, clearly presented, and cost-effective in relation to the proposed activities and anticipated results. (15 points)

Category 4—Ethnic Community Self-Help

Purpose and Objectives

This program is to provide assistance to organized ethnic communities comprised of and representative of refugee populations. ORR's intended purpose is to build bridges among refugee communities and community resources. ORR is interested in applications from national, regional (multi-state), or local levels that address community building, cultural adjustment orientation, and mutually supportive functions such as information exchange, civic participation, and resource enhancement.

Respondents to this program category will be of two general types:

(1) Multi-site or national ethnic organizations which propose to develop or strengthen local ethnic groups and/or a national network of ethnic community entities for purposes of linking refugees to community resources; or,

(2) Emerging local ethnic communities which seek to function as bridges between refugees and mainstream local resources and organizations.

A community is self-sufficient when it has the capacity to generate and control its own resources, determine its own goals, set priorities, plan and mobilize community members, including the elderly, women and youth, to work together to achieve these goals, and to create collaborations with others from within and outside the community to further these goals.

ORR recognizes that one key to strengthening communities is the development of strong community based organizations (CBOs). A strong ethnic organization can tap into the community's desire for self-help, improve services, support leaders, attract various resources, explore housing and economic opportunities, collaborate with mainstream agencies and groups, and at the same time, remain accountable to the community.

Strong CBOs can also facilitate positive interaction between refugees and established residents in mainstream communities. The ability to organize and to voice their concerns collectively gives refugees a better sense of identity and hope for their own and their community's future. Refugee self-help groups can be important building blocks for effective resettlement and can function as bridges between the refugee community and local resources.

Many refugees who arrived in this country during the past century organized themselves around self-help in order to assist their own members, to foster long term community growth, to preserve their cultural heritage, and to assist community members in securing employment and other social services. Many refugees who have come to the United States in recent years have not yet organized; consequently, they may be experiencing barriers to accessing mainstream resources and full participation in the economic, social, and civic activities of the larger community. They are distinguished in part by a lack of information about the process of community organizing for self-help.

ORR has found that effective refugee self-help groups result in:

○ A shared, dynamic vision of the community's future which inspires members to work together to secure that future;

○ A perception of refugees not as needy recipients but as active partners in their integration into their communities;

○ A link between individual self-sufficiency and community self-reliance;

○ Local communities which apply their own cultural, civic, and socio-economic values to long term strategies and programs;

○ A role for refugees as decision-makers on community needs, program responses, and service delivery systems;

○ Local resources (generated through service delivery or economic development) that stay within the community; and

○ Collaboration among refugee and mainstream service providers, policy makers, and public and private institutions.

In recognition of the special vulnerability of newly arrived populations, ORR intends to provide support to refugee ethnic communities who have achieved significant populations in the United States within the last ten years. Awards will be based on the applicant's justification and documentation, including such factors as community service needs and available resources.

ORR expects applicants to match federal funds and to consider how they might document proposed receipt of funds from other (non-ORR) sources toward cost sharing of the project.[2] The requirement will be not less than 10% of the requested funding for the first year award, 15% for the second year award, and 25% for the third year award.

Allowable Activities

Successful national organization applicants to this notice may propose activities that may include, but are not limited to, the following:

- Organizing for self-help, leadership development and civic participation;
- Inspiring self-determination;
- Linking technical assistance and resources to local ethnic communities;

[2] "Cost-sharing" is used here to refer to any situation in which the grantee shares in the costs of a project. The term "recipient contributions" refers to costs borne by the grantee, either through cash outlay or the provision of services. "In-kind contributions" means the value of goods and/or services donated by third parties. Grantees are not considered as providing in-kind contributions. The cost-sharing or in-kind contribution costs are subject to the rules governing allowability in 45 CFR 74.23 or 92.24, including allowability under the applicable cost principles and conformance with other terms and conditions of the award that govern the expenditure of Federal funds.

- Supporting public education and agency linkage through an Internet site;
- Facilitating information dissemination on ethnic-specific issues; or
- Convening of national or regional meetings.

Successful local ethnic self-help applicants to this notice may propose any of the following activities:

- Public education activities designed to inform the refugee community about issues essential to functioning effectively in the new society;
- Orientation and assistance to parents in connecting with school systems and other local public or private institutions;
- Dissemination of information on access to community health and mental health services, including health care for the uninsured, health insurance, health maintenance organizations, the importance of preventive health, required immunizations, and available universal coverage;
- Pairing refugee individuals or families with community volunteers;

Information and training on the roles of men and women in the U.S. culture; such as:

- Information on healthy marriage education programs and partnerships with healthy marriage community and faith-based programs;
- Information on laws regarding child welfare, child abuse and neglect;
- Information on sexual harassment and coercion, and domestic violence;
- Bilingual staff assistance for women's shelters, and
- Techniques for self-protection;
- Activities designed to improve relations between refugees and the law enforcement communities;
- Community training for such activities as civic organizing, resource strategies, and non-profit management.
- Employment and training related services.

The above are examples of services. Applicants may propose other relevant services and may request funds to cover core or general operating expenses. In all instances, however, activities must be designed to supplement, rather than to supplant, the existing array of refugee services available in the community.

Applicants must give assurance that their governing bodies, boards of directors, or advisory bodies are knowledgeable and responsive to refugee concerns. This can be demonstrated through majority refugee representation on these bodies or through some other way. Women should be included on these representative bodies, as well.

Planning and coalition-building should be guided by the overarching goal of improving the economic condition of refugee families and of giving them the information needed to achieve social and civic integration into their new country and their new communities.

Non-Allowable Activities

Funds will not be awarded to applicants for the purpose of engaging in activities of a distinctly political nature, activities designed exclusively to promote the preservation of a specific cultural heritage, or activities with an international objective (i.e., activities related to events in the refugees' country of origin).

Review Criteria—Listed According to UPD Order

1. *Objectives and Need for Assistance*—The applicant clearly describes the need for ethnic organizing in the community proposed and documents an understanding of the distinguishing characteristics of the relevant ethnic group. The principal and subordinate objectives are clearly stated; supporting documentation, such as letters of support from concerned interests are included. The applicant describes in detail how the ethnic community has been involved in the project planning, how project participants are identified, and provides evidence of their support for the plan of action. Planning studies incorporating demographic data and participant information are referenced or included as needed. (15 points)

2. *Approach*—The strategy and plan is likely to achieve the proposed results; the proposed activities and timeframes are reasonable and feasible. The reason for taking the proposed approach to community organizing is adequately described. Proposed activities are likely to lead to desired outcomes, and the project is likely to lead to increased ethnic community self-help. (25 points)

3. *Results or Benefits Expected*—The applicant describes outcomes which are likely to be reached through community organizing. Two or more key indicators associated with ethnic community self-help are provided as measures of the impact of the proposed project. Proposed outcomes are measurable and achievable within the grant project period, and the proposed monitoring, information collection, and documentation are adequately planned. (20 points)

4. *Organizational Profiles*—Individual organization staff, including volunteers, proposed partners and consultants, if any, are well qualified. The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity, is described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart. The applicant has provided a copy of its most recent audit report or fiscal management plan. If appropriate, written agreements between grantees and sub-grantees or other cooperating entities, detailing work to be performed, remuneration, and other terms and conditions that structure or define the relationship to this project, are provided. (25 points)

5. *Budget and Budget Justification*—The budget and narrative justification are reasonable, clearly presented, and cost-effective in relation to the proposed activities and anticipated results. The cost-sharing plan is likely to be achieved and is appropriate to the overall funding request, and the level of activity—national or local. (15 points)

Part II: The Review Process

Intergovernmental Review—This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

* All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-eight jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date

of this submittal (or indicate "not applicable" if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: ORR Grants Officer, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

A list of the Single Points of Contact for each participating State and Territory can be found on the web at: *http://www.whitehouse.gov/omb/index.html.*

Initial ACF Screening—Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

Competitive Review and Evaluation Criteria—Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of evaluation criteria specified in Part I. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

Applications received for each Category will be scored and ranked only within the Category designated on the SF 424, e.g. in one of the two program areas.

Part III: The Application

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Selected elements of the ACF Uniform Project Description (UPD) relevant to this program announcement are attached as Appendix A.

Application Forms—Applicants for financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF 424A, Budget Information'Non-construction Programs; SF 424B, Assurances'Non-Construction Programs. The forms may be reproduced for use in submitting applications. Application materials including forms and instructions are available from the Contact named in the preamble of this announcement and from the ORR website.

Application Submission And Deadlines—An application with an original signature and two clearly identified copies is required. Applicants must clearly indicate on the SF424 the Category under which the application is submitted.

The closing date for submission of applications is July 5, 2002.

Mailed applications postmarked after the closing date will be classified as late. Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Attention: Daphne Weeden, Grants Officer, 370 L'Enfant Promenade SW., 4th Floor, Washington, DC 20447.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, 4th Floor, Aerospace Building, 901 D Street, SW., Washington, DC 20447 between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note "Attention: Grants Officer." (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

For Further Information on Application Deadlines Contact: Daphne Weeden, Grants Officer, Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade SW., 4th Floor, Washington, DC 20447, Telephone: (202) 401–4577.

Certifications, Assurances, And Disclosure Required For Non Construction Programs—Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, "Assurances: Non-Construction Programs." Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a signed certification regarding lobbying with their applications, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying.

Applicants must make the appropriate certification of their compliance with the Drug Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification need not mail back the certification with the applications.

General Instructions for Preparing a Full Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested. Please refer to the UPD sections in the appendix.

Length of Applications—Each application narrative should not exceed 20 pages in a 12-pitch font. Attachments and appendices should not exceed 25 pages and should be used only to provide supporting documentation such as administration charts, position descriptions, resumes, and letters of intent or partnership agreements. A table of contents and an executive summary should be included but will not count in the page limitations. Each page should be numbered sequentially, including the attachments or appendices. This limitation of 20 pages per program area should be considered as a maximum, and not necessarily a goal. Application forms are not to be counted in the page limit.

Please do not include books or videotapes as they are not easily reproduced and are, therefore, inaccessible to the reviewers.

Part IV: Post-Award

Applicable Regulations—Applicable DHHS regulations can be found in 45 CFR part 74 or 92.

Treatment of Program Income—Program income from activities funded under this program may be retained by the recipient and added to the funds committed to the project, and used to further program objectives.

Reporting Requirements—Grantees are required to file the Financial Status Report (SF–269) semi-annually and the Program Performance Reports submitted semi-annually, along with the Schedule C of the ORR Performance Report. Category Four grantees should note that Program Performance Reports are due quarterly.

Funds issued under these awards must be accounted for and reported under the distinct grant number ascribed. Although ORR does not expect the proposed projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes and expenditures. The official receipt point for all reports and correspondence is the ORR Grants Officer, Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade SW., 4th Floor, Washington, DC 20447, Telephone: (202) 401–4577. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Grants Officer.

A final Financial and Program Report shall be due 90 days after the project expiration date or termination of Federal budget support.

Dated: May 22, 2002.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

Appendix A—Uniform Project Description OMB No. 0970–0139

The project description is approved under OMB control number 0970–0139 which expires 12/31/03.

Part I: The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Cross referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.

Pages should be numbered and a table of contents should be included for easy reference.

Part II: General Instructions for Preparing a Full Project Description

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application *OR* by application deadline.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, "Federal resources" refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.) *Justification:* For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) currently set at $100,000. Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Nonfederal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs.

[Self-explanatory]

[FR Doc. 02–13891 Filed 6–3–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–16]

Notice of Proposed Information Collection: Emergency Comment Request; HUD's Loss Mitigation Default Counseling Program Demonstration

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: June 11, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number (pending) and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to the documentation method to verify the voucher for reimbursement which will be used in HUD's Loss Mitigation Default Counseling Demonstration Program. Each of the Housing Counseling Agencies (HCAs) that are participating in the Demonstration will be eligible to be reimbursed each time a completed Loss Mitigation package is referred to one of the four lenders participating in the Demonstration. Each referral must be documented by the HCAs through a voucher form. HUD will reimburse the lender for each paid counseling claim. A single response to the information collection requirement would be required per default counseling referral.

HUD's Loss Mitigation Default Counseling Demonstration offers one way to address the HCAs' chronic shortage of default counselors, the Department's need to test the effectiveness of early default intervention, provide counseling on predatory lending avoidance, and increase workouts in high default areas. The necessity for immediate use of new information collection requirements, which includes the use of a voucher form, is a critical factor to helping stabilize defaulted homeowners and reducing claim losses to FHA. HUD is requesting that OMB approves this information collection by June 10, 2002.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title Of Proposal: HUD's Loss Mitigation Default Counseling Demonstration.

OMB Control Number: 2502—NEW.

Agency Form Numbers: None.

Members Of Affected Public: Four lenders participating in the Demonstration, the HUD approved Housing Counseling Agencies participating in this Demonstration.

ESTIMATION OF THE TOTAL NUMBERS OF HOURS NEEDED TO PREPARE THE INFORMATION COLLECTION INCLUDING NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSES, AND HOURS OF RESPONSE

Number of respondents	Number of responses per respondent	Frequency of responses	Number of responses	Hours per response	Estimated annual burden (in hours)
*11	**749	Monthly	8,240	0.50	4,120

*The number of parties: 4 lenders have volunteered to participate in this Demonstration and 7 Housing Counseling Agencies. Each will have dedicated staff assigned to work on this Demonstration.
**The actual burden on respondents varies widely because of the different levels of activity and size of FHA portfolio held by respondents.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 29, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–13922 Filed 6–3–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–19]

Notice of Submission of Proposed Information Collection to OMB, Quarterly Loan Level Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due date:* July 5, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0026) should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Joseph_F._Lackey_Jr@OMB.EOP.GOV.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20419; e-mail *Wayne Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the Office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Quarterly Loan Level Reporting

OMB Approval Number: 2503–0026

Form Numbers: None

Description of the Need for the Information and Its Proposed Use:

Ginnie Mae issuers are required to submit loan level data quarterly for all pooled loans and loan packages. The report contains all loans that were not liquidated as of the close of the month for which data is presented. As of 1999, this data has been submitted by electronic data interchange (EDI), and is processed through a program module in the Mortgage-Backed Securities Information System (MBISIS).

Respondents: Business or other for-profit, Federal Government.

Frequency of Submission: Quarterly.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
296	4		4		4,736

Total Estimated Burden Hours: 4,736.

Status: Reinstatement, without change.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 29, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Office.

[FR Doc. 02–13924 Filed 6–3–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Central Arizona Project, Arizona; Water Allocations

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed modification to the Secretary of the Interior's record of decision

SUMMARY: The Department proposes to modify the 1983 Central Arizona Project (CAP) Water Allocation Decision to delete the mandatory effluent pooling provision. The Department now views that provision as an impediment to effluent exchanges and effective water management in central Arizona.

If the proposed decision is implemented, the Department would amend water service subcontracts for the cities of Chandler and Mesa to remove the mandatory effluent pooling provision. The mandatory effluent pooling provision would be deleted from other M&I water service subcontracts upon request.

DATES: All comments and material relevant to this proposed decision that are received by July 5, 2002 will be considered.

ADDRESSES: Send written comments concerning the proposed decision to Paul Nelson, Bureau of Reclamation, PO Box 81169, Phoenix, Arizona, 85069–1169.

FOR FURTHER INFORMATION CONTACT: Paul Nelson at (602) 216–3878.

Proposed Decision: The following sentence is proposed for deletion from the 1983 CAP Water Allocation Decision (see page 12447 of the 1983 CAP Water Allocation Decision): "This allocation is subject to the adoption of a pooling concept whereby all M&I allottees share in the benefits of effluent exchanges."

SUPPLEMENTARY INFORMATION:

I. Previous Notices Related to CAP Water
II. Background
III. Rational for Proposed Decision
IV. Compliance with the National Environmental Policy Act of 1969 (NEPA)

I. Previous Notices Related to CAP Water

Previous notices related to CAP water were published in the **Federal Register** (FR) at 37 FR 28082, December 20, 1972; 40 FR 17297, April 18, 1975; 41 FR 45883, October 18, 1976; 45 FR 52938, August 8, 1980; 45 FR 81265, December 10, 1980; 48 FR 12446, March 24, 1983; 56 FR 29704, June 28, 1991; 57 FR 4470, February 5, 1992; and 57 FR 48388, October 23, 1992. These notices and decisions were made pursuant to the authority vested in the Secretary by the Reclamation Act of 1902 as amended and supplemented (32 Stat. 388, 43 U.S.C. 391), the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501) and in recognition of the Secretary's trust responsibility to Indian tribes.

II. Background

Following the 1983 CAP Water Allocation Decision, the Bureau of Reclamation, the Central Arizona Water Conservation District (CAWCD), and each of the non-Indian CAP water allottees desiring CAP water entered into three-party water service subcontracts providing for the delivery of CAP water. In order to ensure implementation of the mandatory effluent pooling provision, M&I water service subcontractors who choose to circumvent the effluent pooling provision and directly exchange their effluent with Indian tribes are subject to a reduction in their entitlement to CAP water under their subcontracts by the amount of CAP water received from the effluent exchange.

The Department indicated in the 1983 CAP Water Allocation Decision that CAP M&I water allocations could be made more firm by execution of feasible non-potable effluent exchanges with Indian tribes. The 1983 CAP Water Allocation Decision also implemented a pooling provision whereby all M&I water service subcontractors share in the benefits of effluent exchanges. In a time of shortage of CAP water under the effluent pooling provision, the additional CAP water made available as a result of any effluent exchanges with Indian tribes would be shared by all M&I subcontractors, thereby reducing the amount of shortage for each subcontractor. The pooling provision was included in the CAP M&I water service subcontracts.

The 1983 CAP Water Allocation Decision also provided that the Department could require Indian tribes located in close proximity to metropolitan areas to take delivery of effluent in lieu of CAP water. This requirement was eliminated by a Secretarial decision published in the **Federal Register** on October 23, 1992, so that any effluent exchanges involving Indian tribes would occur on a voluntary basis.

The major cities in Maricopa County, which are the sources of most of the exchangeable effluent, prefer to exchange effluent on their own, incur all related treatment and transportation expenses, and receive any benefits from the exchange.

III. Rationale for Proposed Decision

The Department favors elimination of the mandatory effluent pooling provision from the 1983 CAP Water Allocation Decision for the following reasons:

(1) In response to public comments submitted by the City of Phoenix in 1992 concerning the mandatory effluent pooling provision, the Department committed to re-evaluate this provision at a later date after consultation with the Arizona Department of Water Resources (ADWR) (see 57 FR 48389). In pertinent part, the City of Phoenix stated "* * * The City of Phoenix agrees with the reasons for deleting the mandatory substitute water provision from the Indian CAP Contracts and believes that it is equally important to remove the provision from CAP M&I subcontracts that would penalize a subcontractor for entering into a direct effluent exchange with an Indian Community for CAP water." The Department acknowledged the City of Phoenix's concerns that the provisions of the effluent exchange article in the CAP M&I water service subcontracts may no longer be critical to the management of water supplies in central Arizona.

(2) The mandatory effluent pooling provision removes any incentive for a municipality to exchange effluent with an Indian tribe. The Department believes that effluent producing entities, Indian Tribes, the State of Arizona, and other local organizations should be free to pursue local water management decisions that are in the best interest of the local economies, and that they should not be constrained in such water management decisions by the mandatory effluent pooling provision.

(3) ADWR now supports removing the mandatory effluent pooling provision from the 1983 CAP Water Allocation Decision and the CAP M&I water service subcontracts.

(4) CAWCD, as a party to the CAP M&I water service subcontracts, does not object to deletion of the mandatory effluent pooling provision from the subcontracts.

(5) The Department is aware of two pending effluent exchange agreements that require Departmental approval. The cities of Chandler and Mesa each have a proposed effluent exchange agreement with the GRIC. The benefits resulting from the proposed exchanges to the cities and GRIC will not occur unless and until the mandatory effluent provision is removed from the Cities' CAP water service subcontracts.

IV. Compliance with the National Environmental Policy Act of 1969 (NEPA)

The Department has prepared an Environmental Assessment (EA) on the impact of modifying the 1983 CAP Water Allocation Decision to delete the

mandatory effluent pooling provision. The draft EA and notice of availability are being published and disseminated to CAP water contractors and subcontractors and other interested parties concurrent with publication of this notice.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: May 24, 2002.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02–13888 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 5, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Daryl Lyn Sittig, Crystal Lake, IL, PRT–056299.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Darwin W. Lamb, Cedar City, UT, PRT–057342.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Brian Casey Harrison, Kennedale, TX, PRT–057364.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Paul B. Wilson, Macungie, PA, PRT–057341.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Montana Rocosa Ranch, Utopia, TX, PRT–056130.

The applicant requests a permit to authorize interstate and foreign commerce, export and cull of excess animals for the following species: Arabian oryx (*Oryx leucoryx*), swamp deer (*Cervus duvaucelî*), Eld's deer (*Cervus eldii*) and red lechwe (*Kobus leche*) from their captive-raised herd for the purpose of enhancement of the survival of the species. This notification covers activities conducted by the applicant over a three year period. Permittee must annually apply for renewal.

Applicant: Zoological Society of San Diego/San Diego Zoo, San Diego, CA, PRT–056991 and 057398.

The applicant requests a permit to export (PRT–056991) 2.6 captive-born California condors (*Gymnogyps californianus*) for the purpose of enhancement of the survival of the species through reintroduction to Sierra San Pedro Martir, Baja California, Mexico. The second application is for the possible re-import (PRT–057398) of same animals to Zoological Society of San Diego if the re-import is found to be essential due to emergencies such as a medical condition or behavioral problems.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Lanny S. Rominger, Albuquerque, NM, PRT–057343.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Garry M. Betrus, Fenton, MI, PRT–057437.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 23, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13929 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the information collection request for Student Transportation Mileage Form, OMB Control # 1076–0134, requires renewal. As required by the Paperwork Reduction Act, we request your comments on this collection before submission to the Office of Management and Budget.

DATES: Written comments must be submitted on or before August 5, 2002.

ADDRESSES: Submit comments to William Mehojah, Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Mail Stop 3512–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Joe D. Herrin, (202)–208–7658

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is needed to provide transportation mileage for Bureau-funded schools which will receive an allocation of transportation funds.

II. Method of Collection

The Student Transportation regulations in 25 CFR part 39, subpart H, contain the program eligibility and criteria which govern the allocation of transportation funds. Information collected from the schools will be used to determine the rate per mile.

III. Data

Title of the Collection of Information: Student Transportation Form, 25 CFR 39, Subpart H; OMB Control Number 1076–0134.

Type of Review: Renewal of a currently approved information collection.

Summary of the Collection of Information: This collection provides pertinent data concerning the schools' bus transportation mileage and related long distance travel mileage to determine funding for school transportation.

Affected Entities: Contract and Grant Schools; Bureau operated schools. About 116 tribal school administrators annually gather the necessary information during student count week.

Estimate of total annual reporting and record keeping burden: At an average of 6 hours each "121 reporting schools = 726 hours.

Total annual cost burden: 726 hours × $20/hour = $14,520.

IV. Request for Comments

The Department of the Interior invites comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information; the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection on the respondents, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, and disclosing and providing information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the submission of the collection to OMB for approval and renewal of this information collection. They become a matter of public record. If you wish to have your name and address withheld for any reason, you must state so prominently at the beginning of your comments. We will honor your request to the extent allowable by law. Anonymous comments will not be used.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget Control Number.

Dated: May 22, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–13928 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use and Distribution of the Red Lake Band of Chippewa Indians Judgment Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the plan for the use and distribution of the Red Lake Band of Chippewa Indians (Tribe) judgment funds is effective as of April 28, 2002. The judgment funds were awarded by the United States Court of Federal Claims in Docket 189–C, and appropriated on February 23, 2001. The plan also provides for the use and distribution of escrow funds that remain from funds awarded to the Tribe in Dockets 189–A and 189–B. The funds were held in escrow for the repayment of expert assistance loans made to the Tribe by the Bureau of Indian Affairs. Congress waived the repayment of these loans under Section 813 of Title VIII of the Act of December 27, 2000, Pub. L. 106–568, 114 Stat. 2868.

FOR FURTHER INFORMATION CONTACT: Daisy West, Bureau of Indian Affairs, Division of Tribal Government Services, MS–4631–MIB, 1849 C Street, NW, Washington, DC 20240. Telephone number: (202) 208–2475.

SUPPLEMENTARY INFORMATION: The plan for the use and distribution of the funds was submitted to Congress on December 20, 2001. The receipt of the plan was recorded in the Congressional Record published on December 20, 2001. The plan became effective on April 28, 2002, since a joint resolution disapproving it was not enacted. The plan reads as follows:

Plan

For the Use and Distribution of Red Lake Band of Chippewa Judgment Funds in Docket 189–C and the Escrow Funds Remaining in Dockets 189–A and 189–B

The funds appropriated on February 23, 2001, in satisfaction of an award granted to the Red Lake Band of Chippewa Indians of the Red Lake Reservation in Minnesota (Tribe) in Docket 189–C, plus funds that were held in escrow for the payment of litigation expenses from the funds appropriated

on September 27, 1997, in Dockets 189–A and 189–B before the United States Court of Federal Claims (Court), including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

(A) Programming

The programming funds shall be allocated by the Tribe for the following projects:

Permanent Trust Fund Capitalization: A permanent non-expendable privately invested account in the sum of $40,000,000 shall be established by the Tribe. The interest earned on those funds (starting from the date the funds are transferred to the Tribe and the investment account is created) shall be available to implement the Red Lake Indian Reforestation Plan (Reforestation Plan) that was attached as Exhibit "A" to the Joint Motion for Entry of Stipulated Judgment and approved by the Court on January 16, 2001. The Reforestation Plan may be modified by the Tribe in consultation with, and with the approval of the Secretary of the Interior.

Litigation Costs.[1] The sum of $7,525,657 shall be available for attorney fees and litigation expenses incurred by the tribe in Dockets 189–A, B, C, and 388–82L. This amount includes the funds necessary to cover a debt forgiveness bill in the sum of $15,405, and the fees that were awarded to the Tribe by the court order dated April 18, 2001. If and when the Tribe receives the additional funds, those funds will be allocated to the Tribe's general fund.

Land Restoration Fees and Expenses: The Tribe has incurred costs for land restoration fees and expenses. The sum of $680,578 shall be available to reimburse the Tribe for costs incurred up until the date the plan becomes effective, and to pay the estimated cost of future land restoration fees and expenses.

(B) Per Capita Distribution

The remaining funds, estimated to be $10,423,000, shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons who were born on or prior to and living on July 31, 2001, and who are enrolled members of the Red Lake Band of Chippewa Indians.

The per capita shares of living competent adults shall be paid directly to them, with the exception that the per capita shares of nursing home residents and incarcerated persons shall be paid into Individual Indian Money accounts for withdrawal upon application. The per capita shares of deceased individual beneficiaries shall be determined in accordance with 43 CFR, part 4, subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in 25 U.S.C. 1403(b)(3), except that by Order of the Red Lake Tribal Court, minors' funds may be withdrawn for damages, reparations or restitutions to victims of crime.

(C) General Provisions

The programming portion of the judgment funds shall be disbursed to the Tribe within 60 days of the effective date of the plan, except that the litigation fees and expenses shall be available to the Tribe for disbursement prior to the effective date of the plan, as authorized under 25 U.S.C. 1401. Once the program funds are disbursed to the Tribe, the United States Government shall no longer have any trust responsibility for the investment, supervision, administration, or expenditure of the program portion of the judgment funds. The Tribe shall prepare an annual accounting of each of the program activities under the programming portion of this judgment fund distribution plan. The accounting report shall be made available to the tribal members and to the Secretary of the Interior.

The Secretary, in arranging for per capita payments to be made, shall withhold sufficient shares for individuals whose eligibility may be in question. Those shares shall be held in a separate interest-bearing account pending determination of enrollment appeals. Funds not used to pay shares and pro rata interest to successful applicants, plus any other residual balances shall be disbursed to the tribe and allocated to the Tribe's general fund.

None of the funds distributed per capita or made available under this plan for programming shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act, or except for per capita shares in excess of $2,000 any Federal or federally assisted programs.

This notice is published in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

Dated: May 24, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–13926 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–4J–P

[1] Litigation Costs: The attorney fees and litigation expenses that were advanced by the Tribe from tribal funds during the litigation of these claims is a qualified litigation expense under the terms of 25 U.S.C. that can and should be reimbursed to the Tribe from the judgment prior to the effective date of the plan. The Tribe can also advance $3,601,573.38 for payment of attorney fees that were awarded by the Court in the order dated April 18, 2001. The $3.6 million is included in the $7.5 million earmarked for litigation costs.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee will meet on June 27, 2002. The agenda for the Committee meeting will include reports from subcommittees, discussions on future governance, funding and budgets, and water operations, regional reports, and implementation of the CALFED Bay-Delta program with State and Federal officials.

DATES: The meeting will be held Thursday, June 27, 2002 from 9:00 a.m. to 4:00 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 657–2666 or TDD (800) 735–2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the Point Restaurant located at 120 Marina Drive, Rio Vista, California.

FOR FURTHER INFORMATION CONTACT: Eugenia Laychak, CALFED Bay-Delta Program, at (916) 654–4214, or Diane Buzzard, U.S. Bureau of Reclamation, at (916) 978–5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide assistance and recommendations to Secretary of the Interior Gale Norton and California governor Gray Davis on implementation of the CALFED Bay-Delta Program. The Committee will advise on annual priorities, integration of the eleven Program elements, and overall balancing of the four Program objectives of ecosystem restoration, water quality, levee system integrity, and water supply reliability. The . Program is a consortium of 23 State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee and meeting materials will be available on the CALFED Bay-Delta Web site: *http://calfed.ca.gov* and at the meeting. This meeting is open to the public. Oral comments will be accepted from members of the public at the meeting and will be limited to 3–5 minutes.

(*Authority:* The Committee was established pursuant to the Department of the Interior's authority to implement the Fish and Wildlife Coordination Act, 16 U.S.C. 661 et. seq., the Endangered Species Act, 16 U.S.C. 1531 et. seq., and the Reclamation Act of 1902, 43 U.S.C. 371 et seq., and the acts amendatory thereof or supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, Title 34 of Pub. L. 102–575.)

Dated: May 14, 2002.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 02–13884 Filed 6–3–02; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–937 (Final)]

Certain Structural Steel Beams From Italy

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On May 20, 2002, the Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation (67 FR 35481). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping investigation concerning certain structural steel beams from Italy (investigation No. 731–TA–937 (Final)) is terminated.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

Issued: May 30, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13909 Filed 6–3–02; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 28, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on 202–693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Type of Review: Revision of a currently approved collection.

Title: Permissible Equipment Testing.

OMB Number: 1219–0066.

Affected Public: Business or other for-profit.

Number of Respondents: 592.

Requirement	Annual responses	Average response time (hours)	Annual burden hours
Part 15—Requirements for Approval of Explosives and Sheathed Explosives Units			
New Acceptance Application	1	5.03	5
Acceptance Extension Application	1	5.03	5
Reporting Non-compliant Products	4	0.25	1
Part 15 Subtotal	6		11
Part 18—Electrical Motor Driven Mine Equipment and Accessories			
Approval Applications	84	14.43	1,212
Approval Extensions	32	5.16	165

Requirement	Annual responses	Average response time (hours)	Annual burden hours
Certification Application	1	14.43	14
Certification Extension	1	5.16	5
Simplified Certifications	1	7.00	7
Simplified Certifications Extensions	1	2.50	3
RAMP Applications	354	1.00	354
Part 18 Subtotal	474	.....	1,760
Part 19—Electric Cap Lamps			
Approval Applications	1	14.73	15
Approval Extension	1	5.03	5
RAMP Applications	1	1.48	1
Part 19 Subtotal	3	.....	21
Part 20—Electric Mine Lamps Other Than Standard Cap Lamps			
Approval Applications	3	14.73	44
Approval Extension	1	5.03	5
RAMP Applications	1	1.48	1
Part 20 Subtotal	5	.....	51
Part 22—Portable Methane Detector			
Approval Applications	1	14.73	15
Approval Extension	1	5.03	5
RAMP Applications	15	1.48	22
Part 22 Subtotal	17	.....	42
Part 23—Telephones and Signaling Devices			
Approval Applications	1	14.73	15
Approval Extension	1	5.03	5
RAMP Applications	3	1.48	4
Part 23 Subtotal	5	.....	24
Part 27—Methane Monitoring Systems			
Certification Application	1	14.73	15
Certification Extension	1	5.03	5
RAMP Applications	7	1.48	10
Part 27 Subtotal	9	.....	30
Part 28—Fuses for Use With Direct Current			
Approval Applications	1	14.73	15
Approval Extension	1	5.03	5
Part 28 Subtotal	2	.....	20
Part 33—Dust Collectors for Use in Connection With Rock Drilling in Coal Mines			
Approval Applications	7	14.73	103
Approval Extension	1	5.03	5
RAMP Applications	3	1.48	4
Part 33 Subtotal	11	.....	113
Part 35—Fire Resistant Hydraulic Fluids			
Approval Applications	1	24.25	24
Approval Extension	1	24.25	24
Part 35 Subtotal	2	.....	49
Part 36—Approval Requirements for Permissible Mobile Diesel-Powered Transportation Equipment			
Approval Applications	54	14.73	795
Approval Extension	1	5.03	5

Requirement	Annual responses	Average response time (hours)	Annual burden hours
RAMP Applications	3	1.48	4
Part 36 Subtotal	58	.....	805
Grand Total	592	.....	2,926

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $446,744.

Description: MSHA is responsible for quality control of mine equipment and components, materials, instruments, and explosives used in the mining industry. The information collection requirements contained in 30 CFR parts 15, 18, 19, 20, 22, 23, 27, 28, 33, 35, and 36 contain procedures by which manufacturers may apply for, and have equipment approved as permissible for use in mines.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 02–13859 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of May, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,421; Exide Technologies, Transportation Global Business A Unit. Shreveport, LA.
TA–W–41,235; Charmilles Technologies Manufacturing Corp., Owosso, MI
TA–W–41,278; Siegwerk, Inc., Lynchburg, VA
TA–W–41,321; Penn-Union Corp., Edinboro, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,292; Aerocell Structural, Hot Springs, AR
TA–W–41,411; Holiday Products, Inc., El Paso, TX
TA–W–40,537; Protel, Inc., Lakeland, FL

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,245; International Paper Containerboard and Kraft Div., Oswego, NY.
TA–W–41,255; American Greetings Corp., Corbin, KY
TA–W–39,600B; General Electric Industrial Systems, Magnetic Wire Div., Fort Wayne, IN
TA–W–41,191; Reflexite Display Optics, A Div. Of Fresnel Optics, Inc., Rochester, NY
TA–W–41,111; Invensys Climate Controls, Plastics Molding Div., Brownsville, TX
TA–W–40,330; Teasdale Tool Corp., Meadville, PA
TA–W–39,600B; General Electric Industrial Systems, Magnetic Wire Div., Fort Wayne, IN
TA–W–39,139; JDS Uniphase Corp. (Formerly Uniphase Corp), Lundy, Facility, (Formerly E Tek Dynamics), A Div. Of the WDM, Switching and Thin Film Products Group, San Jose, CA
TA–W–39,698; RHI America, Farber, MO
TA–W–40,882; Bassett Mirror Co., Bassett, VA
TA–W–40,894; Detroit Tool and Engineering Co., Lebanon, MO
TA–W–41,103; Metso Minerals Industries, Inc., Clintonville, WI
TA–W–41,023; Jabil Circuit, Inc., Meridian, OH

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–41,299; Smead Manufacturing, McGregor, TX
TA–W–41,142; SPX Valves and Controls, Lake City, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,600 & A; General Electric Industrial Systems, Motors Division, Fort Wayne, IN and Transformer Div., Fort Wayne, IN: June 21, 2000.
TA–W–40,391; Deck Brothers, Inc., Buffalo, NY: September 18, 2000.
TA–W–39,921; Guilford Mills, Inc., Lumberton, NC: July 18, 2000.
TA–W–39,397; Teleflex Morse, Inc, Formerly Known as Morse Controls, Hudson, OH: May 25, 2000.
TA–W–41,109; R.G. Knitting Mills, Inc., Woonsocket, RI: February 26, 2001.
TA–W–40,908; Tumi, Inc., Vidalia, GA: January 29, 2000.
TA–W–40,830; Wire Corporation of America, Inc., Kansas City, MO: January 16, 2001.
TA–W–41,003; Drexel Heritage Furnishings, Inc., Plant #1, Drexel NC: January 18, 2001.
TA–W–41,077 & A; Maloney Tool and Mold, Inc., Meadville, PA and Maloney Plastics, Inc., Meadville, PA: February 4, 2001.
TA–W–41,215; Birdair, Inc., Amherst, NY: March 11, 2001.
TA–W–41,349; Fayette Cotton Mill, Inc., Fayette, AL: March 11, 2001.
TA–W–41,339; Johnson Garment Corp., Marshfield, WI: March 28, 2001.
TA–W–41,293; Radiall, Inc., Stratford, CT: January 12, 2001.
TA–W–41,090; Regal Originals, Inc., New York, NY: February 5, 2001.
TA–W–40,671 & A,B; Isola Laminate Systems Corp., La Crosse, WI, Pendleton, SC and Hoosick Falls, NY: December 10, 2000.
TA–W–40,763; R.C.M. Manufacturing Co.,

River Falls Manufacturing Co., Division of S. Rothschild & Co., Fall River, MA: October 15, 2000.
TA–W–40,772; O-Cedar Brands, Inc., Standard Brush Div., Smallwares Department, Portland, In: January 31, 2001.
TA–W–40,799; Pinnacle Frames, Pocahontas, AR: January 11, 2001.
TA–W–41,027 & A; Centurion Wireless Technologies, Inc., Lincoln, NE and Westminster, CO: January 15, 2001.
TA–W–41,056; LTV Tubular Products Co./ LTV Copperweld, Youngstown, OH: February 8, 2001.
TA–W–39,478; Window Concepts, Inc., Wilson, NC: June 6, 2000.
TA–W–40,390; Carlisle Engineered Products, Lake City, PA: October 23, 2000.
TA–W–40,574; Heckett Multiserv, A Div. Of Harsco Corp., Employed at Geneva Steel, Provo, UT: November 30, 2000.
TA–W–40,603; Tiffany Knits, Inc., Schuykill Haven, PA: November 5, 2000.
TA–W–40,631; Skip's Cutting, Inc., American Dye and Finishing, TA–W–41,265; A.P. Green Industries, Inc., Including Leased Workers of Drexel Personnel Services, Middletown, PA: March 7, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchaper D, chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05034B; General Electric Industrial Systems, Magnetic Wire Div., Fort Wayne, IN
NAFTA–TAA–05087; RHI America, Farber, MO
NAFTA–TAA–05505; Bassett Mirror Co., Inc., Inc.
NAFTA–TAA–05663; Exide Technologies, Transportation Global Business Unit, Shreveport, LA
NAFTA–TAA–05787; Flextronics Enclosures, Smithfield, NC
NAFTA–TAA–05880; Victaulic Co. of America, Easton, PA
NAFTA–TAA–05893; Metso Minerals Industries, Inc., Clintonville, WI
NAFTA–TAA–05895; Jabil Circuit, Inc., Meridian, ID
NAFTA–TAA–05963A; Valeo Climate Control, Aluminum Tubing Line, USA–2 Div., Grand Prairie, TX
NAFTA–TAA–06031; H,J. Seagrott Co., Inc., Berlin, NY
NAFTA–TAA–05465; Teasdale Tool Corp., Meadville, PA
NAFTA–TAA–05934; Sheldahl, Inc., Northfield, MN
NAFTA–TAA–05944; Invensys Climate Controls, Plastics Molding Div., Brownsville, TX
NAFTA–TAA–06109; Gretagnacbeth, LLC A Sub. Of Amazys AG, New Windsor, NY

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–05972; Cummins Diesel Recon, Charleston, SC
NAFTA–TAA–05623; Protel, Inc., Lakeland, FL
NAFTA–TAA–06023; Aerocell Structures, Hot Springs, AR

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision including workers in any agricultural firm or appropriate sub-division thereof) did not become totally or partially separated from employment.

NAFTA–TAA–05128; Ambler Industries, A Subsidiary of Fishman and Tobin, Inc., Orangeburg, SC

Affirmative Determinations NAFTA-NAFTA–TAA

NAFTA–TAA–05963; Valeo Climate Control, USA–2, Division, Automotive Air Conditioning Condensers Line, Grand Prairie, TX: March 18, 2001.
NAFTA–TAA–05034 & A; General Electric Industrial Systems Motors Div., Fort Wayne, IN and Transformer Div., Fort Wayne, IN: June 22, 2000.
NAFTA–TAA–05859 & A; Schott Corp., Minnesota Plant, Jefferson, MN and Canby Plant, Canby, MN: February 14, 2001.
NAFTA–TAA–05933; Comdial Corp., Telecom, Charlottesville, VA: March 5, 2001.
NAFTA–TAA–05945; Dunham-Bush, Inc., Harrisonburg, VA: January 30, 2001.
NAFTA–TAA–05996 & A; Riverside Paper Corp., Riverside Paper Co., Appleton, WI and Kerwin Paper Mill, Appleton, WI: March 20, 2001.
NAFTA–TAA–06021; Aspen Trailer, Inc., Litchfield, MN: March 19, 2001.
NAFTA–TAA–05896; Brach Confections, Inc., Chicago, IL: February 25, 2001.
NAFTA–TAA–05917; Kraft Foods, Cereals/ Desserts Div., Minneapolis, MN: February 26, 2001.
NAFTA–TAA–06006; Braden Manufacturing, LLC, Fort Smith, AR: March 25, 2001.
NAFTA–TAA–06008; Howmet Castings, City of Industry, CA: March 21, 2001.
NAFTA–TAA–06038; Birdair, Inc., Amherst, NY: March 11, 2001.

I hereby certify that the aforementioned determinations were issued during the month of May, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 28, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13939 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,590]

Alfa Laval Inc.; Formerly Known as Tri-Clover, Kenosha, Wisconsin; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 21, 2002, the International Association of Machinists and Aerospace Workers, Lodge 34 requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on January 22, 2002, and published in the **Federal Register** on February 5, 2002 (67 FR 5293).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition, filed on behalf of workers at Alfa Laval Inc., formerly known as Tri-Clover, Kenosha, Wisconsin producing fittings, valves and pumps was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The investigation revealed that increased imports did not contribute importantly to worker separations at the subject firm during the relevant period. The investigation further revealed that during 2000, Tri-Clover was acquired by a company that also owned Alfa Laval. As both companies produced similar product lines, a strategic business decision was made to consolidate production among multiple facilities. Thus declines in sales, production and employment were attributable to eliminating excess capacity. Plant production of valves and pumps were scheduled to be shifted to other domestic locations during mid2002. Plant production of fittings was transferred to a foreign source, but was not imported back to the United States during the relevant period. The petitioner appears to be alleging that shifts in subject plant production of fittings to a foreign source occurred and that plant production of valves and pumps will be shifted to foreign sources in the near future, therefore the workers of the subject plant should be considered eligible for TAA.

An examination of the initial investigation revealed that shifts in production (fittings) at the subject firm have occurred. The other products (valves and pumps) produced at the subject firm were scheduled to be shifted during mid2002. The shifts in production (also outsourcing) to foreign sources is not relevant to meeting criterion (3) of the Trade Act of 1974. The products produced by the subject firm would have to be imported back into the United States and also must "contribute importantly" to the layoffs at the subject firm for the worker groups engaged in producing fittings, valves and pumps to be certified eligible to apply for TAA. No such evidence was provided to show that this occurred during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13942 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,471]

Besser Co., Alpena Michigan; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 4, 2002, the International Brotherhood of Boilermakers, Local Lodge D–472 requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The denial notice was signed on November 27, 2001, and published in the **Federal Register** on December 18, 2001 (66 FR 65220).

The Department reviewed the request for reconsideration and has determined that the Department will examine the petitioner's allegation claiming that the Department did not survey a representative sample of the subject firm's customer base.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 26th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13940 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,647]

Biltwell Clothing Co., Farmington, Missouri; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 28, 2002 in response to a worker petition, which was filed by the company on behalf of workers at Biltwell Clothing Co., Farmington, Missouri.

An active certification covering the petitioning group of workers remains in effect (TA-W–39,244). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 3rd day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13943 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,525, TA–W–40,525E, and TA–W–40,525F]

The Boeing Company Commercial Airplane Group, Seattle, Washington, Corinth, Texas, and Irving, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on March 18, 2002, applicable to workers of The Boeing Company, Commercial Airplane Group, Seattle, Washington. The notice was published in the **Federal Register** on March 29, 2002 (67 FR 15226).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The

workers are engaged in the production of large commercial aircraft and the components thereof.

Company information shows that worker separations occurred at the Corinth, Texas and Irving, Texas locations of the Commercial Airplane Group of The Boeing Company. These workers produce commercial aircraft components such as wire harnesses and avionics—flight deck controls and black boxes, respectively.

Accordingly, the Department is amending this certification to include workers of the Corinth, Texas and Irving, Texas locations of The Boeing Company, Commercial Airplane Group.

The intent of the Department's certification is to include all workers of The Boeing Company, Commercial Airplane Group who were adversely affected by increased imports.

The amended notice applicable to TA–W–40,525 is hereby issued as follows:

"All workers of The Boeing Company, Commercial Airplane Group, Seattle, Washington (TA–W–40,525), Corinth, Texas (TA–W–40,525E) and Irving, Texas (TA–W–40525F) who became totally or partially separated from employment on or after February 25, 2002, through March 18, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 26th day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13937 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,396]

Carter Industries, Inc., Brooklyn, New York; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Carter Industries, Inc., Brooklyn, New York. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–39,396; Carter Industries, Inc. Brooklyn, New York (May 20, 2002).

Signed at Washington, D.C. this 18th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13932 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,353]

Dynamic Details, LP, a Division of Dynamic Details, Inc., Garland, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 13, 2001 in response to a worker petition, which was filed by the company on behalf of workers at Dynamic Details, LP, a division of Dynamic Details, Inc., Garland, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 6th day of May, 2002.

Linda G. Poole

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13941 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,346]

Electronic Data Systems, Camp Hill, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 15, 2002, in response to a petition filed on behalf of workers at Electronic Data Systems, Camp Hill, Pennsylvania.

There is an existing petition investigation in process for workers of the subject firm (TA–40,916). Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 17th day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13945 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,926]

EVTAC Mining LLC, Formerly Thunderbird Mining, Eveleth, Minnesota; Notice of Negative Determination Regarding Application for Reconsideration

By application dated April 12, 2002, the United Steel Workers of America, Local 6860 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on March 13, 2002, and published in the **Federal Register** on March 29, 2002 (67 FR 15225).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of EVTAC Mining LLC, formerly Thunderbird Mining, Eveleth, Minnesota was denied because criterion (2) of the group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. Sales and production at the subject firm increased during the relevant period.

The petitioner alleges that sales and production would have shown a decline in the 2001 period if it were not for a fire at the subject firm that disrupted production at the subject plant during year 2000. The petitioner further implies that reduced production at the subject firm in 2000 appears to create an incorrect upward trend in sales and production at the subject plant in 2001.

Based on data supplied by the petitioner and the initial investigation, sales and production increased in 2001 over the 2000 period. The petitioner supplied a company memo with their request for administrative reconsideration showing what estimated plant production would have been if there were no fire at the subject plant in the year 2000. Based on the information supplied, no declines in sales or production occurred during the relevant period of the investigation.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 14th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13938 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,147 and TA–W–40,147A]

Guilford Mills, Inc., Cobleskill, New York and Guilford Mills, Inc., Sales Division, New York, New York; Notice of Revised Determination on Reconsideration

By letter of January 16, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on December 31, 2001, based on the finding that imports of lace and fabric did not contribute importantly to worker separations at the subject plant. The denial notice was published in the **Federal Register** on January 11, 2002 (67 FR 1510).

To support the request for reconsideration, the company requested that the Department of Labor survey an additional list of major lace customers.

Upon examination of the customer list it became evident that a major customer affiliated with the subject firm was certified for TAA on December 31, 2001 (Guilford Mills, Inc., Herkimer, New York, TA–W–38,749). A major portion of the subject plant's lace was shipped to that facility. That customer incorporated the lace into window and bedspread products. The Herkimer facility was certified for TAA on the basis of increased imports of curtain and bedspreads. The Sales Division workers, located in New York, New York were engaged in the sales of the lace produced by the subject plant. Since a meaningful portion of production and sales at the respective subject firm locations were in direct support of the affiliated certified facility, the subject facilities meet the TAA criteria.

Conclusion

After careful review of the additional facts obtained on reconsideration, the company imports of articles like or directly competitive with an affiliated facility under an existing TAA certification in which Guilford Mills, Inc., Cobleskill, New York and Guilford Mills, Inc., Sales Division, New York, New York are in direct support of contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Guilford Mills, Inc., Cobleskill, New York, (TA–W–40,147) and Guilford Mills, Inc., Sales Division, New York, New York (TA–W–40,147A) who became totally or partially separated from employment on or after September 21, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, DC this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13935 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,147, TA–W–40,147B, and TA–W–40,147C]

Guilford Mills, Inc.; Cobleskill, New York, Guilford Mills, Inc., Apparel Home Fashion Division, Greensboro, North Carolina, and Guilford Mills, Inc., Corporate Division, Greensboro, North Carolina; Amended Notice of Revised Determination on Reconsideration

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Revised Determination on Reconsideration on May 9, 2002, applicable to workers of Guilford Mills, Inc., Cobleskill, New York. The notice will be published soon in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of lace and fabric for apparel.

The company reports that worker separations occurred at the Apparel Home Fashion Division and the Corporate Division facilities of the subject firm. These divisions provide sales and administrative support function services directly for the Cobleskill, New York production facility.

Based on these findings, the Department is amending the certification to include workers of Guilford Mills, Inc., Apparel Home Fashion Division and Corporate Division, Greensboro, North Carolina.

The intent of the Department's certification is to include all workers of Guilford Mills, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA-W–40,147 is hereby issued as follows:

"All workers of Guilford Mills, Inc., Cobleskill, New York (TA-W–40,147), Guilford Mills, Apparel Home Fashion Division, Greensboro, North Carolina (TA-W–40,147B) and Guilford Mills, Inc., Corporate Division, Greensboro, North Carolina (TA-W–40,147C) who became totally or partially separated from employment on or after September 21, 2000, through May 9, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 20th day of May, 2002.

Linda G. Poole,

Certifying Officer, Division, of Trade Adjustment Assistance.

[FR Doc. 02–13934 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,473]

Marlan Tool, Inc., Meadville, Pennsylvania; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Marlan Tool, Inc., Meadville, Pennsylvania. The application contained no new substantial

information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–40,473; Marlan Tool, Inc., Meadville, Pennsylvania (May 17, 2002)

Signed at Washington, DC, this 18th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13936 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,126]

U.S. Steel Corp., Clairton Works, Clairton, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 25, 2002 in response to a petition, which was filed by United Steelworkers of America, Local 1557, on behalf of workers at Clairton Works, U.S. Steel Corporation, Clairton, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 15th day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13944 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,884 and TA–W–39,884A]

VF Playwear, Inc., Centreville, Alabama, and VF Playwear, Inc., Corporate Headquarters, Greensboro, North Carolina; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 5, 2001, applicable to workers of VF Playwear, Inc., Centreville, Alabama. The notice was published in the **Federal Register** on November 20, 2001 (66 FR 58171).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of children's playwear.

The company reports that worker separations occurred at the Corporate Headquarters, Greensboro, North Carolina location of the subject firm. The Corporate Headquarters provides administrative support functions to the subject firms' many production facilities including Centreville, Alabama.

The intent of the Department's certification is to include all workers of VF Playwear, Inc. who were adversely affected by increased imports.

Accordingly, the Department is amending the certification to cover workers of VF Playwear, Inc., Corporate Headquarters, The amended notice applicable to TA-W–39,884 is hereby issued as follows:

"All workers of VF Playwear, Inc., Centreville, Alabama (TA–W–39,884) and VF Playwear, Inc., Corporate Headquarters, Greensboro, North Carolina (TA–W–39,884A) who became totally or partially separated from employment on or after August 2, 2000, through November 5, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington DC, this 23rd day of April, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13933 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,427]

Wehadkee Yarn Mills, Talladega, Alabama; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 22, 2002, in response to a petition which was filed by the company official at Wehadkee Yarn Mills, Talladega, Alabama.

The petitioner has formally withdrawn the petition and consequentially, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 17th day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13946 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05556]

Alfa Laval Inc., Formerly Known as Tri-Clover, Kenosha, Wisconsin; Notice of Negative Determination Regarding Application for Reconsideration

By application dated February 21, 2002, the International Association of Machinists and Aerospace Workers, Lodge 34 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers producing pumps and vales of the subject firm. The denial notice for pumps was signed on January 30, 2002, and was published in the **Federal Register** on February 13, 2002 (67 FR 6748). The denial notice for valves was signed on January 30, 2002 and will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The NAFTA–TAA petition, filed on behalf of workers at Alfa Laval, Inc., formerly known as Tri-Clover engaged in activities related to the production of pumps and valves was denied because criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production of valves and pumps from the subject firm to Canada or Mexico during the relevant period. The investigation further revealed that during 2000, Tri-Clover was acquired by a company that also owned Alfa Laval.

As both companies produced similar product lines, a strategic business decision was made to consolidate production among multiple facilities. Thus declines in sales, production and employment were attributable to eliminating excess capacity. Plant production of valves and pumps were scheduled to be shifted to other domestic locations during mid-2002. Of note, workers producing fittings at the same location were certified under the same NAFTA–TAA determination (NAFTA–05556). The three groups of workers were separately identifiable.

The petitioner alleges, that the workers producing valves and pumps and related support activities are also impacted by the planned shift in production of valves and pumps to Richmond, Virginia and other foreign countries. The company further states that the decision reached, regarding eligibility of workers engaged in activities related to the production of fittings, was based upon those jobs already being affected due to this area of production transferring outside the United States (Mexico). The petitioner further states that the shift (fittings) does not reflect nor include all of the jobs (valves & pumps) which have been or will be affected at the subject plant over the course of the planned shutdown of this facility.

Since the shift in subject plant production of fittings to Mexico occurred during the relevant period, that worker group was certified eligible for NAFTA–TAA under section 250 of the Trade Act of 1974. Shifts in the subject plant's production of valves and pumps were scheduled for a future period. Unless the shift actually occurred during the relevant period, it is not considered relevant to the petition filed.

Although workers producing fittings were certified eligible under NAFTA–TAA, the workers engaged in activities related to the production of valves and pumps are separately identifiable from the workers producing fittings and therefore cannot be considered eligible under the NAFTA–TAA certification for the workers producing fittings. That certification was based on a shift in subject plant production of fittings to Mexico during the relevant period.

To be considered eligible for NAFTA–TAA under Criterion (4), the product shifted to Mexico or Canada must be like or directly competitive with what the subject plant worker group produced. That was not the current event for the workers producing valves and pumps at the subject plant.

The petitioner further states that in relation to bumping "it is difficult, if not impossible, to identify the exact employees who will be affected as product is transitioned out of the facility."

Workers engaged in the production of fittings including support activities related to the production of fittings are eligible to apply for NAFTA–TAA benefits. The Wisconsin Department of Workforce Development follows guidelines in making the final decision of individual eligibility for the NAFTA–TAA worker group engaged in the production of fittings and related support activities. The workers terminated producing valves and pumps, if they are bumped by a worker producing fittings, are eligible to apply for NAFTA–TAA under NAFTA–05556.

Conclusion

After review of the application for reconsideration and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC this 6th day of May 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13948 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05929]

Oxford Automotive Oscoda Division, Also Known as Simplified Employment Services, D.A.R.T., ELITE LEASING, ERM, INC. AND NMA, INC. Oscoda, Michigan; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on March 27, 2002, applicable to workers of Oxford Automotive, Oscoda Division, Oscoda, Michigan. The notice was published in the **Federal Register** on April 5, 2002 (67 FR 16442).

At the request of the company, the Department reviewed the revised determination for workers of the subject firm. The workers are engaged in the production of automotive metal stampings and assemblies.

New information received from the company shows that the subject firm is also known as several other company entities: Simplified Employment Services, D.A.R.T., Elite Leasing, ERM, Inc. and NMA, Inc. These firms provide payroll and personnel services as well as legal matters for Oxford Automotive. Information also shows that workers wages at the subject firm are reported under the Unemployment Insurance (UI) tax accounts for Simplified Employment Services, D.A.R.T., Elite Leasing, ERM, Inc. and NMA, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's revised determination is to include all workers of Oxford Automotive, Oscoda Division who were adversely affected by the shift of production of automotive metal stampings and assemblies to Mexico.

The amended notice applicable to NAFTA–05929 is hereby issued as follows:

"All workers of Oxford Automotive, Oscoda Division, also known as Simplified Employment Services, D.A.R.T., Elite Leasing, ERM, Inc., and NMA, Inc., Oscoda, Michigan, who became totally or partially separated from employment on or after December 21, 2000, through March 27, 2004, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed in Washington, DC this 16th day of May, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–13949 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—5006]

Weyerhaeuser, Longview, Washington; Amended Certification Regarding Eligibility To Apply for NAFTA–Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on August 30, 2001, applicable to workers of Weyerhaeuser, Fine Paper Division, Longview, Washington. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47242).

At the request of the Association of Western Pulp and Paper Workers Union, the Department reviewed the certification for workers of the subject firm.

New findings show that some workers of the subject firm who were engaged in the production of fine paper, but not part of the Fine Paper Division, were excluded from the certification.

Based on these findings, the Department is amending the certification to cover all workers of Weyerhaeuser, Longview Fine Paper, engaged in activities related tot he production of fine paper.

The intent of the Department's certification is to include all workers of Weyerhaeuser, Longview Fine Paper, Longview, Washington adversely affected by a shift of production of fine paper (uncoated free sheet paper rolls and folio paper) to Canada.

The Department is amending the certification determination to properly reflect this matter.

The amended notice applicable to NAFTA–05006 is hereby issued as follows:

"All workers at Weyerhaeuser, Longview, Washington who became totally or partially separated from employment on after June 18, 2000, through August 30, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, DC, this 1st day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13947 Filed 6–3–02; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND PLACE: 9:30 a.m., Tuesday, June 11, 2002.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The three items are open to the public.

MATTERS TO BE CONSIDERED:

7384B Aviation Accident Report—Avjet Corporation, Gulfstream III, N303GA, Aspen, Colorado, March 29, 2001, and Safety Recommendation to the Federal Aviation Administration Regarding Crew Resource Management Training for Flight Crewmembers that Conduct On-Demand Charter Operations with Aircraft Requiring Two or More Pilots.

7472 Marine Accident Report—Fire On Board the Small Passenger Vessel Port Imperial Manhattan, Hudson River, New York City, New York, November 12, 2000.

7350A Five Safety Recommendations to the Federal Aviation Administration Concerning the Emergency Exit Door Design of Transport-Category Airplanes and the Adequacy of Information Contained in Air Carriers' Flight and Cabin Crew Training Manuals and Programs Regarding Overpressurization.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100. Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, June 7, 2002.

FOR MORE INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: May 31, 2002.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 02–14044 Filed 5–31–02; 2:25 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–03754–MLA and ASLBP No. 02–799–01–MLA]

ABB Prospects, Inc.; Designation of Presiding Officer

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see* 10 CFR 2.1201, 2.1207, notice is hereby given that (1) a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to rule on petitions for leave to intervene and/or requests for hearing; and (2) upon making the requisite findings in accordance with 10 CFR 2.1205(h), the Presiding Officer will conduct an adjudicatory hearing in the following proceeding:

ABB Prospects, Inc., CE Windsor Site, (Material License Amendment-Decommissioning)

The hearing will be conducted pursuant to 10 CFR part 2, subpart L, of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." This proceeding concerns a May 8, 2002 hearing request submitted by the Connecticut Department of Environmental Protection regarding a January 7, 2002 decommissioning plan submitted by ABB Prospects, Inc., for portions of the CE Windsor site in Windsor, Connecticut. The request was filed in response to a notice of opportunity to request a hearing and petition to intervene published in the **Federal Register** on April 10, 2002 (67 FR 17472).

The Presiding Officer in this proceeding is Administrative Judge Ann Marshall Young. Pursuant to the provisions of 10 CFR 2.722, 2.1209, Administrative Judge Lester S. Rubenstein has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents, and other materials shall be filed with Judges Rosenthal and Cole in accordance with 10 CFR 2.1203. Their addresses are:

Administrative Judge Ann Marshall Young, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Lester S. Rubenstein, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Issued at Rockville, Maryland, this 29th day of May 2002.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 02–13904 Filed 6–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–35870–EA, ASLBP No. 02–800–01–EA]

United Evaluation Services, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721, and 2.772(j) of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

United Evaluation Services, Inc., Beachwood, New Jersey

This Board is being established pursuant to an Order Suspending License (Effective Immediately) and Demand for Information issued by the NRC Staff on May 14, 2002. The Order, which suspended, effective immediately, the 10 CFR part 30 license of United Evaluation Services, Inc., authorizing its possession and use of certain byproduct material for industrial radiography, was published in the **Federal Register** (67 FR 36,038 (May 22, 2002)). The proceeding involves a May 17, 2002 request for a hearing submitted by Joseph J. Ferenc, President, on behalf of United Evaluation Services, Inc., including a request to set aside the immediate effectiveness of the order.

The Board is comprised of the following administrative judges:

G. Paul Bollwerk, III, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 29th day of May 2002.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 02–13905 Filed 6–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of June 3, 10, 17, 24, July 1, 8, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 3, 2002

Friday, June 7, 2002

9:00 a.m.

Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

Week of June 10, 2002—Tentative

There are no meetings scheduled for the Week of June 10, 2002.

Week of June 17, 2002—Tentative

There are no meetigns scheduled for the Week of June 17, 2002.

Week of June 24, 2002—Tentative

Tuesday, June 25, 2002

2:00 p.m.

Discussion of Intragovernmental Issues (Closed—Ex. 1)

Wednesday, June 26, 2002.

10:30 a.m.

All Employees Meeting (Public Meeting)

1:30 p.m.

All Employees Meeting (Public Meeting)

Week of July 1, 2002—Tentative

Monday, July 1, 2002

2:00 p.m.

Discussion of International Safeguards Issues (Closed—Ex. 9)

Week of July 8, 2002—Tentative

Wednesday, July 10, 2002

9:25 a.m.

Affirmation Session (Public Meeting) (If needed)

9:30 a.m.

Briefing on License Renewal Program and Power Uprate Review Activities (Public Meeting) (Contacts: Noel Dudley, 301–415–1154, for license renewal program; Mohammed Shuaibi, 301–415–2859, for power uprate review activities). This meeting will be webcast live at the Web address: *www.ncr.gov*

2:00 p.m.

Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360). This meeting will be webcast live at the Web address: *www.ncr.gov.*

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: "Discussion of Intergovernmental Issues (Closed—Ex. 1)," scheduled for June 4, 2002, was canceled.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several haundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting scheudle electronically, please send an electronic message to dkw@nrc.gov.

Dated: May 30, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–14059 Filed 5–31–02; 2:24 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of June 3, 2002:

A closed meeting will be held on Wednesday, June 5, 2002, at 2:00 p.m.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (6), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting scheduled for Wednesday, June 5, 2002, will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and a

Litigation matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: May 30, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–14023 Filed 5–31–02; 11:47 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45992; File No. SR–CBOE–2002–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to its AutoQuote Triggered EBook Execution System

May 29, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 13, 2002, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. That filing was amended on April 17, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to adopt an interpretation to its "Trigger" rule (Rule 6.8(d)(v)) to clarify when a Trigger trade must be manually endorsed to a trading crowd member(s) instead of to the RAES "wheel." Below is the text of the proposed rule change. New text is in *italics*. Proposed deletions are in [brackets].

* * * * *

Chicago Board Options Exchange, Inc. Rules

* * * * *

Chapter VI—Doing Business on the Exchange Floor

Section A: General

This Rule governs RAES operations in all classes of options, except to the extent otherwise expressly provided in this or other Rules in respect of specified classes of options.

RULE 6.8 (a)–(c) No change.

(d) Execution on RAES

(i)–(iv) No change.

(v) Notwithstanding sub-paragraph (d)(iv), for classes of options as determined by the appropriate Floor Procedure Committee, for any series of options where the bid or offer generated by the Exchange's Autoquote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's Autoquote system) is equal to or crosses the Exchange's best bid or offer as established by an order in the Exchange's limit order book, orders in the book for options of that series will be automatically executed against participants on RAES up to the number of contracts equal to the applicable maximum size of RAES-eligible orders for that series of options ("Trigger"). *In the event a member in the trading crowd verbally initiates a trade with a book order prior to the time the book staff announces to the trading crowd that the order has been removed from the book by Trigger, the book staff will manually endorse the book order to that member(s).* In the event the order in the book is for a larger number of contracts than the applicable RAES contract limit, the balance of the book order will be executed manually by the trading crowd. In the limited circumstance where contracts remain in the book after an [automatic] execution of a book order up to the applicable RAES contract limit, and the disseminated quote remains crossed or locked with the Autoquote bid or offer, or for any series where Trigger has not yet been implemented by the appropriate Floor Procedure Committee, orders in RAES for options of that series will not be automatically executed but instead will be rerouted on ORS to the crowd PAR terminal or to another location in the event of system problems or contrary firm routing instructions.

(e)–(g) No change.

Interpretations and Polices

.01–.08 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt an interpretation to Rule 6.8(d)(v), which governs the operation of the AutoQuote Triggered EBook Execution system ("Trigger"). The proposed interpretation will make clear when a Trigger trade must be endorsed manually to a trading crowd member(s) instead of to the RAES "wheel." Trigger is a system that allows certain orders resting in the book to be automatically executed in the limited situation where the bid or offer for a series of options generated by the Exchange's AutoQuote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's AutoQuote system) is equal to or crosses the Exchange's best bid or offer for that series as established by a booked order.[4]

In those classes where Trigger has been activated, as AutoQuote[5] changes and the quote generated by AutoQuote either touches or crosses a resting order in the book on the opposite side of the quote, the Trigger process is initiated and the book order(s) is immediately taken out of the book (the book order is "Triggered") and a last sale is disseminated. An inversion notice ticket is printed on the book printer and an item will appear on the EBook Trigger Endorsement Screen notifying the book clerk that Trigger has taken an order(s) out of the book and an endorsement is required. At this point, the book staff will announce to the trading crowd that an order in the book has been Triggered and the terms of the trade. After the book clerk verifies with the DPM (or OBO) that the Trigger trade is valid based on movements in the underlying security, the trade will be endorsed by the book clerk to the RAES "wheel" up to the RAES contract limit applicable for that particular series of options.

In its original filing, the Exchange noted that in most instances a Trigger trade will be endorsed to the RAES wheel, but that the Trigger system has the functionality to allow the book staff to endorse a Trigger trade manually when appropriate.[6] The typical situation that was envisioned by the Exchange that would result in a DPM manually endorsing a Trigger trade to a crowd member is when the DPM noticed that a crowd member was in the process of verbally initiating a trade with the book. In this situation, the DPM could decide to utilize the manual endorsement functionality to award the Triggered trade to that particular crowd member as opposed to endorsing it to the RAES wheel because that crowd member was first to bid (offer) for the book order.

As Trigger has been rolled out to the trading floor, the Exchange has observed that while it is possible for the book staff to know exactly when a crowd member initiated a trade with the book, it is not possible to know exactly when a Trigger activation occurred. When there is a crowd member claiming to have traded with the book first and the book staff is uncertain which came first, the crowd member's bid or offer or the Trigger, the DPM (OBO) practice has been to endorse the Trigger trade to the RAES wheel.

The Exchange proposes to interpret Rule 6.8(d)(v) to require a DPM (OBO) to manually endorse a Triggered book order to a crowd member not only in the situation when it is known a crowd member was bidding (offering) for a book order prior to Trigger activation, but also to a crowd member who bids (offers) for a Triggered book order prior to the time the book staff announces the Triggered order to the crowd. In these instances, the DPM (OBO) will manually endorse the order to the crowd member(s) who is bidding (offering) for the booked order that was Triggered as opposed to endorsing the order to the RAES wheel.[7] The Exchange believes this interpretation is appropriate for the reason that it provides a clear reference point for determining the priority of a member's bid or offer in regards to a Triggered book order. The proposed interpretation will enable a market maker to trade against a Triggered book order in the instance where a market maker initiated the procedure to trade with the Triggered book order before it is announced to the trading crowd.

The general rule will be that if the book staff does not receive any bids (offers) from a crowd member for a Triggered book order by the time the book staff announces the Triggered order to the crowd, the book staff will endorse the trade to the RAES wheel.

2. Statutory Basis

The proposed rule change is consistent with and furthers the objectives of Section 6(b) of the Act[8] in general and furthers the objectives of Section 6(b)(5)[9] in particular in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act,[10] and subparagraph (f)(1) of Rule 19b–4 thereunder because it is designated as a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. CBOE–2002–12 and should be submitted by June 25, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13914 Filed 6–3–02; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Jaime Galvan, CBOE, to Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, dated April 16, 2002 ("Amendment No. 1"). In Amendment No. 1, the CBOE revised its proposal to add text to its Rule 6.8(d)(v), rather than adopt an interpretation without rule text. For purposes of determining the effective date and calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers April 17, 2002 to be the effective date of the proposed rule change, the date CBOE filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

[4] The Commission approved the rule governing the Trigger system in Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2001) (approving SR–CBOE–00–22).

[5] The use of the term "AutoQuote" herein means either the Exchange's AutoQuote system or any Exchange-approved proprietary quote generation system.

[6] 66 FR at 34495.

[7] As with any trade that takes place at the DPM's previously established principal bid or offer, the DPM would be entitled to participate in a percentage of the trade with the book order pursuant to Rule 8.87 and would manually endorse that portion of the order to himself.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(1).

[12] See supra note 3.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45988; File No. SR–CHX–2002–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated To Eliminate CHX Rule Provisions Governing Stop Order Bans

May 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 24, 2002, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The CHX provided the Commission written notice of its intent to file the proposal on November 21, 2001. The Exchange has asked the Commission to waive the 30-day operative delay to allow the proposal to be effective and operative upon filing with the Commission.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article IX of the CHX Rules to eliminate CHX Rule 10B, which governs imposition of a stop order ban during periods of extraordinary market volatility. The text of the proposed rule change is below. Proposed deletions are in brackets.

Article IX

Trading Rules

* * * * *

[Stop Order Ban Due to Extraordinary Market Volatility

Rule 10B. If the New York Stock Exchange ("NYSE") institutes a stop and stop limit order ban pursuant to NYSE Rule 80A, no member or member organization shall enter any stop order or stop limit order in Dual Trading System issues traded both on the NYSE and the Exchange for the remainder of the trading day, except that a member or member organization may enter such a stop order or a stop limit order of 2,099 shares or less for the account of an individual investor pursuant to instructions received directly from the individual investor.

* * * * *

Interpretations and Policies:

.01 Whenever the NYSE implements a stop order ban pursuant to NYSE Rule 80A, the Exchange will also ban such orders as follows:

(i) Upon notice, from the NYSE that all new stop and stop limit orders in all stocks are banned for the remainder of the day (except for orders up to 2099 shares for the account of an individual investor), the Exchange will announce to its floor and MAX customers that a stop order ban in all Dual Trading System issues traded both on the NYSE and the Exchange is in effect for the remainder of the day, except for such orders up to the 2099 shares for the accounts of individual investors.

(ii) The entry of such stop and stop limit orders (other than orders up to 2099 shares for the accounts of individual investors) will be banned on the Exchange for the remainder of the day. Such a stop or stop limit order received in the MAX system will be rejected and the message "stop not accepted-ban in effect" will be sent back to the entering firm unless the order includes the "I" designator, is for the account of an individual investor and is for 2099 shares.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CHX proposes to eliminate the CHX Rule that bans the receipt of stop orders during periods of extraordinary market volatility (CHX Article IX, Rule 10B—Stop Order Ban Due to Extraordinary Market Volatility).

In its current form, this CHX Rule bans acceptance or execution of stop orders by the CHX for the remainder of the trading day whenever the New York Stock Exchange ("NYSE") implements a "circuit breaker" stop order ban pursuant to NYSE Rule 80A (and sends notice of such ban to the CHX).

In 1999, the NYSE eliminated NYSE Rule 80A.[5] Because the CHX stop order ban rule is contingent on a primary market ban imposed pursuant to NYSE Rule 80A, in effect, elimination of NYSE Rule 80A rendered the corresponding CHX rule superfluous. To preclude any possible confusion, the Exchange believes the Rule should nevertheless be formally eliminated from the CHX Rules.

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[6] In particular, the CHX believes the proposal is consistent with Section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade, to remove impediments to, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal both effective and operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the CHX to eliminate CHX Rule 10B and the corresponding Interpretation and Policy from the CHX Rules immediately. The Commission finds no legitimate reason to delay the operation of this proposed rule change for 30 days. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.[10]

[5] *See* Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999) (SR–NYSE–98–45) (order approving amendments to NYSE Rule 80A).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to file number SR–CHX–2002–16 and should be submitted by June 25, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13868 Filed 6–3–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45989; File No. SR–DTC–2001–16]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to Technical Language Changes to Certain DTC Rules

May 28, 2002.

On August 31, 2001, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–2001–16) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposed rule change was published in the **Federal Register** on March 18, 2002.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change expands the term "procedures," as defined under Rule 1, to include service guides and regulations. The proposed rule change deletes references to "Executive Vice President" and "Senior Vice President" as officers of DTC because these titles are obsolete as no longer used at DTC and adds references to "Managing Director" to Rule 18, which allows certain DTC officers and directors to waive or suspend rules and procedures, and to Rule 28 which allows certain officers and directors to act under delegated authority from the board of directors on behalf of DTC. Rule 27 is amended to allow the board of directors to delegate authority to any DTC officer referenced in the board's delegation resolution.

II. Discussion

Section 17A(b)(3)(F)[3] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The rule change allows DTC's rules to accurately reflect its current management structure. Updating Rules 1, 18, 27, and 28 will provide the appropriate officers of DTC with the ability to carry out their responsibilities. Therefore, the Commission finds that the rule change is consistent with DTC's obligation under Section 17A to have rules that are designed to promote the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2001–16) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13872 Filed 6–3–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45985; File No. SR–ISE–2002–14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC Amending Exchange Rule 722 To Adopt Procedures for Executing the Stock Legs Portion of Stock-Option Orders

May 24, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on May 21, 2002, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt procedures for the trading of Stock-Option orders.

The text of the proposed rule change appears below. New text is in italics.

Rule 722. Complex Orders

* * * * *

Supplementary Material to Rule 722

.01 No Change.

.02 A bid or offer made as part of a stock-option order, as defined in (a)(5) above, is made and accepted subject to the following conditions: (1) the stock-option order must disclose all legs of the order and must identify the price at which the non-option leg(s) of the order is to be filled; and (2) concurrent with the execution of the options leg of the order, the initiating member and each member that agrees to be a contra-party on the non-option leg(s) of the order must take steps immediately to transmit the non-option leg(s) to a non-Exchange market(s) for execution. Failure to observe these requirements will be considered conduct inconsistent with just and equitable principles of trade and a violation of Rule 400.

A trade representing the execution of the options leg of a stock-option order

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45540 (March 12, 2002), 67 FR 12070.

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

may be cancelled at the request of any member that is a party to that trade only if market conditions in any of the non-Exchange market(s) prevent the execution of the non-option leg(s) at the price(s) agreed upon.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*

ISE Rule 722 provides for the execution of complex orders on the Exchange, including Stock-Option Orders. However, the Rule does not currently provide procedures for executing the stock leg(s) of these types of orders. The Exchange states that the purpose of the proposed rule change is to establish such procedures.

According to the Exchange, the proposal would require that a member entering a Stock-Option Order to disclose all the legs of the order and the price at which the non-option leg(s) are to be filled. Following execution of the options leg, the parties would be required to immediately transmit the stock leg(s) to stock market(s) for execution. If the parties cannot execute the stock leg(s) at the agreed-upon price(s), the Exchange would cancel the option leg at the request of any party to the trade.

According to the Exchange, the proposed rule change is based on Chicago Board Options Exchange Rule ("CBOE") 6.48(b). The Exchange believes that the only difference between these rules is that the CBOE rule requires the member initiating a stock-option order to announce the specific market or markets on which the stock trade will be effected. The Exchange does not believe requiring the disclosure of the specific market(s) of execution provides meaningful information to the trading crowd. Rather, the Exchange would allow the members effecting the trade to choose the market(s) of their choice for the stock transactions.

(2) *Statutory Basis*

The Exchange's basis for the proposed rule change is the requirement under Section 6(b)(5) of the Act [3] that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [4] and subparagraph (f)(6) of Rule 19b–4 [5] thereunder because the Exchange has designated the proposed rule change as one that does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Under Rule 19b–4(f)(6)(iii) of the Act,[6] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date in order for it to implement the proposed rule change as quickly as possible. The Commission, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative period.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–ISE–2002–14 and should be submitted by June 25, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13871 Filed 6–3–02; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78f(b)(4).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45990; File No. SR–NASD–00–76]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the National Association of Securities Dealers, Inc. Relating to Locked and Crossed Markets That Occur at or Prior to the Market Open

May 28, 2002.

I. Introduction

On January 5, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the provisions of NASD Rule 4613(e)(1)(C), "Locked and Crossed Markets," to revise the use of Trade-or-Move Messages during locked and crossed market conditions that occur prior to the market's opening, and to add provisions relating to the use of Trade-or-Move Messages prior to the market's close. On January 22, 2001, the NASD, through Nasdaq, filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on February 7, 2001.[4] The Commission received seven comment letters regarding the proposal.[5] Nasdaq responded to the commenters in Amendment Nos. 2 and 3 to the proposal, which the NASD, through Nasdaq, filed with the Commission on August 13, 2001,[6] and February 21, 2002,[7] respectively. Amendment Nos. 2 and 3 were published for comment in the **Federal Register** on March 11, 2002.[8] The Commission received three comment letters regarding Amendment Nos. 2 and 3.[9] The NASD, through Nasdaq, responded to the comments regarding Amendment Nos. 2 and 3 on April 5, 2002,[10] and on April 16, 2002,[11] respectively. This order approves the proposed rule change and Amendment Nos. 1, 2, and 3.

II. Description of the Proposed Rule Change

A. Background

In its original rule proposal, Nasdaq proposed amendments to NASD Rule 4613(e)(1)(C) that would alter the obligations of market makers and ECNs during locked and crossed markets that occur prior to the market's open and also prior to the close. Specifically, Nasdaq originally proposed to: (1) Extend the application of NASD Rule 4613(e)(1)(C)(ii) regarding locked and crossed markets before the open to the period prior to the close; (2) require market makers and ECNs that send a Trade-or-Move Message to do so at least 15 seconds before entering a locking or crossing quote rather than after entering a locking or crossing quote, as the rule currently requires; (3) increase from 5,000 to 10,000 the minimum number of shares that must accompany a non-agency Trade-or-Move Message; and (4) reduce the amount of time within which the recipient of a Trade-or-Move Message must properly respond to the message from 30 seconds to 15 seconds.

The Commission received seven comment letters regarding the original proposal, as amended by Amendment No. 1.[12] In response to the commenters, Nasdaq filed Amendment No. 2 to the proposal, which made several changes to the original proposal to address concerns raised by the commenters. The proposal, as amended by Amendment No. 2, will: (1) Require ECNs to send Trade-or-Move Messages prior to entering locking or crossing quotes and require market makers to send Trade-or-Move Messages after entering locking or crossing quotes; (2) reduce the time to respond to a Trade-or-Move Message to 10 seconds; (3) provide a 10,000-share minimum share requirement for Trade-or-Move Messages for Nasdaq 100 Index ("Nasdaq 100") and S&P 400 Index ("S&P 400") issues; (4) prohibit all market participants from entering locking or crossing quotes between 9:29:30 a.m. and 9:29:59 a.m.; and (5) delete provisions in the original proposal imposing Trade-or-Move requirements between 3:50 p.m. and 4:00 p.m.[13]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Letter from Jeffrey S. Davis, Assistant General Counsel, Nasdaq, to Sapna C. Patel, Attorney, Division of Market Regulation ("Division"), Commission, dated January 19, 2001 ("Amendment No. 1"). In Amendment No. 1, Nasdaq made a minor technical correction to the rule text.

[4] See Securities Exchange Act Release No. 43913 (January 31, 2001), 66 FR 9394.

[5] See letter from Mark R. Grewe, Managing Director, NDB Capital Markets, L.P., to Jonathan G. Katz, Secretary, Commission, dated February 27, 2001 ("NDB Letter"); letter from Martin Cunningham, Senior Vice President Trading, Schwab Capital Markets L.P. ("Schwab"), to Jonathan G. Katz, Secretary, Commission, dated February 28, 2001 ("Schwab Letter"); letter from Richard B. Levin, Assistant General Counsel and Regulatory Affairs Officer, Knight Securities, L.P. ("Knight"), to the Commission, dated March 1, 2001 ("Knight Letter"); letter from Kim Bang, President, Bloomberg Tradebook LLC ("Bloomberg"), to the Commission, dated March 15, 2001 ("Bloomberg Letter"); letter from Timothy G. Grazioso, Subcommittee Chairman, Trading Issues Committee, Security Traders Association ("STA"), Michael T. Bird, Chairman, Trading Issues Committee, STA, and Geoffrey W. Cloud, Counsel, Trading Issues Committee, STA, to Jonathan G. Katz, Secretary, Commission, dated March 13, 2001 ("STA Letter"); letter from Kevin J.P. O'Hara, General Counsel, Archipelago, L.L.C. ("Archipelago") to Jonathan G. Katz, Secretary, Commission, dated April 3, 2001 ("Archipelago Letter"); and letter from William O'Brien, Senior Vice President & General Counsel, The BRUT ECN, L.L.C., ("BRUT") to the Commission, dated April 17, 2001 ("BRUT Letter").

[6] See letter (with attachment) from Eugene A. Lopez, Senior Vice President, Nasdaq, to Belinda Blaine, Associate Director, Division, Commission, dated August 10, 2001 ("Amendment No. 2"). In Amendment No. 2, Nasdaq responds to the commenters and proposes to revise its original proposal to: (1) require electronic communications networks ("ECNs") to send Trade-or-Move Messages prior to entering locking or crossing quotes and require market makers to send Trade-or-Move Messages after entering locking or crossing quotes; (2) reduce the time to respond to a Trade-or-Move Message to 10 seconds; (3) provide a 10,000-share minimum share requirement for Trade-or-Move Messages for Nasdaq 100 and S&P 400 issues; (4) prohibit all market participants from entering locking or crossing quotes between 9:29:30 a.m. and 9:29:59 a.m.; and (5) delete provisions imposing Trade-or-Move requirements between 3:50 p.m. and 4 p.m.

[7] See letter from Jeffrey S. Davis, Nasdaq, to John Polise, Senior Special Counsel, Division, Commission, dated February 21, 2002 ("Amendment No. 3"). In Amendment No. 3, Nasdaq responds to comments from BRUT and clarifies a misstatement in Amendment No. 2. Specifically, Amendment No. 3 states that the requirement that ECNs send Trade-or-Move Messages prior to entering locking or crossing quotes applies to all orders that ECNs receive and is not limited to agency orders, as stated incorrectly in Amendment No. 2.

[8] See Securities Exchange Act Release No. 45508 (March 5, 2002), 67 FR 10956 ("March 11 Release").

[9] See letter from Joshua Levine to *rule-comments@sec.gov*, Commission, dated April 1, 2002 ("Levine Letter"); letter from Keith Brickman, Managing Director, Morgan Stanley, Inc. ("Morgan Stanley"), to Jonathan G. Katz, Secretary, Commission, dated April 4, 2002 ("Morgan Stanley Letter"); and letter from Chris Holter, Head of OTC Trading, and Betsy Prout Lefler, Director, Equity Capital Markets Compliance, First Union Securities, Inc. ("First Union"), to Commission, dated April 5, 2002 ("First Union Letter").

[10] See letter from Jeffrey S. Davis, Associate General Counsel, Nasdaq, to Yvonne Fraticelli, Special Counsel, Division, Commission, dated April 5, 2002 ("April 5 Letter"). In the April 5 Letter, Nasdaq states its reasons for retaining the Trade-or-Move requirements rather than requiring market participants to enter firm quotes prior to the market opening, as the commenter suggests.

[11] See letter from Jeffrey S. Davis, Associate General Counsel, Nasdaq, to Yvonne Fraticelli, Special Counsel, Division, Commission, dated April 15, 2002 ("April 15 Letter"). As discussed more fully below, in the April 15 Letter, Nasdaq addressed concerns raised in the Morgan Stanley Letter and First Union Letter.

[12] See *supra* note 5.

[13] See Amendment No. 2, *supra* note 6.

B. Nasdaq's Amended Proposal

1. Sequence of Messages

In its original proposal, Nasdaq proposed to revise NASD Rule 4613(e)(1)(C) to require all market participants to send Trade-or-Move Messages before, rather than after, entering a locking or crossing quotation. In response to concerns raised by commenters,[14] Nasdaq revised its proposal to permit the sequence of Trade-or-Move Messages to differ by market participant business model. Specifically, under the amended proposal, ECNs will send a Trade-or-Move Message before entering a locking or crossing quote, and market makers will send a Trade-or-Move Message immediately after entering a locking or crossing quote.[15] Nasdaq believes that the proposed change will permit ECNs to participate more effectively in the pre-opening period, while permitting market makers to retain their current automated systems.[16] Nasdaq believes that the proposed change also will preserve the benefits that Nasdaq sought to achieve when it first implemented the Trade-or-Move requirements, including increased price discovery and decreased gamesmanship surrounding the occurrence and resolution of locked and crossed markets.[17]

2. Response Time

Under current NASD Rule 4613(e)(1)(C), the recipient of a Trade-or-Move Message must respond properly to the message within 30 seconds. In the original proposal, Nasdaq proposed to reduce the response time to 15 seconds to reduce the duration of locked and crossed markets that occur.

Based upon commenters' concern that 15 seconds was too long a response time,[18] Nasdaq proposed to reduce the time for responding to a Trade-or-Move Message to 10 seconds. Although Nasdaq acknowledges that this is a relatively brief period for non-automated participants, Nasdaq believes that firms that choose to participate in the pre-open must vigilantly monitor their quotes.[19] In addition, as described more fully below, Nasdaq believes that the 10-second response time will help ECNs to avoid dual liability.[20]

3. Number of Shares

Under current NASD Rule 4613(e)(1)(C), the aggregate size of the Trade-or-Move Message must be at least 5,000 shares (*i.e.*, the market participant must send a total of 5,000 shares to all parties it is locking or crossing) in the case of a proprietary quote, or the actual size of an agency order if that is the basis for the locking or crossing quote. Under the original proposal, Nasdaq sought to raise the minimum Trade-or-Move Message share requirement to 10,000 shares or the actual size of an agency order. Nasdaq believes that a market participant must be willing to risk significant capital and to trade a significant amount if it wishes to lock or cross the market during the ten minutes prior to the opening.

In light of concerns raised regarding the 10,000-share requirement,[21] Nasdaq revised the proposal to limit the 10,000-share Trade-or-Move Message requirement size to proprietary orders involving securities in the Nasdaq 100 Index and the S&P 400 Index. The minimum Trade-or-Move Message size requirement will remain at 5,000 shares for other issues. The "agency exception" contained in current NASD Rule 4613(e)(1)(C) will continue to operate as it does today. Nasdaq believes that Nasdaq 100 and S&P 400 issues are marked by higher liquidity and faster trading and, therefore, merit a more stringent effort to avoid locked or crossed markets. Nasdaq believes that the 10,000-share requirement proportionately increases the economic significance of entering a locking or crossing quotation for stocks that are widely followed and for which a locked or crossed market would have the greatest impact.

4. Limited Prohibition on Entry of Locking and Crossing Quotes

Based upon the recommendation of the Trade-or-Move Subcommittee ("Subcommittee") of Nasdaq's Quality of Markets Committee, Nasdaq revised the proposal to prohibit market participants from entering a locking or crossing quote between 9:29:30 a.m. and 9:29:59 a.m.[22] During that period, all market participants will be permitted to send Trade-or-Move Messages for the required number of shares to parties that they would lock or cross if permitted to enter such locking or crossing quotes. Market participants that receive Trade-or-Move Messages during that time period will be obligated to respond properly by trading in full or moving their quote within the appropriate response time.

Nasdaq believes that a prohibition on the entry of locking and crossing quotes immediately prior to the market opening, in conjunction with the continued obligation to respond properly to Trade-or-Move Messages, will facilitate the resolution of locks and crosses that exist at 9:29:30 a.m. Further, Nasdaq believes that the potential benefits to all market participants of a more orderly opening outweigh the limited loss of price discovery that will result from suppressing locking and crossing quotes during that brief but critical period.

5. Pre-Closing

Based upon the positive effect that the Trade-or-Move requirements have had on resolving potential locked and crossed markets at and immediately before the market opening, Nasdaq originally proposed to expand the application of NASD Rule 4613(e)(1)(C) to include the 10-minute period preceding the market close (3:50 p.m. to 3:59:59 p.m.). The commenters generally opposed this provision of the original proposal. In light of the comments received and with the implementation of SuperSOES, Nasdaq revised the proposal to eliminate the provisions expanding the application of NASD Rule 4613(e)(1)(C) to the period prior to the closing.

III. Summary of Comments and Nasdaq's Response

A. Comments to the Original Proposal and Amendment No. 1

As noted above, the Commission received seven comment letters regarding the original proposal, as amended by Amendment No. 1.[23] In response to the commenters, Nasdaq filed Amendment No. 2 to the proposal, which made several changes to the original proposal to address concerns raised by the commenters. In addition, Nasdaq filed Amendment No. 3 to the proposal, which responded to the concerns of one commenter and corrected a misstatement in Amendment No. 2.[24] Amendment Nos. 2 and 3 were published for comment in the March 11 Release.[25] The comments raised by the seven commenters to the original proposal, and Nasdaq's response to the commenters, are discussed in detail in the March 11 Release.

B. Comments Regarding Amendment Nos. 2 and 3 and Nasdaq's Response

The Commission received three comment letters regarding Amendment Nos. 2 and 3.[26] One commenter suggested that Nasdaq replace the Trade-or-Move requirements with a requirement that market participants enter firm quotes prior to the market open.[27]

In its response, Nasdaq stated that the Subcommittee considered the commenter's suggested approach twice in 2001.[28] Nasdaq believes, however, that the commenter's suggested approach would either shift occurrences of locked and crossed markets to an earlier time period or eliminate a beneficial pre-opening opportunity. In this regard, Nasdaq states that it is important for market participants to use Nasdaq systems to gather information, adjust their quotations, and prepare for the market open before the market opens. Nasdaq believes that revising the Trade-or-Move requirements provides the best method for improving the quality of the market open.[29]

Another commenter stated that, although it generally supports Nasdaq's efforts to improve the Nasdaq opening, it believes that Nasdaq's amended proposal falls short of solving concerns surrounding the market open.[30] The commenter suggested that the most effective way to improve the market open is to require that the first official print in a Nasdaq stock be based upon the first unlocked and uncrossed market, thereby reflecting the true market price of the security.[31] In addition, the commenter stated that to provide more effective deterrence, firms that do fail to comply with Nasdaq's requirements for locked and crossed markets during the pre-opening should be taken "out of the box" and not allowed to quote for a specified period of time.[32] Finally, the commenter recommended that all market participants be required to send a Trade-or-Move Message prior to locking or crossing the market.

Similarly, another commenter stated that the different Trade-or-Move Message sequence requirements for market makers and ECNs would lead to confusion.[33] The commenter stated that all market participants should be required to enter locking or crossing quotes either before or after sending a Trade-or-Move Message; however, the commenter preferred the former sequence.[34] The commenter also recommended that the Trade-or-Move requirements mandate that market participants take continuous action to resolve locked and crossed markets, either by moving the locking or crossing quote after receiving an execution or by sending another Trade-or-Move Message to trade for additional shares at the quoted price.

In response to the concerns regarding the different Trade-or-Move Message sequences for market makers and ECNs, Nasdaq states that, after carefully examining the issue, it has concluded that the proposed message sequences will reduce the instances of locked and crossed markets.[35] With regard to the concern that the current Trade-or-Move requirements do not require ongoing efforts to resolve locked and crossed markets, Nasdaq states that it expects to file a proposal with the Commission that will further improve the operation of the Trade-or-Move requirements and address both First Union's concern regarding the efficacy of the Trade-or-Move requirements and Morgan Stanley's suggestion that the quote requirements of a market participant that violates the Trade-or-Move requirements be removed from the market for a period of time.[36]

Finally, with respect to Morgan Stanley's suggestion that the first official print in a Nasdaq stock be based on the first unlocked and uncrossed market, Nasdaq states that it is considering a proposal to establish an official opening print price that accounts for Nasdaq's decentralized market structure.[37] Before implementing an opening print process, Nasdaq will solicit input from its Quality of Markets Committee, its Board of Directors, and its members.[38]

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[39] In particular, the Commission finds that the proposal, as amended, is consistent with Sections 15A(b)(6), 15(b)(11), and 11A(a)(1)(C) of the Act.[40] Section 15A(b)(6) of the Act requires that the rules of a national securities association be designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. Section 15(b)(11) of the Act requires that the rules of a national securities association be designed to produce fair and informative quotations, prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations. In Section 11A(a)(1)(C) of the Act, Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) Economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors orders in the best market; and (5) an opportunity for investors orders to be executed without the participation of a dealer.

Specifically, the Commission finds that Nasdaq's proposal, as amended, is designed to reduce the frequency of pre-opening locked and crossed markets, which should help to provide more informative quotation information, facilitate price discovery, and contribute to the maintenance of a fair and orderly market. The Commission believes that the proposal, as amended, addresses the concerns raised by the commenters

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[14] *See, e.g.*, Schwab Letter, *supra* note 5 (asserting that the proposal to require market makers to send a Trade-or-Move Message prior to entering a locking or crossing quote would necessitate manual, rather than automated processing; and NDB Letter, *supra* note 5 (stating that the proposal to require market makers to send a Trade-or-Move Message prior to entering a locking or crossing quote would require substantial programming changes).

[15] "Immediate" issuance of a Trade-or-Move Message will be understood to mean instantaneous in the case of automated systems and not exceeding a different, specified period where manual processes are utilized.

[16] *See* Amendment No. 2, *supra* note 6.

[17] *See* Amendment No. 2, *supra* note 6.

[18] *See, e.g.*, Knight Letter and STA Letter, *supra* note 5.

[19] *See* Amendment No. 2, *supra* note 6.

[20] *See* Amendment No. 2, *supra* note 6.

[21] *See, e.g.*, Knight Letter, *supra* note 5 (expressing concern that the 10,000-share requirement could require a firm to commit $1 million to execute an order in certain stocks at a time when the market is not fully functional).

[22] Nasdaq formed the Subcommittee to respond to concerns raised by the initial seven commenters to the proposal. The Subcommittee was comprised of the initial seven commenters and members representing other constituencies within the Nasdaq market making community.

[23] *See supra* note 5.

[24] *See supra* note 7.

[25] *See supra* note 8.

[26] *See supra* note 9.

[27] *See* Levine Letter, *supra* note 9.

[28] *See* April 5 Letter, *supra* note 10.

[29] *See* April 5 Letter, *supra* note 10.

[30] *See* Morgan Stanley Letter, *supra* note 9.

[31] *Id.*

[32] *Id.*

[33] *See* First Union Letter, *supra* note 9.

[34] *Id.*

[35] *See* April 15 Letter, *supra* note 11.

[36] *See* April 15 Letter, *supra* note 11. Nasdaq notes that its Quality of Market Committee and the Subcommittee considered a proposal to remove the quotations of a market participant that violated the Trade-or-Move requirements. However, Nasdaq states that it was unable to develop a solution that would effectively preserve the rights of market participants that had their quotes removed from the market involuntarily. *See* April 15 Letter, *supra* note 11.

[37] *See* April 15 Letter, *supra* note 11.

[38] *See* April 15 Letter, *supra* note 11.

[39] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[40] 15 U.S.C. 78*o*–3(b)(6), 15 U.S.C. 78*o*–3(b)(11), and 15 U.S.C. 78k–1(a)(1)(C).

while providing requirements designed to establish a more orderly market opening.

For example, under the revised Trade-or-Move Message sequence procedures, ECNs will send a Trade-or-Move Message prior to entering a locking or crossing quote, while market makers will send a Trade-or-Move Message after entering a locking or crossing quote. The revised procedures respond to market makers' concerns that requiring market makers to send a Trade-or-Move Message prior to entering a locking or crossing quote would necessitate substantial programming changes or require manual processing.[41] At the same time, the Trade-or-Move Message sequence applicable to ECNs, combined with the requirement to respond to a Trade-or-Move Message within 10 seconds, should help ECNs avoid dual liability. Specifically, the revised rule will allow an ECN to send a Trade-or-Move Message for the actual size of an agency order, wait 10 seconds for a response, and, assuming it receives no response, cancel the Trade-or Move Message and enter the agency order as a locking or crossing quote.[42] The Commission also believes that the requirement to respond to a Trade-or-Move Message within 10 seconds should help to facilitate the prompt resolution of locked or crossed markets that occur.

The amended proposal will require a market participant handling a proprietary order to send a Trade-or-Move Message for a minimum of 10,000 shares in the case of Nasdaq 100 and S&P 400 issues and 5,000 shares for all other issues. The Commission believes that the 10,000-share Trade-or-Move Message size requirement may help to deter market participants entering from locking or crossing quotes in Nasdaq 100 and S&P 400 issues.

As discussed above, Nasdaq's amended proposal prohibits market participants from locking or crossing the market between 9:29:30 a.m. and 9:29:59 a.m. Market participants will, however, be permitted to send Trade-or-Move Messages for the required number of shares to any party or parties they wish to lock or cross. The recipients of such messages must respond to the message by trading in full or moving their quotes within the 10-second response time. The Commission believes that the prohibition on locking and crossing the market between 9:29:30 a.m. and 9:29:59 a.m. could help to provide for a more orderly market open, and thereby benefit all market participants.

Finally, the three comment letters received following the publication of Amendment Nos. 2 and 3 reflect the continuing disagreement among market participants concerning the implementation of the Trade-or-Move requirements and the most effective means for providing an orderly opening on Nasdaq. In its response to the commenters, Nasdaq noted that it is developing proposals designed to address some of the concerns raised by the commenters.[43] The Commission expects Nasdaq to continue working to refine its procedures as necessary to achieve a more orderly market opening.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[44] that the proposed rule change (SR–NASD–00–76), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[45]

Margaret H. McFarland

Deputy Secretary

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[41] *See, e.g.,* NDB Letter and Schwab Letter, *supra* note 5.

[42] *See* Amendment No. 2, *supra* note 6.

[43] *See* April 15 Letter, *supra* note 11.

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45987; File No. SR–NYSE–2001–30]

Self-Regulatory Organizations; The New York Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change to Amend Rule 227 Regarding Depository Eligibility

May 28, 2002.

On August 21, 2001, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NYSE–2001–30) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposed rule change was published in the **Federal Register** on April 25, 2002.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The NYSE adopted Rule 227 on June 1, 1995, for the purpose of facilitating implementation of Rule 15c6–1 of the Act that established a three-day settlement period for most securities transactions.[3] Rule 227, which required that domestic issuers' securities be depository eligible before they would be listed, set forth specific requirements for depository eligibility for issuers in order to facilitate the book-entry settlement of initial public offerings and to reducing the risks inherent in settling securities transactions.

On May 13, 1996, approximately one year after Rule 227 was approved, the Commission approved a rule change filed by The Depository Trust Company ("DTC")[4] allowing DTC to implement its Initial Public Offering ("IPO") Tracking System.[5] The IPO Tracking System enables lead managers and syndicate members of equity underwritings to monitor repurchases of distributed shares in an automated book-entry environment.

Currently before an issue of securities can be listed, Rule 227(a) requires each domestic issuer to represent to the NYSE that a CUSIP number identifying the security has been included in the file of eligible issuers maintained by a securities depository registered with the Commission as a clearing agency. The proposed amendments would delete the references to "domestic" and "foreign" issuers in paragraph (a). Exclusion of foreign issuers is no longer necessary because they have the capacity to comply with Rule 227 and have been doing so voluntarily for several years.

Rule 227(b) states that a security depository's inclusion of a CUSIP number in its file of eligible issues does not render a security "depository eligible" unless (1) the securities depository has an electronic system for monitoring repurchases of distributed shares at the time such shares commence trading on the Exchange or (2) when a managing underwriter elects not to deposit the securities on distribution date, it notifies the securities depository no later than three months after the commencement of trading on the NYSE. Rule 227(b) will be deleted as it is no longer relevant since DTC has implemented its IPO Tracking System, which is monitoring repurchases of distributed shares.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45789 (April 19, 2002), 67 FR 20568.

[3] Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 (June 12, 1995)[File No. SR–NYSE–95–19] (order approving the adoption of NYSE Rule 227 setting forth requirements on issuers seeking to have their shares listed on the Exchange).

[4] DTC is a securities depository registered with the Commission under Sections 17A and 19 of the Act as a clearing agency.

[5] Securities Exchange Act Release No. 37208 (May 13, 1996), 61 FR 25253 (May 20, 1996)[File No. SR–DTC–95–27] (order approving implementation of DTC's IPO Tracking System).

II. Discussion

Section 6(b)(5)[6] of the Act requires that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. Deleting differences relating to "domestic" and "foreign" issuers with respect to depository eligibility of listed issues eliminates an unnecessary difference in the treatment of U.S. issuers and foreign issuers and thereby helps to perfect the mechanism of a free and open market and a national market system. Therefore, the Commission finds that the rule change is consistent with the NYSE's obligations under Section 6(b)(5).

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–2001–30) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13869 Filed 6–3–02; 8:45 am]

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[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45986; File No. SR–PCX–2001–36]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Technical Changes to the PCX's Firm Quote Rule

May 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the PCX. PCX submitted Amendment No. 1 to the proposed rule change on May 21, 2002.[3] The Commission is granting accelerated approval to, and publishing this notice to solicit comments on, the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise PCX Rule 6.86 regarding firm quotes. The text of the proposed rule change is below. Proposed new language is italicized.

¶ 5221 Firm Quotes

Rule 6.86(a) *Applicability and* Definitions

(1)–(2) No change.

(3) *For purposes of this Rule, the term "broker-dealer order" and the term "order," when used with respect to an order for the account of a broker-dealer, will include orders for "foreign broker-dealers" as defined in Rule 6.1(b)(31).*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In November 2000, the Commission amended Rule 11Ac1–1 under the Act ("Quote Rule")[4] to apply the Quote Rule to the options markets.[5] In response, the Exchange amended its rules to adopt implementing provisions consistent with the Commission's approval of the Quote Rule.[6] Now, the Exchange proposes to include foreign broker-dealers within its definition of broker-dealer for purposes of its members' firm quote obligation. The Exchange believes this proposed revision codifies the Commission's grant of exemptive relief already provided to options exchanges in allowing them to apply firm quote rules to foreign broker-dealers to the same extent as they do to U.S. broker-dealers.[7] Accordingly, the Exchange believes that the proposed amendment is consistent with and supports the Commission's release regarding the Quote Rule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, because it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposes to delete the portion of the proposed rule change regarding displaying bids and offers and requests accelerated approval of the amended proposal. *See* letter from Mai S. Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 20, 2002 ("Amendment No. 1").

[4] 17 CFR 240.11Ac1–1.

[5] *See* Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

[6] *See* Securities Exchange Act Release No. 44383 (June 1, 2001), 66 FR 30959 (June 8, 2001) (order approving SR–PCX–2001–18).

[7] *See* letter from Annette L. Nazareth, Director, Division of Market Regulation, Commission, to Timothy H. Thompson, Assistant General Counsel, Chicago Board Options Exchange (April 2, 2001) ("Exemption Letter").

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–36 and should be submitted by June 25, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. Specifically, the Commission finds that, by incorporating the Exemption Letter into the PCX's rules, the proposed rule change is consistent with the Commission's grant of an exemption from the Quote Rule for responsible broker-dealers with regard to the handling of orders for the account of foreign broker-dealers.[12]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. As noted above, the proposed rule change is consistent with the Commission's Exemption Letter.[13] Accordingly, the Commission believes that no new regulatory issues are raised by PCX's proposed rule change. The Commission believes, therefore, that granting accelerated approved of the proposed rule change is appropriate and consistent with Section 19(b) of the Act.[14]

V. Conclusion

It is Therefore Ordered, Pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–PCX–2001–36), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[10] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Exemption Letter, *supra* note 7.

[13] *Id.*

[14] 15 U.S.C. 78s(b).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3413]

State of Missouri; (Amendment #2)

In accordance with information received from the Federal Emergency Management Agency, dated May 24, 2002, the above numbered declaration is hereby amended to include Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Greene, Hickory, Jasper, Laclede, Lawrence, McDonald, Mississippi, New Madrid, Newton, Pemiscot, Polk, Scott, Stone, Taney, Vernon, Webster and Wright Counties in the State of Missouri as disaster areas due to damages caused by severe storms, tornadoes and flooding beginning on April 24, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Bates, Benton, Miller, Morgan and St. Clair Counties in Missouri; Benton, Boone and Carroll Counties in Arkansas; Bourbon, Cherokee, Crawford and Linn Counties in Kansas; Ballard, Carlisle, Fulton and Hickman Counties in Kentucky; Delaware and Ottawa Counties in Oklahoma; and Dyer and Lake Counties in Tennessee. All other counties contiguous to the above-named primary counties have been previously declared.

The economic injury numbers assigned are 9P8200 for Kentucky, 9P8300 for Kansas; 9P8400 for Oklahoma; and 9P8500 for Tennessee.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 7, 2002, and for loans for economic injury the deadline is February 10, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 29, 2002.

Herbert L. Mitchell,

Associate Administrator, for Disaster Assistance.

[FR Doc. 02–13987 Filed 6–3–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3413]

State of Missouri; (Amendment #1)

In accordance with information received from the Federal Emergency Management Agency, dated May 21 and May 22, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on April 24, 2002 and continuing and to establish the incident type as severe storms, tornadoes and flooding. The declaration is also amended to include Crawford, Dent, Jefferson, St. Genevieve and Washington Counties in the State of Missouri as disaster areas due to damages caused by severe storms, tornadoes and flooding beginning on April 24, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Franklin, Gasconade and St. Louis Counties in Missouri; and Monroe County in Illinois. All other counties contiguous to the above-named primary counties have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 7, 2002, and for loans for economic injury the deadline is February 10, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 22, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–13988 Filed 6–3–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Information Quality Guidelines

AGENCY: U.S. Small Business Administration.

ACTION: Notice of guidelines and request for comments.

SUMMARY: The U.S. Small Business Administration ("SBA") is seeking public comments on its draft report ("Report") concerning SBA's proposed information quality guidelines. The Report describes the guidelines that SBA proposes to follow to ensure and maximize the quality of information it disseminates, and the administrative mechanism SBA proposes to use to allow affected persons to seek and obtain correction of information SBA maintains and disseminates.

DATES: Comments are due on June 30, 2002.

ADDRESSES: Send comments to Chet Francis, Office of the Chief Information Officer, U.S. Small Business Administration, 409 Third Street, SW, Suite 4000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Chet Francis, Office of the Chief Information Officer, (202) 205–6289.

SUPPLEMENTARY INFORMATION: Pursuant to the Office of Management and Budget "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," effective January 3, 2002 ("OMB Guidelines"), SBA is required to issue its own information quality guidelines and to establish an administrative mechanism for affected persons to seek and obtain correction of information maintained and disseminated by SBA that does not comply with the OMB Guidelines. SBA also must issue a draft report presenting these two items, and make such report available to the public for comment. SBA's draft Report is available to the public on SBA's web site at *http://www.sba.gov/aboutsba/infoqualityguidelines.pdf,* or by calling Chet Francis at (202) 205–6289, or writing to him at Office of the Chief Information Officer, U.S. Small Business Administration, 409 Third Street, SW, Suite 4000, Washington, DC 20416.

SBA specifically seeks comments on (1) whether SBA's draft guidelines are adequate to ensure and maximize the quality, objectivity, utility, and integrity of the information, including statistical information, that SBA disseminates; and (2) whether SBA's draft administrative mechanism, for affected persons to seek and obtain correction of information maintained and disseminated by SBA that does not comply with the OMB Guidelines, is adequate.

After consideration of public comments, SBA will make appropriate revisions to the draft Report and submit it to OMB for review by no later than July 1, 2002. Upon completion of OMB's review and finalization of the Report, SBA will make its final Report available to the public by no later than October 1, 2002.

Authority: Section 515(a) of the Treasury and General Government Appropriations Act for FY 2001, Pub. L. No. 106–554; Office of Management and Budget "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," effective January 3, 2002, 67 FR 8452 (Feb. 22, 2002).

Lawrence E. Barrett,

Chief Information Officer.

[FR Doc. 02–13989 Filed 6–3–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4032]

Culturally Significant Objects Imported for Exhibition Determinations: "Uncommon Legacies: Native American Art from the Peabody Essex Museum"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the objects to be included in the exhibition, "Uncommon Legacies: Native American Art from the Peabody Essex Museum," imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Iris & B. Gerald Cantor Center for Visual Arts at Stanford University, Stanford, California, from on or about May 22, 2002, to on or about August 4, 2002, at the Cincinnati Art Museum, Cincinnati, Ohio, from on or about October 10, 2002, to on or about January 5, 2003, at the Virginia Museum of Fine Arts, Richmond, Virginia, from on or about April 17, 2003, to on or about July 20, 2003, at the Peabody Essex Museum, Salem, Massachusetts, from on or about September 19, 2003, to on or about November 16, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: May 23, 2002.

Stephen Hart,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–13916 Filed 6–3–02; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Technical Corrections to the Harmonized Tariff Schedule of the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) is making technical corrections to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) as set forth in the annex to this notice, pursuant to authority delegated to the USTR in Presidential Proclamation 6969 of January 27, 1997 (62 FR 4415). These modifications correct several inadvertent errors and omissions in the Annex to Presidential Proclamation 7529 of March 5, 2002 (67 FR 10553) so that the intended tariff treatment is provided. In addition, USTR is modifying other portions of the HTS so as to reflect the correct treatment of motor fuel; *d*(-)-*p*-Hydroxyphenylglycine ((*R*)-αAmino-4-hydroxybenzeneacetic acid); inner tubes for certain tires, paper stock; cooler bags with an outer surface of textile materials; Benzenesulfonic acid, 4-[(1,3-dioxybutyl)amino]-5-methoxy-2-methyl-, ammonium salt and monosodium salt; transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting, or television; and postage or revenue stamps, stamp-postmarks, first-day covers, postal stationery (stamped paper) and the like.

EFFECTIVE DATE: The corrections made in this notice are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in each item in the annex to this notice.

FOR FURTHER INFORMATION CONTACT: Office of Industry, Office of the United States Trade Representative, 600 17th

Street, NW, Room 501, Washington DC, 20508. Telephone (202) 395–5656.

SUPPLEMENTARY INFORMATION: On March 5, 2002, Proclamation 7529 established increases in duty and a tariff-rate quota (safeguard measures) pursuant to section 203 of the Trade Act of 1974 (19 U.S.C. 2253) on imports of certain steel products described in paragraph 7 of that proclamation. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, Proclamation 7529 modified the subchapter III of chapter 99 of the HTS so as to provide for such increased duties and a tariff-rate quota. On March 19, 2002, USTR published a **Federal Register** notice (67 FR 12635) making technical corrections to subchapter III of chapter 99 of the HTS to remedy several technical errors introduced in the annex to Proclamation 7529. These corrections ensured that the intended tariff treatment was provided.

Since the publication of the March 19, 2002, **Federal Register** notice, additional technical errors and omissions introduced through the annex to Proclamation 7529 have come to the attention of USTR. The annex to this notice makes technical corrections to the HTS to remedy these errors and omissions. In particular, the annex to this notice corrects errors in the physical dimensions or chemical composition of certain products excluded from the application of the safeguard measures.

In addition, it has come to the attention of USTR that there are technical errors and omissions in other chapters of the HTS due to prior proclamation unrelated to Proclamation 7529. The annex to this notice makes technical corrections to the HTS to remedy these errors and omissions, particularly with regard to incorrect citation to HTS subheadings, elimination of duplicative tariff treatment, deletion of obsolete article descriptions, elimination of conflicting tariff treatment, correct indication of eligibility for the Generalized System of Preferences, deletion of incorrect chemical names, and alignment with Harmonized System nomenclature. These changes would appear to have no impact on duty treatment.

Proclamation 6969 authorized the USTR to exercise the authority provided to the President under section 604 of the Trade Act of 1974 (19 U.S.C. 2483) to embody rectifications, technical or conforming changes, or similar modifications in the HTS. Under authority vested in the USTR by Proclamation 6969, the rectifications, technical and conforming changes, and similar modifications set forth in the annex to this notice shall be embodied in the HTS with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date set forth in each item in the Annex to this notice.

Jon M. Huntsman, Jr.,

Deputy United States Trade Representative.

Annex

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the dates specified in each numbered paragraph below, the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as follows:

1. Effective on and after January 10, 2002, additional U.S. note 3 to chapter 27 is modified by deleting "2710.00.15" and by inserting "2710.11.15" in lieu thereof.

2. Effective on and after January 1, 1995, chapter 29 of the HTS is modified as follows:

(A) The article description for subheading 2922.50.07 is modified by deleting the word "acid" at the end of the last line and substituting in lieu thereof "acid (d(-)-p-Hydroxyphenylglycine)';

(B) The article description for subheading 2922.50.11 is deleted and the following new description is substituted in lieu thereof: "Salts of d(-)-p-Hydroxyphenylglycine ((R)-α-Amino-4-hydroxybenzeneacetic acid)'; and

(C) The special rates of duty subcolumn for subheading 2922.50.11 is modified by striking "K," from the parenthetical expression following the duty rate "Free".

3. Effective on and after the dates set forth herein, chapter 40 of the HTS is modified as follows:

(A) Effective on and after January 1, 1994, the article description for subheading 4013.90.10 is modified by deleting "and 4012.20.20" and by inserting "4012.20.15 and 4012.20.45" in lieu thereof; and

(B) Effective on and after January 10, 2002, the article description for subheading 4013.90.10 is modified by deleting "4011.91.10, 4011.99.10, 4012.10.20" and by inserting "4011.61.00, 4011.92.00, 4012.19.20," in lieu thereof.

4. Effective on and after January 10, 2002—

(A) Subheadings 4802.54.40, 4802.55.50, 4802.56.50, 4802.58.40, 4802.61.40 and 4802.62.40 and the superior text "Other:" immediately below each such subheading are all deleted; and

(B) The article descriptions for the subheadings in the left column below are realigned so they appear at the same level of indentation as the article descriptions for the subheadings in the right column below:

4802.54.50, 4802.54.60	4802.54.30
4802.55.60, 4802.55.70	4802.55.40
4802.56.60, 4802.56.70	4802.56.40
4802.58.50, 4802.58.60	4802.58.20
4802.61.50, 4802.61.60	4802.61.30
4802.62.50, 4802.62.60	4802.62.30

5. Effective on and after January 10, 2002, subheading 4202.92.05 is modified by deleting from the special rates of duty subcolumn the symbol "A,'.

6. Effective on and after January 1, 1995, the Intermediate Chemicals for Dyes Appendix of the HTS is amended as follows:

(A) For CAS No. 72705–22–7, the chemical name listed in such Appendix is deleted and the following corrected chemical name is inserted in lieu thereof: "Benzenesulfonic acid, 4-[(1,3-dioxybutyl)amino]-5-methoxy-2-methyl-, ammonium salt'; and

(B) For CAS No. 133167–77–8, the chemical name listed in such Appendix is deleted and the following corrected chemical name is inserted in lieu thereof: "Benzenesulfonic acid, 4-[(1,3-dioxybutyl)amino]-5-methoxy-2-methyl-, monosodium salt".

7. Effective on and after January 1, 1996, the article description of heading 8525 is modified by deleting the final appearance of the word "or" and by inserting in lieu thereof "and'.

8. Effective on and after January 1, 1989, the article description of heading 9704.00.00 is modified by inserting a comma after "(stamped paper)".

9. Effective on and after March 20, 2002, U.S. note 11 to subchapter III of chapter 99 is modified as follows:

(A) In subdivisions (b)(vii)(E) and (b)(vii)(F), "8 percent of carbon" is deleted at each instance and "0.08 percent of carbon" is inserted in lieu thereof;

(B) In subdivision (b)(viii)(A), "0.0254" is deleted and "0.245" is inserted in lieu thereof; in subdivision (b)(viii)(B), "magnesium" is deleted and "manganese" is inserted in lieu thereof; and in subdivision (b)(viii)(G), the word "minimum" is inserted before "width of 787 mm";

(C) In subdivision (b)(viii)(H), "0.22 to 0.97 mm" is deleted and "0.20 mm to 1.22 mm" is inserted in lieu thereof, and "of 584 to 937 mm" is deleted and "range of 584 mm to 1219 mm" is inserted in lieu thereof;

(D) In subdivision (b)(xii), ", by weight," should be deleted and "(nominal, by weight)" is inserted in lieu thereof;

(E) In subdivision (b)(xv), "nickel of 0.40 percent," is deleted and "nickel of 0.40 percent maximum" is inserted in lieu thereof;

(F) In subdivision (b)(xvi)(A), "1.91" is deleted and "2.01" is inserted in lieu thereof; "yield strength of 758 MPa" is deleted and "minimum yield strength of 758 MPa" is inserted in lieu thereof; and "tensile strength of 813 MPa" is deleted and "minimum tensile strength of 813 MPa" is inserted in lieu thereof;

(G) In subdivision (b)(xvi)(B), "yield strength of 793 MPa" is deleted and "minimum yield strength of 793 MPa" is inserted in lieu thereof; and "tensile strength of 931 MPa" is deleted and "minimum tensile strength of 931 MPa" should be inserted in lieu thereof;

(H) In subdivision (b)(xvii), the opening language is modified by deleting "below" and by inserting in lieu thereof "in subdivisions (A) through (C) below, or dual phase steel designated as X–011, as described in subdivision (D) below"; in subdivisions (b)(xvii)(A) through (C), "1400 mm to 1999 mm" is deleted at each instance and "1.400 mm to 1.999 mm" is inserted in lieu thereof; and in subdivision (b)(xvii)(D) the phrase ", the foregoing also designated as X–011" is deleted;

(I) In subdivision (b)(xxii)(D), "sulfur—0.35" is deleted and "sulfur 0.035" is inserted in lieu thereof;

(J) In subdivision (b)(xxiii), "HRB of 87;" is deleted and "HRB of not over 87;" is inserted in lieu thereof; "tensile strength of 500 N/mm ² "is deleted and "tensile strength of 500 N/mm² or greater" is inserted in lieu thereof; "elongation of 30 percent" is deleted and "elongation of 30 percent or more" is inserted in lieu thereof; and "yield ratio of 80 percent;" is deleted and "yield ratio of not over 80 percent;" is inserted in lieu thereof;

(K) In subdivision (b)(xxiv), "X–139 or" is deleted;

(L) In subdivision (b)(xxvii)(A), (i) "silicon 0.03" is deleted and "silicon of not over 0.03" is inserted in lieu thereof, (ii) "phosphorus 0.02" is deleted and "phosphorus of not over 0.02" is inserted in lieu thereof, and (iii) "sulfur 0.023 (aim 0.018)" is deleted and "sulfur of not over 0.023" is inserted in lieu thereof;

(M) In subdivision (b)(xxvii)(B), the language after "by weight):" and ending with "molybdenum 0.01;" is deleted and the following new language is inserted in lieu thereof: "carbon of not over 0.08, silicon of not over 0.03, manganese of not over 0.45, phosphorus of not over 0.02, sulfur of not over 0.02, aluminum of not over 0.08, arsenic of not over 0.02, copper of not over 0.05, nitrogen of not over 0.004, chromium of not over 0.05, nickel of not over 0.05 and molybdenum of not over 0.01;"; "elongation: 25%" is deleted and "elongation of 25 percent or more" is inserted in lieu thereof; and "nonmetallic inclusions: 0.20 pcs./m²" is deleted and "nonmetallic inclusions of not over 0.20 pcs/m²" is inserted in lieu thereof;

(N) In subdivision (b)(xxxii)(B), "7209.17.00," is inserted in numerical sequence in the parenthetical enumeration of subheadings;

(O) In subdivision (b)(xxxiv)(C), "12.63 mm" is deleted and "12.6365 mm" is inserted in lieu thereof;

(P) In subdivision (b)(xxxiv)(D), "7.01 mm—11.98 mm" is deleted and "7.00 mm—12.00 mm" is inserted in lieu thereof, and "with narrow tolerances +/-0.03985 mm—0.05990 mm" is deleted and "with tolerances +/-0.04 mm—0.06 mm" is inserted in lieu thereof;

(Q) In subdivision (b)(xxxiv)(E), "39.8" is deleted and "40.0" is inserted in lieu thereof, "3.05" is deleted and "3.0" is inserted in lieu thereof, "'121.3" is deleted and "120.0" is inserted in lieu thereof, "44.9" is deleted and "45.0 mm" is inserted in lieu thereof, "2.53" is deleted and "2.5" is inserted in lieu thereof, and "114" is deleted and "112.5" is inserted in lieu thereof;

(R) In subdivision (b)(xxxix)(E), "20 g/mm² (minimum 17 g/mm², maximum 26 g/mm²" is deleted and "20 g/m² (minimum 17 g/m², maximum 26 g/m²;" is inserted in lieu thereof;

(S) In subdivision(b)(xl)(A), the phrase "zinc-nickel alloy electroplating," is deleted;

(T) In subdivision(b)(xli), "22.4 g/m² box equivalent" is deleted and "11.2 g/m²" is inserted in lieu thereof; "5.38 mg/m²" is deleted and "5.4 mg/m²" is inserted in lieu thereof; "CAT 5" is deleted and "CA T–5" is inserted in lieu thereof; "22.4/2.24 g/m² coating" is deleted and "11.2/1.1 g/m² coating" is inserted in lieu thereof; "2.24 g/m² coating side" is deleted and "1.1 g/m² coating side" is inserted in lieu thereof; "0.208 mm thickness and 887.4 mm by 806.4 mm scroll cut dimensions" is deleted and "0.21 mm thickness and 887 mm by 806.4 mm scroll cut dimensions" is inserted in lieu thereof; "0.208 mm thickness and 868.4 mm by 738.5 mm scroll cut dimensions" is deleted and "0.208 mm thickness and 868 mm by 738.5 mm scroll cut dimensions" is inserted in lieu thereof; and "0.300 mm thickness and 776.3 mm by 866.8 mm scroll cut dimensions" is deleted and "0.30 mm thickness and 776 mm by 866.8 mm scroll cut dimensions" is inserted in lieu thereof;

(U) In subdivision (b)(xlviii), "457.2 mm or more" is deleted and "457.0" is inserted in lieu thereof;

(V) In subdivision (b)(liii)(A), "0.279 mm to 0.300 mm" is deleted and "0.274 mm to 0.295 mm" is inserted in lieu thereof; and

(W) In subdivision (d)(ii)(D), "India and Romania" is deleted and "India, Romania and Thailand" is inserted in lieu thereof.

10. Effective on and after March 20, 2002, the following modifications are made in subchapter III of chapter 99:

(A) Subheading 9903.72.74 is modified by deleting "X–139 or";

(B) The superior text to subheadings 9903.72.85 through 9903.73.04 is modified by deleting "if not in coils of a thickness of less than 4.75 mm (provided" and by inserting in lieu thereof ", and if not in coils then of a thickness of less than 4.75 mm (all the foregoing provided';

(C) Subheading 9903.73.76 is deleted; and

(D) The following new subheadings are each inserted in numerical sequence, with the material inserted in the columns headed "Heading/Subheading", "Article Description", "Rates of Duty 1–General", "Rates of Duty 1–Special" and "Rates of Duty 2", respectively:

	[Bars, ...;]			
	[Goods ....;]			
"9903.73.45	Enumerated in U.S. note 11(b)(xi) to this subchapter and designated as X–083.	No change	No change	No change
9903.73.46	Enumerated in U.S. note 11(b)(xxii) to this subchapter and designated as X–134.	No change	No change	No change
	[Bars ....;]			
9903.74.09	Goods excluded from the application of relief by U.S. note 11(b)((xlvii) to this subchapter, designated as X–177.	No change	No change	No change

[FR Doc. 02–13991 Filed 6–3–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for June 18–19, 2002, beginning at 8:30 a.m. Arrange for oral presentations by June 14.

ADDRESSES: Boeing Commercial Airplane Group, 535 Garden Avenue North, Building 10–16, Room 12–C4, Renton, WA

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075, or e-mail at *effie.upshaw@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held June 18–19 in Seattle Washington.

The agenda will include:

June 18, 2002

- Opening remarks
- FAA/Joint Aviation Authorities Conference report
- FAA report
- JAA report, including status of Single Worldwide Certification Code and establishment of European Aviation Safety Agency
- Transport Canada report
- Executive Committee report
- Harmonization Management Team report
- ARAC tasking priorities discussion
- Design for Security Harmonization Working Group (HWG) report and approval

- Flight Controls HWG report and approval
- Loads &Dynamics HWG report and approval
- Human Factors Harmonization Working Group (HWG) report
- System Design and Analysis HWG report
- Electrical Systems HWG report and update on Aging Transport Systems Rulemaking Advisory Committee activity

June 19

- General Structures HWG report and approval
- Airworthiness Assurance Working Group report
- Powerplant Installation HWG report and approval
- Ice Protection HWG report
- Written reports, as required, from the following HWGs: Electromagnetic Effects, Flight Test, Engine, Mechanical Systems, Avionics, Seat Test, Flight Control, and Flight Guidance
- Extended Range with Two-Engine Aircraft tasking update

Five working groups will be seeking approval of working group reports:

1. The Design for Security HWG for a report addressing the following areas in Amendment 97 to Annex 8 to the Convention on International Civil Aviation: survivability of systems, fire suppression, cabin smoke extraction, direction of smoke from the cockpit, least risk bomb location (identification), and least risk bomb location (design);
2. The Flight Controls HWG for a report addressing flight control system failures or jamming;
3. The Loads and Dynamics HWG for a report addressing flight loads validation;
4. The General Structures HWG for a report addressing damage-tolerance and fatigue evaluation of structures; and
5. The Powerplant Installation HWG for a report addressing the automatic takeoff thrust control system.

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. Visitor badges are required to gain entrance to the Boeing building where the meeting is being held. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than June 14. Please provide the following information: full legal name, country of citizenship, and name of your company, if applicable.

For those participating by telephone, the call-in number is (206) 655–4990, Passcode 6975#. Details are also available on the ARAC calendar at *http://www.faa.gov/avr/arm/araccal/htm*. To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent by June 14. Anyone participating by telephone will be responsible for paying long-distance charges.

The public must make arrangements by June 14 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by provding copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on May 29, 2002.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–13966 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Occupant Safety Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss occupant safety (OS) issues.

DATES: The meeting is scheduled for June 20, 2002, beginning at 8:30 a.m. Arrange for oral presentations by June 14.

ADDRESSES: Boeing Commercial Airplane Group, 535 garden Avenue North, Building 10–16, Room 12–C4, Renton, WA.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7626; fax: (202) 267–5075, or e-mail: *effie.upshaw@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held June 20 in Renton, WA.

The agenda will include:

- Opening remarks
- Membership update
- Action Item review
- FAA report
- Joint Aviation Authorities report
- Transport Canada report
- Executive Committee report
- Cabin Safety Harmonization Working Group report
- Draft Terms of Reference for Cabin Environment tasking
- Passenger Safety Card discussion

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. Visitor badges are required to gain entrance to the Boeing building where the meeting is being held. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section by June 14. Please provide the following information: full legal name, country of citizenship, and name of your company, if applicable.

For those participating by telephone, the call-in number is (206) 655–4990, Passcode 6975#. Details are also available on the ARAC calendar at *http://www.faa.gov/avr/arm/araccal/htm*. To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent by June 14. Anyone participating by telephone will be responsible for paying long-distance charges.

The public must make arrangements by June 14 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washinton, DC on May 29, 2002.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–13967 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Technical Standard Order (TSO)–C135, Transport Airplane Wheels and Wheel and Brake Assemblies

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of Technical Standard Order.

SUMMARY: This action announces the availability of TSO–C135. This TSO prescribes the minimum performance standards that transport category airplane wheels and wheel and brake assemblies must meet to be identified with the applicable TSO marking. The FAA published the Revision of Braking Systems Airworthiness Standards final rule and a Notice of Issuance for the Advisory Circular on the same subject on April 24, 2002, in the **Federal Register** (67 FR 20422).

DATE: The subject technical standard order was issued by the Manager, Aircraft Certification Service, on May 2, 2002.

FOR FURTHER INFORMATION CONTACT: Mahinder K. Wahi, FAA, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2142; facsimile (425) 227–1320, e-mail *mahinder.wahi@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The standards of this TSO apply to transport category airplane wheels and wheel and brake assemblies used for any new TSO application submitted after the effective date of this TSO. Wheels and wheel and brake assemblies currently approved for 14 CFR part 25 airplanes under TSO–C26c authorization may continue to be manufactured under the provisions of their original approval. However, under § 21.611(b) of Title 14, Code of Federal Regulations (14 CFR), any major design change to a wheel or a wheel and brake assembly previously approved under TSO–C26c will require a new authorization under this TSO.

How To Obtain A Copy of the TSO

The TSO–135 "Minimum Performance Specification for Transport Airplane Wheel and Wheel and Brake Assemblies," may be obtained from the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, Ardmore East Business Center, 3341 Q 7th Avenue, Landover, MD 20785.

An electronic copy of TSO–C135 may be downloaded using the Internet at the following address: *http://www.faa.gov/certification/aircraft/air_index.htm* or by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or be calling (202) 267–9680. Make sure to identify the TSO number.

Issued in Washington, DC, on May 28, 2002.

David W. Hempe,

Manager, Aircraft Engineering Division.

[FR Doc. 02–13965 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Warren and Edmonson Counties in Kentucky

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of planning study.

SUMMARY: The FHWA is issuing this notice to advise the public that the Kentucky Transportation Cabinet (KYTC), in cooperation with the Federal Highway Administration (FHWA), is initiating a planning study for the following highway project "Interstate 66 (I–66) from the William H. Natcher Parkway to the Louie B. Nunn Parkway".

FOR FURTHER INFORMATION CONTACT: Evan J. Wisniewski, Project Development Team Leader, Federal Highway Administration, 330 West Broadway, Frankfort, KY 40601, Telephone: (502) 223–6740 or Ms. Annette Coffey, Director, Division of Planning, Kentucky Transportation Cabinet, 125 Holmes Street, Frankfort, KY, 40622, Telephone: (502) 564–7183.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gpv//fedreg* and the Government Printing Office's web page at *http://www.acess.gpo.gov.nara*.

Background

The I–66 project is part of a proposed Transamerica Transportation Corridor from the Atlantic Coast of Virginia to the Pacific Coast in California, in accordance with the legislative intent of the Intermodel Surface Transportation Efficiency Act (ISTEA) of 1991 and subsequent Federal transportation legislation. This highway is to pass through southern Kentucky and will generally be centered on the cities of Pikeville, Jenkins, Hazard, London, Somerset, Columbia, Bowling Green, Hopkinsville, Benton, and Paducah. Segments of the corridor across Kentucky are in various stages of project development ranging from corridor studies to final design. The planning study will address alternatives and issues related to the development of an interstate highway that would provide continuity of I–66 between the Natcher and Nunn Parkways and improve accessibility throughout the region.

During the development of this planning study, comments will be solicited from appropriate Federal, state, and local agencies, as well as other interested persons and the general public, in accordance with requirements set forth in the National Environmental Policy Act NEPA) of 1969 and subsequent Federal regulations and guidelines developed by the Executive Office of the President's Council on Environmental Quality and the United States Department of Transportation for the implementation of the NEPA process.

This planning study will include a scoping process for the early identification of potential alternatives for, and environmental issues and impacts related to, the proposed project. At this time, the level of environmental documentation that will ultimately be prepared is not known. However, if an Environmental Impact Statement (EIS) is prepared for the proposed project in the future, the information gained through the scoping process in this planning study may be used as input to the scoping process for the development of that EIS. If an EIS is prepared in the future, written comments on the scope of alternatives and impacts will still be considered at that time, after the filing of the Notice of Intent (NOI).

(Catalog of Federal Domestic Assistance Program Number 20.205, "Highway Planning and Construction". The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 30, 2002.

Jose Sepulveda,

Kentucky Division Administrator, Frankfort.

[FR Doc. 02–13886 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Warren County in Kentucky

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of planning study.

SUMMARY: The FHWA is issuing this notice to advise the public that the Kentucky Transportation Cabinet (KYTC), in cooperation with the Federal Highway Administration (FHWA), is initiating a planning study for the following proposed highway project: "Eastern Beltline of Bowling Green, Kentucky from Scottsville Road (US 231) to Interstate 65 (I–65)".

FOR FURTHER INFORMATION CONTACT: Evan J. Wisniewski, Project Development Team Leader, Federal Highway Administration, 330 West Broadway, Frankfort, KY 40601, Telephone: (502) 223–6740 or Ms. Annette Coffey, Director, Division of Planning, Kentucky Transportation Cabinet, 125 Holmes Street, Frankfort, KY 40622, Telephone (502) 564–7183.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's web page at *http://www.access.gpo.gov.nara.*

Background

This planning study is to determine the feasibility of an Eastern Beltline of Bowling Green, Kentucky. The Bowling Green Urban Transportation Study has identified both and Eastern and Northern Beltline as a need since 1972. The Eastern Beltline is to be located east of I–65 and is to connect US 231 (Scottsville Road) with I–65. This planning study will consider how the Beltline projects should be coordinated with a proposed Interstate 66 (I–66) project and if segments of one project can be incorporated into the other project.

During the development of this planning study, comments will be solicited from appropriate Federal, state, and local agencies, as well as other interested persons and the general public, in accordance with requirements set forth in the National Environmental Policy Act (NEPA) of 1969 and subsequent Federal regulations and guidelines developed by the Executive Office of the President's Council on Environmental Quality and the United States Department of Transportation for the implementation of the NEPA process.

This planning study will include a scoping process for the early identification of potential alternatives for, and environmental issues and impacts related to, the proposed project. At this time, the level of environmental documentation that will ultimately be prepared is not known. However, if an Environmental Impact Statement (EIS) is prepared for the proposed project in the future, the information gained through the scoping process in this planning study may be used as input to the scoping process for the development of that EIS. If an EIS is prepared in the future, written comments on the scope of alternatives and impacts will still be considered at that time, after the filing of the Notice of Intent (NOI).

(Catalog of Federal Domestic Assistance Program Number 20.205, "Highway Planning and Construction". The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 30, 2002.

Jose Sepulveda,

Kentucky Division Administrator, Frankfort.

[FR Doc. 02–13887 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement for the Union Station Master Plan and vicinity in downtown Denver, CO

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) is issuing this notice to advise agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), FTA as lead agency, the Federal Highway Administration (FHWA) and the Federal Railroad Administration (FRA) as cooperating agencies, the Regional Transportation District (RTD), in conjunction with the City and County of Denver (CCD), the Denver Regional Council of Governments (DRCOG), and the Colorado Department of Transportation (CDOT), intend to prepare an Environmental Impact Statement (EIS) to evaluate the development alternatives and operation of a Master Plan for a mixed-use, intermodal transportation center that encompasses the Union Station property and adjacent vicinity in downtown Denver, Colorado. The project study area encompasses approximately 20-acres of land in the lower downtown area of Denver.

Additionally as part of the EIS, an assessment of the effects on historic properties within the study area, including the Denver Union Station, will be conducted in accordance with Section 106 of the National Historic Preservation Act (NHPA).

DATES: One scoping meeting will be held on the date and location shown below:

Date: June 20, 2002
Time: 5:30 pm to 8:00 pm
Location: Colorado Convention Center, Ball Room #4
Address: 700 14th Street, Denver, Co. 80202

People with special needs may contact the project Hot Line at (303) 322–3320, 24-hours prior to the date of the scoping meeting for further assistance.

An informational brochure describing the purpose of the Master Plan and EIS, the project location, proposed alternatives, and the impact area to be evaluated, will be mailed to affected federal, state, and local agencies and made available to those people attending the scoping meeting. Others may request scoping materials by accessing the project website at *www.DenverUnionStation.org*, by calling the Hot Line at (303) 322–3320, or by contacting Mr. Dave Shelley, Project Manager, Regional Transportation District, at the address listed below.

Written comments on the scope of the EIS, including the alternatives to be considered and the impacts to be studied, should be sent to Dave Shelley, Project Manager, Regional Transportation District by July 5, 2002.

ADDRESSES: Please forward your comments to Mr. Dave Shelley, Project Manager, Regional Transportation District, 1600 Blake Street, Denver, Colorado 80202–1399. Telephone: (303) 299–2408, or *dave.shelley@rtd-denver.com*

FOR FURTHER INFORMATION Contact: Mr. David Beckhouse, Community Planner, Federal Transit Administration, (303) 844–3242.

SUPPLEMENTARY INFORMATION:

Scoping Process:

Project scoping will be accomplished through a public scoping meeting and correspondence with interested people, organizations, and local, regional, state and federal agencies. Public scoping meetings will be advertised in local newspapers and through other media. The purpose of the scoping process is to determine the scope of issues to be addressed and for identifying significant issues related to the proposed action. The development of the Master Plan and EIS will include opportunities for public participation and comment throughout the study process, so that interested individuals may contribute to the decision-making process.

Description of Master Plan and Transportation Needs

A Master Plan will be developed to address what role the Union Station can play as an extremely efficient center for interconnecting various modes of transportation (cross-country, regional, and local bus and rail transit), and influencing land use by both the private and public sectors. All the activities, existing and proposed developments, and potential transportation terminals and modes, which are envisioned for the Union Station area, must co-exist efficiently and effectively. Therefore, a Master Plan must be created to identify and evaluate all the proposals and plans for the Union Station area. This evaluation will include, in terms of their impacts on each other within the context of the Union Station and its environs, the full build-out of the area, and how the alternatives will blend into the overall development of Union Station and its environs. Components of the plan include: the mixture of land uses, the magnitude of development, and the incorporation of new development into what has been built and planned for the Union Station environs. Special emphasis will be placed on transportation issues such as access, circulation, and parking. It is the intent of this project to use the Master Plan as the basis for any necessary rezoning of the study area to allow the build out of the plan.

Proposed Action

The EIS scoping process will include an evaluation of alternatives relative to the development of the Master Plan in order to derive a proposed action.

Public Involvement

A comprehensive public involvement program has been developed. The program includes a project web site (*www.DenverUnionStation.org*); a 24-hour Hot Line (303) 322–3320, outreach to local and county officials and community and civic groups; a public scoping process to define the issues of concern among all parties interested in the project; a public hearing upon release of the draft environmental impact statement (DEIS); and development and distribution of a project newsletters.

Alternatives

FTA and RTD propose to evaluate the no-action alternative and other reasonable alternatives identified during the public scoping and master planning processes that provide transportation benefits while reducing or avoiding adverse impacts. Interested individuals, organizations, and agencies are invited and encouraged to participate in defining the alternatives to be evaluated and related issues of concern.

Probable Effects and Potential Impacts for Analysis

The FTA and RTD will evaluate all environmental, social and economic impacts of the alternatives analyzed in the EIS. The impact areas to be addressed include land use, visual/aesthetic values, ecosystems, mineral resources, cultural and historical resources, water quality, floodplains and drainage; air quality; noise and vibration, traffic and parking, hazardous materials, utilities, energy use and conservation, public safety and security; and community and economic impacts. The EIS will evaluate potential environmental justice issues as well as secondary, cumulative, and construction-related impacts. The need for right-of-way acquisitions and relocations will also be evaluated. Alternative alignments, designs, station locations, and other measures to avoid, minimize, and mitigate adverse impacts will be developed and evaluated.

FTA Procedures

In accordance with FTA policy, all Federal laws, regulations, and executive orders affecting project development, including but not limited to the regulations of the Council on Environmental Quality and FTA implementing NEPA (40 CFR parts 1500–1508, and 23 CFR part 771), the 1990 Clean Air Act Amendments, section 404 of the Clean Water Act, Executive Order 12898 regarding environmental justice, the National Historic Preservation Act, the Endangered Species Act, and section 4(f) of the DOT Act, will be addressed to the maximum extent practicable during the NEPA process. In addition, RTD may seek § 5309 New Starts funding for the project or related projects that may terminate within the project area and will therefore be subject to the FTA New Starts regulations (49 CFR part 611). This New Starts regulation requires submission of certain specified information to FTA to support an RTD request to initiate preliminary engineering, which is normally done in conjunction with the NEPA process.

Issued on: May 29, 2002.

Lee O. Waddleton,

FTA Regional Administrator.

[FR Doc. 02–13971 Filed 6–3–02; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW (Pension and Parents DIC Participants)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Planning and Analysis, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Planning and Analysis, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection of information, and allow 60 days for public comment in response to the notice. This notice solicits comments on information that will be collected by a telephone survey to assess the effectiveness and efficiency of VA programs.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 5, 2002.

ADDRESSES: Submit written comments on the collection of information to John A. Corso, Office of Assistant Secretary for Planning and Analysis (008B), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420 or e-mail *john.corso@mail.va.gov*. Please refer to "OMB Control No. 2900–

NEW (Pension and Parents DIC Participants)" in any correspondence.

FOR FURTHER INFORMATION CONTACT: John A. Corso at (202) 273–5927 or FAX (202) 273–5993.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, the Office of Planning and Analysis invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of VA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Survey of Department of Veterans Affairs Pension and Parents DIC Participants.

OMB Control Number: None assigned.

Type of Review: New collection.

Abstract: The purpose of this evaluation is to assess the effectiveness and efficiency of the VA Pension and Parents' DIC programs. These are needs-based programs that provide benefits to wartime veterans who are permanently and totally disabled due to non-service-connected causes, surviving spouses of deceased wartime veterans, and needy parents of veterans whose deaths were service-connected.

Affected Public: Individuals or households.

Estimated Time Per Respondent and Annual Burden: 2,871 hours.

a. Veterans @ 45 minutes per response = 981.75 hours.

b. Spouses @ 45 minutes per response = 978 hours.

c. Parents @ 45 minutes per response = 911.25 hours.

Frequency of Response: One-time.

Estimated Number of Respondents: 3,828.

a. Veterans—1,309.

b. Spouses—1,304.

c. Parents—1,215.

Dated: March 20, 2002.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 02–13875 Filed 6–3–02; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 67, No. 107

Tuesday, June 4, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review

Correction

In notice document 02–13391 beginning on page 37391 in the issue of Wednesday May 29, 2002, make the following correction:

On page 37391, in the third column, under the **EFFECTIVE DATE:** heading, "June 28, 2002" should read "May 29, 2002".

[FR Doc. C2–13391 Filed 6–3–02; 8:45 am]

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Federal Register

Tuesday,
June 4, 2002

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 29 and 52
Federal Acquisition Regulation; Federal, State, and Local Taxes; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 29 and 52

[FAR Case 2000–016]

RIN 9000–AJ39

Federal Acquisition Regulation; Federal, State, and Local Taxes

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify the prescriptions for use of clauses relating to Federal, State, and local taxes. In addition, the rule deletes the clause regarding taxes-contracts performed in U.S. possessions or Puerto Rico, and updates and moves the definitions of "local taxes".

DATES: Interested parties should submit comments in writing on or before August 5, 2002 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: *farcase.2000–016@gsa.gov*.

Please submit comments only and cite FAR case 2000–016 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, at (202) 501–3221. Please cite FAR case 2000–016.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the FAR to clarify the prescriptions at FAR 29.401 for use of FAR clauses 52.229–3, Federal, State, and Local Taxes; 52.229–4, Federal, State, and Local Taxes (Noncompetitive Contract); and 52.229–5, Taxes-Contracts Performed in U.S. Possessions or Puerto Rico. The contracting officer is directed to insert the clause at 52.229–3, Federal, State, and Local Taxes, in fixed-price contracts exceeding the simplified acquisition threshold. However, for noncompetitive fixed-price contracts the contracting officer may instead insert the clause 52.229–4, Federal, State, and Local Taxes (State and Local Adjustments) if the contracting officer determines that the contract price would otherwise include an inappropriate amount in anticipation of potential postaward change in state or local taxes. In addition, the rule renames the clause at 52.229–4, deletes the clause at 52.229–5, moves the definition of "local taxes" from the clause at FAR 52.229–5 to the clauses at 52.229–3 and 52.229–4, and updates the definition by adding U.S. territories and the Commonwealth of the Northern Mariana Islands, which are no longer considered possessions of the United States.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the amendments clarify the intent of current policies and clauses. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 29 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–016), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 29 and 52

Government procurement.

Dated: May 28, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 29 and 52 as set forth below:

1. The authority citation for 48 CFR parts 29 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 29—TAXES

2. In section 29.305, revise paragraph (b)(1) to read as follows:

29.305 State and local tax exemptions.

* * * * *

(b) * * *

(1) Under a contract containing the clause at 52.229–3, Federal, State, and Local Taxes, or at 52.229–4 Federal, State, and Local Taxes (State and Local Adjustments), in accordance with the terms of those clauses.

* * * * *

3. Revise the heading and text of section 29.401–3 to read as follows:

29.401–3 Federal, State, and local taxes.

(a) Except as provided in paragraph (b) of this section, insert the clause at 52.229–3, Federal, State, and Local Taxes, in solicitations and contracts if-

(1) The contract is to be performed wholly or partly within the United States, its possessions or territories, Puerto Rico, or the Northern Mariana Islands;

(2) A fixed-price contract is contemplated; and

(3) The contract is expected to exceed the simplified acquisition threshold.

(b) In a noncompetitive contract that meets all the conditions in paragraph (a) of this section, the contracting officer may insert the clause at 52.229–4, Federal, State, and Local Taxes (State and Local Adjustments), instead of the clause at 52.229–3, if the price would otherwise include an inappropriate amount in anticipation of potential postaward change(s) in State or local taxes.

29.401–4 and 29.401–5 [Removed]

29.401–6 [Redesignated as 29.401–4]

4. Remove sections 29.401–4 and 29.401–5, and redesignate section 29.401–6 as 29.401–4.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 52.229–3 as follows:

a. Revise the date of the clause;

b. Remove the paragraph designation (a) and add a new paragraph (a); and

c. In the newly designated paragraph (a) amend the definitions "Contract date", "All applicable Federal, State, and local taxes and duties", "After-imposed Federal tax", and "After-relieved Federal tax" by removing ", as used in this clause," and placing these definitions in alphabetical order; and adding, in alphabetical order, the definition "Local taxes".

The revised and added text read as follows:

52.229–3 Federal, State, and Local Taxes.

* * * * *

Federal, State, and Local Taxes (Date)

(a) As used in this clause—

* * * * *

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

* * * * *

6. Amend section 52.229–4 as follows:

a. Revise the section and clause headings, and the introductory paragraph;

b. Remove the designation for paragraph (a) and add a newly designated paragraph (a);

c. In the newly designated paragraph (a) amend the definitions "Contract date", "All applicable Federal, State, and local taxes and duties", "After-imposed Federal tax", and "After-relieved Federal tax" by removing "as used in this clause," and placing the definitions in alphabetical order; and adding, in alphabetical order, the definition "Local taxes".

The revised and added text read as follows:

52.229–4 Federal, State, and Local Taxes (State and Local Adjustments).

As prescribed in 29.401–3, insert the following clause:

Federal, State, and Local Taxes (State and Local Adjustments) (Date)

(a) As used in this clause—

* * * * *

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

* * * * *

52.229–5 [Removed and reserved]

7. Remove and reserve section 52.229–5.

8. Amend section 52.229–10 by removing from the introductory text "29.401–6(b)" and adding "29.401–4(b)" in its place; by revising the date of the clause; and by removing from paragraph (h) "29.401–6(b)(1)" and adding "29.401–4(b)(1)" in its place.

52.229–10 State of New Mexico Gross Receipts and Compensating Tax.

* * * * *

State of New Mexico Gross Receipts and Compensating Tax (Date)

* * * * *

[FR Doc. 02–13867 Filed 6–3–02; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Tuesday,
June 4, 2002

Part III

Department of Education

Office of Vocational and Adult Education, Community Technology Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.341A]

Office of Vocational and Adult Education, Community Technology Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions you need to apply for a grant under this competition.

Purpose of Program: The purpose of the Community Technology Centers program is to assist eligible applicants to create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training.

For FY 2002, the competition for new awards focuses on projects that fulfill the purpose of the program and that address the priorities we describe in the PRIORITIES section of this notice.

Eligible Applicants: Community-based organizations, including faith-based organizations, State and local educational agencies, institutions of higher education, entities such as foundations, libraries, museums and other public and private nonprofit organizations or for-profit businesses. To be eligible, an applicant must also have the capacity to significantly expand access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access).

An individual elementary or secondary school is not eligible to apply for a grant unless it is a charter school that is a local educational agency under State law or it is a school funded by the Bureau of Indian Affairs that meets the requirements established by 20 U.S.C. 9101(26)(C). A group of eligible entities is also eligible to receive a grant if the group follows the procedures for group applications in 34 CFR 75.127–129 of EDGAR.

Note: An eligible applicant may submit only one application for this competition, but may propose to carry out projects or activities at multiple sites in a single application.

Deadline for Transmittal of Applications: July 19, 2002.

Deadline for Intergovernmental Review: September 17, 2002.

Notification of Intent to Apply for Funding: We can expedite the review of applications and the final award of funds if we know beforehand approximately how many entities intend to apply for funding. Therefore, we strongly encourage each potential applicant to send by June 28, 2002 a brief notification of your intent to submit an application to the following address: *ctc@ed.gov.*

Please put "Notice of Intent" in the subject line. The notification of intent to apply for funding is optional and should not include information regarding the proposed application. Eligible applicants that fail to provide the notification can still submit an application for funding.

Estimated Available Funds: $15,000,000.

Cost Share Requirement: Recipients of the one-year grants under the program must share in the cost of the activities assisted under the grant. Grant recipients must make available non-Federal contributions in cash or in kind, as authorized under section 5512(c) of ESEA, of not less than 50 percent of the cost of activities assisted under the grant.

Estimated Range of Awards: $75,000—$300,000.

Estimated Average Size of Awards: $180,000.

Estimated Number of Awards: 83.

Note: The Department of Education is not bound by any estimates in this notice.

Project Period: Up to 12 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the required application contents and the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 40 pages using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, table of contents, the information addressing section 427 of GEPA, the resumes, the bibliography, or the letters of support.

However, you must include all of the application narrative in Part III.

We will reject your application if:

You apply these standards and exceed the page limit; or

You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98 and 99.

SUPPLEMENTARY INFORMATION:

Description of Program

These grants are authorized by Title V, Part D, Subpart 11, section 5511 *et seq.* of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (20 U.S.C. 7263).

Grant recipients must use funds provided under this program to create or expand community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban and rural communities. The Community Technology Centers program is fundamentally an education program. The focus of successful projects will be on using technology as a tool to improve learning outcomes, rather than on simply providing individuals with access to technology as an end in itself. Teaching and learning should be at the core of each project's activities.

Program Evaluation

Recipients also must use grant funds to carry out an evaluation of the effectiveness of the project. Effectiveness should be measured on the basis of the actual learning gains achieved by project participants as determined by standardized assessments or other objective measures. The effectiveness of adult education and family literacy instruction provided by each project should be measured on the basis of the literacy skill gains made by the adult learners served by the project, as well as other outcomes, such as the receipt of a high school diploma or its equivalent, placement in employment or enrollment in postsecondary education.

Reporting Requirements

Applicants should be aware that, following the award of grants, we anticipate establishing reporting requirements for projects funded under this competition that will collect data on these and other outcomes for adult learners, using similar procedures as those used for the National Reporting System (NRS) for the Adult Education and Family Literacy Act. To determine educational gain for NRS, local adult education programs assess students at intake to determine their educational functioning level. There are four educational functioning levels for adult basic education, two for adult secondary education, and six levels for English-as-a-second language students. Each level describes a set of skills and competencies that students entering at that level can do in the areas of reading, writing, numeracy, speaking, and listening. Using these descriptors as guidelines, programs determine an initial level in which to place an entering student based on a standardized assessment procedure. After a pre-determined amount of instruction or time period, the program conducts a follow-up assessment of the student and uses the functioning level descriptors to determine whether the student has advanced one or more levels or is progressing within the same level. More information about the NRS procedures is available at: *http://www.air-dc.org/nrs/DraftGuidelines.htm.*

Consistent with the Paperwork Reduction Act, we will provide an opportunity for public review and comment prior to establishing any reporting requirements.

Applicants should anticipate and plan for the costs of student assessments and other associated evaluation activities in preparing the proposed budgets they submit with their applications.

Adult Education and Literacy

As the nation moves from an industrial-based to a service- and knowledge-based economy, there is widespread agreement that adults and youth need a higher level of academic knowledge, greater competency in information analysis and problem-solving, and a different mix of technical and technology skills. Unable to gain a foothold in this emerging new economy are the millions of adults who lack basic skills, proficiency in English, or a high school diploma or its equivalent.

Literacy in the Labor Force (1999), an analysis of data collected as part of the 1992 National Adult Literacy Survey, found that adults with the lowest literacy skills were four to seven times more likely to be unemployed than those with the highest literacy skills. When individuals with the lowest literacy skills did obtain employment, they earned nearly a third less than adults with the highest literacy skills. The Literacy in the Labor Force report is available on the website of the National Center for Education Statistics at: *http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=1999470.*

Community technology centers can provide new opportunities for these individuals to upgrade their skills so that they can move into postsecondary education and obtain better-paying jobs. Technology-supported instruction can increase access to adult education by providing learning opportunities at convenient times and locations. Instruction can be individualized to suit different learning styles, interests and levels of mastery. Learning time can be used more efficiently, enabling adult learners to move at their own pace. In some cases, technology-facilitated instruction can help students learn technology and technical skills at the same time that it addresses literacy needs.

In addressing the absolute priority this competition establishes for projects that provide adult education and family literacy activities, applicants may provide either or both adult education and family literacy, depending upon their own priorities and resources and the needs of the communities they serve. We also wish to emphasize that adult basic and adult secondary education instruction, and not only instruction designed to prepare individuals for the GED examination, are allowable uses of funds.

Other Authorized Uses of Funds

Grant funds also may be used to carry out other activities authorized by section 5513(b) of the statute, such as career development and job preparation activities, after-school academic enrichment activities for children and youth, and small business assistance activities. Other authorized activities include, among other things, support for personnel, equipment, networking capabilities, and other infrastructure costs. No funds may be used for construction costs.

Definitions: In addition to definitions in the statute and EDGAR, the following definitions apply:

Adult education means services or instruction below the postsecondary level for individuals—

(a) Who have attained 16 years of age;

(b) Who are not enrolled or required to be enrolled in secondary school under State law; and

(c) Who—

(1) Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(2) Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

(3) Are unable to speak, read, or write the English language.

Economically distressed means a county or equivalent division of local government of a State (or a portion thereof) in which, according to the most recent available data from the United States Bureau of the Census, a significant percentage of the residents have an annual income that is at or below the poverty level.

Language instruction educational programs means programs of instruction designed to help adults and out-of-school youth of limited English proficiency achieve competence in the English language.

Application Narrative: Applicants must submit an application that includes:

(a) A description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community.

(b) A demonstration of—

(1) The commitment, including the financial commitment, of entities (such as institutions, organizations, business and other groups in the community) that will provide support for the creation, expansion, and continuation of the proposed project; and

(2) The extent to which the proposed project coordinates with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community.

(c) A description of how the proposed project would be sustained once the Federal funds awarded under the grant end.

(d) A plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

Priorities

Absolute Priority: This competition focuses on projects designed to meet a priority that we have chosen from allowable activities specified in the program statute (see 34 CFR 75.105(b)(2)(v) and section 5513(b)(3)(B)(i) of the ESEA (20 U.S.C. 7263b(b)(3)(B)(i)).

Specifically, this competition establishes an absolute priority for projects that, at a minimum, provide adult education and family literacy activities through technology and the Internet, including General Education Development (GED), Language Instruction Educational Programs, and adult basic education classes or programs. Under 34 CFR 75.105(c)(3), we consider only applications that meet this absolute priority.

This absolute priority does not preclude projects from offering additional services authorized by the statute. However, they must, at a minimum, provide adult education and family literacy activities through technology and the Internet.

Competitive Priority: Within this absolute priority for this competition for FY 2002, we award, under section 34 CFR 75.105(c)(2)(i) and 34 CFR 75.255, an additional 5 points to an application from an otherwise eligible applicant that is a novice applicant. We award these points in addition to points that we award the applicant under the selection criteria. Thus, a novice applicant could earn a maximum of 110 points.

Note: A novice applicant is an applicant that, either individually or as a member of a consortium, has never received a grant under the Community Technology Centers program and has not received a discretionary grant from the Federal Government during the preceding five years (see 34 CFR 75.225(a)).

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and other program requirements. However, section 437(d)(1) of the General Education Provisions Act exempts from formal rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). The program authority for the Community Technology Centers program was substantially revised on January 8, 2002 by section 5511 of Pub. Law 107–110. In order to make awards on a timely basis, the Secretary has decided to issue this notice without first publishing proposed priorities and requirements for public comment. These priorities and requirements will apply to the FY 2002 grant competition only.

Selection Criteria: We use the following selection criteria to evaluate applications for grants under this competition.

The maximum score for all of these criteria is 105 points.

The maximum score for each criterion and factor is indicated in parentheses.

Note: In all instances where the word "project" appears in the selection criteria, the reference to a community technology center should be made.

(a) *Need for project. (20 points)*

(1) We consider the need for the proposed project.

(2) In determining the need for the proposed project, we consider the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (*10 points*)

(ii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (*10 points*)

(b) *Significance. (10 points)*

(1) We consider the significance of the proposed project.

(2) In determining the significance of the proposed project, we consider the importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement. (*10 points*)

(c) *Quality of project design. (30 points)*

(1) We consider the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, we consider the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (*5 points*)

(ii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (*5 points*)

(iii) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (*10 points*)

(iv) The likelihood that the services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living. (*10 points*)

(d) *Quality of project personnel. (10 points)*

(1) We consider the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, we consider the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (*5 points*)

(3) In addition, we consider the qualifications, including relevant training and experience, of key project personnel. (*5 points*)

(e) *Quality of the management plan. (10 points)*

(1) We consider the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, we consider the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (*10 points*)

(f) *Adequacy of resources. (10 points)*

(1) We consider the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, we consider the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (*5 points*)

(ii) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (*5 points*)

(g) *Quality of project evaluation. (15 points)*

(1) We consider the quality of the evaluation to be conducted by an independent evaluator of the proposed project.

(2) In determining the quality of the evaluation, we consider the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (*10 points*)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (*5 points*)

Note: In accordance with EDGAR 34 CFR 75.590, 80.40, and 80.50, grant recipients must submit a final performance report as a condition of the grant that provides the most current performance and financial expenditure information on project activities, including the recipient's progress in achieving the objectives in its approved application.

Intergovernmental Review of Federal Programs

This program is subject to Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant, you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive Order 12372. If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any SPOC, see the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants/spoc.html.*

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this application notice to the following address: The Secretary, E.O. 12372–CFDA #84.341A, U.S. Department of Education, room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

We will determine proof of mailing under 34 CFR 75.102 (Deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THIS ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH AN APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Application Instructions and Forms

The Appendix to this notice contains forms and instructions, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act, various assurances and certifications, and a checklist for applicants.

- Application for Federal Education Assistance (ED 424 (Exp. 11/30/2004)) and instructions and definitions.
- Protection of Human Subjects in Research (Attachment to ED 424).
- Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.
- Application Narrative.
- Assurances—Non-Construction Programs (Standard Form 424B) (Rev. 7–97).
- Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013, 12/98) and instructions.
- Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)
- Certification of Eligibility for Federal Assistance in Certain Programs (ED 80–0016 9/92)).
- Disclosure of Lobbying Activities (Standard Form LLL (Rev. 7–97)) and instructions.
- Checklist for Applicants.

You may submit information on a photocopy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. We will not award a grant unless we have received a completed application form.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in this application notice.

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

You may also view this document in text at the following site: *www.ed.gov/offices/OVAE/CTC.*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

FOR FURTHER INFORMATION CONTACT: Mary LeGwin or April Blunt, U.S. Department of Education, Community Technology Centers Program, Office of Vocational and Adult Education, 330 C Street, SW., room 4414, Switzer Building, Washington, DC 20202–7240. Telephone: (202) 205–4238 or via Internet: *ctc@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Community Technology Centers Program—CFDA 84.341A is one of the programs included in the pilot project. If you are an applicant under the Community Technology Centers Program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.

2. Make sure that the institution's Authorizing Representative signs this form.

3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an

identifying number unique to your application).

4. Place the PR/Award number in the upper right hand corner of ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Community Technology Centers Program at: *http://e-grants.ed.gov.*

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

Instructions for Transmitting Applications

If you want to apply for a grant and be considered for funding, you must meet the following deadline requirements:

(A) *If You Send Your Application by Mail:* You must mail the original and two copies of the application on or before the deadline date. To help expedite our review of your application, we would appreciate your voluntarily including an additional two copies of your application. We request that you bind one of these copies. Mail your application to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.341A, 7th & D Streets, SW., Room 3671, Regional Office Building 3, Washington, DC 20202–4725.

You must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: Due to recent disruptions to normal mail delivery, the Department encourages you to consider using an alternative delivery method (for example, a commercial carrier, such as Federal Express or United Parcel Service; U. S. Postal Service Express Mail; or a courier service) to transmit your application for this competition. If you use an alternative delivery method, please obtain the appropriate proof of mailing under this section (A) "If You Send Your Application by Mail," then follow the instructions in section (B) "If You Deliver Your Application by Hand."

(B) *If You Deliver Your Application by Hand:* You or your courier must hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date. To help expedite our review of your application, we would appreciate your voluntarily including an additional two copies of your application. We request that you bind one of these copies. Deliver your application to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.341A), 7th & D Streets, SW., Room 3671, Regional Office Building 3, Washington, DC 20202–4725.

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Washington, DC time), except Saturdays, Sundays, and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A person delivering an application must show identification to enter the building.

(C) *If You Submit Your Application Electronically:* You must submit your grant application through the Internet using the software provided on the e-Grants Web site (http://e-grants.ed.gov) by 4:30 p.m. (Washington, DC time) on the deadline date.

The regular hours of operation of the e-Grants Web site are 6:00 a.m. until 12:00 midnight (Washington, DC time) Monday—Friday and 6:00 a.m. until 7:00 p.m. Saturdays. The system is unavailable on the second Saturday of every month, Sundays, and Federal holidays. Please note that on Wednesdays the Web site is closed for maintenance at 7:00 p.m. (Washington, DC time).

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(2) If you send your application by mail or if you or your courier deliver it by hand, the Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application receipt within 15 days from the date of mailing the application, you should call the U.S. Department of Education Application Control Center at (202) 708–9493.

(3) If your application is late, we will notify you that we will not consider the application.

(4) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424 (exp. 11/30/2004)) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(5) If you submit your application through the Internet via the e-Grants Web site, you will receive an automatic acknowledgment when we receive your application.

Parity Guidelines Between Paper and Electronic Applications

In FY 2002, the U.S. Department of Education is continuing to expand the pilot project, which began in FY 2000, which allows applicants to use an Internet-based electronic system for submitting applications. This competition is among those that have an electronic submission option available to all applicants. The system, called e-APPLICATION, formerly e-GAPS (Electronic Grant Application System), allows an applicant to submit a grant application to us electronically, using a current version of the applicant's Internet browser. To see e-APPLICATION visit the following address: *http://e-grants.ed.gov.*

Users of e-APPLICATION, a data driven system, will be entering data on-line while completing their applications. This will be more interactive than just e-mailing a soft copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will go into a database and ultimately will be accessible in electronic form to our reviewers.

This pilot project continues the Department's transition to an electronic grant award process. In addition to e-APPLICATION, the Department plans to expand the number of discretionary programs using the electronic peer review (e-READER) system and to increase the participation of discretionary programs offering grantees the use of the electronic annual performance reporting (e-REPORTS) system.

To help ensure parity and a similar look between electronic and paper copies of grant applications, we are asking each applicant that submits a paper application to adhere to the following guidelines:

• Submit your application on 8½″ by 11″ paper.

• Leave a 1-inch margin on all sides.

• Use consistent font throughout your document. You may also use boldface type, underlining, and italics. However, please do not use colored text.

• Please use black and white, also, for illustrations, including charts, tables, graphs and pictures.

• For the narrative component, your application should consist of the number and text of each selection criterion followed by the narrative. The text of the selection criterion, if included, does not count against any page limitation.

• Place a page number at the bottom right of each page beginning with 1; and number your pages consecutively throughout your document.

Program Authority: 20 U.S.C. 7263.

Dated: May 30, 2002.

Carol D'Amico,

Assistant Secretary for Vocational and Adult Education.

Appendix—Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, you are not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 1890–0009. Expiration date: 7/31/2002. We estimate the time required to complete this collection of information to average 40 hours per response, including the time to review instructions, search existing data sources, gather the data needed, and complete and review the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: Mary LeGwin or April Blunt, Community Technology Centers Program, U.S. Department of Education, Washington, DC 20202–4651. If you have comments or concerns regarding the status of your submission of this form, write directly to: Community Technology Centers Program, Division of Adult Education and Literacy, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4414, Mary E. Switzer Building, Washington, DC 20202–7240.

Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the Application Narrative, an applicant should read carefully the description of the program, the required contents of the application, and the selection criteria we use to evaluate applications.

1. Begin with a one-page abstract summarizing the proposed community technology center project, including a short description of the population to be served by the project, project objectives, and planned project activities;

2. Include a table of contents listing the parts of the narrative in the order of first, the required elements of the application, and second, the selection criteria. Indicate the page numbers on which the different parts of the narrative are found. Be sure to number the pages.

3. Address the four required elements of the application.

4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.

5. In the application budget, include a description of the non-federal contributions that the applicant will contribute to the project in amounts not less than the non-federal contribution as required in this notice. Budget line items must support the goals and objectives of the proposed project.

6. Provide the following in response to the attached "Notice to all Applicants": (1) A reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

7. When applying for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.

8. Attach copies of all required assurances and forms.

Budget Information and Instructions

1. *Personnel:* Show salaries to be paid to personnel.

2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits.

3. *Travel:* Indicate the amount requested for both local and out of State travel of Program Staff. Include funds for two people to attend the Program Director's Workshop in Washington, DC.

4. *Equipment:* Indicate the cost of non-expendable personal property that has a cost of $5,000 or more per unit.

5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period.

6. *Contractual:* Show the amount to be used for: (1) Procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts.

7. *Construction:* Not applicable.

8. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants and capital expenditures.

9. *Total Direct Cost:* Show the total for Lines 1 through 8.

10. *Limitation on Indirect Costs:* The success of the Community Technology Centers program will depend upon how well grantees improve the literacy and other skills of those they serve. If the program is to achieve its purposes, we need to ensure that the $15 million available for new grants is used as effectively as possible. To do so, it is necessary to place a reasonable limitation on the amount of program funds that grant recipients may use to reimburse themselves for the "indirect costs" of program activities. Therefore, the Secretary has decided to establish a reasonable limit of eight percent (8%) on the indirect cost rate that all program recipients may charge to funds provided under this program. Indicate the rate and amount of indirect costs for each budget year. Indirect cost reimbursement is limited to your actual indirect costs, as determined by your negotiated indirect cost rate agreement, or eight percent (8%) of your modified direct cost base, whichever is less. If you do not have a negotiated indirect cost rate agreement, we may assign you a temporary rate until a rate agreement has been negotiated.

11. *Training/Stipend Cost:* Not applicable.

12. *Total Costs:* Show total for lines 9 through 11.

Instructions for the Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs. Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).

2. Budget Information—Non-construction Programs (ED Form No. 524).

3. Budget Narrative.

4. Application Narrative, including application abstract, table of contents, the four required elements of the application, responses to the selection criteria, and information that addresses section 427 of the General Education

Provisions Act. (See the section entitled "NOTICE TO ALL APPLICANTS").

5. Assurances—Non-Construction Programs (SF 424B).

6. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

7. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014).

8. Disclosure of Lobbying Activities (Standard Form LLL).

9. Consortium agreement, if applicable.

Note: The section on PAGE LIMIT elsewhere in this application notice applies to your application. The 40 page limit applies to the four required elements of the application and your responses to the selection criteria.

BILLING CODE 4000–01–P

OMB Control No. 1890-0007 (Exp. 09/30/2004)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Public Law (P.L.) 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1890-0007.** The time required to complete this information collection is estimated to average 1.5 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3652, GSA Regional Office Building No. 3). Washington, DC 20202-4248.

Application for Federal Education Assistance (ED 424)

U.S. Department of Education
Form Approved
OMB No. 1875-0106
Exp. 11/30/2004

Applicant Information

1. Name and Address
Legal Name: _____
Address: _____
City _____ State _____ County _____ ZIP Code + 4 _____

Organizational Unit

2. Applicant's D-U-N-S Number

3. Applicant's T-I-N

4. Catalog of Federal Domestic Assistance #: 84.341A
Title: Community Technology Centers Program

5. Project Director: _____
Address: _____
City _____ State _____ ZIP Code + 4 _____
Tel. #: _____ Fax #: _____
E-Mail Address: _____

6. Novice Applicant ☐ Yes ☐ No

7. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

8. Type of Applicant (Enter appropriate letter in the box.)

A State
B Local
C Special District
D Indian Tribe
E Individual
F Independent School District
G Public College or University
H Private, Non-Profit College or University
I Non-Profit Organization
J Private, Profit-Making Organization
K Other (Specify): _____

Application Information

9. Type of Submission:

—PreApplication	—Application
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes (Date made available to the Executive Order 12372 process for review): _____
☐ No (If "No," check appropriate box below.)
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: _____ End Date: _____

12. Are any research activities involving human subjects planned at any time during the proposed project period?
☐ Yes (Go to 12a.) ☐ No (Go to item 13.)

12a. Are all the research activities proposed designated to be exempt from the regulations?
☐ Yes (Provide Exemption(s) #): _____
☐ No (Provide Assurance #): _____

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$ 0	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Authorized Representative (Please type or print name clearly.)

b. Title

c. Tel. #: _____ Fax #: _____

d. E-Mail Address:

e. Signature of Authorized Representative _____ Date: _____

Instructions for ED 424

1. Legal Name and Address. Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. D-U-N-S Number. Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: http://www.dnb.com.

3. Tax Identification Number. Enter the taxpayer's identification number as assigned by the Internal Revenue Service.

4. Catalog of Federal Domestic Assistance (CFDA) Number. Enter the CFDA number and title of the program under which assistance is requested. The CFDA number can be found in the federal register notice and the application package.

5. Project Director. Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. Novice Applicant. Check "Yes" or "No" only if assistance is being requested under a program that gives special consideration to novice applicants. Otherwise, leave blank.

Check "Yes" if you meet the requirements for novice applicants specified in the regulations in 34 CFR 75.225 and included on the attached page entitled "Definitions for Form ED 424." By checking "Yes" the applicant certifies that it meets these novice applicant requirements. Check "No" if you do not meet the requirements for novice applicants.

7. Federal Debt Delinquency. Check "Yes" if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check "No."

8. Type of Applicant. Enter the appropriate letter in the box provided.

9. Type of Submission. See "Definitions for Form ED 424" attached.

10. Executive Order 12372. See "Definitions for Form ED 424" attached. Check "Yes" if the application is subject to review by E.O. 12372. Also, please enter the month, day, and four (4) digit year (e.g., 12/12/2001). Otherwise, check "No."

11. Proposed Project Dates. Please enter the month, day, and four (4) digit year (e.g., 12/12/2001).

12. Human Subjects Research. (See I.A. "Definitions" in attached page entitled "Definitions for Form ED 424.")

If Not Human Subjects Research. Check "No" if research activities involving human subjects are not planned at any time during the proposed project period. The remaining parts of Item 12 are then not applicable.

If Human Subjects Research. Check "Yes" if research activities involving human subjects are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution. Check "Yes" even if the research is exempt from the regulations for the protection of human subjects. (See I.B. "Exemptions" in attached page entitled "Definitions for Form ED 424.")

12a. If Human Subjects Research is Exempt from the Human Subjects Regulations. Check "Yes" if all the research activities proposed are designated to be exempt from the regulations. Insert the exemption number(s) corresponding to one or more of the six exemption categories listed in I.B. "Exemptions." In addition, follow the instructions in II.A. "Exempt Research Narrative" in the attached page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. If Human Subjects Research is Not Exempt from Human Subjects Regulations. Check "No" if some or all of the planned research activities are covered (not exempt). In addition, follow the instructions in II.B. "Nonexempt Research Narrative" in the page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. Human Subjects Assurance Number. If the applicant has an approved Federal Wide (FWA) or Multiple Project Assurance (MPA) with the Office for Human Research Protections (OHRP), U.S. Department of Health and Human Services, that covers the specific activity, insert the number in the space provided. If the applicant does not have an approved assurance on file with OHRP, enter "None." In this case, the applicant, by signature on the face page, is declaring that it will comply with 34 CFR 97 and proceed to obtain the human subjects assurance upon request by the designated ED official. If the application is recommended/selected for funding, the designated ED official will request that the applicant obtain the assurance within 30 days after the specific formal request.

Note about Institutional Review Board Approval. ED does not require certification of Institutional Review Board approval with the application. However, if an application that involves non-exempt human subjects research is recommended/selected for funding, the designated ED official will request that the applicant obtain and send the certification to ED within 30 days after the formal request.

13. Project Title. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. Estimated Funding. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. Certification. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, day, and four (4) digit year (e.g., 12/12/2001) in the date signed field.

Paperwork Burden Statement. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0106. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form write directly to: Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

Definitions for Form ED 424

Novice Applicant (See 34 CFR 75.225). For discretionary grant programs under which the Secretary gives special consideration to novice applications, a novice applicant means any applicant for a grant from ED that—

Has never received a grant or subgrant under the program from which it seeks funding;

Has never been a member of a group application, submitted in accordance with 34 CFR 75.127-75.129, that received a grant under the program from which it seeks funding; and

Has not had an active discretionary grant from the Federal government in the five years before the deadline date for applications under the program. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In the case of a group application submitted in accordance with 34 CFR 75.127-75.129, a group includes only parties that meet the requirements listed above.

Type of Submission. "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). "Construction" also includes remodeling to meet standards, remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries. For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

Executive Order 12372. The purpose of Executive Order 12372 is to foster an intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The application notice, as published in the Federal Register, informs the applicant as to whether the program is subject to the requirements of E.O. 12372. In addition, the application package contains information on the State Single Point of Contact. An applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a State Single Point of Contact. For additional information on E.O. 12372 go to http://www.cfda.gov/public/eo12372.htm.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH

I. Definitions and Exemptions

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Research

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, it is research. Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Human Subject

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." (1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met. [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of exemptions are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. If the subjects are children, exemption 2 applies only to research involving educational tests and observations of public behavior when the investigator(s) do not participate in the activities being observed. Exemption 2 does not apply if children are surveyed or interviewed or if the research involves observation of public behavior and the investigator(s) participate in the activities being observed. [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

II. Instructions for Exempt and Nonexempt Human Subjects Research Narratives

If the applicant marked "Yes" for Item 12 on the ED 424, the applicant must provide a human subjects "exempt research" or "nonexempt research" narrative and insert it immediately following the ED 424 face page.

A. Exempt Research Narrative.

If you marked "Yes" for item 12a. and designated exemption numbers(s), provide the "exempt research" narrative. The narrative must contain sufficient information about the involvement of human subjects in the proposed research to allow a determination by ED that the designated exemption(s) are appropriate. The narrative must be succinct.

B. Nonexempt Research Narrative.

If you marked "No" for item 12a. you must provide the "nonexempt research" narrative. The narrative must address the following seven points. Although no specific page limitation applies to this section of the application, be succinct.

(1) Human Subjects Involvement and Characteristics: Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable

(2) Sources of Materials: Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Recruitment and Informed Consent: Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Potential Risks: Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Protection Against Risk: Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Importance of the Knowledge to be Gained: Discuss the importance of the knowledge gained or to be gained as a result of the proposed research. Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

(7) Collaborating Site(s): If research involving human subjects will take place at collaborating site(s) or other performance site(s), name the sites and briefly describe their involvement or role in the research.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff, Office of the Chief Financial Officer, U.S. Department of Education, Washington, D.C. 20202-4248, telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://www.ed.gov/offices/OCFO/humansub.html

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):

11.	Signature: _____
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

[FR Doc. 02–13983 Filed 6–3–02; 8:45 am]
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Federal Register

Tuesday,
June 4, 2002

Part IV

Department of Education

National Institute on Disability and Rehabilitation Research; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for Capacity Building, Coordination, and Collaboration projects under the Disability and Rehabilitation Research Projects (DRRP) Program of the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2002 and later years. We take this action to focus research attention on an identified national need. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities from traditionally underserved racial and ethnic populations.

DATES: We must receive your comments on or before July 5, 2002.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov*.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880 or via the Internet: *donna.nangle@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this priority in room 3412, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. If we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational.

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP Program is to plan and conduct research, demonstration projects, training, and related activities that help to maximize the full inclusion and integration of individuals with disabilities into society and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (the Act).

Section 21

Section 21(b)(2)(A) of the Act authorizes NIDRR to make awards to minority entities and Indian tribes to carry out activities authorized under title II of the Act. A minority entity is defined as a historically black college or university (a Part B institution, as defined in section 322(2) of the Higher Education Act of 1965, as amended), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent. Consistent with section 21(b)(2)(A), eligibility is limited to minority entities and Indian tribes.

New Freedom Initiative and The NIDRR Long-Range Plan

This priority reflects issues discussed in the New Freedom Initiative (NFI) and NIDRR's Long-Range Plan (the Plan). The NFI can be accessed on the Internet at: *http://www.whitehouse.gov/news/freedominitiative/freedominiative.html*.

The Plan can be accessed on the Internet at: *http://www.ed.gov/offices/OSERS/NIDRR/Products*.

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Priority

Background

In establishing section 21 of the Act, Congress noted patterns of inequitable treatment of traditionally underserved racial and ethnic populations (also referred to as minorities) in all major junctures of the vocational rehabilitation (VR) process. However, research findings have not yielded conclusive evidence about factors that contribute to the persistent pattern of inequitable treatment. Although recent research findings indicate that the experiences and rehabilitation outcomes for individuals from traditionally underserved racial and ethnic populations differ from nonminority individuals, the factors that influence rehabilitation outcomes is not clear. For example, evidence about the significance of race as a correlate of acceptance for VR services and contributor for differential rehabilitation outcomes are inconclusive.

NIDRR undertakes this priority to enhance our understanding of the unique needs of individuals with disabilities from traditionally underserved racial and ethnic populations and to support cooperative partnerships between minority and nonminority entities.

The priority invites capacity-building activities and development of strategies to improve the participation of consumers with disabilities from traditionally underserved racial and ethnic populations in research and decision-making activities in a variety of settings.

Proposed Priority

This proposed priority is intended to improve the quality and utility of research related to individuals with disabilities from traditionally underserved racial and ethnic populations and to enhance knowledge and awareness of issues related to these populations. The proposed priority would achieve this goal by (1) building the capacity of researchers, especially individuals from traditionally underserved racial and ethnic populations, and (2) conducting disability research that examines the unique needs and factors that influence rehabilitation outcomes for individuals with disabilities from traditionally underserved racial and ethnic populations.

Applicants must choose a minimum of three and up to a maximum of five research areas below. Due to the need to focus research and capacity-building activities on specific groups or topics, applicants may target those populations appropriate to the activities that they propose.

The DRRP research and capacity-building areas are:

(1) To investigate and evaluate disability and rehabilitation outcomes for individuals with disabilities from traditionally underserved racial and ethnic populations in State VR systems, and assess between State and within State differences in outcomes.

(2) To investigate and evaluate access to and acceptance rates for VR services, types of services provided, and costs of rehabilitation services for individuals with disabilities from traditionally underserved racial and ethnic populations compared to nonminority individuals.

(3) To investigate, evaluate, and develop, as needed, indices and measures to assess the capacity of the disability and VR personnel workforce to provide quality services to individuals with disabilities from traditionally underserved racial and ethnic populations.

(4) To investigate, evaluate, and report activities that strengthen disability-related research collaboration between minority entities and nonminority entities, particularly collaboration to improve rehabilitation services and outcomes for traditionally underserved racial and ethnic populations.

(5) To investigate, develop as needed, and evaluate strategies for strengthening resources and research capacity of minority entities, particularly the expertise and infrastructure requirements that are needed to ensure the optimal participation of minority entities in disability and rehabilitation research.

(6) To investigate, develop, and evaluate strategies, such as cultural competency training, targeted recruitment efforts, and incentives, to include and enhance retention of students and investigators from traditionally underserved racial and ethnic populations as rehabilitation researchers, administrators, and educators.

(7) To investigate and evaluate the effect of persons from traditionally underserved racial and ethnic populations participating in disability and rehabilitation research activities, direct service delivery, and training programs, and determine to what extent participation assists to improve VR outcomes for these underserved populations.

The DRRP project will provide information leading to better understanding of: (1) Factors that contribute to different VR outcomes for traditionally underserved racial and ethnic populations compared to nonminorities, (2) training needs and effective training strategies, (3) effective approaches for improving collaboration between minority entities and Indian tribes and other institutions, and (4) strategies that strengthen the research infrastructure and capacity-building for minority entities and Indian tribes.

In carrying out the purposes of the priority, the DRRP must:

- Through consultation with the NIDRR project officer, coordinate and establish partnerships, as appropriate, with other academic institutions and organizations that are relevant to the project's proposed activities, including minority entities and Indian tribes;
- Demonstrate use of culturally appropriate data collection, evaluation, dissemination, training, and research methodologies and significant knowledge of the needs of individuals with disabilities from traditionally underserved populations;
- Develop, implement, and evaluate dissemination strategies for research and capacity-building products developed by the project;
- Demonstrate appropriate multidisciplinary linkages;
- Develop and regularly update an online information dissemination system and make material readily available in alternate formats;
- Conduct an annual evaluation of all activities undertaken in support of capacity-building using formal measures and indicators;
- Provide expertise, consultation, and technical assistance on capacity-building and cultural competence to individuals and organizations seeking information; and
- Ensure an interdisciplinary outreach effort in conducting research and capacity-building activities.

Applicable Program Regulations: 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project.)

Program Authority: 29 U.S.C. 762(g) and 764(b).

Dated: May 10, 2002.

Andrew J. Pepin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–13985 Filed 6–3–02; 8:45 am]

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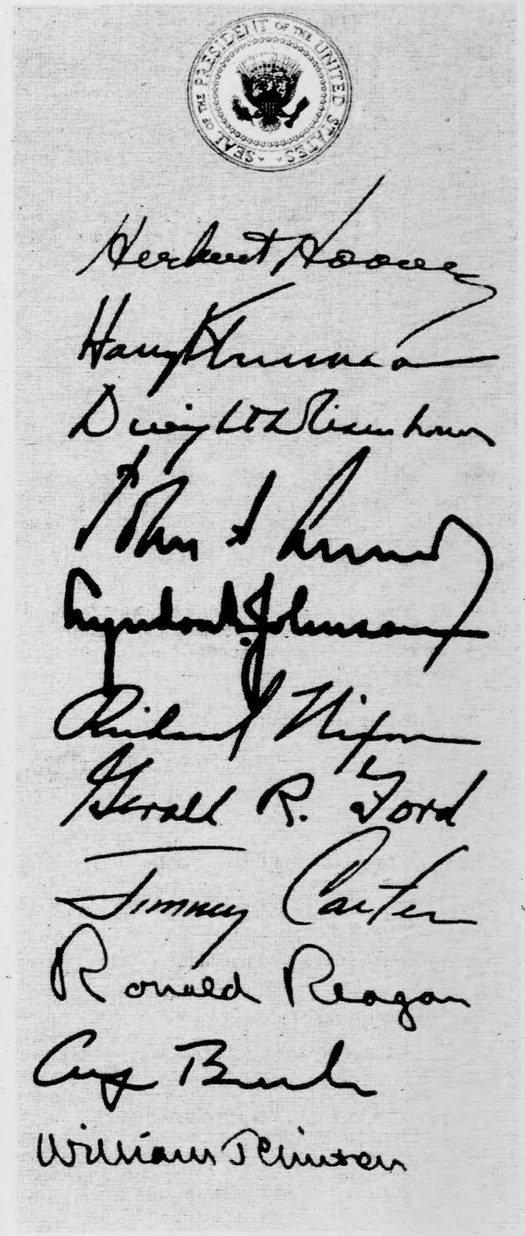

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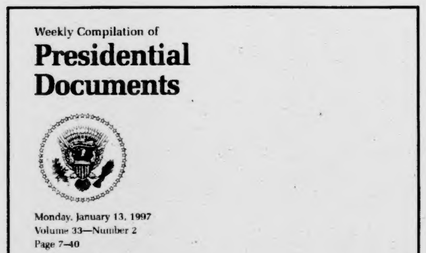

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